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Tuesday
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Selected Subjects

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Banks, Banking
Federal Reserve System

Communications Common Carriers
Federal Communications Commission

Communications Equipment
General Services Administration

Cotton
Agricultural Marketing Service

Credit
Federal Reserve System

Electric Power Rates
Federal Energy Regulatory Commission

Endangered and Threatened Wildlife
Fish and Wildlife Service

Flood Insurance
Federal Emergency Management Agency

Foreign Aid
Agency for International Development

Government Employees
Personnel Management Office

CONTINUED INSIDE

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Selected Subjects

Government Procurement
General Services Administration

Maritime Carriers
Federal Maritime Commission

Marketing Agreements
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

National Banks
Comptroller of the Currency

Navigation (Water)
Navy Department

Radio
Federal Communications Commission

Television
Federal Communications Commission

Trade Practices
Federal Trade Commission

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 48, No. 207
Tuesday, October 25, 1983

The President
PROCLAMATIONS
49207 Beirut, Lebanon, death of American and French military personnel (Proc. 5121)
49205 Metropolitan Opera Day (Proc. 5120)

Executive Agencies

Administrative Conference of United States
NOTICES
Meetings:
49319 Governmental Processes Committee

Agency for International Development
RULES
Commodity transactions financed by AID:
49233 Source eligibility; componentry provisions

Agricultural Marketing Service
RULES
Cotton:
49209 Classification under futures legislation; technical amendments
49214 Raisins produced from grapes grown in Calif.
PROPOSED RULES
49254 Almonds grown in Calif.
Milk marketing orders:
49255 Puget Sound, Wash., and Inland Empire

Agriculture Department
See Agricultural Marketing Service; Federal Crop Insurance Corporation; Forest Service; Rural Electrification Administration.

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
49320 Arkansas

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
49404 Meetings; Sunshine Act

Community Planning and Development, Office of Assistant Secretary
NOTICES
Authority delegations:
49386 Regional Administrators et al.; urban homesteading program

Comptroller of Currency
RULES
National banks:
49216 Real estate loans; correction
PROPOSED RULES
National banks:
49291 Corporate activities; rules, policies, and procedures; conversions

Consumer Product Safety Commission
NOTICES
Complaints issued:
49331 Bilt-Rite Juvenile Products, Inc., et al.; correction

Defense Department
See also Defense Logistics Agency; Navy Department.
NOTICES
49333 Travel per diem rates, civilian personnel; changes; correction

Defense Logistics Agency
NOTICES
49333 Privacy Act; systems of records

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
49392 Motamed, Michael M., M.D

Economic Regulatory Administration
NOTICES
49336 Special refund procedures implementation; petition

Education Department
NOTICES
Grants; availability, etc.:
49335 Postsecondary improvement fund, comprehensive program
Meetings:
49334 Education Intergovernmental Advisory Council

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
PROPOSED RULES
49315 Acquisition regulations; correction

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources:
49458 Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight
Air quality planning purposes; designation of areas:
49235 Pennsylvania
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
49305 Illinois
Water pollution; effluent guidelines for point source categories:
49408 Inorganic chemical manufacturing
NOTICES
Pesticide, food, and feed additive petitions:
49372 BASF Wyandotte Corp. et al.; correction

Federal Aviation Administration
RULES
Aircraft products and parts, certification:
49216 Soloy Conversions, Ltd.

PROPOSED RULES
Airworthiness directives:
49296, 49297 Pratt & Whitney (2 documents)

Federal Communications Commission
RULES
Common carrier services:
49242 Satellite communications; procurement of apparatus, equipment, and services
Radio services, special:
49244 Amateur service; operator examinations; use of volunteers; correction
PROPOSED RULES
Common carrier services:
49309 Multichannel multipoint distribution service (MDS) systems, construction permits; lottery procedures
Radio and television broadcasting:
49438 Multiple ownership of AM, FM and television broadcast stations
Radio services, special:
49314 Amateur service; ten year license terms authorization; withdrawn
NOTICES
49372 Agency information collection activities under OMB review
Hearings, etc.:
49372 Abell Communications Corp. et al.
49373 Beard, Vincent J.
49373 Central Radio of Hays, Inc., et al.
49374 Dream Communications, Inc., et al.
49374 Hanway, Margaret J., et al.
49375 Horizon Broadcasting, Inc., et al.
49375 Visionary Radio Euphonics of Lake County, Inc., et al.
49375 Rulemaking proceedings; filed, granted, denied, etc.; petitions

Federal Crop Insurance Corporation
PROPOSED RULES
Crop insurance; various commodities:
49250 Cotton; extension of time

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
49242 Indiana; correction
PROPOSED RULES
Flood elevation determinations:
49306, 49307 Alabama; correction (2 documents)
49307, 49308 Wisconsin; correction (2 documents)
NOTICES
Disaster and emergency areas:
49378 Arizona
49376 Privacy Act; systems of records

Federal Energy Regulatory Commission
PROPOSED RULES
49301 Power marketing agencies; procedures and filing requirements for rates
NOTICES
Hearings, etc.:
49352 Alabama-Tennessee Natural Gas Co.
49352 Algonquin Gas Transmission Co.
49353 Arizona Public Service Co.
49348 Colorado Interstate Gas Co.
49349, 49353 Columbia Gas Transmission Corp. (2 documents)
49349 Columbia Gas Transmission Corp. et al.
49353 Columbia Gulf Transmission Co.
49354 East Tennessee Natural Gas Co.
49349 Equitable Gas Co.
49356 Iowa-Illinois Gas & Electric Co.
49356 Kansas Gas & Electric Co. (2 documents)
49356 Kentucky Utilities Co.
49357 K N Energy, Inc.
49357 Louisville Gas & Electric Co.
49357 Michigan Wisconsin Pipe Line Co.
49350 Mississippi River Transmission Corp. et al.
49351 Montana-Dakota Utilities Co.
49358 Natural Gas Pipeline Co. of America
49351 Northwest Pipeline Corp.
49359 Public Service Co. of Oklahoma
49358 Puget Sound Power & Light Co.
49359 Tennessee Gas Pipeline Co.
49360 Valero Interstate Transmission Co.
49360 Hydroelectric applications (Douglas County, Oreg., et al.)
49404 Meetings; Sunshine Act
Natural gas companies:
49354 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (Gulf Oil Corp. et al.)
Natural Gas Policy Act:
49359 Jurisdictional agency determinations; well category withdrawals, etc. (Premier Resources, Ltd.)
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
49371 Aero-Electric Partners 1983-1
49371 Applied Energy Services, Inc.
49371 Arbutus Corp.
49371 Portland, Oreg.
49372 Town Development, Inc.

Federal Home Loan Bank Board
NOTICES
49404 Meetings; Sunshine Act

Federal Maritime Commission
PROPOSED RULES
Tariffs filed by common carriers in domestic offshore commerce of U.S.:
49308 Receipt of filings on 24-hour basis
NOTICES
49378 Agreements filed, etc.
49380 Agreements filed, etc.; correction

Federal Reserve System
PROPOSED RULES
Loans to executive officers, directors, and principal shareholders of member banks (Regulation O):
49293 Reporting and disclosure requirements
49295 Securities credit borrowers (Regulation X); revision
NOTICES
Applications, etc.:
49380 Barnett Banks of Florida, Inc.
49380 Carroll Bancorporation
49380 Farmers & Traders Bancorporation, Inc., et al.
49381 Mellon National Corp.
49381 United Missouri Bancshares, Inc.

Bank holding companies; proposed de novo nonbank activities:
49381 Barclays Bank PLC et al.
49404 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
49222 Borden, Inc.
49223 Borg-Warner Corp. et al.
49225 Flagg Industries, Inc., et al.
49217 Massachusetts Furniture & Piano Movers Association, Inc.
49220 Reader's Digest Association, Inc.
49219 State Volunteer Mutual Insurance Co., Inc.
PROPOSED RULES
Prohibited trade practices:
49299 American Express Co.

Fish and Wildlife Service
RULES
Endangered and threatened species:
49245 Woodland caribou
49244 Endangered and threatened species; wildlife and plants list; preparation of environmental assessments discontinued
PROPOSED RULES
Endangered and threatened species:
49316 Kangaroo, western gray; reclassification petition
49316 Silverling; withdrawn
NOTICES
49387 Hawaiian Islands National Wildlife Refuge; French Frigate Shoals, emergency mooring and anchorage

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
49233 Dinoprost tromethamine sterile solution; correction
Color additives:
49233 FD&C Red No. 3; National Toxicology Program Scientific Board of Counselors; meeting; correction
PROPOSED RULES
Human drugs:
49304 Laboratory testing profiles for OTC abrasive-containing fluoride anticaries drug products; extension of time
NOTICES
Animal drugs, feeds, and related products:
49384 Canine/feline anthelmintics, efficacy evaluation; draft guideline; availability and inquiry; correction

Forest Service
NOTICES
Land and resource management plans; roadless areas review, etc.:
49319 Six Rivers National Forest, Calif.

General Services Administration
RULES
Property management:
49240 Data communication systems and services; reduction of reporting and recordkeeping requirements and abolishment of communications management information system; temporary
49236 Information processing resources management; temporary
PROPOSED RULES
Procurement (GSA):
49305 Subcontractors listing requirement; removal
NOTICES
49382, 49383 Agency information collection activities under OMB review (2 documents)
Property management:
49388 Delaware-Army National Guard Facility, Dover Survival Training Annex, Kent County, Del.; transfer
Telecommunications standards:
49383 Digital conversion of voice by 2400 bit/second linear predictive coding analog, etc.; inquiry

Health and Human Services Department
See Food and Drug Administration; Health Resources and Services Administration.

Health Resources and Services Administration
NOTICES
49384 Advisory committee reports, annual; availability

Housing and Urban Development Department
See also Community Planning and Development, Office of Assistant Secretary.
NOTICES
Authority delegations:
49386 Assistant Secretary for Housing-Federal Housing Commissioner; urban homesteading program
49384 Community Planning and Development, Assistant Secretary, et al.; consolidation

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service.

Internal Revenue Service
PROPOSED RULES
Income taxes:
49304 Travel expenses of State legislators; hearing

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Antidumping:
49322 Carbon steel plate from Belgium and West Germany
49323 Carton closing staples and staple machines from Sweden
49326 Hot-rolled carbon steel sheet from Belgium and West Germany
49327 Sugar and syrups from Canada
49328 Tuners (of type used in consumer electronic products) from Japan
Countervailing duties:
49320 Castor oil products from Brazil
Meetings:
49322 Management-Labor Textile Advisory Committee

Interstate Commerce Commission
NOTICES
Motor carriers:
49391 Agricultural cooperative transportation; filing notices

Rail carriers:
49391 Union Pacific Railroad Co.; passenger train operation

Justice Department
See also Drug Enforcement Administration.
NOTICES
Pollution control; consent judgments:
49391 Cleveland Wrecking Co.

Labor Department
NOTICES
49393 Agency information collection activities under OMB review
Meetings:
49393 Trade Negotiations and Trade Policy Labor Advisory Committee

Land Management Bureau
RULES
Public land orders:
49242 Utah; correction
NOTICES
Exchange of public lands for private land:
49388 Idaho
Meetings:
49389 California Desert District Advisory Council
49388 San Juan River Coal Production Region
Sale of public lands:
49388 Wyoming

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
49403 B. F. Goodrich Co.

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
49329 Mid-Atlantic Fishery Management Council
49330 Pacific Fishery Management Council
Organization, functions, and authority delegations:
49329 Gulf of Mexico Fishery Management Council

National Park Service
NOTICES
Historic Places National Register; pending nominations:
49389 Connecticut et al.
Meetings:
49389 San Antonio Missions Advisory Commission

National Science Board
NOTICES
49404 Meetings; Sunshine Act

National Transportation Safety Board
NOTICES
49405 Meetings; Sunshine Act (2 documents)

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
49233 USS Salt Lake City
NOTICES
Meetings:
49334 Naval Research Advisory Committee

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
49394 Duke Power Co.
49395 General Public Utilities Nuclear, Inc.
49395 Georgia Power Co. et al.
49397 Export and import license applications for nuclear facilities or materials (Transnuclear, Inc., et al.)
49396 International Atomic Energy Agency draft safety guide; availability and inquiry
49404 Meetings; Sunshine Act

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
Committees; establishment, renewals, terminations, etc.:
49399 Hydropower Assessment Steering Committee

Personnel Management Office
RULES
Pay administration:
49494 Fair Labor Standards Act; exemption criteria
49472 Performance management system; performance based incentive system for general schedule, and merit pay equivalent of within-grade increases; final rule and interim rule with request for comments
49462 Reduction in force (RIF) procedures
PROPOSED RULES
49492 Personnel records; transfer of official personnel folder to another agency; inclusion of performance ratings
NOTICES
Excepted service:
49397 Schedules A, B, and C; positions placed or revoked, update

Rural Electrification Administration
NOTICES
Environmental statements, availability, etc.:
49319 Plains Electric Generation & Transmission Cooperative, Inc.

Selective Service System
NOTICES
49400 Organization and functions

Tennessee Valley Authority
NOTICES
49402 Agency information requests under OMB review
Public Utility Regulatory Policies Act:
49402 Dispersed power production and experimental cogeneration program; interim program and guidelines; price schedule revision and extension

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
49330 Macau
Export visa requirements; certification, etc.
49331 Philippines

Transportation Department
See Federal Aviation Administration; National Highway Traffic Safety Administration.

Treasury Department
See Comptroller of Currency; Internal Revenue Service.

Truman, Harry S., Scholarship Foundation
NOTICES
49383 Scholarship programs; closing date for nominations

Separate Parts in This Issue

Part II
49408 Environmental Protection Agency

Part III
49438 Federal Communications Commission

Part IV
49458 Environmental Protection Agency

Part V
49462 Office of Personnel Management

Part VI
49472 Office of Personnel Management

Part VII
49494 Office of Personnel Management

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5120 49205
5121 49207

5 CFR
300 49472
335 49472
351 49462
430 49472
431 49472
451 49472
531 49472
532 49472
540 49472
551 49494
771 49472
Proposed Rules:
293 49492

7 CFR
27 49209
989 49214
Proposed Rules:
421 49250
981 49254
1125 49255
1133 49255

12 CFR
34 49216
Proposed Rules:
5 49291
215 49293
224 49295

14 CFR
21 49216
Proposed Rules:
39 (2 documents) 49296, 49297

16 CFR
13 (6 documents) 49217–49225
Proposed Rules:
13 49290

18 CFR
Proposed Rules:
300 49301

21 CFR
81 49233
522 49233
Proposed Rules:
355 49304

22 CFR
201 49233

25 CFR
Proposed Rules:
1 49304
5c 49304

32 CFR
706 49233

40 CFR
60 49458
61 49235
Proposed Rules:
52 49305
415 49408

41 CFR
101–11 49236
101–35 49236
101–36 (2 documents) 49236, 49240
101–37 49240
Proposed Rules:
Ch. 5 49305

43 CFR
Public Land Orders:
6467 (corrected) 49242

44 CFR
64 49242
Proposed Rules:
67 (4 documents) 49306–49308

46 CFR
Proposed Rules:
531 49308

47 CFR
25 49242
97 49244
Proposed Rules:
1 49309
21 49309
73 49438
95 49314

48 CFR
Proposed Rules:
Ch. 9 49315

50 CFR
17 (2 documents) 49244, 49245
Proposed Rules:
17 (2 documents) 49316

VOL 48 ISS 207 OCT 25 1983 UMI

Federal Register
Vol. 48, No. 207
Tuesday, October 25, 1983

Presidential Documents

Title 3—

The President

Proclamation 5120 of October 21, 1983

Metropolitan Opera Day, 1983

By the President of the United States of America

A Proclamation

Among this Nation's greatest treasures are the creative talents of our people and the opportunities available for them to develop their talents and thereby enhance the richness of our cultural life. In every artistic discipline, great American artists and institutions have established ever-rising standards of achievement to challenge and inspire successive generations.

No single institution embodies this tradition of sustained artistic achievement more fully than the Metropolitian Opera, which is celebrating 100 years of extraordinary contributions to the culture of America. Legendary performances of music theater masterpieces have filled the Metropolitan Opera House in New York, halls across the country during the Company's annual tours, and millions of American homes through live radio and television broadcasts which have become part of our national tradition. The Metropolitan Opera also reaches out to discover and encourage young American talent by auditions held throughout the country, and it nurtures and develops great singers of the future.

Through its deep involvement with artists, audiences, and patrons, and with the voluntary assistance of the members of its National Council, the Metropolitan Opera has contributed invaluably to the growth of an American opera community whose vitality and brilliance are acclaimed around the world.

In recongnition of the Metropolitian Opera's extraordinary achievements and commitment to excellence, the Congress, by Senate Joint Resolution 128, has authorized and requested the President to designate October 22, 1983, the one hundredth anniversary of its first performance, as "Metropolitan Opera Day" throughout the United States.

NOW, THEREFORE, I, RONALAD REAGAN, President of the United States of America, do hereby designate October 22, 1983, as Metropolitan Opera Day and call upon all Federal, State and local government agencies, interested groups and organizations, and the people of the United States to observe that day by engaging in appropriate programs and activities to show their support of America's rich heritage in music theater and one of its premier performing institutions.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of October, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

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VOL
48
ISS
2
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7
OC
25
1983
UMI

Presidential Documents

Proclamation 5121 of October 23, 1983

Death of American and French Military Personnel in Beirut, Lebanon

By the President of the United States of America

A Proclamation

As a mark of respect for the American and French military personnel who died violently in the performance of their peacekeeping duties in the tragic bombings of October 23, 1983 in Beirut, Lebanon, I hereby order, by virtue of the authority vested in me as President of the United States of America, that the flag of the United States shall be flown at half-staff upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions through Monday, October 31, 1983. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of October, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

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48
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25
1983
UMI

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 27

Cotton Classification Under Futures Legislation; Regulatory Review

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: The Agricultural marketing Service (AMS) in compliance with the requirements for the periodic review of existing regulations, has reviewed the regulations regarding the classification of cotton under the authority of futures legislation. As a result of the review, certain changes in the regulations are being effected. These changes will amend the wording of the regulations to conform with organizational changes within the Cotton Division of AMS and will update terms and definitions.

EFFECTIVE DATE: November 25, 1983.

FOR FURTHER INFORMATION CONTACT: Loyd R. Frazier, Chief, Marketing Services Branch, Cotton Division, AMS, USDA, Washington, D.C. 20250, 202/447–2147.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Executive Order 12291, and Secretary's Memorandum 1512–1 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order. No new costs or additional requirements are being imposed on the affected industry or others.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because the revised rules reflect AMS organizational changes and changes made for clarification purposes; furthermore, most users of the services are not considered small entities under the Act.

Background

Pursuant to the authority contained in the United States Cotton Futures Act (7 U.S.C. 15b et seq.), AMS provides cotton classing services on a fee basis for the trading of cotton futures contracts. In order to provide such classing services, AMS has enacted regulations (7 CFR Part 27) which set out in detail the procedures and requirements for requesting classification, for the sampling and handling of samples, for the actual classification and micronaire determinations and for issuance of official class certificates.

These regulations also set forth the schedule of fees, designate spot markets for settlement of contracts when the cotton delivered differs from the base quality, provide for the establishment of quotations committees in the designated markets, and delineate the responsibilities and duties of the Cotton Division of AMS in administering these regulations.

Regulation Review

The Cotton Division of AMS has undertaken a general review of existing regulations on cotton classification under the authority of futures legislation. The review was conducted in accordance with the requirements of Executive Order 12291 of February 17, 1981, and under the guidelines contained in Secretary's Memorandum 1512–1 of June 11, 1981. These regulations were listed as scheduled for review in the Department's Semi-Annual Regulatory Agenda published in the **Federal Register** on October 28, 1982 (47 FR 48307).

The regulations of Part 27 have been examined for their need, currentness and effectiveness. It is determined that the procedures currently in effect are useful and efficient methods for providing cotton classification services and are adequate for the purposes of cotton futures trading. The requirements for inspection, sampling, and certification are not burdensome to the users of the services. The fees currently in effect were revised effective October 1, 1982, and are adequate to meet current operational costs and recover the costs of providing the services as required by the statute. Fees charged under the regulations are reviewed yearly.

Changes

The changes made in Part 27 will not affect the services provided or the procedures for providing these services. AMS is eliminating masculine references in favor of sexually neutral language. Also to reflect the nomenclature changes made when the Cotton Division was reorganized in 1978, AMS is substituting the term "Marketing Services Office" for "Board of Cotton Examiners," substituting the term "Grading Section" for "Appeal Board of Review Examiners," substituting the term "Area Director" for Chairman of the Board of Cotton Examiners," and substituting the term "Head, Grading Section" for "Chairman of Appeal Board of Review Examiners."

Specifically, AMS is amending the following sections:

1. Sections 27.2, 27.4, 27.12, 27.53, 27.55, 27.56, 27.63, 27.73, 27.98, and 27.102 by eliminating masculine references in favor of sexually neutral language.

2. Sections 27.2, 27.9, 27.11, 27.14, 27.16, 27.20, 27.22, 27.24, 27.28, 27.32, 27.33, 27.39, 27.41, 27.42, 27.46, 27.53, 27.54, 27.57, 27.58, 27.64, 27.67, and 27.89 by substituting the term "Marketing Services Office" for "Board of Cotton Examiners."

3. Sections 27.2, 27.9, 27.39, and 27.69 by substituting the term "Grading Section" for "Appeal Board of Review Examiners."

4. Sections 27.11, 27.20, 27.22, 27.24, 27.32, 27.33, 27.39, 27.41, 27.45, 27.55, 27.66, 27.67, 27.90, and 27.91 by substituting the term "Area Director" for "Chairman of the Board of Cotton Examiners."

5. Section 27.31 by substituting the term "Cotton Classers" for "Cotton Examiners."

6. Section 27.39 and 27.69 by substituting the term "Head, Grading Section" for "Chairman of the Appeal Board of Review Examiners."

7. Section 27.9 by clarifying and condensing the section and by deleting the obsolete term of "Board of Supervising Cotton Examiners," the duties of which have been previously transferred to the "Appeal Board of Review Examiners" which under this

final rule will be renamed the "Grading Section."

8. Section 27.39 by clarifying the section.

Proposed rulemaking was published on pages 20715–20720 of the **Federal Register** of May 9, 1983, and invited comments for 60 days ending July 8, 1983. No comments were received. This final rule does not differ from the proposed rule.

List of Subjects in 7 CFR Part 27

Classification, Cotton, Micronaire, Samples, Spot markets.

Accordingly, Part 27 of Chapter 1, Title 7 of the Code of Federal Regulations is amended as shown. The Table of Contents is amended accordingly.

1.(a) The authority citation for Part 27 is revised to read as follows:

Authority: 90 Stat. 1841–1848; 7 U.S.C. 15b.

1.(b) Subpart A is amended by removing all references to "90 Stat. 1841–1848; (7 U.S.C. 15b)" which appears as the individual citations in sections of the subpart.

2. Section 27.2 is amended by revising paragraphs (d), (f), (g), and (h) to read as follows:

§ 27.2 Terms defined.

* * * * *

(d) *Administrator.* The Administrator of the Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Administrator's stead.

* * * * *

(f) *Director.* The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in the Director's stead.

(g) *Marketing Services Office.* A facility of the Cotton Division established under the act at any point.

(h) *Grading Section.* The national classing supervision office at Memphis, Tennessee; performs final review of cotton classification.

* * * * *

3. Section 27.4 is amended by revising it to read as follows:

§ 27.4 Obligations and rights under act not affected by regulations.

Nothing in this subpart shall be construed as relieving any party to a basis grade contract of any obligation imposed upon the party, or as depriving the party of any right to which the party might be entitled under any provision of the contract or exchange rule made a part thereof which shall not be inconsistent with the act or the regulations made under the act.

4. Section 27.9 is amended by revising it to read as follows:

§ 27.9 Marketing Services Offices; Grading Section.

Marketing Services Offices shall be maintained at points designated for the purpose by the Administrator. The Grading Section shall review the classification of any cotton in accordance with § § 27.61 to 27.72. The Grading Section shall also perform other duties as assigned.

5. Section 27.11 is amended by revising it to read as follows:

§ 27.11 Area Director, Marketing Services Office; responsibility.

Subject to this subpart and the instructions of the Director, the Area Director of each Marketing Services Office shall be responsible for the proper performance of the duties imposed on such office and on the persons connected therewith.

6. Section 27.12 is amended by revising it to read as follows:

§ 27.12 Classification request for each lot of cotton.

For each lot or mark of cotton of which the applicant desires separate classification and certification, the applicant shall make a separate written request in a form prescribed or supplied by the Cotton Division for that purpose.

7. Section 27.14 is amended by revising it to read as follows:

§ 27.14 Filing of classification and Micronaire determination requests.

Requests for classification shall be filed with the Marketing Services Office serving the location at which the cotton is stored. Requests for classification shall be filed within 30 days after sampling and before classification of the samples. The applicant may file a request for a review of classification as part of the request for classification. The applicant may file a request for Micronaire determination as part of the request for classification or may file a request for such determination, in a form prescribed by the Cottom Division within 7 business days following the date of the first certification of the cotton involved, provided this service has not been previously performed on such cotton, and the request is made prior to delivery of the cotton on a basis grade contract. Requests for Micronaire determinations may also be filed as provided in § § 27.62 and 27.63.

8. Section 27.16 is amended by revising it to read as follows:

§ 27.16 Inspection; weighing; samples; supervision.

The inspection, weighing, and sampling of cotton for which classification is desired and the preparation and delivery of samples to the Marketing Services Office shall be (a) under the supervision of a supervisor of cotton inspection, or (b) by or under the direction of an exchange inspection agency and subject to the supervision of a supervisor of cotton inspection.

9. Section 27.20 is amended by revising it to read as follows:

§ 27.20 Drawing and handling of samples of cotton; inspection of bales.

One sample shall be drawn from the top side of each bale and one from the bottom side. Each such sample shall weigh not less than 5 ounces, the two samples from each bale to weigh together not less than 10 ounces. The bale shall be inspected and any condition not fully indicated by the samples shall be explained by the supervisor of cotton inspection or exchange inspection agency in a written memorandum, which shall acompany the samples to the Marketing Services Office. Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Any sample which does not meet the requirements of this section may be rejected by the supervisor of cotton inspection or the Area Director.

10. Section 27.22 is amended by revising it to read as follows:

§ 27.22 Wrapping and marking of samples of cotton.

The original sets of samples of the bales constituting a lot or mark to be classified separately shall be inclosed in one or more wrappers or containers, as the case may require. The wrappers or containers of original samples shall be so labeled or marked, or both, as to show that they contain original samples together with the lot number, if any, the marks, and the number of bales, and such other information as may be necessary in accordance with the instructions of the Area Director of the Marketing Services Office to which the samples are to be delivered.

11. Section 27.24 is amended by revising it to read as follows:

§ 27.24 Delivery of samples of cotton.

The original sample from each bale to be classified shall be delivered to the

Marketing Services Office with which the classification request was filed, at its classification room. If there is no Marketing Services Office at the point where the cotton is sampled, the supervisor of cotton inspection or the exchange inspection agency shall forward the samples to the proper Marketing Services Office. No samples covered by pending classification requests which are ready for delivery as provided for herein shall be withheld from such delivery except as authorized in writing by the Area Director or the Director.

12. Section 27.28 is amended by revising it to read as follows:

§ 27.28 Disposition of samples.

Samples submitted to a Marketing Services Office shall become the property of the Department and shall be disposed of in accordance with the property regulations of Department when no longer needed for classification or Micronaire determinations.

13. Section 27.31 is amended by revising it to read as follows:

§ 27.31 Classification of cotton and Micronaire determinations; by whom made.

For the purposes of subsection 15b(f) of the act the classification of any cotton shall be determined only by cotton classers designated as such by the Director. Official Micronaire determinations, when requested, shall be made only by authorized employees of the Cotton Division.

14. Section 27.32 is amended by revising it to read as follows:

§ 27.32 Order of classification.

All cotton for which classifications requests shall be pending shall be classified as far as practicable in the order in which proper samples thereof, ready for such classification, shall have been delivered to the Marketing Services Office, except as otherwise provided in this subpart or when the Area Director or the Director shall find that an emergency exists and shall order otherwise.

15. Section 27.33 is amended by revising it to read as follows:

§ 27.33 Exposing of samples for classification.

Classification shall not proceed until the samples, after being delivered to the Marketing Services Office, shall have been exposed for such length of time as in the judgment of the Area Director shall be sufficient to put them in proper condition for the purpose.

16. Section 27.39 is amended by revising it to read as follows:

§ 27.39 Issuance of certificates.

Except as otherwise provided in this section, as soon as practicable after the classification of cotton has been completed by a Marketing Services Office, the Marketing Services Office shall issue a cotton class certificate showing the results of such classification. Each certificate shall bear the date of its issuance and the name of the Area Director of the Marketing Services Office that classified the cotton. The certificate shall show the identification of the cotton according to the information in the possession of the Marketing Services Office, the classification of the cotton according to its grade and length of staple and such other facts as the Director may require. As soon as practicable after the Micronaire determination of cotton has been completed by an authorized employee of the Cotton Division, upon request under this subpart, the results of such determination shall be certified by the Marketing Services Office or by the Grading Section on the classification certificate for the cotton, with the date of issuance of the Micronaire determination, the name of the certifying officer, and such other facts as the Director may require. When a request is made for a review of classification and a Micronaire determination, at the same time as the request for initial classification, the Marketing Services Office shall notify the Grading Section of the results of the classification and the latter shall review the classification and make the Micronaire determination, and notify the Marketing Services Office of the results. The latter shall issue a cotton class certificate over the signature of the Head, Grading Section showing the results of the review classification (but not the initial classification), the Micronaire determination, the date of issuance of the certificate, and such other facts as the Director may require. The certificate of classification and Micronaire determination may be placed directly upon the warehouse receipt covering the cotton involved. The Marketing Services Office or the Grading Section may authorize an officer of the Service located at another point to certify the results of any classification or Micronaire determination upon the basis of information furnished by them, notwithstanding any other provisions of this section.

17. Section 27.41 is amended by revising it to read as follows:

§ 27.41 Lost certificate; duplicate.

Upon the written request of the last holder of a valid cotton class certificate and a showing to the satisfaction of the Area Director of the Marketing Services Office which issued such certificate, that it has been lost or destroyed and, if lost, that diligent effort has been made to find it without success, a new certificate shall be issued without the reclassification of the cotton and without a new Micronaire determination for the cotton. Such new certificate shall bear the same number and date of issuance as the lost or destroyed certificate, and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

18. Section 27.42 is amended by revising it to read as follows:

§ 27.42 Surrender of certificate.

For good cause any certificate issued under this subpart shall be surrendered to a Marketing Services Office for correction or cancellation. If such certificate be not surrendered upon request it shall nevertheless be invalid under subsection 15b(f) of the act and this subpart.

19. Section 27.45 is amended by revising it to read as follows:

§ 27.45 No storage of cotton for classification at disapproved place.

No cotton submitted for classification under subsection 15b(f) of the act shall be located or stored at a place disapproved for the purpose by the Area Director or the Director on account of being unsuitable for the safekeeping or proper storage of such cotton, or on account of the failure or refusal of the custodian thereof to comply or to permit compliance with the requirements of this subpart. Notice of such disapproval shall be given in such manner as the Director may direct. Thereafter every cotton class certificate previously issued for cotton located or stored at such place shall be invalid for the delivery of such cotton on a basis grade contract, unless the cotton shall be removed under the supervision of an exchange inspection agency, or a supervisor of cotton inspection, to a place which shall be suitable for the purpose. Upon such removal and the request of the holder of the cotton class certificate for such cotton a new certificate in lieu thereof, as provided elsewhere in this subpart, shall be issued.

20. Section 27.46 is amended by revising it to read as follows:

§ 27.46 Cotton withdrawn from storage.

The exchange inspection agency under the supervision or control of which any cotton classified pursuant to

this subpart shall be held or stored shall furnish to the Marketing Services Office which classified such cotton, on the first business day of each week, a written statement of all cotton withdrawn from storage, or the lot number or other identification of which has been changed, or which has otherwise been removed from the supervision or control of such exchange inspection agency during the next preceding week. Such statement shall show each lot number, and, if changed, the new lot number, and in case of the withdrawal or removal of a portion only of the lot, the tag numbers of the bales so withdrawn or removed. If such removal shall be to a different place of storage under the supervision or control of the exchange inspection agency, the statement shall show the new location.

21. Section 27.52 is amended by revising it to read as follows:

§ 27.52 Delivery without certification.

If upon the date fixed for delivery in accordance with subsection 15b(f) of the Act cotton class certificates shall not have been issued by a Marketing Services Office for cotton to be delivered pursuant to such notice, samples of which cotton shall have been in the custody of the Marketing Services Office for the time hereinafter prescribed, the delivery of such cotton may be made upon compliance with and subject to the conditions specified in §§ 27.52–27.58. Sections 27.52–27.56 shall not apply to cotton upon which a Marketing Services Office has already issued cotton class certificates pursuant to this subpart.

22. Section 27.53 is amended by revising it to read as follows:

§ 27.53 Notice for delayed certification; requirements.

On the date of giving the transferable notice of the delivery in accordance with subsection 15b(f) of the act the person issuing such notice or the person on whose behalf it was issued shall also give written notice to the Marketing Services Office with which the classification request was required to be filed, specifying the date of delivery and the number of bales so to be delivered which have not been certified. In such notice, or later in writing before the delivery of the samples to the Marketing Services Office the lot numbers of the cotton so to be delivered shall be specified.

23. Section 27.54 is amended by revising it to read as follows:

§ 27.54 Inspection and sampling for delayed certification.

Such cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must be delivered to the Marketing Services Office not later than the date of issuance of the transferable notice, except when the delivery day fixed by such transferable notice is the last delivery day in the month of delivery. In such case the cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must have been delivered to the Marketing Services Office in accordance with all regulations applicable and in readiness for classification not later than 8 p.m. of the second business day preceding such last delivery day.

24. Section 27.55 is amended by revising it to read as follows:

§ 27.55 Requirements in lieu of cotton class certificates on delivery day.

If on the morning of the delivery day specified in the transferable notice the cotton class certificates covering the cotton involved are not ready for delivery when called for, the tenderer of the cotton shall present to the Area Director, or to Area Director's representative authorized for the purpose, a written notice stating to the best of the tenderer's knowledge and belief the true grade of each individual bale to be delivered, properly identifying each bale with its grade. If the foregoing requirements of §§ 27.52–27.56 shall have been complied with, the Area Director or the duly authorized representative, shall cause to be written or stamped on such notice a statement validating it for use in the tender only on such delivery day of the cotton covered thereby pending the issuance of cotton class certificates in accordance with this subpart. The tenderer shall on such delivery day deliver such notice to the receiver of the cotton, together with the warehouse receipts and such other papers as may be necessary to the delivery of the cotton on such day.

25. Section 27.56 is amended by revising it to read as follows:

§ 27.56 Obligations of person making tender.

The person making the tender shall deliver the cotton class certificates therefore to the receiver of the cotton before the close of business hours on the date of the issuance thereof, if delivered to such tenderer before 11 a.m. on that day. If the cotton class certificates are delivered after 11 a.m. on that day, the tenderer shall in turn deliver them to the receiver before 11 a.m. on the next following business day. There shall be no right of replacement of bales shown by such certificates to be untenderable.

26. Section 27.57 is amended by revising it to read as follows:

§ 27.57 Request for postponement.

If the applicant desires the postponement of the classification of any cotton covered by a classification request filed pursuant to the regulations in this subpart until later notice, the original classification request must so state, or the applicant must so advise the Marketing Services Office in writing before the classification has been entered upon. Such request must show cause and that it is not made merely for dilatory reasons.

27. Section 27.58 is amended by revising it to read as follows:

§ 27.58 Postponed classification; must be within 30 days.

If thereafter the classification of the cotton be desired, notice thereof shall be filed not later than the expiration of 30 days after the date upon which the samples were drawn from the cotton, and the original samples must have remained continuously in the possession of the Marketing Services Office or under its control.

28. Section 27.61 is amended by revising it to read as follows:

§ 27.61 One review of classification.

One review only of the classification of the cotton covered by any cotton class certificate may be obtained as provided in §§ 27.62 to 27.72, such review to be performed by the Grading Section. Micronaire determinations are not subject to review.

29. Section 27.63 is amended by revising it to read as follows:

§ 27.63 Conditions for review of classification and for Micronaire determination for receiver.

Any receiver of cotton upon a basis grade contract who has not redelivered such cotton on a basis grade contract may have a review of the classification of any cotton of which the classification has not been previously reviewed by filing a written application within 7 business days following the date of the delivery of cotton class certificates in accordance with this subpart. When more than 5,000 bales of cotton shall have been delivered to the same receiver on the same date of delivery, the receiver may, upon proper showing of the facts, be allowed 5 additional

business days for filing the application for review of the classification of any such cotton, provided written request for such extension is filed within 7 business days following the date of such delivery. In the event of the reissue of certificates to replace any certificates delivered, the receiver may have a review of the classification of the cotton covered by such reissued certificates, provided such review is requested within the time herein prescribed, calculated from the date of delivery of such reissued certificates. Any such receiver may also have a Micronaire determination, with or without review of classification, under these same conditions on cotton on which this service has not been previously performed under this subpart.

30. Section 27.64 is amended by revising paragraph (a) to read as follows:

§ 27.64 Application for review of classification and for Micronaire determination; filing.

(a) Every application review of classification or for Micronaire determination under § 27.62 or § 27.63 shall be filed with the Marketing Services Office serving the location at which the cotton is stored. The application shall in each case be in the hands of such Marketing Services Office within the time specified in § 27.62 or §27.63 for applying for review: *Provided*, That any Marketing Services Office may designate any officer of the Cotton Division or a representative of an exchange inspection agency located at another point to receive applications, and in such cases the applications shall be in the hands of the persons so designated within the time specified. Any person making such application shall, upon call of the Marketing Services Office or person with whom such application was filed under this section, surrender the cotton class certificates covering the cotton involved.

* * * * *

31. Section 27.66 is amended by revising it to read as follows:

§ 27.66 Dismissal of application for review.

Any application for review may be dismissed whenever it shall be found by the Area Director or the Director that it was filed without good cause or for dilatory purposes.

32. Section 27.67 is amended by revising it to read as follows:

§ 27.67 Use of new samples in reviews and Micronaire determinations.

Unless the use of new samples shall be necessary in the judgment of the Area Director, a review classification pursuant to §§ 27.61 to 27.72, or a Micronaire determination pursuant to § 27.14, § 27.62 or § 27.63, shall be made by reference to the samples, if any, of the cotton involved in the possession of the Marketing Services Office; but if the use of new samples is deemed necessary by the Area Director, or if there are no samples of the cotton in the possession of the Marketing Services Office, or if the samples of the cotton have been in the possession of the Marketing Services Office for more than one year, the person requesting the review classsification or Micronaire determination shall cause new samples to be drawn for the purpose and submitted to the Marketing Services Office in accordance with this subpart.

33. Section 27.69 is amended by revising it to read as follows:

§ 27.69 Classification review; notations on certificate.

When a review of classification is made after the issuance of a cotton class certificate, the results of the review classification, the date of issuance of the review classification results, and the signature of the Head, Grading Section shall be entered on the cotton class certificate. Thereupon the certificate shall be returned to the person who requested the review.

34. Section 27.73 is amended by revising it to read as follows:

§ 27.73 Supervision of transfers of cotton.

Whenever the owner of any cotton inspected and sampled for classification pursuant to this subpart and for which the owner holds valid cotton class certificates desires to transfer such cotton to a different delivery point, or to a different warehouse at the same delivery point, for the purpose of having it made available for delivery upon a basis grade contract, such transfer shall be effected under the supervision of an exchange inspection agency or a supervisor of cotton inspection.

35. Section 27.81 is amended by revising it to read as follows:

§ 27.81 Fees; certificates.

For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for the purposes of business convenience, or when made necessary by the transfer of the cotton under the supervision of an exchange inspection agency as provided in § 27.73, the person making the request shall pay a fee of 45 cents for each certificate issued.

36. Section 27.89 is amended by revising it to read as follows:

§ 27.89 Expenses; inspection; sampling.

Expense of inspection and sampling, the preparation of the samples and the delivery of such samples in accordance with § 27.24, shall be borne by the party requesting the classification of the cotton involved. When a review of classification or a Micronaire determination is requested and samples of the cotton involved are not in possession of a Marketing Services Office, the expense of inspection, sampling, preparation of samples, and delivery of the samples to the Marketing Services Office shall be borne by the party requesting the service.

37. Section 27.90 is amended by revising it to read as follows:

§ 27.90 Bills for payment of fees and expenses.

The Cotton Division shall deliver bills to all persons from whom payment for fees or expenses on account of services under this subpart shall be due. Such bills shall be rendered as soon as practicable after the last day of each month for the amounts due and unpaid on such day. When necessary, in the discretion of the Area Director or the Director, any bill may be rendered at an earlier date for any fees and expenses then due by the person to whom such bill shall be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than 2 weeks after such rendition.

38. Section 27.91 is amended by revising it to read as follows:

§ 27.91 Advance deposit may be required.

If requested by the Area Director with whom the classification request is required to be filed or by the Director, the person from whom any payment under this subpart may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official requesting the same.

39. Section 27.98 is amended by revising paragraph (a) to read as follows:

§ 27.98 Responsibilities and duties of the Cotton Division.

The Cotton Division is responsible for the accuracy of price quotations in each bona fide spot market. In carrying out this responsibility the Cotton Division will perform the following duties and functions:

(a) The Cotton Division will assign an employee in each market to collect, analyze, and present periodically to the quotation committee pertinent

information on the prices and values of spot cotton in the market to supplement information collected and available to the committee. The employee will attend each scheduled meeting of the committee and present these findings and recommendations on quotations.

* * * * *

40. Section 27.102 is amended by revising it to read as follows:

§ 27.102 Administration.

The details of the method of carrying out the provisions of this subpart in each bona fide spot market shall be subject to the approval of the Director or shall be prescribed by the Director.

Dated: October 20, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-29002 Filed 10-24-83; 8:45 am]

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7 CFR Part 989

Raisins Produced From Grapes Grown in California; Reduction of Incoming Substandard Tolerance and Conforming Weight Dockage System Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule reduces the incoming substandard (immature) tolerance on Natural (sun-dried) Seedless, Dipped Seedless, Oleate and Related Seedless, Golden Seedless, and Monukka raisins, and modifies the weight dockage system for immaturity to conform with the tolerance reduction. The rule's objective is to improve raisin quality and reduce handling costs. This action was recommended by the Raisin Administrative Committee, which works with USDA in administering the Federal marketing order for California raisins.

EFFECTIVE DATE: Effective with the 1983–1984 crop year which began August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secratary's Memorandum No. 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Eddie Kimbrell, Deputy Administrator, Agricultural Marketing Service, has certified that while this action could have an impact on a substantial number of small entities, the extent of such impact on an individual entitty is unclear and impossible to determine at this time since much depends on the corrective response of individual producers. Moreover, as noted hereinafter, the benefits of better quality raisins should outweigh any initial adverse impact and result in benefits in the long term to the small entity in the marketability and pricing of their product.

It is found that good cause exists for not postponing the effective date of this action 30 days after publicaiton in the **Federal Register** (5 U.S.C. 553) because raisin producers are beginning to deliver 1983-crop raisins to packers in volume and producers and packers need to know which requirements will be effective so they can plan their operatons accordingly. Moreover, prompt implementation of this action is necessary to minimize any chances of inequities among producers and packers due to different requirements for 1983-crop deliveries made at different times during the season.

Notice of this action to change the substandard tolerances prescribed in § 989.701 of Subpart-Quality Control (7 CFR 989.701–989.703), and to make conforming changes in the weight dockage system prescribed in § 989.210 of Subpart-Supplementary Regulations (7 CFR 989.210–989.221; 48 FR 35347) was published in the **Federal Register** on August 4, 1983 (48 FR 35454). These subparts are issued under the marketing agreement and Order No. 989, both as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended 7 U.S.C. 601–674).

The notice of this action invited written comments until August 19, 1983. Eighteen comments opposing the proposal were received from raisin producers. Twenty comments favoring the proposal were received from packers and producers. Some of the comments, on both sides of the issue, represented views of large segments of the raisin industry.

This action reduces the current 8 percent incoming substandard tolerance prescribed for Natural (sun-dried) Seedless, Dipped Seedless, Oleate and Related Seedless, Golden Seedless and Monukka raisins to 6 percent for the 1983–84 crop year, to 4 percent for the 1984–85 crop year, and to 2 percent for the 1985–86 and subsequent crop years. The substandard tolerance is one of the factors prescribed in the minimum grade and condition standards for natural condition raisins.

A reduced tolerance will encourage producers to deliver fewer substandard raisins to handlers, so as to improve product quality and reduce handling costs. Both of these goals are achievable through improved maturity. An improvement in the quality of the raisins delivered to packers for processing will enable packers to market raisins with higher maturity levels at lower processing costs and help the California raisin industry become more cost competitive with foreign producers.

The commentators favoring the tolerance change stated emphatically that the California raisin industry must upgrade the quality of its raisins through improved maturity and reduce packer processing costs, to remain competitive in the marketplace. For example, one commentator indicated that its first hand experience importing raisins in two recent years disclosed that the quality of certain imported raisins were superior to California raisins. The commentator stated that they never had a reading under 90% "B" maturity on such imports, whereas California raisins usually average around 60% "B" maturity. U.S. Grade B maturity raisins are raisins which show development characteristics of raisins prepared from reasonably well-matured grapes. Reasonably well-matured raisins are raisins that are reasonably full-fleshed and may have shallow wrinkles with thick edged ridges. They also contended that tighter maturity requirements would provide producers with an incentive to modify their cultural practices which, in the long run, would be rewarding economically. The commentators also indicated that improved standards will result in improved consumer acceptance.

Other commentators favoring the change stated that the current tolerance allows delivery of a large proportion of substandard raisins, thereby creating a disincentive for producers to produce and deliver quality raisins. They indicated that producers in effect are paid quality prices for culls. The commentators believe that with this change producers will have an economic incentive to improve the quality of raisins delivered to packers.

Some commentators, in opposition to the change, contended that producers were not to given an opportunity to modify their cultural practices in recognition of the tighter muturity requirements. The Raisin Administrative Committee recognized that producers would be unable to change cultural practices in time to adjust to the initial

reduction in the tolerance of two percent for the 1983–84 crop year. However, the consensus was that immediate action is needed to begin quality improvement. The Committee, therefore, recommended a gradual tightening of the maturity requirements. The reduction in the tolerance by two percent with the 1983 crop is intended to lessen the impact on producers this crop year. At the same time, it is expected that the six percent tolerance will enable packers to pack higher maturity raisins, thereby reducing processing costs. Producers will have adequate time to modify their cultural practices in conformity with the tolerance reductions effective with the 1984 and 1985 crop years.

The commentators in opposition to the change also stated that while the substandard tolerance for incoming raisins (i.e., raisins received by packers from producers) would be reduced, there is no provision for a corresponding decrease in the substandard tolerances for packed raisins. However, the tolerances for natural condition raisins and packed raisins cover different products. The incoming standards apply to all natural condition raisins, not to various sizes, delivered by producers to packers, whereas the standards for packed raisins apply after processing and sizing. Some commentators favoring the proposal recognized a possible disparity between the incoming and outgoing standards in 1984 when the incoming substandard tolerance would be 4 percent, and 2 percent respectively, and therefore indicate that some tightening of the standards for outgoing inspection should be realized then.

Some commentators objected to the shortness of the comment period provided by the proposal. A comment period of 15 days was provided so that final action could be taken before 1983-crop raisin deliveries started in volume. The substantial number of comments received during the time afforded in the notice appear to represent a cross section of raisin industry views. While a longer comment period would have afforded opportunity for more responses, it is unlikely that additional responses would have contained any other views beyond those presented.

The reduction in the substandard tolerance requires conforming changes to be made in the weight dockage table prescribed in § 989.210(g). The weight dockage system permits handlers to acquire as standard raisins any lot of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, and Oleate and Related Seedless raisins even though the lots have been determined to be off-grade because they contain an excess of substandard (immature) raisins. Immature raisins are removed during normal processing. The creditable weight of such lots is computed by multiplying the net weight of the lot by a factor from the dockage table in § 989.210(g). The factor reduces the weight of the lot by an amount approximating the weight of the substandard (immature) raisins needed to be removed from the lot in order for the balance of the lot to meet grade standards.

Current § 989.701(g) provides that Monukka raisins shall meet the same requirements set forth in paragraph (a) of that section for Natural (sun-dried) Seedless raisins. To keep the varietal types with the same requirements together, § 989.701(a) should be modified by adding "Monukka raisins" in the paragraph heading and the first sentence, and § 989.701(g) should be deleted.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Raisin Administrative Committee, the comments, and other information, it is determined that the changes in the substandard tolerance for incoming raisins and other conforming changes hereinafter set forth will promote the orderly marketing of California raisins and be in the public interest, and that these changes will tend to effectuate the declared policy of the act.

PART 989—[AMENDED]

Therefore, the final rule is as follows:

1. Section 989.210 (a) and (g) of Subpart—Supplementary Regulations (7 CFR 989.210–989.221 (48 FR 35347)) are revised to read as follows:

§ 989.210 Handling of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless raisins acquired pursuant to a weight dockage system.

(a) *General.* Subject to prior agreement between handler and tenderer, a handler may acquire as standard raisins any lot of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, and Oleate and Related Seedless raisins containing more than 6 percent beginning with the 1983–84 crop year, 4 percent beginning with the 1984–85 crop year, and 2 percent beginning with the 1985–86 and subsequent crop years, by weight, of substandard raisins under a weight dockage system. The creditable weight of such lot acquired shall be that obtained by multiplying the net weight of the raisins in the lot by the applicable dockage factor from the dockage table prescribed in paragraph (g) of this section.

• • • • •

(g) *Dockage Table.*

Percent substandard	Dockage factor
Crop year—1983–84	
6.0 or less	(1)
6.1	.999
6.2	.998
6.3	.997
6.4	.996
6.5	.995
Crop year—1984–85	
4.0 or less	(1)
4.1	.999
4.2	.998
4.3	.997
4.4	.996
4.5	.995
Crop year—1985–86 and thereafter	
2.0 or less	(1)
2.1	.999
2.2	.998
2.3	.997
2.4	.996
2.5	.995

[1] No dockage.

Note.—Percentages in excess of the last percentage shown in each table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .001 less than the dockage factor for the preceding increment.

2. Section 989.701 (a), (b), and (c) of Subpart—Quality Control (7 CFR 989.701–989.703) are revised to read as follows and § 989.701(g) is deleted:

§ 989.701 Minimum grade and condition standards for natural condition raisins.

(a) *Natural (sun-dried) Seedless and Monukka Raisins.* Natural condition Natural (sun-dried) Seedless and Monukka Raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) shall have a normal characteristic color, flavor, and odor of properly prepared raisins; (3) shall for the 1983–84 crop year contain not more than 6 percent, for the 1984–85 crop year contain not more than 4 percent, and for the 1985–86 and subsequent crop years, contain not more than 2 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well matured grapes); (4) shall not exceed 16 percent moisture as determined by the dried fruit moisture tester method; and (5) shall be of such quality and condition as can be

expected to withstand storage as provided in the order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee.

(b) *Dipped Seedless, and Oleate and Related Seedless.* Natural condition Dipped Seedless, and Oleate and Related Seedless raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) shall have a normal characteristic flavor and odor of properly prepared raisins; (3) shall for the 1983–84 crop year contain not more than 6 percent, for the 1984–85 crop year contain not more than 4 percent, and for the 1985–86 and subsequent crop years, contain not more than 2 percent, by weight, of substandard raisins, (raisins that show development less than that characteristic of raisins prepared from fairly well matured grapes); (4) shall not exceed 14 percent moisture as determined by the dried fruit moisture tester method, (5) shall be of such quality and condition as can be expected to withstand storage as provided in the order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee.

(c) *Golden Seedless.* Natural condition Golden Seedless raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) shall have a normal characteristic flavor and odor of properly prepared raisins; (3) shall for the 1983–84 crop year contain not more than 6 percent, for the 1984–85 crop year contain not more than 4 percent, and for the 1985–86 and subsequent crop years, contain not more than 2 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well matured grapes); (4) shall not exceed 14 percent moisture as determined by the dried fruit moisture tester method, (5) shall be of such quality and condition as can be expected to withstand storage as provided in the order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee; and (6) shall possess a color varying from yellowish green to dark amber or dark greenish amber with not more than 15 percent, by weight, of all the raisins being definitely dark berries. "Definitely dark berries" means raisins which are definitely darker than dark amber and characteristic of "naturally" raisined grapes.

* * * * *

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, California.

(Secs. 1–19, 48 Stat. 31, as amended 7 U.S.C. 601–674)

Dated: October 19, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 83–28851 Filed 10–24–83; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 34

[Docket No. 83–48]

Real Estate Lending

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a legal citation contained in a final regulation establishing 12 CFR Part 34, real estate lending which was published September 9, 1983 (48 FR 40698).

FOR FURTHER INFORMATION CONTACT: Jerome Edelstein, Attorney, Legal Advisory Services Division (202) 447–1880, Office of the Comptroller of the Currency, Washington, D.C. 20219.

PART 34—[AMENDED]

Accordingly, the Office of the Comptroller of the Currency is correcting 12 CFR 34.1(b) to read as follows:

§ 34.1 General and scope.

* * * * *

(b) *Scope.* For the purposes of 12 U.S.C. 371 and this part, loans secured by liens on interests in real estate include loans made upon the security of condominiums, leaseholds, cooperatives, forest tracts, construction project loans (except as specified in § 34.3(f) and (g)), and land sales contracts.

Date: October 17, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83–28924 Filed 10–24–83; 8:45 am]

BILLING CODE 4810–33–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 23706; SC No. 23–ACE–7]

Special Conditions; Soloy Conversions, Ltd., Modified Cessna Model 206 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued under §§ 21.16 and 21.101(b) of the Federal Aviation Regulations (FAR) for the Supplemental Type Certification of Soloy Conversions, Ltd. turbine-powered Cessna Models P206–P206E, U206–U206G, TP206A–TP206E, and TU206A–TU206G airplanes. These airplanes will have novel and unusual design features with regard to the propulsion system in a single engine airplane for which the applicable airworthiness standards of Part 3 of the Civil Air Regulations (CAR) do not contain adequate or appropriate safety standards. These special conditions contain the safety standards which the Administrator considers necessary to establish a level of safety equivalent to that provided in the regulations for single, reciprocating-engine-powered airplanes.

EFFECTIVE DATE: November 25, 1983.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Type Certification Basis

The type certification basis for the Soloy Conversions Ltd., turbine-powered Cessna Model 206 Series airplanes is as follows:

Part 3 of the Civil Air Regulations (CAR), effective May 15, 1956, through Amendment 3–8, effective December 15, 1962; Part 23 of the Federal Aviation Regulations (FAR), §§ 23.251, 23.907, and 23.1105, effective February 1, 1965; Amendment 23–7, §§ 23.937, 23.955,

23.1041, 23.1045, 23.1091, 23.1103, 23.1155, 23.1505 and 23.1527, effective September 14, 1969; Amendment 23–14, §§ 23.173, 23.201, 23.929, 23.1017, and 23.1027, effective December 20, 1973; Amendment 23–15, §§ 23.951, 23.997, 23.1013, 23.1015, 23.1019, and 23.1183, effective October 31, 1974; Amendment 23–16, § 23.335, effective February 14, 1975; Amendment 23–17, §§ 23.175, 23.933, 23.977, 23.1111, 23.1143, 23.1165, and 23.1549, effective February 1, 1977; Amendment 23–18, §§ 23.901, 23.939, 23.943, 23.1093, 23.1121, 23.1141, 23.1145, and 23.1337, effective May 2, 1977; Amendment 23–21, §§ 23.45, 23.49, 23.65, 23.75(d), 23.77, 23.1043, and 23.1521, effective March 1, 1978; Amendment 23–23, §§ 23.629(f), 23.1545 and 23.1557, effective December 1, 1978; Amendment 23–26, §§ 23.253, 23.361, 23.371, 23.903, 23.905, 23.991, 23.1305, and 23.1529, effective October 14, 1980; dual wheel, amphibious float criteria of Special Conditions dated January 14, 1969 and Amendment 1, dated February 20, 1969; for airplane serial numbers U20602589, U20604650 and up, Amendment 23–21 to Part 23 of the Federal Aviation Regulations (FAR), § 23.1559, effective March 1, 1978; Part 36 of the FAR, effective December 1, 1969, through Amendment 36–12; Special Federal Aviation Regulation (SFAR) No. 27, effective February 1, 1974, through Amendment 27–2; and Special Conditions SC No. 23–ACE–7.

Background

On October 21, 1983, Soloy Conversions, Ltd., 1769 Bishop Road, P.O. Box 60, Chehalis, Washington 98532, submitted an application for Supplemental Type Certification of turbine-powered Cessna Model 206 Series airplanes which are single engine, unpressurized, 5-seat, excluding pilot seat; that is, 6-place, highwing monoplanes and may be configured as a landplane, a skiplane, a floatplane, or an amphibian. The existing propulsion system is a single 285 continuous horsepower, reciprocating engine. The airplane's maximum gross takeoff weight may vary between 3,300 and 3,600 pounds depending upon the configuration.

The modification, which is referred to as a Soloy Turbine Pac, includes all items forward of the firewall (powerplant assembly, propeller, and cowling) as well as the necessary airplane changes associated with installing a turbine engine as a replacement for a reciprocating engine (fuel system, cabin heat, and electrical). The new propulsion system consists of a turbine engine, a reduction gear box, a driveshaft with flexible couplings connecting the engine and gear box together, and the structure needed to support these components and connect the assembly to existing engine firewall attach points. This arrangement is similar to installations in turbinepowered helicopters where flight loads are transmitted to the main rotor gear box rather than engine thrust bearings.

The Allison 250–C20S engine, as used in the Soloy Turbine Pac, is rated at 420-shaft horsepower (SHP) for takeoff and limited to 400–SHP for maximum continuous power. This represents a 40 percent increase in power over the reciprocating engine installation. These power ratings will be available for use as long as the airplane operating limits are not exceeded. The existing airplane operating limits remain unchanged and V_{MO} will be established as equal to the existing V_{NO}.

This modification of the Cessna Model 206 airplane, which installs a turbine engine substantially forward of the original reciprocating engine location, constitutes a novel or unusual design feature for an airplane type certificated to the airworthiness standards incorporated by reference in the Cessna Model 206 series type certificate, Type Certificate No. A4CE, or under the applicable airworthiness requirements in effect on the date of application for the Supplemental Type Certificate. In 1969, the flutter requirements of § 23.629 of the FAR were revised to include airworthiness standards for turbopropeller engine installations on small multiengine airplanes. Turbopropeller engine installations, being greater in length than reciprocating engine installations, are more critical with regard to mount flexibility. Forward displacement of the propeller in conjunction with the high rotational speed of the turbine engine and engine mount flexibility may result in significant aerodynamic and elastic inertia forces and cause dynamic instabilities which can adversely affect airplane whirl-flutter stability. Turbine engine installations on single engine airplanes were not envisioned when § 23.629 of the FAR was amended to include a dynamic evaluation of engine-propeller-engine mount stiffness and damping variations in multiengine airplanes. The mount flexibility in the modified Cessna Model 206 Series appears to be of the same order of magnitude as that on multiengine airplanes with wing mounted engines. As a result of this determination, the FAA issued Notice No. SC–83–5–CE (48 FR 38002; August 22, 1983) proposing Special Conditions to require additional dynamic evaluation of Soloy Conversions, Ltd., modified Cessna Model 206 Series airplanes.

Discussion of Comments

There were no comments received by the FAA in response to Notice No. SC–83–5–CE, published in the **Federal Register** on August 22, 1983. The closing date for comments was September 21, 1983.

List of Subjects in 14 CFR Part 21

Aviation safety, Aircraft, Air transportation, Safety.

Adoption of the Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, Special Conditions No. 23–ACE–7 are adopted for Soloy Conversions, Ltd., modified Cessna Model P206–P206E, U206–U206G, TP206A–TP206E, TU206A–TU206G airplanes as follows:

Dynamic Evaluation, Engine Installation

In addition to the requirements in § 3.311 of the CAR, *Flutter and vibration prevention measures*, the dynamic evaluation of the airplane must include:

1. Whirl mode degree of freedom which takes into account the stability of the plane of rotation of the propeller and significant elastic, inertial, and aerodynamic forces; and

2. Engine-propeller-engine mount stiffness and damping variations appropriate to the particular configurations.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g); (Revised Pub. L. 97–449, January 12, 1983) and 14 CFR 11.49(b))

Issued in Kansas City, Missouri on October 12, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83–28936 Filed 10–24–83; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9137]

Massachusetts Furniture and Piano Movers Assoc., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order requires a Massachusetts association of common

carriers certified to move household goods and office equipment, among other things, to cease entering into, maintaining or adhering to any agreement or plan to fix rates charged for the intrastate transportation of goods and equipment; and to cease providing nonpublic information relating to changes in any carrier's transportation rates to competing firms. The order also bars the association from knowingly preparing or filing tariff provisions containing collective rates for transportation services; influencing member carriers to file or adhere to any existing or proposed tariff provision affecting intrastate transportation rates; and maintaining a tariff committee or similar entity to consider, pass upon or discuss intrastate transportation rate proposals. Additionally, respondent is required to cancel all tariffs and tariff supplements presently in effect or on file with the Massachusetts Department of Public Utilities; terminate all previously executed powers of attorney and agreements with carriers utilizing its services; cancel provisions in its articles of incorporation, by-laws, policy statements and other relevant documents that do not conform with the terms of the order; and amend its by-laws to require members to observe provisions of the order as a condition of membership.

DATES: Complaint issued June 12, 1980. Final Order issued Sept. 28, 1983.[1]

FOR FURTHER INFORMATION CONTACT: Harold F. Moody, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, MA 02114. (617) 223-6621.

SUPPLEMENTARY INFORMATION: In the Matter of Massachusetts Furniture and Piano Movers Association, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.395 To control marketing practices and conditions; § 13.430 To enhance, maintain or unify prices; § 13.431 To exchange future price information; § 13.433 To fix prices. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-60 Release of general, specific, or contractural constrictions, requirements or restraints.

List of Subjects in 16 CFR Part 13

Furniture movers, Trade practices.

[1] Copies of the Complaint, Initial Decision and Opinion of the Commission filed with the original documents.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Final Order, including further order requiring report of compliance therewith, is as follows:

United States of America Before the Federal Trade Commission

Commissioners: James C. Miller III, Chairman, David A. Clanton, Michael Pertschuk, Patricia P. Bailey, George W. Douglas.

In the Matter of Massachusetts Furniture and Piano Movers Association, Inc., a corporation, Docket No. 9137.

Final Order

This matter, having been heard by the Commission upon the appeal of respondent from the Initial Decision, and upon briefs and oral argument thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to deny the appeal of respondent Massachusetts Furniture and Piano Movers Association, Inc.,

It is ordered that the Initial Decision of the administrative law judge be adopted as Findings of Fact and Conclusions of Law except to the extent inconsistent with the accompanying Opinion. Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered that the following Order to Cease and Desist is hereby entered.

I

It is ordered that the following definitions shall apply in this order:

"Carrier" means a common carrier of property by motor vehicle.

"Intrastate transportation" means the pickup or receipt, transportation and delivery of property for compensation within the Commonwealth of Massachusetts by a carrier authorized by the Massachusetts Department of Public Utilities to engage therein.

"Member" means any carrier or other person which pays dues or belongs to the Massachusetts Furniture and Piano Movers Association, Inc., or any successor corporation.

"Tariff" means the publication stating the rates of a carrier for the transportation of property within the Commonwealth of Massachusetts, excluding general rules and regulations.

"Rate" means a charge, payment or price fixed according to a ratio, scale or standard for direct or indirect transportation service.

"Collective Rates" means any rate or charge established under any contract, agreement, understanding, plan, program, combination or conspiracy between two or more competing carriers, or between any carrier and respondent.

II

It is further ordered that Massachusetts Furniture and Piano Movers Association, Inc.; a corporation, its successors and assigns, and its officers, agents, representatives, directors and employees directly or through any corporation, subsidiary, division or other device shall forthwith cease and desist from:

1. Entering into, adhering to or maintaining, directly or indirectly, any contract, agreement, understanding, plan, program, combination or conspiracy to fix, stabilize, raise, maintain or otherwise interfere or tamper with the rates charged by carriers that compete for the intrastate transportation of property or related services, goods or equipment.

2. Knowingly preparing, developing, disseminating or filing a proposed or existing tariff provision which contains collective rates for the intrastate transportation of property or other related services, goods or equipment.

3. Providing information to any carrier about rate changes ordered by any other carrier employing the publishing services of the respondent prior to the time at which such rate change becomes a matter of public record.

4. Inviting, coordinating or providing a forum for, including publication of an informational bulletin, any discussion or agreement between or among competing carriers concerning intrastate rates charged or proposed to be charged by carriers for the intrastate transportation of property or related services, goods or equipment.

5. Suggesting, urging, encouraging, persuading or influencing in any way members to charge, file or adhere to any existing or proposed tariff provision which affects rates, or otherwise to charge or refrain from charging any particular price for any services rendered or goods or equipment provided.

6. Maintaining any rate or tariff committee or other entity to consider, pass upon or discuss intrastate rates or rate proposals.

7. Agreeing with any carrier to institute automatic changes to rates on file for said carrier.

III

It is further ordered that Massachusetts Furniture and Piano Movers Association, Inc., shall, within

six (6) months after service upon it of this order:

1. Cancel all tariffs and any supplements thereto on file with the Massachusetts Department of Public Utilities that establish rates for transportation of property or related services, goods or equipment by common carriers in Massachusetts and take such action as may be necessary to effectuate cancellation and withdrawal.

2. Terminate all previously executed powers of attorney and rate and tariff service agreements, between it and any carrier utilizing its services, authorizing the publication and/or filing of intrastate collective rates within the Commonwealth of Massachusetts.

3. Cancel those provisions of its articles of incorporation, by-laws and procedures and every other rule, opinion, resolution, contract or statement of policy that has the purpose or effect of permitting, announcing, stating, explaining or agreeing to any business practice enjoined by the terms of this Final Order.

4. Amend its by-laws to require members of the Association to observe the provisions of the Order as a condition of membership in the association.

IV

It is further ordered that respondent shall within thirty (30) days after service upon it of this Order, mail or deliver a copy of this Order, under cover of the letter attached hereto as "Appendix," to each current member of respondent, and for a period of three (3) years from the date of service of this Order, to each new member within ten (10) days of each such member's acceptance by respondent.

V

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other proposed change in the corporation which may affect compliance obligations arising out of the Order.

VI

It is further ordered that respondent shall file a written report within six (6) months of the date of service of this Order, and annually on the anniversary date of the original report for each of the five years thereafter, and at such other times as the Commission may require by written notice to respondent, setting forth in detail the manner and form in which it has complied with this Order.

By the Commission.

Issued: September 28, 1983.

Emily H. Rock,

Secretary.

Appendix

(Letterhead of Massachusetts Furniture and Piano Movers Association, Inc.)

Dear Member: The Federal Trade Commission has ordered Massachusetts Furniture and Piano Movers Association, Inc. to cease and desist its tariff and collective rate-making activities. A copy of the Commission Opinion and Order is enclosed.

In order that you may readily understand the terms of the Order, we have set forth its essential provisions, although you must realize that the Order itself is controlling, rather than the following explanation of its provisions:

(1) The Association is prohibited from engaging in any collective rate-making activities, including the proposal, development or filing of tariffs which contain any collectively formulated rates for intrastate transportation services. Each member carrier must independently set its own rates for transportation of property or related services, goods or equipment within Massachusetts, but may use the Association as a tariff publishing agent.

(2) The Association is prohibited from providing a forum for its members for the purpose of discussing rates.

(3) The Association is prohibited from urging, suggesting, encouraging or attempting to influence in any way the rates members charge for their intrastate transportation services; the Association may not provide non-public information to any carrier about rate changes ordered by another carrier.

(4) The Association is prohibited from maintaining any rate or tariff committee which discusses or formulates intrastate rates or rate proposals.

(5) The Association is given six months to cancel all tariffs and tariff supplements currently in effect and on file at the Massachusetts Department of Public Utilities which were prepared, developed or filed by the Association.

(6) The Association is required to amend its by-laws to require its members to observe the provisions of the order as a condition of membership in the Association.

Sincerely yours,

Daniel W. Dunn,

Executive Director.

Enclosure

[FR Doc. 83-29006 Filed 10-24-83; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket C-3115]

State Volunteer Mutual Insurance Company, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, that a physician-owned medical malpractice insurance company located in Brentwood, Tenn. cease failing to apply the same underwriting criteria to both physicians affiliated with self-employed nurse midwives as supervisors or otherwise and those physicians who employ nurse midwives; and refrain from adopting any underwriting criterion or taking any other action that would discriminate between physicians affiliated with nurse midwives and those who are not, without a reasonable underwriting basis for doing so. For a period of ten years from the effective date of the order, the company is required to supply rejected physicians having affiliations with nurse midwives with written notice of specific reasons for the rejection; afford the physician a reasonable opportunity to respond; provide reasons for any final adverse determination; and maintain records of all relevant data. Further, the insurer has to alter its Underwriting Manual so as to conform with requirements of the order; make its best efforts to have an announcement published in the *Journal of the Tennessee Medical Association* in the form specified; and mail a copy of the announcement to its members and upon request from others.

DATE: Complaint and Order issued Sept. 28, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS-8, Arthur N. Lerner, Washington, D.C. 20580. (202) 724-1341.

SUPPLEMENTARY INFORMATION: On Monday, June 13, 1983, there was published in the **Federal Register**, 48 FR 27089, a proposed consent agreement with analysis In the Matter of State Volunteer Mutual Insurance Company, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16

[1] Copies of the Complaint and the Decision and Order filed with the original documents.

CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–40 Furnishing information to media; 13.533–45 Maintain records. Subpart—Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.635 Refusing sales to, or same terms and conditions.

List of Subjects in 16 CFR Part 13

Insurance, Physicians, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83-28665 Filed 10-24-83; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-2075]

The Reader's Digest Association, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued against The Reader's Digest Association, Inc. on Nov. 2, 1971 (36 FR 22824), *modified* March 12, 1974 (39 FR 12001). The modified order deletes the prohibition on use of the word "lucky" in contest promotions; allows truthful special selection claims; reinstates a conditional odds disclosure requirement to apprise consumers of their likelihood of winning; limits the recordkeeping requirement of Paragraph I.A. (7)–(9) to 3 years; and permits the company to disclose the terms and conditions of a sales offer in its catalog instead of on order forms or return reply coupons. Further, the company is no longer required to disclose the value of all free promotional items, but rather is prohibited from misrepresenting these items' value.

DATES: Consent Order issued Nov. 2, 1971. Modifying Order issued Sept. 30, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/PC, Terrence J. Boyle, Washington, D.C. 20580. (202) 376–3464.

SUPPLEMENTARY INFORMATION: In the Matter of The Reader's Digest Association, Inc., a corporation. Codification appearing at 36 FR 22824 remains unchanged.

List of Subjects in 16 CFR Part 13

Sweepstakes promotions, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

United States of America Before Federal Trade Commission

Commissioners: James C. Miller III, Chairman, David A. Clanton, Michael Pertschuk, Patricia P. Bailey, George W. Douglas.

In the matter of the Reader's Digest Association, Inc., a corporation. Docket No. C–2075.

Order Reopening the Proceeding and Modifying Cease and Desist Order

On March 3, 1983, the Reader's Digest Association, Inc., (Reader's Digest) requested that the Commission reopen and modify its November 2, 1971, order to cease and desist (79 F.T.C. 696), as modified on March 12, 1974 (82 F.T.C. 1356). In a letter dated June 21, 1983, Reader's Digest amended its request to ask for specific modifications it negotiated with the staff. For the reasons discussed below, the Commission reopens the proceeding and modifies the order.

The Commission's 1971 order arose from an investigation of practices Reader's Digest used in connection with its sweepstakes promotions. Respondent has used such contest to promote its magazine and book sales. The Commission's complaint alleged that Reader's Digest engaged in unfair and deceptive acts or practices, by, *inter alia,* failing to award all advertised prizes, misrepresenting contestants' chances of winning, and mailing simulated items of value. The consent order prohibited these practices, and required Reader's Digest to disclose the odds of winning all advertised prizes. In 1974, however, following the Commission's dismissal of a complaint against D. L. Blair Corp. (82 F.T.C. 252) for allegedly deceptive sweepstakes practices, the Commission deleted the odds disclosure requirement from the Reader's Digest order.

In 1975, the Commission brought a civil penalty action alleging that Reader's Digest mailed simulated checks and bonds in violation of the order. The district court, after granting summary judgment on liability, awarded $1.75 million in civil penalties. 494 F. Supp. 770 (D. Del. 1980), *Aff'd,* 662 F. 2d 955 (3d Cir. 1981), *cert. denied* 455 U.S. 908 (1982).

Reader's Digest asks the Commission to modify the order provisions governing simulated items of value, use of the word "lucky", "especially selected" representations, affirmative disclosure of the value of premium items, disclosure of the terms and conditions of its catalogue sales offers, and the duration of record-keeping requirements.

Respondent seeks the deletion of order paragraph II.C(3), which prohibits:

> Using or distributing simulated checks, currency, "new car certificates;" or using or distributing any confusingly simulated item of value.

Reader's Digest argues that this provision is unnecessary because such items do not in fact mislead consumers. The respondent has submitted in support of its request (1) an economic analysis discussing the value of sweepstakes advertising; (2) sample simulated items of value its competitors have used during the past year; and (3) surveys to show that consumers do not mistake the simulated items of value cited in the Commission's original complaint and in the civil penalty action as having value. From this data respondent argues that no cognizable percentage of recipients would be misled by simulated items. Reader's Digest contends that, given its competitors' frequent use of simulated items of value and the lack of any evidence that such items deceive consumers, the order provision unjustifiably hinders its ability to compete. Respondent also alleges that the prohibition violates its first amendment rights.

The Commission concludes from the surveys and other data submitted by respondent, taken together with the lack of any complaints from consumers that they have been misled, that the use of simulated items of value in advertising respondent's products is unlikely to mislead consumers. Moreover, any deception that might exist would cause only *de minimis* injury—the cost of the time necessary to open and read the materials. Because the costs that the absolute ban on simulated items of value imposes on respondent appear to outweigh any consumer benefits the ban may confer, the Commission concludes on the facts submitted that the public interest requires eliminating paragraph II.C(3).

Respondent seeks to modify paragraph I.A (4) to eliminate the absolute prohibition on using the term "lucky" in contest promotions. The provision now prohibits:

> Using the word "lucky" to describe any number, ticket, coupon, symbol, or other entry; or representing in any other manner directly or by implication that any number, ticket, coupon, symbol, or other entry confers or will confer an advantage upon the

recipient that other recipients will not have or is more likely to win a prize than are others, or has some value that other entries do not have.

The company argues that banning "lucky" is unnecessary because "lucky" is "harmless puffing," and because the restriction infringes its free speech rights.

The Commission believes that the term "lucky" is not inherently deceptive and should not, therefore, be barred. The remainder of this provision as modified will be sufficient to protect consumers against false claims that they have an advantage in respondent's contest.

Respondent next requests that the Commission remove its absolute ban on claims that participants have been "especially selected" to win a prize. Paragraph I.A.(3) of the order prohibits:

> Representing directly or by implication that the number of participants has been significantly limited; or that any person has been especially selected to win a prize.

This provision was intended to protect consumers from being misled regarding their chances of winning a prize. Reader's Digest contends that it does in fact specially select persons to whom they send some contest mailings, so that the order improperly restricts truthful representations. Respondent seeks permission to make such truthful claims provided it discloses the odds of winning each offered prize.

The Commission believes that truthful specially-selected representations, coupled with an odds disclosure, would not mislead consumers. When the Commission previously modified this order to delete the odds disclosure requirement, the order prohibited all special selection claims. Because the Commission now modifies the order to allow truthful special selection claims, reinstating a conditional odds disclosure requirement to apprise consumers of their likelihood of winning is in the public interest.

Reader's Digest also seeks alterations to paragraph I.A. (2), governing premium value disclosures, paragraph I.A. (4), regarding disclosing the terms and conditions of catalogue sales, and paragraphs I.A. (7)–(9), concerning record keeping. Paragraph I.A. (2) now requires Reader's Digest to disclose the value of all free promotional items. Respondent argues that because such items are often bought in bulk, they may not have a readily ascertainable retail value. The Commission agrees with respondent's request to change the current order's affirmative disclosure requirement to a provision prohibiting misrepresenting these items' value.

Paragraph I.A. (4) requires all of respondent's order coupons to disclose all terms and conditions of the sales offer. Reader's Digest asserts that this provision requires unnecessarily duplicative disclosures in its catalogues. The Commission agrees that respondent can effectively disclose the required information by having a single catalogue disclosure, provided that each coupon directs consumers to the place in the catalogue at which the disclosure is located. Finally, Reader's Digest seeks to limit its recordkeeping obligations in paragraphs I.A. (7)–(9) to three years; its current obligations are indefinite. The Commission agrees that three years is sufficient for its monitoring purposes, and Reader's Digest has agreed to further modify the order to allow the Commission ready access to all required contest records.

The Commission, having considered the request, has determined that Reader's Digest has submitted adequate evidence and made a satisfactory showing that changes in fact and the public interest require the Commission to reopen the proceeding and modify the order as requested, and therefore:

It is ordered that the proceeding be, and hereby is, re-opened.

It is further ordered that the Decision and Order issued on November 2, 1971, and modified on March 12, 1974, be, and hereby is, further modified by:

(1) Substituting for paragraph 3 of Subpart A of Part I of that Decision and Order the following:

"(3) representing, directly or by implication, that in any sweepstakes the number of participants has been significantly limited or that any person has been especially selected to win a prize; provided, however, that respondent may make a truthful representation that a person has been especially selected to receive the opportunity to participate in a sweepstakes as long as with that representation (but not necessarily in immediate conjunction therewith) respondent clearly and conspicuously discloses the approximate odds of that person's winning each prize to be awarded in that sweepstakes."

(2) Substituting for paragraph 4 of Subpart A of Part I of that Decision and Order the following:

"(4) falsely representing, directly or by implication, that any number, ticket, coupon, symbol or other entry confers or will confer an advantage upon the recipient that other recipients do or will not have or is more likely to win a prize than are others, or has some value that other entries do not have."

(3) Substituting for paragraph 7 of Subpart A of Part I of that Decision and Order the following:

"(7) failing, for two years after the conclusion of the promotional device, to furnish to any requesting individual a complete list of names of winners of all prizes having a retail value of $15 or more, together with the city and state of and prize won by each."

(4) Substituting for paragraph 8 of subpart A of Part I of that Decision and Order the following:

"(8) failing to maintain for three years after the conclusion of the promotional device, and to furnish upon request to the Federal Trade Commission, adequate records (a) which disclose the facts upon which any of the representations of the type described in Paragraphs 1–7 of this order are based, and (b) from which the validity of the representations of the type described in Paragraphs 1–7 of this order can be determined."

(5) Substituting for paragraph 9 of subpart A of Part I of that Decision and Order the following:

"(9) failing to maintain for three years after the conclusion of the promotional device, and to furnish upon request to the Federal Trade Commission, the following:

(a) a complete list of the names and addresses of the winners of each prize, and an exact description of the prize, including its approximate value;

(b) a list of the winning numbers or symbols, if utilized, for each prize;

(c) the total number of coupons or other entries distributed;

(d) the total number of participants in the promotional device;

(e) the total number of prizes in each category or denomination which were made available; and

(f) the total number of prizes in each category or denomination which were awarded."

(6) Deleting "C." from the beginning of paragraph 1 of the it is ordered paragraph of Part II of that Decision and Order.

(7) Substituting for paragraph 2 of the it is ordered paragraph of Part II of that Decision and Order the following:

"(2) falsely representing, directly or by implication, to any purchaser or prospective purchaser of respondent's products the value of any gift or other item furnished without charge, or at a nominal charge, or at a cost substantially below its retail value."

(8) Deleting paragraph 3 of the it is ordered paragraph of Part II of that Decision and Order.

(9) Substituting for paragraph 4 of the it is ordered paragraph of Part II of that Decision and Order the following:

"(3) failing to disclose clearly and conspicuously on the order form, return reply coupon, or similar material the way in which persons may participate in respondent's promotional devices without making or committing themselves to a purchase, or incurring any other obligation, or agreeing to any other act or condition; or offering any product for sale when all of the terms and conditions of the offer are not explained fully and clearly and set forth conspicuously on any order form furnished with the offer to be used to order the product or, in the case of offers in a catalogue, either on such order form or elsewhere in the catalogue with a clear and conspicuous disclosure on such order form of a notice such as 'See page [—] for important terms and conditions to this offer.' "

By the Commission.

Issued: September 30, 1983.

Emily H. Rock,

Secretary.

Separate Statement of Commissioner Pertschuk on Order Modification in Reader's Digest C–2075

September 30, 1983.

In 1971, the Commission was concerned that simulated checks included in Reader's Digest sweepstakes promotions misled consumers into believing that the checks had actual cash value. Research presented by Reader's Digest indicates that such is not the case today.

Today's action by the Commission, together with its prior civil penalty action against Reader's Digest for flagrantly violating the provisions modified today, clearly demonstrates the appropriateness of refusing to permit respondents to flout Commission orders, as well as the need to grant relief from those orders when the proper showing has been made.

[FR Doc. 83–28827 Filed 10–24–83; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 13

[Docket No. 8978]

Borden, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modified Final Order.

SUMMARY: In settlement of judicial review proceedings resulting from the entry of a Commission cease and desist order after full adjudicatory proceedings, this agreed-to modification requires a producer of processed lemon juice to refrain, for a period of seven years, from pricing its product below its variable costs for the product in any sales district. "Variable costs" are defined as all costs which the firm could have chosen not to occur during the relevant time period. The relevant time period consists of all consecutive fiscal quarters in which the firm's prices failed to cover its total costs, and thus vary with the duration of any price reduction. The firm is also required to file annual compliance reports detailing its market share, costs and net revenues. The Modified Final Order takes the place of an order previously entered by the Commission, which was affirmed by a court of appeals in a judgment that was the subject of a petition for a writ of certiorari in the Supreme Court. *In the Matter of Borden, Inc.*, 92 F.T.C. 669, 778, 832 (1978), *affirmed, Borden, Inc. v. FTC*, 674 F. 2d 498 (1982), petition for a writ of certiorari filed Aug. 25, 1982, Sup.Ct.No. 82–328.

DATES: Final Order issued Nov. 7, 1978. Modified Final Order issued Sept. 16, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CD, Barbara A. Clark, Washington, D.C. 20580. (202) 634–4793.

SUPPLEMENTARY INFORMATION: On Thursday, March 3, 1983, there was published in the **Federal Register**, 48 F.R. 9023, a proposed agreed-to order in settlement of judicial review proceedings In the Matter of Borden, Inc., for the purpose of soliciting public comment. Interested parties were given thirty (30) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the Modified Final Order in the form contemplated by the agreed-to order.

Codification appearing at 43 FR 57143 remains unchanged.

List of Subjects in 16 CFR Part 13

Processed lemon juice, Trade practices.

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[1] Copies of the Modified Final Order filed with the original documents.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

Separate Statement of Commissioner Pertschuk Concerning Borden, Inc., Docket No. 8978

September 16, 1983.

I have voted to enter this order upon instruction of the court of appeals. Nevertheless, as I stated in opposing the Commission's decision not to support our 1978 order before the Supreme Court, this modified order represents for all practical purposes an abandonment of the Commission's role in policing predatory pricing by a monopolist. Although the Commission is today issuing a document with order provisions written on it, they are so lenient and so unenforceable that it is highly unlikely we could ever establish a violation no matter what Borden did.

It is well recognized that rules against predatory pricing must be carefully circumscribed to avoid prohibiting or deterring healthy competitive pricing. Thus, the Commission has been selective in bringing monopolization cases and finding liability over the last decade or more. On the other hand, as small businesses will readily attest, dominant firms sometimes do punish or attempt to destroy a smaller rival through predatorily low prices and the result is to destroy competition, not make it more vigorous. One of the most likely situations for this to occur is when a monopolist prices below cost with the intent to destroy a small new entrant and there are significant barriers to future entry by others. These were the circumstances in Borden and resulted in a unanimous finding of liability.

There have been no monopolization cases brought by the Commission under this administration, and its most significant policy decision in this area has been to undercut this order after it was affirmed by the court of appeals. It is one thing to enforce cautiously predatory pricing rules so as to stop only anticompetitive behavior. It is quite another to abandon concern about predatory pricing altogether.

[FR Doc. 83–29007 Filed 10–24–83; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 13

[Docket 9120]

Borg-Warner Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: On September 22, 1983, the Federal Trade Commission modified its Final Order issued against Borg-Warner Corporation on June 23, 1983 (48 FR 35367). The modification alters the reporting requirements of the annual director screening provisions contained in Paragraph IV of the order.

DATES: Final Order issued June 23, 1983. Modifying Order issued Sept. 22, 1983.*

FOR FURTHER INFORMATION CONTACT: FTC/CS-2, Ann B. Malester, Washington, D.C. 20580. (202) 254-8644.

SUPPLEMENTARY INFORMATION: In the Matter of Borg-Warner Corporation, a corporation, Robert Bosch GmbH, a limited liability company, Robert Bosch Corporation, a corporation, Hans L. Merkle, an individual, and Hans Bacher, an individual. Codification appearing at 48 FR 35367 remains unchanged.

List of Subjects in 16 CFR Part 13

Automobile parts, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45; sec. 8, 38 Stat. 732; 49 Stat. 717; 15 U.S.C. 19)

In the Matter of Borg-Warner Corporation, a corporation, Robert Bosch GmbH, a limited liability company, Robert Bosch Corporation, a corporation, Hans L. Merkle, an individual, and Hans Bacher, an individual; Docket No. 9120.

Order Modifying Final Order

An opinion and final order in this matter having been issued on June 23, 1983; respondents having been served by mail with the said opinion and order on July 22, 1983; respondents having petitioned for reconsideration of said opinion and order on August 11, 1983; and the Commission, for the reasons stated in the accompanying opinion, having determined to grant in part, and deny in part, respondents' petition for reconsideration;

It is ordered, that the final order to cease and desist be, and hereby is, modified as follows:

Modified Final Order

This matter has been heard by the Commission upon the appeals of respondents and complaint counsel from the initial decision, and upon briefs and oral argument in support of and in opposition to the appeals. For the reasons stated in its opinion issued June 23, 1983, the Commission has determined to deny the appeal as to respondents and as to complaint counsel. The Commission further has determined to grant in part but to deny in part respondents' petition for reconsideration of this order. Accordingly,

It is further ordered, That the findings of fact and initial decision of the Administrative Law Judge be adopted insofar as not inconsistent with the findings of fact and conclusions of law contained in the June 23, 1983 opinion.

The following definitions shall apply in this order:

"Bosch Corporation" means Robert Bosch Corporation (Bosch U.S.), Robert Bosch GmbH (Bosch GmbH), their controlled subsidiaries, or the successors or assigns of either corporation.

"Competitor" means a corporation that by virtue of its business and location is in competition with the subject corporation, so that elimination of competition by agreement between them would constitute a violation of any of the provision is of any of the antitrust laws.

"Board of Directors" means the board of directors of any United States corporation, the board of management of Bosch GmbH, or the functional equivalent of board of directors of any other foreign corporation.

I

It is ordered, That respondent Borg-Warner and its successors and assigns shall forthwith cease and desist from having, and in the future shall not have, any individual serve as a director who

(a) serves at the same time on the board of directors of any Bosch Corporation as long as such corporation is a competitor in the production or sale of any product or service with Borg-Warner; or

(b) serves at the same time on the board of directors of any corporation as long as such corporation is a competitor of Borg-Warner in the production or sale of automotive parts for the aftermarket, and as long as the revenues of either corporation derived from the product market or markets in which they are competitors exceed five million dollars; or

(c) fails to submit to Borg-Warner any statement required by paragraph IV of this order.

The requirements of this paragraph shall be effective for a period of ten (10) years from the effective date of this final order.

II

It is further ordered, That respondents Bosch GmbH and Bosch U.S. and their successors and assigns shall forthwith cease and desist from having, and in the future shall not have, any individual serve on their board of directors who

(a) serves at the same time on the board of directors of Borg-Warner, as long as Borg-Warner is a competitor in the production or sale of any product or service with the Bosch Corporation on whose board the director sits; or

(b) serves at the time on the board of directors of any corporation as long as such corporation is a competitor of the Bosch Corporation on whose board the director serves in the production or sale of automotive parts for the aftermarket, and as long as the revenues of either corporation derived from the product market or markets in which they are competitors exceed five million dollars; or

(c) fails to submit to Bosch GmbH or Bosch U.S. any statement required by paragraph V of this order.

The requirements of this paragraph shall be effective for a period of ten (10) years from the effective date of this final order.

III

It is further ordered, That respondent Hans L. Merkle shall forthwith cease and desist from serving, and in the future shall not serve, as a director both of Borg-Warner and of any Bosch Corporation that is a competitor of Borg-Warner. The requirements of this paragraph shall be effective for a period of ten (10) years from the effective date of this final order.

IV

It is further ordered, That within thirty (30) days of the effective date of this order, and prior to each election of directors or prior to the solicitation of proxies for such election, whichever is earlier, respondent Borg-Warner shall obtain a written, certified statement from each member of its board of directors (except directors whose terms expire at the next election and who are not standing for reelection) and from each nominee for a directorship or seat on the board of directors (who is not then a director) showing

(a) the name and home mailing address of each director or nominee; and

(b) in the case of any director who then serves as a director, or has been nominated to serve as a director at the

*Copies of the Opinion of the Commission as to the Modifying Order filed with the original documents.

time of the statement, of any Bosch Corporation, the name and principal office mailing address of such Bosch Corporation, and a listing of each product produced or sold by such Bosch Corporation.

(c) in the case of any director who then serves as a director, or has been nominated to serve as a director at the time of the statement, of any other corporation that produces or sells automotive parts for the aftermarket, as defined by the Commission in its opinion, the name and principal office mailing address of each such other corporation, and a listing of each such automotive aftermarket part product, provided that the revenue derived from the production or sale of such product by either such other corporation(s) or Borg-Warner exceeds five million dollars.

The requirements of this paragraph shall not apply to elections of directors occurring after ten (10) years from the effective date of this final order.

Nothing in this paragraph shall be construed to relieve respondents of their obligations under paragraph I(a) above due to any error or omission contained in any written statement received pursuant to this paragraph.

V

It is further ordered, That within thirty (30) days of the effective date of this order, and prior to each election of directors of prior to the solicitation of proxies for such election, whichever is earlier, respondents Bosch GmbH and Bosch U.S. shall obtain a written, certified statement from each member of their board of directors (except directors whose terms expire at the next election and who are not standing for reelection) and from each nominee for a directorship or seat on the board of directors (who is not then a director) showing

(a) the name and home mailing address of each director or nominee, and

(b) in the case of any director who then serves as a director, or has been nominated to serve as a director at the time of the statement, of Borg-Warner Corporation, a statement that the director serves on such corporation, and a listing of each product produced or sold by Borg-Warner Corporation.

(c) in the case of any director who then serves as a director, or has been nominated to servé as a director at the time of the statement, of any other corporation that produces or sells automotive parts for the aftermarket, as defined by the Commission in its opinion, the name and principal office mailing address of each such other corporation, and a listing of each such automotive aftermarket part product, provided that the revenue derived from the production or sale of such product by either such other corporation(s) or Bosch Corporation exceeds five million dollars.

Provided, however, that in complying with the provisions of paragraph V(b) or (c), the information to be furnished to Bosch GmbH concerning its directors may be limited to those corporations engaged in commerce within the United States and those products sold or offered for sale by such corporations within the United States.

The requirements of this paragraph shall not apply to elections of directors occurring after ten (10) years from the effective date of this final order.

Nothing in this paragraph shall be construed to relieve respondents of their obligations under paragraph II(a) above due to any error or omission contained in any written statement received pursuant to this paragraph.

VI

It is further ordered That within forty-five (45) days of the effective date of this final order, and annually for a period of ten (10) years thereafter, respondents Borg-Warner, Bosch GmbH, and Bosch U.S. shall file, with the Commission separate, written reports setting forth in detail the manner and form in which each has complied with this order. Copies of the statements obtained pursuant to paragraphs IV and V of this order shall be submitted to the Commission as part of the reports of compliance required by this paragraph.

VII

It is further ordered That respondents Borg-Warner, Bosch GmbH, and Bosch U.S. shall notify the Commission at least thirty (30) days prior to any change in the corporations or in their relationships to each other such as dissolution, assignment, or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of this order. The requirements of this paragraph shall be effective for a period of ten (10) years from the effective date of this final order.

By the Commission, Chairman Miller and Commissioner Douglas dissenting.

Emily H. Rock,

Secretary.

Dissenting Statement of Chairman James C. Miller III [1]

When the Commission issued its original order in this matter, I dissented on several grounds. In sum, I urged the Commission to remand the case to the Administrative Law Judge for an expedited hearing on the issues of whether any likely anticompetitive effects of the challenged interlock were more than *de minimis* in nature, whether the proceeding was legally moot, and whether complaint counsel had successfully borne its burden of showing that injunctive relief was warranted. Subsequently, respondents filed a motion for reconsideration, alleging that the Commission's initial order was based on the erroneous premise that the corporate respondents had no effective director screening programs to guard against Section 8 violations.[2]

None of the arguments or alleged facts in the motion for reconsideration and the accompanying affidavits have altered my original position. Indeed, they have strengthened my belief that remand is the appropriate course here.

The motion for reconsideration, together with complaint counsel's response and the majority's opinion, add yet another unsettled issue to those requiring further administrative hearings. Hence, I would now add the existence and effectiveness of the corporate respondents' director screening programs to those issues on which remand is necessary.[3]

I regret to find that the Commission majority has decided to issue an order on the basis of even greater uncertainty than was apparent when I filed my previous dissent in this matter.

Issued: September 22, 1983.

[FR Doc. 83-29008 Filed 10-24-83; 8:45 am]
BILLING CODE 6750-01-M

[1] Commissioner George W. Douglas joins in this statement.

[2] In the alternative, respondents moved that the Commission clarify, correct, and narrow the Commission's original order in various ways. I do not dissent from those portions of today's majority opinion that grant certain of those changes. If an order must issue, this modified order is certainly an improvement. However, I dissent because I believe it inappropriate for the Commission to issue *any* order against these respondents, given the uncertain and sparse state of the current record.

[3] While the existence of an effective director screening process is obviously a relevant issue, I am not content simply to accept as fact the assertions made on this issue in the respondents' motion for reconsideration and in the accompanying affidavits. I believe prudence would dictate further evidentiary hearings on the point.

16 CFR Part 13

[Docket C-2903]

Flagg Industries, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued against Flagg Industries, Inc., et al. on Sept. 27, 1977 (42 FR 57304). The modified order eliminates Flagg Industries, Inc. as a respondent in this proceeding at such time as it contributes $3,500,000 to the capital of Queen Creek Land and Cattle Corp., who would then be responsible for compliance with the terms of the 1977 order.

DATES: Consent Order issued Sept. 27, 1977. Modifying Order issued Sept. 29, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/PC, Joseph J. Koman, Jr., Washington, D.C. 20580. (202) 376-3477.

SUPPLEMENTARY INFORMATION: In the Matter of Flagg Industries, Inc., et al. Codification appearing at 42 FR 57304 remains unchanged.

List of Subjects in 16 CFR Part 13

Land sales, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Modifying Order, including further order requiring report of compliance therewith, is as follows:

Commissioners: James C. Miller III, Chairman; David A. Clanton, Michael Pertschuk, Patricia P. Bailey, George W. Douglas.

In the Matter of Flagg Industries, Inc., et al., Docket No. C-2903.

Order Reopening the Proceeding and Modifying Cease and Desist Order

On June 3, 1983, Flagg Industries, Inc. and Queen Creek Land and Cattle Corporation, respondents in the above captioned matter, filed a petition pursuant to Rule 2.51 of the Commission's Rules of Practice to reopen the proceeding and modify the Consent Order that was issued on September 27, 1977. By letter, dated August 25, 1983, petitioners agreed to modify their original proposal.

The petition asked that the Commission reopen the proceeding in this matter and modify the Consent Order that was issued in 1977 so that Flagg Industries, Inc. (Flagg) would no longer a be respondent under that Order. The purpose of this change would be to permit a sale of those portions of the business of Flagg that are not related to the land sales operation of its subsidiary Queen Creek Land and Cattle Corporation (Queen Creek). In return for releasing Flagg from further obligations under the 1977 Order, Flagg would make a contribution of $3,500,000 to the capital of Queen Creek and certain obligations would be placed on Queen Creek to assure compliance with the essential terms of the 1977 Order. The petition was on the public record for thirty (30) days and no comments were received.

After reviewing the petition, the Commission has concluded that the public interest warrants reopening and modifying the Order in the manner requested by the petitioners.

The modification shall take effect at such time as Flagg makes its contribution of $3,500,000 to the capital of Queen Creek. The Commission's approval is expressly conditioned on the petitioners' representations that the sum received by Queen Creek will be invested promptly in government securities, qualified corporate securities, certificates of deposit, and savings and other bank accounts, so as to assure Queen Creek's ability to comply with the terms of this modified Order.

In view of the contribution that Flagg will make to the capital of Queen Creek, and the manner in which Queen Creek will invest that capital, there is no longer any need to retain Flagg as a respondent under the Order. Accordingly,

It is ordered that:

At such time as Flagg Industries, Inc., contributes $3,500,000 to the capital of Queen Creek Land and Cattle Corporation pursuant to an agreement between the companies conforming to the terms of Exhibit B-2 of the petition presented to the Commission, and so long as the contribution is made on or before December 31, 1983,

(1) Flagg Industries, Inc., shall be deemed to have fulfilled the obligations imposed by the Commission's Order of September 27, 1977;

(2) the Order of September 27, 1977, shall be deemed to be modified to eliminate Flagg Industries, Inc., as a respondent in this proceeding; and

(3) as modified, the Order shall read as follows:

Order

I.

It is ordered, that respondent Queen Creek Land and Cattle Corporation, a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale of land or other real property in or affecting commerce, as "commerce" is defined in the Federal Trade Commission act, do forthwith cease and desist from:

1. Misrepresenting, directly or by implication, the financial strength, size, and diversity or extent of assets of respondent.

2. Representing, either orally or in writing, directly or by implication:

a. That the vacant lots which respondent is offereing for sale constitute a good or excellent investment, that significant monetary gain can be achieved, or that there is little or no financial risk involved in the purchase of respondent's lots.

b. That the resale of a vacant lot purchased from respondent is not difficult.

c. That the value of land at respondent's subdivisions is rising or will rise in the future.

d. That the prices of respondent's lots periodically rise or that prices are increasing, have increased, or will increase, without clearly and conspicuously disclosing at the same time, and by the same medium by which the price increases are communicated, that the price increases do not in any way relate to the value of land, and that the value of land to purchasers does not appreciate proportionately with the price rises.

e. That the purchase of a lot in one of respondent's subdivisions is a way to achieve financial security, to deal with inflation, or to become wealthy.

f. That the value of, or demand for, any land, including lots being offered for sale or previously sold by respondent has increased, or will or may increase, or that purchasers have made, or will or may in the future make, a profit by reason of having purchased respondent's land.

g. That the growth in land values or potential growth in land values at respondent's subdivisions corresponds to or will correspond to the growth in land values of any other locality, or in any way comparing land values or potential growth in land values at respondent's subdivisions to land values or potential growth in land values in any

other locality. The word "locality" includes, but is not limited to cities, towns, counties, townships, boroughs, states and regions.

h. That land in respondent's subdivisions will soon be unavailable or otherwise scarce, or that land in any particular subdivision of respondent will soon be unavailable.

i. That prospective purchasers must purchase a lot immediately to ensure that a particular location will be available.

j. That respondent's subdivisions offer the comforts of suburban living, or that respondent's subdivisions are other than isolated, sparsely populated areas.

k. That jobs for purchasers who decide to move to any of respondent's subdivisions will be obtainable, without specifying exactly which jobs are currently available for people with the prospective purchasers' qualifications and salary requirements.

l. That new industry is moving to any of respondent's subdivisions, unless the industry is actually moving onto the subdivision itself, and unless respondent describes exactly what industry or industries is or are moving to the subdivision or subdivisions, when such moves are to take place, and the number and types of jobs which will be made available.

m. That new industry is moving near respondent's subdivisions, unless the industry is actually moving and unless respondent describes exactly which subdivision or subdivisions, the mileage from the subdivision or subdivisions, to the site of the industry or industries, when such moves are to take place, and the number and types of jobs which will be made available.

n. That any of respondent's subdivisions will prosper in any way by virtue of its location.

o. That persons being solicited to purchase respondent's property are not entering into a legally binding obligation, merely making a refundable deposit, reserving the property, not making a final decision regarding purchase of property, or in any manner whatsoever obscuring the legal or practical significance of signing a land sale contract, promissory note or any other instrument.

Provided, however, that respondent may make those representations in the sale of land for which there is a documented reasonable basis to believe that such representations are true. Said documentation shall be made available to Commission staff upon request to review during reasonable business hours.

3. Making any statements or representations which in any manner refer to or concern investments in stocks, annuities or any other form of investment.

4. In any way discouraging prospective purchasers from obtaining the assistance of counsel or other professionals in order to understand the provisions of respondent's land sales contracts, promissory notes, or other documents or make other determinations as to the advisability of purchasing respondent's land.

5. Using any motion pictures, still pictures, or other depictions in any type of sales presentation or promotional material unless such motion pictures, still pictures, or depictions are in fact genuine and accurate representations of the material or location presented therein.

6. From the date this order becomes final, including in any contract for the sale of land, or in any other document shown or provided to purchasers or prospective purchasers of land, whether or not signed by such purchasers or prospective purchasers, language to the effect that verbal representations have not been made in connection with the sale, or that no express or implied representations have been made in connection with the sale or offering for sale of land.

7. From the date this order becomes final, including in any contract for sale of the land, or in any document shown or provided to purchasers or prospective purchasers of land, whether or not signed by such purchasers or prospective purchasers, language to the effect that upon failure of the purchaser to pay an installment due under the contract or otherwise to perform any obligation under the contract, the seller shall be entitled to retain sums previously paid thereunder by the purchaser in excess of the seller's actual damages.

8. Using site visits afforded purchasers in connection with a right of cancellation to vitiate in any way that right or attempt to sell additional land.

9. Misrepresenting or obscuring the right of a purchaser under any provision of respondent's contract or of this order, or under any applicable statute or regulation, to cancel a transaction or receive a refund.

10. Misrepresenting that financing for the construction of dwellings on subdivision lots is available or that respondent offers design or construction services.

11. Misrepresenting orally or in writing the present or future extent of development in any of respondent's subdivisions.

12. a. Representing that respondent will provide, or that respondent's subdivisions will have available, any facility or improvement, other than the utilities treated separately in paragraph 2 of Section III of this order, unless respondent's contracts or promissory notes at the time of the representation contain (i) a legal obligation on the part of respondent to provide or make available said facilities and improvements at a date certain, not later than 10 years from the date of purchase, set out clearly and conspicuously in the document, and (ii) a statement as to the cost to the purchaser, if any, for such facilities or improvements.

b. Failing to express the aforesaid contractual obligations set out in subparagraph (a) above in the contract or promissory note with the purchaser in the following manner:

(i) A complete description of each improvement or facility to be provided or made available;

(ii) A provision that in the event any of the improvements or facilities specified in the instrument are not completed within six months of the time provided in the contract, respondent will immediately, upon the expiration of said six-month period, provide the purchaser by certified mail, return receipt requested, with notice of such unavailability of or failure to complete the aforesaid improvements or facilities, and of the purchaser's right to exercise within 30 days of receipt of said notice his option to exchange his lot or to cancel and receive a full refund as set out in subparagraph (iii) below:

(iii) An option to the purchaser stated substantially as follows:

In the event that any of the improvements or facilities specified by the seller in this instrument are not available to the lot which is the subject of this instrument, or are not completed within six months of the time provided in this instrument, the purchaser may elect, at his option, to (1) receive, at no additional expense to the purchaser, an exchange acceptable to the purchaser of other property of at least equal price, equivalent size, and with those improvements contracted for, or (2) cancel this instrument and receive from the seller a full refund of all monies paid hereunder plus the legal rate of interest, compounded annually. To exercise this option, the purchaser must give notice to the seller by registered or certified mail within 30 days after receipt of notice from the seller of such unavailability of or failure to complete the aforesaid improvements or facilities.

(iv) Where Acts of God delay the construction of improvements, a reasonable extension of the six-month time period in the instrument does not

violate this order and the purchaser's option does not operate until said reasonable time has elapsed. *Provided, however,* respondent shall notify purchaser of said Act of God in accordance with the above.

Subsections (a) and (b) above shall apply to all contracts, promissory notes, or other binding documents executed after the date this order becomes final.

c. Failing to make the exchange or refund requested by a purchaser under the terms of this paragraph or the order within seventy-five (75) days of receipt of notification from the purchaser.

d. Soliciting or obtaining the purchaser's assent to a waiver or limitation or otherwise imposing any condition upon the right of a purchaser to an exchange or a refund as set out in this paragraph.

II

It is further ordered, that respondent, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale of land or other real property in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith:

1. Include, clearly and conspicuously, in any written or oral invitation or other communication concerning any event or activity, dinner parties or other gatherings, awards of free or low cost gifts, sightseeing tours, or any other goods or services, which invitation or other communication is in any manner related to the sale of land, the following statement: "The purpose of [the event or activity] is to persuade you to sign a contract for the purchase of undeveloped land in [name of state in which land is located] at a cost of approximately [average contract price in the subdivision during previous year rounded off to nearest $500 or, in the case of a new subdivision, average offering price rounded off to nearest $500]."

If said invitation or communication is in writing, such disclosure shall be in writing and shall be made clearly and conspicuously in the invitation or communication; if the invitation or communication is oral, such disclosure shall be made orally during the telephone invitation or communication, and in writing by mail to be received by the prospective purchaser at least three days prior to the event or activity; *provided, however,* that in the case of consumers already within the state within which the subdivision is located, such disclosure may be made one day prior to a tour, or site visit, so long as (a) all written materials given to such consumers make such a disclosure in print as large as the largest print in such materials, and (b) all agents of respondent who promote the tour and all employees of respondent who in any way attempt to influence consumers' decisions orally inform consumers of the purpose of the tour or site visit.

2.a. Include, clearly and conspicuously, in all sales presentations, promotion materials, and advertising, other than TV or radio advertisements, in the same size type as that which is predominantly used in such material, the following statement:

YOU SHOULD CONSIDER THE PURCHASE OF OUR LAND TO BE RISKY. THE FUTURE OF THIS LAND IS UNCERTAIN—DO NOT COUNT ON AN INCREASE IN ITS VALUE. IT HAS NOT GENERALLY BEEN POSSIBLE FOR PURCHASERS OF LAND FROM [SELLING RESPONDENT] TO RESELL THE LAND AT A PROFIT. PURCHASERS GENERALLY HAVE BEEN UNABLE TO RESELL THE LAND AT ALL. IT IS SUGGESTED THAT YOU DISCUSS ANY POSSIBLE PURCHASE WITH A LAWYER, BANKER OR OTHER QUALIFIED PROFESSIONAL.

b. Include, clearly and conspicuously, in all TV and radio advertisements, the following statement:

YOU SHOULD CONSIDER THE PURCHASE OF ANY OF OUR LAND RISKY.

3. Set forth on the first page of any contract for the sale of land in 24-point type, "CONTRACT FOR THE PURCHASE OF LAND." with no other writing except that required by the following paragraph and paragraph 2 of Section III of this order.

4. Print the following in 12-point boldface type as the only writing in addition to that required by paragraph 3 of Section II and paragraph 2 of Section III of this order, on the first page of all contracts for the sale of land:

THIS IS A CONTRACT BY WHICH YOU AGREE TO PURCHASE LAND. YOU SHOULD NOT CONSIDER THIS PURCHASE AS AN INVESTMENT. THE FUTURE VALUE OF THIS LAND IS UNCERTAIN—DO NOT COUNT ON AN INCREASE IN ITS VALUE. IN FACT, THERE IS GENERALLY NO RESALE MARKET FOR THIS LAND; PREVIOUS PURCHASERS HAVE, FOR THE MOST PART, FOUND IT IMPOSSIBLE TO SELL THE LAND AT ALL, MUCH LESS AT A PROFIT.

IT IS THEREFORE SUGGESTED THAT YOU CONSIDER YOUR NEEDS CAREFULLY, AND HAVE BOTH THIS CONTRACT AND THE PROPERTY REPORT REVIEWED BY A LAWYER, BANKER OR OTHER QUALIFIED PROFESSIONAL.

WHILE YOU HAVE 10 DAYS IN WHICH TO RECONSIDER YOUR DECISION AND CANCEL THIS CONTRACT WITH FULL REFUND, WE RECOMMEND THAT YOU NOT SIGN UNTIL EXERCISING THE CARE SUGGESTED IN THE PREVIOUS PARAGRAPH.

Signature Date

No contract or other legally binding instrument for the sale of respondent's land shall be valid unless this statement is signed and dated by the purchaser after he has had a reasonable amount of time to read the whole page.

5.a. Furnish each purchaser, at the time the purchaser signs a contract or other document for the sale of land, with a copy of the contract or other document and two copies of the following form. The title of the form shall be "NOTICE OF RIGHT OF CANCELLATION" printed in 12-point type and the form shall contain in 10-point boldface type the following information and statements.

(Date of Transaction)

(Contract Number)

NOTICE OF CANCELLATION

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, AT ANY TIME PRIOR TO MIDNIGHT OF THE TENTH BUSINESS DAY AFTER THE DATE SHOWN ON THE CONTRACT.

IF YOU CANCEL, ANY PAYMENT MADE BY YOU UNDER THE CONTRACT AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN TEN BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF THE CANCELLATION NOTICE.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM TO [*name of selling respondent*] AT [*address of respondent's place of business*] NOT LATER THAN MIDNIGHT OF [Date]

I (WE) HEREBY CANCEL THIS TRANSACTION. (EACH PURCHASER MUST SIGN THIS NOTICE.)

[Date] [Signature of Purchaser]

b. Complete both copies before furnishing this "Notice of Right of Cancellation" to the purchaser, by

entering the name of the selling respondent, the address of the respondent's place of business, the date of the transaction, the contract number, and the date, not earlier than the tenth business day following the date of transaction, by which the purchaser may give notice of cancellation. The term "selling respondent" as required by this order shall mean Queen Creek Land and Cattle Corporation, its successors or assigns or any other dba used in selling land.

c. Where a timely notice of cancellation is received and said notice is not properly signed and respondent does not intend to honor the notice, respondent shall immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of his error, and stating clearly and conspicuously that a notice signed by the purchaser must be mailed to respondent by midnight of the seventh business day following the purchaser's receipt of the mailing if the purchaser is to obtain a refund.

d. Where the signature of a prospective purchaser is solicited during the course of a sales presentation, inform each person orally, at the time he signs the contract, or other legally binding instrument, of his right to cancel as stated above.

6. Include, clearly and conspicuously, in each contract or other document for the sale of land the following statement in 12-point boldface type.

PURCHASER HAS THE RIGHT TO CANCEL THE CONTRACT WITHOUT ANY PENALTY OR OBLIGATION AT ANY TIME PRIOR TO MIDNIGHT OF THE TENTH BUSINESS DAY AFTER THE DATE OF THIS CONTRACT.

SHOULD PURCHASER CHOOSE TO CANCEL PURSUANT TO THIS PROVISION, ANY PAYMENTS MADE BY PURCHASER UNDER THIS CONTRACT AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY PURCHASER WILL BE RETURNED WITHIN TEN BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF THE CANCELLATION NOTICE.

TO CANCEL THE TRANSACTION, PURCHASER MUST MAIL OR DELIVER A SIGNED COPY OF THE NOTICE OF RIGHT OF CANCELLATION FURNISHED BY SELLER, A TELEGRAM, OR ANY OTHER WRITTEN NOTICE TO [*selling respondent* AT [*selling respondent's place of business*] NOT LATER THAN MIDNIGHT OF THE TENTH BUSINESS DAY AFTER THE DATE OF THIS CONTRACT.

7. Honor any signed and timely notice of cancellation by a purchaser, and within 10 business days after the receipt of such notice (a) refund all payments made under the instrument, and (b) cancel and return any negotiable instrument executed by the purchaser in connection with the contract.

8. Send to prospective purchasers (1) copies of all reports required by either federal or state law and (2) copies of all materials required by this order, along with any invitation or other communication inviting the prospective purchaser to attend a land sales dinner.

9. If the land is to be sold other than at a land sales dinner, furnish (1) copies of all reports required by federal or state law to be furnished to a purchaser of respondent's land at or before the signing of a legally binding instrument and (2) copies of all materials required to be furnished by this order, with the first written materials or during the first contact which the prospective purchaser has with respondent or any of its agents or employees.

10. Inform orally and in writing all prospective purchasers of vacant land that home financing may not be available, and that a bank located near the subdivision should be consulted prior to the purchase of land if the purchaser intends to build or purchase a house on that land.

11. Whenever respondent offers a refund contingent upon the purchaser taking a company-guided inspection tour or making a registered inspection of the property in which the purchaser's lot is located:

a. Provide the purchaser three business days after taking tour or making said inspection within which to request a refund;

b. Include in any contract, or other legally binding instrument, in immediate proximity to the provision setting forth the availability of a refund upon completion of a company-guided inspection tour or registered inspection of the property, the following statement:

YOU, THE PURCHASER(S), HAVE AN ADDITIONAL RIGHT TO CANCEL THE TRANSACTION IF YOU TAKE THE COMPANY-GUIDED TOUR OR MAKE A REGISTERED INSPECTION OF THE PROPERTY AND NOTIFY THE COMPANY OF YOUR INTENTION TO EXERCISE THE RIGHT TO CANCEL PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF SUCH TOUR OR INSPECTION.

c. Orally inform the purchaser at the time the instrument is signed and at the time the tour is taken or the inspection is registered of this cancellation right.

d. Furnish each purchaser at the completion of the tour or inspection a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall contain in boldface type of a minimum size of 10 points the following statements:

NOTICE OF CANCELLATION

[Date of company-guided inspection tour of property]

[Contract number]

YOU MAY CANCEL YOUR CONTRACT OR PROMISSORY NOTE WITHOUT ANY PENALTY OR OBLIGATION, AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE ABOVE DATE.

IF YOU CANCEL, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE.

TO CANCEL YOUR CONTRACT OR PROMISSORY NOTE, MAIL OR DELIVER A SIGNED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM TO: [*Name of selling respondent*], [*address of selling respondent's place of business*], NOT LATER THAN MIDNIGHT OF————.

I (WE) HEREBY CANCEL THE CONTRACT. (EACH PURCHASER MUST SIGN THIS NOTICE).

(Date)

(Purchaser's signature)

(Purchaser's signature)

e. Before furnishing the purchaser copies of the "Notice of Cancellation" set forth in subparagraph (d) above, complete both copies by entering the name of the selling respondent and the address of its place of business, the date of the company-guided inspection tour or the registered inspection of the property, and the date, not earlier than the third business day following the date of the last contract in connection with said tour or inspection by which the purchaser may give notice of concellation.

f. If respondent conditions the right of cancellation referred to above upon a tour or registered inspection, respondent shall insure that a representative is on site during reasonable daylight hours to register inspections.

g. Where a timely notice of cancellation is received from a

purchaser purportedly in accordance with the requirements of this paragraph of the order, but where said notice is not properly signed, and respondent does not intend to honor the notice, respondent shall immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, and a new cancellation form; said notice shall inform the purchaser of his error and state clearly and conspicuously that a notice signed by the purchaser must be mailed by midnight of the seventh day following the purchaser's receipt of the mailing if the purchaser is to obtain a refund.

III

It is further ordered, that respondent, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale of land or other real property in or affecting commerce, as defined in the Federal Trade Commission Act, do forthwith cease and desist from advertising for sale, offering for sale, contracting to sell, or selling any interest in:

1. Any land represented in any manner as being usable now or in the future as a homesite, unless either:

a. At the time of sale all of the conditions set forth below are met, or

b. The selling respondent's contract with the purchaser contains a legal obligation on the part of respondent to meet the conditions set forth below within five years of the date of the sale.

The conditions to be met by respondent are as follows:

(1) The purchaser must have available an adequate sewage system by means of:

(a) A septic tank, or

(b) A central sewage system, the hook-up to which will cost the purchaser only a reasonable and customary branch-line extension fee;

provided, that respondent must include in the contract whether a septic tank will be necessary or whether a central sewage system will be available, and the approximate amount which a septic tank would cost to install or a central sewage system would cost to hook up to, including an estimate of the amount said fee will increase over the next five years.

(2) The purchaser must be able to obtain potable water by hooking up to a central water system solely by payment of a reasonable and customary branch-line extension fee; *provided,* that respondent must include in the contract the approximate amount of said extension fee, including an estimate of the amount said fee will increase over the next five years.

(3) The purchaser must be able to obtain standard electricity and telephone service from a local utility authorized to do business in the state in which the land is located, which serviced will cost the lotholder only nominal hook-up and installation fees and customary and usual rates; *provided,* that respondent must include in the contract the approximate amount of said hook-up and installation fee, including an estimate of the amount said fee will increase over the next five years.

If respondent fails for any reason to meet the conditions required by this paragraph, it shall refund to each purchaser to whom the obligations are not fulfilled all monies paid by such purchaser to respondent under the terms of the land sales contract, plus the legal rate of interest, compounded annually.

2. Any lot not covered in paragraph 1 above of this order provision, unless there shall appear as described in paragraph II 4, as additional paragraphs required by paragraph II 4, such of the following statements as are applicable:

a. For contracts for the sale of lots as to which neither respondent nor any other party is legally obligated to make a central sewer system available, add the following, including the third sentence only where applicable:

"A CENTRAL SEWER SYSTEM WILL NOT BE AVAILABLE WHEN YOU HAVE COMPLETED YOUR CONTRACT PAYMENTS. INSTALLATION OF A SEPTIC TANK WOULD BE AT YOUR EXPENSE. HOWEVER, THE USE OF A SEPTIC TANK ON YOUR LOT IS CONTINGENT ON APPROVAL BY GOVERNMENTAL AUTHORITIES."

b. (i) For contracts for the sale of lots to which neither respondent nor any other party is legally obligated to make available a central potable water system, and where water is not available on an aid-in-construction basis, add the following, including the third sentence only where applicable:

"A CENTRAL SYSTEM FOR POTABLE WATER WILL NOT BE AVAILABLE WHEN YOU HAVE COMPLETED YOUR CONTRACT PAYMENTS. INSTALLATION OF A WELL WOULD BE OF CONSIDERABLE EXPENSE TO YOU. MOREOVER, IT MAY NOT BE POSSIBLE TO OBTAIN POTABLE WATER FROM A WELL IN SOME AREAS."

(ii) For contracts for the sale of lots to which neither respondent nor any other party is legally obligated to make a central water system available, and where water is available on an aid-in-construction basis, add the following, including the fourth sentence only where applicable:

"A CENTRAL WATER SYSTEM WILL NOT BE AVAILABLE WHEN YOU HAVE COMPLETED YOUR CONTRACT PAYMENTS. IT MAY BE IMPOSSIBLE OR IMPRACTICAL TO OBTAIN WATER FROM A CENTRAL SYSTEM DUE TO THE HIGH COST OF MAKING THIS SERVICE AVAILABLE TO THIS AREA. INSTALLATION OF A WELL WOULD BE OF CONSIDERABLE EXPENSE TO YOU. MOREOVER, IT MAY NOT BE POSSIBLE TO OBTAIN POTABLE WATER FROM A WELL IN SOME AREAS."

(iii) For contracts for the sale of lots to which neither respondent nor any other party is legally obligated to make a central system for potable water available, where water is available on an aid-in-construction basis, and there are legal restrictions on drilling for water, add the following, including the third sentence only where applicable:

"A CENTRAL WATER SYSTEM WILL NOT BE AVAILABLE WHEN YOU HAVE COMPLETED YOUR CONTRACT PAYMENTS. IT MAY BE IMPOSSIBLE OR IMPRACTICAL TO OBTAIN WATER DUE TO THE HIGH COST OF MAKING THIS SERVICE AVAILABLE TO THIS AREA. INSTALLATION OF A WELL IS PROHIBITED IN SOME AREAS."

c. For contracts for the sale of lots to which electricity and telephone service will only be available to the purchaser on an aid-in-construction basis, add the following:

"IT MAY BE IMPOSSIBLE OR IMPRACTICAL TO OBTAIN ELECTRICITY AND TELEPHONE SERVICE DUE TO THE HIGH COST OF MAKING THESE SERVICES AVAILABLE TO THIS AREA."

d. For contracts for the sale of lots to which respondent or any other party is legally obligated only to provide unpaved roads with no maintenance obligations, add the following in lieu of all of the above:

"THIS COMPLETELY UNDEVELOPED LAND IS BEING SOLD 'AS IS.' ELECTRICITY, WATER, SEWER AND TELEPHONE SERVICE ARE NOT PLANNED FOR THIS SUBDIVISION AND MAY BE IMPOSSIBLE FOR YOU TO OBTAIN AT A REASONABLE COST. YOUR LOT WILL BE ACCESSIBLE, IF AT ALL, ONLY BY UNPAVED ROADS WHICH WILL NOT BE MAINTAINED. THE USE

OF SUCH ROADS MAY BE IMPOSSIBLE WITHOUT MAINTENANCE. YOUR LOT HAS VIRTUALLY NO USE AT PRESENT OR IN THE FORESEEABLE FUTURE."

e. For contracts for the sale of lots to or on which neither respondent not any other party is legally obligated to provide any improvements, add the following in lieu of all of the above:

"THIS COMPLETELY UNDEVELOPED LAND IS BEING SOLD 'AS IS.' ELECTRICITY, WATER, SEWER, AND TELEPHONE SERVICE ARE NOT PLANNED FOR THIS SUBDIVISION AND MAY BE IMPOSSIBLE FOR YOU TO OBTAIN AT A REASONABLE COST. NO ROADS ARE PLANNED AND YOUR LOT IS PROBABLY INACCESSIBLE BY CONVENTIONAL TRANSPORTATION. YOUR LOT HAS VIRTUALLY NO USE AT PRESENT OR IN THE FORESEEABLE FUTURE."

f. For contracts for the sale of lots in any of respondent's properties in which purchasers are required to join an improvement association which is obligated to spend accumulated funds for improvements to and services for lots such as, but not limited to, central water and sewer systems, telephone and electrical services, road maintenance and paving, add the following:

"YOU ARE OBLIGATED BY THIS CONTRACT TO JOIN AND MAKE REGULAR PAYMENTS ESTIMATED TO BE [estimated *annual* cost] TO [name of association]. THE [name of association] IS LEGALLY OBLIGATED TO [name of selling respondent], BUT NOT TO YOU, TO USE SUCH FUNDS TO PROVIDE UTILITIES AND OTHER IMPROVEMENTS TO AND SERVICES FOR YOUR LOT. HOWEVER, YOU MUST MEET CERTAIN ADDITIONAL PAYMENTS, AS SET FORTH IN THE CONTRACT, BEFORE YOU REQUEST THESE UTILITIES, IMPROVEMENTS, AND SERVICES."

g. For purposes of providing additional information to purchasers, respondent may advise purchasers of which governmental approvals have been granted in the past for private wells and septic tanks. This subsection, (g), shall be in addition to disclosures required by Sections 2(a) and (b), and not in lieu thereof.

If respondent fails for any reason to make the disclosures required by this paragraph, it shall refund to each purchaser to whom the disclosures were not made all monies paid by such purchaser under the terms of the land sales contract when requested to do so by such purchaser.

IV

It is further ordered, that respondent, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the sale of land in its three subdivisions, shall provide all improvements, amenities, and facilities described in the HUD Property Reports in effect on the date of sale and the additional improvements described below. Said requirements shall include both new construction and repair of existing improvements which are in a state of disrepair or were improperly constructed.

Improvements and amenities to be constructed at the respective subdivisions shall include, but not be limited to, the following:

1. Cordes Lake

a. All subdivision roads, culverts and other drainage structures shall be constructed to minimum Yavapia County specifications, as those specifications required at the time construction began.

b. A low water crossing and an alternative access road for emergency use by residents of Units 5 and 6 to reach the main highway during flood stages of Big Bug Creek. The location of this access road shall be mutually agreed upon by respondent and the property owners' association.

c. All water lines shall be placed underground.

d. Drain, de-weed, and re-fill Crystal Lake. Crystal and Bass Lakes shall be filled and maintained at the highest level attained since their construction. Where modification of the water supply system is required to maintain this level, said modifications shall be accomplished.

e. All improvements and amenities set out in the Property Report, Notice and Disclaimer by Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, OILSR No. 0–0162–02–27(A) dated September 10, 1973, shall be completed using accepted construction standards for Yavapai County.

f. All construction shall be completed at Cordes Lake not late than April 30, 1977. All amenities constructed or still under construction by respondent shall not be conveyed to the property owners' association until these facilities are brought to a reasonable standard agreed to by respondent and the property owners' association. All improvements to be accepted for maintenance by the county shall be completed and accepted not later than April 30, 1977.

g. Title to all lots which have been designated as property to be dedicated for public use shall remain in respondent until such time as title is accepted by the appropriate Yavapai County or other public entity.

2. Verde Village

a. All roads in the subdivision shall be brought to Yavapai County standards for asphalt paved roads, as those standards existed when the roads were initially constructed.

b. All drainage channels, ditches, culverts and other structures and facilities shall conform to Yavapai County standards and shall be consistent with accepted engineering and construction standards for the topography of the subdivision.

c. All lots on which the owner indicates to respondent that he intends to build shall be rough graded so as to require only normal filling and grading for construction of a residential structure. This requirement terminates when the improvements are accepted by the Yavapai County Engineer.

d. The existing water distribution system shall be checked, modified and upgraded where necessary to assure reasonably uniform line pressure and discharge rates to all occupied units and those units in which lots have been offered for sale. All water lines shall be placed underground.

e. Grade and restore recreation areas, and lots along Verde River. The owners of lots adjacent to the Verde River which have been damaged by respondent's employees or agents and which have not been restored within 60 days after this order becomes final shall be offered a full refund plus the legal rate of interest, or the right of exchange, at the owner's option.

f. Respondent shall contact, within 60 days of acceptance of this order by the Commission, the owner of each occupied lot in the subdivision to determine if said owner had to bear the cost of extending water, telephone, or electrical service to his property line. Where owners had to bear the cost, respondent shall reimburse that owner for those costs in a lump sum within ten days of notification and furnishing of proof by the lot owner.

g. All improvements and amenities set out in the Property Report, Notice and Disclaimer by Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, OILSR No. 0–1024–02–144(G) Amendment No. 1 dated September 10, 1973, shall be completed and accepted

by Yavapai County Engineer not later than June 30, 1979.

h. All construction shall be completed at Verde Village not later than June 30, 1979. All amenities constructed or still under construction by respondent shall not be conveyed to the property owners' association until these facilities are brought to a reasonable standard agreed to by respondent and the property owners' association. All improvements to be accepted for maintenance by the county shall be completed and accepted not later than June 30, 1979.

i. Title to all lots which have been designated as property to be dedicated for public use shall remain in respondent until such time as title is accepted by the appropriate Yavapia County or other public entity.

3. Valle Vista

a. All subdivision roads shall be constructed to match existing roads in Unit One and shall meet Mojave County specifications for paved roads, as those specifications are interpreted by the Mojave County Engineer.

b. All culverts, drainage channels and ditches shall be constructed to Mojave County Specifications, or other required governmental flood control standards.

c. All lots on which the owner has indicated to respondent his intent to build shall be rough graded so as to require only normal filling and grading for construction of a residential structure. This requirement shall terminate on December 31, 1978.

d. Where future lots are approved for sale by the appropriate State of Arizona agency, respondent shall assure that Truxton Canyon Water Company, Inc., or another state approved water company can provide sufficient potable water to satisfy the expected demand.

e. All subdivision water lines shall be underground and shall supply potable water within standards established by the Arizona Health Department and Water Commission for Total Dissolved Solids (TDS) fluorides and other impurities.

f. Respondent shall complete the 18-hole golf course, tennis court, swimming pool, shuffle board, park and other amenities as set out in the Property Report, Notice and Disclaimer by Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, dated December 17, 1974, not later than December 31, 1978.

g. Respondent shall maintain the roads, culverts and other drainage facilities, lakes, golf course, community center, swimming pool, and any other common facilities until such time as these facilities have been accepted by the County of Mojave or the subdivision property owners' association: *provided, however,* that under no circumstances shall respondent convey to the property owners' association any facility prior to those facilities meeting standards mutually agreed upon by respondent and the property owners' association. All roads, culverts and other drainage facilities, and other improvements shall be completed and accepted for maintenance by the Mojave County Engineer not later than December 31, 1978.

4. Funds advanced by respondent to the trust fund established under paragraph V of this order shall under no circumstances be used for maintenance of any common facility included in the Property Reports referred to in this paragraph prior to acceptance by the association.

5. Failure to complete construction and secure acceptance by the appropriate county engineer within the time limits set out above at each of the subdivisions constitutes a continuing violation of this order.

V

It is further ordered, that respondent, its agents, representatives and employees shall:

1. Place in three separate trusts, for the benefit of each respective subdivision, Twenty Thousand Dollars ($20,000) per year for five years, to be divided among the three property owners' associations as follows:

a. Cordes Lake: Eight Thousand Dollars ($8,000) per year.

b. Verde Village: Eight Thousand Dollars ($8,000) per year.

c. Valle Vista: Four Thousand Dollars ($4,000) per year.

Expenditures by the associations shall be limited to physical improvements and maintenance of common facilities for the general benefit of each subdivision as a whole. The trustee of these funds shall be chosen by the respective property owners' association.

2. Within sixty (60) days after this order is final, withdraw from membership in the Cordes Lake and Verde Village property owners' associations. With respect to the Valle Vista property owners' association, respondent, its agents, representatives and employees shall, within sixty (60) days after this order is final, take or cause to be taken, such action as may be necessary, including but not limited to amendments to existing articles and/or by-laws of the association, which will embody the following conditions:

a. Respondent, its agents, representatives and employees shall not control, directly or indirectly, the determination as to the use of funds placed in trust under this order, other than advising the association as to what uses said funds might be put;

b. No present, past or future agent, representative or employee of respondent may serve as a director of the association;

c. Respondent, its agents, representatives and/or employees shall cause to be elected as directors of the association such owners within the subdivision who are not, nor have ever been, employees, agents, or representatives of respondent, and do not have, nor have had, any relationship with respondent, its agents, representatives and employees which might tend in any way to influence and/or control, directly or indirectly, the actions of such elected director, or the independent judgment of such elected directors in carrying out their fiduciary responsibilities, nor shall respondent, its agents, representatives and employees use the articles, by-laws or general corporation law to influence and/or control, directly or indirectly, the actions of such elected directors; and

d. Respondent, its agents, representatives and employees shall withdraw from membership in the association as soon as is practicable and reasonable under the circumstances, and in no event later than one year after the date on which this order becomes final.

VI

It is further ordered, that respondent, its successors and assigns, for purposes of future litigation arising out of their land sale activities, shall forbear from relying upon or asserting as a defense, the clause in the contract or other binding instrument containing language to the effect that no express or implied representations have been made in connection with the sale or offering for sale of respondent's land, other than those set forth in the contract or other instrument. Further, respondent, its successors and assigns, shall cease and desist from enforcing those provisions in their contracts or other binding instruments which operate to cause the purchaser to forfeit sums paid in installments upon default of any one installment payment. This section shall apply to contracts or other binding instruments presently in force and those to be used in future land sales transactions.

VII

It is further ordered, that respondent, its successors and assigns, agents, representatives and employees shall cease and desist from endorsing,

discounting, assigning or in any other manner negotiating contracts, promissory notes, or other evidences of indebtedness by purchasers of lots in their subdivisions in such a manner or to such parties as to jeopardize or cloud the title or render the title unmarketable to the purchaser upon satisfaction of the mortgage.

VIII

It is further ordered, that respondent, its successors and assigns, and agents, representatives and employees shall:

1. Deliver a copy of this decision and order to each of their present or future salesmen and other employees, independent brokers, and all others who sell or promote the sale of lots in respondent's subdivisions.

2. Provide each person so described in the preceding paragraph with a form, returnable to the respondent clearly stating his intention to be bound by and to conform his business practices to the requirements of this order.

3. Inform all such present and future salesman and other employees, independent brokers, and all others who sell or promote the sale of lots in respondent's subdivisions that respondent shall not use any person, or the services of any person, to sell or promote the sale of real estate unless such person agrees to and does file notice with the respondent that he will be bound by the provisions contained in this order. If any such person does not agree to so file notice with the respondent and be bound by the provisions of the order, the respondent shall not use such person or the services of such person, to sell or promote the sale of real estate.

4. Institute a program of continuing surveillance adequate to reveal whether the business operations of each of said persons so engaged conform to the requirements of this order.

5. Discontinue dealing with the persons revealed by the aforesaid program of surveillance or by any other means who continue on their own the unfair or deceptive acts or practices prohibited by this order.

It is further ordered, that in the event that respondent transfers all or a substantial part of its business or assets to any other corporation, individual, partnership or other entity, respondent shall require said transferee to file promptly with the Commission a written agreement to be bound by the terms of this order; *provided,* that if respondent wishes to present to the Commission any reasons why said order should not apply in its present form to said transferee, it shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said business transfer. Failure to require that such transferee be bound under this order as set out in this paragraph shall be considered a continuing violation of this order.

It is further ordered, that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of this order.

It is further ordered, that the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

IX

It is further ordered that—

1. For the purposes of this section, the following terms shall be defined as stated:

a. "Liquid Assets" means cash, cash equivalents, government securities, other marketable securities, dividends and interest earned, and the land owned by respondent at Lake Forest, Placer County, California, including improvements thereon.

b. "Contingent Utility Liability" means the present value of the cost of installing utilities for property in respondent's subdivisions in Arizona, taking into account both the increased costs of future installations caused by inflation, and the discount rate that should be applied to future costs because of the time value of money.

c. "Qualified Corporate Securities" means corporate bonds which at the time of acquisition are rated not less than AA by Standard & Poor's Corporation, or not less than Aa by Moody's Investors Service, Inc., and which provide a yield not less than that obtainable through obligations of the United States of America with comparable maturities.

2. Respondent shall invest the sum of $3,500,000 in government securities, qualified corporate securities, certificates of deposit, and savings and other bank accounts in such a reasonable and prudent manner so as to satisfy the contingent utility liability.

3. For a period of five (5) years from the date on which this modified Order is issued:

a. Respondent shall pay no cash dividends to its shareholders.

b. Respondent shall not cause or permit the dissipation of any of its assets in any manner that impairs respondent's ability to comply with the terms of this Order; *provided, however,* that deterioration in the ordinary course of operation and normal wear is not a violation of this subsection.

c. Respondent shall not acquire the assets or stock of any company.

d. Respondent shall not purchase any of its outstanding stock.

e. Respondent shall not sell any additional lots at Valle Vista or Verde Village and shall not sell any additional lots at retail at Cordes Lake.

4. Respondent shall, for five (5) years from the date on which this modified Order is issued, maintain in liquid assets as a contingent utility liability account an amount equal to $2,800,000 reduced by the appropriate present value of the cost of utility installations made during the five year period. At any time after five (5) years from the date on which this modified Order is issued, respondent may recompute the contingent utility liability, if such recomputation is done by qualified personnel in accordance with all applicable professional standards.

Any such recomputation may take into account changes or new information regarding any factor used to calculate the present value of the future liabilities, including but not limited to the rate of installation of utilities, estimates of costs, inflation rates, or the appropriate discount rate. Any change in the rate of installation of utilities used in such recomputation shall be based upon actual historical experience over a period of not less than four (4) years immediately preceding the year of recomputation, or upon other stated factors that indicate that the previous assumptions regarding installation rates should be adjusted.

5. Before reducing the liquid assets in the contingent utility liability account, respondent shall submit such recomputation to the Commission for approval. The Commission shall treat such recomputation as if it were a request for modification pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b) and Rule 2.51 of the Commission's Rules of Practice.

6. Notwithstanding the foregoing, respondent is under no obligation to make or utilize any recomputation of its

contingent utility liability, provided that in the absence of any recomputation the last approved recomputation or, if none, the computations contained in respondent's submission to the Commission in conjunction with these modification proceedings, shall remain applicable.

7. Respondent shall report annually to the Commission on the anniversary of this modification, for a period of seven (7) years, on its compliance with Paragraph IX of this modified Order.

By direction of the Commission.

Issued: September 29, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-29004 Filed 10-24-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

FD&C Red No. 3 Externally Applied Drugs and Cosmetics and the Laces of FD&C Red No. 3 in Food and Ingested Drugs; Open Meeting

Correction

In FR Doc. 83-27500 appearing on page 46022 in the issue of Tuesday, October 11, 1983, make the following correction:

On page 46022, first column, third paragraph, first line, "Bureau of Foods (HFF-334)," should be inserted after "Marvin Mack,".

BILLING CODE 1505-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Dinoprost Tromethamine Sterile Solution

Correction

In FR Doc. 83-27501 appearing on page 46023 in the issue of Tuesday, October 11, 1983, make the following correction:

On page 46023, second column, third complete paragraph, fifth and sixth lines, "(Lutalyse • 1 Sterile Solution)" should read "(Lutalyse • Sterile Solution)".

BILLING CODE 1505-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 201

[AID Reg. 1]

Amendment of Commodity Source Eligibility Rules

AGENCY: Agency for International Development, IDCA.

ACTION: Final rules.

SUMMARY: A.I.D.'s Procurement Policy Advisory Panel has approved a change in the componentry provisions of the commodity source eligibility rules. The change limits the amount of foreign components which may be used in a produced commodity when AID Geographic Code 000 (the United States) is the authorized source for procurement. As a result of complaints from both host country purchasers and U.S. suppliers the change is made to prevent suppliers from taking advantage of the previous rule in order to furnish cheaper, lower quality goods and make increased profits by substituting foreign components for U.S. components.

EFFECTIVE DATE: October 25, 1983.

FOR FURTHER INFORMATION CONTACT: Kathleen O'Hara, Office of Commodity Management, Agency for International Development, Washington, D.C. 20523, 703-235-2173.

SUPPLEMENTARY INFORMATION: A change is made in the eligibility status of components from the cooperating country and the less developed countries included in A.I.D. Geographic Code 941 (Selected Free World). Previously such components could be used in unlimited amounts regardless of the authorized source for procurement, provided that the finished commodity was produced in and shipped from an authorized source country. Now, when Code 000 is the authorized source for procurement, components from the cooperating country and countries included in Code 941 (other than the United States) are limited the same as components from developed Free World countries; i.e., the total cost of foreign components (delivered at the point of production) may not exceed 50 percent of the lowest price (excluding the cost of ocean transportation and marine insurance) at which the supplier makes the commodity available for export sale. When Code 941 is the authorized source, components from the cooperating country and countries included in Code 941 may be used in unlimited amounts.

The Agency has determined that this rule will not have a significant economic impact on a substantial number of small organizational units and small government jurisdictions. This rule is not a major rule for purposes of Executive Order 12291 and has been submitted to OMB in accordance with the Executive Order.

List of Subjects in 22 CFR Part 201

Commodity procurement, Foreign aid, Grant programs—foreign relations, Loan programs—foreign relations.

PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY AID

22 CFR Part 201 is amended as follows:

1. The authority citation for Part 201 reads as follows:

Authority: Sec. 621, Foreign Assistance Act of 1961, as amended, 75 Stat. 424 (22 U.S.C. 2381) 22 CFR 201.65.

2. In Section 201.11, paragraph (b)(2)(ii)(*c*) is revised to read as follows:

§ 201.11 Eligibility of Commodities.

* * * * *

(b) * * *
(2) * * *
(ii) * * *

(*c*) For the purpose of calculating eligible components under this paragraph (b)(2)(ii), "authorized source countries" shall include the cooperating country itself whenever AID has authorized procurement from a geographic code other than AID Geographic Code 000.

* * * * *

Dated: September 27, 1983.

John F. Owens,

Associate Assistant to the Administrator for Management.

[FR Doc. 83-28713 Filed 10-24-83; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has

determined that USS SALT LAKE CITY (SSN 716) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as naval submarine; and (2) has found that USS SALT LAKE CITY (SSN 716) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 12, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone Number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS SALT LAKE CITY (SSN 716) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c) requiring that the sternlight show an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel; Annex I, Section 2(a)(i) pertaining to the height of the masthead light; 72 COLREGS, Annex I, Section 2(k) pertaining to the height and relative positions of the anchor lights; 72 COLREGS, Annex I, Section 3(b) pertaining to the locations of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements. Notice is also provided to the effect that USS SALT LAKE CITY (SSN 716) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of section 706.3 are equally applicable to USS SALT LAKE CITY (SSN 716).

Moreover, it has been determined, in accordance with 32 C.F.R. Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function. List of Subjects in 32 C.F.R. Part 706: Marine Safety, Navy Department, Navigation (Water), and Vessels. Accordingly, 32 CFR Part 706 is amended as follows:

1. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry:

Vessel	Number	Masthead light, arc of visibility; Rule 21 (a)	Sidelights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Sidelights, distance inboard of ship's sides in meters; section 2(b), Annex I	Stern light, distance forward of stern in meters; Rule 21(c)	Foward Anchor light, height above hull in meters; section 2(k), Annex I	Anchor lights relationship of aft light to forward light in meters; section 2(k), Annex I
USS SALT LAKE CITY	SSN 716			209	4.2	0.1	3.5	1.7 below.

2. Table One of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by insertion of the following entry:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i) Annex I
USS SALT LAKE CITY	SSN 716	3.5

Authority: Executive Order 11964; 33 U.S.C. 1605.

Dated: October 12, 1983.

John Lehman,

Secretary of the Navy.

[FR Doc. 83-28914 Filed 10-24-83; 8:45 am]

BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[AD-FRL-2457-2; Docket No. 107PA-14]

Designation of Areas for Air Quality Planning Purposes Approval of Redesignation of Attainment Status for the Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Pennsylvania Department of Environmental Resources has submitted to the U.S. Environmental Protection Agency (EPA) a request for redesignation of Area #3 within Allegheny County to an attainment area for TSP under Section 107 of the Clean Air Act and 40 CFR Part 81. This notice announces the Administrator's approval in changing the air quality designation for Area #3 to an attainment status of the primary and secondary National Ambient Air Quality Standards for Total Suspended Particulates (TSP). This change is based on six consecutive calendar quarters of air quality data showing attainment plus an approved Industrial Source Complex modeling analysis showing that the basic SIP strategy is sound and that actual, enforceable emission reductions are responsible for the recent air quality improvement.

DATES: This action will be effective on December 27, 1982 unless notice is received by November 25, 1982 that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Mr. Glenn Hanson, at the EPA, Region III address shown below. Copies of the request for redesignation may be examined during normal business hours at the following locations:

U.S. Environmental Protection Agency Region III, Air Management Branch, Curtis Building—6th & Walnut Streets, Philadelphia, PA 19106. Attn: Patricia Gaughan (3AW11)

Bureau of Air Quality Control, Pennsylvania Department of Environmental Resources, Fulton Bank Building, Third and Locust Streets, Harrisburg, PA 17120. Attn: Gary L. Triplett

Allegheny County Health Department, Bureau of Air Pollution Control, 301 Thirty-Ninth Street, Pittsburgh, PA 15201. Attn: Ronald J. Chleboski

FOR FURTHER INFORMATION CONTACT: Patricia Gaughan at the EPA Region III address shown above or telephone (215) 597-8176.

SUPPLEMENTARY INFORMATION: The Pennsylvania Department of Environmental Resources has submitted to the U.S. Environmental Protection Agency (EPA) a request for redesignation of Area #3 within Allegheny County to an attainment area for TSP under Section 107 of the Clean Air Act and 40 CFR Part 81. Area #3 is a part of the Southwest Pennsylvania Intrastate Air Quality Control Region (AQCR), and includes the three mile wide strip along the Ohio River Valley between the I-79 and McKees Rocks Bridges. The rest of the AQCR's designation for TSP remain unchanged.

The air quality data for July 1981 through December 1982 from Allegheny County's monitoring sites in Avalon and Kennedy indicate that this area shows no violations of the TSP air quality standards. The air quality data is supported by an attainment demonstration, using the Industrial Source Complex Model, as part of an alternative emission reduction plan (Bubble) for Shenango Incorporated. This attainment demonstration was approved by EPA as part of the Pennsylvania State Implementation Plan (SIP) on December 29, 1981 (46 FR 62849), and provides for a net particulate emission reduction of 244 tons per year. Since the bubble emission reductions constitute a major source change in those emissions with the greatest ambient impact, they provide adequate justification for using less than eight quarters of ambient data, as required by EPA policy established by the Sheldon Meyers memo of April 21, 1983.

EPA has examined the air quality data collected from the sites used to demonstrate attainment and found that the data was collected in accordance with all EPA requirements. Accordingly, EPA is approving the Department's request for redesignation to attainment.

EPA is today changing the Section 107 attainment status designation for Area #3 within Allegheny County to an attainment status for TSP without prior proposal. The public is advised that this action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days from today that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Conclusion: The Administrator's decision to approve the redesignation was based on a determination that it meets the requirements of Section 107 of the Clean Air Act and 40 CFR Part 81, Designation of Areas for Air Quality Planning Purposes.

As a result of EPA's decision to approve this redesignation, 40 CFR Part 81, Section 81.339 is being revised as shown below. The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 27, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas, Intergovernmental relations.

Authority: Section 107 of the Clean Air Act (42 U.S.C. 7407)

Dated: October 4, 1983.

William D. Ruckelshaus,
Administrator.

PART 81—[AMENDED]

Section 81.339 is amended by revising item V.(B)(1)(6) to read as follows:

§ 81.339 [Amended]

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Pennsylvania—TSP				
* * *				
(A) * * *				
(B) Allegheny County Air Basin:				
(1) * * *				
(a) * * *				
(b) I-79 Bridge to the McKees Rocks Bridge on the Ohio River.				X
* * *				

[FR Doc. 83-28630 Filed 10-24-83; 8:45 am]

BILLING CODE 6820-59-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101-11, 101-35, and 101-36

[FPMR Temp. Reg. B-6 and F-500]

Management of Information Processing Resources; Temporary Registration

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation merges the management regulations governing automatic data processing (ADP) and word processing into a single Federal Property Management Regulations (FPMR) subpart governing "information processing resources." This regulation also renames the ADP Management Information System (ADP/MIS) as the ADP Equipment Data Systems (ADPE/DS) and reduces agency reporting requirements so that only general purpose ADP equipment systems costing more than $50,000 need be reported. The regulation addresses a changing environment characterized by merging technologies. Management of information resources is the unifying concept. The intent is to strengthen agency central management of information resources by recognizing the merging of ADP and word processing and establishing requirements analysis provisions appropriate to this changing environment and to reduce significantly agency reporting of ADP equipment inventory.

DATES: Effective date: This regulation is effective October 1, 1983, but may be observed earlier.

Expiration date: This regulation expires September 30, 1984.

Comments are due: January 23, 1983.

ADDRESS: Comments should be addressed to: General Services Administration (KMPP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: David R. Mullins or Phillip R. Patton, Policy Branch (KMPP), Office of Information Resources Management, telephone 202 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: 1. In order to reach both records and ADP managers, this temporary regulation is being distributed in looseleaf format to FPMR Subchapter B and Subchapter F addresses.

2. The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. The General Services Administration's decisions are based on adequate information concerning the need for, and consequences of, this rule. This rule has been written to ensure maximum benefits to Federal agencies. This is a Government wide management regulation that will have little or no effect on society.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

In 41 CFR Chapter 101, the following FPMR temporary regulation F-500 is added to the appendix at the end of Subchapter F. Also in 41 CFR Chapter 101 the identical temporary regulation B-6 is added to the appendix at the end of Subchapter B.

August 30, 1983.

[FPMR Temp. reg. F-500]

To: Heads of Federal agencies

Subject: Management of information processing resources

1. *Purpose.* This regulation merges the management regulations governing ADP and word processing into a single FPMR subpart governing "information processing resources." It changes the definition of automatic data processing equipment (ADPE) to reflect equipment classification changes discussed in FPMR Bulletin A-79; defines the term, "information processing resources;" and cancels FPMR Subpart 101-11.9 and Bulletin A-79. It also renames the ADP Management Information System (ADP/MIS) as the ADPE Data System (ADPE/DS) and changes the reporting requirements so that only general purpose ADP equipment systems costing more than $50,000 need be reported.

2. *Effective date.* This temporary regulation is effective October 1, 1983, but may be observed earlier.

3. *Expiration date.* This temporary regulation expires September 30, 1984.

4. *Background.*

a. The continued merging of information technologies has made it increasingly clear that an intergrated approach to managing information resources is needed. This was recognized and mandated by the Paperwork Reduction Act of 1980 (Pub. L. 96-511). Early attempts by GSA to achieve this goal resulted in joint GSA/DoD equipment reclassifications in 1979 and 1981. These changes and their regulatory implications were explained in FPMR Bulletin A-75 (February 1980) and its replacement, FPMR Bulletin A-79 (October 1981).

b. Recent GSA actions to integrate policy and regulations and to issue guidance for managing information processing resources are set forth in this temporary regulation and in a recently issued FPR temporary regulation (Changes to FPR Subparts 1-4.11 and 1-4.12) and in an FPMR bulletin (Management and use of information processing resources) that are being issued concurrently with this publication.

Note.—The information in this temporary regulation is identical to the information in FPMR Temporary Regulation B-6.

c. (1) The current state of the ADP/MIS was reviewed by a Task Force of the Interagency Advisory Committee on Automatic Data Processing (IAC/ADP). Their February 1979 report recommended revision of FPMR Subpart 101-36.5 and implementing reporting procedures. The objective was to streamline the system to take advantage of technological advancements in the ADP field, and produce a more meaningful, user oriented product. Some recommendations were implemented in the GSA Reporting Procedures Handbook (FPMR 101-36.5), October 1, 1981. The intent of this temporary regulation is to further implement the IAC/ADP recommendations and to recognize the purposes of the Paperwork Reduction Act. The new system would be designed to support Federal agency independence and decentralized operations but maintain an acceptable

framework of centralized management overview needs.

(2) On May 10, 1982, a concept paper was sent to Federal agencies, outlining an Information Resources/Management Information System (IR/MIS) which would encompass automatic data processing, telecommunications, and office automation resources. Data elements for a proposed IR/MIS were listed for a number of management areas. A transitional ADPE inventory/MIS was proposed as the initial phase. Responses to the paper were favorable. However, because considerable redesign would be necessary to implement the transitional phase, GSA has decided to proceed with the design of the ADPE inventory portion of the proposed IR/MIS. Action on broader implementation is being deferred. By this temporary regulation; GSA is establishing an ADPE/Data System. The reporting system will provide ADPE inventory data for central management purposes. In addition, the data elements can be used by agencies as common core elements in conjunction with individual ongoing agency management activities.

5. *Explanation of changes.*

PART 101-35—[AMENDED]

a. The following changes are made in Subpart 101-35.2.

1. Section 101-35.200 is revised to add recognition that the scope of the subpart has been broadened to cover information processing resources in the areas of requirements analysis, determination of system/item life, and comparative cost analysis, as follows:

§ 101-35.200 Scope of subpart.

(a) This subpart sets forth general policies and procedures relating to the management, acquisition, and use of ADP equipment (ADPE), software, maintenance, related supplies, ADP services, and ADP related services by Federal agencies.

(b) Policies and procedures relating to information processing resources (see § 101-35.202-10 for definition) are specifically set forth in §§ 101-35.207, 101-35.208, and 101-35.209.

(c) The objectives of this subpart are to promote maximum practicable competition among suppliers who are capable of meeting the user's ADP needs and to satisfy these needs at the lowest overall cost, price and other factors considered.

2. Section 101-35.202-1 is amended to change the defintion of ADPE to make it consistent with the definition in the Federal Procurement Regulations, as follows:

§ 101-35.202-1 Automatic data processing equipment.

* * * * *

(a) Included are:

(1) Main-frame, mini, and micro digital, analog, or hybrid computers;

(2) Auxiliary or accessorial equipment, such as plotters, tape cleaners, tape testers, data conversion equipment, source data automation recording equipment (optical character recognition devices, computer input/output microfilm and other data acquisition devices), or computer performance evaluation equipment; etc., designed for use with digital, analog, or hybrid computer equipment, either cable or modem connected, wire connected, or stand alone, and whether selected or acquired with a computer or separately;

(3) Punched card accounting machines that can be used in conjunction with or independently of digital, analog, or hybrid computers;

(4) Devices used to control and transfer data and/or instructions to and from a central processing unit (CPU), including data transmission terminals, batch terminals, display terminals, modems, sensors, multiplexors, and concentrators;

(5) Storage devices that are designed to be cable connected for use on line in which data can be inserted, retained, and retrieved for later use;

(6) General purpose mini or microcomputers used as control mechanisms where computer technology is essential in controlling, monitoring, measuring, and directed processes, devices, instruments, or other equipment (see also FPR § 1-4.1109-18 and FPMR § 101-35.207-1); and

(7) Equipment used in office automation applications that is designed to be controlled by a general purpose data processing language primarily to be applied through the internal execution of a series of instructions, not limited to specific key stroke functions, and designed to process a variety of applications.

(b) Excluded are:

(1) ADPE systems and components specially designed (as opposed to configured) and produced to perform computational data manipulation, or control functions, but which have no general purpose applicability;

(2) ADPE that is modified at the time of production to the extent that:

(i) It no longer has a commercial ADP market; or

(ii) It cannot be used to process a variety of applications; or

(iii) It can be used only as an integral part of a non-ADP system.

3. Section 101-35.202-10 is added to define the term, "information processing resource," as follows:

§ 101-35.202-10 Information processing resource.

An "information processing resource," wherever it appears in this subpart; means general purpose ADPE as defined in § 101-35.202-1, special purpose equipment that is excluded from the definition of general purpose ADPE under § 101-35.202-1(b)(1), and the software terms defined in § 101-35.202-2. (An example of special purpose equipment is "office information system equipment" that is designated as Federal Supply Class (FSC) 7435 "A" in ADP nonmandatory schedule contracts.)

4. Section 101-35.204 is amended to broaden agency planning requirements to include specifically the consideration of the application of new information resources to agency needs in paragraph (d) (Note: Paragraph (c) appears in FPMR Temp. Reg. F-499.), as follows:

§ 101-35.204 Planning requirements.

* * * * *

(d) Agency planning requirements should be promulgated in the agency directives system and should communicate to agency managers the goals, managerial approach, policies, procedures, and responsibilities of specific officials or offices for information resources management. The plan should address installed as well as new systems, procedures, for post-installation review of new systems, and procedures for the periodic audit of information systems. Agencies are encouraged to consider GSA programs that are available to assist agencies in applying information processing resources to agency needs.

5. Section 101-35.207 is amended to broaden its scope to include information processing resources and to allow more agency discretion regarding the size, scope, and frequency of the requirements analysis, as follows:

§ 101-35.207 Determination of need and requirements analysis.

(a) The acquisition of new or additional information processing resources shall be based on mission needs. These needs shall be expressed in the form of deficiencies in existing capabilities, new or changed program requirements, or opportunities for increased economy and efficiency. In any event, the needs shall be supported by a requirements analysis that is commensurate with the size and complexity of the need.

(b) Agencies may find it more cost effective to conduct requirements analyses based on aggregated requirements. Requirements may be aggregated on either organizational or functional bases. Aggregated requirements analysis may be used where the applications and work environments of the individual requirements are homogeneous and where adequate workload measures and performance indicators are available. Individual requirements analyses are required when this is not the case.

(c) As a minimum, the agency shall consider the following factors in the requirements analysis:

(1) The information processing functions that must be performed.

(2) The agency applications, information resource systems, and components involved, their physical locations, and operational constraints.

(3) The problem that will be solved by acquiring new or additional equipment, systems and/or software.

(4) The nature of the data or information to be generated, transmitted, or stored on the proposed equipment or system, who will maintain it, and who will require access to it.

(5) The feasibility of sharing, using reassigned or excess Government-owned or -leased equipment, the off-loading of lower priority applications, using Federal data processing centers and GSA sources of supply, using commercial ADP services, or if applicable, increasing the capability and productivity of the existing system.

(6) The probable improvement in operational effectiveness and the economies that will be realized from acquiring new or additional equipment, systems, and/or software.

(7) Space management considerations; e.g., heat dissipation, air flow, temperature range, relative humidity, energy conservation, power supply, cables, including coordination with building managers and GSA (See FPMR § 101–17.101–5.).

(8) The present and projected workload in terms of:

(i) Systems life;

(ii) Data entry and associated communications support;

(iii) Data base(s) and data base management;

(iv) Data handling or transaction processing by type and volume;

(v) Output needs and associated communications support;

(vi) Expandability requirements; and

(vii) Privacy and security safeguards.

6. Section 101–35.207–2 is added to provide guidance on records management responsibilities, as follows:

§ 101–35.207–2 Records management responsibilities.

Agencies shall consider the following records management factors when performing a requirements analysis or designing an information system:

(a) Does the system design protect against the accidental destruction of records?

(b) Is there a records disposition schedule for the records being created by the equipment or system?

(c) Does the equipment or system use forms and, if so, have they been produced in accordance with the agency forms management program?

(d) Does the equipment or system produce reports subject to the agency reports control program?

7. Section 101–35.208 is amended by adding a new paragraph (c) to make determination of system/item life optional for low cost equipment that is to be purchased, as follows:

§ 101–35.208 Determination of system/item life.

(a) Except as provided in paragraph (c) of this section, the Government system/item life shall be established by the initial acquiring agency as a part of each requirements analysis. This life shall be used in the evaluation to determine the lowest overall cost offer and whether purchase, lease to ownership, lease with option to purchase, or straight lease is the lowest cost method of acquisition for the Government. The following factors shall be considered in determining the government system/item life:

* * * * *

(c) The determination of a system/item life is optional for a system/item with a purchase price of $25,000 or less when there is a reasonable certainty that purchase will be the most advantageous method of acquisition. However, if lease or rental plans are to be solicited, the determination of a system/item life is necessary to conduct a meaningful lease/purchase evaluation.

8. Section 101–35.209 is amended by renaming the section; by redesignating the introductory paragraph as paragraph (a); by adding a reference to obsolescent ADPE to the introductory paragraph; by redesignating the list of alternatives as subparagraphs (a)(1) through (a)(10); and by adding a new paragraph (b) to add an alternate comparative cost analysis for low cost requirements, as follows:

§ 101–35.209 Analysis of alternatives for satisfying a requirement.

(a) A comparative cost analysis shall be performed for each identified requirement or when planning (see § 101–35.204) indicates the possible existence of obsolescent ADPE; i.e., equipment becoming outmoded or out of date, thereby reducing productivity. The purpose of the analysis is to determine which alternative will meet the user's needs at the lowest overall cost over the system/item life. Except as provided in paragraph (b) of this section, the alternatives to be considered shall include, but are not limited to the following:

(1) Use of non-ADP resources to satisfy the requirement.

(2) Use of existing ADP facilities (e.g., Federal Data Processing Centers) and resources on a shared basis. OMB Circular A–121 requires executive agencies to establish a management control procedure to determine which existing data processing facility will be used to support major new applications (see Subpart 101–36.2).

(3) Use of commercial ADP services.

(4) Redesign of application programs, using Federal or ANSI standard language to the maximum practicable extent.

(5) Revision of production schedule or job stream and matching work elements to resource systems to improve productivity.

(6) Addition or change in working shifts to increase capacity.

(7) Augmentation of installed ADPE by adding additional components to increase data processing capacity.

(8) Upgrading selected system components, such as adding additional selector channels, memory, faster tape or disk units, etc., in order to improve throughput capability.

(9) Replacing installed ADP system with a compatible system that will handle the workload.

(10) Competitive replacement of the installed ADP system through use of functional specifications.

(b) When the anticipated value of the procurement is $50,000 or less, the comparative cost analysis may be limited to an analysis that demonstrates that the benefits of acquiring the proposed system/item will outweigh the costs. However, requirements shall not be fragmented to circumvent this threshold. (For example, if the total cost of the various components of a system exceed $50,000, they may not be acquired individually to avoid a comprehensive comparative cost analysis.)

9. Section 101–35.210 is amended by adding a new paragraph (c) to make optional the requirement to consider alternative methods of acquisition in some cases, as follows:

§ 101-35.210 Evaluation of acquisition alternatives.

(a) Except as provided in paragraph (c) of this section, comparative cost analysis shall be made to determine the method of acquisition that represents the lowest overall cost over the system/item(s) life. The alternatives that must be considered will vary, depending on the system/item being acquired and the requirement of the initial user. However, as a minimum, all of the alternatives set forth below, which will meet the user's needs, shall be considered.

* * * * *

(c) When an agency determines that a purchase alternative is likely to be the most advantageous method of acquisition for a system/item with an anticipated purchase price of $25,000 or less pursuant to analysis under paragraph (b) of FPMR § 101-35.207 and paragraph (c) of § 101-35.208, the analysis required by paragraph (a) of this § 101-35.210 is not required. (See also FPR § 1-4.1103-6.)

PART 101-36—[AMENDED]

b. Part 101-36 is amended to revise the title and contents of Subpart 101-36.5, as follows:

Subpart 101-36.5—Automatic Data Processing Equipment Data System (ADPE/DS)

§ 101-36.500 Scope of subpart.

This subpart sets forth the policy and criteria for the maintenance of an Automatic Data Processing Equipment Data System (ADPE/DS) by Federal agencies.

§ 101-36.501. Effect on other directives.

This subpart supersedes the reporting requirements under the ADP Management Information System (ADP/MIS) established by Office of Management and Budget (OMB) Circular A-83, October 5, 1971, superseded by Federal Management Circular 74-2, February 25, 1974, superseded by FPMR Amendment F-31, June 1978.

§ 101-36.502 Definitions.

(a) "Analog computer" is a computer that operates on continuous data as distinguished from discrete data. It translates physical conditions such as flow, temperature, pressure, angular position, or voltage into related mechanical quantities and uses mechanical or electrical equivalent circuits as an analog for the physical phenomenon being investigated.

(b) "Digital computer" is a computer that operates on discrete data by performing arithemtic and logic processes on these data.

(c) "Hybrid computer" is a computer for data processing using both analog representation and discrete representation of data.

(d) "ADP equipment system" is an operational or managerial entity of general purpose ADPE components containing at least one separate identifiable central processing unit and such other components as input/output devices and storage units.

§ 101-36.503 Policy intent.

This subpart establishes the requirement for developing, operating, and maintaining an (ADPE/DS) for ADP equipment systems to assist the Office of Management and Budget (OMB), the General Services Administration (GSA), and other Federal agencies in carrying out their management responsibilities for the most effective and efficient use of ADPE. Agencies may supplement the data system to provide for their individual needs.

§ 101-36.504 Applicability.

(a) *Applicability.* The provisions of this subpart are applicable to all Federal agencies (as defined in § 101-35.202-8) having organizations (referred to herein a ADP units as defined in § 101.36.201(h)) that use ADP equipment systems.

(b) *Exemptions:* The following are exempt from the reporting requirements of this subpart:

(1) Punched card machines, modems, and terminals;

(2) Analog computer systems even though a part of a hybrid system (The digital equipment system portion of the hybrid computer system is not exempt.);

(3) ADP equipment systems that are both integral to a combat weapon or space system and built or modified to special Government design;

(4) Totally Government-owned ADP equipment systems when the aggregate purchase price does not exceed $50,000;

(5) ADP equipment systems that are partially Government-owned and partially leased, when the total purchase price of the Government-owned components does not exceed $50,000, and the total lease charges for the leased components do not exceed $1,667 per month; and

(6) Leased ADP equipment systems when the monthly lease charges for the total configuration do not exceed $1,667.

§ 101-36.505 Policies and procedures.

(a) *Objective.* The ADPE/DS will provide inventory data on applicable ADPE that will:

(1) Facilitate the management of ADPE resources by Federal agencies;

(2) Facilitate the identification and replacement of obsolescent ADPE;

(3) Assist OMB, GSA, Office of Personnel Management, and the Department of Commerce in carrying out their specific Government-wide responsibilities relating to ADP as delineated in OMB Circular A-71, entitled Responsibilities for the administration and management of automatic data processing activities; and

(4) Provide for future development of additional data subsystems that may become a part of the ADPE/DS or may be separate elements in an overall ADP management information system. This future development, as the need arises, would be under the direction of GSA's Office of Information Resources Management with participation of involved agencies.

(b) *ADPE/DS structure.* The ADPE/DS will be composed of the following major data elements:

(System record—Level I).

1. Agency and subagency code (4 position code) as specified by Federal Information Processing Standard Publication 95 which identifies the agency and the subagency;

(2) Agency ADP unit code (4 position code) used to uniquely identify the ADP unit within the subagency (will automatically generate the full address of the ADP unit as well as the name and telephone number for the contact at the ADP unit);

(3) System identification (2 position code assigned for each installed ADPE system at an ADP unit), and manufacturer's code (3 position code assigned to each manufacturer), and the system designation number as established by the manufacturer (seven position code);

(4) Acquisition date (4 position code) showing year and month of original acquisition in the Federal inventory;

(5) Fiscal year of expiration of planned system life (2 position code) (See § 101-35.208 and FPR § 1-4.1103-11);

(6) Fiscal year of next planned major replacement upgrade or augmentation (2 position code) with associated year of expiration of extended (if any) system life (2 position code);

(Component record—level II).

(7) Agency ADP Unit Code—Repeat of (1) and (2) above;

(8) Component class (2 position code) represented in each system;

(9) Component ownership code (1 position code)—either (i) agency owned, (ii) straight lease, (iii) lease with option to purchase (LWOP, (iv) special lease plans, e.g., lease to ownership plan

(LTOP), lease with title transfer plan, installment purchase plan (IPP), or alternate payment plan (APP), or (v) ADP Fund leased;

(10) Component designation by manufacturer/type/model (11 position code);

(11) Quantity of components in each ownership code (3 position code);

(12) Component cost in reported system—Most recent purchase price in hundreds of dollars (6 position code) and/or most recent monthly rental price in hundreds of dollars including maintenance (4 position code);

(13) Utilization precentage (2 position code) average for each ADP Fund leased item.

Note.—The system composition and cost will be calculated from the component data.

§ 101–36.505 Responsibilities.

(a) The Office of Information Resources Management (GSA) is responsible for:

(1) Developing and issuing the necessary reporting procedures for carrying out the provisions of this subpart relating to ADPE/DS;

(2) Establishing the equipment inventory on a perpetual basis;

(3) Maintaining subsystems that may be part of the data base;

(4) Responding to requests from agencies and others for data from the data base; and

(5) Developing and/or participating in the development of reporting subsystems.

(b) Federal agencies are responsible for:

(1) Developing internal implementing instructions to carry out the objectives of this subpart;

(2) Furnishing the necessary data on an accurate and timely basis to comply with this subpart;

(3) Ensuring the use of these data to improve management practices; and

(4) Recommending such changes, additions, or deletions to the ADPE/DS as they deem necessary to improve the effectiveness of the system.

§ 101–36.506 Rporting requirements

(a) *Initial reporting.* During the last week of September 1983, GSA (KHEE) will convert the current ADP/MIS data base to the new ADPE/DS data base. Hard copy will be provided to each of the Government agencies for verification and annotation of the new data elements. Verified and annotated copy shall be completed and returned to GAS within forty-five days of its receipt.

(b) *Regular reporting.* Agency updates to the data base shall be submitted thereafter at the end of each calendar quarter. Agency data shall be forwarded, in accordance with the instructions contained in a GSA handbook that will supplement this subpart, addressed to: General Services Administration (KHEE), Washington, DC 20405.

(c) *Special reporting.* GSA reserves the right to require Government agencies to submit special reports as to the quantities, kinds, and locations of computers acquired below the dollar thresholds stated in § 101–36.504(b) (4), (5), (6), and (7) during a particular period with the reporting details and format to be specified at the time of call. At least 60 calendar days will be provided for agencies to respond. Submissions will not be required more often than once per year.

(d) *Consolidation.* Agencies may provide both regular and special reports on either a centralized or decentralized basis.

(e) *Reports control.* This report has been cleared in accordance with FPMR 101–11.11 and assigned interagency report control number 0312–GSA–QU.

6. *Effect on other directives.* This regulation supersedes and cancels FPMR Subparts 101–11.9 and 101–36.5 and GSA Bulletin FPMR A–79, dated October 23, 1983.

7. *Information and assistance.* Inquiries should be directed to David R. Mullins or Phil R. Patton, Policy Branch (KMPP), Office of Information Resources Management, Telephone 202, or FTS, 566–0194.

8. *Submission of comments.* The views of agencies and other interested parties are invited regarding the effect or impact of this regulation and the policy and procedures that should be adopted in the future. All comments received within 90 days of the publication of this regulation in the Federal Register will be considered. Comments should be addressed to General Services Administration (KMPP), Washington, DC 20405.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–28063 Filed 10–24–83; 8:45 am]

BILLING CODE 6820–25–M

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41 CFR Parts 101–36 and 101–37

[FPMR Temp. Reg. F–502]

Data Communication Systems and Services

AGENCY: Office of Information Resources Management, GSA.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation reduces the information the General Services Administration (GSA) needs to review Federal agency requirements for data, facsimile, or record telecommunications systems and services, and abolishes the Communications Management Information System (C/MIS). The task of requesting these services from GSA requires consolidation and simplification. The intent is to reduce paperwork burdens and increase the economy and efficiency of Government data communication services.

DATES: Effective date: October 1, 1983. Expiration date: September 30, 1985. Comments due: December 31, 1983.

FOR FURTHER INFORMATION CONTACT: John F. Stewart, Policy Branch (202–566–0194).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. The General Services Administration's decisions are based on adequate information concerning the need for, and consequences of, this rule. This rule has been structured to ensure maximum program benefits to Federal agencies. This is a Government-wide regulation that will have little or no effect on society.

List of Subjects in 41 CFR Parts 101–36 and 101–37

Communications equipment, FTS, Telecommunications.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter F to read as follows:

[FPMR Temp. Reg. F–502]

September 29, 1983.

To: Heads of Federal agencies.

Subject: Data communication systems and services.

1. *Purpose.* This regulation prescribes the information the General Services Administration (GSA) needs to review Federal agency requirements for data, facsimile, or record telecommunication systems or services. This regulation also abolishes the General Services Adminsitration's Communication Management Information System (C/MIS) and consolidates all regulations concerning the review and approval of data, facsimile, and record services.

2. *Effective date.* This regulation is effective October 1, 1983.

3. *Expiration date.* This regulation expires September 30, 1985.

4. *Background.* Agency use of data telecommunication services has

increased, technology has advanced, and the character of the marketplace has changed. The intent of this regulation is to deal with this changed environment, reduce paperwork burdens, and increase the economy and efficiency of Government data communications services. Since GSA's role as a provider of these services has substantially changed, agencies need submit to GSA for review and authority to proceed only intercity data transmission requirements that exceed $50,000 annually. However, where dedicated access to the FTS intercity voice network or FTS local service system access is needed, agencies will continue to submit their requirements to GSA regardless of cost.

5. *Communication Management Information System C/MIS.* This temporary regulation abolishes the C/MIS program and all forms and reports associated with the program. Agencies should determine their individual needs to maintain current information concerning data telecommunication assets.

6. *Preliminary consideration of data communications requirements.* Before agencies lease or purchase any intercity communication facilities, they should develop a plan that will ensure adequate service. Agency plans and associated actions should be based on the findings of a determination of need and requirements analysis, and a comparative cost analysis.

a. *Determination of need and requirements analysis.* The acquisition of new or additional telecommunications capabilities shall be based on program needs that flow from mission requirements. These needs may be expressed in the form of deficiencies in existing capabilities, new or changed mission requirements, or opportunities for increased economy and efficiency. In any event, the needs shall be supported by a requirements analysis commensurate with the size and complexity of the need.

b. *Comparative cost analysis.* A comparative cost analysis shall be performed for each requirement to determine which alternative will meet the user's needs at the lowest overall cost, price and other factors considered, over the system/service life.

c. *Common use systems.* Agencies shall consider use of available consolidated services. GSA and the Defense Communications Agency (DCA) provide economical communications services to Federal agencies by obtaining resources in bulk quantities from commercial carriers. Economy of scale discounts are available under the DCA's Multiplex service and GSA's Consolidated DATACOM Network, the Federal Telecommunications System (FTS), and through the value added network (VAN) billing program.

7. *Agency requests for data telecommunications services over $50,000.*

a. Agencies requiring intercity data, record, or facsimile transmission network services or facilities that exceed $50,000 in annual lease or purchase cost (major changes and new installations) shall submit an Agency Telecommunications Request (ATR) to the General Services Administration (KMAS), Washington, DC 20405. The ATR shall inlcude the information as set forth in Attachment A. Local data, record, or facsimile telecommunication requirements do not require GSA review and approval.

b. GSA will normally base its review only on the information provided in the ATR submission. However, when necessary, GSA will conduct a more in-depth review before approving an ATR. In some instances, this may required the submission of additional information. In this regard, GSA reserves the right to review agency actions implementing any requirements subject to paragraph 7a provisions. Documentation shall be made available for review upon request of GSA officials. (Documentation should be retained in agency files for such periods as required by applicable law or regulation.)

c. Pub. L. 96–511 (the Paperwork Reduction Act of 1980) directs each executive agency head to designate a senior official (officials in DOD) reporting to the agency head to be responsible for implementing the Act. This designated senior official in each agency shall advise GSA in writing of the position, title, and organization identity of those officials who have been authorized to submit ATRs to GSA. The designated senior official shall keep the listing current. (A change of incumbent in an unchanged position and organizational assignment does not require notification.) Listings shall be submitted to the General Services Administration (KMAS), Washington, DC 20405.

8. *Agency requests to use GSA systems or services.* Agencies that plan to use GSA common user communication systems shall provide the following information only when dedicated network access is required:

a. A list of all network dedicated locations;

b. An estimate of the peak transmission rate to and from each dedicated location in bits per second (bps), characters per second (cps), or facsimile pages per minute; and

c. A description of the network conditioning, security, accuracy, and error detection required.

9. *Effect on other directives.* This regulation suspends Subpart 101–36.11 and Sections 101–37.201–3, 101–37.202(c), and 101–37.203(c). It cancels Section 101–37.201–4 and FPMR Temporary Regulation F–498 and Supplement 1 thereto.

10. *Information and assistance.* For further information or assistance concerning submission of data communication requirements, contact GSA at the following address and telephone number: General Services Administration (KMAS), Washington, DC 20405. Telephone: FTS or local, 566–1566. Commercial toll, 202–566–1566.

11. *Submission of comments.* Comments are invited concerning the effect of this regulation and future policy and procedures that should be adopted. Comments should be addressed to the General Services Administration (KMPP), Washington, DC 20405, by December 31, 1983.

Ray Kline,

Acting Administrator of General Services.

[FPMR Temp. Reg. F–502; Attachment A]

Agency Telecommunications Request (ATR) for Intercity Data Transmission Facilities or Services

Agency Information: Provide agency name, address, and names and telephone numbers of appropriate agency technical and contracting points of contact.

Project Title and Description:

a. Provide the project title and a brief but specific description of the primary agency program(s) that the required telecommunications resources will support.

b. Provide a brief but specific description of the current intercity data telecommunications transmission facilities (including major systems components) and services currently supporting the program(s).

c. Provide a brief but specific description of the intercity data telecommunications transmission facilities (including major systems components) and services requirements to be acquired. Include a network diagram, if appropriate, or such other pertinent information agencies may wish to present that will enable GSA to understand the requirement. This description should reflect resources required for system expansion (i.e., anticipated augmentation and other major system modifications) during the system life if such requirements will be included in the solicitation document as evaluated options.

Acquisition Strategy:

a. Indicate whether the proposed procurement approach is competitive or noncompetitive (sole source, including use of specific make and model purchase descriptions) and specify the type of contract expected to be used. Indicate whether GSA multiyear contracting authority is required.

b. Identify by fiscal year quarter the planned milestone dates for (i) release of solicitation document and (ii) contract award.

Estimated Contract Life and Cost: Identify the estimated contract cost of the acquisition (not the overall systems life cost) for the contract life. Include all anticipated optional quantities, services, and periods. Detailed cost breakdowns may be included when necessary to describe clearly the estimated costs. The estimated contract cost (for all years) should correspond to the planned contract life. (NOTE.—The FPMR approval resulting from the submission will be limited to quantities and years described herein.)

Regulatory Compliance: Provide the date of completion or most recent update of the following documentation or indicate not applicable:

a. Requirement analysis.

b. Comparative cost analysis.

Agency/GSA references: Provide references to previous GSA FPMR approvals (including previous GSA case number), meetings, telephone discussions, etc.

Agency authorized signature, position title organizational identity, date: Provide these data. (NOTE.—GSA will process only those agency submissions signed by an authorized official. See para. 7c of the temporary regulation.)

[FR Doc. 83-28946 Filed 10-24-83; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6487

[U-15264]

Utah; Partial Revocation of Reclamation Withdrawals

Correction

In FR Doc. 83-28703 beginning on page 44786 in the issue of Friday, September 30, 1983, in the middle column, in the land description, the twentieth line from the bottom of the page should read as follows: "and 14, SW¼NE¼, S½NW¼, and NW¼SE¼;".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6557]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This document makes a correction to a final rule, Suspension of Community Eligibility under the National Flood Insurance Program (NFIP), published September 30, 1983, 48 FR 44796. The County of La Porte, Indiana is listed as being suspended from the regular program in error. The county is suspended from the emergency program effective September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Richard W. Krimm, Assistant Associate Director, Office of Natural and Technological Hazards Programs, (202) 287-0176, 500 C Street Southwest, Donohoe Building, Room 506, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: La Porte County, Indiana was erroneously listed as being suspended from the regular phase of the NFIP. The community was not enrolled in the regular program. Effective September 30, 1983, La Porte County was suspended from the emergency program. Please adjust records to reflect the correction.

List of Subject in 44 CFR Part 64

Flood insurance—Flood plains.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: October 18, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-28940 Filed 10-24-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 83-370; RM-3973; FCC 83-425]

Procurement of Apparatus, Equipment, and Services Required for the Establishment and Operation of the Communications Satellite System and Satellite Terminal Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Report and Order raises minimum dollar amount of procurements subject to the communications satellite procurement regulations from $25,000 to $100,000. Action is taken to establish a fair and reasonable cut-off figure in light of inflation and passage of time. This action should result in substantial administrative savings for industry and government.

EFFECTIVE DATE: October 24, 1983.

FOR FURTHER INFORMATION CONTACT: Stuart Chiron, Common Carrier Bureau, (202) 632-3214.

List of Subjects in 47 CFR Part 25

Communications common carriers, Communications equipment, Communications Satellite Act, Federal Communications Commission, Government procurement, Radio, Satellite radio communications, Satellites, Securities.

Report and Order

In the matter of amendment of Part 25 of Commission's Rules and Regulations with respect to the procurement of apparatus, equipment, and services required for the establishment and operation of the communications satellite system and satellite terminal stations; CC Docket No. 83-370, RM 3973.

Adopted: September 21, 1983.
Released: September 23, 1983.

By the Commission.

1. On April 18, 1983, we released a Notice of Proposed Rulemaking (NPRM) in this proceeding in which we tentatively concluded that raising the minimum dollar level of procurements subject to our communications satellite procurement rules from $25,000 to $100,000 would be in the public interest.[1] In response to the NPRM comments were filed by the Communications Satellite Corporation (Comsat), RCA Global Communications, Inc. (RCA), and the American Satellite Company (Amsat). Below we summarize the existing communications satellite procurement rules. Comsat's petition for rulemaking, the NPRM, and the comments submitted in this proceeding. We then analyze the filings and reach final conclusions.

2. Part 25 of the Commission's Rules establishes uniform policies and

[1] Part 25 of the Commission's Rules governs satellite and terminal station procurements. Section 25.151 presently states, in part:

Section 25.151. Scope, purpose and application of this subpart.

The provisions of this subpart govern the administration of Section 201(c)(1) of the Communications Satellite Act of 1962. * * * This subpart establishes uniform policies and procedures applicable to all procurements except where:

(a) The value of the procurement is less than *$25,000*, except as provided in Section 25.176(c).

Section 25.176(c) presently states: In addition to complying with the requirements applicable to procurements of *$25,000*, or more, all parties making procurements shall cooperate with the Small Business Administration to the extent feasible even if the value of the procurement is less than *$25,000*, for the purpose of insuring that small business has an equitable opportunity to participate in all procurements.

procedures applicable to procurements of $25,000 or more by Comsat for apparatus, equipment, and services required for establishment and operation of the communications satellite system and satellite terminal stations.[2] The $25,000 figure has remained unchanged since its adoption in 1964 [3] and was selected to maximize competition in the provision of equipment and services utilized by the satellite system,[4] to insure effective competition in Comsat's procurement practices,[5] to establish a framework of procurement practices in which all entities, particularly small businesses, could fairly participate,[6] and to prevent an unfair competitive advantage accruing to any manufacturing interest who may participate in Comsat's ownership.[7]

3. In its petition for rulemaking Comsat stated that the $25,000 amount for contracts subject to the Commission's Rules was too low and requested the amount be raised to $100,000. Cosmat asserted that inflation and the development of the satellite system made the $25,000 cut-off amount obsolete. Comsat further stated that the present figure made far too many transactions subject to an undue burden of paperwork and procedures which were not commensurate with the value of the procurements. In addition to in-house administrative cost savings, Cosmat also indicated that a higher cut-off figure for the implementation of the Part 25 procurement procedures would reduce inventories and ease the operations, maintenance and training of personnel, and enhance standardizing the documentation of earth station equipment.

4. In our NPRM we tentatively concluded that the existing $25,000 figure should be raised. We noted that: (a) The $25,000 amount had remained unchanged since its adoption in 1964; (b) several inflation indices justified substantial modification of the cut-off figure; (c) the growth of domestic and international satellite system had created a ready market for earth station equipment in which many buyers and sellers existed; and (d) administrative savings to both Comsat and the Commission would result from raising the cut-off figure. In selecting the figure of $100,000, as proposed by Comsat, we recognized that $25,000 in 1964 dollars was equivalent to $71,193 based upon the GNP Price Deflator, $75,085 based upon the Producer Pricer Index for Machinery and Equipment, and $77,799 based upon the Consumer Price Index. Further, our desire to use a fixed figure which could be used by the industry for several years to come caused us to tentatively conclude that raising the cut-off amount to $100,000 would be desirable. We specifically requested further comments on the indexing scheme proposed by Comsat under which the new cut-off figure would be tied to a price index. This proposal is more fully described below.

5. In its comments Comsat supports our tentative conclusion to raise the minimum dollar level of procurements subject to our regulations from $25,000 to $100,000. Additionally, Comsat supports the inclusion of a self implementing price index in order to eliminate certain inequities and to eliminate future proceedings initiated solely to revise the cut-off figure. Comsat forsees no uncertainty or loss of control in adopting a price index which would be employed on an annual basis. Amsat, which owns two earth stations, also supports our tentative conclusion to raise the cut-off figure to $100,000. Amsat views such a new figure as reasonable in view of the inflation over the last eighteen years. RCA states that the current cut-off figure of $25,000 is unrealistically low and places an undue burden on both the industry and the Commission. RCA recommends that we revamp our procurement notification rules with a view toward their elimination or raising the minimum level for their application to at least $250,000.

Discussion

6. The impact of inflation since 1964 and the development of competition in the supply of satellite and earth station equipment warrant the revision of the minimum dollar level of procurements subject to our procurement rules. Therefore, as more fully explained below, we shall affirm our tentative conclusion and raise the cut-off amount found in Sections 25.151(a) and 25.176(c) of our Rules from $25,000 to $100,000. We shall not, as also described below, adopt any plan which would mandate adjustment of the minimum dollar in accordance with changes in the national economy.

7. Our decision here, which is generally supported by all three carriers filing comments, is based on five considerations. First, increases in the Gross National Product Price Deflator, the Producer Price Index for Machinery and Equipment, and the Consumer Price Index for the 1964–1982 period justify raising the cut-off figure to over $70,000. Second, the increased number of suppliers and buyers in this field warrants a relaxation of regulatory oversight and thus an increase in the cut-off figure. We anticipate that the proportion of procurements below the $100,000 figure will be small and, for the most part, cover readily available goods and services. Third, we believe that simplicity and certainty are desirable characteristics for our rules. A specific figure satisfies this goal. A figure which is tied to an index and changes annually is likely to confuse the industry, particularly small businesses. In addition, we believe that a rule that sets dollar limits to determine the applicability of a Commission regulatory program should be under Commission control and not subject to some external factor over which the Commission has no control. A fixed figure can always be revised if necessary through rulemaking procedures. Fourth, there may be little difference in administrative costs between making annual modifications as proposed by Comsat and a periodic rulemaking procedure which is generally noncontroversial. Finally, we desire to establish a figure high enough to be reasonable, usable and fair for a number of years to come. In our judgement a cut-off figure for Sections 25.151(a) and 25.177(c) of $100,000 would appear to satisfy all of the above considerations while creating real administrative savings for both industry and government.[8]

8. Accordingly, in view of all the above, it is ordered that §§ 25.151(a) and 25.176(c) are amended to increase the cut-off figure for the applicability of our

[2] Subpart B of Part 25 requires, for example, Comsat to notify the Commission upon selecting a prime contractor. 47 CFR 25.162. Comsat may award the proposed contract at any time subsequent to 10 days after the date of filing notification unless within such period either: (a) Comsat voluntarily extends the period; or (b) the Commission notifies Comsat that the notice is defective or the Commission finds that it cannot, without further investigation, determine whether its procurement rules have been complied with. In the latter case, the Commission may issue a public notice inviting comments on the proposed award. 47 C.F.R. Section 25.166. The contract may be awarded unless within thirty days after issuance of the public notice the Commission finds that the procurement rules have not been complied with and so notifies Comsat. 47 CFR 25.166(b).

[3] Amendment of Part 25 of the Commission's Rules and Regulations (Communications Satellite Procurement), 1 RR 2d 1611 (1964).

[4] *See* Section 102(c) of the Communications Satellite Act of 1962, 47 U.S.C. 701(c).

[5] *See* Section 201(c)(1) of the Communications Satellite Act of 1962, 47 U.S.C. 721(c)(1).

[6] 1 RR 2d at 1612–13.

[7] *Id*

[8] The record does not support raising the cut-off figure tenfold to $250,000 or eliminating the procurement rules outright as urged by RCA. Comsat is still a rate base regulated entity and we have on several occasions received requests from suppliers to review or clarify a Comsat procurement decision.

procurement rules from $25,000 to $100,000, effective October 24, 1983.

9. Pursuant to Section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–345) It is certified, that Sections 603 and 604 of the Act do not apply because this rule will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 603, 604, 605(b). As stated above, the rule change is in large part an adjustment for inflation and does not alter the intent of the original rule.

10. It is further ordered, that the Secretary shall cause a copy of this Report and Order to be published in the **Federal Register** and shall mail a copy of this Report and Order to the Chief for Advocacy of the Small Business Administration.

11. It is further ordered, that this rulemaking proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 305)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

47 CFR Part 25 is amended to read as set forth below.

Section 25.151 is amended by revising paragraph (a), and § 25.176 is amended by revising paragraph (c) to read as follows:

§ 25.151 Scope, purpose and application of this subpart.

(a) The value of the procurement is less than $100,000, except as provided in § 25.176(c).

* * * * *

(c) In addition to complying with the requirements applicable to procurements of $100,000, or more, all parties making procurements shall cooperate with the Small Business Administration to the extent feasible even if the value of the procurement is less than $100,000, for the purpose of insuring that small business has an equitable opportunity to participate in all procurements.

* * * * *

[FR Doc. 83-28011 Filed 10-24-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 83-27; RM-4229]

Use of Volunteers To Prepare and Administer Operator Examinations in the Amateur Radio Service; Correction.

AGENCY: Federal Communication Commission.

ACTION: Final rule; correction

SUMMARY: This document corrects an FCC Rule regarding Volunteer-Examiner Coordinators (VEC's) in the Amateur Radio Service. This correction is necessary in order to clarify that VEC's will not be required to coordinate amateur radio operator examinations for the Novice Class.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, D.C. 20554 (202) 632–4964.

Erratum

In the matter of amendment of parts 0, 1 and 97 of the commission's rules to allow the use of volunteers to prepare and administer operator examinations in the Amateur Radio Service; PR Docket No. 83–27, Rm–4229.

Released: October 12, 1983.

1. On September 29, 1983, the Commission released a *Report and Order*, FCC 83–433, in the above captioned proceeding. In the *Report and Order*, the Commission amended Parts 0, 1 and 97 of its Rules to allow the use of volunteers to prepare and administer operator examinations in the Amateur Radio Service.

2. At paragraph 9 of the *Report and Order*, the Commission indicated that it was adopting new rules to apply above the Novice Class, while retaining rules recently adopted in another proceeding for the Novice Class. *See Report and Order*, PR Docket No. 82–727, 48 FR 32586 (July 18, 1983). However, paragraph (d) of newly added Section 97.507 of the Rules in the Appendix would appear to require Volunteer-Examiner Coordinators (VEC's) to coordinate examinations for all classes, including the Novice Class. This was not intended.

3. Accordingly, paragraph (d) of Section 97.507 of the Rules in the Appendix is corrected to read as follows:

§ 97.507 VEC Qualifications.

* * * * *

(d) Agree to coordinate all amateur radio operator examination elements for all amateur radio operator license classes except Novice Class;

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-28009 Filed 10-24-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Preparation of Environmental Assessments for Listing Actions under the Endangered Species Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Rule-related notice.

SUMMARY: The Fish and Wildlife Service has determined that Environmental Assessments, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. These documents will no longer be prepared for such routine actions.

DATES: This procedural change became effective on September 21, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

In the past, the U.S. Fish and Wildlife Service has prepared Environmental Assessments (EA's), as described by the National Environmental Policy Act of 1969 (NEPA), for all Endangered species listing regulations. As of September 21, 1983, the Service has ceased preparing EA's in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973 (ESA), as amended. This procedural change was based on recommendations from the Council on Environmental Quality (CEQ). The Service has accepted CEQ's judgment that Section 4 listing actions are exempt from NEPA review "as a matter of law."

Three other considerations supported the decision to alter procedures.

1. Over the past 10 years the Service had approved approximately 130 EA's in connection with Section 4(a) actions (listings, delistings, reclassifications, and Critical Habitat designations), none of which resulted in a decision to prepare an Environmental Impact Statement (EIS).

2. A decision delivered in a Sixth Circuit Court of Appeals case [*Pacific Legal Foundation* v. *Andrus*, 657 F. 2d 829 (1981)] found that as a matter of law an Environmental Impact Statement is

not required for listings under the Act. The decision further noted that preparing EIS's on listing actions does not further the goals of NEPA or ESA.

3. The Endangered Species Act Amendments of 1982 further support this action by requiring listing decisions under the Endangered Species Act to be based solely upon biological grounds and not upon consideration of economic or socioeconomic factors.

This notice is being published to inform the public of the Service's action. The Service believes this action will allow better utilization of personnel and fiscal resources and will eliminate the preparation of documents that did not futher the goals of either NEPA or ESA. This action will be incorporated in the Departmental NEPA procedures (516DM6, Appendix 1) as soon as practicable.

Author

The primary author of this notice is Ms. E. LaVerne Smith, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Dated: October 13, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–28695 Filed 10–24–83; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Population of Woodland Caribou Found in Washington, Idaho, and Southern British Columbia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: The Fish and Wildlife Service determines as Endangered the population of woodland caribou *(Rangifer tarandus caribou)*, sometimes known as the southern Selkirk Mountain herd, found in extreme northeastern Washington, northern Idaho, and southern British Columbia. This isolated herd is the only population of caribou that still regularly occurs in the conterminous United States. The population has fallen to only about 30 individuals, a level that probably cannot sustain the herd much longer. At least one or two adults and subadults are being lost each year, calf survival is apparently low, and there is evidently no immigration from other herds in Canada. The population is jeopardized by such factors as poaching, habitat loss to timber harvesting and wildfires, collisions with motor vehicles, and genetic problems through inbreeding. The population was first listed as Endangered through an emergency rule on January 14, 1983. The present rule will reestablish this emergency coverage until a new final rule, providing permanent protection of the Endangered Species Act, can take effect.

DATE: The effective date of this rule is October 25, 1983.

ADDRESS: The complete file for this rule is available for inspection during normal business hours, by appointment, at the Service's Regional Office, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur at the above address (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

According to the most recent taxonomic work (Banfield, 1961; Hall, 1981), the reindeer of Eurasia and the caribou of North America belong to a single species, *Rangifer tarandus*. This species is divided into a number of subspecies, among which is the woodland caribou (*Rangifer tarandus caribou*). This subspecies once occupied nearly the entire forested region from southeastern Alaska and British Columbia to Newfoundland and Nova Scotia. In the 48 conterminous States of the United States, the subspecies is known to have occured in Washington, Idaho, North Dakota, Montana, Minnesota, Wisconsin, Michigan, Vermont, New Hampshire, and Maine. Largely because of killing and habitat alteration by people, indigenous caribou disappeared from New England by about 1908 and from the Great Lakes States by 1940. A few individuals, probably wanderers from Canada, were observed in northeastern Minnesota in 1980-1981 (Mech, Nelson, and Drabik, 1982). There have been scattered reports from northwestern Montana during the last decade (Carlton, 1983), but the animals involved are probably not members of the herd that is the subject of this rule. There are still substantial numbers of woodland caribou in Canada, though populations there have been generally declining.

The only caribou population that is still known to regularly occupy the conterminous United States is found in northern Idaho and northeastern Washington. This population, sometimes called the southern Selkirk Mountain herd, also occurs in southern British Columbia. The total approximate area of normal utilization is bounded as follows: starting at the point where the Columbia River crosses the Washington-British Columbia border; thence northward along the Columbia River to its confluence with the Kootenay River in British Columbia; thence northeastward along the Kootenay River to its confluence with Kootenay Lake; then southward along Kootenay Lake and the Kootenai River, and across the Idaho-British Columbia border, to the town of Bonners Ferry, Idaho; thence southward along U.S. Highway 95 to the Pend Oreille River; thence westward and northward along the Pend Oreille River, and across the Idaho-Washington State line, to the Washington-British Columbia border; thence westward along the Washington-British Columbia border to the point of beginning.

Early records suggest that in the 19th century, caribou were plentiful in the mountains of northeastern Washington, northern Idaho, northwestern Montana, and adjacent parts of southwestern Canada. As in the case of other big game animals of North America, unrestricted hunting probably led to a major reduction of caribou numbers in this region by 1900. Subsequently, the numerical status of the southern Selkirk herd has not been completely clear. Various estimates, including some of those published by the Service in earlier Federal Register notices on this herd, now appear to have been incorrect. Only since January 1983, after initiation of radio-tracking studies and other survey work funded through the Federal Pittman-Robertson program and section 6 of the Endangered Species Act, has a definitive picture begun to emerge. The estimates by Flinn (1956) and Evans (1960), that there were still about 100 individuals in the population during the 1950's, do seem reasonable. It also is apparent that numbers then continued to decline, but not to as few as 13–20 individuals, as had been previously suggested. In the spring of 1983, an actual count of 26 caribou was obtained, and several other animals were thought to exist. Therefore, it is likely that the herd currently contains about 30 individuals.

In the Federal Register of February 9, 1981 (46 FR 11567–11568), the Service published a notice accepting two petitions to add the southern Selkirk mountain population of woodland caribou to the U.S. List of Endangered and Threatened Wildlife, and announced its intention to issue a proposal to this effect. As further evidence accumulated relative to the precarious status of the population, the Service came to consider it necessary to

immediately implement all available protective measures and to begin full-scale recovery planning. Therefore, an emergency determination of Endangered status for the population was issued in the **Federal Register** of January 14, 1983 (48 FR 1722–1726). A proposed rule to determine permanent Endangered status followed in the **Federal Register** of June 22, 1983 (48 FR 28500–28504).

Summary of Factors Affecting the Species

After a thorough review and consideration of all available information, the Service has determined that the southern Selkirk Mountain population of woodland caribou should be classified as an Endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) were followed. A species may be determined to be an Endangered or Threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the southern Selkirk Mountain population of woodland caribou (*Rangifer tarandus caribou*) are as follows.

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* As indicated above, the number of caribou in the southern Selkirk Mountain herd is thought to have declined from about 100 in the 1950's to about 30 today. The downward trend was caused, in part, by past logging practices (including road construction) in the herd's range.

Timber cutting can potentially affect caribou habitat by eliminating escape cover, migration corridors, and lichen production. Food availability is probably not now limiting this caribou population.

However, if the population is to be restored to a viable level, estimated by the Forest Service to be about 100 animals, the production of lichens, the primary winter food, would probably have to increase. Timber management strategies would have to be developed which provide timber stands that optimize lichen production.

Currently, the U.S. Forest Service is utilizing caribou management guidelines to design timber sales in caribou habitat. These guidelines are intended to minimize the effects of logging on caribou and also to develop silvicultural prescriptions which may enhance habitat over the long run. Disease and insects, especially spruce bark beetles, are presently impacting timber stands within historic caribou habitat, thereby further complicating management. Salvage sales have taken place and others are planned to remove much of the diseased timber and reduce the spread of bark bettles. Although these sales are being designed utilizing the caribou guidelines, studies and monitoring are necessary to evaluate the actual response of the caribou. Timber harvesting may prove helpful in portions of caribou habitat by providing food and cover necessary for the survial of this population. For example, if caribou numbers eventually are limited by lack of food, and if selective tree removal could improve lichen production and availability, then moderate timber harvesting could be beneficial.

However, at this time more information is necessary on the response of caribou to timber harvesting and managed timber stands. Current studies may indicate the need for a modification of the guidelines to provide for conservation and recovery. Timber harvesting, if not properly designed, can significantly impact caribou, especially in conjunction with the effects of poaching, highways, and forest roads. Listing of the caribou will place a higher priority on the acquisition of research funds to study caribou-timber management relationships.

Wildfire is a natural phenomenon in the range of the caribou. In the past, wildfire sometimes destroyed caribou cover and winter food. The caribou historically tolerated this natural adverse impact by itself. However, the cumulative effects of logging and wildfire have eliminated a great deal of the southern Selkirk herd's habitat.

B. *Overtutilization for commerical, recreational, scientific, or educational purposes.* An important cause of the decline of the southern Selkirk caribou herd is human killing, both legal hunting (prior to 1957) and poaching (now and in the past). Caribou are relatively easy for hunters to approach and shoot. Poaches killed at least one animal from this population in 1980, 1981, and 1982 (B. S. Summerfield, U.S. Forest Service, Bonners Ferry, Idaho, pers. comm.). Poaching losses also occurred in previous years. The problem is greatest where the caribou frequent areas with good road access for hunters, for example, near Trans-Canada Highway No. 3. There are even more roads in the portion of the herd's range in the United States, and the potential for poaching is thus greater there. Fortunately, in the past decade, the herd has spent less time in the United States than in Canada. Had the reverse been true, U.S. caribou poachers might have already eliminated the herd. Finally, there is the possibility that licensed deer and elk hunters could accidentally shoot a caribou.

C. *Disease or Predation.* Disease is not known to significantly impact this caribou population. Certain predators, such as the coyote and black bear, occur in moderate numbers in the range of the herd. They are capable of killing caribou calves and may occasionally do so. Other predators, including the gray wolf, grizzly bear, and mountain lion, are at such low numbers as to have no significant effect on the caribou. Recovery of wolf and grizzly populations (both on the U.S. List of Endangered and Threatened Wildlife) would probably not jeopardize the caribou population, if caribou habitat is preserved and restored.

D. *The inadequacy of existing regulatory mechanisms.* Although hunting of the southern Selkirk caribou is prohibited under the laws of Idaho, Washington, and British Columbia, poaching has continued. Such laws also can do little to prevent habitat disruption.

E. *Other natural or manmade factors affecting its continued existence.* Occasionally caribou are killed in collisions with vehicles along Trans-Canada Highway No. 3 at Kootenay Pass, about 5 miles north of the international boundary. Although no highways exist in the U.S. portion of the population's primary habitat, there is a potential for caribou-vehicle collisions in caribou habitat on U.S. Forest Service roads used by loggers, miners, and recreationists. Vehicle collisions with deer are known to occur on these roads, so it is reasonable to assume that caribou collisions could occur too. As the number of forest roads and subsequent traffic increases, the threat to caribou of such collisions will increase. Johnson (1976) suggested that a single accident along an icy winter road, where the caribou have gathered to feed on salt, could wipe out a significant part of the herd.

In addition to the factors listed above, the decline and continued low numbers of the southern Selkirk herd apparently result from low calf survival and absence of immigration from other herds. The only source for immigrants is British Columbia, but there has been a general decline in woodland caribou in that province (British Columbia Ministry of Environment, 1981). Moreover, the southern Selkirk herd is separated from other herds by barriers, such as Kootenay Lake and the human settlements in Kootenay Valley, and by substantial distance. The nearest herd is about 30 miles away, on the east side of

Kootenay Lake in southeastern British Columbia; it contains about 40 animals (Guy Woods, British Columbia Fish and Wildlife Branch, Ministry of Environment, Nelson, British Columbia, pers. comm.).

The reduced population size of the southern Selkirk herd is far below the minimum necessary to insure survival in the face of natural contingencies, even disregarding the host of human-caused problems described above. Moreover, small population size, along with lack of genetic exchange with other populations, leads to inbreeding. This factor reduces adaptiveness, viability, and fecundity, and may result in extinction. Recent studies suggest that the minimum genetically effective size of a population of large mammals is 50 individuals (Franklin, 1980; Soule, 1980). Other studies have shown that inbreeding in populations of various species of hoofed mammals, including *Rangifer tarandus*, is associated with a significant increase in juvenile mortality (Ralls, Brugger, and Ballou, 1979). Such a condition could be responsible for low calf survival in the southern Selkirk population.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act requires the Service to designate the Critical Habitat of a species, concurrent with listing, "to the maximum extent prudent and determinable." In the case of the southern Selkirk Mountain herd of woodland caribou, the Service considers that the designation of Critical Habitat is not prudent. Such a designation would require publication and extensive publicity of the precise areas occupied by the herd and the kind of habitat utilized. There thus would be a serious risk of facilitating poaching, which, as indicated in factor "B" in the above "Summary of Factors Affecting the Species," is an important cause of the decline of the herd.

Reasons for Emergency Determination

Although the southern Selkirk Mountain population of woodland caribou is somewhat larger than once feared, it can still be ranked as the most critically endangered mammal in the United States. Additional losses, even the premature death of a single animal, could be disastrous, and yet the potential for such losses is great and increasing. Habitat disruption is continuing without full consideration of the needs of the caribou. Poaching occurs regularly; in the most recent known case, a mature female was shot on the Canadian side of the border in October 1982. Existing regulations have not been effective in either stopping poaching or preventing serious habitat disturbance. Roads continue to be constructed in caribou range, allowing greater access for hunters and setting up possible collisions between vehicles and caribou. Any of these problems could at any time result in losses that would be irreversible and reduce the herd to a point at which recovery is no longer feasible.

With respect to these problems, the Service considers it necessary to reestablish the protection provided by the emergency rule of January 14, 1983 (48 FR 1722–1726). That rule was in effect until September 12, 1982, by which time the Service had originally hoped to have a permanent final rule in effect. However, Section 4(b)(5) of the Endangered Species Act of 1973, as amended, requires publication of a proposed rule and notification of appropriate State and County Governments not less than 90 days before the effective date of the permanent final rule. Because of various unforseen delays, a proposal to determine permanent Endangered status for the caribou population was not published until June 22, 1983 (48 FR 28500–28504). State agencies were not notified of this proposal until July 14, 1983, and the Counties were not notified until August 17, 1983. Therefore a permanent final rule could take effect no earlier than November 15, 1983, and it is now necessary to issue a new emergency rule that will implement the protective measures of the Act until that time.

Available Conservation Measures

Endangered species regulations already published in Title 50, Section 17.21, of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered wildlife. These prohibitions, in part, will make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in the interstate commerce in the course of commercial activity, or sell or offer for sale any member of the southern Selkirk population of woodland caribou in interstate or foreign commerce. It also will be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions will apply to agents of the U.S. Fish and Wildlife Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered wildlife under certain circumstances. Regulations governing such permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species or population, or, in limited circumstances, for takings incidental to otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Subsection 7(a) of the Endangered Species Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as Endangered or Threatened. This emergency rule requires Federal agencies to satisfy their statutory obligations relative to the southern Selkirk Mountain population of caribou. Federal agencies will be immediately required to insure that the actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of the population.

Listing the southern Selkirk caribou as Endangered would increase the management emphasis that agencies place on the population. Listing will further emphasize the national significance of this population. The combination of legal requirements and increased national awareness will produce a number of advantages for the caribou.

First, as indicated above, all Federal actions that may affect the caribou population will come under the purview of the Endangered Species Act. Since most of the range of the population in the United States is within national forests, and since logging activities therein are having impacts on caribou habitat, it is anticipated that some actions authorized, funded, and carried out by the U.S. Forest Service will be affected by this rule. Such effects should not be major, however, since the Forest Service is already attempting to manage its lands with consideration of the caribou's welfare. The emphasis of timber harvesting may have to be shifted from caribou habitat to other areas, and some inconvenience could result, but there should be no substantial effect on timber production. Moreover, this rule will direct the actions of other agencies on national forests towards caribou preservation, and give the Forest Service a greater capability than it now has to manage habitat for the benefit of the caribou. For example, the Forest Service has minimal legal control over its oun lands with respect to construction of power lines by the Bonneville Power Administration, and the issuance of permits and leases for mineral development by the Bureau

of Land Management. Henceforth, such actions will require consultation with the Fish and Wildlife Service to insure that they are not likely to jeopardize the caribou population.

Second, listing the caribou as Endangered will bring Section 6 of the Endangered Species Act into effect with respect to this species. Therefore, the Fish and Wildlife Service will be able to grant funds to the States of Idaho and Washington for management actions aiding the protection and recovery of the caribou. Since the original emergency listing of the caribou on January 14, 1983, such funds have been provided to both States, and, as noted above, resulting studies have contributed substantially to our knowledge of the herd.

Third, the agents of the Service's Divison of Law Enforcement can be assigned to enforce the Act's prohibitions against taking. A law enforcement strategy plan can be developed. Without such protection, these agents could only be used if any illegally taken carcass or its parts were transferred in interstate or foreign transportation or commerce.

Fourth, listing of the population will provide for the continued development of the caribou recovery plan that was begun after the original emergency listing of January 14, 1983. Such a plan will draw together agencies (U.S. and Canadian) having responsibility for caribou conservation. The plan will establish an administrative framework, sanctioned by the Act, for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan will set recovery priorities and estimate the cost of various tasks necessary to accomplish them. It will assign appropriate functions to each agency and a timeframe within which to complete them. The plan will establish a formal blueprint for periodic task review. Each agency may now have its own program for caribou management. These programs could be consolidated and modified into one overall recovery plan that would give conderation to all factors needed for caribou conservation.

Fifth, the U.S. State Department could become involved on behalf of the Fish and Wildlife Service. For example, the State Department could encourage Canadian law enforcement agencies to improve surveillance for poachers seeking caribou in the southern Selkirk population. In addition, the State Department could help to encourage Canadian and provincial government agencies to give special consideration to this caribou population when they propose dams, highways, timber sales, etc., in the Canadian part of the range of the population.

National Environmental Quality Policy Act

In accordance with a recommendation from the Council on National Environmental Quality Policy Act (CEQ), the Service has not prepared any NEPA documentation for this proposed rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals which held that the preparation of NEPA documentation was not required as a matter of law for listings under the Endangered Species Act. *PLF vs. Andrus* 657 F.2d 829 (6th Cir. 1981).

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Author

The primary author of this rule is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975 or FTS 235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Endangered and threatened plants, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, until July 23, 1984, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 83–205, 67 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

2. Section 17.11(h) is amended by adding the following, in alphabetical order, to the List of Endangered and Threatened Wildlife under "Mammals":

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
•	•	•	•	•	•	•	•
Caribou, woodland	*Rangifer tarandus caribou*	Canada, U.S.A. (AK, ID, ME, MI, MN, MT, NH, VT, WA, WI)	Canada (that part of southeastern British Columbia bounded by the Canada-U.S.A. border, Columbia River, Kootenay River, Kootenay Lake, and Kootenai River), U.S.A. (ID, WA).	E		NA	NA
•	•	•	•	•	•	•	•

Dated: October 20, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-28650 Filed 10-24-83; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 48, No. 207
Tuesday, October 25, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 421

[Amdt. No. 3]

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Supplemental notice of proposed policy rulemaking and extension of comment period.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith extends the comment period and issues this supplemental notice of policy rulemaking for the purpose of soliciting public comment on its proposed procedure for determining insurance coverages for cotton based solely on individual production records; implementing a new premium adjustment table; revising the definition for land located outside the county; and revising the basis for the insured unit. The intended effect of this supplemental notice is to propose additional changes to the cotton crop insurance policy and to extend the comment period an additional 15 days from, October 25, 1983.

DATES: Written comments on this supplemental notice of proposed policy rulemaking must be submitted by not later than 15 days to be sure of consideration. November 9, 1983.

ADDRESS: Written comments on this rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedure as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses or other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Thursday, August 4, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 35435. The public was given until September 19, 1983, to submit comments on the proposed rule. FCIC proposes to make additional changes to the cotton crop insurance policy to provide insurance coverage for cotton based solely on actual production records of the producer instead of the previous method of establishing coverage based on area data. This method of determining coverages has been strongly urged in recent years by producers and commodity groups who feel that basing yield guarantees for cotton insurance on actual production will assure that those yields reflect the true production capacity of each producer. On June 21, 1983, the Board of Directors of FCIC approved making the actual yield production history a basis for yield guarantees beginning in the 1984 crop year. Prior to that date several meetings were held with producers and commodity groups discussing these changes. The proposed method of using the actual production history also addresses a common complaint among insured producers that their individual yields are far superior to the area yield data on which present guarantees are based. FCIC also proposes to implement a new premium adjustment table in the cotton crop insurance policy to shift the emphasis from premium adjustment based on severity (loss ratio) to frequency of loss. A premium adjustment factor is determined by (a) computing the average yield by using the individual production record, either actual or established, for a base period, (b) multiplying the average yield times the elected level of coverage to establish the guarantee, and (c) comparing the actual yield by year to the guarantee. Any year in which the actual yield falls below the guarantee is considered a "loss year". The number of loss years occurring determines the premium adjustment factor. FCIC also proposes to revise the definition for county, new ground, and unit.

For the 1984 crop year, FCIC will determine the premium adjustment factor on a 5-year period (1978–1982). Determining the actual yields for comparison purposes prior to 1978 is considered to be impractical. Using the 5-year period, the maximum number of loss years would be 5. Aftr the 1984 crop year 1978 will continue to be the first year of the base period until a base period of ten years has been reached.

The policy as revised with the changes proposed on August 4, 1983, and these additional proposed changes is published in its entirety.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 421

Crop insurance, Cotton.

Proposed Rule

PART 421—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*),

the Federal Crop Insurance Corporation proposes to amend the Cotton Crop Insurance Regulations, effective for the 1984 and succeeding crop years in the following instances:

1. The Authority citation for 7 CFR Part 421 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

§ 421.7 [Amended]

2. 7 CFR 421.7(d) is amended by removing the Cotton Crop Insurance Policy therein, and substituting the following:

Department of Agriculture—Federal Crop Insurance Corporation

Cotton—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Cause of loss.* a. The insurance provided is against unavoidable loss of production resulting from the following causes occuring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake; or
(7) Volcanic eruption; unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good cotton farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. *Crop, Acreage, and Share Insured.* a. The crop insured shall be American Upland lint cotton which is grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be cotton planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect. The acreage insured of skip-row cotton shall be the acreage occupied by the rows of cotton after eliminating the skipped-row portions, unless other acreage determinations are provided by the actuarial table.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured cotton at the time of planting.

d. We do not insure any acreage:

(1) Which is non-irrigated and from which a hay crop was harvested or on which a small grain crop reached the heading stage in the same calendar year;

(2) Planted in excess of the limitations established by any program administered by the United States Department of Agriculture;

(3) Which is new ground acreage;

(4) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(5) Which is irrigated and an irrigated practice is not provided for by the actuarial table, unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(6) Which is destroyed and we determine it is practical to replant to cotton, and such acreage was not replanted;

(7) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction; or

(8) Planted to a type or variety of cotton not established as adapted to the area or excluded by the actuarial table;

(9) Which you have elected to exclude, (the exclusion must be by unit, in writing, on our form, and made before the closing date for submitting applications as established by the actuarial table), except that, if a unit is acquired after such date, an exclusion may be filed up to 15 days after the acquisition but not later than the acreage reporting date.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good cotton irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good cotton irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hydrid seed or for experimental purposes is not insured unless we agree, in writting, to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. *Report of Acreage, Share, and Practice.* You shall report on our form:

a. All the acreage of cotton in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any cotton planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.* a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. The production guarantees in the actuarial table are the second stage guarantees. The first stage guarantee is 60 percent of the second stage guarantee. The stages are:

(1) First Stage—From planting until 50 days after the final planting date or until the shedding of the first blooms, whichever occurs first; (we may limit the liability to the first stage if the cotton was damaged during this period to the extent that farmers generally would not further care for the cotton); or

(2) Second Stage—All insured cotton after the first stage.

c. Coverage level 2 will apply if you do not elect a coverage level.

d. You may change the coverage level and price election before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual Premium.* The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the application premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE[1]

Number of loss years [2]	0	1	2	3	4	5+
Percentage adjustment	80	100	115	135	165	200

[1] The Experience Period used for determining the number of "loss years" for the 1984 crop year shall be the period beginning with the 1978 crop year and extending through the 1982 crop year (for the 1984 policy). The experience period will expand each year until a 10-year base period is reached.
[2] A "Loss Year" is defined as a year in which the yield, actual or established, is below the production guarantee for the unit or practice (where the unit consists of more than one practice).

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. *Deductions for Debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance Period.* Insurance attaches when the cotton is planted and ends at the earliest of:

a. Total destruction of the cotton;
b. Removal of the cotton from the field;
c. Final adjustment of a loss; or
d. The date immediately following planting as follows:

(1) Arizona, California, New Mexico, Oklahoma and all Texas counties except those listed in (2)—January 31;

(2) Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, Dimmit Counties, Texas and all Texas counties south thereof—September 30;

(3) All other states—December 31.

8. *Notice of Damage or Loss.* a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the cotton on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the cotton and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipte a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of unharvested cotton (at least 10 feet wide and the entire length of the field) shall be left for a period of 15 days from the date of the notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the cotton on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy any cotton on which an indemnity shall be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the cotton which is not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for Indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the cotton on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you

(1) Establish the total production of cotton on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of cotton to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) When mature cotton (harvested or unharvested) has been damaged solely by insured causes, the production to count shall be reduced if, on the date, the final notice of loss is given by the insured, the price quotation for cotton of like quality (price quotation "A") at the applicable spot market is less than 75 percent of price quotation "B". Price quoation "B" shall be that day's spot market price quoation at the same market for cotton of the grade, staple length, and micronaire reading shown by the actuarial table for this purpose. The pounds of production to be counted shall be determined by multiplying the number of pounds (harvested and appraised) of mature cotton by price quotation "A" and dividing the result by 75 percent of price quotation "B."

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good cotton farming practices;

(b) Not less than the applicable guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Only the appraised production in excess of the difference between the first and second stage production guarantee for acreage not covered by (a) and (b) above and which does not qualify for the second stage guarantee will be counted except as provided in (d) below; (d) the entire appraisal for uninsured causes be counted.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of cotton becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(4) The cotton stalks shall not be destroyed on any acreage for which an indemnity is claimed, until consent is given by us. An appraisal of not less than the second stage guarantee may be made on acreage where the stalks have been destroyed without our consent.

(5) We may determine the amount of production of any unharvested cotton on the basis of field appraisals conducted after the end of the insurance period.

(6) When you have elected to exclude hail and fire as insured causes of loss and the cotton is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire" .

(7) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the cotton is planted for any crop year, and indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

1. The amount of indemity determined pursuant to this contract without regard to any other insurance; or

2. The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or Fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which act or omission occurred.

11. *Transfer of Right to Indemnity on Insured Share.* If you transfer any part of your share during the crop year, you many transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of Indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and Access to Farm.* You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all cotton produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of Contract:* Cancellation and Termination. a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, Dimmit Counties, Texas and all Texas counties lying south thereof.	Feb. 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina and Winkler, Ector, Upton, Reagan, Sterling, Coke, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas and all Texas counties lying south thereof to and including Maverick, Zavalla, Frio, Atascosa, Karnes, Gonzales, Lavaca, Wharton and Matagorda Counties, Texas.	Mar. 31.
All other Texas counties and all other states	Apr. 15.

e. If you die or are judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract Changes.* We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of Terms.* For the purposes of cotton crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding cotton insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "Cotton" means only American Upland Cotton.

d. "County" means the county shown on the application and:

(1) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(2) Any land identified by an ASCS farm serial number for the county but physically located in another county.

e. "Crop year" means the period within which the cotton is normally grown and shall be designated by the calender year in which the cotton is normally harvested.

f. "Final Notice of Loss" means the "Final Notice" date given by you and shown on the FCI–74, Claim for Indemnity.

g. "Harvest" means the removal of the seed cotton from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

h. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

i. "Insured" means the person who submitted the application accepted by us.

j. "Mature Cotton" means cotton which can be harvested either manually or mechanically and shall include both unharvested and harvested cotton.

k. "New ground acreage" means any acreage which has not been planted to a crop in any one of the previous three crop years, except that acreage in tame hay or rotation pasture during the previous crop year shall not be considered new ground acreage.

l. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

m. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

n. "Skip-row" means planting patterns consisting of alternating rows of cotton and fallow rows (or rows of another crop) as defined by ASCS.

o. "Spot market" means a market so designated by the Secretary of Agriculture by Regulation (7 CFR 27.93) pursuant to 26 U.S.C. 4862.

p. "Tenant" means a person who rents land from another person for a share of the cotton or a share of the proceeds therefrom.

q. "Unit" means that acreage of insurable cotton identified by a single ASCS Farm Serial Number at the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us when adjusting a loss. FCIC may reject or modify any ASCS constitution or reconstitution for the purpose of unit definition, if FCIC determines that the constitution or reconstitution was made in whole or in part to defeat the purpose of the Federal Crop Insurance Program and/or to gain unfair or disproportionate advantages under this policy.

r. "Yield" means the actual yield as reported to ASCS or as established by ASCS or us.

18. *Descriptive Headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal

those determinations in accordance with Appeal Regulations.

20. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on September 15, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: October 18, 1983.

Approved by:

Luther R. Overgaard,

Acting Manager.

[FR Doc. 83-28965 Filed 10-24-83; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Proposed Salable, Reserve, and Export Percentages for the 1983–84 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given of a proposal to establish salable, reserve, and export percentages of 97 percent, 3 percent, and 0 percent, respectively, for marketable California almonds delivered to handlers during the 1983–84 crop year, which began July 1, 1983. This action is taken under the marketing order for almonds grown in California and is designed to develop almond butter and school lunch outlets as viable long-term markets for almonds.

DATE: Comments must be received by November 9, 1983.

ADDRESS: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5073.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Frank M. Grasberger has determined that this proposal should be published with less than a 30-day comment period because the current crop year began on July 1, 1983, and the percentages contained herein will automatically apply to all marketable almonds beginning with such date.

The authority to establish salable and reserve percentages is pursuant to § 981.47 of the marketing agreement and Order No. 981, both as amended (7 CFR Part 981), regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is based on a recommendation of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order.

Pursuant to §§ 981.47 and 981.49 of the order, the Board based its recommendation for salable, reserve, and export percentages of 97 percent, 3 percent, and 0 percent, respectively, on estimates of marketable supply and combined domestic and export trade demand for the 1983–84 crop year. The Board's marketable supply estimate of 230 million kernel weight pounds is based on its 1983 crop estimate of 250 million pounds minus an estimated weight loss of 20 million pounds. The weight loss is expected from the removal of inedible kernels by handlers and losses during manufacturing.

Trade demand is estimated at 230 million pounds—130 million pounds for domestic needs and 100 million pounds for export needs. An inventory adjustment is made to account for supplies of almonds carried in from the 1982–83 marketing year and for supplies deemed desirable to be carried out on June 30, 1984, for early season shipment during the 1984–85 crop year until the 1984 crop is available for market. After adjusting for inventory, the salable supply is calculated at 223.1 million pounds, the quantity of almonds from the 1983 estimated marketable production necessary for trade demand needs. The proposed salable percentage of 97 percent would meet those needs.

The remaining 3 percent (6.9 million pounds) of the 1983 marketable production would be withheld by handlers to meet their reserve obligations. These almonds would be used chiefly to continue the development of almond butter and school lunch markets begun during the 1982–83 crop year. The development of such outlets is a long-term necessity for the industry because of anticipated larger crops. The Board hopes to develop a permanent consumer demand for almond butter and related products that, in time, will absorb a large quantity of almonds. In addition, the Board plans to continue promoting the use of almonds in school lunch porgrams with the objective of encouraging school authorities to buy almonds for those programs on a regular basis. Reserve almonds could also be disposed of in other noncompetitive outlets as specified in the order or approved by the Board.

The order permits the Board to include normal export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable, reserve, and export percentages for any crop year. For the 1983–84 crop year, estimated exports are included in trade demand, thereby making export a salable outlet rather than a reserve outlet. Because of this action, no portion of the reserve should be eligible for export to normal outlets. Thus, an export percentage of 0 is proposed.

A complete tabulation of the estimates and calculations used by the Board in arriving at its recommendation is as follows:

MARKETING POLICY ESTIMATES—1983 CROP

[Kernel Weight Basis]

	Million pounds	Percent
Estimated Production:		
1. 1983 Crop	250.00	
2. Loss and Exempt—8.0%	20.0	
3. Marketable Supply	230.0	
Estimated Trade Shipments:		
4. Domestic	130.0	
5. Export	100.0	
6. Total	230.0	
Inventory Adjustment:		
7. Carrying 7/1/83	176.9	
8. Estimated Carryover, 6/30/84	82.0	
9. Adjustment	[96.8]	
Salable/Reserve:		
10. Salable Supply (6 plus 9)	223.1	
11. Reserve Supply (3 minus 10)	6.9	
12. Salable % (10÷3×100)		97.0
13. Reserve % (100% minus 12)		3.0

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, and California.

It is proposed to add § 981.232 to read as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

Subpart—Salable, Reserve, and Export Percentages

§ 981.232 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1983.

The salable, reserve, and export percentages during the crop year beginning July 1, 1983, shall be 97 percent, 3 percent, and 0 percent, respectively.

Dated: October 20, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 83-29661 Filed 10-24-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1125 and 1133

[Docket Nos. AO-225-A29 And AO-275-A32]

Milk in the Puget Sound, Washington, and Inland Empire Marketing Areas; Decision on Proposed Amendments to Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision provides for the merger of the Puget Sound and Inland Empire Federal milk orders, based on industry proposals considered at a public hearing held in September 1981. In addition to the presently regulated marketing areas of the separate orders, the combined "Puget Sound-Inland" marketing area includes eight additional unregulated north central Washington counties and the remaining unregulated portions of two other Washington counties. The provisions of the merged order are patterned largely after those of the Puget Sound order. The merged order does not provide, however, for a Class I base plan, which is now contained in the Puget Sound order. The merger is needed to reflect changes in market structure in that the two separately regulated areas have become, in effect, one common market.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Section 556 and 557 of Title 5 of United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The merged order will promote orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued June 11, 1981; published June 16, 1981 (46 FR 31424).

Notice of Postponement of Hearing: Issued June 30, 1981; published July 6, 1981 (46 FR 34805).

Notice of Rescheduling of Hearing: Issued July 23, 1981; published July 28, 1981 (46 FR 38524).

Notice of Proposed Suspension: Issued November 6, 1981; published November 12, 1981 (46 FR 55707).

Suspension Order: Issued December 7, 1981; published December 10, 1981 (46 FR 60412).

Recommended Decision: Issued April 28, 1983; published May 4, 1983 (48 FR 10058).

Extension of Time: Issued June 2, 1983; published June 8, 1983 (48 FR 26460).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Puget Sound, Washington, and Inland Empire marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Seattle, Washington, on September 15–19, 1981, and at Spokane, Washington, on September 21, 1981. Notices of such hearing were issued on June 11, 1981 (46 FR 31424), June 30, 1981 (46 FR 34805), and July 23, 1981 (46 FR 38524).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on April 28, 1983, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Issue No. 3. *Merged and expanded marketing area.* A new paragraph is added at the end of the discussion.

2. Issue No. 4(a). *Milk to be priced and pooled.*

—*Pool plant.*—Two new paragraphs are added after paragraph five.

—*Handler.*—Paragraphs three and four are revised; two new paragraphs are added after paragraph three and two paragraphs are added after paragraph five.

—*Producer-handler.*—Two new paragraphs are added at the end of the discussion.

—*Definition of dairy farmer for other markets.*—Four new paragraphs are added at the end of the discussion.

—*Basis of computing allowable diversions for two or more cooperative associations.*—This subtitle is deleted and replaced with a new subtitle (Diversion of producer milk.) and three new paragraphs are added immediately following the new subtitle.

3. Issue No. 4(c). *Class I price and location adjustments.* One new paragraph is added after paragraph 27; four new paragraphs are added after paragraph 41; and paragraph 48 is revised.

4. Issue No. 4(d). *Distribution of proceeds to producers.*—One new paragraph is added after paragraph 14.

The material issues on the record of the hearing relate to:

1. Whether the handling of milk produced for sale in the proposed merged and expanded marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether the marketing areas of the present Puget Sound, Washington, and Inland Empire orders should be included under one order;

3. Whether the proposed merged marketing area should be expanded to include additional territory in the State of Washington;

4. If a single order is issued for the proposed merged and expanded marketing area, what its provisions should be with respect to:

(a) Milk to be priced and pooled;

(b) Classification of milk;

(c) Class prices, location adjustments and butterfat differentials;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Character of commerce.* The handling of milk in the proposed and expanded marketing area is in the

current of interstate commerce and directly burdens, obstructs, and affects interstate commerce in milk and milk products.

The marketing area specified in the proposed order, hereinafter referred to as the "Puget Soun-Inland marketing area", includes 29 contiguous counties, of which 23 are in Washington and six are in Idaho. The principal cities in this marketing area are Seattle, Spokane, and Tacoma in Washington. The specific territory included in the proposed marketing area is set forth in the marketing area discussion.

Handlers located in the Puget Sound area have route sales in Idaho, Oregon, Washington, and Alaska. Fluid milk products are disposed of in the proposed marketing area by handlers located in Oregon. Handlers located in that part of the Inland Empire area that is in Washington have route sales in Montana, Idaho, and Oregon. Additionally, a handler located at Missoula, Montana, has fluid milk sales in that part of Idaho that is in the present Inland Empire marketing area. Several California fluid milk plants dispose of fluid milk products in Washington.

Similarly, milk procurement for the proposed merged area crosses state boundaries. Handlers regulated by the Inland Empire order procure milk in Washington, Idaho, and Montana. Milk procurement for the Puget Sound market is confined to Washington.

There are numerous manufacturing plants located within the proposed marketing area that manufacture dairy products. These products are sold in California, Oregon, and other states. Manufactured products produced in many states are offered for sale in Washington and Idaho.

2. *Need for merger of orders.* Marketing conditions in the two separately regulated marketing areas under consideration justify the issuance of a single order regulating the handling of milk in these areas. This single order is the most appropriate means of effectuating the declared policy of the Act.

Federal regulation of milk marketing in the Washington area was first initiated on June 1, 1951, with the issuance of the Puget Sound order. The marketing area was expanded on December 1, 1952, when a portion of King County, Washington, was added. It was further expanded effective July 1, 1966, when portions of Whatcom, Skagit, Snohomish, King, Pierce, and Lewis Counties and all of Island and San Juan Counties in Washington were added.

The Inland Empire order became effective on April 1, 1956. The marketing area was expanded effective October 1, 1957, when two Idaho counties were added. It was further expanded on March 1, 1962 to include the Washington county of Whitman and the Idaho counties of Latah and Shoshone and the remaining portions of Bonner and Kootenai Counties in Idaho.

The merger of the Puget Sound and Inland Empire orders was proposed by Northwest Dairymen's Association (NDA). This producer cooperative association represents a major proportion of the producers supplying milk to handlers regulated by these two orders. Dari-Marketing Service, Inc. (DMS), a federation of three cooperative associations that supply handlers regulated by the Puget Sound order, testified that it did not object to merging the two orders. Several handler witnesses also supported the merger of the two marketing areas under a single order.

The Producers' Base Committee (PBC), which represented nearly 400 Class I base holding producers under the Puget Sound order, also supported combining the two orders. It proposed, however, that technically the present Puget Sound order be amended to include the present Inland Empire marketing area rather than merging the two orders as NDA proposed. PBC took this position on the belief that if NDA's proposed merger were adopted, it would remove the legal authority to continue the existing Puget Sound Class I base plan until the end of 1984, when such authority expires. (A further discussion of this position is set forth under issue 4(d) entitled, "Distribution of proceeds to producers".)

The merger proponent claimed that the orders should be merged because the two separately regulated markets, have now become one single market. The principal reasons given by the proponent for merging the orders include the following:

(a) There is substantial competition for sales by handlers regulated under the separate orders;

(b) Some of the regulatory provisions of the separate orders cause unnecessary difficulties for handlers operating in both markets;

(c) There have been changes in the structure and operations of producer marketing organizations; and

(d) Separate orders are not encouraging or facilitating the most efficient handling of the reserve milk supplies associated with the separate markets.

When the two orders were promulgated, they regulated the handling of milk in areas that were clearly distinguishable as separate markets for particular handlers and producer groups. Changes in marketing practices and market structure since that time, however, have caused these separately regulated areas to become substantially interrelated in both distribution and producer marketing supply arrangements. It is reasonable to expect that the interrelationship of these present areas will become even more pronounced over time.

At the time the separate marketing area boundaries for each order were established, they reflected the limits of competition among handlers in the respective areas and there was no overlapping of the sales territory of handlers from one order to another. Since then, however, the range of route distribution by regulated handlers in the two markets has greatly expanded. While the reasons for such expansion are varied, they generally can be attributed to better highways, improved transportation and refrigeration facilities, the advent of single service containers, economies of large scale operations, and reciprocity of health standards.

Over the years, there has been extensive consolidation of distribution operations in these respective markets. Since the two orders were promulgated, the number of regulated handlers has declined significantly. When the Puget Sound order was promulgated, there were 76 handlers regulated under the order.[1] Presently, there are only 11. In the Inland Empire market, the number of regulated handlers has declined from 11 in 1956 to five in 1981. The fluid milk distribution previously made from the now discontinued operations has been absorbed through existing and expanded plant facilities and routes of remaining handlers Consequently, the distribution areas of some of the large plants, particularly the Puget Sound plants, have been substantially expanded, resulting in the development of significant intermarket competition among handlers operating under the respective orders.

At the time of the hearing, fluid milk sales were being made on a regular basis in the Inland Empire market by three Puget Sound handlers. Prior to 1976, one of these handlers, the Safeway grocery chain, relied on Inland Empire regulated handlers to serve its stores in that market. Since then and up until the time of the hearing these stores were being supplied from Safeway's own plant at Bellevue, Washington. This

[1] Official notice is taken of Federal Milk Order Market Statistics, 1947–56, Statistical Bulletin, No. 246, Issued May 1959, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C.

plant is a pool plant under the Puget Sound Order.

Another Puget Sound pool plant with route distribution in the Inland Empire market is the Seattle plant of Consolidated Dairy Products Company (CDP), the marketing agent for NDA. In addition to this plant, CDP also operated at the time of the hearing, two Inland Empire order pool distributing plants at Moses Lake and Spokane, Washington, from which there was fluid milk disposition in the Inland Empire and Columbia River Basin areas. CDP has operated the Spokane plant only since September 1981. Prior to that time, the plant was operated by another cooperative association, the former Mayflower Farms.

Since the hearing, another change has occurred in the ownership of a processing plant, which further illustrates that the two regulated areas have lost their identity as distinct separate markets and actually constitute a single market. Official notice is taken of the commercial fact that recently the Safeway grocery chain acquired the Moses Lake plant from CDP and is now serving its store outlets in the Inland Empire and north-central Washington areas from this plant rather than from its Bellevue plant. The fluid milk distribution previously made by CDP from the Moses Lake plant has been absorbed at its Spokane and Yakima, Washington plant facilities. This latter plant is a pool distributing plant under the Oregon-Washington order.

Such shifts in plant operations have substantially altered the relative volumes of Class I sales originating from the two respective markets and this situation is likely to continue. As Class I sales shift among the two markets, the Class I utilization percentages of the respective markets change, and as a result the relationship of producer returns as between the two markets also change. This situation does not provide orderly marketing since it tends to promote confusion and discontent among producers.

Unlike the situation with respect to Puget Sound handlers, Inland Empire handlers are not distributing packaged fluid milk products in the Puget Sound marketing area. However, the record indicates that as small dairies in the unregulated area of north-central Washington have gone out of business both Inland Empire and Puget Sound regulated handlers have increased their route disposition in this area. In January 1981, three of the five distributing plants regulated by the Inland Empire order had route disposition in this unregulated area. In the same month, four of the 13 distributing plants regulated by the Puget Sound order had route disposition in this same north-central unregulated area.

Data placed in the record show that Puget Sound distributing plants' out-of-area in eastern Washington between November 1970 and November 1980 nearly tripled (from 2.7 million to 6.9 million pounds).[2] In November 1980, nearly 37 percent of the total route disposition by Inland Empire distributing plants was made outside of the marketing area, most of which was made in competition with Puget Sound handlers in north-central Washington.

The above data indicate not only an expansion in the range of distribution but also a substantial overlap of Class I route disposition by handlers regulated by each of the two orders here being considered. Moreover, such distribution patterns illustrate that the two regulated areas are rapidly losing their identity as separate and distinct markets for particular groups of producers. Under this marketing situation, continuation of a separate regulatory plan for each of these areas is no longer practical or desirable.

The need for a single order to achieve greater stability and a more equitable distribution of returns to producers is accentuated by the impact on particular producer groups by shifts in Class I sales and supplies between the two regulated areas. In the smaller Inland Empire market, particularly, a major loss of Class I sales of the Puget Sound market can have a significant adverse effect on the returns to producers supplying Inland Empire distributors. This situation actually occurred when Safeway decided to serve its stores in the Inland Empire market from its Puget Sound pool distributing plant. Also, multi-market plant operators have caused and continue to represent a potential cause of intermarket shifts of sales. At the time of the hearing, there were three handlers operating distributing plants in each of the two areas that would be regulated by the proposed Puget Sound-Inland order. The gain or loss of a large chain store account by a handler also can have a major impact on producer returns in any one regulated area.

The local nature of the two markets has greatly diminished also in terms of producer marketing organizaitons. When the individual orders were promulgated, many of the producers in each market were members of separate cooperative associations that confined their marketing activities to the local market. Each producer organization not only marketed the bulk of the milk associated with the market but also handled and disposed of the milk not needed by local handlers.

Through the process of merging and acquisition, the vast majority of the producers supplying each of the separately regulated markets are no longer associated with local market producers groups but are members of the "regional" cooperative association proposing the two-market merger. This multi-market producer group was formed in 1961 through the merger of several cooperatives associated with the Puget Sound market. Since then, the cooperative has merged with other cooperatives in Washington, Idaho, Montana, and Oregon. Its latest merger occurred on September 1, 1981, when Mayflower Farms merged with NDA. Prior to this merger, Mayflower Farms had producer members associated with the Inland Empire market and the nearby Oregon-Washington Federal order market and operated distributing plants in both markets.

The primary responsibility for marketing and balancing milk supplies in both markets under consideration has been assumed by NDA. In addition to supplying other fluid milk handlers in both markets, NDA's marketing agent, CDP, operates three pool distributing plants and four nonpool manufacturing plants. Most of the reserve milk supplies handled by NDA is channeled to those four manufacturing plants.

It is the practice of NDA to direct the movements of its members' milk and to enter into "full-supply" agreements with many fluid milk handlers in both markets. The cooperative also supplies other handlers on a partial basis, balancing such handlers' requirements that are not met by the handlers' producers. However, in performing these marketing activities and the attendant function of disposing the associated reserve supplies, returns from the member milk sold are distributed to its members on the market with which their milk is regularly associated.

While the present individual orders were designed to implement the development of efficient milk handling arrangements for each market based on local marketing conditions, the separate regulations are not now encouraging or promoting such efficiencies where handlers and cooperative associations are marketing milk in both markets. This is particularly true with respect to the handling of reserve milk supplies by NDA in the Inland Empire market. For example, milk from members of the cooperative that is in excess of the market's fluid requirements and exceeds

[2] All areas east of Cascade Mountains including Idaho and the Inland Empire marketing area.

the capacity of its Spokane manufacturing plant, and which is produced in the Columbia River Basin and Yakima, Washington, area, is moved on a regular basis to the distant CDP's Lynden, Washington, plant. Although this milk en route to the plant moves nearer fluid milk plant outlets in the Seattle area that NDA supplies, the cooperative makes such inefficient movements solely to avoid pooling milk associated with the Inland Empire market under the Puget Sound order and thus eliminating any adverse effect that such milk would have on the latter market's Class I utilization.

Additionally, several major differences in provisions of the two orders were cited which limit the ability of the proponent cooperative to develop a flexible and an efficient milk handling arrangement for the two markets on an integrated basis. These provisions involve pooling and methods of distributing to producers the proceeds from the sale of their milk. Accordingly, the proposed merger would assist the merger proponent in marketing the milk of its members in a more effective and efficient manner without the encumbrances that the separate orders exert on the cooperative's marketing system.

The sanitary requirements relative to the production, processing, and sale of Grade A fluid milk products throughout the proposed marketing area are virtually the same and thus are not an impeding factor in the adoption of a single order for the proposed Puget Sound-Inland marketing area. The State of Washington has reciprocal arrangements on sanitary reqiurements with the neighboring States of Idaho, Montana, and Oregon, and there is full reciprocity among all political subdivisions within Washington and Idaho. Therefore, sanitary requirements present no limitation on the movements of milk throughout the proposed marketing area.

In view of these circumstances, separate orders for the two areas under consideration are no longer compatible with the current marketing practices in these regulated areas. The adoption of a single regulation for an area that has become a common market will insure more orderly marketing through the application of the same regulatory provisions to all handlers and producers associated with the common market.

There was no opposition testimony presented at the hearing to the proposal to combine the two orders. However, Dari-Marketing Service and the Producers' Base Committee in their post-hearing briefs, stated that the record evidence does not support the need for combining the two markets. The briefs were general in nature on this particular point and did not indicate with any specificity in terms of the marketing evidence why a single order for the area should not be adopted.

The proponent cooperative proposed that the order for the Puget Sound-Inland marketing area continue the provisions of the present Puget Sound order except for certain modifications considered necessary with the merger of the orders. The order proposed herein essentially carries out this concept. The Puget Sound order provisions have been appropriate in achieving the objectives sought by the regulatory plan for the Puget Sound area. Also, many of the order's provisions are essentially the same as corresponding provisions in the Inland Empire order. Accordingly, on the basis of the record evidence, it is found and determined that the Puget Sound order provisions, with certain modifications, will be appropriate for achieving orderly marketing conditions in the proposed Puget Sound-Inland marketing area. Only the significant modifications or specific provisions that were at issue will be dealt with in the decision.

The order adopted herein would continue the use of the part number for the present Puget Sound order, Part 1125. The amended Part 1125, upon issuance, would supersede Part 1133.

Although the present two orders would no longer exist upon effectuation of the Puget Sound-Inland order, this merger action is not intended to preclude the completion of those procedures that would otherwise have existed under the separate orders with respect to milk handled prior to the effective date of the merger. Such procedures which would need to be completed after the effective date of the merger include the announcement of certain class prices and butterfat differentials, submission of reports, computation of uniform prices, payment of obligations, and verification activities. The provisions of the merged order would apply only to that milk handled after the effective date of the merger.

3. *Merged and expanded marketing area.* The marketing area of the proposed merged order should include all of the territory in the presently designated marketing areas of the Inland Empire and Puget Sound orders. Certain additional territory in Washington not now included in any Federal order marketing area also should be a part of the proposed Puget Sound-Inland marketing area. This additional territory includes Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, and Okanogan Counties and the presently unregulated portions of Pend Orielle and Stevens Counties. All territory within the boundaries of the designated marketing area which is occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other establishments, likewise should be a part of the marketing area.

The adopted marketing area consists of 23 Washington counties (only certain portions of Lewis, Pacific, and Pierce Counties) and six Idaho counties. The total population of this area is slightly more than 3.3 million (based on April 1, 1980, U.S. Census data). Of this total, about 10 percent is within the unregulated territory proposed herein to be added to the combined marketing areas of the Inland Empire and Puget Sound orders.[3] As proposed by the merger proponent, the merged marketing area should include the presently unregulated portions of the Washington counties of Pend Orielle and Stevens. The record indicates that regulated handlers distribute milk to available outlets throughout these unregulated areas rather than just in the regulated portions of the counties. There are no plants located in the unregulated areas. The addition of the unregulated portions of the two counties to the marketing area will simplify the reporting of in-area and out-of-area sales as required by the order.

As previously indicated, the merged marketing area should include eight additional north-central Washington counties that are presently unregulated. The inclusion of this area in the proposed marketing area was proposed by the merger proponent. Proponent's witness testified that the majority of fluid milk sales in each of these counties were made by handlers regulated presently under the Inland Empire and Puget Sound orders. He indicated that the inclusion of this area in the marketing area would insure that the Moses Lake plant would maintain continuous pool plant status under the merged order and avoid the possibility of it becoming pooled under the Oregon-Washington order. In this connection, proponent's spokesman stated that the eight-county area in question contains a significant segment of the market served by the Moses Lake plant. He added that CDP, as marketing agent for NDA, must operate its Moses Lake plant in such a way as to avoid the possibility of the

[3] Official notice is taken of "Federal Milk Order Market Statistics, 1980 Annual Summary," Statistical Bulletin Number 670, Agricultural Marketing Service, U.S. Department of Agriculture, issued July 1981.

plant shifting regulation between the Inland Empire and Oregon-Washington orders. According to the witness, this is because the pricing and other provisions of the Oregon-Washington order "are not currently in the best interest of members of the Northwest Dairymen's Association".

The president of the Independent Milk Producers Distributor Association (a Washington State producer-handler organization) testified in opposition to the inclusion of the eight-county area in the merged marketing area. He believed that regulation of the area would have an adverse effect on the four producer-distributor type operations that are located within the proposed eight-county area and who have route distribution in parts of this area. However, he stated that he would not be opposed to the area expansion if a producer-handler would be permitted to purchase without restriction fluid milk products from pool plants as is presently provided under the Inland Empire order. (A discussion of this matter is set forth under the producer-handler definition issue.)

At the time of the hearing, there were seven handlers who would be regulated by the merged order that distributed milk in the eight-county area. Four of these handlers were regulated under the Puget Sound order and three under the Inland Empire order. In addition, three handlers regulated by the Oregon-Washington order have route distribution in the area. Four producer-distributor type operations also have route disposition in four (Douglas, Ferry, Grant and Kittitas) of the eight counties proposed to be included in the merged marketing area.

Estimates of the percentage of fluid milk sales for January 1981 in each of the eight counties were made by the merger proponent and received into evidence. It is apparent from this tabulation that regulated handlers under the two orders proposed herein to be merged have 70 percent or more of the total sales in each of these counties. In four of the eight counties—Adams, Chelan, Lincoln and Okanogan—handlers now regulated under Federal milk orders have 100 percent of the fluid milk sales.

The only unregulated milk that is distributed in the eight-county area comes from four producer-distributor type operations. Their sales represent slightly more than two percent of the total route distribution in the eight-county area. Although none of them testified at the hearing, based on the record evidence, it is expected that these four producer-distributors would be exempt from the pooling and pricing provisions of the proposed order.

The inclusion of this eight-county area in the Puget Sound-Inland marketing area will more appropriately represent the basic sales areas of the handlers who would be subject to the proposed order. It is an area which is contiguous to both the present Puget Sound and Inland Empire marketing areas and is a vital segment of what has now become a single integrated regional marketing area.

The unregulated Washington counties of Clallam, Jefferson, Kitsap and Mason should not be included in the proposed marketing area. These counties are located on the Olympic Peninsula of Washington.

Two relatively small producer-distributor type operations, one at Sequim and the other at Port Orchard, have about three percent of the route disposition in this area. The remainder of the sales in the area are made by six Puget Sound handlers and one Oregon-Washington handler.

The inclusion of these four counties in the proposed marketing area was proposed by the merger proponent. Proponent claimed that regulated handlers are at a disadvantage in competing with the Sequim unregulated handler in certain areas of the four counties because of the retail pricing practices of the unregulated handler. The spokesman for the proponent testified that while regulated handlers are required to pay the order's Class I price for all milk for fluid use distributed in competition with the Sequim unregulated handler, there is no assurance that the costs of such milk are comparable between regulated handlers and the unregulated handler. The witness indicated that without this four-county area being regulated there is no way for the market administrator to audit the books and records of the Sequim handler to determine whether he is relying on his own farm production as his only source of milk for distribution in the area. Proponent's witness also testified that expanding the marketing area in the manner prescribed would simplify CDP's recordkeeping and reporting of route disposition.

The Sequim unregulated handler opposed extending the marketing area to include the four-county area. Opponent claimed that the order would work a hardship on his operation because the production and marketing conditions in the area are significantly different from those that prevail in the remainder of the proposed marketing area. He asserted further that regulation under an order is not necessary to maintain orderly marketing in this relatively sparsely populated area wherein he operates.

The record evidence indicates that the only entities who would be directly affected by this marketing area expansion are the two unregulated milk handlers who rely primarily on their own farm production for their supply. Based on the available information concerning the operations of these two unregulated handlers, it was not shown that the inclusion of the four-county area was necessary for the maintenance of orderly marketing. Moreover, except for NDA's testimony, regulated handlers distributing in these four counties presented no testimony for or against extending the marketing area to include such additional territory. In the absence of any compelling need for regulation of these counties, their inclusion in the proposed marketing area is denied.

In its exceptions, NDA restated its position taken at the hearing that the Olympic Peninsula area should be included in the merged order's marketing area. The arguments advanced for including this territory in the marketing area were essentially those cited by the merger proponent at the hearing and in its brief. However, the record evidence developed in this proceeding does not support the position of the cooperative. To the contrary, the record establishes, as described at length earlier, that the inclusion of this area in the merged marketing area is not necessary for the maintenance of orderly marketing. Accordingly, the exception is denied.

4. (a) *Milk to be priced and pooled.* It is necessary to designate clearly what milk and which persons would be subject to the merged order. This is accomplished by providing definitions to describe the persons, plants and milk to which the applicable provisions of the order relate.

The following definitions included in the proposed order will serve to identify the specific types of milk and milk products to be subject to regulation and the persons and facilities involved with the handling of such milk and milk products. Definitions relating to handling and facilities are "route disposition," "plant," "pool plant" and "nonpool plant." Definitions of persons include "producer," "handler," "producer-handler" and "cooperative association". Definitions relting to milk and milk products include "producer milk," "fluid milk products," "filled milk" and "other source milk". A number of these definitions were of particular issue at the hearing and are discussed below. Also, some of the

definitions adopted herein are substantially different than presently contained in the Puget Sound and Inland Empire orders and for that reason are discussed below.

Route disposition. A definition of "route disposition" is a convenience for specifying the various kinds of fluid milk sales outlets that will be considered in determining whether a distributing plant would be regulated under the order. Both of the orders that are proposed to be merged include a route disposition definition.

As proposed by the merger proponent and as adopted herein, route disposition would mean any delivery of fluid milk products from a plant to a retail or wholesale outlet, either directly or through any distribution facility or vendor, including any disposition from a plant store or through a vending machine. It would also include packaged fluid milk products transferred to other pool distributing plants. A delivery of bulk fluid milk products to other plants, or a delivery to a military or other ocean transport vessel leaving the marketing area of fluid milk products which originated from a plant located outside the marketing area and were not received or processed at any pool plant, would not be considered a route disposition.

Such a definition is now contained in essentially this form in both the Puget Sound and Inland Empire orders. Under both orders, conceptually, a fluid milk product is considered disposed of on a route when it leaves the plant (except bulk fluid milk products transferred to other plants). Merger proponent proposed that this route disposition concept be continued under the merged order. Proponent claimed that this is necessary to coordinate the provisions of the merged order with those of the nearby Oregon-Washington order, which provides for the same route disposition concept.

The present Puget Sound order, however, provides in the definition of a "plant" that a handler under certain conditions may elect to account for route disposition from a distribution point rather than from the plant. The conditions under which a handler may exercise this option are: (1) Such distribution is located west of the Cascade Mountain Range; (2) fluid milk products are not received during the month at such distribution point from more than one plant; and (3) the handler operating such distribution point notifies the market administrator of his intent to report regularly on the basis of disposition from such distribution point.

The cooperative advocating the merger proposed that this option not be included in the merged order. Proponent claimed that administratively it is more desirable and appropriate to have route disposition occur at one location (the distributing plant) rather than at both a handler's distributing plant and distribution point.

At the hearing, no one opposed the proposal. However, in its post-hearing brief, the Carnation Company (Carnation) opposed the removal of the option on the basis that it would require the handler to keep two sets of sales records—one for the market administrator and the other for the company's records.

It is not possible to determine from the handler's brief how the removal of the option in question would burden the company's recordkeeping. Even if the option were included in the merged order, the record evidence suggests that the handler would be ineligible to use the option because of the nature of its operation. Accordingly, it is concluded that the route disposition proposal advocated by the merger proponent is appropriate for the merged order.

Plant. The purpose of a "plant definition" is to designate the type of handling facilities to which the order provisions would apply. As proposed by the merger proponent, the merged order should essentially continue the "plant" definition now contained in the Puget Sound order but with one additional change that was not previously discussed in connection with the "route disposition" definition. This change would remove the words "land and surroundings"

As defined under the merged order, a plant would be the buildings, facilities and equipment that constitute a single operating unit or establishment at which milk or milk products are received, processed or packaged. Separate facilities used solely as intemediary distribution points in the disposition of packaged fluid milk products would not be plants. Similarly, separate facilities at which milk is only reloaded from one tank truck to another would not be a plant as defined herein.

This modified "plant" definition would not changed in any way the present concept of what consititutes a plant. It merely makes it clear that the surrounding land on which a plant is located is not a factor to consider in determining whether a facility is a plant or not under the merged order.

Pool plant. It is essential to the operation of a marketwide pool, as discussed later, that minimum performance requirements be established to distinguish between those plants engaged in serving the fluid needs of the regulated market and those that do not serve the market in a way or to a degree that warrants their sharing (by being included in the pool) in the Class I utilization of the market. The pooling standards for distributing plants and supply plants that are provided for in the attached order carry out this concept under present marketing conditions.

Essentially, the present pooling provisions of the Puget Sound order should be used for the merged order. However, certain features of the pooling standards for a distributing plant should be revised to be in harmony with current marketing conditions existing in the proposed combined and expanded area.

Although it was not included in its initial proposal as listed in the hearing notice, the merger proponent proposed at the hearing that milk diverted from a distributing plant be included as part of such plant's total supply in determining its qualification as a pool plant. In support of this change, the proponent's witness pointed out that if a distributing plant diverted milk at the maximum level permitted under the present Puget Sound order's diversion provisions, a distributing plant could qualify as a pool plant with as little as 2 percent of its total supply distributed in the marketing area. He claimed that this was not the cooperative's intent to have a plant qualify as a pool plant at such level. In addition, the witness indicated that since other provisions of the order include milk diverted from a pool supply plant as part of such plant's total supply, it is only appropriate to include diverted milk as a receipt in determining the pool status of a distributing plant.

The proposal should be adopted. A distributing plant's required association with the merged market should be measured in terms of the proportion of its total receipts that is disposed of from the plant as route distribution of fluid milk products in the marketing area. Such receipts should include any producer milk that is diverted from the plant. While it is recognized that diverted milk is not physically received at the plant from which diverted, it is, nevertheless, an integral part of that plant's supply of milk and, thus, acquires pool status because of its association with such plant. Therefore, diverted milk should be included as a receipt for purposes of establishing a distributing plant's qualification for pooling.

The Puget Sound order now exempts from the provisions of the order any distributing plant whose route disposition in the marketing area during the month averages 110 pounds or less per day. NDA proposed that this threshhold limit be increased from 110

pounds to 300 pounds daily. The witness for the proponent cooperative stated that this change will make the merged order consistent with a similar provision that is now contained in the Oregon-Washington order. He also testified that the proposed 300 pounds per day exemption comports with current marketing conditions and such exemption "will not affect the stability of marketing of milk in the proposed area."

The 300 pounds per day exemption proposal should be adopted. It is not expected that this provision would result in exempting from the order any handler now operating in the proposed marketing area. Such limited route disposition in the marketing area is not considered sufficient to justify imposing the burden of full regulation on a plant that has so little association with the regulated market.

The proposed order of the recommended decision defined an exempt distributing plant as a distributing plant that has route disposition in the marketing area which averages 300 pounds or less daily but only if such disposition is also less than 10 percent of the plant's receipts. Under the proposed provision, a distributing plant operating at or near the 300-pound-per-day limit would also have to receive more than 3,000 pounds of Grade A milk each day to qualify for exempt status. If the plant's receipts were only 2,500 pounds per day in the foregoing example, its route disposition would exceed 10 percent of its receipts and the plant could not be exempt. This could result in the regulation of small plants that have only a minor association with the market.

In its exceptions, the merger proponent stated that under its proposal, it was intended that any plant with route disposition in the marketing area of 300 pounds per day or less not be regulated, regardless of the plant's size. After reviewing the proponent's concerns regarding this matter, it is concluded that the attached order should be modified to appropriately reflect its recommendations.

The provisions of the merged order that relate to a distributing plant that simultaneously qualifies as a pool plant under this order and another order should be essentially the same as those that are now provided in the Puget Sound order. However, the "lock-in" period that a distributing plant remains regulated under the order after it has greater route disposition in another market should be four months rather than three months. The merger proponent proposed this change, which is identical to the lock-in period now contained in the Inland Empire order.

Under the marketing situation that is anticipated to exist when the two orders are consolidated, the four-month lock-in period is appropriate. It will eliminate temporary adverse effects of shifting between orders on a month-by-month basis that can occur when intermarket distribution results in qualifying a distributing plant for pooling under more than one order. Otherwise, the switching of the regulatory status of a distributing plant between orders creates uncertainty and abrupt changes in prices for producers and handlers alike.

As proposed by NDA, the order should specify that in applying the pool plant provisions, that portion of a plant which does not have Grade A approval for the receiving, processing, or packaging of fluid milk products and which is operated separately from the Grade A portion should not be considered a part of a pool plant. Such separation of operations permits a handler to limit his accounting for milk under the order to just the Grade A portion of the plant. As indicated previously, CDP operated a nonfat dry milk plant on the same premises as its Spokane distributing plant. Under the present Inland Empire order, these two plants were treated as separate operations and, thus, only the distributing plant was condidered a pool plant under the order. In view of this marketing situation, such exemption should be continued under the merged order.

Nonpool plant. The "nonpool plant" definition of the merged order should specify those categories of plants which are associated with the market but not to the degree that they should be fully regulated by the order. As used herein, a nonpool plant means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. A description of the specific categories of nonpool plants included in the "nonpool plant" definition follows:

An "other order plant" would be a plant that is fully regulated under another Federal order. As such, it cannot be a pool plant under this order.

A plant of a "producer-handler" would be considered a nonpool plant since, by the nature of the operation, as discussed later, the plant is specifically exempt from pool status.

A "partially regulated distributing plant" would also be considered to be a nonpool plant. A partially regulated distributing plant would be a distributing plant that does not qualify as a pool plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant. Such a plant would be one from which during the month an average of more than 300 pounds daily of fluid milk products is disposed of as route disposition in the marketing area. Also, such a plant would have less than 10 percent of its route disposition in the defined marketing area of the order.

An "unregulated supply plant" means a supply plant that does not qualify as a pool supply plant, an other order plant, a producer-handler plant, or an exempt distributing plant. In essence, it is a plant which transfers milk to a pool distributing plant, but not to an extent that would qualify it for pool status under the order.

As proposed by the merger proponent and adopted herein, an "exempt distributing plant" means a distributing plant with an average route disposition in the marketing area of less than 300 pounds per day. This type of plant should also be included among the nonpool plants specified in the order.

Handler. The impact of regulation under an order is primarily on handlers. The handler definition identifies persons who will have responsibility for filing reports and/or making payments for milk under the merged order. As herein provided, the following persons are defined as handlers under the order.

(1) The operator of one or more pool plants;

(2) A cooperative association with respect to bulk tank milk that is picked up at the farm and delivered to a pool plant or diverted for its account from a pool plant to a nonpool plant;

(3) The operator of a partially regulated distributing plant;

(4) A producer-handler;

(5) The operator of an other order plant from which milk is disposed of in the area;

(6) The operator of an unregulated supply plant; and

(7) The operator of an exempt distributing plant.

Such persons are now defined as handlers under the two individual orders with the exception of the operator of an unregulated supply plant and the operator of an exempt distributing plant. Each person that may incur an obligation (reporting and/or financial) under the order should be disignated a handler. This will assure that all information necessary to determine their regulatory status under the order can be readily determined by the market administrator.

The handler who receives milk from producers at a pool plant should be responsible for reporting in detail the quantities of milk received from each

producer and each other source. Such handler also should be responsible for reporting the necessary information to determine the utilization of such milk, and for making payments to producers, cooperative associations, and the producer-settlement fund in accordance with the terms of the order.

The merged order should continue to provide that a cooperative association be the handler for milk of producers it receives for the account of the cooperative from the farm in a tank truck operated by, or under the control of, such cooperative for delivery to a pool plant. However, should there be a mutual agreement between the cooperative and the operator of the pool plant whereby the plant operator agrees to be the responsible handler and purchases such milk on the basis of farm weights and butterfat tests, the cooperative should not be the handler under such an arrangement.

As adopted, the definition differs from those that are now included in the separate orders and what was proposed by the merger proponent. The Puget Sound definition, which the merger proponent proposed for the merged order, gives a cooperative the option of not being the handler on bulk tank milk under its control. Under the present Inland Empire order, a cooperative association must be the handler for milk it receives from the farm for delivery to a pool plant in a tank truck owned and operated by, or under contract to, such association.

The record indicates that a large proportion of the milk received by plants that would be fully regulated by the merged order is picked up at the farms of producers in tank trucks owned and operated by, or under contract to cooperatives. In such circumstances, it is only the cooperative that has the opportunity to measure and sample the milk of individual producers that is received at a plant. In the absence of any agreement by the plant operator to be the handler on such milk, the cooperative must be the responsible handler for the milk as it leaves the farm.

Requiring a cooperative to be the handler on milk picked up for its account at the farm of a producer and delivered to a pool plant provides a practicable basis for the complete accounting of such milk. It also recognizes the current handling arrangements used by the cooperatives operating in the individual markets in allocating their members' milk among distributing plants.

NDA excepted to the cooperative bulk tank handler definition as adopted herein and urged the adoption of the present Puget Sound order's definition. It was the cooperative's belief that requiring it to be the handler for milk that it receives for its account from the farm of a producer for delivery to a pool plant could seriously disturb the present buying arrangements on such milk. In this connection, the exceptor stated that it has been the practice for many years in the Puget Sound market for cooperative bulk tank milk to be sold to the operator of the receiving pool plant at farm weights and tests. Consequently, it was NDA's position that the adopted cooperative bulk tank handler definition would change the normal handler buying arrangements in the market and introduce a complex milk marketing plan under the merged order.

The definition adopted for the merged order would not prevent the present buying arrangements from continuing as long as it is mutually agreed to by the cooperative association and the buying handler of such milk. In view of this and for the reasons previously stated, the merger proponent's exceptions provide no basis for taking a different position on this matter.

As is the case under the individual orders, the merged order should continue to provide that the milk delivered to a pool plant by the cooperative as a "bulk tank handler" would be considered as a receipt of producer milk by the operator of the pool plant at which it was physically received. Under this arrangement, the pool plant operator's obligation for such milk to the producer-settlement fund, to the administrative assessment fund, and to the cooperative would be the same as for producer milk received directly from the farm of an individual producer. The cooperative would be obligated to the producer-settlement and administrative assessment funds on only that portion of the milk picked up for its account that exceeds the quantity delivered to pool plants.

As proposed by NDA and herein adopted, a cooperative association also should be the handler on the milk of a producer which it diverts for its account from a pool plant to a nonpool plant. Both of the two orders proposed to be merged provide that a cooperative may act as a handler for diverted milk. Continuation of this handling arrangement will facilitate the movement of milk not needed for fluid use to nonpool plants for manufacturing.

The merged order should permit a cooperative association to submit a single report that includes all of its receipts of milk from producers and all of its diverted milk, irrespective of whether the milk is associated with plants of other handlers or a cooperative's own plant. This is now provided under the Inland Empire order. However, the present Puget Sound order provides that producer milk diverted from a pool plant operated by a cooperative association shall be reported on an individual plant basis. Specifying that a cooperative association shall be the handler on the producer milk it diverts from pool plants of other handlers to nonpool plants as well as from its own pool plants will simplify the cooperative's accounting for skim milk and butterfat under the merged order.

Producer-handler The merged order should continue the exemption now contained in each of the two individual orders of a "producer-handler" from the pooling and pricing provisions of the order. Under the merged order, the definition of a producer-handler should be essentially the same as that now contained in the Puget Sound order. However, the type of supplemental fluid milk products that a producer-handler may purchase from pool plants should be modified. In this respect, a producer-handler should be permitted to purchase from pool plants fluid milk products in any form. Such purchases should continue to be limited to a daily average during the month of 100 pounds.

The producer-handler definitions of the Puget Sound and Inland Empire orders differ basically in only one respect. The Puget Sound order limits a producer-handler's supplemental purchases during the month from pool plants to an average of 100 pounds per day of packaged fluid milk products other than whole milk. The Inland Empire order places no restriction on the amount of fluid milk products a producer-handler may purchase from pool plants.

The merger proponent supported a continuation of the Puget Sound producer-handler provisions as modified to coincide with other proposed changes in the provisions of the merged order. It contended that these provisions will permit all persons now designated as producer-handlers under the individual orders to maintain their present exempt status. The witness for the proponent testified his organization was opposed to any relaxation of the producer-handler provisions because it was the proponent's belief that producer-handlers already have an unfair competitive advantage over regulated plants.

Two proprietary handlers and two producer organizations—Producer's Base Committee and Dari-Marketing Services—testified in support of a continuation of the Puget Sound

producer-handler definition. They were concerned primarily with any relaxation of the present Puget Sound producer-handler provisions as they relate to the tolerance for purchasing fluid milk products from pool plants. Although it did not testify at the hearing, the Washington State Dairymen's Federation filed a post-hearing brief in support of NDA's producer-handler definition proposal.

As initially included in the notice of hearing, the Sequim, Washington producer-handler proposed the producer-handlers be permitted to purchase fluid milk products from pool plants in an amount not to exceed their own farm production. At the hearing, however, he modified his proposal and supported the position taken by a number of other Puget Sound producer-handlers, including the representative of the Independent Milk Producers Distributor's Association. Their position was that the merged order should include the present Inland Empire order's provision that permits a producer-handler to purchase unlimited quantities of fluid milk products by transfer from pool plants. They claimed that the present Puget Sound order's 100-pound per day limitation on supplemental purchases is too restrictive and does not provide the balancing flexibility needed to cope with seasonal changes in their fluid milk sales. In addition, they all testified in support of being able to purchase fluid milk products in any form, including bulk as well as packaged fluid milk products. Finally, these parties contended that producer-handlers are not causing disorderly marketing conditions in the Puget Sound area.

A primary basis for exempting a producer-handler from the pricing and pooling provisions of the order is that such a person operating customarily has a relatively small operation and is operating in a self-sufficient manner. The milk that is processed, packaged and distributed by a producer-handler is obtained from his own production. Any fluctuations in a producer-handler's daily and seasonal milk needs is met through his own farm production, and any excess milk supplies are disposed of at his own expense. Under this arrangement, a producer-handler seldom can be a major competitive factor in the market for regulated handlers, nor can such a person have a preferred market for his milk relative to producers who supply the regulated handlers and share in the proceeds of the marketwide pool.

If a producer-handler processes milk from his own farm but also relies on pool plants for substantial supplies, either in bulk or packaged form, his operation's are not significantly different than the operations conducted by a pool handler. However, since his operation is not fully regulated, the pool does not receive the benefits of the producer-handler's Class I sales. Yet, the other producers in the market are bearing the cost of balancing his operation by carrying such operator's necessary reserve milk supplies. Such an operator should not have producer-handler status under the merged order, but should be accorded pool status similar to that of any other handler receiving milk directly from dairy farms.

The only issue that was developed on the record with respect to producer-handlers concerned the extent to which they should be permitted to purchase supplemental supplies of Class I milk from pool plants under the merged order. In considering this issue, particular attention must focus on the specific marketing conditions that existed in the individual markets that led to the development of the current provisions for the respective markets. For instance, in the Puget Sound market, there historically has been a large number of producer-handlers, including some of very substantial size. Moreover, producer-handlers in the Puget Sound market account for the largest proportion of in-area Class I disposition of any of the Federal order markets in the country—nearly 12 percent in October 1980. In view of this marketing situation, it is appropriate to require producer-handlers to rely almost totally on their own milk production to balance their fluid sales. Only in this way can there be any reasonable assurance that their exemption would not have an adverse impact on the market. The record evidence indicates that the present Puget Sound order's producer-handler provision have accommodated producer-handler operations in a manner consistent with the needs of the regulatory program.

Conversely, in the Inland Empire market producer-handlers have not been a major competitive factor. At the time of the hearing, there were only two relatively small producer-handlers operating in a portion of the Idaho segment of the marketing area, compared to 18 such operations in the Puget Sound market. Under these conditions, it has not been necessary under the Inland Empire order to impose stringent limitations on the amount of milk that producer-handlers may purchase from pool plants.

As indicated previously, the present Puget Sound marking area will represent a very substantial portion of the merged marketing area in terms of population, producer receipts, Class I sales, and producer-handlers operations. In view of these considerations, the concept of self-sufficiency with respect to the operations of producer-handlers must be preserved in the merged order in the interest of equity and continuing orderly marketing. To accomplish this, the merged order should continue to limit a producer-handler's purchases from pool plants essentially in the same manner as now provided in the present Puget Sound order. This will insure that producer-handlers under the merged order will continue to be basically self-sufficent operations.

As adopted herein, a producer-handler would be allowed within the limitations on supplemental purchases, to purchase fluid milk products in bulk or packaged form. This change would not undermine the concept of self-sufficiency, but rather would provide a producer-handler with the flexibility to purchase supplemental fluid milk products in the form that fits his needs.

Also, with the adopted reclassification of fluid cream products form Class I to Class II, as discussed later, supplemental purchases of such products from pool plants by producer-handlers no longer should be considered in determining whether a handler's operation meets the producer-handlers exemption requirements of the order. There is no reason to believe, in view of the declining importance of the sales of fluid cream products in the respective markets, that this change will provide the opportunity for producer-handlers to become a serious competitive factor for other handlers in the combined market on whom full regulation is imposed.

NDA excepted to the recommendation of increasing the threshold limit for exempting a producer-handlers operation from 110 pounds to 300 pounds or less per day of its route disposition in the marketing area. The cooperative believes "that this change introduces a further complexity in the Order and requests that the 110 pound daily minimum be retained in the producer-handlers definition."

The cooperative's exception regarding this change, however, raises no new points not already considered in changing the threshold exemption for producer-handlers operation to 300 pounds or less of route distribution per day. Accordingly, the exception is denied.

Definition of dairy farmer for other markets. As proposed by the merger proponent, the merged order should continue essentially the "dairy farmer for other markets" provision now

contained in the Puget Sound order. Such provision is designed to preclude any reserve milk supplies associated with non-Federal order fluid markets from being pooled under the order. Without such a provision, if would be possible for any handler who also supplies milk for Class I use to an unregulated plant to handle such milk as nonpool milk when so disposed of and receive such milk at his pool plant as producer milk when not needed for such Class I use. In such event, the pool would be carrying the burden of balancing the unregulated plant's fluid milk requirements without sharing in the higher-valued Class I sales associated with such unregulated plant.

As was pointed out by the spokesman for the proponent cooperative, this situation has occurred in the Inland Empire market in recent years since this order does not contain a "dairy farmer for other markets" provision. In elaborating on this point, he indicated that some dairy famers who regularly deliver their milk to unregulated fluid milk plants in nearby markets have on occasion delivered their milk to a pool plant during the flush months and acquired producer status and shared in the regulated market's Class I utilization on that portion of milk that was not delivered to unregulated plants. According to the witness, this handling arrangement could be used under the merged order in the absence of the dairy farmer for other markets provision.

Based on the evidence contained in the record, there is a continuing need for the dariy farmer for other markets provision under the merged order because of the existence of nearby non-federally regulated fluid markets, particularly in parts of Idaho and Montana. Continuation of these provisions under the merged order would mean, of course, that producers will not have the economic burden of carrying the reserve milk supplies for any unregulated market.

The dairy farmer for other markets provision, however, should not apply to milk received at a pool plant as diverted milk from an other order plant if such diverted milk is considered producer milk under the other order. Such milk would be classified and priced under the other order. Both of the individual orders proposed to be merged and the nearby Oregon-Washington order specifically prescribe the treatment of such milk that is diverted by regulated plants.

A Spokane handler excepted to the "dairy farmer for other markets" provision. He claimed that the provision would penalize him specifically since he is the only handler buying milk from dairy farmers located in Montana.

This provision would apply uniformly to all producers regulated under the merged order. As indicated, dairy farmers under the Puget Sound order have been subject to such a provision in the past. The record indicated that there was a need to extend the application of this concept to the entire merged market because of certain milk handling practices in the Inland Empire market.

The purpose for including this provision in the merged order is to prevent a dairy farmer who is primarily committed to supplying an unregulated Class I market and not pooling such milk during a portion of the month from pooling his excess milk under the Federal milk order when the Class I outlet is not available and receiving credit at the blend price from the marketwide pool for such deliveries. This provision would in no way preclude a handler from buying milk from a Montana dairy farmer provided all of the producer's milk is pooled druing the month. However, it would preclude a producer's milk to be shifted on and off the Federal order market during the month so as to maximize the benefits to the dairy farmer and the receiving handler at the expense of the regulated market's regular shippers as outlined above. In view of the foregoing, the exception must be overruled.

The recommended decision did not specify how receipts at commercial food processing establishments would be treated in applying the dairy farmer for other markets provision. Such receipts are treated separately from receipts at other nonpool plants throughout the proposed merged order because commercial food processing establishments are not defined as monpool plants. The merged order should specify how milk disposed of to such outlets would be treated in connection with the dairy farmer for other markets provision. Accordingly, the order language is modified to threat diversions to nonpool plants or commercial food processing establishments under the merged order in the same way they are now handled under the present Puget Sound order.

Diversion of producer milk. The provisions relating to the diversion of milk from pool plants to nonpool plants in the merged order should be essentially the same as that now contained in the Puget Sound order. However, the limits on the quantities of milk that may be diverted to nonpool plants should be modified. As adopted herein and which was proposed by the merger proponent, the total quantity that may be diverted during the months of September through April should be limited to 80 percent. No diversion limitations should apply during the months of May–August.

The separate orders now vary with regard to diversion limitations. The Puget Sound order provides for unlimited diversions during the months of May through August while limiting diversions to 70 percent during September through January and 80 percent during other months. Under the present Inland Empire order, diversion limits of 70 percent apply to the months of September through February and 80 percent during all other months.

The limits adopted herein will allow somewhat greater diversions than now provided under the individual orders. This change is essential to accommodate the pooling of all the milk that is available to supply the merged fluid market. Since the merged market is expected to have a Class I utilization averaging annually about 40 percent, a substantial portion of the market's supply will likely be diverted to manufacturing outlets. Therefore, the diversion limitation provisions adopted herein should facilitate the orderly and efficient disposition of the merged market's reserve supplies.

The merged order should permit two or more cooperative associations to have their allowable diversions computed on the basis of their combined deliveries of producer milk to pool plants. However, this arrangement should not be permitted unless each association involved has filed a request to this effect with the market administrator prior to the first day of the month the agreement is effective. The request should specify the basis for assigning over-diverted milk to the producer deliveries of each cooperative in the event the cooperatives in a unit exceed the diversion limits specified in the order. Also, the method for assigning over-diverted milk must be approved by the market administrator.

This pooling arrangement is now provided only under the Inland Empire order. Dari-Marketing Service proposed that this arrangement be used under the merged order. The federation claimed that as the marketing agent for three separate cooperative associations, adoption of the proposal would provide the cooperatives with the opportunity to mutually arrange for the efficient disposition of milk not needed for fluid use.

The merged order should afford all cooperatives in the market flexibility in the arrangements under which they sell milk to pool plants or dispose of reserve

milk supplies to nonpool manufacturing plants. To this end, two or more cooperatives should be allowed to have the amount of their allowable diversions computed on the basis of the combined deliveries of milk by their member producers. Such an arrangement will facilitate the orderly and efficient disposition of the reserve suplies on the market.

4. (b) *Classification of milk.* The merged order should use essentially the same uniform classification plan that is commonly provided in most other Federal milk orders. However, the plan should be modified in several respects to conform to local market conditions and to coordinate certain classification provisions with those of the nearby Oregon-Washington order. Basically, the plan adopted herein provides, as is the case under the individual orders, for the classification of milk according to use, including rules for determining the classification of milk moved from one plant to another and the classification of shrinkage. The plan also sets forth a procedure for allocating a handler's receipts of milk and milk products from various sources to his utilization in each class in order to determine the classification of producer milk.

Under the classification plan here adopted, Class I milk would include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, milkshakes and ice milk mixes containing less than 20 percent total solids and mixtures of cream and milk or skim milk containing less than 18 percent butterfat. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content. The remaining volume of the product, which represents the skim milk equivalent of added nonfat milk solids, would be classified as Class III.

Each product designated herein as a Class I product would be considered a "fluid milk product" as defined in the order. In addition to these fluid milk products, Class I milk would include any skim milk and butterfat not specifically accounted for in Class II or III, other than shrinkage permitted a Class III classification.

Class III milk should include products which are made from surplus Grade A milk and which compete in a national market with similar products made from manufacturing grade milk. These products include cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese), butter, any milk product in dry form (such as nonfat dry milk), any concentrated milk product in bulk, fluid form that is used to produce a Class III product, and evaporated or condensed milk (plain or sweetened) in a consumer-type package. Additionally, Class III milk should include any product not specified in Class I or Class II.

An intermediate class, Class II, should apply to certain products which can command a higher value than Class III products but which must be competitively priced below Class I in order to compete with non-dairy substitute products or manufactured dairy products that can be used in making Class II products. Class II milk should include skim milk and butterfat disposed of in the form of a "fluid cream product," eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles one of these products. As defined in the order, "fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 18 percent or more butterfat, with or without the addition of other ingredients.

Class II milk would also include bulk fluid milk products and bulk cream products disposed of to any commercial food processing establishment or in producer milk diverted to a commercial food processing establishment at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. In addition, it would include milk used to produce cottage cheese, lowfat cottage cheese, dry curd cottage cheese, milkshake and ice milk mixes containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, milk or milk products sterilized and packaged in hermetically sealed metal or glass containers, and certain other products as specified in the order.

The classification plan adopted herein was proposed by the merger proponent and embraces the basic features of the uniform classification plan contained in many other Federal orders. This plan was developed from exhaustive hearings held on the broad issue of classification in 1971 for 39 markets. A full discussion and appropriate order language on the uniform classification plan is contained in a final decision issued February 19, 1974 (34 FR 6202, 8452, 8712, 9012). This decision was duly noted on the record of this proceeding. Proponent testified that this classification system with certain minor revisions,would be fully appropriate for the merged order and would comport with the need for greater uniformity among those essential provisions of marketing orders that should be uniform.

The minor revisons to the uniform classification plan applicable to most orders, which were proposed by the merger proponent and adopted herein, concern the classification of certain fluid cream products and ending inventories of packaged fluid milk products. Under the adopted classification plan, any mixtures of cream and milk or skim milk containing less than 18 percent butterfat would continue to be Class I. Such products are Class II under the 39-market uniform classification plan. Although they are included in Class III in most other Federal orders, inventories of fluid milk products in packaged form on hand at the end of the month should be classified in Class I under the merged order. Such inventories in bulk form, however, should be classified in Class III. This procedure for handling fluid milk product inventories is identical with that provided under the present Puget Sound order and the nearby Oregon-Washington order. Under the Inland Empire order, however, closing inventories of fluid milk products in both bulk and packaged form are classified as Class III.

Such revisions to the 39-market uniform classification plan that are herein adopted recognize the widespread competition for sales in the region by Oregon-Washingon order handlers and handlers that would be regulated under the merged order. Under this marketing situation, it is appropriate and necessary that essentially the same system of classification apply under both the merged order and the Oregon-Washington order. Otherwise, such differences in the classification and pricing of milk could be disruptive to the competitive relationships of handlers in the region.

Certain transitional provisions relating to inventories of packaged fluid milk products should apply during the first month of operation of the merged order to those handlers who have been regulated under the Inland Empire order

and for any plant in the month in which it first becomes regulated. In these circumstances, it is provided that inventories that had been held over in the form of packaged fluid milk products at such plants would be allocated to available Class III utilization during the month. Should such inventories be allocated to a higher class, the appropriate reclassification charge would apply. This procedure will assure that all handlers under the merged order will be subject to the same pricing for milk used in packaged fluid milk products whether such products enter into the month's accounting as beginning inventory or are made directly from current producer milk receipts.

Foremost-McKesson's Foods Group (Foremost) proposed that the Class II classification in the merged order specify that creaming mixtures used in the production of cottage cheese be classified as Class II milk. The handler's witness stated that he was asking for this variation from the merger proponent's proposed Class II classification provisions to insure that cottage cheese creaming mixtures be classified on a used-to-produce basis. He perceived that this change in order language would correct a problem that the handler is currently encountering under the Puget Sount order whereby at the time of audit the market administrator is having to convert the quantity of creamed cottage cheese that the plant disposes of back to the amount of milk product used to produce such products. According to the witness, the work-back method that starts from a disposition basis never equals that handler's plant records in terms of the creaming mixtures used in the production of cottage cheese. Consequently, the handler must make continuing adjustments in his plant production records to reconcile with the market administrator's audit adjustments.

The handler's proposal should not be adopted. The present provisions in the two orders proposed to be merged classify any milk ingredient (including creaming mixtures) used to produce cottage cheese as Class II. Continuation of this classification concept was proposed by the merger proponent and which is adopted herein. The issue raised by the handler is not one of classification, per se, but rather the accounting method that is to be used in determining how much milk was used in the manufacture of cottage cheese.

It should be noted in this regard that if a handler does not maintain proper plant manufacturing records for any product that is accounted for on a used-to-produce basis, the market administrator may have to determine at the time of audit the quantities of milk ingredients used in such a product through a work-back method. The record establishes that this procedure is used by the market administrator in determining the milk ingredients used in the production of cottage cheese by Foremost. Thus, if the handler has problems with this accounting procedure, it is a matter to be dealt with through the market administrator rather than through changing the order.

Allocation of receipts to utilization. Under the merged order, a system of allocating handlers' receipts to the various classes should be similar to that adopted in the Assistant Secretary's June 19, 1964 (29 FR 9002), decision for 76 milk orders (including the Inland Empire and Puget Sound orders). This decision dealth with the issue of intergrating into each order's regulatory plan milk which is not subject to classifed pricing under any order and receipts at a pool plant from other order plants. The decision provides a procedure for allocating over a handler's total utilization his receipts from all sources and for making payment into the producer-settlement fund on unregulated milk allocated to Class I.

Since the aforementioned decision sets forth the procedures for dealing with unregulated milk under Federal orders, it is appropriate and necessary that the same system of allocation apply under the proposed merged order. Likewise, the appropriate treatment of other order milk received at pool plants under the merged order should conform with the plan included in the aforesaid decision that is used for coordinating the applicable regulations on all movements of milk between and among Federal order markets. Merger proponent recognized the necessity for such coordination and proposed allocation provisions that would be essentially the same as those now provided in the separate orders proposed to be merged.

Under the uniform classification plan, herein adopted, handlers using certain types of other source milk (whether in the form received or in reconstituted form) in the production of Class II products would be permitted to have such other source milk allocated directly to their Class II uses. Direct allocation of such other source milk, however, would be limited to milk products (such as nonfat dry milk and condensed milk or skim milk) that are not fluid products or fluid cream products. Neither of the two orders proposed to be merged now provide for the direct allocation to a handler's Class II utilization of nonfluid other source milk receipts.

Handlers rely largely on producers for a regular supply of milk for the products herein included in Class II. The major use of other source milk in making these Class II products is the addition of nonfat dry milk to cream products and to skim milk being used for the manufacture of cottage cheese. On occasion, handlers also may reconstitute nonfat dry milk for cottage cheese production. Condensed milk or skim milk may be similarly used. Handlers choosing to use such other source milk in this way should be permitted to have such milk allocated directly to their Class II utilization rather that allocated first to any Class III utilization they may have.

It is not intended that the Class II outlet for producer milk necessarily be reserved for local producers. This use class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk as a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for the Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed on any other source milk which regulated handlers may use in Class II or on any Class II products that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use. As indicated elsewhere, this would be so with respect to the alternative use of nonfat dry milk, the type of other source milk most commonly used in Class II products. Nonfat dry milk has certain advantages for handlers that producer milk cannot provide. It can be added easily to milk or milk products to increase their nonfat milk solids content. Also, its storability permits handlers to have a concentrated form of nonfat milk solids on hand at all times for emergency use. Nevertheless, the higher

cost of nonfat dry milk relative to producer milk would tend to limit its use to only those situations where the nonfat dry milk has a distinct processing advantage for handlers.

No provision should be made for the direct allocation to a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfat dry milk, it would not be unusual for a handler to commingle receipts of fluid other source milk with receipts of producer milk. In this circumstance, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty which a handler would have in demonstrating the actual use of fluid other source milk in a Class II product, and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk to Class III.

4. (c) *Class I price and location adjustments.*

The Class I price for the Puget Sound-Inland market should be the basic formula price for the second preceding month plus a Class I differential of $1.85. This price should apply at plants located in the base pricing zone (Seattle-Tacoma-Everett area) with prices applicable at plants in other areas to be determined through the use of location adjustments. Also, the same location adjustment rates should apply to the uniform blend price for milk received at such plants.

For the purpose of applying location adjustments, the marketing area should be divided into six pricing zones with certain of these zones extending to other specified areas outside the marketing area. The location adjustment for each zone, the resulting Class I differential (shown parenthetically), and the territory that should be included in each zone area are as follows:

Zone 1—No adjustment ($1.85)

Washington Counties

King	Pierce
Kitsap	Snohomish

Zone 2—Plus 10 cents ($1.95)

Idaho Counties

Benewah	Kootenai
Bonner	Latah
Boundary	Shoshone

Oregon Counties

Benton	Multnomah
Clackamas	Polk
Columbia	Wasco
Hood River	Washington
Linn	Yamhill
Marion	

Washington Counties

Clark	Cowlitz
Ferry	Spokane
Lincoln	Stevens
Pend Oreille	Wahkiakum
Skamania	Whitman

Zone 3—minus 4 cents ($1.81)

Washington Counties

Island	Skagit
Mason	Thurston

Zone 4—minus 6 cents ($1.79)

Washington Counties

Grays Harbor	Pacific
Lewis	Whatcom

Zone 5—minus 10 cents ($1.75)

Idaho Counties

Lewis	Nez Perce

Oregon Counties

Gilliam	Sherman
Morrow	Umatilla

Washington Counties

Adams	Garfield
Asotin	Grant
Benton	Kittitas
Chelan	Klickitat
Columbia	Okanogan
Douglas	Walla Walla
Franklin	Yakima

Zone 6—minus 16 cents ($1.69)

Washington Counties

Clallam	San Juan
Jefferson	

Presently, the Puget Sound marketing area is divided into four pricing districts (zones), with certain districts extending to other areas outside the marketing area. The Class I differential in District 1 is $1.85. In the remaining three districts, it is adjusted to $1.75, $1.70, and $1.45, respectively. At other locations outside of the pricing districts, the Class I price is reduced 1.5 cents for each 10 miles that a plant is located from Seattle.

The Class I differential under the Inland Empire order is $1.95. For plants located between 90 and 200 miles from Spokane, the Class I differential is reduced by two cents per each 10 miles; and beyond 200 miles, the price is reduced an additional 1.0 cent for each additional 10 miles.

NDA proposed that the basic formula price now used under the separate orders be continued as an appropriate basis for Class I pricing under the merged order. There was no opposition to this proposal.

The present basic formula price of the Puget Sound and Inland Empire orders is based on pay prices for manufacturing grade milk at plants in the heavy production States of Minnesota and Wisconsin. This price is used as a basis in establishing Class I prices under all Federal orders. Its continued use under the merged order will implement interorder price alignment by insuring that Class I price changes under this order will remain coordinated with those under all other orders. Additionally, because the Minnesota-Wisconsin manufacturing pay price is a competitive pay price reflecting supply-demand conditions for milk produced by dairy farmers who incur about the same changes in production costs as producers for this market, the use of this price will tend to insure an appropriate price level necessary to an adequate supply of milk.

The proponent cooperative also proposed that the Class I price for the Puget Sound-Inland order be established at $1.95 over the basic formula price for the second preceding month. Under its proposal, this price would apply at all plants located in the proposed marketing area and also at plants located in the nearby Washington counties of Benton, Franklin, Walla Walla, and Yakima and in the Idaho county of Nez Perce.

The principal reason cited by NDA in support of its Class I price proposal was that the 10-cent lower Class I price under the present Puget Sound order relative to the Class I price in the major population areas of the Inland Empire and Oregon-Washington markets is no longer needed to provide an incentive for the movement of supplemental milk supplies by Puget Sound handlers to plants under the two higher-priced order markets. In support of its position, the cooperative's witness claimed that marketing conditions have changed since the Inland Empire and the Oregon-Washinton orders were first promulgated. In this regard, he testified that in the early years of the operation of both orders, bulk milk moved regularly from the Puget Sound area during the fall and winter months to Spokane and Portland distributing plants to supplement local supplies. According to the witness, such milk movements have not occurred in recent years since milk supplies for the Inland Empire and Oregon-Washington markets have become adequate to satisfy the requirements for Class I uses. As a result of this changed marketing situation, he reasoned that the level of the Class I price in the Puget Sound area of the merged and expanded order should now be the same as the Class I price in the nearby Spokane and Portland markets.

Proponent cooperative also contended that the present 10-cent lower Class I price in the Puget Sound area is not needed to facilitate movements of packaged fluid milk to the higher priced Spokane or Portland markets. He claimed that because packaged fluid milk products are distributed in all

directions from distributing plants located in the region, "the concept of using location adjustments to move packaged products toward a "market center" is inappropriate, and it is desirable that the plants all have the same cost for Class I milk under the provisions of the Federal order for the area."

Additionally, NDA's witness testified that the proposed 10-cent per hundredweight increase in the Class I price at plants located in the Puget Sound area would partially offset the other proposed changes in the merged order that would tend to reduce returns to producers. These proposed changes relate to the reclassification of fluid cream items from Class I to Class II and the elimination of location adjustments at plants located within the proposed marketing area.

In further support of its proposal that no location adjustment apply at any plant located within the proposed marketing area and adjacent nearby territory, the proponent cooperative claimed that milk production data indicate that ample supplies of milk are produced within short distances of each of the distributing plants located in the area. Under this supply situation, according to proponent's spokeman, there is no need to assemble milk at a supply plant and transship it great distances in order to meet handlers' Class I requirements. In view of this, the witness concluded that no location adjustments are needed under the merged order to compensate for hauling milk from distant supply plants to distributing plants located in the proposed marketing area.

Foremost originally proposed a Class I differential of $1.88 that would apply to the areas that are now the "base zones" of the present Puget Sound and Inland Empire orders. At the hearing and in its post-hearing brief, the handler did not support the proposal. Instead, the handler urged that the present $1.85 and $1.95 Class I differentials that now apply in the base zones of the Puget Sound and Inland Empire orders, respectively, be retained under a combined and expanded order. Under its revised proposal, a location adjustment would apply to plants located outside of the base zones at the rate of 1.5 cents per 10 miles from the nearest of Spokane or Seattle. The handler stated that its alternative recommendations were intended to maintain the same general historical competitive price relationships among Seattle, Spokane, and Portland handlers that now exist under the present Class I price structures of the separate orders.

At the hearing, a spokesman for Vitamilk Dairy, a pool distributing plant in Seattle, opposed any change in the Class I price structure for a combined and expanded order that would have the effect of increasing prices at any plant location. The witness for the handler held that location adjustments are needed for the maintenance of adequate milk supplies at distributing plants in the Seattle area. He also maintained that any change in the price structure would disrupt the competitive relationship between handlers serving the region.

The president of a group of independent producers supplying Vitamilk Dairy supported the handler's position regarding the price structure for the proposed merged and expanded order.

A proposal of Dari-Marketing Service, as set forth in the hearing notice, would modify NDA's pricing proposal to provide for location adjustments under the combined and expanded order. As proposed, a minus location adjustment would apply at plants located more than 75 miles from the nearer of Seattle or Spokane at a rate of 1.5 cents per each 10 miles. At the hearing, however, the federation of cooperatives strongly urged the adoption of a 2.5 cents per 10-mile distance rate.

In support of its location adjustment proposal, DMS indicated that NDA's pricing proposal would not encourage the movement of milk when needed from outlying reserve milk supply areas to the market centers of the proposed marketing area. It claimed that its location pricing proposal would provide more attractive prices to producers supplying distributing plants in the Seattle area of the proposed marketing area relative to reserve milk supply areas north of the Seattle area.

DMS, in recommending a rate of 2.5 cents per 10 miles, contended that the present 1.5-cent location adjustment rate, which has been in use a number of years, does not now reflect the present cost of transporting milk from distant areas to the populated centers of the marketing area. In support of this position, data were introduced into the record by DMS's witness showing the average variable costs incurred by DMS and NDA to transport bulk milk from Whatcom County, Washington farms to the Seattle area. These data showed hauling rates varying from 3.7 cents to 4.4 cents for each 10-mile distance. While conceding that its proposed 2.5-cent location adjustment rate is still less than the acutal cost of hauling milk from farms to the market center, DMS's witness held that its proposed rate is more equitable than the present location adjustment rate of 1.5 cents for each 10 miles. He also maintained that unless location adjustment rates are increased, proper alignemt of producer prices at various locations cannot be achieved.

The hearing notice included a proposal by Carnation which would retain the present pricing districts of the Puget Sound order. In addition, the proposal would modify the location adjustment applicable to each district to more properly reflect the current cost of moving milk to the market center. The proposal also would apply a location adjustment to any plant located outside of a pricing district based on mileage from the nearer of Seattle or Spokeane.

The handler at the hearing, however, abandoned his proposal. Instead, the handler recommended that the location pricing proposal, as amended, by DMS be adopted for the merged order.

In considering an appropriate price structure for the proposed merged market, the Class I price must be established at a level which, in conjunction with other class prices, results in returns to producers sufficient to assure an adequate supply of quality milk to meet the fluid requirements at various locations throughout the combined and expanded market. Additionally, the Class I price structure under the merged order must be properly aligned with prices under the neighboring Oregon-Washington order.

Concerning the adequacy of milk supplies in the region, the record clearly demonstrates that the proposed marketing area is in a heavy milk-producing area. In 1980, more than 2.3 billion pounds of producer milk were pooled under the two orders proposed to be merged, Of this total, only 956 million pounds, or 41 percent, were used in Class I products. Moreover, the percentage of Class I utilization for the two markets involved has declined over the years.[4] In 1970, the weighted average Class I utilization for the markets was over 49 percent compared to 41 percent in 1980. Hence, the amount of milk available in this area relative to demand has been increasing.

Under this supply-demand situation, there is no basis for increasing the Class I level in the combined and expanded marketing area. The adopted $1.85 Class I differential, in conjunction with the location adjustments as described, will provide essentially the same Class I returns under the merged market as

[4] Official notice is taken of Federal Milk Market Statistics, Annual Summaries for 1971, 1973, 1975, and 1977, Agricultural Marketing Servicle, U.S. Department of Agriculture.

presently exists for the two separate markets. This price level can be expected to assure adequate supplies to meet the fluid requirements for the combined marketing area.

Neither is there any basis for establishing a price level in the Puget Sound area of the proposed marketing area above that which now exists under the present Puget Sound order. As noted elsewhere, this area is by far the largest segment of the combined market, both in terms of producer receipts and Class I sales. The amount of milk available for this area has been increasing relative to demand, as indicated by the market's declining Class I utilization. In fact, the major supply of reserve milk for the proposed marketing area as well as for the entire northwest region is in the Puget Sound area. Hence, there is no justification for increasing the Class I differential in this area above its present level since the area has ample supplies to meet the demands of the fluid market.

To assure an adequate milk supply throughout the combined and expanded market, it is essential the Class I price under the Puget Sound-Inland order be closely aligned with Class I prices of the nearby Oregon-Washington order which represents an alternative source of supply. Also, it is necessary that milk for Class I use in this market be competitively priced with milk supplies for the Oregon-Washington market that are distributed in the Puget Sound-Inland area in competition with local producer milk.

The proposed Puget Sound-Inland marketing area borders the Oregon-Washington order's marketing area. As indicated previously, the distribution areas of handlers that would be regulated by the merged order overlap with those of Oregon-Washington handlers distributing in the Puget Sound-Inland area. Additionally, various segments of the area from which handlers under the proposed merged order obtain milk supplies overlap extensively with the area from which the Oregon-Washington market draws milk supplies. Under such circumstances, it is essential for orderly marketing that Class I prices in the Puget Sound-Inland area be closely aligned with such prices in the nearby market.

It is quite apparent that Class I prices under the present two markets here under consideration and the adjacent Oregon-Washington market were established to reflect such intermarket relationships. The Class I price structure herein adopted will continue essentially the same historical interorder price relationships.

The following table shows a comparison of the Class I price differential at various locations for the proposed Puget Sound-Inland order and the Oregon-Washington order:

Order	Class I price differential
Proposed Puget Sound-Inland:	
Seattle (zone 1)	[illegible]
Spokane (zone 2)	[illegible]
Moses Lake (zone 5)	1.75
Oregon-Washington:	
Portland	[illegible]
Sunnyside-Toppenish-Yakima	1.75

The merger proponent excepted to the proposed $1.85 Class I differential plants located in the base zone with price applicable at plants in other areas to location adjustments. Instead, the proponent cooperative urged a Class I differential of $1.95 that would apply throughout the merged marketing area as they proposed and supported at the hearing. The cooperative's exceptions raise no new points not already considered in determining that the adopted base zone Class I differential of $1.85 is appropriate under the supply-demand situation presently existing in the market. As indicated, the adopted $1.85 Class I differential will provide essentially the same Class I returns under the merged order that presently exists under the separate orders. Moreover, the adopted Class I price level can be expected to maintain adequate supplies of Grade A milk for the marketing area.

Except for the testimony of NDA who proposed that the same Class I price apply throughout the proposed marketing area, the testimony presented at the hearing supported the continuance and need for a location pricing scheme under the combined and expanded order. The cooperative's proposal for a single Class I price throughout the proposed marketing area would have the effect of increasing Class I prices at several plant locations. It would also disrupt the historical price relationship between the Puget Sound and Inland Empire markets and the nearby Oregon-Washington market.

Under the proponent cooperative's proposed flat pricing scheme, producers would want to deliver their milk only to the plants located nearest their farms. This is because they would not be reimbursed through higher prices for the higher hauling costs involved in moving milk greater distances to plants at the market centers where milk is needed for fluid processing. The likely result of this would be to increase the total handling and transportation costs for some handlers as opposed to others in obtaining adequate supplies. Accordingly, a single uniform Class I price applicable throughout the proposed expansive marketing area would be inappropriate and could contribute to disorderly marketing conditions.

The present location pricing structures of the two orders proposed to be combined were designed to encourage the movement of milk from supply areas to the principal population centers where it is processed for fluid use. Additionally, they were developed to maintain a reasonable price alignment with nearby markets, which is essential to the attraction of milk supplies the various locations where needed.

The record evidence does not demonstrate that the present location pricing structures for the Puget Sound and Inland Empire markets are inappropriate or are contributing to disorderly marketing conditions. To the contrary, it appears that the present location pricing structure under each order involved is providing adequate milk supplies at all locations at which milk is delivered by producers. It also is providing a reasonable alignment of prices not only with other markets but also among the various segments within each market. Accordingly, the Class I location price structure now applicable under the separate orders should the retained insofar as possible under the combined and expanded area.

In view of this conclusion, it is necessary then to provide under the merged order a pricing structure that will essentially retain the same interplant price relationships which have existed under the separate orders. The most feasible method of accomplishing this is to establish six pricing zones. These zones would apply to the entire combined and expanded marketing area with two of them extending into the neighboring Oregon-Washington marketing area. The territory to be included in each zone was set forth at the outset of this discussion on the Class I and location adjustment issue.

Aside from retaining essentially the same price structure that now exists under the separate orders, the zone pricing structure adopted herein reflects several other considerations. With the exception of the prices that would be applicable in the Columbia River Basin area, the adopted zone pricing scheme provides a minimum of price differenecs among the various segments of the market to encourage only the movement of milk from the closest sources of production. This recognizes the availability of ample milk supplies

within a short distance from the principal population centers of the proposed marketing area. Under this situation, there is no need to encourage the movements of milk from more distant areas.

Each of the zones adopted herein includes additional territory that might reasonably be considered a part of a pricing zone even though at present no plants are located there. This will assure that the same price that would apply to an existing plant would also apply to any new plant in the same general area. This is necessary since it would be expected that such plants (established or new plants) would be in substantial competition with each other.

Most of the southern border of the proposed marketing area abuts the Oregon-Washington marketing area. As herein adopted, the applicable Class I prices established for Zones 2 and 5 are coordinated and closely aligned with the Class I price structure that applies to these areas under the Oregon-Washington order. This will tend to insure Puget Sound-Inland handlers equal access to the milk supply in the region in competition with Portland and Yakima County, Washington handlers and vice versa. It will also assure that all plants similarly located will have similar minimum order prices irrespective of the order under which a plant is regulated. Finally, a coordinated zone pricing structure would reflect the historical pricing relationship among competing plants that now exists in this area under the separate orders.

Under the location pricing structure adopted herein for the Puget Sound segment of the proposed marketing area, Class I prices at the Mt. Vernon and Raymond, Washington, pool plants would be increased by six cents and nine cents per hundredweight, respectively. The basis for these increases were to obtain essentially the same return to producers for milk under the merged order that they now receive under the Puget Sound order, after giving consideration to the effect that would result from applying location adjustments to total producer milk rather than to only base milk. In this regard and as discussed later in the decision, the proposed merged order does not provide for continuing the Class I base plan now contained in the Puget Sound order.

Another change that should be made in Class I prices that now apply at regulated plants under the separate orders is a two-cent increase in the price at Moses Lake. At the time of the hearing, a plant at this location was regulated under the Inland Empire order and had a Class I differential of $1.73. As a result of the zone pricing structure adopted herein, the Class I differential at the Moses Lake plant would be increased to $1.75.

The record evidence shows that the Moses Lake plant has substantial distribution in the Oregon-Washington marketing area in competition with nearby Yakima County plants that are regulated under the Oregon-Washington order. Moreover, this plant, because of its extensive distribution in the nearby Oregon-Washington marketing area, has been a pool plant at times under the Oregon/Washington order. When this occurs, the applicable Class I differential at the Moses Lake plant is $1.75, which is identical to the prices applicable at the nearby Yakima County pool plants under the Oregon-Washington order. Hence, the adopted two-cent higher price for this portion of the marketing area would provide the same Class I prices at plants located in Moses Lake and Yakima County.

At a plant located outside of any area included in a zone as described above, the location adjustment should be minus 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located from the nearer of the County-City Building in Seattle or the County Courthouse in Spokane. Such distance should be based on the shortest hard-surfaced highway distance as determined by the market administrator. Essentially, intermarket price relationships are based on this transportation rate. The use of this rate under the merged order will assure the continuance of interorder price alignment.

Plants that would be subject to such adjustment generally will be located east and south of the marketing area in Idaho, Montana, California, and southern Oregon. Location adjustments at this rate for plants so situated will reflect the lesser location value of milk for this market at more distant plants relative to plants nearer the marketing area. Further, such location adjustments will implement uniformity of pricing among handlers for both milk received at the market centers from distant plant locations and milk received at the market centers direct from farms.

DMS's proposal to apply a location adjustment at plants located beyond 70 miles from the nearer of Seattle or Spokane at a rate of 2.5 cents per 10 miles should not be adopted. Any greater location adjustment rate for plants located outside of the market centers would not maintain the satisfactory alignment of prices that now exists in various segments of the proposed marketing area with prices in the nearby Oregon-Washington market.

As indicated earlier in this decision, a series of price zones are established that essentially retain the same interplant and interorder price relationships which existed under the separate orders. The adoption of DMS's proposal would unduly distort interplant and interorder price relationships, particularly in the major areas of competition.

In its exceptions to the recommended decision, NDA reiterated the position it took at the hearing regarding location adjustments. It urged particularly that location adjustments should not be used to differentiate producer prices at various locations throughout the proposed marketing area. The cooperative was particularly concerned with the impact of applying location adjustments on producer milk diverted to its two manufacturing plants where a proposed minus 6-cent location adjustment would apply. It argued that this would impose a penalty on the cooperative for handling most of the market's surplus supplies.

The position of the cooperative is not supportable. As under the individual orders, the adopted location adjustments for the merged order reflect that producer milk received at plants at the market center has a greater value to handlers than milk received at distant plants. Accordingly, producers delivering milk directly to the market center would receive the uniform blend price applicable at that location while those delivering to distant plants receive a lower blend price. This comports with the basic intent of the Act that milk be priced at the plant where it is physically received .

Adoption of the proponent cooperative's position would be inconsistent, of course, with the general concept for pricing milk at the location of the plant where it is physically received. Accordingly, the exception is denied.

DMS excepted to the failure of the recommended decision to adopt location adjustment provisions as they proposed and supported at the hearing. The federation's exceptions raise no additional points not already considered in determining the appropriate location adjustment structure for the merged and expanded market. Accordingly, no departure from the recommended decision should be made regarding the applicable location adjustments to be included in the merged order.

Application of location adjustment credits. Both of the orders proposed to be merged contain provisions that limit the amount of Class I location adjustment credits that may be allowed on bulk transfers between pool plants.

The basic concept of this limitation should be continued under the merged order.

The basic intent of this limitation on location adjustment credits is to insure that producers on the market do not have their returns lowered by bearing the costs of unnecessary movements of milk to the market centers for other than Class I use. Under the present Puget Sound order, this is done through the allocation procedure in the assignment of milk receipts to classes of utilization. In the Inland Empire market, the limitation is determined through the application of location adjustments, which is the procedure used under most Federal orders.

For purposes of clarity and simplicity, the present technique used under the Inland Empire order is adopted as the appropriate procedure under the merged order in limiting location credits on transfers between pool plants. However, to fully integrate this procedure with the zone pricing structure adopted herein (which includes an announced Class I price for Zone 1 with a plus or minus price adjustment for other locations), it is necessary that the present Inland Empire location adjustment credit provisions be revised.

In this regard, location adjustment credits should not apply to Class I transfers of bulk milk shipped by pool plants to lower-priced zones. Under normal circumstances, this would not be a usual movement of milk. However, it could occur, for instance, in situations where a plant in Seattle or Spokane received milk in excess of its fluid requirements and marketed such excess to a plant in Mt. Vernon or Moses Lake. As indicated elsewhere, the higher Class I price levels provided in Seattle and Spokane were determined to be necessary to attract milk to these areas for Class I use and not for reshipment to lower-priced zones. The later should not be encouraged through the granting of a location adjustment credit on such milk movements, which would have the effect of requiring the pool to bear the cost of such movements.

The location pricing structure adopted herein requires a further modification in the application of Class I location adjustments. The merged order should specifically provide that when a location adjustment credit is not allowed on transferred milk, the transferor-handler should only be required to account for such milk at the Class I price at the transferee-plant. Absent this modification, a disallowed location adjustment credit could result in a Class I price to a transferor-handler that is higher than the value of the milk at the transferee-plant.

Additionally, the location adjustment credit provisions as adopted herein provide greater specificity in computing location adjustment credits as they apply to transfers between pool plants. As provided, Class I location adjustment credits would be determined by first subtracting receipts from unregulated supply plants and other order plants that are assigned a Class I classification and then subtracting from the remaining Class I use at the transferee-plant receipts from producers and cooperative associations as handlers on bulk tank milk. Location adjustment credits would then be assigned to the remaining Class I milk received from the transferor plants at which the least location adjustment applies and then in sequence to plants having the next least location adjustments, etc.

Class II and Class III prices. The Class II price for the month should be the Minnesota-Wisconsin (M–W) price for the second preceding month, as adjusted by an "updating" formula, plus a Class II differential computed from a 12-month moving average of past Class II differentials. However, the Class II price for any month shall not be less than the Class III price for the month. The Class II differential, over time, should average out to about the Class III price plus 25 cents. The Class III price should be the lower of either the M–W price for the month or a butter-nonfat dry milk formula price (commonly referred to as the butter-powder "snubber" price).

These formulas are now used in pricing milk not needed for Class I use under each of the orders to be merged. They are also presently used under the Oregon-Washington order.

The merger proponent proposed that Class II and Class III prices for the merged order be established on the same basis that is applicable under the separate orders. The cooperative contended that the retention of this pricing scheme in determining Class II and Class III prices under the merged order is essential for the maintenance of appropriate price alignment with the Oregon-Washington market. Also, it held that continuing the use of the "butter-powder snubber formula price" as part of the Class III price formula provides handlers with assurance against undue reductions in their operating margins when butter values are abnormally low relative to prevailing pay prices for manufacturing grade milk. In further support of this position, the cooperative stated that the use of the snubber in the Class III price formula is particularly suited for this area since a large percentage of the reserve milk supplies in the region is utilized in the production of butter and nonfat dry milk.

Foremost proposed that the Class III price under the merged order be based only on the Minnesota Wisconsin price each month. The basis of the handler's proposal was that because the butter-powder snubber formula has not had an effect for a number of years in determining class prices under the separate orders, there is no longer a basis for continuing its use. The handler's witness, however, testified that if the butter-powder snubber is retained, then the present "make allowance" of 48 cents contained in the butter-powder formula should be adjusted to reflect the increase in cost of receiving and processing reserve milk that has occurred since its adoption. He conceded, however, that either the removal of the butter-powder price formula or retaining it with a higher "make allowance" under the merged order could result in significant competitive inequities among handlers in the several markets involved.

The testimony given by the handler witness raises some questions regarding the appropriateness of continuing the use of the present butter-powder snubber in conjuction with the Minnesota-Wisconsin price. It might well be that the Class II and Class III prices should be based entirely on the Minnesota-Wisconsin price. However, in view of the close relationship of the Puget Sound and Inland Empire markets with the adjacent Oregon-Washington market, it appears that the Class III price formula should not be changed without a similar change in the Oregon-Washington order. This would be so whether the snubber were eliminated or whether the snubber's make-allowance were changed.

As proposed by the merger proponent, no location adjustments should apply on Class II milk under the merged order. Presently, the Inland Empire order does not provide location adjustments for Class II milk. However, the present Puget Sound order provides a Class II location adjustment of one-half of the rate specified for Class I milk, but not to exceed 20 cents per hundredweight.

The original purpose of such adjustments under the Puget Sound order was to compensate distant supply plant operators for the delivery of milk to plants in the base zone (Seattle-Tacoma-Everett area) where it was used in Class II products. On the basis of the present record, there is no reason under current marketing conditions to maintain such incentive to encourage the delivery of milk from distant plants to the Seattle area for use in Class II.

There was no indication on the record that the supply of milk for Class II uses in the Puget Sound market will be jeopardized if no location adjustments on Class II milk apply under the merged order.

The attached proposed order adopts the procedure now applicable under each of the two orders for announcing Class II prices. This procedure is based on a proceeding, which was initiated after the close of this hearing, that considered industry proposals with respect to the issue of advance Class II price notice for 14 orders, including the two orders proposed to be merged. The hearing, which was held on February 3, 1982, was a reopening of this proceeding as it related to the Class II pricing issue. Each of the two orders have subsequently been amended on the basis of this 14-market hearing. It is concluded that the Class II pricing procedure under each of the two orders is equally appropriate for the merged order for the identical reasons as set forth in the Assistant Secretary's decision of August 17, 1982 (47 F.R. 37178). The findings, conclusions and proposed provisions of that decision are adopted as part of this decision as if set forth in full herein.

Butterfat differential. The merged order should provide for a single butterfat differential for adjusting order prices to the butterfat content of the milk being priced. The differential should be the Chicago 92-score butter price for the month multiplied by a factor of 0.115, rounded to the nearest 0.1 cent. Such differential should be announced on the fifth day after the end of the month to which it applies.

This differential is now used under the present Puget Sound order. However, the Inland Empire order provides for three separate butterfat differentials. The Class I butterfat differential for handlers is determined by multiplying the the Chicago butter price for the preceding month by 0.123, while the handler Class II and III differential are determined by multiplying the butter price for the current month by 0.115. The butterfat differential applicable in adjusting the uniform price to producers is the average of the Class I, Class II, and Class III butterfat differentials weighted by the proportion of butterfat in producer milk in each class.

Presently, the Class I, Class II, and Class III differentials for the Inland Empire order are announced on the fifth day of the month. The Class I differential applies to the month in which announced, while the Class II and Class III differentials apply to the preceding month. The producer butterfat differential is announced on the 14th day of each month and applies to milk received during the preceding month.

The merger proponent proposed that all class prices and uniform prices under the merged order be subject to an adjustment by a butterfat differential based on the Chicago butter price times the factor of 0.115. No opposition to the use of this single factor was presented at the hearing.

As proposed and as herein adopted, using a single factor of 0.115 for computing class butterfat differentials will change the relationship of Class I skim milk and butterfat values of those handles that are presently regulated by the Inland Empire order. The impact of this change will increase such handlers' cost of skim milk since less value will be assigned to the butterfat component of Class I milk. However, the absolute effect on a handler's cost for Class I milk is dependent on the average test of his Class I products.

Nevertheless, adopting a lower Class I butterfat differential for the Inland Empire segment of the proposed merged marketing area gives recognition to the reduced demand and the related lower market value of butterfat in fluid milk products in Class I. This lower value for Class I butterfat will be reflected in returns to producers which, in turn, should provide less incentive to produce high-test milk that consumers do not want.

Proposals of Carnation and Foremost providing for the advance announcement of Class I and Class II butterfat differentials and corollary separate Class III and producer butterfat differentials are denied. Proponent handlers contended that under the present Puget Sound order's announcement procedure they are often at a disadvantage in not knowing the costs of the component parts of producer milk for Class I and Class II uses until five days after the end of the month in which the milk is processed. They claimed that when there is a significant change in butter values, as reflected in Chicago butter prices, the present delayed notice of such increases in butter values prevents them from making corresponding adjustments in their resale prices on a timely basis.

Although NDA did not oppose the proposals at the hearing for the advance announcement of Class I and Class II butterfat differentials, it argued in its post-hearing brief, that handlers can "quite acurately predict the level of butterfat differential under the current supply-demand situation for butterfat." It concluded that there is no need to announce separate class butterfat differentials or to announce them in advance of the date that it proposed for announcing the producer butterfat differential.

The record did not provide a compelling basis for adopting an advance announcement procedure for Class I and Class II butterfat differentials. There was no indication by proponent handlers that disorderly marketing conditions have occurred as a result of the present procedure of announcing a single butterfat differential after the end of the month based on the butter prices for that month. Moreover, and contrary to proponent handlers' contention, month to month changes in average monthly butter quotations that mormally do occur have not usually resulted in significant changes in the value of differential butterfat used in Class I and Class II. Finally, the practical effect of the need for advance Class I and Class II butterfat differentials is negated to a large extent by the frequency in which butter prices are announced. In this connection, such prices are available on a three-times per week basis which appears adequate for handlers to determine trends in butter prices and thus adjust their resale price structure accordingly. The proposal is, therefore, denied.

4. (d) *Distribution of proceeds to producers.* Marketwide pooling of producer returns should be provided under the merged order as the basis of distributing among producers the proceeds from the sale of their milk. This type of pooling is now being used in each of the individual markets to be merged and was supported by all parties of interest for use under the merged order.

A single marketwide uniform price, adjusted for butterfat content and for location of the plant to which the milk is delivered, should be the basis of distributing total pool proceeds from producer milk in making payments to individual producers. Under this payment arrangement, each producer would share equally in the higher-valued Class I milk of the market as well as in the lower-valued Class II and Class III uses of milk. A single uniform price to produces is now applicable under the Inland Empire order.

The present Puget Sound order provides for a Class I base plan, which is another method of distributing the total proceeds from handlers to producers. This plan provides for an allotment system under which a producer supplying the market is assigned a proportion of the higher-valued Class I sales within the market on the basis of his past deliveries of

milk. For deliveries within his base, a producer receives a "base" price that is substantially higher than the market's weighted average value of all producer milk in the pool. For marketings in excess of his base, the producer receives an "excess" price which is comparable to the lower manufacturing price (Class III price). This method of distributing pool proceeds to producers has been in use under the order since September 1, 1967.

The proponent cooperative proposed through its merger proposal included in the hearing notice that a single marketwide uniform price be paid to producers under the merged order. The president of NDA testified though, that his cooperative really was neither a proponent or opponent of the Class I base plan. He indicated that NDA nevertheless submitted a proposed merged order without a Class I base plan because the cooperative had concluded on the basis of a survey that a majority of the market's producers no longer supported the Class I base plan and that it would not be approved in a producer referendum of individual producers. The witness testified that this was supported by the fact that its Inland Empire member producers continue to reject a Class I base plan, which producers in that market initially disapproved in 1972. The witness stated, however, that the cooperative has no objection to including a Class I base plan under the proposed merged order so that individual producers would have the opportunity to vote on whether or not they favor the continuance of the present plan under the merged order.

The Producer Base Committee and Dari-Marketing Service proposed that the present Puget Sound Class I base plan be continued under any amended order which would combine and expand the marketing area of the two orders. In this connection, the proponents strongly urged that producers be given the opportunity through a referendum to vote on whether they desire a Class I base plan under a combined order. A limited number of individual producers who are now covered by the plan testified in support of this position.

Proponents of continuing the Class I base plan testified that the base plan is popular among producers in the Puget Sound market. They reasoned that absent a Class I base plan in a combined order, Puget Sound producers would be denied the benefits that the Class I base plan has provided for many years. In this connection, it was proponents' position that a blend price system fails to tailor production to the Class I requirements of the market. They argued that the present disproportionate increase in milk receipts in relation to Class I sales under the Inland Empire order is a result of the absence of a Class I base plan in the market.

This issue primarily concerns producers in that it involves how pool proceeds would be divided among producers supplying the combined and expanded market. In such case, the views of producers are an important consideration.

The present Class I base plan in the Puget Sound market was based on evidence received at a public hearing and was placed into effect after a referendum in which the required two-thirds of the producers on the market, voting individually, approved the plan. The record in this proceeding indicates that the majority of the producers (largely Puget Sound producers) who would be associated with the merged market have changed their view in this matter. In this regard, the merger proponent's testimony shows that a majority of producers prefer a uniform blend price system to a Class I base plan in distributing pool proceeds among producers associated with the merged market. In view of this situation, no useful purpose would be served in providing affected producers the opportunity to decide through a referendum whether or not they desire a Class I base plan under the merged order.

Moreover, the hearing did not deal in any way with how producers currently delivering to the Inland Empire market should be integrated into the present Puget Sound Class I base plan. Without special consideration given to this block of producers, bases that would be assigned to them for the first time under the present base plan would not necessarily promote uniformity of regulation or price equity among all producers that would be associated with the merged market. For example, under the terms of the present Puget Sound Class I base program, the most that an Inland Empire producer could receive would be a base computed on his production history during the latest three-year period. Moreover, if an Inland Empire producer was on the market for less than three years from the effective date of the merged order, he would have a production history equal to 60 percent of his shipments after one year and equal to 80 percent of his shipments after the second year. In contrast, an established Puget Sound producer has had the opportunity to develop a base reflecting his production history over a period of years in order to maximize the benefits accruing from the Class I base plan.

It should be noted that the Class I base committee, in its post-hearing brief, did suggest that certain provisions of the present Puget Sound Class I base plan be revised to remove certain inequities to the Inland Empire producers during the transition from a blend price system to a Class I base plan. However, this would be a very complex undertaking and the record of this hearing does not provide an adequate basis for such action.

Under the Agriculture and Food Act of 1981, the authority for Class I base plans in Federal order markets was not extended and it expired on December 31, 1981.[5] However, the Act provided that any Class I base plan in operation at the end of 1981 could continue in use until December 31, 1984. This would allow the present Puget Sound Class I base plan to continue to operate under the merged order until the end of 1984.

The limited time that the plan is authorized to operate before its termination raises a serious question about the practical effect that the plan would have in encouraging all producers under the merged order to adjust their production to the Class I utilization of the combined markets. Adjustments in milk production by producers, to realize the benefits of the Class I base plan, require long-range economic planning which cannot be achieved within the limited time period that the plan could legally be effective. Hence, if the Class I base plan were extended to the current Inland Empire producers, such producers could not earn bases comparable to those of other producers who have been under the plan over a period of years.

Contrary to the base proponents' contention, the record evidence and current available data indicate that in recent years the plan has little effect in encouraging producers to tailor their production to the market's Class I usage. During the past several years, producers under the base plan have increased their production history bases at a faster rate than the market's increase in Class I usage. Consequently, the average Class I base percentage has declined (45.7 percent for the year beginning February 1, 1982) to its lowest percentage level since the base plan became effective.[6]

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[5] Official notice is taken of the Agriculture and Food Act of 1981, Pub. L. 97-98, 97th Congress.

[6] Official notice is taken of the monthly Market Administrator's Report for Federal Orders 124, 125, 133, and 135, Vol. 7 No. 2, issued for February 1982.

These trends suggest that Puget Sound producers are gearing their production to a blend of the prices that they receive for all milk rather than adjusting their production to take advantage of the higher base prices. This may be the principal factor contributing to the declining support of the plan that was indicated on the record.

In view of the foregoing considerations, it is concluded that the proposed merged order should not provide for a Class I base plan.

In its exception, the Producer Base Committee and DMS opposed the Deputy Administrator's conclusions regarding the Class I base issue and claimed that such conclusions were not based on the record evidence. The position of the exceptors is not supportable and there is no basis for reaching a different position on the Class I base issue.

As an adjunct to its base proposal, the Class I base committee proposed and supported combining and expanding the marketing areas of the two orders by amending the present Puget Sound order rather than a merger and expansion of the two orders as NDA proposed. The committee took this position on the belief that if NDA's proposed merged order were adopted, it would be considered a new order and thus remove the legal authority to continue the present Puget Sound Class I base plan until the end of 1984. Since the Class I base plan is not being continued, this point is a moot issue in terms of the committee's concerns.

Payments to producers and cooperative associations. The merged order should provide for a partial payment to producers on or before the last day of the month and for a final payment on or before the 19th of the following month. The partial payment should be for milk received during the first 15 days of the month and should be at not less than the Class III price for the preceding month. The final payment to each producer should be the applicable uniform price for milk received in the preceding month less any partial payment made and any proper deductions authorized by the producer. When payments are made to a cooperative association in lieu of payments to individual producers, both the partial and final payments should be made at least two days prior to the date payments are due to individual producers.

As adopted herein, the payment schedule is the same as now provided in the Inland Empire order. This was proposed by the merger proponent. The Puget Sound order also provides for final payment at the same time as here provided. However, this order provides for a partial payment on the 25th day of the month rather than at the end of the month, which would apply under the merged order.

The proponent cooperative states that the intent of its proposal to delay partial payments by 5–6 days to the present Puget Sound producers is to narrow the time intervals between partial and final payments. According to the spokeman for the cooperative, this would inprove the cash flow position of handlers since it relieves them of the burden of making a partial payment and a final payment that is now only one week apart. Also, he said, its proposed payment schedule to producers and cooperatives is identical to the payment schedule that now exists under the nearby Oregon-Washington order. In this regard, he argued that since some of the handlers operate plants that are now regulated by the separate orders herein considered and by the Oregon-Washington order, it is desirable to have the same payment dates under both orders to accommodate for centralized accounting practices used by the handlers involved.

At the hearing, Dari-Marketing Service opposed any modifications in the payment schedule to producers and cooperative associations that would result in payment dates later than exist under the present Puget Sound order. The federation argued that it would not be reasonable to further delay the date when producers receive payments for their milk in view of the rising cost of interest and other costs associated with producing milk.

While the payment schedule adopted herein changes only the date when partial payments would be due to those producers whose milk is currently priced under the Puget Sound order, such change should present no substantial problems. In fact, the impact of this change would delay partial payments to the present Puget Sound producers only during the initial month that the merged order would become effective. Thereafter, all producers would be due a partial payment on the same date of each month. In view of this, it is not apparent what advantage would accrue to producers under the merged order of continuing a partial payment schedule that would be only one week apart from the final payment date which is now the case under the Puget Sound order. It should be noted that the attached order would not prevent a handler from paying producers or cooperative associations a partial payment before the due date specified so long as he has paid at least the Class III price for the previous month.

The merger proponent also proposed that the date for payment to a cooperative association for milk received by a pool handler from a pool plant operated by the cooperative be advanced two days (from 17th to 15th). The proponent argued that this change is necessary because a cooperative thus involved should have the monies due it from the handler prior to when the cooperative must make payment to the producer settlement fund. As herein provided, the cooperative would be required to make payment to the producer settlement fund on or before the 16th day of the month on any milk for which it is accountable to the producer settlement fund.

It was not established that this proposal would have any value under the proposed order. As indicated previously, there are no cooperative associations operating pool plants under either of the present orders that is proposed to be merged. In view of this, the proposal is not necessary or warranted under present marketing conditions.

4(e) *Administrative provisions—Administrative assessment.* The maximum rate of payment by handlers for the cost of administering the merged order should be 4 cents per hundredweight. Such payments are required if the market administrator is to perform the necessary function of administering the merged order.

Currently, the maximum rates under the separate orders are 4 cents under the Puget Sound order and 5 cents under the Inland Empire order. A 4-cent rate, which was proposed at the hearing without objection, should enable the market administrator to effectively administer the merged order. If experience indicates that the merged order can be administered at a lesser rate, the order provides that the Secretary may adjust the rate downward without the necessity of a hearing.

Order format. The uniform format of order provisions that was incorporated into the 39 other Federal milk orders in 1974 also should be adopted for the merged order. Except for those specific changes in several provisions of the merged order that were specifically discussed above, the adoption of this order format does not affect the scope or substance of the Puget Sound order, renamed the Puget Sound-Inland order, or its application to any handler subject thereto.

Merger of the administrative expense, marketing service, and producer-settlement funds. To accomplish the merger of the two orders effectively and

equitably, the reserves in the administrative expense funds that have resulted under the individual orders should be combined. Similar procedures should be followed with respect to the marketing service and producer-settlement fund reserves of the individual orders. Any liabilities of such funds under the individual orders should be paid from the appropriate new fund established under the merged order. Similarly, obligations that are due the several funds under the individual orders should be paid to the appropriate combined fund under the merged order.

The money paid to the administrative expense fund is each handler's proportionate share of the cost of administering the order. It is anticipated that all handlers currently regulated under the two orders will continue to be regulated under the merged order. In view of this, it would be an unnecessary administrative and financial burden to allocate back to handlers the reserve funds under the individual orders and then accumulate an adequate reserve for the merged order. It is equally equitable and more efficient to combine the administrative monies accumulated under the individual orders and to pay any liabilities against such funds from the consolidated fund of the merged order.

The money accumulated in the marketing service funds of the individual orders is that which has been paid by producers for whom the market administrator is performing services. The producers who have contributed to the marketing service fund of each order are expected to continue to supply milk for the Puget Sound-Inland market. The consolidation of the reserves in the individual marketing service funds is therefore appropriate in view of the continuation of the marketing service program for these producers under the merged order.

The producer-settlement fund balances in the two orders should be combined so that the producer-settlement fund under the merged order may be continued without interruption. The producers currently supplying the individual markets are expected to continue to supply milk for the merged Puget Sound-Inland market. Thus, monies now in the producer-settlement funds of the individual orders would be reflected in the uniform prices of the producers who will benefit from the merged order. The combined fund would also serve as a contingency fund from which money would be available to meet obligations (resulting from audit adjustments and otherwise) accruing under one or the other of the separate funds.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement, the Puget Sound-Inland order which amends and merges the Puget Sound, Washington, and Inland Empire orders, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the Puget Sound-Inland marketing area and the minimum prices specified in the tentative marketing agreement and the Puget Sound-Inland order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the Puget Sound-Inland order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commerical activity specified in, marketing agreements upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the Puget Sound-Inland order are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1125.85 of the tentative marketing agreement and the Puget Sound-Inland order.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjuction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

The Spokane handler, who was referred to earlier in the decision, took exception to the Deputy Administrator's certification in the recommended decision "that this action will not have a significant economic impact on a substantial numer of small entities." Exceptor asked for information to support this conclusion.

This conclusion, like all others in the decision, was based on the hearing record. In this regard, the hearing notice specifically invited interested parties to present evidence concerning the probable regulatory and informational impact of the proposals on small business. Also, the presiding Administrative Law Judge, in his opening comments, specifically brought this matter to the attention of participants at the hearing. Nevertheless, the record evidence did not indicate that the proposals considered would have any significant impact on small businesses as a group.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending and merging the orders regulating the handling of milk in the Puget Sound, Washington, and Inland Empire marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing

agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

May 1983 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending and merging the orders regulating the handling of milk in the Puget Sound, Washington, and Inland Empire marketing areas is approved or favored by producers, as defined under the terms of such attached order who during such representative period were engaged in the production of milk for sale within the marketing area defined in such attached order.

List of Subjects in 7 CFR Parts 1125 and 1133

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: October 19, 1983.

C.W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order [7] amending and merging the orders, regulating the handling of milk in the Puget Sound, Washington, and Inland Empire marketing areas

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Puget Sound, Washington, and Inland Empire marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The Puget Sound-Inland order, which amends and merges the Puget Sound, Washington, and Inland Empire orders, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the Puget Sound-Inland marketing area, and the minimum prices specified in the Puget Sound-Inland order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The Puget Sound-Inland order regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the Puget Sound-Inland order are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may perscribe, with respect to milk specified in § 1125.85 of the Puget Sound-Inland order.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the orders regulating the handling of milk in the Puget Sound, Washington, and Inland Empire marketing areas (Parts 1125 and 1133, respectively) shall be amended and merged into one order. Part 1133 is superseded thereby, and such vacated part designation shall be reserved for future assignment. The handling of milk in the merged marketing area, to be designated as the "Puget Sound-Inland marketing area" (Part 1125), shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended and merged as follows:

The provisions of the proposed marketing agreement and order amending and merging the Puget Sound, Washington, and Inland Empire orders contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on April 28, 1983, and published in the **Federal Register** on May 4, 1983 (48 FR 20058), shall be and are the terms and provisions of this order, and are set forth in full herein, subject to the following modifications:

1. Section 1125.8(e) is revised.
2. Section 1125.12(b)(5) is revised.
3. Section 1125.41(b)(1) is revised.
4. Section 1125.61(b) is revised.

In Title 7 of the Code of Federal Regulations, Part 1125 is proposed to be revised to read as follows:

PART 1125—MILK IN THE PUGET SOUND-INLAND MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.
1125.1 General Provisions.

Definitions

1125.2 Puget Sound-Inland marketing area.
1125.3 Route disposition.
1125.4 Plant.
1125.5 Distributing plant.
1125.6 Supply planet.
1125.7 Pool plant.
1125.8 Nonpool plant.
1125.9 Handler.
1125.10 Producer-handler.
1125.11 [Reserved]
1125.12 Producer.
1125.13 Producer milk.
1125.14 Other source milk.
1125.15 Fluid milk product.
1125.16 Fluid cream product.
1125.17 Filled milk.
1125.18 Cooperative association.
1125.19 Product prices.

Handler Reports

1125.30 Reports of receipts and utilization.
1125.31 Payroll reports.
1125.32 Other reports.

Classification of Milk

1125.40 Classes of utilization.
1125.41 Shrinkage.
1125.42 Classification of transfers and diversions.
1125.43 General classification rules.
1125.44 Classification of producer-milk.
1125.45 Market Administrator's reports and announcements concerning classification.

Class Prices

1125.50 Class prices.
1125.51 Basic formula price.
1125.51a Basic Class II formula price.
1125.52 Plant location adjustment for handlers.
1125.53 Announcement of class prices.
1125.54 Equivalent price.

Uniform Price

1125.60 Handler's value of milk for computing uniform price.
1125.61 Computation of uniform price.
1125.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1125.70 Producer-settlement fund.

[7] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Sec.
1125.71 Payments to the producer-settlement fund.
1125.72 Payments from the producer-settlement fund.
1125.73 Payments to producers and to cooperative associations.
1125.74 Producer butterfat differential.
1125.75 Plant location adjustments for producers and on nonpool milk.
1125.76 Payments by a handler operating a partially regulated distributing plant.
1125.77 Adjustment of accounts.

Administrative Assessment and Marketing Service Deduction.

1125.85 Assessment for order administration.
1125.86 Deduction for marketing services.

Authority: Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Milk in the Puget Sound-Inland Marketing Area

General Provisions

§ 1125.1 General Provisions

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1125.2 Puget Sound-Inland marketing area.

"Puget Sound-Inland marketing area" (hereinafter called the "marketing area") means all territory geographically within the places listed below, including all territory wholly or partly therein occupied by government (Muncipal, State or Federal) reservations, facilities, installations, or institutions:

Idaho Counties

Benewah, Bonner, Boundary, Kootenai, Latah, Shoshone.

Washington Counties

Adams, Chelan, Douglas, Ferry, Grant, Grays Harbor, Island, King, Kittitas, Lewis, (except the town of Vader), Lincoln, Okanogan, that portion of Pacific county north of township 11N (except Long Island and North Beach Peninsula), Pend Orielle, Pierce (except Fox, McNeil, and Anderson Islands and the peninsulas adjacent to Kitsap County), San Juan, Skagit, Snohomish, Spokane, Stevens, Thurston, Whatcom, and Whitman.

§ 1125.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a plant to a retail or wholesale outlet (including any delivery through a distribution point as provided by this section, by a vendor, from a plant store or through a vending machine). The term "route disposition" does not include:

(a) A delivery to a plant. However, package fluid milk products that are transferred to pool distributing plant from another pool distributing plant, and classified as Class I under § 1125.42(a), shall be considered route disposition from the transferor-plant for the sole purpose of qualifying it as a pool distributing plant under § 1125.7(a), and the transferor-plant shall be assigned in-area dispositions but not in excess of the in-area dispositions of the transferee plant;

(b) A delivery in bulk to a commercial food processing establishment pursuant to § 1125.40(b)(3); or

(c) A delivery to a military or other ocean transport vessel leaving the marketing area, of fluid milk products which originated at a plant located outside the marketing area and were not received or processed at any pool plant.

§ 1125.4 Plant.

"Plant" means the building, facilities and equipment, whether owned or operated by one or more persons, constituting and single operating unit or establishment, which is maintained and operated primarily for the receiving, handling and/or processing of milk or milk products (including filled milk). Separate facilities used only as a distribution point for storing packaged fluid milk products in transit for route disposition or separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall be a "plant" under this definition.

§ 1125.5 Distributing plant.

"Distributing plant" means a plant in which a fluid milk product approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is processed or packaged and that has route disposition in the marketing area during the month.

§ 1125.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product approved by a duly consititued regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

§ 1125.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which there is route disposition (except filled milk) in the marketing area during the month equal to not less than 10 percent of receipts of Grade A milk at such plant (exclusive of transfers of packaged fluid milk products from plants qualifying as pool plants pursuant to this paragraph) or diverted therefrom pursuant to § 1125.13.

(b) A supply plant from which there is transferred to a pool distribution plant fluid products that represent not less than the following percentages of the total quantity of Grade A milk that is physically received at such plant directly from dairy farmers, or a cooperative association pursuant to § 1125.9(c) or diverted therefrom as producer milk pursuant to § 1125.13:

Months and Applicable Percentage

January, February, or September-40
March through August-30
October through December-50

Any such plant that has transferred the applicable percentage of its receipts during the entire September through February period shall be a pool plant for the months of March through August immediately following. Any plant which otherwise meets the requirement of this paragraph may withdraw from pool supply plant status in the March through August period if the operator of the plant files with the market administrator prior to the first day of such month a written request for such withdrawal. The plant may regain pool status during such period only by meeting the applicable qualifying percentage.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month it shall continue to be subject to all the provisions of this part until the fourth consecutive month in which a greater proportion of its route disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition in this marketing area than in such other marketing area but which plant maintains pooling status for the month under such other Federal order;

(4) A plant qualified pursuant to paragraph (b) of this section which also meets the pool plant requirements of another Federal order and from which greater shipments are made during the month to plants regulated under such other order than are made to plants regulated under this order;

(5) A distributing plant from which total route disposition (except filled milk) in the marketing area during the month averages 300 pounds or less per day; or

(6) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately, and is not approved by any regulatory agency for the receiving, processing, or packaging, of any fluid milk products for Grade A disposition.

§ 1125.8 Nonpool plant.

"Nonpool plant" means any plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which during the month an average of more than 300 pounds daily of fluid milk products is disposed of as route disposition in the marketing area.

(d) "Unregulated supply plant" means a nonpool that is neither an other order plant nor a producer-handler plant, from which fluid milk products are moved to a pool plant during the month.

(e) "Exempt distributing plant" means a plant, other than a pool supply plant or a regulated plant under another Federal order that meets all the requirements for status as a pool distributing plant except that its route disposition (exclusive of filled milk) in the marketing area in the month does not exceed an average of 300 pounds daily. For purposes of this paragraph, route disposition shall not include receipts from a transferor-plant pursuant to the proviso of § 1125.3(a).

§ 1125.9 Handler.

"Handler" means

(a) The operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it caused to be diverted for the account of such cooperative association from a pool plant to a nonpool plant, or pursuant to § 1125.40(b)(3);

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this pargraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

(d) the operator of partially regulated distributing plant;

(e) A producer-handler;

(f) The operator of an other order plant from which route disposition is made in the marketing area during the month;

(g) The operator of an unregulated supply plant; and

(h) The operator of an exempt distributing plant.

§ 1125.10 Producer-handler.

"Producer-handler" means a person who is engaged in the production of milk and also operates a plant from which during the month an average of more than 300 pounds daily of fluid milk products, except filled milk, is disposed of as route disposition within the marketing area and who has been so designated by the market administrator upon his determination that all of the requirements of this section have been met, and that none of the conditions therein for cancellation of such designation exists. All designation shall remain in effect until canceled pursuant to paragraph (c) of this section. Any state institution shall be a producer-handler exempt from the provisions of this section and §§ 11.25.30 and 11.25.32 with respect to milk of its own production and receipts from plants processed or received for consumption in State institutions and with respect to movements of milk to or from a pool plant.

(a) *Requirements for designation.* (1) The producer-handler has and exercises (in his capacity as a handler) complete and exclusive control over the operation and management of a plant at which he handles and processes milk received from his milk production resources and facilities (designated as such pursuant to paragraph (b)(1) of this section), the operation and management of which are under the complete and exclusive control of the producer-handler (in his capacity as a dairy farmer).

(2) The producer-handler neither receives at his designated milk production resources and facilities nor receives, handles, processes or distributes at or through any of his milk handling, processing or distributing resources and facilities (designated as such pursuant to paragraph (b)(2) of this section) milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than: (i) His designated milk production resources and facilities, (ii) pool plants within the limitation specified in paragraph (c)(2) of this section, or (iii) nonfat milk solids which are used to fortify fluid milk products.

(3) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(4) Designation of any person as a producer-handler following a cancellation of his prior designation shall be preceded by performance in accordance with paragraph (a)(1), (2), and (3) of this section for a period of 1 month.

(b) *Resources and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing and distributing resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities: All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest including any contractual arrangement; and

(iii) Which are directly, indirectly or partially owned, operated or controlled by any partner or stockholder of the producer-handler. However, for purposes of this paragraph any such milk production resources and facilities which the producer-handler proves to the satisfaction of the market administrator do not constitute an actual or potential source of milk supply

for the producer-handler's operation as such shall not be considered a part of his milk production resources and facilities; and

(2) As milk handling, processing and distributing resources and facilities: All resources and facilities (including store outlets) used for handling, processing and distributing any fluid milk product:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler; or

(ii) In which the producer-handler in any way has an interest, including any contractual arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(c) *Cancellation.* The designation as a producer-handler shall be canceled under any of the conditions set forth in paragraph (c)(1) and (2) of this section or upon determination by the market administrator that any of the requirements of paragraphs (a)(1),(2), and (3) of this section are not continuing to be met, such cancellation to be effective on the first day of the month following the month in which the requirements were not met, or the conditions for cancellation occurred.

(1) Milk from the designated milk production resources and facilities of the producer-handler is delivered in the name of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products derived from sources other than the designated milk production facilities and resources, with the exception of purchases from pool plants in the form of fluid milk products which do not exceed in the aggregate a daily average during the month of 100 pounds.

(d) *Public Announcement.* The market administrator shall publicly announce the name, plant location and farm location(s) of persons designated as producer-handlers, of those whose designations have been canceled and the effective date of producer-handler status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1000.5 of this chapter that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

§ 1125.11 [Reserved]

§ 1125.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved by a duly constituted regulatory agency for disposition as Grade A milk and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1125.9(c); or

(3) Diverted from a pool plant in accordance with § 1125.13;

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him that is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1125.44(a)(9)(iii) and the corresponding step of § 1125.44(b);

(3) Any person with respect to milk produced by him that is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such order;

(4) Any person who during the month has disposed of as route disposition or to consumers at the farm an average of more than 110 pounds daily of fluid milk or fluid cream products; and

(5) Any person (known as a dairy farmer for other markets) whose milk was received at a nonpool plant or a commercial food processing establishment during the month as other than producer milk under this or any other Federal Milk order.

§ 1125.13 Producer milk.

"Producer milk" or "milk received from producers means skim milk and butterfat in milk produced by producers which is received for the account of a handler as follows:

(a) With respect to receipts at a pool plant, producer milk shall include:

(1) Milk received at such plant directly from producers;

(2) Milk diverted from such pool plant to a nonpool plant or pursuant to § 1125.40(b)(3) for the account of the operator of the pool plant, subject to the conditions set forth in paragraph (c) of this section; and

(3) Milk received at such pool plant from a cooperative association in its capacity as a handler pursuant to § 1125.9(c) for all purposes other than those specified in paragraph (b)(2)(f) of this section;

(b) With respect to milk for which a cooperative association is a handler in a capacity other than as the operator of a pool plant, producer milk include:

(1) Milk diverted from a pool plant to a nonpool plant or pursuant to § 1125.40(b)(3) for the account of the cooperative association, subject to the conditions set forth in paragraph (c) of this section; and

(2) Milk for which the cooperative association is a handler pursuant to § 1125.9(c) to the following extent:

(i) For purposes of reporting pursuant to §§ 1125.30(c) and 1125.31(a) and making payments to producers pursuant to § 1125.73(a); and

(ii) For all purposes, with respect to any such milk which is not delivered to the pool plant of another handler;

(c) With respect to diversions to nonpool plants or pursuant to § 1125.40(b)(3):

(1) Milk of any producer may be diverted by a cooperative association or its agent for its account pursuant to § 1125.9(b) from pool distributing plants to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk diverted may not exceed 80 percent during the months of September through April of the producer milk which the association or its agent causes to be delivered to pool distributing plants, or diverted therefrom. No percentage limit shall apply during the months of May through August;

(2) Milk of any producer may be diverted by a cooperative association or its agent for its account pursuant to § 1125.9(b) from pool supply plants to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the producer milk which the association or its agent causes to be delivered to all such pool supply plants or diverted therefrom during the month;

(3) A handler, other than a cooperative association, operating a pool distributing plant may divert therefrom for his account to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk diverted may not exceed 80 percent during the months of September through April of the milk received at or diverted from such handler's pool distributing plant from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1) or (c)(2) of this section and for which the operator of such plant is the handler during the month. No percentage limit shall apply the months of May through August;

(4) A handler, other than a cooperative association, operating a pool supply plant may divert therefrom for his account to nonpool plants or pursuant to § 1125.40(b)(3). The total quantity of milk so diverted may not exceed 50 percent of the total milk received at or diverted from such pool plant during the month from any producer other than a member of a cooperative association which markets milk under paragraph (c)(1) or (c)(2) of this section and for which the operator of such plant is the handler during the month;

(5) Milk diverted in excess of the limits specified shall not be considered producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler during the month;

(6) Two or more cooperative associations may have their allowable diversions computed on the basis of their combined deliveries of producer milk which the associations cause to be delivered to pool plants or diverted from pool plants during the month if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is to be effective. This request shall specify the basis for assigning overdiverted milk to the producer deliveries of each cooperative according to a method approved by the market administrator;

(7) For purposes of location adjustments pursuant to §§ 1125.52 and 1125.75, milk diverted to a nonpool plant or pursuant to § 1125.40(b)(3) shall be priced at the location of the plant or commercial food processing establishment to which diverted; and

(d) In the case of any bulk tank load of milk originating at farms and subsequently divided among plants, the proportion of the load received at each plant shall be prorated among the individual producers involved on the basis of their respective percentage of the total load.

§ 1125.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1125.40(b)(1) from any source other than producers, handlers described in § 1125.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1125.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1125.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1125.40(b)(1)) for which the handler fails to establish a disposition.

§ 1125.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: milk, skim milk, lowfat milk, milk drinks, buttermilk, mixtures of cream and milk or skim milk containing less than 18 percent butterfat (including those which are sterilized or aseptically packaged), filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use and milk or milk products (including filled milk) that are sterilized and packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1125.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 18 percent or more butterfat, with or without the addition of other ingredients.

§ 1125.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product; and contains less than 6 percent nonmilk fat (or oil).

§ 1125.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers, which the Secretary determines, after application by the cooperative association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act".

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk for its members; and

(c) To have its entire activities under the control of its members.

§ 1125.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1125.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average,

for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as on price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using them in point of any price range as one price) of edible whey powder of the Central States production area, as reported and published weekly by the Diary Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday, except national holidays.

Handler Reports

§ 1125.30 Reports of receipts and utilization.

On or before the 9th day of each month each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, the following information for the proceding month:

(a) Each handler operating a pool plant(s) shall report separately for each pool plant:

(1) The quantities of skim milk and butterfat contained in:

(i) Milk received directly from producers, showing separately any milk of own-farm production;

(ii) Milk received from a cooperative association pursuant to § 1125.9)c);

(iii) Fluid milk products and bulk fluid creams products received from other pool plants showing filled milk separately;

(iv) Other source milk showing filled milk separately; and

(v) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1125.40(b)(1).

(2) The utilization of all skim milk and butterfat required to be reported, including separate statements of quantities in route disposition inside and outside the marketing area.

(b) Each producer-handler shall report:

(1) The quantities of skim milk an butterfat contained in:

(i) Milk of own-farm production;

(ii) Receipts of fluid milk products and fluid cream products from pool plants, showing separately receipts in packaged form and in bulk; and

(iii) Other source milk, showing separately any receipts from another dairy farmer.

(2) As specified in paragraph (a)(2) of this section.

(c) Each cooperative association shall report with respect to milk for which it is the handler pursuant to either § 1125.9 (b) or (c):

(1) The quantities of skim milk and butterfat received from producers;

(2) The utilization of skim milk and butterfat for which it is the handler pursuant to § 125.9(b); and

(3) The quantities of skim milk and butterfat delivered to each pool plant pursuant to § 125.9(c).

(d) Each handler who operates a partially regulated distributing plant shall report as specified in paragraph (a)(1) and (2) of this section except that receipts from dairy farmers in Grade A milk shall be reported in lieu of those in producer milk. Such report shall include separate statements, respectively, showing the respective amounts of skim milk and butterfat disposed of as route disposition in the marketing area as Class I milk and the quantity of reconstituted skim milk in fluid milk products disposed of as route disposition in the marketing area.

(e) Each handler who operates an other order plant with route disposition of fluid milk products in the marketing area shall report the quantities of skim milk and butterfat in such disposition.

§ 1125.31 Payroll reports.

On or before the 22nd day of each month handlers shall report to the market administrator as follows:

(a) Each handler with respect to each of his pool plants and each cooperative association which is a handler pursuant to § 1125.9 (b) or (c) shall submit his producer payroll for deliveries (other than his own-farm production) in the preceding month which shall show:

(1) The total pounds of milk received from each producer, the pounds of butterfat contained in such milk, and the number of days on which milk was delivered by such producer in such month;

(2) The amount of payment to each producer and cooperative association; and

(3) The nature and amount of any deductions or charges involved in such payments; and

(b) Each handler operating a partially regulated distributing plant who wishes computations pursuant to § 1125.76(a) to be considered in the computation of his obligation pursuant to § 1125.76 shall submit his payroll for deliveries of Grade A milk by dairy farmers which shall show:

(1) The total pounds of milk and the butterfat content thereof received from each dairy farmer;

(2) The amount of payment to each dairy farmer (or to a cooperative association on behalf of such dairy farmer); and

(3) The nature and amount of any deductions or charges involved in such payments.

§ 1125.32 Other reports.

At such time and in such manner as the market administrator may prescribe, each handler shall report to the market administrator such information in addition to that required under §§ 1125.30 and 1125.31 as may be requested by the market administrator with respect to milk and milk products (including filled milk) handled by him.

Classification of Milk

§ 1125.40 Classes of utilization.

Except as provided in § 1125.42 all skim milk and butterfat required to be reported by a handler pursuant to § 1125.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section;

(2) In packaged inventory of fluid milk products at the end of the month; and

(3) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more non-milk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt,

except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In all bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment, or in producer milk diverted to a commercial food processing establishment in Pacific County, Washington, subject to the conditions of § 1125.42(e), at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk fluid form other than that specified in paragraph (c)(1)(iv) of this section.

(iv) Plastic cream, frozen cream and anhydrous milkfat.

(v) Custards, puddings, and pancake mixes;

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers; and

(vii) Any milk or milk products sterilized and packaged in hermetically sealed metal or glass containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1125.15; and

(6) In shrinkage assigned pursuant to § 1125.41(a) to the receipts specified in § 1125.41(a)(2) and in shrinkage specified in § 1125.41 (b) and (c).

§ 1125.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1125.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product.

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to a nonpool plant or to a commercial food processing establishment pursuant to § 1125.40(b)(3) and milk received from a handler described in § 1125.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1125.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to a nonpool plant or to a commercial food processing establishment pursuant to § 1125.40(b)(3), except that if the operator of the plant or establishment to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat test determined from farm bulk tank samples, the applicable percentage under this paragraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants, excluding the quantity for which Class II or Class III classification is requested by the operator of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section.

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1125.9 (b) or (c) but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. It the operator of a plant or a commercial food processing establishment pursuant to § 1125.40(b)(3) to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1125.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after

the computation pursuant to § 1125.44(a)(13) and the corresponding step of § 1125.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1125.44(a)(8) or the corresponding step of § 1125.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the laeast possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1125.44(a) (12) or (13) or the corresponding steps of § 1125.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustments when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1125.40.

(c) *Transfers and diversions to producer-handlers.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk if transferred or diverted in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (A) and (B) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(A) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1125.30 for the month within which such transaction occurred; and

(B) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(B) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(C) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(D) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extend possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(B) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(A) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(B) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned pro rata among such plants, to the extent possible first to any remaining Class I

utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Transfers and diversions to a commercial food processing establishment.* Skim milk and butterfat transferred or diverted to a commercial food processing establishment shall be classified:

(1) Subject to the provisions of § 1125.13(c) and, except as provided in paragraph (e)(2) of this section, as Class II milk if diverted pursuant to § 1125.40(b)(3); or

(2) Transfers or diversions shall be classified as Class I milk unless the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification.

§ 1125.43 General classification rules.

In determining the classification of producer milk pursuant to § 1125.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1125.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1125.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1125.40, 1125.41, and 1125.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1125.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association; and

(d) For classification purposes, pursuant to §§ 1125.40 through 1125.45, butterfat in skim milk, either disposed of to others or used in the manufacture of milk products shall be accounted for at a butterfat content of 0.060 percent unless the handler has adequate records of the actual butterfat content of such skim milk.

§ 1125.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1125.9(a) for each of his pool plants separately and of each handler described in § 1125.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1125.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(8)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the remaining pounds of skim milk Class I the pounds of skim milk in packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(5) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1125.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(6) Subract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1125.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(7) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1125.40(b) but not in excess of the pounds of skim milk remaining in Class II;

(8) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(6) of this section applies, packaged inventory at the beginning of the month of products specified in § 1125.40(b)(1) that was not subtracted pursuant to paragraph (a) (5), (6), and (7) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from a person described in § 1125.12(b)(5);

(9) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an

unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (8)(v) of this section for which the handler requests a classification other than Class I, but not in excess of pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (1)(2), (8)(v), and (9)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(9)(ii) (A) through (C) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extend of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount.

(A) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants on the handler);

(B) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(8)(vi) of this section; and

(C) Multiply any plus quantity resulting above by the precentages that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(8)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(10) Subtract from the pounds of skim milk remaining in each class, in series, beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1125.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(4), (6), and (8)(i) of this section;

(11) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(12) Subject to the provisions of paragraph (a)(12)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfer between pool plants of the handler), with the quantity pro rated, to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (8)(v), (9) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this paragraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted; and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this paragraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(8)(vi) and (9)(iii) of this section;

(i) Subject to the provisions of paragraph (a)(13) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(A) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1125.45(a); or

(B) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(13)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(13)(ii) of this section should the computations pursuant to paragraph (a)(13) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each

successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plant(s) shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(13) (ii) of this section, should the computations pursuant to paragraph (a)(13) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(14) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1125.42(a); and

(15) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(15) of this section and the corresponding step of paragraph (b) of this section.

§ 1125.45 Market Administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1125.44(a)(13) and the corresponding step of § 1125.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1125.44 on the basis of such report, and thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1125.50 Class prices.

Subject to the provisions of § 1125.52, the class prices for the month, per hundredweight of milk, shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.85.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c) (1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basis formula prices computed pursuant to § 1125.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basis Class II formula prices computed pursuant to § 1125.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month but not to exceed the price computed as follows:

(1) Multiply the Chicago butter price pursuant to § 1125.51 by 4.2;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids, spray process, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under paragraph (c) (1) and (2) of this section subtract 48 cents, and round to the nearest cent. § 1125.51 Basic formula price.

The "Basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to 3.5 percent butterfat, basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1125.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1125.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using

price data determined pursuant to § 1125.19 and yield factors in effect under the Diary Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Substract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1125.52 Plant location adjustment for handlers.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) Zone 1 shall include the Washington counties of King, Kitsap, Pierce, and Snohomish;

(2) Zone 2 shall include:

(i) The Idaho counties of Benewah, Booner, Boundary, Kootenai, Latach, Shoshone;

(ii) The Oregon counties of Benton, Clackamas, Columbia, Hood River, Linn, Marion, Multnomah, Polk, Wasco, Washington, and Yamhill; and

(iii) The Washington counties of Clark, Cowlitz, Ferry, Lincoln, Pend Orielle, Skamania, Spokane, Stevens, Wahkiakum, and Whitman;

(3) Zone 3 shall include the Washington counties of Island, Mason, Skagit, and Thurston;

(4) Zone 4 shall include the Washington counties of Grays Harbor, Lewis, Pacific, and Whatcom;

(5) Zone 5 shall include:

(i) The Idaho counties of Lewis and Nez Perce;

(ii) The Oregon counties of Gilliam, Morrow, Sherman, and Umatilla; and

(iii) The Washington counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Franklin, Garfield, Grant, Kittitas, Klickitat, Okanogan, Walla Walla, and Yakima; and

(6) Zone 6 shall include the Washington counties of Clallam, Jefferson, and San Juan.

(b) For milk received at a plant from producers and which is classified as Class I milk, the price specified in § 1125.50(a) shall be adjusted by the amount stated in paragraph (b) (1) and (2) of this section for the location of such plant:

(1) For plant located within one of the zones described in paragraph (a) (1) through (6) of this section, the adjustment shall be as follows:

	Adjustment per hundredweight
Zone 1	No adjustment.
Zone 2	Plus 10 cents.
Zone 3	Minus 4 cents.
Zone 4	Minus 6 cents.
Zone 5	Minus 10 cents.
Zone 6	Minus 16 cents.

(2) For a plant located outside of one of the zones described in paragraph (a) (1) through (6) of this section, the adjustment shall be minus 1.5 cents per hundredweight for each 10 miles or fractions thereof by shortest hard-surfaced highway distance that the plant is located from the nearer of the County Courthouse in Spokane or the County-City Building in Seattle;

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in pararaph (b) of this section, except that the price when adjusted for location shall not be less than the Class III price.

(d) For fluid milk products transferred in bulk from a pool plant to another pool plant at which a higher Class I price applies and which is classified as Class I, the price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant determined by the market administrator as follows:

(1) Subtract from the pounds of Class I remaining at the transferee-plant after the computations pursuant to § 1125.44 (a)(13) and (b) the pounds of packaged fluid milk products from other pool plants;

(2) Subtract the pounds of bulk fluids milk products received at the transferee-plant from the following sources:

(i) Producers;

(ii) Handlers described in § 1125.9(c); and

(iii) Pool plants at which the same or a higher Class I price applies.

(3) Assign any pounds remaining to transferor-plants in sequence beginning with the plant at which the least adjustment would apply; and

(4) Multiply the pounds so computed for each transferor-plant by the difference in the Class I price applicable at the transferee-plant and transferor-plant.

§ 1125.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 125.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing contituent determined by the Secretary to be equivalent to the pricing constituent that is required.

Uniform Price

§ 1125.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1125.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1125.44(c), by the applicable class prices (adjusted pursuant to § 1125.52) and add together the resulting amount;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1125.44(a)(15) and the corresponding step of § 1125.44(b) by the class prices applicable at the location of the pool plant, as adjusted by the butterfat differential specified in § 1125.74. In case overage occurs in a nonpool plant located on the same premises as a pool plant, such overage shall be prorated between the quantity transferred from the pool plant and other source milk in such nonpool plant, add an amount equal to the value of overage allocated to the transferred quantity at the class price applicable at the pool plant;

(c) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the class III price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1125.44(a)(8) (i) through (iv) and (vii) and the corresponding step of § 1125.44(b) excluding receipts of bulk fluid cream products from an other order plant;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1125.44(a)(8) (v) and (vi) and the corresponding step of § 1125.44(b);

(e) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price adjusted pursuant to § 1125.52, or the Class II price as the case may be, for the current month by the hunderdweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1125.44(a)(10) and the corresponding step of §1125.44(b); and

(f) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1125.44(a)(12) and the corresponding step of § 125.44(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by a handler fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order; and

(g) Add or subtract as the case may be, the amount necessary to correct errors as disclosed by the verification of reports of such handler of his receipts and utilization of skim milk and butterfat in previous months for which payment has not been made.

§ 1125.61 Computation of uniform price.

For each month the market administrator shall compute the "uniform price" per hundreweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1125.60 for all handlers who filed the reports prescribed by § 1125.30 for the month and who made the payments pursuant to § 1125.71 for the preceding month;

(b) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments computed pursuant to § 1125.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1125.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" milk received from producers.

§ 1125.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) the 14th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1125.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1125.71 and 1125.76 and out of which he shall make all payments to handlers pursuant to § 1125.72. However, the market administrator shall offset the payment due to a handler for such fund against payments due from such handlers.

§ 1125.71 Payments to the producer-settlement fund.

(a) On or before the 16th day after the end of the month during which the skim milk and butterfat were received each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the total amount specified in paragraph (a)(2) of this section:

(1) The sum of:

(i) The total value of milk of the handler for such month as determined pursuant to § 1125.60; and

(ii) For a cooperative association handler, the amount due from other handlers pursuant to § 1125.73(d) but without adjustment for butterfat;

(2) The sum of:

(i) The value of milk received by such handler from producers at the applicable uniform price pursuant to § 1125.73(a)(2) but without adjustments for butterfat;

(ii) The amount to be paid to cooperative associations pursuant to § 1125.73(d) but without adjustment for butterfat; and

(iii) The value at the uniform price for all skim milk and butterfat applicable at the location of the plant(s) from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1125.60(f); and

(b) On or before the 25th day after the end of the month, each handler operating a plant specified in § 1125.7(c) (2) and (3), if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the

producer-settlement fund an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in the marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area.

(2) Compute the value of the quantity assigned in paragraph (b)(1) of this section to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant (but not to be less than the Class III price) and subtract its value at the Class III price.

§ 1125.72 Payments from the producer-settlement fund.

On or before the 18th day after the end of the month during which the skim milk and butterfat were received, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1125.71(a)(2) exceeds the amount computed pursuant to § 1125.71(a)(1), and less any unpaid obligations of such handler to the market administrator pursuant to §§ 1125.71(a), 1125.77, 1125.85, and 1125.86. However, if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1125.73 Payments to producers and to cooperative associations.

(a) Each handler shall make payments to each producer for milk received from such producer during the month:

(1) On or before the last day of the month to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, at not less than the Class III price for the preceding month per hundredweight of milk received during the first 15 days of the month, less proper deductions authorized in writing by such producer; and

(2) On or before the 19th day after the end of each month for milk received from such producers during such month:

(i) At not less than the uniform price for the quantity of milk received, adjusted by the butterfat differential pursuant to § 1125.74 and by any location adjustments applicable under § 1125.75;

(ii) Minus payments made pursuant to paragraph (a)(1) of this section. However, if by such date such handler has not received full payment for such month pursuant to § 1125.72, he shall not be deemed to be in violation of this paragraph if he reduced uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator, however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator.

(b) The payments required in paragraph (a) of this section shall be made, upon request, to a cooperative association qualified under § 1125.18, or its duly authorized agent, with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this paragraph shall be made on or before 2 days prior to the dates specified in paragraph (a) of this section.

(c) Each handler shall pay to each cooperative association or its duly authorized agent which operates a pool plant for skim milk and butterfat received from such plant:

(1) On or before the 2nd day prior to the date specified in paragraph (a)(1) of this section for skim milk and butterfat received during the first 15 days of that month at not less than the Class III price for the preceding month; and

(2) On or before the 17 day after the end of such month, an amount of money computed by multiplying the total pounds of such skim milk and butterfat in each class pursuant to§ 1125.42(a) by the class price adjusted by the butterfat differential and taking into account any location adjustments as provided by § 1125.52 applicable at the pool plant of the cooperative association or its agent, minus payment made pursuant to paragraph (c)(1) of this section.

(d) Each handler who received milk for which a cooperative association is the handler pursuant to § 1125.9(c) shall pay such cooperative association for such milk received:

(1) On or before the 2nd day prior to the date specified in paragraph (a)(1) of this section for such milk received during the first 15 days of that month at not less than the Class III price for the preceding month; and

(2) On or before the 18th day after the end of each month, for the milk received a not less than the uniform price for all milk adjusted pursuant to §§ 1125.74 and 1125.75(b), minus payments made pursuant to paragraph (d)(1) of this section.

(e) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provision of the Act.

(f) In making payments to producers pursuant to this section, each handler, on or before the 19th day of each month shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show for the preceding month:

(1) The identity of the handler and the producer;

(2) The total pounds of milk delivered by the producer and the average butterfat test thereof and the pounds per shipment if such information is not furnished to the producer each day of delivery;

(3) The minimum rate at which payment to the producer is required under the provisions of this section;

(4) The rate per hundredweight and amount of any premiums or payments above the minimum price provided by the order;

(5) The amount or rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(g) In making payments to a cooperative association in aggregate pursuant to this section, each handler upon request shall furnish to the cooperative association, with respect to each producer for whom such payment is made, any or all of the above information specified in paragraph (f) of this section.

§ 1125.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago as reported by the Department for the month.

§ 1125.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payment to producers pursuant to § 1125.73(a) subject to the application of § 1125.13(c)(7) appropriate adjustments shall be made per hundredweight of milk received from producers at respective plant locations at the same rate as specified for Class I milk set forth in § 1125.52.

(b) In making payments to a cooperative association pursuant to § 1125.73(d) appropriate adjustments shall be made at the rates specified for Class I milk in § 1125.52 for the location of the plant at which the milk was received from the cooperative association.

(c) For purposes of computations pursuant to §§ 1125.71(a) and 1125.72 the uniform price for all milk shall be adjusted at the rates set forth in § 1125.52 for Class I milk applicable at the location of the nonpool plant from which the milk or filled milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1125.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operaters a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1125.30(d) and 1125.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed a follows:

(1)(i) the obligation that would have been computed pursuant to § 1125.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant, or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or Class III milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class III price. No obligation shall apply to Class I milk transferred to a pool plant or another order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants at which an equivalent amount of milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1125.60(f) and a credit in the amount specified in § 1125.71(a)(2)(iii) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the class III price, unless an obligation with respect to such plant is computed as specified in paragraph (a)(1)(ii) of this section; and

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1125.30(d) and 1125.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1125.7(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant adjusted to a 3.5 percent butterfat basis by the butterfat differential pursuant to § 1125.74, and like payments made by the operator of a supply plant(s) included in the computations pursuant to paragraph (a)(1) of this section and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(a) Determine the respective amounts of skim milk and butterfat disposed of as route disposition of Class I milk within the marketing area;

(2) Deduct the respective amount of skim milk and butterfat received at the plant:

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provisions of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not another order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any payment obligation under this or any other order;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of as route disposttion in the marketing area;

(4) [Reserved]

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class III price), and add for the quantity of reconstitutted skim milk specified in paragraph (b)(3) of this section its value computed at the Class I price applicable at the location of the nonpool plant (but not to be less than the Class III price) less the value of such skim milk at the Class III price.

§ 1125.77 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due:

(a) The market adminstrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred following the 5th day after such notice.

Administrative Assessment and Marketing Service Deduction

§ 1125.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1125.44(a) (8) and (12) and the corresponding steps of § 1125.44(b), except such other source milk on which no handler obligation applies pursuant to § 1125.60(f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the Class I milk:

(1) Received during the month at such plant from pool plants and other order plants that is not used as an offset under a similar provision of another order issued pursuant to the Act; and

(2) Specified in § 1125.76(b)(2) (ii).

§ 1125.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than with respect to milk of such handler's own production) pursuant to § 1125.73(a)(2), shall make a deduction of 5 cents per hundredweight of milk or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association.

(2) [Reserved]

(3) All milk received at a plant operated by a cooperative association from producers for whom the marketing services set forth below in this subparagraph are not being performed by the cooperative association as determined by the market administrator. Such deduction shall be paid by the handler to the market administrator on or before the 16th day after the end of the month. Such moneys shall be expended by the market administrator for the verification of weights, sampling and testing of milk received from producers, and in providing for market information to producers; such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of each producer:

(1) Who is a member of, who has given written authorization for the rendering of marketing service and the taking of deduction therefore to, a cooperative association;

(2) Whose milk is received at a plant not operated by such association; and

(3) For whom the market administrator determines that such association is performing the services described in paragragh (a) of this section, each handler shall deduct, in lieu of the deduction specified under paragragh (a) of this section, from the payments made pursuant to § 1125.73(a)(2) the amount per hundredweight on milk authorized by such producer and shall pay, on or before the 18th day after the end of the month, such deduction to the association entitled to receive it under this paragraph.

[FR Doc. 83-28934 Filed 10-24-83; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 83-49]

Rules, Policies and Procedures for Corporate Activities: Conversions

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (Office) is proposing to simplify and streamline its application process for state banks seeking to convert to a national banking association. The proposal eliminates the requirements that a bank file a formal application and publish notice in a newspaper. A notification procedure is substituted for the application. This proposal is intended to benefit national banks and the Office by removing burdensome and costly regulatory requirements while maintaining the Office's ability to render decisions based on the permissibility of the conversion and the condition of the bank. Procedures for a national bank to convert to a state bank are also addressed in the regulation; however, there is no significant change since the procedures presently incorporate only the minimum legal requirements.

DATE: Written comments must be submitted on or before November 25, 1983.

ADDRESS: Comments should be directed to: Docket No. 83-49, Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, East SW., Washington, D.C. 20219, Attention: C. Christine Jones.

Comments will be available for public inspection and photocopying at the same location.

The collection of information requirements contained in § 5.24(c)(2) of the proposed amendments have been submitted to the Office of Management and Budget for review under 44 U.S.C. 3504(h). OMB has requested that comments specifically addressing the information collection requirements contained in § 5.24(c)(2) should also be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20500, Attention: Desk Officer for Comptroller of the Currency.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Manager, Policy, or Joseph W. Malott, National Bank Examiner/Policy Analyst, Bank Organization and Structure, Office of the Comptroller of the Currency, (202) 447-1184.

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of this proposal is to minimize costs and burdens to banks and the Office by simplifying and streamlining the procedure for a state bank to convert to a national bank.

Background

This proposal is part of the Office's Corporate Activities Review and Evaluation (CARE) Program. That program which is described in The Federal Register (45 FR 68586), dated October 15, 1980, involves a comprehensive review of Office rules, policies, procedures, and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE Program are to minimize the costs and burdens on applicants, the agency and the public; to provide a better understanding of policies; to modify or eliminate rules, policies, procedures, and forms which are unnecessary or lead to inefficiencies; and to remove barriers to competition.

Proposal

The Office is proposing to revise 12 CFR 5.24, which prescribes the application process a state banking institution must use to obtain approval to convert to a national bank or vice versa. The procedure set forth in § 5.24 would be simplified for the conversion of a state bank to a national bank by substituting a letter notification procedure for the existing application procedure. The procedure by which a national bank converts to a state bank is at the minimum and remains unchanged; however, technical corrections are made to clarify Office policy and procedure.

The current state to national bank application process requires the applicant to provide a projected capital structure, proposed title, the corporate secretary's certification of a corporate resolution and various other items of information. The Office believes that the application process can be streamlined by eliminating the application and replacing it with a letter of intent which contains fewer items of information. The proposed letter contains only the information considered essential by the Office to render a decision. The bank must submit its letter of intent to the district office (regional office, if applicable) by hand or by mail, return receipt requested. The letter must be

signed by the president or cashier of the bank and include the most recent audited statement (if available), and the latest annual report to the shareholders. An opinion of the bank's legal counsel stating that the conversion is not in contravention of state law must be attached. The letter must also identify all authorized branches (approved and/or opened) if the bank intends to continue their operations. The letter must also indicate whether the bank conducts fiduciary activities and whether the bank intends to continue those activities.

Only technical changes are proposed to the Office policy concerning a converting bank's qualifications. These changes clarify the Office's position on maintaining a sound national banking system. First, the bank's overall condition will generally be determined through an OCC examination. The cost of the examination will be borne by the applicant. Further, the Office is clarifying its position on denials, i.e, a conversion may not be allowed if the bank's condition poses undue supervisory concern, or the conversion is being effected to escape supervisory action.

All previously required forms are eliminated, except for the Organizational Certificate. The Office will issue a charter evidencing approval immediately after the decision, provided the conversion meets all statutory and Office requirements.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354 5 U.S.C. 601 *et seq.*) the Secretary of the Treasury has certified that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments would ease the burden of the existing regulations. The effect of the amendments is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

Executive Order 12291

The Office has determined that the proposed amendments do not constitute a "major rule" and therefore do not require a regulatory impact analysis. The amendments would ease burdens imposed by regulations and would have no adverse effect on the operations of the depository institutions subject to them.

List of Subjects in 12 CFR Part 5

National banks Conversions.

Authority and Issuance

PART 5—[AMENDED]

Accordingly, the Comptroller of the Currency proposes to amend 12 CFR Part 5 as follows:

1. The authority citation for Part 5—Rules, Policies, and Procedures for Corporate Activities reads as follows:

Authority: 12 U.S.C. 1 *et seq.*

2. Section 5.24 is revised to read as follows:

§ 5.24 Conversion.

(a) *Authority.* 12 U.S.C. 1 *et seq.*, 12 U.S.C. 35, 214a, 214b and 214c.

(b) *Rules of general applicability.* Sections 5.8, 5.10, and 5.11 do not apply to this section. However, if in the judgment of the Office, a proposed conversion would represent a change in policy or raise issues of general importance to the public or banking industry, the Office may require compliance with these sections.

(c) *Conversion of a state bank to a national bank*—(1) *Policy.* A state bank (as defined by 12 U.S.C. 214) may convert to a national bank provided the conversion is in conformance with existing Federal statutes, rules and regulations. The conversion must not be in contravention of state law and must be authorized by vote of the shareholders owning not less than 51 percent of the capital stock of the bank.Capitalization must meet the requirements for new national banks. The Office will approve an institution's request to convert and retain all authorized branches and fiduciary powers when approval is consistent with maintaining a sound national banking system. A conversion may be prohibited if the bank's condition poses undue supervisory concern or the conversion is being effected to escape supervisory action. The qualifications of an applicant generally will be determined through an OCC examination of the bank. In reaching its decision, the Office will consider the following factors:

(i) *Condition.* The applicant's general condition should be satisfactory. Problems of safety or soundness may preclude approval. Such problems include an undue amount of criticized assets, particularly in relation to the capital base; serious or frequent violations of law, especially involving insiders; inadequate liquidity, adverse operating trends; poor internal controls; or other significant problems. Capital, earnings and retention of earnings must be sufficient to support the current and projected levels of operations.

(ii) *Management.* Management must have demonstrated the ability to supervise a sound banking operation. This determination will relate to the overall condition of the institution and to management's ability to recognize and correct deficiencies.

(iii) *Community.* The Office will assess the applicant's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank.

(2) *Procedure.* A banking institution which desires to convert to a national bank shall submit a letter of intent to convert to a natinal bank to the appropriate district office. The letter shall be signed by the president or cashier and include copies of the most recent audited statement (if available), the annual report to shareholders and an opinion from the bank's counsel that the conversion is not in contravention of state law. The letter shall also identify all authorized branches that the bank intends to operate after conversion. If the bank exercises fiduciary powers, it must indicate whether it wishes to continue to do so.

(3) *Decision.* If preliminary approval is granted, the Office will inform the bank of the additional steps required to effect conversion.

(4) *Commencement of business as national bank.* When all statutory requirements and other conditions have been met, the Office will issue a charter certificate. The charter will provide that the institution is authorized to commence business as a national bank as of a specified date.

(5) *Fees.* An initial filing fee of $2,500 is required at the time the letter of intent to convert to a national bank is forwarded to the district office. If an examination is performed, the applicant will be charged in accordance with Part 8 of this chapter.

(d) *Conversion of a national bank to a state-chartered bank*—(1) *Policy.* The conversion of a national bank to a state-chartered bank does not require Office approval. Additionally, the rules of general applicability (Subpart A) do not apply. Termination as a national banking association will be automatic upon completion of the requirements of 12 U.S.C. 214(a).

(2) *Procedure.* A national bank desiring to became a state bank should submit a letter to the appropriate district office advising of its intent to convert. The bank will be furnished with instructions to terminate its status as a national bank

(e) *Forms*—CC 7022–12: Organization Certificate.

Dated: September 8, 1983.

C. T. Conover,

Comptroller of the Currency.

Marie France,

Communications Division, Office of the Comptroller of the Currency.

[FR Doc. 83–28828 Filed 10–24–83; 8:45 am]

BILLING CODE 4810–33–M

FEDERAL RESERVE SYSTEM

12 CFR Part 215

Regulation O; Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks

[Docket No. R–0486]

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board of Governors of the Federal Reserve System proposes to amend Regulation O to implement amendments to the Federal Deposit Insurance Act and the Bank Holding Company Act Amendments of 1970 that were included in Title IV of the Garn-St Germain Depository Institutions Act of 1982.

The Board proposes to replace the reporting and disclosure requirements previously mandated by statute with the more limited reporting and disclosure provisions recommended by the Exam Council. Under the proposal, a member bank is required to disclose, upon request, the names of each executive officer and principal shareholder who has loans from either the bank itself or from its correspondent banks in an amount that equals or exceeds 5 percent of the reporting bank's capital and unimpaired surplus, or $500,000, whichever is less.

DATE: Comments must be received by November 25, 1983.

ADDRESS: Comments should be sent to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, D.C. 20551. Comments on that part of the proposed rule that comes within the scope of the Paperwork Reduction Act should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C., 20503, ATTN: Judy McIntosh (202) 395–6880.

FOR FURTHER INFORMATION CONTACT: Jennifer Johnson, Senior Counsel (202/452–3584), or Stephen Lovette, Supervisory Financial Analyst (202/452–3622), Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Prior to the enactment of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320, 96 Stat. 1469) ("Garn Act"), insured banks were required under 12 U.S.C. 1817(k)(1) and the Board's Regulation O (12 CFR 215.10), to file with their appropriate federal banking agency a report containing the following information with respect to the preceding calendar year:

(1) A list by name of each principal shareholder (i.e. each stockholder of record who directly or indirectly owns, controls, or had the power to vote more than 10 per centum of any class of voting securities of the bank) on December 31;

(2) A list by name of each executive officer and each principal shareholder of the bank, to whom or to whose related interests (i.e., any company controlled by the principal shareholders or executive officers, or any political or campaign committee that benefits them or is controlled by them) the bank had an extension of credit outstanding during the year; and

(3) The aggregate amount of all extensions of credit from the bank during the year to its executive officers, principal shareholders and their related interests.

The statute also required the bank or the federal banking agency to make the information available to the public upon request (12 U.S.C. 1817(k)(4)). In implementing this provision, section 215.10 of Regulation O required member banks to file the information on Form FFIEC 003 (OMB No. 7100–0033) on or before March 31 of each year.

Section 429 of the Garn Act deleted the specific items to be reported and disclosed pursuant to 12 U.S.C. 1817(k) and substituted a general provision authorizing each federal banking agency to issue rules and regulations to require the reporting and public disclosure of information by a bank or any executive officer or principal shareholder thereof concerning extensions of credit by the bank to any of its executive officers or principal shareholders or the related interests of such persons. Section 430 of the Garn Act provides that the provisions of 12 U.S.C. 1817(k) shall remain in effect until the new regulations authorized by the Act become effective.

Loans From Correspondent Banks

Also prior to the Garn Act, 12 U.S.C. 1972 (2)(G)(ii) and Regulation O (12 CFR 215.22) required each insured bank to compile and forward to its appropriate federal regulatory agency the following information regarding loans from correspondent banks to the executive officers and principal shareholders of the insured bank and to the related interests of such persons:

(1) The maximum amount of indebtedness of each such person to each of the bank's correspondent banks during the calendar year.

(2) The amount of indebtedness of each such person to the bank's correspondent bank that is outstanding as of ten days before the filing of the annual report by the executive officer or principal shareholder with the reporting bank; and

(3) The terms and conditions, including the range of interest rates charged for each extension of credit to each executive officer and principal shareholder and each of their related interests.

The required information is based on a compilation of the annual reports that each executive officer or principal shareholder must make, on Form FFIEC 004 (OMB No. 7100–0034) or a similar form containing identical information, to the board of directors of the bank pursuant to 12 U.S.C. 1972(2)(G)(i).[1] Regulation O currently requires that the information be reported to the bank on or before January 31 of the following year (12 CFR 215.22).

In addition, 12 U.S.C. 1972(2)(G)(iii) required each insured bank to include in the report made under 12 U.S.C. 1817(k) a list by name of each executive officer and principal shareholder who filed a report with the bank's board of directors pursuant to 12 U.S.C. 1972(2)(G)(i), and the aggregate amount of loans made by correspondent banks to executive officers and principal shareholders and their related interests. In implementing this provision, § 215.23 of Regulation O required member banks to file the information Form FFIEC 003 on or before March 31 of each year.

Section 428 of the Garn Act amended 12 U.S.C. 1972 (2)(G) by deleting subparagraphs (ii) and (iii) and substituting a general provision that authorizes the appropriate federal banking agencies to issue rules and regulations to require the reporting and public disclosure of information by any bank or executive officers or principal shareholders thereof of information concerning any extension of credit by a correspondent bank to the reporting bank's executive officers or principal shareholders, or the related interests of

[1] The Garn Act did not affect the provisions of 12 U.S.C. 1972(2)(G)(i); thus, the executive officers and principal shareholders must continue to provide this information to the board of directors of their banks.

such persons. Again, the Garn Act provides that the existing requirements remain in effect until the new regulations become effective.

Examination Council

On June 27, 1983, pursuant to 12 U.S.C. 3305(c) the Federal Financial Institutions Examination Council ("Exam Council") approved:

a. The elimination, subject to OMB clearance, of Form FFIEC 003, "Report on Ownership of the Reporting Bank and Indebtedness of Executive Officers and Principal Shareholders to the Reporting Bank and to Correspondent Banks". The elimination of this Form for state member banks has been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act and 5 CFR 1320.13.

b. The addition, subject to OMB clearance, to the quarterly Report of Condition required of all insured commercial banks of the following two items of information that, effective with the Report of Condition for December 31, 1983, will substitute for some of the information previously reported on Form FFIEC 003:

(1) The aggregate extensions of credit as of the reporting date by the reporting bank to all of its executive officers and principal shareholders, and the related interests of such persons (as defined in Federal Register Regulation O); and,

(2) The number of [these] individuals as of the reporting date whose extensions of credit from the reporting bank equal or exceed 5 percent of the reporting bank's equity capital or $500,000, whichever is less.

These additions for state member banks were submitted to OMB for review under section 3507 of the Paperwork Reduction Act and 5 CFR 1320.12. On September 28, 1983, OMB approved the addition of these items to the Reports of Condition (OMB No. 7100–0036).

c. The retention of Form FFIEC 004, "Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks," as a suggested form for use by executive officers and principal shareholders of insured banks to report—to the board of directors of their banks—information about their debts and the debts of their related interests to correspondent banks of their banks.

Finally, pursuant to 12 U.S.C. 3305(b), the Exam council recommended that the three federal bank regulatory agencies adopt, by December 31, 1983 regulations requiring each insured bank to publicly disclose, upon request, the names of its executive officers and principal shareholders who had extensions of credit outstanding to them or their related interests from their own banks or from their correspondent banks that equaled or exceeded 5 percent of the reporting bank's equity capital or $500,000 whichever is less. The names of the related interests need not be disclosed.

The Proposed Rule

The Board's proposal requires member banks to disclose upon request the names of each executive officer and principal shareholder who, together with their related interest, has loans outstanding from either the bank itself or from its correspondents that equaled or exceeded 5 percent of the reporting bank's capital and unimpaired surplus or $500,000, whichever is less. The Board's proposal contains the term "capital and unimpaired surplus" instead of equity capital as recommended by the Council. The use of the term "equity capital" in the regulation would result in two different definitions of capital in Regulation O which the Board believes would confuse banks and the general public.

The disclosure of the names of the executive officers and principal shareholders who borrowed from the reporting bank reflects information as of the end of the latest quarter; the disclosure of the names of the executive officers and principal shareholders borrowing from correspondent banks would contain information regarding loans outstanding at any time during the previous calendar year.

The Board believes the proposed amendment would provide to the public more current and meaningful data than the disclosures required under the existing provisions of 12 U.S.C. 1817(k)(4). Moreover, the data required for the disclosure is readily available from the internal records of the bank and from information submitted by the reporting bank's executive officers and principal shareholders to its board of directors on Form FFIEC 004.

The proposed rule also adds a requirement that member banks maintain records of requests from the public for the information covered by the regulation and of the disposition of such requests to assure compliance with the disclosure requirement.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354; 4 U.S.C. 601 *et seq.*), the Board of Governors System certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities that would be subject to the regulation. The proposed rule will liberalize existing regulations and will not have any particular impact on small entities subject to the regulation.

List of Subjects in 12 CFR Part 215

Banks, Banking, Credit, Reporting and recordkeeping Requirements.

PART 215—[AMENDED]

Accordingly, pursuant to its authority under 12 U.S.C. 1817(k) and 1972(2)(G)(ii) as amended, the Board proposes to amend 12 CFR Part 215, Regulation O, as follows:

1. Section 215.10 is revised to read as follows:

§ 215.10 Disclosure of credit from member banks to executive officers and principal shareholders.

(a) *Definitions.* For the purposed of this section the following definitions apply:

(1) *"Principal shareholder* of a member bank" means any person[7] (other than an insured bank, or a foreign bank as defined in 12 U.S.C. 3101(7)) that directly or indirectly, owns, controls, or has power to vote more than 10 percent of any class of voting securities of the member bank. The term includes a person that controls a principal shareholder (e.g., a person that controls a bank holding company). Shares of a bank (including a foreign bank), bankholding company, or other company owned or controlled by a member or individual's immediate family are presumed to be owned or controlled by the individual for the purposes of determining principal shareholder status.

(2) "*Related interest*" means any company controlled by a person and any political or campaign committee, the funds or services of which will benefit a person or that is controlled by a person. For the purpose of this section and Subpart B, a related interest does not include a bank or a foreign bank (as defined in 12 U.S.C. 3101(7)).

(b) *Public disclosure.* Upon request from the public, a member bank shall make available the names of its executive officers [8] and principal shareholders who have extensions of credit outstanding (either to the individuals or their related interests) from the member bank as of the end of

[7] The term "stockholder of record" appearing in 12 U.S.C. 1817(k)(1) and 1972(2)(G) is synonymous with the term "person."

[8] For purposes of this section and Subpart B, an executive officer of a member bank does not include an executive officer of a bank holding company of which the member bank is a subsidiary or of any other subsidiary of that bank holding company unless the executive officer is also an executive officer of the member bank.

the latest previous quarter of the year, in any amount that equaled or exceeded 5 percent of the member bank's capital and unimpaired surplus or $500,000-whichever is less. A member bank is not required to disclose the specific amounts of individual extensions of credit.

(c) *Maintaining records.* Each member bank shall maintain records of all requests for the information described in paragraph (b) of this section and the disposition of such requests. These records may be disposed of after two years from the date of the request.

2. Section 215.23 is revised to read as follows:

§ 215.23 Disclosure of credit from correspondent banks to executive officers and principal shareholders.

(a) *Public disclosure.* Upon request from the public, a member bank shall make available the names of its executive officers and principal shareholders who have extensions of credit outstanding (either to the individuals or their related interests) from the member bank's correspondent banks at any time during the previous calendar year in an amount that equaled or exceeded 5 percent of the member bank's capital and unimpaired surplus or $500,000, whichever is less. A member bank is not required to disclose the specific amounts of individual extensions of credit.

(b) *Maintaining records.* Each member bank shall maintain records of all requests for the information described in paragraph (a) of this section and the disposition of such requests. These records may be disposed of after two years from the date of the request.

3. Paragraph (a) of § 215.20 is revised and the first sentence of paragraph (b) is revised to read as follows:

§ 215.20 Authority purpose and scope.

(a) *Authority.* This subpart is issued pursuant to section 11(i) of the Federal Reserve Act (12 U.S.C. 248(i)) and 12 U.S.C. 1972 (2)(F)(vi).

(b) *Purpose and scope.* This subpart implements the reporting requirements of Title VIII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRA) (Pub. L. 95–630) as amended by the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320), 12 U.S.C. 1972 (2)(g).

Board of Governors of the Federal Reserve System, October 13, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–28804 Filed 10–24–83; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 224

[Docket No. R–0487]

Borrowers of Securities Credit; Complete Revision and Simplification of Regulation X

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board proposes to revise, in its entirety, Regulation X, which governs borrowers who obtain credit for the purpose of purchasing or carrying securities. The proposed Regulation X is written in simplified language, organized in a logical fashion and reduced in regulatory burden.

The major substantive change proposed for Regulation X is the exclusion from regulation of purely domestic borrowings. Credit involved in such transactions is already regulated by margin rules applicable to lenders. In addition, the proposed revision would increase the exemption for purpose credit obtained by U.S. persons residing abroad from $5,000 to $100,000.

DATE: Comments should be received on or before November 30, 1983.

ADDRESS: Comments, which should refer to Docket No. R–0487, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, D.C. 20551 or delivered to Room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may also be inspected at Room B–1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer, or Robert Lord, Attorney, Divison of Banking Supervision and Regulation (202) 452–2781.

SUPPLEMENTARY INFORMATION: Regulation X, governing borrowers who obtain credit to purchase securities, is being revised in its entirety. The proposed revision follows the format of the recently revised Regulations G, T, and U in that it has been reorganized in a logical fashion, its language has been simplified and obsolete provisions have been removed. Definitions which are in the applicable lender regulation have been eliminated as superfluous because the borrower must look to the applicable lender regulation in any event.

The major substantive change proposed for Regulation X is the exclusion from regulation of purely domestic borrowings. Credit involved in such transactions is already regulated by margin rules applicable to lenders. In addition, the proposed revision would increase the exemption for purpose credit obtained by U.S. persons residing abroad from $5,000 to $100,000.

The section providing for an exemption for borrowings made in connection with clearing, market-making, or arbitrage transactions in certain offshore debt securities, the purchase of which gave rise to federal tax liability, has been removed in its entirety. It is believed that this exemption is no longer necessary in light of its very limited application and the repeal of the Interest Equalization Tax (see Pub. L. 94–455) which created the aforementioned tax liability.

Although credit extended to a U.S. person by a foreign branch of a U.S. broker/dealer will still be subject to Regulation T, the provision that applied the same treatment to credit extended by a subsidiary of a broker/dealer (even when that subsidiery is a merchant bank) has been removed. This will parallel the structure in Regulation U concerning bank lending abroad where a U.S. borrower is subject to Regulation U only if the person borrows from a branch of a U.S. bank. If this change is adopted, purpose credit extended to United States persons by a foreign subsidiary of a broker/dealer would be subject to the credit limitations of Regulation G.

The "aiding and abetting" clause of Regulation X (12 CFR 224.6(b)) is proposed to be deleted because such liability is already implied in the general body of securities law.

Finally, under the proposed revision, the Form X–1 would no longer be required. Experience has not demonstrated that a requirement to use the form is necessary to effect compliance with the Regulation. In any event, the information required to be maintained on the form could be obtained through legal process.

Initial Regulatory Flexibility Analysis

The changes proposed pursuant to this action are part of a program to simplify all of the Board's regulations and to reduce specific administrative and regulatory burdens. The Board certifies for purposes of 5 U.S.C. 605(b)), therefore, that the proposed simplification of Regulation X is not expected to have any adverse impact on a substantial number of small businesses.

List of Subjects in 12 CFR Part 224

Banks, Banking, Borrowers, Brokers, Credit, Margin, Margin requirements.

Accordingly, pursuant to sections 3, 7, 8, 17 and 23 of the Securities Exchange

Act of 1934, as amended (15 U.S.C. 78c, 78g, 78h, 78q, and 78w) the Board proposes to revise 12 CFR Part 224 (Regulation X) to read as follows:

PART 224—BORROWERS OF SECURITIES CREDIT

Sec.
224.1 Authority, purpose, and scope.
224.2 Definitions.
224.3 Margin regulations to be applied by non-exempted borrowers

Authority: Secs. 3, 7, 8, 17, and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c, 78g, 78h, 78q, and 78w).

§ 224.1 Authority, purpose, and scope.

(a) *Authority and purpose.* Regulation X (this part) is issued by the Board of Governors of the Federal Reserve System (the Board) under the Securities Exchange Act of 1934, as amended (the Act) (15 U.S.C. 78a et seq.). This part implements section 7(f) of the Act (15 U.S.C. 78g(f)), the purpose of which is to require that credit obtained within or outside the United States complies with the limitations of the Board's Margin Regulations G, T, and U (12 CFR Parts 207, 220, and 221, respectively).

(b) *Scope and exemptions.* The Act and this part apply the Board's margin regulations to United States persons and foreign persons controlled by or acting on behalf of or in conjunction with United States persons (borrowers), who obtain credit outside the United States to purchase or carry United States, securities, or within the United States to purchase or carry any securities (both types of credit are hereinafter referred to as purpose credit). The following borrowers are exempt from the Act and this part:

(1) Any borrower who obtains credit within the United States that is subject to Regulation G, T, or U;

(2) Any borrower whose permanent residence is outside the United States and who does not obtain or have outstanding, during any calendar year, a total of more than $1000,000 in purpose credit obtained outside the United States; and

(3) Any borrower who is exempt by Order upon terms and conditions set by the Board.

§ 224.2 Definitions.

The terms used in this part have the meanings given to them in sections 3(a) and 7(f) of the Act, and in Parts 207, 220, and 221 of this chapter (Regulations G, T, and U). Section 7(f) of the Act contains the following definitions:

(a) "United States person" includes a person which is organized or exists under the laws of any State or, in the case of a natural person, a citizen or resident of the United States; a domestic estate; or a trust in which one or more of the foregoing persons has a cumulative direct or indirect beneficial interest in excess of 50 per centum of the value of the trust.

(b) "United States security" means a security (other than an exempted security) issued by a person incorporated under the laws of any State, or whose principal place of business is within a State.

(c) "Foreign person controlled by a United States person" includes any noncorporate entity in which United States persons directly or indirectly have more than a 50 per centum beneficial interest, and any corporation in which one or more United States persons, directly or indirectly, own stock possessing more than 50 per centum of the total combined voting power of all classes of stock entitled to vote, or more than 50 per centum of the total value of shares of all classes of stock.

§ 224.3 Margin regulations to be applied by non-exempted borrowers.

(a) *Types of credit transactions.* No borrower shall obtain purpose credit from outside the United States unless it conforms to the following margin regulations:

(1) Regulation T (12 CFR Part 220) if the credit is obtained from a foreign branch of a broker-dealer;

(2) Regulation U (12 CFR Part 221) if the credit is obtained from a foreign branch of a bank, except for the requirement of a purpose statement (12 CFR 221.3(a)); and

(3) Regulation G (12 CFR Part 207) if the credit is obtained from any other lender, except for the requirement of a purpose statement (12 CFR 207.3(a)).

(b) *Inadvertent noncompliance.* No borrower who inadvertently violates this part and who acts to remedy the violation as soon as practicable shall be deemed in violation of this part.

By order of the Board of Governors of the Federal Reserve System, October 19, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-28903 Filed 10-24-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-ANE-03]

Airworthiness Directives; Pratt & Whitney Aircraft Models JT8D-1, -1A, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, and -17AR Turbofan Engines

AGENCY: Federal Aviation Administration, (FAA), (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing Airworthiness Directive (AD), applicabe to Pratt & Whitney Aircraft JT8D-9, -9A, -11, -15, -17, and -17R engine models by requiring the addition of JT8D-15A, -17A, and -17AR model engines and provides a 6,000 cycle reinspection interval for disks operated in the higher thrust rated engine models and subsequently inspected and installed in one of the lower thrust rated JT8D-1, -7 engines. This amendment is needed to prevent compressor disk rupture and subsequent engine failure.

DATES: Comments must be received on or before December 27, 1983. Proposed effective date January 27, 1984.

ADDRESSES: Comments on the proposal may be mailed or delivered in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, New England Region. Attn: Rules Docket No. 81-ANE-03, 12 New England Executive Parks, Burlington, Massachusetts 01803;

The applicable Alert Service Bulletin (ASB No. 4723, Revision 9) may be obtained from Pratt & Whitney Aircraft, Commercial Products Division, 400 Main Street, East Hartford, Connecticut 06108.

A copy of the Alert Service Bulletin is contained in the Rules Docket, 81-ANE-03, Federal Aviation Administration, Regional Counsel 12 New England Executive Park, Burlington, Massachustts 01803; telephone (617) 273-7385.

FOR FURTHER INFORMATION CONTACT: W. Locke Easton, Transport Engine Section, ANE-141, Engine Certification Branch, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7347.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should idenify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Federal Aviation Administration, Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7385, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed amendment, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket Number 81–ANE–03. The postcard will be date/time stamped and returned to the commenters.

This notice proposes to further amend Amendment 39–4083 (46 FR 21596) AD 81–08–02 as amended by Amendment 39–4432 (47 FR 34360) which currently requires initial and repetitive inspection intervals of stages 9–12 high pressure compressor disks at tie rod holes. The inspection and reinspection intervals vary by engine model, decreasing intervals with increased thrust rated engine models. An installed on-wing inspection for the 10th stage disk is included as an option. This present inspection compliance schedule is in accordance with Pratt & Whitney Aircraft Alert Service Bulletin 4723, Revisions No. 8. After issuing Amendment 39–4432, the FAA has determined that "A" series Engine conversion kits are now available to convert JT8D–15, –17, and –17R engine models to JT8D–15A, –17A and –17A engine models. Therefore, the FAA is considering further amending Amendment 39–4083 (as amended) by including Pratt & Whitney Aircraft JT8D–15A, –17A, and –17AR engine models in the inspection process. Also included in the amendment will be provision for a 6,000 cycle reinspection interval for disks operated in higher thrust rated engines and subsequently inspected and installed in one of the lower thrust rated JT8D–1, –7 engines.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety, and Incorporation by reference.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the FAA proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by further amending Amendment 39–4083 (46 FR 21596), AD 81–08–02 as amended by Amendment 39–4432 (47 FR 347360), to read as follows:

Pratt & Whitney Aircraft: Applies to Pratt & Whitney Aircraft models JT8D–1, –1A, –7, –7B, –9, –9A, –11, –15, –15A, –17, –17A, and –17AR turbofan engines.

Compliance required as indicated, unless already accomplished in accordance with Pratt & Whitney Aircraft Alert Service Bulletin Number 4723, Rivision 7, dated February 16, 1981, or Revision 8, dated July 9, 1982. Inspection methods and intervals subsequent to the effective date of this AD must be in accordance with Revision 9 or later FAA approved revision of the above Alert Service Bulletin.

To prevent crack propagation and possible disk failure, inspect stages 9 through 12 HPC disks at the tierod holes in accordance with Pratt & Whitney Alert Service Bulletin Number 4723, Revision 9, dated June 13, 1983, or later revision or equivalent means approved by the Manager, Engine Certification Branch, New England Region.

Accomplish first inspection and reinspection at the intervals specified by stage and engine model in Tables I through V and Table VIII of Alert Service Bulletin 4723, Revision 9. Disks inspected prior to the first inspection limit must be reinspected before reaching the specified reinspection interval, or reaching the first inspection limit, whichever is later. In no case shall the established life limits of the disk be exceeded.

Remove cracked disks from service prior to further flight. They may be returned to service if repaired in accordance with Paragraph 6 of the above Alert Service Bulletin 4723, Revision 9.

Upon request of the operator, an FAA Airworthiness Inspector, subject to prior approval of the Manager, Engine Certification Branch, FAA, New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection of the operator if the request contains substantiating data to justify the increase for that operator.

This proposed amendment will supersede AD 81–08–02 R1 effective August 15, 1982.

The FAA will request **Federal Register** approval to incorporate by reference the manufacturer's Alert Service Bulletin identified and described in this directive.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.85)

Note:—The FAA has determined that this proposed amendment only involves operators of JT8D–15, –17, and –17R engines who have elected to convert to JT8D–15A, –17, and –17AR engines. During the conversion the engines would comply with Revision 9 or would have already been in compliance with Revision 7 or 8 Pratt & Whitney Aircraft Alert Service Bulletin Number 4723.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on October 13, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-28695 Filed 10-24-83; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79–NE–09]

Airworthiness Directives; Pratt & Whitney Aircraft Models JT8D–9, –9A, –11, –15, –15A, –17, –17A, –17R, –17AR

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing Airworthiness Directive (AD), applicable to Pratt & Whitney Aircraft JT8D–9, –9A, –11, –15, –17, and –17R engine models by requiring the addition of JT8D–15A, –17A, and –17AR model engines that have or will be obtained by conversion. The amendment is needed to detect cracks in front compressor front hub blade slots which could result in fracture of the retaining lugs and release of first stage blades in service.

DATES: Comments must be received on or before December 27, 1983. Proposed effective date January 27, 1984.

ADDRESSES: Comments on the proposal may be mailed or delivered in duplicate to the Federal Aviation Administration,

Office of the Regional Counsel, New England Region, Attn: Rules Docket No. 78–NE–09, 12 New England Executive Park, Burlington, Massachusetts 01803;

The applicable Alert Service Bulletin (ASB No. 4841, Revision 6) may be obtained from Pratt & Whitney Aircraft, Commercial Products Division, 400 Main Street, East Hartford, Connecticut 06108.

A copy of the Alert Service Bulletin is contained in the Rules Docket, No. 78–NE–09, Federal Aviation Adminstration, Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7385.

FOR FURTHER INFORMATION CONTACT:
W. Locke Easton, Transport Engine Section, ANE–141, Engine Certification Branch, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7347.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Federal Aviation Administration, Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7385, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed amendment, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 78–NE–09." The postcard will be date/time stamped and returned to the commenter.

This notice proposes to further amend Amendment 39–3281 (43 FR 36430) AD 78–17–02 as amended by Amendment 39–4334 (47 FR 9815) AD 78–17–02 R1 and further amended by Amendment 39–4407 (47 FR 27847) which currently requires front compressor front hub blade slot initial inspections at 8,000 cycles to 13,000 cycles with repetitive inspections from 5,000 to 6,000 cycles depending on the engine model. An on-wing ultrasonic reinspection interval from 1,500 to 2,000 cycles depending on the engine model is included as an option. This present inspection compliance schedule is in accordance with Pratt & Whitney Aircraft Alert Service Bulletin 4841, Revision No. 5. After issuing Amendment 39–4407, the FAA has determined that "A" series engine conversion kits are now available to convert JT8D–15, –17, and –17R models to JT8D–15A, –17A and –17AR models. Therefore, the FAA is considering further amending 39–3281 (as amended) by including Pratt & Whitney Aircraft JT8D–15A, –17A, and –17AR engine models in the inspection process.

List of Subjects in 14 CFR Part 39

Engine, Air transportation, Aircraft, Aviation safety, Safety, and Incorporation by Reference.

PART 39—[AMENDED]

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by further amending Amendment 39–3281 (43 FR 36430) AD 78–17–02 as amended by Amendment 39–4334 (47 FR 9815) AD 78–17–02 R1 and further amended by Amendment 39–4407 (47 FR 27847) to read as follows:

Pratt & Whitney Aircraft: Applies to Pratt & Whitney Aircraft models JT8D–9, –9A, –11, –15, –15A, –17, –17A, –17R, –17AR.

Compliance is required as indicated, unless already accomplished, in accordance with Pratt & Whitney Aircraft Alert Service Bulletin 4841, Revision Number 6 or later approved revision or equivalent means approved by the Manager, Engine Certification Branch, New England Region.

To detect cracks in compressor front hubs, P/Ns 594301, 701801, 640601, 743301, 750101, and 749801, except those excluded by serial number in Pratt & Whitney Aircraft Alert Service Bulletin No. 4841, Revision 6, dated July 15, 1983, or later FAA approved revision, which could result in fracture of the retention lugs and release of first stage fan blades, accomplish the following:

(A) Inspect front compressor front hubs for cracks in the blade slots in accordance with Pratt & Whitney Aircraft Alert Service Bulletin No. 4841, Revision 6, dated July 15, 1983, or later FAA approved revision, or equivalent means approved by the Manager, Engine Certification Branch, New England Region, and in accordance with limits specified in Paragraphs (B) and (C) of this AD. Remove cracked compressor front hubs prior to further flight.

(B) Hubs not previously inspected shall be inspected within 1,000 cycles from the effective date of this AD or before reaching the initial inspection limits specified in Column I of Paragraph (D), whichever occurs later, except do not exceed 13,000 total cycles. Repeat inspections at intervals listed in Column II, or Column III, Paragraph (D), thereafter.

(C) Hubs which have been previously inspected shall be reinspected within 1,000 cycles after the effective data of this AD or before reaching the initial inspection limit specified in Column I, Paragraph (D), or before reaching the repetitive inspection limits specified in Column II or Column III of Paragraph (D), whichever comes later. Repeat inspections at intervals listed in Column II or Column III, Paragraph (D), thereafter.

(D)

Model	Column I, initial inspection limit (cycles)	Column II, Eddy current repetitive inspection limit (cycles)	Column III, on-wing ultrasonic repetitive inspection limit (cycles)
JT8D–9, –9A	13,000	5,000	2,000
JT8D–11	10,500	5,000	2,000
JT8D–15, –15A	8,500	5,000	1,500
JT8D–17, –17A	8,500	5,000	1,500
JT8D–17R, –17AR	8,000	5,000	1,500

Note.—If the initial inspection or repetitive inspection is achieved by the on-wing ultrasonic inspection, the Column III limits in paragraph (D) apply. If, however, the initial inspection or repetitive inspection is achieved by an eddy current inspection on an uninstalled engine, the Column II inspection limits of paragraph (D) would apply.

(E) Upon request of the operator, an FAA maintenance inspector, subject to the approval of the Manager, Engine Certification Branch, FAA, New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(F) For hubs that have been installed in more than one engine model, the inspection schedule for the engine model with the highest thrust rating in which it has operated is applicable.

This proposed amendment will supersede AD 78–17–02 R2 effective June 28, 1982.

The FAA will request Federal Register approval to incorporate by reference the manufacturer's Alert Service Bulletin identified and described in this directive.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106 (g) (Revised

Pub. L. 97-449, January 12, 1983); 14 CFR 11.85)

Note.—The FAA has determined that this proposed amendment only involves operators of JT8D-15, -17, and -17R engines who have elected to convert to JT8D-15A, -17A, and -17AR engines. During the conversion the engines would comply with Revision 6 or would have already been in compliance with Revision 5 of Pratt & Whitney Aircraft Alert Service Bulletin Number 4841. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexbility Act.

Issued in Burlington, Massachusetts, on October 13, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-28937 Filed 10-24-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 802 3030]

American Express Company; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a New York City credit card company, among other things, to cease failing to prevent computerized collection letters from being sent to cardholders who have written the company of a billing error and who are withholding payment pending resulution of the dispute. The company would be required to forfeit the amount in dispute, up to $50, should it fail to comply with the Fair Credit Billing Act's billing error resolution procedures and maintain for at least two years, records evidencing compliance with the Act's provisions. The order would additionally require the company to resolve billing errors involving foreign merchants within the lesser of 90 days or 2 complete billing cycles from the date of receiving a billing error notice.

DATE: Comments must be received on or before December 27, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PD, Anne P. Fortney, Washington, D.C. 20580 (202) 724-1119.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Credit cards, Trade practices.

In the matter of American Express Company, a corporation; Agreement Containing Consent Order to Cease and Desist File No. 802 3030.

The Federal Trade Commission having initiated an investigation of certain acts and practices of American Express Company, a corporation, and it now appearing that American Express Company, a corporation, hereinafter sometimes referred to as respondent or proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between American Express Company, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent American Express Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at American Express Plaza, New York, New York 10004.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that if it is accepted by the Commission and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent (1) issue its complaint, corresponding in form and substance with the draft of complaint here attached, and its decision, containing the following order to cease and desist ("Order"), in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the Order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or in this agreement may be used to vary or contradict the terms of the Order.

7. Proposed respondent has read the proposed complaint and Order. It understands that once the Order has been served (1) it will be required to file one or more compliance reports showing

it has fully complied with the Order and (2) it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

For purposes of this Order, the terms "billing error," "billing-error notice," "cardholder," "consumer credit," "credit card," and "state" shall be defined as these terms are defined in Regulation Z (12 CFR 226), the implementing regulation of the Truth in Lending Act (15 U.S.C. 1601 *et seq.*).[1]

It is ordered that respondent American Express Company, a corporation, its successors and assigns in any state, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in any state, in connection with any consumer credit transaction involving the use of any credit card issued by respondent to a resident of any state, do forthwith cease and desist from:

1. Failing, following respondent's receipt of a billing-error notice from a cardholder who has withheld payment of a disputed amount, to prevent respondent's computerized collection procedures from causing collection letters to be mailed to the cardholder to collect any portion of an amount indicated in the cardholder's notice as being a billing error (or any finance charge, late payment charge, or other charge computed on such disputed amount) prior to resolving the dispute, as required by § 226.13(d)(1) of Regulation Z.

2. Failing, following respondent's receipt of a billing-error notice from a cardholder concerning a transaction outside the United States between the cardholder and a foreign business entity that honors any credit card issued by respondent, to resolve the billing error within the lesser of ninety (90) days or two (2) complete billing cycles from the date of receipt of the billing-error notice, as required by § 226.13(c)(2) of Regulation Z.

3. Failing to establish procedures which will require that, if correspondence is received from cardholders alleging, or reciting facts which on their face show, noncompliance with §§ 226.13 (c) or (d)(1) of Regulation Z, such correspondence will be forwarded to personnel with authority to take appropriate action to comply with the forefeiture provision of Section 161(e) of the Truth in Lending Act.

4. Failing to keep evidence of compliance with § 226.13 of Regulation Z for a period of two (2) years, as required by § 226.25(a) of Regulation Z.

Provided that respondent shall not be liable for a civil penalty for any violation of this Order if it shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error or mistake notwithstanding the maintenance of procedures reasonably adapted to avoid any such error or mistake.

It is further ordered that respondent distribute a copy of this Order to each of respondent's present and future supervisory personnel who are responsible for operations relating to resolution of credit card billing errors, and that respondent secure a signed statement acknowledging receipt of a copy of this Order from each such person.

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other changes in the corporation that may affect compliance obligations arising out of this Order.

It is further ordered that respondent herein shall, within ninety (90) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the American Express Company.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed consent order.

The proposed complaint alleges that American Express Company violated the Fair Credit Billing Act (FCBA), a part of the Truth in Lending Act, by:

- Attempting to collect and collecting from its cardholders amounts alleged by cardholders to be in error prior to resolving the disputes;
- Failing to resolve alleged billing errors involving foreign merchants within the lesser of two billing cycles or 90 days after receiving the billing error notification;
- Failing to honor the foreiture penalty as required by the FCBA in instances in which it failed to follow the billing error resolution procedures of the FCA; and
- Failing to maintain adequate records of its handling of alleged billing errors.

The proposed order prohibits American Express Company from;

- Attempting to collect from cardholders amounts alleged as billing errors prior to resolving the disputes;
- Failing to resolve alleged billing errors involving foreign merchants within the prescribed time period;
- Failing to establish procedures that ensure compliance with the FCBA forfeiture provision; and
- Failing to maintain adequate records of its handling of alleged billing errors for a period of at least two years.

The proposed order effectively precludes any American Express division or subsidiary that provides credit card services in the future from engaging in the practices alleged in the complaint.

Regulation Z was amended on April 1 1981 to implement the Truth in Lending Simplification Act. The proposed complaint refers to Regulation Z as amended prior to that date. The proposed order is prospective and therefore refers to the revised sections of Regulation Z, amended as of April 1, 1981.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 83-29000 Filed 10-24-83; 8:45 am]

BILLING CODE 6750-01-M

[1] All reference to the Truth in Lending Act and Regulation Z contained in this Order shall refer to the Truth in Lending Act as amended to March 31, 1980 and Regulation Z as amended to April 1, 1981.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 300

[Docket No. RM80-40-000]

Procedures and Filing Requirements for Rates of Power Marketing Agencies

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to adopt procedures and filing requirements for the final approval of rates submitted by power marketing agencies (PMA's). These power marketing agencies include the Alaska Power Administration, Southeastern Power Administration, Southwestern Power Administration and Western Area Power Administration. The Commission has been engaging in an ongoing consultation with these PMA's to develop approprate filing and procedural requirements for rates established by these agencies. The Commission recently issued a final rule detailing the filing and procedural requirements for Bonneville Power Administration. The Commission proposes adopting these same filing and procedural requirements for the other PMA's that were adopted for BPA, with editorial changes as appropriate. Additionally, the Commission requests comments on various substantive issues relating to all PMA's.

DATES: Comments must be submitted on or before December 20, 1983. All comments must reference Docket No. RM80-40-000 on the cover page.

ADDRESSES: All comments must be mailed or delivered to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Proposed Rulemaking

Filing Requirements and Procedures for the Approval of Rates of Federal Power Marketing Agencies; Docket No. RM80-40-000.

Issued: October 21, 1983.

I. Background

The Federal Energy Regulatory Commission (Commission) is proposing to establish procedures and filing requirements for the approval of rates submitted by the Alaska Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, and the Western Area Power Administration (Power Marketing Agencies or PMA's). In addition, the Commission is also requesting comments on four substantive issues related to review of PMA rates generally, including the Bonneville Power Administration (BPA).

In conjunction with this proposed rule, the Commission has issued a final rule establishing filing requirements and procedures for confirmation and approval of rates of the BPA under the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839-839h (Supp. V 1981). [1] The Commission proposed that the filing requirements adopted for BPA be applied to the other PMA's, with necessary modifications, and therefore, incorporates that final rule into this notice by reference.[2]

The Commission approves the rates of the PMA's pursuant to a delegation from the Secretary of Energy. Delegation Order No. 0204-33, To the Assistant Secretary for Resource Application and the Federal Energy Regulatory Commission, 43 FR 60,636 (1978). The Commission has on a number of occasions indicated that its review of the rates of PMA's is different from its traditional review of rates under the Federal Power Act. The PMA's file a rate with the Commission only after engaging in extensive public proceedings. The Commission has stated that "its role ultimately could be viewed as in the nature of an appellate court," deciding whether proposed rates have a rational basis and are consistent with statutory requirements.[3]

Prior to the enactment of the Department of Energy Act, 42 U.S.C. 7101-7552 (Supp. V 1981), the Federal Power Commission (FPC) reviewed and approved the rates of all PMA's, except the Western Area Power Administration. Neither the FPC nor this Commission, however, has ever promulgated regulations governing the procedures and filing requirements for the review of the rates of the PMA's. The content of some filings, therefore, has not been adequate for the Commission to reach a decision, thereby creating delays and uncertainties. Additionally, the disparity of the filings among the various PMA's make Commission review difficult and parties have been confused as to the procedures to be followed in routine PMA rate cases.

Commission staff has consulted with the PMA's to develop appropriate filing requirements for rates established by these agencies. This effort to develop uniform filing requirements and procedures has been facilitated by the requirement that the Commission develop regulations for BPA under the Northwest Power Act.

II. Proposal to Apply the BPA Filing Requirements to Other Federal Power Marketing Authorities

The Commission proposes that the requirements of the final BPA rule also be adopted for other PMA's, insofar as permitted by the statutes governing those agencies and the Commission's rate approval authority. Commenters and interested persons are directed to the content of the BPA rule for a summary of the rule and the regulatory text as well as the special issues and background supplied in this notice.

A. Differences From the BPA Rule

Some of the filing requirements and procedures that are applicable to BPA under the Northwest Power Act will have no application to other PMA's.[4] For example, the rates of other PMA's are not subject to interim approval by this Commission. The authority to grant interim approval to rates of PMA's other than BPA resides in the Secretary of Energy.[5] Accordingly, the Commission proposes the following changes in the BPA final rule to accommodate the other PMA's.

For the most part, the filing requirements in Subpart B of the BPA rule would be applicable to all PMA's. The Commission believes that the data required for Commission review should be the same in all PMA rate cases, including BPA rate cases.[6] Additionally,

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[1] Order No. 323, issued August 9, 1983, Docket No. RM82-6, 48 FR 37,006 (August 16, 1983).

[2] The text of the BPA rule is published at 48 FR pages 37,012-37,015 (August 16, 1983).

[3] Western Area Power Administration, 21 FERC Rep. ¶ 61,020 at page 61,100 (1982) (citations omitted).

[4] The Commission will consider either integrating the general PMA requirements into BPA's in 18 CFR Part 300, in which case (for example), the words "Power Marketing Agency" or "Administrator" would simply be substituted for "Bonneville Power Administration" except where the Commission indicates that the procedures are applicable only to BPA, or establishing a separate set of requirements, particularly if the disparities between BPA's and the other PMA's filing requirements or procedures prove more numerous than expected.

[5] The Commission's authority to review these rates for final approval is delegated from the Secretary to the Commission. *See* Delegation Order No. 0204-33, To the Assistant Secretary for Resource Application and the Federal Energy Regulatory Commission, 43 FR 60636 (1978).

[6] The Commission also proposes adding a requirement that the Administrator of a PMA, the

Continued

the Commission believes that the data filed under Subpart B will be sufficient to allow the Commission to review the rates submitted for compliance with the standards embodied in the applicable statutes governing each PMA's rates. That review has traditionally entailed examination of the design of any of filed PMA rates, including whether the rate scheme encourages the widest use of power at the lowest possible rates to consumers consistent with sound business principles.[7] The Commission specifically requests comment on whether the proposed filing requirements will provide the appropriate information to permit the Commission to discharge its responsibilities in this regard.

Subpart C contains the procedures that the Commission has adopted for the review of rates filed by BPA. Section 300.20 sets forth procedures for the approval of BPA's rates on an interim basis and § 300.21 sets forth procedures for the final approval of rates submitted by BPA. Although the procedures for final approval of BPA rates would be similar for all PMA rates, the Commission would not adopt the specific sections for other PBA's because (1) it lacks authority to grant interim approval to the rates of these agencies and (2) there are no statutory counterparts to section 7(k) of the Northwest Power Act. Section 300.20 deals with refunds and the interest rates on refunds made by BPA. The Commission proposes to adopt a uniform interest rate on refunds for power marketing agencies other than BPA. The Commission nevertheless proposes using the same general approach for determining the interest rate to PMA's for refunds for overcollections that it adopted for BPA, that is, the cost of each PMA's borrowed money. The interest rate adopted by the Commission for BPA is the interest rate charged to BPA by the U.S. Treasury during the period of overcollection. Other PMA's do not borrow directly from the U.S. Treasury, but rather finance projects through Congressional appropriations. In the PMA'S Repayment study, DOE calculates an imputed interest rate based on the government's cost of borrowing by use of a special methodology, under which annual increases in the rate are limited to one-half percentage point. Under the current use of the DOE methodology, the interest rate applicable to the PMA's would be about 13 percent. However, since the rate last applied to the power marketing agencies was 9 percent, the imputed interest rate this year cannot exceed 9½ percent. The Commission seeks comments on the appropriate interest rate on refunds, including whether the interest rate for refunds by PMA's should be the rate established under the DOE methodology with or without the one-half percent limitation.

B. Special issues relating to PMA's; Request for Comment

While the Commission historically has not substituted its policy judgment for those of the PMA administrators and DOE, the Commission has some concern that certain PMA practices may not have been adequately explained and supported on a rational basis and may, in some instances, even conflict with statutory standards. The Commission has approved or at least refrained from interfering with the use of certain studies and policies in individual rate cases. However, the Commission believes these practices warrant further study consistent with its appellate review responsibilities. Accordingly, the Commission requests comment on four issues discussed below. These inquiries do not constitute specific proposals. Rather, the Commission hopes to elicit comment that will help it understand the advantages and disadvantages of current approaches and to formulate any concrete proposals for change that may be necessary or desirable.

Although the Commission's authority to examine the full implications of PMA rates is firmly established under the DOE delegation order pertaining to PMA's, the Commission's orders, [8] and the relevant organic statutes, the Commission nevertheless asks that commenters view the substantive issues raised below in relation to the role that the Commission should play in establishing uniform policies for all PMA's in these areas.

1. *Power Repayment Study.* Traditionally, the various PMA's have used the so-called Power Repayment Study (PRS) method to demonstrate that forecasted annual project or system revenues will be adequate to recover forecasted annual costs and to recover the federal investment within a reasonable period of years. A PRS is prepares to determine whether the revenues that can be obtained from existing wholesale rates will be sufficient to repay all obligations assigned to the power system within the established repayment periods. Repayment studies are based upon year-by-year estimated forecasts of system revenues and costs over the repayment period. The normal payback period for a federal power investment has been administratively established at 50 years. An analyst preparing a PRS in the early phase of a project's life may, therefore, be required to forecast conditions 50 years in the future.

Use of a PRS can be a useful regulatory tool in ensuring that a PMA's rates cover its costs, including the cost of repaying the federal investment. If the estimates are accurate, the federal investment will be paid in a manner that is timely and fair to the federal taxpayer. The Commission has, however, experienced problems with its use in the past. There is no annual schedule of capital repayment. The test of sufficiency of revenues is whether the capital investment can be repaid within the overall repayment period established for each power project, each increment of investment in the transmission system, and each block of irrigation assistance. This approach to repayment scheduling has the effect of averaging the year-to-year variation in cost and revenue over the repayment period.[9]

In a recent report, the General Accounting Office (GAO) recognized these problems and recommended that the BPA revise its methodology for use in the 1983 BPA rate proposal.[10] On January 16, 1981, the Assistant Secretary of Energy for Resource Applications (the predecessor to the Assistant Secretary for Conservation and Renewable Resources) approved a staff recommendation to encourage BPA to explore other methodologies that may be more appropriate for use under the Northwest Power Act. The GAO recommendation appears also to call into question the validity of the PRS for all PMA's.

Assistant Secretary for Conservation and Renewable Energy or, in the case of the Western Area Power Administration, the Deputy Secretary certify that a given filing complies with the Commission's filing requirements and the proposed rates conform to the need to encourage the most widespread use of power at the lowest possible rate to consumers consistent with sound busineses principles. Comment is requested.

[7] *See* Bonneville Power Administration, 13 FERC ¶ 61,157, at pages 61,338–39 (1980); Flood Control Act of 1944, 16 U.S.C. 825s (1976).

[8] *Cf.* Western Area Power Administration, 21 FERC Rep. ¶ 61,020 (1982) (Commission disapproved rates because a practice adopted by a PMA conflicted with applicable statutory provision).

[9] Committee on Interior and Insular Affairs, Hearing Before the Subcommittee on Irrigation and Reclamation, H.R. Rep. No. 7406, 89th Cong., 1st Sess. 72 (1965).

[10] "This report recommends that the Secretary of Energy direct Bonneville to adopt a cost-based approach to repayment and rate level determination which would replace the long-term forecast-based approach now used." GAO, Report to the Secretary of Energy: Policies Governing the Bonneville Power Administration's Repayment of Federal Investment Need Revision, EMD 81–94 (June 16, 1981).

Although the final regulations applicable to BPA refer to the filing of a PRS in order to demonstrate that filed rate schedules comply with statutory requirements, the Commission is nevertheless reexamining whether a PRS is the best, or even an adequate, method to determine whether the rates will adequately pay back the federal investment. Although the GAO, among others, has recommended changes in the PRS methodology, none of the PMA's has developed an alternative that is more precise and less cumbersome. Therefore, the Commission proposes to require a PRS to be included with each PMA rate filing. The Commission nevertheless requests comments on how the PRS might be improved or whether there is a preferred alternative to it. Also, the Commission request comment on what regulatory approaches it could take, if PMA's continue to rely on the PRS, to ensure that repayment of the federal investment is made in a manner which is timely and fair to both the taxpayer and the PMA ratepayer.

2. *Repayment of high interest investments first.* The Commission has frequently expressed its concern over the DOE practice of repaying high interest investment first and delaying the repayment of lower interest investments.[11] PMA's have adopted this policy because it lowers rates to its customers. This practice, however, raises a question of whether by deferring repayment of low interest debt to the U.S. Treasury, the ratepayer is receiving a benefit that Congress may not have intended, at the expense of the taxpayer. The practice underwent review by a DOE study group. However, upon completion of the group's study, the Assistant Secretary decided not to change the practice. The Commission, therefore, invites comments on the merits of the repayment practice of paying high interest investments first and invites suggestions on alternative measures, such as the use of straight line or compound interest amortization schedules.[12]

Amortization Schedule. DOE, of which the PMA's are a part, does not require that the amortization of the Federal investment be made according to any schedule or as projected in the previous PRS. There is no attempt to recoup deficiencies in amortization payments from previous rate approval periods in the succeeding rate approval period, as the PMAs do for other operating costs that are deficient. Under the present practice, repayment of the current investment (including the deferred amortization payments in previous years) is projected over the remainder of the repayment period. This practice has the effect of spreading the repayment of missed payments over the entire remaining repayment period. It thus prevents a one-time spike in rates attributable to making up missed payments. However, it requires higher payments than would otherwise be necessary in order to compensate for past inadequate amortization payments, delays timely retirement of the Federal investment, forces future ratepayers to absorb a higher proportion of the repayment of the Federal investment, and, if this practice continues unchecked, creates a possible crisis when the amount that is to be spread over a small number of years becomes too large to impose on ratepayers. The Commission requests comment on other approaches to this problem, with a discussion of the relative merits and disadvantages of each approach.

4. *Rules of Practice and Procedure.* The final rule applicable to BPA (section 300.1(a)) states that, except as otherwise provided, the Commission's General Rules of Practice and Procedure (18 CFR Part 385 will apply to Commission review of all BPA rates. This appears to be a reasonable way for the Commission to deal with such complex PMA rate proceedings, even though there are arguably some difficulties that may render some aspects of Part 385 inapplicable or inappropriate. Accordingly, the Commission has excluded the commission's rule relating to ex parte communication (Rule 2201) from this express adoption of Part 385. In the case of ex parte communications, the Commission believes that with respect to any filed application for rate approval, no greater deference should be given to the filing party, even if it is the Assistant Secretary or an Administrator of a PMA than is given to any other party who may have an interest in the proceeding. Nevertheless it is important to intergovernmental cooperation and efficient rate proceedings to encourage free communication, if appropriate. (*See* § 300.2)

The Commission requests comment on the extent to which prohibitions against ex parte communications ought to be applied in general to PMA rate proceedings and whether special procedures need to be developed.

III. Regulatory Flexibility Act

The Regulatory Flexibilty Act (RFA) [13] requires certain statements, descriptions, and analyses of rules that will have a "significant economic impact on a substantial number of small entities".[14] The Commission is not required to make an RFA analysis if it certifies that a rule will not have such an impact.[15]

This proposed rule would impose requirements only on PMA's which are not small entities under the appropriate RFA definition.[16] The primary purpose of these rules is to establish procedures for the approval of rates of PMA's for compliance with statutory standards. The procedures are designed to avoid delays which in the past have accompanied the filings of PMA rates.

Since this rule applies only to PMA's and is procedural in nature, it will have little, if any, impact on small entities. Accordingly, the Commission certifies that this rule will not have a "significant economic impact on a substantial number of small entities."

IV. Comment Procedures

The Commission invites public comment on whether both the review procedures and the filing requirements adopted for BPA in the final rule issued in Docket No. RM82-6-000 (Order No. 323) should be applied to the other PMA's, with the necessary editorial changes. In particular, commenters are asked to address the various substantive issues discussed above. Written comments on this proposal must be received by the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, no later than December 20, 1983. Comments must refer to Docket No. RM80-40-000 on the cover page, *not* Docket No. RM82-6-000. Fourteen copies of each comment should be submitted with the original.

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[11] In Southeastern Power Administration, 15 FERC Rep. ¶ 61,014 (1981), the Commission noted its concern over "the practice of repaying selected high-interest investments ahead of the required repayment date and postponing repayment of lower interest investments." The Commission, however, reiterated its position that "in exercising our appellate type review function, we are not prepared to conclude at this time that [DOE's] policy lacks a rational basis." *Id.* at page 61,026 note 4.

[12] Any proposed changes to the PRS concept or the policy of paying high interest investments first could entail a number of other changes in traditional federal ratemaking policies, such as the creation of reserve or contingency funds to reflect variations in sales due to fluctuating hydrologic conditions. Therefore, any proposals for change should address all the other policy changes that may be required.

[13] 5 U.S.C. 601-612 (Supp. IV 1980).

[14] *Id.* at 603(a).

[15] *Id.* at 605(b).

[16] *Id.* at Section 601(3), *citing to* section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. V 1981). Section 3 of the Small Business Act defines a small business concern as a "business which is independently owned and operated and which is not dominant in its field of operation."

Written comments will be placed in the Commission's public files and will be available for inspection during regular business hours in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20425.

List of Subjects in 18 CFR Part 300

Electric power rates.

(Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 830–839h (Supp. V 1981); Bonneville Project Act, 16 U.S.C. 832–832i; Flood Control Act of 1944, 16 U.S.C. 825s; Federal Columbia River Transmission System Act, 16 U.S.C. 838–838k; Department of Engergy Organization Act, 42 U.S.C. 7101–7552 (Supp. V 1981); Exec. Order 12,009, 3 CFR 142 (1978))

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18 of the Code of Federal Regulations, as described in this notice.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28801 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 355

[Docket No. 80N-0042]

Discussion of Appropriate Laboratory Testing Profiles (Testing Standards) for OTC Abrasive-Containing Fluoride Anticaries Drug Products; Extension of Time for Filing Comments

AGENCY: Food and Drug Administration.

ACTION: Reopening of the administrative record; extension of time for filing comments.

SUMMARY: The Food and Drug Administration (FDA) is extending to December 2, 1983, the period the administrative record will remain open to allow comment on matters raised at a public meeting that was held September 26 and 27, 1983, concerning appropriate laboratory testing profiles (testing standards) for over-the-counter (OTC) abrasive-containing fluoride anticaries drug products. This action responds to a request to allow more time for interested persons to prepare adequate responses to several important questions and matters raised during the September 1983 public meeting so that more thorough and informed comments may be submitted to FDA.

DATE: Written comments by December 2, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Saul Bader, National Center for Drugs and Biologics (HFN–513), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4871.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 26, 1983 (48 FR 38853), FDA announced an open meeting to discuss laboratory testing profiles for abrasive-containing anticaries drug products. The meeting announcement provided for reopening of the OTC anticaries drug products rulemaking for a period of 15 days following the meeting to include the proceedings of the public meeting and to allow comment on matters raised at the meeting.

The Cosmetic, Toiletry, and Fragrance Association requested that the 15-day period following the September 1983 public meeting be extended to December 2, 1983, to ensure adequate time to prepare thorough responses to questions and matters raised during the public meeting concerning laboratory testing profiles for abrasive-containing fluoride dentifrice drug products.

FDA has carefully considered the request. The agency believes that the information described in the request will assist in establishing laboratory testing profiles to ensure the safety and effectiveness of OTC fluoride anticaries drug products and is in the public interest. The agency considers an extension of the period for reopening the administrative record for matters discussed at the September 1983 public meeting until December 2, 1983, to be appropriate. Accordingly, the administrative record will remain open until December 2, 1983, for submission by any interested person concerning matters raised at the public meeting. Comments may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 18, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-28900 Filed 10-20-83; 10:38 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 5c

[LR–5–82]

Travel Expenses of State Legislators; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to travel expenses of state legislators.

DATES: The public hearing will be held on Thursday, December 8, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Friday, November 25, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines or oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–5–82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 162 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Tuesday, August 9, 1983 (48 FR 36137).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Friday, November 25, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the

government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Divsion.

[FR Doc. 83-29042 Filed 10-24-83; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 245-7-1]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On February 8, 1982 (47 FR 5864), the U.S. Environmental Protection Agency (USEPA) adopted stack height regulations. In the February 8, 1982, **Federal Register** notice, USEPA established a two stage process for the implementation of the regulations. All States were required to review and revise, as necessary, their State Implementation Plans (SIP's) to include provisions that limit stack height credits and dispersion techniques in accordance with the regulations adopted February 8, 1982. Section 406(2) of the Clean Air Act Amendments of 1977 requires that these SIP revisions be submitted within 9 months of the promulgation of the regulations.

On February 1, 1983, the State of Illinois submitted its review of the Illinois SIP as required by the USEPA stack height regulations. Today's rulemaking announces USEPA's proposed action on the State's submission.

DATE: Comments on this revision and on the proposed EPA action must be received by (November 25, 1983).

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Randolph O. Cano at (312) 886-6035 before visiting the Region V office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinos 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch (5AP-26), USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs Branch (5AP-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: On February 8, 1982 (47 FR 5864), USEPA adopted stack height regulations and established a two stage process for the implementation of these regulations. All States were required to review and revise their SIPs, as necessary, to include provisions that limit stack height credit and dispersion techniques as set forth in that February 8, 1982, final rule.

In response to EPA's stack height regulation requirements, the State of Illinois prepared a report dated December 1980, and entitled IMPACT OF THE TALL STACK POLICY ON THE ILLIONIS AIR PROGRAM (AQPSTR 82-15). This report reaches two conclusions: (1) Illinois' current policies and procedures are consistent with the USEPA tall stack policy and no changes are necessary to the Illinois SIP. (2) The emission limits for Illinois sources are consistent with the USEPA tall stack policy.

Rule 204(e) of the Illinois Pollution Control Board (IPCB) rules and regulations governs allowable sulfur dioxide (SO_2) emissions from fuel combustion sources. IPCB Rule 204(j) prohibits compliance with Rule 204(e) by stack height credits or dispersion techniques "except as provided by Section 123 of the Clean Air Act and regulations promulgated thereunder". USEPA interprets this language as a reference to the USEPA stack height regulations promulgated on February 3, 1982. Should USEPA modify these regulations or adopt additional rules, IPCB would need to take additional action to incorporate the changes.

IPCB Rule 204(e) applies only to SO_2 emissions from fuel combustion sources. However, it is the only IPCB regulation that sets emission limitations based on stack heights or dispersion modeling techniques. Limits for all other SO_2 sources and all other pollutants are established using methods that do not consider stack heights. If IPCB develops regulations for other sources or pollutants that permit consideration of stack heights, IPCB will have to either incorporate stack height limits into the rules or adopt a general rule limiting stack heights. In addition, IPCB must adopt a rule which prohibits all sources from using other dispersion techniques.

USEPA has reviewed the State's submission and is proposing to find that the Illinois SIP limits stack height credit as required by USEPA's February 3, 1982 regulations. USEPA also proposes to find that emission limits for all Illinois sources governed by Rule 204(e) are consistent with those regulations. However, IPCB must adopt a rule generally prohibiting the use of other dispersion techniques before USEPA can find that the SIP meets all of the requirements of USEPA's 1982 regulations.

Public comment is invited on the States submission and on USEPA's proposed finding. Public comments received by the date specified above will be considered in the development of USEPA's final rule.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 110, 172, and 301(a)) CAA, as amended (42 U.S.C. 7410, 7502, and 7601(a))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dixoide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: June 30, 1983.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 83-28839 Filed 10-24-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 5

[GSPR Notice No. 5-86]

Procurement by Formal Advertising

AGENCY: General Services Administration, Office of Acquisition Policy and Regulations.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Procurement Regulations (GSPR) Chapter 5, concerning the removal of the requirement for bidders to include the listng of subcontractors as part of their bid and to add a requirement concerning the Consolidated List of Debarred, Suspended and Ineligible Contractors. The listing of subcontractors requirement has been found to delay contract award and result in financial losses. The intended effect of this proposed change is to simplify the procurement procedures and minimize the delays and financial losses while retaining the right to reject those subcontractors that appear on the consolidated list.

DATE: Comments are due not later than November 25, 1983.

ADDRESS: Interested parties should submit comments to Ida Ustad, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, General Services Administration, Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, (202) 523–4766.

SUPPLEMENTARY INFORMATION: 1. *Background.* In 1963, the Commissioner, Public Buildings Service, adopted a policy which required bidders on certain General Services Administration (GSA) construction contracts to submit with their bids the name and address of their subcontractors for designated categories of work. The purpose of this requirement is to curtail the practice of bid shoppping by the successful bider for lower subcontract prices after bids have been publicly opened. During the past several years, bidding problems and protests related to the listing of subcontractors requirements have adversely affected the GSA construction program. These problems have resulted in delays in award of contracts and in some cases the rejection of low bids, thereby preventing the timely completion of important projects and resulting in higher procurement cost.

2. *Statutory and regulatory requirements.* This change will rescind the policy and provide for uniformity with other Federal construction agencies while retaining the right to reject those subcontractors that appear on the Consolidated List of Debarred, Suspended and Ineligibile Contractors.

Impact:

The Director, Office of Management and Budget (OMB) by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3501 et. seq. This rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83–2.

List of Subjects in 41 CFR Part 5–2

Government procurement, Procurement by formal advertising.

PART 5–2—PROCUREMENT BY FORMAL ADVERTISING

1. The Table of Contents of Part 5–2 is amended by revising the following entries:

Sec.
5–2.202–51 Subcontractor eligibility.
5–2.202–52 [Reserved]
5–2.404–51 [Reserved]

Authority: Sec. 205(c), 63 stat. 390; (40 U.S.C. 486(c)).

2. Section 5–2.202–51 is revised as follows:

§ 5–2.202–51 Subcontractor eligibility.

The following clause shall be included in the special conditions of all solicitations for building construction, alteration and repair contracts:

Subcontractor Eligibility

(a) In connection with the performance of work under this contract, the Contractor shall not subcontract with any contractor who, at the time of subcontract award, is listed on the current Consolidated List of Debarred, Suspended, and Ineligible Contractors, unless otherwise authorized by the Government in accordance with Subpart 1–1.6 of the Federal Procurement Regulations.

(b) Prior to award of the prime contract, the Consolidated List of Debarred, Suspended, and Ineligible Contractors is available for inspection at the Business Service Center in the General Services Administration regional office. After contract award, the contractor may obtain a copy of the current list from the Contracting Officer.

(c) In the event of the Contractor's noncompliance with the foregoing requirements, the Government may terminate this contract for default or take other appropriate action including but not limited to requiring the Contractor to terminate any such subcontract and substitute an eligible subcontractor in lieu thereof, at no increase in the contract price or time for performance.

(d) The term "subcontractor," as used in this clause, shall mean the individual or firm with whom the Contractor proposes to enter into a subcontract for manufacturing, fabricating, installing, or otherwise performing work under this contract.

(e) The term eligible, as used in this clause, shall mean that the subcontractor, its officers or principal employees do not appear on the Consolidated List of Debarred, Suspended and Ineligible Contractors.

(f) The Contractor shall include the provisions of paragraphs (a), (b), (d), and (e) of this clause in every subcontract hereunder.

(End of Clause)

§ 5–2.202–52 [Removed]

3. Section 5–2.202–52 is removed and reserved.

§ 5–2.404–51 [Removed]

4. Section 5–2.404–51 is removed and reserved.

Dated: September 27, 1983.

William B. Ferguson,

Acting Assisstant Administrator for Acquisition Policy.

[FR Doc. 83–28945 Filed 10–24–83; 8:45 am]
BILLING CODE 6820–61–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6521]

National Flood Insurance Program; Proposed Flood Elevation Determination, Alabama; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed Rule: Correction.

SUMMARY: This document corrects a Notice of Proposed Determination of base (100-year) flood elevations for selected locations in the City of Fayette, Fayette County, Alabama, previously published at 48 FR 22957 on May 23, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Fayette, Fayette County, Alabama, previously published at 48 FR 20951 on May 10, 1983 in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)). The following

location description has been amended as follows: On page 22957, in the column "location" the third location for the City of Fayette should read "Just upstream of U.S. Highway 43 (State Highway 18)." The remainder of the Notice of Proposed Base Flood Elevations remains unchanged.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: October 11, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–28941 Filed 10–24–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FEMA–6521]

National Flood Insurance Program; Proposed Flood Elevation Determination, Alabama; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule: Correction.

SUMMARY: This document corrects a Notice of Proposed Determination of base (100-year) flood elevations for selected locations in the City of Piedmont, Calhoun County, Alabama, previously published at 48 FR 22957 on May 23, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Piedmont, Calhoun County, Alabama previously published at 48 FR 22957 on May 23, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)). The following location description has been amended as follows: On page 22957, in the column "location" the third location for the City of Piedmont should read Approximately 420 feet upstream of confluence of Dry Creek at State Highway 9. The remainder of the Notice of Proposed Base Flood Elevations remains unchanged.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority of the Associate Director)

Issued: October 11, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–28942 Filed 10–24–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. 6254]

National Flood Insurance Program; Proposed Flood Elevation Determination; Wisconsin; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Waupun, Dodge and Fond du Lac Counties, Wisconsin, previously published at 47 FR 10258 on March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Waupun, Dodge and Fond du Lac Counties, Wisconsin previously published at 47 FR 10258 on March 10, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

The location of the Base Flood Elevation Determination for the South Branch of the Rock River which reads about 0.3 mile downstream of Fond du Lac Avenue, should read about 0.3 mile downstream of Fond du Lac Street; just upstream of River Road, *877, should be deleted; just upstream of Brandon Street and about 1.0 mile upstream of Brandon Street, should read just upstream of North Brandon Street and about 1.0 mile upstream of North Brandon Street respectively.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

This listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Wisconsin	(C) Waupun, Dodge, and Fond du Lac Countries	South Branch of the Rock River	About 0.3 mile downstream of Fond du Lac Street	*872
			Just upstream of North Brandon Street	*884
			About 1.0 mile upstream of North Brandon Street	*886

Maps available for inspection at the Office of the Flood Plain Administrator, City Hall, 201 East Main Street, Waupun, Wisconsin.

Send comments to Honorable Harold Nummerdor, Mayor, City of Waupun, City Hall, 201 East Main Street, Waupun, Wisconsin 53963.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: October 11, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–28943 Filed 10–24–83; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA-5511]

National Flood Insurance Program; Proposed Flood Elevation Determinations, Wisconsin; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of Williams Bay, Walworth County, Wisconsin, previously published at 48 FR 30712 on July 5, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of Williams Bay, Walworth County, Wisconsin, previously published at 48 FR 30712 on July 5, 1983, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

The location of the Base Flood Elevation Determination for Southwick Creek, which reads about 400 feet upstream of Gevena Street should read about 4,000 feet upstream of Gevena Street.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

This listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Wisconsin	(V) Williams Bay, Walworth County	Southwick Creek	About 4,000 feet upstream of Geneva Street	*903

Maps available for inspection at the Village President's Office, Village Hall, 65 West Geneva Street, Williams Bay, Wisconsin.

Send comments to Honorable Philip Fogle, Village President, Village of Williams Bay, Village Hall, 65 West Gevena Street, Williams Bay, Wisconsin 53191.

(National Flood Insurance At of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued October 11, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-28944 Filed 10-24-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 531

[Docket No. 83-51]

Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing that tariff filings in the domestic offshore commerce be received on 24-hour basis, including those transmitted by use of electronic filing methods. This should benefit carriers and shippers by enabling them to meet commercial exigencies.

DATE: Comments to be filed on or before November 14, 1983.

ADDRESS: Comments (Original and fifteen copies, to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Hubert E. Bradford, Chief, Office of Domestic Tariffs, Federal Maritime Commission, 1100 L Street, NW., Room 10117, Washington, D.C. 20573, (202) 523-5856.

SUPPLEMENTARY INFORMATION: Effective May 30, 1983, the Commission permitted the receipt of permanent tariff filings in the foreign commerce of the United States, including electronic tariff filings, on an around-the-clock basis, General Order 13, Amendment No. 10; Docket No. 80-56 (48 FR 9646). Several commenting parties in that rulemaking proceeding suggested that it be expanded to include domestic offshore tariff filings. It was determined, however, that such an expansion would be beyond the scope of that proceeding.

On June 17, 1983, Sea-Land Service, Inc., filed a petition for rulemaking seeking amendment of the rules covering domestic offshore commerce (46 CFR Part 531) to also provide for around-the-clock receipt of permanent tariff filings, including electronic tariff filings. Notice of the petition appeared in the Federal Register on June 29, 1983 (48 FR 29954). Comments were received from three carriers in the domestic offshore commerce and two other interested persons. Commentators agreed with petitioner that domestic offshore carriers should be treated similarly to foreign carriers, that around-the-clock service for foreign carriers was convenient and efficient, and that authority for domestic carriers would not impose any additional burden or cost on the Commission since the mechanism and procedure is already in place.

List of Subjects in 46 CFR Part 531

Maritime carriers, Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553; section 43 of the Shipping Act, 1916 (46 U.S.C. 841 (a)); and section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844), the Commission proposes to amend Part 531 of Title 46, Code of Federal Regulations as follows:

Section 531.2 is to be amended by revising paragraph (i) to read as follows:

§ 531.2 Definition.

* * * * *

(i) *File, Filed, Filing (of Tariff Matter).* The actual receipt by the Federal Maritime Commission at its offices in Washington, D.C., including those received by electronic transmission. Electronic filings are those transmitted through the use of commercial data processing terminals and conforming to all the regulations applicable to permanent tariff filings.

* * * * *

Section 531.3 is to be amended by revising paragraph to read as follows:

§ 531.3 Filing of Tariffs; general.

* * * * *

(e) Tariff matter will be received by the Commission at its Washington, D.C., offices. On an around-the-clock basis. Receipt of tariff filings during other than normal business hours will be time stamped at a tariff mail drop in the lobby of the Commission's Washington, D.C. offices. Electronic tariff filings transmitted by electronic modes will be receipted by a date/time device on the receiving machine.

* * * * *

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-28948 Filed 10-24-83; 8:45 am]

BILLING CODE 6735-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 21

[Gen. Docket No. 80-112; FCC 83-466]

Instructional Television Fixed Service, the Multipoint Distribution Service, and the Private Operational Fixed Microwave Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the implementation of a lottery (random selection procedures) as the method to choose among applicants seeking construction permits for multichannel Multipoint Distribution Service (MDS) systems. This notice requests comment on the public interest ramifications of using a lottery and on lottery procedures.

The Commission is proposing these rule changes because a large number of applications for multichannel MDS have been received at a time when comparative hearings on numerous mutually exclusive applications for single channel MDS are still pending. In situations where there are mutually exclusive applications, the existing rules require that the permittees for such facilities be selected using comparative hearing procedures. These procedures have proven to be both time consuming and costly. Use of the lottery may eliminate much of the time and expense required by the comparative hearing procedure. Multichannel MDS service, therefore, could be available to the public at a much earlier date.

DATE: Comments due on or before November 25, 1983 and replies on or before December 9, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kevin Kelley, Common Carrier Bureau, (202) 634-1817.

List of Subjects

47 CFR Part 21

Point-to-Mulipoint Microwave, Radio.

47 CFR Part 1

Administrative practice and procedure.

Further Notice of Proposed Rulemaking

In the Matter of Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules and Regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and the Multipoint Distribution Service, and the Private Operational Fixed Microwave Service.

Inquiry into the development of regulatory policy with regard to future service offerings and expected growth in the Multipoint Distribution Service and Private Operational Fixed Microwave Service, and into the development of provisions of the Commission's Rules and Regulations in regard to the compatibility of the operation of satellite services with other services authorized to operate in the 2500-2690 MHz band.

Amendment of Parts 1 and 21 of the Commission's Rules and Regulations in regard to using random selection procedures to select permittees in the Multipoint Distribution Service; General Docket No. 80-112.

Adopted October 12, 1983.

Released October 14, 1983.

By the Commission: Commissioner Rivera dissenting in part and issuing a statement.

I. Introduction

1. On May 26, 1983, the Commission adopted a *Report and Order* in this proceeding [1] reallocating a portion of the 2500-2690 MHz band to accommodate the operation of multichannel Multipoint Distribution Service (MDS) systems.[2] In making that reallocation, the Commission acknowledged the possibility that it might receive a large number of applications for multichannel MDS. For this reason, the Commission determined that it would be appropriate to issue a further notice of proposed rulemaking in this proceeding proposing to use random selection procedures to grant permits in the Multipoint Distribution Service. We are, therefore, hereby proposing to use random selection procedures to select permittees in the Multipoint Distribution Service. We are proposing to use such procedures to select both newly filed single and multichannel MDS permittees.[3]

II. Background and Statutory Authority

2. In March of 1980, we first proposed to use alternatives to the comparative hearing process to grant MDS construction permits in situations where more than one applicant applied for a particular frequency.[4] In the *Lottery Notice*, we proposed alternatively to use lotteries, auctions, or paper hearings to select MDS permittees. One of the fundamental issues in that proceeding was whether the Commission had the legal authority to use the proposed procedures. While that proceeding was pending, the Congress added Section 309(i) to the Communications Act, 47 U.S.C. 309(i). This section explicitly grants the Commission authority to use random selection procedures to grant licenses and permits. Section 309 (i) reads as follows:

(1) if there is more than one application for any initial license or construction permit which will involve any use of the electromagnetic spectrum, then the Commission, after determining that each such application is acceptable for filing, shall have authority to grant such license or permit to a qualified applicant through the use of a system of random selection.

(2) No license or construction permit shall be granted to an applicant selected

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[1] We are hereby amending the title of this proceeding to include a reference to the action proposed by this Notice.

[2] *Report and Order*, General Docket No. 80-112, FCC 83-243, 48 FR 33873 (July 26, 1983) (hereinafter cited as *Multichannel MDS Order*).

[3] Single channel MDS refers to the previously allocated channels in the 2150-2162 MHz band. 47 CFR 21.901.

[4] In the Matter of Amendment of Part 21 of the Commission's Rules to Permit the Use of Alternative procedures in Choosing Applicants for Radio Authorizations in the Multipoint Distribution Service, *Notice of Inquiry and Proposed Rulemaking*, CC Docket No. 80-116, 45 FR 29,335 (May 2, 1980) (Proceeding terminated May 26, 1983) (hereinafter cited as *Lottery Notice*).

pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) and section 308(b). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law:

(A) Adopt procedures for the submission of all or part of the evidence in written form;

(B) Delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

(C) Omit the determination required by subsection (a) with respect to any application other than the one selected pursuant to paragraph (1).

(3)(A) The Commission shall establish rules and procedures to ensure that, in the administration of any system of random selection under this subsection used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group.

(3)(B) The Commission shall have authority to require each qualified applicant seeking a significant preference under subparagraph (A) to submit to the Commission such information as may be necessary to enable the Commission to make a determination regarding whether such applicant shall be granted such preference. Such information shall be submitted in such form, at such time, and in accordance with such procedures, as the Commission may require.

(3)(C) For purposes of this paragraph:

(i) The term "media of mass communications" includes television, radio, cable television, *multipoint distribution service*, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

(ii) The term "minority group" includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders.

(4)(A) The Commission, not later than 180 days after the date of the enactment of the Communications Technical Amendments Act of 1982, shall, after notice and opportunity for hearing, prescribe rules establishing a system of random selection for use by the Commission under this subsection in any instance in which the Commission, in its discretion, determines that such use is appropriate for the granting of any license or permit in accordance with paragraph (1).

(4)(B) The Commission shall have authority to amend such rules from time to time to the extent necessary to carry out the provisions of this subsection. Any such amendment shall be made after notice and opportunity for hearing. (emphasis added).

3. On March 31, 1983, the Commission adopted initial lottery rules pursuant to Section 309(i).[5]

III. Discussion

A. Public Interest Issue

4. In authorizing the Commission to use random selection procedures to grant licenses and permits, the congress articulated a number of factors that should be considered in deciding whether the use of such procedures for a particular service would serve the public interest. These factors are:

> (1) [W]hether there is a large number of licenses available in the particular service under consideration; (2) whether there is a large number of mutually exclusive applications for each license, for example, when a new service is initiated; (3) whether there is a significant backlog of applications; (4) whether employing a lottery would significantly speed up the process of getting service to the public; and (5) whether selection of the licensee will significantly improve the level (of) diversity of information available in the community versus the use of the traditional comparative hearing process.

H.R. Rep. No. 765, 97 Cong., 2nd Sess. 37 (1982) (hereinafter cited as *Conference Report).* In the *Conference Report* the Conferees emphasize "their strong expectation that the Commission will exercise carefully its discretion to use a lottery system by making a finding that the public interest would be significantly benefited by using a lottery instead of a comparative hearing to select licenses or permits with respect to those services or instances in which it determines that use of a lottery would be appropriate," and their intention "that the Commission, in making this public interest finding, should not apply the aforementioned factors mechanically or without regard to other salient considerations." *Id.* at 38.

5. Addressing the criteria in the *Conference Report,* we first note that it is somewhat difficult to estimate the total number of multichannel MDS licenses that are available. This is because a MDS station can be located virtually anywhere. The only limitation is that the station cannot be so located as to cause harmful electrical interference to cochannel stations. One method of estimating the number of multichannel licenses available is to assume that they are available in all areas where we have received single channel MDS applications. We believe this is a reasonable method to estimate the number of multichannel MDS licenses available. We have received application for single channel MDS in approximately 500 different service areas. Because there are two licenses available in each area, using this method indicates there are 1,000 multichannel MDS licenses available. Thus, we conclude that there are a large number of licenses available.

6. Multichannel MDS applications were filed on September 9, 1983. The commission staff is now processing these applications and a final count of the applications has not been made. Based on the number of applications processed thus far, we estimate that between 15,500 and 17,000 applications were filed. These applications have not yet been sorted by service area; however, there is no doubt that most of the applications propose to serve the larger metropolitan areas. Thus, it is likely that only a very few of the applications will not be mutually exclusive. It is therefore reasonable to conclude that we have a large number of mutually exclusive application.

7. There is now a backlog of between 15,500 and 17,000 multichannel MDS applications.

8. There is little doubt that the use of a lottery is much faster and less expensive than the comparative hearing process when there are multiple applicants for each of a large number of licenses. It is conceivable that it might be necessary to hold more than 500 comparative hearings in granting the multichannel MDS construction permits.

9. The diversity of information available in a community is to a large degree independent of the selection procedure we use for MDS. MDS is a common carrier service and common

[5] In the Matter of Amendment of the Commission's Rules to Allow the Selection from Among Certain Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings, *Second Report and Order,* Gen. Docket No. 81-768, FCC 83-114, 48 FR 27,182 (July 13, 1983) (hereinafter cited as *Lottery Order*).

carriers do not control content. It is the MDS subscriber that determines the nature of the information to be transmitted on the MDS facilities. The permitted selection method is unlikely to affect which entities subscribe to the MDS operators' offering.

10. We invite interested parties to comment on these tentative conclusions concerning the public interest factors listed in the *Conference Report* or any other salient factors in determining whether a lottery should be use in selecting permittees in multichannel MDS. Although we do not aniticipate the same number of new single channel applications as we do multichannel applications, we nevertheless believe a lottery would be preferable to hearings to resolve the mutually exclusive cases that do arise.

B. Statutory Construction Issue

11. Using a random selection procedure for MDS presents a question of legislative interpretation. Section 309(i)(3)(A) of the Communications Act reads in part that:

> in the administration of any system of random selection * * * for any medium of mass communications, significant preferences will be granted to applicants [that] would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group.

Section 309(i)(3)(c) defines the term "media of mass communications" to include:

> television, radio cable television, *multipoint distribution service*, direct broadcast satellite service, and other services the licensed facilities of which may be substantially devoted toward providing programming or other information services *within the editorial control of the licensee.*

(emphasis added). MDS is a common carrier service and as such MDS licensees are prohibited from exercising control over the information transmitted over their facilities. *See* 47 CFR 21.903(b)(1). The language quoted above defines MDS as a medium of mass communications but further defines a medium of mass communications as one in which the licensee exercises editorial control over the content of the information being transmitted over the facility. The Conference Report that accompanied the legislation that added the above language offered the following explanation:

> A question arises as to the administration of a lottery in services which may be neither clearly common carrier nor broadcast entities (such as multipoint distribution service), or services in which the applicant may be able to self-select either common carrier or broadcast status such as the Commission's treatment of the direct broadcast satellite service). *The Conferees intend that the Commission apply significant preferences, if it decides to use a lottery system for these services, to the extent that the licensees have the ability to provide under their direct editorial control a substantial proportion of the programming or other information services over the licensed facilities. If such services are treated by the Commission in the future strictly as common carrier services with no ability on the part of the licensee to exercise direct editorial control over a substantial proportion of the programming offered over its facilities, no preferences need be applied in using a lottery system for those services.*

Id. at 41 (emphasis added). Thus we believe that in adding MDS to the list of services defined as media of mass communications Congress intended a preference to be granted if the regulatory status of MDS were changed so that the licensee could exercise direct editorial control over the content of a substantial proportion of the material transmitted over MDS facilities.[6] We note in this regard that in the *Lottery Order*, we reached a similar conclusion. There we were faced with deciding whether a holder of an MDS license or permittee would be granted a diversity preference if it were a participant in a lottery for another service such as LPTV. That is, should MDS be considered a mass communications medium? In that proceeding we decided that so long as MDS was regulated as a common carrier service, it should not be considered a mass commuications medium.[7] We invite interest parties to comment on all aspects of this analysis. In addition, we invite comment on whether we legally can and should, pursuant to our general authority under the public interest standards, use a preference procedure in an MDS lottery even if we conclude that the use of such a procedure is not mandatory.

C. Acceptability of Applications

12. If we do decide to use a random selection procedure for MDS, we will face the issue of what is the appropriate standard for determining the acceptability of applications tendered for filing. The Conference Report contained the following language concerning this issue:

> It is the intent of the Conferees that, prior to the use of a lottery in a particular proceeding, the Commission conduct a preliminary review of each application submitted to determine that it is acceptable for filing. The Conferees expect that the Commission will use the standards for acceptability set out in *James River Broadcasting Corp v. FCC*, 399 F.2d 581 (D.C. Cir. 1968), unless, by rule, it has adopted or shall adopt different standards. *See, e.g.*, 47 CFR 73.35, 22.20

13. The criteria for acceptability of MDS applications are contained in Section 21.20 of the Rules, 47 CFR 21.20. This section, which is the same as the Section 22.20 cited in the Conference Report, requires, *inter alia*, that the "application substantially comply with the Commission's rules, regulations, specific requests for additional information, or other requirements." We have added certain other requirements for multichannel MDS applications. *Multichannel MDS Order*, *supra*, at paras. 147–156. Applicants for radio licenses are expected to submit applications that are substantially complete in all material respects. *See Direct Satellite Broadcast Systems*, 88 FCC 2d 100, 102, 107–108.

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[6] This analysis is based on existing MDS practice where, generally, the licensee leases all time available on its facilities to a single, non-affiliated subscriber. *See, Metrock Corporation*, 73 FCC 2d 802 (1979). Subsection (b)(1) of §21.903 of the Commission's rules, 47 CFR 21.903 (1982), provides that an MDS carrier not be "substantially involved in the production of, the writing of, or the influencing of the content of any information to be transmitted over the facilities." However, subsection (b)(2) of the same section requires that the carrier "not render service to any entity who is affiliated with or related to the carrier whenever the total hours of service rendered to related subscribers exceeds the total hours of service rendered to unrelated subscribers within any calendar month."

Thus, it is possible for a licensee to lease up to 50% of the total hours of service rendered on its facilities to an affiliated entity. These rules were written before the MDS developed and we have never had occasion to rule on the interaction of subsections (b)(1) and (b)(2). That is, we have never determined the required separation between the carrier and the affiliated subscriber that would satisfy the requirements of subsection (b)(1). We specifically invite comment regarding the effect of these subsections on the issue of whether MDS is a medium of mass communication.

We also seek comment on the propriety of the rule for multichannel MDS. The rule is based on language in 47 CFR 21.700 relating to use of point-to-point facilities by cable antenna relay systems before separate spectrum was made available for that service. *See, e.g., Community Antenna Television Systems (CARS)* First Report and Order and Further Notice of Proposed Rulemaking (Docket No. 15586) 1 FCC 2d 897, 898–907 (1965) and *Multipoint Distribution Service, Report and Order (Docket No. 19493) 45 FCC 2d 616, 618 (1974). The question to be addressed is whether the rule is appropriate either for single channel or multichannel MDS.*

[7] *Lottery Order*, para. 73.

D. Other Matters

14. In the *Lottery Order*, we adopted a requirement that applicants in the Low Power Television (LPTV) service include with their applications a certification that the applicant is the real party in interest to the application. *Lottery Order, supra* para. 56. We recognize that proposing to use lottery procedures to select applicants in any service creates incentives for applicants to submit multiple applications for each service area to increase the probability that their application will be selected in a lottery. We attemped to ensure there would be competitive licenses in each area in the *Multichannel MDS Order* by limiting each entity or related entity to filing a single four channel application in each service area. *See* 47 CFR 21.901(d)(2). We believe that this rule is adequate to deal with most methods of "stuffing the ballot box." However, we also recognize that requiring a real party in interest certification from all multichannel MDS applicants could further limit this practice. We are, therefore, hereby requesting comment on whether it would be in the public interest to require multichannel MDS applicants to file certification similar to that required of LPTV and other Mass Media applicants. If we do decide to adopt such a requirement, all applicants would be required to file such a statement prior to being included in a lottery.

15. In the *Multichannel MDS Order*, we eliminated those portions of § 21.40, 47 CFR 21.40, that limited the free transferability of licenses that had not been obtained via the comparative hearing process. We stated our intention to continue to apply the anti-trafficking policy to construction permits and the licenses that had been obtained via the comparative hearing process. *Multichannel MDS Order, supra*, at paras. 143–144. Further review of the changes made in § 21.40 has lead us to conclude that the language may be subject to differing interpretations. For this reason, we are proposing herein to add clarifying language to § 21.40.

16. In the *Multichannel MDS Order*, we adopted a rule requiring multichannel MDS applicants to apply for a specific group of channels, that is either for E-group channels or the F-group channels. We also reserved the right to assign different channels in the band if it were determined that such action would serve the public interest. 47 CFR 21.901(d)(3). We intend to consider in one proceeding all multichannel applications that propose to serve the same area. 47 CFR 21.901(d)(5). What these two sections mean is that if we do decide that it is in the public interest to use a lottery for multichannel MDS it is possible that we could select two applicants that had applied for the same channel group. If this does occur, we will allow the first applicant selected to choose either to receive a construction permit for the channels applied for or to amend its application to change to the other channel group. The second applicant chosen would then be assigned the remaining channel group regardless of which group it had applied for. If the two applications selected are for different channel groups, the channels applied for will be assigned. We stress that we will consider all applications that propose to serve the same area in the same proceeding regardless of the channel group for which the applicant applied.

17. Finally, in the *Lottery Order*, we outlined the procedures to be followed in using lotteries in common carrier service. *Lottery Order, supra*, at paras. 125–127. We intend to apply these procedures to MDS if we determined that it would be in the public interest to use a lottery for that service. We invite comments on these procedures.

IV. Initial Regulatory Flexibility Act Analysis

18. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, the Commission issues the following initial regulatory flexibility analysis.

A. Reason for Action

19. We are proposing these rule changes because we anticipate we will receive a large number of applications for multichannel MDS, and our concern that unless we use random selection prodecures to grant multichannel construction permits the introduction to the public of this new service could be unduly delayed. We are proposing to include newly filed single channel applications in the lottery process because it appears that doing so is less costly than comparative hearings.

B. Objective

20. The objective of this action is to adopt random selection for processing both single channel and multichannel MDS applications. Having these procedures in place will allow the rapid introduction of new telecommunications service to the public.

C. Legal Basis

21. The legal authority for this action is contained in sections 4 (i) and (j) and 309(i) of the Communications Act, as amended, which provides for the use of random selection procedures to grant initial telecommunications permits and licenses. 47 U.S.C. 154 (i) and (j); 309(i).

D. Description, Potential Impact and Number of Small Entities Affected

22. The proposed rule changes would allow the use of random selection procedures to select single and multichannel MDS permittees. The major impact of the proposed action will be to reduce the time and cost associated with obtaining of multichannel MDS construction permits. This result will be accomplished by substituting a random selection procedure for the traditional comparative hearing process when there are mutually exclusive applicants for single and multichannel MDS facilities.

23. It is not clear how many small entities will be affected by this action; however, we believe that this action will allow many small entities to obtain MDS permits that would not have been able to obtain them using the existing comparative hearing procedures.

V. Recording, Record Keeping and Other Compliance Requirements

24. None.

VI. Federal Rules Which Overlap, Duplicate or Conflict With This Rule

25. None.

VII. Any Significant Alternatives Minimizing Impact on Small Entities and Consistent With Stated Objective

26. We are not aware of any significant alternative that would minimize the impact on small entities and that consistent with the stated objective.

VIII. Conclusion

27. In this *Notice* we are proposing to adopt random selection procedures to grant MDS permits. We invite all interested parties to comment on the proposed rules and other public interest factors. The proposed rule amendments are contained in Appendix A.

28. For purposes of this nonrestricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rulemaking until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/

pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who initiates an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presenation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

29. Authority for issuance of this Notice is contained in Sections 4(i)(j), 303(r), and 309(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i)(j), 303(r), and 309(i). Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 25, 1983 and reply comments on or before December 9, 1985. Timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order.* A summary of the Commission's procedures governing *ex parte* contacts in informal rulemakings is available from the Commission's Consumer Assistance Office, Federal Communications Commission, Washington, D.C. 20554, (202) 9632–7000.

30. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, an original and 5 copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in the rulemaking proceeding may do so by submitting one copy of the comments, without regard to form, provided only that the docket number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's Dockets Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, NW.).

31. For further information concerning this proceeding, contact Kevin Kelley (202) 634–1860.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Proposed Rule Changes

It is proposed to amend 47 CFR Parts 1 and 21 as follows:

PART 1—[AMENDED]

1. Section 1.821 is revised to read as follows:

§ 1.821 Scope.

Where action on applications is permitted by the Chief, Common Carrier Bureau, under delegated authority, the provisions of this section, including provisions incorporated by reference, shall apply to applications for initial licenses for stations in the Public Land Mobile Service (See Subpart G, Part 22) and in the Multipoint Distribution Service (See Subpart K, Part 21).

PART 21—[AMENDED]

2. Senction 21.28 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 21.28 Dismissal and return of applications.

(a) Except as provided under § 21.29, any application may be dismissed without prejudice as a matter of right if the applicant requests its dismissal prior to designation for hearing. An applicant's request for the return of his application after it has been accepted for filing will be considered to be a request for dismissal without prejudice. Requests for dismissal shall comply with the provisions of § 21.29.

(b) A request to dismiss an application without prejudice will be considered after designation for hearing only if:

(1) A written petition is submitted to the Commission and is properly served upon all parties of record, and

(2) The peition complies with the provisions of § 21.29 (whenever applicable) and demonstrates good cause.

(c) The Commission will dismiss an application for failure to prosecute or for failure to respond substantially within a specified time period to official correspondence or requests for additional information. Dismissal shall be without prejudice if made prior to designation for hearing or prior to selection under the random selection process, but dismissal may be made with prejudice for unsatisfactory compliance with § 21.29 or after designation for hearing or after selection under the random selection process.

3. Section 21.31 is amended by revising the introductory text of paragraph (b) and the texts of paragraphs (c), (e)(1) and (e)(4) to read as follows:

§ 21.31 Mutually exclusive applications.

* * * * *

(b) An application will be entitled to comparative consideration with one or more conflicting applications (and, in specified services in this Rules Part, included in a random selection process) only if:

* * * * *

(c) Whenever three or more applications are mutually exclusive, but not uniformly so, the earliest filed application establishes the date prescribed in paragraph (b)(2) of this section, regardless of whether or not subsequently filed applications are directly mutually exclusive with the first filed application. (For example, applications A, B and C are filed in that order. A and B are directly mutually exclusive, B and C are directly mutually exclusive. In order to be considered comparatively with B (or where applicable, included in the random selection process), C must be filed within the "cut-off" period established by A even though C is not directly mutually exclusive with A.)

* * * * *

(e) * * *

(1) The application has been designated for hearing under the random selection process, or for comparative hearing, or for comparative evaluation pursuant to § 21.35, and the Commission or the presiding officer accepts the amendment pursuant to § 21.23(b);

* * * * *

(4) The amendment reflects only a change in ownership or control which results from an agreement under § 21.29 whereby two or more applicants entitled to comparative consideration or to participate in a random selection process join in one or more of the existing application(s) and request dismissal of their other application(s) to avoid comparative consideration or the random selection process.

* * * * *

4. Section 21.32 is amended by removing paragraphs (e)(3), (e)(4) and by revising paragraphs (b)(2), (f) and the introductory text of paragraph (g) to read as follows:

§ 21.32 Consideration of applications.

* * * * *

(b) * * *

(2) The application is not subject to a post-random selection hearing or to comparative consideration pursuant to § 21.31 with another application(s), except where the competing applicants have chosen the comparative evaluation procedure of § 21.35 and a grant may be made under that procedure:

(e) * * *

(2) The Commission is unable for any reason to make the findings specified in paragraph (a) of this section and the application is acceptable for filing, complete, and in accordance with the Commission's rules, regulations, and other requirements.

(f) The Commission may grant, deny or take other action with respect to an application designated for a formal hearing pursuant to paragraph (e) or Part I of this chapter.

(g) Whenever the public interest would be served, the Commission may grant one or more mutually exclusive applications expressly conditioned upon final action on the applications, and then either conduct a random selection process (in specified services under this Rules Part), or designate all mutually exclusive applications for a formal evidentiary hearing or (whenever so requested) follow the comparative evaluation procedures of § 21.35, as appropriate, if it appears:

* * * * *

5. Section 21.35, paragraph (a) introductory text is revised to read as follows:

§ 21.35 Comparative evaluation of mutually exclusive applications.

(a) In order to expedite action on mutually exclusive applications, in services under this Rules Part where the random selection process does not apply, the applicants may request the Commission to consider their applications without a formal hearing in accordance with the summary procedure outlined in paragraph (b) of this section, if:

* * * * *

6. Section 21.40 is amended by revising paragraph (a) and the introductory text of paragraph (c) to read as follows:

§ 21.40 Considerations involving transfer or assignment applications.

(a) The Commission will review a proposed transaction to determine if the circumstances indicate "trafficking" in licenses or construction permits whenever applications (except those involving a *pro forma* assignment or transfer of control) for consent to assignment of a common carrier construction permit or license, or for transfer of control of a permittee or licensee, involve facilities which have been operated for less than one year by the proposed assignor or transferor. All construction permits are subject to this section. Only licenses that were obtained following a comparative hearing are subject to this section. At its discretion, the Commission may require the submission of an affirmative, factual showing (supported by affidavits of a person or persons with personal knowledge thereof) to demonstrate that the proposed assignor or transferor has not acquired an authorization or operated a station for the principal purpose of profitable sale rather than public service. This showing may include, for example, a demonstration that the proposed assignment or transfer is due to changed circumstances (described in detail) affecting the licensee or permittee subsequent to the acquisition of the permit or license, or that the proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests.

* * * * *

(c) For the purpose of this section, the one year period is calculated using the following dates (as appropriate):

* * * * *

7. A new § 21.909 is added to read as follows:

§ 21.909 Grants by random selection.

If an acceptable application for an initial permit in this service is mutually exclusive with another such application, the applicants may be included in the random selection process set forth in Part I, §§ 1.821 *et seq.* No preferences shall be awarded. Renewal applications shall not be included in a random selection process.

Separate Statement and Partial Dissent of Commissioner Henry M. Rivera

For the reasons stated in my earlier partial dissent in this proceeding, I again dissent to the majority's failure to explore policies calculated to further diversity of voices in multi-channel MDS. While I urged the majority to consider imposing modest restraints to further that goal in the First *Report and Order* in this proceeding, I also said:

The Commission could * * * have elected to fully explore what * * * diversity-enhancing policies to apply to MDS in the further rulemaking notice to be issued regarding MDS lotteries. In the final analysis, this more comprehensive approach may well have been preferable. The options to be examined could have included various tariff prescriptions, * * * a dual licensing scheme for MDS carriers and their programmer-customers, or reclassification of MDS as a broadcast service.[1]

True to its earlier view, the majority unfortunately has elected not to explore these issues. I disagree with that election.

Turning to another issue, in light of § 21.903(b), a substantial question exists whether the preference scheme set forth in Section 309(i) is applicable to MDS, notwithstanding its classification as a common carrier service. I am pleased that this *Further Notice* has acknowledged the issue (*see* pp. 7–8 and n. 6) and eagerly await public comment on the matter. I will also be interested in reading the comments on whether, even if the FCC is not legally obliged to utilize the preference scheme in MDS lotteries, it may and should do so under the exercise of its broad public interest mandate (*see further Notice* p. 8).

[FR Doc. 83-28699 Filed 10-24-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 95

[PR Docket No. 83-330; FCC 83-455]

Rules To Authorize Ten Year License Terms in the General Mobile Radio Service; Amendment

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Commission is terminating its Notice of Proposed Rule Making to amend Part 95 of its Rules to authorize ten year license terms in the General Mobile Radio Service (GMRS). This proposal is being withdrawn so that licensees will continue to have an accurate and reasonably-current date base from which they can select and coordinate frequencies.

FOR FURTHER INFORMATION CONTACT: Maurice J. Depont, Private Radio Bureau, Special Services Division, (202) 632-4964.

Report and Order; Proceeding Terminated

In the matter if amendment of Part 95 of the Commission rules to authorize ten year license terms in the General Mobile Radio Service (GMRS); PR Docket No. 83-330; FCC 83-455.

Adopted: October 6, 1983.
Released: October 12, 1983.

By the Commission.

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[1] *See Report and Order in CC Docket Nos. 80-112 and 80-116.* (Statement of Commissioner Henry M. Rivera, Concurring in Part, Dissenting in Part, p. 6.)

1. On March 31, 1983, the Commission adopted a Notice of Proposed Rule Making in this proceeding (48 FR 17624, April 25, 1983), seeking to amend the General Mobile Radio Service (GMRS) Rules 95, to authorize ten year license terms, Authority for a ten year license term is contained in the Communications Amendments Act of 1982., Pub. L. 97–259, 96 Stat. 1087, approved September 13, 1982. Only two comments were filed in this proceeding, one supporting and one opposing the proposal. Comments in the proceeding were due June 13, 1983, with reply comments due July 13, 1983.

2. The opposing comments were filed by the Personal Radio Steering Group (PRSG), Detroit, Michigan. Although they were not filed until June 15, 1983, they are of substantial relevance to this proceeding, and we accept them as late-filed comments. The gist of the comments from the PRSG is that complete and accurate licensee records are needed in the GMRS to facilitate the Commission's enforcement activities, and because there are no formal or structured frequency coordination procedures in that service. Lacking such procedures, users in that service, according to the PRSG, must be able to rely on reasonably-current licensee records in order to determine which frequencies have been assigned to which licensees. Along with channel monitoring, accurate licensee records enable a licensee to choose a frequency which blends in with a voluntary frequency coordination plan. The object of frequency coordination is to preclude a preponderance of licensees from using the same frequency in a particular area. PRSG's objection to our proposal appears to be that by lengthening the license term from five to ten years, the Commission's license records will become significantly more cluttered with licenses which are still current, but which are for GMRS systems that are no longer on the air. This accumulated "deadwood" in the licensee data base would impair its accuracy when a user consulted it to coordinate a selected frequency with current GMRS frequency assignments.

3. We believe that the point that PRSG makes is well taken. An accurate and reasonably-current data base is a useful tool for licensees in making a frequency selection and in effecting frequency coordination. In addition, since the number of renewal licenses per year in this service is minimal, retention of a five year license term will not have a substantial impact on commission resources. Therefore, we will terminate this proceeding.

4. In view of the foregoing, and pursuant to Section 4(i) of the Communications Act of 1934, as amended, it is ordered, That this proceeding is terminated.

5. For information in this matter, call Maurice J. DePont, (202) 632–4964.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83–28793 Filed 10–24–83; 8:45am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

48 CFR Ch. 9

Acquisition Regulations

AGENCY: Energy Department.

ACTION: Proposed rule: correction.

SUMMARY: This document corrects errors in the proposed rule for the Department of Energy Acquisition Regulation (DEAR) published at 48 FR 43772 on September 26, 1983.

DATE: Written comments regarding the proposed rule should be submitted not later than November 25, 1983, to be considered.

ADDRESS: Comments, if any, should be addressed to the Department of Energy, Procurement Policy Branch, MA–421.1, Forrestal Building, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Richard B. Langston, Procurement Policy Branch, Department of Energy, (202) 252–8188.

Issued in Washington, D.C. on October 20, 1983.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

The following corrections are made at FR Doc. 83–43772, published September 26, 1983:

1. On page 43772, in the first column, two lines from the bottom at "**ADDRESS**", and same page, three lines from the top at "**FOR FURTHER INFORMATION CONTACT**", the mail code, "MA–241.1," is in error. The correct mail code in both places should read: MA–421.1.

2. On page 43773, in the first column in paragraph II.C. Paperwork Reduction Act, the last sentence was erroneously left out. The corrected text should read:

C. Paperwork Reduction Act

The information collection and recordkeeping requirements that are imposed on the public by this proposed rulemaking have been cleared by the Office of Management and Budget (OMB) in accordance with section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq. OMB clearance number 1901–0261 has been assigned with an expiration date of December 31, 1983.

* * * * *

3. On page 43812, second column of the Table of Contents for Subpart 917.71, Special Research Contracts with Education Institutions, a correction is required due to the additional paragraph being added to this subpart. Corrected section headings should read:

* * * * *

917.7108–3 Management of Government-owned equipment.
917.7108–4 Reports.

* * * * *

4. On page 43819, third column, in § 917.7108 *Personal property,* the drafter erroneously left out a paragraph, and § 917.7108–3 *Reports* needs to be renumbered. The corrected text should read as follows:

§ 917.7108–3 Management of Government-owned equipment.

When title to equipment is retained by the Government, the institution shall establish and maintain a program from the utilization, maintenance, repair, protection, preservation, and reporting of Government property in accordance with sound business practice and the provisions of FAR 45.5 and 945.5.

§ 917.7108–4 Reports.

Excess property acquired from other Government agencies or from GSA and provided to institutions under the authority of § 917.7108–2, above, will be included in the report required by FPMR 101–43.4701(c).

5. On page 43830 at the top of column two, reference "927.403–3(d)" in paragraph 917.7402–5(k) is corrected to read "927.402–3(d)".

6. On page 43831 in paragraph 917.7406, reference "917.504–72" is corrected to read "915.504–72".

7. On page 43843 in § 924.702, references "9–3.150–4" in paragraph (a)(1) are corrected to read "924.702(c)".

8. On page 43844 in § 924.702(b), reference "9–9.201(b)" is corrected to read "927.401(b)".

[FR Doc. 83–28852 Filed 10–24–83; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Finding on a Petition To Reclassify the Western Gray Kangaroo From Threatened to Endangered Status

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of finding on a petition.

SUMMARY: The Service finds that a petition submitted on June 22, 1983, by the Kangaroo Protection Foundation to reclassify the western gray kangaroo (*Macropus fuliginosus*) from Threatened to Endangered status pursuant to the Endangered Species Act of 1973, as amended, does not contain substantial data to warrant further consideration.

DATE: This finding is effective October 25, 1983.

ADDRESSES: Questions or comments concerning this finding should be submitted to the Associate Director—Federal Assistance, U.S. Fish and Wildlife Service (OES), Department of the Interior, Washington, D.C. 20240. The petition, and its supporting data, are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982, requires that the Service make a finding on whether a petition to lists, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register.**

On June 22, 1983, the Kangaroo Protection Foundation submitted a petition to the Service to list the western gray kangaroo (*Macropus fuliginosus*) as an Endangered species pursuant to the Endangered Species Act of 1973. This species is currently listed under the Act as a Threatened species.

The Service has carefully examined the information submitted by the Kangaroo Protection Foundation to determine whether it presents substantial scientific or commercial evidence to warrant the petitioned action. The Service finds that in this case the information submitted is not substantial. It is not supported by valid scientific data, but rather consists of questionable extrapolations, and unverifiable assertions.

The Service wants to emphasize that this petition from the Kangaroo Protection Foundation has no relation to a petition received on November 10, 1982, from the Australian Government to entirely remove the western gray kangaroo (and also the eastern gray kangaroo, *M. giganteus*, and the red kangaroo, *M. rufus*) from any classification under the Act. In the case, the Service found that the petition did contain substantial information and published a proposed rule in the **Federal Register** (48 FR 15434) on April 8, 1983 to delist the kangaroos.

This notice was prepared by John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975). It is published under the authority contained in the Endangered Species Act of 1973, as amended: Pub. L. 93–205, 87 Stat. 885; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

Date: October 17, 1983

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–28804 Filed 10–24–83; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Withdrawal of Proposed Rule for Paronychia argyrocoma var. albimontana (Silverling) To Be a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Service withdraws the proposed rule in the October 27, 1980, **Federal Register** that had proposed the silverling (*Paronychia argyrocoma* var. *albimontana*) to be a Threatened species. The taxon was stated to occur in Maine, New Hampshire, and Massachusetts. The proposal is withdrawn because of new data that indicate the name does not represent a good taxonomic entity. In addition, the New England populations of the species, although rare, are considered not in danger of extinction in the foreseeable future.

DATE: The withdrawal is effective October 25, 1983.

ADDRESS: The complete file for this notice is available for inspection by appointment during usual business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Dyer, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617/965–5100, extension 316).

SUPPLEMENTARY INFORMATION:

Background

Section 12 of the Endangered Species Act of 1973 (the Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823–27924) of his acceptance of the report of the Smithsonian Institution as a petition and of his intention thereby to review the status of the plant taxa named within. *Paronychia argyrocoma* var. *albimontana* was included in the July 1975 notice of review. The taxon was proposed as Threatened on October 27, 1980 (45 FR 70949–70952). In accord with Section 2(b)(1) of the 1982 amendments (Pub. L. 97–304) to the Act, the proposal is treated as if it were proposed October 13, 1982.

The taxon has been documented from a total of approximately 27 locations in New England since its first collection in the early 1800's. Fourteen of these sites have been verified in recent years. Nine of the existing sites occur in New Hampshire, four in Maine, and one in Massachusetts. Five sites formerly occupied by the variety in New Hampshire have been examined and no plants were found. Poor locality information from herbarium specimens has precluded surveys of other reported sites. Nine of the 14 known sites occur on rock ledges, in crevices, and on mountain tops within the White Mountain National Forest, which is public land administered by the U.S. Forest Service. Other sites are on State land in all three States, and on private land in New Hampshire and Maine.

Taxonomy

In commenting on the proposal, botanists at the New York Botanical Garden brought to the Service's attention two articles relating to the genus *Paronychia:* one by Core (1941), the other by Chaudhri (1968). Core maintains the varieties of *P. argyrocoma,* stating "Fernald (Rhodora 8:103, 1906) has separated the northern form as the variety *albimontana,*" and giving differentiating characteristics. The distribution of *Paronychia argyrocoma* var. *albimontana* is given as western Maine, New Hamphire, and Massachusetts. Chaudhri, in his 1968 revision of the Paronychiinae, maintains the use of two distinct varieties, *Paronychia argyrocoma* var. *argyrocoma* and *P. argyrocoma* var. *albimontana;* however, he includes parts of North Carolina, Tennessee, and Georgia in the range of *P. argyrocoma* var. *albimontana.* This is the only known instance where specimens of *P. argyrocoma* var. *albimontana* have been cited from areas outside of New England; botanists in the south have generally either been unaware of or not followed Chaudhri's treatment.

In evaluating Chaudhri's revision, field work was conducted in 1982 at northern and southern sites of the species, and herbarium specimens of the species were borrowed by the Service. The taxonomic analysis was conducted by Dr. Andrew F. Robinson, a botanist formerly in the Service's Atlanta Regional Office and now in the Portland, Oregon, regional Office (503/231–6131); he plans to submit a scientific paper on his study to an appropriate botanical journal. His conclusion is that *Paronychia argyrocoma* (Michx.) Nutt. var. *albimontana* Fernald (*P. argyrocoma* ssp. *albimontana* [Fernald] Maguire) is not a good taxon. He found that the reported taxonomic characters of leaf pubescence and pubescence of awns of the calyx were not consistent characters useful in separating the varieties, because pubescence varied too greatly within individual plants, between plants, and between populations. The reported taxonomic character of flower length also proved inadequate. He found flowers generally smaller in the northern populations compared to those in southern States, and flowers smaller at higher latitudes within the northern States. However, he also found smaller flowers with higher elevations in the south, and plants at 5000 feet on Mt. Pisgah, North Carolina, could not be differentiated from those in the north. He considers flower length to be an ecoclinal response to latitude or altitude. He could find no one character or combination of characters that can be consistently used to separate the two varieties taxonomically, and thus concludes that Fernald's variety is untenable.

Vulnerability

The proposed rule indicated trampling by hikers as the main threat to the variety in New England, with additional threats of rock climbers, possible collecting for scientific purposes or by wildflower enthusiasts, and loss of colonies because of natural factors.

The definition of "species" in section 3(16) of the Act precludes the listing of plant population segments that are not also distinct species, subspecies, or varieties (see also 43 FR 17912). Furthermore, after 1983 field work by the Service and further evaluation of all information on the proposed taxon, it is concluded that the New England populations of the species are rare but not in danger of extinction now or in the foreseeable future. Several recently contacted New England botanists agree with this conclusion. Field work was conducted in conjunction with the U.S. Forest Service in Maine and New Hampshire in the White Mountain National Forest. For example, on Caribou Mountain, Maine, healthy vigorous plants in various age classes were found, with many in 2–3-inch crevices of limited access to hikers and rock climbers. Trampling did not seem to be causing any significant damage. In addition, collecting does not seem to be an actual threat to the survival of New England populations; scientific collecting is extremely limited and occasional, and interest and collecting by wildflower enthusiasts also is considered a very rare event.

Comments and Protection

Through January 29, 1981, comments supporting the proposed rule were received from the Governor of Maine, the New Hampshire Fish and Game Department, and the Massachusetts Department of Fisheries, Wildlife and Recreational Vehicles, as well as the Massachusetts Natural Heritage program and the Northern New England regional Office of the Appalachian Mountain Club. However, these commenters have not previously been advised of the Service's more recent taxonomic research and field work, which could change their recommendations. Nine of the 14 known sites of *Paronychia argyrocoma* in New England are on public land in White Mountain National Forest. The official comments of the U.S. Forest Service were that "it is premature to list the species" and that "our policy and management will protect this species from the need to be federally listed. The species is being added to the Regional sensitive species list to provide such protection." The Forest Service's regulations governing the land on which several of the New Hampshire and Maine populations occur prohibit removing, destroying, or damaging any plant that is classified as a threatened, endangered, rare, or unique species (36 CFR 261.9). Also, the Forest Service has developed a 10-year management plan for alpine areas in the White Mountain National Forest that fully recognizes the significance and sensitivity of the alpine environment, including much of the habitat of *Paronychia argyrocoma.* We appreciate the efforts of the Appalachian Mountain Club in helping to conserve populations of this species, specifically in working with the U.S. Forest Service in planning trail work to avoid conflicts with plant populations, and in working to educate the public concerning the fragile nature of its ecosystems. These programs will contribute significantly to the protection of vulnerable populations of this plant.

Although *Paronychia argyrocoma* var. *albimontana* appears on State lists that were developed by botanists in Maine, New Hampshire, and Massachusetts, no State legislation currently offers the species direct protection in any of these States. In Maine, several land use planning laws provide protection to rare plants indirectly through zoning regulations. Title 12 of the Maine Revised Statutes, Chapter 10, designates zoning rules and regulations administered by the Land Use Regulatory Commission. These regulations provide for zoning in specific "resource protection districts" within unorganized territories. Resource protection districts include shorelands, wetlands, floodplains, high elevation areas (above 2700'), historical areas, archeological areas, and the like. Zoning regulations and a permit system would be implemented if an activity would adversly impact such areas (Title 12 Section 4811–14). Since *Paronychia* populations occur in some of these areas protected by zoning laws, as well as on land managed by the U.S. Forest Service, portions of the habitat of the species are offered some protection under Maine law. Also, the Maine Critical Areas Program (Title 5, Chapter 312, Section 3310–3314), though non-regulatory, provides protection to unique areas through consultation with private landowners, and Maine populations of the *Paronychia* are being considered for this program.

The single Massachusetts population of the species is on an island maintained as a State Wildlife Sanctuary, and regulations prohibit the picking or disturbing of wild plants and their habitats. Two Massachusetts State laws (Massachusetts General Laws Chapter 2 Section 7, and Chapter 266 Section 116a) protect certain other, named plant species directly.

The Service recognizes that the New England populations of *Paronychia argyrocoma* are rare, and considers some precautionary protection and management at the State level appropriate to avoid their decline to a more precarious status.

Finding and Withdrawal

In compliance with sections 4(b)(6)(A)(i)(IV) and 4(b)(6)(B)(ii) of the Act, as amended, the Service hereby withdraws the proposed rule of October 27, 1980 (45 FR 70949) on *Paronychia argyrocoma* var. *albimontana* because it is considered a synonym of *Paronychia argyrocoma*. The species in its entire range is not appropriate as a candidate for the Federal Endangered Species Act.

References

Chaudhri, M.N. 1968. A revision of the Paronychiinae. Mededelingen van het Botanisch Museum en Herbarium van de Rijksuniversiteit te Utrecht No. 285, pp. 159–160.

Core, E.L. 1941. The North American species of *Paronychia*. Amer. Midl. Nat. 26(2):369–397.

Authors

The primary authors of this notice are Dr. Bruce MacBryde in the Service's Office of Endangered Species in Washington (703/235–1975; FTS 8/235–1975), and Mrs. Irene Storks-Cotter, formerly of that office and now at the Virginia Polytechnic Institute and State University, Blacksburg.

List of Subjects in 50 CFR Part 17

Endangered and threatened species.

Dated: October 17, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–28806 Filed 10–24–83; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 48, No. 207
Tuesday, October 25, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Governmental Processes of the Administrative Conference of the United States, to be held at 9:30 a.m. on Tuesday, November 15, 1983, at Room 10233, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C.

The committee will meet to discuss Professor Edward A. Tomlinson's study of the use of the Freedom of Information Act as a discovery device.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should, if possible, notify the Office of the Chairman of the Administrative Conference prior to the meeting. The committee chairman, if she deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting.

For further information conceringing this meeting contact David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. (Telephone: 202–254–7065.) Minutes of the meeting will be available on request.

October 19, 1983.

Richard K. Berg,

General Counsel.

[FR Doc. 83–28918 Filed 10–24–83; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Land and Resource Management Plan for Six Rivers National Forest, Del Norte, Humboldt and Trinity Counties, California; Intent To Reevaluate Roadless Areas

The Department of Agriculture, Forest Service issued a National Environmental Impact Statement in January, 1979. This Environmental Impact Statement documented the results of an analysis of 62 million acres of roadless and undeveloped land within the 190 million acre National Forest System. The purpose of this Roadless Area Review and Evaluation (RARE II) was to determine which of these roadless areas were more suitable for wilderness than for other National Forest uses.

In California, RARE II analyzed over 6 million acres located in the Forest Service Pacific Southwest Region. Of the total acres analyzed, about 983,000 acres were recommended for wilderness; 2,643,000 acres for further planning for wilderness; and 2,395,000 acres were not considered suitable for wilderness and were designated non-wilderness.

In 1979, the State of California challenged the adequacy of the RARE II Environmental Impact Statement used as the basis for making the decisions for allocating roadless land to either wilderness or non-wilderness use. In October, 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision which applied specifically to 46 roadless areas in California. This decision sets a binding precedent for all Federal Courts in the Ninth Circuit.

As a result of the October, 1982 court decision, all the roadless areas on the National Forests in California that meet the original criteria for the RARE II study will be reevaluated. The reevaluation of the RARE II areas on the Six Rivers National Forest will be done as part of the Forest's present land and resource management planning process. The areas to be studied are as follows:

Name	Approx. acreage
Big Butte-Shinbone	12,340
Blue Creek	[illegible]
Board Camp	4,580
Cow Creek	1,310
Kelly	[illegible]
Monkey	[illegible]
Mt. Lassic	[illegible]
North Fork	[illegible]
North Fork Smith (includes Siskiyou NF portion)	[illegible]
Orleans B	[illegible]
Orleans C	[illegible]
Packsaddle	3,630
Pilot Creek	10,210
Red Cap	14,380
Salt Creek	[illegible]
Ship Mtn.	[illegible]
Siskiyou A	[illegible]
Siskiyou B (includes Eightmile)	[illegible]
Slide Creek	[illegible]
Soldier	[illegible]
So. Kalmiopsis Adm.	[illegible]
Underwood (includes Shasta-Trinity NF portion)	[illegible]
Yolla Bolly Ext.	[illegible]
	317,696

Detailed information on the roadless areas and the reevaluation process will be distributed to individuals and organizations on the Forest mailing list, and to other individuals and organizations requesting a copy. In addition, there will be a public open house from 2:00 to 5:00 p.m. and 7:00 to 9:00 p.m., Wednesday, December 14, at the Forest Service Clark Street Conference Room, 600 W. Clark Street, Eureka, CA., to further explain, discuss and gather information about the roadless areas and the reevaluation process.

Specific written information on any of the roadless areas is encouraged. To be most helpful, written information should be sent to Owen Peck, Forest Planner, Six Rivers National Forest, 507 F Street, Eureka, CA. 95501 by close of business on December 30, 1983.

The responsible official is Zane G. Smith, Jr., Regional Forester of the Pacific Southwest Region.

For further information about the specific areas, contact Owen Peck at the above address, or phone (707) 442–1721.

Dated: October 19, 1983.

Donald W. Bachman,

Acting Forest Supervisor, Six Rivers National Forest.

[FR Doc. 83–28970 Filed 10–24–83; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Plains Electric Generation and Transmission Cooperative, Inc., Information Supplement

AGENCY: Rural Electrification Administration, USDA.

ACTION: Availability of Information Supplement.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA) has prepared an Information Supplement (IS) in connection with construction of a water pipeline and well gathering system by Plains Electric Generation and Transmission Cooperative, Inc., (Plains) of Albuquerque, New Mexico. The supplemental water pipeline would be constructed from the Plains-Escalante Generating Station (PEGS) which is located in McKinley County to Plains owned water wells located near Milan in Cibola County, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mr. Alexander E. Sherman, Chief, Distribution and Transmission Engineering Branch, Southwest Area-Electric, Rural Electrification Administration, Room 0009, South Agriculture Building, Washington, D.C. 20250, Telephone (202) 382–1915.

SUPPLEMENTARY INFORMATION: Plains submitted a Borrower's Environmental Report (BER) which has been reviewed and accepted by REA. The proposed addition consists of a 33.6 km (21 mi) pipeline and a 12.8 km (8 mi) well gathering system which would connect existing water wells located near Milan, New Mexico, to PEGS. The subject wells have either already been purchased or are under commitment to Plains. Initially a water pipeline to the Cooper Wellfield was approved as part of the PEGS Project for which a Final Environmental Impact Statement (EIS) was issued in January 1980. The decision by Plains to develop and utilize the State Wellfield instead of the Cooper Wellfield was addressed in a Draft Supplemental EIS which was issued by REA in January 1982. Since a decision by the New Mexico State Engineer's Office (NMSEO) on Plains' application for a water allocation in the State Wellfield has not been made, Plains has obtained a supplemental water supply for PEGS.

REA has reviewed the environmental information submitted by Plains and has independently evaluated the proposed change. The construction and operation of the supplemental water pipeline will have no affect on wetlands, floodplains, prime farmland, threatened and endangered species or critical babitat and no significant adverse impact on cultural resources and prime rangeland. Based on the above, REA has concluded that the proposed change is not a substantial change relevant to environmental concerns and that there are no significant new circumstances or information relevant to environmental concerns bearing on the project. Nevertheless, REA has determined that the purposes of the National Environmental Policy Act will be furthered by publishing the IS.

The proposed new pipeline to Plains owned wells is an alternative to total dependence on ultimate approval by the NMSEO of the state Wellfield as a water source for PEGS. After reviewing the two alternatives, REA determined that the proposed action is an acceptable alternative because it meets Plains' needs with a minimum of adverse impacts.

This IS may be examined at or obtained from the offices of REA in the South Agriculture Building, Room 0009, 14th and Independence Avenue, SW., Washington, D.C. 20250 and at the offices of Plains, 2401 Aztec Road, NE., P.O. Box 6551, Albuguerque, New Mexico 87197 during regular business hours. The IS may also be examined at public libraries in appropriate towns in the Affected counties. Copies of the IS are being sent to various Federal, state and local agencies as outlined in the Council on Environmental Quality Regulations.

REA will take no final action on the project modifications discussed in the IS until 15 days after this notice of availabilty is published in the **Federal Register.**

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850-Rural Electrification Loans and Loan Guarantees.

Dated: October 19, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83–28932 Filed 10–24–83; 8:45 am]

BILLING CODE 3410–15–M

COMMISSION ON CIVIL RIGHTS

Arkansas Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Arkansas Advisory Committee to the Commission will convene at 9:30 a.m. and will end at 5:00 p.m. on November 15, 1983, at the Winthrop Rockefeller Foundation, Conference Room, 308 E. 8th, Little Rock, Arkansas 72205. The purpose of this meeting is to discuss and plan projects in the areas of education, employment and block grants.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Marcia McIvor, 1229 Lakeridge, Fayetteville, Arkansas 72701, (501) 442–0600; or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 730–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 19, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–29021 Filed 10–24–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–029]

Certain Castor Oil Products From Brazil; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain castor oil products from Brazil. The review covers the period January 1, 1981 through December 31, 1981.

As a result of the reviews, the Department has preliminarily determined the aggregate net subsidy for the period to be 3.75 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 25, 1983.

FOR FURTHER INFORMATION CONTACT: Peggy Clarke or Brian Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 40534) the final results of its last administrative review of the countervailing duty order on certain castor oil products from Brazil (42 FR 8634, March 16, 1976) and announced its intent to conduct the next review. As required by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Brazilian hydrogenated castor oil and 12-hydroxystearic acid. Such merchandise is currently classifiable under items 178.2000, 490.2650, and 490.2670 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1981 through December 31, 1981 and ten programs: (1) Preferential financing for exports; (2) income tax exemptions for export earnings; (3) the export credit premium for the Industrial Products Tax ("IPI"); (4) preferential export financing under CIC–CREGE 14–11; (5) accelerated depreciation for capital goods manufactured in Brazil; (6) fiscal benefits for special export programs; (7) tax reductions on equipment used in export promotion ("CIEX"); (8) preferential export financing under Resolution 68 ("FINEX"); (9) incentives for trading companies (Resolution 643); and (10) partially-indexed long-term loans.

Analysis of Programs

(1) Preferential Financing for Exports

Under this program, the Department of Foreign Commerce of the Banco Central do Brasil ("CACEX") declares companies eligible to receive working capital loans at preferential rates. These loans have a duration of up to one year. During the period of review, each firm producing castor oil products could obtain preferential financing for up to 20 percent of the value of its previous year's exports.

We calculated the subsidy under this program by multiplying the principal outstanding under the program during 1981 by the differential between the commercial interest rate and the preferential interest rate for each loan. For loans granted prior to the period, we included only that portion extending past January 1, 1981 in our calculation. We similarly prorated loans extending past December 31, 1981.

The commercial rate for short term working capital is the rate established by the Banco do Brasil for discounting sales of accounts receivable. We chose this as the benchmark rate because information provided by the Government of Brazil indicates that working capital is normally raised within the Brazilian financial system through the sale of accounts receivable. The commercial rate includes the tax on financial transactions ("the IOF"), from which loans under the preferential program are exempt; the rate varied from 37.98 percent to 66.50 percent during the period April 28, 1980 through December 31, 1981.

During 1981, Brasway S.A. Industria e Commercio ("Brasway") and Sociedade Algodocira do Nordeste do Brasil ("Sanbra"), the two companies covered by this review, had loans outstanding under Resolutions 602 (effective March 5, 1980) and 674 (effective Janaury 22, 1981) of the Banco Central do Brasil. The effective annual rate for loans granted under these resolutions ranged from 26.39 percent to 44 percent and the differential between the commercial and preferential rates therefore ranged from 11.60 percent to 22.50 percent. We calculated the benefit conferred by the program for 1981 to be 1.58 percent *ad valorem.*

On February 21, 1983, the Government of Brazil reduced the maximum eligibility for preferential financing under Resolution 674 from 20 percent of the previous year's exports to 15 percent. Effective January 3, 1983, the Banco do Brasil increased its discount rate to 72 percent. In addition, the Government of Brazil increased the effective preferential interest rate for export financing from 44 percent to 69 percent and lowered the IOF from 4.50 percent to 1.50 percent on June 10, 1983 (Resolution 832 and 830), respectively). Adding the 1.50 percent IOF to the 72 percent rate for discounting accounts receivable, the adjusted benchmark commercial interest rate is 73.50 percent. As a result, the differential between the commercial benchmark rate and the preferential interest rate is 4.50 percent.

To estimate the potential benefit and cash deposit of estimated countervailing duties for this program, we summed the prorated value of loans outstanding during 1981, and found a weighted average use rate of 7.95 percent. This rate is lower than the reduced annual amount manufacturers can borrow. We then multiplied the current 4.50 percent interest rate differential by the weighted average loan use rate to find a potential benefit under this program of 0.36 percent *ad valorem.*

(2) Income Tax Exemption for Export Earnings

Exporters of certain castor oil products are eligible under this program for exemption from income tax of the percentage of profit attributable to export revenue. The Brazilian government calculates the tax-exempt fraction of profit as the ratio of export revenue to total revenue. The benefit equals the product of the amount of tax-exempt profit and the prevailing 35 percent corporate income tax rate. We preliminarily determine the benefit from this program to be 0.02 percent *ad valorem* for 1981.

(3) IPI Export Credit Premium

Exports of certain castor oil products are eligible for the maximum IPI export credit premium. A percentage of the f.o.b. invoice price of the exported merchandise is reimbursed in cash to exporters through the bank involved in the export transaction. The Brazilian government eliminated the IPI export credit premium on December 7, 1979, but reinstated it on April 1, 1981.

Since June 26, 1981, the Brazilian government has been collecting an export tax on exports of castor oil products to the U.S. (Resolution 699), completely offsetting the benefit received under this program. Therefore, castor oil exporters received a benefit under this program for three months during 1981. We divided the value of IPI credits received during that period by 1981 exports and found an *ad valorem* benefit of 2.13 percent. Currently, the tax collected on exports of castor oil to the U.S. continues to fully offset the benefit received under this program. Therefore, for purposes of the cash deposit of estimated countervailing duties, the potential subsidy under this program is zero percent.

(4) Preferential Export Financing Under CIC–GREGE 14–1

CIC–GREGE 14–11 is a program operated by the Banco do Brasil that provides preferential financing to exporters, who are then required to maintain a minimum fixed level of foreign exchange contracts with the Banco do Brasil. Exporters of castor oil products participated in this program in 1981.

To calculate the amount of benefit conferred under the program, we multiplied the prorated principal outstanding during 1981 of each loan by the differential between the commercial and preferential interest rates on each loan. Using the preferential rate for each loan (provided by the Brazilian government) and again using the rate for discounting accounts receivable as the commercial rate, we found that the differential between the commercial and preferential rates ranged from 6.98 to 11.50 percent. We preliminarily determine the benefit conferred by the program to be 0.02 percent *ad valorem.*

(5) Accelerated Depreciation for Capital Goods Manufactured in Brazil

This program allows companies that purchase Brazilian-made capital equipment as part of an approved expansion project to depreciate this

equipment at twice the rate normally permitted under Brazilian federal tax laws. The benefit of such a program is reduced taxable income and a subsequent reduction in tax liabilities. Sanbra used this program for the 1980 tax year. We determined the amount by which depreciation under this program exceeded normal depreciation. Sanbra had a loss, not accounted for by the accelerated depreciation, and paid no taxes during 1981. Therefore, we preliminarily determine the benefit conferred by this program to be zero percent.

We believe this program also affects the tax loss carry-forward provided for in Brazilian tax law. By increasing the total loss for the year, it would increase the amount available for carry-forward and thus reduce future tax liability. The benefit from this would be the difference between the loss with normal depreciation and with the accelerated depreciation, realized in future profitable years. We preliminarily determine that this would not affect the benefit for 1981.

(6) Other Programs

We also examined the following programs and preliminarily find that exporters of castor oil products did not use them during 1981.

A. Fiscal Benefits for Special Export Programs ("BEFIEX")
B. Tax Reductions on Equipment Used in Export Production ("CIEX")
C. Preferential Export Financing Under Resolution 68 of the National Council for Foreign Commerce ("FINEX")
D. Incentives for Trading Companies (Resolution 643)
E. Partially-Indexed Long-Term Loans

Preliminary Results of the Review

As a result of the review, we preliminarily determine the aggregate net subsidy to be 3.75 percent *ad valorem* for the period of review. The Department intends to instruct the Customs Service to assess countervailing duties of 3.75 percent of the f.o.b. invoice price on any shipments exported on or after January 1, 1981 and entered, or withdrawn from warehouse, for consumption on or before August 2, 1981.

On August 3, 1981, the International Trade Commission ("the ITC") notified the Department that the Brazilian government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or threat of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties in the amount of the estimated duties required to be deposited on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after August 3, 1981, and through the date of the ITC's notification to the Department of its determination.

Because of the changes in these programs described above, we preliminarily determine the potential subsidy, for purposes of the cash deposit of estimated countervailing duties, to be 0.40 percent. The Department considers any rate less than 0.50 percent *ad valorem* to be *de minimis*.

As provided by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to waive cash deposits of estimated countervailing duties on all shipments of certain Brazilian castor oil products entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 18, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-28829 Filed 10-24-83; 8:45 am]

BILLING CODE 3510-25-M

Management-Labor Textile Advisory Committee; Open Meeting

A meeting of the Management-Labor Textile Advisory Committee will be held November 16, 1983, 1:00 p.m., Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. (The Committee was established by the Secretary of Commerce on October 18, 1961 to advise Department officials on problems and conditions in the textile and apparel industry.

Agenda: Review of import trends, implementation of textile agreements, report on conditions in the domestic market, and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Helen L. LeGrande (202) 377-3737.

Dated: October 19, 1983.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-28827 Filed 10-24-83; 8:45 am]

BILLING CODE 3510-25-M

[A-423-013 and A-428-018]

Carbon Steel Plate From Belgium and the Federal Republic of Germany; Initiation of Antidumping Investigations

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating antidumping investigations to determine whether carbon steel plate from Belgium and the Federal Republic of Germany (FRG) is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products are materially injuring, or are threatening to materially injure, a United States industry. If these investigations proceed normally, the ITC will make its preliminary determinations on or before November 14, 1983, and we will make ours on or before March 7, 1984.

EFFECTIVE DATE: October 25, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-3962.

SUPPLEMENTARY INFORMATION:

The Petition

On September 29, 1983, we received a petition from counsel for Gilmore Steel Corporation on behalf of the domestic carbon steel plate products industry. In compliance with the filing requirements

of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Belgium and from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673)(the Act), and that these imports are materially injuring a United States industry. The allegation of sales at less than fair value is supported by comparisons of the lowest guidance prices under the Davignon Plan, which is used by European Economic Community countries to regulate internal sales prices of this merchandise, with the 1983 average f.a.s. Belgium and FRG port value of carbon steel plate imported into the United States (as provided by U.S. Department of Commerce statistics).

Petitioner also alleges that this merchandise is also being sold in the European home markets at prices which are less than the cost of production. However, petition has not submitted sufficient evidence to support these allegations with respect to Belgian home market sales, and we believe that a cost investigation of Belgian producers is not justified until more adequate evidence is submitted by petitioner.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of antidumping investigations and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel plate and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping investigations to determine whether carbon steel plate from Belgium or from the FRG is being, or is likely to be, sold at less than fair value in the United States. If our investigations proceed normally, we will make our preliminary determinations by March 7, 1984.

Scope of Investigations

The mechandise covered by these investigations is carbon steel plate. The term "carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimpled; not pickled; not cold rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad, 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in item 607.6615 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Semifinished products of solid rectangular cross sections with a width at least four times the thickness in the cast condition or processed only through primary mill hot-rolling are not included.

Cabon steel plate is used in the construction of bridges, mining equipment, pressure vessels, railroad freight and passenger cars, ships, line pipe, industrial machinery, machine parts, and a large variety of the other products.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to aririve at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all prvileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by November 14, 1983, whether there is a reasonable indication that imports of carbon steel plate from Belgium and the FRG are materially injuring, or are likely to materially injure, a United States industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

October 19, 1983.

[FR Doc. 83-29017 Filed 10-24-83; 8:45 am]

BILLING CODE 3510-25-M

[A-401-004]

Final Determinations of Sales at Less than Fair Value; Certain Carton Closing Staples and Staple Machines From Sweden

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Determinations of Sales at Less Than Fair Value: Certain Carton Closing Staples and Staple Machines From Sweden.

SUMMARY: We have determined that certain carton closing staples and staple machines from Sweden are being, or are likely to be, sold in the United States at less than fair value. The U.S. International Trade Commission (ITC) will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or are threatening to materially injure, a United States industry.

EFFECTIVE DATE: October 25, 1983.

FOR FURTHER INFORMATION CONTACT: Deborah A. Semb, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, D.C. 20230, telephone: (202) 377-3534.

SUPPLEMENTARY INFORMATION:

Case History

On December 17, 1982, we received a petition from counsel for International Staple and Machine Company, Inc. of Butler, Pennsylvania, on behalf of the domestic carton closing staple and staple machine industry. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alleged that certain carton closing staples and staple machines from Sweden are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping investigations. We notified the ITC of our actions and initiated such investigations on January 6, 1983 (48 FR 1530). On January 31, 1983, the ITC found that there is a reasonable indication that imports of certain carton closing staples and staple machines from Sweden are materially injuring, or are threatening to materially injure, a U.S. Industry (48 FR 6039). Questionnaires were presented to Josef Kihlberg Trading AB (Kihlberg) on February 9, 1983, and to Grytgols Bruks AB (Grytgols) on February 10, 1983. Responses were received on March 22, 1983 from Grytgols, and, on April 12, June 28, and September 7, and 14, 1983 from Kihlberg.

We published preliminary determinations of sales at less than fair value on June 2, 1983 (48 FR 24755). On June 7–14, and September 22, 1983, we conducted a verification in Sweden of the responses submitted by Kihlberg and Grytgols. Our notice of the preliminary determinations provided interested parties with an opportunity to submit views orally and in writing. On June 24, 1983, we held a public hearing.

Scope of Investigations

The merchandise covered by these investigations is certain carton closing staples (staples) in strip form and certain non-automatic carton closing staple machines (staple machines). Staples are made of steel, most often copper coated or galvanized. Staple machines can be divided for the most part into two categories: handheld top staple machines and free standing bottom staple machines. The subject staples and staple machines are currently classifiable under item 646.2000 and 662.2065, respectively, of the *Tariff Schedules of the United States Annotated (TSUSA)*.

Since Kihlberg and Grytgols are the only known Swedish exporters of staples to the United States, and Kihlberg is the only known Swedish exporter of staple machines to the United States, we limited our investigations to them.

The period of investigations for staples and staple machines from Sweden sold in the United States is from July 1, 1982, to December 31, 1982.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by Kihlberg and Grytgols because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

For Kihlberg, we calculated purchase price based on the f.o.b., port of exportation, unpacked price to unrelated purchasers in the United States. We made a deduction for the cost of foreign inland freight and added U.S. packing costs. For Grytgols, we calculated purchase price based on the c.i.f., U.S. port, packed price to unrelated purchasers in the United States. We made deductions for the costs of foreign inland freight, foreign terminal charges, ocean freight and insurance.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value for Kihlberg and Grytgols based on their home market sales, as there were sufficient sales of such or similar merchandise in the home market to provide a basis for comparison.

For Kihlberg, we calculated home market prices on the basis of ex-factory, unpacked prices. We made deductions, where appropriate, for quantity discounts in accordance with § 353.14 of the Commerce Regulations (19 CFR 353.14). We also made an adjustment for differences in credit terms, and added U.S. packing costs.

In our preliminary determinations, deductions for loyalty discounts were made. During our verification of Kihlberg's response, these loyalty discounts were found to be quantity discounts and were included in our allowance of quantity discounts in making our final determinations.

Kihlberg initially claimed that sales to a third country should be used for comparison with sales to the United States because sales in Sweden are to end-users and sales to the United States and to third countries are to distributors. We rejected this claim in the preliminary determinations because there were sufficient sales of such or similar merchandise in the home market to provide a basis for comparison.

Kihlberg also claimed a level of trade adjustment between the United States and home market sales, first on the basis of indirect selling expenses incurred in the home market and in sales to the U.S. Kihlberg later suggested that its sales to a related distributor in a third country, and that related distributor's sales to unrelated end-users be used as evidence of different levels of trade for adjustment purposes. Neither of these claims were allowed. See the Comment section of this notice for a complete discussion of these claims.

For Grytgols, we calculated the home market prices on the basis of ex-factory, packed prices. We allowed a deduction for quantity discounts in accordance with § 353.14 of the Commerce Regulations. We also made an adjustment for differences in credit terms. We made no adjustments for differences in packing costs as these costs were determined to be the same in both markets.

Grytgols also claimed a level of trade adjustment. As Grytgols sold to different levels of trade in the home market at the same prices, the differences in levels of trade had no impact on prices. Therefore, we disallowed the claim.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making these determinations. We were granted access to the books and records of Kihlberg and of Grytgols. We used standard verification procedures, including examination of accounting records, financial statements and selected documents containing relevant information.

Results of Investigations

We made fair value comparisons on all U.S. sales of staples and staple machines reported by Kihlberg and Grytgols. For staples sold by Kihlberg, we have found that the foreign market value exceeded the United States price on 84.61 percent of quantity sold. These margins ranged from 0.00 percent to 45.93 percent. For staples sold by Grytgols, we have found that the foreign market value exceeded the United States price on 38.46 percent of quantity sold. These margins ranged from 0.00 percent to 13.00 percent. The overall weighted-average margin on all staple sales (by both companies) compared is 11.39 percent.

For staple machines sold by Kihlberg, we have found that the foreign market value exceeded the United States price on over 99.00 percent of quantity sold. These margins ranged from 87.96 percent to 210.95 percent. The overall weighted-average margin on all sales compared is 122.79 percent.

The weighted-average margins for individual companies investigated are given for each product in the "Suspension of Liquidation" section of this notice.

Petitioner's Comments

Comment 1

DOC should not allow Kihlberg an adjustment for quantity discounts because the information presented with respect to the claimed adjustment is unclear and inconsistent, and does not comply with regulatory requirements to establish eligibility. The discount schedules presented by Kihlberg have not been consistently followed; and, moreover, the schedules show no pattern of price variation according to quantity.

DOC Position

We verified that discounts of at least the magnitude shown on Kihlberg's discount schedule have been granted in the ordinary course of trade in more than 20 percent of sales over the six month period of the investigation. Therefore, Kihlberg's quantity discounts meet the requirements of § 353.14 of the Commerce Regulations.

Comment 2

Kihlberg's claim for adjustments based upon loyalty discounts should be rejected. Such discounts are really only another form of quantity discount but do not meet regulatory requirements for quantity discounts.

DOC Position

In the preliminary affirmative determination, the DOC made adjustments for loyalty discounts granted by Kihlberg to its customers. During verification, we found loyalty discounts to be quantity discounts and we included them in our allowance of quantity discounts in making the final determinations.

Comment 3

Kihlberg's and Grytgols' credit costs for sales of the subject staples and staple machines to the U.S. market are substantially higher than for sales of the same merchandise to the Swedish market; therefore, an adjustment based upon this difference should be made. Furthermore, the DOC did not calculate this adjustment correctly in the preliminary determinations.

DOC Position

The actual credit costs of both respondent firms were verified and used in our calculations of these final determinations. DOC corrected an error in its calculation methodology in making the final adjustments for credit expenses.

Comment 4

"Gytgols' response is both inaccurate and unsupported by sufficient information to make it a proper basis for a final determination of whether sales at less than fair value are occurring. The best information otherwise available should be relied upon in making such determination".

DOC Position

Grytols' response was thoroughly analyzed and verified by the Department and was found to be accurate and to provide sufficient information for the final determination.

Comment 5

"Dates of sale with respect to U.S. sales reported by Grytols may in fact be the dates of invoice, and not the date of sale. Thus, all the 'sales' reported by Grytgols in its response could be substantially skewed" given the movement in exchange rates which occurred during the relevant period.

DOC Position

We verified that prices of the staples sold by Grytgols can and do change between date of order and date of invoice. At date of invoice, Grytgols' prices are set. Therefore, the Department used date of invoice to represent the date of sale rather than date of order in making its final determination

Comment 6

Grytgols reported its home market sales in dollar amounts, not Swedish kronor, without providing the exchange rate used. It seems that the exchange rate used by Grytgols is not reflective of actual exchange rates over the relevant period; therefore, less than fair value sales in the United States could have been obscured.

DOC Position

DOC agrees that the exchange rate used by Grytgols in its response was not reflective of actual exchange rates during the period July 1 through December 31, 1982. To calculate the margins for the final determinations on the staples sold in the United States by Grytgols, the DOC used the actual exchange rates in effect at the date of invoice of each sale. We made the proper conversion in accordance with section 353.56 of the Commerce Regulations.

Comment 7

Grytgols' claim that its packing costs for U.S. and home market sales are identical is not consistent with the normal situation. Export packing, including containerization, must make packing costs for U.S. sales higher.

DOC Position

We verified all of Grytgols' packing costs for its U.S. shipments. Grytgol's containerization costs were included in their foreign terminal charges. Foreign terminal charges were deducted in our calculation of U.S. price.

Comment 8

The adjustment for Grytgols' inland freight and insurance costs were calculated incorrectly in the preliminary determinations.

DOC Position

We verified all of Grytgols' inland freight and insurance costs. The adjustments for inland freight and insurance costs were calculated correctly.

Respondents Comments

Kihlberg

Comment 1

An adjustment should be made for differences in the levels of trade between the United States and Sweden. Because sales in the home market are to thousands of end-users, Kihlberg requires a large sales force and a large administrative staff for home market sales. Because U.S. sales are in large quantities to fewer than twenty purchasers and at the wholesale level, Kihlberg requires a much smaller sales force and a smaller administrative staff than in the case of home market sales. Consequently, Kihlberg incures greater indirect selling expenses in the home market.

DOC Position

DOC recognizes that in certain circumstances, where sales are made at different levels of trade, an adjustment for such differences may be appropriate and feasible. Since sales of such or similar merchandise do not exist at the same level of trade in both markets, an alternate method would have to be sought to establish the pricing differential which would exist were there sales in the home market at the distributor level. In response to our request for refinement of the data supporting the selling expense differential claimed, Kihlberg provided information in an attempt to substantiate its claims for a cost-based adjustment. Kihlberg also provided information intended for use in allocating the costs incurred on all sales world-wide, between the U.S. and third countries. Additionally, information was given in an attempt to provide a basis for allocating the expenses attributed to U.S. sales between the products under investigation and other products sold in the U.S. The information provided was verified by the DOC.

Although we were sympathetic to the general proposition of making an adjustment for differences in level of trade, we could not do so, because granting an adjustment would have required an unsupportable assumption that the indirect selling expenses incurred in selling to the United States represent the expenses which would have been incurred in Sweden if sales at the same level of trade existed there. Accordingly, we declined to make an adjustment.

Nevertheless, we have not rejected the concept of making an adjustment for differences in level of trade and are willing, in the context of any future reviews under section 751 of the Act, to reconsider such an adjustment in the event credible evidence were provided representing what the Swedish home market selling expenses would be if sales were made there at the distributor level.

Comment 2

Kihlberg also attempted to justify a level of trade adjustment on the basis of its sales in Finland. Kihlberg sells in Finland to its wholly-owned subsidiary. The subsidiary resells to end-users in Finland. Kihlberg contends that sales to

its subsidiary constitute a distributor level of sales in Finland. Further, Kihlberg contends that its sales to the Finnish subsidiary may be used because they are arms-length transactions as evidenced by the similarity between prices to its subsidiary and those to U.S. distributors. Consequently, Kihlberg's Finnish sales should be used to establish a level of trade differential.

DOC Position

The similarity of prices in sales to the Finnish subsidiary and the U.S. distributors is not meaningful as a measure of arms-length transactions, since the sales are subject to different market forces inherent in sales to different countries. Similarly, the differences in market conditions between Finland and Sweden render sales in Finland unsuitable as evidence for establishing a differential in prices to different levels of trade which do not exist in Sweden.

Grytgols

Comment 1

An adjustment should be made for differences in the levels of trade between the United States and Sweden. Sales in the home market are made at the retail level to end-users while sales in the United States are made at the wholesale level.

DOC Position

Grytgols' verified response indicates that it does not sell to distributors in the home market; however, it does sell to resellers and end-users in the home market. As Grytgols sold to different levels of trade in the home market at the same prices, the differences in levels of trade had no impact on prices. Therefore, we disallowed the claim.

Comment 2

Grytgol's has provided information on their sales to a third country, Finland.

DOC Position

The Department has examined this information provided by Grytgols but did not use the information in making its final determinations as Grytgols made no claim associated with the submission and the information provided is not germane to the investigation.

Final Determination

Based on our investigations and in accordance with section 735(a) of the Act, we reached final determinations that certain carton closing staples and staple machines from Sweden are being, or likely to be sold in the United States at less than fair value within the meaning of section 731 of the Act.

Continuation of Suspension of Liquidation

We are directing U.S. Customs to continue to suspend liquidation of all entries of certain carton closing staples and staple machines from Sweden, subject to this investigation which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall continue to require a cash deposit, the posting of a bond or other security equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to these investigations exceeds the United States price. The bond or cash deposit requirements established in our preliminary determinations of June 2, 1983 are no longer in effect. The weighted-average margins are as follows:

Certain carton closing staples	Weighted-average margins (percent)
Kihlberg	12.25
Grytgols	3.00
All Other Manufacturers/Producers/Exporters	11.70
Kihlberg	122.79
All Other Manufacturers/Producers/Exporters	122.79

ITC Notification

In accordance with Section 733(f) of the Act, we will notify the ITC of our determinations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, these proceedings will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue antidumping duty orders directing Customs officers to assess antidumping duties on certain carton closing staples and staple machines from Sweden entered, or withdrawn from warehouse, for consumption after the suspensions of liquidation, equal to the amount by which the foreign market value exceeds the United States price. These determinations are being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

October 17, 1983.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 83-29020 Filed 10-24-83; 8:45 am]

BILLING CODE 3510-25-M

[A-423-011 and A-428-016]

Hot-rolled Carbon Steel Sheet from Belgium and the Federal Republic of Germany; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating antidumping investigations to determine whether hot-rolled carbon steel sheet from Belgium and the Federal Republic of Germany (FRG) is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or are threatening to materially injure, a United States industry. If these investigations proceed normally, the ITC will make its preliminary determinations on or before November 14, 1983, and we will make ours on or before March 7, 1984.

EFFECTIVE DATE: October 25, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-3962.

SUPPLEMENTARY INFORMATION:

The Petition

On September 29, 1983, we received a petition from counsel for Gilmore Steel Corporation on behalf of the domestic carbon steel sheet products industry. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Belgium and the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring a United States industry. The

allegation of sales at less than fair value is supported by comparisons of the lowest guidance prices under the Devignon Plan, which is used by European Economic Community countries to regulate internal sales prices of this merchandise, with the 1983 avergae f.a.s. Belgium and FRG port value of hot-rolled carbon steel sheet imported into the United States (as provided by U.S. Department of Commerce statistics).

Petitioner also alleges that this merchandise is also being sold in the European home markets at prices which are less than the cost of production. However, petitioner has not submitted sufficient evidence to support these allegations with respect to Belgian home market sales, and we believe that a cost investigation of Belgian producers in not justified until more adequate evidence is submitted by petitioner.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initation of antidumping investigations and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on hot-rolled carbon steel sheet and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping investigations to determine whether hot-rolled carbon steel sheet from Belgium and the FRG is being, or is likely to be, sold at less than fair value in the United States. If our investigations proceed normally, we will make our preliminary determinations by March 7, 1984.

Scope of Investigations

The merchandise covered by these investigations is hot-rolled carbon steel sheet. The term "hot-rolled carbon steel sheet" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; in coils; as currently provided for in item 607.8610 of the *Tariff Schedules of the United States Annotated.*

Hot-rolled carbon steel sheet is used in the construction of automobiles, industral machinery and products, pipe, and a large variety of other products.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make avaialble to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by November 14, 1983, whether there is a reasonable indication that imports of hot-rolled carbon steel sheet from Belgium and the FRG are materially injuring, or are likely to materially injure, a United States industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed according to the statutory procedures.

October 19, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-29066 Filed 10-24-83; 8:45 am]
BILLING CODE 3510-25-M

[A-122-085]

Sugar and Syrups From Canada; Final Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Duty Order.

SUMMARY: On August 30, 1983, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping duty order on sugar and syrups from Canada. The review covers the seven known manufacturers and/or exporters of this merchandise to the United States and the period April 1, 1981 through March 31, 1982.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. As a result of correction of clerical errors, we have changed the margins for two firms. Based on our analysis, the final results of review for the remaining five firms remain unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: October 25, 1983.

FOR FURTHER INFORMATION CONTACT: Amy Dale or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255/1130.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 39268-9) the preliminary results of its administrative review and tentative determination to revoke in part the antidumping duty order on sugar and syrups from Canada (45 FR 24128-7, April 9, 1980). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of sugar and syrups produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. Sugar and syrups are currently classifiable under items 155.2025, 155.2045, and 155.3000 of the Tariff Schedules of the United States Annotated.

The review covers the seven known manufacturers and/or exporters of Canadian sugar and syrups to the United States and the period April 1, 1981 through March 31, 1982.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for a hearing. As a result of correction of clerical errors, we changed the margins for Redpath Sugars Ltd. and St. Lawrence Sugar, Ltd. The final results of the review for the remaining five firms are the same as those presented in the preliminary results, and we determine that the following margins exist for the period April 1, 1981 through March 31, 1982:

Manufacturer/exporter	Margin
Atlantic Sugar, Ltd.	U.S. $0.032/lb.[1]
B.C. Sugar	0 percent.
F.W. Jones and Son	0.004 percent.
Lantzco Ltd.	17.33 percent.[1]
Redpath Sugars Ltd.	0.3 percent.
Scott Paper Co., Ltd.	17.33 percent.[1]
St. Lawrence Sugar, Ltd.	5.65 percent.

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries which purchase dates during the period involved. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash

deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Canadian sugar and syrups from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Since the margins for F. W. Jones and Son and Redpath Sugars Ltd. are less than 0.5 percent and therefore *de minimis* for cash deposit purposes, the Department waives the deposit requirement for these firms. These deposit requirements and waivers shall remain in effect until publication of the final results of our next administrative review. The Department intends to begin immediately the next administrative review.

We will examine exports by F. W. Jones and Son made during the period April 1, 1982 through August 30, 1983, the date of our tentative determination to revoke with regard to F. W. Jones, in our next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

October 17, 1983.

[FR Doc. 83-29018 Filed 10-24-83; 8:45 am]

BILLING CODE 3510-25-M

[A-588-014]

Tuners (of the Type Used in Consumer Electronic Products) From Japan; Tentative Determination To Revoke in Part Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Tentative Determination to Revoke in Part Antidumping Finding.

SUMMARY: The Department of Commerce has tentatively determined to revoke in part the antidumping finding on tuners (of the type used in consumer electronic products) from Japan. The tentative determination to revoke in part applies to one exporter, the Sharp Corporation ("Sharp"). Sharp made all sales of this merchandise to the United States at not less than fair value during the period January 1, 1973 through January 31, 1977.

Interested parties are invited to comment on this tentative determination.

EFFECTIVE DATE: October 25, 1983.

FOR FURTHER INFORMATION CONTACT: Edward Haley or John Kugelman, Office of Compliance, International Trade Administration, Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On December 12, 1970, the Treasury Department ("Treasury") published in the **Federal Register** (35 FR 18914) an antidumping finding on tuners (of the type used in consumer electronic products) from Japan. The finding was modified to exclude tuners produced and/or sold by the following companies: Matsushita Electrical Co., Ltd. and Matsushita Electric Trading Co., Ltd. (40 FR 14591); Victor Company of Japan Ltd. (40 FR 14591); Tokyo Shibaura Electric Co., Ltd. (41 FR 21185); Sanyo Electric Co., Ltd. and Sanyo Electric Trading Co., Ltd. (41 FR 32421); and Sony Corporation of Japan (42 FR 2501).

On January 19, 1977, Treasury published in the **Federal Register** (42 FR 3725) a tentative revocation of the antidumping finding. On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 became effective. Title I replaced the provisions of the Antidumping Act of 1921 with a new title VII to the Tariff Act of 1930 ("the Tariff Act"). On January 2, 1980, the authority for administering the antidumping duty law was transferred from Treasury to the Department of Commerce ("the Department").

Scope of the Review

Imports covered by the tentative determination to revoke in part are shipments of tuners (of the type used in consumer electronic products) exported by Sharp. These imports consist primarily of television receiver tuners and tuners used in radio receivers such as household radios, stereo and high fidelity radio systems, and automobile radios. They are virtually all in modular form, aligned and ready for simple assembly into the consumer electronic product for which they were designed. The term "consumer electronic products" relates to television sets, radios, and other electronic products of a type commonly bought at retail by household consumers, whether or not used in or around the household. Excluded are complete stereophonic tuners which are consumer products themselves, but not excluded are modular-type stereophonic tuners, which are intended to become component parts of such stereophonic tuners. These tuners are currently classifiable under item numbers 685.1700 and 685.2976 of the Tariff Schedules of the United States Annotated.

Tentative Determination To Revoke in Part

The Department requires that for a company to apply for revocation, two conditions must be met: (1) The company must make all sales at not less than fair value for at least a two-year period, and (2) the parties subject to the revocation must agree to reinstatement in the finding or order in the case of subsequent less than fair value sales by those parties.

During the period January 1, 1973 through January 31, 1977, Sharp made all sales of tuners (of the type used in consumer electronic products) to the United States at not less than fair value.

In addition, Sharp has agreed in writing to an immediate suspension of liquidation and reinstatement in the finding if circumstances develop which indicate that tuners exported to the United States by Sharp are being sold by Sharp at less than fair value.

Therefore, we tentatively determine to revoke the antidumping finding on tuners (of the type used in consumer electronic products) from Japan with respect to Sharp. If the revocation is made final it will apply to all unliquidated entries of tuners exported by Sharp entered, or withdrawn from warehouse, for consumption on or after January 19, 1977.

Interested parties may submit written comments on this tentative determination within 30 days after the date of publication of this notice and may request disclosure and/or a hearing within 10 days after the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days after the date of publication. The Department will publish the results of its analysis of any such comments or hearing.

This tentative determination to revoke in part is in accordance with section 751(c) of the Tariff Act (19 U.S.C. 1675(c)) and § 353.54 of the Commerce Regulations (19 CFR 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

October 17, 1983.

[FR Doc. 83-29019 Filed 10-24-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Statement of Organization, Practices and Procedures

Pursuant to Section 302(f)(6) of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), each Regional Fishery Management Council is responsible for determining its organization and prescribing its practices and procedures for carrying out its functions under the Act, in accordance with such uniform standards as are prescribed by the Secretary of Commerce. Further, each Council must publish and make available to the public a statement of its organization, practices and procedures (SOPPs). The Gulf of Mexico Fishery Management Council's SOPPs, originally published on September 13, 1977 (42 FR, No. 177), have been superseded by an abbreviated version, published below. The abbreviated version of the SOPPs outlines the Council's operations and also specifies those detailed sections of the SOPPs which will be made available to the public upon written request to the Council.

Dated: October 19, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

V. *Composition:* The Gulf of Mexico Fishery Management Council consists of representatives of Texas, Louisiana, Mississippi, Alabama, and Florida. There are 21 Council members, 17 of these are voting members. Of the voting members 11 are appointed by the Secretary of Commerce for 3-year terms. The other 6 voting members are the principal state officials with the marine fishery management responsibility, or their designees, and the Regional Director of the National Marine Fisheries Service for the Southeast Region or his designee.

The nonvoting members of the Council are: the Southeast Regional Director of the U.S. Fish and Wildlife Service or his designee; the Commander Eighth Coast Guard District, or his designee; the Executive Director of the Gulf States Marine Fisheries Commission, or his designee; and a representative of the U.S. Department of State or his designee.

VI. *Officers and Terms of Office:* The Council elects during the first meeting each year after the date upon which Council members are appointed (usually August 11th), from among the voting members, by majority vote of the voting members present and voting, a chairman and a vice-chairman, who serve for a one-year term ending when their successors have been duly elected, unless sooner replaced. Such election shall be the last order of business at said meeting. Either the chairman or vice-chairman may succeed themselves at the will of the Council.

VII. *Staff:* This section deals with the procedures of staff administration. The following subject matters are addressed: Staff Composition; Employment Practices; Salary and Wage Administration; Leave Policies; Benefits; Grievances; Employment Termination; and Standards of Conduct. Details are available from Council.

VIII. *Council Standing Committees:* The Council has established certain working committees in order to accomplish its business. These Committees are: Administrative Policy, Advisory Panel Selection, Artificial Reef, Budget, Habitat and Environmental Protection, Management Policy, Personnel, Public Information, Regulatory Measures, Scientific and Statistical Selection, Fishery Management Committees and Temporary Committees. Details of composition and functions are available from Council.

IX. *Meeting and Hearings:* Meetings and hearings of the Council and its subgroups, including the Scientific and Statistical Committee and Advisory Panel, are held in accordance with the Act. The policy on public testimony on Draft FMPs prior to final Council deliberation and approval is available from Council.

X. *Travel/Compensation Policy:* Travel performed in support of Council activities is in accordance with Federal travel regulations. Council members will be compensated for time spent in performing official duties exclusive of "homework" time in preparation for meetings.

XI. *Advisory Panels:* The Council has established, pursuant to authority contained in the Act, a Scientific and Statistical Committee and Advisory Panel. These groups are for the purpose of assisting the Council in carrying out its functions. Details of the composition and function of these groups are available from the Council.

XII. *Management Plan Development:* There are several options the Council may utilize in development of management plans. The Council, after evaluating available technical resources in Council staff, NMFS, the States, universities, and private research firms, will select the most cost effective and efficient method of plan development. Briefly, the following options, either singly, or in combination, are available to the Council:

1. Use of an interdisciplinary plan development team consisting of State, Federal, and nongovernment specialists;
2. Use of an interdisciplinary team of NMFS specialists;
3. Use of a contractor who will assemble an interdisciplinary team of specialists to develop the plan.
4. Use of Council technical staff (particularly appropriate if a PMP is already available or for plan revision).

Details are available from the Council.

XIII. *Financial Management, Budget, Procurement and Property Management Procedures:* Fiscal, procurement and property management procedures will be in accordance with OMB Circular A–110 and A–122 and other procedures as prescribed in the financial cooperative agreement issued by Department of Commerce. Details are available from the Council.

XIV. *General Council Policies:* Policies dealing with erroneous news releases, providing material to the public, and retention of cassette tape recordings of meetings are available from the Council.

[FR Doc. 83-28661 Filed 10-24-83; 8:45 am]
BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), will hold public meetings. The Council will discuss the Bluefish Fishery Management Plan (FMP); joint venture policy; gear conflicts; status of other FMPs, as well as other fishery management and administrative matters. The Council may also convene a closed session, if necessary, to discuss personnel and national security matters. The agenda for the meetings may be rearranged or changed or the meetings may be lengthened or shortened depending upon progress on the agenda items.

DATES: The public meetings will convene on Wednesday, November 16, 1983, at approximately 9:30 a.m., and will adjourn on Thursday, November 17, 1983, at approximately 3 p.m., and will take place at the Best Western Airport Inn, Philadelphia International Airport, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-

Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: October 19, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-28950 Filed 10-24-83; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting With a Partially Closed Session and Public Meetings of Its Scientific and Statistical Committee, Groundfish Advisory Subpanel, Groundfish Task Group, and Its Salmon Advisory Subpanel

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public meetings with a partially closed session.

SUMMARY: This notice sets forth the schedule and proposed agendas of the forthcoming separate public meetings of the Pacific Fishery Management Council, its Scientific and Statistical Committee (SSC), Groundfish Advisory Subpanel, Groundfish Task Group, and its Salmon Advisory Subpanel. The Council was established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), and the Council has established a SSC, planning teams, advisors, and committees to assist the Council in carrying out its responsibilities.

DATES: November 8-10, 1983.

ADDRESS: The meetings will take place at the Red Lion Inn—Downtowner, 1800 Fairview, Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Agendas

Council (closed session)—November 9, 1983 (11 a.m. to 12 noon) in the Ballroom. Discuss the status of the fishery negotiations between the U.S. and Canada and the status of current litigation. Only those Council members and staff having security clearances will be allowed to attend this closed session. Personnel matters will also be discussed.

Council (open session)—November 9-10, 1983 (1 p.m. to 5 p.m. on November 9; 8 a.m. to 5 p.m. on November 10) in the Ballroom. Review comments from six public hearings on the Salmon Framework and Groundfish Plan Amendments, additional comments from the public and Council's SSC, advisory committees, teams and subpanels, and submit to the Secretary of Commerce for implementation; review specifications on 1984 OYs/ABCs and harvest guidelines of species in the groundfish management unit, review preliminary specifications of DAH, DAP, JVP, and TALFF, and develop alternative groundfish management measures for 1984.

SSC (open session)—November 8-9, 1983 (10 a.m. to 5 p.m. on November 8; 8 a.m. to 5 p.m. on November 9) in the Aspen Room. Review the final draft of the Salmon Framework Amendment and the first draft Amendment to the Groundfish FMP; review the final groundfish ABC/OY specifications; review and meet jointly with the Groundfish Advisors and Task Group on the proposals for 1984 groundfish management measures (meeting to be in the Ballroom from 9 a.m. to 10 a.m. on November 9); discuss other matters that may be referred to the Committee by that date and conduct a public comment period at 3:30 p.m., November 8. All sessions of the meeting are open to the public.

Groundfish Advisory Subpanel/Task Group (open session)—November 8-9, 1983 (1 p.m. to 5 p.m. on November 8; 8 a.m. to 5 p.m. on November 9) in the Bannock Room. Review the first draft Amendment to the Groundfish FMP; review the final groundfish ABC/OY specifications and proposals for 1984 groundfish management measures and then meet jointly with the SSC concerning these matters (meeting to be in the Ballroom from 9 a.m. to 10 a.m. on November 9); review objectives of trawl mesh size study and discuss other matters that may be referred to the Subpanel and conduct a public comment period at 3 p.m. November 8. All sessions of the meeting are open to the public.

Salmon Advisory Subpanel (open session)—November 8, 1983 (8 a.m. to 5 p.m.) in the Spokane Room. Review the final draft of the Salmon Framework Plan Amendment; discuss other matters that may be referred to the Subpanel and conduct a public comment period beginning at 10 a.m. on November 9. All sessions of the meeting are open to the public.

Dated: October 19, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-28960 Filed 10-24-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Limits for Certain Cotton and Wool Apparel Products from Macau

October 20, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs, to be effective on October 26, 1983. For further information contact Gordana Slijepcevic, 202/377-4212.

Background

A CITA directive dated December 17, 1982 (47 FR 57321) established restraint limits for specified categories of cotton, wool and man-made fiber textile products, including Categories 333/334/335, 339, 340, 341, 347/348, and 445/446, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1983. In the CITA directive published below the foregoing limits are being adjusted to account for the application of swing, carryover, or carryforward used under the flexibility provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Macau. All of the levels are being increased with the exception of the limit for Category 347/348 which is being reduced from 336,257 dozen to 331,198 dozen to account for carryforward used in 1982.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 20, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 17, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Macau.

Effective on October 26, 1983, you are directed to adjust the restraint limits established in the directive of December 17, 1982 for Categories 333/334/335, 339, 340, 341, 347/348, and 445/446, to the following, according to the provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Government of the United States and Macau:[1]

Category	Adjusted 12-month restraint limits[1] (in dozen)
333/334/335	86,507
339	626,638
340	146,260
341	91,055
347/348	331,186
445/446	70,504

[1] The levels have not been adjusted to account for any imports exported after December 31, 1982

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-28923 Filed 10-24-83; 8:45 am]

BILLING CODE 3510-25-M

Announcing a New Official of the Government of the Republic of the Philippines Authorized To Issue Export Visas and Exempt Certifications

October 20, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 1, 1983. For further information contact Carl Ruths (202/377-4212).

[1] The agreement provides that (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Background

The Government of the Republic of the Philippines has notified the United States Government that Ms. Aida Cabardo is authorized to issue export visas and exempt certifications under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 24, 1982, replacing Ramon R. Tayas, who will no longer issue these documents. A complete list of currently authorized officials is published as an enclosure to the letter to the Commissioner of Customs from the Chairman of CITA, which follows this notice.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 20, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of November 21, 1979 from the Chairman, Committee for the Implementation of Textile Agreements, which directed you to prohibit entry or consumption, or withdrawal from warehouse for consumption, of certain cotton, wool and man-made fiber textile products in designated categories for which the Government of the Republic of the Philippines had not issued an appropriate export visa or exempt certification.

Effective on November 1, 1983, the directive of November 21, 1979, as amended, is hereby further amended to include the name of Aida Cabardo as one of the officials currently authorized by the Government of the Republic of the Philippines to issue export visas and exempt certifications, replacing Ramon R. Tayas, who will no longer issue these documents. A revised list of officials who are now authorized to issue export visas and exempt certifications is enclosed.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles and Apparel.

Enclosure.

Officials authorized by the Government of the Republic of the Philippines to issue visas and certifications for exemption for textile and apparel products exported to the United States: Aida Cabardo, Asuncion B. Kalalo, Eden Malapad, Guillermo Parayno.

[FR Doc. 83-28921 Filed 10-24-83; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 83-1]

Bilt-Rite Juvenile Products, Inc., et al; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a Complaint under the Consumer Product Safety Act; Correction.

SUMMARY: This document corrects the complaint that appeared at page 44605 in the Federal Register of Thursday, September 29, 1983, (48 FR 44605). The action is necessary to add Attachments 1 and 2, and List and Summary of Documentary Evidence.

Dated: October 19, 1983.

Sadye E. Dunn,

Secretary.

Organizations To Contact

American College of Obstetricians and Gynecologists (ACOG), 600 Maryland Avenue SW., Washington, D.C. 20024, (202) 638-5577

International Childbirth Education Association (ICEA) P.O. Box 20048, Minneapolis, Minnesota 55420

National Association of Parents and Professionals For Safe Alternatives in Childbirth (NAPASC), P.O. Box 267, Marble Hill, Missouri 63764

The Bradly Method, P.O. Box 5224, Sherman Oaks, California 91413, (800) 423-2397 or (213) 788-6662

The Couple to Couple League International, Inc., P.O. Box 11084, Cincinnati, Ohio 45211

American Society for Psychoprophlaxis in Obstetrics (ASPO/Lamaze), 1411 K Street NW., Washington, D.C. 20005

Parent and Child, Inc. (Washington Metropolitan Area), 4905 Delray Avenue, Suite 304, Bethesda, Maryland 20814, (301) 652-5363

American Academy of Pediatrics, 1801 Hinman Avenue, Evanston, Illinois 60204, (312) 869-4255

American Association for Maternal and Child Health, P.O. Box 965, Los Altos, California 94022, (415) 964-4575

American Home Economics Association, 2010 Massachusetts Avenue NW., Washington, D.C. 20063, (202) 862-8300

American Legion Auxiliary Children and Youth Committee, 777 N. Meridian Street, Indianapolis, Indiana 46204, (317) 635-8411

American National Red Cross, 17th and D Streets NW., Washington, D.C. 20006, (202) 737-8300

American Public Health Association, 1015 15th Street NW., Washington, D.C. 20005, (202) 789-5600

Coalition for Children and Youth, 815 15th Street NW., Washington, D.C. 20005, (202) 347-9350

Day Care and Child Development Council of America, 711 14th Street NW., Suite 507, Washington, D.C. 20005, (202) 638-2316

LaLeche League International, 9616 Minneapolis Street, Franklin Park, Illinois 60131 (312) 455–7730
National Association of Neighborhood Health Centers, Inc., 1625 "I" Street NW., Suite 401, Washington, D.C., (202) 833–9280
National Council of Jewish Women, 15 East 26th Street, New York, New York 10010
National Council of Churches, 110 Massachusetts Avenue NE., Washington, D.C. 20002, (202) 544–2350
National Council of Catholic Women, 1312 Massachusetts Avenue NW., Washington, D.C. 20005, (202) 638–6050
National Safety Council, 444 North Michigan Avenue, Chicago, Illinois 60611
USDA Extension Service, Family Education, Washington, D.C. 20250, (202) 447–2920

Content To Be Included in All Notice Given

1. Mesh-sided drepside cribs and playpens are hazardous when used with a side down.

2. Eleven young children have died in these products when left in them with a side down; six children in playpens and five children in cribs. Seven of the victims were six weeks old or younger.

3. The victims rolled off the floor of the crib or playpen into the loose mesh pocket formed by a lowered side and suffocated.

4. Children could also suffer other injury such as brain damage as the result of becoming caught in the mesh pocket of a lowered side.

5. Children are unable to cry out when caught in the mesh pocket because they cannot breathe.

6. Do not leave children in mesh-sided cribs and playpens with a side down.

7. Consumers who have a mesh-sided crib or playpen or both can obtain a repair, replacement, refund (whatever remedial measures are offered) by contacting the manufacturer at: (list names of manufacturers, brand names, and telephone numbers).

8. Further information can be obtained by calling the Consumer Product Safety Commission on its toll-free Hotline: 800–638–CPSC (in Maryland, 800–492–6104). The teletypewriter number for the hearing impaired is 800–638–8270.

In the matter of Bilt-Rite Juvenile Products, Inc., et al.

List and Summary of Documentary Evidence

In-depth investigation or other source	DOA and victim	Injury and accident	Manufacture
	Mesh-Sided Cribs		
1. ND 74–74, Balti. Md.	9/18/73, 6 wks. old	Death. Infant lying face down wedged between bottom of crib and mesh side.	Crown Rivet.
2. 770504BEP7014, Arl., Va.	4/19/77, 1 mo. old male, 12 lbs.	Death. Baby found lying face down. Mattress on top of him. Side down.	Pride Trimble.
3. 780618PM0719, Balt., Md.	4/27/78, 6 wk. old female, 11 lbs.	Death. Baby found face up with head wedged between mattress and siding. Side down.	Century Products.
4. Consumer Complaint, H-[illegible], Leonard, MI.	6/78, 6 mo. old female	Stopped breathing. Given mouth-to-mouth resuscitation and recovered.	Pride-Trimble.
5. 781129CEP0771, Old Bridge, N.J.	11/21/78, 2 wk. old female; 8 lbs.	Death. Head wedged in 2" wide depression between mattress and side netting. Pressure mark on right side of face. Baby found face down. Forehead laceration. Side down partially.	Pride-Trimble.
6. 820629HIA1262, Fairfax, County, Va.	5/28/82, 25 day old male	Death. Infant lying on left side, head twisted to right. Abrasion on right side of face.	Pride-Trimble.
	Mesh-Sided Play Pens		
1. 821126HIA1071, Virginia Beach, Va.	6/21/79, 3 wk. old female, 9 lbs.	Death. Baby found face down; head wedged between mattress and side of playpen.	Pride-Trimble.
2. [illegible], Lewiston, Me.	4/28/82, 3½ mo. old, male	Death. Baby found face down in pocket of loose mesh. Face wedged between bottom and mesh. Face pressed against plastic draft shield. Side down.	Pride-Trimble.
3. [illegible], Missoula, Mont.	8/15/82, 2½-mo. old, male; 12 lbs.	Death. Baby found facing center of play yard, lying on left side with right side of chest and abdomen pressed against edge of floor board. Side down.	Questor.
4. 830223CEP1093, Front Royal, Va.	11/7/82 3, mo. old female	Head became lowered into mesh pocket when side was down. Baby cried out and was picked up by parents. No injury.	Cosco, Inc.
5. [illegible], Dallas, Tex.	5/3/83, 6 mo. old male	Death. Infant rolled into mesh pocket. Found face down. Mesh imprint on chest and head.	Century Products.
6. [illegible], Dallas, Tex.	5/7/82, 6 wk. old male; 12.9 lbs.	Death. Child wedged in mesh. Pressure marks on face and body of mesh and floorboard.	Questor.
7. 830513DAL5096, Dallas, Tex.	5/19/81, 3 mo. old female; 12 lbs., 10½ oz.	Death. Child wedged between floorboard and mesh.	

[FR Doc. 83–28922 Filed 10–24–83; 8:45 am]
BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee.

ACTION: Publication of Changes in Per Diem Rates: Correction, Bulletin Number 120, Effective October 1, 1983.

SUMMARY: This notice corrects paragraph 4 of the previous publication of changes of the Per Diem, Travel and Transportation Allowance Committee that appeared in the Federal Register, 48 FR 46095, October 11, 1983.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$12.00
Anaktuvuk Pass	140.00
Anchorage	92.00
Barrow	153.00
Bethel	131.00
Coldfoot	122.00
College	97.00
Cordova	113.00
Deadhorse	131.00
Dillingham	103.00
*Dutch Harbor	92.00
Elelson AFB	97.00
Elmendorf	92.00
Fairbanks	97.00
Ft. Richardson	92.00
Ft. Wainwright	97.00
Juneau	108.00
Ketchikan	104.00
Kodiak	110.00
Kotzebue	109.00
Murphy Dome	97.00
Nome	109.00
Norne	132.00
Noorvik	109.00
Petersburg	104.00
Point Hope	100.00
Prudhoe Bay	131.00
Shemya AFB [1]	12.75
Shugnak	108.00
Sitka-Mt. Edgecombe	104.00
Skagway	104.00
Spruce Cape	119.00
Tanana	112.00
Valdez	101.00
Wainwright	155.00
Wrangell	104.00
All other localities	83.00
American Samoa	75.00
Guam M. I.	74.00
Hawaii:	
Oahu	94.00
All other localities	87.00
*Johnston Atoll [4]	21.25
Midway Island [3]	12.00
Puerto Rico:	
Bayamon:	
12-16—5-15	124.00
5-16—12-15	99.00
Carolina:	
12-16—5-15	124.00
5-16—12-15	99.00
Fajardo (including Luquillo):	
12-16—5-15	124.00
5-16—12-16	99.00
Ft. Buchanan (including GSA Service Center, Guaynabo):	
12-16—5-15	124.00
5-15—12-15	99.00
Ponce (including Ft. Allen NCS)	72.00
Roosevelt Roads:	
12-16—5-15	124.00
5-15—12-15	99.00
Sabana Seca:	
12-16—5-15	124.00
5-16—12-15	99.00
San Juan (including San Juan Coast Guard Units):	
12-16—5-15	124.00
5-16—12-15	99.00
All other localities	99.00
Virgin Islands of U.S.:	
*12-1—4-30	120.00
5-1—11-30	86.00
*Wake Islands [4]	20.00
All other localities	80.00

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska—when Government quarters are not utilized, and quarters are obtained at the Simone Construction, Inc. camp, a daily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals and incidental expenses at this facility.

[2] Commercial facilities are not available. Only Government-owned and contractor-operated quarters and mess are available at this locality. The per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

Dated: October 20, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-29094 Filed 10-24-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Logistics Agency

Privacy Act of 1974; Amendment to a System of Records Notice

AGENCY: Defense Logistics Agency, DOD.

ACTION: Amendment to a notice for a system of records.

SUMMARY: The Defense Logistics Agency proposes to amend the notice for a system of records subject to the Privacy Act of 1974, as amended. The changes to the notice followed by the system notice as amended are set forth below.

DATE: This action will be effective November 25, 1983.

ADDRESS: Send comments to: Office of General Counsel, HQ Defense Logistics Agency, Cameron Station, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Mr. Preston B. Speed, Chief, Administrative Management Branch, HQ Defense Logistics Agency, Cameron Station, Alexandria, VA 22314. Telephone: 202/274-6234.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974, as amended, Title 5, United States Code, section 552a were published at FR Doc. 83-12048 (48 FR 26199) June 6, 1983.

This amendment does not require an altered systems report as prescribed by 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

October 20, 1983.

Amendments

S257.10 DLA-G

System Name:

Standards of Conduct.

Changes:

System Location:

After the word "DLA-G" and delete the following: "Standards of Conduct Certification for Personnel at Headquarters Counsel's Office, investigated incidents of violations of standards of conduct by Headquarters, DLA employees, reports by DLA field activities of violations of standards of conduct".

After the above deletion add the phrase "Executive Personnel Financial Disclosure Report (SF 278):"

After the phrase "Headquarters, DLA" add the following: "DASC, DTIC, DDMP".

After the phrase "Other DD 1555s required in the PLFA" delete the phrase "and initial reports of violations of standards of conduct on PLFA employees".

Categories of Individuals Covered by the System:

After the phrase "Includes DLA employees" delete the following: "General Schedule 13s and above, and Lieutenant Colonel, Commander and above, involved in approving awards for contracts or contractor audits (Defense Logistics Agency Regulation 5500.1, Standards of Conduct Regulations)" and substitute therefor the following: "whose official duties require the exercise of judgment in making Government decisions or taking actions which may have a significant economic impact on any non-Federal entity."

Categories of Records in the System:

Delete the phrase "semi-annual certification that Standard of Conduct Regulations have been read, may include".

Authority for Maintenance of the System:

After the phrase "Executive Order 11222;" add the following: "The Ethics in Government Act of 1978, Pub. L. 95-521, and DLAR 5500.1".

Purpose(s):

Add caption and insert:

"Information is used by the DLA General Counsel's Office in its efforts to preclude Government employees from making determinations in areas where such decisions might be or appear to be in conflict with personal interests. Information is used by the General Counsel's Office to determine if DLA personnel are observing the highest standards of business ethics. Records may be forwarded to Director, DLA, or DLA Field Activity Commanders for appropriate action."

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

Delete present entry and insert:

"Records may be referred to the Department of Justice or the appropriate criminal investigative agency.

"See also the blanket routine use set forth above."

Safeguards:

After the words "Office of" add the word "General," and after the phrase "as determined by" add the word "General."

System Manager(s) and Address:

After the words "Office of" add the word "General."

As amended, System S257.10 DLA–G reads as follows:

S257.10 DLA–G

SYSTEM NAME:

Standards of Conduct.

SYSTEM LOCATION:

Decentralized System—Office of Counsel, Headquarters, Defense Logistics Agency, DLA–G. Executive Personnel Financial Disclosure Reports (SF 278) and Statements of Employment and Financial Interests (DD 1555) on Headquarters, DLA DASC, DTIC, DDMP employees and Commanders, Deputy Commanders, and Counsels of Primary Level Field Activities (PLFAs). Other DD 1555s required in the PLFA are maintained at the DLA Field Activity Office of Counsel. Standard of Conduct Certifications are maintained in each Headquarters and PLFA Primary Staff Elements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Includes DLA employees, whose official duties require the exercise of judgement in making Government decisions or taking actions which may have significant economic impact on any non-Federal entity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes DD Form 1555s and allegation of violations of standards of conduct, investigatory reports by the Government, recommendations and determinations as to whether a violation of the standards of conduct occurred and what sanction may be appropriate and/or was imposed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222; The Ethics in Government Act of 1978, Pub. L. 95–521 and DLAR 5500.1.

PURPOSE(S):

Information is used by the DLA General Counsel's Office in its efforts to preclude Government employees from making determinations in areas where such decisions might be or appear to be in conflict with personal interests. Information is used by the General Counsel's Office to determine if DLA personnel are observing the highest standards of business ethics. Records may be forwarded to the Director, DLA or DLA Field Activity Commanders for appropriate action.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records may be referred to the Department of Justice or the appropriate criminal investigative agency.

See also the blanket routine use set forth above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

SAFEGUARDS:

Records are retained in areas accessible only to authorized personnel in Office of General Counsel or others as determined by the General Counsel, DLA. DD Forms 1555 are retained in locked file cabinets.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Office of General Counsel, Headquarters, Defense Logistics Agency DLA–G; Counsel, PLFA.

* * * * *

[FR Doc. 83–29033 Filed 10–24–83; 8:45 am]

BILLING CODE 3620–01–M

Department of the Navy

Naval Research Advisory Committee, Panel on Reduced Observables; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Panel on Reduced Observables will meet November 9–10, 1983, at Commander in Chief, Atlantic Headquarters, Norfolk, Virginia. The November 9 session of the meeting will commence at 8:30 a.m. and terminate at 4:30 p.m. The November 10 session will commence at 8:30 a.m. and terminate at 3:00 p.m. Both sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions relating to reduced observables; operational deception; battle group tactical operations and training; fleet training initiatives; low probability of intercept communication requirements; and operational initiatives and requirements. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of the Naval Research (Code 100N), 800 North Quincy Street, Arlington, Virginia 22217, Telephone: (202) 696–4870.

Dated: October 20, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83–28913 Filed 10–24–83; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Intergovernmental Advisory Council on Education; Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Executive Committee of the Intergovernmental Advisory Council on Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: November 10, 1983.

ADDRESS: Department of Education, Stewart Room, Horace Mann Learning

Center, Room 1160, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Laverne Johnson, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, 400 Maryland Avenue SW., Washington, D.C. 20202 (202) 472-6464.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education is established under Section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council is established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education.

The Executive Committee will meet on November 10 from 9:30 a.m. to 3:30 p.m. in Room 1160 at the Department of Education. The proposed agenda includes:

—Council Goals for Fiscal Year 1984
—Work Plan for Fiscal Year 1984
—Council Staff Working Relationships
—Status of Council Report

Records are kept of all Council proceedings and are available for public inspection at the Office of the Intergovernmental Advisory Council on Education, 400 Maryland Avenue SW., Room 3042, Washington, D.C.

Signed at Washington, D.C. on October 18, 1983.

Elizabeth Z. Doyle,

Executive Director, Intergovernmental Advisory Council on Education.

[FR Doc. 83-28995 Filed 10-24-83; 8:45 am]

BILLING CODE 4000-01-M

Fund for the Improvement of Postsecondary Education

AGENCY: Department of Education.

ACTION: Application notice for comprehensive program for fiscal year 1984.

Preapplications and applications are invited for new awards under the Comprehensive Program of the Fund for the Improvement of Postsecondary Education.

Under the Comprehensive Program the Secretary awards grants to institutions of postsecondary education and other public and private educational institutions and agencies for the purpose of improving postsecondary educational opportunities.

Authority for this program is contained in Title X of the Higher Education Act, as amended.

(20 U.S.C. 1135)

Closing Dates for Transmittal of Preapplications and Applications:

Preapplications for awards must be mailed or hand-delivered by January 10, 1984. Applications must be mailed or hand-delivered by April 10, 1984.

Preapplications and Applications Delivered by Mail: A preapplication or application sent by mail must be addressed to the Department of Eduction, Application Control Center, Attention: 84.116A, Washington, D.C. 20202.

To establish proof of mailing, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any proof of mailing acceptable to the Secretary.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a receipt that is not dated by the U.S. Postal Service as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notitified that its application will not be considered.

Preapplications and Applications Delivered by Hand: A preapplication or application that is hand-delivered must be taken to the Department of Education, Application Control Center, Attention: 84.116A, 7th and D Streets, SW., Room 5673, Regional Office Building 3, Washington, D.C. 20202.

The Secretary will accept hand-delivered preapplications and applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Preapplications that are hand-delivered will not be accepted after 4:30 p.m. on January 10, 1984. Applications that are hand-delivered will not be accepted after 4:30 p.m. on April 10, 1984.

Program Information

Type of Competition: The Secretary supports a broad range of projects that respond to immediate problems or issues in a variety of categories that seek to improve postsecondary educational opportunities.

Program Priorities: The following program priorities apply to the Comprehensive Program for Fiscal Year 1984.

(1) Learning important and difficult subjects and abilities, including math, science, writing, foreign languages, reasoning, analysis, and problem-solving.

(2) Ensuring access to postsecondary education by improving course and program completion rates and by increasing and improving the articulation between high school and college and between two- and four-year colleges.

(3) Providing education for a changing economy by providing educational programs and services for workers, unemployed individuals, businesses, and communities.

(4) Understanding educational uses and implications of the new technologies, such as computers, television, and other electronic communication media.

(5) Improving graduate and professional education by increasing access to postsecondary educational institutions at the graduate level and by reforming post-baccalaureate programs.

(6) Enhancing teacher education and cooperation with the schools by developing teacher education programs, teacher in-service programs and cooperative programs between high schools and colleges.

(7) Strengthen organizational capabilities to improve learning by enhancing institutional leadership and management, the abilities of faculty and other staff, and resources and incentives for improvement.

Under the Comprehensive Program competition, projects that do not address one of these priorities are also eligible for support if they address other significant problems in postsecondary education.

Preapplications: Preapplications are required for this competition. They are reviewed in the same manner as applications, including review by independent field readers, and are evaluated on the basis of the selection criteria announced below.

Selection Criteria: The Secretary evaluates preapplications and applications on the basis of the following selection criteria:

(a) *Significance for Postsecondary Education.* The Secretary reviews each proposed project for its significance in improving postsecondary education by determining the extent to which it would:

(1) Address an important problem or need;

(2) Represent an improvement upon or important departure from existing practice;

(3) Involve learner-centered improvements;

(4) Achieve far-reaching impact through improvements that will be useful in a variety of ways and in a variety of settings; and

(5) Increase the cost-effectiveness of services.

(b) *Feasibility.* The Secretary reviews each proposed project for its feasibility by determining the extent to which:

(1) The proposed project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the proposed project, as evidence by—

(i) The applicant's understanding of the problem or need;

(ii) The quality of the proposed project design, including objectives, approaches and evaluation plan;

(iii) The adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(iv) The qualifications of key personnel who would conduct the proposed project; and

(v) The applicant's relevant prior experience.

(3) The applicant and any other participating organizations are committed to the success of the proposed project, as evidenced by—

(i) Contribution of resources by the applicant and by participating organizations;

(ii) Their prior work in the area; and

(iii) Potential for continuation of the proposed project beyond the period of the Fund's support (unless the project would be self-terminating).

(c) *Appropriateness of the Fund's support.* The Secretary reviews each application to determine whether support of the proposed project by the Fund is appropriate in terms of the availability of other funding sources for the proposed activities.

For purposes of reviewing *preapplications,* the selection criteria grouped under "significance" ((a) above) are more important than those grouped under "feasibility" ((b) above) and "appropriateness" ((c) above). The group of criteria under "feasibility" ((b) above) is equal in importance to the "appropriateness" criterion ((c) above).

In reviewing *applications,* the selection criteria (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (b)(1), (b)(2), (b)(3), and (c) are of equal importance.

In applying the criteria, the Secretary first analyzes preapplications and applications in terms of the individual criteria. The Secretary then bases the final judgment of a preapplication or application on an overall assessment of the extent to which the application satisfactorily addresses the selection criteria.

Other Information to be Requested from Applicants: The Secretary will contact by telephone all applicants whose applications are being considered for funding in the final stages of the selection process in order to verify or clarify information relevant to their applications.

Available Funds: The Continuing Resolution enacted by the Congress on September 30, 1983, effective through November 10, 1983, authorizes the funding level of $11,710,000 for this program for Fiscal Year 1984. Pending resolution of the final level of appropriations, applications are invited to allow sufficient time for their evaluation and for the completion of the grants process prior to the end of the fiscal year should funds become available. It is estimated that 75 new awards ranging from $5,000 to $200,000 per year will be made.

Since a bill for fiscal year 1984 has not been passed, these are only estimated and do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Preapplication and Application Forms: Preapplication and application forms are included in a program information package. These materials have been sent directly to everyone on the mailing list for the Fund for the Improvement of Postsecondary Education. Institutions and persons not on the list can obtain these materials from the Comprehensive Program, Attention: 84.116A, Department of Education, Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, SW., (Room 3100, Regional Office Building 3), Washington, D.C. 20202.

The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

Applicable Regulations: The regulations governing awards made by the Fund for the Improvement of Postsecondary Education are contained in:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts, 74, 75, 77, and 78, with the exception noted in 34 CFR Part 630.4(b).

(2) The regulations in 34 CFR Part 630.

Further Information: For further information contact the Fund for the Improvement of Postsecondary Education, regarding the Comprehensive Program (84.116A); Telephone: (202) 245-8091/8100.

(Catalog of Federal Domestic Assistance No. 84.116A, Fund for the Improvement of Postsecondary Education)

Dated: October 17, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-28028 Filed 10-24-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Petition for Implementation of Special Refund Procedures

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Petition for Implementation of Special Refund Procedures.

SUMMARY: The Economic Regulatory Administration (ERA), pursuant to 10 CFR 205.281, has petitioned the Office of Hearings and Appeals (OHA) to institute proceedings to refund, or otherwise appropriately distribute, certain funds recovered by ERA as a result of consent orders, remedial orders and court orders.

FOR FURTHER INFORMATION CONTACT: Carl A. Corrallo, Solicitor, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20585, (202) 252-4167.

SUPPLEMENTARY INFORMATION: Since 1979, ERA has been collecting monies pursuant to its enforcement activities and depositing them in a Deposit Fund Escrow Account maintained for the Department of Energy (DOE) by the Department of Treasury. To resolve the issues raised by DOE's audit of these firms and to remedy any violations that may have occurred during the periods covered by the enforcement actions, these firms remitted certain funds to DOE for ultimate disposition by DOE.

Funds from the remaining few cases were the result of remedial orders or court orders. In each case, ERA has been unable to readily identify those persons who may have been injured or the specific amount of refund owed to each with respect to the matters covered by the orders. A number of cases have already been petitioned to OHA for disposition. The cases petitioned today had awaited a determination by ERA as to an appropriate mechanism for disbursement.

In December 1982, Congress passed the Further Continuing Appropriations Act, 1983, Pub. L. 97–377, which provided in Section 155 that up to $200 million of the funds held in escrow on December 17, 1982 and which were not likely to be paid to identified injured persons were to be distributed to the governor or chief executive officer of each of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States to be used in one or more designated federal energy conservation programs. On February 4, 1983, to implement this mandate of Congress, DOE disbursed $200 million from the petroleum violations escrow account to the states, territories and possessions. *See* 48 FR 5293 (Feb. 4, 1983).

A balance of $117,626,560.25, reflecting the residuum of funds on December 17, 1982, plus additional interest, as well as money received since that date as a result of new consent orders or further payments on previously executed consent orders, remains to be distributed. ERA has determined that these funds, with certain exceptions, may be distributed appropriately pursuant to 10 CFR Part 205, Subpart V. These exceptions include certain cases involving orders whose terms are inconsistent with submission to the Subpart V process. With such exclusions, ERA is petitioning for special refund proceedings in a total of 453 cases, with $112,293,605.44 in escrow at this time.

ERA believes that a special refund proceeding under Subpart V should allow for the largest participation by potentially injured parties and for general public participation. Under 10 CFR Parts 230–282, public comments are to be solicited with regard to the procedures proposed by OHA for distribution of the funds. Therefore, ERA has concluded that Subpart V proceedings offer a satisfactory means to resolve distribution of the escrowed funds.

Attached as an appendix to this notice is a list identifying all of the cases subject to this petition and the original amount of each order. [The amounts listed do not include interest accumulated while the monies have been in escrow or deductions for the $200 million disbursed to the states in February 1983.]

Claimants to the funds submitted under any of the listed cases should await instructions from OHA through the **Federal Register** with regard to the filing of claims. Questions regarding the status of the petition should be directed to: Deposit Fund Escrow Account Refund Proceeding, Office of Hearings and Appeals, Washington, D.C. 20461.

Issued in Washington, D.C., October 12, 1983.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

BILLING CODE 6450-01-M

UMI 1983 OCT 25 2007 ISS VOL 48

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
ESCROW ACCOUNTS PRODUCT RESELLERS & RETAILERS		
AMTEL, INC.	720H00552Z	$1,250,000.00
APPALACHIAN FLYING SERVICE	432K00435Z	$[illegible]2,500.00
ARKANSAS VALLEY PETROLEUM	660H10655Z	$27,571.00
ARKLA CHEMICAL CORP.	641H00364Z	$67,500.00
ARMOUR OIL COMPANY	930H00062Z	$42,795.70
AZTEC ENERGY CORP	410H00143Z	$14,372.72
BAILEY DISTRIBUTING CO. INC.	433H00476Z	$6,193.20
BAK LTD.	320H00043Z	$250,000.00
BAYSIDE FUEL OIL DEPOT CORP.	240H00440Z	$51,727.00
BIG BEND TRUCK CO.	412K00056Z	$18,000.00
BLAYLOCK OIL	412H00163Z	$9,719.00
BLEX OIL COMPANY	731H02022Z	$7,100.00
BOB'S OIL CO.	810H00354Z	$2,389.[illegible]
BOSWELL OIL	533H00178Z	$14[illegible],250.00
BOX, CLOYCE K.	600H00037Z	$500,000.00
BROWN OIL CO.	810H00334Z	$3,573.71
BUCKS BUTANE & PROPANE	920T00131Z	$29,200.00
BUDGET AIRPORT ASSOCIATES INC	930K00323Z	$13,688.26
BUSLER ENTERPRISES	550H00326Z	$74,500.00
BUTLER PETROLEUM CORP.	340H00479Z	$13,500.00
CENTRAL OIL CO.	110H00300Z	$54,799.12
CHAPLAIN OIL CO.	134K00121Z	$56,997.00
CIBRO GASOLINE CORP	240H00486Z	$83,764.00
CITY SERVICE INC.	810H00326Z	$5,14[illegible].33
COLLINS OIL CO.	570H00003Z	$12,000.00
COLUMBIA OIL	533H0030[illegible]Z	$13,532.15
CONLO SERVICE INC.	240H00506Z	$4,854.00
CONSOLIDATED LEASING CORP	930K00325Z	$16,500.00
CONSUMER OIL CO.	930H00097Z	$110,925.00
COSBY OIL CO.	940H00124Z	$35,000.00
COUGAR OIL	420H002[illegible]4Z	$16,381.00
CROSS OIL CO. INC.	720H00439Z	$21,612.00
CRYSTAL OIL	610H00012Z	$[illegible],998.01
DALCO PETROLEUM	660T00642Z	$[illegible]80,347.00
DESERTAIRE OIL & GAS	[illegible]71T00079Z	$[illegible]24,000.00
DEWITT, J.E., INC.	930H00295Z	$[illegible]13,450.1[illegible]
DILLION CO.	720H00556Z	$31,999.53
E. B. LYNN	320H00326Z	$42,043.00
EASTERN OF NEW JERSEY	240H00441Z	$425,000.00
EASTERN PETROLEUM	N00H00163Z	$25,650.00
ELM CITY FILLING STATIONS,INC	150H00126Z	$141,454.00
EMPIRE OIL	930H00319Z	$10,126.77
ENDICOTT, EUGENE V.	020H00060Z	$10,000.00
ENTERPRISE OIL & GAS CO	540H00121Z	$19,098.94
FIELD OIL CO. INC.	810H00312Z	$17,995.15
FINE PETROLEUM CO. INC.	460H00072Z	$25,000.00
FKG OIL	720H00595Z	$62,691.82
FLETCHER OIL CO.	010H00034Z	$131,470.00

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
FOSTER OIL CO.	540H00222Z	$9,497.00
G.G.C. CORPORATION	673H00344Z	$23,748.00
GATE PETROLEUM	412H001E0Z	$30,000.00
GENERAL EQUITIES, INC.	110H00527Z	$128,081.00
GIBBS INDUSTRIES INC.	110H00494Z	$37,000.00
GLASER GAS	810E00015Z	$23,155.37
GLOVER, LAWRENCE H.	270T00071Z	$36,156.00
GOODMAN OIL COMPANY	000H00411Z	$9,566.00
GRAND RENT A CAR CORP.	930K00324Z	$32,500.00
GULL INDUSTRIES	010H00357Z	$52,342.00
GULL INDUSTRIES, INC.	N00SD0001Z	$973,879.54
GULL INDUSTRIES, INC.	010H00056Z	$100,000.00
HARRIS ENTERPRISES INC	020H00047Z	$21,200.00
HELLER, GLENN MARTIN	CA791153MA	$7,914.90
HENDELS INC.	110H00517Z	$155,882.00
HERTZ CORP.	N00K00251Z	$694,919.00
HICKS OIL & HICK GAS	570E00128Z	$69,028.58
HINES OIL CO.	720H00571Z	$1,000.00
IDEAL GAS CO.	021T00012Z	$53,714.00
INDEPENDENT OIL/TIRE	530H00436Z	$13,000.00
INDIAN OIL CO. INC.	132H00243Z	$145,583.00
INLAND USA, INC.	720H00563Z	$405,000.00
INMAN OIL CO.	720H00557Z	$19,000.00
J.A.L. OIL	240H00500Z	$14,204.00
JAMES PETROLEUM	911H00183Z	$60,433.60
JAMES, SAINT CORP.	110H00487Z	$228,335.71
JAY OIL CO	6C1H00209Z	$77,000.00
JIMMYS GAS STATIONS	132H00170Z	$6,275.00
KELLER OIL COMANY, INC.	720H00598Z	$29,044.60
KENNY LARSON OIL CO	000H00439Z	$5,842.00
KEY OIL CO. INC.	420H00271Z	$69,650.94
KEY OIL COMPANY	430H00477Z	$58,729.96
KIESEL CO.	720H00569Z	$7,500.00
KING & KING ENTERPRISES, INC.	710H02500Z	$81,934.56
KINGSTON OIL SUPPLY CORP.	210K00019Z	$546.00
KNUTSON, MARLEN L.	000H00422Z	$25,971.00
L & L OIL CO. INC.	640H00360Z	$10,000.00
LAKES GAS CO INC	510E00134Z	$6,500.00
LEATHERS OIL CO.	000H00426Z	$10,000.00
LEO'S-WINSTEAD'S	710H01376Z	$115,873.88
LEWIS OIL CO.	340H00493Z	$40,000.00
LINCOLN LAND OIL CO	720H00573Z	$11,728.63
LOCKHEED AIR TERMINAL INC.	930H00199Z	$328,064.71
LOWE OIL COMPANY	710H01379Z	$52,347.47
LUCIA LODGE	910K00133Z	$19,546.41
LUKE BROTHERS INC.	660E00075Z	$9,000.00
MALCO INDUSTRIES	530H00435Z	$61,889.83
MARINE PETROLEUM CO.	720H00567Z	$198,500.00
MARTIN OIL SERVICE, INC.	570H00200Z	$225,652.00
MARTINOIL COMPANY	910T00120Z	$200,000.00

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
MAXWELL OIL CO.	000H00425Z	$9,743.39
MCCARTY OIL CO	530H00438Z	$50,594.11
MCCLEARY OIL CO.	310H00439Z	$61,000.00
MCCLURE'S SERVICE STATION	340H00486Z	$2,603.66
MIDWAY OIL CO	570H00057Z	$30,000.00
MIDWEST INDUSTRIAL FUELS INC.	520H00063Z	$1,864.23
MISSOURI TERMINAL OIL CO.	720H00562Z	$40,000.00
MOORE TERMINAL AND BARGE CO.	641H00052Z	$50,000.00
MOYLE PETROLEUM	810H00300Z	$12,173.48
NAPHSOL REFINING COMPANY	543H00012Z	$29,673.56
NATIONAL PROPANE CORP.	270T00002Z	$21,217.00
NIELSON OIL & PROPANE, INC.	733H02005Z	$46,000.00
NORTHEAST PETROLEUM CORP.	110H00334Z	$322,748.00
NORTHEAST PETROLEUM CORP.	120H00491Z	$840,000.00
NORTHEASTERN OIL CO.	810H00374Z	$30,000.00
NORTHERN OIL/BRAY CO	134H00124Z	$75,000.00
O'CONNELL OIL CO.	110H00513Z	$9,361.00
OCEANANA TERMINAL CORP.	240H00361Z	$250,367.00
PACER OIL CO	412H00172Z	$34,127.00
PACIFIC NORTHERN OIL	010H00028Z	$22,428.00
PARMAN OIL CORP.	430H00219Z	$45,000.00
PASCO PETROLEUM INC	000H00442Z	$113,853.00
PEDERSEN OIL, INC.	000H00418Z	$23,617.00
PERTA OIL	930H00088Z	$189,280.00
PETERSON PETROLEUM	240H00491Z	$32,816.16
PETROLEUM HEAT & POWER	110H00530Z	$131,733.00
PETROLEUM SALES/SERVICE	340H00488Z	$59,595.00
POINT LANDING FUEL CO.	640H00175Z	$100,000.00
PORT OIL COMPANY	420H00278Z	$18,472.72
POST PETROLEUM	910H00145Z	$10,680.00
POWER PAK CO. INC.	610H10452Z	$66,201.00
PROPANE GAS & APPLIANCE CO.	420E00296Z	$24,797.72
PYROFAX GAS CORP	641T00099Z	$2,750,000.00
QUARLES PETROLEUM	N00H00905Z	$33,690.23
RAMOS OIL CO., INC.	910H00144Z	$19,000.00
RANCHERS OIL COMP	930H00309Z	$22,766.17
RECH DISTRIBUTING RECH LOREN P	810H00313Z	$7,853.08
RED TRIANGLE	910H00112Z	$36,116.00
REINHARD DIST. CO.	010H00304Z	$15,307.00
REYNOLDS OIL CO.	810H00324Z	$2,500.00
RICHARDS OIL CO.	510H00105Z	$400,000.00
RICHARDSON AYERS JOBBER	640H00354Z	$101,835.00
ROBERTS OIL	400H00215Z	$14,393.72
ROOKWOOD OIL TERM	533H00008Z	$156,862.75
ROPERT INC.	340H00262Z	$99,025.00
SANESCO OIL	930H00306Z	$51,703.77
SCHROEDER OIL COMPANY	733H02025Z	$16,351.40
SMITH, C.K. & CO.	111H00028Z	$348,614.19
SPEEDWAY PETROLEUM CO., INC.	110H00289Z	$58,959.00
STINNES OIL	240H00519Z	$435,435.00

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
SWIFTY OIL COMPANY	550H003377	$65,000.00
T.W. OIL INC.	240H00047A	$313,069.00
TARRICONE INC.	240H00291Z	$365,354.00
THERMOGAS,R.V. WHITMER	530E001767	$60,000.00
THOMPSON OIL	N00H00189Z	$47,908.26
TIGER OIL CO	000H00428Z	$4,000.00
TIPPINS OIL CO.	710H02502Z	$12,000.00
TRAVELERS RENTAL INC	110K00536Z	$7,784.99
TRUCKSTOPS CORP OF AMERICA	430K000317	$486,430.00
TURCO'S SHELL ST	810Z13110Z	$510.40
U.S. OIL CO.	570H002077	$50,776.89
UNITED OIL COMPANY	240H104737	$28,025.58
UNITED PETROLEUM	420H002777	$22,375.00
US COMPRESSED GAS CO.	320T00257Z	$57,000.00
VANGAS INC.	910T00124Z	$30,362.00
WALLACE & WALLACE	240H00399Z	$50,000.00
WALLER PETROLEUM CO. INC.	310H00470Z	$91,913.00
WARREN HOLDING CO.	110H004[illegible]5Z	$1,010,000.00
WARREN OIL CO.	111H00327Z	$68,681.[illegible]2
WERCO SOUTHERN OIL INC	410H001397	$13,079.52
WEBSTER OIL CO.	710H015437	$110,304.00
WHITE PETROLEUM	550H00317Z	$68,627.45
WILLIS DISTRIBUTING CO.	340H004807	$92,691.00
WINDHAM GAS & OIL CO.	340H004787	$40,532.00
WISCONSIN INDUSTRIAL FUEL	520H002177	$268,885.14
ESCROW TOTAL :		$20,092,924.63

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
ESCROW ACCOUNTS REFINERS		
ALLIED MATERIALS CORP & EXCEL	660S00302Z	$848,232.46
ARKANSAS LOUISIANA GAS CO.,	641S00255Z	$2,807,671.00
BAYOU/IDA	641S00396Z	$950,000.00
BEACON OIL, CO.	910S00008Z	$1,311,206.00
CRYSTAL OIL CO.	641S00098Z	$1,000,000.00
EARTH RESOURCES	431S00341Z	$7,875,000.00
EDDY REFINING CO/KEY OIL CO	400S00203Z	$244,000.00
EVANGELINE REFINING	640S00407Z	$250,000.00
FRANKS PETROLEUM	641S00421Z	$135,000.00
GETTY OIL	RGE0000017	$25,000,000.00
GLORIA OIL AND GAS CO.	641G00234Z	$646,614.00
GOOD HOPE REFINERIES INC.	150S00154Z	$10,000,000.00
HOWELL-QUINTANA	610[illegible]0068Z	$2,267,115.00
HUSKY OIL COMPANY	820S00007Z	$2,000,000.00
LAKESIDE/CRYSTAL REFINING CO	540S00276Z	$200,000.00
LITTLE AMERICA REFINING	830600013Z	$2,175,000.00
MARION CORP.	421S00117Z	$115,000.00
NAVAJO REFINING CO.	672S001367	$600,000.00
PRIDE REFINING, INC.	6D0S000367	$600,000.00
RUNKER STATE OIL	340S00352Z	$4,800,000.00
SABER ENERGY, INC.	6D0S00037Z	$974,362.00
SEMINOLE REFINING	411S000237	$570,000.00
SOUTH HAMPTON REFINING	6E0S00002Z	$500,000.00

UMI 1983 OCT 25 2007 ISS VOL 48

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
SOUTHERN UNION	673S003367	$220,000.00
UNION TEXAS PETROLEUM	6E0S00023Z	$1,325,000.00
VSG CORPORATION	422S000■5Z	$1,010,000.00
WARRIOR ASPHALT CO.	420S00193Z	$404,287.00
WITCO CHEMICAL CORP	240S000547	$4,500,000.00
YOUNG REFINING CORP	410S00085Z	$75,000.00
E S C R O W T O T A L :		$73,343,487.46

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
ESCROW ACCOUNTS NATURAL GAS LIQUIDS		
AMINOIL USA INC.	740V01315Z	$1,600,000.00
APACHE CORPORATION	710V03010Z	$495,000.00
ARAPAHO PETROLEUM, INC.	710V03019Z	$199,000.00
ASSOCIATED PROGRAMS INC.	740V01389Z	$225,000.00
ATLANTA PETROLEUM PRODUCTS	6D0V00010Z	$22,200.00
BELRIDGE OIL CO.	940V00121Z	$215,189.00
BRECKENRIDGE GASOLINE CO.	710V03020Z	$251,000.00
CHAPMAN, H.A.	740V01407Z	$55,400.00
CHAPMAN, H.A.	740V01397Z	$125,000.00
CONSOLIDATED GAS SUPPLY CORP	342V00353Z	$2■,212.00
CONTINENTIAL RESOURCES	413V00001Z	$4,704,650.00
COORS ENERGY CO	710V03004Z	■65,000.00
CRYSTAL OIL CO.	810V■0249Z	■7,000.00
DEVON CORP.	740V01313Z	$340,000.00
EAGLE PETROLEUM	710V03025Z	$119,500.00
ENSEARCH EXPLORATION	6D0V00039Z	$2,997,500.00
GARY ENERY COMPANY	810V00003Z	$600,000.00
GAS SYSTEMS INC	6D0V00013Z	■44,500.00
GRIMES GASOLINE	710V03005Z	$316,000.00
GULF ENERGY ■ DEVELOPMENT CORP	710V03013Z	$210,000.00
HAMILTON BROTHERS OIL CO.	710V03026Z	$320,000.00
HORNER ■ SMITH	6E0V00014Z	$175,000.00
HOUSTON NATURAL GAS	6E0V00053Z	$750,000.00

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
INTERNATIONAL MINERALS & CHEMICAL	710V03027Z	$1,000,000.00
KERR-MCGEE CORP.	710V03028Z	$1,000,000.00
LOUISIANA LAND & EXPLORATION	710V03029Z	$1,000,000.00
MAGNOLIA PETROLEUM	710V03030Z	$1,000,000.00
MARATHON OIL CO.	710V03031Z	$1,000,000.00
MCCULLOCH OIL CORP.	710V03032Z	$1,000,000.00
MCMORAN EXPLORATION CO.	710V03033Z	$1,000,000.00
MESA PETROLEUM CO.	710V03034Z	$1,000,000.00
MOBIL OIL CORP.	710V03035Z	$1,000,000.00
MONSANTO CO.	710V03036Z	$1,000,000.00
NATOMAS NORTH AMERICA INC.	710V03037Z	$1,000,000.00
NERCO OIL & GAS INC.	710V03038Z	$1,000,000.00
NEVADA GOLD & CASINOS INC.	710V03039Z	$1,000,000.00
NEVADA GOLD & CASINOS INC.	710V03040Z	$1,000,000.00
NEVADA GOLD & CASINOS INC.

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
HUBER CORP.	733V020287	$207,000.00
HUNT INDUSTRIES	710V03006Z	$70,000.00
HUNT PETROLEUM CORP	710V03007Z	$180,000.00
INTERNORTH, INC.	730V020007	$1,500,000.00
KANSAS-NEBRASKA NATURAL GAS CO	730V012167	$12,901,418.51
KANSAS-NEBRASKA NATURAL GAS CO	730V012447	$406,578.25
MAPCO INC.	740V012467	$9,000,000.00
MESA PETROLEUM CO.	740V012487	$3,000,000.00
MISSISSIPPI RIVER TRANSMISSI	720V005907	$76,500.00
MITCHELL ENERGY	6D0V000537	$708,000.00
MONTANA POWER CO.	820V002107	$77,187.00
MOUNTAIN FUEL COMPANY	710V030037	$1,200,000.00
NORTHWEST PIPELINE	710V030157	$1,500,000.00
PANHANDLE EASTERN PIPE	710V020037	$542,455.00
PEOPLES ENERGY CORP.	733V020067	$750,000.00
PETRO-LEWIS CORP	840V002007	$5,900,000.00
PETRO-LEWIS CORP	840V002027	
PETROLANE-LOMITA GASOLINE CO.	940V001957	$3,000,000.00
PIONEER	675V002797	$14,907,060.00
PLANET ENGINEERS INC	710V030167	$55,000.00
PLATEAU INC	733V020137	$1,500,000.00
PRONTO GAS CO.	6D0V000247	$20,000.00
TEXAS GAS & EXPLORATION	6E0V000157	$1,800,000.00
TEXAS OIL & GAS CORPORATION	6D0V000677	$3,440,000.00
TEXAS PACIFIC OIL CO INC	740V014037	$72,500.00
TIPPERARY OIL CO.	670V003237	$400,000.00
E S C R O W T O T A L :		$77,078,849.76

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
ESCROW ACCOUNTS CRUDE OIL PRODUCER		
ADCO PRODUCING CO. INC.	422C00261Z	$99,522.33
ALPAR RESOURCES INC.	600C200467	$313,000.00
AMAX PETROLEUM CORP.	422C00064Z	$182,450.00
AMERICAN PACIFIC INTERNATIONAL	940C00112Z	$368,000.00
AMINOIL USA	610C004587	$2,600,000.00
ATLANTIC OIL CO.	960C000467	$5,475.95
ATLANTIC OIL CORP.	810C002527	$60,000.00
AXIS PETROLEUM CO	940C001817	$52,541.00
B & M OPERATING	600C200787	$410,000.00
BARNHART	610C004027	$630,000.00
BASS ENTERPRISES PRODUCTION CO	6D0C000907	$497,500.00
BAXTER, MURPHY H	6E0C000317	$200,000.00
BELCO PETROLEUM	240C000027	$100,497.00
BERG, LANEY, & BROWN	740C012507	$240,000.00
BETTIS, BOYLE & STOVALL	600C200477	$50,000.00
BEVERLY HILLS OIL CO.	940C001427	$161,951.00
BIG LANE CO.	422C001877	$65,701.07
BIG SIX DRILLING CO.	6F0C000377	$50,000.00
BLACKWOOD & NICHOLS CO	660C006687	$160,000.00
BOCK & BACON	6E0C000617	$180,000.00
BOLIN OIL CO.	600C200487	$27,500.00
BROWN OIL OPERATOR	6E0C000367	$31,203.15
BUXTON, F. M.	660C005087	$50,285.18

UMI 1983 OCT 25 2007 ISSUE 48 VOLUME

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
C & K PETROLEUM INC.	610C00439Z	$265,000.00
C N OPERATING COMPANY	733C02015Z	$325,000.00
CAUKINS OIL	840C00056Z	$37,248.00
CENTURA, INC.	610C00477Z	$115,000.00
CENTURY OIL MANAGEMENT INC.	960C00067Z	$324,316.00
CLAIRE-BENZ-STODDARD	6A0C00259Z	$50,000.00
COBRA OIL & GAS CORP.	600C20051Z	$30,000.00
COMANCHE OIL CO	740C01374Z	$170,000.00
COOPER & BRAIN INC.	960C00029Z	$465,212.00
COX, JIM	660C00412Z	$32,879.41
CULPEPPER OIL	660C00444Z	$355,000.00
DECALTA INTERNATIONAL	930C00073Z	$134,356.91
DEPCO INC.	810C00377Z	$335,000.00
DOLLEY, CHESTER F.	960C0004[illegible]Z	$214,046.00
DUGGAN MACHINE	6A0C00295Z	$144,498.[illegible]8
DUNLAP, E. CORPORATION	660C00439Z	$57,017.36
EDWARDS PRODUCING CO. INC.	422C00248Z	$106,732.34
EL PASO NATURAL GAS CO.	660C00646Z	$430,100.00
ENERGY ACQUISITION	740C01404Z	$299,000.00
ENERGY DEVELOPMENT OF CALIF.	940C00131Z	$[illegible]41,000.00
ENERGY SERVICES, INC	720C00577Z	$750,000.00
EQUIPMENT, INC.	640C00327Z	$[illegible]10,000.00
EXCHANGE OIL & GAS	640C00429Z	$151,006.[illegible]1
FARMERS UNION CENTRAL EXCHAN	740C01249Z	$150,000.00
FERGUSON OIL & GAS CO.	660C00592Z	$98,322.77
FLORIDA GAS EXPLORATION CO.	[illegible]13C00021Z	$890,140.[illegible]4
FORNEY, BILL, INC.	610C00473Z	$480,000.00
FRANKS, JOHN	[illegible]A0C00294Z	$289,015.52
FREEPORT MINERALS CO.	640C00024Z	$10,508.00
GENERAL EXPLORATION CO.	610C00441Z	$100,000.00
GRACE PETROLEUM CORP	660C00633Z	$1,450,000.00
HANKAMER, CURTIS	610C00474Z	$410,000.00
HANOVER MGMT. CO.	6A0C00230Z	$175,000.00
HARRIS, JAMES W.	422C00201Z	$150,000.00
HASSIE HUNT EXPLORATION CO.	6A0C00256Z	$158,608.39
HAWN BROTHERS	610C00350Z	$70,000.00
HAWTHORNE OIL & GAS CORPORATIO	640C00314Z	$520,000.00
HEWITT & DOUGHERTY	610C00117Z	$180,000.00
HNG OIL COMPANY	610C00329Z	$379,616.39
HOLLINGSWORTH,C.D.	422C00196Z	$147,111.00
HOUSTON OIL & MINERALS CORP	640C00400Z	$3,985,000.00
HOWELL DRILLING INC.	610C00283Z	$28,500.00
HUDSON & HUDSON	720C00597Z	$750,000.00
HUFFINGTON INC.	6E0C0003[illegible]Z	$180,000.00
HUNT OIL CO.	6A0C00008Z	$14,162.37
HUNT, D.H.	N00C00779Z	$996,540.00
HUNT, W.H.	6A0C00244Z	$136,937.06
J.W. OIL CO.	831C00036Z	$174,475.54
JOHNSON,LYLE & LEE	660C00315Z	$44,050.82
JOSEY, LENOIR M	6E0C00063Z	$262,500.00

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
KARCHMER PIPE & SUPPLY	572C001797	$107,000.00
KIMBARK OIL & GAS	810C00384Z	$11,000.00
KIRKPATRICK OIL & GAS CO.	660C00437Z	$260,000.00
LACY, R. INC.	6B0C00229Z	$20,000.00
LESBACK OIL	710C013037	$18,500.00
LINDSEY,W W & ELLIOTT, W E	433C00466Z	$25,000.00
LOBO OIL CORPORATION	670C00271Z	$205,071.79
LOEB, HERMAN L.	527C002637	$72,992.89
LYONS PETROLEUM INC.	641C00426Z	$192,619.56
MACHIN, ART	600C200907	$25,000.00
MACKELLAR INC	660C002467	$38,485.45
MARSHALL PIPE AND SUPPLY CO.	600C200997	$52,000.00
MOBO OIL COMPANY	940C00141Z	$90,000.00
MCCORMICK OIL	6E0C00026Z	$92,000.00
MEASON DPTG. CO.	422C002497	$68,119.94
MERTZ, BRUCE	572C00262Z	$62,098.17
MESA PETROLEUM CO.	675C00245Z	$340,000.00
MITCHELL, WILLIAM	572C00260Z	$72,992.89
MONCRIEF, W.A. JR.	6A0C001347	$1,100,000.00
MOORE & MILLER	660C003777	$30,111.03
MOSBACHER PRODUCTION CO.	610C00457Z	$80,000.00
MOSBACHER PRODUCTION COMPANY	610C00436Z	$180,000.00
MOUNTAIN FUEL SUPPLY CO.	820C00185Z	$275,000.00
NATIONAL COOP REFINERY ASSN.	740C01299Z	$95,000.00
NFC PETROLEUM CORPORATION	660C00608Z	$249,683.96
NIELSON ENTERPRISES INC.	810C00339Z	$325,000.00
NORTH CENTRAL OIL	6E0C00064Z	$750,000.00
NORTHEAST NAT. GAS	530C00103Z	$86,604.00
OIL CALIFORNIA EXPLORATION	910C00107Z	$145,369.00
PARK ROBERT C	831C000517	$100,000.00
PAULEY PETROLEUM INC.	910C00127Z	$27,241.58
PAWNEE PETROLEUM CORP	660C00306Z	$676,561.74
PAYNE INC.	660C00292Z	$440,000.00
PAYNE-JOHNSTON & BYARS	600C200697	$89,000.00
PETROLEUM CORP. OF TEXAS	6A0C00105Z	$100,000.00
PHILLIPS OIL OPERATING CO.	660C00319Z	$43,000.00
PHILLIPS, B.F.	6A0C00232Z	$36,247.83
PHILLIPS, LOYCE (ESTATE OF)	6D0C000817	$36,840.00
PRUDENTIAL	600C200847	$162,500.00
RIDDLE OIL CO	610C00394Z	$1,100,000.00
ROARK & HOOKER	610C00463Z	$300,000.00
ROBINSON ENERGY	740C014157	$601,000.00
ROSE, HUBERT	572C001997	$75,000.00
ROSS PRODUCTION	641C002197	$100,000.00
RUPE OIL COMPANY	740C012677	$35,000.00
SATER, RONALD E.	572C00261Z	$62,098.17
SAUDER, EARL W.	710C011097	$296,622.32
SEARCH DRILLING CO.	740C013317	$94,205.43
SHENANDOAH OIL CORP.	6A0C00138Z	$115,500.00
SIEGFRIED R. H. INC.	740C01390Z	$[illegible]5,000.00

UMI 1983 OCT 25 2007 ISS VOL 48

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
SIERRA PETROLEUM CO., INC.	740C01128Z	$267,677.02
SIGNAL PETROLEUM	640C003907	$1,500,000.00
SOUTHLAND DRILLING & PRODUCTIO	6C0C00020Z	$23,014.02
STEVENS OIL CO	720C00587Z	$100,000.00
SUNDANCE OIL COMPANY	810C000077	$800,000.00
SUPERIOR OIL CO	610C00442Z	$9,800,000.00
TEXAS OIL & GAS	6D0C00038Z	$1,718,800.00
TEXAS RECOVERY CO.	6A0C00108Z	$81,335.32
TEXLAND PETROLEUM	600C20081Z	$280,000.00
TOCO CORP.	810C00321Z	$892,587.68
TODD & SAUNDERS	600C20088Z	$98,000.00
TRANSPAC PETROLEUM INC	940C00189Z	$50,000.00
TRAVELERS OIL CO.	740C01254Z	$125,331.57
TWIN MONTANA	6A0C002427	$116,993.87
TWIN MONTANA,INC.	5A0C00242Z	$1,489,129.51
VALLECITOS OIL CO.	910C00044Z	$268,072.00
VAN HORN, JAMES M.	940C00239Z	$50,000.00
VARN PETROLEUM CO	610C00368Z	$150,000.00
VIRGINIA DARE OIL COMPANY	940C00140Z	$45,000.00
WADSWORTH OIL CO	6E0C00035Z	$62,412.89
WALL, EARL E.	640C00295Z	$335,000.00
WESTATES PETROLEUM	940C00096Z	$825,000.00
WESTERN AVENUE PROPERTIES	940C00228Z	$40,000.00
WILLIAMS EXPLORATION	N00C00780Z	$13,000,000.00
WILSIRE OIL CO. OF TEXAS	660C00499Z	$40,632.00
WINDFUHR OIL	6D0C00083Z	$223,500.00
WOODS, DALTON J.	640C00285Z	$93,545.72
E S C R O W T O T A L :		$65,730,025.24

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
ESCROW ACCOUNTS CRUDE OIL RESELLERS		
ARMOUR OIL COMPANY	940X00179Z	$225,000.00
BARTON, A.L.	6A0X00299Z	$100,000.00
BIG-TEX CRUDE OIL CO	6A0X00303Z	$400,000.00
CAJUN ENERGY	650X00322Z	$45,000.00
COFFIELD PIPELINE CO	650X00295Z	$85,000.00
COORS ENERGY	6C0X00252A	$10,000.00
DA VINCI CO. INC.	6C0X00250Z	$500,000.00
ENCORP INC	6A0X00291Z	$5,000.00
ENGLE ENTERPRISES,R.YOUNG	6C0X00300Z	$20,000.00
GEER TANK TRUCKS, INC.	6A0X00287Z	$5,000.00
GONSOULIN ENERGY CORP/INDUST.	640X00434Z	$96,000.00
GRAY TRUCKING CO	6A0X00305Z	$31,500.00
INDEPENDENT OIL PRODUCERS AGCY	940X00159Z	$290,185.00
INLAND CRUDE PURCHASING CO.	6C0X00256Z	$21,000.00
KEMCO & KENNETH WALKER	N00X00233Z	$495,000.00
KIMCO PETROLEUM	6C0X00208Z	$331,936.19
LACY, R. INC.	6A0X00263Z	$48,000.00
LANGHAM PETROLEUM & DEVELOPMEN	640X00433B	$32,000,000.00
LANGHAM,ROBERT STEPHEN	640X00433N	$.00
MID-PLAINS,PETROLEUM CO.	6C0X00311Z	$120,000.00
MUSTANG FUEL CORPORATION	6C0X00238Z	$800,000.00
NORTHEAST PET.INDUSTRIES	6C0X00241Z	$1,200,000.00
NRG OIL COM./BROCK & MOORE	650X00332Z	$114,374.81

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
PAN AMERICAN PETROLEUM CORP.	940X00160Z	$1,000,000.00
PETROLEUM MARKETING CO.	6A0X00301Z	$100,000.00
PETROLEUM MARKETING CO.	6A0X00302Z	$100,000.00
PETROLEUM MARKETING CO.	6A0X00304Z	$100,000.00
PETROLEUM MARKETING CO.	6A0X00306Z	$100,000.00
PETROLEUM MARKETING CO.	6A0X00307Z	$100,000.00
PETROLEUM MARKETING CO.	6A0X00308Z	$100,000.00
PETROLEUM MARKETING CO.	6A0X00309Z	$100,000.00
PETROLEUM MARKETING CO.

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
OILCO	6C0X00293Z	$5,000.00
OSAGE OIL & TRANSPORTATION	6C0X00215Z	$177,000.00
PETROLEUM CONSULTING SERVICES	6C0X00298Z	$125,000.00
PETROMINERALS CORPORATION	6C0X00306Z	$21,250.00
RYDER TRUCK RENTAL INC	6A0X00276Z	$130,000.00
SANTA FE ENERGY PRODUCTS CORP	640X00448Z	$48,462.00
SECOR PETROLEUM CO.	6C0X00297Z	$47,500.00
SOUTHERN UNION/MIDLAND-LEA	6A0X00325A	$300,000.00
TAUBER OIL COMPANY	650X00304Z	$575,000.00
TEXAS AMERICAN PETROCHEMICALS	6C0X00267Z	$10,000.00
TXO OIL COMPANY	6A0X00297Z	$150,000.00
VENTURE TRADING COMPANY	940X00161Z	$17,946.21
E S C R O W T O T A L :		$38,550,154.21

COMPANY NAME	CONSENT NUMBER	CONSENT AMOUNT
ESCROW ACCOUNTS ENTITLEMENTS		
ARIZONA FUEL CORP.	N00S98067Z	$490,441.46
CROSS OIL & REFINING CO OF ARK	N00S90114Z	$800,000.00
DIAMOND SHAMROCK CORP.	N00S90124Z	$10,301.00
EARTH RESOURCES	N00B90097Z	$626,000.00
EDDY REFINING CO.	N00S80018Z	$24,892.35
ELM CITY FILLING STATIONS	N00M90030Z	$106,770.02
FLETCHER OIL	N00S90203Z	$41,210.00
GOLDEN EAGLE OIL CO	N00M90034Z	$300,000.00
GUAM OIL & REFINING COMP.	N00S90096A	$2,500,000.00
JOHNSON A. AND CO. INC.	N00B98007Z	$124,564.00
LUNDAY THAGARD OIL	N00S98076Z	$1,971,000.00
MALLARD RESOURCES	N00B90125Z	$800,000.00
MARION CORP.	N00S90043Z	$703,570.00
NEVADA REFINING CO.	N00S98002Z	$137,421.00
OKC CORPORATION	N00S98080Z	$600,000.00
OXNARD REFINING CO.	N00S90075Z	$789,108.00
SEMINOLE REFINING	N00S90119Z	$1,330,000.00
E S C R O W T O T A L :		$11,355,477.83

[FR Doc. 83-28464 Filed 10-24-83; 8:45 am]
BILLING CODE 6450-01-C

Federal Energy Regulatory Commission

[Docket No. RP84-7-000]

Colorado Interstate Gas Co; Petition for Order Declaring Minimum Bill Obligation Due

October 19, 1983.

Take notice that on October 11, 1983, Colorado Interstate Gas Company (CIG) tendered for filing, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure (18 CFR 385.207), a request that the Commission institute a proceeding and, after hearing, issue an order declaring CIG's minimum bill obligation, if any, due to MIGC, Inc., (MIGC) under the latter company's FERC Gas Tariff Original Volume No. 1, Rate Schedule PL-1. CIG claims that a significant controversy exists or is likely to exist between CIG and MIGC over the amount of any such payment due. CIG states that, since this dispute involves interpretation of tariff provisions and determination of the effect of those provisions as well as factual considerations within those contexts, it is uniquely within the Commissions Primary and exclusive jurisdiction. CIG, therefore, submits that the public interest requires that the Commission promptly institue a hearing in this matter. In support thereof, CIG states as follows.

It is CIG's understanding that initial deliveries under MIGC's subject tariff commenced in October of 1970. According to CIG's understanding of the tariff provisions, any minimum bill payment to CIG for the contract year ending October, 1983, would be due by December 20, 1983.

CIG believes that it has no minimum bill payment obligation to MIGC for this contract year. CIG takes this position for the following reasons:

(1) CIG is only obligated under §§ 5.3 and 5.1(a) of the contract and tariff to pay for the annual "contract quantity". The annual "contract quantity" does not include gas purchased by MIGC from Montana Dakota Utilities Company (MDU), a pipeline supplier. CIG has already paid MIGC in this contract year for substantial quantities of gas supplied to MIGC by MDU. CIG believes that those payments by CIG will more than offset minimum bill payments due for any Powder River Basin gas includable in the annual "contract quantity" for the months of July through October of 1983.

(2) The annual "contract quantity" covers "all gas produced from oil wells which is tendered to * * * CIG. CIG states it is not obligated under the unambiguous terms of the tariff to pay MIGC for gas which is shut-in by producers indirectly or directly supplying MIGC or gas which is not "tendered" to CIG by MIGC.

(3) CIG is not obligated to make minimum bill payments for gas tendered to it in the contract year which is not shown by MIGC to have been of contract quality.

(4) Any CIG minimum bill payment obligation to MIGC is subject to the outcome of the proceedings in Commission Docket No. RM83-71-000. Furthermore, since MIGC in only the first six months of this year has recovered more than twice the fixed costs allocated in its last rate case to the CIG sale, there is no justifiable reason why CIG and the customers it serves must make any minimum bill payment covering MIGC's fixed costs.

(5) CIG has no minimum bill obligation to MIGC for gas it may have flared on July 28th or thereafter.

(6) CIG has no minimum bill obligation to MIGC for damages MIGC might incur to its gas suppliers under take *and* pay contracts.

(7) CIG has no minimum bill obligation to MIGC for gas costs or damages which might have to pay for gas flared by MIGC suppliers.

If the Commission requires that CIG must make a minimum bill payment to MIGC for the contract year ending October 31, 1983, CIG requests that it also make the following contemporaneous rulings:

(1) Consistent with the Commission's policy statement in *Transwestern Pipeline Company*, Docket No. TA83-2-42-001, Order issued July 8, 1983, MIGC should be required to credit to its Account 191 the gas cost component of any minimum bill payments received.

(2) In accordance with the Commission's ruling in *Mississippi River Transmission Corporation*, Docket No. RP83-48-000, Order issued March 31, 1982, 18 FERC ¶61,304, the Commission should reaffirm that minimum bull payments by CIG to MIGC are properly treated in Account 803, Natural Gas Transmission Line Purchases and recoverable through CIG's purchased gas adjustment filings.

CIG states that copies of the filing were served on all parties to the proceedings in Docket No. RP83-116.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211,

385.214). All such petitions or protests should be filed on or before November 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28603 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP80-146-000, et al.]

Columbia Gas Transmission Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

October 19, 1983.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 4, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
9/21/83	Columbia Gas Transmission Corporation.	RP80-146-000	Report.
9/29/83	Alabama-Tennessee Natural Gas Company.	G-16964-000	Report.
9/30/83	Natural Gas Pipe Line Company of America.	RP86-11-012	Report.
10/3/83	United Gas Pipe Line Company.	CI-72-674-002	Report.
10/3/83	Consolidated Gas Supply Corporation.	RP72-157-067	Report.
10/4/83	Tennessee Gas Pipeline Company.	RP80-67-000	Plan.

APPENDIX—Continued

Filing date	Company	Docket No.	Type filing
10/4/83	Bistrigas of Massachusetts Corporation.	RP79-22-012	Report.
10/6/83	National Fuel Gas Supply Corporation.	RP80-135-002	Report.
10/7/83	Columbia Gas Transmission Corporation.	RP81-82-000 and RP80-120-006.	Report.
10/11/83	Algonquin Gas Transmission Company.	RP72-110-032	Report.
10/11/83	National Fuel Gas Supply Corporation.	RP80-135-003	Report.
10/11/83	Tennessee Natural Gas Lines, Inc.	RP81-54-014	Report.

[FR Doc. 83-28604 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-513-000]

Columbia Gas Transmission Corp., Request Under Blanket Authorization

October 19, 1983.

Take notice that on September 16, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP83-513-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for additional new points of delivery to existing wholesale customers under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia proposes to construct and operate facilities necessary to provide 16 additional points of delivery to existing wholesale customers, *i.e.*, Columbia Gas of Kentucky, Inc. (two points), Columbia Gas of Ohio, Inc. (three points), Columbia Gas of Pennsylvania, Inc. (two points), Columbia Gas of West Virginia, Inc. (seven points), and West Ohio Gas Company (one point). Columbia asserts that it will deliver approximately 18 Mcf of gas per day and approximately 25,467 Mcf annually through the proposed facilities. It is asserted that the additional volumes to be provided through the new points of delivery are within Columbia's currently authorized level of sales and such volumes will not affect Columbia's peak day and annual deliveries to which the existing wholesale customer is entitled.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28605 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-531-000]

Equitable Gas Co.; Application

October 19, 1983.

Take notice that on September 30, 1983, Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP83-531-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing storage of natural gas under two new rate schedules and service for Kentucky West Virginia Gas Company (Kentucky West Virginia) under one of said rate schedules, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Equitable states that it has contracted with Kentucky West Virginia pursuant to the terms of a gas storage agreement dated September 29, 1983, whereby gas will be made available by Kentucky West Virginia to Columbia Gas Transmission Corporation (Columbia Gas) for transmission and delivery to Equitable for injection into Equitable's storage fields and subsequent withdrawal and redelivery, via Columbia Gas, to Kentucky West Virginia. Equitable would provide, pursuant to new Rate Schedule SS-1, interruptible storage service subject to

Equitable's ability to maintain service to its firm customers. Equitable states that Kentucky West Virginia needs to continue to provide natural gas deliveries to a hydrocarbon extraction plant owned by Kentucky Hydrocarbon Company (KHC) in order to keep the plant in operation so that KHC can continue to meet its contractual obligations to its customers. Kentucky West Virginia is said to have recently experienced severe declines in gas sales and is said to need to store the unmarketable gas following its processing by KHC, otherwise the KHC plant would be forced to close. Kentucky West Virginia is the sole gas supplier to the KHC plant and, Equitable states, it has no alternative source of supply.

Equitable also proposes to offer, under new Rate Schedule SS–2, firm peaking storage service available to its customers for withdrawal during the period December 1 through March 31 at a firm daily withdrawal rate of 1/100 of the total gas volumes held in storage for the buyer as of November 30.

Equitable proposes the following initial gas storage charges:

Rate Schedule SS–1 (Interruptible Service)

Storage Space Charge: 1.71¢ per Mcf of gas in storage at end of month
Storage Injection Charge: 27.22¢ per Mcf for gas received for injection into storage
Storage Withdrawal Charge: 4.98¢ per Mcf for gas withdrawn from storage for redelivery
Minimum Charge: The monthly minimum charge shall be equal to the Storage Space Charge times the amount of gas in storage at the end of the month

Rate Schedule SS–2 (Firm Service)

Demand Charge: 69.92¢ per Mcf of firm demand as designated in the service agreement
Storage Space Charge: 1.64¢ per Mcf of gas in storage at end of month
Storage Injection Charge: 32.37¢ per Mcf for gas received for injection into storage
Storage Withdrawal Charge: 10.09¢ per Mcf of gas withdrawn from storage for redelivery
Minimum Charge: The monthly Minimum Charge shall be the sum of the monthly Demand Charge and the monthly Storage Space Charge

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitable to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–22886 Filed 10–24–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ST81–433–001]

Mississippi River Transmission Corp; Extension Reports

October 19, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline purusant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before November 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST81–433–001[1]	Mississippi River Transmission Corp., 9900 Clayton Road, St. Louis, MO 63124.	El Paso Natural Gas Co	09/22/83	G	05/01/83
ST82–118–001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Louisiana State Gas Corp	09/30/83	B	01/05/84
ST82–122–001	Valero Interstate Transmission Co., P.O. Box 1589, San Antonio, TX 78296.	Esperanza Transmission Co	09/16/83	B	12/16/83

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST82-126-001	Mountain Fuel Resources, Inc., 180 East First South Street, Salt Lake City, UT 84139.	Western Slope Gas Co.	[illegible]	B	01/02/84
ST82-143-001	Southern Natural Gas Co., P.O. Box 2563, Birmingham, AL 35202.	Northern Natural Gas Co.	09/19/83	G	12/17/83
ST82-144-001	Mississippi River Transmission Corp., 9900 Clayton Road, St. Louis, MO 63124.	Louisiana Intrastate Gas Corp.	09/22/83	B	12/22/83
ST82-175-001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102.	Wester Transmission Co.	[illegible]	B	01/11/84

[1] These extension reports were filed after the date specified by the Commission's Regulations, and shall be the subject of a further Commission order.
NOTE.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 83-28697 Filed 10-24-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-487-001]

Montana-Dakota Utilities Co.; Petition to Amend

October 19, 1983.

Take notice that on October 3, 1983, Montana-Dakota Utilities Co. (MDU) and Williston Basin Interstate Pipeline Company (Williston), both of 400 North Fourth Street, Bismarck, North Dakota 58501 filed in Docket No. CP82-487-001 a petition to amend their joint application filed in Docket No. CP82-487-000 on August 16, 1982, pursuant to Sections 7(b) and 7(c) of the Natural Gas Act by authorizing the abandonment of additional facilities and service and the acquisition and operation of additional facilities, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

By the amendment to the application, MDU requests authority under Section 7(b) of the Natural Gas Act to abandon, by sale to Williston, facilities authorized to be constructed by MDU in Docket No. CP83-163-000, and the service rendered by said facilities. Williston requests authority pursuant to Section 7(c) of the Natural Gas Act to acquire and operate such facilities and make a sale of gas for resale thereby to Frannie-Deaver Utilities.

It is stated that on May 20, 1983, in Docket No. CP83-163-000, (23 FERC ¶61,268) MDU received authorization to construct and operate certain metering facilities and make a sale for resale of natural gas to Frannie-Deaver Utilities pursuant to MDU's existing Rate Schedule PR-1. In its certificate order, the Commission ordered MDU and Williston to file an amendment to their joint application filed in Docket No. CP82-487-000 to include the facilities and service approved in Docket No. CP83-163-000. The proceeding in Docket No. CP82-487-000, it is stated, involves an abandonment by MDU by sale and acquisition by Williston of jurisdictional facilities and services constituting MDU's interstate natural gas transmission system and underground storage fields.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-28698 Filed 10-24-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-501-000]

Northwest Pipeline Corp.; Application

October 19, 1983.

Take notice that on September 8, 1983, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP83-501-000 an application pursuant to Section 3 of the Natural Gas Act for authorization to import at Kingsgate, British Columbia, up to 100,000 Mcf per day of the volume of Canadian gas which Applicant is authorized to import at Sumas, Washington, and to extend the term of its currently authorized imports at Sumas for three years from November 1, 1984, through October 31, 1992, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant is currently authorized to import at Sumas, Washington up to 800,200 Mcf of natural gas per day that is exported by Westcoast Transmission Company Limited (Westcoast). According to Applicant, the Sumas volumes are purchased under contract called the Fourth Service Agreement and are exported pursuant to License No. GL-41, which is issued by the National Energy Board of Canada (NEB). It is further stated that Applicant is currently authorized to import at Kingsgate, British Columbia, up to 152,000 Mcf of natural gas per day which is purchased from Westcoast under a contract called the Kingsgate Agreement and exported pursuant to NEB License No. GL-4. Applicant explains that according to the Kingsgate Agreement, the currently authorized Kingsgate volumes will decline by 25 percent per contract year from November 1, 1984 until the expiration of the contract on October 31, 1987. Due to this future decline in authorized export volumes, Applicant proposes to utilize its existing import point at Kingsgate as an import point for up to 100,000 Mcf per day of the volumes currently authorized for import as Sumas.

It is further stated that the NEB recently issued a new license, Export License No. GL-94, to Westcoast to provide for continued exports by Westcoast upon expiration of License No. GL-41 on October 31, 1989. Pursuant to License No. GL-94, commencing November 1989, Westcoast is authorized to export natural gas at Kingsgate and Sumas, with Kingsgate exports limited to 100,000,Mcf per day, according to the following schedule:

Period	Annual volume (thousand Mcf)	Maximum day volume (thousand Mcf)
Nov. 1, 1989, to Oct. 31, 1990	[illegible]	494.7
Nov. 1, 1990, to Oct. 31, 1991	90,750	[illegible]
Nov. 1, 1991, to Oct. 31, [illegible]	[illegible]	[illegible]

Applicant proposes to continue purchases of natural gas from Westcoast and to extend its importation of such gas at Sumas and Kingsgate through October 31, 1992, in a manner consistent with Westcoast's Export License No. GL-94.

Applicant states that Pacific Gas Transmission Company's existing

facilities at the Kingsgate import point and Applicant's existing facilities at the Sumas import point will be utilized to import natural gas during the additional term provided under Westcoast's Export License No. GL–94. Applicant indicates that no additional facilities are required in order to effectuate the extension of the import as contemplated.

Applicant also indicates that it will pay the rate established by the NEB for natural gas sold and exported by Westcoast pursuant to Export License Nos. GL–41 and GL–94, which is currently $4.40 per million Btu.

Applicant submits that the proposal herein is consistent with the public interest because it will help it ensure the maintenance of a long-term, reliable supply of natural gas for its existing customers. It is stated that the addition of Kingsgate as an import point for certain volumes currently authorized for import at Sumas would enable Applicant to offset the decline in volumes currently authorized for import at Kingsgate. Furthermore, it is alleged that the continuing to serve Applicant's market areas historically served by Canadian gas, since the loss of the subject import would require Applicant to attempt to purchse substantial volumes of domestic gas reserves and to build additional facilities to deliver such domestic gas to Applicant's market. Therefore, Applicant submits, the proposed import extension is necessary to maintain Applicant's ability to serve its market requiremernts and will not impair Applicant's ability to render natural gas service at reasonable rates to its existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28980 Filed 10–24–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–528–000]

Alabama-Tennessee Natural Gas Co.; Application

October 20, 1983.

Take notice that on September 29, 1983, Alabama-Tennessee Natural Gas Company (Applicant), P.O. Box 918, Florence, Alabama 35631, filed in Docket No. CP83–528–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to make available to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for the account of Ford Motor Company (Ford) up to 15,000 Mcf of natural gas per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to make available to Tennessee for transportation for Ford, an existing firm direct industrial customer of Applicant, up to 15,000 Mcf of natural gas per day and a total volume not to exceed 250,000 Mcf for a period beginning on the date initial deliveries commence and ending on or before December 31, 1983. It is explained that the gas to be made available is a transfer of Ford's present entitlement under its existing firm contract with Applicant from Ford's Sheffield, Alabama, plant which is closed to Ford's Nashville, Tennessee, plant. The subject gas would be made available to Tennessee at the Barton sales meter station in Colbert County, Alabama. It is further stated that Tennessee would transport and deliver the gas to Tennessee Natural Gas Lines, Inc., at an existing meter station in Davidson County, Tennessee.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–28983 Filed 10–24–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–8–000]

Algonquin Gas Transmission Co.; Application

October 20, 1983.

Take notice that on October 7, 1983, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP84–8–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity, authorizing Algonquin to transport until June 15, 1986, natural gas for an existing transportation customer, Central Hudson Gas & Electric Corporation (Central Hudson), under the authorized overrun provisions set forth in Section 7 fo Algonquin's Rate Schedule T–1, all as more fully set forth in the application on file with the Commission and open to public inspection.

Algonquin Gas states that Central Hudson, a customer of Texas Eastern Transmission Corporation (Texas Eastern), will purchase the gas to be transported and will cause it to be delivered to Algonquin Gas by Texas Eastern pursuant to the latter's Rate Schedule ISS–III. The quantities involved are a total storage quantity of 71,604 dt and a maximum daily withdrawal quantity of 716 dt. Algonquin states that it will receive such gas at an existing point of interconnection with Texas Eastern near

Hanover, New Jersey and will then transport the gas to Central Hudson at its existing delivery point near Somers, New York. No new facilities will be required in order to render the service proposed.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction confered upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Algonquin to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28984 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-22-000]

Arizona Public Service Co.; Filing

October 20, 1983.

The filing Company submits the following:

Take notice that on October 7, 1983, the Arizona Public Service Company (APS) tendered for filing as an initial rate schedule an Interruptible Transmission Service Agreement between Arizona and Southern California Edison Company (SCE) dated September 27, 1983.

APS requests an effective date of October 4, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon the Arizona Corporation Commission and Southern California Edison Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before November 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28987 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-529-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

October 20, 1983.

Take notice that on September 29, 1983, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP83-539-000 a request pursuant to Section 157.209 of the Regulations under the Natural Gas Act (18 CFR 157.209) that Columbia proposes to transport natural gas for Allied Corporation (Allied) under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia proposes to transport up to 2,500 dt per day equivalent of natural gas on behalf of Allied. Columbia states it would receive gas at existing points of receipt in Meigs County, Ohio, and redeliver gas to Baltimore Gas and Electric Company for ultimate delivery to Allied.

Columbia asserts that, depending upon whether its gathering facilities are involved, Columbia would charge Allied either (1) its average system-wide storage and transmission costs, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering costs, exclusive of company-use and unaccounted-for gas, as reflected in the rate filings of Columbia with the Commission. Columbia further asserts that its storage and transmission charge is currently 40.11¢ per dt whereas its storage, transmission, and gathering charge is currently 44.93¢ per dt. Columbia proposes to retain for company-use and unaccounted-for gas 2.85% of the total quantity of natural gas delivered into its system.

Any person or Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28989 Field 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-525-000]

Columbia Gulf Transmission Co.; Application

October 20, 1983.

Take notice that on September 28, 1983, Columbia Gulf Transmission Company (Columbia Gulf), P.O. 683, Houston, Texas 77001, filed in Docket No. CP83-525-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Louisiana Intrastate Gas Corporation (LIG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia Gulf states that it has contracted with LIG, pursuant to the terms of a gas transmission agreement dated July 22, 1982,[1] as amended June 19, 1983, to receive in South Pass Block 57 (SP 57), on a best-efforts basis, up to 34,500 Mcf per day of natural gas purchased by LIG from the area of SP 57. Columbia Gulf proposes to transport and redeliver equivalent volumes of gas for LIG's account at the interconnection of Columbia Gulf's SP 77 facilities and the Project South Pass 77 pipeline, jointly owned by Columbia Gulf and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee).

Columbia Gulf proposes to deduct a fixed monthly amount of $44,500 from LIG's prepaid transportation account as payment for the transportation service.

Columbia Gulf states the proposal is the most practical and economical means available to transport LIG's gas onshore thereby avoiding the duplication of existing offshore pipeline facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia Gulf to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28690 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[1] Columbia Gulf presently transport LIG's gas pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978, as reported in Docket No. ST83-18-000.

[Docket No. CP82-138-001]

East Tennessee Natural Gas Co.; Amendment to Application

October 20, 1983.

Take notice that on October 5, 1983,[1] East Tennessee Natural Gas Company (Applicant), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP82-138-001 and amendment to its application filed in Docket No. CP82-138-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect changes in the construction of proposed facilities and their cost and proposed increases in daily contract demand deliveries to certain of its customers due to changed economic condiitons since the original application was filed, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In its original application, Applicant proposed to construct and operate facilities estimated to cost $16,809,600. Applicant proposes herein to construct and operate facilities at an estimated cost of $12,406,600. Specifically, Applicant proposes to construct and operate 2.5 miles of 12-inch loop lines in Sullivan County, Tennessee, and Washington County, Virginia, 4.5 miles of 12-inch loop lines in Washington County, Virginia, and 0.6 mile of 6-inch lateral loop line in Blount County, Tennessee; construct and operate one 1,100 horsepower compressor station in Wythe County, Virginia, two 1,100 horsepower additions in Trousdale, and Putnam Counties, Tennessee; and restage nine existing compressors in Robertson, Trousdale, and Putnam Counties, Tennessee. In addition, Applicant proposes to replace an upstream header at the Glade Spring Meter Station in Glade Spring, Virginia, and install a relief valve at Mainline Valve number 3320 in Roanoke County, Virginia.

[1] The application was initially tendered for filing on October 5, 1983; however, the fee required by § 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until October 17, 1983; thus, filing was not completed until the latter date.

Applicant proposes to continue daily contract demand deliveries as follows:

	Proposed increase in original filing (Mcf)	Change (decrease)	Proposed increase (decrease) in amended filing (Mcf)
Elk River U.D.	548	(298)	250
Middle Tenn. U.D.	2400	(2400)	0
Knoxville Utilities Board	2000	(2000)	0
Powell Clinch U.D.	599	(199)	400
Jefferson-Cocke Co. U.D.	1336	(636)	700
Roanoke Gas	211	(211)	0
Aluminum Co. of America	1200	(1200)	0
AFG	560	(560)	0
DOE	0	[1] (1366)	(1366)
Monsanto	0	[1] (550)	(550)
Others (Unchanged)	16135	0	16135
Total system	25089	(12020)	13069

[1] Requested reduction in existing delivery obligation.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedue (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28691 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7160-000]

Gulf Oil Corporation, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

October 20, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 7, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and Location	Price per 1,000 ft.[3]	Pressure base
G-7160-000, D, Oct. 11, 1983	Gulf Oil Corporation, Post Office Box 2100, Houston, Texas 77252.	Northern Natural Gas Company, Blinebry (Tubb) Field, Lea County, New Mexico.	(1)	
G-11229-001, C, Oct. 11, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Southern Natural Gas Company, Carthage Field, Panola, Texas.	[illegible]	14.65
G-15472-000 D, Oct. 11, 1983	Phillips Petroleum Company, 336 HS&L Building, Bartlesville, Oklahoma 74004.	Trunkline Gas Company, Alvin, Alta Loma, and Hitchcock Areas, Galveston and Brazoria Counties, Texas.	(2)	
CI61-956-000, D, Oct. 7, 1983	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221.	Valero Interstate Transmission Company, Yeary Field, Kleberg County, Texas.	(4)	
CI66-348-000, D, Oct. 13, 1983	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Trunkline Gas Company, Kelsey Field, Brooks County, Texas.	(5)	
CI83-249-001, C, Oct. 11, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Cajun Natural Gas Company, Eugene Island 215, Offshore Louisiana; South Marsh Island Block 160, Offshore Louisiana; South Marsh Island Block 236, Offshore Louisiana; Vermilion 122 & East Cameron 128, Offshore Louisiana; High Island Block A-415, Offshore Texas.	(6)	[illegible]
CI84-3-000, E, Oct. 6, 1983	Phillips Petroleum Company (successor to Phillips Oil Company) 336 HS&L Building, Bartlesville, Oklahoma 74004.	Arkansas Louisiana Gas Company, Ivan Field, Bossier Parish, Louisiana.	(7)	
CI84-4-000, E, Oct. 3, 1983	Cities Service Oil & Gas Corporation (successor to Cities Service Company), P.O. Box 300, Tulsa, Oklahoma 74102.	Montana-Dakota Utilities Company, Lignite Plant, Burke County, North Dakota.	(8)	
CI84-5-000 (CI61-1016), B, Oct. 3, 1983.	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Transwestern Pipeline Company, Kermit Field, Winkler County, Texas.	(9)	
CI84-6-000 (CI61-105-000), B, Oct. 3, 1983.	Getty Oil Company, Post Office Box 1404, Houston, Texas 77251.	Consolidated Gas Supply Corp., South Glenville Field, Gilmer County, West Virginia.	(10)	
CI84-7-000, A, Oct. 6, 1983	Southland Royalty Company, 801 Cherry Street, Forth Worth, Texas 76102.	Texas Eastern Transmission Corporation, East Cameron Block 215, Offshore Louisiana.	(11)	[illegible]
CI84-8-000 (G-2625), B, Oct. 6, 1983.	Phillips Petroleum Company, 336 HS&L Building, Bartlesville, Oklahoma 74004.	El Paso Natural Gas Company, Discharge of Phillips; Goldsmith Plant, Ector County, Texas.	(12)	
CI84-9-000, (CI78-577), B, Oct. 6, 1983.	do	El Paso Natural Gas Company University "D" No. 4 well located in Section 1, Block 11, UL, Andrews County, Texas.	(13)	
CI84-10-000, B, Oct. 7, 1983	Essex Offshore, Inc., Felmont Oil Corporation, Suite 1900, 6 East 43rd Street, New York, New York 10017.	Transcontinental Gas Pipe Line Corporation, Block 86, Field, Vermilion Area, Offshore Louisiana.	(14)	
CI84-11-000, A, Oct. 11, 1983	Odeco Oil & Gas Company, P.O. Box 61780, New Orleans, Louisiana 70161.	Texas Eastern Transmission Corporation, Ship Shoal Block 134 Field, in the Gulf of Mexico, Offshore Louisiana.	(15)	15.025
CI84-12-000, A, Oct. 12, 1983	Mesa Petroleum Co., One Mesa Square, Post Office Box 2009, Amarillo, Texas 79189.	Texas Eastern Transmission Corporation, Vermilion Block 381 Field, Offshore Louisiana.	(16)	15.025
CI84-13-000, B, Oct. 12, 1983	National Petroleum Corporation, c/o Sparta Energy Corporation, P.O. Box 29228, Columbus, Ohio 43229.	United Fuel Gas Co. (Columbia Gas), Ravenswood District, Jackson County, West Virginia.	(17)	
CI84-14-000, B, Oct. 11, 1983	Enhanced Oil Recovery, Inc., 159 Mobile Court, Conroe, Texas 77302.	Consolidated Gas Supply Corp., Hackers Creek, Lewis County, West Virginia.	(18)	
CI84-15-000, B, Oct. 11, 1983	Despot Exploration Co., 1805 Beck Building, Shreveport, Louisiana 71101.	Transcontinental Gas Pipe Line Corporation, Palmetto Field, St. Landry Parish, Louisiana..	(19)	
CI84-16-000, B, Oct. 7, 1983	H. G. & K. E. Busch, d.b.a. Richter Oil Company, Brohard, West Virginia 26138.	Consolidated Gas Supply Corporation, Sheridan District, Calhoun County, West Virginia.	(20)	

[1] Subject lease expired for failure to produce in its extended term, as of August 31, 1982.
[2] Applicant is filing under Gas Purchase and Sales Agreement dated May 7, 1951, amended by Amendment dated May 11, 1983, to provide a newly established delivery point.
[3] Acreage was released and leases not renewed or included in the rollover contract.
[4] The May, et al., Gas Unit Well No. 3 ceased producing due to depletion of gas reserves in August, 1982; all leases have expired and been released to the landowners.
[5] By Assignment and Bill of Sale dated June 8, 1983, to be effective May, 1983, Mobil Producing Texas & New Mexico Inc. assigned to George D. Westherston, Small Producer No. CS71-1123, a certain lease and said assignment.
[6] Applicant is filing under Gas Purchase Agreement dated May 26, 1983, amended by Supplemental Gas Purchase Agreement dated September 12, 1983 to add acreage.
[7] Effective August 1, 1983, Phillips Oil Company assigned to Applicant its 4.6875% interest in the Crystal D Located in Section 33, T21N, R11W, Bossier Parish, Louisiana.
[8] Effective February 1, 1983, Cities Service Oil and Gas Corporation (wholly-owned subsidiary of Cities Service Company) through succession of assignments the last to Cities Service Company on January 1, 1980, acquired the interst of Oilchem Corporation in Gas Sales Contract dated March 9, 1961 with Montana-Dakota Utilities, purchaser, covering the sale of residue gas from the Lignite Plant, Burke County, North Dakota.
[9] All property has been released by Getty.
[10] Property dedicated to this contract has been sold by Getty.
[11] Applicant is filing under Gas Purchase Contract dated September 16, 1983.
[12] Contract covering this sale has expired by its own term. No gas is available to maintain the surplus volume requirements of the contract.
[13] The only well covered by the contract was plugged and abandoned.

[14] Contract has expired. Sale to new purchasers on more favorable terms is desired.
[15] Applicant is filing under Gas Purchase Contract dated October 6, 1983.
[16] Applicant is filing under Gas Purchase Contract dated August 26, 1983.
[17] Depleted reservoir.
[18] Uneconomical to produce.
[19] Well has ceased production and has been plugged and abandoned.
[20] Production has declined to less than 5000 cubic feet of natural gas per day for ninety consecutive days during the period of Nov. 1 thru April 30.
Filing Code: A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, F—Partial Succession.

[FR Doc. 83-28892 Filed 10-24-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-25-000]

Iowa-Illinois Gas & Electric Co.; Filing

October 20, 1983.

The filing Company submits the following:

Take notice that on October 11, 1983, Iowa-Illinois Gas and Electric Company (Iowa-Illinois), tendered for filing an Interconnection Agreement (Agreement) with Central Iowa Power Cooperative (Cooperative), dated June 13, 1983, with schedules reflecting facilities and points of connection, metering facilities furnished by each party or by one party to the other (to which separate facilities schedules may be appended), and transmission service schedules (to which separate facilities schedules may be appended).

Iowa-Illinois states that the Agreement, which is to supersede certain prior arrangements with both Cooperative and Eastern Iowa Light and Power Cooperative (Eastern Iowa) to which Cooperative is successor in interest in respect to the voltages and facilities associated with those prior arrangements, is proposed effective as of its execution date. Included as addenda to the facilities schedule are Facilities Schedule Nos. 1 and 2, each dated June 13, 1983 and proposed effective on execution, and which, respectively, perpetuate current provisions in respect of interconnected 161 kV electric transmission facilities heretofore in effect with Cooperative, and, in respect of a 69 kV terminating bay at Iowa-Illinois' Hills Substation heretofore in effect and provided to Eastern Iowa without change in rates or rate methodology. Included as addenda to the transmission service schedule are Transmission Service Schedule Nos. 1 and 2, each dated June 13, 1983, proposed effective July 1, 1983. Waiver of the Commission's notice requirements has been requested accordingly.

Copies of the filing have been served upon the Cooperative, the Iowa State Commerce Commission, and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-28893 Filed 10-24-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES84-4-000]

Kansas Gas & Electric Co., Application

October 20, 1983.

Take notice that on October 7, 1983, Kansas Gas and Electric Company, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking on Order authorizing the issuance of up to 2,000,000 shares of its Common Stock.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before November 7, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-28894 Filed 10-24-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES84-3-000]

Kansas Gas & Electric Co.; Application

October 20, 1983.

Take notice that on October 7, 1983, Kansas Gas and Electric Company, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an Order authorizing the issuance of up to $50,000,000 principal amount of one or more series of its First Mortgage Bonds.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before November 7, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-28895 Filed 10-24-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES84-5-000]

Kentucky Utilities Co.; Application

October 20, 1983.

Take notice that on October 11, 1983, Kentucky Utilities Company, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, to issue not more than $100,000,000 of promissory notes and commercial paper from time to time with a final maturity date of not later than December 31, 1985.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before November 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-28896 Filed 10-24-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-521-000]

K N Energy, Inc.; Application

October 20, 1983.

Take notice that on September 26, 1983, K N Energy, Inc. [Applicant], P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP83-521-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas to Natural Gas Distributing Company [NGD] for resale, all as more fully set forth the application which is on file with the Commission and open to public inspection.

Applicant states that it has merged NGD and that Applicant will provide service at retail to the customers theretofore served by NGD.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure [18 CFR 385.214 or 385.211] and the Regulations under the Natural Gas Act [18 CFR 157.10]. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure hearing provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-28972 Filed 10-24-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-24-000]

Louisville Gas & Electric Co.; Filing

October 20, 1983.

The filing Company submits the following:

Take notice that on October 11, 1983, Louisville Gas and Electric Company (LG&E) tendered for filing pursuant to the Interconnection Agreement between LG&E and East Kentucky Power Cooperative [East Ky.], a Sixth Supplemental Agreement. In addition to the aforementioned Agreement, the following documents are being filed:

1. Agreement dated September 13, 1983, covering the sale of line and installation of 69 KV primary metering station.

2. Letter Agreement dated June 8, 1983, covering the operation of the 69 KV disconnect switch separating LG&E and East Ky. systems.

LG&E states that the purpose of this filing is to amend said Interconnection Agreement to comply with Part 35.23 of the Commission's Regulations under the Federal Power Act. The other agreements are being filed to inform the Commission of a change in the point of delivery brought about by the sale of a transmission circuit by LG&E to East Ky.

LG&E requests an effective date of December 7, 1983.

Copies of this filing were served upon East Kentucky Power Cooperative.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure [18 CFR 385.211, 385.214]. All such motions or protests should be filed on or before November 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-28973 Filed 10-24-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-532-000]

Michigan Wisconsin Pipe Line Co.; Application

October 20, 1983.

Take notice that on September 30, 1983, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-532-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a gas transportation service for Mid Louisiana Gas Company (Mid Louisiana), all as more fully set forth in the application on file with the Commission and open for public inspection.

Applicant proposes to transport on a contract demand basis 25,000 Mcf of natural gas per day of Mid Louisiana's gas reserves underlying Eugene Island (EI) Area Blocks 18 and 32, offshore Louisiana. It is stated that, pursuant to a gas transportation agreement dated June 20, 1983, Applicant would receive the gas at an existing undersea valve on Applicant's 20-inch offshore pipeline system located in EI 34, offshore Louisiana. From such point, Applicant indicates, it would provide transportation onshore and make redeliveries to Mid Louisiana of thermally equivalent quantities reduced by three percent for compensation for its compressor fuel usage. Applicant proposes the following delivery points: (1) at an existing interconnection between Applicant and Mid Louisiana located near the town of Gilbert in Franklin Parish, Louisiana, and (2) at an existing meter station located in Tensas Parish, Louisiana, where Applicant indicates it will cause Locust Ridge Gas Company to make the redeliveries to Mid Louisiana for Applicant's account. For such transportation service, Applicant proposes to charge Mid Louisiana $5.69 per month for each Mcf of contract demand.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure [18 CFR 385.214 or 385.211] and the Regulations under the Natural Gas Act [18 CFR 157.10]. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants

parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28974 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-4-000]

Natural Gas Pipeline Company of America; Application

October 20, 1983.

Take notice that on October 5, 1983, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP84-4-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 300 feet of 8⅝-inch pipeline, two tap connections and a 10-inch measuring facility to interconnect with Central Illinois Light Company (CILCO) in Bureau County, Illinois, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that CILCO purchases all of its requirements for its Peoria-Pekin market from Panhandle Eastern Pipe Line Company (Panhandle). Pursuant to a service agreement dated March 27, 1972, CILCO also purchases gas from Applicant at two delivery points on Applicant's Gulf Coast Line for use in areas not served by Panhandle.

Applicant states that CILCO states that situations could arise at some point in the future whereby Panhandle may have to curtail deliveries to the Peoria-Pekin market. Also, CILCO is said to state that a major pipeline failure on Panhandle's feeder line could cause this entire area to lose supply. Further, CILCO is said to be concerned that failure on its own system might jeopardize service to a large portion of the Peoria-Pekin market. CILCO, therefore, is said to desire to increase its operational flexibility, particularly to ensure continued service to the northern service territory of the Peoria-Pekin market.

Applicant states that CILCO will construct a 22-inch pipeline to the north from its existing system in Marshall County, Illinois, to interconnect with Applicant's pipeline in Bureau County, Illinois.

Applicant proposes to construct 300 feet of 8⅝ inch pipeline, two tap connections and a measuring facility in Bureau County, to accomplish the necessary interconnection at an estimated cost of $153,000, which would be initially financed with funds on hand and reimbursed by CILCO. It is stated that the purpose of these facilities to furnish up to 50,000 Mcf per day of gas for CILCO's system supply in the event of an emergency or for other lawful purposes. Applicant further states the CILCO has requested no increase in its existing firm contract quantity from Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commisison's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in acordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28975 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-21-000]

Puget Sound Power & Light Co.; Filing

October 20, 1983.

The filing Company submits the following:

Take notice that on October 7, 1983, Puget Sound Power & Light Company (Puget) tendered for filing, as an initial rate schedule, the Centralia Transmission Agreement, executed on September 22, 1980, between Puget and the City of Seattle, City Light Department (Seattle).

Puget states that the Agreement generally requires Puget to provide capacity for the transmission of Seattle's share of the output from the Centralia Steam-Electric Generating Plant from BPA's C. W. Paul Substation to Puget's Talbott Hill Substation. Seattle is required to pay Puget at an initial rate of $1.31 per kilowatt per year, subject to escalation for increases in Puget's costs as provided for in the Agreement.

Puget requests an effective date of July 1, 1983, and therefore requests waiver of the Commission's notice requirements.

A copy of this filing was served upon Seattle.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28976 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-23-000]

Public Service Company of Oklahoma; Filing

October 20, 1983.

The filing Company submits the following:

Take notice that on October 7, 1983, Public Service Company of Oklahoma (PSO) tendered for filing a Letter Agreement (Agreement) dated August 25, 1983, to be made a part of the Transmission Service Agreement between PSO and Western Farmers Electric Cooperative (WFEC). The Agreement provides for the addition of new point of delivery from the system of PSO to the system of WFEC to serve a new 138–13 kV, 5250 KVA, substation being constructed by WFEC.

PSO requests an effective date of September 12, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been sent to WFEC and the Oklahoma Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28977 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-56-000]

State of Oklahoma, Section 108 NGPA Determination, Premier Resources, Ltd., Alexander No. 1 Well, FERC JD No. 81-0692 I; Petition To Reopen and Vacate Final Well Category Determination and Request To Withdraw

October 20, 1983.

On August 19, 1983, Premier Resources, Ltd. (Premier) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen and a request to withdraw its application for a final well category determination that natural gas from the Alexander No. 1 Well, located in Harper County, Oklahoma, qualifies as stripper well natural gas pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA). 15 U.S.C. 3301–3432 (Supp. V 1981). This determination made by the Oklahoma Corporation Commission became final pursuant to NGPA section 503(d) and 18 CFR 275.202(a).

Premier requests reopening of this final determination so that it can withdraw its application for the Alexander No. 1 Well, due to an accounting error which resulted in an incorrect report of gas volumes for the month of March 1983. Actual volumes for that month exceeded the maximum production rate of 60 Mcf per day required in NGPA section 108.

The Commission gives notice that the question of whether refunds, plus interest as computed under § 154.102(c), will be required is a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file, within 30 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 824 North Capitol Street NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 214 or 211 of the Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28978 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-6-000]

Tennessee Gas Pipeline Co., a division of Tenneco Inc.; Application

October 20, 1983.

Take notice that on October 6, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP84-6-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Ford Motor Company (Ford), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas for Ford for 60 consecutive days. Applicant would transport up to 15,000 Mcf of natural gas per day and not more than a total volume of 250,000 Mcf, which Ford has arranged to purchase from Alabama-Tennessee Natural Gas Company (Alabama-Tennessee). It is explained that the gas to be transported by Applicant is a transfer of Ford's entitlement under its contract with Alabama-Tennessee and would be used by Ford at its Nashville, Tennessee, glass plant which is presently served by Tennessee Natural Gas Lines, Inc. (Tennessee Natural). It is stated that such transfer of entitlement is occasioned by the closing of Ford's plant in Sheffield, Alabama, which is served directly by Alabama-Tennessee.

Applicant asserts that it would receive the gas at its existing Barton sales meter station in Colbert County, Alabama, and would deliver such gas to Tennessee Natural for the account of Ford at Applicant's existing Nashville No. 2 sales meter station in Davidson County, Tennessee. Applicant would charge 10.74 cents per Mcf for the proposed service.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in

any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28979 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-516-000]

Valero Interstate Transmission Co.; Application

October 20, 1983.

Take notice that on September 21, 1982,[1] Valero Interstate Transmission Company (Applicant), 530 McCullough Avenue, San Antonio, Texas 78215, filed in Docket No. CP83-516-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28981 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 7161-001 et al.]

Hydroelectric Applications (Douglas County, Oregon, Water Resources Survey et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications has been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Major License (Under 5 MW).

b. Project No: 7161-001.

c. Date Filed: July 19, 1983.

d. Applicant: Douglas County, Oregon, Water Resources Survey.

e. Name of Project: Galesville.

f. Location: On Cow Creek, near Glendale, in Douglas County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Kenneth L. Erickson, Douglas County Engineer, Water Resources Survey, Room 219, Courthouse, Roseburg, Oregon 97470.

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would consist of: (1) A 150–foot–high, 1,000-foot-long, roller compacted concrete gravity dam at elevation 1750 feet, providing a 640-acre reservoir with a gross storage capacity of 42,225 acre-feet; (2) two 180-foot-long, 51-inch diameter penstocks; (3) a powerhouse containing two turbine-generator units with a total installed capacity of 1.8 MW and an average annual generation of 6.0 GWh; (4) a switchyard; and (5) a 46-foot-diameter, 225-foot-long tailrace. Project power would be sold to Pacific Power and Light Company. The project would affect Bureau of Land Management lands. The estimated project cost is $35,082,000.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

2a. Type of Application: Preliminary Permit.

b. Project No.: 7373–000.

c. Date Filed: June 16, 1983.

d. Applicant: John L. "Jay" Boeri, Jr.

e. Name of Project: Martinsville Water Power Project.

f. Location: On Lull Brook in Windsor County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John L. "Jay" Boeri, Jr., RR2, Woodstock, Vermont 05091.

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would use project facilities, land, and an existing dam owned by Martin Jefferson Davis of Moorestown, New Jersey. The project would consist of two developments, Upper and Lower. Upper: (1) A new 10-foot-high impoundment structure; (2) a proposed reservoir having a storage capacity of 5 acre-feet and a surface elevation of 545 feet m.s.l.; (3) a proposed, short 4-foot-diameter penstock; and (4) a new powerhouse containing one or more generating units having a total rated capacity of 155 kW, and using a power head of 95 feet; (5) a proposed interconnection with the existing 14.5-kV transmission line owned by the Central Vermont Public Services Company, 3,000 feet away; Lower: (6) An existing 12-foot-high, 40-foot-long, concrete dam; (7) an existing reservoir having a storage capacity of 12 acre-feet and a surface elevation of 416

[1] The application was initially tendered for filing on September 21, 1983; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until September 28, 1983, thus, filing was not completed until the latter date.

feet m.s.l.; (8) a new, short 4-foot-diameter penstock; (9) a proposed powerhouse containing 2 generating units having a total rated capacity of 70 kW, and using a powerhead of 49 feet; (10) a proposed interconnection with the existing 14.5-kV transmission line owned by the Central Vermont Public Services Company 150 feet away; and (11) any appurtenant facilities. The Applicant estimates that the average annual energy output would be 1.4 GWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the Central Vermont Public Service Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $4,700.

3a. Type of Application: Exemption from Licensing (5MW or Less).

b. Project No: 7390–000.

c. Date Filed: June 22, 1983.

d. Applicant: Harder Farms, Inc. and Scott Ranch.

e. Name of Project: Little Palouse Falls Hydroelectric Project.

f. Location: On Palouse River, near Washtucna, in Franklin, Whitman, and Adams Counties, Washington.

g. Filed Pursuant to: Energy Security Act of 1980 (16 U.S.C. 2705 and 2708).

h. Contact Person: Mr. Harry P. Hosey, Hosey & Associates, 2850 Northrup Way, Bellevue, Washington 98004.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would consist of: (1) An 8-foot-high, 250-foot-long concrete diversion structure at elevation 999 feet; (2) a 3,000-foot-long, 8-foot-deep canal; (3) a 3,000-foot-long, 8-foot-deep flume; (4) a 400-foot-long, 90-inch-diameter penstock; (5) a powerhouse containing two generating units with a total installed capacity of 5 MW; and (6) a 2.5.-mile-long, 24-kV transmission line. The Applicant estimates that the average annual energy production would be 19.0 million kWh.

k. Purpose of Project: The project power would be sold to Washington Water Power Company.

m. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

4a. Type of Application: 5 MW Exemption.

b. Project No: 7404–000.

c. Date Filed: June 27, 1983 and supplemented on August 10, 1983.

d. Applicant: Thomson Miller Company.

e. Name of Project: Glencoe Mill Hydro Project.

f. Location: On Haw River in Alamance County, North Carolina.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended).*

h. Contact Person: Mr. John Thomson, 14 James Street, Woods Hole, Massachusetts 02543.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed Glencoe Mill Hydro Project would consist of: (1) An existing 12-foot-high concrete dam; (2) a small reservoir with a storage capacity of 33 acre-feet; (3) a new 1,300-foot-long penstock; (4) a proposed powerhouse with a installed total capacity of 600 kW; (5) transmission lines; and (6) appurtenant facilities. The Applicant estimates the average annual generation to be 1,050 MWH. All power generated would be sold to Duke Power Company.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C and D39a.

l. *Proposed Exemption:* An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

5a. Type of Application: Minor License.

b. Project No: 7449–000.

c. Date Filed: July 11, 1983.

d. Applicant: Town of Durham, N.H.

e. Name of Project: Wiswall.

f. Location: Lamprey River, Strafford County, N.H.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Norman Stiles, Board of Selectmen, Town Offices, Durham, New Hampshire 03824.

i. Comment Date: November 21, 1983.

j. Competing Application: Project No. 6632; date filed: August 23, 1982.

k. Description of Project: The proposed project would consist of: (1) An existing concrete gravity dam 8 feet high with a spillway length of 110 feet; (2) a reservoir covering 30 acres at an elevation of 55.5 feet NGVD; (3) a newly excavated forebay and tailrace, each approximately 100 feet long, 10 feet deep and averaging 40 feet wide; (4) galvanized steel headworks measuring 7.5 by 30 feet; (5) a new powerhouse, measuring 21 by 32 feet and containing two turbine/generator units, one rated at 175 kW capacity and one at 350 kW capacity, operating at an average head of 14.2 feet; (6) a new 600 volt transmission line approximately 300 feet long; and (7) appurtenant facilities.

l. Purpose of Project: The average annual generation of 1.2 million kWh would be sold to the Public Service Company of New Hampshire.

m. This notice also consists of the following standard paragraphs: A4, B, C and D1.

6a. Type of Application: Preliminary Permit.

b. Project No: 7481–000.

c. Date Filed: August 1, 1983.

d. Applicant: ENERCO Corporation.

e. Name of Project: New York State Dam Project.

f. Location: On the Mohawk River in Albany County and Saratoga County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Douglas J. Blaine, ENERCO Corporation, 120 East Washington St., Syracuse, New York 13202.

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing concrete, masonry, stone, and timber dam, 17 feet high and 1,600 feet long; (2) a reservoir having a storage capacity of 825 acre-feet, a surface area of 97 acres and normal water surface elevation of 49.0 feet m.s.l.

Southside Powerhouse: (3) A new intake canal 17 feet wide and 40 feet long; (4) a new powerhouse containing two generating units with a total capacity of 3,230 kW; (5) a new tailrace approximately 70 feet long, 45 feet wide, and 6 feet deep, and existing 4.16-kV transmission line 100 feet long; and (7) appurtenant facilities.

Northside Powerhouse: (3) A new intake structure; (4) a new powerhouse containing two generating units with a total capacity of 3,870 kW; (5) a new tailrace 45 feet wide, 80 feet long, and 6 feet deep; (6) a new 4.16-kV transmission line 1,700 feet long; and (7) appurtenant facilities.

The Applicant estimates annual average generation would be 33 GWh. The dam is owned and operated by the New York State Department of Transportation.

k. Purpose of Project: All project power would be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $158,000.

7a. Type of Application: Exemption (5MW or Less).

b. Project No.: 7532–000.

c. Date Filed: August 16, 1983.

d. Applicant: Farmers Irrigation District.

e. Names of Project: Farmers Irrigation District Project No. 2.

f. Location: On Farmers Ditch off of the Hood River, near Hood River, in Hood River County, Oregon.

g. Filed Pursuant to: Energy Security Act of 1980, Section 408 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Ladd Henderson, Manager, Farmers Irrigation District, 1185 Tucker Road, Hood River, Oregon 97031.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would consist of: (1) a 6-foot-high concrete diversion and intake structure at elevation 690 feet diverting water from Farmers Ditch; (2) a 6,900-foot-long, 42-inch-diameter steel penstock; (3) a powerhouse containing a generating unit rated at 2,500 kW at a head of 361 feet; (4) a 400-foot-long, 12.5-kV transmission line. The average annual energy generation is estimated to be 13 million kWh.

k. Purpose of Project: Power would be sold to Pacific Power and Light Company.

l. This notice also consists of the following standards paragraphs: A1, A9, B, C & D3a.

m. The proposed project would occupy project lands of licensed Project No. 2659. The Licensee does not object, and the Applicant and the Licensee have signed an easement which permits the development of Project No. 7532 on project lands.

8a. Type of Application: Conduit Exemption.

b. Project No.: 7564–000.

c. Date Filed: August 29, 1983.

d. Applicant: City of Boulder, Colorado.

e. Name of Project: Maxwell Power Production Facility.

f. Location: Boulder, Boulder County, Colorado.

g. Filed Pursuant to: Section 30 of the Federal Power Act.

h. Contact Person: Bill Mitzelfeld, Utilities Project Coordinator, Utilities Division, P.O. Box-791, Boulder, Colorado 80306.

i. Comment Date: November 2, 1983.

j. Description of Project: The proposed Maxwell Power Production Facility would consist of: (1) the installation of a new 70 kW pump-turbine within a proposed booster pump station that would be a part of the Applicant's water distribution system; (2) installation of new electrical and mechanical equipment within the pump station to enable the booster pump to be operated as a hydroelectric turbine; (3) an existing, buried 13.2 kV transmission line; and (4) appurtenant facilities. The Applicant estimates the average annual generation to be 520,000 kWh. All power generated would be sold to Public Servcie Company of Colorado.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

l. *Purpose of Exemption*—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, that would seek to take or develop the project.

9a. Type of Application: Preliminary Permit.

b. Project No: 7572–000.

c. Date Filed: September 1, 1983.

d. Applicant: John J. Hockberger.

e. Name of Project: Deer Flat Low Line Power Project.

f. Location: On Lake Lowell, within U.S. lands administered by BLM, near Caldwell, Canyon County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John J. Hockberger, Sr., Hockberger Orchards & Vineyard, Route No. 10, Box 2739, Caldwell, Idaho 83605.

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would consist of: (1) a 250-foot-long, 9-foot-diameter concrete penstock through the outlet of BLM's existing 46-foot-high, 7200-foot-long Lower Dear Flat Dam; (2) a powerhouse containing a single 1,250-kW generating unit; and (3) a 3,200-foot-long, 44-kV transmission line connecting to an existing Idaho Power Company transmission line. The Applicant estimates that the average annual energy production would be 4.2 million kWh.

The preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $100,000.

l. Purpose of Project: Project power would be sold to Idaho Power Company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

10a. Type of Application: Preliminary Permit.

b. Project No: 7583–000.

c. Date Filed: September 6, 1983.

d. Applicant: Nampa Associates I.

e. Name of Project: Nampa Hydropower Project I.

f. Location: At the Upper Deer Flat Dam on the Boise River, near Nampa, in Canyon County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Tom Forbes, P.O. Box 421, Mercer Island, Washington [illegible].

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would consist of: (1) a 1,000-foot-long steel penstocks, one on each end of the existing Bureau of Reclamation's 4,000–foot-long, 74-foot-high Upper Deer Flat Dam; (2) two generating units, each rated at 4,000 kW and connected to a penstock; (3) two tailraces; and (4) two transmission lines, one 500 feet long and one 4,000 feet long. The average annual energy generation is estimated to be 32.5 million kWh.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a 36-month permit during which it would conduct engineering, environmental, and feasibility studies, and prepare and FERC license application. No new roads would be required to conduct the studies. The cost is estimated to be $140,000.

k. Purpose of Project: Power produced by the project would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

11a. Type of Application: 5 MW Exemption.

b. Project No: 7591–000.

c. Date Filed: September 9, 1983.

d. Applicant: James D. Sysko.

e. Name of Project: Wight Brook.

f. Location: Wight Brook, Town of Newry, Oxford County, Maine.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: James D. Sysko, Small Hydro East, Star Route 240 Bethel, Maine 04217.

i. Comment Date: November 21, 1983.

j. Description of Project: The proposed project would consist of: (1) a new 20-inch-high, 20-foot-long concrete diversion dam; (2) a 1,000 square-foot head pond at elevation 1191.7 feet M.S.L.; (3) a new inlet structure; (4) a new 1,700-foot-long, 10-inch-diameter P.V.C. penstock; (5) a new powerhouse containing a single 30-kW turbine generator which would discharge into the Wight Brook extreme runoff channel which then empties into the Bear River; (6) a new 1,400-foot-long, 7.2-kV underground transmission line; and (7) appurtenant facilities. The project would generate up to 197,100 kWh annually. The Applicant has an easement over the project property for development of the project from Willard, Sylvia and Eric Wight.

k. Purpose of Project: Energy produced at the project would be sold to Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

12a. Type of Application: Preliminary Permit.

b. Project No: 7622–000.

c. Date Filed: September 15, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Snow Creek Water Power.

f. Location: On Snow Creek in Jefferson County, Washington.

g. Filed Pursuant to: Federal Power Act [16 U.S.C. 791(a)–825(r)].

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high diversion structure at elevation 800 feet; (2) a 44-inch-diameter, 8,250-foot-long low pressure pipe; (3) a surge tank at elevation 770 feet; (4) a 30-inch-diameter, 7,750-foot-long penstock; (5) a powerhouse at elevation 200 feet containing a generator with a rated capacity of 1.3 MW and an average annual output of 4.6 GWh; and (6) a 115-kV, 2.7-mile-long transmission line connecting to an existing substation near Uncas.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $80,000 to $100,000.

k. Purpose of Project: Power may be marketed to the Bonneville Power Administration.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

13a. Type of Application: Preliminary Permit.

b. Project No: 7594–000.

c. Date Filed: September 13, 1983.

d. Applicant: Capital Development Company.

e. Name of Project: Granite Creek.

f. Location: On Grantie Creek, near North Bend, in King County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Robert L. Blume, Capital Development Company, #4 South Sound Center, P.O. Box 3487, Lacey, Washington 98503.

i. Comment Date: November 21, 1983.

j. Competing Application: Project No. *7512,* Date Filed *August 8, 1982* Notice issued 9–22–83. Due Date 11–21–83.

K. Description of Project: The proposed project would consist of: (1) a 6-foot-high, 20-foot-long concrete diversion structure at elevation 2,800 feet; (2) an 8,000-foot-long, 48-inch-diameter pipeline; (3) a 6,000-foot-long steel penstock; (4) a powerhouse containing one generating unit rated at 9.8 MW; (5) a 5-mile-long transmission line; and (6) an access road. The average annual energy generation is 31.8 GWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct feasibility studies and prepare a FERC license applicaiton. Applicant proposes to perform geotechnical drilling which would require some access roads and disturb lands. All disturbed lands would be restored to the orignial state. The cost of the work is $95,000.

l. Purpose of Project: Power from the project would be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C and D2.

14a. Type of Application: Preliminary Permit.

b. Project No: 7598–000.

c. Date Filed: September 12, 1983.

d. Applicant: WP, Inc.

e. Name of Project: Arrow Creek Power Project.

f. Location: On Arrow Creek, tributary of the Skagit River, near the town of Marblemount, in Skagit County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high concrete-gravity diversion dam; (2) a one acre reservoir with a capacity of 2 acre-feet and surface elecation of 2,410 feet; (3) a 4,850-foot-long, 30-inch-diameter penstock from the diversion dam to the powerhouse; (4) a powerhouse with a single generating unit with a capacity of 950 kW; (5) a switchyard; and (6) a 5.9-mile-long, 55 kV transmission line. The average annual energy production would be 3,328,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare a FERC license application at a cost of $90,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to Puget Sound Power and Light or Seattle City Light.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

15a. Type of Application: Preliminary Permit.

b. Project No.: 7606–000.

c. Dated Filed: September 12, 1983.

d. Applicant: Charles Gresham.

e. Name of Project: Harvey Creek Power Project.

f. Location: On Harvey Creek tributary of the Pend Oreille River, near the town of Metaline Falls, in Pend Oreille County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Charles Gresham, P.O. Box 632, Jefferson City, Tennessee 37760.

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would consist of : (1) a 7-foot-high, 20-foot-long concrete diversion dam at elevation 3220 feet; (2) a 7,500-foot-long, 24-inch-diameter steel penstock; (3) a powerhouse containing two generating units with a total installed capacity of 700 kW; and (4) 5 miles of 13.8-kV transmission line. The average annual energy production is estimated to be 4,292,400 kWh.

A preliminary permit does not authorize construction. Applicant seeks

issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $13,010. No roads would be constructed and no destructive testing will take place during the feasibility study.

k. Purpose of Project: Project power would be sold to Seattle Power Company.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

16a. Type of Application: Preliminary Permit.

b. Project No.: 7613–000.

c. Date Filed: September 14, 1983.

d. Applicant: Matheny Creek Water Power.

e. Name of Project: WP, Incorporated.

f. Location: On Matheny Creek, partially within Olympic National Forest in Jefferson County, Washington.

g. Filed Pursuant to: Federal Power Act [16 U.S.C. 791(a)–825(r)].

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high diversion structure at elevation 800 feet; (2) a 120-inch-diameter, 27,600-foot-long low pressure pipe; (3) a surge tank at elevation 765 feet; (4) a 64-inch-diameter, 6,300-foot-long penstock; (5) a powerhouse at elevation 200 feet containing a generator with a rated capacity of 13.07 MW and an average annual output of 45.8 GWh; and (6) a 12.2-kV, 3.3-mile-long transmission line connecting to existing lines along Highway 101.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $80,000 to $100,000.

k. Purpose of Project: Power may be marketed to the Gray's Harbor Public Utility District.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

17a. Type of Application: Preliminary Permit.

b. Project No.: 7615–000.

c. Date Filed: September 15, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Cavanaugh Creek Water Power.

f. Location: On Cavanaugh Creek, in Skagit County, Washington.

g. Filed Pursuant to: Federal Power Act [16 U.S.C. 791(a)–825(r)].

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high diversion structure at elevation 1,500 feet; (2) a 48-inch-diameter, 5,900-foot-long low pressure pipe; (3) a surge tank at elevation 1,440; (4) a 34-inch-diameter, 3,600-foot-long penstock; (5) a powerhouse at elevation 500 feet containing a generator with a rated capacity of 5 MW and an average annual output of 17.5 GWh; and (6) a 55-kV, 5.5-mile-long transmission line connecting to an existing line near Wickersham, Washington.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $70,000 to $100,000.

k. Purpose of Project: Power may be marketed to Puget Sound Power & Light.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

18a. Type of Application: Preliminary Permit.

b. Project No.: 7616–000.

c. Date Filed: September 15, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Howard Creek Water Power.

f. Location: On Howard Creek in Skagit County, Washington.

g. Filed Pursuant to: Federal Power Act [16 U.S.C. 791(a)–825(r)].

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high diversion structure at elevation 2,100 feet; (2) a 44-inch-diameter, 7,800-foot-long low pressure pipe; (3) a surge tank at elevation 2,010 feet; (4) a 32-inch-diameter, 3,900-foot-long penstock; (5) a powerhouse at elevation 1,080 feet containing a generator with a rated capacity of 4.7 MW and an average annual output of 16.2 GWh; and (6) a 115-kV, 10.2-mile-long transmission line connecting to an existing line near Lyman, Washington.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $70,000 to $100,000.

k. Purpose of Project: Power may be marketed to Puget Sound Power & Light.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

19a. Type of Application: Preliminary Permit.

b. Project No.: 7620–000.

c. Date Filed: September 15, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: SMC Lake Water Power.

f. Location: On an unnamed creek draining SMC Lake and tributary to the North Fork Snoqualmie River in King County, Washington.

g. Filed Pursuant to: Federal Power Act [16 U.S.C. 791(a)–825(r)].

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: December 12, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high diversion structure at elevation 2,680 feet; (2) a 16-inch-diameter, 3,500-foot-long penstock; (3) a powerhouse at elevation 1,120 feet containing a generator with a rated capacity of 1.7 MW and an average annual output of 5.87 GWh; and (4) a 115-kV, 1.3-mile-long transmissionline connecting to a future transmission line near Ernie's Grove.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $70,000 to $90,000.

k. Purpose of Project: Power may be marketed to utilities such as Puget Sound Power & Light or Seattle City Light.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

20a. Type of Application: Preliminary Permit.

b. Project No.: 7621–000.

c. Date Filed: September 15, 1983.
d. Applicant: WP, Incorporated.
e. Name of Project: West Cornell Creek Water Power.
f. Location: On West Cornell Creek, within Mount Baker Snoqualmie National Forest in Whatcom County, Washington.
g. Filed Pursuant to: Federal Power Act [16 U.S.C. 791(a)–825(r)].
h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.
i. Comment Date: December 12, 1983.
j. Description of Project: The proposed project would consist of: (1) a 10-foot-high diversion structure at elevation 2000 feet; (2) a 28-inch-diameter, 7,030-foot-long penstock; (3) a powerhouse at elevation 900 feet containing a generator with a rated capacity of 2.06 MW and an average annual output of 7.2 GWh; and (4) a 55-kV, 0.6-mile-long transmission line connecting to an existing line at Glacier, Washington.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $70,000 to $80,000.

h. Purpose of Project: Power may be marketed to Puget Sound Power & Light.
l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.
21a. Type of Application: Preliminary Permit.
b. Project No: 7527–001.
c. Date Filed: September 19, 1983.
d. Applicant: Swift River Company.
e. Name of Project: Turner.
f. Location: Nezinscot River, Town of Turner, Androscoggin County, Maine.
g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).
h. Contact Person: Christian A. Herter, III, Vice President, Swift River Company, 44 Exchange Street, Portland, Maine 04101.
i. Comment Date: December 15, 1983.
j. Description of Project: The proposed project would consist of: (1) an existing 170–foot-long, 9-foot-high granite block and concrete dam with an integral 75-foot-long uncontrolled spillway section and topped by 2-foot-high flashboards; (2) an existing 90-acre reservoir with no usable storage at a normal maximum water surface elevation of 302.5 feet M.S.L.; (3) a new siphon penstock; (4) a powerhouse located at the north dam abutment containing a turbine-generator with total rated capacity of 225 kw; (5) a 75-foot-long transmission line and associated switchgear and transformers; and (6) appurtenant facilities. The project would generate up to 1,000,000 kWh annually. The dam is owned by the town of Turner.
k. Purpose of Project: Energy produced by the project would be sold to Contral Maine Power Company.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.
m. Proposed Scope of Studies under Permit: a preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $50,000.
22a. Type of Application: Preliminary Permit.
b. Project No: 7596–000.
c. Date Filed: September 12, 1983.
d. Applicant: WP, Inc.
d. Name of Project: Salmon Creek Power Project.
f. Location: On Salmon Creek, near town of Uncas, in Jefferson County, Washington.
g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).
h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.
i. Comment Date: December 16, 1983.
j. Description of Project: The proposed project would consist of: (1) a 10-foot-high concrete-gravity diversion dam; (2) a one acre reservoir with a capacity of 2 acre-feet and normal maximum surface elevation of 1,290 feet; (3) a 22,000-foot-long, 26-inch-diameter penstock from the diversion dam to the powerhouse; (4) a powerhouse with one generating unit rated at a capacity of 1,660 kW; (5) 1.0-mile-long, 115-kV transmission line. The average annual energy production is estimated at 5,806,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $90,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to the Bonneville Power Administration.
l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.
23a. Type of Application: Preliminary Permit.
b. Project No.: 7595–000.
c. Date Filed: September 12, 1983.
d. Applicant: WP, Inc.
e. Name of Project: Anderson Creek Power Project.
f. Location: Anderson Creek, tributary of the Baker River, near the town of Concrete, in Whatcom County, Washington.
g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).
h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.
i. Comment Date: December 15, 1983.
j. Description of Project: The proposed project would consist of: (1) a 10-foot-high concrete-gravity diversion dam; (2) a one acre reservoir with a capacity of 2 acre-feet and surface elevation of 2,110 feet; (3) a 2,100-foot-long, 28-inch-diameter pipeline from the diversion dam to a surge tank; (4) a 16-foot-high, 10-foot-diameter surge tank at elevation 2,050 feet; (5) a 3,000-foot-long, 24-inch-diameter penstock from the surge tank to the powerhouse; (6) a powerhouse with a single generating unit with a capacity of 3,800 kW; (7) a switchyard and (8) 0.1-mile-long, 115-kV transmission line. The average annual energy production would be 13,190,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $90,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project Power would be sold to Puget Sound Power Light.
l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.
24a. Type of Application: Preliminary Permit.
b. Project No: 7571–000.
c. Date Filed: September 1, 1983.
d. Applicant: Dana W. Hall, Inc.
e. Name of Project: Grouse Creek #3
f. Location: Humboldt County, California; Grouce Creek.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Dana Hall, P.O. Box 4316, Redding, California 96099.

i. Comment Date: December 19, 1983.

j. Description of Project: The proposed project would consist of: (1) a 6-foot-high by 60-foot-long diversion structure at elevation 1,200 feet m.s.l.; (2) a 6,000-foot-long, 120-inch-diameter diversion conduit; (3) a 500-foot-long, 96-inch-diameter penstock; (4) a powerhouse with a total installed capacity of 2,575 kW operating under a head of 115 feet; and (5) a short 115-kV transmission line connecting with an existing Pacific Gas and Electric Company (PG&E) transmission line. The proposed project would affect United States lands within the Six Rivers National Forest.

A preliminary permit does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and to prepare an FERC license application. The cost of the feasibility studies is estimated to be about $100,000. No new road construction would be necessary to conduct the studies.

k. Purpose of Project: The project power would be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

25a. Type of Application: Amendment of License.

b. Project No: 2738–004.

c. Date Filed: June 30, 1983.

d. Applicant: New York State Electric & Gas Corporation.

e. Name of Project: Saranac River Project.

f. Location: On the Saranac River in Clinton County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. A. E. Kintigh, Vice President—Generation, New York State Electric & Gas Corporation, 4500 Vestal Parkway East, Binghamton, New York 13902.

i. Comment Date: November 28, 1983.

j. Description of Project: the Applicant proposes to remove the three emergency, standby diesel generators located in the powerhouse of the Cadyville Station. The Applicant would then install, in the same location, a 3 MW generating unit. This would increase the installed generating capacity of the Cadyville Station to 5.4 MW. a 30-foot-long tailrace would be added to serve the new unit. The Applicant estimates the total project costs to be $5,606,000.

The Applicant proposes no change in project storage capacity or other impoundment characteristics. Including the installation of the proposed unit, the average annual energy generation of the Cadyville Station is estimated to be 29 GWh.

k. Purpose of Project: The project would continue to be operated to provide power for the Applicant's system.

l. This notice also consists of the following standard paragraphs: B and C.

26a. Type of Application: Preliminary Permit.

b. Project No: 7601–000.

c. Date Filed: September 12, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Peek-a-boo Creek Water Power.

f. Location: On Peek-a-boo Creek, within Mount Baker National Forest in Snohomish County, Washington.

g. Filed Pursuant to: Federal Power Act [16 U.S.C. 791(a)–825(r)].

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: December 19, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high diversion dam at elevation 2,920 feet; (2) a 14-inch-diameter, 7,920-foot-long penstock; (3) a powerhouse at elevation 1,100 feet containing a generator with a rated capacity of 890 kW and an average annual output of 3.12 GWh; and (4) a 55-kV, 14.2-mile-long transmission line connecting to an existing line near Darrington, Washington.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $60,000 to $80,000.

k. Purpose of Project: Power may be marketed to utilities such as Puget Sound Power & Light or Seattle City Light.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

27a. Type of Application: Preliminary Permit.

b. Project No.: 7589–000.

c. Date Filed: September 8, 1983.

d. Applicant: Paul S. Boyer.

e. Name of Project: Shingle Creek Hydropower.

f. Location: On Shingle Creek, within Nez Perce National Forest in Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act [16 U.S.C. 791(a)–825(r)].

h. Contact Person: Carl L. Myers, P.E., 750 Warm Springs Avenue, Boise, Idaho 83712.

i. Comment Date: December 16, 1983.

j. Description of Project: The proposed project would consist of: (1) a 2-foot-high diversion structure at elevation 2,500 feet; (2) a 16-inch-diameter, 3,500-foot-long, buried steel penstock; (3) a powerhouse at elevation 2,260 feet containing a generator with a rated capacity of 187 kW and an average annual output of 1,127 MWh; and (4) a 25-kV, 0.5-mile-long transmission line connecting to an existing Idaho Power Company line.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. The Applicant has stated that no new roads are necessary and that no disturbance of land or water habitat will occur. The estimated cost of permit activities is $12,000.

k. Purpose of Project: Project-generated power is expected to be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

28a. Type of Application: Preliminary Permit.

b. Project No.: 7444–000.

c. Date Filed: July 13, 1983.

d. Applicant: Willow River Hydro Associates.

e. Name of Project: Willow Falls Dam Hydroelectric Project.

f. Location: Willow River in St. Croix County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Wayne Rogers, Synergics, Inc., 410 Severn Avenue, Suite 409, Annapolis, Maryland 21401.

i. Comment Date: November 28, 1983.

j. Competing Application: Project No. 7219–001, Date Filed July 8, 1983.

k. Description of Project: The proposed project would consist of: (1) an existing 160-foot-long and 60-foot-high reinforced concrete dam; (2) an existing reservoir with a total storage capacity of 1,290 acre-feet; (3) the renovation of an existing powerhouse approximately 1,000 feet downstream of the dam and an existing 50-inch diameter penstock running from the dam to the powerhouse; (4) the proposed installation of one turbine/generator for a total installed capacity of 1,125 kW and an annual power generation of 6.75

GWh; (5) a proposed transmission line less than one mile in length; and (6) appurtenant facilities.

l. Purpose of Project: The Applicant plans to sell the power generated to the Northern States Power Company whose lines run within one mile of the proposed project site.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

n. *Proposed Scope of Studies Under Permit*—Applicant has requested a 24-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $60,000.

o. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

29a. Type of Application: Preliminary Permit.

b. Project No: 7523–000.

c. Date Filed: August 12, 1983.

d. Applicant: John L. Symons.

e. Name of Project: Upper Piute Creek Hydro.

f. Location: On Upper Piute Creek, partially within Inyo National Forest in Mono County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: John L. Symons, 2800 Audrey Lane, Bishop, California 93514.

i. Comment Date: December 19, 1983.

j. Description of Project: The proposed project would consist of: (1) a 3-foot-high diversion structure at elevation 8,500 feet; (2) a 12-inch-diameter, 12,000-foot-long penstock; (3) a powerhouse at elevation 6,350 feet containing a generating unit with a rated capacity of 374 kW; and (4) a 3-mile-long transmission line tying into a Southern California Edison line. The Applicant estimates a 2,800,000 kWh average annual energy production.

A preliminary permit, if issued, does not authorize construction. Applicant has requested a 24-month permit to conduct feasibility studies and prepare a license application at a cost of $51,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A8, A9, B, C and D2.

30a. Type of Application: Minor License.

b. Project No: 4456–001.

c. Date Filed: March 18, 1983.

d. Applicant: Zoes J. Dimos & James C. Katsekas.

e. Name of Project: Davisville.

f. Location: On the Warner River, in Merrimack County, in Warner, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Zoes J. Dimos, P.E., Rivers Engineering Corporation, Route 102, Londonderry Professional Center, Londonderry, New Hampshire 03053.

i. Comment Date: December 14, 1983.

j. Description of Project: The proposed project would consist of: (1) repairing and reconstruction of a presently breached dam, 135 feet long and 10 feet high; (2) a reservoir with a surface area of approximately 98 acres and storage capacity of approximately 245 acre-feet, with a normal maximum water surface elevation of approximately 382 feet, N.G.V.D.; (3) 350 feet of 6-foot-diameter penstocks; (4) two pre-packaged, self-contained bulb turbine units mounted in a concrete vault with a total installed capacity of 360 kW; (5) draft tubes; (6) proposed transmission lines 200 feet long to interconnect with existing 12.5–kv distribution lines; and (7) appurtenant facilities. Applicant estimates that the average annual energy would be 1,600,000 kWh. Applicant estimates the cost of the project would be $350,000. The owner of the dam is Mr. Melville J. Ruggles.

k. Purpose of Project: All project energy would be sold to Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

31a. Type of Application: Constructed Minor License.

b. Project No: 7528–000.

c. Date Filed: August 15, 1983.

d. Applicant: Public Service Company of New Hampshire.

e. Name of Project: Canaan Project.

f. Location: On the Connecticut River, In Coos County, New Hampshire and Essex County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Roy G. Barbour, Vice President, Public Service Company of New Hampshire, P.O. Box 330, Manchester, New Hampshire 03105.

i. Comment Date: December 14, 1983.

j. Description of Project: The existing project consists of: (1) the Applicant's Canaan Dam, 275 feet long and 18 feet high; (2) a reservoir with negligible storage capacity; (3) intake structures; (4) a 9.5-foot-diameter and 1,400-foot-long penstock; (5) two surge tanks; (6) a powerhouse with an installed capacity of 1,100 kW; and (7) other appurtenances. Applicant estimates an average annual generation of 7,300,000 kWh. Project energy is being sold to the Applicant's customers.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

32a. Type of Application: Preliminary Permit.

b. Project No: 7597–000.

c. Date Filed: September 12, 1983.

d. Applicant: WP, Inc.

e. Name of Project: Ennis Creek Power Project.

f. Location: On Ennis Creek, near town of Port Angeles, in Clallan County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Trip, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: December 14, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high concrete-gravity diversion dam; (2) a one acre reservoir with a capacity of 2 acre-feet and surface elevation of 860 feet; (3) a 5,000-foot-long, 52-inch-diameter pipeline from the diversion dam to a surge tank; (4) a 45-foot-high, 10-foot-diameter surge tank at elevation 820 feet; (5) a 10,500-foot-long, 40-inch-diameter penstock from the surge tank to the powerhouse; (6) a powerhouse with a single generating unit with a capacity of 2,900 kW; (7) a switchyard; and (8) a 1.5-mile-long, 115-kV transmission line. The average annual energy production would be 10, 180,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $90,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to the Bonneville Power Administration.

l. This notice also consists of the following standard paragraghs: A6, A7, A9, B, C and D2.

33a. Type of Application: Preliminary Permit.

b. Project No.: 7447-000.

c. Date Filed: July 14, 1983.

d. Applicant: Commercial Energy Management, Inc.

e. Name of Project: Portneuf.

f. Location: On the Portneuf River near the Town of Lava Hot Springs, in Bannock County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825 (r).

h. Contact Person: Mr. Marlon Bird, 175 LaBelle Drive, Rigby, Idaho 83442.

i. Comment Date: December 14, 1983.

j. Description of Project: The proposed run-of-river project would consist of: (1) a proposed 50-foot-long, 12-foot-high overflow-type reinforced concrete diversion structure having a crest elevation of 5080 feet MSL; (2) a proposed impoundment having a surface area of one acre and a storage capacity of 5 acre-feet; (3) a proposed gated intake structure having trash racks and located at the right (west bank); (4) a proposed 650-foot-long 66-inch diameter steel penstock; (5) a proposed powerhouse containing three generating units having a total rated capacity of 780-kW operated under a 45-foot head and at a flow of 250 cfs; (6) a proposed short excavated tailrace; (7) a proposed 500-foot-long 46-kV transmission line; and (8) appurtenant facilities.

k. Purpose of Project: Project energy would be sold to Utah Power & Light Company. Applicant estimates that the average annual energy output would be 4.5 GWH.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies Under Permit*—Applicant has requested a 18-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $25,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

34a. Type of Application: Preliminary Permit.

b. Project No: 7600–000.

c. Date Filed: September 12, 1983.

d. Applicant: WP, Inc.

e. Name of Project: Iron Creek Power Project.

f. Location: On Iron Creek, tributary of the Skagit River, near the town of Marblemount, in Skagit County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Coment Date: December 19, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high concrete-gravity diversion dam; (2) a one acre reservoir with a capacity of 2 acre-feet and surface elevation of 2,210 feet; (3) a 2,640-foot-long, 28-inch-diameter pipeline from the diversion dam to a surge tank; (4) a 15-foot-high, 10-foot-diameter surge tank at elevation 2,140 feet; (5) a 1,640-foot-long, 22-inch-diameter penstock from the surge tank to the powerhouse; (6) a powerhouse with a single generating unit with a capacity of 2,800 kW; (7) a switchyard; and (8) a 0.6-mile-long, 55-kV transmission line. The average annual energy production would be 9,798,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $90,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to Puget Sound Power and Light or Seattle City Light.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

35a. Type of Application: Preliminary Permit.

b. Project No: 7602–000.

c. Date Filed: September 12, 1983.

d. Applicant: WP, Inc.

e. Name of Project: Loch Katrine Power Project.

f. Location: On Katrine Creek, tributary of the Green River, near the town of North Bend, in King County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: December 16, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high concrete gravity diversion dam; (2) a one acre reservoir with a capacity of 2 acre-feet and surface elevation of 2,840 feet; (3) a 4,000-foot-long, 16-inch-diameter penstock from the diversion dam to the powerhouse; (4) a powerhouse with a single generating unit with a capacity of 1,147 kW; (5) a switchyard; and (6) a 9.9-mile-long, 115-kV transmission line. The average annual energy production would be 4,020,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $90,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to Puget Sound Power and Light or Seattle City Light.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

36a. Type of Application: Preliminary Permit.

b. Project No: 7603–000.

c. Date Filed: September 12, 1983.

d. Applicant: WP, Inc.

e. Name of Project: Gilligan Creek Power Project.

f. Location: On Gilligan Creek, tributary of the Skagit River, near the town of Sedro Woolley, in Skagit County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: December 19, 1983.

j. Description of Project: The proposed project would consist of: (1) a 10-foot-high concrete-gravity diversion dam; (2) a one acre reservoir with a capacity of 2 acre-feet and surface elevation of 1,510 feet; (3) a 1,850-foot-long, 28-inch-diameter pipeline from the diversion dam to a surge tank; (4) a 15-foot-high, 10-foot diameter surge tank at elevation 1,475 feet; (5) an 8,450-foot-long, 26-inch-diameter penstock from the surge tank to the powerhouse; (6) a powerhouse with a single generating unit with a capacity of 3,400 kW; (7) a switchyard; and (8) a 3.1-mile-long, 115-kV transmission line. The average annual

energy production would be 11,786,000 kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $90,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to Puget Sound Power and Light.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

37a. Type of Application: Major License (Over 5 MW).

b. Project No: 3623–001.

c. Date Filed: April 29, 1983.

d. Applicant: Borough of Seven Springs.

e. Name of Project: Youghiogheny.

f. Location: On the Youghiogheny River in Fayette and Somerset Counties, Pennsylvania.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Herman K. Dupre, Borough of Seven Springs, Champion, Pennsylvania 15622.

i. Comment Date: December 15, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineer's Youghiogheny Dam and would consist of: (1) a new steel lining within the existing 1,800-foot-long, 18-foot-diameter outlet tunnel; (2) a new 120-foot-long, 12-foot-diameter steel penstock branching into short 7-foot-diameter and 10-foot-diameter penstocks; (3) a new powerhouse containing two generating units having a total rated capacity of 7,000-kW operated under a 104-foot-head and at a flow of 1,190 cfs; (4) a new tailrace; (5) a new switchyard; (6) a new 250-foot-long 23-kV transmission line; (7) a 4,050-foot-long 7.2-kV transmission line upgraded to a 23-kV transmission line; and (8) appurtenant facilities.

Applicant proposes to operate the project run-of-the-river. Applicant estimates that the proposed project would cost $14,100,000. This application was filed during the term of Applicant's preliminary permit for Project No. 3623.

k. Purpose of Project: Project energy would be sold to Allegheny Rural Electric Cooperative and/or to Pennsylvania Electric Company. Applicant estimates that the average annual energy output would be 39.7 million kWh.

1. This notice also consists of the following standard paragraphs: A3, A9, B and C.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. *Preliminary Permit*—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. *Preliminary Permit*—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action or to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intevene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes, No other formal requests for comments will be made.

Comments should be confined toi substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commissioin within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested, however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency

does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested, however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: October 19, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28871 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-1-000]

Aero-Electric Partners 1983-1; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 20, 1983.

On October 3, 1983, Aero-Electric Partners 1983-1 of 2915 Redhill Avenue, Building C-103, Costa Mesa, California 92626, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located at the Castello Ranch, in Livermore, California. The windfarm will conist of 40 to 200 15-kilowatt wind energy conversion systems. The facility will have a maximum power production capacity of 20 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28882 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-428-000]

Applied Energy Services Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

October 20, 1983.

On September 16, 1983 Applied Energy Services, Inc. of 1925 N. Lynn Street, Suite 1200, Arlington, Virginia 22209, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located at ARCO Chemical Company's Beaver Valley plant in Monaco, Pennsylvania. The primary energy source will be coal. The power production capacity will be 90,900 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28883 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-417-000]

The Arbutus Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 20, 1983.

On September 7, 1983, The Arbutus Corporation of 4041 MacArthur Boulevard, Suite 230, Newport Beach, California 92660, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 15-megawatt wind facility will be located in Tehachapi, California.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-28884 Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-445-000]

City of Portland, Oregon; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 20, 1983.

On September 29, 1983, City of Portland, Oregon of City of Hall, Room 1220 S. W. Fifth Avenue, Portland, Oregon 97204, filed with the Federal

Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The hydroelectric facility will be located at the Mt. Tabor Reservoir No. 6 Inlet Gatehouse Building in Portland, Oregon. The power production capacity will be 170 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. [illegible] Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CF83-450-000]

Town Development, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

October 20, 1983.

On September 28, 1983, Town Development, Inc. of Seven Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania 15220, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located at the Parkway Center Complex, c/o Town Development Inc. 875 Greentree Road, Pittsburgh, Pennsylvania 15220. The primary energy source will be methane gas generated from the underlying landfill. The power production capacity will be less than 3 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. [illegible] Filed 10-24-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-343; PH- FRL 2440-2]

Pesticide, Feed, and Food Additive Petitions; BASF Wyandotte Corp.; et al.

Correction

In FR Doc. 83-26131 beginning on page 44266 in the issue of Wednesday, September 28, 1983, make the following corrections.

1. On page 44267, first column, first line, "methyl-2, 4-oxazolikdinediona" should have read "methyl-2,4-oxazolidinediona".

2. Same page, first column, first complete paragraph, sixth line, "-3-dimethyl" should have read "-3,8-dimethyl"..

3. In the same paragraph, the ninth and tenth lines should have read "(4-chlorphenoxy)-alpha-(1,1-dimethylethyl)-1H-1,2,4-traizole-1-"..

4. Some page, same column, second paragraph, sixth line "(2-(4-thazolyl)" should have read "(2-(4-thiazolyl)".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review.

October 12, 1983.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of these submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on any of these information collections should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

Title: Equal Employment Opportunity Program—10 Point Model Program and Guidelines
Form No.: FCC 396
Action: Extension
Respondents: Business (including Small Business)
Estimated Annual Burden: 3,300 Respondents; 11,550 Hours.

Title: Equal Employment Opportunity Program—5 Point Model Program and Guidelines
Form No.: FCC 396-A
Action: Extension
Respondents: Business (including Small Business)
Estimated Annual Burden: 2,315 Respondents; 2,315 Hours.

Title: Section 43.31—Monthly Report of Revenues, Expenses, and Other Items—Telephone Companies
Form No.: (Formerly FCC 901)
Action: Extension
Respondents: Telephone Companies with annual operating revenues in excess of $1,000,000
Estimated Annual Burden: 70 Respondents; 6,720 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-28012 Filed 10-24-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-820824 AN; MM Docket No. 83-112 et al.]

Applications for Consolidated Hearing; Abell Communications Corp. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Abell Communications Corporation	Kailua-Kona, Hawaii	BPH-820824AN	83-1112
B. Metro Broadcasting, Inc.	do	BPH-820826AF	83-1113

Applicant	City/State	File No.	MM Docket No.
C. Fakes, Fukumitsu and Bump, d.b.a. Fakes Broadcasting.	....do.....	BPH-821216AD	83-1114

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B, C
2. Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C., 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 28013 Filed 10–24–83; 8:45 am]

BILLING CODE 6712–01–M

[PR Docket No. 83–1065, PR–2708–S et al.]

Hearings; Vincent J. Beard, et al.

Further Order

In the matter of Revocation of License of Vincent J. Beard, 2 Soundview Drive, Apt. D, White Plains, New York 10606; PR Docket No. 83–1065, PR–2708–S; Licensee of Station N2EDW in the Amateur Radio Service; Suspension of License of Vincent J. Beard, 2 Soundview Drive, Apt. D, White Plains, New York 10606; PR Docket No. 83–1066; for Technician Class Amateur Radio Operator License; application of Vincent J. Beard, 2 Soundview Drive, Apt. D, White Plains, New York 10606; PR Docket No. 83–1067; for General Class Operator License.

Adopted: October 3, 1983.
Issued: October 17, 1983.

1. On September 9, 1983, the Commission issued an order directing you to show cause why your license for Amateur radio station N2EDW should not be revoked and suspending your Technician Class Amateur radio operator license for the remainder of its term.

2. On April 27, 1983, you filed an application to upgrade your operator privileges from Technician to General Class and received an Interim Amateur Permit for General Class privileges. For the reasons indicated below, this application must be designated for a consolidated evidentiary hearing.

3. As indicated in the September 9, 1983, order, the Commission has information indicating that you apparently wilfully violated Section 97.129 (obtaining or attempting to obtain a license by fraud) of the Commission's Rules by bringing unauthorized material into an Amateur examination room. Thus it appears that your application to upgrade cannot be routinely granted.

4. Although you have been authorized to operate with General Class privileges under your Interim Amateur Permit, that permit is only temporary and your license as shown in the Commission's records remains Technician Class. § 97.32(e) of the Commission's Rules authorizes the setting aside of an Interim Amateur Permit if it appears that a permanent license cannot be granted routinely. Pursuant to that section, your Interim Amateur Permit is hereby set aside.

5. The Commission is required by Section 309(e) of the Communications Act of 1934, as amended, to designate an application for hearing if it cannot determine that the grant of the application would serve the public interest convenience and necessity. Therefore, your application is DESIGNATED FOR HEARING. If you wish to present evidence at an evidentiary hearing before an Administrative Law Judge, you must file within 20 days of this order a Notice stating your intention to appear. If you fail to file a Notice of Appearance, your application will be dismissed with prejudice. If you do file a Notice, the time, place and Presiding Judge for hearing will be set by a later order. Forms and envelopes are enclosed for your reply.[1]

6. The designation proceeding will be decided on the basis of the following issues:

(a) To determine whether you wilfully violated § 97.129 (obtaining or attempting to obtain a license through fraud) of the Commission's Rules on March 23, 1983.

(b) To determine whether your pending application for a General Class Amateur radio operator license should be granted.

7. The designation proceeding begun in this order is hereby consolidated, pursuant to § 1.227 of the Commission's Rules, for hearing with the suspension and revocation proceedings. The issues in the consolidated proceeding are:

(a) To determine whether you wilfully violated 97.129 (obtaining or attempting to obtain license through fraud) of the Commission's Rules on March 23, 1983.

(b) To determine whether you are qualified to remain an Amateur radio station licensee.

(c) To determine whether your license for Amateur radio station N2EDW should be revoked.

(d) To determine whether the suspension of your Amateur radio operator license should be affirmed, modified or dismissed.

(e) To determine whether your pending application for a General Class Amateur radio operator license should be granted.

8. Any questions about this should be directed to the Special Services Division of the Private Radio Bureau at (202) 632–7197. This Order is being sent by Certified Mail—Return Receipt Requested and Regular Mail.

Chief, Private Radio Bureau.

Raymond A. Kowalski,

Chief, Special Services Division.

[FR Doc. 83–28026 Filed 10–24–83; 8:45 am]

BILLING CODE 6712–01–M

[File No. BPH–820422AL; MM Docket No. 83–1107 et al.]

Applications for Consolidated Hearing; Central Radio of Hays, Inc.,

1. The Commission has before it the following mutually exclusive applications for a new FM station

[1] Use the enclosed addressed envelopes to return your reply to the Special Services Division and to send a copy of that reply to the Chief Administrative Law Judge.

Applicant	City/state	File No.	MM Docket No.
A. Central Radio of Hays, Inc.	Hays, Kansas	BHP-820422AL	83-1107
B. Tara Lynn Stephens	do	BHP-820-420AB	83-1108
C. Peak Broadcasting Co., A Partnership	do	BHP-820-423AR	83-1109
D. Western Kansas Broadcasters	do	BHP-820908AI	83-1110

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidate proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), D
2. Air Hazard, A, D
3. Comparative, A, B, C, D
4. Ultimate, A, B, C, D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief,

Audio Service Division, Mass Media Bureau.

Appendix—Issue(s)

1. If a final environmental impact statement is issued with respect to D (Western) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by § 1.1301–1319 of the Commission's Rules; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified construct and operate as proposed

[FR Doc. 83-29014 Filed 10-24-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-811222AB; mm Docket No. 83-1098 et al.]

Application for Consolidated Hearing; Dream Communications, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Dream Communications, Inc.	Childress, Tex.	BPH-811222AB	83-1098
B. Glolden West Broadcasting Co., Inc	do	BPH-820817AN	83-1099

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Main Studio, B
2. Air Hazard, A, B
3. Comparative, A, B
4. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-29022 Filed 10-24-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-820570AL; MM Docket No. 83-1094 et al.]

Applications for Consolidated Hearing; Margaret J. Hanway et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Margaret J. Hanway	Fairmont, West Virginia	BPH-820610AL	83-1094
B. The Gilcom Corporation of West Virginia	Shinnston, West Virginia	BPH-820908AV	83-1095

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The

test of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. 307(b), A, B
2. Contingent Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-29023 Filed 10-24-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-820907AD; MM Docket No. 83-1100 et al.]

Applications for Consolidated Hearing; Horizon Broadcasting, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Horizon Broadcasting, Inc.	Amarillo, Tex	BPH-820907AD	83-1100
B. Westwind Broadcasting	Amarillo, Tex	BPH-821206AI	83-1101
C. Sugartime Broadcasting	Amarillo, Tex	BPH-830124AB	83-1102
D. Rolling Plains Broadcasting Corporation	Amarillo, Tex	BPH-830124AJ	83-1103
E. Charles B. Cooper and Donald R. DePriest, Joint Venturers	Amarillo, Tex	BPH-830124AJ	83-1104
F. Logos Communication Corporation	Amarillo, Tex	BPH-830124AK	83-1105
G. Golden Spread Communications, Inc.	Amarillo, Tex	BPH-830124AB	83-1106

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, C, D, F
2. Comparative, A, B, C, D, E, F, G
3. Ultimate, A, B, C, D, E, F, G

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-29015 Filed 10-24-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-811022AA; MM Docket No. 83-1092]

Applications for Consolidated Hearing; Visionary Radio Euphonics of Lake County, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Visionary Radio Euphonics of Lake County, Inc.	Lakeport, Calif	BPH-811022AA	83-1092
B. Merlin Broadcasting	do	BPH-820624AC	83-1093

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), A
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix—Issue(s)

To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8*, the applicant(s) is financially qualified: A (Visionary).

[FR Doc. 83-29025 Filed 10-24-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1428]

Petitions for Reconsideration of Actions in Rule Making Proceedings

October 14, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after

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* Paragraph 8 reads as follows: The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency—*Applicant(s):* A (Visionary). *Deficiency:* Applicant indicates that its equipment is to be leased. Neither an equipment supplier letter nor a document specifying the terms of a lease agreement has been submitted.

publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Licensing of Space Stations in the Domestic-Fixed Satellite Service and Related Revisions of Part 25 of the Rules and Regulations. (CC Docket No. 81-704)

Filed by: Henry Goldberg, Attorney for Equatorial Communications Services on 10-6-83.

Maury J. Mechanick, General Attorney World Systems Division for Communications Satellite Corporation on 10-6-83.

Joan M. Griffin, Senior Staff Attorney for American Satellite Company on 10-6-83.

G. Todd Hardy, Vice President and Senior Counsel for Group W. Cable, Inc., on 10-6-83.

Richard L. Brown, Frederick W. Finn & Lauritz S. Helland, Attorneys for The Society for Private and Commercial Earth Stations (SPACE) on 10-6-83.

Robert F. Corazzini & Deborah L. Stuehrmann, Attorneys for Satellite Syndicated Systems, Inc., on 10-6-83.

Phillip L. Spector, Attorney for Vitalink Communications Corporation on 10-6-83.

R. Keith McGuire, Alan Y. Naftalin & George Y. Wheeler, Attorneys for Alascom, Inc., on 10-6-83.

Robert N. Green for The Western Union Telegraph Company on 10-6-83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-28010 Filed 10-24-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Revisions to Existing Systems of Records

AGENCY: Federal Emergency Management Agency.

ACTION: The purposes of this notice are to add a compatible disclosure to consumer reporting agencies to relevant systems of records in accordance with the Debt Collection Act of 1982 which amends the Privacy Act of 1974 to provide a new general disclosure authority codified at 5 U.S.C 552a(b)(12); revision to a routine use of an existing system of records for better clarification; and renumbering of a system identification number because two system notices were inadvertently assigned the same identification number. These revisions do not constitute substantial changes and do not require filing a "Report on New Systems."

EFFECTIVE DATE: Except for the revised routine use which appears in the system of records identified as "FEMA/IG-1, General Investigative Files," the other changes become effective on October 25, 1983. The revised routine use will become effective, without further notice, on November 25, 1983, unless comments dictate otherwise.

ADDRESS: Written comments may bve sent or delivered to Rules Docket Clerk, Federal Emergency Management Agency, (Room 835), 500 C Street, SW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Linda M. Keener, FOIA/Privacy Specialist, (202) 287-0313.

SUPPLEMENTARY INFORMATION: Under the Privacy Act of 1974, as amended by the Congressional Reports Elimination Act of 1982 (Pub. L. 97-375), agencies are required to publish a notice of the sytems of records they maintain that are subject to the Act only when that agency is establishing a new system or when it substantively alters an existing system. A substantive change to an existing system is one which would also require a "Report on New Systems" and is described in the Office of Management and Budget's Circular A-108, Transmittal Memorandum No. 1 and No. 3. Thus, a change to the system notice that does not also require such a report need only be described in a **Federal Register** notice, without the necessity of publishing the complete text of the notice. For the convenience of interested parties, we are including in this notice a cititation of the **Federal Register** issue where the complete text of the system of records affected by this notice last appeared.

On October 7, 1981 (46 FR 49743), the Federal Emergency Management Agency published the complete text of the system of records identified as "FEMA/IG-1, General Investigative Files." Under routine use (d), the present reading is " * * * (d) a record which is contained in this system may be disclosed to State Insurance Departments and insurance companies investigating fraud or potential fraud in connection with burglary, robbery or flood claims." This routine use is being revised to read, " * * * (d) a record which is contained in this system may be disclosed to State Insurance Departments and insurance companies *and/or their agents* investigating fraud or potential fraud in connection with burglary, robbery or flood claims." The reason for the addition of the words, "and/or their agents" is to clarify specifically that this routine use is intended to cover release of information not only the State Insurance Departments and insurance companies investigating fraud or potential fraud in connection with burglary, robbery or flood claims but also to their agents which they have hired to do the investigation. It was never the intention of the Federal Emergency Management Agency to preclude direct contact with the agents and/or State Insurance Departments and insurance companies actually conducting the investigations and we believe that clarification of the routine use will better facilitate investigative efforts in this area.

On April 12, 1983 (48 FR 15710), the Federal Emergency Management Agency published notice of a new system of records identified as "FEMA/SLPS-11, Real Property Acquisition and Relocation Files." This system became effective on May 12, 1983. Inasmuch as the "FEMA/SLPS-11" identification number has also inadvertently been assigned to two FEMA systems of records, we are retaining the "FEMA/SLPS-11, Interagency Directories System" identification number and renumbering the other system to be identified as "FEMA/SLPS-12, Real Property Acquisition and Relocation Files." This is an editorial change which does not require public comment.

Eleven systems of records notices are revised to add a compatible disclosure to consumer reporting agencies. On November 26, 1982 (47 FR 53487), the Federal Emergency Management Agency published notice of a system of records entitled, "FEMA/RMA-9, Claims Collection Files." On March 23, 1983 (48 FR 12133), the Federal Emergency Management Agency published notice of the inclusion of Social Security Numbers in this system. In this notice, the Federal Emergency Management Agency is including a compatible disclosure to consumer reporting agencies to each system of records from which information may become part of the Agency's Claims Collection Files and may be turned over for further collection efforts to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). We believe that such notice is proper for individuals who may be involved in the various Agency programs and for which a debt may be incurred. The relevant systems are: FEMA/RMA-1, Payroll and leave accounting; FEMA/RMA-2, Travel and Transportation Accounting; FEMA/RMA-9, Claims Collection Files; FEMA/

NETC–3, Student Academic and Course Records; FEMA/FIA–1, Federal Crime Insurance Program; FEMA/FIA–2, National Flood Insurance Application and Related Documents Files; FEMA/GC–1, Claims (litigation); FEMA/GC–2, FEMA Enforcement (Compliance); FEMA/SLPS–1, Disaster Recovery Assistance Files; FEMA/SLPS–2, Temporary Housing Files; and FEMA/SLPS–12, Real Property Acquisition and Relocation Files.

Dated: October 14, 1983.

James L. Holton,

Director, Office of Public Affairs, Federal Emergency Management Agency.

The Federal Emergency Management Agency makes the following changes and proposed changes to its systems of records:

FEMA/RMA–1, Payroll and leave accounting. The complete text of this notice appears at 46 FR 49727, October 7, 1981. Immediately following the section entitled, "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" add a new section entitled, "Disclosures pursuant to 5 U.S.C. 552a(b)(12)."

* * * * *

FEMA/RMA–1

SYSTEM NAME:

Payroll and leave accounting.

* * * * *

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

FEMA/RMA–2, Travel and Transportation Accounting. The complete text of this notice appears at 46 FR 49728, October 7, 1981. Immediately following the section entitled, "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" add a new section entitled, "Disclosures pursuant to 5 U.S.C. 552a(b)(12)."

FEMA/RMA–2

SYSTEM NAME:

Travel and Transportation Accounting.

* * * * *

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

FEMA/RMA–9, Claims Collection Files. The complete text of this notice appears at 47 FR 53487, November 26, 1982, and inclusion of the Social Security Number appears at 48 FR 12133, March 23, 1983. Immediately following the section entitled, "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" add a new section entitled, "Disclosures pursuant to 5 U.S.C. 552a(b)(12)."

FEMA/RMA–9

SYSTEM NAME:

Claims Collection Files.

* * * * *

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

FEMA/NETC–3, Student Academic and Course Records. The complete text of this notice appears at 47 FR 53489, November 26, 1982, and inclusion of Social Security Number appears at 48 FR 12133, March 23, 1983. Immediately following the section entitled, "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" add a new section entitled, "Disclosures pursuant to 5 U.S.C. 552a(b)(12)."

FEMA/NETC/3

SYSTEM NAME:

Student Academic and Course Records.

* * * * *

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

FEMA/FIA–1, Federal Crime Insurance Program. The complete text of this notice appears at 46 FR 49740, October 7, 1981. Immediately following the section entitled, "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" add a new section entitled, "Disclosures pursuant to 5 U.S.C. 552a(b)(12)."

FEMA/FIA–1

SYSTEM NAME:

Federal Crime Insurance Program.

* * * * *

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

FEMA/FIA–2, National Flood Insurance Application and Related Documents Files. The complete text of this notice appears at 47 FR 53492, November 26, 1982. Immediately following the section entitled, "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" add a new section entitled, "Disclosures pursuant to 5 U.S.C. 552a(b)(12)."

FEMA/FIA–2

SYSTEM NAME:

National Flood Insurance Application and Related Documents Files.

* * * * *

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

FEMA/GC–1, Claims (litigation). The complete text of this notice appears at 46 FR 49741, October 7, 1981. Immediately following the section entitled, "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" add a new section entitled, "Disclosures pursuant to 5 U.S.C. 552a(b)(12)."

FEMA/GC–1

SYSTEM NAME:

Claims (litigation).

* * * * *

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

FEMA/GC–2, FEMA Enforcement (Compliance). The complete text of this notice appears at 46 FR 49742, October 7, 1981. Immediately following the section entitled, "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" add a new section entitled, "Disclosures pursuant to 5 U.S.C. 552a(b)(12)."

FEMA/GC–2

SYSTEM NAME:

FEMA Enforcement (Compliance).

* * * * *

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

FEMA/SLPS–1, Disaster Recovery Assistance Files. The complete text of this notice appears at 46 FR 49749, October 7, 1981. Immediately following the section entitled, "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" add a new section entitled, "Disclosures pursuant to 5 U.S.C. 552a(b)(12)."

FEMA/SLPS–1

SYSTEM NAME:

Disaster Recovery Assistance Files.

* * * * *

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

FEMA/SLPS–2, Temporary Housing Files. The complete text of this notice appears at 46 FR 49749, October 7, 1981. Immediately following the section entitled, "Routine uses of records maintained in the system, including categories of users and the purposes of such users" add a new section entitled, "Disclosures pursuant to 5 U.S.C. 552a(b)(12)."

FEMA/SLPS–2

SYSTEM NAME:

Temporary Housing Files.

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DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this sytem to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

FEMA/SLPS–12, Real Property Acquisition and Relocation Files. The complete text of this notice appears at 48 FR 15710, April 12, 1983. In that notice, the FEMA/SLPS–11, Real Property Acquisition and Relocation Files identification was assigned to the system of records but since FEMA/SLPS–11 is already assigned to another system of records it is being renumbered as FEMA/SLPS–12. There are no changes to the current FEMA/SLPS–11, Interagency Directories System. Immediately following the section entitled, "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" add a new section entitled, "Disclosures pursuant to 5 U.S.C. 552a(b)(12)."

FEMA/SLPS–12

SYSTEM NAME:

Real Property Acquisition and Relocation File.

* * * * *

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))).

* * * * *

FEMA/IG–1, General Investigative Files. The complete text of this notice appears at 46 FR 49743, October 7, 1981. Revise routine use (d) to insert the words, "and/or their agents" after the words, "insurance companies." The revised routine will read, subject to 30 day comment period:

FEMA/IG–1

SYSTEM NAME:

General Investigative Files.

* * * * *

(d) A record which is contained in this system may be disclosed to State Insurance Departments and insurance companies *and/or their agents* investigating fraud or potential fraud in connection with burglary, robbery or flood claims.

[FR Doc. 83–28853 Filed 10–24–83; 8:45 am]

BILLING CODE 4718–01–M

[FEMA–691–DR]

Arizona; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arizona (FEMA–691–DR), dated October 5, 1983, and related determinations.

DATED: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0501.

Notice: The notice of a major disaster for the State of Arizona dated October 5, 1983, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 5, 1983.

Mohave County for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–28855 Filed 10–24–83; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as

amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washinton, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. T–4070–1.

Title: San Francisco Port Commission and Crescent Wharf and Warehouse Company, Terminal Operating and Cargo Solicitation Service Agreement.

Parties: San Francisco Port Commission (Port) and Crescent Wharf and Warehouse Company (Crescent).

Synopsis: Agreement No. T–4070–1 amends the basic agreement by redefining "Minimum Annual Tariff Revenue" to include all revenue to the Port from users of the Pier 94/96 facility, including those from Use Agreements; redefines "Tariff Revenue"; includes a definition of Use Agreements and establishes additional provisions if "Use Agreements" are entered into.

Filing Party: Samuel B. Nemirow, Hill, Betts and Nash, 1220 Nineteenth Street, NW., Suite 302, Washington, D.C. 20036.

Agreement No. T–4124–1.

Title: Port of Tacoma and International Transportation Service, Inc., Amended Lease Agreement at Terminal 7–D at Tacoma.

Parties: Port of Tacoma (Port) and International Transportation Service, Inc. (ITSI).

Synopsis: Agreement No. T–4124–1 amends the basic agreement by changing the commencement date of the crane rental parameters, indicates the Port's approval of assignment of the lessee's interest to Husky Terminal and Stevedoring Co, Inc., and reflects a five-year fixed rental on the option area for expansion.

Filing party: James J. Mason, Attorney at Law, 1008 South Yakima, Tacoma, Washington, 98405.

Agreement No. T–4140–1.

Title: Port of Oakland and Marine Terminals Corporation, Terminal Management Agreement.

Parties: Port of Oakland (Port) and Marine Terminals Corporation (MTC).

Synopsis: Agreement No. T–4140–1 modifies Agreement No. T–4140, whereby the Port assigns the management of terminal facilities in the Port's Ninth Avenue Terminal Area to MTC. Agreement No. T–4140 amends the compensation provision to provide for the possibility of MTC's handling of heavy weight type cargo or deep draft vessels and to provide for application of Agreement No. T–4140's compensation factors to the handling of said cargo and vessels at certain other of the Port's terminal facilities. Compensation provisions of Agreement No. T–4140–1 will replace those in effect on October 11, 1983, and provision is made that Port will credit MTC with any difference following the effective dae of the agreement.

Filing party: John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland, California 94604.

Agreement No. T–4145.

Title: City of Long Beach and City of Los Angeles, Joint Exercise of Powers Agreement to Establish an Intermodal Container Transfer Project.

Parties: City of Long Beach and the City of Los Angeles.

Synopsis: The Joint Powers Agreement No. T–4145 provides for the organization, of a Joint Powers Authority to finance, plan, construct and administer on behalf of the parties the Intermodal Container Transfer Facility.

Filing party: William E. Emick, Deputy City Attorney, City of Long Beach, Offices of the City Attorney, Harbor Branch Office, P.O. Box 570, Long Beach, California 90801.

Agreement No. 5680–035

Title: Pacific-Straits Conference.

Parties: American President Lines, The East Asiatic Co., A.P. Moller-Maersk Line, Sea-Land Service Inc., Barber Blue Sea Line, [1] Japan Line, Ltd.,[1] Kawasaki Kisen Kaisha, Ltd.,[1] Nippon Yusen Kaisha,[1] Showa Line, Ltd.,[1] Yamashita-Shinnihon Steamship Co., Ltd.[1]

Synopsis: The proposed amendment would give the member lines the right of independent action with respect to all conference tariffs rather than only interior point intermodal tariffs.

Filing party: Charles L. Coleman III, Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

[1] Denotes assoicate member.

Agreement No. 6080–27.

Title: Pacific/Indonesia Conferenece.

Parties: American President Lines, Ltd., The East Asiatic Co., Inc., A.P. Moller-Maersk Line, Barber Blue Sea Line.[1]

Synopsis: The proposed amendment would establish procedural rules for independent action by the member lines in all conference tariffs.

Filing party: Charles L. Coleman III, Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No. 6190–39.

Title: United States Atlantic & Gulf/Venezuela Conference.

Parties: Delta Steamship Lines, Inc., Venezuelan Line.

Synopsis: The proposed amendment completely revises the agreement and changes its name to the United States Atlantic & Gulf/Venezuela Freight Association. Additionally, the amendment authorizes independent action, sectionalization and alternate port service. The amendment also incorporates numerous non-substantive changes.

Filing party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

Agreement No. 10486.

Title: EAC Lines Transpacific Service.

Parties: Blue Star Line, Ltd., The East Asiatic Co., Ltd., Johnson Line, AB.

Synopsis: The agreement proposes to establish a new joint service in the trade between ports on the U.S. Pacific Coast (including Hawaii and Alaska) and ports in Western Australia, Southeast and East Asia and the Far East by direct call or transhipment and to an from inland points served via such ports. The parties agree to enter into any future conference membership as a single entity and to exercise a single vote in any such conference. If the parties should exercise any rights of independent action in any conference to which they may belong they shall do so as a single entity. The parties propose to operate a seven-vessel fleet with a maximum total capacity of 7,308 TEU's.

Containership sailings may, from time to time, be supplemented by conventional sailings as required. The individual parties agree not to compete with the agreement's service within the scope of the agreement as regards general cargo. The parties propose that the agreement shall remain in effect for five years after approval by the Commision.

[1] Denotes associate member.

Filing party: Sanford C. Miller, Esquire, Haight, Gardner, Poor & Havens, One State Street Plaza, New York, New York 10004.

Agreement No. 10487.

Title: U.S. Gulf/European Commodity Rate Agreement.

Parties: Lykes Bros. Streamship Co., Inc., Forest Lines.

Synopsis: The agreement proposes to establish a new ratemaking agreement to carry breakbulk cargo in the U.S. Gulf/European and U.K. Trades. It contains a 30-day independent action clause and will authorize the parties to discuss and agree upon rates, charges, terms and conditions concerning the carriage of cargo in the trade.

Filing party: Mr. R. J. Finnan, Chief, Tariff Publishing Officer, Lykes Bros. Steamship Co., Ltd., 300 Poydras Street, New Orleans, Louisiana 70130.

By Order of the Federal Maritime Commission

Francis C. Hurney,

Secretary.

Dated: October 20, 1983.

[FR Doc. 83-28926 Filed 10-24-83; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed; Correction

The publication notice of Agreement termination of the United States Florida/Ecuador Freight Association Agreement No. 10391, published in the **Federal Register** on September 13, 1983 (48 FR 41901) was incorrect. Agreement No. 10391 remains in force.

By Order of the Federal Maritime Commission.

Dated: October 20, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-28925 Filed 10-24-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Barnett Banks of Florida, Inc.; Merger of Bank Holding Companies

Barnett Banks of Florida, Inc., Jacksonville, Florida, has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to merge with Southern Banks of Florida, Inc., High Springs, Florida, and acquire indirectly, High Springs Bank, High Springs, Florida. The factors that are considered in acting on the application are set forth in section 3 of the Act (12 U.S.C. 1842).

Barnett Banks of Florida, Inc., Jacksonville, Florida, is also engaged in the following nonbank activities; trust, data processing, credit card, check verification and collection services, operation support, and mortgage banking. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The aplication may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 16, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summerizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28906 Filed 10-24-83; 8:45 am]

BILLING CODE 6210-01-M

The Carroll Bancorporation; Formation of Bank Holding Company

The Carroll Bancorporation, Norfolk, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 96.2 percent or more of the voting shares of Farmers State Bank, Carroll, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The Carroll Bancorporation, Norfolk, Nebraska, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Farmers State Insurance Agency, Carroll, Nebraska.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency in a community of less than 5,000 persons. These activities would be performed from offices of Applicant's subsidiary in Carroll, Nebraska, and the geographic areas to be served are Wayne County, the northern half of Madison, the southern half of Cedar, the eastern half of Pierce, and the southern half of Stanton Counties, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than November 17, 1983.

Board of Governors of the Federal Reserve System, October 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28907 Filed 10-24-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Farmers and Traders Bancorporation; Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 (a)(1) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Farmers and Traders Bancorporation, Inc.*, Douds, Iowa; to become a bank holding company by acquiring at least 81 percent of the voting shares of Farmers and Traders Savings Bank, Douds, Iowa. Comments on this application must be received not later than November 8, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *City National Bancshares of Weatherford Inc.*, Weatherford, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of City National Bank of Weatherford, Weatherford, Oklahoma. Comments on this application must be received not later than November 18, 1983.

2. *Golden Plains Bankshares, Inc.*, Phillipsburg, Kansas; to become a bank holding company by acquiring 86.7 percent of the voting shares of First National Bank, Phillipsburg, Kansas. Comments on this application must be received not later than November 18, 1983.

3. *Nodaway Valley Bancshares, Inc.*, Maryville, Missouri; to become a bank holding company by acquiring 67 percent of the voting shares of the successor by merger to Nodaway Valley Bank, Maryville, Missouri. Comments on this application must be received not later than November 15, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California; 94105:

1. *Learner Financial Corporation*, Orinda, California: to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Contra Costa, Walnut Creek, California. Comments on this application must be received not later than November 16, 1983.

Board of Governors of the Federal Reserve System, October 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28908 Filed 10-24-83; 8:45 am]

BILLING CODE 6210-01-M

Mellon National Corp., Proposed Acquisition of Northglenn Industrial Bank

Mellon National Corporation, Pittsburgh, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Northglenn Industrial Bank, Northglenn, Colorado.

Applicant states that the proposed subsidiary would engage in the activities of an industrial bank and acting as agent for the sale of credit related life, accident, and health insurance in connection with extensions of credit by the subsidiary. Applicant states that the subsidiary will not accept demand or transaction accounts for the extent that these accounts are deemed impermissible by the Board. These activities would be performed from offices of Applicant's subsidiary in Northglenn, Colorado, and the geographic area to be served is the State of Colorado. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b)

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse affects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any person wishing to comment on the application should submit views in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than November 17, 1983.

Board of Governors of the Federal Reserve System, October 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28909 Filed 10-24-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company; United Missouri Bancshares, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Missouri Bancshares, Inc.*, Kansas City, Missouri; to acquire 40.33 percent of the voting shares or assets or Nodaway Valley Bank, Maryville, Missouri. Comments on this application must be received not later than November 15, 1983.

Board of Governors of the Federal Reserve System, October 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28910 Filed 10-24-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Barclays Bank PLC, et al.

The organization identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce

benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and *Barclays Bank International Ltd.*, London, England (money orders); Alabama, Arizona, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virgina, Washington, West Virginia and Wyoming: To engage, through its subsidiaries, BarclaysAmerican Financial, Inc., BarclaysAmerican/Financial Services, Inc., BarclaysAmercan/Mortgages, Inc., Barclays American/Retail Services, Inc., Barclays American/Consumer Discount Co., and Barclays American, Industrial Loan Corporation, in the sale at retail, of money orders having a face value of not more than $1,000. This activity will be conducted from the offices in the states listed above, serving the states listed in the caption. Comments on this application must be received not later than November 18, 1983.

2. *Citicorp*, New York, New York (finance company activities; New York): To expand the service area of an existing office of Citicorp Acceptance Company, Inc., Located in Braintree, Massachusetts. The proposed expanded servcie area will include the entire state of New York for all of Citicorp Acceptance Company, Inc.'s previously approved activities, specifically: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the purchasing and servicing for its own account of sales finance contracts; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; and the servicing, for any person, of loans and other extensions of credit. Citicorp Acceptance Company, Inc. will conduct these activities in New York under the ficitious name Citicorp Affiliated Credit. Comments on this application must be received not later than November 18, 1983.

3. *Citicorp*, New York, New York (credit-related insurance activities; California): To engage through its subsidiary, Citicorp Savings, in the sale of credit-related property and casulty insurance protecting real and personal property subject to a security agreement with Citicorp Savings, and to the extent permissible under applicable state insurance laws and regulations. This application is to expand those credit-related insurance activities of Citicorp Savings to its remaining 80 branches. These activities would be conducted from said offices of Citicorp Savings located throughout California, serving the State of California. Comments on this application must be received not later than November 18, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Bancorporation*, Sheboygan, Wisconsin (leasing personal property; all states except Alaska and Hawaii): To engage through its subsidiary Citizens Equipment Financing Corp., in leasing personal property or acting as agent, broker or advisor in leasing such properties. These activities would be conducted in all states except Alaska and Hawaii from an office to be located in Milwaukee, Wisconsin. Comments on this application must be received not later than November 10, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Bradely Bancshares, Inc.*, Warren, Arkansas (data processing services; Arkansas): To engage, through its subsidiary, Data Processing Service Corporation, Warren, Arkansas, in data processing services for banking data. This activity would be performed from an office in Warren, Arkansas, serving Bradley, Drew and Lincoln Counties in the State of Arkansas. Comments on this application must be received not later than November 16, 1983.

Board of Governors of the Federal Reserve System, October 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28911 Filed 10-24-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget (OMB); Method of Payment Clause

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice of Information Collection; Extension.

SUMMARY: The General Services Administration (GSA) plans to request the Office of Management and Budget to review and approve the extension of the expiration date of an approved collection of information. GSA is required under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), to consider comments on information requirements that will affect the public.

DATES: Comments on this information request must be submitted on or before October 28, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John Gilmore, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Frank Van Lierde (202-523-4768).

SUPPLEMENTARY INFORMATION: 1. The requirement is necessary to obtain from existing contractors addresses and bank accounts to which checks and wire fund transfers are to be sent. This will permit agencies to pay on time for property and services acquired under Federal contracts. Annual respondents: 10,100; responses: 30,300; burden hours: 7,575.

2. A copy of the information proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3015, GS Building, Washington, DC 20405, telephone (202-566-0666).

Dated: October 17, 1983.

Michael G. Barbour,

Director, Information Management Division.

[FR Doc. 83-28956 Filed 10-24-83; 8:45 am]

BILLING CODE 6820-34-M

Agency Information Collections Under Review by the Office of Management and Budget (OMB)

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice of Information Collections.

SUMMARY: The General Services Administration (GSA) plans to request the Office of Management and Budget to review and approve the information collections listed below. GSA is required under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), to consider comments on proposed information requirements that will affect the public.

DATES: Comments on these information requests must be submitted on or before October 28, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John Gilmore, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jim Flowers on 202–566–0666.

SUPPLEMENTARY INFORMATION:

1. *Title, purpose and annual burden (respondents, responses, hours).*

a. *Labor Standards Interview (GSA Form 3017).* The reinstatement of this requirement is necessary to ensure compliance and enforcement of labor standards laws in the administration of construction contracts (3,000, 3,000, 1,500).

b. *Termination Requirements.* This clause requires firms holding Federal contracts which are terminated to provide specific information for determining a fair settlement (125, 125, 500).

c. *Extraordinary Contractual Action Requests.* This clause requires contractors that request relief under Pub. L. 85–804 to submit specific evidence of their claim that relief would facilitate national defense (100, 100, 1,600).

d. *Request for Additional Classification(s), Rate(s) and Fringe Benefits (GSA Form 2428).* The reinstatement of this requirement is necessary to determine appropriate classification actions and wage determination standards regarding the employment of a laborer or mechanic (24, 24, 60).

2. *Obtaining copies of information proposals.* A copy of these proposals may be obtained from the Directives and Reports Management Branch (ORAI), Room 3015, GS Building, Washington, DC 20405, telephone (202–566–0666).

Dated: October 17, 1983.

Michael G. Barbour,

Director, Information Management Division.

[FR Doc. 83–29057 Filed 10–24–83; 8:45 am]

BILLING CODE 6820–34–M

Federal Telecommunication Standards

AGENCY: Office of Information Resources Management, General Services Administration.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on two Federal Telecommunication Standards (FED–STD) proposed for adoption: FED–STD 1015, "Telecommunications: Analog to Digital Conversion of Voice by 2400 Bit/Second Linear Predictive Coding" and FED–STD 1028, "Interoperability and Security Requirements for Use of the Data Encryption Standard with CCITT Group 3 Facsimile Equipment."

DATE: Comments are due within 90 days of the date of this notice.

ADDRESS: Send comments to National Communications System, Office of Technology and Standards, Washington, DC 20305.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Fenichel, National Communications System, telephone (202) 692–2124.

SUPPLEMENTARY INFORMATION: 1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of Federal telecommunication standards for NCS interoperability and the computer-communication interface.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the needs and views of Federal agencies, industry, the public, and State and local governments.

3. Request for copies of the March 24, 1983 Proposed Draft FED–STD 1015 and the July 1, 1983 Proposed Draft FED–STD 1028 should be directed to the National Communications System, Office of Technology and Standards, Washington, DC 20305.

Dated: October 11, 1983.

Frank J. Carr,

Assistant Administrator, Office of Information Resources Management.

[FR Doc. 83–29054 Filed 10–24–83; 8:45 am]

BILLING CODE 6820–25–M

[Wildlife Order 153; 4–D–DE–444B]

Former Delaware-Army National Guard Facility, Dover Survival Training Annex, Kent County, Delaware

Transfer of Property

Pursuant to section 2 of Pub. L. 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By transfer letter from the General Services Administration dated September 9, 1983, the property, consisting of 22.90 acres of unimproved land, known as Delaware-Army National Guard Facility, Dover Survival Training Annex, Kent County, Delaware (4–D–DE–444B), has been transferred to the Department of the Interior, U.S. Fish and Wildlife Service.

2. The above described property was conveyed for wildlife conservation in accordance with the provisions of section 1 of said Pub. L. 80–537 (16 U.S.C. 667b), as amended by Pub. L. 92–432.

Dated: October 7, 1983.

Carroll Jones,

Commissioner.

[FR Doc. 83–29052 Filed 10–24–83; 8:45 am]

BILLING CODE 6820–25–M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Scholarships; Closing Date for Nominations From Eligible Institutions of Higher Education

Notice is hereby given that, pursuant to the authority contained in the Harry S. Truman Memorial Scholarship Act, Pub. L. 93–642 (20 U.S.C. 2001), nominations are being accepted from eligible institutions of higher education for Truman Scholarships. Procedures are prescribed at 45 CFR 1801, and were published in the **Federal Register** on June 19, 1976 (43 FR 26366).

In order to be assured of consideration, all documentation in support of nominations must be received by the Truman Scholarship Review Committee, Box 2838, Princeton, N.J.

08541, postmarked no later than Thursday, December 1, 1983.

Malcolm C. McCormack,

Executive Secretary.

November 1, 1983.

[FR Doc. 83-28891 Filed 10-24-83; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83D-0247]

Animal Drugs, Feeds, and Related Products; Efficacy Evaluation of Canine/Feline Anthelmintics; Availability of a Draft Guideline

Correction

In FR Doc. 83-24852 appearing on page 41095 in the issue of Tuesday, Setember 13, 1983, make the following correction:

On page 41095, column two, paragraph three and column three, paragraph four, "April 18, 1984" should have read "January 11, 1984".

BILLING CODE 1505-01-M

Health Resources and Services Administration

Maternal and Child Health Research Grants Review Committee; Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Report for the following Health Resources and Services Administration Federal Advisory Committee has been filed with the Library of Congress:

Maternal and Child Health Research Grants Review Committee

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue SE., Washington, D.C., or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone (202) 245-6791. Copies may be obtained from Dr. Gontran Lamberty, Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 6-13, Parklawn Building, 5700 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2190.

Dated: October 19, 1983.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 83-28892 Filed 10-24-83; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-83-708]

Consolidated Delegation of Authority for Community Planning and Development

AGENCY: Department of Housing and Urban Development (HUD), Office of the Secretary.

ACTION: Notice of consolidated delegation of authority.

SUMMARY: This notice consolidates all current delegations of authority made at various times to the Assistant Secretary and Deputy Assistant Secretaries for Community Planning and Development by the Secretary of Housing and Urban Development.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Robert J. Rusin, Office of Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410; (202) 755-6087. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In light of the many reorganizations and changes in legislative mandate to which the Office of Community Planning and Development has been subject in recent years, the Department has determined that a Consolidated Delegation of Authority is needed to clarify the scope of authority granted to the Assistant Secretary and General Deputy Assistant Secretary for Community Planning and Development.

The responsibilities currently delegated to the Office of Community Planning and Development remain the same, with one exception. The Secretary is hereby transferring certain authority with respect to the Urban Homesteading Program under section 810 of the Housing and Community Development Act of 1974 (42 U.S.C. 1706e) from the Assistant Secretary for Housing-Federal Housing Commissioner to the Assistant Secretary and General Deputy Assistant Secretary for Community Planning and Development. The resonsibilities in question pertain to the Secretary's authority to reimburse the Administrator of the Veterans Administration and the Secretary of Agriculture, as well as the Department's housing loan funds, pursuant to section 810 (g) and (h) of the Housing and Community Development Act of 1974, for properties transferred to States or localities for homesteading purposes. This change will only affect the distribution of budget authority pertaining to reimbursement responsibilities for the Urban Homesteading Program and will not have any other impact on the use of the Department's Housing funds. The transfer in responsibility is warranted because the Assistant Secretary for Community Planning and Development has primary responsibility for implementing all budgetary matters pertaining to the Urban Homesteading Program.

Accordingly, this Notice transfers the reimbursement authority with respect to the Urban Homesteading Program, sets forth the other program responsibilities currently delegated to the Assistant Secretary and General Deputy Assistant Secretary for Community Planning and Development, and corrects certain ambiguities and outdated references to titles and programs contained in past delegations which will be superseded by this consolidated delegation.

Section A. Authority delegated

The Assistant Secretary for Community Planning and Development and the General Deputy Assistant Secretary for Community Planning and Development are authorized individually by the Secretary of Housing and Urban Development to exercise the power and authority of the Secretary with respect to the programs and matters listed below, except as indicated in Section B.

1. Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301).

2. The Urban Homesteading Program under section 810 (b), (c), (d), (e), (g) and (h) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e), excluding the responsibilities delegated specificially to the Assistant Secretary for Housing.

3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601).

4. The Rehabilitation Loan Program under section 312 of the Housing Act of 1964 (42 U.S.C. 1452b), excluding the responisibilities delegated specifically to the Assistant Secretary for Housing.

5. Community Planning and Development programs no longer authorized for funding until all Department responsibilities associated with them are discharged and finally terminated.

These programs, as of April 1, 1983, include the following:

a. The Comprehensive Planning Assistance Program, under section 701 of the Housing Act of 1954 (40 U.S.C. 461).

b. Slum Clearance and Urban Renewal Program under Title I of the Housing Act of 1949 (42 U.S.C. 1450–1468).

c. Basic Water and Sewer Facilities Grant Program under section 702 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102).

d. Neighborhood Facilities Grant Program under section 703 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3103).

e. Open Space Land Program under Title VII of the Housing Act of 1961 (42 U.S.C. 1500–1500d–1), provided that the conversion of land involving historic or architectural purposes under section 705 (42 U.S.C. 1500c–1) has prior approval of the Secretary of the Interior.

f. The Model Cities Program under Title I of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3301–3313).

g. Areawide grants, Inequities grants, Disaster grants and the authority to concur in final approval actions regarding Innovative grants under section 107 of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5307).

h. The Neighborhood Self-Help Development Program under Title VII of the Housing and Community Development Amendments of 1978 (42 U.S.C. 8121).

Section B. Authority excepted

There is excepted from the authority delegated under Section A:

1. Under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301):

a. The power to issue obligations for purchase by the Secretary of the Treasury under section 108(g) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308).

b. The power to sue or be sued.

c. The power and authority of the Secretary pursuant to the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) with respect to nondiscrimination under section 109 (42 U.S.C. 5309), the power to make audits under section 104(d) (42 U.S.C. 5304) and the power to effect remedies for noncompliance under section 111 (42 U.S.C. 5311), except that initial proposed and final regulations with respect to section 104(d), regarding the power to make audits, and section 111, regarding remedies for noncompliance, shall be issued by the Assistant Secretary for Community Planning and Development, subject, however, to revision at such time as the power and authority under these sections may be delegated by the Secretary.

2. Under the Urban Homesteading Program pursuant to section 810 (b), (c), (d), (e), (g), and (h) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e), the power to sue or be sued.

3. Under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601), the power to sue or be sued.

4. Under section 312 of the Housing Act of 1964 (42 U.S.C. 1452(b)) for the Rehabilitation Loan Program:

a. The power to issue notes or other obligations for purchase by the Secretary of the Treasury.

b. The exercise of powers under section 402(a) of the Housing Act of 1950 (12 U.S.C. 1749(a)).

c. The power to sue or be sued.

5. For Community Planning and Development programs, noted in Section A–5 of this delegation, no longer authorized for funding:

a. The power to establish interest rates.

b. The power to issue notes or obligations for purchase by the Secretary of the Treasury.

c. The power to sue or be sued.

Section C. Authority to redelegate

The Assistant Secretary for Community Planning and Development and the General Deputy Assistant Secretary for Community Planning and Development are authorized, individually, to redelegate to employees of the Department any of the power and authority delegated under Section A, and not excepted under Section B of this delegation, excluding the authority to issue or waive rules and regulations.

Section D. Continuation in effect of redelegations

Existing redelegations of authority by the Assistant Secretary for Community Planning and Development and his or her predecessors with respect to any of the programs covered by this delegation of authority which are in effect as of the effective date of this document are continued in effect as if issued under this delegation of authority unless and until expressly modified or revoked by a delegation or redelegation of authority issued hereafter.

Section E. Delegations superseded

This delegation supersedes the following:

1. Delegation of Authority from the Secretary to the Assistant Secretary for Community Development and the Deputy Assistant Secretary for Community Development, 36 FR 5004, March 16, 1971.

2. Delegation of Authority from the Secretary to the Assistant Secretary for Community Planning and Management and the Deputy Assistant Secretary for Community Planning and Management, 37 FR 5004–5005, March 16, 1971.

3. Delegation of Authority from the Secretary to the Assistant Secretary for Community Planning and Development, 38 FR 8011, March 27, 1973.

4. Delegation of Authority from the Secretary to the Assistant Secretary and the Deputy Assistant Secretary for Community Planning and Development, 40 FR 5385, February 5, 1975, as amended, 40 FR 37074, August 25, 1975, 40 FR 54806, November 25, 1975, 41 FR 15359, April 12, 1976, and 42 FR 45037, September 8, 1977.

5. Delegation of Authority from the Secretary to the Assistant Secretary for Community Planning and Development and the Assistant Secretary for Housing with respect to the Urban Homesteading Program, 43 FR 6166, February 13, 1978.

6. Delegation of Authority from the Secretary to the Assistant Secretary and the General Deputy Assistant Secretary for Community Planning and Development, 44, FR 76598, December 27, 1979.

7. Delegation of Authority from the Secretary to the Assistant Secretary for Community Planning and Development and the Assistant Secretary for Housing with respect to the Section 312 Rehabilitation Loan Program, 45 FR 54143, August 14, 1980, except that the delegation to the Assistant Secretary for Housing shall remain in effect until amended or superseded.

8. Delegation of Authority from the Secretary to the General Deputy Assistant Secretary for Community Planning and Development, 46 FR 9783, January 29, 1981.

9. Delegation of Authority from the Secretary to the Assistant Secretary for Community Planning and Development and the General Deputy Assistant Secretary for Community Planning and Development with respect to the Neighborhood Self-Help Development Program, 47 FR 4149, January 28, 1982.

10. Delegation of Authority from the Secretary to the Assistant Secretary for Community Planning and Development and the General Deputy Assistant Secretary for Community Planning and Development, 48 FR 11776, March 21, 1983.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: October 19, 1983.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 83-29090 Filed 10-24-83; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. D-83-709]

Delegation of Authority With Respect to the Urban Homesteading Program

AGENCY: Department of Housing and Urban Development (HUD), Office of the Secretary.

ACTION: Notice of delegation of authority.

SUMMARY: The Secretary is delegating to the Assistant Secretary for Housing—Federal Housing Commissioner certain powers and authority with respect to the Urban Homesteading Program.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Mildred E. Moore, Office of Management, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-8694. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This delegation is intended to replace the Delegation of Authority for the Urban Homesteading Program under section 810 of the Housing and Community Development Act of 1974 (42 U.S.C. 1706e) issued jointly to the Assistant Secretary for Housing—Federal Housing Commissioner and to the Assistant Secretary for Community Planning and Development on February 13, 1978 at 43 FR 6166.

The portion of the delegation made to the Assistant Secretary for Community Planning and Development has recently been superseded by a Consolidated Delegation of Authority for CPD published on October 23, 1983. This Consolidated Delegation makes one substantive change regarding the distribution of responsibilities between the Assistant Secretary for Housing—Federal Housing Commissioner and the Assistant Secretary for Community Planning and Development with respect to the Urban Homesteading Program. The Consolidated Delegation transfers to the Office of Community Planning and Development authority previously delegated to the Office of Housing to reimburse the Administrator of the Veterans Administration, and the Secretary of Agriculture, as well as the Department's housing loan funds, under sections 810 (g) and (h) of the Housing and Community Development Act of 1974 (42 U.S.C. 1706e), for properties transferred to States or localities for homesteading purposes. This change will only affect the distribution of budget authority pertaining to reimbursement responsibilities for the Urban Homesteading Program and will not have any other impact on the use of the Department's Housing funds. The transfer in responsibility is warranted because the Assistant Secretary for Community Planning and Development has primary responsibility for implementing all budgetary matters pertaining to the Urban Homesteading Program.

Accordingly, the Department has prepared this Notice in order to clarify what responsibilities regarding the Urban Homesteading Program remain delegated to the Assistant Secretary for Housing—Federal Housing Commissioner.

Section A. Authority Delegated

The Assistant Secretary for Housing—Federal Housing Commissioner is authorized by the Secretary of Housing and Urban Development to exercise the power and authority of the Secretary with respect to the Urban Homesteading Program under section 810(a) (transfer of properties) and (f) (listing of available properties) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e).

Section B. Authority Excepted

There is excepted from the authority delegated under Section A, the power to sue or be sued.

Section C. Authority to Redelegate

The Assistant Secretary for Housing—Federal Housing Commissioner is authorized to redelegate to employees of the Department any of the power an authority delegated under Section A, and not excepted under Section B of this delegation, excluding the authority to issue or waive rules and regulations.

Section D. Continuation in Effect of Redelegations

Existing redelegations of authority issued by the Assistant Secretary for Housing—Federal Housing Commissioner and his or her predecessors with respect to the Urban Homesteading Program covered by this delegation of authority which are in effect as of the effective date of this document are continued in effect as if issued under this delegation of authority unless and until expressly modified or revoked by a delegation or redelegation of authority issued hereafter.

Section E. Delegations Superseded

This delegation supersedes the Delegation of Authority from the Secretaty to the Assistant Secretary for Community Planning and Development and the Assistant Secretary for Housing—Federal Housing Commissioner issued on February 13, 1978 at 43 FR 6166.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: October 19, 1983.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 83-29092 Filed 10-24-83; 8:45 am]

BILLING CODE 4210-32-M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. D-83-710]

Redelegation of Authority

AGENCY: Department of Housing and Urban Development (HUD), Office of the Assistant Secretary for Community Planning and Development.

ACTION: Notice of redelegation of authority.

SUMMARY: The Assistant Secretary for Community Planning and Development is redelegating to Regional Administrators, Office Managers, and Field Directors of Community Planning and Development Offices and Division, his power and authority with respect to the Urban Homesteading Program, subject to certain specified exceptions.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Robert I. Dodge, III, Director, Office of Urban Rehabilitation, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-5685. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This redelegation is intended to replace the Redelegation of Authority for the Urban Homesteading Program under section 810 of the Housing and Community Development Act of 1974 (42 U.S.C. 1706e) issued by the Assistant Secretary for Community Planning and Development to the Department's Regional Administrators and Area Managers on May 31, 1978 at 43 FR 23700. The previous redelegation was based on a delegation of authority issued jointly to the Assistant Secretary for Housing—Federal Housing Commissioner and to the Assistant Secretary for Community Planning and Development published on February 13,

1978 at 43 FR 6166. The portion of the delegation made to the Assistant Secretary for Community Planning and Development has been superseded by a Consolidated Delegation of Authority published on October 25, 1983. This Consolidated Delegation makes one substantive change regarding the distribution of responsibilities between the Assistant Secretary for Housing—Federal Housing Commissioner and the Assistant Secretary for Community Planning and Development with respect to the Urban Homesteading Program. The Consolidated Delegation transfers to the Office of Community Planning and Development authority previously delegated to the Office of Housing to reimburse the Administrator of the Veterans Administration, and the Secretary of Agriculture, as well as the Department's housing loan funds, under sections 810 (g) and (h) of the Housing and Community Development Act of 1974 (42 U.S.C. 1706e), for properties transferred to States or localities for homesteading purposes.

This Redelegation of Authority is intended to reflect the expanded responsibilities of the Office of Community Planning and Development for the Urban Homesteading Program. In addition, the Assistant Secretary has decided to expand the scope of delegated authority for the program to include the Directors of Community Planning and Development Divisions of the Department's Offices in order to facilitate the decentralization of responsibility for urban homesteading functions within the field.

Accordingly, the Assistant Secretary for Community Planning and Development redelegates authority as follows:

Section A. Authority Redelegated

The Regional Administrators, Office Managers, and Field Directors of Community Planning and Development Offices and Divisions are authorized by the Assistant Secretary for Community Planning and Development to exercise the power and authority of the Assistant Secretary with respect to the Urban Homesteading Program under sections 810 (b) through (e), (g), and (h) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e), subject to the exceptions specified in section B of this Notice.

Section B. Authority Excepted

There is excepted from the authority delegated under section A, the authority to sue or be sued and the authority to issue or waive rules and regulations.

Section C. Redelegations Superseded

This delegation supersedes the redelegation of authority published at 43 FR 23700 (May 31, 1978).

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: October 19, 1983.

Jack R. Stokvis,

General Deputy, Assistant Secretary for Community Planning and Development.

[FR Doc. 83-29091 Filed 10-24-83; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Emergency Mooring and Anchorage at French Frigate Shoals

September 14, 1983.

The U.S. Fish and Wildlife Service has issued a Special Use Permit to Easy Rider Corporation for installation of a mooring system at French Frigate Shoals (23°45′ N, 166°1′ W) in the Hawaiian Islands National Wildlife Refuge. The purpose of the mooring system and a designated emergency anchorage area is to provide safe haven during emergecny conditions. In addition, Section 26.26 of Title 50, Code of Federal Regulations allows entry to a National Wildlife Refuge without permit for temporary shelter or temporary protection in the event of emergency conditions. Installation or the mooring system and designation of an emergency anchorage area will improve the safety of vessel operations in the Northwestern Hawaiian Islands. This project should also minimize destruction of coral reef habitat and disturbance to wildlife that may occur when vessels seek shelter at other locations with in the Refuge.

Please be advised that the mooring system may be removed by the permittee without public notice.

Accordingly, entry into the Refuge and use of the mooring and designated anchorage are allowed during emergency conditions. For the purpose of this Notice, emergency conditions are defined as follows:

1. Hazardous weather (such as sustained winds from the north to southeast quadrants in excess of 25 knots and/or unusually dangerous swell or wave conditions).

2. Vessel operational problems which create or could likely lead to situations in which vessel and crew safety is jeopardized (e.g., loss of directional control or power, critical equipment failure requiring calm water for repair).

3. Illness or injury to crew requiring evacuation or immediate treatment at Tern Island.

4. Other similar conditions, subject to prior verbal (radio) approval by the Assistant Refuge Manager at Tern Island.

In the event that use of the mooring or designated emergency anchorage area is necessary during emergency conditions, the following requirements must be complied with:

1. All boats utilizing the mooring shall notify Tern Island Field Station prior to use of buoy and before leaving.

2. There shall be no fishing within the Refuge.

3. The maximum number of vessels which may be attached to the mooring at one time is limited to the capacity of the mooring system (estimated as five vessels). In addition, the maximum is limited by the clearance of the vessels from coral heads or shoals. No vessel utilizing the mooring shall be within 100 yards of water shallow enough to ground the vessel.

4. Use of the mooring shall not be restricted by anyone other than the U.S. Fish and Wildlife Service.

5. The order of attachment of vessels to the mooring system shall be determined by the size of the vessel and time of arrival at the mooring. The largest boat shall be the closest to the crown buoy. Additional tandom attachment will be in order of size from largest to smallest boat. The first boat to arrive at the mooring will have first priority to use the mooring. Larger boats may displace smaller boats in order of attachment to the mooring but this displacement shall not deprive the displaced boat of the use of the mooring system.

6. No vessels mooring within the Refuge may pump bilges, dump refuse or dispose of any other wastes within the Refuge.

7. Personnel from vessels may not enter areas of the Refuge other than the designated anchorage area without prior permission from the Refuge Manager or his designated representatives.

8. All possible effort to prevent harm to plants, animals and the physical environment of French Frigate Shoals shall be made. Any damange to organisms or the environment (e.g., grounding of reefs) must be immediately reported to the Tern Island Assistant Refuge Manager.

9. All lights on vessels are to be kept to the minimum necessary for safety. Lights used during operations at the mooring during the turtle nesting and hatching season (May through September) must be shielded from

shining on the ocean or nearby islands. This does not pertain to standard navigation lights. This is to prevent disorientation of adults and hatchlings and potential increased predations of the hatchlings.

10. Observations of monk seals and turtles must be recorded and reported to Tern Island Assistant Refuge upon request.

11. Anchorage within the Refuge is limited to the mooring only or to the adjacent designated anchorage area if the capacity of the mooring is reached.

12. Fuel transfer operations shall be limited to the minimum required for safety reasons. Vessels shall be responsible for clean up or costs involved in clean up of fuel spills. The Assistant Refuge Manager at Tern Island is to be informed of fuel transfers before they occur. The Assistant Refuge Manager at Tern Island must be informed immediately of all fuel or other petroleum spills.

13. All operations and activities within the Refuge are subject to all Federal laws, rules and regulations governing National Wildlife Refuges.

14. Except as authorized by law, there shall be no taking or possession of any fish, bird, mammal, or other wild animal, and no taking or possession of any part, nest, or egg thereof within any area of the Refuge.

15. Except as authorized by law, there shall be no disturbance, injury, cutting, burning, removal, destruction, or possession of any real or personal property of the United States, including any natural growth, within any area of the Refuge.

16. Any users of the mooring shall be responsible for removing all trash and refuse resulting from their activities. No trash or pollutants of any kind shall be dumped into adjacent waters.

17. The United States shall not be liable for any property damage, personal injury, or death resulting from use of the mooring or anchorage area.

18. While within the Refuge at French Frigate Shoals, vessels shall coordinate all daily activities with the Refuge personnel stationed on Tern Island. The Refuge staff shall resolve any conflicts that may arise, and the decision of the Refuge Manager shall be final.

A map indicating the specific location of the mooring buoy at French Frigate Shoals and any additional information desired may be obtained from the Refuge Manager at Room 5302, 300 Ala Moana Blvd., Honolulu, Hawaii 96850, telephone (808) 546-5601.

The Tern Island Field Camp at French Frigate Shoals may be reached on marine channel 16.

Gerald M. Ludwig,

Assistant Refuge Manager, (Remote Islands), Hawaiian/Pacific Islands NWR Complex.

[FR Doc. 83-28868 Filed 10-24-83; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[Serial No. I-16999]

Idaho; Issuance of Land Exchange Conveyance Document; Exchange of Public and Private Lands, Caribou County

October 18, 1983.

The United States has issued an Exchange Conveyance Document to Ozburn Farms Inc., P.O. Box 482, Soda Springs, Idaho 83276, for the following described lands under Section 206 of the Federal Land Policy and Management Act of 1976:

Boise Meridian, Idaho

T. 7 S., R. 41E.,
Sec. 34, NW¼SE¼.
T. 8 S., R. 41 E.,
Sec. 17, SW¼SW¼NE¼NW¼, NW¼NW¼NW¼NW¼, S½NW¼NW¼NW¼, S½NW¼NW¼, N½NW¼SW¼NW¼, NE¼SW¼NW¼, E½SE¼SW¼NW¼, W½SE¼NW¼, S½SE¼SE¼NW¼, NW¼NE¼SW¼, E½NE¼SW¼, S½NW¼SW¼NW¼, N½SW¼SW¼NW¼, W½SE¼SW¼NW¼, E½NE¼NW¼SW¼, N½SW¼NE¼SW¼, SE¼SW¼NE¼SW¼.
Containing 172.50 acres.

In exchange for these lands, the United States acquired the following-described lands:

Boise Meridian, Idaho

T. 7 S., R. 40 E.,
Sec. 34, E½SE¼, SE¼NE¼;
Sec. 35, SW¼NW¼.
T. 8 S., R. 40 E.,
Sec. 3, SE¼NW¼, NE¼SW¼.
Containing 240.00 acres.

The purpose of this exchange was to consolidate public land for better management, authorize farming of the public land by transfering it to private ownership, and provide long-term benefits to the Government in livestock forage and wildlife habitat. The public interest was well served through completion of this exchange.

The values of the Federal public land and the non-Federal land in the exchange were appraised at $27,400.00 and $24,000.00 respectively. An equalization payment of $3,400.00 was paid to the United States by Ozburn Farms Inc.

Louis B. Bellest,

Deputy State Director for Operations.

[FR Doc. 83-28919 Filed 10-24-83; 8:45 am]

BILLING CODE 4310-84-M

San Juan River Coal Production Region Fair Market Value Subgroup; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the meeting of the Fair Market Value Subgroup will meet on October 26, 1983. The meeting will convene at 1:30 p.m., MDT, in the conference room of the New Mexico Energy and Minerals Department, 525 Camino de los Marquez, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Charles Turpen, 525 Camino de los Marquez, Santa Fe, New Mexico 87501, telephone number (505) 827-5950.

Persons planning to attend this meeting should verify the time and location by calling Mr. Turpen on the day preceding the meeting.

Monte Jordan,

Associate State Director.

October 5, 1983.

[FR Doc. 83-28947 Filed 10-24-83; 8:45 am]

BILLING CODE 4310-84-M

[W-31326B]

Realty Action; Proposed Noncompetitive Sale of Public Lands in Laramie County, Wyoming

The following described lands have been found suitable for disposal and are proposed for sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than fair market value.

Legal description	Acreage
T. 16 N., R. 68 W., 6th P.M., Wyo.; Sec. 32: SE¼NW¼	40.0

The lands are being sold noncompetitively to True Ranches, Inc. The purpose of this sale is to facilitate land-use planning in the area and to enhance land-use compatibility with adjoining lands. These parcels are small isolated tracts which are difficult to manage as part of the public lands. They are unsuitable for management by another federal agency. There are no

significant resource values which would be affected by this disposal. The proposed sale is consistent with Bureau Planning and is compatible with County Plans. The public interest would be served by making these lands available for public sale.

Patent for the land, if issued, would contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary may prescribe. "All minerals" is defined as, but not limited to, metaliferous and non-metaliferous locatable minerals, leasable minerals such as oil, gas, coal, sodium, potassium, and geothermal resources, and salable minerals such as sand and gravel. However, upon filing of an application under 43 CFR Part 2720, the State Director may convey the mineral interest if all requirements of the law are met.

3. The land would be sold subject to valid existing rights of record on the date of conveyance.

4. The sale would be subject to oil and gas lease W–57662.

Detailed information concerning the proposed sale, including the planning documents, and the land report/environmental assessment, is available for review at the Bureau of Land Management, Rawlins District Office, 1300 North Third Street, Rawlins, Wyoming 82301. The proposed sale will not be held until 60 days after the date of this notice.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Rawlins District Manager, Bureau of Land Management, Rawlins District Office, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

William J. Newby,

Acting District Manager.

[FR Doc. 83–28867 Filed 10–24–83; 8:45 am]

BILLING CODE 4310–84–M

California Desert District Advisory Council; Meeting Advance Schedule—1984 and 1985

AGENCY: Bureau of Land Management, Interior.

ACTION: California Desert District Advisory Council Meeting Advance Schedule—1984 and 1985.

SUMMARY: The purpose of this notice is to provide dates and locations where the California Desert District Advisory Council will meet in 1984 and 1985 and is published in accordance with Public Laws 92–463 and 94–579.

The California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet as follows during 1984, subject to fluctuation depending on budget and subject matter availability.

1984:

March 8 through 10: El Centro, CA
May 17 through 20: Barstow, CA
November 15 through 17: Lancaster, CA

An August meeting announced earlier (FR Vol. 47, No. 195, Page 44438, October 7, 1982) will not now be held unless circumstances warrant.

For planning purposes, the following 1985 schedule is proposed:

1985:

February: San Bernardino, CA
May: Needles, CA
November: Eastern Inyo County Area, CA

Specific agendas, field trips, etc., will be determined later and specific meeting notices will be filed in advance of each meeting. The Council has discussed and recommended the above dates and locations.

Contact the California Desert District Public Affairs Office (714) 351–6383 for current information regarding meetings.

Dated: October 17, 1983.

Gerald E. Hiller,

District Manager.

[FR Doc. 83–28864 Filed 10–24–83; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

San Antonio Missions Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the San Antonio Missions Advisory Commission will be held at 7:00 p.m., Tuesday November 15, 1983, at Mission Espada, Espada Road at Camino Coahuilteca, San Antonio, Texas. If weather permits, the meeting will be held outdoors on the grounds. Otherwise the meeting will be held either in the parish hall or centro de arte sanias.

The San Antonio Missions Advisory Commission was established pursuant to Pub. L. 95–629, Title II, November 10, 1978. The purpose of the commission is the advise the Secretary of the Interior or his designee on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park.

Matters to be discussed at this meeting include:

Park Operations Update
"Friends of the Park" Committee
Gifts Catalog
Revision of 36 CFR
HABS Exhibit
Resource Management Plan

The meeting will be open to the public, however, facilities and space for accommodating members of the public will be limited and persons will be accommodated on a first-come, first-serve basis.

Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, San Antonio Missions National Historical Park.

Persons wishing further information regarding this meeting or who wish to submit a written statement may contact Jose A. Cisneros, Superintendent, 727 E. Durango, Room A612, San Antonio, Texas 78206, Telephone (512) 229–6009.

Minutes of the meeting will be available for public review approximately four weeks after the meeting at the office of the San Antonio Missions National Historical Park.

Dated: October 17, 1983.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 28827 Filed 10–24–83; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 15, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written

comments should be submitted by November 9, 1983.

Carol D. Shull,

Chief of Registration, National Register.

CONNECTICUT

Tolland County

Rockville, *Saxony Mill,* 66 West St.

GEORGIA

Crisp County

Cordele, *U.S. Post Office,* 102–104 6th St.

KENTUCKY

Kenton County

Covington, *West Side/Main Strasse Historic District,* Roughly bounded by C & O Railroad, 6th Philadelphia, Dalton, Pike, and Robbins St.

Rockcastle County

Mt. Vernon, *Mt. Vernon Commercial District,* Main St. from Church to Richmond Sts.

MARYLAND

Charles County

La Plata vicinity, *Oak Grove,* Turkey Hill Rd..

MASSACHUSETTS

Berkshire County

Dalton, *Dalton Grange Hall No. 23,* South St. and Grange Hall Rd.

Hampden County

Holoke, *Maplewood Hotel,* 328–330 Maple St.
Springfield, *Masonic Temple,* 339–341 State Sts.

Hampshire County

Goshen, *Moutain Rest,* Spruce Corner Rd.

Middlesex County

Billerica, *Billerica Mills Historic District,* Roughly bounded by Concord River, Treble Cove Terr., Kohlrausch Ave., Indian Rd., Holt Ruggles, and Rogers St.
Newton, *East Parish Burying Ground,* Centre and Cotton Sts.

Norfolk County

Foxboro, *Boyden, Seth, House,* 135 Oak St.

Plymouth County

Plymouth, *Bradford-Union Street Historic District,* Bradford, Union, Emerald, Water Cure, and Freedom Sts.

Suffolk County

Boston, *Leather District,* Roughly bounded by Atlantic Ave., Kneeland, Lincoln, and Essex Sts.

Worcester County

Clinton, *Bowers School,* 411 Water St.

MICHIGAN

Wayne County

Detroit, *Cultural Center Historic District,* 5200, 5201 Woodward Ave., and 100 Farnsworth Ave.

NEW MEXICO

Otero County

Tularosa vicinity, *Three Rivers Petroglyph Site,* N of Tularosa

NEW YORK

Bronx County

Bronx, *High Pumping Station,* Jerome Ave.

Monroe County

Gates, *Hinchey, Franklin, House,* 634 Hinchey Rd.

Rockland County

Haverstraw, *Homestead,* 143 Hudson Ave.

PENNSYLVANIA

Allegheny County

Pittsburgh, *Deutschtown Historic District,* Roughly bounded by Cedar Ave., Knoll, East, and Pressley Sts.

Chester County

Phoenixville, *Gay Street School,* Gay and Morgan Sts.

Lackawanna County

Scranton, *Lakawanna Avenue Commercial Historic District,* Roughly bounded by Adams, Franklin, Bogart Pl., and Spruce Sts.

SOUTH CAROLINA

Charleston/Dorchester Counties

Summerville vicinity, *Ashley River Road,* SC 61 between Church Creek and SC 165

Darlington County

Hartsville, *Davidson Hall, Coker College,* College Ave.
Hartsville, *Hart, John L., House* Home Ave.

Florence County

Florence vicinity, *Young Farm,* W of Florence on US 76

Lexington County

Batesburg vicinity, *Barr, D.D.D., House (Lexington County MRA),* Off SC 245
Cayce, *Still Hopes (Gabriel Alexander Guignard House) (Lexington County MRA),* Off 7th St.
Gilbert vicinity, *Griffith, David Jefferson, House (Lexington County MRA),* SR 301
Gilbert vicinity, *Music Hall Evangelical Lutheran Church (Lexington County MRA),* SR 24
Irmo vicinity, *Dreher, Jacob Wingard, House (Lexington County MRA), Off SC 6*
Lexington vicinity, *Ballentine-Shealy House (Lexington County MRA),* SR 1323
Lexington vicinity, *Bank of Western Carolina (Lexington County MRA),* 126 Main St.
Lexington vicinity, *Berly, W.Q.M., House (Lexington County MRA),* 122 Berly St.
Lexington vicinity, *Corley, C.E., House (Lexington County MRA),* 808 S. Lake Dr.
Lexington vicinity, *George's Grist and Flour Mill (Lexington County MRA),* Gibson's Pond Rd.
Lexington vicinity, *Harman, James, Building (Lexington County MRA),* Gantt St.
Lexington vicinity, *Hendrix, John Solomon, House (Lexington County MRA),* Old Cherokee Rd.
Lexington vicinity, *Hite, John Jacob, Farm (Lexington County MRA),* SR 70
Lexington vicinity, *Home National Bank (Lexington County MRA),* Main St. and North Lake Dr.
Lexington vicinity, *Lybrand, Henry, Farm (Lexington County MRA),* SR 1149, S of Chapin
Lexington vicinity, *Rauch, Charlton, House (Lexington County MRA),* Main and Cedar Sts.
Lexington vicinity, *Rawl, David, House (Lexington County MRA),* 210 W. Main St.
Lexington vicinity, *Simmons-Harth House (Lexington County MRA),* 102 Gantt St.
Lexington vicinity, *Stewart, James, House (Lexington County MRA),* 423 W. Main St.
Lexington vicinity, *Timmerman Law Office (Lexington County MRA),* 207 E. Main St.
Lexington vicinity, *Wessinger, Vastine, House (Lexington County MRA),* SR 113

Richland County

Columbia, *Richland Cotton Mill,* 211–221 Main St.

TENNESSEE

Hamilton County

Chattanooga, *Crane Building,* 1317 Chestnut St.

Knox County

Knoxville, *Caswell-Taylor House,* 803 N. 4th St.

Williamson County

Franklin, *Cool Springs Farm,* Jordan Rd., S of Moore's Lane

VERMONT

Orleans County

Newport, *Goodrich Memorial Library,* Main and Field Sts.

Windsor County

Weston, *Wilder, John, House,* Lawrence Hill Rd.

VIRGINIA

Albemarle County

Ivy vicinity, *Spring Hill,* VA 637 and 786

WYOMING

Carbon County

Rawlings, *France Memorial United Presbyterian Church,* 3rd and Cedar Sts.

Johnson County

Buffalo, *Buffalo Main Street Historic District,* Main St.

Laramie County

Cheyenne, *Pioneer Park,* Talbot Court
Horse Creek vicinity, *Dereemer Ranch Historic District,* E of Horse Creek

Natrona County

Casper, *Townsend Hotel,* 115 N. Centre St.

Sheridan County

Big Horn, *Big Horn Main Street Historic District,* Main St.

Sweetwater County

South Superior, *South Superior Union Hall,* Main and Bridge Sts.

Unita County

Evanston, *Downtown Evanston Historic District,* Roughly bounded by Center, 9th, 11th, and Front Sts.

Evanston, *Union Pacific Railroad Complex,* Main and 15th Sts.

The 15-day commenting period for the following properties is to be waived in order to assist in the buildings' preservation through the provisions of the Emergency Jobs Act of 1983 (Pub. L. 98.8).

NEW MEXICO

Quay County

Nara Visa, *Nara Visa School,* US 54

Valencia County

Belen, *Harvey, Belen, House,* 104 N. 1st St.

[FR Doc. 83-29029 Filed 10-24-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Agricultural Cooperative Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: October 19, 1983.

The following notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportaton must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Merical Lines, Inc., 101 1st St., House, NM 88121

(2) 101 1st St., House, MN 88121

(3) (4) C. A. Penrod, P.O. Box 858, 101 1st St., House NM 88121.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29033 Filed 10-24-83; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. P-66]

Passenger Train Operation; Union Pacific Railroad Co.

To: Union Pacific Railroad Company

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Seattle, Washington and Los Angeles, California. The operation of these trains requires the use of the tracks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks at Small, California, are temporarily out of service because of a derailment. An alternate route is available via the Union Pacific Railroad Company between Bieber, California, and Sacramento, California.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1981, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the Union Pacific Railroad Company (UP), is directed to operate trains of the National Railroad Passenger Corportion (Amtrak) between Bieber, California, and a connection with Southern Pacific Transportation Company (SP) at Sacramento, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 6:00 p.m. (EDT), October 13, 1983.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (EDT), October 14, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Union Pacific Railroad Company and upon National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 14, 1983.

Interstate Commerce Commission.

John H. O'Brien,

Agent.

[FR Doc. 83-29031 Filed 10-24-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action To Enforce the Clean Air Act; Cleveland Wrecking Co.

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on October 4, 1983, a proposed consent decree in *United States* v. *Cleveland Wrecking Company,* Civil Action No. 83-Civ. 7193 was lodged with the United States District Court for the Southern District of New York.

The proposed consent decree provides for compliance with both the National Emissions Standards for Hazardous Air Pollutants (NESHAPS) and the Clean Air Act.

The decree requires that Cleveland Wrecking conduct an inspection for friable asbestos material prior to commencing a demolition or renovation operation and notify EPA if such material is found. The decree also requires Cleveland to comply with all existing and future regulations governing the emissions of asbestos into the air.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree.

Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Cleveland Wrecking Company*, D.J. No. 90-5-2-1-504.

The proposed consent decree may be examined at the Office of the United States Attorney, Southern District of New York, One St. Andrews Plaza, New York, New York 10007; and the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht, II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-28866 Filed 10-24-83; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 83-6]

Michael M. Motamed, M.D.; Revocation of Registration

On January 28, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued to Michael M. Motamed, M.D. (Respondent), four Orders to Show Cause. Two proposed to deny applications for DEA registration and two proposed to revoke registrations already issued to Respondent. During the course of this proceeding, Respondent withdrew his applications for registration at 3820 South Crenshaw, Suite 209, Los Angeles, California 90008, and 36 Meadow Street, Garden City, New York 11530. Respondent also abandoned the DEA registration, AM1622340, which had been issued to him at 4070 Buckingham Street, Suite 206, Los Angeles, California 90008. Accordingly, the sole matter at issue in this proceeding is the proposed revocation of DEA registration, AM1607437, issued to Respondent at 3263 Rubidoux Boulevard, Rubidoux, California 92509. By letter dated February 23, 1983, Respondent requested a hearing on the issues raised by the Order to Show Cause and this matter was placed on the docket of Administrative Law Judge Francis L. Young.

Following the exchange of written prehearing statements and a prehearing telephone conference, the Administrative Law Judge issued his Prehearing Ruling on March 23, 1983. The hearing in this matter was held in Los Angeles, California, on April 28, 1983.

On July 19, 1983, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision. In compliance with 21 CFR 1316.65(b), as amended, copies of the Administrative Law Judge's opinion were served on the Respondent and on Government counsel. No exceptions were filed and, on August 16, 1983, Judge Young transmitted the record of these proceedings to the Acting Administrator. The Acting Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that in the late 1970's and into 1980, Respondent and his then wife began abusing controlled substances, heroin and cocaine. Respondent admits that he had supplied his wife with both heroin and cocaine and stated that she misused "legal" or "justified" prescription drugs he prescribed for her. Respondent did not practice his profession while under the influence of drugs.

In early 1980, the Los Angeles office of the Drug Enforcement Administration learned that Respondent was selling Persian beige heroin in the Los Angeles area. An informant told DEA Agents that he had traveled to New York City with Respondent on ten to twenty different occasions at which time Respondent purchased Persian heroin from an Iranian in New York. The informant also stated that he was selling heroin in Los Angeles for Respondent.

In the latter part of May, 1980, the informant introduced DEA Agent Bish, working in an undercover capacity, to Respondent and negotiations for up to kilogram quantities of heroin were begun. Consequently, on May 22, 1980, Agent Bish met with Respondent and a co-conspirator. Negotiations led to an agreed price of $400 per gram.

On June 12, 1980, Agent Bish purchased approximately one once of Persian heroin from Respondent for $11,200. On another occasion, Respondent gave Agent Bish a sample of heroin which Respondent indicated came from another source. In August, 1980, the investigation was terminated and Respondent was arrested. Respondent pled guilty and was convicted of distribution of heroin in violation of 21 U.S.C. 841(a)(1). Therefore, there is a statutory basis for revocation of Respondent's DEA Certificate of Registration.

After his arrest, Respondent admitted himself to the Chabad Rehabilitation and Mental Health Programs facility in Los Angeles. Respondent remained there for six months, after which he began serving 12 months of incarceration at the Federal Prison Camp, Safford, Arizona.

After reviewing the record in its entirety, the Acting Administrator accepts the findings of fact and conclusions of law of the Administrative Law Judge. Judge Young suggested, and the Acting Administrator agrees, that the Respondent may continue to practice medicine, but not with his own DEA registration. DEA Certificate of Registration, AM1607437, previously issued to Respondent, should be revoked. Respondent was convicted of distributing heroin. The Acting Administrator can think of no stronger reason to revoke Respondent's registration.

Judge Young went beyond recommending revocation. He suggested that Respondent be allowed to practice his profession at a DEA registered clinic, hospital or similar facility thereby working in a controlled environment under professional supervision. To enable Respondent to do so, the Administrative Law Judge suggested that the Acting Administrator should waive 21 CFR 1301.76(a), which provides that no registrant shall employ, as an employee or agent with access to controlled substances, any person who has had his DEA registration revoked.

The Acting Administrator might be willing to waive 21 CFR 1301.76(a) with respect to employment of the Respondent. Such waivers are granted to the employing registrant, not to the employee. Accordingly, if such a facility offers Respondent employment, the Acting Administrator will review a request for a waiver.

The Administrative Law Judge in his recommended ruling further suggested that if Respondent does reapply for registration in two years, the end of his present parole period, the application should include a report from an acceptable therapist showing an appropriate course of therapy and advising as to Respondent's mental and emotional status at that time. The applications should also be accompanied by a report from Respondent's probation officer and a report as to the results of a drug testing program. The Acting Administrator finds merit in this suggestion by the

Administrative Law Judge. He is unwilling, however, to say that Respondent will be granted a new registration within as short a time as two years.

It is commendable that Respondent has taken steps towards rehabilitation. However, Respondent was convicted of distributing heroin, a felony offense, which under 21 U.S.C. 824(a)(2) is a ground for revocation of registration. Respondent's registration must be revoked. This does not preclude Respondent from reapplying in the future.

Having concluded that there is a lawful basis for the revocation of Respondent's registration and having further concluded that under the facts presented in this case the registration should be revoked, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AM1607437, previously issued to Michael M. Motamed, M.D., be, and it hereby is, revoked.

Dated: October 18, 1983.

Frank V. Monastero,

Acting Administrator.

[FR Doc. 83-28949 Filed 10-24-83; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Department Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration
January 1984 CPS Supplement—Survey of Occupational Training Programs
ETA-RC64
Annually
Individuals or households
29,000 responses; 870 hours; 1 form

The January supplement on occupational training will be administered to a one-half CPS sample of household (common to March CPS) to identify a control group for the JTPA's impact evaluation. The control group will consist of persons 14 years of age and older who have not attended any training program in the past 2 years.

Extension

Mine Safety and Health Administration
Application for Use of Nonpermissible Explosives and Nonpermissible Shot-Firing Units
1219-0025; MSHA-203
On Occasion

Businesses and other for profit; small businesses or organizations
50 responses; 50 hours

A coal mine operator may apply for and be granted a permit to use nonpermissible explosives and nonpermissible shot-firing units. Applications contain the safeguards the mine operator is going to employ to protect the miners while using nonpermissible blasting items.

Extension

Mine Safety and Health Administration
Operations Under Water
1219-0025; MSHA-207
On occasion

Businesses or other for profit; small businesses or organizations
30 responses; 480 hours

Requires coal mine operators to obtain a permit to mine under a body of water, if in the judgement of the Secretary of Labor, it is sufficiently large enough to constitute a hazard to miners. Regulations contain the information that is required to obtain a permit.

Signed at Washington, D.C. this 20th day of October 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-28950 Filed 10-24-83; 8:45 am]

BILLING CODE 4510-43-M

Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: November 8, 1983, 9:30 a.m., Rm. S4215 C & D Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contract: Fernand Lavallee, Acting Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, D.C. this 13th day of October 1983.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 83-28997 Filed 10-24-83; 8:45 am]

BILLING CODE 4810-28-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determinations and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-9 and NPF-17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The amendments would change the Technical Specifications related to the containment lower compartment temperature in accordance with the licensee's application for amendments dated September 22, 1983. The McGuire primary containment building uses cooling water from adacent Lake Norman to cool the containment atmosphere. This water is drawn from near the bottom of the lake and is much cooler than water near the surface of the lake during the summer. During the fall of the year a lake "turnover" occurs resulting in the cooler bottom water mixing with the warmer surface water causing a higher cooling water inlet temperature. Operating experience at the McGuire Station has shown that the current primary containment building lower compartment temperature limit of 120° F may be exceeded due to anticipated higher inlet cooling water temperatures. The proposed amendments would allow this limit to be increased from 120° F to 125° F for up to 90 cumulative days a year provided that the lower compartment temperature had averaged less than 120° F over the previous 365 days.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Because the increase in lower compartment temperature would be small, less than 5%, compared to the allowable temperatue of 120° F under the current Technical Specification, the proposed amendments do not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because no changes in any accident analysis will result from the increase in lower compartment temperature, the proposed amendments do not involve any increase in the consequences of an accident previously evaluated nor do they create the possibility of a new or different kind of accident.

The Commission is seeking public comments on this proposed determinaton. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 25, 1983, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for hearings and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If requests for hearings or petitions for leave to intervene are filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the requests and/or petitions and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 18th day of October 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83–29036 Filed 10–24–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–320]

General Public Utilities Nuclear, Inc. (Three Mile Island Nuclear Station, Unit 2); Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by letter dated September 13, 1983, Marvin Lewis has requested the Commission to take action to stop the lifting of the reactor vessel head at the Three Mile Island Nuclear Station, Unit 2. The requested relief is based upon the potential for the development of pyrophoric conditions when the reactor vessel head is lifted. The letter is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations. As provided in 10 CFR 2.206, action will be taken on the request within a reasonable time.

Copies of the request are available in the Commission's Public Document Room, located at 1717 H Street, NW., Washington, D.C. 20555 and in the local Public Document Room for Three Mile Island, Unit 2 facility, located in the Government Publications Section of the State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126.

Dated at Bethesda, Maryland, this 18th day of October 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 29037 Filed 10–24–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–321 and 50–366]

Georgia Power Co. et al. (Edwin I. Hatch Nuclear Plant, Units 1 and 2); Modification of Order Confirming Licensee Commitments on Post-TMI Related Issues

I

The Georgia Power Company (GPC or the licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR–57 and NPF–5 which authorize operation of the Edwin I. Hatch Nuclear Plant, Units 1 and 2 (Hatch or the facilities) at steady state reactor power levels not in excess of 2436 megawatts thermal for each unit. The facilities are boiling water reactors located at the licensee's site in Appling County, Georgia.

II

On March 14, 1983, as revised March 30, 1983, and July 1, 1983, the Nuclear Regulatory Commission (the Commission) issued an Order confirming the licensee's commitments to implement certain post-TMI related items set forth in NUREG–0737. By letter dated September 7, 1983, the licensee documented that it had been unable to complete Item II.B.3 and requested another revision of the completion date. The staff's evaluation of the licensee's proposed delay of this item is provided herein:

II.B.3 Post Accident Sampling

The Post Accident Sample System (PASS) is installed and has successfully performed a number of its design functions. Correction of problems associated with the as yet non-functional aspects of the PASS are proceeding.

Yet to be fully implemented are the on-line analyzers for chlorides, boron, and pH of reactor coolant samples. These analyzers are supplied coolant samples from a pressure reducing subsytem which has failed to function as designed. Further, the reactor coolant hydrogen concentration analyzer has exhibited unreliable operation characterized by spurious signals in its electronic signal conditioning circuitry. Efforts to resolve these problems are in progress.

The problems are expected to be resolved and the PASS made fully operational by December 1, 1983. The licensee has informed us that the analyses performed by two of the non-functioning chemical analyzers (i.e., chlorides and boron) may be performed on-site by use of backup laboratory procedures and the PASS grab sample

system. Additionally, in the interim, two existing systems that have provided a post-accident sampling capability for both reactor coolant and drywell atmosphere up until now will continue to provide the necessary sampling capability.

We find, based on the above evaluation, that: (1) The licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; (2) there is good cause for the several delays (unexpected design complexity, interface problems, and equipment delays), and (3) as noted above, interim compensatory measures have been provided.

III

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's Regulations in 10 CFR Parts 2 and 50, it is hereby ordered that:

The September 1983 completion date specified in the July 1, 1983, Order for Item II.B.3 is extended to December 1, 1983, as indicated in the Attachment to this Order.

Extensions of time for completing this item may be granted by the Director, Division of Licensing, for good cause shown.

The March 30, 1983, Order, except as modified herein, remains in effect in accordance with its terms.

IV

The licensee may request a hearing within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section III of this Order.

This Order shall become effective upon the licensee's consent or upon expiration of the time within which the licensee may request a hearing or, if a hearing is requested by the licensee, on the date specified in an Order issued following further proceedings on this Order.

Dated at Bethesda, Maryland, this 14th day of October 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S COMMITMENTS ON APPLICABLE NUREG–0737 ITEMS FROM GENERIC LETTER 02–05

Item		Title	NUREG–0737 schedule	Requirement	Licensee's completion schedule (or status)	
					Unit 1	Unit 2
I.A.3.1		Simulator Exams	Oct. 1, 1981	Include simulator exams in licensing examinations	Complete	Complete.
II.B.2		Plant Shielding	Jan. 1, 1982	Modify facility to provide access to vital areas under accident conditions.	....do	....Do.
II.B.3		Post-Accident Sampling	....do	Install upgrade post-accident sampling capability	Dec. 1, 1983	Dec. 1, 1983.
II.B.4		Training for Mitigating Core Damage	Oct. 1, 1981	Complete training program	Complete	Complete.
II.E.1.2		Containment Isolation Dependability	July 1, 1981	Part 5—Lower containment pressure setpoint to level compatible w/normal operation.	....do	....do.
			....do	Part 7—Isolate purge & vent valves on radiation signal[1]	Technical exception.	Technical exception.

[1] Not part of confirmatory order.

[FR Doc. 83-28699 Filed 10-24-83; 8:45 am]
BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is completing development of a number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides are in following five areas: Government Organization, Design, Siting, Operation, and Quality Assurance. All of the codes and most of the proposed safety guides have been completed. The purpose of these and guides is to provide guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries in a specified safety area. Using this collation as a starting point, an IAEA working group of a few experts develops a preliminary draft of a code or safety guide which is then reviewed and modified by an IAEA Technical Review Committee corresponding to the specified area. The draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies as necessary the drafts of all codes and guides prior to their being forwarded to the IAEA Secretariat and thence to the IAEA Member States for comments. Taking into account the comments received from the Member States, the Senior Advisory Group then modifies the draft as necessary to reach agreement before forwarding it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG–S8, "Safety Aspects of Foundations of Nuclear Power Plants," has been developed. The working group consisting of Mr. J. Sigismond from France; Mr. F. Muzzi from Italy; and Mr. A. J. Eggenberger (D'Appolonia Consulting Engineering, Inc.) from the U.S.A., developed the initial draft of this guide from an IAEA collation. This draft was subsequently modified by the IAEA Technical Review Committee for Siting, and we are now soliciting public comment on a modified draft (Rev.1, dated June 3, 1983). Comments received by the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by December 5, 1983, will be particularly useful to the U.S. representatives to the Technical Review Committee and the Senior Advisory Group in developing their positions on its adequacy prior to their next IAEA meetings.

Single copies of this draft Safety Guide may be obtained by a written request to the Director, Office of Nuclear

Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Washington, D.C. this 18th day of October 1983.

For the Nuclear Regulatory Commission.

Frank P. Gillespie,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-28939 Filed 10-24-83; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses to Import/Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for import/export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H. Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitoner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Wasington, D. C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or enviromental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 18th day of October at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received application No.	Material in kilograms or reactor type and power level		Enrichment	End use	Country of destination
Transnuclear, Inc., Sept. 20, 1983, Sept. 21, 1983, XSNM02075.	7,771	263.6415	3.65%	Reload fuel for Beznau II	Switzerland.
Edlow International Co., Sept. 22, 1983, Sept. 23, 1983, XSNM02076.	3,439	119	3.45%	Reload fuel for Ikata I	Japan.
Westinghouse Electric Corporation Sept. 19, 1983, Sept. 23, 1983, XSNM01067, Amend. 01.	Add'l 7,713	Add'l 336	Increase to 3.55%	Add'l. fuel for KRSKO Reactor	Yugoslavia.
Transnuclear, Inc., Oct. 3, 1983, Oct. 4, 1983, XSNM02021.	13,000	237.5	1.75%	Reprocessed Borselle fuel will be used as feed material at DOE and be reexported to Borselle, Netherlands.	From France.
Edlow International Co., Oct. 6, 1983, Oct. 7, 1983, XSNM02078.	22,955	792	3.45%	Reload fuel for Ohi I	Japan.
Edlow International Co., Oct. 5, 1983, Oct. 7, 1983, XSNM02080.	10,516	407	3.45%	Reload fuel for Takahama I	Japan.
Mitsubishi International Corp., Oct. 5, 1983, Oct. 11, 1983, XSNM02081.	11,706	404	3.45%	Reload fuel for Ikata I	Japan.
Transnuclear, Inc., Oct. 13, 1983, Oct. 13, 1983, XSNM02082.	10,747	4.879	45.4%	Fuel for Saphir Research Reactor	Switzerland.

[FR Doc. 83-28940 Filed 10-24-83; 8:45 am]

BILLING CODE 1590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Schedules A, B, and C

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This give notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on September 28, 1983 (48 FR 44296). Individual authorities established or revoked under Schedules A, B, or C between September 1, 1983 and September 30, 1983 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions are established:

Department of Health and Human Services

Not to exceed five positions a year of Medical Technologist Resident, GS-644-7, in the Blood Bank Department, Clinical Center, of the National Institutes of Health (NIH). Appointments under this authority will not exceed 1 year. Effective September 9, 1983.

Not to exceed 75 positions providing direct services to Cuban and Haitian entrants. Effective September 29, 1983.

Schedule C

The following exceptions are established:

Department of Agriculture

One Private Secretary to the Assistant Secretary for Administration, Office of the Secretary. Effective September 6, 1983.

One Staff Assistant to the Special Assistant to the Secretary. Effective September 19, 1983.

One Confidential Assistant to the Secretary, Office of the Secretary. Effective September 19, 1983.

One Confidential Assistant to the Executive Assistant to the Secretary, Office of the Secretary. Effective September 27, 1983.

Department of theArmy

One Special Assistant to the Assistant Secretary of the Army. Effective September 6, 1983.

One Staff Assistant to the Special Assistant to the President, Public Liaison. Effective September 27, 1983.

Department of Commerce

One Confidential Assistant to the Under Secretary for International Trade, International Trade Administration. Effective September 6, 1983.

One Director, Office of Public Affairs, International Trade Administration. Effective September 6, 1983.

One Private Secretary to the Deputy Assistant Secretary for Trade Development, International Trade Administration. Effective September 12, 1983.

One Supervisory Public Affiairs Specialist to the Director, Minority Business Development Agency. Effective September 14, 1983.

One Confidential Assistant to the Assistant Secretary for Trade Development, International Trade Administration. Effective September 15, 1983.

One Congressional Affairs Officer to the Deputy Director, Minority Business Development Agency. Effective September 16, 1983.

One Special Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs, Office of the Secretary. Effective September 16, 1983.

One Confidential Assistant to the Executive Assistant to the Secretary, Office of the Secretary. Effective September 19, 1983.

One Confidential Assistant to the Deputy Assistant Secretary for Trade Information and Analysis, International Trade Administration. Effective September 27, 1983.

One Congressional Liaison Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs, Office of the Secretary. Effective September 28, 1983.

Department of Education

One Personal Assistant to the Deputy Under Secretary, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective September 6, 1983.

One Personal Assistant to the Deputy Under Secretary, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective September 6, 1983.

One Personal Assistant to the Executive Assistant for Private Education, Office of the Secretary. Effective September 9, 1983.

One Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitative Services. Effective September 19, 1983.

One Special Assistant to the Deputy Under Secretary, Office of Planning, Budget, and Evaluation. Effective September 23, 1983.

One Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affiars. Effective September 29, 1983.

Department of Energy

One Secretary (Confidential Assistant) to the Special Assistant to the Secretary, Office of the Secretary. Effective September 6, 1983.

Department of Health and Human Services

One Director, Office of Intergovernmental and Congressional Affairs in Seattle, Washington. Effective September 16, 1983.

Department of Housing and Urban Development

One Staff Assistant (Typing) to the Deputy Under Secretary for Intergovernmental Relations. Effective September 1, 1983.

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations, Office of Legislation and Congressional Relations. Effective September 2, 1983.

One Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations. Effective September 15, 1983.

One Executive Assistant to the Deputy Assistant Secretary for Legislation, Office of Legislation and Congressional Relations. Effective September 19, 1983.

One Special Assistant to the Executive Assistant to the Secretary, Office of the Secretary. Effective September 23, 1983.

One Special Assistant to the Regional Administrator for Governmental Relations in New York, New York. Effective September 27, 1983.

One Special Assistant to the Assistant Secretary-Federal Housing Commissioner, Office of Housing. Effective September 27, 1983.

Department of the Interior

One Special Assistant to the Director, Office of Surface Mining. Effective September 19, 1983.

One Staff Assistant to the Associate Director for Offshore Minerals, Minerals Management Service. Effective September 19, 1983.

Department of Justice

One Secretary (Stenography) to the Associate Attorney General, Offices, Boards and Divisions. Effective September 19, 1983.

One Confidential Assistant to the Commissioner, Immigration and Naturalization Service. Effective September 26, 1983.

Department of Labor

One Secretary (Typing) to the Regional Representative in Dallas, Texas, Office of Intergovernmental Affairs. Effective September 6, 1983.

One Staff Assistant to the Deputy Under Secretary for International Affairs. Effective September 20, 1983.

One Executive Assistant to the Assistant Secretary for Employment and Training. Effective September 23, 1983.

Department of State

One Special Assistant to the Under Secretary, Office of the Under Secretary for Management. Effective September 9, 1983.

One Protocol Officer to the Chief of Protocol, Office of the Chief of Protocol. Effective September 9, 1983.

One Congressional Relations Specialist to the Deputy Assistant Secretary for International Management and Budgetary Analysis, Bureau of International Organization Affairs. Effective September 20, 1983.

One Secretary (Stenography) to the Assistant Secretary, Bureau of International Organization Affairs. Effective September 27, 1983.

Department of Transportation

One Staff Assistant to the Special Assistant to the Secretary, Office of the Secretary. Effective September 19, 1983.

One Special Assistant to the Deputy Secretary, Office of the Secretary. Effective September 19, 1983.

One Staff Assistant to the Secretary, Office of the Secretary. Effective September 20, 1983.

One Special Assistant to the Assistant Secretary for Policy and International Affairs, Office of the Secretary. Effective September 26, 1983.

One Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration. Effective September 28, 1983.

Department of the Treasury

One Special Assistant to the Assistant Secretary for Legislative Affairs, Office of the Secretary. Effective September 13, 1983.

One Staff Assistant to the Deputy Assistant Secretary for Administration, Office of the Secretary. Effective September 27, 1983.

Agency for International Development

One Special Assistant to the Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance. Effective September 2, 1983.

Commission on Civil Rights

One Special Assistant to the Staff Director, Office of the Staff Director. Effective September 19, 1983.

Equal Employment Opportunity Commission

One Secretary (Stenography) to the Member, Office of the Chairman. Effective September 30, 1983.

Environmental Protection Agency

One External Affairs Specialist to the Administrator, Office of the Administrator. Effective September 8, 1983.

One Staff Assistant to the Executive Assistant to the Administrator, Office of the Administrator. Effective September 27, 1983.

Executive Office of the President

One Confident Assistant to the General Counsel, U.S. Trade Representative. Effective September 6, 1983.

One Secretary to the Director, Office of Management and Budget Effective September 27, 1983.

One Secretary to the Deputy Director, Office of Management and Budget. Effective September 29, 1983.

Federal Emergency Management Agency

One Director, Office of Regional Operations. Effective September 19, 1983.

Federal Maritime Commission

One Secretary (Stenography) to the Commissioner, Office of the Commissioner. Effective September 1, 1983.

General Services Administration

One Confidential Assistant to the Director of Public Affairs, Office of Public Affairs. Effective September 15, 1983.

National Endowment for the Arts

One Special Assistant to the Chairman. Effective September 12, 1983.

National Endowment for the Humanities

One Confidential Assistant to the Director, Institute of Museum Services. Effective September 28, 1983.

Small Business Administration

One Confidential Assistant to the Associate Deputy Administrator for Special Programs, Office of the Administrator. Effective September 9, 1983.

One Special Assistant to the Regional Administrator in Bala Cynwyd, Pennsylvania. Effective September 19, 1983.

One Special Assistant to the Administrator, Office of the Administrator. Effective September 28, 1983.

U.S. Information Agency

One Special Assistant to the Deputy Director, Office of the Deputy Director. Effective September 23, 1983.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-29028 Filed 10-24-83; 8:45 am]

BILLING CODE 6325-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Establishment; Hydropower Assessment Steering Committee

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of establishment of Hydropower Assessment Steering Committee.

SUMMARY: On October 19, 1983 in a public meeting in Portland, Oregon, the Northwest Power Planning Council established a Hydropower Assessment Steering Committee (Committee) as an advisory committee to the Council. This notice describes the Committee, provides information on how to obtain notices of Committee meetings, and explains how to request copies of the Committee's advisory committee charter.

ADDRESSES: Individuals and entities wishing to receive notices of Committee meetings or copies of the Committee's advisory committee charter should contact Janie Pearcy by writing her at the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon 97205, or by calling her at (toll free) 1-800-222-3355, from Montana, Idaho, Washington and California; (toll free) 1-800-452-2324 in Oregon; or (503) 222-5161, from other states. The charter also is available for inspection and copying in the public reading room of the Council's central office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon, on weekdays between 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Peter Paquet, Hydropower Coordinator at (toll free) 1-800-222-3355 from Montana, Idaho, Washington, and California; (toll free) 1-800-452-2324 in Oregon; or (503) 222-5161, from other states.

SUPPLEMENTARY INFORMATION: On November 15, 1982, the Pacific Northwest Electric Power and Conservation Planning Council ("Council") adopted a Columbia River Basin Fish and Wildlife Program ("Program"), as required by the Pacific Northwest Power Planning and Conservation Act, Pub. L. 96-501, 16 U.S.C. 839 *et seq.* ("Act"). Section 1204(b)(2) of the Program called on the Bonneville Power Administration to fund a study (upon approval by the Council) to develop criteria and methods for assessing potential cumulative effects of hydroelectric development of fish and wildlife. Section 1204(c)(1) called on Bonneville to conduct an 18-month study (upon approval by the Council) of alternative means for classifying and designating certain streams and wildlife habitat to be protected from future hydroelectric development. Based on the results of that study, the Council will (pursuant to section 1204(c)(2) of the program) designate stream reaches and wildlife habitat areas to be protected from further hydroelectric development. On April 27, 1983, the Council adopted a Northwest Conservation and Electric Power Plan ("Plan") as required by the Act. Action item 14.2 of the Plan's two-year action plan stated that the Council will design a study to identify and rank potential hydropower sites in the region based on fish and wildlife concerns. Two-year action item 14.3 called on the Council to continue its efforts to refine the data base on existing and potential hydropower sites that are environmentally sound and cost-effective. Because the above hydropower-related measures from both the Plan and Program are closely related, the Steering Committee is to be formed to advise the Council on coordination of these measures. The Act authorizes the Council to establish such an advisory committee at section 4(c)(12). 16 U.S.C. 839b(c)(12). Under section 4(a)(4) of the Act, the terms of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, §§ 1-14, apply "to the extent appropriate" to the Council's advisory committees. 16 U.S.C. 839b(a)(4).

The Council established the Hydropower Assessment Steering Committee in a public meeting on August 10, 1983, in Yakima, Washington. It named Committee members, selected a Committee chairman, and adopted a charter for the Committee in a public meeting on October 19, 1983 in Portland, Oregon. The charter describes the objectives and activities of the Committee, its authority, and related matters. It also contains rules for Committee procedures on meeting notices, public participation, minutes, records, conflicts of interest, and reimbursement of certain Committee

member expenses. Requests for copies of the charter or meeting notices and for additional information may be made as provided above in this notice.

Edward Sbarra,

Executive Director.

[FR Doc. 83-28915 Filed 10-24-83; 8:45 am]

BILLING CODE 6820-60-M

SELECTIVE SERVICE SYSTEM

Organization and Sources of Information

AGENCY: Selective Service System.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. 552(a)(1) the following description of the central and field organization of the Selective Service System, the established places at which the public may obtain information, and the general course and methods by which its functions are channeled and determined is published for the guidance of the public.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435, Phone: 202-724-1167.

Dated: October 20, 1983.

Thomas K. Turnage,

Director of Selective Service.

Organization and Sources of Information

Creation and authority. The Selective Service System was established by the Military Selective Service Act (62 Stat. 604 as amended; 50 U.S.C. App. 451-471a).

The President by Executive Order 11623 has delegated to the Director of Selective Service authority, subject to certain restrictions, to issue regulations to carry out the Military Selective Service Act.

Purpose. The purpose of the Selective Service System is to supply the Armed Forces manpower adequate to insure the security of the United States, with concomitant regard for the maintenance of an effective national economy and to administer a program of Alternative Service in lieu of induction for eligible registrants.

Activities. The Military Selective Service Act, section 3 as implemented by Proclamation 4771 (3 CFR Part 82 (1980 Compilation); 45 FR 45247) requires most male citizens of the United States and other male persons who are in the United States and who were born on or after January 1, 1960 and have attained age 18 years to register with the Selective Service System. The principal places of registration in the United States are classified post offices and at United States Embassies and Consulates outside the United States.

Registrants are not currently processed beyond induction. The President's authority to induct registrants into the Armed Forces has expired. Legislation would be required to restore that authority.

Organization and Functions, National Headquarters and Regions

1. The following organization of the National Headquarters and Regions, Selective Service System is effective October 1, 1983:

a. Director (D).
b. Deputy Director (DD).
c. Chief of Staff (CS).
d. Office of the General Counsel (GC).
e. Office of the Inspector General (IG).
f. Office of Government and Public Affairs (GP), Congressional Affairs (GPC), Public Affairs Division (GPP).
g. Office of Management Services (MS), Controller Division (MSC), (Data Management Center (DMC), Information Systems Division (MSI), Logistics Division (MSL), Personnel Division (MSP).
h. Office of Operations (OP), Plans and Programs Division (OPP), Registration Division (OPR), Test and Evaluation Division (OPE), Training Division (OPT).
i. Regions (R):

RI—Philadelphia, PA
RII—Atlanta, GA
RIII—Chicago, IL
RIV—Dallas, TX
RV—San Francisco, CA
RVI—Denver, CO

2. The functions of the elements listed above shall be as follows:

a. *Director.* The Director directs and supervises the administration and operation of the Agency in accordance with law and the policies of the President.

b. *Deputy Director.* The Deputy Director performs duties prescribed by the Director. The Deputy Director performs all duties and functions of the Director when the Director is absent, as and when specified by the Director; performs all duties and functions of the Director when the Office of Director is vacant.

c. *Chief of Staff.* The Chief of Staff supervises the activities and functions of the staff; coordinates projects and operations and performs follow-up actions and reviews to insure that staff projects are in consonance with policy prior to their submission to the Director; and is responsible for scheduling and controlling visits, speaking engagements, and conference attendance for the Director.

d. *Office of the General Counsel.* The General Counsel is the legal adviser to the Director and the chief law officer of the Agency. The Office of the General Counsel provides legal opinions, advice and services, and handles litigation of interest to the Agency; prepares and coordinates proposed legislation and assures the legality of Agency regulations; and manages the passive compliance program.

e. *Office of the Inspector General.* Office of the Inspector General performs the audit, inspection and investigative functions of the Agency. The Inspector General promotes economy, efficiency and effectiveness in the administration of programs and operations and prevents fraud and abuse in such programs and operations.

f. *Office of Government and Public Affairs.* The Office of Government and Public Affairs is responsible for developing public affairs policies and programs and coordinating these activities with the White House and other government agencies. The Office provides public affairs counsel in all Agency policy decisions. The Office participates in developing and implementing legislative programs while maintaining liaison with the White House and the Congress, and its Members, Committees and staffs. The Office prepares testimony and briefings for the Director, assists in analyzing the impact of proposed legislation upon the Agency, coordinates development of comments on Congressional inquiries, and is responsible for advancement of Agency and Administration positions on pertinent issues before the Legislative Branch.

g. *Office of Management Services.* The Office of Management Services is responsible for the formulation of Agency policies, standards, procedures and contingency plans in the areas of personnel management, financial management, logistics and information management and supervises these functions on a day-to-day basis to insure conformity with law, regulations and the policies of the Director. The office provides administrative services, real and personal property management and records management. It manages the Agency budget and provides purchasing, contracting, payroll and accounting services. It manages individual training programs for compensated personnel, and operates the equal opportunity program. It is responsible for formulation of Agency policies, standards, procedures and contingency plans for Agency information systems

and for obtaining the automated data used in these systems; all research, assessments and technical reports related to computer operations and the acquisition of new technology and equipment; the supervision of associated data processing locations; automatic data processing support of the registration and registrant processing functions; and the implementation of the Paperwork Reduction Act.

(1) *Controller Division* (MSC).

The Controller Division provides the full range of financial staff services; develops financial policy, systems and implementing procedures; supports the Director's appropriation requests to the Congress; manages the operating financial plan assuring availability and allocation of resources to approved programs; prepares internal and external reports on financial conditions; recommends reprogramming actions and performs financial analyses of special projects emanating from extraordinary mission requirements; maintains the formal fiscal ledger accounts and records; provides biweekly payroll services; disburses funds to vendors, contractors and travelers; serves as primary liaison with OMB, GAO, CBO and Congressional Appropriations Subcommittees on financial matters; and performs financial planning for contingencies and the emergency reconstitution of the Agency.

(2) *Data Management Center* (DMC).

The Data Management Center is responsible for scheduling and executing all IBM production systems; provides programming support for the Registration System; provides data entry, research and error correction, and mail processing services for all centralized applications; and, provides agency responses to inquiries concerning registrants born in 1960 or later.

(3) *Information Systems Division* (MSI).

The Information Systems Division designs all administrative and operational computer applications and data bases and performs data-base administration; designs, programs, tests, and maintains detailed documentation for all new automated applications; operates and provides system programming support for the National Headquarters minicomputer system; delivers automated systems to the user, including training and users' system guides; and maintains close coordination with automated-system users in order to initiate or respond to requests for systems enhancements and to assure that automated systems meet user needs.

(4) *Logistics Division* (MSL).

The Logistics Division develops and administers the plans, policies, procedures and provides the necessary logistical support for Agency programs in the areas of contract administration; the procurement of supplies, equipment and transportation of things and people; the management of the Agency's United States Postal Service mail service program; the management of agency-wide real and personal property; the management of controlled correspondence; the management and control of publications, forms, reports and records; and the management of the National Security Information Security and Clearance Programs; management of all Agency telecommunications systems; and approves and procures all ADP equipment for the Agency.

(5) *Personnel Division* (MSP).

The Personnel Division develops plans, policies and procedures for the administration of all civilian and military personnel programs to insure compliance with governing statutes, regulations, policies and principles; manages the position allocation system; provides personnel services to all elements; manages the individual training programs for compensated personnel to include the Upward Mobility Program; manages the Equal Employment Opportunity Program; and performs personnel planning for the emergency reconstitution of the Agency.

h. *Office of Operations.* The Office of Operations is responsible for developing plans, policies and procedures; and providing staff supervision for the operation of registration and registrant processing programs to meet the regular and health care manpower needs of the armed forces; for preparing to mobilize and allocate persons with critical skills; and for the operation of the Alternative Service Program. The Office develops, tests and evaluates plans for mobilization and the operation of the local and appeal boards, interacts with FEMA, DoD and other agencies to ensure sufficiency of these plans, and conducts mobilization exercises to assess their effectiveness. The Office develops and provides staff supervision of training for Reserve Forces personnel and uncompensated personnel, conducts such group training of compensated employees as may be directed, and prepares training for civilian and military augmentees after mobilization.

(1) *Plans and Programs Division* (OPP).

The Plans and Programs Division develops and maintains operational plans and programs such as those for the mobilization of the Selective Service System; develops organizational and manning concepts, and manpower requirements; develops, coordinates and conducts mobilization exercises to assess effectiveness of mobilization plans and programs. The Division develops, implements and maintains guidance, plans, programs and procedures with respect to Registrant Processing, including the processing of health care personnel and the Alternative Service Program, and serves as point of contact for DoD, the military departments, FEMA and other Federal agencies for operational issues.

(2) *Registration division* (OPR).

The Registration division develops, implements and maintains plans, policies and procedures for Selective Service registration, registration processing and active compliance programs, and is responsible for review, approval and monitoring of Region registration plans. The division serves as point of contact with USPS, Department of State, DoD, the military departments, and other Federal agencies in the area of registration programs.

(3) *Test and Evaluation Division* (OPE).

The Test and Evaluation Division tests proposed manual and automated processes and systems, providing analytical assessments of their potential for success, and recommendations for improvement and change. The Division evaluates and makes recommendations regarding the overall effectiveness of National Headquarters plans, programs, operations, projects, related policies and procedures, and mobilization readiness.

(4) *Training Division* (OPT).

The Training Division develops and provides staff supervision of peacetime and mobilization training programs for Reserve Forces personnel and uncompensated personnel and the local and appeal board systems; reviews and evaluates training programs developed by field elements; prepares specialized training packages designed for training of civilian and military augmentees after mobilization; and conducts such group training as may be directed.

The Region Director is responsible for the following:

(1) Managing Selective Service activities within the Region boundaries to include supervision of State Directors;

(2) Conducting the registration improvement program within the Region;

(3) Scheduling, administering, and managing all Selective Service training within the Region;

(4) Coordinating the Selective Service public affairs program within the Region;

(5) Processing appointments for local and appeal board members;

(0) Organizing and managing the Region Headquarters in preparation for a smooth transition to mobilization operations, including developing detailed written plans for all Region and state activities in the regions; and

(7) Developing an Alternative Service Plan and Program for the Region.

The State Director is responsible for the following:

(1) Recruiting and arranging for nomination of local board members and assisting in recruiting applicants for appeal board membership;

(2) Conducting the registration improvement program within the state;

(3) Conducting public affairs programs within the state in coordination with the Region Directors and within the scope and intent of the National Program;

(4) Assisting, when requested by the Region Director, in appropriate training for uncompensated employees and members of the Reserve Force in the State;

(5) Providing liaison between Selective Service and the state government, and with Congressional representatives as appropriate;

(6) Preparing for mobilization operations; and

(7) Assisting the Region in Alternative Service planning.

Mailing and Telephone Addresses for Selective Service System Regions

Mailing and Telephone Numbers

Selective Service System, Region I, Philadelphia, PA 19185, 215–897–6650/–51/52
Selective Service System, Region II, 805 Walker Street, Rm. 118A, Marietta, GA 30060, 404–429–6602
Selective Service System, Region III, Great Lakes, IL 60088, 312–688–4540
Selective Service System, Region IV, Dallas, TX 75387, 214–767–7296
Selective Service System, Region V, San Francisco, CA 94136 415–556–3411
Selective Service System, Region VI, Denver, CO 80250, 303–361–8155

Publications. Selective Service Regulations appear in Chapter XVI of Title 32, Code of Federal Regulations, and may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Registrant Information and Management System (RIMS) Manual and other manuals may be purchased from the Records Manager, Selective Service System, Washington, D.C. 20435 (Phone 202–724–0828).

General information including names and addresses of State Directors can be obtained from the Office of Public Affairs, Selective Service System, Washington, D.C. 20435 (Phone 202–724–0790).

Information concerning registration can be obtained from: Registration Information Office, P.O. Box 490, North Chicago, IL 60064, Phone: (312) 689–9022.

Employment. Inquiries and applications should be directed to the Director of Selective Service, Attention: MSP, Washington, D.C. 20435.

Procurement. Inquiries should be directed to Director of Selective Service, Attention: MSL, Washington, D.C. 20435.

[FR Doc. 83–28888 Filed 10–24–83; 8:45 am]
BILLING CODE 8015–01–M

TENNESSEE VALLEY AUTHORITY

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms under review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395–7313.

Agency Clearance Officer: John O. Catron, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751–2523, FTS 858–2523.
Type of Request: Regular submission for an existing collection
Title of Information Collection: Employment Applications (5 forms)
Frequency of Use: On occasion
Type of Affected Public: Individuals
Small Businesses or Organizations Affected: None Federal Budget Functional Category Code: 999
Estimated Number of Annual Responses: 70,000
Estimated Total Annual Burden Hours: 105,000
Estimated Annual Cost to TVA: $1,030,000

Need for and Uses of Information: Applications for employment are needed to collect qualifications, to determine suitability and to determine veteran's preference of potential employees. The information is used to make comparative appraisals and to assist in selections. The affected public consists of individuals who apply for TVA employment.

Dated: October 17, 1983.

John W. Thompson,

Assistant General Manager, Senior Agency Officer.

[FR Doc. 83–28917 Filed 10–24–83; 8:45 am]
BILLING CODE 8120–01–M

Price Schedule and Experimental Cogeneration Program Options Under TVA's Dispersed Power Production Program; Extension of Availability

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of extension of availability of price schedule and Experimental Cogeneration Program options under TVA's Dispersed Power Production Program.

SUMMARY: On Septmeber 27, 1983, TVA approved a temporary extension of the availability of the price schedule and Experimental Cogeneration Program options under TVA's Dispersed Power Production Program until December 31, 1983.

EFFECTIVE DATE: The extension is effective as of October 2, 1983.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford, Tennessee Valley Authority, 400 West Summit Hill Drive, EPB6–C, Knoxville, Tennessee 37902 (615) 632–4402.

SUPPLEMENTARY INFORMATION: TVA's current guidelines on dispersed power production were printed in the **Federal Register** on October 25, 1982 (47 FR 47355), with certain modifications being printed on August 4, 1983 (48 FR 35549).

Experimental Pricing Schedule DPP–XR, and the availability of the Experimental Cogeneration Program, included as a part of TVA's Dispersed Power Production Program, were scheduled to terminate on October 1, 1983. In light of recent changes in rates and other power supply considerations, TVA is working toward the development of a new price schedule and a new standby rate schedule, along with various revisions in the Dispersed Power Production Program Guidelines. To provide continuity in the program, it has been determined that Experimental Pricing Schedule DPP–XR and the Experimental Cogeneration Program will temporarily remain available under TVA's dispersed Power Production Program until December 31, 1983, when it is anticipated guideline revisions and

new schedules will have been developed.

Dated: October 18, 1983.

W. F. Willis,

General Manager.

[FR Doc. 83-28916 Filed 10-24-83; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP83-1; Notice 2]

BF Goodrich Co.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by BF Goodrich Co. of Arkron, Ohio, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.109, *New Pneumatic Tires—Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on April 18, 1983, and an opportunity afforded for comment (48 FR 16567).

Paragraph S4.3(e) of Standard No. 109 requires that the sidewall of each passenger car tire be labeled with the actual number of plies in the sidewall and the actual number of plies in the tread area, if different. Goodrich has produced an unknown number of P205/70R14 Advantage tires branded "2 plies rayon" under the tread on the white sidewall side. The correct labeling "6 plies rayon" appears on the serial side sidewall.

Goodrich argued that the noncompliance was inconsequential because the failure to label properly has no impact upon safety, and the tires otherwise comply with standard No. 109. Branding is correct on one side of the tire, and the number of piles in the tread is described in point of purchase literature.

No comments were received on the petition.

NHTSA has decided to grant this petition. The error of indicating 2 plies beneath the tire tread area when the actual number is 6 in no way compromises the safety of the tire. The additional plies have no effect upon the load carrying capacity or the endurance of a tire, being simply breaker strips and belts. The information at the point of sale correctly describes the tire composition. Rebranding the correct information on a sidewall after buffing off the incorrect information could possibly damage the bead area. This occurence, of course, would have a deleterious effect upon safety

Accordingly, BF Goodrich has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is herewith granted.

The engineer and attorney primarily responsible for this notice are Art Casanova and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on October 18, 1983.

Kenneth H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-28909 Filed 10-24-83; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 207
Tuesday, October 25, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Federal Energy Regulatory Commission	2
Federal Home Loan Bank Board	3
Nuclear Regulatory Commission	4
Federal Reserve System	5
National Science Board	6
National Transportation Safety Board	7, 8

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11a.m., Friday October 28, 1983.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed

MATTERS TO BE CONSIDERED:

Surveillance Briefing

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1497–83– Filed 10–21–83; 3:30 pm]

BILLING CODE 6351–01–M

2

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published October 24, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., October 26, 1983.

CHANGE IN THE MEETING: The meeting will begin at 9:30 a.m.

[S–1498–83– Filed 10–21–83; 2:21 pm]

BILLING CODE 6717–01–M

3

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OR PREVIOUS ANNOUNCEMENT: Vol. No. 48, Page No. none at this time. Date Published, none at this time.

PLACE: Board Room, Sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202–377–6970).

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board scheduled Monday, October 24, 1983, at 10 a.m.:

Brokered Deposits

[No. 61, October 19, 1983]

[S–1491–83– Filed 10–20–83; 4:06 pm]

BILLING CODE 6720–01–M

4

NUCLEAR REGULATORY COMMISSION

DATE: Week of October 24, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED:

Wednesday, October 26:

2:00 p.m.:
Diablo Canyon Motions by Intervenors for Formal Hearings (Closed—Exemption 10)

Thursday, October 27:

10:00 a.m.:
Progress Report on Safety Goal Evaluation Plan (Public Meeting)
3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting):
a. Amendments to 10 CFR 50 Related to Anticipated Transients Without Scram (ATWS) Events
b. Final Rulemaking Concerning Fitness for Duty for Personnel with Unescorted Access to Protected Areas

Friday, October 28:

10:00 a.m.:
Public Meeting on Diablo Canyon (Public Meeting)
2:00 p.m.:
Continuation of Public Meeting on Diablo Canyon (Public Meeting)

ADDITIONAL INFORMATION: On October 7 the Commission voted 5–0 to hold Discussion of Proposed Notice to Parties in TM1–1 Restart Proceeding, held that day.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,
Office of the Secretary.

[S–1492–83 Filed 10–21–83; 9:07 am]

BILLING CODE 7590–01–M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, October 31, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: October 21, 1983.

James McAfee,
Associate Secretary of the Board.

[S–1496–83 Filed 10–21–83; 3:53 pm]

BILLING CODE 6210–01–M

6

NATIONAL SCIENCE BOARD

DATE AND TIME:

October 20, 1983 9:00 a.m. Open session;
October 21, 1983 8:30 a.m. Closed session;
October 21, 1983 9:00 a.m. Open session.

PLACE: National Science Foundation, Washington, D.C.

STATUS: Change to previously published announcement. The following additional item was added to the Friday, October 21 Closed Session Agenda.

D. Proposed Amendment to the NSF Act of 1950, as amended

All Board members present voted in favor of adding this item to the Closed Session Agenda. No earlier announcement of the change was possible.

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, Executive Officer (202) 357–8582.

[S–1495–83 Filed 10–21–83; 2:08 pm]

BILLING CODE 7535–01–M

7

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–24]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 46469, October 12, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, October 18, 1983.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following item was added to the agenda:

1. *Recommendation* to the Federal Aviation Administration regarding crash/fire/rescue procedures.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

October 18, 1983.

[S–1493–83 Filed 10–21–83; 1:44 pm]

BILLING CODE 4910–58–M

8

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–25]

TIME AND DATE: 9 a.m., Tuesday, November 1, 1983.

PLACE: NTSB Board Room, eighth floor, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first two items will be open to the public; the remainder will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report:* Capsizing of the Charter Passenger Vessel *San Mateo*, Morro Bay, California, February 16, 1983.
2. *Marine Accident Report:* Sinking of the Charter Fishing Vessel *Joan La Rie III* off of Manasquan Inlet, New Jersey, October 24, 1982.
3. *Opinion and Order:* Sotillie v. Administrator, Dkt. 5–EAJA–5388; disposition of the Administrator's petition for reconsideration.
4. *Opinion and Order:* Petition of Phillips, Dkt. SM–2799; disposition of petitioner's appeal.
5. *Opinion and Order:* Administrator v. Mannix, Dkt. SE–5679; disposition of the Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

October 21, 1983.

[S–1494–83 Filed 10–21–83; 1:44 pm]

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Federal Register

Tuesday
October 25, 1983

Part II

Environmental Protection Agency

Inorganic Chemicals Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 415

[WH-FRL-2438-7]

Inorganic Chemicals Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Enviromental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes regulations to limit the discharge of pollutants into navigable waters and into publicly owned treatment works by existing and potential new sources that manufacture certain inorganic chemicals.

The Clean Water Act and a consent decree require EPA to issue this regulation.

The purpose of this proposal is to provide effluent limitations guidelines based on "best practicable technology," "best available technology," "best conventional technology," and to establish new source performanace standards and pretreatment standards for existing and new sources. The Agency also proposes to amend currently effective regulations for two subcategories. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATE: Comments on this proposal must be submitted by December 27, 1983.

ADDRESSES: Send comments to: Dr. Thomas E. Fielding, Effluent Guidelines Division (WH-552) Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: EGD Docket Clerk, Proposed Inorganic Chemicals Phase II Rules (WH-552).

The Record will be available for public review in EPA's Public Information Reference Unit, Room 2404 (Rear) (EPA Library), 401 M Street, SW., Washington, D.C. The EPA information regulation (40 CFR Part 2) Provides that a reasonable fee may be charged for copying.

Techinical information may be obtained by writing to Dr. Thomas E. Fielding, Effluent Guidelines Division (WH-552), EPA, 401 M Street, SW., Washington, D.C. 20460, or through calling 202/382-7156. The economic analysis may be obtained from Ms. Debra Maness, Economic Analysis Staff (WH-586), at the above address or by calling (202) 382-5385.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Fielding (202/382-7156).

SUPPLEMENTARY INFORMATION:

Overview

The preamble summarizes the legal authority, background, technical and economic bases, and other aspects of the regulation. The abbreviations, acronyms, and other terms used in the preamble are defined in Appendix A.

The proposed rule is supported by EPA's technical conclusions detailed in the "Development Document for Proposed Effluent Limitations Guidelines and Standards for the Inorganic Chemicals Point Source Category (Phase II)", EPA 440/1-83-007-B, October, 1983. The Agency's economic conclusions are detailed in "Economic Impact Analysis of Proposed Effluent Limitations and Standards for the Inorganic Chemicals Industry, Phase II", EPA 440/2-83-009, October, 1983. Further supporting materials are contained in the record supporting this rulemaking.

Organization of this Notice

I. Legal Authority
II. Scope of This Rulemaking
III. Background
  A. The Clean Water Act
  B. Prior EPA Regulations
  C. Overview of the Industry
IV. Industry Subcategorization
V. Methodology and Data Gathering Efforts
VI. Control Treatment Options and Technology Basis for Proposed Regulations
  A. Control Treatment Options
  B. Technology Basis for Proposed Regulations
    1. Cadmium Pigments and Salts
      a. Cadmium Pigments
      b. Cadmium Salts
    2. Cobalt Salts
    3. Copper Salts
      a. Copper Sulfate, Copper Chloride, Copper Iodide, Copper Nitrate
      b. Copper Carbonate
    4. Nickel Salts
      a. Nickel Sulfate, Nickel Chloride, Nickel Nitrate, Nickel Fluoborate
      b. Nickel Carbonate
    5. Sodium Chlorate
    6. Zinc Chliride
  C. Proposed Revisions to BAT
VII. Pretreatment Standards for 23 Subcategories
  A. General
  B. Proposed Exclusions from PSES
  C. Proposed PSNS
VIII. Economic Considerations
  A. Costs and Impacts
  B. Executive Order 12291
  C. Regulatory Flexibility Analysis
  D. SBA Loans
IX. Non-Water Quality Environmental Impacts
  A. Air Pollution
  B. Solid Waste
  C. Consumptive Water Loss
  D. Energy Requirements
X. Pollutants and Subcategories Not Regulated
  A. Exclusion of Pollutants
  B. Exclusion of Subcategories
XI. Best Management Practices
XII. Upset and Bypass Provisions
XIII. Variances and Modifications
XIV. Relationship to NPDES Permits
XV. Availability of Technical Assistance
XVI. Solicitation of Comments
XVII. Appendices
  A. Abbreviations, Acronyms, and Other Terms Used in This Notice
  B. Toxic Pollutants Excluded in All Subcategories
  C. Toxic Pollutants Excluded in Particular Subcategories
  D. Subcategories Excluded
  E. Exclusion of Subcategories from PSES

I. Legal Authority

This regulation is being proposed under the authority of Sections 301, 304, 306, 307, 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217), also called the "Act," and as further amended. It is also being proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc., v. Train,* 9 ERC 2120 (D.D.C. 1976), *modified,* 12 ERC 1833 (D.D.C. 1979), *modified* by Orders dated October 26, 1982 and August 2, 1983.

II. Scope of This Rulemaking

The inorganic chemicals manufacturing industry is included within the U.S. Department of Commerce, Bureau of the Census, Standard Industrial Classification (SIC) 281, Industrial Inorganic Chemicals. This proposed regulation applies to parts of Subgroups 2812, Alkalies and Chlorine; 2813, Industrial Gases; 2816, Inorganic Pigments; and 2819, Inorganic Chemicals, Not Elsewhere Classified.

The most important pollutants or pollutant parameters found in the wastewater of these subcategories are: (a) Toxic pollutants (antimony, chromium, nickel, lead, copper, cadmium, zinc, selenium, and arsenic); (b) conventional pollutants (TSS and pH); and (c) nonconventional pollutants (chlorine and cobalt). EPA's 1973 to 1976 round of rulemaking emphasized the achievement of best practicable technology currently available (BPT) by July 1, 1977. In general BPT represents the average of the best existing performances of well-known technologies for control of familiar (i.e., "classical") pollutants.

In contrast, this round of rulemaking aims for the achievement by July 1, 1984, of the best available technology economically achievable (BAT) that will result in reasonable further progress toward the national goal of eliminating

the discharge of all pollutants. At a minimum, BAT represents the best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic substances.

EPA is proposing BPT, BCT, BAT, NSPS, and PSNS for the following six subcategories:

—Subpart BL (Cadmium Pigments and Salts)
—Subpart BM (Cobalt Salts)
—Subpart AJ (Copper Salts)
—Subpart AU (Nickel Salts)
—Subpart BN (Sodium Chlorate)
—Subpart BO (Zinc Chloride)

PSES are being proposed for the following five subcategories:

—Subpart BL (Cadmium Pigments and Salts)
—Subpart BM (Cobalt Salts)
—Subpart AJ (Copper Salts)
—Subpart AU (Nickel Salts)
—Subpart BO (Zinc Chloride)

Amendments are being proposed for Supbpart P (Sodium Chloride), and Subpart T (Sodium Sulfite). For Subpart P (Sodium Chloride, solution brine-mining process), this proposal includes revocation of the existing BAT, and establishment of BCT limitations equal to the existing BPT. For Subpart T (Sodium Sulfite), this proposal would withdraw BAT, NSPS, and PSNS and establish a new BAT rule. It further proposes to establish a new BCT equal to BPT and a new NSPS and PSNS equal to the new BAT. No PSES are proposed for the single indirect discharger.

BAT regulations for the above industries, as well as the calcium chloride industry, were reconsidered as the result of a petition from the Salt Institute. No change is proposed for the calcium chloride industry. The technical rationale for these decisions can be found in Section VI, "Control Treatment Options and Technology Basis for Regulations."

The Agency is also proposing to amend the applicability of the promulgated chlor-alkali effluent limitations guidelines and standards to include the manufacture of calcium hypochlorite (bleaching powder).

III. Background

A. The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," Section 101(a). By July 1, 1977, existing industrial discharges were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" ("BPT"), Section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable . . . which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT"), Section 301(b)(2)(A). New industrial direct dischargers were required to comply with Section 306 new source performance standards ("NSPS"), based on best available demonstrated technology; and new and existing dischargers to publicly owned treatment works ("POTW") were subject to pretreatment standards under Sections 307 (b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under Section 402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTW (indirect dischargers).

Although Section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, Sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and Sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, Section 307(a) of the Act required the Administrator to develop a list of toxic pollutants and promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, Section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by dates contained in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating BAT effluent limitations guidelines, pretreatment standards, and NSPS for 65 "priority" pollutants and classes of pollutants for 21 major industries (see *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979)), *modified* by Orders dated October 26, 1982, and August 2, 1983.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the federal water pollution control program, its most significant feature is its incorporation of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984, of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under Section 307(a) of the Act. Likewise, EPA's programs for NSPS and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" ("BMPs") to prevent the release of the toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

BPT Effluent Linitations

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of applying such technology in relation to the effluent reductions derived from such application, the age of equipment and facilities involved, the process employed, non-water quality environmental impacts (including energy requirements), and other factors the administrator considers appropriate (Section 304(b)(1)(B)). In general, the BPT technology level represents the average of the best existing performances of plants of various ages, sizes, processes, or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category. BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where such are common industry practice. The cost/benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, which does not require the Agency to quantify benefits in

monetary terms. See, e.g., *American Iron and Steel Institute v. EPA*, 526 F. 2d 1027 (3rd Cir. 1975). In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impacts of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies. Therefore, EPA has not considered these factors. See *Weyerhaeuser* v. *Costle*, 590 F. 2d 1011 (D.C. Cir. 1978).

BAT Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, and non-water quality environmental impacts (including energy requirements), (Section 304(b)(2)(B)). At a minimum, the BAT technology level represents the best economically achievable performance of plants of various ages, sizes, processes, or other shared characteristics. As with BPT, uniformly inadequate performance may require transfer of BAT from a different subcategory or category. BAT may include process changes or internal controls, even when these technologies are not common industry practice. The statutory assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra).* In developing the BAT regulations, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels. Despite this expanded consideration of costs, the primary determinant of BAT is effluent reduction capability. As a result of the Clean Water Act of 1977, 33 U.S.C. 1251 *et seq.*, the achievement of BAT has become the principal national means of controlling water pollution due to toxic pollutants. As noted above, the deadline for compliance with BAT limitations on toxic pollutants is July 1, 1984. For non-toxic, nonconventional pollutants, Sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or by July 1, 1984, whichever is later, but not later than July 1, 1987.

BCT Effluent Limitations

The 1977 Amendments added Section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" (BCT) for discharge of conventional pollutants from existing industral point sources. Conventional pollutants are those defined in Section 304(a)(4) (biological oxygen demanding pollutants (BOD5), total suspended solids (TSS), fecal coliform, and pH), and any additional pollutants defined by the Administrator as "conventional" (oil and grease, 44 FR 44501, July 30, 1979).

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in Section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute v. EPA*, 660 F.2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly-owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test and to apply the second cost test. (EPA had argued that a second cost test was not required).

On October 29, 1982, EPA proposed a revised BCT methodology. On the basis of the proposed BCT methodology, EPA has determined that, in this proposed rulemaking, in two subcategories, BCT limitations should be based on BPT technology. If the proposed BCT methodology is changed significantly, the Agency will need to reconsider the BCT limitations for those two subcategories. In four other subcategories, no additional technologies were identified that would remove significant additional quantities of conventional pollutants. Accordingly, EPA is proposing that BCT equal BPT in those four subcategories.

NSPS

New Source Performance Standards (NSPS) are based on the best available demonstrated technology. New plants have the oportunity to install the best and most efficient production processes and wastewater treatment technologies, and, therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies to reduce pollution to the maximum extent feasible.

PSES

Pretreatment Standards for Existing Sources (PSES) are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of well-operated publicly owned treatment works (POTW) with secondary treatment installed. According to statute, PSES must be achieved no later than 3 years from promulgation. EPA has determined that the PSES proposed in this regulation can be met within 24 months of promulgation, and has proposed a compliance date accordingly.

The Act requires pretreatment for toxic pollutants that pass through the POTW in amounts that would violate direct discharger effluent limitations or interfere with the POTW's treatment process or chosen sludge disposal method. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. EPA has generally determined that there is pass through of pullutants if the percent of pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system. The general pretreatment regulations, which served as the framework for the categorical pretreatment regulations are found at 40 CFR Part 403. 43 FR 27736 (June 26, 1976; 46 FR 9462 (January 28, 1981).

PSNS

Like PSES, Pretreatment Standards for New Sources (PSNS) are to prevent the discharge of pullutants which pass through, interfere with, or are otherwise incompatible with the operation of the POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies. The Agency considers the same factors in promulgating PSES.

The propose of these proposed rugulations is to provide effluent limitations guidelines for BPT, BAT and BCT, and to establish NSPS, PSES, and PSNS, under Sections 301, 304, 306, 307, and 501 of the Clean Water Act.

B. Prior EPA Regulations

EPA initially approached the regulation of the Inorganic Chemicals Manufacturing Point Source Category in two stages. The first stage covered 22 Major Inorganic Chemical Products, and the final regulations for these industrial subcategories were published on March 12, 1974. (39 FR 9612) The regulations included numerical BPT and BAT effluent limitations and standards of performance and pretreatment standards for new sources. Zero-discharge requirements specified for many of the subcategories were to become effective in 1977 or later. In the second stage, the Agency promulgated BPT-based effluent limitations for an additional group of 27 subcategories referred to as "Significant Inorganic Chemical Products." (40 FR 22402 (May 22, 1975)). Taken together, the two groups of regulations covered 49 inorganic chemical subcategories, many of which included more than one specific chemical product. Although some toxic pollutants were covered in cases where a direct relationship to the process was obvious (e.g., mercury and/or lead in the Chlor-Alkali Industry), the main thrust of the regulations was the control of the pollutant parameters which accounted, in terms of quantity, for most of the pollutant loading of navigable waters attributable to the manufacture of inorganic chemicals.

On March 10, 1976, the United States Court of Appeals for the Fourth Circuit in *E. I. duPont de Nemours & Co., V. Train,* 541 F.2d 1018 (4th Cir. 1976), set aside and remanded for reconsideration a number of general definitions and specific discharge regulations (generally requiring zero discharge of pollutants) promulgated in 1974. These regulations were all within 40 CFR Parts 401 and 415 and covered the chlor-alkali, hydrochloric acid, hydrofluoric acid, nitric acid, sodium carbonate, sodium dichromate, sodium metal, sodium silicate, sulfuric acid, and titanium dioxide subcategories.

Following the court remand, on November 23, 1976 (41 FR 51601), the Agency revoked the second set of published regulations for aluminum fluoride, chrome pigments, hydrogen cyanide, and sodium silicofluoride. The Agency's intent was to reconsider the specific effluent limitations established for these industries in the light of information made available on process differences between plants and additional data on the actual concentrations and treatability of the regulated discharge constituents. The information was presented to the Agency in the form of various documents prepared by members of the industries concerned.

On July 20, 1977, the Agency promulgated interim final regulations establishing pretreatment standards for existing sources for nine of the 49 inorganic chemical subcategories (42 FR 37294).

At about the same time, a consent decree was issued as a result of a suit filed by four environmental groups (*Natural Resources Defense Council, Inc.* v. *Train, supra.* The consent decree identified 21 point source categories and required EPA to promulgate BAT effluent limitations guidelines, new source performance standards, and pretreatment standards for specified industrial categories identified by Standard Industrial Classification (SIC) code numbers. The major industries included in the Inorganic Chemicals Manufacturing Point Source Category are:

- SIC 2812—Alkalies and Chlorine.
- SIC 2813—Industrial Gases.
- SIC 2816—Inorganic Pigments.
- SIC 2819—Industrial Inorganic Chemicals, Not Elsewhere Classified.

Following the *NRDC* consent decree, the Agency divided its inorganic chemicals rulemaking effort into two phases.

Phase I covered 60 of 177 subcategories previously identified as belonging to the category. The Phase I regulations were promulgated June 29, 1982 (47 FR 28260).

C. Overview of the Industry

Phase II was to have covered the remaining 117 subcategories. However, after review of all of the inorganic products listed in SIC codes 2812, 2813, 2816, and 2819, seven more subcategories were identified, bringing the total number of subcategories examined in Phase II to 124. These additional subcategories were identified as a result of contacts with chemical producers, a literature search, site visits by EPA and contractor personnel, and telephone communications. Of the 124 subcategories, 104 were excluded from further study for one or more of the following reasons:

1. The chemical is no longer being produced;
2. Only one plant was known to be producing the chemical;
3. The amount and toxicity of the pollutants discharged did not justify national regulations.
4. No dischargers could be identified in the subcategory;
5. No toxic pollutants were found at significant treatable levels; or
6. The subcatagory was already regulated by existing guidelines.

As discussed below, we propose to exclude these subcategories from national regulation under Paragraph 8 of the Settlement Agreement.

In addition, we propose to defer one subcategory for coverage under a more appropriate point source category, and to modify an existing regulation to include the product included under two other subcategories.

IV. Industry Subcategorization

The inorganic chemicals industry is very large and diversified and has been segmented into subcategories for the purpose of establishing effluent guidelines. In developing these regulations, the Agency has considered whether different effluent limitations and standards are appropriate for different segments of the inorganic chemicals industry. Factors taken into consideration for subcategorization include: Raw materials used, product produced, manufacturing process employed, geographical location, size and age of equipment and facility involved, nonwater-quality aspects of waste characteristics, water pollution control technology, treatment costs, energy requirements and solid waste disposal. EPA found that final product is the industry's most significant identifying factor, and developed 184 subcategories on this basis. Some subcategories required secondary subcategorization because of process differences for the same product. Other subcategories were consolidated because of similar production processes, pollutants, unit flows, and treatment processes. Section 4 of the Development Document describes the rationale for the subcategorizations in detail.

The Agency identified the following 17 chemical products in Phase II for which effluent limitations guidelines and standards are warranted:

1. Cadmium Pigments.
2. Cadmium Chloride.
3. Cadmium Nitrate.
4. Cadmium Sulfate.
5. Cobalt Chloride.
6. Cobalt Nitrate.
7. Cobalt Sulfate.
8. Copper Carbonate.
9. Copper Chloride.
10. Copper Iodide.
11. Copper Nitrate.
12. Nickel Carbonate.
13. Nickel Chloride.
14. Nickel Fluoborate.

15. Nickel Nitrate.
16. Sodium Chlorate.
17. Zinc Chloride.

Because the pollutants, pollutant concentrations, and applicable treatment technologies are the same for a number of the subcategories, the following consolidation of 17 subcategories into six subcategories is proposed:

1. Cadmium Compounds—Includes cadmium pigments, cadmium chloride, cadmium nitrate, and cadmium sulfate. There are 12 plants in the subcategory, of which six are direct dischargers, four are indirect dischargers and two have no discharge.

2. Cobalt Salts—Includes cobalt chloride, cobalt nitrate, and colbalt sulfate. There are ten plants in the subcategory, of which five are direct dischargers, three are indirect dischargers and two have no discharge.

3. Copper Salts—Includes copper carbonate, copper chloride, copper iodide, copper nitrate, and copper sulfate. This subcategory will replace the copper sulfate subcategory. There are 23 plants in the subcategory, of which six are direct dischargers, six are indirect dischargers and 11 have no discharge.

4. Nickel Salts—Includes nickel carbonate, nickel chloride, nickel fluoborate, nickel nitrate and nickel sulfate. This subcabategory will replace the nickel sulfate subcategory. There are 19 plants in the subcategory, of which 8 are direct dischargers, 9 are indirect dischargers, and 2 have no discharge.

5. Sodium Chlorate. There are 13 plants in the subcategory of which nine are direct dischargers and four have no discharge.

6. Zinc Chloride. There are 7 plants in the subcategory, of which 5 are direct dischargers and 2 are indirect dischargers.

EPA proposes the replacement of two subcategories with new consolidated subcategories. Subpart AJ (Copper Sulfate) will be replaced by Subpart AJ (Copper Salts) which includes copper sulfate, copper chloride, copper iodide, copper nitrate, and copper carbonate. Subpart AU (Nickel Sulfate) will be replaced by Subpart AU (Nickel Salts), which includes nickel sulfate, nickel chloride, nickel nitrate, nickel fluoborate, and nickel carbonate.

This proposed subcategorization is for the following reasons:

a. Many facilities produce copper sulfate or nickel sulfate as well as other copper or nickel salts covered in these subparts. The wastewater streams are typically commingled and sent to a common wastewater treatment system.

b. The production processes for copper or nickel sulfate and the other copper or nickel salts covered in this subpart are very similar.

c. Wastewater flows and pollutant characteristics are very similar for copper or nickel sulfate and the other copper or nickel salts.

d. Wastewater treatment processes which have been determined to be effective in the copper or nickel sulfate industry are the same as for the other salts.

e. Levels of treatability are the same for copper or nickel sulfate and the other copper or nickel salts.

The exception to the above is the copper or nickel carbonate production industry. The Agency is proposing that copper carbonate be a separate segment within the Copper Salts subcategory and that nickel carbonate be a separate segment within the Nickel Salts Subcategory because the wastewater unit flows at copper carbonate and nickel carbonate facilities are substantially greater than at other copper or nickel salts facilities covered in these subparts. The proposed limitations for the copper salts and nickel salts subparts are based upon the same concentration limits as are currently in effect for the copper sulfate and nickel sulfate industries, respectively. Thus, there is no change for the copper sulfate and nickel sulfate industries. The copper carbonate and nickel carbonate industries have different mass limits due to different unit flows.

This regulation applies to the 46 existing plants in these subcategories. Many plants are multiproduct plants manufacturing several products in different subcategories. For multiproduct plants incurring costs, the Agency has estimated the total cost for the technology, and prorated the costs to each product based on the wastewater flow from each product in Phase II.

V. Methodology and Data Gathering Efforts

Initiating and undertaking a comprehensive study of the toxic pollutant problem in the Inorganic Chemicals Industry was preceded by an intensive evaluation by the Agency of the kinds of data and supporting information that should be assembled as a basis for the development of regulations. All major decisions on the identity of pollutants and the establishment of effluent limitations and standards of performance for each subcategory had to be supported by documented evidence collected from operating production facilities. Similarly, the necessary information on production rates, processes, raw materials, water use, waste sources, and treatment technologies in practice had to be acquired with sufficient detail and breadth of coverage to permit an analysis of the engineering and economic variables that are characteristic of each subcategory. Toxic pollutant control regulations would be based on the application of best available technology economically achievable for treatment and reliable performance evaluations for the removal of specific waste substances.

A. Industry Data Base Development

Information from individual manufacturers and previous study documents were reviewed in detail, and an evaluation of possible subcategorization was performed. A review of the data base acquired for this group of chemical products indicated that there are 47 individual facilities in this group (many plants are multiple product plants). The Agency has data obtained during Phase I or II pursuant to Section 308 of the Act or engineering visit data on file for 44 of the 46 plants. In addition, EPA obtained data from State agencies, EPA regional offices, telephone contacts, and letter requests. During sampling, 13 plants were sampled (one plant was sampled twice). EPA conducted follow-up visits during October and November 1982 to 12 plants (three had been visited previously during the sampling program).

B. The Screening and Verification Sampling Program

The collection of detailed analytical data on conventional, nonconventional, and toxic pollutant concentrations in raw and treated process wastewater streams was completed in a comprehensive sampling program. In its 1977 legislation, Congress recognized that it was dealing with areas of scientific uncertainty when it declared the 65 "priority" pollutants and classes of pollutants "toxic" under Section 307(a) of the Act. Many of the "priority" pollutants were relatively unknown outside of the scientific community, and those engaged in wastewater sampling and control have had little experience in dealing with these pollutants. Additionally, these pollutants often appear (and have toxic effects) at concentrations that tax current analytical techniques. Even though Congress was aware of the state-of-the-art difficulties and expense of "toxics" control and detection, it directed EPA to act quickly and decisively to detect, measure and regulate these substances.

The sampling and analysis program for this rulemaking concentrated on the toxic pollutants designated in the Clean Water Act. However, conventional and nonconventional pollutants were also sampled and analyzed. Although it was expected that the toxic pollutants in inorganic chemicals manufacturing would be inorganic rather than organic, the wastes from this industry were sampled and analyzed for the presence of toxic organic pollutants. The Agency has not promulgated analytical methods for many of the organic toxic pollutants under section 304(h) of the Act, although a number of these methods have been proposed (44 FR 69464, December 3, 1979; 44 FR 75028, December 18, 1979). Additional information on the development of sampling and analysis methods for toxic organic pollutants is contained in the preamble to the proposed regulations for the Leather Tanning Point Source Category, 40 CFR Part 425, 44 FR 38749 dated July 2, 1979. Before proceeding to analyze inorganic chemicals wastes, EPA concluded that it had to isolate specific toxic pollutants for analysis. The list of 65 pollutants and classes of pollutants potentially includes thousands of specific pollutants; analyses for all of them would overwhelm private and government laboratory resources. In order to make the task more manageable, therefore, EPA selected 129 specific toxic pollutants for study in this rulemaking and other industry rulemakings. The criteria for choosing these pollutants included the frequency of their occurrence in water, their chemical stability and structure, the amount of the chemical produced, and the availability of chemical standards for measurement.

The primary objective of the field sampling program was to produce composite samples of wastewater from which to determine the concentrations of toxic pollutants. Sampling visits were made during three consecutive days of plant operation, with raw wastewater samples taken either before treatment or after minimal preliminary treatment. Treated effluent samples were taken following application of in-place treatment technologies. EPA also sampled intake water to determine the presence of toxic pollutants prior to contamination by inorganic chemicals processes.

Using the analytical techniques proposed on December 3, 1979, EPA looked for, but did not find, significant quantities of organic priority pollutants in the inorganic chemicals manufacturing wastewaters. The Phase I study showed that organic priority pollutants would not be expected to be significant in the inorganic chemicals manufacturing industry. Therefore, the screening and verification sampling program was modified to reduce the frequency of organic sampling for Phase II.

Metals analysis was by AA spectrophotometry, except that the standard cold vapor method was used for mercury. This 304(h) method was somewhat changed in order to avoid excessive matrix interference that caused high limits of detection.

Analyses for cyanide and cyanide amendable to chlorination also used 304(h) methods.

Analysis for asbestos fibers used transmission electron microscopy with selected area defraction; results were reported as chrysotile fiber count.

Analyses for conventional pollutants (BOD5, TSS, pH, and oil and grease) and nonconventional pollutants (total residual chlorine, iron, ammonia, fluoride, and COD) were performed by 304(h) methods. In all, 13 of the 47 plants were sampled during the sampling program.

C. Engineering

The Development Document describes the procedures and sources used in developing the industry production and wastewater generation characteristics that form the basis of the model plant concept. The sources of detailed process and waste treatment information are also presented, as well as evaluation of treatment technology currently applied in existing wastewater treatment systems and advanced technologies that may be recommended for BAT and NSPS applications. The document contains estimates of the treatability of selected toxic and nonconventional pollutants to be applied in the development of achievable performance characteristics for specific technologies. A discussion of the approach taken in the statistical analysis of long-term monitoring data is also included. The statistically derived parameters, including variability factors for the 24-hour maximum and maximum 30-day average limitations, are presented. The groundwork is presented for the estimation of pollutant removal performances for each subcategory. The candidate toxic pollutants to be controlled in each subcategory are identified on the basis of the screening and verification data, and the rationale for the application of advanced level technologies is presented.

D. Treatment System Cost Estimates

The Development Document presents the general approach to cost estimating, discusses the assumptions made, and gives the detailed cost estimates for alternative levels of treatment and control. For each subcategory, the total estimated installed cost of typical treatment systems is developed on the basis of model plant design specifications. Estimated incremental costs are given for each of the advanced level treatment alternatives. Estimates of the sludge generated by wastewater treatment and the costs associated with its proper disposal in compliance with anticipated RCRA requirements are included. Where available, industry data on sludge volumes and characteristics were utilized. Disposal costs were estimated on the basis of disposal in an off-site hazardous material landfill except where data showed that the waste is not hazardous.

E. Treatability Study

Data were collected through a treatability study in Phase I to evaluate the achievable performance of various treatment and control alternatives and to provide empirical treatment system performance information applicable to selected inorganic chemical subcategories. The study, completed in July 1980, specifically concentrated on those subcategories in the Phase I Inorganic Chemicals Industry for which treatability data either did not exist or was deficient, and for which data were needed for purposes of comparison with proposed effluent limitations. Subcategories of Phase I for which treatability studies were conducted include:

Nickel sulfate
Hydrofluoric acid
Copper sulfate
Chlor-alkali (diaphragm cells)
Titanium dioxide (chloride process)
Chrome pigment
Sodium dichromate
Sodium bisulfite
Sodium hydrosulfite

These treatability studies are relevant to Phase II because the chemical manufacturing processes are similar, similar wastewater treatment practices are employed, and similar wastewater streams have been encountered.

Where adequate data were unavailable for Phase II, treatability study results for similar wastewater streams from Phase I and data from other industries were considered in determination of achievable levels of performance.

VI. Control Treatment Options and Technology Basis for Proposed Regulations

A. Control Treatment Options

1. Available Control Treatment Options

It was found that most treatment requirements in this industry could be met by optimized design and operation of conventional technologies. For all subcategories except Sodium Chlorate, the treatment technology options considered were:

Option 1— Lime precipitation with clarification for heavy metals removal.

Option 2— Filtration of the clarified wastewater from Option 1 for further removal of metal hydroxide precipitates and other suspended solids.

The use of sulfide precipitation prior to filtration was considered as a polishing step for further toxic pollutant removals beyond those achieved by Option 2. However, it was rejected because:

a. The only available data demonstrating the performance of sulfide treatment are from chlor-alkali mercury cell plants.

b. The process wastewater at mercury cell plants is significantly different from the wastewaters from other inorganic chemicals plants.

c. Treatability studies conducted to determine the effectiveness of sulfide treatment when transferred to other industries did not show significant improvement in toxic metal removals over those achieved by Option 2 technology.

For the Sodium Chlorate subcategory, the following treatment options were considered:

Option 1—Hexavalent chromium reduction followed by lime precipitation and clarification for the removal of heavy metals. The chromium reduction technology will also reduce total residual chlorine.

Option 2—Granular media filtration of the clarified wastewater from Option 1 for improved removal of metal hydroxide precipitates and other suspended solids.

Hexavalent chromium reduction is needed only in the Sodium Chlorate subcategory because there is no hexavalent chromium in the wastewater from the other five subcategories.

In addition, for all subcategories flow reduction by maximum recycle was considered as a means of greatly reducing the volume of process wastewater. Zero discharge was also considered.

Zero discharge was rejected as a BAT option for the Sodium Chlorate subcategory since it is not technically feasible. (See Section VI.B.5, *infra*).

In all other subcategories except zinc chloride, several plants have no discharge. However, at all of those plants, special circumstances enable the facility to achieve no discharge, such as use of very pure raw materials, production of only liquid products, location in arid regions of the country, or very low production volumes. Accordingly, a zero discharge requirement for either existing or new sources is not technically fesible for most plants, and the Agency does not propose to establish a zero discharge requirement for those subcategories. (A more detailed discussion of how individual plants achieve zero discharge is coantained in Sections 11 to 16 of the Development Document).

Flow reduction was considered as an option in all subcategories because it has proven to be an effective and inexpensive means to reduce toxic pollutant discharges in other categories. However, plants in the inorganic chemicals industry already have consistently low flows. Therefore, a treatment technology which includes flow reduction could not be identified. The direct discharge limitations will be mass-based limits (i.e., limits based on volume of production); those mass-based limits will also be available as alternative limitations for indirect dischargers.

2. Control Treatment Options Recommended

BPT

The BPT technology recommended is the technology currently installed by the majority of the direct dischargers in each subcategory, except for the Sodium Chlorate subcategory, where only one of nine direct dischargers has any treatment installed. Option 2, filtration of the clarified wastewater from Option 1, is the technology upon which the proposed BPT limitations are based for the following subcategories:

—Cadmium Pigments and Salts
—Cobalt Salts
—Copper Slats
—Nickel Salts

Option 1, lime precipitation with clarification, is the technology upon which the proposed BPT limitations are based for the following subcategory:

—Zinc Chloride

Option 1, hexavalent chromium and total residual chlorine reduction followed by line precipitation and clarification, is the technology upon which the proposed BPT limitations are based for the following subcategory:

—Sodium Chlorate

The implementation of BPT would remove 26,400 pounds per year of toxic pollutants, including over 25,000 pounds per year of hexavalent chromium and 195 pounds per year of cadmium, at estimated investment costs of $3.8 million and annualized costs of $1.9 million. The Agency has concluded that these costs are justified by the pollution reduction benefits.

BAT

Option 2, filtration of the clarified wastewater from the Option 1 treatment is the technology upon which the proposed BAT limitations are based for all six subcategories. Option 2 is proposed for the following reason:

—All six subcategories are very similar to the Copper Sulfate, Nickel Sulfate, Chrome Pigments, and Chlor-Alkali (Diaphragm Cell) subcategories covered in Phase I; the wastewaters in Phase II contain the same toxic metal pollutants at the same concentrations as the Phase I subcategories.
—Option 2 was selected as the technology basis for BAT in those four Phase I subcategories.
—Most direct discharge plants in Phase II either have Option 2 (or equivalent) or no treatment.
—Filters remove significant additional amounts of toxic pollutants in this industry because, after lime precipitation and clarification, the bulk of the suspended solids are the precipitated toxic metal hydroxides.
—No additional technologies were identified that would remove significant additional amounts of toxic or non-conventional pollutants.

According to the statute, the compliance date for BAT limitations for non-conventional pollutants is not more than three years from promulgation and in no case later than July 1, 1987. This proposed regulation would limit the non-conventional pollutant cobalt in discharges from the Cobalt Salts subcategory and the non-conventional pollutants total residual chlorine in discharges from the Sodium Chlorate subcategory. The proposed BAT limitations on these nonconventional pollutants are identical to the proposed BPT limitations and thus would take effect at the same time as the BPT limitations. The time necessary to achieve compliance with the BPT limitations is to be determined by the permit writer on a case-by-case basis.

PSES

The proposed PSES limitations are based upon the proposed BAT treatment

technology, i.e., filtration of the clarified wastewater from the Option 1 treatment because BAT provides better removal of the regulated toxic pollutants than is achieved by a well-operated POTW with secondary treatment installed and thus these toxic pollutants would pass through a POTW in the absence of pretreatment.

EPA has generally determined that there is pass through of pollutants if the percent of pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removal by the BAT model treatment system. A study of 40 well-operated POTW's with biological treatment and meeting secondary treatment criteria showed that regulated metals are typically removed at rates varying from 20 to 70 percent. POTWs with only primary treatment have even lower rates of removal. In contrast, BAT level treatment by inorganic chemicals manufacturing industrial facilities can achieve removals of approximately 97 percent or more. Thus it is evident that metals from this industry do pass through POTW's. Many of the pollutants present in inorganic chemicals manufacturing wastes, at sufficiently high concentrations, can inhibit biodegradation in POTW operations. In addition, a high concentration of toxic pollutants in the sludge can limit POTW use of sludge management alternatives, including the beneficial use of sludges on agricultural lands. Please refer to section B below for the specific pollutants regulated in each subcategory.

According to the statute, PSES must be achieved no later than 3 years after promulgation. EPA has determined that the PSES established in this proposed regulation can be met within 24 months of promulgation, and has proposed a compliance date accordingly. The Agency is proposing PSES (and PSNS) limitations based on concentrations (mg/l) rather than mass-based limitations, because the flow in the industry is low and the Agency could not identify any flow reduction technology for this industry, and because it is easier for POTWs to monitor pretreatment compliance when the standards are based on concentrations of pollutants.

NSPS

The proposed NSPS limitations for all six subcategories are based upon the proposed BAT treatment technology, i.e., filtration of the clarified wastewater from the Option 1 treatment since no additional technology which removes significant quantities of additional pollutants is known to the Administrator. The Agency does not propose to establish an NSPS of zero discharge because it is not technically feasible. (See Section VI.A.1. above).

PSNS

The proposed PSNS limitations for all six subcategories are based upon the proposed BAT treatment technology, i.e., filtration of the clarified wastewater from the Option 1 treatment for the reasons given under PSES and NSPS above. For the reasons discussed under PSES, EPA is proposing concentration based limitations for PSNS.

BCT

The proposed BCT limitations for all six subcategories are based upon the BPT treatment technologies and are applicable only to TSS and pH. For the sodium chlorate and zinc chloride subcategories, additional technology considered failed the proposed BCT cost test. For the other four subcategories, no additional technologies that would significantly reduce conventional pollutants are known to the Administrator.

B. Technology Basis for Proposed Regulations

The Agency is proposing limitations for the six subcategories detailed below. The Cadmium Pigments and Salts subcategory is subdivided into two segments: (1) Cadmium Pigments and (2) Cadmium Salts. The Copper Salts subcategory is divided into two segments: (1) Copper Sulfate, Copper Chloride, Copper Iodide, Copper Nitrate, and (2) Copper Carbonate. Likewise, the Nickel Salts subcategory is divided into two segments: (1) Nickel Sulfate, Nickel Chloride, Nickel Nitrate, Nickel Fluoborate, and (2) Nickel Carbonate.

1. Cadmium Pigments and Salts (Subpart BL)

There are 12 facilities producing cadmium compounds in this subcategory. Five facilities manufacture cadmium pigments; however, pigment production is always associated with production of a precursor cadmium salt. Cadmium salts are produced by dissolving cadmium or its oxide in acid and evaporating to dryness. Cadmium pigments are produced by reacting cadmium salts with sulfides or mixtures of sulfides and selenides. Due to the large differences in the volume of wastewater discharged, cadmium pigments and cadmium salts are treated separately in the proposed regulation.

(a) Cadmium Pigments

(i) Background. There are currently five plants in the United States producing cadmium pigments, of which two are direct dischargers, two are indirect dischargers and one has no discharge. The cadmium pigments model plant has a unit flow of 92.4 m^3/kkg. The major sources of wastewater are from washing, quenching, and rinsing the pigments.

The toxic pollutants found in significant amounts are cadmium, selenium, and zinc.

(ii) Proposed Limits. For BPT, the Agency is proposing limitations based upon Option 2 because one of the two direct dischargers in this segment of the subcategory already has this technology installed. BPT limitations for pH, TSS, cadmium, selenium, and zinc, are proposed based upon long-term plant data, screening and verification sampling data, as well as data collected during the Phase I study of the Inorganic Chemicals Industry.

Proposed BCT limitations for TSS are based on the proposed BPT technology and limitations because no technologies which would remove significant additional amounts of conventional pollutants are known to the Administrator.

For BAT, the Agency is proposing limitations based on BPT treatment technology for the reasons given in Section VI.A. above. Toxic pollutants limited by the proposed BAT regulation are cadmium, selenium, and zinc at the same concentration levels and loadings proposed for BPT.

The Agency is proposing NSPS, PSNS, and PSES limitations equal to BAT for the reasons given in Section VI.A. above. The pollutants limited include cadmium, selenium, zinc, pH, and TSS (the latter two are not regulated under PSES and PSNS).

(b) Cadmium Salts.

(i) Background. There are currently seven plants in the United States producing cadmium salts not associated with cadmium pigments production. Four of these are direct dischargers, two are indirect dischargers, and one achieves zero discharge. The cadmium salts model plant has unit flow of 0.058 m^3/kkg. Wastewater emanates from decanted, filtered, or purified reaction media, washdown of equipment and area, air pollution control devices, and other indirect process sources.

As in the cadmium pigments segment, the toxic pollutants found in significant amounts in cadmium salts process wastewaters are cadmium, selenium, and zinc.

(ii) Proposed Limits. For BPT, the Agency is proposing limitations based upon Option 2 because three of the four

direct dischargers have installed this technology or its equivalent. BPT limitations for pH, TSS, cadmium, selenium, and zinc are proposed based upon long-term plant data, screening and verification sampling data, as well as data collected during the Phase I study of the Inorganic Chemicals Industry.

Proposed BCT limitations for TSS are based on the proposed BPT technology and limitations because no other tehnologies which would remove significant additional amounts of conventional pollutants are known to the Administrator.

For BAT, the Agency is proposing limitations based on BPT treatment technology for the reasons given in Section VI.A. above Toxic pollutants limited by the proposed BAT requlation are cadmium, selenium, and zinc.

For NSPS, PSES, and PSNS, the Agency is proposing limitations equal to BAT for the reasons given in Section VI.A. above. The pollutants limited include cadmium, selenium, zinc, pH, and TSS (the latter two are not limited under PSES and PSNS).

2. Cobalt Salts (Subpart BM)

(i) Background. The cobalt salts considered in this subcategory are cobalt chloride, cobalt nitrate, and cobalt sulfate. There are ten facilities in the United States which manufacture cobalt salts. Cobalt salts are produced by reacting cobalt metal with either hydrochloric, sulfuric, or nitric acid.

Of the ten facilities producing cobalt salts in the United States, five are direct dischargers, three are indirect dischargers, and two achieve zero discharge. The cobalt salts model plant has a unit flow of 0.083 m^3/kkg. Process wastewaters in this industry is generally the result of washdowns, cleanups, spills, and pump leaks. All direct process contact water is recycled back to the process. In general, air pollution control water is also recycled to the process. No screening and verification data are available for this subcategory because none of the plants cantacted at the time available for sampling were producing cobalt salts. The Agency has assumed that the toxic pollutants (nickel and copper) found in the raw materials are the toxic pollutants most likely to be present at treatable levels in the wastewater. Since all cobalt salts producers also manufacture copper or nickel salts and combine the wastewaters for common treatment, limiting the toxic metals common to all three wastewaters simplifies the establishment of permit limits and monitoring requirements and reduces monitoring costs by minimzing the number of pollutants to be monitored. In addition, the nonconventional pollutant, cobalt, is found in significant quantities.

(ii) Proposed Limits. For BPT, the Agency is setting limitations based upon Option 2 because four of the five direct dischargers in this subcategory have this technology or its equivalent installed. BPT limitations for pH, TSS, cobalt, and nickel are proposed based upon long-term plant data. The limitations on copper are based on data collected from the nickel sulfate subcategory. Most of the plants producing cobalt salts also produce nickel sulfate and other nickel salts and treat the wastewaters from all processes in the same treatment facility.

A BCT limitation for TSS is proposed based upon the BPT technology because no additional technology which would remove significant additional amounts of conventional pollutants is known to the Administrator.

For BAT, the Agency is proposing limitations based on treatment consisting of BPT technology for the reasons given in Section VI.A. above. Pollutants limited by the proposed BAT regulation are cobalt, copper, and nickel.

For NSPS, PSES, and PSNS, the Agency is proposing limitations equal to BAT for the reasons given in Section VI.A. above The pollutants limited are cobalt, copper, nickel, pH and TSS (the latter two are not limited under PSES and PSNS). Since no untreated waste data are available, the Agency cannot accurately project removals for this subcategory.

3. Copper Salts (Subpart AJ)

The Agency is proposing the replacement of Subpart AJ, Copper Sulfate, with a new Subpart AJ, Copper Salts, which will include copper sulfate as well as copper chloride, copper iodide, copper nitrate, and copper carbonate. This proposed subcategorization is for the reasons given in Section IV above.

(a) Copper Sulfate, Copper Chloride, Copper Iodide, Copper Nitrate

(i) Background. Twenty-one facilities are known to produce copper salts exclusive of copper carbonate, which will be discussed sparately.

The copper salts covered in this segment are produced by reacting a copper source (metal, oxide, or salt) with either sulfuric acid (copper sulfate), chlorine or hydrochloric acid (copper chloride), iodine or potassium iodide (copper iodide), or nitric acid (copper nitrate).

Of the 21 facilities identified as copper salts producers, 5 are direct dischargers, 5 are indirect dischargers, and 11 achieve zero discharge. The copper salts model plant has a unit flow of 0.94 m^3/kkg.

Process wastewater is generated primarily from indirect process contact and non-contact ancillary uses.

The toxic pollutants found in the wastewater include nickel, copper, and in some cases, selenium. Selenium was found in one copper sulfate plant wastewater after treatment but not in the raw waste. The existing limitations for selenium under the copper sulfate subcategory are to ensure that selenium is adequately controlled if added to the wastewater during treatment.

(ii) Proposed Limits. For BPT, the Agency is proposing limitations equal to the existing Copper Sulfate limitations, which are based upon Option 2 because all direct dischargers in this segment manufacture copper sulfate and have that technology or its equivalent installed. The pollutants limited are pH, TSS, copper, nickel and selenium. Since all direct dischargers already have the BPT technology, no costs are projected.

A BCT limitation for TSS is proposed based upon the BPT technology and TSS limitations because no additional technology which would remove significant additional amounts of conventional pollutants is known to the Administrator.

For BAT, the Agency is proposing limitations based on BPT technology for the reasons given in Section VI.A. above. Pollutants limited by the proposed BAT regulation are copper, nickel, and selenium.

For NSPS, PSES and PSNS the Agency is proposing limitations equal to BAT for the reasons given in Section VI.A. above. The pollutants limited are copper, nickel, selenium, pH and TSS (the latter two are not regulated under PSES and PSNS)

(b) Copper Carbonate

(i) Background. There are eight facilities in the United States which produce copper carbonate. Four of these also produce other copper salts. Copper carbonate is manufactured by reacting either copper sulfate or copper nitrate with sodium carbonate in water. The wash water is the major source of wastewater from the copper carbonate process.

Of the eight copper carbonate production facilities, four are direct dischargers, three are indirect dischargers, and one achieves zero discharge. The copper carbonate model plant has a unit flow of 58.1 m^3/kkg.

The toxic pollutants found in the wastewater at copper carbonate facilities include copper and nickel.

(ii) Proposed Limits. For BPT, the Agency is setting limitations based upon Option 2, because three of the four direct dischargers have this treatment or its equivalent. BPT limitations for pH, TSS, copper, nickel and selenium are proposed based upon the same concentration levels proposed for the other copper salts, but using the higher unit flow of the copper carbonate model plant as the basis for the mass based limits proposed. Limitations for selenium are proposed for the same reasons described above for copper salts.

A BCT limitation for TSS is proposed for this industry which is based upon the BPT technology because no additional technology which would remove significant additional amounts of conventional pollutants is known to the Administrator.

For BAT, the Agency is proposing limitations based on BPT technology for the reasons given in Section VI.A. above. Pollutants limited by the proposed BAT regulation are copper, nickel, and selenium.

For NSPS, PSES and PSNS the Agency is proposing limitations equal to BAT for the reasons given in Section VI.A. above. The pollutants limited are copper, nickel, selenium, pH and TSS (the latter two are not regulated under PSES and PSNS).

4. Nickel Salts (Subpart AU)

The Agency is proposing the replacement of Subpart AU, Nickel Sulfate, with a new Subpart AU, Nickel Salts, which will include nickel sulfate as well as nickel chloride, nickel nitrate, nickel fluoborate, and nickel carbonate. This proposed subcategorization is for the reason given in Section IV. above.

(a) Nickel Sulfate, Nickel Chloride, Nickel Fluoborate, Nickel Nitrate

(i) Background. There are 19 plants in the United States producing nickel salts, exclusive of nickel carbonate, which will be discussed separately.

The nickel salts covered in this subdivision are produced by reacting a nickel source (metal, oxide, or salt) with either sulfuric acid (nickel sulfate), hydrochloric acid (nickel chloride), fluoboric acid (nickel fluoborate) or nitric aicd (nickel nitrate).

Of the 19 facilities identified as nickel salts producers, 8 are direct dischargers, 9 are indirect dischargers, and 2 achieve zero discharge. The nickel salts model plant has a unit flow of 0.68 m^3/kkg.

Process wastewater at the plants in this segment of the Nickel Salts subcategory is generated primarily from indirect process contact and non-contact ancillary uses.

The toxic pollutants found in the wastewater include nickel and copper.

(ii) Proposed Limits. For BPT, the Agency is setting limitations equal to existing Nickel Sulfate limitations which are based upon Option 2, because six of the eight direct dischargers have this technology or its equivalent installed. BPT limitations for pH, TSS, and nickel are proposed.

A BCT limitation for TSS is proposed for this industry which is based upon BPT technology because no additional technology which would remove significant additional amounts of conventional pollutants is known to the Administrator.

For BAT, the Agency is proposing limitations based on BPT technology for the reasons given in Section VI.A. above. However, the proposed BAT limitations are more stringent than the BPT limitations because a treatability study of the nickel sulfate wastewater treatment system shows that the system can achieve the more stringent limitations. The BAT limitations proposed are the same as the BAT limitations promulgated for the same as the BAT limitations promulgated for the nickel sulfate subcategory. Pollutants limited by the proposed BAT regulation are copper and nickel. Since the technology is the same as BPT technology, the Agency projects no additional costs to achieve these more stringent limitations.

For NSPS, PSES and PSNS, the Agency is proposing limitations equal to BAT for the reasons given in Section VI.A. above. The pollutants limited are copper, nickel, pH, and TSS (the latter two are not regulated under PSES and PSNS).

(b) Nickel Carbonate

(i) Background. There are seven facilities in the United States which produce nickel carbonate, as well as other nickel salts. Nickel carbonate is manufactured by reacting any one of several nickel salts with sodium carbonate in water. The wash water is the major source of wastewater from the nickel carbonate process.

Of the seven nickel carbonate production facilities, four are direct dischargers, and three are indirect dischargers. The nickel carbonate model plant has a unit flow of 120 m^3/kkg.

The toxic pollutants found in the wastewater at nickel carbonate facilities include copper and nickel.

(ii) Proposed Limits. For BPT, the Agency is setting limitations based upon Option 2 because three of the four direct dischargers have this treatment or its equivalent. BPT limitations for pH, TSS, and nickel are proposed based upon the same concentration levels proposed for the other nickel salts, but using the higher unit flow of the nickel carbonate model plant as the basis for the mass limits proposed.

A BCT limitation for TSS is proposed based upon the BPT technology because no additional technology that would remove significant additional amounts of conventional pollutants is known to the Administrator.

For BAT, the Agency is proposing limitations based on BPT, technology for the reasons given in Section VI.A. above but using the more stringent concentration basis described previously for the nickel salts segment. Pollutants limited by the proposed BAT regulation are copper and nickel. Since the BAT technology is the same as the BPT technology, the Agency projects no additional costs to achieve the more stringent limitations.

For NSPS, PSES and PSNS the Agency is proposing limitations equal to BAT for the reasons given in Section VI.A. above. The pollutants limited are copper, nickel, pH and TSS (the latter two are not regulated under PSES and PSNS).

5. Sodium Chlorate (Subpart BN)

(i) Background. There are 13 facilities in the United States known to be producing sodium chlorate.

Sodium chlorate is produced by the electrolysis of sodium chloride brine in diaphragmless electrochemical cells. Sources of process wastewater are brine purification wastes, barometric condenser water, brine and caustic discharge from the air scrubbers, equipment leaks and spills, pump seal leaks, product filter backwash, and equipment washdown. Considerable amounts of process water are recycled in this industry.

Of the 13 facilities in the United States producing sodium chlorate, 9 are direct dischargers and 4 achieve zero discharge. There are no indirect dischargers in this subcategory. The sodium chlorate model plant has a unit flow of 2.7 m^3/kkg.

The Agency has identified chromium and antimony as the only toxic pollutants to be regulated at sodium chlorate facilities. The non-conventional pollutant, total residual chlorine, has also been selected for regulation.

(ii) Proposed Limits. For BPT, the Agency is setting limitations based upon hexavalent chromium reduction, chlorine destruction, alkaline precipitation, and clarification. Of the nine direct dischargers in the industry, only one has this level of treatment installed. Two others discharge their

wastewater to wastewater treatment facilities at paper and pulp mills. The majority of direct dischargers currently provide less than the proposed BPT treatment of process wastewater. Proposed BPT limitations for pH, TSS, antimony, total chromium, and total residual chlorine are based upon long-term inorganic chemicals plant data and other industrial wastewater treatment system performance data. Data used were obtained during both the Phase I and Phase II studies of the Inorganic Chemicals Industry. The proposed limitations for antimony are based on literature data.

A BCT limitation for TSS is proposed based upon BPT technology, because the candidate BCT technology did not pass the proposed BCT cost test.

For BAT, the Agency is proposing limitations based on the addition of filtration following BPT treatment. The Agency considered zero discharge for BPT, but did not adopt it because it is not technically feasible for most plants. Pollutants limited by the proposed BAT regulation are antimony, total chromium and total residual chlorine. Total residual chlorine will not be significantly reduced by filtration. Therefore, the BAT limitation for chlorine is the same as the BPT limitation.

For NSPS and PSNS the Agency is proposing limitations equal to BAT for the reasons given in Section VI.A. above. The pollutants limited include total antimony, total chromium, total residual chlorine, pH and TSS (the latter three are not regulated under PSNS). Total residual chlorine is not regulated under PSNS because POTW influent is often chlorinated.

Since there are no existing indirect dischargers in this subcategory, the Agency is excluding this subcategory from categorical PSES under the provisions of paragraph 8(b) of the Settlement Agreement.

In developing the limitations for this subcategory, the Agency examined several plants that achieve zero discharge of pollutants. However, since the four plants achieve zero discharge through special circumstances (access to an economic source of purified salt, customer preference for solution grade product, and/or location in an arid region of the country), the zero discharge option is not technically feasible for the average plant.

6. Zinc Chloride (Subpart BO)

(i) Background. There are seven known producers of zinc chloride in the United States. Zinc chloride is produced by reacting zinc metal with hydrochloric acid. Various forms of zinc feed materials are used from pure zinc metal to galvanizer skimmings. One plant uses a zinc containing wastewater from an organic chemical plant as the source of zinc.

Of the seven facilities which manufacture zinc chloride, five are direct dischargers and two are indirect dischargers. The zinc chloride model plant has a unit flow of 13.5m^3/kkg. Process wastewater in the industry is generally condensate from evaporators used in the concentration process. In addition, barometric condenser cooling water, and small quantities of water from air scrubbers, equipment washdown, and pump seal leaks are discharged.

The toxic pollutants found in the wastewater include arsenic, lead, and zinc.

(ii) Proposed Limits. For BPT, the Agency is proposing limitations based upon Option 1 because all of the five direct dischargers have this technology installed. BPT limitations for pH, TSS, arsenic, lead, and zinc are proposed based upon long-term plant data and data pertaining to other industrial wastewater treatment system performance, collected during both the Phase I and Phase II studies of the Inorganic Chemicals Industry. Since all direct dischargers already have BPT technology, the Agency projects no cost to achieve the BPT effluent limitations.

A BCT limitation for TSS is proposed based upon the BPT technology since the candidate BCT technology did not pass the proposed BCT cost test.

For BAT, the Agency is proposing limitations based on Option 2, filtration of the effluent from the proposed BPT treatment system for the reasons given in Section VI.A. above. Two of the five dischargers have equivalent technology installed. Pollutants limited by the proposed BAT regulation are arsenic, lead, and zinc.

For NSPS, PSES, and PSNS the Agency is proposing limitations equal to BAT for the reasons given in Section VI.A. above. The pollutants limited are arsenic, lead, zinc, pH and TSS (the latter two are not limited under PSES and PSNS).

C. Proposed Revisions to BAT

1. Background

The effluent limitations guidelines and standards for the Sodium Chloride (Solution Brine-Mining Process), Calcium Chloride, and Sodium Sulfite (Soda Ash-Sulfur Dioxide Reaction Process) subcategories were promulgated on March 12, 1974 and are still in effect. These guidelines set numerical discharge limitations for BPT and established limitations for BAT, NSPS and PSNS at no discharge of process wastewater pollutants. PSES were reserved for each subcategory. The technology used as a basis for the BAT limitations, NSPS and PSNS for the Sodium Chloride (Solution Brine-Mining Process) and Calcium Chloride subcategories was the use of surface (noncontact) condensers instead of barometric (contact) condensers. For the Sodium Sulfite subcategory, the technology basis was evaporation of the BPT treated wastewater.

On May 19, 1981, EPA received a petition from the Salt Institute requesting reconsideration of the currently effective BAT guideline for the Sodium Chloride (Solution Brine-Mining Process) subcategory, which requires no discharge of process wastewater pollutants. BPT for that subcategory allows a discharge. The Agency decided to include in this BAT review the Calcium Chloride and Sodium Sulfite subcategories, which also require no discharge for BAT but allow a discharge for BPT.

The Sodium Chloride (Solution Brine-Mining Process) subcategory includes 22 plants, none of which are indirect dischargers. The annual production was estimated at about 3,175,000 metric tons (3,500,000 short tons) per year in 1981. The estimated daily discharge is 1,454,000 m^3/day (384 million gallons per day) of barometric condenser wastewater. The plants are located in inland rural areas where the annual precipitation is too high to permit solar evaporation of the water from the brine to be used to recover the solium chloride product.

The Clalcium Chloride subcategory includes seven plants, none of which discharge process wastewater. There are three Sodium Sulfite plants which utilize the soda ash-sulfur dioxide reaction process. The annual production capacity of sodium sulfite by this process is estimated to be approximately 69,840 metric tons (77,000 short tons) with an estimated total average daily discharge of 416.4 cubic meters (110,000 gpd). There are two direct dischargers and one indirect discharger. The discharge to POTW from that one plant averages 70 cubic meters per day (18,500 gpd); this stream is lightly contaminated washdown water only.

In our review, we have acquired information on all 32 plants in the three subcategories, including data on the discharge of toxic pollutants and the costs of the technology basis for the existing BAT. Based on this data, we are proposing changes to the regulation for

the Sodium Chloride (Solution Brine-Mining Process) and Sodium Sulfite subcategories.

2. Proposed Revisions

(a) Sodium Chloride

EPA proposes to revoke the existing BAT for the Sodium Chloride (Solution Brine-Mining Process) subcategory and replace it with a BCT equal to the currently effective BPT. The action would reduce projected industry costs for environmental control by over $36.4 million in capital costs and over $11.6 million in annual costs. The rationale for this proposed revision is summarized as follows: BAT is to control toxic and nonconventional pollutants, BCT to control conventional pollutants. There are no toxic pollutants discharged. No nonconventional pollutants are discharged, except for sodium chloride (table salt), which is discharged in concentrations equivalent to those normally found in high quality, fresh surface waters, Therefore, we do not believe that BAT regulations are justified. All technologies to control conventional pollutants more stringent than BPT failed the proposed BCT cost test. (If the proposed cost test is substantially revised, we will re-evaluate those more stringent technologies).

The technology basis for NSPS and PSNS is the use of noncontact condensers instead of contact condensers. New plants can design for noncontact condensers, which cost about as much as contact condensers. Therefore, there is no need to change the currently effective NSPS or PSNS.

(b) Calcium Chloride

We are not proposing to revise BAT for the Calcium Chloride subcategory because there are no existing direct dischargers in that subcategory, i.e., all plants have achieved no discharge of process wastewater pollutants.

(c) Sodium Sulfite

We propose to withdraw the current BAT, NSPS and PSNS for the Sodium Sulfite subcategory because the technology basis for those regulations, evaporation of the wastewater, is considerably more expensive than orginally estimated, primarily due to the greatly increased cost of fuel.

In order for the two existing direct dischargers to comply with the current BAT, total capital investment would be $1.8 million, with total annualized costs of $2.9 million. An analysis of these compliance costs projects significant effects on the cost of production and on profitability with a minimum reduction of 15 percent in profitability. One plant closure due to treatment costs is projected. Thus, these increased costs would result in a regulation that is not economically achievable for this subcategory.

The economic impact of the current NSPS was evaluated for a model plant producing sodium sulfite. The costs associated with wastewater treatment would result in an estimated 25 percent increase to the cost of production, which could represent a barrier to entry for this product. Thus, the current NSPS is not economically achievable.

The alternative of solar evaporation of the wastewater from an evaporation pond is not feasible for the two direct dischargers because the plants are located in areas of the country where percipitation exceeds evaporation.

In place of the current BAT, NSPS and PSNS, we propose new limitations based on the technology for BPT. Chromium, zinc and COD would be the controlled pollutants. Sodium sulfite production and wastewater characteristics are very similar to those for sodium bisulfite. The toxic pollutant limitations we propose for the Sodium Sulfite subcategory are based on those promulgated for the Sodium Bisulfite subcategory. Both direct dischargers also produce sodium bisulfite and combine the wastewaters for treatment; that treatment effectively controls COD and toxic metals. Data from both plants was used in developing the BAT limitations for the Sodium Bisulfite subcategory.

The proposed BAT limitations are economically achievable. The two existing direct dischargers are currently meeting these levels, and there would be no additional costs or impacts to those plants.

There is no existing PSES for this subcategory and it was included among the 23 subcategories for PSES consideration. Since there is only one plant, with a discharge of only 18,000 gallons per day, containing an estimated 19.3 kg/yr toxic pollutants, we propose to exclude the subcategory from further national PSES regulation development under Paragraph 8b of the Settlement Agreement.

VII. Pretreatment Standards for 23 Subcategories

A. General

EPA considered in the Phase II project PSES for 18 subcategories from Phase I for which no PSES have previously been developed and reviewed PSES for five subcategories for which PSES were promulgated in 1977. Those 23 subcategories were excluded from further national BAT regulation development under Paragraph 8 because existing BPT or BAT guidelines for those 23 subcategories required no discharge of process wastewater pollutants. PSNS of zero discharge are in effect for 10 of those 23 subcategories including two of those with currently effective PSES.

We conducted a telephone survey of all plants in those 23 subcategories. For the 18 subcategories with no PSES, the purposes of this survey were to identify whether any discharging facilities existed, to identify how many indirect dischargers existed, and to determine which subcategories might require development of PSES or a more detailed examination and review. For the remaining five subcategories, the purposes of the survey were to determine how many indirect dischargers there were and whether existing pretreatment standards were adequate.

Some 310 of the 312 plants in 22 subcategories were contacted by phone and provided information. The two operations which could not be contacted are located in areas where there are no POTW's and the process utilized would not be expected to produce an effluent to be treated. For the Hydrogen subcategory (refinery byproduct), there are 137 plants listed in addition to those identified above. However, any dischargers to POTW's are controlled under existing PSES and PSNS for the Petroleum Refining Category (40 CFR 419).

B. Proposed Exclusions From PSES

After examining these 23 subcategories, EPA has decided to exclude them from further national PSES regulation, for the reasons set forth in Appendix E.

C. Proposed PSNS

Of the 23 subcategories under discussion, there is no currently effective PSNS for the following 12 subcategories:

Borax
Bromine
Calcium Hydroxide
Chromic Acid
Fluorine
Iodine
Potassium Chloride
Stannic Oxide
Zinc Sulfate
Ferric Chloride
Lead Monoxide
Sodium Fluoride

We are proposing a PSNS for each subcategory based on the currently effective BPT, which for each subcategory requires zero discharge of process wastewater pollutants. Since the existing plants are required to

achieve zero discharge of process wastewater pollutants and are in fact able to meet that requirement, there would be no barrier to entry for potential new plants that might discharge indirecty in the absence of PSNS.

There are also no New Source Performance Standards (NSPS) for these 12 subcategories. However, none are needed since, in the absence of NSPS, currently effective BPT effluent limitations of zero discharge of process wastewater pollutants would apply.

VII. Economic Considerations

A. Costs and Impacts

The economic impact assessment is presented in *Economic Impact Analysis of Proposed Effluent Standards and Limitations for the Inorganic Chemicals Industry, Phase II*, EPA 440/2–83–009. That document details the investment and annual compliance costs for the industry as a whole and for model plants in each subcategory covered by the proposed regulation. Compliance costs are based on engineering estimates of capital and operating requirements for the effluent control systems described earlier in this preamble. Cost estimates for hazardous waste disposal are also included. The report assesses the impact of effluent control costs in terms of production cost changes, plant closures, employment effects, and balance of trade effects. These impacts are discussed in the report for each regulatory option.

EPA has identified 46 facilities that manufacture the chemicals coverd by this regulation; 19 of them will incur costs to comply with the proposed guideline. Total investment for existing dischargers (BAT and PSES combined) is estimated to be $5.6 million, with annualized costs of $2.7 milion, including depreciation and interest. These costs are expressed in 1983 dollars and are based on the determination that plants will move from existing treatment to either BAT or PSES. No major economic impacts (e.g., plant closure or unemployment) are projected as a result of compliance costs for this regulation. Maximum price increases if all costs are passed on to consumers are small, ranging from 0.05 to 2.0 percent. Balance of trade effects are not significant. The Agency concludes that the proposed regulation is economically achievable.

In order to measure the potential economic impacts, EPA estimated compliance costs for 46 individual plants. The plant-specific analysis focuses on the increase to production costs, changes to profitability, and changes to net present values. Plant closure determinations are based on a comparison of net present value of cash flow to salvage value.

Cost-Effectiveness Analysis. EPA has also conducted an analysis of the incremental removal cost per pound equivalent for each of the proposed technology-based options. Pound equivalents are calculated by multiplying the number of pounds of a pollutant by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant (copper) divided by the water quality criterion for the pollutant being evaluated. The use of pound equivalents gives relatively more weight to removal of the more toxic pollutants. Thus, for a given expenditure, the cost per pound equivalent would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed. The results of this analysis are presented in "Cost-Effectiveness Analysis of Proposed Effluent Limitations and Standards for the Inorganic Chemicals Industry, Phase II"; this analysis is included in the record of this rulemaking. EPA invites comments on the methodology used in this analysis.

BPT. Of the 21 direct dischargers, 10 will incur costs to comply with BPT. The remaining facilities are achieving removal levels equivalent to or better than BPT. Investment costs for the 10 direct dischargers are estimated to be $3.8 million, and total annualized costs are $1.9 million, and total annualized costs are $1.9 million. The major portion of these costs are attributed to Sodium Chlorate producers, where most facilities do not currently operate wastewater treatment systems. There are no plant closures or employment losses projected as a result of BPT costs. The price increases associated with these costs are approximately 2.0 percent for Sodium Chlorate and Nickel Carbonate and less than one percent for the other subcategories. These impacts are not significant.

BAT. For all subcategories except Sodium Chlorate and Zinc Chloride, BAT is the same as BPT. Since many of the existing direct dischargers are currently achieving BAT levels of removal, the incremental costs of BAT over BPT are primarly associated with seven Sodium Chlorate producers. For the 11 direct dischargers incurring costs to meet BAT, investment costs are $4.4 million, and total annualized costs are $2.2 million. No plant closures or employment losses are projected as a result of these costs. Price increases associated with these costs are small—less than one percent for most subcategories. Thus, the Agency believes that the proposed BAT effluent limitations are economically achieveable.

PSES. There are ten indirect dischargers and eight will incur costs to comply with PSES. Total investment costs are $1.2 million and total annualized costs are $0.5 million. No plant closures or employment losses are projected as a result of these costs. The price increases associated with these costs are small—less than one percent for all subcategories. The Agency believes the proposed PSES are economically achievable.

NSPS and PSNS. An analysis of new source standards uses a model plant approach. The pollution control investment required to install a treatment technology is the same for new and existing producers in the industry. Therefore, new plants will not be operating at a cost disadvantage relative to current manufacturers. Regulations for new sources are not expected to discourage entry into the industry or result in ny differential economic impacts to new plants.

B. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules impose an annual cost to the economy of $100 million or more or meet other economic impact criteria. The proposed regulation for inorganic chemicals manufacturing phase II is not a major rule. The costs to be incurred by this industry will be significantly less than $100 million. Therefore, formal regulatory impact analysis is not required. This proposed rulemaking satisfies the requirement of the Executive Order for a non-major rule. The Agency's regulatory strategy considered both the cost and the economic impacts of the proposed rulemaking.

C. Regulatory Flexibility Analysis

Pub. L. 96–354 requires EPA to prepare an Initial Regulatory Flexibility Analysis for proposed regulations that have a significant impact on a substantial number of small entities.

The analysis may be conducted in conjunction with or as part of other Agency analyses. A small business analysis for this industry is included in the the economic impact analysis.

The primary variable used to define firm size is number of employees. According to the Small Business Administration's designation of small firm for the SIC groups covering these chemicals (1,000 employees or less),

small businesses comprise 38 percent (17 firms) of the plants in the analysis. The Agency invites comment on this size definition.

For the small firms, as defined above, investment costs for BAT and PSES are $1.3 million, and total annualized costs are $0.6 million. The economic impact analysis presents the effects associated with this proposed rule and with the other regulatory options the Agency considered. For this proposed rulemaking, there are no significant impacts on small firms; therefore, a formal Regulatory Flexibility analysis is not required.

D. SBA Loans

The agency is continuing to encourage small plants to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Guaranteed Pollution Control Bond Program, (2) the Section 503 Program, and (3) the Regular Guarantee Program. All the SBA loan programs are only open to businesses that have: (a) net assets less than $6 million, and (b) an average annual after-tax income of less than $2 million, and (c) fewer than 250 employees.

For further information and specifics on the Guaranteed Pollution Control Bond Program contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203 (703) 235–2902.

The Section 503 Program, as amended in July 1980, allows long-term loans to small and medium sized businesses. These loans are made by SBA approved local development companies. These companies are authorized to issue Government-backed debentures that are brought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee and Section 503 Program contact your district or local SBA Office. The coordinator at EPA headquarters is Ms. Frances Desselle who may be reached at (202) 382–5373.

IX. Non-Water-Quality Environmental Impacts

Eliminating or reducing one form of pollution may cause other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the non-water-quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, the effects of this regulation on air pollution, solid waste generation, water scarcity and energy consumption were considered. This regulation was circulated to and reviewed by EPA personnel responsible for non-water-quality programs. Although it is difficult to balance pollution problems against each other and against energy use, EPA believes that this regulation will best serve often competing national goals.

The following non-water-quality environmental impacts (including energy requirements) are associated with the proposed regulation. The Administrator has determined that the impacts identified below are justified by the benefits associated with compliance with the limitations and standards.

A. Air Pollution

Imposition of BPT and BAT limitations and NSPS, PSES, and PSNS will not create any substantial air pollution problems.

B. Solid Waste

The largest amount of solid waste generated by facilities in complying with this regulation will be associated with BPT treatment. Very small amounts of additional solid wastes would be generated by facilities in complying with BAT, NSPS, PSES, and PSNS. It is estimated that less than 150 kilograms per day (330 pounds per day) of solid waste will be generated by the proposed BPT treatment, and less than 10 kilograms per day (22 pounds per day) of solid waste will be generated by the proposed BAT treatment.

If a waste is identified or listed as hazardous, it is subject to handling, transportation, treatment, storage, and disposal requirements under Section 3002–3005 of RCRA and EPA regulations promulgated under RCRA (see 40 CFR Parts 261–267).

Compliance with these requirements involves costs in addition to the costs for compliance with the effluent limitations established by this regulations. The specific standards necessary to estimate these costs have been established, and costs for compliance with RCRA–ISS requirements are specifically considered in the economic impact analysis for this regulation.

C. Consumptive Water Loss

Treatment and control technologies that require extensive recycling and reuse of water may require cooling mechanisms. Evaporative cooling mechanisms can cause water loss and contribute to water scarcity problems—a primary concern in arid and semi-arid regions. This regulation assumes some recycling, thus assuming some cooling mechanisms may be required which could create additional consumptive water loss. However, the quantity of water involved is not significant, and most of the industry is located in coastal areas or areas with sufficient water resources. Moreover, it was concluded that the pollutant reduction benefits of recycle technologies outweigh their impact on consumptive water loss.

D. Energy Requirements

The achievement of BPT effluent limitations and PSES is estimated to increase electrical energy consumption by approximately 3 million kilowatt-hours per year. Implementing BAT limitations will consume a negligible amount of additional electric power. Achievement of BPT and BAT effluent limitations will require a typical direct discharger to increase total energy consumption by less than 1 percent of the energy now consumed in production processes. The proposed BAT amendments for the Sodium Chloride (solution brine-mining process) and Sodium Sulfite subcategories would decrease energy use.

X. Pollutants and Subcategories Not Regulated

The Settlement Agreement contains provisions authorizing the exclusion from regulation, in certain circumstances, of toxic pollutants and industry categories and subcategories. These provisions have been rewritten in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979, 12 ERC 1833.

A. Exclusion of Pollutants

Paragraph 8(a)(iii) of the Settlement Agreement authorizes the Administrator to exclude the following toxic pollutants from regulations: (a) Those not detectable by Section 304(h) analytical methods or other state-of-the-art methods; (b) those present in amounts too small to be effectively reduced by available technologies; (c) those present only in trace amounts and neither causing nor likely to cause toxic effects; (d) those detected in the effluent from only a small number of sources within a subcategory and uniquely related to those sources; and (e) those that will be effectively controlled by the technologies on which other effluent limitations and standards are based. The toxic pollutants excluded from regulation in all subcategories, under paragraph 8(a)(iii) of the Settlement

Agreement, are listed in Appendix B of this Notice.

The Agency proposes the exclusion of certain additional toxic pollutants from regulation in particular subcategories on the basis of a review of long-term industry data as well as treatability study data indicating that in the particular subcategories, the pollutants in question will be effectively controlled by the technologies upon which other effluent limitations and standards are based. These pollutants and the reasons for their exclusion are listed in Appendix C of this notice.

B. Exclusion of Subcategories

Paragraph 8(a)(i) of the Settlement Agreement authorizes the Administrator to exclude from regulation industry categories or subcategories for which equal or more stringent limitations are already provided by existing effluent limitations are standards. Also, paragraph 8(a)(iv) of the Settlement Agreement authorizes the exclusion of subcategories in which the amount and toxicity of each pollutant in the discharge does not justify developing national regulations.

Paragraph 8(b) of the Settlement Agreement authorizes the Administrator to exclude from pretreatment standards a subcategory if: (i) 95 percent or more of all point sources in the subcategory introduce into POTWs only pollutants which are susceptible to treatment by the POTW and which do not interfere with, do not pass through, or are not otherwise incompatible with such treatment works; or (ii) the toxicity and amount of the incompatible pollutants introduced by such point sources into POTWs is so insignificant that developing a pretreatment regulation is not justified. The subcategories excluded under paragraphs 8(a)(i), 8(a)(iv), and 8(b) of the Settlement Agreement are listed in Appendix D of this Notice.

In addition to the subcategories excluded under the Settlement Agreement, one subcategory is deferred for coverage under other guidelines and two subcategories will be included under an existing guideline by amending the applicability section of that guideline. These subcategories are listed in Appendix D.

XI. Best Management Practices

Section 304(e) of the Clean Water Act gives the Administrator authority to prescribe "best management practices" (BMPs).

Although EPA is not proposing them at this time, development of BMPs specific to the Inorganic Chemicals Industry is being considered. The industry has numerous problem areas including leaks and spills, stormwater runoff, and groundwater infiltration from storage areas and onsite solid waste disposal. Most subcategories have problems in some or all of these areas. Sections 11–16 of the Development Document describe possible BMPs for each regulated subcategory. This information can guide the permitting agency in developing case-by-case BMPs for NPDES permits.

Future BMPs may require dikes, curbs, or other measures to contain leaks and spills, as well as the treatment of toxic pollutants in these wastewaters.

XII. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is an unintentional noncompliance occuring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations is necessary because such upsets will inevitably occur even with properly operated control equipment. Because technology-based limitations require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have disagreed on whether an explicit upset or excursion exemption is necessary, or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co. v. EPA*, 564 F. 2d 1253 (9th Cir. 1977) wiht *Weyerhaeuser Co.* v. *Costle*, 590 F. 2d 1011 (D.C. Cir. 1978) and *Corn Refiners Association, v. Costle*, No. 78–1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute V. EPA*, 540 F. 2d 1023 (10th Cir. 1976); *CPC International, Inc. v. Train*, 540 F. 2d 1320 (8th Cir. 1976); *FMC Corp. v. Train*, 539 F. 2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; a bypass, however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. In the past, bypass provisions have been included in NPDES permits.

EPA determined that both upset and bypass provisions should be included in NPDES permits and has promulgated permit regulations that include upset and bypass permit provisions (see 40 CFR 122.41). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the Inorganic Chemicals Industry will be entitled to upset and bypass provisions in NPDES permits, this proposed regulation does not address these issues.

XIII. Variances and Modifications

Upon the promulgation of this regulation, the effluent limitations for the appropriate subcategory must be applied in all Federal and State NPDES permits thereafter issued to direct dischargers in the Inorganic Chemicals Industry. In addition, on promulgation, the pretreatment limitations are directly applicable to any indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E.I. du Pont de Nemours & Co. v. Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co. v. Costle, supra*. This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973–76 industry regulations, it is now included in the NPDES regulations and will not be included in the inorganic chemicals or other industry regulations (see the NPDES regulations at 40 CFR Part 125, Subpart D).

The proposed BAT limitations in this regulation are also subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for nonconventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. These statutory modifications do not apply to toxic or conventional pollutants. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitation guidelines.

The economic modification section (301(c)) gives the Administrator authority to modify BAT requirements for nonconventional pollutants (Section 301(1) precludes the Administrator from modifying BAT requirements for any pollutants which are on the toxic pollutant list under Section 307(a)(1) of the Act) for dischargers who file a permit application after July 1, 1977, upon a showing that such modified requirements will: (1) represent the maximum use of technology within the economic capability of the owner or operator, and (2) result in reasonable further progress toward the elimination

of the discharge of pollutants. The environmental modification section (301 (g)) allows the Administrator, with the concurrence of the State, to modify BAT limitations for nonconventional pollutants from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that:

(a) Such modified requirements will result at a minimum in compliance with BPT limitations or any more stringent limitations necessary to meet water quality standards;

(b) Such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(c) Such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities.

Section 301(j)(1)(B) of the Act requires that application for modifications under Section 301 (c) or (g) must be filed within 270 days after the promulgation of an applicable effluent guideline. Initial applications must be filed with the Regional Administrator and, in those States that participate in the NPDES program, a copy must be sent to the Director of the State program. Initial applications to comply with 301(j) must include the name of the permittee, the permit and outfall number, the applicable effluent guideline, and whether the permittee is applying for the 301(c) or 301(g) modification or both. Applicants interested in applying for both must do so in their initial application (for further details, see 43 FR 40859, September 13, 1978).

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTW (see 40 CFR 403. 7, 403, 13).

Indirect dischargers subject to PSES and PSNS are eligible for credits for toxic pollutants removed by POTW. See 40 CFR 403:7 48 FR 9404 (January 28, 1981). New sources subject to NSPS are not eligible for any other statutory or regulatory modifications. See *E.I. duPont de Nemours & Co.* v. *Train, supra.*

Indirect dischargers subject to PSES have, in the past, been eligible for the "fundamentally different factors" variance. See 40 CFR § 403.13. However, on September 20, 1983, the U.S.Court of Appeals for the Third Circuit held that "FDF variances for toxic pollutants are forbidden by the Act," and remanded § 403.13 to EPA. *NAMF* v. *EPA*, Nos. 79–2256 et al. (3d Circuit, September 20, 1983). EPA is considering the effect of that decision.

In a few cases, information which would affect these PSES may not be available to EPA or affected parties in the course of this rulemaking. As a result it may be appropriate to issue specific categorical standards for such facilities, treating them as a separate subcategory with more, or less, stringent standards as appropriate. This will only be done if a different standard is appropriate because of unique aspects of the factors listed in 304(b)(2)(B) of the Act: the age of equipment and facilities involved, the process employed, the engineering aspects of applying control techniques, nonwater quality environmental impacts (including energy requirements) or the cost of required effluent reductions (but not of ability to pay that cost).

After promulgation of this proposed rule, indirect dischargers and other affected parties may petition the Administrator to examine those factors and determine whether these PSES are properly applicable in specific cases or should be revised. Such petitions *Must* contain specific and detailed support data, documentation, and evidence indicating why the relevant factors justify a more, or less, stringent standard, and must also indicate why those factors could not have been brought to the attention of the Agency in the course of this rulemaking. The Administrator will consider such rulemaking petitions and determine whether a rulemaking should be initiated.

Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. NSPS are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications (see *E.I. du Pont de Nemours and Co. v. Train, supra*).

XIV. Relationship to NPDES Permits

The BPT, BAT, and BCT limitations and NSPS in this regulation will be applied to individual inorganic chemicals manufacturers through NPDES permits issued by EPA or approved state agencies under Section 402 of the Act. As discussed in the preceding section of this preamble, these limitations must be applied in all Federal and State NPDES permits, except to the extent that variances and modifications are expressly authorized. Other aspects of the interaction between these limitations and NPDES permits are discussed below.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit-issuing authorities. The promulgation of this regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit such pollutant on a case-by-case basis when limitations are necessary to carry out the purposes of the Act. In addition, to the extent that State water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

A second topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which were considered in developing this regulation. It is emphasized that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts.

XV. Availability of Technical Information

The basis for this regulation is detailed in four major documents. Analytical methods are discussed in Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants. EPA's technical conclusions are detailed in Development Document for Effluent Guidelines, New Source Performance Standards and Pretreatment Standards for the Inorganic Chemicals Manufacturing Point Source Category (Phase II) EPA 440/1–83–007–B. The Agency's economic analysis is presented in Economic Impact Analysis of Pollution Control Technologies for Segments of the Inorganic Chemicals Manufacturing Industry, EPA 440/2–83–009 A contractor's report on treatability studies is presented in Treatability Studies for the Inorganic Chemical Manufacturing Point Source Category

(EPA 440/1–80–103). The Development Document for Phase I, EPA 440/1–82–007, was also used extensively.

Technical information may be obtained by writing to Dr. Thomas E. Fielding, Effluent Guidelines Division (WH–552), EPA, 401 M Street, SW, Washington, D.C. 20460, or through calling 202/426–2582.

The Record will be available for public review in EPA's Public Information Reference Unit, Room 2004 (Rear) (EPA Library), 401 M Street, SW, Washington, D.C. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

XVI. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any deficiencies in the record of this proposal be specifically addressed and that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving comments and information of the following issues:

1. In the sodium chlorate subcategory, the unit flow does not include barometric condenser wastewater. The barometric condenser wastewater is considered process wastewater, and the proposed limitations would include pollutants discharged with the barometric condenser wastewater. The barometric condenser wastewater is high in volume but low in pollutant concentrations, and the Agency believes those plants where the barometric condenser wastewater is discharged separately from the rest of the process wastewater should have no difficulty in achieving the proposed limitations since treatment of the low volume concentrated wastewaters should be sufficient. However, the Agency has been unable to quantify the costs for separating the barometric condenser wastewater from the other process wastewater of plants that currently mix barometric condenser wastewater with other process wastewater. The Agency invites comment and cost data on this issue.

2. In developing the proposed limitations, the Agency has used the best available treatment system data from operating plants in the inorgainc chemical industry. However, only limited treatment system performance data is available for control of selenium and antimony. The limitations proposed for selenium and antimony are based on screening and verification data and on literature data, respectively. The Agency requests that any data concerning the treatment and control of these pollutants at operating inorganic chemical plants be provided for incorporation into the data base.

3. To determine the economic achievability of this regulation, the Agency has estimated the cost and economic effects of installing BPT, BAT, PSES, NSPS and PSNS. The details of the estimated costs and economic impacts are presented in Section X of the development document and in the economic impact analysis. Based on these analyses, the Agency makes plant closure and employment loss projections. The Agency invites comment on these analyses and projections. We particularly seek comments from small or less profitable plants. Commenters should focus on the effects of the regulation on plant closures, employment losses, production costs, the ability to finance non-environmental investments, product prices, profitability, international competitiveness, and the availability of less costly technology.

The regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980. 44 U.S.C. 35001 *et seq.*

Dated: September 30, 1983.

William D. Ruckelshaus,

Administrator.

List of Subjects in 40 CFR Part 415

Inorganic chemicals, Water pollution control, Waste treatment and disposal.

XVII. Appendixes

Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act.

BMPs—Best management practices under Section 304(e) of the Act.

BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Pub. L. 95–217).

Direct Discharger—A facility which discharges or may discharge pollutants into waters of the United States.

Indirect Discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works.

NPDES Permit—A National Pollutant discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New source performance standards under Section 306 of the Act.

POTW—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act.

PSNS—Pretreatment standards for new sources of indirect discharges under Section 307 (b) and (c) of the Act.

RCRA—Resources Conservation and Recovery Act (Pub. L. 94–580) of 1976, Amendments to Solid Waster Disposal Act.

Appendix B—Toxic Pollutants Excluded in All Subcategories Under Paragraph 8(a)(iii).

Under Paragraphs 8(a)(iii) of the Settlement Agreement, EPA is excluding certain toxic pollutants from regulation in all subcategories, for one or all of the following reasons:

(a) The pollutant is not detectable in the effluent with the use of analytical methods approved pursuant to 304(h) of the Act or other state of the art methods.

(b) The pollutant is present only in trace amounts and is neither causing nor likely to cause toxic effects.

(c) The pollutant is present in amounts too small to be effectively reduced by technologies known to the Administrator.

(d) The pollutant will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, standards of performance, or pretreatment standards.

The reason(s) for each of the following exclusions is keyed to the above list.

Acenaphthene (a)
Acrolein (a)
Acryulonitrile (c)
Benzene (b)
Benzidine (a)
Carbon Tetrachloride (Tetrachloromethane) (b)
Chlorobenzene (c)
1,2,4-Trichlorobenzene (a)
Hexachlorobenzene (a)
1,2-Dichloroethane (c)
1,1,1-Trichloroethane (a)
Hexachloroethane (a)
1,1-Dichloroethane (d)
1,1,2-Trichloroethane (c)
1,1,2,2-Tetrachloroethane (a)
Chloroethane (c)
Bis (2-Chloroethyl) Ether (b)
2-Chloroethyl Vinyl Ether (Mixed) (a)
2-Chloronaphthalene (a)
2,4,6-Trichlorophenol (b)
Parachlorometa Cresol (a)

Chloroform (Trichloromethane) (d)
2-Chlorophenol (c)
1,2-Dichlorobenzene (a)
1,3-Dichlorobenzene (a)
1,4-Dichlorobenzene (c)
3,3'-Dichlorobenzidine (a)
1,1-Dichloroethylene (c)
1,2-Rrans-Dichloroethylene (c)
2,4-Dichlorophenol (c)
1,2-Dichloropropane (c)
1,2-Dichloropropylene (a)
(1,3-Dichlorpropene)
2,4-Dimethylphenol (a)
2,4-Dinitrotoluene (a)
2,6-Dinitrotoluene (a)
1,2-Diphenylhydrazine (c)
Ethylbenzene (a)
Fluoranthene (c)
4-Chlorophenyl Phenyl Ether (a)
4-Bromophenyl Phenyl Ether (a)
Bis(2-Chloroisopropyl) Ether (a)
Bis(2-Chloroethoxy) Methane (a)
Methylene Chloride (c, d)
Methyl Chloride (Chloromethane) (b)
Methyl Bromide (Bromomethane) (a)
Bromoform (Tribromomethane) (c)
Dichlorobromoethane (c)
Chlorodibromomethane (c)
Hexachlorobutadiene (a)
Hexachlorocyclopentadiene (a)
Isophorone (c)
Naphthalene (a)
Nitrobenzene (c)
2-Nitrophenol (a)
4-Nitrophenol (c)
2,4-Dinitrophenol (c)
4,6-Dinitro-O-Cresol (c)
N-Nitrosodimethyulamine (a)
N-Nitrosodiphenylamine (c)
N-Nitrosodi-N-Propylamine (a)
Pentachlorophenol (c)
Phenol (c)
Bis(2-ethylhexyl) Phthalate (c)
Butyl Benzyl Phthalate (c)
Di-N-Butyl Phthalate (c)
Di-N-Octyl Phthalate (c)
Diethyl Phthalate (c)
Dimethyl Phthalate (c)
1,2-Benzanthracene (Benzo(A)Anthracene) (c)
Benzo (A) Pyrene (3,4-Benzo-Pyrene) (a)
3,4-Benzolfluoranthene (Benzo (B) Fluroranthene) (a)
11,12-Benzofluoranthene (Benzo (K) Fluoranthene) (a)
Chrysene (C)
Acenaphthylene (a)
Anthracene (a)
1,12-Benzoperylene (Benzo(GHI)-Perylene) (a)
Fluorene (a)
Phenanthrene (a)
1,2,5,6-Dibenzathracene (Dibenzo (A, H) Anthracene) (a)
Ideno (1, 2, 3-CD) Pyrene (2, 3-O-Phenylene Pyrene) (a)
Pyrene (a)
Tetrachloroethylene (c)
Toluene (c)
Trichloroethylene (c)
Vinyl Chloride (Chloroethylene) (c)
Aldrin (c)
Dieldrin (c)
Chlordane (Technical Mixture and Metabolites) (c)
4, 4'-DDT (c)
4, 4'-DDE (P, P'-DDX) (c)
4, 4'-DDD (P, P-TDE) (c)
Alpha-Endosulfan (c)
Beta-Endosulfan (c)
Endosulfan Sulfate (c)
Endrin (c)
Endrin Aldehyde (a)
Heptachlor (c)
Heptachlor Epoxide (c)
(BHC-Hexachlorocyclohexane)
Alpha-BHC (c)
Beta-BHC (c)
Gamma-BHC (c)
Delta-BHC (a)
PCB-1242 (Arochlor 1242) (a)
PCB-1254 (Arochlor 1254) (a)
PCB-1221 (Arochlor 1221) (a)
PCB-1232 (Arochlor 1232) (a)
PCB-1248 (Arochlor 1248) (a)
PCB-1260 (Arochlor 1260) (a)
PCB-1016 (Arochlor 1016) (a)
Toxaphene (a)
Asbestos (c)
Beryllium (a)
Cyanide (a)
Mercury (a)
Silver (c)
Thallium (b)
2,3,7,8-Tetrachlorodibenzo-P-Dioxin (TCDD) (a)

Appendix C—Toxic Pollutions Excluded in Particular Subcategories

Under Paragraph 8(a)(iii) of the Settlement Agreement, EPA is excluding certain toxic pollutants from regulation in particular subcategories, for one or all of the following reasons:

(a) The pollutant is not detectable in the effluent with the use of analytical methods approved pursuant to 304(h) of the Act or other state of the art methods.

(b) The pollutant is present only in trace amounts and is neither causing nor likely to cause toxic effects.

(c) The pollutant is present in amounts too small to be effectively reduced by technologies known to the Administrator.

(d) The pollutant will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, standards of performance, or pretreatment standards.

The reason(s) for each of the following exclusions is keyed to the above list.

Cadmium Pigments and Salts Subcategory (Subpart BL):

Antimony (a)
Arsenic (a)
Chromium (a)
Copper (c)
Lead (c)
Nickel (c)

The toxic pollutants limited are cadmium, selenium, and zinc.

Cobalt Salts Subcategory (Subpart BM):

Antimony (a)
Arsenic (a)
Cadmium (a)
Lead (c)
Selenium (a)
Zinc (c)

The toxic pollutants limited are copper and nickel.

Copper Salts Subcategory (Subpart AJ):

Antimony (a)
Arsenic (c)
Cadmium (a)
Chromium (a)
Lead (a)
Zinc (c)

The toxic pollutants limited are copper, nickel, and selenium.

Nickel Salts Subcategory (Subpart AU):

Antimony (a)
Arsenic (a)
Cadmium (c)
Chromium (a)
Lead (a)
Selenium (a)
Zinc (c)

The toxic pollutants limited are copper and nickel.

Sodium Chlorate Subcategory (Subpart BN):

Arsenic (c)
Cadmium (a)
Copper (c)
Lead (c)
Nickel (c)
Selenium (a)
Zinc (c)

1. The toxic pollutants limited are antimony and chromium.

Zinc Chloride Subcategory (Subpart BO):

Antimony (a)
Cadmium (c)
Chromium (c)
Copper (c)
Nickel (c)
Selenium (c)

The toxic pollutants limited are arsenic, lead, and zinc.

Appendix D—Subcategories Excluded

The products in the subcategory are regulated by existing guidelines (8a(i)):

Chromium Oxide (Chrome Pigments)
Whiting (Calcium Carbonate)
Aluminum Oxide (Bauxite Refining Subcategory of Nonferrous Metals Manufacturing)
Aluminum Hydroxide (Bauxite Refining Subcategory of Nonferrous Metals Manufacturing)
Hydrogen Sulfide (Petroleum Refining)
Sufur (Petroleum Refining)

2. The subcategory is identified by a class name, and each commercial product included under the class name has been covered individually (8a(i) or 8a(iv)):

Sulfides and Sulfites*—Covered as the metal hydrosulfide or metal sulfite, i.e., sodium hydrosulfide (8a(iv)), barium sulfide (8a(iv)), sodium sulfite (8a(i)), zinc sulfide (8a(iv)).

Thiocyanates*—Covered as the metal thiocyanate, i.e., sodium thiocyanate (8a(iv)), potassium thiocyanate (8a(iv)).

Sulfocyanides*—Another name for thiocyanate.

Reagent Grade Chemicals—A particular grade or quality of chemical. The term can apply to any chemical. The individual chemicals are each addressed separately (8a(i) and 8a(iv)).

3. The subcategory is deferred for coverage under another guideline:

Beryllium Oxide—Beryllium Manufacturing subcategory of Nonferrous Metals Manufacturing Phase II.

4. The subcategories will be included under existing guidelines by amending the applicability section of that guideline:

Calcium Hypochlorite—Will be included under the chlor-alkali subcategory of the Inorganic Chemicals (Phase I) guidelines.

Bleaching Powder—Another name for Calcium Hypochlorite.

5. The product is no longer produced in the United States (Paragraph 8a(iv)):

Lead Arsenate
Ultramarine Pigment
Borosilicate
Hydrophosphites
Luminous Compounds (Radium)
Oxidation Catalyst Porcelain
Potassium Hypochlorite
Radium Chloride
Radium Luminous Compounds

6. There are no discharges in the subcategory (Paragraph 8a(iv)):

Sodium Antimoniate
Lead Dioxide, Brown
Lead Dioxide, Red
Alums
Ammonium Alum
Ammonium Perchlorate
Cobalt 60 (Radioactive)
Heavy Water
Hydrated Aluminum Silicate
Inorganic Acids*
Manganese Dioxide
Peroxides*
Potash Alum
Potassium Aluminum Sulfate
Soda Alum
Potash Magnesia
Sodium Hydrosulfite
Isotopes, Radioactive
Sodium Silicofluoride

7. There are no toxic pollutants discharged at treatable levels from plants included in the subcategory (Paragraph 8a(iv) and 8b(ii)):

Industrial Gases*
Nitrous Oxide
Iron Oxide, Black
Iron Oxide, Magnetic
Iron Oxide, Yellow
Ochers
Siennas
Umbers
Ammonium Thiosulfate
Brine Chemicals
Chlorosulfonic Acid
Oleum
Potassium Bromide
Strontium Carbonate
Tin Compounds*
Silver Nitrate
Silica, Amporphous
Silica Gel

8. There is only one plant or only one discharger in the subcategory (Paragraph 8a(iv) and 8b(ii)):

Chromium Sulfate
Mercury Chloride
Mercury Oxide
Nickel Ammonium Sulfate
Potassium Cyanide
Sodium Cyanide
Zinc Sulfide
Iron Colors
Satin White Pigment
Ammonium Molybdate
Indium Chloride
Perchloric Acid
Potassium Chlorate
Potassium Nitrate
Potassium Sulfate
Sulfur Chloride

9. The discharges are too insignificant (based on very low production or very low flow) to justify developing a national regulation (8a(iv) and 8b(ii)):

Silver Bromide
Silver Carbonate
Silver Cyanide
Silver Iodide
Silver Oxide
White Lead Pigments
Barium Sulfate
Sodium Compounds*
Stannic and Stannous Chloride
Strontium Nitrate
Barytes Pigments
Aluminum Compounds*
Ammonium Compounds*
Barium Compounds*
Boron Compounds*
Calcium Compounds*
Cerium Salts
Sulfur Hexafluoride
Aluminum Chloride
Lead Silicate
Iodides*
Lithium Compounds
Magnesium Compounds*
Potassium Compounds
Rare Earth Metals Salts
Salts of Rare Earth Metals
Silver Chloride
Potassium Carbonate

The pollutant is a nuclear source material, nuclear by-product material, or special nuclear material, as these terms are defined at 10 CFR 20.3(a) (3), (15), and (16). All aspects of the production of the products, including wastewater discharges, are controlled by licenses issued by the Nuclear Regulatory Commission (NRC). The Supreme Court decided, in *Train* v. *Colorado PIRG*, 426 U.S. 1. (1976) that these materials, at least when regulated by the NRC, are not "pollutants" under the Clean Water Act.

Fissionable Material Production
Nuclear Cores, Inorganic
Nuclear Fuel Reactor Cores, Inorganic
Nuclear Fuel Scrap Reprocessing
Uranium Slug, Radioactive

Notes: (a) All subcategories marked with an asterisk (*) are identified by class names (i.e., Aluminum Compounds). All products included under that class name are either regulated separately, excluded separately, or were considered individually in this project and are recommended for exclusion at this time. We also considered addressing several products in one subcategory, but the individual products are too dissimilar in pollutant characteristics for that to be technically feasible.

(b) In many cases, a subcategory could have been listed above under different exclusion categories. For example, Nickel Ammonium Sulfate is produced in small quantities at only one plant, which has a direct discharge, through a BAT equivalent treatment system. Data from the plant shows that toxic metal pollutants in the treated effluent are below treatable levels.

Appendix E—Exclusion of Subcategories From PSES

1. The following subcategories are proposed for exclusion from further national PSES regulation development under Paragraph 8(b) of the Settlement Agreement because there are no existing indirect dischargers in the subcategory:

Borax
Bromine
Calcium Carbide
Calcium Chloride
Chromic Acid
Fluorine
Calcium Oxide
Potassium Chloride
Potassium Metal
Potassium Sulfate
Sodium Chloride
Stannic Oxide

2. The following subcategories are proposed for exclusion from further national PSES regulation development under Paragraph 8(b) of the Settlement Agreement because the discharge of toxic pollutants from all existing indirect dischargers in the subcategory is too

insignificant to justify developing a national regulation:

Iodine (discharge to POTW by the one existing indirect discharger is only 200 gallons per day (gpd)).

Calcium Hydroxide (discharge to POTW by the one existing indirect discharger is only 200 gpd).

Sodium Bicarbonate (data from the one existing indirect discharger shows that all toxic metal pollutants are below treatable levels).

Sodium Sulfite (the one existing indirect discharge introduces only 19.3 kg/yr of toxic metal pollutant into the POTW).

Zinc sulfate (the discharge to POTW by both existing indirect dischargers amounts to a total of 4200 gpd).

3. The currently existing PSES provides adequate control of toxic metal pollutants for the following five subcategories because the technologies necessary to control the toxic metal or non-conventional pollutants regulated by the PSES also controls all other toxic metal pollutants that may be in the wastewater.

Aluminum Sulfate
Ferric Chloride
Lead Monoxide
Potassium Dichromate
Sodium Fluoride

PART 415—INORGANIC CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

EPA proposes to amend the Table of Contents to 40 CFR Part 415 as follows:

Subpart T—Sodium Sulfite Production Subcategory

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415.207 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

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Subpart AA—Borax Production Subcategory

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415.273–415.275 [Reserved]
415.276 Pretreatment standards for new sources (PSNS).

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Subpart AC—Bromine Production Subcategory

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415.293–415.295 [Reserved]
415.296 Pretreatment standards for new sources (PSNS).

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Subpart AE—Calcium Hydroxide Production Subcategory

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415.313–415.315 [Reserved]
415.316 Pretreatment standards for new sources (PSNS).

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Subpart AI—Chromic Acid Production Subcategory

415.353–415.355 [Reserved]
415.356 Pretreatment standards for new sources (PSNS).

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Subpart AJ—Copper Salts Production Subcategory

415.360 Applicability; description of the copper salts production subcategory.
415.361 Specialized definitions.
415.362 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.363 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.364 Pretreatment standards for existing sources (PSES).
415.365 New source performance standards (NSPS).
415.366 Pretreatment standards for new sources (PSNS).
415.367 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

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Subpart AL—Ferric Chloride Production Subcategory

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415.385 [Reserved]
415.386 Pretreatment standards for new sources (PSNS).

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Subpart AN—Fluorine Production Subcategory

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415.403–415.405 [Reserved]
415.406 Pretreatment standards for new sources (PSNS).

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Subpart AQ—Iodine Production Subcategory

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415.433–415.435 [Reserved]
415.436 Pretreatment standards for new sources (PSNS).

Subpart AR—Lead Monoxide Production Subcategory

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415.445 [Reserved]
415.446 Pretreatment standards for new sources (PSNS).

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Subpart AU—Nickel Salts Production Subcategory

415.470 Applicability; description of the nickel salts production subcategory.
415.471 Specialized definitions.
415.472 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.473 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.474 Pretreatment standards for existing sources (PSES).
415.475 New source performance standards (NSPS) Specified in 415.672.
415.476 Pretreatment standards for new sources (PSNS).
415.477 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart AX—Potassium Chloride Production Subcategory

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415.503—415.505 [Reserved]
415.506 Pretreatment standards for new sources (PSNS).

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Subpart BC—Sodium Flouride Production Subcategory

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415.555 [Reserved]
415.556 Pretreatment standards for new sources (PSNS).

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Subpart BH—Stannic Oxide Production Subcategory

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415.603–415.605 [Reserved]
415.606 Pretreatment standards for new sources (PSNS).

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Subpart BK—Zinc Sulfate Production Subcategory

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415.633–415.635 [Reserved]
415.636 Pretreatment standards for new sources (PSNS).

Subpart BL—Cadmium Pigments and Salts Production subcategory

415.640 Applicability; description of the cadmium pigments and salts production subcategory.
415.641 Specialized definitions.
415.642 Effluent limitations guidelines representing the degree of effluent reduction attainable by the applicaton of the best practicable control technology currently available (BPT).
415.643 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.644 Pretreatment standards for existing sources (PSES).
415.645 New source performance standards (NSPS).
415.646 Pretreatment standards for new sources (PSNS).

415.647 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart BM—Cobalt Salts Production Subcategory

415.650 Applicability; description of the cobalt salts production subcategory.
415.651 Specialized definitions.
415.652 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.653 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.654 Pretreatment standards for existing sources (PSES).
415.655 New source performance standards (NSPS).
415.656 Pretreatment standards for new sources (PSNS).
415.657 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart BN—Sodium Chlorate Production Subcategory

415.660 Applicability; description of the sodium chlorate production subcategory.
415.661 Specialized definitions.
415.662 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.663 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.664 Pretreatment standards for existing sources (PSES). [Reserved]
415.665 New source performance standards (NSPS).
415.666 Pretreatment standards for new sources (PSNS).
415.667 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart BO—Chloride Production Subcategory

415.670 Applicability; description of the zinc chloride production subcategory.
415.671 Specialized definitions.
415.672 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.673 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.674 Pretreatment standards for existing sources (PSES).
415.675 New source performance standards (NSPS).
415.676 Pretreatment standards for new sources (PSNS).
415.677 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Authority: Sec. 301,304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

EPA proposes to Amend 40 CFR Part 415 as follows:

Subpart F—Chlor-alkali Subcategory (Chlorine and Sodium or Potassium Hydroxide Production)

1. Section 415.60 is revised to read:

§ 415.60 Applicability; description of the chlorine and sodium or potassium hyroxide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of chlorine and sodium or potassium hydroxide by the diaphragm cell process and by the mercury cell process. The provisions of this subpart are also applicable to discharges resulting from the production of calcium hypochlorite at chlor-alkali plants.

Subpart P—Sodium Chloride Production Subcategory

2. Sections 415.160, 415.16, 415.163 and 415.167 are revised to read:

§ 415.160 Applicability; description of the sodium chloride production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of sodium chloride by the solution brine-mining process and by the solar evaporation process.

§ 415.161 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean sodium chloride.

(c) The term "bitterns" shall mean the saturated brine solution remanining after precipitation of sodium chloride in the solar evaporation process.

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§ 415.163 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of 403 and achieve the following pretreatment the best available technology economically achievable (BAT).

(b) [Reserved]

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§ 415.167 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) [Reserved]

(b) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart and using the solution brine-mining process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in 415.162(b).

Subpart T—Sodium Sulfite Production Subcategory

3. Section 415.203 is revised, § 415.204 is reserved, § 415.206 is revised and § 415.207 is added to read:

§ 415.203 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART T—SODIUM SULFITE

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
Chromium (T)	0.0021	0.00063
Zinc (T)	0.0051	0.0015
COD	3.4	1.7

§ 415.204 [Reserved]

§ 415.205 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

SUBPART T—SODIUM SULFITE

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
TSS	0.032	0.016
Chromium (T)	0.0020	0.00063
Zinc (T)	0.0051	0.0015
COD	3.4	1.7
pH	(1)	(1)

1 Within the range 6.0 to 9.0.

§ 415.206 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS).

SUBPART T.—SODIUM SULFITE

Pollutant or pollutant property	PSNS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Chromium (total)	1.3	0.42
Zinc (total)	3.4	1.2
COD	1260	630

In case when POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations on chromium (total), zinc (total), and COD are the same as specified in § 415.205.

§ 415.207 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BAT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

The limitations for TSS and pH are the same as specified in § 415.202.

Subpart AA—Borax Production

4. Sections 415.273–415.276 are added and reserved and § 415.276 is added to read:

§§ 415.273–415.275 [Reserved]

§ 415.276 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.272.

Subpart AC—Bromine Production Subcategory

5. Sections 415.293–415.295 are added and reserved and § 415.296 is added to read:

§§ 415.293–415.295 [Reserved]

§ 415.296 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.292.

Subpart AE—Calcium Hydroxide Production Subcategory

6. Sections 415.313–415.315 are added and reserved and § 415.316 is added to read:

§§ 415.313–415.315 [Reserved]

§ 415.316 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.312.

Subpart AI—Chromic Acid Production Subcategory

7. Sections 415.353–415.355 are added and reserved amd § 415.356 is added to read:

§§ 415.353–415.355 [Reserved]

§ 415.356 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.352.

Subpart AJ—Copper Salts Production Subcategory

8. Sections 415.360–415.367 are added to read:

§ 415.360 Applicability; description of the copper salts production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of copper salts, including (a) copper sulfate, copper chloride, copper iodide, and copper nitrate, and (b) copper carbonate.

§ 415.361 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean copper salts.

(c) The term "copper" shall mean the total copper present in the process wastewater stream exiting the wastewater treatment system.

(d) The term "selenium" shall mean the total selenium present in the process wastewater stream exiting the wastewater treatment system.

(e) The term "nickel" shall mean the total nickel present in the process wastewater stream exiting the wastewater treatment system.

§ 415.362 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

SUBPART AJ—COPPER SULFATE, COPPER CHLORIDE, COPPER IODIDE, COPPER NITRATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
TSS	0.069	0.023
Copper (T)	0.0030	0.0010
Nickel (T)	0.0060	0.0020
Selenium (T)	0.0015	0.00050
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing copper carbonate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AJ—COPPER CARBONATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
TSS	4.2	1.4
Copper (T)	0.19	0.063
Nickel (T)	0.37	0.12
Selenium (T)	0.093	0.031
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.363 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for copper (T), nickel (T), and selenium (T) are the same as specified in § 415.362(a).

(b) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing copper carbonate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for copper (T) nickel (T), and selenium (T) are the same as specified in 415.362(b).

§ 415.364 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR, CFR Part 403 and by [24 months after promulagtion] achieve the following pretreatment standards for existing sources (PSES):

SUBPART AJ.—COPPER SULFATE, COPPER CHLORIDE, COPPER IODIDE, COPPER NITRATE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Copper (T)	3.2	1.1
Nickel (T)	6.4	2.1
Selenium (T)	1.6	0.53

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for copper (T), nickel (T), and selenium (T) are the same as specified in § 415.362(a).

(b) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing copper carbonate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and by [24 months after promulgation] achieve the following pretreatment standards for existing sources (PSES):

Subpart AJ.—Copper Carbonate

SUBPART AJ.—COPPER CARBONATE

Pollutant or pollutant property	PSES effluent limtations	
	maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (gm/l)	
Copper (T)	3.2	1.1
Nickel (T)	6.4	2.1
Selenium (T)	1.6	0.53

In case where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for copper (T) nickel (T), and selenium (T) are the same as specified in § 415.362(b).

§ 415.365 New source performance standards (NSPS).

(a) Any new source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate must achieve the following new source performance standards (NSPS): The limitations for pH, TSS, copper (T), nickel (T), and selenium (T), are the same as specified in § 415.362(a).

(b) Any new source subject to this subpart and producing copper carboronate must achieve the following new source performance standards (NSPS): The limitations for pH, TSS, copper (T), nickel (T), and selenium (T) are the same as specified in § 415.362(b).

§ 415.366 Pretreatment standards for new sources (PSNS).

(a) Except as provided in § 403.7, any new source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNES): The limitations for copper (T), nickel (T), and selenium (T) are the same as specified in § 415.364(a).

(b) Except as provided in § 403.7, any new source subject to this subpart and producing copper carbonate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for copper (T), nickel (T), and selenium (T) are the same as specified in 415.364(b).

§ 415.367 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.362(a).

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing copper carbonate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant

control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.362(b).

Subpart AL—Ferric Chloride Production Subcategory

9. Section 415.385 is added reserved and § 415.386 is added to read:

§ 415.385 [Reserved]

§ 415.386 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.382.

Subpart AN—Fluorine Production Subcategory

10. Sections 415.403–415.405 are added and reserved and § 415.406 is added to read:

§§ 415.403–415.405 [Reserved]

§ 415.406 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.402.

Subpart AQ—Iodine Production Subcategory

11. Sections 415.433–415.435 are added and reserved and § 415.436 is added to read:

§§ 415.433–415.435 [Reserved]

§ 415.436 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.432.

Subpart AR—Lead Monoxide Production Subcategory

12. Section 415.445 is added and reserved and § 415.446 is added to read:

§ 415.445 [Reserved]

§ 415.446 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.442.

Subpart AU—Nickel Salts Production Subcategory

13. Sections 415.470–415.477 are added to read:

§ 415.470 Applicability; description of the nickel salts production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of nickel salts, including (a) nickel sulfate, nickel chloride, nickel nitrate, and nickel fluoborate, and (b) nickel carbonate.

§ 415.471 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean nickel salts.

(c) The term "nickel" shall mean the total nickel present in the process wastewater stream existing the wastewater treatment system.

(d) The term "copper" shall mean the total copper present in the process wastewater stream existing the wastewater treatment system.

§ 415.472 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing nickel sulfate, nickel chloride, nickel nitrate, or nickel fluoborate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

SUBPART AU—NICKEL SULFATE, NICKEL CHLORIDE, NICKEL NITRATE, NICKEL FLUOBORATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (or pounds per/ 1,000 pounds) of product	
TSS	0.069	0.032
Nickel (T)	0.0096	0.0020
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing nickel carbonate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AU—NICKEL CARBONATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (or pounds per/ 1,000 pounds of product	
TSS	17.	5.8
Nickel (T)	1.1	0.35
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.473 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing nickel sulfate, nickel chloride, nickel nitrate, or nickel fluoborate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART AU—NICKEL SULFATE, NICKEL CHLORIDE, NICKEL NITRATE, NICKEL FLUOBORATE

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dg (or pounds per/ 1,000 pounds of product	
Copper (T)	0.00074	0.00024
Nickel (T)	0.00074	0.00024

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing nickel carbonate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART AU—NICKEL CARBONATE

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or pounds per 1,000 pounds of product	
Copper (T)	0.13	0.042
Nickel (T)	0.13	0.042

§ 415.474 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing nickel sulfate, nickel chloride, nickel nitrate, or nickel fluorobate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and by [24 months after promulgation] achieve the following pretreatment standards for existing sources (PSES):

SUBPART AU—NICKEL SULFATE, NICKEL CHLORIDE, NICKEL NITRATE, NICKEL FLUOBORATE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Copper (T)	1.1	0.32
Nickel (T)	1.1	0.32

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for copper (T) and nickel (T) are the same as specified in § 415.473(a).

(b) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing nickel carbonate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and by [24 months after promulgation] achieve the following pretreatment standards for existing sources (PSES):

SUBPART AU—NICKEL CARBONATE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Copper (T)	1.1	0.32
Nickel (T)	1.1	0.32

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for copper (T) and nickel (T) are the same as specified in § 415.473(b).

§ 415.475 New source performance standards (NSPS) specified in § 415.672.

(a) Any new source subject to this subpart and producing nickel sulfate, nickel chloride, nickel fluorobate or nickel nitrate must achieve the following new source performance standards (NSPS):

SUBPART AU—NICKEL SULFATE, NICKEL CHLORIDE, NICKEL NITRATE, NICKEL FLUOBORATE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or pounds per 1,000 pounds of product	
TSS	0.096	0.032
Copper	0.00074	0.00024
Nickel	0.00074	0.00024
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Any new source subject to this subpart and producing nickel carbonate must achieve the following new source performance standards (NSPS):

SUBPART AU—NICKEL CARBONATE

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or punnds per 1,000 pounds of product	
TSS	17.	5.6
Copper	0.13	0.042
Nickel	0.13	0.042
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.476 Pretreatment standards for new sources (PSNS).

(a) Except as provided in § 403.7, any new source subject to this subpart and producing nickel sulfate, nickel chloride, nickel fluoborate on nickel nitrate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for copper (T) and nickel (T) are the same as specified in §415.474(a).

(b) Except as provided in § 403.7, any new source subject to this subject to this subpart and producing nickel carbonate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for copper (T) and nickel (T) are the same as specified in § 415.474(b).

§ 415.477 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing nickel sulfate, nickel chloride, nickel fluoborate or nickel nitrate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.472(a).

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing nickel carbonate must achieve the following effluent limitations representing the degee of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.472(b).

Subpart AX—Potassium Chloride Production Subcategory

14. Sections 415.503–415.505 are added and reserved and § 415.406 is added to read:

§§ 415.503–415.505 [Reserved]

§ 415.506 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.502.

Subpart BC—Sodium Fluoride Production Subcategory

15. Section 415.555 is added as reserved and § 415.556 is added to read:

§ 415.555 [Reserved]

§ 415.556 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.552.

Subpart BH—Stannic Oxide Production Subcategory

16. Sections 415.603–415.605 are added and reserved and § 415.606 is added to read:

§§ 415.603–415–605 [Reserved]

§ 415.606 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.602.

Subpart BK—Zinc Sulfate Production Subcategory

17. Sections 415.633–415.635 are added and reserved and § 415.636 is added to read:

§§ 415.633–415.635 [Reserved]

§ 415.636 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.632.

Subpart BL—Cadmium Pigments and Salts Production Subcategory

18. Sections 415.640–415.647 are added to read:

§ 415.640 Applicability; description of the cadmium pigments and salts production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatments works which are publicly owned resulting from the production of cadmium pigments and salts including cadmium chloride, cadmium nitrate, and cadmium sulfate salts.

§ 415.641 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean cadmium pigment or cadmium salt.

(c) The term "cadmium" shall mean the total cadmium present in the process wasterwater stream exiting the wasterwater treatment system.

(d) The term "selenium" shall mean the total selenium present in the process wasterwater stream exiting the wasterwater treatment system.

(d) The term "zinc" shall mean the total zinc present in the process wasterwater stream exiting the wasterwater treatment system.

§ 415.642 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing cadmium pigments must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

SUBPART BL—CADMIUM PIGMENTS

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 pounds) of product	
TSS	2.59	1.57
Cadmium (T)	0.043	0.014
Selenium (T)	0.11	0.037
Zinc (T)	0.011	0.0062
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing cadmium salts must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART BL—CADMIUM SALTS

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 pounds) of product	
TSS	0.001	0.001
Cadmium (T)	2.7×10^{-5}	8.7×10^{-6}
Selenium (T)	7.0×10^{-5}	2.3×10^{-5}
Zinc (T)	7.0×10^{-5}	3.9×10^{-6}
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.643 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing cadmium pigments must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for Cadmium (T), Selenium (T), and Zinc (T) are the same as specified in § 415.642(a).

(b) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing cadmium salts must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for cadmium (T), selenium (T), and zinc (T) are the same as specified in § 414.642(b).

§ 415.644 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing cadmium pigments which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and by [24 months after promulgation] achieve the following pretreatment standards for existing sources (PSES):

SUBPART BL—CADMIUM PIGMENTS

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Cadmium (T)	0.47	0.15
Selenium (T)	1.1	0.40
Zinc (T)	0.12	0.067

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for Cadmium (T), Selenium (T), and Zinc (T) are the same as specified in § 415.642(a).

(b) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing cadmium salts which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and by [24 months after promulgation] achieve the following pretreatment standards for existing sources (PSES):

SUBPART BL—CADMIUM SALTS

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Cadmium (T)	0.47	0.18
Selenium (T)	1.1	0.40
Zinc (T)	0.12	0.087

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for cadmium (T), selenium (T), and zinc (T) are the same as specified in § 415.642(b).

§ 415.645 New source performance standards (NSPS).

(a) Any new source subject to this subpart and producing cadmium pigments must achieve the following new source performance standards (NSPS): The limitations for pH, TSS, cadmium (T), selenium (T), and zinc (T), are the same as specified in § 415.642(a).

(b) Any new source subject to this subpart and producing cadmium salts must achieve the following new source performance standards (NSPS): The limitations for pH, TSS, cadmium (T), selenium (T), and zinc (T), are the same as specified in § 415.642(b).

§ 415.646 Pretreatment standards for new sources (PSNS).

(a) Except as provided in § 403.7, any new source subject to this subpart and producing cadmium pigments which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for cadmium (T), selenium (T), and zinc (T), are the same as specified in § 415.644(a).

(b) Except as provided in § 403.7, any new source subject to this subpart and producing cadmium salts which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for cadmium (T), selenium (T), and zinc (T) are the same as specified in § 415.644(b).

§ 415.647 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing cadmium pigments must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.642(a).

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing cadmium salts must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.642(b).

Subpart BM—Cobalt Salts Production Subcategory

19. Sections 415.650–415.657 are added to read:

§ 415.650 Applicability; description of the cobalt salts production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of cobalt salts.

§ 415.651 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean cobalt salts.

(c) The term "cobalt" shall mean the total cobalt present in the process wastewater stream exiting the wastewater treatment system.

(d) The term "copper" shall mean the total copper present in the process wastewater stream exiting the wastewater treatment system.

(e) The term "nickel" shall mean the total nickel present in the process wastewater stream exiting the wastewater treatment system.

§ 415.652 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART BM—COBALT SALTS

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 pounds of product	
TSS	0.0325	0.0014
Cobalt (T)	0.0003	0.00012
Copper (T)	2.7×10^{-4}	8.3×10^{-5}
Nickel (T)	2.7×10^{-4}	8.3×10^{-5}
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.653 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for cobalt (T), copper (T), and nickel (T), are the same as specified in § 415.652.

§ 415.654 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and by [24 months after promulgation] achieve the following pretreatment standards for existing sources (PSES):

SUBPART BM—COBALT SALTS

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Cobalt (T)	3.6	1.4
Copper (T)	3.3	1.0
Nickel (T)	3.3	1.0

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate. The limitations for cobalt (T), copper (T), and nickel (T), are the same as specified in § 415.652.

§ 451.655 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): The limitations for pH, TSS, cobalt (T), copper (T), and nickel (T) are the same as specifed in § 415.652.

§ 451.656 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for cobalt (T), copper (T), and nickel (T), are the same as specified in 415.654.

§ 415.657 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32 any exisiting point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.652.

Subpart BN—Sodium Chlorate Production Subcategory

20. Sections 415.660–415.667 are added to read:

§ 415.660 Applicability; description of the sodium chlorate production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of sodium chlorate.

§ 415.661 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 to this chapter shall apply to this subpart.

(b) The term "product" shall mean sodium chlorate.

(c) The term "chromium" shall mean the total chromium present in the process wastewater stream exiting the wastewater treatment system.

(d) The term "chlorine" shall mean the total residual chlorine present in the process wastewater stream exiting the wastewater treatment system.

(e) The term "antimony" shall mean the total antimony present in the process wastewater stream exiting the wastewater treatment system.

§ 415.662 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently achievable (BPT):

SUBPART BN—SODIUM CHLORATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 pounds) of product	
TSS	0.116	0.0675
Antimony (T)	0.0086	0.0043
Chromium (T)	0.0027	0.0014
Chlorine (total residual)	0.0041	0.0024
pH	(1)	(1)

[1]Within the range 6.0 to 9.0.

415.663 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART BN—SODIUM CHLORATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 pounds) of product	
Antimony (T)	0.0043	0.0022
Chromium (T)	0.0017	0.00086
Chlorine (total residual)	0.0041	0.0024

§ 415.664 Pretreatment standards for existing sources (PSES) [Reserved]

§ 415.665 New source performance standards (NSPS)

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): The limitations for pH and TSS are the same as those specified in § 415.662. The limitation for Antimony (T), Chromium (T) and Total Residual Chlorine are the same as specified in § 415.663.

§ 415.666 Pretreatment standards are for sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

SUBPART BN—SODIUM CHLORATE

Pollutant or pollutant property	PSNS effluent limitations	
	Maximum for any 1 day	Average of Daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Antimony (T)	1.6	[illegible]
Chromium (T)	0.64	0.32

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for antimony (T) and chromium (T) are the same as specified in § 415.663.

§ 415.667 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant

control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.662.

Subpart BO—Zinc Chloride Production Subcategory

21. Sections 415.670–415.677 are added to read:

§ 415.670 Applicability; description of the zinc chloride production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of zinc chloride.

§ 415.671 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean zinc chloride.

(c) The term "arsenic" shall mean the total arsenic present in the process wastewater stream exiting the wastewater treatment system.

(d) The term "zinc" shall mean the total zinc present in the process wastewater stream exiting the wastewater treatment system.

(e) The term "lead" shall mean the total lead present in the process wastewater stream exiting the wastewater treatment system.

§ 415.672 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

SUBPART BO—ZINC CHLORIDE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 pounds) of product	
TSS	0.58	0.34
Arsenic (T)	0.041	0.014
Zinc (T)	0.076	0.026
Lead (T)	0.024	0.0081
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.673 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART BO—ZINC CHLORIDE

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg-kkg (or pounds per/ 1,000 pounds of product	
Arsenic (T)	0.041	0.014
Zinc (T)	0.076	0.026
Lead (T)	0.0025	0.00085

§ 415.674 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and by [24 months after promulgation] achieve the following pretreatment standards for existing sources (PSES):

SUBPART BO—ZINC CHLORIDE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Arsenic (T)	3.0	1.1
Zinc (T)	1.3	0.45
Lead (T)	0.17	0.044

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for arsenic (T), zinc (T), and lead (T) are the same as specified in § 415.673.

§ 415.675 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): The limitations for pH and TSS are the same as specified in § 415.672. The limitations for arsenic (T), zinc (T), and lead (T) are the same as specified in § 415.673.

§ 415.676 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the pretreatment standards for new sources (PSNS): The limitations for arsenic (T), zinc (T), and lead (T) are the same as specified in § 415.674.

§ 415.677 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.672.

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Part III

Federal Communications Commission

Multiple Ownership of AM, FM, and Television Broadcast Stations; Proposed Rule

VOL 48 ISS 207 OCT 25 1983

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Gen. Docket No. 83-1009; FCC 83-440]

Multiple Ownership of AM, FM and Television Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein adopts a Notice of Proposed Rule Making regarding the modification or elimination of that aspect of the FCC's rules commonly known as the "seven station" rule. The rule prohibits any party from being a stockholder, officer or director or otherwise holding any interest in more than seven stations in the same broadcast service. The dramatic changes in the communications marketplace during the three decades the rule has been in effect, as well as the increased programming diversity likely to result from its relaxation, form the basis for taking this action.

DATES: Comments must be received on or before December 19, 1983, and reply comments on or before January 16, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Office of General Counsel (202) 254-6530.

List of Subjects in 47 CFR Part 73

Radio broadcast, Television.

Notice of Proposed Rule Making

In the matter of amendment of §§ 73.35, 73.240, and 73.636 of the Commission's rules relating to multiple ownership of AM, FM, and television broadcast stations (Gen. Docket No. 83-1009).

Adopted: September 22, 1983.
Released: October 20, 1983.

By the Commission: Commissioner Rivera dissenting and issuing a statement.

1. The Commission, acting on its own motion, here proposes to modify that aspect of its multiple ownership rules commonly known as the "seven station rule." The rule prohibits any party from being a stockholder, officer or director or otherwise holding any interest in more than seven stations in the same broadcast service.[1] The dramatic changes in the communications marketplace during the three decades the rule has been in effect, as well as the increased programming diversity likely to result from its relaxation, suggest that this action is in order.

I. Background

A. Early Ownership Restrictions

2. Although multiple ownership of stations had been a feature of the broadcast industry since its earliest days, it was not until the late 1930's that the Commission began to focus its attention on this aspect of industry organization.[2] The Commission's considerations came at a time when there was a significant expansion of Federal governmental activity and a corresponding lack of belief in the efficacy of the competitive marketplace.[3] An early target of Commission action was "duopoly," the term the Commission has applied to common ownership of more than one station in the same service in a particular community. In 1938, the Commission adopted a strong presumption against granting new licenses which would result in ownership duopolies.[4] This new policy was based in part on the value the Commission stated was being placed on "diversification of service," a concept which became a cornerstone of Commission ownership restrictions.[5]

3. When the Commission adopted rules governing the new commercial FM service in June, 1940, as absolute duopoly prohibition was included. Additionally, for the first time the Commission established a limit on the number of licenses which could be held under common control. The limit was six stations. The Commission subsequently stated that the purpose of the new rule was "[t]o obviate possible monopoly, and encourage local initiative."[6] In 1940 the Commission also promulgated similar rules for television, which was still being treated as an experimental service, but set the maximum number of stations which could be owned at three.[7] When rules authorizing television broadcasting as a regular commercial service were adopted in April, 1941, these restrictions were retained.[8] In May 1944, the maximum number of television stations which could be controlled by one owner was increased to five in response to a National Broadcasting Co. ("NBC") petition.[9]

4. Two years later, the Commission established a *de facto* seven station limit for AM when it denied CBS' application to purchase an eighth such station, KQW in San Jose. The Commission asserted that concentration of control, "particularly in AM," was "not a factor of the absolute number of stations alone," but also depended on "the powers and frequencies of the stations. " CBS already owned six 50,000-watt clear channel stations, as well as a 5,000-watt regional station.[10] While the decision indicated that the Commission would in AM matters consider all the factors involved in a given case, it in fact set a numerical line by which future Commission actions were measured.

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[1] No more than five of the seven television stations may be VHF. The rule does not apply to noncommerical FM and television stations, but does limit noncommercial AM ownership. The full text of the rule as applied to each of the services is attached as Appendix "B".

[2] The Communications Act of 1934 is largely derived from the Radio Act 1927. That statute was adopted in part due to the belief that Federal station licensing was necessary to prevent "monopolistic domination" in broadcasting. *FCC v. Pottsville Broadcasting Co.*, 309 U.S. 134, 137 (1940). The Commission has no authority to pass on antitrust violations as such. *United States v. Radio Corporation of America*, 358 U.S. 334, 343 (1959). It has, however, historically considered ownership concentration issues under the public interest standard. *See National Broadcasting Co., Inc., v. United States*, 319 U.S. 190, 222-224 (1943).

[3] See, for example, B.A. Lee. *The New Deal Reconsidered*, VI the Wilson Quarterly 62, 65-67 (1982).

[4] *Genesee Radio Corp.*, 5 F.C.C. 183 (1938).

[5] For the history of the early days of broadcasting, see generally E. Barnouw, *A Tower in Babel* (1966), *The Golden Web* (1968). For historical information on the multiple ownership issue, see generally H. H. Howard, *Multiple Broadcast Ownership: Regulatory History*, 27 Fed. Comm. B.J. 1 (1974); L. A. Powe, Jr., *FCC Determinations on Networking Issues in Multiple Ownership Proceedings* (Network Inquiry Special Staff Preliminary Report on Propects for Additional Networks) (February, 1980); C. H. Sterling, *Television and Radio Broadcasting*, in B. M. Compaine, C. H. Sterling, T. Guback, and J. K. Noble, Jr., *Who Owns the Media?* 299-372 (2d ed. 1982) (hereinafter cited as "*Who Owns*").

[6] Federal Communication Commission, *Sixth Annual Report* 68 (FY 1940) (1941). The FM "six station rule" placed a burden on the application to show that its proposed ownership of more than one station in that service "would foster competition * * * or provide a high frequency broadcasting service distinct and separate from existing service" and that such ownership would "not result in the concentration of control of high frequency broadcasting facilities in a manner inconsistent with the public interest, convenience and necessity." Ownership of six stations was stated to be merely the point at which the Commission would in any case consider that such a concentration of control existed. *Rules Governing High Frequency Broadcast Stations*, 5 FR 2382, 2384 (1940).

[7] H. H. Howard, *supra* note 5, at 8.

[8] *Broadcast Services Other Than Standard Broadcast*, 6 FR 2282, 2284-2285 (1941). The Commission stated that it adopted a three station television ceiling rather than six as in FM because "the more limited television channels make three such stations the limit for the main television band." Federal Communications Commission, Seventh Annual Report 34 (FY 1941) 1941.

[9] *Rules Governing Broadcast Services Other Than Standard Broadcast*, 9 FR 5442 (1944). NBC did not get all that it had asked for, however, as it had requested that the figure the raised to seven. H. H. Howard, *Supra* note 5, at 8.

[10] *Sherwood B. Brunton*, 11 F.C.C. 407, 413 (1946).

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5. The decision in the KQW case also reflected the ambivalence about network ownership of broadcast stations which has colored many subsequent Commission ownership deliberations. The *Report on Chain Broadcasting*, adopted in May, 1941 stated that if "the question were presented as an original matter at this time, the Commission might well reach the conclusion that the businesses of station operation and network operation should be entirely separated." However, given the existing ownership situation, the Commission determined that requiring divestiture was undesirable.[11] The Commission did include in its new "chain broadcasting regulations" provisions forbidding network ownership of more than one AM station in the same area as well as prohibitions on operation of more than one network by a single entity.[12] The Supreme Court affirmed the Commission's promulgation of the chain broadcasting rules early in 1943.[13] As one commentator has observed, the Court's ruling came at "a time when there was a great urge to support the central government and the administrative process * * * a period in which it was unusual for the Supreme Court to conclude that an administrative law initiative was unauthorized, much less that the authorization was unconstitutional."[14] Several months later, the Commission concluded a rule making proceeding begun in 1941 and adopted a duopoly rule applicable to all AM licensees.[15]

6. Thus, by the mid-1940's the Commission had established the broad outline of what were to be the basic elements of its ownership regulations for several decades. There were to be local and national ownership limitations—regional regulations would come later—with special attention sometimes given to the role of networks. The Commission had also established use of a pattern of analysis in which it generally merged its consideration of action necessary to prevent economic concentration, essentially an antitrust matter, with concerns regarding diversity of information sources, a First Amendment issue, and frequently utilized a relatively unsophisticated approach to these merged issues.

7. In 1947, Senator Wallace White, Chairman of the Committee on Interstate and Foreign Commerce, introduced legislation which would, *inter alia*, have barred the use of numerical national ownership ceilings, and substituted the limitation that no person could own or control stations "which in the aggregate provide a primary service * * * for more than 25 percentum of the population of the continental United States as determined in the last preceding decennial census."[16]

The Commission opposed enactment of Senator White's proposal, arguing in part that it was "undesirable to attempt to write a single standard on multiple ownership which should govern all classes of service." It pointed out that it had not adopted an AM rule, and described the FM and TV rules as "tentative" and "[a] nyone who comes in and shows good reasons for changing it, up or down, will be given consideration."[17] The proposal was also opposed by representatives of the broadcast industry, who generally favored elimination of ownership limitations.

B. The "Seven Station" Rule Making

8. The White proposals were not reported out of committee. However, in August, 1948, the Commission initiated a proceeding which for the first time proposed formal restrictions on the number of AM stations under common control.[18] The number suggested for AM was seven, the KQW figure. No changes were proposed in the existing ceilings of six FM and five TV stations, but the Commission suggested allowing two minority noncontrolling interests as a substitute for one controlling station holding. Thus, an individual would have been permitted noncontrolling interests in up to 14 AM, 12 FM and 10 TV stations.[19] The Notice contemplated an effective date of January 1, 1953, to allow for the "orderly disposition of interests" in conflict with the rule.

9. One month after the Commission initiated the "seven station" proceeding, it established a "freeze" on the processing of new or pending applications for television station construction permits. The action was taken to allow the Commission time to revise the Table of Television Assignments, which had been adopted at the close of World War II. In early 1952, the Commission assigned VHF channels and channels in the new UHF band to various communities, and ended the "freeze" effective July 1. Thus, when the Commission took action in the "seven station" proceeding in November, 1953, television was on the edge of enormous expansion but relatively few stations were as yet operational.[20] The Commission's *Order* adopted the limits of seven AM and five TV stations as proposed. The AM limit was kept at seven, the Commission said, so that the existing holdings of such stations would not be "unduly disrupted." The Commission found that a seven station limit was "consistent with the historical development of AM broadcasting and the tremendous expansion that has been achieved almost entirely within the framework of that limitation." The six station FM rule

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[11] *FCC Report on Chain Broadcasting* 67 (1941).

[12] *Id.*, at 92. The result of these requirements was to force NBC to divest itself of one of its two radio networks (which subsequently became ABC) and four owned-and-operated stations. H. H. Howard, *supra* note 5, at 8.

[13] *National Broadcasting Co. v. United States*, *supra* note 2.

[14] M. E. Price, *Taming Red Lion: The First Amendment and Structural Approaches to Media Regulation*, 31 Fed. Comm. L. J. 215, 220 (1978). The Court's approval of the Commission's action in the "chain broadcasting" case was based in part on a posited "scarcity" of the broadcast spectrum. *National Broadcasting Co., Inc. v. United States*, *supra* note 2, at 1008, 1011. The continuing validity of the "scarcity" rationale for regulation is questionable. See Part II, *infra*. See, also, for example, *Loveday v. FCC*, 707 F.2d 1443, 1458–1459 (D.C. Cir. 1983); D. L. Bazelon, *The First Amendment and the "New Media"—New Directions in Regulating Telecommunications*, 31 Fed. Comm. L.J. 201, 207 (1978). For a critique of the Court's reasoning in the NBC case, see W. E. Lee, *Antitrust Enforcement, Freedom of the Press, and the "Open Market": The Supreme Court on the Structure and Conduct of Mass Media*, 32 Vand. L. Rev. 1249, 1315, 1322 (1979) (hereinafter "W. E. Lee, *Antitrust*").

[15] *Order No. 84–A—Multiple Ownership of Standard Broadcast Stations*, 8 FR 16065 (1943). In April, 1944, the Commission required divestiture of existing stations if necessary to comply with the new duopoly rule. *Order No. 84–B—Multiple Ownership of Standard Broadcast Stations*, 9 FR 3860 (1944)

[16] S. 1333, 80th Cong., 1st Sess. (1947).

[17] *To Amend the Communications Act of 1934: Hearings Before a Subcomm. of the Senate Comm. on Interstate and Foreign Commerce on S. 1333*, 62–63, 70, 80th Cong., 1st Sess. (1947). The Commission also stated that on the basis of the 1940 Census, one person could have stations serving the entire population of 20 of the 22 states west of the Mississippi under the 25 percent rule. Even in the more populous East, one individual "could own stations serving virtually all of New England and the Middle Atlantic States." It believed that such a provision was therefore "not conducive to the prevention of monopoly."

[18] *Amendment of §§ 3.35, 3.240, and 3.636 of the Rules and Regulations Relating to Multiple Ownership of AM, FM and Television Broadcast Stations*, 13 FR 5080 (1948).

[19] Additionally, the language of the proposed rule eliminated the presumption against ownership of more than one station embodied in the existing FM and TV rules. In its stead the *Notice* proposed that in determining whether ownership of stations below the limit constituted a concentration of control, the Commission would on a case-by-case basis consider "such factors as the size, extent and location of areas served, the number of people served, classes of stations involved, and the extent of other competitive service to the areas in question."

[20] *Amendment of § 3.606 of the Commission's Rules and Regulations*, 41 F.C.C. 148 (1952); Federal Communications Commission, *19th Annual Report* 110–112 (FY 1953) (1954); *Amendment of Sections 3.35, 3.240 and 3.636 of the Rules and Regulations Relating to the Multiple Ownership of AM, FM and Television Broadcasting Stations*, 18 F.C.C. 288 (1953). Comments had been due on September 27, 1948. Oral argument was held on January 17, 1949.

was stated to have been raised to AM's level of seven "because of their interrelationship and the present status of FM's growth." [21] The TV limit was maintained at five because in the Commission's "judgment based on extensive experience with the problems of multiple ownership," it had "proven practicable and desirable."

10. In adopting the "seven station rule," the Commission acknowledged the arguments by some parties that the proposed rules were arbitrary because they did not take into account "class and size of stations, geographical locations, populations served, and similar factors." Because of these adverse comments, it had "considered alternatives to the outstanding proposal." However, it had determined as a result of a study of existing multiple ownership that "any proposal to limit multiple ownership on the basis of such factors as class of station or geographic location" was "either unsatisfactory or unworkable." A formula which would "reasonably limit ownership on such basis" would have required extensive divestiture by existing licensees. Any formula which allowed existing licensees to maintain their holdings would, the Commission commented, "substantially extend the present maximum limitation on station ownership—a result felt to be completely unwarranted in view of the important policy considerations involved." [22] Any new formula which would resolve that problem by "grandfathering" existing interests was viewed as providing "unfair preferential treatment" to existing multiple owners. Thus, the Commission concluded that the numerical type of limitation it has proposed was "the only sound and workable" regulatory method "because of the history and present development of the broadcast industry." [23]

11. The Commission said that it had historically acted to further "diversification" of broadcast ownership in order to "implement the Congressional policy against monopoly" seen as underlying adoption of the Communications Act and "in order to preserve competition." The "principle" of "diversification", it stated, required a limit on the number of stations "which may be licensed to any person or persons under common control." The Commission said that the vitality of the system of broadcasting depended on a group of diversified licensees "prepared and qualified to serve the varied and divergent needs of the public for radio service." Thus, the fundamental purpose of its new national ownership rules was "to promote diversification of ownership in order to maximize diversification of program and service viewpoints as well as to prevent any undue concentraton of economic power contrary to the public interest." [24] [25] The Commission decided that the Notice proposal to equate two minority non-controlling interests with one controlling interest would not be implemented. It stated that while the holder of a minority interest might have only slight influence on station operations, it also appeared that such an individual might exert considerable influence not directly correlated with the size of his holdings. [26]

12. The Commission noted in the Report and Order that neither the prior nor the new rules differentiated between UHF and VHF television. It concluded that as it and others were then studying the status of UHF, it would defer action on pending petitions to increase or eliminate the ceiling on UHF ownership to "the over-all UHF study."

13. Less than a month later, on December 24, 1953, it adopted a Notice proposing an increase in the permissable UHF ownership level. [27] Three petitions to permit additional UHF ownership had been filed: (a) An NBC proposal that there be no limit on the number of UHF stations owned; (b) a request by Allen B. DuMont Laboratories, Inc. ("DuMont") that the allowable maximum television ownership be increased to eight stations, of which no more than five could be VHF; and (c) an American Broadcasting Companies, Inc. ("ABC") proposal that the ceiling be raised to seven, with a five VHF maximum. The Commission stated that it believed initiation of the new rule making proceeding was appropriate "in order to encourage the rapid and effective development of the UHF band." It proposed action on the ABC "seven station" approach, finding this "best designed" to achieve the objective of UHF development "consistent with preventing an undue concentration of control of television facilities."

14. While the UHF proposal was under consideration, Senator Edwin Johnson of Colorado introduced a bill [28] which would have set a statutory ownership limit of five VHF stations, with two UHFs substitutable for one VHF (so that one might, for example, own four VHF and two UHF stations, up to a ten UHF maximum). Hearings were held on the Johnson bill in mid-1954, as part of a larger Senate review of the condition of UHF broadcasting. [29] The Commission opposed enactment of the bill. The Johnson proposal required a licensee that already had five VHF stations to dispose of one as a condition of obtaining two UHFs. The Commission did not believe those holding five VHF stations would sacrifice a VHF outlet for the sake of UHF ownership. It therefore saw the short-term impact of the

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[21] The Commission noted that as of January, 1953, 536 of the 600 existing FM stations were owned by AM licensees "and for the most part, duplicate the AM programming."

[22] Only two licensees, CBS and J. Elroy McCaw, appear to have held interests in excess of those permitted under the new rule. They were given three years to divest. H.H. Howard, *supra* note 5, at 15.

[23] The new rule did state, as had its predecessors, that in determining whether a concentration of control existed, the Commission would on a case-by-case basis consider such factors as "the size, extent and location of areas served, the number of people served, classes of stations involved [radio only], and the extent of other competitive services to the area in question." Ownership in excess of the station ceiling was only the case in which the Commission would "in any event" consider that a concentration of control existed. However, it appears that no acquisition within the numerical national limit had then been or was ever prevented because of concerns regarding national ownership concentration. L. A. Powe, Jr., *supra* note 5, at 49. The reference to "size * * * of areas served" and related factors was deleted from the rule without specific explanation in 1977, in the proceeding adopting the present rule regarding regional ownership limits. The regional ownership rule was adopted in large part to eliminate case-by-case consideration of issues related to "regional concentration of control." *Amendment of §§ 73.35, 73.240 and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations*, 63 F.C.C. 2d 824, 825–828, 830–831 (1977).

[24] *Amendment of §§ 3.35, 3.240 and 3.636 of the Rules and Regulations Relating to the Multiple Ownership of AM, FM and Television Broadcast Stations, supra* note 20, at 292–293.

[25] The Commission rejected arguments that its actions were really improper attempts to enforce the antitrust laws, a responsibility entrusted by Congress to the Justice Department, and the Federal Trade Commission. Rather, the Commission stated, its actions were designed to implement the Congressional policy against monopoly it saw as embodied in the Communications Act.

[26] The Commission stated that opposition to its proposal to consider the interests of non-shareholder officers and directors of licensees and applicants ignored the realities of business organization and control. It observed that "[i]n numerous business organizations the actual day to day control is in the hands of officers and directors who are not necessarily owners or stockholders." The Commission believed it was reasonable and necessary to "take cognizance of the interests of directors and officers of licensees and applicants in order to preserve competition and prevent monopoly in the broadcasting field." The Commission determined that in corporations with fifty voting shareholders or more, only the interests of shareholders who were officers or directors or held one percent or more of the outstanding voting stock need be considered under the rule. These "attribution" aspects of the "seven station rule" were subsequently modified on several occasions to give special treatment to the interests of various "passive" institutional investors. Further revisions to the "attribution" aspects of the multiple ownership rules are being considered in a separate Commission proceeding. *Corporate Ownership Reporting and Disclosure by Broadcast Licensees*, 48 FR 10082 (March 10, 1983). They are not under review herein.

[27] *Amendment of § 3.636 of the Commission's Rules and Regulations Relating to Multiple Ownership of Television Broadcast Stations*, 18 FR 8804 (1953).

[28] S. 3095, 83d Cong., 2d Sess. (1954).

Johnson bill as "maintenance of the status quo with respect to ownership of television stations by the networks or the other major interests in the broadcasting field." [30]

15. On September 17, 1954, no further action having been taken on the Johnson bill, a Report and Order was adopted in the UHF docket.[31] The modification of the television rule to allow for ownership of seven stations, a maximum of five being VHF, was enacted as proposed.[32] The Commission stated that this action was not a turning-away from its decision of a year earlier in the main "seven station" proceeding. However, it observed that a key factor in its decision was the belief that diversity should not always be its paramount consideration:

> Clearly if the only relevant consideration were implementation of the policy of diversification, an absolute limitation of one broadcast station to any one person or persons under common control would best serve the public interest. But, of course, that is not the case. The multiple ownership of broadcast stations does play an important role in our nationwide broadcast system. The ownership of broadcast stations in major markets by the networks, for example, is an important element of network broadcasting. Our nation-wide system of broadcasting as we know it today requires that some multiple ownership of broadcast stations be permitted. We have always recognized these needs and have by rule permitted multiple ownership of broadcast stations in the light of such (other and competing) considerations. Here too it is our view that the greater good which will flow from the proposed rule offsets the disadvantage resulting from permitting individual licensees to own a larger number of stations.[33]

16. In dissenting from the decision, Commissioner Hennock objected in part to the fact that the rule established a uniform ceiling "for small and large stations alike without any reference to wide discrepancies in the size of areas covered or the population served. There is scant justification for giving equal treatment to seven widely scattered small stations and on the other hand to seven large powerful stations serving major markets in metropolitan centers like New York." Although Commissioner Doerfer concurred in the decision because the new rule provided greater flexibility than the previous version, he stated, "A number related to population, or areas, or capacity to program in the public interest is a more realistic guide or standard than a bare numerical evaluation. There is not much more than intuition as the basis for the present rule." [34]

17. The Commission's authority to promulgate such rules was put to the judicial test as a result of an appeal of the initial five station television limit by Storer Broadcasting Company ("Storer"). On November 25, 1953, the day the five station rule was adopted, the Commission dismissed Storer's application for a construction permit for Channel 10 in Miami.[35] The station would have been Storer's sixth VHF outlet. Storer argued on appeal that the Communications Act provided it with the right to a "full hearing" on its application. It contended that the Commission could only resolve such questions as what constitutes "concentration of control" on a case-by-case basis. The Court of Appeals for the District of Columbia Circuit agreed.[36] However, the Supreme Court held that the hearing requirement did not prevent the Commission from exercising "the rule making authority necessary for the orderly conduct of its business." [37] The Court stated that it in fact read the Act and regulations as providing a "full hearing" for those applicants who had "set out adequate reasons why the rules should be waived or amended." However, the Court found that no hearing need be held unless the application set forth reasons, "sufficient if true," to justify a change or waiver of the rules.[38]

C. Action Since 1954

18. While the seven station numerical limitation has not changed since 1954, both the Commission and the Congress have from time to time given serious consideration to its modification. In these actions, Congress and the Commission generally have not focused on whether continuation of this type of regulation is appropriate, but have struggled with much the same issues raised in earlier deliberations. For example, in 1956 attention was drawn to legislation introduced by Senator John Bricker of Ohio [39] which would have adopted, for television only, a 25 percent population coverage limitation similar to that which Senator White proposed in 1947. The purpose of the Bricker bill was to encourage competition by facilitating the growth of independent stations. Bricker believed that substituting the 25 percent limit for the "sterile abstraction" of a seven station ceiling "entirely unrelated to factors of population and markets covered" would allow independents to obtain sufficient coverage to compete with the networks and perhaps become network operators themselves.[40]

19. During late 1956 and early 1957, there was also internal Commission consideration of possible alternatives to the rule, including such options as population coverage limits and case-by-case reviews of concentration issues.[41] However, no action was taken, and the October, 1957, release of a special Commission study of network broadcasting appears to have put an end to these deliberations.[42] The study was conducted by a special staff under the direction of Dean Roscoe L. Barrow of the University of Cincinnati College of Law, and is thus commonly known as the "Barrow Report."

20. The fundamental focus of the Barrow Report was "the effect of the television network structure and network practices on the concentration of control in the industry and on the

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[30] *Status of UHF and Multile Ownership of TV Stations: Hearings Before the Subcomm. on Communications of the Senate Comm. on Interstate and Foreign Commerce*, 83d Cong., 2d Sess. (1954).

[31] Additionally, the Commission questioned whether it would be in the public interest in any case for any person to have an interest in more than seven television stations, even if a substantial percentage were UHF.

[32] *Amendment of § 3.636 of the Commission's Rules and Regulations Relating to Multiple Ownership of Television Broadcast Stations*, 43 F.C.C. 2797 (1954).

[33] The Commission concluded that this action would be of particular assistance to UHF development "in the larger prefreeze markets where high VHF-only saturation obtains." It believed that it was "in these markets particularly where the prestige, capital, and know-how of the networks and other multiple owners would be most effective in aiding UHF."

[34] *Id.*, at 2801–2802. Additionally, the Commission stated that the rule continued to provide that "a grant of even one additional station would not be made where it 'would result in a concentration of control of * * * broadcasting in a manner inconsistent with the public interest, convenience and necessity.'" The Commission rejected the proposal of Ozark Television Corporation, St. Louis, ("Ozark"), that it adopt a "five and two and one-half" rule. Under the Ozark proposal an individual could have minority interests in five UHF stations in addition to control of five stations as permitted under the existing rule.

[35] *Id.*, at 2803–2804.

[36] *Storer Broadcasting Company*, 16 F.C.C. 300 (1953).

[37] *Storer Broadcasting Company v. United States*, 220 F.2d 204 (D.C. Cir. 1955).

[38] *United States v. Storer Broadcasting Company*, 351 U.S. 192, 202–205 (1956).

[39] On remand, the Court of Appeals upheld the specific numerical limitation because no information was before the Court which outweighted the Commission's judgment that these limits were appropriate. *Storer Broadcasting Company v United States*, 240 F.2d 55 (D.C. Cir. 1956).

[40] S. 3859, 84th Cong., 2d Sess. (1956). Virtually identical bills were introduced in the House as H.R. 10524, H.R. 10733 and H.R. 10756.

[41] Additionally, the 25 percent figure would not have required any divestiture, as NBC, the largest owner in coverage terms, reached only 23 percent of the population within its service areas. *The Network Monopoly: A Report for the Comm. on Interstate and Foreign Commerce* 22–25, 84th Cong., 2d Sess. (1956).

[42] H. H. Howard, *supra* note 5, at 19–31.

[43] The report was subsequently published by the House of Representatives as *Network Broadcasting: Report of the Committee on Interstate and Foreign Commerce*, 85th Cong., 2d Sess. (1958).

opportunities for competition." However, the document also included a lengthy discussion of television multiple ownership as such, since its authors believed group ownership in television raised significant questions regarding competition.[43] As to modifying the numerical limit, the report concluded that if the Commission were to consider the matter *de novo*, a limit of one television station per licensee would best serve the public interest. However, it found that requiring the divestiture necessary to achieve this result would be inappropriate.

21. Considering other regulatory alternatives, the report argued that adopting a 25 percent population coverage ceiling would result in substantial increases in multiple ownership. A 10 percent population limit would as a general matter also allow a substantial increase, but would also have required divestiture by the three networks and at least one other multiple owner. Further, such a rule would have precluded any New York City licensee from owning a second station in any market of significant size.[44]

22. The report thus proposed that over a period of time the Commission seek "a pattern of ownership which approaches one to a customer as closely as the circumstances permit." More immediately, it recommended that a sub-element of the seven station rule be a limitation of no more than three VHF licenses in the top 25 markets. Although the Commission held hearings on the Barrow Report from March through July, 1959, no affirmative action was taken regarding its recommendations.[45]

23. In something of a reprise of Barrow's "top 25" proposals, the Commission again turned to consideration of numerical ownership limits in 1964, when its concerns regarding an apparent trend toward ownership concentration in major markets led to adoption of the "interim top 50 policy."[46] The policy required that applications to acquire a second VHF station in the top 50 markets be designated for hearing unless there was a "compelling affirmative showing." In 1965, the Commission proposed adoption of a rule prohibiting ownership of more than three television stations or two VHF stations in the top 50 markets, and established a new "interim policy" under which applications in conflict with the proposed rule would be designated for hearing "absent a compelling affirmative showing to the contrary."[47] In 1968, the Commission declined to formulate a rule, but adopted a "top 50 policy" which required licensees seeking to acquire a fourth television station or a third VHF station in the top 50 markets to make a "compelling public interest showing" that the benefits of the transfer would overcome the transfer's presumed "detriment with respect to the policy of diversifying the sources of mass media communications to the public."[48] The Commission eliminated the policy in 1979, having found that the feared trend toward additional ownership concentration had not occurred.[49]

24. The issue has recently received Congressional attention in the House Communications Subcommittee's 1978–79 attempts to comprehensively rewrite the Communications Act.[50] The 1978 rewrite bill proposed a limit of five radio and five television stations, with no more than three television stations in the top 50 markets. Divestiture of existing holdings would not have been required. The only proposed limitation in the 1979 version of the bill was a seven station ceiling for television. Active consideration of legislation on the matter ended when rewrite efforts were abandoned.[51]

II. Changed Circumstances and Arbitrariness

25. It is clear from our examination of the record that there has always been substantial debate, within the Commission and elsewhere, regarding the use of the "seven station rule" and its numerical predecessors as limits on national ownership concentration. This debate, however, has only infrequently focused on the continued desirability, if any, such regulation. Further, it generally has not involved questioning of the joint regulatory treatment of economic concentration and diversity issues, nor has there been much consideration given to delineating the relevant markets involved. Thus, absent more sophisticated analysis, the operation of the rule has historically engendered concern in two ways: (a) It does not take into account the signal coverage of the individual station or the size of the population its programming reaches; and (b) it may serve both to enhance the power of the three major networks and to preclude the initiation of new over-the-air networks and programming. Even when considered from this more traditional perspective, the growth in on-air broadcast stations suggests that the Commission's national ownership regulations are ripe for change. Indeed, after a thorough review of the matter, the Commission's most recent "network study" concluded that the use of the rule is "arbitrary and capricious."[52] When such factors as the recent development and growth of alternative program sources are given consideration, the importance of regulatory change in this area is even more apparent.

26. When the Supreme Court approved promulgation of the "seven station rule," it did so with the expectation that "If time and changing

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[43] *Id.*, at 583–589.

[44] The report found similar problems with a "market rank" approach. Another alternative, that of considering ownership matters "case-by-case," would have required appropriate standards defining the "diversity of ownership" principle.

[45] H. H. Howard, *supra* note 5, at 37–38.

[46] *Hearings on Applications for Second VHF Stations*, 3 R.R. 2d 909 (1964).

[47] *Interim Policy Concerning Acquisition of Television Broadcast Stations*, 5 R.R. 2d 271, 272 (1965).

[48] *Multiple Ownership of TV Broadcast Stations*, 22 F.C.C. 2d 666 (1968).

[49] *Amendment of § 73.636(a) of the Commission's Rules (Multiple Ownership of Television Stations)*, 75 F.C.C. 2d 585 (1979), *recon. denied*, 82 F.C.C. 2d 329 (1980), *aff'd sub nom. National Association for the Advancement of Colored People v. FCC*, 682 F. 2d 993 (D.C. Cir. 1982). During the years the policy was in effect, the Commission determined that a "compelling public interest showing" had been made in each of the 19 cases brought before it. Factors which were found to be "compelling" included financial revitalization and capital improvement of an ailing station, increase in diversity of media control in the local market, improved programming, buyer's "general" lack of market dominance," absence of concentration of control by the acquiring entity, and improved service to minorities. *Tribune Publishing Co.*, 45 F.C.C. 2d 227, 229 (1974); L.A. Powe, Jr., *supra* note 5, at 88. The length and expansive nature of this list of itself raises serious question as to whether there was ever any need for the policy as such. For a more comprehensive analysis of the "top 50" proceedings and cases, see L.A. Powe, Jr., *supra* note 5, at 60–72, 87–95.

[50] H.R. 13015, 95th Cong., 2d Sess. (1978); H.R. 3333, 96th Cong., 1st Sess. (1979).

[51] However, diversity and ownership concentration have been an area of continuing Congressional study. See, for example, *Telecommunications in Transition: The Status of Competition in the Telecommunications Industry, A Report by the Majority Staff of the Subcomm. On Telecommunications, Consumer Protection, and Finance* 235–300, 97th Cong., 1st Sess. (Comm. Print 1981) (hereinafter *"Telecommunications in Transition"*); *Print and Electronic Media: The Case for First Amendment Parity, National Telecommunications and Information Administration ("NTIA") Staff Report to the Chairman, Senate Committee on Commerce, Science, and Transportation* 56–103, 98th Cong., 1st Sess. (Comm. Print 1983) (hereinafter *"Print and Electronic Media"*).

[52] Network Inquiry Special Staff Final Report, *New Television Networks: Entry, Jurisdiction, Ownership and Regulation* (Vol. I) 17, 361, 499 (1980) (hereinafter *"New Television Networks"*). Thus, even a commentator supportive of continued national television ownership regulation acknowledges that the present limit is "arbitrary," stating that "[t]here is no real basis for the number

circumstances reveal that the 'public interest' is not served by application of the Regulations," the Commission would consider whether the rule should be modified or held inapplicable.[53] At the time the rule was adopted, television and FM were still in their infancy, development of both services having been severely retarded by World War II restrictions on private use of construction and electronic materials,[54] the subsequent "freeze" on television applications processing, and 1945 decision by the Commission moving the FM service to a higher frequency band.[55] Thus, given the way in which the Commission had historically approched national ownership issues, it is not difficult to understand its concerns at that time regarding ownership concentration when one notes that early in 1953 there were only 96 fully licensed television stations, of which 30 were controlled by six group owners holding the then-maximum of five licenses each.[56]

27. However, as Table 1 below shows, the number of on-air stations has increased dramatically since 1953:

TABLE 1.—BROADCAST STATIONS ON-AIR 1953 AND 1983[1]

	1953	1983	Percent increase
TV	190	1,127	493
AM	2,456	4,726	92
FM	666	4,522	581
Total stations	3,343	10,379	210

[1] 1953 figures as of June 30. Source: Federal Communication Commission, *47th Annual Report* 96–98 (FY 1981) (1982). 1983 figures as of June 30. Source: FCC Release 5484, July 22, 1983. All figures include noncommercial stations. 1953 data includes on-air stations operating with construction permits, while 1983 data includes only licensed stations. For a depiction of the impact of this growth in selected radio markets, see the *Notice of Inquiry and Proposed Rule Making* in *Deregulation of Radio*, 73 F.C.C. 2d 457, 548 (1979).

28. We believe that the growth in the number of over-the-air stations since 1953 constitutes a fundamental change in the nature of the media marketplace that of itself calls for a reexamination of our approach to national ownership limitations. Such action is consistent with the Commission's view that its rules and policies should be drawn with an eye to the current market environment in which its licensees and applicants operate, "so as to facilitate maximum service to the listening and viewing public while minimizing the cost induced by regulation.' [57] Further evidence of the need for this review is the enormous growth which has occurred in cable television and other nontraditional programming sources. Cable television has gone from an estimated 150 systems serving 30,000 subscribers in 1953 to approximately 5,000 systems with 29–32 million subscribers in mid-1983.[58] Thus, cable now passes about 60 percent of all television households, and 35–39 percent of television households now subscribe to cable service.[59] This is predicted to increase to the 46–50 percent range by 1985, and to as much as 60 percent by 1993.[60] Pay cable networking, which provides numerous new programming options through satellite distribution, now reaches more than half of all basic cable subscribers.[61]

29. Other alternatives to conventional over-the-air broadcasting include multipoint distribution service ("MDS"), a microwave delivery service, and subscription television ("STV") from over-the-air stations. At the close of 1982, there were 99 MDS systems, serving approximately 565,000 subscribers. This service can be expected to expand significantly as a result of recent Commission action reallocating certain spectrum for multichannel MDS service.[62] Nineteen STV stations serve 985,560 subscribers. An estimated 100,000–150,000 subscribers received service from satellite master antenna television ("SMATV") services at the end of 1982. Industry sources expect the SMATV market to double from the 500,000 homes presently passed to one million homes by 1984.[63] Additional new service will be introduced as the Commission processes the more than 12,000 low power television station applications currently on file, and direct broadcast satellite ("DBS") service is expected to provide most Americans with additional viewing options in the near future.[64] Another option for consumers is offered

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five or seven, and it makes little sense to equate a station in Butte with one in New York City." This commentator argues for "revision and rationalization" of the limitation. H. Geller, *FCC Media Ownership Rules: The Case for Regulation*, 32 J. of Comm. 148, 155 (Autumn 1982) (hereinafter "H. Geller, *FCC Media Ownership*").

[53] *United States v. Storer Broadcasting Co.*, *supra* note 37, at 205, citing *National Broadcasting Co. v. United States*, *supra* note 2, at 207, 225.

[54] Shortages were such that existing AM broadcasters were ordered to reduce power in order to conserve their equipment. Federal Communications Commission, *Ninth Annual Report* 46–47, 53–54 (FY 1943) (1944).

[55] This action rendered existing FM radios and transmitters obsolete, slowing the growth of FM for more than a decade. E. G. Krasnow and L. D. Longley, *Smothering FM with Commission Kindness*, in *The Politics of Broadcast Regulation* 107–117 (2d ed. 1978).

[56] Doubleday Broadcasting Co., Inc., *Amendment of §§ 73.35 and 73.240 of the Commission's Rules, Regarding Multiple Ownership* 4 (Petition for Rule Making) (October 6, 1982), citing Broadcasting, March 30, 1953, at 27. The number of commercial FM stations was actually in decline, and most were being operated by AM owners as part of AM–FM combinations. Federal Communications Commission, *19th Annual Report*, *supra* note 20, at 102, 115. Of an estimated 110 million sets in use, including combination models, only 25 million received television and only 10 million received FM Broadcasts. *Id.*, at 113. Although the number of commercial AM stations was substantial, the national networks played a major role in the service through program distribution and through their ownership of a significant number of the Class I–A "clear channel" stations. See, for example, *FCC Report on Chain Broadcasting*, *supra* note 11, at 16, 23, 67. For a contemporaneous description of the clear channel service, see Federal Communications Commission, *Fourteenth Annual Report* 31 (FY 1948) (1948).

[57] *Amendment of Section 73.3597 of the Commission's Rules*, 47 FR 985 (1982). As the Court of Appeals for the District of Columbia Circuit has stated, "a regulation perfectly reasonable and appropriate in the face of a given problem may be highly capricious if that problem does not exist." *City of Chicago* v. *FPC*, 458 F. 2d 731, 742 (D.C. Cir. 1971), *cert denied*, 405 U.S. 1074 (1972), cited in *Home Box Office v. FCC*, 567 F. 2d 9, 36 (D.C. Cir. 1977) (*per curiam*), *cert. denied*, 435 U.S. 829 (1977). See also *FCC v. Pottsville Broadcasting Co.*, *supra* note 2, at 138; *Pinellas Broadcasting Co. v. FCC*, 230 F. 2d 204, 208 (D.C. Cir. 1956), *cert. denied*, 350 U.S. 1007 (1956).

[58] *Television Factbook No. 50* (Services Volume 1981), at 83–e; *Broadcasting/Cablecasting Yearbook 1983* (1983), at D–3; CableVision, July 25, 1983, at 94; Communications Daily, June 20, 1983, at 10; Multichannel News, June 27, 1983, at 4.

[59] Arbitron puts July, 1983, penetration at 35 percent nationally. Communications Daily, August 3, 1983, at 4. See also, CableVision, *supra* note 59. A.C. Nielsen estimates July, 1983, penetration at 39.3 percent nationally. Broadcasting, September 5, 1983, at 90.

[60] Donaldson, Lufkin & Jenrette, *Industry Viewpoint: Cable '82*, (October, 1982), at 13, estimates 46 percent. New York Times, April 7, 1983, at D. 20, cites estimate of 50 percent by Robert H. Alter, Cabletelevision Advertising Bureau. Other estimates generally center in this range. Multichannel News, June 13, 1983, at 35, cites Paul Kagan projection of 60 percent by 1993.

[61] CableVision, *supra* note 59.

[62] Data on the number of MDS systems from Paul Kagan Associates, Inc., The Pay TV Newsletter, Census Issue (1983), at 2. Data as of December 31, 1982. Kagan reports that the operating MDS systems were marketing to areas comprised of almost 14 million dwelling units. As to multichannel MDS, see *Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules and Regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and the Private Operational Fixed Microwave Service*, 48 FR 33873 (July 26, 1983). By September 9, 1983, the filing deadline, an estimated 15,000 multichannel MDS applications had been submitted to the Commission.

[63] As to the number of STV stations and subscribers, see Broadcasting, September 5, 1983, at 36, citing Paul Kagan Associates data. Data on the number of SMATV subscribers from The Pay TV Newsletter, *supra* note 63, at 1, and Donaldson, Lufkin & Jenrette, *supra* note 61, at 61. As to estimate for 1984 SMATV expansion, see Multichannel News, May 23, 1983, at 21.

[64] *Direct Broadcast Satellites Services*, 90 F.C.C. 2d 676 (1982), *recon. denied*, FCC 83–241, released May 19, 1983; *Satellite Television Corporation*, 91 F.C.C. 2d 953 (1982); *CBS, Inc.*, 92 F.C.C. 2d 64 (1982). See, also, *GTE Satellite Corporation*, 90 F.C.C. 2d 1009 (1982), *recon. denied*, FCC 83–271 released June 23, 1983; Broadcasting, August 1, 1983, at 21.

by video cassettes and video discs. About 6.4 million home video cassette recorders ("VCRs") were in use throughout the country as of July, 1983, and VCR sales were booming at an annual rate of almost 5 million units a year. The video disc player is designed to be a relatively low cost video medium. Unlike the VCR, it is a playback-only device. In 1982, the first year of mass marketing, about 220,000 video disc players were sold in the United States.[66] Further, the Commission has recently acted to limit the protection from interference afforded Class I–A clear channel stations so as to increase spectrum availability for new AM radio service, and has taken action which increases the number of potential FM stations by more than 600. Similar action to increase the number of VHF stations is under consideration.[66]

30. The increase in the number and stability of over the-air stations over the past three decades, and the expected future increase in the number of such stations, combined with the existing development and projected growth of broadcast-like alternatives, suggest that the potential for such national ownership concentration as would tend to monopoly or threaten diversity is far less a matter of concern today than might have been the case in 1953 and earlier years, even if viewed from the same perspective.[67] Relaxation of the rule would, *inter alia*, allow us to mitigate the arbitrary nature of its impact and its negative effect on program development, and relieve a questionable regulatory restraint. Thus, even in the context of the traditional approach to national ownership matters, Commission action regarding our national ownership rules appears in order.

31. This is particularly the case in radio, where both the size of the audience reached and the number of stations owned by groups are an extremely low percentage of the whole; and only three owners have the maximum number of 14 outlets.[68] Table 2 shows the status of commercial station group ownership in radio since the early days of the medium, for groups with three or more stations. The current audience of the top group owners is found in Table 3.[69]

TABLE 2.—COMMERCIAL RADIO STATION GROUP OWNERSHIP 1929–1980 [1]

Year	Total number of AM's	Total number of FM's	Number of group owners	Number of group owned stations	Average number of stations owned/ group	Percent of stations under group ownership
1929	600		12	20	1.7	3.3
1939	764		20	109	2.8	14.3
1951	2,295	558	63	253	4.0	11.5
1955	2,465	537	58	423	7.3	14.0
1970	4,304	2,145	250	1,432	5.7	22.2
1975	4,498	3,010	324	1,900	5.9	25.4
1980	4,572	3,267	360	2,124	5.9	27.1

[1] Source: M.O. Wirth, *The FCC's Multiple Ownership Rules and National Concentration in the Commercial Radio Industry*, (prepared for the National Association of Broadcasters) Table 1 (1981). Except for 1929 and 1939 data, only groups which owned three or more stations generally are included in the group ownership statistics, due to the limitations of available data. 1929 and 1939 figures should be viewed as approximations, due to limitations of source material.

TABLE 3 [1].—TOP 20 COMMERCIAL RADIO STATION GROUP OWNERS AS RANKED BY TOTAL WEEKLY LISTENERS—1983

Rank	Ownership unit	Number of stations owned	Total weekly listeners
1	CBS	14	14,757,200
2	ABC	13	13,561,200
3	Westinghouse	11	9,832,500
4	NBC	8	9,298,400
5	RKO	14	8,482,200
6	Capital Cities	14	8,019,300
7	Metromedia	13	7,772,200
8	Storer/Ml	11	5,747,300
9	Gannett	13	5,592,100
10	Cox	12	4,837,100
11	Infinity	8	4,448,500
12	Doubleday	8	4,329,100
13	Emmis/ Malrite	10	3,978,600
14	Tribune Co.	5	3,954,300
15	Taft	11	3,812,700
16	Inner City	7	3,520,300
17	Malrite	13	3,410,200
18	Plough	12	3,252,200
19	Viacom	8	3,138,900
20	Blair	8	3,137,000
Total		213	

[1] Source: J. H. Duncan, Jr., *American Radio: Spring 1983* A–38, A–40 (1983). Based on Arbitron data. Data includes those individuals 12+ who listened to the station for five minutes or more during a given week. Data includes AM and FM stations. Source counts simulcast AM–FM stations as single stations, and includes only those groups with five or more stations showing up in market rating books (which does not substantially impact above list).

32. In addition to the growth in the number of radio stations, in recent years significant expansion in the number and diversity of national and regional radio networks has broadened the availability of programming for local stations. The number of national networks has grown from the historic four—ABC, CBS, NBC and Mutual—to an estimated 19 at the close of 1981.[70] There are 98 regional networks which also meet diverse needs.[71] However, no networks (or other sources) dominate radio station ownership or the supply of its audio content.[72]

33. While group ownership plays a more significant role in television than radio, with 72 percent of all commercial

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[66] Electronic Industries Association, *Consumer Electronics Annual Review: 1983 Industry Facts and Figures* (1983), at 18, 19; TV Digest, August 15, 1983, at 10–12.

[66] *Clear Channel Broadcasting in the AM Broadcast Band*, 76 F.C.C. 2d 1345 (1980), *recons'd. denied*, 48 R.R. 2d 1077 (1980), *aff'd sub nom. Loyola University v. FCC*, 670 F. 2d 1222 (D.C. Cir. 1982); *Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments*, 53 R.R. 2d 1550 (1983); *Table of Television Channel Allotments*, 83 F.C.C. 2d 51 (1980). The multiplication in the number of AM and FM stations coupled with the recent reduction in protection offered clear channel stations has significantly reduced the once-dominant aural service role of the limited number of clear channel operators.

[67] As to cable television, we have recently held that "while the amount of concentration in the cable television industry is increasing it is still not a concentrated industry" and that "in general, there is no reason to suspect that any trend exists which is decreasing the vigor of competition between cable television operators in the franchising process or that the industry has reached or is likely to reach a point in the near future where concentration in it endangers the diversity of viewpoints received by the public." We therefore declined to adopt rules limiting multiple system ownership. *Amendment of Part 76, Subpart J of the Commission's Rules and Regulations Relative to Diversification of Control of Community Antenna Television Systems*, 52 R.R. 2d 277 (1982).

[68] On observer has remarked that the seven AM/ seven FM limit has become "difficult to defend in light of the 9,000 stations and increasing numbers," and that given this "radio of abundance," revision is appropriate and is "unlikely to do much harm to the diversification principle." H. Geller, *FCC Media Ownership, supra* note 52, at 155.

[69] Although it appears important in the context of this proceeding to describe the nature of group ownership of broadcast stations, the limits on the significance of this information should be noted. Concern with such data tends to overemphasize the impact of group ownership, to the detriment of the significance which should be placed on the number of competing stations/voices found in local markets. See J. D. Levy and F. O. Setzer, *Measurement of Concentration in Home Video Markets*, (FCC Office of Plans and Policy) (December 23, 1983), at 7–8. Based on the competitive nature of the radio marketplace, the Commission has eliminated most content-related radio regulation, an action recently affirmed in most respects by the Court of Appeals for the District of Columbia Circuit. *Office of Communication of the United Church of Christ v. FCC*, 707 F.2d 1413 (D.C. Cir. 1983). See, also, *FCC v. WNCN Listeners Guild*, 450 U.S. 582 (1981).

[70] National Association of Broadcasters Committee on Science and Technology, *New Technologies Affecting Radio and Television Broadcasting* 37 (1981). This development has apparently been facilitated by our 1977 elimination of the "chain broadcasting" prohibition on dual networking in radio discussed at paragraph 5, *supra*. It should be noted that stations can affiliate with more than one network.

[71] *Broadcasting/Cablecasting Yearbook 1982* D–46–D–50 (1982).

[72] *Telecommunications in Transition*, *supra* note 51, at 276, 278–279, 340–342.

television stations group-owned in 1982, there is substantial national ownership diversity. The 571 group-owned commercial television stations operating at the beginning of 1982 were controlled by 169 different entities. Table 4 depicts the state of television group ownership from 1956 to 1982, while Table 5 shows the distribution of group owners by number of stations. Table 6 ranks the 20 largest groups by "net weekly circulation."

TABLE 4 [1].—COMMERCIAL TELEVISION STATION GROUP OWNERSHIP 1956-82

	1956			1966			1972			1982		
	Group owned	Total stations	Percent of total	Group owned	Total stations	Percent of total	Group owned	Total stations	Percent of total	Group owned	Total stations	Percent of total
VHF	175	369	47	336	480	70	382	567	71	418	516	81
UHF	30	87	35	60	112	54	65	161	47	153	272	56
Total	205	456	45	396	592	67	447	668	65	571	788	72

[1] Source: P. W. Cherington, L. V. Hirsch, and R. Brandwein, *Television Station Ownership* 121 (1971); *Broadcasting Yearbook 1972* (1971); *Broadcasting/Cablecasting Yearbook 1982*, *supra* note 14; *Television Factbook*, Vols. 42, 50 and 51 (Stations Volumes 1972, 1981 and 1982). Totals found in Tables 4 through 7 and the associated text may vary due to the use of several sources and varying methodologies for data compilation. Such data tends to overemphasize the significance of the increase in group ownership, to the detriment of the attention which should be given the increase in the total number of voices and the number of competing stations/voices found in local markets.

TABLE 5.—NUMBER OF COMMERCIAL TELEVISION STATION OWNERSHIP GROUPS 1972, 1982, AND 1983 [1]

Number of TV stations owned	1972 groups	1982 groups	1983 groups
2	66	62	62
3	34	44	46
4	30	28	29
5	30	25	25
6	5	12	15
7	1	8	9
Total group ownership	146	169	174

[1] Ownership defined as majority shareholder or by a principal of the group being president of the station licensee. Source: *Broadcasting Yearbook 1972*, *supra* note 76; *Broadcasting/Cablecasting Yearbook 1982*, *supra* note 74; American Research Bureau, Inc., *ARB 1972 Television Market Analysis* (1972); The Arbitron Company, *1981-1982 Television Markets and Rankings Guide* (1981); *Television Factbook*, Vols. 42, 50, and 51, *supra* note 76; H. H. Howard, *Group and Cross-Media Ownership of Television Stations in 1983*, at 6 (prepared for the National Association of Broadcasters) (1983), citing *Television Factbook*, Vol. 51, *supra* note 76, and other sources noted at 4.

TABLE 6.—TOP 20 COMMERCIAL TELEVISION STATION GROUP OWNERS AS RANKED BY NET WEEKLY CIRCULATION 1980, 1982, AND 1983 [1]

Group owner	Rank			Net weekly circulation (households)	Number of stations
	1980	1982	1983		
CBS	2	2	1	15,722,300	5
ABC	1	1	2	15,695,800	5
Metromedia	3	4	3	15,425,000	7
NBC	4	3	4	14,814,500	5
Tribune Co.	5	6	5	10,124,400	3
Westinghouse	7	7	6	8,669,000	5
RKO General	6	5	7	8,068,400	3
Storer	8	8	8	7,313,000	7
Field Communications	9	9	9	7,257,500	5
Gaylord	10	11	10	6,120,000	7
Cox	12	13	11	6,047,000	6
Capital Cities	11	10	12	5,973,900	6
Taft	13	12	13	5,947,000	7
Hearst	14	25	14	4,453,500	5
Scripps-Howard	15	14	15	4,249,000	6
Post-Newsweek	16	15	16	4,011,300	4
Times-Mirror	18	17	17	3,933,000	7
Gannett	17	16	18	3,902,000	7
Corinthian	19	19	19	3,756,500	6
Golden West	21	18	20	3,467,000	2

[1] Source: H. H. Howard, *Television Station Group Ownership and Cross-media Ownership—1982* 11 (prepared for the National Association of Broadcasters) (1982). Data compiled from *Television Factbook No. 52*, *supra* note 76, and other sources, as cited at 3, 10. H. H. Howard, *Group and Cross-Media Ownership of Television Stations in 1983*, *supra* note 77, at 14–15. Although Howard indicates that data on the number of stations owned by each group is current as of January 1, 1983, the net weekly circulation statistics, which he compiled from Television Factbook No. 51, *supra* note 76, are based on 1981 Arbitron data. Similarly, the net weekly circulation rankings for 1982 and 1980 appear to have been drawn from Television Factbook reports which in turn were based on earlier years' Arbitron data. Net weekly circulation indicates the estimated total number of different households reached at least once each week by a given station.

34. The estimated total number of television households in the United States at the beginning of 1983 was 83.3 million.[72] Based on the available circulation data, no group owner reached as much as 20 percent of these television households. Only four owners—CBS, ABC, Metromedia, and NBC—had stations with a net weekly circulation of more than 15 percent of all television households.[74] Two groups reached between 10 and 15 percent of television households, nine between 5 and 10 percent, 21 between 2.5 and 5 percent, and 43 between one and two and one-half percent. An additional 95 groups reached less than one percent. Seventy-two of these smaller groups had a net weekly circulation of fewer than 500,000 households, while 35 reached fewer than 250,000 households weekly.[75]

35. Table 7[76] lists the owners of six and seven station television groups:

TABLE 7.—LARGEST COMMERCIAL TELEVISION GROUP OWNERS BY NUMBER OF STATIONS—1983

Seven stations	Six stations
Behakel	Capital Cities
Gannett	Corinthian
Gaylord	Cowles
Metromedia	Cox
Park Broadcasting	Forward
Spanish International	Harriscope
Storer	Lee Enterprises
Taft	Liberty
Times-Mirror	Meredith
	Multimedia
	Scripps-Howard
	Standard Communications
	Trinity
	Westinghouse
	Wometco

36. As Tables 6 and 7 indicate, those firms with the largest net weekly circulation are not necessarily those with the greatest number of stations. Only 11 of the top 20 owners in terms of net weekly circulation have six or seven stations. Park Broadcasting holds seven stations, but ranks 35th in net weekly circulation, with 2,085,800 households.[77] This is less than one-quarter the net weekly circulation of the three stations owned by fifth-ranked Tribune Co. Spanish International, controlling seven stations, ranks 83rd in net weekly circulation, with 752,600 households. This is less than eight percent of Tribune's three station net weekly circulation. The effect of population disparities can also be depicted by noting that one station in the New York City market can potentially reach more people than one station in each of the seven markets between 14 and 20.[78] To equal the potential reach of a New York City station, one would need to own one station in each of the bottom 86 markets. While an owner of stations in each of the top seven markets can reach 27.5 percent of the U.S. population, stations in each of the bottom seven markets collectively reach less than one-half of one percent of the population. This data makes clear the arbitrary nature of the "seven station" rule.

III. Discussion and Proposals

37. As we have earlier discussed, the Commission has not over the years been unaware of the inequities inherent in utilization of an absolute numerical limitation on national station ownership. It took note of these criticisms at the

[72] H. H. Howard, *Group and Cross-Media Ownership of Television Stations in 1983*, *supra* note 77, at 7, citing A. C. Nielsen Co. data.

[74] However, the three networks actually reach more than 95 percent of all households through their affiliates and owned-and-operated ("O&O") stations. H. H. Howard, *Television Station Group Ownership*, *supra* note 78.

[75] H. H. Howard, *Group and Cross-Media Ownership of Television Stations in 1983*, *supra* note 77, at 7–8.

[76] *Id.*, at 19–22.

[77] In mid-1977, Park Broadcasting became the first group owner to hold the permissible limit of seven stations in each service. *Who Owns*, *supra* note 5, citing Broadcasting, June 27, 1977, at 24.

[78] Arbitron ranks markets according to population. The New York market encompasses 8.26 percent of the nation's population. Market number 14 has 1.3 percent of the total population. Markets 14 through 20 hold 8.32 percent of the total population.

time the rule was adopted, conducted internal studies of the matter several years later, and studied the issue again when it considered the recommendations of the "Barrow Report".[79] Rather, it appears that the "seven station rule" was adopted and survived subsequent review because it seemed to the Commission to be the best option available at the time, given the nature of the Commission's analysis and policy objectives and the level of industry development. The growth in the broadcasting industry over the past three decades, as well as the development of other media program sources, suggest that a substantial revision of our national ownership rules is in order. In light of these changes the continued application of a regulation as arbitrary in nature as the "seven station" rule is increasingly suspect. The growth of the industry may have simply rendered the rule obsolete. Further support for the modification of the present restrictions comes from the possibility of programming expansion which may result. Our new analytic perspective on the issue also suggests that change may be appropriate.

38. One concern which has been generated by the inequities inherent in the rule's application is that in the course of furthering ownership diversity, the "seven station rule" may actually limit the "diversification of program and service viewpoints" that it was intended to advance. This is because the rule may in some instances preclude the possibility of realizing the benefits inherent in program production or acquisition for large audiences.[80] Ownership of a sufficient number of stations to generate a base for quality program production might well facilitate development of a new over-the-air television network in the future. It is likely in any case to lead to expanded production of programming, including non-entertainment programming, for national, regional, and group presentation to the viewing and listening publics. The access to a larger potential audience which a group owner enjoys reduces the level of difficulty involved in getting initial distribution of an unproven first-run show or series, cuts marketing expenses, and assists in generating revenues that could be used to finance even more attractive, higher quality programming. Cooperative production or distribution by larger groups is another possible vehicle by which enhanced programming options can be provided.[81]

39. By maintaining regulations which tend to interfere with development of additional programming, the Commission may inadvertently be strengthening the significant role of the three major networks in national program distribution. The Commission has recognized the historic role of owned-and-opreated stations in development of the network system.[82] It appears somewhat anomalous to prevent potential competitors from realizing the similar advantages which might be obtained through establishment of larger groups, so long as diversity is not harmed. And, indeed, from the perspective of programming availability, diversity may in fact be enhanced by the growth of these groups. In this regard, we note that an integrated firm can realize efficiencies that are not obtainable when programmers merely contract with stations for distribution.[83] [84]

40. As we have observed at para. 11, *supra*, the stated purpose of the "seven station rule" is "to promote diversification of ownership in order to maximize diversification of program and service viewpoints as well as to prevent any undue economic concentration contrary to the public interest."[85] Diversification of ownership, then, has been viewed, as the vehicle by which to assure diversity in sources of information and foster economic competition. Of these objectives, the Commission has in its various ownership policies placed "principal reliance on ensuring diversity in sources of information because of the part such diversity serves in reaching First Amendment goals."[86] Even diversification must give way, however, if when all factors are considered, the "public interest harms outweigh the potential gains that would follow" if the diversification-maximizing action were taken. A key factor to be considered in this regard is whether the action maximizing diversification would hinder "the best practicable service to the American public."[87] Thus, proper review of national ownership policy involves separate consideration of the treatment of First Amendment and economic policy issues, as well as an examination and balancing of competing public interest concerns.

41. The element of the Commission's diversification policy regarding economic concentration derives from antitrust policy. The Commission has historically considered such matters under the public interest standard without regard to whether an actual antitrust violation is involved.[88] Antitrust law as such is, however, under the jurisdiction of the Department of

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[79] See paras. 10, 19 and 21, *supra*.

[80] This was in fact the problem Senator Bricker was attempting to address through his 1956 proposal substituting a 25 percent population coverage limit for the seven station restriction on television ownership. See paragraph 18, *supra*.

[81] Although the prospect of a new fulltime over-the-air television network has brightened in recent years, the creation of such a network does not appear imminent. R.E. Park, *New Television Networks: An Update*, in *New Television Networks; Entry, Jurisdiction, Ownership and Regulation*, *supra* note 52, at 177–180. However, changes in the rules may facilitate the development of part-time "networks" such as "Operation Prime Time" and "Independent Network News." Both Metromedia and a consortium of group owners including Tribune Broadcasting, Taft Broadcasting, Gaylord Broadcasting and Chris Craft Industries are presently attempting to established prime time movie "networks" of this sort. Broadcasting, May 16, 1983, at 83; Wall Street Journal, July 27, 1983, at 8. A sufficient economic base and substantial potential audience coverage appear to be key factors governing such endeavors. See, for example, Variety, March 16, 1983, at 43; L.A., Powe, Jr., *supra* note 5, at 89–92.

[82] See paragraph 15, *supra*.

[83] See paragraph 38, *supra*. While diversification of ownership may further statutory and constitutional policies, under the public interest standard the Commission is delegated the authority to weigh competing policies, and it is not required that such diversification "be given controlling weight in all circumstances." *FCC v. National Citizens Committee for Broadcasting*, 436 U.S. 775, 810 (1978). As to programming, see para. 58, *infra*.

[84] See also, for example, A. Parkman, *An Economic Analysis of the FCC's Multiple Ownership Rules*, 31 Admin. L. Rev. 205, 218–221 (1979); R.G. Noll, *Television and Competition*, in Federal Trade Commission Bureau of Competition, *Proceedings of the Symposium on Media Concentration* 243, 249–251 (Vol. 1, 1979); G.G. Trask, *The Palace of Humbug—A Study of FCC Policies Relating to Group Ownership of Television Stations*, 22 Fed. Comm. B.J. 185, 207–209 (1968).

[85] *Amendment of §§ 3.35, 3.240 and 3.636 of the Rules and Regulations Relating to the Multiple Ownership of AM, FM and Television Broadcast Stations*, *supra* note 20, at 292–293.

[86] *Amendment of § 73.636(a) of the Commission's Rules (Multiple Ownership of Television Stations)*, *supra* note 49, at 585–586. See, also, *Multiple Ownership*, 50 F.C.C. 2d 1046, 1079 (1975) (*Second Report and Order* in Docket 18110). "[T]he 'public interest' standard necessarily invites reference to First Amendment principles," *Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. 94, 122 (1973), and , in particular, to the First Amendment goal of achieving "the widest possible dissemination of information from diverse and antagonistic sources." *Associated Press v. United States*, 326 U.S. at 20." Cited in *FCC v. National Citizens Committee for Broadcasting*, *supra* note 89, at 795.

[87] *FCC v. National Citizens Committee for Broadcasting*, *supra* note 89, at 804–805.

[88] See, for example, *National Broadcasting Co.*, v. *United States*, *supra* note 2, at 223; *Mansfield Journal Co.* v. *FCC*, 180 F.2d 28, 33–34 (D.C. Cir. 1950). The Supreme Court has observed, in dictum, that in a given licensing case antitrust considerations might keep the public interest standard from being met, "as when the publisher of the sole newspaper in an area applies for a license which, if granted, would give him a monopoly of that area's major media of mass communications." *United States* v. *Radio Corporation of America*, *supra* note 2, at 351–352, cited in *FCC* v. *National Citizens Committee for Broadcasting*, *supra* note 89, at 795.

Justice ("DOJ") and the Federal Trade Commission ("FTC") and involves significantly different considerations than might be at issue from a First Amendment standpoint. For example, in a situation involving advertiser-support media, the antitrust concern may in part be related to preserving competition in advertising, while the diversity issue involves the sources of information available to the consumer.[89] Accommodating the economic aspect of the Commission's diversity policy to actual marketplace conditions may require complex case-by-case analyses regarding the nature of the relevant market, which would significantly strain the Commission's resources and expertise. Further, such activity is duplicative of that regularly performed by DOJ and FTC, the expert agencies in this area. Thus, at least as to national ownership policy it may be appropriate to defer to DOJ and FTC on antitrust concerns. Such action could range from establishment of a formal liaison relationship on these matters, perhaps conditioning any action in proceedings involving antitrust issues to FTC or DOJ review, to a policy simply limiting the Commission's antitrust considerations in this area to those required by Section 313 of the Commissions Act. We note that private parties threatened by antitrust violations may sue for injunctive relief under Section 16 of the Clayton Act, and those whose business or property is injured as a result of an antitrust violation may sue for treble damages under Section 4 of the Clayton Act. Court costs and attorney's fees are recoverable, as is simple interest on the amount of actual damages in Section 4 actions. Thus, those individuals and institutions most directly affected have a private right of action available.[90] We solicit comment on this proposal.[91]

42. As an alternative to this action, the Commission may choose to pursue development of a methodology to assess economic concentration in the market(s) found relevant to national broadcast ownership. The Commission has initiated a proceeding which, *inter alia*, seeks a method of assessing concentration that could facilitate uniform treatment of ownership issues in all FCC-regulated media services.[92] This effort may result in development of an index, or indices, which would likely be utilized in general policy deliberations and which would be utilized, for regulatory purposes, in determining whether particular transaction(s) might lead to unacceptable levels of concentration. We hereby incorporate by reference herein the comments submitted in that proceeding, CT Docket No. 82-434, to the degree that they treat the concentration issue. Parties who have submitted comments on indexing in CT Docket No. 82-434 may wish to respond to this *Notice* with particular attention to concerns regarding national broadcast ownership.[93]

43. Consideration of economic concentration requires defining both a product market and a geographic market. The basic test for inclusion within a product market is the interchangability or substitutability of products from the viewpoint of potential buyers. A geographic market "usually is the area in which a firm sells in active and reasonably equal competition with other firms,"[94] and may be national, regional or local in character. In this regard, as to economic concentration the traditional Commission approach to national ownership requires that the relevant market be a national broadcast market for viewers and listeners (who are the products in an advertiser-supported system).

44. Accepting the conception of the national market, it appears that the market is relatively unconcentrated. One frequently-used measure of concentration is the Herfindahl-Hirschman Index ("HHI") presently utilized by the Justice Department,[95] while a related measure is the market share of the top firms in the defined market. Based on revenues, the Commission has calculated the market shares of the top three, six and 12 group owners of television and radio station, as well as the HHI:

TABLE 8[1]

Group owners	Concentration of broadcast revenues (percent)	HHI
Television:		
Top 3	14.2	229
Top 6	23.0	
Top 12	34.9	
Radio:		
Top 3	6.6	77
Top 6	10.9	
Top 12	16.3	

[1] Financial data for each group owner was compiled using each station's 1980 Financial Form 324. Total revenues from *Television Broadcast Financial Data—1980*, August 10, 1981, and *1980 AM/FM Financial Data*, March 15, 1982, were used for indexing purposes. The three-firm concentration ratio was computed, rather than a four-firm ratio, due to certain concerns related to data confidentiality. Due to resource limitations, the exact revenue market share of every owner could not be computed. Shares were calculated, as indicated, for the top twelve group owners, and the share of the thirteenth owner in each service was identified. No owner would have a greater share. The potentially maximize the HHI, it was assumed that television station owners thirteen through fifty-one and radio station owners thirteen through one hundred thirty-nine each received the same share of total revenues. In both cases, this computation virtually exhausted the market share remaining after the top twelve owners' shares were calculated. This data was used to compute the HHI. Thus, the actual HHI in each case is somewhat less than the figure shown above. Net weekly circulation and "cume" (listeners) might also be utilized as the basis of this calculation. However, since net weekly circulation and cume reflect only limited viewer/listener attention to the station involved, one might choose instead to use audience share. One could, for example, use prime time audience share for television and drive time share for radio. The difficulty which inheres, of course, is that audience share is an extremely volatile measure. However, there are similar problems, albeit not as great, in the use of net weekly circulation, revenues, or any other standard subject to constant adjustment. Market share volatility highlights the importance of the potential competition in a market, and argues for the use of "reach" as the basis for an index. DOJ generally considers markets with an HHI of less than 1000 to be unconcentrated, and is unlikely to challenge mergers falling in that area. In markets with an HHI of between 1000 and 1800, mergers producing an increase in the HHI of less than 100 points are unlikely to be challenged. Markets with an HHI above 1800 are considered to be highly concentrated, and in these situations DOJ is likely to challenge mergers which increase the HHI by more than 50 points. *U.S. Department of Justice Merger Guidelines*, *supra* note 99, at 19–20. From this perspective, the traditional broadcast industry is extremely unconcentrated.

45. The low concentration ratios shown in Table 8 compare to such four-firm sales ratios as 90 in cereal breakfast foods, 85 in refrigerators and 47 in farm machinery and in motors. Nonetheless, the data in Table 8 may overestimate the degree of concentration due to the absence of other relevant media in the calculation. It may be, for example, that the relevant

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[89] See, in a slightly different context, *Multiple Ownership*, *supra* note 92, at 1079. DOJ is responsible for enforcement of the Sherman Act, and shares responsibility with FTC for enforcement of the Clayton Act. Under the applicable case law, FTC can take action against practices which violate the Sherman Act under Section 5 of the Federal Trade Commission Act, for which it has sole enforcement authority. Von Kalinowski, *Antitrust Laws and Trade Regulation* (Desk Ed. 1982), at § 1.06.

[90] Von Kalinowski, *Antitrust Laws and Trade Regulation*, *supra* note 95. During the twelve months ended June 30, 1982, a total of 1,148 antitrust cases were filed in the U.S. district courts. This included 29 U.S. civil cases, 92 U.S. criminal cases, and 1,027 private actions. *Annual Report of the Director of the Administrative Office of the United States Courts 1982* [1983], at 105–107.

[91] In this regard, we specifically request comment as to whether anything more than the consideration of these issues in the rulemaking context may be required by the holdings in such cases as *Northern Natural Gas Co.* v. *Federal Power Commission*, 399 F.2d 953, 958–961 (D.C. Cir. 1968) and *United States* v. *FCC*, 652 F.2d 72, 81–82 (D.C. Cir. 1980), viewed in the light of the Supreme Court's decision in *FCC* v. *WNCN Listeners Guild*, *supra* note 70. See, also, notes 2 and 94, *supra*.

[92] *Amendment of Part 76, Subpart J, § 76.501 of the Commission's Rules and Regulations Relative to Elimination of the Prohibition on Common Ownership of Cable Television Systems and National Television Networks*, 47 FR 35212 (September 7, 1982) (hereinafter "*Amendment of Part 76*").

[93] In taking this action, we in no way express any view as to the outcome of that proceeding.

[94] M. Botein, *Jurisdictional and Antitrust Considerations in the Regulation of the New Communications Technologies*, 25 N.Y.L.S.L. Rev. 813, 882 (1981) (hereinafter "*Jurisdictional and Antitrust Considerations*").

[95] *U.S. Department of Justice Merger Guidelines*, issued June 14, 1982, at 17. See F.M. Scherer, *Industrial Market Structure and Economic Performance* 58–64 (2d ed. 1980), for a discussion of the Herfindahl index and other measures of concentration. See, also, K. Gordon, J.D. Levy, and R.S. Preece, *FCC Policy on Cable Ownership* (FCC Office of Plans and Policy Staff Report) (November, 1981), at 88–90.

video market is a national market for consumer-oriented video output, in which television stations, cable systems, MDS, STV, LPTV, SMATV and DBS all compete. This market may also include video cassettes and video discs. The market may be seen as one for electronic media output, and include radio. In some cases, the market may be conceptualized as a national market for information output, and include the print media and computer data base suppliers. Carried a step further, the market may be viewed as one for information/entertainment, and include movies, records and tapes, if not theater, live music and similar events.[96]

46. As we have indicated, there is substantial debate as to the nature of the relevant market, focusing in significant part on the degree to which various products may correctly be considered substitutes available at competitive prices. Further, the Commission acknowledges that the market may be changing so quickly that any analysis will be valid only at a particular, and brief, point in time. Additionally, it has been suggested that such an analysis fails to take a sufficiently broad view of the nature of competitive markets relevant to antitrust considerations for it to be of utility.[97] The Commission recognizes that given the complexity of the analytic task, it may well be that for the purpose of our specific consideration of the "seven station rule" it will be necessary to resolve this proceeding based on the limited question of whether the degree of competition in the television and/or radio industries is sufficient, and the potential anticompetitive impact sufficiently remote, to support elimination or modification of the rule.[98]

47. We note, in this regard, that the staff of the Commission's Office of Plans and Policy ("OPP") takes a somewhat different approach to the nature of the market, arguing that the economic market, whether for viewers in an advertiser-supported system, or for distribution of programming by outlets in a subscriber-supported system, is essentially local in nature. OPP's analysis is that the concerns of participants in a given local market are the competition and diversity of voices in that market, and not the transactions and programming in which group owners in that market are involved in other locales. The OPP staff thus concludes that "[i]f every local market were sufficiently competitive, then no national or regional ownership rules would be necessary or desirable."[99] The OPP staff has, however, also estimated the concentration in an assumed national market, finding as a general matter, for example, that a national video market comprised of conventional broadcast television, cable, STV and MDS is, from a video distribution standpoint, "extraordinarily unconcentrated," with a four-firm concentration ratio of 8.7 percent and an HHI of 35.5.[100] Using net weekly circulation and basic subscribers as measures, OPP found that if affiliates are attributed to their networks, the four-firm concentration ratio is 61 percent and the HHI is 1112, within the range in which DOJ might scrutinize a proposed merger.[101] However, OPP made clear that it does not believe such attribution is appropriate.[102]

48. A question which arises is the degree to which proper consideration of a national video output market requires that attention be given to the role of national program distributors, such as the three commercial networks and the cable networks and program syndicators, through their affiliated stations and systems. We solicit comment on the significance of these relationships, if any, to our review of the seven station rule. Another matter to be considered is the impact, if any, of relaxation of the seven station rule upon small businesses, and upon station ownership by minorities and women. It appears that such changes would facilitate the ability of new entrants to obtain funding from investors who desire equity interests in the stations (which are generally treated as though they were controlling interests under the rule). Additionally, modification of the rule would allow small business owners, including minorities and women, to put together larger groups which would be able to more easily produce desired special interest programming. It is difficult to ascertain the impact, if any, which such a freeing of the market might have on station prices, if, for example, larger existing multiple owners are more active in purchasing stations in certain market segments (for example, the "top twenty" or "top fifty"). While it appears that, when all factors are considered, the relaxation of the rule will prove beneficial to minorities, women, and small broadcasters, we request comment on this issue.

49. The Commission solicits comment on the issues raised above, and on such other and related matters as parties believe may be relevant to our consideration of the elimination or modification of the "seven station rule." We note that the perspective from which the Commission approaches this matter is our concern for the enhancement of consumer welfare in the public interest, and it is in that context that these issues should be addressed. In commenting on these issues, parties are requested to address not only the matter of market definitions, but also the measures of market share and concentration levels

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[96] As to concentration ratios, see Scherer, *Industrial Market Structure and Economic Performance*, *Supra* note 90, at 62, citing 1972 U.S. Census data. In CT Docket No. 82-434, the use of net weekly circulation for free services and subscribers for pay services as measures of concentration, use of the HHI as a test of the level of concentration, and a possible downward adjustment of acceptable concentration to take viewpoint diversity concerns into account have been suggested. The House Telecommunications Subcommittee staff discusses a "video market" in which all video services potentially "compete as relatively substitutable options available to the consumer." However, the Subcommittee staff believes there is presently low cross-elasticity between submarkets, and that the "video market is as yet an emerging market." *Telecommunications in Transition*, *supra* note 51, at 273–274, 279–280, 360–361, 374–376. As to radio, the Subcommittee staff identifies an "audio market" comprised of radio programming, records and tapes. *Id.*, at 273. The Subcommittee staff notes that some observers suggest the market parameters include all mass media as components of a large information market. Professor Michael Botein of New York Law School argues that "[a]t the very least, the product market presumably would include all methods for delivering real-time video programming to a viewer." *Jurisdictional and Antitrust Considerations*, *supra* note 90, at 861. "Real-time" programming means "programs which are transmitted without any modification in the rate of data transfer," and might include broadcast television, cable, STV, MDS, DBS, SMATV, and low power. The FCC Office of Plans and Policy ("OPP") and Professor Botein suggest that it may be appropriate to distinguish between pay and advertiser-supported programming. *Id.*, at 861–862; *FCC Policy on Cable Ownership*, *supra* note 90, at 65–68. See also, the record in CT Docket No. 82-434, incorporated herein by reference.

[97] See, for example, DOJ Reply Comments in CT Docket No. 82-434, at 10–11. We draw no conclusions on DOJ's views at this time.

[98] A key concern, which parties are requested to address with particularity, is the utility of various measures of concentration as regulatory devices in the processing of the thousands of applications for construction of new stations, transfers and assignments presently disposed of each year in the broadcast services.

[99] J.D. Levy and F.O. Setzer, *Measurement of Concentration in Home Video Markets*, *supra* note 70, at 7–8. The Commission is inserting the OPP staff report in the record of this proceeding, and requests comment on the report insofar as it is relevant to consideration of the "seven station rule."

[100] *Id.*, at 80–99. The HHI initially computed (29.9) has been corrected. The market analysis is based on "household access units", a measure of availability of a video distribution system to a given household.

[101] *Id.*, at 90–92. The HHI initially computed (1142) has been corrected.

[102] OPP noted that a substantial proportion of affiliate programming is not network-provided, and affiliates may refuse to clear network programming if they desire. Additionally, affiliates are increasingly turning to programming from other sources. Finally, under Commission regulations, the licensee retains ultimate programming responsibility. *Id.*, at 75–78.

which may be relevant to our deliberations.

50. The Commission seeks comment on the appropriate use of such measures of market share as revenues, net weekly circulation, subscribers, ratings, and availability ("reach" or "homes passed"), and on the use of indices of concentration including but not limited to the HHI and the four-firm concentration ratio. We urge that these comments be targeted to the matter before us, the modification of the "seven station rule," as to both television and radio.

51. As we have noted at para. 40, *supra,* the Commission's principal concern in implementation of its policy of diversification of ownership has not been the enhancement of economic competition but, rather, the advancement of diversity in sources of information in order to further First Amendment values. Unfortunately, the difficulty of analyzing economic concentration fades in comparison to the problems involved in dealing with diversity of information. As the OPP cable study comments, the "antitrust laws are not meant to promote the exercise of First Amendment rights."[103] Thus, Dr. Benjamin M. Compaine of Harvard University's Program on Information Resources Policy has stated, "once we abandon the antitrust standard for concentration, there is no acceptable guideline for what constitutes too few voices."[104] Consequently, as Dr. Michael Wirth of Denver University remarks, "[t]he selection of any numeric national ownership standard is necessarily arbitrary."[105]

52. In examining this issue, it is important first to clarify the nature of the goal sought to be achieved. A major purpose of the First Amendment is the furthering of political discourse so that debate on public issues may be "uninhibited, robust, and wide-open."[106] National ownership rules, as the Commission has previously observed, cannot directly further the diversity of voices in a given community, because they do not govern such matters.[107] Thus, the leading concern of the Commission's national ownership rules has been with the furtherance of the First Amendment values in national political discourse,[108] and with the role of group owners as "gatekeepers" governing the flow of that discourse.[109]

53. If the market is thus, for diversity purposes, that for national issue-oriented information output, it would appear to include, at the least, all sources of real-time programming, including radio, which provide such information, as well as daily newspapers covering national issues.[110] In some circumstances, the 10,000 magazines published in this country should also be included,[111] as should available information data base systems. It would appear that, when considering diversity of viewpoint, the appropriate concern is with information availability, not with market share.

54. There are, however, a number of alternative perspectives from which to approach this matter. As we have indicated in para. 52, consideration of the First Amendment values inherent in national political discourse carriers a concern as to the number of "gatekeepers" involved. Thus, it may be appropriate to analyze the "gatekeeping" function of group owners in conventional broadcasting and other sources of real-time programming, as well as newspapers and magazines.[112] Considerations regarding the role of group owners as "gatekeepers" are complicated by the fact that while the owner can, in a sense, be seen as a "national" firm, the information with which we are concerned, even though it deals with national issues, is being delivered locally. Each station and newspaper, for example, has its own staff. Locally-originated newscasts and print stories deal with national issues, and local news editors have the authority to select and edit information being distributed by national sources. There is no reason to presume in every case that these local editors undertake such tasks in lockstep precision under the control of their group owners. In fact, a recent study by the Ethics Committee of the American Society of Newspapers Editors ("ASNE") indicates that group editors enjoy substantial editorial independence.[113] Therefore, absent evidence to the contrary, it may well be that these outlets of national information should be seen as quasi-independent, if not truly independent, information sources. Comment on this approach is solicited. The Commission specifically requests comment as to any evidence that either local or national news which is locally originated by group-owned stations represents the group's monolithic viewpoint."

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[103] *FCC Policy on Cable Ownership, supra* note 99, at 81. See also D. I. Baker, *Uses and Abuses of Antitrust Principles in Dealing with Media Concentration Questions,* in Federal Trade Commission Bureau of Competition, *Proceedings of the Symposium on Media Concentration, supra* note 90, at 649 (Vol. II).

[104] B. M. Compaine, *Conclusion: How Few Is Too Few?* in *Who Owns, supra* note 5, at 487. A number of the commenters in CT Docket No. 82-434 express similar views. For example, CBS, Inc. states, "Measurements which seek to go beyond economic factors and attempt to measure the appropriate degree of political or ideological concentration seem almost impossible to create." *Comments of CBS Inc.,* at 32. Time Inc. states that it "is not aware of any developed learning that explains how to utilize a measurement derived from an index intended to assess the market power of industrial organizations as a means of analyzing diversity." Time suggests that questions of diversity "have a complexity and inevitable subjectiveness not amenable to analysis by numerical means." *Comments of Time Inc.,* at 30. Baseman and Owen state that "[t]here is obviously no single desirable "magic" number of independent editorial voices." K. C. Baseman and B. M. Owen, *A Framework For Economic Analysis of Electronic Media Concentration Issues,* prepared for submission by the National Cable Television Association in Docket No. 82-434, December, 1982, at 48. We draw no conclusions herein as to the action to be taken in CT Docket No. 82-434, citing these statements only to indicate some of the viewpoints held on this issue.

[105] *The FCC's Multiple Ownership Rules and National Concentration in the Commercial Radio Industry, supra* note 71, at 33. Diversity, the Court of Appeals for the D.C. Circuit has stated, is "an elusive concept entitling [the Commission] to rely on its own judgement." *National Association for the Advancement of Colored People v. FCC, supra* note 49, at 1001.

[106] *Buckley v. Valeo,* 424 U.S. 1, 14 (1976), citing *New York Times Co. v. Sullivan,* 376 U.S. 254, 270 (1964). See, also, *National Association of Theatre Owners v. FCC,* 420 F. 2d 194, 207 (D.C. Cir. 1969), *cert. denied,* 397 U.S. 922 (1970).

[107] *Amendment of § 73.636(a) of the Commission's Rules (Multiple Ownership of Television Stations), supra* note 49, 75 F.C.C. 2d at 591.

[108] *Id.,* at 593.

[109] J. D. Levy and F. O. Setzer, *Measurement of Concentration in Home Video Markets, supra* note 70, at 5-6. We observe that analyzing today's diversified group ownership in this manner takes us somewhat beyond the concerns of many of the authors of our communications laws, whose fears were that a few individuals or "a single selfish group" might place "American thought and American politics" at their mercy through monopoly control of broadcast facilities. See, for example, *Print and Electronic Media, supra* note 51, citing the remarks of Rep. Johnson of Texas, 67 Cong. Rec. 5557, 5558 (1926).

[110] National television news programs are reported to have had a significant impact on afternoon newspapers in some markets. The various media are said to compete for the time the consumer has to receive the information he or she desires. That is, they are substitutes in the provision of such information. W. H. Read, *The First Amendment Meets The Second Revolution* (Harvard University Program on Information Resources Policy) (1981), at 10, citing *Note on the Newspaper Industry,* Case No. 4-376-082 (Harvard Graduate School of Business Administration) (1975). See, also, *Multiple Ownership, supra* note 92.

[111] J. D. Levy and F. O. Setzer, *Measurement of Concentration in Home Video Markets, supra* note 70, 93-94.

[112] In television and radio, the precentage of group-owned stations has remained relatively constant since the 1960's. During the same period, the total number of stations, the number of independent stations, and the number of group-owned stations have all increased. As the total number of stations increased, so has the dispersion in the sources of information available throughout the nation.

[113] Ethics Committee of the American Society of Newspaper Editors, *News and Editorial Independence: A Survey of Group and Independent Editors* 12-25 (April, 1980).

55. A somewhat related approach to the issue is suggested by the OPP staff, which argues that the relevant context for diversity considerations is the local market, because "[t]he range of choices available to viewers depends on the number of outlets available at the local level." Multiple ownership of outlets in separate markets does not limit that range. The OPP staff observes that as the consumers of ideas must get information through local outlets, so the speakers (producers of ideas) must have those ideas delivered through local sources. Information on national issues must be distributed locally and threrfore, OPP contents, "the national program delivery market is nothing more than a collection of local markets." Thus, OPP argues, as it does with regard to economic concentration, that if all local markets were competitive, there would be no need for national or regional ownership rules. "Only within the set of non-competitive local markets might non-local ownership rules be appropriate." [114]

56. The OPP staff states that there is no precise boundary between "competitive" and "noncompetitive" markets. It has, however, presented illustrative calculations showing the consequences of different assumptions regarding the number of independent voices within a local market that are needed for it to be defined as "competitive." Under this approach, national ownership regulations to limit multiple ownership in "noncompetitive" markets might be considered, but the OPP staff states that in doing so the Commission should take account of the costs such regulations impose in limiting combinations which increase efficiency. We request comment on the analysis by OPP.

57. The Commission notes that while the discussion of diversity of viewpoints has thus far focused on national political discourse, the Supreme Court has repeatedly held that entertainment is entitled to First Amendment protection.[115] If entertainment is considered as part of the information as to which the Commission actively has diversity concerns, the market likely should be viewed to include information transmission from video cassettes and discs, records and tapes, and, perhaps, movies, theater and related events. The Commission solicits comment on this point, with attention to the implications of *FCC* v. *WNCN Listeners Guild* [116] in these considerations.

58. An issue which is fundamental to the Commission's consideration of diversity is the relationship between diversity of ownership and diversity of viewpoint; that is, "whether maximum dispersion of *ownership* of media outlets is necessary for the widest dissemination of information from diverse *source*." [117] The First Amendment, as Alexander Meiklejohn has stated, "is not the guardian of unrelated talkativeness. It does not require that on every occasion, every citizen shall take part in public debate. Nor can it even give assurance that everyone shall have the opportunity to do so . . . What is essential is not that everyone shall speak, but that everything worth saying shall be said." [118] While all rules limiting ownership tend to increase the total number of owners, "such rules do not necessarily guarantee greater diversity of program content or advance the welfare of individual viewers * * *. Whether that occurs depends, *inter alia*, on the costs which the rules impose * * *." [119] We have observed, at paras. 37–39, *supra*, that in the instant matter these costs may include a reduction in the diversity of programming which would otherwise be available due to the inability of station owners to benefit from the program production and distribution opportunities which the efficiencies of group ownership facilitate. As we have noted, a key factor which must be considered is whether the diversification-maximizing action would hinder "the best practicable service to the American public," or otherwise be outweighed by other public interest considerations. It is possible that if the Commission, modifies its rules to allow the potential efficiencies inherent in group ownership to be realized, the resources devoted to program development will provide more original programming than is presently available. There may be greater diversity of views in the programming made available by strong group owners than in the repetitive fare which may otherwise be available.[120] Comment on this point is requested.

59. A final aspect of our consideration of diversity of information sources is examination of the role of the three major networks and other nationwide information delivery systems. Each of the networks, with its affiliates, can reach virtually all of the 83 million television households in the nation. Network programming remains a dominant factor in prime time viewing patterns. Allowing the networks to purchase additional stations might well increase the difficulty which other broadcast operators would have in assembling groups and informal "networks" large enough to foster new video programming. Our belief that such programming advances might flow from relaxation of the seven station standard is one of the motivating forces in our initiation of this proceeding. We therefore request comment as to whether an alternative regulatory scheme should apply to network acquisition of additional stations. The potential alternative limits include maintaining the present seven station ceiling and creating a new ceiling based on net weekly circulation or reach of owned stations.

60. In this regard, the Commission also solicits comment on the substitutes to network product distribution available in the information delivery market. We note, for example, that if our concern is national political discourse, the numerous radio networks would appear to be a delivery substitute. The national wire services serve broadcast outlets and print media around-the-clock. The national news services operated by such newspaper group owners as Gannett

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[114] J.D. Levy and F.O. Setzer, *Measurement of Concentration in Home Video Markets*, *supra* note 70, at 5–8.

[115] See, for example, *Zacchini* v. *Scripps-Howard Broadcasting Co.*, 433 U.S. 562, 578 (1977); *Doran* v. *Salem Inn, Inc.*, 422 U.S. 922, 932–933 (1975); *Winters* v. *New York*, 333 U.S. 507, 510 (1948). "Literature and the arts must be protected by the First Amendment. They lead the way toward sensitive and informed appreciation and response to the values out of which the riches of the general welfare are created." A. Meiklejohn, *The First Amendment Is An Absolute*, 1961 The Supreme Court Review 245, 256–257 (1961).

[116] *Supra* note 70. As an additional related factor, we note that in a recent study more than one-third of all surveyed households owning video games reported a decline in television viewing since the games were purchased. Benton & Bowles, Inc., *The New TV Technologies: The View From The Viewer—II* (May, 1983), at 44. Given the apparent use of these games as a television entertainment substitute, it may be appropriate to include game cartridges in the relevant market.

[117] *Amendment of Part 76*, *supra* note 96, at para. 34.

[118] A. Meiklejohn, *Free Speech And Its Relation to Self-Government* 25 (1948).

[119] *Amendment of Part 76*, *supra* note 96, at para. 34.

[120] See, for example, *Amendment of §§ 73.35 and 73.240 of the Commission's Rules Relating to Multiple Ownership of AM and FM Stations*, 51 R.R. 2d 449, 451–452 (1982), *aff'd. mem. National Association for the Advancement of Colored People* v. *FCC*, No. 82–1661 (D.C. Cir. March 31, 1983). See, generally, J.D. Levy and F.O. Setzer, *Measurement of Concentration in Home Video Markets*, *supra* note 70, at 19–32. Evidence from the newspaper business is that in majority of the cases, a new group owner increases the paper's spending for news coverage and equipment, and that in a significant proportion of the cases the amount and quality of coverage improves. Coverage of national politics increases in almost half the cases. Ethics Committee of the American Society of Newspaper Editors, *News and Editorial Independence: A Survey of Group and Independent Editors*, *supra* note 117A, at 17.

also constribute to the relevant market.[121] Cable News Network ("CNN") and Satellite News Channel ("SNC") appear to compete directly with the networks. If the market for information is looked at more broadly, such video alternatives as C-Span and Cable Health Network may also be included, as might the information distributed by many of the approximately 170 national syndicate services.[122] Expanding our consideration to encompass total programming diversity adds all nationally distributed entertainment programming, from whatever source, so long as such programming increases the voices available to the consumer. The Commission requests comment on the relationship between the "seven station rule" and the national information market, the appropriate parameters of that market to be considered, measures of market share and concentration, and such other and related factors as may be relevant to this proceeding.

61. It is the Commission's intent, at the conclusion of this proceeding, to reduce our national broadcast ownership restriction, the "seven station rule," to the maximum extent feasible consistent with the record developed herein. Thus, assuming the record indicates that the relevant markets are sufficiently competitive from the appropriate perspectives, the rule will be eliminated. It is clear, however, that a range of alternatives present themselves, including separate consideration of radio and television, separate treatment of network ownership, and adoption of the restrictions which the OPP staff analyzed regarding ownership across "noncompetitive markets."

62. As we have noted, the issue of "how much diversity of information is enough" is particularly difficult to resolve. Thus, it may be that as an interim step in its deregulatory efforts, the Commission would choose to significantly increase, rather than totally remove, the ceiling on the number of stations which can be owned by one entity.[123] In a paper on the topic of national ownership concentration in radio, prepared for the National Association of Broadcasters ("NAB"), Dr. Michael Wirth of Denver Unviersity examines seven policy alternatives: (1) Keep the present rule; (2) modify the present standard to permit ownership of 14 radio stations without regard to type (AM or FM);[124] (3) modify the standard to allow one entity to own the same percentage of commercial stations nationally at present "as they were allowed to do in 1953," which would permit ownership of 36 radio stations regardless of type; (4) modify the standard to allow one entity to own the same percentage of commercial radio stations nationally as seven commercial television stations is of the total number of commercial television stations, which would permit ownership of 72 radio stations without regard to type; (5) eliminate all abritrary standards, and consider each case separately to determine if that group's newest purchase is in the public interest; (6) use the Justice Department merger guidelines to determine when a station merger would not be in the public interest; and (7) limit national ownership via a population standard similar to that proposed by Senators White and Bricker.[125]

63. Dr. Wirth's recommendation is that the Commission adopt policy alternative (3), permitting any entity to own 36 radio stations regardless of whether they are AM or FM. This would allow ownership of the same percentage of the total number of commercial radio stations as one was permitted to own when the "seven station rule" was adopted in 1953. Dr. Wirth concludes that permitting this amount of ownership "cannot possibly create unlawful concentration in the national media market," and "will maintain an efficient method for dealing with national media market concentration issues." However, he recommends that the Commission "not view this new standard as unwaivable," since "[f]ailure to ever waive what is admittedly an arbitrary standard is the ultimate in administrative inflexibility, particularly in a dynamic marketplace."[126]

64. Dr. Wirth rejects alternatives (1) and (2) as unduly restrictive. Alternative (4), which would set a 72 station ceiling, "is rejected only because it would allow for such a large increase in national radio ownership without prior experience," but future consideration is recommended. Wirth rejects alternative (5)—case-by-case consideration, and (6)—antitrust-type review, because of the administrative inefficiencies and uncertainties at the Commission and in the industry which he concludes they entail. He discards alternative (7), the population percentage approach, due to the administrative difficulties which would be involved.[127] We solicit comment on the Wirth approach. While increasing the ownership limits to the level suggested by Wirth may alleviate the need to consider such matters directly, commenters are requested to discuss whether conditions should also be placed on such factors as the number of stations of any class which might be owned or the total population or geographic area served by one entity.

65. The proposals made by Dr. Wirth and by Doubleday are transferable to the situation in television. Given the progress made toward UHF comparability, the Commission could choose to act in a manner similar to that which Doubleday proposes and eliminate the UHF/VHF distinction in the "seven station rule" as an initial step in revising our rules. If we treat the expansion of on-air television stations in the same manner Dr. Wirth has suggested we handle radio, a single entity would be permitted to own 14 television stations of any class, based on the number of commercial stations broadcasting when the seven station television limit was established in 1954 compared to the number licensed in 1983. As to the 14 station limit, we request comment as to whether component restrictions on such factors as the population or geographic area served should also be adopted.[128]

66. The Commission recognizes that there are inherent weaknesses in any regulatory approach based on numbers, population, or geographic area. It is our desire, should we determine to adopt such a standard, that we reduce insofar as possible the arbitrary nature of the measure in question. Parties are

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[121] Many of the approximately 70 "news services, news picture companies and newsreel companies" identified in *The Working Press of the Nation* might also qualify. *The Working Press of the Nation, Newspaper Directory*, at Section 11 (1982).

[122] *Id.*, at Section 12.

[123] Adoption of the alternative discussed by the OPP staff regarding treatment of "noncompetitive" markets is, as we have indicated, also one of the alternatives.

[124] This approach has also been suggested by Doubleday Broadcasting Co., Inc., *supra* note 56, whose related *Petition for Rule Making* is hereby incorporated in this proceeding. In accordance with § 1.3 of the Commission's Rules, §§ 1.403 and 1.405 are hereby waived for this purpose.

[125] M. O. Wirth, *The FCC's Multiple Ownership Rules and National Concentration in the Commercial Radio Industry*, *supra* note 71, at 31–32. Comparisons based on the number of commercial stations in 1961. A copy of the Wirth paper will be placed in the docket.

[126] *Id.*, at 33. As noncommercial stations are among the competing voices in the marketplace, the commercial/noncommercial distinction made by Wirth may be inappropriate. If that is the case, the permissible number of stations today would be 41 (based on 1983 data). We solicit comment on this alternative.

[127] *Id.*, at 33–34.

[128] If the commercial/noncommercial distinction is eliminated and 1954 is the base year, the number of stations permitted would be 19. If 1953 is used as the base year (and noting that only five TVs were permitted at that time), the number of stations now permitted would be 21. This number would increase to 28 if noncommercial stations are included in the base. We solicit comment on these alternatives.

therefore encouraged to discuss in detail the steps they believe might be useful to the Commission in adopting as just and equitable a standard as is possible consistent with policy objectives and the requirements of the Communications Act and any relevant case law.

IV. Administrative Matters

67. Authority for this proposed rulemaking is contained in Section 1, 3, 4(i) and (j), 303, 313 and 403 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules interested parties may file comments on or before December 19, 1983, and reply comments on or before January 18, 1984. All relevant and timely comments will be considered by the Commission before the final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the coments provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

68. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral agruments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation on the day of oral presentation. That written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

69. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis ("IRFA") of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth in Appendix "A". Written public comments are request on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this *Notice*, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 50 U.S.C. § 601 et seq.) (1981).

70. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting documents. If participants want each Commissioner to receive a personal copy of their comments, an original plus eleven copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554. For information on this proceeding, contact Steven A. Bookshester, Office of General Counsel, (202) 254-6530.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Initial Regulatory Flexibility Analysis

1. *Reason for Action.* The Commission believes that its rules and policies should be reviewed in the context of current social, technological and financial environments in which licensees and applicants operate, so that service to the public may be facilitated while the least regulatory cost is imposed. It is in this light that it is considering modification of the "seven station rule."

2. *The objectives.* The Commission proposes to modify the "seven station rule" in the light of changes in telecommunications, reducing regulation to the maximum extent feasible, and taking such action in a manner consistent with the objective of enhancing diversity in broadcasting. The Commission believes that such action may lead to additional production and distribution of broadcast programming, and may also facilitate the development of new over-the-air networks.

3. *Legal basis.* Action proposed herein is taken pursuant to Sections 1, 3, 4(i) and (j), 303, 313, and 403 of the Communications Act of 1934, as amended.

4. *Description, potential impact and number of small entities affected.* The proposals set forth herein would modify the seven station per service ownership limitation presently imposed on broadcast licensees. A substantial number of existing licensees and potential new entrants are small entities. The action would be expected to have an immediate impact upon only a limited number of entities, as few station owners presently are at or near to holding the maximum number of licenses in any service. Over a period of time, the number of such entities would be expected to expand. Relaxation of the rule may facilitate the ability of small businesses to obtain new investment capital from investors desiring equity participation in an enterprise (which is generally treated in the same manner as a controlling interest for purposes of the numerical limit), and may allow small entities to enter program production and related areas through realization of the efficiencies to be found in larger enterprises. The Commission cannot ascertain the impact, if any, which such a freeing of the market might have on station prices due to activity by larger existing enterprises purchasing stations in certain market segments. Other small entities which might be affected include station brokers, (approximately 50), those involved in the financing of broadcast stations (number unascertainable), and suppliers to broadcast stations (number unascertainable). Turnover of stations and new station start-ups may create new or additional business, or client changes, for those entities.

5. *Recording, record keeping and other compliance requirements.* The proposed change would reduce such requirements.

6. *Federal rules which overlap, duplicate or conflict with this rule.* None. Although antitrust enforcement

by the Federal Trade Commission and the Department of Justice is also concerned with precluding monopoly in telecommunications, the FCC does not enforce the antitrust laws. Rather, it presently takes such concerns into account in its regulation under the public interest standard.

7. *Any significant alternatives minimizing impact on small entities and consistent with the stated objective.* None.

Appendix B

The "Seven Station Rule"

(Sections 73.35(b)(1) [AM], 73.240.(a)(2) [FM], and 73.636(a)(2) [TV] of the Commission's Rules)

"No license for an AM [FM] [television] broadcast station shall be granted to any party (including all parties under common control) if such party, or any stockholder, officer or director of such party, directly or indirectly owns, operates, controls, or has any interest in, or is an officer or director of any other AM [FM] [television] broadcast station if the grant of such license would result in a concentration of control of AM [FM] [television] broadcasting in a manner inconsistent with the public interest, convenience, or necessity. The FCC however, will in any event consider that there would be such a concentration of control contrary to the public interest, convenience or necessity for any party or any of its stockholders, officers, or directors to have a direct or indirect interest in, or be stockholders, officers, or directors of, more than seven AM [FM] [television] broadcast stations, [no more than five of which may be in the VHF band] * * *"

Dissenting Statement of Commissioner Henry M. Rivera

Re: Notice of Proposed Rulemaking
Amendment of the Multiple Ownership Rules.

I dissent to this reexamination of the "seven station rule."[1] The philosophy and objectives set forth in this Notice represent a reversal of the FCC's long-held approach to media ownership diversification that has profound implications.[2] That approach, which I endorse, holds that the public interest lies in the widest possible dissemination of ideas from diverse and antagonistic sources, and that this public interest is best achieved by maximum diffusion of media ownership and control. As Judge Learned Hand so aptly put it: "The First Amendment presupposes that the right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection. To many this is, and always will be, folly; but we have staked upon it our all."[3] The majority now suggests that the public interest in diverse sources of opinion may be better archieved by a policy whose hallmark is the antithesis of maximum diffusion of ownership—media ownership conglomeration. I find no support for such a radical rethinking of the structural diversity policy; no urgent need to change these rules drastically; and no alternatives short of outright repeal sincerely considered in the Notice. Conversely, the prospective detriment to established diversification and minority ownership policies is patent. Therefore, I simply cannot support the issuance of this rulemaking notice.

Who can argue that the present rules are not arbitrary? Not I. Different seven station groups reach different percentages of the population depending on where the stations are located. This arbitrariness has been recognized since their promulgation. However, the lack of perfection in these rules is a price the FCC has long been willing to pay in exchange for the public benefits accruing from maximum diversification of ownership and viewpoint in broadcasting. That the rules have permitted uneven results does not diminist the fact that they have prevented concentration of the broadcast media in the hands of a few powerful companies.

The simple truth is that this rulemaking contemplates regulatory and philosophical changes far too sweeping, and with too much potential for harm, for me to support it in good conscience. And it embarks on this venture on its own motion rather than in response to any general public or industry claim that a change is needed. Indeed, the only concrete public benefit cited by the Notice in support of eliminating or liberalizing the seven station rule—the likelihood that additional networks and new program production will result—is unconvincing. According to the majority, the seven station rule may undermine programming diversity by preventing group owners from reaching a percentage of the population comparable to that reached by the major networks through their owned stations. The limitation, it is argued, deters production of "quality" programming and the formation of additional full-time or part-time networks by curtailing the production and distribution efficiencies possible from such expanded group ownership.

There is no evidence that the rule has had this effect. As an initial matter, the number of households reached by some group owners through their broadcast stations has approached that of the network-owned stations for some time, thereby giving them a station ownership stake comparable to the networks. Until recently, however, those owners have not launched sizable programming ventures. If the majority's argument (that ownership penetration equivalent to that of the network-owned stations provides the economic base necessary for the creation of new networks) were valid, one would have expected these group owners to have launched sizable programming ventures some time ago. In fact, it is widely recognized that the most significant limitation on the creation of additional networks is the 1952 *Television Table of Allocations*, which limits the number of VHF television stations in most markets to less than four. The *Network Inquiry*, in examining regulatory alternatives that might lead to the formation of additional networks, identified spectrum allocations for DBS and MDS as promising routes and the Commission has implemented those recommendations. Now, with the advent of cost-effective satellite distribution technologies (and contrary to the majority's notion that the seven station rule inhibits group owners from producing programming) group owners are, in fact, beginning to launch nationwide programming ventures, in the terrestrail television service.[4] Similar developments exist in radio, where numerous programming networks now exist. In sum, it is far from apparent that expanded group ownership of television stations is necessary to promote additional diversity of program sources or the development of new networks. Surely, a more persuasive case should have been made to support so radical a departure from the FCC's traditional approach to media diversity.

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[1] *See* 47 CFR 73.35(b)(1) [AM], 73.240(a)(2) [FM], 73.636(a)(2) [TV].

[2] The Notice is confined to the seven station rule. However, various aspects of the discussion have implications for other ownership rules and policies as well. *See, e.g., Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393 (1965) (setting maximum diffusion of mass media control as a licensing goal of primary significance); 47 CFR 73.35(b)(1) [AM]; 73.240(a)(2) [FM]; 73.636(a)(2) [TV] (regional concentration rules). *See also Broadcasting Magazine*, "Broadcasters urge FCC regional concentration limits be lifted." (Sept. 26, 1983) p. 58.

[3] *United States* v. *Associated Press*, 52 F. Supp. 362, 372 (S.D.N.Y. 1943), *aff'd* 326 U.S. 1 (1945).

[4] Furthermore, a host of cable programming networks have blossomed without substantial ownership or distribution outlets.

While expansive as to the program diversity benefits of increased combined ownership and the competitive advantages to existing group owners, the Notice shows little regard for the impact the proposed rule changes will have on ease of entry by newcomers to broadcasting—minorities and non-minorities alike—and upon the diversity that now exists in the industry. Prior congressional and FCC initiatives have strongly emphasized the importance of diversifying the pool of broadcast owners.[5] Elimination or substantial relaxation of the seven station rule is likely to seriously impair entry and participation by all but very large media conglomerates, contrary to this well-founded policy. This is so because in the new, post-rule environment, these conglomerates will bid up the prices of stations in most markets significantly. So far up, in fact, that new entry by those with more limited resources will be all but impossible.[6] The expanded presence of group owners will also make it more difficult for small broadcasters to compete.

This Adam Smith approach to broadcast regulation may be unobjectionable for industries not characterized by technical scarcity, and not affected with a nearly unique capacity to influence public opinion. However, rigid reliance on the free market philosophy is extremely hazardous in the sensitive domain of broadcast ownership and expression. The FCC's Advisory Committee on Alternative Financing for Minorities in Telecommunications appreciated these concerns when it concluded that "abrupt removal [of the ownership rules] could result in greater market dominance by established entities, less diversity and fewer opportunities for new entrants into broadcast ownership, including minorities. The Commission cannot be blind to the restructuring consequences of deregulation."[7] If not altogether blind to these consequences, this Notice, at the very least, is myopic.

Given that media diversification could be seriously undermined by substantial alteration of the existing seven station rule, any proposals for change should have been carefully considered, cautious, and justified by significant countervailing benefits to the public. However, such significant public benefits are not apparent from the new analytic approach to diversity and competition expounded by the majority. In addition, the Notice holds out little prospect for final action in this proceeding short of outright repeal of these rules.[8] Although comment on alternatives to repeal is solicited in the Notice's concluding paragraphs, when these options are considered in light of the majority's "new analytic perspective," it is hard to credit them as truly possible outcomes in this proceeding.[9]

If any rationalization and revision were in order, it should have been accomplished in phases to provide experience about the public interest impact of changing the rules. One such approach would have been to reexamine the aggregate ownership limits in radio, where a persuasive changed-circumstances argument can be made. In radio, the public has the benefit of well over 9,000 outlets. Only 27 percent of these stations are owned in groups of three or more. Thus, ownership in radio is diffused over a broad range of owners and a large number of outlets, and some modification of the present ownership limits is unlikely to undermine the diversification policy. In these circumstances, I could have supported an inquiry focussing solely on radio.

The case for changing the rule for television is much weaker, and the consequences of a policy misstep far more severe. Television is the dominant information and entertainment medium for most Americans. Therefore, any attempt to restructure ownership patterns in the medium should be executed with care. Television is not characterized by the abundance and ownership diversity that exists in radio. There are scarcely over 1000 outlets. Approximately 72 percent of the 790 commercial stations are held by group owners.[10] The Notice indicates that by accepted measures of concentration, television is an unconcentrated industry. However, ownership patterns and economic measurement tools that may be perfectly appropriate for industries involving steel, breakfast cereal, or appliances should be regarded with caution in the sensitive field of information dissemination.[11] The concentration index approach explored in the Notice, if ultimately adopted, would allow for the placement of numerous television outlets under the editorial control of a limited number of entities. This prospect is fundamentally at odds with the First Amendment goals so long espoused by the Judiciary, Congress and this Commission.

Since only a handful of companies own the full complement of seven television stations, as a practical matter, postponing review of the television ownership ceiling would have caused

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[5] *See, e.g.*, 47 U.S.C. 309(i)(3)(A) (mandating significant preferences to diversify mass media); H. R. Rep. No. 97-765, 97th Cong., 2d Sess. 40-45 (1982) (recognizing "nexus between diversity of media ownership and diversity of program sources" and specifying that traditional diversification objectives be promoted in mass media lottery grants); *Policy Statement of Minority Ownership of Broadcast Facilities*, 60 FCC 2nd 1591 (1976); *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393 (1965). *See also Associated Press* v. *United States*, 326 U.S. 1, 20 (1945) (First Amendment "rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public * * *").

[6] The Notice's suggestion that relaxation or elimination of the rule will prove *beneficial* to minority ownership strains credibility. Only a handful of existing minority broadcasters could be in a position to benefit from these proposed rule changes. And if the Commission were interested in facilitating investment in new minority enterprises, it need only have modified the ownership attribution rules to facilitate such investment, instead of opening the ownership rule floodgates altogether. *See Corporate Ownership and Reporting and Disclosure by Broadcast Licensees*, 48 FR 10082 (March 10, 1983), (Joint Concurring Statement of Commissioners Henry M. Rivera and Joseph R. Fogarty, at Note 11.

[7] *Final Report* at 1-2 (*Strategies to Advancing Minority Ownership in Telecommunications*) (1982).

[8] As for promoting economic competition, the Notice proposes that the Commission defer to other agencies or develop various media concentration indices. Ultimately, the Notice questions the utility of such measures, observing that "it may well be necessary to resolve this proceeding based on the limited question of whether the degree of competition in television and radio is sufficient, and the potential anti-competitive impact sufficiently remote, to support elimination or modification of the rule." *See* para. 48. As for maximizing diversity of viewpoint, the majority regards the task of deciding how much diversity is enough as highly difficult, and accordingly encourages reevaluation of the philosophy that maximum ownership dispersion produces maximum dispersion of viewpoint. Such surgical parsing of the goals underlying the Commission's ownership rules is academically interesting, but does little to advance the analysis of whether and, if so, how to revise the rules. Of course, if elimination of the rules is the overriding objective, this technique may not be inappropriate.

[9] An additional insight as to the likely outcome in this rulemaking is provided by the majority's explicit intent to reduce the rule "to the maximum extent feasible. . . ." *See* para. 61. The Notice's failure to consider the impact of the pending attribution rulemaking—which would elevate ownership benchmark to as much as 20 percent—upon the alternatives advanced further suggests that this proceeding may well be an exercise in predetermination. *See generally Corporate Ownership Reporting and Disclosure by Broadcast Licensees*, 48 FR 10082 (March 10, 1983).

[10] Television is undeniably facing increasing competition from cable, but the extent and continued growth of that competition is unclear. Furthermore, while other video services are beginning to emerge, they have yet to achieve any appreciable market share in the national video market. Therefore, fundamental alteration of the television ownership limits is premature.

[11] Judge Hand put it nicely when he said: "[I]f this were a case of the ordinary kind: the production of fungible goods, like steel, machinery, clothes or the like, it would be [a different matter]. . . However,. . . [the press] serves one of the most vital of all general interests: the dissemination of news from as many different sources, and with as many different facets and colors as is possible." *United States* v. *Associated Press*, *supra*, 52 F. Supp. at 372.

very little burden to the industry. At the same time, postponement would have afforded more time for the new media to develop, and perhaps with that development would have come greater diversification of the video market. Postponement would also have given the FCC a chance to evaluate the public interest impact of liberalizing the radio ownership rules.

Ordinarily, at the commencement of a rulemaking, dissatisfied segments of the public can take some comfort in the fact that a range of different outcomes is possible and that all viewpoints persuasively expressed in the comments will be seriously considered. In this instance, given the majority's explicit inclination toward major restructuring of these rules, there is little reason to expect anything else unless the majority can be prevailed upon to temper its approach. Because this Notice sets the FCC on a path calculated to undermine the diversity of ownership and viewpoint in broadcasting so faithfully nurtured for decades, I must dissent.

[FR Doc. 83-28801 Filed 10-24-83; 8:45 am]

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Part IV

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Gas Analysis for Carbon Dioxide, Oxygen, Excess Air, and Dry Molecular Weight

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2410-6]

Standards of Performance for New Stationary Sources; Gas Analysis for Carbon Dioxide, Oxygen, Excess Air, and Dry Molecular Weight

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revisions to Method 3 were proposed on September 7, 1982 (47 FR 39204). This action promulgates the revisions to the method for tests of the emissions from the combustion of organic and fossil fuels using air for combustion and dilution. Such sources include fossil fuel-fired steam generators, industrial boilers, municipal incinerators, and internal combustion engines. The intended effect of these revisions is to provide a means for the tester to check and validate the measurement data on site. The quality control procedure is included as a recommendation, but not a requirement. In addition, some minor changes to F factor equations and tables in Method 19 are included.

EFFECTIVE DATE: October 25, 1983.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these revisions to Method 3 is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(1) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Summary of Comments and Responses.* The summary of comments and responses for the proposed revisions to Method 3 may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Revisions to Method 3, Appendix A of 40 CFR Part 60—Summary of Comments and Responses, EPA-450/3-82-027." The document contains (1) a summary of the changes made to the Method 3 revisions since proposal and (2) a summary of all the public comments made on the proposed revisions and the Administrator's responses to the comments.

Docket. A docket, number A-82-05, containing information considered by EPA in the development of the revisions, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Roger T. Shigehara, Emissions Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2237.

SUPPLEMENTARY INFORMATION:

Public Participation

The revisions to Method 3 were proposed and published in the **Federal Register** on September 7, 1982 (47 FR 39204). Public comments were solicited at the time of proposal. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed revisions, a public hearing was scheduled for November 8, 1982. The hearing, however, was not held because no one requested to speak. The public comment period was from September 7, 1982, to November 8, 1982.

Seventeen comment letters concerning issues relative to the proposed revisions were received. The comments have been carefully considered; and, were determined to be appropriate by the Administrator, changes have been made in the proposed revisions.

Significant Comments and Changes to the Proposed Revisions to Method 3

Comments on the proposed revisions to Method 3 were received from industry, State air pollution control agencies, trade associations, and testing consultants. A detailed discussion of these comments and responses can be found in the summary of comments and responses document referenced in the **ADDRESSES** section of this preamble. The summary of comments and responses serves as the basis for the revisions that were made between proposal and promulgation. The major comments and responses are summarized in this preamble. Most of the comment letters contained multiple comments.

Several commenters noted that the ±5 percent criterion for acceptable F_o values was inconvenient for field application and that a table of acceptable ranges would be more appropriate.

A table of acceptable F_o value ranges has been included in the final version of the method. The values in the table are representative of ranges experienced in field tests and are indicative of valid, accurate measurements.

There were several commenters who noted that mixed fuels are frequently encountered in the field, and no provisions were included in the proposal for calculating an appropriate F_o value for such mixtures.

The Agency agrees with this comment and included a procedure in the final version for determining a proper F_o value for mixed fuels. The calculation procedure includes a provision for high CO values if such occur.

A number of commenters stated that the proposed revisions would not improve the present quality assurance procedures. They felt the requirement of a test of the analyzer on air did not necessarily check the strength of the absorbing solutions. In addition, some commenters felt the F_o was not a valid indicator of Orsat accuracy.

The purpose of the analysis of an air sample is to check the equipment and the techniques to measure accurately a known concentration. The chemical strength of the absorbing solution is checked in another section of Method 3 (Section 4.2.5). Further, the Agency disagrees that the F_o calculation is not a good indicator of the accuracy of Orsat measurements. An F_o resulting from measurement data that does not agree with the fuel F_o indicates a real problem with the Orsat data and should be investigated. There are several issues that have led the Agency to reconsider the mandatory nature of the revisions. These issues are: (1) An accurate measure of O_2 content of an air sample does not assure that measurements in other ranges or of other components are accurate; (2) there are problems with sources determining a suitable F_o value for mixed fuels because the ratio of fuel combustion rates is not always easily or accurately determined; (3) suitable F_o values are not readily available for all fuels such as vegetable wastes or organic chemical wastes; (4) the F_o procedure would not apply to all tests with the Orsat, only to those on sources burning organic fuels; and (5) rejection of a test run or set of runs because of an errant F_o check is severe in many cases as the solution to many data inaccuracies can be found without retesting.

Review of these issues has led the Agency to revise the proposed required calculation and ambient air check to a recommended procedure in the final version. The F_o and the ambient air check are now recommended quality control procedures, the use of which is left to the discretion of the tester. The

Agency feels that inaccuracies in either the F_o check or the ambient air check are a good indication of problems in the equipment, technique, or calculation and should be investigated before accepting the results. The revisions include several areas or examples for investigation, as well as other considerations.

There were commenters who felt that the applicability of the procedures should be made more clear.

The Agency placed the F_o quality control check in Section 4 of the Method 3 which is applicable only to excess air corrections and emission rate calculation. There are industries for which the F_o calculation is not applicable, such as glass manufacturing, and are not included by Section 4. There are other types of sources for which the revisions are not applicable and are specifically mentioned in the revisions for clarification purposes. These include sources that remove CO_2 or O_2 through processes other than combustion, add O_2 and N_2 in proportions different from air, or add CO_2, such as lime or cement kilns. A note is included in the revisions to the method that clarifies the applicability of the quality control procedures.

Some commenters noted that the proposed revisions could result in a great deal of extra time being spent in testing if the data failed to pass the F_o check. One commenter noted that retesting was sometimes unnecessary as equivalent alternatives were available.

The Agency feels that, if the quality control checks do not fall within the specified limits, there is an indication of some serious error in the sampling or analysis. In many cases, the problem can be solved without retesting (e.g., miscalculation, misreading) or by repeating only a small part of the test (e.g., the Orsat analysis). The Agency agrees that requiring a repeat of the entire emission test is severe in most instances and is promulgating optional quality control procedures in place of the proposed, required, quality assurance procedures. However, the revisions recommend that problems indicated by deviations from fuel F_o factors be investigated.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated method revisions and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Miscellaneous

This rulemaking does not impose any additional testing requirements of facilites affected by this rulemaking. Rather, this rulemaking revises existing test methods to which affected facilities are already subject. The revisions add quality control procedures designed to improve the quality of emission test data.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect of the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on small entities because the revisions do not impose additional costs in tests.

This final rulemaking is issued under the authority of Sections 111, 14, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, and 7601(a)].

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by Reference Can surface coating, Sulfuric acid plants, Industrial organic chemicals; Organic solvent cleaners.

Dated: October 11, 1983.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

Method 3 and Method 19 of Appendix A of 40 CFR Part 60 are amended as follows:

1. In Sections 4.1.5 and 4.2.7 of Method 3, by removing the phrase "Citation 5 in the Bibliography" and inserting in its place the words "Section 4.4."

2. By adding a new Section 4.4 to Method 3 as follows:

Method 3—Gas Analysis for Carbon Dioxide, Oxygen, Excess Air, and Dry Molecular Weight

* * * * *

4. Emission Rate Correction Factor on Excess Air Determination

* * * * *

4.4 Quality Control Procedures.

4.4.1 Data Validation When Both CO_2 and O_2 Are Measured. Although in most instances, only CO_2 or O_2 measurement is required, it is recommended that both CO_2 and O_2 be measured to provide a check on the quality of the data. The following quality control procedure is suggested.

Note—Since the method for validating the CO_2 and O_2 analyses is based on combustion of organic and fossil fuels and dilution of the gas stream with air, this method does not apply to sources that (1) remove CO_2 or O_2 through processes other than combustion, (2) add O_2 (e.g., oxygen enrichment) and N_2 in proportions different from that of air, (3) add CO_2 (e.g., cement or lime kilns), or (4) have no fuel factor, F_o, values obtainable (e.g., extremely variable waste mixtures). This method validates the measured proportions of CO_2 and O_2 for the fuel type, but the method does not detect sample dilution resulting from leaks during or after sample collection. The method is applicable for samples collected downstream of most lime or limestone flue-gas desulfurization units as the CO_2 added or removed from the gas stream is not significant in relation to the total CO_2 concentration. The CO_2 concentrations from other types of scrubbers using only water or basic slurry can be significantly affected and would render the F_o check minimally useful.

4.4.1.1 Calculate a fuel factor, F_o, using the following equation:

$$F_o = \frac{20.9 - \%O_2}{\%CO_2} \qquad \text{Eq. 3-3}$$

Where:

$\%O_2$ = Percent O_2 by volume (dry basis).

$\%CO_2$ = Percent CO_2 by volume (dry basis).

20.9 = Percent O_2 by volume in ambient air.

If CO is present in quantities measurable by this method, adjust the O_2 and CO_2 values before performing the calculation for F_o as follows:

$\%CO_2(adj) = \%CO_2 + \%CO$

$\%O_2(adj) = \%O_2 - 0.5\ \%CO$

Where: %CO = Percent CO by volume (dry basis).

4.4.1.2 Compare the calculated F_o factor with the expected F_o values. The following table may be used in establishing acceptable ranges for the expected F_o if the fuel being

burned is known. When fuels are burned in combination, calculate the combined fuel F_d and F_c factors (as defined in Method 19) according to the procedure in Method 19 Section 5.2.3. Then calculate the F_o factor as follows:

$$F_o = \frac{0.209\ F_d}{F_c} \qquad \text{Eq. 3-4}$$

Fuel type	F_o range
Coal:	
Anthracite and lignite	1.016–1.130
Bituminous	1.083–1.230
Oil:	
Distillate	1.260–1.413
Residual	1.210–1.370
Gas:	
Natural	1.000–1.[illegible]
Propane	1.434–1.[illegible]
Butane	1.405–1.553
Wood	1.000–1.120
Wood bark	1.003–1.130

Calculated F_o values beyond the acceptable ranges shown in this table should be investigated before accepting the test results. For example, the strength of the solutions in the gas analyzer and the analyzing technique should be checked by sampling and analyzing a known concentration, such as air; the fuel factor should be reviewed and verified. An acceptability range of ±12 percent is appropriate for the F_o factor of mixed fuels with variable fuel ratios. The level of the emission rate relative to the compliance level should be considered in determining if a retest is appropriate, i.e., if the measured emissions are much lower or much greater than the compliance limit, repetition of the test would not significantly change the compliance status of the source and would be unnecessarily time-consuming and costly.

* * * * *

3. In Section 5.2.2 of Method 19, by revising the equations for fuel factors to read as follows:

5.2.2 Calculating an F Factor.

* * * * * * *

For SI units:

$$F_d = \frac{[227.0\ (\%H) + 98.7\ (\%C) + 35.4\ (\%S) + 8.6\ (\%N) - 28.5\ (\%O)]}{10^6\ GCV}$$

$$F_w = \frac{[347.4\ (\%H) + 98.7\ (\%C) + 35.4\ (\%S) + 8.6\ (\%N) - 25.5\ (\%O) + 13.0\ (\%H_2O)]}{10^6\ GCV_w}$$

$$F_c = \frac{[20.0\ (\%C)]}{10^6\ GCV}$$

For English units:

$$F_d = \frac{10^6[3.64\ (\%H) + 1.53\ (\%C) + 0.57\ (\%S) + 0.14\ (\%N) - 0.46\ (\%O)]}{GCV}$$

* * * * * * *

4. In Table 19–1—*F Factors for Various Fuels* in Methods 19, by changing the F_c values for wood bark from 0.497×10^{-7} scm/J (1850 scf/10^6 Btu) to 0.516×10^{-7} scm/J (1920 scf/10^6 Btu).

[Sec. 111, 114, 301(a) of the Clean Air Act as amended (42 U.S.C. 7411), 7414, 7601(a))]

[FR Doc. 83–28452 Filed 10–24–83; 8:45 am]
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federal register

Tuesday
October 25, 1983

Part V

Office of Personnel Management

Reduction in Force

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

Reduction in Force

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is amending the reduction-in-force (RIF) regulations to give greater recognition to performance as a retention factor, strengthen the objectivity of the RIF process, and improve the efficiency of the system.

EFFECTIVE DATE: November 25, 1983.

FOR FURTHER INFORMATION CONTACT: Morton I. Horvitz (202) 632-6817.

SUPPLEMENTARY INFORMATION:

Background

OPM published an advance notice of proposed rulemaking in the **Federal Register** (47 FR 17528) on April 23, 1982, inviting all interested parties to make recommendations for changes in the RIF regulations. Based on information received, on March 30, 1983, OPM published proposed RIF regulations (48 FR 13368). After analyzing comments, OPM proposed new RIF regulations on July 14, 1983 (48 FR 32304). Comments on the latest proposal were received from 31 agencies, 9 labor organizations, 8 other organizations, and 47 individuals.These comments were carefully reviewed and major concerns expressed are reflected in the final regulations as discussed below. Certain technical issues raised are not addressed here but will be dealt with in the Federal Personnel Manual.

The RIF regulations are derived from provisions of the Veterans' Preference Act of 1944, as amended, and the Civil Service Reform Act (CSRA) of 1978. These provisions are codified in chapter 35 of title 5, United States Code, and require that retention in RIF be based on tenure, veterans preference, length of service, and performance. In addition, CSRA Merit Principle 6 states "Employees should be retained on the basis of the adequacy of their performance" (section 2301 of title 5, U.S.C.). Current regulations, however, give almost no recognition to the performance factor.

The need to emphasize performance and to reform other parts of the RIF system was indicated by agency experience with RIF as well as concerns expressed by members of Congress, employees, and other interested parties. In addition, the Merit Systems Protection Board's study on RIF actions identified weaknesses in the system and made recommendations for change.

OPM's objectives in making changes were to: (1) Give more weight to performance in the RIF process; (2) minimize agency disruption; (3) limit negative effects on employees; and (4) preserve for veterans their preference in determining retention standing in accordance with law.

Discussion of Final Regulations

The major changes in the regulations are as follows.

1. *Credit for Performance (§ 351.501 and § 351.504).* To give more weight to performance, two options were proposed for comment. Under one, employees would be ranked by current tenure and veteran preference groupings, followed by performance categories (based on the median of the last three ratings) and then by seniority. Under the other proposal, employees would be ranked in current tenure, veteran preference, and seniority order but given greatly increased service credit for each of the last three ratings at fully successful and higher.

Most commenters favored the service credit alternative but some suggested reducing the amount of credit given for each performance level. An analysis of the effects of various suggested formulas showed that a modification of the proposal would assure equitable treatment of a fully successful employee with many years of service while improving the chances for retention of an outstanding employee with few years of service. Thus, the final regulations incorporate the service credit alternative but provide ten additional years of service for an outstanding rating, seven years for an exceeds fully successful rating, and five years for a fully successful rating. In addition, an employee with a current rating of unacceptable who has not received a final decision of demotion or separation would be ranked on a retention register along with other employees according to tenure, veteran preference, length of service, and additional service credit, as appropriate, for previous annual ratings. An employee with a final decision of demotion or separation would be released from a competitive level before other employees.

In response to suggestions, we clarified in § 351.504 the status of employees who lack three ratings and those who have been demoted due to unacceptable performance.

2. *Assignment Rights (Bump and Retreat) (§ 351.701).* To limit excessive disruption caused by bumping and retreating across the entire grade structure, two options were proposed. Both would limit the bump to two grade intervals and retreat to one grade interval. The first option would also extend retreat rights for 30 percent disabled veterans to five grade intervals and would permit employee with unacceptable ratings to displace others with unacceptable ratings. The second option would limit bumping of professional employees to professional positions and clerical employees to clerical positions but would not permit an employees with an unacceptable rating to bump or retreat.

There was no pattern to indicate commenters favored one proposal over the other. Because many commenters opposed assignment rights for employees with unacceptable ratings, the second option has been adopted in its entirety but with the five grade interval retreat for disabled veterans, for whom OPM believes a special placement effort is justified.

Several commenters asked for clarification of assignment rights of employees who do not fall within "professional" or "clerical" groupings. The final regulation refers instead to "clerical" and "nonclerical" employees. Definitions and further guidance will be provided in the Federal Personnel Manual. Other commenters were concerned this provision would have an adverse effect on former clerical employees in upward mobility programs. Since the provision applies only to bumping, a nonclerical employee will not be prevented from retreating to a formerly-held clerical position.

Certain editorial changes were also made. Material from § 351.603 and § 351.703 in the current regulation has been rearranged under § 351.701 to pull together all requirements on assignment rights. Other sections have been renumbered. § 351.603 has been revised for clarification but reflects no policy change.

3. *Competitive Area (§ 351.402).* The proposal for a competitive area no smaller than a bureau or division was intended to provide more practical criteria for agencies to use in establishing minimum areas. Commenters frequently requested clarification of the term "bureau or division". The final regulation, therefore, defines the minimum as a bureau, major command, directorate or other equivalent major subdivision of an agency.

To insure objectivity, the proposed regulation provided that competitive areas be subject to OPM advance approval and be in effect at least 90 days prior to a RIF. Agencies felt this requirement would be costly and could

delay a RIF. To avoid these problems, the final regulation requires agencies to obtain OPM prior approval only for changes in competitive areas made less than 90 days before a RIF. However, agencies are required to make public, and available for OPM review, the competitive areas they would use in a RIF.

In keeping with these revisions in competitive areas and to limit unnecessary disruption, the final regulations do not contain current provisions allowing agency discretion to combine competitive areas for initial competition (§ 351.402(d)) and for displacement (§ 351.705(a)(1)).

4. *Competitive Level (§ 351.403).* Improvements were proposed to incorporate more specific job-related criteria for setting competitive levels. The proposal also required that levels be set at least 90 days prior to a RIF, with prior submission to OPM.

Agency comments reflected concern over possible delays in RIF due to the 90-day requirement. After weighing these concerns against the need to strengthen objectivity of the system, it was determined that no change would be made in the 90-day provision.

Comments also indicated a need to clarify the prior submission requirement. This clarification will be achieved by requiring agencies to certify to OPM that competitive levels are properly described and available for review at least 90 days prior to a RIF, and detailed guidance will be published in the Federal Personnel Manual.

5. *Notice (§ 351.801).* The proposed changes in § 351.801 and § 351.803 would set the minimum notice at 30 days and the maximum at 90 days, with a specific notice of ten days. Several commenters suggested a longer notice be permitted in special circumstances, such as the closing of a major facility, to allow for more effective outplacement programs. Final regulations permit this but only with OPM prior approval.

In addition, editorial changes were made in other sections of Subpart H, Notice to Employee, but the only substantive change is that noted above for the notice period.

6. *Qualifications (§ 351.702).* A revision was proposed to assure that employees are fully qualified to do the job into which they bump or retreat. The proposed standard would require a positive ability, based on overall background, including recency of experience, to perform the critical elements of a position upon assignment to it without any loss of productivity beyond that normally expected. Several commenters expressed concern that the recency requirement could be abused and would be frequently challenged. It is OPM's intent that agencies apply this only to those job requirements where the agency can demonstrate recency of experience is necessary for successful performance on the job. Further guidance will be given in the Federal Personnel Manual.

Several commenters suggested the regulation should include reference to reasonable accommodation for handicapped employees when agencies determine qualifications for assignment. This has been done.

7. *RIF Coverage (§ 351.201(a)).* Under the proposed regulation, a downgrade due to job classification caused by erosion of duties would no longer be covered under RIF procedures. Several commenters suggested the regulation should show this as excluded from RIF coverage to distinguish it from downgrades due to reorganization or other planned management actions which continue to be covered by RIF procedures. This exclusion is added to § 351.202.

In addition, in § 351.201(a)(1) agency responsibility for identifying positions to be abolished is clarified. In response to suggestions, insufficient personnel ceiling is added to the circumstances in § 351.201(a)(2) which may trigger use of RIF procedures. This is consistent with other reasons for use of these procedures.

8. *Appeals (§ 351.902).* Under the current regulation, an employee affected by RIF because of demotion, separation, furlough for more than thirty days, or *reassignment* (where that reassignment requires displacement of another employee) may appeal to the Merit Systems Protection Board (MSPB). In the final regulation this reassignment is no longer an appealable action because it does not affect the grade, pay, or tenure of an employee and is no different than an administration reassignment which is never appealable to MSPB.

In addition, under current regulations, appellants who challenge RIF actions may appeal to MSPB and be granted a hearing. This is the case whether there are any material issues of fact involved, or whether any such material issues of fact require a hearing. As a result, the cost of RIF appeals has greatly increased without a concomitant increase in the protection afforded to appellants.

To encourage economy and efficiency of Government operations without in any way detracting from the legitimate rights of employees, the final regulation provides that unless MSPB determines there are material issues of fact in dispute, the review of agency actions will be confined to the written record. Whether and to what extent a hearing should be held in a particular case is a matter for determination by the Board.

9. *Retired Members of Uniformed Services.* § 351.501(h) is redesignated (d) and amended to clarify conditions under which certain retired members of the uniformed services are considered preference eligibles for RIF purposes. The definition of "disabled veteran" is broadened as it applies to certain members who retired at the rank of major or above. This change is based on section 307 of the Civil Service Reform Act of 1978.

The entitlement to preference by reservists who at age 60 become eligible for retired pay under chapter 67 of title 10, U.S.C., is clarified in § 351.501(d)(5). This change is based on the Dual Compensation Act as modified by section 307 of the Civil Service Reform Act of 1978. Also, § 351.501(d)(2) as revised conforms to longstanding interpretation of the Dual Compensation Act that retired pay *based* on 20 years of active service, even when the actual service totals less than 20 years, disqualifies a retired member for retention preference. Both provisions were included in the March 30, 1983, proposed rulemaking but were inadvertently omitted from the July 14, 1983, proposal. We received numerous requests for clarification.

10. *Other.* Various other sections were amended to update or drop obsolete references. Minor changes were made for consistency and some sections reorganized for greater clarity. Subpart J, Reemployment Priority List, was not changed and is not reprinted here. A review of all placement programs is planned and changes to Subpart J will be proposed if necessary.

11. *Effective Date.* Agencies may delay implementation of these regulations if RIF plans are underway as of the date this regulation is issued *and* the RIF will take effect on or before January 16, 1984.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation applies only to Federal agencies.

List of Subjects in 5 CFR Part 351

Government Employees.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

Accordingly, Subparts A through I of Part 351 of 5 CFR are revised to read as follows:

PART 351—REDUCTION IN FORCE

Subpart A—[Reserved]

Subpart B—General Provisions

Sec.

351.201 Use of regulations.
351.202 Coverage.
351.203 Definitions.
351.204 Responsibility of agency.
351.205 Authority of OPM.

Subpart C—Transfer of Function

351.301 Applicability.
351.302 Transfer of employees.
351.303 Identification of positions with a transferring function.

Subpart D—Scope of Competition

351.401 Determining retention standing.
351.402 Competitive area.
351.403 Competitive level.
351.404 Retention register.
351.405 Employees demoted because of unacceptable performance.

Subpart E—Retention Standing

351.501 Order of retention—competitive service.
351.502 Order of retention—excepted service.
351.503 Length of service.
351.504 Credit for performance.
351.505 Records.
351.506 Effective date of retention standing.

Subpart F—Release From Competitive Level

351.601 Order of release from competitive level.
351.602 Prohibitions.
351.603 Actions subsequent to release from competitive level.
351.604 Use of furlough.
351.605 Liquidation provisions.
351.606 Mandatory exceptions.
351.607 Permissive continuing exceptions.
351.608 Permissive temporary exceptions.

Subpart G—Assignment Rights (Bump and Retreat)

351.701 Assignment involving displacement.
351.702 Qualifications for assignment.
351.703 Exception to qualifications.
351.704 Rights and prohibitions.
351.705 Administrative assignment.

Subpart H—Notice to Employee

351.801 Notice period.
351.802 General and specific notices.
351.803 Content of notice.
351.804 Notice concerning consideration for reemployment.
351.805 Expiration of notice.
351.806 New notice required.
351.807 Status during notice period.

Subpart I—Appeals and Corrective Action

351.901 Appeals.
Sec.
351.902 Correction by agency.

* * * * *

Authority: 5 U.S.C. 1302, 3502, unless otherwise noted.

Subpart A [Reserved]

Subpart B—General Provisions

§ 351.201 Use of regulations.

(a)(1) Each agency is responsible for determining the categories within which positions are required, where they are to be located, and when they are to be filled, abolished, or vacated. This includes determining when there is a surplus of employees at a particular location in a particular line of work.

(2) Each agency shall follow this part when it releases a competing employee from his or her competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement, when the release is required because of lack of work, shortage of funds, insufficient personnel ceiling, reorganization, or the exercise of reemployment rights or restoration rights.

(b) This part does not require an agency to fill a vacant position. However, when an agency, at its discretion, chooses to fill a vacancy by an employee who has been reached for release from a competitive level for one of the reasons in paragraph (a)(2) of this section, this part shall be followed.

(c) Each agency is responsible for assuring that the provisions in this part are uniformly and consistently applied in any one reduction in force.

(d) An agency authorized to administer foreign national employee programs under section 408 of the Foreign Service Act of 1980 (22 U.S.C. 3968) may include special plans for reduction in force in its foreign national employee programs. In these plans an agency may give effect to the labor laws and practices of the locality of employment by supplementing the selection factors in Subparts D and E of this part to the extent consistent with the public interest. Subpart I of this part does not apply to actions taken under the special plans authorized by this paragraph.

§ 351.202 Coverage.

(a) *Employees covered.* Except as provided in paragraph (b) of this section, this part applies to each civilian employee in:

(1) The executive branch of the Federal Government; and

(2) Those parts of the Federal Government outside the executive branch which are subject by statute to competitive service requirements or are determined by the appropriate legislative or judicial administrative body to be covered hereunder.

Coverage includes administrative law judges except as modified by Part 930 of this chapter.

(b) *Employees excluded.* This part does not apply to an employee:

(1) In a position in the Senior Executive Service; or

(2) Whose appointment is required by Congress to be confirmed by, or made with, the advice and consent of the United States Senate, except a postmaster.

(c) *Actions excluded.* This part does not apply to:

(1) The termination of a temporary or term promotion or the return of an employee to the position held before the temporary or term promotion or to one of equivalent grade and pay.

(2) A change to lower grade based on the reclassification of an employee's position due to erosion of duties, the application of new classification standards, or the correction of a classification error.

(3) The change of an employee from regular to substitute in the same pay level in the U.S. Postal Service field service.

(4) The release from a competitive level of a National Guard technican under section 709 of title 32, United States Code.

§ 351.203 Definitions.

In this part:

"Competing employee" means an employee in tenure group I, II, or III.

"Days" means calendar days.

"Function" means all or a clearly identifiable segment of an agency's mission (including all integral parts of that mission), regardless of how it is performed.

"Local commuting area" means the geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back an forth daily to their usual employment.

"Performance rating" means an official performance rating under a performance appraisal system approved by OPM in accordance with 5 U.S.C., chapter 43; or for an agency not subject to chapter 43, an official performance rating as provided for in the agency's appraisal system.

"Reorganization" means the planned elimination, addition, or redistribution of functions or duties in an organization.

"Representative rate" means the fourth step of the grade for a position subject to the General Schedule, the prevailing rate for a position under a wage-board or similar wage-determining procedure, and for other positions, the rate designated by the agency as representative of the position. Employees covered by the Merit Pay System are General Schedule employees for purposes of determining representative rate.

"Transfer of function" means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas; or the movement of the competitive area in which the function is performed to another commuting area.

§ 351.204 Responsibility of agency.

Each agency covered by this part is responsible for following and applying the regulations in this part when the agency determines that a reduction in force is necessary.

§ 351.205 Authority of OPM.

The Office of Personnel Management may establish further guidance and instructions for the planning, preparation, conduct, and review of reductions in force through the Federal Personnel Manual system. OPM may examine an agency's preparations for reduction in force at any stage. When OPM finds that an agency's preparations are contrary to the express provisions or to the spirit and intent of these regulations or that they would result in violation of employee rights or equities, OPM may require appropriate corrective action.

Subpart C—Transfer of Function

§ 351.301 Applicability.

This subpart is applicable when the work of one or more employees is moved from one competitive area to another, regardless of whether or not the movement is made under authority of a statute, Executive order, reorganization plan, or other authority.

§ 351.302 Transfer of employees.

(a) Before a reduction in force is made in connection with the transfer of any or all of the functions of a competitive area to another continuing competitive area, each competing employee in a position identified with the transferring function or functions shall be transferred to the continuing competitive area without any change in the tenure of his or her employment.

(b) An employee whose position is transferred under this subpart solely for liquidation, and who is not identified with an operating function specifically authorized at the time of transfer to continue in operation more than 60 days, is not a competing employee for other positions in the competitive area gaining the function.

(c) Regardless of an employee's personal perference, an employee has no right to transfer with his or her function, unless the alternative in the competitive area losing the function is separation or demotion.

§ 351.303 Identification of positions with a transferring function.

(a) The competitive area losing the function is responsible for identifying the positions of competing employees with the transferring function. Two methods are provided to identify employees with the transferring function:

(1) Identification Method One; and

(2) Identification Method Two.

(b) Identification Method One must be used to identify each position to which it is applicable. Identification Method Two is use only to identify positions to which Identification Method One is not applicable.

(c) Under Identification Method One a competing employee is identified with a transferring function if:

(1) The employee performs the function during all or a major part of his or her work time; or

(2) Regardless of the amount of time the employee performs the function during his or her working time, the function performed by the employee includes the duties controlling his or her grade or rate of pay.

(d) Under Identification Method Two, competing employees are identified with a transferring function in the inverse order of their retention standing.

(e)(1) The competitive area losing the function may permit other employees in the competitive area to volunteer for transfer with the function in place of employees identified under Identification Method One or Identification Method Two. However, the competitive area may permit these other employees to volunteer for transfer only if no competing employee who is identified for transfer under Identification Method One or Identification Method Two is separated or demoted solely because a volunteer transferred in place of him or her to the competitive area that is gaining the function.

(2) If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, the losing competitive area should give preference to the volunteers with the highest retention standing.

Subpart D—Scope of Competition

§ 351.401 Determining retention standing.

Each agency shall determine the retention standing of each competing employee on the basis of the factors in this subpart and in Subpart E of this part.

§ 351.402 Competitive area.

(a) Each agency shall establish competitive areas in which employees compete for retention under this part.

(b) A competitive area may consist of all or part of an agency. The minimum competitive area in the departmental service is a bureau, major command, directorate or other equivalent major subdivision of an agency within the local commuting area. In the field, the minimum competitive area is an activity under separate administration within the local commuting area. A competitive area must be defined solely in terms of an agency's organizational unit(s) and geographical location, and it must include all employees within the competitive area so defined.

(c) When a competitive area will be in effect less than 90 days prior to the effective date of a reduction in force, a description of the competitive area shall be submitted to the OPM for approval in advance of the reduction in force. Decriptions of all competitive areas must be made readily available for review.

§ 351.403 Competitive level.

(a) Each agency shall establish competitive levels consisting of all positions in a competitive area which are in the same grade (or occupational level) and classification series and which are similar enough in duties, qualification requirements, pay schedules, and working conditions so that the incumbent of one position could successfully perform the critical elements of any other position upon entry into it, without any loss of productivity beyond that normally expected in the orientation of any new but fully qualified employee. Sex may not be the basis for assigning a position to a competitive level, except for a position which OPM has determined certification of eligibles by sex is justified.

(b) Each agency shall establish separate competitive levels according to the following categories:

(1) By service. Separate levels shall be established for positions in the competitive service and in the excepted service.

(2) By appointment authority. Separate levels shall be established for excepted service positions filled under different appointment authorities.

(3) By pay schedule. Separate levels shall be established for positions under different pay schedules.

(4) By work schedule. Separate levels shall be established for positions filled on a full-time, part-time, intermittent, seasonal, or on-call basis. No distinction may be made among employees in the competitive level on the basis of the number of hours or weeks scheduled to be worked.

(5) By supervisory or nonsupervisory status. Separate levels shall be established for positions filled by a supervisor or management official as defined in 5 U.S.C. 7103(a) (10) and (11), except that a probationary period required by Subpart I of Part 315 of this chapter for initial appointment to a supervisory or managerial position is not a basis for establishing a separate competitive level.

(6) By trainee status. Separate levels shall be established for positions filled by an employee in a formally designated trainee or developmental program having all the characteristics covered in § 351.702 (e)(1) through (e)(4) of this part.

(c) Competitive levels shall be submitted in advance to OPM and must be in effect at least 90 days prior to a reduction in force. Descriptions of competitive levels when established must be made readily available for review.

§ 351.404 Retention register.

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees. Except for an employee on military duty with a restoration right, the agency shall enter on the retention register, in the order of retention standing, the name of each competing employee who is:

(1) In the competitive level.

(2) Temporarily promoted from the competitive level by temporary or term promotion; or

(3) Detailed from the competitive level under 5 U.S.C. 3341 or other appropriate authority.

(b)(1) The name of each employee serving under a time limited appointment or promotion to a position in a competitive level shall be entered on a list apart from the retention register for that competitive level, along with the expiration date of the action.

(2) The agency shall list, at the bottom of the list prepared under paragraph (b)(1) of this section, the name of each employee in the competitive level with a written decision under Part 432 of this chapter to remove him or her because of unacceptable performance.

§ 351.405 Employees demoted because of unacceptable performance.

An employee who has received a written decision under Part 432 of this chapter to demote him or her because of unacceptable performance competes under this part from the position to which he or she will be or has been demoted.

Subpart E—Retention Standing

§ 351.501 Order of retention—competitive service.

(a) Competing employees shall be classified on a retention register on the basis of their tenure of employment, veteran preference, length of service, and performance in descending order as follows:

(1) By tenure group I, group II, group III; and

(2) Within each group by veteran preference subgroup AD, subgroup A, subgroup B; and

(3) Within each subgroup by years of service as augmented by credit for performance under § 351.504, beginning with the earliest service data.

(b) Groups are defined as follows:

(1) Group I includes each career employee who is not serving a probationary period. (A supervisory or managerial employee serving a probationary period required by Subpart I of Part 315 of this title is in group I if the employee is otherwise eligible to be included in this group.)

(2) Group II includes each career-conditional employee and each employee serving a probationary period under Subpart H of Part 315 of this chapter. (A supervisory or managerial employee serving a probationary period required by Subpart I of Part 315 of this chapter is in group II if that employee has not completed a probationary period under Subpart H of Part 315 of this chapter.)

(3) Group III includes all employees serving under indefinite appointment, temporary appointment pending establishment of register, status quo appointment, and any other nonstatus nontemporary appointment.

(c) Subgroups are defined as follows:

(1) Subgroup AD includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more.

(2) Subgroup A includes each preference eligible employee not included in subgroup AD.

(3) Subgroup B includes each nonpreference eligible employee.

(d) A retired member of a uniformed service is considered a preference eligible under this part only if the member meets at least one of the conditions of the following paragraphs (d) (1), (2), or (3) of this section, except as limited by paragraph (d)(4) or (d)(5):

(1) The employee's military retirement is based on disability that either:

(i) Resulted from injury or disease received in the line of duty as a direct result of armed conflict; or

(ii) Was caused by an instrumentality of war incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

(2) The employee's retired pay from a uniformed service is not based upon 20 or more years of full-time active service, regardless of when performed but not including periods of active duty for training.

(3) The employee has been continuously employed in a position covered by this part since November 30, 1964, without a break in service of more than 30 days.

(4) An employee who retired at the rank of major or above (or equivalent) is considered a preference eligible under this part if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code, and meets one of the conditions covered in paragraphs (d) (1), (2), or (3) of this section.

(5) An employee who is eligible for retired pay under chapter 67 of title 10, United States Code, and who retired at the rank of major or above (or equivalent) is considered a preference eligible under this part at age 60, only if such employee is a disabled veteran as defined in section 2108(2) of title 5, United States Code.

§ 351.502 Order of retention—excepted service.

Competing employees in the excepted service shall be classified on retention registers in a way that corresponds to that under § 351.501 for employees in the competitive service having similar tenure of employment, veteran preference and performance ratings except that an employee who completes 1 year of current continuous excepted service under a temporary appointment is in tenure group III.

§ 351.503 Length of service.

(a) Each agency shall establish a service date for each competing employee.

(b) An employee's service date is whichever of the following dates reflects the employee's creditable service:

(1) The date the employee entered on duty, when he or she has no previous creditable service;

(2) The date obtained by subtracting the employee's total creditable previous service from the date he or she last entered on duty; or

(3) The date obtained by subtracting from the date in paragraph (b)(1) or (b)(2) of this section, the service equivalent allowed for performance ratings under § 351.504.

(c) An employee who is a retired member of a uniformed service is entitled to credit under this part for:

(1) The length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(2) The total length of time in active service in the armed forces if the employee is considered a preference eligible under § 351.501(d) of this part.

(d) Each agency shall adjust the service date for each employee to withhold credit for noncreditable time.

§ 351.504 Credit for performance.

(a) Performance ratings of outstanding, exceeds fully successful, fully successful, minimally successful and unacceptable are those ratings established under Part 430 of this chapter.

(b) An employee's entitlement to additional service credit for performance under this subpart shall be based on the employee's last three annual performance ratings received during the 3-year period prior to the date of issuance of specific reduction-in-force notices.

(c) The current annual performance rating shall be the last annual rating except that:

(1) An employee who has received an improved rating following an opportunity to demonstrate acceptable performance as provided in Part 432 of this chapter shall have the improved rating considered as the current annual rating; and

(2) An employee's current annual rating shall be presumed to be fully successful when the employee had been demoted under Part 432 of this chapter because of unacceptable performance and as of the date of issuance of specific reduction-in-force notices has not received a rating for performance in the position to which demoted.

(d) Service credit for employees who do not have three previous annual ratings shall be determined as follows:

(1) An employee who has not received a rating shall receive credit for performance for three assumed ratings of fully successful or equivalent.

(2) An employee who has received at least one but fewer than three previous annual ratings shall receive credit for performance based on the actual rating(s) received and on one, or two, assumed rating(s) of fully successful or equivalent, whichever is needed to credit the employee with three ratings.

(e) In computing credit for performance an employee shall receive for each of the three previous annual performance ratings:

(1) Ten additional years of service for each performance rating of outstanding or equivalent;

(2) Seven additional years of service for each performance rating of exceeds fully successful or equivalent; or

(3) Five additional years of service for each performance rating of fully successful or equivalent.

(f) Each agency subject to Part 430 of this chapter is responsible for assuring that its application of these provisions is consistent with that part. Each agency not subject to Part 430 shall apply the provisions of its performance appraisal plan as appropriate.

§ 351.505 Records.

Each agency shall maintain the current correct records needed to determine the retention standing of its competing employees. The agency shall allow the inspection of its retention registers and related records by:

(a) A representative of OPM; and

(b) An employee of the agency to the extent that the registers and records have a bearing on a specific action taken, or to be taken, against the employee.

The agency shall preserve intact all registers and records relating to an employee for at least 1 year from the date the employee is issued a specific notice.

§ 351.506 Effective date of retention standing.

Except for applying the performance factor as provided in § 351.504:

(a) The retention standing of each employee released from a competitive level in the order prescribed in § 351.601 is determined as of the date the employee is so released.

(b) The retention standing of each employee temporarily retained in a competitive level under § 351.606 is determined as of the date the employee would have been released from the competitive level had temporary retention action under § 351.606 not been taken. The retention standing of each employee so retained remains fixed until the completion of the reduction-in-force action which resulted in the temporary retention.

(c) When an agency discovers an error in the determination of an employee's retention standing, it shall correct the error and adjust any erroneous reduction-in-force action to accord with the employee's proper retention standing as of the effective date established by this section.

Subpart F—Release From Competitive Level

§ 351.601 Order of release from competitive level.

(a) Each agency shall select competing employees for release from a competitive level under this part in the inverse order of retention standing, beginning with the employee with the lowest retention standing on the retention register. An agency may not release a competing employee from a competitive level while retaining in that level an employee with lower retention standing except:

(1) As required under § 351.606 when an employee is retained under a mandatory exception or under §351.606 when an employee is entitled to a new written notice of reduction in force; or

(2) As permitted under § 351.607 when an employee is retained under a permissive continuing exception or under § 351.606 when an employee is retained under a permissive temporary exception.

(b) When employees in the same retention subgroup have identical service dates and are tied for release from a competitive level, the agency may select any tied employee for release.

§ 351.602 Prohibitions.

An agency may not release a competing employee from a competitive level while retaining in that level an employee with:

(a) A specifically limited temporary appointment;

(b) A specifically limited temporary or term promotion;

(c) A written decision under Part 432 of this chapter of removal or demotion from the competitive level because of unacceptable performance.

§ 351.603 Actions subsequent to release from competitive level.

An employee reached for release from a competitive level shall be offered assignment to another position in

accordance with Subpart G of this part. If the employee accepts, the employee shall be assigned to the position offered. If the employee has no assignment right or does not accept an offer under Subpart G, the employee shall be furloughed or separated.

§ 351.604 Use of furlough.

(a) An agency may furlough a competing employee only when it intends within 1 year to recall the employee to duty in the position from which furloughed.

(b) An agency may not separate a competing employee under this part while an employee with lower retention standing in the same competitive level is on furlough.

(c) An agency may not furlough a competing employee for more than 1 year.

(d) When an agency recalls employees to duty in the competitive level from which furloughed, it shall recall them in the order of their retention standing, beginning with the highest standing employee.

§ 351.605 Liquidation provisions.

When an agency will abolish all positions in a competitive area within 3 months, it shall release employees in subgroup order but may release them regardless of retention standing within a subgroup, except as provided in § 351.606. When an agency releases an employee under this section, the notice to the employee shall so state and also shall give the date the liquidation will be completed. An agency may apply § 351.607 and § 351.608 in liquidation.

§ 351.606 Mandatory exceptions.

(a) When an agency applies § 351.601 or § 351.605, it shall give the following special retention priorities:

(1) Each group I or II preference eligible employee entitled under section 9 of the Military Selective Service Act of 1967, as amended (50 U.S.C. App. 459), to retention for 1 year after restoration shall be retained over other employees in the same subgroup for the retention period; and

(2) Each group I or II nonpreference eligible employee entitled under section 9 of the Military Selective Service Act of 1967, as amended (50 U.S.C. App. 459), to retention for either 6 months or 1 year after restoration shall be retained over other employees in the same subgroup for the retention period.

(b) Each agency shall record on the retention register, for inspection by each employee, the reasons for any deviation from the order of release required by § 351.601 or § 351.605.

§ 351.607 Permissive continuing exceptions.

An agency may make exception to the order of release in § 351.601 and to the action provisions of § 351.603 when needed to retain an employee on duties that cannot be taken over within 90 days and without undue interruption to the activity by an employee with higher retention standing. The agency shall notify in writing each higher-standing employee reached for release from the same competitive level of the reasons for the exception.

§ 351.608 Permissive temporary exceptions.

(a) An agency may make exception for not more than 90 days to the order of release in § 351.601 and to the action provisions of § 351.603 when needed to retain an employee for 90 days or less after the effective date of release of a higher-standing employee from the same competitive level:

(1) To continue an activity without undue interruption; or

(2) To satisfy a Government obligation to the retained employee; or

(3) When the temporary retention of the lower-standing employee does not adversely affect the rights of any higher-standing employee who is released ahead of the lower-standing employee. The temporary retention of a lower-standing employee on sick leave as a permissive exception may exceed 90 days but may not exceed the date the employee's sick leave is exhausted.

(b) When the agency retains an employee for more than 30 days after the effective date of release of a higher-standing employee from the same competitive level, it shall notify in writing each higher-standing employee reached for release of the reasons for the exception and the date the lower-standing employee's retention will end. When the agency retains a lower-standing employee for 30 days or less, it shall list opposite the employee's name on the retention register the reasons for the exception and the date this employee's retention will end.

Subpart G—Assignment Rights (Bump and Retreat)

§ 351.701 Assignment involving displacement.

(a) *General.* When a group I or II competitive service employee with a performance rating of minimally successful or equivalent, or higher, is released from a competitive level, an agency shall offer assignment, rather than furlough or separate, in accordance with paragraphs (b), (c), and (d) of this section to another competitive service position which requires no reduction or the least possible reduction in representative rate. The employee must be qualified for the offered position which shall be in the same competitive area and last at least three months.

(b) *Lower subgroup—bumping.* A released employee shall be assigned in accordance with paragraphs (a) and (d) of this section and bump to a position that:

(1) Is held by another employee in a lower subgroup within the same or a lower tenure group; and

(2) Is no more than two grades (or appropriate grade intervals or equivalent) below the position from which the employee was released.

(c) *Same subgroup—retreating.* A released employee shall be assigned in accordance with paragraphs (a) and (d) of this section and retreat to a position that:

(1) Is held by another employee with a lower retention standing in the same tenure group and subgroup;

(2) Is no more than one grade (or appropriate grade interval or equivalent) below the position from which the employee was released, except that for a preference eligible employee with a compensable service-connected disability of 30 percent or more the limit is five grades (or appropriate grade intervals or equivalent); and

(3) Is the same position, or an essentially identical one, previously held by the released employee in a Federal agency.

(d) *Limitations.* (1) An employee in a clerical position may be assigned only to a clerical position and an employee in a nonclerical position may be assigned only to a nonclerical position in an assignment made under paragraph (b) of this section.

(2) An employee with a current annual performance rating of minimally successful or equivalent may be assigned under paragraph (c) of this section only to a position held by another employee with a current annual performance rating no higher than minimally successful or equivalent.

(e) *Pay rates.* (1) The determination of equivalent grade intervals shall be based on a comparison of representative rates.

(2) Each employee's assignment rights shall be determined on the basis of the pay rates in effect on the date of issuance of specific reduction-in-force notices, except that when it is officially known on the date of issuance of notices that new pay rates have been approved and will become effective by the effective date of the reduction in force,

assignment rights shall be determined on the basis of the new pay rates.

§ 351.702 Qualifications for assignment.

(a) Except as provided in § 351.703, an employee is qualified for assignment under § 351.701 if the employee:

(1) Meets the OPM standards and requirements for the position, including any minimum educational requirement;

(2) Is physically qualified, with reasonable accommodation where appropriate, to perform the duties of the position;

(3) Meets any special qualifying condition which the OPM has approved for the position; and

(4) Clearly demonstrates on the basis of overall background, including recency of experience, a positive ability to successfully perform all critical elements of the specific position upon entry into it, without undue interruption to that activity and without any loss of productivity beyond that normally expected in the orientation of any new but fully qualified employee.

(b) The sex of an employee may not be considered in determining whether an employee is qualified for a position, except for positions which OPM has determined certification of eligibles by sex is justified.

(c) An employee who is released from a competitive level during a leave of absence because of a compensable injury may not be denied an assignment right solely because the employee is not physically qualified for the duties of the position if the physical disqualification resulted from the compensable injury. Such an employee must be afforded appropriate assignment rights subject to recovery as provided by 5 U.S.C. 8151 and Part 353 of this chapter.

(d) If an agency determines, on the basis of evidence before it, that a preference eligible employee who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of a position to which the employee would otherwise have been assigned under this part, the agency must notify the OPM of this determination. At the same time, the agency must notify the employee of the reasons for the determination and of the right to respond, within 15 days of the notification, to the OPM which will require the agency to demonstrate that the notification was timely sent to the employee's last known address. the OPM shall make a final determination concerning the physical ability of the employee to perform the duties of the position. This determination must be made before the agency may select any other person for the position. When the OPM has completed its review of the proposed disqualification on the basis of physical disability, it must send its finding to both the agency and the employee. The agency must comply with the findings of the OPM. The functions of the OPM under this paragraph may not be delegated to an agency.

(e) An agency may formally designate as a trainee or developmental position a position in a program with all of the following characteristics:

(1) The program must have been designed to meet the agency's needs and requirements for the development of skilled personnel;

(2) The program must have been formally designated, with its provisions made known to employees and supervisors;

(3) The program must be developmental by design, offering planned growth in duties and responsibilities, and providing advancement in recognized lines of career progression; and

(4) The program must be fully implemented, with the participants chosen through standard selection procedures. To be considered qualified for assignment under § 351.701 to a formally designated trainee or developmental position in a program having all of the characteristics covered in paragraphs (e) (1), (2), (3), and (4) of this section, an employee must meet all of the conditions required for selection and entry into the program.

§ 351.703 Exception to qualifications.

An agency may assign an employee under § 351.201(b) or § 351.701 without regard to OPM's standards and requirements for the position if:

(a) The employee meets any minimum education requirement for the position; and

(b) The agency determines that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

§ 351.704 Rights and prohibitions.

(a)(1) An agency may satisfy an employee's right to assignment under § 351.701 by assignment under § 351.201(b) or § 351.705 to a position having a representative rate equal to that to which he or she would be entitled under § 351.701.

(2) An agency may, at its discretion, choose to offer a vacant other-than-full-time position to a full-time employee or to offer a vacant full-time position to an other-than-full-time employee in lieu of separation by reduction in force.

(b) Section § 351.701 does not:

(1) Require an agency to assign an employee to a position having a higher representative rate;

(2) Authorize or permit an agency to displace a full-time employee by an other-than-full-time employee, or to satisfy an other-than-full-time employee's right to assignment by assigning the employee to a vacant full-time position.

(3) Authorize or permit an agency to displace an other-than-full-time employee by a full-time employee, or to satisfy a full-time employee's right to assignment by assigning the employee to a vacant other-than-full-time position.

§ 351.705 Administrative assignment.

(a) An agency may, at its discretion, adopt provisions which:

(1) Permit a competing employee to displace an employee with lower retention standing in the same subgroup consistent with § 351.701 when the agency cannot make an equally reasonable assignment by displacing an employee in a lower subgroup;

(2) Permit an employee in subgroup III–AD to displace an employee in subgroup III–A or III–B, or permit an employee in subgroup III–A to displace an employee in subgroup III–B consistent with § 351.701; or

(3) Provide competing employees in the excepted service with assignment rights similar to those in § 351.701 and in paragraphs (a) (1) and (2) of this section.

(b) Provisions adopted by an agency under paragraph (a) of this section:

(1) Shall be consistent with this part;

(2) Shall be uniformly and consistently applied in any one reduction in force;

(3) May not provide for the assignment of an other-than-full-time employee to a full-time position;

(4) May not provide for the assignment of a full-time employee to an other-than-full-time position;

(5) May not provide for the assignment of an employee in a competitive service position to a position in the excepted service; and

(6) May not provide for the assignment of an employee in an excepted position to a position in the competitive service.

Subpart H—Notice to Employee

§ 351.801 Notice period.

(a) Each competing employee selected for release from a competitive level under this part is entitled to a written notice at least 30 full days before the effective date of release. When a general notice is supplemented by a specific notice, an agency may not release an employee from his or her

competitive level until at least 10 days after the employee's receipt of the specific notice.

(b) The notice shall not be issued more than 90 days before release except with the prior approval of OPM.

(c) The notice period begins the day after the employee receives the notice.

(d) When an agency retains an employee under § 351.606 or § 351.608, the notice to the employee shall cite the date on which the retention period ends as the effective date of the employee's release from the competitive level.

§ 351.802 General and specific notices.

When an agency cannot specifically determine all individual actions at the start of the notice period, it may issue general notices which shall later be supplemented by specific notices. The combined general and specific notice periods shall meet the requirements in § 351.801, and the combined contents of the general and specific notices shall meet the requirements in § 351.803.

§ 351.803 Content of notice.

(a) The notice shall state specifically the action to be taken and its effective date except as provided in paragraph (b) of this section; the employee's competitive area, competitive level, subgroup, service date, and annual performance ratings received during the last three years; the place where the employee may inspect the regulations and records pertinent to this case; the reasons for retaining a lower-standing employee in the same competitive level under § 351.607 or § 351.608; the information on reemployment rights except as permitted by § 351.804; and the employee's right, as applicable, to grieve under a negotiated grievance procedure or to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title.

(b) A general notice shall inform the employee that action under this part may be necessary but a specific action has not yet been determined. The notice shall state that as soon as the agency determines what action, if any, will be taken under this part the employee will receive specific notice of the action to be taken. The general notice shall contain an expiration date. A general notice may also include other information specified in paragraph (a) of this section.

§351.804 Notice concerning consideration for reemployment.

An employee who receives a specific notice of separation under this part must also be given information concerning the right to reemployment consideration under the provisions of Subparts B and C of Part 330 of this chapter. This information should be included in or with the specific reduction-in-force notice; otherwise, a separate supplemental notice covering this information must be given to the employee.

§ 351.805 Expiration of notice.

(a) An agency may cancel an unexpired general notice, or may renew it for additional periods within the maximum notice period referred to in § 351.801. A general notice expires as stated therein unless, on or before the expiration date, the employee receives a renewal of the general notice or a specific notice.

(b) A specific notice expires except when followed by the action specified, or by action less severe than specified, in the notice or in an amendment made to the notice before the agency takes the action. An agency may not take action before the effective date in the specific notice. An action taken after the specified date in the specified notice shall not be ruled invalid for that reason except when it is challenged by a higher-standing employee in the competitive level who is reached out of order for reduction in force as a result of the action or when it results in a notice period longer than the maximum allowed.

§ 351.806 New notice required.

An employee is entitled to a new written notice of at least 30 full days if the agency decides to take an action more severe than first specified.

§ 351.807 Status during notice period.

When possible, the agency shall retain the employee on active duty during the notice period. When in an emergency the agency lacks work or funds for all or part of the notice period, it may place the employee on annual leave with or without his or her consent, on leave without pay with his or her consent, or in a nonpay status without his or her consent.

Subpart I—Appeals and Corrective Action

§ 351.901 Appeals.

An employee who has been furloughed for more than 30 days, separated, or demoted by a reduction-in-force action may appeal to the Merit Systems Protection Board. Unless the presiding official determines that there are material issues of fact in dispute that would require a hearing for resolution, the review of an agency action shall be confined to the written record.

§ 351.902 Correction by agency.

When an agency decides that an action under this part was unjustified or unwarranted and restores an individual to the former grade or rate of pay held or to an intermediate grade or rate of pay, it shall make the restoration retroactively effective to the date of the improper action.

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Part VI

Office of Personnel Management

Performance Management System; Final Rule and Interim Rule With Request for Comments

Personnel Records; Transfer of an Official Personnel Folder to Another Agency; Proposed Rule

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 300, 335, 430, 431, 451, 531, 532, 540, and 771

Performance Management System

AGENCY: Office of Personnel Management.

ACTION: Final rule and interim rule, and request for comments.

SUMMARY: The Office of Personnel Management is issuing regulations to implement Performance Management including a Performance Based Incentive System for the General Schedule. The rules also require that agencies grant merit pay employees the equivalent of the General Schedule within-grade pay increase to provide equity between merit pay and General Schedule employees. These regulations reflect major comments on recent proposals to create a system designed to pay employees based on performance.

DATES: Effective November 25, 1983. Comment date: OPM invites comments on the interim rule portions of the document (§ 430.207(d), § 540.102, the definitions of "total performance pay" and "total performance pay pool", § 540.109, and § 540.110(a)(3)). To be considered, comments must be received by December 27, 1983.

ADDRESS: Send or deliver written comments (on the interim rules) to: John W. Fossum, Assistant Director for Performance Management, Workforce Effectiveness and Development, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: James Weddel, 202–632–7630.

SUPPLEMENTARY INFORMATION:

Background

On March 30 and July 14, 1983, OPM proposed revisions to 5 CFR Parts 300, 335, 430, 451, 531, 532 and 540, and a new part 431 that would require agencies to implement a Performance Management System (48 FR 13342 and 48 FR 32288). Sixty and 30-day comment periods were provided respectively, during which OPM requested comments and suggestions.

We have carefully reviewed and analyzed all comments received during the comment periods, adopted many suggestions, and made numerous modifications to the proposals.

Comments

Comments received on the earlier proposal (except for a number of comments on the Merit Pay System) are reflected in the Supplementary Information section of the rules proposed on July 14. During the 30-day comment period on the July 14 proposal, OPM received comments from 40 Federal agencies, 10 professional organizations, 7 labor organizations, and 83 individuals, most of whom were Federal employees. Many of the comments contained specific constructive suggestions: OPM is adopting many of those suggestions in this document.

Overview of the Performance Management System

The new Performance Management System regulations will meet OPM's primary objectives and, we believe, will also meet agency needs and objectives. The regulations establish pay for performance systems for all employees and provide needed revisions to merit pay.

All General Schedule employees who earn at least a "Fully Successful" rating on all critical elements and a "Fully Successful" summary rating will be eligible to receive within-grade increases. The proposal that General Schedule employees in top pay steps of their grade be rated at least "Exceeds Fully Successful" in order to receive within-grade increases has been deleted.

All merit pay employees who earn a "Fully Successful" summary rating will receive pay increases equivalent to those received by General Schedule employees as well as the amount of any general pay increase.

A written recommendation for appropriate monetary, non-monetary, or honorary recognition must be prepared for all employees who earn an "Outstanding" summary rating. Agencies must establish a "Total Performance Pay Pool" to be distributed to merit pay employees as a combination of merit pay increases and performance-related cash awards. Each agency plan for administering the agency Merit Pay System must specify a funding level for merit pay performance awards to be specified by OPM within the context of agency past practices.

To emphasize the connection between performance and awards, Incentive Awards regulations have been divided into two parts: Performance Awards and Special Awards. Employees can earn a Performance Award for performance that "Exceeds Fully Successful" overall or on one or more critical elements of a job. To further strengthen the link between pay and performance in the minds of employees and their supervisors, performance awards and QSI's will be provided as soon as possible after annual performance ratings are approved.

The regulations meet agency and OPM concerns about the cost, paperwork, and time requirements of Performance Management. Agencies are not required to write performance standards at three element rating levels, although they are encouraged to do so. The minimum requirement is three element rating levels with written performance standards at the "Fully Successful" level. In addition, revised performance appraisal requirements will be implemented at the beginning of an agency's new appraisal cycle, avoiding a requirement for revision of individual Performance Plans in the middle of the current appraisal cycle.

Employees will be able to seek a reconsideration if they feel that performance ratings are unfair. Additional procedures for review of a performance rating, including a grievance procedure, can be established at the discretion of the agency head. Agencies will not be able to utilize preestablished rating distributions that interfere with appraisal of actual performance against standards. Agencies are required to provide for second level review of ratings in the interest of employee equity and ensuring that ratings are consistent with organizational accomplishments. Through that process, managers can change inaccurate appraisals. It is required that critical elements, non-critical elements, and performance standards be related to an employee's assigned work. Higher level approval of elements and standards is required.

The regulations require each agency to establish a Performance Management Plan for OPM approval. Agencies will be able to tie the establishment and revision of performance elements and standards to the beginning of management planning cycles so that employee performance expectations can clearly support achievement of organizational goals and objectives. Performance ratings and performance based personnel actions can now reflect each employee's contribution during the past year to achievements in support of the organization's purposes and mission.

The regulations standardize performance ratings among agencies by requiring five summary rating levels. Agencies may consider performance of non-critical elements in deriving summary ratings but more weight must be given to performance of critical elements. The regulations also standardize performance requirements for within-grade increases, performance awards, quality step increases, career ladder promotions, and merit pay. For the first time, regulations are being

established for SES performance appraisal. The SES regulations parallel appraisal requirements for other employees.

Key Issues in the Final Regulations

The following are the key issues raised in the proposed regulations, a general summary of comments which have been received in these areas, and an explanation of the final regulations.

1. Career Ladder Promotions and Time-In-Grade Restrictions

a. Sections 300.602, 335.104.

b. Half of the agencies who commented on these proposals noted they were very pleased that longer time-in-grade restrictions were eliminated from the proposals. Most commenters continued to support the requirement that an employee be rated "Fully Successful" overall to receive a career ladder promotion. A number of agencies, labor organizations, and individual commenters were concerned with the new requirement for priority consideration for career ladder promotions for employees with the highest summary ratings in situations when not all eligible employees could receive promotions. Several thought that the scope of coverage must be narrower than "all employees" and requested clarification.

c. The regulation retains the requirement for a "Fully Successful" summary rating in order to be eligible for a career ladder promotion and for ratings of "Fully Successful" or better on all critical elements that are critical to the position at the next higher grade level in the career ladder. The requirement that employees with the highest summary ratings be given first consideration in career ladder promotions is clarified to indicate that the employees concerned must be in the *same career ladder.*

d. These regulations retain the connection of performance to career ladder promotions by requiring agencies to carefully consider both summary ratings and pertinent critical element ratings in making such promotions and to promote employees with higher summary ratings when not all employees in the same career ladder can be promoted at the same time. The phrase "same career ladder" should be interpreted to mean positions in the same series and, at agency discretion, usually in the same organization.

2. Distinguishing Between the Terms "Appraisal" and "Performance Rating"

a. Sections 430.201(d); 430.203; 430.204(b); 431.201(d); 431.203; 431.204(b), (u).

b. Several commenters indicated that the terms "appraisal" and "rating" appeared to have the same meaning in the proposed regulations.

c. The final regulations distinguish between appraisal of performance during an appraisal period and a written performance rating provided to the employee.

d. This change permits agencies to determine whether a regulation is referring to the act or process of reviewing and evaluating performance (appraisal) or to written records of element or overall performance (ratings).

3. Definition of a Critical Element

a. Sections 430.203 and 431.203.

b. Regarding the definition of "critical element," a number of agencies recommended deleting, revising, or expanding the phrase "which contributes toward accomplishing organizational goals and objectives". Several agencies and a labor organization also pointed out that the phrase "in the position" is inconsistent with identifying critical elements for details to another position. Finally, agencies stated that the word "acceptable" was not defined.

c. The definition of a "critical element" has been revised by deleting the word "acceptable" which has several possible meanings and using the word "unacceptable", which is defined in law. Specifically, the July 14 proposal stated that a critical element "is of such importance that acceptable performance on the element is necessary for acceptable performance in the position" while the final regulation states that a critical element "is of such importance that unacceptable performance on the element would result in unacceptable performance of assigned work". It should also be noted that the revised definition refers to performance "of assigned work" instead of performance "in the position".

d. The phrase "which contributes toward accomplishing organizational goals and objectives" was not changed because it provides a minimum criterion for identification of critical elements. The goals and objectives referred to would be those for the unit where the employee works, not necessarily agency-wide objectives. Identified critical elements must be consistent with the planned work of the organizational unit. Use of the phrase "performance of assigned work" will enable agencies to consider performance in more than one position when deriving a summary rating, as long as an employee served in all positions considered for the agency's minimum appraisal period and during the annual appraisal period.

4. References to Non-Critical Elements

a. Sections 430.203, 431.203, 430.204(b), 431.204(b).

b. A few commenters noted that reference should be made to appraisal of non-critical elements in the definitions of several terms.

c. The definitions of the following terms have been amended by adding references to non-critical elements: "Appraisal System," "Performance," "Performance Plan," "Rating," and "Performance Rating." In addition, regulations on the performance appraisal process provide that employees must be appraised and rated on any non-critical elements included in individual Performance Plans.

d. Although an agency is not required to establish or identify non-critical elements, the definitions indicate that when non-critical elements are included in individual Performance Plans, a written performance rating for the non-critical elements must be prepared.

5. Use of Non-Critical Elements

a. Sections 430.203, 430.204(d)(1), 431.203, 431.204(d)(1).

b. Fourteen agencies, two associations, one labor organization and six individuals stated that performance on non-critical elements should be considered in deriving a summary rating of performance. Commenters felt that employees should be held accountable for the whole job. Commenters also stated that appraisal of non-critical elements would be meaningless unless performance of non-critical elements had a bearing on an employee's summary rating.

c. The prohibitions on use of non-critical elements in deriving summary ratings have been deleted from non-SES and SES performance appraisal regulations.

d. Agencies will be required to include decision tables for deriving summary ratings in their Performance Management Plans. Agency procedures for deriving summary ratings may include consideration of ratings on non-critical elements but only if the procedures give more weight to performance of critical elements.

6. Revision of Rating Level Definitions

a. Sections 430.204(h); 431.204(h).

b. Several agencies and individuals commented that quantity and timeliness criteria may not be pertinent to all positions and that production of work ahead of schedule may not be desirable for some positions. Some agencies also

indicated that the definitions of "Minimally Successful" and "Unacceptable" performance were too much alike. One comment objected to the phrase "corrective action must be taken" in the definition of "Unacceptable" or "Unsatisfactory" performance. About one-fourth of agencies and a few individuals asked that the same names be used for both SES and non-SES rating levels.

c. The definitions of "Outstanding" and "Exceeds Fully Successful" have been changed by adding the phrase "as warranted" to indicate selective application of quantity, timeliness, and amount of supervision as factors differentiating levels of performance. Also, the definitions of "Minimally Successful" and "Minimally Satisfactory" have been revised to indicate that performance needs improvement, but is not "Unacceptable" or "Unsatisfactory". All references to remedial and corrective action have been deleted from the SES rating level definitions. The phrase "consistent with required procedures" has been added to the requirement for corrective action for the "Unacceptable" non-SES rating level.

d. These changes reflect the concept that quality of performance is a universally applicable factor in measuring performance, while other factors should be applied only if appropriate to the type and level of position involved. The revised definitions also create a greater distinction between "Minimally Successful" and "Unacceptable" performance, especially if it is understood that the performance standards mentioned in the definition of the "Unacceptable" ("Unsatisfactory") rating level are those which have been written at the "Minimally Successful" ("Minimally Satisfactory") or "Unacceptable" ("Unsatisfactory") level. The standards describe a threshold of performance, below which performance is "Unacceptable" or "Unsatisfactory".

Names of the two lowest rating levels have not been changed because of specific statutory references to "Unacceptable" performance of non-SES employees, "Satisfactory" performance as a requirement for Federal Wage System step increases and "Minimally Satisfactory" and "Unsatisfactory" summary rating levels for SES employees.

7. Performance Rating Procedures

a. Sections 430.203, 430.204(b), (c), (d), (e); 431.203, 431.204 (b), (c), (d), (e).

b. Almost one-third of agencies commenting, two labor organizations, and an individual commenter indicated a desire to continue with existing procedures using fewer than five element rating levels. Just over one-third of agencies preferred not to write performance standards at three element rating levels, many of them stating that agencies should have the flexibility to set the number of written standards. Half of those objecting saw no benefit, stated that costs would be high, and thought there would be too much paperwork and burden on supervisors. Half felt there should only be one standard, written at the "Fully Successful" level, while a few others thought there should be two.

c. Agencies are now required to have a minimum of three rating levels for all critical elements, written performance standards at the "Fully Successful" level for all elements, and five summary rating levels. At any time during the appraisal cycle when performance has been determined to be below "Fully Successful" on one or more critical elements, agencies are required to provide a Performance Improvement Plan to an employee if performance standards had not previously been established at the "Unacceptable" ("Unsatisfactory") level or the rating level immediately above the "Unacceptable" ("Unsatisfactory") level. The Performance Improvement Plan must explain employee deficiencies, explain steps to be taken in an attempt to resolve the deficiencies, and include performance standards established at the "Minimally Successful" ("Minimally Satisfactory") level. The Performance Improvement Plan must be provided to the employee at the beginning of a new appraisal period. 5 CFR Part 432 provides for an opportunity period to improve "Unacceptable" performance which is in addition to the new appraisal period described above. The length of the new appraisal period will be determined by the agency, but cannot be shorter than the agency's minimum appraisal period.

As an editorial change, the non-SES definition of the term "rating" and the SES definition of the term "performance rating" have been changed by deleting the names of rating levels.

d. The proposed regulations specify minimum requirements. Agencies are required to write performance standards at the "Minimally Successful" ("Minimally Satisfactory") level only when demonstrated performance is below "Fully Successful" on one or more critical elements. The minimum rating requirements provide a sufficient basis for within-grade increase determinations. Although these requirements are a minimum, agencies are encouraged to establish five element rating levels.

8. Performance ratings for Reduction-in-Force

a. Sections 430.204(k), (l)(m); 431.204(l), (m), (n).

b. Agencies have asked if the annual performance ratings to be used as a basis for Reduction-In-Force could include ratings given for appraisal periods of less than one year.

c. The regulations state that agencies must take into consideration all performance ratings given during the annual appraisal period when preparing an annual rating. The regulations also state that one exception to use of annual performance ratings as a basis for RIF is when a new employee does not have a performance rating of record, but has served for the agency's minimum appraisal period. Agencies are required to rate the performance of the newly hired employee and use the rating as a basis for the RIF action.

d. These revisions provide that annual ratings used as a basis for RIF actions are not interim ratings or unscheduled ratings provided upon reassignment of a supervisor or employee, completion of a detail, because of poor performance, or for some other reason. Instead, annual ratings are prescheduled ratings given once each year.

9. Grievance of a Performance Rating

a. Sections 430.204(p) and 771.206(c)(3).

b. Over half of the agencies disagreed with the July 14 proposal which stated that an "employee may not grieve or appeal a performance rating." About half of the agencies disagreeing were concerned with employees' perception of fairness and objectivity. About one-fourth were concerned with FLRA rulings and the scope of grievances. About one-fifth were concerned with potential disputes, and with employees seeking more expensive avenues of redress (such as EEO complaints), when they disagreed with their ratings. Two agencies noted that there might be inconsistent treatment of bargaining unit vs. non-bargaining unit members. Four of the 10 associations and all seven labor organizations disagreed with the proposal—as did one-fourth of the individual commenters, citing legal and FLRA issues as well as the employees' perception of fairness and objectivity in performance ratings.

c. The revised regulations require that an employee be provided an opportunity to request reconsideration of a performance rating by the supervisor or manager who approved the rating. Th

revised regulations also provide that an agency may, at the discretion of the agency head, establish a further review of a performance rating. The review procedure may be established under a negotiated agreement. However, SES performance evaluations are not covered by the Agency Grievance System procedures established under 5 CFR Part 771.

d. The revision will enable agencies to permit grievances of peformance ratings, but agencies may determine that performance ratings will not be grievable.

10. Performance Ratings for Details

a. Sections 430.204(g), (r); 431.204(p), (q)

b. A number of agencies stated that elements and standards cannot always be provided at the beginning of a detail within an agency because not all details are anticipated in advance. A few agencies also requested clarification of the regulations on details to other organizations.

c. The regulations provide that agencies should provide elements and standards as soon as possible but no later than 30 days after the beginning of a detail or temporary promotion within the same agency. The regulations also provide more detailed instructions on performance ratings for non-SES employees detailed to another organization. Agencies are required to prepare performance ratings if the employee had served for the minimum appraisal period in the agency. Failing that, agencies are required to make a reasonable effort to obtain appraisal information from the other organization sufficient to prepare a performance rating. If no rating can be prepared, the agency can extend an employee's rating of record for no longer than one year.

d. Regulations on details of SES employees to other organizations have not been revised because of the specific legal requirement for annual ratings based on performance during an appraisal period.

11. Implementation

a. Sections 430.207, 430.301, 431.301.

b. Over half the agencies, three labor organizations, and one professional association stated that agencies need more time to implement the Performance Management System. One-fourth of the agencies also noted that performance appraisal changes would be more costly and burdensome if implemented during the middle of an appraisal period. It was noted that new appraisal requirements must be implemented before personnel decisions based on the new appraisal data can begin.

c. The regulations set staggered implementation dates for new performance appraisal requirements by grade level. The regulations also state that decisions based upon performance appraisals under an agency's Performance Management Plan must begin as soon as possible after performance appraisal provisions have been implemented.

d. A proposed requirement has been deleted which would have required agency reports of provisions of any negotiated agreement which conflict with Performance Management System regulations.

12. Documentation for SES Performance Appraisals

a. Section 431.204(o), (r).

b. In response to a few comments, the regulations have been revised to provide that SES employees must be provided a copy of a final performance rating. The regulations also provide that a senior executive's response to an initial rating must be provided to the official making the higher level review and to the Perfomance Review Board.

13. Use of SES Appraisals as a Basis for Personnel Actions

a. Section 431.204(u), (v).

b. Several commenters noted that performance appraisals would not have any impact on the base pay of SES employees.

c. The regulations provide that SES performance ratings may provide a basis for decisions to grant performance-related ES pay rate adjustments.

14. Performance Salary Ceiling for General Schedule Employees

a. Sections 531.404(a).

b. Half of the agencies, individuals, and associations commenting and six labor organizations asked that the performance salary ceiling proposal for General Schedule employees be deleted. The proposal would have required a summary rating of "Exceeds Fully Successful" for within-grade increases above step 7 of each grade. Commenters cited a GAO opinion, the prospect of rating "inflation", and inconsistency with lower performance requirements for promotions.

c. The performance salary ceiling previously proposed for General Schedule employee has been deleted.

15. Mandatory Quality Step Increases

a. Sections 430.204(f), (t); 431.204(f), (w); 531.504.

b. Seventeen agencies and two labor organizations objected to requiring quality step increases for "Outstanding" employees in steps 1–3 of their grade. Reasons for objections included reduced management flexibility, a preference for granting cash awards, concern that the QSI would be meaningless if the employee was quickly promoted, preference for treating all "Outstanding" employees the same, and concern that QSI's might not be appropriate if disciplinary or budgetary problems existed.

c. The proposed requirement for mandatory QSI's for "Outstanding" employees in steps 1–3 of each grade has been deleted.

d. The regulations require that written recommendations for appropriate monetary, non-monetary, or honorary recognition be provided for all employees with "Outstanding" summary performance ratings.

16. Productivity Benefit Sharing Programs

a. Part 451, Subpart C (Reserved).

b. One agency asked whether it could continue developing and implementing specially designed Productivity Benefit Sharing Programs and like productivity programs.

c. The regulations now contain a "Reserved" Subpart for Productivity Benefit Sharing regulations, which OPM may publish in the future. In the meantime, nothing precludes agencies from continuing the development and implementation of Productivity Benefit Sharing Programs.

17. A Special Award may be granted alone or in addition to a Performance Award

a. Section 451.201(b) and 451.208(c).

b. Almost one-fourth of the agency comments made evident the need for further clarification.

c. New language clarifies that a Special Award may be granted alone or in addition to a Performance Award. Presidential awards shall be granted only under this subpart.

18. Definition of "Meritorious Action"

a. Section 451.203.

b. Almost one-fourth of the agencies expressed the need for clarification of the difference between Performance Awards under Part 531, Subpart F, and Meritorious Action Awards under Part 451.

c. New language clarifies the purpose and use of Meritorious Action Awards under Part 451. Meritorious actions rewarded must be outside or beyond job responsibilities and performance standards, and must be highly exceptional and unusually outstanding. Language proposed on July 14 which

stated that Special Awards "shall be in addition to a performance award" has been deleted to further clarify the distinction between awards for performance and Special Awards.

19. Awards for One-Time Special Acts or Services

a. Sections 451.204 and 531.601(c).

b. Several agencies indicated a need to clarify the circumstances under which awards for special acts or services may be given.

c. One-time special acts or services within the scope of normal employee job responsibilities and performance standards shall be rewarded under the Performance Awards component of the Performance Management Plan; those outside the scope of job responsibilities and performance standards shall be rewarded under the Special Awards Program.

20. Coverage of Employees Under the Merit Pay System

a. Sections 531.603(a) and 451.203(a).

b. One agency and one individual comment reflected the need for further clarification.

c. New language clarifies that employees in the Senior Executive Service are not eligible for performance awards under Part 531, Subpart F, but that employees covered under Merit Pay Systems established under Chapter 54 of title 5, United States Code, are eligible for performance awards. The revision also clarifies that all Merit Pay and Senior Executive Service employees are eligible for Special Awards, but only under the agency Performance Management Plan.

21. Definitions of Awards Terms

a. Sections 531.604 and 451.204.

a. A number of agencies commented on the need to add definitions of the terms "honorary award", "monetary award", "non-monetary award", "contribution", "meritorious action" and "special act or service", and to provide a more precise definition for the terms "tangible benefits" and "intangible benefits."

c. New language provides definitions for each of these terms.

22. Policy on Performance Awards and Special Awards

a. Sections 531.605(a) and 451.205(a).

b. New language provides further clarification regarding OPM policy for the Performance Awards and Special Awards Programs.

23. Inclusion of any Within-Grade Increase and/or Quality Step Increase in the Limit of 15% of Employee Base Pay When Granting a Performance Award

a. Section 531.605(b)(3).

b. Several agencies and individuals and one professional association preferred that within-grade increases and QSI's not be included in the 15-percent-of-base-pay limitation on performance awards. These commenters felt the limits should be established by agencies, within OPM guidelines and agency budget limitations. Several agencies and individuals were also concerned about the possible conflict between the timing of a Performance Award and the timing of a Within-Grade Increase, which could occur several months later.

c. The regulations provide that if the sum of a performance award recommended and any within-grade and/or quality step increase received by the employee during the previous twelve (12) months exceeds 20 percent, the award must be reduced to that maximum.

d. This provision is consistent with a 20% limitation on performance awards for SES employees.

24. OPM Guidance to Agencies

a. Sections 531.606(a) and 451.206(a).

b. Earlier proposed regulations required that OPM provide guidance to agencies on honorary and non-monetary awards, including honorary Presidential awards.

c. New language requires that OPM provide guidance to agencies on how the entire Performance Award component of the Performance Management Plan should be carried out.

d. This further reinforces the statutory requirement (5 U.S.C. 4508) that OPM provide guidance on all aspects of the awards program.

25. Review and Approval of the Performance Award Component of the Agency Performance Management Plan

a. Section 531.608(b).

b. New language corrects an oversight in the earlier regulations.

c. The regulation requires that OPM review and approve the agency Performance Award component of the Performance Management Plan, as required under Section 430.207.

26. Documentation of Performance Awards and Special Awards in Official Personnel Folders

a. Sections 531.609(a)(1) and 451.209(a)(8).

b. This requirement has been moved to "Agency Responsibilities" for purposes of clarity.

27. Consideration of Performance Awards When Rating and Ranking an Employee for a Promotion

a. Sections 531.609(a)(2) and 451.209(a)(9).

b. Agencies called to our attention the need to maintain this requirement in the regulations in order to comply with a statutory requirement (5 U.S.C. 3362).

c. This provision corrects an oversight. It requires that due weight be given to a Performance Award or a Special Award when rating and ranking an employee for a promotion.

28. Plan for Determining the Performance Award Fund

a. Section 531.609(d)(6).

b. This provision is required under Section 430.207 and should also appear in this Subpart.

c. Section 430.207(a)(4) requires that the agency Performance Management Plan include plans for determining and distributing Within-Grade Increases, Quality Step Increases, and the agency performance award fund, including previous years' and projected expenditures.

29. Funds for Productivity Benefit Sharing Programs

a. Section 531.609(d)(6).

b. The regulation requires that funds for awards for Productivity Benefit Sharing Programs be separate from funds for Performance Awards.

c. This provision was moved from Section 531.608(b) to Section 531.609(d)(6) for purposes of clarity.

30. Merit Pay Performance Appraisal Period

a. Section 540.105(b).

b. This section requires that agencies align their merit pay performance appraisal periods to end proximate to the time of the merit pay increase. The change allows OPM to adjust that time requirement.

c. If it becomes necessary to award merit pay increases on a regular basis at a different time of the year, it would also be appropriate for agencies to adjust their performance appraisal year.

31. Consideration of Other Pay Increases Received

a. Section 540.106(b).

b. One-fourth of the agencies, an individual and one association commented on the requirement to consider other pay increases when determining the merit pay increase.

Most of the commenters said that such consideration should remain optional; one agency thought that the reason for any increase (or the lack of one) should also be considered; and one agency and an individual suggested that prior years' merit pay increases should not be considered.

c. The section has been changed to include consideration of the reasons for previous pay adjustments, and to add performance awards.

d. Earlier pay increases and awards and the reason that they were or were not granted must be considered if the merit pay process is to be properly managed.

32. New Appointments to Merit Pay Positions

a. Section 540.103(c).

b. This section refers to the agency head's authority to identify merit pay employees. The change excepts from merit pay fund calculations and merit pay adjustment eligibility those employees who had been appointed to the Federal service on the same date as the General Schedule increase.

c. Persons thus appointed will have their pay set at a rate in the pay range which has already been adjusted for the General Schedule increase. It would be inappropriate to allow the employee to receive the pay adjustment a second time through the merit pay process.

33. Date for Determining Merit Pay Funds Available

a. Section 540.104(a).

b. This section prescribes how agencies determine the amount of money which is available to be allocated as merit pay increases. The change makes it explicit that merit pay funding computations are to be based on agency merit pay populations as they exist on the effective date of the merit pay increases.

c. The merit pay fund is derived by accumulating contributions made in behalf of each employee who is to have his or her pay set in accordance with the System. The fund, therefore, needs to be computed on the population which exists at the time of the increases.

34. Merit Pay Performance Salary Ceiling

a. Section 540.110(d).

b. This proposal would have reserved rates of pay higher than the equivalent of step 7 to merit pay employees who are rated either "Exceed Fully Successful" or "Outstanding". One-fourth of agencies, one association, and one individual commenter opposed the restriction outright; several pointed out that it conflicted with the guarantee in § 540.110(c) of the full General Schedule increase equivalent for all employees rated "Fully Successful".

c. The performance salary ceiling previously proposed for merit pay employees has been deleted.

d. It would not be consistent or equitable to establish a performance salary ceiling for merit pay employees if no similar requirement is established for non-merit pay employees.

35. Parity for Merit Pay Employees

a. Section 540.110(c).

b. In this rulemaking, "parity" means the equivalent of the General Schedule within-grade increase as well as the comparability ("October") increase. During the two comment periods, a number of agency, Congressional and professional organizations' comments expressed that, while granting full comparability to merit pay employees would improve the Merit Pay System, a better solution would be to provide "parity". One professional association suggested eliminating the Merit Pay System, since managers rated "Fully Successful" or above can receive less pay under the System than if they had remained out of it. Another association noted that the current system "penalized many high performers by depriving them of the equivalent of a within-grade increase." The perception by many individual commenters of the Merit Pay System's "unfairness" may be attributed to the parity issue.

c. The final rules provide "parity" for merit pay employees.

d. After carefully considering the comments, OPM has made the change to provide equity between General Schedule and Merit Pay employees.

Interim Rule Changes

Interim rules are being added at this time so that agencies can begin implementation of their entire Performance Management System in a timely manner.

36. Definitions of "Total Performance Pay" and "Total Performance Pay Pool"

a. Sections 540.102, 540.108 (a) and (d), 540.108(b)(3), 540.110(a)(3), and 540.110(d).

b. New terms, "Total Performance Pay" and "Total Performance Pay Pool," are added to the "Definitions" section of Part 540.

c. Total perfomance pay will include the employee's merit pay increase and performance-related merit pay cash award. The Total Performance Pay Pool will include all funds identified by an agency for merit pay increases and performance awards for merit pay employees.

d. References to "Total Performance Pay" have been inserted in all appropriate sections of Part 540.

37. Required Distribution of Merit Pay Performance Awards

a. Section 540.110(a)(3).

b. OPM has determined that performance awards should be a mandatory part of the "total performance pay" for merit pay employees in order to maintain the pay-for-performance concept.

c. The interim rule provides that agencies must include in their Performance Management Plan the way in which performance award funds will be distributed and the amount to be funded by the agency for such purposes. OPM will specify the minimum funding level for merit pay performance awards.

d. With parity being granted to all merit pay employees, there will be only a relatively small amount left in the Merit Pay Fund for distribution based on performance. In order to maintain a meaningful pay-for-performance system, performance awards must be used on a regular basis to supplement increases to base pay as a reward for a high level of performance.

38. Labor-Management Demonstration Projects on Merit-Type Pay Systems

a. Section 430.207(d).

b. Before the white-collar workforce moves to a full merit-type pay system, the Office of Personnel Management (OPM) has determined that demonstration projects would first be necessary. It has determined that these would be most productive with labor organization involvement.

c. OPM has provided for up to the maximum eight demonstration projects now allowed under law, involving up to 5,000 employees each, under the demonstration projects authority of Section 4703 of 5 U.S.C. The Office of Personnel Management would directly or through agreement or contract with one or more agencies conduct and evaluate these demonstration projects under the criteria set in the statute. The scope of such demonstration projects would cover all aspects related to a merit-type pay system for white collar employees in the demonstration project agencies.

E.O. 12291 Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a

substantial number of small entities because the regulation will only affect Government employees.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking for the interim rules contained in Parts 430 and 540. The notice is being waived because agencies must begin implementing these demonstration projects and Merit Pay System changes at the same time as they implement the other provisions of the Performance Management System, and because these changes, which will be beneficial to merit pay employees, should become effective as soon as possible.

List of Subjects

5 CFR Part 300

Government employees, Administrative practice and procedure.

5 CFR Part 335

Government employees.

5 CFR Part 430

Government employees, Administrative practice and procedure, Reporting requirements.

5 CFR Part 431

Government employees, Administrative practice and procedure, Reporting requirements.

5 CFR Part 451

Decoration, medals, awards, Government employees.

5 CFR Part 531

Government employees, Wages, Administrative practice and procedure.

5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

5 CFR Part 540

Government employees, Wages.

5 CFR Part 771

Administrative practice and procedure, Government employees.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management amends Title 5, Code of Federal Regulations, as follows:

PART 300—EMPLOYMENT (GENERAL)

1. § 300.602 is revised to read as follows:

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Subpart F—Time-in Grade Restrictions

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§ 300.602 Restrictions.

The time-in-grade restrictions in this subpart are subject to the eligibility requirements based on performance in § 335.104 of this chapter.

(a) *Advancement to positions at GS–12 and above.* An agency may advance an employee to a position at GS–12 or above only after he or she has served a minimum of 1 year in the next lower grade.

(b) *Advancement to positions at GS–6 through GS–11.* An agency may advance an employee to a position at GS–6 through GS–11 only after he or she has served a minimum of:

(1) One year in a position two grades lower, when the position to which he or she is advanced is in a line of work properly classified at two-grade intervals; or

(2) One year at the next lower grade when the position to which he or she is advanced is in a line of work properly classified at one-grade intervals.

(c) *Advancement to positions at GS–5 or below.* An agency may advance an employee to a position at GS–5 or below which is not more than two grades above the lowest grade he or she held within the preceding year under a nontemporary appointment.

PART 335—PROMOTION AND INTERNAL PLACEMENT

2. § 335.104 is added to Subpart A, to read as follows:

Subpart A—General Provisions

* * * * *

§ 335.104 Eligibility for career ladder promotion.

(a) No employee shall receive a career ladder promotion unless his or her most recent summary rating under Part 430 of this chapter is "Fully Successful" or higher. In addition, no employee may receive a career ladder promotion who has a rating below "Fully Successful" on a critical element that is also critical to performance at the next higher grade of the career ladder.

(b) Employees with the highest summary ratings must be given first consideration for career ladder promotions when it is not possible to promote all eligible employees in the same career ladder at the same time.

3. Part 430 is revised to read as follows:

(In § 430.207, paragraph (d) is an interim rule. OPM invites comments on this interim rule, for consideration in final rulemaking.)

PART 430—PERFORMANCE APPRAISAL

Subpart A—Statutory Authority

Sec.
430.101 Statutory authority.

Subpart B—Regulatory Requirements of the Office of Personnel Management

430.201 Purpose.
430.202 Coverage.
430.203 Definitions.
430.204 The performance appraisal process.
430.205 Training and evaluation.
430.206 OPM review of appraisal systems.
430.207 Performance Management Plans.

Subpart C—Implementation

430.301 Implementation of this part.

Authority: 5 U.S.C. 4305

Subpart A—Statutory Authority

§ 430.101 Statutory authority.

Chapter 43 of title 5, United States Code (5 U.S.C. 4301–4305) provides for the establishment of agency performance appraisal systems and for appraisal of employees. This part contains regulations which the Office of Personnel Management has prescribed for non-SES Performance Appraisal Systems and supplements the provisions of 5 U.S.C. 4301–4305.

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 430.201 Purpose.

It is the purpose of this subpart to ensure that performance appraisal systems are used as a tool for executing basic management and supervisory responsibilities by:

(a) Communicating and clarifying agency goals and objectives,

(b) Identifying individual accountability for the accomplishment of organizational goals and objectives,

(c) Evaluating and improving individual and organizational accomplishments, and

(d) Using performance ratings as a basis for rewarding employees and other personnel actions.

§ 430.202 Coverage.

(a) Employees and agencies covered by statute.

(1) 5 U.S.C. 4301(1) lists agencies covered by this part.

(2) 5 U.S.C. 4301(2) lists employees covered by statute by this part.

(b) *Statutory exclusions.* This subpart does not apply to agencies or employees excluded by 5 U.S.C. 4301 (1) and (2), the United States Postal Service and the Postal Rate Commission.

(c) *Administrative exclusions.* OPM may exclude any position or group of positions in the excepted service under the authority of 5 U.S.C. 4301(2)(G). The following are excluded:

(1) Positions in Schedule C as authorized by § 213.3301 of this chapter.

(2) Positions filled by Noncareer Executive Assignments under Part 305 of this chapter.

(3) Positions for which employment is not reasonably expected to exceed 120 calendar days in a consecutive 12-month period.

(d) Agency requests for exclusions. Heads of agencies or their designees may request the Director of the Office of Personnel Management to exclude positions in the excepted service. The request must be in writing, explaining why the exclusion would be in the interest of good administration.

§ 430.203 Definitions.

In this part, terms are defined as follows—

"Appraisal" means the act or process of reviewing and evaluating the performance of an employee against the described performance standard(s). This includes oral or written progress reviews.

"Appraisal period" means the period of time established by an appraisal system for which an employee's performance will be reviewed and for which a performance rating will be given.

"Appraisal system" means a performance appraisal system established by an agency or component of an agency under subchapter I of chapter 43 of title 5, U.S.C. and Subpart B of this part which provides for identification of critical and non-critical elements, establishment of performance standards, communication of elements and standards to employees, establishment of methods and procedures to appraise performance against established standards, and appropriate use of appraisal information in making personnel decisions.

"Critical element" means a component of a job consisting of one or more duties and responsibilities which contributes toward accomplishing organizational goals and objectives and which is of such importance that "Unacceptable" performance on the element would result in "Unacceptable" performance of assigned work.

"Non-critical element" means a component of an employee's job which does not meet the definition of a critical element, but is of sufficient importance to warrant appraisal and the assignment of an element rating.

"Performance" means an employee's accomplishment of assigned duties and responsibilities as specified in the critical and non-critical elements of the employee's position.

"Performance Plan" means the aggregation of all of an employee's written critical and non-critical elements and performance standard(s).

"Performance standard" means a statement of the expectations or requirements established by management for a critical or non-critical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, timeliness, and manner of performance.

"Rating" means the written record of the appraisal of each critical and non-critical element and overall performance.

§ 430.204 The performance appraisal process.

(a) As required by 5 U.S.C. 4302(a), each agency shall establish one or more appraisal systems for appraising the work performance of employees during an appraisal period.

(b) Critical elements must be included and non-critical elements may be included in individual Performance Plans. An employee must be appraised and rated on each critical and non-critical element in the employee's Performance Plan, unless the employee has had no opportunity to demonstrate performance on the element. An employee must also be given a summary rating. Agency appraisal systems may not provide for assignment of performance ratings to subelements.

(c) Agency appraisal systems shall provide for a minimum of three rating levels for each critical element. Performance standards must be written at the "Fully Successful" level for all critical and non-critical elements. The absence of a written standard at a given rating level shall not preclude the assignment of a rating at that level. Pass/fail elements are tasks, not true elements, and therefore cannot be used as elements in an appraisal.

(d) Agency appraisal systems shall provide for five summary rating levels. The required summary rating levels are "Outstanding", "Exceeds Fully Successful", "Fully Successful", "Minimally Successful", and "Unacceptable".

(1) Agency Performance Management Plans must include decision tables for deriving summary rating levels from performance ratings on critical elements and, at agency discretion, ratings on non-critical elements. If ratings on non-critical elements are considered in deriving summary ratings, the decision tables must show that more weight will be given to critical elements than to non-critical elements in determining an employee's summary rating.

(2) If an employee is rated "Unacceptable" on one or more critical elements, an "Unacceptable" summary rating must be given.

(e) The requirements of this paragraph apply only if performance standards have not been established at the "Unacceptable" level or at the element level immediately above the "Unacceptable" level.

(1) If at any time an employee's performance is determined to be below "Fully Successful" on one or more critical elements, agencies must start a new appraisal period which is not an opportunity period under Part 432 of this chapter.

(2) At the beginning of a new appraisal period, agencies must provide a Performance Improvement Plan (PIP) to each employee who has been determined to be below "Fully Successful" on one or more critical elements. The PIP must:

(i) Explain the employee deficiencies;

(ii) Explain steps to be taken in an attempt to resolve the deficiencies; and

(iii) Communicate performance standards at the "Minimally Successful" or "Unacceptable" level for those critical elements where performance has been determined to be below "Fully Successful."

(f) If performance standards have not been prepared at the "Outstanding" level or at the element level immediately below the "Outstanding" level, a written justification must be prepared for an "Outstanding" summary rating.

(g) An appraisal system shall not permit any preestablished distributions of expected levels of performance (such as the requirement to rate on a bell curve) that interfere with appraisal of actual performance against standards. However, agencies must provide for higher level management of the performance appraisal process in the interest of employee equity and in order to reflect organizational performance.

(h) Definitions of the five required summary rating levels follow. Performance standards and agency procedures for deriving summary ratings must be consistent with these definitions.

(1) "Outstanding" means performance of rare, very high quality. As warranted, an Outstanding performer produces an

exceptional quantity of work significantly ahead of established schedules or deadlines and with very little supervision.

(2) "Exceeds Fully Successful" means performance of unusually good or excellent quality. As warranted, the employee produces a very high quantity of work ahead of established schedules or deadlines and with less than normal supervision.

(3) "Fully Successful" means performance which is of good quality. The employee produces the expected quantity of work and meets deadlines or schedules for completion of work.

(4) "Minimally Successful" means performance which is not "Unacceptable", but needs improvement to achieve the "Fully Successful" level. This may be evidenced by the need for close supervisory review, discussion, and correction of work products. When performance falls below "Fully Successful", it may be necessary to take remedial action.

(5) "Unacceptable" means performance which fails to meet established performance standards in one or more critical elements of the employee's position. When performance is "Unacceptable", corrective action must be taken consistent with required procedures.

(i) Each appraisal system shall provide for establishing performance standards based on requirements of employees' positions, providing written Performance Plans to employees at the beginning of each appraisal period, and appraising employees based on a comparison of performance with the standards established for the appraisal period. An agency shall encourage employee participation in establishing performance standards.

(j) Critical elements, non-critical elements, and performance standards must be related to the employee's assigned work.

(k) Employees shall generally be given performance ratings on an annual basis. Agencies may provide for longer appraisal periods when duties and responsibilities of a position or the tour of duty of a position so warrant. Agencies should take into consideration all performance ratings of assigned work given the employee throughout the appraisal period in arriving at the annual rating.

(l) Annual performance ratings shall be used as a basis for reduction-in-force actions, except that an employee without an annual performance rating of record shall be given a performance rating before a RIF if the employee has served for the minimum appraisal period.

(m) Agency appraisal systems shall establish a minimum appraisal period of not less than 90 calendar days. A performance rating of assigned work for the minimum appraisal period but less than one year shall constitute the annual rating only as required by paragraph (l) of this section or any other applicable provision of law or regulation. When a within-grade increase decision is not consistent with the employee's last performance rating, an additional and more current performance rating must be prepared.

(n) Critical elements, non-critical elements, and performance standards shall be in writing and shall be reviewed and approved by a supervisor or manager at a higher level than the appraising official.

(o) Periodic performance ratings and performance based personnel actions shall be reviewed and approved by a supervisor or manager at a higher level than the appraising official. Performance ratings shall be in writing and shall be provided to the employee. Performance ratings may not be communicated to employees prior to approval by a higher level reviewer.

(p) An employee must be given the right to ask for reconsideration of a performance rating by the supervisor or manager who approved the performance rating. This reconsideration will be in the interest of insuring fairness of an individual's rating. Additional procedures for review of a performance rating may be established at the discretion of the agency head.

(q) *Details within the same agency.* Agencies shall provide written critical elements and performance standards to employees as soon as possible but no later than 30 calendar days after the beginning of a detail or temporary promotion within the same agency when the detail or temporary promotion is expected to last 120 calendar days or longer. Performance ratings on critical elements must be prepared for these details and temporary promotions and must be considered in deriving an employee's next annual summary rating.

(r) *Details to another agency or organization.* When an employee is or has been detailed or temporarily assigned outside of the agency, an annual performance rating must be prepared if the employee has served for the minimum appraisal period inside the agency.

(1) If an employee has not served in the agency for the established minimum appraisal period, but has served for the minimum appraisal period in another organization, the agency must make a reasonable effort to obtain appraisal information from the other organization sufficient to prepare an annual performance rating.

(2) When an annual performance rating cannot be prepared, the employee's performance rating of record may be extended for no longer than one year. (An extended performance rating shall not be used as a basis for within-grade increase or merit pay determinations which must be waived under § 531.409(d) or § 540.106(g) of this chapter.)

(3) During any period of time when an agency cannot prepare a new performance rating or extend a previous rating, the agency may assume that the employee's performance is "Fully Successful."

(s) Performance appraisals and ratings shall be used:

(1) To provide employees with information on their performance and how it may be improved.

(2) As a basis for decisions to grant awards; grant or withhold pay increases, i.e., within-grade increases, Federal Wage System step increases, and quality step increases; grant merit pay; reassign; promote; develop; retain in reduction in force; and reduce in grade or remove.

(t) If an employee is given an "Outstanding" summary performance rating, a written recommendation for appropriate monetary, non-monetary, or honorary recognition must be prepared.

(u) The performance rating of a disabled veteran may not be lowered because the veteran has been absent from work to seek medical treatment in accordance with Executive Order 5396.

§ 430.205 Training and evaluation.

To assure that the requirements of the law will be effectively implemented, agencies must provide appropriate training and information to supervisors and employees on the appraisal process, and must establish methods and procedures to evaluate periodically the effectiveness of their appraisal system(s) and to improve the system(s).

§ 430.206 OPM review of appraisal systems.

(a) The Office of Personnel Management will review performance appraisal systems to determine if they conform to requirements of law and OPM regulations. The Office of Personnel Management will also review appraisal systems with respect to their contribution to agency effectiveness and efficiency and appropriate use of performance information in personnel decisions.

(b) If the Office of Personnel Management Determines that an

appraisal system does not meet the requirements of Subchapter I of 5 U.S.C. 43 or of this part, it shall direct the agency to implement an appropriate system or to correct operations under the system. The agency shall take any action so required.

§ 430.207 Performance Management Plans.

(a) Agencies must submit proposed Performance Management Plans to the Office of Personnel Management for review and approval. Performance Management Plans shall include each of the following which is applicable to the agency and any additional information requested by OPM:

(1) Appraisal Systems required under 5 U.S.C. 4302 and 4312. Submissions may either be agency-wide appraisal systems or requirements which the systems of subordinate organizations must meet.

(2) Merit Pay System Plans required by Part 540 of this chapter.

(3) Performance Award Plans required by Part 531 of this chapter.

(4) Plans for determining and distributing Within-Grade Increases, Quality Step Increases and the agency performance award fund, including previous years' and projected expenditures.

(b) Proposed changes to approved Performance Management Plans which would have an impact on how an agency meets legal or regulatory requirements must be submitted to the Office of Personnel Management for review and approval.

(c) Each agency shall maintain records and submit reports required by OPM regarding the operation of an agency Performance Management Plan or any part of a plan.

(d) Up to eight (8) performance management plans may be submitted as demonstration projects under 5 U.S.C. 4703 which would allow for consultation or negotiation, as appropriate, by an agency and recognized labor organizations. Such plans will not be restricted by the provisions of this part but shall investigate and implement different types of merit pay plans. They may include proposals for waiting periods for within-grade increases, when within-grades shall be granted automatically or when granted earlier or later, career ladder promotions, grievance of ratings, gain sharing and other merit pay proposals. Any such plans shall meet all of the requirements of Section 4703.

Subpart C—Implementation

§ 430.301 Implementation of this part.

(a) Each agency covered by subparts A and B of this part or by 5 CFR Part 540 shall submit Performance Management Plans to the Office of Personnel Management for review by February 24, 1984.

(b) Agencies will be required to implement the performance appraisal provisions of an approved Performance Management Plan not later than October 1, 1984 for employees in the Senior Executive Service and for GS and GM employees in grades 11–18; not later than October 1, 1985 for GS employees in grades 6–10; and not later than October 1, 1986 for GS employees in grades 1–5 and for employees under prevailing rate pay systems.

(c) Decisions based on performance appraisals under the agency's Performance Management Plan must begin as soon as possible after the performance appraisal provisions have been implemented and in accordance with provisions of an agency's Performance Management Plan approved by OPM.

(d) Agencies shall implement their Performance Management Plans except where provisions of an existing negotiated agreement are in explicit conflict with these OPM regulations in which case the provisions of the negotiated agreement shall be in effect until its expiration. Agencies may request OPM approval of the following exceptions:

(1) For specific provisions of OPM regulations that are not in explicit conflict with existing provisions of a labor agreement but would cause significant inequities if implemented in combination with provisions of the labor agreement, or

(2) Where apparently conflicting provisions of negotiated agreements are consistent with the intent of OPM regulations (e.g., where an agreement calls for five rating levels with different names).

4. A new Part 431 is added, to read as follows:

PART 431—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

Subpart A—Statutory Authority

Sec.
431.101 General.

Subpart B—Regulatory Requirements of the Office of Personnel Management

431.201 Purpose.
431.202 Coverage.
431.203 Definitions.
431.204 The performance appraisal process.
431.205 Training and evaluation.
431.206 OPM review of SES appraisal systems.
431.207 Performance Management Plans.

Subpart C—Implementation

431.301 Implementation of this part.

Authority: 5 U.S.C. 43 Subchapter II.

Subpart A—Statutory Authority.

§ 431.101 General.

Chapter 43 of title 5, United States Code (5 U.S.C. 4311–4315) provides for the establishment of Senior Executive Service performance appraisal systems and appraisals of senior executives' (as defined in 5 U.S.C. 3132(a)) performance. This part contains the regulations which the Office of Personnel Management has prescribed for performance appraisal in the Senior Executive Service, and supplements the provisions of 5 U.S.C. 4311–4315.

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 431.201 Purpose.

It is the purpose of this subpart to ensure that performance appraisal systems are used as a tool for executing basic performance management responsibilities by:

(a) Communicating and clarifying organizational goals and objectives,

(b) Identifying individual accountability for the accomplishment of agency goals and objectives,

(c) Evaluating and improving individual and organizational accomplishments, and

(d) Using performance ratings as a basis for rewarding employees and other personnel actions.

§ 431.202 Coverage.

(a) All senior executives covered by subchapter II, of Chapter 31 of title 5, United States Code are covered by this part.

(b) 5 U.S.C. 3132(a)(1) identifies agencies covered by this part.

§ 431.203 Definitions.

In this part, terms are defined as follows—

"Appointing authority" means the agency or department head or his or her designee.

"Appraisal period" means the period of time established by an appraisal system for which the senior executive's performance will be reviewed and for which a performance rating will be given.

"Appraisal system" means a performance appraisal system established by an agency or component

of an agency under subchapter II of chapter 43 of title 5, U.S.C., and Subpart B of this part which provides for identification of critical and non-critical elements, establishment of performance standards, communication of elements and standards to senior executives, establishment of methods and procedures to appraise performance against established standards, and appropriate use of appraisal information in making personnel decisions.

"Critical element" means a component of a job consisting of one or more duties and responsibilities which contributes toward accomplishing organizational goals and objectives and which is of such importance that "Unsatisfactory" performance on the element would result in "Unsatisfactory" performance of assigned work.

"Final rating" means the rating assigned by an appointing authority after considering the recommendations of a Performance Review Board.

"Initial rating" means the rating by the senior executive's immediate supervisor, the rating official.

"Non-critical element" means a component of an employee's job which does not meet the definition of a critical element, but is of sufficient importance to warrant appraisal and the assignment of an element rating.

"Performance" means the senior executive's accomplishment of assigned duties and responsibilities as specified in the critical and non-critical elements of the executive's position.

"Performance appraisal" means the act or process of reviewing and evaluating the performance of an executive against the described performance standards. This includes oral or written progress reviews.

"Performance Plan" means the aggregation of the senior executive's written critical and non-critical elements and performance standards.

"Performance Rating" means the written record of the appraisal of each critical and non-critical element and overall performance.

"Performance requirement" means performance standard.

"Performance standard" means a statement of the expectations or requirements established by management for a critical or non-critical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, cost efficiency, timeliness, and manner of performance.

§ 431.204 The performance appraisal process.

(a) As required by 5 U.S.C. 4312(a), each agency shall establish one or more appraisal systems for appraising the individual and organizational work performance of senior executives during an appraisal period.

(b) Critical elements must be included and non-critical elements may be included in individual Performance Plans. An executive must be appraised and rated on each critical and non-critical element in the executive's Performance Plan, unless the employee has had no opportunity to demonstrate performance on the element. An executive must also be given a summary rating. Agency appraisal systems may not provide for assignment of performance ratings to subelements.

(c) Agency appraisal systems shall provide for a minimum of three rating levels for each critical element. Performance standards must be written at the "Fully Successful" level for all critical and non-critical elements. The absence of a written standard at a given rating level shall not preclude the assignment of a rating at that level. Pass/fail elements are tasks, not true elements, and therefore cannot be used as elements in an appraisal.

(d) Agency appraisal systems shall provide for five summary rating levels. The required summary rating levels are "Outstanding," "Exceeds Fully Successful," "Fully Successful," Minimally Satisfactory," and "Unsatisfactory".

(1) Agency Performance Management Plans must include decision tables for deriving summary rating levels from performance ratings on critical elements and, at agency discretion, ratings on non-critical elements. If ratings on non-critical elements are considered in deriving summary ratings, the decision tables must show that more weight will be given to critical elements than to non-critical elements in determining an employee's summary rating.

(2) If an employee is rated "Unsatisfactory" on one or more critical elements, an "Unsatisfactory" summary rating must be given.

(e) The requirements of this paragraph apply only if performance standards have not been established at the "Unsatisfactory" level or at the element level immediately above the "Unsatisfactory" level.

(1) At the beginning of a new appraisal period, agencies must provide a Performance Improvement Plan (PIP) to each employee who has been rated below "Fully Successful" on one or more critical elements.

(2) The PIP must:

(i) Explain the employee deficiencies,

(ii) Explain steps to be taken in an attempt to resolve the deficiencies, and

(iii) Communicate performance standards at the "Minimally Satisfactory" or "Unsatisfactory" level for those critical elements which were rated below "Fully Successful".

(f) If performance standards have not been prepared at the "Outstanding" level or at the element level immediately below the "Outstanding" level, a written justification must be prepared for an "Outstanding" summary rating.

(g) An appraisal system shall not permit any preestablished distributions of expected levels of performance (such as the requirement to rate on a bell curve) that interfere with appraisal of actual performance against standards. However, agencies must provide for higher level management of the performance appraisal process in the interest of employee equity and in order to reflect organizational performance.

(h) Definitions of five required summary rating levels follow. Performance standards and agency procedures for deriving summary ratings must be consistent with these definitions.

(1) "Outstanding" means performance of rare very high quality. As warranted, an Outstanding performer produces an exceptional quantity of work significantly ahead of established schedules or deadlines and with very little supervision.

(2) "Exceeds Fully Successful" means performance of unusually good or excellent quality. As warranted, the employee produces a very high quantity of work ahead of established schedules or deadlines and with less than normal supervision.

(3) "Fully Successful" means performance which is of good quality. The employee produces the expected quantity of work and meets deadlines or schedules for completion of work.

(4) "Minimally Satisfactory" means performance which is not "Unsatisfactory", but needs improvement to achieve the "Fully Successful" level. This may be evidenced by the need for close supervisory review, discussion and correction of work products.

(5) "Unsatisfactory" means performance which fails to meet established performance standards in one or more critical elements of the executive's position.

(i) Each appraisal system shall provide for establishing performance standards based on the requirements of senior executives' positions, providing written Performance Plans to senior

executives on or before the beginning of each appraisal period, and appraising senior executives based on a comparison of performance with the standards established for the appraisal period. An agency shall establish performance standards in consultation with the senior executive.

(j) Critical elements, non-critical elements, and performance standards must be related to the senior executive's assigned work and organizational performance requirements.

(k) Critical elements, non-critical elements, and performance standards shall be in writing and shall be reviewed and approved by an executive at a higher level than the appraising official or by a review committee. When elements and standards are written by the agency head, no further review is possible.

(l) Senior executives shall be given performance ratings on an annual basis. Agencies should take into consideration all performance ratings of assigned work given the employee throughout the appraisal period in arriving at the annual rating.

(m) Annual performance ratings shall be used as a basis for reduction-in-force actions, except that an employee without an annual performance rating of record shall be given a performance rating before a RIF if the employee has served for the minimum appraisal period.

(n) Agency appraisal systems shall establish a minimum appraisal period of not less than 90 calendar days. A performance rating of assigned work for the minimum appraisal period but less than one year shall constitute the annual rating only as required by paragraph (m) of this section or any other applicable provision of law or regulation.

(o) Agencies shall provide to each senior executive a copy of the following documents at the time they are prepared: The initial rating, along with notification of the right to respond in writing and to request a higher level review before the rating becomes final; any recommended changes by a higher level executive; and the final rating. Agencies must also provide a copy of critical elements, non-critical elements, and performance standards to each senior executive.

(p) *Details within the same agency.* Agencies shall provide written critical elements and performance standards to senior executives as soon as possible but no later than 30 calendar days after the beginning of a detail or temporary assignment within the same agency when the detail or temporary assignment is expected to last 120 calendar days or longer. Performance ratings on critical elements must be prepared for these details and temporary assignments and must be considered in deriving a senior executive's next annual summary rating.

(q) When a senior executive is detailed or temporarily assigned outside the agency, the agency shall obtain relevant appraisal information from the agency or organization to which the executive is detailed or temporarily assigned.

(r) Agency performance appraisal systems must provide an opportunity for senior executives to respond in writing to an initial rating and have the rating reviewed by an employee in a higher executive level than the supervisor before review by the Performance Review Board (PRB). The senior executive's response shall be provided to both the official making the higher level review and to the PRB.

(1) Agency performance appraisal systems may provide for a mandatory second level review.

(2) A senior executive is entitled to only one higher level review unless the agency provides otherwise.

(3) Agencies shall provide copies of the reviewer's comments and recommendations to the senior executive, the supervisory official and the PRB.

(s) As required by 5 U.S.C. 4314(c), each agency is required to establish one or more PRB's to make recommendations to the appointing authority on the performance of senior executives in the agency.

(1) Each PRB in an agency shall have three or more members appointed by the head of the agency or by another official or group acting on behalf of the head of the agency.

(2) Notice of appointment to the PRB must be published in the **Federal Register.**

(3) The members of the PRB must be appointed in such a manner as to assure consistency, stability, and objectivity in performance appraisal.

(4) When appraising a career appointee, more than one-half of the membership of the PRB must be SES career appointees unless OPM determines that there exists an insufficient number of career appointees available to comply with the requirement.

(5) Each PRB will review and evaluate the initial rating, the senior executive's written response, if any, and the written comments, if any, on the initial rating by a higher level executive, and will conduct such further review as the PRB finds necessary.

(6) Individual PRB members must not take part in any PRB deliberations or appraisals involving themselves.

(7) The PRB must make a written recommendation concerning the senior executive's summary rating.

(t) Agencies are required to retain all documentation on performance appraisal decisions for no less than five years from the date of the appraisal.

(u) Final performance ratings shall provide a basis for decisions to remove senior executives from the SES.

(v) Final performance ratings may provide a basis for decisions to:

(1) Reassign or transfer senior executives within the SES;

(2) Grant performance awards to career senior executives; and

(3) Grant performance-related ES pay rate adjustments.

(w) If an employee is given an "Outstanding" summary performance rating, a written recommendation for appropriate monetary, non-monetary, or honorary recognition must be prepared.

§ 431.205 Training and evaluation.

To assure that the requirements of the law will be effectively implemented, agencies must provide appropriate training and information to supervisors and senior executives on the appraisal process, and must establish methods and procedures to evaluate periodically the effectiveness of their appraisal system(s) and to improve the system(s).

§ 431.206 OPM review of SES appraisal systems.

(a) SES performance appraisal systems must conform to requirements of law and OPM regulations. The Office of Personnel Management will review appraisal systems for conformance with these regulations as well as with respect to their contribution to agency effectiveness and efficiency and appropriate use of performance information in personnel decisions.

(b) If the Office of Personnel Management determines that an appraisal system does not meet the requirements of Subchapter II of Chapter 43 of title 5, United States Code or of this part, it shall direct the agency to implement an appropriate system or to correct operations under the system. The agency shall take any action so required.

§ 431.207 Performance Management Plans.

(a) Agencies must submit proposed Performance Management Plans to the Office of Personnel Management for review and approval as required by § 430.207 of this chapter.

(b) Proposed changes to approved Performance Management Plans which have an impact on how an agency meets legal or regulatory requirements must be submitted to the Office of Personnel Management for review and approval.

Subpart C—Implementation

§ 431.301 Implementation of this part.

(a) Each agency covered by this part shall submit Performance Management Plans to the Office of Personnel Management for review by February 24, 1984.

(b) Agencies will be required to implement the performance appraisal provisions of an approved Performance Management Plan not later than October 1, 1984 for employees in the Senior Executive Service.

(c) Decisions based on performance appraisals under the agency's Performance Mangement Plan must begin as soon as possible after the performance appraisal provisions have been implemented and in accordance with provisions of an agency's Performance Management Plan approved by OPM.

5. In Part 451, the heading is revised, Subpart A is removed and reserved, a new Subpart C is added and reserved, and Subpart B is revised. As revised, Part 451 reads as follows:

PART 451—SPECIAL AWARDS

Subpart A—[Reserved]

Subpart B—Regulatory Requirements of the Office of Personnel Management for Special Awards.

Sec.

451.201 Applicability.
451.202 Purpose.
451.203 Coverage.
451.204 Definitions.
451.205 Policy.
451.206 Eligibility.
451.207 Payment.
451.208 Responsibilities of the Office of Personnel Management.
451.209 Agency responsibilities.

Subpart C—Regulatory Requirements of the Office of Personnel Management for Productivity Benefit Sharing Programs [Reserved]

Authority: 5 U.S.C. 4506 and 5405.

Subpart A—[Reserved]

Subpart B—Regulatory Requirements of the Office of Personnel Management for Special Awards

§ 451.201 Applicability.

(a) This subpart contains the regulatory requirements of the Office of Personnel Management for the establishment and conduct of the Special Awards Program for employee suggestions, inventions, and meritorious actions.

(b) An award under this subpart may be granted alone or in addition to a performance award granted under Part 531, Subpart F, of this chapter.

(c) Refer to Part 531, Subpart F, of this chapter for the regulatory requirements on Performance Awards based on accomplishments and contributions within the scope of the employee's job responsibilities and performance standards.

§ 451.202 Purpose.

(a) The Federal Government employees' Special Awards Program is designed to improve Government operations and services. Its purpose is to motivate employees to increase productivity and creativity by rewarding those whose accomplishments and adopted ideas benefit the Federal Government.

(b) The Office of Personnel Management encourages agencies to make maximum use of their authorities under Chapters 45 and 54 of title 5, United States Code, to establish and administer special awards for suggestions, inventions, and meritorious actions that best support and enhance agency and national goals, and meet employee recognition needs.

§ 451.203 Coverage.

(a) This subpart applies to employees as defined by Section 2105 of title 5, United States Code, including those covered by the Merit Pay System, established under Chapter 54 of title 5, United States Code.

(b) This subpart applies to agencies as defined in Section 4501 of title 5, United States Code.

§ 451.204 Definitions.

In this subpart, terms are defined as follows:

"Contribution" means a suggestion, an invention, a meritorious action or other personal or group effort that contributes to the efficiency, the economy, or other improvement of Government operations; or a special act or service in the public interest in connection with or related to official employment (5 U.S.C. 4503).

"Honorary award" means a medal, certificate, plaque, citation, badge, or other similar item that has an award or honor connotation.

"Intangible benefits" means benefits to the Federal Government that are very exceptional and cannot be measured or are difficult to measure in terms of dollars saved.

"Meritorious action" means any employee or group contribution which is highly exceptional and unusually outstanding and which is beyond or outside job responsibilities and performance standards.

"Non-monetary award" means an award tailored to meet special conditions and needs of an employee and/or organization. It usually has a monetary connotation for the agency but not for the employee.

"Presidential award" means an award granted by the President under Section 4504 of title 5, United States Code.

"Special act or service" under this part means a non-recurring contribution which is beyond or outside normal job responsibilities and performance standards; a single scientific achievement; or an act of heroism.

"Special award" or *"award"* means a monetary, an honorary, or a non-monetary award based on the tangible savings and/or intangible benefits to the Federal Government.

"Tangible savings" means savings to the Federal Government that can be measured in terms of dollars saved.

§ 451.205 Policy.

(a) The policy of the Special Awards Program shall be to:

(1) Grant recognition in keeping with the value of the contribution to the Federal Government;

(2) Consider employee contributions for application throughout the Federal Government; and

(3) Assure that awards are not used as a substitute for other personnel actions, or as a substitute for pay.

(b) A special award under this subpart shall be:

(1) Monetary, honorary, or non-monetary;

(2) Based on employee accomplishments and contributions that are clearly beyond or outside assigned job responsibilities and performance standards.

(c) Monetary awards based on tangible savings shall not exceed amounts indicated by the following scales:

(1) Awards of up to $10,000, based on tangible savings:

Tangible savings	Award
Up to $20,000	5% of savings.
$20,001 to $100,000	$1,000 plus 1.5% of savings over $20,000.
Over $100,000	$2,200 plus .25% of savings over $100,000 up to maximum award of $10,000.

(2) Awards over $10,000 based on tangible savings:

Savings (in millions)		
Savings will continue for 5 years or more. First year savings will be—	Savings that occur on a one-time basis will be—	Award
$5 to 7.4	$15	$15,000
$7.5 to 9.9	$20	$20,000
$10	$25	$25,000

(3) Presidential Awards based on tangible savings:

Savings (in millions)		
Savings will continue for 5 years or more. First year savings will be—	Savings that occur on a one-time basis will be—	Award
$20 or more	$25	$10,000 in addition to a $25,000 award, for a total of $35,000.

(d) In addition to special awards based on tangible savings under paragraphs (c) (1), (2) and (3) of this section, special awards may be granted for contributions having exceptional intangible benefits to the Government. OPM shall provide guidance to agencies regarding how to limit the use of monetary awards based on intangible benefits, and how they should be computed.

(e) OPM shall provide guidance to agencies regarding criteria for granting all honorary and non-monetary awards based on tangible savings and/or intangible benefits to Federal Government.

§ 451.206 Eligibility.

(a) A special award may be granted when the suggestion, invention, meritorious action or other personal or group effort:

(1) Meets the requirements under § 451.205 of this subpart;

(2) Benefits the Government as described in 5 U.S.C. 4503 and 4504;

(3) Was made while the contributor was a Government employee;

(4) Has been described in writing; and

(5) Has been approved by the benefiting organization at a management level higher than the individual who:

(i) Recommended use of the suggestion, invention, or meritorious acton; or

(ii) Recommend the award.

(b) Special awards shall not be mandatory.

§ 451.207 Payment.

(a) Awards paid under this subpart do not increase the rate of basic pay.

(b) When a special award is approved for an employee of another agency, arrangements shall be made to transfer funds to the employing agency. If the administrative costs of transferring funds would exceed the amount of the award, the employing agency shall absorb the award costs.

§ 451.208 Responsibilities of the Office of Personnel Management.

(a) OPM shall provide guidance to agencies on how the Special Awards Program should be carried out (5 U.S.C. 4506).

(b) OPM shall review, and following verification of savings or benefits and relationship of contributions to job requirements, approve or disapprove recommendations for all awards in excess of $10,000 on a case-by-case basis. OPM shall limit approval of all awards to denominations of $15,000, $20,000 and $25,000.

(c) The Director, OPM, shall advise the President on monetary and honorary Presidential awards for Government employees which shall only be granted under this subpart. A monetary Presidential award granted in addition to a $25,000 award made under 5 U.S.C. 4503 shall be for $10,000.

§ 451.209 Agency responsibilities.

(a) The head of each agency shall establish an agency Special Awards Program that seeks to gain maximum benefits for the Government through improved employee motivation and productivity by providing for:

(1) The greatest motivational impact by allocating an adequate budget, staffing, and support services to assure prompt action on special award recommendations, and effective promotion and publicity activities;

(2) Delegation of authority and responsibility for approval of special awards to the appropriate managment level;

(3) Special award recommendations involving the minimum amount of paperwork and processing which show that criteria are met and expenditure of appropriated funds for the award is justified;

(4) Central administration and review of the agency-wide program, including systematic evaluation, planning, and feedback reports to management officials and employees;

(5) The granting of special awards as soon as possible after an assessment of the contribution indicates that an award should be granted;

(6) Time limits for processing special award recommendations and granting of special awards;

(7) The integrity of the program by reviewing agency program results to assure that special awards are granted equitably, on the basis of the tangible savings and/or intangible benefits to the Government; that action is taken to grant special awards in a timely manner; and that information is made available concerning persons who have received special awards and the reason(s) why each award is granted;

(8) Documentation in the Official Personnel Folder to reflect the nature of a special award, including the amount of a monetary award;

(9) Due weight to a special award when rating and ranking an employee for a promotion, as provided in 5 U.S.C. 3362; and

(10) Consideration of accomplishments and adopted ideas for wider application both within the agency and Governmentwide, and prompt referral when appropriate.

(b) Each agency head may delegate the responsibilities in § 451.209(a) of this subpart as deemed appropriate for his or her organization.

(c) The head of each agency shall transmit to OPM:

(1) Award recommendations over $10,000;

(2) All recommendations for Presidential awards; and

(3) An annual report on program activities for the past fiscal year.

Subpart C—Regulatory Requirements of the Office of Personnel Management for Productivity Sharing Programs [Reserved]

PART 531—PERFORMANCE BASED INCENTIVE SYSTEM FOR THE GENERAL SCHEDULE

8. The heading for Part 531 is revised as set forth above and the authority citation for Part 531, Subpart D, are revised to read as follows:

* * * * *

Subpart D—Within Grade Increases

* * * * *

Authority: 5 U.S.C. 5301, 5335, and 5338 and E.O. 11721 as amended, 402, unless otherwise noted.

7. § 531.401 is revised to read as follows:

§ 531.401 Principal authorities.

The following are the principal authorities for the regulations in this subpart:

(a) 5 U.S.C. 2301(b)(3) provides in part that "* * * appropriate incentives and recognition should be provided for excellence in performance."

(b) 5 U.S.C. 5301(a)(2) provides that "pay distinctions be maintained in keeping with work and performance distinctions."

(c) Section 402 of E.O. 11721, as amended, provides that "The Civil Service Commission [Office of Personnel Management] shall issue such regulations and standards as may be necessary to ensure that only those employees whose work is of an acceptable level of competence receive periodic step-increases under the provisions of section 5335 of title 5, United States Code."

8. §531.403 is amended by revising the terms "acceptable level of competence" and "critical element", to read as follows:

§ 531.403 Definitions.

In this subpart:

"Acceptable level of competence" means fully seccessful performance by an employee of the duties and responsibilities of his or her assigned position which warrants advancement of the employee's rate of basic pay to the next higher step of the grade of his or her position, subject to the requirements of § 531.404 of this subpart.

* * * * *

"Critical Element" has the meaning given that term in 430.203 of this chapter.

* * * * *

9. § 531.404 is revised to read as follows:

§ 531.404 Earning within-grade increase.

An employee paid at less than step 10 of the grade of his or her position shall only earn advancement in pay to the next higher step of that grade upon meeting the three requirements established by law:

(a) To earn a within-grade increase, the employee's performance of assigned work must be at an acceptable level of competence, as defined in this subpart by authority of Section 402 of E.O. 11721, as amended. Acceptable level of competence means a level of performance of assigned work of at least "Fully Successful", as defined in Part 430 of this chapter, for each critical element. In addition, the employee's most recent summary performance rating, as defined in the agency Performance Management Plan, must be at least "Fully Successful".

(b) The employee must have completed the required waiting period for advancement to the next higher step of the grade of his or her position; and

(c) The employee must not have received an equivalent increase during the waiting period.

10. § 531.408 (b) and (c) are revised to read as follows:

§ 531.408 Communication of Performance Requirements.

* * * * *

(b) Employees covered by an appraisal system established under § 430.204 of this chapter shall be informed of the specific performance requirements that constitute an acceptable level of competence within the time frame and by the means of communication of performance standards established under § 430.204 of this chapter.

(c) Employees not covered by an appraisal system established under § 430.204 of this chapter shall be informed, under procedures established by the head of the agency, of the specific requirements for performance at an acceptable level of competence within a reasonable time after initial appointment or permanent change in position.

11. In § 531.409, paragraphs (b), (c) and (d), are revised to read as follows:

§ 531.409 Acceptable level of competence determinations.

* * * * *

(b) *Basis for determination.* When applicable, an acceptable level of competence determination shall be based on a current performance rating made under Part 430 of this chapter. For those agencies not covered by 5 U.S.C. 43 and for employees in positions excluded from subchapter I of 5 U.S.C. 43, an acceptable level of competence determination shall be based on minimal performance appraisal requirements issued by OPM. If an employee has been reduced in grade due to "Unacceptable" performance and has served in one position at the lower grade for at least the minimum appraisal period established by the agency, a performance rating at the lower grade shall be used as the basis for an acceptable level of competence determination.

(c) *Delay in determination.* An acceptable level of competence determination must be delayed when both of the following apply:

(1) An employee has not had the minimum period of time established by the agency to demonstrate acceptable performance because he or she has not been informed of the specific requirements for performance at an acceptable level of competence in his or her current position; and

(2) The employee has not been given a performance rating in any position within 90 days before the end of the waiting period. When an acceptable level of competence determination has been delayed under this subpart, the employee shall be informed that his or her determination is postponed and of the specific requirements for performance at an acceptable level of competence. The determination shall be based on a performance rating completed at the end of the minimum appraisal period established by the agency performance appraisal plan.

(d) *Waiver of requirement for determination.* An acceptable level of competence determination shall be waived and a within-grade increase granted when an employee has not served in any position for the minimum appraisal period under an applicable agency performance appraisal system during the final 52 calendar weeks of the waiting period for one or more of the following reasons:

(1) Absences that are creditable service in the computation of a waiting period or periods under § 531.406 of this subpart;

(2) Because of paid leave;

(3) Because the employee received service credit under the back pay provisions of subpart H of Part 550 of this chapter;

(4) Because of details to another agency or employer; or

(5) Because of long term training.

In such a situation, there shall be a presumption that the employee would have performed at an acceptable level of competence had the employee performed the duties of his or her position of record for the minimum appraisal period under the applicable agency performance appraisal system.

12. § 531.409(e)(2)(i) is revised to read as follows:

§ 531.409 [Amended]

* * * * *

(e) Notice of determination.

* * * * *

(2) * * *

(i) Set forth the reasons for the negative determination and the respects in which the employee must improve his or her performance in order to be granted a within-grade increase under § 531.411 of this subpart.

* * * * *

13. § 531.411 is revised to read as follows:

§ 531.411 Continuing evaluation after withholding a within-grade increase.

When a within-grade increase has been withheld, an agency may, at any time thereafter, rate the employee and grant the within-grade increase when it determines that he or she has demonstrated sustained performance at an acceptable level of competence. However, the agency shall determine whether the employee's performance is

at an acceptable level of competence after no more than 52 calendar weeks following the original eligibility date for the within-grade increase and, for as long as the within-grade increase continues to be denied, determinations will be made after no longer than each 52 calendar weeks.

14. In Subpart E, §§ 531.503 and 531.504 are revised to read as follows:

* * * * *

Subpart E—Quality Step Increases

* * * * *

§ 531.503 Purpose of quality step increases.

The purpose of quality step increases is to recognize outstanding performance by granting faster than normal step increases.

§ 531.504 Level of performance required for quality step increase.

A quality step increase shall not be required but may be granted only to an employee who receives a summary performance rating of "Outstanding", as defined in Part 430 of this chapter.

15. § 531.505 is removed. §§ 531.506 through 531.508 are redesignated as §§ 531.505 through 531.507, and revised to read as follows:

§ 531.505 Restrictions on granting quality step increases.

As provided by 5 U.S.C. 5336, a quality step increase may not be granted to an employee who has received a quality step increase within the preceding 52 consecutive calendar weeks.

§ 531.506 Effective date of quality step increase.

Quality step increases shall be effective as soon as possible after annual performance appraisals are approved.

§ 531.507 Agency plans for granting quality step increases.

Each agency shall include a plan for granting quality step increases, as required by § 430.207(a)(4) of this chapter, in the agency's Performance Management Plan. The plan shall:

(a) Be as simple as practicable;

(b) Provide for delegation of authority to grant quality step increases to the lowest practicable level of management;

(c) Be reviewed and approved in accordance with § 430.207 of this chapter; and

(d) Provide for informing employees, at least annually, of the number of quality step increases granted in the agency by grade level.

§ 531.508 [Redesignated as §531.508]

16. § 531.508 is redesignated §531.508.

17. In Part 531, a new Subpart F is added to read as follows:

Subpart F—Performance Awards

Sec.

531.601 Applicability.
531.602 Purpose of performance awards.
531.603 Coverage.
531.604 Definitions.
531.605 Policy.
531.606 Eligibility.
531.607 Payment.
531.608 Responsibilities of the Office of Personnel Management.
531.609 Agency responsibilities.

Authority: 5 U.S.C. 4302(a)(3), 4506, and 5405.

* * * * *

§ 531.601 Applicability.

(a) This subpart contains the Office of Personnel Management's regulatory requirements for establishment and conduct of the performance awards component of the Performance Management System, under the authority of title 5, United States Code, Chapters 43, 45, and 54.

(b) An award under this subpart shall be supported by the employee's performance rating and based on accomplishments and contributions which are within the scope of the employee's assigned job responsibilities and performance standards.

(c) One-time special acts or services rewarded under this subpart shall be within the scope of job responsibilities and performance standards.

(d) Refer to Part 451 of this chapter for the regulatory requirements for granting awards to employees for suggestions, inventions, and meritorious actions.

§ 531.602 Purpose of performance awards.

(a) The purpose of performance awards is to motivate employees, and recognize and reward those who attain high levels of performance.

(b) The Office of Personnel Management encourages agencies to make maximum use of their authorities under Chapters 43, 45, and 54 of title 5, United States Code, to establish and administer performance awards that best support and enhance agency and national goals and meet employee recognition needs.

§ 531.603 Coverage.

(a) This subpart applies to employees as defined by Section 2105, title 5, United States Code, including those covered by the Merit Pay System established under Chapter 54 of title 5, United States Code, but does not include employees in the Senior Executive Service.

(b) This subpart applies to agencies as defined in section 4501 of title 5, United States Code.

§ 531.604 Definitions.

In this subpart, terms are defined as follows:

"Honorary award" means a medal, certificate, plaque, citation, badge, or other similar item that has an award or honor connotation.

"Monetary award" means a cash award which is not part of an employee's basic rate of pay.

"No-monetary award" means an award tailored to meet special conditions and needs of an employee and/or an organization. It usually has a monetary connotation for the agency but not for the employee.

"Performance award" or *"award"* means a monetary, honorary, or non-monetary award.

"Plan" means a written statement submitted by the head of the agency and approved by OPM, implementing law and regulation for performance awards with specific attention to the monetary component of the overall Performance Management Plan as described in § 430.207 of this chapter.

§ 531.605 Policy.

(a) The policy of the Performance Awards Program shall be to:

(1) Grant recognition in keeping with the value of the contribution to the Federal Government;

(2) Consider employee contributions for application throughout the Federal Government; and

(3) Assure that awards are not used as a substitute for other personnel actions, or as a substitute for pay.

(b) A performance award under this subpart shall be:

(1) Monetary, honorary, or non-monetary;

(2) Based on employee accomplishments and contributions which are within the scope of an employee's assigned job responsibilities and performance standards; and

(3) Based on a percentage of the employee's base pay, up to a maximum of 20 percent. However, if the sum of the performance award recommended and any within-grade and/or quality step increase received by the employee during the previous 12 months exceeds 20 percent, the award shall be reduced to that maximum.

§ 531.606 Eligibility.

(a) A performance award may be granted to an employee when performance accomplishments or other contributions:

(1) Are within the scope of his or her assigned job responsibilities and performance standards;

(2) Benefit the Government as described in 5 U.S.C. 4503 and 4504;

(3) Were made while the contributor was a Government employee;

(4) Have been supported by a performance rating of at least "Exceeds Fully Successful" on one or more elements of a job or a summary performance rating of at least "Exceeds Fully Successful"; and

(5) Have been approved at a management level higher than the official who recommended the performance award.

(b) Performance awards shall not be mandatory except as required by §§ 430.204(t), 431.204(w) and 540.110(a)(3) of this chapter.

§ 531.607 Payment.

Awards paid under this subpart do not increase the rate of basic pay and are subject to the withholding of income taxes.

§ 531.608 Responsibilities of the Office of Personnel Management.

(a) OPM shall provide guidance to agencies on how the performance awards component of the Performance Management System should be carried out.

(b) OPM shall review and approve the agency performance award component of the Performance Management Plan, and any proposed plan revisions which have an impact on how an agency meets statutory and regulatory requirements.

§ 531.609 Agency responsibilities.

(a) The head of each agency shall establish all performance awards as a component of the Performance Management Plan. The plan must provide for:

(1) Documentation in the employee's Official Personnel Folder to reflect the nature of a performance award, including the amount of a monetary award; and

(2) Due weight to a performance award when rating and ranking an employee for a promotion, as provided in 5 U.S.C. 3362.

(b) The head of each agency shall transmit to OPM:

(1) All award recommendations over $10,000;

(2) A Performance Management Plan which includes a performance awards component, and proposed plan revisions for review and approval, as required by § 430.207(a) of this chapter; and

(3) An annual report on performance awards activities for the past fiscal year.

(c) The performance awards component of the Performance Management Plan to be submitted to OPM shall include the following provisions:

(1) Use of the agency's performance rating under Part 430 of this chapter as the basis for granting monetary, honorary, and non-monetary performance awards;

(2) Delegation of authority and responsibility for approval of monetary, honorary and non-monetary performance awards to the appropriate management level;

(3) Performance award recommendations to involve the minimum amount of paperwork and processing which show that criteria are met and that expenditure of appropriated funds for the award is justified;

(4) Granting of performance awards as soon as possible after performance ratings are approved, or as soon as possible after an assessment of performance indicates that an award should be granted;

(5) A plan for incorporating performance awards into the merit pay determination process, as required by § 540.110(a)(3) of this chapter; and

(6) A plan for determining the performance award fund, including previous years' and projected expenditures, as required by § 430.207(a)(4) of this chapter. Funds for any agency Productivity Benefit Sharing Program shall not be included in the performance award fund, inasmuch as these are separate from performance awards.

PART 532—PREVAILING RATE SYSTEMS

18. In Part 532, a new Subpart H is added, to read as folows:

* * * * *

Subpart H—Performance and Special Awards

Sec.
532.801 General.

Authority: 5 U.S.C. 5343, 5346.

* * * * *

Subpart H—Performance and Special Awards

§ 532.801 General.

(a) Performance awards for prevailing rate employees are covered under the provisions of Subpart F of Part 531 of this chapter.

(b) Awards for employee accomplishments beyond normal job responsibilities and performance standards are covered under Part 451 of this chapter.

19. Part 540 is revised to read as follows:

In § 540.102, the definitions of "total performance pay" and "total performance pay pool" are interim rules. References to those terms, found in §§ 540.106(a) and (d), 540.108(b)(3), and 540.110(c) and (d) are interim rules, also.

§§ 540.109 and 540.110(a)(3), pertaining to merit pay cash awards, are interim rules.

OPM invites comments on these interim rules, for consideration in final rulemaking.

PART 540—MERIT PAY SYSTEM

Sec.
540.101 General.
540.102 Definitions.
540.103 Ranges of basic pay and employee coverage.
540.104 Determination and allocation of merit pay funds.
540.105 Merit pay performance appraisals.
540.106 Merit pay determinations.
540.107 Merit pay increases and salary levels.
540.108 Special provisions for merit pay increases.
540.109 Cash awards.
540.110 Agency plans for Merit Pay System.
540.111 Reports.

Authority: 5 U.S.C. Chapters 43 and 54.

§ 540.101 General.

Chapter 54 of title 5, United States Code (5 U.S.C. 5401–5405), provides for a Merit Pay System to recognize and reward quality performance by supervisors and management officials (as defined in 5 U.S. 7103(a)(10)–(a)(11)) in positions classified in GS–13, 14, or 15. This part contains the regulations which the Office of Personnel Management has prescribed for the Merit Pay System, and supplements the provisions of 5 U.S.C. 4302, 4304, and 5401–5405.

§ 540.102 Definitions.

In this part:

"Agency" has the meaning given it in 5 U.S.C. 5102.

"Employee" means a supervisor or management official to whom chapter 54 of title 5 U.S.C. applies.

"Management official" has the meaning given that term in 5 U.S.C. 7103(a)(11); i.e., * * * an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency.

"Merit pay determination" is the decision as to the amount of the merit pay increase (including a zero amount) and total performance pay.

"*Merit pay fund*" means the amount of agency money to be allocated to merit pay increases, as determined through application of appropriate Merit Pay Fund Computation Tables.

"*Merit pay increase*" means the increase in basic pay for a merit pay employee in excess of that granted automatically under 5 U.S.C 5402(c)(1) or (c)(3).

"*Merit pay pool*" means that portion of an agency identified by agency management as having an optimum number of merit pay positions to facilitate internal management of its merit pay plan and to which funds are allocated for distribution as merit increases to covered employees.

"*Supervisor*" has the meaning given that term in 5 U.S.C. 7103(a)(10); i.e., * * * an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.

"Total performance pay" means the sum of the merit pay increase received by an employee and the amount of money received by the employee as a performance-related cash award under 5 U.S.C. 5403.

"Total performance pay pool" means the amount of money identified by an agency to be distributed to merit pay employees as merit pay increases and performance-related cash awards.

§ 540.103 Ranges of basic pay and employee coverage.

(a) Under 5 U.S.C. 5402(a), the Office of Personnel Management is required to establish a Merit Pay System which provides a range of basic pay for each grade of the Merit Pay System. The Merit Pay System shall consist of three grades, as follows:

(1) GM–13, which shall consist of supervisors and management officials who are in positions classified in Grade GS–13;

(2) GM–14, which shall consist of supervisors and management officials who are in positions classified in grade GS–14; and

(3) GM–15, which shall consist of supervisors and management officials who are in positions classified in grade GS–15.

(b) The range of annual rates of basic pay for each grade of the Merit Pay System shall be the same as the range of annual rates of basic pay for the corresponding grade of the General Schedule. Higher ranges of rates of basic pay authorized under 5 U.S.C. 5303 shall be applicable under this part to any position covered by such authorization.

(c) In accordance with the definitions in 5 U.S.C. 7103 (a)(10) and (a)(11), the head of each agency shall identify employees who are supervisors or management officials for purposes of coverage under the Merit Pay System. Employees who were appointed on the effective date of a pay adjustment under 5 U.S.C. 5305 and whose pay was set in accordance with the newly adjusted pay range for their grade are not to be considered covered by the Merit Pay System on that day for the purposes of calculating merit pay funds and dispensing increases under 5 U.S.C. 5402 (b)(1), (c)(1), and (c)(3).

§ 540.104 Determination and allocation of merit pay funds.

(a) Under 5 U.S.C. 5402(b)(4), the Office of Personnel Management must determine the funds available for merit pay purposes. Each agency covered by the Merit Pay System shall submit such information as OPM may require for this purpose.

(b) The Office of Personnel Management shall issue annual Merit Pay Fund Computation Tables consistent with the annual increase made to the General Schedule at these grade levels and shall provide instructions for their use. Each agency covered by the Merit Pay System shall apply the appropriate table to the agency merit pay population, as of the effective date for merit pay increases, to determine the size of the merit pay fund available to the agency.

(c) Each agency covered by the Merit Pay System shall have one or more merit pay pools. If there is more than one pool, agencies may determine the funds available to each pool by the same method that is used to compute the merit pay fund, or they may make adjustments to that method to recognize organizational accomplishment or unusual distribution of performance within a pool, or to satisfy the requirements of paragraph (d)(2) of this section. If other than the computation table amount is to be allocated, the method must assure the equitable distribution of funds, be approved by OPM for inclusion in the agency's Merit Pay Plan, and must be fully documented.

(d) Each agency covered by the Merit Pay System is required to establish procedures to ensure that—

(1) The sum of merit pay increases awarded each year under § 540.107 of this part to Merit Pay System employees in the agency is no less than 95 percent and no more than 105 percent of the agency's merit pay fund (unless the Office of Personnel Management has granted prior approval for a lesser or greater obligation); and

(2) No portion of the contribution to the merit pay fund made for employees to whom no immediate merit pay increase may be paid, because of the statutory pay ceiling imposed by 5 U.S.C. 5308 or by appropriations limitations on pay, is used to pay such increases for employees not subject to the statutory pay ceilings or limitations.

§ 540.105 Merit pay performance appraisals.

(a) Except as provided in paragraph (c) of this section, each merit pay determination shall be based on a current appraisal of performance which is to be made under a performance appraisal system that has been approved by the Office of Personnel Management under 5 U.S.C. 4304(b)(1).

(b) the performance appraisal period on which the merit pay determination is based should be as close to the merit pay determination as the agency deems practicable, but will not end earlier than June 30 nor later than November 30 of the same year (or such other dates prescribed by OPM).

(c) Agencies and employees subject to the Merit Pay System but not covered by Chapter 43 of title 5, U.S.C., shall meet minimal performance appraisal requirements issued by the Office of Personnel Management.

§ 540.106 Merit pay determinations.

(a) Each agency shall establish a procedure for determining in a fair and objective manner the amount of merit pay increase and total performance pay that shall be granted each Merit Pay System employee. The determination is to be made for each employee covered by the System on the closest date to the effective date for merit pay increases that is determined by the agency to be administratively feasible and is to be based on a current performance rating. This does not preclude agencies from granting performance awards at any time during the appraisal period as provided in Part 430 of this chapter.

(b) Each merit pay determination shall take into consideration, in addition to the employee's performance, the reason for, amount of, and period of time since any increases in rate of basic pay and performance awards received by the employee in the current performance year.

(c) If the agency determines it is appropriate to do so, a merit pay determination may also take into consideration the accomplishments of the employee's organization.

(d) Each agency shall establish procedures to manage the performance appraisal process and merit pay determinations for employees covered by the Merit Pay System so as to obtain equitable and appropriately sized merit pay increases and total performance pay.

(e) agency procedures for making merit pay determinations must include a requirement for an approval of each merit pay determination by an official of the agency who is at a higher level than the official who made the merit pay determination (unless there is no official at a higher level in the agency), and also by the official with responsibility for managing the merit pay pool, if different.

(f) The reasons for each merit pay determination are to be documented and shall be made available to the affected employee at his or her request.

(g) The requirement that the merit pay determination be based on performance shall be waived when an employee's performance cannot be appraised for the minimum appraisal period established by the agency. When the merit pay determination is waived, pay is to be set in accordance with § 540.108 of this part.

§ 540.107 Merit pay increases and salary levels.

(a) Merit pay increases under 5 U.S.C. 5402(b)(1) are to be made effective on the same day as the automatic pay adjustments under 5 U.S.C. 5402 (c)(1) and (c)(3), except as otherwise prescribed by OPM. In the event that the amount of the merit increases cannot be determined in a timely manner, the increases shall be made retroactive to the effective date of the pay adjustments. The retroactive payment shall not be made later than December 31 of the calendar year during which such pay adjustment takes effect, except as prescribed by OPM.

(b) In accordance with the requirements of 5 U.S.C. 5402(a)—

(1) Each Merit Pay System employee's rate of basic pay must be increased, effective on the same day a pay adjustment under 5 U.S.C. 5402(c)(1) becomes effective, by an amount necessary to raise the employee's rate of basic pay to the new minimum rate for the employee's grade; and

(2) No Merit Pay System employee's rate of basic pay may be increased by an amount that would cause that rate of basic pay to exceed the maximum rate for the employee's grade, except as provided in 5 U.S.C. 5334(b) and 5363 in connection with retained pay.

(c) Merit pay increases must be reduced by the amount of any increase required under 5 U.S.C. 5402(c)(3) to raise an employee's pay to a new range minimum amount, up to and including the full amount of the merit increase granted under 5 U.S.C. 5402(b)(1).

(d) Agencies must establish procedures to prevent employees in the same merit pay pool and grade level with identical performance ratings from experiencing a reversal in their relative rates of basic pay due solely to the construction of the merit pay allocation model.

§ 540.108 Special provisions for merit pay increases.

(a) An employee for whom the requirement for a performance-based merit pay determination is waived under § 540.106(g) of this part shall be paid the sum of—

(1) The employee's rate of basic pay immediately before the merit pay increase; and

(2) The automatic adjustments required by 5 U.S.C. 5402 (c)(1) and (c)(3) at the time of the merit pay increase; and, except as provided in paragraph (c) of this section,

(3)(i) The average increase received, or, if necessary, a constructed average increase which would have been received under 5 U.S.C. 5402(b)(1) by comparably situated employees; or

(ii) An increase identified with a predetermined performance level designator for comparably situated employees; or

(iii) The amount provided by the appropriate factor of the Merit Pay Fund Computation Table (to include the Quality Step Increase equivalent or not, as determined by the agency).

(b) When an employee returns to a pay status after an approved absence which encompassed the time of one or more pay adjustments provided under 5 U.S.C. 5402, the employee's rate of basic pay shall be set at the sum of—

(1) The employee's rate of basic pay immediately before the interruption of his or her employment with the agency; and

(2) The automatic adjustments that would have been required by 5 U.S.C. 5402 (c)(1) and (c)(3) if the employee's service had not been interrupted; and, except as provided in paragraph (c) of this section;

(3)(i) The average increases received, or, if necessary, constructed average increases which would have been received under 5 U.S.C. 5402(b)(1) by comparably situated employees; or

(ii) Increases identified with a predetermined performance level designator for comparably situated employees; or

(iii) The amounts provided by the appropriate factor of the Merit Pay Fund Computation Table to include the Quality Step Increase equivalent or not, as determined by the agency; or

(iv) The contributions to the merit pay fund in behalf of the employee which were authorized under 5 U.S.C. 5402(b)(4)(B) representing the portion of the annual GS pay increase which the employee was not granted automatically.

(c)(1) When the requirement for a performance-based merit pay determination is waived or when the employee's pay is being set because of—

(i) Service in the armed forces or non-Government service referenced in 5 U.S.C. 5402(d), or

(ii) Other service for which an employee's advancement through the pay range is preserved by statute, or

(iii) One or more merit pay increases that occurred during a period for which the employee has received credit under the back pay provisions of 5 U.S.C. 5596 and Subpart H of Part 550 of this chapter,

the employee's pay shall be set at the sum of—

(2)(i) The employee's rate of basic pay immediately before the merit pay increases or before interruption of his or her duty status, as appropriate; and

(ii) The automatic adjustments that are required or that would have been required by 5 U.S.C. 5402 (c)(1) and (c)(3) if the employee's duty status had not been interrupted; and

(iii) The amounts provided by the appropriate factors of the Merit Pay Fund Computation Tables for the employee for each pertinent year.

(d) Increases granted under paragraphs (a)(3), (b)(3), and (c)(2)(iii) of this section are to be reduced as described in § 540.107(c) of this part.

§ 540.109 Cash awards.

5 U.S.C. 5403 authorizes the payment of cash awards as part of the Merit Pay System. There are two categories of cash awards:

(1) Performance awards, which are to be administered in accordance with the provisions of Subpart F of Part 531 of this chapter, and instructions issued by

the Office of Personnel Management; and

(2) Cash awards, that are not related to the Merit Pay System employee's performance in his or her position, to be administered in accordance with the provisions of Part 451 of this chapter and the agency's Special Awards Program established under Part 451.

§ 540.110 Agency plans for Merit Pay System.

(a) Each agency with employees who are subject to the Merit Pay System shall establish a plan for administering the Merit Pay System within that agency. Each agency's plan shall be consistent with the provisions of 5 U.S.C. 5401–5403 and this part, and shall include, in addition to provisions to carry out requirements of this part, provisions for—

(1) Communication to the agency's Merit Pay System employees of the purpose of the Merit Pay System and how it works;

(2) Training in the operation of the Merit Pay System for employees who are subject to that System and for employees who are responsible for its operations; and

(3) Distribution of the funds contained in the agency's Total Performance Pay Pool. The plan must describe the manner in which the funds will be distributed, and must specify a funding level for merit pay performance awards as described in Part 531, Subpart F, the minimum funding level to be specified by OPM.

(b) When determining the size of merit pay increases to be granted, agencies must use a matrix (either percentage or points) that provides an inverse relationship between amount of increase and position in the pay range.

(c) No employee who is rated "Fully Successful" or higher on each critical element and on the employee's summary rating shall receive a total increase to base pay under 5 U.S.C. 5402 (b)(1), (c)(1), and (c)(3) which is less than the sum of the percentage increase authorized under 5 U.S.C. 5305 for General Schedule pay system employees and the average annualized equivalent of a within-grade increase.

(d) Employees who are rated "Outstanding" will receive a minimum differential in the total performance pay under this part above the total performance pay for employees rated "Fully Successful," as approved by OPM in the agency Merit Pay Plan.

(e)(1) Each agency covered by Subparts A and B of Part 430 or by Part 540 of this chapter shall submit Performance Management Plans, including a Merit Pay System Plan, to the Office of Personnel Management for review by February 24, 1984.

(2) Agencies will be required to implement the provisions of an approved Performance Management Plan pertaining to its merit pay employees no later than October 1, 1984.

(3) an agency may utilize Performance Appraisal Systems for merit pay employees and Merit Pay Systems which have been approved by the Office of Personnel Management until October 1, 1984.

(4) Changes to already approved merit pay plans, except as provided in paragraph (g) of this section, must be submitted to OPM at least 60 days before they are scheduled to be effective.

(f) Changes to agency merit pay plans prompted by unanticipated Government-wide merit pay funding levels or other emergency events shall be submitted to the Office of Personnel Management for approval in accordance with special instructions issued by OPM at that time.

§ 540.111 Reports.

So that the Office of Personnel Management can provide the Congress and others with information regarding the operation of the Merit Pay System including cash awards, each agency shall maintain such records and submit to OPM such reports as OPM may require.

PART 771—AGENCY ADMINISTRATIVE GRIEVANCE SYSTEM

20. A new § 771.206(c)(3) is added to read as follows:

* * * * *

Subpart B—General

* * * * *

§ 771.206 Exclusions.

* * * * *

(c) Matters excluded.

* * * * *

(3) An agency may, in its discretion, exclude performance appraisals and/or ratings (under subchapter I of chapter 43 of title 5 United States Code, or Part 430 of this chapter) from coverage under this part.

[FR Doc. 83–28085 Filed 10–24–83; 8:45 am]
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 293

Personnel Records; Transfer of an Official Personnel Folder to Another Agency

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: In response to agency comments on proposed rulemaking on the performance management system, the Office of Personnel Management proposes to amend the regulations on Personnel Records. The proposed rule would require agencies to send a transferring employee's performance ratings, 3 years old or less, to his or her "gaining" agency, along with the employee's Official Personnel Folder (OPF).

DATE: To be considered, comments must be received by December 27, 1983.

ADDRESS: Send or deliver written comments to: John W. Fossum, Assistant Director for Performance Management Workforce Effectiveness and Development, Office of Personnel Management, 1900 E Street, NW., Room 7520, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: James Weddel, 202–632–7630.

SUPPLEMENTARY INFORMATION: On March 30 (48 FR 13342) and July 14, 1983 (48 FR 32288), OPM published proposed rules to implement a Performance Management System. The final rules on that System are published elsewhere in today's issue of the **Federal Register.**

One of the key issues raised in agency coments on the proposed regulations was the transfer of employees' performance ratings to their new agency at the time employees transfer. Agencies pointed out that they need these performance ratings to make determinations about within-grade and step increases, reduction in force, and other personnel actions. Current OPM regulations prohibit agencies from transferring performance ratings on non-SES employees to another agency or to the National Personnel Records Center (NPRC) in an employee's Official Personnel Folder (OPF).

This proposed rule would require that agencies place performance ratings in an employee's OPF and forward the ratings to another "gaining" office within the employing agency, to another agency, or to NPRC. This change would only affect non-SES employees' performance ratings which are three years old or less. (Current regulations already require transferring SES ratings that are five years old or less.)

E.O. 12291 Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect Government employees.

List of Subjects in 5 CFR Part 293

Archives and records, Government employees, Privacy.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management proposed to amend 5 CFR Part 293, as follows:

1. § 293.402(a) is revised to read as follows:

§ 293.402 Establishment of separate employee performance record system.

(a) Copies of performance ratings must be placed in an employee's Office Personnel Folder (OPF). However, other performance-related documents may be retained in the OPF only when the agency prescribes the use of a separate envelope, temporarily located in the OPF. Performance ratings shall be retained on the left (temporary) side of the OPF. No other performance-related record shall be retained on the left (temporary) or right (permanent) side of the OPF or shall be transferred to the National Personnel Records Center (except as required by § 293.404(b)).

* * * * *

2. Sections 293.404 (a)(1) and (a)(2) are revised to read as follows:

§ 293.404 Retention Schedule.

(a)(1) Except as provided in § 293.405(a), performance appraisals or documents supporting them are generally not permanent records and shall, except for appointees to the SES and including incumbents of executive positions not covered by the SES, be retained as prescribed below:

(i) Summary performance appraisal records (including identification of elements and standards) shall be retained for three years;

(ii) Supporting documents shall be retained for as long (up to three years) as the agency deems appropriate;

(iii) Performance records superseded, e.g., through an administrative or judicial procedure, and performance related records pertaining to a former employee (except as prescribed in § 293.405(a)) need not be retained for a minimum of three years. Rather, in the former case they are to be destroyed and in the latter case agencies shall determine the retention schedule; and

(iv) Except where prohibited by law, retention of automated records longer than the maximum prescribed here is permitted for purposes of statistical analysis so long as the data are not used in any action affecting the employee when the manual record has been or should have been destroyed.

(2) When an employee is reassigned within the employing agency, disposition of records in this system, including transfer with the employee, shall be as agencies prescribe, consistent with § 293.405(a).

* * * * *

3. Section 293.405(a) is revised to read as follows:

§ 293.405 Disposition of records.

(a) When the OPF of a non-SES employee is sent to another servicing office in the employing agency, to another agency, or to the National Personnel Records Center, the "losing" servicing office shall include in the OPF all performance ratings which are three years old or less. Also, the "losing" office will purge from the OPF all performance ratings more than three years old, and other performance-related records, according to agency policy established under § 293.404(a)(2).

* * * * *

Authority: 5 U.S.C. 552a and 5 U.S.C. 4305 and 4315; E.O. 12107 (December 28, 1978); 5 U.S.C. 1103, 1104, and 1302; 3 CFR 1954–1958 Comp.; 5 CFR 7.2; E.O. 9830, 3 CFR 1943–1948 Comp.)

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Part VII

Office of Personnel Management

Pay Administration Under the Fair Labor Standards Act; Exemptions

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 551

Pay Administration Under the Fair Labor Standards Act; Exemptions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: These regulations provide modified, clarified criteria for determining a Federal employee's exemption status under the Fair Labor Standards Act (FLSA). Any Federal employee who is defined as an "executive, administrative, or professional" employee under these criteria is an "exempt" employee and is not entitled to overtime payment under the FLSA. Exempt employees are, of course, entitled to overtime compensation under the provisions of the applicable Federal pay systems. These modifications are intended to facilitate FLSA administration in the Federal sector and to alleviate the discrepancy between OPM's exemption criteria and the exemption criteria which are applicable to employees in the private sector. They also provide criteria for applying the FLSA to employees on temporary duty and to employees who travel to or from foreign areas.

EFFECTIVE DATE: February 22, 1984.

FOR FURTHER INFORMATION CONTACT: Mario Caviglia (202) 632–5691.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) published on July 14, 1983, in the **Federal Register** [48 FR 32280–32285] revised proposed rules amending its exemption determination criteria under the FLSA. At that time, OPM provided a detailed discussion of the comments it had received regarding the first publication of the proposed FLSA regulations on March 30, 1983, [48 FR 13374–13377]. In response to OPM's request for further comments, OPM received comments from four agencies, eight unions and associations, and four individuals.

For the most part, the comments from agencies repeated their support for the proposal, while the unions and associations generally incorporated by reference their previous comments opposing the proposal and restated their continuing opposition to various features of the proposal. While these concerns were addressed in our analysis of the comments on July 14, 1983, we will supplement our earlier discussion with the following comments on the general issues raised by the comments.

OPM's Role as Administrator of the FLSA for the Federal Sector

We believe that most of the comments opposing the proposed rules reflect a general misunderstanding of OPM's role as Administrator of the FLSA for the Federal sector. On the one hand, OPM is charged with the responsibility to administer the FLSA "in such a manner as to assure consistency with the meaning, scope, and application established by the rulings, regulations, interpretations, and opinions of the Secretary of Labor which are applicable in other sectors of the economy." (H. Rept. 93–913, March 15, 1974, p. 28.) On the other hand, the Congress realized that, when applied to the Federal sector, the FLSA would cause conflicts with existing, valid Federal pay and classification statutes (chiefly contained in title 5, United States Code). It was this recognition that led to the express grant of authority to CSC [now OPM] of "the authority to determine who in the Federal work force is covered." (120 Cong. Rec. 7335.)

The legislative history recognizes that a literal adherence to Department of Labor (DOL) regulations is not possible in the face of Federal personnel statutes, and that it is OPM's responsibility to reconcile these conflicts to the maximum extent practicable, while preserving the basic purpose of the FLSA.

A basic objective of OPM in promulgating these regulations is to honor its mandate to be more consistent with DOL. One area in which OPM is dramatically out of line with DOL is in the application of the "long" and "short" tests for exemption. Under the DOL criteria, an employee paid at a salary of $250 or more per week is subject to the less stringent "short test" for exemption. OPM's current regulations make the cutoff for applying the "short test" at the GS–10 level, which currently has a minimum salary of $429 per week. A key feature of the revised regulations is to adjust this cutoff point from GS–10 to GS–7, which currently has a minimum salary of $318 per week. While this adjustment would alleviate somewhat the discrepancy between the OPM criteria and the DOL criteria, it would still leave the standard for Federal employees significantly above that which is applied to employees in the private sector. Under the President's proposal for the Federal pay comparability increase, the minimum weekly salary for a GS–7 would rise to $328 in January. If the "short test" cutoff point were left at GS–10, the equivalent weekly salary in the Federal sector would rise to $486, almost doubling the standard applicable in the private sector.

As can readily be seen from these figures, the proposed cutoff points, even after adjustment, remain higher than the private sector standards. If OPM were to literally interpret its responsibility to be consistent with DOL it would apply a pure salary test, tied directly to the DOL figures. This would mean that the cutoff point for applying the short test should be dropped to approximately GS–4, step 3. However, OPM is concerned not only with its mandate for consistency, but also with its concurrent responsibility to integrate the administration of the FLSA into the Federal pay and position classification process. OPM believes that defining the FLSA minimum grade levels for exemption, and the cutoff points for applying the "short test" in terms of the classification system, make more sense than using only absolute dollar figures. Otherwise, such routine actions as within-grade increases and yearly comparability increases could affect an employee's exemption status. Furthermore, as we repeatedly have emphasized, the position classification system is a *job evaluation* process which is a more logical system for defining exemption for Federal employees than gross weekly salary.

Paradoxically, those who object to the reference to classification in exemption determinations also urge that the cutoff point for applying the "short test" be left at the classification level of GS–10. In other words, it appears that the objection to the proposal is not that OPM is using the classification system in the exemption determination process, but rather that OPM is honoring its other mandate to attempt consistency with DOL in applying more realistic standards by lowering the classification reference points for exemption.

This confusion in the objections to the proposal is well illustrated by the reaction to the assertion of a presumption of exemption for employees *classified* at GS–11 and above. Athough this presumption affects only a relatively few highly classified employees (the overwhelming majority of employees at these grade levels are already exempt), it has been objected to on the grounds that it is inconsistent with DOL regulations. We believe that it is reasonable to *presume* exemption of employees at defined high grade levels, particularly since they are classified at these grades precisely because of the high level of complexity and responsibility of their positions. Additionally, the presumption of exemption can be appealed by either the employee or the employing agency.

Despite the fact that employees retain their right to appeal their exemption status, one labor organization expressed concern that the proposal would create a situation in which an employee could jeopardize the classification of his or her position by filing an FLSA complaint, thus placing a "chilling" effect on seeking an exception. This comment recognizes the inescapable link between FLSA exemption and position classification. However, this is not a new concern. OPM (and CSC) have faced this problem since the inception of the FLSA in the Federal sector, and we have been careful to judge the exemption status of an employee on its own merits. While OPM cannot ignore misclassification of positions, we must emphasize that this problem would remain regardless of whether a presumption of exemption exists. Under the current system, OPM receives a great number or exemption appeals from employees who are exempt at these grade levels and we see nothing in the proposal which would intimidate or discourage employees from exercising their options.

Finally, we again received objections to the proposal on the ground the OPM is improperly shifting the burden of proof for exemption from the employer to the employee. These comments once again focus attention on the potential impact of the FLSA regulations on the highest salaried positions in the Civil Service. The regulations affecting "burden of proof" for grades GS–1 through GS–10 and for blue collar employees remain unchanged. OPM's experience in almost 10 years of FLSA administration is that almost all employees at grades GS–11 and above are properly exempt. This conclusion is borne out by the present rate of exemption at these grade levels. We estimate that the population of high graded employees who are currently non-exempt and who might potentially become exempt under the change does not exceed 20,000, or only one per cent of a total covered population of more than 2,000,000.

In its dual role as administrator of the FLSA *and* administrator of the Federal position classification system, OPM is in a unique role which is not comparable to DOL, since DOL does not administer the job evaluation system for employees in the private sector. OPM delegates the burden of classifying positions to agencies. Agencies classify positions at high grade levels only by assuming the burden of consistency with statutorily defined levels of responsibility and complexity. By definition, the proper classification of positions to a given grade level should mean that all employees in the grade level receive "equal pay for substantially equal work." *See* 5 U.S.C. 5101(1)(A). Although high-graded employees are entitled to overtime compensation under title 5, the payment of FLSA overtime in excess of that rate to a select few causes pay distortions and inversions among employees classified at the same grade level.

While the classification system is not infallible , it does constitute sufficient basis for a presumption by an agency that, having assumed the burden of classifying a position properly, the employee is exempt at GS–11 and above. Although OPM does not rule out the possibility that certain positions at these grade levels are properly non-exempt, we believe that the combination of the system for waiver requests by agencies and ther FLSA administrative appeals system, will allow for the identification of these anomalies. The comments objecting to this presumption seem to suggest that no conclusions whatsoever can be presumed about employees properly *classified* at GS–11 and above (currently paid $24,506 to $63,115 per year). However, it is our conclusion that classification at these grade levels is sufficient basis for a *presumption* of exemption.

In short, OPM believes that, in honoring its dual mandate to achieve consistency with DOL and to reconcile the FLSA and other Federal personnel statutes, the use of classification in the FLSA exemption determination process is both justifiable and desirable. It achieves both objectives to the maximum extent practicable, while maintaining the applicability of the FLSA to those employees whom it was intended to protect.

Miscellaneous Comments

One association recommended that an independent commission be appointed to study the FLSA issue as part of a coordinated review of civil service policies before any regulatory changes are made. We believe that the proposed changes reflect necessary adjustments to bring OPM standards more into line with DOL standards and we see no need for the creation of a commission to study changes which are clearly called for under OPM responsibility.

Two individuals asked whether technical support positions such as electronics technicians or physical science technicians are intended to be exempt as administrative employees on the basis of providing a supporting service. While it is possible under either the current criteria or the revised criteria for a technician to be exempt as an administrative employee, no absolute answer can be given to such a general question since the answer could vary from position to position.

Two individuals asked whether the criteria for granting exceptions from the presumption of exemption would be based on the general exemption criteria. The exceptions to the presumption are intended to accommodate any unique occupation which would properly be classified at GS–11 or above and still not meet the executive, administrative, or professional criteria.

One association and one individual objected to the regulations on the basis that they would result in the elimination of FLSA overtime for nurses. The question of whether a nurse is exempt or not is a matter that should be decided by the application of criteria which are consistent with those applied to other professional and technical employees. We must reemphasize that a presumption of exemption for employees properly classified at high grade levels in a professional series does not affect their exemption status if, in fact, they meet the criteria for coverage.

One individual objected to the regulations on the basis of their potential impact on Nuclear Shift Test Engineers at Navy who have been determined to be non-exempt under the current criteria. As stated in the July 14 comments, we intend that these regulations be applied prospectively from their effective date. Employees who are properly non-exempt under the current criteria, but who should be exempt under the revised criteria, will be considered non-exempt until the effective date of these regulations.

One agency commented that the 45-day implementation schedule for requests for waivers from the presumption of exemption is unrealistic. In view of the 120-day implementation period for the regulations, we have adopted the suggestion to provide a 90-day period for requests for waivers from the presumption. Request for waivers should demonstrate why the specific occupation in question can be expected to involve non-exempt duties under the criteria contained in §§ 551.204, 551.205, and 551.206, despite the fact that they are properly classified at GS–11 or above.

One agency disagreed with the requirement in § 551.207 that agencies not make exceptions to the presumption of exemption without prior OPM approval. We believe that this requirement for prior approval is necessary in order to assure consistency among agencies and to avoid pay and classification discrepancies.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities since it only provides procedures for applying the exemption criteria of the Fair Labor Standards Act to Federal employees.

List of Subjects in 5 CFR Part 551

Government employees, Wages, Fair Labor Standards Act, Travel, Manpower training programs, Administrative practice and procedure.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

Accordingly, the Office of Personnel Management is amending Part 551 of Title 5, Code of Federal Regulations, as follows:

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

1. Section 551.102 is amended by adding paragraph (h) to read as follows:

§551.102 Definitions.

* * * * *

(h) "Exempt area" means any foreign country, or any territory within the jurisdiction of the United States other than the following locations:
(1) A State of the United States;
(2) The District of Columbia;
(3) Puerto Rico;
(4) The Virgin Islands;
(5) Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act (67 Stat. 462);
(6) American Samoa;
(7) Guam;
(8) Wake Island;
(9) Eniwetok Atoll;
(10) Kwajalein Atoll; and
(11) Johnston Island.

2. Subpart B of Part 551 is revised to read as follows:

* * * * *

Subpart B—Exemptions

Sec.
551.201 Agency authority.
551.202 General principles governing exemptions.
551.203 Exemption of General Schedule employees.
551.204 Executive exemption criteria.
551.205 Administrative exemption criteria.
551.206 Professional exemption criteria.
551.207 Exceptions by OPM.
551.208 Foreign exemption.
551.209 Application of the executive, administrative, and professional exemption criteria for periods of temporary duty.

Authority: Sec. 4(f), Fair Labor Standards Act as amended by Pub. L. 93–259, enacted April 8, 1974; 29 U.S.C. 204f.

* * * * *

Subpart B—Exemptions

§551.201 Agency authority.

The employing agency shall exempt from the overtime provisions of the Act any employee who meets the exemption criteria of this subpart and such supplemental interpretations or instructions as shall be issued by the Office of Personnel Management.

§551.202 General principles governing exemptions.

In all exemption determinations, the agency shall observe the principles that:
(a) Exemption criteria shall be narrowly construed to apply only to those employees who are clearly within the terms and spirit of the exemption.
(b) The burden of proof rests with the agency that asserts the exemption.
(c) All employees who clearly meet the criteria for exemption must be exempted.

§551.203 Exemption of General Schecule employees.

(a) Any employee properly classified at GS–4 or below (or the equivalent level in other white collar pay systems) shall be nonexempt;
(b) Any employee properly classified at GS–5 through GS–10 (or the equivalent level in other white collar pay systems) shall be exempt only if the employee is an executive, administrative, or professional employee as defined in §§ 551.204, 551.205, and 551.206 of this subpart;
(c) Except as provided in § 551.207 of this subpart, any employee properly classified at GS–11 or above (or the equivalent level in other white collar pay systems) shall be presumed to be exempt under this subpart. An agency that properly classifies an employee at GS–11 or above shall be deemed to have satisfied the burden of proof for asserting exemption.

§ 551.204 Executive exemption criteria.

An "executive" employee is a supervisor, foreman, or manager who supervises at least three subordinate employees and who meets all the following criteria:
(a) The employee's primary duty consists of management or supervision. This primary duty requirement is met if:
(1) The employee is a General Schedule employee whose position is determined to be "Supervisory" or "Managerial" under the Supervisory Grade-Evaluation Guide;
(2) The employee is a Federal Wage System employee whose position fully meets or exceeds the "Foreman range of responsibility" as defined in the Job Grading Standard for Supervisors; or
(3) The employee is subject to a pay system other than the General Schedule or the Federal Wage System and the employee's position meets or exceeds the definition of Supervisor in the Supervisory Grade-Evaluation Guide or the employee's position fully meets or exceeds the "Foreman range of responsibility" as defined in the Job Grading Standard for Supervisors.
(b) In addition to the primary duty criterion that applies to all employees, Foreman level supervisors in the Federal Wage System (or the equivalent in other wage systems) and employee classified at GS–5 or GS–6 (or the equivalent in other white collar pay systems) must spend 80 percent or more of the worktime in a representative workweek on supervisory and closely related work.

§ 551.205 Administrative exemption criteria.

An Administrative employee is an advisor, assistant, or representative of management, or a specialist in a management or general business function or supporting service who meets all of the following criteria:
(a) The employee's primary duty consists of work that:
(1) Significantly affects the formulation or execution of management policies or programs; or
(2) Involves general management or business functions or supporting services of substantial importance to the organization serviced; or
(3) Involves substantial participation in the executive or administrative functions of a management official.
(b) The employee performs office or other predominantly nonmanual work which is:
(1) Intellectual and varied in nature; or
(2) Of a specialized or technical nature that requires considerable special training, experience, and knowledge.
(c) The employee must frequently exercise discretion and independent judgment, under only general supervision, in performing the normal day-to-day work.
(d) In addition to the primary duty criterion that applies to all employees, General Schedule employees classified at GS–5 or GS–6 (or the equivalent in other white collar system) must spend 80 percent or more of the worktime in a

representative workweek on administrative functions and work that is an essential part of those functions.

§ 551.206 Professional exemption criteria.

A professional employee is an employee who meets all of the following criteria, or any teacher who is engaged in the imparting of knowledge or in the administration of an academic program in a school system or educational establishment.

(a) The employee's primary duty consists of:

(1) Work that requires knowledge in a field of science or learning customarily and characteristically acquired through education or training that meets the requirements for a bachelor's or higher degree, with major study in or pertinent to the specialized field as distinguished from general education; or is performing work, comparable to that performed by professional employees, on the basis of specialized education or training and experience which has provided both theoretical and practical knowledge of the specialty, including knowledge of related disciplines and of new developments in the field; or

(2) Work in a recognized field of artistic endeavor that is original or creative in nature (as distinguished from work which can be produced by a person endowed with general manual or intellectual ability and training) and the result of which depends of the invention, imagination, or talent of the employee.

(b) The employee's work is predominantly intellectual and varied in nature, requiring creative, analytical, evaluative, or interpretative thought process for satisfactory performance.

(c) The employee frequently exercises discretion and independent judgment, under only general supervision, in performing the normal day-to-day work.

(d) In addition to the primary duty criterion that applies to all employees, General Schedule employees classified at GS–5 or GS–6 (or the equivalent in other systems), must spend 80 percent or more of the worktime in a representative workweek in professional functions and work that is an essential part of those functions.

§ 551.207 Exceptions by OPM.

The Office of Personnel Management will provide advisory opinions on agency-proposed exceptions to the presumption of exemption for specific occupations at GS–11 or above (or the equivalent level in other white collar pay systems) which is specified in § 551.203(c) of this subpart. Exceptions may not be made before OPM consideration. Requests for advisory opinions from agencies should be sent to: Office of Personnel Management, Agency Compliance and Evaluation, Compliance Division, 1900 E Street, N.W., Washington, D.C. 20415.

§ 551.208 Foreign exemption.

(a) This section provides criteria for applying the "foreign exemption" contained in section 13(f) of the Act. An employee who is exempt under the foreign exemption is not subject to the minimum wage and overtime provisions of the Act. The exemption status of an employee to whom the foreign exemption is not applicable shall be determined under the general criteria contained in this subpart.

(b) Except as provided in § 551.208(d), an agency shall apply the foreign exemption to any employee who is permanently stationed in an "exempt area" as defined in § 551.102(h).

(c) An agency shall also apply the foreign exemption on a workweek basis to an employee on temporary duty who is not permanently stationed in an exempt area, but who performs *all* hours of work in a given workweek in an exempt area.

(d) The foreign exemption is not applicable to an employee permanently stationed in an exempt area for any given workweek in which the employee performs *any* hours of work in the United States or in a territory under the jurisdiction of the United States.

§ 551.209 Application of the executive, administrative, and professional exemption criteria for periods of temporary duty.

(a) This section is not applicable when an employee is detailed to an identical additional position or to a position of the same grade, series code, and basic duties as the employee is regularly assigned to. This section applies only when an employee is assigned to perform duties which are not included in the employee's representative workweek. For the period of any such temporary duty, the exemption criteria contained in §§ 551.202 through 551.207 of this subpart shall be applied using the procedures specified in this section.

(b) A nonexempt employee who is assigned to perform duties which are not included in the employee's permanent position shall remain nonexempt for the entire period of the temporary duty unless the following three conditions apply:

(1) The temporary duty exceeds 30 days;

(2) The employee occupies a permanent position, or is temporarily promoted to a position which is either:

(i) Classified at GS–7 or above (or the equivalent level in other white collar pay systems); or

(ii) Classified as a General Foreman (or the equivalent level in other wage systems);

(3) The employee's primary duty for the period of temporary duty is exempt duty as defined in this subpart.

(c) Except as provided in § 551.209(e), an exempt employee who is assigned to perform duties which are not included in the employee's permanent position shall remain exempt for the entire period of the temporary duty unless the following three conditions apply:

(1) The temporary duty exceeds 30 days;

(2) The employee occupies a permanent position, or is temporarily promoted to a position which is either:

(i) Classified at GS–7 or above (of the equivalent level in other white collar pay systems); or

(ii) Classified as a General Foreman (of the equivalent level in other wage systems);

(3) The employee's primary duty for the period of temporary duty is *not* exempt duty as defined in this subpart.

(d) An employee who becomes exempt under the criteria contained in § 551.209(b) shall be considered exempt for the entire period of temporary duty. An employee who becomes nonexempt under the criteria contained in § 551.209(c) shall be considered nonexempt for the entire period of temporary duty.

(e) An exempt employee who is classified at GS–5 or GS–6 (or the equivalent level in other white collar pay systems), or who is classified below General Foreman (or the equivalent level in other wage systems) who is assigned to perform duties which are not included in the employee's permanent position shall remain exempt *only* if the employee spends more than 80% of a given workweek performing exempt duties, in which case the employee is exempt for that workweek.

(f) Notwithstanding any other provision of this section, and regardless of an employee's grade level, the agency

may determine that an emergency situation exists which threatens the life or safety of people, or serious damage to property, or serious disruption to the operations of an activity, and there is no recourse other than to assign qualified employees to perform emergency duties. In such a designated emergency the exemption status of an employee shall be determined on a workweek basis and the employee shall be nonexempt for any workweek in which the employee performs more than 20% nonexempt work.

(29 U.S.C. 204(f))

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VOL 48 ISS 207 OCT 25 1983 UMI

Reader Aids

Federal Register

Vol. 48, No. 207

Tuesday, October 25, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093–45218	3
45219–45370	4
45371–45522	5
45523–45752	6
45753–46004	7
46005–46258	11
46259–46486	12
46487–46730	13
46731–46962	14
46963–48214	17
48215–48438	18
48439–48642	19
48643–48792	20
48793–48996	21
48997–49204	24
49205–49498	25

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:

Ch. III	45296, 46725
Ch. IV	47976
305	45296

3 CFR

Executive Orders:

July 15, 1875 (Revoked in part by PLO 6479)	45559
11459 (Superseded by EO 12445)	48441
12002 (See EO 12444)	48215
12214 (See EO 12444)	48215
12444	48215
12445	48441
12446	48443

Proclamations:

5110	45219
5111	45221
5112	45371
5113	45523
5114	45753
5115	46259
5116	46963
5117	46965
5118	48217
5119	48439
5120	49205
5121	49207

5 CFR

Ch. XIV	45373
213	46261
300	49472
335	49472
351	49462
430	49472
431	49472
451	49472
531	49472
532	49472
540	49472
551	49494
771	49472
752	45525
1255	45373

Proposed Rules:

Ch. I	47990
Ch. III	47982
293	49492
550	49023

7 CFR

Ch. IV	48449
27	49209
2	46261, 48449
28	48997
51	46487
247	46731
301	45262, 48449
319	46732
752	45526
906	45374
908	45526, 46488, 48643
910	45374, 45755, 46961, 48793
919	45374
929	45374
981	45374
989	49214
991	45374, 48219
1065	48793
1063	48998
1205	48451
1435	45374
1901	45532
1945	48999
1951	46957
1955	46957
1962	46957
1965	46957

Proposed Rules:

Subtitle A	47236
Ch. I	47236
Ch. II	47236
Ch. III	47236
Ch. IV	47236
Ch. V	47236
Ch. VI	47236
Ch. VII	47236
Ch. IX	47236
Ch. X	47236
Ch. XI	47236
Ch. XII	47236
Ch. XIV	47236
Ch. XV	47236
Ch. XVI	47236
Ch. XVII	47236
Ch. XVIII	47236
Ch. XXI	47236
Ch. XXIV	47236
Ch. XXV	47236
Ch. XXVI	47236
Ch. XXVII	47236
Ch. XXVII	47236
Ch. XXIX	47236
226	45779
402	46062
411	48675
421	49250
441	45782
781	46065
904	45786
910	45565
966	46544
981	49254
983	49025
1065	45117
1125	49255
1131	46343
1133	49255

VOL 48 ISS 207 OCT 25 1983 UMI

1139 46797
1207 49026
1446 48471
1700 46830
1701 48472

5 CFR

100 48794
103 45093
214 ..... 45093, 48452, 48999
238 ..... 45093, 45755
248 45093

Proposed Rules:

Ch. I 47530
103 48242

9 CFR

166 48643

Proposed Rules:

Ch. I 47236
Ch. II 47236
Ch. III 47236
Ch. IV 47236
92 ..... 46255, 49000
101 48679
113 48679
317 45118
318 48242
319 45118
325 46996
350 45755
362 45755
381 ..... 45118, 46996, 48224

10 CFR

2 46469
50 46469
55 45223
71 45361
95 48644
761 45746
710 46499

Proposed Rules:

Ch. I 48158
Ch. II 47324
Ch. III 47324
Ch. X 47324
50 45787
60 48472
140 48474

11 CFR

114 48650

12 CFR

5 48452
7 ..... 46502, 48452
29 45532
34 49216
204 ..... 46005, 46262
207 ..... 45533, 48219, 48796
217 ..... 45756, 46262
220 ..... 45533, 48219
221 ..... 45533, 48219, 48797
224 45533
226 48219
561 45382
563 ..... 45382, 48455
700 46006

Proposed Rules:

Ch. I 47716
Ch. II 48086
Ch. V 48110
Ch. VI 48074
Ch. VII 48150
5 49291
29 47001
215 49293
224 49295
701 48830

13 CFR

101 45224
123 45225
133 46008

Proposed Rules:

Ch. I 48080
Ch. III 47254

14 CFR

21 ..... 48798, 49218
39 ..... 45093, 45535, 46008, 46009, 46503, 46969, 48220, 48222, 48801–48804
71 ..... 45094, 45095, 45536, 45537, 46010, 46503, 48805
95 46504
97 ..... 45096, 49001
205 46264
248 46265
294 46265
320 45236
380 46265
389 45758

Proposed Rules:

Ch. I 46356, 47562, 48681
Ch. II 47003, 48036
Ch. V 47972
21 ..... 45214, 45565
25 ..... 46218, 46250
29 46250
39 ..... 46070, 48296, 49297
43 48364
61 45214
65 45214
71 ..... 45118, 45566, 48244, 48831
91 48364
107 45214
109 45214
121 ..... 45214, 46218, 46250, 48364
127 48364
135 ..... 45214, 48364
145 45214
320 46832

15 CFR

Proposed Rules:

Subtitle A 47254
Ch. I 47254
Ch. II 47254
Ch. III 47254
Ch. IV 47254
Ch. VIII 47254
Ch. IX 47254
Ch. XXIII 47254

16 CFR

13 ..... 48651, 49217, 49225
453 45537

Proposed Rules:

Ch. I 48120
Ch. II 46084
13 49299
300 46682
301 46682
303 46683
1212 45405
1500 45567
1513 45567

17 CFR

1 49003
145 ..... 46010, 48223
146 ..... 46010, 48223
147 ..... 46010, 48223
229 46012
230 ..... 46012, 46736
231 ..... 46012, 46969
239 ..... 45386, 46012
240 ..... 46012, 46736
241 46012
270 46012
274 46012

Proposed Rules:

Ch. I 48056
Ch. II 48190
33 46797
230 46801
240 ..... 45119, 48245
249 48245

18 CFR

2 46012
4 49010
6 49010
35 ..... 46012, 46970
157 46021
270 48223
271 ..... 45097, 46266–46268, 48223, 49010
274 45097
282 45758
301 46970
375 49010
385 45388

Proposed Rules:

Ch. I 48104
2 49028
4 49028
32 49028
101 46361
104 46361
141 46361
154 ..... 46361, 47003, 49028
157 47003
159 46361
201 46361
204 46361
260 46361
270 49028
271 ..... 46071, 49032, 49033
273 49028
274 49033
275 47003
282 45787
292 49028
300 49301
410 45568

19 CFR

4 ..... 46510, 46978, 48653
7 46740
10 ..... 46510, 46740
18 48655
22 46740
101 45538
103 45538
113 46740
134 48657
145 46740
148 46978
158 46740
191 46740
210 45544

Proposed Rules:

Ch. I 46805, 47724
4 ..... 46808, 46810
18 46812
101 45409
123 46812
144 46812

20 CFR

404 46142
626 48744
632 48744
633 48744
634 48744
635 48126
636 48744
684 48744

Proposed Rules:

Ch. I 47538
Ch. II 48012
Ch. III 47940
Ch. IV 47538
Ch. V 47538
Ch. VI 47538
Ch. VII 47538
10 48249
416 48684
422 ..... 48072, 47006

21 CFR

81 ..... 45237, 45760, 46022, 49233
109 45544
131 45545
133 49012
175 48228
178 ..... 46773, 46774
179 46022
182 48805
184 ..... 48456, 48457, 48805
186 ..... 48456, 48457
193 45547
211 46979
430 46270
436 46270
442 46270
520 ..... 46979, 48229
522 ..... 46023, 48229, 48659, 49233
540 45760
558 ..... 45102, 46023, 46024, 46514, 46515, 48659
700 46979
800 46979
1308 46516

Proposed Rules:

Ch. I 47340
122 48836
155 48836
182 45121
184 45121
211 47006
341 48576
351 46694
355 49304
610 ..... 46815, 47009
620 47009
630 47009
640 47009
650 47009
660 47009
680 47009

700.....47008
800.....47008
1040.....48837

22 CFR

41.....48660
201.....49233
Proposed Rules:
Ch. I.....47578
Ch. II.....47970

23 CFR

655.....48775
Proposed Rules:
Ch. I.....47582
Ch. II.....47582
658.....46545

24 CFR

26.....46980
201.....46980
215.....46980
221.....46980
236.....46980
570.....45760, 46778, 46980
841.....46980
882.....46980
888.....45547, 46980
890.....46980
Proposed Rules:
Subtitle A.....47418
Subtitle B.....47418
24.....46072, 46817

25 CFR

71.....45103
114.....48606
Proposed Rules:
Ch. I.....47472
140.....45789
216.....49174

26 CFR

1.....45761, 46272, 46296
4.....46272
31.....46296
35a.....45362
Proposed Rules:
Ch. I.....47730
1.....47010, 48255, 49304
5c.....49304
5f.....48255
20.....48837
25.....48837
31.....47010
52.....48837

27 CFR

4.....45549
5.....45549, 46518
7.....45549
9.....45238, 45239, 46518–46524, 48810–48820
170.....46526
240.....46526
Proposed Rules:
Ch. I.....47708
9.....46387, 48685

28 CFR

2.....48230
500.....48968
527.....48968
552.....48968

571.....48970
572.....48972
Proposed Rules:
Ch. I.....47530

29 CFR

1601.....46296
1952.....48822
Proposed Rules:
Subtitle A.....47538
Ch. II.....47538
Ch. IV.....47538
Ch. V.....47538
Ch. XII.....47946
Ch. XIV.....47928
Ch. XVII.....47538
Ch. XXV.....47538
Ch. XXVI.....48004
1908.....45411
1910.....45956
1926.....45872

30 CFR

223.....48681
251.....46025
913.....48528
917.....46299
935.....46027, 46301, 46530
938.....45389
946.....46028
Proposed Rules:
Ch. I.....47538
Ch. II.....47472
Ch. VII.....47472
55.....45336
56.....45336
57.....45336
58.....45336
700.....49174
701.....49174
750.....49174
755.....49174
917.....48255
935.....45420
938.....46817

31 CFR

1.....48460
51.....46982
240.....49014
Proposed Rules:
Subtitle A.....47702
Ch. I.....47702
Ch. II.....47702
390.....48686

32 CFR

235.....48824
251.....45242
706.....49233
Proposed Rules:
Ch. I.....47302
Ch. V.....47302
Ch. VI.....47302
Ch. VII.....47302
Ch. XVI.....48018
199.....45791

33 CFR

100.....45244, 46531
117.....45245, 46532, 48662
130.....48178
131.....48178
132.....48178

151.....45704
155.....45704
157.....45718, 46985
163.....48230
165.....46533, 46534, 46779, 48663, 48664
166.....49018
Proposed Rules:
Ch. I.....47582
Ch. II.....47302
Ch. IV.....47582
117.....48690
146.....48475
150.....48475
162.....45790
164.....46819

34 CFR

668.....45670
690.....45670
Proposed Rules:
Subtitle A.....47308
Ch. I.....47308
Ch. II.....47308
Ch. III.....47308
Ch. IV.....47308
Ch. V.....47308
Ch. VI.....47308
Ch. VII.....47308
350.....45568
351.....45568
352.....45568
353.....45568
354.....45568
355.....45568
357.....45568

35 CFR

Proposed Rules:
Ch. I.....47996

36 CFR

7.....46779, 46780
60.....46306
Proposed Rules:
Ch. I.....47472
Ch. II.....47236
Ch. III.....47302
Ch. VIII.....47856
Ch. IX.....48002
7.....48257
216.....45421
1190.....47860

37 CFR

Proposed Rules:
Ch. I.....47254
1.....45424
2.....45424

38 CFR

1.....46985
Proposed Rules:
Ch. I.....46024
21.....45123, 45268, 45572, 47011

39 CFR

111.....45761, 46031
447.....48230, 48231
501.....49019
Proposed Rules:
111.....45269, 48650
3001.....46545

40 CFR

51.....48978
52.....45245, 45246, 46046, 49456
60.....49235
61.....46047, 46309, 46986, 48664, 48665, 48978, 49020
60.....46535, 46536, 48328, 48668, 48669
61.....46535
81.....46537, 46782
86.....48598
87.....46481
123.....48826
180.....48310
192.....45926
256.....45787
271.....48828
420.....46942
433.....45105
467.....49126
469.....45249
717.....45785
Proposed Rules:
Ch. I.....47864
51.....45269, 46152
52.....46061, 46391–46393, 46548, 46823, 48981, 48982, 49305
60.....45701, 46224, 46472, 48932, 48960
81.....46062, 46065, 46393, 46549–46553
141.....45502
162.....46397
180.....45573, 46395, 46396, 48476, 48477
228.....45796
261.....45210
271.....48824, 48690
403.....46944
415.....49406
420.....46944
464.....45573
465.....45573
1502.....46554, 47662
1506.....46554

41 CFR

Ch 1.....45392, 45557, 48462
Ch. 101.....45105
1–4.....48827
9–1.....46987
9–7.....46987
9–4.....45766
9–51.....45766
101–11.....46010, 49236
101–25.....48231
101–35.....49236
101–36.....49236, 49240
101–37.....49240
101–37.....48827
101–41.....45780
105–61.....45392
Proposed Rules:
Ch. 1.....47945
Ch. 4.....47236
Ch. 5.....48305
Ch. 9.....47324
Ch. 12.....47582
Ch. 13.....47254
Ch. 14.....47472
Ch. 25.....47860
Ch. 29.....47538
Ch. 60.....47538

VOL 48 ISS 207 OCT 25 1983 UMI

Ch. 101 47948
Ch. 105 47948
101–41 46554

42 CFR

51c 45558
52b 45558
55a 45558
56 45558
57 45112
110 45250
122 45558
405 ..... 45766, 48467
409 48467
489 48467

Proposed Rules:

Ch. I 47340
Ch. II 47340
Ch. III 47340
Ch. IV 47340

43 CFR

Subtitle A 45564
3160 46916

Public Land Orders:

44 (Revoked by PLO 6478) 45401
98 (Revoked by PLO 6478) 45401
399 (Revoked in part by PLO 6477) 45395
696 (Revoked by PLO 6473) 45393
780 (Revoked by PLO 6478) 45401
3645 (Revoked by PLO 6472) 45393
5170 (Revoked in part by PLO 6477) 45395
5179 (Revoked in part by PLO 6477) 45395
5180 (Revoked in part by PLO 6477) 45395
5184 (Revoked in part by PLO 6477) 45395
5515 (Corrected by PLO 6483) 49022
6467 (Corrected) 49242
6472 45393
6473 45393
6474 45394
6475 45394
6476 45395
6477 45395
6478 45401
6479 45559
6480 48049
6481 48049
6482 48050
6483 49022
6484 49022

Proposed Rules:

Subtitle A 47472
Ch. I 47472
Ch. II 47472
2620 48400
2880 48478

44 CFR

61 46789
62 46789
64 ..... 46988, 46989, 49242
65 ..... 46990, 48233
67 ..... 46050, 46312, 46992

Proposed Rules:

Ch. I 46834
65 48258
67 ..... 45425, 46085, 47014–47020, 48259, 49306–49308

45 CFR

13 45251

Proposed Rules:

Subtitle A 47340
Ch. II 47340
Ch. III 47340
Ch. VI 47980
Ch. XI 47978
Ch. XII 47856
Ch. XIII 47340

46 CFR

160 45113
162 45727
380 45559
530 48469
542 46175
543 46175
544 46175

Proposed Rules:

Ch. I 47582
Ch. III 47582
Ch. IV 48114
Ch. IV 45269
7 45574
10 46556
24 45425
25 45425
26 45425
30 45425
31 45425
32 45425
35 45425
70 45425
71 45425
75 45425
77 45425
78 45425
90 45425
91 45425
94 45425
96 45425
97 45425
107 45425
108 45425
109 45425
157 46556
163 45425
188 45425
189 45425
192 45425
195 45425
196 45425
296 46825
508 45800
524 45270
531 ..... 45270, 49308
536 45270
538 45272

47 CFR

0 45652
1 ..... 45652, 48234
2 45560
25 49242
61 46791
63 46791
69 48234
73 ..... 45401–45403, 46994, 48234
81 ..... 45114, 45560
83 ..... 45114, 45560
87 45114
97 ..... 45652, 49244

Proposed Rules:

Ch. I 47020, 48080
1 ..... 49033, 49069, 49309
21 49309
61 49033
67 ..... 46556, 47021
73 ..... 45428–45438, 47023–47031, 48264, 49069, 49438
83 45439
95 49314

48 CFR

Ch. 1 46541

Proposed Rules:

Ch. 9 ..... 47324, 49315

49 CFR

192 48669
195 48669
350 48469
567 46994
571 ..... 46053, 46793, 48235
1033 45257
1043 45775
1162 46542
1307 ..... 46542, 46794

Proposed Rules:

Ch. X 46399
27 46399
171 48483
172 48483
173 48483
195 46589
218 45272
450 49074
451 49074
452 49074
453 49074
571 ..... 48483, 48622, 49076
1039 45137
1155 45440

Proposed Rules:

Subtitle A 47582
Ch. I 47582
Ch. II 47582
Ch. III 47582
Ch. IV 47582
Ch. V 47582
Ch. VI 47582
Ch. X 48134
571 47032

50 CFR

17 ..... 46053, 46328–46337, 49244, 49245
23 ..... 45259, 45775
258 48619
285 46995
611 ..... 45403, 46542
646 45404
654 46057
655 ..... 45403, 45404
656 45403
657 45403
658 46057
661 45263
663 48241
672 46542
681 46342

Proposed Rules:

Ch. I 47472
Ch. II 47254
Ch. III 47254
Ch. IV 47254, 47472
Ch. V 47254
17 ..... 45574, 46086, 46590, 49316
23 45575
611 ..... 45804, 45806
655 49077
663 ..... 45274, 48265
681 48853

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 21, 1983

VOL
48
ISS
2
0
7
OC
25
1983
UMI

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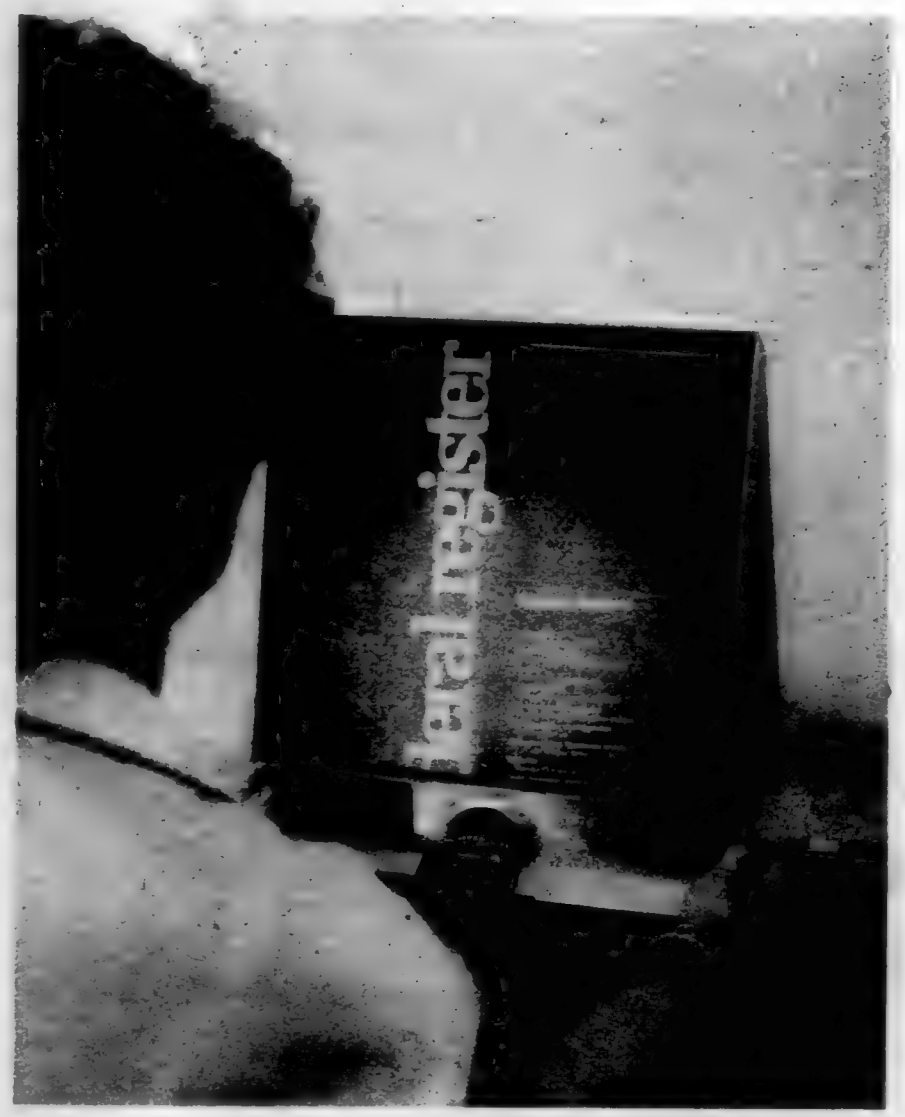
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Federal Register

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Selected Subjects

Administrative Practice and Procedure
Federal Deposit Insurance Corporation
Justice Department

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Commodity Futures
Commodity Futures Trading Commission

Energy Conservation
Conservation and Renewable Energy Office

Imports
Animal and Plant Health Inspection Service

Milk Marketing Orders
Agricultural Marketing Service

Moving of Household Goods
Interstate Commerce Commission

Natural Gas
Federal Energy Regulatory Commission

Organization and Functions
Immigration and Naturalization Service

Pesticides and Pests
Environmental Protection Agency

Waste Treatment and Disposal
Environmental Protection Agency

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Contents

Federal Register
Vol. 48, No. 208
Wednesday, October 26, 1983

ACTION
NOTICES
49528 Agency information collection activities under OMB review (3 documents)

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
49512 Alabama-West Florida

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Soil Conservation Service.
NOTICES
49529 Agency information collection activities under OMB review
Grants; availability, etc.:
49612 Plant biology and human nutrition; basic research program for 1984 FY

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
49550 November

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
49499 Brownsville and Hidalgo, Tex.

Civil Aeronautics Board
NOTICES
Hearings, etc.:
49530 Bicoastal Air Service
49530 British American Air, Inc.
49530 Midway (Southwest) Airway Co.
49529 Northwest Airlines

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service.
NOTICES
Senior Executive Service:
49530 Performance Review Board; membership

Commodity Futures Trading Commission
RULES
Commodity Exchange Act regulations:
49501 Notification of State enforcement actions

Conservation and Renewable Energy Office
RULES
49622 Commercial and apartment conservation service program

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
49536 GTE Products Corp.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
49536 Container Corp. of America

Education Department
NOTICES
Grants; availability, etc.:
49532 Discretionary grant programs; correction, and extension of time
49533 Handicapped education, research; new awards
49532 International research and studies program; new and non-competing continuation awards

Energy Department
See also Conservation and Renewable Energy Office; Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission.
NOTICES
Meetings:
49535 National Petroleum Council (2 documents)

Energy Information Administration
NOTICES
49537 Agency information collection activities under OMB review

Environmental Protection Agency
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
49509 Acephate
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
49522 California
49521 Connecticut
Hazardous waste programs; interim authorizations; State programs:
49525 Arkansas
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
49524 Ethephon
NOTICES
Pesticide, food, and feed additive petitions:
49543 BASF Wyandotte Corp. et al.
Pesticide registration, cancellation, etc.:
49544 Ciba-Geigy Corp.
Pesticides, emergency exemption applications:
49545 Diethatyl-ethyl, etc.
49547 Pesticides; receipts of State registration
Pesticides; temporary tolerances:
49546 E. I. Du Pont de Nemours & Co.

Federal Aviation Administration
RULES
49500, 49501 Transition areas (2 documents)

Federal Deposit Insurance Corporation
PROPOSED RULES
Practice and procedure rules:
49517 Reports and public disclosure of indebtedness of executive officers and principal shareholders to a state nonmember bank and its correspondent banks

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
49503 Ceiling prices; maximum lawful prices and inflation adjustment factors
49505 High cost natural gas; recompletion tight formation gas
PROPOSED RULES
Electric utilities (Federal Power Act):
49520 Annual charges policy group; non-Federal hydroelectric power projects at Government dams; supplemental notice; correction
NOTICES
Hearings, etc.:
49538 Ann Arbor, Mich. (2 documents)
49536 Arkansas Louisiana Gas Co.
49538 Exxon Pipeline Co.
49539 Florida Gas Transmission Co.
49539 McMurtrey, Lawrence J.
49539 Mobil Oil Corp. et al.
49539 Montana-Dakota Utilities Co.
49540 Mountain Fuel Supply Co.
49540 West Texas Utilities Co.
49543 Western Gas Interstate Co.
49543 Oil pipelines, interstate; tentative valuations

Federal Housing Commissioner—Office of Assistant Secretary for Housing
PROPOSED RULES
49520 Manufactured (mobile) home construction and safety standards; comment period extended

Federal Reserve System
NOTICES
Applications, etc.:
49549 Lakeside Bancshares Inc.
49549 Peoples Bankshares, Inc.
Bank holding companies; proposed de novo nonbank activities:
49550 Wachovia Corp. et al.
49572 Meetings; Sunshine Act

Fiscal Service
NOTICES
49571 Funds rate; Treasury current value

Fish and Wildlife Service
NOTICES
49554 Endangered and threatened species permit applications

Food and Drug Administration
NOTICES
Meetings:
49552 Advisory committees, panels, etc.; correction

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Resources and Services Administration.

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
49553 New investigator nursing research awards
49552 Nursing practice, services administration, and education research; utilization
49552 Health education assistance loan (HEAL) program; interest rates

Housing And Urban Development Department
See Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Immigration and Naturalization Service
RULES
Organization, functions, and authority delegations:
49499 Central and Regional Offices; reorganization

Interior Department
See also Fish and Wildlife Service; Land Management Bureau.
NOTICES
49554 Mineral resources of U.S. Executive Economic Zone, assessment and development program; symposium

International Trade Administration
NOTICES
Antidumping:
49530 Fresh-cut roses from Colombia
Countervailing duties:
49531 Fresh cut flowers from Mexico

International Trade Commission
NOTICES
49559 Foreign industrial targeting and effects on U.S. industry; investigation
Import investigations:
49558 Canape makers
49558 Chloropicrin from China
49556 Combination punch press and laser assemblies and components
49559 Direct current brushless axial flow fans
49557 Heavy-duty staple gun tackers
49557 Skinless sausage casings and resulting product, manufacturing processes
49560 Sorbitol from France
49560 Vertical milling machines and parts, attachments, and accessories
49559 Industrial molds from Canada; competitive conditions; hearing locations

Interstate Commerce Commission
PROPOSED RULES
Motor carriers:
49526 Household goods carriers; operational regulations, review; advance notice
NOTICES
Railroad operation, acquisition, construction, etc.:
49561 Freeport & El Paso Railroad Co.
49561 Union Pacific Railroad Co.
Railroad services abandonment:
49561 Union Pacific Railroad Co.

Justice Department
See also Immigration and Naturalization Service.
RULES
Organization, functions, and authority delegations:
49509 Open judicial proceedings

Labor Department
See Occupational Safety and Health Administration.

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
49556 White Pine Power Project, White Pine County, et al., Nev.
Leasing and sale of public lands:
49556 Washington
Oil and gas leases:
49555 Colorado (2 documents)
Opening of public lands:
49554 Arizona
Recreation management restrictions, etc.:
49555 Folsom Resource Area, Bakersfield District, Calif.; camping and occupancy stay limit
Sale of public lands:
49555 Utah; correction

National Institutes of Health
NOTICES
Meetings:
49553 Developmental Therapeutics Contracts Review Committee; scheduling change

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
49527 Gulf of Mexico reef fish; comment period reopened

National Technical Information Service
NOTICES
49531 Products and services; fee changes

Nuclear Regulatory Commission
NOTICES
Meetings:
49563 Reactor Safeguards Advisory Committee
49574 Operating licenses, amendments; no significant hazards considerations; monthly notices
49562 Radioactive waste, low-level waste compacts; memorandum of understanding with States; inquiry

Occupational Safety and Health Administration
PROPOSED RULES
Occupational health and safety standards:
49521 Ethylene dibromide; occupational exposure; additional information

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
49572 Meetings; Sunshine Act

Securities and Exchange Commission
NOTICES
49572 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
49564 American Stock Exchange, Inc.
49565, 49566 Chicago Board Options Exchange, Inc. (2 documents)
49566 Midwest Securities Trust Co.
49568 National Association of Securities Dealers, Inc.
49568 Options Clearing Corp.
49567 Pacific Securities Depository Trust Co.
Self-regulatory organizations; unlisted trading privileges:
49567 Midwest Stock Exchange, Inc.
49567 Philadelphia Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
49570 Northwest Venture Partners

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
49529 Westland Irrigation District RC&D Measure, Oreg.

Textile Agreements Implementation Committee
NOTICES
Textile consultation; review of trade:
49532 Hong Kong; withdrawn

Transportation Department
See Federal Aviation Administration.

Treasury Department
See also Fiscal Service.
NOTICES
49570 Agency information collection activities under OMB review
Committees; establishment, renewals terminations, etc.:
49570 Worldwide Unitary Taxation Working Group, establishment and meeting

United States Information Agency
NOTICES
Senior Executive Service:
49571 Performance Review Board; membership

Separate Parts in This Issue

Part II
49574 Nuclar Regulatory Commission

Part III
49612 Department of Agriculture

Part IV
49622 Department of Energy

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
Proposed Rules:
1093..... 49512

8 CFR
103..... 49499

9 CFR
92..... 49499

10 CFR
458..... 49522

12 CFR
Proposed Rules:
304..... 49517
349..... 49517

14 CFR
71 (2 documents)..... 49500, 49501

17 CFR
1..... 49501

18 CFR
271 (2 documents)..... 49503, 49505
274..... 49505
Proposed Rules:
4..... 49520
11..... 49520

24 CFR
Proposed Rules:
3280..... 49520

28 CFR
50..... 49509

29 CFR
Proposed Rules:
1910..... 49521

40 CFR
180..... 49509
Proposed Rules:
52 (2 documents)..... 49521, 49522
180..... 49524
271..... 49525

49 CFR
Proposed Rules:
1056..... 49526

50 CFR
Proposed Rules:
641..... 49527

Rules and Regulations

Federal Register
Vol. 48, No. 208
Wednesday, October 26, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This document changes the position title of the director of the Intelligence Program from Program Manager, as it was originally designated by the INS reorganization published on March 30, 1983 (48 FR 13146), to Assistant Commissioner. This change is made for more effective Service management.

EFFECTIVE DATE: October 26, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: On March 30, 1983, at 48 FR 13146, the Immigration and Naturalization Service published the reorganization of its Central and Regional offices as approved by the Attorney General and Congress.

A position under the direction and supervision of the Associate Commissioner for Enforcement was designated "Program Manager for Intelligence." After appropriate review, the position has been redesignated "Assistant Commissioner for Intelligence."

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the rule relates solely to agency management.

This rule will not have a significant impact on a substantial number of small entities and is exempt from the requirements of Section (1)(a) of E.O. 12291 as it relates solely to agency management and personnel matters.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Archives and records, Authority delegation (Government agencies), Freedom of information, Organization and functions (Government agencies).

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICES OFFICERS; AVAILABILITY OF SERVICE RECORDS

In § 103.1, paragraph (c)(5) is revised to read as follows:

§ 103.1 Delegations of authority.

* * * * *

(c) * * *

(5) Assistant Commissioner for Intelligence.

* * * * *

(Sec. 103, Immigration and Nationality Act, as amended; (8 U.S.C. 1103))

Dated: October 20, 1983.

Roger P. Brandemuehl,

Acting Associate Commissioner, Enforcement, Immigration and Naturalization Service.

[FR Doc. 83-29083 Filed 10-25-83; 8:45 am]
BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 83-016]

Ports Designated for the Importation of Animals; Deletion of a Special Port for Pet Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations by deleting the port of Brownsville, Texas, from the list of special ports designated for the importation of pet birds. This action is being taken because of the few pet birds offered for importation into the United States at Brownsville and the cost incurred by USDA in transporting those few birds 80 miles to Mission, Texas, for quarantine. This document also amends the regulations by deleting references to Brownsville as a special port of importation of pet birds and by adding references to Hidalgo, Texas, as such a port. This action is taken because Brownsville is being deleted as a special port for importation of pet birds and because Hidalgo has been added to the list of such ports.

EFFECTIVE DATE: October 26, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. S. S. Richeson, Chief Staff Veterinarian, Import/Export Animals and Products, VS, APHIS, USDA, Room 843, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on December 23, 1982, at 47 FR 57291–57292, proposed to amend the regulations in 9 CFR 92.3(f) by deleting Brownsville, Texas, from the list of special ports for the importation of pet birds. Comments were solicited for 60 days after publication of the proposal. No comments were received in response to the proposal. The factual situation and the analysis of alternatives which were set forth in the proposal on December 23, 1982, provide a basis for this amendment. Therefore, this document deletes the port of Brownsville, Texas, from the list of special ports for pet birds in 9 CFR 92.3(f).

Also on December 23, 1982, at 47 FR 57254–57255, an interim rule was published in the **Federal Register** which added Hidalgo, Texas, to the list of special ports for the importation of pet birds in 9 CFR 92.3(f). This action was taken because it relieved unnecessary restrictions imposed on the owners of pet birds and reduced expenses incurred by this Department in transporting the birds from their port of entry to Mission, Texas. A companion document published in this issue of the **Federal Register** affirms this interim rule which added Hidalgo, Texas, to the list of

special ports for the importation of pet birds.

In § 92.2(c)(3)(ii), reference is made to the port of Brownsville, Texas, and states that pet birds arriving at Brownsville will be transported to Mission, Texas, at Department expense, for quarantine.

Since Brownsville has been deleted as a special port for pet birds and Hidalgo has been approved as such a port, Brownsville, Texas, is removed from § 92.2(c)(3)(ii) and Hidalgo, Texas is added. The exception allowing pet birds to be transported at government expense to Mission, Texas, for quarantine is continued. This exception was originally included because no quarantine facilities existed in Brownsville. As no quarantine facilities exist in Hidalgo either, the exception is continued. Other minor editorial changes are also made for clarity.

Executive Order 12291

This final rule has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." This final rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action amends the list of special ports of entry for pet birds by deleting the port of Brownsville, Texas, and amends a reference in the regulations to Brownsville, Texas, by replacing it with Hidalgo, Texas. Pet birds may now be entered at ports other than Brownsville, including Hidalgo, which is only 55 miles away from Brownsville, Texas.

Lists of Subjects in 9 CFR Part 92

Animal diseases, Imports, Mexico, Poultry and poultry products, Quarantine, Transportation, Exotic Newcastle disease, Pet birds.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

§ 92.2 [Amended]

1. In § 92.2(c)(3)(ii), the references to "Brownsville, Texas" are removed in all three places and references to "Hidalgo, Texas" are inserted in lieu thereof in all three places.

§ 92.3 [Amended]

2. In § 92.3(f) "Brownsville," is removed and the reference to "and El Paso, Hildalgo, Texas;" is changed to "El Paso, and Hidalgo, Texas;".

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d)).

Done at Washington, D.C., this 20th day of October, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-29118 Filed 10-25-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ACE-13]

Alteration of Transition Area; Clarion, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Clarion, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Clarion Municipal Airport, Clarion, Iowa, utilizing the Fort Dodge, Iowa VORTAC as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules. (VFR).

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage an additional instrument approach procedure to the Clarion Municipal Airport, Clarion, Iowa, is being established utilizing the Fort Dodge, Iowa VORTAC as a navigational aid. The establishment of this new instrument approach procedure based on this navigational aid entails alteration of the transition area at Clarion, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 37429 of the **Federal Register** dated August 18, 1983, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Clarion, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, January 19, 1984, by altering the following transition area:

Clarion, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Clarion Municipal Airport (latitude 42°44'30" N, longitude 93°45'30" W), within 3 miles each side of the 311° bearing from the Clarion Municipal Airport, extending from the 5-mile radius to 8.5 miles northwest of the airport and within 2.5 miles each side of the 326° bearing from the Clarion Municipal Airport, extending from the 5-mile radius to 6 miles northwest of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and § 11.69 of the Federal Aviation Regulations (14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on October, 14, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-29074 Filed 10-25-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ACE-06]

Alteration of Transition Area; Estherville, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Estherville, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Estherville Municipal Airport, Estherville, Iowa, utilizing the Swan Lake Nondirectional Radio Beacon (NDB) as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage an additional instrument approach procedure to the Estherville Municipal Airport, Estherville, Iowa, is being established utilizing the Swan Lake NDB as a navigational aid. The establishment of this new instrument approach procedure based on this navigational aid entails alteration of the transition area at Estherville, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 37428 and 37429 of the **Federal Register** dated August 18, 1983, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Estherville, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, January 19, 1984, by altering the following transition area:

Estherville, Iowa

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Estherville Municipal Airport (latitude 43°24'15"N, longitude 94°44'45"W); within 3 miles each side of the 175° radial from the Estherville VOR (latitude 43°24'37"N, longitude 94°44'20"W) extending from the 6½-mile radius area to 8½ miles south of the VOR; within 3 miles each side of the 180° bearing from the Swan Lake NDB (latitude 43°21'08"W, longitude 94°44'23"N), extending from the 6½-mile radius area to 8½ miles south of the Swan Lake NDB; and within 3 miles each side of the 340° radial from the Estherville VOR extending from the 6½-mile radius area to 8½ miles north of the VOR, excluding that portion that overlies the Emmetsburg, Iowa transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on October 14, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-29075 Filed 10-25-83; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Notification of State Enforcement Actions Under the Commodity Exchange Act

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is adding a new section to its regulations, which sets forth procedures for a state to notify the Commission of actions which the state brings or intends to bring under Section 6d of the Commodity Exchange Act ("Act"), 7 U.S.C. 13a-2, as amended. Section 6d gives the states statutory standing to bring civil actions in Federal district courts for violations of the Commodity Exchange Act and Commission regulations committed by any person. Establishment of these procedures will assist the states in fulfilling the notification requirements of Section 6d of the Act and will help to assure that the Commission receives timely notice and information, thereby enabling the Commission to effectuate the purposes of Section 6d.

DATE: Effective on November 25, 1983.

FOR FURTHER INFORMATION CONTACT: Maureen Donley Hoopes, Esquire, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 (202) 254-9880.

SUPPLEMENTARY INFORMATION: Section 6d(1)-(6) of the Act, 7 U.S.C. 13a-2(1)-

(6), as added by the Futures Trading Act of 1978, Pub. L. No. 95–405, 92 Stat. 865 (1978), gives the states statutory standing to bring civil actions in federal district courts for violations of the Commodity Exchange Act and Commission regulations committed by any one person.[1] In these federal court proceedings states are able to seek injunctive relief, writs of mandamus, damages on behalf of their residents and other appropriate relief. Sections 6d(1) and (2). Immediately upon instituting an action in federal court a state is required to serve written notice upon the Commission and provide the Commission with a copy of the complaint. The Commission is entitled to intervene as a matter of right or appeal in any action brought by a state. Section 6d(3).[2]

In addition, the Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2294, 2308–09 (1983), adds a new paragraph (8) to Section 6d, which provides that nothing in the Act prevents a state from proceeding in state courts against Commission registrants (other than floor brokers or futures associations) for alleged violations of the antifraud provisions of the Act or any of the Commission's antifraud rules, regulations or orders. A state must notify the Commission in writing of its intent to proceed and, as in federal court actions brought under Section 6d(1), furnish to the Commission a copy of its complaint immediately upon instituting any such proceeding. The Commission has the right to intervene and appeal. In addition, the Commission may remove the proceeding to a proper federal district court, and may appear *amicus curiae*. The respondent may also remove the case to federal court.[3]

On April 12, 1983, the Commission proposed a rule which would specify that all information which states are required to provide the Commission under Section 6d be sent to the Secretary of the Commission at the Commission's Washington, D.C. headquarters. 48 FR 15653. Underlying this proposal was the Commission's interest in assuring that all state officials are on notice of the appropriate staff component in the Commission that should receive information concerning actions under Section 6d and to facilitate the Commission's ability to monitor state actions brought under the Act, as contemplated by the notice requirements in Section 6d.

The Commission received ten public comments on the April, 1983 proposal. After reviewing the comments, the Commission has made several revisions and is adopting the rule as revised.

Public Comments Received on the April 12, 1983 Proposal

Most commentators supported the rule. One commentator correctly noted that the rule does not require states to notify the Commission of actions brought in state court pursuant to Section 6d(7) of the Act, 7 U.S.C. 13a–2(7), which are based solely on alleged violations of a state's general civil or criminal antifraud statute.

One commentator considered the prefiling aspects of the rule an unnecessary interference with prosecutorial discretion. While the Commission is sensitive to this concern, it must emphasize that states are required by statute to notify the Commission prior to bringing an action under the Act in state court. *See* Section 6d(8) of the Act, 7 U.S.C. 13a–2(8). Another commentator opined that paragraph (c) of the rule makes any reasonable notice sufficient and thereby renders the entire rule unnecessary. Paragraph (c), however, is intended to provide an alternative procedure for the required notice only where earlier notice is impracticable.

The Commission expects that states will not avail themselves of this provision unless necessary, in accordance with the spirit and underlying purpose of Section 6d(8) and this rule.

Two commentators expressed concern that a defendant in an action brought by a state pursuant to Section 6d may rely on a state's failure to adhere to the rule as a defense. As the Commission noted in its April 12, 1983 **Federal Register** release, this rule is intended to articulate the notice which states are required to give the Commission and does not confer rights on or provide a defense for any defendant for the underlying violations of the Act or Commission rules.

One commentator suggested that prior to filing an action in state court pursuant to Section 6d(8), states should be required to provide the Commission with a draft of the proposed complaint containing the factual allegations. Although states are free to do so, the Commission does not believe it is necessary to burden states with filing proposed complaints. However, in response to another suggestion, the Commission has revised the rule to require a state to file a brief statement of the facts on which the proposed action is based prior to bringing an action in state court pursuant to Section 6d(8). The Commission believes that this will ensure an opportunity for communication between the states and the Commission, where the Commission may provide its expertise and a state may ascertain, prior to bringing an action, whether its theory of the case is consistent with the Act, existing case law and Commission policy.

In response to another comment, the Commission has reworded the rule to clarify that contract markets, clearinghouses and floor brokers are not subject to actions for violations of the Act brought by states in federal court under Section 6d(1) and that floor brokers and registered futures associations are not subject to actions for violations of the Act brought by states in state courts under Section 6d(8).

Summary of the Adopted Rule

Under paragraph (a) of the rule, the notice required by Section 6d(3) must contain the names of the parties to the proceeding and the provisions of the Act or Commission rules, regulations or orders which are alleged to have been violated. This information will aid the Commission in assessing whether it has any information that will assist the states or whether it should intervene or appear *amicus curiae*. *See* Section 6d(3). This notice is to be sent by first-class United States mail or personally delivered to the Secretary of the Commission at the Commission's Washington, D.C. headquarters.

Paragraph (b) of the rule requires that a state which anticipates bringing an action in state court pursuant to Section

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[1] However, contract markets, clearinghouses and floor brokers may not be sued in these civil actions brought by the states. Section 6d(1).

[2] Sections 6(d)(3)–(6) set forth certain procedural and definitional provisions related to the states' law enforcement role in federal court. Section 6d(7) of the Act recognizes that a state is permitted to bring an action in state court for violations of any general civil or criminal antifraud statute of that state.

[3] Section 6d(8) specifically provides:

(A) Nothing in this Act shall prohibit an authorized State official from proceeding in a State court against any person registered under this Act (other than a floor broker or registered futures association) for an alleged violation of any antifraud provision of this Act or any antifraud rule, regulation, or order issued pursuant to the Act.

(B) The State shall give the Commission prior written notice of its intent to proceed before instituting a proceeding in State court as described in this subsection and shall furnish the Commission with a copy of its complaint immediately upon instituting any such proceeding. The Commission shall have the right to (i) intervene in the proceeding and, upon doing so, shall be heard on all matters arising therein, and (ii) file a petition for appeal. The Commission or the defendant may remove such proceeding to the district court of the United States for the proper district by following the procedure for removal otherwise provided by law, except that the petition for removal shall be filed within sixty days after service of the summons and complaint upon the defendant. The Commission shall have the right to appear as amicus curiae in any such proceeding.

6d(8) provide the Commission with written notice of its intent to proceed five or more days prior to instituting the proceeding. This notice should contain the names of the parties to the proceeding, the provisions of the Act, Commission rule, regulation or order which will be alleged to have been violated, as well as a brief statement of the facts on which the proposed action will be based. This information will assist the Commission in providing meaningful comments on the merits of the case, such as suggestions on provisions of the Act which may be particularly applicable to the facts described in the state's notice or information about the persons against whom the action is to be filed, which a state may find useful in preparing its complaint. This notice is to be sent by first-class United States mail or personally delivered to the Secretary of the Commission at the Commission's Washington, D.C. headquarters.

Where it is impracticable to provide the Commission with written notice five or more days prior to instituting a state court proceeding, the proposed rule provides that the authorized state official telephone the Secretary of the Commission as soon as practicable, and prior to instituting the proceeding in state court, provide the Commission with prior written notice via Telex or other similarly expeditious means of communications.

Paragraphs (a) and (d) of the new rule require states to provide the Commission with copies of complaints immediately upon filing actions based on the Act pursuant to Sections 6d (3) and (8). This information is essential to the Commission in deciding whether and how to participate in the case. *Id.*

Lists of Subjects in 17 CFR Part 1

Commodity futures, Reporting and recordkeeping requirements, State enforcement.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 6d and 8a thereof, 7 U.S.C. 12a and 13a–2, as amended, the Commission hereby amends Chapter 1 of Title 17 of the Code of Federal Regulations by adding a new § 1.70 as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. A new § 1.70 is added to read as follows:

§ 1.70 Notification of State enforcement actions brought under the Commodity Exchange Act.

(a) Immediately upon instituting any proceeding in any federal district court for violation of the Act or any rule, regulation or order thereunder against any person who is subject to suit pursuant to sections 6d(1)–(6) of the Act, the authorized state official of the state instituting the proceeding shall submit to the Commission a copy of the complaint filed in the proceeding, together with a written notice which:

(1) Indicates the names of parties to the proceeding;

(2) Indicates the provision of the Act or the rule, regulation or order thereunder which is alleged to have been violated.

The complaint and written notice must be sent by first-class United States mail or personally delivered to the Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

(b) Prior to instituting any proceeding in a state court for the alleged violation of any antifraud provisions of the Act or any antifraud rule, regulation or order thereunder against any person registered with the Commission who is subject to suit pursuant to the provisions of section 6d(8) of the Act, the authorized state official of the state intending to institute the proceeding shall submit to the Commission written notice which:

(1) Indicates the names of parties to the proposed proceeding;

(2) Indicates the provision of the Act or the rule, regulation or order thereunder which will be alleged to have been violated;

(3) Contains a brief statement of the facts on which the proposed action will be based.

Except as provided in paragraph (c), this written notice must be sent by first-class United States mail or personally delivered to the Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581 not less than 5 business days prior to instituting the proceeding in state court.

(c) Where it is impracticable to provide the Commission with written notice within the time period specified in paragraph (b), the authorized state official must inform the Secretary of the Commission by telephone at (202) 254–6314 as soon as practicable of the state's intent to institute a proceeding in state court and must send the written notice required in paragraph (b)(1)–(b)(3) via Telex or other similarly expeditious means of written communication to the Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581 (TWX–710–822–9327) prior to instituting the proceeding in state court.

(d) Immediately upon instituting any proceeding in a state court pursuant to the provisions of section 6d(8) of the Act for alleged violation of any antifraud provisions of the Act or any antifraud rule, regulation or order thereunder, the authorized state official instituting the proceeding shall submit to the Commission a copy of the complaint filed in the proceeding. The copy of the complaint must be sent by first class United States mail or personally delivered to the Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

Issued in Washington, D.C. on October 20, 1983, by the Commission.

Jean Anderson Webb,

Deputy Secretary to the Commission.

[FR Doc. 83–29104 Filed 10–25–83; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80–53]

Prescribed Maximum Lawful Prices Under Natural Gas Policy Act of 1978

Issued: October 20, 1983.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order of the director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR § 357.301(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of November and December 1983, and January 1984. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT:
Kenneth A. Williams, Director, OPPR, (202) 357–8500.

SUPPLEMENTARY INFORMATION:

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of November and December 1983, and January 1984, are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103, 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to February 1983 are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

§ 271.101 [Amended]

1. Section 271.101(a) is amended by inserting the maximum lawful prices for November and December 1983, and January 1984 in Tables I and II.

§ 271.102 [Amended]

2. Section 271.102(c) is amended by inserting the inflation adjustment for the months of November and December 1983, and January 1984 in Table III.

TABLE I.—NATURAL GAS CEILING PRICES

[Other than NGPA §§ 104 and 106(a)]

Subpart of part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in Nov. 1983	Dec. 1983	Jan. 1984
B	102	New natural gas, certain OCS gas	$3.542	$3.564	$3.586
C	103	New, onshore production wells	2.533	2.841	2.849
F	106(b)(1)(B)	Alternative maximum lawful price for certain Intrastate Rollover Gas	1.618	1.623	1.628
G	107(c)(5)	Gas produced from tight formations	5.656	5.682	5.696
H	108	Stripper gas	3.795	3.818	3.841
I	109	Not otherwise covered	2.345	2.352	2.359

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(a) (SUBPART D, PART 271)

Category of natural gas	Type of sale or contract	Maximum lawful price per MMBtu for deliveries made in Nov. 1983	Dec. 1983	Jan. 1984
Post-1974 gas	All producers	$2.345	$2.352	$2.359
1973–1974 Biennium gas	Small producer	1.985	1.991	1.997
	Large producer	1.517	1.521	1.525
Interstate Rollover gas	All producers	.870	.873	.876
Replacement contract gas or recompletion gas	Small producer	1.114	1.117	1.120
	Large producer	.852	.855	.858
Flowing gas	Small producer	.562	.564	.566
	Large producer	.476	.477	.478
Certain Permian Basin gas	Small producer	.668	.668	.670
	Large producer	.585	.587	.589
Certain Rocky Mountain gas	Small producer	.640	.668	.670
	Large producer	.562	.564	.566
Certain Appalachian Basin gas	North subarea contracts dated after 10–7–69	.531	.533	.535
	Other contracts	.494	.495	.496
Minimum rate gas [1]	All producers	.290	.291	.292

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

TABLE III.—INFLATION ADJUSTMENT

Month of delivery	Factor by which price in preceding month is multiplied
1983:	
November	1.00295
December	1.00295
1984:	
January	1.00295

[FR Doc. 83–29061 Filed 10–25–83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Parts 271 and 274

[Docket No. RM82-34-000; RM82-34-001; Order No. 345]

High-Cost Gas Produced from Tight Formations; Recompletion Tight Formation Gas

Issued: October 21, 1983.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule and order granting in part and denying in part petition for rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is amending the definition of "recompletion tight formation gas" in § 271.703 of the Commission's regulations. The final rule provides that natural gas produced from recompletions in wells which were completed for production in the designated tight formation before July 16, 1979, will qualify as "recompletion tight formation gas" if the recompletion is completed after the effective date of this rule and produces natural gas which could not have been produced through any completion location in existence before the effective date of this rule.

EFFECTIVE DATE: The final rule is effective December 27, 1983.

FOR FURTHER INFORMATION CONTACT: Fred A. Wolgel, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending the definition of "recompletion tight formation gas" in § 271.703 of the Commission's regulations. Specifically, § 271.703(b)(3) and § 274.205(e)(2) are amended to provide that natural gas produced from recompletions in wells which were completed for production in the designated tight formation before July 16, 1979, will qualify as "recompletion tight formation gas" if the recompletion produces natural gas which could not have been produced through any completion location in existence before the date this rule becomes effective.

II. Background

Section 107(b) of the Natural Gas Policy Act of 1978 (NGPA), authorizes the Commission to establish an incentive price for high-cost gas, and section 107(c)(5) defines high-cost gas as gas "produced under such conditions as the Commission determines to present extraordinary risks or costs." The tight formation incentive program, established by the Commission in Order No. 99 under the authority of section 107 of the NGPA, provides an incentive price for gas produced from tight formations.[1] In Order No. 99, the Commission determined that natural gas produced from tight formations is produced under conditions which present extraordinary risks and costs and established an incentive price for such production of up to 200 percent of the section 103 maximum lawful price.

Order No. 99 established two types of "tight formation gas" eligible to receive the incentive price: (1) "new tight formation gas" and (2) "recompletion tight formation gas." On January 24, 1983, the Commission issued its notice of proposed rulemaking in this docket, in which it proposed to amend the definition of "recompletion tight formation gas."[2] The Commission proposed allowing natural gas produced from new recompletion locations to qualify for the incentive price, provided that the gas could not have been produced through the original completion location or through any completion location which was in existence before the effective date of the final rule.

As the Commission noted in the proposed rulemaking, the current rule, which precludes new completion locations from qualifying if they are in the same designated formation, may lead to inequities since some jurisdictional agencies recommend for designation several producing zones as a single tight formation. Other jurisdictional agencies recommend that several producing zones in a geological interval each be designated as a separate tight formation. In the first case, gas produced from a recompletion in a well which was completed for production in that formation prior to July 16, 1979 can never qualify for the tight formation incentive price. In the second case, recompletion gas may qualify for the tight formation incentive price, where produced from a well which was completed for production prior to July 16, 1979, as long as the recompletion is located in a producing zone that was designated as a *separate tight formation* from the location in which the well was completed prior to July 16, 1979. This production would be eligible for the incentive price because the recompletion is not located in the same designated tight formation.

The only distinction between these two cases is the manner in which the jurisdictional agency chose to make its recommendations to the Commission. Accordingly, the Commission proposed to amend the definition of recompletion tight formation gas to allow production from a new recompletion location to qualify for the tight formation incentive price, as long as the gas could not have been produced through the original completion location.

III. Discussion

A. The Commission's Proposal

The Commission received seventeen comments in response to the proposed rulemaking, comprised of eight comments from producers, three comments from jurisdictional agencies, one comment from a distributor, one comment from an association representing distributors, three comments from interstate pipelines, and one comment from a group representing industrial users.[3] Of the seventeen comments, eleven commenters [4] supported the Commission's proposal and three commenters [5] opposed the rule. Two commenters supported the rule with modifications,[6] and one commenter expressed no opinion.[7]

The Commission has determined to adopt the rule substantially as proposed, affirming the rationale stated in the proposed rule and concurred in by a majority of the comments received. The rule issued today will rectify an unintended inequity, where eligibility for the tight formation price may turn simply on the manner in which the jurisdictional agency makes its recommendation for tight formation designation to the Commission.

The commenters that supported the rule generally agreed that the rule would eliminate an inequity inherent in the

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[1] 45 FR 56,034 (August 22, 1980) (Docket No. RM79-76) [Reg. Preambles 1977-1981] FERC Stat. and Regs. Regulations Preambles ¶ 30,163 (August 15, 1980), Order No. 99.

[2] 48 FR 4,483 (February 1, 1983).

[3] Rocanville Corporation; Pogo Producing Company (Pogo); Champlin Petroleum Company (Champlin); The American Gas Association (AGA); The Railroad Commission of Texas (Texas); Conoco Inc. (Conoco); Getty Oil Company; Southern California Gas Company and Pacific Lighting Gas Supply Company (SoCalGas); Tenneco Oil Company (Tenneco); Sun Exploration and Production Company (Sun); The State of Ohio (Ohio); El Paso Natural Gas Company (El Paso); United Gas Pipe Line Company (United); The Oklahoma Fertilizer Manufacturers' Association (OFMA); Sonat Exploration Company (Sonat); Columbia Gas Transmission Corporation (Columbia); Bureau of Land Management, United States Department of Interior.

[4] Pogo; Champlin; The Railroad Commission of Texas; Conoco; Getty Oil Company; Tenneco; Sun; Ohio; United Gas Pipe Line Company; Sonat; Bureau of Land Management.

[5] SoCalGas; OFMA; Columbia.

[6] AGA and El Paso.

[7] Rocanville Corporation.

current regulation. It was also recognized that the rule is consistent with the intent of the NGPA and the high-cost gas incentive price program to provide a reasonable incentive for the production of high-cost natural gas and that the proposed rule recognizes the greater risk involved in recompleting in tight formations. Some commenters pointed to additional gas reserves that could be developed under the proposed rule. For example, Sun identified 56 billion cubic feet in 30 wells that would not be produced under the current regulation.

Of the three commenters that opposed the rule, SoCalGas argued that the proposed rule is inappropriate in light of current gas marketing problems. The Commission believes, however, it would be inappropriate not to correct a technical anomaly in the regulations because of the current problems in natural gas markets. Moreover, since the tight formation rule contains a negotiated contract requirement, a tight formation producer will not be able to collect the incentive price unless the purchaser agrees that the increased production is worth the added costs. In this way, the Commission is assured that a price will not be paid that will make the gas unmarketable.

The OFMA asserted that jurisdictional agencies should be allowed to combine different zones into a single formation, suggesting that states may be combining multiple zones in order to limit consumer exposure to the prices charged for high-cost gas. OFMA argued that there is no data in the record indicating the amount of increased production that the rule would generate, nor is there any evidence as to the actual costs or risks involved in recompletions in tight formations as compared to the potential increase in production. OFMA asserted that on the contrary, the available evidence indicates that the production of gas from recompletions is on the whole less risky and costly.

Columbia also expressed the view that recompletion production is less costly or risky. Columbia expressed a concern that the proposed rule could create potential for abuse, asserting that evidence relating to communication between zones will almost always be subjective in nature.

The Commission has already determined in Order No. 99 that the production of gas from recompletions in tight formations is comparable to the risks and costs of producing from a new well, and therefore accorded the same incentive price to recompletion tight formation gas as it did for new tight formation gas. This rule merely addresses an inequity which has developed regarding the definition of recompletion tight formation gas. Moreover, the Commission acknowledges that evidence as to communication between zones is largely subjective in nature. However, the permeability of tight formations is by definition very low (less than 0.1 millidarcy) and therefore limits communication.

B. Negotiated Contract Price Requirement

Although the notice of proposed rulemaking did not address the issue, § 271.703(a) of the regulations governing tight formation gas requires that a seller can collect the lesser of the incentive price or the "negotiated contract price." Section 271.702(a) of the regulations defines a negotiated contract price as "any price established by a contract provision that specifically references the incentive pricing authority of the Commission under section 107 of the NGPA, by a contract provision that prescribes a specific fixed rate, or by the operation of a fixed escalator clause." [8]

Five commenters addressed the negotiated contract price requirement, all in support of such a requirement.[9] For example, the AGA asserted that the negotiated contract price requirement prevents changes in contract terms which would cause unfair and burdensome surprises to gas purchasers who did not negotiate for prices as high as the incentive prices. SoCalGas argued further that the Commission should specifically provide that the incentive price for recompletion gas should not apply to gas purchased under any contract entered into prior to the effective date of the order adopted in this proceeding. According to SoCalGas, to do otherwise would permit certain producers to receive a regulated price in excess of that which was contemplated or bargained for and in excess of the price which would prevail in the absence of the proposed rule.

The Commission agrees with the comments that a negotiated contract price requirement is appropriate for recompletion tight formation gas. This requirement, which is applicable to all first sales of tight formation gas, shall also apply to the volumes of gas eligible for the incentive price under the rule adopted today. The negotiated contract price requirement was adopted in Order No. 99 in order to insure that the maximum lawful price is provided as an incentive for the production of tight formation gas. A negotiated contract price requirement is one way of insuring that a purchaser is given an opportunity to bargain for increased production of tight formation gas before he agrees to pay a price higher than the otherwise applicable maximum lawful price. Thus, the negotiated contract price requirement prevents gas from being sold in situations where it may not be marketable. The Commission sees no reason to exempt production that will become eligible for the incentive price as a result of the rule adopted today from the negotiated contract price requirement applicable to all other first sales of tight formation gas.

The recommendation that the incentive price should not apply to gas purchased under any contract entered into prior to the effective date of this rule would deny the incentive price to contracts which have already been amended by the parties to incorporate negotiated contract price language. Such a rule would go beyond the current scope of the negotiated contract price requirement. The Commission rejects this recommendation, because it would deny the incentive price even where the parties had contemplated the receipt of the tight formation price in the contract, and acted in reliance upon it and upon the regulations.

C. Bottom-hole Pressure Survey

The Commission proposed adding a new § 274.205(e)(2)(vi) to require the submission of a bottom-hole pressure survey for each recompletion and for all prior completions in the wellbore in the designated tight formation. Three commenters[10] supported the Commission's proposal to require bottom-hole pressure surveys, and three commenters opposed this requirement.[11]

The AGA supported this requirement on the grounds that it would corroborate whether the zone in which a well is recompleted is separate from a previously existing completion location.

Similarly, OFMA argued that the bottom-hole pressure survey is the only method to ensure that the production from the recompletion does in fact originate in a zone other than the one in which the well was originally completed. SoCalGas recommended that the Commission should instruct the jurisdictional agencies as to the specific technical data that will satisfy the proposed bottom-hole pressure survey test which would be used to corroborate

[8] § 271.702 defines a fixed escalator clause as "a provision in a contract for the first sale of natural gas which changes the price for the gas by a specified amount on a specified date."

[9] AGA; SoCalGas; United; Sonat; El Paso.

[10] AGA; SoCalGas; ORMA.

[11] Tenneco; Sun; Ohio.

whether recompleted zones are in fact separate zones.

Both Tenneco and the State of Ohio opposed the submission of bottom-hole survey pressure tests. Ohio claimed that: (1) the test is difficult to perform and the results are difficult to interpret; (2) the test has not been run in Ohio with any regularity; (3) the cost of the test would, in some instances, not be economically justifiable; (4) the results of the test are often inconclusive; and (5) the test would be virtually impossible to administer. Alternatively, Ohio proposed that a producer be required to submit: (1) evidence that clearly establishes the isolation of the pre-NGPA locations; (2) information on the method and location of the new completion; and (3) an oath from the producer attesting to the isolation of the recompletion location.

Sun suggested several other techniques that should be permitted in addition to or in lieu of bottom-hole pressure surveys. Sun suggested that these methods should include, but not be limited to, measured or calculated bottom-hole pressure data, volumetric reserve determinations, material balance reserve determinations, reservoir drainage calculations, gas composition, formation water composition, formation water production or any other physical, chemical or performance criteria.

The Commission believes that the bottom-hole pressure survey test is a reliable method to ensure that the gas is being produced from a new zone. However, in view of the comments submitted by the State of Ohio, the Commission believes that in many instances, the cost of running pressure surveys will be economically unjustifiable. The Commission will therefore allow the submission of other information in addition to or in lieu of bottom-hole pressure surveys. The Commission will allow the submission of gamma ray logs which demonstrate that the strata between the completion locations contains a minimum of 20 vertical feet of impermeable structure. If there are a minimum of 20 vertical feet of impermeable structure between completion locations, the Commission believes that it would be highly unlikely that the gas that will be produced from the new completion location could have been produced from any completion location which was in existence in the wellbore on or before the effective date of the final rule. If a producer is unable to satisfy this requirement, then the producer may submit other engineering or geological data which demonstrates that the gas from the new completion location could not have been produced from any completion location which was in existence in the wellbore on or before the effective date of the final rule.

D. Allocation Methods

Three commenters (Ohio, Sun, and El Paso) addressed the situation where there is commingling of production from the old completion location and the new completion location. All three commenters agreed that an allocation method should be allowed to determine the volumes of production attributable to the new location and eligible for the incentive price. El Paso suggested that the allocation method be required in the amendments adopted in this proceeding, while Ohio and Sun recommended that the production be determined by a reasonable method approved by the jurisdictional agency. Ohio stated that it would require a reasonable method of allocation, with the burden placed on the producer to show that the method of allocation is reasonable.

Because the method of allocation raises the question of compliance with the pricing provisions of the NGPA, this is a matter over which the Commission has jurisdiction, rather than the jurisdictional agencies. Under the Commission's current practice, a producer may use any reasonable allocation method. If a producer has any questions as to whether a method of allocation is reasonable, the producer may request an interpretation from the General Counsel pursuant to Rule 1901 (18 CFR 385.1901 (1983)).

E. Qualification Date of the Proposed Rule

In the proposed rulemaking, the Commission proposed to make the amendments effective for recompletions made after the final rule becomes effective, typically thirty days after publication in the **Federal Register**. However, the Commission invited comment on whether the rule should extend to recompletions which were made at an earlier date, and if so, what cutoff date would be appropriate.

Three commenters favored a retroactive qualification date,[12] and two commenters favored a prospective application date.[13] One commenter simply recommended that the Commission adopt the amendment, as proposed, "at an early date."[14]

Both commenters in support of a prospective qualification date alleged that allowing retroactive collection would be unsound policy in that it would reward drilling that was not conducted in reasonable reliance upon the incentive for production. The AGA cited the NGPA Conference Report which stated that the Commission's authority should be exercised in advance of drilling activity.

The three commenters in favor of a retroactive qualification date varied with respect to the appropriate effective date that should be adopted. Tenneco recommended that the effective date be July 16, 1979, on the grounds that the original rulemaking's exclusion of gas covered by this rule was inadvertent rather than intentional. Conoco also noted that the inequity has existed from the beginning of the program, July 16, 1979, and argued that the imposition of this rule with a prospective effective date will not completely cure the inequity. Alternatively, Conoco suggested that June 4, 1982, the date the Anderson petition for rulemaking was filed, would be more reasonable and fair than a qualification date based on the effective date of the rule. Pogo favored a qualification date of January 24, 1983, the date the Commission issued its notice of proposed rulemaking.

The Commission has determined that the qualification date adopted today will be the effective date of this rule. The Commission believes that recompletion production activity which has occurred or is presently occurring and which is not currently eligible for the incentive price was not made in reliance on receiving the incentive price. The Commission believes that it would be inappropriate to grant an incentive price to production activity that was undertaken in expectation of receiving prices available under the current regulations. Accordingly, the rule will not be given retroactive effect.

F. The Anderson Petition

This rulemaking originated with a petition for clarification of § 271.703 filed by Anderson Petroleum, Inc. (Anderson) on June 4, 1982. Anderson sought an interpretation of the definition of "recompletion tight formation gas" that would allow production from recompletions in zones other than the original zone in which a well was completed for production to qualify for the tight formation incentive price. To the extent the final rule adopted in this proceeding addresses this issue, the Anderson petition is granted in part. Anderson's petition also urged the Commission to allow additional volumes of gas that are produced as a result of recompletions or workovers (including the application of enhanced recovery operations) to qualify as tight

[12] Pogo; Texas; Conoco.
[13] AGA and United.
[14] Champlin.

formation gas. The Commission determined not to issue a proposed rule regarding this portion of the Anderson petition in the proposed rule in this docket.

IV. Summary of the Rule

The Commission is issuing its final rule to amend the definition of "recompletion tight formation gas" in § 271.703(b)(3) to provide that gas produced in a designated tight formation from a completion location completed on or after the effective date of this rule will qualify for the incentive price if such gas could not have been produced through any completion location in existence in the wellbore prior to the effective date. As discussed in Section III, *supra*, § 271.703(b)(3) provides that the qualification date is the date when this final rule becomes effective.

New § 274.205(e)(2)(vi)(A) requires an applicant to submit a gamma ray log on which all completion locations in existence in the wellbore prior to the effective date of the final rule and the completion locations which are the subject of the application are identified. If the gamma ray logs demonstrate that the strata between the completion locations contain a minimum of 20 vertical feet of impermeable structure, it will be presumed that the strata are not pressure connected. Alternatively, § 274.205(e)(2)(vi)(B) allows an applicant to submit the results of bottom-hole pressure surveys, gas analyses, or other methods or calculations comparing the completion locations which are the subject of the application and all completion locations in existence in the wellbore prior to the effective date of the final rule. The applicant must also submit an explanation of the engineering principles, calculations, and reasoning used in making the judgment that these comparisons demonstrate that the gas to be produced from the subject completion locations could not be produced from the completion locations in existence in the wellbore prior to the effective date of the final rule.

Additionally, operators of wells seeking to qualify gas as recompletion tight formation gas must file a separate application for a well category determination under section 107(c)(5) for each completion location in the designated tight formation in the wellbore. This will enable a determination to be made that each completion location is in a zone which is not in communication with the zone or zones in a tight formation which were completed prior to the effective date of this rule. Where there is commingling of production from an old completion location and a new recompletion location, sellers will be required to make a reasonable allocation of production attributable to the new recompletion location and eligible for the incentive price.

The Commission notes that the negotiated contract price requirement contained in § 271.703 is applicable to all first sales or tight formation gas, including production that will become eligible for the incentive price as a result of the rule issued today.

Finally, the filing requirement in § 274.205(e)(2)(v)(B) is amended to conform the oath statement required by that paragraph to the amendments adopted today.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 15 U.S.C. 601–612, requires agencies to perform analyses of proposed rules that would, if promulgated, have a "significant economic impact on a substantial number of small entities." However, section 605(b) of the RFA provides that the requirements to prepare initial and final regulatory flexibility analyses do not apply when the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

In the notice of proposed rulemaking in this docket, the Commission certified that this rulemaking would not have a significant impact on a substantial number of small entities. This rule might affect some of these entities by permitting them to receive a higher price for certain volumes of production. However, the total volumes of natural gas production that would be affected by this proposed rule constitute a statistically insignificant percentage of the nation's total natural gas production and supplies. While this rule may have a beneficial economic impact on some small entities, the Commission believes that the impact will not be "significant." Accordingly, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VI. Paperwork Reduction Act and Effective Date

The information collection provisions in this final rule will be submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3502 (Supp. IV 1980), and OMB's regulations, 48 FR 13,666, 13,694 (1983) (to be codified at 5 CFR Part 1320). Inquiries relating to the information collection provisions in this rule can be made to: Fred A. Wolgel, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8033.

Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

The effective date of this rule is December 27, 1983. If OMB's approval and control number are not received before this effective date, the Commission will issue a notice temporarily suspending the effective date.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432.)

List of Subjects in 18 CFR Parts 271 and 274

Natural gas, Incentive price, Tight formation, High-cost gas, Wage and price controls.

In consideration of the foregoing, the Commission orders:

(A) The petition for clarification of § 271.703 filed by Anderson Petroleum, Inc. is granted in part and denied in part; and

(B) Parts 271 and 274, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, are amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

1. In § 271.703, paragraph (b)(3) is revised to read as follows:

§ 271.703 Tight Formations.

* * * * *

(b) * * *

(3) "Recompletion tight formation gas" is natural gas which is produced from a designed tight formation through a well, the surface drilling of which was begun before July 16, 1979,

(i) if such well was not completed for production from such designated formation prior to July 16, 1979, or

(ii) if such well was completed for production from such designated formation prior to July 16, 1979, such gas is produced from a completion location completed after [the effective date of the final rule], and such gas could not have been produced from any completion location which was in existence in the wellbore on or before December 27, 1983.

* * * * *

PART 274—[AMENDED]

2. Section 274.205 is amended by revising paragraph (e)(2)(v) and by adding a new paragraph (e)(2)(vi) to read as follows:

§ 274.205 High-cost natural gas.

* * * * *

(e) * * *

(2) * * *

(v) A statement by the applicant, under oath, that:

(A) The gas is being produced from a designated tight formation; and

(B) The well was not completed for production in the designated tight formation prior to July 16, 1979; or, if the well was completed for production in the designated tight formation prior to July 16, 1979, then the gas subject to the application is being produced from a completion location which was completed on or after [the effective date of the final rule], and such gas could not have been produced from any completion location which was in existence in the well bore prior to December 27, 1983; and

(C) The applicant has no knowledge of any other information not described in the application which is inconsistent with his conclusion.

(vi) If the well was completed for production in the designated tight formation prior to July 16, 1979,

(A) a gamma ray log on which all completion locations in the wellbore which were completed for production prior to December 27, 1983, and the completion locations which are the subject of the application are identified, and which demonstrates that the strata between the completion locations contain a minimum of 20 vertical feet of impermeable structure; or

(B) the results of bottom hole pressure surveys, gas analyses, or other methods or calculations comparing the completion locations which are the subject of the application and any completion locations in the wellbore which were completed for production prior to December 27, 1983; and an explanation of the engineering principles, calculations, and reasoning used in making the judgment that these comparisons demonstrate that the gas to be produced from the subject completion locations could have been produced from any completion locations in existence prior to December 27, 1983.

* * * * *

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

[FR Doc. 83–28802 Filed 10–25–83; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 50

[Order No. 1031–83]

Policy With Regard to Open Judicial Proceedings

AGENCY: U.S. Department of Justice.

ACTION: Final rule.

SUMMARY: This order adds arraignments and bond hearings to the types of judicial proceedings for which prior authorization is required before seeking or agreeing to closure. New section (f) establishes a 60 day review requirement to ensure that records of closed proceedings are unsealed as soon as possible.

EFFECTIVE DATE: October 18, 1983.

FOR FURTHER INFORMATION CONTACT: David M. Simonson (202–724–6672), Office of Enforcement Operations, Criminal Division, Department of Justice, Washington, D.C.20530.

SUPPLEMENTARY INFORMATION: This order is a clarification of the types of judicial proceedings set forth in 28 CFR 50.9(a) which require approval prior to moving for or agreeing to closure. The addition of arraignments and bond hearings to this section clarifies some uncertainty existing in United States Attorneys' Offices as to whether these proceedings are within the regulation.

Additionally, a new section (f) has been added which provides for a review of records of closed proceedings which remain sealed after 60 days. If the reasons for closure are still applicable at that time, the review will be repeated at 60 day intervals until it is appropriate for the records to be unsealed. The Criminal Division has been assigned the role of monitoring compliance with this section.

This Order is not a rule within the meaning of either Executive Order 12291, Section 1(a), or the Regulatory Flexibility Act, 5 U.S.C. 601, et seq.

List of Subjects in 28 CFR Part 50

Administrative practice and procedure.

PART 50—[AMENDED]

By virtue of the authority vested in me, as Attorney General, by 28 U.S.C. 509, 510, 516, and 519 and 5 U.S.C. 301, 50.9 of Title 28 of the Code of Federal Regulations is hereby amended as follows:

1. Paragraph (a) is revised to read as follows:

§ 50.9 Policy with regard to open judicial proceedings.

* * * * *

(a) These guidelines apply to all federal trials, pre- and post-trial evidentiary proceedings, arraignments, bond hearings, plea proceedings, sentencing proceedings, or portions thereof, except as indicated in paragraph (e) of this section.

* * * * *

2. Existing paragraph (f) is redesignated as pargraph (g) and new paragraph (f) is added as follows:

* * * * *

(f) Because of the vital public interest in open judicial proceedings, the records of any proceeding closed pursuant to this section, and still sealed 60 days after termination of the proceeding, shall be reviewed to determine if the reasons for closure are still applicable. If they are not, an appropriate motion will be made to have the records unsealed. If the reasons for closure are still applicable after 60 days, this review is to be repeated every 60 days until such time as the records are unsealed. Compliance with this section will be monitored by the Criminal Division.

* * * * *

Dated: October 18, 1983.

William French Smith,

Attorney General.

[FR Doc. 83–28051 Filed 10–25–83; 8:45 am]
BILLING CODE 4410–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 7F1899/R604; PH-FRL 2455–6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Acephate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide acephate (*O,S*-dimethyl acetylphosphoramidothioate) and its cholinesterase-inhibiting metebolite methamidophos in or on cauliflower at 2.0 parts per million (ppm) and brussels sprouts at 3.0 ppm. This regulation to establish the maximum permissible level for residues of acephate in or on the above-named commodities was requested by Chevron Chemical Co.

EFFECTIVE DATE: Effective on October 26, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: William Miller, Product Manager (PM) 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 211, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of February 11, 1977 (42 FR 8691) that Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804, had submitted a petition (7F1899) to EPA. The petition proposed that 40 CFR Part 180 be amended by establishing tolerances for the combined residues of the insecticide acephate and its cholinesterase-inhibiting metabolite methamidophos in or on the following raw agricultural commodities: Broccoli at 10.0 ppm (of which no more than 1.0 ppm is methamidophos); cauliflower at 10.0 ppm (of which no more than 1.0 ppm is methamicophos; and brussels sprouts at 7.0 ppm (of which no more than 0.5 ppm is methamidophos). The petitioner subsequently amended the petition as follows:

1. By withdrawing broccoli from the petition;

2. By decreasing the proposed tolerance level in or on brussels sprouts to 3.0 ppm (of which no more than 0.5 ppm is methamidophos); and

3. By decreasing the proposed tolerance level in or on cauliflower to 2.0 ppm (of which no more than 0.5 ppm is methamidophos).

The scientific data submitted in this petition and other relevant material have been evaluated. The toxicological data considered in support of the regulation include a 2-year dog-feeding study with a NOEL of 30.0 ppm (0.75 mg/kg/day), based on the inhibition of plasma, RBC, and brain cholinesterase activity and a NOEL of 100.0 ppm (2.5 mg/kg/day) for systemic toxicity; a 28 month rat feeding/oncogenic study with a NOEL of 5.0 ppm (0.25 mg/kg/day), based on the inhibition of cholinesterase activity in plasma, RBC, and brain (no oncogenic effects observed); a rabbit teratogenic study with a NOEL of 10.0 mg/kg (no teratogenic effects were observed at dosage levels up to and including 10.0 mg/kg, which was the highest level tested); a rat teratogenic study with a NOEL of 200.0 mg/kg (no teratogenic effects were observed at dosage levels up to and including 200.0 mg/day, which was the highest level tested); a rat metabolism study; and a supplemental acute delayed neurotoxicity study in hens with no effects observed (no leg paralysis) at the 375.0 mg/kg level (highest level tested).

In a recently conducted micronucleus test (mouse bone marrow), acephate did not display mutagenic activity. There are studies available, however, in which acephate did display such activity (gene mutations in microorganisms and DNA repair). Additional mutagenic studies have since been submitted and are currently under review by the Agency.

Desirable data that are currently lacking include (1) a mouse oncogenic study, (2) a rat reproduction study, and (3) a delayed neurotoxicity study. (The studies (1) and (2) have been submitted and are currently under evaluation by the Agency.)

The following preliminary findings from the submitted mouse oncogenicity study are noted. The significance of these findings, if any, is now under review by the Agency. Female CD1 mice fed 1,000 ppm of technical acephate (highest level tested) had a higher incidence of hepatocellular carcinomas (HC), 15.8 percent, and hyperplastic nodules (HN), 19.7 percent, than did the controls (1.3 percent and 2.7 percent, respectively). All the HC and most of the HN (14.5 percent) were observed at the terminal sacrifice. The incidence of HC in the historical controls (female) ranged from 0 to 6 percent. The incidence of hepatocellular adenomas was very low in this study.

The available toxicity data are adequate to support the tolerances because the use will result in an insignificant increase (0.77 percent) in the TMRC to the human diet. As stated in the **Federal Register** of May 11, 1979 (44 FR 27932), the Agency will generally consider as insignificant an increase in the TMRC of 1.0 percent or less.

Based on the 28-month rat feeding/oncogenic study with a NOEL of 5.0 ppm (0.25 mg/kg/day) and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.025 mg/kg of body weight (bw)/day, and the maximum permissible intake (MPI) is 1.500 mg/day for a 60-kg human.

The theoretical maximum residue contribution (TMRC) in the human diet from the regulation is 0.0035 mg/day/1.5 kg. This value represents a 0.77-percent increase in the existing TMRC. The existing tolerances and this regulation use a total of 54.79 percent of the ADI.

The established tolerances for the combined residues of acephate and its cholinesterase-inhibiting metabolite, methamidophos in meat, milk, poultry, and eggs at 0.1 ppm are adequate to cover any secondary residues occurring in these commodities from the use of acephate on cauliflower and brussels sprouts. The metabolism of the insecticide is adequately understood, and an adequate analytical method, gas chromatography with a thermionic detector, is available for enforcement purposes. There are no regulatory actions pending against continued registration of the insecticide, and no other considerations are involved in establishing the tolerances.

The pesticide is considered useful for the purpose for which the tolerances are sought. Based on the above considerations, it is concluded that the establishment of the tolerances will protect the public health, and they are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification

statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: September 23, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

Therefore, 40 CFR 180.108 is amended by inserting the following entries for brussels sprouts and cauliflower to read as follows:

§ 180.108 Acephate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Brussels sprouts	2.0 (of which no more than 0.5 is *O,S*-dimethyl phosphoramido-thioate)
Cauliflower	2.0 (of which no more than 0.5 is *O,S*-dimethyl phosphoramido-thioate)

* * * * *

[FR Doc. 83-28708 Filed 10-25-83; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 48, No. 208
Wednesday, October 26, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1093

[Docket No. AO-366-A1]

Milk in the Alabama-West Florida Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments To Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends the establishment of a new procedure for announcing the Class II price under the Alabama-West Florida Federal milk order. As recommended, a tentative Class II price for a particular month would be announced by the 15th day of the preceding month. The final Class II price would be announced by the 5th day after the month and would reflect, if applicable, the use of the Minnesota-Wisconsin price for that month as a "floor" under the Class II price. The proposed procedure is based on industry proposals considered at a public hearing held on August 9, 1983.

DATE: Comments are due November 21, 1983.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agriculture Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Section 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued July 15, 1983; published July 22, 1983 (48 FR 33492).

Emergency Final Decision: Issued September 22, 1983; published September 29, 1983 (48 FR 44570).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Alabama-West Florida marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, on or before November 21, 1983. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Montgomery Alabama on August 9, 1983, pursuant to notice thereof issued July 15, 1983 (48 FR 33492).

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. However, no participants at the hearing testified about any potentially adverse impact of the proposals on small businesses.

Further, Eddie F. Kimbrell, Acting Deputy Administrator, Agricultural Marketing Service, has certified that the proposed amendments, if adopted, will not have a significant impact on a substantial number of small entities. The proposed amendments would promote orderly marketing of milk by producers and regulated handlers.

The material issues on the record relate to:

1. Class I price after October 31, 1983.
2. Whether an emergency exists to warrant the omission of a recommended decision and the opportunity to file written exceptions.
3. Advance Class II price announcement.

A prior decision dealt with issues 1 and 2. Issue No. 3 is considered in this decision.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

3. *Advance Class II price announcement.* The provisions of the order should be amended to provide that on or before the 15th day of the month, the market administrator shall announce the tentative Class II price that is to be effective the following month. The Class II price for the month should be the Minnesota-Wisconsin (M–W) price for the second preceding month, as adjusted by an "updating" formula, plus a Class II differential computed from a 12-month moving average of past Class II differentials. The Class II price for any month should not be less than the Class III price for the month. The Class II differential, over time, should average out to about the Class III price plus the current 10-cent Class II differential. The use of the Class III price as a floor would require that a final Class II price be announced by the market administrator on or before the 5th day of the following month when the Class III price for the month is known and it can be determined whether such price would apply as a "floor."

The procedures adopted are identical to those that were provided for 29 markets in a final decision issued July 8, 1981, and published in the **Federal Register** on July 14, 1981 (46 FR 36151). They are also almost indentical, with only minor exceptions, to a 14-market final decision issued August 17, 1982, and published in the **Federal Register** on August 25, 1982 (47 FR 37178). There was no opposition to the proposal.

To achieve the foregoing, the order should provide for a "basic Class II formula price" for the month, which would be the order's basic formula price (i.e., the M–W price) for the second preceding month plus or minus an amount computed from the "updating" formula. In essence, a tentative estimate of the M–W price for the preceding month would be derived from the mechanics of the updating formula. This would permit the Class II price to be based on selected dairy industry data

for that month rather than for the second preceding month.

The updating formula would determine first the amounts by which the gross values of milk used to manufacture cheddar cheese and butter-nonfat dry milk for the first 15 days of the preceding month are greater than or less than the respective values of such milk for the first 15 days of the second preceding month using yield factors provided by the Dairy Price Support Program. Thus, the relative proportions of milk used in Minnesota and Wisconsin combined in the manufacture of cheddar cheese and butter-nonfat dry milk would be determined from data reported by the Department. From the foregoing data, a weighted average of the changes in gross values per hundredweight of milk would be computed.

The Class II price for the month would be basic Class II formula price for the month plus a differential that would be the amount by which a 12-month moving average of the basic formula price plus the 10-cent Class II differential of the order exceeds a 12-month moving average of the basic Class II formula price. This should result in a Class II price that on the average exceeds the Class III price by the 10-cent differential now in the order.

The basic Class II formula price and the tentative Class II price would be computed by the Dairy Division, AMS, and transmitted to the market administrator on or before the 15th day of the preceding month, enabling the market administrator to announce by that time the tentative Class II price for the following month. The final Class II price would be announced on or before the 5th day of the following month it is determined whether such price would be "floored" by the Class III price for the month.

At present, the order provides for the market administrator to announce publicly on or before the 5th day or each month the Class II price for the preceding month. The present order provides for a Class II price that is 10 cents above the M-W price.

Dairymen, Inc. (DI), a cooperative association that supplies a substantial part of the market's milk needs, proposed a procedure for announcing the Class II price for the order that is identical to the procedure provided herein. The association's witness testified that advance Class II pricing is now being provided for 40 Federal milk orders and should be provided for in this proceeding. Further, the witness said that all the Federal orders surrounding the Alabama-West Florida order have adopted advance Class II pricing procedures.

Another reason cited by the proponent for these provisions is that the current procedure for pricing Class II milk unnecessarily creates undue business risks and other difficulties without any benefits to anyone. He said that the proposed announced procedure is designed to result in approximately the same level of Class II prices as results from using the current procedure, but on a more timely basis.

Proponent's witness said that this procedure would contribute to more orderly marketing by providing additional stability within the order area. The witness said that producers benefit in that they would have advance knowledge of the price they would receive for Class II milk and, therefore, be in a position to make more appropriate management decisions. He said that handlers benefit in that advance Class II pricing would enable them to know beforehand the cost of the milk used in producing Class II products so that they could more accurately price their finished products. The witness said that the resulting effect would be of benefit to consumers in the form of a more orderly marketing system.

The proponent's witness said that DI operates several fully regulated plants under the order that produce Class II products. He said that advance Class II pricing is needed by their plants in order to accurately determine the selling price of Class II products. Further, the witness said that because handlers under the Alabama-West Florida order must estimate the costs of the milk ingredients used in Class II products, they are taking unnecessary risks by selling their products in competition with handlers regulated by surrounding orders who have the benefit of knowing their costs before the products are sold.

A witness for a proprietary handler that operates two fully regulated plants under the order testified in support of the proposal. The witness said that the proposed procedure would give handlers about two weeks' notice of Class II milk costs. He said that most of their customers requre at least a two-week notice of any price increase. The witness said that because of the large quantities of Class II products that they manufacture, even a slight increase in the cost of Class II milk will have a significant impact on their plants. For example, he said that a 10-cent increase in the cost of Class II milk will increase the cost of one gallon of mix by almost one cent and increase the cost of one pound of sour cream by almost one cent.

Discussion of the issue. It is concluded from the hearing record eveidence that the adoption of the proposal for advance notice of the Class II price is a reasonable means of assisting handlers in the marketing of milk. Handler witnesses said that the dairy industry is somewhat unique in that regulated handlers process and sell products without knowing the cost of the raw milk. This practice makes it dufficult, if not impossible, to adjust resale prices to changes in ingredient costs. To them, this is an unwarranted and unnecessary situation which creates undue business risks and other difficulties without any real benefit to others.

The provision for advance price notice under the Alabama-West Florida order will contribute to more orderly marketing for the processors of Class II products. Handlers will be in a better position to plan their processing and marketing programs with advance knowledge of their raw milk costs. Also, the advance price procedure will enable handlers to establish and adjust resale prices of Class II products more currently relative to changes in raw milk costs. This is in contrast to the present system whereby handlers make estimates with varying results of how anticipated milk costs should be reflected in the resale prices.

Adopted procedure. The procedure provided herein for announcing a tentaive Class II price for a month on or before the 15th day of the previous month is the same as the one proposed by DI. It is also identical to the procedures adopted for the 29 markets in the final decision of July 8, 1981, and, with some exceptions, to a 14-market final decision issued August 25, 1982. It provides that the market administrator shall announce publicly on or before the 15th day or each month a tentative Class II price for the following month. Such price would be provided to the administrator of the Alabama-West Florida order by the Dairy Division and would be determined from the method of computation specified in the order.

As provided in the attached order, the announced tentative Class II price for the month would be the sum of the following price components: (A) The basic Class II formula price; and (B) the Class II differential.

A. Basic Class II formula price. The basic Class II formula price, which would be used in computing the Class II price that is announced for the month, would be determined by the Dairy Division, AMS, on or before the 15th day of the preceding month. Under the formula provided herein, it would be computed by increasing or decreasing the M–W price of the second preceding

month by an amount that reflects changes in the gross value of milk used to produce cheddar cheese (including returns from whey fat and whey solids-not-fat), butter, nonfat dry milk and edible whey powder during the first 15 days of the preceding month compared to the first 15th days of the second preceding month. The gross value of milk used to produced these products would be determined by multiplying the price of each product by a yield factor which represents the pounds of product that results from the manufacture of a hundredweight of milk. The yield factors used in the formula adopted herein would be those that are used under the Dairy Price Support Program for determining similar gross values. Whenever the yield factors are changed, the new yield factors would be used in the formula beginning with the effective date of the announced support price or announced purchase prices.

The yield factors used under the Price Support Program are for milk of average butterfat content of 3.67 percent, while prices under the Federal milk order program are announced for milk containing 3.5 percent butterfat. Milk containing higher proportions of butterfat yield more pounds of product per hundredweight of milk than does milk containing a lower butterfat content. However, using the Price Support Program yield factors in the adopted formula should not appreciably affect the basic Class II formula prices. Only changes in gross values of milk from one month to another would raise or lower the basic Class II formula price. Those changes in gross values of milk should not be much different whether they are based on milk containing 3.67 percent butterfat or 3.5 percent butterfat.

The product prices that are used in the formula adopted herein would be those that are reported and published each week by the Dairy Division, AMS. The butter price would be that of the Chicago Mercantile Exchange for Grade A (92-score) butter. The cheddar cheese price would be that of the National Cheese Exchange for cheddar cheese in 40-pound blocks. The nonfat dry milk price would be the average price per pound (using the midpoint of any price range as one price) for high heat, low heat and Grade A nonfat dry milk for the Central States production area. If any of these nonfat dry milk prices are not reported at some future date, the price used in the formula would be the average of the remaining prices that are reported. The price for whey powder would be the average price per pound (using the midpoint of any price range as one price) reported for edible whey powder (nonhygroscopic) for the Central States production area.

Based on yield factors used currently under the Price Support Program, a hundredweight of milk used to produce cheddar cheese yields 10.1 pounds of cheddar cheese, 0.25 pounds of butter and 5.5 pounds of whey powder. At the time of the hearing, under the Price Support Program, the price of whey powder increased the gross value of milk used to produce cheddar cheese only to the extent of that portion of the price of powder that exceeded 13.5 cents per pound. This was because the processing cost of drying the whey into powder was 13.5 cents. If the price of whey powder were less than 13.5 cents per pound, the processing costs would be absorbed in the price of cheddar cheese. If the price exceeded 13.5 cents, only that portion of the price that exceeded 13.5 cents would contribute to the gross value of milk. Accordingly, in the formula adopted herein the gross value of a hundredweight of milk used to produce cheddar cheese would be the sum of the following computations:

1. The average daily price per pound of cheddar cheese during the first 15 days of each respective month would be multiplied by 10.1. The National Cheese Exchange meets on Friday morning for trading in cheddar cheese. Generally, the prices reported for each session establish the prices of cheddar cheese sold by the dairy industry during the following week. When Friday is a holiday, the Exchange meets on Thursday morning. In the formula adopted herein, a price reported by Friday (or Thursday) would be applied to that day plus each work-day of the following week prior to the day the Exchange meets. When there are work-days in a month that precede the first Friday of the month, the last price reported in the previous month would be applied to each such work-day that precedes the first Friday. A work-day would be each Monday through Friday, except national holidays. This definition of work-day would apply also to the other product prices described in the following paragraphs. During a week that the Exchange does not meet, the price applied for the following week would be the last Exchange price that was established.

2. The average daily price per pound of butter during the first 15 days of each respectvie month would be multiplied by 0.25. The Chicago Mercantile Exchange also meets on Friday morning for trading in butter. When Friday is a holiday, the Exchange meets on Thursday morning. In the formula adopted herein, a price reported by Friday (or Thursday) would be applied to that day plus each work-day of the following week prior to the day the Exchange meets. When there are work-days in a month that precede the first Friday of the month, the last price reported in the previous month would be applied to each such work-day that precedes the first Friday. During a week that the Exchange does not meet, the price applied for the following week would be the last Exchange price that was established.

3. The average daily price per pound of edible whey powder during the first 15 days of each respective month would be reduced by 13.5 cents and any amount remaining would be multiplied by 5.5. The whey powder price is determined by the Department on Thursday of each week and reflects the selling price of whey powder during the preceding 7-day period. When Thursday is a holiday, the price is determined on Wednesday. In the formula adopted herein, a price determined on Thursday (or Wednesday) would be applied to that day plus each previous work-day through the preceding Friday, or Thursday if the previous price reported had been on a Wednesday.

The gross value of a hundredweight of milk used to produce butter and nonfat dry milk would be determined in the following manner. The yield factors presently used by the Price Support Program indicate that one hundredweight of milk yield 4.48 pounds of butter and 8.13 pounds of nonfat dry milk. Thus, the average daily butter price per pound during the first 15 days of each respective month, as determined by the method described in (2) above, would be multiplied by 4.48.

Added to this value would be the value to milk used to produce nonfat dry milk. This would be computed by multiplying the average of the daily prices per pound of high heat, low heat and Grade A nonfat dry milk during the first 15 days of each respective month by 8.13. As with the whey powder prices, the prices of nonfat dry milk are determined on Thursday of each week and reflect the selling prices of nonfat milk during the preceding 7-day period. When Thursday, is a holiday, the price is determined on Wednesday. In the formula adopted herein, the average of the prices of high heat, low heat and Grade A nonfat dry milk determined for Thursday (or Wednesday) would be applied to that day plus each previous work-day through the preceding Friday, or Thursday if the previous price reported had been on Wednesday. As described previously, if any of these nonfat dry milk prices are not reported

at some future date, the price used in the formula would be the average of the remaining prices that are reported.

The next computation in the formula adopted herein determines the amounts by which the gross values of milk used to produce cheddar cheese and used to produce butter-nonfat dry milk during the first 15 days of the preceding month exceed or are less than the respective gross values during the first 15 days of the second preceding month. This would be done by subtracting the respective gross values during the first 15 days of the second preceding month from the respective gross values during the first 15 days of the preceding month.

The quantity of milk used to produce cheddar cheese in the States of Minnesota and Wisconsin greatly exceeds the quantity used to produce butter-nonfat dry milk. Accordingly, the changes in gross values described in the previous paragraph should be weighted by the relative proportions of milk used to produce cheddar cheese and butter-nonfat dry milk in these two States. This would be done by converting the quantity of American cheese (cheddar cheese accounts for over 70 percent of all American cheese) and, separately, the quantity of nonfat dry milk [1] produced in the two States combined, as reported and published by the Statistical Reporting Service of the Department, into their respective milk equivalents (i.e., dividing the two-State quantity of American cheese produced by the 10.1 yield factor for cheedar cheese and dividing the corresponding quantity of nonfat dry milk produced by its yield factor of 8.13). The percentage that the milk equivalent for each separate product is of the total for the two products combined would be multiplied by the respective change in gross values, as described in the previous paragraph, to determine a weighted change in gross values for milk used to produce cheddar cheese and used to produce butter-nonfat dry milk. The weighted changes in gross values would be combined and this combined value would be used to adjust the second preceding month's M–W price. If the combined value for the first 15 days of the preceding month exceeds the corresponding value for the second preceding month, the M–W price would be increased. If it is lower, the M–W price would be reduced. The adjusted M–W price would be the basic Class II formula price for the month.

B. Class II differential. In the formula adopted herein, the Class II differential would be an amount added to the basic Class II formula price each month to yield a Class II price that, on average, would approximate the amount that the present Class II price in the order exceeds the respective order's Class III (or basic formula) price. It would be computed on or before the 15th day of the preceding month for use in determining the announced Class II price for the month. The differential would be the amount that the average M–W price during the most recent 12-month period plus the current Class II differential of the order exceeds the average basic Class II formula price during the same 12-month period.

[1] Nonfat dry milk is used in the computation because butterfat that is excess to fluid milk operations also is made into butter.

Rulings on Proposed Findings and Conclusions

A brief and proposed findings and conclusions were filed on behalf of the proponent cooperative association. This brief, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Alabama-West Florida order was first issued.

The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesale milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

List of Subjects in 7 CFR Part 1093

Milk marketing orders, Milk, Dairy products.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order regulating the handling of milk in the Alabama-West Florida marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1093—[AMENDED]

1. Add a new § 1093.20 to read as follows:

§ 1093.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price.

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry

milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey power (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. In § 1093.50, paragraph (b) is revised to read as follows:

§ 1093.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1093.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1093.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1093.51a.

* * * * *

3. Add a new § 1093.51a to read as follows:

§ 1093.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1093.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1093.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Revise § 1093.53 to read as follows:

§ 1093.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1093.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

Signed at Washington, D.C., on October 21, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 304 and 349

Forms, Instructions, and Reports; Reports and Public Disclosure of Indebtedness of Executive Officers and Principal Shareholders to a State Nonmember Bank and its Correspondent Banks

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") proposes to amend Parts 304 and 349 of its regulations which require annual reports of ownership of insured State nonmember banks and insider indebtedness to insured State nonmember banks and their correspondent banks. The proposal implements the amendments to section 7(k) of the Federal Deposit Insurance Act ("FDI Act") and section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 ("BHCA Amendments") contained in sections 428 and 429 of the Garn-St Germain Depository Institutions Act of 1983 ("Garn-St Germain Act"). It reduces the existing reporting burden for banks and provides more meaningful information to the public. The proposal requires and insured State nonmember bank to disclose, upon request, the names of its executive officers and principal shareholders who (along with their related interests) have substantial borrowings from the bank or its correspondent banks. The reporting and disclosure requirements of the proposal will apply to institutions, such as mutual savings banks, not previously subject to the reporting and disclosure provisions of section 7(k) of the FDI and Act section 106(b)(2) of the BHCA Amendments as they existed prior to amendment by the Garn-St Germain Act in 1982. The proposed amendments also restate the existing statutory requirement which requires insiders to report to the board of directors of their bank any indebtedness to the correspondent banks of that bank.

DATE: Comments must be submited on or before November 25, 1983.

ADDRESS: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. Comments may be hand delivered to Room 6108 between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Robert E. Feldman, Attorney, Legal Division (202/389–4171), or Bill C. Houston, Examination Specialist, Division of Bank Supervision (202/389–4141), Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Statutory Amendments

(a) *12 U.S.C. 1817(k).* The Garn-St Germain Depository Institutions Act of 1982 (Pub. L. No. 97–320, 96 Stat. 1469) ("Garn-St Germain Act" or "Act") amended, among other things, 12 U.S.C. 1817(k). This provision required each insured bank to make to the appropriate Federal banking agency an annual report which contained the following information with respect to the preceeding calendar year:

(A) A list by name of each stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank.

(B) A list by name of each executive officer or stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank and the aggregate amount of all extension of credit by such bank during such year to: (i) Such executive officers or stockholders of record, (ii) and company controlled by such executive officers, or stockholders, or (iii) any political or compaign committee the funds or services of which will benefit such executive officers or stockholders, or which is controlled by such executive officers or stockholders.

12 U.S.C. 1817(k)(1). The statute also provides that the bank or the agency shall make the information available, upon request, to the public. 12 U.S.C. 1817(k)(4). In implementing this provision, § 304.4 of the FDIC's regulations required insured State nonmember banks to file the information on or before March 31 of each year. 12 CFR 304.4. The information has been provided on Form FFIEC 003.

Section 429 of the Garn-St Germain Act deleted the language of 12 U.S.C. 1817(k) in its entirety. Instead, it authorized the appropriate Federal banking agencies to issue rules and regulations to require the reporting and public disclosure of information concerning insider indebtedness. However, the act provided that the provisions of 1817(k) will remain in effect until such new regulations become effective.

(b) *12 U.S.C. 1972(2)(G).* The act also deleted subparagraphs (ii) and (iii) of 12 U.S.C. 1972(2)(G). Subparagraph (ii) required each insured bank to compile and send to its appropriate regulatory agency the following information regarding loans from correspondent banks to its insiders:

(1) the maximum amount of indebtedness to the bank maintaining the correspondent account during such year of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political or compaign committee the funds or services of which will benefit such executive officer or stockholder, or which is controlled by such executive officer or stockholder;

(2) the amount of indebtedness to the bank maintaining the correspondent account outstanding as of a date not more than ten days prior to the date of filing of such report of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political or campaign committee the funds or services of which will benefit such executive officer or stockholder;

(3) The range of interest rates charged on such indebtedness of such executive officer of stockholder of record; and

(4) The terms and conditions of such indebtedness of such executive officer or stockholder of record.

The information was based on reports which the executive officer or the stockholder in question must make to the board of directors pursuant to 12 U.S.C. 1972(2)(G)(i) [1] with Form FFIEC 004 being the recommended form for the reports.

The implementing Part 349 of the FDIC's regulations required that the information be reported to the agency on or before March 31 each year. 12 CFR 349.

Subparagraph (iii) of 12 U.S.C. 1972(2)(G) required each insured bank to include in the report to be made under 12 U.S.C. 1817(k) the names of executive officers or principal shareholders who submit information required under 12 U.S.C. 1972(2)(G)(i) and the aggregate amount of loans by correspondent banks to such insiders or to companies controlled by them, or to political or campaign committees benefiting, or controlled by, such insiders.

In deleting subparagraphs (ii) and (iii), section 428 of the Garn-St Germain Act authorized the appropriate Federal banking agencies to issue rules and regulations to require a bank or the executive officers or principal

[1] The Garn-St Germain Act did not affect the provisions of 12 U.S.C. 1972(2)(G)(i); thus, the insiders must continue to provide this information to the board of directors of their bank

shareholders to report and make public information regarding loans by correspondent banks to such insiders or their related interests. Again, the Act provides that the existing requirements remain in effect until the new regulations become effective.

FFIEC Action

On June 29, 1983, the Federal Financial Institutions Examination Council ("FFIEC" or "Council") announced its approval of the new Commercial Bank Report of Condition and Income that is to become effective with the filing of the March 31, 1984 reports. In this context, the Council decided to take the following action regarding the reporting and public disclosure of insider loans by commercial and mutual saving banks:

(1) eliminate the requirement that banks annually file Form FFIEC 003, "Report on Ownership of the Reporting Bank and Indebtedness of Its Executive Officers and Principal Shareholders to the Reporting Bank and to Its Correspondent Bank";

(2) require banks to report quarterly, beginning with the December 31, 1983 Report of Condition, the total amount of extensions of credit by the reporting bank to all of its executive officers and principal shareholders and to their related interests, and the number of these persons having significant amounts of such loans outstanding;

(3) continue to recommend to reporting banks that they use a specific FFIEC form to get information about the debts of their executive officers, principal shareholders, and their related interests to correspondent banks (Form FFIEC 004); and

(4) recommend to the three Federal bank regulatory agencies that they adopt, by December 31, 1983, regulations requiring each bank to disclose publicly upon request names of its executive officers and principal shareholders, or their related interests, who had certain extensions of credit outstanding from their own bank or from its correspondent banks that were five percent or more of the reporting bank's equity capital, or $500,000, whichever is less.

Pursuant to section 1006 of the Federal Financial Institutions Examination Council Act of 1978, 12 U.S.C. 3305, the Council's action regarding the reporting requirements is immediately effective.

Proposed FDIC Action

The FDIC is now proposing to revise 12 CFR Part 349 to contain requirements on the public disclosure of insider indebtedness, as recommended by the FFIEC. An insured State nonmember bank is required to disclose, upon request, the names of such insiders who had significant loans outstanding from either the bank itself or from its correspondents. In both categories, the triggering threshold is five percent of the bank's capital stock and unimpaired surplus or $500,000, whichever is less. The list of the insiders who borrowed from the bank itself reflects information as of the latest quarter; the disclosure of correspondent loans would contain information regarding loans outstanding at any time during the previous calendar year.

The proposed disclosure would provide to the public more current and meaningful data than the disclosure of insider indebtedness under the present provisions of 12 U.S.C. 1817(k)(4). At the same time, the disclosure would not place unnecessary or additional burdens on insured State nonmember banks, as the data required for it is readily available from records used to prepare the newly required item in the quarterly Reports of Condition (Call Reports) concerning insider loans at the reporting bank and from information submitted by the insiders on Form FFIEC 004.

The proposed rule also requires insured State nonmember banks to maintain a record of each disclosure request for a period of two years. The FDIC believes that such records are necessary to monitor compliance with the disclosure requirement, and to evaluate the public interest in such disclosure.

Several deletions in the FDIC regulations are required as a result of FFIEC's decision to eliminate Form FFIEC 003. Paragraph (y) of § 304.3, which summarizes the format of Form FFIEC 003 and states when the report is due each year, will be deleted along with § 304.4 which prescribes the contents of the form. Paragraph (z) of section 304.3 will be redesignated as paragraph (y). In addition, Part 349 will be partially rewritten generally to reflect the FFIEC recommendations and to delete § 349.4 because it requires the reporting of certain information on insider indebtedness to correspondent banks to be included in Form FFIEC 003.

To dispel any ambiguity regarding reporting requirements, the proposed regulation also restates the remaining statutory requirement under 12 U.S.C. 1972(2)(G)(i). As discussed above, this provision requires executive officers and principal shareholders of a bank to make an annual report to the board of directors regarding the amounts and terms of loans granted to them by correspondent banks.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Board of Directors of the FDIC hereby certifies that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments, together with the FFIEC actions, would ease the existing reporting regulations. The effect of the amendments is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

Paperwork Reduction Act

The collection of information requirements contained in the proposed rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Written comments may be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the FDIC, Washington, D.C. 20503.

List of Subjects

12 CFR Part 304

Administrative practice and procedure, Bank deposit insurance, Banks, banking, Foreign banks, banking, Reporting and recordkeeping requirements.

12 CFR Part 349

Banks, banking, Credit, Reporting and recordkeeping requirements.

In consideration of the foregoing, the FDIC hereby proposes to amend Parts 304 and 349 as follows:

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

1. The authority citation for Part 304 reads as follows:

Authority: 12 U.S.C. 1819.

§ 304.4 [Removed]

2. Part 304 is amended by removing § 304.4.

§ 304.3 [Amended]

3. Section 304.3 is amended by removing paragraph (y) and by redesignating paragraph (z) as paragraph (y).

4. 12 CFR Part 349 is revised to read as follows:

PART 349—REPORTS AND PUBLIC DISCLOSURE OF INDEBTEDNESS OF EXECUTIVE OFFICERS AND PRINCIPAL SHAREHOLDERS TO A STATE NONMEMBER BANK AND ITS CORRESPONDENT BANKS

Sec.

349.1 Purpose and scope.
349.2 Definitions.
349.3 Reports by executive officers and principal shareholders.
349.4 Disclosure of indebtedness of executive officers and principal shareholders.

Authority: Sec. 2 [9 "Seventh" and "Tenth"], Pub. L. 797, 64 Stat. 881, as amended by sec. 309, Pub. L. 95–630, 92 Stat. 3677 (12 U.S.C. 1819 "Seventh" and "Tenth"); secs. 428(b) and 429, Pub. L. 97–320, 96 Stat. 1526, 1527.

§ 349.1 Purpose and scope.

Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(b)(2)) ("BHCA Amendments") prohibits (a) preferential lending by a bank to executive officers, directors, and principal shareholders of another bank when there is a correspondent account relationship between the banks, or (b) the opening of a correspondent account relationship between banks when there is a preferential extension of credit by one of the banks to an exective officer, director, or principal shareholder of the other bank. Section 106(b)(2) also imposes requirements on executive officers and principal shareholders to submit reports on their indebtedness to correspondent banks to the board of directors of their bank. Section 7(k) of the Federal Deposit Insurance Act (12 U.S.C. 1817(k)) and section 106(b)(2)(G)(ii) of the BHCA Amendments (12 U.S.C. 1972(b)(2)(G)(ii)) authorize the Federal banking agencies to issue rules and regulations, including definitions of terms, to require the reporting and public disclosure of information by a bank or any executive officer or principal shareholder thereof concerning extensions of credit by the bank or its correspondent bank to any of the reporting bank's executive officer or principal shareholders, or the related interests of such persons. This Part 349 implements the authorization of title IV of the Garn-St Germain Act to require such reporting and disclosure by insured State nonmember banks and their executive officers and principal shareholdes.

§ 349.2 Definitions.

For the purposes of the reporting and disclosure requirements of this Part 349, the following definitions apply:

(a) "Bank" has the meanings provided in (1) 12 U.S.C. 1841(c), and includes a branch or agency of a foreign bank, or a commercial lending company controlled by a foreign bank or by a company that controls a foreign bank, where the branch or agency is maintained in a State of the United States or in the District of Columbia or the commercial lending company is organized under State law, and (2) 12 U.S.C 1972(2)(H)(i). Notwithstanding the foregoing, with respect to disclosures made pursuant to paragraph (a)(1) of § 349.4 and with respect to copies of requests maintained pursuant to paragraph (c) of § 349.4 "bank" shall mean "State nonmember bank" as defined in 12 U.S.C. 1813(b), including a "mutual savings bank" as defined in 12 U.S.C. 1813(f).

(b)"Capital stock and unimpaired surplus" equals the sum of the "total equity capital" of the insured State nonmember bank reported on its most recent Consolidated Report of Condition filed under 12 U.S.C. 1817(a) and valuation reserves created by charges to the insured State nonmember bank's income. Notwithstanding the foregoing, with respect to "mutual savings banks," "capital stock and unimpaired surplus" equals the "total surplus accounts" item on the insured State nonmember mutual savings bank's most recent Consoliated Report of Condition filed under 12 U.S.C. 1817(a) plus valuation reserves created by charges to the insured State nonmember mutual savings bank's income.

(c) "Company," "control of a company or bank," "executive officer," [2] "extension of credit," "immediate family," and "person" have the meanings provided in §§ 215.2 and 215.3 of Subpart A of Federal Reserve Regulation O (12 CFR 215.2 and 215.3). All references to the term "member bank" in §§ 215.2 and 215.3 shall be deemed to refer to an insured State nonmember bank for the purposes of this Part 349.

(d) "Correspondent account" is an account that is maintained by an insured State nonmember bank with another bank for the deposit or placement of funds. A correspondent account does not include:

(1) Time deposits at prevailing market rates; or

(2) An account maintained in the ordinary course of business solely for the purpose of effecting federal funds transactions at prevailing market rates or making Eurodollar placements at prevailing market rates.

(e) "Correspondent bank" means a bank that maintains one or more correspondent accounts for an insured State nonmember bank during a calendar year that in the aggregate exceed an average daily balance during that year of $100,000 or one-half of one percent of the insured State nonmember bank's total deposit (as reported in its first Consolidated Report of Condition during that calendar year), whichever amount is smaller.

(f) " indebtedness" means an extension of credit, but does not include:

(1) Commercial paper, bonds, debentures and other types of marketable securities issued in the ordinary course of business; or

(2) Consumer credit (as defined in 12 CFR 226.2(p)) in an aggregate amount of $5,000 or less from each of the insured State nonmember bank's correspondent banks, provided the indebtedness is incurred under terms that are not more favorable than those offered to the general public.

(g) "Maximum amount of indebtebness" means, at the option of the reporting person, either (1) the highest outstanding indebtedness during the calendar year for which the report is made, or (2) the highest end of the month indebtedness outstanding during the calendar year for which the report is made.

(h) For the purpose of this Part 349, "principal shareholder" and "related interest" have the meanings provided in § 215.10(a) of Federal Reserve Regulation O, Subpart A (12 CFR 2125.10(a)), except that the term "principal shareholder" is synonymous with the term "stockholder of record" as that term is used in the reporting provisions of 12 U.S.C 1972 (2)(G)(i). All references to the term "member bank" in § 215.10(a) shall be deemed to refer to an insured State nonmember bank for the purposes of this Part 349.

§ 349.3 Reports by executive officers and principal shareholders.

(a) *Annual report.* If during any calendar year an executive officer or principal shareholder of an insured State nonmember bank or a related interest of such a person has outstanding an extension of credit from a correspondent bank, the executive officer or principal shareholder must make an written report to the board of directors of the insured State

[2] For the purposes of this Part 349, executive officers of an insured State nonmember bank do not include an executive officer of a bank holding company of which such bank is a subsidiary or of any other subsidiary of the bank holding company. Unless the executive officer is also an executive officer of the insured State nonmember bank.

nonmember bank on or before January 31 of the following year.[3]

(b) *Contents of report.* The report required by this section shall include the following information:

(1) The maximum amount of indebtedness of the executive officer or principal shareholder and of each of that person's related interests to each of the insured State nonmember bank's correspondent banks during the calendar year; and

(2) The mount of indebtedness of the executive officer or principal shareholder and of each of that person's related interests outstanding to each of the insured State nonmember bank's correspondent banks not more than ten business days before the report required by this section is filed; [4] and

(3) A description of the terms and conditions (including the range of interest rates, the original amount and date, maturity date, payment terms, security, if any, and any other unusual terms or conditions) of each extension of credit included in the indebtedness reported under paragraph (b)(1) of this section.

(c) *Retention of reports.* The reports required by this section must ordinarily be retained at the insured State nonmember bank for a period of three years, but the Federal Deposit Insurance Corporation may require that they be retained by the bank for an additional period of time. The reports filed under this section are not required by this regulation to be made available to the public and shall not be filed with the Federal Deposit Insurance Corporation unless specifically requested.

(d) *Bank's responsibility.* Each insured State nonmember bank shall advise each of its executive officers and each of its principal shareholders (to the extent known by the bank) of the reports required by this section and make available to each of these persons a list with the name and address of each of the insured State nonmember bank's correspondent banks.

[3] Persons reporting under this section are not required to include information on extensions of credit that are fully described in a report by a person they control or a person that controls them, provided they identify their relationship with such other persons.

[4] If the amount of indebtedness outstanding to a correspondent bank ten days before the filing of the report is not available or cannot be readily ascertained, an estimate of the amount of indebtedness may be filed with the report, provided that the report is supplemented within the next 30 days with the actual amount of indebtedness.

§ 349.4 Disclosure of indebtedness of executive officers and principal shareholders.

(a) Upon receipt of a written request, an insured State nonmember bank shall disclose to the requester by letter within ten business days of the date of the request the name of each executive officer of principal shareholder of the bank whose aggregate indebtedness, including the indebtedness of related interests of such persons,

(1) at the bank itself as of the end of the latest calendar quarter; or

(2) at the correspondent banks of the disclosing bank of any time during the previous calendar year

equals or exceeds the lesser of five percent (5%) of the disclosing bank's capital stock and unimpaired surplus or $500,000.

(b) *Contents of disclosure.* (1) Disclosures made pursuant to paragraph (a) must not contain information regarding a specific amount of indebtedness.

(2) Disclosures made pursuant to paragraph (a) shall specify whether the individual or individuals named in the disclosure, who are indebted in the amount specified in paragraph (a), are indebted solely to the bank itself or to one or more correspondent banks of the reporting bank or to both.

(c) An insured State nonmember bank shall maintain a copy of any request for information made under paragraph (a) of this section and a record of the bank's response to such request for a period of two years.

By order of the Board of Directors.

Dated: October 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-29080 Filed 10-25-83; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 11

[Docket No. RM83-13-000]

Annual Charges for Use of Government Dams and Other Structures Under Part I of the Federal Power Act; Correction

Issued: October 6, 1983.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Supplemental notice to notice of proposed rulemaking; Correction.

SUMMARY: This document corrects the supplemental notice by adding an omitted line from a table of 1982 regional fuel costs that appeared at page 44584 in the **Federal Register** of Thursday, September 29, 1983 (48 FR 44584).

DATE: Comments on the supplemental notice must be submitted by October 31, 1983.

ADDRESSES: Comments must be submitted in writing to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 and should refer to Docket No. RM83-13-000. An original and 14 copies must be filed.

FOR FURTHER INFORMATION CONTACT: Jan Macpherson, Division of Rulemaking and Legislative Analysis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: The following correction is made in FR Doc. 83-26303 appearing on page 44584 in the issue of September 29, 1983:

1. In the table titled "1982 Regional Fuel Costs," in the column headed "Power Value Region," a "7" is inserted between "6" and "8"; in the column headed "(A) Average Cost of Fuel," the number "249" is inserted opposite the "7"; and in the column headed "(B) Average Delivered Coal Cost," the number "180" is inserted opposite the "7".

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29103 Filed 10-25-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3280

[Docket No. R-83-1068]

Manufactured Home Construction and Safety Standards; Extension of Comment Period

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Extension of comment period.

SUMMARY: On August 16, 1983, HUD proposed to revise its Manufactured Home Construction and Safety Standards to improve the safety, quality and durability of manufactured homes (see 48 FR 37136). The Department requested that comments be submitted by October 17, 1983, if the Department's Cost Impact Analysis to accompany the rule was available for review before the comment deadline. Since the Cost Impact Analysis is not now expected to be available until, at the earliest, December, 1983, the Department is extending the comment period indefinitely.

DATE: Comments will be due thirty days after the Cost Impact Analysis is available. HUD will publish an additional notice to indicate the availability of the Cost Impact Analysis, and to state the revised comment due date.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection and copying during regular hours at the above address.

FOR FURTHER INFORMATION CONTACT: Richard A. Mendlen, Standards Officer, telephone (202) 755–5798 (This is not a toll-free number.)

Dated: October 20, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83–29003 Filed 10–25–83; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–111]

Occupational Exposure to Ethylene Dibromide

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of availability of additional information.

SUMMARY: On October 7, 1983 OSHA proposed a comprehensive occupational safety and health standard regulating worker exposure to ethylene dibromide (EDB) (48 FR 45955). The preamble to the proposal included information concerning populations at risk and current exposure levels.

Centaur Associates, Inc., under contract to OSHA, has provided additional research and analysis of several industry segments that would be affected by promulgation of a standard. These industry segments include the manufacturing of EDB; the manufacturing and blending of gasoline anti-knock compounds; the handling of fumigated grain; and the fumigating of flour mill equipment. Each of the four industry segments was reviewed in terms of an overall industry profile; the existing processes and methods to control exposure to EDB; the current population at risk and their present exposure levels; the technological feasibility of engineering controls; and the methods, costs, and economic impact of achieving compliance with the proposed standard.

OSHA indicated that the above described data would be made available during the public comment period (see 48 FR 45977, 45978, 10/7/83/). Accordingly, OSHA hereby announces that the additional data in the form of a contractor's report has been placed in the EDB record, labelled as Exhibit 17, and is now available for public inspection and copying at the address listed below.

DATE: Written comments on the proposed EDB regulation must be postmarked by November 21, 1983.

ADDRESS: The Centaur report (Exhibit 17) as well as any other data in the EDB record may be obtained from the Docket Office, Docket H–111, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room S–6212, Washington, D.C. 20210; telephone: (202) 523–7894. Comments should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Office of Public Affairs, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N–3718, Washington, D.C. 20210; telephone: (202) 523–8151.

(Sec. 6 Pub. L. 91–596, 84 Stat. 1593 (29 U.S.C. 655) 29 CFR Part 1911; Secretary of Labor's Order No. 9–83 (48 FR 35736))

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83–29148 Filed 10–25–83; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD–FRL–2457–6]

Air Programs; Approval and Promulgation of Implementation Plans; Connecticut; Lead Attainment and Maintenance Plan

AGENCY: Evironmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On August 31, 1983, Connecticut submitted draft revisions to its State Implementation Plan. These revisions include technical support designed to demonstrate attainment and maintenance by the States of the NAAQS for lead. This draft satisfies 40 CFR Part 51, Implementation Plans for Lead.

EPA is proposing to approve State Implementation Plan revisions submitted by the State of Connecticut. The intended effect of the action is to approve the demonstration of attainment and maintenance of the National Ambient Air Qulity Standard for lead as required under Section 110 of the Clean Air Act.

DATES: Comments must be received on or before November 25, 1983. Comments on this document are requested and will be considered before taking final action on these SIP revisions.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Bldg., Boston, MA 02203 and the Air Compliance Unit, Department of Environmental Protection, State Office Bldg., Hartford, CT 06106

FOR FURTHER INFORMATION CONTACT: Betsy Horne (617) 223–5130.

SUPPLEMENTARY INFORMATION: On August 31, 1983, Connecticut submitted draft revisions to its State Implementation Plan. These revisions include technical support designed to demonstrate attainment and maintenance by the State of the NAAQS for lead. This draft satisfies 40 CFR Part 51, Implementation Plans for Lead.

Air Quality

On April 23, 1983, EPA conditionally approved Connecticut's State and Local Air Monitoring Station (SLAMS)

network for lead based on the requirements of 40 CFR Part 58. The condition requires the State to locate microscale (highest impact) monitors in Hartford, Stamford, Bridgeport and New Haven. The siting can occur once EPA determines that the low-volume sampler method that Connecticut wishes to use is equivalent to the federally-approved high-volume sampling method. The State is currently collecting data to assist EPA in making that determination. The fiscal year 1984 Section 105 grant to support the State's air pollution control program includes a deadline of January 31, 1984 for EPA approval of equivalency.

Of the sixteen approved sites, three (Bridgeport, New Haven and Waterbury) registered violations of the NAAQS in 1979. No monitored violations of the lead standard have occurred in the State since January, 1980. The public may inspect the network decription during normal business hours at EPA's Environmental Services Division, 60 Westview Street, Lexington, MA 02173, (617) 861–6700 or at the Air Compliance Unit address listed in the **ADDRESSES** section above.

On February 17, 1982 (47 FR 6872) EPA approved Connecticut's lead standard. The State calculates monitored readings on a running three month average as opposed to the federal NAAQS which is based on a calendar quarter. Hence the State methodology is at least as stringent as the federal standard and can result is an even more stringent test of lead levels.

Emissions

Mobile source emissions were calculated from 1975 to 1987 and show a decrease in lead emission during that period by a factor of three. Connecticut's emissions inventory shows no sigificant point sources of lead.

New Source Review

The August 31, 1983 submittal describes how Connecticut will address new stationary sources of lead. Connecticut General Statutes 22a–174 requires a new or modified stationary source of lead with emissions greater than five tons per year to obtain a permit. It also requires these sources to operate without preventing or interfering with the attainment or maintenance of the lead standard.

In summary, Connecticut has had no monitored lead standard violations since January of 1980, is continuing to monitor for lead emissions and has new source review procedures in effect for new lead sources. EPA finds that the Connecticut lead SIP demonstrates that the NAAQS for lead is being attained and will be maintained for the foreseeable future. This demonstration is based primarily on lead emission reductions that result from the federal programs for the reduction of lead in gasoline, the requirement for use of unleaded gasoline in catalyst-equipped vehicles and other requirements. Therefore, Connecticut has met all the requirements of the Clean Air Act and applicable regulations for submittal of an adequate lead SIP.

Proposed Action

EPA is proposing to approve the draft Connecticut State Implementation Plan Revision for lead, which was submitted on August 31, 1983, and is soliciting public comments on issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

These revisions are being proposed under a new procedure called "parallel processing" (47 FR 27073). If the proposed revisions are substantially changed, in areas other than those identified in this notice, EPA will evaluate those changes and may publish a revised NPR. If no substantial changes are made other than those areas cited in this notice, EPA will publish a Final Rulemaking Notice on the revisions. This plan is subject to the schedule recently agreed to by EPA and the Natural Resources Defense Council, Inc. (NRDC) in settlement of litigation under the Clean Air Act. *NRDC* v. *Ruckelshaus*, No. 82–2168 (D.D.C.). (For a discussion of that litigation and the Settlement Agreement see the August 10, 1983 **Federal Register**, 48 FR 36250–51.) In accordance with the Settlement Agreement, EPA must take final rulemaking action on this proposal no later than July 1, 1984. The final rulemaking action by EPA will occur only after the SIP revisions have been adopted by Connecticut and submitted to EPA for incorporation into the SIP. "Parallel processing", it is estimated, will reduce the time necessary for final approval of these SIP revisions by 3 to 4 months.

Under 5 U.S.C. Section 60 5(b), the Administrator has certified that this action will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. These revisions are being proposed pursuant to Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: September 27, 1983.

Paul G. Keough,

Acting Regional Administrator, Region I.

[FR Doc. 83–29079 Filed 10–25–83; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[A–9–FRL 2457–8]

South Coast Air Quality Management District Air Pollution Control Regulations; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proprosed rulemaking.

SUMMARY: The South Coast Air Quality Management District (SCAQMD) adopted revisions to its permitting regulations on September 10, and December 3, 1982. Those amended regulations constitute Regulation XIII, Rules 1301–1313, which contain provisions comparable to EPA's requirements for New Source Review, and regulate the construction and operation of new and modified major sources of nonattainment pollutants.

The SCAQMD adopted these revisions to satisfy conditions on the approval of a previous version of Regulation XIII, and to revise its emissions banking rules. The regulation was submitted to EPA as revisions to the State Implementation Plan on November 8, 1982 and February 3, 1983. In this notice EPA is proposing to approve the regulation, if the SCAQMD makes certain revisions which are necessary to fully meet EPA's requirements.

DATE: Comments may be submitted on or before November 25, 1983.

ADDRESSES: Comments may be sent to: Acting Regional Administrator, Attn: Air Management Division Air Operations Branch, New Source Section, Environmental Protection Agency,

Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the revisions and EPA's Evaluation Report are available for public inspection during normal business hours at the EPA Region 9 Office at the above address and at the following locations:

California State Air Resources Board, 1002 "Q" Street, Sacramento, CA 95812

South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731

FOR FURTHER INFORMATION CONTACT:

Richard Grow, New Source Section, Air Operations Branch, Air Management Division, Environmental Protection Agency, Region 9, (415) 974–8238

SUPPLEMENTARY INFORMATION:

Background

Part D of the Clean Air Act (Sections 172 and 173) requires that States incorporate in their State Implementation Plans an acceptable permitting program for the pre-construction review of new or modified major stationary sources in nonattainment areas. EPA's requirements are contained at 40 CFR 51.18, as amended on May 13, 1980, August 7, 1980, and June 25, 1982, and in the Emissions Trading Policy Statement of April 7, 1982 (47 FR 15076).

On January 21, 1981 (46 FR 5965) EPA conditionally approved portions of South Coast Regulation XIII and disapproved other portions (of Rules 1306 and 1307). The approval was made contingent on revision of the NSR rules to conform to EPA's regulations as amended on August 7, 1980 (40 CFR 51.18).

Regulation XIII, as revised, is intended to satisfy the condition, and to conform the banking provisions of the rules to EPA's regulations and policies.

The revisions to Regulation XIII alter each of the 13 rules (1301–1313) which comprise the Regulation, and substantially modify the entire implementation of new source review in the South Coast Air Basin.

The South Coast Air Basin is designated nonattainment by the EPA for ozone, carbon monoxide (CO), total suspended particulate (TSP) and oxides of nitrogen (NO_2). It is designated attainment for sulfur dioxide.(SO_2)

NSR—Part D of the Clean Air Act (Sections 171 to 173) and 40 CFR 51.18 define the requirements for NSR programs, which apply to nonattainment pollutants. The most important requirements are that local NSR rules and programs require applicants for major new or modified sources:

(a) meet the Lowest Achievable Emission Rate (LAER),

(b) provide reductions in emissions at least equal to the increased emissions, sufficient to provide for reasonable further progress (RFP), and

(c) certify that all major sources they own in the same State comply with all applicable emission limitations and standards.

The SCAQMD currently administers the NSR programs under its conditionally approved Regulation XIII.

Description of Regulations

In response to the NSR requirements, the District adopted revisions to Regulation XIII on September 10 and December 3, 1982. These revisions were submitted to the EPA on November 8, 1982 and February 3, 1983. The changes adopted on those dates substantially revise the previously adopted version of Regulation XIII.

EPA's evaluation of the Regulation considers the acceptability of the District's entire set of NSR rules, including other rules referenced within the Regulation.

Evaluation

EPA has evaluated the rules listed above to determine whether they satisfy all the criteria for an NSR permitting program. EPA believes that, with the exception of the items described below and in the Evaluation Report, the SCAQMD's Rules satisfy EPA's requirements, and significantly strengthen the existing NSR regulations. In general, the SCAQMD rules will (1) require preconstruction review of the sources which would be subject under the federal guidelines, and (2) require application of LAER and offsets in a manner consistent with EPA's NSR requirements (40 CFR 51.18). The SCAQMD regulations also contain adequate guidelines and procedures for the administration and enforcement of the NSR program.

EPA's review of the Rules did reveal three significant problems and several minor deviations from EPA requirements. In most instances the District has indicated its intent to implement its rules consistent with EPA requirements, and that clarification would resolve the apparent discrepancies. One major discrepancy is applicability of the requirement for statewide compliance to certain sources, specifically sources which would be subject as major installations under EPA's dual definition of stationary source, but not under the plant-wide definition.

Another serious deficiency is the District's failure to meet the condition of the 1981 NSR rule approval which required the District to conform the NSR exemptions under Regulation XIII to the federal regulations. Regulation XIII continue to exempt from the offsetting, LAER, and statewide compliance requirements sources which are subject to these provisions of Section 173 of the Act. There are several offset exemptions (see Evaluation Report) which would only be approvable if the District could provide an approvable growth allowance in the nonattainment area plan (NAP). No such growth allowance has been provided, and it is questionable whether such a growth allowance can be developed for a severe nonattainment area such as the South Coast.

The one other significant deficiency is that the Regulation also fails to conform to EPA's requirement for federal enforceability of permits and permit conditions.

The SCAQMD regulations are discussed in detail in EPA's Evaluation Report, which provides the basis for today's proposal (available at the locations listed in the **ADDRESSES** section of this notice).

Proposed Action

EPA proposes to approve, under Sections 110 and Part D of the Clean Air Act, the SCAQMD Rules which were submitted on November 8, 1982 and February 3, 1983, with certain understandings.

The deficiency regarding lack of statewide compliance and offsets requirements for certain sources must be resolved prior to final rulemaking. The most direct remedy would be for the District to revise its rule to require statewide compliance and offsets for at least the same sources covered under EPA's regulations. Lacking remedy of these deficiencies, EPA proposes to disapprove those sections of Regulation XIII that exempt from offsets or statewide compliance sources which are required to be subject to offsets or statewide compliance under 40 CFR 51.18. EPA solicits comment on this aspect of its proposed actions.

EPA is proposing to conditionally approve the rule with respect to federal enforceability of emission reductions and offsets. The condition would require the District to provide an enforceable interim commitment to allow credit only for federally enforceable emission reductions, and to revise the rule within one year to comply with the existing requirements of 40 CFR 51.18 regarding federal enforceability.

EPA's proposed approval is based also on the understanding that the

District rules do not and will not allow the preservation and subsequent use of emission credits from shutdowns and curtailments for other than replacements in productive capacity, unless and until EPA regulations have been revised to allow such usage.

The final rulemaking assumes resolution of other issues raised in this Notice and Evaluation Report.

EPA also proposes to rescind 40 CFR 52.232(a)(3)(i)(A) if all the problems are resolved, thereby eliminating the conditions promulgated in EPA's previous rulemaking of January 21, 1981 (see "Background", above).

Under Executive Order 12291, today's action is not major. It has been submitted to the Office of Management and Budget (OMB) for review. I certify that this action will not have a significant effect on a substantial number of small entities. Any comments from OMB to EPA and any response are available for public inspection at the locations listed in the **ADDRESSES** section of this notice.

Authority: Secs. 110, 129, 171 to 173, and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7503 and 7601(a)).

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: July 18, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 83-29073 Filed 10-25-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 3E2909/P313; PH-FRL 2457-S]

Ethephon; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the plant growth regulator ethephon in or on the raw agricultural commodity macadamia nuts. This proposed regulation to establish maximum permissible level for residues of ethephon on the commodity was requested in a pesticide petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before November 10, 1983.

ADDRESS: Written comments by mail to: Emergency Response and Minor Use Section, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

In person bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 3E2909 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Hawaii.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the plant regulator ethephon [(2-chloroethyl) phosphonic acid] in or on the raw agricultural commodity macadamia nuts at 0.5 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were a 2-year chronic dog-feeding study with no-observed-effect levels (NOEL) less than, or equal to, 30 ppm [0.75 milligram (mg)/kilogram (kg)] for cholinesterase inhibition (ChE) and 300 ppm (7.5 mg/kg) for systemic effects; an acute oral LD_{50} study with an LD_{50} of 4.2 grams (gm)/kg for rats; a 90-day dog-feeding study with a NOEL of less than 200 ppm (5.0 mg/kg) for ChE and a NOEL of 1,000 ppm (25 mg/kg) for systemic effects; a 90-day rat feeding study with a NOEL of 200 ppm (10 mg/kg) and no systemic effects; a 3-generation rat reproduction study with a NOEL of greater than 1,500 ppm (75 mg/kg, highest level tested) for reproductive effects; a teratology study (rats) with a NOEL for maternal toxicity greater than 600 mg/kg; a neurotoxicity study (hens) negative at 1,000 mg/kg/day; a 2-year chronic rat feeding study with a NOEL of 100 ppm (5 mg/kg) for ChE effects (supplementary); a 2-year rat chronic feeding/oncogenic study with NOEL's of 30 ppm (1.5 mg/kg) for ChE and 3,000 ppm (150 mg/kg) for systemic effects with no oncogenic effects observed under the conditions of the study; a 2-year dog chronic feeding study with a NOEL of less than 25 ppm (6.25 mg/kg) for ChE and a NOEL of 25 ppm systemic effects (supplementary). The test chemical was found to be mutagenic in a mitotic gene conversion test using *Sacchromyces cervisiae* strain D7; in a reverse mutation test, without metabolic activation, in the same organism; and also in a micronucleus test in mice. Conversely, the test chemical was found to be negative for mutagenicity in a DNA polymerase deficiency assay in *Escherichia coli* with and without metabolic activation; in mitotic crossing over in *Saccharomyces cervisiae* without metabolic activation; and in reverse mutation assay in *Salmonella typhimurium*, with and without metabolic activation. Studies considered desirable but lacking are more mutagenicity tests in mammalian cells and teratogenicity studies in two species.

Ethephon products contain small quantities (less than 0.03%) of ethylene dichloride, a chemical that at high dose resulted in increased incidences of tumors in both rats and mice (NCI studies). Ethylene dichloride is not considered to pose a dietary exposure hazard due to the presence of only trace amounts of the contaminant in ethephon products.

The acceptable daily intake (ADI), based on the 2-year chronic dog-feeding study (NOEL of 7.5 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.075 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 4.5 mg/day. The theorietical maximum residue contribution (TMRC) from existing tolerances (excluding macadamia nuts) for a 1.5-kg daily diet is calculated to be 0.4315 mg/day; the current action will increase the TMRC by 0.00023 mg/day (0.06 percent). Published tolerances utilize 9.59 percent of the ADI; the current action will utilize an additional 0.005 percent.

The nature of the residues is adequately understood and an adequate analytical method (gas chromatography using a phosphorus-specific alkali thermionic detector) is available for enforcement purposes. Residue data to support the proposed tolerance are from the state of Hawaii. Since there are no animal feed items involved, there should be no problem with secondary residues. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance

established by amending 40 CFR 180.300 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 15 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited are invited to submit written comments on the proposed regulation. As provided for in the Administrative Procedure Act [5 U.S.C. 553(d)(3)], the comment period time is shortened to less then 30 days because of the necessity to expeditiously provide a means of harvest aid in macadamia nut harvesting. Comments must bear a notation indicating the document control number, [PP 3E2909/P313]. All written comments filed in response to this petition will be available in the Emergency Response and Minor Use Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: October 18, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.300 be amended by adding, and alphabetically inserting the commodity macadamia nuts to read as follows:

§ 180.300 Ethephon; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Macadamia nuts	0.5
* * * * *	

[FR Doc. 83-28081 Filed 10-25-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-6-FRL 2456-8]

Hazardous Waste Management Program; Arkansas Application for Interim Authorization, Phase II Component C

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Arkansas application for Phase II, Component C, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application. EPA is also inviting comment on EPA's intention to consider identical, jointly-issued EPA/Arkansas permits to be Resource Conservation and Recovery Act (RCRA) permits.

DATES: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for December 1, 1983, at 7:00 p.m. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by November 18, 1983. EPA will determine by November 23, 1983, whether there is significant interest to hold the public hearing. All written comments on the Arkansas Interim Authorization application must be received by the close of business on December 1, 1983.

ADDRESSES: If significant public interest is expressed, EPA will hold a public hearing on Arkansas' application for Interim Authorization on December 1, 1983, at 7:00 p.m., at the Arkansas Game and Fish Building Auditorium, No. 1 Natural Resources Drive, Little Rock, Arkansas.

Written comments on the application and written or telephoned communication of interest in EPA holding a public hearing on the Arkansas application must be sent to: U.S. Environmental Protection Agency, Region 6, Air and Waste Management Division, Attn: H. J. Parr, Hazardous Materials Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2645.

If you wish to find out whether or not EPA will hold a public hearing on the Arkansas application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after November 23, 1983, the EPA contact person listed below or telephone: Richard Merritt, Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209, Telephone (501) 562–7444.

Copies of the Arkansas Interim Authorization application for Phase II, Component C, are available during normal business hours at the following addresses for inspection and copying:

Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock Arkansas 72209, (501) 562–7444

Environmental Protection Agency, Region 6, Library, 26th Floor, 1201 Elm Street, Dallas, Texas 75270, (214) 767–7341

U.S. Environmental Protection Agency, Library, 401 M Street SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: H. J. Parr, Hazardous Materials Branch, U.S. Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2645.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted Interim Authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

Authorization program is being implemented in two phases corresponding to the two stages in

which the underlying Federal program will take effect.

The State of Arkansas received Interim Authorization for Phase I on November 19, 1980.

In the January 26, 1981, **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of Interim Authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

The State of Arkansas received Interim Authorization for Phase II, Components A and B, on April 19, 1982.

In the July 26, 1982, **Federal Register** (47 FR 32378), the Environmental Protection Agency announced that states with qualified programs can be authorized for Phase II Interim Authorization, Component C. Component C published in the **Federal Register** includes standards for permitting of land disposal facilities.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123, Subpart F (45 FR 33479).

As noted in the May 19, 1980 **Federal Register**, copies of complete state submittals for Phase II Interim Authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal.

Prior to being authorized for a component of Phase II, Interim Authorization, a state may require facilities that treat, store or dispose of hazardous waste to obtain a state permit. There are no provisions within RCRA or the federal hazardous waste regulations for designating these preauthorization state permits as RCRA permits. RCRA permits can be issued only by EPA or an authorized state. Authorization requirements ensure that an authorized state will be using procedures substantially equivalent to the federal permitting procedures (state procedures must meet the requirements of Section 7004(b) of RCRA) and will be requiring facilities to comply with standards providing substantially the same degree of protection as the federal technical standards.

The State of Arkansas and EPA are jointly processing a permit for the Pine Bluff Arsenal, Pine Bluff, Arkansas. Should EPA determine, through review of the application, that the State's permitting procedures and technical standards are substantially equivalent to the federal procedures and standards, EPA is proposing to terminate the processing of the federally issued RCRA permit where an identical state permit has been issued. (Termination shall occur with the agreement of the permittee or for one of the causes for termination in 40 CFR 270.43.) If the processing of the federal permit is not terminated, then the facility will operate under two identical permits.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians—land, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business formation.

(Solid Waste Disposal Act, amended by Resource Conservation and Recovery Act of 1976 and Solid Waste Disposal Act Amendments of 1980, 42 U.S.C. 6901 et seq.)

Dated: October 14, 1983.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 83-29102 Filed 10-25-83; 8:45 am]

BILLING CODE 6560-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

[Ex Parte No. MC-19; Sub-36]

Practices of Motor Common Carriers of Household Goods (Revision of Operational Regulations)

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In response to a petition of The American Movers Conference, Inc., the Commission is reopening this proceeding for a plenary review of the household goods operational regulations in the light of experience operating under the current regulations. Interested individuals or groups are invited to propose changes which would minimize the regulatory burden to the maximum extent consistent with protecting individual shippers. Interested persons will have an opportunity to reply to comments proposing changes.

DATES: Comments are due December 13, 1983. Replies to comments are due January 12, 1984. We intend to issue a final decision, making any specific amendments to these regulations which appear desirable, within 75 days of the close of the reply period.

ADDRESS: The original and, if possible, 10 copies of comments should be sent to: Ex Parte No. MC-19 (Sub-No. 36), Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: P. M. Schulze, 202-275-7841.

SUPPLEMENTARY INFORMATION: Section 6 of the Household Goods Transportation Act of 1980, directed this Commission to review the regulations and paperwork requirements pertaining to motor carriers of household goods and to minimize them to the maximum extent feasible consistent with the protection of individual shippers. In response to this Congressional mandate, the Commission, on October 16, 1980, instituted this proceeding to undertake a comprehensive review of the then-existing household goods regulations. On March 11, 1981, the Commission issued its final operational rules which were designed to meet the dual Congressional objectives of eliminating needless regulations and paperwork requirements which had been imposed on the household goods transportation industry, while at the same time, providing protection to individual shippers in those areas where protection was deemed necessary. Ex Parte No. MC-19 (Sub-No. 36), *Practices of Motor Common Carriers of Household Goods (Revision of Operational Regulations)*, 132 M.C.C. 599 (1981),[1] (46 FR 16200)), March 11, 1981).

The American Movers Conference, Inc., filed a petition to reopen this proceeding for a complete review of the household goods regulations at 49 CFR Part 1056. The AMC claims that, after having operated under the revised rules for over a year, it has become clear to the household goods industry that the regulations were not minimized to the maximum extent feasible, as required by the Household Goods Transportation Act.

The AMC provides the following five specific examples in support of its contention that the current regulations are confusing, unnecessary and burdensome:

(1) 49 CFR 1056.1(b)(5) *Individual Shipper.* AMC alleges that the current definition of an "individual," as opposed to a "commercial," shipper is confusing, requires carriers to prepare unnecessary documents, and results in carriers filing

[1] The effective date of the new rules was stayed by the Court of Appeals for the Seventh Circuit. In *North American Van Lines Inc.* v. *I.C.C.*, 666 F. 2nd 1067 (7th Cir. 1981), the court upheld the rules and vacated the stay. The Commission subsequently reinstated the rules effective February 1, 1982.

inconsistent statistics with the Commission.

(2) 49 CFR 1056.2 *Information for shippers.* AMC contends that Publication OCP–100, which carriers are required to furnish to prospective shippers, contains erroneous or misleading information.

(3) 49 CFR 1056.8(3) *Carriers notification of delay.* AMC maintains that the regulation, which requires a carrier to send the shipper a written record of any notice of delay, creates an unnecessary expense of the carrier and merely provides the customer with information it has already orally received.

(4) 49 CFR 1056.15(b) *Collection of freight charges on household goods shipments involving loss or destruction in transit.* AMC contends that the regulation, which requires a driver to adjust charges for lost or destroyed articles at the time of delivery, encourages conflicts between the driver and shipper, and creates unnecessary and costly work for the carrier which could be avoided by providing the carrier a period of time to revise the charge and make any appropriate refunds to the shipper.

(5) 49 CFR 1056.17 and 1056.1(b)(3) *Advertising.* AMC claims the requirement that all advertisements contain a carrier's ICC number is burdensome on the industry and confusing to customers.

We invite comments from interested persons on the merits of amending these or any other household goods operational regulations. We encourage anyone advocating changes to explain why they believe present regulations are burdensome and unnecessary, inadequate to protect shippers, or otherwise inappropriate, and to suggest appropriate changes. However, comments should suggest ways to relieve unnecessary administrative burdens while preserving reasonable consumer protection.

Comments will be available for public inspection and replies may be made within an additional 30 days following the close of the comment period.

This decision is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

List of Subjects in 49 CFR Part 1056

Moving of household goods, Reporting and recordkeeping requirements.

This action is taken under the authority of 49 U.S.C. 10322 and 11110 and 5 U.S.C. 553.

Decided: October 17, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–29063 Filed 10–25–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 30623–113]

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: On August 24, 1983, proposed regulations for the Reef Fish Fishery of the Gulf of Mexico were published in the **Federal Register** (48 FR 38511), inviting comments through October 11, 1983. Because of public interest in the proposed regulations, the comment period is being reopened to provide an additional 30 days for individuals and entities affected to review more thoroughly and evaluate the proposed regulations and to allow additional information to be received and considered.

DATES: Comments on the proposed rule and Fishery Management Plan (FMP) must be received by November 20, 1983.

ADDRESS: Comments and requests for copies of the proposed rule, FMP, and the regulatory impact review/initial regulatory flexibility analysis should be sent to Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service (NMFS), 9450 Koger Boulevard, St. Petersburg, Flordia 33702.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner, 813–893–3141.

(16 U.S.C. 1801 *et seq.*)

Dated: October 21, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–29108 Filed 10–21–83; 3:00 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 48, No. 208
Wednesday, October 26, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Information Collection Request Under Review

AGENCY: Action.

ACTION: Information Collection Request Under Review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

Background

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collecting of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Information About This Proposed Collection

Agency Clearance Officer—William W. Lovelace, 202–634–9310
Agency Address: ACTION, 806 Connecticut Ave., NW. Washington, D.C. 20525
Office of ACTION Issuing Proposal: Office of Policy and Planning
Title of Form: Project Application, Title I, Part C
Type of Request: Revision
Frequency of Collection: Annual
General Description of Respondents: State or local governments, non-profit institutions, small business or organization
Estimated No. of Annual Responses: 558
Estimated Annual Reporting or Disclosure Burden: 26,544 hours
Respondent's Obligation to Reply: Required for obtaining benefit
Person responsible for OMB Review: James L. Thomas, 202–395–6880

William W. Lovelace,
ACTION Clearance Officer.

[FR Doc. 83–29084 Filed 10–25–83; 8:45 am]
BILLING CODE 6050–01–M

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the National Volunteer Agency.

Background

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposal to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents (request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents) may be obtained from the agency clearance officer.

Information About This Proposed Collection

Agency Clearance Officer—William W. Lovelace—202–634–9310
Agency Address: ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525
Office of ACTION Issuing Proposal: Domestic Operations/VISTA
Title of Form: VISTA Project Application
Type of Request: Revision
Frequency of Collection: Annually
General Description of Respondents: State or local governments, non-profit institutions, small business or organization.
Estimated Number of responses: 1,300
Estimated Annual Reporting or Disclosure Burden: 16,250
Respondent's Obligation to Reply: Required to obtain or retain a benefit.
Person responsible for OMB Review: James L. Thomas, 202–395–6880.

William W. Lovelace,
Clearance Officer, ACTION.

[FR Doc. 83–29085 Filed 10–25–83; 8:45 am]
BILLING CODE 6050–01–M

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about a consolidated Project Application for all Older American Volunteer Programs (OAVP) projects proposed by ACTION, the National Volunteer Agency.

Background

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposal to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information documents [request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the Agency Clearance Officer.

Information About This Proposed Collection

Agency Clearance Officer—William W. Lovelace—202–634–9310
Agency Address: ACTION, 806 Connecticut Avenue, NW., Washington, D.C. 20525
Office of ACTION Issuing Proposal: Domestic and Anti-Poverty Operations
Title of Form: Project Application—Older American Volunteer Programs (OAVP: includes Foster Grandparent, Senior Companion, and Retired Senior Volunteer Programs)
Type of Request: Revision
Frequency of Collection: Annually
General Description of Respondents: State or local governments, non-profit institutions, small businesses or organizations.

Estimated Number of Responses: 1,100
Estimated Annual Reporting or Disclosure Burden: 21,300 hours
Respondent's Obligation to Reply: Required to obtain or retain benefit
Person responsible for OMB Review: James L. Thomas, 202–395–6880.

William W. Lovelace,

Clearance Officer, ACTION.

[FR Doc. 83–29086 Filed 10–25–83; 8:45 am]
BILLING CODE 6050–01–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Reinstatement

• Agricultural Marketing Service
Food Facility Survey
MRD–1, MRD–2
On Occasion
Businesses: 625 responses; 375 hours not applicable under 3504(h)
R. K. Overheim (202) 344–2805

• Agricultural Stabilization and Conservation Service
Commodity Request for Foreign Distribution
CCC–183
Weekly, Monthly, Quarterly
Non-Profit Institutions: 400 responses; 100 hours not applicable under 3504(h)
Margie Singleton (202) 447–4648

Revised

• Agricultural Marketing Service
Reporting Requirements Under U.S. Warehouse Act and Processed Agicultural Commodities and Regulations
On Occasion, Semi-Annually, Annually
Businesses or other for-profit, small businesses or organizations: 38,550 responses; 19,123 hours; not applicable under 3504(h)
Orval Kerchner (202) 447–3616

Dated: October 21, 1983.

Dewayne Hamilton,

Acting Department Clearance Officer.

[FR Doc. 83–29071 Filed 10–25–83; 8:45 am]
BILLING CODE 3410–01–M

Soil Conservation Service

Westland Irrigation District RC&D Measure, Oregon; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Westland Irrigation District RC&D Measure, Umatilla County, Oregon.

FOR FURTHER INFORMATION CONTACT: Jack P. Kanalz, State Conservationist, Soil Conservation Service, 1220 SW. Third Avenue, 16th Floor, Portland, Oregon 97204, telephone 503–221–2751.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jack P. Kanalz, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project

The project concerns a plan for improved irrigation water supply. The planned works of improvements include the installation of five irrigation pipelines.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jack P. Kanalz.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: October 18, 1983

Jack P. Kanalz,

State Conservationist.

[FR Doc. 83–29052 Filed 10–25–83; 8:45 am]
BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Order 83–10–84; Docket No. 41765]

U.S. Philippines Air Transport Agreement; Northwest Airlines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 83–10–84, docket 41765.

SUMMARY: The Board has tentatively decided to allocate three additional frequencies for U.S. Route 2 of the U.S. Philippines Air Transport Agreement to Northwest Airlines. The complete text of Order 83–10–84 is available as noted below.

DATES: Objections shall be filed by October 25, 1983. Answers shall be filed by October 27, 1983.

ADDRESS: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41765.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Gaynes, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut

Avenue, NW., Washington, D.C. 20428, (202) 673–5154.

SUPPLEMENTARY INFORMATION: The Complete text of Order 83–10–84 available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83–10–84 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: October 21, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–29136 Filed 10–25–83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41679]

Bicoastal Air Service Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated: Washington, D.C., October 19, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83–29134 Filed 10–25–83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41321]

British American Air, Inc. Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated Washington, D.C., October 21, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83–29133 Filed 10–25–83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41454]

Midway (Southwest) Airway Co. Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on December 15, 1983, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., October 19, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83–29135 Filed 10–25–83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Performance Review Board; Listing of Eligible Members

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

Hugh L. Brennan
Katherine M. Bulow
Guy W. Chamberlin, Jr.
David Farber
J. Michael Farren
H. Stephen Halloway
Phillip B. Ladd
Nancy A. Richards
Otto J. Wolff

Jo Ann Sondey-Hersh,

Executive Secretary, Office of the Secretary, Performance Review Board.

[FR Doc. 83–29120 Filed 10–25–83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

[A–301–004]

Fresh-Cut Roses From Colombia; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether fresh-cut roses from Colombia are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action, so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry. The allegations of sales at less than fair value include an allegation that export sales are being made at less than the cost of production in Colombia. Also, critical circumstances have been alleged under section 733(e) of the Act. If the investigation proceeds normally, the ITC will make its preliminary determination on or before November 14, 1983, and we will make ours on or before March 9, 1984.

EFFECTIVE DATE: October 26, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–1273.

SUPPLEMENTARY INFORMATION: On September 30, 1983, we received a petition in proper form from counsel for Roses Incorporated, the U.S. commercial rose growers' trade association.

In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Colombia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegations of sales at less than fair value, which include an allegation that export sales are being made at less than the cost of production of the merchandise under investigation in Colombia, are supported by comparisions of United States price, based on prices to unrelated importers, with the constructed value, as developed by the petitioner from published information.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a peition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioners supporting the allegations. We have examined the petition filed by counsel for the domestic fresh-cut roses industry, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping investigation to determine whether fresh-cut roses from Colombia are being, or are likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by March 9, 1983.

Scope of Investigation

The merchandise covered by this investigation consists of hybride tea roses, intermediate roses, and sweetheart roses, currently provided for

under item numbers 192.1810 and 192.1890 of the Tariff Schedules of the United States Annotated (TSUSA).

Notification to the ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Adminsitration.

Preliminary Determination by ITC

The ITC will determine within 45 days of the date the peititon was received whether there is a reasonable indication that imports of fresh-cut roses from Colombia are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise it will proceed according to the statutory procedures.

Dated: October 20, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-29105 Filed 10-25-83; 8:45 am]

BILLING CODE 3510-25-M

[C-201-016]

Initiation of Countervailing Duty Investigation; Certain Fresh Cut Flowers from Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers or exporters in Mexico of certain fresh cut flowers as described in the "Scope of Investigation" section below, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination by December 27, 1983.

EFFECTIVE DATE: October 26, 1983.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-3963 or 377-1756.

SUPPLEMENTAL INFORMATION:

Petition

On September 30, 1983, we received a petition filed on behalf of the U.S. industry producing certain fresh cut flowers. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers or exporters in Mexico of certain fresh cut flowers receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore section 303 of the Act applies to this investigation. The merchandise being investigated is dutiable, and there are no "international obligations" within the meaning of section 303(a)(2) of the Act which require an injury determination. Therefore, under this section the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain fresh cut flowers, and we have found that the petition meets those requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether producers or exporters in Mexico of certain fresh cut flowers, as described in the "Scope of Investigation" section of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by December 27, 1983.

Scope of Investigation

The products covered by this investigation are standard and minature carnations, standard and pompon crysanthemums, and hybrid tea roses, intermediate roses and sweetheart roses. Certain fresh cut flowers are currently classified under item numbers 192.1700; 192.1810; 192.1890; 192.2110; 192.2120; 192.2130 of the *Tariff Schedules of the United States Annotated.*

Allegations of Bounties or Grants

The petition alleges that producers or exporters in Mexico of certain fresh cut flowers receive the following benefits which constitute bounties or grants: Exemption of import duties; preferential short- and long-term financing, loan guarantees, and reimbursement to commercial banks providing technical services to flower growers through the Fideicomisos Instituidos en Relacion con la Agricultura (FIRA); financing for investment credit through the Special Trust for Agricultural Finance (FEFA); marketing services provided by the Instituto Mexicano de Comercio Exterior (IMCE); and a state grant to the University of Floriculture which provides research and development and manpower training for the Mexican flower industry. In addition, we will include in this investigation the Mexican government programs which, in prior cases, we have found might confer countervailable benefits; i.e., Certificates of Fiscal Promotion (CEPROFI); Preferential Financing for the Promotion of Exports (FOMEX); Tax Rebates for Exports (CEDI); Encaje Legal; Fund for Industrial Development (FONEI); Guarantee and Development Fund for Medium and Small Businesses (FOGAIN); Trust for Industrial Parks, Cities, and Commercial Centers (FIDEIN); National Preinvestment Fund for Studies and Projects (FONEP); National Fund for Industrial Promotion (FOMIN); preferential prices for energy; preferential federal and state investment incentives; government-financed technology development; preferential vessel, freight, terminal, and insurance benefits; accelerated depreciation allowances; and investment credits for new machinery.

Dated: October 20, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-29107 Filed 10-25-83; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Prices of Products and Services in 1984.

NTIS does not plan to raise the prices of its products and services in 1984, with one exception; SRIM service where the microfiche automatically provided will

increase $.20 per copy effective January 1, 1984.

Thomas P. Bold, Jr.,

Director, Office of Administrative Management.

[FR Doc. 83-29064 Filed 10-25-83; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Withdrawal of Call for Consultations With the Government of Hong Kong on Trade in Category 361 (Cotton Sheets)

October 21, 1983.

On September 15, 1983 a notice was published in the **Federal Register** (48 FR 41481) announcing that on September 7, 1983 the Government of the United States had requested the Government of Hong Kong to enter into consultations concerning exports to the United States of textile products in Category 361 (cotton sheets), among other categories, produced or manufactured in Hong Kong. The purpose of this notice is to announce that, based on consideration of additional information about domestic market conditions, the United States Government has concluded that there is no need to discuss exports of cotton sheets in Category 361 at this time and has so notified the Government of Hong Kong. Should it become necessary to discuss this category at a later date, further notice will be published in the **Federal Register**.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-29188 Filed 10-25-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF EDUCATION

Grant Applications, Office of Bilingual Education and Minority Languages Affairs

AGENCY: Department of Education.

ACTION: Revision of Notice and Extension of Closing Date for Transmittal of Applications for Participation in the Bilingual Education Act—Fellowship Program (84.003F).

SUMMARY: In the application notice published in the **Federal Register** on September 26, 1983 on page 43711, the information in the second column regarding eligible applicants and availability of funds is revised as follows:

Under *Closing Date*, the first sentence of the third paragraph beginning "The Secretary approves for participation in the Fellowship Program * * *" should be changed to read "The Secretary approves for participation in the Fellowship Program an institution of higher education that offers a program of study leading to a degree above the master's level in the field of training teachers for bilingual education."

Under *Available Funds*, the first sentence reading "It is expected that approximately $200,000 will be available * * *" should be changed to read "The Continuing Resolution enacted by Congress on October 1, 1983, effective through November 10, 1983, authorizes the funding level of $3,700,000 for this program for Fiscal Year 1984. Pending resolution of the final level of appropriations, applications are invited to allow sufficient time for their evaluation and for the completion of the grants process prior to the end of the fiscal year should funds become available. Of the $3,700,000, it is estimated that approximately $2,400,000 will be available for fellowships at continuation institutions and approximately $1,300,000 will be available for fellowships at newly approved institutions under the Fellowship Program in Fiscal Year 1984." The second sentence reading "It is estimated that these funds could support 50 fellowships." should be changed to read "It is estimated that these funds could support 130 fellowships."

This notice also extends the closing date of November 14, 1983 to November 30, 1983 for transmittal of applications for participation under the Bilingual Education Act—Fellowship Program (84.003F).

FOR FURTHER INFORMATION: For further information regarding the revision of the application notice and extension of the closing date, contact Mr. Charles Miller or Ms. Joyce Brown, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters' Building), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245-2595.

(20 U.S.C. 3231)

(Catalog of Federal Domestic Assistance No. 84.003, Bilingual Education Act)

Dated: October 21, 1983.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 83-29045 Filed 10-25-83; 8:45 am]

BILLING CODE 4000-01-M

International Research and Studies Program, Office of Postsecondary Education

ACTION: Application Notice for new and non-competing continuation awards for Fiscal Year 1984.

Applications are invited for new and non-competing continuation awards under the International Research and Studies Program.

Authority for this program is contained in Section 605 of the Higher Education Act of 1965, as amended. (20 U.S.C. 1125)

The purpose of this program is to provide funds to qualified institutions, organizations and individuals to conduct research designed to improve and strengthen instruction in modern foreign languages, area studies and other related fields needed to provide full understanding of the places in which those languages are commonly used.

Closing Dates for Transmittal of Applications

1. An application for a NEW grant must be mailed or hand-delivered by December 28, 1983. (84.017A)

2. An application for a non-competing continuation grant, to be assured of consideration for funding, should be mailed or hand-delivered by February 6, 1984. If the application is late, the Department of Education may lack sufficient time to review it with other non-competing continuation applications and may decline to accept it. (84.017B)

Applications Delivered by Mail

Applications must be addressed to the Department of Education, Application Control Center, *Attention:* 84.017A or 84.017B International Research and Studies Program, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand

Hand-delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Program Information

Information regarding activities supported by this program is contained in the International Research and Studies Program regulations, 34 CFR Part 660. Information regarding the continuation of a non-competing award in contained in the Education Department General Administrative Regulations, EDGAR, 34 CFR 75.253.

Funding Priorities

Section 660.34 of the regulations governing the administration of the International Research and Studies Program provides for the establishment of funding priorities by the Secretary in any given year. For fiscal year 1984, the Secretary has established funding priorities for new awards for research in the following areas:

(1) The use of computers for improving foreign language instruction.

(2) Foreign language acquisition.

(3) Improved teaching methodologies for foreign languages.

(4) Foreign language proficiency testing.

(5) Instructional materials development for uncommonly taught languages.

In preparing applications, applicants should consult the report, *A Survey of Material Development Needs in the Less Commonly Taught Languages in the United States*, published by the Center for Applied Linguistics, 3520 Prospect Street, NW., Washington, D.C. 20007. Telephone: (202) 298–9292. The report is also available through the Educational Resources Information Center, Telephone: (202) 254–5500.

Available Funds

The President's budget for fiscal year 1984 does not request an appropriation for the International Research and Studies Program. In fiscal year 1983, the President's budget requested $216,000 and the Congress appropriated $1,100,000 for the International Research and Studies Program.

The Continuing Resolution enacted by the Congress on September 30, 1983, effective through November 10, 1983, authorizes the funding level of $1,100,000 for this program for Fiscal Year 1984. Pending resolution of the fiscal level of appropriations, applications are invited to allow sufficient time for their evaluation and for the completion of the grants process prior to the end of the fiscal year should funds become available.

Projects may be requested for a period of one to three years. Continuation during subsequent year(s) is contingent upon availability of funds and satisfactory attainment of goals and objectives. Also, applicants requesting more than one year must provide a budget breakdown and proposed scope of work for each additional year.

Application Forms

Application forms and program information packages may be obtained by calling or writing to the Research Branch, International Education Programs, U.S. Department of Education (Room 3920, ROB–3), 400 Maryland Avenue, SW., Washington, D.C., 20202. Telephone: (202) 245–2761

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program request package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. The Secretary strongly urges that the narrative portion of the application not exceed ten pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations

Regulations applicable to this program include the following:

(a) Regulations governing the International Research and Studies program, 34 CFR Parts 655 and 660; and

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts, 74, 75, 77 and 78.

Further Information

For further information contact Joan E. Cassidy, Program Manager, Research and Studies Program, International Education (Room 3920, ROB–3), 400 Maryland Ave., SW., Washington, D.C. 20202. Telephone: (202) 245–2761.

(20 U.S.C. 1125)

(Catalog of Federal Domestic Assistance No. 84.017, International Research and Studies Program)

T. H. Bell,

Secretary of Education.

[FR Doc. 83–29043 Filed 10–25–83; 8:45 am]

BILLING CODE 4000–01–M

Research in Education for the Handicapped; Office of Special Education and Rehabilitative Services

AGENCY: Department of Education.

ACTION: Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1984 New Grant Applications—Research in Education of the Handicapped.

SUMMARY: The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new awards under certain programs administered by the Office of Special Education and Rehabilitative Services.

Organization of Notice

This notice contains two parts. Part I is a list of all application closing dates covered by this notice. Part II contains the individual application announcements for each program.

Amendment of Statutory Authority

Prospective applicants are advised that the Congress is considering legislation to amend the statutory authority for certain sections of the Education of the Handicapped Act. If such legislation is enacted with respect to fiscal year 1984 appropriations which requires a substantive change in any of the priorities or other requirements for new projects, applicants will be given the opportunity to amend or resubmit their applications.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Applications included below:

Transmittal of Applications: Applications for new projects must be mailed or hand delivered on or before

the closing date given in the individual program announcements included in this document.

Applications Delivered by Mail: Applications must be addressed to the Department of Education, Application Control Center, Attention: (insert appropriate CFDA Number), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: Hand-delivered applications must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal Holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

PART I—LIST OF PROGRAM APPLICATION ANNOUNCEMENTS PUBLISHED IN THIS NOTICE

CFDA No.	Program	Closing date
84.023B	Research in Education of the Handicapped—Student Initiated Research Projects.	Mar. 16, 1984.
84.023C	Research in Education of the Handicapped—Field Initiated Research Projects.	Dec. 23, 1983.

Part II—Application Notices

84.023B Research in Education of the Handicapped—Student Initiated Research Projects

Applications are invited for new Student Initiated Research projects under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

Applications may be submitted by States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations.

The purpose of this program is to provide support to post-secondary students for the costs incurred in initiating, directing, and completing research projects concerned with educational programs for the handicapped. Content of the research projects is limited only by the research program mission, which is the support of applied research relating to the education of the handicapped.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by March 16, 1984.

Available Funds: It is estimated that approximately $300,000 will be available for support of 35 new projects under this program in fiscal year 1984. This estimate does not bind the Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be available on November 9, 1983 and may be obtained by writing to the Research Projects Branch, Special Education Programs, U.S. Department of Education Donohoe Building, Room 4839, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 40 double-spaced or 20 single-spaced pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped program (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Part 74, 75, 77, and 78).

For Further Information Contact: For further information contact Allen Dittmann, Research Projects Branch, Special Education Programs, Donohoe Building, Room 4839, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 472-4640.

(20 U.S.C. 1441, 1442)

84.023C Research in Education of the Handicapped—Field Initiated Research Projects

Applications are invited for new Field Initiated Research projects under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

Applications may be submitted by States, State or local educational agencies, institutions of higher educations, and other public or nonprofit private educational or research agencies and organizations.

The purpose of this program is to provide a source of support for a broad range of research and development projects that fall outside areas of interest identified by the Department as priorities for directed research activities. The appropriate areas of interest for projects are limited only by the mission of the research program—support of applied research relating to education of the handicapped.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by December 23, 1983.

Available Funds: It is estimated that approximately $2,000,000 will be available for support of 30 new projects in fiscal year 1984. This estimate does not bind the Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be available November 9, 1983, and may be obtained by writing to the Research Projects Branch, Special Education Programs, U.S. Department of Education, Donohoe Building, Room 4839, Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 40 double-spaced or 20 single-spaced pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped program (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For Further Information Contact: For further information contact Allen Dittmann, Research Projects Branch, Special Education Programs, Donohoe Building, Room. 4839, U.S. Department of Education , 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 472–4640.

(20 U.S.C. 1441, 1442)

Dated: October 20, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83–29044 Filed 10–25–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of the Secretary

National Petroleum Council, Chemical Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Chemical Task Group of the Committee on Enhanced Oil Recovery will meet in November will meet in November 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Chemical Task Group meeting follows:

The Chemical Task Group will hold its fourteenth meeting on Tuesday, November 8, 1983, starting at 10:30 a.m., in Room 112, Phillips Petroleum Company, Research Forum, Bartlesville, Oklahoma.

The tentative agenda for the Chemical Task Group Meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Chemical Task Group is enpowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Chemical Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m., and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on October 20, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83–29126 Filed 10–25–83; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Miscible Displacement Task Group of the Committee on Enhanced Oil Recovery will meet in November 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and finding will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Miscible Displacement Task Group meeting follows:

The Miscible Displacement Task Group will hold its eleventh meeting on Tuesday and Wednesday, November 15 and 16, 1983, starting at 9:00 a.m. each day, in the Brookhollow Three Room, Brookhollow Holiday Inn, 7050 North Stemmons Freeway, Dallas, Texas.

The tentative agenda for the Miscible Displacement Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretay of Energy.

The meeting is open to the public. The Chairman of the Miscible Displacement Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Miscible Displacement Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on October 20, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83–29125 Filed 10–25–83; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 83-CERT-313]

GTE Products Corp.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following application for recertification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979).

Applicant and facility	Date filed	Current certificate and [illegible]	Docket No.	FR notice of applicant
GTE Products Corp., Versailles, Plant, Versailles, Ky.	Sept. 21, 1983.....	82-CERT-018, Oct. 20, 1982.	83-CERT-313.....	48 FR 47048, Oct. 17, 1983.

The ERA has carefully reviewed the above application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on October 18, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-29127 Filed 10-25-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-83-017; OFP Case No. 55069-9235-20-24]

Order Granting to Container Corporation of America Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

SUMMARY: On July 28, 1983, Container Corporation of America, hereinafter referred to as petitioner, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for a proposed electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new electric powerplant, and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. The final rules containing the criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981) and 47 FR 29209 (July 6, 1982). Criteria governing the cogeneration exemption are contained in 10 CFR 503.37.

The petitioner requested a permanent cogeneration exemption for a 22 megawatt combustion turbine powerplant to produce electricity and process steam at its Santa Clara Mill in Santa Clara, California. The powerplant will be fueled by natural gas, with No. 2 distillate oil as a backup fuel.

Pursuant to section 212(c) of the Act and 10 CFR 503.37, ERA hereby grants a permannent cogeneration exemption for the petitioner's aforedescribed powerplant. The basis for ERA's Order is provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: In accordance with section 702(a) of FUA, this Order shall take effect on December 27, 1983.

The public file containing a copy of this Order as well as other documents and supporting materials on this proceeding are available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m. except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

George G. Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA-073L, Washington, D.C. 20585, Phone (202) 252-1774.

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-235, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252-2967

SUPPLEMENTARY INFORMATION: The powerplant for which the petition for exemption has been filed will consist of a gas turbine generator and a waste heat recovery boiler steam generator. The gas turbine will be fueled by natural gas and No. 2 distillate will be used as a backup fuel. All of the net annual generation of electric power from the unit will be sold, making such unit an electric powerplant under 10 CFR 500.2, and the waste heat boiler will be capable of producing high pressure process steam that will be utilized by the petitioner.

Pursuant to 10 CFR 503.37(a)(1), the petitioner certified that the natural gas or oil to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and that the use of mixtures is not feasible, as required under 10 CFR 503.9.

Documentary evidence submitted by the petitioner in support of its petition under 10 CFR 503.37(a)(1) includes: (1) The duly executed certifications required under the subparagraph; (2) exhibits containing the basis for the certification, including supporting factual and analytical materials; and (3) an environmental impact analysis, as required under 10 CFR 503.13(a).

After review of the petitioner's environmental impact analysis and other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(a)(C) of the National Environmental Policy Act.

In accordance with 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to the petitioner in the **Federal Register** on September 1, 1983 (48 FR 39680), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the petition to the Environmental Protection

Agency for comments. During the 45-day public comment period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed on October 17, 1983. No comments were received and no hearing was requested.

Decision and Order

Based upon the entire record of this proceeding, ERA has determined that the petitioner has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.37(a)(1) and, pursuant to section 212(c) of FUA, ERA hereby grants the petitioner a permanent cogeneration exemption for the proposed powerplant to be located at its Santa Clara Mill in Santa Clara, California.

Pursuant to secton 720(c) of the Act and 10 CFR 501.69, any person aggrieved by this Order may petition for judicial review thereof at any time before the 60th day following the publication of this Order in the **Federal Register**.

Issued in Washington, D.C., on October 19, 1983.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-29124 Filed 10-25-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since October 20, 1983. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Thursday, October 13, 1983.

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7340

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; as shown in "FOR FURTHER INFORMATION CONTACT."

If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., October 21, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Forms Under Review by OMB

Form No. (1)	Form title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
CE-703R	Loan Guarantees for Alcohol Fuels, Biomass Energy, and Municipal Waste Energy Projects.	Reinstatement.	On occasion	Required to obtain or retain a benefit.	Applicants seeking a loan guarantee.	30	1,300	The final rule (45 FR 67022) establishes rules under which DOE will provide loan guarantees to assist in the financing of the construction of alcohol fuel, biomass energy, and municipal waste energy projects as authorized by the Biomass Energy and Alcohol Fuels Act of 1980 (Title II of the Energy Security Act, Pub. L. 96-294).
EIA-213	Typical Net Monthly Bills for Residential, Commercial and Industrial Service.	Extension	Annual	Voluntary	Electric utilities serving communities of 2,500 or more population.	1,250	10,875	Form EIA-213 collects data on electricity costs for specific consumption levels for residential, commercial and industrial consumers. The data, which are published by EIA, are used to compare the range of electric bill's for similar services from different locations.
EP-400	Survey of Surplus Natural Gas Supplies.	Revision	Quarterly	Voluntary	Organizations involved in the production and marketing of natural gas.	100	20	The data provides the means by which the Department of Energy can monitor the amount and availability of surplus natural gas supplies. The data are used to identify the firms with natural gas supplies and in the development and implementation of procedures to alleviate any shortage situation.

DOE Forms Under Review by OMB—Continued

Form No. (1)	Form title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Respondent description (6)	Estimated number of respondents (7)	Annual respondent burden (8)	Abstract (9)
ERA-788R	Recordkeeping Requirements of DOE's General Allocation and Price Rules.	Extension	Other—recordkeeping.	Mandatory	Firms subject to recordkeeping requirements pursuant to petroleum allocation and price regulations.	999	7,000	Companies subject to the general allocation and price rules (10 CFR 211 and 212) must maintain in their records information sufficient to demonstrate their compliance with these regulations.

[FR Doc. 83-29123 Filed 10-25-83; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 3150-003]

Ann Arbor, Michigan; Surrender of Exemption From Licensing

October 21, 1983.

Take notice that City of Ann Arbor, Michigan, Exemptee for the proposed Argo Dam Hydro Project No. 3150, has requested that its exemption from licensing be terminated. The exemption was issued on March 11, 1982, and would have been located on the Huron River in Washtenaw County, Michigan.

The Exemptee filed its request on September 14, 1983, and the surrender of the exemption from licensing for Project No. 3150 is deemed accepted 30 days after issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29093 Filed 10-25-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3143-003]

Ann Arbor, Michigan; Surrender of Exemption From Licensing

October 21, 1983.

Take notice that City of Ann Arbor, Michigan, Exemptee for the proposed Geddes Dam Hydro Project No. 3143, has requested that its exemption from licensing be terminated. The exemption was issued on March 11, 1982, and would have been located on the Huron River in Washtenaw County, Michigan.

The Exemptee filed its request on September 14, 1983, and the surrender of the exemption from licensing for Project No. 3143 is deemed accepted 30 days after issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29094 Filed 10-25-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-31-002; PGA84-1a, IPR84-1]

Arkansas Lousiana Gas Company; Compliance Filing

October 21, 1983.

Take notice that on October 13, 1982, Arkansas Louisiana Gas Company (Arkla) tendered for filing First Substitute 34th Revised Sheet No. 4 as a part of its FERC Gas Tariff, First Revised Volume No. 1, Rate Schedule No. G-2, to become effective October 1, 1983. This filing is in compliance with the Commission's letter order dated September 30, 1983 which required Arkla to file (1) revised rates reflecting the proper surcharge adjustment under Rate Schedule No. G-2 and (2) additional supporting data within fifteen days of the issuance of the Commission's order setting forth the allocation of incremental pricing surcharges in the subject filing's deferred account balance.

Arkla states that this tariff sheet reflects revised rates setting forth the proper surcharge rate to be effective from October 1, 1983 through March 31, 1984. Revised Exhibit B, Summary, for the computation of the surcharge rate, is attached to the filing. Also attached to the filing is a worksheet which details the allocation of the incremental pricing surcharges that are reflected in the deferred account balances of the above-referenced filing.

A copy of the filing is being mailed to Arkla's jurisdictional customers and other interested parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29092 Filed 10-25-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. IS82-178-000]

Exxon Pipeline Company; Filing

October 21, 1983.

Take notice that on September 28, 1982, Exxon Pipeline Company (EPC) tendered for filing the 1981 Valuation Report for EPC. This report was prepared on ACV Form No. 1, 2, 3, and 4 in accordance with the requirements of Title 18 CFR Part 361.

In preparation for the filing of the Valuation Report, EPC conducted a thorough study of all of its operations during 1981 and, where supported by the facts established by that study, has reclassified a significant portion of its property for valuation purposes, in accordance with the Interstate Commerce Act and applicable FERC regulations and particularly Title 18 CFR 361.6.

EPC has reclassified property on the basis that it was property used exclusively for noncarrier purposes or property whose use for carrier purposes does not equal or exceed five percent of its total use for both carrier and noncarrier purposes. EPC contends that use for carrier purposes below the five percent level would be incidental or inmaterial use and should be disregarded.

Any person desiring to be hear or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 2, 1983. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are availale for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29095 Filed 10-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC84-3-000]

Florida Gas Transmission Company; Tariff Filing

October 21, 1983.

Take notice that on October 17, 1983, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, tendered for filing in Docket No. TC84-3-000 revised tariff sheets with a proposed effective date of November 1, 1983, pursuant to § 281.204(b)(2) of the Commission's Regulations.

These sheets are:

Third Revised Sheet No. 20-D.1
Third Revised Sheet No. 20-E.1
Third Revised Sheet No. 20-F.1
Third Revised Sheet No. 20-G.1
Third Revised Sheet No. 20-H.1
Third Revised Sheet No. 20-I.1
Third Revised Sheet No. 20-J.1
Third Revised Sheet No. 20-K.1
Second Revised Sheet No. 20-L.1

to FGT's FERC Gas Tariff, Original Volume No. 1.

Such tariff sheets contain FGT's annual update of its Index of Entitlements to reflect changes in its agricultural requirements in compliance with Section 401 of the Natural Gas Policy Act of 1978 and Part 281 of the Commission's Regulations. FGT states that the Priority 2 entitlement changes have been approved by a Data Verification Committee and that copies of the tariff filing have been mailed to its customers and State Commissions.

Any person desiring to be heard or to make any protest with reference to said tariff sheet should on or before October 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29091 Filed 10-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5793-001]

Lawrence J. McMurtrey; Surrender of Preliminary Permit

October 21, 1983.

Take notice that Lawrence J. McMurtrey, Permittee for the Owl Creek Hydro Power Project No. 5793, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 5793 was issued on May 10, 1982, and would have expired on October 30, 1983. The project would have been located on Owl Creek in Snohomish County, Washington.

Lawrence J. McMurtrey filed the request on September 19, 1983, and the surrender of the preliminary permit for Project No. 5793 is deemed accepted as of September 19, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29096 Filed 10-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RI83-8-000]

Mobil Oil Corp., Northern Natural Gas Producing Co.; Petition for Rate Relief

October 21, 1983.

Take notice that on September 9, 1983, and October 3, 1983, Mobil Oil Corporation (Mobil) and Northern Natural Gas Producing Company (Northern) jointly filed petitions pursuant to § 385.207 of the Commission's Rules of Practice and Procedure requesting authorization to collect increased rates to recover increased royalty payments for the period 1976-78, which may be required as a result of certain "market value" royalty litigation in the state courts of Kansas.

Mobil and Northern request authorization to commence collection of the requested rate increase as a surcharge on current sales of natural gas by them to Northern Natural Gas Company, a division of Internorth Inc. under Mobil Rate Schedule Nos. 3, 262, 281, and 282 and Northern Rate Schedule No. 2 so as to recover the excess royalty payments. Petitioners state that the surcharge will be collected subject to refund pending final court determination of their respective royalty obligations.

Mobil and Northern request waiver of any Commission regulations that would prevent the collection of the requested surcharge as a means of implementing relief to recoup the excess royalty payments. They additionally request expedited action on their petition.

Any person desiring to be heard to make protest with reference to said petition should on or before November 10, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

[FR Doc. 83-29098 Filed 10-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-8-000]

Montana-Dakota Utilities Co.; Tariff Change

October 21, 1983.

Take notice that on October 14, 1982, Montana-Dakota Utilities Company (MDU) tendered for filing the following tariff sheets as part of MDU's FERC Gas Tariff, Original Volume No. 4:

First Revised Sheet No. 5Q.1
First Revised Sheet No. 5Q.2
Original Sheet No. 5Q.3

The proposed effective date is November 14, 1983.

The proposed change consists of clarifying language added to Rate Schedule T-3 to the effect that deliveries of gas to a particular location, under Rate Schedule T-3, will be considered displacement deliveries if gas purchased directly from MDU was delivered to such location in the preceding twelve months or if, during the preceding twelve months, gas was purchased at such location from another who purchased gas under MDU's Rate Schedules G-1, PR-1, and/or I-1.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29097 Filed 10-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA84-1-38-001 and CP81-531-005]

Mountain Fuel Supply Co.; Filing

October 21, 1983.

Take notice that on October 14, 1983, Mountain Fuel Supply Company (Mountain Fuel) tendered for filing, pursuant to Commission letter order dated June 20, 1983, in Docket No. CP81-531-003, workpapers which reflect closing entries to FERC Account No. 191 for sales of natural gas under Mountain Fuel's Rate Schedules X-4, X-5 and X-20.

On May 31, 1983, Mountain Fuel filed Substitute First Revised Sheet Nos. 73, 115, 152 and First Revised Sheet Nos. 51, 94, 134, and 420 to its FERC Gas Tariff, Original Volume No. 1, which sheets are a notice of termination of services under Rate Schedules X-5, X-7, X-9, X-4, X-6, X-8, and X-20, respectively. In the letter order dated June 20, 1983, the Commission accepted the above-mentioned tariff sheets contingent upon Mountain Fuel filing with the Commission workpapers detailing the clearing of the remaining balances of FERC Account No. 191 for sales under Rate Schedules X-4, X-5, and X-20.

On September 27, 1983, Mountain Fuel received payment from Colorado Interstate Gas Company (CIG) for a $181,602.82 debit balance remaining in Account No. 191 for sales for resale under Mountain Fuel's Rate Schedules X-4, X-5, and X-20. Therefore, Mountain Fuel has made the appropriate credit entry to clear Account No. 191.

With the termination of sales under Rate Schedules X-4, X-5, and X-20, Mountain Fuel will discontinue its semi-annual Purchased Gas Adjustment (PGA) filings before the Commission. Mountain Fuel suggests that its name be withdrawn from the list of Companies filing PGA's in § 154.38(d)(4)(iv)(a) of the Regulations of the Commission.

Mountain Fuel states that a copy of the filing has been served on CIG, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29099 Filed 10-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-694-000]

West Texas Utilities Co.; Order Accepting for Filing and Suspending Rates, Denying Motions for Rejection, Granting Summary Disposition in Part, Granting Waiver in Part, Noting Interventions, and Establishing Hearing and Price Squeeze Procedures

Issued: October 21, 1983.

On August 22, 1983, West Texas Utilities Company ("WTU") tendered for filing a proposed four-phase increase in rates for service to Texas-New Mexico Power Company ("TNP") and fifteen electric tariff customers (TR-1 tariff). WTU also tendered a proposed one-step increase in rates to two partial requirements customers, the Cities of Coleman and Brady.[1] Three steps of the multi-phased increase (Phases A, C, and D) reflect the inclusion in rate base of WTU's average construction work in progress ("CWIP") in addition to qualifying pollution control CWIP.[2] The proposed Phase B rates, which do not incorporate CWIP, would increase jurisdictional revenues by approximately $2,040,000 (3.1%) for the calendar year 1984 test period, and the proposed Phase A rates would result in an additional increase of about $215,000. The Phase C and D rates would increase revenues further by approximately $775,000 and $955,000, respectively. The total increase in revenues proposed under the four steps is approximately $4.0 million (6.1%). WTU requests an effective date for the Phase A rates of October 21, 1983; for the Phase B rates of October 22, 1983; for the Phase C rates of October 23, 1983; and for the Phase D rates of October 24, 1983. However, the company requests that the Phase B, C, and D rates be suspended until January 1, 1984, in accordance with the terms of a proposed settlement agreement with its customers in Docket No. ER82-708-000.[3] If the Phase A rates are allowed to become effective on or about October 21, 1983, or if the Commission permits the Phase C or D rates to become effective on January 1, 1984, WTU requests that the Phase B rates be deemed withdrawn. In the event that the Phase D rates are allowed to become effective on January 1, 1984, WTU requests that the Phase C rates be deemed withdrawn as well.

In its submittal, WTU request waiver of § 35.14 of the Commission's regulations to permit a change in the design of its wholesale fuel adjustment clause. Under the revised fuel adjustment clause, WTU would first allocate total estimated system fuel costs between retail and wholesale classes based upon estimated retail and wholesale kWh sales adjusted for losses and would then compute monthly fuel adjustment charges on the separate fuel amounts. In the event that the Commission determines that it cannot allow such a change in the fuel clause to become effective prior to investigation and hearing, WTU has proposed revisions to the loss factors in its present fuel clause. Also, WTU requests waiver of the filing requirements under § 35.13 of the Commission's regulations insofar as may be necessary to reflect two adjustments to Period I cost data. Specifically, the company notes that it has utilized the settlement rates in Docket No. ER82-708-000 in calculating its revenues and rate of return for Period I and that the Period I data reflect rate base inclusion of 50% of WTU's average Period I CWIP balances. In addition, WTU seeks to change its definitions of "billing demand" and "on-peak demand" to include that portion of the full requirements customers' load

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[1] *See* Attachment for rate schedule designations.

[2] *See* Order No. 298, Docket No. RM81-38 (May 28, 1983), 48 FR 24323 (June 1, 1983); *see also* "Order Granting Rehearing for Purposes of Further Consideration and Denying Petitions for Stay of Final Rule," 24 FERC ¶ 61,071 (July 15, 1983).

[3] The settlement agreement was certified to the Commission for its review on September 9, 1983, and is being approved by an order considered concurrently with this one.

supplied by qualifying cogenerators and small power producers.

Notice of WTU's filing was published in the **Federal Register** with comments due on or before September 20, 1983. TNP filed a timely motion to intervene which states that TNP has a vital interest in this proceeding but which raises no substantive issues. A timely intervention and protest was also filed jointly by the Cooperative and Municipal Wholesale Customers of WTU ("Customers").[4] The Customers request rejection of the proposed Phase A rates on the basis that WTU failed to include complete cost of service data as required by the Commission's regulations. In addition, the Customers request summary disposition concerning the inclusion in rate base of allegedly non-qualifying pollution control CWIP; WTU's calculation of the AFUDC (allowance for funds used during construction) rate; and the proposed change in the definitions of "billing demand" and "on-peak demand" for full requirements customers. Also, the Customers request a maximum suspension of WTU's Phase C and D rates, citing various cost of service issues.[5] Finally, the Customers allege price squeeze and request that the price squeeze issue be set for determination either concurrently with hearings on WTU's rate increase or in a separate phase at the discretion of the presiding administrative law judge.

WTU responded to the interventions and motions on October 5, 1983. WTU does not oppose the motions to intervene but does object to the requests for rejection of its Phase A rates or a maximum suspension of the Phase C rates. The company acknowledges the likelihood of a five month suspension of its Phase D rates. In addition, WTU concedes that it erred in including as pollution control CWIP (for the Phase A, C, and D rates) costs associated with additional capacity used to power pollution control equipment. The company contends, however, that elimination of 50% of its average investment in such facilities will have a nominal revenue effect and that its treatment of other facilities as pollution control CWIP is proper. WTU challenges the remaining requests for summary disposition and also addresses the various cost of service and definitional objections identified by the intervenors.

[4] The Customers are as follows: Mid-Tex Electric Cooperative, Inc.; Brazos Electric Power Cooperative, Inc.; Coleman County Electric Cooperative, Inc.; Concho Valley Electric Cooperative, Inc.; Dickens Electric Cooperative, Inc.; Gate City Electric Cooperative, Inc.; Greenbelt Electric Cooperative, Inc.; Lighthouse Electric Cooperative, Inc.; McCulloch Electric Cooperative, Inc.; Midwest Electric Cooperative, Inc.; Rio Grande Electric Cooperative, Inc.; Southwest Texas Electric Cooperative, Inc.; Stamford Electric Cooperative, Inc.; Taylor Electric Cooperative, Inc.; Western Farmers Electric Cooperative, Inc.; the City of Brady; and the City of Sonora, Texas.

[5] The cost of service issues include: the stated capitalization; the requested return on common equity; the claimed regulatory expense, fuel stock, and operation and maintenance (O&M) expense; calculation of cash working capital; depreciation rates; treatment of arbitrage income; and allocation of amounts of unfunded deferred tax liability to the wholesale customers.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene serve to make TNP and the Customers parties to this proceeding.

We shall deny the Customers' motion to reject WTU's Phase A rates since we find that the submittal substantially complies with the filing requirements of Part 35 of the Commission's regulations. Also, we shall deny the motion for summary disposition concerning the allegation that WTU has improperly calculated the AFUDC rate. This contention presents questions of fact which should be resolved on the basis of an evidentiary record. With respect to the Customers' request for summary rejection of the company's proposed definition changes of "billing demand" and "on-peak demand," we shall deny the intervenors' motion. WTU's revised definitions provide that full requirements customers whose loads are partially supplied by cogenerators or small power producers will be charged for the total demand including the demand provided by the qualifying facilities at the time of maximum demand. WTU asserts these proposed changes are consistent with the Commission's Order No. 69, Docket No. RM79–55, FERC Statutes and Regulations (CCH), ¶ 30,128 (1980); also, the company states that the new definitions will recognize its obligation to meet the demands for power and energy of its customers at all times. We believe that the pleadings demonstrate the significant issues raised by WTU's proposed definition changes. Therefore, we shall set this matter for hearing as ordered below.

The Commission will, however, grant the Customers' motion for summary disposition concerning WTU's inclusion in rate base, as pollution control CWIP, of that portion of the company's CWIP which represents investment in additional generating capacity to operate pollution control facilities. As now acknowledged by WTU, facilities for the generation of additional power needed to operate pollution control equipment are specifically excluded from pollution control CWIP treatment under § 35.2 6(a)(2) of the regulations. Thus, 50 percent of the company's average test year investment in such facilities should be excluded from rate base.[6] However, we shall set for hearing the Customers' allegation that other facilities included by WTU also represent non-qualifying pollution control CWIP. Furthermore, given the relatively small revenue impact of our summary disposition, WTU will not be required to refile its cost of service or rates at this time.

With regard to WTU's request for waiver of § 35.13 of the Commission's regulations to permit WTU to calculate revenues and rates of return for present rates under Period I based on the pending settlement rates in Docket No. ER82–708–000, we consider such waiver to be appropriate. By a separate order considered concurrently with this order, the Commission is approving the settlement in the prior docket. Thus, the company's proposal will most accurately reflect actual Period I revenues. However, since the regulations require only that Period I data be actual data reflecting actual revenues, and do not require a specific cost of service treatment, there is no need for a waiver with respect to WTU's inclusion of CWIP in Period I data.

With respect to WTU's request for a waiver of § 35.14 of the regulations to permit a change in the fuel adjustment clause which separates recoverable fuel costs between wholesale and retail jurisdictions, we note that WTU's submittal is unclear as to how its proposed fuel adjustment clause would operate. Under these circumstances, we cannot find that good cause exists to grant the requested waiver. We shall, however, deny waiver without prejudice to the company's right to pursue this issue at hearing. The company has also asked that the issue of recovery through the fuel clause of demand charges related to purchases from cogenerators and small power producers be investigated at hearing. Consistent with Commission precedent,[7] we shall set this matter for hearing. Any changes in WTU's fuel clause as a result of these hearing issues shall be prospective in effect.

[6] We note that the company need only exclude 50 percent of the investment since its proposed inclusion of CWIP in rate base (exclusive of pollution control and fuel conversion CWIP) accounts for an associated rate increase substantially less than the maximum 0 percent permitted by our regulations.

[7] *See Gulf States Utilities Company*, Docket No. ER82–375–000, 29 FERC ¶ 61,039 (1982).

Our preliminary review of WTU's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and we shall suspend them as ordered below.

The Commission explained its suspension policy in *West Texas Utilities Company,* Docket No. ER83–23–000, 18 FERC ¶ 61,189 (1982). As noted there, where our preliminary examination indicates that revised rates may be unjust and unreasonable, but may not be substantially excessive as defined in *West Texas,* we will ordinarily suspend the rates for one day. However, where it appears that the rates may be substantially excessive, we will suspend for the maximum period.

Our review of the TR–1 tariff rates suggests that the Phase A tariff rates may not result in substantially excessive revenues.

Therefore, we shall suspend the Phase A tariff rates for one day from 60 days after filing to become effective, subject to refund, on October 23, 1983. In accordance with WTU's request, we shall deem the Phase B tariff rates to have been withdrawn. Also, our preliminary review indicates that the Phase C tariff rates may not produce substantially excessive revenues; however, WTU has requested that the Phase C rates be suspended until January 1, 1984. Therefore, we shall suspend the Phase C tariff rates to become effective on January 1, 1984, subject to refund. Our examination further shows that the Phase D tariff rates may produce substantially excessive revenues. Under these circumstances, we shall suspend the Phase D rates for five months from the proposed effective date, to become effective, subject to refund, on March 24, 1984.

With respect to the proposed one-step rate increase to the Cities of Coleman and Brady, and all four steps of the rate increase to TNP, our review indicates that the rates may yield substantially excessive revenues. As a result, we shall suspend these rates for five months from the proposed effective dates. Accordingly, the rates to the Cities will become effective, subject to refund, on March 24, 1984, and the Phase A, C, and D rates to TNP will become effective, subject to refund, on March 22, 1984, March 23, 1984, and March 24, 1984, respectively.[8]

In light of the Customers' price squeeze allegations, we shall institute price squeeze procedures and phase those procedures in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company,* Docket No. ER79–339–000, 8 FERC ¶ 61,131 (1979).[9]

The Commission orders:

(A) The Customers' motion to reject WTU's Phase A rates is hereby denied.

(B) Summary disposition is hereby ordered, as noted in the body of this order, with respect to WTU's inclusion in rate base of non-qualifying pollution control CWIP associated with generation of additional power. This decision shall be reflected in WTU's compliance cost of service and rates at the conclusion of this proceeding.

(C) The Customers' motions for summary disposition regarding WTU's revision of the billing demand definitions and its AFUDC rate calculation are hereby denied.

(D) WTU's motion for waiver of section 35.13 of the regulations is hereby granted insofar as is necessary to permit the company to calculate the Period I cost of service by reference to the settlement rates in Docket No. ER82–708–000. The request for waiver of section 35.14 is hereby denied.

(E) WTU's submittal is hereby accepted for filing. The TR–1 Phase A rates are suspended for one day to become effective, subject to refund, on October 23, 1983; the TR–1 Phase B rates are deemed withdrawn; the TR–1 Phase C rates are suspended to become effective, subject to refund, on January 1, 1984; and the TR–1 Phase D rates are suspended for five months to become effective, subject to refund, on March 24, 1984.

(F) WTU's rates to the Cities of Coleman and Brady are hereby suspended for five months to become effective, subject to refund, on March 24, 1984.

(G) WTU's Phase A, C, and D rates to TNP are hereby suspended for five months to become effective, subject to refund, on March 22, 1984, March 23, 1984, and March 24, 1984, respectively. The Phase B rates to TNP are deemed withdrawn.

(H) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of WTU's rates, its proposed definitional changes, and its proposed fuel clause revisions.

(I) The Commission staff shall serve top sheets in this proceeding on or before October 27, 1983.

(J) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(K) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(L) The Secretary shall promptly publish this order in the **Federal Register.**

[8] WTU's proposed effective date for its Phase A rates falls one day short of the required 60 day notice. Thus, assuming a five month suspension of the Phase A rates from 60 days after filing and a five month suspension of the Phase B rates from the proposed effective date for that phase, the two rates would take effect concurrently on March 22, 1984. As a result, we shall deem the lower Phase B rate for TNP to have been withdrawn. In addition, given WTU's proposed effective dates and our decision to suspend for the maximum period, the Phase A, C, and D rates would apply to TNP on three consecutive days. We do not believe that WTU intends this result which would be administratively and economically wasteful. We therefore encourage WTU and authorize it in advance to forego collection of the Phase A and C rates and to collect only the Phase D rate as of March 24, 1984.

[9] With respect to the Cooperatives' request that the phasing issue be left to the discretion of the presiding judge, we note that our existing price squeeze procedures permit the judge to depart from the phased schedule for good cause shown. (*See* Ordering paragraph (K), *infra*). However, we have noted in prior orders that we would expect such a ruling only in extraordinary circumstances.

By the Commission.
Kenneth F. Plumb,
Secretary.

West Texas Utilities Company, Docket No. ER83-694-000, Rate Schedule Designations

Designation and Description

(1) Tenth Revised Sheet Nos. 4 through 7 under FERC Electric Tariff, Original Volume No. 1 (Supersedes Ninth Revised Sheet Nos. 4 through 7)—Tariff Customers (Level A, TR-1 Rates)
(2) Eleventh Revised Sheet Nos. 4 through 7 under FERC Electric Tariff, Original Volume No. 1 (Supersedes (1) above)—Tariff Customers (Level C, TR-1 Rates)
(3) Twelfth Revised Sheet Nos. 4 through 7 under FERC Electric Tariff, Original Volume No. 1 (Supersedes (2) above)—Tariff Customers (Level D, TR-1 Rates)
(4) Supplement No. 13 to Rate Schedule FPC No. 39 (Supersedes Supplemental No. 12)—Texas-New Mexico Power Company (Level A, TNP-3 Rates)
(5) Supplement No. 14 to Rate Schedule FPC No. 39 (Supersedes (4) above)—Texas-New Mexico Power Company (Level B, TNP-3 Rates)
(6) Supplement No. 15 to Rate Schedule FPC No. 39 (Supersedes (5) above)—Texas-New Mexico Power Company (Level C, TNP-3 Rates)
(7) Supplement No. 16 to Rate Schedule FPC No. 39 (Supersedes (6) above)—Texas-New Mexico Power Company (Level D, TNP-3 Rates)
(8) Supplement No. 9 to Rate Schedule FPC No. 40 (Supersedes Supplement No. 8)—City of Coleman, Texas (Level D, COC-3 Rates)
(9) Supplement No. 9 to Rate Schedule FPC No. 42 (Supersedes Supplement No. 8—)City of Brady, Texas (Level D, COC-3 Rates)
(10) Original Sheet No. 5.1 under FERC Electric Tariff, Original Volume No. 1-Alternative Fuel Clause, TR-1 Rats
(11) Supplement No. 17 to Rate Schedule FPC No. 39-Alternative Fuel Clause, TNP-3 Rates
(12) Supplement No. 10 to Rate Schedule FPC No. 40-Alternative Fuel Clause, COC-3 Rates
(13) Supplement No. 10 to Rate Schedule FPC No. 42-Alternative Fuel Clause, COB-3 Rates

[FR Doc. 83-29100 Filed 10-25-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-52-000; PGA84-1]

Western Gas Interstate Co.; Proposed PGA Rate Adjustment

October 21, 1983.

Take notice that on October 14, 1982, Western Gas Interstate Company (Western) tendered for filing Twenty-fourth Revised Sheet No. 3A and Seventh Revised Sheet No. 3B to its FERC Gas Tariff, Original Volume No. 1. Said tariff sheets are proposed to become effective on November 1, 1983.

Western states the proposed change in rates reflected on Twenty-fourth Revised Sheet No. 3A is being filed in accordance with its Tariff's PGA clause which permits the recovery of increases in the cost of gas and of unrecovered purchased gas cost. Western further states the proposed Purchase Gas Cost Adjustment for the Northern Division is 33.01¢ per Mcf; for the Western Division it is 5.97¢ per Mcf; and for the Southern Division it is 11.57¢ per Mcf. The proposed surcharge adjustment is (3.51¢) per Mcf for the Northern Division; 139.97¢ per Mcf for the Western Division and (90.80¢) per Mcf for the Southern Division.

Western also states that Seventh Revised Sheet No. 3B reflects the Projected Incremental Pricing Surcharge Adjustment for the period November 1, 1983 through April, 1984 as required by § 282.602(a)(ii) of the CFR.

Western states that copies of the filing were served upon Western's transmission system customers and the interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-29101 Filed 10-25-83; 8:45 am]
BILLING CODE 6717-01-M

Oil Pipeline Tentative Valuations

October 21, 1983.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that tentative valuations are uner consideration for the common carriers by pipeline listed below:

1980 Annual Reports

Valuation Docket No. PV-1464-000—Cochin Pipeline System-U.S. Dome Pipeline Corporation, 333 7th Avenue SW., Calgary, Alberta, Canada T2P 2H8
No. PV-1447-000—Eastern Delivery System, Dome Pipeline Corporation, 333 7th Avenue SW., Calgary, Alberta, Canada T2P 2H8
No. PV-1463-000—Western Oil Transportation Company, Inc., P.O. Box 1183, Houston, Texas 77001

On or before November 28, 1983, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act having an interest in these valuations may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in these proceedings.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in Section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,
Administrative Officer, Oil Pipeline Board.

[FR Doc. 83-29080 Filed 10-25-83; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-347; PH-FRL 2455-7]

Pesticide and Feed Additive Petitions; BASF Wyandotte Corp. and Monsanto Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments should be submitted to the Product Manager (PM) named in each petition at the following address by mail to: Program Management and Support (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, deliver comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number [PF–347] and the petition number. All written comments filed in response to this notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The Product Manager at the telephone and room numbers given in each petition.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide and feed additive petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

I. Initial Filings

1. *PP 3F2950.* BASF Wyandotte Corp., 100 Cherry Hill Rd., Parsippany, NJ 07054. Proposes amending 40 CFR 180.412 by establishing tolerances for residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-)ethylthio)-propyl]-3-hydroxy-2-cyclohexen-1-one in or on the following commodities:

Commodities	Parts per million (ppm)
Peanuts	0.05
Peanuts, hay	15.00
Peanuts, hulls	5.00
Sugar beet, roots	0.05
Sugar beet, tops	0.20
Sunflower, seed	7.00

The proposed analytical method for determining residues is gas chromatography using sulfur-specific flame photometric detector. (Robert Taylor, PM–25, CM#2, Rm. 251, 703–557–1800).

2. *FAP 3H5413.* BASF Wyandotte Corp. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)-propyl]-3-hydroxy-2-cyclohexen-1-one in or on the peanut soapstock at 60.00 ppm, sugar beet molasses at 0.20 ppm, and sunflower meal at 14.00 ppm. (Robert Taylor, PM–25, CM#2, Rm. 251, 703–557–1800).

3. *PP 3F2956.* Monsanto Co., 1101 17th St., NW Wash., D.C. 20036. Proposes amending 40 CFR 180.364 by establishing tolerances for the combined residues of the herbicide glyphosate (*N*-(phosphenomethyl) glycine and its metabolite aminomethylphosphonic acid in or on the commodity shellfish at 0.25 ppm. The proposed analytical method for determining residues is high pressure liquid chromatography (HPLC). (Robert Taylor, PM, CM#2, Rm. 251, 703–557–1800).

4. *PP 3F2963.* BASF Wyandotte Corp. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the insecticide 2-[2-chloro-1-methoxy)-ethoxyphenyl-*N*-methyl carbamate and its non-carbamate metabolites containing the 2-(1-methoxy)-ethoxyphenol moiety in or on the commodities cattle meat, fat, and meat byproducts and milk at 0.01 ppm; corn fodder and forage at 2.0 ppm; and corn grain (field corn and popcorn) at 0.01 ppm. The proposed analytical method for determining residues is HPLC with spectrofluormetric detection. (Jay Ellenberger, PM–12, CM#2, Rm. 236, 703–557–2386).

(Sec. 408(d)(2), 68 Stat. 512, (21 U.S.C. 346a(d)(2); (409(b)(5), 72 Stat. 1786, (21 U.S.C. 348)))

Dated: October 12, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–28705 Filed 10–25–83; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30231A; PH–FRL 2454–6]

Pesticide Registration; Approval of Application To Conditionally Register a Pesticide Product Containing a New Active Ingredient; Ciba-Geigy Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has conditionally approved the application by Ciba-Geigy Corp. to register the plant growth regulator Prime™ containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Product Manager PM 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA received an application from Ciba-Geigy Corp., PO Box 18300, Greensboro, NC 27419, to register the plant growth regulator Prime™ containing 15 percent of the active ingredient 2-chloro-*N*-[2,6-dinitro-4-(trifluoromethyl)-phenyl]-*N*-ethyl-6-fluorobenzenmethanamine, an active ingredient not included in any previously registered pesticide product. The product, EPA Registration Number 100–640, was registered on May 27, 1983. Because the notice of application to register the product as required by section 3(c)(4) of FIFRA, as amended, was not published in the **Federal Register**, interested parties may submit comments within 30 days from the date of publication of this notice.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: October 4, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83–28566 Filed 10–25–83; 8:45 am]

BILLING CODE 6560–50–M

[OPP-180630; PH-FRL 2454-7]

Pesticides; Emergency Exemptions Granted

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the States listed below. Also listed are 9 crisis exemptions initiated by seven States.

DATES: See each specific and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific and crisis exemption for the name of the contact person. The following information applies to all contact people: By mail:

Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office Location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7400)

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arkansas State Plant Board for the use of diethatylethyl on spinach to control various weeds; August 27, 1983 to May 31, 1984. (Gene Asbury)

2. California Department of Food and Agriculture for the use of dicloran on fresh market tomatoes to control gray mold; September 7, 1983 to August 31, 1984. (Jim Tompkins)

3. California Department of Food and Agriculture for the use of propoxur on water to control mosquitoes; September 2, 1983 to September 15, 1983. California had initiated a crisis exemption for this use. (Libby Welch)

4. California Department of Food and Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to August 1, 1984. (Jim Tompkins)

5. California Department of Food and Agriculture for the use 2-[1-(ethoxyimino) butyl]-5-[2-(ethylthio) propyl]-3-hydroxy-2-cyclohexen-1-one on sugarbeets to control grassy weeds; August 11, 1983 to September 15, 1983. California had initiated a crisis exemption for this use. (Libby Welch)

6. Colorado Department of Agriculture for the use of metalaxyl as a tank mixture with either maneb or zineb on head lettuce to control downy mildew; August 16, 1983 to September 30, 1983. (Jack E. Housenger)

7. Connecticut Department of Environmental Protection for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to November 1, 1983. (Jim Tompkins)

8. Georgia Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to November 1, 1983. (Jim Tompkins)

9. Idaho Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to November 30, 1983. (Jim Tompkins)

10. Iowa Department of Agriculture for the use of 2-[1-(ethoxyimino) butyl]-5-[2-(ethylthio) propyl]-3-hydroxy-2-cyclohexen-1-one on onions to control emerged grasses; August 5, 1983 to September 15, 1983. (Jack E. Housenger)

11. Kansas State Board of Agriculture for the use of methidathion on field corn to control Banks grass mite and two-spotted spider mites; August 16, 1983 to September 30, 1983. (Libby Welch)

12. Kansas State Board of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to September 30, 1983. (Jim Tompkins)

13. Maryland Department of Agriculture for the use of diethatyl-ethyl on spinach to control weeds (pineapple weeds and galinsoga); September 2, 1983 to April 30, 1984. (Gene Asbury)

14. Maryland Department of Agriculture for the use of permethrin on watercress to control diamondback moths; July 29, 1983 to October 31, 1983. (Gene Asbury)

15. Maryland Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to November 1, 1983. (Gene Asbury)

16. Michigan Department of Agriculture for the use of methyl bromide on blueberries to control blueberry maggots and plum curculios; August 19, 1983 to September 30, 1983. Michigan had initiated a crisis exemption for this use. (Libby Welch)

17. Minnesota Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to October 1, 1983. (Gene Asbury)

18. New Jersey Department of Environmental Protection for the use of iprodione on onions and leeks to control white rot; August 31, 1983 to October 15, 1983. (Libby Welch)

19. New Jersey Department of Environmental Protection for the use of 2-[1-(ethoxyimino) butyl]-5-[2-(ethylthio) propyl]-3-hydroxy-2-cyclohexen-1-one on cantaloupes, carrots, cucumbers, beans (*Phaseolus vulgaris*), and white potatoes to control large crabgrass, fall panicum, barnyardgrass and foxtail spp.; August 5, 1983 to October 1, 1983. (Jack E. Housenger)

20. New Jersey Department of Environmental Protection for the use of 2-[1-(ethoxyimino) butyl]-5-[2-(ethylthio) propyl]-3-hydroxy-2-cyclohexen-1-one on onions to control emerged grasses; August 5, 1983 to October 1, 1983. (Jack E. Housenger)

21. New Mexico Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to October 1, 1983. (Jim Tompkins)

22. North Carolina Department of Agriculture for the use of 2-[1-(ethoxyimino) butyl]-5-[2-(ethylthio) propyl]-3-hydroxy-2-cyclohexen-1-one on asparagus (first year plantings and crown production fields) to control annual and perennial grasses; August 11, 1983 to September 30, 1983. North Carolina had initiated a crisis exemption for this use. (Jack E. Housenger)

23. Maryland Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to September 30, 1983. (Jim Tompkins)

24. Ohio Department of Agriculture for the use of 2-[1-(ethoxyimino) butyl]-5-[2-(ethylthio) propyl]-3-hydroxy-2-cyclohexen-1-one on onions to control post-emergence grass; August 5, 1983 to October 15, 1983. (Libby Welch)

25. Ohio Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to November 30, 1983. (Gene Asbury)

26. Oklahoma Department of Agriculture for the use of metalaxyl on peanuts to control *Pythium* pod rot; August 9, 1983 to September 1, 1983. (Libby Welch)

27. Oregon Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to November 30, 1983. (Jim Tompkins)

28. Pennsylvania Department of Agriculture for the use of permethrin on watercress to control diamondback moths; July 29, 1983 to October 31, 1983. (Gene Asbury)

29. Pennsylvania Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to November 30, 1983. (Jim Tompkins)

30. Texas Department of Agriculture for the use of metalaxyl on peanuts to control pod rot; August 9, 1983 to September 1, 1983. Texas had initiated a crisis exemption for this use. (Jim Tompkins)

31. Virginia Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8,

1983 to November 30, 1983. (Jim Tompkins)

32. Washington Department of Agriculture for the use of benomyl on winter wheat to control *Cercosporella* foot rot; January 1, 1984 to June 30, 1984. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination was published in the Federal Register of October 20, 1982 (47 FR 46747). (Jim Tompkins)

33. Washington Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to November 30, 1983. (Jim Tompkins)

34. West Virginia Department of Agriculture for the use of methiocarb on wine grapes to control depredating birds; August 8, 1983 to November 30, 1983. (Jim Tompkins)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on August 1, 1983, for the use of carbaryl on dates to control carob moths. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until November 30, 1983. (Libby Welch)

2. California Department of Food and Agriculture on August 3, 1983, for the use of methiocarb on will rice to control depredating birds. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until October 31, 1983. (Jack E. Housenger)

3. Florida Department of Agriculture and Consumer Services on July 26, 1983, for the use of cyromazine on chrysanthemums to control leafminers. Since it was anticipated that this program would be needed for more than 15 days. Florida has requested a specific exemption to continue it. The need for this program is expected to last until August 31, 1984. (Jim Tompkins)

4. Massachusetts Department of Food and Agriculture on August 12, 1983, for the use of methomyl on carnberries to control sparganothis fruitworms. The need for this program has ended. (Gene Asbury)

5. Michigan Department of Agriculture on July 28, 1983, for the use of methyl bromide on blueberries to control maggots. Since it was anticipated that this program would be needed for more than 15 days, Michigan requested a specific exemption to continue it. The need for this program was expected to last until August 28, 1983. (Libby Welch)

6. North Carolina Department of Agriculture on August 8, 1983, for the use of 2-[1-(ethoxyimino) butyl]-5-[2-(ethylthio) propyl]-3-hydrox-2-cyclohexen-1-one on asparagus (first year plantings and crown production fields) to control annual and perennial grasses. Since it has been anticipated that this program would be needed for more than 15 days, North Carolina had requested a specific exemption to continue it. The need for this program is expected to last until September 30, 1983. (Jack E. Housenger)

7. Oregon Department of Agriculture on July 17, 1983, for the use of metalaxyl on broccoli and cauliflower to control downy mildew. Since it was anticipated that this program would be needed for more than 15 days, Oregon has requested a specific exemption to continue it. The need for this program is expected to last until October 31, 1983. (Jim Tompkins)

8. Texas Department on Agriculture on June 3, 1983, for the use of sodium chlorate on wheat as a preharvest aid. The need for this program has ended. (Gene Asbury)

9. Texas Department of Agriculture on July 26, 1983, for the use of paraquat on dry beans and field peas as a harvest aid. The program ended on August 10, 1983. (Jim Tompkins)

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: October 11, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-28569 Filed 10-25-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 3G2834/T432; PH-FRL2457-3]

E. I. Du Pont De Nemours and Co.; Establishment of Temporary Tolerances; Herbicide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the herbicide methyl 2-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl) amino]-carbonyl]-amino]-sulfonyl] benzoate in or on the raw agricultural commodities wheat grain, and barley grain. These temporary tolerances were requested by E. I. Du Pont De Nemours and Company.

DATE: These temporary tolerances expire September 14, 1986.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1800)

SUPPLEMENTARY INFORMATION: E. I. Du Pont De Nemours and Co., Wilmington, DE 19898, has requested, in pesticide petition PP 3G2834, the establishment of temporary tolerances for residues of the herbicide methyl 2-[(4-Methoxy-6-methyl-1,3,5-triazin-2-yl) amino]-carbonyl]-amino]-sulfonyl]benzoate in or on the raw agricultural commodities wheat grain at 0.05 part per million (ppm) and barley grain at 0.05 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 352-EUP-111 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerance have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Du Pont must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire September 14, 1986. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: October 13, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–29062 Filed 10–25–83; 8:45 am]

BILLING CODE 6560–50–M

(OPP–240038; PH–FRL 2457–4)

State Registration of Pesticides; Alabama et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 29 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of the product became effective.

FOR FURTHER INFORMATION CONTACT:

By mail: Sandra English, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C.

Office location and telephone number: Rm. 718, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2126).

SUPPLEMENTARY INFORMATION: Most of the registrations listed below were received by EPA in August 1983. Receipts by EPA of State registrations will be published periodically. Except as indicated by (CUP) in 16 of the registrations listed below, there is no change in use pattern in any of these registrations.

Alabama

EPA SLN No. AL 83 0015. Penick Corp. Registration is for Scourge Insecticide SBP–1382/Peperonyl Butixide Insectcide Concentrate 18%+54% MF Formula to be used on recreational and residential areas to control mosquitoes. August 22, 1983.

EPA SLN No. 83 0016. Dow Chemical U.S.A. Registration is for Lorsban 15G Granular Insecticide to be used on peanuts to control cutworms and white mold. August 24, 1983.

Arizona

EPA SLN No. AZ 83 0009. Union Oil Co. of California. Registration is for N–Tac Herbicide to be used on onions (green and dry bulb) to control shepherdspurse, nettle-leaved goosefoot, london rocket, and sowthistle. (CUP) August 24, 1983.

Arkansas

EPA SLN No. 83 0020. FMC Corp. Registration is for Pounce 3.2EC to be used on soybeans to control cabbage loopers, corn earworms, green cloverworms, Mexican bean beetles, soybean loopers, and velvetbean caterpillars. August 8, 1983.

EPA SLN No. AR 83 0021. Shell Chemical Co. Registration is for Pydrin 4 Insecticide ULV Concentrate to be used on cotton to control pink bollworms, cotton leaf perforators, cotton bollworms, tobacco budworms, lygus bugs, cabbage loopers, beet armyworms, boll weevils, and whiteflies. August 22, 1983.

California

EPA SLN No. CA 83 0052. Santa Clara County Agriculture Dept. Registration is for Sevin 80 S and Sevin Sprayable to be used on prickly pear cactus to control cochineal scale. August 22, 1983.

EPA SLN No. CA 83 0056. California Department of Agriculture. Registration is for D.Z.N. Diazinon 14G to be used on pastures, fruit and nut trees, bare ground after vegetables have been removed, vine crops, ornamental plants, and nursery stock to control Japanese beetles. July 27, 1983.

EPA SLN No. CA 83 0057. Bakersfield Ag-Chem, Inc. Registration is for BAC Captan Botran Dust 10–5 to be used on grapes to control bunch rot, cane blight, and storage rot. (CUP) August 17, 1983.

EPA SLN No. CA 83 0058. FMC Corp. Registration is for Furadan 4F to be used on ornamentals (greenhouse and field-grown) to control root weevils. August 18, 1983.

EPA SLN No. CA 83 0059. Rohm and Haas Co. Registration is for Goal 2E Herbicide to be used on jojoba to control weeds August 22, 1983.

EPA SLN No. CA 83 0061. Mobay Chemical Corp. Registration is for Nemacur 3 Emulisifiable to be used on grapes to control nematodes (dagger and root-knot). (CUP) August 29, 1983.

EPA SLN No. CA 83 0062. Mobay Chemical Corp. Registration is for Nemacur 15% Granular to be used on grapes to control nematodes (dagger and root-knot). (CUP) August 29, 1983.

EPA SLN No. CA 83 0063. Agricultural Commissioner of Orange County. Registration is for Pocket Gopher Bait Strychnine Treated Grain (0.50%) to be used on treated grain to control pocket gopher bait. August 30, 1983.

Delaware

EPA SLN No. DE 83 0008. E.I. du Pont de Nemours and Co. Registration is for Du Pont Sinbar Weed Killer to be used on alfalfa to control barnyardagrass, crabgrass, henbit, peppergrass, shepherdspurse, and wild barley. July 12, 1983.

EPA SLN No. DE 83 0009. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 EC to be used on soybeans to control Mexican bean beetles, green cloverworms, velvetbean caterpillars, potato leafhoppers, cabbage lopers, corn earworms, southern greens, stinkbugs, and bean leaf beetles. August 23, 1983.

Florida

EPA SLN No. FL 83 0020. FMC Corp. Registration is for Pounce 3.2 EC to be used on ornamental nursery stock (field and greenhouse) to control beet armyworms, cabbage loopers, citrus thrips, Heliothis, leafhoppers, and whiteflies. August 17, 1983.

EPA SLN No. FL 83 0021. FMC Corp. Registration is for Pounce 3.2 EC to be used on turf to control sod webworms, chinch bugs, and armyworms. August 18, 1983.

Hawaii

EPA SLN No. HI 83 0007. E.I. du Pont de Nemours and Co. Registration is for Du Pont Karmex Weed Killer to be used on papaya orchards to control buttongrass, crabgrass, foxtails, flora's-paintbrush, pigweeds, ricegrass, and sandburs. (CUP) August 22, 1983.

EPA SLN No. HI 83 0011. Uniroyal Chemical. Registration is for Maintain CF–125 to be used on pineapples for forcing rapid reproduction. (CUP) August 22, 1983.

Idaho

EPA SLN No. ID 83 0028. Dow Chemical U.S.A. Registration is for Lorsban 4E Insecticide to be used on

strawberries to control garden symphylans. August 9, 1983.

EPA SLN No. ID 83 0029. Chevron Chemical Co. Registration is for Ortho Monitor 4 Spray to be used on seed carrots to control lygus bugs. August 9, 1983.

EPA SLN No. ID 83 0030. Chevron Chemical Co. Registration is for Diquat Herbicide-H/A to be used on carrot and radish seed crops for preharvest desiccation. August 19, 1983.

EPA SLN No. ID 83 0031. Uniroyal Chemical. Registration is for Uniroyal Dinoseb–5 to be used on alfalfa and clover grown for seed only for preharvest desiccation. August 19, 1983.

EPA SLN No. ID 83 0032. Puregro Co. Registration is for Puregro Dinoseb–5 to be used on alfalfa and clover grown for seed only for preharvest desiccation. August 19, 1983.

Illinois

EPA SLN No. IL 83 0022. Petrolite Corp. Registration is for X-Cide 137 Industrial Bactericide to be used in water in tank bottoms, water-flooding operations, and gas transmission and storage systems to control bacteria. August 3, 1983.

EPA SLN No. IL 83 0023. Platte Chemical Co. Registration is for Clean Crop Dimethoate 267 EC to be used on soybeans to control Mexican bean beetles, spider mites, and bean leaf beetles. August 17, 1983.

Indiana

EPA SLN No. IN 83 0005. Platte Chemical Co. Registration is for Clean Crop Dimethoate 267 EC to be used on soybeans to control Mexican bean beetles, spider mites, and bean leaf beetles. August 18, 1983.

EPA SLN No. IA 83 0007. Rohm and Haas Co. Registration is for Dithane M–45 Agricultural Fungicide to be used on corn (hybrid seed production) to control Helminthosporium leaf blight. (CUP) August 9, 1983.

EPA SLN No. IA 83 0008. J.R. Simplot Co. Registration is for Dimethoate 25WP to be used on soybeans to control spider mites. August 19, 1983.

EPA SLN No. IA 83 0009. Mobay Chemical Corp. Registration is for Di-Syston 8 Insecticide to be used on soybeans to control mites. August 26, 1983.

Louisiana

EPA SLN No. LA 83 0027. Rhone-poulenc, Inc. Registration is for Folex to be used on cotton as a defoliant. (CUP) August 1, 1983.

Maryland

EPA SLN No. MD 83 0009. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 EC to be used on soybeans to control Mexican bean beetles, green cloverworms, velvetbean caterpillars, potato leafhoppers, cabbage loopers, corn earworms, southern green stinkbugs, and bean leaf beetles. August 23, 1983.

Michigan

EPA SLN No. MI 83 0015. Biochem Products. Registration is for Bactimos Granules to be used on heavily polluted water to control mosquito larvae. August 19, 1983.

EPA SLN No. MI 83 0017. E.I. du Pont de Nemours and Co. Registration is for Du Pont Velpar L Weed Killer to be used on blueberries to control barnyardgrass, briars (blackberry, raspberry, wild cherry), goldenrod, hawkweeds, quackgrass, sheep sorrel, red sorrel, witch grass, and yellow foxtail. August 10, 1983.

Missouri

EPA SLN No. MO 83 0009. Platte Chemical Co. Registration is for Clean Crop Dimethoate 267 EC to be used on soybeans to control spider mites. August 19, 1983.

Montana

EPA SLN No. MT 83 0005. FMC Corp. Registration is for Furadan 15G Insecticide-Nematicide to be used on sugar beets to control sugar beet root maggots. August 5, 1983.

Nebraska

EPA SLN No. NE 83 0010. Platte Chemical Co. Registration is for Clean Crop Paraquat Plus to be used on wheat to control cheatgrass (downy brome, chess), lambsquarters, field pennycress, kochia, mustard, Russian-thistles, and wild lettuce, and to suppress volunteer wheat. (CUP) August 3, 1983.

EPA SLN No. NE 83 0011. Shell Chemical Co. Registration is for Pydrin Insecticide 2.4 E.C. to be used on field corn to control western bean cutworms, southwestern corn borers, European corn borers, cutworms, corn rootworms (adult control), grasshoppers, and corn earworms. August 4, 1983.

EPA SLN No. NE 83 0012. American Cyanamid Co. Registration is for Counter 15–G to be used on field corn to control European corn borers. (CUP) August 3, 1983.

New Hampshire

EPA SLN No. NH 83 0006. ICI Americas, Inc. Registration is for Ectiban to be used on building structures, attics, and eaves to control cluster flies. August 4, 1983.

EPA SLN No. NH 83 0007. E.I. du Pont de Nemours and Co. Registration is for Du Pont Velpar Weed Killer to be used on lowbush blueberries to control grasses (fireweed and hawkweeds) and flowering herbaceous weeds. August 17, 1983.

EPA SLN No. NH 83 0008. E.I. du Pont de Nemours and Co. Registration is for Du Pont Velpar L Weed Killer to be used on lowbush blueberries to control grasses (fireweed and hawkweeds) and flowering herbaceous weeds. August 17, 1983.

New Jersey

EPA SLN No. NJ 83 0011. Dow Chemical U.S.A. Registration is for Dursban TC Termiticide Concentrate to be used on buildings having crawl space-type construction to control termites. August 10, 1983.

New Mexico

EPA SLN No. NM 83 0014. Wilbur-Ellis Co. Registration is for Methomyl 2 BT 320 Dust to be used on cabbage and lettuce to control cabbage loopers, alfalfa looprers, and beet armyworms. August 29, 1983.

New York

EPA SLN No. NY 83 0008. Fairfield American Corp. Registration is for Rotenone (0.3845) E.C. to be used on potatoes to control Colorado potato beetles. August 12, 1983.

North Dakota

EPA SLN No. ND 83 0010. Platte Chemical Co. Registration is for Clean Crop Endocide 3 EC to be used on rape seed to control flea beetles and diamondback moths. August 8, 1983.

EPA SLN No. ND 83 0011. Hopkins Agricultural Chemical Co. Registration is for Hopkins Malathion 57% Emulsifiable Liquid Insecticide–B to be used on stored sunflower seeds to control cereal leaf beetles and confused flour beetles. August 29, 1983.

Oklahoma

EPA SLN No. OK 83 0022. Ciba-Geigy Corp. Registration is for Supracide 2E Insecticide-Miticide to be used on grain sorghum to control Banks grass mites. August 8, 1983.

EPA SLN No. OK 83 0023. Shell Chemical Co. Registration is for Atrazine 4L Herbicide to be used on Bermuda grass highway rights-of-way to control annual bluegrass, black nightshade, cheat, cockleburs, and common hop clover. (CUP) August 23, 1983.

Oregon

EPA SLN No. OR 83 0055. Transbas, Inc. Registration is for Transbas Nemasol to be used on Irish potatoes to control nematodes and *Verticillium dahliae* (early maturity disease). (CUP) August 15, 1983.

EPA SLN No. OR 83 0056. Chevron Chemical Co. Registration is for Orthene Specialty Concentrate to be used on forest sites to control western hemlock sawflies. August 12, 1983.

Pennsylvania

EPA SLN No. PA 83 0014. ICI Americas, Inc. Registration is for Ectiban EC to be used on exterior building structures to control cluster flies. August 23, 1983.

South Carolina

EPA SLN No. SC 83 0017. Mobay Chemical Corp. Registration is for Oftanol 2 Insecticide to be used on turf grasses to control white grub larvae (such as Japanese beetles, black turf grass ataenius, chafers, green June beetles, oriental beetles, and Asiatic garden beetles), hyperodes weevils, and mole crickets. August 16, 1983

South Dakota

EPA SLN No. SD 83 0005. FMC Corp. Registration is for Furadan 4 FL to be used on field corn to control southwestern corn borers and European corn corers. July 27, 1983.

EPA SLN No. SD 83 0006. FMC Corp. Registration is for Furadan 4 FL to be used on field corn and grain sorghum to control grasshoppers. July 27, 1983.

EPA SLN No. SD 83 0007. FMC Corp. Registration is for Pounce 3.2EC Insecticide to be used on soybeans to control wooly bear caterpillars. August 26, 1983.

Virginia

EPA SLN No. VA 83 0018. Lipha Chemicals, Inc. Registration is for Maki Paraffinized Pellets For The Control of Orchard Mice to be used on orchards to control orchards mice (pine voles and meadow voles). August 24, 1983.

EPA SLN No. VA 83 0019. The Archem Corp. Registration is for Parapel Paraffinized Pellets to be used on orchards to control pine and meadow voles. August 23, 1983.

EPA SLN No. VA 83 0020. American Hoechst Corp. Registration is for Hoelon 3EC Herbicide to be used on wheat to control annual ryegrass. August 30, 1983.

Washington

EPA SLN No. WA 83 0027. Dow Chemical U.S.A. Registration is for Tordon 2K Pellets Herbicide to be used on fallow grainland to control bindweeds, Canada thistles, and rush skeletonweeds. (CUP) August 13, 1983.

EPA SLN No. WA 83 0028. Drexel Chemical Co. Registration is for Drexel Ziram 4L to be used on apples and pears to control scab and bull's eye rot. (CUP) August 12, 1983.

EPA SLN No. WA 83 0030. Dow Chemical U.S.A. Registration is for Lorsban 4E to be used on cranberries to control cutworms and fireworms. August 12, 1983.

EPA SLN No. WA 83 0031. ICI Americas, Inc. Registration is for Ectiban EC to be used on exteriors and eaves of institutions and commercial establishments to control cluster flies. August 13, 1983.

EPA SLN No. WA 83 0032. Dow Chemical U.S.A. Registration is for Dursban 4E Insecticide to be used on Douglas-fir seedlings to control cranberry girdler larvae. August 24, 1983.

EPA SLN No. WA 83 0033. Dow Chemical U.S.A. Registration is for Lorsban 4E Insecticide to be used on strawberries to control garden symphylans. August 24, 1983.

EPA SLN No. WA 83 0036. Elanco Products Co. Registration is for Surflan AS to be used on ornamental bulbs to control annual weeds. (CUP) August 31, 1983.

EPA SLN No. WA 83 0037. Elanco Products Co. Registration is for Surflan 75W to be used on ornamental bulbs to control annual weeds. (CUP) August 31, 1983

Dated: October 18, 1983.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 83-29060 Filed 10-25-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Lakeside Bancshares Inc.; Formation of Bank Holding Company

Lakeside Bancshares Incorporated, Hughes, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Planters National Bank, Hughes, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Lakeside Bancshares Incorporated, Hughes, Arkansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activity of real estate appraisal. This activity would be performed from offices of Applicant's subsidiary bank in Hughes, Arkansas, and the geographic areas to be served are St. Francis, Crittenden, Lee, and Phillips Counties, Arkansas. This activity has been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh, possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than November 17, 1983.

Board of Governors of the Federal Reserve System, October 20, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29076 Filed 10-25-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of a Bank Holding Company; Peoples Bankshares, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address

indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Peoples Bankshares, Incorporated*, Eatonton, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank, Eatonton, Georgia. Comments on this application must be received not later than November 18, 1983.

Board of Governors of the Federal Reserve System, October 20, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29077 Filed 10-25-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Wachovia Corp. et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *The Wachovia Corporation*, Winston-Salem, North Carolina; (data processing, investment and portfolio advice; California): To engage through its subsidiary Wachovia Services, Inc. in data processing, servicing of student loans and providing financial advice and portfolio investment advice in accordance with the Board's Regulation Y. These activities would be performed from an office in San Francisco and will serve the State of California. Comments on this application must be received not later than November 18, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Landmark Banking Corporation of Florida*, Ft. Lauderdale, Florida and Preferred Equity Investors of Florida, Inc., Knoxville, Tennessee, (securities brokerage activities; Florida): To engage through its subsidiary, Landmark Investment Services, Inc., in providing brokerage services restricted to buying and selling securities solely as agent for the account of customers and related securities credit activities, as well as custodial services, individual retirement accounts and cash management services. These activities would be conducted from an office in Ft. Lauderdale and will serve the State of Florida. Comments on this application must be received not later than November 18, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Affiliated Bankshares of Colorado, Inc.*, Boulder, Colorado (leasing activities; Colorado): To engage, through a proposed subsidiary, Affiliated First Colorado Lease Company, in leasing of real and personal property, and acting as agent, broker or advisor in leasing such property, in accordance with the Board's Regulation Y. These activities would be conducted in the State of Colorado. Comments on this application must be received not later than November 18, 1983.

Board of Governors of the Federal Reserve System, October 20, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29078 Filed 10-25-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of November 1983.

Criminal and Violent Behavior Research Review Committee
November 2-4; 9:00 a.m.
Gramercy Inn
1616 Rhode Island Avenue, N.W.,
Washington, D.C. 20036
Open—November 2; 9:00–10:30 a.m.
Closed—Otherwise
Contact: Jean Byrne, Room 9C14
Parklawn Building, 5600 Fishers Lane
Rockville, Maryland 20857, (301) 443–4666

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to the mental health aspects of criminal and antisocial behavior, individual violent behavior, sexual assault, and law and mental health interactions, with recommendations to the National Advisory Mental Health Council for final reivew.

Agenda: From 9:00–10:30 a.m., November 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Clinical Program Projects/Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee

November 3–4; 9:00 a.m.
Sheraton Washington Hotel
2660 Woodley Road, N.W.
Washington, D.C. 20008
Open—November 3; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Pemela J. Mitchell, Room 9C–18 Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857, (301) 443–1367

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of Mental Health Clinical Research Centers, clinical program projects, and other large-scale multidisciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee
November 3–5; 9:00 a.m.
The Capitol Hill Hotel, Boardroom 308
200 C Street, S.E.
Washington, D.C. 20003
Open—November 3; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Christine Peers, Room 9C–06 Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857, (301) 443–1177

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health of the child and family and prevention, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Research Scientist Development Review Committee
November 4–5; 9:00 a.m.
Holiday Inn Georgetown
2101 Wisconsin Avenue, N.W.
Washington, D.C. 20007
Open—November 4; 9:00–9:30 a.m.
Closed—Otherwise
Contact: Diana Souder, Room 9C–05 Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857, (301) 443–5470

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals who are engaged full time in research and related activities relevant to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–9:30 a.m., November 4, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Basic Behavioral Processes Research Review Committee
November 8–9; 9:00 a.m.
The Capitol Hill Hotel
200 C Street, S.E.
Washington, D.C. 20003
Open—9:00–10:00 a.m.
Closed—Otherwise
Contact: Doris East, Room 9C–26 Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857, (301) 443–3936

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to experimental and physiological psychology and comparative behavior, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., November 8, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Neuropsychology Research Subcommittee of the Basic Psychopharmacology and Neuropsychology Research Review Committee
November 17–19; 9:00 a.m.
The Capitol Hill Hotel
200 C Street, S.E.
Washington, D.C. 20003
Open—9:00–10:00 a.m.
Closed—Otherwise
Contact: Fay Polcak, Room 9C–26 Parklawn Building 5600 Fishers Lane Rockville, Maryland 20857, (301) 443–3930

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., November 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Small Grant Review Committee
November 17–19; 1:30 p.m.
The Canterbury Hotel
1733 N Street, N.W.
Washington, D.C. 20036

Open—November 17, 1:30–2:30 p.m.
Closed—Otherwise
Contact: Virginia Harter, Room 9–95 Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857, (301) 443–4045

Purpose: The Committee is charged with the initial review of applications for research in all disciplines pertaining to alcoho, drug abuse, and mental health for support of research in the areas of psychology, psychiatry, and the behavioral and biological sciences, with recommendations to the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Council on Drug Abuse.

Agenda: From 1:30–2:30 p.m., November 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 17C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: October 21, 1983.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83–29089 Filed 10–25–83; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

Advisory Committee; Meetings

Correction

In FR Doc. 83–27504 beginning on page 46103 in the issue of Tuesday, October 11, 1983, make the following corrections:

1. On page 46103, third column, second paragraph, eighth line, "NDA 11–879" should read "NDA 11–793".

2. Same page, column and paragraph, tenth line, "11–873" should read "NDA 18–873".

BILLING CODE 1505–01–M

Health Resources and Services Administration

Health Education Assistance Loan Program; "Maximum Interest Rates for Quarter Ending December 31, 1983"

Section 727 of the Public Health Service Act (42 CFR Part 60, previously 45 CFR Part 126) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools. Section 60.13(a)(4) of the program's implementing regulations provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending December 31, 1983, two interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 11⅞ percent. Using the regulatory formula (45 CFR 126.13(a)(2)(3)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (9.55 percent), and rounding the result (6.05 percent) upward to the nearest ⅛ percent (6⅛ percent). Thus, the variable rate for this 3-month period would normally be at the annual rate of 13⅛ percent (6⅛ percent plus 7 percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. For the previous 3 quarters the variable interest at the annual rate was as follows: 11¾ percent for the quarter ending March 31, 1983; 12 percent for the quarter ending June 30, 1983; and 12⅜ percent for the quarter ending September 30, 1983. Therefore, in order to maintain an average annual rate of 12 percent for the 12-month period ending December 31, 1983, the variable interest rate for the quarter ending December 31, 1983, would be at an annual rate of 11⅞ percent.

2. For fixes rate loans executed during the period of October 1 through December 31, 1983, and for variable rate loans executed after January 27, 1981, the interest rate is 13⅛ percent. Using the regulatory formula (42 CFR 60.13(a)(3)), in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (9.55 percent); adding 3.50 percent (13.05 percent); and rounding that figure to the next higher one-eighth of 1 percent (13 ⅛ percent.

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: October 19, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83–29056 Filed 10–25–83; 8:45 am]

BILLING CODE 4160–16–M

Application Announcement for Grants for Utilization of Research in Nursing Practice, Nursing Services Administration, and Nursing Education

The Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, announces that applications are being accepted for grants for Utilization of Research in Nursing Practice, Nursing Services Administration, and Nursing Education, under the authority of Section 301 of the Public Health Service Act.

Section 301 authorizes the Secretary to award grants to enlarge the body of scientific knowledge that underlies nursing practice, nursing education, and nursing services administration; and to strengthen these areas through utilization of such knowledge. The Division of Nursing, therefore, wishes to encourage additional activities which will advance research utilization, by stimulating the development of *innovative approaches* to bridging the gap between the generation of knowledge through research and the utilization of such knowledge in nursing practice, nursing services administration, and nursing education. To receive support, programs must meet the requirements of regulations for nursing research support programs, 42 CFR Part 52, and 45 CFR Part 74.

Eligible applicants are any individual, corporation, public or private institution or agency or other legal entity.

Research grant application kits, PHS 398, Rev. 5/82, are available through the research offices of most institutions.

Application materials are being provided without final action on the Fiscal Year 1984 budget. Funds for this program are expected to be available from FY 1984 appropriations for nursing research, and awards are contingent upon the availability of funds.

Applications may be submitted to the Division of Research Grants, National Institutes of Health, Room 240, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20205.

Three review cycles are held each year with application deadline dates of February 1, June 1, and October 1. Applications must be received by the above dates. A package carrying a legible proof-of-mailing date assigned by the carrier and which is no later than one week prior to the receipt date, is also acceptable. If the receipt date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following work day.

For Specific Guidelines and Further Information Contact:

Nursing Research Support Section, Nursing Research and Analysis Branch, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 5C–09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6315

Questions Regarding Grants Policy Should be Directed to:

Grants Management Officer, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6915

This program will be listed at 13.361 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Dated: October 19, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83–29057 Filed 10–25–83; 8:45 am]

BILLING CODE 4160–16–M

Application Announcement for New Investigator Nursing Research Awards

The Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, announces that applications for New Investigator Nursing Research Awards will be accepted under the authority of Section 301 of the Public Health Service Act.

Section 301 authorizes the Secretary to award grants to enlarge the body of scientific knowledge that underlies nursing practice, nursing education and nursing services administration; and to strengthen these areas through utilization of such knowledge.

The New Investigator Nursing Research Award program is designed to encourage new investigators in nursing to develop their research interests and capabilities in research pertinent to nursing practice, nursing education, and nursing services administration, and to encourage small studies of high quality.

Eligible applicants are any individual, corporation, public or private institution or agency, or other legal entity. Principal investigators of these projects must be individuals who have not previously been principal investigators on a Public Health Service supported research project. Exceptions may be granted to individuals who are changing their field of scientific endeavor. If there are questions, applicants should consult with Division of Nursing staff concerning the choice of application best suited to their needs.

To receive support, programs must meet the requirements of regulations for nursing research support programs, 42 CFR Part 52, and 45 CFR Part 74.

Research grant application kits, PHS 398, Rev. 5/82, are available through the research offices of most institutions.

Application materials are being provided without final action on the Fiscal Year 1984 budget. Funds for this program are expected to be available from FY 1984 appropriations for nursing research, and awards are contingent upon the availability of funds.

Applications should be submitted to the Division of Research Grants, National Institutes of Health, Room 240, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20205.

Three review cycles are held each year with application deadline date of March 1, July 1, and November 1. Applications must be received by the above dates. A package carrying a legible proof-of-mailing date assigned by the carrier which is later than one week prior to the receipt date, is also acceptable. If the receipt date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following work day.

For Specific Guidelines and Further Information Contact:

Nursing Research Support Section, Nursing Research and Analysis Branch, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 5C–09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6315

Questions Regarding Grants Policy Should be Directed to:

Grants Management Officer, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–22, 5600 Fishers Lane, Rockville, Maryland 20875, Telephone: (301) 443–6915.

This program will be listed at 13.361 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Dated: October 19, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83–29058 Filed 10–25–83; 8:45 am]

BILLING CODE 4160–16–M

National Institutes of Health

Developmental Therapeutics Contracts Review Committee; Amended Notice of Meeting

The notice of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, published in the **Federal Register** on August 30, 1983, (48 FR 39299) is hereby amended. The first day of the meeting which was advertised for October 27 is cancelled. The meeting will take place on October 28, 1983, and will be open to the public from 9:00 a.m. to approximately 11:30 a.m., to discuss organizational matters with presentations by the Chairperson, Executive Secretary, and Program and Review staff. The meeting will be closed from approximately 11:30 a.m. to adjournment, and will be held at the National Institutes of Health, Building 31, Conference Room 10, Bethesda, Maryland 20205.

For further information, please contact Dr. Kendall G. Powers, Executive Secretary, Developmental Therapeutics Contracts Review Committee, National Cancer Institute, Westood Building, Room 805B, National Institutes of Health, 20205 (301/496–7575).

Dated: October 21, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–29363 Filed 10–25–83; 11:12 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

A National Program for the Assessment and Development of the Mineral Resources of the United States Executive Economic Zone; Symposium

AGENCY: Office of the Secretary.

ACTION: Notice of symposium.

SUMMARY: This notice sets forth the schedule and purpose for a forthcoming symposium sponsored by the U.S. Geological Survey, the U.S. Bureau of Mines, and the Minerals Management Service.

DATES: November 15, 1983, 1–5 p.m.; November 16, 8 a.m. to 5 p.m.; evening session, 7–9 p.m.; November 17, 8:30 a.m. to 12:30 p.m.

ADDRESS: U.S. Geological Survey, National Center, Auditorium, 12201 Sunrise Valley Drive, Reston, Virginia, 22092.

FOR FURTHER INFORMATION CONTACT: Alexander Holser, Office of the Assistant Secretary, Energy & Minerals, Department of Interior, Washington, DC 20240, telephone: (202) 343–5691.

SUPPLEMENTARY INFORMATION: The symposium is being convened to discuss a coordinated government, academic and industry program to evaluate the mineral-resource potential in the recently proclaimed Exclusive Economic Zone. Panel discussions will focus on the science of resource assessments, the engineering technology necessary for exploration and development, and the leasing and legal ramifications of managing such potential resources. Space is limited, particularly at the working sessions on Wednesday afternoon and evening. However, the symposium is open to all who are interested in contributing to the development of this program.

Dated: October 20, 1983.

Will Dare,

Acting Deputy Assistant Secretary, Energy and Minerals.

[FR Doc. 83-29088 Filed 10-25-83; 8:45 am]

BILLING CODE 4310-10-M

Fish and Wildlife Service

Endangered Species Permits Issued for the Months of July, August, and September 1983

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received according to Section 10 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539. Each permit listed was issued only after it was determined that it was applied for in good faith, and that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973 as amended.

Additional information on these permit actions may be requested by contacting the Federal Wildlife Permit Office, Box 3654, Arlington, VA 22203, telephone (703/235–1903) or by appearing in person at the Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 605, Arlington, VA, between the hours of 9:00 a.m. and 3:00 p.m. weekdays.

July 1983		
International Animal Exchange	10491	07–07
Friedman, Joel M.	10049	07–11
Quail Breeder's Society	X9841	07–11
Zoological Society of San Diego	10470	07–18
Hadfield, Micheal G.	10486	07–18
Cheyene Mountain Zoo	10581	07–18
Florida Wildlife Sanctuary	10584	07–18
Peabody Museum	10622	07–22
Talmadge, Bartlett	10461	07–29
Clem, Truman C.	10652	07–29
Little Rock Zoo Garden	10613	07–29
August 1983		
Gibbon & Gallinaceous	10298	08–01
Zoological Society of San Diego	10576	08–10
Quality Taxidermy	10146	08–10
Roger Williams Park Zoo	10485	08–11
McLamb, Lenious	10600	08–11
Jackson Zoo Park	10620	08–12
Oxley, Ron L.	10348	08–15
September 1983		
University of Michigan	10687	09–08
Miami Metrozoo	10679	09–12
	10833	09–12
Izu-Mito Sea Paradise	10689	09–16
Toba Aquarium	10690	09–16
Sacramento Zoo	10885	09–19
Division of Fish & Wildlife Department of Natural Resources	10832	09–19
Zoological Society of San Diego	10844	09–27

Dated: October 19, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-29129 Filed 10-25-83; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[A-17000-N]

Arizona; Order Providing for Opening of Public Lands

October 17, 1983.

1. In Federal Register Volume 47, Number 222, pages 51796–51799, dated November 17, 1982, approximately 665.00 acres were segregated from entry under the provisions of 43 CFR 2091.2–6. The following described lands had been applied for by the State of Arizona under the State Indemnity Selection program:

GSR Meridian

Arizona

T. 3 N., R. 13 W.,
Sec. 8, S½SE¼, SE¼SW¼, E½SE¼;
Sec 17, E½NW¼, NE¼, North of the CAP right-of-way.
T. 3 N., R. 15 W.,
Sec. 2, N½ North of I–10 right-of-way.
T. 39 N., R. 7 E.,
Sec. 4, Lots 3, 5–12, inclusive, N½SW¼ NE¼, N½SE¼NW¼, less Highway right-of-way PHX–086796.

The acreas above aggregate approximately 665.00 acres in Yuma and Coconino Counties, Arizona.

The above described lands have been deleted from State Indemnity Selection applications.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.) on August 27, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and August 26, 1983 was unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, vested no rights against the Untied States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–29050 Filed 10–25–83; 8:45 am]

BILLING CODE 4310–84–M

[U–52422]

Sale of Public Lands in San Juan County, Utah, Amended; Realty Action

AGENCY: Bureau of Land Management, Utah.

ACTION: Notice of Realty Action. Sale of Public Lands in San Juan County, Utah, Amended.

SUMMARY: The subject notice, published September 15, 1983 in FR Vol. 48, No. 180, pgs. 41528 and 41529, is hereby amended:

1. Paragraph #2, Terms and Conditions of the sale is modified as follows:

a. Item #3 is deleted.

b. Item #4 is changed to read "All minerals will be reserved to the United States."

2. The following paragraph is added, the terms and conditions:

Sealed bids shall be considered only if received at the BLM office at 480 S., 1st W., or P.O. Box 7, Monticello, Utah 84535 prior to 4:30 p.m. on December 1, 1983. Each bid shall be accompanied by a cashiers' check, money order, bank draft, or certified check made payable to the Bureau of Land Management for not less than 20% of the amount of the bid and the $2,500 for payment of authorized improvements. The sealed bid shall be enclosed in a sealed envelope clearly marked "Bid for Public Land Sale, Serial #U–52422, San Juan County." If two or more bids for the same amount are received the apparent higher bidder shall be determined by drawing pursuant to 43 CFR 2711.3–1(c). The sealed bids shall be opened and publically declared at the beginning of the sale. Oral bids will then be entertained.

3. Paragraph #3 is modified as follows:

a. Sentence #3, is hereby modified to read "The highest oral or sealed bid will establish the apparent high bidder."

b. Item #3 of monies required is deleted.

Gene Nodine,

District Manager.

October 17, 1983.

[FR Doc. 83–29049 Filed 10–25–83; 8:45 am]

BILLING CODE 4310–84–M

Camping and Occupancy Restriction Order Established; Folsom Resource Area, Bakersfield District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of camping and occupancy stay limit restriction order for developed campgrounds and undeveloped lands in the Folsom Resource Area, Bakersfield District, California.

SUMMARY: Persons may camp within designated campgrounds or on undeveloped public lands not closed to camping within the Folsom Resource Area for a total period of not more than fourteen days during any three month period. The fourteen day limit may be reached either through a number of separate visits or through a period of continuous occupation of the public lands. Camping or occupancy longer than fourteen days is not allowed, unless authorized by law. Under special circumstances and upon request, the authorized officer may give written permission for extension to the fourteen day limit. Camping is defined as living in tents, vehicles or shelters such as cabins, huts, shacks, or lean-tos. Occupancy is defined as the taking or holding possession of a camp or residence on public land.

FOR MORE INFORMATION CONTACT: Deane K. Swickard, Folsom Resource Area Manager, Folsom Resource Area Office, 63, Natoms Street, Folsom, California 95630.

SUPPLEMENTARY INFORMATION: This camping and occupancy stay limit restriction order is established to allow orderly use and administration of public lands and to discourage unauthorized occupancy. Authority for this restriction order is contained in CFR Title 43, Chapter II, Part 8364, Subpart 8364.1. Any person who fails to comply with a restriction order may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Penalties are contained in CFR Title 43, Chapter II, Part 8360, Subpart 8360.0–7.

D. K. Swickard,

Area Manager.

[FR Doc. 83–29068 Filed 10–25–83; 8:45 am]

BILLING CODE 4310–84–M

[Colorado 30701 and 30702]

Oil and Gas Leases, Colorado; Proposed Reinstatements

Notice is hereby given that a petition for reinstatement of oil and gas leases C–30701 and C–30702 for lands in Douglas County, Colorado was timely filed and was accompanied by all the required rentals and royalties accruing from May 1, 1983, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for each lease and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the leases as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the leases, effective May 1, 1983, subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Barbara Benz of the Colorado State Office at (303) 837–5551.

Evelyn W. Axelson,

Acting Chief, Mineral Leasing Section.

[FR Doc. 83–29067 Filed 10–25–83; 8:45 am]

BILLING CODE 4310–84–M

[Colorado 34543]

Oil and Gas Leases, Colorado; Proposed Reinstatements

Notice is hereby given that a petition for reinstatement of oil and gas lease C–34543 for lands in Garfield County, Colorado was timely filed and was accompanied by all the required rentals and royalties accruing from June 1, 1983, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective June 1, 1983, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Barbara Benz of the Colorado State Office at (303) 837–5551.

Evelyn W. Axelson,
Acting Chief, Mineral Leasing Section.
[FR Doc. 83-28068 Filed 10-25-83; 8:45 am]
BILLING CODE 4310-84-M

[INT DEIS 83-71]

White Pine Power Project in White Pine, Lincoln, Elko, and Clark Counties, Nevada; Availability of DEIS

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Draft Environmental Impact Statement (DEIS).

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act of 1969, the Bureau of Land Management, Nevada, has prepared a DEIS on the proposed White Pine Power Project.

SUPPLEMENTARY INFORMATION: The White Pine Power Project DEIS analyzes the effects of development of the generating facility and ancillary facilities (including a water supply system, a railroad connecting with existing railroad systems, and transmission lines interconnecting with existing facilities) on natural and human resources in White Pine, Lincoln, Elko, and Clark counties, Nevada. Alternatives considered along with the proposed action include a no project alternative and two alternative project sites, each with the appropriate ancillary facilities. Alternative transmission and railroad right-of-way segments are considered for each power plant site.

FOR FURTHER INFORMATION CONTACT: State Director, Nevada (NV-933), Bureau of Land Management, 300 Booth Street; Post Office Box 12000, Reno, Nevada 89520, 702-784-5448. Or you may contact: District Manager, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301, 702-289-4865.

Copies of the DEIS are available for review at the following locations:

Bureau of Land Management, Nevada State Office, 300 Booth Street; P.O. Box 12000, Reno, Nevada 89520, 702-784-5448
Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, Nevada 89801, 702-738-3676
Bureau of Land Management, Winnemucca District Office, 705 East Fourth Street, Winnemucca, Nevada 89445, 702-623-3676
Bureau of Land Management, Carson City District Office, 1050 East Williams Street, Carson City, Nevada 89701, 702-882-1631
Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301, 702-289-4865
Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, Nevada 89102, 702-385-6403
Bureau of Land Management, Battle Mountain District Office, North Second & Scott Streets, Battle Mountain, Nevada 89820, 702-635-5181

Also, copies are available for review at the following public libraries:

White Pine County Library, Court House Plaza, Ely, Nevada 89301
University of Nevada, Las Vegas, James R. Dickensen Library, 4505 Maryland Parkway, Las Vegas, Nevada 89154
University of Nevada, Reno, Getchell Library, Reno, Nevada 89507
Washoe County Library, 301 South Center Street, Reno, Nevada 89505
Elko County Library, Elko, Nevada 89801
Clark County Library, 1401 East Flamingo Road, Las Vegas, Nevada 89109
Eureka County Library, Eureka, Nevada 89136
Nevada State Library, Library Building, Carson City, Nevada 89710
Lincoln County Library, Pioche, Nevada 89043
Nye County Library, Tonopah, Nevada 89049

A limited number of copies of the DEIS are available upon request to the Ely District Manager or the Nevada State Director at the addresses above.

Dated: October 18, 1983.
Edward R. Evatz,
Acting State Director, Nevada.
[FR Doc. 83-29055 Filed 10-25-83; 8:45 am]
BILLING CODE 4310-84-M

[OR 35320 (Wash.)]

Washington; Realty Action; Lease/Sale of Public Lands in Ferry County

The following described public land has been examined and classified as suitable for lease or sale under the provisions of the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 74, 43 U.S.C. 869), as amended:

Willamette Meridian

Ferry County, Washington

T. 36 N., R. 32 E., Section 1, Lots 22 and 24
T. 36 N., R. 33 E., Section 7, Lot 4

The land will be leased with an option to purchase, to the Town of Republic. The lease will serve the important public objective of providing additional land for the town's recreational and public purpose needs. The lands are isolated tracts, not essential to any BLM program. The lands are not of national significance and this action will have no significant impact on the environment. The action is consistent with BLM policy and with state and local planning and zoning.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Spokane District Manager, at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202. Any adverse comments received as a result of the Notice of Realty Action will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Date of issue: October 17, 1983.
Roger W. Burwell,
District Manager.
[FR Doc. 83-29072 Filed 10-25-83; 8:45 am]
BILLING CODE 4310-84-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-168]

Certain Combination Punch Press and Laser Assemblies and Components Thereof; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 16, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Houdaille Industries, Inc., Strippit Division, 12975 Clarence Center Road, Akron, New York 144001. The complaint alleges unfair methods of competition and unfair acts in the importation of certain combination punch press and laser assemblies and components thereof into the United States, or in their sale, by reason of alleged direct and induced infringement of the claims of U.S. Letters Patent Re. 31,042. the complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on October 12, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain combination punch press and laser assemblies and components thereof into the United States, or in their sale, by reason of alleged direct and induced infringement of the claims of U.S. Letters Patent Re. 31,042, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Houdaille Industries, Strippit Division, 12975 Clarence Center Road, Akron, New York 14001

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Trumpf GmbH & Co. Johann-Maus-Str. 2, 7257 Ditzingen 1, DE 1, Stuttgart, Federal Republic of Germany

Trumpf America, Inc. Farmington Industrial Park, Farmington, Connecticut 06002

(c) Wilhelm Zeitler, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 122, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to § 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Wilhelm Zeitler, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0390.

Issued: October 21, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29145 Filed 10–25–83 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–137]

Certain Heavy-Duty Staple Gun Tackers; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following repondent on the basis of a settlement agreement: Alltrade, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 21, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: October 21, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29146 Filed 10–25–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–169]

Certain Processes for the Manufacture of Skinless Sausage Casings and Resulting Product; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337, 1337a.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 20, 1983, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 U.S.C. 1337a, on behalf of Union Carbide Corp., Old Ridgebury Road, Danbury, Connecticut 06817. A supplement to the complaint was filed on October 11, 1983. The complaint alleges unfair methods of competition and unfair acts in the importation of certain skinless sausage casings into the United States, or in their sale, by reason

of alleged (1) infringement of claims 1 through 8 of U.S. Letters Patent 3,397,069; (2) infringement of claims 2 through 5 and 7 through 14 of U.S. Letters Patent 3,704,483; and (3) misappropriation of trade secrets. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that after a full investigation, the Commission issue a permanent exclusion order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of investigation: Having considered the complaint, the U.S. International Trade Commission, on October 19, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain skinless sausage casings into the United States, or in their sale, by reason of alleged (1) infringement of claims 1 through 8 of U.S. Letters Patent 3,397,069; (2) infringement of claims 2 through 5 and 7 through 14 of U.S. Letters Patent 3,704,483; or (3) misappropriation of trade secrets, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Union Carbide Corp., Old Ridgebury Road, Danbury, Connecticut 06817.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Viscofan, S.A., Industria Navarra de Involturas Cellulosicas, S.A., Avenida Tolosa S/N, Torre Lacea I.C., San Sebastian, Spain.

Hygrade Food Products Corporation, 680 Fifth Avenue, New York, New York 10019.

(c) Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondent in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–1272.

Issued: October 21, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29147 Filed 10–25–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–146]

Import Investigations; Certain Canape Makers, Issuance of Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has issued a general exclusion order in the above-captioned investigation.

Authority: 19 U.S.C. 1337.

SUPPLEMENTARY INFORMATION: The presiding officer issued an initial determination on July 21, 1983, in which she determined that there has been a violation of section 337 in the unauthorized importation and sale of certain canape makers by reason of the infringement by said canape makers of U.S. Letters Patent Des. 268,318 owned by complainant LK Manufacturing Corp., the effect and tendency of which importation and sale was to substantially injure the relevant domestic industry.

On August 16, 1983, the Commission determined not to review the presiding officer's initial determination, thereby allowing it to become the Commission determination on violation of section 337. The Commission requested written submissions on the issues of remedy, the public interest, and bonding from the parties, other government agencies, and the public. Complainant and the Commission investigative attorney filed written submissions.

Copies of the Commission's Action and Order, its Opinion, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Clarease E. Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–3395.

By order of the Commission.

Issued: October 20, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29143 Filed 10–25–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–130; Final]

Import Investigations; Chloropicrin From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: In conference with the determination of the International Trade Administration of the Department of Commerce to amend its schedule for the conduct of the referenced investigation

(48 FR 45616, Oct. 7, 1983), the Commission hereby revises its schedule as follows: The prehearing conference will be held on January 24, 1984; the hearing will be held on February 9, 1984; and the Commission's final determination shall be issued on or before March 19, 1984.

EFFECTIVE DATE: October 17, 1983.

SUPPLEMENTARY INFORMATION: The Commission instituted this final antidumping investigation effective September 19, 1983, and scheduled a hearing to be held in connection therewith for December 7, 1983 (48 FR 45480, Oct. 5, 1983). On October 7, 1983 (48 FR 45216), the Department of Commerce extended the investigation in response to a request from the China National Import and Export Corporation, the exporter of the subject merchandise in the People's Republic of China. The effect of the extension was to change the scheduled date for Commerce to make its final determination from November 28, 1983, to February 1, 1984. Accordingly, the Commission is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's hearing, which was to have been held on December 7, 1983, has been rescheduled to begin at 10 a.m. on February 9, 1984, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 27, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10 a.m. on January 24, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 3, 1984. A public version of the prehearing staff report containing preliminary findings of fact in this investigation will be placed in the public record in January 24, 1984.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–523–0296), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

By order of the Commission.

Issued: October 17, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29139 Filed 10–25–83; 8:45 am]

BILLING CODE 7020–02–M

[332–159]

Import Investigations; Competitive Conditions Relating to the Importation of Industrial Molds into the United States From Canada

AGENCY: United States International Trade Commission.

ACTION: This notice announces the hearing location in connection with the Commission's investigation on the competitive conditions relating to the importation of industrial molds into the United States from Canada.

EFFECTIVE DATE: October 21, 1983.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the public hearing in connection with the investigation will be held beginning at 10 a.m. on February 2, 1984, to be continued on February 3, 1984, if required, in the Westin Hotel, Marquette Room, Renaissance Center, Detroit, Michigan. Notice of the institution of the investigation was published in the **Federal Register** of September 21, 1983 (48 FR 43109).

FOR FURTHER INFORMATION CONTACT: David Slingerland (202–523–0263), Office of Industries, Machinery and Equipment Division, U.S. International Trade Commission, Washington, D.C. 20436.

By order of the Commission.

Issued: October 21, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29142 Filed 10–25–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–144]

Import Investigations; Certain Direct Current Brushless Axial Flow Fans, Commission Decision Not To Review Initial Determination Partially Terminating the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D) (Order No. 7) terminating the above-captioned investigation as to U.S. Letters Patent Nos. 4,332,666 and 4,030,005. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983; to be codified at 19 CFR 210.53 (c) and (h).

SUPPLEMENTARY INFORMATION: The Commission, has received neither a petition for review of the I.D. nor comments from the public or other government agencies.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, telephone 202–523–0499).

By order of the Commission.

Issued: October 20, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29144 Filed 10–25–83; 8:45 am]

BILLING CODE 7020–02–M

[332–162]

Import Investigations; Foreign Industrial Targeting and Its Effects on U.S. Industries; Phase II, the European Community and Member States

AGENCY: United States International Trade Commission.

ACTION: This notice announces the start of the second phase of the Commission's investigation of foreign industrial targeting, investigation 332–162, and informs the public of the schedule of that phase, including the scheduling of a public hearing.

EFFECTIVE DATE: October 18, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. John Suomela, Director, Office of Economics (202) 523–3771 or Dr. Henry McFarland (202) 523–1999.

SUPPLEMENTARY INFORMATION: The Commission instituted the present investigation on its own motion under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) on April 19, 1983, at the request of the Subcommittee on Trade of the House Committee on Ways and Means. Notice of instituion of the investigation and the schedule of the first phase of the investigation, which concerned industrial targeting by Japan, was published in the **Federal Register** of May 11, 1983, (48 FR 21210).

In the original notice of investigation, it was announced that the investigation would be divided into three phases: the first to consider Japanese industrial targeting, the second to consider the European Community's industrial targeting and the third to consider industrial targeting of other major U.S. trading partners.

Phase II will attempt to answer the following questions about EC and member states industrial targeting: (1) Which industries have the EC and member states targeted? (2) What specific practices have the EC and member states used to further the international competitiveness of these industries? (3) What have been the effects of these practices on the competitiveness of the targeted EC industries and their U.S. competitors?

The report on phase II findings will be submitted to the Subcommittee on Trade no later than April 23, 1984.

Public hearing: A public hearing in connection with the second phase of this investigation will be held in the Commission Hearing Room, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m. on January 4, 1984. All presons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, no later than noon, December 16, 1983.

Written submissions: In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation by December 16, 1983. Commercial or financial information that a submitter desires the Commission to treat as confidential must be sumitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: October 19, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-29140 Filed 10-25-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-44; Final—Court Remand]

Import Investigations; Sorbitol From France

Determination

In response to an order of the Court of International Trade in the case of *Roquette Freres v. United States* (Court No. 82-5-00636, Slip Op. 83-71, entered July 18, 1983), and on the basis of the records [1] developed in investigations Nos. 731-TA-44 (Final) and 731-TA-44 (Final—Court Remand), the Commission determines that as of the date of the Commission's determination in investigation No. 731-TA-44 (Final), an industry in the United States was materially injured by reason of imports from France of crystalline sorbitol which had been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV), but that an industry in the United States was not materially injured or threatened with material injury, and the establishment of an industry in the United States was not materially retarded, by reason of LTFV imports from France of liquid sorbitol.[2, 3, 4]

Background

On March 29, 1982, the Commission notified the Secretary of Commerce of its determination that, based on the record developed during the course of investigation No. 731-TA-44 (Final), an industry in the United States was materially injured by reason of imports of sorbitol from France which had been found by the Department of Commerce to be sold in the United States at LTFV.

The Commission's determination was subsequently challenged in the Court of International Trade by Roquette Freres, the French producer and exporter of sorbitol. On June 21, 1983, the Department of Justice, representing the United States, entered a motion to suspend all further proceedings in the court action pending a determination by the Commission on remand. The basis for the request centered around discrepancies in the administrative record of investigation. On July 18, 1983, the Court ordered the Commission to issue a determination on remand regarding sorbitol from France within 60 days of the order, or by September 19, 1983. Because of a later request for a public hearing in connection with the investigation, the Commission requested, and the Court granted, a 30-day extension in the investigation, until October 17, 1983.

Notice of the institution of the remand investigation was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on August 3, 1983 (48 FR 35186). Notice of the hearing to be held in connection with the investigation was published in the **Federal Register** on August 29, 1983 (48 FR 39165). The hearing was held in Washington, D.C. on September 19, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination and views to the U.S. Court of International Trade on October 17, 1983. A public version of the views of the Commission is contained in USITC Publication 1441, October 1983 (Sorbitol from France, investigation No. 731-TA-44 (Final—Court Remand)).

Issued: October 17, 1983.

1By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-29141 Filed 10-25-83; 8:45 am]

BILLING CODE 7020-02-M

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[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Sorbitol is provided for in item 493.68 of the Tariff Schedules of the United States.

[3] Chairman Eckes did not make separate determinations regarding crystalline and liquid sorbitol, instead determining that an industry in the United States was materially injured or threatened with material injury by reason of LTFV imports of sorbitol from France. Therefore, Chairman Eckes dissents with respect to the Commission's negative determination on liquid sorbitol.

[4] Commissioner Stern also determines that a clarification of her determination as of the date of the Commission's determination, rather than a new determination based on new data, results in a reaffirmation of her original determination, i.e., that an industry in the United States was materially injured by reason of LTFV imports of sorbitol from France.

[Investigation No. 337-TA-133]

Import Investigations; Certain Vertical Milling Machines and Parts, Attachments, and Accessories Thereto, Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Consent Order Agreement; Issuance of Consent Order

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review the presiding officer's initial determination (I.D.) (Order No. 49) granting a joint motion to terminate this investigation with respect to respondent King Machinery, Inc. (King) on the basis of a consent order agreement.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982 and 48 FR 2025, May 5, 1983, and §§ 210.53(c), 210.53(h), 211.20 and 211.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.53(c) and (h) and 19 CFR 211.20 and 211.21).

SUPPLEMENTARY INFORMATION: The Commision published notice of the I.D. in the **Federal Register** of September 23, 1983, 48 FR 43413. The Commission has not received a petition for review of the I.D. or comments from government agencies or the public.

The Commission has determined not to review the initial determination terminating King as a respondent and issuing the consent order. The consent order allows King to continue importing and selling vertical milling machines

that do not infringe Textron's alleged common law trademark rights. The consent order identifies machines that do not violate the order. Thus, available alternatives to the Textron machine do exist. Furthermore, the provisions regarding other alleged unfair acts will not adversely affect the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles, or the U.S. consumer. King can sell and advertise its products through other permissible means.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0189.

Issued: October 17, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29138 Filed 10–25–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30314]

Railroads; Freeport & El Paso Railroad Company-Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of up to 100,000,000 shares of common stock and the issuance of up to $3.1 million in notes.

DATES: This exemption will be effective on October 27, 1983. Petitions for reopening must be filed by November 16, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30314 to:

(1) Office of the secretary, Case Control Branch, Interstate commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Stanley E. Hilton, 1120 G. Street, NW., Washington, DC

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: October 19, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–29059 Filed 10–25–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–33 (Sub-No. 22)]

Railroads; Union Pacific Railroad Company—Abandonment in Saline and McPherson Counties, KS; Exemption

Union Pacific Railroad Company (UP) has filed a notice of exemption for an abandonment under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between milepost 17.00 and milepost 20.69 between Bridgeport (Saline County) and Lindsborg (McPherson County), KS. UP proposes to continue operations over a parallel line of the Missouri Pacific Railroad Company, and has filed a notice of exemption for operation over this line in Finance Docket No. 30289.

UP has certified: (1) That no local traffic has moved over the line for at least 2 years and any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Kansas has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on November 25, 1983 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by November 26, 1983 and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by November 15, 1983 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Colleen A. Lamont, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 20, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–29061 Filed 10–25–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30289]

Railroads; Union Pacific Railroad Company; Trackage Rights Exemption, Over Missouri Pacific Railroad Company; Exemption

Union Pacific Railroad Company (UP) has filed a notice of exemption for trackage rights over the Missouri Pacific Railroad Company between Bridgeport (Saline County) and Lindsborg (McPherson County), KS. UP proposes to abandon its parallel line by notice of exemption in Docket No. AB–33 (Sub-No. 22), thus only a relocation of track is involved.

This joint project is a relocation of a line of railroad which does not disrupt service to shippers and falls within the class of transactions identified at 49 CFR 1180.2(d) which the Commission has found to be exempt under 49 U.S.C. 10505.

As a condition to use of this exemption, any employees affected by the trackage rights agreement shall be protected pursuant to *Norfolk and Western Ry. Co.—Tracking Rights—BN,* 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is effective upon publication.

Decided: October 20, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–29062 Filed 10–25–83; 8:45 am]

BILLING CODE 7035–01–M

NUCLEAR REGULATORY COMMISSION

Request for Comments on Proposed 274i and Memorandum of Understanding for States Participating in Low-Level Waste Compacts

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of 274i. Memorandum of Understanding for Public Comment.

SUMMARY: On December 22, 1980, Congress enacted the Low-Level Radioactive Waste Policy Act of 1980 (Pub. L. 96–573), which makes each State responsible for providing for the availability of disposal capacity for commercial low-level radioactive wastes generated within its borders. The Act also states that low-level waste can be most safely and efficiently managed on a regional basis, and encourages the formation of interstate compacts.

In the process of maintaining safe and effective waste handling techniques within their regions some States feel they need to inspect waste generators for compliance with packaging and shipping requirements to effectively carry out their responsibilities under Pub. L. 96–573. On-side inspection of certain NRC licenses can be satisfactorily included in a State inspection program under a Memorandum of Understanding (MOU), between NRC and each of the States in the compact. NRC has the authority to enter into such MOUs with States under Section 274i. of the Atomic Energy Act of 1954, as amended. Section 274i. MOUs differ from agreements entered into between NRC and a State under the "Agreement State" regulatory program; the latter is accomplished only by entering into an agreement under Section 274b. of the Atomic Energy act. A 274i. MOU can be entered into by a State whether or not it has a 274b. agreement.

The proposed MOU, shown below, would authorize a State to inspect waste packaging on the premises of certain NRC licenses. State enforcement based on findings from these inspections would be under State law, not the Atomic Energy Act; however, States would notify the NRC of any violations.

Because the MOU affects NRC licenses and we anticipate that some States will seek it, NRC is publishing this MOU for public comment. While individual MOUs might differ slightly in detail, the NRC does not intend to publish them for further comment.

The Commission has found that a review of license procedures for quality assurance, packaging, marking, labeling, and loading of vehicles is usually adequate for its inspection program regarding packaging and shipping supplemented by on-site inspections during regularly scheduled inspections. While the Commission does not normally conduct inspections of individual low-level waste shipments, it wishes to encourage the goals of the compacts and to make it possible for the inspections to be carried out by the compact States. The Commission will make no preevaluation of the State's ability to carry out such a program nor will it conduct any implementation review process to determine the effectiveness of the States' programs.

DATE: Comments are due by November 30, 1983.

ADDRESSES: Written comments should be addressed to Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments can be examined at the Public Document Room at 1717 H Street, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mindy Landau, Office of State Programs, U.S. Nuclear Regulatory Commission, Wasington, DC 20555, (Telephone: (301) 492–9880).

Dated at Bethesda, MD this 21st day of September 1983

For the U.S. Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

Proposed 274i. Memorandum of Understanding

The State of ——— (State) is a member of the ——— Compact which was ratified by Congress on ——— pursuant to the Low-Level Radioactive Waste Policy Act, (Waste Policy Act) P.L. 96–573. The Waste Policy Act was enacted by Congress to provide for and encourage States to manage low-level radioactive waste on a regional basis, and to this end authorizes States to enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste. The ——— Compact contemplates that the State will make periodic unannounced inspections of the premises of low-level radioactive waste packaging and transport activities and areas of generators located within its borders if shipments of such waste are destined for a low-level waste facility located in a Compact State.

The United States Nuclear Regulatory Commission (NRC or Commission) has the statutory responsibility to inspect its licensees to determine compliance with NRC requirements, including requirements pertaining to the shipment, packaging and transportation of low-level radioactive waste. In the exercise of this responsibility, the Commission regularly conducts a review of the transportation programs of its licensees including the licensees' procedures for quality assurance, packaging, marking, labeling and loading of vehicles. This transportation program review usually has been found adequate to ensure licensee compliance with the Commission's regulations regarding low-level radioactive waste packaging and transportation without the need for Commission inspection of each individual shipment.

Under Section 274i. of the Atomic Energy Act of 1954, as amended, the Commission in carrying out its licensing and regulatory responsibilities under the Act is authorized to enter into Memoranda of Understanding (agreements) with any State to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. While the Commission does not normally conduct on-site inspections of individual low-level waste shipments of its licensees, it desires to foster the goals of the Waste Policy Act and the ——— Compact.

Accordingly, this Memorandum of Understanding between the State of ——— and the NRC establishes mutually agreeable procedures whereby the State may perform inspection functions for and on behalf of the Commission at certain NRC reactor and materials licensees' facilities which generate low-level radioacive waste.

It is hereby agreed between the Commission and the State as follows:

1. The Commission hereby authorizes the State to perform, for and on behalf of the Commission, the following functions with respect to low-level radioactive waste, as defined in Section 2(2) of the Waste Policy Act, in the possession of Commission licensees located within the State:

(a) Inspections to determine compliance with the Commission's rules and regulations regarding the packaging and transportation of low-level waste destined for disposal at a commercial low-level radioactive waste disposal site, and

(b) Notification of Commission licensees and the Commission in writing of any violation of Commission regulations disclosed by such inspections, and to request the licensees concerned to advise the State and the Commission of corrective action taken or to be taken.

The Commission will not evaluate the State's ability to perform such functions. Such functions as are performed by the State pursuant hereto shall be performed without cost or expense to the Commission.

2. The authority to inspect NRC licensees pursuant to the preceding paragraph is limited to the licensee's low-level waste packaging, packaging procedures, and transport vehicles.

3. In taking any action authorized hereunder, the State shall not undertake to amend or revoke Commission licenses. This Memorandum, however, shall not be construed to preclude the State from exercising any authority lawfully available to it under its own laws.

4. Efforts will be made by both parties to avoid duplicative enforcement action against an NRC licensee for the same violation. However, this is not meant to preclude appropriate complementary actions for the same violation, such as termination of a user permit by the State and NRC enforcement action.

5. Nothing herein shall be deemed to authorize the State to inspect or otherwise enter the premises of any licensee of the Commission which is a Federal instrumentality without the prior consent of the licensee.

6. Nothing herein shall be deemed to preclude or affect in any manner the authority of the Commission to perform any or all of the functions described herein.

7. Nothing herein is intended to restrict or expand the statutory authority of NRC or the State or to affect or vary the terms of any agreement in effect under the authority of Section 274b. of the Atomic Energy Act of 1954, as amended.

8. Nothing herein shall be deemed to permit the State to impose packaging or transport standards beyond those contained in Federal standards.

9. The principal NRC contact under this Memorandum of Understanding shall be ———, the principal State contact shall be ———.

10. This MOU shall become effective upon signing by the ———, State of, ——— and ———, Nuclear Regulatory Commission and shall remain in effect so long as the State remains a member of the ——— Compact unless sooner terminated by either party on thirty days, prior written notice.

For the Nuclear Regulatory Commission.

Regional Administrator
For the State of ———

[FR Doc. 83-29110 Filed 10-25-83; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published September 15, 1983 (48 FR 41542). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the November 1983 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Systematic Evaluation Program,* November 7, 1983, Washington, DC. The Subcommittee will continue discussion of the Systematic Evaluation Program and other outstanding regulatory issues pertinent to Big Rock Point with representatives of Consumers Power Company and the NRC Staff.

**Emergency Core Cooling Systems (ECCS),* November 8 and 9, 1983, Washinton, DC. The Subcommittee will: (1) continue the review of the joint NRC/B&W/EPRI integral-test program; and (2) review selected NRC reserach programs for the ACRS Report to Congress on the fiscal year 1985–1986 NRC Safety Research programs.

**Regulatory Activities,* November 16, 1983, Washington, DC. The Subcommittee will review Regulatory Guide 1.105, Rev. 2, "Instrument Setpoints for Safety-Related Systems".

**R. E. Ginna Nuclear Power Plant Unit No. 1,* November 16, 1983, Washington, DC. The Subcommittee will review the application of the Rochester Gas and Electric Corporation to convert its Provisional Operating License (POL) to a Full Term Operating License (FTOL).

**Electrical Systems,* November 16, 1983, Washington, DC. The Subcommittee will discuss the research program in preparation for the report to Congress on NRC/sponsored research for fiscal year 1985–1986.

**Reliability and Probabilistic Assessment,* November 16, 1983, Washington, DC. The Subcommittee will discuss the NRC research programs assigned to this subcommittee in preparation for the report to Congress on NRC sponsored research for fiscal year 1985–1986 and in preparation for a response to the GAO request for comment on NRC sponsored probabilistic risk assessment-related research programs.

Advanced Reactors, November 16, 1983, Washington, DC. The Subcommittee will review the NRC research programs on advanced reactors for the ACRS report to Congress on the fiscal year 1985–1986 NRC Safety Research programs.

Human Factors,* November 30, 1983, (tentative), Washington, DC. Specific topics to be discussed will appear in a future **Federal Register Notice.

**Combined Reactor Radiological Effects and Waste Management Program,* December 1, 2 and 3, 1983 (tentative), Washington, DC. The Subcommittee will review pertinent NRC research programs to provide input to the report to Congress re NRC research programs for fiscal year 1985–1986; occupational doses associated with TMI–2 cleanup and Turkey Point Unit 4 steam generator replacement; NRC criteria for evaluating INPO's ALARA implementation program; safety implications of auxiliary systems biofouling; draft Regulatory Guides on Bioassay for tritium and on instrument calibration; and be briefed on NRC control room habitability workshop.

**Quality and Quality Assurance During Design and Construction,* December 6, 1983, Washington, DC. The Subcommittee will discuss with the NRC Staff its activities for assuring quality in the design and construction of nuclear power plants (QA Initiatives); its ongoing and planned QA-related

research; and the status of Regulatory Guide 1.28, "Quality Assurance Program Requirements (Design and Construction)".

Human Factors, December 7, 1983, Washington, DC. Specific topics to be discussed will appear in a future **Federal Register** Notice.

Fluid Dynamics, December 8, 1983, Washington, DC. The Subcommittee will discuss recent flow-related incidents at the Palo Verde and St. Lucie Unit 1 reactors that resulted in equipment damage to the plants' primary systems.

Maintenance Practices and Procedures, December 8, 1983, Washington, DC. The Subcommittee will review the current status of maintenance practices and procedures.

Extreme External Phenomena, December 8 and 9, 1983, San Francisco, CA (location tentative). The Subcommittee will conduct a workshop at which possible approaches to the quantification of seismic design margins will be discussed.

Class 9 Accidents, December 13, 1983, Washington, DC. The Subcommittee will review the severe accident research program (SARP) to determine if the program elements are addressing the correct items to resolve the severe accident issue.

Metal Components, December 13, 1983, Washington, DC. The Subcommittee will review the turbine disk ultrasonic inspection method with Westinghouse and General Electric (closed session). The pressure vessel research council will present an overview of its activities in the area of pipe damping, spectral broadening, industry practice for piping design and dynamic stress criteria. In addition, the NRC Staff will present an update of their bolt integrity program.

Regulatory Policies and Practices, December 14, 1983, Washington, DC. The Subcommittee will review the current status of Regulatory Reform activities within NRC.

National Bureau of Standards (NBS) Reactor, December 21, 1983 (tentative), Washington, DC. The Subcommittee will review the renewal of the operating license for the National Bureau of Standards reactor at a power level of 20 MW, an increase from 10 MW.

* *Advanced Reactors*, Date to be determined (December, tentative), Chicago, IL. The Subcommittee will continue the development of the report, "LMFBR Safety Philosophy and Issues."

* *Shearon Harris Nuclear Power Plant Units 1 and 2*, January 3 and 4, 1984. Raleigh, NC. The Subcommittee will review the application of the Carolina Power and Light Company for an operating license.

* *Diablo Canyon Nuclear Power Plants Unit 1 and 2*, January 18 and 19, 1984. San Luis Obispo, CA. The Subcommittee will review the design verification results and the significance of errors found and corrected at Diablo Canyon Nuclear Power Plant Units 1 and 2.

* Qualification Program for Safety-Related Equipment, Date to be determined (January), Washington, DC. The Subcommittee will review the status of Generic Issue A–46, "Seismic Qualification of Equipment for Operating Reactors."

ACRS Full Committee Meeting

November 17–19, 1983: Items are *tentatively* scheduled.

* A. *Big Rock Point Nuclear Plant*—Integrated Plant Safety Assessment Review.

* B. *R. E. Ginna Nuclear Power Plant Unit No. 1*—Full term operating license.

* C. *Revision to 10 CFR 50, Appendix A*—Addition of Human Factors Considerations.

* D. *Revision to 10 CFR Part 20, Standards for Protection Against Radiation*—Revisions regarding radiobiological effects of radionuclides.

* E. *Generic Item B–10, BWR Mark III Hydrodynamic Loads*—Proposed resolution of hydrodynamic loads during transients.

* F. *Systems Interactions*—Discuss proposed NRC action regarding this matter.

* G. *BWR Pipe Cracks*—Briefing regarding status of related NRC action.

* H. *NRC Severe Accident Policy*—Discuss proposed NRC Staff activities related to the development of a policy regarding severe accident decisions for nuclear power plants.

* I. *Meeting with NRC Commissioners*—Discuss ACRS position and the comments of members regarding consideration of seismic design margins in licensing proceedings and consideration of an NTSB type board to investigate nuclear power plant accidents.

* J. *Reactor Operating Experience*—Briefing by NRC Staff representatives regarding recent operating experiences including failure of electrical relays in several nuclear power stations.

* K. *NRC Research Program Related to PRA Development.*—Discuss proposed ACRS comments on response to GAO inquiry regarding the NRC research program contributions in this area.

* L. *ACRS Subcommittee Activities*—The members will hear and discuss reports regarding current subcommittee activities in safety-related areas including consideration of maintenance practices at nuclear power plants, regulatory activities such as proposed revision of Regulatory Guide 1.105, Rev. 2, Instrument Setpoints, and Diablo Canyon Nuclear Plant design verification program.

* M. *Use of Statistics*—Briefing by ACRS member regarding use of statistics in evaluation of safety related issues.

* N. *Miscellanous ACRS Activities*—Hear and discuss reports of ACRS subcommittees and designated members regarding miscellaneous ACRS activities including ACRS procedures, appointment and reappointment of members, and future ACRS activities.

* O. *AEOD Activities*—Briefing regarding activities of the NRC Office of Analysis and Evaluation of Operational Data.

December 15–17, 1983—Agenda to be announced.

January 12–14, 1984—Agenda to be announced.

Dated: October 20, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–29109 Filed 10–25–83; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20309; (SR–Amex–83–19)]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

October 20, 1983.

The American Stock Exchange, Inc. ("Amex") 86 Trinity Place, New York, New York 10006, submitted on August 16, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend Amex Rule 343 to alter the qualification examination requirements for supervisory analysts. Amex Rule 343, as amended, will require a supervisory analyst candidate to either (1) submit evidence of appropriate experience and pass an Exchange Supervisory Analyst Examination; or (2) submit evidence of appropriate experience, successfully compete a specified level of the Chartered Financial Analyst (CFA) Examination, (currently Level I), and pass the part of the Exchange Supervisory Analyst Examination dealing with Exchange rules on research standards and related matters.[1]

[1] The Commission has approved similar amendments to Rule 344 of the New York Stock Exchange (SR–NYSE–83–4) (Securities Exchange Act Release No. 19585, March 10, 1983; 48 FR 11205, March 16, 1983.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20150, September 2, 1983) and by publication in the **Federal Register** (48 FR 41254, September 14, 1983). No comments were received with repsect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby, is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29113 Filed 10-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20299; File No. SR-CBOE-83-38]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.; Relating to Terms of Options Contracts

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 13, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of Proposed Rule Change

Additions are italicized; deletions are bracketed.

Terms of Option Contracts

Rule 24.9. The Exchange shall determine fixed point intervals of exercise prices for call and put options. Index option contracts may expire at three-month intervals or in consecutive months. [, except that option contracts on the industry indexes shall expire only in three-month intervals.] When option contracts on a particular index expire in consecutive months, series expiring in no more than four months may be listed.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Recently CBOE and the American Stock Exchange ("Amex") filed rule changes to permit index options to expire in consecutive months rather than at three-month intervals. Subsequently CBOE and Amex amended their rule changes so that they would not apply to narrow-based index options. CBOE amended its filing because it agreed that it is in the public interest to defer a decision about whether narrow-based index options should be traded on a monthly rather than a quarterly cycle. Although CBOE and Amex both list narrow-based index options, no narrow-based option had yet expired. Narrow-based index options had not been trading long enough to determine whether volume will tend to concentrate in series expiring in the nearby expiration month to the extent experience with broad-based index options. Until such experience has been gained, the exchanges and the Commission cannot determine whether it is appropriate for narrow-based index options to expire on a monthly basis.

This proposed rule change would reverse the effect of the amendment. In other words, it would permit industry index options to expire in consecutive months. However, CBOE is not seeking immediate approval because data has not yet been developed which would indicate that such change is in the public interest. The amendment is being filed at this time because Amex has filed a similar rules change, and competitive forces require that CBOE be able to trade industry index options on as liberal a basis as they are traded on any other options exchange. Accordingly, this proposal is filed with an indefinite extension of the time period for Commission action. CBOE requests approval when the Commission becomes satisfied that such change would be in the public interest.

If data supports trading industry index options which expire in consecutive months, then the statutory basis for the proposed rule change would be Section 6(b)(5) of the Securities Exchange Act of 1934 in that trading them on a monthly basis would satisfy certain investor needs that are not satisfied by trading them on a quarterly basis.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes will not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commissioner's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within

21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.
Dated: October 18, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29117 Filed 10-25-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 20314 (SR-CBOE-83-40)]

Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

October 21, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 17, 1983, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, IL 60604 filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

CBOE proposes to allow permit holders in non-equity (*i.e.*, debt) options to act as floor brokers as well as market makers. CBOE states that the purpose of the proposed rule change is to increase the number of floor brokers available to handle non-equity option orders, and that the statutory basis of the proposed rule change is Section 6(b)(5) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR-CBOE-83-40.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the CBOE.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

Additional floor brokers are needed immediately to effect transactions in non-equity options.[1] Thus, approval of the proposed rule change prior to the thirtieth day after the date of publication of notice of this filing, is both necessary and appropriate in furtherance of the purposes of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29116 Filed 10-25-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 20308; File No. SR-MSTC-83-15]

Midwest Securities Trust Co. ("MSTC"); Order Approving Proposed Rule Change

October 20, 1983.

On August 1, 1983, MSTC filed with the Securities and Exchange Commission, under Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, a proposed rule change that would prohibit MSTC participants for reclaiming a delivery of securities in registered form to the delivering participant solely because the delivery was effected by a book-entry.[1] This rule change would exempt those transactions in which the parties to the trade agree, at the time of execution, to settle the transaction by physical delivery.[2]

Previously, MSTC rules did not preclude reclamation solely because the delivery was effected by book-entry.[3] However, by reclaiming a book-entry delivery with respect to a trade (for which physical delivery was not specified), the receiver forces the deliverer to: (1) Withdraw securities certificates from the securities depository (the "depository"); (2) ship securities certificates to the receiver; and (3) arrange for acceptance of money due (if any) from the receiver. If the receiver redelivers the securities to a third party who also is a depository participant, that party must redeposit the securities into the depository. Instead of reclaiming the delivery, of course, the receiving participant could accept the delivery and withdraw certificates for redelivery for safekeeping elsewhere. Thus, reclamation based solely on delivery by book-entry results in unnecessary, increased expense and effort for deliverers and third parties in processing the settlement of securities transactions. Delays and lost securities certificates may also occur unnecessarily.

MSTC believes the proposed rule change will reduce unnecessary physical processing of registered-form securities certificates and corresponding costs to its particpants. MSTC also believes the proposed rule change is consistent with immoblizing securities certificates and self-regulatory organization rules that require use of automated depository facilities for book-entry settlement of certain transactions.[4] Thus, MSTC believes the proposed rule change is consistent with the Act, generally, and Section 17A of the Act, in particular. The Commission agrees and so finds.

It is therefore ordered, pursuant to Section 19(b)(2) of the act, that the proposed rule change be, and hereby is, approved.

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[1] According to the CBOE staff, there are currently only two non-equity option permit holders and one of them intends to allow his permit to lapse if the terms of the permit are not changed to allow him to act as floor broker. Conversation of October 14, 1983, between Paul Lowenstein, CBOE, and Richard Chase, SEC.

[1] Notice of the proposed rule change together with the terms of substance of the proposed rule change were given by publication of Securities Exchange Act Release No. 20143 (June 1, 1983), 48 FR 41261 (September 14, 1983).

[2] The proposed rule change also does not apply to bearer-form securities, particularly bearer-form municipal securities. (Few publicly traded corporate equity or debt issues are in bearer form.) Participant comment to MSTC uniformly suggested that MSTC continue to permit reclamation of bearer-form municipal securities in order to allow municipal securities dealers to adapt gradually their securities processing operations to securities depository operations.

[3] Generally, participants reclaim securities because of an error in the type of securities to delivered, *i.e.*, wrong maturity date in the case of municipal securities or wrong number of shares in the case of corporate securities. *See* MSTC Rule 3, Section 3.

[4] *See, e.g.*, New York Stock Exchange, Constitution and Rules (CCH) at § 2387 (March 1983); Securities Exchange Act Release No. 19227 (November 9, 1982), 47 FR 51658 (Nov. 16, 1982).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29114 Filed 10-25-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20315; File No. SR-PSDTC-83-10]

Pacific Securities Depository Trust Co.; Filing of Proposed Rule Change

October 21, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. § 78s(b)(1), the Pacific Securities Depository Trust Company ("PSDTC"), on October 11, 1983, filed with the Securities and Exchange Commission the proposed rule change described below. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

The proposed rule change [1] would amend, in two ways, PSDTC's recently approved By-laws relating to its participants fund.[2] First, within ten calendar days prior to the expiration of any letter of credit, the participant for whom the letter was issued must substitute, for that expiring letter, sufficient collateral to secure the participant's open account indebtedness. That substitute collateral can be in any form allowed by PSDTC's By-laws and must be tendered to PSDTC prior to, or contemporaneously with, the letter of credit's expiration.

Second, the proposal would amend PSDTC's authority to pledge participants fund non-cash assets, e.g., certain U.S. Government securities and letters of credit. Currently, PSDTC can pledge those assets as security for loans for purposes allowable under PSDTC's By-laws. Under the proposal, if PSDTC suffers a loss or liability and exercises its borrowing authority under PSDTC's By-laws to meet that loss or liability, PSDTC must repay any resulting loans in full within thirty days after they are made.

PSDTC states in its filing that the proposed rule change would enhance PSDTC's ability to safeguard securities and funds in its custody or control or for which it is responsible. Accordingly, PSDTC believes that the proposal is consistent with Sections 17A(b)(3) (A) and (F) of the Act.

Persons interested in the proposal can submit written comments to the Commission within 21 days after this notice is published in the **Federal Register**. Please file six copies of your comments with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549, and refer to File No. SR-PSDTC-83-10.

Copies of the proposal, including any amendments, written comments, and all related correspondence, other than that correspondence which can be withheld from the public under 5 U.S.C. § 552, can be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, D.C. Copies of the filing and of any amendments also can be inspected and copied at PSDTC.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29115 Filed 10-25-83; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 20, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

National Intergroup, Inc. (Holding Company)
Common Stock, $5 Par Value (File No. 7-7187)
National Intergroup, Inc. (Holding Company)
$5 Cumulative Convertible Preferred, $5 Par Value (File No. 7-7188)
United Water Resources, Inc. (Holding Company)
Common Stock, $5 Par Value (File No. 7-7189)
Tribune Company
Common Stock, No Par Value (File No. 7-7190)
Banc One Corporation
Common Stock, No Par Value (File No. 7-7192)
Syms, Inc.
Common Stock, $.05 Par Value (File No. 7-7193)
Freeport-McMoran Oil and Gas Royalty Trust
Units of Beneficial Interest (File No. 7-7194)
Chrysler Corporation
$2.75 Cumulative Preferred, No Par Value (File No. 7-7195)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 10, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29112 Filed 10-25-83; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

October 20, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Edwards (A. G.), Inc.
Common Stock, $1 Par Value (File No. 7-7196)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 10, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this

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[1] The proposed rule change is modelled closely on current National Securities Clearing Corporation Rule 4, § 1.

[2] *See* Securities Exchange Act Release No. 20287 (October 14, 1983).

opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-29111 Filed 10-25-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-20306; File No. SR-NASD-83-18]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.; Relating to Amendment to Schedule C of the NASD By-Laws

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 27, 1983 the National Assocation of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Item I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

The proposed rule change amends Schedule A of the NASD By-Laws to: (1) Coordinate the date for determining the number of principals and representatives associated with a member firm with that used for state license renewals, (2) clarify the computation of gross income from direct participation programs, variable life insurance, variable annuities, mutual funds, or similar securities, (3) provide an alternative method of computing gross income sales of variable life insurance contracts, (4) provide for a one-time only credit during fiscal year 1983–84 of 20% towards the annual assessment fees for each member firm, and (5) provide a rate structure for the Firm Access Query System ("FAQS").

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This rule change clarifies certain positions of Schedule A to facilitate members' reporting of gross income upon which annual assessments are based, establishes a one-time only credit on members' assessments in light of the large amount of gross income reported by members in 1982, and establishes rates for usage of a new service offered by the Association (FAQS). The proposed new language in Section 5 also provides an optional, alternative method for determining gross income from sales of variable life insurance contracts. This alternative method is intended to simplify computation of gross income from such securities and was developed in cooperation with representatives of member firms selling variable life insurance. The NASD believes that the 9% alternative represents a reasonable approximation of gross income from sales of variable life insurance.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes this rule change does not impose a burden on competition. The one-time 20% credit on membership assessments is applicable to all members. Other amendments merely clarify the existing rule or are designed to reduce the administrative burdens the assessment process imposes on all members. FAQS is a new service available to all members designed to facilitate members' access to Association records. Members who choose not to subscribe to FAQS will receive the same service they currently receive.

C. Self-Regulatory Organization's Statement on Comments on Proposed Rule Change Received from Members, Participants or Others.

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 19, 1983.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-29070 Filed 10-25-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 20307; File No. SR-OCC-83-21]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Options Clearing Corp.

October 19, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

"Act"), 15 U.S.C. 78s(b)(1), on October 6, 1983, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change described below. The proposed rule change would authorize OCC to modify a number of its By-laws and Rules relating to foreign currency options settlement and would make other related non-substantive or technical By-law and Rule amendments. The Commission is publishing this notice to solicit comments on the proposal.

The proposal would amend Article XV of OCC's By-laws in several ways. First, OCC could choose not to treat British bank holidays as "foreign business days." Thus, OCC could defer exercise settlement dates to compensate for those intervening holidays. Because OCC is designating the London branch of a U.S. bank as its agent to coordinate all foreign currency option exercise settlements, OCC believes that, without the rule change, intervening British bank holidays could disrupt exercise settlement. Second, the term "foreign government restrictions" would be amended to include taxes on the delivery or receipt of foreign currency.[1] Third, if such "foreign government restrictions" occur, OCC could adjust foreign currency exercise settlement procedures as OCC in its discretion determines to be fair. Such adjustments can include fixing U.S. dollar settlement prices deliverable to assigned call option writers and to exercising put option holders. Currently, this authority is limited to fixing cash settlement prices deliverable to assigned call option writers. Finally, proposed Article XV would require exercising holders of foreign currency put options to indemnify OCC for losses, damages, or expenses resulting from their failure to deliver foreign currency when OCC has prohibited such exercises under its By-laws. In addition, those exercising put holders would be subject to disciplinary action. Currently, Article XV authorizes OCC to discipline such exercising holders and deems the purported exercise to be null and void. Moreover, the current Article requires those exercising holders to compensate directly assigned Clearing Members for losses incurred from the purported assignment.

[1] That definition currently includes "any law, rule, regulation, executive, legislative, or judicial decree or other restriction imposed by a foreign government on the ownership of non-resident bank accounts in the country of origin of a foreign currency or which would otherwise prevent or impede delivery or receipt of foreign currency * * * in that * * * country." *See* OCC By-law, Art. XV, section 1(1).

The proposed rule change also would amend several OCC foreign currency option settlement rules. First, OCC Rule 1604 would be amended to move the exercise settlement date from the third to the fourth foreign business day following the day on which an exercise notice is tendered properly to OCC. OCC believes that this change should assure OCC sufficient time to verify that Receiving Clearing Members have met their cash settlement obligations before authorizing foreign currency deliveries to those Members.

OCC also proposes to amend Rule 1606 in several ways. The first amendment would require Delivering Clearing Members to guarantee two days in advance of exercise settlement date delivery of foreign currency on settlement date in immediately available funds. Currently, Rule 1606 does not require a guarantee. OCC in its filing states that the proposed guarantee will give OCC advance notice of potential fails to deliver. That advance notice should enable OCC to borrow foreign currency through its agent bank in time to meet its delivery obligations to Receiving Clearing Members on settlement day. Moreover, OCC believes that the proposal reflects prevailing interbank wire system practices. OCC states in its filing that the deliverer's bank customarily guarantees delivery of foreign currency via "wire" before "value date." Next, proposed Rule 1606 would provide for the allocation of income earned by OCC on amounts received from Paying Clearing Members in advance of settlement date.

In addition, OCC Rule 1608 would be modified in a number of ways. Under the proposal, a Delivering Clearing Member's failure to make an OCC Rule 1606 guarantee would trigger OCC's current authority either to borrow foreign currency under OCC Rule 1606(c) or to direct appropriate Receiving Clearing Members to buy-in foreign currency for OCC's account and liability. If OCC chooses to borrow foreign currency to effect delivery and the Delivering Clearing Member fails to deliver the foreign currency within five days after exercise settlement date or fails to guarantee the delivery under OCC's rules, OCC has two choices. First, it can exercise its current buy-in authority against the Delivering Clearing Member. The proposal allows OCC to execute that buy-in not more then seven foreign business days after exercise settlement date. Second, OCC can retransmit to the Delivering Clearing Member any buy-in executed for the account and liability of OCC by those entities that have lent OCC foreign currency to fulfill OCC's delivery obligations to Receiving Clearing Members.[2] OCC states that this change is designed to avoid OCC's risk of buying-in against a Delivering Clearing Member at a price lower than that price obtained by OCC's agent bank in buying-in against OCC's account. In addition, these amendments reflect the injection of the guarantee requirement into the settlement scheme.

The proposed amendments to OCC Rule 1608 also clarify the obligations concerning the payment of imputed interest loss resulting from late delivery. Under the proposal, OCC would be obligated to pay to Receiving Clearing Members any imputed interest loss resulting from OCC's late delivery. Furthermore, the proposal deletes from current Rule 1608 the requirement that Delivering Clearing Members to be obligated to pay OCC imputed interest losses. Those Members already are obligated under OCC Rule 1608(c) to reimburse OCC for fees, interest, or other charges OCC incurs in borrowing foreign currency to satisfy Delivering Clearing Members' obligations.

The proposed rule change also would modify OCC Rule 1609. Among other things, the proposal would delete current references to a Receiving Clearing Member's refusal to accept delivery of foreign currency. To be entitled to receive foreign currency, a Clearing Member first must pay OCC the appropriate settlement amount. OCC believes it most unlikely for Receiving Clearing Members to refuse delivery once payment has been made to OCC.

Finally, the proposed rule change would amend OCC Rule 1610 to subject Delivering Clearing Members to disciplinary action for failure to guarantee delivery obligations under OCC Rule 1606. The proposal also would eliminate all references to a Receiving Clearing Member's refusal to accept proper delivery of foreign currency. OCC believes that these changes should reduce the incidence of fails.

OCC believes that the proposal will conform OCC's Rules and By-laws to prevailing procedures for the delivery of foreign currencies, reduce the incidence of fails, facilitate borrowings of foreign currency by OCC to cover fails that do

[2] Under the proposed Interpretation and Policy to OCC Rule 1606, if a Delivery Clearing Member fails to guarantee its delivery obligation in a timely manner, OCC will instruct its agent bank to borrow the deliverable foreign currency. The bank then creates an overdraft against OCC's account. If that overdraft is not liquidated within five business days after exercise settlement date by proper delivery by the Delivering Clearing Member, the agent bank, under its agreement with OCC, can buy-in the foreign currency against OCC's account.

occur, and broaden OCC's settlement procedures to enable OCC to respond more flexibly to "foreign government restrictions." In its filing, OCC states that the proposed rule change is consistent with section 17A(b)(3)(F) of the Act. The proposal would promote the prompt and accurate clearance and settlement of foreign currency option exercise transactions, assure the safeguarding of funds which are in the custody or control of OCC or for which it is responsible, the protect investors and the public interest.

To assist the Commission in determining whether to approve or disapprove the proposed rule change, interested persons may submit written comments on the proposal within 21 days after this notice appears in the **Federal Register**. Six copies of the comments should be filed with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. SR–OCC–83–21.

Copies of the filing, amendments, comment letters and all related written communications between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, are available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and any amendments also can be inspected and copied at OCC.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–29089 Filed 10–25–83; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0182]

Northwest Venture Partners; Issuance of a Small Business Investment Company License

On August 30, 1983, a notice was published in the **Federal Register** (FR 393.28) stating that an application has been filed by Northwest Venture Partners, 1970 Midwest Plaza Building, Minneapolis, Minnesota 55402, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102(1983)) for a license as a small business investment company.

Interested parties were given until close of business September 14, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05–0182 on October 12, 1983, to Northwest Venture Partners to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 50.011, Small Business Investment Companies)

Dated: October 20, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83–29132 Filed 10–25–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On October 20, 1983 the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0531.
Form Number: 706NA.
Type of Review: Revision.
Title: United States Estate Tax Return—Estate of a Nonresident Not a Citizen of the United States.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0135.
Form Number: ATF F 5110.37.
Type of Review: Extension.
Title: Storage Summary Account.
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Rita A. DeNagy,

Departmental Reports, Management Office.

[FR Doc. 83–29131 Filed 10–25–83; 8:45 am]

BILLING CODE 4810–25–M

Worldwide Unitary Taxation Working Group Establishment and Meeting Notice

Pursuant to the Federal Advisory Committee Act (Pub. L. 94–463) the Department of the Treasury announces the establishment and a meeting of the Worldwide Unitary Taxation Working Group.

The Working Group, composed of representatives of the Federal government, state governments, and the business community, will advise and assist in the development of a policy dealing with the complex issues involved in the states' use of the worldwide unitary method of taxation. It is in the public interest that this tax issue affecting our individual states and our trading partners be resolved in a fair and workable manner by a cooperative effort of the affected parties.

The Working Group will meet at *10:30 A.M.* on November 2 in the Cash Room of the Main Treasury Building. The purpose of the meeting is to define the work plan and develop a time frame for deliberations. The agenda includes the following topics for discussion:

1. A consistent and appropriate definition of a unitary business.

2. The application of the three-factor formula in an international context, including its impact on international income flows.

3. Uniform rules and standards to alleviate administrative burdens while respecting state fiscal sovereignty.

4. An equitable resolution to the problems raised by foreign governments and foreign-based multinationals.

5. The treatment of intercorporate dividends.

6. Federal-state sharing of tax information, including transfer pricing adjustments.

7. Uniform reporting requirements and joint state audits.

Inquiries concerning the Working Group should be addressed to Charles McLure, Room 3108, Main Treasury, 15th & Penn., NW., Washington, D.C. 20220, Telephone 566–2563.

Dated: October 21, 1983.

John E. Chapoton,

Assistant Secretary (Tax Policy).

[FR Doc. 83-29130 Filed 10-25-83; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Bureau of Government Financial Operations.

ACTION: Notice of rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to Section 11 of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owed the Government. Treasury's Cash Management Regulations (I TFM 6-8000) also prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given that the applicable rate is 9% for the second quarter of FY 1984.

DATES: The rate will be in effect for the period beginning on January 1, 1984 and ending on March 31, 1984.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Cash Management Program Staff, Bureau of Government Financial Operations, Department of the Treasury, Treasury Annex No. 1, PB-711, Washington, D.C. 20226 (Telephone: 202/634-5131).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal cash management systems, and is based on investment rates set for purposes of Pub. L. 95-147, 91 Stat. 1227. Computed each year by averaging investment rates for the twelve-month period ending every September 30 for applicability effective January 1, the rate is subject to quarterly revisions if the annual average, on a moving basis, changes by 2 per centum. The rate in effect for the second quarter of FY 1984 reflects the average investment rates for the twelve-month period ended September 30, 1983. The applicable rate will be published on or around the end of the first month of a given quarter for use during the succeeding calendar quarter.

Dated: October 20, 1983.

Russell D. Morris,

Assistant Commissioner.

[FR Doc. 83-29053 Filed 10-25-83; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Performance Review Board Members

October 17, 1983.

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: This Notice is issued to revise the membership of the United States Information Agency (USIA) Performance Review Board.

DATE: October 26, 1983.

FOR FURTHER INFORMATION CONTACT:

Mr. Harlan Rosacker (Co-Executive Secretary), Chief, Domestic Personnel Division, Office of Personnel, U.S. Information Agency, 400 C Street SW., Washington, D.C. 20547, Tel: (202) 485-2617,

or

Ms. Johnnie Manzo (Co-Executive Secretary), Chief, Policy Services Division, Office of Personnel, Bureau of Broadcasting, U.S. Information Agency, 300 C Street SW., Washington, D.C. 20547, Tel: (202) 485-8095

SUPPLEMENTARY INFORMATION: In accordance with Section 4314(c)(1) through (5) of the Civil Service Reform Act of 1978 (Pub. L. 95-454), the following list supersedes the International Communications Agency Notice (47 FR 38211, August 30, 1982) and United States Information Agency Notice (47 FR 44913, October 12, 1982):

Chairperson: Associate Director, Bureau of Management—Woodward Kingman

Foreign Service Officers:

- Deputy Chairperson: Deputy Associate Director, Bureau of Broadcasting—Melvyn Levitsky
- Deputy Associate Director, Bureau of Programs—Gifford D. Malone

Career SES Members:

- Director, Television and Film Service—Alvin Snyder
- Director, Office of Engineering & Technical Operations, Bureau of Broadcasting—Maurice J. Raffensperger
- Executive Director, Bureau of Educational & Cultural Affairs—Thomas G. Leydon
- Deputy Director for Technology, Office of Administration and Technology, Bureau of Management—James T. McMahon

Alternate Career SES Members:

- Director, Office of the Comptroller, Bureau of Management—Stanley M. Silverman
- Deputy Associate Director for Broadcasting (Programs), Bureau of Broadcasting—Ernest E. Pell

Dated: October 21, 1983.

Leslie Lenkowsky,

Assistant Director, United States Information Agency.

[FR Doc. 83-29087 Filed 10-25-83; 8:45 am]

BILLING CODE 8195-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 208
Wednesday, October 26, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Reserve System	1
Pacific Northwest Electric Power and Conservation Planning Council	2
Securities and Exchange Commission	3

1

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, October 26, 1983.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed 1984 check collection service and fee schedules.
2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: October 18, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1499–83 Filed 10–24–83; 9:33 am]

BILLING CODE 6210–01–M

2

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open.

TIME AND DATES: November 2–3, 1983, 9 a.m.

PLACE: Seattle Center, Mercer Forum III and IV (Mercer Street and 3rd Avenue North), Seattle, Washington.

MATTERS TO BE CONSIDERED:

Decision on WPPER Cost-Effectiveness
Consideration of BPA's Draft Environmental Impact Statement on Indoor Air Quality
Status Report on EPA's Workplan for the Council's Two-Year Action Plan–
Consideration of Proposed Plan Amendment for the Residential Weatherization Program
Council Business
Public Comment

Edward Sheets,

Executive Director.

[S–1501–83 Filed 10–24–83; 1:44 pm]

BILLING CODE 0000–00–M

3

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 31, 1983, at 450 5th Street NW., Washington, D.C.

A open meeting will be held on Tuesday, November 1, 1983, at 9:30 a.m. in Room 1C30, followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Commissioners Evans, Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, November 1, 1983, at 9:30 a.m., will be:

1. Consideration of whether to issue a release requesting public comment on a revision of Rule 406 under the Securities Act of 1933. The revised rule would expand the information eligible for confidential treatment and would make the procedures for processing applications essentially identical to those used in processing confidential treatment requests under the Securities Exchange Act of 1934. For further information, please contact Alan L. Dye at (202) 272–2573.
2. Consideration of whether to approve an extension of the New York Stock Exchange, Inc.'s Registered Representative Rapid Response System pilot for an additional year. For further information, please contact Robert Colby at (202) 272–2413.

The subject matter of the closed meeting scheduled for Tuesday, November 1, 1983, following the 9:30 a.m. open meeting, will be:

Formal order of investigation;
Institution of administrative proceedings of an enforcement nature;
Institution of injunctive action;
Enforcement matter.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Michael Lefever at (202) 272–2468.

October 21, 1983.

[S–1500–83 Filed 10–24–83; 11:11 am]

BILLING CODE 8010–01–M

federal register

Wednesday
October 26, 1983

Part II

Nuclear Regulatory Commission

Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

VOL 48 ISS 208 OCT 26 1983 UMI

NUCLEAR REGULATORY COMMISSION

Monthly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing its regular monthly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This monthly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last monthly notice which was published September 21, 1983 (48 FR 43126) through October 17, 1983.

Notice of Consideration of Issuance of Amendment to Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 25, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the exporation of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility , the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800)

325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee

Nontimely filings of petitions for leave to intervene, amended petitions supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C., and at the local public document room for particular facility involved.

Alabama Power Company, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama

Date of amendments request: August 26, 1983.

Description of amendments request: The proposed Technical Specification (TS) changes would correct two tables listing fire hose stations and sprinklers. It would also delete "during shoutdown" from the TS for the fire suppression water system to allow better scheduling for this surveillance test. Both changes are considered administrative in nature as stated in the licensee's submittal dated August 26, 1983.

Basis for proposed no sugnificant hazards consideration determination: The Commission has provided guidance concerning application of these standards by providing certain examples (48 FR 14870) considered not likely to involve significant hazards considerations. One of these examples is "(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The licensee has stated that the changes are administrative in nature. We agree. Example (i) clearly fits these changes because the changes would correct errors in Unit 2 Tables 3.7–5 and 3.7–6. The tables are intended to be complete listings of sprinkler systems and fire hose stations, respectively. The remaining change to delete "during shutdown" from a surveillance requirement for the fire pump diesel also is administrative since it would correct an error made when the Technical Specifications were issued without affecting the validity of the test or plant operation. The error, if not corrected, would require possible shutdown of one or both units if tests were not scheduled for shutdown periods. The Commission did not intend that surveillance tests, which can safely be done while operating, require a shutdown to perform the tests. Therefore, this change to delete "during shutdown" also fits Commission example (i), an administrative correction. On these bases, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Attorney for licensee: George F. Trowbridge, Esquire, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Arkansas Power and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: October 19, 1977.

Description of amendment request: The requested amendment would change the Technical Specifications to provide for the inservice inspection of ASME Code Class 1, 2 and 3 components and inservice testing of ASME Code Class 1, 2 and 3 pumps and valves to conform to the Codes and Standards Rule, 10 CFR 50.55a. The request for Technical Specifications for inserve inspection of ASME Code Class 1, 2 and 3 components was granted on April 18, 1983 (48 FR 20313). This notice relates only to the request for Technical Specification changes concerning the inservice inspection testing of ASME Code Class 1, 2 and 3 pumps and valves to conform to the Codes and Standards Rule, 10 CFR 50.55a. The request submitted by the licensee also covered certain requested relief from inservice testing requirements of ASME Code Class 1, 2 and 3 pumps and valves pursuant to 10 CFR 50.55a(g)(6)(iii). This is being handled as a separate matter.

Bisis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulation. The licensee has proposed inservice testing requirements for Class 1, 2 and 3 pumps and valves in accordance with the Code as required by the regulations. On this basis, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Arkansas Tech University, Russellville, Arkansas.

Attorney for licensee: Nicholas S. Reynolds, Debevoise and Liberman, 1200 17th Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: July 28, 1981 and December 10, 1982.

Description of amendment request: An amendment to the Technical Specifications regarding the licensee's management organization structure and reporting requirements. Section 6, Administrative Controls, of the Technical Specifications contain information and descriptions of the licensee's management organization. The Licensee proposes to modify these specifications in the following manner to reflect current licensee organization and establish additional reporting requirements.

(1) Inclusion of recent corporate and plant organization changes: The scope of activities of the Plant Nuclear Safety Committee (PNSC) as previously described in the Technical Specifications will continue to be performed. The proposed changes will provide for a more defined program of review and management overview of the facility operation.

(2) Inclusion of the reporting requirements of Section 6.9.1.8 and 6.9.1.9 have been revised to include the guidance information contained in Regulatory Guide 1.16.

(3) Inclusion of additional NRC (NUREG-0737) guidance concerning minimum shift crew composition.

(4) Additional requirements for reporting safety/relief valve challenges.

(5) Reformatting to be consistent with the format of the GE/BWR-4 Standard Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application for the Standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: (i) A purely administrative change to the Technical Specifications: for example, a change to achieve consistency throughout the Techinical Specifications, correction of an error, or a change in nomenclature; and (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications.

The inclusion of plant organizational changes to better define the program of review and management overview constitutes an additional control not presently included in the technical specifications and therefore is encompassed by example (ii) above. Likewise this example also applies to the addition of reporting requirements and additional requirements for the minimum shift crew composition. The reformatting is purely an administrative change, as in example (i), to achieve consistency with the GE/BWR-4 Standard Technical Specifications. Thus, the proposed changes described above are either administrative changes or consitute additional controls not presently included in the specifications and are thereby similar to the examples cited above.

Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards considerations exist, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N. W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: September 7, 1982.

Description of amendment request: This amendment would modify the technical specification (TS) to provide a clarification of certain TS requirements, provide editorial and/or administrative corrections of certain TS requirements, and provide TS changes to reflect consistency with the actual plant design. The revisions are described as follows:

(1) Technical Specifications Table 4.3.5.2-1, Remote Shutdown Monitoring Instrumentation Surveillance Requirements, Item 2, Reactor Vessel Water Level: Revise the monthly channel check to "Not Applicable" for instruments B21-LT-NO17D-3 and B21-LSH-NO17D-3.

Transmitter B21-LT-N017D-3 and its associated level switch B-21-LSH-N017D-3 provide an input to bistable logic and do not provide a signal to an indicator; therefore, the requirement for a channel check for these instruments is not appropriate. The requirement for a monthly channel check should be revised to "Not Applicable." The requirement for a quarterly channel calibration should remain unchanged. This would be an administrative change to achieve consistency between the technical specifications and the actual plant configuration.

(2) Technical Specification Table 3.6.3-1, Primary Containment Isolation Valves: (1) Revise the valve group number from 7 to 8 for the reactor vessel head spray isolation valves, and (2) revise the valve group number from 8 to 2 for the RHR discharge isolation valves to radwaste and the RHR process sampling valves.

During the transition from custom Technical Specifications to Standard Technical Specifications for Brunswick, a typographical error occurred in the valve group number for the reactor vessel head spray isolation valves. The Brunswick-2 Technical Specifications correctly state that the reactor vessel head spray valves are in valve group 8. The Brunswick-1 reactor vessel head spray isolation valves also actually receive a group 8 signal; therefore, the valve group number for the Brunswick-1 valves should be revised to correctly show the actual plant design.

The RHR discharge isolation valves to radwaste and the RHR process sampling valves are actuated by isolation signals from either reactor vessel water level low 1 (actuates valve groups 2, 6, 7, and 8) or drywell pressure high (actuates valve groups 2, 6, and 7). These valves are not actuated by a signal from reactor steam dome pressure high (actuates valve groups 7 and 8) as presently shown by TS Table 3.3.2-1. These valves are shown in the Technical Specifications as group 8 valves. To reflect the correct isolation actuations of the RHR discharge isolation valves to radwaste and the RHR process sampling valves, the valve group number for these valves should be revised from 8 to 2. These would be administrative changes to achieve consistency between the technical specifications and the actual plant configuration.

(3) Technical Specification Table 3.3.5.7-1, Fire Detection Instruments: Revise the minimum number of flame, heat, and smoke instruments required operable in their defined fire zones and add additional fire zones that have been established.

Additional fire detection instruments have been installed or relocated in fire zones listed in TS Table 3.3.5.7-1 and selected fire zones encompassed by Technical Specifications have been redefined to improve fire detection and response. The changes in the fire protection system result in a significant increase in the number of smoke detectors. In the Technical Specifications for Unit 1, the number of smoke detectors was increased in the reactor building from 101 to 133; control building from 97 to 129; and diesel generator building from 34 to 100. Detectors for Unit 2 were similarly increased. These changes to the technical specifications would result in additional requirements and would not significantly relax the existing requirements.

(4) Technical Specification 4.4.2: Revise the surveillance requirement for demonstrating Safety/Relief Valve (S/RV) operability.

The three-stage S/RVs, which are equipped with bellows, have been replaced with two-stage S/RVs which are not equipped with bellows. The existing limiting Conditions for Operation (TS 3.4.2) states that the safety function of all reactor coolant system S/RVs will be operable with their lift settings within +1% of their specified values. The existing Surveillance Requirement (TS 4.4.2) requires the demonstration of S/RV operability through a bellows integrity check once per 24 hours. Since the two-stage S/RVs are not equipped with bellows, the surveillance requirements of TS 4.4.2 are no longer applicable nor can they be performed. The proposed Surveillance Requirement specifies that

the S/RVs will be demonstrated operable pursuant to the requirements of TS 4.0.5. Therefore, the lift settings of all the S/RVs will be verified through surveillance testing of their associated solenoids in accordance with the requirements of the ASME Boiler and Pressure Vessel Code. This revision would be an administrative change to achieve consistency between the technical specifications and the actual plant configuration.

(5) Technical Specification Table 3.7.5–1, Safety Related Hydraulic Snubbers: Revise the snubber list to reflect typographical corrections, snubber additions, and snubber deletions.

Due to plant modifications, certain system lines have been rerouted or removed which have necessitated the relocation and/or deletion of selected safety-related hydraulic snubbers. In addition, certain typographical errors have been identified in the snubber numbers and accessibilities/inaccessibilities listed in TS Table 3.7.5–1. The attached revised pages reflect the necessary corrections and revisions to TS Table 3.7.5–1. This sould be an administrative change to achieve consistency between the technical specifications and the actual plant configuration.

(6) In this amendment request dated September 7, 1982, the licensee also requested changes to the technical specifications regarding surveillance requirements for primary containment integrity and regarding by-passing the actuation of isolation functions associated with a loss of vacuum in the main turbine condenser. Further clarification of these requested changes is necessary and a separate notice will be published in the **Federal Register** when the Commission considers issuance of these requested changes.

The requested changes described in items (1), (2), (4), and (5) above, are considered to be administrative changes to achieve consistency between the technical specifications and the actual plant configuration. With regard to item (4) increasing the required number of smoke detectors would add requirements that are not presently in the technical specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no significant hazards consideration include: "(i) A purely administrative change to the Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature; and, (ii) A change that consitutes and additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement."

Of the five requested changes that the Commission is considering, four of them are administrative changes encompassed by example: (i) Above since their purpose is to achieve consistency between the technical specifications and the actual plant configuration. Example (ii) above applies to the change in fire detection instrumentation since the number of smoke detectors is an additional requirement not presently included in the technical specifications.

Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards considerations exist, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: December 13, 1982.

Description of amendment request: On December 2, 1982, the licensee verbally notified the NRC staff that a discrepancy existed between the actual Brunswick plant design/configuration and the technical specifications for certain HPCI System and RCIC System isolation actuation instruments in Table 3.3.2–1. Technical Specification 3.3.2 requires that the isolation actuation instrumentation listed in Table 3.3.2–1 be operable with a minimum number of OPERABLE channels per trip system as shown in the table. The existing Brunswick table is in error in that it requires two operable channels per trip system instead of one for the following instruments:

1. HPCI Line Flow—High (Table 3.3.2–1, item 4.a.1).
2. HPCI Steam Line Ambient Temperature—High (Table 3.3.2–1, item 4.a.6).
3. HPCI Steam Line Area Differential Temperature—High (Table 3.3.2–1, item 4.a.7).
4. Emergency Area Cooler Temperature—High (Table 3.3.2–1, item 4.a.8).
5. RCIC Steam Line Flow—Higth (Table 3.3.2–1, item 4.b.1).
6. RCIC Steam Line Ambient Temperature—High (Table 3.3.2–1, item 4.b.6).
7. RCIC Steam Line Area Differential Temperature—High (Table 3.3.2–1, item 4.b.8).
8. RCIC Equipment Room Ambient Temperature—High (Table 3.3.2–1, item 4.b.8).
9. RCIC Equipment Room Differential Temperature—High (Table 3.3.2–1, item 4.b.9).

The actual Brunswick Plant design and configuration call for one operable channel per trip system for the nine instruments listed above. In addition, GE BWR–4 Standard Technical Specifications (STS) and the Brunswick Updated Final Safety Analysis Report (FSAR) also call for one operable channel per trip system. Based on this information, it was concluded that administrative TS revisions were required, that a TS change request should be submitted as soon as possible, and that the Brunswick Plant could continue operation. The existing Brunswick Plant design is adequate based on an evaluation by the Brunswick engineering staff which has been reviewed and concurred with by General Electric Company (GE). The existing plant design and configuration conforms to descriptions and analyses in the Updated FSAR. Therefore, the requested TS revisions are simply an administrative change to correct TS to conform to the Updated FSAR description, GE–STS, and actual plant configuration.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no consideration include: "(i) A purely administrative change to the Technical Specifications: For example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature."

This example encompasses the requested changes since they would correct administrative errors in the

technical specifications and achieve consistency with the actual plant configuration, the updated FSAR and the GE BWR-4 Standard Technical Specifications.

Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards consideration exist, the staff has made the proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street,NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket No. 50-324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of amendment request: July 29, 1983.

Description of amendment request: This amendment would modify the Technical specifications (TS) to correct errors in control rod insertion times, provide more conservative values of the minimum critical power ratio (MCPR) and delete references to 7×7 fuel assemblies.

The proposed change to the technical Specifications would revise the control rod scram insertion time requirements listed in Specifications 3.1.3.3. and 3.1.3.4. These time requirements were correct in the original Brunswick Custom Technical Specifications where they were listed in terms of rod notch position. Since the rod notch position did not correspond precisely to percent of rod insertion, an offset of some of the scram time limits was erroneously introduced. The requested revision to the TS will correct these errors.

This proposed change would also increase certain limiting values of the MCPR. The requested changes resulted from the discovery of errors in computer programming and the omission of certain corrections. The proposed changes would increase the MCPR values by less than three percent. However, increasing the MCPR values places additional restriction on reactor operation and increases the margin of safety in the event of certain reactor transients.

All references to 7×7 fuel assemblies in the TS would be deleted since this type of fuel is no longer used in the Brunswick Steam Electic Plant, Unit 2.

Whereas the correction of control rod insertion times and the deletion of references to 7×7 type fuel assemblies are purely administrative changes, increasing the MCPR values places additional restrictions on reactor operation.

Basic for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no significant hazards consideration include: "(i) A purely administrative change to the Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature; and, (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: For example, a more stringent surveillance requirement."

The proposed changes to control rod insertion time will correct errors that were introduced by changing the format of the TS and are therefore clearly administrative changes encompassed by example (i) above. The deletion of references to 7×7 type fuel assemblies is also an administrative change to achieve consistency between the Technical Specifications and the actual plant configuration.

Example (ii) above applies to the proposed changes to the MCPR values in that the changes constitute increased restrictions on reactor operation that are more stringent than those presently included in the technical specifications.

Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards considerations are likely to exist, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street,NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Commonwealth Edison Company, Docket Nos. 50-237/249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois; and Docket Nos. 50-254/265, Quad-Cities Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: March 31, 1982.

Description of amendment request: Request for Technical Specification changes to Table 4.6.2 to require removal of a reactor vessel material sample capsule from the reactors at 16 Effective Full Power Years (EFPY) and to revise the expiration date of Figure 3.6.1 Appendix G minimum temperature requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples which were published in the Federal Register on April 6, 1983 (48 FR 14870). One of the examples (ii) of actions involving no significant hazards considerations is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The requirement to incorporate a 16 EFPY sample into Technical Specification Table 4.6.2 is an additional control which fits this example. The revision of the expiration date of Figure 3.6.1 will be evaluated by the staff in such a manner that the curves in and the expiration date of Figure 3.6.1 will require the licensee to operate the Dresden and Quad Cities Units within the restrictions imposed by Appendices G and H of 10 CFR Part 50. Thus, the staff proposes to determine that the requested action involves no significant hazards consideration because it would not involve a significant increase in the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different kind of accident from any previously evaluated, and would not involve a significant reduction in a margin of safety.

Local Public Document Room location: (Dresden Station) Morris Public Library, 604 Liberty Street, Morris, Illinois 60451; and (Quad Cities Station) Moline Public Library, 504 17th Street, Moline, Illinois 61265.

Attorney for licensee: Isham, Lincoln & Beale, Counselors at Law, One First National Plaza, 42nd Floor, Chicago, Illinois 60450.

NRC Branch Chiefs: Dennis M. Crutchfield and Domenic B. Vassallo.

Commonwealth Edison Company, Docket No. 50-237/249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of amendment request: May 2, 1983.

Description of amendment request: The request for technical specification (TS) changes would incorporate wording specifying what the reactor pressure should be when conducting scram testing following a refueling outage and revise the requirement of isolating the control rod drive pumps to apply only to single rod scram testing.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples of actions involving no significant hazards consideration relates to additional limitations, restrictions or controls not presently included in the technical specifications (Example ii). The change specifying what the reactor pressure should be when conducting scram testing following a refueling outage fits this example since it is an additional limitation. The revision of the requirement of isolating the control rod drive pumps only during single rod scram testing clarifies the technical specifications since during full core testing there is insufficient charging system capacity to bias scram insertion times. The current BWR Standard Technical Specifications reflect this distinction. Thus, the staff proposes to determine that the requested action involves no significant hazards consideration because it would not involve a significant increase in the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different kind of accident from any previously evaluated, and would not involve a reduction in a margin of safety.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Attorney for Licensee: Robert G. Fitzgibbons, Jr., Isham, Lincoln & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Branch Chief: Dennis M. Crutchfield.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Station Unit Nos. 1 and 2, Zion, Illinois

Date of amendment request: August 17, 1983.

Description of amendment request: Commonwealth Edison requests a change to the Zion Technical Specifications regarding the Auxiliary Electric Power and Emergency Core Cooling Systems. The proposed change is intended to accomplish the following objectives:

(1) To upgrade the Zion Technical Specifications to a level commensurate with the requirements of the Standard Technical Specifications (NUREG-0542).

(2) To clarify the intent of the Auxiliary Electric Power operability requirements, as requested by the NRC in IE Inspection Report Nos. 50-295/81-29 and 50-304/81-27.

(3) To make revisions necessary to permit implementation of vendor and NRC recommendations regarding operability testing and preventive maintenance of diesel generators.

The proposed change more clearly defines the limiting condition for operation in each operational mode and generally adjusts surveillance requirements to those of the Standard Technical Specifications (STS). However, the proposed change contains provisions different from the current STS in the areas of the required diesel generator test schedule, number of fast starts required, and allowable outage times. As a result of operating experience at plants conforming to R.G. 1.108 requirements, and in response to industry and ACRS recommendations, the NRC is considering the issuance of additional requirements for enhancing the reliability of diesel generators at operating plants. The proposed requirements are to include revisions to the STS that address NRC and industry concerns about frequent, fast start testing and length of allowable outage time. The proposed change to Zion's Technical Specifications conforms to the intent of the NRC's proposed revisions in these areas.

An additional feature of the proposed change allows an extended maintenance period for the "O" diesel generator, once per five years, when one unit is in Modes 5 or 6. Since the "O" diesel generator is shared between two units, extended maintenance periods have not been available under the present technical specifications, even during schedule refueling outages. An extended period is necessary to perform the preventive maintenance programs prescribed by the diesel generator manufacturer, Cooper Energy Services. The NRC has advocated such preventive maintenance program in IE Information Notice 83-51.

Basis for proposed no significant hazards consideration determination: Commonwealth Edison has determined that the proposed change involves no significant hazards consideration. Specifically, it has been determined that the proposed change does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. This determination is consistent with the examples provided in 48 FR 14871. The major portion of the proposed change consists of new specifications that provide "additional limitations, restrictions, or controls not presently included in the technical specifications," which are consistent with the STS and other regulatory positions. The provision permitting an extended maintenance period for the "O" diesel generator has the effect of temporarily reducing the degree of redundancy in the Auxiliary Electric Power System during the maintenance outage, but the benefits of the preventive maintenance program are expected to result in an enhancement of the diesel generator reliability.

The NRC staff has reviewed this determination by the licensee and concludes that the Standards of § 50.92 appear to be satisfied. Therefore, the staff proposes to determine that operation of the facility in accordance with the proposed amendment does not involve significant hazards consideration.

Local Public Document Room location: Zion Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Attorney for licensee: P. Steptoe, Esquire, Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Branch Chief: Steven A Varga.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Station, Unit Nos. 1 and 2, Zion, Illinois

Date of amendment request: August 22, 1983.

Description of amendment request: This amendment to the Zion Units 1 and 2 Technical Specifications would incorporate certain changes necessary to support a planned fuel design change from the Westinghouse 15×115 low parasitic (LOPAR) design to the 15×15 Optimized Fuel Assembly (OFA).

These technical specification changes were determined to be necessary following completion of the detailed analytical and testing program which demonstrated the acceptability of the planned OfA fuel transition. The 15×15

OFAs have design features similar to the 17×17 OFA design which has been generically approved by the NRC in May 22, 1981 letter from R. L. Tedesco to T.M. Anderson (Westinghouse), Safety Evaluation of WCAP-8500, "Reference Core Report—17×17 Optimized Fuel Assembly." In addition, OFA Lead Test Assemblies have now reached significant burnup. Changes related to the use of Wet Annular Burnable Absorber (WABA) rods and a modified $F\Delta_H$ limit equation are also incorporated.

Basis for proposed no significant hazards consideration determination: The Zion Units are both currently operating in Cycle 7 with all Westinghouse 15×15 low parasitic (LOPAR) fuel assemblies. For Cycle 8 and subsequent cycles, it is proposed to refuel with 15×15 optimized fuel assembly (OFA) regions. Mechanical, nuclear, thermal-hydraulic, and accident evaluations have demonstrated full capatiblity of the OFA and LOPAR fuel assemblies in a mixed-fuel core during the transition to an all OFA core. These evaluations were performed utilizing methods previously reviewed and approved by the NRC Staff.

The 15×15 OFA design changes are similar to those incorporated in the 17×17 OFA design which has been previously reviewed and approved by the NRC. The changes include:

(a) Replacement of 5 of the 7 Inconel grids with somewhat larger Zircaloy grids;

(b) A small reduction in the thimble tube diameter and an associated change in thimble plugs;

(c) Addition of a third hold down spring to the top nozzle.

Although these are relatively minor mechanical design changes they have been throughly evaluated, as stated above, with approved methods. The effects of these changes on the safety analyses (such as a small increase in rod drop time) are minimal and are appropriately reflected in the proposed Technical Specifications. They do not create any new accident scenarios, produce more severe results or higher probabilities for existing accident scenarios, or result in significant reduction in safety margins.

Also being introduced with OFA fuel are the Westinghouse Wet Annular Burnable Absorber (WABA) rods. A generic topical report which evaluated WABA utilization was submitted for NRC review in 1982 and has been referenced by previous reload amendments.

The modification of the $F_{\Delta H}$ limit for partial power, a 0.3 multiplier in the equation, has similarly been previously reviewed and approved by the NRC for other facilities.

The Commission has made a proposed determination of no significant hazards consideration for two previous amendments proposing similar changes for the D.C. Cook and Turkey Point plants, respectively, on the basis of similarity to one of the examples which has been provided (48 FR 14871) for guidance in reaching such determinations. That example involves fuel reload amendments which do not utilize assemblies significantly different from those previously found acceptable at the same facility. Since the 15×15 OFA design retains the same fuel rod lattice and dimensions as the 15×15 LOPAR design and since the other mechanical differences are relatively minor changes which improve neutronic characteristics, the example has been found relevant to the Zion amendment.

Commonwealth Edison has concluded that operation of the facility in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences or an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The NRC staff has reviewed this determination by the licensee and concludes that the standards of § 50.92 appear to be satisfied. Therefore, the staff proposes to determine that operation of the facility in accordance with the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Zion Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Attorney for licensee: P. Steptoe, Esquire, Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Branch Chief: Steven A. Varga.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: October 20, 1981.

Description of amendment request: The proposed request would revise the Technical Specifications (TS) to: (1) Delete the requirement of automatic safety injection trip on low pressurizer water level; (2) add a requirement for an automatic undervoltage trip; (3) revise requirements for electrical power system operability to be consistent with Standard Technical Specifications; (4) add surveillance requirements for an undervoltage trip system; (5) revise surveillance requirements for core cooling systems to be consistent with actual plant operation; (6) revise requirements for surveillance testing of containment air recirculation system to be consistent with Standard Technical Specifications; and (7) add additional requirements for surveillance of emergency diesel generator system.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for making a no significant hazards determination by providing certain examples (April 6, 1983, 48 FR 14870). Examples (i) and (ii) illustrate proposed actions which would not involve a significant hazards consideration. These type of actions constitute (i) changes to achieve consistency throughout the TS, correct an error or change in nomenclature and (ii) additional limitations, restrictions or controls not presently included in the TS such as a more stringent surveillance requirement.

Item 1, deletion of the automatic, safety injection trip logic signal on low pressurizer water level, is not a significant hazards consideration because this level instrument has been placed in the tripped position at all times. The low pressurizer water level trip is in a logic circuit with the low pressurizer pressure trip. Since both must be tripped to get a safety injection the system is more conservative with the low water level system out-of-service and in the tripped position at all times. This is, therefore, a more stringent requirement than with the low water level trip in operation.

Adding requirements for an undervoltage trip (Item 2 above) undervoltage trip surveillance (Item 4) and surveillance of diesel generator system (Item 7) would include provisions which would also be more stringent and would involve additional TS requirements. Thus, the changes described in Items 1, 2, 4 and 7 are consistent with example (ii).

Items 3, 5 and 6 are changes which would achieve consistency with Standard TS and actual plant operations and are, therefore, encompassed within example (i) above. Item 3 adds requirements to the TSs that are presently only licensee procedures. The proposed TSs are more stringent than the present TSs. Item 5 deletes the requirement that tests of the diesel generator include automatic loading of charging pumps, since these pumps are not required in any TSs to be

automatically loaded on the diesel. Also, no credit for automatic loading of charging pumps is given in any safety analysis. Item 6 reverses the efficiency requirements for containment filters IV.A.1 and IV.A.2 to be consistent with Standard TSs but does not change the overall efficiency or performance requirements for the containment filter system.

Local Public Document Room location: Russell Library, 119 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: Dennis M. Crutchfield.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: February 15, 1983.

Description of amendment request: The proposed amendment would delete Technical Specifications (TS) for meteorological monitoring because such provisions are included in the Haddam Neck radiological effluent monitoring program. The proposed amendment would also delete TS requirements for transmission line rights-of-way management because this activity must comply with the Federal Insecticide, Fungicide, and Rodenticide Act of 1972, as amended and the State of Connecticut's regulations on rights-of-way management.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for making a no significant hazards determination by providing certain examples (April 6, 1983, 48 FR 14870). Example (i) illustrates a proposed action which would not involve a significant hazards consideration. These type of actions constitute purely-administrative changes to the TSs, a change to achieve consistency throughout the TSs, correction of an error or a change in nomenclature. The above proposed changes constitute purely administrative changes because the same requirements remain imposed on the licensee. The proposed changes to the TSs would delete redundant requisites where those provisions were included elsewhere in NRC requirements or in other Federal and State regulations. In addition, transmission line right-of-way management involves primarily the removal of vegetation and in no way involves reactor safety.

Local Public Document Room Location: Russell Library, 119 Broad Street, Middletown, Connecticut 06457.

Auttorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: Dennis M. Crutchfield.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 2, 1983.

Description of amendment request: This proposed amendment would modify the Technical Specifications by: (1) adding new requirements for operation, channel checks and calibration of radiation monitoring equipment in the containment buliding and stack; (2) change the definition of containment integrity to clarify the requirement that only one air lock door must be closed when the air lock is being used for work inside containment; (3) adding surveillance requirements for a newly installed containment isolation valve; (4) adding limiting conditions for operation for post-accident instrumentation; (5) reflecting the current status of surveillance capsules; (6) revising the licensee organization chart to reflect present titles and adding a block to the chart to show that the President reports to the Chairman of the Board; (7) adding "non-destrictive testing" and "administration" to the list of review and audit activities for the Nuclear Review Board (NRB); (8) specifying the size of the NRB as seven to eleven members instead of not specifying the number. This will assure that there is an adequate number of employees with the required skills on the NRB without the need for designated alternates; (9) deleting other reference to use of alternates in NRB to be consistent; (10) renumbering some Technical Specification Sections; (11) clarifying NRB review requirements to be consistent with the Standard Technical Specifications for events tha require 24-hour written notification to the NRC with no change in actual requirements; (12) revising the reporting requirements for the NRB; (13) revising the format with respect to NRB qualification portion of the Technical Specification provisions; (14) changing reference to NRC Regions to reflect current NRC titles; and (15) adding requirements for a special report if post-accident instrumentation is unavailable.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (April 6, 1983, 48 FR 14870). The example (i) of actions involving no significant hazards consideration include actions which are purely administrative changes to the TSs, such as a change to achieve consistency throughout the TSs, correct an error or change nomenclature. The following changes proposed by the subject application are encompassed by this example: Items 2 and 5 above, would clarify a TS and revise a TS to reflect current status of a capsule. Such administrative changes as these proposed changes are to achieve consistency throughout the Technical Specifications; Items 6, 7, 8, 9, 10, 11, 12, 13, and 14 are proposed changes to reflect current changes in licensee and NRC organizational titles and to revise and clarify review and reporting responsibilities of the licensee's Nuclear Review Board. These proposed changes are administrative, would also achieve consistency throughout the Technical Specifications, correct errors with respect to present licensee and NRC organization and titles, and would correct certain page numbers in the Technical Specifications.

Another example (ii) provided in 48 FR 14870) which involves no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications such as a more stringent surveillance requirement. The changes proposed by the application that ar encompassed by this example are items 1, 2, 3, 4 and 15 above which add Technical Specification requirements for channel checks, calibration and survelliance. These would be more stringent requirements than the existing TSs. Therefore,the staff proposes to determine that this requested action would not involve a significant hazards consideration.

Local Public Document Room location: Russell Library, 119 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103.

NBC Branch Chief: Dennis M. Crutchfield.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: June 9, 1978 and December 3, 1979.

Description of amendment request: The amendment would permit operation

after incorporation of the Radiological Effluent Technical Specifications into the Big Rock Point Technical Specifications to bring them into compliance with Appendix I of 10 CFR Part 50. It provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; and radiological environmental monitoring that consists of a monitoring program and a land use census. This change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual. The Big Rock Point Technical Specifications do not presently include a section called Radiological Effluent Technical Specifications. However, the present Technical Specifications do include several limitations on radiological effluents.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Consumers Power Company, Docket No. 50–255, Palisades Nuclear Power Plant, Van Buren County, Michigan

Date of amendment request: November 11, 1981.

Description of amendment request: The proposed amendment would change the requirement in the Technical Specifications for the hydrostatic test pressure of the Service Water System from 150 psig to 110 psig.

Basis for proposed no significant hazards consideration determination: This change would conform to ASME Boiler and Pressure Vessel Code, Section XI Rules of In-service Inspection of Nuclear Power Plant Components, 1974 Edition, Addenda through summer 1975 which has been incorporated in 10 CFR 50.55. The Commission published examples of amendments not likely to involve a significant hazards consideration in the Federal Register (48 FR 14870) on April 6, 1983. Example (iv) of such type amendments is "a change which * * * may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan." Example (vii) of such type amendments is "a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." The proposed change would have no effect on facility operations other than reducing the test pressure to 110 percent of design pressure (100 psig). The test pressure of 110 percent of design pressure, although a significant reduction from the previously required 150 percent, clearly conforms to the criteria for this system specified in the Standard Review Plan. Therefore, this change fits examples (vi and vii) of the amendments not likely to involve a significant hazards consideration published in the Federal Register on April 6, 1983 (48 FR 14870). On this basis, the staff proposes to determine that this amendment would not involve a significant hazards consideration.

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 121 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Consumers Power Company, Docket No. 50–255, Palisades Nuclear Power Plant, Van Buren County, Michigan

Date of amendment request: June 25, 1982.

Description of amendment request: The proposed amendment would change the Technical Specifications by : (1) Correcting the name of the area in which a fire sprinkler is required, (2) adding another area to the list of those requiring fire sprinklers and (3) providing a proper basis for the surveillance of fire barriers.

Basis for proposed no significant hazards consideration determination: The Commission published examples of amendments not likely to involve a significant hazards consideration in the Federal Register (48 FR 14870) on April 6, 1983. Example (i) of such type amendments is "a purely administrative change to Technical Specifications." Proposed changes (1) and (3) above fit this category in that: (1) Corrects an error in identification of an area and (3) corrects the basis for the surveillance requirements for fire barriers and does not change the requirements. The existing basis merely restated the limiting conditions for operation without giving a basis. Example (ii) of the Commission's examples is "a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specification." Proposed change (2) above fits this category in that it requires a sprinkler system for fire protection in an area of the plant where none is now required. On this basis, the staff proposes to determine that this amendment would not involve a significant hazards consideration.

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application: December 20, 1982.

Description of amendment request: The proposed changes involve the Technical Specifications for Administrative Controls. The requested changes would clarify existing requirements, bring closer agreement to the terminology of the NRC Standard Technical Specifications, incorporate overtime work limitations stated in NRC Generic Letter 82–12, change the titles of some of the staffing positions, and modify the minimum shift crew to conform to a new regulation which becomes effective January 1, 1984.

Basis for proposed no significant hazards consideration determination: The proposed amendment is purely administrative involving changes in nomenclature and format for closer consistency with the Technical Specifications of the licensee's other nuclear plants and better conformance with the NRC Standard Technical Specifications. The proposed amendment fits example (i) of the types of amendments that are considered not likely to involve significant hazards considerations published in the **Federal Register** on April 6, 1983 (48 FR 14870). On this basis, the Commission's staff proposes to determine that the requested action involves no significant hazards consideration.

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Attorney for licensee: Judd L. Bacon Esquire, Comsumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M. Crutchfield.

Comsumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: August 3, 1983.

Description of amendment request: The proposed amendment would delete Capsule A–60 from the Reactor Vessel Surveillance Coupon removal schedule and allow the removal schedules for equivalent capsules to be interchanged.

Basis for proposed no significant hazards consideration determination: With regard to the deletion of Capsule A–60 from the surveillancer program, an equivalent capsule has already been removed from the vessel and the appropriate data has been obtained and analyzed. At its location, the capsule A–60 has been irradiated to a level beyond what is predicted for the vessel wall at the end of its 40 year lifetime and the data to be obtained would not be useful. The remaining capsules in the surveillance program would be withdrawn on the same schedule as originally planned except that equivalent capsules could be removed as an option. The staff concludes that this does not significantly change the surveillance program and operation of the facility in accordance with the proposed changes would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. On this basis, the staff proposes to determine that this amendment would invlove no significant hazards consideration.

Local Public Document Room location: Kalamazoo Public Library 315 South Rose Street, Kalamazoo, Michigan 49006.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Dennis M Crutchfield.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor (LACBWR), Vernon County, Wisconsin

Date of Amendment request: September 29, 1982.

Description of amendment request: The proposed amendment requests Technical Specification (TS) changes of four general types: (1) Revision of the current TS's regarding safety relief valves to incorporate new requirements for operability and surveillance testing, (2) revision of TS's regarding reactor vessel nil-ductility transition temperature in accordance with new data obtained from analysis of the third set of reactor vessel surveillance capsules, (3) addition of TS's regarding Post-Accident Radiation Monitoring Instrumentation equipment installed as requested by NUREG–0737, and (4) revision of availability and surveillance testing requirements for Emergency Core Cooling Systems to be more consistent with the format and intent of the BWR Standard Technical Specifications.

Basis for proposed no significant hazards consideration determination: The TS changes described in Item (1) above were requested by the NRC on August 12, 1977, with additional guidance provided on December 12, 1977, for the purpose of providing additional assurance of relief valve and safety-relief valve operability and reliability. The LACBWR safety valve will be tested in accordance with the schedule and requirements of Section XI of the ASME Code, 1974 edition with Summer 1975 Addenda. The required frequency of testing increases when observed valve failures increase. Thus it can be seen that the TS's proposed above would incorporate additional operating limitations not present in the current La Crosse TS's.

The Commission has provided guidance concerning the application of standards for making a no significant hazards determination by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions involving no significant hazards considerations relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. On this basis, the NRC staff proposes to determine that the changes described in Item (1) above would not involve a significant hazards consideration.

Item (2) Technical Specification changes consist of a newly-established curve showing the predicted reactor vessel nil-ductility transition temperature as a function of irradiation (effective full-power years). This curve was calculated from data obtained from the third set of reactor vessel surveillance capsules which was removed during the 1980 refueling outage. The data indicates that the rate of neutron embrittlement of vessel materials is less than previously projected and that lower nil-ductility transition temperatures are allowable as calculated in accordance with current licensing criteria in Appendices G and H of 10 CFR 50.

Example (vi) of the Commission's guidance cited above relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. Since the new relationship between nil-ductility transition temperature and irradiation was calculated in accordance with current licensing criteria specified in 10 CFR 50 Appendices G and H, the staff proposes to determine that the application for the above changes does not involve a significant hazards consideration.

Item (3) changes are in response to NUREG–0737 requirements. These proposed TS's provide limiting conditions for operation and surveillance requirements for post-accident radiation monitoring equipment installed at La Crosse.

One of the examples (ii) of actions involving no significant hazards consideration, as stated in the Commission's guidance cited above, relates to a change that constitues an additional limitation, restriction, or control not presently included in the Technical Specifications. The requested action fits this example. On this basis, the NRC staff proposes to determine that the application for the Item (3) changes would not involve a significant hazards consideration.

The proposed changes described in Item (4) consist of a complete revision of the existing Technical Specifications to clarify limiting conditions for operation and surveillance requirements for Emergency Core Cooling Systems (ECCS). The ECCS TS's now in effect at La Crosse were written before the BWR Standard Technical Specifications had been established and are of a completely different format. Moreover, they do not clearly indentify applicable criteria for operability, limiting conditions for operation, and surveillance requirements. The revisions are submitted to conform with the format of the STS. The proposed changes will be reviewed and compared to Standard Technical Specifications to ensure that they are consistent with the intent of the STS, with insignificant differences as may be necessary due to the fact that La Crosse is an Allis-Chalmers design, instead of a General Electric plant for which the STS were written.

Example (vi) of the Commission's previously mentioned guidance relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria. Since the Item (4) TS's will be reviewed to conform to the intent of the Standard Technical Specifications (which represent current licensing criteria), the NRC staff proposes to determine that the application for the above changes would not involve a significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: O. S. Heistand, Jr., Esquire, Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, D. C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Dairyland Power Cooperative, Docket No. 50-409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: October 29, 1982.

Description of amendment request: The proposed amendment requests Technical Specification (TS) changes of three general types: (1) Changes to TS's so that the plant will comply with the Appendix J (leak testing) requirements of 10 CFR Part 50; (2) deletion of local leak testing requirements for five penetrations since all tests throughout the sixteen-year life of the plant have shown no leakage; and (3) rewording of the TS's regarding nuclear instrumentation safety channels to prevent misinterpretation of actions to be taken when a nuclear channel is inoperative.

Basis for proposed no significant hazards consideration determination: The TS changes described in Item 1 above were requested and evaluated by the NRC in a Safety Evaluation issued on August 24, 1982, which required that the Technical Specifications needed for LACBWR comply with Appendix J to 10 CFR Part 50. These changes involve: (1) A more conservative method of calculating containment integrated leakage after local leakage has been measured and corrected; and (2) a reduction of the maximum total leakage acceptance criteria for containment penetration and isolation value testing. The Commission has provided guidance concerning the application of standards for determining whether an application involves a no significant hazards consideration by providing certain examples (48 FR 14870, April 6 1983) of actions not likely to involve significant hazards considerations. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The requested action fits this example. On this basis, the NRC staff proposes to determine that the application for the above changes would not involve a significant hazards consideration.

The Technical Specification changes described in Item (2) above would require an exemption from the leak testing requirements of Appendix J to 10 CFR Part 50 before such an amendment could be issued. The licensee states that the past history at LACBWR of leak testing (16 years) for five penetrations has not revealed any penetration leakage and that consequently the Type B penetration leak tests which are required by Appendix J to be performed at least every two years are not necessary. The licensee states that the integrated containment leak test (Type A), which is required about every 3⅓ years, will be sufficient to detect any future leakage in these penetrations. Since the past history of testing shows no leakage, the staff proposes to determine that the possible increase of 16 months in leakage testing intervals for these five penetrations would not involve a significant increase in the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different kind of accident from any previously evaluated and would not involve a significant reduction in a margin of safety. On this basis, the staff proposes to determine that the application for the changes in Item (2) would not involve a significant hazards consideration.

Item (3) changes consist of rewording the current Technical Specifications regarding nuclear instrumentation to more clearly describe what actions are required when a nuclear channel becomes inoperable. Nuclear istrumentation overpower trip logic varies with power. A two-out-of-four logic is used when operating at or above 5% power and one-out-of-two logic is used when power is below 5%. Thus, when at high power, an inoperable channel should be tripped, resulting in one-out-of-three logic. But if the tripped inoperable channel is one of those used when power is less than 5%, it must be bypassed before power is reduced to below 5% or a scram signal will be generated. The current Technical Specifications do not clearly state that certain nuclear channels if inoperable should be first placed in the "tripped" position when at power, but "bypassed" before power is reduced to below 5%. The proposed Technical Specifications are administrative in nature since they are intended to modify the current TS's to more clearly describe the necessary actions when nuclear channels become inoperable. Example (i) of the Commission's guidance regarding these determinations states that a purely administrative change to the Technical Specifications such as a change to achieve consistency throughout the Technical Specifications would likely be found to involve no significant hazards consideration. On this basis, the staff proposes to determine that the application would not involve a significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: O.S. Heistand, Jr., Esquire, Morgan, Lewis & Bockius,

1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport , Pennsylvania

Date of amendment request: July 14, 1983.

Description of amendment request: Application for an amendment to Operating License DPR-66, revising Table 3.7-4a of Appendix A. The revision consists of the addition of six hydraulic snubbers to the surveillance list; these snubbers are all located on the main feedwater system piping. They are already in place, and are not recent additions. They are, however, not currently in the Table 3.7–4a for surveillance.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of these, Example (ii), involving no significant hazards considerations is "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." The requested amendment closely matches the example and the staff, therefore, proposes to characterize it as involving no significant hazards consideration.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa. Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1 Shippingport, Pennsylvania

Date of amendment request: July 14, 1983.

Description of amendment request: The licensee proposed to amend the Beaver Valley Power Station, Unit 1 Technical Specifications, Appendix A concerning various administrative changes:

1. Tables 3.3–1 and 3.3–3 would be revised to identify conditions under which operating bypasses will block the Reactor Trip System Instrumentation and Engineered Safety Feature actuation channels and does not involve any change of the plant itself. Changes in these Tables are proposed to make them more accurately reflect the as-built condition of the plant.

2. Section 3.8.2.1 Onsite Power Distribution Systems, would be revised to requie the 4160 volt emergency bus and applicable 480 volt emergency bus to be operable.

3. Section 3.6.1.1, Containment Systems, would be revised to correct a typographical error.

4. The offsite organization, Figure 6.2–1, would be revised to update the title from Director to Superintendent, Personnel Administration.

5. Section 3.6.1.3, Containment Air Locks, would be amended to conform verbatim with requirements in the Standard Westinghouse Technical Specifications, specifically to:

(a) Allow continued plant operation with one air lock door inoperable, provided the operable one is locked closed and verified to be locked closed at least once per 31 days,

(b) To prescribe surveillance requirements, and

(c) Require overall air lock leakage tests when maintenance has been performed on that air lock.

6. Section 3.2.6, Axial Power Distribution, would be deleted. This change, however, has already been addressed in Amendment No. 9 dated July 12, 1977. The present request is thus a mistake on the licensee's part, and will not be addressed.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14871). One example under "no significant hazards" involves "A purely administrative change to technical specifications: for example, a change to achieve consistency through the Technical specifications, correction of an error or a change in nomenclature." Proposed changes 1–4 above are administrative in nature and do not physically change the plant safety related systems, components or structures. Therefore, the staff proposes that since these changes match the quoted example, they should be characterized as involving no significant hazards consideration.

Another example of "no significant hazards" is "a change to make a licensee conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." Change request No. 5 would amend the Technical Specifications to conform with the Westinghouse Standard Technical Specifications, and closely matches this example. The staff therefore proposes to classify it as involving no significant hazards consideration.

Proposed change number 6, as stated above, is a mistake and no further action will be taken by the staff.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for the licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment request: December 21, 1978, as supplemented October 30, 1979.

Description of amendment request: The proposed amendments would add Radiological Effluent Technical Specifications to meet the requirements of Appendix I of 10 CFR Part 50. The amendments would provide new Technical Specification provisions defining limiting conditions for operation and surveillance requirements for controlling radioactive effluent releases, and for treatment of radioactive wastes. This action would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether license amendments involve significant hazards considerations by providing certain examples (48 FR 14870). One of the example of actions not likely to involve significant hazards considerations relates to changes that constitutes additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I to 10 CFR Part 50, required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the proposed addition of Technical Specifications described

above. The Commission proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated "as low as is reasonably achievable" effluent objectives.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Stret, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: March 31, 1983.

Description of amendment request: The requested amendments would modify the Hatch Units 1 and 2 Technical Specifications to require an increase in the frequency of independent audits of both the emergency and security plans.

The current Technical Specifications require an independent audit of both the emergency and security plans every 24 months. 10 CFR 50.54(t) and 10 CFR 73.40(d) require that these independent audits be carried out every 12 months. The proposed amendments would require that these audits be made every 12 months as required by the regulations.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards considerations include changes that constitute additional limitations not presently included in the Technical Specifications and that make the license conform to changes in the regulations. Since the proposed changes add requirements and ensure compliance with the regulations in accordance with Commission positions, the Commission proposes to determine that the application does not involve a significant hazards consideration.

Local Public Documents Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment request: April 22, 1983.

Description of amendment request: These amendments would modify the Technical Specifications as follows:

1. Require administrative procedures limiting the working hours of staff members who perform safety related functions (for both Hatch Units 1 and 2).
2. Require reporting of safety/relief valve failures monthly and of safe/relief valve challenges annually (for both Hatch Units 1 and 2).
3. Require demonstration of the operability of the Reactor Core Isolation Cooling (RCIC) System automatic restart logic once each operating cycle (for both Hatch Units 1 and 2).
4. Require that the RCIC System has an operable flow path capable of automatically taking suction from the suppression pool and transferring the water to the reactor pressure vessel. The amendment would require that this automatic transfer capability is verified to be opreable once each operating cycle. It would also impose surveillance requirements on the condensate storage tank and suppression pool level switches (for Hatch Unit 1 only).
5. Revise the figure defining reactor water levels to reflect the common reference levels previously established for all level instruments in response to NUREG–0737, Action Item II.K.3.27.
6. Require an isolation system instrumentation minimum response time of three seconds for isolation of the High Pressure Coolant Injection System and RCIC System on high steam line flow (for Hatch Unit 2 only).

The above proposed Technical Specification modifications were submitted in response to the Commission's request that the licensee propose Technical Specifications pertaining to the following NUREG–0737 Action Items:

I.A.1.3—Modification 1;
II.K.3.3—Modification 2;
II.K.3.13—Modification 3;
II.K.3.22—Modification 4;
II.K.3.27—Modification 5;
III.K.3.15—Modification 6.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870).

An example of actions involving no significant hazards considerations is an amendment involving a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. Proposed Technical Specification modifications 1, 2, 3, 4 and 6, impose additional limitations, restrictions and controls and therefore fall within this example.

Another example of actions involving no significant hazards considerations is an amendment involving a purely administrative change to the Technical Specifications, such as a change to achieve consistency throughout the Technical Specifications. Proposed Technical Specification modification 5 is such an action as it is only an admistrative change, neither increasing nor lessening previous requirements.

Therefore, since the application for amendments involves proposed changes that are similar to examples for which no significant hazards considerations exist, the Commission has made a proposed determination that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: February 5, 1981.

Description of amendment request: The amendment would change the Technical Specifications to allow a system, subsystem, train, component or device to be considered Operable under certain conditions when the normal or emergency power source providing power to the system, subsystem, etc. is Inoperable.

The current Technical Specifications require that whenever either the normal or emergency power source for a system, subsystem, train, component or device is Inoperable, the system, subsystem, etc. be considered Inoperable also.

The proposed change was submitted in response to an April 10, 1980, NRC request that licensees submit proposed

Technical Specifications concerning the definition of the term "Operable" that conform with Model Technical Specifications included with the April 10, 1980 request.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within acceptable criteria with respect to the system or component specified in the Standard Review Plan.

The proposed change would, under certain cases of failure of the electric power source supplying systems, subsystems, components, etc., allow these systems, subsystems, components, etc. to be operated under the ACTION statement time limits of the electric power source. The current Technical Specifications require operation in accordance with the ACTION statement time limits for the systems, subsystems, components, etc. Some of the ACTION statement time limits for systems, subsystems, components, etc. are longer and some are shorter than the ACTION statement limits for power sources. Thus, in some cases the change would result in greater conservatism with respect to current operating limits; and in other cases, it would result in less conservatism. While the change may, in some instances, result in a decrease in the margin of safety with respect to the current Technical Specifications, it is consistent with the NRC's request and also with the BWR Standard Technical Specifications, NUREG–0123, Revision 3. It provides definitions for use in determining if systems or components are to be considered operable and assures that multiple outages of redundant components are considered. It assures that Standard Review Plan criteria for redundant systems and consideration of single failures are acceptably met.

On this basis, it fits the above example and the Commission therefore proposes to determine that this action involves no significant hazards considerations.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G. F. Trowbridge, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: May 21, 1982.

Description of amendment request: Request for amendment to the license to allow operation of the reactor with the existing core spray sparger subject to enhanced inspection and reporting requirements.

Basis for proposed no significant hazards consideration determination: License amendment No. 47, dated May 15, 1980, to License No. DPR–16 for the Oyster Creek Nuclear Generating Station added a license condition which requires the replacement of the existing cracked core spray sparger during the current cycle 10 refueling outage. Operation with a cracked sparger for an interim fuel cycle prior to the current refueling outage was permitted based on repairs to the sparger using repair bracket assemblies. The NRC Staff concluded in the Safety Evaluation supporting Amendment No. 47 that this interim repair of the Oyster Creek sparger does not constitute a significant change in safety margin from that of the original design and that installation of the repair hardware would not increase the probability of an accident.

During the current refueling outage, the licensee has completed full inspection of the accessible surfaces and welds of the sparger and repair assemblies using new inspection techniques and computer photo enhancement and has compared indications of cracks to previous indications. The new inspections and analyses appear to show that: (1) Many previous indications of cracks from prior inspections are, in fact, not cracks: (2) no further degradation of the sparger has occurred since the prior inspections; and (3) susceptibility to new cracking (stress corrosion cracking postulated to result from high residual stresses from forcing pipes into position during installation and sensitization from welding, cold work etc.) In new locations is reduced by stress relief from existing cracks.

Moreover, analysis of the seismic, static and thermal loadings for the repair bracket assemblies (which were analyzed, designed and installed in accordance with currently accepted engineering practices) demonstrate the repair bracket assemblies' ability to limit crack openings to an acceptable range should existing cracks propagate around the sparger circumference and inspection data obtained during the current refueling outage indicates that the repair bracket assemblies are capable of maintaining the integrity of the system. The staff has concluded that continued operation of the facility can be permitted if the extent of sparger cracking remains as evaluated in the SER supporting Amendment 47. To ensure that no degradation in performance of the sparger will occur, the licensee will perform full inspections of the accessible surfaces and welds of both core spray spargers and repair assemblies at each refueling outage. Comparisons of the results with previous inspection will be made along with an evaluation of the safety significance of any new or progressing indications. This information will be provided to the NRC staff for review. Based on staff review of the inspection results and safety evaluations, the staff will determine if the sparger needs to be replaced during the outage or whether the facility can be allowed to restart. This decision will be founded on the determination of whether or not safety margins have been significantly reduced from levels currently in the sparger.

Because, subject to NRC Staff confirmation prior to issuance of the proposed amendment, the magnitude of sparger cracking is not as severe as previously indicated, there has been no additional degradation during the last fuel cycle, and the repair bracket assemblies should maintain the integrity of the existing sparger as it has been maintained during the last fuel cycle, the NRC Staff proposes to determine that issuance of the proposed amendment authorizing operation with the existing repaired sparger without further degradation until the end of the life does not involve a significant increase in the probability or consequences of accidents previously considered, does not create the possibility of a new or different accident from any evaluated previously, and does not involve a significant reduction in a margin of safety, all relative to previously approved operation. Accordingly, the NRC Staff proposes to determine that this license amendment would not involve significant hazards consideration.

Local Public Document Room location: 101 Washington Street, Toms River, New Jersey 08753.

Attorney for licensee: G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: August 29, 1978, as revised on November 5, 1981.

Description of amendment request: The proposed amendment would add Limiting Conditions for Operation and Surveillance Requirements to incorporate the requirements of Appendix J on the leak tight integrity of the primary reactor containment and systems and components which penetrate the containment. The proposed changes were requested by the NRC of all licensees to bring them into conformance with Section 50.54(o) and Appendix J of 10 CFR Part 50 "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement.

The changes proposed in this application for amendment are encompassed by this example because restrictions would be added to conform to the Rules and Regulations of the Commission. The published Section 50.54 (o) and Appendix J of 10 CFR Part 50 ensure that systems and components which penetrate the containment are tested on a regular interval and the leaktight integrity of the primary reactor containment is ensured.

Therefore, since the application for amendment involves proposed changes similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 426, Third Avenue, S. E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Wiscasset, Maine

Date of amendment request: March 28, 1979.

Description of amendment request: This proposed amendment is made pursuant to 10 CFR 50.55a, which requires plants licensed prior to March 1, 1978 to expand their inservice inspection programs to include ASME Code Class 1, Class 2, and Class 3 components, including supports, and testing of valves and pumps commencing with the first 40 month period beginning after September 1, 1976. Therefore, in accordance with 10 CFR 50.55a (g)(5)(iii) Maine Yankee is amending its Technical Specifications to conform to the Revised Program. The proposed change adopts the non-destructive inspection and testing requirements of the approved edition of the ASME Boiler and Pressure Vessel Code, Section XI, in effect 6 months prior to the commencement of each 40 month inspection period. Exceptions to the requirements of the Code will be requested when constraints due to the limitations of design, geometry, and materials of construction preclude examination methods of certain inspections.

Basis for proposed no significant hazards consideration determination: The Commission has given examples (48 FR 14870) of types of amendments not likely to involve significant hazards considerations. One example of this type is a change to the Technical Specifications that would constitute an additional limitation, restriction or control not presently included in the Technical Specifications. This proposed change falls into that category in that it expands the scope of the inservice inspection program. Therefore, the Commission proposes to determine that this change involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Attorney for licensee: John A. Ritsher, Esq., Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Branch Chief: James R. Miller.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: March 20, 1978, as supplemented October 31, 1979, April 18, 1980 and April 26, 1983.

Description of amendment request: The proposed amendment would change the Technical Specification to delete the surveillance requirement for primary containment continuous leak monitoring using the inerting system makeup.

Basis for proposed no significant hazards consideration determination: The reasons for deleting the Technical Specification, according to the licensee, are that the requirement was originally specified because the nitrogen inerting system was envisioned to be capable of serving this additional leak detection function. In practice, this has been shown to be impractical. Nitrogen additions to containment have been required to limit containment oxygen concentration resulting from instrument air leakage into containment and to maintain the Technical Specification 1 psi pressure differential between the drywell and the torus (purge and vent). With the recent conversion of the instrument air to instrument nitrogen, the nitrogen additions to containment are made infrequently. Also, nitrogen is released to the atmosphere during nitrogen tank "boil off."

For these reasons the licensee has concluded that the original objective of a relationship between continuous nitrogen additions and continuous containment leakage detection is impractical and Technical Specification 4.7.A.3.q should be deleted. Amendment No. 51, dated July, 6, 1976, added a new Technical Specification requirement, i.e., TS 3.7.A.2 to maintain a one psi differential pressure between the torus and drywell. In order to maintain this pressure differential, the difference between the pressure in the drywell and in the torus is monitored continuously. Normally the containment pressure is slightly higher then ambient pressure and the torus is slightly lower. Assuming that the vacuum relief valves between the drywell and torus are not leaking, a loss of differential pressure would indicate containment drywell leaks if drywell pressure decreased or containment wet well (torus) leakage if torus pressure increased. Thus, in effect, primary containment integrity is monitored continuously in a manner that is a suitable replacement for the original Technical Specification 4.7.A.3.q that NNECo states is impractical. Based on the above discussion the staff proposes to determine that the requested action would involve no significant hazards consideration because it would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any previously evaluated; or (3) involve a

significant reduction in a margin of safety.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06358.

Attorney for licensee: William H. Cuddy, Esquire, Day Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: Dennis M. Crutchfield.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut.

Date of amendment request: January 29, 1981.

Description of amendment request: The amendment would make changes to the Technical Specifications regarding the use of the term "operable" as it applies to safety systems in power — reactors. The proposed changes include a revised definition of "operable" as well as a section on operability requirements in the Limiting Conditions for Operation and surveillance section the Technical Specifications. In particular, the proposed changes require the normal or emergency power source as well as the safety system itself to be operable or that the plant be placed in the limiting condition for operation as specified. The proposed changes were in response to a generic letter issued to all licensees on April 10, 1983 on Multi-Plant Item D-17. The letter provided proposed revised Technical Specifications for each licensee, and requested that they be adopted.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards of determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870, April 6, 1983). The examples of actions involving no significant hazards consideration include: " * * * (ii) A change that consitutes an additional limitation, restriction, or control not presently included in the technical specifications; for example, a more stringent surveillance requirement." The changes proposed in the application for amendment are encompassed by this example in that the proposed changes are more restrictive because the proposal makes explicit a prevously implicit requirement for support systems to be functional and specifies required actions for Limiting Conditions of Operations.

Therefore, since the application for amendment involves a proposed change that is similar to an example of actions involving no significant hazards consideration, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06358.

Attorney for licensee: William H. Cuddy, Esquire, Day Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: Dennis M. Crutchfield.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit 2, New London County, Connecticut.

Date of amendment request: September 2, 1983.

Description of amendment request: This amendment would modify the Technical Specifications (TS) requirement for 100% inspection of the steam generator tubes (in accordance with Category C-3, TS Table 4.4-6) to omit tubes which are inaccessible to automatic inspection equipment provided they are located in regions of the tube bundle where no indications of degradation have been identified. Approximately 12 tubes in each steam generator are inaccessible because the automatic equipment uses them to position a template within the steam generator channel head during the inspection.

The licensee also proposes to omit manual inspection of individual tubes that are found by subsequent QA/QC reviews to have been missed during the automatic inspection. The basis for such omission is that conclusions regarding the integrity of such tubes can be drawn from the inspection results for the surrounding tubes. The "missed tubes" would be omitted from inspection or repair only if they are in regions of the tube bundle where no indications of degradation have been identified and no more than 0.5% of all tubes would be omitted. Since the total number of tubes per steam generator is approximately 8500, this would limit the total number of tubes/steam generator omitted from inspection to about 42, of which 12 would be those used to mount the automatic inspection equipment.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of amendments that are considered not likely to involve significant hazards considerations, example (vi), relates to a change which may result in some increase to the probablity or consequences of a previously analyzed accident or may reduce in some was a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. This example encompasses the proposed amendment since the probability of defect in a tube thus omitted from the 100% inspection would be very low. Supporting this assessment are the proposed specifications which ensure that at least 99.5% of the tubes would be inspected when required by Action C-3 of TS Table 4.4-6 and the condition that no tube would be omitted from inspection if it is in an area of the tube bundle where degradation has been found. The staff therefore proposes to determine that the amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Attorney for licensee: Gerald Garfield, Esq., Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: James R. Miller.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: September 24, 1982.

Description of amendment request: The proposed changes would add Limiting Conditions for Operation and Surveillance Requirements to the Technical Specifications that reflect the installation of an Alternate Rod Injection (ARI). The ARI provides diverse control blade injection by using totally separate and diverse logic to operate backup solenoid valves which cause the pilot air header to bleed down.

Two solenoid valves are installed in the scram air header upstream of the hydraulic control units. Each of the two trip systems energizes a valve to vent the header and to cause rod insertion. The control rods are mechanically injected by the normal hydraulic control units and control rod drives. The ARI initiates on signals for high reactor pressure and low water level.

The licensee has proposed these changes and installed the ARI system to reduce the long-term consequences of an ATWS (Anticipated Transient Without Scram) event. The ARI is one of three systems used to mitigate an ATWS

event; the ARI responds somewhat slower that the Recirculation Pump Trip but faster than the Standby Liquid Control System. Other changes requested in the September 24, 1982 submittal will be handled by separate action.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples. The examples of actions involving no significant hazards consideration include: "(ii) changes that constitute an additional limitation restriction, or control not presently included in the technical specifications."

The changes proposed in the application for amendment are encompassed by this example because additional limitations would be added to the Technical Specifications that would state Limiting Conditions for Operation, and Surveillance Requirements of the Alternate Rod Insertion instrumentation.

Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room Location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and, Trowbridge, 1800 M Street, NW, Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: September 24, 1982.

Description of amendment request: The proposed changes would add a new surveillance section to the Technical Specifications clarifying the permissible tolerance on surveillance testing frequency and specifying those plant conditions during which surveillance testing can be suspended and when it must be resumed. The existing Technical Specifications do not address these issues. Other changes requested in the September 24, 1982 application are being handled by separate action.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples. The examples of actions involving no significant hazards consideration include (ii) changes that constitute an additional limitation, restriction, or control not presently included in the Technical Specifications.

The changes proposed in the application for amendment are encompassed by this example because additional limitations would be added to the Technical Specifications that would set specific limits on variances in the surveillance schedule and clarify those conditions under which the tests may be suspended (for example, during outages when the equipment is not required to be operable) and when they must be resumed (e.g., prior to placing the plant in a condition which requires the equipment to be operable). Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and, Trowbridge, 1800 M Street, NW, Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: June 3, 1980, as supplemented May 19, 1981, July 7, 1982, and January 28, 1983.

Description of amendment request: The proposed revision would revise Section 6 of the Appendix A Technical Specifications to reflect the current organization structure which includes the addition of a new supervisor at the senior staff level with the responsibility of the plants' radiation protection and chemistry programs. The title of the position is "Senior Health Physicist". The Senior Health Physicist will report directly to the Assistant Superintendent providing a direct channel of communication with station management not currently established in the Peach Bottom Technical Specifications. The proposed revision also details the expansion and reorganization of the health physics group providing support to the Senior Health Physicist.

Basis for proposed no significant hazards consideration determination: The proposed changes reflect the licensee's effort to expand the health physics organization and to improve the communication access between the health physics group and station management. The new position of "Senior Health Physicist" will provide a direct channel of communication with senior station management. These changes do not diminish the basic responsibility and functioning of the health physics group and all personnel designated by this amendment request have appropriate qualifications for these positions.

The Commission has provided guidance concerning the application of the standards for determining whether license amendments involving no significant hazards considerations by providing certain examples (48 FR 14870). The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and has determined that these changes do not appear to: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of an accident of a type different from any evaluated previously; or (3) involve a significant reduction in a margin of safety. Accordingly, the Commission proposes to determine that the change does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for licensee: Troy B. Connor, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: John F. Stolz.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: March 24, 1981, as supplemented August 6, 1981, December 13, 1982, June 22, 1983, and September 14, 1983.

Description of amendment request: The amendments would revise the testing requirements for hydraulic shock supressors (snubbers) and add new requirements for mechanical snubber operability and testing to ensure that these devices are operable . Snubbers are attached to piping and equipment to provide restraints during a seismic or other event which initiates dynamic loads, yet allow slow motion such as that produced by thermal expansion. The changes were proposed in response to an NRC request to upgrade the testing requirements for all safety-related snubbers to ensure a higher degree of operability. The changes involve: clarifying the acceptance criteria for visual inspection and functional testing, adding a formula for the selection of representative sample sizes, and revising the method of snubber listing in Table 3.11.D.1 to incorporate more information. The amendments would also revise Table 3.11.D.1 by adding references to recently-installed snubbers and correcting references to snubbers which have been either replaced by new mechanical snubbers or rigid restraints. These revisions reflect recent modifications that reduce the probability of failure in the torus attached piping systems by the addition of rigid restraints in accordance with criteria in Appendix A of NUREG–0661.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve significant hazards considerations by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples (ii) of an action involving no significant hazards considerations is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The amendment request fits this example. The proposed changes revise sections of the Technical Specifications related to hydraulic snubbers by including additional functional testing, and incorporating both operability and testing requirements for mechanical snubbers. The listing of snubbers (Table 3.11.D.1) would also be revised to add references to newly-installed mechanical snubbers. Deletion of one unnecessary hydraulic snubber from Table 3.11.D.1 would also occur due to the recent modifications of torus piping in accordance with the NRC criteria specified in NUREG–0661. Based upon the above, the Commission proposes to determine that the amendment request involves no significant hazards considerations.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17216.

Attorney for licensee: Troy B. Connor, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: John F. Stolz.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York County, Pennsylvania

Date of amendment request: December 23, 1981, as supplemented March 30, 1983, and June 2, 1983.

Description of amendment request: The proposed revisions would add limiting conditions of operation (LCO) and surveillance requirements (SR) for the Reactor Protection System (RPS) power supply. The RPS monitors reactor conditions and initiates protective action when an unsafe condition exists. Modifications to the RPS power supply to protect the RPS system from an undetected single failure and a postulated seismic event were undertaken at the request of the NRC. Specifically, the proposed amendments would add an LCO, trip settings, and SR for the RPS power supply protection trip devices which were installed as part of the above RPS modifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve significant hazards considerations by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples (ii) of an action involving no significant hazards considerations that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The proposed amendment request described above matches this example. The addition of trip settings, SR, and an LCO, as a result of the installation of the RPS power supply protective trip devices, is an additional limitation, restriction, or control not presently included in the Technical Specifications. On this basis, the Commission proposes to determine that this amendment request involves no significant hazards considerations.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC-Branch Chief: John F. Stolz.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: February 11, 1982, and August 24, 1983.

Description of amendment request: The proposed revision would add operability and surveillance requirements for the following new controls and instrumentation as required by NUREG–0737, "Clarification of TMI Action Plan Requirements": Post Accident Sampling (II.B.3), Noble Gas High Range Effluent Monitor (II.F.1(1)), Containment High Range Radiation Monitor (II.F.1(3)), Wide Range Containment Pressure (II.F.1(4)), Wide Range Suppression Chamber Water Level (II.F.1(5)), Reactor Water Level Recorders (II.F.2), Isolation of High Pressure Coolant Injection/Reactor Core Isolation Cooling (HPCI/RCIC) Steam Line (II.K.3.15), Automatic RCIC Suction Transfer (II.K.3.22), Automatic Depressurization System Valve Nitrogen Supply (II.K.3.28), Limit Overtime (I.A.1.3), Reporting Safety Valve and Relief Valve Failures and Challenges (II.K.3.3) and RCIC Automatic Restart (II.K.3.13). The number in parentheses pertains to the designation number of the requirement in NUREG–0737. The revisions represent the addition of operability and surveillance requirements for new instrument and control systems not currently provided in the Peach Bottom Technical Specifications. The requested revisions would also add new personnel overtime work restrictions as well as requiring additional reporting requirements for the primary coolant system safety relief valves.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve significant hazards considerations by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples (ii) of an action involving no significant hazards considerations is a change that

constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. All of the changes are additional limitations, restrictions and controls not presently included in the Technical Specifications. Many of the NUREG–0737 improvements involved modifications of a plant's control and instrumentation systems. This amendment request would add operability and surveillance requirements for specific new control and instrumentation improvements resulting from NUREG–0737. These additional operability and surveillance requirements closely follow similar types of requirements presently found in the Peach Bottom Technical Specifications. On this basis, the Commission proposes to determine that the amendment request involves no significant hazards considerations.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for licensee: Troy B. Connor, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: John F. Stolz.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: March 11, 1983.

Description of amendment request: The proposed amendments request four changes. The first change (Item 1) would revise the definition of "Primary Containment Integrity" to permit satisfying the condition of primary containment penetration closure by one of two conditions: closure by an operable automatic containment isolation valve system or closure by at least one manual valve, blind flange, or deactivated automatic valve secured in its closed position. The current Technical Specification definition requires that both conditions be satisfied. However, a Limiting Condition for Operation in Section 3.7.D.2 of the Peach Bottom Technical Specifications' permits the use of manul isolation valves secured in the closed position when automatic isolation valves are inoperable or cannot be shown to be operable. The licensee's proposed revision would make the definition consistent with this current Limiting Condition for Operation.

Item 2 would delete an obsolete entry in Table 3.2.B dealing with modifications to the Low Pressure Coolant Injection (LPCI) Pump Start Timers which are now completed. The LPCI operation involves restoring the water level in the reactor vessel to a sufficient height for adequate cooling after an accident.

Item 3 would delete the references to two smoke detectors from Table 3.14.C.1. The proposed revision would correct an error that was made in a previous licensee amendment request submittal. These specific detectors were determined not to be required by the licensee in accordance with the requirements of 10 CFR 50, Appendix R, and have been removed from service. However, Table 3.14.C.1 does not reflect this fact.

Item 4 would revise the requirement for administrative control of high radiation keys to extend control of these keys to the Senior Health Physicist in accordance with the BWR Standard Technical Specifications (NUREG–0123, Rev. 3).

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve significant hazards considerations by providing certain examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples (vi) of an action involving no significant hazards considerations is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The first change fits this example. This revision would replace the current definition of "Primary Containment Integrity" with a revised definition. Unlike the current Technical Specification definition, the proposed definition would permit two options or means to satisfy the closure requirement of all primary containment penetrations during accident conditions. This change is in accordance with the BWR Standard Technical Specifications (NUREG–0123, Rev. 3). The Standard Technical Specifications are recognized by the NRC staff as an acceptable means of implementing NRC requirements and are, therefore, similar to Standard Review Plans. The Commission proposes to determine that this change does not involve a significant hazards consideration.

Another example (i) of an action involving no significant hazards considerations is a purely administrative change; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. The second proposed revision fits this example. An entry in Table 3.2.B references modifications and replacements of LPCI Pump Start Timers and provides that this entry is effective up until such modifications and replacements are made. The licensee indicates that the modifications have been completed and, therefore, requests that the entry, no longer effective, be deleted. The Commission proposes to determine that this change is purely administrative.

The third proposed change would delete references to two smoke detectors in Table 3.14.C.1. The licensee states that upon completion of an Appendix R Safe Shutdown field survey, it was determined that two areas previously identified as requiring smoke detectors no longer required them. The smoke detectors were, therefore, removed from service. However, the licensee did not inform the Commission of the changed status of these two detectors. Consequently, the Commission later approved an amendment request requiring that these two detectors be operable.

One of the examples (vi) of an action involving no significant hazards considerations involves a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

Deletion of smoke detectors would appear to fit this category. The licensee states that these detectors are not required for compliance with 10 CFR 50, Appendix R, requirements because they do not protect areas containing safe shutdown components. Since it appears that the results of this change are within all acceptable criteria with respect to the Commission's requirements of 10 CFR 50, Appendix R, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Finally, the fourth proposed change is similar to the example (vi) discussed above. The proposed change would extend the administrative control of all keys necessary to control access to High Radiation Areas from the Shift Superintendent and Shift Supervisor to

the Senior Health Physicist. The change is, however, made in accordance with the criteria set forth in BWR Standard Technical Specifications. The Standard Technical Specifications are recognized by the NRC staff as an acceptable means of implementing NRC requirements and, as such, are similar to the Standard Review Plans.

Based upon the above, the Commission proposes to determine that this amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: John F. Stolz.

Pennsylvania Power & Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania.

Date of amendment request: August 15, 1983.

Description of amendment request: The purpose of the proposed amendment request is to clarify that the monthly requirement for grab samples for Gaseous Release Type "B" in Technical Specification Table 4.11.2.1.2–1 does not require grab samples for particulates and iodines. The proposed change would be accomplished by changing the footnote notation on "Principal Gamma Emitters" under Types of Activity Analysis for Gaseous Release Type "B" from "g" to "h", and adding an additional footnote "h" at the end of Technical Specification Table 4.11.2.1.2–1 read: "Under the provisions of footnote g above, only noble gases need to be considered."

The proposed amendment request also adds fire hose stations above elevation 449'1" to Technical Specification Table 3.7.6.5–1 to ensure a proper level of surveliance on equipment that protects safety-related equipment.

Basis for proposed no significant hazards consideration determination: The licensee in his letter of August 15, 1983, stated that the installed filter and cartridge in the vent monitors continuously collect and monitor the particulates and iodines being released and these continuous samples are then analyzed to identify and quantify the activity released over the collection period. The licensee indicated that the monthly grab samples of particulate and iodines collected over a period of 1–3 hours, serve no purpose in monitoring or quantifying the release and the deletion of the particulate and iodines from the monthly grab sample requirements involves no significant hazards consideration. The licensee's basis for this determination is that the change does not involve a significant increase in the probability or consequences of an accident because the intent of the monthly grab sample requirement for particulate and iodines is already being complied with via the continuous vent monitoring requirements. The licensee also stated that this change does not create the possibility of a new or different kind of accident from any previously evaluated because no accident evaluation is dependent on the monthly grab sample of particulates and iodines, and the continuous sampling for particulates and iodines is being carried out in accordance with the Technical Specifications. The licensee also stated that the change does not involve a significant reduction in a margin of safety, since continuous sampling is being carried out and deletion of a periodic sampling requirement will not affect safety. If the staff's review confirms the licensee's evaluation, the change clearly involves no significant hazards considerations and on these bases, the staff proposes to find that the amendment does not involve significant hazards considerations. The fire nose stations above elevation 749'1" were inadvertently omitted from the Technical Specifications and the proposed change to add the fire hose stations above elevation 749'1" to Technical Specification Table 3.7.6.5–1 would be a purely administrative change to correct the error. One of the examples of actions involing no significant hazards consideration (48 FR 14871), example (i), applies to such a change which is a purely administrative change to Technical Specifications to correct an error.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street N.W., Washington, D.C. 20036.

NRC Branch Chief: A. Schwencer.

Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendments request: October 5, 1982.

Description of amendments request: The amendments would add a clarifying note to existing Technical Specifications. The Technical Specifications as they now exist do not clearly identify the Main Steam Isolation Valve (MSIV) solenoid vent valves as being components of the automatic actuation logic. As such, it is unclear as to the action that should be taken in the event one vent valve was isolated. The proposed change would clearly define the bounds of the automatic actuation logic to include the MSIV solenoid vent valves and delineates restrictions for operating with one vent valve isolated Specifically, the following note will be added to Technical Specification 3.3.2.1, Table 3.3.3, Section 4b:

> The automatic actuation logic includes two redundant solenoid operated vent valves for each Main Steam Isolation Valve. One vent valve on any one Main Steam Isolation Valve may be isolated without affecting the function of the automatic actuation logic provided the remaining seven solenoid vent valves remain operable. The isolated MSIV vent valve shall be returned to OPERABLE status upon the first entry into MODE 5 following determination that the vent valve is inoperable. For any condition where more than one of the eight solenoid vent valves are inoperable, entry into ACTION Statement (No. 13 on Unit 1, No. 20 on Unit 2) is required.

Basis for proposed no significant hazards consideration determination: The staff proposes to make a determination that the amendments request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Eight solenoid valves are provided for four Main Steam Isolation Valves. The unavailability of one solenoid valve will not render the associated MSIV inoperable. An independent redundant solenoid valve is provided for control of the affected MSIV. Given one inoperable solenoid valve and any subsequent single failure, including failure of the other (redundant) logic train, a minimum of three of the four MSIV's will still close thus providing the intended safety function. This is exactly

what the present Salem accident analyses assumes, i.e., that one MSIV fails to close. Therefore, operation of the facility with one out of eight solenoid valves isolated would not impact plant safety. Further, the inoperable solenoid valve would be restored to operable as soon as reasonably possible and in no case would more than one solenoid valve be inoperable at any given time. Therefore, the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report will not be significantly increased.

The subject solenoid valves affect only MSIV operation and interface with no other systems or equipment other than the motive power systems necessary for operation. This amendment request is not related to a plant modification. Thus, the possibility of an accident or malfunction of a different type than any evaluated previously in the safety analysis report will not be created.

Finally, each MSIV has two solenoid vent valves, operation of either of which will close the associated MSIV. Each of the two Solid State Protection System (SSPS) logic trains provides input to a set of four solenoid vent valves (one of each MSIV). The original technical specification related to this equipment (a) was unclear as the specific equipment to be included, and (b) was intended to apply to the two redundant SSPS logic trains such that a loss of one train would require entry into the ACTION statement because each of the four MSIV's would lose one of its two redundant controls. Since three of the four MSIV's are required to close for safety purposes, the failure of one solenoid vent valve on any MSIV only impairs the redundant controls for that single MSIV but does not adversely affect plant safety or exceed the assumptions used in the accident analyses. As such, the margin of safety as defined in the basis for any technical specification is not significantly reduced. Based on the above, the staff proposes to determine that the amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Connor and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: March 28, 1983.

Description of amendments request: The proposed license amendment would (1) add existing manual initiation functions for the auxiliary feedwater systems to the appropriate Engineered Safety Feature Tables in the Technical Specifications, and (2) change the Containment Systems Air Locks Surveillance requirement in the Technical Specifications. This proposed change would reduce the air lock seals testing pressure, as allowed by a change in the regulations, for those cases where the air locks are being frequently opened. Specifically, the surveillance requirement would be changed to read:

> After each opening, except when the airlock is being used for multiple entries, then at least once per 72 hours, prove gasket integrity by pressurizing the volume between door gaskets to 10 psig and checking for a seal leakage rate equal to or less than 0.01 La.

The present test pressure is 47.0 psig, the peak accident pressure.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include actions with an additional limitation, instruction, or control not presently included in the Technical Specification. Proposed change (1) adds the Manual Initiation function for the Auxiliary Feedwater System to the scope of the Engineered Safety Feature Actuation System instrumentation. Since this action constitutes an additional instruction not presently in the Technical Specifications, the staff proposes to determine that proposed change (1) does not involve a significant hazards consideration.

Another example of actions which involves no significant hazards consideration is an action to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. Proposed change (2) would allow for air locks, a "between the seals test pressure" of 10 psig when testing for seal leakage during periods when the air locks are frequently opened. The present Technical Specifications require a test pressure of 47.0 psig which is the peak accident pressure. 10 CFR 50 Appendix J has recently been changed to allow test pressures other than the peak accident pressure to be substituted when testing air lock seals during periods of frequent openings. Since proposed change (2) matches the example, the staff proposes to determine that the action does not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W. Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket No. 50–311, Salem Nuclear Generating Station, Unit No. 2, Salem County, New Jersey

Date of amendment request: October 7, 1982.

Description of amendment request: The current surveillance requirements for visual inspections of snubbers for Salem Unit No. 2 includes a schedular requirement for performance of the first visual inspection along with a schedule for performing subsequent inspections. Since Salem Unit No. 2 has already completed the first and the second visual ispections, the schedular requirement with regard to the first inspection is moot. The amendment request would remove this requirement and retain the schedule pertaining to performance of inspections subsequent to the first inspection. This surveillance requirement would then be identical to the snubber surveillance requirement for Salem Unit No. 1.

The amendment request consisted of four separate license changes three of which have already been acted upon. Therefore, this notice involves only the proposed change described above.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for conclusions regarding significant hazards considerations (48 FR 14870). The examples of actions involving no significant hazards include actions which are purely administrative changes in the Technical Specifications. Since the change requested only deletes a requirement for performance of the first visual snubber inspection that was completed on Salem Unit No. 2 in 1981, the change is considered purely administrative. The change would make the surveillance requirement consistent and identical to that for Salem Unit No.

1. Because the change is purely administrative, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Rochester Gas and Electric Corporation, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: December 1, 1982.

Description of amendment request: The proposed changes to the Technical Specifications (TS) would increase the effectivity of the reactor vessel pressure-temperature limits from 10.6 to 21.0 effective full power years (EFPY) and permit withdrawal of the next reactor vessel surveillance capsule at 17 EFPY as a result of the analysis of reactor vessel surveillance capsule T. EFPY, in the context used in the request, is an indicator of the neutron irradiation received by the reactor vessel which in turn is an indicator of changes in its ability to resist fracture.

Basis for proposed no significant hazards consideration determination: Changes in reactor vessel pressure-temperature limits depend upon the amount of neutron irradiation received by the limiting reactor vessel beltline material. The effect of neutron irradiation is estimated by performing tests on unirradiated and irradiated material. The irradiated material is obtained from samples that are placed inside the reactor prior to initial startup and removed at specific intervals during the plant life.

The existing heatup and cooldown curves for Ginna are based on the results of evaluation of Capsule V, removed from the Ginna vessel in 1974. In order to determine whether additional limitations were necessary or whether the existing limits continued to meet regulatory criteria, Capsule T was removed from the Ginna vessel in 1980. Since the capsules are located closer to the reactor core than the vessel wall, the capsule permits a prediction of vessel properties at a defined point in the future. Thus, evaluation of the capsule permits establishment of heatup and cooldown curves for a subsequent operating period.

The licensee's analysis of the results of Capsule T, which were obtained in accordance with the requirements of 10 CFR 50, Appendix G has shown smaller than predicted increase in the nil-ductility temperature indicating an insensitivity of the material to radiation. As a consequence the licensee determined that no change to the existing heatup and cooldown curves was required for the next operating period, determined to be until 21 effective full power years.

The Commission has provided guidance (48 FR 14870, April 6, 1983) concerning the application of these standards regarding significant hazards consideration by indicating certain examples of actions likely to involve no significant hazards consideration. Example (vi) is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

The removal, analysis, and reporting of the results of the surveillance capsule is in conformance with the Standard Review Plan (NUREG–0800, Revision 2, section 5.3.1) and 10 CFR 50, Appendices G and H. The analysis submitted by the licensee shows a smaller than predicted increase in the nil-ductility temperature indicating an insensitivity of the material to radiation, thus, supporting the extension of time (to 21 EFPY) over which the existing heatup and cooldown curves may be used. Further, the licensee has proposed removing the next capsule at 17 EFPY, which would permit adjustment of the curves at that time, should it be so required. Because the licensee's data indicates that use of the existing heatup/cooldown curves for up to 21 EFPY will meet applicable criteria, the proposed change falls within example (vi) and the staff proposes to determine that the requested action involves no significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Attorney for licensee: Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, N.W. Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: February 23, 1983.

Description of amendment request: The proposed amendment would permit the storage of spent fuel resulting from the use of fuel with an unirradiated fuel assembly enrichment of 4.25 weight percent U–235. With the fuel reload in the Spring of 1984, fuel assemblies of a Westinghouse design incorporating axial natural uranium blankets will be used. This change in design, along with the adoption of low radial leakage fuel management, require central region enrichments in excess of the 3.5 percent used in the previous analysis. There will be no changes in the design or spacing of the spent fuel racks.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (vi) of actions likely to involve no significant hazards consideration is a change which either may result in some increase to the probability of consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example a change resulting from the application of a small refinement of a previously used calculational model or design method.

The proposed change of increasing the unirradiated fuel assembly enrichment from 3.5 percent to 4.25 percent U–235 would increase the K_{eff} from 0.88 and 0.93 and hence is a slight relaxation of the current Technical Specification limits. However, the higher K_{eff} is less than the maximum acceptable K_{eff} specified in the Standard Review Plan (NUREG–0800, Revision 2). The Standard Review Plan (Section 9.1.2) indicates that when the fuel assembly is fully loaded and flooded with non-borated water, a K_{eff} not greater than 0.95 is acceptable. The proposed change falls within example (vi) and, therefore, is considered not likely to involve a significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Attorney for licensee: Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue,

N.W., Suite 1100, Washington, D.C. 20030.

NRC Branch Chief: Dennis M. Crutchfield.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Fairfield County, South Carolina

Date of amendment request: July 22, 1983.

Description of amendment request: Request for addition of condensate demineralizer backwash effluent monitor RM–L11 to Technical Specifications and changing of the Technical Specification Action Statement for less than the minimum channels operable of the Nuclear (Processed Steam Generator) Blowdown Effluent LIne Monitors RM–L7 or RM–L9.

Basis for proposed no significant hazards consideration determination: The amendment would add a radioactive liquid effluent monitoring instrument, required by a license condition, to Technical Specifications. The amendment also changes the action statement for the nuclear (processed steam generator) blowdown effluent line to reflect batch release monitoring requirements instead of continuous release monitoring requirements.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The amendment involved here is similar in that it adds an additional requirement to Technical Specifications and it changes a monitoring requirement to the more correct control. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for Licensee: Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinor G. Adensam.

Southern California Edison Company, Docket No. 50–206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: August 10, 1983.

Description of amendment request: This amendment would (1) increase the safety injection trip setpoint for "Pressurizer Pressure-Low" in Table 3.5.5–2 of the Technical Specifications from >1685 psig to >1735 psig, and (2) modify the descriptive material in Section 5 of the Technical Specifications with updated information regarding (a) the addition of the Sphere Enclosure Building around the containment, (b) pressure-temperature capability of the containment following postulated rupture of the primary or secondary coolant system, and (c) the range of the neutron monitoring instrumentation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards of no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). Two of the examples of actions likely to involve no significant hazards consideration relate to (1) a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature, and (ii) a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. The increase in the safety injection trip setpoint to >1735 psig takes into account an allowance of 3% for instrumentation error as recommended by the manufacturers. This proposed revised setpoint is more conservative than the current specification because the trip will occur at a higher pressure and, therefore, falls within the category of example (ii), above. The proposed changes to Section 5 of the Technical Specifications are updates to descriptive material which are administrative in nature and, therefore, fall within the category of example (i), above. On this basis, the staff proposes to determine that the requested action would involve no significant hazards consideration.

Local Public Document Room location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770.

NRC Branch Chief: Dennis M. Crutchfield.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: August 5, 1983.

Description of amendment request: The licensee has requested that a requirement for reactor protective system (RPS power protection panel operability be added to the Technical Specifications, and that a requirement be added to the Technical Specifications to trip an RPS protective panel if it is found inoperable. The licensee has also proposed surveillance tests of RPS protective panel overvoltage, undervoltage, and underfrequency relays be added to the Technical Specifications. The licensee has proposed these changes in order to meet NRC requirements for Technical Specification assurances of operability for recently-installed RPS power protection panel operability. The RPS power protection panels were installed to alleviate NRC concerns that voltage could be varied sufficiently by a seismic event to cause failure of the RPS.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards include actions which involve a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The changes included in this application add limitations not presently included in the Technical Specifications. the proposed change add words to the Technical Specifications requiring that surveillance be performed on RPS power protection equipment and action be taken if equipment is found inoperable.

Therefore the Commission proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritscher, Esquire, Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: Domenic B. Vassallo.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: August 25, 1983.

Description of amendment request: The licensee's application dated August 25, 1983 proposed two changes.

One proposed change removes eight snubbers from Table 4.17–1 of the Surry

Technical Specifications. Three snubbers in the Auxiliary Feed System were removed after a seismic and thermal reanalysis was performed for the Main Feed Line. The analysis revealed that the three snubbers in the Main Steam Valve House could be replaced with struts. This modification increases the safety margin for the Main Feed Lines. The three emergency diesel generators and associated equipment are located in Class I tornado protected structures. The diesel exhaust piping is routed up through the service building roof and is surrounded by a tornado missile shield. A portion of the exhaust piping extended beyond the structure and with the missile shield open on one side, the piping was not adequately protected for all postulated tornado generated missiles. The portion of the exhaust piping exposed to a potential tornado generated missile and the associated snubbers were removed. Removal of the exposed exhaust piping eliminates the possibility of loss of a diesel generator due to a tornado generated missile.

The other proposed change adds the Supervisor of Health Physics to Technical Specification 6.4.B.1.b, which concerns administrative controls of the keys to locked barricades for high radiation areas.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes to find that the proposed changes involving the snubbers do not involve a significant hazards consideration because the modifications increase the designed seismic safety margin for the Main Feed Lines and upgrade the tornado missile protection. The possibility of an accident or malfunction of a different type than any previously evaluated in the UFSAR is not created by these modifications because no system operation or function is changed. The margin of safety as defined in the basis for any Technical Specification in not reduced. Protection of the exhaust piping for tornado missiles is enhanced and the seismic adequacy of the Main Feed Lines is improved.

The change related to the Health Physics Supervisor's control of keys is administrative in nature. The examples of actions not likely to involve a significant hazards consideration provided by the Commission (48 FR 14870) include actions which are administrative in nature. This change falls into this category.

Therefore, the staff proposes to determine that these actions involve no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Branch Chief: Steven A. Varga.

Wisconsin Electric Power Company, Docket No. 50–301, Point Beach Nuclear Plant, Unit 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: September 8, 1983.

Description of amendment request: The proposed amendment would revise the limiting condition for operation for the component cooling heat exchangers for Unit 2. It would provide a one-time relaxation to allow the backup component cooling heat exchanger to be inoperable for a 2 week special ten-year-interval maintenance program. The current TS allow a 48 hour down time for maintenance.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the no significant hazards and significant hazards standards by providing certain examples (48 FR 14870). One of the examples of actions likely to involve a significant hazard consideration relates to a significant relaxation in limiting conditions for operation not accompanied by compensatory changes, conditions or actions that maintain a commensurate level of safety (such as allowing a plant to operate at full power during a period in which one or more safety systems are not operable). The licensee's amendment request, while clearly a relaxation of the limiting conditions for operation of a component in a safety system, neither reaches the level of significance in the Commission's example nor is without compensatory measures. The licensee wishes to perform major preventive maintenance on the backup component cooling water heat exchangers for Point Beach Unit 2 (this heat exchanger is also the backup for Unit 1 as it is shared between units). The maintenance is expected to last 14 days. The licensee intends to perform this maintenance during the Unit 1 annual refueling outage. Current Technical Specifications allow a component cooling water heat exchanger to be out of service for 48 hours. While the proposed change would allow the backup heat exchanger to be out of service for approximately two weeks to perform major preventive maintenance, the other Unit 2 component cooling water heat exchanger would be available. Therefore, this relaxation does not meet the level of significance of the Commission's example as it relaxes only the limiting condition for operation of the redundant portion of a safety system and does not allow full power operation with a safety system inoperable. Further, as a compensatory measure the licensee has committed to conduct maintenance in such a manner so as to be able to return the backup component cooling water heat exchanger to service within 12 hours at any time during the maintenance interval. Also, as this major maintenance was recently completed for the other Unit 2 component cooling water heat exchanger, it is highly unlikely that that heat exchanger would fail during the maintenance interval. For the above reasons, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Public Library, 1516 16th Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: November 10, 1982 as supplemented January 13, 1983.

Description of amendment request: The proposed change is requested in order to bring the Kewaunee Plant Technical Specification on Containment Testing into closer conformance with the requirements of 10 CFR 50 Appendix J. The current specification provided a detailed methodology for containment leak testing. However, it was determined not to be in conformance with the current Appendix J.

The new specification directly references Appendix J as the applicable standard. The necessary parameters are defined to be consistent with the Appendix J methodology.

Basis for proposed no significant hazards consideration determination: Appendix J was developed by the Commission to provide a uniform basis for containment leak testing. It provides a more restrictive set of testing conditions than are found currently in this license. Hence, the change represents an additional restriction, limitation, or condition being incorporated into the Technical Specifications. This matches example (ii) of 48 FR 14870 of the examples of

amendments not likely to involve significant hazards considerations. In addition, the proposed change will make the license conform to changes in the regulations. This matches example (vii) of 48 FR 14870 of the examples of amendments not likely to involve significant hazards considerations. Thus, the Commission proposes to determine for this amendment that it involves no significant hazards consideration.

Local Public Document Room location: Kewaunee Public Library, 822 Juneau Street, Kewaunee, Wisconsin 54216.

Attorney for licensee: Foley and Lardner, First Wisconsin Center, 777 E Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Branch Chief: Steven A. Varga.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: April 29, 1983.

Description of amendment request: The proposed amendment consists of changes to 25 Technical Specification pages. These changes are predominately administrative in nature, that is, word changes or clarifications made without involving a safety or technical decision. Two of the page changes do involve technical detail; a reduction in rod misalignment limits (p. 3.10–6), and an improvement in the turbine overspeed protection system (Table 3.5–2). The licensee's proposal regarding rod misalignment limits consists of three parts:

A sentence would be added to the introductory paragraph of this specification clarifying that Rod Misalignment Limitations do not apply during physics testing.

(2) The time constraint for the determination of the core power peaking factors when a rod cluster control assembly (RCCA) is misaligned by more than ± 24 steps when reactor power is less than 85% but greater than 50% would be proposed to be relaxed from 4 hours to 24 hours.

(3) An action statement added requiring the reactor power to be reduced to less than 50% if the rod is not realigned or the core power peaking factors are not determined within 24 hours.

The single channel overspeed protection system originally installed resulted in numerous spurious trips and has been replaced by a more reliable system which has three independant systems. The licensee proposes changes to the Technical Specifications regarding the turbine overspeed protection system. Table TS 3.5–2 would be modified to more accurately reflect the turbine overspeed protection system. Item 11, column 2, would be revised to indicate that only one "channel", not two, will trip the turbine. In addition, a footnote is added to the table to clarify that there are three independent systems that provide turbine overspeed protection, and that two of these systems are required to be operable.

Basis for proposed no significant hazards consideration determination: A preliminary review has indicated that the changes are predominatley administrative in nature. The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The administrative changes are within the scope of no significant hazards consideration example i, that is, they are purely adminstrative changes to the Technical Specifications, for example, a change to achieve consistency throughout the Technical Specifications; correction of an error or a change in nomenclature.

The licensee's proposal regarding rod misalignment limits consists of three parts. Part one is a clarification to make it clear that rod misalignment specifications were not meant to apply during physics tests as that would make dropped, ejected, and misaligned rod test impossible. Part three is likewise necessary to clarify the action to be taken when there is a misaligned rod, and the peaking factors are not determined to be within limits. These changes also fall within the scope of no significant hazards consideration example (i). While they do not actually correct an error, they do represent a change a achieve consistency by clarifying the actions specified in the Technical Specifications. Part two will require further information before the staff can make a determination and is not included in this notice.

The licensee's proposal regarding the turbine overspeed protection system represents a clarification of the Technical Specifications to more accrately represent the system currently in operation at the facility. These changes also fall within the scope of no significant hazards consideration example (i). While they do not correct an error, they do represent a change to achieve consistency by clarifying the Technical Specifications to more accurately represent the facility.

Local Public Document Room location: Kewaunee Public Library, 822 Juneau Street, Kewaunee, Wisconsin 54216.

Attorney for licensee: Foley and Lardner, First Wisconsin Center, 777 E Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Branch Chief: Steven A. Varga.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Plant, Kewaunee County, Wisconsin.

Date of amendment request: August 24, 1983.

Description of amendment request: An amendment to the Technical Specifications to modify the definition of the term "Operable" as it applies to the single-failure criterion for safety systems; certain editorial and format changes would also be necessary. The proposed change was initiated in response to an NRC request to revise the definition consistent with guidance issued by NRC. The proposed amendment conforms to the NRC request and provides for a revised definitions that is more restrictive in that it extends the definition to include systems that are associated with the system in question.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of action involving no significant hazards consideration include actions which are purely administrative changes to the Technical Specifications, and changes that constitute an additional limitation, restriction, or control not presently included in the Technical Specifications.

The changes proposed in the application for amendment are encompassed by these examples in that: 1) the guidance provided by NRC and proposed in the amendment for the revised definition of the term "Operable" is more restrictive in that the operability of systems associated with the system must also now be considered; and 2) the resulting format and editorial changes are purely administrative changes. Therefore, since the application for amendment involves proposed changes that are similar to the example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Kewaunee Public Library, 822 Juneau Street, Kewaunee, Wisconsin 54216.

Attorney for licensee: Steven E. Keane, Esquire, Foley and Lardner, 777

East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Branch Chief: Steven A. Varga.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this regular monthly notice. They are repeated here because the monthly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Baltimore Gas and Electric Company, Docket No. 50–317, Calvert Cliffs Nuclear Power Plant, Unit No. 1, Calvert County, Maryland

Date of amendment request: August 22, 1983, as supplemented September, 1, September 16 and two supplements dated September 20, 1983.

Brief description of amendment request: The proposed amendment would: (1) change the Appendix A Technical Specifications (TS) to allow Cycle 7 operation, (2) revise the TS Limiting Conditions for Operation and Surveillance Requirements for the Auxiliary Feedwater System, (3) delete the Limiting Conditions for Operation and Surveillance Requirements for certain post-accident monitoring instruments, (4) change the TS for the indicating ranges of the remote shutdown monitoring instrumentation, (5) change the surveillance requirements for Subchannels A–3 and B–3 of the automatic actuation logic for the Containment Spray Actuation System, and (6) provide Limiting Conditions for Operation and Surveillance Requirements for the Containment Vent Isolation Valves (MOV–6900 and MOV–6901).

Date of publication of initial notice in **Federal Register:** October 13, 1983, 48 FR 46865.

Expiration date of individual notice: November 14, 1983.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: September 7, 1983.

Description: The amendment approves MAPLHGR limits for G13 and G14 fuel assemblies.

Date of Publication of individual notice in **Federal Register:** October 12, 1983 (48 FR 46447)

Expiration date of individual notice: November 2, 1983.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: August 1, 1983.

Brief description of amendment request: One amendment would change Technical Specification 4.3.1.1.2.d to permit certain diesel generator surveillance testing during each shutdown for refueling rather than during shutdown at least once each 18 + 25% (22½) months. The change would allow a diesel generator surveillance test on Unit 1 that currently is required by October 27, 1983, to be delayed until the refueling-outage scheduled for January 1984 and future tests on both units to be scheduled on a refueling - outage rather than on a calendar-month basis.

A second amendment would change TS 4.3.4.2.a to permit the cycling of certain turbine valves in the Turbine Overspeed Protection System on a monthly rather than on a weekly basis, consistent with the recommendations of the turbine manufacturer.

Date of publication of individual notice in **Federal Register:** September 15, 1983 (48 FR 41533).

Expiration date of individual notice: October 17, 1983.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Florida Power and Light Company, et al, Docket No. 50–389, St. Lucie Plant, Unit 2, St. Lucie County, Florida

Date of amendment request: June 17, 1983.

Brief description of amendment: In accordance with the licensee's request of June 17, 1983, the amendment would make several administrative and/or editorial changes to the Technical Specifications.

Date of publication of individual notice in **Federal Register:** September 21, 1983 (48. F.R. 43111) *Expiration date of individual notice:* October 21, 1983.

Local Public Document Room Location: Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Florida Power & Light Company, et al. Docket No. 50–389, St. Lucie Plant, Unit 2, St. Lucie County, Florida

Date of application for amendment: July 5, 1983.

Brief Description of amendment request: The proposed amendment would amend the facility Technical Specifications to decrease the frequency of testing the valves in the turbine overspeed protection system from every seven days to once per month.

Date of publication of individual notice in **Federal Register:** September 15, 1983 (48 FR 41536).

Expiration date of individual notice: October 17, 1983.

Local Public Document Room location: Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Unit Nos. 3 and 4, Dade County, Florida

Dates of amendment requests: August 19, 1983 and September 9, 1983.

Brief description of amendments: These amendments would revise the Technical Specifications to increase the hot channel limits, departure from nucleate boiling ratio limits and remove restrictions imposed on the old steam generators to reflect operation with the new steam generators.

Date of publication of individual notice in **Federal Register:** October 7, 1983 (48 FR 45862)

Expiration date of individual notice: November 8, 1983.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Mississippi Power & Light Company, Middle South Energy Inc., South Mississippi Electric Power Association Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, located in Claiborne County, Mississippi.

Dates of application for amendment: April 25, June 9, June 23, and July 11, 1983.

Brief description of amendment request: The amendment would provide changes to the Technical specifications in accordance with the licensees'

applications for amendment dated April 25, June 9, June 23 and July 11, 1983. The proposed changes to the Technical Specifications were proposed to achieve consistency with BWR Standard Technical Specifications, with the as-built condition of the plant or with design changes currently being implemented at the plant.

Date of publication of individual notice: August 10, 1983.

Expiration date of individual notice: September 9, 1983.

Local Public Document Room location: Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154.

Mississippi Power & Light Company, Middle South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: May 31, 1983.

Brief description of amendment request: The amendment would establish later submittal dates to meet license conditions in accordance with the licenses' application for amendment dated May 31, 1983. The proposed changes to license conditions are as follows: (1) submit an evaluation report on reactor internals prototype virbration tests no later then 6 months after start of full power operation, (2) submit the initial inservice inspections program by April 1, 1984 and (3) submit a report on inplace communications systems testing by August 1, 1984.

Date of publication of individual notice: August 25, 1983.

Expiration date of individual notice: September 26, 1983.

Local Public Document Room location: Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: September 24, 1982.

Brief Description of amendment request: The amendment would change Technical Specification 4.8.1.1.2.d.12 from requiring ". . . the diesel generator starts at least 5 times from ambient conditions and accelerates to at least 600 RPM in less than or equal to 10 seconds for the first 2 starts and accelerates to at least 600 RPM in less than or equal to 19 seconds for the remaining 3 starts.", to requiring that ". . . the diesel generator starts at least 5 times from ambient conditions and accelerates to at least 600 RPM in less than or equal to 10 seconds for the initial start and less than or equal to 25 seconds for each subsequent start.", in accordance with the licensee's application for amendment dated September 24, 1982, and supplemented by information provided by licensee's letters dated July 9, 1982; July 14, 1982; September 2, 1982; and January 7, 1983.

Date of publication of individual notice: August 16, 1983.

Expiration date of individual notice: September 15, 1983.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: March 11, 1983.

Brief Description of amendment request: The amendment would modify Technical Specification Table 3.3.7.9–1, Fire Detection Instrumentation, to correct administrative errors, decrease the number of detectors in two zones using NRC and industry standard guidelines, and add fire zones that warrant inclusion in the Technical Specification, reflecting the as-built configuration in accordance with the licensee's application for an amendment dated March 11, 1983.

Date of publication of individual notice: August 12, 1983.

Expiration date of individual notice: September 12, 1983.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment request: June 27, 1983.

Brief Description of amendment request: The amendment would revise License Condition 2.D to include Changes N, O, and P to the Physical Security Plan which consist of an increase of time between initial security clearances and an update, a reduction in Mobile Patrol Officers, the addition of a paragraph to the Plan which grants temporary relief of certain commitments during periods of construction and a new appendix describing vital areas and equipment locations and changes A and B to the Security Training and qualification Plan to provide for consistency with changes to the Physical Security Plan in accordance with the licensee's application for an amendment dated June 27, 1983. Pursuant to 10 CFR 73.21 changes are withheld from public inspection.

Date of publication of individual notice: August 22, 1983

Expiration date of individual notice: September 21, 1983.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: July 22, 1983.

Brief Description of amendment request: The amendment would raise the Main Steam Line Radiation—High setpoint from less than or equal to three times normal background to a setpoint of less than or equal to seven times normal background, in accordance with the licensee's application for an amendment dated July 22, 1983, and supplemented by letters dated July 26, 1983, and August 2, 1983. Previous operations at full power have resulted in reactor trips and main steam line isolations during normal plant evolutions such as placing a condensate demineralizer into service.

Date of publication of individual notice: August 31, 1983.

Expiration date of individual notice: September 30, 1983.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Brief Description of amendment request: The amendment would provide relief from the requirements of Technical Specification 3.8.1.1 ACTION a. in order to reinstall the repaired T–10 Startup Transformer during reactor power operation. Specifically, relief is requested to extend the restoration of at least two offsite circuits to OPERABLE status from "within 72 hours" to "within 7 days." Additionally, elimination of the 1-hour breaker alignment surveillance per Surveillance Requirement 4.8.1.1.1.a and elimination of the 4-hour diesel generator start testing required by

Technical Specification 3.8.1.1 ACTION a. are requested for the period of the transformer replacement since these requirements will be performed prior to entering the Limiting Condition for Operation specified in Technical Specification 3.8.1.1.

Relief is also requested to extend the demonstration of diesel generator OPERABILITY by performance of Surveillance Requirement 4.8.1.1.2.a.4 from "at least once per 8 hours" to "at least once per 72 hours" as required by Technical Specification 3.8.1.1 ACTION a. Relief from the requirements of Technical Specification 3.8.1.1 ACTION a. is requested only for the period of the T–10 Startup Transformer replacement in accordance with the licensee's application for an amendment dated July 29, 1983, and supplemented by PP&L letter dated August 4, 1983.

Date of publication of individual notice: August 22, 1983.

Expiration date of individual notice: September 21, 1983.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Southern California Edison Company, et al., Docket No. 50–361 and 362 San Onofre Nuclear Generating Station, Unit 2, San Diego County, California

Date of amendment request: January 6, July 14, and September 23, 1983.

Brief description of amendment: Proposed changes to the Technical Specifications related to DNBR calculations associated with fuel rod bowing.

Date of publication of individual notice in **Federal Register:** September 30, 1983, 48 FR 44953.

Expiration date of individual notice: October 31, 1983.

Local Public Document Room location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California 93407.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: July 21, 1983.

Brief description of amendment: One amendment would permit the pressurizer pressure to be less than 2220 psia during the performance of power coefficient physics tests and certain surveillance requirements. The tests are made difficult to perform with the current restriction due to the competing effects of cooling the reactor coolant system to make the measurements and still maintaining the pressurizer pressure above the specified limit in the technical specifications. Allowing the pressuire to fall below the minimum value during the tests will not compromise core protection because the overtemperature delta-I reactor trip of the protection system will assure fuel clad integrity for all combinations of pressures and temperatures.

A second amendment would revise the table of Containment Isolation Valves to reflect the proper interpretation of the definition of operability of the containment isolation valves and a notation of valves that will be in an isolated position with power removed. The change is acceptable since the valves will still perform their safety function in this position in addition to improving plant operations.

A third amendment would reduce the number of igniters to be tested in the hydrogen mitigation system to 10% rather than 100% every 18 months because of ALARA considerations. Some igniters are physically located in areas that would expose test personnel to relatively high radiation levels. The igniters are considered to be reliable long-life devices. Verification of their operability and temperatures can be checked through methods other than visual inspection; consequently a test procedure which involves visually inspecting 10% of the total number is acceptable.

Date of publication of individual notice in **Federal Register:** October 12, 1983 48 FR 46460.

Expiration date of individual notice: November 14, 1983.

Local Public Document Room Location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Notice of Issuance of Amendment to Facility Operating License

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions were published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments. If the Commission has prepared an Environmental Impact Appraisal related to these actions, it is so indicated. If indicated, this notice constitutes a negative declaration and indicates that the Commission has concluded that an environmental impact statement is not warranted because there will be no significant effect on the quality of the human environment.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluational and/or Environmental Impact Appraisals as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Alabama Power Company, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama

Date of amendment request: November 16, 1982 supplemented on February 1, 1983 and June 29, 1983.

Description of amendment request: The amendments change the Technical Specification (1) to make editorial corrections and changes in nomenclature or numbers of fire hydrants, smoke detectors and isolation sensors located in various tables, (2) to correct the Technical Specifications to agree with Commission regulations 10 CFR 50.49 and 10 CFR 73.55, and (3) to revise organizational charts to reflect current facility and offsite groups.

Date of issuance: October 14, 1983.

Effective date: October 14, 1983.

Amendment Nos. 33 and 26.

Facility Operating License Nos. NPF–2 and NPF–8. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 23, 1983 (FR 38363).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 14, 1983.

No significant hazards consideration comments received: (No).

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Alabama Power Company, Docket No. 50–364, Joseph M. Farley Nuclear Plant, Unit No. 2, Houston County, Alabama

Date of application for amendment: May 27, 1983.

Brief description of amendment: Granted a waiver from weekly turbine valve cycling on a one-time basis for the remainder of Cycle 2 operation.

Date of issuance: July 15, 1983.

Effective date: July 15, 1983.

Amendment No.: 23.

Facility Operating License No. NPF–8: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 29, 1983 (48 FR 29978).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1983.

Significant hazards consideration comments received: No.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Arkansas Power and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of application for amendment: August 8, 1983.

Brief description of amendment: The amendment changes the Technical Specifications to require a delay in the installation in the Davis-Besse 1 (DB–1) reactor of the ANO–1 reactor vessel materials properties capsule ANI–F from prior to the fourth DB–1 cycle to the fifth DB–1 cycle. Additionally, capsule ANI–D will be inserted in the DB–1 location YZ rather than WZ, and the capsule ANI–F, which is scheduled for insertion in the DB–1 reactor prior to the fifth DB–1 cycle, will be inserted in location YX instead of YZ.

This change allows the Babcock and Wilcox (B&W) Owners Group research capsule DB–LG1 to remain in the DB–1 reactor and accumulate neutron fluence equivalent to the fluence at the 1/4T location of a typical B&W 177FA plant at the end of life.

Date of issuance: October 7, 1983.

Effective date: October 7, 1983.

Amendment No. 81.

Facility Operating License No. DPR–51. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 23, 1983, 48 FR 38387.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 7, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Arkansas Tech University, Russellville, Arkansas.

Carolina Power & Light Company, Docket No. 50–324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of application for amendment: June 10, 1982, supplemented July 22, 1983.

Description of amendment request: The amendment changes the Unit 2 Technical Specifications with regard to the instrumentation used to monitor the water level in the suppression chamber of the primary containment system (NUREG–0737, Item II.F.1.5).

Date of Issuance: September 22, 1983.

Effective date: September 22, 1983.

Amendment No. 81.

Facility Operating License No. DPR–62. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 22, 1983, 48 FR 38118.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 22, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: May 3, 1983, supplemented June 14, 1983.

Description of amendment request: The amendment changes the Technical Specifications to revise the limiting conditions for operation for the reactor cavity level monitoring instrumentation. Specifically, the amendment permits power operation with any two of the three presently installed reactor cavity level monitoring devices operable. Previously, the Technical Specifications required that the reactor cavity continuous level monitor and one of the two installed independent level alarms be operable prior to bringing the reactor above cold shutdown.

Date of issuance: September 13, 1983.

Effective date: September 13, 1983.

Amendment No. 85.

Facility Operating License No. DPR–26. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 28, 1983, 48 FR 34368.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 13, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of application for amendment: December 8, 1981.

Description: The amendment modifies the Appendix A Technical Specifications by (1) incorporation of additional limitations to protect against degraded grid voltage and pipe cracking and new requirements to facilitate fire protection and inservice inspection, (2) revision of existing provisions reflecting changes in plant organization and other administrative changes not affecting safety, (3) revision of the existing provisions on electrical power systems to be consistent with the STS format, and (4) modifications of the fuel inventory and fuel change-out requirements of the Emergency Service Water Supply System (ESWSS) engines.

Date of issuance: October 14, 1983.

Effective date: October 14, 1983.

Amendment No: 34.

Provisional Operating License No. DPR–45. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 23, 1983 (48 FR 38399).

The Commission's related evaluation for the licensee amendment is contained in a Safety Evaluation dated October 14, 1983. No public or State comments were received with respect to the Commission's proposed determination that the requested action would involve no significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Duke Power Company, Docket No. 50–287, Oconee Nuclear Station, Unit No. 3 Oconee County, South Carolina

Date of application for amendment: March 10, 1983, as supplemented June 24 and 30, July 14, and August 8, 1983.

Brief description of amendment: The amendment permits the expansion of the spent fuel storage capacity for Oconee Unit No. 3. This expansion will be accomplished by reracking the existing spent fuel storage pool with neutron absorbing (poison) spent fuel racks. Reracking the spent fuel pool will increase the Oconee Unit No. 3 pool storage capacity from 474 to 825 spaces.

Date of issuance: September 29, 1983.

Effective date: September 29, 1983.

Amendment No.: 123, 123, 120 respectively.

Facility Operating License Nos. DPR–38, DPR–47 and DPR–55. Amendment revised the Common Technical Specifications for Oconee Units 1, 2 and 3.

Date of initial notice in **Federal Register:** August 16, 1983, 48 FR 37108 This Notice stated that we proposed a no significant hazards consideration determination for the licensee's March 10, 1983 amendment request concerning the expansion of the Unit No. 3 spent fuel pool from 474 to 825 spaces. Supplemental letters related to this amendment request dated June 24 and 30, July 14 and August 8, 1983 were received. Although not specifically stated in the initial Notice due to an oversight, the June 24 and 30, and July 14 supplemental letters merely provide certain specific design details and do not affect the Notice of the amendment request. The August 8 letter urges prompt action.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation and Environmental Impact Appraisal dated September 29, 1983. No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: April 4, 1983, supplemented July 15, and August 19, 1983.

Brief description of amendment: The amendment changes the Technical Specification on boron concentration in the Boron Injection Tank from a range of 20000–22500 ppm to a range of 2000–7700 ppm. The minimum temperature in the tank is also reduced to correspond to the solubility limit for 7700 ppm boron.

Date of issuance: September 16, 1983.

Effective date: September 16, 1983.

Amendment No.: 71.

Facility Operating License No.: DPR–66. Amendment revised the (Technical Specifications) (license) (both).

Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 33079).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 16, 1983.

No significant hazards consideration comments received.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue., Aliquippa, Pennsylvania.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: April 12, 1983.

Brief description of amendment: The amendment clarifies the intent of Amendment No. 49, dated March 30, 1982, by adding two footnotes to Sections 3.7.12 and 4.7.12. The footnotes do not affect the technical requirement for the surveillance of snubbers. Footnote 1 defines the systems that require operable snubbers during modes 5 and 6, while footnote 2 specifies the way to determine the baseline for snubber service life.

Date of issuance: September 30, 1983.

Effective date: September 30, 1983.

Amendment No.: 72.

Facility Operating License No. DPR–66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 33080).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation.

No significant hazards consideration comments received: None received.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania. 15001.

Florida Power and Light Company, Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: April 13, 1978, as supplemented.

Brief description of amendment: The amendent revised the Technical Specifications to (1) incorporate limits and surveillance requirements associated with the overpressure mitigation system by the addition of new specifications that define the low temperature reactor coolant system overpressure protection range, (2) incorporate a limit on the maximum primary-to-secondary differential temperature that is permitted prior to starting a reactor coolant pump, (3) incorporate new requirements on the operability or power operated relief valves, (4) add a note to limit the establishment of a high pressure safety injection pump flow path under certain conditions, and (5) revise requirements on the positioning of certain safety injection valves.

Date of issuance: September 16, 1983.

Effective date: September 16, 1983.

Amendment No: 60.

Facility Operating License No. DPR–67. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 16, 1983, 48 FR 27624.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 16, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida

Florida Power and Light Company, Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: February 16, 1983.

Brief description of amendment: The amendment revised the limiting conditions for operation and the surveillance requirements of the 125 volt DC batteries in conjunction with modifications to the system.

Date of issuance: September 22, 1983.

Effective date: September 22, 1983.

Amendment No: 61.

Facility Operating License No. DPR–67. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 3, 1983, 48 FR 25027.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 22, 1983.

No significant hazards consideration comments received: No.

Location of Local Public Document Room: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: January 21, 1983.

Description of amendment request: The amendment approves Technical Specification changes relating to reallocation of personnel at Oyster Creek.

Date of issuance: September 28, 1983.

Effective date: September 28, 1983.

Amendment No.: 68.

Provision Operating License No. DPR–16. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1983 (48 FR 33081).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation. No public or State comments were received with respect to the Commission's proposed determination that the amendment would not involve a significant hazards consideration.

Local Public Document Room location: 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1 (TMI–1), Dauphin County, Pennsylvania

Date of application for amendment: January 28, 1982.

Brief description of amendment: The amendment adds to the Technical Specifications limiting conditions of operation and surveillance requirements for a Hydrogen Recombiner System in accordance with the NRC staff's recommended requirements for restart of TMI–1.

Date of issuance: October 5, 1983.

Effective date: October 5, 1983.

Amendment No.: 87

Facility Operating License No. DPR–50. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 21, 1983, 48 FR 33379.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 5, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1 (TMI–1), Dauphin County, Pennsylvania

Date of application for amendment: June 24, 1983.

Brief description of amendment: The amendment revises the Technical Specifications to reference a new liquid effluent discharge monitor, RM–L12, in lieu of the previously referenced monitor, RM–L7. The new monitor is to be located upstream of the existing monitor in the same discharge line in a position to directly monitor and terminate undiluted effluent discharge from the Industrial Waste Treatment (IWTS) or Industrial Waste Filter (IWFS) Systems in the event of high discharges to ensure that 10 CFR Part 20 discharge levels are not exceeded. The existing monitor is located such that flow past the monitor is diluted by discharge from the mechanical draft coolers. This results in reduced detection sensitivity. Additionally, the new monitor will incorporate an automatic discharge termination feature, whereas the existing monitor does not.

Date of issuance: October 14, 1983.

Effective date: October 14, 1983.

Amendment No.: 88.

Facility Operating License No. DPR–50. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 19, 1983, 48 FR 37752.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 14, 1983.

No significant hazards consideration comments received: *No.*

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Indiana and Michigan Electric Company, Docket No. 50–315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan.

Date of application for amendment: May 11, 1983, as supplemented July 25, 1983.

Brief description of amendment: This amendment for the Donald C. Cook Plant, Unit No. 1 approves a core reload and permits operation with Westinghouse Optimized Fuel Assemblies with up to 4.0 weight percent U–235 and to extended burnups of 39,000 MWD/MTU (average region discharge) in addition to Exxon Fuel during Cycle 8. This includes numerical changes to the Unit 1 Technical Specifications due to use of improved thermal design procedures, annular burnable assemblies and design thermal power of 3411 MWt. Changes are made to reactor trip system setpoints, enthalpy hot channel factors, shutdown margin, rod drop times, hot channel factors and other power distribution limits and axial power distributor limits. There is no increase in the authorized power of the facility. The changes to the core physics parameters and thermal characteristics account for the increased enrichment and improved neutronic characteristics of the fuel and control assemblies.

Date of issuance: September 20, 1983.

Effective date: September 20, 1983.

Amendment No.: 74.

Facility Operating License No. DPR–58. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 22, 1983, 48 CFR 28578.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendment: September 29, 1982.

Brief description of amendment: The amendment upgrades the Technical Specifications by requiring redundant (2) containment hydrogen analyzers to satisfy the requirements of TMI Action Item II.F.1.6 of NUREG–0737. The previous Technical Specifications required one hydrogen analyzer and one gas chromatograph.

Date of issuance: September 30, 1983.

Effective date: September 30, 1983.

Amendment Nos.: 75 and 56.

Facility Operating License Nos. NPF–58 and NPF–74. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 22, 1983 48 FR 28578.

The Commission's related evaluation of the amendment is contained in a letter dated September 30, 1983.

No significant hazards consideration comments were received.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Mississippi Power and Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station Unit 1, Claiborne County, Mississippi

Date of application for amendment: June 16, 1983, August 18, 1983, and August 23, 1983.

Brief description of amendment: This Amendment changes a license condition that relates to the completion of the Control Room Envelope Leak Tightness Test (Section 3 of Attachment 1 to Operating License NPF–13). Although the test has been satisfied for interim operation through February 1984, additional information is required for NRC review to permit plant operation

beyond March 1, 1984. The details of specified tests and analyses are included in the revised license condition.

Date of issuance: September 23, 1983.
Effective date: September 23, 1983.
Amendment No.: 11.
Facility Operating License No. NPF–13: The amendment revised the license.
Date of initial notice in Federal Register: July 28, 1978 (43 FR 32903).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 23, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: George M. McLendon Library, Hinds Jr. College, Raymond, Mississippi 39154.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendment: June 24, 1983, revised July 29, 1983.

Brief description of amendment: The amendments changed the limit of the core local heat flux ratio F_Q^N from 2.21 to 2.32, allowing a localized linear heat generating rate increase from 14.31 to 15.02 kW/ft which includes a 1.02 factor for power uncertainty. In addition, the definition of F_Q^N from 2.21 to 2.32, allowing a localized linear heat generating rate increase from 14.31 to 15.02 kW/ft which includes a 1.02 factor for power uncertainity. In addition, the definition of F_Q^N was changed from a neutron flux comparison to a heat flux comparison derived from measured neutron flux and fuel enrichment.

Date of issuance: October 3, 1983.
Effective date: October 3, 1983.
Amendment Nos.: 66 and 60.
Facility Operating License Nos. DPR–42 and DPR–60. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 3, 1983 48 FR 35200.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 3, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: February 3, 1983; April 15, 1983; April 29, 1983.

Brief Description of amendment request: The amendment changes Technical Specification 3.4.3.1 to specify that the particulate and gaseous radioactivity monitors be aligned to the drywell, modifies the trip setpoint and allowable value for the High Pressure Coolant Injection Steam Line Flow-High setting, and changes the completion date of the Safety Parameter Display Systems specified in License Condition 2.C.(28)(g)(1) from September 30, 1983 to December 30, 1983.

Date of Issuance: September 2, 1983.
Effective Date: September 2, 1983.
Amendment No. 15.
Facility Operating License No. NPF–51. Amendment revised the Technical Specifications and License Condition.
Date initial notice in Federal Register: July 12, 1983, 31920–31933.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 2, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power & Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: January 31, 1983 and May 4, 1983.

Brief description of amendment: This amendment incorporates Revision 2 into the approved Sesquehanna Steam Electric Station Fire Protection Review Report; corrects typographical errors in Technical Specifications 4.11.2.1.2–1, Radioactive Gaseous Waste Sampling and Analysis Program, and in Section 8, Electrical Power System; corrects nomenclature in Table 4.8.1.1.2–2, Unit 1 and Common Diesel Generator Loading Timers; adds a footnote to Table 3.8.4.1–1; deletes a non-applicable requirement in Technical Specification 4.7.2.b.1; and changes the allowable value for the Reactor Vessel Level-High Feedwater/Main Turbine trip in Technical Specification Table 3.3.9.2.

Date of issuance: September 28, 1983.
Effective date: September 28, 1983.
Amendment No. 16.
Facility Operating License No. NPF–14.

Amendment revised the Technical Specifications and License Conditions.

Date of initial notice in Federal Register: July 29, 1983 (34548–34549) and July 18, 1983 (32708–32710).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 1983.

No significant hazards consideration comments received: (No).

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Public Service Company of Colorado, Docket No. 50–267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of application for amendment: April 7, 1983.

Brief description of amendment: The amendment revised the Administrative Controls Technical Specifications to incorporate various editorial and format corrections and include the following NRC-requested additions: (1) plant staff composition and working hours, (2) Technical Advisor qualifications, (3) Review Committee membership, and (4) Safety Committee audit requirements.

Date of issuance: October 13, 1983.
Effective date: October 13, 1983.
Amendment No. 36.
Facility Operating License No. DPR–34. The amendment revised the Technical Specifications.
Date of initial notice in Federal Register: June 19, 1983, 48 FR 28029.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 13, 1983.

No significant hazards consideration comments received.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: August 12, 1982, as supplemented January 10 and March 4, 1983.

Brief description of amendment: The amendment approves Technical Specification provisions which have been developed for the purpose of keeping releases of radioactive material to unrestricted areas during normal operations, as low as reasonably achievable. This action is consistent with requirements of Appendix I to 10 CFR Part 50.

Date of issuance: September 28, 1983.

Effective date: The license amendment is effective as of the date of its issuance. However, the Technical Specification provisions approved by the license amendment are to be implemented by January 1, 1984.

Amendment No.: 57.

Facility Operating License No. DPR–18.

Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 33088).

The Commission's review of the amendment request is documented in the Safety Evaluation, dated September 28, 1983, as supported by a Technical Evaluation Report prepared by the Commission's contractor, Franklin Research Center. No request for hearing was received and no public or State comments were received with respect to the Commission's proposed determination that the requested action would involve no significant hazards consideration.

Local Public Document location: Rochester Public Library, 15 South Avenue, Rochester, New York 14627.

South Carolina Electric & Gas Company, South Carolina Public Service Authority Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: December 1, 1982.

Brief description of amendment: The amendment corrects wording of a license condition relating to fire suppression to accurately reflect plant design.

Date of issuance: October 12, 1983.

Effective date: October 12, 1983.

Amendment No.: 17.

Facility Operating License No. NPF–12: Amendment revised the license.

Date of initial notice in **Federal Register:** June 22, 1983, 48 FR 28578.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 12, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry, Nuclear Plant, Unit Nos. 1, 2 and 3, Limestone County, Alabama

Date of amendment request June 13, 1983.

Brief description of amendment: The amendments would revise the Technical Specifications of the operating licenses to change the required surveillance interval for testing the Standby Gas Treatment system from one per year to once per operating cycle to be consistent with the requirements in the BWR Standard Technical Specifications (NUREG–0123).

Date of Issuance: September 28, 1983.

Effective date: September 28, 1983.

Amendment Nos. 90, 86 and 59.

Facility Operating License Nos. DPR–33/52/68.

Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 15, 1983, 48 FR 32418.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated: September 28, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athen Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket No. 50–328, Sequoyah Nuclear Plant, Unit 2 Hamilton County, Tennessee.

Date of application of amendment: July 1 and 27, 1983.

Brief description of amendment: The amendment changes the technical specifications to accommodate cycle 2 fuel reload operations and other improvements to plant operations. For this reload, sixty-eight new fuel assemblies will replace spent fuel from the first cycle. The new assemblies are the same as the assemblies in place, except for minor grid modifications to minimize interactions of grid spacing during fuel handling. Also some new burnable absorber rods will be utilized in cycle 2 that have been previously accepted for use in other nuclear plants. As part of this fuel reload a number of technical specification changes to improve plant operations are also requested, which were considered and found acceptable for Unit 1 operations.

The amendment also changes the Technical Specifications regarding the testing of containment protective fuses from a destructive type of testing to visual inspection.

Date of issuance: September 29, 1983.

Effective date: September 29, 1983.

Amendment No. 21.

Facility Operating License No. DPR–79. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 15, 1983 (48 FR 36930).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 29, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendment: June 15 and July 29, 1983.

Brief description of amendment: The amendments revise the diesel generator surveillance requirement to reflect the actual as-designed logic that exists for the Sequoyah Units 1 and 2.

Date of issuance: September 30, 1983.

Effective date: September 30, 1983.

Amendment Nos. 31 and 22.

Facility Operating License Nos. DPR–77 and DPR–79. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38382).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Tennessee Valley Authority, Docket No. 50–328, Sequoyah Nuclear Plant, Unit 2 Hamilton County, Tennessee

Date of application for amendment: June 16, 1983.

Brief description of amendment: The amendment changes the license conditions related to post accident sampling, additional accident monitoring instrumentation, instruments for inadequate core cooling, and upgrade of emergency support facilities.

Date of issuance: September 30, 1983.

Effective date: September 30, 1983.

Amendment No. 23.

Facility Operating License No. DPR–79. Amendment revised the license.

Date of initial notice in **Federal Register:** August 15, 1983 (48 FR 36930).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application of amendment: July 5, 1983.

Brief description of amendment: This amendment modifies the TSs to permit operation for Cycle 4. This cycle has a design length of 240 effective full power days. The modified TSs also incorporate revised Reactor Protection System instrumentation trip setpoints and allowable values. In addition, this amendment corrects a typographical error on Bases page B ¾ 1-2.

Date of issuance: September 21, 1983.

Effective date: September 21, 1983.

Amendment No. 61.

Facility Operating License No. NPF-3.: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 4, 1983, 48 FR 35541.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 21, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: January 12, 1983.

Brief description of amendment: The amendment adds surveillance of certain special interest steam generator tubes and visual inspections of the internal auxiliary feedwater distributor, attachment welds, and thermal sleeves.

Date of issuance: September 30, 1983.

Effective date: September 30 1983.

Amendment No.: 62.

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 2, 1983, 48 FR 35047.

[This notice incorrectly referred to the installation of an external header with seven injection nozzles. The correct number of injection nozzles is eight. This has no effect with respect to the no significant hazards consideration determination.]

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1983.

No significant hazards consideration comments received: *No.*

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Virginia Electric and Power Company, Docket No. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2 Surry County, Virginia

Date of application for amendment: May 2, 1983.

Brief description of amendment: The amendment would revise the Technical Specifications to change the existing fractional power multiplier from 0.2 to 0.3 for both units and to restore the control rod insertion limits to pre Cycle 7 values for Unit 1.

Date of issuance: September 22, 1983.

Effective date: September 22, 1983.

Amendment Nos.: 90 and 89.

Facility Operating License Nos. DPR-32 and DPR-37. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 14, 1983, 48 FR 32245.

The Commission's related evaluation of the amendment is contained in a letter dated September 22, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendment: June 30, 1983.

Brief description of amendment: The amendment revised the degraded grid voltage relay setpoint and associated time delay in Table 15.3.5-1 of the Technical Specifications.

Date of issuance: September 30, 1983.

Effective Date: 20 days from the date of issuance.

Amendment Nos.: 74 and 79.

Facility Operating License Nos. DPR-24 and DPR-27. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1983, 48 FR 33076 at 33095.

The Commission's related Evaluation of the amendment is contained in a Safety evaluation dated September 30, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendment: May 4, 1983.

Brief description of amendment: The amendments made various administrative changes to the Technical Specifications in order to calarify terminology used in a limiting condition for operation, clarify language relating to a periodic calibration interval requirement, and correct specific portions of the specifications and bases.

Date of issuance: October 6, 1983.

Effective date: 20 days from the date of issuance.

Amendment Nos. 76 and 80.

Facility Operating Licenses No. DPR-24 and DPR-27. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1983 (48 FR 33076 at 33094).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 6, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Public Library, 1516 16th Street, Two Rivers, Wisconsin.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: September 30, 1982

Brief description of amendments: These amendments revised the Technical Specifications to permit location of the spent fuel pool neutron absorber surveillance specimen adjacent to the spent fuel pool divider wall. These amendments also revise limiting conditions for operation of the power operated relief-valves (PORV).

Date of issuance: October 17, 1983.

Effective date: 20 days from the date of issuance.

Amendment Nos.: 77 and 81.

Facility Operating License Nos. DPR-24 and DPR-27. Amendment revised the Technical Specifications.

Date of Initial Notice in Federal Register: July 20, 1983 (48 FR 33076 at 33093).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 5, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: January 12, 1982

Brief description of amendment: This amendment adds the requirements for a secondary water chemistry program and deletes the previous secondary water chemistry requirement.

Date of issuance: October 6, 1983.

Effective date: October 6, 1983.

Amendment No.: 50.

Facility Operating License No. DPR-43 Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 33095).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation. No significant hazards consideration comments received: No comments received.

Local Public Document Room location: Kewaunee Public Library, 822 Juneau Street, Kewaunee, Wisconsin 54216.

Notice of Issuance of Amendment to Operating License and Final Determination of No Significant Hazards Consideration

During the 30-day period since publication of the last monthly notice, individual notices of issuance of amendments have been issued for the facilities as listed below. These notices were previously published as separate individual notices. They are repeated here because this monthly notice lists all amendments that have been issued for which the Commission has made a final determination that an amendment involves no significant hazards consideration.

In this case, a prior Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing was issued, a hearing was requested, and the amendment was issued before any hearing because the Commission made a final determination that the amendment involves no significant hazards consideration.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: May 9, 1983.

Brief description of amendment: The amendment revised the license and the Technical Specifications to recognize and approve the steam generator tube kinetic expansion repair technique only for purposes of steam generator hot functional testing using pump heat (non-nuclear), and permits such testing. This amendment is in partial response to the May 9, 1983, application.

Date of issuance: August 25, 1983.

Effective date: August 25, 1983.

Amendment No.: 86.

Facility Operating License No.: DPR-50.

Date of individual notice in **Federal Register:** September 1, 1983, 48 FR 39709.

Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity for Hearing (Exigent or Emergency Circumstances)

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless indicated otherwise, the Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment. If the Commission has prepared an Environmental Impact Appraisal related to the action, it is so indicated. If indicated, this notice constitutes a negative declaration and indicates that the Commission has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to the action see (1) the application for amendment (2) the amendment to Facility Operating License, (3) the Commission's related letter, Safety Evaluation and/or Environmental Impact Appraisal, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facilities involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By November 25, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who

wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendment: September 2, 1983.

Brief description of amendment: The amendments authorize, through 11:59 p.m., September 7, 1983, maintaining hot standby conditions without proceeding to cold shutdown for Unit 1.

Date of issuance: October 6, 1983.

Effective date: September 2, 1983.

Amendment Nos. 24 and 5.

Facility Operating License Nos. NPF–9 and NPF–17. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation is contained in a Safety Evaluation dated October 6, 1983.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Mississippi Power and Light Company, Middle South Energy Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station Unit 1, Claiborne County, Mississippi

Date of application for amendment: June 14, 1983, and August 1, 1983.

Brief description of amendment: This Amendment grants changes to the Technical Specifications and one time exceptions to some Technical Spesifications for relief needed to restart the plant. The changes to the Technical Specifications involve the following sections:

(a) Tables 3.3.3–1 and 4.3.3.1–1, Bases Figure ¾ 3–1: Redefines Operability range for High Pressure Core Spray (HPCS) until first refueling outage due to water level instrumentation inaccuracies at low pressure (August 1, 1983).

(b) Table 3.6.4.1: Design change to prevent automatic tripping of RHR jockey pumps, needed to prevent potential damage from waterhammer (June 23, 1983).

The one time exceptions to some Technical Specifications needed to facilitate restart involve the following sections:

(c) 4.4.1.2.b, 4.4.2.2.1.b and Table 3.3.3–1: Provisions of Specification 4.0.4 suspended to allow plant to attain operating conditions necessary for ADS Trip System surveillance testing (June 14, 1983).

(d) 4.1.3.1.4.a: Provisions of Specification 4.0.4 suspended to allow plant to attain operating conditions necessary for Scram Discharge Volume surveillance testing (August 1, 1983).

Date of issuance: September 23, 1983.

Effective date: September 23, 1983.

Amendment No.:10.

Facility Operating License No.: NPF–13.

Amendment revised the Technical Specifications and license.

Public comments requested as to proposed no significant hazards consideration: Yes. Press release and paid advertisement in four local newspapers.

Comments received: Yes. Source: public and State.

The Commission's related evaluation is contained in a Safety Evaluation dated September 23, 1983.

Attorney for licensee: Troy B. Conner, Jr., Esq., Conner & Wetterhann, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

Local Public Document Room location: George M. McLendon Library, Hinds Jr. College, Raymond, Mississippi 39154.

Dated at Bethesda, Maryland, this 18th day of October 1983.

For the Nuclear Regulatory Commission.

Donald E. Sells,

Acting Chief Operating Reactors Branch No. 3 Division of Licensing.

[FR Doc. 83-28856 Filed 10-25-83; 8:45 am]

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October 26, 1983

Part III

Department of Agriculture

Office of the Secretary

Plant Biology and Human Nutrition; Competitive Research Grants Program for Basic Research for Fiscal Year 1984—Solicitation of Applications

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Plant Biology and Human Nutrition; Competitive Research Grants Program for Basic Research for Fiscal Year 1984—Solicitation of Applications

Notice is hereby given that under the authority contained in Section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)), the Cooperative State Research Service (CSRS) through the Office of Grants and Program Systems (OGPS) anticipates awarding competitive grants for mission-oriented basic research in four areas of plant sciences (biological nitrogen fixation, biological stress on plants, photosynthesis, genetic mechanisms for crop improvement) and in human nutrition (nutrient requirements), contingent on Congressional appropriation of funds for this purpose in Fiscal Year 1984. Proposals may be submitted through their parent organizations by scientists associated with State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals.

The award of any grants under the provisions of this Notice is subject to the availability of appropriations.

The Guide to Proposal Preparation for these competitive grants consists of three parts:

I. Types of Research to be Supported in FY 1984;

II. Proposal Submission:

III. Proposal Review and Evaluation.

A Grant Application Kit has been developed which provides the forms, instructions, and other relevant information needed to apply for research grants under the programs described herein. To obtain a copy(ies) of the Grant Application Kit, write or call the Grants Administrative Management office (Address and telephone number below): Grants Administrative Management, Attention: Proposal Services Unit, Office of Grants and Program Systems (OGPS), West Auditors Building, Room 010, 15th & Independence Avenue SW., U.S. Department of Agriculture, Washington, D.C. 20251. Telephone: (202) 475–5049.

Additional instructions relating to proposal preparation are included in Part II of the Guide to Proposal Preparation.

Proposals will be selected for funding after review of all proposals by a scientist serving as an OGPS Program Manager, by *ad hoc* reviewers, and by an assembled panel of scientists who constitute a spectrum of expertise for the program to which each proposal is assigned (See Part III of the Proposal Preparation Guide). Recommendations of the peer panels on proposals to be considered for funding will be reviewed by the Director of the Office of Grants and Program Systems prior to awarding any grants.

This Notice incorporates suggestions from various agencies of the U.S. Department of Agriculture (USDA), from liaison representatives of other Federal agencies and prospective performing organizations, and from *ad hoc* groups on plant sciences and on human nutrition.

As outlined by OMB Circular No. A–89, the official program number and title for these grants are: 10.206, Grants for Agricultural Research, Competitive Research Grants.

The grants awarded will be administered in accordance with applicable OMB circulars and Department of Agriculture Uniform Federal Assistance Regulations, as amended (7 CFR Part 3015). The Uniform Federal Assistance Regulations primarily implement OMB Circulars A–102 and A–110 (which standardize the administration of grants and cooperative agreements) and makes reference to the principles for determining allowable costs under USDA grants and cooperative agreements. A copy of the Uniform Federal Assistance Regulations is available upon request.

The determination of allowable costs shall be made in accordance with the following applicable Federal Cost Principles in effect on the effective date of the Agreement:

Educational Institutions—OMB Circular A–21;

Nonprofit Organizations—OMB Circular A–122;

Commercial Firms—FPR 1–15.2;

State and Local Governments—OMB Circular A–87.

Most of the grants awarded in Fiscal Year 1984 will be for a duration of one to three years. The total amount awarded for each of these grants will be from Fiscal Year 1984 funds. A limited number of continuation grants will be made for three to five years where longer term studies are required. The continuation grants will be funded in increments covering a one-year period. The initial increment will be funded from Fiscal Year 1984 appropriations.

When an original grant award includes a provision for more than one budget period within the project period, OGPS presumes that continuation grants for the subsequent budget periods will be awarded subject to availability of funds, if the grantee:

(1) Has demonstrated satisfactory performance during all previous budget periods; and

(2) Submits no later than 90 days prior to the end of the budget period a continuation grant application (Form S&E–661) which includes a detailed progress report; a financial statement for the current budget period, including an estimate of the amount of unspent, uncommitted funds which will be carried over beyond the term of the last funding period; a budget (Form S&E–55) for the new budget period; and updated work plan revised to account for actual progress accomplished during the current budget period; and any other reports as may be required by the grant agreement.

Review of continuation applications will be conducted expeditiously. Generally, no extramural review will be required.

Neither the approval of a project nor the award of any grant shall commit or obligate the United States to award any continuation grant or enter into any grant amendment, including grant increases to cover cost overruns, with respect to any approved project or portion thereof.

Section 2(b) of Pub. L. 89–106, as amended, states that these competitive grants shall be awarded without regard to matching funds by the recipient(s) of such grants.

It has been determined that, because of the need to implement this program so that research relating to plant production can be initiated in the Spring of 1984, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Further, this action has been reviewed under Executive Order 12291 and it has been determined that this is not a major rule. Although this Notice establishes the procedures and criteria under which the recipients of competitive grants in Fiscal Year 1984 will be selected, and the terms and conditions under such grants will be administered, it does not involve a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

Done at Washington, D.C., this 11th day of October 1983.

E. L. Kendrick,

Acting Deputy Assistant Secretary for Science and Education.

Guide to Proposal Preparation

I. Types of Research to be Supported in Fiscal Year 1984

The Office of Grants and Program Systems will award both standard research grants and a small number of continuation grants for periods not to exceed five years, on a competitive basis, to support basic research underlying the mission of the USDA. Basic research grants will be considered in selected areas of plant science and human nutrition, which have been considered by a number of scientific groups to possess exceptional opportunity for fundamental scientific discovery and for contributing, in the long run, to applied research and development vitally needed on important food an nutrition problems. This grants program results from the recognition that new, innovative approaches and enhanced levels of funding are needed as we seek ways to increase food production and improve human nutrition.

Consideration will be given to research proposals which address fundamental questions in the ares noted below and which are consistent with the long-range missions of USDA. While basic guidelines are provided to assist members of the scientific community in assessing their interest in the program areas and to delineate certain important areas where new information is vitally needed, the guidelines are not meant to provide boundaries or to detract from the creativity of potential investigators. USDA encourages the submission of innovative projects in the so-called "high-risk" category as well as those which may have a higher payoff potential.

The following guidelines are thus provided as a base from which proposal may be developed:

A. Plant Science. 1. *Biological Stress on Plants.* Plants are exposed to many stresses that may adversely affect their productivity and usefulness to man. This grants program will support research on stresses on plants arising from their interactions with other plants or with other biological agents such as weeds, insects, nematodes, fungi, bacteria, viruses, and mycoplasma-like organisms. The ultimate goal of the research supported in this area is to reduce losses in plant productivity from damage caused by biologically generated stresses. The program area will emphasize studies that enhance our understanding of (a) how stressful interactions are established between plants and other biological agents, (b) how plants react to stresses generated by interactions with biological agents, and (c) how damage from such interactions may be reduced or eliminated. The interactions may be studied at any number of levels: i.e., population, organismal, cellular and molecular; and by various approaches including genetics, molecular biology, and biochemistry. These may include studies on plants separated from stress-organisms or on stress-causing organisms separated from their target plants. However, proposals should indicate how the anticipated information will be relevent to the understanding of the causes, consequences, and avoidance of biologically generated stresses on plants. The research supported in this program area will focus on the identification of new approaches that will be both effective and compatible with social and environmental concerns.

2. *Genetic Mechanisms for Corp Improvement.* The goal of this program area is to encourage new and innovative genetic approaches for the development of genetically superior varieties of agricultural crops. Proposals should be directed toward obtaining novel genetic combinations or gene modifications that cannot be achieved by using conventional plant breeding techniques. Studies addressing the basic cellular and genetic processes which contribute new information required for the development of novel approaches to crop improvement will be given high priority. This program area will emphasize the following but will not exclude other new or unusual approaches to crop improvement: (a) Acquisition of basic information on the structure, function, and expression of plant nuclear and organellar genes; (b) cell and tissue culture studies designed to increase our knowledge of the basic molecular, biochemical, and cellular processes involved in regenerating whole plants from single cells; (c) development of cellular and molecular methods for identifying plant characteristics or genes which are important targets for genetic manipulation; (d) development of molecular and cellular methods for crop improvement using gene transfer or genetic engineering technology; (e) development of new methods for producing, selecting, and transferring agronomically important qualitative and quantitative traits; and (f) basic genetic studies on the alteration and utilization of unadapted and wild germplasm.

3. *Biological Nitrogen Fixation.* The most common limiting nutrient for plant growth is nitrogen. The presence of soil nitrogen is due to past accretions in nature, biological nitrogen fixation or the application of nitrogenous fertilizer. The latter represents a significant energy input in cropping and ultimately increases food costs. Thus, the enhancement of biological nitrogen fixation capacity in plant-soil microbial associations is of major importance. Research aimed at understanding nitrogen-fixing mechanisms and related nitrogen metabolism in both symbiotic and free-living organisms as well as the fate of fixed nitrogen is of high priority.

In general, the objectives in this program area include building a foundation of basic information concerning nitrogen fixation as it relates to enhancing the process in currently known systems and in providing a base for developing new nitrogen-fixing associations, by genetic transfer or other means, for crop species not now possessing such capability. Moreover, the process of nitrification (the oxidation of ammonia to nitrate), the assimilation and utilization of ammonia and nitrate, and denitrification (the reduction of nitrate to volatile forms of nitrogen which are lost from the soil) all play important roles in plant growth. Soil nitrogen, whether supplied by biological nitrogen fixation or as chemical fertilizer, serves to increase food production only when it is present in an available form which is not lost from the plant-soil ecosystem.

Examples of research encompassed in this program area include: (a) Structure and mechanism of action of nitrogenase; the regulation of nitrogenase activity and synthesis; the relationship between nitrogenase and hydrogenase activities in nitrogen-fixing organisms; (b) energetics of the nitrogen fixation process including competitive processes within the plant; (c) infection by *Rhizobium* and conditions for effective nodulations; basis of the recognition process between symbiotic organisms; factors controlling symbiont specificity; competition in the soil; (d) study of the nitrogen-fixing capabilities of Actinomycetes, *Azospirillum* spp., Cyanobacteria and other organisms potentially important to supplying nitrogen needs of plants; (e) relation between the fixation process and the processes of assimilation, nitrification and denitrification; (f) the development of methods for the *in situ* measurement of nitrification and denitrification, and determination of the actual extent of these processes in nature; (g) an analysis of the distribution of

denitrifying and nitrifying bacteria and elucidation of control mechanisms operative on nitrogen transformations,in the major species; (h) studies of the metabolism of fixed nitrogen including the enzymes involved in the assimilation and dissimilation of fixed nitrogen in bacteria and crop plants and the partitioning of fixed nitrogen into various gene products or plant organs; and (i) the efficiency of nitrogen utilization by crop plants in the production of food proteins.

Emphasis in program priorities will be on innovative approaches which may contribute to a thorough understanding of nitrogen cycling encompassing biochemistry, cellular and developmental biology, genetics and genetic manipulation, and other relevant life science disciplines.

An understanding of these processes is essential to the development of strategies which maximize nitrogen fixation, minimize inputs of nitrogenous fertilizers and optimize their utilization in agriculture.

4. *Photosynthesis.* There are many indications that productivity of crop plants may be enhanced by increasing their photosynthetic efficiency. Basic research which provides greater understanding of limiting processes of photosynthesis and associated carbon metabolism will help guide how increased crop productivity might be achieved.

Research is needed in the following major subareas: (a) Aspects of photosynthetic energy conversion including such areas as early events in photon capture by photosynthetic systems and the mechanisms of charge separation, the structure and function of photosynthetic membranes and membrane constituents, and the associated chemical and physical reactions; (b) photosynthetic carbon assimilation including CO_2 fixation, biochemistry of photosynthetic pathways, photorespiration, and aspects of cellular metabolism regulating these reactions; (c) control of photosynthate partitioning and translocation by hormones or other metabolic factors; (d) factors controlling development and senescence of photosynthetic competence; (e) genetic and cellular manipulation to improve photosynthetic efficiency in plants including studies of the chloroplast genome, of nuclear genes regulating photosynthesis, and analysis of regulatory steps controlling both nuclear and cytoplasmic genome expression and their interations; and (f) the photosynthetic process in leaves and whole plants including but not limited to involvement of the stomatal apparatus, and water and temperature extremes.

Other research designed to generate new information leading to further understanding of photosynthesis and its accompanying processes may also be considered a part of this area.

B. *Human Nutrition.* Proposals are invited in the area of human requirements for nutrients. Support will not be provided for clinical research nor for demonstration and action projects.

Research in this program area is intended to contribute to the improvement of human nutritional status by increasing our understanding of requirements for nutrients. The objective is to support basic, creative research that will help to fill gaps in the knowledge about nutrient requirements, bioavailability, the interrelationships of nutrients, and the nutritional value of foods that are consumed in the U. S. and of the nutritional status of population groups, as all of these relate to human nutrient requirements. Special attention will be given to applications involving innovative approaches designed to improve methods of research and investigation that will increase the reliability and validity of data concerned with the quantitative evaluation of nutrient requirements and nutritional status.

Proposals dealing with processing techniques in food technology should be clearly oriented towards determination of human nutrient requirements. Proposals which concern utilization or production of a food commodity should emphasize the relationship to specific human nutrient requirements. It is especially important that proposals emphasize innovative (creative) fundamental (basic) research.

II. Proposal Submission

A. *Proposal Purpose.* The purpose of a proposal is to persuade the reviewing peer scientists and the OGPS staff that the proposed project is feasible and sufficiently meritorious to warrant support under the criteria enumerated in Part III B of this Notice. It should be clear, concise, technically correct, and relevant to the competitive grants program objectives. The qualifications of the investigator, the institution's facilities, and the level of funding to be devoted to the proposed project should be clearly outlined.

B. *Who May Submit Proposals.* Proposals for support under the competitive research grants program may be submitted by qualified scientists associated with the State agricultural experiment stations, all colleges and universities as defined in the 7 U.S.C. 3103, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals. Proposals from scientists at non-United States organizations will not be considered for support. Only in special situations, where it can be demonstrated that a proposed project will contribute directly to breakthroughs in the food and agricultural sciences, will proposals from unaffiliated scientists be given favorable consideration.

Section 1404 of Pub. L. 95–113, as amended (7 U.S.C. 3103) defines "college" and "university" as "an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association."

(C) *Where and When to Submit Research Proposals.* Twenty copies of each research proposal must be submitted by the time limits set below to: Grants Administrative Management (GAM), Attention: Competitive Research Grants Program, Office of Grants and Program Systems (OGPS), West Auditors Building, Room 010, 15th & Independence Ave., SW, U.S. Department of Agriculture, Washington, D.C. 20251.

Proposals will be reviewed by peer panels (as described in Part III) which will assemble on specific dates. In order to be considered for funding during Fiscal Year 1984, the proposals must be postmarked by the following dates:

December 16, 1983, for Biological Stress on Plants;
January 16, 1984, for Genetic Mechanisms for Crop Improvement;
January 16, 1984, for Biological Nitrogen Fixation;
January 16, 1984, for Photosynthesis;
February 15, 1984, for Human Nutrient Requirements.

D. *What to Submit.* Your submission should include an original and 19 copies of the proposal and Form S&E–661, Grant Application, which is included in the Grant Application Kit. The Form S&E–661 submitted with the original proposal should have original signatures of the Principal Investigator(s) and the Authorized Organizational Representative. OGPS must have original signatures on file for each application.

The applicable specific area of inquiry (program area) should be indicated in Block 8 of Form S&E–661 provided in the Grant Application Kit. *Select one program area only.* Indicating more than one program area does not mean the proposal will be considered under more than one. It only delays processing of the proposal in OGPS. The final determination of the area and change (if any) will be made by the program staff and/or the appropriate panel. The numbers assigned to the programs are seen below and must be cited in Block 8 of Form S&E–661.

Number and Program Area

1. Biological Stress on Plants
2. Genetic Mechanisms for Crop Improvement
3. Biological Nitrogen Fixation
4. Photosynthesis
5. Human Requirements for Nutrients

All copies of the proposal should be mailed in one package, if at all possible. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identify. If copies of the proposal are mailed in more than one package, the number of packages should be marked on the outside of each. It is important that *all packages be mailed at the same time.* The acknowledgement of receipt of the proposal will contain a proposal number and the title. Later inquiries, addenda, etc., should include this information. However, every effort should be made to *ensure* that the *proposal contains* all *pertient information when initially submitted.* Prior to mailing, compare your proposal with the Application Requirements checklist contained in the Grant Application Kit and instructions in Part II E, Format for Research Proposal, which follows.

E. Format for Research Proposal. The Grant Application Kit (available from Grants Administrative Management, OGPS) includes forms, instructions, and other information to be used in applying for research grants which will be awarded in the areas described in Part I, Types of Research to be Supported in FY 1984.

Additional information and/or instructions relating to the format and content of the research proposal follow:

1. *Title of Proposal.* The title (80 characters maximum) will be used for the USDA Current Research Information System (CRIS), for information to Congress and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used.

2. *Approval Signatures of Appropriate Officials.* All proposals from a university, college, or institution must be signed by an authorized official.

3. *Research Involving Special Considerations.* A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the proposal should so indicate. Since some types of research targeted for OGPS support have a high probability of involving either recombinant DNA or human subjects, special instructions follow:

Recombinant DNA. Principal investigators and endorsing performing organization officials must comply with the guidelines of the National Institutes of Health (see NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131) and subsequent revisions).

Human Subjects. Safeguarding the rights and welfare of human subjects used in research supported by OGPS grants is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Pub. L. 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46).

If the project involves human subjects at risk, the grantee must furnish OGPS with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization, and that the grantee is in compliance with Department of Health and Human Services (DHHS) policies, as amended, regarding the use of human subjects.

4. *Project Summary.* The Research Proposal should include a one-page Project Summary to focus on: overall objectives and project goals; relevance and significance of the project; and experimental methods and approaches.

The Project Summary is not intended for the general reader so it should be couched in language which will be meaningful to others in the field of science.

If this is a renewal of a previous grant, the following information should be included: (a) Objectives of the previous grant, (b) summary of the results which met those objectives, and (c) publications resulting from research supported by the previous grant. The document should be limited to three (3) pages. Renewal applications *must* include new S&E 661 with current signatures. A copy of the prior year S&E 661 is not acceptable.

5. *Project Description (15-page maximum).* The 15-page maximum applies regardless of whether the proposal is single or double-spaced. (Please print on one side only; it is difficult to review material that is printed back-to-back. Also, please staple proposals securely; but, DO NOT BIND. The clips come off of unstapled proposals and pages come apart. Binding must be removed to facilitate processing.) The project description must include the following components:

a. *Introduction*—State overall objective(s) and long-term goal(s) of the proposed research. Review the most significant previous work, including your own, and describe the current status of research in this field. Document with references.

b. *Rationale and Significance*—Present concisely the rationale behind the proposed research and list specific objectives for the total period of requested support. Show how these objectives relate to potential long-range improvements in food production or human nutrition. What is the potential importance of the proposed research? Discuss any novel ideas or contributions which the project offers.

c. *Experimental Plan*—State clearly your hypotheses or the questions you will ask and give details of the research plan. Include a description of the experiments or other work proposed; the methods and techniques to be employed and their feasibility; the kinds of results expected; and the means by which the data will be analyzed or interpreted. Include, if appropriate, a discussion of pitfalls that might be encountered, and limitations of the procedures proposed. Insofar as possible, describe the principal experiments or observations in the sequence in which it is planned to carry them out, and indicate, if possible, a tentative schedule of the main steps of the investigations within the project period requested.

d. *Facilities and Equipment*—Describe the facilities available for this project, including laboratories. Point out any procedures, situations, or materials that may be hazardous to personnel and the precautions to be exercised. List major items of instrumentation and those major items of nonexpendable equipment needed to complete the work.

e. *Collaborative Arrangements*—If the proposed project requires collaboration with other research organizations, describe the collaboration and provide evidence to assure the reviewers that the organizations involved agree. If separate written assurances are to be included, they should be placed after the References to the Project Description.

Indicate specifically whether or not such collaborative arrangements might have the potential for any conflict of interest. Projects involving collaboration should indicate which organization is to receive the grant since only one submitting organization can be the recipient of a grant for each proposal. Subcontractual arrangements of research work should be indicated under Item I of the Proposal Budget, Form S&E–55.

6. *References to Project Description.* These references should follow an accepted journal format.

7. *Vitae and Publications List(s) of Principal Investigator(s).* Vitae of the principal investigator, senior associates, and other professional personnel should be provided to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support. Provide for each person a chronological list of the most representative publications during the preceding 5 years including those in press. List the authors in the same order as they appear on the paper, the full title, and the complete reference as these usually appear in journals.

8. *Additions to Project Descriptions.* Each project description is expected by the members of review committees and the staff to be complete in itself. It should be noted that the reviewers are not required to read beyond 15 pages of the project description to evaluate the proposal. In those instances where additional material is absolutely necessary to understand the project (for example: photographs which do not reproduce well, and reprints or other especially pertinent material which are not suitable for inclusion in the proposal), 20 copies or sets of these materials, identified by title of the research project and name of the Principal Investigator, should accompany the proposal.

III. Proposal and Evaluation

A. *Proposal Review.*—Research proposals received by OGPS will be acknowledged and assigned to the appropriate program for scientific evaluation.

All proposals will be carefully reviewed by a scientist serving as an OGPS Program Manager and by additional scientists who are experts in the particular field represented by the proposal. Program Managers will also conduct discussions and obtain comments from assembled peer panels of scientists before recommending proposals for funding.

B. *Criteria for Selection of Projects.*—The following criteria or factors are considered in the evaluation of research proposals:

1. The scientific merit of the proposal, including the suitability and feasibility of the approaches and methodology.

2. The probability that the research will contribute to important discoveries or significant breakthroughs in food production or human nutrition in relation to the mission of this program.

3. The qualifications of the Principal Investigator and other senior personnel, such as training, demonstrated awareness of previous and alternative approaches to the problem, and performance record and/or potential for future accomplishment.

4. The probable adequacy of available or obtainable facilities, equipment, instrumentation, and technical support.

C. *Revisions to Proposals During Review Process.*—Prior to recommending whether or not OGPS should support a particular project, the Program Manager may engage in discussions with the proposing Principal Investigator. Should such discussions result in proposed changes which exceed 10 percent of the proposed grant amount or $10,000, whichever is less, a revised proposal budget, signed by both the proposing Principal Investigator and by the Authorized Organizational Representative, must be submitted on Form S&E–55 in an orignial and two copies of the cognizant OGPS Program Manager for incorporation into the proposal file.

Should such discussions result in changes in the basic objectives or scope of the project as originally proposed, an appropriate proposal modification, signed and endorsed as above, must be submitted to the OGPS Program Manager.

D. *Disposition of Proposals.*—After the grants are awarded, OGPS will retain one copy of unfunded proposals on file for 5 years. The remaining copies will be destroyed. Confidential business information in applications will be protected to the extent allowable by law from disclosure under the Freedom of Information Act, Pub. L. 93–502 (5 U.S.C. 552).

E. *Grant Award.*—The applicants submitting proposals judged most meritorious under the criteria in III B above will be awarded grants for periods not to exceed five years, within the limitations of available funds.

Information collection requirements contained in this document have been approved by OMB Document No. 0524–0010.

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federal register

Wednesday
October 26, 1983

Part IV

Department of Energy

Commercial and Apartment Conservation Service Program.

DEPARTMENT OF ENERGY

10 CFR Part 458

[Docket No. CAS-RM-80-125]

Commercial and Apartment Conservation Service Program

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is issuing final regulations to implement the Commercial and Apartment Conservation Service (CACS) Program (10 CFR Part 458) as required by Title VII of the National Energy Conservation Policy Act (NECPA), as added by the Energy Security Act (ESA). Proposed regulations were published in the Federal Register on November 24, 1982 (47 FR 53236).

Title VII of NECPA requires large gas and electric utilities to offer energy audits of eligible small commercial buildings and of larger (five or more apartments) centrally heated or cooled apartment buildings. The provisions of Title VII require the final regulations to describe how each State may submit a Plan (State Plan) to DOE for administering the CACS Program in the State and list the requirements for a State Plan. A State Plan will set the requirements for the energy audit programs which covered utilities in the State must offer. All nonregulated covered utilities which are not included in a State Plan must submit plans directly to DOE for a CACS Program. The final regulations also include the conditions under which NECPA requires DOE to invoke its Federal Standby authority, how the standby authority would be used, and the corresponding enforcement provisions, including the assessment of civil penalties.

EFFECTIVE DATE: December 5, 1983.

FOR FURTHER INFORMATION CONTACT: Shelley Launey or Margaret O'Hare, Buildings Services Division, CE–115, Office of Building Energy Research and Development, Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–1650.

JoAnn Scott or Pamela Pelcovits, Office of General Counsel, GC–33, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9513.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Discussion of the Final Regulations
III. Regulatory Impact Analysis
IV. Environmental Impact Statement
V. Paperwork Reduction Act
VI. Regulatory Flexibility Act
VII. Consultation with the Department of Housing and Urban Development.
VIII. List of Subjects in 10 CFR Part 458.

I. Introduction

The Department of Energy (DOE) is amending Chapter II of Title 10 of the Code of Federal Regulations by adding a new Part 458 to establish the Commercial and Apartment Conservation Service (CACS) Program, as required by Title VII of the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, as amended by the Energy Security Act (ESA), Pub. L. 96–294. DOE published a notice of proposed rulemaking for the CACS Program in the Federal Register on November 24, 1982. DOE conducted public hearings on that proposal and received 101 written comments and 19 oral comments.

This final rule reflects DOE's ongoing effort to meet its legislative responsibilities without imposing unnecessary burdens on affected parties.

Accordingly, the two objectives of this final rule are:

(1) To provide a regulatory framework within which DOE carries out its responsibility to implement Title VII of NECPA, consistent with stated legislative intent; and

(2) To allow States and utilities the maximum flexibility to design their CACS program.

In preparing this final rule, DOE examined the statutory requirements, reviewed the research that was the basis for the proposed rule, reviewed the public comments received, and conducted limited further research in areas that required further technical information upon which to base decisions.

The order and framework of this rule are similar to the applicable sections in the amended final Residential Conservation Service (RCS) Program regulations (10 CFR Part 456; 47 FR 27752; June 25, 1982), which may be helpful to the many parties involved in both the CACS Program and the RCS Program.

A section-by-section discussion of the major provisions of the final rule follows. Where necessary, it sets out the statutory basis for the rule, describes the significant sections of the rule and the comments received on the proposed rule, and discusses DOE's decision for the final rule.

II. Discussion of the Final Regulation

A. General Issues

There are two areas that are discussed before the section-by-section discussion because of their general importance to the regulations. These areas are fuel switching (recommending replacement measures which use a different form of energy than the existing equipment) and comprehensive program coverage of apartment (multifamily) buildings under either RCS or CACS.

1. *Fuel switching.* Section 458.305(d)(1) states that the State Plan must require the program audit to address all program measures; Section 458.305(d)(4) allows States to add measures to the required list; Section 458.305(d)(5) requires the State to limit auditors to consider only those measures approved by the State.

The definitions for "air conditioner replacement" and "replacement furnace or boiler" in the proposed rule limited consideration to replacement air conditioners, furnaces, and boilers that are powered by the same energy source as the air conditioners, furnaces, or boilers being replaced.

All these proposed regulation provisions taken together in effect eliminated fuel switching as part of the Federal CACS Program. However, States had the option to allow fuel switching as part of CACS in their States.

DOE received numerous comments on these provisions and on the fuel switching issue in general. In summary, electric utilities favored allowing consideration of replacement measures of all fuel types while gas utilities supported the exclusion of fuel switching from CACS. The argument in favor of fuel switching is that customers should, as a result of the CACS audit, have complete information about all of the cost-effective measures appropriate for their buildings. It may be cost-effective for customers to replace their air conditioners or furnaces or boilers with units that are powered by an energy source other than the one currently supplying their units. The argument against fuel switching is that a federally mandated program, whose costs may in large measure be rate-based among all customers, should not become a marketing opportunity for one utility versus another.

Therefore, DOE has retained all provisions in the proposed rule relating to fuel switching. The final rule includes auditing only for replacement heating or cooling systems which use the same fuel type, unless the State permits otherwise.

In accordance with § 458.305(d)(4), States may choose to incorporate any measures, regardless of fuel type, in their State programs. DOE will have no review role over that inclusion. In accordance with § 458.203, State Plans must be subject to public comment, and thus before a State permits fuel switching, it should be discussed in an open public forum.

2. *Comprehensive Coverage of Multifamily (Apartment) Buildings under RCS and CACS.* Title V, Subtitle B of the ESA required the RCS Program to cover as of January 1, 1982 all multifamily buildings with five or more dwelling units that do *not* have a central hearing or central cooling system. Amendments to RCS regulations issued by DOE on June 25, 1982 expand the RCS Program to include these multifamily buildings.

Title V, Subtitle D of ESA (Title VII of NECPA) includes in the CACS Program all multifamily buildings with five or more dwelling units that *do* have a central hearing or central cooling system and were completed by June 30, 1980. These CACS final regulations cover those buildings.

As was noted in the preamble to the proposed rule, DOE's understanding of the legislation intent of CACS is that, in general, CACS is to cover all multifamily (apartment) buildings not covered by RCS. Commenters agreed with this, with many noting that States should have the flexibility to address uncertain coverage areas in their State Plan. However, many commenters raised questions as to what exactly is a "central" system, and therefore which buildings are eligible for the RCS Program and which are eligible for CACS.

In the discussion below for "Apartment Building" under Definitions: "General", DOE discusses "central" systems and other comments related to the apartment building definition. Here, however, DOE emphasizes that, unless excluded by other criteria included in the RCS or CACS legislation and regulations, all multifamily (apartment) buildings are covered by either the RCS or the CACS Programs. Clearly, individually heated *and* cooled apartments with individuals meters and with apartment unit occupants directly receiving utility bills from the utility are eligible for the RCS Program. DOE intends that *all other* multifamily buildings not otherwise excluded by legislation are covered by CACS. The RCS legislation excluded multifamily buildings which do not have a central heating or cooling system. The CACS legislation excludes multifamily buildings which do have a central heating or cooling system, if they were built after June 30, 1980.

B. Subpart A—General Provisions and Definitions

The definitions continue to be arranged in three section to make the rule easier to read and understand. Section 458.102 contains general definitions; Section 458.103 includes definitions of energy conserving operations and maintenance procedures, and Section 458.104 includes definition of program measures.

1. *Section 458.102: Definitions: General.*

a. *Apartment Building.* The proposed rule defined "apartment building" as a building which is used for residential occupancy, was completed on or before June 30, 1980, and contains five or more units and a central heating or central cooling system.

In the preamble to the November 24, 1982, CACS proposed rule, DOE responded to previous comments and made clear that, for the proposed regulations "central" refers to either a heating or cooling system which serves more than one apartment (whether or not the system may be thermostatically controlled in the individual apartment) or a heating or cooling system which serves one apartment if the apartment building is centrally metered.

In that same preamble, DOE raised the issue of potential confusion involving the treatment of apartment buildings with different (i.e., central vs. individual) space conditioning systems or meters. For example, an electric company supplying individually metered apartments in a large apartment building which is centrally heated with oil or gas may have difficulty determining that that building is eligible for CACS rather than RCS.

Many commenters addressed the apartment building definition either directly or in response to these preamble requests for comments.

One commenter claimed there are difficulties in distinguishing between CACS and RCS coverage where, for example, a building has one meter but the consumption of individual units is submetered by the building owner or manager. DOE does not consider this an area of difficulty; such a building is a CACS-eligible building.

One commenter pointed out difficulty in distinguishing between CACS and RCS coverage where there is a central meter for nonheating or cooling end uses and the apartment units are individually heated and cooled and individually metered for heating and cooling. Again, DOE does not consider this an area of difficulty; such a building is eligible for an RCS audit.

The preamble noted DOE's intent not to exclude apartment buildings that are heated or cooled by a central heating/cooling system that is located outside the apartment building. DOE solicited comments on whether and how district heated/cooled buildings could be included in the definition without causing unnecessary complications in identifying eligible customers.

One customer suggested that "projects" served from a central heating and cooling system be specifically included in CACS. Several commenters volunteered that the definition of apartment building as proposed already includes district heated or cooled systems, since the location of the system has no effect on whether the buildings are centrally heated or cooled.

After considering these comments, DOE has concluded that no change to the apartment building definition is warranted to make clear that district heating or cooling systems are considered central systems.

One commenter suggested that the definition for "apartment building" include an energy use limit similar to that for commercial buildings, to limit the program to smaller apartment buildings. This commenter compared larger apartment buildings with larger commercial buildings, which tend to have engineering and maintenance staffs.

Neither the legislation nor the Conference Report indicates a desire on the part of Congress to limit CACS to smaller apartment buildings. On the contrary, the legislative history and the wording of the RCS and CACS legislation imply in intent to cover all apartment buildings by either RCS or CACS. Therefore, DOE did not adopt this suggestion in this final rule.

When the RCS rule was amended on June 25, 1982, the section relating to required auditing techniques for common areas of RCS eligible buildings was reserved pending further analysis. One commenter recommended requiring the availability of CACS audits to building owners and tenants in RCS buildings for the common areas not addressed by the RCS audit.

DOE considers such an arrangement to be an expansion of the CACS program. While States may, on their own, include such an arrangement in their State Plans, DOE does not require this.

Several commenters suggested using the legislative language "multifamily dwelling unit" instead of "apartment" for consistency and to avoid confusion

concerning the status of condominiums. DOE continues to use the word "apartment" to refer to the dwelling units in buildings covered by CACS because it is a simpler term. Condominiums are apartments for the purpose of this rule.

b. *Commercial Building.* The proposed rule defined "commercial building" as a building which was completed on or before June 30, 1980; which is used primarily for carrying out a business (including a nonprofit business) or for carrying out the activities of a State or local government; which is not used primarily for the manufacture or production of products, raw materials, or agricultural commodities; which is not a Federal building; and for which the average monthly use of energy for calendar year 1980 (or the latest twelve month period for which information is readily available) was less than the following:

(a) 4,000 kilowatt hours of electricity, unless it can be determined that the building exceeds the average monthly fuel use prescribed in paragraphs b or c;

(b) 1,000 therms of natural gas, unless it can be determined that the building exceeds the average monthly fuel use prescribed in either paragraphs a or c; and

(c) 100 million Btu of any other fuel, unless it can be determined that the commercial building exceeds the average monthly fuel use prescribed in paragraphs a or b.

Thus, utilities are not required to audit buildings which exceed any of the energy use limits.

One commenter objected to permitting utilities to use any 12-month billing period for which data is readily available, noting that utilities could use such flexibility to selectively eliminate customers. While DOE agrees that such abuse is possible, we doubt that utilities will be interested in expanding resources to accomplish this. In addition, if one assumes upgrade of the energy efficiency of buildings over time, the approach allowed by our regulations would result in more coverage, rather than less coverage. DOE continues to interpret this requirement so that utilities must use the same 12-month period to determine the eligibility of all customers who request audits during a given time period.

Several commenters asked whether churches are eligible under CACS. The CACS statute says nonprofit businesses are eligible for audits and therefore churches are eligible for CACS.

One commenter suggested modifying the energy consumption limits for commercial buildings to cover only that energy used for space conditioning, excluding process energy.

Both the statute and the Conference Report state that CACS is meant to apply to small commercial customers and therefore exclude manufacturing. In addition, requiring utilities to allocate energy consumption to end uses before an audit is an unreasonable burden. Thus, DOE did not adopt this suggestion.

One commenter suggested using the date utility service was permanently connected as the completion date for construction of a commercial building or an apartment building. DOE concurs that this approach is reasonable, and believes that this can be done with the regulation as it was proposed. Therefore, no change has been made for this final rule.

DOE noted in the preamble to the proposed rule that it is reasonable for purposes of determining coverage of commercial buildings to attribute the energy consumption of devices such as exterior flood light or parking lot lights to the building if they are on the same meter as the building. DOE also noted that we expect utilities to use readily available metering and billing data in determinations of building eligibility of buildings for CACS. One commenter suggested adding this statement in the rule. Therefore, DOE has added this language as paragraph (f) of the commercial building definition.

One commenter suggested that States should be able to adjust the consumption limits to allow for average climate conditions. The statute clearly specifies consumption limits for commercial buildings covered by CACS, and DOE does not have authority to expand program coverage in the manner suggested. DOE's standards are minimums, however, and States may use their authority to expand program coverage.

In the preamble to the November 24, 1982 proposed rule, DOE discussed its intention that the term "commercial building" include any store or office or other building that has permanent walls with no doors or windows connecting the building to adjacent conditioned space, is separately heated and cooled, and has its own meter. Several commenters suggested incorporating this language directly into the rule rather than leaving this discussion as explanatory preamble. DOE agrees that modifying the rule in this way may clarify its intention, and therefore has changed the definition to include these criteria as paragraph (g).

2. *Section 458.103 Definitions of Energy Conserving Operation and Maintenance Procedures.* The definition of "Energy Conserving Operation and Maintenance (O&M) Procedures" incorporates the definition of "Energy Efficient Improvements" in Section 710(b)(4) of NECPA.

Eleven commenters suggested changes to the definitions of specific energy conserving Operation and Maintenance (O&M) procedures. They are as follows:

a. *Light Level Reduction.* Three commenters noted the similarity between the O&M procedure "light level reduction" and the measure "lighting systems replacement or modification" and the confusion inherent in determining what was required for each. DOE agrees that considerable overlap existed between the O&M procedure and the measure, and is therefore eliminating the O&M procedure from the final rule. Lamp removal, lamp replacement (with more efficient light sources) and daylighting, which were previously included in the O&M procedure, are all addressed under the measure "lighting systems."

b. *Plugging Infiltration Leaks.* One commenter suggested combining the O&M procedure "plugging infiltration leaks" with the measures "caulking" and "weatherstripping" since the audit procedures and results were all interrelated. DOE agrees there is considerable similarity between caulking/weatherstripping and the O&M procedure, but the approaches are different enough to merit attention in both areas. DOE does recognize the difficulty in calculating the effects of caulking and weatherstripping and has therefore made modifications to the audit requirements to reflect this (See discussion under § 458.104(c) "Caulking and Weatherstripping.")

c. *"Steam Distribution System Maintenance."* One commenter stated that an auditor should only be responsible for inspecting exposed components of the steam distribution system. DOE agrees that an auditor should not be expected to offer recommendations on components which are obscured behind walls or under floors and has reworded the definition accordingly.

d. *"Furnace Efficiency Maintenance and Adjustments."* One commenter suggested adding "combustion efficiency test" and "repair/replace thermostat" as O&M Procedures. Although DOE recognizes the value of a combustion efficiency test and an accurate thermostat, we did not incorporate these changes. A combustion efficiency test does not in itself save energy although the test results may indicate remedies which will. Furnace efficiency tests are always recommended by DOE to determine the

effectiveness of vent dampers, IID's, and replacement furnaces, boilers and burners. Thus, there is no need to require them as operation and maintenance procedures. A repaired or replaced thermostat also does not directly save energy although the implications are obvious. Although DOE recognizes the value of accurate thermostat controls, there is no need to address them in the audit. States and nonregulated utilities are encouraged, however, to include in their Plans any additional measures they deem appropriate.

e. *"Water Flow Reduction."* One commenter suggested that reducing water flow should apply to *both* hot and cold water, because conserving all water saves energy from supply pumping to waste disposal. Although DOE recognizes that energy may be used to pump water regardless of its temperature, this is not the intent of the O&M procedures. O&M procedures are designed to reduce energy consumption for the eligible customer, not the covered utility. However, States may wish to add this procedure, because it may lower the customer's water bill as well as reduce the utility's use of energy.

3. *Section 458.104 Definitions of Program Measures.* The term "Program Measures" refers to a list of energy conservation products and systems to be covered in the audits provided by utilities under the State or Nonregulated Utility Plans. Most commenters addressed one or more of the program measure definitions.

a. *Air Conditioner Replacement.* The proposed rule requested comments on whether auditors should address the issue of properly-sized air conditioners. DOE noted that unless replacement air conditioners were properly-sized to match the building cooling load, much of the anticipated energy savings could be lost. Twenty-nine commenters responded, and most encouraged us not to address the issue of proper sizing in the regulations. Although most commenters recognized the impact of proper sizing on maximizing energy efficiency, they believed that the knowledge and skills required to make an accurate determination exceeded those of a utility auditor. They recommended that this determination be left to a qualified air conditioning contractor. One commenter stated that properly-sized equipment may not be available in the marketplace or may not be available at a reasonable cost. Several commenters noted that it was common practice to oversize an air conditioner unit to ensure future comfort when new heat-producing equipment is added.

One commenter requested that DOE permit State Plans to include air conditioning sizing measures even if no suggestions were made to DOE for accomplishing this.

One commenter recommended that the auditor provide the customer with the proper size of a replacement unit both before and after conservation improvements are made.

DOE has found that oversized air conditioning units are less efficient (and therefore more expensive to operate) because of:

- Excessive cycling. To prevent overcooling the unit cycles on and off more frequently. As the operation time decreases, less inside air mixes in the blower, and hot spots may result in some parts of the building.
- Higher power requirements. Frequent cycling means more high power starts with unused refrigerant left in the evaporator. This lowers the efficiency.
- Greater equipment wear. Increased cycling increases wear on moving parts and contributes to their deterioration.
- Higher electrical demand charges. In utility service areas with peak demand charges, oversized equipment results in higher cost increases because of higher power demand and lower load factors.

In addition, one Texas utility found that as oversized air conditioners (even high efficiency ones) continued to operate, their performance decreased. This occurred because, over time, the condenser coils became clogged with lint, grass, fibers, etc. As the blockage increased, the compressor head pressure rose, increasing the need for power while decreasing the cooling capacity. However, because the system was oversized, occupants still received adequate air conditioning and did not recognize the need for maintenance.

Although DOE still believes that proper sizing is essential to optimizing the energy efficiency of the air conditioning system and we encourage energy auditors to explain the importance of this issue, we have made no regulatory requirements. This is because calculations for determining precise building loads are time consuming—especially when done in conjunction with a walk-through audit. In addition, it is sometimes difficult to purchase accurately-sized units which are small enough to match the load. DOE believes that States can best determine the appropriateness of requiring auditors to address air conditioner sizing in an audit.

One commenter stated that including air conditioning EER's (energy efficiency ratios) would be useful audit information. Although DOE agrees and encourages utility auditors to do this, we have not required values of energy efficiency ratios in the rule.

Several commenters noted the addition of room air conditioners to the definition. Most commenters concurred with the expanded definition because they believed that room air conditioners were often more commonly used by small commercial customers than central air conditioners. However, two utilities and the American Gas Association (AGA) objected to the inclusion of room air conditioner units. AGA believed that the legislative intent of NECPA was to limit CACS to central heating and cooling systems and that adding small air conditioner units to the program would add to the complexity and cost of the audit. DOE disagrees. Section 710(b)(3) of NECPA states that it applies to apartment buildings which are centrally heated *or* cooled, and thus, explicitly includes apartment buildings with only one central system. Title VII imposes no central system requirement on small commercial buildings. Since most of the commercial buildings covered under the CACS program are less than 3,000 square feet, small room air conditioners are often a more efficient means of cooling than central air conditioning systems. Therefore, DOE has retained room air conditioning units in the program.

Approximately 24 commenters addressed the issue of fuel switching as it related to both replacement air conditioners and replacement furnaces and boilers. This issue was discussed previously under General Issues.

b. *Automated Energy Control System.* Five commenters addressed the definition of automated energy control systems. One commenter objected to its inclusion in the program because it would not be cost-effective (although no data was provided) for small applications. DOE disagrees. Although it may be true that sophisticated load management devices are included in the definition and such devices may not be applicable to small commercial buildings, clock thermostats are also an automated energy control system and have proven cost-effective for small establishments. DOE has therefore retained this measure.

Two commenters were concerned about the broad nature of the definition which could include a variety of devices from simple clock thermostats to high technology load-control devices which may encompass process energy. DOE

does not believe that the definition should unnecessarily complicate the audit. As with all measures, assumptions must be made about the nature of the energy conserving device in order to assess potential energy and dollar savings. For instance, the cost of installing a plastic storm window is substantially different from installing a high quality wood frame window. Any audit procedure would make assumptions as to the type and quality of window being considered. Similar assumptions can also be made about automated energy control systems. In addition, States may find it useful to take advantage of the range of devices which can be considered an automated energy control system and to note applicability criteria for each in the State Plan. DOE has therefore retained this definition as originally proposed.

Two commenters expressed concern that the purpose of automated energy control systems was often to control seasonal or erratic electrical peaks rather than to reduce individual energy consumption. One of these commenters suggested that we should modify the definition to ensure that the customer benefits from this measure with a reduced energy bill. DOE has not changed the proposed definition because the cost and payback data in the audit results will show the audited customers which measures will provide the greatest benefits. Also, if the customer's bill contains a separate demand component, then reducing his peak demand *will* reduce his bill.

c. *Caulking and Weatherstripping.* Four commenters suggested that DOE either combine caulking and weatherstripping into one measure or delete them as program measures and instead include them as O&M procedures. The commenters felt that it would be difficult to estimate specific cost and savings resulting from infiltration control because doors of commercial and multifamily buildings are frequently opened and closed. Also, most commercial and multifamily buildings are likely to already have caulking and weatherstripping in some form. Auditor judgment would be required to assess its effectiveness. DOE has elected to retain caulking and weatherstripping as program measures rather than O&M procedures because they are designated as such in Section 710(b)(5)(A) of NECPA. We have, however, excepted them from the requirement that the auditor estimate building specific cost and payback data. (See also § 458.305(e)(1)(iii)(B).)

d. *Energy Recovery Systems.* Two commenters addressed the definition of an energy recovery system. One commenter requested that they be deleted from the audit because they are too sophisticated for utility auditors to assess and would increase audit costs. DOE disagrees with this comment. Energy recovery systems can make a significant contribution to optimizing energy efficiency and there are several commercially-available, low-cost audit systems which include them. DOE has therefore retained energy recovery systems in the CACS program.

The other commenter requested that DOE clarify in the definition that heat pump water heaters would qualify as an energy recovery system. DOE believes there may be some situations where a heat pump water heater would be considered an energy recovery system. For instance, if a building used air conditioning continually, the heat pump water heater would act as an energy recovery system. These applications, however, will not always be the case, and auditor judgment will be necessary to determine when heat pump water heaters apply. DOE has therefore not changed the definition.

e. *Electrical Furnace Ignition System/ Intermittent Pilot Ignition Device (IID).* One commenter objected to the definition of Electrical Furnace Ignition System because it could be confused with a device applicable to an electric furnace. The ignition system referred to here replaces a standing gas pilot light in gas-fired systems only and is identical to the measure, IID, included in the RCS program. DOE agrees that the definition is confusing and has therefore renamed the measure "intermittent pilot ignition device (IID)." We have also changed the definition to make it similar to the RCS definition.

Another commenter objected to including IID's in the program claiming that the RCS program has shown that they are not cost-effective. However, the commenter did not include any evidence to substantiate this. DOE believes that the larger heating systems found in apartment buildings will increase the number of buildings where IID's are cost-effective. In addition, States are given flexibility under § 458.305(d)(3) to submit applicability criteria different from those contained in Appendix I. If a State has evidence to support claims like those described above, the State may submit it along with modified Applicability Criteria. DOE therefore retains IID's as a program measure.

f. *Flue Opening Modifications (Vent Damper).* Three commenters addressed the definition of vent damper. One requested that vent dampers be deleted as a program measure because they were not cost-effective; however, no data was submitted to substantiate this. Again, DOE believes that the larger heating systems found in apartment buildings will increase the number of buildings where they are cost effective. In addition, if States have evidence to show that vent dampers are not cost-effective in their area, they may submit it under § 458.307(b). DOE therefore retains vent dampers as a program measure.

Another commenter correctly claimed that the proposed definition eliminated thermally-actuated vent dampers by requiring that the vent damper "close-off the flue when the burner is not operating." Thermal vent dampers do not completely close. Therefore, DOE used the RCS definition of vent damper in the final rule which states that the vent damper "substantially reduces the flow of heated air through the chimney when the furnace is not in operation." The commenter also suggested that there be two separate definitions for vent dampers on oil and gas-fired systems since oil systems do not have a draft hood. DOE agrees with the substance of the comment and has modified the definition accordingly. We have also added the words "or barometric damper" after the words "draft hood" to reflect the difference between oil and gas systems.

A third commenter suggested that we state in the definition that reclaimed air must be delivered to a conditioned area. Although DOE agrees in principle with this comment, we have not incorporated it because we believe that Applicability Criterion III already addresses the issue. Applicability Criterion III requires that the furnace combustion air be taken from a conditioned space.

g. *Replacement Burner.* Although DOE received no comments on this measure, we are modifying the definition to include gas burners, as well as oil-fired burners. Gas burners are rarely (if ever) replaced in small furnaces or boilers like those found in single-family residences. However, in heating systems of larger apartment buildings, a gas burner replacement is not uncommon. The definition specifies that the burner is applicable only to boilers with fan control mechanisms. These characteristics generally apply to boilers over 300,000 Btu/hour and are therefore predominantly applicable only to large apartment buildings.

h. *Replacement Furnace or Boiler.* Ten commenters addressed the issue of properly sized heating systems. All comments but one are adequately discussed under (a) above, Air Conditioner Replacement. The other

commenter claimed that properly-sized heating systems were not more efficient, alleging that they would not take into account night-time set-back. DOE believes that provisions for night-time set-back can easily be incorporated into the calculation for determining heating load and that there is still a considerable difference between this and the sizes of furnaces/boilers usually installed. However, DOE has not included a requirement for properly-sized equipment in this definition. As stated with replacement air conditioners, we are hopeful that auditors will discuss the importance of properly-sized equipment during the audit, but we have included no regulatory requirements.

Sixteen commenters addressed the issue of fuel switching. This issue is discussed above under General Issues.

i. *Distribution System Modifications.* Four commenters addressed the definition for Distribution System Modifications. One commenter requested that this measure be deleted from the program because it was too sophisticated for utility auditors and would increase the cost of the audit. Because no information was submitted to support this statement, DOE has retained Distribution System Modifications in the CACS program.

One commenter requested that we add the words "within a building" to the definition. Because it may make the rule clearer, DOE has accepted the commenter's suggestion.

Another commenter suggested that the definition be expanded to include point-of-use water heaters when a large boiler served both space and water heating needs. These heaters would allow the building owner to turn off the large boiler during non-heating seasons and heat water directly. DOE recognizes the value of this suggestion and has incorporated it into the definition.

Another commenter expressed uncertainty over an auditor's ability to provide specific cost and savings for such a wide range of options. DOE believes that States and utilities have sufficient flexibility within the audit requirements in § 458.305(e) and within this definition to determine which options are appropriate to meet the intent of the rule.

j. *Ceiling Insulation.* Nine commenters addressed the definition of ceiling insulation. Most responded to the issue concerning dropped ceilings and how they might best be insulated. Several utilities and a major insulation manufacturer reported no major difficulties in insulating this area which often contains pipes, ducts, lights, and HVAC equipment.

Another commenter noted the importance of ventilation when installing insulation in ceiling areas and stated that it was required by local codes. DOE has always recognized the importance of ventilation in conjunction with any insulation application to the building envelope. Although we have not included ventilation as a program measure (because it does not in itself save energy), we do expect that energy auditors will address the importance of ventilation when recommending insulation.

Another commenter requested information on how an auditor was to address insulation when confronted with a false ceiling (i.e., a ceiling area over a shop with another unconditioned space above). The commenter requested language to allow auditors to exercise good judgment on where insulation can or should be installed. DOE believes that auditor judgment is necessary to evaluate conservation potential and practicality of all measures. It is impossible for DOE to anticipate all situations which an auditor may encounter. Although we do not believe it necessary to state in the rule that an auditor may use personal judgment, we intend that if, for instance, an auditor encounters a ceiling space which has no access, it will probably not be possible to make reliable cost and savings estimates. DOE has therefore made no changes to this definition.

k. *Floor Insulation.* One commenter recommended that skirting not be considered a program measure. He cited research conducted by Monsanto Plastics and Resins Company which showed that the infiltration decrease due to floor skirting on mobile homes "was more likely due to error in the model than to the addition of skirting. All that really can be said is that the change in infiltration due to skirting, if any, was less than 15% (since the sum of the errors is less than 15% in all cases) and, most probably, less than 5%". DOE does not believe the the valve of insulation skirting should be determined only upon its ability to decrease infiltration. Skirting (or perimeter insulation) is effective in reducing heat transfer through the floor, is often easier and cheaper to install than floor insulation, and has the additional benefit of providing a ground coupling effect in summer. DOE is therefore retaining insulation skirting as a measure.

One commenter suggested that floor insulation could be installed between an unconditioned area and a part of the building other than the first floor as specified in the proposed rule. DOE agrees that the floor insulation could be beneficial when installed in areas other than between the first floor and an unconditioned space. For instance, if the first two floors of a building constituted a parking garage, the first conditioned floor would benefit from floor insulation. DOE has modified this in the final rule accordingly.

Another commenter requested that ground covers be a program measure when used in conjunction with floor insulation because they increase the effectiveness of the insulation. Because ground covers (like ventilation) do not save energy independent of insulation, DOE has not added them to the list of program measures. However, DOE does recognize the importance of installing a ground cover in conjunction with floor insulation and encourages auditors to address this. Should a state wish to add ground covers as a program measure, it may do so under §458.305(d)(4).

l. *Water Heater Insulation.* One commenter noted that an insulated water heater had overheated after a long period of no use and the pop-off valve failed to open, resulting in breakage of a pipe fitting. The commenter also stated that since the water heater pilot is sized to meet the heat loss from the heater, restricting this loss will result in energy escaping up the flue if the pilot cannot be reduced. DOE is aware that a specific unlikely combination of factors can result in the overheating of a water heater. Long periods without use, combined with an older fuel-fired water heater with an oversized burner and an insulation jacket are three such factors. However, DOE believes the benefits which result from water heater insulation offset the highly unlikely hazardous scenario. These benefits are documented in DOE supported research. (See "Energy & Cost Analysis of Residential Water Heaters", Robert A. Hoskins, Eric Hirst, ORNL/CON10, JUNE, 1977.)

In addition, auditors can recommend that occupants either reduce the thermostat temperature or shut off the pilot prior to long periods of no use. DOE is therefore retaining water heater insulation as a program measure.

m. *Lighting Systems Replacement or Modification.* Eight commenters addressed this measure. Several commenters noted the similarity between this measure and the O&M procedure "Light Level Reduction" and requested clarification. Because there is so much overlap, DOE has eliminated the O&M procedure so that confusion will no longer exist.

One commenter noted that the daylighting requirements did not take into account the degree of illumination

entering the glass area and suggested that tinted glass, shading, etc. should be considered before recommendations are made. DOE assumes that these factors will be part of any calculation developed to evaluate the cost and savings potential of daylighting. DOE has developed an audit procedure for daylighting (available upon request) which addresses these factors. No changes have been made to the definition as a result of this comment.

Two commenters objected to the excessive audit time that they claimed would be required for redesigning a lighting system. DOE does not expect a utility auditor to provide the lighting engineering services of an A&E firm. We do expect, however, that the auditor will provide cost and savings estimates for eliminating lighting during periods when sufficient daylighting is available, replacing inefficient incandescent lights with fluorescent (or other sources); and use of timers, etc. DOE does not believe that any additional skills or knowledge other than that normally required of a utility auditor will be necessary to make these recommendations. To make clear that DOE does not expect an actual lighting redesign, we have eliminated the words "Redesign of Lighting Systems" as used to describe daylighting.

One commenter recommended that daylighting not apply to retail display windows because product marketing may be affected by reducing or eliminating artificial lighting. DOE recognizes that good lighting can contribute to retail sales. When a display window is separate from the rest of the store (as is the case with many large department stores) daylighting may not be an appropriate measure. However, when the display window is exposed to other parts of the building, the daylighting can be used to benefit the overall energy consumption. In any case, States have the flexibility to exclude display windows under § 458.305(d)(3).

Another commenter suggested that the age and type of the existing ballasts be considered because older ballasts can be big energy users. DOE agrees with the commenter and has modified the definition accordingly.

n. *Passive Solar Systems.* Three commenters addressed passive solar measures. One stated that solaria sunspace systems and thermosyphon air systems had not been installed under the RCS program in the past two years. He claimed the audit prematurely convinced people that these measures were not cost-effective. Two others from mild climates commented that thermosyphon air panels were almost never applicable. Research on residential buildings conducted at SERI shows that the performance of thermosyphon systems varies throughout the country and that there are parts of the country where these systems perform poorly. Although the specific findings may differ for commercial or multifamily buildings, it is evident that there are locations where thermosyphon air panels are unlikely to be cost-effective and should not be included in an audit. DOE has provided an opportunity for each state to assess the potential of this measure in § 458.307(b)(1).

Another commenter suggested that we reserve a solar section in the final rule until we complete a detailed applicability study on solar applications in commercial buildings for all climates. DOE does not intend to conduct such a study. Funding is no longer available within the Department to conduct the extensive developmental and computer modeling work required for such an undertaking. If States and utilities desire a more site-specific analysis of these or other measures, they are in the best position to conduct it. These State-sponsored analyses can then be used to make State recommendations for determining measure eligibility.

o. *Active Solar Systems.* Most commenters supported DOE's deletion of active solar space heating systems from the CACS list of program measures because they claimed the measures had "high levels of risk associated with their economic viability and equipment performance."

Other commenters objected to the deletion. One suggested that rather than auditing for these measures, a general information pamphlet should be provided. Another commenter claimed that if DOE had used a life-cycle cost methodology rather than simple-payback, a more realistic (positive) evaluation of these measures would have resulted.

One commenter objected to the inclusion of solar replacement swimming pool heaters in a commercial building. He believed it was highly unlikely that a building which met the energy use limits described in § 458.102 would have a swimming pool. DOE agrees the situation is unlikely, and therefore modified the applicability criteria to limit solar replacement swimming pool heaters to apartment buildings which have no energy use limits. If States believe this measure is appropriate for commercial buildings, they may add it under the provision in § 458.305(d)(4) or alter the applicability criterion under § 458.305(d)(3).

One commenter argued that active solar space heating and combined solar domestic hot water (DHW)/active space heating should be included in the CACS audit in locations with sunny winter climates. He supported his position with residential data from Denver, Colorado, which showed combined solar space heating/DHW to be more cost-effective than solar domestic water heating. In addition, his analysis showed that both systems fell within the seven-year payback period.

It is difficult to apply his data to the CACS program because the data provided to support this claim were residential and DHW and space heating loads for a residential building differ from those of a small commercial building or an apartment building. In addition, the commenter assumed a well-insulated residential building and Colorado State energy tax credits. DOE has found that neither small commercial buildings nor apartment buildings are generally well-insulated and residential Colorado State tax credits are neither representatives of the nation as a whole, nor necessarily similar to CACS-covered buildings.

DOE, prior to issuance of the proposed rule, conducted a simple payback analysis to determine which measures had paybacks longer than seven years (see "Working Papers for Determining the Cost-effectiveness of CACS Measures," November 1982). Although we did not use a location-specific procedure to determine whether active systems should be included in CACS audits, we did conduct an analysis on a small sample of cities using a set of reasonably favorable assumptions. Because the average payback for this sample exceeded seven years, DOE did not require that active solar space heating and combined solar space heating/water heating be included as measures. States, however, have the opportunity to add any solar measure as a State measure.

The cost-effectiveness of solar measures is heavily dependent upon geographic location. As a result, the limited sample of cities used in DOE's payback analysis cannot predict the potential savings opportunities of solar systems in each individual area. DOE therefore encourages all States to conduct their own State-specific analyses on the cost-effectiveness of solar measures to determine whether they should be added as State measures.

p. *Glazing Heat Gain/Loss Retardants.* One commenter stated that the terms "significantly reduce winter heat loss" and "significantly reduce summer heat gain" are not commonly

used by the building industry and would therefore cause confusion. The commenter requested that we further define or explain the term "significantly." DOE believes there is questionable value in trying to quantify the term "significantly." In addition, no other commenter appeared to be bothered by this definition. Therefore, we have not altered the proposed definition.

q. *Cogeneration Systems.* Although most commenters supported DOE's deletion of cogeneration from the list of CACS program measures, others objected.

One commenter believed the deletion was short-sighted. Another suggested that general information on cogeneration be given to audited customers rather than estimates of costs and savings. The American Gas Association objected to this deletion because cogeneration is included in NECPA Section 710(b)(5) and because, in some multifamily applications, cogeneration systems can meet the seven-year payback criterion.

DOE still believes that the interests of utilities and their rate payers are best served by deleting cogeneration. The economic analysis contained in "Working Papers for Determining Cost-Effectiveness of CACS Measures" (DOE) (11/24/82) showed that using extremely optimistic assumptions, small commercial CACS-covered buildings had an expenditure of energy too small to justify the expense of a cogeneration system. Cogeneration was also shown to be inappropriate for the vast majority of apartment buildings.

For instance, electrically-heated apartment buildings have no demand for the thermal product of a cogeneration system. When they are not used, cogeneration systems produce electricity at lower efficiencies than electrical generation used by the utilities. Oil-fired cogeneration systems showed simple paybacks greater than seven years under very optimistic conditions. Electric and oil-fired heating systems account for about half of all multifamily buildings. In addition, cogeneration systems have paybacks exceeding seven years for all individually-metered apartment units. This leaves only 11% of the apartment building stock which is gas-fired and master metered, and only some of these buildings (3–4%) were found to meet the seven year payback criterion. DOE does not believe that a measure applicable in 3–4% of one category of building justifies the time and resources spent training utility auditors and calculating energy conservation potential in all buildings. Those States that determine (based on climate and building characteristics) that cogeneration is an appropriate energy conservation measure, may add it to their program.

C. Subpart B—Preparation, Submission, and Approval of a State Plan and Exemption Procedures

1. *Section 458.202—Initial Submission.* Section 458.202 of the proposed rule required that, if a State intends to submit a State Plan, the governor submit to DOE the name of the lead agency responsible for State plan preparation. The preamble of that proposed rule noted that several commenters on the previous proposed rule had recommended that DOE require the lead agency for CACS to be the same as the RCS lead agency. In the November 1982 proposal, DOE responded that it was inappropriate to limit the flexibility of States to select the agency that would be in the best position to effectively administer the program.

At least six commenters on the November 1982 proposal strongly recommended that DOE require the lead agency for RCS and CACS to be the same, citing administrative burdens for the regulated parties.

While DOE still prefers the lead agency for RCS and CACS to be the same, it still believes that such a requirement would unnecessarily limit the discretion of a State in selecting the most appropriate administrative unit and this suggestion was not adopted.

2. *Section 458.203—Notice, Comment and Public Hearing.* Section 458.203 of the proposed rule required that, prior to submission of the State Plan, the lead agency provide for meaningful public notice, an opportunity for public comment, and public hearing on the State Plan.

Two commenters strongly suggested that DOE require States to hold public hearings on plan amendments, as well as on initial plan submissions. They claimed that the public needed to have the opportunity to comment on plan amendments that have the potential for subtantial adverse effects on business, particularly small businesses. Commenters were concerned about anti-competitive effects of utility supply and installation activity, access to audit results, and the effective monopoly utilities may acquire in the auditing business.

Consulting firms that provide energy audits expressed concern about utility entry into their business areas. Audits are required by NECPA and therefore by these rules. DOE is sympathetic to the concerns of these firms as well. DOE believes that most utilities are not interested in providing audits with the level of detail that consulting firms provide. In fact, as discussed in the preamble discussion regarding audits, these rules continue to require utility auditors to discuss with customers where they can get more detailed information on recommended measures. In addition, utilities have the option of contracting with outside firms for those firms to actually provide audits.

The CACS Program includes no prohibition on utility supply, installation, or financing of measures, because Title VII of NECPA contains no such prohibition and does not give DOE authority to prohibit these activities.

Nevertheless, small businesses have genuine concerns. Utilities will as a result of the CACS audits, have knowledge of which measures are appropriate for specific buildings. Therefore, in effect, the CACS program, whose costs may, in the discretion of the State regulatory authority be rate based, could absorb the marketing costs of utilities who are engaged in supply and installation activities. This could present a competitive advantage for utilities.

DOE's final rule requires States to give notice and opportunity for comment before State Plan submittal. The substance of the audit is part of that initial State Plan submittal, and thus will be subject to public scrutiny. Utility activities relating to supply, installation or financing, which are outside the CACS regulatory realm, should also be subject to public scrutiny during the normal State rate hearing process. While States could make major changes to their plans and submit, for example, major changes to the audit section, DOE doubts that States will be inclined to change the audit requirements in any major way once plans are submitted. Most of the plan amendments submitted for the RCS Plans have related to minor technical requirements. Based upon these considerations, DOE declines to further complicate the CACS Plan submittal process by requiring notice and comment for every plan amendment. Nevertheless, major plan revisions should be subject to public review and comment. States are in the best position to determine when it is appropriate to specifically solicit such comments on proposed plan amendments. Therefore, DOE encourages States to follow the same notice and public hearing procedures for major amendments as those for original State Plans when they propose to make such substantive changes.

3. *Section 458.204—Procedures for Submission and Approval of a State Plan.* Section 458.204 of the proposed rule set forth procedures for submittal of Plans by lead agencies and the TVA,

and timetables for DOE review of Plans. The Tennessee Valley Authority (TVA) suggested that § 458.204(a)(2) be modified to give TVA the authority to submit plans covering utilities subject to both TVA and another regulatory authority, to conform with similar provisions in the RCS Program rules. DOE concurs with this change, and § 458.204(a)(2) reflects this modification.

One commenter suggested that the schedule set out for review and approval of plans by DOE should apply as well to plan amendments. DOE agrees that such a timetable is reasonable, and has incorporated in § 458.204(e) a requirement that DOE approve or disapprove a plan amendment within 90 days.

4. *Section 458.207 Exemption Procedures.* Proposed § 458.207(a) stated that no State Plan could require utilities to offer audits to all eligible customers if within six months of the issuance of the final regulation the State regulatory authority determines that the inclusion of the additional commercial buildings or the apartment buildings would significantly impair the utility's ability to fulfill the requirements of the Residential Conservation Service (RCS) program set forth in Part 456 or to provide utility service to its customers. Proposed § 458.207(b) further required the State Plan to include the criteria and procedures used for determining significant impairment, as determined by the State Regulatory Authority. (This paragraph has been moved to § 458.302(d), which lists the factors affecting coverage that the State Plan must contain.)

Several commenters noted that the State regulatory authority decision on exemptions must be completed six months after the final rule is issued, and State Plans, in which exempted utilities are identified, are also due six months after final rule issuance. Utilities and State regulatory authorities, in order to make reasonable decisions on exemptions, must have some idea of the requirements to be imposed by the State Plan. However, the State Plan would be developed at the same time as the exemption process would need to be under way.

Both six month deadlines—for State regulatory authority decision and for Plan submittal—are required by the statute establishing CACS. Unfortunately, therefore, DOE has no discretion to change either submittal deadline. Obviously, States must make early decisions about the scope of the audit to be required, and the method for training auditors, in order for utilities to make a reasonable case for exemptions to the State regulatory authority. DOE assumes that States will cooperate with the utilities in this regard. In addition, this rule sets minimum requirements for the audit and the measures the audit must address, so utilities are familiar with the minimum requirements they face. Should a State submit a Plan identifying a utility included in that State Plan, and should the utility then receive an exemption from the State Regulatory authority within the specified time, the State can submit an amendment to the State Plan.

Many utilities recommended that DOE include a "temporary program" provision, similar to that provided for in the RCS program, to allow only partial compliance with the CACS program requirements. Title II of the NECPA established a temporary program provision for RCS; Title VII did not establish a similar provision for CACS. The exemption provision of Title VII is the only statutory method for limiting utility responsibilities under the CACS program. No provisions for temporary programs are therefore included in the final rule.

One commenter suggested that DOE define "significant impairment" as it relates to the exemption process, since this undefined term could provide a potential for abuse. The use of "significant impairment" in these regulations as a condition for exemptions is derived directly from the statute. By statute, the determination of "significant impairment" rests with the State regulatory authority. DOE believes that defining "significant impairment" in these rules may unnecessarily limit the discretion of the State regulatory authority to consider all relevant factors and thus declines to adopt this recommendation. DOE continues to require the plan to identify criteria and procedures used for determining significant impairment; as noted above, this requirement is now contained in § 458.302(d), since that section more appropriately addresses State Plan requirements.

One commenter suggested that DOE exercise a review role over exemptions, reviewing the status of exempted utilities periodically (such as every three months), and specifying implementation time frames when an exemption is lifted. Section 458.302(d) has been modified to clarify DOE's intent that the State Plan identify the *duration* of the exemption as well as the extent of the exemption.

One commenter sought clarification as to whether exemptions are permanent or temporary. A large number of commenters mentioned that any CACS program, because it would require expenditures, would significantly impair the utility's ability to provide both utility service and the RCS, implying an immediate and permanent exemption.

Section 722 of NECPA provides that a CACS Program may not be required to apply to all of the apartment buildings and commercial buildings located in a utility's service area if the State regulatory authority (or the Governor, in the case of nonregulated utilities) determines that "the inclusion of such additional buildings or dwellings would *significantly impair* such utility's ability to [carry out the RCS program] or to provide utility service to its customers" (emphasis added). The Conference Report states that "The State regulatory authority * * * may determine that a utility within its jurisdiction need not *fully* comply with section 731 [Utility Programs] if it is found that the inclusion of eligible commercial buildings and multifamily dwellings [apartment buildings] would impair such utility's ability to satisfy its requirements under Title II of NECPA [RCS Program] or provide reliable utility service to its customers" (emphasis added). (S. Report 96–824, p. 304).

Both the statutory language and the Conference Report require that some portion of the CACS Program be in place for each covered utility. Nevertheless, the State regulatory authority could decide to defer coverage of specific classes of customers or sizes of buildings, etc., on a utility-by-utility basis because of adverse impacts on providing RCS services or utility service.

Since the legislated time frames for RCS and CACS overlap, the Congress did not seem to envision that any implementation of CACS of itself would impair the ability to carry out the RCS. A consideration of significant impairment must rest on more than the concurrent implementation of CACS and RCS.

One commenter suggested a provision that a utility which had not produced its allowed rate of return for six months be exempted from CACS. The only statutory rationale for exemption is the impairment of the utility's ability to provide utility service or to provide the RCS. Therefore, this suggestion was not adopted.

DOE has changed this section to clarify its intention that the State regulatory authority decision must be arrived at within six months of *the effective date* of the rule. The effective date of the rule is 30 days following publication in the **Federal Register.** Thus, the State regulatory authority actually has seven months in which to make the exemption decision.

D. Subpart C—Content of a State Plan

1. *Section 458.301 Scope.* Section 458.301 of the proposed rule defined the scope of this subpart: the minimum requirements for State Plans for the Program. The section makes clear that States may include additional information and provide additional requirements if not prohibited by these regulations or other law or regulation.

One commenter suggested that DOE restrict the States' authority to include restrictive or complex requirements in their plans. It is the State's responsibility to design State Plans responsive to their needs, and any limitation on States has the effect of increasing the burden of the program. Thus no change was made to the final rule.

2. *Section 458.302 Coverage of a State Plan.* Section 458.302 of the proposed rule required the State Plan to identify the entities to which the State Plan applies: Covered regulated utilities, covered nonregulated utilities (as identified by the Governor), and building heating suppliers (as identified by the Governor). The proposed rule also required State Plans to identify those regulated utilities which had been granted exemptions and the extent of the exemptions.

Two commenters suggested changing § 458.302 and the definition of "covered utility" to make clear that utilities covered by CACS are only those covered by Section 711 of NECPA. The definition of "covered utility" was already taken from Section 211 of NECPA as required by Section 711 of NECPA. However, the definition of "covered utility" in this final rule has been changed to be identical to the "covered utility" definition in the RCS Program.

DOE has further modified this Section to include the requirement which was in § 458.207 of the proposed rule that the plan identify the criteria and procedures used for determining "significant impairment"; so that all the coverage factors, which the State Plan must include, would be listed in one section of the rule. As noted above, this section also has been modified to clarify DOE's intent that the State Plan identify the duration of the exemption as well.

3. *Section 458.304 Audit Announcement.*

a. *Informing Eligible Customers.* Several comments objected to requiring audit announcements to be mailed within 12 months after plan approval and every 24 months thereafter. They claimed this provision would result in a high manpower requirement during the first year with a sharp decrease for the remainder of the program. These comments recommended that DOE eliminate the 12 month initial notification. DOE has retained this provision as proposed November 24, 1982 because it is required by Section 731(a)(1) of NECPA.

Two comments addressed the audience to which the announcement will be sent. One utility claimed they could not distinguish between single-family and multifamily residential customers. They suggested that one announcement suffice for both classes of customer. Although we have not changed the final rule to reflect this, nothing in the final rule precludes a utility from sending one announcement to all residential customers, provided that it clearly distinguishes the differences between the RCS and CACS programs and respective audit services. This approach could reduce utility costs.

Another comment noted that we did not specify that separate announcements be sent to commercial and multifamily customers and recommended that we do so. Although DOE agrees that a customer may be best served with an audit announcement directed specifically to commercial or apartment building owners, and we encourage utilities to address them separately, we have not required utilities to do so.

One comment requested that the rule specify that an audit announcement may be made by other than mailed communication. DOE does not believe it is necessary to specify the means for informing eligible customers of the audit service. The intent of ESA was to ensure that *each* eligible customer was notified, and while DOE believes that mailed written announcements can be effective in encouraging conservation actions, we hve not precluded other approaches as long as the utility informs each eligible customer. In addition, as discussed under § 458.308 Subsequent Customers, the utility may wish to noted in the audit announcement the availability of audit reports for previously audited buildings.

b. *Advertising.* In the proposed rule, DOE permitted utilities to include advertising in the audit announcements if it was permitted by the State Plan. Eight comments addressed this issue.

Three comments favored the provision to permit advertising in the proposed rule. Five comments opposed the proposed approach. Two utilities believed they could be held liable for poor workmanship, breach of warranty, etc. which might result from a contractor or measure advertised in the announcement. Another utility stated that advertising could undermine the program's integrity by converting it into a marketing program. The Small Business Administration objected to advertising because it would create an unfair competitive advantage for utilities which supply and install measures and which are also permitted to rate base announcement costs.

Although NECPA specifically addresses standards for "unfair, deceptive, or anticompetitive acts or practices" (Section 212(b)(D)) under the RCS program, it does not include this provision in sections dealing with CACS.

Although DOE wants to provide the maximum flexibility to States and utilities conducting CACS programs, we are also sympathetic to small contractors and businessmen who feel they will be placed at a competitive disadvantage by the CACS program. Accordingly, DOE has amended § 458.304(c)(2) to require specific procedures in the State Plan to ensure that no discrimination occurs if advertising is permitted in the audit announcement. We expect that if advertising is permitted, it will be permitted for all interested parties. DOE would consider an announcement used only as a vehicle for utility advertising to be discriminatory. The opportunity for advertising in the program announcement is optional and no utility should be required to include it. Those utilities which expressed concern about liability incurred from announcement advertising need not include any advertising.

c. *Additional Information.* In the proposed rule, DOE did not require that the announcement contain information on State or Federal tax credits. Two comments supported this position and one suggested that utilities should be required to make a general statement on the availability of appropriate tax credits. DOE does not require any information on tax credits in the final rule. This information is useful and can be easily incorporated in program announcements, but this decision is best made by participating States and utilities.

4. *Section 458.305 Program Audit.* The audit requirements in the proposed rule were intended to provide flexibility and a variety of options to States for developing and implementing the audit service. Utilities were required to perform an on-site inspection of commercial and apartment buildings upon request from eligible customers. The inspection was to address three areas:

1. The rate and quantity of energy consumption in a building with a comparison to other similar buildings;

2. O&M procedures appropriate to the building and approximate resulting energy savings;

3. The need, if any, for the purchase and installation of program measures, along with estimated purchase/installation costs, and payback information.

Several commenters suggested that only the primary energy supplier (or the heating energy supplier) should be required to conduct CACS audits. Other commenters suggested that a utility should only be required to audit those measures which used energy supplied by that utility. DOE believes that Congress intended for CACS eligible customers to have the opportunity to receive a complete audit with a minimum of initiative. We encourage (although we do not require) utilities to coordinate audit services if it is in their best interest to do so. For instance, if a covered gas and a covered electric utility wish to combine services and audit their own respective energy consumption of a particular building, they may do so. However, the eligible customer must make only one request to receive a complete audit and the audit results must address all program measures in one report. No changes or additions were made to the final rule to reflect this option.

a. *Determining Eligibility of Commercial Buildings.*

The proposed rule, in § 458.303(b)(1) allowed State Plans to include provisions for coordination among utilities in determining the eligibility of customers under the CACS program. Because this section would be applicable only to determination of the consumption levels of commercial buildings, it has been combined with the section which gave the conversion factors to be used in determining whether a commercial building is under the eligibility ceilings.

Several commenters objected to allowing State Plans to require coordination among utilities in determining CACS eligibility, claiming unnecessary and unproductive expense for such coordination under RCS. DOE agrees that coordination *could* prove unnecessarily costly, but believes States and utilities should have the opportunity to determine customer eligibility through coordination. Where such procedures are unnecessarily costly or alternative procedures would be more efficient, utilities should present their position to the lead agency developing the plan.

b. *Conditions for Receiving a Program Audit.* In the proposed rule, DOE required that an eligible customer certify that the building had not previously received an audit under the CACS program or the Schools and Hospitals program as a precondition to receiving the CACS audit. Several comments objected to this provision. After reconsideration DOE has determined that certification is unnecessary. There are several options available to determine eligibility including coordination among utilities. This provision is therefore deleted from the final rule although § 458.306(a) (which states that no utility is required to audit a building more than once) remains.

Many comments objected to the provision in the proposed rule which required apartment building owners to distribute relevant parts of the audit to all current and future tenants. Some commenters may not have realized that it is the building owner's responsibility to distribute the audit information to the tenants—not the utility's.

Many commenters stated that requiring apartment building owners to distribute audit information to their tenants would discourage building owners from participating in the program by creating an unnecessary conflict between landlord and tenant. Although DOE agrees that this may occur, we also expect that properly informed tenants may encourage landlords to take cost-effective conservation actions. The requirement for apartment building owners to distribute audit information to tenants is contained in Section 731(a)(2) of NECPA. By incorporating this requirement, Congress appears to have recognized the role tenants might play in bringing about energy conservation in buildings. We do believe, however, that there is no need to specify "all current and future" tenants and these words have been eliminated from the final rule. To help alleviate any conflicts between tenants and landlords over the audit, some commenters suggested that the landlord distribute a tenant handbook in place of the audit information. DOE believes this could be done in a manner that meets the intent of NECPA. We have therefore modified § 458.305(c)(2) to permit the building owner to distribute "information developed by the audit" in lieu of specific portions of the audit. This means that a general tenant information booklet could be prepared with a checklist of conservation items appropriate to tenants if it is tailored to the individual apartment. NECPA specifies that it is the responsibility of the building owner to distribute such information, but it makes no mention of who prepares it.

Several comments suggested that customers be required to prove their eligibility for CACS services prior to receiving an audit. Congress did not intend to impose requirements on customers participating in CACS and DOE opposes any action which would discourage their participation. Because customers may not have the proper documentation to establish their eligibility, this suggestion would place an unnecessary burden on the customers. DOE believes it is the utility's responsibility to establish eligibility although the utility may obtain assistance from any source. No changes were made to the final rule to reflect this.

c. *Content of the Audit.* The proposed rule permitted States to include in their State Plans any additional measures they wanted utilities to address in the audit. Several comments discussed who, if anyone, should determine which measures are included in an audit. Several commenters did not want the State Plan to limit the measures for which utilities could audit. One commercial auditing firm stated it had never seen utilities include measures in the audit which were inappropriate. Some commenters believed that the measures in an audit should be determined by individual building needs, rather than the State Plan as required by the proposed rule. On the other hand, some commenters were apprehensive about utilities being able to audit for and market certain devices or equipment through the CACS program which are also sold by others in the commercial sector. These commenters requested that any measures which the State Plan added to the program audit be subject to the hearing process.

DOE agrees that the more an audit is tailored to individual building needs, the more helpful it is likely to be. However, because NECPA specifically requires certain measures to be included in the audit, and because permitting each utility to determine for itself which measures are most appropriate could lead to abuse, DOE believes there should be some oversight. By requiring the State to determine the measures included in the audit, we are assured of audit consistency among measures. In addition, the public will have an opportunity to comment on any measures which the States include in their plans. (See further discussion under § 458.203, Notice, Comment, and Public Hearing.)

The proposed rule required that, if the auditor did not present the audit results in person, he must provide the customer with a written sample of the audit format and an explanation of how to interpret the results. Some comments indicated that it should be sufficient to offer to discuss the audit results with

customers if they are not presented in person. DOE agrees with these comments and has changed the rule accordingly. There is no longer a requirement in the final rule to offer a sample audit for illustration as long as customers have the opportunity to discuss audit results. This new provision (§ 458.305(e)(2)) is identical to § 456.306(c)(2) in the RCS rule.

One comment suggested that States should be required to develop approximate costs for the purchase and installation of measures to ensure consistency in audit results. DOE does not believe it should necessarily be the responsibility of States to develop this data base. In the proposed rule we required States to include in their Plan a description of procedures to ensure the validity of the audit. Validity includes not only technical accuracy, but also consistency between audits in overlapping service areas. States need to ensure that where utility service areas overlap, audit methodolgies include similar assumptions, algorithms etc. so that audit results are consistent. No changes were made to the final rule as a result of this comment.

d. *Audit Results.* In the proposed rule, DOE required auditors to provide a comparison to consumption rates of other similar buildings. We intended that this provision would offer a comparison of the relative energy efficiency of similar buildings. However, 31 commenters objected to this provision stating that the difficulty in establishing similar building types surpassed utility resources. They claimed that locating similar buildings in order to make meaningful comparisons would be extremely difficult given the large number of variables which affect energy consumption. In addition, they claimed that any effort to relate the energy consumption of "typical buildings" to any specific building would be meaningless. Because of the strong objection to this provision, DOE has deleted it from the final rule.

In the proposed rule, DOE included a provision that required audits to include information on "how to obtain more specific information on the purchase and installation of program measures." Seventeen commenters strongly objected to this provision. Utilities feared that as a result of this provision they could be required under a State Plan to provide to their audited customers lists of manufacturers and contractors like the lists in the RCS program, and they expressed concern about the liability they might incur. NECPA requires that such lists be prepared for the RCS program, but makes no mention of lists in relation to CACS. DOE never intended that either States or utilities would prepare lists of manufacturers and contractors to fulfill this provision. Instead, we intend that utilities will provide general information on: (a) The type of contracting services needed to perform specific audit recommendations; (b) the type of additional commercial engineering or audit services which may be desirable to expand on audit recommendations; and (c) the existence of any energy service companies which may offer a shared-savings approach to conservation investments. DOE believes that this information is an important element of the audit program. The CACS audit is intended to provide preliminary information about the cost-effectiveness of various energy conservation investments. In some cases, a more sophisticated engineering audit may be advisable to address heating plant modifications or redesign of lighting systems. The auditor should be able to recognize these situations and offer general information about more complete audit services. If the audit shows that a furnace or boiler tune-up is recommended, the auditor should be able to suggest the type of contractor or service which can provide the tune-up without making specific recommendations. Finally, DOE believes that information about the growing energy service company market may also be appropriate. These companies audit, retrofit and continually manage the ongoing energy efficiency of a building without any expenditure from the building owner. To prevent further misunderstanding regarding what is meant by additional information, DOE has modified this provision (§ 458.305(c)(4)) in the final rule by requiring "an explanation of how to obtain more information on the purchase, financing and installation of program measures." DOE intends for this information to be general in nature and is not requiring utilities to prepare lists for suppliers and contractors of CACS program measures.

The proposed rule required that the audit provide the approximate payback period for all recommended measures. Several commenters expressed confusion over what was actually required by the audit. One commenter felt the audit requirements were so minimal that the result could not even be called an audit, while other commenters felt the requirements to be too demanding. One commenter suggested that the audit should not be required to provide any costs or savings estimates. DOE has modified this requirement in the final rule to provide both greater flexibility to States and utilities and more information to audited customers. The final rule requires "approximate first-year savings (to the extent feasible) or some form of site-specific financial analysis as determined by the State Plan." States may elect to use a simple payback for the analysis or they may opt for a more complicated procedure incorporating State or Federal tax credits, discount rates, inflation, or life cycle costing. This first-year savings estimate should include estimates of impacts of demand reduction on the customer's bill.

The proposed rule did not discuss who should have access to the audit results (other than present and subsequent customers). Several commenters representing trade groups and the Small Business Administration suggested that audit results should be open to any installer or contractor to prevent the utility from having an unfair competitive advantage. DOE believes that this suggestion could have privacy implications and that audited customers could be unnecessarily exposed to sales personnel representing products in which the customer has no interest. The rule provides for equal opportunity for advertising in the program announcement. Thus, DOE has therefore made no changes in the final rule regarding access to audit results.

Some commenters maintained that utilities should be prohibited from supplying and installing conservation measures following an audit. Although DOE recognizes the opportunity for an anti-competitive situation, we have taken steps to minimize potential abuse throughout the final rule consistent with DOE's legislative authority.

One commenter suggested that in order for an audit to accurately assess conservation potential, the audit must address the energy end-use profile. In other words, it must identify the relative amounts of energy used for all major end uses such as lighting, heating, water heating, cooling, etc. Although DOE recognizes the value of this suggestion and strongly recommends it as an auditing approach, the final rule does not require it. A similar approach was proposed in the January 21, 1981 proposed rule and it met with strong objections from utilities which claimed they were unable to determine end use energy consumption. Therefore no changes were made to the final rule.

e. *Technical Assistance.* In the preamble to the proposed rule, we noted that DOE was in the process of developing a set of Audit Techniques for all program measures and O&M

procedures. These techniques described a procedure for evaluating the conservation potential of each measure and contained an algorithm with worksheets for determining costs and savings. In addition, the Techniques contained general information for computerizing the procedures. It is no longer certain, however, that DOE will complete the Techniques because of changes in budget priorities. As a result of this uncertainty, we encourage all covered utilities to begin to address their own audit needs.

5. *Section 458.306 Duplicate Audits.* Section 458.303(a) of the proposed rule required State Plans to include provisions to assure that utilities are not required to conduct program audits of buildings previously audited under the CACS Program or under the Schools and Hospitals Program. In this final rule, this section has been moved to § 458.306 because it describes procedures to be followed after completion of a previous audit.

Section 458.303(b) of the proposed rule allowed State Plans to contain provisions for coordination among utilities for determining the eligibility of customers under the CACS Program, and for determining which utility offers a program audit when a customer is an eligible customer under the CACS Program of more than one utility.

One commenter requested clarification as to *which* Schools and Hospitals audit is being referred to. The Schools and Hospitals Grant Program (Part 455 of this Chapter) has three levels of audit: A preliminary energy audit, an energy audit, and a technical assistance audit. The Schools and Hospitals Grant Program "energy audit" is that audit (of the three) which corresponds most closely to the audit required by CACS. DOE has changed the wording of § 458.306(a) to include the term "energy audit" as defined in Part 455 to make clear its intent that utilities not be required to conduct CACS program audits of buildings which have received the similar Schools and Hospitals Grant Program audit.

One commenter pointed out that § 458.303(b)(2) of the proposed rule, which permitted coordination among utilities for providing a program audit when utility service areas overlap, seemed to contradict legislative requirements. DOE agrees. In addition, DOE notes that § 458.306(a) of the proposed rule (and § 458.305(a) of this final rule) require *each* covered utility and covered building heating supplier to provide a program audit to *each* eligible customer. DOE regrets this confusion, and has eliminated § 458.303(b)(2) of the proposed rule. The intent of that provision in the proposed rule, however, which remains, is that utilities may among themselves arrange for one or the other utility to actually provide audits for customers in an overlapping service area. Nevertheless, in all cases, each utility must offer and be responsible for providing audits for its customers; a utility may, as an agent of another utility actually carry out the audit. This has been the case under RCS as well.

Several commenters suggested assigning audit responsibility to the utility providing the energy source used for space heating. As noted above, this would be contrary to the CACS legislation, and DOE has not adopted this suggestion. However, nothing in this rule prohibits arrangements where the space heating fuel supplier serves as any utility's agent in carrying out the audit responsibilities.

Several commenters objected to allowing State Plans to require coordination among utilities in determining CACS eligibility, pointing to the unnecessary and unproductive expense for such coordination under RCS. DOE agrees that coordination *could* prove unnecessarily costly, but believes States and utilities should have the opportunity to determine customer eligibility through coordination. Where such procedures are unnecessarily costly or alternative procedures would be more efficient, utilities should present their position to the lead agency developing the plan.

The RCS "temporary program" provisions allowed utilities to submit to DOE programs which did not meet all the RCS requirements but which were projected to achieve an equivalent number of installations of measures as RCS would have achieved. Approved RCS "temporary programs" can be in place a maximum of three years and can substitute for an RCS program during that time.

During the comment period many utilities suggested that CACS incorporate either a "temporary program" provision similar to RCS or an exemption process through which existing audit programs for commercial and/or apartment customers could be "grandfathered." The effect of both of these suggestions would be the same: utilities would be allowed to offer audit programs that did not meet all of the CACS requirements.

The reason for these suggestions was basically that some States and utilities have already developed audit programs and have conducted large numbers of audits for commercial or apartment customers as a response to State or local law or regulation or as a response to a specific utility's economic circumstances. These commenters argued that the costs of modifying successful programs to conform to CACS requirements, or of reauditing buildings in accordance with CACS requirements, were not warranted.

There are no provisions in Title VII of NECPA for "temporary programs" for CACS as there are in Title II of NECPA for RCS. Nor is there any legislative history that appears to support the establishment of a special process to permit the "grandfathering" of existing programs that do not address all the CACS measures or do not provide the information required in NECPA for CACS audits. DOE does have statutory authority to establish regulations specifying the content of the on-site energy audit service to be provided, and has tried to be responsive to these suggestions while carrying out its legal responsibilities.

Generally, DOE does not believe that *new* alternative programs can be justified, inasmuch as the legislation establishing CACS has been in place more than three years, and utilities and States have been aware of its statutory requirements. Therefore, DOE has not incorporated an RCS-like "temporary program" provision for CACS. However, DOE does wish to emphasize the flexibility provided in the audit announcement and audit content sections of this rule, which provide considerable latitude to utilities and States in establishing programs. Specifically, if States and/or utilities can provide analysis that certain measures required by DOE to be addressed in an audit do not have a simple payback of seven years for customers, then in accordance with § 458.307(b), utilities do not have to address those measures in the audit. Similarly, States and/or utilities can establish additional applicability criteria in accordance with § 458.305(d)(3) that will allow auditors to quickly eliminate measures from consideration if State-specific criteria justify it.

DOE does realize that there may be effective audit programs for multifamily and commercial customers that were established prior to passage of ESA that provide energy audits to CACS-eligible customers. Auditing those customers' buildings again may result in unjustified expense.

Congress did provide that utilities not be required to audit buildings which have been audited under the CACS program or under the Schools and Hospitals Program. DOE believes that it is reasonable then that utilities not be required to reaudit buildings that have

received a CACS-type audit: that is, an audit which addressed *all* the major energy using systems covered by the CACS program measures. These systems include space conditioning, water heating and lighting. DOE has thus added a new paragraph, § 458.306(b), which allows State Plans to designate previous CACS type audits which addressed *all* the energy using systems covered by the CACS Program measures, to be considered audits that need not be duplicated. The rest of the provisions of this rule continue to apply. For example, a report of the results of such an audit would have to be made available to subsequent customers. Also, the report of the audit must be kept on file for 10 years.

There may be preexisting audit programs which were somewhat comprehensive in nature but which did not address *all* the energy using systems covered by the CACS Program measures. For example, it appears that some gas utilities may have conducted extensive energy audits of CACS buildings which covered everything but lighting, or some electric utilities may have conducted extensive audits which covered everything except gas or oil furnaces.

DOE has added a new paragraph to this Final Rule, § 458.306(c), by which States may include provisions for utilities to perform "completion audits" for CACS-eligible customers who had received less than complete audits in the past. These audits need cover only those CACS program measures relating to the major energy using systems not previously audited.

DOE has made the CACS Program requirements as flexible as possible within the constraints imposed by NECPA. This flexiblility should minimize the burdens of utilities, which have already developed audit programs, in changing those programs to conform to the CACS requirements.

6. *Section 458.307—Program Measures.*

a. *Determination of Measures.* A new § 458.307 is included in the final rule to clarify the proposed rule. This new section specifically permits States to reevaluate those measures described in § 458.104 in light of state-specific criteria and a seven year payback period. Measures which will not pay back within seven years because of specific climate conditions, construction characteristics, installation costs, or other factors which may be unique to a particular locale need not be included in the program audit. Although DOE is not requiring that specific criteria be used, States should assume reasonably optimistic conditions when reevaluating the payback periods of program measures. These conditions must be described in the State Plan. The following formula should be used in the evaluation:

$$P = \frac{F-T}{S}$$

where:
P=payback period in years
F=first cost of a measure installed
T=tax credits or incentives (if applicable)
S=first-year energy savings in dollars

This formula estimates simple payback by taking into account State energy prices, estimated material and installation costs, income tax credits or incentives (if applicable), and heating and cooling degree days. For purposes of the calculation, savings due to reduced air conditioning energy use should be included whenever there are cooling degree days. Because DOE may not develop CACS audit techniques (see preamble § 458.305(d)), no specific procedure is recommended for determining first year energy savings.

The opportunity to reevaluate the payback potential of measures specifically required by NECPA is not intended as a means to indiscriminately eliminate measures from the audit. The precedent for such a reevaluation was established under RCS, and DOE expects States to use the opportunity to objectively identify measures in which audited customers would be unlikely to invest.

This new section is expected to create no additional burden on either States or utilities but is intended to provide greater latitude in designing a CACS program to meet specific State needs. No State is required to add additional measures or to reevaluate existing program measures, but may do so if the State believes that it will increase the effectiveness of the program. In addition, this section is very similar to § 456.315 of the RCS rule and should therefore be familiar to all affected parties.

DOE created this new section rather than include these provisions in Appendix I—Applicability Criteria, because Appendix I is designed to be used by auditors on-site. The auditor's job will be easier if some unilateral decisions about the estimated cost-effectiveness of measures have been made prior to performing the on-site audit.

b. *Payback.* In the proposed rule DOE eliminated measures from the program audit which did not pay back within seven years using a set of favorable assumptions. Seven years was used because no definitive information could be found to substantiate another investment period and it was thought that commercial or apartment building owners could reasonably be expected to make investments within this term. Comments were solicited on the appropriateness of this payback period. Thirty-four comments which varied considerably were submitted.

Many commenters suggested that seven years was excessive. Some suggested that five years would be more appropriate while others felt that two years was as long an investment period as building owners would be likely to consider. The California Energy Commission cited follow-up analysis of one utility's commercial audits which showed that 44.8% of the measures implemented had a payback of less than one year; 79.8% had a payback of less than two years; and 99% had a payback of three years or less. Another commenter cited a real estate company which estimated that "if a building is owner-occupied, it will be held for seven-twelve years. With an investor-owned building, it is held for five-seven years." He stated that another company which monitors real estate transactions in the North Texas area estimates five-seven years for commercial buildings.

Other commenters, however, recommended that the payback period be extended. For instance, the Oregon Department of Energy (ODOE), which has administered a business tax credit for energy conservation investments since November 1979, had certified more than 88 solar projects having an average payback of 18.7 years; 14 hydroelectric projects with an average payback of 9.3 years; 6 geothermal projects with an average payback of 8.3 years; and 60 waste heat recovery projects with an average payback of 3.5 years. ODOE recommended using a ten-year payback. Other commenters objected to incorporating any payback limitations.

One of the benefits which may result from CACS could be a change in relatively short-range commercial investment patterns. A recent report by the Office of Technology Assessment found that while investment criteria vary considerably from owner to owner, even owners with a relatively long expected tenure, good access to capital, and good advice usually did not invest in measures which exceeded a seven-year payback. The report also stated that current payback criteria are shorter than they would be if owners had better, more reliable information. (OTA, "Energy Efficiency of Buildings in

Cities," March 1982, p. 109.) Because there is no conclusive evidence to support one payback period over another and because there are advantages to providing building owners with more than the minimum information which may result in action, DOE has retained the seven-year payback criterion. Therefore all measures which are shown, on a national level, to have simple paybacks of seven years or less using reasonably optimistic criteria must be addressed in a CACS audit unless they are eliminated under § 458.307(b). These measures are described in § 458.104.

7. *Section 458.308 Qualifications for Auditors.* A number of States testified that establishing auditor qualifications places a burden on utilities, and suggested that DOE develop a model auditor training curriculum. Two persons commented that DOE should set minimum auditor qualifications in the Final Rule. A number of utilities preferred that the States establish auditor qualifications. One commenter suggested that States, in establishing qualification procedures, focus on those measures likely to be encountered often, rather than those likely to be encountered only in rare instances. One suggested that utilities should be permitted to self-certify auditors.

In providing flexibility for States, DOE has chosen not to establish minimum auditor qualification requirements for CACS. The requirements for auditor qualifications under CACS are similar to those in the revised RCS Program. DOE will not develop a model auditor training curriculum, as we did for RCS. The proposed rule and this final rule only require the State Plan to require that persons performing the audits be qualified.

8. *Section 458.309 Subsequent Customers.* Section 458.308(a) of the proposed rule required the State Plan to require utilities and building heating suppliers to retain a copy of CACS program audit results for 10 years. Section 458.308(b) of the proposed rule required utilities and building heating suppliers to make previous audit results available to subsequent customers. Section 458.308(c) of the proposal required utilities and building heating suppliers to inform subsequent owners of the availability of previous audit results in a timely manner and to disclose the charge if any for receiving previous audit results.

Many commenters objected to being required to maintain a copy of CACS audit results for 10 years, citing cost, confidentiality, records and obsolescence problems. Section 731(a) of NECPA requires the audit *report* to be maintained for 10 years. As discussed further below, DOE has modified this requirement in the Final Rule to relate to the audit *report* rather than the audit results, to conform with the statute. The basic requirement, to retain a copy of the audit report for 10 years, as been maintained, since it is required by NECPA.

Many commenters also objected to being required to inform subsequent owners of audited buildings in a timely manner of the availability of a report of the audit previously performed. Some commenters pointed out that utilities do not necessarily know when a building changes ownership or tenants, because they may not have their records set up in such a way that new customers are readily cross checked against audited buildings. Many requested that the audit announcement, which is to be distributed in two year cycles, be the vehicle through which utilities could inform customers of previous audits. DOE believes this to be a reasonable approach. Although the final rule contains no provisions which address this approach, there is nothing to prohibit utilities from using the audit announcement as a method of notifying subsequent customers of the availability of results from previous audits.

Many utilities objected to being required to provide previous audit results to subsequent customers, noting that changes in use of the building make the previous audit obsolete, and that release of such information could pose confidentiality problems. On the other hand, a number of utilities stated that there are ways that an audit *report* could be prepared, while protecting the confidential nature of utility bills.

DOE had modified the requirement to provide a copy of audit *results* to a copy of audit *reports*, which is the actual legislative requirement. DOE agrees with the commenters who claimed that an audit report need not contain confidential information. Since the legislation requires that previous audit reports be made available to subsequent customers, DOE does not have the option to remove this requirement. However, under § 458.309(c), if the State regulatory authority approves, and the customers agrees, a utility may perform a new audit of a building rather than provide results of a previous audit.

9. *Section 458.310 Accounting and Payment of Costs.* In accordance with Title VII of NECPA, the proposed rule specified that the State regulatory authority is to decide on how much of the audit cost would be charged directly to the customer, subject in the case of apartment buildings to a limitation of $15 per dwelling unit or actual audit cost, whichever is less. No limit was placed on the cost of the commerical building audit in the proposed rule, because there was none in the legislation. The proposed rule required that the State Plan contain the regulatory authority decision regarding costs to be charged directly to the customer.

One commenter suggested limiting apartment building audit costs to $15 per unit actually audited. Another suggested requiring utilities to charge $15 per apartment unit and the full cost of the commerical audit. Another suggested that decisions on audit charges should be made by utilities rather than the State regulatory authorities. One commenter suggested limiting the cost to the customer for a commercial audit to the actual cost of the audit.

DOE did not adopt any of these suggestions. The legislation and this final rule specify that costing decisions rest with the State regulatory authority, except as limited by the legislation. Therefore, utilities must work with the regulatory authority on designing audit charge structures. DOE does not have authority to require specific charges for audits.

One commenter suggested a fee scale for apartment building audits which reflected the economies of scale of auditing larger buildings.

Such an approach is permissible (subject to the approval of the State regulatory authority) as long as the charge does not exceed the maximum allowed by the regulation ($15 per apartment, or actual cost).

One commenter suggested that *annual* audit charges not exceed the audit costs. The legislation clearly states that costs charged for audits of apartment buildings not exceed $15 per dwelling unit or actual costs for each customer, and DOE does not have the latitude to alter this requirement. Therefore, DOE did not adopt this suggestion, although utilities are free to adjust their charges (subject to the approval of the State regulatory authority) if they find they are charging less than both the actual cost and $15 per unit.

One commenter pointed out the difficulty of specifying the cost recovery method in the State Plan, because many regulatory agencies are involved with such decisions in the State under discussion—six months does not allow sufficient time. DOE recognizes the difficulty some States have in specifying the regulatory authority's decision in the State Plan. Where the decision cannot be specified, this section of the Plan must be reserved when the Plan is submitted.

10. *Section 458.311 Customer Billing.* Section 458.310 of the proposed rule provided that, if a utility includes the charge for a program audit on its regular bill, it must identify this audit charge as a separate item.

One comment stated that to require the reformatting of billing statements to identify separately any direct CACS charges would unnecessarily burden utilities.

The rule does not require reformatting of utility bills; it only requires that *if* the charge for the program audit is included *on the same bill* as the bill for utility service, the bill must identify this audit charge as a separate item.

No change was made for this final rule.

11. *Section 458.314—Reports and Recordkeeping.* The proposed rule required the minimum reporting requirements necessary for DOE to ensure that covered utilities were implementing a CACS program. The reporting requirements did not provide sufficient information to determine if programs were being adequately implemented. Proposed requirements included:

- The number and nature of audits requested and/or provided;
- Estimated state and utility costs of implementing the program; and
- Copies of audit announcements.

Several commenters stated that these requirements were inadequate to assure DOE's legal responsibility to implement the program. Several comments suggested additions to the reporting requirements.

Upon reconsideration, DOE concurs that the information required by the reporting requirements in the proposed rule would be insufficient to ensure adequate program implementation. In the final rule, DOE has changed the requirements to include:

- Number of eligible customers, if known;
- Number and nature of audits requested from and provided by each utility;
- Estimated State costs and each utility's costs for implementing the program;
- Copies of the most recent audit announcements if not previously provided; and
- Summary of (or copy of) the State regulatory authority decision regarding recovery of CACS audit expenses.

DOE believes that each of these requirements relates to information that all utilities would have easy access to, and therefore should not prove burdensome. The additional pieces of information will probably be submitted only once if the circumstances remain unchanged. This information will enable DOE to more effectively determine when utility programs are being adequately implemented and will provide us with more useful data for preliminary program evaluations.

One commenter stated that DOE should repropose the CACS rule if any additional reporting requirements were made. If we had added requirements which were particularly burdensome or substantially different from those proposed, we would do so. However, we do not believe that these modifications are either burdensome or substantially different. In addition, DOE retains the option to request additional information should it become necessary to implement its responsibilities under NECPA. This suggestion was not adopted.

Several comments suggested that we make the reporting periods for CACS and RCS identical. This would enable States to submit one report every two years which contained information on both programs. DOE agrees that the reporting can be made more efficient when both RCS and CACS are addressed simultaneously, and has modified the final rule accordingly.

The proposed rule required that utilities retain a copy of the data collected during each audit and a copy of the audit report on file for 10 years. Many commenters objected to this. They claimed the audit results were unlikely to be appropriate after five years and that it would be burdensome to retain such a mass of information. DOE has not changed the 10-year requirement because it is specified by NECPA Section 731(a)(3). We have, however, modified the specific material which must be retained. The final rule now requires retention only of the audit report, not the data collected for the report.

E. *Subpart D—Nonregulated Utility Plans.* DOE received one comment on this Subpart regarding the Governor's ability to grant exemptions for coverage of all commercial and apartment buildings to nonregulated utilities if the Governor determined that either of the conditions outlined in § 458.207(a) would occur. The commenter was concerned that the proposal would have allowed the Governor to delegate authority for this type of exemption determination to the Lead Agency. If the Lead Agency were the State regulatory authority then the Governor could be creating a relationship between the State regulatory authority and a nonregulated utility that previously had not existed and could conflict with State law.

DOE does not intend for this provision to create any new relationship between a nonregulated utility and a State regulatory authority. DOE also does not expect that a Governor will do anything which would result in a conflict with State law.

F. *Subpart E—Federal Standby Authority and Enforcement Provisions.* One commenter asked what would happen to a utility operating a CACS Program in a State where other utilities do not implement the Program, if DOE invokes Federal Standby Authority for CACS. This commenter suggested that DOE include a provision in its rule that would allow utilities operating a CACS program in accordance with an approved State Plan to be offered the option of continuing their program instead of coming under Standby.

This suggestion was not adopted, because it would not be possible for DOE to prejudge whether programs are being adequately implemented. However, DOE has little interest in assuming management responsibilities for programs that are operating successfully, so it is likely that DOE would not modify an operating CACS Program.

G. *Appendix I—Program Measure Applicability Criteria.* The purpose of the applicability criteria is to define objectively situations where program measures would be unlikely to perform as intended and therefore would be unlikely to be cost-effective. They are intended to provide assistance to the auditor at the audit site by making preliminary determinations about the cost-effectiveness or utility of specific measures in specific situations. Measures which do not meet the applicability criteria need not be audited for. As described under § 458.305(d)(3), a state may include additional or different applicability criteria if it deems them necessary or appropriate.

One commenter noted that he would like to see the following added as State applicability criteria:

(a) The frequency that measures are found to be cost-effective:

(b) The level of interest by an audited customer in a particular measure; and

(c) The likelihood that a particular measure would be installed.

DOE did not add these applicability criteria because they can be used subjectively to eliminate measures from the audit. The applicability criteria in Appendix I define specific physical situations and DOE intends that any

additional applicability criteria used by States will do the same.

The proposed rule stated that installation of a measure, to be applicable, could not violate a Federal, State, or local law or regulation. Many commenters objected to this because they felt it placed utilities in the position of interpreting codes. This was never DOE's intent. Instead DOE intended to ensure that the CACS rule would not supersede local codes or regulations and that auditors would not have to evaluate measures which the customer could not legally install. For instance, if a State or local building code prohibited the modification of the flue or vent of an existing heating system, vent dampers would not meet the applicability criteria in that area and auditors would not need to be trained to evaluate them. No changes were deemed necessary to the final rule to reflect this intent. One commenter suggested that determinations as to the legality of program measures should be made by the State and addressed in the State Plan. Although DOE agrees that in many cases, the State can determine the legality of measures on a State-wide basis, we have not required them to do so. Comments relating to the applicability criteria for specific measures are noted below:

a. *Lighting System Modifications.* Several comments noted the discrepancy between the definition for "Daylighting" and Applicability Criterion V in the proposed rule. The latter was changed to make it consistent with the definition. The final applicability criterion reads: "Lighting system modification to use daylighting is applicable if any electric lighting fixtures are located within 15 feet of an existing window of skylight in a commercial or in common areas of an apartment building." One comment claimed that Daylighting should be applicable whenever cost-effective, regardless of the distance from a window. As the comment pointed out, daylighting potential is difficult to generalize because it is dependent upon aperture size, orientation, glazing type, and other factors. The 15 foot requirement in the Applicability Criteria is a minimum which can be exceeded whenever States, utilities, or auditors deem it appropriate. Therefore DOE has made no change to the final rule.

b. *Ceiling Insulation.* The proposed rule stated that ceiling insulation was applicable if the difference between any existing insulation and the recommended level of insulation was at least R–11. The R–11 differential was based on the RCS measures evaluation for residential buildings. The HUD Minimum Property Standards (MPS) were suggested as a guideline for States to select their recommended level. Nine comments objected to using the HUD MPS (which were developed for residential buildings) to define recommendations for commercial and apartment building insulation levels. Upon reconsideration, DOE agrees that the differences between single-family homes and the buildings covered by CACS are significant enough to merit a different baseline. Several comments suggested using ASHRAE Standard 90–80 to determine recommended ceiling insulation levels. ASHRAE 90–80 recommends values for an 'overall' thermal transmittance (or U_o) of the gross area of building components such as walls, floors, or roof/ceilings. The U_o values may be difficult to interpret during a walk-through audit if the roof/ceiling is not of uniform construction (i.e., systems which contain skylights or other penetrations in the ceiling/roofing materials). However, many States have not adopted ASHRAE 90–80. Therefore, DOE, in the final rule, permits States to establish their own insulation recommendations, based on voluntary or mandatory State codes. If the State does not have a code which specifies ceiling insulation levels, the State Plan may recommend another level. Under the Final Rule, States may, if they desire, establish both a recommended insulation level and a permissible differential below the recommended level so that an auditor need not evaluate insulation which is equal to at least the State recommended level minus the differential. The ceiling insulation differential is intended to relieve the auditor of conducting cost and savings calculations, for additional ceiling insulation when it is unlikely to be cost effective.

As a result, DOE has changed the applicability criterion for ceiling insulation to: ceiling insulation is applicable for all buildings if the differential between the existing insulation and the insulation level recommended by the State Plan exceeds the differential established by the State Plan.

c. *Energy Recovery Systems.* The proposed rule specified that energy recovery systems were only applicable if the building used at least 20 gallons of hot water/day and had a source of waste energy equivalent to that of a two-ton air conditioner. DOE estimates that waste heat would need to equal 1700–2900 BTU/hour/ton. One commenter requested that the minimum usage should be changed to 40 gallons/day to meet the seven-year payback. Another commenter stated that energy recovery systems should not be applicable in any CACS-covered commercial building. No data were submitted to substantiate either of these recommendations. However, after further evaluation, DOE determined that a building which used only 20 gallons of hot water per day would be unlikely to benefit significantly from a waste heat recovery device. (See "Heat Pump Desuperheaters for Supplying Hot Water—Estimation of Energy Savings & Economic Viability for Residential Applications," M. Olszewski and E.C. Fontana, ORNL/CON 114.) Therefore, when an energy recovery system uses waste heat from an air conditioner or heat pump to assist in the heating of hot water, DOE has changed the applicability criteria in the final rule to include the following:

- Building hot water usage should exceed 50 gallons per day;
- The building should have a source of waste heat equal to that of a two-ton air conditioner; and
- The building should be located in a geographic area which exceeds 2000 cooling degree days.

DOE notes, however, that any State may conduct its own cost-benefit analysis in accordance with § 458.307(b) and modify its applicability criteria in accordance with § 458.305(d)(3) to determine which measures should be included in the program audit.

d. *Solaria/Sunspace Systems.* The proposed rule excluded solaria/sunspace systems from commerical buildings. Two State energy offices objected to this exclusion. DOE agrees that there are some situations where a solaria system would lend itself to a commercial building although we do not anticipate that this would occur often. States are encouraged to expand on these minimum requirements if they believe that situations where solaria systems are applicable to commercial buildings occur often enough to justify including them.

e. *Solar Domestic Water Heating.* The proposed rule stated that solar hot water systems were applicable if the building consumed more than 40 gallons of hot water/day and had a collector site oriented ±45° of true south.

One commenter stated that for solar domestic hot water systems, the applicability criterion regarding orientation should be modified. Instead of requiring a location that would allow collectors to be oriented within ±45° of true south, the commenter suggested that more systems would be

judged applicable if a range of allowable orientations were used as guidelines. Depending on the collector tilt, these guidelines would allow orientations from ±65° to ±20° from true south.

While DOE recognizes the intent to permit the widest possible range of orientations, the original applicability criterion has been retained for several reasons. First, DOE's purpose in including applicability criteria is to allow the auditor to determine quickly and simply whether or not an audit is appropriate for each measure. The suggested guidelines are more complex, requiring the auditor to pre-determine the solar collectors' tilt angle. This is a parameter an auditor can only roughly estimate, and which only the system designer can specify appropriately. Second, because a large majority of the buildings eligible for CACS have flat roofs, almost any orientation is possible for solar collectors. Requiring a location that allows collectors to be oriented within ±45° from true south will not, therefore, overly restrict the applicability of the systems. Third, based on technical analysis, expanding the allowable range to ±65° from true south was found to be inappropriate. Orienting the collectors as much as 65° from south can significantly decrease the efficiency of the system at more northern latitudes even at the tilt angles which the commenter suggests.

For these reasons, the original criterion has been retained, although it should be considered a minimum which States may expand upon at their discretion.

Three commenters claimed DOE had eliminated solar hot water heating in the preamble to the proposed rule and retained it in the Applicability Criteria. A more careful reading of the proposed preamble shows that DOE eliminated combined solar space heating and solar water heating—not solar water heating when installed separately.

Two commenters questioned whether solar water heating systems actually had paybacks of less than seven years, although no data was submitted to support a different payback period. DOE analyzed the payback period for solar water heating systems based upon a building hot water usage of 40 and 80 gallons per day, the most recent energy costs, and adjusted system costs and collector size. The analysis showed that solar hot water systems were unlikely to pay back within seven years unless a building used at least 80 gallons of hot water per day. Therefore the applicability criterion has been modified accordingly.

f. *Replacement Measures.* The proposed rule stated that a replacement measure is applicable only if a less efficient device performing the same function is already present. Two commenters requested that we also specify that the existing equipment be at least five years old. DOE agrees that a replacement measure is unlikely to be cost effective if the existing measure is less than 5 years old and we have modified the applicability criteria accordingly. Replacement measures include only those defined as such in § 458.104. These include replacement air conditioners, burners, furnaces/boilers, and swimming pool heaters.

III. Regulatory Impact Analysis

A Regulatory Impact Analysis (RIA) of the final CACS Program regulations has been prepared by DOE and reviewed by the Office of Management and Budget, pursuant to the requirements of Executive Order 12291. Copies of the Final Regulatory Impact Analysis can be obtained by writing the Building Services Division at the address which appears at the beginning of this notice. A summary of the findings of the RIA is provided below.

In the preamble to the proposed rule for CACS, DOE discussed a cost/benefit model which could be used to evaluate the net present value of the various alternatives available for the CACS Program. DOE also discussed the data deficiencies that made it impossible for DOE to accurately quantify the CACS program impacts. At the time the preliminary RIA was published, DOE did not believe there was sufficient data to use the benefit/cost model.

One commenter severely criticized the preliminary RIA, stating that the costs and savings estimates were derived using highly speculative data, that DOE did not adjust the model to account for the "greater sophistication" of those covered by CACS and that DOE did not take into account the ability of States to exempt utilities from the CACS program. The commenter further stated that the RIA failed to demonstrate that the CACS program will produce benefits that outweigh its costs and that the "no program" alternative is treated superficially.

In the preamble to the proposed rule, DOE invited commenters to supply appropriate data on which a cost/benefit analysis can be based. As part of their comments, a number of commenters provided some program data. In addition, DOE continued its research in support of the analysis. Many of the values for the variables used in the analysis have been changed for this final RIA as a result. The available data, in DOE's view, still are insufficient to calculate precise costs and savings for the program. DOE disagrees that the data now used in the model are "highly speculative." The researchers have used reasonable care in evaluating the data available and used professional judgment in selecting data values.

DOE believes that the data, derived from existing CACS-like programs to the extent possible, already reflect the sophistication of the CACS-eligible customers. DOE cannot estimate the number of utilities which will receive exemptions from fulfilling all the CACS requirements; however, DOE doubts that many State regulatory authorities will grant exemptions within the statutory time limits of CACS. In any event, exemptions are partial rather than complete and thus should not have a major impact on the estimates of program costs and savings. DOE agrees that the RIA cannot unequivocally establish that the CACS program will have a positive net present value, and the preliminary and final RIA's discuss that point. The "no program" alternative is not an alternative available to DOE, since the statutory mandate is clear. But since the benefit/cost model calculates the incremental increase in net present value over not conducting the program (the "no program" case), the "no program" case has been implicitly considered. If the increase in the net present value is positive, then the program should be undertaken. If the increase is negative, then the program should not be undertaken, or the "no program" alternative would be preferable.

Given this new information, DOE has used the benefit/cost model and believes it increases the usefulness of the RIA in assisting DOE in selecting the most favorable audit option for CACS. The fundamental regulatory choice for DOE in the CACS program is the type of audit to be required. Thus, this final RIA continues to evaluate three alternatives: a "walk through" audit, a "walk-through plus limited detailed analysis" audit, and a "detailed analysis" audit. Using the values for the variables in the cost/benefit model that are set forth in the RIA, DOE calculates net present values for these three alternatives as $22,046,171, $59,048,902, and $7,926,175, respectively. While there continue to be uncertainties regarding the values for the variables used in the model, DOE continues to conclude that the net present value of the program is probably maximized using the "walk-through plus limited detailed analysis" audit alternative.

To illustrate the uncertainty of this conclusion, DOE varied the values for a number of the variables to which the model is quite sensitive, over a *range* of reasonable values in three "cases." This sensitivity analysis is meant to illustrate the range of the net present value of the program under the "walkthrough plus limited detailed analysis" alternative. The RIA documents state that under this alternative, the net present value could range from −$50,284,750 to +$739,410,034, with a mid-case of $59,048,902.

IV. Environmental Impact Statement

A. Background

An Environmental Impact Statement (EIS) was issued for the Residential Conservation Service (RCS) program in November 1979 (DOE–EIA–0050) in compliance with the National Environmental Policy Act (NEPA). The EIS for the RCS program indicated that RCS would have a small, but positive impact on national pollutant levels. It also indicated that there were potential adverse health and safety effects if measures covered by the program were improperly manufactured or installed. Finally, the EIS indicated that an effect of measures designed to reduce air infiltration would be to increase levels of indoor pollutants. With respect to these two potential adverse effects of the program, however, DOE determined that no special mitigating measures were justified as part of the RCS program using the statutory authority provided by NECPA. (See preamble discussion accompanying the final revised RCS regulations (47 FR 27752, 27772) (June 25, 1982)).

A draft supplement to the RCS EIS was prepared for the Commercial and Apartment Conservation Service when it originally was proposed in January 1981. (DOE/EIS–0050–DS). Those portions of the draft supplement (and all subsequent modifications and additions) relating to the CACS Program have been finalized as a CACS EIS Supplement (DOE/EIS–0050–FS). DOE filed it with the Environmental Protection Agency (EPA) on October 25, 1983, and EPA will publish a notice of its availability in the **Federal Register** on November 4, 1983. The CACS Program will not become effective until 30 days after the availability of the Final EIS Supplement is announced.

B. The CACS EIA Supplement

The CACS EIS Supplement considered alternatives within and to the CACS Program. Options considered within the program were various types of audits, various measures and procedures to be covered in an audit, increased levels of assistance to customers, and establishing State-set ceilings on commerical audit costs. A "no-action" alternative, economic incentives and regulatory standards were considered as alternatives to promulgation of the CACS Program.

The program contained in the final rule will result in both adverse and beneficial environmental impacts. The adverse impacts are due primarily to decreased indoor air quality. Beneficial impacts will result from decreased energy consumption. All the alternatives considered would either increase the adverse impacts to indoor air quality or result in additional adverse environmental impacts due to energy consumption. On balance, however, the Department considers the program contained in the final rule to be an environmentally preferable alternative.

The CACS EIS Supplement concluded that environmental impacts would be substantially less than those for the RCS program. There are several reasons for this:

(1) Unlike the RCS program, CACS is primarily an information program. CACS provides no services to encourage conservation action except the program audit.

(2) Some measures included in the RCS program which were deemed to have negative environmental impacts were eliminated from the CACS program (i.e., active solar heating, wind energy systems).

(3) The nature of commercial buildings is different from single family residences. Many apartment and commercial buildings have air handling or ventilation systems to assure acceptable air handling.

(4) While envelope-tightening measures have the greatest payback in single-family homes (i.e., caulking/weatherstipping, storm windows and to some extent, insulation), these measures are installed much less frequently under CACS. Lighting and HVAC modifications are much more likely to be implemented under CACS and these measures have minimal impact on indoor air quality.

(5) Insulation, considered to pose a potential fire risk, is not expected to be a likely retrofit measure given the physical characteristics of CACS-covered buildings. (Most are masonry construction with flat roofs and suspended ceilings.)

Overall, the environmental effects due to decreased energy consumption will be beneficial. On both the national and regional level, the CACS program will have beneficial impacts on air and water quality by reducing energy use and the accompanying pollutant discharges. Partially offsetting the beneficial impacts due to energy savings will be possible small adverse impacts resulting from the manufacture of conservation and renewable resource materials. The reduction in energy use due to increased energy efficiency in covered buildings will result in decreased emission of particulates, sulfur oxides, nitrogen oxides, hydrocarbons, carbon monoxide, and aldeydes into the air, and chemical oxygen demand, total suspended solids, nonferrous metals, and sulfates into the water. Production of all conservation materials is considered to be relatively insignificant in terms of potential environmental impacts.

Implementation of the CACS program will result in some reduction in indoor air quality and might also lead to adverse health and safety impacts resulting from defective materials, improper installation, and/or improper utilization.

Indoor air quality may be adversely affected by decreased ventilation, although this is not expected to be significant. Increased use of weatherstripping and caulking or other measures may lead to increased concentration of pollutants within small commercial and apartment buildings. Of particular concern for this program are radon, ozone, and cigarette smoke. The health effect associated with exposure to radon progeny and to cigarette smoke is lung cancer. Exposure to ozone can cause irritant effects on eyes, nose and upper respiratory tract, with occasional nausea and drowsiness.

It remains difficult to estimate the extent of the effect of building weatherization on indoor air quality, because the nation's building stock varies considerably and occupant behavior strongly affects indoor air quality. In addition, information on the classes of buildings covered by CACS is limited. Furthermore, quantitative relationships, between human exposure to pollutants and resultant human disease are difficult to define. Because of the present limited understanding both of the effects of weatherization on indoor air quality and of the health hazards involved, DOE is not requiring auditors to provide information on indoor air quality. In the vast majority of cases, the CACS program is not expected to reduce indoor air quality below acceptable levels, such as those suggested by ASHRAE (1981).

If program measures are properly manufactured, installed, and utilized, it is believed that no significant health and

safety impacts will occur. Even with improper installation and utilization, many of the measures should not create adverse health or safety impacts. It is assumed all program measures will be installed in accordance with existing State and local codes and land use policies. It is unlikely that any major adverse land use impacts will result.

C. Comments on the Draft Supplement

The Environmental Protection Agency (EPA) submitted several comments in response to the draft supplement. Additional comments were received from others as described below. These key comments and recommendations, which are available for public inspection, are summarized below.

EPA's primary concern was the possibility of indoor air pollution resulting from the installation of energy conservation measures that lead to reduced ventilation rates or from the installation of conservation materials that emit pollutants. EPA noted that State and local health authorities have been called upon with increasing frequency to investigate episodes of building-related illness. Many of the offending buildings were modern, tight, energy-efficient office buildings. EPA recommended that DOE make a commitment to ensure that the people who manage and use buildings eligible for CACS audits are aware of potential indoor pollutant sources and health risks posed by some building retrofits and to encourage those designing such retrofits to include mitigation measures where the pollutant source presents a significant health risk.

The pollutants of most concern to EPA were radon and cigarette smoke. EPA suggested that the outdoor and indoor levels of radon, and measures to control indoor radon levels, be more fully described in the EIS Supplement. EPA also pointed out that the discussion of cigarette smoking omits work which shows that indoor air pollution from tobacco smoke causes lung cancer and small airways disfunction in the lungs of nonsmokers. Finally, EPA expressed concern that voluntary ventilation standards may not maintain adequate indoor air quality. EPA also suggested that a discussion of indoor air quality be provided to utility customers and tenants. More recent comments submitted by EPA on April 25, 1983 requested that DOE note the availability of *Environmental International* (Volume 8, No. 1–6, 1–534, 1982) which is a special issue devoted to indoor air pollution topics.

Additional comments submitted by utilities dealt with discussions of indoor air quality with consumers. Several utilities did not want their auditors discussing indoor air quality, while one utility suggested it should be discussed in homes with gas or oil heating. Another commenter suggested that DOE address the impact of wood stoves on indoor air quality and the effects of noxious fluids which leak from or collect on solar water heating sytems. This commenter also claimed the DOE has insufficient evidence for citing typical air infiltration rates of 1 air change per hour. And finally, he claimed that DOE had incorrectly assumed that the Consumer Product Safety Commission had banned urea-formaldehyde insulation for use in all buildings rather than residential buildings. These comments are all addressed in the final EIS Supplement.

V. Paperwork Reduction Act

The reporting and recordkeeping requirements contained in § 458.314 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 1904–0045.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires, in part, that an agency prepare an initial regulator flexibility analysis for any proposed rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities". In the event that such an analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the **Federal Register**.

DOE certified in the November 24th notice that the proposed rule would not have a significant economic impact on substantial number of small entities, i.e., small businesses, small organizations, and small governmental jurisdictions. DOE stated that a regulatory flexibility analysis was not necessary because under the provisions of Title VII of NECPA, the program does not impose any requirements on small entities.

One commenter, the Small Business Administration, disagreed with DOE's certification that the proposed rule would not have a significant economic impact on small entities. They expressed the concern that substantive portions of the proposed rule would cause significant and adverse economic impact upon small businesses by subjecting them to possible unfair competition from utilities. The focus of SBA's comments was to prevent or minimize anticompetitive utility activity that might adversely affect small businesses.

DOE considered the changes proposed by the SBA for strengthening sections of the rule to reduce the risk of anticompetitive acts or practices from occurring. In the final rule DOE has included additional anticompetitive provisions as suggested by the SBA (e.g., inclusion of antidiscrimination provision concerning advertising). For further discussion of the specific changes adopted by DOE see the preamble section by section analysis. DOE believes that the addition of these provisions to the final rule will reduce further the risk of anticompetitive or discriminatory activities. Therefore, DOE again certifies that these amendments will not have a significant economic impact on a substantial number of small entities.

VII. Consultation with the Department of Housing and Urban Development

As required by Section 712(a) of NECPA, DOE has consulted with the Department of Housing and Urban Development (HUD) on the development of this proposal prior to its issuance.

HUD expressed concern that the definition of apartment building would be interpreted as excluding many public housing projects because they often include two or more buildings. DOE does not intend to exclude multibuilding apartment complexes even though the definition uses the singular "building." As noted earlier, the definition is intended to apply to both individual and district-heated buildings. HUD also suggested changing the term "Building Heating Supplier" to "district heating and/or cooling supplier." Because "building heating supplier" was specified in NECPA, DOE does not wish to change it. However, since the term "building" does not necessarily imply a single structure in the CACS program, a building heating supplier is assumed to be the fuel supplier of all CACS-covered buildings.

HUD noted the availability of "Energy Conservation for Housing: A Workbook" (September 1982, HUD–PDR–700(2)) which was designed for conducting energy audits in public housing. In addition to the CACS program measures, the HUD workbook also addresses: individual utility metering, vestibules, turbulators, individual radiator controls, equipment to correct low power factors, and equipment to shed part of an electric load to reduce electric demand charges. Although DOE recognizes the conservation impacts of these additions, we do not believe it would be

appropriate to require at the Federal level all utilities (regardless of energy service) to audit for them. States, however, may wish to consider the HUD recommendations as State measures.

HUD also commented on the seven-year payback criteria which they believed was appropriate for all measures except solar. They suggested expanding the payback period for solar systems to anything less than useful life (e.g., 15–20 years). DOE notes that the regulation requirements are minimums and that States or utilities may expand upon them whenever desired. Therefore, no changes to the rule were deemed necessary.

VIII. List of Subjects in 10 CFR Part 458

Energy audits, Energy conservation, Housing, Insulation, Reporting and recordkeeping requirements, Solar energy, Utilities.

In consideration of the foregoing, the Department of Energy hereby amends Chapter II of Title 10 of the Code of Federal Regulations by adding Part 458 as set forth below.

(Title VII of the National Energy Conservation Policy Act, Pub. L. 95–619, 92 Stat. 3206 et seq., as amended by Title V, Subtitle D of the Energy Security Act, Pub. L. 96–294, 94 Stat. 611 et seq., Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 et seq. (42 U.S.C. 7101 et seq.))

Issued in Washington, D.C., October 19, 1983.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

Chapter II of Title 10, Code of Federal Regulations is amended by adding Part 458 as follows:

PART 458—COMMERCIAL AND APARTMENT CONSERVATION SERVICE PROGRAM

Subpart A—General Provisions and Definitions

Sec.
458.101 Purpose and scope.
458.102 Definitions—general.
458.103 Definitions—energy conserving operation and maintenance procedures.
458.104 Defintions—program measures.
458.105 List of covered utilities.

Subpart B—Preparation, Submission, and Approval of a State Plan and Exemption Procedures

458.201 Scope.
458.202 Initial submission.
458.203 Notice, comment, and public hearing.
458.204 Procedures for submission and approval of a state plan.
458.205 Building heating suppliers.
458.206 Tennessee Valley Authority.
458.207 Exemptions.

Subpart C—Content of a State Plan

Sec.
458.301 Scope.
458.302 Coverage for a state plan.
458.303 Procedures of enforcing compliance with a state plan.
458.304 Audit announcement.
458.305 Program audit.
458.306 Duplicate audits.
458.307 Program measures.
458.308 Qualifications for program auditors.
458.309 Subsequent customers.
458.310 Accounting and payment of costs.
458.311 Customer billing.
458.312 Coordination.
458.313 Building heating supplier program.
458.314 Reports and recordkeeping.

Subpart D—Nonregulated Utility Plans

458.401 Scope.
458.402 Coverage.
458.403 Notice, comment, and public hearing.
458.404 Procedures for submission and approval of a Nonregulated Utility Plan.
458.405 Content of a nonregulated utility plan.
458.406 Exemption procedures.

Subpart E—Federal Standby Authority and Enforcement Provisions

458.501 Scope.
458.502 Conditions under which standby authority shall be invoked.
458.503 Use of standby authority in lieu of a state plan.
458.504 Standby authority for nonregulated utilities.
458.505 Failure to comply with orders.
458.506 Enforcement provisions; assessment of civil penalties.
458.507 Election of review procedures.
458.508 Hearing before administrative law judge and review in court of appeals.
458.509 Assessment by assistant secretary and de novo review in district court.
458.510 Recovery of penalty.

Appendix I: Program Measure Applicability Criteria

Authority: Title VII of the National Energy Conservation Policy Act, Pub. L. 95–619, as added by Subtitle D of Title V of the Energy Security Act, Pub. L. 96–294, 94 Stat. 752–758 (42 U.S.C. 8281–8284); Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565–613 (42 U.S.C. 7101–7352).

Subpart A—General Provisions and Definitions

§ 458.101 Purpose and scope.

This part contains the regulations of the Commercial and Apartment Conservation Service (CACS) Program. These regulations are required by Title VII of the National Energy Conservation Policy Act, Pub. L. 95–619 (42 U.S.C. 8281–8284), as enacted in subtitle D of Title V of the Energy Security Act, Pub. L. 96–294.

§ 458.102 Definitions—general.

For purposes of this Part, the term—

"Apartment Building" means a building which is used for residential occupancy, was completed on or before June 30, 1980, contains five or more apartments and uses any of the following: a central heating system; a central cooling system; or a central meter for the heating or cooling system.

"Assistant Secretary" means the Assistant Secretary for Conservation and Renewable Energy of the U.S. Department of Energy.

"Audit Announcement" means the offer of an audit which § 458.304 requires a covered utility or covered building heating supplier to provide to each eligible customer.

"Building Heating Supplier" means any person engaged in the business of selling No. 2, No. 4, or No. 6 heating oil, kerosene, or propane to eligible customers.

"Commercial and Apartment Conservation Service (CACS) Program" means the audit program which this part requires each covered utility and covered building heating supplier to implement pursuant to an approved State Plan, an approved Nonregulated Utility Plan, or a Federal Standby Plan.

"Commercial Building" means a building—

(a) Which was completed on or before June 30, 1980;

(b) Which is used primarily for carrying out a business (including a nonproft business) or for carrying out the activities of a State or local government;

(c) Which is not used primarily for the manufacture or production of products, raw materials, or agricultural commodities;

(d) Which is not a Federal building;

(e) For which the average monthly use of energy for calendar year 1980 (or the latest twelve month period for which information is readily available) was less than the following:

(1) 4,000 kilowatthours of electricity, unless it is determined that the building exceeds the average monthly fuel prescribed in either paragraph (e) (2) or (3) of this definition;

(2) 1,000 therms of natural gas, unless it is determined that the building exceeds the average monthly fuel use prescribed in either paragraphs (e) (1) or (3) of this definition; and

(3) 100 million Btu of any other fuel, unless it is determined that the commercial building exceeds the average monthly fuel use prescribed in paragraphs (e) (1) and (2) of this definition.

(f) For purposes of determining the consumption limits in paragraph (e) of this definition, all exterior devices which are connected to the same meter as the building may be considered part of the building.

(g) For purposes of this part, "building" means any space which has permanent walls with no openings connecting the space to any adjacent conditioned space, is separately heated and cooled, and has its own meter(s).

"Covered Building Heating Supplier" means a building heating supplier included in a State Plan.

"Covered Utility" means in any calendar year a public utility (regulated or nonregulated) which during the second preceding calendar year had either—

(a) Sales of natural gas for purposes other than resale which exceeded 10 billion cubic feet; or

(b) Sales of electric energy for purposes other than resale which exceeded 750 million kilowatt-hours.

"DOE" means the United States Department of Energy.

"Eligible Customer" means any of the following:

(a) With respect to a covered utility, the owner or tenant of a commercial building or the owner (or the owner's agent) of an apartment building to whom the covered utility sells electricity or natural gas, for use in the building and who is the utility customer of record; or

(b) With respect to a building heating supplier, the owner or tenant of a commercial building or the owner (or the owner's agent) of an apartment building to whom the building heating supplier sells No. 2, No. 4, or No. 6 heating oil, kerosene, or propane for use in the building and who is the supplier's customer of record.

"Federal Building" means any building or other structure owned in whole or part by the Government of the United States or a Federal agency, including any structure occupied by a Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of the agreement without further negotiations.

"Governor" means the Governor or chief executive officer of a State or the Governor's designee.

"Lead Agency" means a State agency authorized by law or designated by the Governor to develop and submit a State Plan.

"NECPA" means the National Energy Conservation Policy Act, Pub. L. 95–619.

"Nonregulated Utility" means a public utility which is not a regulated utility.

"Nonregulated Utility Plan" means a plan developed pursuant to Subpart D of this part.

"Program Audit" means an on site inspection of a commercial building or an apartment building carried out in accordance with the requirements of § 458.305.

"Program Information" means the audit announcement and any information dissemination activities related to a CACS Program.

"Public Utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, for use in commercial buildings or apartment buildings.

"Rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any rate, charge or classification, and any contract pertaining to the sales of electric energy or natural gas.

"Ratemaking Authority" means authority to fix, modify, approve, or disapprove rates.

"Regulated Utility" means a public utility with respect to whose rates a State regulatory authority has ratemaking authority.

"Secretary" means the Secretary of Energy.

"State" means a State, the District of Columbia, and Puerto Rico.

"State Agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

"State Plan" means a plan developed pursuant to Subpart C of this part.

"State Regulatory Authority" means any State agency which has ratemaking authority with respect to the sales of electric energy or natural gas by any public utility (other than by such State agency), except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

"TVA" means the Tennessee Valley Authority.

§ 458.103 Definitions—energy conserving operation and maintenance procedures.

"Energy Conserving Operation and Maintenance Procedures" means changes in the operation or maintenance of a commercial building or an apartment building which are designed primarily to reduce energy consumption in the building including those which are defined as follows:

"Air Conditioner Efficiency Maintenance" means periodic cleaning or replacement of air filters and cleaning of coils on forced-air cooling systems.

"Conditioned Space Reduction" means closing off unoccupied areas, and/or reducing the heating and cooling supply to these areas.

"Efficient Use of Shading" means using existing shades, drapes, awnings, and other methods—

(a) To block sunlight from entering a building in the cooling season;

(b) To allow sunlight to enter a building during the heating season; or

(c) To cover windows at night during the heating season.

"Furnace Efficiency Maintenance and Adjustments" means cleaning and combustion efficiency adjustments of gas or oil-fired furnaces (including burners), periodic cleaning or replacement of air filters on forced-air heating systems including heat pumps, lowering the bonnet or plenum fan thermostat to 80°F on a gas or oil fired furnace, and turning off the pilot light on a gas furnace during the summer.

"Plugging Infiltration Leaks" means—

(a) Installing scrap insulation or other pliable materials in gaps around pipes, conduits, ducts, or other gaps which connect conditioned with unconditioned spaces; and

(b) Adding weatherstripping around ceiling access doors or basement doors.

"Sealing Leaks in Pipes and Ducts" means applying appropriate sealants to any leak in a heating or cooling duct that is located outside the conditioned space, tightening or plugging any leaking joints in hot water or steam pipes, and replacement of washers in leaking hot water valves.

"Steam Distribution System Maintenance" means the inspection of the visible steam distribution system for the purpose of detecting steam lakes, ensuring that steam is not entering the condensate system and that condensate return lines return all condensate to the boiler where practical and desirable.

"Temperature Raising in Summer" means raising the thermostat or other temperature control for occupied space to as high a temperature as reasonable during the cooling season. The temperature of space that is not continuously occupied may be allowed to rise further than that of occupied space.

"Temperature Reduction in Winter" means lowering the thermostat or other temperature control for occupied space to as low a temperature as reasonable during the heating season. The temperature of space that is not continuously occupied may be allowed to drop further than that of occupied space.

"Water Flow Reduction in Showers and Faucets" means reducing the hot water flow in showers, faucets, or other equipment as low as reasonable by the use of any practical or feasible method.

"Water Temperature Reduction" means turning the hot water heater off or manually setting back the heater thermostat temperature to as low a temperature as practical, consistent with the needs for hot water.

§ 458.104 Definitions—program measures.

"Program Measure" means an installation or modification of an installation which is designed to reduce the consumption of petroleum, natural gas, or electrical power in an apartment building or commercial building, including those which are defined as follows:

"Air Conditioner Replacement" means an air conditioner which replaces an existing air conditioner of the same fuel type and which reduces the amount of fuel consumed due to an increase in efficiency.

"Automatic Energy Control System" means devices and associated equipment which regulate the operation of heating, cooling or ventilating equipment based on time, inside and/or outside temperature or humidity, or utility load management considerations in order to reduce energy demand and/or consumption.

"Caulking" means pliable materials used to reduce the passage of air and moisture by filling small gaps such as around window and door frames, around unsealed glass panes, at fixed joints on a building, underneath baseboards inside a building, at electrical outlets, around pipes and wires entering a building, and around dryer vents and exhaust fans. Caulking includes, but is not limited to, materials commonly known as "sealants," "putty," and "glazing compounds."

"Energy Recovery Systems" means equipment designed primarily to recover building waste energy from sources such as refrigeration or air conditioning for some useful purpose such as heating water.

"Furnace, or Utility Plant and Distribution System Modifications" means installation of the devices or components which are defined as follows:

(a) "Intermittent Pilot Ignition Device (IID)" means a device which, when installed in a gas-fired furnace or boiler, automatically ignites the pilot or burner and replaces a continuously burning pilot light.

(b) "Flue Opening Modification (Vent Damper)" means an automatically operated damper installed in a gas-fired or oil-fired furnace or boiler which—

(1) Is installed downstream from the drafthood or barometric damper; and

(2) Conserves energy by substantially reducing the flow of heated air through the chimney when the furnace is not in operation.

(c)"Replacement Burner (Oil or Gas)."

(1) The term "Replacement Burner (Oil)" means a device which atomizes the fuel oil, mixes it with air, and ignites the fuel-air mixture; is an integral part of an oil-fired furnace or boiler (including the combustion chamber); and which, because of its design, achieves a reduction in the oil used from the amount of oil used by the device which it replaces.

(2) The term "Replacement Burner (Gas)" means a device designed for installation in an existing gas-fired boiler which uses fan and control mechanisms to supply and control combustion air to achieve an optimal fuel to air ratio for maximum gas combustion efficiency and which, because of its design, achieves a reduction in the gas used from the amount of gas used by the device which it replaces.

(d) "Replacement Furnace or Boiler" means a furnace or boiler, including a heat pump, which replaces an existing furnace or boiler of the same fuel type and provides reduced fuel consumption due to higher energy efficiency of the heating system.

(e) "Distribution System Modifications" means modifications to an energy distribution system and associated components that increase the energy efficiency, such as—

(1) Improved flow control devices;

(2) Improved pipe or duct routing to reduce pressure drop and/or heat losses;

(3) Flow balancing mechanisms; or

(4) Point of use water heaters of the same fuel type.

"Insulation" means installation within a building or apartment of a material primarily designed to resist heat transmission in one of the following ways:

(a) "Ceiling Insulation" is installed between the conditioned area of a building and unconditioned space beneath the roof. When the conditioned area of a building extends to the roof, the term "ceiling insulation" applies to such material used beneath the roof. Ceiling insulation also includes such material used on the exterior of the roof.

(b) "Duct Insulation" is installed on heating or cooling supply and return ducts in an unconditioned area of a building such as the space above a dropped ceiling.

(c) "Floor Insulation" is installed between the lowest conditioned level of a building and a lower unconditioned level. For a structure with an open crawl space, the term "floor insulation" also means skirting to enclose the space between the building and the ground.

(d) "Pipe Insulation" is installed on—

(1) Pipes and fittings carrying hot or cold fluids for space conditioning purposes; or

(2) Hot water pipes and fittings with continuous recirculating systems.

(e) "Wall Insulation" is installed within or on exterior walls or walls between conditioned and unconditioned areas of a building.

(f) "Water Heater Insulation" is wrapped around the exterior surface of the water heater casing.

"Lighting Systems Replacement or Modification" means devices and actions which reduce overall lighting energy consumption and/or demand while maintaining satisfactory lighting levels. These devices and actions include:

(a) Reducing light levels to levels cited in existing applicable guidelines in each area of the building. This action may include installation of task lighting and reduction of overhead task lighting;

(b) Controlling lamp operating time to limit lighting operation to periods of area use. Installation of local manual switching, time control devices and space use sensing devices is included;

(c) Replacement of lamps with more efficient sources. These devices and actions may include, but are not limited to, replacement of incandescent and fluorescent lighting with lumen-equivalent low energy lamps, replacement of old fluorescent lighting ballasts with new electronic ballasts, or replacement of any fixture type with one of greater lumens per watt efficiency such that total lighting demand can be reduced; and

(d) Use of "Daylighting" by automatically switching off electric lights in areas where satisfactory lighting levels can be maintained using either exiting windows or skylights in a commercial building or a common area of an apartment building.

"Passive Solar Space Heating and Cooling Systems" means systems that make the most efficient use of, or enhance the use of natural forces—including solar irradiation, winds, night time coolness, and the opportunity to lose heat by irradiation to the night sky—to heat or cool space by the use of conductive, convective, or radiant energy transfer.

"Passive solar systems" include but are not limited to:

(a) "Thermosyphon Air System" which means a solar day time heater attached to the south-facing ($\pm 45°$ of true south) wall of a building which operates either through natural convection or through use of a fan of low power to draw air from near the

floor, exposes the air to a solar-heated surface, and discharges heated air near the ceiling, and which is able to be closed off from the conditioned area at night and on cloudy days.

(b) "Solaria/Sunspace System" which means an enclosed structure of glass, fiberglass, or similar transparent material attached to the south-facing (±45° of true south) wall of a structure which absorbs solar heat and utilizes air circulation to bring this heat into the building and which is able to be closed off from the structure at night and on cloudy days.

Solar Domestic Hot Water Systems" means equipment designed to absorb the sun's energy and to use this energy to heat water for use in a structure other than for space heating, including solar thermosyphon hot water heaters.

"Solar Replacement Swimming Pool Heater" means a device which is used solely for the purpose of using the sun's energy to heat swimming pool water and which replaces a swimming pool heater using electricity, gas, or other fossil fuel.

"Weatherstripping" means narrow strips of material placed over or in movable joints or windows and doors to reduce the passage of air and moisture.

"Window and Door System Modifications" include the measures defined as follows:

(a) "Storm Window" means a window or glazing material placed outside or inside a prime window, creating an insulating air space, to provide greater resistance to heat flow than the prime window alone.

(b) "Thermal Window" means a window unit with improved thermal performance through the use of two or more sheets of glazing materials affixed to a window frame to create one or more insulated air spaces. It may also have an insulating frame and sash.

(c) "Storm or Thermal Door" means—

(1) A second door, installed outside or inside a prime door, creating an insulating air space;

(2) A door with enhanced resistance to heat flow through the glass area, constructed by affixing two or more sheets of glazing material;

(3) A prime exterior door with an R-value of at least 2; or

(4) A door that is designed to minimize air exhange during operation, including revolving doors, and double doors with a foyer.

(d) "Glazing Heat Gain/Loss Retardants" means those fixtures such as insulated shades, drapes, or movable rigid insulation, awnings, external rollup shades, metal or fiberglass solar screening, or heat aborbing films which significantly reduce winter heat loss and heat reflective films which significantly reduce summer heat gain through windows and doors.

§ 458.105 List of covered utilities.

The annual list of covered utilities published by DOE under § 456.104 of this chapter also shall apply to the CACS Program subject to the provisions of that section.

Subpart B—Preparation, Submission, and Approval of a State Plan and Exemption Procedures

§ 458.201 Scope.

This subpart identifies how a State or the TVA may prepare and submit a State Plan; provides the procedures for approval of a State Plan by the Assistant Secretary; and describes exemption procedures.

§ 458.202 Initial submission.

If a State intends to submit a State Plan, the Governor shall submit the following information to DOE by December 5, 1983.

(a) The name of the lead agency, if any, which the Governor designates to prepare and submit the State Plan;

(b) A list of nonregulated covered utilities, if any, operating in the State which will be included in the State Plan; and

(c) The legal authority under which the State is including any nonregulated utilities.

§ 458.203 Notice, comment, and public hearing.

Prior to submission of a State Plan to the Assistant Secretary for approval, the lead agency shall provide for meaningful public notice, an opportunity for public comment, and public hearing on the State Plan.

§ 458.204 Procedures for submission and approval of a State Plan.

(a) *Who shall submit.* Five (5) copies of a proposed State Plan shall be submitted to the Assistant Secretary by either—

(1) The lead agency of a State; or

(2) The TVA with respect to all covered utilities over which the TVA has ratemaking authority and, in the discretion of the TVA, with respect to any covered utility over which the TVA and another State Regulatory Authority have ratemaking authority.

(b) *Time for submission.* A proposed State Plan shall be submitted by June 1, 1984, unless the Assistant Secretary extends the time for submission upon request of the lead agency, for good cause.

(c) *Approval.* If a proposed State Plan meets the criteria of Subparts B and C of this part, the Assistant Secretary shall approve it within 90 days of receipt of the proposed State Plan.

(d) *Disapproval.*

(1) If a proposed State Plan does not meet the criteria of Subparts B and C of this part, the Assistant Secretary shall disapprove it in writing and shall specify in writing the grounds for disapproval within 90 days of receipt of the proposed State Plan.

(2) Within 60 days of the date of disapproval of a proposed State Plan, or such longer period as the Assistant Secretary may determine, for good cause, the lead agency may submit another proposed State Plan.

(e) *Amendments.* The lead agency may submit proposed amendments to an approved State Plan at any time. The Assistant Secretary shall approve or disapprove a proposed amendment within 90 days of receipt of the proposed amendment.

§ 458.205 Building heating suppliers.

If the lead agency submits a plan applicable to building heating suppliers in the State, it shall be a part of the State Plan and shall be submitted in accordance with the procedures of this subpart applicable to the submission of the State Plan.

§ 458.206 Tennessee Valley Authority.

In this part, except as otherwise specified, references to the State Plan apply also to the TVA Plan. References in this part to a State as a geographic area apply also to the service areas of the covered utilities subject to the TVA Plan. References in this part to a State as a governmental entity (other than references to State laws or regulations) or to any State Agency or officer apply also to the TVA.

§ 458.207 Exemptions.

A State Plan must not require a covered utility to offer audits to all the commercial buildings and apartment buildings located within its service area if, within six months of the effective date of this part, the State Regulatory Authority which exercises ratemaking authority over the covered utility determines that the inclusion of the additional commercial buildings or apartment buildings would significantly impair the covered utility's ability—

(a) To fulfill the requirements of the Residential Conservation Service (RCS) program set forth in Part 456 of this chapter; or

(b) To provide utility service to its customers.

Subpart C—Content of a State Plan

§ 458.301 Scope.

This subpart prescribes the minimum requirements for the content of a State Plan. A State may include additional information and provide additional requirements in the State Plan for the CACS Program if such information and requirements are not specifically prohibited by this part or by any applicable law or regulation. All references in this subpart to covered utilities apply to regulated and nonregulated coverage utilities and building heating suppliers subject to a State Plan.

§ 458.302 Coverage of a State Plan.

(a) *Regulated utilities.* All regulated utilities providing utility service in a State which meet the definition of "covered utility" in § 458.102 are subject to the State Plan and must be identified in the State Plan.

(b) *Nonregulated utilities.* The State Plan must identify which nonregulated covered utilities, if any, are covered under the State Plan.

(c) *Building heating suppliers.* The State Plan must identify which building heating suppliers, if any, are covered under the State Plan.

(d) *Exemptions.* (1) The State Plan must include the criteria and procedures for determining the conditions which cause a significant impairment, as determined by the State Regulatory Authority pursuant to § 458.207.

(2) The State Plan must identify which regulated utilities, if any, have been granted an exemption by the State Regulatory Authority pursuant to § 458.207 and the extent and duration of the exemption.

§ 458.303 Procedures for enforcing compliance with a State Plan.

(a) For the purposes of this section the terms "CACS participant" means any person or entity directly governed by the State Plan, including regulated utilities, nonregulated utilities and building heating suppliers.

(b) The State Plan must require each CACS participant to comply with the State Plan.

(c) The State Plan must contain adequate procedures for enforcing compliance with the State Plan by each CACS participant.

§ 458.304 Audit announcement.

(a) *Informing eligible customers.* (1) The State Plan must require each covered utility and each covered building heating supplier to offer a program audit to each eligible customer no later than 12 months after approval of the State Plan and every two years thereafter until January 1, 1990.

(2) The offer of a program audit may be conditioned upon a nondiscriminatory and reasonable factor such as serving one geographic area at a time.

(b) *Content of an audit announcement.* The audit announcement must include the following:

(1) A description of the services offered;

(2) An explanation of how the eligible customer may request a program audit; and

(3) The direct cost of a program audit, if any, to the customer.

(c) *Additional information.* (1) The State Plan must specify whether and to what extent a covered utility or covered building heating supplier may or may not include in the audit announcement either of the following:

(i) information advertising the sale, installation, or financing by any supplier, contractor, or lender (including the covered utility) of any energy conserving product; or

(ii) information regarding any product which is not a program measure or an energy conserving operation and maintenance procedure.

(2) If such information or advertising is permitted in the audit announcement, the State Plan shall contain procedures to ensure that the information or advertising does not discriminate against any person and that any interested party has equal opportunity to advertise.

§ 458.305 Program audit.

(a) *Timing of a program audit.* The State Plan must require that each covered utility and covered building heating supplier provide a program audit to each eligible customer within a reasonable time after a request for an audit.

(b) *Determining eligibility of commercial buildings.* (1) Except as provided in paragraph (b)(2) of this section, a State Plan must include the following conversion factors to be used by each covered utility and each covered building heating supplier in determining the eligibility of a commercial building for a program audit on the basis of the on-site consumption of less than 100 million Btu of a fuel other than electricity or natural gas:

(i) Coal: 24.5 million Btu/short ton;
(ii) Distillate Fuel Oil: 138,690 Btu/gallon;
(iii) LPG: 95,475 Btu/gallon;
(iv) Purchased Steam: 1000 Btu/pound; and
(v) Residual Fuel Oil: 149,690 Btu/gallon.

(2) A State Plan may include conversion factors for fuels other than those listed in paragraph (b)(1) of this section or other conversion factors for the fuels listed in paragraph (b)(1) of this section, if it includes a statement of the basis for the selected conversion factors.

(3) The State Plan may contain provisions for coordination among utilities for determining the eligibility of customers under the CACS program.

(c) *Condition for receiving a program audit of an apartment building.* The State Plan must include provisions requiring an eligible customer to certify, as a condition for receiving a program audit of an apartment building, that the customer agrees to supply to the tenants in a timely manner information developed by the audit relating to operations and maintenance procedures and program measures which are applicable to an individual apartment.

(d) *Content of a program audit.* (1) The State Plan must describe the program audit to be offered by covered utilities and covered building heating suppliers including a description of procedures which will insure the technical validity of the audit, and must require at a minimum that covered utilities and covered building heating suppliers provide (either directly or through one or more auditors under contract), upon request, to each eligible customer an on-site program audit which audits for all program measures and energy conserving operation and maintenance procedures, except as provided in paragraphs (d)(2), (d)(3) and (d)(5) of this section.

(2) The program audit need not address a program measure if the building to be audited does not meet applicability criteria for the measure listed in Appendix I to this part or the program measure has been excluded pursuant to § 458.307(b) of this part.

(3) A State Plan may include applicability criteria, additional to or different from those listed in Appendix I to this part, for determining whether or not an auditor need address a program measure. The State Plan must include a statement of the basis and purpose for any additional or different applicability criteria.

(4) The State Plan may add additional program measures and energy conserving operation and maintenance procedures which are appropriate to the State, without DOE approval.

(5) The State Plan must limit auditors to performing a program audit only for those measures approved by the State.

(e) *Results of audit.* (1) The State Plan must require that a covered utility or building heating supplier provide the

following information in writing to each eligible customer who receives a program audit:

(i) A report of the type, quantity, and rate of energy consumption of the audited commercial building or apartment building;

(ii) Identification and explanation of the energy conserving operations and maintenance procedures, defined in § 458.103 or included in the audit pursuant to paragraph (d)(4) of this section, which would be appropriate for the audited building, together with an indication, to the extent feasible, of the energy savings to result from the application of these practices;

(iii) A report on the need, if any, for the purchase and installation of the program measures, identified pursuant to § 458.307, or included in the audit pursuant to paragraph (d)(4) of this section, together with information on—

(A) The approximate cost of purchasing and (where appropriate) installing the program measures, using typical practice estimates based on local construction costs; and

(B) The approximate first year savings or some form of site-specific financial analysis, as determined by the State Plan, to the extent feasible, for the recommended program measures except "Caulking and Weatherstripping"; and

(iv) An explanation of how to find more specific information on the purchase, financing, and installation of program measures and information on other commercially available audit services.

(2) The State Plan shall require any utility which does not provide results of audits in person to provide customers with the opportunity to discuss the results of the audit with a qualified person.

(f) *Prohibitions.* (1) The State Plan must prohibit covered utilities and covered building heating suppliers from discriminating unfairly among eligible customers in providing program audits.

(2)(i) The State Plan must specify whether an auditor may or may not recommend a supplier, contractor, or lender who supplies, installs, or finances the sale or installation of any energy conserving product.

(ii) If an auditor is permitted to make such recommendations, the State Plan must contain procedures to ensure that this does not unfairly discriminate among suppliers, contractors, or lenders.

(3) The State Plan must prohibit any unfair discrimination among program measures.

§ 458.306 Duplicate audits.

(a) The State Plan must contain provisions to ensure that utilities are not required to conduct a program audit of any commercial or apartment building which was audited previously pursuant to this part or which received an energy audit under Part 455 of this Chapter (Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions.)

(b) The State Plan may provide that a utility need not conduct a program audit of any commercial or apartment building for which the utility has performed a previous onsite audit if:

(1) The audit estimated the cost effectiveness of, or energy savings that could result from, changes in the lighting, space heating and cooling, and hot water systems in the building; and

(2) A report of the audit is made available to subsequent eligible customers.

(c) The State Plan may provide that if a previous audit meets the requirements of paragraph (b)(2) of this section, and meets some, but not all, the requirements of paragraph (b)(1) of this section, a utility may conduct a subsequent audit which evaluates only those program measures and operation and maintenance procedures applicable to those systems which were not evaluated in the previous audit.

(d) If the State Plan contains the provisions described in paragraph (b) or (c) of this section, the State Plan must:

(1) Include a list of the energy conservation measures and operation and maintenance procedures covered by the audit;

(2) If the audit was conducted under a State law, regulation, order, or plan, identify the State proceeding under which the audit was conducted, together with an explanation of any public notice and comment which preceded the State action.

§ 458.307 Program measures.

(a) The State Plan must contain a list of the program measures. The list must consist of those measures identified in § 458.104, as may be modified in accordance with paragraph (b) of this section.

(b)(1) The State Plan may exclude from the State CACS program, any program measure identified in § 458.104 when, by substituting State derived data, the program measure has a payback period (P) of more than seven years, as determined by dividing the installed first cost (F) less any Federal and State (at the discretion of the lead agency) tax credits (if applicable) (T), by the first year energy savings in dollars (S).

$$P = \frac{F-T}{S} ; \quad P > 7 \text{ years}$$

(2) The State Plan must contain data to substantiate any exclusion pursuant to paragraph (b)(1) of this section.

§ 458.308 Qualifications for program auditors.

The State Plan must require that each person who performs a program audit pursuant to the State Plan be qualified to perform the necessary measurements, inspections and analyses.

§ 458.309 Subsequent customers.

(a) The State Plan must require that a covered utility or covered building heating supplier retain in its files, for not less than 10 years from the date of the program audit, a report of each program audit performed pursuant to the CACS program.

(Approved by the Office of Management and Budget under OMB Control Number 1904–0045.)

(b) The State Plan must require that a covered utility or covered building heating supplier make a report of the program audit for a building available to any customer who would be an eligible customer except for the fact that a covered utility or covered building heating supplier had previously audited the customer's building under the CACS Program, unless the State Plan includes the procedures set forth in paragraph (c) of this section.

(c) The State Plan may permit a covered utility or covered building heating supplier to perform a new audit of a building which was previously audited under the CACS program, instead of providing the report described in paragraph (b) of this section, if the State Regulatory Authority and the customer agree.

(d) The State Plan must require that a covered utility or covered building heating supplier inform each subsequent customer of the availability of a report of a previous audit. The State Plan must specify the charge, if any, the covered utility or covered building heating supplier may charge the subsequent customer for supplying the report.

§ 458.310 Accounting and payment of costs.

(a) *Accounting.* The State Plan must require that all amounts expended or received by a covered utility which are attributable to the CACS Program, including any penalties paid under subpart E of this part, (Federal Standby Authority) shall be accounted for on the

books and records of the utility separately from amounts attributable to all other activities of the covered utility.

(b) *Payment of costs.* The State Plan must require that covered utilities treat costs as described below and must describe how the State Regulatory Authority or the nonregulated utility will specify cost recovery under paragraph (b)(2) of this section.

(1) All amounts expended by a covered utility in providing the audit announcement required under § 458.304 and in program information for the CACS Program shall be treated as a current expense of providing utility service and be charged to all ratepayers of the covered utility in the same manner as other current operating expenses of providing such utility service;

(2) The State Regulatory Authority (in the case of a regulated utility) or the nonregulated utility shall specify by June 1, 1984, the manner in which all other program costs will be recovered, except that the amount that may be charged directly to an owner of an apartment building for whom an energy audit is performed pursuant to § 458.305 must not exceed a total of $15 per apartment in the building or the actual cost of the energy audit, whichever is less.

(3) In determining the amount to be charged directly to customers as provided in paragraph (b)(2) of this section, the State Regulatory Authority (in the case of a regulated utility) or the nonregulated utility shall take into consideration, to the extent practicable, the eligible customers' ability to pay and the likely levels of participation in the program which will result from such charge.

§ 458.311 Customer billing.

The State Plan must require that every charge by a covered utility or a covered building heating supplier to an eligible customer for any portion of the costs of carrying out a program audit pursuant to the State Plan, that is charged to the customer for whom the program audit is performed and that is included on a bill for utility service submitted by the utility or building heating supplier to the customer, be stated separately on such bill from the cost of providing utility or fuel service.

§ 458.312 Coordination.

The State Plan must provide procedures to ensure effective coordination between the CACS Program and all local, State, and Federal energy conservation programs.

§ 458.313 Building heating supplier program.

(a) The procedures for a building heating supplier program must be identical to the procedures for a covered utility program contained in this subpart.

(b) Any State Plan which includes a building heating supplier program must contain procedures by which the Governor may waive, for any building heating supplier in the State, any requirement of the State Plan upon demonstration to the Governor's satisfaction that the resources of the building heating supplier do not enable it to comply with the requirement.

§ 458.314 Reports and recordkeeping.

(a) The State Plan must contain provisions to assure that a report is submitted to the Assistant Secretary no later than the July 1, following State Plan approval and annually thereafter through July 1, 1990, covering the twelve-month period ending the preceding April 1.

(b)(1) The report must include—

(i) The number and nature of program audits requested from, and provided by, each utility for commercial buildings and apartment buildings separately;

(ii) Estimated State costs, each utility's costs, and (if appropriate) building heating supplier costs of implementing the CACS Program; and

(iii) The number of eligible customers, if known.

(2) The report must also contain copies of the latest audit announcements, if not previously provided.

(Approved by the Office of Management and Budget under OMB control number 1904–0045.)

(c) The State Plan must contain procedures to assure that a copy of the report of the results of each program audit is retained on file for 10 years from the date of the audit.

(Approved by the Office of Management and Budget under OMB control number 1904–0045.)

(d) Any other provisions of this section notwithstanding, the Assistant Secretary may, if essential to DOE's implementation of program responsibilities—

(1) Require additional information; and

(2) Waive any reporting and recordkeeping requirements, except the recordkeeping requirement in paragraph (c) of this section.

Subpart D—Nonregulated Utility Plans

§ 458.401 Scope.

This subpart contains the requirements for—

(a) The preparation and submission of a Nonregulated Utility Plan by a covered nonregulated utility which is not included in a State Plan;

(b) The procedures for approval of a Nonregulated Utility Plan by the Assistant Secretary;

(c) Exemption procedures for a nonregulated utility; and

(d) The minimum requirements for the content of a Nonregulated Utility Plan.

§ 458.402 Coverage.

This subpart applies to all covered nonregulated utilities which are not included in a State Plan.

§ 458.403 Notice, comment, and public hearing.

Prior to submission of a Nonregulated Utility Plan to the Assistant Secretary for approval, a nonregulated utility shall provide for meaningful public notice, an opportunity for public comment, and public hearing on the Nonregulated Utility Plan.

§ 458.404 Procedures for submission and approval of a Nonregulated Utility Plan.

(a) *Submission.* Each nonregulated utility subject to this subpart shall submit to the Assistant Secretary five (5) copies of a proposed Nonregulated Utility Plan by June 1, 1984, unless the Assistant Secretary extends the time for submission upon request of the nonregulated utility, for good cause.

(b) *Approval.* If a proposed Nonregulated Utility Plan meets the criteria of this subpart, the Assistant Secretary shall approve it within 90 days of receipt of the proposed Nonregulated Utility Plan.

(c) *Disapproval.*

(1) If a Nonregulated Utility Plan does not meet the criteria of this subpart, the Assistant Secretary shall disapprove the proposed Nonregulated Utility Plan and specify in writing the grounds for disapproval within 90 days of receipt of the proposed Nonregulated Utility Plan.

(2) The nonregulated utility shall submit another proposed Nonregulated Utility Plan within 60 days of the date of disapproval of a proposed Nonregulated Utility Plan, or such longer period as the Assistant Secretary may determine for good cause.

(d) *Amendments.* The nonregulated utility may submit proposed amendments to an approved Nonregulated Utility Plan at any time. The Assistant Secretary shall approve or disapprove a proposed amendment

within 90 days of receipt of the proposed amendment.

§ 458.405 Content of a Nonregulated Utility Plan.

(a) *General requirements.* (1) Except as otherwise provided in this section, each Nonregulated Utility Plan must meet all the requirements for State Plans in Subpart C.

(2) For purposes of this section, all references in Subpart C to—

(i) Covered utilities apply to nonregulated utilities subject to this subpart;

(ii) A State Plan apply to a Nonregulated Utility Plan;

(iii) A State (as a governmental entity, other than references to State laws or regulations) or any State Agency or officer apply to the nonregulated utility submitting the Plan;

(iv) A State (as a geographic area) apply to the nonregulated utility's service area.

(3) The requirements concerning covered building heating suppliers in Subpart C do not apply.

(b) *Reporting.* Each nonregulated utility shall submit annually a written report to the Assistant Secretary beginning not later than July 1, following approval of the Nonregulated Utility Plan, through July 1, 1990, regarding the year's implementation of the nonregulated utility's CACS Program through the preceding April 1. The report must contain the information required under § 458.314(b).

§ 458.406 Exemption procedures.

The exemption procedures of § 458.207 and § 458.302(d) apply to covered nonregulated utilities. For purposes of this section, all references in § 458.207 and § 458.302(d)—

(a) To a State Plan apply to a Nonregulated Utility Plan; and

(b) To a State Regulatory Authority apply to the Governor.

Subpart E—Federal Standby Authority and Enforcement Provisions

§ 458.501 Scope.

This subpart specifies the procedures to be followed to ensure that eligible customers receive the services of the CACS Program when a State or nonregulated utility does not submit an acceptable State Plan or Nonregulated Utility Plan within the necessary time or fails to implement adequately an approved plan.

§ 458.502 Conditions under which standby authority shall be invoked.

The Assistant Secretary shall invoke standby authority if—

(a) A State fails to submit a State Plan meeting the requirements of Subparts B and C of this part within 270 days after the effective date of this part or within such additional period as the Assistant Secretary allows pursuant to § 458.204 (b) or (d);

(b) A nonregulated utility fails to submit a Nonregulated Utility Plan meeting the requirements of Subpart D of this Part within 270 days after the effective date of this part or within such additional period as the Assistant Secretary allows pursuant to § 458.404 (a) or (c);

(c) The Assistant Secretary determines after notice and opportunity for a public hearing that an approved State Plan is not being implemented adequately in a State; or

(d) The Assistant Secretary determines after notice and opportunity for a public hearing that an approved Nonregulated Utility Plan is not being adequately implemented by a covered nonregulated utility.

§ 458.503 Use of standby authority in lieu of state plans.

When the Assistant Secretary determines that a State has failed either to submit, or to implement adequately, a State Plan—

(a) The Assistant Secretary shall promulgate a CACS Plan which meets the requirements of Subparts B and C of this part and which is applicable to each covered regulated utility in the State;

(b) The Assistant Secretary shall, by order, require each covered regulated utility in the State to carry out a CACS Program, which meets the requirements of the plan promulgated pursuant to paragraph (a) of this section, within 90 days of the issuance of the order; and

(c) If the State has an approved plan which includes nonregulated utilities, the Assistant Secretary shall take the actions described in §§ 458.504 (a) and (b) with respect to such nonregulated utilities.

§ 458.504 Standby authority for nonregulated utilities.

When a nonregulated utility has failed either to submit, or to implement adequately, a Nonregulated Utility Plan, as determined by the Assistant Secretary in accordance with §§ 458.502 (b) or (d)—

(a) The Assistant Secretary shall, by order, require the covered nonregulated utility to promulgate a Nonregulated Utility Plan which meets the requirements of Subpart D of this part; and

(b) The Assistant Secretary shall, by order, require the nonregulated utility to carry our a CACS Program, which meets the requirements of the plan promulgated pursuant to paragraph (a) of this section, within 90 days of the issuance of the order.

§ 458.505 Failure to comply with orders.

If the Secretary determines that any covered utility, which has been ordered pursuant to §§ 458.503(b) or 458.504 to carry out a CACS program, or to implement a Nonregulated Utility Plan, has failed to comply with the order, the Secretary may file a petition in the appropriate United States district court to enjoin the utility from violating the order.

§ 458.506 Enforcement provisions; assessment of civil penalties.

(a) Any covered utility which violates any requirement of a plan promulgated under §§ 458.503(a) or 458.504(a), or which fails to comply with an order under §§ 458.503(b), or 458.504, within 90 days from the issuance of such order, shall be subject to a civil penalty of not more than $25,000 for each violation.

(b) Each day that the violation continues shall be considered a separate violation.

(c) Any civil penalty under this section shall be assessed by an order of the Assistant Secretary.

§ 458.507 Election of review procedures.

Before issuing an order assessing a civil penalty against any person under this section, the Assistant Secretary shall provide notice of the proposed penalty to the person. The notice of proposed penalty must inform the person of the opportunity to make an election, in writing, within 30 days after receipt of the notice. The election involves deciding whether to have the procedures of § 458.509 apply, in lieu of the procedures in § 458.508 with respect to the assessment of a civil penalty.

§ 458.508 Hearing before administrative law judge and review in court of appeals.

(a) Unless the election described in § 458.507 is made within 30 calendar days after receipt of the notice given under § 458.507, the Assistant Secretary shall assess the penalty, by order, after a determination of violation has been made on the record. The determination of violation shall be made after an opportunity has been afforded for an agency hearing pursuant to Section 554 of Title 5, United States Code, before an administrative law judge appointed under Section 3105 of Title 5. The assessment order must include the administrative law judge's findings and the basis for such assessment.

(b) Any person against whom a civil penalty is assessed under this paragraph

may, within 60 calendar days after the date of the order of the Assistant Secretary assessing the penalty, institute an action, in the United States court of appeals for the appropriate judicial circuit, for judicial review of such order in accordance with Chapter 7 of Title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside, in whole or in part, the order of the Assistant Secretary, or the court may remand the proceeding to the Assistant Secretary for such further action as the court may direct.

§ 458.509 Assessment by assistant secretary and de novo review in district court.

(a) In any case where the procedures of this section have been elected, the Assistant Secretary shall assess such penalty by order. The order shall be made not later than 60 calendar days after the alleged violator's date of receipt of notice of the proposed penalty under § 458.507.

(b) If the civil penalty assessed by order under paragraph (a) of this section has not been paid within 60 calendar days after the assessment order is made, the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved and shall have jurisdiction to enter a judgment enforcing, modifying and enforcing as so modified, or setting aside in whole or in part, such assessment.

(c) Any election to have paragraph (a) of this section apply may not be revoked, except with the consent of the Assistant Secretary.

§ 458.510 Recovery of penalty.

If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under § 458.508 of this section, or after the appropriate district court has entered final judgment in favor of the Assistant Secretary under § 458.509 of this section, the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of the respective final order or judgment imposing the civil penalty shall not be subject to review.

Appendix I: Program Measure Applicability Criteria

I. A program measure is applicable in a building if:

(a) The measure is not already present in good condition and the potential exists to save energy and/or reduce energy demand in the building by installing it. A replacement measure is applicable only if a less efficient device performing the same function, which is more than 5 years old, is already present in the building.

(b) Installation of the measure is not a violation of Federal, State or local law or regulations.

II. Energy recovery systems (when waste heat from an air conditioner is used to assist in heating water) are applicable if:

- The building uses at least 50 gallons of hot water per day;
- The building has a source of waste heat of 3400–5800 Btu/hour (e.g. the equivalent of waste heat from a two-ton air conditioner; and
- The building is located in an area with more than 2000 cooling degree days.

III. Furnace flue opening modifications are applicable if the furnace combustion air is taken from a conditioned area.

IV. Ceiling insulation is applicable if the differential between the existing insulation and the insulation level recommended by the State Plan exceeds the differential established by the State Plan.

V. Lighting system modification to use daylighting is applicable if any electric lighting fixtures are located within 15 feet of an existing window or skylight in a commercial building or in common areas of an apartment building.

VI. Passive Solar heating thermosyphon air systems are applicable if the building has a south-facing (±45° of true south) wall free of a major obstruction to sunshine during the heating season.

VII. Solar domestic hot water systems are applicable if the building consumes more than 80 gallons of hot water per day and has access to a site clear of major obstructions to solar radiation which allows solar collectors to be oriented ±45° of true south.

VIII. Solaria/sunspace systems are applicable to an apartment building if it has existing balconies, patios or available adjacent ground area on the south-facing (±45° of true south) wall. Solaria/sunspace systems are not applicable to commercial buildings.

IX. Solar swimming pool heater replacements are applicable only for apartment buildings and only if the pool uses electricity or other nonrenewable energy for heating.

X. Window heat gain retardants are applicable to buildings which have glass on the south, east or west sides if they are exposed to sunlight.

XI. Pipe and duct insulation is applicable to hot water pipes and to heating and cooling ducts which extend through unconditioned spaces.

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Reader Aids

Federal Register

Vol. 48, No. 208

Wednesday, October 26, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093-45218.....3
45219-45370.....4
45371-45522.....5
45523-45752.....6
45753-46004.....7
46005-46258.....11
46259-46486.....12
46487-46730.....13
46731-46962.....14
46963-48214.....17
48215-48438.....18
48439-48642.....19
48643-48792.....20
48793-48996.....21
48997-49204.....24
49205-49498.....25
49499-49650.....26

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266, 46795
Ch. IV.....47976
305.....45266

3 CFR

Executive Orders:
July 15, 1875 (Revoked in part by PLO 6479).....45559
11459 (Superseded by EO 12445).....48441
12002 (See EO 12444).....48215
12214 (See EO 12444).....48215
12444.....48215
12445.....48441
12446.....48443

Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753
5115.....46259
5116.....46963
5117.....46965
5118.....48217
5119.....48439
5120.....49205
5121.....49207

5 CFR

Ch. XIV.....45373
213.....46261
300.....49472
335.....49472
351.....49462
430.....49472
431.....49472
451.....49472
531.....49472
532.....49472
540.....49472
551.....49494
771.....49472
752.....45525
1255.....45373

Proposed Rules:
Ch. I.....47990
Ch. III.....47982
293.....49492
550.....49023

7 CFR

Ch. IV.....48449
27.....49209
2.....46261, 48449
28.....48997
51.....46487
247.....46731
301.....46262, 48449
319.....46732
752.....45526
906.....45374
908.....45526, 46488, 48643
910.....45374, 45755, 46961, 48793
919.....45374
929.....45374
981.....45374
989.....49214
991.....45374, 48219
1065.....48793
1093.....48996
1205.....48451
1435.....45374
1901.....45532
1945.....48999
1951.....45957
1955.....46967
1962.....46967
1965.....46967

Proposed Rules:
Subtitle A.....47236
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
Ch. VI.....47236
Ch. VII.....47236
Ch. XI.....47236
Ch. XIV.....47236
Ch. XVII.....47236
Ch. XVIII.....47236
226.....45779
402.....46062
411.....48675
421.....48250
441.....45782
781.....46065
904.....45786
910.....45565
966.....46544
981.....49254
983.....49025
1065.....45117
1093.....49512
1125.....49255
1131.....46343
1133.....49255
1139.....46797
1207.....49026
1446.....48471
1700.....48830
1701.....48472

8 CFR

100.....48794
103.....45093, 49499
214.....45093, 48452, 48999
238.....45093, 48796
248.....45093

Proposed Rules:
Ch. 1 47590
103 48242

9 CFR
92 49499
166 48643
Proposed Rules:
Ch. I 47236
Ch. II 47236
Ch. III 47236
92 ..... 46355, 49000
101 48679
113 48679
317 45118
318 48242
319 45118
325 46996
350 45755
362 45755
381 ..... 45118, 46996, 48224

10 CFR
2 48489
50 48489
55 45223
71 45381
95 48644
458 49622
761 45746
710 46499
Proposed Rules:
Ch. I 48156
Ch. II 47324
Ch. III 47324
Ch. X 47324
50 45787
60 48473
140 48474

11 CFR
114 48650

12 CFR
5 48452
7 ..... 46502, 48452
29 45532
34 49216
204 ..... 46005, 48262
207 ..... 45533, 48219, 48796
217 ..... 45756, 46262
220 ..... 45533, 48219
221 ..... 45533, 48219, 48797
224 45533
226 48219
561 45382
563 ..... 45382, 48455
760 46006
Proposed Rules:
Ch. I 47716
Ch. II 46996
Ch. V 48110
Ch. VI 46074
Ch. VII 48150
5 49291
29 47001
215 49293
224 49295
304 49517
349 49517
701 48830

13 CFR
101 45224
123 45225
133 46008
Proposed Rules:
Ch. I 48020
Ch. III 47254

14 CFR
21 ..... 48798, 49216
39 ..... 45093, 45535, 46008, 46009, 46503, 46969, 48220, 48222, 48801–48804
71 ..... 45094, 45095, 45536, 45537, 46010, 46503, 48805, 49500, 49501
95 46504
97 ..... 45096, 49001
205 46264
248 46265
294 46265
320 45236
380 46265
389 45758
Proposed Rules:
Ch. I 46358, 47582, 48681
Ch. II 47003, 48038
Ch. V 47972
21 ..... 45214, 45565
25 ..... 46218, 46250
29 46250
39 ..... 46070, 49296, 49297
43 48364
61 45214
65 45214
71 ..... 45118, 45566, 48244, 48831
91 48364
107 45214
109 45214
121 ..... 45214, 46218, 46250, 48364
127 48364
135 ..... 45214, 48364
145 45214
320 48832

15 CFR
Proposed Rules:
Subtitle A 47254
Ch. I 47254
Ch. III 47254
Ch. IV 47254
Ch. VIII 47254
Ch. IX 47254
Ch. XXIII 47254

16 CFR
13 ..... 48651, 49217, 49225
453 45537
Proposed Rules:
Ch. I 48120
Ch. II 48064
13 49299
300 48682
301 48682
303 48683
1212 45405
1500 45567
1513 45567

17 CFR
1 ..... 49003, 49501
145 ..... 46010, 48223
146 ..... 46010, 48223
147 ..... 46010, 48223
229 46012
230 ..... 46012, 46736
231 ..... 46012, 46969
239 ..... 45386, 46012
240 ..... 46012, 46736
241 46012
270 46012
274 46012
Proposed Rules:
Ch. I 48056
Ch. II 48190
33 46797
230 46801
240 ..... 45119, 48245
249 48245

18 CFR
2 46012
4 49010
6 49010
35 ..... 46012, 46970
157 46021
270 48223
271 ..... 45097, 46266–46268, 48223, 49010, 49503, 49505
274 ..... 45097, 49505
282 45758
301 46970
375 49010
385 45388
Proposed Rules:
Ch. I 48104
2 49028
4 ..... 49028, 49520
11 49520
32 49028
101 46361
104 46361
141 46361
154 ..... 46361, 47003, 49028
157 47003
159 46361
201 46361
204 46361
260 46361
270 49028
271 ..... 46071, 49032, 49033
273 49028
274 49033
275 47003
282 45787
292 49028
300 49301
410 45568

19 CFR
4 ..... 46510, 46978, 48653
7 46740
10 ..... 46510, 46740
18 48655
22 46740
101 45538
103 45538
113 46740
134 48657
145 46740
148 46978
158 46740
191 46740
210 45544
Proposed Rules:
Ch. I 46805, 47724
4 ..... 46808, 46810
18 46812
101 45409
123 46812
144 46812

20 CFR
404 46142
626 48744
632 48744
633 48744
634 48744
635 49198
636 48744
684 48744
Proposed Rules:
Ch. I 47538
Ch. II 48012
Ch. III 47340
Ch. IV 47538
Ch. V 47538
Ch. VI 47538
10 48249
416 48684
422 ..... 46072, 47008

21 CFR
81 ..... 45237, 45760, 46022, 49232
109 45544
131 45545
133 49012
175 48228
178 ..... 46773, 46774
179 46022
182 48805
184 ..... 48456, 48457, 48805
186 ..... 48456, 48457
193 45547
211 46979
430 46270
436 46270
442 46270
520 ..... 46979, 48229
522 ..... 46023, 48229, 48659, 49233
540 45760
558 ..... 45102, 46023, 46024, 46514, 46515, 48659
700 46979
800 46979
1308 46516
Proposed Rules:
Ch. I 47340
122 48836
155 48836
182 45121
184 45121
211 47008
341 48576
351 46694
355 49304
610 ..... 46815, 47009
620 47009
630 47009
640 47009
650 47009
660 47009
680 47009
700 47008
800 47008
1040 48837

22 CFR
41 48660
201 49233
Proposed Rules:
Ch. I 47578
Ch. II 47970

23 CFR

655.....46775

Proposed Rules:

Ch. I.....47582
Ch. II.....47582
658.....46545

24 CFR

26.....46980
201.....46980
215.....46980
221.....46980
236.....46980
570.....45760, 46778, 46980
841.....46980
882.....46980
886.....45547, 46980
890.....46980

Proposed Rules:

Subtitle A.....47418
24.....46072, 46817
3280.....49520

25 CFR

71.....45103
114.....48806

Proposed Rules:

Ch. I.....47472
140.....45789
216.....49174

26 CFR

1.....45761, 46272, 46296
4.....46272
31.....46296
35a.....45362

Proposed Rules:

Ch. I.....47730
1.....47010, 48255, 49304
5c.....49304
5f.....48255
20.....48837
25.....48837
31.....47010
52.....48837

27 CFR

4.....45549
5.....45549, 46518
7.....45549
9.....45238, 45239, 46518–46524, 48810–48820
170.....46526
240.....46526

Proposed Rules:

Ch. I.....47708
9.....46387, 48685

28 CFR

2.....48230
50.....49509
500.....48968
527.....48968
552.....48968
571.....48970
572.....48972

Proposed Rules:

Ch. I.....47530

29 CFR

1601.....46298
1952.....48822

Proposed Rules:

Subtitle A.....47538
Ch. II.....47538
Ch. IV.....47538
Ch. V.....47538
Ch. XII.....47946
Ch. XIV.....47928
Ch. XVII.....47538
Ch. XXV.....47538
Ch. XXVI.....48004
1908.....45411
1910.....45956, 49521
1926.....45872

30 CFR

223.....48661
251.....46025
913.....46528
917.....46299
935.....46027, 46301, 46530
938.....45389
946.....46028

Proposed Rules:

Ch. I.....47538
Ch. II.....47472
Ch. VII.....47472
55.....45336
56.....45336
57.....45336
58.....45336
700.....49174
701.....49174
750.....49174
755.....49174
917.....48255
935.....45420
938.....46817

31 CFR

1.....48460
51.....46982
240.....49014

Proposed Rules:

Subtitle A.....47702
Ch. I.....47702
Ch. II.....47702
390.....48688

32 CFR

235.....48824
251.....45242
706.....49233

Proposed Rules:

Ch. I.....47302
Ch. V.....47302
Ch. VI.....47302
Ch. VII.....47302
Ch. XVI.....48018
199.....45791

33 CFR

100.....45244, 46531
117.....45245, 46532, 48662
130.....46178
131.....46178
132.....46178
151.....45704
155.....45704
157.....45718, 46985
163.....48230
165.....46533, 46534, 46779, 48663, 48664
166.....49018

Proposed Rules:

Ch. I.....47582
Ch. II.....47302
Ch. IV.....47582
117.....48820
146.....48475
150.....48475
162.....45798
164.....48810

34 CFR

668.....45670
690.....45670

Proposed Rules:

Subtitle A.....47308
Ch. I.....47308
Ch. II.....47308
Ch. III.....47308
Ch. IV.....47308
Ch. V.....47308
Ch. VI.....47308
Ch. VII.....47308
350.....45568
351.....45568
352.....45568
353.....45568
354.....45568
355.....45568
357.....45568

35 CFR

Proposed Rules:

Ch. I.....47998

36 CFR

7.....46779, 46780
60.....46306

Proposed Rules:

Ch. I.....47472
Ch. II.....47236
Ch. III.....47302
Ch. VIII.....47858
Ch. IX.....48002
7.....48257
216.....45421
1190.....47860

37 CFR

Proposed Rules:

Ch. I.....47254
1.....45424
2.....45424

38 CFR

1.....46985

Proposed Rules:

Ch. I.....48024
21.....45123, 45268, 45572, 47011

39 CFR

111.....45761, 46031
447.....48230, 48231
601.....49019

Proposed Rules:

111.....45269, 48850
3001.....46545

40 CFR

51.....48978
52.....45245, 45246, 46046, 46047, 46309, 46986, 48664, 48665, 48978, 49020
60.....46535, 46536, 48328, 48368, 48669, 49458
61.....46535
81.....46537, 46782, 49235
86.....48598
87.....46481
123.....48826
180.....46310, 49509
192.....45926
256.....46787
271.....48826
420.....46942
433.....45105
467.....49126
469.....45249
717.....45765

Proposed Rules:

Ch. I.....47864
51.....45269, 46152
52.....46081, 46391–46393, 46548, 46823, 48981, 48982, 49305, 49521, 49522
60.....45701, 46224, 46472, 48932, 48950
81.....46082, 46085, 46393, 46549–46553
141.....45502
162.....46397
180.....45573, 46395, 46396, 48476, 48477, 49524
228.....45798
261.....45210
271.....46824, 48690, 49525
403.....46944
415.....49408
420.....46944
464.....45573
465.....45573
1502.....46554, 47862
1508.....46554

41 CFR

Ch 1.....45392, 45557, 48462
Ch. 101.....45105
1–4.....48827
9–1.....46987
9–7.....46987
9–4.....45766
9–51.....45766
101–11.....46310, 49236
101–25.....48231
101–35.....49236
101–36.....49236, 49240
101–37.....49240
101–37.....48827
101–41.....46788
105–61.....45392

Proposed Rules:

Ch. 1.....47948
Ch. 4.....47236
Ch. 5.....49305
Ch. 9.....47324
Ch. 12.....47582
Ch. 13.....47254
Ch. 14.....47472
Ch. 25.....47980
Ch. 29.....47538
Ch. 60.....47538
Ch. 101.....47948
Ch. 105.....47948
101–41.....46554

42 CFR

51c.....45558
52b.....45558
55a.....45558
56.....45558
57.....45112
110.....45250

VOL 48 ISS 208 OCT 26 1983 UMI

122 45558
405 ..... 45766, 46467
409 46467
489 46467

Proposed Rules:
Ch. I 47340
Ch. III 47340
Ch. IV 47340

43 CFR

Subtitle A 45664
3160 48916

Public Land Orders:
44 (Revoked by PLO 6478) 45401
98 (Revoked by PLO 6478) 45401
399 (Revoked in part by PLO 6477) 45395
698 (Revoked by PLO 6473) 45393
780 (Revoked by PLO 6478) 45401
3645 (Revoked by PLO 6472) 45393
5170 (Revoked in part by PLO 6477) 45395
5179 (Revoked in part by PLO 6477) 45395
5180 (Revoked in part by PLO 6477) 45395
5184 (Revoked in part by PLO 6477) 45395
5515 (Corrected by PLO 6483) 49022
6467 (Corrected) 49242
6472 45393
6473 45393
6474 45394
6475 45394
6476 45395
6477 45395
6478 45401
6479 45559
6480 46049
6481 46049
6482 46050
6483 49022
6484 49022

Proposed Rules:
Subtitle A 47472
Ch. I 47472
Ch. II 47472
2620 48400
2880 48478

44 CFR

61 46789
62 46789
64 ..... 46988, 46989, 49242
65 ..... 46990, 48233
67 ..... 46050, 46312, 46992

Proposed Rules:
Ch. I 46934
65 48258
67 ..... 45425, 46085, 47014–47020, 48259, 49306–49308

45 CFR

13 45251

Proposed Rules:
Subtitle A 47340
Ch. II 47340
Ch. III 47340
Ch. VI 47980
Ch. XI 47978
Ch. XII 47856
Ch. XIII 47340

46 CFR

160 45113
162 45727
380 45559
530 48469
542 46175
543 46175
544 46175

Proposed Rules:
Ch. I 47582
Ch. IV 45269, 48114
7 45574
10 46556
24 45425
25 45425
26 45425
30 45425
31 45425
32 45425
35 45425
70 45425
71 45425
75 45425
77 45425
78 45425
90 45425
91 45425
94 45425
96 45425
97 45425
107 45425
108 45425
109 45425
157 46556
163 45425
188 45425
189 45425
192 45425
195 45425
196 45425
298 46825
508 45800
524 45270
531 ..... 45270, 49308
536 45270
538 45272

47 CFR

0 45652
1 ..... 45652, 48234
2 45560
25 49242
61 46791
63 46791
69 48234
73 ..... 45401–45403, 46994, 48234
81 ..... 45114, 45560
83 ..... 45114, 45560
87 45114
97 ..... 45652, 49244

Proposed Rules:
Ch. I 47020, 48080
1 ..... 49033, 49069, 49309
21 49309
61 49033
67 ..... 46556, 47021
73 ..... 45428–45438, 47023–47031, 48264, 49069, 49438
83 45439
95 49314

48 CFR

Ch. I 46541

Proposed Rules:
Ch. 9 ..... 47324, 49315

49 CFR

192 48669
195 48669
350 48469
567 46994
571 ..... 46053, 46793, 48235
1033 45257
1043 45775
1162 46542
1307 ..... 46542, 46794

Proposed Rules:
Subtitle A 47582
Ch. I 47582
Ch. II 47582
Ch. III 47582
Ch. V 47582
Ch. VI 47582
Ch. X 46399, 48134
27 46399
171 48483
172 48483
173 48483
195 46589
218 45272
450 49074
451 49074
452 49074
453 49074
571 ..... 47032, 48483, 48622, 49076
1039 45137
1155 45440
1056 49526

50 CFR

17 ..... 46053, 46328–46337, 49244, 49245
23 ..... 45259, 45775
258 48619
285 46995
611 ..... 45403, 46542
646 45404
654 46057
655 ..... 45403, 45404
656 45403
657 45403
658 46057
661 45263
663 48241
672 46542
681 46342

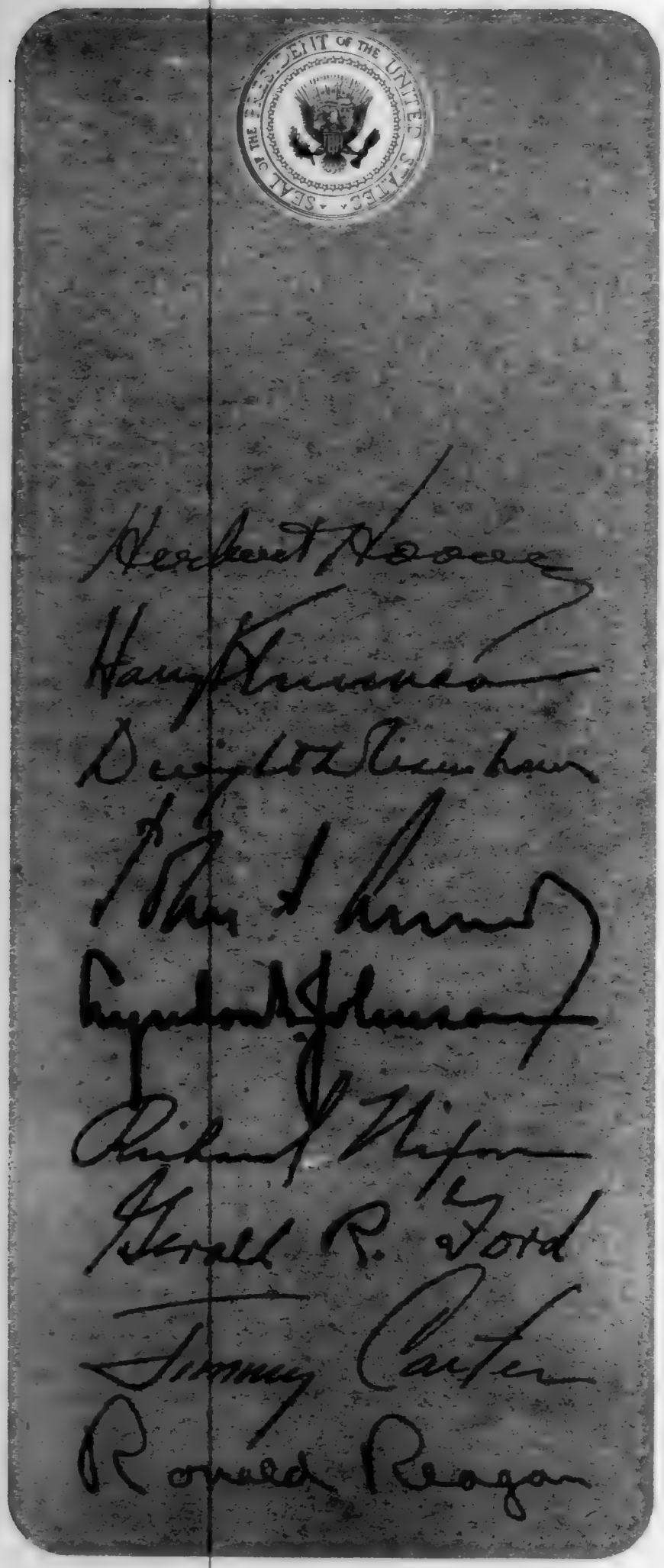
Proposed Rules:
Ch. I 47472
Ch. II 47254
Ch. III 47254
Ch. IV 47254, 47472
Ch. V 47254
17 ..... 45574, 46086, 46590, 49316
23 45575
611 ..... 45804, 45806
641 49527
655 49077
663 ..... 45274, 48265
681 48853

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 21, 1983

VOL
48
ISS
2
0
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VOL
48
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OC
26
1983
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VOL
48
ISS
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0
9
OC
27
1983
UMI

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10-27-83
Vol. 48 No. 209
Pages 49651-49836

federal register

Thursday
October 27, 1983

Selected Subjects

Animal Drugs
Food and Drug Administration

Banks, Banking
Federal Reserve System

Bridges
Coast Guard

Fisheries
National Oceanic and Atmospheric Administration

Government Contracts
Labor Department

Government Employees
Interior Department

Household Appliances
Federal Trade Commission

Marine Safety
Coast Guard

Navigation (Water)
Coast Guard

Organization and Functions
Immigration and Naturalization Service

Railroad Safety
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Water Pollution Control
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VOL
48
ISS
2
0
9
OC
27
1983
UMI

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Contents

Federal Register
Vol. 48, No. 209
Thursday, October 27, 1983

Agriculture Department
See Commodity Credit Corporation; Food Safety and Inspection Service; Forest Service.

Civil Aeronautics Board
NOTICES
49677 Agency information collection activities under OMB review
Hearings, etc.:
49677 British American Air, Inc.
49678 Northern Air Lines, Inc.; cancellation

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
49678 Indiana; date change

Coast Guard
RULES
Drawbridge operations:
49656 Texas
Safety zones:
49657 San Francisco Bay, Calif.
PROPOSED RULES
Navigation areas, regulated:
49660 Puget Sound, Washington

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
NOTICES
49674 Bylaws

Consumer Product Safety Commission
NOTICES
49724 Meetings; Sunshine Act

Customs Service
RULES
Merchandise, imported; transportation in bond and merchandise in transit:
49655 Overcarried and prematurely discharged merchandise; special manifest procedures; correction
NOTICES
Trade name recordation applications:
49723 Zahnradfabrik Friedrichshafen, AG.

Defense Department
See also Defense Mapping Agency.
NOTICES
Household goods program, domestic:
49688 Interstate shipments, soliciting rates; procedure changes; extension of time and correction
Meetings:
49688 Wage Committee

Defense Mapping Agency
NOTICES
Meetings:
49688 Mapping, Charting and Geodesy Advisory Committee

Energy Department
See Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Water pollution; effluent guidelines for point source categories:
49808 Pharmaceutical manufacturing
PROPOSED RULES
Water pollution; effluent guidelines for point source categories:
49832 Pharmaceutical manufacturing

Federal Aviation Administration
PROPOSED RULES
Air traffic operating on flight rules:
49659 Cessna Aircraft Co.; single pilot operation; rulemaking petition; correction
NOTICES
49720 Exemption petitions; summary and disposition

Federal Communications Commission
NOTICES
49724 Meetings; Sunshine Act

Federal Election Commission
RULES
49653 Presidential election campaign fund; transmittal to Congress; effective date announcement
NOTICES
49724 Meetings; Sunshine Act

Federal Energy Regulatory Commission
RULES
Natural gas companies (Natural Gas Act):
49655 Alaska natural gas transportation system charges; shippers cost-recovery mechanism correction and effective date
NOTICES
Hearings, etc.:
49688 Centel Corp.
49689 Central & South West Services, Inc.
49689 Central Illinois Light Co.
49689 Cleveland Electric Illuminating Co.
49689 Dayton Power & Light Co.
49690 Florida Power Corp.
49693 Greenquist, Thomas A.
49690 Idaho Power Co.
49690 Kansas Gas & Electric Co.
49691 Montana Power Co.
49691 Northern States Power Co. (2 documents)
49691, Superior Water, Light & Power Co. (3 documents)
49692
49692 Tennessee Gas Pipeline Co.
49692 Texas Eastern Transmission Corp.
49693 Vermont Electric Power Co.

Federal Maritime Commission
PROPOSED RULES
49664 Security for protection of public; discontinuance of proceeding

Federal Mine Safety and Health Review Commission
NOTICES
49724 Meetings; Sunshine Act (2 documents)

Federal Railroad Administration
PROPOSED RULES
Safety appliance standards:
49666 Roof running boards, removal from box and house cars; elimination of requirement

Federal Reserve System
RULES
Interest on deposits (Regulation Q):
49654 Early withdrawal penalty; temporary suspensions; Arizona
NOTICES
Applications, etc.:
49695 Deerwood Bancorporation, Inc.
49695 Farmers State Bancorp., et al
49693 First Southern Bank Corp. et al
Bank holding companies; proposed de novo nonbank activities:
49694 Citicorp, et al

Federal Trade Commission
RULES
Appliances, consumer; energy cost and consumption information in labeling and advertising:
49654 Room air conditioners; comparability ranges; prior range still applicable
PROPOSED RULES
Appliances, consumer; energy cost and consumption information in labeling and advertising:
49660 Central air conditioners and heat pumps staff report; extension of comment period
NOTICES
49725 Meetings; Sunshine Act
49695 Premerger notification waiting periods; early terminations

Fish and Wildlife Service
PROPOSED RULES
Endangered Species Convention:
49667 Giant Panda; appendixes added
NOTICES
Environmental statements; availability, etc.:
49709 Trinity River Basin Fish and Wildlife Management Program, Calif.

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
49656 Estradiol valerate and norgestomet in combination
Human drugs:
49656 Antibiotic drugs; sterile ceftizoxime sodium
PROPOSED RULES
Biological products:
49660 Hepatitis requirements; shipment of blood product; correction

Food Safety and Inspection Service
NOTICES
Meat and poultry inspection:
49677 Standards and Labeling Division policy memoranda; semi-annual listing

Forest Service
NOTICES
Meetings:
49677 Bridger-Teton National Forest Grazing Advisory Board

General Services Administration
NOTICES
49696 Agency information collection activities under OMB review (2 documents)

Health and Human Services Department
See Food and Drug Administration; Human Development Services Office; Public Health Service.

Historic Preservation, Advisory Council
NOTICES
Programmatic memorandum of agreement:
49674 Pacific Northwest Region, National Forests, Oreg. and Wash.; depression-era structures

Human Development Services Office
NOTICES
Organization, functions, and authority delegations:
49697 Development Disabilities Administration
Social services block grant program:
49697 Federal allotments to States

Immigration and Naturalization Service
RULES
Organization, functions, and authority delegations:
49651 Service officers, powers and duties; availability of service records

Interior Department
See also Fish and Widlife Service; Land Management Bureau; Minerals Management Service; Reclamation Bureau.
PROPOSED RULES
49662 Employee responsibilities and conduct

International Trade Administration
PROPOSED RULES
49659 Foreign policy export controls, effects of
NOTICES
Antidumping:
49679 Lightweight polyester filament fabric from Korea
Countervailing duties:
49678 Cotton shop towels from Pakistan
49684 vitamin K from Spain

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
49709 Aberdeen & Briar Patch Railway Co.
49709 Atchison, Topeka & Santa Fe Railway Co.

Justice Department
See also Immigration and Naturalization Service.
NOTICES
49710 Agency information collection activities under OMB review

Labor Department
See also Wage and Hour Division.
RULES
49736 Federal service contract labor standards

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
49702 North Dakota
Conveyance of public lands:
49707 California
Cooperative management agreements:
49701, 49707 California (2 documents)
Exchange of public lands for private land:
49706 California
Geophysical logs; availability, etc.:
49701 Montana
Meetings:
49705 Lake County, Oregon; bombing and aerial gunnery range
49703 Rock Springs District Grazing Advisory Board
Oil and gas leases:
49703 Lottery and posting of available lands; simultaneous suspension
Opening of public lands:
49700 Arizona
Recreation management restrictions, etc.:
49704 Oregon and Washington; special permit fees
Resource management plans:
49706 Kemmerer Resource Area, Rock Springs District, Wyo.
Sale of public lands:
49705 Nevada
49704 Oregon; cancellation
49706 South Dakota
49704 Utah

Legal Services Corporation
NOTICES
49710 Recipient fund balances; instruction

Maritime Administration
NOTICES
Meetings:
49722 Maritime Advisory Committee

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
49709 Kerr-McGee Corp

National Bureau of Standards
NOTICES
Laboratory Accreditation Program, National Voluntary:
49685 Activated carbon

National Highway Traffic Safety Administration
NOTICES
Motor vehicle defect proceedings; petitions, etc.:
49723 Volkswagen of America, Ind.; proceeding cancelled

National Labor Relations Board
NOTICES
49725 Meetings; Sunshine Act

National Mediation Board
NOTICES
49725 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
49668 Foreign fishing; permit fees, etc.; extension of time
49669 Foreign fishing; poundage fee schedule

National Science Foundation
NOTICES
49711 Antarctic Conservation Act of 1978; permit applications, etc.

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
49712 Boston Edison Co.
49713 Cleveland Electric Illuminating Co. et al.
49713 Consolidated Edison Co. of New York
49714, 49716 Duke Power Co. (2 documents)
Safety analysis and evaluation reports; availability, etc.:
49718 Rochester Gas & Electric Corp.

Pacific Northwest Electric Power and Conservation Planning Council
Meetings:
49719 Hydropower Assessment Steering Committee

Public Health Service
NOTICES
Medical technology, scientific evaluations:
49699 External counterpulsation (Cardiassist device) treatment of Killip Class II myocardial infarction

Reclamation Bureau
NOTICES
Contract negotiations:
49707 Fryingpan-Arkansas Project, Colo.

Research and Special Programs Administration
PROPOSED RULES
Pipeline safety:
49665 Natural and other gas; monitoring of gas odor level; withdrawal

Science and Technology Policy Office
NOTICES
Meetings:
49719 White House Science Council

Small Business Administration
NOTICES
Small business investment companies:
49719 Maximum annual cost of money; Federal Financing Bank rate

State Department
NOTICES
Meetings:
49720 International Investment, Technology, and Development Advisory Committee
49720 International Radio Consultative Committee

49720 National Bipartisan Commission on Central America

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
49687 China
49687 India

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Railroad Administration; Maritime Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration.

Treasury Department
See also Customs Service.
NOTICES
Notes, Treasury:
49723 Z–1985 series

Wage and Hour Division
RULES
Federal service contract labor standards
(Editorial Note: For a document on this subject, *see* entry under Labor Department.)

Part II
49736 Department of Labor, Wage and Hour Division

Part III
49832 Environmental Protection Agency

VOL 48 ISS 209 OCT 27 1983 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

8 CFR
103.....49651

11 CFR
9001.....49653
9002.....49653
9003.....49653
9004.....49653
9005.....49653
9006.....49653
9007.....49653
9012.....49653

12 CFR
217.....49654

14 CFR
Proposed Rules:
Ch. I.....49659

15 CFR
Proposed Rules:
Ch. III.....49659

16 CFR
305.....49654
Proposed Rules:
305.....49660

18 CFR
154.....49655

19 CFR
18.....49655

21 CFR
436.....49656
442.....49656
522.....49656
Proposed Rules:
610.....49660

29 CFR
4.....49736

33 CFR
117.....49656
165.....49657
Proposed Rules:
165.....49660

40 CFR
439.....49808
Proposed Rules:
439.....49832

43 CFR
Proposed Rules:
20.....49662

46 CFR
Proposed Rules:
540.....49664

49 CFR
Proposed Rules:
192.....49665
231.....49666

50 CFR
Proposed Rules:
23.....49667
611 (2 documents).....49668, 49669

VOL
48
ISS
2
0
9
OC
27
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 209
Thursday, October 27, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule changes responsibility and authority from the Associate Commissioner, Management to the Associate Commissioner, Information Systems to certify specific Service records and to grant or deny requests under the Freedom of Information and Privacy Act. Clarifying editorial changes, a revision to reflect the new Executive Order 12356 on National Security Information and a reference to the use of a simplified form are also included.

EFFECTIVE DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT:
For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.
For Specific Information: Russell A. Powell, FOIA/PA Reviewing Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3278.

SUPPLEMENTARY INFORMATION: This rule revises 8 CFR Part 103 to delegate responsibility for certifying copies of files, documents, records, and nonexistence of an official record to the Associate Commissioner, Information Systems. Authority to grant and deny requests made under the Freedom of Information Act (Secs. 1–3, Pub. L. 95–502, 88 Stat. 1561–64 (5 U.S.C. 552)) and Privacy Act (Sec. 3, Pub. L. 93–579, 88 Stat. 1897 (5 U.S.C. 552a)) and responsibility for implementation of the Act is also delegated to the Associate Commissioner, Information Systems. To facilitate processing of Freedom of Information and Privacy Act requests, authority may be further delegated to other designees of the Associate Commissioner, Information Systems, Regional Commissioners, and District Directors.

The revision reflects the new Executive Order on National Security Information (E.O. 12356, 47 FR 14874, dated April 2, 1982, and effective August 1, 1982).

Form G–639, Application for a Search of the Records of the Immigration and Naturalization Service under the Freedom of Information Act (5 U.S.C. 552), June 20, 1980 edition, was combined with Form G–657, Privacy Act Information Request, June 15, 1980 edition, for a simplified Form G–639, Freedom of Information/Privacy Act Request June 12, 1982 edition, (OMB No. 1115–0087). Form G–657 has been discontinued.

This rule amends the following sections of Part 103:

Section 103.7(d)(1) delegates responsibility for certification of copies of files, documents, records, and non-existence of an official record to the Associate Commissioner, Information Systems. This change also amends paragraphs (b)(1), (b)(2) and (d)(2) of § 103.10, paragraphs (b) and (c) of § 103.20, and paragraph (a) of § 103.21.

Section 103.7(d)(4) changes the title of the Assistant Commissioner, Information Services to the Assistant Commissioner, Records Systems Division and the title of the Chief, Records Administration and Information Branch to Director, Records Management Branch.

Section 103.9(c) formerly specified deletion of only names and other personal identifying data from decisions which are made available to the public. The section is revised to clearly provide for deletion of all identifying data that may be exempt under the Freedom of Information Act.

Section 103.10(a)(2) is revised to delete notification to the records requester of the date on which the time period for complying or denying the request began, and to clarify that a request must be in writing.

Section 103.10(c)(1) is revised for improved readability.

Section 103.10(d)(3) changes the address for an appeal of the denial of a written request for a record in whole or in part to the Assistant Attorney General, Office of Legal Policy (Attention: Office of Information and Privacy), Department of Justice, Washington, D.C. 20530.

Section 103.21(a) is also revised to specifically require that requests for records must be in writing, refers to the simplified Form G–639, Freedom of Information/Privacy Act Request, and removes reference to Form G–657, Privacy Act Information Request, which has been discontinued.

Section 103.22(b)(1) updates the reference from E.O. 11652 to E.O. 12356 (National Security Information).

Section 103.28 changes the address for requests for correction of records to the Office of Associate Commissioner, Information Systems, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. Paragraph (b) of this section changes the appeal authority from the Deputy Attorney General to the Assistant Attorney General when an individual appeals a refusal by the Service to amend or correct a record.

Section 103.30(a) deletes reference to discontinued Form G–657, Privacy Act Information Request.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this order is exempt as provided by paragraph (a)(2) of section 553, which exempts matters relating to agency management or personnel.

This order is not a rule within the meaning of Section 1(a) of E.O. 12291 because it is within the exception defined in paragraph 1(a)(3) which relates to agency organization, management, or personnel.

The provisions of 5 U.S.C. 601 *et. seq.* of the Regulatory Flexibility Act relating to certification or to a regulatory flexibility analysis, do not apply since this order is not within the definition of a rule as defined in 5 U.S.C. 601(2).

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Archives and records, Authority delegation, Freedom of

Information Act, Organization and functions.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. Section 103.7 is amended by revising paragraphs (d) (1) and (4) to read as follows:

§ 103.7 Fees.

* * * * *

(d) * * *

(1) The Associate Commissioner, Information Systems, the Assistant Commissioner, Records Systems Division, or the designee of either, authorized in writing to make certification in his absence—copies of files, documents, and records in the custody of the Central Office.

* * * * *

(4) The Assistant Commissioner, Records Systems Division, or the Director, Records Management Branch, Central Office, or the designee or either, authorized in writing to make certification in his absence—the non-existence of an official Service record.

2. Section 103.9 is amended by revising paragraph (c) to read as follows:

§ 103.9 Availability of decisions and interpretive material under the Freedom of Information Act.

* * * * *

(c) *Deletion of identifying details.* To the extent that information in decisions is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552), the deciding officer shall provide for deletion of identifying details, as appropriate, from copies of decisions made available to the public.

* * * * *

3. Section 103.10 is amended by revising paragraphs (a)(2), (b)(1), (b)(2), (c)(1), (d)(2), and (d)(3) to read as follows:

§ 103.10 Requests for records under the Freedom of Information Act.

(a) * * *

(2) *Manner of requesting records.* All Freedom of Information Act requests must be in writing. Requests may be submitted in person or by mail. If a request is made by mail, both the envelope and its contents must be clearly marked: "FREEDOM OF INFORMATION REQUEST" or "INFORMATION REQUEST." Any request for information not marked and addressed as specified will be so marked by Service personnel as soon as it is properly identified and shall be forwarded immediately to the appropriate office designated to control Freedom of Information Act requests. A request will not be deemed to have been received for purposes of the time period under 5 U.S.C. 552(a)(6) until the request has been received by the appropriate office, or would have been received with the exercise of due diligence by Service personnel. Service Form G–639, Freedom of Information/Privacy Act Request, may be used for rapid identification as a Freedom of Information matter and to ensure expeditous handling; however, a request may be submitted in any written form. Each request made under this section pertaining to the availability of a record must describe the record with sufficient specificity with respect to names, dates, subject matter and location to permit it to be identified and located. A request for all records falling within a reasonably specific category shall be regarded as reasonably described if the description enables the records to be identified by any process not unreasonably burdensome. If it is determined that the request does not reasonably describe the records sought, the response rejecting the request on that ground shall specify the reason why the request failed to meet requirements and shall extend to the requester an opportunity to confer with Service personnel to reformulate the request.

(b) *Authority to grant and deny requests.*—(1) *Grants.* The Associate Commissioner, Information Systems, regional commissioners, district directors, and their designees may grant any type of request not prohibited by law or Executive Order. The head of any office specified in paragraph (a)(1) of this section may grant the following types of requests:

* * * * *

(2) *Denials.* The Associate Commissioner, Information Systems, regional commissioners, district directors, and their designees are authorized to deny a request under exemptions provided in 5 U.S.C. 552(b).

* * * * *

(c) * * *

(1) *Response within 10 days.* Within 10 days (excluding Saturdays, Sundays, and legal holidays) of the receipt of a request by the Service (or in the case of an improperly addressed request, of its receipt by the appropriate office as specified in paragraph (a) of this section), the authorized Service official shall either comply with or deny the request unless an extension of time is requested as required under 28 CFR 16.5(c). A request improperly addressed will not be deemed to have been received for purposes of 5 U.S.C 552 (a)(6) until it has been or would have been received by the appropriate office with the exercise of due diligence by Service personnel.

* * * * *

(d) * * *

(2) *Form of denial.* A reply denying a written request for a record in whole or in part shall be in writing, signed by the Associate Commissioner, Information Systems, by a regional commissioner, by a director, or by one of their designees. The reply shall include a reference to the specific exemption under the Freedom of Information Act authorizing withholding of the records. The notice of denial shall contain a brief explanation of how the exemption applies to the record withheld and, if the deciding official considers it appropriate, a statement of why the exempt record is being withheld. The notice of denial shall include a statement of the right of appeal to the Attorney General under 28 CFR 16.7, and that judicial review will thereafter be available in the district in which the requester resides or has a principle place of business, or the district in which the agency records are situated, or the District of Columbia.

(3) *Right of appeal.* When a request for records has been denied in whole or in part, the requester may, within 30 days of its receipt, appeal the denial to the Assistant Attorney General, Office of Legal Policy, (Attention: Office of Information and Privacy), Department of Justice, Washington, D.C. 20530. Both the envelope and letter must be clearly marked: "FREEDOM OF INFORMATION APPEAL" or "INFORMATION APPEAL."

* * * * *

4. Section 103.20 is amended by revising paragraphs (b) and (c) to read as follows:

§ 103.20 Purpose and scope.

* * * * *

(b) The Associate Commissioner, Information Systems, shall ensure that the provisions of §§ 103.20 through 103.36 of this title and 28 CFR 16.40 through 16.56, and any revisions, are brought to the attention of and made available to:

(1) Each employee at the time of issuance of the regulations and at the time of any amendment; and

(2) Each new employee at the time of employment.

(c) The Associate Commissioner, Information Systems, shall be responsible for ensuring that employees of the Service are trained in the obligations imposed by the Privacy Act

of 1974 (5 U.S.C 522a) and by these regulations.

5. Section 103.21 is amended by revising paragraph (a) to read as follows:

§ 103.21 Adcess by individuals to records maintained about them.

(a) *Access to available records.* Any individual who seeks access to records about himself in a system of records, which have not been exempted from access under the Privacy Act of 1974 (5 U.S.C. 552a), must submit a written request in person or by mail to the manager of the particular system of records to which access is sought. Systems managers are identified in the "Notice of Systems of Records" published by the National Archives and Records Service, General Services Administration. A request for access to records in multiple systems of records may be addressed to the Office of the Associate Commissioner, Information Systems which shall assist the requester in identifying the request more precisely and shall be responsible for forwarding the request to the appropriate systems managers. Use of Form G–639, Freedom of Information/Privacy Act Request, is recommended for rapid identification and to ensure expeditious handling of the request.

* * * * *

6. Section 103.22 is amended by revising paragraph (b)(1) to read as follows:

§ 103.22 Records exempt in whole or in part.

* * * * *

(b) * * *

(1) A request for information classified by the Service under *Executive Order 12356 on National Security Information* requires the Service to review the information to determine whether it continues to warrant classification under the criteria of the Executive Order. Information which no longer warrants classification shall be declassified and made available to the individual, if not otherwise exempt. If the information continues to warrant classification, the individual shall be advised that the information sought is classified; that it has been reviewed and continues to warrant classification; and that it has been exempted from access under 5 U.S.C. 552a(k)(1). Information which has been exempted under 5 U.S.C. 552a(j) and which is also classified, shall be reviewed as required by this paragraph but the response to the individual shall be in the form prescribed by paragraph (a) of this section.

* * * * *

7. Section 103.23 is amended by revising paragraph (a)(1) to read as follows:

§ 103.23 Special access procedures.

(a) * * *

(1) That has been classified under Executive Order 12356, the request shall be referred to the appropriate classifying authority under 28 CFR 17.61 and the individual requesting the record shall be so advised unless the record is also exempt from disclosure under 5 U.S.C. 552a(j) or (k);

* * * * *

8. Section 103.38 is amended by revising paragraphs (a) and (b) to read as follows:

§ 103.28 Requests for correction of records.

(a) *How made.* Unless a record is exempted from corrections, a request for amendments or corrections is made by the individual concerned, either in person or by mail, by addressing the written request to the manager of the system in which the record is maintained. The requester's identity must be established as provided in § 103.21. The request must indicate the particular record involved, the nature of the correction sought, and the justification. A request made by mail should be addressed to the system manager at the address specified in the "Notice of Systems of Records" published by the General Services Administration and the request and envelope must be clearly marked "Privacy Correction Request." Where the requester cannot determine the precise system manager or believes that the same record appears in more than one system, the request may be addressed to the Office of the Associate Commissioner, Information Systems, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. This office shall assist the requester in identifying the location of the record.

(b) *Initial determination.* Within 10 working days of the receipt of the request, the appropriate Service official shall advise the requester that the request has been received. If the record is to be amended or corrected, the system manager may so advise the requester but if correction is refused, in whole or in part, the referral must be by the head of the component in which the record is located, or his designees. If a correction is to be made, the requester shall be advised of the right to obtain a copy of the corrected record upon payment of the standard fee, established in 28 CFR 16.46. If a correction or amendment is refused, in whole or in part, the requester shall be given the reasons and advised of the right to appeal to the Assistant Attorney General under 28 CFR 168.48.

* * * * *

9. Section 103.30 is amended by revising paragraph (a) to read as follows:

§ 103.30 Accounting for disclosures.

(a) An accounting of each disclosure of information for which accounting is required (see § 103.24 of this part) shall be attached to the relating record. A copy of Form G–658, Record of Information Disclosure (Privacy Act), or other disclosure document shall be used for this accounting. The system manager shall advise the requester, promptly upon request as described in § 103.24, of the persons or agencies outside the Department of Justice to which records concerning the requester have been disclosed.

* * * * *

(Sec. 103 of the Immigration and Nationality Act, as amended 98 U.S.C. 1103); 5 U.S.C. 552a; 28 CFR, and EO 12356)

Dated: October 21, 1983.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 83–29208 Filed 10–26–83; 8:45 am]

BILLING CODE 4410–10–M

FEDERAL ELECTION COMMISSION

11 CFR Parts 9001, 9002, 9003, 9004, 9005, 9006, 9007, and 9012

[Notice 1983–27]

Presidential Election Campaign Fund

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: On July 11, 1983 (48 FR 31822), the Commission published the text of revisions to its regulations at 11 CFR Parts 9001–9007 and 9012, which implement the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.* The revisions include a new Part 9012 regarding unauthorized expenditures and contributions, which follows 26 U.S.C. 9012. The Commission announces that these regulations are effective as of October 27, 1983.

EFFECTIVE DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C., 20463 (202) 523–4143 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: 28 U.S.C. 9000(c) requires that any rule or regulations prescribed by the Commission to implement Chapter 95 of Title 28, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. The Commission may finally prescribe the regulations in question after they have been before both Houses of Congress for 30 legislative days. The regulations made effective by this notice were transmitted to Congress on July 1, 1983. Thirty legislative days expired in the House and in the Senate as of October 4, 1983.

Announcement of Effective Date

11 CFR Parts 9001, 9002, 9003, 9004, 9005, 9006, 9007, and 9012, as published at 48 FR 31822–31839, are effective as of October 27, 1983.

Dated: October 24, 1983.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 29172 Filed 10-26-83; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0488]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in designated areas of Arizona.

EFFECTIVE DATE: October 5, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On October 5, 1983, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Arizona counties of Graham, Greenlee, Pima, Pinal, and Santa Cruz ma o disaster areas. The Presidential declaration was subsequently amended on October 6 to include the counties of Gila and Yavapai, on October 7 to include Cochise County, on October 12 to include Mohave County, and on October 20 to include portions of Apache and Navajo counties. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster areas as a result of the severe storms and flooding beginning on or about September 23, 1983. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to October 5, 1983, and will remain in effect until 12 midnight, April 7, 1984.

List of Subjects in 12 CFR Part 217

Advertising, Banks, banking, Federal Reserve System, Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated areas of Arizona directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, October 21, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-29154 Filed 10-26-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Costs and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Room Air Conditioners

AGENCY: Federal Trade Commission.

ACTION: Rule related notice.

SUMMARY: Under the Federal Trade Commission's Appliance Labeling Rule, each required label or fact sheet for a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. These ranges show the highest and lowest energy costs or efficiencies for the various size or capacity groupings of the appliances covered by the rule. The Commission publishes the ranges annually in the **Federal Register** if the upper or lower limits of the range change by 15 percent or more from the previously published range. If the Commission does not publish a revised range, it must publish a notice that the prior range is still applicable for the next year.

The ranges of energy efficiencies for room air conditioners have not changed by as much as 15 percent since the last publication. Therefore, the ranges published on March 25, 1980 [1] remain in effect until new ranges are published.

EFFECTIVE DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT: James Mills, 202–376–2891, or Lucerne D. Winfrey, 202–376–2805, Attorneys, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA) [2] required the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances: (1) Refrigerators and refrigerator-freezers; (2) freezers; (3) dishwashers; (4) clothes dryers; (5) water heaters; (6) room air conditioners; (7) home heating equipment, not including furnaces; (8) television sets; (9) kitchen ranges and ovens; (10) clothes washers; (11) humidifiers and dehumidifiers; (12) central air conditioners; and (13)

[1] 45 FR 19520.

[2] Pub. L. 94-163, 89 Stat. 871 (Dec. 22, 1975).

furnaces. Under the statute, the Department of Energy (DOE) is responsible for developing test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule[3] covering seven of the thirteen appliance categories: refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces.

The rule requires that energy efficiency ratings or energy costs and related information be disclosed on labels, fact sheets and in retail sales catalogs for all covered products manufactured on or after May 19, 1980. Certain point-of-sale promotional materials must disclose the availability of energy cost or energy efficiency rating information. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of the DOE test procedures.

Pursuant to § 305.8 of the rule, manufacturers submitted reports to the Commission by January 21, 1980. These reports contained the estimated annual cost or energy efficiency rating, derived from tests performed pursuant to the DOE test procedures, for all models of the seven categories of appliances. The reports also contained the model, the number of tests performed on each model, and the capacity of each model. From the information, the Commission compiled and published [4] ranges of comparability for each product, as required by § 305.10 of the rule.

Section 305.8(b) of the rule requires that manufacturers, after filing this initial report, shall report the same information annually be specified dates for each product type.[5] If an analysis of the new data indicates that the upper or lower limits of any of the ranges have changed by more than 15%, the Commission must, under § 305.10 of the rule, publish a revised version of the new range or ranges. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect for the next year.

The annual reports for room air conditioners have been received and analyzed and it has been determined that neither the upper nor lower limits of the ranges for this product category have changed by 15% or more since the initial publication of the ranges on March 25, 1980.[6]

In consideration of the foregoing, the present ranges for room air conditioners will remain in effect for the next year.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95–619 (1978), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83–29170 Filed 10–26–83; 8:45 am]

BILLING CODE 6750–01–M

[3] 44 FR 66466, 16 CFR Part 305 (November 19, 1979).

[4] 45 FR 13998 (March 3, 1980), 45 FR 19520 (March 25, 1980), 45 FR 26036 (April 17, 1980), 46 FR 3829 (January 16, 1981).

[5] Reports for clothes washers are due by March 1; reports for water heaters, room air conditioners and furnaces are due by May 1; reports for dishwashers are due by June 1; reports for refrigerators, refrigerator-freezers and freezers are due by August 1.

[6] 45 FR 19520.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM81–21–000]

Recovery of Alaska Natural Gas Transportation System Charges; Effective Date and Correction

Issued: October 21, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction and notice of effective date and OMB control number.

SUMMARY: On July 25, 1983, the Federal Energy Regulatory Commission issued a final rule in Docket No. RM81–21–000, Order No. 320 48 FR 34442 (July 29, 1983), concerning recovery of Alaska Natural Gas Transportation System charges. This document gives notice of the effective date and of the OMB control number for that final rule. It also corrects an error in the authority citation.

EFFECTIVE DATE: The rule is effective October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Jan Macpherson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. IV 1980) and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320, require that OMB approve certain information collection requirements imposed by agency rule. On September 21, 1983, OMB approved the information collection requirements in the Commission's final rule concerning recovery of Alaska Natural Gas Transportation System Charges, 48 FR 34,442 (July 29, 1983), and issued control number 1902–0129 for that rule. Therefore, the rule is now in effect.

In FR Doc. 83–20424, appearing on page 34,442 of the issue of July 29, 1983, on page 34,458, column 1, "(OMB Control Number of §§ 154.201–.213: 1902–0129)" is added following the introductory heading "Recovery of Alaska Natural Gas Transportation System Charges" and before the title of § 154.201.

In additions, the following correction is made:

On page 34,457, column 3, the citation for the Natural Gas Act, "16 U.S.C. 717–717w;" is corrected to read "15 U.S.C. 717–717w;".

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–29215 Filed 10–26–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 18

[T.D. 83–218]

Customs Regulations Amendments Relating to Special Manifest Procedures for Overcarried and Prematurely Discharged Merchandise

Correction

In FR Doc. 83–28596 beginning on page 48655 in the issue of Thursday, October 20, 1983, make the following corrections:

§ 18.10a [Corrected].

1. On page 48657, column one § 18.10a(a), line eleven, "authoritized" should read "authorized".

2. On the same page, column two, § 18.10a(b)(2), line sixteen, "arrival at

the manifested port when" should be removed.

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436 and 442

[Docket No. 83N-0302]

Antibiotic Drugs; Sterile Ceftizoxime Sodium

Correction

In FR Doc. 83-27655 beginning on page 46270 in the issue of Wednesday, October 12, 1983, make the following corrections:

1. On page 46271, in § 436.345(*f*), second column, second complete paragraph, thirteenth line, "solution as" should read "solution prepared as".

2. On page 46272, in § 442.17a(b)(6), first column, five lines from the bottom, "$t-t'$" should read "$t-t_o$".

3. In the same section, same page, second column, three lines from the top, "t_2" should read "t_o".

BILLING CODE 1505-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Estradiol Valerate and Norgestomet in Combination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by CEVA Laboratories, Inc., providing for safe and effective use of a norgestomet (synthetic progestogen) implant and an estradiol valerate/norgestomet injection for synchronizing estrus/ovulation in heifers.

EFFECTIVE DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: CEVA Laboratories, Inc., 10560 Barkley, Overland Park, KS 66212, filed NADA 134-930 providing for use of an implant containing 6.0 milligrams (mg) of norgestomet and an injection containing 5.0 mg of estradiol valerate and 3.0 mg of norgestomet per 2 milliliters. The product is used to control timing of estrus to permit synchronized breeding of heifers with or without estrus detection.

Approval of NADA 134-930 is based on data and information contained in Searle's NADA 97-037 and incorporated herein by reference. Approval of Searle's NADA is reflected in 21 CFR 522.850. NADA 134-930 is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.850 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 522.850 *Estradiol valerate and norgestomet in combination* is amended in paragraph (b) by adding after the number "000914" the phrase "and 050604."

Effective date. October 27, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i)))

Dated: October 20, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-29149 Filed 10-26-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 06-83-03]

Drawbridge Operation Regulations; San Bernard River, Texas

AGENCY: Coast Guard, DOT

ACTION: Final rule.

SUMMARY: At the request of the Missouri Pacific (MOPAC) Railroad Company, the Coast Guard is changing the regulation governing the MOPAC swing span railroad bridge across the San Bernard River, mile 20.7, near Brazoria, Texas. The bridge provides vertical clearances of two feet and 19 feet above high water and low water, respectively, and now opens on signal at any time.

The change will require that at least three hours advance notice be given for an opening of the draw between 12 midnight and 8:00 a.m. In support of this change, MOPAC Railroad has committed to: (1) Have a bridgetender at the bridge from at least one-half hour before to at least one-half hour after the appointed arrival time and (2) install a radiotelephone on the bridge for the bridgetender to communicate with the approaching vessel.

This action is being taken because of the infrequent requests for opening the draw during the specified advance notice period. This action is designed to relieve the bridge owner of the burden of having a person constantly available to open the draw, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on November 28, 1983.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Bridge Administration Branch, Eighth Coast Guard District Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130—(504) 589-2965.

SUPPLEMENTARY INFORMATION: On 30 June 1983, the Coast Guard published a proposed rule (48 FR 30150) concerning this amendment. The Eighth Coast Guard District also published this proposal as a Public Notice dated 5 July 1983. Interested persons were given until 15 August 1983 to submit comments.

Drafting Information

The principal persons involved in drafting this rule are: Perry Haynes, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of Comments

Five comments were received from navigational interests addressing five areas of concern: (1) Require a radiotelephone on the bridge to permit communication between the vessel operator and the bridgetender (2) difficulty making contact with the bridge owner to give the required advance notice when the vessel is under way (3) difficulty providing accurate arrival time at the bridge due to the river current (4) recourse available to the towing industry should the bridge owner fail to provide timely service (5) unattended bridge is vulnerable to vessel strikes and vandalism. These areas of concern are discussed below.

The bridge owner advised that the radiotelephone has been ordered, the operating license applied for, and installation of the unit on the bridge is expected to be completed well in advance of the effective date of this rule.

There should be no difficulty in contacting the bridge owner to give advance notice from a vessel afloat. The vessel operator merely calls by radio the Freeport/Bay City Public Coast Station, KGW 304, Channels 25 and 27, to place a collect call to the railroad dispatcher, Spring, Texas, (713) 350–7581 or 7584.

The Bridge is located at river mile 20.7. Assuming that it takes a tow six hours to travel from the mouth of the river to the bridge, the tow theoretically would be half way there, or 10.35 miles from the bridge, at the end of three hours. At this distance, it would appear that the mariner could give the minimum three hours advance notice of his arrival time with reasonable confidence, even during adverse weather or river conditions. Moreover, the bridgetender will arrive at the bridge at least one-half hour before the vessel's scheduled arrival time, and will stay at the bridge at least one-half hour after the vessel's scheduled arrival time.

Should the bridge owner fail to provide timely service, as required by the regulations, the special operating procedure may be rescinded and the bridge owner required to provide full time bridgetender service.

An unattended bridge is considered no more nor no less vulnerable to vessel strikes than an attended bridge. Should vandalism develop, it will be dealt with by the bridge owner in a timely manner to the satisfaction of all concerned.

Economic Assessment and Certification

This final regulation has been reviewed under provisions of Executive Order 12291 and has been determined not to be a major rule. It is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedure for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 1980). An economic evaluation has not been conducted since the impact is expected to be minimal for the reasons discussed above. In accordance with § 605(d) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.245(j)(40) after § 117.245(j)(39) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(j) * * *

(40) San Bernard River, mile 20.7, Brazoria, Texas. The draw of the Missouri Pacific railroad bridge shall open on signal from 8 a.m. to 12 midnight. From 12 midnight to 8 a.m. the draw shall open on signal if at least three hours notice is given.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: October 18, 1983.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard. Commander. Eighth Coast Guard District.

[FR Doc. 83–29241 Filed 10–26–83; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

COTP San Francisco Regulation 83–04; Safety Zone Regulations: San Francisco Bay

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The U.S. Coast Guard is establishing a temporary moving safety zone in San Francisco Bay on October 29, 1983. This zone is needed to provide for safety of life on navigable waters during a welcoming ceremony for the Aircraft Carrier U.S.S. Carl Vinson. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: These regulations are effective on October 29, 1983 between 4:00 p.m. and 8:00 p.m. PDT.

FOR FURTHER INFORMATION CONTACT: LTJG W. W. Whitson, Marine Safety Office, San Francisco Bay, (415) 437–3073.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing and NPRM and delaying its effective date is not feasible because of time constraints and is contrary to the public interest because of the necessity to ensure safety of life on navigable waters during this welcoming activity.

Drafting Information

The drafters of this regulation are LTJG W. W. Whitson, project officer for the Captain of the Port, and LT. C. A. Amen, project attorney, Twelfth Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will begin at 4:00 p.m. PDT, October 29, 1983 with the arrival of the Aircraft Carrier U.S.S. Carl Vinson under the Golden Gate Bridge. The vessel will proceed inbound from the Golden Gate Bridge, along the San Francisco city front to its assigned berth at Naval Air Station, Alameda, CA.

The Safety Zone established by this regulation is necessary to ensure that the welcoming parade of approximately 500 pleasure craft do not impede the progress of a relatively unmaneuverable vessel which requires unobstructed waters for safe navigation. Three Coast Guard vessels will enforce this Safety Zone.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T1204 to read as follows:

§ 165.T1204 Safety Zones: San Francisco Bay U.S.S. Carl Vinson welcoming activities.

(a) *Location.* The following area is a Safety Zone:

(1) The waters surrounding the U.S.S. Carl Vinson proceeding inbound from the Golden Gate Bridge along the San Francisco city front to its assigned berth at Naval Air Station, Alameda, CA. on October 29, 1983 from 4:00 p.m. to 8:00 p.m. PDT. This moving Safety Zone

extends out 200 yards on either side of a line running from a point 400 yards ahead of the vessel to a point 200 yards astern of the vessel.

(b) *Regulations.* (1) In accordance with the general regulations in Sec. 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(2) This Safety Zone will terminate upon the arrival of the U.S.S. Carl Vinson at its assigned berth at Naval Air Station, Alameda, CA.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: October 19, 1983.

K. F. Bishop, Jr.,

Captain of the Port, USCG Marine Safety Office, San Francisco Bay.

[FR Doc. 83-28242 Filed 10-20-83; 8:45 am]

BILLING CODE 4910-14-M

Proposed Rules

Federal Register
Vol. 48, No. 209
Thursday, October 27, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Docket Nos. 23771 and 23772]

Cessna Aircraft Co.; Single-Pilot Operation

Correction

In FR Doc. 83–27737 beginning on page 46358 in the issue of Wednesday, October 12, 1983, make the following corrections:

1. On page 46359, second column, under *Petition for Amendment of §91.213*, fourth line, "from operation" should have read "for operation".

2. Same column, under *Petition for Exemption From the Provisions of §91.213*, third line, "§91–213" should have read "§91.213".

3. On page 46360, third column, twenty-one lines from the bottom of the page, "certification is not" should have read "certification is now".

4. On page 46361, second column, the eighth line from the top of the page should have read "profound national and private sector public".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Ch. III

[Docket No. 31021203]

Request for Comments on Effects of Foreign Policy Export Controls

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Proposed rule; solicitation of comments.

SUMMARY: Section 6 of the Export Administration Act of 1979 provides that export controls imposed for foreign policy reasons expire one year after imposition unless extended. In preparation for revision or extension of controls on January 20, 1984, the Department is seeking comments on how controls imposed or extended effective January 20, 1983 have affected exporters and the general public.

DATE: Comments should be received by December 8, 1983 to assure full consideration in formulation of control policies.

ADDRESS: Written comments (six copies) should be sent to: Mr. Richard J. Isadore, Director, Operations Division, Office of Export Administration, P.O. Box 273, U.S. Department of Commerce, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: George Kuzmycz, Acting Chief, Special Programs, Branch, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377–4275.

SUPPLEMENTARY INFORMATION: The Export Administration Act of 1979 establishes criteria for the imposition, extension, or expansion of foreign policy export controls. Subsection 6(a)(2) of the Act provides that:

> Export controls maintained for foreign policy purposes shall expire * * * one year after imposition, * * * unless extended * * * Any such extension and any subsequent extension shall not be for a period of more than one year.

For administrative reasons, the Department reviews and extends all foreign policy controls on a uniform date, notwithstanding that certain controls imposed during the year otherwise would expire on their anniversary date.

Foreign policy controls were extended or modified on January 20, 1983, to be effective through January 20, 1984. Controls remain in effect at this time covering human rights, South Africa and Namibia, Libya, anti-terrorism, regional stability, embargoed communist countries, oil and gas equipment for the Soviet Union and Afghanistan, and truck manufacturing equipment for the Soviet Kama River and ZIL truck plants. Nuclear nonproliferation controls continue in effect pursuant to section 17(d) of the Act and section 309(c) of the Nuclear Nonproliferation Act of 1978 (See 15 CFR Part 378).

To assure maximum public participation in the review process, comments on the extension or revision of these existing foreign policy controls are solicited.

The Act requires the following criteria to be considered when imposing, expanding, or extending foreign policy export controls:

(1) The probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such control;

(2) The compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

(3) The reaction of other countries to the imposition or expansion of such export controls by the United States;

(4) The likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual United States companies and their employees and communities, including the effects on the controls on existing contracts;

(5) The ability of the United States to enforce the proposed controls effectively; and

(6) The foreign policy consequences of not imposing controls.

The Department is particularly interested in the experience of individual exporters in complying with these controls, with emphasis on economic impact and specific instances of business lost to foreign competitors.

Parties submitting comments are asked to be as specific as possible. However, respondents are remined that the Department is soliciting only information that may be used publicly. No "confidential business information" will be accepted. Any infomation so designated will be returned to the commenter.

All comments received before the close of the comment period will be considered by the Department in the development of final regulations.

While comments received after the close of the comment period will be

considered if possible, their consideration cannot be assured.

All public comments will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda that will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not routinely be made available for public inspection.

The public record concerning these comments will be maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration's Freedom of information Officer, at the above address or by calling (202) 377–3031.

Authority: Sections 6 and 13, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980).

Dated: October 24, 1983.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 83–29244 Filed 10–26–83; 8:45 am]

BILLING CODE 3510–25–M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising for Consumer Appliances Under the Energy Policy and Conservation Act; Extension of Comment Period

AGENCY: Federal Trade Commission.

ACTION: Extension of comment period.

SUMMARY: The Federal Trade Commission's Bureau of Consumer Protection has extended for 30 days the time period within which comments will be received on a staff report that summarizes and analyzes the evidences in its rule amendment proceeding to include pulse combustion and condensing furnaces under its Appliance Labeling Rule. The staff report has been placed on public record No. 209–18, and was announced in the **Federal Register** on August 19, 1983 (48 FR 37663).

DATE: Comments will be accepted for the record until November 2, 1983.

ADDRESSES: Requests for copies of the staff report should be sent to: Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue N.W., Washington, D.C. 20580. Comments should be sent to James Mills, Attorney, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: James Mills, 202–376–2891 or Lucerne D. Winfrey, 202–376–2805.

SUPPLEMENTARY INFORMATION: The Bureau Director has received a request for a 30-day extension from the Gas Applicance Manufacturers Association (GAMA), which requested the extra time in order to evaluate thoroughly the staff report and ensure proper preparation of its submission to the record.

The Bureau Director is persuaded that GAMA's request to justified, and has decided to grant it. In the interest of fairness and a complete record, the Bureau Director has decided to grant a 30-day extension to the general public as a whole, so the comment period is extended until November 2, 1983.

The Commission's final determination in this matter will be based on the entire rulemaking record, including the staff report and comments received on it. The staff report has not been reviewed by the Commission, and its publication should not be interpreted as reflecting the present views of the Commission or any member thereof.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95–619) (1978), 42 U.S.C. 6294; Sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Carol T. Crawford,

Director, Bureau of Consumer Protection.

[FR Doc. 83–29169 Filed 10–26–83; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 610

[Docket No. 82N–0029]

Hepatitis Requirements; Proposed Amendment To Permit Shipment of Any Blood Product Before Test for Hepatitis B Surface Antigen Is Completed

Correction

In FR Doc. 83–27919, beginning on page 46815, in the issue of Friday, October 14, 1983, on page 46816, in the third column, in § 610.40(b)(4), in the fourth line, "such as blood" should read "such a blood".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 13–83–12]

Regulated Navigation Area; Puget Sound, Washington

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to regulate gill net fishing in Puget Sound and adjacent waters. This action would reinstate certain general regulations which were recently cancelled by the U.S. Army Corps of Engineers and would establish authority for special traffic lanes to reduce conflicts between gill net fishing vessels and deep-draft vessels. These regulations are needed due to the large number of user conflicts and potentially hazardous situations which frequently develop during periods when heavy concentrations of gill net fishing vessels are present. The intended effect of this proposed action is to facilitate the safe passage of vessels in Puget Sound with minimum interference in gill net fishing activities.

DATES: A public Hearing will be held on 14 December 1983. All requests to present oral testimony must be received on or before 7 December 1983. All written comments must be received on or before 31 December 1983.

ADDRESSES: Written comments, and requests to present oral testimony, should be submitted to Commander (mps), Thirteenth Coast Guard District, 915 Second Avenue, Seattle

Washington 98174. Comments will be available for inspection in Room 3506 at the above address. Normal office hours are 8:00 A.M. to 4:15 P.M., Monday through Friday, except holidays. Written comments or requests to make oral testimony may also be hand delivered to this address. The Public Hearing on 14 December 1983 will be conducted between 1 pm–4 pm and 6 pm–8 pm in the South Auditorium located on the fourth floor of the Federal Building, 915 Second Avenue, Seattle, Washington 98174.

FOR FURTHER INFORMATION CONTACT: Cmdr. T. Roger Pike, USCGR, Marine Safety Division, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98134. Telephone: (206) 442–5537.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making ty submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 13–83–12), and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. In addition, interested persons are invited to attend the Public Hearing and present oral or written statements on this proposal. Persons wishing to make an oral statement should notify Cmdr. Pike by 7 December 1983 and indicate the approximate amount of time required. Comments at the Public Hearing will normally be heard in the order the requests to comment are received. It is requested that a written summary or copy of the oral presentation be included with the request. The proposed rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

Drafting Information

The drafters of this notice are Cmdr. T. Roger Pike, USCGR, Marine Safety Division, Thirteenth Coast Guard District, and Lt. James R. Wóeppel, USCG, project attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Proposed Regulation

The U.S. Army Corps of Engineers recently cancelled its regulations in 33 CFR 206.93 which addressed gill net fishing in Puget Sound. Those regulations were withdrawn by the Corps of Engineers as a part of a general review of its regulations. The Coast Guard proposes to republish those regulations since they had proven to be quite effective and since they were generally well accepted by the maritime public.

In addition, new regulations are proposed to authorize temporary special traffic lanes as an alternative to the Puget Sound Vessel Traffic Service Traffic Separation Scheme during periods of heavy gill net fishing. During the gill net fishing season, concentrations of gill net fishing vessels, and their nets, frequently block traffic lanes, creating the potential for hazardous situations. Over the past several years, this issue has been discussed in a number of settings. In 1981, a Public Hearing and an Open Conference were held under CGD80–119. Several regulatory and non-regulatory actions grew out of these meetings. (For a summary of these actions, see 48 FR 20248). More recently, the Puget Sound Users Forum, sponsored by the Sea Use Council, recommend the authorization of temporary special traffic lanes as proposed herein. That recommendation had support from a broad spectrum of Puget Sound users, including the Puget Sound Gillnetters Association. The recommendation was successfully implemented on a trial, voluntary basis during the 1982 fishing season, using a one half mile wide special lane. Since then there has been some question raised as to how wide a lane is necessary or appropriate, but support for the general concept has remainded intact. Briefly, the concept involves authorizing the Puget Sound Vessel Traffic Service (PSVTS), during periods and in areas of heavy gill net fishing concentrations, to establish a temporary special traffic lane for use in lieu of the existing Traffic Separation Scheme. Deep draft vessels would be authorized to use this lane, which would be kept free of gill net fishing. Gill net fishermen, in return, would be free to fish, relatively undisturbed, in all other waters, including the usual lanes of the Traffic Separation Scheme.

Finally, a ferry lane would be established for the Edmonds-Kingston ferry route similar to the historic Mukilteo-Columbia Beach ferry lane, which would be re-established. Gill net fishing would be prohibited in these two ferry lanes.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT policy and procedures for simplification, analysis, and review of regulation (DOT Order 2100.5). Its economic impact is expected to be minimal since gill net fishing will be affected only in a very small area in comparison to the area of Puget Sound which is involved, and because the temporary special traffic lane would be implemented only if and when the concentration of gill net fishing vessels in the traffic lanes created a safety hazard. Therefore, further economic evaluation is not necessary.

Based upon this assessment, it is certified in accordance with Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations, by adding § 165.1301 to read as follows:

§ 165.1301 Puget Sound, Washington.

(a) *General regulations.* The regulations in this paragraph shall govern fishing with gill nets in the following northwestern Washington waters under the jurisdiction of the Captain of the Port Seattle: Puget Sound, Hood Canal, Possession Sound, Commencement Bay, the Strait of Juan de Fuca, the San Juan Archipelago, Georgia Strait, Rosario Strait, and adjacent waters.

(1) A tug with tow, whose intended course will take it through waters occupied by gill net gear, shall sound one long blast, followed by one short blast, of a whistle or horn, and during darkness or fog shall, in addition, indicate its intended course by directing a searchlight beam on such course. Gill net fishermen operating within the indicated course of the tug shall draw in their gear or otherwise maneuver to permit passage of the tug and its tow without hindrance or unreasonable delay.

(2) A tug without tow or any other vessel, if unable to determine the lay of the nets and doubt exists aboard the tug or vessel as to the best course to take, may request assistance of the nearest gill net boat which shall, without delay,

drop its net and pilot the tug or vessel through. If assistance of a pilot boat is not obtainable or if nets are so concentrated as to make it impracticable to lay a course through the nets, the tug or vessel shall proceed as indicated in paragraph (a)(1) of this section for a tug with tow, and nets shall be lifted or maneuvered out of the way to permit passage of the tug or vessel without hindrance or unreasonable delay.

(3) A boat with at least one man in it capable of controlling the net shall be in constant attendance upon each net while it is laid out, except when providing pilot service as provided in paragraph (a)(2) of this section.

(b) *Prohibited fishing area in Possession Sound between Mukilteo and Columbia Beach.* Fishing with gill nets is prohibited within 440 yards on each side of a straight line connecting the ferry landings at Mukilteo and Columbia Beach.

(c) *Prohibited fishing area in Puget Sound between Edmonds and Kingston.* Fishing with gill nets is prohibited within 440 yards on each side of a straight line connecting the ferry landings at Edmonds and Kingston.

(d) *Prohibited fishing area in Temporary Special Traffic Lanes.* In order to decrease conflicts between deep-draft vessels and fishing vessels, the Coast Guard is authorized to establish a temporary special traffic lane, as described below, for use as an alternative to the Puget Sound Vessel Traffic Service Traffic Separation Scheme described in 33 CFR Part 161. When gill net fishing has reached or may reach such concentrations as to constitute a hazard to navigation, the Puget Sound Vessel Traffic Service may, from time to time, grant deviations to individual vessels to use this temporary special traffic lane. When the Puget Sound Vessel Traffic Service has placed into effect this special traffic lane, and announced that fact by Broadcast Notice to Mariners, gill net fishing is not allowed within the areas described in that announcement. The temporary special traffic lane may be all or part of a lane commencing north of Pt. Wilson at the center of Precautionary Area "SA" and extending southerly to the center of Precautionary Area "TC" off Browns Point. A line along the center of the Traffic Separation Scheme and connecting the traffic separation buoys now named "SA", "SB", "SC", "SD", "SE", "SF", "SG", "T", "TA", and "TC", will form the center line of the temporary special traffic lane. (For a description of Separation Zones, Traffic Lanes, and Precautionary Areas, see 33 CFR 161.183, 161.185, and 161.187). A line parallel to and one quarter mile west of this center line will form the western boundary and a line parallel to and one quarter mile east of this center line will form the eastern boundary of this special lane.

(33 U.S.C. 1224; 49 CFR 1.46(n)(4); 33 CFR 1.05–1(g)(4))

Dated: September 9, 1983.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 83-29240 Filed 10-26-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 20

Employee Responsibility and Conduct

AGENCY: Interior Department.

ACTION: Proposed rulemaking.

SUMMARY: Portions of the regulations governing the conduct and responsibility of Department of the Interior employees (43 CFR Part 20) are proposed to be revised. This proposed revision, if adopted, will delete the public financial disclosure reporting requirements for Department of the Interior employees identified as performing functions or duties under the Federal Land Policy and Management Act, Mining in the Parks Act, Energy Policy and Conservation Act and the Outer Continental Shelf Lands Act Amendments of 1978. This proposal is based on a Justice Department interpretation of Section 207(c) of the Ethics in Government Act of 1978, and on the Department's effort to promote efficiency in the process of collecting and reviewing employee financial disclosure reports to prevent actual or apparent conflicts of interest. Another proposed revision would incorporate a provision to allow management reasonable flexibility in administering employee responsibility and conduct restrictions that apply to Minerals Management Service employees. The remaining proposed revisions in this notice will, if adopted, solve minor administrative problems identified while enforcing the current rules in 43 CFR Part 20.

The Department invites comments on these proposed regulations.

DATE: To be considered, comments must be received on or before November 28, 1983. All comments will receive full consideration.

ADDRESS: Comments, views and opinions concerning the proposed regulations should be submitted to: Deputy Agency Ethics Officials, U.S. Department of the Interior, Room 5125, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Gabriele J. Paone or Mr. Mason Tsai on (202) 343–3932.

SUPPLEMENTARY INFORMATION: The Department of the Interior proposes to amend 43 CFR Part 20 by eliminating the regulations requiring public financial disclosure reporting for those employees who perform duties and functions under the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579); the Mining in the Parks Act (Pub. L. 94–429), the Energy Policy and Conservation Act (Pub. L. 94–163), and the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372). This proposal is based on a Justice Department interpretation of Section 207(c) of Public Law 95–521, and on the Department's effort to promote efficiency in the process of collecting and reviewing employee financial disclosure reports to prevent actual or apparent conflicts of interest. Refer to the Department of Justice letter of April 11, 1980 from John M. Harmon, Assistant Attorney General to Deputy General Counsel David O. Bickart at the Environmental Protection Agency. An amendment to Section 24 is proposed, and will allow management reasonable flexibility to administer the conflict of interest restrictions that apply to employees of the Minerals Management Service. The remainder of the proposed revision affects various sections of Part 20 and is needed to solve administrative problems identified while enforcing the provisions in the Part.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

This rule does not contain information collection requirements which require approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The primary authors of the proposed rule are Gabriele J. Paone, Deputy Agency Ethics and Audit Coordination Official and Mason Tsai, Assistant Agency Ethics Official.

List of Subjects in 43 CFR Part 20

Conflicts of interest, Government employees.

Accordingly, 43 CFR Part 20 is proposed to be amended as follows:

Dated: November 24, 1983.

Richard R. Hite,

Principal Deputy Assistant Secretary, Policy, Budget and Administration.

PART 20—[AMENDED]

1. It is proposed that 43 CFR Part 20 be amended by revising the Authority Citation to read:

Authority: 5 U.S.C. 301; 18 U.S.C. 207(j) (Supp. V 1981); sec. 12 Ch. 578, 46 Stat. 986 (25 U.S.C. 472); sec. 201(f), Pub. L. 95–87, 91 Stat. 450–51 (30 U.S.C. 1211 (Supp. V 1981)); E.O. 11222, 30 FR 6469 3 CFR 1964–65 (Comp.), as amended (18 U.S.C. 201 note); 5 CFR 735–104; 5 CFR 734.103; 5 CFR 737.1(c)(7).

2. Section 20.735–2 would be amended by revising paragraph (h)(4)(i) to read:

§ 20.735–2 Purpose, policy and general responsibilities.

* * * * *

(h) * * *

(4)(i) Special codes of conduct have been approved in accordance with § 20.735–2(h) for two groups of employees:

(A) Bureau of Land Management Fire Management Teams—approved January 16, 1981.

(B) Office of Inspector General Auditors and Investigators—approved July 16, 1982.

* * * * *

3. The regulations on sanctions would be amended by revising § 20.735–4 to read as follows:

§ 20.735–4 Sanctions.

(a) Violations of the regulations in this part by an employee may be cause for appropriate corrective, disciplinary or remedial action, which may be in addition to any criminal or civil penalty provided by law.

(b)(1) Disciplinary action may include, but is not limited to, oral or written warning or admonishment, reprimand, suspension, reduction in grade or pay, or removal from office and shall be taken in accordance with Departmental policies, applicable statutes, Executive Orders, and regulations (Refer to Federal Personnel Manual and additions thereto). Disciplinary action may be imposed independently from and without prior application of remedial actions.

(2) Remedial actions may include those actions described in § 20.735–40. Failure to comply with appropriate remedial action may result in suspension or removal from office, or other disciplinary action. Employees may appeal divestiture orders is accordance with procedures contained in § 20.735–43.

(c) The procedures for disciplinary action involving contract education employees in Indian Affairs are contained in 25 CFR 38.6.

4. Section 20.735–7 would be amended by revising paragraph (b)(2)(i) to read:

§ 20.735–7 Gifts, entertainment, and favors from domestic sources.

* * * * *

(b) * * *

(2) * * *

(i) Food and refreshments of nominal value on infrequent occasions in the ordinary course of an official luncheon or dinner meeting or other official or professional function or on an inspection tour where an employee may properly be in attendance,

* * * * *

§ 20.735–9 [Amended]

5. It is proposed to redesignate § 20.735–9 paragraphs (a)(2) and (a)(3) as (a)(3) and (a)(4) respectively. Then a new § 20.735–9 paragraph (a)(2) is proposed to read:

(a) * * *

* * * * *

(2) The Department may charge a fee or accept reimbursement for providing a service or thing of value to a private source when the service or thing of value provided benefits to both the Government and the particular private source (31 U.S.C. 9701). In such instances only a portion of the costs can be accepted from the private source. The Department must pay expenses associated with its usual official business and for the benefits it receives from participating in the event. The private source can be charged or may reimburse the Department for that portion of the service provided that exceeds the Department's usual expenses and the benefits to the government. Under this provision, payments from private sources must be deposited in the U.S. Treasury unless the bureau receiving the payment is authorized by statute to accept such payments.

§ 20.735–9 [Amended]

6. It is proposed that § 20.735–9 paragraph (b)(3) be amended by removing the works "International Communication Agency" found in the first sentence and inserting in its place: United States Information Agency

§ 20.735–20 [Amended]

7. It is proposed that § 20.735–20 paragraph(c) be amended by removing the words "All Assistant Secretary Immediate Offices including Bureau and Office Directors." and inserting in its place: All Assistant Secretary Immediate Offices including heads of Bureaus and Offices.

8. It is proposed that § 20.735–24 be amended by revising paragraphs (a)(3)(i), (a)(3)(ii), (a)(4)(i), (a)(4)(ii), (b)(1)(ii), and (b)(3), and by adding paragraph (d)(6) as follows:

§ 20.735–24 Interest in Federal lands.

(a) * * *

(3) * * *

(i) Membership or outside employment in a business which has interests in federal lands, and

(ii) Ownership of stock or other securities in corporations determined by the Department to have an interest in federal lands directly or through a subsidiary.

(4) * * *

(i) Holdings in land, mineral rights, grazing rights or livestock which in any manner are connected with or involve the substantial use of the resources or facilities of the federal lands, or

(ii) Substantial holdings of a spouse or dependent child. *Refer to § 20.735–21(b)(5) for the definition of "Substantial."*

(b) * * *

(1) * * *

(ii) Retaining a direct interest in federal lands acquired voluntarily or by any other method, before or during employment by the Department in their own name or in the name of their spouse, dependent child, or solely-owned or family-owned business except that they may acquire or retain such interests in accordance with the waiver criteria in § 20.735–24(e).

* * * * *

(3) All Department employees are prohibited from acquiring or retaining any claim, permit, lease, small tract entries, or other rights in federal lands either in their own name or in the name of their spouse, dependent child, or solely-owned or family-owned business except that they may acquire or retain such interests in accordance with the waiver criteria in § 20.735–24(e). Also, employees, other than those identified in § 20.735–24(b) (1) and (2), may purchase or retain stocks or securities traded on the open market in companies having interests in federal lands, provided that such acquisition will not interfere or appear to interfere with the proper and impartial performance of their official duties.

* * * * *

(d) * * *

(6) The prohibitions imposed on MInerals Management Service employees by § 20.735–24(b) are imposed by the Secretary through regulatory extension of the statutory provisions in 43 U.S.C. 31(a). Accordingly, the Secretary authorizes

the Director, Minerals Management Service (MMS), to approve exceptions to this regulatory extension for individual MMS employees or for a class of MMS employees for cause. Exceptions granted by the Director for a class of employees shall be with the prior concurrence of the Designated Agency Ethics Official.

* * * * *

9. Section 20.735–30 would be amended by revising paragraph (c) to read:

§ 20.735–30 Executive order filing requirements.

* * * * *

(c) *When to file.* The Ethics Counselors shall notify each employee covered by this sectin and furnish the necessary form or forms to the employee at the time of his or her entrance on duty and by December 15 of each year.

* * * * *

10. It is proposed that § 20.735–30 paragraph (c)(1) be amended to remove the last word "or" and that § 20.735–30 paragraph (c)(2) be amended to remove the last word "or".

§ 20.735–34 [Removed]

11. It is proposed to amend Part 20.735 of 43 CFR by removing § 20.735–34 in its entirety.

12. It is proposed that § 20.735–35 be amended by removing paragraph (a)(4).

13. Section 20.735–35 would be amended by revising paragraph (b)(2)(i) to read:

§ 20.735–35 How to file.

* * * * *

(b) * * *

(2) * * *

(i) Statutory prohibitions contained in § 20.735–22(c) or the Surface Mining Control and Reclamation Act filing requirements, and

* * * * *

14. It is proposed that § 20.735–35 be amended by removing paragraph (b)(3) and by aoding a note between § 20.735–35(c)(2) and § 20.735–35(c)(3) to read:

Note.—"Covered employee" means an employee who is serving in a position that requires the incumbent to file a financial disclosure statement.

15. It is proposed that § 20.735–70 be amended by removing (a)(18), (a)(19), (a)(20), and (a)(22). Then (a)(21) would be redesignated as (a)(18); (a)(23) would be redesignated as (a)(19); (a)(24) would be redesignated as (a)(20); (a)(25) would be redesignated as (a)(21); (a)(26) would be redesignated as (a)(22); (a)(27) would be redesignated as (a)(23).

16. It is proposed that § 20.735–70 be amended by revising paragraph (a)(18) to read:

§ 20.735–70 Bibliography of statutes.

(a) * * *

(18) The requirement that each employee of the Office of Surface Mining Reclamation and Enforcement or any other Federal employee performing any function or duty under the Surface Mining Enforcement and Reclamation Act is prohibited from having a direct or indirect financial interest in underground or surface coal mining operations.

* * * * *

17. It is proposed that Appendix A–3 be revised to read as follows:

Appendix A–3—U.S. Department of the Interior, Bureau of Land Management; Employee Certification

Note.—The provisions in 43 CFR 20.735–22(c)(1) and 20.735–24 should be read completely before this statement is signed.

I have received a copy of the Department of the Interior Regulations governing Responsibilities and Conduct of Employees (43 CFR Part 20). I have been advised of the name and location of the Assistant Bureau Ethics Counselor. I understand that I may discuss questions or concerns related to my responsibilities, conduct, and financial interests with this individual.

I certify that I do not have a direct or indirect interest in Federal lands as prohibited in 43 CFR 20.735–22(c)(1) and 20.735–24. I understand that an interest in Federal land is interpreted to include stock ownership in companies which lease Federal lands, leases, permits, contracts, mineral rights, grazing rights, etc.

I certify that I do not now have and that I will not acquire an active real estate license during the time I am an employee of the Bureau of Land Management.

_____

(Employee's Name typed or printed)

_____

(Title of Position)

_____

_____

(Signature of Employee)

(Date)_____

Instructions

1. All employees (including temporaries, reemployed annuitants, excepted appointments, etc.) of the Bureau of Land Management must complete the certifications on this form.

2. Your name must be printed or typed and a signature and date must be on the appropriate lines.

3. Signed certificates shall be sent to and maintained by the Servicing Personnel Office.

4. If you are unable to certify compliance, you must submit a statement of facts to the Assistant Ethics Counselor for review and action.

5. If you do not have a copy of the Department's regulations governing Responsibilities and Conduct (43 CFR Part 20), you may obtain a copy from your Personnel Office. If you do not know the name and location of the Assistant Bureau Ethics Counselor, your Personnel Office can provide you with the name and phone number.

Privacy Act Notice

43 CFR 20.735–22(c)(1), 43 CFR 20.735–24, and 5 U.S.C. 301 constitute the authority for requesting this certification. This certification must be signed; failure to do so can be cause for denying appointment or for appropriate disciplinary action.

This certification will be used to record officially the fact that you have knowledge of, and are in compliance with, the restrictions pertinent to your employment. The information certified to will be considered confidential and will form a part of the records of the office where you file; as such, the contents may be routinely disclosed to authorized Interior personnel, the Office of Personnel Management, the Department of Justice and to appropriate law enforcement agencies.

Appendices D, E, F, and G [Removed]

18. It is proposed that Part 20 of 43 CFR be amended by removing appendices D, E, F and G.

[FR Doc. 83–29234 Filed 10–26–83; 8:45 am]

BILLING CODE 4310–10–M

FEDERAL MARITIME COMMISSION

46 CFR Part 540

[Docket No. 83–30]

Security for the Protection of the Public

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of proceeding.

SUMMARY: By notice published in this proceeding (48 FR 35675, August 5, 1983) the Federal Maritime Commission solicited comments regarding its regulations concerning the Proof of Financial Responsibility to meet Liability Incurred for Death or Injury to Passengers and Other Persons on Voyages and for Indemnification of Passengers for Nonperformance of Transportation (46 CFR Part 540). This notice was published in conjunction with the Commission's review of the instant regulations conducted pursuant to section 610 of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 1169). No comments were received. Since the Commission is unaware of any need or basis for amending or modifying the requirements of Part 540 at this time and no comments were received, the Commission has decided to discontinue this proceeding.

DATE: This discontinuance of proceeding is effective October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street

NW., Washington, D.C. 20573 (202) 523–5725.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83–29246 Filed 10–26–83; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS–57; Notice 2]

Transportation of Natural and Other Gas by Pipeline; Monitoring of Gas Odor Level

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, Transportation.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: Rigid standards were proposed for the control of the odorant injection rate required for natural gas along with a increased frequency of inspection of each odorizer and a maximum interval between the dates of the sampling of the gas in the odorized piping systems to assure the presence of an appropriate level of odorization. Review of the comments to Notice 1 published in the **Federal Register**, February 22, 1979 (44 FR 10604), has convinced MTB that the proposal was not practical and would not increase the level of safety sufficiently to justify the very high estimated cost. Odorizing equipment to replace wick and by-pass odorizers on small gas systems that may be capable of meeting the proposed limits are very costly and lack the reliability of the present equipment. As a consequence, the proposed standards are withdrawn.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, (202) 426–2082.

SUPPLEMENTARY INFORMATION: Part 192 now contains standards for the minimum level of odorization required for natural gas in a distribution system and certain transmission pipelines. Section 192.625(a) provides that, "A combustible gas in a distribution line must contain a natural odorant or be odorized so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell." Section 192.625(b) requires transmission pipelines in Class 3 or 4 locations, with certain exceptions, to also be odorized in compliance with paragraph (a). Section 192.625(e) then states, "Equipment for odorization must introduce the odorant without wide variations in the level of odorant." In addition, § 192.625(f) requires that, "Each operator shall conduct periodic sampling of combustible gases to assure the proper concentration of odorant in accordance with this section."

Notice and Comments

Public Complacency

In Notice 1, MTB argued that if odorant is injected into a gas system in varying amounts above the minimum required by § 192.625(a), the public subjected to minor gas leaks would develop a complacent attitude toward detecting a gas odor and could cause a person to not report a hazardous leak.

This argument was refuted by many of the 111 commenters to the NPRM who pointed out that in fact there were advantages to periodically increasing the odorant level to assist in detecting minor leaks inside homes before they become hazardous. One comment relative to complacency stated that the public was most impressed by the response or lack of response by the operator. Several other comments said that excessive ordorant injection becomes self regulating because of nuisance leak calls and the cost of odorant.

Variation in odorant injection rate

There were many comments stating that the proposed limit of a 33 percent variation from an established mean odorant injection rate for each station was not practical and could be unsafe. Reason given included:

1. Gas received from the supplier may have a widely varying odorant level.

2. Gas flow rates may at times be either higher or lower than the designed capacity of the odorizer.

3. At times it is necessary to vary injection rates to compensate for odorant absorption in the system.

4. Variations of the odorant level in natural gas could safely be much greater than 33 percent.

5. Many operators intentionally increase the odorant level to periodically get consumers to detect and report gas leaks inside buildings.

6. Very few odorizers are capable of controlling the injection rate within a 33 percent variation over the widely varying range of gas flows that occur at most tap stations.

7. Above a certain high concentration of odorant in air, the human nose does not respond to additions of odorant.

Fequency of inspection of odorizers

MTB further proposed to establish maximum time intervals between the inspection or testing of odorizers to assure a continued supply of odorant and determine the average odorant injection rate.

Commenters responded by pointing out that wick and by-pass odorizers, which account for most odorizers in use, are not equipped to measure odorant level. In addition, these odorizers are usually installed on smaller gas systems where the odorant use would be quite small. Thus, odorant usage would often be erratic or so small as to be unmeasurable. On odorizer stations where injection type odorizers are used for large gas flows, it may be appropriate to inspect odorizers daily. All of these arguments were used to support the continued use of the present performance language of § 192.625(e).

Frequency of sampling natural gas

MTB also proposed to amend § 192.625(f) to establish a maximum interval of 95 days between sampling and testing of the gas in the pipeline to determine that the gas was detectable at a concentration in air of one-fifth of the lower explosive limit. Responses to this varied from an operator who did odorometer tests at least daily to those who stated that an odorometer test annually was adequate so long as odorizer performance was regularly monitored. Convincing arguments were given for various frequencies of conducting odorometer tests (annually, semi-annually, monthly, weekly, daily) on each individual operator's system. Thus, MTB is convinced that a fixed maximum time interval between samplings of gas in pipelines would in some cases permit an excessive amount of time between samplings to be safe on some pipelines and at the same time requiring samplings to be made more frequently than necessary for safety on other pipelines.

Conclusions

In summary, it appears that the more rigid requirements proposed for control of the injection rate of odorant in natural gas by odorizers, establishment of maximum fixed intervals between inspections of odorizer equipment, and establishing maximum intervals between tests of the odorant level in pipeline systems at a number of locations are not practical or cost effective. Therefore, Notice 1 is hereby withdrawn pending further study of the safety benefits of any additional odorization regulations compared to their costs to industry and the public.

(49 U.S.C. 1672, 49 CFR 1.53, Appendix A of Part 1, and Appendix A of Part 106.)

Issued in Washington, D.C., on October 24, 1983.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 83-28245 Filed 10-26-83; 8:45 am]

BILLING CODE 4910-60-M

Federal Railroad Administration

49 CFR Part 231

[FRA Docket No. SA-3, Notice 8]

Safety Appliance Standards

AGENCY: Federal Railroad Administration (FRA), Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA proposes to eliminate the requirement that railroad and other freight car owners remove the roof running boards from box and other house cars by December 31, 1983. This action is being proposed in response to a petition of the Association of American Railroads (AAR).

DATES: (1) Written comments must be received not later than December 15, 1983. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

(2) Public Hearing. A public hearing will be held at 10:00 a.m. on December 12, 1983. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before December 7, 1983, by phone or mail.

ADDRESSES: (1) Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in Room 5101 of the Nassif Building at the above address.

(2) Public Hearing. A public hearing will be held in Room 8334 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202-426-8285) or by writing to: Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590. Telephone (202) 426-0897.

SUPPLEMENTARY INFORMATION:

Background

In 1966 the Interstate Commerce Commission (ICC), which was then responsible for administration of the Federal railroad safety program, amended its regulations concerning the arrangement of safety appliances on box cars and other freight cars of similar design, *i.e.*, "house cars." The ICC amendment reflected changes in railroad operating practices and increases in the size of certain types of freight cars by eliminating the requirement for installation of roof running boards on newly constructed cars unless that car was to be equipped with roof hatches. Additionally, the ICC directed the removal of roof running boards and modification of ladders and handholds of existing box and house cars unless equipped with roof hatches.

The regulation adopted by the ICC is contained in the first sentence of the Note in § 231.1 of the Safety Appliance Standards (49 CFR 231.1) and is now administered by FRA. The original regulation contained a compliance date of April 1, 1974, for the removal of roof running boards and completion of the related changes in the associated ladders and handholds for all box and other house cars built on or before April 1, 1966, or under construction prior to that date and placed in service before October 1, 1966. That compliance date has been extended by FRA until December 31, 1983.

The AAR has filed a petition requesting that FRA delete this provision and eliminate the requirement for modifying cars placed in service prior to October 1, 1966. AAR estimates that at the time the rule was initially adopted there were approximately 700,000 cars that required modification. That number has steadily and substantially diminished over the years, and the AAR estimates that only 30,000 unmodified cars are still in service. Because of the large number of cars that are stored in serviceable condition, AAR states that it is particularly difficult and expensive to ensure that the retrofit program is completed. Additionally, a large portion of these cars is scheduled for retirement in the next few years.

AAR's position is that the difficult and expensive task of modifying the remaining cars cannot be supported as necessary for safety. AAR suggests that the universal existence of railroad operating rules, which prohibit engine and train crews from going on the roof of freight cars, and of a like rule prohibiting other employees from going on the roof of a moving freight car, means that the safety of personnel will not be jeopardized by eliminating the requirement for continued removal of the roof running boards. AAR estimates that the cost of locating, moving, modifying the remaining cars would exceed $10 million.

FRA accident data indicate that there is no accident or injury in which FRA can identify unmodified equipment as a causal factor in incidents involving on-duty railroad personnel. In the absence of such data, FRA has repeatedly granted extensions of the compliance deadline.

In acting to delete this requirement FRA is proposing to clarify the intent of the regulation expressed in the Note to § 231.1. FRA proposes to do this by recaptioning § 231.1 and rewording paragraph (a) slightly. Additionally, FRA proposes both to recaption §§ 231.37 and 231.28 to indicate clearly that they apply to newer equipment and to eliminate the cross references in the Note to § 231.1 that express that intent.

Regulatory Impact

This NPRM has been evaluated in accordance with existing regulatory policies. It is neither a "major" rule as defined under Executive Order 12291 nor a "significant" rule as defined under DOT policies and procedures. The elimination of the regulation would have a direct impact on railroads and private car owners that possess such box and other house cars. According to industry estimates this proposal would permit savings in excess of $10 million. The rule would have a positive economic impact by allowing these entities to avoid the retrofit costs, but that impact would not be significant for any individual car owner because of the wide diversity of ownership. Because the economic impact of the regulation's elimination, as proposed, is expected to be minimal, FRA has determined that further economic evaluation is not necessary.

Although the proposed rule may have a slight impact on some small entities that own or lease such cars, that impact will be neither a significant nor an adverse economic impact. Based on the facts set forth in this MPRM, it is certified that the rule, as proposed, will not have significant impact on a

substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

There are no information collection requirements directly or indirectly contained in this NPRM.

Environmental Impact

On June 16, 1980, FRA published (45 FR 40854) revised procedures for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive orders, and DOT Order 5610.1C.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures categorically exempt certain actions from the requirements for an environmental assessment because they are not "major" actions as that term is defined under FRA procedural rules (45 FR 40854).

The FRA environmental procedures also contain a provision that enumerates seven criteria which, if met, demonstrate that a non-categorically exempt action is not a "major" action for environmental purposes. These criteria involve diverse factors, including the availability of adequate relocation housing; the possible inconsistency of the action with Federal, State or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by section 4(f) of the DOT Act; and the possible increase in traffic congestion. This proposed rule meets the seven criteria that establish an action as a non-major action.

Public Participation

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and notice number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Persons desiring that receipt of their communications be acknowledged should attach a stamped, pre-addressed postcard to the first page of their communication. Communications received before December 15, 1983 will be considered before final action is taken on the proposed rule.

All comments received will be available for examination by interested persons at any time during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

In addition, FRA will hold a public hearing on this proposal in Washington, D.C. The public hearing will be held beginning at 10:00 a.m. on December 12, 1983 in Room 8334 of the Nassif Building, located at 400 Seventh Street, SW., Washington, D.C.

List of Subjects in 49 CFR Part 231

Railroad safety.

In consideration of the foregoing, FRA proposes to amend Part 231, Title 49, Code of Federal Regulations, as set forth below:

The Proposed rule

1. In § 231.1 the section heading, the introductory language (note), and paragraph (a)(1) are revised to read as follows:

§ 231.1 Box and other house cars built or placed in service before October 1, 1966.

Except for box and other house cars that comply with either section 231.27 or section 231.28, each box and other house car shall be equipped to meet the following specifications:

(a) *Handbrake.*—(1) *Number*—One efficient handbrake which shall operate in harmony with the power brake installed on the car. Each such handbrake shall (i) provide the same degree of safety as the design shown on plate A, or (ii) provide the same degree of safety as that specified in § 231.27.

* * * * *

2. In § 231.27, the section heading is revised to read as follows:

§ 231.27 Box and other house cars without roof hatches built or placed in service after October 1, 1966.

* * * * *

3. In § 231.28, the section heading is revised to read as follows:

§ 23.28 Box and other house cars with roof hatches built or placed in service after October 1, 1966.

Authority: Secs. 2, 4, and 6, 27 Stat. 531, as amended, secs. 1 and 3, 32 Stat. 943, as amended, sec 6(e) and (f), 80 Stat. 939, 45 U.S.C. 2, 4, 6, 8, and 10, 11–16, and 49 U.S.C. 103(c)(1).

Issued in Washington, D.C., on October 24, 1983.

Thomas A. Till,

Deputy Administrator.

[FR Doc. 83–29247 Filed 10–26–83; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Giant Panda Added to Appendix III of Endangered Species Convention

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international shipment of certain wildlife and plant species, which are listed in appendices to this treaty. Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other Parties in the control of trade.

The People's Republic of China has submitted the giant panda, *Ailuropoda melanoleuca*, for inclusion in CITES Appendix III and has proposed its future transfer to Appendix I. The Service requests comments on whether the United States should enter a reservation on the Appendix III amendment and on whether the United States should support or oppose the Appendix I amendment proposal. Presently, the Service intends to support both listings.

DATES: The Appendix III amendment enters into effect on December 6, 1983, for all Parties except those entering a reservation. Nations that are now Parties to CITES may only enter reservations on or before that date. For this reason, the Service will only be able to consider all comments received by November 30, 1983, in determining whether the United States should enter a reservation. The Service also will consider all comments received by December 30, 1983, in determining whether the United States should support the proposed transfer of the species to Appendix I.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 547, 1717 H Street, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, at address given above, or telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: The CITES Secretariat circulated a notification to all Party nations on September 7, 1983, to inform them of the present amendment. In accordance with the provisions of paragraph 1 of Article XVI of CITES, the Government of the People's Republic of China submitted to the Secretariat the following species for inclusion in Appendix III:

Mammalia

Carnivora

Ursidae, *Ailuropoda melanoleuca* (giant panda)

In accordance with the provisions of CITES Article XVI, paragraph 2, inclusion of this species in Appendix III will take effect 90 days after the date of the notification, i.e. on December 6, 1983, for all Parties except those entering a reservation.

The Government of the People's Republic of China asked the Secretariat to convey to Party nations a request that they immediately prohibit any commercial or unauthorized trade in live specimens and products in order to support their efforts to protect this species. Any specimen of this species, whether alive or dead, will be covered by the provisions of CITES, as will any readily recognizable part or derivative.

The trade in specimens of species included in Appendix III requires export permits from the nation that has included the species in Appendix III. The import of specimens of these species from nations other than the nation that includes the species in Appendix III requires prior presentation of a certificate of origin or, in the case of re-export, a certificate from the nation of re-export.

As a Party to CITES, the United States has an opportunity to reserve on amendments to the appendices. Article XVI of CITES enables any Party to exempt itself from implementing CITES for a particular species if it makes a reservation with respect to that species. It must do so during the period of 90 days after the Secretariat notifies the Parties of an amendment placing the species in Appendix III.

The Service requests comments on whether the United States should enter a reservation on this recent amendment. At this time, the Service does not propose to recommend a reservation. It would consider doing so only if evidence is presented to show that implementation of the amendment would be contrary to the interests or laws of the United States.

The CITES Secretariat subsequently circulated a notification to all Party nations on September 14, 1983, explaining that the Appendix III listing was intended as an interim measure until the species could be listed in Appendix I. The Secretariat transmitted a supporting statement for the proposed Appendix I listing. Copies of the document are available upon request from the Office of the Scientific Authority (see address above).

The People's Republic of China requested that its Appendix I proposal be considered by the postal procedures in CITES Article XV. Under these procedures, the United States has an opportunity to comment on the proposal. If any Party nation formally objects to the proposal, then the United States also will have an opportunity to vote on the proposal. At this time, the Service proposes to endorse the proposal and if a vote is required, to vote in favor of it. The Service requests information and comments from the public in order to determine the most appropriate response to this proposed Appendix I amendment.

Note.—The Department has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). This rule would implement a change in the list of species in the CITES appendices that already has been accomplished, and to which the United States is bound unless it enters a reservation. Even if the United States were to reserve on the listing, international trade with nonreserving Parties would require permits or equivalent documents.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

PART 23—[AMENDED]

§ 23.23 [Amended]

Accordingly, the Service proposes to amend the list of species contained in § 23.23 of Part 23, Title 50 of the Code of Federal Regulations, by adding the giant panda to the list of species included in Appendix III.

(16 U.S.C. 1531 et seq.; 87 Stat. 884, as amended)

Dated: October 13, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-28248 Filed 10-26-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 31024-205]

Foreign Fishing; Permit Fees, Etc.

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Extension of comment period.

SUMMARY: NOAA issues this notice to extend the comment period on a proposed rule to establish the 1984 foreign fishing permit fees. This extension of the public comment period results from several requests from the public. The extension will allow the public additional time to prepare comments on provisions of the proposed rule.

DATE: Comments must be received on or before November 3, 1983.

ADDRESS: Send comments to Fees, Permits, and Regulations Division, F/M12, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: John D. Kelly, 202-634-7432.

SUPPLEMENTARY INFORMATION: NOAA issued a proposed rule at 48 FR 41788 on September 19, 1983, to amend the foreign fishing regulations. By that notice, NOAA proposed (1) to establish the 1984 foreign fishing permit fee: (2) to clarify that permits will not be issued unless any financial assurances required by the Secretary of Commerce are paid and that permits may be effective for limited periods; (3) to waive the surcharge for the Fishing Vessel and Gear Damage Compensation Fund (FVGDC) in 1984. The comment period on the proposed rule closed on October 19, 1983.

NOAA has received several requests to extend the comment period. The requests have centered on a need for additional time to develop more detailed comments on the provision concerning conditions for issuing permits. Specifically, commenters wishing to address the proposed amendment of § 611.3(c)(3) to clarify that all fees, surcharges, and other financial assurances required by the Secretary must be paid before fishing permits will be issued and the proposed amendment of § 611.3(f)(2) to codify the Secretary's authority to limit foreign fishing operations as a restriction of the permit to a period less than the remainder of the calendar year. Additional comments

on all provisions of the proposed rule are invited until November 3, 1983.

Some commenters have asked for an elaboration of the agency's interpretation of "financial assurances" and "limiting the effective periods of some permits to periods less than the remainder of the calendar year". The following provides additional information on these provisions.

With regard to the first, financial assurances may include certain performance bonds or guarantees related to conservation and management. Currently, under the Magnuson Act such assurances may be required when certain vessels or foreign nations have not cooperated in serious enforcement matters. Restatement of this authority in Part 611 is intended to advise foreign nations and U.S. joint venture companies that the Secretary may exercise this authority in addressing serious enforcement concerns.

With regard to limiting the effective periods of permits, certain permit applications may be conditionally approved on the basis of an agreement by the foreign fishing vessel owner or company to provide certain benefits to the U.S. industry or to ensure that a fishing vessel owner or operator who has formerly established a poor enforcement record complies with the terms and conditions of fishing in the fishery conservation zone. As an example, the 1983 foreign fishing permits for vessels supporting U.S. vessels fishing Atlantic squid were issued for effective period of 45 days. Performance of the foreign vessel was reviewed by the Regional Director during the 45-day period as a basis for a decision to extend the effective period for a subsequent 45 days. The proposed rule would set out the Secretary's authority in Part 611.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: October 25, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29388 Filed 10-26-83; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 611

[Docket No. 31004-197]

Foreign Fishing; Poundage Fee Schedule

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA proposes that 1984 poundage fee schedule for foreign vessels fishing in the fishery conservation zone. Under this fee schedule, foreign vessels would pay for 26 percent of the FY 1983 Magnuson Fishery Conservation and Management Act costs. Comments are requested on this fee schedule. This rule is needed to comply with section 204(b)(10) of the Magnuson Fishery Conservation and Management Act.

DATE: Comments must be received on or before November 28, 1983.

ADDRESS: Send comments to: Fees, Permits and Regulations Division, F/M12, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington D.C. 20235.

Copies of the draft regulatory impact review and initial regulatory flexibility (RIR/IRFA), a paper on the methods used to develop the schedule, and a detailed breakdown of NMFS costs are available at this address.

FOR FURTHER INFORMATION CONTACT: John D. Kelly, 202-634-7432.

SUPPLEMENTARY INFORMATION: NOAA proposes a schedule of fees for fishing during 1984 by foreign vessels in the U.S. fishery conservation zone (FCZ). The new schedule would result in collections of about $45.1 million. This amount is determined as described below. As in previous years, no fee would be collected by the Federal government for U.S.-caught fish received at sea by foreign flag processing vessels (joint ventures).

Background

Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*) states, in part, "The fees * * * shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act * * * during [FY 1983] the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during [1982] bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during [1981]".

Fees have been collected for foreign fishing since 1977 under annual schedules contained at § 611.22. Fee collections totaled $7.1 million in 1977, $8.8 million in 1978, $10.8 million in 1979, $16.7 million in 1980, $24.1 million in 1981, and $33.4 million in 1982. Collections have not been completed for 1983, but about $43 million is anticipated. Prior to 1981, poundage fees had been assessed at a rate of 3.5 percent of the ex-vessel value of a species. Significant increases in fees since 1981 result from an amendment of the Magnuson Act under Pub. L. 96-561. Pub. L. 96-561, in part, requires recovery of at least a foreign share of the cost which bears to the total costs of carrying out provisions of the Act the same ratio as the foreign catch bears to the total catch. In proposing the fee schedule for 1983, NOAA established but did not exercise its authority to collect fees in excess of costs (47 FR 51336).

FY 1983 Costs of Carrying Out the Purposes of the Magnuson Act

The Federal government's costs of carrying out the provisions of the Magnuson Act in FY 1983 were calculated by using the same estimating techniques that were used to estimate costs required for the development of the fee schedules for 1982 [see 46 FR 55729, November 12, 1981) and for 1983 (see 47 FR 51336, November 12, 1982, and 48 FR 27075, June 13, 1983). All National Marine Fisheries Services (NMFS) units submitted documentation of the planned use of their funding allocations. The documents are "operations plans", which include a narrative description of activities and the amount budgeted for labor, travel, contracts, etc. The operations plans were analysed to identify the costs of performing functions directed toward provisions of the Magnuson Act, without regard to legislative authorization for certain activities predating the Magnuson Act. NOAA's policy is to calculate the full direct and indirect costs, not incremental costs, for performing services for others (NOAA Budget Handbook, Chapter 2, Section 3). Documentation of NMFS' determination of Magnuson Act costs is available at the above address. The documentation specifies, by unit, the amount of each operations plan considered to contribute to the total cost of carrying out the provisions of the Magnuson Act. Using this process, the total FY 1983 NMFS cost was $63.8 million. Comparative data for establishing the 1984 fee target are included in Table 1, which lists FY 1982 costs and the FY 1983 costs for all Federal agencies carrying out provisions of the Magnuson Act.

The Department of State (DOS) estimated its FY 1983 costs at $280,000 the same level as in FY 1982. Although NOAA costs for the U.S.-Canadian boundary negotiations are included within the costs, DOS negotiations costs

are not included as part of the $280,000. NOAA costs in the Northeast Fisheries Center and the Northeast Regional office include $606,500 for these negotiations of which $90,000 is offset by the DOS.

Coast Guard costs in FY 1983 for enforcing the Magnuson Act are $97.3 million, an increase of $19.2 million over its FY 1982 *estimated* costs. Review of the *actual* FY 1982 costs shows that the Coast Guard expended $89.6 million in fact for Magnuson Act enforcement. Thus, the net increase of the Coast Guard FY 1983 effort is only $7.7 million over its actual FY 1982 Magnuson Act costs. This increase is attributed to the net growth in fishery law enforcement during FY 1983 and inflation. Cutter and aircraft utilization for fisheries enforcement has increased by approximately 12 percent to date in FY 1983 when compared to FY 1982.

Table 1. FY 1983 Estimated Agency Costs for Purposes of the Magnuson Act (in thousands of dollars).

	FY 1982		FY 1983		
	FMC costs	AGENCY costs	FMC costs	AGENCY costs	Differences
NMFS					
[illegible]	$13,157.0		$14,426.4		+ $1,269.4
F/NEC	11,576.0		11,378.8		- 197.2
F/SEC	[illegible]999.5		9,726.7		+ 727.2
F/SWC	5,485.2		5,318.2		- 167.0
F/NWC	[illegible]0,676.0		10,865.0		+ 189.0
F/NER	2,749.6		3,655.3		+ 905.7
F/SER	[illegible],625.9		2,582.0		- 43.9
F/SWR	[illegible],773.3		2,013.4		+ 240.1
F/NWR	[illegible],065.8		2,455.7		+ 389.9
F/AKR	1,919.6		1,404.1		- 515.5
Sub-Totals		$61,027.9		$63,825.6	+ $2797.1
OTHER NOAA					
SHIP COSTS	2,982.0		9,502.8		+ 6,520.8
ADMIN.	506.3		532.9		+26.6
SEA GRANT	493.0		493.0		0.0
Proc. & Personnel	490.0		490.0		0.0
NESIS	245.0		254.8		+ 9.8
Sub-Totals		$4,716.3		$11,273.5	$6,557.2
DOC		$147.8		$153.9	+$6.1
Coast Guard		78,100.0		97,272.7	+19,172.7
[illegible]		280.0		280.0	0.0
Grand Totals		$144,272		$172,805.7	+$28,533.7

The total cost of carrying out the purposes of the Magnuson Act in FY 1983 is $172.806 million. This total is proposed to be adopted for calculating the foreign fishing fee target in 1984.

Ratio of the 1982 Foreign Catch to Total Catch

Principles applied since enactment of Pub. L. 96–561 for estimating the ratio of the foreign catch to the total catch in the fishery conservation zone (FCZ) and territorial waters are again used for the 1982 ratio. The U.S. catch in international waters and freshwater and the U.S. catch of tunas is subtracted from the total U.S. reported commercial catch to obtain the U.S. commercial catch in the FCZ and territorial waters (which include internal waters). The resulting commercial catch is corrected to international standards by adding the weight of mollusk shells. The total U.S. catch in the FCZ and the territorial waters is obtained by adding the preliminary recreational catch to the corrected commercial catch.

The foreign catch in the FCZ is taken from "Fisheries of the United States" but adjusted by removing the Canadian catch in the FCZ. This procedure was used in the 1982 and 1983 foreign fee schedules and sustained as appropriate. Table 2 lists the 1982 data used for this ratio.

Table 2. Estimate of Ratio of Foreign Catch to Total Catch, 1982

		Metric Tons
Total U.S. reported catch [1/]		3,231,119
Exclusions:		
International Waters (exc. Tunas)	12,532	
Tunas	199,326	
Freshwater (inc. G. Lakes alewives)	61,471	
Total		-273,330
U.S. commercial catch in Territorial Waters and Fishery Conservation Zone (FCZ)		2,957,789
Correction for mollusks [2/]		732,299
Recreational catch [3/]		227,828
Total U.S. catch, Territorial Waters and FCZ		3,917,916
Foreign catch, FCZ, less Canadian catch [4/]		1,384,796
Total catch, Territorial Waters and FCZ (Pub. L. 94-265 as amended)		5,302,712

Using the formula specified in Section 204(b)(10) of the Magnuson Act, foreign catch is divided by the total of foreign and U.S. domestic catch in the FCZ and territorial waters using the data shown in the table above as follows:

Foreign catch ÷ Total Catch = Ratio of Foreign to Total catch

1,384,796 mt ÷ 5,302, 712 = .26114

This means that 26.1 percent of the total catch is caught by foreign vessels

1/ This figure and all following figures for U.S. commercial catch from pages 8-11, "Fisheries of the United States, 1982." Calculated in pounds and converted to metric tons --figures may not add to total.

2/ Addition of mollusk shells. U.S. statistics for internal use include only edible portions of mollusks, but international standard is whole animal.

3/ Based on preliminary 1980 data.

4/ From page 14, "Fisheries of the United States, 1982."

The 1984 Foreign Fishing Fee Collection Target

Section 204(b)(10) of the Magnuson Act requires that foreign fishing vessel owners or operators pay at least an amount calculated from the ratio of the foreign catch to the total catch. Therefore, 26.1 percent of the total costs ($172.8 million calculated in Table 1) should be paid by foreign vessels. That portion of the total costs is $45.1 million and is referred to as the 1984 fee target.

Fee target (1984)=($172.805 million)×(0.261)=$45.102 million.

The foreign fee collection target proposed for 1984 of $45.1 million is a 4.6 percent increase over the fee target for 1983. This increase is smaller than the increases in prior years, because foreign fishing decreased in 1982.

Proposed Species Fees

Current exvessel values for fish harvested by foreign vessels were last used as a basis for the foreign fee schedule in 1981. Fees in 1981 were assessed at 3.5, 7, or 10 percent of the 1980 exvessel value. A 3.5 percent rate was used if a higher rate would prevent the optimum yield from being achieved or if a higher rate would violate certain provisions of Governing International Fishery Agreements. A 10 percent rate was used if lower rates would conflict with sound conservation and management, including economic considerations.

Fees in the subsequent years 1982 and 1983, were increased by uniformly adjusting the individual species fees in 1981 upward to achieve the respective fee targets for those years. Prior to adopting the fees proposed in this schedule, NOAA reviewed current exvessel values and the rates at which fees should be assessed. A copy of the review is available at the above address. New exvessel values were adopted as a result and the rates for butterfish, *Illex* squid, and Alaska pollock were increased from 7 percent to 10 percent.

The use of variable rates in 1981 effectively assigned a management value to each species. If NOAA believed a species was more valuable for management reasons, it assessed a fee at 10 percent of the exvessel value which was 1.43 times greater than the fee calculated at the standard rate of seven percent. An alternative method would have been to increase the value by a factor of 1.43 and assess the fee at the seven percent rate. That alternative method is used in this proposed schedule in order to derive a uniform rate of fees to be applied to each species which is consistent with decisions made in 1981. The ratio of the actual fee rate to seven percent is called the management factor and the value of a species derived by multiplying its exvessel value by its corresponding management factor is its management value. Thus, if a species is of greater management value, i.e., it is assigned a 10 percent rate, its management value is derived by multiplying the management factor (10÷7, or 1.43) times its proposed exvessel value. If the species is of lesser management value, the management value is derived by multiplying the management factor (3.5÷7, or 0.5) times its proposed exvessel value. The proposed exvessel values, management factors, and management values for each species are listed in columns (1) through (3) of Table 3.

NOAA assumes that levels of foreign catch in 1984 will be about the levels of prior years but that there will be no directed foreign fisheries for Pacific whiting, *Illex* squid, butterfish or in the Pacific billfish and sharks fisheries. The total management value for the anticipated 1984 foreign catch in Northwest Atlantic fisheries, Alaska fisheries, and Pacific Seamount fishery is $284,825,290. The total management value will be used in calculating the poundage fees.

The total fees will be collected in the form of poundage fees and permit fees. Permit fees are used to cover the administrative cost of issuing permits and therefore should be deducted from the total foreign fee collection target which was calculated to cover total cost. Administrative permit costs are estimated to be $94,100 in 1984 and are deducted from the total foreign fee collection target of $45.1 million, thus

leaving $45.0 million to be covered by poundage fees.

To allocate the $45.0 million target poundage fee to the various species that will be caught by foreign vessels, the $45 million target fee is calculated as a percent of total management value—$284.8 million.

$45/$284.8=15.8 percent

This percent is then applied to the management value for each species to get the proposed fee for 1984. For example, 15.8 percent of the management value of $1,000/metric ton gives a fee of $158/metric ton of butterfish caught. Similarly, 15.8 percent of the red hake management value of $184/mt gives a fee of $29/mt. These fees are shown in column 4 of Table 3 along with the 1983 fees in column 5 which are shown for comparison purposes. A paper is also available at the above address which discusses in greater detail the methods used to develop the proposed fees.

TABLE 3. SPECIES AND POUNDAGE FEE

[Values and fees shown in dollars per metric ton, unless otherwise noted; factor is non-dimensional]

	Species	Proposed 1984 exvessel Value Col (1)	Proposed 1984 Management Factor Col (2)	Proposed Management Value 1984 Col (3)	Proposed 1984 Fee Col (4)	Final 1983 Fee Col (5)
1.	Butterfish	699	1.43	1,000	158	150
2.	Hake, red	369	0.5	184	29	15
3.	Hake, silver	393	0.5	197	31	18
4.	Herring, river	179	1.0	179	28	22
5.	Mackerel, Atlantic	321	1.0	321	51	51
6.	Other finfish (Atlantic	937	1.0	937	148	101
7.	Sharks (Atlantic)	423	1.0	423	67	64
8.	Squid, Illex	268	1.43	383	61	29
9.	Squid, Loligo	[illegible]	1.0	860	136	110
10.	Shrimp, royal red	-	1.43	-	reserved	463
11.	Atka mackerel	267	1.0	267	42	17
12.	Cod, Pacific.	294	1.43	420	66	58
13.	Flatfish (Alaska)	381	1.0	381	60	22
14.	Flounders (Pacific)	381	1.0	381	60	116
15.	Jack mackerel	198	0.5	99	16	15
16.	Pacific ocean perch	399	1.43	570	90	93
17.	Other groundfish (Alaska)	358	1.0	358	57	19
18.	Other fish (Pacific)	220	1.43	315	50	46
19.	Pollock, Alaska	125	1.43	178	28	29
20.	Sablefish (Alaska)	664	1.43	950	150	140
21.	Sablefish (Pacific)	705	1.43	1,008	159	150
22.	Rockfish	434	1.0	434	69	55
23.	Snails	-	-	-	40	1/ 40
24.	Squid (Pacific)	145	1.0	145	23	22
25.	Whiting, Pacific	176	0.5	88	14	10
26.	Western Pacific corals (per kilogram)	50	1.0	50	79	70
27.	Seamount groundfish	397	1.0	397	63	29
28.	Dolphinfish (mahi mahi)	1,500	1.0	1,500	237	110
29.	Wahoo	225	1.0	225	36	17
30.	Sharks (Pacific)	123	1.0	123	19	18
31.	Swordfish Pacific	2,337	1.0	2,337	369	342
32.	Striped marlin (Pacific)	3,752	1.0	3,752	593	549
33.	Other Pacific billfish	1,503	1.0	1,503	337	220

1/ 1983 fee proposed for 1984.

Other Matters

NOAA requested additional comments on alternative procedures for collecting foreign fishing fees in the preamble to the proposed rule published in November 12, 1982 (47 FR 51336).

Some comments were received. However, NOAA understands that this question of alternative procedures is still under discussion by many interested members of the public. Therefore, NOAA continues to provide the opportunity for such comments which should be directed to the above address.

Classification

NOAA has prepared a regulatory impact review (RIR) that discusses the economic consequences and impacts of the proposed fee schedule and its

alternatives. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the proposed schedule does not constitute a major rule under E.O. 12291. The regulatory impact review demonstrates that the proposed fee schedule complies with the requirements of section 2 of E.O. 12291.

The General Counsel for the Department of Commerce has certified that the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This certification has been forwarded to the Chief Counsel for Advocacy of the Small Business Administration. Because the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities, a regulatory flexibility analysis is not required.

NOAA Directive 02–10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*). Under those procedures, programmatic functions with no potential for significant environmental impacts are generally excluded from NEPA requirements.

The proposed fee schedule has no direct impact on the fishery resources in the FCZ. At the most, a fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; however, the proposed schedule meets the criterion that fees should minimize disruption of traditional fishing patterns on target species. The proposed schedule is not a significant change from the 1983 fee schedule. Since this fee schedule will not prevent the harvesting of the total allowable level of foreign fishing (TALFF), and the environmental impact of harvesting the TALFF is described for each fishery management plan, no further environmental assessment is necessary.

This proposed rule has no information collection provisions for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: October 25, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons above, 50 CFR Part 611 is proposed to be amended as follows:

1. The authority citation for § 611.22 is:

Authority: 16 U.S.C. 1801 *et seq.*; 22 U.S.C. 1080.

2. Table 1 of § 611.22 is revised to read as follows:

§ 611.22 Fee schedule for foreign fishing.

* * * * *

TABLE 1.—SPECIES AND POUNDAGE FEE

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
1. Butterfish	158
2. Hake, red	[illegible]
3. Hake, silver	31
4. Herring, river	28
5. Mackerel, Atlantic	[illegible]
6. Other finfish (Atlantic)	[illegible]
7. Sharks (Atlantic)	67
8. Squid, Illex	61
9. Squid, Loligo	[illegible]
10. Shrimp, royal red	(1)
11. Atka mackerel	42
12. Cod, Pacific	66
13. Flatfish (Alaska)	60
14. Flounders (Pacific)	60
15. Jack mackerel	16
16. Pacific ocean perch	90
17. Other groundfish (Alaska)	57
18. Other fish (Pacific)	[illegible]
19. Pollock, Alaska	[illegible]
20. Sablefish (Alaska)	[illegible]
21. Sablefish (Pacific)	[illegible]
22. Rockfish	68
23. Snails	[illegible]
24. Squid (Pacific)	[illegible]
25. Whiting (Pacific)	14
26. Western Pacific corals	(2) 79
27. Seamount groundfish	[illegible]
28. Dolphinfish (mahi mahi)	[illegible]
29. Wahoo	36
30. Sharks (Pacific)	[illegible]
31. Swordfish (Pacific)	369
32. Striped marlin (Pacific)	[illegible]
33. Other Pacific billfish	337

[illegible] Reserved.
[illegible] Kilogram.

[FR Doc. 83–28387 Filed 10–26–83; 8:45 am]
BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 48, No. 209
Thursday, October 27, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding Management of Depression-era Structures on the National Forests of the Pacific Northwest Region of the U.S. Forest Service in Washington and Oregon

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to Section 800.8 of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the U.S. Forest Service, U.S. Department of Agriculture, and the Washington and Oregon State Historic Preservation Officers, providing for the management of depression-era structures on the National Forests in Washington and Oregon. The proposed Programmatic Memorandum of agreement will establish mechanisms for evaluating and assuring appropriate treatment of approximately 600 historic structures.

Comments due: November 28, 1983.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, Western Division of Project Review, 730 Simms Street, Room 450, Golden, Colorado 80401.

Dated: October 24, 1983.

Robert R. Garvey, Jr.,
Executive Director.

[FR Doc. 83-29243 Filed 10-26-83; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Bylaws of Corporation

The bylaws of the Commodity Credit Corporation, amended September 26, 1963, are as follows:

Offices

1. The principal office of the Corporation shall be in the City of Washington, District of Columbia, and the Corporation shall also have offices at such other places as it may deem necessary or desirable in the conduct of its business.

Seal

2. There is impressed below the official seal which is hereby adopted for the Corporation. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced.



Meetings of the Board

3. Regular meetings of the Board shall be held, whenever necessary, on Wednesday at 9:30 a.m. in the Board meeting room in the U.S. Department of Agriculture in the City of Washington, D.C. Notice of such meetings shall be provided in the same manner as is specified for special meetings in Paragraph 4. No regular meetings of the Board shall be held except in accordance with provisions of the Government in the Sunshine Act (5 U.S.C. 552b).

4. Special meetings of the Board may be called at any time by the Chairman, the Vice Chairman, or by the President, or the Executive Vice President and shall be called by the Chairman, the Vice Chairman, the President, or the Executive Vice President at the written request of any five Directors. Notice of special meetings shall be given either personally or by mail (including intradepartmental mail channels of the Department of Agriculture or interdepartmental mail channels of the Federal Government) or by mailgram, and notice by telephone shall be personal notice. Any Director may waive in writing such notice as to himself, whether before or after the time of the meeting, and the presence of a Director at any meeting shall constitute a waiver of notice of such meeting. No notice of an adjourned meeting need be given. Any and all business may be transacted at any special meeting unless otherwise indicated in the notice thereof. No special meetings of the Board shall be held except in accordance with provisions of the Government in the Sunshine Act (5 U.S.C. 552b).

5. The Secretary of Agriculture shall serve as Chairman of the Board. The Deputy Secretary of Agriculture shall serve as Vice Chairman of the Board and, in the absence or unavailability of the Chairman, shall preside at meetings of the Board. In the absence or unavailability of the Chairman and the Vice Chairman, the President of the Corporation shall preside at meetings of the Board. In the absence or unavailability of the Chairman, the Vice Chairman, and the President, the Directors present at the meeting shall designate a Presiding Officer.

6. At any meeting of the Board a quorum shall consist of five Directors. The act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board.

7. The General Counsel of the Department of Agriculture, whose office shall perform all legal work of the Corporation, and the Associate General Counsel in the Office of the General Counsel who is in immediate charge of legal work for the Corporation shall, as General Counsel and Associate General Counsel of the Corporation, respectively, attend meetings of the Board.

8. The Executive Vice President, the Vice President who is the Associate Administrator of the Agricultural Stabilization and Conservation Service, and the Secretary shall attend meetings of the Board. Each of the other Vice Presidents and Deputy Vice Presidents, and the Controller shall attend meetings of the Board during such time as the meetings are devoted to consideration of matters as to which they have responsibility.

9. Other persons may attend meetings of the Board upon specific authorization by the Chairman, Vice Chairman, or President.

Compensation of Board Directors

10. The compensation of each Director shall be prescribed by the Secretary of Agriculture. Any Director who holds another office or position under the Federal Government, the compensation for which exceeds that prescribed by the Secretary of Agriculture for such Director, may elect to receive compensation at the rate provided for such other office or position in lieu of compensation as a Director.

Officers

11. The officers of the Corporation shall be a President, Vice Presidents, and Deputy Vice Presidents as hereinafter provided for, a Secretary, a Controller, a Treasurer, a Chief Accountant, and such additional officers as the Secretary of Agriculture may appoint.

12. The Under Secretary of Agriculture for International Affairs and Commodity Programs shall be ex officio President of the Corporation.

13. The following officials of the Agricultural Stabilization and Conservation Service (referred to as ASCS), Foreign Agricultural Service (referred to as FAS), Food and Nutrition Service (referred to as FNS), and the Agricultural Marketing Service (referred to as AMS) shall be ex officio officers of the Corporation:

Administrator, ASCS; Executive Vice President.
Administrator, FAS; Vice President.
Administrator, FNS; Vice President.
Administrator, AMS; Vice President.
General Sales Manager and Associate Administrator, FAS; Vice President.
Associate Administrator, ASCS; Vice President.
Deputy Administrator, State and County Operations, ASCS; Deputy Vice President.
Deputy Administrator, Commodity Operations, ASCS; Deputy Vice President.
Deputy Administrator, Management, ASCS; Deputy Vice President.
Deputy Administrator, Program Planning and Development, ASCS; Deputy Vice President.
Executive Assistant to the Administrator, ASCS; Secretary.
Supervisory Staff Assistant (Audits and Dockets), Office of the Administrator, ASCS; Deputy Secretary.
Director, Fiscal Division, ASCS; Controller.
Deputy Director, Fiscal Division, ASCS; Treasurer.
Chief, Financial Systems and Procedures Branch, Fiscal Division, ASCS; Chief Accountant.

The person occupying, in an acting capacity, the office of any person designated ex officio by this paragraph 13 as an officer of the Corporation shall, during his occupancy of such office, act as such officer.

14. Officers who do not hold office ex officio shall be appointed by the Secretary of Agriculture and shall hold office until their respective appointments shall have been terminated.

The President

15. (a) The President shall have general supervision and direction of the Corporation, its officers and employees.

(b) The President shall establish and direct an Office of the Secretariat. Such office shall be responsible for obtaining or developing, or as the President determines, information on major program or policy proposals submitted to the Board.

The Vice Presidents

16. (a) The Executive Vice President shall be the chief executive officer of the Corporation and shall be responsible for submission of all Corporation policies and programs to the Board. Except as provided in paragraphs (b), (c), (d), and (e) below, the Executive Vice President shall have general supervision and direction of the preparation of policies and programs for submission to the Board, of the administration of the policies and programs approved by the Board, and of the day-to-day conduct of the business of the Corporation and of its officers and employees.

(b) The Vice President who is the Administrator, Foreign Agricultural Service, shall be responsible for preparation for submission by the Executive Vice President to the Board of those policies and programs of the Corporation which are for performance through the facilities and personnel of the Foreign Agriculture Service. He shall also have responsibility for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Foreign Agricultural Service. He shall also perform such special duties and exercise such powers and may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(c) The Vice President who is Administrator, Agricultural Marketing Service, shall be responsible for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Agricultural Marketing Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or President of the Corporation.

(d) The Vice President who is the General Sales Manager and Associate Administrator, Foreign Agricultural Service, shall be responsible for preparation for submission by the Executive Vice President to the Board of policies and programs of the Corporation which are for performance through the facilities and personnel of the foreign Agricultural Service. He shall also have responsibility for the administration of those operations of the Corporation, under the policies and programs approved by the Board, which are carried out through facilities and personnel of the Foreign Agricultural Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(e) The Vice President who is the Administrator, Food and Nutrition Service, shall be responsible for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Food and Nutrition Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

17. The Vice President who is the Associate Administrator, Agricultural Stabilization and Conservation Service, and the Deputy Vice Presidents shall assist the Executive Vice President in the performance of his duties and the exercise of his powers to such extent as the President or the Executive Vice President shall prescribe, and shall perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, the President of the Corporation, or the Executive Vice President of the Corporation.

The Secretary

18. The Secretary shall attend and keep the minutes of all meetings of the Board; shall attend to the giving and serving of all required notices of meetings of the Board; shall sign all papers and instruments to which his signature shall be necessary or appropriate; shall attest the authenticity of and affix the seal of the Corporation upon any instrument requiring such action and shall perform such other

duties and exercise such other powers as are commonly incidental to the Office of Secretary as well as such other duties as may be prescribed, from time to time, by the President or the Executive Vice President.

The Controller

19. The Controller shall have charge of all fiscal and accounting affairs of the Corporation, including all borrowings and related financial arrangements, claims activities, and formulation of prices in accordance with established policies; and shall perform such other duties as may be prescribed, from time to time, by the President or the Executive President.

The Treasurer

20. The Treasurer, under the general supervision and direction of the Controller, shall have charge of the custody, safekeeping and disbursement of all funds of the Corporation; shall designate qualified persons to authorize disbursement of corporate funds; shall direct the disbursement of funds by disbursing officers of the Corporation or by the Treasurer of the United States, Federal Reserve Banks and other fiscal agents of the corporation; and shall issue instructions incidental thereto; shall be responsible for documents relating to the general financing operations of the Corporation, including borrowings from the United States Treasury, commercial banks and others; shall arrange for the payment of interest on and the repayment of such borrowings; shall arrange for the payment of interest on the capital stock of the Corporation; shall coordinate and give general supervision to the claims activities of the Corporation and shall have authority to collect all monies due the Corporation, to receipt therefor and to deposit same for the account of the Corporation; and shall perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed, from time to time, by the Controller.

The Chief Accountant

21. The Chief Accountant, under the general supervision and direction of the Controller, shall have charge of the general books and accounts of the Corporation and the preparation of financial statements and reports. He shall be responsible for the initiation, preparation and issuance of policies and practices related to accounting matters and procedures, including official inventories, records, accounting and related office procedures where standardized, and adequate subsidiary records of revenues, expenses, assets and liabilities; and shall perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed, from time to time, by the Controller.

Other Officials

22. Except as otherwise authorized by the Secretary of Agriculture or the Board, the operations of the Corporation shall be carried out through the facilities and personnel of the Agricultural Stabilization and Conservation Service, the Foreign Agricultural Service, the Food and Nutrition Service, and the Agricultural Marketing Service in accordance with any assignment of functions and responsibilities made by the Secretary of Agriculture and, within his respective agency or office, by the Administrators of the Agricultural Stabilization and Conservation Service, Foreign Agricultural Service, Food and Nutrition Service, Agricultural Marketing Service, or the General Sales Manager of the Foreign Agricultural Service.

23. The Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service shall be contracting officers and executives of the Corporation in general charge of the activities of the Corporation carried out through their respective divisions or offices. The responsibilities of such Directors in carrying out activities of the Corporation, which shall include the authority to settle and adjust claims by and against the Corporation arising out of activities under their jurisdiction, shall be discharged in conformity with these bylaws and applicable programs, policies, and procedures.

Contracts of the Corporation

24. Contracts of the Corporation relating to any of its activities may be executed in its name by the Secretary of Agriculture or the President. The Vice Presidents, the Deputy Vice Presidents, the Controller, the Treasurer, and the Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service may execute contracts relating to the activities of the Corporation for which they are respectively responsible.

25. The Executive Vice President who is the Administrator of the Agricultural Stabilization and Conservation Service and, subject to the written approval by such Executive Vice President of each appointment, the Vice Presidents, the Deputy Vice Presidents, the Controller, and the Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service may appoint, by written instrument or instruments, such Contracting Officers as they deem necessary, who may, to the extent authorized by such instrument or instruments, execute contracts in the name of the Corporation. A copy of each such instrument shall be filed with the Secretary.

26. Appointments of Contracting Officers may be revoked by written instrument or instruments by the Executive Vice President or by the official who made the appointment. A copy of each such instrument shall be filed with the Secretary.

27. In executing a contract in the name of the Corporation, an official shall indicate his title.

Annual Report

28. The Executive Vice President shall be responsible for the preparation of an annual report of the activities of the Corporation, which shall be filed with the Secretary of Agriculture and with the Board.

Amendments

29. These bylaws may be altered or amended or repealed by the Secretary of Agriculture, or subject to his approval by action of the Board at any regular meeting of the Board or at any special meeting of the Board, if notice of the proposed alteration, amendment, or repeal be contained in the notice of such special meeting.

Approval of Board Action

30. The actions of the Board shall be subject to the approval of the Secretary of Agriculture.

I, Ray F. Voelkel, Secretary, Commodity Credit Corporation, do hereby certify that the above is a full, true, and correct copy of the bylaws of Commodity Credit Corporation, as amended September 26, 1983.

In witness whereof I have officially subscribed my name and have caused the corporate seal of the said Corporation to be affixed this 20th day of October, 1983.

Ray F. Voelkel,

Secretary, Commodity Credit Corporation.

[FR Doc. 83-29197 Filed 10-26-83; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Bridger-Teton National Forest Grazing Advisory Board; Meeting

The Bridger-Teton National Forest Grazing Advisory Board will meet at 1:00 p.m. December 6, 1983, in the Conference Room of the Sublette County Library, Pinedale, Wyoming. The purpose of this meeting is to discuss utilization of range betterment funds and the development of allotment management plans.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor Reid Jackson, Box 1888, Jackson, Wyoming 83001, telephone (307) 733–2752. Written statements may be filed with the board before or after the meeting.

The board has established the following rules for public participation:

1. If a group wishes to be heard at the meeting, they are required to select a chairman to voice their ideas.

2. Persons or groups may send written statements to the Forest Supervisor for presentation at the meeting.

3. The Chairman of the Forest Grazing Advisory Board will set aside a time period on the agenda for public comment.

October 18, 1983.

Reid Jackson,

Forest Supervisor.

[FR Doc. 83–29203 Filed 10–26–83; 8:45 am]

BILLING CODE 3410–11–M

Food Safety and Inspection Service

[Docket No. 83–032N]

SLD Policy Memoranda; Semi-Annual Listing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists memoranda issued by the Standards and Labeling Division (SLD), Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service (FSIS), and available to the public which contain significant new applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy in the labeling area.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling (specified in 9 CFR 317.4, 317.5, 381.132, and 381.134) to be used on federally inspected meat and poultry products. Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS's prior label approval program is conducted by label review experts within SLD. A variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in foods, has generated a series of increasingly complex issues which SLD must resolve as part of the prior label approval process. In interpreting the Acts or regulations to resolve these issues, SLD may modify its policies on labeling or develop new ones.

Significant or novel interpretations or determinations made by SLD are issued in writing in memorandum form. This document lists those SLD policy memoranda issued from April 1, 1983, through September 30, 1983.

Persons interested in obtaining copies of any of the following SLD policy memoranda, or in being included on a list for automatic distribution of future SLD policy memoranda may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Memo No.	Title and date	Issue	Reference
058A	Smoked Products, August 5, 1983 (Replaces Policy Memo 058).	What guidelines should be followed when approving labeling for products prepared with natural smoke and/or smoke flavor (natural or artificial)?	9 CFR 317.2 and 381.119, and Policy Memo 040.
060	Composite Ingredients Statements, September 27, 1983.	Whether a single composite listing of ingredients may be used on a finished meat or poultry label (e.g., pepperoni pizza) for a multi-ingredient component (e.g., pepperoni) to accommodate various formulations of the multi-ingredient compo-	9 CFR 317.2, 317.8, 381.118, and 381.129

The SLD policies specified in these memoranda will be uniformly applied to all relevant labeling applications unless modified by future memoranda or more formal Agency action. Applicants retain all rights of appeal regarding decisions based upon these memoranda.

Done in Washington, D.C., on October 12, 1983.

C. Ronald Brewington,

Acting Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service.

[FR Doc. 83–29238 Filed 10–26–83; 8:45 am]

BILLING CODE 3410–10–M

CIVIL AERONAUTICS BOARD

Announcement of Approval of Information Collection by the Office of Management and Budget Under the Paperwork Reduction Act (44 U.S.C. 35)

On October 3, 1983, the Office of Management and Budget approved the extension of the following information collection:

Information collection contained in the Board's "Essential Air Service Survey"—extended through October 31, 1986, under OMB No. 3024–0049.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

October 19, 1983.

[FR Doc. 83–29232 Filed 10–26–83; 8:45 am]

BILLING CODE [illegible]

[Docket 41321]

British American Air, Inc. Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference is assigned to be held in the above-entitled proceeding on November 10, 1983, at 9:30 a.m. (local

time) in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

Dated at Washington, D.C., October 24, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-29231 Filed 10-26-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41414]

Northern Air Lines, Inc., Fitness Investigation; Cancellation of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding, earlier scheduled to have been on November 10, 1983, is hereby cancelled until further notice.

Dated at Washington, D.C., October 24, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-29233 Filed 10-26-83; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Indiana Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Indiana Advisory Committee of the Commission originally scheduled for November 3–4, 1983, at Gary, Indiana, (FR Doc. 83-28510 on page 48693) has been changed.

The meeting will be held on November 17–18, 1983. Time and place will remain the same.

Dated at Washington, D.C., October 24, 1983.

John I. Binkley,

Advisory Committee, Management Officer.

[FR Doc. 83-29240 Filed 10-26-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-535-001]

Cotton Shop Towels From Pakistan; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Pakistan of cotton shop towels, as described in the "Scope of Investigation" section of this notice. The estimated net subsidy is 11.87 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the merchandise subject to this investigation which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or the posting of a bond on this merchandise in an amount equal to the estimated net subsidy. If this investigation proceeds normally, we will make our final determination by January 5, 1984.

EFFECTIVE DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Paul Thran, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-1766.

SUPPLEMENTARY INFORMATION:

Preliminary Determination:

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that the government of Pakistan (GOP) provides certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), to manufacturers, producers, or exporters in Pakistan of cotton shop towels, as described in the "Scope of Investigation" section of this notice. We estimate the net subsidy to be 11.87 percent *ad valorem*.

Case History

On July 29, 1983, we received a petition from counsel for Milliken and Company filed on behalf of the U.S. industry producing cotton shop towels. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly, or indirectly, to manufacturers, producers, or exporters in Pakistan of cotton shop towels. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on August 18, 1983, we initiated an investigation (48 FR 38661).

Since Pakistan is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the International Trade Commission (ITC) of our initiation. On September 12, 1983, the ITC determined that there is a reasonable indication that imports of cotton shop towels are materially injurying a U.S. industry.

We presented a questionnaire concerning the allegations to the Embassy of Pakistan in Washington, D.C. on September 6, 1983 and requested a response by October 7, 1983. In a letter dated September 21, 1983, the GOP requested a postponement of the due date of the response. We granted the GOP a one week extension.

The GOP submitted a response to our questionnaire on October 18, 1983.

Scope of Investigation

The product covered by this investigation is shop towels of cotton. The merchandise is currently classified under item number 366.2740 of the *Tariff Schedules of the United States Annotated* (TSUSA). The cotton shop tower industry in Pakistan is an unorganized cottage industry. The GOP has provided us with a list of companies which received authorization to export shop towels to the United States. The period for which we are measuring subsidization is 1982.

Analysis of programs

In its response, the GOP provided data for the applicable period. The Towel Manufacturers' Association of Pakistan (TMAP) also provided a response. However, due to the unorganized cottage industry nature of Pakistani shop towel production the TMAP could provide company-specific information on only five companies. Due to time constraints we were not able to use all the information provided in the responses. Based upon our analysis to date of the petition and the responses to our questionnaire, we have preliminarily determined the following:

I. Programs Preliminarily Determined to Confer Subsidies

We preliminarily determine that subsidies are being provided to manufactures, producers, or exporters in Pakistan of cotton shop towels under the programs described below.

1. *Rebates on Exportation.* The petitioner alleged that the government of Pakistan provides exporters of shop towels with cash rebates which are calculated as a percentage of the f.o.b. value of the exported product. In the 1980 case on Certain Textile and Textile Mill Products from Pakistan (45 FR 37873), the Department determined this program to be countervailable. The *ad valorem* value of the benefit was 12.5 percent.

The petitioner also alleged that the GOP provides a 2 percent customs duty rebate, a 3.8 percent excise duty rebate and a 0.35 percent sales tax rebate on exported goods. This program operates under the Pakistan Customs Act of 1969.

As the GOP has provided no information linking the amount or kind of the rebates with actual costs incurred, we determine that these rebates are paid without regard to specific duties and taxes incurred in the production of shop towels. Therefore, they are countervailable.

The GOP has provided updated information on the value of the cash rebates program. On August 28, 1983, the value of the cash rebates for shop towels was reduced to 7.5 percent. Our policy has been to recognize changes in programs where we can confirm the change and have no reason to believe that the benefit has been shifted to other programs. Both criteria are met in this case. We find the value of the cash rebates to be 7.5 percent.

The GOP also has provided information on the correct values of two other programs. The value of the customs duty rebate is 0.37 percent and the value of the sales tax rebate is 0.11 percent. The value of the excise rebate is correct at 3.8 percent. The total *ad valorem* value of all the rebate programs is 11.78 percent.

2. *Income Tax Reduction.* The GOP provides a 55 percent reduction of taxes attributable to income generated by products made for export. This program was determined countervailable in the previous investigation of textile products from Pakistan. The responses did not provide sufficient information for purposes of the preliminary determination. However, as receipt of this benefit is based solely on export performance, it is countervailable. Therefore, we used petitioner's information in valuing this subsidy. The *ad valorem* value of the subsidy is 0.013 percent.

3. *Preferential Export Financing.* The GOP permits short-term export financing to be provided to exporters at rates considerably lower than those otherwise charged on short-term loans in Pakistan. This program was determined countervailable in the previous investigation of textile products from Pakistan. The responses did not provide sufficient information for purposes of the preliminary determination. However, as receipt of this benefit is based solely on export performance, it is countervailable. Therefore, we used petitioner's information in valuing this subsidy. The *ad valorem* value of the subsidy is 0.08 percent.

II. Programs Determined Not To Be Used

We preliminarily determine that the following programs were not used by manufacturers, producers, or exporters of cotton shop towels from Pakistan.

Import Duty Rebates

The petitioner alleged that the GOP provides rebates on imports of items which are not phyically incorporated into the exported products. The GOP response indicated that it provided no benefits under this program to the shop towel industry.

Preferential Export Insurance

The GOP, through the Pakistan Insurance Corporation, provides exporters with insurance against non-payment by foreign purchasers. Petitioner alleged that the premiums charged are insufficient to cover the costs of the program. The response of the TMAP indicates that no shop towel companies have made use of this program.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of cotton shop towels from Pakistan which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the notice in the **Federal Register**, and to require a cash deposit or the posting of a bond for each entry of the merchandise in the amount of 11.87 percent *ad valorem.*

This suspension shall remain in effect until further notice.

ITC Notification

In accordance with section 703 (d)(3) and (f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprovileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the later of 120 days after the Department makes its preliminary affirmative determination or 45 days after the Department makes a final affirmative determination.

Public Comment

In accordance with section 355.35 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on November 30, 1983, at the U.S. Department of Commerce, Room 3092, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by November 23, 1983. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: October 24, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83–28235 Filed 10–26–83; 8:45 am]
BILLING CODE 3510–25–M

[A–580–005]

Lightweight Polyester Filament Fabrics From the Republic of Korea; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that lightweight polyester filament fabrics (LPFF) from the Republic of Korea (Korea) are being sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or are threating to materially injure, a U.S. industry. We have directed the U.S. Customs service

to continue to suspend the liquidation of entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after August 8, 1983, in accordance with our preliminary determination; for Tae Wang Mulsan Co., Ltd.; Shin Taeyang Co.; Seong An Textile Co., Ltd.; and Yuyang Textile and Apparel Ltd. Young Shin Textile Co., Ltd., previously subject to suspension under the preliminary determination, is now *de minimis*.

We have determined that nine producers should be excluded from this determination. Those firms which are subject to the suspension of liquidation and those firms which are excluded from this action are indicated in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW. Washington, D.C. 20230; telephone: (202) 377–5288.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that LPFF from Korea are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). We have found either no margins or *de minimis* margins for sales of LPFF produced by nine of the thirteen firms investigated. These nine firms are excluded from this determination. The firms investigated are indicated in the "Suspension of Liquidation" section of this notice.

Case History

On January 4, 1983, we received a petition filed by counsel for Burlington Industries, Inc., Milliken & Co.; J.P. Stevens & Co., Inc.; Dan River, Inc.; Texfi Industries; Frank Ix & Sons, Inc.; and Bloomsburg Mills, Inc. on behalf of the U.S. industry producing LPFF. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alleged that LPFF from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry. The allegations of sales at less than fair value included an allegation that home market sales are being made at less than the cost of production in Korea.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on January 24, 1983 (48 FR 3797). The ITC subsequently found, on February 18, 1983, that there is a reasonable indication that imports of LPFF are materially injuring, or are threatening to materially injure, a U.S. industry.

The petitioner alleged that at least three Korean companies produce LPFF for export to the United States. However, we identified 13 producers and exporters which account for approximately 90 percent of the exports to the United States. Questionnaires were presented in Korea to these producers and exporters on February 24, 1982.

On March 21, 1982, we received a letter from counsel for the Korean LPFF producers and exporters requesting additional time in which to respond because of the numerous companies and complicated products. Thirty additional days were granted and we received 11 responses on April 26, 1982 and an additional two on May 2, 1983. Responses were received from Chang Young Co., Ltd.; Dong Sung Trading Co., Ltd.; Kabul Ltd.; Namsun Moolsan Co., Ltd.; Sam-A Co., Ltd.; Seong An Textile Co., Ltd.; Shin Taeyang Co.; Silla Textile Co., Ltd.; Sunkyong Limited; Tae Wang Mulsan Co., Ltd.; Tongkook Corporation; Young Shin Textile Co., Ltd.; and Yuyang Textile and Apparel Ltd.

On May 20, 1983, we found this case to be extraordinarily complicated becuse of the large number of complex transactions and the large number of firms whose activities had to be investigated. We postponed our preliminary determination until August 2, 1983 (48 FR 23471).

On August 2, 1983, we preliminarily determined that LPFF from Korea were being sold in the United States at less than fair value (48 FR 35979). We held a hearing on September 15, 1983, to allow the parties an opportunity to address the issues.

On October 17, 1983, we received a letter from counsel for the Korean LPFF producers and exporters requesting that the final determination be extended until October 21, 1983. We extended our final determination until that date.

Scope of Investigation

The products covered by this investigation are lightweight polyester filament fabrics currently provided for in items 338.5009, 338.5011, 338.5012, 338.5013, and 338.5015, of the *Tariff Schedules of the United States Annotated (TSUSA)*.

Since the 13 respondents produced and exported approximately 90 percent of the LPFF from Korea to the United States during the period of this investigation, we limited our investigation to them.

We investigated sales of LPFF by these respondents during the period from July 1, 1982, to December 31, 1982.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for the majority of sales by the Korean producers because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price for each type of LIFF based on the f.o.b., c.&f., or c.i.f., packed price to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, Korean inspection expenses and customs clearance charges, wharfage, brokerage and handling, ocean or air freight, and transportation insurance.

A portion of the sales for Sunkyong Limited and Tongkook Corporation were made on the basis of exporter's sales price because the marchandise was sold to unrelated purchasers after importation into the United States. For these sales, we made additional deductions, where appropriate, for U.S. brokerage and handling, U.S. customs duties, U.S. inland freight, warehousing, commissions and other selling expenses incurred in the United States. We made an addition to purchase price and to exporter's sales price for import duties which were rebated or not collected by reason of the exportation of the merchandise to the United States, pursuant to section 772(d)(1)(B) of the Act.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market sales, and where appropriate, constructed value. For purposes of determining similar merchandise under section 771(16) of the Act, we made comparisons based on categories selected by an industry expert retained by the Department of Commerce.

The petitioner alleged that sales in the home market were at prices below the

cost of producing LPFF. We examined production costs which included all appropriate costs for materials, fabrication and general expenses. We found sales below the cost of production within certain categories of such or similar LPFF examined. In accordance with section 773(b) of the Act, in our analysis we disregarded any sales at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, where sales within any of the categories were made over an extended period of time and in substantial quantities. Disregarding such sales, we found for certain categories that sufficient sales of such or similar merchandise were made at or above the cost of production in the home market. Therefore, those sales were used in making price-to-price comparisons with sales in the U.S. market. If, within these such or similar categories, all home market sales of particular fabric types identical or most similar to particular fabrics sold to the United States were disregarded pursuant to section 773(b) of the Act, we used sales of the most similar home market merchandise made at or above the cost of production for comparison to those U.S. sales, after appropriate adjustments. Where sales remaining above the cost of production in a such or similar category were inadequate as a basis for the determination of foreign market value, we used constructed value to determine the foreign market value of the particular fabric types included in that category of such or similar merchandise.

Where we made price-to-price comparisons, the home market prices were based on ex-factory or f.o.b., delivered, packed prices to unrelated purchasers. From these prices we deducted, where appropriate, inland freight. We made adjustments, where appropriate, for differences in credit costs in accordance with § 353.15(b) of the Commerce Regulations, and for differences associated with the cost of materials, labor, and directly related factory overhead in accordance with § 353.16 of the Commerce Regulations. On the home market sales we also deducted the home market packing cost and added the cost of U.S. packing.

Where we used exporter's sales price, we deducted home market indirect selling expenses to offset U.S. Commissions and other U.S. selling expenses.

Where we used constructed value as a basis for foreign market value, we calculated it to include the cost of materials, fabrication, general expenses, profit and the cost of packing. The amount added for general expenses was either the statutory minimum of 10 percent of the sum of material and fabrication costs, or the actual reported general expenses, whichever was higher. The amount added for profit was the statutory minimum of 8 percent of the sum of materials, fabrication costs, and general expenses because the actual profit was either not reported or was less than 8 percent.

Since fabrics in the greige stage of the production sequence are intermediate products in that they are not suitable for use in garments, we determine them not to be such or similar to fully finished fabrics. In the case of Shin Taeyang, there were no home market sales of such or similar merchandise available for comparison to certain of its sales to the United States of dyed goods. In these situations, the foreign market value was calculated on the baisis of constructed value.

Verification

In accordance with 776(a) of the Act, we verified the information used in making this determination, by using standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and selected documents containing relevant information.

Results of Verification

We made fair value comparisons on all U.S. sales reported by the respondents. We have found that the foreign market value of LPFF exceeded the United States price on 9.59 percent of the sales we compared. These margins ranged from 0.000 percent to 41.359 percent. The overall weighted-average margin on all sales compared is 0.614 percent. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

Petitioner's Comments

Comment 1. Respondents failed to provide the necessary information needed to calculate the cost of producing individual fabrics.

Detailed fabric-by-fabric information on labor costs, yarn costs, energy costs, production processes, equipment efficiency, and the amount of each cost factor used in each step of the production process was not provided in the questionnaire responses, nor were complete descriptions of the fabrics produced. Therefore, the Department should disregard the respondents' cost information and substitute the best information available.

DOC Position. During verification the respondents provided additional information relating to calculating the cost of producing LPFF products, including: the price of primary factors of production (labor specific types of yarn, energy, etc.), the quantity and type of equipment used, the prices paid for each type of yarn, dye and other raw materials, and the number of employees at each stage of the production process, their wage and other compensation levels, internal industrial engineering standards and fabric descriptions. The LPFF production cost elements submitted by each respondent company were reconciled with its general ledger and financial statements to assure that the cost of production schedules submitted included all costs incurred. The Department has determined that with this additional information it has all the data needed to calculate the cost of producing individual fabrics.

Comment 2. Petitioner maintains that the allocation methods used by respondents to determine weaving costs, yarn costs, labor costs per hour, dyeing costs, working loss and packing costs were improper in that they are not reasonably related to the actual expenses incurred during each stage of the production process. The Department should disregard the cost information that is not based on fully-disclosed, proper methods of allocation, and base foreign market value on constructed value, as the best available information.

DOC Position. During verification, we found that respondents generally did build costs, by fabrication process, from the prices of factors of production, as follows:

- *Raw Materials Costs*—Each of the LPFF manufacturers purchased raw yarn from unrelated companies. Actual invoice prices for specific yarns were used as the basis for preparing the respondents' submissions.
- *Raw Materials Use*—Yarn costs were generally allocated to each product on the basis of the weight of raw materials required to produce the greige fabric for each product according to company specific engineering standards.
- *Weaving Labor Cost*—Several different methods were used by the respondents to allocate direct weaving labor to specific LPFF Products. These were:

—Actual invoice prices for specific fabrics where the respondent contracted their weaving process to other companies.

—Allocation of weaving labor and overhead costs based on actual hours worked on each LPFF product.

—Allocation of weaving labor and overhead based on raw material weight or production volume, adjusted by the company's specific engineering standards. The allocation methods have generally been used to estimate the cost of production in the normal course of business by these companies prior to the investigation.

—Allocation of weaving labor costs based on raw material weight or production volume.

In cases where the companies did not use a detailed method for their cost allocations, the Department examined their books and records to determine if a more refined method could be developed. The nature of the companies' operation, and records maintained by the companies did not permit such a refinement. Based on all information available, the Department accepted these companies' methods as being reasonable methods.

• *Dyeing and Finishing Cost*—All but three of the respondents subcontracted dyeing and finishing operations to other companies. In every case, actual invoice prices for specific fabrics were used as the basis for preparing the respondents' submissions. Outside contractors did not charge different prices for different shades produced. Instead, one price was negotiated for all dyeing and finishing in a specific time period (e.g., one quarter).

None of the remaining three companies allocated dyeing and finishing costs to each LPFF product solely by production volume or value (e.g., one company allocated dyeing and finishing labor to each product based on the time necessary for the tenter machine to complete the dyeing process for each item produced according to the company's engineering standards). Indirect manufacturing overhead costs were generally fully allocated to production using the same basis as direct manufacturing costs. In some cases, these allocations were made on the basis of raw material weight or volume.

• *Selling, General, Administrative and Financial Expense*—These costs were generally allocated to LPFF production by either production volume or value.

We have determined that the allocation methods used by the respondents to determine fabrication costs reasonably reflect the actual expenses incurred at each stage of production. Therefore, we have used this data in our final determination.

Comment 3. Petitioners believe the questionnaire responses are not reliable, as there are variations between companies in reported costs that are far greater than reasonably would be attributable to differences in efficiency and inconsistencies in production costs for similar fabrics produced by the same firm.

DOC Position. Although the company specific examples of alleged inconsistencies were not made available to us prior to the verification, we were able to use the information obtained during verification, to satisfactorily resolve all material inconsistencies raised by the petitioners. Reasons for the apparent inconsistencies include:

• The use of expensive yarns, such as silver metallic yarn, which increases the cost of production in fabrics that, based upon weight and yarn count, normally would have lower materials costs than do heavier, more dense fabrics if the same yarns are used for each fabric.

• The accounting for certain shrinkage factors in variable overhead rather than in materials costs as the petitioner had assumed.

• A price increase despite a materials cost decrease due to changes in one company's labor productivity.

• Differences in printing costs from company-to-company due to differences between the prices paid for subcontracted printing and the costs of in-house printing allocated using company standards.

• Comparison of the printing costs of two companies' "printed" fabrics which are actually printed by different methods.

Other inconsistencies were resolved by checking actual materials used against company specific manufacturing standards. No significant discrepancies were noted.

Comment 4. Related party transactions between Korean manufacturers, yarn suppliers, weavers, and finishers necessitate the substitution of costs for transaction prices between the related parties.

DOC Position. We separately verified related party transactions. We determined that the suppliers' cost information contained all cost elements listed in the financial statements and company ledgers, and that the prices charged the respondents exceeded actual costs.

Comment 5. Since the link between import duties paid by yarn suppliers on imported inputs and the duty drawback granted to the Korean fabric producers is tenuous, the duty drawback adjustment should not be allowed.

DOC Position. During verification, we examined import documents for both raw material inputs and manufactured yarn which accompanied the yarn purchased by the Korean fabric manufacturers. Upon export, these documents are filed with the Korean authorities by the ultimate exporter in order to receive the duty drawback.

Section 772(d)(1)(B) of the Act and § 353.10 of the Commerce Regulations allow an adjustment for the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected by reason of the exportation of the merchandise to the United States. Only rebates actually received by the Korean manufacturers on the exportation of the LPFF, upon whose component materials the original Korean import duties had been collected, were included in the duty drawback allowed during the period of investigation.

Comment 6. Petitioner maintains that home market viability tests and price-to-price comparisons should be examined on each fabric sold.

DOC Position. Section 773(a) of the Act requires that the determination of foreign market value be based on sales, or in the absence of sales, offers for sale of "such or similar" merchandise in the home market, if "such or similar" merchandise is sold or offered for sale in that market. Section 773(a)(1)(B) of the Act limits the use of home market sales as a basis for the determination of foreign market value to those situations in which the quantity of sales or offers for sale of "such or similar" merchandise in the home market is adequate. This test for the adequacy of home market sales is commonly called the home market viability test. Pursuant to the directive of § 353.4 of the Commerce Regulations, we grouped together all merchandise sold in the home market which is either "such or similar" to the merchandise sold to the United States, and then determined whether the quantity of this merchandise was adequate.

All comparisons we made are between fabrics produced in Korea by the same organization as the merchandise which is the subject of the investigation, and are of the same class or kind of merchandise, in that they are lightweight fabrics woven substantially from polyester continuous filament yarns.

In the instant investigation, based on the opinion of a fabric expert as to the comparability of specific fabrics, we established categories of "such or similar" merchandise, pursuant to section 771(16)(C) of the Act, on the basis of fabric designation (high-twist georgette, high-twist crepe de chine, high-twist palace crepe, other high-twist yarn products, flat silky taffeta and textured suede), the type of weave (plain, matt, dobby, fancy, jacquard),

and whether the fabric is an intermediate (greige or prepared for print), or completely finished product. Individual combinations of these three components each determine a "such or similar" group upon which a viability test was performed and within which price-to-price comparisons were made. LPFF from Korea was divided into 17 "such or similar" groups for this determination.

Fabric designations have become well established in the textile industries over the years. Since fabric manufacturers in selling, and garment manufacturers in buying, use the various fabric designations habitually and consider them to be indicative of the purposes for which particular fabrics are used, we believe that these common designations employed in the industries should properly be used in this investigation as one of the determinants of "such or similar" merchandise. Further, we believe that the system of determining "such or similar" merchandise should include consideration of weave type, since fabrics of different weave types are not likely to be used interchangeably by a garment designer, even though they have the same fabric designation.

Finally, farbrics of the same designation may be sold in different stages of the production sequence. For example, fabrics may be sold in the greige or the prepared for printing state, not useable in garments, but only suitable for sale as an intermediate product to some entity within a textile industrial complex, to undergo further processing. Greige or prepared for printing fabrics may be contracted for by a converter months before the determination of the final form of the finished fabric. For these reasons we do not consider greige or prepared for printing fabrics to be "such or similar" to fully finished fabrics.

We believe that the fabric designations and weave types we have used account for the major factors influencing the cost of manufacture and market value of the basic fabrics, such as weight, twist, presence or texturizing and complexity of manufacture, so that fully finished fabrics of the same designation and weave type are such or similar.

Additionally, where adjustments are necessary to account for differences in physical characteristics of fabrics which are due to differences between dyeing and the various types of printing, we were able to calculate these differences in cost of manufacture.

Comment 7. Petitioner maintains that Tae Wang Mulsan's submission understates the unit cost of production by approximately 20 percent. Petitioner cites this as illustrative of the generally dificient character of the respondents' cost data, and as support for their position that the respondents' cost information is inadequate to serve as the basis for dumping analysis.

DOC Position. We agree with the petitioner that in both Tae Wang Mulsan's questionnaire response and ancillary worksheets, the presentation of total cost and total quantity of fabrics produced and sold in both greige and dyed states is uncertain. The response appears to double count the output of greige fabric sold in a dyed state, and there is no way to clearly separate the costs and quantities of fabric produced and sold in greige and dyed states. This problem arises due to the fact that the company's perpetual inventory system does not readily distinguish between greige and dyed fabrics.

An analysis was prepared to verify the total expenses and total produced quantity of each product produced and sold by Tae Wang Mulsan in 1982. We determined that the cost of sales as reported in the company's financial statements is within one percent of the cost accounted for in the company's submission.

Respondents' Comments

Comment 1. The third and fourth quarter cost of production figures submitted by the respondents are fully-loaded costs and should be used to calculate the cost of producing LPFF sold in the home market during the period of investigation rather than costs on a yearly or six-month basis.

DOC Position. The costs reported in each quarter accurately reflect the cost of producing the merchandise in that quarter. We have verified that the Korean manufacturers have submitted fully-loaded quarterly cost information. Since the raw materials cost of polyester filament yarn was decreasing throughout 1982 and there is a very short lag time between the production and sale of the merchandise in question, we believe that quarterly cost of production data provides the most accurate measure of the cost of producing LPFF in Korea.

Comment 2. The weighted-average home market prices should be computed on a quarterly basis in order to avoid distortions in comparisons with individual export sales prices.

DOC Position. We verified that the quarterly production cost data reported by the Korean manufacturers were fully-loaded costs. Therefore, the cost of producing the merchandise in question has been calculated on a quarterly basis (*See* DOC position with respect to Respondents' Comment 1). Since home market as well as export sales prices generally declined during the third and fourth quarters of 1982, reflecting the decrease in costs, the Department believes the calculation of weighted-average home market prices on a quarterly rather than a semi-annual basis more reasonably reflects the home market prices at the time of the export sales in question. Therefore, weighted-average home market prices were calculated on a quarterly basis.

Comment 3. Respondents maintain that all high-twist LPFF sold in the home market is "such or similar" to the merchandise exported to the United States; therefore, all sales in the home market of high-twist LPFF should be aggregated for determining the viability of the home market.

DOC Position. We established "such or similar" product groupings within each of the three main yarn-based categories of LPFF (flat, textured, and high-twist) (*See* DOC Position with respect to Petitioner's Comment 6). As required by § 353.4 of the Commerce Regulations, the Department conducted home market viability tests for each of these "such or similar" product groupings in order to determine the adequacy of home market sales of "such and similar" merchandise.

Comment 4. Credit expenses on sales involving payment by promissory note should include the imputed expense of credit for the period of time between delivery of the merchandise and the receipt of cash therefor, and the amount of the discount from the face value of the note resulting from the seller's sale of the note prior to its maturity date.

DOC Position. We determine that these differences in home market and U.S. credit expenses are allowable as circumstances of sale adjustments pursuant to 19 CFR 353.15(b) of our regulations.

By imputing an interest expense from the date of delivery to the date of payment, the expense incurred for granting credit is recognized. Further, when a note received for payment of a sale is discounted prior to its maturity, this discount represents the credit cost and we recognize this.

Comment 5. The only element of nonoperating expenses properly allocable to the cost of producing the merchandise under investigation is a financing expense; all other elements should be excluded.

DOC Position. The cost of production must include all costs necessary for the manufacture of the product under investigation. Although costs may be presented on the financial statements in many ways, such as part of cost-of-

sales, general expenses or non-operating expenses, we are not governed by the representation of the costs of the financial statement but by the substantive nature and their relationship to the product. Therefore, we examined the individual non-operating expenses and non-operating income items to decide if these items should be properly included.

Items which pertained exclusively to other lines of business and export sales were not included in the cost of production for home market sales. Items which pertained to the over-all operations of the company were included as part of general and administrative expenses. In all cases, except for Dong Sung Trading Co., Ltd., the amount of the adjustment was insignificant. In that one case, an adjustment to the costs was made.

The non-operating export sales items which were incurred by the manufacturers were not directly related to production. These non-operating indirect selling expenses were reviewed for the two companies engaging in sales under section 772(c) of the Act (exporter's sales price) for which indirect selling expenses would be part of a sale price adjustment. In one case, there were no such indirect expenses and in the other case, the adjustment was insignificant.

Comment 6. No adjustment is necessary to the Korean manufacturers' cost data for seconds, shorts, and remnants.

DOC Position. The Korean LPFF manufacturer did not adjust their cost of production to account for the costs associated with the production of second and third quality merchandise. The companies represented said that they did not maintain records of their experience in this area.

Because the production of second and third quality merchandise is part of the normal operations of the LPFF industry, we developed estimates of the increase in costs, based upon petitioner's information, to the first quality resulting from the production and sales of second and third quality merchandise. Costs were adjusted accordingly.

Suspension of Liquidation

In accordance with section 733(d) of the Act, on August 8, 1983, we instructed the United States Customs Service to suspend liquidation of all entries of LPFF from Korea with the exception of the LPFF produced by Chang Young Co., Ltd.; Dong Sung Trading Co., Ltd.; Silla Textile Co., Ltd.; Sam-A Co., Ltd.; Kabul Ltd.; Namsun Moolsan Co., Ltd.; Sunkyong Limited; and Tongkook Corporation (48 FR 35979). As of the date of publication of this notice in the **Federal Register**, the liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended for Seong An Textile Co., Ltd.; Shin Taeyang Co.; Yuyang Textile and Apparel Ltd.; and Tae Wang Mulsan Co., Ltd. which were previously subject to suspension. Except for Chang Young Co., Ltd.; Dong Sung Trading Co., Ltd.; Silla Textile Co., Ltd.; Sam-A Co., Ltd.; Kabul Ltd.; Namsun Moolsan Co., Ltd.; Sunkyong Ltd.; Tongkook Corp.; and Young Shin Textile Co., Ltd., the Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the U.S. price. This suspension of liquidation will remain in effect until further notice. Companies excluded from this determination are identified by an asterisk (*) in the chart below:

Firm	Weighted-average margin percentage
*Chang Young Co., Ltd.	0.000
*Dong Sung Trading Co., Ltd	0.000
*Kabul Ltd.	0.000
*Namsun Moolsan Co., Ltd.	0.015
*Sam-A Co., Ltd.	0.015
Seong An Textile Co., Ltd	1.876
Shin Taeyang Co	[illegible]
*Silla Textile Co., Ltd	[illegible]
*Sunkyong Ltd.	0.246
Tae Wang Mulsan Co., Ltd	4.052
*Tongkook Corp.	[illegible]
*Young Shin Textile Co., Ltd	[illegible]
Yuyang Textile and Apparel Ltd	[illegible]
All other companies	0.614

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on LPFF from Korea entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: October 21, 1983.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 83-29192 Filed 10-26-83; 8:45 am]

BILLING CODE 3510-25-M

[C-469-035]

Vitamin K From Spain; Final Results of Administration Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of Administration Review of Countervailing Duty Order.

SUMMARY: On September 9, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on vitamin K from Spain. The review covers the period January 1, 1982 through December 31, 1982.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: October 27, 1983

FOR FURTHER INFORMATION CONTACT: Alan Long or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 9, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 40770) the preliminary results of its administrative review of the countervailing duty order on vitamin K from Spain (41 FR 50419, November 16, 1976). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Spanish vitamin K, commercially known as menadione sodium bisulfite. Such merchandise is currently classifiable under item 412.6420 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1982 through December 31, 1982 and two programs: (1) a rebate of indirect taxes upon exportation under the Desgravacion Fiscal a la Exportacion ("the DFE"), and (2) an operating capital loans programs.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We recieved on comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine the net subsidy to be 2.51 percent for the period January 1, 1982 through December 31, 1982.

The Department will instruct the Customs Service to assess countervailing duties of 2.51 percent of f.o.b. invoice price on any shipments exported on or after January 1, 1982 and entered, or withdrawn from warehouse, for consumption or or before June 20, 1982.

On June 21, 1982, the International Trade Commission ("the ITC") notified the Department that the Spanish government had requested an injury detemination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or likelihood of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties, in the amount of the estimated duties required to be deposited on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after June 21, 1982, and through the date of the ITC's notification to the Department of its determination.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.64 percent of the entered value, as provided for by section 751(a)(1) of the Tariff Act, on any shipment of Spanish vitamin K entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administration review. The Department now intends to conduct the next administration review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of ther Tariff Act (19 U.S.C. 1675(a)(1)), and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 21, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-29237 Filed 10-26-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Request for a National Voluntary Laboratory Accreditation Program for Activated Carbon

In accordance with that portion of the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) pertaining to private sector organizations (15 CFR 7c.4(c)), notice is hereby given by the National Bureau of Standards of the receipt of a letter dated September 20, 1983, from the American Society for Testing and Materials (ASTM) Committee D-28 of Activated Carbon. The letter requests the development of a laboratory accreditation program (LAP) to accredit laboratories that test activated carbon. The ASTM letter, which is set out at the conclusion of this notice, includes a statement of need and the procedures followed in support of its request.

The ASTM Committee D-28 meets the conditions set out in 15 CFR 7c.3(b). A copy of the September 20, 1983 letter from ASTM Committee D-28 has been filed in the Central Reference and Records Information Facility (CRRIF), Room 6622, Main Commerce Building, 14th Street between E Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Any person desiring to comment regarding the need for this LAP is requested to do so no later than December 27, 1983. Comments should be sent directly to ASTM Committee D-28, Mr. Richard D. Rivers, American Air Filter Company, P.O. Box 35280, Louisville, KY 40232.

A copy of such comments should be sent to Mr. John W. Locke, Manager, Laboratory Accreditation, NBS, TECH B141, Washington, D.C. 20234; (301) 921-3431. Additional inquiries related to NVLAP can also be directed to Mr. Locke.

Dated: October 24, 1983.

John W. Lyons,

Acting Director, National Bureau of Standards.

September 20, 1983.

Dr. Ernest Ambler, Director, National Bureau of Standards, Washington, D.C. 20234

Dear Dr. Ambler: In accordance with Section 7c.4 of Title 15 of the Code of Federal Regulations, the ASTM Committee D-28 on Activated Carbon requests that you establish a laboratory accreditation program (LAP) under the National Voluntary Laboratory Accredition Program (NVLAP) to accredit laboratories which test activated carbon to the requirements of applicable standards.

For the purpose of defining the scope of this proposed LAP, "activated carbon" includes a group of granular carbonaceous substances processed to enhance their gas-adsorptive properties.

The applicable product standard is ASTM D4069, "Impregnated Activated Carbon Used to Remove Gaseous Radioiodines from Gas Streams." A copy is attached. The following test methods listed in the product standard should be included in the LAP:

1. Methyl Iodide Efficiency, 30 oC, 95% RH (ASTM D3803, Method A).
2. Methyl Iodide Efficiency, 80 oC, 95% RH (ASTM D3803, Method B).
3. Elemental Iodine Efficiency, 30 oC, 95% RH (ASTM D3803, Method D).
4. Elemental Iodine Efficiency, 100 oC (ASTM D3803, Method E).

Number of Laboratories

There are approximately 9 laboratories that perform this testing in the U.S.A. and several foreign laboratories which may be interested and eligible to become accredited under this proposed LAP.

Users of Laboratories

Users of accredited laboratory services would include operators of nuclear power plants and fuel reprocessing facilities; contractors responsible for the construction, maintenance and decommissioning of such facilities; laboratories (including national laboratories) involved in research and regulatory studies for the nuclear industry; and military agencies involved in nuclear power reactor applications.

Need for this LAP

National Need: Radioiodine isotopes are unavoidable by-products of nuclear power production. Substantial quantities are produced by fission of uranium and thorium during power-reactor operation. In addition, smaller quantities are produced for medical and research purposes in research reactors and particle accelerators. These radioiodine isotopes pose hazards, not only to workers within nuclear facilities, but to the public at large. The hazard exists in day-to-day operation, and is multiplied greatly by the possibility of massive accidental releases. Because of the high damage level of radioiodine to vital organs (the thyroid in particular), and because of the concentration of iodine which takes place in the food chain, the ability to trap radioiodine compounds

under all possible generation situations with high efficiency is essential to a safe, viable nuclear technology. The test procedures to be certified under this LAP are designed to demonstrate the effectiveness of the material most commonly used for radioiodine trapping in nuclear facilities. The listed tests evaluate the tested activated carbons under a range of conditions approximating normal and accident environments. The standard (ASTM D4069) sets pass levels which will yield tolerable, minimal worker and public exposure to radioiodine compounds in nuclear facilities with correctly-designed containment systems.

Benefits to Public Interest: It is of utmost importance to public safety that nuclear systems have containment equipment which is *designed* to hold worker and public exposure to minimal levels. It is equally important that procedures be established to assure that the materials used in such systems continue to have the quality specified in system design throughout the life of the facility. Activated carbon in any filtration system must be replaced periodically. The only way its quality can be assured is through batch-by-batch tests correctly carried out to proven standards by competent, appropriately equipped laboratories. This is the aim of this set of standards, and this LAP. Neither the manufacture or the evaluation of activated carbon for radioiodine capture is simple. The LAP is needed to assure the delivery of filtration media meeting standards which have been determined to be necessary.

Importance of Standards for Commerce, Consumer Well Being, or Public Health and Safety: Radioiodine compounds have become powerful tools for medical diagnosis and therapy. The very qualities that provide these benefits, however, make them dangerous when they enter the human body undetected and uncontrolled. Radioiodine can destroy a cancerous thyroid gland, saving a life and allowing pharmaceutical replacement of thyroid function; it can also destroy a healthy thyroid, and take a life. Radioiodine compounds are peculiarly insidious because they provide no easily detectable indication of their presence at levels already hazardous. Hence, the need for containment at the source. A truly massive release from a nuclear power plant would require evacuation of people from the surrounding territory and destruction of grazing animals because of radioiodine pollution alone. Widespread processing of milk in areas beyond the evacuation zone would be needed to prevent hazard to children.

An additional benefit accrues when the public is protected by reliable, quality-controlled systems. Their perception of danger is justifiably reduced, and they are then more willing to examine the technology involved on a rational basis, and to accept it within reasonable economic constraints. This, in turn, can yield lower costs for necessary services like electric power.

Existing Valid Testing Methodology

Test Procedures

Properties of the activated carbon tested (hardness, moisture content, particle size, etc). These tests involve relatively simple equipment, and are standardized versions of tests which have been performed for many years in the activated carbon industry. They are helpful in assuring the uniformity and repeatability of the activated carbons specified under D4069, but there is no major concern in the industry as to the reliability of testing done under these methods. However, the second group of tests-all contained in ASTM D3803 (enclosed)—is far more complex. It first describes a system of feeding radioiodine-labelled compounds to standardized samples of activated carbon. It then details procedures for measuring the fraction of the radioiodine which passes through the carbon bed in the course of the test, and the amount retained in the bed. Several different patterns of temperature and humidity are specified for this group of tests. These conditions are designed to simulate normal and predicted post-accident operating conditions for the carbon beds. These methods have been developed by ASTM Committee D28. The history of their development and evaluation to date is described in the paragraph, "Procedures Used in Formulating This Request," below.

Feasibility and Practicality of Administering a LAP: It appears that a LAP for this standard is no less feasible or practical than the LAP's now established under NVLAP. Most laboratories which could be involved have expressed desire for the program. Potential industry users and ASTM Committee D28 are prepared to consult with NBS on the program. The standard is unequivocally defined and has been in use for more than a year by the target laboratories.

Procedures Used in Formulating This Request

The following steps were taken by ASTM Committee D28 in arriving at this request for a LAP:

The committee was organized in 1962 to develop standards for testing and specifying activated carbon products. It has three subcommittees:

D28.02 Liquid Phase Applications
D28.03 Definitions
D28.04 Gas Phase Applications

The development of standards related to use of activated carbon in nuclear safety systems has been the responsibility of Subcommittee D28.04. D 28 Subcommittees operate under the rules of ASTM, which maintain open access to all interested parties. Membership is dependent on technical qualifications, but every effort has been made to recruit members from a wide spectrum of industry interests. The entire group of nuclear activated carbon standards each went through several draft versions, which were discussed and amended in open committee meetings. Final versions were submitted to three separate ballots (Subcommittee, Committee, and Society-wide). In all cases, there were certain negative votes which were answered, either by clarification (with the dissenting voter agreeing to reverse his vote), by committee majority adoption of the dissenting opinion, or by a committee majority vote that the complaint was "not persuasive." Records of these procedures have been maintained throughout the development of these standards.

Athough ASTM D28.04 has been the committee with responsibility for these standards, it has not been alone in its interest. The ASME Committee on Nuclear Air and Gas Treatment (CONAGT) has made use of ASTM D 28 standards in writing its own guideline standards for design and testing of nuclear safety systems (ANSI/ASME N509, Nuclear Power Plant Air Cleaning Units and Components and ANSI/ASME N510, Testing of Nuclear Air-Cleaning Systems).

In addition, CONAGT and ASTM D 28 have cooperated in implementing and analyzing an interlaboratory comparison of the test methods of ASTM D3803. In May of 1982, a letter was circulated from ASTM D28.04 notifying 21 organizations of its intent to pursue a NVLAP Certification Program. The circulation list included all known U.S. laboratories engaged in testing nuclear grade activated carbons, plus suppliers of nuclear safety systems using this material and several regulatory agencies involved in setting standards for and maintaining quality of this material. A questionnaire was sent along to determine which of the pertinent ASTM standards should be included in the NVLAP program. Twelve responses to this questionnaire were received. The consensus of these responses was that the NVLAP program was needed, and probably should include all ten of the test standards listed in Specification D4069. However, the problems involved in obtaining persons knowledgeable in all of these test procedures to serve as laboratory auditors convinced D 28 that, as a first step, the LAP should be limited to test methods in D3803. Satisfactory reproducibility had been obtained for all the tests called out by D4069. For Standard D3803, however, some difficulties have been observed recently during an interlaboratory comparison sponsored by the ASME CONAGT committee. Carefully subdivided samples of activated carbons, both new and removed from nuclear power plant service, were distributed to a group of laboratories for test "in accordance with ASTM D3803." The results obtained had variance wider than would have been expected. ASTM Committee D28.04 was asked to examine the data sets to seek an explanation for this variance. Committee D28.04 found that the conditions of ASTM D3803 had not been met by the majority of participants, either as a result of misunderstanding or from lack of equipment exactly meeting the requirements of D3803. These problems indicated to D28.04 the clear need for laboratory accreditation, and prompted moving forward on this request for a NVLAP program.

We assert that the ASTM Committee D 28 qualifies under the due process requirements of the NVLAP Part 7c Procedures for private sector organizations to make this request.

Development of Technical Details

We are ready to provide technical support for the development of the details for administering this LAP. In addition, we hope to identify technical experts for your use in assessing applicant laboratories. We hope

that members of ASTM Committee D 28 can continue to contribute in the development of technical requirements for accrediting laboratories to implement this LAP.

Please let us know if we can provide any other information or assistance you may need. We look forward to the National Bureau of Standards' favorable consideration of this request.

Sincerely,

Richard D. Rivers,

Chairman, ASTM Committee D–28.04, American Air Filter Company, P.O. Box 35260, Louisville, Kentucky 40232.

[FR Doc. 83–29182 Filed 10–26–83; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products From the People's Republic of China

October 24, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA) under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 28, 1983. For further information contact Diana Bass, (202/377–4212).

Background

A CITA directive establishing import limits for specified categories of cotton, wool and man-made fiber textile products, including Categories 351, 447, 448 and 640, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1983, was published in the **Federal Register** on August 19, 1983 (48 FR 37686). Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, the Government of the People's Republic of China has notified the Government of the United States of its intention to use flexibility in the form of swing to be applied to the current-year limits for these categories. The limit for Category 640 is being reduced accordingly to account for swing being applied to Categories 351, 447 and 448.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 24, 1983.

Committee for the the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of August 19, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1983.

Effective on October 28, 1983, the directive of August 19, 1983 is hereby further amended to adjust the previously established levels of restraint for Categories 351, 447, 448, and 640 to the following under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983:[1]

Category	Adjusted 12-month level of restraint [1] (dozen)
351	804,500
447	72,676
448	19,425
640	1,001,332

[1] The levels have not been adjusted to reflect any imports exported after December 31, 1982.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83–29193 Filed 10–26–83; 8:45 am]

BILLING CODE 3510–25–M

Adjusting Import Restraint Limits for Certain Cotton Apparel Products From India

October 24, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs, to be effective on October 31, 1983.

A CITA directive dated December 27, 1982 (47 FR 58339) established import restraint limits for specified categories of cotton, wool and man-made fiber textile products, including Categories 338/339/340 and 341, produced or manufactured in India, exported during the twelve-month period which began on January 1, 1983, which may be entered into the United States for consumption beginning January 1, 1983. At the request of the Government of India, flexibility provided under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982 is being applied in the form of swing to the limits for Categories 338/339/340 and 341, increasing the limit for women's, girls' and infants' woven cotton blouses in Category 341 to 2,589,181 dozen. To account for the increase in Category 341 the limit for cotton shirts and blouses in Category 338/339/340 is being reduced by a corresponding amount in equivalent square yards from 987,857 dozen to 909,915 dozen. These adjustments apply to merchandise, produced or manufactured in India and exported during the agreement year which began on January 1, 1983 and extends through December 31, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 24, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 27, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in India.

Effective on October 31, 1983, the directive of December 27, 1982 is hereby amended to adjust the previously established twelve-month limits for Categories 338/339/340 and 341 to the following amounts: [1]

[1] The Agreement provides, in part, that (1) with the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard equivalent decrease in one or more other specific limits in that agreement year; (2) the specific limits for certain Categories may be increased for carryforward, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[1] The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 21, 1982 provides, in part, that: (1) specific limits may be exceeded by designated percentages for swing, carryover, and carryforward and (2) administrative arrangements of adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Category	Adjusted 12-month limit [1] (square)
338/339/340	809,915
341	2,589,187

[1] The limits have not been adjusted to account for any imports in the categories, exported after December 31, 1982.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-29196 Filed 10-26-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, December 6, 1983; Tuesday, December 13, 1983; Tuesday, December 20, 1983; and Tuesday, December 27, 1983 at 10:00 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with guarantee that the data will be held in confidence (5 U.S.C. 552b. (c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

Dated: October 24, 1983.

M.S. Healy,

OSD Fedeal Register Liaison Officer, Department of Defense.

[FR Doc. 83-29251 Filed 10-26-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Mapping Agency

Defense Mapping Agency Advisory Committee on Mapping, Charting and Geodesy (MC&G); Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of the DMA Advisory Committee on MC&G has been scheduled as follows:

Tuesday and Wednesday 22 and 23 November 1983, DMA Special Program Office for Exploitation Modernization, McLean, Virginia. The entire meeting, commencing at 0800 hours each day is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical MC&G issues and advise the Director, DMA on related scientific and technical matters.

Dated: October 24, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83-29250 Filed 10-26-83; 8:45 am]

BILLING CODE 3810-01-M

Military Traffic Management Command

Directorate of Personal Property; Domestic Household Goods Program

We refer to the DoD notice appearing in 48 FR 45144, subject as above, on October 3, 1983, and are hereby extending the date for submission of written comments until 4:30 p.m. e.s.t. on November 4, 1983. All carriers who have already submitted written comments under the prior deadline of October 17, 1983, may withdraw, change, or supplement them.

Correction: In the original notice we refer in the third column, 17th line from bottom, "Tenders *or* rate bureaus." This should be corrected to read "Tenders *of* rate bureaus."

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

October 17, 1983.

[FR Doc. 83-29157 Filed 10-26-83; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER84-27-000]

Centel Corp.; Filing

October 24, 1983

The filing Company submits the following:

Take notice that on October 13, 1983, Centel Corporation (Centel) tendered for filing a Wholesale Contract between Centel and Western Power and the Municipal City of Cimarron, Kansas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29216 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-6-000]

Central Illinois Light Co.; Application

October 24, 1983.

Take notice that on October 14, 1983, Central Illinois Light Company (Applicant) filed an application with the Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue short-term debt obligations in the aggregate principal amount not exceeding $66,000,000 outstanding at any time with final maturities of not later than December 31, 1986.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29217 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-31-000]

Central and South West Services, Inc.; Filing

October 24, 1983.

The filing Company submits the following:

Take notice that on October 14, 1983, Central and South West Services, Inc. (CSWS) tendered for filing an Operating Agreement among Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, West Texas Utilities Company and CSWS, dated September 28, 1983. CSWS states that the purpose of the Operating Agreement is to provide the contractual basis for coordinated planning, construction, operation and maintenance of the operating subsidiaries of Central and South West Corporation.

CSWS requests an effective date of December 14, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29218 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-33-000]

Cleveland Electric Illuminating Co.; Filing

October 24, 1983.

The filing Company submits the following:

Take notice that on October 14, 1983, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 15 MW of power from the 345 kv interconnection point to CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI requests an effective date of October 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29219 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-29-000]

Dayton Power & Light Co.; Filing

October 24, 1983.

The filing Company submits the following:

Take notice that on October 14, 1983, the Dayton Power and Light Company (DP&L) tendered for filing an executed Service Agreement For Partial Requirements And/Or Transmission Wheeling Service To Municipalities For Resale (Service Agreement) between DP&L and the Village of Lakeview, Ohio.

DP&L states that the proposed Service Agreement permits the Village of Lakeview to receive partial requirements and transmission wheeling service from DP&L under its FERC Electric Tariff, Original Volume No. 2. The previous service agreement between DP&L and the Village of Lakeview under which the Village of Lakeview received pursuant to DP&L's FERC Electric Tariff Original Volume No. 1, is superseded.

DP&L requests an effective date of October 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29220 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-30-000]

Florida Power Corp.; Filing

October 24, 1983.

The filing Company submits the following:

Take notice that on October 14, 1983, Florida Power Corporation (Florida Power or Company) tendered for filing an executed agreement between itself and Seminole Electric Cooperative, Inc. (Seminole). It provides rates and terms and conditions for (1) supplemental service, stratified into base load and intermediate/peaking service, (2) transmission/distribution service and (3) load following service. The present filing, together with the interchange contract filing on August 22, 1983 in Docket No. ER83-695-000, are requested to become effective on the first day of the month after Seminole's 600 MW No. 1 generating unit begins commercial operation. The Company submits that good cause exists for waiver of the 60-day notice requirement. The unit is expected to begin commercial operation on December 1, 1983.

The Company presently provides service to Seminole to supplement capacity and energy from the Southeastern Power Administration and from Seminole's entitlement share of Crystal River No. 3 unit. In 1982 the Company provided over 90% of Seminole's demand and energy requirements at delivery points within the Company's service area. This figure will decrease to less than 30% when the first Seminole unit comes on line and will decrease further when a second 600 MW unit goes into service in January 1985.

The stratified rate in the agreement is intended to insure that the reduction in revenues from Seminole is reasonably related to the reduction in base load costs.

The demand and non-fuel energy charges are as follows:

	Demand (kW/Mo)	Nonfuel energy (kWh)
Base Load	$0.14	$0.004420
Intermediate/Peaking	4.35	0.007788

The Company states that the fuel charges for each type of service are to be based on actual monthly fuel costs of units designated as base load or intermediate/peaking.

The Company further states that a transmission charge of $1.54 per month, applies to all delivery points and an additional distribution charge, $1.59 per month, applies to delivery points below 69 Kv.

Copies of the filing were served on Seminole and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-29221 Filed 10-26-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-32-000]

Idaho Power Co.; Filing

October 24, 1983.

The filing Company submits the following:

Take notice that on October 14, 1983, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1976, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during August, 1983, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company, Supplement 22
Montana Power Company, Supplement 20
Sierra Pacific Power Company, Supplement 20
Portland General Electric Company, Supplement 15
Washington Water Power Company, Supplement 11
Los Angeles Dept. of Water & Power, Supplement 12
City of Burbank, Supplement 12
City of Pasadena, Supplement 12
City of Glendale, Supplement 12
San Diego Gas & Electric Company, Supplement 10
Southern California Edison, Supplement 13

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-29222 Filed 10-26-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-412-001]

Kansas Gas & Electric Co.; Refund Report

October 24, 1983.

Take notice that on October 7, 1983, Kansas Gas and Electric Company ("KG&E") submitted for filing a Refund Report to the Cities of Neodesha, Winfield, and Mulvane, Kansas, in compliance with a Commission Letter Order dated August 1, 1983 in Docket No. ER82-412-000.

KG&E states that this refund is to correct the Statement of Refunds dated September 8, 1983. KG&E inadvertently excluded refunds due because of a 1¢ per kW reduction in the charge for service provided under Service Schedule E, Transmission Service for Outside Firm and Participation Power Purchases.

KG&E further states that this Statement of Refunds details the refund calculation made for customers taking service under Service Schedule E from March 1, 1983 through June 30, 1983.

Neodesha, Kansas received a refund of $333.85. Winfield, Kansas received a refund of $1,532.27, and Mulvane, Kansas, received an amount of $298.27.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 3, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29223 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-28-000]

Montana Power Co.; Filing

October 24, 1983.

The filing Company submits the following:

Take notice that on October 11, 1983, the Montana Power Company (Montana), tendered for filing a revised Appendix I as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Montana and the Bonneville Power Administration (BPA).

As a result of BPA's review, Montana's Average System Cost was adjusted as follows:

Jurisdiction	Filed rate	Adjusted rate
Montana	17.65 mills/kWh	17.00 mills/kWh

A copy of the filing was served upon BPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29224 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-26-000]

Northern States Power Co.; Filing

October 24, 1983.

The filing Company submits the following:

Take notice that on October 13, 1983, Northern States Power Company (Wisconsin) (NSP) tendered for filing a wholesale electric service agreement, dated June 22, 1983, between NSP and the City of Whitehall (City), a municipal corporation in Trempealeu County, Wisconsin. NSP states that the June 22, 1983 agreement supersedes a previous agreement between the parties dated June 2, 1970. NSP further states that the June 22, 1983 agreement was executed to reflect the fact that the City has installed its own substation which, among other things, will enable the City to take service from NSP without having to pay the distribution substation demand charges in NSP's W-1 Rate Schedule.

NSP requests an effective date of September 28, 1983, and therefore requests waiver of the Commission's notice requirements.

A copy of this filing has been filed upon the City.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29225 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-35-000]

Northern States Power Co.; Filing

October 24, 1983.

The filing Company submits the following:

Take notice that on October 17, 1983, Northern States Power Company (NSP) tendered for filing copies of its Firm Power Resale Agreement.

NSP states that this agreement replaces those contracts existing between NSP and its wholesale customers that were cancelled by NSP pursuant to notice on April 30, 1983.

NSP requests an effective date of December 16, 1983.

Copies of this filing have been served upon Northern States Power Company's Minnesota wholesale customers affected by this filing and the Minnesota Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29226 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-241-001]

Superior Water, Light & Power Co.; Compliance Filing

October 24, 1983.

Take notice that on October 12, 1983, Superior Water, Light and Power Company ("SWL&P") submitted for filing its Rate Schedule W-8 Revised, in compliance with a December 11, 1981 Commission Letter Order approving the Settlement Agreement.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 3, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29227 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-473-001]

Superior Water, Light and Power Co.; Compliance Filing

October 24, 1983.

Take notice that on October 12, 1983, Superior Water, Light and Power Company, submitted for filing its Rate Schedule W-6 Revised, in compliance with the Commission's Order "Approving the Settlement Agreement."

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 3, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29228 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-59-001]

Superior Water, Light and Power Co.; Compliance Filing

October 24, 1983.

Take notice that on October 12, 1983, Superior Water, Light and Power Company ("SWL&P") submitted for filing its Rate schedule W-5 Revised, in compliance with the January 9, 1978 Commission Order "Approving Settlement Agreement".

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 3, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29229 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-119-008]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Petition To Amend

October 24, 1983.

Take notice that on October 5, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001 filed in Docket No. CP75-119-008 a petition to amend the order accompanying Federal Power Commission Opinion No. 789,[1] issued on March 7, 1977, as amended, to authorize transportation of natural gas from a new source of supply in South Pass Blocks 24 and 27, offshore Louisiana, to be received by Tennessee at a previously authorized point of receipt, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Tennessee is presently authorized to receive from Shell Oil Company, at specified points, up to 22,500 Mcf per day of natural gas produced from certain specified sources, and to transport such gas for Shell Oil Company to an interconnection at Yscloskey, Louisiana, with Creole Gas Pipeline Company (Creole) for redelivery by Creole to Air Products and Chemicals Inc. (Air Products).

As stated in Tennessee's petition, Tennessee purchases gas supplies from Shell Offshore, Inc. (Shell), successor in interest to Shell Oil Company under, *inter alia*, a gas sale and purchase contract dated June 16, 1976 (Shell's FERC Rate Schedule No. 1), which covers gas produced from various areas, including South Pass Blocks 24 and 27, offshore Louisiana. Tennessee further states that Shell has advised that portions of these blocks are located in the offshore Federal Domain and, further, that by virtue of a reservation clause in the gas sale and purchase contract, such Federal Domain gas is available for transportation. Tennessee notes that inasmuch as the Commission's revised policy announced in Opinion No. 10/B would now permit such transportation, Shell has requested that Tennessee receive such gas at a previously authorized receipt point, such point being designated in the transportation agreement between Tennessee and Shell as "Delivery Point 'B,'" for transportation under the authorization issued herein.

Tennessee further maintains that, in Opinion No. 10-B, the Commission, *inter alia*, revised its previous policy with respect to end-use restrictions imposed upon pipeline certificates for the transportation of producer reservation gas, indicating that such restrictions are no longer in the public interest. Accordingly, Tennessee also requests that the Commission provide that the authorization for the transportation of gas from the new source is free of any end-use restriction.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Nov. 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29230 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-506-000]

Texas Eastern Transmission Corp.; Application

October 24, 1983.

Take notice that on September 12, 1983, Texas Eastern Transmission Corporation (Tetco), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP83-506-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), authorized by the Commission in Docket No. CP79-364, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tetco states that, pursuant to a gas transportation agreement dated June 7, 1979, it was transporting up to 100,000 dt equivalent of natural gas per day on a firm basis and up to 50,000 dt equivalent of natural gas per day on an interruptible basis. Tetco was receiving the gas from Transcontinental Gas Pipe Line Corporation for Northern's account in Calcasieu Parish, Louisiana, and delivering gas to Houston Pipe Line Company for Northern's account in Chambers County, Texas.

Tetco states that, pursuant to an amendment to the transportation agreement dated April 12, 1979, Northern will not require the certificated transportation service beyond December 31, 1983, because Northern has made arrangements to have the gas transported on a self-implementing basis pursuant to Part 284 of the Commission's Regulations. It is asserted that no facilities will be abandoned.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tetco to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29212 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1800-000]

Thomas A. Greenquist; Application

October 24, 1983.

The filing individual submits the following:

Take notice that on October 13, 1983, Thomas A. Greenquist, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President—Bangor Hydro-Electric Company
Director—Bangor Hydro-Electric Company
Director—Maine Yankee Atomic Power Company
Vice President—Maine Electric Power Company, Inc.
Director—Maine Electric Power Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 384.214). All such motions or protests should be filed on or before November 10, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29213 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-36-000]

Vermont Electric Power Co.; Filing

October 24, 1983.

The filing Company submits the following:

Take notice that on October 14, 1983, Vermont Electric Power Company (Vermont) tendered for filing the following documents affecting Rate Schedule No. 236:

Exhibit B—Adds Berlin in Substation to Substation Participation Agreement
Exhibit C—One Line Diagram for Berlin Substation
Exhibit D—Exclusive costs for Berlin Substation
Exhibit E—Common-use costs for Berlin Substation

Vermont requests an effective date of June 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29214 Filed 10-26-83; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; First Southern Bank Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Hlding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Southern Bank Corp.*, Englewood, Florida; to acquire 100 percent of the voting shares or assets of Englewood Bank of Charlotte County, Englewood, Florida (a proposed *de novo* bank). Comments on this application must be received not later than November 21, 1983.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Onarga Bancorp, Inc.*, Onarga, Illinois; to acquire 80 percent or more of the voting shares or assets of Bank of Chebanse, Chebanse, Illinois. Comments on this application must be received not later than November 21, 1983.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *J.R. Montgomery Bancorporation*, Lawton, Oklahoma; to acquire 0.19 percent of the voting shares or assets of City National Bank and Trust Company,

Lawton, Oklahoma. Comments on this application must be received not later than November 21, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Texas Commerce Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares of Texas Commerce Bank—Richardson, N.A., Richardson, Texas, a proposed new bank. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than November 20, 1983.

Board of Governors of the Federal Reserve System, October 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29152 Filed 10-26-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Citicorp, et al.

The orgainzations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (finance company and credit-related insurance activities; Colorado): To relocate a wholly-owned subsidiary of Citicorp, Citicorp Person-to-Person Englewood Industrial Bank, from Englewood, Colorado, to Littleton, Colorado. From this new location Citicorp Person-to-Person Englewood Industrial Bank will continue to engage in operating as an industrial loan company in the manner authorized by Colorado law, including the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the issuing of thrift certificates and thrift passbook certificates; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The service area for all the aforementioned previously approved activities shall continue to be the entire State of Colorado. Comments on this application must be received not later than November 8, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Colorado National Bankshares, Inc.*, Denver, Colorado (credit related insurance activities; Colorado): To act through its subsidiary, Colorado National Insurance Agency, as insurance agent or broker for life, disability and hazard insurance coverages directly related to extensions of credit of three newly acquired banking subsidiaries, Colorado National Bank-Southwest, Littleton, Colorado; Colorado National Bank-East Boulder, Boulder, Colorado; and Colorado National Bank-Fort Collins, Fort Collins, Colorado. The respective geographic scopes for these activities will be the cities of Boulder and Fort Collins, Colorado and the southwest quadrant of Littleton, Colorado. Colorado National Bankshares earlier secured approval to engage in insurance activities by Board Order of July 1, 1974. Comments on this application must be received not later than November 14, 1983.

2. *Security Corporation*, Duncan, Oklahoma (electronic data processing for banking applications and EDP related management consulting services; Oklahoma): To engage, through its subsidiary, Security Data Processing Co., in marketing electronic data processing for banking applications and EDP related management consulting services to financial institutions in accordance with Regulation Y. This activity will be performed from an office in Duncan, Oklahoma, serving the State of Oklahoma. Comments on this application must be received not later than November 21, 1983.

3. *Security Corporation*, Duncan, Oklahoma (MICR encoding, proof of deposit, statement preparation and check processing related management consulting services; Oklahoma): To engage, through its subsidiary, Security Check Processing Co. in marketing MICR encoding, prood of deposit, statement preparation and check processing related management consulting services to financial institutions in accordance with Regulation Y. These activities will be performed from an office in Duncan, Oklahoma, serving the State of Oklahoma. Comments on this application must be received not later than November 21, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Taxes 75222:

1. *Coronado Bancshares, Inc.*, El Paso, Texas (credit-related insurance activities; Texas): To act through its subsidiary Coronado Life Insurance Company, as agent for the sale for credit life and disability insurance in conformance with Section 601(A) of the Garn-St Germain Depository Institutions Act of 1982. These activities will be conducted from an office located in El Paso, Texas, serving primarily El Paso County, Texas. Comments on this application must be received not later than November 18, 1983.

Board of Governors of the Federal Reserve System, October 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29153 Filed 10-26-83; 8:45 am]

BILLING CODE 6210-01-M

Deerwood Bancorporation, Inc.; Formation of Bank Holding Company

Deerwood Bancorporation, Inc., Deerwood, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring an additional 53.9 percent for a total of 63 percent of the voting shares of The First National Bank of Deerwood, Deerwood, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Deerwood Bancorporation, Inc, Deerwood, Minnesota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage directly in the operation of a general insurance agency in a town with a population not exceeding 5,000 persons. These activities would be performed from an office in Deerwood, Minnesota, and the geographic area to be served is Deerwood, Minnesota, an the 30 mile radius surrounding Deerwood, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank, not later than November 17, 1983.

Board of Governors of the Federal Reserve System, October 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29150 Filed 10-26-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Farmers State Bancorp., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Farmers State Bancorp,* Union City, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers State Bank of Union City, Union City, Ohio. Comments on this application must be received not later than November 21, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Dickson Financial Corporation,* Dickson, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Dickson, Dickson, Tennessee. Comments on this application must be received not later than November 21, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Financial Associates, Inc.;* Kenosha, Wisconsin, to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Kenosha, Kenosha, Wisconsin. Comments on this application must be received not later than November 21, 1983.

Board of Governors of the Federal Reserve System, October 21, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29151 Filed 10-26-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 82-0798—The Dexter Corporation's proposed acquisition of voting securities of Alpha Chemical and Plastics Corporation; Mercer Plastics Company, Incorporated; H&R Realty Corporation and Mercer Properties, (Eric F. Ross, UPE).	Oct 13, 1983
(2) 83-0793—Safeway Stores, Incorporated's proposed acquisition of assets of Brentwood Markets, Incorporated.	[illegible]

Transaction	Waiting period terminated effective
(6) 83-0764—Second D. Samson Trust's proposed acquisition of voting securities of Ferro Union Corporation, (Associated Metals and Minerals Corporation, UPE).	Do.
(7) 83-0782—CenterCare's proposed acquisition of assets of United Hospitals Incorporated.	Do.
(8) 83-0814—Otto W. Zylstra's proposed acquisition of voting securities of Rena-Ware Distributors, Inc., (Oneida, Ltd., UPE).	Do.
(9) 83-0807—The Seagram Company Limited's proposed acquisition of voting securities of General Beverage Company, (The Coca-Cola Company, UPE).	Do.
(7) 83-0776—DWG Corporation's proposed acquisition of voting securities of AXIA Incorporated.	Oct 18, 1983.
(8) 83-0780—DWG Corporation's proposed acquisition of voting securities of Peabody International Corporation.	Do.
(9) 83-0816—Paine Webber Incorporated's proposed acquisition of voting securities of First Mid America, Inc.	Oct 13, 1983.
(10) 83-0813—Fairfield Communities Inc.'s proposed acquisition of voting securities of The Florida Companies.	Do.
(11) 83-773—J. Sainsbury plc's proposed acquisition of voting securities of Shaws Supermarkets, Incorporated.	Oct 14, 1983.
(12) 83-0790—SEI Corporation's proposed acquisition of A.G. Becker Paribas, Incorporated, (Compagnie Financiere de Paribas, UPE).	Do.
(13) 83-0789—Ruddick Corporation's proposed acquisition of voting securities of Food World, Incorporated.	Oct 20, 1983.
(14) 83-0809—Peter Sajovich's proposed acquisition of voting securities of Deseret Pacific Mortgage, (Deseret Federal Savings and Loan Association, UPE).	Do.
(15) 83-0828—Hong Kong and Shanghai Banking Corporation's proposed acquisition of voting securities of CM & M Group, Incorporated.	Do.
(16) 83-0792—Proposed consolidation of CenterCare and United Hospitals Incorporated.	Oct 13, 1983.
(17) 83-0818—Mid Con Corporation's proposed acquisition of assets of Sun Company.	Oct 19, 1983.
(18) 83-0815—American Healthcare Management, Inc.'s proposed acquisition of voting securities of Huntington Health Services..	Do.
(19) 83-0811—Peabody Holding Company, Inc.'s proposed acquisition of assets of Amoco, Inc..	Do.
(20) 83-0786—Farm House Foods Corporation's proposed acquisition of voting securities of Fairbank Farms, Incorporated, (Keith Fairbank and Priclla Fairbank, UPE).	Do.
(21) 83-0796—Irving Rubin's proposed acquisition of assets of the Container Products Operation of United States Steel Corporation.	Do.
(22) 83-0788—Trinity Industries Incorporated's proposed acquisition of voting securities of Halter Marine, Inc. (Harold P. Halter, UPE).	Do.

FOR FURTHER INFORMATION CONTACT:
Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc.83-29171 Filed 10-26-83; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collections Under Review by the Office of Management and Budget (OMB): Collections Specific to a Contract or Contracting Action (Not Required by Regulations)

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice of information collections; existing.

SUMMARY: The General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve existing information collections for the continued collection of data. GSA is required under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), to consider comments on proposed collections of information that will affect the public.

DATES: Comments on these information requests must be submitted on or before November 7, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John Gilmore, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jim Flowers on 202-566-0666.

SUPPLEMENTARY INFORMATION:

1. *Purpose.* These collections of information are necessary for GSA to effectively manage the following program areas: Procurement, contracting, archives and records, utilization and disposal of perperty, transportation, ADP and telecommunications, supply and services, public buildings and space, and stockpile activities.

2. *Coverage.* These collections include: General solicitations (questions directed to 10 or more respondents), certain solicitations (that are required from less than 10 respondents), requirements imposed by certain types of contracts (but not required by law), and collections of data required in a particular acquisition (which are not covered by law but for agency benefits).

3. *Obtaining copies of information proposals.* A copy of these proposals may be obtained from the Directives and Reports Management Branch (ORAI), Room 3004, GS Building, Washington, DC 20405, telephone (202-566-0666).

Dated: October 20, 1983.

Michael G. Barbour,

Director, Information Management Division.

[FR Doc. 83-29186 Filed 10-26-83; 8:45 am]

BILLING CODE 6820-34-M

Agency Collections of Information Under Review by the Office of Management and Budget

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice of existing collections of information

SUMMARY: The General Services Administration (GSA) plans to request the Office of Management and Budget (OBM) to review and approve the collections of information identified below to monitor and evaluate compliance with agency requirements. These are necessary for the continued collection of data. GSA is required under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), to consider comments on collections of information that affects the public.

DATES: Comments on these collections must be submitted on or before November 21, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB (OMB), Washington, DC 20503, and John Gilmore, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss on 703-696-5180.

SUPPLEMENTARY INFORMATION:

1. *Title, purpose, annual respondents, responses, burden hours.*

a. *Request for Extension of Time.* The collection helps to determine the merits of granting constructions firms an extension of time to complete contractual agareements (400; 800; 134).

b. *Sale of Used Items to Government.* The collection helps to evaluate contractors proposals for the sale of used items in place of new items (790; 3,160; 23,503).

c. *Contractor Use of Government Supply Sources.* The collection helps to determine if schedule contractors are authorized to use Government supply sources in performing certain contracts (300; 2,100; 525).

d. *Contractor Use of Interagency Motor Pool Vehicles.* The collection helps to evaluate contractors requests to obtain interagency vehicles and related services for official business only (70; 105; 53).

e. *Contractor's Signature Authority.* This collection ensures that only

authorized persons sign contracts (18,525; 555,750; 9,448).

f. *Security Display.* This requirement ensures the protection of classified information for construction and/or architect-engineer contracts (5,000; 40,000; 40,000).

g. *Examination of Records by Comptroller General/Audit.* The requirement ensures that contractors properly use Federal resources (19,336; 386,720; 64,582).

h. *Information Regarding Previous Contracts.* The collection helps to evaluate the effectiveness of firms (2,000; 30,000; 7,500).

i. *Claims and Appeals.* The collection helps to evaluate and resolve contractual issues by mutual agreement (7,500; 150,000; 150,000).

2. *Obtaining copies of collection proposals.* A copy of these proposals may be obtained from the Directives and Reports Management Branch (ORAI), Room 3009, GS Building, Washington, DC 20405, telephone (202–566–0666).

Dated: October 20, 1983.

Michael G. Barbour,

Director, Information Management Division.

[FR Doc. 83–29189 Filed 10–26–83; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Federal Allotments to States for Social Services Expenditures Pursuant to the Title XX—Social Services Block Grant Act; Promulgation for Fiscal Year 1985

AGENCY: Office of Human Development Services, HHS.

ACTION: Notification of allocation of Title XX—Social Services Block Grant Allotments for fiscal year 1985.

SUMMARY: This issuance sets forth the individual allotments to States for Fiscal Year 1985 pursuant to Title XX of the Social Security Act, as amended. The allotments to the States published herein are based upon the authorization set forth in Section 2003 of the Act and are contingent upon congresssional appropriations actions for the fiscal year. If the Congress enacts and the President approves an amount different from the authorization, the allotments would be adjusted proportionately.

FOR FURTHER INFORMATION CONTACT: HDS Regional Administrators.

SUPPLEMENTARY INFORMATION: Section 2003 of the Social Security Act authorizes $2.6 billion for Fiscal Year 1985 and provides that it be allocated as follows:

(1) Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands each receive an amount which bears the same ratio to $2.6 billion as its allocation for Fiscal Year 1981 to $2.9 billion;

(2) The remainder of the $2.6 billion is allotted to each State in the same proportion as that State's population is to the population of all States, based upon the most recent data available from the Department of Commerce.

For Fiscal Year 1985, the allotments are based upon the Bureau of Census population statistics contained in its publication "Current Population Reports" (Series P–25, No. 930, issued April 1983), which is the most recent satisfactory data available from the Department of Commerce at this time as to the population of each State and of all States.

EFFECTIVE DATE: These allotments shall be effective October 1, 1984.

Fiscal Year 1985 Federal Allotment to States for Social Services—Title XX Block Grants

Total	$2,800,000,000
Alabama	44,031,722
Alaska	4,891,173
Arizona	31,937,795
Arkansas	25,583,737
California	276,094,421
Colorado	34,003,701
Connecticut	35,209,744
Delaware	5,722,571
District of Columbia	7,048,416
Florida	116,316,110
Georgia	62,971,058
Guam	448,276
Hawaii	11,100,059
Idaho	10,776,214
Illinois	127,840,517
Indiana	61,084,952
Iowa	32,449,313
Kansas	26,890,283
Kentucky	40,946,813
Louisiana	48,710,721
Maine	12,652,280
Maryland	47,627,516
Massachusetts	64,356,781
Michigan	101,720,761
Minnesota	46,153,464
Mississippi	28,487,173
Missouri	55,268,126
Montana	8,944,816
Nebraska	17,710,959
Nevada	9,636,181
New Hampshire	10,619,875
New Jersey	83,060,601
New Mexico	15,176,036
New York	197,199,134
North Carolina	67,214,541
North Dakota	7,481,931
Northern Marianas	89,655
Ohio	120,603,756
Oklahoma	35,477,754
Oregon	29,581,545
Pennsylvania	132,497,181
Puerto Rico	13,448,276
Rhode Island	10,698,045
South Carolina	35,799,097
South Dakota	7,716,439
Tennessee	51,938,002
Texas	170,632,695
Utah	17,353,613
Vermont	5,762,204
Virgin Islands	448,276
Virginia	61,318,333
Washington	47,404,175
West Virginia	21,753,435
Wisconsin	53,211,047
Wyoming	3,585,366

Fiscal Year 1985 Federal Allotment to States for Social Services—Title XX Block Grants—Continued

Dated: October 17, 1983.

David Rust,

Director, Office of Policy Coordination and Review.

Approved: October 21, 1983.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 83–29181 Filed 10–26–83; 8:45 am]

BILLING CODE 4130–21–M

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part D of the statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, office of Human Development Services (OHDS) (45 FR 64253): (1) To reduce the Administration on Developmental Disabilities from five divisions to three by removing the public affairs function (centralized at HDS-level) and placing the management services functions under a small staff in the Office of the Commissioner and (2) to consolidate the functions of the ten regional offices on Developmental Disabilities into four expanded area offices. The changes are as follows:

1. Part D, Chapter DF, "The Administration on Developmental Disabilities," as published in the **Federal Register** on September 29, 1980 (45 FR 64264), is to be deleted in its entirety and replaced by the following:

DF.00 Mission. The Administration on Developmental Disabilities (ADD) is the principal HDS component established to enable States to increase the provision of quality services to persons with developmental disabilities through the design and implementation of a comprehensive and continuing State Plan which makes optimal use of all existing Federal and State resources for the provision of treatment, services and habilitation in the least restrictive environment and for the assurance of the protection of rights of all individuals with developmental disabilities.

The Administration on Developmental Disabilities advises the Assistant Secretary for Human Development Services on the formulation, development, implementation and review of legislation and policies affecting developmentally disabled persons. Acts as an advocate to assure

the rights of handicapped persons. Serves as a resource of information and a clearinghouse for service providers for national, regional, State and local levels in the development of policies and programs to reduce or eliminate physical, mental, social and environmental barriers experienced by developmentally disabled persons. Supports and encourages programs or services to prevent developmental disabilities.

DF.10 Organization. The Administration on Developmental Disabilities is under the direction of the Commissioner, who reports directly to the Assistant Secretary for Human Development Services, and consists of:

Office of the Commissioner Division of Program Operations
Division of Program Development and Demonstrations

DF.20 Functions. A. Office of the Commissioner provides executive leadership and direction to the Administration on development Disabilities. Estabishes goals and objectives of programs for developmentally disabled persons; directs the administration of formula and discretionary grant programs; serves as advisor to the Assistant Secretary on programs, issues and problems affecting handicapped individuals in the target population of Human Development Services programs and on the concerns of developmentally disabled persons, in particular. Assures consideration of the rights and needs of the developmentally disabled and other handicapped individuals in Human Development Services program planning and policy development.

Serves as a focal point on matters and issues concerning developmentally disabled persons between the various HDS Regional Offices, the Commissioner/ADD, other ADD Divisions, and other HDS Headquarters staff. Facilitates interagency program coordination and program integration to meet the needs of developmentally disabled persons. Coordinates on issues and interprets policies affecting the developmentally disabled and/or services to meet their needs and assure their rights and entitlements. Coordinates with HDS Regional Administrators on program issues and progress affecting their Region and coordinates Developmental Disabilities Program objectives requiring involvement of other HDS programs at the regional level.

Reviews and analyzes reports and makes contacts with governmental and nongovernmental agencies and individuals to secure necessary information for policy development. In coordination with the Office of Public Affairs/HDS, develops a strategy of public affairs for increasing public awareness of the needs of developmentally disabled persons and programs designed to meet their needs.

Oversees the Management Information system (MIS) operation, including data collection, maintenance and preparation of final reports on program data. Carries out special projects, including gathering information and assisting in preparation of briefings and reports. Coordinates preparation of the ADD statistical budget submission and related OMB forms clearance activities.

Formulates budget in accordance with HDS guidelines and instructions; works with the HDS Office of Management Services to prepare budget presentations for use at the Departmental, Ofice of Management and Budget, and Congressional levels. Exercises funds control for all formula grants, discretionary grants and contracts and for salaries and expenses. Performs audit coordination activities for ADD audits, assuring appropriate response and coordination with HDS.

Responsible for management and administration of the issuance of formula grants for the basic state and protection and advocacy programs; and review and processing of financial management reports for each state for each fiscal year.

Directs internal administrative support functions such as executive secretariat and assignments tracking, Freedom of Information Act and Privacy Act coordination, personnel services, and other administrative liaison functions in accordance with HDS and HHS guidelines.

Provides administrative and committee management support to the National Council on the Handicapped and other Federal commissions on interagency committees established by statute or admimistrative policy. Plans and coordinates special conferences involving Federal and non-Federal agencies.

B. Division of Programs Operations is responsible for the development of Federal guidelines, criteria and procedures which govern delivery of services authorized by the Developmental Disabilities Act at the State and local levels. Provides coordination and guidance for programs applicable to individuals with developmental disabilities.

Develops planning and management procedures and methods for the monitoring and analysis of State Plans and reports to assure consistent application of ADD policies and procedures; advise Commissioner on trends, issues, and progress; contributes to the development and implementation of long and short range plans, goals, and objectives.

Coordinates national program trends with other HDS programs and HHS agencies. Studies, reviews and analyzes other Federal programs providing services applicable to developmentally disabled persons for the purpose of intergrating and coordinating programs. Develops strategies and designs for joint reviews of State Plans of other Federal/State program services. Identifies potential areas for development of interagency agreements and jointly funded service initiatives for State program services.

C. Division of Program Development and Demonstrations provides program development services including program evaluation, environmental reform, and specialized services initiatives and demonstration projects. Provides direction to assist applicants for discretionary grants and contracts authorized under the Developmental Disabilities Act; reviews discretionary grants for the Commissioner; facilitates State review and comment on applications for discretionary grants and contracts; makes recommendations to the Commissioner on requests for discretionary grants and contracts and assists in monitoring and evaluating national level discretionary grants.

Plans for and implements experimental program services based on feedback from State and local organizations on program needs. Formulates and prepares annual demonstration, and evaluation plans. Coordinates and administers the University Affiliated Facilities (UAFs) activities; and develops quality assurance criteria.

Originates cross-cutting program development initiatives with other units of ADD, HDS, HHS, and other governmental Departments. Responsible for coordinating the planning cycle regarding goals and objectives.

Develops and initiates legislation, regulations, guidelines, policy documents, issuances and actions (with team participation by other units of ADD, HDS, HHS and other governmental agencies) to fulfill mission and goals of the Developmental Disabilities Act as amended.

Works with the Small and Disadvantaged Business Utilization Specialist in the Office of Equal Opportunity and Civil Rights to identify 8(a) firms that have capabilities to

perform contracts and advises 8(a) firms about ADD programs.

In liaison with HDS/OMS and OPD, is responsible for discretionary grants and contracts management, technical assistance, and policy interpretation. Reviews and analyzes data and information regarding DD programs and services.

Serves as liaison with national consumer organizations representing developmentally disabled constituents; advises on matters and concerns of consumer representative groups, including inter-governmental representatives; provides liaison activity between national organizations and program administrative offices; and provides coordination on consumer representatives' involvement in planning and program policy direction for the Developmental Disabilities Program.

2. Part D, Chapter DD, Section DD.20 E., "The Regional Offices on Developmental Disabilities," as published in the **Federal Register** on September 29, 1980 (45 FR 64269) is to be deleted and replaced by the following:

D. The Regional Offices on Developmental Disabilities are located in Regions III, VI, VII, and IX. The areas designated by the standard Federal Regions are covered by the DD Regional Offices as follows: Regions I, II, and III by Region III; Regions IV and VI by Region VI; Regions V, VII, and VIII by Region VII; and Regions IX and X by Region IX. Each office, under the direct supervision of the Regional Administrator, serves as the administrative focus between the Central Office and State and local governments and other organizations for the consideration of program issues and policies affecting service needs and rights of developmentally disabled persons.

Provides information for and contributes to the development of national policy for the Developmental Disabilities (DD) Program. Establishes goals and objectives for the area served based on national policy and program priorities of ADD. In collaboration with Regional Administrator, provides direction and coordination on the implementation of the DD Program and advises the Commissioner on Developmental Disabilities regarding issues surfaced by the States which hamper efforts to implement the DD Program.

Works with State and local program administrators and public officials to promote DD Programs and services provided under Pub. L. 95–602, as amended, the Developmental Disabilities Assistance and Bill of Rights Act. Reviews, for compliance with Federal requirements, and approves DD State plans, amendments and subsequent annual reports. Assists States and local governments, as requested, in the development and operation of the basic State grant program and of State protection and advocacy systems. Recommends successful practices and/or takes positive action which will facilitate efforts of States to fill gaps in their programs.

Provides assistance to applicants for discretionary grants and contracts authorized under the Developmental Disabilities Act. Makes recommendations for approval or disapproval of discretionary grants and contracts. Assists in monitoring and evaluating University Affiliated Facilities (UAFs) and special projects of national significance.

Interprets statutes and regulations consistent with policy guidance of the Central Office. Insures adherence by recipients of funds to program objectives, applicable policy, regulations and procedures as set forth by the Administration on Developmental Disabilities and the Office of Human Development Services. Assists agencies and grantees in application of policy and specific operational issues requiring resolution.

Collaborates with the Regional Director of Financial Operations in planning the conduct of financial reviews. Makes decisions on approval, referral, or disallowance of claims for Federal Financial Participation, and reviews estimates, budget projections, and reports of expenditure for the formula grant programs.

Coordinates the Developmental Disabilities Program activities with other programs of HDS and other Federal programs at the Regional and State levels to enhance regional assistance for programs for the developmentally disabled. Advises on opportunities for coordination between and among other Federal program services. Analyzes programs for developmentally disabled persons funded by States through other Federal-State programs in the area served.

Consults with Regional Administrators on the planning and implementation of crosscutting program initiatives concerning developmentally disabled persons across HDS programs in their area relative to children, youth and families, the aging, and Native Americans. Develops and promotes linkages between the DD Program and other Federal/State program services in the States through leadership in the development, design, and implementation of comprehensive program services plans.

Dated: October 19, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-28180 Filed 10-25-83; 8:45 am]

BILLING CODE 4110-93-M

Public Health Service

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, appropriateness, and use of external counterpulsation (Cardiassist device). Specifically, we are interested in whether external counterpulsation in general and the Cardiassist device in particular is a reasonable and necessary tool for the treatment of Killip Class II myocardial infarction and if there are special limitations or other indications for their use.

For the purposes of this announcement, external counterpulsation (Cardiassist device) is defined as an external pressure circulatory assist system which provides counterpulsation therapy to improve cardiac function through preferential perfusion of the coronary arteries. It accelerates the establishment of coronary collateral flow in the treatment of ischemic disease. External counterpulsation is based upon the same principle as the intravascular technique; that is, modification of aortic pressure during the cardiac cycle by phase displacement of blood. It augments diastolic pressure and reduces systolic pressure slightly, thereby increasing coronary artery perfusion and myocardial oxygen supply while reducing cardiac oxygen demand and work.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment

should do so in writing no later than December 19, 1983, or within 45 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies since 1970 and other information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology. Proprietary information is not being sought, but published information may be submitted.

Written material should be submitted to: National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3–10, 5600 Fishers Lane, Rockville, Maryland 20857.

Further information is available from Dr. Bruce Waxman, Health Science Analyst, at the above address or by telephone (301) 443–4990.

Dated: October 19, 1983.

Harold Margulies,

Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 83–29239 Filed 10–26–83; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AR 017085]

Arizona; Order Providing for Opening of Public Lands

October 20, 1983.

1. In an exchange of land made under the provisions of Section 8 of the Act of June 28, 1934 (48 Stat. 1272, as amended, 43 U.S.C. 315g), the following land has been reconveyed to the United States:

Gila and Salt River Meridian, Arizona

T. 13 S., R. 30 E.,
Sec. 10, N½SE¼.

The area described contains 80 acres in Cochise County.

2. At 10 a.m. on November 28, 1983, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws, the land described in paragraph 1 is hereby opened to operation of the public land laws, generally. All valid applications received at or prior to 10 a.m. on November 28, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on November 28, 1983, the land described above will be open to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 28, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

4. At 10 a.m. on November 28, 1983, the land described above will be open to applications and offers under the mineral leasing laws. All applications received on November 28, 1983 prior to 10 a.m. will be considered as simultaneously filed as of 10 a.m. on November 28, 1983, and a drawing will be held in accordance with 43 CFR 1821.2–3, if necessary. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–29158 Filed 10–26–83; 8:45 am]

BILLING CODE 4310–84–M

Call for Coal Resource Information and Notification of Draft Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for coal resource information and notice of Draft Resource Management Plan (DRMP) public meeting for the Kemmerer Resource Area, Rock Springs District, Wyoming.

SUMMARY: As stated in the Notice of Intent published on October 7, 1981 (**Federal Register**, Vol. 46, No. 194, pages 49651–49652), the Rock Springs District has initiated a resource management plan/environmental impact statement (RMP/EIS) to guide future management actions on the public lands within the Kemmerer Resource Area. This call for coal resource information is a new regulation procedure (43 CFR 3420.1–2) and is being issued to assure that Federal coal resources and potential development are given adequate consideration in this RMP/EIS.

All parties are invited to identify any new coal areas they are interested in having considered for possible future leasing. This does *not* include areas already covered by coal planning in the Pioneer Trails Management Framework Plan (MFP) Coal Amendment (BLM 1982). Consult this amendment or contact the Kemmerer Resource Area at the address below for identification of specific coal areas already planned.

The BLM will not conduct any coal resource inventories for this RMP/EIS. Parties interested in Federal coal leasing and development in new areas will be expected to provide coal resource data for their areas of interest. A public meeting will be held prior to initiating the writing of the Kemmerer Draft Resource Management Plan (DRMP) to provide the public information on the issues to be addressed, the constraints in formulating solutions for these issues, and the alternatives being considered. This meeting will afford the public an opportunity to provide information such as new interest in coal leasing, new data on oil/gas development, new anticipation of socioeconomic impact, range information, wildlife data, etc., that should be considered in the DRMP document. It will also provide an opportunity for the public to comment on the BLM's proposed approach to the DRMP.

DATES: The planning schedule for this DRMP cannot be delayed due to court orders and other mandates. Therefore, new coal areas of interest for possible leasing consideration and associated coal data must be submitted to the Kemmerer Resource Area by December 30, 1983. The final RMP is scheduled for completion by October of 1985. Areas of interest and coal data that are inadequate or that are not received by December 30, 1983, will be considered in future planning efforts.

The public meeting will be held at the Senior Citizens Center, 105 Park Avenue in Kemmerer, Wyoming, beginning at 7:00 p.m., December 8, 1983. Information concerning specifics to be discussed may be obtained from the Kemmerer Resource Area.

ADDRESS: Please direct your inquiries and send all applications and associated coal resource data to: Kemmerer Resource Area, P.O. Box 632 (U.S. Highway 30), Kemmerer, Wyoming 83101.

FOR FURTHER INFORMATION CONTACT: Ron Wenker, Area Manager at the address above, or phone 307–877–3933.

Gene C. Herrin,

Associated District Manager.

[FR Doc. 83–29162 Filed 10–26–83; 8:45 am]

BILLING CODE 4310–84–M

Cooperative Management Agreement Program; Nominations Requested

AGENCY: Susanville District, California, Bureau of Land Management, Interior.

ACTION: Nominations Requested—Cooperative Management Agreements.

SUMMARY: The Susanville District of the Bureau of Land Management is requesting nominations for the "Cooperative Management Agreement" program. The purpose and objective of the program is to provide livestock operators (or associations) who have demonstrated good rangeland management practices with: (1) Recognition of good stewardship; (2) a larger role in managing grazing on the public lands; and (3) the assurance of tenure needed to encourage private investment in rangeland improvements. By so doing, the Bureau of Land Management (BLM) will be encouraging operators to maintain or initiate good grazing management practices, while also reducing Federal expenditures for improving and managing the public lands.

For additional detail, contact "Bureau of Land Management, 705 Hall Street, Susanville, California 96130; Telephone (916) 257–5381.

C. Rex Cleary,

District Manager, Susanville District, California.

[FR Doc. 83–29160 Filed 10–26–83; 8:45 am]

BILLING CODE 4310–84–M

Release of Coal Geophysical Logs; Big Horn, Prairie, Rosebud, and Treasure Counties, Montana

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management is releasing full scale geophysical and lithologic logs for 54 coal exploration holes drilled during 1982 in Big Horn, Prairie, Rosebud, and Treasure Counties, Montana. The purpose of the drilling was to evaluate the thickness, quality, and extent of Federally-owned coal.

DATE: The logs are available for public inspection or may be purchased as to October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Jackie Samsal, Supervisor, Records Assistance Section, Division of Mineral Resources, Bureau of Land Management, Montana State Office, P.O. Box 36800, Billings, MT 59107 (406–657–6564), or George D. Mowat, Supervisory Geologist, Minerals Development Section, Branch of Solids (406–657–6846).

SUPPLEMENTARY INFORMATION: As part of the Federal Coal Management program, the Bureau of Land Management funded drilling of 54 coal exploration holes during the summer and fall of 1982. As a result, geophysical logs (Gamma, Density, Resistivity, and Caliper) were obtained for a total of 31,809 feet. Lithologic (sample) logs, which have been correlated to the geophysical logs, have been compiled from the cuttings of each drill hole. Two of the drill holes were cored for coal and the analyses for these seams are also available. Detailed information on these holes can be found in Table 1:

TABLE 1.—1982 BLM COAL DRILLING SUMMARY SHEET, MONTANA—BY DRILL HOLE NUMBER—(REVISED 10–14–83)

Hole No.	Date drilled/ logged	Quadrangle	County	Location	Elevation feet	Depth drilled feet	Depth logged feet	Coalbed interval
B–82–1	8–15–82	Birney SW	Rosebud	T. 5 S., R. 41 E., Sec. 36, 196 FNL, 118 FWL	4,024	1,075	1,075	
B–82–3	8–24–82	Birney	Rosebud	T. 6 S., R. 42 E., Sec. 9, 750 FSL, 375 FWL	3,420	[illegible]	695	
B–82–4	8–17–82	Birney	Rosebud	T. 6 S., R. 42 E., Sec. 20, 2,425 FSL, 1,625 FWL	3,275	415	415	
B–82–5	8–26–82	Birney	Rosebud	T. 6 S., 42 E., Sec. 22, 1,800 FNL, 2,350 FEL	3,310	665	[illegible]	
B–82–6	8–14–82	Birney	Rosebud	T. 6 S ., R. 42 E., Sec. 26, 300 FNL, 2,150 FEL	3,322	[illegible]	[illegible]	
B–82–7A&B	7–30–82	Birney	Rosebud	T. 6 S., R. 42 E., Sec. 28, 330 FNL, 750 FEL	[illegible]	1015	1,015	(Log stops at 350'. Run 2 Logged to [illegible]
B–82–8A	8–2–82	Birney	Rosebud	T. 7 S., 42 E., Sec. 2, 1,100 FNL, 100 FEL	3,770	[illegible]	[illegible]	
B–82–8B	8–3–82	Birney	Rosebud	T. 7 S., 42 E., Sec. 2, 1,100 FNL, 100FEL	3,770	N.A.	N.A.	(Incorrect pen setting. Logged to [illegible]'
B–82–8C	8–10–82	Birney	Rosebud	T. 7 S., R. 42 E., Sec. 2, 1,100 FNL, 100 FEL	3,770	[illegible]	[illegible]	70'–85', 180'–215', 355'–375', [illegible]–415', [illegible]–[illegible].
B–82–9	8–27–82	Birney	Rosebud	T. 6 S., R. 42 E., Sec. 1, 1,475 FNL, 875 FWL	3,245	415	414	
B–82–10	8–13–82	Birney	Rosebud	T. 7 S., R. 42 E., Sec. 5, 1,200 FSL, 825 FEL	[illegible]	815	815	
B–82–11	82–12–82	Lacey Gulch	Rosebud	T. 7 S., R. 42 E., Sec. 11, 400 FSL, 700 FWL	[illegible]	915	915	
B–82–12	8–14–82	Lacey Gulch	Rosebud	T. 7 S., R. 42 E., Sec. 13, 1,700 FNL, 1,700 FEL	[illegible]	855	[illegible]	
B–82–13	8–30–82	Lacey Gulch	Rosebud	T. 7 S., R. 43 E., Sec. 19, 2,400 FNL, 550 FEL	3,340	[illegible]	600	
B–82–14	9–8–82	Lacey Gulch	Rosebud	T. 7 S., R. 42 E., Sec. 25, 1,450 FNL, 350 FEL	3,451	[illegible]	[illegible]	
B–82–15A	8–14–82	Lacey Gulch	Rosebud	T. 7 S., 42 E., Sec. 27, 400 FSL, 2,450 FEL	[illegible]	115	———	Not logged.
B–82–15B	9–24–82	Lacey Gulch	Rosebud	T. 7 S., R. 42 E., Sec. 27, 1,850 FSL, 2470 FEL	[illegible]	[illegible]	[illegible]	
B–82–17	9–9–82	Lacey Gulch	Big Horn	T. 8 S., R. 42 E., Sec. 8, 400 FSL, 1,600 FEL	3,732	615	[illegible]	
B–82–18	9–9–82	Lacey Gulch	Big Horn	T. 8 S., R. 42 E., Sec. 17, 1,850 FSL, 2,500 FWL	3,955	[illegible]	[illegible]	
B–82–19	8–11–82	Spring Gulch	Rosebud	T. 7 S., R. 41 E., Sec. 29, 3,050 FNL, 500 FEL	3,640	[illegible]	[illegible]	
B–82–21	8–27–82	Spring Gulch	Rosebud	T. 7 S., R. 41 E., Sec. 26, 2,250 FSL, 2,000 FEL	3,395	380	380	

TABLE 1.—1982 BLM COAL DRILLING SUMMARY SHEET, MONTANA—BY DRILL HOLE NUMBER—(REVISED 10-14-83)—Continued

Hole No.	Date drilled/ logged	Quadrangle	County	Location	Elevation feet	Depth drilled feet	Depth logged feet	Cored interval
B-82-22	8-25-82	Spring Gulch	Rosebud	T. 7 S., R. 42 E., Sec. 18, 1,500 FNL, 1,500 FWL	3,355	375	375	
B-82-24	8-29-82	Spring Gulch	Big Horn	T. 8 S., R. 41 E., Sec. 16, 1,500 FNL, 2,650 FWL	3,515	521	520	
B-82-25	8-28-82	Rosebud	Rosebud	T. 8 S., R. 41 E., Sec. 14, 1,000 FNL, 650 FEL	3,720	535	525	
B-82-28	7-28-82	Browns Mtn	Rosebud	T. 7 S., R. 43 E., Sec. 4, 4,475 FNL, 2,530 FWL	3,310	518	472	
PDC-13	8-13-82	Birney SW	Rosebud	T. 6 S., R. 41 E., Sec. 34, 1,000 FSL, 2,200 FWL	3,465	N.A.	362	Log of case water well.
PDC-14	8-13-82	Birney SW	Rosebud	T. 6 S., R. 41 E., Sec. 34, 1,000 FSL, 2,200 FWL	3,465	N.A.	150	Twin of PDC-13.
R-82-1	9-25-82	Pine Butte School	Big Horn	T. 9 S., R. 42 E., Sec. 33, 600 FSL, 1,100 FWL	4,110	750	750	
R-82-2	9-23-82	Pine Butte School	Big Horn	T. 9 S., R. 42 E., Sec. 28, 1,000 FNL, 900 FEL	4,098	795	795	
R-82-3	9-26-82	Holmes Ranch	Big Horn	T. 9 S., R. 42 E., Sec. 30, 700 FSL, 950 FWL	3,990	715	715	
R-82-4	10-4-82	Holmes Ranch	Big Horn	T. 9 S., R. 41 E., Sec. 27, 1,325 FNL, 1,450 FEL	3,920	655	655	
R-82-5	10-7-82	Holmes Ranch	Big Horn	T. 9 S., R. 41 E., Sec. 29, 2,900 FNL, 2,650 FWL	3,930	1,075	440	(Caved-in.)
R-82-6A	9-26-82	Holmes Ranch	Big Horn	T. 9 S., R. 41 E., Sec. 11, 1,200 FNL, 400 FEL	3,916	535	535	(Logged too fast.)
R-82-6B	9-28-82	Holmes Ranch	Big Horn	T. 9 S., R. 41 E., Sec. 11, 1,200 FNL, 400 FEL	3,916	N.A.	N.A.	(2nd run-logged to 425'.)
R-82-7	10-4-82	Holmes Ranch	Big Horn	T. 9 S., R. 41 E., Sec. 16, 2,100 FSL, 1,600 FEL	3,765	N.A.	145	(Water well.)
R-82-8	9-21-82	Holmes Ranch	Big Horn	T. 9 S., R. 42 E., Sec. 6, 750 FSL, 4,450 FWL	4,090	801	801	
R-82-9	9-23-82	Pine Butte School	Big Horn	T. 9 S., R. 42 E., Sec. 17, 1,700 FNL, 1,900 FEL	4,025	835	835	
R-82-10	9-25-82	Pine Butte School	Big Horn	T. 9 S., R. 42 E., Sec. 24, 30 FNL, 1,500 FEL	3,988	815	815	
R-82-11	9-14-82	Pine Butte School	Big Horn	T. 8 S., R. 42 E., Sec. 32, 550 FNL, 2,525 FEL	4,138	875	875	
R-82-12	9-21-82	Holmes Ranch	Big Horn	T. 8 S., R. 41 E., Sec. 24, 1,850 FSL, 1,850 FWL	4,080	475	472	
R-82-13	9-13-82	Pine Butte School	Big Horn	T. 8 S., R. 42 E., Sec. 33, 33 FNL, 261 FEL	4,059	775	750	
R-82-14	10-5-82	Decker	Big Horn	T. 9 S., R. 40 E., Sec. 25, 1,650 FSL, 2,450 FWL	3,750	875	875	
R-82-15	9-12-82	Pine Butte School	Big Horn	T. 8 S., R. 42 E., Sec. 29, 225 FNL, 300 FEL	4,194	595	595	
R-82-16	9-24-82	Pine Butte School	Big Horn	T. 9 S., R. 42 E., Sec. 14, 200 FSL, 150 FWL	3,941	855	855	
R-82-17	9-24-82	Pine Butte School	Big Horn	T. 9 S., R. 42 E., Sec. 35, 317 FNL, 92 FEL	3,766	435	435	
R-82-18	9-22-82	Pine Butte School	Big Horn	T. 9 S., R. 42 E., Sec. 9, 28 FNL, 55 FEL	3,963	819	819	
R-82-19WW	10-4-82	Holmes Ranch	Big Horn	T. 9 S., R. 41 E., Sec. 14, 700 FSL, 2,200 FEL	3,630	N.A.	500	(Water well.)
R-82-20WW	10-6-82	Holmes Ranch	Big Horn	T. 9 S., R. 41 E., Sec. 20, 3,300 FNL, 1,050 FEL	3,680	N.A.	227	(Water well.)
TCS-1-82	10-8-82	Trail Creek School	Rosebud	T. 3 N., R. 39 E., Sec. 35, 1,550 FSL, 1,750 FWL	3,117	215	215	
MC-1-82	10-10-82	McClure Creek	Rosebud	T. 2 N., R. 39 E., Sec. 5, 750 FSL, 1,500 FEL	3,245	305	305	
MC-2-82	10-9-82	McClure Creek	Treasure	T. 2 N., R. 38 E., Sec. 2, 1,900 FSL, 450 FEL	3,640	735	735	
CW-1-82	10-10-82	Colstrip West	Rosebud	T. 3 N., R. 40 E., Sec. 26, 650 FSL, 2,000 FWL	3,278	200	200	
CC-13-82	10-12-82	McClure Reservoir	Prairie	T. 12 N., R. 49 E., Sec. 5, 125 FNL, 2,500 FEL	2,875	715	715	
CC-14-82	10-19-82	McClure Reservoir	Prairie	T. 12 N., R. 49 E., Sec. 9, 10 FNL, 900 FWL	2,731	495	495	
CC-19-82	10-21-82	Calypso	Prairie	T. 13 N., R. 50 E., Sec. 30, 2,500 FSL, 1600 FWL	2,650	550	550	
CC-20-82	10-21-82	Calypso	Prairie	T. 13 N., R. 49 E., Sec. 26, 725 FNL, 1,400 FWL	2,630	535	535	
Total[1]						31,528	31,809	

[1]Total "logged" footage is larger than the "drilled" footage due to the number of cased water wells that were discovered and logged during the drilling program.

The geophysical-lithologic logs and coal analyses are available for public inspection and purchase at the above address. Purchase price for the entire package, including full scale geophysical logs, sample logs and analyses is $311.00. The sample log-analyses package alone can be purchased for $31.00. Individual full scale geophysical logs are available for $5.00 each. Individual sample logs and analyses can be purchased for $0.25 per sheet.

Date: October 21, 1983.

Kannon Richards,

Acting State Director.

[FR Doc. 83-29164 Filed 10-26-83; 8:45 am]

BILLING CODE 4310-84-M

[M 59727 (ND)]

Request for Public Comment on Fair Market Value and Maximum Economic Recovery; Emergency Coal Lease Application

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management requests public comment on the fair market value of certain coal resources it proposes to offer for competitive lease sale.

The lands included on Coal Lease Application M 59727(ND) are located in Mercer County, North Dakota, approximately 2 miles northwest of the town of Beulah near the Indian Head Mine and are described as follows:

T. 144 N., R. 88 W., 5th P.M.
Sec. 14: N½SW¼, SW¼SW¼
Sec. 22: N½NE¼NE¼, W½NE¼, NW¼
380.00 acres.

One economically minable bed, the Beulah-Zap, is found in this tract. The Beulah-Zap seam averages 9.5 feet in thickness and contains an estimated 1.83 tons of recoverable lignite. The Beulah-Zap seam is lignite and averages (as received) 6,785 BTU/lb. with 37.8 percent moisture, 0.8 percent sulfur, and 6.5 percent ash.

The public is invited to submit written comments on the fair market value and the maximum economic recovery of the tract.

DATES: Comments must be received on or before November 18, 1983.

ADDRESS: For more complete data on this tract, please contact Jeanette Bejot (telephone 407–657–6291), Bureau of Land Management, Montana State Office, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

SUPPLEMENTARY INFORMATION: In accordance with Federal Coal Management regulations 43 CFR Parts 3422 and 3425, not less than 30 days prior to the publication of a notice of sale, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information:

Comments should be sent to Bureau of Land Management, Economic Evaluation Section, 100 East "B" Street, Room B005, Casper, Wyoming 82601, Attention: Tim MacGillvray (telephone 307–261–5735), and should address, but not necessarily be limited to the following information:

1. The quality and quantity of the coal resource;

2. The mining method or methods which would achieve maximum economic recovery of the coal, including specification of seams to be mined and the most desirable timing and rate of production;

3. The guantity of coal;

4. If this tract should be evaluated as part of a larger mining unit (i.e., a tract which does not in itself form a logical mining unit);

5. The configuration of any larger mining unit of which the tract may be a part;

6. Restrictions to mining which may affect coal recovery;

7. The price that the mined coal would bring in the market place;

8. Costs, including mining and reclamation, of producing the coal;

9. The percentage rate at which anticipated income streams should be discounted, either in the absence of inflation or with inflation, in which case the anticipated rate of inflation should be given;

10. Depreciation and other accounting factors;

11. The value of any surface estate where held privately;

12. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area; and

13. Any comparable sales data of similar coal lands.

The values given above may or may not change as a result of comments received from the public and changes in market conditions between now and when final economic evaluations are completed.

Dated: October 21, 1983.

Michael J. Penfold,

State Director.

[FR Doc. 83–29160 Filed 10–26–83; 10:26 am]

BILLING CODE 4310–84–M

Rock Springs District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Rock Springs District Grazing Advisory Board. Notice of this meeting is required under Pub. L. 92–463.

DATE: December 9, 1983, 9:30 a.m. until 4:00 p.m.

ADDRESS: Bureau of Land Management District Office, Highway 191 North, Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902–1869, (307–382–5350).

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Introduction and opening remarks.

2. Approval of the transcript of the August 25, 1983 meeting.

3. Bureau of Land Management fence standards and definitions.

4. Weed control activities.

5. Cooperative Management Agreements.

6. Range projects and cattleguard maintenance.

7. Update on wild horse gathering activities.

8. Restoration of AUMs suspended in the Red Desert area for wild horses.

9. Public comment period.

10. Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:30–2:00 p.m., or file written statements for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Highway 191 North, P.O. Box 1869, Rock Springs, Wyoming 82902–1869, by December 8, 1983. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

A transcript of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Gene C. Herrin,

Associate District Manager.

[FR Doc. 83–29161 Filed 10–26–83; 8:45 am]

BILLING CODE 4310–84–M

Notification of Suspension of the Simultaneous Oil and Gas Leasing "Lottery"

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of suspension of the Simultaneous Oil and Gas Leasing "Lottery" and Suspension of Posting of Available Lands.

SUMMARY: The Bureau of Land Management periodically issues oil and gas leases in areas outside of known geologic structures (KGS) on a noncompetitive basis through a drawing of applications filed on selected parcels. The use of this method of issuing leases known as simultaneous oil and gas leasing is temporarily suspended. The September drawing will not be held until it has been verified that the parcels are not included in a KGS. Nor will

leases be issued from previous drawings that were not processed and completed prior to October 12, 1983, until it is determined that they are not located within a KGS. Additionally, the Notice of Lands Available for Oil and Gas Filings scheduled for November 1983 will not be posted not the drawing held. Subsequent Notices of Lands Available will be posted when it can be determined that the parcels to be listed are not part of a KGS.

EFFECTIVE DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Timothy Foley, Division of Fluid Mineral Leasing, Bureau of Land Management (620), 18th and C Streets NW., Washington, D.C., 20240, telephone (202/FTS) 653–2236.

Dated: October 24, 1983.

J. Steven Griles,

Acting Assistant Secretary.

[FR Doc. 83–29178 Filed 10–26–83; 8:45 am]

BILLING CODE 4310–84–M

[OR 34957, OR 36019, OR 36020]

Oregon: Cancellation of Realty Action; Competitive/Modified Competitive Sale of Public Land; Lake County Oregon

The Notices of Realty Action, published in the **Federal Register** Document No. 83–6084, Volume 48, No. 48, pages 10133 and 10134, Thursday, March 10, 1983 and **Federal Register** Document No. 83–12181, Volume 48, No. 89, pages 20507 and 20508, Friday, May 6, 1983, are hereby cancelled and all involved properties withdrawn from public sale.

The properties withdrawn from sale are being reappraised and will be formally reoffered at a future date.

For additional information regarding this cancellation, contact the Lakeview District Office, P.O. Box 151, Lakeview, Oregon 97630 or phone (503) 947–2177.

October 18, 1983.

Richard L. Harlow,

Acting District Manager.

[FR Doc. 83–28166 Filed 10–26–83; 8:45 am]

BILLING CODE 4310–84–M

Oregon and Washington; Use Fee for Commercial Recreation Activities

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice, Oregon and Washington; Special Recreation Permit Fees.

SUMMARY: The document establishes the required fee for permitted commercial recreation related activities which occur on public lands managed by the Bureau of Land Management in Oregon and Washington.

DATE: October 25, 1983.

FOR FURTHER INFORMATION CONTACT: Ken White, Outdoor Recreation Planner, Bureau of Land Management, (503) 231–2113.

SUPPLEMENTARY INFORMATION: Costs associated with Special Recreation Permit management have risen dramatically over the past several years, as have the costs associated with providing and maintaining the services, facilities and the natural resources where permitted recreation activities occur. In order to continue existing commercial recreation permit programs, an increase in fees is required to recover the costs of issuing and administering the permits and to provide a return for commercial use of federal resources.

In May 1982 the Bureau of Land Management announced proposed 1983 recreation fee increases, including the establishment of a commercial permit fee of $2.00 per user day. After review of the public comments received, the Oregon State Director determined that special recreation permit fee increases should be deferred until 1984. With respect to commercial permit fees, this decision allowed additional time for the Bureau of Land Management to obtain further input from the outfitter industry relative to alternative fee structures.

The fee schedule which appeared in the **Federal Register** on May 18, 1983 (48 FR 22462) and was discussed with a special outfitter committee, is an escalating rate table where fees are determined by categories of adjusted daily charges collected by the permittee from each participant. Based upon a determination that this escalating fee schedule represents a fair and equitable return for the privilege of using federal resources for commercial purposes and pursuant to Section 304 of the Federal Land Policy and Management Act (43 USC 1734) and regulations at 43 CFR 8372.4, a Special Recreation Permit fee schedule for commercial use of land managed by the Bureau of Management in Oregon and Washington is established at $100.00 minimum or the amount from the following table, whichever is greater:

Adjusted daily charge collected by permittee from each participant	Fee paid to the bureau per user day in 1984	Fee paid to the bureau per user day in 1985
$8.00 or less	$0.25	$0.25
8.01 to 20.00	.25	.40
20.01 to 35.00	.40	.80
35.01 to 50.00	.65	1.30
50.01 to 75.00	.85	1.90
75.01 to 100.00	1.30	2.60
100.01 to 125.00	1.70	3.40
125.01 to 150.00	2.05	4.10
150.01 to 175.00	2.45	4.90
175.01 to 200.00	2.80	5.60
200.01 to 250.00	3.40	6.75
250.01 to 300.00	4.15	8.25
Over 300.00	(1)	(2)

[1] 1½% of adjusted daily charge per participant.
[2] 3% of adjusted daily charge per participant.

For purposes of this fee suhedule, adjusted daily charges refers to the daily charge per participant less any off-site transportation and/or lodging expenses before or after the permitted use.

Dated: October 17, 1983.

Paul Vetterick

Acting State Director.

[FR Doc. 83–28791 Filed 10–26–83; 8:45 am]

BILLING CODE 4310–84–M

[U–52775]

Utah; Realty Action Sale of Public Lands in Grand County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, sale of public lands in Grand County, Utah, U–52775.

SUMMARY: The Bureau of Land Management, based upon land use plans and field examination, has determined that the following described lands are suitable for sale at no less than fair market value, under the authority of Section 203(a)(3) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1731).

Legal description	Acerage
T.21S., R.22E., SLB&M, sec. 30, NW¼ SW¼ NE¼	10

The above described lands will be sold in a direct sale to Grand County, Utah, under the authority of Section 203(f)(2) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713).

The terms and conditions of the sale are:

1. The sale of the land is subject to all existing rights, including oil and gas lease U–17251.

2. A right-of-way is reserved to the United States for ditches and canals constructed under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

3. All mineral rights will be reserved to the United States.

For a period of 45 days from the date

submit comments to the Utah State Director, University Club Building, 136 E. South Temple, Salt Lake City, Utah 84111. Any adverse comments will be evaluated by the State Director, who may vacate or modify this notice. In absence of any action by the State Director, this notice will represent the final determination of the Department of the Interior.

The land will not be offered for sale until 60 days after the date of this notice.

Additional information is available from the Moab District Office, P.O. Box 970, Moab, Utah 84532, or the Grand Resource Area, P.O. Box M, Moab, Utah 84532.

Gene Nodine,

District Manager.

October 19, 1983.

[FR Doc. 83-28206 Filed 10-26-83; 8:45 am]

BILLING CODE 4310-84-M

[N-38759]

Nevada; Realty Action—Non-Competitive Sale; Public Lands in Washoe County, Nevada

The following land has been examined and identified as suitable for disposal by direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750); 43 U.S.C. 1713) at no less than fair market value:

Mount Diablo Base & Meridian

T. 30 N., R. 22 E.,
Sec. 13, E½E½;
Sec. 24, E½NE¼.

The above-described land comprising 240 acres, is being offered as a direct sale to Empire Farms, of Yerington, Nevada. Empire Farms owns approximately 1,200 acres of irrigated cropland adjacent the parcel, and apparently has adequate existing water rights to develop the additional 240 acres.

The sale is consistent with the Bureau's planning system. The land is not needed for any resource program and is not suitable for management by the Bureau or another Federal department or agency. Disposal of these lands has been reviewed and approved by the Washoe County Commissioners and the Nevada Division of State Lands. The land will not be offered for sale for at least 60 days after the date of this notice.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. Those rights for powerline purposes which have been granted to Sierra Pacific Power Company, its successors or assigns, by Permit No. N-11396, under the Act of March 4, 1911, 36 Stat. 1253, 43 U.S.C. 9611.

Detailed information concerning the sale is available for review at the Winnemucca District Office, Bureau of Land Management, 705 East Fourth Street, Winnemucca, Nevada 89445.

For a period of 45 days from the date of publication in the Federal Register, interested parties may submit comments to the State Director at P.O. Box 12000, Reno, Nevada 89520. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. If no action is taken by the State Director, this realty action will become a final determination of the Department of the Interior.

Dated: October 19, 1983.

Robert J. Neary,

Acting District Manager.

[FR Doc. 83-29201 Filed 10-26-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 36556]

Oregon: Proposed Bombing and Aerial Gunnery Range; Lake County, Oregon; Public Meeting

The Oregon Air National Guard will present their proposal for a bombing and aerial gunnery range, to be located near Alkali Lake, Oregon, at a public meeting hosted by the Bureau of Land Management, Lakeview District Office. The meeting will be held on November 22, 1983 at 7:00 p.m. in the Lakeview District Office Conference Room, Lakeview, Oregon.

The military proposes to withdraw approximatley 3,840 acres for exclusive use as an impact area. An additional 20,500 acres would be leased to provide a safety buffer zone around the impact area.

Affected public land is described as follows:

Willamette Meridian, Lake County, Oregon

Exclusive Use area

T. 28 S., R. 23 E.,
Sec. 31, a portion of;
Sec. 32, a portion of;
Sec. 33, a portion of;
T. 29 S., R. 23 E.,
Sec. 4, all;
Sec. 5, all;
Sec. 6, a portion of;
Sec. 7, a portion of;
Sec. 8, all.

Non-Exclusive Use Area

T. 28 S., R. 23 E.,
Sec. 19, a portion of;
Sec. 20 to 22, inclusive;
Sec. 23, a portion of;
Sec. 26, a portion of;
Sec. 27 to 29, inclusive;
Sec. 30, a portion of;
Sec. 31, a portion of;
Sec. 32, a portion of;
Sec. 33, a portion of;
Sec. 34, a portion of;
Sec. 35, a portion of;
T. 29 S., R. 23 E.,
Sec. 3, a portion of;
Sec. 6, a portion of;
Sec. 7, a portion of;
Sec. 9, all;
Sec. 10, a portion of;
Sec. 15, a portion of;
Sec. 16 to 21, inclusive;
Sec. 22, a portion of;
Sec. 27, a portion of;
Sec. 28 to 30, inclusive;
Sec. 31, N ½;
Sec. 32, N ½;
Sec. 33, N ½;
Sec. 34, a portion of.
T. 29 S., R. 22 E.,
Sec. 12, all;
Sec. 13, all;
Sec. 24, all;
Sec. 25, all;
Sec. 36, N ½

The military would use the area for training Air National Guard pilots in air to ground delivery of ordinance. The ordinance would be restricted to inert bomb simulators, with or without marking charges, and non-explosive non-incendiary 20 and 30mm cannon rounds.

The meeting is being held to inform the public of the proposed range and to allow the public to provide input and voice any concerns about the proposed use.

Comments at the meeting may be written or oral. Written comments must be received in the District Office by December 2, 1983. Send written comments to Area Manager, Warner Lakes Resource Area, P.O. Box 151, Lakeview, Oregon 97630.

For further information, contact Warner Lakes Area Manager, Lakeview District Office, (503) 947-2177.

October 18, 1983.

Richard L. Harlow,

Acting District Manager.

[FR Doc. 83-29187 Filed 10-26-83; 8:45 am]

BILLING CODE 4310-84-M

[M-57761 SD]

South Dakota; Realty Action—Competitive Sale of Public Land in Custer County, South Dakota

AGENCY: Bureau of Land Management, Miles City District, South Dakota Resource Area Office, Interior.

ACTION: Notice of realty action M-57761-SD, competitive sale of public land in Custer, South Dakota.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976) at no less than fair market value:

Black Hills Meridian

Township 6 North, Range 2 East, Section 25, NE¼NW¼, containing 40 acres.

The land will be offered for sale by a combination of sealed and/or oral bids utilizing competitive bidding procedures, on December 28, 1983, ad 1:30 pm, M.S.T., Custer County Courthouse, Custer, South Dakota.

The subject land is located approximately 11 miles east southeast of Dewey, South Dakota, in Custer County. The parcel has section line access and is being offered for sale because it is isolated from other blocks of public land and is difficult and uneconomical to manage. This parcel is covered with ponderosa pine and has deeply eroded drainages.

The proposed sale is consistent with the Bureau's planning system and Custer County government officials have been notified of the sale. The transfer of the tract into private ownership will benefit the public interest and provide for better land management.

Terms and conditions: The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States, together with the right to explore, prospect for, mine, and remove same under applicable law and regulations.

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945.;

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

4. Access to this parcel must be in compliance with County and State regulations.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Miles City District Office, P.O. Box 940, Miles City, Montana 59301. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination, In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the sale, including environmental assessment, and the record of public discussions is available for review at the Miles City District Office, Miles City, Montana, or the South Dakota Resource Area, Belle Fourche, South Datota.

SUPPLEMENTARY INFORMATION:

Bidder Qualifications: The bidder must be a U.S. citizen or, in the case of a corporation, subject to the laws of any state or the U.S. A state, state instrumentality or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of holding and conveying lands or interests therein under the laws of the State of South Dakota. Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value which will not be disclosed, and bids must include all of the land identifed in this notice.

Method of Bidding: The land will be sold by a combination of sealed and/or oral bids. Sealed bids will be opened first, followed by oral bidding. Bidding will begin at the highest sealed bid, or in the absence of sealed bids, at the call of the oral bidder. A sealed bid is not required to qualify for oral bidding.

Each bid must be accompanied by a cartified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior, Bureau of Land Management, for not less than one-fifth of the amount bid.

Sealed bids will be received at the South Dakota Resource Area Office, 301 Roundup Street, Belle Fourche, South Dakota 57717, until 1:00 pm, M.S.T., December 28, 1983.

Sealed bids will be opened in the *Custer County Courtroom, Custer, South Dakota*, with oral bidding following the opening of the sealed bids.

The sealed bid envelope must be marked in the lower left-hand corner as follows:

Public Land Sale M-57761 SD

Date:

If two or more envelopes containing valid bids of the same amount are received, the detremination of which is to be considered the highest bid shall be by drawing.The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly delared.

Sale Continuation: In the event this parcel is not sold at the intital sale offering, the parcel will then be available for sale over the counter on a first come, first served basis, at the South Dakota Resource Area Office, 310 Roundup Street, Belle Fourche, South Dakota.

Dated: October 20, 1983.

Robert A. Teegarden,

Acting District Manager for the State Director.

[FR Doc. 83-29196 Filed 10-26-83; 8:45 am]

BILLING CODE 4310-84-M

[4-19952-I-CA-LM; CA 12957]

Exchange of Public and Private Lands in Humboldt County, California

The United States issued an exchange conveyance document to the Simpson Redwood Company on September 30, 1983, for the following described lands, under the Act of October 21, 1970 (84 Stat. 1067; 16 U.S.C. 460y):

Humboldt Meridian, California

T. 11 N., R. 2 E.,
Sec. 26, NW¼SW¼;
T. 10 N., R. 3 E.,
Sec. 21, SW¼SW¼;
Sec. 31, NE¼NE¼;
T. 11½ N., R. 3 E.,
Sec. 31, Lots 1, 2, and 3;
Sec. 32, Lots 1, 2, 3, and 4;
Sec. 33, Lots 1, 2, 3, and 4;
Sec. 34, Lots 1, 2, 3, and 4;
Sec. 35, Lots 1, 2, 3, and 4;
T. 12 N., R. 3 E.,
Sec. 28, NE¼NE¼;
Containing 917.22 acres.

In exchange for these lands, the United States acquired the following described lands from the Simpson Redwood Company:

Humboldt Meridian, California

Parcel One

The Northeast Quarter of the Southeast Quarter of Section 7, Township 3 South, Range 2 East, Humboldt Base and Meridian.

Parcel Two

The West Half of the Southwest Quarter and the Southeast Quarter of the Southwest Quarter of Section 6, Township 3 South, Range 2 East, Humboldt Base and Meridian.

Parcel Three

The Southwest Quarter of Section 16, Township 3 South, Range 1 West, Humboldt Base and Meridian.

Parcel Four

Lots 2, 3, and 4 and the Southwest Quarter of the Northeast Quarter and the Southeast Quarter of Section 2, Township 7 North, Range 3 East, Humboldt Base and Meridian.

The North Half of the Northeast Quarter, the Southeast Quarter of the Northeast Quarter, the Northeast Quarter of the Southeast Quarter and the South Half of the Southeast Quarter of Section 11, Township 7 North, Range 3 East, Humboldt Base and Meridian.

The East Half of the East Half of Section 12, Township 7 North, Range 3 East, Humboldt Base and Meridian.

The North Half of the Northeast Quarter, the Southwest Quarter of the Northeast Quarter, the Northeast Quarter of the Northwest Quarter, the East Half of the Southwest Quarter and the West Half of the Southeast Quarter of Section 14, Township 7 North, Range 3 East, Humboldt Base and Meridian;

Containing 1,361.98 acres.

The purpose of this exchange was to acquire the non-Federal lands for inclusion in the King Range National Conservation area. The public interest was well served through completion of this exchange.

An equalization payment in the amount of $29,800.00 was paid to the United States.

Dated: October 19, 1983.

Eleanor Wilkinson,

Chief, Lands & Locatable Minerals Section, Branch of Lands & Minerals Operations.

[FR Doc. 83-29210 Filed 10-26-83; 8:45 am]

BILLING CODE 4310-84-M

Bakersfield District Cooperative Management Agreements; Nominations Open

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening of nominations for cooperative management agreements in the Bakersfield District.

SUMMARY: Nominations of grazing operators within the Bureau of Land Management's Bakersfield District to be considered for a Cooperative Management Agreement (CMA) will be accepted starting November 1, 1983. The purpose of Cooperative Management Agreements is to provide livestock operators (or associations), who have demonstrated good rangeland management practices, with: (1) Recognition of good stewardship; (2) a larger role in managing grazing on the the public lands; and (3) the assurance of tenure needed to encourage private investment in rangeland improvements.

A Cooperative Management Agreement is a formal, written agreement between the BLM and a livestock operator that recognizes the operator as the steward of an allotment. Through the agreement, the livestock operator agrees to graze livestock in a manner that will achieve the management objectives of the allotment.

Cooperative Management Agreements will have a tenure period of 10 years. The BLM and the operator will jointly evaluate the allotment at the end of the first five years to determine if objectives are being met.

DATE: Nominations will be open for 60 days, and will close on December 31, 1983.

ADDRESS: Nominations should be sent to: Bakersfield District Office, Bureau of Land Management, Attn: Range, 800 Truxtun Avenue, Rm. 311 Bakersfield, CA 93301

FOR FURTHER INFORMATION CONTACT: Ken Volpe, District Range Conservationist, Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, California 93301; (805) 861-4191.

Dated: October 20, 1983.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-29211 Filed 10-26-83; 8:45 am]

BILLING CODE 4310-84-M

[4-19952-I-CA-LM; CA 13279]

Conveyance of Public Land; Riverside County, California

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), Ladyvest, N.V., c/o Frank De Marco, Jr., 707 Wilshire Boulevard, Los Angeles, California 90017, has purchased by competitive sale public land in Riverside County, California, described as:

San Bernardino Meridian, California

T. 7 S., R. 6 E.,

Sec. 18, S½ Lot 1 and S½ Lot 2 of SW¼.

Containing 76.83 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to Ladyvest, N.V.

Dated: October 19, 1983.

Eleanor Wilkinson,

Chief, Lands & Locatable Minerals Section Branch of Lands and Minerals Operations.

[FR Doc. 83-29209 Filed 10-26-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Availability of Fryingpan-Arkansas Project Water From Ruedi Reservoir and Initiation of Contract Negotiations With Municipal and Domestic Users and Competitive Bidding for Contracts by Industrial Users

In accordance with procedures established by the Department of the Interior and as required by the Reclamation Reform Act of 1982, the Bureau of Reclamation announces the availability of water and its intention to initiate negotiations with municipal and domestic users and solicit competitive bids from industrial users for assignable water service contracts from the regulatory capacity of Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado. The Colorado River Water Conservation District and the Colorado Water Conservation Board will be consulted during these proposed actions.

Contracts providing for the delivery of water may require further compliance with the National Environmental Policy Act of 1969 and the Endangered Species Act of 1973, as amended. All pertinent Reclamation Instructions will be complied with.

The Bureau constructed Ruedi Dam and Reservoir as a feature of the Fryingpan-Arkansas Project. The primary purposes of the dam and reservoir are to provide replacement water to satisfy simultaneous demands of senior diversions in western Colorado at the time Fryingpan-Arkansas Project diversions are made to the Arkansas River Basin in eastern Colorado and to furnish water and regulatory storage to western Colorado water users. Ruedi Dam and Reservoir are located on the Fryingpan River approximately 14 miles east of Basalt, Colorado. The Fryingpan River is a tributary of the Roaring Fork River, a tributary of the Colorado River.

Ruedi Reservoir has a total storage capacity of 102,369 acre-feet which includes an active storage capactiy of 101,280 acre-feet and 1,089 acre-feet of inactive and dead storage. Based on a study period from 1948 through 1980, the firm average annual yield of Ruedi Reservoir is estimated to be 67,300 acre-feet, of which up to 28,000 acre-feet are available for replacement of Fryingpan-Arkansas Project diversions and 59,300 acre-feet would be available from the

regulatory capacity, assuming a use pattern for a municipal and industrial water supply. Four contracts were executed in May 1982 for a total of 7,850 acre-feet of water leaving 51,450 acre-feet available for additional water service contracts.

The Bureau operates and maintains Ruedi Dam and Reservoir in accordance with the provisions of Reclamation law, the authorizing act, and more particularly the "Operating Principles for the Fryingpan-Arkansas Project" published as H. Doc. 130, 87th Cong., 1st sess. In summary, the operating principles provide for (1) release of water from the replacement capacity upon request by the State Engineer to the extent that water would have been available to senior rights without project diversions to the Arkansas River Basin, and (2) water stored in the regulatory capacity may be sold or leased by the United States to water users in Colorado for any purpose recognized by the laws of the United States. Charges for the use of such water shall be established by the Secretary of the Interior by appropriate contracts. Any sale of water outside the natural basin of the Colorado River can only be made with the consent of the Colorado River Water Conservation District.

Pursuant to this notice, negotiations will be undertaken for municipal and domestic use assignable contracts and solicitation for competitive bidding for industrial use assignable contracts for water service from the regulatory capacity to satisfy demands of users. An entity will be considered to have a demand if (1) it has a need, (2) it is capable of making beneficial use of the requested water, and (3) is legally constituted to contract with the United States.

In accordance with public notices published on April 21, 1983, in newspapers in the Colorado River Basin in Colorado, negotiations will be limited to those municipal and domestic users from whom requests were received by the Regional Director, Lower Missouri Region, by May 20, 1983. Requests have been received from 13 entities who have identified a demand for municipal and domestic uses.

In the interest of national defense and acting through its Office of Naval Petroleum and Oil Shale Reserves, the Department of Energy has requested 4,100 acre-feet of industrial water annually for use in connection with its oil shale reserves (NOSR–1 and NOSR–3) in western Colorado. The Bureau intends to contract directly with the Department of Energy for 4,100 acre-feet of water service annually from Ruedi Reservoir for its naval oil shale reserve requirements.

Requests have been received from 10 industrial entities who have identified a demand for industrial use. The Bureau will offer for competitive bidding approximately 27,500 acre-feet of industrial water service from the regulatory capacity of Ruedi Reservoir.

Sealed bids on a quantity of water not less than 100 acre-feet annually will be accepted from qualified industrial users. The minimum acceptable rates for the amount of water service requested will be set forth in the invitation for bid. In addition, each bidder may submit a schedule for minimum deliveries at the established per acre-foot rates for which he agrees to take or pay for the delivery of and/or bid a cash bonus for the right to contract for water service.

Industrial water service contracts will be offered to those qualified bidders submitting the highest per acre-foot bids until the available industrial water supply from the regulatory capacity is contracted for. Apparent successful bidders will be determined within 60-calendar days, and contracts will be offered to successful bidders within 180-calendar days, after bid opening. Each bidder will be required to furnish a bid guarantee equal to 1 year's standby charge ($15 per acre-foot) for the quantity of water submitted for bid, which will be nonrefundable if the contractor fails to execute a contract, if offered. For the successful bidders executing contracts, this amount will be credited toward the first year's water service charges. The United States reserves the right to reject any bid. Bid guarantees will be refunded to unsuccessful bidders and to those whose bids are rejected.

The bid opening will be held at 2 p.m. on December 14, 1983, in conference room E 2411, second floor, Building 20, Denver Federal Center, Denver, Colorado.

Each industrial user may submit one bid for the quantity of water for which it has a need and for which it is capable of putting to beneficial use within a reasonable time. Successful bidders will be selected on the basis of the highest present worth value of revenues per acre-foot returned to the United States through the year 2000. This will be determined by the total of the bonus bid plus the present worth of revenues from water delivery charges to be paid for agreed-to-minimum annual deliveries at established per acre-foot rates through the year 2000 divided by each bidder's quantity of water submitted for bid. All revenues from water service charges will be discounted to present worth based on the 10-year United States Treasury bond rates as specified in the invitation for bid.

Complete bidding instructions and a copy of the standard industrial water service contract are included in the Invitation for Bid for Industrial Water Service for Ruedi Reservoir available from the Regional Director, Bureau of Reclamation, Attention LM–440, P.O. Box 25247, Denver, Colorado 80225. Copies may be obtained in room E 2719, Building 20, Denver Federal Center, Denver, Colorado, and from the Project Manager, Bureau of Reclamation, 764 Horizon Drive, Grand Junction, Colorado.

All meetings scheduled by the Bureau to discuss the terms and conditions of the proposed municipal and domestic water service contracts shall be open to the general public as observers. Advance notice of meetings shall be furnished to only those parties having previously given a written request for such notice. The notice will be provided at least 1 week prior to any meeting. Requests should be submitted to the above address.

If little or no public interest in these negotiations is evidenced, as gaged by the response to this notice and local news releases, the availability of the proposed contracts for public review and comment will not be publicized through the **Federal Register** or other media. When the proposed contracts become available for review, copies may be obtained from the Regional Director, Lower Missouri Region, at the above address. Notice of availability of proposed contracts shall be furnished only to those parties who have previously given a written request for such notice. All written correspondence concerning the proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383).

For further information on contract negotiations or bidding, please contact Robin D. McKinley at (303) 234–3327 or at the above address.

Dated: October 21, 1983.

William C. Klostermeyer,

Acting Commissioner of Reclamation.

[FR Doc. 83–29165 Filed 10–26–83; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Availability of Final Environmental Impact Statement on Trinity River Basin Fish and Wildlife Management Program; Trinity River, Northwestern California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises that the final Environmental Impact Statement on the Trinity River Basin Fish and Wildlife Management Program, Northwestern California, is available for public review. Propsed is a management program to restore salmon, steelhead trout, deer and other fish and wildlife resources in Trinity River Basin in northwestern California. Developed by a joint Federal-State-local task force under Bureau of Reclamation lead, the sixty million dollar proposal would span a ten-year period and consist of eleven actions such as watershed rehabilitation, spawning riffle construction, monitoring, and fish hatchery modification. No significant adverse impacts are foreseen. Three alternative subjects of these same actions and alternatives to five of the actions were also evaluated in the EIS. No one commenting on the draft EIS expresssed opposition to the program and many expressed full support.

DATE: Written comments are requested by November 29, 1983.

ADDRESS: James J. McKevitt, Field Supervisor, U.S. Fish and Wildlife Service, Division of Ecological Services, 2800 Cottage Way, Room E–2727, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Jody Hoffman, U.S. Fish and Wildlife Service, ES, 2800 Cottage Way, Room E–2727, Sacramento, California 95825, (916) 484–4731.

Copies of the EIS have been distributed to all participants in the scoping and draft review process, those who requested copies, identified agencies and organizations representing interested user groups, and central libraries within Humboldt, Shasta, Sacramento and Trinity Counties.

Richard Myshak,
Regional Director, Region I.

[FR Doc. 83–29195 Filed 10–26–83; 8:45 am]
BILLING CODE 4310–55–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Kerr-McGee Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0630, Block 229, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 21, 1983.

John L. Rankin,
Regional Manager, Gulf of Mexico Region.

[FR Doc. 83–29191 Filed 10–26–83; 8:45 am]
BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30249]

Rail Carriers; the Atchison, Topeka and Santa Fe Railway Company—Merger Exemption—Toledo, Peoria & Western Railroad Company

Decided: October 19, 1983.

On August 23, 1983, a notice of exemption was served finding that the merger of the Toledo, Peoria & Western Railroad (TP&W) into The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) was a corporate simplification of the type specifically exempted from the necessity for prior review and approval under 49 CFR 1180.2(d)(3).

The employee protective conditions in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979) (*New York Dock*), were imposed to protect employees of TP&W or Santa Fe who may be adversely affected by the merger. Indentical conditions had been previously imposed to protect affected emloyees when control of TP&W by Santa Fe was approved.

On September 19, 1983, Leo Sera filed a petition to intervene. He states that he has a pending dispute with the TP&W that concerns job selection rights arising out of TP&W's takeover of certain Penn Central trackage. He further states his belief that this merger will adversely affect him and other TP&W employees. He requests permission to file appropriate pleadings.

Our regulations do not provide for a proceeding on a notice of class exemption. Cf. *Improvement of TOFC/COFC Regulation*, 364 I.C.C. 731, 736–37 (1981). The only relief available after publication would be a petition for reconsideration alleging that the transaction does not fall within an exempt class. Mr. Sera's petition makes no such allegation and will be dismissed.[1]

It is ordered:

1. The petition by Leo Sera to intervene in this proceeding is dismissed.

2. This decision is effective on the service date.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–29300 Filed 10–26–83; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 30309]

Rail Carriers; Willard R. Formyduval—Acquisition Exemption—Aberdeen and Briar Patch Railway Company, Exemption

On October 4, 1983, Willard R. Formyduval (Formyduval), filed a Notice of Exemption pursuant to 49 CFR 1180.2(d)(2) concerning his proposed

[1] Since the *New York Dock* conditions were imposed for the protection of adversely affected employees, petitioner has recourse to arbitration. Cf. *Railroad Consolidation Procedures*, 366 ICC 75, 79–80 (1982).

acquisition of the stock of the Aberdeen and Briar Patch Railway Company (ABP Railway), of Pinehurst, NC from ABP Management Corporation. Formyduval currently owns 77 percent of the Warrenton Railroad Company, of Warrenton, NC (Warrenton Railroad).

This transaction does not involve a class I rail carrier, is an acquisition of a nonconnecting carrier, and does not look toward ultimate connection of the lines and is, thus, within that class of transactions considered exempt under 49 CFR 1180.2(d)(2).

As a condition to use of the exemption, any ABP Railway or Warrenton Railroad employee affected by the acquisition will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

Decided: October 19, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29207 Filed 10-26-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Secretary

Information Collections Under Review

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96-511 applies; (10) The name and telephone number of the person or office responsible for OMB review. Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer Larry E. Miesse—202-633-4312

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

- Immigration and Naturalization Service, Department of Justice

Application for Waiver of the Foreign Residence Requirement of section 212(e) of the I&N Act

On occasion

Individuals or households

Provides for obtaining information under Section 212(e) of the Immigration and Nationality Act for application for the granting of a waiver of foreign residence requirements under certain conditions: 1,300 respondents; 433 hours; not applicable under 3504(h)

Rob Veeder—395-4814

- Immigration and Naturalization Service, Department of Justice

Application for Removal

On occasion

Individuals or Households

Used to determine the eligibility of an applicant under section 250 of the I&N Act, which provides that an alien in the United States who has fallen into distress or needs public aid, may apply for removal from the United States: 22 respondents; 4 hours; not applicable under 3504(h)

Rob Veeder—395-4814

- Immigration and Naturalization Service, Department of Justice

Application by Refugees for waiver of Grounds of Excludability

On occasion

Individuals or households

Application required to implement the waiver of excludability provisions in the Refugee Act of 1980. Data used to determine eligibility for waiver and to report to the Congress the reasons for granting such waivers: 2,500 respondents; 625 hours; not applicable under 3504(h)

Rob Veeder—395-4814

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

- National Institute of Justice/National Criminal Justice Reference Center, Department of Justice

Directory of Criminal Justice Information Sources Entry Questionnaire

Biennually

State or local governments, businesses or other for-profit, non-profit institutions

Facilitates information exchange among criminal justice professionals and other interested parties. This centralized listing of organizations providing information services in various criminal justice areas includes a description of each agency, its areas of interest and activity, user restrictions, and contract information: 125 respondents; 37.5 hours; not applicable under 3504(h).

Rob Veeder—395-4814

New Collection

- Bureau of Justice Statistics, Department of Justice

Victimization Risk Supplement (VRS) to the National Crime Survey (NCS)

On occasion

Individuals or households

Used to collect data on lifestyle variables which may affect a person's vulnerability to crime victimization: 22,464 respondents; 3,744 hours; not applicable under 3504(h)

Rob Veeder—395-4814

Dated: October 21, 1983.

Larry E. Miesse,

Agency Clearance Officer, Department of Justice.

[FR Doc. 83-29186 Filed 10-26-83; 8:45 am]

BILLING CODE 4410-01-M

LEGAL SERVICES CORPORATION

Recipient Fund Balances; Instruction

AGENCY: Legal Services Corporation.

ACTION: Instruction on recipient fund balances 83-4.

SUMMARY: The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355(a) 88 Statute 378, 42 U.S.C. 2996 et. seq., as amended, Pub. L. 95-222 (December 28, 1977). Section 1008(e) of the Legal Services Corporation Act provides:

The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the **Federal Register** at least 30

days prior to their effective date all its rules, regulations, guidelines, and instructions.

The Legal Services Corporation hereby publishes LSC Instruction 83–4, Recipient Fund Balances.

EFFECTIVE DATE: November 28, 1983.

FOR FURTHER INFORMATION CONTACT: Gail Francis, Director, Grants and Budget Unit, Office of Field Services, Legal Services Corporation, 733 Fifteenth Street, N.W., Washington, D.C. 20005; (202) 272–4080.

Fund Balance Instruction

I. Purpose

The purpose of this Instruction is to provide notice and direction to recipients of Legal Services Corporation funding. The objective is to ensure the timely allocation of Corporation funds for the effective and economical provision of high quality legal assistance to eligible clients. To that end, recipients will henceforth be permitted to maintain and reprogram from year to year fund balances of no more than 10% of their Legal Services Corporation support.

A waiver of this provision to a maximum of 25% may be obtained under certain conditions. Funds carried over in excess of 10% or the level permitted by a specific waiver will be recovered as set forth in Section III—Policy.

II. Definitions

A. LSC "support" for the reporting period shall be defined as the sum of: (1) The annualized LSC grant awards; (2) any investment of derivative income earned which is attributable to any annualized Corporation grants (interest, rents, etc.); and (3) reimbursements or recoveries of attorney fees, proceeds from the sale of assets, or other compensation or income related to any annualized Corporation grants.

B. The LSC "fund balance amount" shall be determined solely by reference to the recipient's annual audit. (The fund balance reported in the recipient's annual audit is subject to review and approval by the Corporation's Audit Division. Non-compliance with provisions of the Corporation's *Audit and Accounting Guide for Recipients and Auditors* may result in an increase or decrease in the fund balance as reported in the audit.)

C. The "*fund balance percentage*" shall be determined by expressing the fund balance amount as a percentage of the recipient's LSC support for the reporting period.

III. Policy

A. In the absence of a waiver from the Corporation, any fund balance amount in excess of 10 percent of support shall be repaid to the Corporation in a lump sum or by a mutually agreeable payment plan. The payment plan may be accomplished by pro rata deductions from the recipient's grant checks for a specific number of months.

B. After the Corporation's receipt and review of the recipient's annual audit, written notice regarding any such reduction and/or deduction relating to the fund balance shall be provided to the recipient 30 days prior to such reduction and/or deduction being made.

C. In no way shall any such reduction and/or deduction be construed to permanently affect the annualized funding level of such recipient.

D. "Recipient" as used in this part means any recipient as defined as Section 1002(6) of the LSC Act and any grantee or contractor receiving funds from the Corporation under Section 1006(a)(1)(B) or 1006(a)(3) of the Act.

E. A waiver of the 10 percent ceiling may be granted at the discretion of the Corporation in extraordinary circumstances; such waivers may be granted by the Corporation to a maximum of 25 percent. Further, in addition to the established 10 percent ceiling, recipients who operate compensated private bar programs or components shall be granted a waiver to allow them to maintain carryover not to exceed 25 percent of the expense for attorneys fees as reported in the current audit, provided that the carryover is utilized to fund a cash reserve or encumbrance system for payment of attorney fees. Under no circumstances will a recipient be allowed to retain a fund balance in excess of 25 percent of support.

F. All one-time or special purpose grants awarded by the Corporation shall have an effective date and a termination date. Such grants are not subject to this fund balance policy. Revenue and expenses relating to such grants must be reported separately in the year-end audit. This may be done by establishing a separate fund or by providing a separate supplemental schedule of revenue and expenses related to such grants as a part of the audit.

No funds awarded under one-time or special purpose grants may be expended subsequent to the termination date of the grant without the prior written approval of the Corporation. All unexpended funds under such grants must be returned to the Corporation.

IV. Process

A. Any recipient whose audited fund balance exceeds the ceiling set forth in Section I of this Instruction shall submit to the Corporation, within 120 days after the close of its fiscal year, a statement of the fund balance which occurred according to the annual audit required by Section 1009(c)(1) of the Legal Services Corporation Act, as amended. The funds will be recovered as set forth in Section III of the Instruction unless excluded by a specific waiver.

B. The recipient may, within 120 days after the close of its fiscal year, apply to the Grants and Budget Unit of the corporation for a waiver of the 10 percent ceiling.

Such application must specify:

(1) The fund balance amount according to the recipient's annual audit;

(2) The reason that such fund balance has been attained;

(3) The recipient's plan for the disposition or reserve of such fund balance amount;

(4) The amount of fund balance projected to be carried forward at the close of the recipient's then current fiscal year; and

(5) The extraordinary circumstances justifying the retention of the fund balance.

C. The decision of the Grants and Budget Unit regarding the granting of a waiver shall be guided by the statutory mandate requiring the provision of high quality services in an effective and economical manner. Special consideration will be given for:

(1) Emergencies, unusual occurrences, or other extraordinary circumstances giving rise to the existence of a fund balance in excess of 10 percent, and the special needs of clients;

(2) The need for a recipient which operates a compensated private bar program or component to maintain a cash reserve.

Dated: October 24, 1983.

Gregg L. Hartley,

Director, Office of Field Services.

[FR Doc. 83-29183 Filed 10-26-83; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal

Regulations. This is the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by November 28, 1983. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the 21 July 1983 **Federal Register**, page 33372.

The applications received are as follows:

1. *Applicant:* Donald B. Wiggin, ITT/Antarctic Services, Inc., 621 Industrial Avenue, Paramus, New Jersey 07652.

Activity for Which Permit Requested: Enter Specially Protected Area.

The applicant proposes to enter Specially Protected Area No. 17, Litchfield Island, to inspect a survival cache for boating operations, and to place notification signs identifying the island as a Specially Protected Area. The inspection of the survival cache is conducted twice annually and is an operational requirement for boating safety.

Location: Palmer Station Vicinity, Antarctica.

Dates: December 1, 1983 to May 1, 1985.

2. *Applicant:* William M. Hamner, Department of Biology, University of California, Los Angeles, California 90024.

(This application modifies the permit application of William M. Hamner, published in the **Federal Register** on July 21, 1983.)

Activity for Which Permit Requested: Taking; import into U.S.A.; enter Specially Protected Area.

The applicant proposes to study the transformation of liquids in krill into the stomach oil storage products of various seabird predators, and to document photographically the behavior of marine mammals, seabirds, and fish that are krill predators. The applicant proposes to concentrate on 4 penguin species which are pursuit divers that feed in groups on krill underwater. He requests shotgun collection of 25 specimens of each species for both stomach content analysis and collection of stomach oils. The applicant proposes to collect up to 75 live specimens of each species at sea with a gill net. The captured penguins will be forced to regurgitate stomach contents and will then be released. The other 3 birds of central interest, the Antarctic Tern, the Snow Petrel and Wilson's Storm Petrel, are all surface pickers with krill feeding strategies quite different from those of penguins. The applicant requests shotgun collection of specimens of each of these species for both stomach content analysis and stomach oil samples.

The applicant request is for taking the following species:

SHOTGUN

Species	Number
Adelie Penguin	25
Chinstrap Penguin	25
Gentoo Penguin	25
Macaroni Penguin	25
Antarctic Tern	25
Cape Pigeon	25
Snow Petrel	25
Southern Fulmar	125
Wilson's Storm Petrel	25
Black-browed Albatross	5
Giant Petrel	5
Blue Petrel	5
Antarctic Petrel	5
White-chinned Petrel	5
Peal's Petrel	5
Silver-gray Fulmar	5
Prion	5
Arctic Tern	5
S. Black-backed Gull	5
South Polar Skua	5
Brown Skua	5
Blue-eyed Shag	5
American Sheathbill	5
Cape Pigeon	5

CAPTURE AND RELEASE

Adelie Penguin	75
Chinstrap Penguin	75
Gentoo Penguin	75
Macaroni Penguin	75

Photography—(will not require handling or catching animals. Long lens photography will minimize their disturbance.)

Birds:
Black-browed Albatross
Giant Petrel
Blue Petrel
Silver-gray Fulmar
Cape Pigeon
Prion
S. Black-backed Gull
Antarctic Petrel
White-headed Petrel
Peal's Petrel
Snow Petrel
Wilson's Petrel
Brown Skua
South Polar Skua
Antarctic Tern
Arctic Tern
Blue-eyed Shag
American Sheathbill
Adelie Penguin
Chinstrap Penguin
Gentoo Penguin
Macaroni Penguin
Rockhopper Penguin

Mammals:
Antarctic Fur Seal
Crabeater Seal
Elephant Seal
Leopard Seal
Ross Seal
Weddell Seal
Blue Whale
Fin Whale
Humpback Whale
Killer Whale
Sei Whale
S. Right Whale

Location: Antarctic Peninsula area, Litchfield Island.

Dates: December 1, 1983 to April 30, 1984.

Authority to publish this notice has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Edward P. Todd,

Division Director, Division of Polar Programs.

[FR Doc. 83–29202 Filed 10–26–83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Boston Edison Co.; Establishment of Atomic Safety and Licensing Board

[Docket No. 50–293–OLA; ASLBP No. 84–493–01 LA]

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Boston Edison Company

Pilgrim Nuclear Power Station
Facility Operating License No. DPR–35

This Board is being established pursuant to a notice pblished by the Commission on August 31, 1983, in the **Federal Register** (48 FR 39537 ff) entitled, "Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing." The proposed amendment would revise the operating license and the provisions in the Technical Specifications relating to changes to permit reactor operation at power levels in excess of 70% of rated power with one recirculation loop out of service.

The Board is comprised of the following administrative judges:

B. Paul Cotter, Jr., Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Mr. Gustave A. Linenberger, Jr., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Oscar H. Paris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 21st day of October, 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-29259 Filed 10-26-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-440]

Cleveland Electric Illuminating Co., et al. (Perry Nuclear Power Plant, Unit 1); Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated September 27, 1983, Terry Lodge requested on behalf of Steven Sass and the Sunflower Alliance that the Director, Office of Inspection and Enforcement, appoint an independent consultant to investigate the circumstances surrounding a crane accident at Unit 1 of the Perry Nuclear Power Plant, open the plant to inspection by the general public, and initiate proceedings to determine whether the construction permit for the plant should be revoked in light of the independent consultant's findings. The petition is being considered pursuant to 10 CFR 2.206 and, accordingly, appropriate action will be taken on the petition within a reasonable time.

Copies of the petition are available for public inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room for the Perry plant at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Bethesda, Maryland, this 20th day of October, 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYong,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-29254 Filed 10-26-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Co. of New York; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-26, issued to Consolidated Edison Company of New York (the licensee), for operation of the Indian Point Nuclear Unit No. 2 located in Westchester County, New York.

The amendment would revise the Technical Specifications to reflect provisions consistent with the appropriate Edition and Addenda of Section XI of the ASME Boiler and Pressure Vessel Code, in accordance with the Licensee's application for amendment dated May 5, 1977. Specifically the inservice inspection requirements in section 4.2 of the Technical Specifications would be replaced with a commitment to an inservice inspection program as specified in 10 CFR 50.55a. This change is an addition of requirements into the Technical Specifications since the requirements of Section XI of the ASME Boiler and Pressure Vessel Code are more comprehensive than those in the current Technical Specifications.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (48 FR 14870). One of these examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications. Since the proposed change involves additional commitments to inservice inspection not currently in the Technical Specifications, the staff proposes to determine that the application does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 28, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted

with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30/day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Chief, Operating Reactors Branch No. 1, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Thomas J. Farrelly, Esquire, 4 Irving Place, New York, New York, 10003, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the White Plains Public Library, 100 Martime Avenue, White Plains, New York 10610.

Dated at Bethesda, Maryland, this 24th day of October, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-29255 Filed 10-26-83; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, 50-287]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55, issued to Duke Power Company (the licensee), for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3 (the facilities) located in Oconee County, South Carolina.

The amendments would authorize changes to the Common Technical Specifications for Units Nos. 1, 2, and 3 at the Oconee Nuclear Station in accordance with the licensee's application for amendment dated February 9, 1983, as supplemented by submittals dated February 28, 1983 (Generic Offsite Dose Calculation Manual) and April 28, 1983 (Plant Specific Offsite Dose Calculation Manual). The amendments would permit operation after approval of changes to the Radiological Effluent Technical Specifications that bring them into compliance with Appendix I of 10 CFR Part 50. The amendments would specifically deal with such changes as indicating shared instrumentation among the three operating units at the Station. They would provide new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. These changes also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative

controls, specifically dealing with the process control program and the offsite dose calculation manual.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50, required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The Commission proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By November 28, 1983, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to interevene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satify the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement with satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of the amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facilities, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700).

The Western Union operator should be given Datagram identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to J. Michael McGarry, III, DeBevoise and Liberman, 1200 17th Street, N.W., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Dated at Bethesda, Maryland, this 24th day of October 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-29258 Filed 10-26-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating License and Proposed No Significant Hazards Consideration Determinations and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to facility Operating License nos. NPF-9 and NPF-17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina. These amendments were requested by the licensee in a letter dated August 2, 1983.

One amendment would change Technical Specification 4.6.5.3.1 to increase the surveillance interval for verifying that the ice condenser inlet doors can be opened and closed properly and to increase the size of the sample required to be tested during each surveillance. The change would increase the surveillance interval from 6 months to 9 months and at the same time increase the sample size from 25% to 50%.

A second amendment would change Technical Specification Table 3.5–5, response time for steam line isolation from < 9 seconds to < 7 seconds. The change would reflect the response time value used in the safety analysis report.

A third amendment would change Technical Specification Table 3.7–4b to reflect deletion of 1 mechanical snubber on the Unit 2 Diesel Generator Lube Oil System and 1 mechanical snubber on the Unit 2 Safety Injection System. Deletion of these snubbers is allowed by the terms of the technical specification.

A fourth amendment would change Technical Specification 4.6.1.1.a to exempt locked valves, blind flanges and deactivated automatic valves located inside the annulus from monthly surveillance requirements. A similar exemption applies to components inside containment. Surveillance on the annulus components would be performed during cold shutdown.

A fifth amendment would change Technical Specification 4.6.1.3.b to require an overall containment airlock leakage test whenever maintenance has been performed on the air locks that could affect the air locking sealing capability. This change would constitute an exemption to Appendix J to 10 CFR Part 50.

The sixth amendment would change Technical Specification Table 3.6–1, by adding several secondary containment penetrations that were inadvertently omitted from the table due to administrative errors.

The seventh amendment would correct several Technical Specification administrative and typographical errors.

The eighth amendment would change Technical Specification Table 3.3–1 concerning the action required in the event one of the four instrumentation channels per steam generator is inoperable which actuate reactor trip upon low-low-steam generator water level. The change would allow bypassing the inoperable channel for up to 2 hours for surveillance testing of the remaining operable channels.

The ninth amendment would change Technical Specification 4.7.10.2.a to exclude sprinkler system valves from surveillance requirements which are inaccessible during plant operation and would add Specification 4.6.10.2.C.4 to require verifying the positions of those valves at least once per 18 months.

The final amendment would change Technical Specification 3.6.4.3/4.6.4.3 by clarifying that the Primary Containment Distributed Ignition System consists of two redundant trains to assure compatibility with operability as defined on a per train basis.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Because the function of the ice condenser doors is to mitigate the consequences of accidents, the proposed amendment to Technical Specification 4.6.5.3.1 does not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because no changes in operating conditions will result from the change in surveillance test interval, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analyses will result from the change in the surveillance test interval, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated.

Because the proposed amendment to Technical Specification Table 3.3–5 is more restrictive than the current response time for steamline isolation and because it reflects both the FSAR Chapter 6 steamline break containment analysis and the Chapter 15 steamline break core analysis, the proposed amendment does not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because the proposed amendment is more restrictive in operating conditions, the amendment

does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analyses will result from the change in response time, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated.

Because the proposed amendment to Technical Specification Table 3.7–4b deleting 2 safety-related mechanical snubbers is based on meeting ASME code by reanalysis in one case and by installation of a rigid support in the secondary case, the proposed amendment does not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because no change in operating condition will result, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analysis will result, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated.

Because the proposed amendment to Technical Specification 4.6.1.1.a reduces the frequency of surveillance of the status of penetrations in the annulus but meets the acceptable criteria in the Standard Review Plan, Section 6.2.4, and because these penetrations are locked, sealed, or otherwise secured in the closed position, which the staff previously approved for Unit 1, the proposed amendment does not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because no change in operating condition will result, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analysis will result, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated.

The proposed amendment regarding the testing of the containment airlock leakage would reduce such testing from testing after each opening of the airlock in the current technical specification to testing when maintenance has been performed on the airlock that could affect the air locking capability. Because this change has little significance on Technical Specification 4.6.1.3.a requiring a seal integrity test prior to estabilshing containment integrity and once every 72 hours, the proposed amendment to Technical Specification 4.6.1.3.b does not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because no change in operating condition will result, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analysis will result, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated.

Because the proposed amendment to Technical Specification Table 3.6–1 adds several additional penetrations to Table 3.6–1 of the Technical Specifications which were inadvertently omitted, the addition being more restrictive than existing requirements, the proposed amendment to Technical Specification Table 3.6–1 does not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because no change in operating condition will result, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analysis will result, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated.

Because the proposed amendments to 5 Technical Specifications involve only administrative or typographical changes, the proposed amendments do not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because no change in operating condition will result, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analysis will result, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated.

Because the proposed amendment to Technical Specification Table 3.3–1, achieves consistency within the technical specifications for continued operation with one steam generator low-low water level channel inoperable on reactor trip system instrumentation and because operation with one inoperable channel would be for a limited time period (up to 2 hours) to perform monthly surveillance testing, the proposed amendment does not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because the change in operating condition is for a limited period of time, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analysis will result, the proposed amendment does not include any increase in the consequences of any accident previously evaluated.

Because the proposed amendment relates to surveillance of sprinkler system valves which are inaccessible during plant operation and are either locked or electrically supervised and meet the guidelines in the Standard Review Plan, extending the surveillance frequency from 31 days to 18 months as proposed in Technical Specification 4.7.10.2.a does not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because no change in operating condition will result, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analysis will result, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated.

Because the proposed amendment to Technical Specification 3.6.4.3/4.6.4.3 achieves consistency throughout the technical specification by clarifying that these are two redundant trains of igniters in the Primary Containment Distributed Ignition System and because operability is more restrictive when two igniters on the same train are inoperable, the proposed technical specification does not involve a significant increase in the probability of an accident previously evaluated or a significant reduction in a margin of safety. Because no change in operating condition will result, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Because no changes in any accident analysis will result, the proposed amendment does not involve any increase in the consequences of an accident previously evaluated.

Based on the foregoing, the Commission proposes to determine that each of these proposed license amendments does not involve significant hazards considerations.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be

considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 28, 1983, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for hearings and petitions for leave to intervene shall be filed in accordance with the Commision's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If requests for hearings or petitions for leave to intervene are filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the requests and/or petitions and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commision, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Albert Carr, Duke Power Company, P.O Box 33189, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 21st day of October 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83–29257 Filed 10–26–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–244]

Rochester Gas & Electric Corp., Availability of Safety Evaluation Report for R.E. Ginna Full-Term Operating License

Notice is hereby given that the Nuclear Regulatory Commission's Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed conversion of Provisional Operating License No. DPR–

18 to a Full-Term Operating License for the R.E. Ginna Nuclear Power Plant located in Wayne County, New York. Notice of Consideration of Issuance of Full-Term Operating License was published in the **Federal Register** on December 8, 1972 (37 FR 26144).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Local Public Document Room, Rochester Public Library, 115 South Avenue, Rochester, New York 14604, for inspection and copying. The report (NUREG–0944) can also be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 14th day of October, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83–29258 Filed 10–26–83; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council (WHSC); Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on November 17 and 18, 1983 in Room 5026, New Executive Office Building, Washington, D.C. The meeting will begin at 6:00 p.m. on November 17, recess and reconvene at 8:00 a.m. on November 18, Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The November 17 session and a portion of the November 18 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(1), (2), and 9 (B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

The portion of the meeting open to the public will begin at 10:00 a.m. Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Annie L. Boyd, Secretary, Which House Science Council at (202) 456–7740, prior to 3:00 p.m. on November 16. Ms. Boyd is also available to provide further information regarding this meeting.

Dated: October 21, 1983.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 83–29190 Filed 10–26–83; 8:45 am]

BILLING CODE 3170–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Hydropower Assessment Steering Committee; Meeting

AGENCY: Hydropower Assessment Steering Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Review of Hydropower Assessment Steering Committee's Charter.
- Discussion of BPA Procurement Process: Development of a Work Statement.
- Discussion of Section 1204(b)(2) of Council's Fish and Wildlife Program (Cumulative Effects).
- Discussion of Section 1204(c) of Council's Fish and Wildlife Program (Protected Areas).
- Discussion of Work Schedule.
- Formation of Subgroups.
- Business.
- Public Comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Hydropower Assessment Steering Committee.

DATE: October 31, 1983, 9:00 a.m.

ADDRESS: The meeting will be held at the Council Hearing Room in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Peter Paquet, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 83–29163 Filed 10–26–83; 8:45 am]

BILLING CODE 6560–50–M

SMALL BUSINESS ADMINISTRATION

Small Business Investment Company, Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulations governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96–221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective November 1, 1983, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 11.615% per annum.

Dated: October 21, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83–29236 Filed 10–26–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Office of the Secretary

[CM-8/678]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Transborder Data Flows (TBDF) of the Advisory Committee on International Investment, Technology, and Development on Monday, November 21, from 10:00 a.m. to noon. The meeting will be held in the Loy Henderson Conference Room of the State Department, 2201 C Street, NW., Washington, D.C.

An agenda for the meeting will include a report on the 3rd Session of the OECD Committee for Information, Computer and Communications Policy (ICCP), October, 1983, and preparations for the ICCP Symposium on TBDF, November 30–December 2, 1983.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office (202–632–2728) in order to arrange admittance to the State Department. Please use the "C" street entrance.

The Chairman of the Committee will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: October 18, 1983.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 83-29200 Filed 10-26-83; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/677]

National Bipartisan Commission on Central America; Closed Meetings

The National Bipartisan Commission on Central America will meet in closed sessions on Wednesday November 16, 1983 and Thursday, November 17, 1983. The meetings will commence at 10 a.m. and will be held in Room 1105, Department of State, Washington, D.C.

These sessions will be closed to the public pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c)(1) and (c)(9). The disclosure of classified material and revelation of considerations contributing to policy development could adversely affect U.S. foreign relations and would substantially undermine the conduct of U.S. foreign policy and the ability of the Commission to provide advice to the President, the Secretary of State and the Congress. These additional meetings have been scheduled to supplement those previously announced (48 FR 40338 and 48 FR 43755) to permit further discussion of security topics and other issuess.

Requests for further information should be directed to Sharon Mussomeli, Room 1004, Department of State. She may be reached by telephone on (202) 632–7804.

Dated: October 19, 1983.

Harry W. Shlaudeman,

Executive Director.

[FR Doc. 83-29199 Filed 10-26-83; 8:45 am]

BILLING CODE 4710-26-M

[CM-8/676]

Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 14, 1983 at the U.S. Naval Observatory, Room 300, Building 52, 34th and Massachusetts Avenue, NW., Washington, D.C. The meeting will begin at 8:30 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The purpose of the meeting is to review the progress of work in preparation for the international Study Group 7 meeting to be held in November 1983.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520 (telephone (202) 632–2592).

Dated: October 20, 1983.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 83-29198 Filed 10-26-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-83-23]

Petitions for exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comment on petitions received must identify the petition docket number involved and must be received on or before November 18, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination of the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., October 21, 1983.

John H. Cassady,

Assistant Chief Counsel Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
22457	American Airlines Flight Safety	14 CFR 121.99 and 121.351	To extend Exemption 3462, which expires Jan. 1, 1984, to permit petitioner to operate its airplane in extended overwater operations over the Gulf of Mexico to the Yucatan Peninsula with one of two installed high frequency communication radio systems inoperative at the time of departure and with only one long-range navigational radio system as the primary means of navigation for the extended overwater operations, subject to certain limitations.
23740	Dow Corning Corp	14 CFR Portions of Parts 21 and 91	To permit petitioner to operate its Falcon 10-026, Falcon 10-180, and King Air 200-BB547 in accordance with a minimum equipment list.
23782	Continental Airlines	14 CFR Part 121, Portions of Appendix H	To permit petitioner to conduct training and checking under Phase II using petitioner's DC-9 SIM 2, advanced simulator which does not meet the "continuous field of view" requirement.
23757	Evergreen State Balloon Co	14 CFR 101.13(a)(4)	To allow relief from the prohibition on conducting moored balloon operations within 5 miles of an airport.
23778	Department of Navy, NAVSWC, Atlanta, GA	14 CFR 91.70 (a) and (b)	To allow high speed operations in conjunction with low level bombing training operations in the Ft. Lauderdale Airport Traffic Area and adjacent airspace.
23760	Alaska, State of, Division of Forestry	14 CFR 91.79 (b) and (c)	To allow relief for accomplishment of fire suppression and natural resources missions and for the purpose of dropping aerial retardent or water in congested areas.
18114	The Flying Tiger Line, Inc	14 CFR 121.547(c) and 121.583(a)	To extend Exemption 2600B, which expires Jan. 31, 1984, to permit petitioner to carry a reporter, photographer, or journalist aboard its B-747 and DC-8 airplanes without complying with the passenger-carrying requirements of Part 121, subject to certain conditions and limitations.
8429	Northern Air Cargo, Inc	14 CFR 91.39 and 121.157	To amend and permanently extend Exemption 770M, which terminates on December 31, 1983, and which permits petitioner to use its restricted category C-82 airplanes to carry only out-sized cargo for compensation or hire subject to certain other conditions and limitations. The petitioner requests relief from the out-size cargo conditions of present exemption.
23768	Mountain West Helicopters	14 CFR 135.261(b)	To permit petitioner to operate its helicopters in a hospital emergency medical evacuation service without complying with the duty time limitations.
12835	Airport Transport Association of America obh/ Capital Air, Inc.	14 CFR 121.99 and 121.351.(a)	To amend Exemption 2081F to include Capital Air, Inc., in the provisions of the exemption to operate turbojet airplanes on certain routes between certain New York oceanic control area reporting points and San Juan with one of two installed high frequency communications systems inoperative at the time of departure and without maintaining two-way radio communications between each airplane, and the dispatch office along with named routes subject to certain conditions.
22436	American Airlines	14 CFR 121.99 and 121.351(a)	To extend Exemption 3493, which expires Jan. 31, 1984, to permit petitioner to operate its turbojet aircraft on routes in the New York Oceanic Control Area between the east coast and Bermuda with one of its two installed high frequency communications systems inoperative at the time of departure and without maintaining two-way radio communications between each aircraft and the dispatch office along the named route.
23784	Royal American Airways	14 CFR 121.291	To permit petitioner to increase the passenger seats on the 700 series Viscount aircraft to 60 without conducting a demonstration of emergency evacuation procedures.
23714	Ragsdale Aviation, Inc	14 CFR 91.161	To allow petitioner to charge for necessary expenses as listed in § 91.161(d) when demonstrating single and multi piston-engine aircraft.
18542	Northwest Orient	14 CFR 91.32(b)(i)(ii) and 121.333(c)(2)	Extension of Exemption 2795A which permits petitioner to operate B-747-100 aircraft above flight level 410 without one pilot at the controls of the aircraft wearing and using an oxygen mask secured, sealed, and supplying oxygen.
23765	American Airlines	14 CFR 121.434(e)	To allow petitioner to meet 50 percent of the required operating experience for flight attendants in a simulated flight of at least 2.5 hours on a static airplane in lieu of actual aircraft operating experience.
23777	OMAC Inc	14 CFR 23.49	To allow certification of OMAC Model I without compliance with the 61-knot stall speed requirements.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23678	Robert G. Rubens	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot under Part 121 operations beyond the date of his 60th birthday. *Denied Sept. 23, 1983.*
23680	Air-Lift Associates, Inc.	14 CFR 135.244	To permit petitioner to use pilots in command for commuter flights without the pilot flying 15 hours with a qualified check pilot prior to assignment on the commuter route. *Denied Sept. 22, 1983.*
23470	Suburban Airlines, Inc. (SAL)	14 CFR 121.667(a)	To reconsider Denial of Exemption 3731 to permit petitioner's pilots in command to take off and continue the flight without a visual flight rule (VFR) flight plan being filed with the nearest FAA communication station as long as the flight operates in VFR weather. *Denied Sept. 26, 1983.*
23527	Edward Caskey	14 CFR 65.91(c)(1)	To permit petitioner to apply for an inspection authorization although he does not meet the 3-year requirements for continuously holding a mechanic certificate. *Denied Oct. 5, 1983.*
23545	Robert J. Rechs	14 CFR 61.39, 61.45, 61.105, and 61.107	To permit petitioner to take a flight test for an airship pilot rating in an experimental aircraft that uses hot air for bouyancy rather than helium. *Denied Oct. 5, 1983.*
23650	Kenneth W. Larson	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot under Part 121 operations beyond the date of his 60th birthday. *Oct. 12, 1983.*
23682	Robert S. Jondahl	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot under Part 121 operations beyond the date of his 60th birthday. *Oct. 13, 1983.*
23675	Supersonic Express Corp	14 CFR Part 91, § 91.55, and Appendix B § 23(k)	To permit petitioner an exemption from the sonic boom restrictions for an unspecified period of time. *Denied Oct. 14, 1983.*
23666	Air Vegas, Inc	14 CFR 135.113, formerly § 135.53	To permit petitioner to operate its Cessna 404 aircraft, configured with 9 passenger seats, in Part 135 passenger-carrying operations with one passenger occupying a pilot seat. *Granted Sept. 22, 1983.*
23543	Amautical, Inc	14 CFR 61.63(d) (2) and (3), and 61.157(d)(1)	To permit petitioner's trainees to complete a practical test in an airplane simulator, as set forth in Appendix A to Part 61, for the issuance of a type rating to be added to any grade of pilot certificate. *Sept. 23, 1983.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
[illegible]	Alaska Airlines, Inc	14 CFR 121.574(e)(1)	To reinstate Exemption 3304, which expired July 31, 1983, to permit petitioner to carry and operate oxygen storage and dispensing equipment for medical use by patients requiring emergency medical attention and being carried as passengers when the equipment is furnished and maintained by hospitals within the State of Alaska, subject to certain conditions and limitations. *Granted Sept. 23, 1983.*
[illegible]	Air Pacific, Ltd	14 CFR portions of Parts 21 and 91	To operate one leased, U.S.-registered Douglas DC–10–30 (DC–10) aircraft, N821L, using an FAA-approved minimum equipment list and Western Airlines' continuous airworthiness maintenance and inspection program. *Granted Sept. 25, 1983.*
NM–9	Lockheed-California Co	14 CFR 25.1303(c)(1), 25.1581, and [illegible]	To permit the amended type certification of the Model L–1011–385–3 with: (1) An overspeed warning tolerance 6 knots greater than allowed by the FAR, (2) a flight manual whose performance section is computed from British Civil Air Regulations criteria rather than FAR criteria, and (3) a takeoff warning system that does not automatically actuate if the airplane's wing flaps or leading edge devices are not within the approved range of takeoff position. *Granted Sept. 22, 1983.*
23745	SwissAir	14 CFR portions of Parts 21 and 91	To allow SwissAir to operate and maintain two Boeing 747 aircraft using an FAA-approved continuous airworthiness maintenance program. *Granted Sept. 27, 1983.*
20618	Ransome Airlines	14 CFR 135.429(a) and 135.435	Extension of Exemption 3166A to permit petitioner to employ Societe Nationale Industrielle Aerospatiale, Seamat Rousseau Aviation, Turbomeca, and Ratier-Figeac, all located in France, and Lucas Aerospace Limited, located in England to perform maintenance, preventive maintenance, and alterations on Nord 262 airplanes listed in the operations specifications of Ransome Airlines subject to conditions and limitations. *Granted Sept. 28, 1983.*
23697	Fischer Bros. Aviation	14 CFR 121.61(c)(1)	To allow Mr. James Sessor to serve as director of maintenance for petitioner, with less than 5 years experience in maintenance of large aircraft. *Granted Sept. 28, 1983.*
NM–8	The de Havilland Aircraft of Canada, Ltd	14 CFR 25.571(e)(2)	To allow petitioner's DHC–8 aircraft to be certificated without meeting the propeller blade impact requirements. *Granted Sept. 30, 1983.*
[illegible]	Japan Air Lines Co	14 CFR 11.53	To amend Exemption 3664 to permit petitioner to operate two additional leased, U.S.-registered B–747 aircraft, N212JL and N213JL, and to extend the exemption to permit petitioner to continue to operate a leased, U.S.-registered Boeing B–747 aircraft using an FAA-approved minimum equipment list in conjunction with an FAA-approved maintenance and inspection program. *Granted Oct. 12, 1983.*
[illegible]	Florida Aircraft Leasing Corp	14 CFR 91.31	Amendment to Exemption 3458 to allow petitioner to operate certain of its aircraft without complying with the zero fuel and landing weight requirements of the operating limitations prescribed for these aircraft in the FAA-approved flight manual, subject to certain conditions and limitations. The amendment would delete Douglas DC–8A, S/Ns 44102 and 44619 and DC–8B SN 44894 from, and add Douglas DC–8A, S/N 44602, to, the exemption. *Granted Oct. 13, 1983.*
17389	Flying Tiger Line, Inc	14 CFR 121.4583(a)(8)	Renewal of Exemption 2520B, which expired March 31, 1983, to allow petitioner to carry dependents of its employees on DC–8 cargo aircraft subject to certain conditions and limitations. *Granted Oct. 3, 1983.*
16920	Transamerica Airlines, Inc. (TIA); World Airways, Inc. (WLD).	14 CFR 65.51, 121.105, 121.107, 121.395, 121.465, 121.533, 121.535, 121.583, 121.595, 121.599, and 121.601.	To reconsider the Partial Grant of Exemption 2947C issued to both petitioners on April 29, 1983 and which would have terminated, as amended, on September 30, 1983, and which permits both petitioners to conduct scheduled passenger service over certain routes, authorized by the Civil Aeronautics Board, utilizing the flight control/dispatch procedures, communication procedures, and enroute servicing and maintenance procedures of Part 121 that are applicable to supplemental air carriers. *Granted Sept. 29, 1983.*
23296	Butler Aviation International Inc	14 CFR 135.165(b)	To permit petitioner to operate its Hawker Siddeley, HS–125–400A, in extended overwater operations with only one Omega long-range navigation system and one high frequency communication system. *Granted Sept. 30, 1983.*
23748	Airpac, Inc	14 CFR 121.411, and 121.413	To use British Aerospace pilots to train petitioner's pilots, check airmen, flight instructors, and flight crew members in the BAe 146 aircraft. That training will be conducted in the United Kingdom. *Granted Oct. 3, 1983.*
23647	Embry-Riddle Aeronautical University	14 CFR 141.65	To permit petitioner to recommend graduates of its certified flight instructor courses for certificates without taking the Federal Aviation Administration flight or written test. *Granted Oct. 4, 1983.*
23664	Parks Industries, Ltd., Inc	14 CFR 21.195	To permit petitioner, who is a manufacturer, to apply for an experimental airworthiness certificate for an aircraft to be used for market surveys and sales demonstrations. *Granted Oct. 5, 1983.*
21961	Deere & Co	14 CFR 91.45	To permit petitioner to conduct certain ferry flights in a Lockheed L–1329 JetStar with one engine inoperative without obtaining a special flight permit for each flight. *Granted Sept. 26, 1983.*
22295	Finnair	14 CFR 21.197	To extend Exemption 3450, which expires Jan. 1, 1984, to allow petitioner to use a special flight permit with continuing authorization for DC–10–30 aircraft N–345HC subject to certain conditions and limitations. *Granted Oct. 17, 1983.*
[illegible]	Pan American World Airways	14 CFR 21.181	To allow the operation of a Boeing B–707–321 aircraft, N880PA, using an FAA-approved minimum equipment list. *Granted Oct. 17, 1983.*
[illegible]	Idaho Helicopters, Inc	14 CFR 43.3(g)	To permit petitioner's pilots, who are appropriately trained and certificated, to remove, inspect, clean as necessary, and reinstall magnetic chip detector plugs in certain aircraft. *Granted Oct. 18, 1983.*

[FR Doc. 83–29187 Filed 10–26–83; [illegible] am]

BILLING CODE [illegible]

Maritime Administration

Maritime Advisory Committee—Working Group on Ship Costs

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Maritime Advisory Committee's Working Group on Ship Costs will meet Thursday, November 10, 1983, at 8:30 a.m. The meeting will be held in The Whitehall Club, 17 Battery Place, 29th Floor, Room 6, New York, New York. The Working Group is developing recommendations relating to vessel capital costs, auxiliary equipment costs and corporate management costs

to assist in making the industry more competitive in worldwide marine transportation. The meeting will be open to the public on a space available basis.

By Order of the Maritime Administrator.

Date: October 21, 1983.

Georgia P. Stamas,

Secretary.

[FR Doc. 83-29177 Filed 10-26-83; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Safety Defect Investigations of Volkswagen Brake Lines and Fuel Pump Electrical Circuits; Public Proceeding Cancelled

The National Highway Traffic Safety Administration has cancelled the public proceeding announced in the **Federal Register** of September 16, 1983 (44 FR 41669) regarding its initial determination of safety-related defects in certain vehicles manufactured or imported by Volkswagen of America, Inc. One initial determination covered the service braking systems in 1975–1980 Volkswagen Rabbits and Sciroccos manufactured in Germany by Volkswagen AG. The other intitial determination covered certain components of the fuel pump electrical circuit in 1977–1980 Rabbits; 1976–1982 Sciroccos; 1980–1982 Jettas; 1976–1980 Dashers; 1980 Volkswagen pick-up trucks; 1980–1982 Volkswagen covertibles; 1976–1979 Audi Fox; and 1980–1981 Audi 4000 vehicles manufactured or imported by Volkswagen of America, Inc. and equipped with gasoline-powered fuel injected engines. The meeting was to be held at 10:00 a.m. on October 24, 1983 in Room 2230 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, DC 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on October 20, 1983.

George L. Parker,

Acting Associate Administrator for Enforcement.

[FR Doc. 83-29179 Filed 10-26-83; 12:30 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular Public Debt Series—No. 31-83]

Notes of Series 2-1985; Interest Rate

October 20, 1983.

The Secretary announced on October 19, 1983, that the interest rate on the notes designated Series Z-1985, described in Department Circular—Public Debt Series—No. 31-83 dated October 13, 1983, will be 10½ percent. Interest on the notes will be payable at the rate of 10½ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-29185 Filed 10-26-83; 8:45 am]

BILLING CODE 4810-40-M

Customs Service

Application for Recordation of Trade Name: "Zahnradfabrik Friedrichshafen, AG."

AGENCY: U.S. Cusoms Service, Department of the Treasury.

ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Zahnradfabrik Friedrichshafen, AG.," used by Zahnradfabrik Friedrichshafen, AG., a corporation organized under the laws of the West Germany, located at D-7990 Friedrichshafen 1, West Germany.

The application states that the trade name is used in connection with the following merchandise manufactured and distributed throughout the world: gear units for machines; machine parts; brake testing stands; testing instruments and parts for land vehicles.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register**.

DATE: Comments must be received on or before December 27, 1983.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Room 2417, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229; (202-566-5765).

Dated: October 21, 1983.

Marilyn G. Morrison,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 83-29186 Filed 10-26-83; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 209
Thursday, October 27, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Consumer Product Safety Commission	1
Federal Communications Commission	2
Federal Election Commission	3
Federal Mine Safety and Health Review Commission	4, 5
Federal Trade Commission	6
National Labor Relations Board	7
National Mediation Board	8

1

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m. Wednesday, November 2, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Open to the public.

MATTER TO BE CONSIDERED:

Complaint Handling Process: FY 83 Report

The staff will brief the Commission on the results of a study of Consumer Complaint Processing in FY 83.

For a recorded message containing the latest agenda information: call 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207; 301-492-6800.

[S-1511-83 Filed 10-25-83; 4:06 pm]

BILLING CODE 6355-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From October 19th Open Meeting

October 18, 1983.

The following item has been deleted at the request of the Office of Commissioner Dawson from the list of agenda items scheduled for consideration at the October 19, 1983 Open Meeting and previously listed in the Commission's Notice of October 12, 1983.

Agenda, Item No., and Subject

Audio—1—*Title:* License Renewal Applications of Pacifica Foundation for Station WPFW (FM), Washington, D.C. *Summary:* The Commission considers a petition to deny filed by the American Legal Foundation.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1504-83 Filed 10-25-83; 10:25 am]

BILLING CODE 6712-01-M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, November 1, 1983, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-1506-83 Filed 10-25-83; 1:41 pm]

BILLING CODE 6715-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 19, 1983.

TIME AND DATE: 10 a.m., Wednesday, October 26, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. U.S. Steel Mining Co., Inc., Docket No. PENN 82-337; Petition for Discretionary Review. (Issues include whether the administrative law judge properly concluded that the operator violated 30 CFR 75.1105, which deals in part with the ventilation of underground battery-charging stations, and that the violation was significant and substantial.)

2. Ralph Yates v. Cedar Coal Co., Docket No. WEVA 82-360-D; Petition for Discretionary Review. (Issues include whether the administrative law judge erred in dismissing the discrimination complaint.)

3. Youghiogheny & Ohio Coal Co., Docket No. LAKE 83-36; Petition for Discretionary Review. (Issues include whether the administrative law judge properly concluded that the operator violated 30 CFR 75.306, which deals with methane accumulations in face areas, and whether the judge appropriately assessed the penalty.)

4. David Hollis v. Consolidation Coal Company, Docket No. WEVA 81-480-D. (Issues include whether the judge erred in dismissing the discrimination complaint.)

5. Mid-Continent Resources, Inc., Docket No. WEST 82-174. (Issues include whether the judge properly concluded that the operator violated 30 CFR 75.511, which deals with safe performance of electrical work on equipment.)

6. Energy Fuels Nuclear, Inc., Docket No. WEST 81-385-M. (Issues include whether the judge erred in concluding that the operator did not violate 30 CFR 57.6-116, which deals with safe ignition of fuses.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

Jean Ellen,

Agenda Clerk.

[S-1502-83 Filed 10-25-83; 10:28 am]

BILLING CODE 6735-01-M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 19, 1983.

TIME AND DATE: 10 a.m., Wednesday, November 2, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the following case:

1. Secretary of Labor, Mine Safety and Health Administration v. Metric Constructors, Inc., Docket No. SE 80-31-DM. (Issues include whether the administrative law judge properly concluded that the operator discriminatorily discharged miners, and whether he awarded the miners appropriate relief.)

TIME AND DATE: Following oral argument.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the above case. It was determined by a majority vote of Commissioners that this meeting be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

Jean Ellen,

Agenda Clerk.

[S-1509-83 Filed 10-25-83; 10:27 am]

BILLING CODE 6735-01-M

6

FEDERAL TRADE COMMISSION

TIME AND DATES: 10 a.m., Tuesday, October 25, 1983.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Meeting with Delegation from Japan Fair Trade Commission led by its Chairman to consider enforcement policies.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information (202) 523–1892; recorded message (202) 523–3806.

[S–1505–83 Filed 10–25–83; 11:55 am]

BILLING CODE 6750–01–M

7

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 10 a.m., Wednesday, 26 October 1983.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue NW.

STATUS: Closed to public observation pursuant to 5 U.S.C. 552b(c)(9)(B) (disclose information the premature disclosure of which would * * * be likely to significantly frustrate implementation of a proposed agency action * * *.)

MATTERS TO BE CONSIDERED: Internal case-handling procedures.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570, telephone (202) 254–9430.

Dated at Washington, D.C., October 25, 1983.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[S–1507–83 Filed 10–25–83; 3:21 pm]

BILLING CODE 7545–01–M

8

NATIONAL MEDIATION BOARD

TIME AND DATE: 2 p.m., Wednesday, November 2, 1983.

PLACE: Board Hearing Room, Eighth floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of October, 1983.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

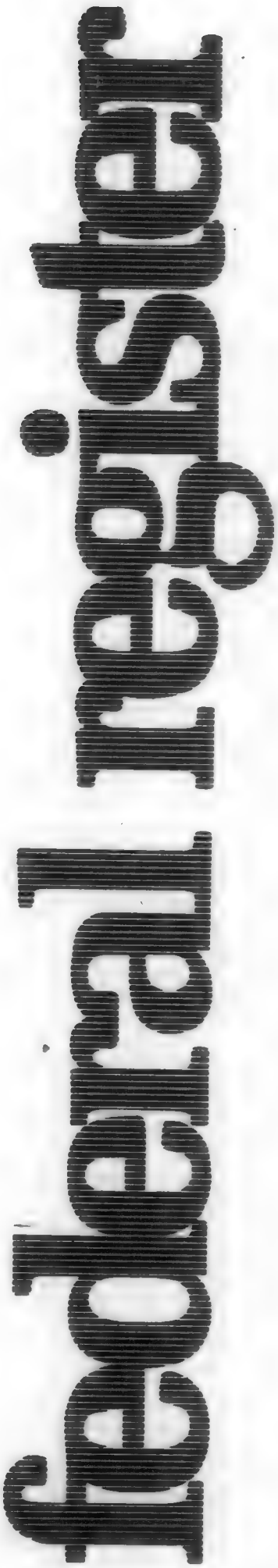
CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, telephone (202) 523–5920.

Dated: October 25, 1983.

[S–1508–83 Filed 10–25–83; 3:25 pm]

BILLING CODE 7590–01–M

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Thursday
October 27, 1983

Part II

Department of Labor

Wage and Hour Division, Employment Standards Administration

Service Contract Act; Labor Standards for Federal Service Contracts

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 4

Service Contract Act; Labor Standards for Federal Service Contracts

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule

SUMMARY: This document provides the final text of regulations on Labor Standards for Federal Sevice Contracts, 29 CFR Part 4, issued under the Service Contract Act. Major revisions to the stayed January 1981 regulations include a two-step determination procedure where the geographic place of contract performance is unknown; elimination of the provisions that made bid specifications principally for services subject to the Act when the principal purpose of the contract as a whole is not for services, and the related provision that made separate janitorial and maintenance specifications on contracts for lease of building space subject to the Act; guidelines indicating when contracts for major overhaul or modification of equipment are subject to the Service Contract Act or Walsh-Healey Act; an exemption for certain contracts for the maintenance and repair of automated data processing equipment including office information systems, and certain scientific and medical apparatus, and for maintenance and repair of office/business machines when such work is performed by the manufacturer or supplier of the equipment; modification of the provisions that covered many timber sales contracts to provide that generally their principal purpose is sale and they are not subject to the Act; modification of the provisions that covered demolition/sales contracts to provide that they are covered if the principal purpose is service but not if it is sale; revisions to ease the procedure for obtaining additional classifications when such actions have been taken in the past; and a limitation of the application of section 4(c) of the Act to situations where the successor contractor performs the contract in the same locality as the predecessor contactor. It has been determined that proposed revisions to cover only contracts performed principally by service employees, and to exempt research and development contracts, should not be made. In addition, significant revisions have been made to the proposed regulations to apply the limitation on section 4(c) where contracts are reconfigured only to situations where the predecessor contracts were for the same or similar work functions performed by substantially the same job classifications; to eliminate the exemption for visitor information services from the exemption for certain concessions serving the general public; and, in the proposal concerning maintenance of wash-and-wear uniforms, to clarify that a requirement of daily washing is special treatment requiring compensation and further, that with respect to section 4(c) wage determinations, the amount negotiated for uniform maintenance is deemed to be the cost thereof.

DATES: Effective date: December 27, 1983. However, also see the **SUPPLEMENTARY INFORMATION** below for dates of applicability.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (telephone: 202–523–8305).

SUPPLEMENTARY INFORMATION: On December 28, 1979, and December 12, 1980, proposals were published in the **Federal Register** (44 FR 77036, 45 FR 81785) to make certain revisions to 29 CFR Part 4, Service Contract Act; Labor Standards for Federal Service Contracts. The purpose of these changes was to revise, update, and clarify this regulation.

On January 16 and 19, 1981, revised Part 4 was published in the **Federal Register** (46 FR 4320; 46 FR 4886) as a final rule. However, pursuant to the President's Memorandum of January 29, 1981, the Department published a notice in the **Federal Register** on February 12, 1981 (46 FR 11971), delaying implementation of this regulation until April 17, 1981. The Department further delayed its implementation until August 15, 1981, in order to permit reconsideration pursuant to Executive Order 12291. See 46 FR 18973 (March 27, 1981); 46 FR 23739 (April 28, 1981); 46 FR 33515 (June 30, 1981); 46 FR 36140 (July 14, 1981). This executive order required the Department to postpone the effective date of major rules promulgated in final form which had not yet become effective; the order required the Department to reconsider those rules to ensure, *inter alia*, that the rules maximize the net benefits to society at the least net cost, that the rules are clearly within the authority delegated by law and consistent with congressional intent, and that any factual conclusions upon which the rule is based have substantial support in the agency record, with full attention to comments of the public in general and of persons directly affected in particular.

On August 14, 1981, after reconsideration in accordance with Executive Order 12291, a new regulatory proposal substantially revising several provisions of the January 1981 regulation, was published in the **Federal Register** (46 FR 41380) and the previously published rule was further postponed until action could be taken on the new proposal (46 FR 41044).

Interested persons were affored the opportunity to submit comments to the Wage and Hour Division within 60 days after publication of the proposal in the **Federal Register**. Subsequently, on October 13, 1981, a notice was published in the **Federal Register** (46 FR 50397) extending the time for public comment until December 1, 1981, in order to leave the record open while public hearings were conducted on the proposed rule at Merritt Island, Florida, on November 19 and 20, 1981. *See* 45 FR 51405 (October 20, 1981).

Comments were received from approximately 1,600 interested parties, including Members of Congress, contracting agencies, contractor associations, contractors, labor organizations, universities, business organizations, and many individuals, particularly employees covered by the Act. Contractor associations and business organizations submitting comments included the Computer and Business Equipment Manufacturers Association (CBEMA), the Scientific Apparatus Makers Association (SAMA), the Natonal Council of Technical Service Industries (NCTSI), the Council of Defense and Space Industry Associations (CODSIA), the United States Chamber of Commerce (C of C), the American Electronics Association (AEA), and the National Forest Products Association (NFPA).

Among the individual firms who commented were International Business Machines Corporation, Texas Instruments Incorporated, Hewlett-Packard Company, Honeywell Information Systems, Inc., Eastman Kodak Company, Sperry Corporation, and Xerox Corporation.

A number of colleges and universities submitted comments, including Yale University, the University of Chicago, Harvard University, and Princeton University.

Labor organizations commenting on the proposal included the American Federation of Labor-Congress of Industrial Organizations (AFL–CIO), the

International Association of Machinists and Aerospace Workers (IAM), the Laborers' International Union of North America (LIUNA), the United Brotherhood of Carpenters and Joiners of America (UBC), the International Alliance of Theatrical Stage Employees and Moving Picture Machine Operators of the United States and Canada-Motion Picture Laboratory Technicians Local 780 (IATSE), the International Brotherhood of Electrical Workers (IBEW), the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Teamsters), the Service Empolyees International Union (SEIU), the Seafarers International Union (SIU), the United Plant Guard Workers of America (UPGWA), and others. Among those Federal agencies submitting comments were the Department of Defense (DOD), the Department of Energy (DOE), the National Aeronautics and Space Administration (NASA), the General Services Administration (GSA), the Office of Advocacy of the Small Business Administration (SBA), and the Department of the Interior.

The following is an analysis of the provisions for which substantive changes were proposed in the final regulations published on January 16, and 19, 1981, as well as discussion of any additional provisions on which major comments were received and suggestions for revisions made. The analysis includes an outline of the history of the provision, including (a) its contemporaneous construction, (b) a description of the corresponding provision (if any) in the existing regulations, (c) current practice, (d) a description of the corresponding provision (if any) in the January 1981 regulations, and (e) a description of the provision proposed on August 14, 1981. This is followed by a description of the major comments received. Finally, the analysis explains the final decision made. With respect to each issue involving statutory interpretation, we have taken into consideration the principle that the Service Contract Act is remedial legislation which should be broadly construed to effectuate its purpose, but at the same time recognizing that this rule cannot defeat the intent of Congress or the evident meaning of the Act. 3 Sutherland ¶60.01 (1974) ed.).

Sections 4.1b(a), 4.10(b)(2), 4.163(c)—Effective Date of Variance Decisions

Section 4(c) of the Act provides generally that every contractor under a contract which succeeds a contract for substantially the same services is required to pay its service employees at least the wages and fringe benefits provided in the collective bargaining agreement, if any, which were applicable to the preceding contract. An exception is provided, however, if the collective bargaining agreement was not reached as a result of arm's-length negotiations or if the Secretary finds after a hearing that the negotiated wages and benefits are substantially at variance with those prevailing in the locality. On occasion, a decision that there is a substantial variance is not reached and a new wage determination issued until after contract award and commencement of performance. The question which arises is whether that wage determination should be retroactive to commencement of performance.

History of Provision

(a) Contemporaneous construction—It has generally been the Department's practice, on the rare occasions when this issue has arisen, to issue wage determinations retroactive to commencement of performance where the result is to increase the wages which otherwise would have been required, but to issue wage determinations prospectively only where there is a decrease in wages so as not to recoup wages from the workers.

(b) Existing regulations—There is no corresponding provision.

(c) Current practice—Same as (a).

(d) January 1981 regulations—Provided that all wage determinations issued after a finding of substantial variance would be effective as of the date of the decision of the administrative law judge or, if appealed, the Board of Service Contract Appeals.

(e) Proposed regulations—Same as (d).

Comments

DOE and NASA expressed concern over the timeliness of substantial variance decisions under section 4(c) of the Act if, as proposed, a new wage determination issued as the result of a finding of a substantial variance does not become applicable until the date of the decision of the Administrative Law Judge, or if appealed, the decision of the Board of Service Contract Appeals. They commented that, unless the decision is made retroactive to the start of the contract, the regulations needed to provide some time limits to insure the expeditious handling of substantial variance proceedings so that the process would be effective in rectifying serious imbalances between collective bargaining agreements and locally prevailing wage rates and fringe benefits.

Discussion of Final Rule

As section 4.163(c) explains, the legislative history of the 1972 amendments makes clear that the collectively bargained "wages and fringe benefits shall continue to be honored * * * unless and until the Secretary finds, after a hearing, that such wages and fringe benefits are substantially at variance with those prevailing in the locality for like services" (S. Rept. 92–1131, 92nd Cong. 2d Sess. 5). Therefore, it is the Department's view that retroactive wage determinations, as suggested by the agencies and as practiced by the Department in the past in some circumstances, are not consistent with the Act. It is also our view that a uniform rule (unlike that observed in the past) is appropriate, and that neither the contractor nor the workers should be penalized by retroactive application of the new wage determination. Accordingly, sections 4.1b(a) and 4.163(c) are adopted as proposed with minor clarification.

With respect to the comments regarding time limits for the handling of substantial variance hearings, we note that certain time limits are provided in this regulation as well as in 29 CFR Parts 6 and 8 in order to facilitate the expeditious handling of substantial variance hearings. It appears that the imposition of stricter time limits on the hearings themselves would not be practical because of great variations in the scope and complexity of the issues which often need to be considered. In response to this concern, however, we are amending section 4.10(b)(2) to provide that, within 30 days, the Administrator will respond to a request for a substantial variance hearing or notify the requesting party of a delay if additional time is necessary to consider the matter.

Sections 4.3, 4.4, and 4.53—Locality Basis of Wage Determinations When Place of Contract Performance Is Unknown at Time of Bid Solicitation

Section 2 (a) of the Act requires that the minimum monetary wages and fringe benefits specified in a wage determination be "in accordance with prevailing rates * * * in the locality." Since the Act does not define "locality", a problem arises with respect to those contracts where, due to the nature of the procurement, the place of contract performance (usually a contractor's plant) cannot be established at the time of bid solicitation.

History of Provision

(a) Contemporaneous construction—Initially, following the recognition of the problem, the locality of the government installation or facility issuing the bid solicitation was the preferred locality, regardless of where the contract would be performed. This approach was overturned in *Descomp v. Sampson*, 377 F. Supp. 254, 266 (D. Del 1974), in which the court concluded that the term "locality" as used in the Act "refers to the area where the services are actually performed." The Department then adopted a composite approach under which the locality encompassed the entire geographic area in which, based on the nature of the procurement, the contract would likely be performed. Thus, the composite "locality" might encompass several states or even be nationwide in scope. However, in *Southern Packaging and Storage Co., Inc. v. United States*, 618 F.2d 1088 (4th Cir. 1980), the Fourth Circuit held that nationwide composite wage determinations normally are not permissible and required in that case that DOL issue separate wage determinations for each potential contractor's locality. The court further postulated that nationwide wage determinations might be permissible "in the rare and unforeseen service contract which might be performed at locations throughout the country and which would generate truly nationwide competition."

(b) Existing regulations—A general discussion of locality is set forth at section 4.163, but there is no specific provision concerning locality where place of performance is unknown.

(c) Current practice—As a result of *Southern Packaging*, when the place of performance is unknown at the time of bid solicitation, separate wage determinations are generally issued whenever prospective bidders are identified in advance by the contracting agency. When no such information is provided, or the number of prospective bidders is too numerous, a composite wage determination is issued.

(d) January 1981 regulations—Provided generally at section 4.53 that the proper locality shall be "defined in each such [wage] determination upon the basis of all the facts and circumstances pertaining to that determination," ordinarily limited to a particular county or metropolitan area, but in some circumstances a State or a region. In addition, the regulation noted that the court in *Southern Packaging* held that normally a nationwide wage determination would not be permissible. There was no specific provision in these regulations concerning the appropriate locality where the place of performance cannot be ascertained at the time of bid advertisement.

(e) Proposed regulations—Provided the same general provision concerning locality as the January 1981 regulations. In addition, specified at section 4.4(b) that where the place of performance is unknown at time of bid advertisement, "wage determinations will generally be issued for each locality identified by the [contracting] agency" under a two-step procedure, the first step being identification by the agency of prospective bidders and their localities, and the second, issuance of wage determinations for the locality of each bidder. The proposal provides that in "extraordinary circumstances," where the two-step procedure is not practicable, the procedure may be altered upon the request of the contracting agency and wage determinations for one or more composite localities may be issued.

Comments

The concept of a two-step procurement procedure was supported generally by DOD, GSA, NCTSI, and the C of C. DOD suggested that the former one-step procedure should be available at the contracting agency's option, utilizing the locality of the procuring agency. NCTSI, on the other hand, stated that exceptions should never be allowed.

The proposal was opposed by IAM, LIUNA, and SEIU, which asserted that a two-step procurement procedure would grant a competitive advantage to bidders in "low wage" areas and channel contract awards to those areas. The unions cited legislative history which they interpreted as being contrary to a two-step procurement procedure. They also cited the rejection by a House oversight subcommittee in 1974 and 1975 of a two-step procedure, as well as DOL's 1976 withdrawal of proposed regulations which would have established such a procedure. The SEIU suggested that instead of the two-step procedure, the Department should utilize the locality of the procuring agency or the predecessor contractor.

The Department of Interior objected to a two-step procedure for advertised solicitations on the ground that excessive delays would occur. It recommended the procedure be limited to negotiated procurements only.

Discussion of Final Rule

The Department continues to be of the view that the proposed two-step procedure is the best means of addressing the problem of procurements where the place of performance is unknown. This new procedure is designed to insure that the successful bidder will be required to pay at a minimum the rates prevailing in the geographic location where the work is performed. Such a process is consistent with the purpose of the Act to prevent the importation of wage rates from other areas and disruption of labor markets which would occur under other methods, such as the locality of the procuring agency or the predecessor contractor.

Central to the unions' contention that a two-step procedure is not in accord with the Act's remedial purpose is their belief that the proposal would tend to channel contract awards to low wage areas. However, while the legislative history reflects an intent to apply a flexible and realistic definition of the term "locality", Congress did not consider the problem of defining "locality" in situations where the place of performance is unknown. Certainly there is nothing in the legislative history to suggest that Congress intended that service contracts would not be awarded and employees would not perform work on contracts in areas where lower wages prevail. Nor does the legislative history evidence a congressional intent that potential bidders in widely divergent locations should be subject to a single "prevailing" wage standard for all communities across the country, each of which has its own distinct wage patterns. Rather, the concept that wage determinations should reflect wages being paid in the area where the work is performed is basic to prevailing wage legislation, to prevent Government contracts from disrupting local wage standards.

Furthermore, the House subcommittee oversight hearings cited by the unions are not considered to be evidence of the intent of Congress at the time of enactment, since they transpired well after the passage of the original Act and the 1972 amendments, and did not even purport to reflect the views of that entire, subsequent session of Congress. In addition, DOL's 1976 decision not to adopt a two-step procedure does not preclude it from reviewing the matter and reaching a different conclusion at this time, particularly in light of the subsequent decision in *Southern Packaging*, discussed above. That decision not only required issuance of two-step wage determinations in that case, but also necessitated a reexamination of the Department's policies.

While the Department recognizes that the two-step procedure will place an administrative burden on contracting agencies and DOL because of the need

to issue two solicitations and the possible issuance of multiple wage determinations, the Department is of the view that this increased workload burden would normally be manageable. The problem of the proper locality to utilize when it is not known in advance where a service contract will be performed arises in relatively few procurements per year. For example, in fiscal year 1979, out of a total of about 36,000 contracts for which wage determinations were issued by the Department, some 700 involved unknown places of performance. See *Southern Packaging, supra* at 1091. Careful advance planning should avoid long delays in procurements. Moreover, the regulations provide that if situations arise where a two-step procurement procedure is impracticable, other appropriate methods of issuing wage determinations can be used.

Althouth recommended modifications to the two-step procedure were closely reviewed, the Department has concluded that the proposed language provides the most appropriate regulatory procedure. It is accordingly adopted with a clarification that in situations where the two-step procedure is not practicable, the Department may use a modified procedure after consultation with the contracting agency.

Section 4.6(b)(2)—Conformance of Wage Rates for Classifications of Employees Not Listed on a Wage Determination

Since the SCA requires the issuance of prevailing wage rates for the various classes of employees performing on a contract, a method of establishing rates is needed for those classes of employees which are not listed on an applicable wage determination (WD) because no wage data regarding such classes are available or because the contracting agency did not request a rate for such classes.

History of Provision

(a) Contemporaneous construction—The Act has always been interpreted to permit such a procedure. The method initially chosen is in the existing regulations (paragraph (b) below).

(b) Existing regulations—Provide that any class of employee to be employed on the contract which is not listed on the applicable WD must be classified (i.e., "conformed") by the contractor so as to provide a reasonable relationship between the wage rate of that class and the listed classes. Further, the contractor must pay such conformed classes the wage rates and fringe benefits agreed to by the interested parties, who are the contractor, the employees or their representative (normally a collective bargaining agent) and the contracting agency. Such wage rates and fringe benefits become an enforceable part of the WD. In case of disagreement among the interested parties, the matter is submitted to DOL for resolution.

(c) Current practice—Same as (b).

(d) January 1981 regulations—Provided clearer rules for the conformance process, including a requirement that the procedure be completed within 30 days of initial work on the contract by the unlisted class of workers. In addition, these rules required that all conformance actions be submitted to DOL for review, accompanied by evidence in writing of the agreement of the employees (where the action is not submitted as a dispute).

(e) Proposed regulations—Revised the January 1981 regulations to provide an indexing procedure to simplify the conformance procedure where the rates were previously conformed, allowing a contractor to apply a mathematical formula to the previously conformed rate (increasing the previously conformed rate by an amount equal to the average percentage increase between the rates in the previous WD and those in the current WD) without obtaining DOL approval or the agreement of the workers involved. In addition, under section 4.51(c) of the proposal, the Department would establish rates by the increased use of "slotting" techniques for many classifications which previously required conformance, thereby reducing the need for conformance in the first place. Under this technique, wage rates for classifications for which survey data do not exist would generally be determined by a comparison with classifications of similar job duties or skill for which data are available.

Comments

NCTSI maintained that an employee's acceptance of employment of a contract should be conclusive evidence of employee assent to a wage rate. NCTSI and DOD argued that a written agreement regarding a conformed rate should be unnecessary. DOD, NCTSI, and CODSIA commented that the provision providing for DOL review of conformances agreed to by the interested parties is unnecesary. The IAM, the Teamsters, LIUNA, and IATSE contended that the revised procedures deemphasize employee participation in the conformance process.

Dissussion of Final Rule

We have carefully reviewed the proposed conformance procedure concerning required written employee agreement of the conformed rates. The Department continues to believe that the participation of affected employees in the conformance process is necessary to avoid problems which have occurred when contractors have not considered them part of the process. We have concluded, however, that requiring specific written evidence of employees' agreement is not necessary to achieve that purpose, so long as the position of the employees is made clear. In view of the conclusion, it would be contrary to the Department's mandate under the Paperwork Reduction Act to impose a new and unnecessary paperwork burden on the public. Instead, the producer is simplified to require the employer to supply general information regarding the agreement or disagreement of the employees to the conformed rate.

The Department disagrees with the union' comments that indexing procedures will fail to protect employee rights. Although the procedure provides for the unilateral application of a mathematical formula by the contractor, its utilization will ensure that unlisted classes will receive the same wage rate adjustment as the listed classes of workers. Since employees' rights are therefore protected, it is unnecessary to impose the burden of reporting or to go through the conformance procedure. It is also the Department's view that the use of both slotting and indexing should reduce the delays and disputes occuring under the current conformance procedures.

However, in order to ensure that appropriate conformance action is taken, the proposal providing for DOL review of all conformances except those accomplished by indexing will be adopted. Such review, together with the clarifications in the process contained in the regulation, should rectify significant past enforcement problems, and assure observance of the contract conforming requirements. In the past, serious compliance problems where conformance actions were not taken or were not appropriate were frequently not discovered until an investigation was already underway, with the result that the compliance review was unduly protracted.

Section 4.6(r) and 4.187(f)—Resolution of Disputes Arising Under the Act

From time to time, questions have arisen concerning the extent of the Department's authority vis a vis the contracting agencies to resolve disputes concerning SCA labor standards.

History of Provision

(a) Contemporaneous construction—It has always been the Department's position that by virtue of its authority under section 4 of the Act, its procedures are the exclusive procedures for resolution of disputes arising under the Act, and that the agency boards of contract appeals have no such authority.

(b) Existing regulations—Provide procedures for resolution of disputes concerning violations of the Act in 29 CFR Part 6. See also existing section 4.189.

(c) Current practice—Same as (a) and (b) above.

(d) January 1981 regulations—Section 4.187 stated that contractor appellate rights concerning violations are contained in Part 6, and explicity provided that appeals in such matters have not been delegated to the contracting agencies and cannot be appealed under the contract disputes clause.

(e) Proposed regulations—Same as January 1981.

Comments

The DOD questioned whether the Department's procedures pertaining to disputes regarding violations of the Act in this section may be in conflict with the requirements of the Contract Disputes Act of 1978.

Discussion of Final Rule

Section 14 of the Contract Disputes Act of 1978 sets forth specific amendments made by Congress to existing statutes. Significantly, no change, repeal, amendment, or reference was made to the SCA. Therefore, in our view, the Department's statutory authority to resolve disputes, pursuant to section 4(a) of the SCA, is not diminished by section 14 of the Contract Disputes Act. This conclusion is corroborated by section 6(a) of the Contract Disputes Act which states in pertinent part that "the authority of this subsection shall not extend to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another Federal agency is specifically authorized to administer, settle, or determine."

To ensure effective and consistent administration, the authority to resolve disputes under SCA has always resided in the Department of Labor, the agency which has, in addition to the statutory enforcement authority, the expertise in the law and the regulations. In the Department's view, no change in its exercise of authority would be appropriate without an explicit statutory provision or statement of Congressional intent.

Accordingly, § 4.187(f) is adopted as proposed with minor clarification. Furthermore, to avoid any confusion or misunderstanding by contractors in this regard, a new § 4.6(r) has been added to the contract clause to provide that all labor standards disputes under the contract will be resolved pursuant to DOL procedures.

Section 4.8—Notice of Awards

In the past, a mechanism has been considered necessary to advise DOL of contract awards to assist in its enforcement program.

History of Provision

(a) Contemporaneous construction—A provision that agencies notify DOL of contract award has been considered within DOL's regulatory authority.

(b) Existing regulations—Require notification to DOL of contracts subject to the Act in excess of $2500.

(c) Current practice—Same as (b).

(d) January 1981 regulations—Same as (b).

(e) Proposed regulations—Same as (b).

Comments

None received.

Discussion of Final Rule

The Wage and Hour Division is now receiving data identifying contract awards subject to the SCA directly from the Federal Procurement Data System (FPDS).

It will therefore be unnecessary for those contracting agencies which submit data on the award of contracts subject to the SCA into the FPDS to continue to furnish Standard Form 99, Notice of Award of Contract, to DOL.

Accordingly, section 4.8 is amended to provide that a Standard Form 99 need not be submitted to DOL for contract awards subject to the SCA if the agency submits Standard Form 279, FPDS Individual Contract Action Report (or its equivalent) to the FPDS, or if the contracting agency makes other arrangements with the Wage and Hour Division for notifying it of such contract awards.

In the interest of reducing the paperwork and reporting burdens further, the regulations is also revised to require the submission of Standard Form 99 only for contracts in excess of $10,000. This regulatory action in no way alters the statutory requirement that contracting agencies incorporate the proper stipulations in all contracts exceeding the coverage threshold of $2,500.

We encourage those agencies which do not submit contract award data to FPDS to contact the Wage and Hour Division for making such other arrangements so that we may ultimately discontinue the use of Standard Form 99 in its entirety. We estimate the elimination of Standard Form 99 will result in an annual cost savings to the Federal Government of approximately $410,000, without loss of employee protection.

Section 4.11—Arms's Length Proceedings

Section 4(c) of the Act provides that a successor contractor would not be bound by the wage and fringe benefit provisions of a predecessor contractor's collective bargaining agreement if that agreement was not reached "as a result of arm's-length negotiations."

History of Provision

(a) Contemporaneous construction—The provision has rarely been construed, but has been interpreted to refer to collusive agreements intended to take advantage of the SCA scheme.

(b) Existing regulations—Contain only passing references to this provision.

(c) Current practice—Same as contemporaneous construction. Although no explicit hearing procedures exist, cases on this issue have been referred to administrative law judges for hearing.

(d) January 1981 regulations—Provided a procedure for determination of whether arm's length negotiations occurred and interpreted the provision to exclude arrangements with an intent to take advantage of the scheme, as well as situations where the NLRB has determined that "good faith" bargaining did not occur.

(e) Proposed regulations—Similar to January 1981 regulations, but also provided NLRB decisions on "good faith" bargaining may be used as guidance.

Comments

IBEW, SEIU, IAM, and NCTSI objected to the provision in the proposed regulations that decisions under the National Labor Relations Act (NLRA) regarding "good faith" bargaining may be used as guidance in determining whether "arm's length" negotiations have occurred. These commentators asserted that standards of "good faith" bargaining under the NLRA are not proper criteria for deciding questions of "arm's length" negotiations under the SCA.

IBEW presented a detailed analysis of the legislative history of the 1972

Amendments which added section 4(c) to the Act. The union noted that the original bill to amend the Act (H.R. 11884) included a "negotiations in good faith" standard. However, IBEW also pointed out that in subsequent testimony before a House Subcommittee, the Department of Labor stated that the "good faith" standard used under the NLRA assumed a situation where adversity between the parties is normal and difficulties can be expected in getting them to bargain in good faith, whereas section 4(c) of the SCA would foster exactly the opposite atmosphere, with difficulties in assuring that the parties *will* bargain at arm's length. Following this testimony, a substitute bill (H.R. 15376) which contained an "arm's length" standard instead of a "good faith" standard was introduced, and ultimately enacted.

Discussion of Final Rule

There does not appear to be any dispute that a mechanism is needed to determine whether arm's length negotiations have occurred.

After further consideration, however, it has been determined that the comments that decisions under the NLRA regarding "good faith bargaining" are inappropriate to determinations of whether "arm's length" bargaining occurred under the SCA are well taken. As the IBEW comments indicate, the "good faith" requirement under the NLRA is useful to prevent overly antagonistic relationships between bargaining parties, and dbes not address the potential problems under section 4(c) of the SCA, whereas an "arm's length" requirement is necessary to prevent so-called "sweetheart" agreements conferring benefits not in the public interest.

Accordingly, the final regulation is modified to remove the reference to "good faith" determinations under the NLRA.

Section 4.51(b)—Determination of Prevailing Rates

Except in situations where the predecessor contractor's employees were covered by a collective bargaining agreement, the Act requires payment of those rates determined by the Secretary to be prevailing for the various classes of service employees in the locality.

History of Provision

(a) Contemporaneous construction—In practice, DOL has interpreted the prevailing wage as the wage paid the majority of employees in the class, and if there in no majority, then the median or mean wage.

(b) Existing regulations—No definition of prevailing wage is set forth in the regulations. A general provision is set forth at section 4.164.

(c) Current practice—Same as (a). Most wage determinations are derived from surveys conducted by the Bureau of Labor Statistics.

(d) January 1981 regulations—Provided that wages would be determined as set forth in (a) above, stating that the "median" is the preferred rule over the average.

(e) Proposed regulations—Same as (d), but also provided for "slotting" of wage rates for classifications where there is not sufficient wage data. See discussion of § 4.6(b)(2), Above.

Comments

NASA, DOE, and the C of C suggested that wage determinations should provide for the payment of a range of rates to the various employees within a given classification. These commentators argued that the issuance of a single prevailing wage rate for each classification does not reflect actual industry pay practices. The C of C also recommended as an alternative that wage determination rates be based on the average of the lower 50 percent of the wages paid. The SBA Office of Advocacy commented that single rate paid to a majority of workers in a classification should not be adopted as prevailing, and that the weighted average rate should be used in all cases.

Discussion of Final Rule

After consideration of the comments, the Department has concluded that the rate range and similar proposals would be contrary to the statutory intent and, therefore, could not be adopted through regulation. Establishment of a wage determination with a rate range would have the practical result of permitting contractors to pay the lowest wage, and not the "prevailing" wage. Although Congress was obviously aware that different employers compensate their employees at various rates of pay, it nevertheless established under the SCA (as it had previously under the Davis-Bacon Act) the principle that a single prevailing wage rate established for each particular classification is the minimum rate permitted to be paid to all employees working in that classification on a Government contract.

Regarding the SBA comment on the use of a "majority" rate and that a weighted average should be used in all cases, the Department believes that the term "prevailing" contemplates that wage determination rates mirror, to the extent possible, those actually paid in appropriate localities. Thus, the Department has concluded that its longstanding policy of designating a "majority" rate as the "prevailing" rate is appropriate as a definition of first choice under the SCA. In the absence of a majority rate, it is the Department's view that the median or mean (weighted average) is appropriate; however, it is the Department's view that generally the median is a more reliabe indicator of central tendency and therefore the preferred rule. On the other hand, the mean may be more appropriatc where the wage distribution is skewed, or where there are statistical reliability and consistency problems associated with the wage sample.

Similarly, to use the average of the lower 50 percent of the wages paid as suggested by the C of C would arbitrarily exclude the upper 50 percent and therefore would not be consistent with the prevailing wage concept in the Act.

Accordingly, § 4.51(b) is adopted as proposed.

Section 4.55(a)—Review and Reconsideration of Wage Determination—Review by the Administrator

History of Provision

(a) Contemporary Construction—An informal procedure has always been available to seek review of wage determinations.

(b) Existing regulations—No review procedure is set forth in the rules.

(c) Current practice—Same as (a).

(d) January 1981 regulations—Specifically provided for review of wage determinations by the Administrator, to be accomplished within 30 days unless the Administrator advised that more time was necessary. However, no request for review would be considered after bid opening or commencement of a negotiated contract. Additional appeal was provided to the Secretary.

(e) Proposed regulations—Same as (d) except that appeal would be to the Board of Service Contract Appeals pursuant to 29 CFR Part 8, separately issued concurrently with this rule.

Comments

Several contracting agencies recommended more stringent time limits for requests for reveiw of wage determinations, in order to assure that procurement schedules are not disrupted.

Discussion of Final Rule

The Department has an obligation to ensure the issuance of proper wage determinations. Since requests for proposals or commencement of

negotiations often occur many months before contract award or commencement, tying the cut-off date for requests for review of a wage determination to such actions, as several agencies proposed, would provide too severe a limitation on the time available for interested parties to request such reviews. However, the Department recognizes the need to minimize disruption of procurements. Therefore, this paragraph is revised to clarify that there will be no review of wage determinations after bid opening or later than 10 days before commencement of performance of a negotiated procurement. Interested parties will need to submit requests for review in sufficient time for the Administrator to accomplish the review to the wage determination by that date.

Sections 4.110, 4.132—Coverage of Separate Contract Specifications Principally for Services

Section 2(a) of the Service Contract Act provides as follows: "Every contract (and any bid specification therefor) entered into by the United States * * *, the principal purpose of which is to furnish services in the United States through the use of service employees shall contain the following: * * *."

In interpreting the coverage of the Act, the issue arises whether the Act applies to separate service requirements in contracts principally for some other purpose, such as supply or construction. More specifically, the issue is whether the parenthetical language, "(and any bid specification therefor)," should be interpreted as referring to individual line items which are principally for services in a contract, or to the bid solicitation documents and the resulting contract as a whole. Under the first interpretation the Act would apply to any line item for services in a contract, even if the contract as a whole were not principally for services. Under the second interpretation, the Act would apply only to contracts (and their solicitation documents) which as a whole were principally for services.

History of Provision

•(a) Contemporaneous construction—As a general matter the Department's contemporaneous rulings under SCA provided that contracts were covered if they were principally or "chiefly" for services and that if any work under those contracts was subject to the Walsh-Healey Act, it was exempt. However, for contracts of a hybrid nature involving separate service and non-service requirements or specifications, SCA was considered to apply to the separate specifications principally for services without regard to the purpose of the contract as a whole.

(b) Existing regulations—The pertinent sections addressing coverage are 29 CFR §§ 4.110, 4.111, 4.122, 4.131(a), 4.116(c), 4.132, and 4.134(b). As a general matter, nearly all of these sections refer to "contracts" and their principal purpose. For example, section 4.111 states that, "[i]f the principal purpose is to provide something other than services of the character contemplated by the Act and any such services which may be performed are only incidental to the performance of a contract for another purpose, the Act does not apply." Only §§ 4.116(c) and 4.132 use the term "specification." Section 4.132, entitled "Services and other items to be furnished under single contract," provides that "[i]f the principal purpose of a contract specification is to furnish services through the use of service employees within the meaning of the Act, the contract to furnish such services is not removed from the Act's coverage merely because, as a matter of convenience in procurement, it is combined in a single contract document with specifications for the procurement of different or unrelated items." It then provides as an example a situation where bids are invited separately for supply of new typewriters and repair of existing typewriters, under separate bid specifications, and because one company is the successful bidder on both, the specifications for each are then combined in one contract for convenience. In such a case the regulation provides that the "principal purpose" test would be applicable to the specifications for maintenance and repair, rather than the combined contract. A similar provision in § 4.116(c) concerns separate specifications for services and construction, combined in one contract for the convenience of the Government.

(c) Current practice—Separate line items or specifications for services in contracts which are not otherwise principally for the purpose of furnishing services are considered covered by the Act. However, that interpretation is not clearly articulated in the current interpretative regulations (see § 4.132). Therefore, many contracting officers did not include SCA requirements in contracts which were principally for the purpose of purchasing or leasing equipment, but which include the maintenance and repair of that equipment; this was particularly true of GSA contracts for ADP equipment. When the issue of the correctness of the Department's interpretation surfaced publicly for the first time in 1977, GSA and the ADP industry strongly disagreed with the Department's position, claiming that it was contrary to the statutory language, congressional intent, and the Department's regulations. See the discussion of the Department's special treatment of such contracts below at § 4.123(e) (1), (2), and (3). Subsequently, the General Accounting Office issued a report to Congress on application of the SCA to the ADP industry which strongly attacked the merits of the Department's position on its interpretation of the "bid specification" language of the act. See Comp. Gen. Rept. Nos. HRD–80–102, Sept. 16, 1980 and HRD–80–102(A), March 25, 1981.

(d) January 1981 regulations—New section 4.110(b) stated that the Act applied to separate contract specifications for services, even where the contract as a whole was not principally for services, and that the term "contract" included separate line items for service specifications. Similar provisions were included in other sections, particularly in §§ 4.1a(e) and 4.132.

(e) Proposed regulations—Section 4.110(b) of the January 1981 regulations was eliminated from the proposal, and § 4.132 was revised to make provide that the Act applies only if services are the principal purpose of the contract as a whole. Conforming amendments were made to other sections.

Comments

The Department of the Interior, CBEMA, the NFPA, and others favored the proposed legal interpretation which would apply the Act only where the contract *as a whole* is principally for the furnishing of services. They commented that there is nothing in the legislative history of the Act to indicate the Act is intended to apply to anything but entire contracts whose principal purpose is to provide services. The NFPA asserted that the statutory phrase "(and any bid specification therefore)" refers to the inclusion of wage determinations in bid solicitations and not to the coverage of separate line items or work requirements within a contract.

The AFL–CIO, SEIU, LIUNA, IAM, UPGWA, SIU, and IATSE argued that the proposal was offered without any rational and ignores the statutory language and intent of section 2(a) of the Act, as well as §§ 4.116(c) and 4.132 of the current regulations. Therefore, they state that the proposal would in effect, repeal the provision of the Act regarding "any bid specification therefor." LIUNA and IAM argued that the proposed

interpretation allows contracting agencies to evade their responsibilities under the Act by merging various unrelated activities into one contract.

Discussion of Final Rule

The Department has carefully reexamined its position regarding the scope of coverage of the Service Contract Act. After consideration of the question, the Department has concluded that the reference in the Act to "bid specification" did not extend the Act's coverage to individual specifications principally for services within contracts principally for another purpose.

It is the Department's view that, like the reference in the Davis-Bacon Act to "advertised specifications," the reference to "bid specification" is not a coverage provision, but was intended to mean only that the advertised specifications on which contractors bid, as well as the resultant awarded contract, shall contain the required wage determination provisions. This interpretation is consistent with the Act's statutory language and its legislative history.

First, the language of the parenthetical phrase "(and any bid specification therefor)" on its face refers to a *bid* specification for a contract, rather than to individual specifications within the contract itself; to interpret the phrase as referring only to line items of a contract simply reads the word "bid" out of the statute.

In addition, other provisions of the Act are inconsistent with the theory that the Act applies to individual specifications of the contract. Thus section 2(b)(1), which provides for minimum wage payments on covered contracts, applies only to "any contract with the federal government the principal purpose of which is to furnish services through the use of service employees * * *." No mention is made of separate specifications or provisions within a contract whose principal purpose as a whole is not "to furnish services." Similarly, section 8(b) of the Act defines a "service employee" as "any person engaged in the performance of a contract * * * the principal purpose of which is to furnish services * * *." Again, no reference is made to specifications or line items of a contract. Moreover, subsections (1), (2), and (4) of section 2(a) refer to "the contract" without reference to specifications of line items.

The legislative history of the statute supports this interpretation (which had been explicit in the 1963 bill, not enacted, H.R. 1678, 88th Cong., 2d Sess.). Thus the Act's sponsor, Congressman O'Hara, explained in floor debate on the bill enacted: "The bill is aplicable to advertised or negotiated contracts, in excess of $2,500, the principal purpose of which is for the furnishing of services through the use of service employees, as defined in the bill. * * * *Provisions regarding wages and working conditions. must be included in these contracts and bid specifications.* (Cong. Rec. (Daily) H–24387 (September 20, 1965). (Emphasis added.)

Furthermore, the House report on the Service Contract Act, House Report No. 948, 89th Cong., 1st Sess. (1965), confirms that the Act was intended to cover entire contracts the principal purpose of which was to supply services. The House Report on the bill states at p. 3 that "[t]he bill is applicable to advertised or negotiated *contracts, in excess of $2,500, the principal purpose of which is for the furnishing of services through the use of service employees,* as defined in the bill." (Emphasis added.) This is fully consistent with the statements by Congressman O'Hara and by the Solicitor of Labor during the 1965 hearings that janitorial services performed under a contract primarily for lease of a building would not be covered by the Act. See 1965 House Hearings on H.R. 10238 at 9–10; 1965 Senate Hearings on H.R. 10238 at 20.

Finally, the Department does not believe, as some of the labor organizations suggest, that the proposed regulation would encourage the contracting agencies to evade their responsibilities under the Act. We cannot presume that the agencies will in bad faith attempt to evade the spirit, if not the letter, of the careful and comprehensive reevaluation of these regulations. Rather, we presume that they will structure their contracts on the basis of their legitimate procurement needs. However, if such evasion in fact occurs in the future, the Department will look into the situation and determine what corrective measures can be taken.

Accordingly, it is the Department's view that the interpretation that SCA covers separate service specifications when the principal purpose of the contract as a whole is for supply or some purpose other than the furnishing of services, is overly broad. This interpretation is without support in the legislative history and is inconsistent with other provisions of the Act. Furthermore, it renders the principal purpose provision of the Act virturally a nullity, since if every individual contract specification principally for services were subject to the Act, the effect theoretically would be coverage of all service requirements under any contract, whether principally for construction, supply, or services. Therefore, the Department has determined that the Act is intended to apply only to contracts whose principal purpose is the furnishing of services. Thus, the proposal is adopted with a minor, clarifying change.

Section 4.110–4.113—Interpretation of Statutory "Principal Purpose" Test for Coverage Under SCA

Section 2(a) of the Act requires that wage determinations be incorporated in all contracts in excess of $2,500, "the principal purpose of which is to furnish services in the United States through the use of service employees."

History of Provision

(a) Contemporaneous Construction—The Department's contemporaneous construction is expressed in the existing regulations. See paragraph (b) below.

(b) Existing regulations—In deciding questions of coverage, the current regulations provide that if a contract is principally for services (as opposed to some other purpose such as manufacturing or construction), it is subject to the Act if it is performed at least in part in the United States and if it is performed "through the use of service employees". The current regulations define this phrase to mean the use of any service employees or, where the services are performed in part by bona fide, noncovered executive, administrative or professional employees (as defined in 29 CFR Part 541 issued under the Fair Labor Standards Act), more than a minor or incidental use of service employees.

(c) Current practice—Same as (b). In practice a 10 to 20 percent guideline has been used to determine whether there is more than a minor use of service employees.

(d) January 1981 regulations—Same as (c) except that the exception from coverage for minor use of service employees was treated as a tolerance under secion 4(b) and the regulations set forth specifically the 10 to 20 percent guideline.

(e) Proposed regulations—Sections 4.110 and 4.113 of the proposed regulations would have altered the scheme for determining coverage by providing a dual principal purpose test, under which a contract would be subject to the Act only if it is principally for services and is also performed principally (i.e., in the majority) by service employees. The proposed regulations continued to provide, as set forth in the existing regulations, that if a contract is performed in part within and in part outside the United States, any

portion performed "in the United States" is covered by the Act.

Comments

The SAMA, NCTSL, C of C, the National Society of Professional Engineers, several individual contractors, and the SBA commented in favor of the proposed revision of the principal purpose test, without any detailed rationale in support of their position. DOD, on the other hand, favored a more subjective approach, applying SCA to a contract only if the most important contract services are performed by service employees, as distinguished from professionals. The CBEMA comments reflected the view that the proper interpretation of the statutory "principal purpose" language would require a tripartite coverage test, under which a contract would be covered only if it is principally for services, to be performed principally in the United States and principally through the use of service employees.

The dual principal purpose test contained in the proposed regulations was vigorously opposed by the AFL-CIO, IAM, LIUNA, SEIU, Teamsters, IATSE, SIU, and UPGWA. The labor organizations argued generally that on its face the statutory "principal purpose" language refers only to the nature of the contract work, meant only to distinguish among contracts according to their procurement purpose, and does not refer to the level of use of service employees. Thus, they asserted, the current regulations are correct in providing that a contract principally for services is subject to the Act if it is performed "through the use of service employees."

Many of the labor commentators cited portions of the Act's legislative history as evidence of a Congressional intent to "close the gap" in labor standards protections for Government contract employees by covering under the SCA all employees (other than bona fide executive, administrative, and professional employees) not employed on construction contracts covered by the Davis-Bacon Act or supply contracts covered by the Walsh-Healey Public Contracts Act. These commentators also stressed the remedial nature of the original legislation and stated that the 1972 and 1976 amendments expanded those protections by increasing the scope of the Act's coverage, thereby supporting a board interpretation of the statutory coverage provisions.

IAM and LIUNA asserted that in light of the legislative history, if Congress had intended to cover only service contracts performed "pricipally by service employees," it would have put such language in the statute. IAM and LIUNA also stated that in the preamble to the proposed regulations the Department did not offer any justification for the revision of the principal purpose test.

The SIU opposed the position in section 4.112(b) of both the current and proposed regulations that only those portions of contracts for transportation by marine vessels which are performed within U.S. waters are subject to the Act. SIU recommended that the regulations be revised to provide that all contracts on American flag ships are deemed to be performed entirely within the United States, regardless of the actual place of contract performance.

DOD commented that vessels contracted to carry cargo to U.S. installations overseas, with minimal time spent in U.S. ports and waters, should not be subject to the Act while within the United States, terming such coverage inappropriate and unnecessary since the services are not performed principally in the United States

Discussion of Final Rule

After a thorough review, the Department has concluded that the interpretation expressed in the existing regulations is the correct interpretation of the Act's "principal purpose" provision.

In deciding the application of the principal purpose test, it is necessary to consider the Act's legislative history as the best indicator of Congressional intent in the matter. The 1965 legislative history contains no definitive guidance, but reveals only, as provided in the Department's existing regulations, that contracts would not be covered if service employees perform only incidental functions. H.R. Rep. No. 948, 89th Con., 1st Sess. 3 (1965). Throughout the subsequent history, and in particular when Congress amended the Act in 1976, it is evident that Congress considered that all employees who performed services on contracts principally for services were covered by the Act, except bona fide administrative, executive and professional employees, and that this was explicitly accomplished by the 1976 amendments. See, *e.g.*, Cong. Rec. (Daily) H. 10626–28 (Sept. 21, 1976). Significantly, the 1976 amendment to the definition of "service employee" as a person engaged in contracts "the principal purpose of which is to furnish services in the United States," omitted any reference to "through the use of service employees."

Finally, it is our view that a plain reading of the phrase "through the use of service employees" requires only some use of service employees, i.e., where there is more than a minor use of service employees (as distinguished from executive, administrative and professional employees) to perform services under a contract principally for services, the contract is subject to the Act.

With respect to the reference in the Act to "in the United States," it is the Department's view that it is intended to be only a routine provision regarding the geographic scope of the Act. Thus whenever contract services are performed "in the United States" as defined in section 8(d) of the Act, those services are covered. The alternative of making it an element of coverage would lead to the anomalous result that all services, *wherever* performed, are covered if most of the contract services are performed in the United States.

Furthermore, the legislative history, in describing the Act's applicability, contains no reference to "in the United States" as a limitation on coverage. Thus, early drafts of the SCA unambiguously provided coverage of all service contracts in which work was performed in the United States. Significantly, in explaining the changes in the final version of the SCA, which represented a consensus among the government agencies, the Solicitor of Labor did not mention any coverage changes other than raising the threshold from $2,000 to $2,500. 1965 House Hearings on H.R. 10238 at 6–7.

The Department has decided, however, that it would be proper to establish a "significant or substantial" standard to determine whether a contract is performed "in the United States". This would be consistent with the longstanding interpretation in the current regulations of the term "through the use of service employees". Excluded from coverage would be contracts under which only a minor or incidential portion of the services is performed within the United States as defined in section 8(d) of the Act. Thus, this revision will address the administrative difficulties raised by the DOD if SCA is applied to those contracts involving minimal time in domestic waters. Appropriate changes are made in § 4.112 of the final regulations.

With regard to the recommendation by SIU regarding the geographic scope of the Act's coverage, the recommendation contradicts the explicit language of the statute, contains no support in the legislative history, and cannot be adopted.

Section 4.114(b)—Liability of Prime Contractor for Violations by Subcontractors

History of Provision

(a) Contemporaneous construction—The Department has always taken the position that the prime contractor, as the party who contracts with the Government, is responsible for all violations of the Act, including those of its subcontractors.

(b) Existing regulations—Section 4.114 explains that under the Act and the regulations (see the contract clauses at section 4.6), the prime contractor agrees that the labor standards will be observed by subcontractors as well as itself, that the prescribed clauses will be incorported in all subcontracts, and that the Act's sanctions may be invoked against it for any failure to comply.

(c) Current practice—Same as (a).

(d) January 1981 regulations—Explicitly provided that the prime contractor is jointly and severally liable with any subcontractor for any acts, omissions or underpayments which would constitute a violation of the prime contract, and that the Act's sanctions may be invoked against both the prime and the subcontractors.

(e) Proposed regulations—Same as (d) but clarified that the sanctions may be invoked "where appropriate" under the circumstances of the case.

Comments

NASA, DOE, and CODSIA argued that there was no statutory or judicial basis for placing liability for SCA violations committed by subcontractors on the prime contractor. NCTSI stated that the prime contractor should not be responsible for violations beyond its control, while the C of C commented that the prime contractor should not be liable except where fraud occurs or the subcontractor cannot be located.

IAM and SEIU objected to the differences between the language of this section and the language of the corresponding section in the stayed regulations of January 1981, implying that the proposed regulation limits the liability of prime contractors only to monetary violations by their subcontractors

Discussion of Final Rule

As explained, the provision that the prime contractor is liable in the event its subcontractors violate the Act and thus breach the contract clauses by failing to pay the required contract wages and fringe benefits has been in the regulations since 1968. It follows established case law under both the Service Contract Act and the Davis-Bacon Act. See, *e.g., Robert C. Johnson Trucking Co.*, SCA–1160, Administrator (January 4, 1982); *Ernest Simpson Constr. Co.*, 79–DB–181, ALJ, 24 WH Cases 484 (October 18, 1979).

The prime contractor's liability arises from the fact that by contracting with the Government, the prime contractor agrees as a term of the contract that the prescribed labor standards will be observed with respect to all employees on the contract. See 41 U.S.C. 351; 29 CFR § 4.6. Furthermore, liability is apparent from section 3 of the Act, which provides for witholding of contract funds in the case of violation; the Government can only withhold funds from the prime contractor, not from a subcontractor.

The union comments appear to reflect a misunderstanding of the intent of the regulatory revision. The language of this section is simply a clarification of existing practice. In addition to the withholding of contract funds, any other enforcement sanction, including debarment, will be invoked when appropriate under the circumstances of a particular case. For example, when a prime contractor fails to ensure that SCA provisions are incorporated in the subcontract or directs or condones violations made by a subcontractor, unusual circumstances justifying relief from debarment would likely be found not to exist.

Accordingly, no changes are made in this section.

Sections 4.116(b) and 4.131(f)—Coverage of Contracts for Property Demolition, Dismantling and Removal

When the Department reexamined its position on timber sales contracts, discussed below at §§ 4.130(a), 4.131(f), the issue was also raised of the principal purpose of property demolition, dismantling and removal contracts where the contractor obtains the salvage material removed.

History of Provision

(a) Contemporaneous Construction—It has been the Department's position that such contracts, even if labeled as a sale, are principally for removal services and covered by the Act.

(b) Existing regulations—§ 4.116(b) provides that contracts for demolition or dismantling of buildings are subjects to the Act, if not followed by construction (and therefore subject to the Davis-Bacon Act). The provision is silent concerning contracts where the contractor obtains the salvage material removed, but coverage of such contracts is implicit in § 4.141(a).

(c) Current practice—Same as (a). However, the office responsible for most such contracts at GSA has advised that it did not apply the Act to such contracts.

(d) January 1981 regulations—Specifically provided that such contracts are subject to the Act.

(e) Proposed regulations—Provided that such contracts are covered by the Act if the facts show that their principal purpose is to furnish services through the use of service employees, but not if their principal purpose is sales.

Comments

The AFL–CIO, IAM and LIUNA opposed the proposed revision. LIUNA and IAM contended that it is misleading to characterize demolition contracts as contracts for sales, noting that, while a contractor's primary interest may be the acquisition of salvaged materials, the Government's primary concern is to clear land or remove a building, and that the sale of any material, although it may be a substantial portion of the contract, is only of secondary interest.

Discussion of Final Rule

As stated above, the reexamination of the issue of coverage of timber sales contracts, as well as the issue of the interpretation of the principal purpose provisions of the Act, necessitated a review of coverage of demolition/sales contracts because of the apparent similarity of these types of contracts. Consistency requires that a determination be made as to whether the principal purpose of such demolition/sales contracts is services or sales. If the facts show that the Government's principal purpose in the contract is the obtaining of dismantling and removal services, where no further construction is contemplated (in which case the contract would be subject to the Davis-Bacon Act), such a contract is covered by SCA even though the contract or receives salvaged materials. However, if the principal purpose of the contract is in fact the sale of material and the services provided under such a contract are only incidental to the sale, then the contract is not subject to the Act. This approach is required by our view that the Act only applies if the principal purpose of the contract is services.

Accordingly, the proposed revision is adopted.

Section 4.117—Work Subject to the Walsh-Healey Act: Overhaul and Modification of Equipment

SCA, as discussed above, applies to employees on federal contracts, the principal purpose of which is the furnishing of services, while the Walsh-

Healey Public Contracts Act (41 U.S.C. 35, et seq.) ("PCA") provides labor standards protections for employees on federal contracts in excess of $10,000 for the manufacture or furnishing of materials, supplies or equipment. Over the years many disputes have arisen concerning whether SCA or PCA or both should be applied to contracts for the overhaul and modification of aircraft engines and other equipment.

History of Provision

(a) Contemporaneous construction—In the 27 years prior to the enactment of SCA, it was the position of the Department that contracts for equipment reconditioning, involving complete teardown and reassembly, constituted "manufacture" and were therefore within the scope of PCA. With the enactment of the SCA in 1965, such contracts generally were considered to be covered by both Acts. This "dualism" position was based upon the view that the contracts were principally for services but contained a significant manufacture or supply requirement as well. To eliminate problems implementing dualism, administrative exemptions from PCA of contracts deemed principally for services, and thus subject to SCA, were proposed in 1966 and 1973, but the proposals were never adopted.

(b) Existing regulations—§4.122 of the existing SCA regulations (29 CFR Part 4) sets forth the general principle of dual coverage. The regulation states that where a contract principally for services exceeds $10,000, and also has as a significant purpose the furnishing of equipment or materials, part of the work under such a contract is exempted by section 7(2) of the SCA since it is work required to be done pursuant to PCA labor standards. The regulation goes on to specify that those service employees who are "engaged in or connected with the manufacture, fabrication, assembling, handling, supervision or shipment" under the contract are subject only to the PCA. Other contract employees such as guards or clericals, are not subject to PCA and are therefore outside the scope of the exemption and covered by SCA labor standards.

(c) Current practice—It is the position of the Wage and Hour Division that dual coverage generally is applicable to major overhaul and modification contracts in accordance with the guidelines set forth in the 1974 opinion of the Administrator regarding engine overhaul, issued in connection with the decision in *Curtiss-Wright Corp.* v. *McLucas*, 364 F. Supp. 750 (D.N.J. 1973). Under these guidelines, SCA is applicable to the disassembly and overhaul portions of the contract work and PCA to the rebuilding of the equipment, including the supply of new parts. In 1978, however, the Department issued to DOD and subsequently extended indefinitely an exemption from SCA coverage for engine overhaul and modification contracts, pending the development of the criteria herein for delineating SCA and PCA coverage. Therefore, SCA currently is not applied to these contracts. In practice, there is considerable variation among the contracting agencies and confusion regarding whether and how to apply SCA and/or PCA to other equipment overhaul contracts.

(d) January 1981 regulations—This issue was reserved from inclusion in the 1981 regulations, pending finalization of these guidelines.

(e) Proposed regulations—The proposed regulation would eliminate dual coverage of overhaul and modification contracts by establishing guidelines designed to determine at what point the work on equipment is so extensive as to constitute "remanufacturing" subject to PCA only; where the work does not meet these guidelines, it is subject to SCA only.

Comments

The AEA, SAMA, NASA and DOE, as well as some individual contractors, criticized the proposed guidelines for delineating "remanufacturing" subject to the PCA. The contracting agencies (NASA and DOE) commented that the guidelines were too stringent and proposed a more relaxed standard. The AEA and SAMA generally approved the proposed regulation but stated that the guidelines were too detailed and complex. The C of C supported the proposed regulation without reservation.

The AFL–CIO, IAM, and LIUNA acknowledged that the current dual coverage position was unworkable, but disagreed that aircraft engine overhaul could be "remanufacturing" and opposed the guidelines as arbitrary and unjustified by the language and history of both SCA and PCA. They asserted that under the proposed guidelines, it could not be determined before contract award whether proposed work would be extensive enough to be exempt as "remanufacturing," stating that this is determinable only after teardown and inspection of the equipment. It is their view that our regulation should distinguish between "manufacturing" and "service" on the basis of a two-part test, derived from cited tax law cases.

Discussion of Final Rule

Section 7(2) of the SCA exempts from its coverage "any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act," demonstrating Congressional intent to eliminate overlapping of the labor standards provisions of the two acts. This regulation serves that purpose by establishing for the first time proposed guidelines to distinguish between SCA and PCA and to resolve the complex administrative problems of the Department's "dual coverage" position.

As the above discussion of the history of this regulation indicates, the Department has varied in its treatment of the question of coverage of overhaul and modification contracts. Prior to SCA there were no labor standards applicable to services rendered under government contracts, and service contracts were regarded as outside the scope of PCA coverage. However, although some services are involved in contracts for overhaul and modification, as in all manufacturing contracts, these contracts were viewed as essentially for the procurement of tangibles, with contractors furnishing supplies or materials (parts) or an end product (rebuilt equipment). Thus, a 1943 opinion concluding that a War Department contract for overhauling and "rebuilding" motors was within the purview of the PCA domonstrates the recognition of the concept of "remanufacturing" under the PCA.

When Congress enacted the SCA, it recognized the overlap between manufacture and service, and it treated this situation in the section 7(2) exemption from SCA coverage for PCA work. Because the exemption was for "work" rather than "contracts," the Department developed a position of dual coverage of these overhaul and modification contracts. This interpretation has proved to be impracticable for separating SCA and PCA work, and is especially problematic where a contractor utilizes the same employee(s) to perform both the tear down and rebuilding functions. In addition, the problem of where to draw the line between SCA and PCA work has made enforcement of the acts difficult for the Department, and has generated confusion as to the issuance of wage determinations.

Consequently, in 1978 the Secretary determined that a change was necessary and issued a temporary exemption from SCA coverage to DOD for engine overhaul contracts, pending the promulgation of new guidelines. During this period the Department consulted with labor representatives and with the major contracting agencies in order to draw upon their experience in this area;

the new section 4.117 represents the product of these efforts.

As discussed, *supra*, under "dualism," overhaul and modification contracts were generally viewed as contracts principally for services but with a significant manufacturing component. The Secretary's experience and expertise in the administration of these two Acts, and consultations with the contracting agencies made clear that when the work involved on these contracts is so substantial as to constitute "remanufacture," the principal purpose of the contract can no longer be considered to be service. Furthermore, it was concluded that it was inappropriate to break down work which was done on a piece of equipment and consider it to be part manufacturing and part services when all of the work in fact is part of the "remanufacturing" activity. The specific guidelines in the new regulation constitute the determination of the Secretary of Labor as to when the threshold between repair services and remanufacturing is reached.

The new § 4.117 for the first time provides viable and appropriate criteria for distinguishing between SCA and PCA coverage. The Department has determined that the degree of specificity in the proposed guidelines is necessary for this coverage determination, in order (1) to eliminate confusion and possible overlap between the different labor standards statutes, and (2) to ensure that only overhaul or modification which in fact is in the nature of manufacturing activity and which is so extensive as to constitute "remanufacturing" is subject to Walsh-Healey. Contracts for maintenance or repair, in contrast, are within the purview of the SCA.

With respect to the comments that it cannot be determined before contract award which statute applies to proposed work, we note that the criteria were developed after consultations with the major contracting agencies, utilizing their practical experience and special expertise in this area. Agencies should be able to anticipate the needs of a particular contract, initially determine whether the proposed work principally involves "remanufacturing" based on the guidelines, and incorporate the appropriate labor standards (SCA *or* PCA) prior to soliciting bids.

It was suggested in the comments that the proposed guidelines are contrary to case law because they fail to distinguish coverage between the two Acts by a conjunctive "functional character" and "proprietary interest" test. However, the commentators cited no relevant rulings under SCA pr PCA for this proposition; in fact, the proprietary interest test is clearly inconsistent with precedent under PCA. Court decisions identifying a manufacturer under federal tax law would not, in our view, be determinative of SCA and PCA coverage, given the different focus and purpose of the tax code from that of the prevailing wage statutes. Furthermore, to the extent that tax law cases are relevant, they do not clearly establish such a conjunctive test. They do, however, support the principle of this regualtion, that rebuilding equipment within the specified guidelines constitutes manufacturing rather than furnishing services. *E.g., Hartley* v. *United States*, 252 F.2d 262, 266 (5th Cir. 1958); *Hackendorf* v. *United States*, 243 F.2d 760, 762–63 (10th Cir. 1957).

Accordingly, § 4.117 is adopted as proposed with minor editorial changes.

Section 4.118—Contracts for Carriage Subject to Published Tariff Rates

Section 7(3) of the Act exempts from the Act "any contract for the carriage of freight or personnel * * * where published tariff rates are in effect." Clarification is considered necessary, particularly regarding the application of this exemption to Government packing and crating contracts.

History of Provision

(a) Contemporaneous construction—Packing and crating contracts have been considered subject to the Act since their principal purpose is the furnishing of packing and crating services and the transportation is considered incidental thereto.

(b) Existing regulations.—The provisions regarding the statutory exemption provide at section 4.6(m)(3) an administrative exemption for such carriage subject to the rates covered by section 22 (recodified as section 10721) of the Interstate Commerce Act. Section 4.118 explains that the service contracted for must be "actually governed" by published tariff rates for such carriage; and that typically for such contracts, there is on file with the ICC or state body a tariff rate applicable to the transportation, and the transportation contract with the Government is evidenced by a bill of lading citing the published tariff rate.

(c) Current practice—same as (a).

(d) January 1981 regulations—Substantively the same as (b). Instead of § 4.6, the statutory exemption was set forth at § 4.115(b) and the administrative exemption was set forth at § 4.123(d).

(e) Proposed regulations—Same as (d).

Comments

None received.

Discussion of Final Rule

A clarifying revision has been made in this section to provide that carriage subject to section 10721 of the ICA must be in accordance with applicable regulations governing such rates. Consistent with our view that SCA coverage, and likewise exemptions, are determined by the principal purpose of a contract, the regulation also clarifies that only contracts principally for the "carriage of freight or personnel" are exempt. Thus, the exemption does not apply where the principal purpose of the contract is packing, crating, handling, loading, and/or storage of goods prior to or following line-haul transportation to the ultimate destination. The fact that substantial local drayage to and from the contractor's establishment (such as a warehouse) may be required in such contracts does not alter the fact that their principal purpose (i.e., the Government's purpose and need) is other than the carriage of freight. See *Williams Moving Co.* v. *United States*, 697 F.2d 842 (8th Cir. 1983).

This section is so revised.

Section 4.123(e) (1), (2), and (3)—Exemption for Contracts for Maintenance and Repair of Certain ADP, Scientific and Medical, and Office and Business Equipment

Section 4(b) of the Act provides the Secretary general authority to exempt contracts from the Act where he determines that such exemption is necessary and proper in the public interest or to avoid the serious impairment of government business and is in accord with the remedial purpose of the Act to protect prevailing labor standards. The issue has arisen concerning the appropriateness of application of SCA to contracts for repair or maintenance of ADP, high technology, and other equipment, and therefore whether an exemption should be granted for such contracts.

History of Provision

(a) Contemporaneous construction—The Department has, since 1966, consistently held the maintenance and repair of all types of equipment, including automated data processing (ADP) equipment, scientific and medical apparatus, and office and business machines to be covered by the Service Contract Act.

(b) Existing regulations—Under current regulations, there is no provision exempting the contracts at issue from the Act. Electronic equipment

maintenance and operation is listed at § 4.130(h) as a type of covered contract.

(c) Current practice—A question arose publicly in 1977, when the Department formally advised GSA for the first time that, pursuant to its policy on bid specifications, provisions for maintenance and repair in GSA's contracts for the purchase or lease of ADP equipment were subject to SCA. Up until this time, such GSA contracts did not contain SCA provisions because of its belief that the contracts were not subject to the Act. In view of the sharp disagreement by GSA and the industry, which also claimed that compliance with SCA's requirements would be so disruptive as to prevent it from doing business with the Government, the Department, in August 1979, issued a short-term exemption from the Act for such ADP lease/purchase contracts, in order to permit GSA to complete its FY 1980 procurements. Subsequently, although the exemption was not extended (specific exemptions were issued, however, for a few national security contracts), the Department issued interim wage determinations for maintenance and repair of ADP equipment and scientific and medical equipment with high technology as an essential element, and for GSA supply schedule contracts for business machines which included requirements for maintenance and repair of the equipment. These interim wage determinations, issued pursuant to section 4(b) of the Act, permitted contractors to pursue their normal wage policies by allowing them to pay the same wages they paid their employees on private contracts.

In the meantime, GAO issued a report examining the issue of application of SCA to maintenance and repair of ADP and other high technology equipment, and strongly recommend that the Secretary exempt such contracts. Comp. Gen. Report Nos. HRD–80–102 (Sept. 16, 1980) and HRD–80–102(A) (March 25, 1981). Although this recommendation was not adopted at the time, the special interim wage determinations issued pursuant to section 4(b) of the Act have remained in effect pending action on the proposed exemptions.

(d) January 1981 regulations—Specifically provided, at section 4.130(a)(34), that maintenance and repair of all types of equipment, including ADP and office equipment, is covered by the Act. The Department did not deal with a requested exemption from the Act for contracts for maintenance or repair of ADP, medical and scientific equipment, and office and business machines. 46 FR 4329 (Jan. 16, 1981).

(e) Proposed regulations—Exempted from all the provisions of the Service Contract Act contracts for the maintenance of repair of:

(1) Automated data processing equipment, including office information systems, procured pursuant to P.L. 89–306 (40 U.S.C. 759);

(2) Scientific and medical apparatus or equipment which has automated data processing or other high technology as an essential element; and

(3) Office and business machines not otherwise exempt pursuant to paragraph (1) above.

Comments

The proposed exemptions were supported generally by several trade associations representing firms in the affected industries, numerous individual firms, and three Federal agencies. Commentators in this group include CBEMA, SAMA, AEA, the Health Industries Manufacturers Association, the National Micrographics Association, the C of C, IBM, Hewlett-Packard, Digital Equipment Corporation, Texas Instruments, Honeywell, Kodak, DOD, GSA and SBA. Several individual firms endorsed the CBEMA comments.

Numerous industry commentators asserted that Congress did not intend the Act to apply to the product support services performed by the "high technology" industry. They stated that the intent of Congress in enacting the SCA was to prevent price competition for labor-intensive service contracts from depressing prevailing wage standards, i.e., to eliminate "wage busting," and that the nature of the "high technology" product support service business is not conducive to wage busting. They also stated that the Act's legislative history does not mention these services in discussions of the types of contracts intended to be covered. In addition, CBEMA, SAMA, and others in this group submitted detailed comments and factual support for the proposed exemptions.

CBEMA presented a survey of firms in the ADP and business equipment field regarding the merit pay systems used to compensate employees engaged in equipment maintenance and repair services. This survey showed that under merit pay systems, employees are assigned on the basis of experience and skill to one of several job classification levels, and generally are relatively highly paid. In addition, firms typically have different pay structures in different areas of the country. Several commentators noted that the relatively high pay is due to the rapid growth in these industries, the relative shortage of skilled employees, and the investment made in job training.

Many industry commentators also remarked that their merit pay systems were incompatible with the requirements of the SCA because it is inherent in the system that some employees are paid below the mean or median rate of pay in the industry. Thus, they asserted, in order to comply with the Act, firms would have to change their methods of doing business in one of several ways, all of which they found disruptive and costly. Accordingly, several corporations stated that, rather than restructure their pay systems, they would cease performing contracts covered by the Service Contract Act.

Further information indicates that the preponderance of total industry contracts with the Federal Government is for commercial products and servicing of those products at standard commercial prices. The CBEMA submission suggested that for the typical industry contractor the Government service business is a small part of the total product service business. The CBEMA survey found that the median percentage of service business performed for the Federal Government was 7 percent. The maintenance and repair of equipment furnished to the Government, as to other customers, is of an "on-call nature" and, therefore, is sporadic and intermittent. In addition, the employees in question are not principally assigned to Government contract work but perform such work as an integral part of their day-to-day duties of servicing equipment in commercial establishments. Service is provided to the customer as operational problems result and, in some cases, as preventive maintenance is scheduled.

Several industry commentators, as well as GSA and DOD, also recommended specific changes in the scope of the proposed exemptions. CBEMA and SAMA recommened that the provisions in sections 4.123(e)(1), (2), and (3), applying the exemptions to "contract requirements" be changed to refer to "contracts" on the grounds that the Act should apply on a "contract" basis, not a "contract requirement" (i.e., specification) basis.

GSA, DOD, and CBEMA recommended deleting the provision in proposed section 4.123(e)(1) limiting that exemption to equipment procured "pursuant to P.L. 89–306 (40 U.S.C. 759)," known as the Brooks Act, which generally concerns procurement of ADP equipment. GSA remarked that the nature and characteristics of ADP maintenance services are independent of coverage under the Brooks Act. DOD

noted that several classes of its ADP equipment that are not subject to the Brooks Act are repaired under the conditions cited by the Department in its rationale for proposing the exemptions.

CBEMA and SAMA recommended that the scope of section 4.123(e)(2) be clarified by deleting the phrase "ADP or other high technology" and applying the exemption to scientific and medical equipment "where the application of microelectronic circuitry or other technology of at least similar sophistication is an essential element."

CBEMA and SAMA also suggested that proposed section 4.123(e)(2) be made more precise by citing certain Federal Supply Classification (FSC) classes as being largely composed of the types of equipment within the exemption. Hewlett-Packard, AEA, Health Industries Manufacturers Association, and others recommended that, in place of the proposed three-part exemption, the Department adopt a single, comprehensive exemption applicable to "commercial product support services", under which the contractor would make certifications regarding the commerciality of the services and the use of the same compensation plan for both Government contract employees and other employees. Hewlett-Packard asserted that such an exemption would minimize the definitional problems inherent in the Department's proposal, and would protect against "wage busting." SAMA also endorsed an exemption of this type as an alternative approach.

The proposed exemptions in §§ 4.123(e)(1), (2), and (3) were opposed in their entirety by the AFL–CIO, IAM, Teamsters, IATSE, SEIU, LIUNA, and the United Brotherhood of Carpenters.

The AFL–CIO and IAM asserted that the terms and legislative history of the original Act and the 1976 amendments evidence a Congressional intent to cover all classes of service workers and service contracts not specifically exempt under section 7 of the Act. They also argued that the 1972 amendments restricted the Department's authority to adopt industrywide exemptions such as those proposed. In addition, the union commentators advanced arguments in rebuttal of the Department's rationale for proposing the exemptions.

The AFL–CIO, IAM and the Teamsters asserted that the Act was intended to protect prevailing wage standards whether those standards are high or low, and pointed out that any doubts in this respect were settled by the 1976 amendments clarifying SCA coverage of white collar employees. The AFL–CIO and IAM commented that, to the extent that merit pay systems may be incompatible with SCA compliance, this is not unique to the "high technology" industry.

The union comentators also argued that it was improper to grant legal concessions because firms threaten to cease doing business with the Government. The Teamsters asserted that the Department's claim that necessary services could not be obtained absent the exemptions cannot be reconciled with the accompanying claim that the contracts in question are largely for servicing of standard commercial products. IAM pointed out that for many years the Government awarded numerous contracts for maintenance of the equipment in question which contained SCA prevailing wage requirements, and that no evidence has been presented that firms were unable to perform those contracts in the past because of SCA.

The AFL–CIO and IAM pointed out that the preamble to the proposal only states that "the preponderance" of the contracts in question are for service of commercial products at commercial prices. They asserted that since this is not an industry-wide characteristic, it cannot justify industry-wide exemption. These commentators also asserted that the fact that commercial prices are offered is no assurance that prevailing wage standards will be protected.

Finally, AFL–CIO and IAM stated that the Department's description of the Government contracts as a minor proportion of total business, which is performed on a sporadic basis by employees who perform such work as a part of their day-to-day duties servicing commercial businesses describes a condition common to many types of service contractors. They stated that the legislative history does not differentiate between "sporadic and intermittent" contractors and those who work full-time for the Government.

Discussion of Final Rule

It is the Department's view that the possibility of granting industry-wide administrative exemptions was not foreclosed when Congress statutorily exempted certain broad categories of contracts under section 7 of the Act, nor by the 1972 amendments tightening the criteria in section 4(b) of the Act. By its terms section 4(b) specifically authorizes the granting of administrative exemptions where its criteria are satisfied.

Turning to the exemption itself, we have concluded that, as discussed below, an exemption for maintenance, calibration, and/or repair of ADP equipment and office information systems, high technology scientific and medical equipment, and office/business machines where the services are performed by the manufacturer or supplier is appropriate where the items are commercial items, the services are based on commercial prices, and the contractor utilizes the same compensation plan for its Government contract employees as it uses for its commercial customers. (A large percentage of the contracts with requirements for servicing of such equipment would not be covered by the Act in any event since they are lease/purchase contracts and are not principally for services. See sections 4.110, 4.132.)

The principal intent of Congress in enacting the SCA was to preserve prevailing wage standards, and to prevent the "wage busting" due to intense competition which had occurred as a result of the practice of awarding Government service contracts to the lowest bidder. See H.R. Rep. No. 948, 89th Cong., 1st Sess. (1965); 1965 House Hearings at 5–6. Accordingly, although not determinative of coverage, the presence or absence of wage busting in a particular industry is considered to be a significant factor in determining whether an exemption is in accordance with the remedial purpose of the Act to protect prevailing labor standards. In this regard, it is pertinent to note that we have received no evidence that the special wage determinations discussed above, which have been issued since 1979 for most of the contracts in question and permitted contractors to pursue their normal wage policies, have had any adverse effect on the employees in the industry.

It is clear that "merit pay" systems are pervasive in the ADP industry. The comments submitted, as well as the CBEMA survey and the Comptroller General reports, demonstrate the sophistication of these pay systems, the fact that the workers, whose skills are in great demand, are relatively well paid, and that there is a potential disruption of merit pay systems from the application of SCA. Although the Department recognizes that commercial pricing factors are unique to those types of Government contracts which would be exempt under the proposal, commercial pricing does diminish the possibility of cutting workers' wages to obtain Government contracts. Furthermore, the information submitted by CBEMA and the Comptroller General reports demonstrates that Government business is a small proportion of the individual firms' total business and that the employees in question perform Government work only as a part of their

day-to-day duties servicing commercial establishments, also tending to preserve wage standards for the workers on Government contracts. The foregoing factors, together with the fact that most ADP services are performed by the vendor in an effort to assure statisfactory servicing of the equipment, have led the Department to conclude that wage competition in the industry is not a significant factor in obtaining Government contracts.

Accordingly, this exemption is found to be in accordance with the remedial purposes of the Act because the affected employees are relatively highly paid pursuant to complex merit pay systems and because the nature of the industry, as described by the commentators and detailed in the Comptroller General reports, is such that price competition based on labor costs and concomitant wage abuses are highly unlikely to occur. Because the protections of SCA are therefore not necessary to these workers and because, by virtue of the nature of the industry and its merit pay plan, compliance with SCA would disrupt the merit pay system and staff assignments, thereby disrupting the workers as well as the industry, it is also found to be necessary and proper in the public interest to grant these exemptions.

Finally, the exemptions are necessary to aviod the serious impairment of Government business. It is well documented in the Comptroller General reports that in the absence of these exemptions, there is likely to be serious adverse impact on the operations of the Government, such as the potential curtailment of crucial programs and services, many of which are critical to national defense and security, as a result of segments of the industry ceasing to do business with the Government. The comments received suggest that this continues to be true.

It is true that the Department had over several years issued wage determinations for contracts for the maintenance and repair of the types of equipment in question, without any indication that industry firms were unable to perform those contracts. However, the Department has ascertained that contracting agencies had failed to include SCA provisions in the majority of such contracts, particularly contracts for service in conjunction with the lease or purchase of equipment. It is the industry's concern that full implementation of the SCA by contracting agencies will result in substantial adverse impact on it.

When viewed in the context of the overall industry position, the possible refusal to accept SCA contracts is an understandable response of individual firms attempting to preserve their economic self-interest by declining to accept business opportunities seen as disruptive and unprofitable. Since in many cases it is not feasible to obtain necessary services from other sources, it is clear that Government operations would be adversely impacted in those cases. In fact, in some cases in the past the Department has exempted individual contracts where national security agencies were confronted with the refusal of sole-source suppliers to accept SCA covered contracts.

The Teamsters' comments imply that, in view of the claim that a preponderance of the affected contracts pertain to commercial products, competitive pressures would assure that necessary services could be obtained notwithstanding a refusal by some firms to accept contracts. However, the fact that a given item of equipment is a standard commercial item merely means that it is sold to commercial and Government purchasers alike, and does not mean that a firm other than the original manufacturer of that item has the necessary expertise or access to parts to maintain it. While some of the equipment which would be exempted under the proposal can be repaired by other manufacturers, or by "service-only" firms, much of the equipment must, as a practical matter, by repaired by the original manufacturer.

In conclusion, the Department is aware that every characteristic of the industry cited by the Department in the preamble of the proposal and documented in the detailed industry comments and Comptroller General reports may not apply to every firm in the industry or to every Government contract for the services in question; however, it is clear that these characteristics apply to the industry as a general matter. Furthermore, it is the Department's conclusion that the rationale, as a whole, provides a sufficient basis under section 4(b) of the Act, provided that certain additional restrictions, discussed below, are met.

The Department has concluded, as suggested by several industry commentators, that it is necessary to limit the exemptions to the servicing of only that equipment furnished to the Government which is also furnished commercially and where the service price is based on established catalog or market prices, thus excluding from the exemption any custom-designed equipment, and limiting its application to that sector of the industry and the work force to which the rationale applies. The commercial pricing language used in the final regulation is adopted from longstanding criteria for cost and pricing data contained in DAR 3–807.7(b), 32 CFR 3–807.7(b), which are routinely used and understood by contracting officers and the industry.

The contractor is also required to certify that it will maintain the same compensation plan for employees on Government and commercial equipment. This limitation will help ensure that these contractors, who the record demonstrates pay relatively high wages to their work force, will not reduce wages to gain an unfair advantage in the competition for Government contracts. This limitation therefore further ensures that the exemptions are in accord with the remedial purposes of the Act.

In addition, the contracting officer is required to make an affirmative determination that the conditions of the exemption have been met. If the Department determines afterward that the conditions have not in fact been met, the exemption will no longer be applicable to the contract.

The Department also determined that it is necessary to continue the limitation on the exemption for office and business equipment to services performed by the original manufacturer or supplier. The record contains no support for finding that the rationale of the exemption applies to firms which only service such equipment. Indeed, the Department's experience is that the rationale does not apply to such firms.

Regarding the various other recommendations for changes in the specific provisions of the proposed exemptions, the comments by CBEMA and SAMA that any exemptions should apply on a "contract" basis, rather than to contract requirements, and the comments by DOD, GSA and CBEMA that the exemptions should not be tied to Brooks Act coverage, are well taken and have been adopted. In addition, CBEMA and SAMA's suggestion that FSC classes be cited as examples of high technology scientific and medical apparatus in § 4.123(e)(2) provides useful clarification.

With the modifications discussed, the Secretary finds that these exemptions are necessary and proper in the public interest and to avoid the serious impairment of Government business, and are in accord with the remedial purpose of the Act to protect prevailing labor standards.

Finally, we wish to note that the exercise of the exemption authority in section 4(b) of the Act is discretionary. If experience shows that the depressing of prevailing wage standards or "wage busting" occurs, the Department would

not hesitate to modify or withdraw these exemptions.

Accordingly, §§ 4.123(e) (1), (2), and (3) are modified as discussed above and are renumbered and adopted as 4.123(e)(1).

Section 4.123(e)(4)—Exemption for Research and Development (R&D) Contracts

History of Provision

(a) Contemporaneous construction—R&D contracts have always been considered subject to SCA when they are principally for the furnishing of a service (such as collection and analysis of information or testing), provided that there is more than a minor use of service employees in performing the contract services. On the other hand, R&D contracts for construction, such as a contract to build a pilot coal gasification plant, or for manufacture or supply, such as a contract for a prototype, are subject to the Davis-Bacon Act or the Walsh-Healey Public Contracts Act, respectively, rather than SCA.

(b) Existing regulations—No specific provision regarding R&D, but see section 4.113(a)(2), providing that service contracts involving more than a minor use of service employees are covered, and section 4.131(a), providing that a contract principally for services is covered even if the contract requires tangible items to be supplied as a part of the services furnished.

(c) Current practice—Same as (a).

(d) January 1981 regulations—R&D contracts were listed as a specific example of a type of contract which is covered by the Act if a significant number of service employees are used, even if they work under the direction of professional personnel and professionals perform the final analysis and reporting. At section 4.131, contracts for data collection and statistical surveys are given as examples of covered contracts, even though the contractor may be required to furnish tangible items such as written reports.

(e) Proposed regulations—An exemption for R&D contracts was proposed at section 4.123(e)(4). In addition, section 4.113, discussed above, was revised to provide that only contracts performed principally through the use of service employees are covered by the Act; and R&D contract performed principally by professional personnel was listed as an example of a contract not subject to the Act. No change was proposed in section 4.131(e).

Comments

The SBA, Counsel on Governmental Relations, American Council on Education, Association of American Medical Colleges, National Association of State University and Land-Grant Colleges, Southern Research Institute, and a number of individual colleges and universities supported the exemption for R&D contracts. Several of these commentators contended that covering such contracts went beyond the intent of SCA and that to apply the Act to such contracts would cause severe disruptions in their existing pay systems. However, they provided no evidence to substantiate this prediction.

DOD stated that, in its view, Congress did not intend the Act to cover contracts for R&D and that an exemption was thus unnecessary. DOD suggested that the regulations should simply provide that the Act does not apply to R&D contracts.

The AFL–CIO, Teamsters, LIUNA, IAM, IATSE, and the Florida Association of Professional Employees opposed the exemption on several grounds. They claimed that the legislative history of SCA did not support the view stated in the proposal that Congress did not intend the Act to apply to R&D contracts. They stated that, since the House Report cited by the Department pertained to a 1964 bill which was never enacted, it should not determine coverage of the SCA, which was passed in 1965 by a different Congress. In addition, to support their claim that the Department has not substantiated its assertion that the lack of an R&D exemption would impair Government business, the unions pointed out that numerous R&D contracts have been covered in the past. These commentators also remarked that the scope of the exemption could not be determined from the language used in the proposal.

Discussion of Final Rule

In deciding whether R&D contracts are subject to SCA, the question must be whether they are contracts, "the principal purpose of which is to furnish services * * * through the use of service employees." If R&D contracts meet this test, they are covered by the Act. DOD has suggested that although an R&D contractor engages in collection and analysis of technical and scientific information and the conduct of sophisticated tests, the principal purpose of R&D contracts is to buy a product, i.e., the information obtained. To the contrary, it is our view that the principal purpose of such contracts is the service of collection and analysis of information, testing, etc., although the information obtained is generally manifested in a report. See *Descomp, Inc.* v. *Sampson,* 577 F. Supp. 254, 261 (D. Del. 1974).

In fact, DOD's own regulations list R&D as a type of service contract, and provide: "A service contract is one which calls directly for a contractor's time and effort rather than for a concrete end product. For purposes of this definition, a report shall not be considered a concrete end product if the primary purpose of the contract is to obtain the contractor's time and effort and the report is merely incidental to this purpose." DAR § 22–101, 32 CFR § 22–101. With regard to DOD's view that R&D contracts are not performed principally through the use of service employees, see the discussion of the Act's principal purpose provision, above, §§ 4.110–4.113, which have been revised to revert to the existing principal purpose test and to eliminate the reference to R&D contracts.

Because many R&D contracts are subject to SCA, and DOL had been of the view that application of SCA was inappropriate, an exemption was proposed for R&D contracts. Unlike the proposed ADP exemption, although many commentators (especially colleges and universities) urged such an exemption, they did not provide evidence to support an exemption. After a careful analysis of the comments received, therefore, the Department has concluded that the record does not demonstrate a sufficient evidentiary basis to find that such an exemption would be "necessary and proper in the public interest or to avoid the serious impairment of government business, and [would be] in accord with the remedial purpose of the Act to protect prevailing labor standards," as required by section 4(b) of the Act. The record also indicates that the parameters of such an exemption cannot easily be determined.

Accordingly, the proposed R&D exemption is not being adopted at this time. The Department will reconsider this issue at a later date if sufficient documentation is submitted that the criteria for exemption in section 4(b) would be met.

Sections 4.130(a), 4.131(f)—Coverage of Timber Sales Contracts

A major dispute has existed for years concerning application of SCA to contracts with the U.S. Forest Service for sale of timber.

History of Provision

(a) Contemporaneous construction—It has been the Department's view since the issue first arose in 1972, that the provision of services inherent in timber sales contracts—such as land clearing, road building, fire fighting—rather than the sale of timber, was the principal

purpose of the contract. Thus, the DOL has been of the view that the contracts are principally for services and subject to SCA.

(b) Existing regulations—Section 4.116(b) provides that contracts for clearing timber are subject to SCA if not followed by construction (and therefore subject to the Davis-Bacon Act). However, the provision does not mention timber sales contracts.

(c) Current practice—The actual practice in the industry never conformed to the Department of Labor's consistent position that timber sales contracts were subject to SCA coverage. The Department of Agriculture-Forest Service (USDA/FS) has contested the Department of Labor's position since 1972 when, after discovering that the Forest Service was not including SCA provisions in its timber sale contracts, the Department of Labor began asserting SCA coverage. The USDA contended that the sale of timber is the principal purpose of timber sales contracts and has never incorporated SCA in such contracts.

(d) January 1981 regulations—In response to the Department of Labor's December 1979 proposal to incorporate its longstanding position on SCA coverage of timber sales contracts into its written regulations, 44 FR 77057 (December 28, 1979), the Secretary of Agriculture wrote to the Secretary of Labor opposing the proposed regulation, stating that it "improperly expands the application of the Service Contract Act," contrary to the statutory purposes of both the National Forest management statutes and the "principal purpose" requirement of the Service Contract Act (Letter dated March 27, 1980). The Department then reexamined the issue and concluded in section 4.131(f) of the 1981 regulations that some contracts called "timber sales contracts" have as their principal purpose the furnishing of services and thus, such contracts are subject to SCA. Some examples include contracts for the removal of trees to open up the forest for public use, or for the removal of trees that are infested with insects or are damaged by disasters. The 1981 regulations also concluded that "certain contracts for timber sales" would "not be principally for services" and therefore not subject to SCA. 46 FR 4331. However, such contracts "generally" contain specifications principally for services, such as "building of temporary roads, fire-fighting and control, erosion control, slash removal and trimming, and the removal of diseased or injured trees"; such individual specifications, under the 1981 regulations, would be covered.

(e) Proposed regulations—Section 4.131(f), which concerns "furnishing services involving more than use of labor," noted that where the contractor "receives tangible items" from the government "in return for furnishing services," the contract is covered by SCA where "the facts show that the furnishing of services is the principal purpose" of the contract. The regulation then stated specifically that "so-called 'timber sales' contracts generally are not subject to the Act because normally the services provided under such contracts are incidental to the principal purpose of the contracts," i.e., the sale of timber. Furthermore, because of the change in coverage of separate contract specifications (see sections 4.110 and 4.132), when the principal purpose of a timber sales contract is not services, the contract would not be subject to SCA coverage simply because it contains specifications which have the provision of services as their principal purpose.

Comments

Industry associations, including the National Forest Products Association, the American Pulpwood Association, the American Plywood Association, a number of timber firms and the Small Business Administration, supported the proposed regulations. Additionally, some industry comments suggested that the proposed regulations should be even stronger, and should be changed to reflect that timber sales contracts are never subject to SCA coverage.

The AFL–CIO, LIUNA, IAM, and UBC opposed the proposed regulations, contending that the sales provisions contained in such contracts are only incidental to a broad forest management program requiring a variety of services to be performed. They noted that, although a contractor may only be interested in obtaining timber, the harvesting of forests improves timber stands and thus is an essential service to the nation.

Discussion of Final Rule

Consistent with the Department's view that SCA applies only to contracts which are principally for services, the question of whether timber sales contracts are covered by SCA turns on whether the principal purpose of the contracts is considered to be sales or service. In reexamining this issue, the Department considered the statutes and regulations concerning National Forests, timber sales contracts, and Forest Service manuals. The Department of Labor now concurs with the longstanding position of the Department of Agriculture—the Department charged with administering the timber sale programs—that generally the principal purpose of timber sales contracts is sales, not service. This determination based in large part on the stated purpose of the National Forests, as contained in the Organic Act of June 4, 1897, 16 U.S.C. 475, which is "to furnish a continuous supply of timber for the use and necessities of the citizens of the United States," as well as the great concern expressed in the legislative history of the National Forest Management Act of 1976, for the importance of the National Forests to the supply of timber.

Furthermore, the Department's determination that generally the sale of timber is the principal purpose of timber sales contracts, is consistent with the USDA/FS regulations. For example, the regulations include a requirement for timber management plans which must be designed to aid in providing a continuous supply of timber for the use of United States citizens. 36 CFR 221.3. Such plans also must provide "so far as feasible" for an "even flow" of "national forest timber" to "facilitate the stabilization of communities" and "opportunities for employment." *Ibid.* Additionally, the Forest Service monitors the situation to ensure, among other things, that land classified as not suitable for timber production will be examined at least every 10 years to determine if such lands can be returned to timber production. 36 CFR 219.13(i). These examples indicate the importance of timber production for ultimate sale.

Although the legislation also requires multiple use management of the forests, and timber contracting compatible with those uses, these requirements do not detract from the determination that generally the sale of timber is the principal purpose of timber sales contracts. However, certain contracts may, in fact, be principally for some other purpose, such as clearing land or removal of diseased or dead timber. Pursuant to section 4.111, such a contract may be subject to SCA coverage, for in any given instance, the facts concerning a particular contract will determine the principal purpose of the contract.

Accordingly, the proposed regulation, which provides that generally the sale of timber, not the provision of services, is the principal purpose of the timber sales contracts and thus such contracts are generally not covered by the SCA, is adopted.

Section 4.133—Beneficiary of Contract Services

SCA by its terms applies to all contracts the principal purpose of which

is to furnish services in the United States through the use of service employees. The question which arises is whether SCA should apply to contracts where the benefit of the services to the Government is very remote, especially concession contracts such as those in the National Parks.

History of Provision

(a) Contemporaneous construct on—As a result of informal correspondence after passage of the SCA and a statement by Congressman O'Hara during debate on amendments to the FLSA the following year, DOL did not apply SCA to concession contracts which principally serve the public and where the benefit to the Government is very remote. In practice, this exclusion from SCA applied to National Park Service concessions and certain FAA concessions at Dulles and National Airports.

(b) Existing regulations—Same as (a).

(c) Current practice—Same as (a); however, it is recognized that the exception from coverage is in effect an administrative exemption and that the Act contains no such restriction to contracts benefiting the Government. See *District Lodge No. 166, IAM* v. *TWA Services, Inc.*, 25 WH Cases 208 (M.D. Fla. 1981), appeal pending on other issues, 11th Cir., No. 82–3159.

(d) January 1981 regulations—Provided that the Act contains no restriction regarding the beneficiary of the contract services, but provided an exemption for National Park and similar concession contracts for the furnishing of food, lodging, souvenirs, etc., to the general public, as distinguished from the United States. Specifications within such contracts for other services such as maintenance and dissemination of information about the Government and its programs were not exempt.

(e) Proposed regulations—Substantively the same as (d) except that visitor information services would also be exempt.

Comments

NASA and DOE commented that all concession contracts which benefit the public in general and not the Government or its employees (like those of the National Park Service) should be considered not covered. They recommended that this interpretation of the Act be used in lieu of the proposal to cover concession contracts like all other contracts for services, but to exempt certain types of concession contracts pursuant to the Secretary's authority under section 4(b) of the Act.

NASA and DOE further commented on the provision in section 4.133(b) which stated that where exempt contracts include "substantial" requirements for services other than those specified as exempt, those services are not exempt. These agencies proposed that section 4.133(b) be revised to apply the proposed principal purpose concept for determining whether the entire contract is exempt or not (i.e., if a majority of the contract services are exempt, then the entire contract is exempt even though the contract also provides for substantial services which would otherwise not be exempt).

The IAM, AFL–CIO, LIUNA, and UPGWA contended that there is no statutory provision or clear legislative history to support the proposal to exempt visitor information services from SCA coverage. LIUNA and UPGWA asserted that this proposed exemption exceeds the discretion of the Secretary of Labor and that the requirements for granting exemptions contained in section 4(b) of the Act have not been satisfied. IAM noted that concession contracts for visitor information services were distinguishable from national park concessionaires in that the former bestow a direct benefit on the Government by fulfilling one of its principal functions, which is informing the public.

The AFL–CIO and the IAM also objected to the statement in the current regulations that the Act does not apply to certain concessionaires servicing the public in Federal parks. The AFL–CIO maintained that neither the original regulation nor its subsequent revisions state that such contracts are exempt under section 4(b) of the Act, and that there is no finding that what is now alleged to have been an exemption is "necessary or proper in the public interest or to avoid serious impairment of Government business." IAM stated that remarks by Congressman O'Hara, co-author of the Act, in the context of amending the Fair Labor Standards Act one year after enactment of the SCA, could not be considered legislative history, and thus do not provide a legitimate basis for the exemption.

Discussion of Final Rule

NASA and DOE's views that the Act does not cover concession contracts which primarily benefit the public must be rejected. The language of the Act makes no distinction based on the beneficiary of the contract services, and further, the Act's legislative history provides no evidence of a Congressional intent to so limit coverage. See the recent decision in *District Lodge No. 166, IAM* v. *TWA Services, Inc., supra.*

However, the Department continues to be of the view that an exemption from the Act is necessary for National Park and similar concession contracts providing food, lodging, souvenir, and similar services to the general public. Such an exception from the Act's requirements has been in the regulations since 1968. However, because of difficulties in applying the current regulation, which speaks in more general terms of contracts where the benefit to the Government is "indirect or remote," the regulation was recast in the January 1981 regulations and the proposed regulations, making it clear that the provision was an exemption and carefully delimiting its scope to the listed concession contract services.

Furthermore, it is the Department's view that the underlying purpose for the exemption does not apply to substantial requirements for services other than those listed. Therefore, NASA's recommendation that the exemption should apply if the contract is principally for exempt services is not being adopted.

The Department agrees, however, that visitor information services are of a different character than the concessionaire services listed in the exemption. Furthermore, the decision in *District Lodge No. 166* concluded that the current regulations have not exempted visitor information center services. Accordingly, the Department has determined that exempting visitor information services is not now appropriate.

The Secretary of Labor has determined, based on the information available, that because the proposed exemption is supported by statements of members of Congress made shortly after enactment, it is necessary and proper in the public interest; and further that because the proposed regulation will clarify the limits and make clear the basis of the previous regulation, it is therefore in accord with its remedial purpose to protect prevailing labor standards.

Section 4.134(b)—Service Requirements in Building Leases

The question has arisen whether the coverage provisions of the Act apply to janitorial and other building services which are furnished on an incidental basis in a contract for lease of building space for Government occupancy.

History of Provision

(a) Contemporaneous construction—The Act historically has not been applied to building lease contracts containing maintenance requirements.

(b) Existing regulations—Section 4.134(b) of the current regulations contains this noncoverage position.

(c) Current practice—Current practice is consistent with the existing regulations.

(d) January 1981 regulations—Reversed the prior policy and provided for SCA coverage where the contract contained separate specifications requiring certain specified levels and frequencies of janitorial or other maintenance services in contracts for building space.

(e) Proposed regulations—Stated that the Act does not apply to the furnishing of building services where the principal purpose of the contract is the leasing of space.

Comments

The SEIU opposed the exclusion from SCA coverage of janitorial and maintenance service specifications in building leases, stating they saw no justification for denying labor standards protections to personnel working at Government-leased facilities.

Discussion of Final Rule

As discussed above under sections 4.110, 4.132, the Department has adopted the proposal that the SCA would not apply to contracts which, as a whole, do not have as their principal purpose the furnishing of services. It follows that contracts for the lease of building space for Government occupancy, where the building owner furnishes general janitorial and other building services on an incidental basis, would be outside the Act's coverage because the leasing of the space rather than the furnishing of the building services is the principal purpose of the contract.

This position is fully consistent with the legislative history of the statute which is discussed above in §§ 4.110, 4.132, and particularly with the Solicitor of Labor's testimony during the House and Senate hearings on the bill. Accordingly, § 4.134(b) is adopted as proposed.

Section 4.145(a)—Extended Term Contracts

Section 2(a) of the Act requires that every covered contract contain a wage determination. In addition, subject to annual appropriation limitations, the Act permits contracts to be entered into for up to five years, provided that the contract provides for adjustment of wages and fringe benefits at least every two years.

History of Provision

(a) Contemporaneous construction—When a contract is entered into for a term of years, but is subject to annual appropriation by Congress, it has been considered that each year is a new contract, since the appropriation is necessary to render the contract effective. Accordingly, a new wage determination has been required each year. Similarly, exercise of an option has been considered a new contract under the act.

(b) Existing regulations—Same as (a), set forth at section 4.145(a).

(c) Current practice—Same as (a).

(d) January 1981 regulations—Substantively the same as (b) with clarifying language.

(e) Proposed regulations—Same as (d).

Comments

GSA noted that this subsection was unclear as to its application to contracts of one year duration which are not awarded on a fiscal year cycle and could be interpreted to require incorporating a new (revised) wage determination at the beginning of the new fiscal year, even though the contract had been in effect for only a few months. In their view, the same problem would occur under multi-year contracts which are not awarded on a fiscal year basis.

Discussion of Final Rule

This section is intended to cover only those contracts for terms in excess of one year and the language has been clarified accordingly. In addition, the language is amended to clarify that a new contract is deemed to begin upon the contract anniversary date in the new fiscal year, rather than at the beginning of each fiscal year, if those two dates, in fact, are different.

Section 4.152(c)—Trainee Classifications

It has been the Department's experience in administering the Act that contractors have often attempted to establish additional classifications for trainees and other subclassifications of classifications listed on the wage determinations. Accordingly, in addition to revisions to the conformable classification procedures set forth of § 4.6(b)(2), it was considered necessary to explain more fully the situations in which conformance is not permitted.

History of Provision

(a) Contemporaneous construction—Since trainees perform duties performed by other classifications on wage determinations, conformance of trainee rates has not been permitted. In addition, trainee classifications have not been issued on wage determinations unless found in a survey to prevail, or unless provided for in a collective bargaining agreement which governs the wages and benefits required to be paid pursuant to section 4(c) of the Act.

(b) Existing regulations.—No specific provision.

(c) Current practice—Same as (a).

(d) January 1981 regulations—Specifically provided that additional classifications below the lowest rate in a job family on a wage determination cannot be established through the conformance process and therefore trainee and helper classifications cannot be conformed to the wage determination.

(e) Proposed regulations—Provided that trainee and helper classifications cannot be conformed, but also provided that trainee classifications may be used if listed in the wage determinations.

Comments

NASA and DOE objected to the prohibition against conforming trainee wage rates within a job classification if such classifications are not listed on a wage determination, stating that the provision is contrary to the prevailing wage concept, is inconsistent with DOL conformance procedures and industry pay practices, and increases contract costs.

The AFL–CIO, IAM, LIUNA, and the Teamsters objected to what they perceived as substantive differences between the language of this section and the language of the corresponding section in the stayed regulations of January 1981, which did not mention that trainee rates can be used if listed on the wage determination. The AFL–CIO stated that slotting procedures in section. 4.51(c) would lead to the increased issuance of trainee classifications on wage determinations where few currently exist. They further objected that the proposal does not contain a definition of trainees and does not provide a ratio for their use. IAM contended that the proposal represents a turnaround of DOL's position on this issue and will permit the widespread use of trainees which will lead to "wage busting."

Discussion of Final Rule

It is basic to the concept of a prevailing wage rate that such rate be the minimum permitted to be paid to all employees performing given duties in a particular classification. Therefore, the Department believes it would not be in accord with statutory intent to permit the establishment of lower level subclassifications through conformance procedures. Furthermore, conformance of subclassifications would be

inconsistent with the legislative intent that wages not be a factor in the competitive procurement process. (Appropriate variations have been provided in section 4.6(o) for apprentices, student learners and handicapped workers.) Moreover, as discussed in section 4.152(c), a wage determination will often list a series of classes within a job classification family (e.g., Technician Classes A, B, and C) where the practice prevails in the industry and where bona fide differences in the work performed exist. In such situations, the lowest level listed in considered to be the entry level and the establishment of a lower level (or intermediate levels) through conformance or otherwise is not warranted.

The union commentators appear to misunderstand the proposed regulation. The Department does not intend to alter its previous practice of issuing entry level or trainee classifications under the SCA only when they are prevailing or are mandated under section 4(c) of the Act. Therefore, the use of slotting techniques in the issuance of wage determinations will not be used to establish trainee classifications. However, the statement that trainees may be used if listed on the wage determination is being deleted to eliminate any suggestion that there will be a change in the Department's practice.

Because the specific duties performed by trainees and the extent of their use vary greatly by service occupation, it would not be appropriate to establish fixed definitions or ratios regarding trainees.

Thus, § 4.152(c) is adopted with revisions to eliminate the confusion raised by the language of the proposed regulations and simply state that trainee classifications may not be conformed.

Section 4.163(g)—Contract Reconfigurations

Section 4(c) of the Act generally requires that, where the employees of a predecessor contractor were covered by a collective bargaining agreement, the successor of a contract "under which substantially the same services are furnished" must pay its employees no less than the wages and fringe benefits provided by that agreement. Where predecessor contracts or portions thereof are reconfigured, consolidated or combined into one or more new contracts, a question arises concerning the application of section 4(c) to the new contract(s).

History of Provision

(a) Contemporaneous construction—It has been the practice of the Department since the first time this issue arose after the 1972 amendments, to apply each predecessor contractor's collectively bargained rates to the same identifiable work in the new or consolidated contract.

(b) Existing regulations—There is no corresponding provision.

(c) Current practice—Same as (a).

(d) January 1981 regulations—Provided that the protections of section 4(c) follow identifiable contract requirements which have been placed into new or consolidated contracts.

(e) Proposed regulations—Provided that in order for section 4(c) to apply when two or more previous contracts are combined into a single "reconfigured" contract, the new contract must be primarily for services which were furnished in the same locality under predecessor contracts. Further, where there is more than one such predecessor contract, the one covering the predominant part of the services called for under the new contract would control for purposes of section 4(c), and the collectively bargained wages and fringe benefits under that contract, if any, would apply to the new contract.

Comments

CODSIA favored the proposal because it would eliminate situations where employees in the same classification who previously worked on different contracts, work side by side on the new reconfigured contract and receive different rates.

The IBEW, SEIU, IAM, LIUNA, and IATSE opposed any limitations on the requirement for successor contractors to pay no less than a predecessor's negotiated rates, contending that their collective bargaining agreements would be negated, contrary to the intent of the 1972 amendments. These organizations also argued that agencies could reconfigure contracts to avoid a predecessor's negotiated wage and fringe benefit rates. In addition, the IBEW stated that, where two or more predecessor contracts for *different* services are combined, negotiated wages and fringe benefits for classifications not covered by the collective bargaining agreement under the predominant predecessor contract would be ignored under the new contract.

Discussion of Final Rule

A literal application of the policy expressed in the January 1981 regulations to reconfigured contracts results in the application of more than one predecessor collective bargaining agreement to the same services, and different negotiated rates applied to the same employee classifications on the new contract. Likewise, a similar problem arises where one predecessor has a collective bargaining agreement while another does not and the new contract combines identical work functions. In these situations, contractors have been required to pay employees working side by side, performing the same services, different wages and fringe benefits, entailing detailed records to ensure the proper rate is applied to the services performed, and potentially causing labor unrest.

While the labor organizations cited legislative history that section 4(c) was enacted to prevent wage undercutting on contract recompetitions, which they argue would include reconfigurations, they do not address the problems that arise under the current policy that section 4(c) follows identifiable work, without any limitation.

A careful analysis of the comments makes it clear that the regulatory language requires clarification. On reconsideration, we have concluded that a limitation on the application of section 4(c) is not necessary where clearly different and distinguishable services are combined in a reconfigured contract, since the problems the proposal was designed to alleviate do not arise in that situation. Such a limitation is deemed necessary, however, where two contracts involving the same or similar work functions are combined and, as a result, employees working side by side on the reconfigured contract would otherwise perform identical work but receive different rates.

Accordingly, § 4.163(g) is amended to provide that where an agency combines more than one predecessor contract involving the same or similar work functions performed by substantially the same job classifications, the predecessor contract which covers the greater portion of such work under the new contract would control for purposes of section 4(c). However, where *different* services are combined, all predecessor collectively bargained rates continue to follow identifiable work requirements into the new contract. In addition, the regulation has been revised to make it clear that the proviso is a limitation on section 4(c). The Secretary finds that in order to eliminate the anomalous situation of workers working for the same employer, side by side, and performing the same work but receiving different rates of pay, with attendant

recordkeeping difficulties and labor unrest, such a limitation is necessary and proper in the public interest and is in accord with the remedial purpose of the Act to protect prevailing labor standards.

Section 4.163(i)—Application of "Successorship" Provisions of Section 4(c) of the Act When the Successor Contract Is Performed in a Different Locality From That of the Predecessor Contract

Section 4(c) of the Act applies to every contractor "under a contract, which succeeds a contract subject to this Act and under which substantially the same services are furnished". In those instances in which the contract is not performed in the same location as the predecessor contract, the question arises whether the requirements of section 4(c) apply or whether its application is limited to those follow-on contracts performed in the same locality as the predecessor contract.

History of Provision

(a) Contemporaneous construction—It has been the Department's customary practice since passage of the 1972 amendments, which added section 4(c) to the Act, to apply its provisions irrespective of the place of performance of the successor contract.

(b) Existing regulations—Sections 4.1a(a), 4.1c, and 4.4(c) provide that the 4(c) successorship provisions apply to a contract which succeeds a contract "under which substantially the same services * * * are furnished for the same location," i.e., for the same procuring facility.

(c) Current practice—Same as (a).

(d) January 1981 regulations—Specifically provided that the successorship requirements of section 4(c) apply to all successor contracts for substantially the same services, whether performed at the same government installation or at the location of the successful bidder.

(e) Proposed regulations—Provided that the successorship requirements of section 4(c) apply to successorship contracts performed in the same locality as the predecessor contract.

Comments

The C of C and NCTSI favored the proposal on the ground that it is in accord with the Act's provisions that employees be paid the wages prevailing in the locality where the work is actually performed.

Labor organizations, including the AFL–CIO, the Teamsters, LIUNA, SEIU, and IAM, opposed the proposal, contending that there is no express limitation on locality in section 4(c) of the Act, and the only statutory test of 4(c) applicability is whether "substantially the same services are furnished" by the successor contractor as were furnished under the predecessor contract. They contended that the intent of section 4(c) was to protect collectively bargained wage rates and prevent labor instability, and that Congressional hearings held subsequent to the enactment of section 4(c) indicated that it was to apply regardless of the place of performance.

Discussion of Final Rule

In reconsidering this issue, the Department has fully reviewed the Act's legislative history. The Senate Report on the 1972 amendments states that the provisions of section 4(c) apply to successor contracts "for *services* at the *same* location." S. Rep. No. 92–1131, 92nd Cong., 2nd Sess. 4 (1972) (emphasis in original). Furthermore, limiting the application of section 4(c) to successor contracts performed in the same locality satisfies the statutory intent of protecting *local* wage rates. This is implicit in the provisio to section 4(c), providing an exception from section 4(c) if the Secretary finds after a hearing that the collectively bargained rates "are substantially at variance with those which prevail for services of a character similar in the locality." Indeed, the proviso for variance hearings to ensure that the collectively bargained rates are in line with local rates refutes the argument that section 4(c) contains no express locality provision. Concomitantly, adoption of this position should prevent disruption of locally prevailing rates when higher (or lower) rates contained in a collective bargaining agreement are imported from a different locality.

Applying section 4(c) only to those contracts where the successor contract is performed at the same location as that of the predecessor is also consistent with the legislative history which gave rise to the 1972 amendment adding section 4(c). The primary motivation for the amendment was the "wage busting" which had occurred at Cape Kennedy when the contractor which took over the operations contract did not observe the higher pay scale paid by the predecessor contractor. Cong. Rec. (Daily), S15342–15343 (Sept. 19, 1972); *The Plight of Service Workers under Government Contracts*, pp. 14–16 (Comm. Print 1971). Such "wage busting" is not a problem where the successor performs services at a different locality and thus utilizes a different work force.

However, to avoid problems which could arise if a contractor changes the place of performance after contract award, section 4.163(i) is amended to make it clear that once a contract which is subject to the provisions of section 4(c) has been awarded, section 4(c) will continue to apply if a successor prime contractor subsequently changes the place of contract performance or subcontracts work to a firm which performs the work in a different locality.

Section 4.163(j)—Interpretation of 4(c) Wage Determinations

History of Provision

(a) Contemporaneous construction — It has been the Department's position that where a contract is subject to section 4(c), and where a wage determination fails to accurately set forth the terms of the underlying collective bargaining agreement, the contractor is bound to observe the terms of the collective bargaining agreement. Furthermore, where the agreement is ambiguous, it is necessary to look to the intent of the parties.

(b) Existing regulations—No specific provision.

(c) Current practice—Same as (a).

(d) January 1981 regulations—Explained the Department's position, set forth at (a).

(e) Proposed regulations—Same as (d).

Comments

CODSIA objected to the requirement that interpretations of the wage and fringe benefit provisions of a section 4(c) wage determination be based on the intent of the parties to the predecessor's collective bargaining agreement. They contended that this section may restrict the right of a successor contractor to meet SCA obligations by furnishing an equivalent combination of fringe benefits and/or cash, and thus would be contrary to the language of the Act.

Discussion of Final Rule

It is the Department's view that the requirement of section 4(c) that contractors pay not less than the wages and fringe benefits "to which such service employees would have been entitled if they were employed under the predecessor contract," requires a contractor to follow the language of the agreement and, where necessary to resolve a question concerning the meaning of the language, the intent of the contracting parties. However, this section places no limit on the successor contractor's right to furnish equivalent combinations of fringe benefits or cash in meeting its obligations, but merely provides that the successor look to the provisions of the predecessor's

collective bargaining agreement and, where necessary, the intent of the parties to determine its monetary obligations under section 4(c).

In the majority of cases, the language of the agreement is clear, and the wage and fringe benefit provisions of the agreement are accurately reflected in the applicable wage determination. However, in those rare instances where the meaning of a wage or fringe benefit provision in a predecessor contractor's agreement cannot be determined by a successor contractor, the Department of Labor will assist in obtaining interpretative guidance from the parties to that agreement.

Section 4.163(j) is adopted with minor clarification.

Section 4.168(b)—Wash-and-Wear Uniform Maintenance Costs

Where the wearing of uniforms is required by the employer, the Government contract, or the nature of the work, the cost of furnishing and maintaining such uniforms is a business expense of the employer which may not be borne by the employees to the extent that it would reduce the employees' compensation below that required by the law. This is a principle that has been repeatedly applied by the Department in enforcement of the Fair Labor Standards Act, and upheld by the courts. However, the issue of whether employees incur measurable costs when maintaining so-called "wash-and-wear" uniforms has been under review for some time. The question which arises is whether, for those uniforms of wash-and-wear material which can ordinarily be included with the family wash and do not require special treatment, a uniform maintenance liability is appropriate.

History of Provision

(a) Contemporaneous Construction—It has been the Department's practice since the first time this issue arose under the SCA to conform to its enforcement practice under the Fair Labor Standards Act, i.e., to require reimbursement of the cost to employees of maintaining required uniforms.

(b) Existing regulations—Section 4.170(b) states that the cost of uniforms and their laundering is properly a business expense of the employer where the nature of the work it has contracted to perform requires the employee to wear a uniform.

(c) Current practice—The Department's practice has recently been modified in recognition of the common use of wash-and-wear uniforms, to assert no employer liability where such garments may be routinely washed and dried with other personal garments and require no special treatment.

(d) January 1981 regulations—Specifically provided for reimbursement of uniform maintenance expenses, with no special proviso for wash-and-wear uniforms.

(e) Proposed regulations—Same as (d), with the addition of a special exception for wash-and-wear uniforms, to reflect current practice.

Comments

Kentron International, Inc., commented in favor of the proposed revision. The proposal was opposed by the Textile Rental Services Association, LIUNA, and the UPGWA on the ground that it places an unfair burden on low paid employees, who must absorb the maintenance costs and for whom the cost of maintaining uniforms is not *de minimis*.

Discussion of Final Rule

The Department has concluded that as a general matter, for wash-and-wear uniforms requiring no special treatment, a uniform maintenance liability for employers would not be apppropriate because the cost of, and time spent in, maintaining such uniforms by employees is considered *de minimis*. The Department's experience has been that in such cases there is generally no practicable means of measuring either the cost or time required for washing the uniform, as a separate item.

This section has been adopted with a revision to clarify that a requirement of daily washing constitutes special treatment requiring compensation. This conforms the regulation to the policy applied under the Fair Labor Standards Act, and responds in large part to the concerns expressed by those commentators who opposed the proposal.

The provisions has also been revised to clarify that, notwithstanding the general provision regarding wash-and-wear uniforms, where wage determinations are issued under section 4(c) of the Act for successor contracts, the amount established in the predecessor collective bargaining agreement is deemed to be the cost of laundering wash-and-wear uniforms.

Section 4.171—"Bona Fide" Fringe Benefits

SCA requires at section 2(a)(2) that the Department's wage determinations set forth prevailing or, where section 4(c) applies, collectively bargained fringe benefits. The Act enumerates types of benefits and further provides that a contractor may satisfy its fringe benefit obligation by furnishing any equivalent combination of fringe benefits and/or cash payments, in accordance with rules established by the Secretary.

History of Provision

(a) Contemporaneous construction—The Department has always considered that it had the authority to establish rules for bona fide fringe benefit plans. Furthermore, the Department has generally considered that unfunded plans are not bona fide.

(b) Existing regulations—No specific discussion of bona fide fringe benefits. However, § 4.170(b) requires that a fund, plan or program be bona fide.

(c) Current practice—Same as (a); however, in the jurisdiction of the Ninth Circuit, unfunded plans are permitted. See *White Glove Bldg. Maintenance, Inc.* v. *Hodgson*, 459 F.2d 175 (1972).

(d) January 1981 regulations—Set forth rules for bona fide fringe benefits. Provided that normally unfunded fringe benefit plans are not bona fide, but provided a procedure for contractors to request approval of such a plan from the Administrator.

(e) Proposed regulations—Same as (d).

Comments

NASA and DOE asserted that the intent of this section, which explains the requirements for bona fide fringe benefits for purposes of the Act, was not clear because the term "bona fide" in subparagraph (b), concerning unfunded plans, was not defined. NASA and DOE further questioned the authority of the Department to set policy on fringe benefit plans. NCTSI maintained that the Department's authority is limited to determining only whether fringe benefits other than those enumerated in the Act are bona fide.

Discussion of Final Rule

As set forth in section 2(a)(2) of the Act, the types of benefits listed therein and benefits of a similar nature are generally considered bona fide for purposes of the Act. Subparagraph (a) of § 4.171 specifies criteria which must be met for a fringe benefit to be considered bona fide. The purpose of § 4.171 is to give force and effect to the fringe benefit provisions of the Act by ensuring that a contractor actually incurs the required monetary obligation and provides for the furnishing of the specified fringe benefits or their equivalent to its employees. The statutory authority for the Secretary to make such rules and regulations is set forth in section 4 of the Act.

Accordingly, this section is adopted as proposed with minor editorial changes.

Other Changes

In addition to the changes described in preceding sections of the preamble, minor editorial and language changes have been made in some sections of the SCA rules.

Classification—Executive Order 12291

This rule would not appear to require a regulatory impact analysis under Executive Order 12291 since the changes will result in substantial cost savings annually for both contractors and the Government while still assuring protection of local labor standards in accordance with the purposes of the Act. However, because of the importance to the Government and the public of the issues involved, the Department has concluded that the regulation should be deemed a "major rule" for purposes of the Executive Order. It has been determined, in accordance with Executive Order 12291, that of those alternatives which are consistent with the purpose of the statute, these changes provide the greatest net benefit to society at the least cost.

Summary of Final Regulatory Impact and Flexibility Analysis

The Department has prepared its final regulatory impact analysis (FRIA) to identify and quantify the cost impact of the final revisions in the Service Contract Act regulations and various alternatives that were explored and to inform the public of the economic considerations behind these revisions in accordance with Executive Order 12291.

The new rule must also consider the Regulatory Flexibility Act of 1980. This Act requires agencies to prepare regulatory flexibility analyses and to develop flexible alternatives whenever possible in drafting regulations that will have "a significant economic impact on a substantial number of small entities." The analysis, which is summarized below, also meets the requirements set forth for assessing the economic impact of the final changes in the Service Contract Act regulations on small entities as required under the Regulatory Flexibility Act.

A. SCA Coverage Revisions and Exemption Issues

1. *Preliminary Regulatory Impact Estimates*

The final regulatory impact analysis builds on the estimates developed for the proposal published on August 14, 1981 (46 FR 41380). The preliminary regulatory impact analysis estimated the cost implications of several important proposed changes affecting coverage and exemptions under the Act, including (1) the proposed exemption of research and development contracts; (2) the proposal to cover contracts under SCA only when the work is performed principally through service workers; (3) the proposed exemption of maintenance and repair services on ADP and high technology scientific and medical apparatus or equipment, and on office/business machines when performed by the manufacturer or supplier; (4) the proposal not to generally apply the Act to timber sales contracts; and (5) the proposed coverage of specifications for services only in instances where the contract as a whole is principally for services.

The PRIA estimated that the proposed changes would result in substantial cost savings over the January 1981 regulations, amounting to at least $240 million annually to both contractors and procuring agencies, while still assuring necessary protection to service employees' wages on service contracts. The Department requested comments and additional information on all economic assumptions used in the analysis, as well as any alternative suggestions designed to achieve the objectives of the Executive Order.

2. *Comments on the Preliminary Regulatory Impact Analysis*

The Department received numerous comments on the PRIA estimates and economic assumptions. These comments can be categorized into two groups. Union groups called into question the validity of the whole economic analysis. They challenged, in particular, the Department's methodology as built from highly questionable assumptions and data that failed to differentiate between industries and occupations. The end-result, in their view, was highly unreliable estimates of cost savings to contractors and procuring agencies from the proposed revisions. Moreover, they viewed the analytical deficiencies as working to inflate the cost savings. Finally, they faulted the analysis as inadequate because it failed to consider the indirect costs of the proposed regulations in terms of the loss of wage protection and jobs for workers, increased risk of substandard performance of contract work, productivity losses due to impaired labor relations and their impact on certain regions (i.e., a shift in contract awards from high wage to low wage regions). Union commentators suggested that the Department issue the final revisions contained in the January 1981 regulations.

In contrast, industry associations, agencies, and individual contractors strongly endorsed the proposed changes as vastly improving government contract administration, increasing efficiency in both agency and contract operations, and resulting in substantial budgetary savings. Those commenting on the PRIA generally viewed the estimates of cost savings as on the low side, since they ignored the "spillover effects" of wage increases for workers below the SCA rates on the wage rates of other workers (i.e., increasing wage rates for the lowest paid employees on Government contracts may require raising wages of the highest paid employees on Government and private contracts by the same percentage amount).

The Department has carefully reviewed all of these comments in finalizing the regulations and has incorporated these considerations, as appropriate, into the final regulatory impact analysis (FRIA). Since the final rule differs from the proposal in several important respects, the cost estimates were revised to reflect the changes. In addition, the final analysis uses more recent wage data available for the ADP and business equipment industries and for "blue collar" service occupations and refines the PRIA estimates of the contracting universe impacted by the final rule to the extent permitted by available data. Based on the evidence, the Department has concluded that today's final regulations will assure necessary protection of service employees' wages on contracts principally for the furnishing of services, as contemplated in the legislation. At the same time, they will produce substantial cost savings for Government contractors and procuring agencies—in the neighborhood of $124 million annually when compared to the January 1981 regulations. The following sections highlight the major methodological issues and the Department's conclusions.

3. *Methodology for Cost Savings Estimates Associated with Alternative Coverage and Exemption Provisions*

The major economic concern of industries and procuring agencies faced with potential SCA coverage is that the wage determinations required by the Service Contract Act add to the costs of federal contracts. Therefore, we attempted to assess the impact of SCA coverage (and hence the potential cost savings from the absence of SCA coverage) using a wage analysis that

compared SCA wage determinations to a range of wages found for similar service occupations in each area. Under this methodology, the portion of the wage distribution that lies below each SCA wage rate provides a measure of the possible wage cost savings in the absence of SCA coverage. This approach thus recognizes that if wages are set at the mean or median wage, Government contracting costs could still be increased to the extent that contractors could not pay wages below the prevailing rate.

Labor cost increases associated with SCA coverage can be estimated as the simple product of (1) the net dollar volume of contracts expected to contain SCA provisions under alternative regulations (after subtracting out the dollar amounts of contracts currently containing SCA provisions); (2) the percent of contract costs paid service employees; and (3) the average percentage wage increase resulting from SCA coverage expected for relevant categories of service employees. Cost savings resulting from the final regulatory changes over the regulations published in January 1981 are calculated from these wage cost estimates.

Baseline data on the current SCA contract volume for most coverage areas as well as the appropriate SCA universe is available from the Federal Procurement Data System (FPDS). The universe for timber sales contracts can be determined from Department of Agriculture data on appraisal costs, while the universe for service specifications under equipment supply contracts comes from the General Services Administration.

Estimates of the percent of contract funds used to pay service employees come from individual agencies—the Department of Defense (DOD) for R&D and related contracts, General Service Administration (GSA) for installation, maintenance, and repair of equipment and buildings, and the Department of Agriculture (DOA) for timber sales contracts.

To estimate the magnitude of wage increases associated with SCA coverage, SCA rates in effect in 1979 for selected occupational categories were compared to wage distributions for these groups obtained from BLS area wage surveys. To illustrate how this procedure works, estimates are developed below for R&D and related professional service contracts (although the final regulations do not include an exemption for R&D and related contracts). This same technique is generally transferable to other coverage areas using different data, but some modifications may be necessary (e.g., in cases where existing contracts do not contain SCA wage determinations).

For our sample of 23 technical and clerical occupations in 30 areas from area wage surveys conducted by the Bureau of Labor Statistics (BLS), every observed wage in the BLS Survey which fell below the level of the relevant SCA wage determination was identified. All wages below the SCA rate were then subtracted from the SCA determination for each occupational class in each city. Summing these differences and dividing by the number of workers in the relevant sample and the average wage produced individual estimates of the percentage increase in wages resulting from SCA for each occupation in each city. These individual estimates were next averaged across areas and occupations to provide a single representative estimate of 4.17 percent as the wage impact of SCA coverage for these clerical and technical occupations. The results using this methodology suggest that there may be some modest upward pressure on wages from SCA requirements, but its magnitude is not as large as is sometimes asserted.

In the final analysis, this percentage increase wa used to proxy possible wage effects from SCA coverage in two areas: (1) the proposed exemption of R&D contracts and alternatives under review, and (2) the proposed change in the Department's coverage interpretation which would apply the Act only to contracts performed principally through the use of service employees, and which would largely impact R&D and related contracts. This more limited role for the R&D estimated impact in the final analysis would appear in large measure to remedy the unions' criticism of widespread application of the R&D estimate to dissimilar categories of workers in the preliminary analysis.

Wage increases from coverage of timber sales contracts are estimated using this methodology but with different data applicable to the special occupations used in such contracts and in rural areas. These calculations indicate that SCA coverage would exert upward pressure on labor costs of about 1.56 percent for logging activities (assuming that prospective SCA rates would be set at or near the median).

For other non-logging land and forest management services, the resulting estimates show a similar increase of 1.8 percent in wages associated with SCA coverage. In addition, we have specific data on the ADP and high technology industries for maintenance/repair services. Applying the ADP wage distributions results in an estimated average wage increase of 6.7 percent. (The estimated impact using the new data set is substantially below the 10.7 percent estimate used in the preliminary analysis which was based on a more limited range of wages taken from a General Accounting Office report.) We also applied this 6.7 percent estimate to the maintenance and repair of other equipment no longer subject to the Act because of the final rule's determination that specifications for services which are part of nonservice contracts are not covered by the Service Contract Act because of the similarities in occupations. (This also replaces the 10.7 percent estimate used in the preliminary analysis.) Finally, the PRIA estimates that dealt with lower wage service workers, such as janitors and guards, who would no longer be covered as part of building lease contracts which contain separate specifications for the furnishing of janitorial or other maintenance services, have been revised to reflect a 1981 nationwide BLS wage distribution for janitors, which was used to proxy SCA wage effects for other lower wage workers. Assuming that SCA rates are set at the mean wage paid janitors ($5.23 per hour), these data suggest an average wage effect of 16.5 percent. This percentage is well above the 4.17 percent R&D estimate used in the preliminary analysis.

With these wage impact estimates, the cost impacts of alternative options were derived by multiplying the estimated wage increases for each contract type by the share of total contract costs paid to service employees. The estimated labor cost savings from the final revisions over the regulations published in January 1981 for each coverage and exemption issue were then calculated directly from these cost estimates. Specific applications of this methodology to the coverage and exemption areas under review and individual cost estimates are presented in the final regulatory impact analysis.

4. *Summary of Estimated Cost Savings from SCA Changes Affecting Coverage and Exemptions*

The final rule contains several important changes concerning coverage and exemptions under the Act including: (1) the exemption of maintenance, calibration, and repair services on ADP, scientific and medical apparatus or equipment where microelectronic circuitry or other technology of at least similar sophistication is an essential element, and on office/business machines when performed by the manufacturer or supplier; (2) the decision that the Act does not generally apply to timber sales contracts; and (3)

the coverage of specifications for services only in instances where the contract as a whole is principally for services. Together, these coverage revisions and exemptions should result in substantially lower labor and administrative costs on federal contracts amounting to nearly $124 million annually. The changes are in accord with our best interpretation of Congressional intent and the criteria for exemption in section 4(b) of the Act.

It should be emphasized that these figures do not reflect the *net* savings to society. This is because they do not subtract out any indirect costs incurred by workers and the public as a result of the SCA coverage revisions and exemptions. The Service Contract Act was enacted to provide labor standards protection for the service employees of contractors and subcontractors furnishing services to federal agencies. The legislative history recognizes that statutory protection was considered necessary to prevent contractors from using wages lower than those locally prevailing to obtain a competitive advantage in securing Government contracts. Lowering wages as a means of getting contracts would otherwise be likely for many types of service contracts which are highly labor intensive and which depend on "lowest-bidder" procurement practices. SCA prevailing wage protections effectuate the "longstanding policy of Congress that the Federal Government shall not be a party to the depressing of labor standards in any area of the Nation" (111 Cong. Rec. 2437 (1965), Statement of Congressman O'Hara, co-author of the Act).

Examples of indirect costs that potentially could arise through coverage revisions and exemptions include job and wage losses (at least for employees of affected contractors), lower quality services and reduced productivity, among others. The Department recognizes the potential for these indirect costs, but unfortunately the necessary data with which to estimate their magnitude are not available. Moreover, the Department believes these costs will not be substantial for several reasons.

First, the estimates measure the savings in wage costs over the baseline of full compliance with the January 1981 rule. Yet, many of the contracts affected by the coverage revisions and exemptions do not currently contain SCA provisions. These include, for example, all of the timber sales contracts and maintenance as part of GSA building leases, and most maintenance and repair specifications under contracts for lease or supply of equipment. For workers under these contracts there are no existing SCA provisions and hence no actual wage losses. Secondly, the exemptions impact largely on high wage workers. For example, the average hourly earnings of most occupations impacted by the exemptions are well in excess of average earnings levels in the economy. CBEMA data on the earnings levels of technicians in data processing occupations average between 24–50 percent above those for all private nonfarm establishments. Finally, because the workers in the ADP and high technology industries are in great demand and because it is characteristic of the industries that Government business is only a small percentage of the total business of individual firms and that workers perform Government work as part of day-to-day duties servicing commercial establishments it is highly unlikely that job or wage losses would occur. All of these considerations and others are discussed in further detail in the final regulatory impact analysis.

B. Locality of Wage Determinations

For a small percentage of wage determinations, the place of performance of the contract is unknown at the time of bid solicitation because the contract will be performed at the location of the successful bidder's facility. Accordingly, the proper locality to use for these wage determinations is problematic.

The Department of Labor in recent years has generally issued wide-area, composite wage determinations encompassing all of the localities in which potential bidders would be located. The composite area could be a cluster of counties, a state, a region, or even the entire country. "Averaging" across localities would tend to raise contracting costs.

After further consideration of a recent court decision in *Southern Packaging and Storage Company* v. *United States, supra,* generally prohibiting nationwide rates except in extraordinary cases, and the problems of issuing wage determinations which do not reflect locally prevailing rates, the Department proposed to implement a two-step procedure that would generally result in wage determinations for the various localities of the potential bidders.

In addition, the proposal limited the application of the successorship provisions of section 4(c) of the Act to successor contracts which are performed in the same locality as the predecessor contract. The current interpretation as expressed in the January 1981 regulations imposes no such limitation, thereby requiring a successor contractor performing services at its own facility in a different locality from its predecessor contractor to pay collectively bargained rates from a different locality. This had the potential of disrupting locally prevailing wages.

Agencies and industry groups generally supported the proposed locality revisions, although they recommended modifications in the procedures to accommodate their particular view. In contrast, labor commentators opposed the two-step procurement procedure as contrary to the Act's remedial purpose, in part because it would tend to channel contract awards to "low wage" areas (i.e., it grants an unfair competitive advantage to "low wage" bidders). They likewise challenged the proposal to limit the application of the successorship provisions under section 4(c) of the Act to successor contracts performed in the same locality as the predecessor contract, on the grounds that section 4(c) contains no express limitation on locality and that the only statutory test of 4(c) applicability is whether "substantially the same services are furnished" by the successor contract as were furnished under the predecessor contract.

After careful review of the evidence, together with the legislative history of the Act, the Department has adopted these locality provisions. The Department has concluded that the two-step procurement process would prevent the "importation" of both higher and lower wage rates and consequent disruption of local labor markets that would occur under other methods. Furthermore, the Department notes that this is no support in the legislative history for any of the alternatives to the two-step procedure, including the locality of the procurement agency or of the predecessor contracts, as suggested by some commentators. However, a minor revision has been made to the procedure to permit the Department to follow the modified procedure on its own initiative, after consultation with the contracting agency. The Department has also determined that limiting the application of section 4(c) to successor contracts performed in the same locality would satisfy the statutory intent of protecting *local* wage rates and is fully consistent with the legislative history.

While the cost impact of these locality provisions cannot be quantified, the final revisions will not only decrease Government contract costs but will best assure that SCA determinations reflect

wages found in the locality where the contract is performed, as contemplated by the statute, thereby eliminating the destabilizing effects of the previous DOL procedures.

C. Changes in Conformance Procedures

In addition, the proposal introduced several changes designed to improve the operation of the conformance process. Under the proposed procedures, rates would be issued for classifications requested by agencies to the extent possible through use of slotting procedures, a widely-used technique in pay administration, to establish rates for unlisted occupations. These provisions would substantially reduce the frequency of cases requiring conformance actions because a classification is not listed on a wage determination. Also, the burdens on the Department and contracting agencies associated with DOL review of the conformance actions would be substantially lessened by allowing agencies and contractors to conform wage rates and fringe benefits which were the subject of a previous conformance action through indexing procedures.

Commentators generally supported these provisions (with some modifications), as necessary to substantially reduce the burdens on the Department and contracting agencies associated with conformance actions Accordingly, the final regulations adopt these changes in the conformance procedures.

Again, it is not possible with available data to quantify the cost reductions associated with these conformance revisions, but the administrative cost savings are expected to be substantial.

D. Application of the Act to Overhaul and Modification Contracts

The proposal contained guidelines to determine when overhaul or modification of equipment is so extensive as to constitute manufacturing subject to the Walsh-Healey Act, rather than the Service Contract Act. Work of a routine maintenance, tune-up, repair, inspection, etc., nature would continue to be subject to the Service Contract Act.

Industry viewed the proposed guidelines delineating major overhaul of equipment as overly detailed. Union commentators acknowledged that the current "dual" coverage position was unworkable. However, they opposed the proposed guidelines as arbitrary and unjustified by the language and history of both Acts as well as contrary to case law. Furthermore, it would be impossible, in their view, to determine before contract award whether proposed work would be extensive enough to be covered by Walsh-Healey as "remanufacturing", as this is determinable only after tear-down and inspection of the equipment.

After careful review of the evidence, the Department has adopted the proposed guidelines. The detailed guidelines appear necessary to distinguish between coverage under the two Acts and to eliminate possible overlapping of the differing labor standards. Moreover, agencies should be able to initially determine whether the proposed contract would involve principally "remanufacturing" based on the guidelines and their contract experience, and to incorporate the appropriate labor standards clauses prior to soliciting bids. The Department believes these guidelines will effectively deal with the complex administrative problems encountered in deciding where SCA coverage ended and Walsh-Healey coverage began under the "dual" coverage positions. In the process, the Department expects that government contracting costs for these services will be reduced, but the precise amount cannot be determined at the time.

E. Cost Impact on Small Entities

Much of these costs savings would be passed on to small contractors who take up a large part of the Federal contracting universe. For example, Employer Information Reports filed in 1980 by all Federal contractors with at least 50 employees and a $50,000 or more contract show that even at these thresholds, about 54 percent of those federal contractors were firms with fewer than 250 employees. This included 3,308 small employers with 50–90 employees and 5,540 slightly larger firms with 100–249 employees. In the logging industry, the proportion of small contractors is even larger. About 80 percent of the logging operations in 1969 were in establishments having fewer than 100 employees. Thus, even if costs are proportionate for small and large contractors, there would be a large reduction expected in contracting costs for smaller contractors.

F. Summary

The final revisions discussed above will result in substantial cost savings of at least $124 million annually for both contractors and the Government while still assuring protection of local wage rates and practices. The changes will have a substantial beneficial impact on small contractors.

Paperwork Reduction Act

Information collection requirements contained in this regulation (sections 4.6(b)(2), 4.6(e), 4.6(g)(1) (v) and (vi), and 4.6(l) (1) and (2)) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 1215–0150.

Other information collection requirements contained in this regulation (sections 4.6(g)(1) (i)–(iv) and 4.6(q)(3)) have been approved by the Office of Management and Budget and have been assigned OMB Control Number 1215–0017.

Conclusion

The Solicitor of Labor has determined in accordance with Executive Order 12291, that this regulation is clearly within the authority delegated to the Secretary of Labor by the Service Contract Act (41 U.S.C. 351, *et seq.*, 79 Stat. 1034, as amended in 86 Stat. 789, 90 Stat. 2358), which incorporates sections 4 and 5 of the Walsh-Healey Public Contracts Act (41 U.S.C. 38 and 39), as well as 5 U.S.C. 301. The Solicitor, as set forth above in the discussion of the major issues, has determined that this regulation is consistent with the congressional intent of the Service Contract Act that contractors on Federal contracts subject to this Act pay their workers in accordance with local wage standards. The regulation also provides protection for the workers and mechanisms for enforcement, as intended by the Service Contract Act.

This document was prepared under the direction and control of William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

Dates of Applicability

Many of the provisions contained in these regulations reflect existing policies and interpretations of the Act or are procedural in nature. However, significant changes have been made with respect to contract clauses, contract coverage, exemptions from coverage, and provisions relating to wage determinations, including those issued pursuant to section 4(c) of the Act. Because existing contracts contain SCA provisions and wage determinations issued under the regulations and policies in existence when the contracts were awarded, the substantive revisions herein relating to contract clauses, coverage and exemptions from the Act, and wage determinations issued thereunder,

including those issued in accordance with section 4(c) of the Act, are prospective only. Accordingly, the revisions to §§ 4.1b, 4.4, 4.5, and 4.6 of Subpart A; §§ 4.116, 4.117, 4.123(e), 4.132, and 4.133 of Subpart C; and §§ 4.163(g), 4.163(i) and 4.163(b) of Subpart D of this Part shall be applicable only to contracts entered into pursuant to invitations for bids issued or negotiations concluded on or after December 27, 1983. None of the revisions noted hereinabove shall be applicable to any contract entered into prior to that date. The remaining provisions of Subparts A, B, C, D, and E are effective on December 27, 1983.

List of Subjects in 29 CFR Part 4

Administrative practice and procedures, Employee benefit plans, Government contracts, Investigations, Labor, Law enforcement, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Accordingly, 29 CFR Part 4 is revised as set forth below.

Concurrent with the publication today of this final rule, the final rules previously published in the **Federal Register** on January 16 and 19, 1981 (46 FR 4320 and 46 FR 4386, respectively) and subsequently stayed are hereby withdrawn.

Signed at Washington, D.C. on this 19th day of October, 1983.

William M. Otter,

Administrator, Wage and Hour Division.

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

Subpart A—Service Contract Labor Standards Provisions and Procedures

Sec.

4.1 Purpose and scope.
4.1a Definitions and use of terms.
4.1b Payment of minimum compensation based on collectively bargained wage rates and fringe benefits applicable to employment under predecessor contract.
4.2 Payment of minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 under all service contracts.
4.3 Wage determinations.
4.4 Notice of intention to make a service contract.
4.5 Contract specification of determined minimum wages and fringe benefits.
4.6 Labor standards clauses for Federal service contracts exceeding $2,500.
4.7 Labor standards clause for Federal service contracts not exceeding $2,500.
4.8 Notice of awards.
4.9 [Reserved]
4.10 Substantial variance proceedings under section 4(c) of the Act.
4.11 Arm's-length proceedings.
4.12 Substantial interest proceedings.

Subpart B—Wage Determination Procedures

Sec.

4.50 Types of wage and fringe benefit determinations.
4.51 Prevailing in the locality determinations.
4.52 Collective bargaining agreement (successorship) determinations.
4.53 Locality basis of wage and fringe benefit determinations.
4.54 Issuance and revision of wage determinations.
4.55 Review and reconsideration of wage determinations.

Subpart C—Application of the McNamara-O'Hara Service Contract Act

Introductory

4.101 Official rulings and interpretations in this subpart.
4.102 Administration of the Act.
4.103 The Act.
4.104 What the Act provides, generally.
4.105 The Act as amended.
4.106 [Reserved]

Agencies Whose Contracts May Be Covered

4.107 Federal contracts.
4.108 District of Columbia contracts.
4.109 [Reserved]

Covered Contracts Generally

4.110 What contracts are covered.
4.111 Contracts "to furnish services".
4.112 Contracts to furnish services "in the United States".
4.113 Contracts to furnish services "through the use of service employees".
4.114 Subcontracts.

Specific Exclusions

4.115 Exemptions and exceptions, generally.
4.116 Contracts for construction activity.
4.117 Work subject to requirements of Walsh-Healey Act.
4.118 Contracts for carriage subject to published tariff rates.
4.119 Contracts for services of communications companies.
4.120 Contracts for public utility services.
4.121 Contracts for individual services.
4.122 Contracts for operation of postal contract stations.
4.123 Administrative limitations, variations, tolerances, and exemptions.
4.124 [Reserved]
4.125 [Reserved]
4.126 [Reserved]
4.127 [Reserved]
4.128 [Reserved]
4.128 [Reserved]
4.129 [Reserved]

Particular Application of Contract Coverage Principles

4.130 Types of covered service contracts illustrated.
4.131 Furnishing services involving more than use of labor.
4.132 Services and other items to be furnished under a single contract.
4.133 Beneficiary of contract services.
4.134 Contracts outside the Act's coverage.
4.135 [Reserved]
4.136 [Reserved]
4.137 [Reserved]
4.138 [Reserved]
4.139 [Reserved]

Determining Amount of Contract

4.140 Significance of contract amount.
4.141 General criteria for measuring amount.
4.142 Contracts in an indefinite amount.

Changes in Contract Coverage

4.143 Effects of changes or extensions of contracts, generally.
4.144 Contract modifications affecting amount.
4.145 Extended term contracts.

Period of Coverage

4.146 Contract obligations after award, generally.
4.147 [Reserved]
4.148 [Reserved]
4.149 [Reserved]

Employees Covered by the Act

4.150 Employee coverage, generally.
4.151 Employees covered by provisions of section 2(a).
4.152 Employees subject to prevailing compensation provisions of sections 2(a)(1) and (2) and 4(c).
4.153 Inapplicability of prevailing compensation provisions to some employees.
4.154 Employees covered by sections 2(a)(3) and (4).
4.155 Employee coverage does not depend on form of employment contract.
4.156 Employees in bona fide executive, administrative, or professional capacity.
4.157 [Reserved]
4.158 [Reserved]

Subpart D—Compensation Standards

4.159 General minimum wage.
4.160 Effect of section 6(e) of the Fair Labor Standards Act.
4.161 Minimum monetary wages under contracts exceeding $2,500.
4.162 Fringe benefits under contracts exceeding $2,500.
4.163 Section 4(c) of the Act.
4.164 [Reserved]

Compliance With Compensation Standards

4.165 Wage payments and fringe benefits—in general.
4.166 Wage payments—unit of payment.
4.167 Wage payments—medium of payment.
4.168 Wage payments—deductions from wages paid.
4.169 Wage payments—work subject to different rates.
4.170 Furnishing fringe benefits or equivalents.
4.171 "Bona fide" fringe benefits.
4.172 Meeting requirements for particular fringe benefits—in general.
4.173 Meeting requirements for vacation fringe benefits.
4.174 Meeting requirements for holiday fringe benefits.
4.175 Meeting requirements for health, welfare, and/or pension benefits.
4.176 Payment of fringe benefits to temporary and part-time employees.
4.177 Discharging fringe benefit obligations by equivalent means.

Sec.
4.178 Computation of hours worked.
4.179 Identification of contract work.

Overtime Pay of Covered Employees

4.180 Overtime pay—in general.
4.181 Overtime pay provisions of other Acts.
4.182 Overtime pay of service employees entitled to fringe benefits.

Notice to Employees

4.183 Employees must be notified of compensation required.
4.184 Posting of notice.

Records

4.185 Recordkeeping requirements.
4.186 [Reserved]

Subpart E—Enforcement

4.187 Recovery of underpayments.
4.188 Ineligibility for further contracts when violations occur.
4.189 Administrative proceedings relating to enforcement of labor standards.
4.190 Contract cancellation.
4.191 Complaints and compliance assistance.

Authority: 41 U.S.C. 351, et seq., 79 Stat. 1034, as amended in 86 Stat. 789, 90 Stat. 2358; 41 U.S.C. 38 and 39; and 5 U.S.C. 301.

Subpart A—Service Contract Labor Standards Provisions and Procedures

§ 4.1 Purpose and scope.

This part contains the Department of Labor's rules relating to the administration of the McNamara-O'Hara Service Contract Act of 1965, as amended, referred to hereinafter as the Act. Rules of practice for administrative proceedings under the Act and for the review of wage determinations are contained in Parts 6 and 8 of this chapter. See Part 1925 of this title for the safety and health standards applicable under the Service Contract Act.

§ 4.1a Definitions and use of terms.

As used in this part, unless otherwise indicated by the context—

(a) "Act," "Service Contract Act," McNamara-O'Hara Act, or "Service Contract Act of 1965" shall mean the Service Contract Act of 1965 as amended by Public Law 92–473, 86 Stat. 789, effective October 9, 1972, Pub. L. 93–57, 87 Stat. 140, effective July 6, 1973, and Pub. L. 94–489, 90 Stat. 2358, effective October 13, 1976 and any subsequent amendments thereto.

(b) "Secretary" includes the Secretary of Labor, the Deputy Under Secretary for Employment Standards, and their authorized representatives.

(c) "Wage and Hour Division" means the organizational unit in the Employment Standards Administration of the Department of Labor to which is assigned the performance of functions of the Secretary under the Service Contract Act of 1965, as amended.

(d) "Administrator" means the Administrator of the Wage and Hour Division, or authorized representative.

(e) "Contract" includes any contract subject wholly or in part to the provisions of the Service Contract Act of 1965 as amended, and any subcontract of any tier thereunder. (See §§ 4.107–4.134.)

(f) "Contractor" includes a subcontractor whose subcontract is subject to provisions of the Act. Also, the term "employer" means, and is used interchangeably with, the terms "contractor" and "subcontractor" in various sections in this part. The U.S. Government, its agencies, and instrumentalities are not contractors, subcontractors, employers or joint employers for purposes of compliance with the provisions of the Act.

(g) "Affiliate" or "affiliated person" includes a spouse, child, parent, or other close relative of the contractor or subcontractor; a partner or officer of the contractor or subcontractor; a corporation closely connected with a contractor or subcontractor as a parent, subsidiary, or otherwise; and an officer or agent of such corporation. An affiliation is also deemed to exist where, directly or indirectly, one business concern or individual controls or has the power to control the other or where a third party controls or has the power to control both.

(h) "Wage determination" includes any determination of minimum wage rates or fringe benefits made pursuant to the provisions of sections 2(a) and/or 4(c) of the Act for application to the employment in a locality of any class or classes of service employees in the performance of any contract in excess of $2,500 which is subject to the provisions of the Service Contract Act of 1965.

§ 4.1b Payment of minimum compensation based on collectively bargained wage rates and fringe benefits applicable to employment under predecessor contract.

(a) Section 4(c) of the Service Contract Act of 1965 as amended provides special minimum wage and fringe benefit requirements applicable to every contractor and subcontractor under a contract which succeeds a contract subject to the Act and under which substantially the same services as under the predecessor contract are furnished in the same locality. Section 4(c) provides that no such contractor or subcontractor shall pay any service employee employed on the contract work less than the wages and fringe benefits provided for in a collective bargaining agreement as a result of arms-length negotiations, to which such service employees would have been entitled if they were employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for in such collective bargaining agreement. If, however, the Secretary finds after a hearing in accordance with the regulations set forth in § 4.10 of this subpart and Parts 6 and 8 of this title that in any of the foregoing circumstances such wages and fringe benefits are substantially at variance with those which prevail for service of a character similar in the locality, those wages and/or fringe benefits in such collective bargaining agreement which are found to be substantially at variance shall not apply, and a new wage determination shall be issued.

If the contract has been awarded and work begun prior to a finding that the wages and/or fringe benefits in a collective bargaining agreement are substantially at variance with those prevailing in the locality, the payment obligation of such contractor or subcontractor with respect to the wages and fringe benefits contained in the new wage determination shall be applicable as of the date of the Administrative Law Judge's decision or, where the decision is reviewed by the Board of Service Contract Appeals, the date of the decision of the Board of Service Contract Appeals. (See also § 4.163(c).)

(b) Pursuant to section 4(b) of the Act, the application of section 4(c) is made subject to the following variation in the circumstances and under the conditions described: The wage rates and fringe benefits provided for in any collective bargaining agreement applicable to the performance of work under the predecessor contract which is consummated during the period of performance of such contract shall not be effective for purposes of the successor contract under the provisions of section 4(c) of the Act or under any wage determination implementing such section issued pursuant to section 2(a) of the Act, if—

(1) In the case of a successor contract for which bids have been invited by formal advertising, notice of the terms of such new or changed collective bargaining agreement is received by the contracting agency less than 10 days before the date set for opening of bids, provided that the contracting agency finds that there is not reasonable time still available to notify bidders; or

(2) Notice of the terms of a new or changed collective bargaining agreement is received by the agency after award of a successor contract to be entered into pursuant to negotiations

or as a result of the execution of a renewal option or an extension of the initial contract term, provided that the contract start of performance is within 30 days of such award or renewal option or extension. If the contract does not specify a start of performance date which is within 30 days from the award, and/or performance of such procurement does not commence within this 30-day period, any notice of the terms of a new or changed collective bargaining agreement received by the agency not less than 10 days before commencement of the contract will be effective for purposes of the successor contract under section 4(c); and

(3) The limitations in paragraph (b) (1) or (2) of this section shall apply only if the contracting officer has given both the incumbent (predecessor) contractor and his employees' collective bargaining representative written notification at least 30 days in advance of all applicable estimated procurement dates, including issue of bid solicitation, bid opening, date of award, commencement of negotiations, receipt of proposals, or the commencement date of a contract resulting from a negotiation, option, or extension, as the case may be.

§ 4.2 Payment of minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 under all service contracts.

Section 2(b)(1) of the Service Contract Act of 1965 provides in effect that, regardless of contract amount, no contractor or subcontractor performing work under any Federal contract the principal purpose of which is to furnish services through the use of service employees shall pay any of his employees engaged in such work less than the minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended ($2.90 per hour beginning January 1, 1979, $3.10 per hour beginning January 1, 1980, and $3.35 per hour after December 31, 1980).

§ 4.3 Wage determinations.

(a) The minimum monetary wages and fringe benefits for service employees which the Act requires to be specified in contracts and bid solicitations subject to section 2(a) thereof will be set forth in wage determinations issued by the Administrator. Wage determinations shall be issued as soon as administratively feasible for all contracts subject to section 2(a) of the Act, and will be issued for all contracts entered into under which more than 5 service employees are to be employed.

(b) Such wage determinations will set forth for the various classes of service employees to be employed in furnishing services under such contracts in the appropriate localities, minimum monetary wage rates to be paid and minimum fringe benefits to be furnished them during the periods when they are engaged in the performance of such contracts, including, where appropriate under the Act, provisions for adjustments in such minimum rates and benefits to be placed in effect under such contracts at specified future times. The wage rates and fringe benefits set forth in such wage determinations shall be determined in accordance with the provisions of sections 2(a)(1), (2), and (5), 4(c) and 4(d) of the Act from those prevailing in the locality for such employees, with due consideration of the rates that would be paid for direct Federal employment of any classes of such employees whose wages, if federally employed, would be determined as provided in 5 U.S.C. 5341 or 5 U.S.C. 5332, or from pertinent collective bargaining agreements with respect to the implementation of section 4(c). The wage rates and fringe benefits so determined for any class of service employees to be engaged in furnishing covered contract services in a locality shall be made applicable by contract to all service employees of such class employed to perform such services in the locality under any contract subject to section 2(a) of the Act which is entered into thereafter and before such determination has been rendered obsolete by a withdrawal, modification, or supersedure.

(c) Generally, wage determinations issued for solicitations or negotiations for any contract where the place of performance is unknown will contain minimum monetary wages and fringe benefits for the various geographic localities where the work may be performed which were identified in the initial solicitation (see § 4.4(a)(2)(i)).

(d) Wage determinations will be available for public inspection during business hours at the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. and copies will be made available on request at Regional Offices of the Wage and Hour Division.

§ 4.4 Notice of intention to make a service contract.

(a)(1) For any contract exceeding $2,500 which may be subject to the Act, the contracting agency shall file with the Wage and Hour Division, Employment Standards Administration, Department of Labor, its notice of intention to make a service contract. With respect to recurring or known requirements, such notices shall be filed not less than 60 days (nor more than 120 days, except with the approval of the Wage and Hour Division) prior to (1) any invitation for bids, (2) request for proposals, (3) commencement of negotiations, (4) exercise of option or contract extension, (5) annual anniversary date of a multi-year contract subject to annual fiscal appropriations of the Congress, or (6) each biennial anniversary date of a multi-year contract not subject to such annual appropriations, if so authorized by the Wage and Hour Division. (See § 4.4(d).) Notices with regard to solicitations where such planning is not feasible shall be submitted as soon as possible, but not later than 30 days prior to the above contracting actions. Such notice shall be submitted on Standard Form 98, Notice of Intention to Make a Service Contract, and Standard Form 98–A or a statement containing the information in paragraph (b) of this section and shall be completed in accordance with the instruction provided and shall be supplemented by the information required under paragraphs (c) and (d) of this section. Supplies of Standard Forms 98 and 98–A are available in all GSA supply depots under stock numbers 7540–926–8972 and 7540–118–1008, respectively. If there exists any question or doubt as to the possible application of the Act to a particular procurement, the contracting agency shall submit such question in a timely manner to the Administrator for determination.

(2)(i) Where the place of performance of a contract for services subject to the Act is unknown at the time of solicitation, the solicitation need not initially contain a wage determination. The contracting agency shall, upon identification of firms participating in the procurement in response to an initial solicitation, file with the Wage and Hour Division, Employment Standards Administration, Department of Labor, its notice of intention to make a service contract. In addition to the requirements contained in paragraph (a)(1) of this section, such submission shall identify each location where the work may be performed as indicated by participating firms. Subsequent amendments to the solicitation setting forth the wage determinations and any necessary change in the date and time for submission of final bids shall be made upon receipt of wage determinations. An applicable wage determination must be obtained for each firm participating in the bidding for the location in which it would perform the contract. The appropriate wage determination shall be incorporated in the resultant contract

documents and shall be applicable to all work performed thereunder (regardless of whether the successful contractor subsequently changes the place(s) of contract performance).

(ii) There may be unusual situations, as determined by the Department of Labor upon consultation with a contracting agency, where the procedure in paragraph (i) above is not practicable in a particular situation, in which event the Department may authorize a modified procedure which may result in the subsequent issuance of wage determinations for one or more composite localities.

(b) The contracting agency shall file with its Notice of Intention to Make a Service Contract (SF–98) either a Standard Form 98–A or a statement in writing, containing the following information concerning the service employees expected by the agency to be employed by the contractor and any subcontractors in performing the contract:

(1) The number of such employees of all classes, or a statement indicating whether such number will or will not exceed 5, the number for which the inclusion of a wage determination in the contract is mandatory under the provisions of section 10 of the Act as set forth in § 4.3(a); and

(2) A listing of those classes of service employees expected to be employed under the contract which, if employed by the agency, would be subject to the wage provisions of 5 U.S.C. 5341 or 5 U.S.C. 5332, together with a specification of the rates of wages and fringe benefits that would be paid by the Government to employees of each such class if such statute were applicable to them. (Under section 2(a)(5) of the Act and § 4.6 the inclusion of such a statement in the service contract is also required.)

(c) If the services to be furnished under the proposed contract will be substantially the same as services being furnished in the same locality by an incumbent contractor whose contract the proposed contract will succeed, and if such incumbent contractor is furnishing such services through the use of service employees whose wage rates and fringe benefits are the subject of one or more collective bargaining agreements, the contracting agency shall file with its Notice of Intention to Make a Service Contract (SF–98) a copy of each such collective bargaining agreement together with any related documents specifying the wage rates and fringe benefits currently or prospectively payable under such agreement. If the place of contract performance is unknown, the contracting agency will submit the collective bargaining agreement of the incumbent contractor for incorporation into a wage determination applicable to a potential bidder located in the same geographic area as the predecessor contractor (section 4.4(a)(2)). If such services are being furnished at more than one locality and the collectively bargained wage rates and fringe benefits are different at different localities or do not apply to one or more localities, the agency shall identify the localities to which such agreements have application. If the collective bargaining agreement does not apply to all service employees under the contract, the agency shall identify the employees and/or work subject to the collective bargaining agreement. In the event that the agency has reason to believe that any such collective bargaining agreement was not entered into as a result of arm's-length negotiations, a full statement of the facts so indicating shall be transmitted with the copy of such agreement. See § 4.11. If the agency has information indicating that any such collectively bargained wage rates and fringe benefits are substantially at variance with those prevailing for services of a similar character in the locality, the agency shall so advise the Wage and Hour Division and, if it believes a hearing thereon pursuant to section 4(c) of the Act is warranted, shall file its request for such hearing pursuant to § 4.10 at the time of filing the Notice of Intention to Make a Service Contract (Form SF–98).

(d) If the proposed contract is for a multi-year period subject to other than annual appropriations, the contracting agency shall file with its Standard Form 98 a statement in writing concerning the type of funding and the contemplated term of the proposed contract. Unless otherwise advised by the Wage and Hour Division that a Standard Form 98 must be filed on the annual anniversary date, a new Standard Form 98 shall be submitted on each biennial anniversary date of the proposed multi-year contract in the event its term is for a period in excess of two years.

(e) Any Standard Form 98 submitted by a contracting agency without the information required under paragraphs (b), (c), or (d) of this section will be returned to the agency for further action.

(f) If exceptional circumstances prevent the filing of the notice of intention and supplemental information required by this section on a date at least 60 days (or 30 days in the case of unplanned procurements) prior to any invitation for bids, request for proposals, or commencement of negotiations, the notice shall be submitted to the Wage and Hour Division as soon as practicable with a detailed explanation of the special circumstances which prevented timely submission. In the event the proposed contract involves performance by more than 5 service employees and an emergency situation requires an immediate award, the contracting agency shall contact the Wage and Hour Division by telephone for guidance prior to any such award. In no event may a contract subject to the act on which more than 5 service employees are contemplated to be employed be awarded without an appropriate wage determination. (Section 10 of the Act.)

(g) If any invitation for bids, request for proposals, bid opening, or commencement of negotiations for a proposed contract for which a wage determination was provided in response to a Standard Form 98 has been delayed, for whatever reason, more than 60 days from the date of such procurement action as indicated on the submitted Standard Form 98, the contracting agency shall contact the Wage and Hour Division for the purpose of determining whether the wage determination issued pursuant to the initial submission is still current. Any revision of a wage determination received by the contracting agency as a result of such communication or upon discovery by the Department of Labor of a delay, shall supersede and replace the earlier response as the wage determination applicable to such procurement, subject to the time frames set forth in § 4.5(a)(2).

§ 4.5 Contract specification of determined minimum wages and fringe benefits.

(a) Any contract in excess of $2,500 shall contain as an attachment, the applicable, currently effective wage determination specifying the minimum wages and fringe benefits for service employees to be employed thereunder, including any document referred to in paragraphs (a) (1) or (2) of this section:

(1) Any communication from the Wage and Hour Division, Employment Standards Administration, Department of Labor, responsive to the notice required by § 4.4; or

(2) Any revision of a wage determination issued prior to the award of the contract or contracts which specifies minimum wage rates or fringe benefits for classes of service employees whose wages or fringe benefits were not previously covered by wage determinations, or which changes previously determined minimum wage rates and fringe benefits for service employees employed on covered contracts in the locality. However, revisions received by the Federal

agency later than 10 days before the opening of bids, in the case of contracts entered into pursuant to competitive bidding procedures, shall not be effective if the Federal agency finds that there is not a reasonable time still available to notify bidders of the revision. In the case of procurements entered into pursuant to negotiations (or in the case of the execution of an option or an extension of the initial contract term), revisions received by the agency after award (or execution of an option or extension of term, as the case may be) of the contract shall not be effective *provided* that the contract start of performance is within 30 days of such award (or execution of an option or extension of term). If the contract does not specify a start of performance date which is within 30 days from the award, and/or if performance of such procurement does not commence within this 30-day period, the Department of Labor shall be notified and any notice of a revision received by the agency not less than 10 days before commencement of the contract shall be effective. In situations arising under section 4(c) of the Act, the provisions in § 4.1b(b) apply.

(b)(1) The following exemption from the compensation requirements of section 2(a) of the Act applies, subject to the limitations set forth in paragraphs (b) (2), (3), and (4) of this section: To avoid serious impairment of the conduct of Government business it has been found necessary and proper to provide exemption from the determined wage and fringe benefits section of the Act (section 2(a) (1), (2)) but not the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (section 2(b) of this Act), of contracts under which five or less service employees are to be employed, and for which no such wage or fringe benefit determination has been issued;

(2) The exemption provided in paragraph (b)(1) of this section, which was adopted pursuant to section 4(b) of the Act prior to its amendment by Public Law 92–473, does not extend to undetermined wages or fringe benefits in contracts for which one or more, but not all, classes of service employees are the subject of an applicable wage determination. The procedure for determination of wage rates and fringe benefits for any classes of service employees engaged in performing such contracts whose wages and fringe benefits are not specified in the applicable wage determination is set forth in § 4.6(b).

(3) The exemption provided in paragraph (b)(1) of this section does not exempt any contract from the application of the provisions of section 4(c) of the Act as amended, concerning successor contracts.

(4) The exemption provided in paragraph (b)(1) of this section does not apply to any contract for which section 10 of the Act as amended requires an applicable wage determination.

(c)(1) If the notice of intention required by § 4.4 is not filed with the required supporting documents within the time provided in such section, the contracting agency shall, through the exercise of any and all of its power and authority that may be needed (including, where necessary, its authority to negotiate, its authority to pay any necessary additional costs, and its authority under any provision of the contract authorizing changes), include in the contract any wage determinations communicated to it by the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, within 30 days of the receipt of such wage determination(s). With respect to any contract for which section 10 of the Act requires an applicable wage determination, the Administrator may require retroactive application of such wage determination.

(2) Where the Department of Labor discovers and determines, whether before or subsequent to a contract award, that a contracting agency made an erroneous determination that the Service Contract Act did not apply to a particular procurement and/or failed to include an appropriate wage determination in a covered contract, the contracting agency, within 30 days of notification by the Department of Labor, shall include in the contract the stipulations contained in § 4.6 and any applicable wage determination issued by the Administrator or his authorized representative through the exercise of any and all authority that may be needed (including, where necessary, its authority to negotiate or amend, its authority to pay any necessary additional costs, and its authority under any contract provision authorizing changes, cancellation, and termination). With respect to any contract subject to Section 10 of the Act, the Administrator may require retroactive application of such wage determination. (See 53 Comp. Gen. 412, (1973); *Curtiss-Wright Corp.* v. *McLucas*, 361 F. Supp. 657 (D NJ 1974); *Marine Engineers Beneficial Assn., District 2* v. *Military Sealift Command*, 86 CCH Labor Cases ¶33,782 (D DC 1979); *Brinks, Inc.* v. *Board of Governors of the Federal Reserve System*, 466 F. Supp. 112 (D DC 1979), 466 F. Supp. 116 (D DC 1979).) (See also 32 CFR 1–403.)

(d) In cases where the contracting agency has filed its SF–98 within the time limits discussed in § 4.4(a) and has not received a response from the Department of Labor, the contracting agency shall, with respect to any contract for which section 10 of the Act and § 4.3 of this Part mandate the inclusion of an applicable wage determination, contact the Wage and Hour Division by telephone for guidance.

§ 4.6 Labor standards clauses for Federal service contracts exceeding $2,500.

The clauses set forth in the following paragraphs shall be included in full by the contracting agency in every contract entered into by the United States or the District of Columbia, in excess of $2,500, or in an indefinite amount, the principal purpose of which is to furnish services through the use of service employees:

(a) Service Contract Act of 1965, as amended: This contract is subject to the Service Contract Act of 1965, as amended (41 U.S.C. 351 *et seq.*) and is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor issued thereunder (29 CFR Part 4).

(b)(1) Each service employee employed in the performance of this contract by the contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If there is such a wage determination attached to this contract, the contracting officer shall require that any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this section. (The information collection requirements contained in the following paragraphs of this section have been approved by the Office of Management and Budget under OMB control number 1215–0150.)

(ii) Such conforming procedure shall be initiated by the contractor prior to the performance of contract work by such unlisted class of employee. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved or, where there is no authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the contracting officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the contracting officer who shall promptly notify the contractor of the action taken. Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a contractor succeeds a contract under which the classification in question was previously conformed pursuant to this section, a new conformed wage rate and fringe benefits may be assigned to such conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the contractor shall advise the contracting officer of the action taken but the other procedures in paragraph (b)(2)(ii) of this section need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined pursuant to paragraphs (b)(2) (i) and (ii) of this section shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with paragraphs (b)(2) (i) through (v) of this section, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class of employees commenced contract work.

(3) If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965 as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determinations to be issued by the Wage and Hour Division, Employment Standards Administration of the Department of Labor as provided in such Act.

(c) The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in Subpart D of 29 CFR Part 4, and not otherwise.

(d)(1) In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this contract shall pay any person performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(2) If this contract succeeds a contract, subject to the Service Contract Act of 1965 as amended, under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreements, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of § 4.1b(b) of 29 CFR Part 4 apply or unless the Secretary of Labor or his authorized representative finds, after a hearing as provided in § 4.10 of 29 CFR Part 4 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those

which prevail for services of a character similar in the locality, or determines, as provided in § 4.11 of 29 CFR Part 4, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract. 53 Comp. Gen. 401 (1973). In the case of a wage determnation issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(e) The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract. (Approved by the Office of Management and Budget under OMB control number 1215–0150.)

(f) The contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(g)(1) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in paragraphs (g)(1) (i) through (vi) of this section for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration of the U.S. Department of Labor. (Sections 4.6(g)(1) (i) through (vi) approved by the Office of Management and Budget under OMB control number 1215–0017 and sections 4.6(g)(1) (v) and (vi) approved under OMB control number 1215–0150.):

(i) Name and address and social security number of each employee.

(ii) The correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation of each employee.

(iii) The number of daily and weekly hours so worked by each employee.

(iv) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(v) A list of monetary wages and fringe benefits for those classes of service employees not included in the wage determination attached to this contract but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or authorized representative pursuant to the labor standards clause in paragraph (b) of this section. A copy of the report required by the clause in paragraph (b)(2)(ii) of this section shall be deemed to be such a list.

(vi) Any list of the predecessor contractor's employees which had been furnished to the contractor pursuant to § 4.6(l)(2).

(2) The contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of the Department of Labor and notification of the contractor, shall take action to cause suspension of any further payment or advance of funds until such violation ceases.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(h) The contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR Part 4), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(i) The contracting officer shall withhold or cause to be withheld from the Government prime contractor under this or any other Government contract with the prime contractor such sums as an appropriate official of the Department of Labor requests or such sums as the contracting officer decides may be necessary to pay underpaid employees employed by the contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the agency may, after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of these clauses relating to the Service Contract Act of 1965, may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(j) The contractor agrees to insert these clauses in this section relating to the Service Contract Act of 1965 in all subcontracts subject to the Act. The term "contractor" as used in these clauses in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government prime contractor."

(k)(1) As used in these clauses, the term "service employee" means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in Part 541 of Title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent

revision of those regulations. The term "service employee" includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(2) The following statement is included in contracts pursuant to section 2(a)(5) of the Act and is for *informational purposes only:*

The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 or 5 U.S.C. 5332 and would, if so employed, be paid not less than the following rates of wages and fringe benefits:

Employee class	Monetary wage-fringe benefits

(l)(1) If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government prime contractor shall report such fact to the contracting officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof. (Approved by the Office of Management and Budget under OMB control number 1215–0150.)

(2) Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a contractor (predecessor) or successor (§ 4.173 of Regulations, 29 CFR Part 4), the incumbent prime contractor shall furnish to the contracting officer a certified list of the names of all service employees on the contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each such service employee. The contracting officer shall turn over such list to the successor contractor at the commencement of the succeeding contract. (Approved by the Office of Management and Budget under OMB control number 1215–0150.)

(m) Rulings and interpretations of the Service Contract Act of 1965, as amended, are contained in Regulations, 29 CFR Part 4.

(n)(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract pursuant to section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(o) Notwithstanding any of the clauses in paragraphs (b) through (m) of this section relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Public Law 92–473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Service Contract Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(p) Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.

(q) An employee engaged in an occupation in which he or she customarily and regularly receives more than $30 a month in tips may have the amount of tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531: *Provided, however,* That the amount of such credit may not exceed $1.24 per hour beginning January 1, 1980, and $1.34 per hour after December 31, 1980. To utilize this proviso:

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; (approved by the Office of Management and Budget under OMB control number 1215–0017);

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(r) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 4, 6, and 8. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

§ 4.7 Labor standards clause for Federal service contracts not exceeding $2,500.

Every contract with the Federal Government which is not in excess of $2,500 but has as its principal purpose the furnishing of services through the use of service employees shall contain the following clause:

Service Contract Act. Except to the extent that an exemption, variation or tolerance would apply if this were a contract in excess of $2,500, the contractor and any subcontractor hereunder shall pay all of his employees engaged in performing work on the contract not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Regulations and interpretations of the Service Contract Act of 1965, as amended, are contained in 29 CFR Part 4.

§ 4.8 Notice of awards.

Whenever an agency of the United States or the District of Columbia awards a contract subject to the Act which may be in excess of $10,000 and such agency does not submit Standard Form 279, FPDS Individual Contract Action Report, or its equivalent, to the Federal Procurement Data System, it shall furnish the Wage and Hour Division, ESA, an original and one copy of Standard Form 99, Notice of Award of Contract, unless it makes other arrangements with the Wage and Hour Division for notifying it of such contract awards. The form shall be completed as follows:

(a) Items 1 through 7 and 12 and 13: Self-explanatory;

(b) Item 8: Enter the notation "Service Contract Act;"

(c) Item 9: Leave blank;

(d) Item 10: (1) Enter the notation "Major Category," and indicate beside this entry the general service area into which the contract falls (e.g., food services, grounds maintenance, computer services, installation or facility support services, custodial-janitorial service, garbage collection, insect and rodent control, laundry and drycleaning services, etc.);

(e) Item 11: Enter the dollar amount of the contract, or the estimated dollar value with the notation "estimated" (if the exact amount is not known). If neither the exact nor the estimated dollar value is known, enter "indefinite," or "not to exceed $——." Supplies of Standard Form 99 are available in all GSA supply depots under stock number 7540–634–4049.

§ 4.9 [Reserved]

§ 4.10 Substantial variance proceedings under section 4(c) of the Act.

(a) *Statutory provision.* Under section 4(c) of the Act, and under corresponding wage determinations made as provided in section 2(a) (1) and (2) of the Act, contractors and subcontractors performing contracts subject to the Act generally are obliged to pay to service employees employed on the contract work wages and fringe benefits not less than those to which they would have been entitled under a collective bargaining agreement if they were employed on like work under a predecessor contract in the same locality. (See §§ 4.1b, 4.3, 4.6(d)(2).) Section 4(c) of the Act provides, however, that "such obligations shall not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality".

(b) *Prerequisites for hearing.* (1)(i) A request for a hearing under this section may be made by the contracting agency or other person affected or interested, including contractors or prospective contractors and associations of contractors, representatives of employees, and other interested Governmental agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, and shall include the following:

(A) The number of any wage determination at issue, the name of the contracting agency whose contract is involved, and a brief description of the services to be performed under the contract;

(B) A statement regarding the status of the procurement and any estimated procurement dates, such as bid opening, contract award, commencement date of the contract or its follow-up option period;

(C) A statement of the applicant's case, setting forth in detail the reasons why the applicant believes that a substantial variance exists with respect to some or all of the wages and/or fringe benefits, attaching available data concerning wages and/or fringe benefits prevailing in the locality;

(D) Names and addresses (to the extent known) of interested parties.

(ii) If the information in paragraph (b)(1)(i) of this section is not submitted with the request, the Administrator may deny the request or request supplementary information, at his/her discretion. No particular form is prescribed for submission of a request under this section.

(2) The Administrator will respond to the party requesting a hearing within 30 days after receipt, granting or denying the request or advising that additional time is necessary for a decision. No hearing will be provided pursuant to this section and section 4(c) of the Act unless the Administrator determines from information available or submitted with a request for such a hearing that there may be a substantial variance between some or all of the wage rates and/or fringe benefits provided for in a collective bargaining agreement to which the service employees would otherwise be entitled by virtue of the provisions of section 4(c) of the Act, and those which prevail for services of a character similar in the locality.

(3) Pursuant to section 4(b) of the Act, requests for a hearing shall not be considered unless received as specified below, except in those situations where the Administrator determines that extraordinary circumstances exist:

(i) For advertised contracts, prior to ten days before the award of the contract;

(ii) For negotiated contracts and for contracts with provisions extending the initial term by option, prior to the

commencement date of the contract or the follow-up option period, as the case may be.

(c) *Referral to the Chief Administrative Law Judge.* When the Administrator determines from the information available or submitted with a request for a hearing that there may be a substantial variance, the Administrator on his/her own motion or on application of any interested person will by order refer the issue to the Chief Administrative Law Judge, for designation of an Administrative Law Judge who shall conduct such a fact finding hearing as may be necessary to render a decision solely on the issue of whether the wages and/or fringe benefits contained in the collective bargaining agreement which was the basis for the wage determination at issue are substantially at variance with those which prevail for services of a character similar in the locality. However, in situations where there is also a question as to whether the collective bargaining agreement was reached as a result of "arm's-length negotiations" (see § 4.11), the referral shall include both issues for resolution in one proceeding. No authority is delegated under this section to hear and/or decide any other issues pertaining to the Service Contract Act. As provided in section 4(a) of the Act, the provisions of §§ 4 and 5 of the Walsh-Healey Public Contracts Act (41 U.S.C. 38, 39) shall be applicable to such proceeding, which shall be conducted in accordance with the procedures set forth at 29 CFR Part 6.

(d) The Administrator shall be an interested party and shall have the opportunity to participate in the proceeding to the degree he/she considers appropriate.

§ 4.11 Arm's length proceedings.

(a) *Statutory provision.* Under Section 4(c) of the Act, the wages and fringe benefits provided in the predecessor contractor's collective bargaining agreement must be reached "as a result of arm's-length negotiations." This provision precludes arrangements by parties to a collective bargaining agreement who, either separately or together, act with an intent to take advantage of the wage determination scheme provided for in Sections 2(a) and 4(c) of the Act. See *Trinity Services, Inc. v. Marshall,* 593 F.2d 1250 (D.C. Cir. 1978). A finding as to whether a collective bargaining agreement or particular wages and fringe benefits therein are reached as a result of arm's-length negotiations may be made through investigation, hearing or otherwise pursuant to the Secretary's authority under Section 4(a) of the Act.

(b) *Prerequisites for hearing.* (1) A request for a determination under this section may be made by a contracting agency or other person affected or interested, including contractors or prospective contractors and associations of contractors, representatives of employees, and interested Governmental agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. Although no particular form is prescribed for submission of a request under this section, such request shall include the following information:

(i) A statement of the applicant's case setting forth in detail the reasons why the applicant believes that the wages and fringe benefits contained in the collective bargaining agreement were not reached as a result of arm's-length negotiations;

(ii) A statement regarding the status of the procurement and any estimated procurement dates, such as bid opening, contract award, commencement date of the contract or its follow-up option period;

(iii) Names and addresses (to the extent known) of interested parties.

(2) Pursuant to Section 4(b) of the Act, requests for a hearing shall not be considered unless received as specified below except in those situations where the Administrator determines that extraordinary circumstances exist:

(i) For advertised contracts, prior to ten days before the award of the contract;

(ii) For negotiated contracts and for contracts with provisions extending the term by option, prior to the commencement date of the contract or the follow-up option period, as the case may be.

(c)(1) The Administrator, on his/her own motion or after receipt of a request for a determination, may make a finding on the issue of arm's-length negotiations.

(2) If the Administrator determines that there may not have been arm's-length negotiations, but finds that there is insufficient evidence to render a final decision thereon, the Administrator may refer the issue to the Chief Administrative Law Judge in accordance with paragraph (d) of this section.

(3)(i) If the Administrator finds that the collective bargaining agreement or wages and fringe benefits at issue were reached as a result of arm's-length negotiations or that arm's-length negotiations did not take place, the interested parties, including the parties to the collective bargaining agreement, will be notified of the Administrator's findings, which shall include the reasons therefor, and such parties shall be afforded an opportunity to request that a hearing be held to render a decision on the issue of arm's-length negotiations.

(ii) Such parties shall have 20 days from the date of the Administrator's ruling to request a hearing. A detailed statement of the reasons why the Administrator's ruling is in error, including facts alleged to be in dispute, if any, shall be submitted with the request for a hearing.

(iii) If no hearing is requested within the time mentioned in paragraph (c)(3)(ii) of this section above, the Administrator's ruling shall be final, and, in the case of a finding that arm's-length negotiations did not take place, a new wage determination will be issued for the contract. If a hearing is requested, the decision of the Administrator shall be inoperative.

(d) *Referral to the Chief Administrative Law Judge.* The Administrator on his/her own motion, under paragraph (c)(2) of this section or upon a request for a hearing under paragraph (c)(3)(ii) of this section where the Administrator determines that material facts are in dispute, shall by order refer the issue to the Chief Administrative Law Judge for designation of an Administrative Law Judge, who shall conduct such hearings as may be necessary to render a decision solely on the issue of arm's-length negotiations. However, in situations where there is also a question as to whether some or all of the collectively bargained wage rates and/or fringe benefits are substantially at variance (see § 4.10), the referral shall include both issues for resolution in one proceeding. As provided in Section 4(a) of the Act, the provisions of Sections 4 and 5 of the Walsh-Healey Public Contracts Act (41 U.S.C. 38, 39) shall be applicable to such proceeding, which shall be conducted in accordance with the procedures set forth at 29 CFR Part 6.

(e) *Referral to the Board of Service Contract Appeals.* When a party requests a hearing under paragraph (c)(3)(ii) of this section and the Administrator determines that no material facts are in dispute, the Administrator shall refer the issue and the record compiled thereon to the Board of Service Contract Appeals to render a decision solely on the issue of arm's-length negotiations. Such proceeding shall be conducted in

accordance with the procedures set forth at 29 CFR Part 8.

§ 4.12 Substantial interest proceedings.

(a) *Statutory provision.* Under Section 5(a) of the Act, no contract of the United States (or the District of Columbia) shall be awarded to the persons or firms appearing on the list distributed by the Comptroller General giving the names of persons or firms who have been found to have violated the Act until 3 years have elapsed from the date of publication of the list. Section 5(a) further states that "no contract of the United States shall be awarded * * * to any firm, corporation, partnership, or association in which such persons or firms have a substantial interest * * *." A finding as to whether persons or firms whose names appear on the debarred bidders list have a substantial interest in any other firm, corporation, partnership, or association may be made through investigation, hearing, or otherwise pursuant to the Secretary's authority under Section 4(a) of the Act.

(b) *Ineligibility.* See § 4.188 of this part for the Secretary's rulings and interpretations with respect to substantial interest.

(c)(1) A request for a determination under this section may be made by any interested party, including contractors or prospective contractors, and associations of contractors, representatives of employees, and interested Government agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210.

(2) The request shall include a statement setting forth in detail why the petitioner believes that a person or firm whose name appears on the debarred bidders list has a substantial interest in any firm, corporation, partnership, or association which is seeking or has been awarded a contract of the United States or the District of Columbia. No particular form is prescribed for the submission of a request under this section.

(d)(1) The Administrator, on his/her own motion or after receipt of a request for a determination, may make a finding on the issue of substantial interest.

(2) If the Administrator determines that there may be a substantial interest, but finds that there is insufficient evidence to render a final ruling thereon, the Administrator may refer the issue to the Chief Administrative Law Judge in accordance with paragraph (e) of this section.

(3) If the Administrator finds that no substantial interest exists, or that there is not sufficient information to warrant the initiation of an investigation, the requesting party, if any, will be so notified and no further action taken.

(4)(i) If the Administrator finds that a substantial interest exists, the person or firm affected will be notified of the Administrator's finding, which shall include the reasons therefor, and such person or firm shall be afforded an opportunity to request that a hearing be held to render a decision on the issue of substantial interest.

(ii) Such person or firm shall have 20 days from the date of the Administrator's ruling to request a hearing. A detailed statement of the reasons why the Administrator's ruling is in error, including facts alleged to be in dispute, if any, shall be submitted with the request for a hearing.

(iii) If no hearing is requested within the time mentioned in paragraph (d)(4)(ii) of this section, the Administrator's finding shall be final and the Administrator shall so notify the Comptroller General. If a hearing is requested, the decision of the Administrator shall be inoperative unless and until the Administrative Law Judge or the Board of Service Contract Appeals issues an order that there is a substantial interest.

(e) *Referral to the Chief Administrative Law Judge.* The Administrator on his/her own motion, or upon a request for a hearing where the Administrator determines that relevant facts are in dispute, shall by order refer the issue to the Chief Administrative Law Judge, for designation of an Administrative Law Judge who shall conduct such hearings as may be necessary to render a decision solely on the issue of substantial interest. As provided in Section 4(a) of the Act, the provisions of Sections 4 and 5 of the Walsh-Healey Public Contracts Act (41 U.S.C. 38, 39) shall be applicable to such proceedings, which shall be conducted in accordance with the procedures set forth at 29 CFR Part 6.

(f) *Referral to the Board of Service Contract Appeals.* When the person or firm requests a hearing and the Administrator determines that relevant facts are not in dispute, the Administrator will refer the issue and the record compiled thereon to the Board of Service Contract Appeals to render a decision solely on the issue of substantial interest. Such proceeding shall be conducted in accordance with the procedures set forth at 29 CFR Part 6.

Subpart B—Wage Determination Procedures

§ 4.50 Types of wage and fringe benefit determinations.

The Administrator specifies the minimum monetary wages and fringe benefits to be paid as required under the Act in two types of determinations:

(a) *Prevailing in the Locality.* Determinations that set forth minimum monetary wages and fringe benefits determined to be prevailing for various classes of service employees in the locality (sections 2(a)(1) and 2(a)(2) of the Act) after giving "due consideration" to the rates applicable to such service employees if directly hired by the Federal Government (section 2(a)(5) of the Act); and

(b) *Collective Bargaining Agreement—(Successorship).* Determinations that set forth the wage rates and fringe benefits, including accrued and prospective increases, contained in a collective bargaining agreement applicable to the service employees who performed on a predecessor contract in the same locality (sections 4(c) and 2(a) (1) and (2) of the Act).

§ 4.51 Prevailing in the locality determinations.

(a) *Information considered.* The minimum monetary wages and fringe benefits set forth in determinations of the Secretary are based on all available pertinent information as to wage rates and fringe benefits being paid at the time the determination is made. Such information is most frequently derived from area surveys made by the Bureau of Labor Statistics, U.S. Department of Labor, or other Labor Department personnel. Information may also be obtained from Government contracting officers and from other available sources, including employees and their representatives and employers and their associations. The determinations may be based on the wage rates and fringe benefits contained in collective bargaining agreements where they have been determined to prevail in a locality for specified occupational class(es) of employees.

(b) *Determination of Prevailing Rates.* Where a single rate is paid to a majority (50 percent or more) of the workers in a class of service employees engaged in similar work in a particular locality, that rate is determined to prevail. The wage rates and fringe benefits in a collective bargaining agreement covering 2,001 janitors in a locality, for example, prevail if it is determined that no more than 4,000 workers are engaged in such

janitorial work in that locality. In the case of information developed from surveys, statistical measurements of central tendency such as a median (a point in a distribution of wage rates where 50 percent of the surveyed workers receive that or a higher rate and an equal number receive a lesser rate) or the mean (average) are considered reliable indicators of the prevailing rate. Which of these statistical measurements will be applied in a given case will be determined after a careful analysis of the overall survey, separate classification data, patterns existing between survey periods, and the way the separate classification data interrelate. Use of the median is the general rule. However, the mean (average) rate may be used in situations where, after analysis, it is determined that the median is not a reliable indicator. Examples where the mean may be used include situations where:

(1) The number of workers studied for the job classification constitutes a relatively small sample and the computed median results in an actual rate that is paid to few of the studied workers in the class;

(2) Statistical deviation such as a skewed (bimodal or multimodal) frequency distribution biases the median rate due to large concentrations of workers toward either end of the distribution curve and the computed median results in an actual rate that is paid to few of the studied workers in the class; or

(3) The computed median rate distorts historic wage relationships between job levels within a classification family (i.e., Electronic Technician Classes A, B, and C levels within the Electronic technician classification family), between classifications of different skill levels (i.e., a maintenance electrician as compared with a maintenance carpenter), or, for example, yields a wage movement inconsistent with the pattern shown by the survey overall or with related and/or similarly skilled job classifications.

(c) *Slotting wage rates.* In some instances, a wage survey for a particular locality may result in insufficient data for one or more job classifications that are required in the performance of a contract. Establishment of a prevailing wage rate for certain such classifications may be accomplished through a "slotting" procedure, such as that used under the Federal pay system. Under this procedure, wage rates are derived for a classification based on a comparison of equivalent or similar job duty and skill characteristics between the classifications studied and those for which no survey data is available. As an example, a wage rate found prevailing for the janitorial classification may be adopted for the classification of mess attendant if the skill and duties attributed to each classification are known to be rated similarly under pay classification schemes. (Both classifications are assigned the same wage grade under the Coordinated Federal Wage System and are paid at the Wage Board grade 2 when hired directly by a Federal agency.)

(d) *Due consideration.* In making wage and fringe benefit determinations, section 2(a)(5) of the Act requires that due consideration be given to the rates that would be paid by the Federal agency to the various classes of service employees if § 5341 or § 5332 of Title 5, United States Code, were applicable to them. Section 5341 refers to the Wage Board or Coordinated Federal Wage System for "blue collar" workers and § 5332 refers to the General Schedule pay system for "white collar" workers. The term "due consideration" implies the exercise of discretion on the basis of the facts and circumstances surrounding each determination, recognizing the legislative objective of narrowing the gap between the wage rates and fringe benefits prevailing for service employees and those established for Federal employees. Each wage determination is based on a survey or other information on the wage rates and fringe benefits being paid in a particular locality and also takes into account those wage rates and fringe benefits which would be paid under Federal pay systems.

§ 4.52 Collective bargaining agreement (successorship) determinations.

Determinations based on the collective bargaining agreement of a predecessor contractor set forth by job classification each provision relating to wages (such as the established straight time hourly or salary rate, cost-of-living allowance, and any shift, hazardous, and other similar pay differentials) and to fringe benefits (such as holiday pay, vacation pay, sick leave pay, life, accidental death, disability, medical, and dental insurance plans, retirement or pension plans, severance pay, supplemental unemployment benefits, saving and thrift plans, stock-option plans, funeral leave, jury/witness leave, or military leave) contained in the predecessor's collective bargaining agreement, as well as conditions governing the payment of such wages and fringe benefits. Accrued wages and fringe benefits and prospective increases therein are also included. Each wage determination is limited in application to a specific contract succeeding a contract which had been performed in the same locality by a contractor with a collective bargaining agreement, and contains a notice to prospective bidders regarding their obligations under section 4(c) of the Act.

§ 4.53 Locality basis of wage and fringe benefit determinations.

(a) Under section 2(a) of the Act, the Secretary or his authorized representative is given the authority to determine the minimum monetary wages and fringe benefits prevailing for various classes of service employees "in the locality". Although the term "locality" has reference to a geographic area, it has an elastic and variable meaning and contemplates consideration of the existing wage structures which are pertinent to the employment of particular classes of service employees on the varied kinds of service contracts. Because wage structures are extremely varied, there can be no precise single formula which would define the geographic limits of a "locality" that would be relevant or appropriate for the determination of prevailing wage rates and prevailing fringe benefits in all situations under the Act. The locality within which a wage or fringe benefit determination is applicable is, therefore, defined in each such determination upon the basis of all the facts and circumstances pertaining to that determination. Locality is ordinarily limited geographically to a particular county or cluster of counties comprising a metropolitan area. For example, a survey by the Bureau of Labor Statistics of the Baltimore, Maryland Standard Metropolitan Statistical Area includes the counties of Baltimore, Harford, Howard, Anne Arundel, and the City of Baltimore. A wage determination based on such information would define locality as the same geographic area included within the scope of the survey. Locality may also be defined as, for example, a city, a State, or, under rare circumstances, a region, depending on the actual place or places of contract performance, the geographical scope of the data on which the determination was based, the nature of the services being contracted for, and the procurement method used. In addition, in *Southern Packaging & Storage Co.* v. *United States*, 618 F.2d 1088 (4th Cir. 1980), the court held that a nationwide wage determination normally is not permissible under the Act, but postulated that "there may be the rare and unforeseen service contract which might be performed at locations throughout the country and which would generate truly nationwide competition".

(b) Where the services are to be performed for a Federal agency at the site of the successful bidder, in contrast to services to be performed at a specific Federal facility or installation, or in the locality of such installation, the location where the work will be performed often cannot be ascertained at the time of bid advertisement or solicitation. In such instances, wage determinations will generally be issued for the various localities identified by the agency as set forth in § 4.4(a)(2)(i).

(c) Where the wage rates and fringe benefits contained in a collective bargaining agreement applicable to the predecessor contract are set forth in a determination, locality in such a determination is typically described as the geographic area in which the predecessor contract was performed. The determination applies to any successor contractor which performs the contract in the same locality. However, see § 4.163(i).

§ 4.54 Issuance and revision of wage determinations.

(a) Section 4.4 of Subpart A requires that the awarding agency file a notice of intention to make a service contract which is subject to the Act with the Wage and Hour Division, Employment Standards Administration, prior to any invitation for bids or the commencement of negotiations for any contract exceeding $2,500. Upon receipt of the notice, the Wage and Hour Division may issue a new determination of minimum monetary wages and fringe benefits for the classes of service employees who will perform work on the contract or may revise a determination which is currently in effect.

(b) Determinations will be reviewed periodically and where prevailing wage rates or fringe benefits have changed, such changes will be reflected in revised determinations. For example, in a locality where it is determined that the wage rate which prevails for a particular class of service employees is the rate specified in a collective bargaining agreement(s) applicable in that locality, and such agreement(s) specifies increases in such rates to be effective on specific dates, the determinations would be revised to reflect such changes as they become effective. Revised determinations shall be applicable to contracts in accordance with the provisions of § 4.5(a)(2) of Subpart A.

(c) Determinations issued by the Wage and Hour Division with respect to particular contracts are required to be incorporated in the invitations for bids or requests for proposals or quotations issued by the contracting agencies, and are to be incorporated in the contract specifications in accordance with § 4.5 of Subpart A. In this manner, prospective contractors and subcontractors are advised of the minimum monetary wages and fringe benefits required under the most recently applicable determination to be paid the service employees who perform the contract work. These requirements are, of course, the same for all bidders so none will be placed at a competitive disadvantage.

§ 4.55 Review and reconsideration of wage determinations.

(a) *Review by the Administrator.* (1) Any interested party affected by a wage determination issued under section 2(a) of the Act may request review and reconsideration by the Administrator. A request for review and reconsideration may be made by the contracting agency or other interested party, including contractors or prospective contractors and associations of contractors, representatives of employees, and other interested Governmental agencies. Any such request must be accompanied by supporting evidence. In no event shall the Administrator review a wage determination or its applicability after the opening of bids in the case of a competitively advertised procurement, or, later than 10 days before commencement of a contract in the case of a negotiated procurement, exercise of a contract option or extension. This limitation is necessary in order to ensure competitive equality and an orderly procurement process.

(2) The Administrator shall, upon receipt of a request for reconsideration, review the data sources relied upon as a basis for the wage determination, the evidence furnished by the party requesting review or reconsideration, and, if necessary to resolve the matter, any additional information found to be relevant to determining prevailing wage rates and fringe benefits in a particular locality. The Administrator, pursuant to a review of available information, may issue a new wage determination, may cause the wage determination to be revised, or may affirm the wage determination issued, and will notify the requesting party in writing of the action taken. The Administrator will render a decision within 30 days of receipt of the request or will notify the requesting party in writing within 30 days of receipt that additional time is necessary.

(b) *Review by the Board of Service Contract Appeals.* Any decision of the Administrator under paragraph (a) of this section may be appealed to the Board of Service Contract Appeals within 20 days of issuance of the Administrator's decision. Any such appeal shall be in accordance with the provisions of Part 8 of this title.

Subpart C—Application of the McNamara-O'Hara Service Contract Act

Introductory

§ 4.101 Official rulings and interpretations in this subpart.

(a) The purpose of this subpart is to provide, pursuant to the authority cited in § 4.102, official rulings and interpretations with respect to the application of the McNamara-O'Hara Service Contract Act for the guidance of the agencies of the United States and the District of Columbia which may enter into and administer contracts subject to its provisions, the persons desiring to enter into such contracts with these agencies, and the contractors, subcontractors, and employees who perform work under such contracts.

(b) These rulings and interpretations are intended to indicate the construction of the law and regulations which the Department of Labor believes to be correct and which will be followed in the administration of the Act unless and until directed otherwise by Act of Congress or by authoritative ruling of the courts, or if it is concluded upon reexamination of an interpretation that it is incorrect. See for example, *Skidmore* v. *Swift & Co.*, 323 U.S. 134 (1944); *Roland Co.* v. *Walling*, 326 U.S. 657 (1946); *Endicott Johnson Corp.* v. *Perkins*, 317 U.S. 501, 507–509 (1943); *Perkins* v. *Lukens Steel Co.*, 310 U.S. 113, 128 (1940); *United States* v. *Western Pacific Railroad Co.*, 352 U.S. 59 (1956). The Department of Labor (and not the contracting agencies) has the primary and final authority and responsibility for administering and interpreting the Act, including making determinations of coverage. See *Woodside Village* v. *Secretary of Labor*, 611 F. 2d 312 (9th Cir. 1980); *Nello L. Teer Co.* v. *United States*, 348 F.2d 533, 539–540 (Ct. Cl. 1965), cert. denied, 383 U.S. 934; *North Georgia Building & Construction Trades Council* v. *U.S. Department of Transportation*, 399 F. Supp. 58, 63 (N.D. Ga. 1975) (Davis-Bacon Act); *Curtiss-Wright Corp.* v. *McLucas*, 364 F. Supp. 750, 769–72 (D.N.J. 1973); and 43 Atty. Gen. Ops. —— (March 9, 1979); 53 Comp. Gen. 647, 649–51 (1974); 57 Comp. Gen. 501, 506 (1978).

(c) Court decisions arising under the Act (as well as under related remedial labor standards laws such as the Walsh-Healey Public Contracts Act, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Fair Labor Standards Act) which support

policies and interpretations contained in this part are cited where it is believed that they may be helpful. On matters which have not been authoritatively determined by the courts, it is necessary for the Secretary of Labor and the Administrator to reach conclusions as to the meaning and the application of provisions of the law in order to carry out their responsibilities of administration and enforcement (*Skidmore* v. *Swift & Co.*, 323 U.S. 134 (1944)). In order that these positions may be made known to persons who may be affected by them, official interpretations and rulings are issued by the Administrator with the advice of the Solicitor of Labor, as authorized by the Secretary (Secretary's Order No. 16–75, Nov. 21, 1975, 40 FR 55913; Employment Standards Order No. 2–76, Feb. 23, 1976, 41 FR 9016). These interpretations are a proper exercise of the Secretary's authority. *Idaho Sheet Metal Works* v. *Wirtz*, 383 U.S. 190, 208 (1966), reh. den. 383 U.S. 963 (1966). References to pertinent legislative history, decisions of the Comptroller General and of the Attorney General, and Administrative Law Judges' decisions are also made in this part where it appears they will contribute to a better understanding of the stated interpretations and policies.

(d) The interpretations of the law contained in this part are official interpretations which may be relied upon. The Supreme Court has recognized that such interpretations of the Act "provide a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it" and "constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance" (*Skidmore* v. *Swift & Co.*, 323 U.S. 134 (1944)). Interpretations of the agency charged with administering an Act are generally afforded deference by the courts. (*Griggs* v. *Duke Power Co.*, 401 U.S. 424, 433–34 (1971); *Udall* v. *Tallman*, 380 U.S. 1 (1965).) Some of the interpretations in this part relating to the application of the Act are interpretations of provisions which appeared in the original Act before its amendments in 1972 and 1976. Accordingly, the Department of Labor considers these interpretations to be correct, since there were no amendments of the statutory provisions which they interpret. (*United States* v. *Davison Fuel & Dock Co.*, 371 F.2d 705, 711–12 (C.A. 4, 1967).)

(e) The interpretations contained herein shall be in effect until they are modified, rescinded, or withdrawn. This part supersedes and replaces certain interpretations previously published in the **Federal Register** and Code of Federal Regulations as Part 4 of this chapter. Prior opinions, rulings, and interpretations and prior enforcement policies which are not inconsistent with the interpretations in this part or with the Act as amended are continued in effect; all other opinions, rulings, interpretations, and enforcement policies on the subjects discussed in the interpretations in this part, to the extent they are inconsistent with the rules herein stated, are superseded, rescinded, and withdrawn.

(f) Principles governing the application of the Act as set forth in this subpart are clarified or amplified in particular instances by illustrations and examples based on specific fact situations. Since such illustrations and examples cannot and are not intended to be exhaustive, or to provide guidance on every problem which may arise under the Act, no inference should be drawn from the fact that a subject or illustration is omitted.

(g) It should not be assumed that the lack of discussion of a particular subject in this subpart indicates the adoption of any particular position by the Department of Labor with respect to such matter or to constitute an interpretation, practice, or enforcement policy. If doubt arises or a question exists, inquiries with respect to matters other than safety and health standards should be directed to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, or to any regional office of the Wage and Hour Division. Safety and health inquiries should be addressed to the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210, or to any OSHA regional office. A full description of the facts and any relevant documents should be submitted if an official ruling is desired.

§ 4.102 Administration of the Act.

As provided by section 4 of the Act and under provisions of sections 4 and 5 of the Walsh-Healey Public Contracts Act (49 Stat. 2036, 41 U.S.C. 38, 39), which are made expressly applicable for the purpose, the Secretary of Labor is authorized and directed to administer and enforce the provisions of the McNamara-O'Hara Service Contract Act, to make rules and regulations, issue orders, make decisions, and take other appropriate action under the Act. The Secretary is also authorized to make reasonable limitations and to make rules and regulations allowing reasonable variations, tolerances, and exemptions to and from provisions of the Act (except section 10), but only in special circumstances where it is determined that such action is necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business and is in accord with the remedial purposes of the Act to protect prevailing labor standards. The authority and enforcement powers of the Secretary under the Act are coextensive with the authority and powers under the Walsh-Healey Act. *Curtiss Wright Corp.* v. *McLucas* 364 F. Supp. 750, 769 (D N] 1973).

§ 4.103 The Act.

The McNamara-O'Hara Service Contract Act of 1965 (Pub. L. 89–286, 79 Stat. 1034, 41 U.S.C. 351 et seq.), hereinafter referred to as the Act, was approved by the President on October 22, 1965 (1 Weekly Compilation of Presidential Documents 428). It establishes standards for minimum compensation and safety and health protection of employees performing work for contractors and subcontractors on service contracts entered into with the Federal Government and the District of Columbia. It applies to contracts entered into pursuant to negotiations concluded or invitations for bids issued on or after January 20, 1966. It has been amended by Pub. L. 92–473, 86 Stat. 798; by Pub. L. 93–57, 87 Stat. 140; and by Pub. L. 94–489, 90 Stat. 2358.

§ 4.104 What the Act provides, generally.

The provisions of the Act apply to contracts, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States through the use of service employees. Under its provisions, every contract subject to the Act (and any bid specification therefor) entered into by the United States or the District of Columbia in excess of $2,500 must contain stipulations as set forth in § 4.6 of this Part requiring (a) that specified minimum monetary wages and fringe benefits determined by the Secretary of Labor (based on wage rates and fringe benefits prevailing in the locality or, in specified circumstances, the wage rates and fringe benefits contained in a collective bargaining agreement applicable to employees who performed on a predecessor contract) be paid to service employees employed by the contractor or any subcontractor in performing the services contracted for; (b) that working conditions of such employees which are under the control of the contractor or subcontractor meet safety and health standards; and (c) that notice be given to such employees of the

compensation due them under the minimum wage and fringe benefits provisions of the contract. Contractors performing work subject to the Act thus enter into competition to obtain Government business on terms of which they are fairly forewarned by inclusion in the contract. (*Endicott Johnson Corp. v. Perkins*, 317 U.S. 501, 507 (1943).) The Act's purpose is to impose obligations upon those favored with Government business by precluding the use of the purchasing power of the Federal Government in the unfair depression of wages and standards of employment. (See H.R. Rep. No. 948, 89th Cong., 1st Sess. 2–3 (1965); S. Rep. No. 798, 89th Cong., 1st Sess. 3–4 (1965).) The Act does not permit the monetary wage rates specified in such a contract to be less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act, as amended (29 U.S.C. 206(a)(1)). In addition, it is a violation of the Act for any contractor or subcontractor under a Federal contract subject to the Act, regardless of the amount of the contract, to pay any of his employees engaged in performing work on the contract less than such Fair Labor Standards Act minimum wage. Contracts of $2,500 or less are not, however, required to contain the stipulations described above. These provisions of the Service Contract Act are implemented by the regulations contained in this Part 4 and are discussed in more detail in subsequent sections of Subparts C, D, and E.

§ 4.105 The Act as amended.

(a) The provisions of the Act (see §§ 4.102–4.103) were amended, effective October 9, 1972, by Public Law 92–473, signed into law by the President on that date. By virtue of amendments made to paragraphs (1) and (2) of section 2(a) and the addition to section 4 of a new subsection (c), the compensation standards of the Act (see §§ 4.159–4.179) were revised to impose on successor contractors certain requirements (see § 4.1b) with respect to payment of wage rates and fringe benefits based on those agreed upon for substantially the same services in the same locality in collective bargaining agreements entered into by their predecessor contractors (unless such agreed compensation is substantially at variance with that locally prevailing or the agreement was not negotiated at arm's length). The Secretary of Labor is to give effect to the provisions of such collective bargaining agreements in his wage determinations under section 2 of the Act. A new paragraph (5) added to section 2(a) of the Act requires a statement in the government service contract of the rates that would be paid by the contracting agency in the event of its direct employment of those classes of service employees to be employed on the contract work who, if directly employed by the agency, would receive wages determined as provided in 5 U.S.C. 5341. The Secretary of Labor is directed to give due consideration to such rates in determining prevailing monetary wages and fringe benefits under the Act's provisions. Other provisions of the 1972 amendments include the addition of a new section 10 to the Act to insure that wage determinations are issued by the Secretary for substantially all service contracts subject to section 2(a) of the Act at the earliest administratively feasible time; an amendment to section 4(b) of the Act to provide, in addition to the conditions previously specified for issuance of administrative limitations, variations, tolerances, and exemptions (see § 4.123), that administrative action in this regard shall be taken only in special circumstances where the Secretary determines that it is in accord with the remedial purpose of the Act to protect prevailing labor standards; and a new subsection (d) added to section 4 of the Act providing for the award of service contracts for terms not more than 5 years with provision for periodic adjustment of minimum wage rates and fringe benefits payable thereunder by the issuance of wage determinations by the Secretary of Labor during the term of the contract. A further amendment to section 5(a) of the Act requires the names of contractors found to have violated the Act to be submitted for the debarment list (see § 4.188) not later than 90 days after the hearing examiner's finding of violation unless the Secretary recommends relief, and provides that such recommendations shall be made only because of unusual circumstances.

(b) The provisions of the Act were amended by Pub. L. 93–57, 87 Stat. 140, effective July 6, 1973, to extend the Act's coverage to Canton Island.

(c) The provisions of the Act were amended by Pub. L. 94–489, 90 Stat. 2358, approved October 13, 1976, to extend the Act's coverage to white collar workers. Accordingly, the minimum wage protection of the Act now extends to all workers, both blue collar and white collar, other than persons employed in a bona fide executive, administrative, or professional capacity as those terms are used in the Fair Labor Standards Act and in Part 541 of Title 29. Pub. L. 94–489 accomplished this change by adding to Section 2(a)(5) of the Act a reference to 5 U.S.C. 5332, which deals with white collar workers, and by amending the definition of service contract employee in Section 8(b) of the Act.

(d) Included in this Part 4 and in Parts 6 and 8 of this subtitle are provisions to give effect to the amendments mentioned in this section.

§ 4.106 [Reserved]

Agencies Whose Contracts May Be Covered

§ 4.107 Federal contracts.

(a) Section 2(a) of the Act covers contracts (and any bid specification therefor) "entered into by the United States" and section 2(b) applies to contracts entered into "with the Federal Government." Within the meaning of these provisions, contracts entered into by the United States and contracts with the Federal Government include generally all contracts to which any agency or instrumentality of the U.S. Government becomes a party pursuant to authority derived from the Constitution and laws of the United States. The Act does not authorize any distinction in this respect between such agencies and instrumentalities on the basis of their inclusion in or independence from the executive, legislative, or judicial branches of the Government, the fact that they may be corporate in form, or the fact that payment for the contract services is not made from appropriated funds. Thus, contracts of wholly owned Government corporations, such as the Postal Service, and those of nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces, or of other Federal agencies, such as Federal Reserve Banks, are included among those subject to the general coverage of the Act. (*Brinks, Inc.* v. *Board of Governors of the Federal Reserve System*, 466 F. Supp. 116 (D DC 1979); 43 Atty. Gen. Ops. ——— (September 26, 1978).) Contracts with the Federal Government and contracts entered into "by the United States" within the meaning of the Act do not, however, include contracts for services entered into on their own behalf by agencies or instrumentalities of other Governments within the United States, such as those of the several States and their political subdivisions, or of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

(b) Where a Federal agency exercises its contracting authority to procure services desired by the Government, the method of procurement utilized by the contracting agency is not controlling in determining coverage of the contract as one entered into by the United States. Such contracts may be entered into by

the United States either through a direct award by a Federal agency or through the exercise by another agency (whether governmental or private) of authority granted to it to procure services for or on behalf of a Federal agency. Thus, sometimes authority to enter into service contracts of the character described in the Act for and on behalf of the Government and on a cost-reimbursable basis may be delegated, for the convenience of the contracting agency, to a prime contractor which has the responsibility for all work to be done in connection with the operation and management of a Federal plant, installation, facility, or program, together with the legal authority to act as agency for and on behalf of the Government and to obligate Government funds in the procurement of all services and supplies necessary to carry out the entire program of operation. The contracts entered into by such a prime contractor with secondary contractors for and on behalf of the Federal agency pursuant to such delegated authority, which have such services as their principal purpose, are deemed to be contracts entered into by the United States and contracts with the Federal Government within the meaning of the Act. However, service contracts entered into by State or local public bodies with purveyors of services are not deemed to be entered into by the United States merely because such services are paid for with funds of the public body which have been received from the Federal Government as a grant under a Federal program. For example, a contract entered into by a municipal housing authority for tree trimming, tree removal, and landscaping for an urban renewal project financed by Federal funds is not a contract entered into by the United States and is not covered by the Service Contract Act. Similarly, contracts let under the Medicaid program which are financed by federally-assisted grants to the States, and contracts which provide for insurance benefits to a third party under the Medicare program are not subject to the Act.

§ 4.108 District of Columbia contracts.

Section 2(a) of the Act covers contracts (and any bid specification therefor) in excess of $2,500 which are "entered into by the * * * District of Columbia." The contracts of all agencies and instrumentalities which procure contract services for or on behalf of the District or under the authority of the District Government are contracts entered into by the District of Columbia within the meaning of this provision. Such contracts are also considered contracts entered into with the Federal Government or the United States within the meaning of section 2(b), section 5, and the other provisions of the Act. The legislative history indicates no intent to distinguish District of Columbia contracts from the other contracts made subject to the Act, and traditionally, under other statutes. District Government contracts have been made subject to the same labor standards provisions as contracts of agencies and instrumentalities of the United States.

§ 4.109 [Reserved]

Covered Contracts Generally

§ 4.110 What contracts are covered.

The Act covers service contracts of the Federal agencies described in §§ 4.107–4.108. Except as otherwise specifically provided (see §§ 4.115 et seq.), all such contracts, the principal purpose of which is to furnish services in the United States through the use of service employees, are subject to its terms. This is true of contracts entered into by such agencies with States or their political subdivisions, as well as such contracts entered into with private employers. Contracts between a Federal or District of Columbia agency and another such agency are not within the purview of the Act; however, "subcontracts" awarded under "prime contracts" between the Small Business Administration and another Federal agency pursuant to various preferential set-aside programs, such as the 8(a) program, are covered by the Act. It makes no difference in the coverage of a contract whether the contract services are procured through negotiation or through advertising for bids. Also, the mere fact that an agreement is not reduced to writing does not mean that the contract is not within the coverage of the Act. The amount of the contract is not determinative of the Act's coverage, although the requirements are different for contracts in excess of $2,500 and for contracts of a lesser amount. The Act is applicable to the contract if the principal purpose of the contract is to furnish services, if such services are to be furnished in the United States, and if service employees will be used in providing such services. These elements of coverage will be discussed separately in the following sections.

§ 4.111 Contracts "to furnish services."

(a) *"Principal purpose" as criterion.* Under its terms, the Act applies to a "contract * * * the principal purpose of which is to furnish services * * *." If the principal purpose is to provide something other than services of the character contemplated by the Act and any such services which may be performed are only incidental to the performance of a contract for another purpose, the Act does not apply. However, as will be seen by examining the illustrative examples of covered contracts in §§ 4.130 et seq., no hard and fast rule can be laid down as to the precise meaning of the term "principal purpose". This remedial Act is intended to be applied to a wide variety of contracts, and the Act does not define or limit the types of services which may be contracted for under a contract the principal purpose of which is to furnish services. Further, the nomenclature, type, or particular form of contract used by procurement agencies is not determinative of coverage. Whether the principal purpose of a particular contract is the furnishing of services through the use of service employees is largely a question to be determined on the basis of all the facts in each particular case. Even where tangible items of substantial value are important elements of the subject matter of the contract, the facts may show that they are of secondary import to the furnishing of services in the particular case. This principle is illustrated by the examples set forth in § 4.131.

(b) *Determining whether a contract is for "services", generally.* Except indirectly through the definition of "service employee" the Act does not define, or limit, the types of "services" which may be contracted for under a contract "the principal purpose of which is to furnish services". As stated in the congressional committee reports on the legislation, the types of service contracts covered by its provisions are varied. Among the examples cited are contracts for laundry and dry cleaning, for transportation of the mail, for custodial, janitorial, or guard service, for packing and crating, for food service, and for miscellaneous housekeeping services. Covered contracts for services would also include those for other types of services which may be performed through the use of the various classes of service employees included in the definition in section 8(b) of the Act (see § 4.113). Examples of some such contracts are set forth in §§ 4.130 et seq. In determining questions of contract coverage, due regard must be given to the apparent legislative intent to include generally as contracts for "services" those contracts which have as their principal purpose the procurement of something other than the construction activity described in the Davis-Bacon Act or the materials, supplies, articles, and equipment described in the Walsh-Healey Act. The Committee reports in

both the House and Senate, and statements made on the floor of the House, took note of the labor standards protections afforded by these two Acts to employees engaged in the performance of construction and supply contracts and observed: "The service contract is now the only remaining category of Federal contracts to which no labor standards protections apply" (H. Rept. 948, 89th Cong., 1st Sess., p. 1; see also S. Rept. 798, 89th Cong., 1st Sess., p. 1; daily Congressional Record, Sept. 20, 1965, p. 23497). A similar understanding of contracts principally for "services" as embracing contracts other than those for construction or supplies is reflected in the statement of President Johnson upon signing the Act (1 Weekly Compilation of Presidential Documents, p. 428).

§ 4.112 Contracts to furnish services "in the United States."

(a) The Act covers contract services furnished "in the United States," including any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll and Johnston Island. The definition expressly excludes any other territory under the jurisdiction of the United States and any United States base or possession within a foreign country.

(b)(1) A service contract to be performed in its entirety outside the geographic limits of the United States as defined is not subject to the labor standards of the Act.

(2) In addition, a contract which is performed essentially outside the United States, with only an incidental portion performed within the United States as defined is not covered by the Act. For example, a contract for services to be performed on a vessel operating exclusively or nearly so in international or foreign waters outside the geographic areas named in section 8(d) would not be for services furnished "in the United States" within the meaning of the Act and would not be covered. However, if a significant or substantial portion of a service contract is performed within the statutory geographic limits, the Act applies, and the stipulations required by § 4.6 or § 4.7, as appropriate, must be included in the invitation for bids or negotiation documents and in the contract. In such a case, the labor standards must be observed with respect to that part of the contract services which is performed within these geographic limits, but the requirements of the Act and of the contract clauses will not be applicable to the services furnished outside the United States.

(3) In close cases involving a decision as to whether a significant portion of a contract will be performed within the United States as defined, the Department of Labor should be consulted, since such situations require consideration of other factors such as the nature of the contract work, the type of work performed in the United States and how necessary such work is to contract performance, and the amount of contract work performed or time spent in the United States vis-a-vis other contract work.

§ 4.113 Contracts to furnish services "through the use of service employees".

(a) *Use of "service employees" in a contract performance.* (1) As indicated in § 4.110, the Act covers service contracts only where "service employees" will be used in performing the services which it is the purpose of the contract to procure. A contract principally for services ordinarily will meet this condition if any of the services will be furnished through the use of any service employee or employees. Where it is contemplated that the services (of the kind performed by service employees) will be performed individually by the contractor, and the contracting officer knows when advertising for bids or concluding negotiations that service employees will in no event be used by the contractor in providing the contract services, the Act will not be deemed applicable to the contract and the contract clauses required by § 4.6 or § 4.7 may be omitted. The fact that the required services will be performed by municipal employees or employees of a State would not remove the contract from the purview of the Act, as this Act does not contain any exemption for contracts performed by such employees. Also, as discussed in paragraph (a)(3) of this section, where the services the Government wants under the contract are of a type that will require the use of service employees as defined in section 8(b) of the Act, the contract is not taken out of the purview of the Act by the fact that the manner in which the services of such employees are performed will be subject to the continuing overall supervision of bona fide executive, administrative, or professional personnel to whom the Act does not apply.

(2) The coverage of the Act does not extend to contracts for services to be performed exclusively by persons who are not service employees, i.e., persons who are bona fide executive, administrative or professional personnel as defined in Part 541 of this title (see paragraph (b) of this section). A contract for medical services furnished by professional personnel is an example of such a contract.

(3) In addition, the Department does not require application of the Act to any contract for services which is performed essentially by bona fide executive, administrative, or professional employees, with the use of service employees being only a minor factor in the performance of the contract. However, the Act would apply to a contract for services which may involve the use of service employees to a significant or substantial extent even though there is some use of bona fide executive, administrative, or professional employees in the performance of the contract. For example, contracts for drafting or data processing services are often performed by drafters, computer operators, or other service employees and are subject to the Act even though the work of such employees may be performed under the direction and supervision of bona fide professional employees.

(4) In close cases involving a decision as to whether a contract will involve a significant use of service employees, the Department of Labor should be consulted, since such situations require consideration or other factors such as the nature of the contract work, the type of work performed by service employees, how necessary the work is to contract performance, the amount of contract work performed by service employees vis-a-vis professional employees, and the total number of service employees employed on the contract.

(b) *"Service employees" defined.* In determining whether or not any of the contract services will be performed by service employees, the definition of "service employee" in section 8(b) of the Act is controlling. It provides:

> The term "service employee" means any person engaged in the performance of a contract entered into by the United States and not exempted under section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

It will be noted that the definition expressly excludes those employees who are employed in a bona fide executive, administrative, or professional capacity as defined in Part 541 of this title and as discussed further in § 4.156. Some of the specific types of service employees who may be employed on service contracts are noted in other sections which discuss the application of the Act to employees.

§ 4.114 Subcontracts.

(a) *"Contractor" as including "subcontractor."* Except where otherwise noted or where the term "Government prime contractor" is used, the term "contractor" as used in this Part 4 shall be deemed to include a subcontractor. The term "contractor" as used in the contract clauses required by Subpart A in any subcontract under a covered contract shall be deemed to refer to the subcontractor, or, if in a subcontract entered into by such a subcontractor, shall be deemed to refer to the lower level subcontractor. (See § 4.1a(f).)

(b) *Liability of Prime Contractor.* When a contractor undertakes a contract subject to the Act, the contractor agrees to assume the obligation that the Act's labor standards will be observed in furnishing the required services. This obligation may not be relieved by shifting all or part of the work to another, and the prime contractor is jointly and severally liable with any subcontractor for any underpayments on the part of a subcontractor which would constitute a violation of the prime contract. The prime contractor is required to include the prescribed contract clauses (§§ 4.6–4.7) and applicable wage determination in all subcontracts. The appropriate enforcement sanctions provided under the Act may be invoked against both the prime contractor and the subcontractor in the event of failure to comply with any of the Act's requirements where appropriate under the circumstances of the case.

Specific Exclusions

§ 4.115 Exemptions and exceptions, generally.

(a) The Act, in section 7, specifically excludes from its coverage certain contracts and work which might otherwise come within its terms as procurements the principal purpose of which is to furnish services through the use of service employees.

(b) The statutory exemptions in section 7 of the Act are as follows:

(1) Any contract of the United States or District of Columbia for construction, alteration, and/or repair, including painting and decorating of public buildings or public works;

(2) Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036);

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(5) Any contract for public utility services, including electric light and power, water, steam, and gas;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals;

(7) Any contract with the Post Office Department, (now the U.S. Postal Service) the principal purpose of which is the operation of postal contract stations.

§ 4.116 Contracts for construction activity.

(a) *General scope of exemption.* The Act, in paragraph (1) of section 7, exempts from its provisions "any contract of the United States or District of Columbia for construction, alteration and/or repair, including painting and decorating of public buildings or public works." This language corresponds to the language used in the Davis-Bacon Act to describe its coverage (40 U.S.C. 276a). The legislative history of the McNamara-O'Hara Service Contract Act indicates that the purpose of the provision is to avoid overlapping coverage of the two acts by excluding from the application of the McNamara-O'Hara Act those contracts to which the Davis-Bacon Act is applicable and in the performance of which the labor standards of that Act are intended to govern the compensation payable to the employees of contractors and subcontractors on the work. (See H. Rept. 798, pp. 2, 5, and H. Rept. 948, pp. 1, 5, also Hearing, Special Subcommittee on Labor, House Committee on Education and Labor, p. 9 (89th Cong., 1st sess.).) The intent of section 7(1) is simply to exclude from the provisions of the Act those construction contracts which involve the employment of persons whose wage rates and fringe benefits are determinable under the Davis-Bacon Act.

(b) *Contracts not within exemption.* Section 7(1) does not exempt contracts which, for purposes of the Davis-Bacon Act, are not considered to be of the character described by the corresponding language in that Act, and to which the provisions of the Davis-Bacon Act are therefore not applied. Such contracts are accordingly subject to the McNamara-O'Hara Act where their principal purpose is to furnish services in the United States through the use of service employees. For example, a contract for clearing timber or brush from land or for the demolition or dismantling of buildings or other structures located thereon may be a contract for construction activity subject to the Davis-Bacon Act where it appears that the clearing of the site is to be followed by the construction of a public building or public work at the same location. If, however, no further construction activity at the site is contemplated the Davis-Bacon Act is considered inapplicable to such clearing, demolition, or dismantling work. In such event, the exemption in section 7(1) of the McNamara-O'Hara Act has no application and the contract may be subject to the Act in accordance with its general coverage provisions. It should be noted that the fact that a contract may be labeled as one for the sale and removal of property, such as salvage material, does not negate coverage under the Act even though title to the removable property passes to the contractor. While the value of the property being sold in relation to the services performed under the contract is a factor to be considered in determining coverage, where the facts show that the principal purpose of removal, dismantling, and demolition contracts is to furnish services through the use of service employees, these contracts are subject to the Act. (See also § 4.131.)

(c) *Partially exempt contracts.* (1) Instances may arise in which, for the convenience of the Government, instead of awarding separate contracts for construction work subject to the Davis-Bacon Act and for services of a different type to be performed by service employees, the contracting officer may include separate specifications for each type of work in a single contract calling for the performance of both types of work. For example, a contracting agency may invite bids for the installation of a plumbing system or for the installation of a security alarm system in a public building and for the maintenance of the system for one year. In such a case, if the contract is principally for services, the exemption provided by section 7(1) will be deemed applicable only to that portion of the contract which calls for construction activity subject to the Davis-Bacon Act. The contract documents are required to contain the clauses prescribed by § 4.6 for application to the contract obligation to

furnish services through the use of service employees, and the provisions of the McNamara-O'Hara Act will apply to that portion of the contract.

(2) *Services or maintenance contracts involving construction work.* The provisions of both the Davis-Bacon Act and the Service Contract Act would generally apply to contracts involving construction and service work where such contracts are principally for services. The Davis-Bacon Act, and thus the exemption provided by section 7(1) of the Act, would be applicable to construction contract work in such hybrid contracts where:

(i) The contract contains specific requirements for substantial amounts of construction, reconstruction, alteration, or repair work (hereinafter referred to as construction) or it is ascertainable that a substantial amount of construction work will be necessary for the performance of the contract (the word "substantial" relates to the type and quantity of construction work to be performed and not merely to the total value of construction work (whether in absolute dollars or cost percentages) as compared to the total value of the contract); and

(ii) The construction work is physically or functionally separate from, and as a practical matter is capable of being performed on a segregated basis from, the other work called for by the contract.

§ 4.117 Work subject to requirements of Walsh-Healey Act.

(a) The Act, in paragraph (2) of section 7, exempts from its provisions "any work required to be done in accordance with the provision of the Walsh-Healey Public Contracts Act" (49 Stat. 2036, 41 U.S.C. 35 *et seq.*). It will be noted that like the similar provision in the Contract Work Hours and Safety Standards Act (40 U.S.C. 329(b)), this is an exemption for "work", i.e., specifications or requirements, rather than for "contracts" subject to the Walsh-Healey Act. The purpose of the exemption was to eliminate possible overlapping of the differing labor standards of the two Acts, which otherwise might be applied to employees performing work on a contract covered by the Service Contract Act if such contract and their work under it should also be deemed to be covered by the Walsh-Healey Act. The Walsh-Healey Act applies to contracts in excess of $10,000 for the manufacture or furnishing of materials, supplies, articles or equipment. Thus, there is no overlap if the principal purpose of the contract is the manufacture or furnishing of such materials etc., rather than the furnishing of services of the character referred to in the Service Contract Act, for such a contract is not within the general coverage of the Service Contract Act. In such cases the exemption in section 7(2) is not pertinent. See, for example, the discussion in §§ 4.131 and 4.132.

(b) Further, contracts principally for remanufacturing of equipment which is so extensive as to be equivalent to manufacturing are subject to the Walsh-Healey Act. Remanufacturing shall be deemed to be manufacturing when the criteria in paragraph (1) or (2) of this section are met.

(1) Major overhaul of an item, piece of equipment, or materiel which is degraded or inoperable, and under which all of the following conditions exist:

(i) The item or equipment is required to be completely or substantially torn down into individual components parts; and

(ii) Substantially all of the parts are reworked, rehabilitated, altered and/or replaced; and

(iii) The parts are reassembled so as to furnish a totally rebuilt item or piece of equipment; and

(iv) Manufacturing processes similar to those which were used in the manufacturing of the item or piece of equipment are utilized; and

(v) The disassembled components, if usable (except for situations where the number of items or pieces of equipment involved are too few to make it practicable) are commingled with existing inventory and, as such, lose their identification with respect to a particular piece of equipment; and

(vi) The items or equipment overhauled are restored to original life expectancy, or nearly so; and

(vii) Such work is performed in a facility owned or operated by the contractor.

(2) Major modification of an item, piece of equipment, or materiel which is wholly or partially obsolete, and under which all of the following conditions exists:

(i) The item or equipment is required to be completely or substantially torn down; and

(ii) Outmoded parts are replaced; and

(iii) The item or equipment is rebuilt or reassembled; and

(iv) The contract work results in the furnishing of a substantially modified item in a usable and serviceable condition; and

(v) The work is performed in a facility owned or operated by the contractor.

(3) Remanufacturing does not include the repair of damaged or broken equipment which does not require a complete teardown, overhaul, and rebuild as described in paragraphs (b)(1) and (2) of this section, or the periodic and routine maintenance, preservation, care, adjustment, upkeep, or servicing of equipment to keep it in usable, serviceable, working order. Such contracts typically are billed on an hourly rate (labor plus materials and parts) basis. Any contract principally for the work described in this paragraph (b)(3) is subject to the Service Contract Act. Examples of such work include:

(i) Repair of an automobile, truck, or other vehicle, construction equipment, tractor, crane, aerospace, air conditioning and refrigeration equipment, electric motors, and ground powered industrial or vehicular equipment;

(ii) Repair of typewriters and other office equipment (see § 4.123(e));

(iii) Repair of appliances, radios television, calculators, and other electronic equipment;

(iv) Inspecting, testing, calibration, painting, packaging, lubrication, tune-up, or replacement of internal parts of equipment listed in paragraphs (b)(3) (i), (ii), and (iii) above; and

(v) Reupholstering, reconditioning, repair, and refinishing of furniture.

(4) Application of the Service Contract Act or the Walsh-Healey Act to any similar type of contract not decided above will be decided on a case-by-case basis by the Administrator.

§ 4.118 Contracts for carriage subject to published tariff rates.

The Act, in paragraph (3) of section 7, exempts from its provisions "any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line or oil or gas pipeline where published tariff rates are in effect". In order for this exemption to be applicable, the contract must be for such carriage by a common carrier described by the terms used. It does not, for example, apply to contracts for taxicab or ambulance service, because taxicab and ambulance companies are not among the common carriers specified by the statute. Also, a contract for transportation service does not come within this exemption unless the service contracted for is actually governed by published tariff rates in effect pursuant to State or Federal law for such carriage. The contracts excluded from the reach of the Act by this exemption are typically those where there is on file with the Interstate Commerce Commission or an appropriate State or local regulatory body a tariff rate applicable to the transportation involved, and the transportation

contract between the Government and the carrier is evidenced by a Government bill of lading citing the published tariff rate. An administrative exemption has been provided for certain contracts where such carriage is subject to rates covered by section 10721 of the Interstate Commerce Act and is in accordance with applicable regulations governing such rates. See § 4.123(d). However, only contracts principally for the carriage of "freight or personnel" are exempt. Thus, the exemption cannot apply where the principal purpose of the contract is packing, crating, handling, loading, and/or storage of goods prior to or following line-haul transportation. The fact that substantial local drayage to and from the contractor's establishment (such as a warehouse) may be required in such contracts does not alter the fact that their principal purpose is other than the carriage of freight. Also, this exemption does not exclude any contracts for the transportation of mail from the application of the Act, because the term "freight" does not include the mail. (For an administrative exemption of certain contracts with common carriers for carriage of mail, see § 4.123(d).)

§ 4.119 Contracts for services of communications companies.

The Act, in paragraph (4) of section 7, exempts from its provisions "any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934." This exemption is applicable to contracts with such companies for communication services regulated under the Communications Act. It does not exempt from the Act any contracts with such companies to furnish any other kinds of services through the use of service employees.

§ 4.120 Contracts for public utility services.

The Act, in paragraph (5) of section 7, exempts from its provisions "any contract for public utility services, including electric light and power, water, steam, and gas." This exemption is applicable to contracts for such services with companies whose rates therefor are regulated under State, local, or Federal law governing operations of public utility enterprises. Contracts entered into with public utility companies to furnish services through the use of service employees, other than those subject to such rate regulation, are not exempt from the Act. Among the contracts included in the exemption would be those between Federal electric power marketing agencies and investor-owned electric utilities, Rural Electrification Administration cooperatives, municipalities and State agencies engaged in the transmission and sale of electric power and energy.

(See H. Rept. No. 948, 89th Cong., 1st sess., p. 4)

§ 4.121 Contracts for individual services.

The Act, in paragraph (6) of section 7, exempts from its provisions "any employment contract providing for direct services to a Federal agency by an individual or individuals." This exemption, which applies only to an "employment contract" for "direct services," makes it clear that the Act's application to Federal contracts for services is intended to be limited to service contracts entered into with independent contractors. If a contract to furnish services (to be performed by a service employee as defined in the Act) provides that they will be furnished directly to the Federal agency by the individual under conditions or circumstances which will make him an employee of the agency in providing the contract service, the exemption applies and the contract will not be subject to the Act's provisions. The exemption does not exclude from the Act any contract for services of the kind performed by service employees which is entered into with an independent contractor whose individual services will be used in performing the contract, but as noted earlier in § 4.113, such a contract would be outside the general coverage of the Act if only the contractor's individual services would be furnished and no service employee would in any event be used in its performance.

§ 4.122 Contracts for operation of postal contract stations.

The Act, in paragraph (7) of section 7, exempts from its provisions "any contract with the Post Office Department, [now the U.S. Postal Service], the principal purpose of which is the operation of postal contract stations." The exemption is limited to postal service contracts having the operation of such stations as their principal purpose. A provision of the legislation which would also have exempted contracts with the U.S. Postal Service having as their principal purpose the transportation, handling, or delivery of the mails was eliminated from the bill during its consideration by the House Committee on Education and Labor (H. Rept. 948, 89th Cong., 1st sess., p. 1).

§ 4.123 Administrative limitations, variances, tolerances, and exemptions.

(a) *Authority of the Secretary.* Section 4(b) of the Act as amended in 1972 authorizes the Secretary to "provide such reasonable limitations" and to "make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act (other than § 10), but only in special circumstances where he determines that such limitation, variation, tolerance, or exemption is necessary and proper in the public interest or to avoid the serious impairment of Government business, and is in accord with the remedial purpose of this Act to protect prevailing labor standards." This authority is similar to that vested in the Secretary under section 6 of the Walsh-Healey Public Contracts Act (41 U.S.C. 40) and under section 105 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 331).

(b) *Administrative action under section 4(b) of the Act.* The authority conferred on the Secretary by section 4(b) of the Act will be exercised with due regard to the remedial purpose of the statute to protect prevailing labor standards and to avoid the undercutting of such standards which could result from the award of Government work to contractors who will not observe such standards, and whose saving in labor cost therefrom enables them to offer a lower price to the Government than can be offered by the fair employers who maintain the prevailing standards. Administrative action consistent with this statutory purpose may be taken under section 4(b) with or without a request therefor, when found necessary and proper in accordance with the statutory standards. No formal procedures have been prescribed for requesting such action. However, a request for exemption from the Act's provisions will be granted only upon a strong and affirmative showing that it is necessary and proper in the public interest or to avoid serious impairment of Government business, and is in accord with the remedial purpose of the Act to protect prevailing labor standards. If the request for administrative action under section 4(b) is not made by the headquarters office of the contracting agency to which the contract services are to be provided, the views of such office on the matter should be obtained and submitted with the request or the contracting officer may forward such a request through channels to the agency headquarters for submission with the latter's views to the Administrator of the Wage and Hour

Division, Department of Labor, whenever any wage payment issues are involved. Any request relating to an occupational safety or health issue shall be submitted to the Assistant Secretary for Occupational Safety and Health, Department of Labor.

(c) *Documentation of official action under section 4(b).* All papers and documents made a part of the official record of administrative action pursuant to section 4(b) of the Act are available for public inspection in accordance with the regulations in 29 CFR Part 70. Limitations, variations, tolerances and exemptions of general applicability and legal effect promulgated pursuant to such authority are published in the **Federal Register** and made a part of the rules incorporated in this Part 4. For convenience in use of the rules, they are generally set forth in the sections of this part covering the subject matter to which they relate. (See, for example, §§ 4.5(b), 4.6(o), 4.112 and 4.113.) Any rules that are promulgated under section 4(b) of the Act relating to subject matter not dealt with elsewhere in this Part 4 will be set forth immediately following this paragraph.

(d) In addition to the statutory exemptions in § 7 of the Act (see § 4.115(b)), the following types of contracts have been exempted from all the provisions of the Service Contract Act of 1965, pursuant to section 4(b) of the Act, prior to its amendment by Public Law 92–473, which exemptions the Secretary of Labor found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where such carriage is performed on regularly scheduled runs of the trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom;

(2) Any contract entered into by the U.S. Postal Service with an individual owner-operator for mail service where it is not contemplated at the time the contract is made that such owner-operator will hire any service employee to perform the services under the contract except for short periods of vacation time or for unexpected contingencies or emergency situations such as illness, or accident; and

(3) Contracts for the carriage of freight or personnel where such carriage is subject to rates covered by section 10721 of the Interstate Commerce Act.

(e) The following types of contracts have been exempted from all the provisions of the Service Contract Act of 1965, pursuant to section 4(b) of the Act, which exemptions the Secretary of Labor found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business and are in accord with the remedial purpose of the Act to protect prevailing labor standards:

(1)(i) Contracts principally for the maintenance, calibration and/or repair of:

(A) Automated data processing equipment and office information/word processing systems:

(B) Scientific equipment and medical apparatus or equipment where the application of microelectronic circuitry or other technology of at least similar sophistication is an essential element (for example, Federal Supply Classification (FSC) Group 65, Class 6515, "Medical Diagnostic Equipment"; Class 6525, "X-Ray Equipment"; FSC Group 66, Class 6630, "Chemical Analysis Instruments"; Class 6665, "Geographical and Astronomical Instruments", are largely composed of the types of equipment exempted hereunder);

(C) Office/business machines not otherwise exempt pursuant to paragraph (A) above, where such services are performed by the manufacturer or supplier of the equipment.

(ii) The exemptions set forth in this paragraph (1) shall apply only under the following circumstances:

(A) The items of equipment are commercial items which are used regularly for other than Government purposes, and are sold or traded by the contractor in substantial quantities to the general public in the course of normal business operations;

(B) The contract services are furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, and/or repair of such commerical items. An "established catalog price" is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the contractor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public. An "established market price" is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or contractor; and

(C) The contractor utilizes the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the contractor uses for equivalent employees servicing the same equipment of commercial customers;

(D) The contractor certifies in the contract to the provisions in this subparagraph (ii).

(iii) Determinations of the applicability of this exemption shall be made in the first instance by the contracting officer prior to contract award. In making a judgment that the exemption applies, the contracting officer shall consider all factors and make an affirmative determination that all of the above conditions have been met.

(iv) If the Department of Labor determines after contract award that any of the above requirements for exemption has not been met, the exemption will be deemed inapplicable, and the contract shall become subject to the Service Contract Act, effective as of the date of the Department of Labor determination. In such case, the corrective procedures in section 4.5(c)(2) of this part shall be followed.

§§ 4.124—4.129 [Reserved]

Particular Application of Contract Coverage Principles

§ 4.130 Types of covered service contracts illustrated.

(a) The types of contracts, the principal purpose of which is to furnish services through the use of service employees, are too numerous and varied to permit an exhaustive listing. The following list is illustrative, however, of the types of services called for by such contracts that have been found to come within the coverage of the Act. Other examples of covered contracts are discussed in other sections of this subpart.

(1) Aerial spraying
(2) Aerial reconnaissance for fire detection
(3) Ambulance service
(4) Barber and beauty shop services
(5) Cafeteria and food service
(6) Carpet laying (other than part of construction) and cleaning
(7) Cataloging services
(8) Chemical testing and analysis
(9) Clothing alteration and repair
(10) Computer services
(11) Concessionaire services
(12) Custodial, janitorial, and housekeeping services
(13) Data collection, processing, and/or analysis services
(14) Drafting and illustrating
(15) Electronic equipment maintenance and operation and engineering support services

(16) Exploratory drilling (other than part of construction)
(17) Film processing
(18) Fire fighting and protection
(19) Fueling services
(20) Furniture repair and rehabilitation
(21) Geological field surveys and testing
(22) Grounds maintenance
(23) Guard and watchman security service
(24) Inventory services
(25) Keypunching and keyverifying contracts
(26) Laboratory analysis services
(27) Landscaping (other than part of construction)
(28) Laundry and dry cleaning
(29) Linen supply services
(30) Lodging and/or meals
(31) Mail hauling
(32) Mailing and addressing services
(33) Maintenance and repair of all types of equipment, e.g., aircraft, engines, electrical motors, vehicles, and electronic. Telecommunications, office and related business, and construction equipment (See § 4.123(e).)
(34) Mess attendant services
(35) Mortuary services
(36) Motor pool operation
(37) Nursing home services
(38) Operation, maintenance, or logistic support of a Federal facility
(39) Packing and crating
(40) Parking services
(41) Pest control
(42) Property management
(43) Snow removal
(44) Stenographic reporting
(45) Support services at military installations
(46) Surveying and mapping services not directly related to construction)
(47) Taxicab services
(48) Telephone and field interview services
(49) Tire and tube repairs
(50) Transporting property or personnel (except as explained in § 4.118)
(51) Trash and garbage removal
(52) Tree planting and thining, clearing timber or brush, etc. (See also §§ 4.116 (b) and 4.131(f).)
(53) Vending machine services
(54) Visual and graphic arts
(55) Warehousing or storage

§ 4.131 Furnishing services involving more than use of labor.

(a) If the principal purpose of a contract is to furnish services in the performance of which service employees will be used, the Act will apply to the contract, in the absence of an exemption, even though the use or furnishing of nonlabor items may be an important element in the furnishing of the services called for by its terms. The Act is concerned with protecting the labor standards of workers engaged in performing such contracts, and is applicable if the statutory coverage test is met, regardless of the form in which the contract is drafted. The proportion of the labor cost to the total cost of the contract and the necessity of furnishing or receiving tangible nonlabor items in performing the contract obligations will be considered but are not necessarily determinative. A procurement that requires tangible items to be supplied to the Government or the contractor as a part of the service furnished is covered by the Act so long as the facts show that the contract is chiefly for services, and that the furnishing of tangible items is of secondary importance.

(b) Some examples of covered contracts illustrating these principles may be helpful. One such example is a contract for the maintenance and repair of typewriters. Such a contract may require the contractor to furnish typewriter parts, as the need arises, in performing the contract services. Since this does not change the principal purpose of the contract, which is to furnish the maintenance and repair services through the use of service employees, the contract remains subject to the Act.

(c) Another example of the application of the above principle is a contract for the recurrent supply to a Government agency of freshly laundered items on a rental basis. It is plain from the legislative history that such a contract is typical of those intended to be covered by the Act. S. Rept. 798, 89th Cong., 1st Sess., p. 2; H. Rept. 948, 89th Cong., 1st Sess., p. 2. Although tangible items owned by the contractor are provided on a rental basis for the use of the Government, the service furnished by the contractor in making them available for such use when and where they are needed, through the use of service employees who launder and deliver them, is the principal purpose of the contract.

(d) Similarly, a contract in the form of rental of equipment with operators for the plowing and reseeding of a park area is a service contract. The Act applies to it because its principal purpose is the service of plowing and reseeding, which will be performed by service employees, although as a necessary incident the contractor is required to furnish equipment. For like reasons the contracts for aerial spraying and aerial reconnaissance listed in § 4.130 are covered, even though the use of airplanes, an expensive item of equipment, is essential in performing such services. In general, contracts under which the contractor agrees to provide the Government with vehicles or equipment on a rental basis with drivers or operators for the purpose of furnishing services are covered by the Act. Such contracts are not considered contracts for furnishing equipment within the meaning of the Walsh-Healey Public Contracts Act. On the other hand, contracts under which the contractor provides equipment with operators for the purpose of construction of a public building or public work, such as road resurfacing or dike repair, even where the work is performed under the supervision of Government employees, would be within the exemption in section 7(1) of the Act as contracts for construction subject to the Davis-Bacon Act. (See § 4.116.)

(e) Contracts for data collection, surveys, computer services, and the like are within the general coverage of the Act even though the contractor may be required to furnish such tangible items as written reports or computer printouts, since items of this nature are considered to be of secondary importance to the services which it is the principal purpose of the contract to procure.

(f) Contracts under which the contractor receives tangible items from the Government in return for furnishing services (which items are in lieu of or in addition to monetary consideration granted by either party) are covered by the Act where the facts show that the furnishing of such services is the principal purpose of the contracts. For example, property removal or disposal contracts which involve demolition of buildings or other structures are subject to the Act when their principal purpose is dismantling and removal (and no further construction activity at the site is contemplated). However, removal or dismantling contracts whose principal purpose is sales are not covered. So-called "timber sales" contracts generally are not subject to the Act because normally the services provided under such contracts are incidental to the principal purpose of the contracts. (See also §§ 4.111(a) and 4.116(b).)

§ 4.132 Services and other items to be furnished under a single contract.

If the principal purpose of a contract is to furnish services through the use of service employees within the meaning of the Act, the contract to furnish such services is not removed from the Act's coverage merely because, as a matter of convenience in procurement, the service specifications are combined in a single contract document with specifications for the procurement of different or unrelated items. In such case, the Act

would apply to service specifications but would not apply to any specifications subject to the Walsh-Healey Act or to the Davis-Bacon Act. With respect to contracts which contain separate specifications for the furnishing of services and construction activity, see § 4.116(c).

§ 4.133 Beneficiary of contract services.

(a) The Act does not say to whom the services under a covered contract must be furnished. So far as its language is concerned, it is enough if the contract is "entered into" by and with the Government and if its principal purpose is "to furnish services in the United States through the use of service employees". It is clear that Congress intended to cover at least contracts for services of direct benefit to the Government, its property, or its civilian or military personnel for whose needs it is necessary or desirable for the Government to make provision for such services. For example, the legislative history makes specific reference to such contracts as those for furnishing food service and laundry and dry cleaning service for personnel at military installations. Furthermore, there is no limitation in the Act regarding the beneficiary of the services, nor is there any indication that only contracts for services of direct benefit to the Government, as distinguished from the general public, are subject to the Act. Therefore, where the principal purpose of the Government contract is to provide services through the use of service employees, the contract is covered by the Act, regardless of the direct beneficiary of the services or the source of the funds from which the contractor is paid for the service, and irrespective of whether the contractor performs the work in its own establishment, on a Government installation, or elsewhere. The fact that the contract requires or permits the contractor to provide the services directly to individual personnel as a concessionaire, rather than through the contracting agency, does not negate coverage by the Act.

(b) The Department of Labor, pursuant to Section 4(b) of the Act, exempts from the provisions of the Act certain kinds of concession contracts providing services to the general public, as provided herein. Specifically, concession contracts (such as those entered into by the National Park Service) principally for the furnishing of food, lodging, automobile fuel, souvenirs, newspaper stands, and recreational equipment to the general public, as distinguished from the United States Government or its personnel, are exempt. This exemption is necessary and proper in the public interest and is in accord with the remedial purpose of the Act. Where concession contracts, however, include substantial requirements for services other than those stated, those services are not exempt. The exemption provided does not affect a concession contractor's obligation to comply with the labor standards provisions of any other statutes such as the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*), the Davis-Bacon Act (40 U.S.C. 276a *et seq.*; see Part 5 of this title) and the Fair Labor Standards Act (29 U.S.C. 201 *et seq.*).

§ 4.134 Contracts outside the Act's coverage.

(a) Contracts entered into by agencies other than those of the Federal Government or the District of Columbia as described in §§ 4.107–4.108 are not within the purview of the Act. Thus, the Act does not cover service contracts entered into with any agencies of Puerto Rico, the Virgin Islands, American Samoa, or Guam acting in behalf of their respective local governments. Similarly, it does not cover service contracts entered into by agencies of States or local public bodies, not acting as agents for or on behalf of the United States or the District of Columbia, even though Federal financial assistance may be provided for such contracts under Federal law or the terms and conditions specified in Federal law may govern the award and operation of the contract.

(b) Further, as already noted in §§ 4.111–4.113, the Act does not apply to Government contracts which do not have as their principal purpose the furnishing of services, or which call for no services to be furnished within the United States or through the use of service employees as those terms are defined in the Act. Clearly outside the Act's coverage for these reasons are such contracts as those for the purchase of tangible products which the Government needs (e.g. vehicles, office equipment, and supplies), for the logistic support of an air base in a foreign country, or for the services of a lawyer to examine the title to land. Similarly, where the Government contracts for a lease of building space for Government occupancy and the building owner furnishes general janitorial and other building services on an incidental basis through the use of service employees, the leasing of the space rather than the furnishing of the building services is the principal purpose of the contract, and the Act does not apply. Another type of contract which is outside the coverage of the Act because it is not for the principal purpose of furnishing services may be illustrated by a contract for the rental of parking space under which the Government agency is simply given a lease or license to use the contractor's real property. Such a contract is to be distinguished from contracts for the storage of vehicles which are delivered into the possession or custody of the contractor, who will provide the required services including the parking or retrieval of the vehicles.

(c) There are a number of types of contracts which, while outside the Act's coverage in the usual case, may be subject to its provisions under the conditions and circumstances of a particular procurement, because these may be such as to require a different view of the principal purpose of the contract. Thus, the ordinary contract for the recapping of tires would have as its principal purpose the manufacture and furnishing of rebuilt tires for the Government rather than the furnishing of services through the use of service employees, and thus would be outside the Act's coverage. Similarly, contracts calling for printing, reproduction, and duplicating ordinarily would appear to have as their principal purpose the furnishing in quantity of printed, reproduced or duplicated written materials rather than the furnishing of reproduction services through the use of service employees. However, in a particular case, the terms, conditions, and circumstances of the procurement may be such that the facts would show its purpose to be chiefly the furnishing of services (e.g. repair services, typesetting, photocopying, editing, etc.), and where such services require the use of service employees the contract would be subject to the Act unless excluded therefrom for some other reason.

§§ 4.135–4.139 [Reserved]

Determining Amount of Contract

§ 4.140 Significance of contract amount.

As set forth in § 4.104 and in the requirements of §§ 4.6–4.7, the obligations of a contractor with respect to labor standards differ in the case of a covered and nonexempt contract, depending on whether the contract is or is not in excess of $2,500. Rules for resolving questions that may arise as to whether a contract is or is not in excess of this figure are set forth in the following sections.

§ 4.141 General criteria for measuring amount.

(a) In general, the contract amount is measured by the consideration agreed to be paid, whether in money or other valuable consideration, in return for the obligations assumed under the contract.

Thus, even though a contractor, such as a wrecker entering into a contract with the Government to raze a building on a site which will remain vacant, may not be entitled to receive any money from the Government for such work under his contract or may even agree to pay the Government in return for the right to dispose of the salvaged materials, the contract will be deemed one in excess of $2,500 if the value of the property obtained by the contractor, less anything he might pay the Government, is in excess of such amount. In addition, concession contracts are considered to be contracts in excess of $2,500 if the contractor's gross receipts under the contract may exceed $2,500.

(b) All bids from the same person on the same invitation for bids will constitute a single offer, and the total award to such person will determine the amount involved for purposes of the Act. Where the procurement is made without formal advertising, in arriving at the aggregate amount involved, there must be included all property and services which would properly be grouped together in a single transaction and which would be included in a single advertisement for bids if the procurement were being effected by formal advertising. Therefore, if an agency procures continuing services through the issuance of monthly purchase orders, the amount of the contract for purposes of application of the Act is not measured by the amount of an individual purchase order. In such cases, if the continuing services were procured through formal advertising, the contract term would typically be for one year, and the monthly purchase orders must be grouped together to determine whether the yearly amount may exceed $2,500. However, a purchase order for services which are not continuing but are performed on a one-time or sporadic basis and which are not performed under a requirements contract or under the terms of a basic ordering agreement or similar agreement need not be equated to a yearly amount. (See § 4.142(b).) In addition, where an invitation is for services in an amount in excess of $2,500 and bidders are permitted to bid on a portion of the services not amounting to more than $2,500, the amounts of the contracts awarded separately to individual and unrelated bidders will be measured by the portions of the services covered by their respective contracts.

(c) Where a contract is issued in an amount in excess of $2,500 this amount will govern for purposes of application of the Act even though penalty deductions, deductions for prompt payment, and similar deductions may reduce the amount actually expended by the Government to $2,500 or less.

§ 4.142 Contracts in an indefinite amount.

(a) Every contract subject to this Act which is indefinite in amount is required to contain the clauses prescribed in § 4.6 for contracts in excess of $2,500, unless the contracting officer has definite knowledge in advance that the contract will not exceed $2,500 in any event.

(b) Where contracts or agreements between a Government agency and prospective purveyors of services are negotiated which provide terms and conditions under which services will be furnished through the use of service employees in response to individual purchase orders or calls, if any, which may be issued by the agency during the life of the agreement, these agreements would ordinarily constitute contracts within the intendment of the Act under principles judicially established in United Biscuit Co. v. Wirtz, 17 WH Cases 146 (C.A.D.C.), a case arising under the Walsh-Healey Public Contracts Act. Such a contract, which may be in the nature of a bilateral option contract or basic ordering agreement and not obligate the Government to order any services or the contractor to furnish any, nevertheless governs any procurement of services that may be made through purchase orders or calls issued under its terms. Since the amount of the contract is indefinite, it is subject to the rule stated in paragraph (a) of this section. The amount of the contract is not determined by the amount of any individual call or purchase order.

Changes in Contract Coverage

§ 4.143 Effects of changes or extensions of contracts, generally.

(a) Sometimes an existing service contract is modified, amended, or extended in such a manner that the changed contract is considered to be a new contract for purposes of the application of the Act's provisions. The general rule with respect to such contracts is that, whenever changes affecting the labor requirements are made in the terms of the contract, the provisions of the Act and the regulations thereunder will apply to the changed contract in the same manner and to the same extent as they would to a wholly new contract. However, contract modifications or amendments (other than contract extensions) that are unrelated to the labor requirements of a contract will not be deemed to create a new contract for purposes of the Act. In addition, only significant changes related to labor requirements will be considered as creating new contracts. This limitation on the application of the Act has been found to be in accordance with the provisions of section 4(b) of the Act.

(b) Also, whenever the term of an existing contract is extended, pursuant to an option clause or otherwise, so that the contractor furnishes services over an extended period of time, rather than being granted extra time to fulfill his original commitment, the contract extension is considered to be a new contract for purposes of the application of the Act's provisions. All such "new" contracts as discussed above require the insertion of a new or revised wage determination in the contract as provided in § 4.5.

§ 4.144 Contract modifications affecting amount.

Where a contract which was originally issued in an amount not in excess of $2,500 is later modified so that its amount may exceed that figure, all the provisions of section 2(a) of the Act, and the regulations thereunder are applicable from the date of modification to the date of contract completion. In the event of such modification, the contracting officer will immediately request a wage determination from the Department of Labor and insert the required contract clauses and any wage determination issued into the contract. In the event that a contract for services subject to the Act in excess of $2,500 is modified so that it cannot exceed $2,500, compliance with the provisions of section 2(a) of the Act and the contract clauses required thereunder ceases to be an obligation of the contractor when such modification becomes effective.

§ 4.145 Extended term contracts.

(a) Sometimes service contracts are entered into for an extended term exceeding one year; however, their continuation in effect is subject to the appropriation by Congress of funds for each new fiscal year. In such event, for purposes of this Act, a contract shall be deemed entered into upon the contract anniversary date which occurs in each new fiscal year during which the terms of the original contract are made effective by an appropriation for that purpose. In other cases a service contract, entered into for a specified term by a Government agency, may contain a provision such as an option clause under which the agency may unilaterally extend the contract for a period of the same length or other stipulated period. Since the exercise of the option results in the rendition of

services for a new or different period not included in the term for which the contractor is obligated to furnish services or for which the Government is obligated to pay under the original contract in the absence of such action to extend it, the contract for the additional period is a wholly new contract with respect to application of the Act's provisions and the regulations thereunder (see section 4.142(b)).

(b) With respect to multi-year service contracts which are not subject to annual appropriations (for example, concession contracts which are funded through the concessionaire's sales, certain operations and maintenance contracts which are funded with so-called "no year money" or contracts awarded by instrumentalities of the United States, such as the Federal Reserve Banks, which do not receive appropriated funds), section 4(d) of the Act allows such contracts to be awarded for a period of up to five years on the condition that the multi-year contracts will be amended no less often than once every two years to incorporate any new Service Contract Act wage determination which may be applicable. Accordingly, unless the contracting agency is notified to the contrary (see § 4.4(d)), such contracts are treated as wholly new contracts for purposes of the application of the Act's provisions and regulations thereunder at the end of the second year and again at the end of the fourth year, etc. The two-year period is considered to begin on the date that the contractor commences performance on the contract (i.e., anniversary date) rather than on the date of contract award.

Period of Coverage

§ 4.146 Contract obligations after award, generally.

A contractor's obligation to observe the provisions of the Act arises on the date the contractor is informed that award of the contract has been made, and not necessarily on the date of formal execution. However, the contractor is required to comply with the provisions of the Act and regulations thereunder only while the employees are performing on the contract, provided the contractor's records make clear the period of such performance. (See also § 4.179.) If employees of the contractor are required by the contract to complete certain preliminary training or testing prior to the commencement of the contract services, or if there is a phase-in period which allows the new contractor's employees to familiarize themselves with the contract work so as to provide a smooth transition between contractors, the time spent by employees undertaking such training or phase-in work is considered to be hours worked on the contract and must be compensated for even though the principal contract services may not commence until a later date.

§§ 4.147–4.149 [Reserved]

Employees Covered by the Act

§ 4.150 Employee coverage, generally.

The Act, in section 2(b), makes it clear that its provisions apply generally to all service employees engaged in performing work on a covered contract entered into by the contractor with the Federal Government, regardless of whether they are the contractor's employees or those of any subcontractor under such contract. All service employees who, on or after the date of award, are engaged in working on or in connection with the contract, either in performing the specific services called for by its terms or in performing other duties necessary to the performance of the contract, are thus subject to the Act unless a specific exemption (see §§ 4.115 et seq.) is applicable. All such employees must be paid wages at a rate not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act (29 U.S.C. 206(a)(1)), as amended. Payment of a higher minimum monetary wage and the furnishing of fringe benefits may be required under the contract, pursuant to the provisions of sections 2 (a)(1), (2), and 4(c) of the Act.

§ 4.151 Employees covered by provisions of section 2(a).

The provisions of sections 2(a) and 4(c) of the Act prescribe labor standards requirements applicable, except as otherwise specifically provided, to every contract in excess of $2,500 which is entered into by the United States or the District of Columbia for the principal purpose of furnishing services in the United States through the use of service employees. These provisions apply to all service employees engaged in the performance of such a contract or any subcontract thereunder. The Act, in section 8(b) defines the term "service employee". The general scope of the definition is considered in § 4.113(b) of this subpart.

§ 4.152 Employees subject to prevailing compensation provisions of sections 2(a) (1) and (2) and 4(c).

(a) Under sections 2(a) (1) and (2) and 4(c) of the Act, minimum monetary wages and fringe benefits to be paid or furnished the various classes of service employees performing such contract work are determined by the Secretary of Labor or his authorized representative in accordance with prevailing rates and fringe benefits for such employees in the locality or in accordance with the rates contained in a predecessor contractor's collective bargaining agreement, as appropriate, and are required to be specified in such contracts and subcontracts thereunder. All service employees of the classes who actually perform the specific services called for by the contract (e.g., janitors performing on a contract for office cleaning; stenographers performing on a contract for stenographic reporting) are covered by the provisions specifying such minimum monetary wages and fringe benefits for such classes of service employees and must be paid not less than the applicable rate established for the classification(s) of work performed. Pursuant to section 4.6(b)(2), conforming procedures are required to be observed for all such classes of service employees not listed in the wage determination incorporated in the contract.

(b) The duties which an employee actually performs govern the classification and the rate of pay to which the employee is entitled under the applicable wage determination. Some job classifications listed in an applicable wage determination are descriptive by title and have commonly understood meanings (e.g., janitors, security guards, pilots, etc.). In such situations, detailed position descriptions may not be included in the wage determination. However, in cases where additional descriptive information is needed to inform users of the scope of duties included in the classification, the wage determination will generally contain detailed position descriptions based on the data source relied upon for the issuance of the wage determination.

(c) (1) Some wage determinations will list a series of classes within a job classification family, e.g., Computer Operators, Class A, B, and C, or Electronic Technicians, Class A, B, and C, or Clerk Typist, Class A and B. Generally, the lowest level listed for a job classification family is considered to be the entry level and establishment of a lower level through conformance (§ 4.6(b)(2)) is not permissible. Further, trainee classifications cannot be conformed. Helpers in skilled maintenance trades (e.g., electricians, machinists, automobile mechanics, etc.) whose duties constitute, in fact, separate and distinct jobs, may also be used if listed on the wage determination, but cannot be conformed. Conformance may not be used to artificially split or subdivide classifications listed in the

wage determination. However, conforming procedures may be used if the work which an employee performs under the contract is not within the scope of any classification listed on the wage determination, regardless of job title.

(2) Subminimum rates for apprentices, student learners, and handicapped workers are permissible under the conditions discussed in § 4.6 (o) and (p).

§ 4.153 Inapplicability of prevailing compensation provisions to some employees.

There may be employees used by a contractor or subcontractor in performing a service contract in excess of $2,500 which is subject to the Act, whose services, although necessary to the performance of the contract, are not subject to minimum monetary wage or fringe benefit provisions contained in the contract pursuant to section 2(a) because such employees are not directly engaged in performing the specified contract services. An example might be a laundry contractor's billing clerk performing billing work with respect to the items laundered. In all such situations, the employees who are necessary to the performance of the contract but not directly engaged in the performance of the specified contract services, are nevertheless subject to the minimum wage provision of section 2(b) (see § 4.150) requiring payment of not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act to all employees working on a covered contract, unless specifically exempt. However, in situations where minimum monetary wages and fringe benefits for a particular class or classes of service employees actually performing the services called for by the contract have not been specified in the contract because the wage and fringe benefit determination applicable to the contract has been made only for other classes of service employees who will perform the contract work, the employer will be required to pay the monetary wages and fringe benefits which may be specified for such classes of employees pursuant to the conformance procedures provided in § 4.6(b).

§ 4.154 Employees covered by sections 2(a) (3) and (4).

The safety and health standards of section 2(a)(3) and the notice requirements of section 2(a)(4) of the Act (see § 4.183) are applicable, in the absence of a specific exemption, to every service employee engaged by a contractor or subcontractor to furnish services under a contract subject to section 2(a) of the Act.

§ 4.155 Employee coverage does not depend on form of employment contract.

The Act, in section 8(b), makes it plain that the coverage of service employees depends on whether their work for the contractor or subcontractor on a covered contract is that of a service employee as defined in section 8(b) and not on any contractual relationship that may be alleged to exist between the contractor or subcontractor and such persons. In other words, any person, except those discussed in § 4.156 below, who performs work called for by a contract or that portion of a contract subject to the Act is, per se, a service employee. Thus, for example, a person's status as an "owner-operator" or an "independent contractor" is immaterial in determining coverage under the Act and all such persons performing the work of service employees must be compensated in accordance with the Act's requirements.

§ 4.156 Employees in bona fide executive, administrative, or professional capacity.

The term "service employee" as defined in Section 8(b) of the Act does not include persons employed in a bona fide executive, administrative, or professional capacity as those terms are defined in 29 CFR Part 541. Employees within the definition of service employee who are employed in an executive, administrative, or professional capacity are not excluded from coverage, however, even though they are highly paid, if they fail to meet the tests set forth in 29 CFR Part 541. Thus, such employees as laboratory technicians, draftsmen, and air ambulance pilots, though they require a high level of skill to perform their duties and may meet the salary requirements of the regulations in Part 541 of this title, are ordinarily covered by the Act's provisions because they do not typically meet the other requirements of those regulations.

§§ 4.157-4.158 (Reserved)

Subpart D—Compensation Standards

§ 4.159 General minimum wage.

The Act, in section 2(b)(1), provides generally that no contractor or subcontractor under any Federal contract subject to the Act shall pay any employee engaged in performing work on such a contract less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act. Section 2(a)(1) provides that the minimum monetary wage specified in any such contract exceeding $2,500 shall in no case be lower than this Fair Labor Standards Act minimum wage. Section 2(b)(1) is a statutory provision which applies to the contractor or subcontractor without regard to whether it is incorporated in the contract; however, §§ 4.6–4.7 provide for inclusion of its requirements in covered contracts and subcontracts. Because this statutory requirement specifies no fixed monetary wage rate and refers only to the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act, and because its application does not depend on provisions of the contract, any increase in such Fair Labor Standards Act minimum wage during the life of the contract is, on its effective date, also effective to increase the minimum wage payable under section 2(b)(1) to employees engaged in performing work on the contract. The minimum wage rate under section 6(a)(1) of the Fair Labor Standards Act is $3.10 per hour beginning January 1, 1980, and $3.35 per hour after December 31, 1980.

§ 4.160 Effect of section 6(e) of the Fair Labor Standards Act.

Contractors and subcontractors performing work on contracts subject to the Service Contract Act are required to pay all employees, including those employees who are not performing work on or in connection with such contracts, not less than the general minimum wage standard provided in section 6(a)(1) of the Fair Labor Standards Act, as amended (Pub. L. 95–151).

§ 4.161 Minimum monetary wages under contracts exceeding $2,500.

The standards established pursuant to the Act for minimum monetary wages to be paid by contractors and subcontractors under service contracts in excess of $2,500 to service employees engaged in performance of the contract or subcontract are required to be specified in the contract and in all subcontracts (see § 4.6). Pursuant to the statutory scheme provided by sections 2(a)(1) and 4(c) of the Act, every covered contract (and any bid specification therefor) which is in excess of $2,500 shall contain a provision specifying the minimum monetary wages to be paid the various classes of service employees engaged in the performance of the contract or any subcontract thereunder, as determined by the Secretary or his authorized representative in accordance with prevailing rates for such employees in the locality, or, where a collective bargaining agreement applied to the employees of a predecessor contractor in the same locality, in accordance with

the rates for such employees provided for in such agreement, including prospective wage increases as provided in such agreement as a result of arm's-length negotiations. In no case may such wages be lower than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. (For a detailed discussion of the application of section 4(c) of the Act, see § 4.163.) If some or all of the determined wages in a contract fall below the level of the Fair Labor Standards Act minimum by reason of a change in that rate by amendment of the law, these rates become obsolete and the employer is obligated under section 2(b)(1) of the Service Contract Act to pay the minimum wage rate established by the amendment as of the date it becomes effective. A change in the Fair Labor Standards Act minimum by operation of law would also have the same effect on advertised specifications or negotiations for covered service contracts, i.e., it would make ineffective and would supplant any lower rate or rates included in such specifications or negotiations whether or not determined. However, unless affected by such a change in the Fair Labor Standards Act minimum wage, by contract changes necessitating the insertion of new wage provisions (see §§ 4.5(c) and 4.143–4.145) or by the requirements of section 4(c) of the Act (see § 4.163), the minimum monetary wage rate specified in the contract for each of the classes of service employees for which wage determinations have been made under section 2(a)(1) will continue to apply throughout the period of contract performance. No change in the obligation of the contractor or subcontractor with respect to minimum monetary wages will result from the mere fact that higher or lower wage rates may be determined to be prevailing for such employees in the locality after the award and before completion of the contract. Such wage determinations are effective for contracts not yet awarded, as provided in § 4.5(a).

§ 4.162 Fringe benefits under contracts exceeding $2,500.

(a) Pursuant to the statutory scheme provided by sections 2(a)(2) and 4(c) of the Act, every covered contract in excess of $2,500 shall contain a provision specifying the fringe benefits to be furnished the various classes of service employees, engaged in the performance of the contract or any subcontract thereunder, as determined by the Secretary or his authorized representative to be prevailing for such employees in the locality or, where a collective bargaining agreement applied to the employees of a predecessor contractor in the same locality, the various classes of service employees engaged in the performance of the contract or any subcontract must be provided the fringe benefits, including prospective or accrued fringe benefit increases, provided for in such agreement as a result of arm's-length negotiations. (For a detailed discussion of section 4(c) of the Act, see § 4.163.) As provided by section 2(a)(2) of the Act, fringe benefits include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, costs of apprenticeship or other similar programs and other bona fide fringe benefits not otherwise required by Federal, State, or local law to be provided by the contractor or subcontractor.

(b) Under this provision, the fringe benefits, if any, which the contractor or subcontractor is required to furnish the service employees engaged in the performance of the contract are specified in the contract documents (see § 4.6). How the contractor may satisfy this obligation is dealt with in §§ 4.170–4.177 of this part. A change in the fringe benefits required by the contract provision will not result from the mere fact that other or additional fringe benefits are determined to be prevailing for such employees in the locality at a time subsequent to the award but before completion of the contract. Such fringe benefit determinations are effective for contracts not yet awarded (see § 4.5(a)), or in the event that changes in an existing contract requiring their insertion for prospective application have occurred (see §§ 4.143–4.145). However, none of the provisions of this paragraph may be construed as altering a successor contractor's obligations under section 4(c) of the Act. (See § 4.163.)

§ 4.163 Section 4(c) of the Act.

(a) Section 4(c) of the Act provides that no "contractor or subcontractor under a contract, which succeeds a contract subject to this Act and under which substantially the same services are furnished, shall pay any service employee under such contract less than the wages and fringe benefits, including accrued wages and fringe benefits, and any prospective increases in wages and fringe benefits provided for in a collective-bargaining agreement as a result of arm's-length negotiations, to which such service employees would have been entitled if they were employed under the predecessor contract: *Provided*, That in any of the foregoing circumstances such obligations shall not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality." Under this provision, the successor contractor's sole obligation is to insure that all service employees are paid no less than the wages and fringe benefits to which such employees would have been entitled if employed under the predecessor's collective bargaining agreement (i.e., irrespective of whether the successor's employees were or were not employed by the predecessor contractor). The obligation of the successor contractor is limited to the wage and fringe benefit requirements of the predecessor's collective bargaining agreement and does not extend to other items such as seniority, grievance procedures, work rules, overtime, etc.

(b) Section 4(c) is self-executing. Under section 4(c), a successor contractor in the same locality as the predecessor contractor is statutorily obligated to pay no less than the wage rates and fringe benefits which were contained in the predecessor contractor's collective bargaining agreement. This is a direct statutory obligation and requirement placed on the successor contractor by section 4(c) and is not contingent or dependent upon the issuance or incorporation in the contract of a wage determination based on the predecessor contractor's collective bargaining agreement. Pursuant to section 4(b) of the Act, a variation has been granted which limits the self-executing application of section 4(c) in the circumstances and under the conditions described in § 4.1b(b) of this part. It must be emphasized, however, that the variation in § 4.1b(b) is applicable only if the contracting officer has given both the incumbent (predecessor) contractor and the employees' collective bargaining representative notification at least 30 days in advance of any estimated procurement date.

(c) *Variance hearings.* The regulations and procedures for hearings pursuant to section 4(c) of the Act are contained in § 4.10 of Subpart A and Parts 6 and 8 of this title. If, as the result of such hearing, some or all of the wage rate and/or fringe benefit provisions of a predecessor contractor's collective bargaining agreement are found to be

substantially at variance with the wage rates and/or fringe benefits prevailing in the locality, the Administrator will cause a new wage determination to be issued in accordance with the decision of the Administrative Law Judge or the Board of Service Contract Appeals, as appropriate. Since "it was the clear intent of Congress that any revised wage determinations resulting from a section 4(c) proceeding were to have validity with respect to the procurement involved" (53 Comp. Gen. 401, 402, 1973), the solicitation, or the contract if already awarded, must be amended to incorporate the newly issued wage determination. Such new wage determination shall be made applicable to the contract as of the date of the Administrative Law Judge's decision or, where the decision is reviewed by the Board of Service Contract Appeals, the date of that decision. The legislative history of the 1972 Amendments makes clear that the collectively bargained "wages and fringe benefits shall continue to be honored * * * unless and until the Secretary finds, after a hearing, that such wages and fringe benefits are substantially at variance with those prevailing in the locality for like services" (S. Rept. 92–1131, 92nd Cong., 2d Sess. 5). Thus, variance decisions do not have application retroactive to the commencement of the contract.

(d) *Sections 2(a) and 4(c) must be read in conjunction.* The Senate report accompanying the bill which amended the Act in 1972 states that "Sections 2(a)(1), 2(a)(2), and 4(c) must be read in harmony to reflect the statutory scheme." (S. Rept. 92–1131, 92nd Cong., 2nd Sess. 4.) Therefore, since section 4(c) refers only to the predecessor contractor's collective bargaining agreement, the reference to collective bargaining agreements in sections 2(a)(1) and 2(a)(2) can only be read to mean a predecessor contractor's collective bargaining agreement. The fact that a successor contractor may have its own collective bargaining agreement does not negate the clear mandate of the statute that the wages and fringe benefits called for by the predecessor contractor's collective bargaining agreement shall be the minimum payable under a new (successor) contract nor does it negate the application of a prevailing wage determination issued pursuant to section 2(a) where there was no applicable predecessor collective bargaining agreement. 48 Comp. Gen. 22, 23–24 (1968). In addition, because section 2(a) only applies to covered contracts in excess of $2,500, the requirements of section 4(c) likewise apply only to successor contracts which may be in excess of $2,500. However, if the successor contract is in excess of $2,500, section 4(c) applies regardless of the amount of the predecessor contract. (See §§ 4.141–4.142 for determining contract amount.)

(e) *The operative words of section 4(c) refer to "contract" not "contractor".* Section 4(c) begins with the language, "[n]o contractor or subcontractor under a *contract, which succeeds a contract* subject to this Act" (emphasis supplied). Thus, the statute is applicable by its terms to a successor contract without regard to whether the successor contractor was also the predecessor contractor. A contractor may become its own successor because it was the successful bidder on a recompetition of an existing contract, or because the contracting agency exercises an option or otherwise extends the term of the existing contract, etc. (See §§ 4.143–4.145.) Further, since sections 2(a) and 4(c) must be read in harmony to reflect the statutory scheme, it is clear that the provisions of section 4(c) apply whenever the Act or the regulations require that a new wage determination be incorporated into the contract (53 Comp. Gen. 401, 404–6 (1973)).

(f) *Collective bargaining agreement must be applicable to work performed on the predecessor contract.* Section 4(c) will be operative only if the employees who worked on the predecessor contract were actually paid in accordance with the wage and fringe benefit provisions of a predecessor contractor's collective bargaining agreement. Thus, for example, section 4(c) would not apply if the predecessor contractor entered into a collective bargaining agreement for the first time, which did not become effective until after the expiration of the predecessor contract. Likewise, the requirements of section 4(c) would not apply if the predecessor contractor's collective bargaining agreement applied only to other employees of the firm and not to the employees working on the contract.

(g) *Contract reconfigurations.* As a result of changing priorities, mission requirements, or other considerations, contracting agencies may decide to restructure their support contracts. Thus, specific contract requirements from one contract may be broken out and placed in a new contract or combined with requirements from other contracts into a consolidated contract. The protections afforded service employees under section 4(c) are not lost or negated because of such contract reconfigurations, and the predecessor contractor's collectively bargained rates follow identifiable contract work requirements into new or consolidated contracts, provided that the new or consolidated contract is for services which were furnished in the same locality under a predecessor contract. See § 4.163(i). However, where there is more than one predecessor contract to the new or consolidated contract, and where the predecessor contracts involve the same or similar function(s) of work, using substantially the same job classifications, the predecessor contract which covers the greater portion of the work in such function(s) shall be deemed to be the predecessor contract for purposes of section 4(c), and the collectively bargained wages and fringe benefits under that contract, if any, shall be applicable to such function(s). This limitation on the application of section 4(c) is necessary and proper in the public interest and is in accord with the remedial purpose of the Act to protect prevailing labor standards.

(h) *Interruption of contract services.* Other than the requirement that substantially the same services be furnished, the requirement for arm's-length negotiations and the provision for variance hearings, the Act does not impose any other restrictions on the application of section 4(c). Thus, the application of section 4(c) is not negated because the contracting authority may change and the successor contract is awarded by a different contracting agency. Also, there is no requirement that the successor contract commence immediately after the completion or termination of the predecessor contract, and an interruption of contract services does not negate the application of section 4(c). Contract services may be interrupted because the Government facility is temporarily closed for renovation, or because a predecessor defaulted on the contract or because a bid protest has halted a contract award requiring the Government to perform the services with its own employees. In all such cases, the requirements of section 4(c) would apply to any successor contract which may be awarded after the temporary interruption or hiatus. The basic principle in all of the preceding examples is that successorship provisions of section 4(c) apply to the full term successor contract. Therefore, temporary interim contracts, which allow a contracting agency sufficient time to solicit bids for a full term contract, also do not negate the application of section 4(c) to a full term successor contract.

(i) *Place of performance.* The successorship requirements of section

4(c) apply to all contracts for substantially the same services as were furnished under a predecessor contract in the same locality. As stated in § 4.4(a)(2), a wage determination incorporated in the contract shall be applicable thereto regardless of whether the successful contractor subsequently changes the place(s) of contract performance. Similarly, the application of section 4(c) (and any wage determination issued pursuant to section 4(c) and included in the contract) is not negated by the fact that a successor prime contractor subsequently changes the place(s) of contract performance or subcontracts any part of the contract work to a firm which performs the work in a different locality.

(j) *Interpretation of wage and fringe benefit provisions of wage determinations issued pursuant to sections 2(a) and 4(c).* Wage determinations which are issued for successor contracts subject to section 4(c) are intended to accurately reflect the rates and fringe benefits set forth in the predecessor's collective bargaining agreement. However, failure to include in the wage determination any job classification, wage rate, or fringe benefit encompassed in the collective bargaining agreement does not relieve the successor contractor of the statutory requirement to comply at a minimum with the terms of the collective bargaining agreement insofar as wages and fringe benefits are concerned. Since the successor's obligations are governed by the terms of the collective bargaining agreement, any interpretation of the wage and fringe benefit provisions of the collective bargaining agreement where its provisions are unclear must be based on the intent of the parties to the collective bargaining agreement, provided that such interpretation is not violative of law. Therefore, some of the principles discussed in §§ 4.170–4.177 regarding specific interpretations of the fringe benefit provisions of prevailing wage determinations may not be applicable to wage determinations issued pursuant to section 4(c). As provided in section 2(a)(2), a contractor may satisfy its fringe benefit obligations under any wage determination "by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash" in accordance with the rules and regulations set forth in § 4.177 of this Subpart.

(k) No provision of this section shall be construed as permitting a successor contractor to pay its employees less than the wages and fringe benefits to which such employees would have been entitled under the predecessor contractor's collective bargaining agreement. Thus, some of the principles discussed in § 4.167 may not be applicable in section 4(c) successorship situations. For example, unless the predecessor contractor's collective bargaining agreement allowed the deduction from employees' wages of the reasonable cost or fair value for providing board, lodging, or other facilities, the successor may not include such costs as part of the applicable minimum wage specified in the wage determination. Likewise, unless the predecessor contractor's agreement allowed a tip credit (§ 4.6(q)), the successor contractor may not take a tip credit toward satisfying the minimum wage requirements under sections 2(a)(1) and 4(c).

§ 4.164 [Reserved]

Compliance with Compensation Standards

§ 4.165 Wage payments and fringe benefits—in general.

(a)(1) Monetary wages specified under the Act shall be paid to the employees to whom they are due promptly and in no event later than one pay period following the end of the pay period in which they are earned. No deduction, rebate, or refund is permitted, except as hereinafter stated. The same rules apply to cash payments authorized to be paid with the statutory monetary wages as equivalents of determined fringe benefits (see § 4.177).

(2) The Act makes no distinction, with respect to its compensation provisions, between temporary, part-time, and full-time employees, and the wage and fringe benefit determinations apply, in the absence of an express limitation, equally to all such service employees engaged in work subject to the Act's provisions. (See § 4.176 regarding fringe benefit payments to temporary and part-time employees.)

(b) The Act does not prescribe the length of the pay period. However, for purposes of administration of the Act, and to conform with practices required under other statutes that may be applicable to the employment, wages and hours worked must be calculated on the basis of a fixed and regularly recurring workweek of seven consecutive 24-hour workday periods, and the records must be kept on this basis. It is appropriate to use this workweek for the pay period. A bi-weekly or semimonthly, pay period may, however, be used if advance notification is given to the affected employees. A pay period longer than semimonthly is not recognized as appropriate for service employees and wage payments at greater intervals will not be considered as constituting proper payments in compliance with the Act.

(c) The prevailing rate established by a wage determination under the Act is a minimum rate. A contractor is not precluded from paying wage rates in excess of those determined to be prevailing in the particular locality. Nor does the Act affect or require the changing of any provisions of union contracts specifying higher monetary wages or fringe benefits than those contained in an applicable determination. However, if an applicable wage determination contains a wage or fringe benefit provision for a class of service employees which is higher than that specified in an existing union agreement, the determination's provision must be observed for any work performed on a contract subject to that determination.

§ 4.166 Wage payments—unit of payment.

The standard by which monetary wage payments are measured under the Act is the wage rate per hour. An hourly wage rate is not, however, the only unit for payment of wages that may be used for employees subject to the Act. Employees may be paid on a daily, weekly, or other time basis, or by piece or task rates, so long as the measure of work and compensation used, when translated or reduced by computation to an hourly basis each workweek, will provide a rate per hour that will fulfill the statutory requirement. Whatever system of payment is used, however, must ensure that each hour of work in performance of the contract is compensated at not less than the required minimum rate. Failure to pay for certain hours at the required rate cannot be transformed into compliance with the Act by reallocating portions of payments made for other hours which are in excess of the specified minimum.

§ 4.167 Wage payments—medium of payment.

The wage payment requirements under the Act for monetary wages specified under its provisions will be satisfied by the timely payment of such wages to the employee either in cash or negotiable instrument payable at par. Such payment must be made finally and unconditionally and "free and clear." Scrip, tokens, credit cards, "dope checks", coupons, salvage material, and similar devices which permit the employer to retain and prevent the employee from acquiring control of money due for the work until some time after the pay day for the period in which

it was earned, are not proper mediums of payment under the Act. If, as is permissible, they are used as a convenient device for measuring earnings or allowable deductions during a single pay period, the employee cannot be charged with the loss or destruction of any of them and the employer may not, because the employee has not actually redeemed them, credit itself with any which remain outstanding on the pay day in determining whether it has met the requirements of the Act. The employer may not include the cost of fringe benefits or equivalents furnished as required under section 2(a)(2) of the Act, as a credit toward the monetary wages it is required to pay under section 2(a)(1) or 2(b) of the Act (see § 4.170). However, the employer may generally include, as a part of the applicable minimum wage which it is required to pay under the Act, the reasonable cost or fair value, as determined by the Administrator, of furnishing an employee with "board, lodging, or other facilities," as defined in Part 531 of this title, in situations where such facilities are customarily furnished to employees, for the convenience of the employees, not primarily for the benefit of the employer, and the employees' acceptance of them is voluntary and uncoerced. (See also § 4.163(k).) The determination of reasonable cost or fair value will be in accordance with the Administrator's regulations under the Fair Labor Standards Act, contained in such Part 531 of this title. While employment on contracts subject to the Act would not ordinarily involve situations in which service employees would receive tips from third persons, the treatment of tips for wage purposes in the situations where this may occur should be understood. For purposes of this Act, tips may generally be included in wages in accordance with the regulations under the Fair Labor Standards Act, contained in Part 531. (See also § 4.6(q) and § 4.163(k).) The general rule under that Act is that the amount paid a tipped employee by his employer is deemed to be increased on account of tips by an amount determined by the employer, not in excess of 40 percent of the minimum wage applicable under section 6 of that Act, effective January 1, 1980. Thus, the tip credit taken by an employer subject to the Service Contract Act may not exceed $1.34 per hour after December 31, 1980. (See § 4.163(k) for exceptions in section 4(c) situations.) In no event shall the sum credited be in excess of the value of tips actually received by the employee

§ 4.168 Wage payments—deductions from wages paid.

(a) The wage requirements of the Act will not be met where unauthorized deductions, rebates, or refunds reduce the wage payment made to the employee below the minimum amounts required under the provisions of the Act and the regulations thereunder, or where the employee fails to receive such amounts free and clear because he "kicks back" directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to him. Authorized deductions are limited to those required by law, such as taxes payable by employees required to be withheld by the employer and amounts due employees which the employer is required by court order to pay to another; deductions allowable for the reasonable cost or fair value of board, lodging, and facilities furnished as set forth in § 4.167; and deductions of amounts which are authorized to be paid to third persons for the employee's account and benefit pursuant to his voluntary assignment or order or a collective bargaining agreement with bona fide representatives of employees which is applicable to the employer. Deductions for amounts paid to third persons on the employee's account which are not so authorized or are contrary to law or from which the contractor, subcontractor or any affiliated person derives any payment, rebate, commission, profit, or benefit directly or indirectly, may not be made if they cut into the wage required to be paid under the Act. The principles applied in determining the permissibility of deductions for payments made to third persons are explained in more detail in §§ 531.38–531.40 of this title.

(b) *Cost of maintaining and furnishing uniforms.* (1) If the employees are required to wear uniforms either by the employer, the nature of the job, or the Government contract, then the cost of furnishing and maintaining the uniforms is deemed to be a business expense of the employer and such cost may not be borne by the employees to the extent that to do so would reduce the employees' compensation below that required by the Act. Since it may be administratively difficult and burdensome for employers to determine the actual cost incurred by all employees for maintaining their own uniforms, payment in accordance with the following standards is considered sufficient for the contractor to satisfy its wage obligations under the Act:

(i) The contractor furnishes all employees with an adequate number of uniforms without cost to the employees or reimburses employees for the actual cost of the uniforms. (ii) Where uniform cleaning and maintenance is made the responsibility of the employee, the contractor reimburses all employees for such cleaning and maintenance at the rate of $3.35 a week (or 67 cents a day). Since employees are generally required to wear a clean uniform each day regardless of the number of hours the employee may work that day, the preceding weekly amount generally may be reduced to the stated daily equivalent but not to an hourly equivalent. A contractor may reimburse employees at a different rate if the contractor furnishes affirmative proof as to the actual cost to the employees of maintaining their uniforms or if a different rate is provided for in a bona fide collective bargaining agreement covering the employees working on the contract.

(2) However, there generally is no requirement that employees be reimbursed for uniform maintenance costs in those instances where the uniforms furnished are made of "wash and wear" materials which may be routinely washed and dried with other personal garments, and do not generally require daily washing, dry cleaning, commercial laundering, or any other special treatment because of heavy soiling in work usage or in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work. This limitation does not apply where a different provision has been set forth on the applicable wage determination. In the case of wage determinations issued under section 4(c) of the Act for successor contracts, the amount established by the parties to the predecessor collective bargaining agreement is deemed to be the cost of laundering wash and wear uniforms.

(c) Stipends, allowances or other payments made directly to an employee by a party other than the employer (such as a stipend for training paid by the Veterans Administration) are not part of "wages" and the employer may not claim credit for such payments toward its monetary obligations under the Act.

§ 4.169 Wage payments—work subject to different rates.

If an employee during a workweek works in different capacities in the performance of the contract and two or more rates of compensation under section 2 of the Act are applicable to the classes of work which he or she performs, the employee must be paid the

highest of such rates for all hours worked in the workweek unless it appears from the employer's records or other affirmative proof which of such hours were included in the periods spent in each class of work. The rule is the same where such an employee is employed for a portion of the workweek in work not subject to the Act, for which compensation at a lower rate would be proper if the employer by his records or other affirmative proof segregated the worktime thus spent.

§ 4.170 Furnishing fringe benefits or equivalents.

(a) *General.* Fringe benefits required under the Act shall be furnished, separate from and in addition to the specified monetary wages, by the contractor or subcontractor to the employees engaged in performance of the contract, as specified in the determination of the Secretary or his authorized representative and prescribed in the contract documents. Section 2(a)(2) of the Act provides that the obligation to furnish the specified benefits "may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under rules and regulations established by the Secretary." The governing rules and regulations for furnishing such equivalents are set forth in § 4.177 of this Subpart. An employer cannot offset an amount of monetary wages paid in excess of the wages required under the determination in order to satisfy his fringe benefit obligations under the Act, and must keep appropriate records separately showing amounts paid for wages and amounts paid for fringe benefits.

(b) *Meeting the requirement, in general.* The various fringe benefits listed in the Act and in § 4.162(a) are illustrative of those which may be found to be prevailing for service employees in a particular locality. The benefits which an employer will be required to furnish employees performing on a particular contract will be specified in the contract documents. A contractor may dispose of certain of the fringe benefit obligations which may be required by an applicable fringe benefit determination, such as pension, retirement, or health insurance, by irrevocably paying the specified contributions for fringe benefits to an independent trustee or other third person pursuant to an existing "bona fide" fund, plan, or program on behalf of employees engaged in work subject to the Act's provisions. Where such a plan or fund does not exist, a contractor must discharge his obligation relating to fringe benefits by furnishing either an equivalent combination of "bona fide" fringe benefits or by making equivalent payments in cash to the employee, in accordance with the regulations in § 4.177.

§ 4.171 "Bona fide" fringe benefits.

(a) To be considered a "bona fide" fringe benefit for purposes of the Act, a fringe benefit plan, fund, or program must constitute a legally enforceable obligation which meets the following criteria:

(1) The provisions of a plan, fund, or program adopted by the contractor, or by contract as a result of collective bargaining, must be specified in writing, and must be communicated in writing to the affected employees. Contributions must be made pursuant to the terms of such plan, fund, or program. The plan may be either contractor-financed or a joint contractor-employee contributory plan. For example, employer contributions to Individual Retirement Accounts (IRAs) approved by IRS are permissible. However, any contributions made by employees must be voluntary, and if such contributions are made through payroll deductions, such deductions must be made in accordance with § 4.168. No contribution toward fringe benefits made by the employees themselves, or fringe benefits provided from monies deducted from the employee's wages may be included or used by an employer in satisfying any part of any fringe benefit obligation under the Act.

(2) The primary purpose of the plan must be to provide systematically for the payment of benefits to employees on account of death, disability, advanced age, retirement, illness, medical expenses, hospitalization, supplemental unemployment benefits, and the like.

(3) The plan must contain a definite formula for determining the amount to be contributed by the contractor and a definite formula for determining the benefits for each of the employees participating in the plan.

(4) Except as provided in paragraph (b), the contractor's contributions must be paid irrevocably to a trustee or third person pursuant to an insurance agreement, trust or other funded arrangement. The trustee must assume the usual fiduciary responsibilities imposed upon trustees by applicable law. The trust or fund must be set up in such a way that the contractor will not be able to recapture any of the contributions paid in nor in any way divert the funds to its own use or benefit.

(5) Benefit plans or trusts of the types listed in 26 U.S.C. 401(a) which are disapproved by the Internal Revenue Service as not satisfying the requirements of section 401(a) of the Internal Revenue Code or which do not meet the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq. and regulations thereunder, are not deemed to be "bona fide" plans for purposes of the Service Contract Act.

(6) It should also be noted that such plans must meet certain other criteria as set forth in § 778.215 of 29 CFR 778 in order for any contributions to be excluded from computation of the regular rate of pay for overtime purposes under the Fair Labor Standards Act (§§ 4.180–4.182).

(b)(1) Unfunded self-insured fringe benefit plans (other than fringe benefits such as vacations and holidays which by their nature are normally unfunded) under which contractors allegedly make "out of pocket" payments to provide benefits as expenses may arise, rather than making irrevocable contributions to a trust or other funded arrangement as required under § 4.171(a)(4), are not normally considered "bona fide" plans or equivalent benefits for purposes of the Act.

(2) A contractor may request approval by the Administrator of an unfunded self-insured plan in order to allow credit for payments under the plan to meet the fringe benefit requirements of the Act. In considering whether such a plan is bona fide, the Administrator will consider such factors as whether it could be reasonably anticipated to provide the prescribed benefits, whether it represents a legally enforceable commitment to provide such benefits, whether it is carried out under a financially responsible program, and whether the plan has been communicated to the employees in writing. The Administrator in his/her discretion may direct that assets be set aside and preserved in an escrow account or that other protections be afforded to meet the plan's future obligation.

(c) No benefit required by any other Federal law or by any State or local law, such as unemployment compensation, workers' compensation, or social security, is a fringe benefit for purposes of the Act.

(d) The furnishing to an employee of board, lodging, or other facilities under the circumstances described in § 4.167, the cost or value of which is creditable toward the monetary wages specified under the Act, may not be used to offset any fringe benefit obligations, as such items and facilities are not fringe benefits or equivalent benefits for purposes of the Act.

VOL 48 ISS 209 OC 27 1983 UMI

(e) The furnishing of facilities which are primarily for the benefit or convenience of the contractor or the cost of which is properly a business expense of the contractor is not the furnishing of a "bona fide" fringe benefit or equivalent benefit or the payment of wages. This would be true of such items, for example, as relocation expenses, travel and transportation expenses incident to employment, incentive or suggestion awards, and recruitment bonuses, as well as tools and other materials and services incidental to the employer's performance of the contract and the carrying on of his business, and the cost of furnishing, laundering, and maintaining uniforms and/or related apparel or equipment where employees are required by the contractor, by the contractor's Government contract, by law, or by the nature of the work to wear such items. See also § 4.168.

(f) Contributions by contractors for such items as social functions or parties for employees, flowers, cards, or gifts on employee birthdays, anniversaries, etc. (sunshine funds), employee rest or recreation rooms, paid coffee breaks, magazine subscriptions, and professional association or club dues, may not be used to offset any wages or fringe benefits specified in the contract, as such items are not "bona fide" wages or fringe benefits or equivalent benefits for purposes of the Act.

§ 4.172 Meeting requirements for particular fringe benefits—in general.

Where a fringe benefit determination specifies the amount of the employer's contribution to provide the benefit, the amount specified is the actual minimum cash amount that must be provided by the employer for the employee. No deduction from the specified amount may be made to cover any administrative costs which may be incurred by the contractor in providing the benefits, as such costs are properly a business expense of the employer. If prevailing fringe benefits for insurance or retirement are determined in a stated amount, and the employer provides such benefits through contribution in a lesser amount, he will be required to furnish the employee with the difference between the amount stated in the determination and the actual cost of the benefits which he provides. Unless otherwise specified in the particular wage determination, such as one reflecting collectively bargained fringe benefit requirements, issued pursuant to Section 4(c) of the Act, every employee performing on a covered contract must be furnished the fringe benefits required by that determination for all hours spent working on that contract up to a maximum of 40 hours per week and 2,080 (i.e., 52 weeks of 40 hours each) per year, as these are the typical number of nonovertime hours of work in a week, and in a year, respectively. Since the Act's fringe benefit requirements are applicable on a contract-by-contract basis, employees performing on more than one contract subject to the Act must be furnished the full amount of fringe benefits to which they are entitled under each contract and applicable wage determination. Where a fringe benefit determination has been made requiring employer contributions for a specified fringe benefit in a stated amount per hour, a contractor employing employees part of the time on contract work and part of the time on other work, may only credit against the hourly amount required for the hours spent on the contract work, the corresponding proportionate part of a weekly, monthly, or other amount contributed by him for such fringe benefits or equivalent benefits for such employees. If, for example, the determination requires health and welfare benefits in the amount of 30 cents an hour and the employer provides hospitalization insurance for such employees at a cost of $10.00 a week, the employer may credit 25 cents an hour ($10.00 ÷ 40) toward his fringe benefit obligation for such employees. If an employee works 25 hours on the contract work and 15 hours on other work, the employer cannot allocate the entire $10.00 to the 25 hours spent on contract work and take credit for 30 cents per hour in that manner, but must spread the cost over the full forty hours.

§ 4.173 Meeting requirements for vacation fringe benefits.

(a) *Determining length of service for vacation eligibility.* It has been found that for many types of service contracts performed at Federal facilities a successor contractor will utilize the employees of the previous contractor in the performance of the contract. The employees typically work at the same location providing the same services to the same clientele over a period of years, with periodic, often annual, changes of employer. The incumbent contractor, when bidding on a contract, must consider his liability for vacation benefits for those workers in his employ. If prospective contractors who plan to employ the same personnel were not required to furnish these employees with the same prevailing vacation benefits, it would place the incumbent contractor at a distinct competitive disadvantage as well as denying such employees entitlement to prevailing vacation benefits.

(1) Accordingly, most vacation fringe benefit determinations issued under the Act require an employer to furnish to employees working on the contract a specified amount of paid vacation upon completion of a specified length of service with a contractor or successor. This requirement may be stated in the determination, for example, as "one week paid vacation after one year of service with a contractor or successor" or by a determination which calls for "one week's paid vacation after one year of service". Unless specified otherwise in an applicable fringe benefit determination, an employer must take the following two factors into consideration in determining when an employee has completed the required length of service to be eligible for vacation benefits:

(i) The total length of time spent by an employee in any capacity in the continuous service of the present (successor) contractor, including both the time spent in performing on regular commercial work and the time spent in performing on the Government contract itself, and

(ii) Where applicable, the total length of time spent in any capacity as an employee in the continuous service of any predecessor contractor(s) who carried out similar contract functions at the same Federal facility.

(2) The application of these principles may be illustrated by the example given above of a fringe benefit determination calling for "one week paid vacation after one year of service with a contractor or successor". In that example, if a contractor has an employee who has worked for him for 18 months on regular commercial work and only for 6 months on a Government service contract, that employee would be eligible for the one week vacation since his total service with the employer adds up to more than 1 year. Similarly, if a contractor has an employee who worked for 16 months under a janitorial service contract at a particular Federal base for two different predecessor contractors, and only 8 months with the present employer, that employee would also be considered as meeting the "after one year of service" test and would thus be eligible for the specified vacation.

(3) The "contractor or successor" requirement set forth in paragraph (a)(1) of this section is not affected by the fact that a different contracting agency may have contracted for the services previously or by the agency's dividing and/or combining the contract services. However, prior service as a Federal employee is not counted toward an employee's eligibility for vacation

benefits under fringe benefit determinations issued pursuant to the Act.

(4) Some fringe benefit determinations may require an employer to furnish a specified amount of paid vacation upon completion of a specified length of service *with the employer*, for example, "one week paid vacation after one year of service with an employer". Under such determinations, only the time spent in performing on commercial work and on Government contract work in the employment of the present contractor need be considered in computing the length of service for purposes of determining vacation eligibility.

(5) Whether or not the predecessor contract(s) was covered by a fringe benefit determination is immaterial in determining whether the one year of service test has been met. This qualification refers to work performed before, as well as after, an applicable fringe benefit determination is incorporated into a contract. Also, the fact that the labor standards in predecessor service contract(s) were only those required under the Fair Labor Standards Act has no effect on the applicable fringe benefit determination contained in a current contract.

(b) *Eligibility requirement—continuous service.* Under the principles set forth above, if an employee's total length of service adds up to at least one year, the employee is eligible for vacation with pay. However, such service must have been rendered continuously for a period of not less than one year for vacation eligibility. The term "continuous service" does not require the combination of two entirely separate periods of employment. Whether or not there is a break in the continuity of service so as to make an employee ineligible for a vacation benefit is dependent upon all the facts in the particular case. No fixed time period has been established for determining whether an employee has a break in service. Rather, as illustrated below, the reason(s) for an employee's absence from work is the primary factor in determining whether a break in service occurred.

(1) In cases where employees have been granted leave with or without pay by their employer, or are otherwise absent with permission for such reasons as sickness or injury, or otherwise perform no work on the contract because of reasons beyond their control, there would not be a break in service. Likewise, the absence from work for a few days, with or without notice, does not constitute a break in service, without a formal termination of employment. The following specific examples are illustrative situations where it has been determined that a break in service did not occur:

(i) An employee absent for five months due to illness but employed continuously for three years.

(ii) A strike after which employees returned to work.

(iii) An interim period of three months between contracts caused by delays in the procurement process during which time personnel hired directly by the Government performed the necessary services. However, the successor contractor in this case was not held liable for vacation benefits for those employees who had anniversary dates of employment during the interim period because no employment relationship existed during such period.

(iv) A mess hall closed three months for renovation. Contractor employees were considered to be on temporary layoff during the renovation period and did not have a break in service.

(2) Where an employee quits, is fired for cause, or is otherwise terminated (except for temporary layoffs), there would be a break in service even if the employee were rehired at a later date. However, an employee may not be discharged and rehired as a subterfuge to evade the vacation requirement.

(c) *Vesting and payment of vacation benefits.*

(1) In the example given in paragraph (a)(1) of this section of a fringe benefit determination calling for "one week paid vacation after 1 year of service with a contractor or successor", an employee who renders the "one year of service" continuously becomes eligible for the "one week paid vacation" (i.e., 40 hours of paid vacation, unless otherwise specified in an applicable wage determination) upon his anniversary date of employment and upon each succeeding anniversary date thereafter. However, there is no accrual or vesting of vacation eligibility before the employee's anniversary date of employment, and no segment of time smaller than one year need be considered in computing the employer's vacation liability, unless specifically provided for in a particular fringe benefit determination. For example, an employee who has worked 13 months for an employer subject to such stipulations and is separated without receiving any vacation benefit is entitled only to one full week's (40 hours) paid vacation. He would not be entitled to the additional fraction of one-twelfth of one week's paid vacation for the month he worked in the second year unless otherwise stated in the applicable wage determination. An employee who has not met the "one year of service" requirement would not be entitled to any portion of the "one week paid vacation".

(2) Eligibility for vacation benefits specified in a particular wage determination is based on completion of the stated period of past service. The individual employee's anniversary date (and each annual anniversary date of employment thereafter) is the reference point for vesting of vacation eligibility, but does not necessarily mean that the employee must be given the vacation or paid for it on the date on which it is vested. The vacation may be scheduled according to a reasonable plan mutually agreed to and communicated to the employees. A "reasonable" plan may be interpreted to be a plan which allows the employer to maintain uninterrupted contract services but allows the employee some choice, by seniority or similar factor, in the scheduling of vacations. However, the required vacation must be given or payment made in lieu thereof before the next anniversary date, before completion of the current contract, or before the employee terminates employment, whichever occurs first.

(d) *Contractor liability for vacation benefits.*

(1) The liability for an employee's vacation is not prorated among contractors unless specifically provided for under a particular fringe benefit determination. The contractor by whom a person is employed at the time the vacation right vests, i.e., on the employee's anniversary date of employment, must provide the full benefit required by the determination which is applicable on that date. For example, an employee, who had not previously performed similar contract work at the same facility, was first hired by a predecessor contractor on July 1, 1978. July 1 is the employee's anniversary date. The predecessor's contract ended June 30, 1979, but the employee continued working on the contract for the successor. Since the employee did not have an anniversary date of employment during the predecessor's contract, the predecessor would not have any vacation liability with respect to this employee. However, on July 1, 1979 the employee's entitlement to the full vacation benefit vested and the successor contractor would be liable for the full amount of the employee's vacation benefit.

(2) The requirements for furnishing data relative to employee hiring dates in situations where such employees worked for "predecessor" contractors are set forth in § 4.6. However, a contractor is not relieved from any

obligation to provide vacation benefits because of any difficulty in obtaining such data.

(e) *Rate applicable to computation of vacation benefits.*

(1) If an applicable wage determination requires that the hourly wage rate be increased during the period of the contract, the rate applicable to the computation of any required vacation benefits is the hourly rate in effect in the workweek in which the actual paid vacation is provided or the equivalent is paid, as the case may be, and would not be the average of the two hourly rates. This rule would not apply to situations where a wage determination specified the method of computation and the rate to be used.

(2) As set forth in § 4.172, unless specified otherwise in an applicable fringe benefit determination, service employees must be furnished the required amount of fringe benefits for all hours paid for up to a maximum of 40 hours per week and 2,080 hours per year. Thus, an employee on paid vacation leave would accrue and must be compensated for any other applicable fringe benefits specified in the fringe benefit determination, and if any of the other benefits are furnished in the form of cash equivalents, such equivalents must be included with the applicable hourly wage rate in computing vacation benefits or a cash equivalent therefor. The rules and regulations for computing cash equivalents are set forth in § 4.177.

§ 4.174 Meeting requirements for holiday fringe benefits.

(a) *Determining eligibility for holiday benefits—in general.*

(1) Most fringe benefit determinations list a specific number of named holidays for which payment is required. Unless specified otherwise in an applicable determination, an employee who performs any work during the workweek in which a named holiday occurs is entitled to the holiday benefit, regardless of whether the named holiday falls on a Sunday, another day during the workweek on which the employee is not normally scheduled to work, or on the employee's day off. In addition, holiday benefits cannot be denied because the employee has not been employed by the contractor for a designated period prior to the named holiday or because the employee did not work the day before or the day after the holiday, unless such qualifications are specifically included in the determination.

(2) An employee who performs no work during the workweek in which a named holiday occurs is generally not entitled to the holiday benefit. However, an employee who performs no work during the workweek because he is on paid vacation or sick leave in accordance with the terms of the applicable fringe benefit determination is entitled to holiday pay or another day off with pay to substitute for the named holiday. In addition, an employee who performs no work during the workweek because of a layoff does not forfeit his entitlement to holiday benefits if the layoff is merely a subterfuge by the contractor to avoid the payment of such benefits.

(3) The obligation to furnish holiday pay for the named holiday may be discharged if the contractor furnishes another day off with pay in accordance with a plan communicated to the employees involved. However, in such instances the holidays named in the fringe benefit determination are the reference points for determining whether an employee is eligible to receive holiday benefits. In other words, if an employee worked in a workweek in which a listed holiday occurred, the employee is entitled to pay for that holiday. Some determinations may provide for a specific number of holidays without naming them. In such instances the contractor is free to select the holidays to be taken in accordance with a plan communicated to the employees involved, and the agreed-upon holidays are the reference points for determining whether an employee is eligible to receive holiday benefits.

(b) *Determining eligibility for holiday benefits—newly hired employees.* The contractor generally is not required to compensate a newly hired employee for the holiday occurring prior to the hiring of the employee. However, in the one situation where a named holiday falls in the first week of a contract, all employees who work during the first week would be entitled to holiday pay for that day. For example, if a contract to provide services for the period January 1 through December 31 contained a fringe benefit determination listing New Year's Day as a named holiday, and if New Year's Day were officially celebrated on January 2 in the year in question because January 1 fell on a Sunday, employees hired to begin work on January 3 would be entitled to holiday pay for New Year's Day.

(c) *Payment of holiday benefits.*

(1) A full-time employee who is eligible to receive payment for a named holiday must receive a full day's pay up to 8 hours unless a different standard is used in the fringe benefit determination, such as one reflecting collectively bargained holiday benefit requirements issued pursuant to Section 4(c) of the Act or a different historic practice in an industry or locality. Thus, for example, a contractor must furnish 7 hours of holiday pay to a full-time employee whose scheduled workday consists of 7 hours. An employee whose scheduled workday is 10 hours would be entitled to a holiday payment of 8 hours unless a different standard is used in the determination. As discussed in § 4.172, such holiday pay must include the full amount of other fringe benefits to which the employee is entitled.

(2) Unless a different standard is used in the wage determination, a full-time employee who works on the day designated as a holiday must be paid, in addition to the amount he ordinarily would be entitled to for that day's work, the cash equivalent of a full-day's pay up to 8 hours or be furnished another day off with pay.

(3) If the fringe benefit determination lists the employee's birthday as a paid holiday and that day coincides with another listed holiday, the contractor may discharge his obligation to furnish payment for the second holiday by either substituting another day off with pay with the consent of the employee, furnishing holiday benefits of an extra day's pay, or if the employee works on the holiday in question, furnish holiday benefits of two extra days' pay.

(4) As stated in paragraph (a)(1) of this section, an employee's entitlement to holiday pay fully vests by working in the workweek in which the named holiday occurs. Accordingly, any employee who is terminated before receiving the full amount of holiday benefits due him must be paid the holiday benefits as a final cash payment.

(5) The rules and regulations for furnishing holiday pay to temporary and part-time employees are discussed in § 4.176.

(6) The rules and regulations for furnishing equivalent fringe benefits or cash equivalents in lieu of holiday pay are discussed in § 4.177.

§ 4.175 Meeting requirements for health, welfare, and/or pension benefits.

(a) *Determining the required amount of benefits.*

(1) Most fringe benefit determinations containing health and welfare and/or pension requirements specify a fixed payment per hour on behalf of each service employee. These payments are usually also stated as weekly or monthly amounts. As set forth in § 4.172, unless specified otherwise in the applicable determination such payments are due for all hours paid for, including paid vacation, sick leave, and holiday hours, up to a maximum of 40 hours per

week and 2,080 hours per year on each contract. The application of this rule can be illustrated by the following examples:

(i) An employee who works 4 days a week, 10 hours a day is entitled to 40 hours of health and welfare and/or pension fringe benefits. If an employee works 3 days a week, 12 hours a day, then such employee is entitled to 36 hours of these benefits.

(ii) An employee who works 32 hours in a workweek and also receives 8 hours of holiday pay is entitled to the maximum of 40 hours of health and welfare and/or pension payments in that workweek. If the employee works more than 32 hours and also received 8 hours of holiday pay, the employee is still only entitled to the maximum of 40 hours of health and welfare and/or pension payments.

(iii) If an employee is off work for two weeks on vacation and received 80 hours of vacation pay, the employee must also receive payment for the 80 hours of health and welfare and/or pension benefits which accrue during the vacation period.

(iv) An employee entitled to two weeks paid vacation who instead works the full 52 weeks in the year, receiving the full 2,080 hours worth of health and welfare and/or pension benefits, would be due an extra 80 hours of vacation pay in lieu of actually taking the vacation; however, such an employee would not be entitled to have an additional 80 hours of health and welfare and/or pension benefits included in his vacation pay.

(2) A fringe benefit determination calling for a specified benefit such as health insurance contemplates a fixed and definite contribution to a "bona fide" plan (as that term is defined in § 4.171) by an employer on behalf of each employee, based on the monetary cost to the employer rather than on the level of benefits provided. Therefore, in determining compliance with an applicable fringe benefit determination, the amount of the employer's contribution on behalf of each individual employee governs. Thus, as set forth in § 4.172, if a determination should require a contribution to a plan providing a specified fringe benefit and that benefit can be obtained for less than the required contribution, it would be necessary for the employer to make up the difference in cash to the employee, or furnish equivalent benefits, or a combination thereof. The following illustrates the application of this principle: A fringe benefit determination requires a rate of $36.40 per month per employee for a health insurance plan. The employer obtains the health insurance coverage specified at a rate of $20.45 per month for a single employee, $30.60 for an employee with spouse, and $40.90 for an employee with a family. The employer is required to make up the difference in cash or equivalent benefits to the first two classes of employees in order to satisfy the determination, notwithstanding that coverage for an employee would be automatically changed by the employer if the employee's status should change (e.g., single to married) and notwithstanding that the employer's average contribution per employee may be equal to or in excess of $36.40 per month.

(3) In determining eligibility for benefits under certain wage determinations containing hours or length of service requirements (such as having to work 40 hours in the preceding month), the contractor must take into account time spent by employees on commercial work as well as time spent on the Government contract.

(b) Some fringe benefit determinations specifically provide for health and welfare and/or pension benefits in terms of average cost. Under this concept, a contractor's contributions per employee to a "bona fide" fringe benefit plan are permitted to vary depending upon the individual employee's marital or employment status. However, the firm's total contributions for all service employees enrolled in the plan must average at least the fringe benefit determination requirement per hour per service employee. If the contractor's contributions average less than the amount required by the determination, then the firm must make up the deficiency by making cash equivalent payments or equivalent fringe benefit payments to all service employees in the plan who worked on the contract during the payment period. Where such deficiencies are made up by means of cash equivalent payments, the payments must be made promptly on the following payday. The following illustrates the application of this principle: The determination requires an average contribution of $0.84 an hour. The contractor makes payments to bona fide fringe benefit plans on a monthly basis. During a month the firm contributes $15,000 for the service employees employed on the contract who are enrolled in the plan; and a total of 20,000 man-hours had been worked by all service employees during the month. Accordingly, the firm's average cost would have been $15,000÷20,000 hours or $0.75 per hour, resulting in a deficiency of $0.09 per hour. Therefore, the contractor owes the service employees in the plan who worked on the contract during the month an additional $0.09 an hour for each hour worked on the contract, payable on the next regular payday for wages. Unless otherwise provided in the applicable wage determination, contributions made by the employer for non-service employees may not be credited toward meeting Service Contract Act fringe benefit obligations.

(c) *Employees not enrolled in or excluded from participating in fringe benefit plans.*

(1) Some health and welfare and pension plans contain eligibility exclusions for certain employees. For example, temporary and part-time employees may be excluded from participating in such plans. Also, employees receiving benefits through participation in plans of an employer other than the Government contractor or by a spouse's employer may be prevented from receiving benefits from the contractor's plan because of prohibitions against "double coverage". While such exclusions do not invalidate an otherwise bona fide insurance plan, employer contributions to such a plan cannot be considered to be made on behalf of the excluded employees. Accordingly, under fringe benefit determination requirements as described in paragraph (a)(2) of this section, the employees excluded from participation in the health insurance plan must be furnished equivalent bona fide fringe benefits or be paid a cash equivalent payment during the period that they are not eligible to participate in the plan.

(2) It is not required that all employees participating in a fringe benefit plan be entitled to receive benefits from that plan at all times. For example, under some plans, newly hired employees who are eligible to participate in an insurance plan from their first day of employment may be prohibited from receiving benefits from the plan during a specified "waiting period". Contributions made on behalf of such employees would serve to discharge the contractor's obligation to furnish the fringe benefit. However, if no contributions are made for such employees, no credit may be taken toward the contractor's fringe benefit obligations.

(d) *Payment of health and welfare and pension benefits.*

(1) Health and welfare and/or pension payments to a "bona fide" insurance plan or trust program may be made on a periodic payment basis which is not less often than quarterly. However, where fringe benefit determinations contemplate a fixed contribution on behalf of each employee, and a contractor exercises his option to make

hourly cash equivalent or differential payments, such payments must be made promptly on the regular payday for wages. (See § 4.165.)

(2) The rules and regulations for furnishing health and welfare and pension benefits to temporary and part-time employees are discussed in § 4.176.

(3) The rules and regulations for furnishing equivalent fringe benefits or cash equivalents in lieu of health and welfare and pension benefits are discussed in § 4.177.

§ 4.176 Payment of fringe benefits to temporary and part-time employees.

(a) As set forth in § 4.165(a)(2), the Act makes no distinction, with respect to its compensation provisions, between temporary, part-time, and full-time employees. Accordingly, in the absence of express limitations, the provisions of an applicable fringe benefit determination apply to all temporary and part-time service employees engaged in covered work. However, in general, such temporary and part-time employees are only entitled to an amount of the fringe benefits specified in an applicable determination which is proportionate to the amount of time spent in covered work. The application of these principles may be illustrated by the following examples:

(1) Assuming the paid vacation for full-time employees is one week of 40 hours, a part-time employee working a regularly scheduled workweek of 16 hours is entitled to 16 hours of paid vacation time or its equivalent each year, if all other qualifications are met.

(2) In the case of holidays, a part-time employee working a regularly scheduled workweek of 16 hours would be entitled to two-fifths of the holiday pay due full-time employees. It is immaterial whether or not the holiday falls on a normal workday of the part-time employee. Except as provided in § 4.174(b), a temporary or casual employee hired during a holiday week, but after the holiday, would be due no holiday benefits for that week.

(3) Holiday or vacation pay obligations to temporary and part-time employees working an irregular schedule of hours may be discharged by paying such employees a proportion of the holiday or vacation benefits due full-time employees based on the number of hours each such employee worked in the workweek prior to the workweek in which the holiday occurs or, with respect to vacations, the number of hours which the employee worked in the year preceding the employee's anniversary date of employment. For example:

(i) An employee works 10 hours during the week preceding July 4, a designated holiday. The employee is entitled to 10/40 of the holiday pay to which a full-time employee is entitled (i.e., 10/40 times 8=2 hours holiday pay).

(ii) A part-time employee works 520 hours during the 12 months preceding the employee's anniversary date. Since the typical number of nonovertime hours in a year of work is 2,080, if a full-time employee would be entitled to one week (40 hours) paid vacation under the applicable fringe benefit determination, then the part-time employee would be entitled to 520/2,080 times 40=10 hours paid vacation.

(4) A part-time employee working a regularly scheduled workweek of 20 hours would be entitled to one-half of the health and welfare and/or pension benefits specified in the applicable fringe benefit determination. Thus, if the determination requires $36.40 per month for health insurance, the contractor could discharge his obligation towards the employee in question by providing a health insurance policy costing $18.20 per month.

(b) A contractor's obligation to furnish the specified fringe benefits to temporary and part-time employees may be discharged by furnishing equivalent benefits, cash equivalents, or a combination thereof in accordance with the rules and regulations set forth in § 4.177.

§ 4.177 Discharging fringe benefit obligations by equivalent means.

(a) *In general.*

(1) Section 2(a)(2) of the Act, which provides for fringe benefits that are separate from and in addition to the monetary compensation required under section 2(a)(1), permits an employer to discharge his obligation to furnish the fringe benefits specified in an applicable fringe benefit determination by furnishing any equivalent combinations of "bona fide" fringe benefits or by making equivalent or differential payments in cash. However, credit for such payments is limited to the employer's fringe benefit obligations under section 2(a)(2), since the Act does not authorize any part of the monetary wage required by section 2(a)(1) and specified in the wage determination and the contract, to be offset by the fringe benefit payments or equivalents which are furnished or paid pursuant to section 2(a)(2).

(2) When a contractor substitutes fringe benefits not specified in the fringe benefit determination contained in the contract for fringe benefits which are so specified, the substituted fringe benefits, like those for which the contract provisions are prescribed, must be "bona fide" fringe benefits, as that term is defined in § 4.171.

(3) When a contractor discharges his fringe benefit obligation by furnishing, in lieu of those benefits specified in the applicable fringe benefit determination, other "bona fide" fringe benefits, cash payments, or a combination thereof, the substituted fringe benefits and/or cash payments must be "equivalent" to the benefits specified in the determination. As used in this subpart, the terms "equivalent fringe benefit" and "cash equivalent" mean equal in terms of monetary cost to the contractor. Thus, as set forth in § 4.172, if an applicable fringe benefit determination calls for a particular fringe benefit in a stated amount and the contractor furnished this benefit through contributions in a lesser amount, the contractor must furnish the employee with the difference between the amount stated in the determination and the actual cost of the benefit which the contractor provides. This principle may be illustrated by the example given in § 4.175(a)(2).

(b) *Furnishing equivalent fringe benefits.*

(1) A contractor's obligation to furnish fringe benefits which are stated in a specified cash amount may be discharged by furnishing any combination of "bona fide" fringe benefits costing an equal amount. Thus, if an applicable determination specifies that 20 cents per hour is to be paid into a pension fund, this fringe benefit obligation will be deemed to be met if, instead, hospitalization benefits costing not less than 20 cents per hour are provided. The same obligation will be met if hospitalization benefits costing 10 cents an hour and life insurance benefits costing 10 cents an hour are provided. As set forth in § 4.171(c), no benefit required to be furnished the employee by any other law, such as workers' compensation, may be credited toward satisfying the fringe benefit requirements of the Act.

(2) A contractor who wishes to furnish equivalent fringe benefits in lieu of those benefits which are not stated in a specified cash amount, such as "one week paid vacation", must first determine the equivalent cash value of such benefits in accordance with the rules set forth in paragraph (c) of this section.

(c) *Furnishing cash equivalents.*

(1) Fringe benefit obligations may be discharged by paying to the employee on his regular payday, in addition to the monetary wage required, a cash amount per hour in lieu of the specified fringe

benefits, provided such amount is equivalent to the cost of the fringe benefits required. If, for example, an employee's monetary rate under an applicable determination is $4.50 an hour, and the fringe benefits to be furnished are hospitalization benefits costing 20 cents an hour and retirement benefits costing 20 cents an hour, the fringe benefit obligation is discharged if instead of furnishing the required fringe benefits, the employer pays the employee, in cash, 40 cents per hour as the cash equivalent of the fringe benefits in addition to the $4.50 per hour wage rate required under the applicable wage determination.

(2) The hourly cash equivalent of those fringe benefits which are not stated in the applicable determination in terms of hourly cash amounts may be obtained by mathematical computation through the use of pertinent factors such as the monetary wages paid the employee and the hours of work attributable to the period, if any, by which fringe benefits are measured in the determination. If the employee's regular rate of pay is greater than the minimum monetary wage specified in the wage determination and the contract, the former must be used for this computation, and if the fringe benefit determination does not specify any daily or weekly hours of work by which benefits are to be measured, a standard 8-hour day and 40-hour week will be considered applicable. The application of these rules in typical situations is illustrated in paragraphs (c)(3) through (7) of this section.

(3) Where fringe benefits are stated as a percentage of the monetary rate, the hourly cash equivalent is determined by multiplying the stated percentage by the employees' regular or basic (i.e., wage determination) rate of pay, whichever is greater. For example, if the determination calls for a 5 percent pension fund payment and the employee is paid a monetary rate of $4.50 an hour, or if the employee earns $4.50 an hour on a piece-work basis in a particular workweek, the cash equivalent of that payment would be 22½ cents an hour.

(4) If the determination lists a particular fringe benefit in such terms as $8 a week, the hourly cash equivalent is determined by dividing the amount stated in the determination by the number of working hours to which the amount is attributable. For example, if a determination lists a fringe benefit as "pension—$8 a week", and does not specify weekly hours, the hourly cash equivalent is 20 cents per hour, i.e., $8 divided by 40, the standard number of non-overtime working hours in a week.

(5) In determining the hourly cash equivalent of those fringe benefits which are not stated in the determination in terms of a cash amount, but are stated, for example, as "nine paid holidays per year" or "1 week paid vacation after one year of service", the employee's hourly monetary rate of pay is multiplied by the number of hours making up the paid holidays or vacation. Unless the hours contemplated in the fringe benefit are specified in the determination, a standard 8-hour day and 40-hour week is considered applicable. The total annual cost so determined is divided by 2,080, the standard number of non-overtime hours in a year of work, to arrive at the hourly cash equivalent. This principle may be illustrated by the following examples:

(i) If a particular determination lists as a fringe benefit "nine holidays per year" and the employee's hourly rate of pay is $4.50, the $4.50 is multiplied by 72 (9 days of 8 hours each) and the result, $324, is then divided by 2,080 to arrive at the hourly cash equivalent, $0.1557 an hour. See § 4.174(c)(4).

(ii) If the determination requires "one week paid vacation after one year of service", and the employee's hourly rate of pay is $4.50, the $4.50 is multiplied by 40 and the result, $180.00, is then divided by 2,080 to arrive at the hourly cash equivalent, $0.0865 an hour.

(6) Where an employer elects to pay an hourly cash equivalent in lieu of a paid vacation, which is computed in accordance with paragraph (c)(5) of this section, such payments need commence only after the employee has satisfied the "after one year of service" requirement. However, should the employee terminate employment for any reason before receiving the full amount of vested vacation benefits due, the employee must be paid the full amount of any difference remaining as the final cash payment. For example, an employee becomes eligible for a week's vacation pay on March 1. The employer elects to pay this employee an hourly cash equivalent beginning that date; the employee terminates employment on March 31. Accordingly, as this employee has received only 1/52 of the vacation pay to which he/she is entitled, the employee is due the remaining 1 1/52 upon termination. As set forth in § 4.173(e), the rate applicable to the computation of cash equivalents for vacation benefits is the hourly wage rate in effect at the time such equivalent payments are actually made.

(d) *Furnishing a combination of equivalent fringe benefits and cash payments.* Fringe benefit obligations may be discharged by furnishing any combination of cash or fringe benefits as illustrated in the preceding paragraphs of this section, in monetary amounts the total of which is equivalent, under the rules therein stated, to the determined fringe benefits specified in the contract. For example, if an applicable determination specifies that 20 cents per hour is to be paid into a pension fund, this fringe benefit obligation will be deemed to be met if instead, hospitalization benefits costing 15 cents an hour and a cash equivalent payment of 5 cents an hour are provided.

(e) *Effect of equivalents in computing overtime pay.* Section 6 of the Act excludes from the regular or basic hourly rate of an employee, for purposes of determining the overtime pay to which the employee is entitled under any other Federal law, those fringe benefit payments computed under the Act which are excluded from the regular rate under the Fair Labor Standards Act by provisions of section 7(e) (formerly designated as section 7(d)) of that Act (29 U.S.C. 207(e)). Fringe benefit payments which qualify for such exclusion are described in Subpart C of Regulations, 29 CFR Part 778. When such fringe benefits are required to be furnished to service employees engaged in contract performance, the right to compute overtime pay in accordance with the above rule is not lost to a contractor or subcontractor because it discharges its obligation under this Act to furnish such fringe benefits through alternative equivalents as provided in this section. If it furnishes equivalent benefits or makes cash payments, or both, to such an employee as authorized herein, the amounts thereof, which discharge the employer's obligation to furnish such specified fringe benefits, may be excluded pursuant to this Act from the employee's regular or basic rate of pay in computing any overtime pay due the employee under any other Federal law. No such exclusion can operate, however, to reduce an employee's regular or basic rate of pay below the monetary wage rate specified as the applicable minimum wage rates under sections 2(a)(1), 2(b), or 4(c) of this Act or under other law or an employment contract.

§ 4.178 Computation of hours worked.

Since employees subject to the Act are entitled to the minimum compensation specified under its provisions for each hour worked in performance of a covered contract, a computation of their hours worked in each workweek when such work under the contract is performed is essential. Determinations of hours worked will be

made in accordance with the principles applied under the Fair Labor Standards Act as set forth in Part 785 of this title which is incorporated herein by reference. In general, the hours worked by an employee include all periods in which the employee is suffered or permitted to work whether or not required to do so, and all time during which the employee is required to be on duty or to be on the employer's premises or to be at a prescribed workplace. The hours worked which are subject to the compensation provisions of the Act are those in which the employee is engaged in performing work on contracts subject to the Act. However, unless such hours are adequately segregated, as indicated in § 4.179, compensation in accordance with the Act will be required for all hours of work in any workweek in which the employee performs any work in connection with the contract, in the absence of affirmative proof to the contrary that such work did not continue throughout the workweek.

§ 4.179 Identification of contract work.

Contractors and subcontractors under contracts subject to the Act are required to comply with its compensation requirements throughout the period of performance on the contract and to do so with respect to all employees who in any workweek are engaged in performing work on such contracts. If such a contractor during any workweek is not exclusively engaged in performing such contracts, or if while so engaged it has employees who spend a portion but not all of their worktime in the workweek in performing work on such contracts, it is necessary for the contractor to identify accurately in its records, or by other means, those periods in each such workweek when the contractor and each such employee performed work on such contracts. In cases where contractors are not exclusively engaged in Government contract work, and there are adequate records segregating the periods in which work was performed on contracts subject to the Act from periods in which other work was performed, the compensation specified under the Act need not be paid for hours spent on non-contract work. However, in the absence of records adequately segregating non-covered work from the work performed on or in connection with the contract, all employees working in the establishment or department where such covered work is performed shall be presumed to have worked on or in connection with the contract during the period of its performance, unless affirmative proof establishing the contrary is presented. Similarly, in the absence of such records, an employee performing any work on or in connection with the contract in a workweek shall be presumed to have continued to perform such work throughout the workweek, unless affirmative proof establishing the contrary is presented. Even where a contractor can segregate Government from non-Government work, it is necessary that the contractor comply with the requirements of section 6(e) of the FLSA discussed in § 4.160.

Overtime Pay of Covered Employees

§ 4.180 Overtime pay—in general.

The Act does not provide for compensation of covered employees at premium rates for overtime hours of work. Section 6 recognizes, however, that other Federal laws may require such compensation to be paid to employees working on or in connection with contracts subject to the Act (see § 4.181) and prescribes, for purposes of such laws, the manner in which fringe benefits furnished pursuant to the Act shall be treated in computing such overtime compensation as follows: "In determining any overtime pay to which such service employees are entitled under any Federal law, the regular or basic hourly rate of such an employee shall not include any fringe benefit payments computed hereunder which are excluded from the regular rate under the Fair Labor Standards Act by provisions of section 7(d) [now section 7(e)] thereof." Fringe benefit payments which qualify for such exclusion are described in Part 778, Subpart C of this title. The interpretations there set forth will be applied in determining the overtime pay to which covered service employees are entitled under other Federal statutes. The effect of section 6 of the Act in situations where equivalent fringe benefits or cash payments are provided in lieu of the specified fringe benefits is stated in § 4.177(e) of this part, and illustrated in § 4.182.

§ 4.181 Overtime pay provisions of other Acts.

(a) *Fair Labor Standards Act.* Although provision has not been made for insertion in Government contracts of stipulations requiring compliance with the overtime provisions of the Fair Labor Standards Act, contractors and subcontractors performing contracts subject to the McNamara-O'Hara Service Contract Act may be required to compensate their employees working on or in connection with such contracts for overtime work pursuant to the overtime pay standards of the Fair Labor Standards Act. This is true with respect to employees engaged in interstate or foreign commerce or in the production of goods for such commerce (including occupations and processes closely related and directly essential to such production) and employees employed in enterprises which are so engaged, subject to the definitions and exceptions provided in such Act. Such employees, except as otherwise specifically provided in such Act, must receive overtime compensation at a rate of not less than 1½ times their regular rate of pay for all hours worked in excess of the applicable standard in a workweek. See Part 778 of this title. However, the Fair Labor Standards Act provides no overtime pay requirements for employees, not within such interstate commerce coverage of the Act, who are subject to its minimum wage provisions only by virtue of the provisions of section 6(e), as explained in § 4.180.

(b) *Contract Work Hours and Safety Standards Act.* (1) The Contract Work Hours and Safety Standards Act (40 U.S.C. 327–332) applies generally to Government contracts, including service contracts in excess of $2,500, which may require or involve the employment of laborers and mechanics. Guards, watchmen, and many other classes of service employees are laborers or mechanics within the meaning of such Act. However, employees rendering only professional services, seamen, and as a general rule those whose work is only clerical or supervisory or nonmanual in nature, are not deemed laborers or mechanics for purposes of the Act. The wages of every laborer or mechanic for performance of work on such contracts must include compensation at a rate not less than 1½ times the employee's basic rate of pay for all hours worked in any workweek in excess of 40 or in excess of eight on any calendar days therein, whichever is the greater number of overtime hours. Exemptions are provided for certain transportation and communications contracts, contracts for the purchase of supplies ordinarily available in the open market, and work required to be done in accordance with the provisions of the Walsh-Healey Act.

(2) Regulations concerning this Act are contained in 29 CFR Part 5 which permit overtime pay to be computed in the same manner as under the Fair Labor Standards Act, subject of course to the differences in computations required by reason of the daily overtime provision of the Contract Work Hours and Safety Standards Act, which has no counterpart in the Fair Labor Standards Act.

(3) Although the application of the Contract Work Hours and Safety Standards Act does not depend on

inclusion of its requirements in provisions physically made part of the contract, the Act and the regulations of the Secretary require such provisions to be set forth in contract clauses. (See § 5.5(b) of this subtitle.)

(c) *Walsh-Healey Public Contracts Act.* As pointed out in § 4.117, while some Government contracts may be subject both to the McNamara-O'Hara Service Contract Act and to the Walsh-Healey Public Contracts Act, the employees performing work on the contract which is subject to the latter Act are, when so engaged, exempt from the provisions of the former. They are, however, subject to the overtime provisions of the Walsh-Healey Act if, in any workweek, any of the work performed for the employer is subject to such Act and if, in such workweek, the total hours worked by the employee for the employer (whether wholly or only partly on such work) exceed 40 hours in the workweek or 8 hours in any day therein. In any such workweek the Walsh-Healey Act requires payment of overtime compensation at a rate not less than 1½ times the employee's basic rate for such weekly or daily overtime hours, whichever are greater in number. The overtime pay provisions of the Walsh-Healey Act are discussed in greater detail in 41 CFR Part 50–201.

§ 4.182 Overtime pay of service employees entitled to fringe benefits.

Reference is made in § 4.180 to the rules prescribed by section 6 of the Act which permit exclusion of certain fringe benefits and equivalents provided pursuant to section 2(a)(2) of the Act from the regular or basic rate of pay when computing overtime compensation of a service employee under the provisions of any other Federal law. As provided in § 4.177, not only those fringe benefits excludable under section 6 as benefits determined and specified under section 2(a)(2), but also equivalent fringe benefits and cash payments furnished in lieu of the specified benefits may be excluded from the regular or basic rate of such an employee. The application of this rule may be illustrated by the following examples:

(a) The A company pays a service employee $4.50 an hour in cash under a wage determination which requires a monetary rate of not less than $4 and a fringe benefit contribution of 50 cents which would qualify for exclusion from the regular rate under section 7(e) of the Fair Labor Standards Act. The contractor pays the 50 cents in cash because he made no contributions for fringe benefits specified in the determination and the contract. Overtime compensation in this case would be computed on a regular or basic rate of $4 an hour.

(b) The B company has for some time been paying $4.25 an hour to a service employee as his basic cash wage plus 25 cents an hour as a contribution to a welfare and pension plan, which contribution qualifies for exclusion from the regular rate under the Fair Labor Standards Act. For performance of work under a contract subject to the Act a monetary rate of $4 and a fringe benefit contribution of 50 cents (also qualifying for such exclusion) are specified because they are found to be prevailing for such employees in the locality. The contractor may credit the 25 cent welfare and pension contribution toward the discharge of his fringe benefit obligation under the contract but must also make an additional contribution of 25 cents for the specified or equivalent fringe benefits or pay the employee an additional 25 cents in cash. These contributions or equivalent payments may be excluded from the employee's regular rate which remains $4.25, the rate agreed upon as the basic cash wage.

(c) The C company has been paying $4 an hour as its basic cash wage on which the firm has been computing overtime compensation. For performance of work on a contract subject to the Act the same rate of monetary wages and a fringe benefit contribution of 50 cents an hour (qualifying for exclusion from the regular rate under the Fair Labor Standards Act) are specified in accordance with a determination that these are the monetary wages and fringe benefits prevailing for such employees in the locality. The contractor is required to continue to pay at least $4 an hour in monetary wages and at least this amount must be included in the employee's regular or basic rate for overtime purposes under applicable Federal law. The fringe benefit obligation under the contract would be discharged if 50 cents of the contributions for fringe benefits were for the fringe benefits specified in the contract or equivalent benefits as defined in § 4.177. The company may exclude such fringe benefit contributions from the regular or basic rate of pay of the service employee in computing overtime pay due.

Notice to Employees

§ 4.183 Employees must be notified of compensation required.

The Act, in section 2(a)(4), and the regulations thereunder in § 4.6(e), require all contracts subject to the Act which are in excess of $2,500 to contain a clause requiring the contractor or subcontractor to notify each employee commencing work on a contract to which the Act applies of the compensation required to be paid such employee under section 2[a][1] and the fringe benefits required to be furnished under section 2(a)(2). A notice form (WH Publication 1313 and any applicable wage determination) provided by the Wage and Hour Division is to be used for this purpose. It may be delivered to the employee or posted as stated in § 4.184.

§ 4.184 Posting of notice.

Posting of the notice provided by the Wage and Hour Division shall be in a prominent and accessible place at the worksite, as required by § 4.6(e). The display of the notice in a place where it may be seen by employees performing on the contract will satisfy the requirement that it be in a "prominent and accessible place". Should display be necessary at more than one site, in order to assure that it is seen by such employees, additional copies of the poster may be obtained without cost from the Division. The contractor or subcontractor is required to notify each employee of the compensation due or attach to the poster any applicable wage determination specified in the contract listing all minimum monetary wages and fringe benefits to be paid or furnished to the classes of service employees performing on the contract.

Records

§ 4.185 Recordkeeping requirements.

The records which a contractor or subcontractor is required to keep concerning employment of employees subject to the Act are specified in § 4.6(g) of Subpart A of this part. They are required to be maintained for 3 years from the completion of the work, and must be made available for inspection and transcription by authorized representatives of the Administrator. Such records must be kept for each service employee performing work under the contract, for each workweek during the performance of the contract. If the required records are not separately kept for the service employees performing on the contract, it will be presumed, in the absence of affirmative proof to the contrary, that all service employees in the department or establishment where the contract was performed were engaged in covered work during the period of performance. (See § 4.179.)

§ 4.186 [Reserved]

Subpart E—Enforcement

§ 4.187 Recovery of underpayments.

(a) The Act, in section 3(a), provides that any violations of any of the contract stipulations required by sections 2(a)(1), 2(a)(2), or 2(b) of the Act, shall render the party responsible liable for the amount of any deductions, rebates, refunds, or underpayments (which includes non-payment) of compensation due to any employee engaged in the performance of the contract. So much of the accrued payments due either on the contract or on any other contract (whether subject to the Service Contract Act or not) between the same contractor and the Government may be withheld in a deposit fund as is necessary to pay the employees. In the case of requirements-type contracts, it is the contracting agency, and not the using agencies, which has the responsibility for complying with a withholding request by the Secretary or authorized representative. The Act further provides that on order of the Secretary (or authorized representatives), any compensation which the head of the Federal agency or the Secretary has found to be due shall be paid directly to the underpaid employees from any accrued payments withheld. In order to effectuate the efficient administration of this provision of the Act, such withheld funds shall be transferred to the Department of Labor for disbursement to the underpaid employees on order of the Secretary or his or her authorized representatives, an Administrative Law Judge, or the Board of Service Contract Appeals, and are not paid directly to such employees by the contracting agency without the express prior consent of the Department of Labor. (See Decision of the Comptroller General, B–170784, February 17, 1971.) It is mandatory for a contracting officer to adhere to a request from the Department of Labor to withhold funds where such funds are available. (See Decision of the Comptroller General, B–109257, October 14, 1952, arising under the Walsh-Healey Act.) Contract funds which are or may become due a contractor under any contract with the United States may be withheld prior to the institution of administrative proceedings by the Secretary. (*McCasland* v. *U.S. Postal Service*, 82 CCH Labor Cases ¶ 33,607 (N.D. N.Y. 1977); *G & H Machinery Co.* v. *Donovan*, 98 CCH Labor Cases ¶34,354 (S.D. Ill. 1982).)

(b) *Priority to withheld funds.*

The Comptroller General has afforded employee wage claims priority over an Internal Revenue Service levy for unpaid taxes. (See Decisions of the Comptroller General, B–170784, February 17, 1971; B–189137, August 1, 1977; 56 Comp. Gen. 499 (1977); 55 Comp. Gen. 744 (1976), arising under the Davis-Bacon Act; B–178198, August 30, 1973; B–161460, May 25, 1967.)

(1) As the Comptroller General has stated, "[t]he legislative histories of these labor statutes [Service Contract Act and Contract Work Hours and Safety Standards Act, 41 U.S.C. 327, *et seq.*] disclose a progressive tendency to extend a more liberal interpretation and construction in successive enactments with regard to worker's benefits, recovery and repayment of wage underpayments. Further, as remedial legislation, it is axiomatic that they are to be liberally construed". (Decision of the Comptroller General, B–170784, February 17, 1971.)

(2) Since section 3(a) of the Act provides that accrued contract funds withheld to pay employees wages must be held in a deposit fund, it is the position of the Department of Labor that monies so held may not be used or set aside for agency reprocurement costs. To hold otherwise would be inequitable and contrary to public policy, since the employees have performed work from which the Government has received the benefit (see *National Surety Corporation* v. *U.S.*, 132 Ct. Cl. 724, 728, 135 F. Supp. 381 (1955), cert. denied, 350 U.S. 902), and to give contracting agency reprocurement claims priority would be to require employees to pay for the breach of contract between the employer and the agency. The Comptroller General has sanctioned priority being afforded wage underpayments over the reprocurement costs of the contracting agency following a contractor's default or termination for cause. Decision of the Comptroller General, B–167000, June 26, 1969; B–178198, August 30, 1973; and B–189137, August 1, 1977.

(3) Wage claims have priority over reprocurement costs and tax liens without regard to when the competing claims were raised. See Decisions of the Comptroller General, B–161460, May 25, 1967; B–189137, August 1, 1977.

(4) Wages due workers underpaid on the contract have priority over any assignee of the contractor, including assignments made under the Assignment of Claims Act, 31 U.S.C. 203, 41 U.S.C. 15, to funds withheld under the contract, since an assignee can acquire no greater rights to withheld funds than the assignor has in the absence of an assignment. See *Modern Industrial Bank* v. *U.S.*, 101 Ct. Cl. 808 (1944); *Royal Indemnity Co.* v. *United States*, 178 Ct. Cl. 46, 371 F. 2d 462 (1967), cert. denied, 389 U.S. 833; *Newark Insurance Co.* v. *U.S.*, 149 Ct. Cl. 170, 181 F. Supp. 246 (1960); *Henningsen* v. *United States Fidelity and Guaranty Company*, 208 U.S. 404 (1908). Where employees have been underpaid, the assignor has no right to assign funds since the assignor has no property rights to amounts withheld from the contract to cover underpayments of workers which constitute a violation of the law and the terms, conditions, and obligations under the contract. (Decision of the Comptroller General, B–164881, August 14, 1968; B–178198, August 30, 1973; 56 Comp. Gen. 499 (1977); 55 Comp. Gen. 744 (1976); *The National City Bank of Evansville* v. *United States*, 143 Ct. Cl. 154, 163 F. Supp. 846 (1958); *National Surety Corporation* v. *United States*, 132 Ct. Cl. 724, 135 F. Supp. 381 (1955), cert. denied, 350 U.S. 902.)

(5) The Comptroller General, recognizing that unpaid laborers have an equitable right to be paid from contract retainages, has also held that wage underpayments under the Act have priority over any claim by the trustee in bankruptcy. 56 Comp. Gen. 499 (1977), citing *Pearlman* v. *Reliance Insurance Company*, 371 U.S. 132 (1962); *Hadden* v. *United States*, 132 Ct. Cl. 529 (1955), in which the courts gave priority to sureties who had paid unpaid laborers over the trustee in bankruptcy.

(c) Section 5(b) of the Act provides that if the accrued payments withheld under the terms of the contract are insufficient to reimburse all service employees with respect to whom there has been a failure to pay the compensation required pursuant to the Act, the United States may bring action against the contractor, subcontractor, or any sureties in any court of competent jurisdiction to recover the remaining amount of underpayments. The Service Contract Act is not subject to the statute of limitations in the Portal to Portal Act, 29 U.S.C. 255, and contains no prescribed period within which such an action must be instituted; it has therefore been held that the general period of six years prescribed by 28 U.S.C. 2415 applies to such actions, *United States of America* v. *Deluxe Cleaners and Laundry, Inc.*, 511 F. 2d 929 (C.A. 4, 1975). Any sums thus recovered by the United States shall be held in the deposit fund and shall be paid, on the order of the Secretary, directly to the underpaid employees. Any sum not paid to an employee because of inability to do so within 3 years shall be covered into the Treasury of the United States as miscellaneous receipts.

(d) Releases or waivers executed by employees for unpaid wages and fringe benefits due them are without legal effect. As stated by the Supreme Court in *Brooklyn Savings Bank* v. *O'Neil*, 324 U.S. 697, 704, (1945), arising under the Fair Labor Standards Act:

"Where a private right is granted in the public interest to effectuate a legislative policy, waiver of a right so charged or colored with the public interest will not be allowed where it would thwart the legislative policy which it was designed to effectuate."

See also *Schulte, Inc.* v. *Gangi*, 328 U.S. 108 (1946); *United States* v. *Mouley Construction Company*, 98 F. 2d 761 (C.A. 2, 1938), cert. denied, 305 U.S. 651.

Further, as noted above, monies not paid to employees to whom they are due because of violation are covered into the U.S. Treasury as provided by section 5(b) of the Act.

(e)(1) The term "party responsible" for violations in section 3(a) of the Act is the same term as contained in the Walsh-Healey Public Contracts Act, and therefore, the same principles are applied under both Acts. An officer of a corporation who actively directs and supervises the contract performance, including employment policies and practices and the work of the employees working on the contract, is a party responsible and liable for the violations, individually and jointly with the company (*S & G Coal Sales, Inc.*, Decision of the Hearing Examiner, PC–946, January 21, 1965, affirmed by the Administrator June 8, 1965; *Tennessee Processing Co., Inc.*, Decision of the Hearing Examiner, PC–790, September 28, 1965).

(2) The failure to perform a statutory public duty under the Service Contract Act is not only a corporate liability but also the personal liability of each officer charged by reason of his or her corporate office while performing that duty. *United States* v. *Sancolmar Industries, Inc.*, 347 F. Supp. 404, 408 (E.D. N.Y. 1972). Accordingly, it has been held by administrative decisions and by the courts that the term "party responsible", as used in section 5(a) of the Act, imposes personal liability for violations of any of the contract stipulations required by sections 2(a)(1) and (2) and 2(b) of the Act on corporate officers who control, or are responsible for control of, the corporate entity, as they, individually, have an obligation to assure compliance with the requirements of the Act, the regulations, and the contracts. See, for example, *Waite, Inc.*, Decision of the ALJ, SCA 530–586, October 19, 1976, *Spruce-Up Corp.*, Decision of the Administrator SCA 368–370, August 19, 1976, *Ventilation and Cleaning Engineers, Inc.*, Decision of the ALJ, SCA 176, August 23, 1973, Assistant Secretary, May 17, 1974, Secretary, September 27, 1974; *Fred Van Elk*, Decision of the ALJ, SCA 254–58, May 28, 1974, Administrator, November 25, 1974; *Murcole, Inc.*, Decision of the ALJ, SCA 195–198, April 11, 1974; *Emile J. Bouchet*, Decision of the ALJ, SCA 38, February 24, 1970; *Darwyn L. Grover*, Decision of the ALJ, SCA 485, August 15, 1976; *United States* v. *Islip Machine Works, Inc.*, 179 F. Supp. 585 (E.D. N.Y. 1959); *United States* v. *Sancolmar Industries, Inc.*, 347 F. Supp. 404 (E.D. N.Y. 1972).

(3) In essence, individual liability attaches to the corporate official who is responsible for, and therefore causes or permits, the violation of the contract stipulations required by the Act, i.e., corporate officers who control the day-to-day operations and management policy are personally liable for underpayments because they cause or permit violations of the Act.

(4) It has also been held that the personal responsibility and liability of individuals for violations of the Act is not limited to the officers of a contracting firm or to signatories to the Government contract who are bound by and accept responsibility for compliance with the Act and imposition of its sanctions set forth in the contract clauses in § 4.6, but includes all persons, irrespective of proprietary interest, who exercise control, supervision, or management over the performance of the contract, including the labor policy or employment conditions regarding the employees engaged in contract performance, and who, by action or inaction, cause or permit a contract to be breached. *U.S.* v. *Islip Machine Works, Inc.*, 179 F. Supp. 585 (E.D. N.Y. 1959); *U.S.* v. *Sancolmar Industries, Inc.*, 347 F. Supp. 404 (E.D. N.Y. 1972); *Oscar Hestrom Corp.*, Decision of the Administrator, PC–257, May 7, 1946, affirmed, *U.S.* v. *Hedstrom*, 8 Wage Hour Cases 302 (N.D. Ill. 1948); *Craddock-Terry Shoe Corp.*, Decision of the Administrator, PC–330, October 3, 1947; *Reynold's Research Corp.*, Decision of the Administrator, PC–381, October 24, 1951; *Etawah Garment Co., Inc.*, Decision of the Hearing Examiner, PC–632, August 9, 1957, Decision of the Administrator, April 29, 1958; *Cardinal Fuel and Supply Co.*, Decision of the Hearing Examiner, PC–690, June 17, 1963.

(5) Reliance on advice from contracting agency officials (or Department of Labor officials without the authority to issue rulings under the Act) is not a defense against a contractor's liability for back wages under the Act. *Standard Fabrication Ltd.*, Decision of the Secretary, PC–237, August 3, 1948; *Airport Machining Corp.*, Decision of the ALJ, PC–1177, June 15, 1973; *James D. West*, Decision of the ALJ, SCA 397–398, November 17, 1975; *Metropolitan Rehabilitation Corp.*, WAB Case No. 76–25, August 2, 1977; *Fry Brothers Corp.*, WAB Case No. 76–6, June 14, 1977.

(f) The procedures for a contractor or subcontractor to dispute findings regarding violations of the Act, including back wage liability or the disposition of funds withheld by the agency for such liability, are contained in Parts 6 and 8 of this Title. Appeals in such matters have not been delegated to the contracting agencies and such matters cannot be appealed under the disputes clause in the contractor's contract.

(g) While the Act provides that action may be brought against a surety to recover underpayments of compensation, there is no statutory provision requiring that contractors furnish either payment or performance bonds before an award can be made. The courts have held, however, that when such a bond has been given, including one denominated as a performance rather than payment bond, and such a bond guarantees that the principal shall fulfill "all the undertakings, covenants, terms, conditions, and agreements" of the contract, or similar words to the same effect, the surety-guarantor is jointly liable for underpayments by the contractor of the wages and fringe benefits required by the Act up to the amount of the bond. *U.S.* v. *Powers Building Maintenance Co.*, 366 F. Supp. 819 (W.D. Okla. 1972); *U.S.* v. *Gillespie*, 72 CCH Labor Cases ¶ 33,986 (C.D. Cal. 1973) *U.S.* v. *Glens Falls Insurance Co.*, 279 F. Supp. 236 (E.D. Tenn. 1967); *United States* v. *Hudgins-Dize Co.*, 83 F. Supp. 593 (E.D. Va. 1949); *U.S.* v. *Continental Casualty Company*, 85 F. Supp. 573 (E.D. Pa. 1949), affirmed per curiam, 182 F.2d 941 (3rd Cir. 1950).

§ 4.188 Ineligibility for further contracts when violations occur.

(a) Section 5 of the Act provides that any person or firm found by the Secretary or the Federal agencies to have violated the Act shall be declared ineligible to receive further Federal contracts unless the Secretary recommends otherwise because of unusual circumstances. It also directs the Comptroller General to distribute a list to all agencies of the Government giving the names of persons or firms that have been declared ineligible. No contract of the United States or the

District of Columbia (whether or not subject to the Act) shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have a substantial interest until 3 years have elapsed from the date of publication of the list containing the names of such persons or firms. This prohibition against the award of a contract to an ineligible contractor applies to the contractor in its capacity as either a prime contractor or a subcontractor. Because the Act contains no provision authorizing removal from the list of the names of such persons or firms prior to the expiration of the three-year statutory period, the Secretary is without authority to accomplish such removal (other than in situations involving mistake or legal error). On the other hand, there may be situations in which persons or firms already on the list are found in a subsequent administrative proceeding to have again violated the Act and their debarment ordered. In such circumstances, a new, three-year debarment term will commence with the republication of such names on the list.

(b)(1) The term "unusual circumstances" is not defined in the Act. Accordingly, the determination must be made on a case-by-case basis in accordance with the particular facts present. It is clear, however, that the effect of the 1972 Amendments is to limit the Secretary's discretion to relieve violators from the debarred list (H. Rept. 92–1251, 92d Cong., 2d Sess. 5; S. Rept. 92–1131, 92d Cong., 2d Sess. 3–4) and that the violator of the Act has the burden of establishing the existence of unusual circumstances to warrant relief from the debarment sanction, *Ventilation and Cleaning Engineers, Inc.*, SCA–176, Administrative Law Judge, August 23, 1973, Assistant Secretary, May 22, 1974, Secretary, October 2, 1974. It is also clear that unusual circumstances do not include any circumstances which would have been insufficient to relieve a contractor from the ineligible list prior to the 1972 amendments, or those circumstances which commonly exist in cases where violations are found, such as negligent or willful disregard of the contract requirements and of the Act and regulations, including a contractor's plea of ignorance of the Act's requirements where the obligation to comply with the Act is plain from the contract, failure to keep necessary records and the like. *Emerald Maintenance Inc.*, Supplemental Decision of the ALJ, SCA–153, April 5, 1973.

(2) The Subcommittee report following the oversight hearings conducted just prior to the 1972 amendments makes it plain that the limitation of the Secretary's discretion through the unusual circumstances language was designed in part to prevent the Secretary from relieving a contractor from the ineligible list provisions merely because the contractor paid what he was required by his contract to pay in the first place and promised to comply with the Act in the future. See, House Committee on Education and Labor, Special Subcommittee on Labor, The Plight of Service Workers under Government Contracts 22–13 (Comm. Print 1971). As Congressman O'Hara stated: "Restoration * * * [of wages and benefits] is not in and of itself a penalty. The penalty for violation is the suspension from the right to bid on Government contracts * * *. The authority [to relieve from blacklisting] was intended to be used in situations where the violation was a minor one, or an inadvertent one, or one in which disbarment * * * would have been wholly disproportionate to the offense." House Committee on Education and Labor, Special Subcommittee on Labor, Hearings on H.R. 6244 and H.R. 6245, 92d Cong., 1st Sess. 3 (1971).

(3)(i) The Department of Labor has developed criteria for determining when there are unusual circumstances within the meaning of the Act. See, e.g., *Washington Moving & Storage Co.*, Decision of the Assistant Secretary, SCA 68, August 16, 1973, Secretary, March 12, 1974; *Quality Maintenance Co.*, Decision of the Assistant Secretary, SCA 119, January 11, 1974. Thus, where the respondent's conduct in causing or permitting violations of the Service Contract Act provisions of the contract is willful, deliberate or of an aggravated nature or where the violations are a result of culpable conduct such as culpable neglect to ascertain whether practices are in violation, culpable disregard of whether they were in violation or not, or culpable failure to comply with recordkeeping requirements (such as falsification of records), relief from the debarment sanction cannot be in order. Furthermore, relief from debarment cannot be in order where a contractor has a history of similar violations, where a contractor has repeatedly violated the provisions of the Act, or where previous violations were serious in nature.

(ii) A good compliance history, cooperation in the investigation, repayment of moneys due, and sufficient assurances of future compliance are generally prerequisites to relief. Where these prerequisites are present and none of the aggravated circumstances in the preceding paragraph exist, a variety of factors must still be considered, including whether the contractor has previously been investigated for violations of the Act, whether the contractor has committed recordkeeping violations which impeded the investigation, whether liability was dependent upon resolution of a bona fide legal issue of doubtful certainty, the contractor's efforts to ensure compliance, the nature, extent, and seriousness of any past or present violations, including the impact of violations on unpaid employees, and whether the sums due were promptly paid.

(4) A contractor has an affirmative obligation to ensure that its pay practices are in compliance with the Act, and cannot itself resolve questions which arise, but rather must seek advice from the Department of Labor. *Murcole, Inc.*, Decision of the ALJ, SCA 195–196, April 10, 1974; *McLaughlin Storage, Inc.*, Decision of the ALJ, SCA 362–365, November 5, 1975, Administrator, March 25, 1976; *Able Building & Maintenance & Service Co.*, Decision of the ALJ, SCA 389–390, May 29, 1975, Assistant Secretary, January 13, 1976; *Aarid Van Lines, Inc.*, Decision of the Administrator, SCA 423–425, May 13, 1977.

(5) Furthermore, a contractor cannot be relieved from debarment by attempting to shift his/her responsibility to subordinate employees. *Security Systems, Inc.*, Decision of the ALJ, SCA 774–775, April 10, 1978; *Ventilation & Cleaning Engineers, Inc.*, Decision of the Secretary, SCA 176, September 27, 1974; *Ernest Roman*, Decision of the Secretary, SCA 275, May 6, 1977. As the Comptroller General has stated in considering debarment under the Davis-Bacon Act, "[n]egligence of the employer to instruct his employees as to the proper method of performing his work or to see that the employee obeys his instructions renders the employer liable for injuries to third parties resulting therefrom. * * * The employer will be liable for acts of his employee within the scope of the employment regardless of whether the acts were expressly or impliedly authorized. * * * Willful and malicious acts of the employee are imputable to the employer under the doctrine of respondeat superior although they might not have been consented to or expressly authorized or ratified by the employer." (Decision of the Comptroller General, B–145600, August 1, 1961.)

(6) Negligence per se does not constitute unusual circumstances. Relief on no basis other than negligence would render the effect of section 5(a) a nullity, since it was intended that only responsible bidders be awarded Government contracts. *Greenwood's Transfer & Storage, Inc.*, Decision of the Secretary, SCA 321–326, June 1, 1976; *Ventilation & Cleaning Engineers, Inc.*, Decision of the Secretary, SCA 176, September 27, 1974.

(c) Similarly, the term "substantial interest" is not defined in the Act. Accordingly, this determination, too, must be made on a case-by-case basis in light of the particular facts, and cognizant of the legislative intent "to provide to service employees safeguards similar to those given to employees covered by the Walsh-Healey Public Contracts Act". *Federal Food Services, Inc.*, Decision of the ALJ, SCA 585–592, November 22, 1977. Thus, guidance can be obtained from cases arising under the Walsh-Healey Act, which uses the concept "controlling interest". See *Regal Mfg. Co.*, Decision of the Administrator, PC–245, March 1, 1946; *Acme Sportswear Co.*, Decision of the Hearing Examiner, PC–275, May 8, 1946; *Gearcraft, Inc.*, Decision of the ALJ, PCX–1, May 3, 1972. In a supplemental decision of February 23, 1979, in *Federal Food Services, Inc.* the Judge ruled as a matter of law that the term "does not preclude every employment or financial relationship between a party under sanction and another * * * [and that] it is necessary to look behind titles, payments, and arrangements and examine the existing circumstances before reaching a conclusion in this matter."

(1) Where a person or firm has a direct or beneficial ownership or control of more than 5 percent of any firm, corporation, partnership, or association, a "substantial interest" will be deemed to exist. Similarly, where a person is an officer or director in a firm or the debarred firm shares common management with another firm, a "substantial interest" will be deemed to exist. Furthermore, wherever a firm is an affiliate as defined in § 4.1a(g) of Subpart A, a "substantial interest" will be deemed to exist, or where a debarred person forms or participates in another firm in which he/she has comparable authority, he/she will be deemed to have a "substantial interest" in the new firm and such new firm would also be debarred (*Etowah Garment Co., Inc.*, Decision of the Hearing Examiner, PC–632, August 9, 1957).

(2) Nor is interest determined by ownership alone. A debarred person will also be deemed to have a "substantial interest" in a firm if such person has participated in contract negotiations, is a signatory to a contract, or has the authority to establish, control, or manage the contract performance and/or the labor policies of a firm. A "substantial interest" may also be deemed to exist, in other circumstances, after consideration of the facts of the individual case. Factors to be examined include, among others, sharing of common premises or facilities, occupying any position such as manager, supervisor, or consultant to, any such entity, whether compensated on a salary, bonus, fee, dividend, profit-sharing, or other basis of remuneration, including indirect compensation by virtue of family relationships or otherwise. A firm will be particularly closely examined where there has been an attempt to sever an association with a debarred firm or where the firm was formed by a person previously affiliated with the debarred firm or a relative of the debarred person.

(3) Firms with such identity of interest with a debarred person or firm will be placed on the debarred bidders list after the determination is made pursuant to procedures in § 4.12 and Parts 6 and 8 of this title. Where a determination of such "substantial interest" is made after the initiation of the debarment period, contracting agencies are to terminate any contract with such firm entered into after the initiation of the original debarment period since all persons or firms in which the debarred person or firm has a substantial interest were also ineligible to receive Government contracts from the date of publication of the violating person's or firm's name on the debarred bidders list.

§ 4.189 Administrative proceedings relating to enforcement of labor standards.

The Secretary is authorized pursuant to the provisions of section 4(a) of the Act to hold hearings and make decisions based upon findings of fact as are deemed to be necessary to enforce the provisions of the Act. Pursuant to section 4(a) of the Act, the Secretary's findings of fact after notice and hearing are conclusive upon all agencies of the United States and, if supported by the preponderance of the evidence, conclusive in any court of the United States, without a trial de novo. *United States* v. *Powers Building Maintenance Co.*, 336 F. Supp. 819 (W.D. Okla. 1972). Rules of practice for administrative proceedings are set forth in Parts 6 and 8 of this Title.

§ 4.190 Contract cancellation.

(a) As provided in section 3 of the Act, where a violation is found of any contract stipulation, the contract is subject upon written notice to cancellation by the contracting agency, whereupon the United States may enter into other contracts or arrangements for the completion of the original contract, charging any additional cost to the original contractor.

(b) Every contractor shall certify pursuant to § 4.6(n) of Subpart A that it is not disqualified for the award of a contract by virtue of its name appearing on the debarred bidders list or because any such currently listed person or firm has a substantial interest in said contractor, as described in § 4.188. Upon discovery of such false certification or determination of substantial interest in a firm performing on a Government contract, as the case may be, the contract is similarly subject upon written notice to immediate cancellation by the contracting agency and any additional cost for the completion of the contract charged to the original contractor as specified in paragraph (a). Such contract is without warrant of law and has no force and effect and is void ab initio, 33 Comp Gen. 63; Decision of the Comptroller General, B–115051, August 6, 1953. Furthermore, any profit derived from said illegal contract is forfeited (*Paisner* v. *U.S.*, 138 Ct. Cl. 420, 150 F. Supp. 835 (1957), cert. denied, 355 U.S. 941).

§ 4.191 Complaints and compliance assistance.

(a) Any employer, employee, labor or trade organization, contracting agency, or other interested person or organization may report to any office of the Wage and Hour Division (or to any office of the Occupational Safety and Health Administration, in instances involving the safety and health provisions), a violation, or apparent violation, of the Act, or of any of the rules or regulations prescribed thereunder. Such offices are also available to assist or provide information to contractors or subcontractors desiring to insure that their practices are in compliance with the Act. Information furnished is treated confidentially. It is the policy of the Department of Labor to protect the identity of its confidential sources and to prevent an unwarranted invasion of personal privacy. Accordingly, the identity of an employee who makes a confidential written or oral statement as a complaint or in the course of an investigation, as well as portions of the statement which would reveal his

identity, will not be disclosed without the prior consent of the employee. Disclosure of employee statements shall be governed by the provisions of the "Freedom of Information Act" (5 U.S.C. 552, see 29 CFR Part 70) and the "Privacy Act of 1974" (5 U.S.C. 552a).

(b) A report of breach or violation relating solely to safety and health requirements may be in writing and addressed to the Regional Administrator of an Occupational Safety and Health Administration Regional Office, U.S. Department of Labor, or to the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210.

(c) Any other report of breach or violation may be in writing and addressed to the Assistant Regional Administrator of a Wage and Hour Division's regional office, U.S. Department of Labor, or to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210.

(d) In the event that an Assistant Regional Administrator for the Wage and Hour Division, Employment Standards Administration, is notified of a breach or violation which also involves safety and health standards, the Regional Administrator of the Employment Standards Administration shall notify the appropriate Regional Administrator of the Occupational Safety and Health Administration who shall with respect to the safety and health violation take action commensurate with his responsibilities pertaining to safety and health standards.

(e) Any report should contain the following:

(1) The full name and address of the person or organization reporting the breach or violations.

(2) The full name and address of the person against whom the report is made.

(3) A clear and concise statement of the facts constituting the alleged breach or violation of any of the provisions of the McNamara-O'Hara Service Contract Act, or of any of the rules or regulations prescribed thereunder.

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VOL
48
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Part III

Environmental Protection Agency

Pharmaceutical Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Final Rule

Pharmaceutical Manufacturing Point Source Category New Source Performance Standards; Proposed Rule

VOL 48 ISS 209 OC 27 1983 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 439

[WH-FRL 2443-2]

Pharmaceutical Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final regulation.

SUMMARY: This regulation establishes effluent limitations guidelines and standards limiting the discharge of pollutants into navigable waters by existing and new sources that conduct pharmaceutical manufacturing operations. These regulations are issued under the Clean Water Act and the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train,* 8 ERC 2120 (D.D.C. 1976), *modified,* 12 ERC 1833 (D.C.C. 1979), modified by Orders dated October 26, 1982, and August 2, 1983.

The purpose of this regulation is to specify for certain pollutants "best practicable control technology currently available" (BPT) effluent limitations guidelines, "best available technology economically achievable" (BAT) effluent limitations guidelines, "new source performance standards" (NSPS), and pretreatment standards for existing and new sources (PSES and PSNS, respectively) for the pharmaceutical manufacturing industry.

DATES: In accordance with 40 CFR 100.01 (45 FR 26048), this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on November 10, 1983. This regulation shall become effective December 12, 1983, except for provisions in the following sections which allow facilities not using or generating cyanide to certify to that effect instead of monitoring for cyanide. These certification provisions are contained in the following sections: §§ 439.14–439.17, 439.24–439.27, 439.34–439.37, and 439.44–439.47. These certification provisions have been submitted to the Office Management and Budget (OMB) and are not effective until OMB has approved them under the Paperwork Reduction Act.

The compliance date for the BAT regulations is as soon as possible, but in any event, no later then July 1, 1984. The compliance date for new source performance standards (NSPS) and pretreatment standards for new sources (PSNS) is the date the new source begins operations. The compliance date for pretreatment standards for existing sources (PSES) is October 27, 1986.

Under Section 509(b)(1) of the Clean Water Act, judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under Section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: The basis for this regulation is detailed in four major documents. See **SUPPLEMENTARY INFORMATION** (under "XIV. Availability of Technical Information") for a description of each document. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (Phone: (703) 487–4600). For additional technical information, contact Dr. Frank H. Hund, Effluent Guidelines Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (Phone (202) 382–7182). For additional economic information, contact Mr. Joseph Yance, Office of Analysis and Evaluation (WH–586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (Phone (202) 382–5379).

On January 3, 1984, the complete public record for this rulemaking including the Agency's responses to comments on the proposed regulation, will be available for review in EPA's Public Reference Unit, Room 2404 (Rear) (EPA Library), 401 M Street, SW., Washington, D.C. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Hund at the address listed above or by calling (202) 382–7182.

SUPPLEMENTARY INFORMATION:

Organization of this Notice

I. Legal authority
II. Scope of this rulemaking and prior regulations
III. Summary of legal background
IV. Summary of methodology and data gathering efforts
V. Summary of promulgated regulations and changes from proposal
VI. Costs, economic impacts, Executive Order 12291, Regulatory Flexibility Analysis, and Small Business Administration (SBA) loans
VII. Pollutants and subcategories not regulated
VIII. Non-water quality environmental impacts
IX. Best management practices
X. Upset and bypass provisions
XI. Variances and modifications
XII. Implentation of limitations and standards
XIII. Public participation—responses to major comments
XIV. Availability of technical information
XV. Office of Management and Budget (OMB) review
XVI. List of subjects in 40 CFR Part 439

Appendices

A. Abbreviations, Acronyms and Other Terms Used in this Notice
B. Toxic Pollutants Not Detected in the Treated Effluents of Direct Dischargers
C. Toxic Pollutants Detected in Treated Effluents of Direct Dischargers: (1) From a Small Number of Sources, (2) Detected in Only Trace Amounts or (3) Sufficiently Controlled by Existing Technologies
D. Toxic Pollutants Not Detected in the Effluent of Indirect Dischargers
E. Toxic Pollutants Detected in the Effluent of Indirect Dischargers Whose Toxicity and Amount (Taken Together) Is So Insignificant as Not To Justify Developing Pretreatment Regulations

I. Legal Authority

This regulation is being promulgated under the authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.,* as amended by the Clean Water Act of 1977, Pub. L. 95–217), also called "the Act." It is also being promulgated in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train,* 8 ERC 2120 (D.D.C. 1976), *modified,* 12 ERC 1833 (D.D.C. 1979), modified by Orders dated October 26, 1982, and August 2, 1983.

II. Scope of This Rulemaking and Prior Regulations

A. Prior Regulations

EPA promulgated interim final BPT regulations for the pharmaceutical manufacturing point source category on November 17, 1976 (41 FR 50676; 40 CFR Part 439, Subparts A–E). The five subcategories of the pharmaceutical industry (40 CFR Part 439) are:

- Subpart A—Fermentation Products Subcategory
- Subpart B—Extraction Products Subcategory
- Subpart C—Chemical Synthesis Products Subcategory
- Subpart D—Mixing/Compounding and Formulation Subcategory
- Subpart E—Research Subcategory

The 1976 BPT regulations set monthly limitations for five-day biochemical oxygen demand (BOD5) and chemical oxygen demand (COD) based on percent removals for all subcategories. No daily maximum effluent limitations were

established for these two parameters. The pH was set within the range of 6.0 to 9.0 standard units. The regulation also set maximum 30 day average total suspended solids (TSS) limitations for subcategories B, D, and E only. No TSS values were established for subcategories A and C. Subpart A (applicable to the fermentation operations subcategory) was amended (42 FR 6814) on February 4, 1977, to improve the language referring to separable mycelia and solvent recovery. In addition, the amendment allowed the inclusion of spent beers (broths) in the calculation of raw waste loads for Subpart A in those instances where the spent beer is actually treated in the wastewater treatment system. These regulations were never challenged and are presently in effect.

On November, 26, 1982, EPA proposed regulations applicable to the pharmaceutical manufacturing point source category (47 FR 53584). At that time, EPA: (a) Proposed to modify the existing BPT TSS effluent limitations for Subparts B, D, and E; (b) proposed BPT TSS effluent limitations for Subparts A and C; (c) proposed to modify the existing BPT COD effluent limitations for Subparts A, B, C, D, and E; (d) proposed BPT cyanide effluent limitations for Subparts A, B, C, and D; and (e) proposed BAT and BCT effluent limitations, NSPS, PSES, and PSNS to apply uniformly to subcategories A, B, C, and D. EPA did not propose to establish regulations controlling other toxic pollutant discharges from pharmaceutical research for the reasons discussed in Section VII of this preamble (Pollutants and Subcategories Not Regulated).

With the few exceptions discussed below, the Agency is not modifying the previously promulgated BPT limitations for Subparts A through E. However, in order to publish a complete set of all applicable requirements, the BPT limitations already in effect are reprinted in today's rule. Existing BPT limitations not modified in today's rulemaking are not subject to legal challenge.

B. Scope of this Rulemaking

This final regulation, which was proposed on November 26, 1982 (47 FR 53584), establishes effluent limitations guidelines and standards for existing and new pharmaceutical manufacturing facilities. Pharmaceutical manufacturers use many different methods and raw materials to create a wide range of products. These products include medicinal and feed grades of all organic chemicals having therapeutic value, whether obtained by chemical synthesis, by fermentation, by extraction from naturally occurring plant or animal substances, or by refining a technical grade product.

The pharmaceutical products, processes, and activities covered by this proposal include:

a. Biological products covered by the U.S. Department of Commerce, Bureau of the Census Standard Industrial Classifications (SIC) Code No. 2831.

b. Medicinal chemicals and botanical products covered by SIC Code No. 2833.

c. Pharmaceutical products covered by SIC Code No. 2834.

d. All fermentation, biological, and natural extraction, chemical synthesis, and formulation products which are considered as pharmaceutically active ingredients by the Food and Drug Administration, but are not covered by SIC Code Nos. 2831, 2833, or 2834. (Also, products of these types such as citric acid which are not regarded as pharmaceutical active ingredients will be included if they are manufactured by a pharmaceutically manufacturer by processes, and result in wastewaters, which closely correspond to those of a pharmaceutical product.)

e. Cosmetic preparation covered by SIC Code No. 2844 which function as a skin treatment. (This group of preparations does not include products such as lipsticks or perfumes which serve to enhance appearance or to provide a pleasing odor, but do not provide skin care. In general, this also excludes deodorants, manicure preparations, and shaving preparations which do not primarily function as a skin treatment.)

f. Products with multiple end uses which are attributable to pharmaceutical manufacturing as a final pharmaceutical product, component of a pharmaceutical formulation, or pharmaceutical intermediate. Products which have non-pharmaceutical uses may also be covered entirely by this point source category provided that the product(s) was (were) primarily intended for use as a pharmaceutical.

g. Pharmaceutical research which includes biological, microbiological, and chemical research, product development, clinical and pilot plant activities. (This does not include farms which breed, raise, and/or hold animals for research at another site. This also does not include ordinary feedlot or farm operations utilizing feed which contains pharmaceutically active ingredients.)

A number of products and/or activities such as surgical and medical instruments and medical laboratory activity are not part of the pharmaceutical manufacturing category. A descriptive listing of the products and/or activities which are specifically excluded from the pharmaceutical manufacturing category may be found in Section II of the *Development Document for Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Pharmaceutical Manufacturing Point Source Category.*

EPA is promulgating BPT and BAT effluent limitations, NSPS, and pretreatment standards for existing and new sources (PSES and PSNS, respectively) for the pharmaceutical manufacturing point source category. Concurrent with this regulation, EPA is proposing NSPS to control the discharge of two conventional pollutants (BOD5 and TSS) from the pharmaceutical plants. As explained below, EPA will not establish BCT limitations for the pharmaceutical industry until promulgation of the general methodology for determining appropriate levels of conventional pollutant control under BCT. We are also postponing a final decision on BAT limitations and NSPS for the nonconventional pollutant COD.

III. Summary of Legal Background

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," Section 101(a). To implement the Act, EPA was to issue effluent limitations guidelines, pretreatment standards, and new source performance standards for industrial dischargers.

The Act included a timetable for issuing these standards. However, EPA was unable to meet many of the deadlines and, as a result, in 1976, it was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the court. This agreement required EPA to develop a program and adhere to a schedule for controlling 65 "priority" pollutants and classes of pollutants. In carrying out this program, EPA must promulgate BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 21 major industries. See *Natural Resources Defense Council, Inc.* v *Train,* 8 ERC 2120 (D.D.C. 1976), *modified,* 12 ERC 1833 (D.D.C. 1979), modified by Orders dated October 26, 1982, and August 2, 1983. The 65 toxic pollutants and classes of pollutants potentially include thousands of specific pollutants. EPA selected 129 specific

toxic pollutants for study in this rulemaking and other industry rulemakings. Since initiation of this rulemaking effort, three toxic pollutants have been removed from the list of 129 toxic pollutants: Dichlorodifluoromethane, trichlorofuloromethane, and bis-chloromethyl ether (46 FR 2266 and 46 FR 10723).

Many of the basic elements of the Settlement Agreement were incorporated into the Clean Water Act of 1977. Like the Agreement, the Act stressed control of toxic pollutants, including the 65 "priority" pollutants. In addition, to strengthen the toxic control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" (BMPs) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

Under the Act, the EPA is to set a number of different kinds of effluent limitations. These are discussed in detail in the preamble to the proposed regulation and in the Development Document. They are summarized briefly below:

1. *Best Practicable Control Technology (BPT).* BPT limitations are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the industry or subcategory for control of familiar (i.e., classical) pollutants.

In establishing BPT limitations, we consider the total cost of applying the technology in relation to the effluent reduction derived, the age of equipment and facilities involved, the processes employed, process changes required, engineering aspects of the control technologies, and nonwater quality environmental impacts (including energy requirements). We balance the total cost of applying the technology against the effluent reduction.

2. *Best Available Technology (BAT).* BAT limitations, in general, represent the best existing performance in the industrial subcategory or category. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic and nonconventional pollutants to waters of the United States.

In arriving at BAT, the Agency considers the age of the equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, the cost of achieving such effluent reduction, and nonwater quality environmental impacts. The Agency retains considerable discretion in assigning the weight to be accorded these factors.

3. *Best Conventional Pollutant Control Technology (BCT).* The 1977 Amendments to the Clean Water Act added Section 301(b)(2)(E), establishing "best conventional pollutant control technology" (BCT) for discharge of conventional pollutants from existing industrial point sources. Section 304(a)(4) designated the following as conventional pollutants: BOD, TSS, fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as "conventional" on July 30, 1979 (44 FR 4450).

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in Section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F. 2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA had argued that a second cost test was not required.)

A revised methodology for the general development of BCT limitations was proposed on October 29, 1982 (47 FR 49176). BCT limits for this industry are accordingly deferred until promulgation of the final methodology for BCT development.

4. *New Source Performance Standards (NSPS).* NSPS are based on the best available demonstrated technology (BDT). New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies.

5. *Pretreatment Standards for Existing Sources (PSES).* PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTW). They must be achieved within three years of promulgation. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. EPA has generally determined that there is pass through of pollutants if the nationwide average percentage of pollutants removed by a well operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system. The General Pretreatment Regulation, which serves as the framework for categorical pretreatment regulations, is found at 40 CFR Part 403.

6. *Pretreatment Standards for New Sources (PSNS).* Like PSES, PSNS are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of a POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate in their plant the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating PSES.

IV. Methodology and Data Gathering Efforts

The methodology and data gathering efforts used in developing the proposed regulations were summarized in the preamble to the proposed pharmaceutical manufacturing industry regulations (47 FR 53584, November 26, 1982). In summary, before publishing the proposed regulation, the Agency conducted a data collection, analytical screening, and analytical verification program for the pharmaceutical industry. This program stressed the acquisition of data on the presence and treatability of the 129 toxic pollutants and classes of toxic pollutants discussed previously.

Based on the results of that program, comments on the proposed regulations, and additional data gathered or submitted since proposal, EPA identified several distinct control and treatment technologies that are in use or are capable of being used to treat pharmaceutical wastewaters. For each of these technologies, the Agency: (i) Compiled and analyzed historical and newly-generated data on effluent quality; (ii) identified the reliability and constraints; (iii) considered the non-water quality environmental impacts (including impacts on air quality, solid

waste generation, and energy requirements); and (iv) estimated the costs and economic impacts of applying the technology as a treatment and control system. Costs and economic impacts of the technology options considered are discussed in detail in *Economic Analysis of Effluent Standards and Limitations for the Pharmaceutical Industry* (U.S. EPA, September 1983). A more complete description of the Agency's study methodology, data gathering efforts, and analytical procedures supporting the regulation can be found in the *Development Document for Effluent Limitations Guidelines, New Source Performance Standards, and Pretreatment Standards for the Pharmaceutical Manufacturing Point Source Category* (U.S. EPA, September 1983).

To allow the Agency to respond fully to comments on the proposed rules, the Agency engaged in additional data gathering activities after November of 1982. A major effort involved gathering information on the presence and variability of toxic volatile organics (TVOs) in pharmaceutical raw wastes and treated effluents. In this regard, EPA obtained additonal data on the percentages of process wastewater discharges that are contaminated with TVOs and on the levels of TVOs contained in the contaminated waste streams. To broaden our data base on pass through of TVOs, we also sampled a publicly owned treatment works (POTW) receiving pharmaceutical discharges. The Agency also identified pharmaceutical plants where steam stripping or related technologies are employed and sampled a steam stripper and flash tank used to remove TVOs. EPA incorporated this additonal information into our existing data base and used the expanded data base to reach decisions on regulation of TVO discharges from the pharmaceutical industry.

In some cases, industry comments on our proposed regulations included effluent data on the discharge of toxic, nonconventional, and conventional pollutants. However, these data were often provided in a format that did not allow for proper analysis by the Agency. In those instances, we requested additional information in a format that would allow us to include the data when developing the final regulations.

Detailed discussions of the results of these additional data gathering efforts can be found below and in the final Development Document.

V. Summary of Promulgated Regulations and Changes From Proposal

The final regulations issued today differ from the proposed regulations. The changes are the result of the Agency's review of comments on the proposal and our analysis of additional information obtained to respond to comments. The following includes a review of the proposed regulation, a summary of the changes from proposal to promulgation, and an explanation of the changes.

In brief, EPA is promulgating BPT effluent limitations controlling the discharge of TSS from plants covered under regulations for subcategories A and C and is modifying existing BPT BOD5, COD, and TSS effluent limitations for subcategories B, D, and E. We are also establishing BPT and BAT effluent limitations guidelines, NSPS, PSES, and PSNS controlling cyanide discharges from pharmaceutical plants.

Concurrent with this regulation, EPA is proposing NSPS to control the discharge of two conventional pollutants (BOD5, and TSS) from new pharmaceutical plants.

A. Subcategorization

On November 26, 1982, we proposed to exclude the research-only subcategory (E) from all but BPT regulations. We also collapsed the remaining four subcategories (fermentation—subcategory A, extraction—subcategory B, chemical synthesis—subcategory C, and formulation—subcategory D) into one subcategory for which one set of BAT limitations, NSPS, PSNS, and PSES were proposed.

We received no comments on the exclusion of the research only subcategory from further regulation under BAT, NSPS, PSES, and PSNS. Therefore, for the reasons discussed later in this preamble (see Section VII Pollutants and Subcategories Not Regulated), we have excluded the research only subcategory from development of further regulations beyond BPT.

A number of commenters objected to the proposed establishment of one pharmaceutical subcategory consisting of fermentation, chemical synthesis, extraction, and formulation plants. They explained that there was no need to change the 1976 BPT subcategorization scheme. They maintained that high raw waste generating facilities (fermentation and chemical synthesis plants) should be regulated on a different basis than low raw waste generating facilities (extraction and formulation plants). We received no comments supporting the proposed change in the subcategorization scheme.

In comments on the proposal, the Agency received new plant data which was added to the existing data base. We analyzed data on influent and effluent characteristics of all direct dischargers to determine if the proposed change in subcategorization was appropriate. Our analysis of the most recent data indicate that the subcategorization scheme for this industry should separate fermentation and chemical synthesis plants (subcategory A and C plants) from extraction and formulation plants (subcategory B and D plants). Specifically, our analyses show that usually the influent and effluent conventional pollutant and COD concentrations and discharge flows of subcategory A and C plants are similar; we also found that these characteristics for subcategory B and D plants are similar. However, we found that the characteristics of the subcategory A and C plant group are not similar to the corresponding characteristics of the subcategory B and D plant group. Our analyses indicate that toxic pollutant loads are similar for all four subcategories.

We are also aware that permitting authorities and the regulated industry are familiar with the original subcategorization scheme and the format of the Code of Federal Regulations. Therefore, the Agency has decided to maintain the existing BPT subcategorization scheme. However, because conventional pollutant raw waste characteristics are similar for subcategory A and C plants, conventional pollutant limitations and standards for those plants should be identical. For the same reason, conventional pollutant limitations and standard for subcategory B plants should be identical to those for subcategory D plants. A more detailed discussion of the industry subcategorization scheme can be found in Section IV of the Development Document.

B. BPT for BOD5, TSS, and COD

The Agency proposed a BPT TSS limitation for all subcategories of plants based on a long-term average concentration of 75 mg/l. This limitation was intended to replace the overly stringent BPT TSS limitations for subcategory B, D, and E plants and to establish BPT TSS limitations for A and C subcategory plants. The original overly stringent BPT TSS limitations were based on data from two plants whose operations were not characteristic of the entire range of

operations employed at plants in the B, D, and E subcategories.

One commenter stated that a single number concentration limit for TSS is not appropriate for high raw waste load plants but may be appropriate for low raw waste load plants.

The existing BPT regulations, which are based on the application of biological treatment, require that each pharmaceutical plant, regardless of subcategory, achieve a 90 percent reduction in BOD*5*. A single number concentration limit for TSS is not consistent with our BPT percent reduction BOD*5* limitations, which when converted to long-term average BOD*5* effluent concentrations, vary from plant to plant over a wide range (e.g., from about 15 mg/l to almost 400 mg/l). A single number TSS limitation would require some plants to install more advanced treatment than that technology identified as BPT. It would also mean that low raw waste load plants would be able to operate their treatment systems inefficiently and still comply with the proposed single number limitation. After analyzing all available data, the Agency found that effluent TSS concentrations from biological treatment systems usually are greater than corresponding effluent BOD*5* concentrations. We found that the median ratio of effluent TSS concentrations to effluent BOD*5* concentrations after biological treatment is 1.7 for both the subcategory A and C and the subcategory B and D plant groups. Consequently, the Agency is finalizing BPT TSS limitations for all five subcategories which are equal to a multiple of 1.7 times the existing BPT BOD*5* limitations.

The Agency also proposed alternative concentration-based BOD*5* and COD BPT limitations for all subcategories. These proposed revisions to BPT were necessitated by the Agency's decision not to change the existing percent reduction-based BPT limitations even though the proposed BCT and BAT limitations were concentration based. Without the proposed modification in BPT BOD*5* and COD limitations, some plants would have had concentration-based BCT and BAT limitations that were less stringent than the percent reduction-based BPT limitations. This condition would have been inconsistent with the requirements of the Clean Water Act. No comments were received on these alternative limitations.

The Agency has reviewed the available influent and effluent BOD*5* and COD data in the light of our decision to use the original BPT subcategorization scheme. As a result, the Agency is finalizing alternative BOD*5* and COD concentration-based limitations for subcategories B, D, and E. Although we are not yet promulgating final BCT limitations for BOD*5* or BAT limitations for COD, available data indicate that the alternative BOD*5* and COD limitations are appropriate for these subcategories for another reason. These alternative limitations establish minimum concentration levels consistent with EPA's assessment of a realistic estimate of the lowest attainable long-term average BOD*5* and COD concentrations representative of the capability of the best practicable control technology currently available in treating pharmaceutical industry wastewaters. Such alternative limitations are not necessary for subcategory A or C because available data indicate that raw waste loads are sufficiently high at chemical synthesis and fermentation plants that limitations as low as the alternative limitations established for subcategories B, D, and E would not be required under BPT.

C. BPT and BAT Effluent Limitations, NSPS, PSES and PSNS for Cyanide

The Agency proposed BPT and BAT effluent limitations guidelines, NSPS, PSES, and PSNS based on in-plant cyanide destruction and biological treatment. These proposed limitations and standards assumed that monitoring would occur at the end-of-pipe. Proposed PSES would have required compliance by July 1, 1984. At proposal, the Agency requested additional data on the performance of cyanide destruction technology in the pharmaceutical industry.

One commenter stated that the proposed cyanide limitations and standards were not sufficiently representative of the production cycle of the industry because the data which were used to derive the limits were obtained during a period of less than normal production. The commenter, at a later date, submitted three additional sets of data to cover periods of normal production. Another commenter complained that a PSES compliance date of July 1, 1984, would be prohibitively difficult to achieve and suggested that the Agency establish a compliance date of three years after promulgation as authorized by the Clean Water Act.

The new data measured both the performance of in-plant cyanide destruction systems directly and the combination of in-plant and biological treatment. EPA is finalizing BPT and BAT effluent limitations guidelines, NSPS, PSES, and PSNS for cyanide based on these new submissions. The regulations include provisions for monitoring either in-plant after cyanide destruction or end-of-pipe.

Section 307(b)(1) provides that PSES shall specify a time for compliance, not to exceed three years from the date of promulgation. This does not create a presumption that three years will necessarily be allowed. However, the Agency has reviewed information on the installation of cyanide destruction technology at pharmaceutical plants. The readjustment of internal processing conditions to segregate contaminated waste streams may require more time than for only the installation of end-of-pipe treatment equipment. Additionally, plants in this and other industries will be installing the treatment equipment suggested as the model technology for this regulation; this may result in delays in engineering, ordering, installing, and operating this equipment. For the above reasons, EPA decided to specify the date for compliance with pharmaceutical industry PSES as three years from the promulgation date of final PSES for cyanide.

D. BAT Effluent Limitations, NSPS, PSES, and PSNS for Toxic Volatile Organics (TVOs)

Toxic volatile organics (TVOs) are those priority pollutants that are readily purged from water because of their high volatility. Many of these compounds are used as industrial solvents. Methylene chloride, benzene, toluene, and chloroform are four toxic volatile organics that are used as solvents in the manufacture of pharmaceutical products.

1. *Direct Dischargers: BAT/NSPS.* At proposal, methylene chloride and all other toxic volatile organics were recommended for exclusion from direct discharger regulations (BAT and NSPS) under the provisions of paragraph 8 of the Settlement Agreement. With the exception of methylene chloride, three has been no change in our rationale for not establishing effluent limitations guidelines and standards for the TVOs. In the case of methylene chloride, we stated that dischargers were controlled by effluent limitations reflecting the best practicable control technology currently available. We received no comments on our proposed exclusion of this toxic pollutant. However, a reexamination of the existing information on the use and discharge of methylene chloride by direct discharging pharmaceutical plants indicates that, in fact, treatable levels of methylene chloride may remain even after the implementation of BPT (i.e., biological treatment).

Available data show that in cases where the concentrations of methylene

chloride discharged to biological treatment systems are greater than 5 mg/l, treatable concentrations of methylene chloride remain in the effluent. Methylene chloride is used in about 15 percent of all fermentation, chemical synthesis, and extraction processes and to a lesser extent in formulation operations. Our data show that 15 of the 51 direct discharging pharmaceutical plants use methylene chloride in their manufacturing processes. For these reasons, we reconsidered our original paragraph 8 determination.

We considered establishing more stringent BAT effluent limitations guidelines for methylene chloride based on in-plant steam stripping technology in addition to biological treatment. This treatment technology would insure that only low effluent concentrations of methylene chloride would be discharged. However, we found that the costs of installing and operating steam strippers to control methylene chloride are not insignificant. We estimate that nine direct discharging plants would incur average capital and average total annual costs of $0.736 million and $0.712 million (1982 dollars), respectively, per plant. We estimate that the installation of steam stripping technology would reduce current discharge levels of methylene chloride by 60,700 pounds per year at these plants. This compares to the 651,000 pounds per year of methylene chloride that are now removed by biological treatment, the best practicable control technology currently available for this industry. We also determined that steam stripping technology is extremely energy intensive and would increase energy use at these nine direct dischargers by the equivalent of 94,300 barrels of oil per year. We project that the average methylene chloride removal cost resulting from the application of steam stripping technology would be $103 per pound, when assuming full value of the recovered solvent.

After considering the relative toxicity of this pollutant in light of these costs, and all the other factors, we have decided not to issue categorical regulations limiting methylene chloride discharges from the pharmaceutical industry based on the addition of treatment technology beyond biological treatment. We have also decided not to establish limitations based on biological treatment because they would not effect a further removal of methylene chloride. Another factor, while not directly a basis for these decisions, confirmed the reasonableness of the weight we accorded to cost and energy factors. We determined that much of the methylene chloride which would be removed by steam stripping will otherwise volatilize during biological treatment. Our data indicate that the volatilized methylene chloride will not be at levels which create a health risk.

Data on the capabilities of steam stripping and biological treatment technologies to reduce the discharge of methylene chloride and on the cost of installing and operating steam strippers to control toxic volatile organics is presented in Section VII of the Development Document. This information may be used by permit writers in developing permit limitations for methylene chloride on a case-by-case basis where necessary.

2. *Indirect Dischargers: PSES, PSNS.* At proposal, we stated that we were considering establishing pretreatment standards to control TVO discharges because available data indicated that pass through of TVOs occurs at POTWs. A standard of 1.2 mg/l for total toxic volatile organics was suggested in the preamble to the proposed rules, pending the availability of adequate supporting data on the performance of steam stripping technology.

One POTW and one State Agency commented that pretreatment standards contolling TVOs should be promulgated. Industry commenters questioned the need for TVO pretreatment standards in view of the low concentrations of toxic volatile organics in POTW effluents. They also questioned the achievability of a 1.2 mg/l discharge level with steam stripping technology.

In the proposed regulation, 17 TVOs were listed as possible candidates for regulation by pretreatment standards. After reexamining all of the available data, we have concluded that, with the exception of methylene chloride and chloroform, these pollutants should be excluded from regulation by the provisions of paragraph 8 of the Settlement Agreement. Thirteen of these pollutants have been excluded because their amount and toxicity, taken together, are so insignificant as not to justify developing uniformly applicable pretreatment regulations (see Appendix E). Of the remaining, there are two (benzene and toluene) which, while not as insignificant, nonetheless are unlikely to pass through POTWs.

To address the issue of pass through, EPA studied 50 well-operated POTWs that use biological treatment to determine the extent to which priority pollutants are reduced by such POTWs. In the case of benzene and toluene, the data indicate that direct discharger median percent reductions exceed POTW median percent reductions by less than 5 percent (100 percent for direct dischargers versus 99 percent for benzene and 97 percent for toluene at POTWs). In light of the fact that EPA had less data in the POTW studies on benzene and toluene than it had for some other pollutants and in light of the variability in analyzing samples for organic priority pollutants at the concentrations typically found in end-of-pipe biological systems at POTWs and pharmaceutical plants, EPA believes that differences of 5 percent or less between the direct discharger and POTW data for benzene and toluene are unlikely to reflect real differences in treatment efficiency. Therefore, EPA has determined that benzene and toluene do not pass through POTWs.

However, a potential interference problem could exist for these two toxic volatile organics because of a potential fire/explosion hazard. Benzene and toluene water mixtures have low flash points. Relatively small concentrations of these solvents in water mixtures (about 180 mg/l) can cause spontaneous combustion in the vapor space above the water mixture under certain conditions. Our latest information indicates that fire/explosions, while not impossible, are unlikely. Benzene and toluene levels above the minimum concentrations required to cause combustion have not been reported in discharges from plants in the pharmaceutical industry. Because pass through does not occur and interference is unlikely, there is no basis for establishing nationally applicable categorical pretreatment standards for benzene or toluene. However, under the general pretreatment regulation, 40 CFR 403.5, an individual POTW may establish pretreatment standards if benzene and toluene discharges from pharmaceutical users result in interference. Section VII of the Development Document contains suggested pretreatment standards for benzene and toluene, based on steam stripping, for consideration by POTWs establishing standards under § 403.5.

At direct discharging pharmaceutical manufacturing plants, chloroform is reduced to levels that are below its treatability through volatilization in biological treatment systems. Therefore, we have excluded chloroform from BAT regulations under the provisions of paragraph 8(a)(iii) of the Settlement Agreement. As for indirect dischargers, we have found that POTWs to which high concentrations of chloroform are discharged achieve high chloroform removal (greater than 95 percent). Therefore, POTWs receiving high

concentrations of chloroform as a result of pharmaceutical discharges are unlikely to experience pass through. For the above reasons, we have decided not to establish pretreatment standards controlling choloroform from indirect discharging pharmaceutical plants.

Through this process, the Agency determined that only methylene chloride was a candidate for national PSES and PSNS regulations. We found that the installation and operation of steam strippers to reduce methylene chloride discharges to POTWs by pharmaceutical plants would result in costs that are not insignificant. We estimate that 25 indirect discharging plants would incur capital and total annual costs of $0.748 million and $0.768 million (1982 dollars), respectively, per plant. We project that one indirect discharging pharmaceutical plant would close if required to install steam stripping technology. Steam strippers are also equally energy intensive at indirect discharging plants as at direct dischargers. We estimate that the operation of steam strippers at the 25 plants would increase energy usage by the equivalent of 315,000 barrels of oil per year. For these reasons and because we concluded that regulation of methylene chloride at direct dischargers is inappropriate, we decided not to establish categorical PSES and PSNS for methylene chloride.

Data on the capabilities of steam stripping technology to reduce the discharge of methylene chloride and on the cost of installing and operating steam strippers to control toxic volatile organics is presented in Section VII of the Development Document. This information may be used by municipalities in developing pretreatment standards for methylene chloride on a case-by-case basis where necessary.

E. New Source Performance Standards for Conventional Pollutants

On November 26, 1982, EPA proposed conventional pollutant new source performance standards that applied uniformly to subcategories A, B, C, and D. Proposed NSPS were based on advanced biological treatment (i.e., biological treatment systems with longer detention times than those considered as the basis of BPT). As discussed previously, we have determined that separate conventional pollutant limitations are appropriate for the subcategory A and C and the subcategory B and D plant groups. We have also identified four pharmaceutical plants where effluent filtration in addition to advance biological treatment is employed. Conventional pollutant discharges from these plants are significantly lower than from plants where only advanced biological treatment is employed. Consequently, the Agency is proposing NSPS based on effluent filtration in combination with advanced biological treatment. For a more detailed explanation of the basis of this decision, see the preamble to the proposed regulation that appears elsewhere in today's **Federal Register**.

F. BAT Limitations and NSPS for COD

The Agency proposed BAT COD concentration limitations that applied uniformly to subcategories A, B, C, and D based on the same technology identified as the best conventional pollutant control technology (BCT) (i.e., add-on biological treatment). NSPS to control COD were proposed based on advanced biological treatment.

One commenter suggested that limitations and standards should be written for specific compounds, if justifiable, rather than regulating additional pollutants through control of COD. Two industry commenters maintained that there are some chemical synthesis plants which have better than the proposed BCT treatment in-place that cannot meet the proposed limitations. Another commenter stated that it was inappropriate to propose COD limitations based on advanced biological treatment for substances which biodegrade slowly or not at all.

The concentrations of many materials that are measured as or contribute to COD are reduced in biological systems by biodegradation or by air stripping and sorption mechanisms; therefore, increased biological treatment system capacity can afford greater removal of these materials. There are some materials, however, that contribute to COD, such as dissolved inorganic salts and some organics, which pass through biological treatment systems without being biodegraded, air stripped, or absorbed. Available data indicate that even after biological treatment system expansion, many subcategory A and C plants would not meet the proposed COD limitations. Additional information on the identity of the pollutants that contribute to COD and on applicable COD removal technologies is required before we can evaluate COD control options. Therefore, the Agency is postponing a final decision on appropriate BAT limitations and NSPS for the nonconventional pollutant COD until a later date. We are continuing our investigation of appropriate COD removal technologies and their costs.

VI. Costs, Economic Impacts, Executive Order 12291, Regulatory Flexibility Analysis, and Small Business Administration (SBA) Loans

A. Cost and Economic Impact

The Agency's economic impact assessment of this regulation is presented in *Economic Analysis of Effluent Standards and Limitations for the Pharmaceutical Industry.* This report details the investment and annual costs for the industry as a whole and for plants covered by the final regulation. Plant costs are engineering estimates for the effluent control systems described in this preamble. The report assesses the impact of effluent control costs in terms of price changes, plant closures, employment effects, and balance of trade effects.

EPA has identified 466 pharmaceutical facilities that are covered by this regulation. An estimated 134 of these plants are zero dischargers and are not expected to incur costs. Of the remaining 332 discharging plants, EPA estimates that nine will incur total investment costs for BPT, BAT, and PSES of $1.47 million, with annual costs of $0.65 million, including depreciation and interest. These costs are expressed in 1982 dollars and are based on the determinations that plants will upgrade their existing treatment systems to comply with BPT, BAT, or PSES, as appropriate. No plant closures are projected as a result of compliance costs for this regulation and, hence, we expect no adverse employment effects on pharmaceutical manufacturing employees. The maximum price increase if all costs were passed on to consumers is less than 0.1 percent for the plants affected by the regulation. Balance of trade effects are nil.

In order to measure the potential economic impacts, a two-step analytical procedure was employed. First, the analysis determined whether a plant's compliance costs exceeded one percent of sales. If the costs did exceed one percent, then the analysis considered information on the firm's financial position, its size, the relative importance of its pharmaceutical line of business, patent protection, and other economic information relevant to assessing the likely impact of the regulation on a firm. If the firm is in a position to pass the costs on to the consumer, due to patent protection, for example, then it is assumed that prices would increase and the plant would remain in operation. If costs cannot be passed on, then based on the above information, a determination was made as to whether a plant might close, a production line

might shut down, or production might be shifted from one plant to another. For the reasons discussed below and after applying this economic impact methodology, the Administrator has determined that the costs of this regulation are justified.

1. *BPT.* BPT regulations for cyanide and TSS are expected to require expenditures at eight plants (cyanide destruction at four plants; TSS control at five plants, with one of these plants requiring both). Total investment and annual costs are estimated to be $1.05 million and $0.39 million, respectively (1982 dollars). The estimated change in price for the affected plants is less than 0.1 percent. No significant economic impacts are projected as a result of BPT.

2. *BAT.* Only cyanide is limited under BAT. Cyanide limits are the same as under BPT. Therefore, no incremental impacts are expected from implementation of BAT.

3. *PSES.* The standard is for the control of cyanide. Only one out of the 277 indirect discharging plants is expected to incur costs; the estimated capital and annual costs are $0.42 million and $0.26 million, respectively (1982 dollars). The expected price change is nil. No significant economic impacts are expected from the PSES cyanide regulation.

4. *NSPS and PSNS.* Only pH and cyanide are limited under NSPS. Since the pH and cyanide limits are the same as under BPT, no incremental impacts will result from implementation of final NSPS. NSPS controlling BOD_5 and TSS are being proposed today in a companion notice.

Regulations for indirect discharging new sources (PSNS) are the same as those for existing sources. Therefore, no incremental impacts are expected from implementation of PSNS.

B. Cost Effectiveness

EPA has conducted an analysis of the incremental removal cost per pound equivalent for each toxic pollutant control option. A pound equivalent is calculated by multiplying the number of pounds of pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the aquatic life water-quality criterion for a standard pollutant (copper), divided by the aquatic life water-quality criterion for the pollutant being evaluated. The use of "pound equivalent" gives relatively more weight to removal of more highly toxic pollutants. Thus for a given expenditure, the cost per pound equivalent removal would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed. This analysis is included in the record of this rulemaking in a document titled "Cost Effectiveness Analysis of Effluent Standards and Limitations for the Pharmaceutical Industry."

C. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules are those which impose an annual cost on the economy of $100 million or more or have certain other economic impacts. This regulation is not a major rule because its annualized cost is less than $100 million and it meets none of the other criteria specified in Section I, paragraph (b) of the Executive Order. The economic impact analysis prepared for this rulemaking satisfies the requirement of the Executive Order for a non-major rule.

D. Regulatory Flexibility Analysis

Pub. L. 96–354 requires EPA to prepare an *Initial Regulatory Flexibility Analysis* for all regulations that have a significant impact on a substantial number of small entities. This analysis may be conducted in conjunction with or as part of other Agency analyses.

Since no firms in the data base are projected to experience significant economic impacts, there is no disproportionate burden on small businesses; therefore, a formal Regulatory Flexibility Analysis is not required.

E. SBA Loans

The Agency is continuing to encourage small pharmaceutical manufacturers to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Section 503 Program; (2) the Regular Guarantee Program; and (3) the Guaranteed Pollution Control Bond Program. All the SBA loan programs are open only to businesses that have: (a) Net assets less than $6 million; (b) an average annual after-tax income of less than $2 million; and (c) fewer than 250 employees. The estimated economic impacts for this point source category do not include consideration of financing available through these programs.

The Section 503 Program, as amended in July 1980, allows long-term loans to small and medium sized businesses. These loans are made by SBA approved local development companies. For the first time these companies are authorized to issue Government-backed debentures that are bought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee and Section 503 Programs, contact your district or local SBA Office. The coordinator at EPA headquarters is Ms. Frances Desselle who may by reached at (202) 382–5373.

For further information and specifics on the Guaranteed Pollution Control Bond Program contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203; (703) 235–2902.

VII. Pollutants and Subcategories Not Regulated

Paragraph 8 of the modified Settlement Agreement, approved by the District Court for the District of Columbia on March 9, 1979 (12 ERC 1833), contains provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories.

A. Pollutants Excluded

Paragraph 8(a)(iii) of the modified Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detected by Section 304(h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected in the effluents of direct discharging pharmaceutical plants and, therefore, excluded from regulation in this industry, are listed in Appendix B of this notice.

Paragraph 8(a)(iii) also allows exclusion of pollutants that are: (1) Detected in the effluent from a small number of sources and uniquely related to those sources; (2) detected in only trace amounts not likely to cause toxic effects; (3) sufficiently controlled by existing technologies; or (4) detected in amounts too small to be effectively controlled by technologies known to the Administrator. Thirty-four different toxic pollutants were found in the effluent of direct discharging pharmaceutical plants during the screening and verification program. Twenty-four of these pollutants (toxic metals and volatile organics) were found at treatable levels only in a small number of instances. In those instances, these levels were attributable to manufacturing activities that are uniquely related to the plants sampled. Another eight toxic pollutants (some phenols and phthalates) were found at or below the treatability limit concentrations determined for existing physical-chemical treatment methods by studies conducted on wastewater from

several industry categories. The 32 pollutants are listed in Appendix C to this notice along with the particular reason for excluding them from regulation. The two remaining toxic pollutants detected in the effluent of direct discharging pharmaceutical plants are cyanide and methylene chloride. EPA is establishing BPT and BAT limitations and NSPS controlling the discharge of cyanide. For the reasons discussed above, EPA is not regulating the discharge of methylene chloride from direct discharging pharmaceutical plants.

Paragraph 8(b)(ii) of the Settlement Agreement authorizes the Administrator to exclude from nationally applicable pretreatment standards a subcategory or category if the toxicity and amount of incompatible pollutants (taken together) introduced by such point sources into POTWs is so insignificant as not to justify developing a national pretreatment regulation. EPA has reviewed available data from indirect dischargers and is excluding the 123 toxic pollutants listed in Appendices D and E from nationally applicable pretreatment standards. Appendix D lists those toxic pollutants not detected in the effluents of indirect dischargers. Appendix E lists those toxic pollutants which, although detected, were not significant enough, in terms of toxicity and amount of incompatible pollutants (taken together), to justify nationally applicable pretreatment standards. EPA is establishing PSES and PSNS controlling the discharge of cyanide. For the reasons discussed previously, EPA is not establishing nationally applicable pretreatment standards for methylene chloride or chloroform.

B. Subcategories Excluded

The Settlement Agreement did not require EPA to regulate the entire pharmaceutical industry. Subcategory E, Pharmaceutical Research, is not mentioned in the Settlement Agreement. Since pharmaceutical research does not involve production and wastewater generation in appreciable quantities on a regular basis, EPA now considers this subcategory outside the province of ordinary industrial guidelines development. Therefore, facilities which conduct pharmaceutical research only are specifically excluded from all limitations and standards in this regulation other than the BPT limitations. Research activities conducted at mixed and single subcategory plants (A, B, C, and D only) will be covered by this regulation because the wastewaters from these activities were studied as part of the technical development of this regulation. However, these activities contribute a very small portion of wastewater to the final effluent of the average production facility.

VIII. Non-Water Quality Aspects of Pollution Control

Eliminating or reducing one form of pollution may cause other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of these regulations on air pollution, solid waste generation, and energy consumption. This regulation was reviewed by EPA personnel responsible for non-water quality programs. While it is difficult to balance pollution problems against each other and against energy use, EPA believes that this regulation will best serve often competing national goals.

The following non-water quality environmental impacts (including energy requirements) are associated with the final regulations. The Administrator has determined that the impacts identified below are justified by the benefits associated with compliance with the limitations and standards.

A. Solid Waste

EPA estimates that the total solid waste generated to attain the new BPT TSS limitations will be approximately 138,000 additional pounds per year of wastewater treatment sludge. This is equal to an incremental increase of about 0.3 percent over that currently generated by the pharmaceutical industry to meet existing BPT BOD5 limitations. The solid wastes generated through wastewater treatment at pharmaceutical plants have not been listed as hazardous in regulations promulgated by the Agency under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (see 45 FR 33066; May 19, 1980). Accordingly, it does not appear likely that the wastewater sludges generated by pharmaceutical plants under the new BPT TSS limitations will be subject to the comprehensive RCRA program establishing requirements for persons handling, transporting, treating, storing, and disposing of hazardous wastes. The Agency's estimates of the costs of this regulation include the cost of handling these sludges as a non-hazardous waste.

No sludge will be generated as a result of complying with the final pretreatment standards, NSPS, or the BPT and BAT effluent limitations for cyanide.

B. Air Pollution

EPA does not believe that cyanide removal mechanisms will cause the generation of air pollutants; additionally, we do not anticipate that compliance with the modified and new BPT TSS limitations will result in the generation of additional air pollution from pharmaceutical plants.

C. Energy Requirements

EPA estimates that the achievement of the cyanide and the new modified TSS BPT effluent limitations will increase energy consumption by approximately 0.01 percent of present facility use for all plants. We estimate that compliance with PSES to control cyanide discharges to POTWs will increase over-all energy use by 0.07 percent at the affected indirect discharging pharmaceutical plant. Because BAT limitations and NSPS for cyanide are identical to BPT cyanide limitations and because PSNS are identical to PSES, there will be no incremental increase in energy usage resulting from compliance with BAT effluent limitations, NSPS, or PSNS.

IX. Best Management Practices

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe what have been termed "best management practices" (BMPs). The Agency is not promulgating BMPs for the pharmaceutical industry at this time. However, the existing BPT regulation requires that separable mycelia and solvents not be included in the raw waste load calculations that form the basis of determinations of BPT effluent limitations for BOD5 and COD. (*See* 40 CFR Part 439; 41 FR 50676, November 17, 1976). This rulemaking does not change this requirement.

X. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is an unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision is necessary in EPA's effluent limitations because such upsets will inevitably occur even in properly operated control equipment. Because technology-based limitations are to require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have disagreed on whether an explicit upset

or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Company* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle, supra*, and *Corn Refiners Association, et al.* v. *Costle*, No. 78–1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International Inc.* v. *Train*, 540 F.2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; however, a bypass is an act of intentional noncompliance during which wastewater treatment facilities are circumvented in emergency situations. We have, in the past, included bypass provisions in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits and has promulgated NPDES regulations which include upset and bypass permit provisions. (*See* 40 CFR 122.41, 45 FR 14166 (April 1, 1983).) The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the pharmaceutical manufacturing industry will be entitled to the upset and bypass provisions incorporated into NPDES permits, this regulation does not address these issues.

XI. Variances and Modifications

The BPT and BAT effluent limitations and NSPS contained in this regulation must be applied in all Federal and State NPDES permits issued to direct dischargers in the pharmaceutical industry. In addition, the pretreatment standards are directly applicable to any indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. (*See E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra.*) This variance recognizes factors concerning a particular discharger which are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973 to 1976 regulations for specific industries, it is now included in the general NPDES regulations and will not be included in the specific pharmaceutical industry regulations. (*See* the NPDES regulations at 40 CFR Part 125, Subpart D.) The BAT limitations in this regulation are also subject to EPA's "fundamentally different factors" variance.

Indirect discharges subject to PSES and PSNS are eligible for credits for toxic pollutants removed by POTWs. See 40 CFR 403.7; 48 FR 9404 (January 28, 1981). New sources are not eligible for any other statutory or regulatory modification. See *E. I. duPont de Nemours & Co.* v. *Train, supra.*

Indirect dischargers subject to PSES have, in the past, been eligible for the "fundamentally different factors" (FDF) variance. See 40 CFR 403.13. However, on September 20, 1983, the U.S. Court of Appeals for the Third Circuit held that "FDF variances for toxic pollutants are forbidden by the Act," and remanded § 403.13 to EPA. *National Association of Metal Finishers, et al.* v. *EPA*, Nos. 79–2256 *et al.* (3d Circuit, September 20, 1983). EPA is considering the effect of that decision.

In a few cases, information which would affect these PSES may not have been available to EPA or affected parties in the course of this rulemaking. As a result, it may be appropriate to issue specific categorical standards for such facilities, treating them as a separate subcategory with more, or less, stringent standards as appropriate. This will only be done if a different standard is appropriate because of unique aspects of the factors listed in Section 304(b)(2)(B) of the Act: the age of equipment and facilities involved, the process employed, the engineering aspects of applying control techniques, non-water quality environmental impacts (including energy requirements), or the cost of required effluent reductions (but not of ability to pay that cost).

Indirect dischargers and other affected parties may petition the Administrator to examine those factors and determine whether these PSES are properly applicable in specific cases or should be revised. Such petitions *must* contain specific and detailed support data, documentation, and evidence indicating why the relevant factors justify a more, or less, stringent standard, and must also indicate why those factors could not have been brought to the attention of the Agency in the course of this rulemaking. The Administrator will consider such rulemaking petitions and determine whether a rulemaking should be initiated.

XII. Implementation of Limitations and Standards

A. Relationship to NPDES Permits

The BPT and BAT limitations and NSPS in this regulation will be applied to individual pharmaceutical plants through NPDES permits issued by EPA or approved state agencies, under Section 402 of the Act. As discussed in the preceding section of this preamble, these limitations must be applied in all Federal and State NPDES permits except to the extent that variances and modifications are expressly authorized. Other aspects of the interaction between these limitations and NPDES permits are discussed below.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit-issuing authorities. The promulgation of this regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit such pollutant on a case-by-case basis when limitations are necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit issuing authority.

A second topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which were considered in developing this regulation. We emphasize that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. We have exercised and intend to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts.

B. Indirect Dischargers

For indirect dischargers, PSES and PSNS are implemented under National Pretreatment Program procedures outlined in 40 CFR 403. The table below may be of assistance in resolving questions about the operation of that program. A brief explanation of some of the submissions indicated on the table follows.

A "request for category determination" is a written request, submitted by an indirect discharger or its POTW, for a determination of which categorical pretreatment standard

applies to the indirect discharger. This assists the indirect discharger in knowing which PSES or PSNS limits it will be required to meet. See 40 CFR 403.6(a).

A "baseline monitoring report" is the first report an indirect discharger must file following promulgation of an applicable standard. The baseline report includes an identification of the indirect discharger, a description of its operations, a report on the flows of regulated streams and the results of sampling analyses to determine levels of regulated pollutants in those streams, a statement of the discharger's compliance or noncompliance with the standard, and a description of any additional steps required to achieve compliance. See 40 CFR 403.12(b).

A "report on compliance" is required of each indirect discharger within 90 days following the date for compliance with an applicable categorical pretreatment standard. The report must indicate the concentration of all regulated pollutants in the facility's regulated process wastestreams; the average and maximum daily flows of the regulated streams; and a statement of whether compliance is consistently being achieved, and if not, what additional operation and maintenance and/or pretreatment is necessary to achieve compliance. See 40 CFR 403.12(d).

A "periodic compliance report" is a report on continuing compliance with all applicable categorical pretreatment standards. It is submitted twice per year (June and December) by indirect dischargers subject to the standards. The report shall provide the concentrations of the regulated pollutants in its discharge to the POTW, the average and maximum daily flow rates of the facility, the methods used by the indirect discharger to sample and analyze the data, and a certification that these methods conform to the methods outlined in the regulations. See 40 CFR 403.12(e).

INDIRECT DISCHARGES SCHEDULE FOR SUBMITTAL AND COMPLIANCE

Item [illegible]	Applicable sources	Date or time period	Measured	Item submitted to
Request for category determination.	Existing	60 days	From effective of standard, or from Development document availability.	Director.[1]
Baseline monitoring report	New [illegible]	([2]) 180 days	From effective date of standard or Final decision on category determination.	Control authority.[3]
Report on compliance	Existing New	90 days 90 days	From date for final compliance From commencement discharge to POTW.	Control authority.[3]
Periodic compliance reports	All	June and [illegible]		Control authority.[3]

[1] Director = (a) Chief Administrative Officer of a State water pollution control agency with an approved pretreatment program; or (b) EPA Regional Water Division Director, if State does not have an approved pretreatment program.
[2] Prior to commencement of discharge to POTW.
[3] Control Authority = (a) POTW if its pretreatment program has been approved; or (b) Director of State water pollution control agency with an approved [illegible] program or (c) EPA Regional Administrator, if State does not have an approved pretreatment program.

XIII. Public Participation—Responses to Major Comments

Numerous agencies and groups have participated in this study of the pharmaceutical industry. The Agency solicited comments on the proposed rules and on the Development Document and the economic analysis supporting the proposal.

The comment period ended on January 25, 1983. Comments were submitted by one trade association, 11 individual companies, one state agency, two municipalities, and one engineering consultant representing industrial clients.

The Agency held a public hearing on the proposal on January 17, 1983, in Washington D.C. A Technical Workshop was held on January 18, 1983, in Washington, D.C.

Individual public comments received on the proposed regulation and our responses are presented in a report, "Summary of Comments and Responses on the November 1982 Proposed Regulations for the Pharmaceutical Industry," September 1982, which is part of the public record of this rulemaking. A summary of the major comments that are not discussed elsewhere in this preamble and the Agency's responses follow.

1. *Comment:* Effluent limitations should be in the form of treatment removal efficiencies or mass limits of pollutants with concentration limitations being required only in specific cases at the discretion of the local permit writer where the receiving water quality may be a limiting factor.

Response: Effluent limitations guidelines can be in the form of percent reduction, concentration, or production-based mass limitations. Limitations can be based solely on the performance of applicable treatment technologies. However, when the available production data for an industrial category or subcategory can be correlated with pollutant discharges, EPA can develop mass limitations based on both treatment technology performance and production. This latter approach, however, is not appropriate for the pharmaceutical manufacturing point source category because of the large number of different products involved, the constantly changing nature of the product mix, and the lack of an established correlation between pollutant discharge and production. The development of percent reduction limitations requires that influent as well as effluent data descriptive of treatment technology performance be available whereas concentration limitations require only that effluent data be available. Oftentimes, influent data relating to treatment system performance is either not available or is considerably less extensive and descriptive than the effluent data. Both of these considerations influenced the Agency's decision to propose concentration-based limitations for the pharmaceutical industry.

Effluent limitations guidelines whether in the form of percent reduction, concentration, or production-based mass limits are to be used by NPDES permit writers in developing minimum permit requirements. Generally, effluent limitations are converted into mass limitations by permit writers. Permit writers may incorporate more stringent limits such as those required by water quality considerations, but in no case may the permit limits be less stringent (i.e., allow a greater pollutant discharge) than those that are indicated by an applicable technology-based effluent limitations guideline.

2. *Comment:* On June 8, 1982, EPA issued a final rulemaking which modified effluent limitations guidelines for pH for all industrial dischargers. The final rule required compliance 99 percent of the time and limited individual excursions to 60 minutes. We believe that EPA has inadvertently failed to include this change in the proposed pharmaceutical guidelines and therefore request EPA to incorporate this change into the guidelines.

Response: The applicability of the final rule cited by the commenter (see 47 FR 34534–34537, June 4, 1982) is contingent on whether a permittee is required, or has the option, to monitor

continuously the pH of its wastewater as specified by the conditions of the permittee's National Pollutant Discharge Elimination System (NPDES) permit. If the industrial discharger's NPDES permit does not contain a requirement or an option for the permittee to monitor pH continuously, then the monthly and individual excursion limitations of that rule are not applicable. Thus, the rule applies only to those industrial dischargers with an NPDES permit requirement or option to monitor continuously the pH of their wastewater. The modified pH rule for continuous monitoring is currently applicable to permittees having this requirement or option (see 40 CFR 401.17). It is not necessary that this modified rule be explicitly stated in all categorical regulations.

3. *Comment:* Several commenters requested additional time to comment on the grounds that EPA, in these proposed rules and accompanying documents, has for the first time released substantial portions of the information on which certain of the proposed rules are based, and has materially revised other portions of the information on which other portions of the proposed rules are based.

Response: After consideration of the amount and complexity of the new information released in the proposed rulemaking and the fact that all of the information supporting the proposed regulations was available to the public at the time that the proposed regulations were published in the **Federal Register**, we concluded that a 60-day comment period was an adequate time period for commenting on the proposed regulations. The Agency has allowed extensions of comment periods on some proposal regulations due to certain special circumstances surrounding those rulemakings. However, no such circumstances were present in the pharmaceutical rulemaking. Therefore, the Agency concluded that an extension of the comment period for this rulemaking was not appropriate.

EPA received several comments after the close of the official comment period. The Agency has evaluated and responded to these comments.

4. *Comment:* One commenter stated that TSS limits are inappropriate for plants discharging to rivers, such as the Mississippi, presumably because they are naturally turbid. The commenter recommended that permit writers be allowed to disregard or modify TSS limitations.

Response: We have not made any changes in response to this comment. Section 304 of the Act requires that effluent limitations guidelines be based on the application of control and treatment technology. EPA may not consider receiving water quality in developing such guidelines. Accordingly, BPT TSS limitations are based on the application of currently available technology, not on water quality considerations. Since receiving water quality is not a factor which is considered in establishing categorical limitations, it follows that it cannot be considered by the permit writer as a basis for a fundamentally different factors (FDF) variance.

5. *Comment:* One commenter objected to the fact that "new sources" were defined in terms of plants whose construction commences after proposal of a new source performance standard, rather than after final promulgation. The commenter noted that there may be changes in the standard between proposal and final promulgation.

Response: The definition of "new source" in Appendix A to the proposal is a shortened version of the definition of new source established in EPA's NPDES permit regulations (40 CFR 122.2, April 1, 1983, 48 FR 14146). To avoid confusion, we have revised the definition in Appendix A.

6. *Comment:* Since regulations controlling the discharge of BOD5 are included in the proposed regulation, we question the need for COD limitations. What additional pollutants is EPA trying to control with COD limitations? We consider these limitations to be duplicative in nature and unwarranted.

Response: Many materials that are measured as or contribute to COD biodegrade slowly or not at all, while those materials which contribute to BOD5 are, by definition, biodegradable. Removal of COD in a biological treatment system is accomplished to some extent by biodegradation but also by incidental removal mechanisms such as air stripping and sorption. Since the extent to which any of these mechanisms operates to remove COD depends in part on the size of the biological treatment system, any increase in the capacity of a biological treatment system should result in greater removal of these materials. The Agency recognizes that there are also some pollutants measured by COD, such as salts and some solvents, which do not biodegrade.

The 1976 BPT regulation requires all subcategories to achieve a 74 percent reduction of COD from raw waste levels and, in addition, specifies that separable solvents be removed by in-plant control methods prior to measurement of raw waste COD levels. The purpose of the existing BPT COD limitations is to limit the discharge of those materials which biodegrade slowly or not at all by first prohibiting the inclusion of certain non-biodegradable materials (e.g., some solvents) in raw waste streams and by accounting for the incidental removal of COD that occurs in biological treatment systems. More stringent BAT limitations and NSPS for COD based on add-on biological treatment were included in the proposed regulation of November 26, 1982. We intend to issue final BAT limitations and NSPS for COD for all subcategories after reviewing additional data on the pollutants which constitute COD in pharmaceutical plants and on the cost of their removal. The Agency continues to believe that limitations controlling the discharge of COD are appropriate and not duplicative in nature.

7. *Comment:* EPA has proposed to apply broad categorical limits for an individual pollutant, cyanide, that may be present in only a few operations. By proposing a limit for cyanide, EPA will require all pharmaceutical plants to expend resources to monitor for cyanide whether or not cyanide is used or generated in the manufacturing process. At a minimum, EPA's action will force certain dischargers to request a fundamentally different factors (FDF) variance at the time of permit re-issuance to avoid unnecessary monitoring requirements.

Response: EPA agrees with the commenter that if cyanide is not used or generated in the manufacturing process, dischargers should not be required to monitor for cyanide. Therefore, the final regulations allow facilities not using or generating cyanide to certify to that effect instead of monitoring for cyanide. Permit issuing authorities may find it necessary to require that specific monitoring programs be instituted at individual plants if cyanide contamination is suspected.

XIV. Availability of Technical Information

The basis for this regulation is detailed in four major documents. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants* (U.S. EPA, April 1977). EPA's technical conclusions are detailed in *Development Document for Effluent Guidelines, New Source Performance Standards, and Pretreatment Standards for the Pharmaceutical Manufacturing Point Source Category* (USEPA, September 1983). The Agency's economic analysis is presented in *Economic Analysis of Effluent Standards and Limitations for the Pharmaceutical Industry* (USEPA,

September 1983). A summary of the public comments received on the proposed regulation is presented in a report "Summary of Responses to Comment on the Proposed Pharmaceutical Manufacturing Industry Regulations," which is a part of the public record for this regulation. On November 28, 1983, copies of the technical development document and the economic analysis will be available for public review in EPA's Public Information Reference Unit, Room 2404 (Rear) in the EPA Library, 401 M Street, SW., Washington, D.C. Copies of the technical and economic documents may also be obtained from the National Technical Information Service (NTIS), Springfield, Virginia 22161, (703) 487–4600. A notice will be published in the **Federal Register** announcing the availability of these documents from NTIS. (This should occur on or before December 27, 1983).

Additional information concerning the economic impact analysis may be obtained from Mr. Joseph Yance, Economic Analysis Staff (WH–586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382–5397. Technical information may be obtained by writing to Dr. Frank Hund, Effluent Guidelines Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382–7182.

XV. Office of Management and Budget (OMB) Review

This notice was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any commments from OMB to EPA and any EPA response to those comments are available for public inspection through contacting Dr. Frank Hund at the address listed at the beginning of this notice.

This regulation contains provisions in §§ 439.14–439.17, 439.24–439.27, 439.34–439.37, and 439.44–439.47 which allow facilities not using or generating cyanide to certify to that effect instead of monitoring for cyanide. The information collection requirements in ths rule have been submitted to OMB under provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq*. They are not effective until OMB approves them and a technical amendment to that effect is published in the **Federal Register**.

XVI. List of Subjects in 40 CFR Part 439

Drugs, Waste treatment and disposal, Water pollution control.

Dated: September 30, 1983.

William D. Ruckelshaus,

Administrator.

Appendix A—Abbreviations, Acronyms, and Other Terms Used in this Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable, under Section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act.

BMP—Best management practices, under Section 304(e) of the Act.

BPT—The best practicable control technology currently available, under Section 304(b)(1) of the Act.

Clean Water Act—The Federal Water Pollution Control Act Amentments of 1972 (33 U.S.C. 1251 *et seq*.), as amended by the Clean Water Act of 1977 (Pub. L. 95–217).

Direct Discharger—A facility where wastewaters are discharged or may be discharged into waters of the United States.

Indirect Discharger—A facility where wastewaters are discharged or may be discharged into a publicly owned treatment works.

New Sources—Industrial facilities which are "new sources" under the definition in Section 306 of the Act.

NPDES Permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New source performance standards, under Section 306 of the Act.

POTW or POTWs—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges, under Section 307(b) of the Act.

PSNS—Pretreatment standards for new sources of indirect discharges, under Section 307 (b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94–580) of 1976, as amended, 42 U.S.C. 6901 *et seq*.

Appendix B—Toxic Pollutants Not Detected in the Effluent of Direct Dischargers

acenaphthene
acrylonitrile
benzidine
1,1-dichloroethane
1,2,4-trichlorobenzene
hexachlorobenzene
hexachloroethane
1,1,2-trichloroethane
1,1,2,2-tetrachloroethane
chloroethane
bis(2-chloroethyl) ether
2-chloroethyl vinyl ether
2-chloronapthalene
2,4,6-trichlorophenol
parachlorometa cresol
2-chlorophenol
1,3-dichlorobenzene
1,4-dichlorobenzene
3,3'-dichlorobenzidine
1,1-dichloroethylene
1,2-trans-dichloroethylene
2,4-dichlorophenol
1,2-dichloropropane
1,3-dichloropropylene
2,4-dinitrotoluene
2,4-dimethyl phenol
2,6-dinitrotoluene
1,2-diphenlhydrazine
fluoranthene
4-chlorophenyl phenyl ether
4-bromophenyl phenyl ether
bis(2-chloroethoxy) methane
methyl bromide
dichlorobromomethane
chlorodibromethane
hexachlorobutadiene
hexachlorocyclopentadiene
isophorone
naphthalene
nitrobenzene
2-nitrophenol
4,6-dinitro-o-cresol
N-nitrosodimethylamine
N-nitrosodiphenylamine
N-nitrosodi-n-propylamine
pentachlorophenol
butyl benzyl phthalate
di-n-octyl phthalate
dimethyl phthalate
benzo(a)anthracene
benzo(a)pyrene
3,4-benzofluoranthene
benzo(k)fluoranthane
chrysene
acenaphthylene
anthracene
benzo(ghi)perylene
fluorene
phenanthrene
dibenzo(a,h)anthracene
indeno(1,2,3-c,d)pyrene
pyrene
aldrin
dieldrin
chlordane
4,4'-DDT
4,4'-DDE
4,4'-DDD
alpha-endosulfan
beta-endosulfan
endosulfan sulfate
endrin
endrin aldehyde
heptachlor
heptachlor epoxide
alpha-BHC
beta-BHC
gamma-BHC (lindane)
delta-BHC
PCB–1242
PBC–1254

PCB–1221
PCB–1232
PCB–1248
PCB–1260
PCB–1016
toxaphene
asbestos (fibrous)
beryllium (total)
2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)

Appendix C—Toxic Pollutants Detected in Treated Effluents of Direct Dischargers: (1) From a Small Number of Sources, (2) Detected in Only Trace Amounts, (3) Sufficiently Controlled by Existing Technologies, or (4) Detected in Amounts Too Small to be Effectively Controlled by Technologies Known to the Administrator

Pollutant and basis for exclusion

Acrolein	1
Benzene	3
Bromoform	1
Carbon tetrachloride	2
1,2-dichloroethane	3
1,1,1-trichloroethane	3
Chloroform	3
Ethylbenzene	3
Bis(2-chloroisopropyl) ether	1
Methyl chloride	3
4-nitrophenol	3
2,4-dinitrophenol	3
Phenol	3
Bis(2-ethylhexyl) phthalate	4
Di-n-butyl phthalate	4
Diethyl phthalate	4
Tetrachloroethylene	2
Toluene	3
Trichloroethylene	3
Vinyl chloride	2
Antimony	4
Arsenic	4
Cadmium	4
Chromium	4
Copper	4
Lead	4
Mercury	4
Nickel	4
Selenium	4
Silver	4
Thallium	4
Zinc	4

Appendix D—Toxic Pollutants Not Detected in the Effluent of Indirect Dischargers

acenaphthene
benzidine
1,2,4-trichlorobenzene
hexachlorobenzene
hexachloroethane
1,1,2-trichloroethane
1,1,2,2-tetrachloroethane
chloroethane
bis(2-chloroethyl) ether
2-chloroethyl ether
2-chloronapthalene
2,4,6-trichlorophenol
parachlorometa cresol
2-chlorophenol
1,3-dichlorobenzene
1,4-dichlorobenzene
3,3'-dichlorobenzidine
2,4-dichlorophenol
1,2-dichloropropane
1,3-dichloropropylene
2,4-dinitrotoluene
2,6-dinitrotoluene
1,2-diphenlhydrazine
fluoranthene
4-Chlorophenyl phenyl ether
4-bromophenyl phenyl ether
bis(2-chloroethoxy) methane
methyl bromide
dichlorobromomethane
chlorodibromethane
hexachlorobutadiene
hexachlorocyclopentadiene
isophorone
naphthalene
nitrobenzene
4-nitrophenol
2,4-dinitro phenol
4,6-dinitro-o-cresol
N-nitrosodi-n-propylamine
pentachlorophenol
butyl benzyl phthalate
di-n-octyl phthalate
dimethyl phthalate
benzo(a)anthracene
benzo(a)pyrene
3,4-benzofluoranthene
benzo(k)fluoranthane
chrysene
acenaphthylene
anthracene
benzo(ghi)perylene
phenanthrene
dibenzo(a,h)anthracene
indeno (1,2,3-c,d)pyrene
pyrene
aldrin
dieldrin
chlordance
4,4'-DDT
4,4'-DDE
4,4'-DDD
alpha-endosulfan
beta-endsulfan
endosulfan sulfate
endrin
endrin aldehyde
heptachlor
heptachlor epoxide
alpha-BHC
beta-BHC
gamma-BHC (lindane)
delta-BHC
PCB–1242
PCB–1254
PCB–1221
PCB–1232
PCB–1248
PCB–1260
PCB–1016
toxaphene
asbestos (fibrous)
beryllium
2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)

Appendix E—Toxic Pollutants Detected in the Effluent of Indirect Dischargers Whose Toxicity and Amount (Taken Together) Are So Insignificant As Not To Justify Developing Pretreatment Regulations

*acrolein
*acrylonitrile
benzene
*carbon tetrachloride
*chlorobenzene
methyl chloride
1,2-dichlorobenzene
*1,2-dichloroethane
*1,1, 1-trichloroethane
*1,1-dichloroethane
*1,1-dichloroethylene
*1,2-trans-dichloroethylene
*ethylbenzene
*bromoform
*tetrachloroethylene
toluene
*trichloroethylene
2,4-dimethylphenol
2-nitrophenol
N-nitrosodiphenylamine
phenol
bis(2-ethyl hexyl) phthalate
diethyl phthalate
fluorene
antimony
arsenic
cadmium
chromium
copper
lead
mercury
nickel
selenium
silver
thallium
zinc

*Volatile organics identified at proposal as potential candidates for categorical pretreatment standards (47 FR 53584).

Part 439 of Title 40 is revised to read as follows:

PART 439—PHARMACEUTICAL MANUFACTURING POINT SOURCE CATEGORY

General Provisions

Sec.
439 Applicability.
439.1 General definitions.
439.2 Monitoring requirements.

Subpart A—Fermentation Products Subcategory

439.10 Applicability; description of the fermentation products subcategory.
439.11 Specialized definitions.
439.12 Effluent limitations representing the degree of effluent reduction attainable by

Sec.
the application of the best practicable control technology currently available (BPT).
439.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
439.14 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
439.15 New source performance standards (NSPS).
439.16 Pretreatment standards for existing sources (PSES).
439.17 Pretreatment standards for new sources (PSNS).

Subpart B—Extraction Products Subcategory

439.20 Applicability; description of the extraction products subcategory.
439.21 Specialized definitions.
439.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
439.23 Effluent limitations representing the degree of effluent reducton attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
439.24 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
439.25 New source performance standards (NSPS).
439.26 Pretreatment standards for existing sources (PSES).
439.27 Pretreatment standards for new sources (PSNS).

Subpart C—Chemical Synthesis Products Subcategory

439.30 Applicability; description of the chemical synthesis products subcategory.
439.31 Specialized definitions.
439.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
439.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
439.34 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
439.35 New source performance standards (NSPS).
439.36 Pretreatment standards for existing sources (PSES).
439.37 Pretreatment standards for new sources (PSNS).

Subpart D—Mixing/Compounding and Formulation Subcategory

439.40 Applicability; description of the mixing/compounding and formulation subcategory.
439.41 Specialized definitions.
439.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
439.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
439.44 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
439.45 New source performance standards (NSPS).
439.46 Pretreatment standards for existing sources (PSES).
439.47 Pretreatment standards for new sources (PSNS).

Subpart E—Research Subcategory

439.50 Applicability; description of the research subcategory.
439.51 Specialized definitions.
439.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
439.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]
439.54 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]
439.55 New source performance standards (NSPS). [Reserved]
439.56 Pretreatment standards for existing sources (PSES). [Reserved]
439.57 Pretreatment standards for new sources (PSNS). [Reserved]

Authority: Sec. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

General Provisions

§ 439 Applicability.

This part applies to any pharmaceutical manufacturing facility which discharges or may discharge process wastewater pollutants to the waters of the United States, or which introduces or may introduce process wastewater pollutants into a publicly owned treatment works.

§ 439.1 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) The term "maximum 30 day average" shall mean the maximum average of daily values for 30 consecutive days.

(b) The term "cyanide destruction unit" shall mean a treatment system designed specifically to remove cyanide.

§ 439.2 Monitoring requirements.

Unless otherwise noted, self-monitoring will be conducted at the final effluent discharge point.

Subpart A—Fermentation Products Subcategory

§ 439.10 Applicability; description of the fermentation products subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of pharmaceuticals by fermentation.

§ 439.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 and 439.01 shall apply to this subpart.

(b) The term "product" shall mean pharmaceutical products derived from fermentation processes.

§ 439.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a fermentation products plant from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

(1) The allowable effluent discharge limitation for the daily average mass of BOD*5* in any calendar month shall be expressed in mass per unit time and shall specifically reflect not less than 90% reduction in the long term daily average raw waste content of BOD*5* multiplied by a variability factor of 3.0.

(2) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall be expressed in mass per unit time and shall specifically reflect not less than 74 percent reduction in the long term daily average raw waste content of COD multiplied by a variability factor of 2.2.

(3) The long term daily average raw waste load for the pollutants BOD*5* and COD is defined as the average daily mass of each pollutant discharged in the influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months, which shall include the greatest production effort.

(4) To assure equity in regulating discharges from the point sources covered by this subpart of the point source category, calculation of raw waste loans of BOD*5* and COD for the purpose of determining NPDES permit limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with separable mycelia and solvents in those raw waste loads, except that residual amounts of mycelia and solvents remaining after the practice of recovery and/or separate disposal or reuse may be included in the calculation of the raw waste loads. These practices of removal, disposal, or reuse include physical separation and removal of separable mycelia, recovery of solvents from waste streams, incineration of concentrated solvent waste streams (including tar still bottoms), and broth concentration for disposal other than to the treatment system. This regulation does not prohibit inclusion of such waste in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining the permit conditions. These limits may be achieved by any of several or a combination thereof of programs and practices.

(5) The pH shall be within the range of 6.0–9.0 standard units.

(6) The allowable effluent discharge limitation for the daily average mass of TSS in any calendar month shall be 1.7 times the BOD*5* limitation determined in paragraph (a)(1) of this section.

(7) For those plants using or generating cyanide in the manufacturing process, the allowable effluent discharge for cyanide is shown below.

(i)

Pollutant or pollutant property	BPT Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4

(ii) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide limitation is multiplied by 0.18, the maximum 30 day average cyanide limitation is multiplied by 0.35, and both limitations are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a cyanide destruction unit or if the effluent from the cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide limitation must be multiplied by 0.18, the maximum 30 day average cyanide limitation must be multiplied by 0.35, and both limitations must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound.

(b) Dilution to meet the above effluent limitations may not be practiced.

§ 439.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 439.14 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart where cyanide is used or generated in the manufacturing process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(1)

Pollutant or pollutant property	BAT Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	[redacted]	[redacted]
COD	(1)	(1)

[1] Reserved.

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide limitation is multiplied by 0.18, the maximum 30 day average cyanide limitation is multiplied by 0.35, and both limitations are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a cyanide destruction unit or if the effluent from the cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide limitation must be multiplied by 0.18, the maximum 30 day average cyanide limitation must be multiplied by 0.35, and both limitations must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound.

(b) Dilution in order to meet the above effluent limitations may not be practiced.

§ 439.15 New source performance standards (NSPS).

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart.

(1)

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4
BOD5	(1)	(1)
TSS	(1)	(1)
COD	(1)	(1)
pH	(2)	(2)

[1] Reserved.
[2] Within the range of 6.0 to 9.0 at all times.

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide standard is multiplied by 0.18, the maximum 30 day average cyanide standard is multiplied by 0.35, and both standards are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a cyanide destruction unit or if the effluent from the cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide standard must be multiplied by 0.18, the maximum 30 day average cyanide standard must be multiplied by 0.35, and both standards must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. Only facilities where cyanide is used or generated in the manufacturing process are subject to cyanide standards. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

§ 439.16 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and by October 27, 1986, where cyanide is used or generated in the manufacturing process, must achieve the following pretreatment standards for existing sources (PSES).

(1)

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit, self-monitoring for cyanide must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the cyanide standard is adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated, self-monitoring must be conducted at the final effluent discharge point and the cyanide standard must be adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. Indirect dischargers not using or generating cyanide must certify to the publicly owned treatment works that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

§ 439.17 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and where cyanide is used or generated in the manufacturing process, must achieve the following pretreatment standards for new sources (PSNS).

(1)

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total Cyanide	33.5	9.4

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit, self-monitoring for cyanide must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the cyanide standard is adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated, self-monitoring must be conducted at the final effluent discharge point and the cyanide standard must be adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. Indirect dischargers not using or generating cyanide must certify to the publicly owned treatment works that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

Subpart B—Extraction Products Subcategory

§ 439.20 Applicability; description of the extraction products subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of pharmaceuticals by extraction.

§ 439.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 and 439.01 shall apply to this subpart.

(b) The term "product" shall mean biological and natural extraction products. This subcategory shall include blood fractions, vaccines, serums, animal bile derivatives, endocrine products, and isolation of medicinal products, such as alkaloids, from botanical drugs and herbs.

§ 439.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by an extraction products plant from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

(1) The allowable discharge for the pollutant parameters BOD5 and COD shall be expressed in mass per unit time and shall represent the specified wastewater treatment efficiency in

terms of a residual discharge associated with an influent to the wastewater treatment plant corresponding to the maximum production period for a given pharmaceutical plant as defined in paragraph (a)(4) of this section.

(2) The allowable effluent discharge limitation for the daily average mass of BOD*5* in any calendar month shall specifically reflect not less than 90 percent reduction in the long term daily average raw waste content of BOD*5* multiplied by a variability factor of 3.0. However, a plant shall not be required to attain a maximum 30 day average BOD*5* effluent limitation of less than the equivalent of 45 mg/l.

(3) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall specifically reflect not less than 74 percent reduction in the long term daily average raw waste content of COD multiplied by a variability factor of 2.2. However, a plant shall not be required to attain a maximum 30 day average COD effluent limitation of less than the equivalent of 220 mg/l.

(4) The long term daily average raw waste load for the pollutants BOD*5* and COD is defined as the average daily mass of each pollutant discharged in the influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months, which shall include the greatest production effort.

(5) To assure equity in regulating discharges from the point sources covered by this subpart of the point source category, calculation of raw waste loads of BOD*5* and COD for the purpose of determining NPDES permit limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with solvents in those raw waste loads, except that residual amounts of solvents remaining after the practice of recovery and/or separate disposal or reuse may be included in the calculation of the raw waste loads. Those practices of removal, disposal, or reuse include recovery of solvents from waste streams and incineration of concentrated solvent waste streams (including tar still bottoms). This regulation does not prohibit inclusion of such wastes in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining the permit conditions. These limits may be achieved by any one of several or a combination thereof of programs and practices.

(6) The allowable effluent discharge limitation for the daily mass of TSS in any calendar month shall be 1.7 times the BOD*5* limitation determined in paragraph (a)(2) of this section.

(7) The pH shall be within the range of 6.0–9.0 standard units.

(8) For those plants using or generating cyanide in the manufacturing process, the allowable effluent discharge for cyanide is shown below.

[1]

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	[illegible]

(ii) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide limitation is multiplied by 0.18, the maximum 30 day average cyanide limitation is multiplied by 0.35, and both limitations are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a cyanide destruction unit or if the effluent from the cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide limitation must be multiplied by 0.18, the maximum 30 day average cyanide limitation must be multiplied by 0.35, and both limitations must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound.

(b) Dilution to meet the above effluent limitations may not be practiced.

§ 439.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 439.24 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart where cyanide is used or generated in the manufacturing process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(1)

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total Cyanide	[illegible]	9.4
COD	[1]	[1]

[1] Reserved.

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide limitation is multiplied by 0.18, the maximum 30 day average cyanide limitation is multiplied by 0.35, and both limitations are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a cyanide destruction unit or if the effluent from the cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide limitation must be multiplied by 0.18, the maximum 30 day average cyanide limitations must be multiplied by 0.35, and both limitations must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream

flow to the total process wastewater discharge flow. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound.

(b) Dilution in order to meet the above effluent limitations may not be practiced.

§ 439.25 New source performance standards (NSPS).

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart.

(1)

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4
BOD5	(1)	(1)
TSS	(1)	(1)
COD	(1)	(1)
pH	(2)	(2)

[1] Reserved.
[2] Within the range of 6.0 to 9.0 at all times.

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide standard is multiplied by 0.18, the maximum 30 day average cyanide standard is multiplied by 0.35, and both standards are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a cyanide destruction unit or if the effluent from the cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide standard must be multiplied by 0.18, the maximum 30 day average cyanide standard must be multiplied by 0.35, and both standards must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. Only facilities where cyanide is used or generated in the manufacturing process are subject to cyanide standards. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

§ 439.26 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and by October 27, 1986, where cyanide is used or generated in the manufacturing process, must achieve the following pretreatment standards for existing sources (PSES).

(1)

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total Cyanide	33.5	9.4

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit, self-monitoring for cyanide must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the cyanide standard is adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated, self-monitoring must be conducted at the final effluent discharge point and the cyanide standard must be adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. Indirect dischargers not using or generating cyanide must certify to the publicly owned treatment works that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

§ 439.27 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and where cyanide is used or generated in the manufacturing process, must achieve the following pretreatment standards for new sources (PSNS).

(1)

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total Cyanide	33.5	9.4

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit, self-monitoring for cyanide must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the cyanide standard is adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated, self-monitoring must be conducted at the final effluent discharge point and the cyanide standard must be adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. Indirect dischargers not using or generating cyanide must certify to the publicly owned treatment works that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

Subpart C—Chemical Synthesis Products Subcategory

§ 439.30 Applicability; description of the chemical synthesis products subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of pharmaceuticals by chemical synthesis.

§ 439.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 and 439.01 of this chapter shall apply to this subpart.

(b) The term "product" shall mean pharmaceutical products derived from chemical synthesis processes.

§ 439.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application

of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a chemical synthesis plant from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

(1) The allowable discharge for the pollutant parameters BOD*5* and COD shall be expressed in mass per unit time and shall represent the specified wastewater treatment efficiency in terms of a residual discharge associated with an influent to the wastewater treatment plant corresponding to the maximum production period for a given pharmaceutical plant as defined in paragraph (a)(4) of this section.

(2) The allowable effluent discharge limitation for the daily average mass of BOD*5* in any calendar month shall specifically reflect not less than 90 percent reduction in the long term daily average raw waste content of BOD*5* multiplied by a variability factor of 3.0.

(3) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall specifically reflect not less than 74 percent reduction in the long term daily average raw waste content of COD multiplied by a variability factor of 2.2.

(4) The long term daily average raw waste load for the pollutant parameters BOD*5* and COD is defined as the average daily mass of each pollutant discharged in the influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months, which shall include the greatest production effort.

(5) To assure equity in regulating discharges from the point sources covered by this subpart of the point source category, calculation of raw waste loads of BOD*5* and COD for the purpose of determining NPDES permit limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with solvents in those raw waste loads, except that residual amounts of solvents remaining after the practice of recovery and/or separate disposal or reuse may be included in the calculation of the raw waste loads. These practices of removal, disposal, or reuse include recovery of solvents from waste streams and incineration of concentrated solvent waste streams (including tar still bottoms). This regulation does not prohibit inclusion of such wastes in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining the permit conditions. These limits may be achieved by any one of several or a combination thereof of programs and practices.

(6) The pH shall be within the range of 6.0 to 9.0 standard units.

(7) The allowable effluent discharge limitation for the daily average mass of TSS in any calendar month shall be 1.7 times the BOD*5* limitation determined in paragraph (a)(2) of this section.

(8) For those plants using or generating cyanide in the manufacturing process, the allowable effluent discharge for cyanide is shown below.

(i)

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4

(ii) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide limitation is multiplied by 0.18, the maximum 30 day average cyanide limitation is multiplied by 0.35, and both limitations are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a cyanide destruction unit or if the effluent from the cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide limitation must be multiplied by 0.18, the maximum 30 day average cyanide limitation must be multiplied by 0.35, and both limitations must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound.

(b) Dilution to meet the above effluent limitations may not be practiced.

§ 439.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 439.34 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart where cyanide is used or generated in the manufacturing process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(1)

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	[redacted]
COD	(1)	(1)

[1] Reserved.

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide limitation is multiplied by 0.18, the maximum 30 day average cyanide limitation is multiplied by 0.35, and both limitations are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide limitation must be multiplied by 0.18, the maximum 30 day average cyanide limitation must be multiplied by 0.35, and both limitations must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound

(b) Dilution in order to meet the above effluent limitations may not be practiced.

§ 439.35 New source performance standards (NSPS).

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart.

(1)

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4
BOD[5]	(1)	(1)
TSS	(1)	(1)
COD	(1)	(1)
pH	(2)	(2)

[1] Reserved.
[2] Within the range of 6.0 to 9.0 at all times.

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide standard is multiplied by 0.18, the maximum 30 day average cyanide standard is multiplied by 0.35, and both standards are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a cyanide destruction unit or if the effluent from the cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide standard must be multiplied by 0.18, the maximum 30 day average cyanide standard must be multiplied by 0.35, and both standards must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. Only facilities where cyanide is used or generated in the manufacturing process are subject to cyanide standards. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

§ 439.36 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and by October 27, 1986, where cyanide is used or generated in the manufacturing process, must achieve the following pretreatment standards for existing sources (PSES).

(1)

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total Cyanide	33.5	9.4

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit, self-monitoring for cyanide must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the cyanide standard is adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated, self-monitoring must be conducted at the final effluent discharge point and the cyanide standard must be adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. Indirect dischargers not using or generating cyanide must certify to the publicly owned treatment works that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

§ 439.37 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and where cyanide is used or generated in the manufacturing process, must achieve the following pretreatment standards for new sources (PSNS).

(1)

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total Cyanide	33.5	9.4

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit, self-monitoring for cyanide must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the cyanide standard is adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing streams are not treated, self-monitoring must be conducted at the final effluent discharge point and the cyanide standard must be adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. Indirect dischargers not using or generating cyanide must certify to the publicly owned treatment works that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

Subpart D—Mixing/Compounding and Formulation Subcategory

§ 439.40 Applicability; description of the mixing/compounding and formulation subcategory.

The provisions of this subpart are applicable to discharges resulting from mixing/compounding and formulaton operations of pharmaceutical products.

§ 439.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 and 439.01 of this chapter shall apply to this subpart.

(b) The term "product" shall mean products from plants which blend, mix, compound, and formulate pharmaceutical ingredients. Pharmaceutical preparations for human and veterinary use such as ampules, tablets, capsules, vials, ointments, medicinal powders, solutions, and suspensions are included.

§ 439.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a mixing/compounding and formulation plant from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

(1) The allowable discharge for the pollutant parameters BOD*5* and COD shall be expressed in mass per unit time and shall represent the specified wastewater treatment efficiency in terms of a residual discharge associated with an influent to the wastewater treatment plant corresponding to the maximum production period for a given pharmaceutical plant as defined in paragraph (a)(4) of this section.

(2) The allowable effluent discharge limitation for the daily average mass of BOD*5* in any calendar month shall specifically reflect not less than 90 percent reduction in the long term daily average raw waste content of BOD*5* multiplied by a variability factor 3.0. However, a plant shall not be required to attain a maximum 30 day average BOD*5* effluent limitation of less than the equivalent of 45 mg/l.

(3) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall specifically reflect not less than 74 percent reduction in the long term daily average raw waste content of COD multiplied by a variability factor of 2.2. However, a plant shall not be required to attain a maximum 30 day average COD effluent limitation of less than the equivalent of 220 mg/l.

(4) The long term daily average raw waste load for the pollutant parameters BOD*5* and COD is defined as the average daily mass of each pollutant discharged in the influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months, which shall include the greatest production effort.

(5) To assure equity in regulating discharges from the point sources covered by this subpart of the point source category, calculation of raw waste loads of BOD*5* and COD for the purpose of determining NPDES per limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with solvents in those raw waste loads except that residual amounts of solvents remaining after the practice of recovery and/or separate disposal or reuse may be included in the calculation of the raw waste loads. These practices of removal, disposal, or reuse include recovery of solvents from waste streams and incineration of concentrated solvent waste streams (including tar still bottoms). This regulation does not prohibit inclusion of such wastes in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining the permit conditions. These limits may be achieved by any one of several or a combination thereof of programs and practices.

(6) The allowable effluent discharge limitation for the daily average mass of TSS in any calendar month shall be 1.7 times the BOD*5* limitation determined in (2) above.

(7) The pH shall be within the range of 6.0–9.0 standard units.

(8) For those plants using or generating cyanide in the manufacturing process, the allowable effluent discharge for cyanide is shown below.

(i) See table below:

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	[illegible]	[illegible]

(ii) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide limitation is multiplied by 0.18, the maximum 30 day average cyanide limitation is multiplied by 0.35, and both limitations are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a cyanide destruction unit or if the effluent from the cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide limitation must be multiplied by 0.18, the maximum 30 day average cyanide limitation must be multiplied by 0.35, and both limitations must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound.

(b) Dilution to meet the above effluent limitations may not be practiced.

§ 439.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 439.44 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart where cyanide is used or generated in the manufacturing process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(1)

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	[illegible]
COD	(1)	(1)

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide limitation is multiplied by 0.18, the maximum 30 day average cyanide limitation is multiplied by 0.35, and both limitations are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a

cyanide destruction unit or if the effluent from the cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide limitation must be multiplied by 0.18, the maximum 30 day average cyanide limitation must be multiplied by 0.35, and both limitations must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound.

(b) Dilution in order to meet the above effluent limitations may not be practiced.

§ 439.45 New source performance standards (NSPS).

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart.

(1)

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4
BOD5	(1)	(1)
TSS	(1)	(1)
COD	(1)	(1)
pH	(2)	(2)

[1] Reserved.
[2] Within the range of 6.0 to 9.0 at all times.

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit and the effluent from the cyanide destruction unit is discharged to a biological treatment system, self-monitoring must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the daily maximum cyanide standard is multiplied by 0.18, the maximum 30 day average cyanide standard is multiplied by 0.35, and both standards are adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated in a cyanide destruction unit or if the effluent from the cyanide destruction unit is not discharged to a biological treatment system, self-monitoring must be conducted at the final effluent discharge point and the daily maximum cyanide standard must be multiplied by 0.18, the maximum 30 day average cyanide standard must be multiplied by 0.35, and both standards must be adjusted based on the dilution ratio of the cyanide-contaminated waste stream flow to the total process wastewater discharge flow. Only facilities where cyanide is used or generated in the manufacturing process are subject to cyanide standards. Permittees not using or generating cyanide must certify to the permit-issuing authority that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

§ 439.46 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and by October 27, 1986, where cyanide is used or generated in the manufacturing process, must achieve the following pretreatment standards for existing sources (PSES).

(1)

Pollutant or pollutant property	PSES	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit, self-monitoring for cyanide must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the cyanide standard is adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. Indirect dischargers not using or generating cyanide must certify to the publicly owned treatment works that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

§ 439.47 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7 any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and where cyanide is used or generated in the manufacturing process, must achieve the following pretreatment standards for new sources (PSNS).

(1)

Pollutant or pollutant property	PSNS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4

(2) If all cyanide-containing waste streams are diverted to a cyanide destruction unit, self-monitoring for cyanide must be conducted after cyanide treatment and before dilution with other streams. Alternatively, self-monitoring may be conducted at the final effluent discharge point, if the cyanide standard is adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. However, if all cyanide-containing waste streams are not treated, self-monitoring must be conducted at the final effluent discharge point and the cyanide standard must be adjusted based on the dilution ratio of contaminated waste stream flow to the total process wastewater discharge flow. Indirect dischargers not using or generating cyanide must certify to the publicly owned treatment works that they are not using or generating this compound.

(b) Dilution in order to meet the above standards may not be practiced.

Subpart E—Research Subcategory

§ 439.50 Applicability; description of the research subcategory.

The provisions of this subpart are applicable to discharges resulting from pharmaceutical research.

§ 439.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in in 40 CFR Part 401 and 439.01 shall apply to this subpart.

(b) The term "product" shall mean products or services resulting from pharmaceutical research, which includes

microbiological, biological, and chemical operations.

§ 439.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a pharmaceutical research operation from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

(1) The allowable discharge for the pollutant parameters BOD*5* and COD shall be expressed in mass per unit time and shall represent the specified wastewater treatment efficiency in terms of a residual discharge associated with an influent to the wastewater treatment plant corresponding to the maximum production period for a given pharmaceutical plant as defined in paragraph (a)(4) of this section.

(2) The allowable effluent discharge limitation for the daily average mass of BOD*5* in any calendar month shall specifically reflect not less than 90 percent reduction in the long term daily average raw waste content of BOD*5* multiplied by a variability factor of 3.0. However, a plant shall not be required to attain a maximum 30 day average BOD*5* effluent limitation of less than the equivalent of 45 mg/l.

(3) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall specifically reflect not less than 74 percent reduction in the long term daily average raw waste content of COD multiplied by a variability factor of 2.2. However, a plant shall not be required to attain a maximum 30 day average COD effluent limitation of less than the equivalent of 220 mg/l.

(4) The long term daily average raw waste load for the pollutant parameters BOD*5* and COD is defined as the average daily mass of each pollutant influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months, which shall include the greatest production effort.

(5) To assure equity in regulation discharges from the point sources covered by this subpart of the point source category, calculation of raw waste loads of BOD*5* and COD for the purpose of determining NPDES permit limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with solvents in those raw waste loads, except that residual amounts of solvents remaining after the practice of recovery and/or separate disposal or reuse may be included in the calculation of the raw waste loads. These practices of removal, disposal, or reuse include recovery of solvents from waste streams and incineration of concentrated solvent waste streams (including tar still bottoms). This regulation does not prohibit inclusion of such wastes in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining the permit conditions. These limits may be achieved by any one of several or a combination thereof of programs and practices.

(6) The allowable effluent discharge limitation for the daily average mass of TSS in any calendar month shall be 1.7 times the BOD*5* limitation determined in paragraph (a)(2) of this section.

(7) The pH shall be within the range of 6.0–9.0 standard units.

(b) Dilution to meet the above effluent limitations may not be practiced.

§ 439.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 439.54 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT). [Reserved]

§ 439.55 New source performance standards (NSPS). [Reserved]

§ 439.56 Pretreatment standards for existing sources (PSES). [Reserved]

§ 439.57 Pretreatment standards for new sources (PSNS). [Reserved]

[FR Doc. 83-28778 Filed 10-26-83; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 439

[WH-FRL-2443-2]

Pharmaceutical Manufacturing Point; Source Category; New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Regulation.

SUMMARY: EPA is proposing "new source performance standards" (NSPS) as required by the Clean Water Act. This proposed regulation would limit the discharge of five-day biochemical oxygen demand (BOD5) and total suspended solids (TSS) into waters of the United States by new sources that conduct pharmaceutical manufacturing operations. The intended effect of this action is to reduce the discharge of two conventional pollutants, BOD5 and TSS, from new pharmaceutical manufacturing plants.

DATE: Comments on this proposal must be submitted no later than December 27, 1983.

ADDRESSES: Send comments in triplicate to: Dr. Frank H. Hund, Effluent Guidelines Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Pharmaceutical Industry Rules. The entire record for this rulemaking, including copies of the technical development document and the economic analysis will be available for public review in EPA's Public Information Reference Unit, Room 2404 (Rear) in the EPA Library, 401 M Street, SW., Washington, D.C. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

Technical information and the technical document may be obtained by writing to Dr. Frank H. Hund, Effluent Guidelines Division (WH–586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or by calling (202) 382–7182. Economic information and the economic impact analysis may be obtained by writing to Mr. Joseph Yance, Office of Analysis and Evaluation (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or by calling (202) 382–5379.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Hund, (202) 382–7182, U.S. EPA, WH–552.

SUPPLEMENTARY INFORMATION:

Organization of this Notice

I. Legal authority.
II. Background.
III. New source performance standards.
IV. Economic considerations.
V. Non-water quality environmental impacts.
VI. Upset and bypass provisions.
VII. Variances and modifications.
VIII. Implementation of limitations and standards.
IX. Solicitation of comments.
X. Availability of technical information.
XI. Office of Management and Budget (OMB) review.
XII. List of subjects in 40 CFR Part 439.

I. Legal Authority

EPA is proposing this regulation under the authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Public Law 95–217), also called the "Act."

II. Background

On November 26, 1982, EPA proposed regulations applicable to the pharmaceutical manufacturing point source category (47 FR 53584). In a separate section of today's **Federal Register**, EPA is promulgating final regulations covering most aspects of that proposal. The only issue involved in today's proposal is new source performance standards (NSPS) for conventional pollutants. The reader should consult the preamble to the November 1982 proposed regulation and today's final regulation for an in-depth discussion of the characteristics of the pharmaceutical industry, Agency subcategorization schemes, other applicable effluent limitations and standards, and their rationale.

The November 1982 proposed regulations included proposed concentration-based new source performance standards (NSPS) for two conventional pollutants, five-day biochemical oxygen demand (BOD5) and total suspended solids (TSS). These standards applied uniformly to subcategories A, B, C, and D. EPA based the proposed NSPS on the application of advanced biological treatment (i.e., biological treatment systems with longer detention times than those considered as the basis of effluent limitations reflecting the best practicable control technology currently available (BPT)).

The industry commented that new sources in subcategories A and C could not meet the proposed NSPS because the Agency's proposed subcategorization scheme was incorrect and because the data based used to develop proposed NSPS contained too many low raw waste load (subcategory D) facilities. They also contended that percent reduction-based standards rather than concentration-based standards are more appropriate because of the wide variation in the raw waste characteristics of pharmaceutical plant discharges.

Our review of the data used to develop the November 1982 proposed NSPS indicates that subcategory D plants did indeed dominate the data base. We analyzed all available data, including new data submitted with comments, and found that fermentation (subcategory A) and chemical synthesis (subcategory C) plants have higher conventional pollutant raw waste loads than extraction (subcategory B) and formulation (subcategory D) plants. For the reasons discussed in the preamble to the final regulation that also appears in today's **Federal Register**, EPA has decided to maintain the original BPT subcategorization scheme. We also determined that, because conventional pollutant raw waste characteristics are similar for subcategories A and C, conventional pollutant NSPS for those plants should be identical. For the same reason, conventional pollutant NSPS for subcategory B plants should be identical to those for subcategory D.

Since proposal, we have identified four pharmaceutical plants which have added filtration systems to advanced biological treatment systems to control further the discharge of conventional pollutants. Conventional pollutant discharges from these plants are significantly lower than from plants where only advanced biological treatment is employed. Consequently, the Agency believes that the addition of filtration to advanced biological treatment is a technology option which must be considered in establishing NSPS for conventional pollutants in this industry.

The public has not yet had an opportunity to provide comments on Agency estimates of the cost of the addition of filtration or on the additional effluent reduction benefits of filtration technology when applied at new source pharmaceutical plants. Therefore, EPA has determined that it would be appropriate to propose rather than promulgate NSPS for conventional pollutants based on this model treatment technology. For the reasons discussed below, EPA has determined that effluent filtration is the appropriate technology basis for NSPS and is proposing NSPS based on the combination of advanced biological treatment and effluent filtration.

We continue to believe that concentration-based standards are

appropriate as the basis for NSPS in the pharmaceutical industry. Available data on the application of advanced biological treatment and effluent filtration indicate that industry is capable of designing and operating end-of-pipe systems that will achieve the concentration-based standards specified in today's proposal.

III. New Source Performance Standards

New source performance standards (NSPS) are established under Section 306 of the Act and are based on the best available demonstrated technology. New plants have the opportunity to design the best and most efficient pharmaceutical manufacturing and wastewater treatment technologies. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-process treatment technologies that reduce pollution to the maximum extent feasible. As a result, limitations for NSPS should represent the most stringent numerical values attainable through the application of demonstrated control technology for all pollutants (conventional, nonconventional, and toxic).

In today's **Federal Register**, EPA is promulgating NSPS for cyanide and pH. Standards for cyanide and pH are shown in today's proposed rule for the convenience of the reader only; they are not being reproposed. The other pollutants of concern in the pharmaceutical industry are methylene chloride, BOD*5*, TSS, and COD. As explained in the preamble to the final regulation, categorical NSPS controlling methylene chloride are not being established, and the Agency is postponing a final decision on appropriate NSPS for COD. The only remaining issue for this proposal is how best to control BOD*5* and TSS.

EPA considered two options to control BOD*5* and TSS discharges from new source pharmaceutical plants. Analyses of these options follow. (For a more detailed description, see Sections V, VI, and VII of the Proposed Development Document).

Option A. Promulgate NSPS controlling BOD*5* and TSS based on the performance of the best plants employing advanced biological treatment. This option is identical to the November 1982 proposal. These final standards would require that specific concentration-based limits be met. Standards for extraction (subcategory B) and formulation (subcategory D) plants would be identical. Standards for fermentation plants (subcategory A) would be the same as those for synthesis plants (subcategory C).

EPA estimated the costs and conventional pollutant removals for model plants having conventional pollutant raw waste concentrations equal to the average for pharmaceutical plants employing advanced biological treatment and/or effluent filtration. We estimate that a model new source subcategory A or C plant discharging 1.2 million gallons of wastewater per day (MGD), in complying with NSPS based on Option A, would remove 1.47 million pounds per year of BOD*5* and TSS beyond BPT. The incremental capital and total annual costs beyond BPT would be $1.27 and $0.36 million, respectively (1982 dollars). We estimate that a model new source subcategory B or D plant discharging 0.050 MGD, in complying with NSPS based on Option A, would remove about 16,000 pounds per year of BOD*5* and TSS beyond BPT. The incremental capital and total annual costs beyond BPT would be $43,000 and $12,000, respectively (1982 dollars).

Option B. Propose NSPS controlling BOD*5* and TSS based on the performance of the best plants with advanced biological treatment and effluent filtration (i.e., Option A plus effluent filtration). These proposed standards would require that specific concentration-based limits be met. Standards for extraction (subcategory B) and formulation (subcategory D) plants would be identical. Standards for fermentation plants (subcategory A) would be the same as those for synthesis plants (subcategory C).

EPA estimated the costs and conventional pollutant removals for model plants have conventional pollutant raw waste concentrations equal to the average for pharmaceutical plants employing advanced biological treatment and/or effluent filtration. We estimate that a model new source subcategory A or C plant discharging 1.2 (MGD), in complying with NSPS based on Option B, would remove 1.63 million pounds per year of BOD*5* and TSS beyond BPT. The incremental capital and total annual costs beyond BPT would be $2.30 and $0.64 million, respectively (1982 dollars). We estimate that a model new source subcategory B or D plant discharging 0.050 MGD, in complying with NSPS based on Option B, would remove about 17,000 pounds per year of BOD*5* and TSS beyond BPT. The incremental capital and total annual costs beyond BPT would be $271,000 and $70,000, respectively (1982 dollars).

NSPS Selection and Decision Criteria. EPA selected Option B as the technology basis and is proposing conventional pollutant NSPS based on advanced biological treatment and effluent filtration as the model treatment technology. Filtration is an available, demonstrated technology in this industry that results in additional conventional pollutant removal beyond that attained by the application of advanced biological treatment only. As explained below, EPA does not expect the costs incurred at new sources resulting from compliance with proposed NSPS to cause a barrier to entry.

IV. Economic Considerations

A. Costs and Economic Impact

The economic impact of proposed NSPS is analyzed in a report entitled *Economic Impact Analysis of Effluent Standards and Limitations for the Pharmaceutical Industry* (USEPA, September 1983). EPA assessed the economic impact of the proposed NSPS by determining for model treatment systems designed to treat different wastewater discharge flows whether the incremental costs for new sources, over the requirements for existing sources, would be sufficiently high, in relation to the sales revenues of the manufacturing facility as a whole, to constitute a barrier to entry or construction. As part of this assessment, EPA also considered data on the proportion of plants that are direct dischargers versus indirect or zero dischargers.

Because subcategory B and D plants discharge low wastewater volumes, the incremental cost of new source treatment relative to sales would be very small. A larger impact occurs for subcategory A and C plants. For example, a large plant discharging 1.2 MGD would experience an increase in treatment costs over those incurred in complying with BPT effluent limitations of $0.64 million per year (1982 dollars). We project that this flow rate corresponds to a plant with employment of approximately 350 workers and 1982 sales on the order of $80 million. Hence, the incremental annual cost of treatment beyond BPT is about 0.8 percent of sales. If a new source were built that discharged 0.5 MGD, the median flow rate for existing subcategory A and C plants, EPA estimates that incremental costs would be 0.9 percent of sales revenues. For a new plant discharging 0.1 MGD, the lower quartile flow rate for existing plants, the ratio would be 0.6 percent of sales. Hence, the Agency estimates that the incremental costs of NSPS for subcategory A and C plants would not be large—in the range of 0.6 to 0.9 percent. For a plant in subcategories B or D, with a median flow of 0.05 MGD, we estimate that the incremental NSPS cost to sales ratio

would be considerably less—0.15 percent.

An additional factor that tends to reduce the potential impact of this proposal is that it pertains only to direct dischargers, while the discharge mode commonly chosen by pharmaceutical plants is indirect discharge. Also, many plants are zero dischargers. Eighty-nine percent of existing pharmaceutical plants are zero or indirect dischargers; this figure varies with size, with more of the smaller plants being zero or indirect dischargers.

Given the fact that the incremental costs are estimated to be in the range of one percent for the plants most seriously affected, and that in most cases indirect discharge is apparently an option, the Agency believes that the proposed regulation would not constitute a barrier to entry or construction.

For proposed regulations controlling toxic pollutants, the Agency carries out cost-effectiveness analyses based on the incremental pollutant removal and incremental costs attributable to the proposed regulation. However, in this case, since the purpose of the proposed regulation is to effect a reduction in BOD5 and TSS, conventional pollutants, a cost-effectiveness analysis was not carried out.

B. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules are those which impose an annual cost on the economy of $100 million or more or have certain other economic impacts. This regulation is not a major rule because its annualized cost is less than $100 million and it meets none of the other criteria specified in Section I, paragraph (b) of the Executive Order. The economic impact analysis prepared for this rulemaking satisfies the requirement of the Executive Order for a non-major rule.

C. Regulatory Flexibility Analysis

Public Law 96–354 requires EPA to prepare an *Initial Regulatory Flexibility Analysis* for all regulations that have a significant impact on a substantial number of small entries. This analysis may be conducted in conjunction with or as part of other Agency analyses.

The Agency's analysis of the economic impact of the proposed regulation, described above, indicates that the ratios of the incremental costs beyond BPT to sales are not substantially different for small plants compared to large and medium-sized plants. In addition, the fraction of small plants likely to be affected by the proposed regulation is smaller, because more small plants are indirect or zero dischargers. Hence, EPA does not believe that proposed NSPS would cause a disproportionate economic burden on small new sources. Therefore, a formal Regulatory Flexibility Analysis is not required.

D. SBA Loans

The Agency is continuing to encourage small pharmaceutical manufacturers to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Section 503 Program, (2) the Regular Guarantee Program, and (3) the Guaranteed Pollution Control Bond Program. All the SBA loan programs are open only to businesses that have: (a) Net assets less than $6 million, and (b) an average annual after-tax income of less than $2 million, and (c) fewer than 250 employees. The estimated economic impacts for this point source category do not include consideration of financing available through these programs.

The Section 503 Program, as amended in July 1980, allows long-term loans to small and medium sized businesses. These loans are made by SBA approved local development companies. For the first time, these companies are authorized to issue Government-backed debentures that are bought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee and Section 503 Programs, contact your district or local SBA Office. The coordinator at EPA headquarters is Ms. Frances Desselle who may be reached at (202) 382–5373.

For further information and specifics on the Guaranteed Pollution Control Bond Program contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203 (703) 235–2902.

V. Non-Water Quality Environmental Impacts

Eliminating or reducing one form of pollution may cause other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of these regulations on air pollution, solid waste generation, and energy consumption. This proposed regulation was reviewed by EPA personnel responsible for non-water quality programs. While it is difficult to balance pollution problems against each other and against energy use, EPA believes that, if finalized, this proposed regulation will best serve often competing national goals.

The following non-water quality environmental impacts (including energy requirements) are associated with this proposed regulation. The Administrator has determined that the impacts identified below are justified by the benefits associated with compliance with the proposed new source performance standards.

Implementation of this proposed regulation would not substantially increase air pollution, energy use, or solid waste generation. The proposed regulations are not expected to cause any significant air pollution problems. EPA estimates that compliance with proposed NSPS for conventional pollutants will increase energy use by less than one percent at subcategory A or C and subcategory B or D plants.

EPA estimates that, to comply with proposed NSPS, the incremental solid waste generated at a model new source fermentation (subcategory A) or chemical synthesis (subcategory C) plant discharging 1.2 MGD of wastewater and a model extraction (subcategory B) or formulation (subcategory D) plant discharging 0.050 MGD of wastewater will be approximately 200,000 and 2,100 additional pounds per year of wastewater treatment sludge, respectively, beyond that generated in meeting BPT effluent limitations. This is equal to an incremental increase of about 3.9 percent for subcategory A or C plants and about 3.0 percent for subcategory B or D plants over that generated to meet BPT effluent limitations. The solid wastes generated through wastewater treatment at pharmaceutical plants have not been listed as hazardous in regulations promulgated by the Agency under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (see 45 FR 33066; May 19 1980). Accordingly, it does not appear likely that the wastewater sludges generated by new source pharmaceutical plants under the proposed NSPS will be subject to the comprehensive RCRA program establishing requirements for persons handling, transporting, treating, storing, and disposing of hazardous wastes. The Agency's estimates of the costs of this regulation include the cost of handling these sludges as a non-hazardous waste.

VI. Upset and Bypass Provisions.

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is an unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision is necessary in EPA's effluent limitations because such upsets will inevitably occur even in properly operated control equipment. Because technology-based limitations are to require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have disagreed on whether an explicity upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Company* v. *EPA*, 564 F. 2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle, supra,* and *Corn Refiners Association, et al.* v. *Costle,* No. 78–1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F. 2d 1023 (10th Cir. 1976); *CPC International Inc.* v. *Train,* 540 F. 2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train,*, 539 F. 2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; however, a bypass is an act of intentional noncompliance during which wastewater treatment facilities are circumvented in emergency situations. We have, in the past, included bypass provisions in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits and has promulgated NPDES regulations which include upset and bypass permit provisions. (See 40 CFR 122.41, 45 FR 14166) (April 1, 1983). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes by passing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the pharmacuetical manufacturing industry will be entitled to upset and bypass provisions incorporated into NPDES permits, this proposed regulation does not address these issues.

VII. Variances and Modifications

These new source performance standards will be applied in all Federal and State NPDES permits issued to direct dischargers in the pharmaceutical industry.

For new source performance standards, there are no exceptions to the binding limitations. New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. (See *E. I. duPont de Numours and Co.* v. *Train,* 430 U.S. 112 (1977).)

VIII. Implementation of Limitations and Standards.

A. Relationship to NPDES Permits

NSPS are applied to individual pharmaceutical plants through NPDES permits issued by EPA or approved state agencies, under Section 402 of the Act. As discussed in the preceding section of this preamble, these standards must be applied in all Federal and State NPDES permits. Other aspects of the interaction between these standards and NPDES permits are discussed below.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit-issuing authorities. This regulation will not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit such pollutant on a case-by-case basis when limitations are necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit issuing authority.

A second topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which were considered in developing this regulation. We emphasize that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. We have exercised and intend to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts.

IX. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that comments address specific deficiencies in the record of this proposal and that suggested revisions or corrections be supported by data. EPA is specifically interested in receiving additional comments and information in connection with the following:

(1) EPA requests that plant representatives review all data used by the Agency, including data on flow and on raw waste and final effluent BOD5 and TSS concentrations, to ensure their accuracy.

(2) EPA solicits long-term data on biological treatment technology, including BOD5 and TSS raw waste and final effluent concentrations, daily discharge flow rates, and complete descriptions of the biological treatment system.

(3) EPA solicits long-term data on the application of effluent filtration in conjunction with biological treatment, including BOD5 and TSS raw waste, biological treatment system effluent, and filtration effluent concentrations, daily flow rates, and complete descriptions of the biological treatment and effluent filtration systems.

(4) EPA also solicits data related to COD discharges from the pharmaceutical industry. As explained in the preamble to the final regulation published elsewhere in today's **Federal Register**, EPA is postponing a final decision on approprate NSPS and best available technology economically achievable effluent limitations for COD. EPA is specifically interested in receiving information on the specific compounds that contribute to COD in both raw waste and final effluents, technologies capable of removing COD, and the costs associated with these technologies.

X. Availability of Technical Information

The proposed regulation is explained in two major documents. Technical information is contained in *Development Document for Proposed New Source Performance Standards for Control of Conventional Pollutants in the Pharmaceutical Manufacturing Point Source Category* (USEPA, September 1983). The Agency's economic analysis is presented in *Economic Analysis of Effluent Standards and Limitations for the Pharmaceutical Industry* (USEPA, September 1983). The entire record for this rulemaking, including copies of the technical development document and the economic analysis will be available for public review in EPA's Public Information Reference Unit, Room 2404 (Rear) in the EPA Library, 401 M Street, SW., Washington, D.C. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

Additional information concerning the economic impact analysis may be obtained from Mr. Joseph Yance, Economic Analysis Staff (WH–586), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382–5379. Technical information may be obtained by writing to Dr. Frank Hund, Effluent Guidelines Division (WH–552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 or by calling (202) 382–7182.

XI. Office of Management and Budget (OMB) Review

This notice was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection through contacting the person listed at the beginning of the notice.

This proposed rule does not contain any information collection requiremens subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

XII. List of Subjects in 40 CFR Part 439

Drugs, Waste treatment and disposal, Water pollution control.

Dated: September 30, 1983.

William D. Ruckelshaus,

Administrator.

Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technolgy economically achievable, under Section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act.

BPT—The best practicable control technology currently available, under Section 304(b)(1) of the Act.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Public Law 95–217).

Direct Discharger—A facility where wastewaters are discharged or may be discharged into waters of the United States.

Indirect Discharger—A facility where wastewaters are discharged or may be discharged into a publicy owned treatment works.

New Sources—industrial facilities which are "new sources" under the definition in Section 306 of the Act.

NPDES Permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New source performance standards, under Section 306 of the Act.

POTW or POTWs—Publicly owned treatment works.

RCRA—Resource Conservation and Recovery Act (Public Law 94–580) of 1976, as amended, 42 U.S.C. 6901 *et seq.*

PART 439—[AMENDED]

For the reasons stated above, EPA proposed to amend Title 40, Part 439 as follows:

1. Paragraph (a)(1) of 40 CFR 439.15 is revised as follows:

§ 439.15 New source performance standards (NSPS).

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart.

(1)

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4
BOD5	115.0	76.8
TSS	491.0	193.0
COD	(1)	(1)
pH	(2)	(2)

[1] Reserved.
[2] Within the range of 6.0 to 9.0 at all times.

* * * * *

2. Paragraph (a)(1) of 40 CFR 439.25 is revised as follows:

§ 439.25 New source performance standards (NSPS).

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart.

(1)

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4
BOD5	40.7	11.2
TSS	58.9	26.5
COD	(1)	(1)
pH	(2)	(2)

[1] Reserved.
[2] Within the range of 6.0 to 9.0 at all times.

* * * * *

3. Paragraph (a)(1) of 40 CFR 439.35 is revised as follow:

§ 439.35 New source performance standards (NSPS).

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart.

(1)

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4
BOD5	115.0	76.8
TSS	491.0	193.0
COD	(1)	(1)
pH	(2)	(2)

[1] Reserved.
[2] Within the range of 6.0 to 9.0 at all times.

* * * * *

4. Paragraph (a)(1) of 40 CFR 439.45 is revised as follows:

§ 439.45 New source performance standards (NSPS).

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart.

(1)

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total cyanide	33.5	9.4
BOD5	40.7	11.2
TSS	58.9	26.5
COD	(1)	(1)
pH	(2)	(2)

[1] Reserved.
[2] Within the range of 6.0 to 9.0 at all times.

* * * * *

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Reader Aids

Federal Register

Vol. 48, No. 209

Thursday, October 27, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
General information, index, and finding aids	523-3517 523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-3867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093-45218....3
45219-45370....4
45371-45522....5
45523-45752....6
45753-46004....7
46005-46258....11
46259-46486....12
46487-46730....13
46731-46962....14
46963-48214....17
48215-48438....18
48439-48642....19
48643-48792....20
48793-48996....21
48997-49204....24
49205-49498....25
49499-49650....26
49651-49836....27

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III....45266, 46795
Ch. IV....47976
305....45266

3 CFR

Executive Orders:
July 15, 1875 (Revoked in part by PLO 6479)....45559
11459 (Superseded by EO 12445)....48441
12002 (See EO 12444)....48215
12214 (See EO 12444)....48215
12444....48215
12445....48441
12446....48443

Proclamations:
5110....45219
5111....45221
5112....45371
5113....45523
5114....45753
5115....46259
5116....46963
5117....46965
5118....48217
5119....48439
5120....49205
5121....49207

5 CFR

Ch. XIV....45373
213....46261
300....49472
335....49472
351....49462
430....49472
431....49472
451....49472
531....49472
532....49472
540....49472
551....49494
771....49472
752....45525
1255....45373

Proposed Rules:
Ch. I....47990
Ch. III....47982
293....49492
550....49023

7 CFR

Ch. IV....48449
27....49209
2....46261, 48449
28....48997
51....46487
247....46731
301....46262, 48449
319....46732
752....45526
906....45374
908....45526, 46488, 48643
910....45374, 45755, 46961, 48791
919....45374
929....45374
981....45374
989....49214
991....45374, 48219
1065....48793
1093....48998
1205....48451
1435....45374
1901....45532
1945....48999
1951....46967
1955....46967
1962....46967
1965....46967

Proposed Rules:
Subtitle A....47236
Ch. I....47236
Ch. II....47236
Ch. III....47236
Ch. VI....47236
Ch. VII....47236
Ch. XI....47236
Ch. XIV....47236
Ch. XVII....47236
Ch. XVIII....47236
226....45779
402....46062
411....48675
421....49250
441....45782
781....46065
904....45786
910....45565
966....46544
981....49254
983....49025
1065....45117
1093....49512
1125....49255
1131....46343
1133....49255
1139....46797
1207....49026
1446....48471
1700....48830
1701....48472

8 CFR

100....48794
103....45093, 49499, 49651
214....45093, 48452, 48999
238....45093, 48796
248....45093

Proposed Rules:
Ch. I 47530
103 48242

9 CFR

92 49499
166 48643

Proposed Rules:
Ch. I 47236
Ch. II 47236
Ch. III 47236
92 ..... 46355, 49000
101 48679
113 48679
317 45118
318 48242
319 45118
325 46996
350 45755
362 45755
381 ..... 45118, 46996, 48224

10 CFR

2 46489
50 46489
55 45223
71 45381
95 48644
458 49622
761 45746
710 46499

Proposed Rules:
Ch. I 48156
Ch. II 47324
Ch. III 47324
Ch. X 47324
50 45787
60 48473
140 48474

11 CFR

114 48650
9001 49653
9002 49653
9003 49653
9004 49653
9005 49653
9006 49653
9007 49653
9012 49653

12 CFR

5 48452
7 ..... 46502, 48452
29 45532
34 49216
204 ..... 46005, 46262
207 ..... 45533, 48219, 48796
217 ..... 45756, 46262, 49654
220 ..... 45533, 48219
221 ..... 45533, 48219, 48797
224 45533
226 48219
561 45382
563 ..... 45382, 48455
760 46006

Proposed Rules:
Ch. I 47716
Ch. II 46996
Ch. V 48110
Ch. VI 48074
Ch. VII 48150
5 49291
29 47001
215 49293
224 49295
304 49517
349 49517
701 48830

13 CFR

101 45224
123 45225
133 46008

Proposed Rules:
Ch. I 48020
Ch. III 47254

14 CFR

21 ..... 48798, 49216
39 ..... 45093, 45535, 46008, 46009, 46503, 46969, 48220, 48222, 48801–48804
71 ..... 45094, 45095, 45536, 45537, 46010, 46503, 48805, 49500, 49501
95 46504
97 ..... 45096, 49001
205 46264
248 46265
294 46265
320 45236
380 46265
389 45758

Proposed Rules:
Ch. I 46358, 47582, 48681, 49659
Ch. II 47003, 48038
Ch. V 47972
21 ..... 45214, 45565
25 ..... 46218, 46250
29 46250
39 ..... 46070, 49296, 49297
43 48364
61 45214
65 45214
71 ..... 45118, 45566, 48244, 48831
91 48364
107 45214
109 45214
121 ..... 45214, 46218, 46250, 48364
127 48364
135 ..... 45214, 48364
145 45214
320 48832

15 CFR

Proposed Rules:
Subtitle A 47254
Ch. I 47254
Ch. III 47254, 49659
Ch. IV 47254
Ch. VIII 47254
Ch. IX 47254
Ch. XXIII 47254

16 CFR

13 ..... 48651, 49217, 49225
305 49654
453 45537

Proposed Rules:
Ch. I 48120
Ch. II 48064
13 49299
300 48682
301 48682
303 48683
305 49660
1212 45405
1500 45567
1513 45567

17 CFR

1 ..... 49003, 49501
145 ..... 46010, 48223
146 ..... 46010, 48223
147 ..... 46010, 48223
229 46012
230 ..... 46012, 46736
231 ..... 46012, 46969
239 ..... 45386, 46012
240 ..... 46012, 46736
241 46012
270 46012
274 46012

Proposed Rules:
Ch. I 48056
Ch. II 48190
33 46797
230 46801
240 ..... 45119, 48245
249 48245

18 CFR

2 46012
4 49010
6 49010
35 ..... 46012, 46970
154 49655
157 46021
270 48223
271 ..... 45097, 46266–46268, 48223, 49010, 49503, 49505
274 ..... 45097, 49505
282 45758
301 46970
375 49010
385 45388

Proposed Rules:
Ch. I 48104
2 49028
4 ..... 49028, 49520
11 49520
32 49028
101 46361
104 46361
141 46361
154 ..... 46361, 47003, 49028
157 47003
159 46361
201 46361
204 46361
260 46361
270 49028
271 ..... 46071, 49032, 49033
273 49028
274 49033
275 47003
282 45787
292 49028
300 49301
410 45568

19 CFR

4 ..... 46510, 46978, 48653
7 46740
10 ..... 46510, 46740
18 ..... 48655, 49655
22 46740
101 45538
103 45538
113 46740
134 48657
145 46740
148 46978
158 46740
191 46740
210 45544

Proposed Rules:
Ch. I 46805, 47724
4 ..... 46808, 46810
18 46812
101 45409
123 46812
144 46812

20 CFR

404 46142
626 48744
632 48744
633 48744
634 48744
635 49198
636 48744
684 48744

Proposed Rules:
Ch. I 47538
Ch. II 48012
Ch. III 47340
Ch. IV 47538
Ch. V 47538
Ch. VI 47538
10 48249
416 48684
422 ..... 46072, 47008

21 CFR

81 ..... 45237, 45760, 46022, 49235
109 45544
131 45545
133 49012
175 48228
178 ..... 46773, 46774
179 46022
182 48805
184 ..... 48456, 48457, 48805
186 ..... 48456, 48457
193 45547
211 46979
430 46270
436 ..... 46270, 49656
442 ..... 46270, 49656
520 ..... 46979, 48229
522 ..... 46023, 48229, 48659, 49233, 49656
540 45760
558 ..... 45102, 46023, 46024, 46514, 46515, 48659
700 46979
800 46979
1308 46516

Proposed Rules:
Ch. I 47340
122 48836
155 48836
182 45121
184 45121
211 47008
341 48576
351 46694
355 49304
610 ..... 46815, 47009, 49660
620 47009
630 47009
640 47009
650 47009
660 47009

680.....47009
700.....47008
800.....47008
1040.....48837

22 CFR

41.....48660
201.....49233

Proposed Rules:

Ch. I.....47578
Ch. II.....47970

23 CFR

655.....46775

Proposed Rules:

Ch. I.....47582
Ch. II.....47582
658.....46545

24 CFR

26.....46980
201.....46980
215.....46980
221.....46980
236.....46980
570.....45760, 46778, 46980
841.....46980
882.....46980
888.....45547, 46980
890.....46980

Proposed Rules:

Subtitle A.....47418
24.....46072, 46817
3280.....49520

25 CFR

71.....45103
114.....48806

Proposed Rules:

Ch. I.....47472
140.....45789
216.....49174

26 CFR

1.....45761, 46272, 46296
4.....46272
31.....46296
35a.....45362

Proposed Rules:

Ch. I.....47730
1.....47010, 48255, 49304
5c.....49304
5f.....48255
20.....48837
25.....48837
31.....47010
52.....48837

27 CFR

4.....45549
5.....45549, 46518
7.....45549
9.....45238, 45239, 46518–46524, 48810–48820
170.....46526
240.....46526

Proposed Rules:

Ch. I.....47708
9.....46387, 48685

28 CFR

2.....48230
50.....49509
500.....48968
527.....48968
552.....48968
571.....48970
572.....48972

Proposed Rules:

Ch. I.....47530

29 CFR

4.....49736
1601.....46298
1952.....48822

Proposed Rules:

Subtitle A.....47538
Ch. II.....47538
Ch. IV.....47538
Ch. V.....47538
Ch. XII.....47946
Ch. XIV.....47928
Ch. XVII.....47538
Ch. XXV.....47538
Ch. XXVI.....48004
1908.....45411
1910.....45956, 49521
1926.....45872

30 CFR

223.....48661
251.....46025
913.....46528
917.....46299
935.....46027, 46301, 46530
938.....45389
946.....46028

Proposed Rules:

Ch. I.....47538
Ch. II.....47472
Ch. VII.....47472
55.....45336
56.....45336
57.....45336
58.....45336
700.....49174
701.....49174
750.....49174
755.....49174
917.....48255
935.....45420
938.....46817

31 CFR

1.....48460
51.....46982
240.....49014

Proposed Rules:

Subtitle A.....47702
Ch. I.....47702
Ch. II.....47702
390.....48688

32 CFR

235.....48824
251.....45242
706.....49233

Proposed Rules:

Ch. I.....47302
Ch. V.....47302
Ch. VI.....47302
Ch. VII.....47302
Ch. XVI.....48018
199.....45791

33 CFR

100.....45244, 46531
117.....45245, 46532, 48662, 49650
130.....46178
131.....46178
132.....46178
151.....45704
155.....45704
157.....45718, 46985
163.....48230
165.....46533, 46534, 46779, 48663, 48664, 49657
166.....49018

Proposed Rules:

Ch. I.....47582
Ch. II.....47302
Ch. IV.....47582
117.....48690
146.....48475
150.....48475
162.....45798
164.....46819
165.....49660

34 CFR

668.....45670
690.....45670

Proposed Rules:

Subtitle A.....47308
Ch. I.....47308
Ch. II.....47308
Ch. III.....47308
Ch. IV.....47308
Ch. V.....47308
Ch. VI.....47308
Ch. VII.....47308
350.....45568
351.....45568
352.....45568
353.....45568
354.....45568
355.....45568
357.....45568

35 CFR

Proposed Rules:

Ch. I.....47998

36 CFR

7.....46779, 46780
60.....46306

Proposed Rules:

Ch. I.....47472
Ch. II.....47236
Ch. III.....47302
Ch. VIII.....47858
Ch. IX.....48002
7.....48257
216.....45421
1190.....47860

37 CFR

Proposed Rules:

Ch. I.....47254
1.....45424
2.....45424

38 CFR

1.....46985

Proposed Rules:

Ch. I.....48024
21.....45123, 45268, 45572, 47011

39 CFR

111.....45761, 46031
447.....48230, 48231
601.....49019

Proposed Rules:

111.....45269, 48850
3001.....46545

40 CFR

51.....48978
52.....45245, 45246, 46046, 46047, 46309, 46986, 48664, 48665, 48978, 49020
60.....46535, 46536, 48328, 48368, 48669, 49456
61.....46535
81.....46537, 46782, 49235
86.....48598
87.....46481
123.....48826
180.....46310, 49509
192.....45926
256.....46787
271.....48826
420.....48842
433.....45105
439.....49808
467.....49126
469.....45249
717.....45765

Proposed Rules:

Ch. I.....47864
51.....45269, 46152
52.....46081, 46391–46393, 46548, 46823, 48981, 48982, 49305, 49521, 49522
60.....45701, 46224, 46472, 48932, 48980
81.....46082, 46085, 46393, 46549–46553
141.....45502
162.....46397
180.....45573, 46395, 46396, 48476, 48477, 49524
228.....45798
261.....45210
271.....46824, 48690, 49525
403.....46944
415.....49408
420.....46944
439.....49832
464.....45573
465.....45573
1502.....46554, 47862
1506.....46554

41 CFR

Ch 1.....45392, 45557, 48462
Ch. 101.....45105
1–4.....48827
9–1.....46987
9–7.....46987
9–4.....45766
9–51.....45766
101–11.....46310, 49236
101–25.....48231
101–35.....49236
101–36.....49236, 49240
101–37.....49240
101–37.....48827
101–41.....46788
105–61.....45392

Proposed Rules:

Ch. 1.....47948
Ch. 4.....47236
Ch. 5.....48305
Ch. 9.....47324
Ch. 12.....47582

VOL 48 ISS 209 OC 27 1983 UMI

Ch. 13 47254
Ch. 14 47472
Ch. 25 47960
Ch. 29 47538
Ch. 60 47538
Ch. 101 47948
Ch. 105 47948
101-41 46554

42 CFR

51c 45558
52b 45558
55a 45558
56 45558
57 45112
110 45250
122 45558
405 ..... 45766, 48467
409 48467
489 48467

Proposed Rules:

Ch. I 47340
Ch. III 47340
Ch. IV 47340

43 CFR

Subtitle A 45664
3160 48916

Public Land Orders:

44 (Revoked by PLO 6478) 45401
96 (Revoked by PLO 6478) 45401
399 (Revoked in part by PLO 6477) 45395
698 (Revoked by PLO 6473) 45393
780 (Revoked by PLO 6478) 45401
3645 (Revoked by PLO 6472) 45393
5170 (Revoked in part by PLO 6477) 45395
5179 (Revoked in part by PLO 6477) 45395
5180 (Revoked in part by PLO 6477) 45395
5184 (Revoked in part by PLO 6477) 45395
5515 (Corrected by PLO 6483) 49022
6467 (Corrected) 49242
6472 45393
6473 45393
6474 45394
6475 45394
6476 45395
6477 45395
6478 45401
6479 45559
6480 46049
6481 46049
6482 46050
6483 49022
6484 49022

Proposed Rules:

Subtitle A 47472
Ch. I 47472
Ch. II 47472
20 49662
2620 48400
2880 48478

44 CFR

61 46789
62 46789
64 ..... 46988, 46989, 49242
65 ..... 46990, 48233
67 ..... 46050, 46312, 46992

Proposed Rules:

Ch. I 46934
65 48258
67 ..... 45425, 46085, 47014-47020, 48259, 49306-49308

45 CFR

13 45251

Proposed Rules:

Subtitle A 47340
Ch. II 47340
Ch. III 47340
Ch. VI 47980
Ch. XI 47978
Ch. XII 47856
Ch. XIII 47340

46 CFR

160 45113
162 45727
380 45559
530 48469
542 46175
543 46175
544 46175

Proposed Rules:

Ch. I 47582
Ch. IV 45269, 48114
7 45574
10 46556
24 45425
25 45425
26 45425
30 45425
31 45425
32 45425
35 45425
70 45425
71 45425
75 45425
77 45425
78 45425
90 45425
91 45425
94 45425
96 45425
97 45425
107 45425
108 45425
109 45425
157 46558
163 45425
188 45425
189 45425
192 45425
195 45425
196 45425
298 46825
508 45800
524 45270
531 ..... 45270, 49308
536 45270
538 45272
540 49664

47 CFR

0 45652
1 ..... 45652, 48234
2 45560
25 49242
61 46791
63 46791
69 48234
73 ..... 45401-45403, 46994, 48234
81 ..... 45114, 45560
83 ..... 45114, 45560
87 45114
97 ..... 45652, 49244

Proposed Rules:

Ch. I 47020, 48080
1 ..... 49033, 49069, 49309
21 49309
61 49033
67 ..... 46556, 47021
73 ..... 45428-45438, 47023-47031, 48264, 49069, 49438
83 45439
95 49314

48 CFR

Ch. I 46541

Proposed Rules:

Ch. 9 ..... 47324, 49315

49 CFR

192 48669
195 48669
350 48469
567 46994
571 ..... 46053, 46793, 48235
1033 45257
1043 45775
1162 46542
1307 ..... 46542, 46794

Proposed Rules:

Subtitle A 47582
Ch. I 47582
Ch. II 47582
Ch. III 47582
Ch. V 47582
Ch. VI 47582
Ch. X 46399, 48134
27 46399
171 48483
172 48483
173 48483
192 49665
195 46589
218 45272
231 49666
450 49074
451 49074
452 49074
453 49074
571 ..... 47032, 48483, 48622, 49076
1039 45137
1155 45440
1056 49526

50 CFR

17 ..... 46053, 46328-46337, 49244, 49245
23 ..... 45259, 45775
258 48619
285 46995
611 ..... 45403, 46542
646 45404
654 46057
655 ..... 45403, 45404
656 45403
657 45403
658 46057
661 45263
663 48241
672 46542
681 46342

Proposed Rules:

Ch. I 47472
Ch. II 47254
Ch. III 47254
Ch. IV 47254, 47472
Ch. V 47254
17 ..... 45574, 46086, 46590, 49316
23 ..... 45575, 49667
611 ..... 45804, 45806, 49668, 49669
641 49527
655 49077
663 ..... 45274, 48265
681 48853

LIST OF PUBLIC LAWS

Last Listing October 21, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

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VOL
48
ISS
2
0
9
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27
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Vol. 48 No. 210

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Federal Register

Friday
October 28, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Communications Common Carriers
Federal Communications Commission

Flood Insurance
Federal Emergency Management Agency

Flood Plains
Federal Emergency Management Agency

Radio
Federal Communications Commission

Securities
Securities and Exchange Commission

Surface Mining
Surface Mining Reclamation and Enforcement Office

Television
Federal Communications Commission

Trade Practices
Federal Trade Commission

Water Supply
Environmental Protection Agency

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Contents

Federal Register
Vol. 48, No. 210
Friday, October 28, 1983

Agricultural Marketing Service
RULES
49837 Lemons grown in Ariz. and Calif.

Agriculture Department
See also Agricultural Marketing Service; Commodity Credit Corporation; Federal Grain Inspection Service; Food and Nutrition Service; Forest Service.
NOTICES
Import quotas and fees:
49895 Sugar; market stabilization determination
Meetings:
49895 President's Task Force on Food Assistance

Alcohol, Tobacco, and Firearms Bureau
PROPOSED RULES
Alcoholic beverages:
49870 Distilled spirits products, reduced proof; labeling and advertising; extension of time

Blind and other Severely Handicapped, Committee for Purchase From
NOTICES
49904 Procurement list, 1984; additions and deletions (2 documents)
49905 Procurement list, 1984; establishment; correction

Civil Aeronautics Board
NOTICES
49899 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
Foreign forwarder registration:
49899 J.H. International
Hearings, etc.:
49899 Frontier Group show cause proceeding
49899 Frontier Horizon, Inc.
49900 Trans Carib Air, Inc.

Commerce Department
See International Trade Administration.

Commodity Credit Corporation
NOTICES
49970 Meetings; Sunshine Act

Commodity Futures Trading Commission
RULES
Records:
49839 Fees for requests for Commission records, reports, and meeting transcripts; correction
NOTICES
Contract market proposals:
49905 Chicago Mercantile Exchange; Deutsche Mark futures contracts

Community Services Office
NOTICES
Grants; availability, etc.:
50048 Rural development loan fund

Defense Department
See Navy Department.

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
49937 Bradway, David W., M.D.
49938 Weinstein, Louis J., M.D.

Employment and Training Administration
NOTICES
49938 Labor surplus area classifications; annual list; additions

Employment Standards Administration
NOTICES
49992 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Colo., Conn., Del., Fla., Ill., Iowa, Ky., Mass., N.C., N. Mex., Pa., Tex., Va., W. Va. and Wis.)

Energy Department
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
49917 European Atomic Energy Community
49917 Japan and European Atomic Energy Community
49917 Japan and Norway
49917 Norway and Sweden
49906 International energy program; implementation; second plan of action, draft; inquiry

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
49872 California
49874 Kansas
Air quality implementation plans; preparation, adoption, and submittal:
49872 Restructuring SIP preparation regulations; correction
Water pollution control; State underground injection control programs:
49875 Delaware
NOTICES
Environmental statements; availability, etc.:
49918 Agency statements; weekly receipts
Pesticide programs:
49918 Ethylene dibromide; intent to cancel registration, determination concluding rebuttable presumption against registration, and availability of position document; correction

Equal Employment Opportunity Commission
NOTICES
49970 Meetings; Sunshine Act (2 documents)

Federal Aviation Administration
RULES
Air traffic operating and flight rules:
50038 Airport radar service area
Airworthiness directives:
49837 Canadair
49838 Rolls-Royce, Ltd.
PROPOSED RULES
49863, 49864 Control zones (2 documents)
NOTICES
Organization and functions:
49961 San Diego, Calif.; Air Carrier District Office; relocation
49961 San Diego, Calif.; General Aviation District Office; relocation

Federal Communications Commission
RULES
Common carrier services:
49843 Depreciation and retirement procedures, and network channel terminating equipment reclassification
Radio broadcasting:
49852 Elimination of unnecessary broadcast regulations; alcoholic beverage advertising, music format service company agreements, etc.
Radio services, special:
49861 Amateur service; ten year license terms
Radio stations; table of assignments:
49852 New Mexico
49852 Oklahoma
PROPOSED RULES
Radio broadcasting:
49879 Elimination of unnecessary broadcast regulations; horse race programing and betting advertisements
Radio stations; table of assignments:
49882 California
49893 Texas
Television stations; table of assignments:
49864 California
49885–49888 Florida (4 documents)
49889 Iowa
49891 Kentucky
49892 Texas
NOTICES
Common carrier services:
49918 Western Union Telegraph Co. et al.; access and divestiture related tariffs investigation
Hearings, etc.
49921 Canyon Communications et al.
Meetings:
49922 International Telegraph and Telephone Consultative Committee
49922–49924 Telecommunications Industry Advisory Group (6 documents)
49922 Telecommunications Industry Advisory Group Steering Committee

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
49841 Massachusetts et al.
PROPOSED RULES
Flood elevation determinations:
49879 New York; correction
49876 Floodplain management and protection of wetlands
NOTICES
49924 Agency information collection activities under OMB review
Disaster and emergency areas:
49924 Arizona

Federal Grain Inspection Service
NOTICES
Agency designation actions:
49897 Indiana
49896 Ohio
49897 Oklahoma and Tennessee
49895 Texas and Wisconsin

Federal Home Loan Bank Board
NOTICES
49970 Meetings; Sunshine Act

Federal Maritime Commission
PROPOSED RULES
49879 Ports and marine terminal operators; inquiry and intent to review regulations
NOTICES
49970 Meetings; Sunshine Act

Federal Reserve System
NOTICES
49971 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
49839 Amana Refrigeration, Inc.
PROPOSED RULES
Prohibited trade practices:
49865 Hughes Tool Co. & Big Three Industries, Inc.

Fish and Wildlife Service
NOTICES
49935 Endangered and threatened species permit applications
50004 Fish and Wildlife Conservation Act; study concerning potential sources of funding; inquiry

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
49841 Furosemide tablets or boluses
NOTICES
Color additives:
49927 FD&C Red No. 4; petition denied; correction
Human drugs:
49925 Synalgos New Formulation and Synalgos-DC New Formulation
Meetings:
49926 Advisory committees, panels, etc.

Food and Nutrition Service
PROPOSED RULES
Food stamp program:
49863 Insured financial institutions, retail food stores and wholesale food concerns; extension of time

Forest Service
NOTICES
Environmental statements; availability, etc.:
49898 Tongass National Forest, Alaska; revised availability date

Meetings:
49898 Carson National Forest Grazing Advisory Board

Health and Human Services Department
See also Community Services Office; Food and Drug Administration; National Institutes of Health; Public Health Service.
NOTICES
49924 Agency information collection activities under OMB review

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Antidumping:
49900 Welded carbon steel pipes and tubes from Korea
49902 Welded carbon steel pipes and tubes from Taiwan

Interstate Commerce Commission
NOTICES
Motor carriers:
49937 Compensated intercorporate hauling operations; intent to engage in
Railroad operation, acquisition, construction, etc.:
49936 Chesapeake & Ohio Railway Co.
Railroad services abandonment:
49937 Seaboard System Railroad, Inc.

Justice Department
See Drug Enforcement Administration.

Labor Department
See Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.

Land Management Bureau
NOTICES
Airport leases:
49934 Nevada
Classification of public lands:
49932 Nevada; correction
Exchange of public lands for private land:
49934 Nevada
49929 Oregon
Meetings:
49932 Bakersfield District Advisory Council
Opening of public lands:
49933 Nevada
Organization, functions, and authority delegations:
49933 Bureau orders; numbered system; abolishement
Sale of public lands:
49934 Idaho
49933 Washington; correction
Survey plat filings:
49933 Wyoming

Legal Services Corporation
NOTICES
49971 Meetings; Sunshine Act (2 documents)

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
50035 Central California OCS oil and gas lease sale
49936 Pacific OCS oil and gas operations, proposed
Outer Continental Shelf; oil, gas, and sulphur operations:
50020 Central California; leasing systems
50006, 50022 Central California; oil and gas lease sale (2 documents)
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
49935 Chevron U.S.A., Inc.
49936 Kerr-McGee Corp.

National Aeronautics and Space Administration
NOTICES
Meetings:
49941 Space Systems and Technology Advisory Committee

National Institutes of Health
NOTICES
Meetings:
49928 Diabetes National Advisory Board
49928 Vision Research Program Committee

National Science Foundation
NOTICES
Meetings:
49943 Behavioral and Neural Sciences Advisory Panel (2 documents)
49942 Earth Sciences Advisory Committee
49941–49944 Social and Economic Science Advisory Panel (7 documents)

Navy Department
NOTICES
Meetings:
49906 Chief of Naval Operations Executive Panel Advisory Committee

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
49944–49946 Florida Power Corp. et al. (2 documents)
49947 Iowa State University
49947 Tennessee Valley Authority
Meetings:
49952 Reactor Safeguards Advisory Committee
49971 Meetings; Sunshine Act

Occupational Safety and Health Administraton
NOTICES
State plans; standards approval, etc.:
49939 Maryland
49939 South Carolina
49940 Tennessee

Public Health Service
NOTICES
Meetings:
49928 Orphan Products Board

Securities and Exchange Commission
RULES
Securities Investor Protection Corporation rules:
49840 Standardized option, liquidation and customer claims

NOTICES
Hearings, etc:
49954 Great Lakes Housing Limited Partnership et al.
49955 Middle South Energy, Inc.
49956 National Fuel Gas Co.
49956 National Fuel Gas Co. et al.
49956 New York Life Insurance & Annuity Corp. et al
49953 Intermarket trading system; American Stock Exchange, Inc., et al.; plan amendment
49972 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes;
49952 American Stock Exchange, Inc., et al.; intermarket trading system plan
49957, 49960 New York Exchange, Inc. (2 documents)
49958 Options Clearing Corp.
49958 Pacific Clearing Corp.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Abandoned mine land reclamation program; plan submissions:
49870 Navajo Indian Nation

Tennessee Valley Authority
NOTICES
49972 Meetings; Sunshine Act

Transportation Department
See Federal Aviation Administration.

Treasury Department
See Alcohol, Tobacco and Firearms Bureau.

Veterans Administration
NOTICES
49969 Agency information collection activities under OMB review
49961 Privacy Act; systems of records

Separate Parts in This Issue

Part II
49992 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part III
50004 Department of the Interior, Fish and Wildlife Service

Part IV
50008 Department of the Interior, Minerals Management Service

Part V
50038 Department of Transportation, Federal Aviation Administration

Part VI
50048 Department of Health and Human Services, Community Services Office

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
910 49837
Proposed Rules:
278 49863
279 49863

14 CFR
39 (2 documents) 49837, 49838
71 50038
91 50038
103 50038
105 50038
Proposed Rules:
71 (2 documents) 49863, 49864

16 CFR
13 49839
Proposed Rules:
13 49865

17 CFR
145 49839
300 49840

21 CFR
520 49841

27 CFR
Proposed Rules:
5 49870

30 CFR
Proposed Rules:
953 49870

40 CFR
Proposed Rules:
51 49872
52 (2 documents) 49872, 49874
145 49875

44 CFR
64 49841
Proposed Rules:
9 49876
67 49879

46 CFR
Proposed Rules:
Ch. IV 49879

47 CFR
31 49843
73 (3 documents) 49852
97 49861
Proposed Rules:
73 (11 documents) 49879–49893

Rules and Regulations

Federal Register
Vol. 48, No. 210
Friday, October 28, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 435]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 210,000 cartons during the period October 30–November 5, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 30, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on October 25, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for all grades of lemons is good on larger sizes and easier on smaller sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.735 is added as follows:

§ 910.735 Lemon regulation 435.

The quantity of lemons grown in California and Arizona which may be handled during the period October 30, 1983, through November 5, 1983, is established at 210,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 27, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-29561 Filed 10-27-83; 12:17 pm]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-83-AD; Amdt. 39-4756]

Airworthiness Directives; Canadair Model CL-600 1A11 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Canadair CL-600-1A11 airplanes which requires modifications to the bulkhead at F.S. 409.00. Fatigue tests performed by Canadair have shown that after the equivalent of 30,000 hours time in service, cracks will develop in the bulkhead at F.S. 409.00 in the area of the keel member cutout. The modifications are needed to ensure bulkhead integrity and prevent loss of pressurization.

DATE: Effective November 7, 1983.

ADDRESSES: The service bulletin specified in this airworthiness directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, PQ H3C 3G9, Canada, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has issued an AD which mandates compliance with Canadair Service Bulletin No. 600-0124. Cracks in the bulkhead at F.S. 409.00 in the area of

the keel member cutout were found during fatigue testing by Canadair. The cracks were determined to have started at the equivalent of 30,000 hours time in service; a large scatter factor was used to establish a conservative safe flight life for the structure. Once the safe life limit has been reached, a modification must be accomplished to ensure the structural integrity of the bulkhead. This modification is described in the service bulletin.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires incorporation of modifications to the bulkhead at F.S. 409.00.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Canadair: Applies to Canadair Model CL-600-1A11 airplanes, serial numbers 1005 through 1008 and 1010 through 1056, certificated in all categores. Compliance required as indicated, unless already accomplished.

A. To ensure the structural integrity of the bulkhead at F.S. 409.00, incorporate modifications in accordance with Canadair Service Bulletin 600-0124, dated March 23, 1982, within he next 25 hours time in service after the effective date of this AD or upon accumulation of 1175 total flying hours, whichever is later.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective November 7, 1983.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on October 18, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-29347 Filed 10-27-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NE-21; Amdt. 39-4742]

Airworthiness Directives; Rolls-Royce, Ltd., RB211-22B Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD), applicable to Rolls-Royce RB211-22B turbofan engines, by requiring accelerated removal from service of additional serial numbers of high pressure compressor (HPC) rotor stage 1 and 2 disk assemblies. The amendment is needed to prevent continued operation of disk assemblies which may have reduced mechanical properties due to possible manufacturing deficiencies and which could result in uncontained engine failure.

DATES: A. Effective—November 28, 1983.

B. The incorporation by reference provisions in this document were approved by the Director of the Federal Register on November 28, 1983.

C. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable Alert Service Bulletin may be obtained from Technical Publications Department, Rolls-Royce, Ltd., Derby, England DE2 8BJ.

A copy of the Alert Service Bulletin is contained in the Rules Docket, FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Robert J. Koenig, Engine and Propeller Standards Staff, ANE-110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7330.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3804 (45 FR 41397), AD 80-13-05, which currently requires progressive removal from service of certain HPC stage 1 and 2 disk assemblies manufactured prior to 1974 and used on Rolls-Royce RB211-22B engines. After issuing Amendment 39-3804, some HPC stage 1 and 2 disk assemblies manufactured since 1974 were identified as having been produced by manufacturing processes similar to the pre-1974 disks. Based on this a notice was issued in the **Federal Register** on May 23, 1983 (48 FR 22932) which proposed to amend the existing AD by reducing the cyclic life limit of these later manufactured disk assemblies which are identified by serial number and part number in Appendix 2 of Rolls-Royce Alert Service Bulletin No. RB211-72-A5722, Revision 3, and installed in Rolls-Royce RB211-22B turbofan engines.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No objections were received. Accordingly, the proposal is adopted without change.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3804 (45 FR 41397), AD 80-13-05, to read as follows:

Rolls-Royce, Ltd.: Applies to Rolls-Royce RB211-22B turbofan engines. Compliance required as indicated, unless already accomplished.

To preclude possible high pressure compressor (HPC) rotor stage 1 and 2 disk assembly failure, remove from service all HPC rotor stage 1 and 2 disk assemblies, listed by part number and serial number in Appendices 1 and 2 of Rolls-Royce Alert

Service Bulletin No. RB211–72–A5722, Revision 3, dated April 17, 1981, in accordance with the following compliance schedule:

1. For disk assemblies listed in Appendix 1:

a. After July 31, 1980, no disk assemblies may exceed 7,000 flight cycles.

b. After December 31, 1980, no disk assemblies may exceed 6,000 flight cycles.

c. All remaining disk assemblies by April 30, 1981.

2. For disk assemblies listed in Appendix 2:

a. After the effective date of this amendment, no disk assemblies may exceed 9,000 flight cycles.

Note.—For the purpose of this AD, a flight cycle is considered to be an engine operating sequence from takeoff to landing.

Replace with an FAA-approved, serviceable HPC rotor stage 1 and 2 disk assembly.

The manufacturer's Alert Service Bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a). All persons affected by this directive who have not already received the service bulletin from the manufacturer may obtain copies upon request to Technical Publications Department, Rolls-Royce, Ltd., Derby, England DE2 8BJ. The service bulletin may also be examined at Federal Aviation Administration, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts.

This amendment becomes effective November 28, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); § 11.89, Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has estimated, in a final regulatory evaluation, that the total cost impact of this amendment to the AD will not exceed $210,000. It is also determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the rule affects only domestic air carriers operating Lockheed L–1011 aircraft in which the RB211 engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by writing to Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attn: Rules Docket No. 80–NE–21, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on October 7, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83–29351 Filed 10–27–83; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9162]

Amana Refrigeration, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions.

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires an Amana, Iowa, manufacturer and seller of household appliances, among other things, to cease representing that only Amana microwave ovens passed independent laboratory testing conducted in 1980, and that Amana microwave ovens were rated "best quality" in a 1980 consumer survey. The order prohibits misrepresentations concerning the purpose, content, or conclusion of any test or survey and requires the company to maintain accurate records which substantiate and/or contradict any claim made for products covered by this order. Further, the company is required to have a reasonable basis for all future quality, safety or comparative performance representations made for microwave ovens.

DATES: Complaint issued October 7, 1982. Decision and Order issued September 30, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PA, Andrew Sacks, Washington, D.C. 20580, (202) 724–1524.

SUPPLEMENTARY INFORMATION: On Monday, July 18, 1983, there was published in the **Federal Register**, 48 FR 32596, *correction*, 48 FR 35135, a proposed consent agreement with analysis In the Matter of Amana Refrigeration, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: Section 13.10 Advertising falsely or misleadingly; § 13.20 Comparative data or merits; § 13.175 Quality of product or service; § 13.195 Safety; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.255 Surveys. Subpart—Corrective Actions and/or Requirements: Section 13.533 Corrective actions and/or requirements; § 13.533–45 Maintain records. Subpart—Disseminating Avertisements: Section 13.1043 Disseminating advertisements. Subpart—Misrepresenting Oneself and Goods—Goods: Section 13.1575 Comparative data or merits; § 13.1715 Quality; § 13.1740 Scientific or other relevant facts; § 13.1757 Surveys. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: Section 13.1886 Quality, grade or type; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Advertising, Appliances, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83–29353 Filed 10–27–83; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 145

Schedule of Fees for Requests for Commission Records, Reports of the Commission, and Transcripts of Commission Meetings

Correction

In FR Doc. 83–27403 beginning on page 46010 in the issue of Tuesday, October 11, 1983, make the following correction:

On page 46011, the middle column, under Part 145, the amendatory language in paragraphs designated "1" and "2" should have read as follows:

"1. § 145.96 is amended by redesignating paragraphs (a)(8) and (9) as (a)(10)and (11) respectively.

2. § 145.96 is further amended by revising paragraphs (a)(1) through (7)

and adding new paragraphs (a)(8) and (9) to read as follows:"

This supersedes the correction published on October 18, 1983 (48 FR 48223).

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 300

[Release No. SIPA-113; File No. SIPC 83-1]

Rules of the Securities Investor Protection Corporation

AGENCY: Securities and Exchange Commission.

ACTION: Order Approving a Rule of the Securities Investor Protection Corporation.

SUMMARY: The Commission approves a rule which was submitted to the Commission for approval by the Securities Investor Protection Corporation ("SIPC") as required by Section 3[e](2) of the Securities Investor protection Act of 1970, as amended (the "Act"). The rule (1) establishes a uniform procedure for the liquidation of Standardized Options positions in proceedings pursuant to the Act, and (2) establishes a uniform method for calculating the value of such Standardized Options Positions for distribution to customers of the debtor firm. Because SIPC rules approved by the Commission have the force and effect as if promulgated by the Commission, those rules are published in this title of the Code of Federal Regulations.

EFFECTIVE DATE: October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Alexander Shtofman, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272-2904.

SUPPLEMENTARY INFORMATION: On February 24, 1983, the Securities Investor Protection Corporation ("SIPC") filed with the Commission, pursuant to Section 3(e)(2) of the Securities Investor Protection Act of 1970, as amended (the "Act"), a proposed rule change (File No. SIPC-83-1). The rule (1) establishes a uniform procedure for the liquidation of Standardized Options positions in proceedings pursuant to the Act, and (2) establishes a uniform method of calculating the value of such Standardized Options Positions for distribution to customers of the debtor firm

Notice of the proposed rule change together with the terms of substance was given by the Commission on March 21, 1983, in Release No. SIPA-109, which appeared in the **Federal Register** on March 30, 1983 (48 FR 13301). The public was invited to comment on the submission, but no comment letters were received.

Standardized Options are a wasting asset which, by their nature, decline in value over time. Because options, unlike most other types of securities, cannot be physically delivered to customers, the only method available to restore customer control over options positions is to transfer the positions to a solvent SIPC member. However, such transfers are not always possible. Even where a transfer of the options positions is possible, it cannot always be done within the time constraints created by the very nature of the options positions.

This situation leads to uncertainty on the customer's part. The customer cannot know if all or part of his options positions will be transferred to another broker, and if such transfer is effected, whether there will be time to make appropriate investment decisions. To alleviate this potential uncertainty, and to improve investor confidence, the proposed rule will allow each customer to generally know, with certainty, that his options positions will be closed out and his account credited or debited, as appropriate, based upon the nature of the options position on the filing date of the proceeding.

Accordingly, the Commission finds that the proposed SIPC rule is in the public interest and is consistent with the purposes of the Act.

It is therefore ordered by the Commission, pursuant to Section 3(e)(2) of the Act, that the above-mentioned proposed rule change be approved. In accordance with Section 3(e)(2) of the Act, the approved rule change shall be given force and effect as if promulgated by the Commission.

To allow public access to SIPC's rules, they are published under Part 300 of 17 CFR Chapter II.

List of Subjects in 17 CFR Part 300

Brokers, Securities, Securities Investor Protection Corporation.

Text of Amendments

In accordance with the foregoing, Chapter II, Title 17 of the CFR is amended as follows:

PART 300—RULES OF THE SECURITIES INVESTOR PROTECTION CORPORATION

1. By adding new § 300.400 to read as follows:

§ 300.400 Satisfaction of customer claims for standardized options.

(a) For the purpose of sections 7(b)(1), 8 (b) and (d), and 16(11) of the Securities Investor Protection Act (hereinafter referred to as "the Act"), this rule will be applied in determining what a customer will receive in either (1) a liquidation proceeding pursuant to the Act or (2) a direct payment procedure pursuant to section 10 of the Act, in satisfaction of a claim based upon Standardized Options positions.

(b) As promptly as practicable after the initiation of a liquidation proceeding or a direct payment procedure under the Act, the trustee in a liquidation proceeding, or SIPC in a direct payment procedure, shall liquidate or cause to be liquidated, by sale or purchase, all Standardized Options positions held for the accounts of customers.

(c) A trustee in a liquidation proceeding, or SIPC in a direct payment procedure, shall calculate the dollar amount of all Standardized Options positions held for the account of a customer in accordance with section 16(11) of the Act, and credit or debit, as appropriate, the dollar amount so calculated to the account of such customer.

(d) Notwithstanding paragraph (b) of this section, neither the trustee in a liquidation proceeding nor SIPC in a direct payment procedure shall be required under this rule to liquidate any short position in Standardized Options covered by the deposit of (1) the underlying securities, in the case of a call option, or (2) treasury bills, in the case of a put option, by or on behalf of a customer with a bank or other depository. Any such positions that are not liquidated shall be excluded from the calculation provided for in paragraph (c) of this section.

(e) In no event will Standardized Options positions be delivered to or on behalf of customers in satisfaction of claims pursuant to section 7(b)(1) of the Act.

(f) In no event will Standardized Options be purchased for delivery to customers pursuant to section 8(d) of the Act.

(g) This rule shall not be construed as limiting or restricting in any way the exercise of any right of a broker or registered clearing agency to liquidate or cause the liquidation of Standardized Options Positions.

(h) As used in this rule the term "Standardized Options" means options traded on a national securities exchange, an automated quotation system of a registered securities

association, or a foreign securities exchange.

2. By adding § 300.400 to the Table of Contents for Part 300, under the heading "Satisfaction of Customer Claims for Standardized Options."

Dated: October 21, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29321 Filed 10-27-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Furosemide Tablets or Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Biocraft Laboratories, Inc., providing for safe and effective use of a 12.5-milligram furosemide tablet for oral treatment of dogs for edema associated with cardiac insufficiency.

EFFECTIVE DATE: October 28, 1983.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Biocraft Laboratories, Inc., 92 Route 46, Elmwood Park, NJ 07407, filed supplemental NADA 131-806 providing for use of a 12.5-milligram furosemide tablet in addition to their currently approved 50-milligram tablet for oral treatment of dogs for edema (pulmonary congestion, ascites) associated with cardiac insufficiency.

The supplement does not otherwise affect the approved use of the product. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this approval had been treated as a Category II Supplemental NADA which does not require reevaluation of the safety and effectiveness data in the parent application. The supplement is approved and the regulations are amended to reflect the approval.

Approval of this supplement is an administrative action that does not require new safety or effectiveness data. Therefore, a freedom of information summary is not required.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither and environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1010a [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 60b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 520.1010a *Furosemide tablets or boluses* is amended in paragraph (b) in the phrase beginning "see 000332" by adding "12.5- and" before the phrase "50-milligram".

Effective date. October 28, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 21, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-29286 Filed 10-27-83; 8:45 am]

BILLING CODE 4160-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6569]

Suspension of Community Eligibility Under the National Flood Insurance Program; Mass., et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Richard W. Krimm, Assistant Associate Director, Office of Natural and Technological Hazards Programs (202) 287-0176, 500 C Street Southwest, FEMA—Room 506, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as

having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Region I:					
Massachusetts: Middlesex.	Newton, city of	250208B	Feb. 25, 1972, emergency, June 1, 1978, regular, Nov. 2, 1983, suspended.	June 28, 1974, June 1, 1978	Nov. 2, 1983
Region II:					
New York: Westchester.	Croton-on-Hudson, village of	360907B	Apr. 15, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	May 10, 1974, Jan. 30, 1976	Do.
Region III:					
Virginia: Independent City.	Portsmouth, city of	51552988	May 15, 1970, emergency, July 2, 1971, regular, Nov. 2, 1983, suspended.	May 15, 1970, July 1, 1974, Nov. 21, 1975, Nov. 2, 1983.	Do.
Region IV:					
Florida:					
Dixie	Unincorporated areas	120336B	Apr. 14, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	Nov. 11, 1977	Do.
Do	Horseshoe Beach, city of	120326A	July 25, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	Aug. 30, 1974	Do.
South Carolina:					
Kershaw	Camden, city of	450117C	Apr. 2, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	May 24, 1974, May 14, 1976, June 27, 1980.	Do.
Do	Unincorporated areas	450115B	June 10, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	Jan. 6, 1978	Do.
Laurens	Laurens, city of	450125B	Dec. 28, 1973, emergency, Nov. 2, 1983, regular, Nov. 2, 1982, suspended.	June 7, 1974, July 30, 1976	Do.
Charleston	McClellanville, town of	4500398	Dec. 16, 1975, emergency, Mar. 16, 1981, regular, Nov. 2, 1983, suspended.	Oct. 25, 1974, Mar. 16, 1981	Do.
Region V:					
Illinois: Marion	Central City, village of	170452C	Sept. 5, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	Feb. 15, 1974, Jan. 16, 1976, May 4, 1979.	Do.
Indiana:					
Rush	Carthage, town of	180222B	May 5, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	Nov. 23, 1973, Apr. 16, 1976	Do.
Allen	Huntertown, town of	180005B	July 29, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	May 31, 1974, Apr. 9, 1976	Do.
Jackson	Seymour, city of	180088	Apr. 3, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	Dec. 17, 1973, June 18, 1976	Do.
Vigo	Unincorporated areas	180263B	June 28, 1974, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	Jan. 3, 1975, June 23, 1976	Do.
Michigan:					
Monroe	Estral Beach, village of	260261A	March 30, 1973, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	Apr. 12, 1974	Do.
Montcalm	Greenville, city of	260158C	Dec. 29, 1975 emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	Jan. 17, 1975, May 14, 1976, Jan. 15, 1982.	Do.
Ionia	Ionia, city of	260097C	Apr. 28, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	June 7, 1974, June 4, 1976, Feb. 5, 1982.	Do.
Ohio:					
Belmont	Bellaire, city of	390025B	Aug. 1, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	Feb. 8, 1974, May 21, 1976	Do.
Delaware	Delaware, city of	390148C	Jan. 31, 1975, emergency, Nov. 2, 1983, regular, Nov. 2, 1983, suspended.	May 17, 1974, Apr. 4, 1975, Jan. 26, 1979.	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: October 24, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-28942 Filed 10-27-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 31

[CC Docket No. 82-679; RM-4084; FCC 83-456]

Amendment of the Commission's Rules to Change the Basis of Depreciation and Retirement Procedures for the "Station Connections-Other" Subclass of Account 232, and to Reclassify Network Channel Terminating Equipment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending the depreciation and retirement procedures for the "Station connections-other" sub-class of account 232 and transferring the plant to outside plant accounts. These changes are necessary to make the accounts consistent with regulatory changes adopted in a related Docket. This action will minimize the administrative burden on the industry associated with the accounting for investment classes, the costs of which are relatively minor.

EFFECTIVE DATE: April 28, 1983.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Chief, Accounting and Audits Division, Common Carrier Bureau (202) 634-1861.

List of Subjects in 47 CFR Part 31

Communications common carriers, Federal Communications Commission, Telephone, Uniform system of accounts.

Report and Order

In the matter of amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, of the Commission's Rules and Regulations to change the basis of depreciation and retirement procedures for the "Station connections-other" subclass of account 232, and to reclassify network channel terminating equipment, including subscriber pair gain equipment, located on customer premises, to account 221, "Central office equipment," CC Docket No. 82-679 (RM 4084), FCC 83-456.

Adopted: October 6, 1983.
Released: October 26, 1983.

By the Commission.

I. Introduction

1. On October 4, 1982, the Commission released a Notice of Proposed Rulemaking (NPRM), 47 FR 44767, proposing to amend the Uniform System of Accounts for Class A and Class B Telephone Companies (Part 31 of the Commission's Rules and Regulations) in response to a Petition for Rulemaking filed by the American Telephone and Telegraph Company (AT&T). This NPRM proposed to revise the retirement and depreciation procedures for one category of plant, to reclassify that same plant to other accounts, and to reclassify one other category of plant. Based upon our review of the comments and reply comments received, we are adopting our proposals in most areas without change in this order. However, it is necessary to alter one proposal to accommodate other recent Commission decisions.

II. Background

2. In the *First Report and Order* in Docket 79-105 (Expensing of Inside Wiring), 85 FCC 2d 818 (1981), this Commission ordered all subject carriers to separate their station connection investment, all of which was recorded in account 232 "Station connections," into at least two sub-classes, "Station connections—inside wiring" and "Station connections—other." This was a continuation of efforts which had begun with the *Final Decision and Order* in Docket 19129 (Phase II), 64 FCC 2d 1 (1977), reconsideration, 67 FCC 2d 1429 (1978) to place the burden of costs associated with station connections on the ratepayer who causes the costs to be incurred. Docket 79-105, *supra*, defined "Station connections—inside wiring" as that segment of the wiring from the customer's side of the protector to the customer premises equipment. It was decided that inside wiring cost incurred in the future should be charged directly to expense when incurred [1] and that the embedded investment for inside wiring should be amortized to expense over 10 years. The other category, "Station connections—other," was to continue being capitalized. This category represented what is referred to as the "drop and block" which connects the outside distribution network with the customer premises. It is comprised of the cabling, station protector and wiring considered to be part of the local distribution network.

3. The *First Report and Order, supra*, required subject telephone carriers to provide the Commission with the accounting procedures to be used for station connections—other. In that regard, by a letter dated December 10, 1981, AT&T was granted permission to continue using the activity in account 231, "Station apparatus," to serve as the basis for retiring plant recorded as "Station connections—other." This permission was granted on an interim basis pending the filing of a petition for rulemaking by AT&T to resolve the accounting for this subclass. The accounting changes currently being considered are in response to AT&T's petition.

III. Proposed Revisions

4. The NPRM proposed to change the depreciation and retirement procedures for the drop and block investment recorded in account 232 to the procedures applied to aerial and buried cable [2] recorded in accounts 242:1, "Aerial cable," and 242:3, "Buried Cable." This proposal was made on the basis that drop and block investment uses the same or similar materials as the local distribution plant and that the current retirement and depreciation procedures for the drop and block present a problem in tracking physical retirements because of the volume of transactions involved and the low cost for individual units.

5. The NPRM also proposed that the drop and block investment actually be transferred to the aerial and buried cable accounts that were proposed as the basis for depreciation. In this respect our proposal went beyond AT&T's petition. We also proposed to extend the provision of Section 31.6-64 "Extensive replacements," to the drop and block investment recorded in the aerial and buried cable accounts. This provision, which currently applies to drop and block investment recorded in account 232, allows a company, with Commission approval, to record expenditures for drop and block replacements in account 138, "Extraordinary maintenance and retirements," and to amortize them to account 605, "Installation and repairs of station equipment," when it replaces a majority of the drop and block wires in a given central office district.

6. Concerning another matter, we proposed to classify all network channel terminating equipment (NCTE), including subscriber pair gain equipment, in account 221, "Central office equipment," regardless of physical location.[3] Currently, NCTE is recorded

[1] A four year transition period was established to phase-in this change. Under this approach 25% of these costs were to be expensed in year one, 50% expensed in year two, 75% in year three, and 100%, in year four. Also, carriers were allowed in certain instances to "flash-cut"—start immediate 100% expensing of these costs.

[2] The average service life for aerial and buried cable is currently in the 20-30 year range. For retirement accounting purposes, retirement units for the aerial or buried cable are generally maintained by sections, runs, spans, etc. The cost of the drop and block would be added to the units of cable.

[3] NCTE was defined in the NPRM as equipment used to provide transmission channels for transmitting and receiving signals as well as for

in account 221 unless it is located on customer premises in which case it is recorded in account 231, "Station apparatus," or account 234, "Large private branch exchanges." Along with the proposed reclassification, we also proposed that separate records be maintained to identify the cost of NCTE recorded in account 221 that is located on customer premises.

7. The NPRM invited all interested parties to file comments on the specific proposals on or before November 23, 1982 and reply comments on or before December 8, 1983. Comments were filed by AT&T, United Telephone System, Inc. (UTS), United States Independent Telephone Association (USITA), North American Telephone Association (NATA), MCI Telecommunications Corporation (MCI), GTE Service Corporation (GTE), National Telephone Cooperative Association (NTCA), Independent Data Communications Manufacturers Association, Inc. (IDCMA), and The Wisconsin Public Service Commission (Wisconsin). Reply comments were filed by AT&T, MCI and IDCMA. The pertinent comments are summarized below:

IV. Summary of Comments

Modification of Depreciation and Retirement Procedures for Station Connections—Other

8. AT&T, MCI and NTGA support our proposal to use the current depreciation and retirement procedures for account 242:1, "Aerial cable" and account 242:3, "Buried cable" as the basis for the retirement and depreciation of the drop and block plant recorded in the account 232 subclass "Station connections—other." UTS, Wisconsin, USITA, and GTE oppose the proposed procedures for various reasons.

9. UTS, Wisconsin and USITA all argue that our proposed procedures should not be adopted because they fail to give recognition to differences in life characteristics between the drop and block and aerial and buried cable. Both UTS and Wisconsin stress that retirements of drop and block investment are not activated simultaneously with the retirement of aerial and buried cable and that the drop and block investment is dedicated to one customer rather than to the network.

10. UTS recommends that the depreciation and retirement procedures for drop and block be based on access line activity.[4] Wisconsin agrees with the NPRM that station activity is no longer the appropriate depreciation and retirement basis for drop and block, but suggests as an alternative to our proposal that separate retirement units be established for the drop and block investment. Finally, USITA infers that we already recognize the life difference because the current depreciation rates for drop and block are higher than those for aerial and buried cable. However, it argues that both rates are unreasonably low in today's changing technological environment and that this depreciation rate problem should be our major concern.

11. AT&T, in its reply comments, agrees that drop and block characteristics are not necessarily identical to those of aerial and buried cable but argues that, as in other plant areas, they can be expected to be similar based on similar physical characteristics of the plant. For example, it noted that terminal and loading coil cases are included in cable depreciation rate categories even though the life characteristics are not necessarily identical to the cable. They are considered sufficiently similar to justify aggregating the plant with cable for depreciation purposes to avoid the administrative and economic burden of keeping a separate depreciation rate category for a minor portion of the account. Further, AT&T states that the use of access line activity would generate an extensive churning effect,[5] in much the same manner as the use of station apparatus movement in this area has previously done. It notes that one of the major reasons for the changes dictated in Docket 79–105, *supra*, was to avoid this churning effect. AT&T also argues against Wisconsin's proposal to establish separate retirement units for the depreciation and retirement of drop and block wire on the basis that extensive administrative burden would be necessary to track the drop and block wire usage, and that such costs would exceed any apparent improvement in accounting accuracy.

12. CTE was opposed to the proposed procedures on the basis that they would cause extensive, and in its opinion, unnecessary recordkeeping to keep track of items of an insignificant investment. It suggest treating the cost as an overhead construction cost, in order to minimize administrative costs without distortive effects and still assure reliability of the data considered by the Commission. AT&T, in its reply comments, argues that the Commission's proposal would accommodate much of GTE's concern since drop and block is not defined as a separate retirement unit and would be treated as a "minor item" thus avoiding extensive accounting and recordkeeping requirements for retirement units.

Reclassification of Station Connections—Other

13. NTCA and GTE agree with the proposal to reclassify the drop and block investment from account 232 "Station connections" to account 242:1 "Aerial cable" and account 242:3 "Buried cable." NTCA agrees that the capital accounting should be consistent with the depreciation and retirement method selected.

14. MCI and AT&T, while not opposed to the application of the aerial and buried cable depreciation and retirement procedures to the drop and block investment, were opposed to the proposed account reclassification. MCI suggests that we should isolate the investment in either a new account or a separate subaccount of account 242 so as to avoid future allocation problems caused by mixing equipment dedicated to one customer (drop and block) with equipment serving multiple customers (cable).

15. AT&T generally bases its opposition to the proposed accounting change on the fact that the asset transfer would cause new drop and block investment to be classified as fifteen year regulatory property for tax purposes, rather than the five year classification it currently enjoys. It argues that this change would result in a cumulative increase in current taxes and a corresponding decrease in deferred taxes averaging approximately $80 million per year for the first five years and an increase in the cumulative revenue requirements for this same five years of approximately $20 million per year.

16. Also, our accounting proposal was opposed by Wisconsin, USITA and UTS with Wisconsin and UTS arguing for continued use of account 232 and USITA suggesting a separate subaccount be established in account 242. However, as indicated, they are opposed to applying the depreciation and retirement procedures for aerial and buried cable to the drop investment because of alleged differences in life characteristics

testing network channels. The NCTE can be placed in field locations (including customer premises) or in the central office. They can also be used in pairs, with matching equipment located at both the central office and the customer premises.

[4] Access line is defined in AT&T's *Telecommunications Glossary* as "the facilities between a serving central office and the customer that are required to provide access to the local and toll switched network." This includes such equipment as non-traffic sensitive central office equipment and the local loop.

[5] This churning is caused by disconnects and reconnects of access lines during the associated life of the drop and block.

between the types of plant. It follows, therefore, that they would oppose the proposed accounting.

17. Finally, as explained at para. 5, an additional aspect of our proposed accounting change was to continue applying the provisions of § 31.6–64 (Part 31) to the reclassified drop and block investment. Section 31.6–64 currently allows a carrier when replacing a majority of the drop and block wires in any given central office district, with Commission approval, to record these expenditures in account 138, "Extraordinary maintenance and retirements," and to amortize them to account 605, "Installation and repairs of station equipment." NTCA, while agreeing with the reclassification of drop and block investment to the aerial and buried cable accounts, argues that the provisions of this section are inappropriate. Instead, NTCA argues that these costs should be capitalized in the plant accounts so that carriers can earn a return on what, in some companies, could represent a material investment.

18. AT&T suggests that NTCA's arguments in this area should be rejected as outside the scope of this proceeding because it is attempting to raise an issue that was settled in Docket 79–105, *supra*. Further, AT&T argues for the continued application of the provisions of § 31.6–64 if we reclassify the drop and block investment. It also suggests that the expense associated with the drop and block wires should be charged to accounts 602:2, "Repairs of aerial cable," and 602:4, "Repairs of buried cable," rather than account 605, and that the expense in question should include the following: (1) Disconnection without removal; (2) reconnection; (3) repairs, rearrangement or replacement; and (4) plant assignment.

Network Channel Terminating Equipment (NCTE)

19. AT&T, UTS and NTCA agree with our proposal to reclassify NCTE regardless of location, in account 221 "Central office equipment." MCI and GTE basically agree with the intent of the proposal but offer alternative or clarifying suggestions as to its application. IDCMA and NATA are opposed to the proposal.

20. MCI argues that the proposed reclassification should be accomplished through establishing a separate subaccount so as to avoid future special study problems and to increase regulatory visibility.

21. GTE, while agreeing with the proposed reclassification suggests that the "Separations Manual" definition of circuit equipment be included to define the NCTE to be transferred to account 221. Paragraph 24.01 of the *NARUC–FCC Separations Manual* defines "circuit equipment" as follows:

> Circuit equipment, category 8, * * * which is used to derive communications transmission channels or which is used for the amplification, modulation, regeneration, testing, balancing, or control of signals transmitted over communications transmission channels * * *.

22. AT&T, while responding to NATA's arguments, offers a similar definition when it defines the major functions of NCTE as: (1) Amplifications, equalization, regeneration and restructuring transmission signals; (2) maintenance of network channel service; (3) channel derivation; and (4) environmental control. However, AT&T did not suggest the adoption of any specific definition.

23. Both IDCMA and NATA oppose the reclassification and argue that NCTE should be deregulated. IDCMA argues that some devices labelled NCTE are properly and historically the province of CPE, not central office equipment. It claims that the proposed changes are unwarranted even on the basis claimed in the NPRM, that is, to assure that equipment is classified on the basis of the function it performs, not on its location in the network. It contends that the Commission would have to conclude that the proper function of NCTE is network rather than CPE, an issue being contested in Docket 81–216.[6] It recommends that we defer on this proposal until a decision is issued in Docket 81–216. Alternatively, it recommends that a new and entirely separate telephone account titled "network channel terminating equipment" be established, without prejudice to Docket 81–216. AT&T agrees that a question has been raised in Docket 81–216 regarding channel service units, but contends that this represents a small fraction of the NCTE to be transferred. It argues that the transfer can be made without prejudging the above mentioned proceeding.

24. NATA argues that embedded NCTE recorded in accounts 231 and 234 should be gradually removed from the interstate rate base with all new NCTE being offered on a detariffed basis or expensed to the cost-causative customer because NCTE, like inside wiring, is user-specific. It argues that the basis in Docket 79–105 for leaving drop and block investment under regulation was its lack of service change at the customer's premises, and the basis for expensing inside wiring was its user-specificity. Therefore, it concludes that remotely located NCTE should be detariffed and, at a minimum, expensed rather than transferred to a central account charged to all ratepayers. Finally, it requests that if the Commission grants the relief requested by AT&T, it not preclude interconnect vendors from supplying NCTE as part of CPE. AT&T argues that there are many cases where plant that is unquestionably part of the network is installed in a user specific configuration. It further states that the user-specificity of NCTE is different from the user-specificity of inside wiring in that NCTE is reusable and the inside wiring is not. Finally, AT&T contends that Docket 79–105 does not support NATA's assertion that any plant which is installed in a user-specific configuration should be deregulated.

25. Finally, an integral part of the proposal to reclassify NCTE was our proposal that carriers be required to maintain separate records to identify the cost of NCTE located on customer premises. While the parties generally agreed to such a requirement, there was disagreement or misunderstanding as to the level of detail intended. AT&T, UTS and GTE generally recommend that this requirement be satisfied by continuous property records maintained on an accounting area basis as detailed in Appendix B of Part 31 because such an approach would minimize burden and cost while still providing the Commission with the data it needs for regulatory purposes. MCI, on the other hand, argues that separate records should be maintained for this investment. It contends that GTE and UTS have presented no data to support their arguments that to require separate records beyond an accounting area basis would be burdensome.

V. Discussion

Proposed Changes in the Depreciation and Retirement Procedures for "Station Connections Other"

26. Prior to CC Docket 79–105, station connections retirements were based on station apparatus activity.[7] There we concluded that it was inappropriate to base station connection retirements on such activity. We completely altered the accounting for the inside wiring portion of station connections as indicated in para. 2, and requested new procedures

[6] See *Notice of Proposed Rulemaking and Notice of Inquiry*, CC Docket 81–216 (Amendment of Part 69), 85 FCC 2d 86 (1981); *Second Notice of Proposed Rulemaking and Order*, CC Docket 81–216, 92 FCC 2d 1 (1982); *Third Notice of Proposed Rulemaking*, CC Docket 81–216, FCC 83–268 (released June 14, 1983).

[7] Station apparatus activity is the disconnection and reconnection of station apparatus.

from the carriers for the drop and block portion. The NPRM was intended to establish those new procedures.

27. We proposed to base the drop and block retirement procedures on the aerial and buried cable procedures. The proposal is basically the same as that sought by AT&T in its petition. We tentatively found the proposal to be a logical response to the new procedures required by Docket 79–105. The proposed procedures would align the drop and block investment with plant we had already deemed to be similar in nature. Thus, retirements, etc. would be based on procedures which tend to more realistically reflect the drop and block characteristics rather than on station apparatus activity, a procedure found questionable in Docket 79–105. Further, the proposal had the added advantage of providing a workable mechanism which avoided the extensive recordkeeping burden associated with more detailed approaches. It also retained, to a limited degree, the ability to identify the drop and block investment.

28. The respondents' reactions to our proposal are mixed and generally revolve around whether or not they consider the plant to be similar. AT&T, MCI and NTCA did not oppose the proposal. Essentially, they argue, and we agree, that the plant in question is similar enough to warrant using the same depreciation and retirement procedures, especially when you consider the relatively minor per unit cost of the drop and block investment. On the other hand, UTS and Wisconsin argue that sufficient differences exist to warrant separate procedures. They both offer alternatives which they contend give proper recognition to those differences.

29. UTS proposes to base the retirement of the drop and block investment on access line activity.[8] We believe, however, that the use of access line activity would generate virtually the same undesirable churning effect that has been caused by station apparatus activity in the past. In both cases drop and block retirements would be geared to plant that is disconnected and reconnected often. Thus, the use of access line activity would generate artificial growth in the drop and block investment. It is our objective to develop the most reasonable accounting and depreciation procedures we can, while still providing for the proper recovery of these costs. We believe that our proposal more closely meets that goal. We are, therefore, rejecting UTS' proposal.

30. Wisconsin proposes to develop individual retirement units for the drop and block investment. Wisconsin would retire drop and block units when the plant is physically removed, sold, destroyed or abandoned (not used in communication service for two years). We believe, however, that this approach has basic shortcomings. First, as we understand the proposal, most retirements would be generated by abandonments. According to AT&T, drop and blocks are rarely sold, physically removed or destroyed. Thus, extensive recordkeeping would be necessary to track the period during which access line service is not being provided. In our opinion, such a recordkeeping burden is not warranted in this situation. The investment in question is, as previously indicated, relatively minor on a per unit cost basis, and constitutes a minor percentage when compared to the aerial and buried cable accounts (8% per GTE). Therefore, we have concluded that we should reject Wisconsin's proposal because it would impose an unjust burden on the companies. The benefits of any increased accuracy would be outweighed by the cost of maintaining such records.

31. We turn now to questions raised by USITA and GTE. USITA agrees with UTS and Wisconsin that the drop and block and the aerial and buried cable are not similar. However, its major contention is that the depreciation rates for both categories are inadequate and that this inadequacy should be our major concern. As indicated in Docket 79–105, *supra*, and above, we have already concluded that the plant is similar. Therefore, there is no need for further consideration of that point here. Further, the appropriateness of the depreciation rates is beyond the scope of this proceeding, and, therefore, cannot be considered. That concern would be more appropriately addressed as a part of our normal depreciation prescription process.

32. GTE is in favor of reclassifying the drop and block as outside plant. However, it is opposed to appyling the accounting currently used for the depreciation and retirement of outside plant. Instead, it proposes that the drop and block be loaded on the aerial and buried cable accounts as an overhead construction cost. This, according to GTE, would minimize the recordkeeping associated with an insignificant investment. However, our proposal did not require separate retirement units for the drop and block. Instead, it intended to treat the costs as a minor item[9] for retirement purposes. Therefore, we fail to see any significant additional recordkeeping burden required by our proposal. Even if there is additional burden, however, we think that our proposal is superior because it provides for a slightly higher degree of asset identification than would be available under GTE's proposed. Therefore, based on the above, we are rejecting GTE's proposal to use an overhead construction cost approach in favor of our original proposal.

33. In conclusion, effective with the dates established in this order, the drop and block investment will be retired and depreciated using the same procedures applicable to aerial and buried cable. However, for the benefit of both USITA and Wisconsin we wish to point out that Part 31.8, List of Retirement Units, of the USOA allows companies, with Commission approval, the flexibility of developing a listing of retirement units for a portion or all of an account. Therefore, there is nothing to prevent a company, if it so desires, from seeking Commission approval of separate retirement units and related depreciation rates for the drop and block investment as part of the depreciation represcription process.

Reclassification of Station Connections—Other

34. The reclassification to the aerial and buried cable accounts seemed to us to be a logical extension of the depreciation and retirement proposal in that it addressed the fact that the drop and block is a small fraction of total acccount 232. This point became important when one considered that due to the amortization process established in Docket 79–105, for the inside wiring subclass, the drop and block will eventually become the only investment recorded in account 232. Thus, our proposal provided an alternative through which a relatively minor investment is recorded with other plant which has been found to be similar. In our opinion, this approach avoided any potential confusion resulting from having the drop and block recorded in one account with its retirements and depreciation geared directly to occurrences in another account. It also avoided the costly burden of more extensive recordkeeping.

35. Several respondents disagree with our reclassification proposal and offer alternatives. AT&T, for instance,

[8] Access line activity is the disconnection and reconnection of the access line.

[9] A minor item is any element of plant * * * which is not designated as a retirement unit. Section 31.2–25(b)(2) of the USOA.

proposes that the investment be retained in account 232 but retired using account 242 activity so as to retain certain tax advantages. It contends that our proposal will increase cumulative revenue requirements to the Bell System by approximately $20 million per year. Even so, we believe it would be unwise to base such a decision solely on tax consequences, and that other factors should also be considered. AT&T's proposal not only separates the assets from the retirement procedures, but increases the potential for error in account 232 since it by-passes the accounting and recordkeeping controls normally associated with individual plant accounts. If the assets were to remain in account 232, and outside cradle-to-grave accounting, as decided in Docket 79–105, the USOA requires that continuous property records, retirement units, etc., much the same as suggested by Wisconsin, be maintained to support the account balance. We believe, however that the cost of establishing and maintaining such a necessary recordkeeping system would be even more costly than the tax consequences of our proposal. Therefore, we find AT&T's proposal to be unacceptable. We find that our proposal represents, in this instance, a more reasonable matching of assets with depreciation and retirement procedures.

36. UTS, Wisconsin and USITA also oppose the proposal. UTS argues that the drop and block should remain in account 232 and Wisconsin would redefine account 232. USITA argues that if we are determined to transfer the drop and block to the aerial and buried cable accounts, then we should establish separate subaccounts. Actually, these parties objections to the proposed accounting treatment are the direct result of their opposition to the application of the aerial and buried cable depreciation and retirement procedures to the drop and block investment which has already been addressed.

37. MCI suggests that either a new account or a separate subaccount in account 242 be established to avoid future allocation problems caused by mixing plant dedicated to one customer with plant serving multiple customers. However, we have already addressed this and several other alleged differences between the plant in question, and have decided that based on the relatively minor per unit investment, they are similar enough to warrant the use of common retirement and depreciation procedures. MCI has raised no arguments that would override that decision when determining the appropriate accounting for the drop and block investment. We believe that our proposed accounting will meet our regulatory needs while at the same time, not burdening the carriers with the extensive and costly recordkeeping associated with MCI's proposal. Therefore, we are rejecting their proposal. We do point out, however, that the whole issue of subaccounts is being addressed in our USOA proceeding, *Second Supplemental Notice of Proposed Rulemaking and Order* in CC Docket 78–196, 88 FCC 2d 83 (1981). That proceeding, which benefits from extensive industry participation, may well reflect different account levels than we are now prescribing.

38. Finally, we turn to the remaining aspect of the proposed accounting change, the continued application of the provisions of Section 31.6–64[10] for our Rules to the drop and block investment once it is recorded in the aerial and buried cable accounts. Only NTCA opposes this change. We find that although there appears to be merit to NTCA's argument that failure to capitalize these replacement costs may have an unfavorable effect on small companies' rate bases, their argument is outside the scope of this proceeding. This proceeding was intended only to establish accounting changes and not to make rate making determinations. Further, this accounting has been available to companies for some time, and the record supports its continuation. Therefore, we are rejecting NCTA's arguments and are applying the provisions of Section 31.6–64 to the drop and block investment after reclassification. However, in making this accounting change we are in no way precluding companies from seeking ratemaking recognition of the amounts involved.

39. In conclusion, after considering all of the arguments presented by the parties, we are still of the opinion that our original proposal is the proper way to insure that a relatively minor cost is accounted for with minimum burden. Accordingly, we are revising Part 31 effective with the dates established in this Order, to transfer the existing drop and block investment from the account 232 subclass "Station connections—other" to account 242:1, "Aerial cable" and account 242:3, "Buried cable," as appropriate. The applicable depreciation reserve shall also be transferred to the reserve associated with aerial and buried cable. All new drop and block investment will be recorded in accounts 242:1 or 242:3, as appropriate. Further, we are revising Section 31.6–64 of the USOA to provide that, when the conditions therein regarding the replacement of drop and block investment recorded in the aerial and buried cable accounts are met, the cost of such replacements may, with Commission approval, be recorded in account 138, "Extraordinary maintenance and retirements," and amortized to accounts 602:2, "Repairs of aerial cable," and 602:4, "Repairs of buried cable."

Network Channel Terminating Equipment

40. Events have transpired subsequent to the filing of comments and reply comments in this proceeding, which have an effect on the proposal. On June 2, 1983, we adopted the *Amendment of Part 68 of the Commission's Rules*, Third Notice of Proposed Rulemaking in Docket 81–216 (47 FR 29014) in which we concluded that digital NCTE and CSU's are CPE. Thus, new digital NCTE and CSU's will be deregulated.[11] Embedded CSU's and NCTE were also brought under the procedures of *Computer II*.[12] The proper regulatory treatment of embedded NCTE will be determined in Docket 81–893, *Implementation of Computer II*[13] or another appropriate proceeding. Therefore, it is unnecessary and inappropriate to reclassify the embedded digital NCTE and CSU investment at this time. If we followed through with our proposal, another transfer would be necessary at a later date. We, therefore, are not requiring the transfer of embedded CSU's and digital NCTE.

41. Regarding analog NCTE, an order recently adopted by the Common Carrier Bureau[14] noted that since this

[10] See para. 5, *supra*.

[11] The NPRM required AT&T to file within 30 days of publication of the notice in the Federal Register, tariff revisions to institute an interim plan to provide for interim interconnection of CSU's and digital NCTE. These tariff revisions will have a scheduled effective date of 30 days from the date filed.

[12] See Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384 (1980) (Final Decision), reconsideration, 84 FCC 2d 50 (1980), further reconsideration, 88 FCC 2d 512 (1981), aff'd sub. nom., CCIA v. FCC, 693 F. 2d 198 (D.C. Cir. 1982).

[13] See 89 FCC 2d 594 (1982).

[14] American Telephone and Telegraph Company, Mimeo No. 4821 (released June 20, 1983). This order denied petitions to reject tariff revisions proposed by AT&T to make group (48 kHz) and supergroup (240 kHz) channels available to other common carriers and the general public, and set for investigation issues regarding the status of NCTE as an element of the local distribution facilities for those channels.

NCTE is equipment located on customer premises it is CPE as defined in *Computer II*. Continuing to offer it under tariff would seem, therefore, to violate the rules established in *Computer II*. The order opened an investigation into the technical questions raised by the detariffing of this equipment.

42. Therefore, based on the above, we have chosen to defer our proposal to transfer NCTE located on customer premises to account 221 until such time as final determinations have been made as to its regulatory status. Based on this approach, we see no need to address the comments of the parties. In addition, the location records we had proposed for the NCTE located on the customer's premises and recorded in account 221 are also being terminated. If the need arises these issues will be addressed in another proceeding.

VI. Regulatory Flexibility Act

43. In compliance with the provisions of Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we believe the above discussion sets forth the purpose of these amendments. Further, we certify that these accounting changes can be readily implemented by all carriers subject to Part 31 without significant economic impact.

VII. Ordering Clauses

44. Accordingly, it is ordered, That under the authority contained in Section 4(i), 4(j) and 220 of the Communications Act of 1934, as amended, Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies of the Commission's Rules is amended as set forth in the attached Appendix to be effective six months after publication in the **Federal Register**, provided however, that any carrier may, at its option, adopt these changes effective no earlier than January 1, 1984.

45. It is further ordered, That the Secretary shall cause to be served on each state commission having jurisdiction over intrastate communications service, a copy of this Report and Order.

46. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 31—[AMENDED]

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, is amended as follows:

1. Section 31.02–80 is amended by revising paragraph (c) to read as follows:

§ 31.02–80 Computation of depreciation rates.

* * * * *

(c) The company shall keep such records of property and property retirements as will reflect the service life of property which has been retired, or will permit the determination of service life indications by mortality, turnover, or other appropriate methods, and also such records as will reflect the percentage of salvage value, or net salvage value, as appropriate, for property retired from each class of depreciable plant. Further, account 232 will be amortized according to the schedule noted in account 232(b). (See also accounts 605 and 232 for the accounting for costs incurred in the disconnection and removal of station apparatus.)

* * * * *

2. Section 31.02–82, Classes of depreciable telephone plant is amended by retitling Station connections and by eliminating Note B. With the reclassification of the Station connections—other subclass investment to the cable accounts, Note B. is no longer required.

§ 31.02–82 Classes of depreciable telephone plant.

Buildings (account 212).
Central office equipment (account 221).
Station apparatus (account 231).
Station connections—inside wiring (account 232).
Large private branch exchanges (account 234).
Pole lines (account 241).
Aerial cable (account 242:1).
Underground cable (account 242:2).
Buried cable (account 242:3).
Submarine cable (account 242:4).
Aerial wire (account 243).
Underground conduit (account 244).
Furniture and office equipment (account 261).
Vehicles and other work equipment (account 264).

3. Section 31.138, Extraordinary maintenance and retirements, paragraph (b) is revised to include the phrase "associated with outside plant" in describing drop and block wires. Also add a reference to Accounts 602:2 and 602:4. Paragraph (b), as amended, will read:

§ 31.138 Extraordinary maintenance and retirements.

* * * * *

(b) This account shall include also the cost of extensive replacements of station apparatus, inside wires and drop and block wires associated with outside plant, in accordance with the provisions of § 31.6–64. (Note also 602:2, 602:4 and 605.)

* * * * *

4. Section 31.231, Station apparatus, is amended to revise Note A to read as follows:

§ 31.231 Station apparatus.

* * * * *

Note A.—The cost of installation (including cabling, station protectors, and wiring on the customer's side of the protector or equivalent) shall be charged to account 232, "Station connections" and/or account 605, "Installations and repairs of station equipment," as appropriate.

5. Section 31.232, Station connections, is amended by revising its title and paragraphs (a), (b), and (c). Also amend the list of items by eliminating the last item which covers the installation of drop and block wire and by revising the first item to restrict that item to covering wiring other than drop and block wires. Amend Note C to clarify the accounting for the costs of disconnecting and of reconnecting customer's lines. The account title and paragraphs (a), (b), (c), the list of Items and Note C, as amended, will read as follows:

§ 31.232 Station connections—inside wiring.

(a) This account shall include the original costs of installing or connecting items of station apparatus and the original cost of inside wiring and cabling. (See also account 605, "Installations and repairs of station equipment.")

(b) The investment in station connections—inside wiring is to be amortized to account 608, "Depreciation," with a corresponding credit to account 171, "Depreciation reserve," over a ten year period commencing no later than October 1, 1981. In calculating this amortization, the company shall first determine the net book cost of station connections—inside wiring by subtracting the depreciation reserve attributable to station connections—inside wiring from the book cost of station connections—inside wiring. This net book cost shall be divided by the number of months remaining in the ten year amortization period to determine the appropriate amortization for that month. For example, the amortization amount for the first month will be determined by dividing the net book cost by 120. The second month, the net book cost will be

divided by 119, the third month by 118, etc. Carriers are to assume that the first month's reserve balance for this account is zero. However, if from the studies required by Docket 20188 or the results of the represcription process any reserve is identified as applicable to the station connection—inside wiring, it will be added to the station connections—inside wiring reserve and should be deducted from the remaining investment to be amortized. Also, the amounts resulting from the amortization schedule should not be considered in the determination of the separate reserve established for each category of plant. The embedded investment on the books up to October 1, 1981, will be fully recovered by October 1, 1991. For carriers who adopt the phase-in approach, the growth in investment in inside wiring between October 1, 1981, and September 30, 1982, shall be specifically identified and amortized according to the schedule noted above over ten years with full amortization completed by October 1, 1992. The growth in investment between October 1, 1982 and September 30, 1983, and between October 1, 1983, and September 30, 1984, shall be handled in the same manner with full amortization on all station connections—inside wiring completed by September 30, 1994. Under no circumstances shall the cumulative amortization credits to account 171 exceed the balance of the investment for station connections—inside wiring.

(c) Effective no later than October 1, 1981, for carriers who select a phase-in approach, when a station apparatus is installed except as part of a replacement or an inside move, the station connections—inside wiring installation cost shall be charged to this account on the following basis: 75% between October 1, 1981, and September 30, 1982; 50% between October 1, 1982, and September 30, 1983, 25% between October 1, 1983, and September 30, 1984; and 0% after September 30, 1984. The remaining cost not chargeable to this account shall be charged to the appropriate subaccount of account 605. Effective no later than October 1, 1981, for carriers who select a flash-cut approach, the otherwise capitalizable amount chargeable to the station connections—inside wiring account shall be expensed to the appropriate subaccount of account 605.

* * * * *

Items

(Note § 31.01–8)

The wires (or small cables) from the station apparatus to the point of connection with the outside plant cable or wire facilities.

The wires (or small cables) used to connect station apparatus in the same building, such as main stations with extension stations, and stations of intercommunicating systems.

The wires (or small cables) used to connect private branch exchange switchboards or their distributing frames with terminal stations located in the same building.

The wires (or small cables) used to connect the various parts of a small private branch exchange, such as the cables or wires from distributing frames to switchboard.

The wires (or small cables) installed specifically to serve as trunk, battery, or generator circuits from a small private branch exchange to the point of connection with the permanent house or outside cables or wires.

Connecting blocks, ground wires, ground rods, station protectors, clamps, cleats, nails, screws and other material used in the installation of station apparatus and inside wiring and cabling.

Labor and other costs incurred in connection with station apparatus and station connection installations or additions thereto.

* * * * *

Note C.— Provisional denials of service to stations for non-payment shall be treated as stations disconnected unless the denials become final. Similarly, restoration of service to such stations subjected to provisional denials which have not become final shall not be treated as stations reconnected. The cost of disconnecting and reconnecting customers' lines at customers' premises at the System Network Interface or equivalent to effect such provisional denials and restorations shall be charged to account 605, "Installations and repairs of station equipment." If the disconnection is made in the outside cable plant, the cost thereof shall be charged to accounts 602:2," Repairs of aerial cable," or 602:4, "Repairs of buried cable," as appropriate. If the disconnection and reconnection are made in central offices, the cost thereof shall be charged to account 604, "Repairs of central office equipment."

6. Section 242:1, Aerial cable, list of items is amended to incorporate the inclusion of drop and block wires served either by aerial cable or aerial wire and their associated protectors. Amend Note B to exclude reporting of drop and block reported as aerial cable from annual reports to the Commission. The list of items and Note B, as amended, will read as follows:

§ 31.242:1 Aerial cable.

* * * * *

Items

(Note § 31.01–8)

Air dryers.
Bonds and ground.
Cable—block, feeder, main, subsidiary.
Cable—house, including riser and distributing cables extending to floor terminal boxes, cross-connections boxes and wall outlets, etc., where connection is made with inside wires.
Cable clamps.
Cable rings.
Cable terminals or boxes.
Closure and splice cases.
Cross-connection wires and fuses installed in the first equipment for service of cable terminals or boxes.
Drop and block wires served either by aerial cable or aerial wire, and their associated protectors, including ground rods, ground wire, brackets, bridle rings, insulators, knobs, span clamps, screws, strand, tubes, and other material used in the installation of aerial drop and block wires, trimming trees and other costs incurred in the installation of such wires.
Floor terminal boxes and cross-connection boxes at wall outlets.
Fuse boxes.
Loading coils, building-out condensers, carrier-line filters, and cases therefor.
Main-frame-terminating cable extending to outside cable.
Negative returns.
Permits and privileges for construction. (Note also 31.2–22(b)(7).)
Pole seats and balconies.
Pressure contactor-terminals.
Protectors and arresters.
Sleeves.
Strand suspension.
Tree guards.

* * * * *

Note B.—The company's records shall be kept so that the miles of wire in aerial cable may be shown in the annual reports to this Commission, except that no such reporting is required as regards drop and block wires.

7. Section 31.242:2, Underground cable, Note B is amended to revise reference for the charging of drop and block wire. Note B, as amended, will read:

§ 31.242:2 Underground cable.

* * * * *

Note B.—The cost of small cables used in the installation of station apparatus is included in account 232 or account 605 (effective October 1, 1981). However, the cost of small cables used as drop or block wires shall be charged to account 242:1 or account 242:3, as appropriate.

* * * * *

8. Section 31.242:3, Buried cable, list of items is amended to incorporate the inclusion of drop and block wires served either by buried cable or underground cable and their associated protectors. Amend Note B to exclude the reporting of drop and block wires classified as buried cable from the annual reports to the Commission. The list of items and Note B, as amended, will read as follows:

§ 31.242:3 Buried cable.

* * * * *

Air dryers.
Cable—feeder, main.
Cable terminals or boxes.
Closure and splice cases.

Cross-connection wires and fuses installed in the first equipment for service of cable terminals or boxes.
Drop and block wires served either by buried cable or underground cable and their associated protectors, including all material and other costs associated with the installation of such wires.
Loading coils, building—out condensers, carrier-line filters, and cases therefor.
Main-frame-terminating cable extending to outside cable.
Negative returns.
Pedestals.
Permits and privileges and rights of way for construction. (Note also § 31.2–22(b)(7) and Note F to account 211.)
Pressure contactor-terminals.
Protective covering for buried cable, *i.e.*, cable not run in regular conduit, such as fiber or other material (except when constructed so as to be reusable in place for other cable) and the cost of manholes, etc., designed specifically for use in such construction.
Protectors and arresters.
Pumping out and cleaning manholes in buried cable construction work. (See also Note A to this account.)
Sleeves.
Splicing boxes.
Trenching for and burying cable not run in regular conduit.
Wire when buried and used as a part of the general distribution system.

* * * * *

Note B.—The company's records shall be kept so that the miles of wire in buried cable may be shown in the annual reports to this Commission, except that no such reporting is required as regard drop and block wires.

9. Section 31.243, Aerial wire, Note is amended to revise reference for the charging of drop and block wires. The Note, as amended, will read:

§ 31.243 Aerial wire.

* * * * *

Note.—The cost of drop and block wires shall be included in accounts 242:1 or 242:3, as appropriate.

10. Section 31.244, Underground Conduit, Note B is amended to read as follows:

§ 31.244 Underground conduit.

* * * * *

Note B.—The cost of pipes or other protective covering for underground drop and block wires shall be charged to accounts 242:1 or 242:3, as appropriate. However, the cost of pipes or other protective covering for inside wiring shall be charged account 232 or account 605 (effective October 1, 1981).

11. Section 31.6–64, Extensive Replacements is amended to include a reference to accounts 602:2 and 602:4 to cover extensive replacement of drop and block wires associated with outside plant. The Section, as amended, will read:

§ 31.6–64 Extensive replacements.

When it becomes necessary to replace the majority of station apparatus, inside wires, or drop and block wires associated with outside plant in any given central office district, together with any number of such items in continuous districts, the cost of the replacements chargeable to account 602:2, "Repairs of aerial cable," account 602:4 "Repairs of buried cable, or account 605, "Installations and repairs of station equipment," as appropriate, if so authorized by this Commission upon application to it, shall be charged to account 138, "Extraordinary maintenance and retirements," and cleared to accounts 602:2, 602:4 or 605 over the period specified in the authority.

12. Section 31.602:2, Repairs of aerial cable, is amended to redesignate the existing description as paragraph (a). Add a new paragraph (b) to cover the extensive replacements to drop and block wires served by aerial cable and wire. Amend the list of Items to include new items covering the repair of drop and block wires served either by aerial cable or aerial wire and the plant assignment of these wires. Paragraphs (a), (b) and the list of Items, as amended, will read:

§ 31.602:2 Repairs of aerial cable.

* * * * *

(a) This account shall include the cost of repairing aerial cable plant.

(b) This account shall include also amortization of costs of extensive replacements of drop and block wires served by aerial cable or aerial wire which under conditions provided in 31.6–64 have been included in account 138, "Extraordinary maintenance and retirements."

Items

(Note § 31.01–8)

Clearing defective cable pairs.
Disconnecting drop and block wires served either by aerial cable or aerial wire. (Note also accounts 602:4, 604 and 605.)
Inspecting, testing, and reporting on the condition of aerial cable plant to determine the need for repairs or replacements. (Note also account 603.)
Installing, transferring, replacing, and removing cross-connection wires and fuses in cable terminals or boxes. (See also Note A to this account.)
Maintaining gas pressure.
Maintenance of air dryers.
Moving aerial cable plant.
Opening, testing, splicing, and other work of transferring pairs cable and transferring cable from one cable or stub to another cable or stub.
Permits and privileges for maintenance work.
Plant assignment of drop and block wires served by either aerial cable or aerial wire including related clerical work.
Reconnecting drop and block wires served either by aerial cable or aerial wire. (Note also accounts 602:4, 604 and 605.)
Repair, rearrangement or replacement of drop and block wires served by aerial cable and its associated protectors.
Replacing minor items or aerial cable plant, including labor and material used and the removal and recovery of the items retired less salvage recovered, except when such items are replaced through the replacement of retirement units. (Note also 31.2–25.)
Restoring condition of aerial cable plant damaged by storms, fires, or other casualties (Note also 31.2–25.)
Testing for, locating, and clearing trouble. (Note also account 603.)
Tightening suspension strand and cutting out cable slack.
Transferring cable, cable boxes, and other aerial cable plant in connection with replacements of poles and crossarms.
Work on the property of others in connection with the maintenance of the aerial cable plant of the company. (See also Note B to this account.)

13. Section 31. 602.3, Repairs of underground cable, is amended to add a new Note D covering the disconnection, reconnection, repair, rearrangement or replacement of drop and block wires served by underground cable, and the plant assignment of these wires. The new Note D will read:

§ 31.602:3 Repairs of underground cable.

* * * * *

Note D.—Disconnection, reconnection, repair, rearrangement or replacement of drop and and block wires served by underground cable and the plant assignment of those wires will be charged to Account 602:4, "Repairs of buried cable."

14. Section 31.602:4, Repairs of buried cable is amended to redesignate the existing description as paragraph (a). Add a new paragraph (b) to cover extensive replacements of drop and block wires served either by buried or underground cable. Amend the list of Items to include a new item covering the repair of drop and block wire served either by buried cable or underground cable and to include the plant assignment of these wires. Paragraphs (a), (b) and the list of Items, as amended, will read as follows:

§ 31.602:4 Repairs of buried cable.

(a) This account shall include the cost of repairing buried cable plant and the cost of maintaining the right of way therefor.

(b) This account shall include also amortization of costs of extensive replacements of drop and block wires served either by buried or underground cable which under conditions provided in § 31.6–64 have been included in account 138, "Extraordinary maintenance and retirements."

Items

(Note § 31.01-8)

Clearing defective cable pairs.
Disconnecting drop and block wires served either by buried or underground cable. (See also accounts 602:2, 604 and 605.)
Inspecting, testing, and reporting on the condition of the buried cable plant to determine the need for repairs or replacements. (Note also account 603.)
Installing, transferring, replacing, and removing cross-connection wires and fuses in cable terminals or boxes. (See Also Note A to this account.)
Maintaining gas pressure.
Maintenance of air dryers.
Moving buried cable plant. (Note also §31.2–25.)
Opening, testing, slicing, and other work of transferring pairs in cable and transferring cable from one cable or stub to another cable or stub.
Permits and privileges for maintenance work.
Plant assignment of drop and block wires served either by buried cable or underground cable, including related clerical work.
Reconnecting drop and block wires served either by buried or underground cable. (See also accounts 602:2, 604 and 605.)
Repair, rearrangement or replacement of drop and block wires served either by buried cable or underground cable, and their associated protector.
Replacing minor items of buried cable plant, including labor and material used and the removal and recovery of the items retired less salvage recovered, except when such items are replaced through the replacement of retirement units. (Note also § 31.2–25.)
Restoring conditions of buried cable plant damaged by storms, fires, or other casualties. (Note also § 31.2–25.)
Testing for, locating, and clearing trouble. (Note also account 603.)
Work on the property of others in connection with the maintenance of the buried cable plant of the company. (See also Note B to this account.)

15. Section 31.602:6, Repairs of aerial wire, is amended to add a new Note D covering the disconnection, reconnection, repair, rearrangement or replacement of drop and block wires served by aerial wire and the plant assignment of these wires. The new Note D will read:

§ 31.602:6 Repairs of aerial wire.

* * * * *

Note D.—Disconnection, reconnection, repair, rearrangement or replacement of drop and block wires served by aerial wire and the plant assignment of those wires will be charged to account 602:2, "Repairs of aerial cable."

16. Section 31.605, Installations and repairs of station equipment, paragraph (d) is amended to eliminate the charging of extensive replacements of drop and block wires to account 605. Amend the list to delete the item containing the material used for drop and block wires. Amend the thirteenth and twenty-first items to clarify the accounting for the cost of disconnecting and reconnecting customer's lines. Paragraph (d) and the list of Items, as amended, will read as follows:

§ 31.605 Installation and repairs of station equipment.

* * * * *

(d) This account shall include also amortization of costs of extensive replacements of station apparatus and inside wires which under conditions provided in § 31.6–64 have been included in account 138, "Extraordinary maintenance and retirements."

Items

(Note § 31.01–8)

The wires (or small cables) extending from the point of connection with: (1) Terminal boxes of house cables or (2) protectors or other terminating devices of service wires to station apparatus or customers' terminal equipment.
The wires (or small cables) used to connect station apparatus in the same building, such as main stations and extension stations, and stations of intercommunicating systems.
The wires (or small cables) used to connect small private branch exchange switchboards or their distributing frames (or equivalent distributing panels) with terminal stations in the same building.
The wires (or small cables) used to connect the various parts of a small private branch exchange, such as the cables or wires from distributing frames (or equivalent distributing panels) to switchboards.
The wires (or small cables) installed specifically to serve as trunk, battery, or generator circuits from a small private branch exchange to the point of connection with the permanent or service wires.
Connecting blocks, jacks, ground wires, station protectors, clamps, cleats, nails, screws, and other material used in the installation of station apparatus and inside wiring.
Labor and other costs incurred in connection with station apparatus and wiring installations or additions thereto.
Changing inside wiring.
Changing type of telephone, such as from nondial to dial or from one color to another.
Cleaning station apparatus and large private branch exchange equipment.
Connecting or installing station apparatus.
Disconnecting customers' lines at customers' premises at the System Network Interface or equivalent. (See also accounts 602:2, 602:4 and 604.)
Disconnecting or removing station apparatus.
House service for public telephones.
Inspecting, testing, and reporting on condition of equipment to determine the need for repairs and replacements. (See also account 603.)
Material normally used as repair parts for station apparatus.
Moves or relocations of items of station apparatus.
Number plate changes.
Plant dispatch and completion and related clerical work (*e.g.*, service order dispatch, service order final completion).
Reconnecting customers' lines at customers' premises at the System Network Interface or equivalent. (See also accounts 602:2, 602:4 and 604.)
Removing inside wiring.
Removing sediment from and cleaning batteries.
Repainting and other repairs to booths, except those owned by others.
Repairing used station equipment for reuse.
Replacing defective station apparatus.
Replacing dry-cell batteries.
Replacing minor items of large private branch exchanges, including labor and material used and the removal and recovery of the items retired less salvage recovered, except when such items are replaced through the replacement of retirement units. (Note also § 31.2–25.)
Replacing one small private branch exchange with another.
Supply expense applicable to station apparatus being reused.
Testing for, locating and clearing trouble in station apparatus and large private branch exchanges. (See also account 603.)

17. Section 31.608 is revised to read as follows:

§ 31.608 Depreciation.

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of depreciable telephone plant, except amounts chargeable to clearing accounts. The depreciation charges shall be made in accordance with §§ 31.02–80 to 31.02–82 and 31.2–23(c). This account shall also include the amount of amortization of station connections—inside wiring. (Note account 232 for amortization schedule; note accounts 315 and 174 for depreciation of miscellaneous physical property.)

18. In Appendix A, Case 9–R–1, amend the last parenthetical expression in the answer to show the revised accounting for drop and block wires. The answer, as amended, will read:

Case 9–R–1

* * * * *

Answer: With respect to both the basic structure and the conductor serving as a ground (except when constituting underground dips, which may be viewed as a virtual part of the adjoining conductor structure), the cost shall be included in account 242:3, "Buried cable," unless protected by a structure reusable in place for other cable, in which event the cost of these wires shall be included in account 242:2, "Underground cable," and the cost of the protective structure shall be included in account 244, "Underground conduit" (see account 244, Note A). (The foregoing does not apply to drop wires, extending from the point of connection with the general overhead or underground system to the subscribers'

premises—see accounts 242:1, "Aerial cable" and 242:3, "Buried cable".)

[FR Doc. 83-29285 Filed 10-27-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR PART 73

[MM Docket No. 83-376; RM-4387]

FM Broadcast Stations in Armijo, New Mexico; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 296A to Armijo, New Mexico, in response to a petition filed by Dorothy D. Davis. The assignment could provide a first FM service to Armijo.

EFFECTIVE DATE: December 16, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio.

Report and Order

(Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Armijo, New Mexico) MM Docket No. 83-376 RM-4387.

Adopted: October 6, 1983.
Released: October 17, 1983.

By the Chief, Policy and Rules Division.

1. In response to a petition filed by Dorthy D. Davis ("petitioner"), the Commission adopted the *Notice of Proposed Rule Making*, 48 FR 18850, published April 26, 1983, proposing the assignment of Channel 296A to Armijo, New Mexico, as its first FM allocation. Petitioner filed comments indicating that it would file an application to construct and operate on Channel 296A, if assigned. No other comments were received.

2. The Commission has determined that the public interest could benefit from the requested assignment, since it could provide Armijo with its first FM station. The assignment of Channel 296A at Armijo would require a site restriction 5.9 miles south of the city, to avoid short-spacing to Station KHFM (FM) (Channel 242) Albuquerque, New Mexico, and the recent assignment of Channel 296A to Los Alamos, New Mexico (MM Docket No. 83-22, RM-4222).

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(d) and 0.283 of the Commission's Rules, it is ordered, That effective December 16, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, IS AMENDED, with respect to the community listed below:

City	Channel No.
Armijo, New Mexico	296A

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-29282 Filed 10-27-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-378; RM-4381]

FM Broadcast Stations in Elk City, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a third FM channel to Elk City, Oklahoma, in response to a petition filed by Gary C. Smith.

EFFECTIVE DATE: December 16, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio.

Report and Order

(Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Elk City, Oklahoma) MM Docket No. 83-378; RM-4381.

Adopted: October 6, 1983.
Released: October 17, 1983.

By the Chief, Policy and Rules Division.

1. In response to a petition filed by Gary C. Smith ("petitioner"), the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 18852, published April 26, 1983, proposing the assignment of Channel 232A to Elk City, Oklahoma. Supporting comments were filed by the petitioner restating his intention to apply for the channel, if assigned.

2. We are satisfied that the public interest would be served by the proposed assignment which could provide Elk City with its third FM service. The channel can be assigned in compliance with the minimum distance separation requirements.

3. In view of the above and pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective December 16, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended with regard to the following community:

City	Channel No.
Elk City, Oklahoma	232A, 243, and 253.

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-29283 Filed 10-27-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-842; Docket No. 19743; FCC 83-375]

Elimination of Unnecessary Broadcast Regulation and Subscription Agreements Between Radio Broadcast Stations and Music Format Service Companies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action eliminates ten policy statements set forth in Part 73 of the Commission's Rules.

This action is taken by the Commission in its ongoing efforts to eliminate unnecessary broadcast regulation on longer warranted or required by the public interest.

This action will permit the more efficient utilization of Commission resources.

DATES: Effective November 28, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hudgens, Office of Plans and Policy (202) 653-5940.

List of Subjects in 47 CFR Part 73

Radio broadcast.

Policy Statement and Memorandum Opinion and Order

In the matter of elimination of unnecessary broadcast regulation and inquiry into subscription agreements between radio broadcast stations and music format service companies, MM Docket 83-842, Docket No. 19743.

Adopted: August 4, 1983.
Released: October 21, 1983.

By the Commission: Commissioner Rivera issuing a separate statement at a later date.

Introduction/Broadcast Regulatory "Underbrush"

1. This is the second in a series of actions [1] in this proceeding, in which we propose to eliminate or modify various broadcast policies and rules which our review indicates are no longer warranted or required by the public interest. Today we review another area of broadcast regulation, one which relates to certain Commission policies and rules concerned with broadcast licensee behavior and which aptly has been referred to as regulatory "underbrush." That is, the accumulation of Commission policies, doctrines, declaratory rulings, rules, informal rulings and interpretive statements—sometimes minor in nature—that have grown up around major regulations (and licensees) over the years. Regulatory "underbrush" has arisen in various forms and sizes but has often gone relatively unnoticed. Yet these "underbrush" matters have the potential to impede the competitive functioning of the marketplace by imposing unnecessary restraints upon licensee discretion. We deem it important to review such matters in this docket and to eliminate or substantially modify those policies which are no longer justified and not required. In some cases, the policies unnecessarily restrict licensees' editorial discretion. Other policies concern matters that do not warrant federal intervention through the promulgation of uniform national policies, and are better left to state and local jurisdictions. Still others involve issues more appropriately resolved in other federal or state forums.

2. The present document deals with "underbrush" policies which directly or indirectly affect broadcast program content—*e.g.*, matters such as the broadcasting of astrology material, foreign language programs, and even a policy which looks askance at the repetitious broadcasting of a single record. Each of these policies is reviewed for continued validity, in light of regulatory cost/benefit considerations and First Amendment concerns. We are particularly concerned with policies under which the Commission, with its limited resources, takes enforcement action *in the first instance*, especially where other federal and state forums have a more direct interest or greater expertise in the matter at issue. This is a continuing process of review. In future proceedings in this docket we propose to review "underbrush" policies and rules which affect licensee business practices and later review "underbrush" policies and rules of a miscellaneous nature.

3. Specifically, this item sets forth changes in our views concerning the following ten policies:

1. Sec. 73.4015 Alcoholic beverage advertising.
2. Sec. 73.4030 Astrology Material, Broadcasts of.
3. Sec. 73.4105 Foreign language programs.
4. Sec. 73.4120 Harassing and threatening phone calls (resulting from station broadcasts).
5. Sec. 73.4145 Music format service companies agreements with broadcasters.
6. Sec. 73.4150 Musical recordings; repetitious broadcasts.
7. Sec. 73.4175 Off-Network programs and feature films; Presentation restrictions.
8. Sec. 73.4200 Polls, Call-in, on radio and TV stations.
9. Sec. 73.4205 Private interest broadcasts by licensees to annoy and harass others.
10. Sec. 73.4240 Sirens and like emergency sound effects in announcements.

Three additional policies—all dealing with horse racing programming and advertising—are the subject of a companion Notice of Proposed Rule Making adopted today.[2]

1. Sec. 73.4125 Horse racing information broadcasts.
2. Sec. 73.4126 Horse racing information SCA transmissions.
3. Sec. 73.4130 Horse racing; Off-track and pari-mutuel betting advertising.

4. Since 1972 the Commission has been engaged in an on-going review of its broadcast regulatory program for the purpose of eliminating unnecessary regulation. In that year the Commission created a broadcast reregulation staff [3] whose function was to examine all technical radio and television rules to determine their current validity in light of the present state of the broadcasting art. Since 1972, over 1,500 technical rule revisions and deletions dealing with a wide variety of subjects were suggested by the reregulation staff and adopted by the Commission. The success of that activity and our own recognition of the growth and maturation of the radio and television industries led, in turn, to still other deregulatory actions, both completed and proposed.

5. In January of 1981 the Commission issued the *Report and Order* [4] in its radio deregulation proceeding. The Commission there concluded that dramatic changes had occurred in radio since the adoption of its regulations and that its research indicated that it could now rely upon competitive radio marketplace forces and structural regulatory tools to assure many of the same public interest benefits formerly achieved by regulation.[5] Specifically, the Commission: (1) Ceased detailed consideration of precise amounts of nonentertainment programming; (2) eliminated specific requirements for ascertainment of community needs; (3) eliminated limitations on the amounts of broadcast commercial time; and (4) eliminated program log requirements for commercial radio stations. The U.S. Court of Appeals recently affirmed all aspects of this action except the elimination of program logs, which was remanded to the Commission for further consideration.[6] Importantly, we note that the Commission very recently has proposed similar deregulatory relief for commercial television licensees.[7] Consistent with the direction of those other proceedings, we hereby scrutinize the policies at issue.

Cost/Benefit Considerations

6. The effects of broadcast "underbrush" policies show up throughout the Commission's regulatory

[1] The first action was adopted July 14, 1983, FCC 83-339, —— FCC 2d ——, 1983, and deleted policies relating to the use of ratings and coverage maps by broadcast licensees, §§ 73.4035 and 73.4090, respectively.

[2] *Notice of Proposed Rule Making in the Matter of Elimination of Unnecessary Broadcast Regulation*, MM Docket No. 83-842,——FCC 2d——, adopted August 4, 1983.

[3] *See Broadcasting Regulation Study*, FCC Mimeo No. 83444, April 16, 1972.

[4] *Deregulation of Radio*, 84 FCC 2d 968, *recon. denied*, 87 FCC 2d 797 (1981).

[5] For a detailed discussion of the Commission's legal authority to reconsider its regulation under the public interest standard, see Paragraphs 56-66 of Appendix E of *Deregulation of Radio*, 84 FCC 2d at 1055-56.

[6] *See Office of Communication of the Church of United Church of Christ v. FCC*, No. 81-1032, (D.C. Cir., May 10, 1983). The Commission has adopted a Notice of Proposed Rule Making addressing the formulation of requirements consistent with the court's mandate.

[7] *Notice of Proposed Rule Making in the Matter of the Revision of Programming and Commercialization Policies, Ascertainment Requirements and Program Log Requirements for Commercial Television Stations*, MM Docket No. 83——, adopted June 28, 1983.

processes—*e.g.*, in complaint letters from listeners or viewers, in investigations for possible violations of policies, in comparative hearings, and in license renewal proceedings. We assume that the effects of broadcast "underbrush" policies are reflected both in station policy manuals prohibiting or restricting the broadcasting of certain material and in day-to-day supervision of programming. These policies likely reduce consumer well being and place undue costs on broadcasters, either indirectly through the elimination of desired programming or directly through the elimination of advertising revenue. These broadcast "underbrush" policies thus entail costs, both to the Commission and broadcast licensees. Prudent regulation requires that these costs in turn be weighed against the actual benefits of regulation, taking into account the Commission's limited resources and operational priorities. We were mindful of cost/benefit considerations in making our determinations herein.

7. The Commission must have a reasonable basis for believing that any given policy or rule will serve an identified public interest goal, and that the benefits of the policy or rule outweigh the costs to listeners and viewers. "A regulation perfectly reasonable and appropriate in the face of the given problem may be highly capricious if that problem does not exist." [8] This same principle was restated recently in *NAACP v. FCC*, 682 F. 2d 993, at 1000–01 (D.C. Cir. 1982), where the court considered our action in abandoning a long-standing policy concerning the ownership of television stations in the top fifty markets: "Indeed, an agency should not continue to regulate unless it can clearly identify the harm it seeks to remedy." The policies considered today have been analyzed with this principle in mind. This proceeding was initiated in part because many of the policies require an imprudent use of Commission resources. Indeed, we find that certain of the policies ultimately are of little or no benefit to the consuming public. In the case of many of the "underbrush" policies, we believe minimal or no harm inures to the public interest when a licensee is in violation. In light of that fact, the expenditure of administrative resources to adjudicate cases alleging violation of these policies, as well as expense to the parties, is not warranted. This appears to be an inefficient use of our resources.

First Amendment Considerations

8. Some of the "underbrush" policies under consideration today should be reviewed in light of First Amendment considerations. Our authority to interfere with editorial judgments of licensees is carefully circumscribed by the provisions of Section 326 of the Communications Act [9] which states:

> Nothing in this Act shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated by the Commission which shall interfere with the right of free speech by means of radio communication.

The U.S. Court of Appeals, in its recent radio deregulation decision (FN # 6, *supra*), also commented upon the Commission's limited authority in this area (Slip Op., pp. 26–27):

> Since the Commission has the power to make license determinations on the basis of programming, then it perforce has the power and in fact the responsibility to define the licensees' public interest obligations with respect to programming. In defining this programming component of the public interest standard, the Commission must, of course, be wary of slipping over that dividing line between permissible government regulation within the Act's public trustee framework and impermissible government censorship, prohibited by the First Amendment and the Communications Act alike. [Footnote omitted.]

9. Many of the policies under review today share an important common theme—*i.e.*, they are concerned with the specific content of broadcast advertising or programming, some more directly than others. The policies either caution broadcast licensees not to engage in certain programming practices or establish rigid guidelines within which such programming should be conducted. In doing so, these policies raise fundamental questions concerning the constitutional rights and editorial freedom of broadcast licensees.[10] Although the policies themselves often acknowledge the presence of First Amendment concerns, the issue does not appear to have received extended review or consideration in the promulgation of these policies; they were adopted, generally hastily, under widely differing situations. But a common element is that they were adopted to address singular situations abhorrent at the time. Further, none of the policies reviewed has been tested in the courts for consistency with First Amendment principles. As a general rule the Commission's thousands of broadcast licensees have, in some instances for several decades, neither engaged in these programming practices nor challenged them. But this adherence may have imposed needless inflexibility.

10. Many of the policies under review—for example, those involving astrology broadcasts, alcoholic beverage advertising, music format service agreements, and call-in-polls—restrict the First Amendment rights of broadcasters, a result that is contrary to fundamental policies of the Act unless justified by a clear and compelling showing that the public interest requires governmental intervention. *See, e.g., CBS v. DNC, supra.* As discussed below, it is apparent that the concerns which underlie many of these programming restrictions may be satisfactorily addressed by alternative means that do not necessitate governmental intrusion into programming decisions; for example, by reliance on private actions for fraud or invasion of privacy or on audience and advertiser pressures, all of which should serve as adequate deterrents to any significant programming abuses. In our view, therefore, government intervention in these programming areas is not supported by the high degree of public interest justification required by law. Furthermore, in addition to their restrictive effect on licensees' editorial discretion, these policies may impede the efficient functioning of the marketplace by limiting broadcasters' abilities to fully respond to the programming preferences of their audiences. For these reasons, as well, we believe the policies should be eliminated.

Procedural Matters

11. Before reviewing specific "underbrush" policies, we will briefly explain the regulatory approach to today's Policy Statement and Memorandum Opinion and Order wherein we order the policies deleted forthwith. It is important to recognize that all matters considered herein are *statements of policy*, not formal Commission rules. Section 553(b)(3)(A) of the Administrative Procedure Act provides that the ordinary notice and comment rule making rquirements do not apply "to interpretive rules, *general statements of policy*," [11] or rules of agency

[8] *Home Box Office, Inc. v. FCC*, 567 F. 2d 9, 36 (D.C. Cir. 1977), citing *City of Chicago v. F.P.C.*, 458 F. 2d 731 (D.C. Cir. 1971), *cert denied*, 405 U.S. 1074 (1972).

[9] 47 U.S.C. Section 326.

[10] *See, e.g., CBS v. Democratic National Committee*, 412 U.S. 94 (1973).

[11] For a general discussion of statements of policy, see *Batterton v. Marshall*, 648 F.2d 694 (D.C. Cir. 1980), and *Pacific Gas & Electric Co. v. FPC*, 506 F.2d 33 (D.C. Cir. 1974).

organization, procedure or practice." [Emphasis supplied.] Further, the listing of many of the Commission's policies in § 73.4000 *et seq.* of the Commission's Rules does not affect the need, or lack thereof, for a notice and comment proceeding; § 73.4000 expressly states that the policies are listed and relevant citations provided in the Rules "solely for the purpose of reference and convenience * * *."

FCC Policies Which Affect Broadcast Program Content

12. In 1979 the Commission's rules were amended at § 73.4000 *et seq.* to set forth, for the first time in one place, numerous previously announced Commission policies (and citations thereto) affecting broadcasters. This "master listing" of Commission policies is a convenient reference which we shall use for the great majority of matters to be reviewed in this docket.[12] Accordingly, we have selected the following policies affecting broadcast program content for deletion in this phase of the docket. As discussed above, additional policies will be considered for deletion or substantial modification in future phases of this docket. For simplicity, we shall review the policies *seriatim* as they appear at § 73.4000 *et seq.* of our rules.

FCC Policies To Be Deleted

13. *Section 73.4015 Alcoholic beverage advertising.*[13] This first program content policy selected for review originated in a 1949 Commission letter to Senator Edwin C. Johnson, then Chairman of the Senate Committee on Interstate and Foreign Commerce. Senator Johnson had inquired as to the Commission's views with respect to the broadcast advertising of alcoholic beverages. The Commission's response initially acknowledged that there was no federal law prohibiting radio advertising of alcoholic beverages, and that the Commission had no authority to censor any program or programs, including advertising copy.[14] The Commission's letter made two principal points: (1) In those localities and states where the sale or advertising of alcoholic beverages is prohibited, advertising by radio in this area would not be in the public interest since adherence to state laws is an important aspect of operation in the public interest; and (2) even where the sale and advertising of alcoholic beverages is legal, such advertising may raise public interest questions to the same extent as would be raised by other programs of limited audience appeal and a decision on such conduct would requre the balancing of many factors, including the nature of the interest served by the programming and the possible detrimental effects of the programming.[15]

14. This 1949 policy does not withstand current scrutiny. We note initially that the policy is stated so broadly that it is susceptible to misinterpretation. The mere existence of an FCC policy with this title could lead some to believe that we have a flat prohibition against such advertising. This clearly is not true; there is no federal law prohibiting the advertising of alcoholic beverages. Another area of misinterpretation could arise from interpreting the policy as absolutely prohibiting licensees in "dry" areas from broadcasting such advertising, whether or not the applicable temperance law specifically forbids both the sale *and advertising* of alcoholic beverages. Further, the statement is so broad that it could pose interpretation problems for licensees *adjacent* to "dry" areas. A larger problem with the policy, however, is that it indicates that the Commission would, on its own motion, initiate separate action to investigate allegations of violation of such laws. This is but the first example of a recurrent theme in many of the policies under review today—*i.e.*, that such policies indicate that the Commission may act to determine allegations of violations of law *in the first instance*, even though other forums clearly have a more direct interest and greater expertise in the areas at issue. This approach is both inappropriate and inefficient. With respect to the instant policy and many others to be reviewed in this docket, we no longer believe that our limited resources are best spent by investigating and otherwise considering alleged violations of various laws in the first instance. Here, local courts are the most appropriate bodies to determine violations of local law. The Commission's role in the area of alcoholic beverage advertising should be to be concerned with such licensee conduct only when it results in a conviction of violating local law. The Commission could then appropriately take any conviction into account in assessing the licensee's qualifications to remain a licensee. (And with respect to violations of law, we have an existing policy in § 73.4280 of the Rules.[16]

15. The second issue raised in the 1949 letter—*i.e.*, where advertising is not illegal, the Commission nevertheless might intervene because the advertising might be of limited appeal—appears to be a strained result premised upon an equally strained rationale. Such a concept certainly has no current credence; the Commission would have no reason to intervene simply because certain advertisements were of "limited appeal." Rather, the logical expectation is that advertisements of limited appeal in the marketplace would soon diminish or disappear.

16. Lastly, we note with interest that the issue of whether states may lawfully bar the advertising of alcoholic beverages currently is a matter of considerable controversy.[17] This

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[12] It should be noted that no particular significance should be attached to the fact that a given policy has not been treated herein; inclusion simply reflects that the policies selected were the most appropriate for consideration at this time.

[13] *See Senator Edwin C. Johnson*, 43 FCC 446 (1949).

[14] That advertising material partakes of First Amendment protections is now well established. *See, e.g., Virginia State Board of Pharmacy v. Virginia Citizens Council, Inc.*, 425 U.S. 748 (1976).

[15] The Commission also observed that such advertising could raise a controversial issue of public importance under the Fairness Doctrine imposing an obligation on the licensee to make time available for opposing viewpoints. The possible applicability of the Fairness Doctrine to the advertisement of alcoholic beverages was eliminated long ago by the Commission's 1974 *Fairness Report Regarding Handling of Public Issues*, 48 FCC 2d 1.

In the absence of some meaningful or substantive discussion, such as that found in the "editorial advertisements" referred to above [e.g., pro-or-con-abortion messages] we do not believe that the usual product commercial can realistically be said to inform the public on any side of a controversial issue of public importance.

Accordingly, in the future, we will apply the fairness doctrine only to those "commercials" which are devoted in an obvious and meaningful way to the discussion of public issues.

[16] *Violation of Laws of USA by Station Applicants: Commission policy*, 42 FCC 2d 399 (1951). We recognize that the *Notice of Inquiry* in General Docket No. 81-500 [*Policy Regarding Character Qualifications in Broadcast Licensing*, 87 FCC 2d 836 (1981)] solicited comments on the extent to which the Commission should continue to consider certain types of conduct as reflecting upon a licensee's or applicant's character qualifications. The character proceeding, however, seeks to examine and to clarify the role of "character" as a qualification in the licensing process, and, in so doing, to identify the regulatory objectives underlying an examination into "character." *Id.* at 848. Our action in this proceeding, on the other hand, does not alter the role of "character" or the types of conduct which we ultimately will consider as having character implications relevant to a licensee's character qualifications. Rather, the Commission will no longer make determinations with respect to whether the conduct which is the subject of the policies being eliminated herein occurred. We will look to more appropriate forums to make such determinations. Our function will be to consider the effect of the findings made by others after an adjudication of such complaints, upon the character qualifications of our licensees. We will defer any ultimate decision as to whether such conduct should be considered relevant to our consideration of character until the resolution of the character inquiry, *supra*.

[17] *See Oklahoma Telecasters Ass'n v. Crisp*, 699 F 2d. 460 (10th Cir. 1983), *petition for cert. pending*

controversy reinforces our decision herein to delete our policy and to avoid becoming embroiled in matters concerning alleged violations of local laws prohibiting the advertising of alcoholic beverages. In view of the foregoing, there appears to be no continued validity in the 1949 policy statement regarding advertisments of alcoholic beverages. Accordingly, we shall delete § 73.4015 from our rules. Henceforth we will concern ourselves with broadcast advertisements of alcoholic beverages only in circumstances where a licensee has been convicted of a violation of a law prohibiting or limiting such advertisements.

17. Section 73.4030 *Astrology Material, Broadcasts of.*[18] This statement of policy arose in the form of a Declaratory Ruling issued in response to a complaint by an author of a book on astrology concerning a station's refusal to broadcast certain material.[19] The FCC expects licensees to exercise reasonable diligence to try to prevent false or misleading advertising (*See* § 73.4040.) Concern about the broadcast of astrology material originated from the fear that this type of advertisement inherently raises questions of false or misleading advertising claims. The Commission determined that no action was warranted but took the occasion to summarize its policy:

> Regarding the broadcast of advertising or other programming concerning astrology, as you may know, the Commission is prohibited by Section 326 of the Communications Act from censoring broadcast material and does not attempt to direct its licensees to present or refrain from presenting specific program matter. However, the Commission would be concerned if the services of a fortune-teller, astrologer or persons offering services of a like nature, were presented by Broadcast so as to guarantee or promise monetary, health or other benefits. *Id.* at 437.

18. Before reviewing our specific policy, it is significant to note that throughout the history of broadcasting there has been little programming devoted to astrology and related subjects. Yet this same subject is a popular feature in newspapers and magazines. Other than the above policy, there is no Commission prohibition against the broadcast of advertisements or information about astrology, fortune telling, palm reading, or other occult endeavors. We believe this paucity in programming is primarily the result of early Commission cases (*see* FN #19, *supra*) and the enactment in 1939 of the National Association of Broadcasters (NAB) Radio Code prohibiting such programming,[20] but the existence of an FCC policy on this subject also could be a contributing factor.

19. Upon review, we have concluded that even this limited policy should be deleted. Here, as in the case of our alcoholic beverages policy, *supra,* our licensees could misconstrue the policy and infer a total prohibition against such programming. Even within the policy's own confines—*i.e.,* expressing concern only where material is presented so as to guarantee or promise false monetary, health, or other benefits—we believe the policy overreaches and intrudes into licensees' programming decisional process. If the concern is actually one of whether a fraud is being perpetrated upon listeners or viewers through such programming, there are appropriate alternative remedies, discussed *infra,* and there is no reason for the Commission to take independent action. We also observe that our licensees have become more sophisticated over the years and that increased reliance upon self-regulation is to be encouraged.

20. Present here again is an implicit indication that the Commission might act *in the first instance* to investigate allegations of violation of its policy. This premise no longer can be justified, and we have concluded that we should forthwith delete this statement of policy. The deletion of this policy, however, will not leave a total legal and regulatory void. For example, fraud "by means of wire, radio, or television communication in interstate commerce" is punishable by a fine of up to $1000, or imprisonment up to five years, or both. (18 U.S.C. 1343, *Fraud by wire, radio, or television.*) Civil remedies and recourse to the Federal Trade Commission also would be available in certain instances. That is, if a party were to be defrauded by a fortune teller or astrologer, the party could bring civil suit for fraud or for monetary damages for breach of contract or warranty. Also, if broadcast advertisements in this area were felt to be false or misleading, complaints could be submitted to the Federal Trade Commission or comparable state or local agencies. And, of course, if a licensee were to be involved in a civil or agency violation, we would consider such findings in determining whether the licensee is acting in the public interest. In taking this action deleting our policy, our intent is neither to encourage nor discourage the broadcast of programming concerning astrology and related subjects (and certainly not to encourage consumer fraud); rather, our intent simply is to remove whatever undue restraints, actual or inferred, that the existence of our policy may present. This will give consumers greater influence in deciding whether this programming is desirable.[21]

21. Section 73.4105 *Foreign language programs.*[22] This 1973 policy statement was issued in response to a request by the National Association of Broadcasters (NAB) for a clarification of the Commission's policies regarding licensee knowledge of and control over foreign language programming. In an earlier Public Notice in 1967 the commission had cautioned licensees to maintain adequate controls over foreign language programming, and pointed out that in order to exercise its responsibilities the licensee must have knowledge of the content of such broadcasts. At the same time the Commission observed that certain procedures then being followed by some licensees were inadequate. The 1973 statement was a further amplification of such procedures, focusing primarily upon monitoring requirements. (The 1967 Notice had emphasized the importance of the use of outside, paid monitors and the NAB had objected thereto.) The 1973 statement disavowed any *requirement* that foreign language programs be pre-auditioned by a paid, outside monitor. The statement declared that programs by regular station employees familiar with Commission and station policies need not be pre-auditioned or monitored. But, the Commission cautioned, "this does not mean, of course, that the licensee can disclaim responsibility for the content of such broadcasts by employees any more than he can disclaim responsibility for

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sub. nom. Capital Cities Cable, Inc. v. Crisp, No. 82–1795 (filed May 3, 1983).

[18] *Alexandra Mark,* 34 FCC 2d 434 (1972).

[19] Petitioner cited two previous cases in which the Commission found that astrology programming or advertising of services of an astrologer may not serve the public interest—*Herbert Marshall,* 33 FCC 37, 40 (1962); *Adelaide Carnell,* 7 FCC 219, 222 (1939). Indeed, Commission consideration of this issue goes back almost as far as the Commission itself. *See, e.g., Scroggin & Company Bank,* 1 FCC 194, 195–197 (1935).

[20] For reasons unrelated to this Code provision, in January of 1983 the Board of Directors of the NAB voted to abolish the radio and television codes in their entirety.

[21] On September 3, 1982, the law firm of Putbrese and Hunsaker filed a "Motion for Declaratory Ruling" with the Commission. That Motion asked that the Commission issue a ruling that licensees could "accept and broadcast, without fear of Commission sanction or demerit, advertising promoting the services of spiritual advisers or counselors." That Motion is granted to the extent indicated by our decision herein. That is, only where such advertising results in a judicial or administrative finding by a court or another agency will the Commission in any way consider such conduct and its effect upon a licensee's character or comparative qualifications.

[22] *See Foreign Language Programs,* 39 FCC 2d 1037 (1973).

violations by his English-language announcers."

22. Our 1973 policy statement indicated that licensees should monitor foreign language broadcasts by non-employees (often "time brokers" at that time) who were not familiar with Commission and station policies. Spot monitoring (*e.g.*, monitoring one or more broadcasts a week of a daily program and one or more a month of a weekly program) would be acceptable where non-employees were familiar with such policies. If, however, the licensees had reason to believe that a non-employee was violating such policies, all such programming should be monitored. The Commission did not impose a flat requirement that monitors be paid, but said "it has been our experience in many cases that where monitors are not paid by the licensee they do not regularly monitor and report on the programs * * *." The statement concluded:

> Thus, while again reminding licensees of their responsibility in this matter and pointing out some methods of exercising this responsibility which have in our experience proved effective and others which have proved ineffective, we still leave to the licensee the determination of what particular procedures are in his case necessary to the exercise of proper control over programming.

23. Despite this latter disclaimer, the overall thrust and ultimate effect of this policy statement appears to intrude unnecessarily upon the licensee's judgment in the selection and content of programming and to superimpose the Commission's pre-determined judgment over what the licensee might otherwise do in instances where it broadcasts foreign language programming. Indeed, the Commission specifically rejected the NAB's request for a "self-determination" approach to foreign language programming supervision. We particularly are concerned with the statement's strong advocacy of the use of paid monitors, irrespective of other proffered alternatives.

24. These strongly suggested policies appear to be unique in the Commission's overall regulatory scheme for broadcast licensees. For example, network programming is in many ways similar to foreign language programming, yet attracts no similar strictures. That is, programming is delivered, generally "live," to an affiliate which, except in the most unusal circumstances, is unaware of the program's specific content. There are at least 10 national radio networks and 4 national TV networks plus many specialized, *ad hoc* broadcast networks, serving thousands of stations, yet we have never articulated special "screening" requirements for the programming carried by network affiliates. Our consistent requirement simply has been that the affiliate ultimately is responsible for the content of the programming broadcast on its station.

25. We also would add to this discussion the fact that in the ten years since the issuance of the subject policy statement, the number of stations broadcasting foreign language programming has increased enormously—*e.g.*, in radio alone, over 1,000 stations now broadcast foreign language programming on a full or part-time basis.[23] Further, many of these stations obtain some or all of their programming from foreign language networks. The practical effect of these developments is that they not only remove whatever "uniqueness" formerly existed with respect to foregin language programming, but also make the continued existence of this policy intolerable.

26. Another factor relevant to this consideration of foreign language programming is our 1980 Policy Statement changing our policies with respect to "time brokerage" [Petition for Issuance of Policy Statement or Notice of Inquiry on Part-Time Programming, BC Docket No. 78–355, 82 FCC 2d 107 (1980)]. We there acknowledged the need for more foreign language programming:

> There are * * * some specialized audiences whose tastes continue to go unmet because they are too small to support an entire weekly schedule of such programming. This is frequently the case for foreign language audiences, whose preferred programming is unlikely to attract a sizeable cross-over audience. Greater flexibility in time brokerage and time sharing arrangements could encourage more programming responsive to these specialized audiences. *Id.* at 120.

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> Neither licensees nor minority groups facing difficult economic circumstances should be discouraged from exploring programming alternatives that appear to reflect accurately both consumer wants and competitive incentives. *Id* at 120.

The Policy Statement concluded that time brokerage arrangements by broadcast licensees, including those for foreign language programming, should be encouraged.

27. In sum, these suggested strictures, once perhaps regarded as reasonable, should no longer be retained. In our view, the remedial action is simple. We shall delete the 1973 policy statement, thus leaving foreign language broadcasts in the same posture as all other—no more or no less. To reiterate our basic policy:

> Broadcasting licensees must assume responsibility for all material which is broadcast through their facilities. This includes all programs and advertising material which they present to the public * * *. This duty is personal to the licensee and may not be delegated. He is obligated to bring his positive responsibility affirmatively to bear upon all who have a hand in providing broadcast matter for transmission through his facilities so as to assure the discharge of his duty to provide acceptable progam schedule consonant with operating in the public interest in his community.[24]

The elimination of this policy will maintain the purpose while providing licensee with greater flexibility as to the methods by which they may discharge this responsibility than was the case under the subject policy statement.

28. *Section 73.4120 Harassing and threatening phone calls (resulting from station broadcasts)*[25] and *§ 73.4205 Private interest broadcasts by licensees to annoy and harass others.*[26] Because of the related nature of these two policies, they will be discussed together. The first policy arose from a complaint that a radio station, in connection with a disputed local issue, broadcast an individual's name and suggested that he be called by the listening audience, which resulted in his receiving harassing and threatening phone calls. In a letter to the station, the Commission said:

> With respect to your broadcast of the complainant's telephone number followed by the suggestion that the public call him and express their views on a particular issue, it would appear that you know or should have known that the person called would be harassed (or possibly threatened by the public.) Under the circumstances your conduct raises serious questions regarding your responsibility as a licensee. [23 FCC 2d at 873.]

29. The second policy arose out of a situation in New York City in which a TV station wanted to move its transmitter to the World Trade Center, operated by the New York Port Authority, which apparently opposed the move. The station broadcast announcements in which it urged viewers who experienced signal reception problems to complain to a specific Port Authority official and broadcast the official's work telephone number. A complaint was submitted on behalf of the New York Port Authority

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[23] 1982 Broadcasting Cablecasting Yearbook, pp. D106–111.

[24] *Report and Statement of Policy re: Commission en banc Programming Inquiry*, 44 FCC 2303, 2313–14 (1960).

[25] *See Dewey M. Duckett, Jr.*, 23 FCC 2d 872 (1970).

[26] *See Trans-Tel Corporation*, 33 FCC 2d 840 (1972).

charging that it was improper for the station to use its facilities "to promote its own private interests and annoy and harass others." The Commission said:

> Generally speaking, we believe licensees should take all reasonable steps to protect members of the public from harassment. In this case, taking into consideration not only the large number of potential telephone calls based on the size of the viewing audience but also the complainant's assertion that the telephone calls to Mr. Tobin's office impaired the use of the phone for normal purposes, we believe that the public interest questions regarding the use of your facilities were raised when you broadcast the telephone numbers of Mr. Tobin and later the Port Authority and urged the public to call and protest. We recognize that First Amendment considerations are present here and we stress that we are not in any way attempting to inhibit criticism of persons, organizations or governmental bodies by licensees, but in this case it appears that you were using you facilities to advance your private interests, although admittedly, the interests of your viewers also were involved. Furthermore, your actions appear to have been calculated to cause harassment of Mr. Tobin and the Port Authority and to interfere with the normal function of that body, rather than merely to present your version of the facts to your viewers * * *. [33 FCC 2d at 841–842.]

Because the announcements had been promptly discontinued, the Commission concluded that no action was necessary.

30. This first policy statement—that licensees should have policies and procedures for preventing the use of their facilities to cause harassment of members of the public—is an example of overly broad regulation. In addition to representing yet another area where the Commission should not act in the first instance, the statement itself is couched in overly broad language which goes beyond cautioning against harassing phone calls and potentially encroaches upon licensees' editorial freedom. The line between harassing phone calls and legitimate, broadly felt expressions of disapproval can be fine indeed.

31. We see no need to enact a uniform federal policy in this area. In addition, there are alternative remedies available to parties who believe they have received harassing or threatening phone calls as a result of station broadcasts. There are civil remedies available against the station–*e.g.*, invasion of privacy,[27] etc.; and with respect to the individual callers, Section 223 of the Act [28] and similar provisions in the laws of many states make certain types of harassing or annoying phone calls a criminal offense.[29]

32. One additional issue is raised in the policy statement in § 73.4205—namely the cautioning of licensees against using their facilities for private versus public purposes. This is an issue which we shall treat more extensively in a subsequent phase of this docket dealing with "underbrush" policies which affect broadcast business practices. For present purposes, the continued retention of this policy cannot be justified on this basis alone. The line between a broadcaster's private interest and the interests of the public oftentimes converges, especially where issues of local importance are involved. We should not discourage broadcasters from contributing to the discussion of such issues. Accordingly, the most appropriate action is to delete both policies in their entirety.

33. *Section 73.4145 Music format service companies agreement with broadcasters.*[30] In this proceeding, the issue was "whether music format service contracts have the potential to restrict programming flexibility and thereby amount to a contracted abdication by the licensee of its responsibilites to the public and to the Commission." [31] (Music format service companies contract with radio stations to supply taped musical programs over a period of time, usually pursuant to a set format for commercials, news, and other announcements.) The Commission concluded that formal rules were not necessary, and instead issued the following policy statement:

> Licensees have a non-delegable responsibility as to the programming and operation of their stations. Any agreement entered into by the licensee which unduly fetters the free exercise of independent judgement in programming will be considered an abdication of that responsibility by the licensee and contrary to the public interest. This includes, but is not limited to, any music format service agreement that:
>
> (a) Fixes the number of broadcast hours;
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> (b) Prohibits AM/FM duplication;
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> (c) Prohibits sub-carrier authorization;
>
> (d) Requires the exclusive use of any music format service or prohibits other sources;
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> (e) Fixes the amount of format service company music broadcast;
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> (f) Prohibits any announcement by the station;
>
> (g) Fixes the number of commercials broadcast;
>
> (h) Limits the content or source of any non-musical programming;
>
> (i) Fixes the amount of air time for news, music, or other programming;
>
> (j) Prohibits automatic gain control of company supplied material;
>
> (k) Allows termination in the event of program changes by a licensee exercising his responsibility for the public interest.
>
> Those music format service contracts which contain no provisions restricting licensee flexibility; expressly state the licensee's right to reject or substitute programs; and subordinate the contract to FCC rules, regulations, policies and licensee responsibility, do not impair the public interest. *Id.* at 811.

34. This policy was never implemented because on January 6, 1976, the Commission stayed the effective date. Noting that a Petition for Reconsideration had been filed, the Commission stated: [32]

> Pending action on the Petition for Reconsideration the Commission does not intend to act upon any application or case which involves issues which would be governed by that Policy Statement. Moreover, the Commission intends to insure that any licensee who retains a contract subject to that Policy Statement, or who enters into such a contract prior to the final order on reconsideration, will be given a reasonable period in which to conform the contract to final Commission action in the docket.[33]

35. The petition for Reconsideration was submitted by Stereo Radio Production Ltd. (SRP), a music format service company, which also filed a Petition to Stay. A response to the Petition for Reconsideration was submitted by International Planned Music Association (IPMAS). SRP alleged, *inter alia*, that: (1) The Policy Statement had created confusion in the syndicated recording business, and had created an "adverse cloud" over existing and future music service contracts; (2) the policy was adopted despite the fact that the Inquiry had revealed no evidence of interference by music format agreements with broadcast licensee responsibility and obligations; (3) no foundation had been laid—in the original Inquiry, in comments received, or in the preamble of the Policy Statement itself for the prohibited contract provisions in Section (a)-(k) of the statement; and (4) the promulgation of the policy was inconsistent with the APA and petitioner's constitutional rights.

36. We thus have a policy which never has been implemented and which is still before us for reconsideration. Moreover,

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[27] *See, e.g., Harms v. Miami Daily News, Inc.*, Fla. 127 So. 2d 715 (3 D.C.A. 1961).

[28] *See, U.S. v. Lampley*, 573 F. 2d 783 (3rd Cir. 1978).

[29] *See, e.g., Gormley v. Director, Conn. State Dept. of Prob.*, 632 F. 2d 938, (2d Cir. 1980).

[30] *See Subscription Agreements*, 56 FCC 2d 805 (1975).

[31] *Id.* at 807.

[32] Public Notice FCC 76–6, January 8, 1976.

[33] No further official action has been taken in this docket; staff drafts treating the Petition for Reconsideration were held in abeyance during the drafting and adoption of the Commission's radio deregulation proceeding, FN #4, *supra*.

not only is the proceeding stale (some seven years having lapsed) but major Commission actions and court affirmations have taken place in the interim period which affect, directly and indirectly, the policy. Accordingly, we shall take the opportunity of this broad "underbrush" proceeding to clear up this matter and shall herein resolve the Petition for Reconsideration.

37. We have reviewed Docket No. 19743 in its entirety and generally concur with the Petitioner that the record contains insufficient evidence of actual interference by music format agreements with broadcast licensee responsibilities and obligations. We further note that the docket contains no complaints in this subject area subsequent to the last action in 1976. This point is particularly important in light of our earlier observations (Para. 7, *supra*) that regulation may be capricious if no problem exists. We also generally concur with Petitioner's view that the Policy Statement adopted (Para. 33, *supra*) represents somewhat of a quantum leap from the Inquiry's solicitation of comments upon "non-musical programming provisions." We also agree that the statement is not a model of clarity.

38. It is unnecessary to address ourselves to the validity of each individual clause of the Policy Statement because we have concluded that the most prudent action to take in this rather unusual proceeding is simply to delete the policy in its entirety. We do so not only because of the staleness of the matters before us and other infirmities, *supra*, but also because retention of a policy this strict and detailed is inconsistent with our goal of reducing the regulatory role played by Commission policies and rules and instead permitting the discipline of the marketplace to play a more important role. The result here is analogous to our earlier action deleting our policy concerning foreign language programming. That is, rather than to impose strict, detailed policies—in this instance policies which govern all aspects of the contractual relationship between broadcast licensees and music companies—it is better to rely upon the basic obligations of licensees, here the obligation not to abdicate control of station operations. That basic obligation remains unchanged; we simply should not dictate precise, inflexible standards under which this obligation can only be met. In the future should any interested party believe that a genuine problem does exist vis-a-vis licensee responsibility and the subject agreements, a request for rule making could be submitted. We caution, however, that such a petition should be factually supported by current information, and not mere conjecture.

39. Section 73.4150 *Musical recordings; repetitious broadcasts.*[34] This policy arose from a radio station's promotional campaign to call attention to its new format; it played a single rock and roll record for some 69 hours. The Commission stated:

> The selection of records is a matter within the licensee's discretion. But the constant repetition of any record so as to constitute the station's entire entertainment format for a long period of time raises a question whether the licensee is making a good faith programming judgment to fulfill his public trustee role or whether he is subordinating that role for his private promotional purposes. The latter appears to be the case in the circumstances presented here and your actions appear to have been inconsistent with the public interest responsibilities of a licensee. *Id.* at 1154.

40. This particular policy is one of the most outstanding examples of broadcast regulatory "underbrush" which we seek to eliminate in this proceeding. That is, whereas at first glance the policy seems innocuous and of little consequence, upon closer examination it raises very serious questions of government encroachment into areas where it should not be—in this instance, that of broadcasting editorial judgment. There is no way to estimate the cumulative inhibitive effect over an extended period of a number of such policies upon broadcast licensee behavior.

41. The repetitious playing of a single record violates no law. This policy, however, determines this action to be a subordination of the public interest "for private promotional purposes." Upon review, we now believe that the prohibition is overbroad and that we should not prejudge such programming; to retain such a flat prohibition might prevent a licensee from broadcasting programming which he believes to be in the public interest in his community. The retention of this type of policy is inconsistent with our recent determinations to place greater reliance upon licensee discretion and competitive marketplace forces in the determination of broadcast programming.[35] It would appear that resort to marketplace forces upon the removal of this policy would be particularly effective. Any station seeking to utilize repetitious broadcasts would be totally free to do so, and listener and advertiser reaction should then quickly determine the wisdom thereof. Thus, there appears to be no need for government intervention in the process.

42. Section 73.4175 *Off-Network programs and features films; Presentation restrictions.*[36] This Public Notice, issued in 1972, interpreted a section of the Commission's Prime Time Access Rule (§ 73.658(k)) which had prohibited the use of off-network programs or feature films during the access hour which has previously been broadcast by a station in the market within the previous two years. A court challenge[37] to this provision, *inter alia*, was successful, and in 1975 the Commission, upon remand, eliminated this provision.[38] Accordingly, as a housekeeping measure, the reference to this policy in § 73.4175 shall be deleted from the Commission's Rules as obsolete.

43. Section 73.4200 *Polls, Call-in, on radio and TV stations.*[39] This policy resulted from an inquiry from Congressman Moss in 1968 concerning the use of "call-in" polls by radio and television stations. He was concerned because such polls are necessarily inaccurate "due to the lack of a scientifically based sample, the problems inherent in the overloading of automatic recording answering devices, and the susceptibility to manipulation by small but well-organized pressure groups whose members may phone in repeated votes on a question." The Commission shared the concern, stating:

> The Commission agrees that licensees of broadcast facilities should not report the results of polls they have conducted without making clear to the public the nature of the poll, and specifically that the poll does not purport to be conducted upon a scientific basis where in fact it is not so based. Thus, the public should be so advised if the poll is conducted in such a manner that "voters" may vote more than once. Such information would seem to be an essential part of a proper reporting of the poll results. [*Id.*]

44. We believe that the deletion of such a policy should have little effect upon members of the listening or viewing public. With the increased use of polls in recent years by all media, there has been an increased sophistication on the part of the public concerning their use. Members of the

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[34] *See GCC Communications of Houston, Inc.*, 40 FCC 2d 154 (1973).

[35] *See FCC v. WNCN Listeners Guild*, 450 U.S. 582 (1981) and *Office of Communications of the Church of Christ v. FCC*, No. 81–1032 (D.C. Cir., May 10, 1983).

[36] *See Off-Network Programs*, 34 FCC 2d 1099 (1972).

[37] *National Associations of Independent Television Producers and Distributors v. FCC*, 502 F. 2d 249 (1974).

[38] *Third Report and Order, Prime Time Access Rule*, 53 FCC 2d 335 (1975).

[39] *See Congressman John E. Moss*, 13 FCC 2d 964 (1968).

public are unlikely to take the results of polls by broadcasters literally and without qualification. The public may want to hear the results of less than "scientific" polls and we cannot conclude that in all cases failure to disclose sampling deficiencies would be a material omission. On the other hand, where technique is crucial we fully expect it will be in broadcasters' interest to make suitable disclosures; broadcast stations, like newspapers, must cautiously guard their credibility. Indeed, if a broadcaster were to issue a false and unqualified poll, an anticipated response of the marketplace would be for competitive media—*e.g.*, a local newspaper or another broadcast station—to so inform the public. This policy, like so many others reviewed today, unnecessarily singles out broadcasters for special regulation in the area of their editorial discretion where there is no justification for the distinction. The most appropriate action is simply to delete the policy.

45. Section 73.4240 *Sirens and like emergency sound effects in announcements.*[40] This statement of policy was issued in 1970 in the form of a Public Notice, arising from complaints from various sources concerning "the use of sirens and other alarming sound effects in commercial and other announcements." The general theme was that such sounds could be confused with actual emergency sounds and cause confusion or accidents. The Notice concluded:

> The selection and presentation of advertising and other promotional material are, of course, the responsibility of licensees. However, in this selection process, licensees should take into account, under the public interest standard, possible hazards to the public. Accordingly, in making decisions as to acceptability of commercial and other announcements, licensees should be aware of possible adverse consequences of the use of sirens and other alarming sound effects. We do not refer to sound effects which are integral parts of dramatic programs.

46. This policy—focusing upon sound effects in radio commercials—certainly is among the Commission's most trivial. The practical result of such policy is an almost flat prohibition of the use of such sound effects, without any actual evidence of a serious problem. Such a prohibition for one thing, may have the effect of unduly restraining creative advertising. Moreover, broadcasters are under a general obligation to operate their stations in the public interest; this, we believe, serves as a sufficient check to any potential misuse of sound effects that could impinge upon public safety. On balance, we believe it best to delete the policy. This certainly does not mean that we now encourage and advocate the broadcast of such commercials; we simply believe that the policy imposes requirements that are unnecessarily restrictive in light of the potential for abuse.

Conclusion

47. In sum, it is the purpose of this newly initiated docket to clear away some of the broadcast "underbrush" which has grown up over the years which no longer is warranted or required by the public interest and which, collectively, can impede the healthy functioning of the broadcast marketplace. Today's actions have focused upon Commission policies that affect broadcast program content. As previously explained (Par. 11, *supra)* we are exercising our administrative authority to forthwith eliminate the policies treated herein. We have taken this overall action for several reasons. These policies, affecting as they do the very content of licensee programming, represent incursions upon the editorial responsibilities of licensees. For certain policies reviewed, our action has been to delete overly burdensome practices and guidelines and to return to basic statutory principles, generally leaving the mechanism of compliance to licensees. For other policies considered today, we have determined that it is not appropriate for the Commission to continue to act upon alleged violations in the first instance. Such unfocused oversight is both unwise and inefficient. Rather, our limited resources should be concentrated on matters of greater public importance, such as the initiation of new broadcast and other communications services. For some of the policies deleted today, there are alternative remedies—private actions in state or federal courts, referral to the Federal Trade Commission or to the Department of Justice, etc. For other deleted policies, reliance should in the first instance be placed upon marketplace forces which ultimately will determine whether there is any interest by the public in the programming newly made available by today's action and whether there are any significant and abiding problems not addressed by these other corrective forces. Our final comment here is the same as in our radio deregulation proceeding:

> Our role will continue to be one of oversight. But in most instances we believe that generalized requirements that permit licensees to respond to market forces within broad parameters are warranted in radio broadcasting. Simply stated, the large number of stations in operation, structural measures, and listenership demand for certain types of program (and for limitations on other types of programming, to-wit: Commercials) provide an excellent environment in which to move away from the content/conduct type of regulation that may have been appropriate for other times, but that is no longer necessary in the context of radio broadcasting to assure operation in the public interest.[41]

48. It is ordered that:

(1) Sections 73.4015, 73.4030, 73.4105, 73.4120, 73.4150, 73.4175, 73.4200, 73.2405, and 73.4240 are ordered removed from the Commission's rules effective November 28, 1983; and

(2) It is further ordered that, The Petition for Reconsideration in Docket 19743 is granted and § 73.4145 is hereby ordered deleted from the Commission rules.

49. Pursuant to Section 605 of the Regulatory Flexibility Act, U.S.C. Section 601 *et seq.*, the Commission certifies that the action proposed will not have a significant economic impact on a substantial number of small entities. Repeal of the stated policies, if anything, may have a slight beneficial economic impact.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—[AMENDED]

§ 73.4015 [Removed]

1. 47 CFR 73.4015, *Alcoholic beverage advertising,* is removed in its entirety.

§ 73.4030 [Removed]

2. 47 CFR 73.4030, *Astrology Material, Broadcasts* of, is removed in its entirety.

§ 73.4105 [Removed]

3. 47 CFR 73.4105, *Foreign language programs,* is removed in its entirety.

§ 73.4120 [Removed]

4. 47 CFR 73.4120, *Harassing and threatening phone calls (resulting from station broadcasts),* is removed in its entirety.

§ 73.4145 [Removed]

5. 47 CFR 73.4145, *Music format service companies agreements with broadcasters,* is removed in its entirety.

§ 73.4150 [Removed]

6. 47 CFR 73.4150, *Musical recordings; repetitious broadcasts,* is removed in its entirety.

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[40] *See Announcements—Sound Effect,* 28 FCC 2d 275 (1970).

[41] 84 FCC 2d at 1014.

§ 73.4175 [Removed]

7. 47 CFR 73.4175, *Off-Network programs and feature films; Presentation restrictions,* is removed in its entirety.

§ 73.4200 [Removed]

8. 47 CFR 73.4200, *Polls, Call-In, on radio and TV stations,* is removed in its entirety.

§ 73.4205 [Removed]

9. 47 CFR 73.4205, *Private interest broadcasts by licensee to annoy and harass others,* is removed in its entirety.

§ 73.4240 [Removed]

10. 47 CFR 73.4240, *Sirens and like emergency sound effects in announcements,* is removed in its entirety.

The Commission deletes, as unnecessary regulation, ten broadcast policies.

[FR Doc. 83-29287 Filed 10-27-83; 8:45 a.m.]
BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 83-337; RM-4249; FCC 83-454]

Amendment of the Rules To Authorize Ten Year License Terms in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending Part 97 of its Rules to authorize ten year operator and station license terms and two year grace period for renewal of expired operator and station licenses in the Amateur Radio Service. The Communications Amendment Act of 1982 authorized license terms not to exceed ten years in the Amateur Radio Service. This change is necessary in order to eliminate a burden on Commission resources and a paperwork burden upon the public.

DATES: Effective December 15, 1983.

FOR INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Special Services Division (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Report and Order

In the matter of amendment of part 97 of the Commission's Rules to authorize ten year operator and station license terms and a two year period of grace for renewal of expired licenses in the Amateur Radio Service; PR Docket No. 83-337, RM-4249.

Adopted: October 6, 1983.
Released: October 19, 1983.
By the Commission.

Background

1. On March 31, 1983, the Commission adopted a Notice of Proposed Rule Making in PR Docket No. 83-337 (48 FR 17624, April 25, 1983). The American Radio Relay League, Inc. (ARRL) in a Petition for Rule Making (RM-4249) had requested that the licensing periods in the Amateur Radio Service be changed to ten year license terms and that the period of grace for renewal of an expired amateur station license be changed to two years. The Commission in its Notice of Proposed Rule Making (PR Docket No. 83-337) proposed to authorize ten year operator and station license terms and a two year grace period for renewal of expired amateur licenses in the Amateur Radio Service.

2. Under the Communications Act of 1934, as amended, the maximum license term was five years for licenses other than broadcast licenses. The Communications Amendments Act of 1982, Pub. L. 97-259, 96 Stat. 1087, approved September 13, 1982, extended the maximum license term for amateur radio licenses to ten years.

3. The ARRL claimed, in its petition, that extension of the license term and the grace period for renewing expired station licenses would reduce the burden on the public and on the Commission by decreasing the number of renewal applications filed and that "the ten year terms would decrease the burden of filing and processing renewal applications without adversely affecting the Commission's spectrum management capabilities." The ARRL also said that while it did not support a reduction in the grace period for expired operator licenses from five to two years, it did not object to it since, with an extended operator license term of ten years, there would be a total of twelve years given for renewal of the operator license.

Discussion

4. There are currently over 417,000 licensed amateur radio operators in the Amateur Radio Service. Over 56,000 amateur licenses were modified during 1982 either by change in class of operator license, change of mailing address, or change in the location of the station. There were over 25,000 new and 36,000 renewed amateur radio licenses issued by the Commission during this same period.

5. Comments received from individual amateur operators and from amateur radio organizations generally favored the proposed action. They said that the extension of the licensing term and the grace period would be a benefit to both the amateur operator and to the Commission.

6. Those commenting on the method of implementing the proposed license term extension generally opposed extending the term of current licenses by a blanket Order because they felt it would be confusing to licensees and others. Paul T. Atkins said, "As an amateur who holds call signs outside the U.S.A., it would become doubtful that a foreign country would issue their license to an American who presented his American license that had not expired in the eyes of the F.C.C., but was outdated or expired in their eyes."

7. The ARRL [1] while agreeing generally with the Commission's proposals, said it opposed the idea of blanket extension of the term of current licenses because "it will create a great deal of confusion among licensees which, in turn, will prompt numerous inquiries to the Commission * * *."

8. We conclude that it is in the public interest to amend Part 97 to authorize ten year operator and station license terms and a two year grace period for renewal of expired station and operator licenses in the Amateur Radio Service. We estimate a savings to the public of over 1000 paperwork burden hours annually. In addition, there will be a decreased administrative burden on the Commission and the saving of resources as a result of extending the license term and changing the grace period for the renewal of expired station and operator licenses. We believe that a two year grace period for the renewal of expired station and operator licenses, in addition to the ten year license term, will satisfy the amateur operator's needs with respect to inadvertently-lapsed licenses. Finally, we are persuaded that a blanket Order extending the terms of existing licenses would be confusing to both amateur licensees and foreign licensing authorities and would result in numerous inquiries that would be a drain on Commission resources.

9. In view of the foregoing, new, modified and renewal anateur radio station and operator licenses issued after the effective date of this order will be for ten year terms and the grace period for expired station and operator licenses will be two years.

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[1] The ARRL Motion for leave to file late comments is granted. The comment period in this proceeding closed June 13, 1983. ARRL's comments were filed with the Commission June 14, 1983. The ARRL said it inadvertently failed to file its comments within the comment period. Since the ARRL is the petitioner in this rule making proceeding, we feel that its comments will be useful to the Commission in its consideration of this matter.

10. It is ordered, That Part 97 is amended as set forth in the attached Appendix, effective December 15, 1983. However, certain licensing program changes must be made before ten year operator and station licenses can be issued. Implementation of the new license term will be announced in a subsequent public notice. It is further ordered, That RM–4249 is granted. This action is taken pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

11. It is further ordered, That the Secretary shall cause a copy of this Report and Order to be published in the **Federal Register.**

12. Information in this matter may be obtained by contacting Maurice J. DePont, (202) 632–4964, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix

Part 97 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended, as follows:

PART 97—[AMENDED]

1. Section 97.13(d) is revised to read as follows:

§ 97.13 Renewal or modification of operator license.

* * * * *

(d) If a license is allowed to expire, application for renewal may be made during a grace period of two years after the expiration date. During this grace period, an expired license is not valid. A license renewed during the grace period will be dated currently and will not be backdated to the date of its expiration. Application for renewal shall be submitted on FCC Form 610 and shall be accompanied by the applicant's expired license or a photocopy thereof.

2. Section 97.47(b) is revised to read as follows:

§ 97.47 Renewal and/or modification of amateur station license.

* * * * *

(b) If a license is allowed to expire, application for renewal may be made during a grace period of two years after the expiration date. During this grace period, an expired license is not valid. A license renewed during the grace period will be dated currently and will not be backdated to the date of its expiration. An application for an individual station license shall be submitted on FCC Form 610. An application for an amateur club or military recreation station license shall be submitted on FCC Form 610–B. In every case the application shall be accompanied by the applicant's expired license or a photocopy thereof.

3. Section 97.59 (a) and (b) are revised to read as follows:

§ 97.59 License term.

(a) Amateur operator licenses are normally valid for a period of ten years from the date of issuance of a new, modified or renewed license.

(b) Amateur station licenses are normally valid for a period of ten years from the date of issuance of a new, modified or renewed license. All amateur station licenses, regardless of when issued, will expire on the same date as the licensee's amateur operator license.

* * * * *

[FR Doc. 83–29284 Filed 10–27–83; 8:45 am]
BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 48, No. 210
Friday, October 28, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 278 and 279

Food Stamp Program; Insured Financial Institutions; Retail Food Stores and Wholesale Food Concerns; Miscellaneous Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On August 5, 1983 (48 FR 35868), the Department proposed to amend various provisions of the regulations governing insured financial institutions, retail food stores and wholesale food concerns participating in the Food Stamp Program. The Department solicited comments from interested parties on this rule through October 4, 1983. The Department has decided to accept all comments received through November 3, 1983.

DATES: Comments on the August 5 proposed rulemaking must be received on or before November 3, 1983, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Daniel Woodhead, Supervisor, Issuance and Benefit Delivery Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302, (703) 756–3425.

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps.)

Dated: October 24, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83–28308 Filed 10–27–83; 8:45 am]
BILLING CODE 3410–30–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83–AGL–11]

Proposed Alteration of Control Zone; Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Port Columbus International Airport, Columbus, Ohio, control zone to revise/reduce the airspace currently designated for the control zone.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before December 1, 1983.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 83–AGL–11, 2300 East Devon Avenue, De Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: This action revises the Port Columbus International Airport control zone to accommodate existing airspace requirements. A review of designated airspace in the Columbus area prompted a rewrite to better and more accurately describe the airspace in the area. The revised description is presented in the text of this notice.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AGL–11." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered in before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contract with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice or proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Comunications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of

Advisory Circular No. 11–2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulation (14 CFR Part 71) to alter the Port Columbus International Airport, Columbus, Ohio, control zone.

Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Columbus, Port Columbus International Airport, OH

Within a 5 mile radius of Port Columbus International Airport (latitude 39°59'42" N., longitude 82°53'11" W.); within 1 mile each side of the 100° bearing from the center of the airport, extending from the 5 mile radius zone to 6 miles east of the airport; with 1 mile each side of the 280° bearing from the center of the airport, extending from the 5 mile radius zone to 6 miles west of the airport.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on October 17, 1983.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 83–29350 Filed 10–27–83; 8:45 am]

BILLING CODE [illegible]

14 CFR Part 71

[Airspace Docket No. 83–ASW–45]

Proposed Designation of Control Zone; San Antonio Stinson Municipal Airport, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a control zone at San Antonio Stinson Municipal Airport, TX. The intended effect of the proposed action is to provide controlled Airspace for aircraft executing standard instrument approach procedures (SIAPs) to the Stinson Municipal airport. The FAA canceled the control zone at this airport on October 29, 1981, due to a shortage of personnel to operate the airport traffic control tower (ATCT). This situation has now changed and the ATCT will reopen, therefore, qualifying the airport for establishment of controlled airspace to the surface.

DATE: Comments must be received on or before November 28, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart F, § 71.171 as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the control zone at San Antonio Stinson Municipal Airport, TX, will necessitate an amendment to this subpart. This amendment will be required at San Antonio Stinson Municipal Airport, TX, since the FAA proposes to reopen the ATCT which will provide weather reports and radio communications to the surface, thereby, qualifying the airport for establishment of a control zone and controlled airspace to the surface.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ASW–45." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877–2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.171, of Part 71 of the Federal

Aviation Regulations (14 CFR Part 71) as follows:

San Antonio Stinson Municipal Airport, TX [New]

Within a 5-mile radius of Stinson Municipal Airport (latitude 29°20'12"N., longitude 98°28'15"W.), excluding that airspace designated as the San Antonio Kelly Air Force Base, TX, control zone and that airspace southwest of a line from the Stinson VOR to latitude 29°19'04"N., longitude 98°31'04"W. This control zone is effective during the specific dates and times established in advance by a Notice of Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958 (949 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on October 17, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-29349 Filed 10-27-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9138]

Hughes Tool Company and Big Three Industries, Inc.; Proposed Consent Agreements With Analyses To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, these consent agreements, accepted subject to final Commission approval would prohibit Hughes Tool Company and Big Three Industries, Inc. from having on their board of directors, any person who is a board member of a competing company whose revenues derived from the relevant product or service exceeds 5 million dollars. The companies would be required among other things, to institute an annual monitoring program designed to detect unlawful interlocks; permit only those persons who have submitted the information required by III(a) of the order to serve as board members; and provide present and future directors and prospective directors, including those of its subsidiaries, with a copy of the order. The companies would be bound by the terms of the order for a period of ten years.

DATE: Comments must be received on or before December 27, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Steven E. Weart, 5R, Dallas Regional Office, Federal Trade Commission, 8303 Elmbrook Dr., Dallas, Texas 75247 (214) 767-7050.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreements containing consent orders to cease and desist and explanations thereof, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Interlocking directorates, Trade practices.

United State of America Before Federal Trade Commission

In the Matter of Hughes Tool Company, a corporation, Big Three Industries, Inc., a corporation, and Ben F. Love, an individual. Docket No. 9138, Agreement containing consent order.

The Agreement herein, by and between Hughes Tool Company ("Hughes"), and its attorneys, and counsel for the Federal Trade Commission ("Commission"), is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Hughes is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business located at 5425 Polk Avenue, Houston, Texas 77023.

2. Huges has been served with a copy of the Complaint dated June 17, 1980 (the "Complaint") issued by the Commission alleging that it violated Section 8 of the Clayton Act, as amended, 15 U.S.C. Section 19, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. Section 45. Hughes has filed an Answer dated July 24, 1980 (the "Answer") denying all such allegations.

3. Hughes admits all of the jurisdictional facts set forth in the Complaint.

4. Hughes waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's Decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise challenge or contest the validity of the Order entered pursuant to this Agreement.

5. This Agreement shall not become a part of the Public record of this proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Agreement and so notify Hughes, in which event it will take litigation action as it may consider appropriate, or issue and serve its Decision containing the following Order in disposition of this proceeding.

6. This Agreement is for settlement purposes only and does not constitute an admission by Hughes that any law has been violated.

7. This Agreement contemplates that, if it is accepted by the Commission and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25(f) of the Commission's Rules, the Commission may, without further notice to Hughes, (1) issue its Decision containing the following Order in disposition of the proceeding, and (2) make information public in respect thereto. When so issued, the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the Decision containing the agreed-to Order to Hughes' address as stated in this Agreement constitutes service. Hughes waives any right it may have to

any other manner of service. The Complaint may be used in construing the terms of the Order; however, no agreement, understanding, representation or interpretation not contained in the Order or in this Agreement may be used to vary or to contradict the terms of the Order.

8. Hughes has read the Order contemplated herein. It understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Hughes further understands that it might be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

9. Nothing in this Agreement shall affect the Complaint or the Answer or the parties' rights thereunder if this Agreement is not accepted by the Commission, or if such acceptance is withdrawn pursuant to Paragraph 5 hereof.

Order

I

It is ordered that the following definitions shall apply herein:

(a) "Parent" means any corporation which owns or controls, directly or indirectly, 50 percent or more of the issued and outstanding voting securities of another corporation.

(b) "Subsidiary" means any corporation of which 50 percent or more of the issued and outstanding voting securities is owned or controlled, directly or indirectly, by another corporation.

(c) "Director" does not include any foreign national who sits on the board of directors of a Hughes Subsidiary incorporated pursuant to the laws of a foreign sovereign, provided that no more than 10 percent of the annual gross revenue of such Subsidiary (including the revenues of its Subsidiaries) is represented by exports to the United States of America and provided that such foreign national does not also sit on the Board of Directors of Hughes or of a Hughes Subsidiary incorporated pursuant to the laws of any state of the United States of America.

(d) "Partially-Owned Foreign Corporation" shall mean any corporation which (1) is incorporated pursuant to the laws of a foreign sovereign, (2) is not owned, directly or indirectly, by Hughes or its Subsidiaries (other than a Partially-Owned Foreign Corporation) to the extent of 70 percent or more of the issued and outstanding voting securities and (3) either (i) generates no more than 10 percent of its annual gross revenue (determined in accordance with generally accepted accounting principles) by exports to the United States of America or (ii) because required by the law of the jurisdiction where the corporation is organized, at least 50 percent of the directors of the corporation are citizens or permanent residents of that jurisdiction.

(e) "Relevant Amount" shall mean the product of $5,000,000.00 (U.S.) multiplied by a fraction, the denominator of which is 258.71 and the numerator of which is the Consumer Price Index—All Items for Wage-Earners and Clerical Employees in the United States as published by the United States Department of Labor for the month of December of the year immediately preceding the year for which the calculation is being made for purposes hereof.

(f) "Qualifying Subsidiary" shall mean any Subsidiary which had revenue (determined in accordance with generally accepted accounting principles) for its immediately preceding fiscal year of an amount at least equal to the Relevant Amount.

II

It is further ordered that:

(a) Hughes, its successors and assigns, shall not permit on its board of directors or on the boards of directors of its Subsidiaries (other than a Partially-Owned Foreign Corporation) any Director who also serves as a Director of any other corporation (other than Hughes or any of its Subsidiaries or a Partially-Owned Foreign Corporation) if Hughes and such other corporation are, by virtue of business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of the antitrust laws of the United States of America (hereinafter referred to in this Order as an "interlock"), provided that no such interlock shall be prohibited hereunder unless:

(1) The annual gross revenues (determined in accordance with generally accepted accounting principles) of Hughes and its Subsidiaries (other than a Partially-Owned Foreign Corporation) derived from a product or service sold or rented by Hughes or its Subsidiaries as to which Hughes competes with such other corporation exceeds the Relevant Amount, and

(2) The annual gross revenues (determined in accordance with generally accepted accounting principles) of such other corporation (including the revenues of its Qualifying Subsidiaries, its Parents and its Parents' Qualifying Subsidiaries) derived from sales or rentals of a product or service as to which it competes with such product or service sold or rented by Hughes or its Subsidiaries exceeds the Relevant Amount.

(b) For the purpose of this Order, when an interlock occurs with any other corporation, competition between Hughes or any of its Subsidiaries (other than a Partially-Owned Foreign Corporation) and such other corporation or any of its Qualifying Subsidiaries or its Parents or its Parents' Qualifying Subsidiaries will be considered to be competiton between Hughes and such other corporation. In addition, a product or service sold or rented by Hughes or its Subsidiaries shall only be considered competitive with a product or service sold or rented by another corporation if such products or services are sold or rented (a) in the same geographic market and (b) at the same level of the distribution process.

III

It is further ordered that:

(a) Within sixty (60) days after the date of service of this Order, and annually thereafter no later than April 1 of each calendar year, Hughes shall obtain, review and retain from each of its Directors and each person who has been nominated to be its Director and from each Director and each person who has been nominated to be a Director of each Hughes Subsidiary (other than a Partially-Owned Foreign Corporation), except Directors whose terms expire prior to June 1 of such calendar year and who are not standing for reelection, the following information concerning each corporation, its Qualifying Subsidiaries, its Parents and its Parents' Qualifying Subsidiaries (other than Hughes or any of its Subsidiaries or Partially-Owned Foreign Corporation) of which such person serves as a Director:

(1) Name and address; and

(2) A descriptive list of each product of service for which the annual gross revenue of such corporation for its most recent fiscal year (including the revenues of its Qualifying Subsidiaries, its Parents and its Parents' Qualifying Subsidiaries) exceeds the Relevant Amount.

(b) Hughes shall not permit any person to serve as a Director who fails to submit to Hughes the information required by this paragraph.

(c) Hughes shall provide the information received pursuant to this paragraph to the Commission's staff upon twenty (20) days' written request.

(d) If competition (as defined in Paragraph II above) arises as to any subject product of service between Hughes (or any of its Subsidiaries, other

than a Partially-Owned Foreign Corporation) and any other corporation with which there is an interlock by virtue of action taken by such other corporation subsequent to the submission to Hughes under Paragraph III(a) above of information concerning such corporation, then Hughes shall have no obligations under Paragraph II above until May 1 of the year following the year such information was submitted.

(e) Hughes shall have a period of thirty (30) days after the date of the closing of an acquisition or the date upon which Hughes or any of its Subsidiaries commences the marketing of any such product of service, as the case may be, which creates an interlock that would otherwise be in violation of the terms of Paragraph II to this Order to remedy such interlock.

IV

It is further ordered that within ten (10) days from the date of service of this Order, Hughes shall distribute a copy of this Order to each of its current Directors and to each of the current Directors of its Subsidiaries (other than a Partially-Owned Foreign Corporation). Thereafter, Hughes shall distribute a copy of this Order to each prospective Director of Hughes and to each prospective Director of each of its Subisidiaries (other than a Partially-Owned Foreign Corporation).

V

It is further ordered that Hughes shall:

(a) Within ninety (90) days after the date of service of this Order, file with the Commission a written report setting forth in detail the manner and form in which it has complied with this Order; and

(b) File with the Commission such other reports of compliance with this Order as may be requested by the Commission.

VI

It is further ordered that the obligations imposed upon Hughes under the terms of this Order shall become effective upon and continue for a period of ten (10) years following the date of service of this Order.

VII

It is further ordered that Hughes shall notify the Commission not more than thirty (30) days after any change in the corporation such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation, which may affect the compliance obligations arising out of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Hughes Tool Company ("Hughes"). The complaint in this matter, which was issued on June 17, 1980, alleges that Hughes has violated Section 8 of the Clayton Act, 15 U.S.C. Section 19, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. Section 45, by maintaining an interlocking directorate with Big Three Industires, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Paragraph I of the proposed order contains definitions of terms used throughout the agreement.

Paragraph II of the proposed order prohibits Hughes or any of Hughes' subsidiaries from having any director who is also a director of a corporation which competes with Hughes. A corporation competes with hughes if such corporation or any of its subsidiaries or its parents or its parents subsidiaries competes with Hughes or any of its subsidiaries. Hughes (including its subsidiaries) and the other corporation (including it subsidiareis, parents, and parents' subsidiaries) must each have sales in a competing product or service of five million dollars, as adjusted by an inflation factor tied to the Consumer Price Index (the "Relevant Amount"). Products or services are considered competing if such products or services are sold or rented in the same geographic market and at the same level of the distributional process.

Paragraph III of the proposed order provides: (1) That Hughes shall institute an annual monitoring program to detect unlawful interlocks, and that, as a part of this program, Hughes shall obtain from each of its directors and prospective directors a listing of each product or service rented or sold by each corporation on whose board the director serves for which such corporation had revenue exceeding the Relevant Amount (including the revenues of that corporation's parents and subsidiaries); (2) that Hughes shall not permit any person to serve as a director who has failed to submit to Hughes any information required by this paragraph; (3) that there is a temporary exemption from liability under Paragraph II in cases in which competition arises between Hughes and an interlocked company during the period between annual monitoring programs by virtue of action taken by the other company; and (4) that there is a thirty (30) day grace period from liability under Paragraph II when competition arises between annual monitoring programs by virtue of Hughes' acquisition or entry into a new product line.

The proposed order also requires that Hughes distribute a copy of the order to each director and prospective director of Hughes and its subsidiaries; file a report within ninety (90) days of service of the order detailing the manner and form of its compliance with the order; file such other compliance reports as are requested by the Commission; and notify the Commission not more than thirty (30) days after any change in the company that may affect Hughes' compliance obligations arising under the order.

The order shall become effective upon service of the order, and shall continue to be effective for ten (10) years following such service.

This order furthers competition by preventing interlocking directorates between Hughes (and its subsidiaries) and its competitors (and their parents and subsidiaries) that could lead to collusive conduct, the exchange of competitively sensitive information, or other anticompetitive activity.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to consitute an official interpretation of the agreement and proposed order or to modify its terms in any way

United States of America Before Federal Trade Commission

In the matter of Hughes Tool Company, a corporation, Big Three Industries, Inc., a corporation, and Ben F. Love, an individual. Docket No. 9138, Agreement containing consent order.

The Agreement herein, by and between Big Three Industries, Inc. ("Big Three"), and its attorneys, and counsel for the Federal Trade Commission ("Commission"), is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Big Three is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its offices and

principal place of business located at 3535 West Twelfth Street, Houston, Texas 77008.

2. Big Three has been served with a copy of the Complaint dated June 17, 1980 (the "Complaint") issued by the Commission alleging that it violated Section 8 of the Clayton Act, as amended, 15 U.S.C. Section 19, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. Section 45. Big Three has filed an Answer dated August 4, 1980 (the "Answer") denying all such allegations.

3. Big Three admits all of the jurisdictional facts set forth in the Complaint.

4. Big Three waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's Decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise challenge or contest the validity of the Order entered pursuant to this Agreement.

5. This Agreement shall not become a part of the public record of this proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Agreement and so notify Big Three, in which event it will take litigation action as it may consider appropriate, or issue and serve its Decision containing the following Order in disposition of this proceeding.

6. This Agreement is for settlement purposes only and does not constitute an admission by Big Three that any law has been violated.

7. This Agreement contemplates that, if it is accepted by the Commission and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25(f) of the Commission's Rules, the Commission may, without further notice to Big Three, (1) issue its Decision containing the following Order in disposition of the proceeding, and (2) make information public in respect thereto. When so issued, the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the Decision containing the agreed-to Order to Big Three's address as stated in this Agreement, to the attention of the Secretary-Treasurer of Big Three, constitutes service. Big Three waives any right it may have to any other manner of service. The Complaint may be used in construing the terms of the Order; however, no agreement, understanding, representation or interpretation not contained in the Order or in this Agreement may be used to vary or to contradict the terms of the Order.

8. Big Three has read the Order contemplated herein. It understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Big Three further understands that it might be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

9. Nothing in this Agreement shall affect the Complaint or the Answer or the parties' rights thereunder if this Agreement is not accepted by the Commission, or if such acceptance is withdrawn pursuant to Paragraph 5 hereof.

Order

I

It is ordered that the following definitions shall apply herein:

(a) "Parent" means any corporation which owns or controls, directly or indirectly, 50 percent or more of the issued and outstanding voting securities of another corporation.

(b) "Subsidiary" means any corporation of which 50 percent or more of the issued and outstanding voting securities is owned or controlled, directly or indirectly, by another corporation.

(c) "Director" does not include any foreign national who sits on the board of directors of a Big Three Subsidiary incorporated pursuant to the laws of a foreign sovereign, provided that no more than 10 percent of the annual gross revenue of such Subsidiary (including the revenues of its Subsidiaries) is represented by exports to the United States of America and provided that such foreign national does not also sit on the Board of Directors of Big Three or of a Big Three Subsidiary incorporated pursuant to the laws of any state of the United States of America.

(d) "Partially-Owned Foreign Corporation" shall mean any corporation which (1) is incorporated pursuant to the laws of a foreign sovereign, (2) is not owned, directly or indirectly, by Big Three or its Subsidiaries (other than a Partially-Owned Foreign Corporation) to the extent of 70 percent or more of the issued and outstanding voting securities and (3) either (i) generates no more than 10 percent of its annual gross revenue (determined in accordance with generally accepted accounting principles) by exports to the United States of America or (ii) because required by the law of the jurisdiction where the corporation is organized, at least 50 percent of the directors of the corporation are citizens or permanent residents of that jurisdiction.

(e) "Relevant Amount" shall mean the product of $5,000,000.00 (U.S.) multiplied by a fraction, the denominator of which is 258.71 and the numerator of which is the Consumer Price Index—All Items for Wage-Earners and Clerical Employees in the United States as published by the United States Department of Labor for the month of December of the year immediately preceding the year for which the calculation is being made for purposes hereof.

(f) "Qualifying Subsidiary" shall mean any Subsidiary which had revenue (determined in accordance with generally accepted accounting principles) for its immediately preceding fiscal year of an amount at least equal to the Relevant Amount.

II

It is further ordered that:

(a) Big Three, its successors and assigns, shall not permit on its board of directors or on the boards of directors of its Subsidiaries (other than a Partially-Owned Foreign Corporation) any Director who also serves as a Director of any other corporation (other than Big Three or any of its Subsidiaries or a Partially-Owned Foreign Corporation) if Big Three and such other corporation are, by virtue of business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of the antitrust laws of the United States of America (hereinafter referred to in this Order as an "interlock"), provided that no such interlock shall be prohibited hereunder unless:

(1) The annual gross revenues (determined in accordance with generally accepted accounting principles) of Big Three and its Subsidiaries (other than a Partially-Owned Foreign Corporation) derived from a product or service sold or rented by Big Three or its Subsidiaries as to which Big Three competes with such other corporation exceeds the Relevant Amount, and

(2) The annual gross revenues (determined in accordance with generally accepted accounting principles) of such other corporation

(including the revenues of its Qualifying Subsidiaries, its Parents and its Parent's Qualifying Subsidiaries) derived from sales or rentals of a product or service as to which it competes with such product or service sold or rented by Big Three or its Subsidiaries exceeds the Relevant Amount.

(b) For the purpose of this Order, when an interlock occurs with any other corporation, competition between Big Three or any of its Subsidiaries (other than a Partially-Owned Foreign Corporation) and such other corporation or any of its Qualifying Subsidiaries or its Parents or its Parents' Qualifying Subsidiaries will be considered to be competition between Big Three and such other corporation. In addition, a product or service sold or rented by Big Three or its Subsidiaries shall only be considered competitive with a product or service sold or rented by another corporation if such products or services are sold or rented (a) in the same geographic market and (b) at the same level of the distribution process.

III

It is further ordered that:

(a) Within sixty (60) days after the date of service of this Order, and annually thereafter no later than April 1 of each calendar year, Big Three shall obtain, review and retain from each of its Directors and each person who has been nominated to be its Director and from each Director and each person who has been nominated to be Director of each Big Three Subsidiary (other than a Partially-Owned Foreign Corporation), except Directors whose terms expire prior to June 1 of such calendar year and who are not standing for re-election, the following information concerning each corporation, its Qualifying Subsidiaries, its Parents and its Parents' Qualifying Subsidiaries (other than Big Three or any of its Subsidiaries or a Partially-Owned Foreign Corporation) of which such person serves as a Director:

(1) Name and address; and

(2) A descriptive list of each product or service for which the annual gross revenue of such corporation for its most recent fiscal year (including the revenues of its Qualifying Subsidiaries, its Parents and its Parents' Qualifying Subsidiaries) exceeds the Relevant Amount.

(b) Big Three shall not permit any person to serve as a Director who fails to sumbmit to Big Three the information required by this paragraph.

(c) Big Three shall provide the information received pursuant to this paragraph to the Commission's staff upon twenty (20) days' written request.

(d) If competition (as defined in Paragraph II above) arises as to any subject product or service between Big Three (or any or its Subsidiaries, other than a Partially-Owned Foreign Corporation) and any other corporation with which there is an interlock by virtue of action taken by such other corporation subsequent to the submission to Big Three under Paragraph III (a) above of information concerning such corporation, then Big Three shall have no obligations under Paragraph II above until May 1 of the year following the year such infomation was submitted.

(e) Big Three shall have a period of thirty (30) days after the date of the closing of an acquisition or the date upon which Big Three or any of its Subsidiaries commences the marketing of any such product or service, as the case may be, which creates an interlock that would otherwise be in violation of terms of Paragraph II of this Order to remedy such interlock.

IV

It is further ordered that within ten (10) days from the date of service of this Order, Big Three shall distribute a copy of this Order to each of its current Directors and to each of the current Directors of its Subsidiaries (other than a Partially-Owned Foreign Corporation). Thereafter, Big Three shall distribute a copy of this Order to each prospective Director of Big Three and to each prospective Director or each of its Subsidiaries (other than a Partially-Owned Foreign Corporation).

V

If is further ordered that Big Three shall:

(a) Within ninety (90) days after the date of service of this Order, file with the Commission a written report setting forth in detail the manner and form in which it has complied with this Order; and

(b) File with the Commission such other reports of compliance with this Order as may be requested by the Commission.

VI

It is further ordered that the obligations imposed upon Big Three under the terms of this Order shall become effective upon and continue for a period of ten (10) years following the date of serivce of this Order.

VII

It is further ordered that Big Three shall notify the Commission not more than thirty (30) days after any change in the corporation such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation, which may affect the compliance obligations arising out of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Big Three Industries, Inc. (Big Three). The complaint in this matter, which was issued on June 17, 1980, alleges that Big Three has violated Section 8 of the Clayton Act, 15 U.S.C. Section 19, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. Section 45, by maintaining an interlocking directorate with Hughes Tool Company.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Paragraph I of the proposed order contains definitions of terms used throughout the agreement.

Paragraph II of the proposed order prohibits Big Three or any of Big Three's subsidiaries from having any director who is also a director of a corporation which competes with Big Three. A corporation competes with Big Three if such corporation or any of its subsidiaries or its parents or its parents subsidiaries competes with Big Three or any of its subsidiaries. Big Three (inlcuding its subsidiaries) and the other corporation (including its subsidiaries, parents, and parents' subsidiaries) must each have sales in a competing product or service of five million dollars, as adjusted by an inflation factor tied to the Consumer Price Index (the "Relevant Amount"). Products or services are considered competing if such products or services are sold or rented in the same geographic market and at the same level of the distributional process.

Paragraph III of the proposed order provides: (1) That Big Three shall

institute an annual monitoring program to detect unlawful interlocks, and that, as a part of this program, Big Three shall obtain from each of its directors and prospective directors a listing of each product or service rented or sold by each corporation on whose board the director serves for which such corporation had revenue exceeding the Relevant Amount (including the revenues of that corporation's parents and subsidiaries); (2) that Big Three shall not permit any person to serve as a director who has failed to submit to Big Three any information required by this paragraph; (3) that there is a temporary exemption from liability under Paragraph II in cases in which competition arises between Big Three and an interlocked company during the period between annual monitoring programs by virtue of action taken by the other company; and (4) that there is a thirty (30) day grace period from liability under Paragraph II when competition arises between annual monitoring programs by virtue of Big Three's acquisition or entry into a new product line.

The proposed order also requires that Big Three distribute a copy of the order to each director and prospective director of Big Three and its subsidiaries; file a report within ninety (90) days of service of the order detailing the manner and form of its compliance with the order; file such other compliance reports as are requested by the Commission; and notify the Commission not more than thirty (30) days after any change in the company that may affect Big Three's compliance obligations arising under the order.

The order shall become effective upon service of the order, and shall continue to be effective for ten (10) years following such service.

This order furthers competition by preventing interlocking directorates between Big Three (and its subsidiaries) and its competitors (and their parents and subsidiaries) that could lead to collusive conduct, the exchange of competitively sensitive information or other anticompetitive activity.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify its terms in any way.

Emily H. Rock,

Secretary.

[FR Doc. 83-29352 Filed 10-27-83; 8:45 am]

BILLING CODE 4750-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 5

[Notice No. 491; Reference Notice No. 480]

Reduced Proof Distilled Spirits Products

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Extension of comment period for advance notice of proposed rulemaking.

SUMMARY: On August 4, 1983, ATF published an advance notice of proposed rulemaking relating to new standards of identity for distilled spirits products bottled at less than the minimum bottling proof required by 27 CFR 5.22. This notice [48 FR 35460] was published in response to a petition submitted by Heublein Spirits Group. Heublein's petition sought amendment of the standards of identity to allow bottling at less than the prescribed bottling proof in conjunction with the word "Mild" on the label to describe them, and revocation of ATF Ruling 75-32 which requires such products to be designated "Diluted."

ATF has received limited response to the advance notice of proposed rulemaking. However, the National Association of Beverage Importers has requested a 90-day extension of the comment period in order to allow them further study before submitting comments.

Due to the complex nature of the issues involved, the far reaching implications of the suggested changes to the standards of identity for distilled spirits, and the limited response to the advance notice, ATF is extending the period for submission of written comments to Notice No. 480 for 90 additonal days.

DATE: Written comments must be received by January 31, 1984.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385. [Attention: Notice No. 480]

Copies of the petition and written comments will be available for public inspection and copying during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405 Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202-566-7626.

Authority: This notice is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205.

Approved: October 20, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83-29252 Filed 10-27-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 953

Approval of the Abandoned Mine Land Reclamation Plan for the Navajo Indian Nation Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On September 6, 1983, the Navajo Nation submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the Navajo Nation's Plan.

DATES: Written comments on the Plan must be received on or before 5:00 p.m. November 28, 1983.

ADDRESSES: Copies of the full text of the proposed Plan are available for review during regular business hours at the following locations:

Office of Surface Mining, New Mexico Field Office, 219 Central Avenue, N.W., Suite 216, ALbuquerque, New Mexico 87102

Office of Surface Mining, Administrative Record, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240

Written comments should be sent to Robert H. Hagen, Field Office Director, Office of Surface Mining, Albuquerque Field Office, 219 Central Avenue, N.W., Suite 216, Albuquerque, New Mexico 87102.

The Administrative Record will be available for public review at the Field Office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Field Office Director, Office of Surface Mining, Albuquerque

Field Office, 219 Central Avenue, N.W., Suite 216, Albuquerque, New Mexico 87102.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing responsibility under Tribal, State, or Federal law.

Title IV provides that if the Secretary determines that a State or Tribe has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State or Tribal legislation to implement the provisions of Title IV, the Secretary may approve the State or Tribal program and grant to the State or Tribe exclusive responsibility and authority to implement the provisions of the approved program.

OSM received a proposed abandoned mine land reclamation plan from the Navajo Nation. The purpose of this submission is to determine both the intent and capability of the Navajo Tribe to assume responsibility for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Land Reclamation (AMLR) Program, as set forth in 30 CFR Subchapter R.

This notice describes the nature of the proposed program and sets forth information concerning public participation in the Secretary's determination of whether or not the submitted Plan may be approved. The public participation requirements for the consideration of a State or Tribal AMLR plan are found in 30 CFR Sections 884.13 and 884.14. Additional information may be found under corresponding sections of the preamble to OSM's AMLR Program Rules as revised in 47 FR 28587, June 30, 1982.

The receipt of the Navajo Nation's Plan is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands on the Navajo Reservation.

By submitting a proposed Plan, the Navajo Nation has indicated that it wishes to be primarily responsible for this program. If the submission, as hereafter modified, is approved by the Secretary, the Navajo Nation will have primary responsibility for the reclamation of abandoned mine lands on the Navajo Tribe Reservation. If the program is disapproved, and the Navajo Nation does not choose to revise the Plan, a Federal AMLR Program will be implemented and OSM will have primary responsibility for these activities.

The Secretary has determined that the public was provided adequate notice and opportunity to be heard on the Plan and that the record does not reflect any major unresolved controversies. Therefore, a public hearing will not be held.

Representatives of OSM's Field Office or of the Division of Abandoned Mine Land Reclamation will be available to meet with the request of members of the public to receive their advice and recommendations concerning the proposed Navajo AMLR Plan. To arrange for such meetings contact the person listed above under **FOR FURTHER INFORMATION CONTACT.**

The Department intends to continue to discuss the Navajo Nation's proposed Plan with representatives of the Navajo Nation throughout the review process. All contracts between OSM personnel and representatives of the Navajo Nation will be conducted in accordance with OSN's guidelines on contacts with States as published September 19, 1979, at 44 FR 54444.

Pursuant to 30 CFR 884.14, OSM will continue the period of review of the proposed Navajo Nation Plan until a decision is made by the Secretary of the Interior to approve or disapprove the abandoned mine land reclamation program submission of the Navajo Nation.

The Office of Surface Mining has examined this proposed rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity innovation or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifible costs, competitive effects, enforcement costs, or aggregate effects on small entities.

The Office of Surface Mining has determined that the Navajo Nation's abandoned Mine Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures, and organization of the Navajo Nation's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual 5162.3(A)(1), the Office's decision on the Navajo Plan is categorically excluded from the National Environmental Policy Act process. As a result, no Environmental Assessment or Environmental Impact Statement has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSN in conjunction with approval of the Public Law 95–87 Title IV abandoned mine land regulations. Moreover, an environmental analysis or an environmental impact statement will be prepared for the approval of the grants for the abandoned mine land reclamation projects under 30 CFR Part 880.

The Navajo Nation's Reclamation Plan for Abandoned Mine Lands can be approved if:

1. The Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies;

2. Views of other Federal agencies have been solicited and considered;

3. The Navajo Nation has the legal authority, policies, and administrative structure to carry out the Plan;

4. The Plan meets all the requirements of the OSM AML Program provisions;

5. The Navajo Nation has an approved Regulatory Program; and

6. It is determined that the Plan is in compliance with all applicable State/Tribe and Federal laws and regulations.

The following constitutes a summary of the contents of the Navajo Reclamation Plan submission:

The Navajo Coal Mining Commission has been designated by the Chairman of the Navajo Nation to implement and enforce the Abandoned Mine Land Reclamation Program in accordance with SMCRA (Public Law 95–87).

Contents of the Navajo Plan submission include:

(a) Designation of authorized Agency to administer the program.

(b) Navajo Nation's General's Counsel's opinion that the designated Agency has the legal authority to operate the program in accordance with the requirements of Title IV of the SMCRA, 30 CFR Subchapter R, and the Navajo Reclamation Plan.

(c) Description of the policies and procedures to be followed in conducting the program including:

(1) goals and objectives;

(2) project ranking and selection procedures;

(3) coordination with other reclamation programs;

(4) land acquisition, management, and disposal;

(5) reclamation on private land;

(6) rights of entry; and

(7) public participation in the program.

(d) Description of the Administrative and Management structure to be used in the program including:

(1) description of the organization of the designated agency and its relationship to other organizations that will participate in the program;

(2) personnel staffing policies;

(3) purchasing and procurement systems and policies; and

(4) description of the accounting system including specific procedures for operation of the reclamation fund.

(e) Description of the public's participation in preparing of the Plan.

(f) A general description of activities to be conducted under the Reclamation Plan including:

(1) known or suspected eligible lands and water requiring reclamation, including one or more maps;

(2) general description of the problems identified and how the plan proposes to deal with them;

(3) general description of how the lands to be reclaimed and proposed reclamation relate to the surrounding lands and land uses;

(4) a table summarizing the quantities of land and water affected, and an estimate of the quantities to be reclaimed during each year covered by the Plan; and

(5) general description of the social, economic and environmental conditions in the different geographic areas where reclamation is planned, including:

(i) the economic base;

(ii) sociologic and demographic characteristics;

(iii) significant aesthetic, historic or cultural, and recreational values;

(iv) hydrology including water quality and quantity problems associated with past mining;

(v) flora and fauna including endangered or threatened species and their habitat;

(vi) underlying or adjacent coal beds and other minerals, and projected methods of extraction; and

(vii) anticipated benefits from reclamation.

List of Subjects in 30 CFR Part 953

Coal mining, Indian lands, Surface mining, Underground mining.

(Pub. L. 95-87; 30 U.S.C. 1201, et seq.)

Dated: October 21, 1983.

James R. Harris,

Director, Office of Surface Mining.

Dated October 18, 1983.

Wilbert L. Dare,

Assistant Secretary for Energy and Minerals.

[FR Doc. 83-29357 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD-FRL 2379-2]

Restructuring SIP Preparation Regulations

Correction

In FR Doc. 83-25166 beginning on page 46152 in the issue of Tuesday, October 11, 1983, make the following correction:

On page 46152, column one, under **DATES:**, "January 9, 1983" should have read "January 9, 1984".

BILLING CODE 1505-01-M

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40 CFR Part 52

[A-9-FRL 2458-3]

Approval and Promulgation of Implementation Plans; Monterey Bay Unified Air Pollution Control District Air Pollution Control Regulations, State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Monterey Bay Unified Air Pollution Control District (MBUAPCD) adopted a New Source Review Rule on January 27 and December 15, 1982. The Rule contains provisions comparable to EPA's requirements for both New Source Review (NSR) and Prevention of Significant Deterioration (PSD). It regulates construction and operation of new and modified major stationary sources of both nonattainment and attainment pollutants. The MBUAPCD adopted the Rule to satisfy conditions on the approval of its previous NSR Rule and to obtain authority from EPA to issue permits for PSD. This Rule was submitted to EPA as a State Implementation Plan (SIP) revision on December 29, 1982. EPA is proposing to approve the Rule, with one exception, if the District makes revisions necessary to fully meet EPA's requirements. The District has been extremely cooperative in developing revisions to satisfy EPA's concerns.

DATES: Comments may be submitted up to November 28, 1983.

ADDRESSES: Comments may be sent to: Acting Regional Administrator, Attn: Air Management Division, New Source Section (A-3-1), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the District's Rule and EPA's Evaluation Report are available for public inspection during normal business hours at the EPA Region 9 office listed above and at the following locations:

California State Air Resources Board, Public Information Office, 1102 "Q" Street, Sacramento, CA 95814
and Monterey Bay Unified Air Pollution Control District, 1164 Monroe St., Suite 10, Salinas, CA 93906.

FOR FURTHER INFORMATION CONTACT: Mark Brucker, New Source Section, Air Management Division, Environemntal Protection Agency, Region 9 (415) 974-8249/(FTS 454-8249).

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1980 (45 FR 80279), EPA approved the Nonattainment Area Plan and NSR Rule for MBUAPCD, subject to certain conditions. One of the conditions was that the NSR Rule be revised to satisfy EPA's regulations of August 7, 1980 (40 CFR 51.18).

The new Rule 207 was written to satisfy the NSR condition imposed by EPA in 1980 and also to secure full authority from EPA for issuing PSD permits. The Rule closely follows the NSR/PSD Rule developed by the California Air Pollution Control Officers' Association (CAPCOA) and the California Air Resources Board. It combines NSR and PSD in a single review progran and includes specific procedures to plan and regulate sources in areas where clean air is particularly important.

EPA requires NSR Rules for pollutants for which an area is designated

nonattainment. PSD rules apply to pollutants for which an area is designated attainment. The area covered by the Monterey Bay UAPCD (Monterey, Santa Cruz, and San Benito Counties) is designated nonattainment by EPA for ozone. It is designated attainment for particulates, carbon monoxide, sulfur dioxide and nitrogen oxides.

NSR—Part D of the Clean Air Act (Sections 171 to 173) and EPA regulations (40 CFR 51.18) define the requirements for NSR programs. The most inportant requirements are that the rules require applicants for new sources of modifications to: (a) Meet the Lowest Achievable Emission Rate, (b) provide emission reductions (offsets) at least equal to the proposed emission increases and consistent with RFP, and (c) certify that all of their sources in the State comply with all emission limitations. Where growth allowances are provided, offsets may not be needed. The MBUAPCD currently administers the NSR program under its conditionally approved Rule.

PSD—Supart 1 of Part C of the Clean Air Act (Sections 160 to 169) and EPA regulations (40 CFR 51.24) contain requirements for PSD. The PSD requirements apply to criteria pollutants which are designated attainment and to the non-criteria pollutants which are also regulated under Sections 111 and 112 of the Act. EPA is currently administering the PSD program in the Monterey Area. When PSD regulations for the Monterey Area are approved, the District will assume authority from EPA.

The primary requirements for a PSD program include: (1) The application of "Best Available Control Technology" (BACT) to new or modified major stationary sources; (2) requiring applicants to demonstrate that the increased emissions will not cause violations of any National Ambient Air Quality Standard (NAAQS) or air quality increments; and (3) requiring protection of Class I areas, where very little air quality deterioration is allowed.

Description of Regulations

The District adopted Rule 207 on January 27 and December 15, 1982. It was submitted to EPA by the Governor's designee as an official SIP revision on December 29, 1982.

The new Rule 207 adopted by the District supersedes and entirely replaces the old rule. It includes the following specific sections:

Part A—General
Part B—Exemptions
Part C—Definitions
Part D—Requirements
Part E—Administrative Requirements
Part F—Calculations
Part G—Power Plants
Part H—Cogeneration and Resource Recovery Projects
Part I—Source Impact Analysis
Part J—SIP Revision

Evaluation

EPA has evaluated Rule 207 against its NSR and PSD approval criteria. The District's Rule satisfies EPA's requirements, except as described below and in the Evaluation Report. The Rule will: (1) Require preconstruction review of those sources for which EPA requires it; (2) require BACT and air quality protection consistent with EPA's PSD requirements; and (3) require certification of statewide compliance, application of LAER, and offsets in a manner consistent with EPA's NSR requirements.

EPA found several deviations from EPA requirements and some areas of possible deviation. Specifically, EPA found 16 possible problems and 15 cases where wording changes were called for. These wording changes are standard changes to the CAPCOA Rule that occurred after Monterey's adoption.

EPA explained all these issues to the District. Agreement has been reached on resolution of almost all the issues. The District presented information that shows EPA's requirements have already been met in some cases. In other cases changes in the Rule itself have been agreed upon. The District has been very cooperative.

EPA's Evaluation Report explains all the issues in detail. The Report is available at the locations listed in the **ADDRESSES** section of this Notice.

The major problems described in the Evaluation Report are:

(1) The Rule fails to conform to EPA's restrictions on credits for shutdowns and production curtailments.

(2) The District does not have an approved method of analyzing increment consumption. However, a method developed by the California Air Resources Board may meet this requirement after technical and procedural problems are corrected.

(3) State law requires the district to permit cogeneration and resource recovery sources even if they would cause increment violations.

There are also many less significant issues included: Cogeneration sources, minor source coverage, emission calculations, reconstructions, emission baseline, monitoring, "additional impacts," PSD baseline, PSD Redesignation, source information, Impact Table, public notice, Class I increment protection and notice, contemporaneous emission reductions and 3 definitions.

Proposed Action

EPA proposes to approve MBUAPCD Rule 207 under Section 110, Subpart 1 of Part C, and Part D of the Clean Air Act, if the District: (1) Adopts the 15 CAPCOA wording changes and (2) resolves the issues listed and described above (and described in more detail in the Evaluation Report). Problems can be resolved by:

(a) Revising the Rule.

(b) Revising related program elements (e.g., the Nonattainment Plan, Procedures).

(c) Demonstrating that the Rule or related program elements already satisfy EPA's requirement.

EPA will assist the district in its effort to resolve the problems rapidly.

Based on these expectations, EPA proposes to approve the Rule. EPA proposes, however, to retain PSD permitting authority for cogeneration and resource recovery sources which would cause increment violations and which are major under EPA's PSD regulations. EPA is proposing this action because the District has no authority to override the State law which prevents full protection of PSD increments.

If all the problems are corrected, EPA proposes to rescind 40 CFR 52.270 for the Monterey Bay UAPCD, except for its coverage of some cogeneration and resource recovery sources. 40 CFR 52.270 gives EPA the authority to regulate and permit PSD sources in Monterey Bay Area. This rescission would grant the MBUAPCD that authority.

EPA also proposes to rescind 40 CFR 52.232(a)(2)(i) if all the problems outlined here are resolved. Once these problems are remedied the MBUAPCD will have satisifed the 1980 NSR revision condition included in 40 CFR 52.232.

Under Executive Order 12291, today's action is not major. It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any EPA response are available for public inspection at the location listed in the **ADDRESSES** section of this notice. I certify that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110, 129, 160 to 169, 171 to 173, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7470 to 7479, 7501 to 7503 and 7601(a))

Dated: August 9, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 83-28323 Filed 10-27-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-7-FRL 245 9-4; EPA No.1163]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Enviromental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The State of Kansas submitted on May 5, 1983, amendments to its State Implementation Plan (SIP) involving the prevention of signifcant deterioration (PSD). The EPA has reviewed the adopted regulations and is proposing to approve the PSD regulations, except for the regulation regarding innovative control technology. EPA believes that the remainder of the regulations, are approvable. Today's notice is published to advise the public of EPA's proposed action and to request comments on the approvability of these regulations.

DATE: Comments must be received no later than Novermber 28, 1983.

ADDRESSES: Comments should be addresed to Mr. Robert J. Chanslor, Air Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state's submission and EPA's technical evaluation are available at the above address, and at the following location: Kansas Department of Health and Environment, Bureau of Air Quality and Occupational Health, Forbes Field, Topeka, KS 66101.

FOR FURTHER INFORMATION, CONTACT: Robert J. Chanslor at the EPA address above, or call (816) 374-3791, [FTS 758-3791].

SUPPLEMENTARY INFORMATION:

I. Background

On December 13, 1982, the State of Kansas adopted regulations K.A.R. 28-19-17 through 28-19-171, relating to PSD for new and modified sources. These regulations were adopted after a public hearing on November 30, 1982, and a 30 day public notice of the hearing. These regulations were officially submitted by the Secretary of the Kansas Department of Health and Environment as a revision to the Kansas SIP on May 5, 1983. The state has provided evidence that the public notification and hearing requirments of 40 CFR 51.4 have been satisfied.

II. Review of the State's Submission

A. PSD regulations. K.A.R. 28-19-17, New Source Permit Requirements for Designated Attainment and Unclassified Areas, briefly outlines the applicability of the PSD regulations, refers to adoption by reference of 40 CFR Part 52, and substitutes Secretary of the Department of Health and Environment for "Administrator" in the various adopted portions of the Code of Federal Regulations. This regulation is generally approvable. Since the EPA has issued PSD permits for sources in the State of Kansas, K.A.R. 28-19-17(c) should be changed to reflect the fact that netting calculations may not consider decreases previously relied upon by EPA, by substituting the term "Administrator or Secretary" for the term "Secretary" in 40 CFR 52221(b)(3)(iii) as incorporated in the regulation. Prior to final rule making, the state must provide a written commitment to make this and other changes as described below and include a date by which these changes will be made and submitted as a revision to the SIP. Further, the state must provide written assurances that PSD increments consumed because of EPA issued permits will be considered prior to issuing a PSD permit. As the state regulation is now written, PSD increment consumption may only be tracked on state issued permits.

K.A.R. 28-19-17a, Definitions, adopts by reference definitions found at 40 CFR 52.21(b) as amended through June 25, 1982, except for Section 52.21(b)(17), "Federally enforceable." That definition is contained in K.A.R. 28-19-17a(e). The reference in 40 CFR 52.21(b)(14) "Baseline date" to 40 CFR 52.21 has been revised to reference K.A.R. 28-19-17b or 40 CFR 52.21(i), etc. This is approvable. K. A.R. 28-19-17a(d) incorrectly attributes area classifications (Class I, II and III) to the Administrator. This regulation should be changed to show that current area classifications for PSD purposes were established under Section 162 of the Clean Air Act, as amended.

Regulation 28-19-17b establishes permit requirements for new or modified source construction. Public notification and public hearing requirements are included in K.A.R. 28-19-17k. This is approvable.

The exemptions contained in K.A.R. 28-19-17c are consistent with the provisions of 40 CFR 51.24(i) and are thus approvable.

Regulation K.A.R. 28-19-17d adopts by reference 40 CFR 52.21(j), Control Technology Review, and authorizes use of innovative control technology. Innovative control technology is included in 28-19-171, which will be discussed below.

Regulation K.A.R. 28-19-17e, Source Impact Analysis, adopts 40 CFR 52.21(1) by reference and is thus approvable.

Regulation K.A.R. 28-19-17f, Air Quality Models, adopts 40 CFR 52.21(k) by reference and is approvable.

Regulation K.A.R. 28-19-17g, Air Quality Analysis, adopts by reference 40 CFR 52.21(m), except for Section 52.21(m)(1)(v). This is acceptable because the regulation will only apply to new or modified sources on and after May 1, 1983 (effective date of the state regulation).

K.A.R. 28-19-17h, Additional Impact Analysis, adopts 40 CFR 52.21(o) by reference and is thus approvable.

K.A.R. 28-19-17i, Source Impacting Federal Class I Areas, is consistent with 40 CFR 52.21(p). Provision for notification of the Federal Land Manager is through the Administrator of EPA. This is consistent with 40 CFR 51.24(p). This regulation is approvable.

The provisions of K.A.R. 28-19-17j, Revocation and Suspension of Permit, are approvable.

The notification requirements of K.A.R. 28-19-17k are consistent with the plan requirements of 40 CFR 51.24(q) and are thus approvable.

The provisions of K.A.R. 28-19-171 follow the plan requirements of 40 CFR 51.24(s), except that there is no provision for consent of the governor(s) of other affected state(s). This regulation is not approvable. The inclusion of an allowance for innovative control technology under 40 CFR 51.24(s) is optional for PSD SIPs. However, the regulation provides that, if the plan should allow for use of innovative control technology, the consent of governors provision is a requirement. The State of Kansas believes that inclusion of such a requirement would dilute the state's authority to issue permits, and further contends it has no authority to grant consent authority to the governor of another state. The EPA proposes to disapprove K.A.R. 28-19-171 because it is inconsistent with the requirements of 40 CFR 51.24(s)(2). Disapproval of this portion of the Kansas PSD regulations could disrupt the permit procedures, if an applicant for a PSD permit requests the use of innovative control technology in lieu of best available control technology. The

disruption would occur because the applicant would be required to obtain permits from the State of Kansas and the EPA. The state was advised that regulation 28–19–171 was not approvable and that if the consent of governors was not to be included, the provision for innovative control technology should be deleted. The regulation adopted and submitted is essentially unchanged from that proposed.

The authority to issue PSD permits to sources proposing innovative control technology applications would remain controlled by EPA under 40 CFR 52.21(v).

III. Conclusion

Proposed Action. EPA proposes to approve Kansas Regulations K.A.R. 28–19–17 through K.A.R. 28–19–17k as meeting the requirements of Part C, Subpart 1 of the Clean Air Act, but proposes to disapprove K.A.R. 18–19–17l, innovative control technology. 40 CFR 52.884 authorizes EPA to regulate and permit sources subject to PSD regulations in the State of Kansas. Today's proposed action would rescind the EPA promulgated PSD regulations except that permitting of sources wishing to use innovative control technology in lieu of best available control technology (BACT) would be retained by EPA.

Kansas air regulations incorporate by reference 40 CFR 52.21(h)(1), but contain an exemption which EPA believes is inconsistent with the EPA stack height regulations. Therefore, EPA proposes to retain 52.21(h) GEP stack height authority promulgated as part of the Kansas SIP at 40 CFR 52.884 until such time that the state adopts acceptable stack height regulations.

EPA is soliciting comments on the state's submission and on the proposed approval of these regulations as a revision to the Kansas SIP. The Administator' decision to approve or disapprove this submission will be based upon the comments received and on whether the SIP revisions meet the requirements of Part C. Subpart 1 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This rule is not major because it only proposes to approve state actions and would impose no additional substantive requirements which will not be applicable under state law. Thus, it is unlikely to have an annual effect on the economy of $100 million or more or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review, as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) the Adiminstator had certified that SIP approvals under Sections 110 and 161 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). The attached rule, if promulgated, constitutes a SIP approval under Section 110 and 161 within the terms of the January 27 certification. It imposes no new requirements.

(Sec. 110 and Sec. 161 of the Clean Air Act, as amended, [42 U.S.C. 7410 and 7471])

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: August 8, 1983.

Morris Kay,

Regional Administrator.

[FR Doc. 83–29324 Filed 10–27–83; 8.45 am]

BILLING CODE 6560–50–M

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40 CFR Part 145

[WH–FRL–2459–5]

Delaware Department of Natural Resources and Environmental Control; Under Ground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the State of Delaware requesting primary enforcement responsiblity for the Under Ground Injection Control (UIC) Program; (2) the application is now avialable for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, diapprove, or approve in part and disapprove in part the Section 1422 application of the Delaware Department of Natural Resources and Environmental Control (DDNREC) to regulate Classes I, II, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by November 21, 1983. The Public Hearing will be held on November 30, 1983 at 3:00 p.m. and will continue until the end of the testimony. Written comments must be received by December 7, 1983.

EPA reserves the right to cancel the hearing should there be no significant public interest. Those informing EPA of their intention to testify will be notified of the cancellation.

ADDRESSES: Comments and requests to testify should be mailed to Jeffrey J. Burke, (3WM42), Environmental Protection Agency, Reigon III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. Copies of the application and pertinent material are available between 9:00 a.m. and 4:00 p.m., Monday through friday at the following locations:

Environmental Protection Agency, Region III, Water Supply Branch, 6th and Walnut Streets, Philadephia, Pennsylvania 19106, PH: (215) 597–0000

Delaware Department of Natural Resources, and Environmental Control, Water Resources Section, 89 Kings Highway, Dover, Delaware 19901, PH: (302) 736–5743

The hearing will be held in the DDNREC auditorium at 89 Kings Highway, Dover, Delaware.

FOR FURTHER INFORMATION CONTACT: Jeffrey J. Burke, (3WM42) Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. PH: (215) 597–3424. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: The Under Ground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/l of total dissolved solids. At present, the State of Delaware has 3 inventories Class V injection wells. Class V wells will be studied to assess whether further regulatory measures are required. The State of Delaware does not intend to exempt any aquifers at this time.

List of Subjects in 40 CFR Part 145

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

This application from the Delaware Department of Natural Resources and Environmental Control are for the

regulation of all injection wells in the State. The application includes a description of the State Underground Injection Control Program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement between the Delaware Department of Natural Resources and Environmental Control and Region III office of the Environmental Protection Agency.

Dated: October 24, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-28822 Filed 10-27-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 9

[Docket No. FEMA-9]

Floodplain Management and Protection of Wetlands

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule makes changes to the Federal Emergency Management Agency (FEMA) regulations implementing Executive Order 11988, Floodplain Management and Executive Order 11990, Protection of Wetlands, 44 CFR Part 9. FEMA has been operating under this rule since September 9, 1980. A considerable amount for field experience gained during that period indicates that some changes are desirable in order to make more effective and efficient use of the resources of FEMA and the applicants for disaster assistance.

DATE: Comments on the proposed rule must be received by December 27, 1983.

ADDRESS: All comments should be sent to the Rules Docket Clerk, Office of General Counsel, Room 835, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Assistant General Counsel, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, D.C. 20472, Telephone 202/287-0380.

SUPPLEMENTARY INFORMATION: On May 24, 1977, Executive Order 11988 was issued for the following purposes:

(a) To avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains; and

(b) To avoid direct or indirect support of floodplain development wherever there is a practicable alternative. This Executive Order applies to federal agencies for all actions involving:

(1) Acquiring, managing and disposal of Federal land and facilities;

(2) Providing federally undertaken, financed or assisted construction and improvements; and

(3) Conducting Federal activities and programs affecting land use, including resources planning, regulating, and licensing activities. The United States Water Resources Council (WRC) published guidelines for implementing E.O. 11988 in the **Federal Register** on February 10, 1978 (43 FR 6030). These regulations follow closely the WRC guidelines in setting forth policy and procedures for floodplain management relating to disaster planning, response, recovery, and hazard mitigation for all actions taken by FEMA. The main emphasis of these regulations is on compliance with Executive Order 11988, Floodplain Management. However, in cases where Executive Order 11990, Protection of Wetlands, would apply, these regulations also set forth policy and procedures to implement that Executive Order.

FEMA recognizes floodplains and wetlands as unique and vital natural resources. Both ecological systems possess many nature values and carry on numerous functions that are of great benefit to all of us. Because wetlands frequently lie within floodplains, they constitute a natural and beneficial value of floodplains. Thus, where a wetland is in a floodplain, the more restrictive terms of Executive Order 11988 apply.

The rule presently contains a list of actions exempt from the regulation. Included in this list are those repairs to public facilities costing less than $5,000 performed on damaged structures or facilities. This exemption did not apply to actions in a floodway or coastal high hazard areas or to new or substantially improved structures and facilities. Statistical data was kept on these exempt actions as a means of determining whether these projects offered meaningful opportunities for floodplain management and hazard mitigation.

In December 1981 after 15 months of operating experience with the final regulation, a study was undertaken by FEMA to evaluate the effectiveness of current procedures for floodplain management. With the large number of public assistance actions being taken it was felt necessary to determine if the resources of FEMA were being used efficiently and effectively.

The study solicited comments from FEMA field personnel who had experience in applying the floodplain regulations to disaster assistance actions. The regional offices also relayed the comments of applicants and other Federal agencies who had concerns about the regulations. Although the period encompassed by the study had less disaster activity than normal, there were nearly 4,000 public assistance actions in the data base. The data base included one large disaster (California) and seven smaller disasters so that a cross section of different size and type disasters was obtained.

One underlying thought which came out in the responses to the questionnaire was that FEMA should concentrate its mitigation efforts on the more significant projects which have a real potential to impact floodplains and wetlands. The small projects do not offer opportunities for mitigation measures, especially those which would relocate facilities outside the floodplain. The final disposition of the small projects is typically the performance of minor work on the facility to make it more resistant to damage (minimization). However, since the beginning of implementation of the Disaster Relief Act of 1974 there has been a means for such measures to be taken in the restoration of the facility. These measures, called disasterproofing, have been used frequently when the work can be made an integral part of the repair which is being Federally funded. Therefore, it is anticipated that the recommended measures will be accomplished without application of the formal 8-step decision-making process.

In the period immediately following a disaster FEMA's efforts are directed towards assisting local governments to recover as quickly as possible. The great majority (65 to 70%) of projects for which assistance is requested are minor repairs to roads, utilities, drainage structures and a small number of buildings. The repairs typically involve only a small portion of a larger facility or system. For this reason it is not practicable to make changes in the repair work for hazard mitigation purposes. Any measure incorporated into the repaired portion would not achieve meaningful mitigation for the facility as a whole. Each damage location must be inspected by a Federal inspector who makes a cost estimate of the needed repairs. The inspector's report must then be reviewed by FEMA personnel. The review of these small projects for compliance with the executive orders only serves to delay the delivery of disaster assistance without achieving the goals of the orders.

With the objective of making more effective use of the inspectors' and

reviewers' time, the data was examined to determine if the number of actions requiring review could be reduced. A parallel objective was to continue to achieve the goals of the executive orders—minimization of harm to and within floodplains and wetlands. These same objectives had been set and were partially achieved by the selective exemption of projects costing less than $5,000, a provision which was added to the final rule in September 1980. As noted earlier FEMA kept data on these exempted projects as well as other projects costing less than $5,000 which underwent the floodplain review. The following results were obtained.

Of the total number of projects costing less than $5,000 in the floodplain, only 3% of them, accounting for 3.5% of their value, had sufficient opportunity for mitigation that the Regional Director made mitigation a requirement of the grant. This figure includes measures which were required not as a result of the floodplain management review, but by compliance with existing hazard mitigation regulations (44 CFR Part 205, Subpart M). This information confirms the assumptions made when some of these small projects were exempted from the requirements of the 8-step process. It also supports the proposal to exempt all of these small projects from the review process.

The 4,000 disaster recovery actions were categorized by dollar value, type of facility, location in floodplain, degree of damage and final disposition. Comparisons were made of the effect of modifying the applicability of the 8-step process to various categories of actions. The two most significant factors which were watched during these comparisons were workload on inspectors and applicants and the opportunities for mitigation measures. The opportunities for mitigation did not appear to depend upon the type of facility, i.e., roads, buildings or utilities. The location of a facility in the floodway or coastal high hazard area, however, did have an impact on opportunities for mitigation. The dollar value of the repairs and percentage of damages as related to the total value also affected the mitigation opportunities. There were more opportunities for mitigation on those projects located in a floodway or coastal high hazard area, especially relocation opportunities. The higher cost projects also had more opportunities for mitigation because the repairs involved a greater investment of Federal funds. In choosing those projects which would be reviewed, the above factors for enhanced mitigation opportunities were considered carefully.

The selected alternative is to exclude all those actions under Sec. 402 of the Act costing less than $5,000 from the 8-step review process. Those actions for which are in the 100 yr. floodplain (or 500 yr. floodplain for critical actions), costing between $5,000 and $25,000, will also be exempt except those action in a floodway or coastal high-hazard area, or for which repairs cost more than 50% of the total value of the facility (substantial improvement). For those projects costing between $5,000 and $25,000 which will be exempt from review, FEMA will carry out the requirements of Sections 9.7, 9.10 and 9.11. This alternative will significantly reduce the number actions reviewed by applying the 8-step decision-making process for floodplain management. Fifty-six percent fewer actions will be reviewed than under the current policies. This will conserve the already strained personnel resources of FEMA. It will also expedite the delivery of disaster assistance, especially to the smaller applicants which are more severely impacted by the disaster. However, this alternative will have a relatively small effect on the relocation and mitigation goals of the executive orders. As noted before, the policy of disasterproofing already results in significant hazard mitigation without the application of the 8-step decision-making process. Therefore, the effect on the avoidance type of mitigation measures was examined. There would only be a 3.5 percent reduction in the total dollar value of such actions if the selected alternative is adopted. The small projects, costing less than $5,000, are usually minor repairs representing a very small percentage of the facilities' total value, especially considering the effect of inflation on consturuction costs.

The majority of these small projects are located in the flood fringe areas and are, therefore, exposed to less risk of damage from flood waters than are the larger facilities, requiring more costly repairs, which are more often located in floodways or coastal high hazard areas. Thus, not only is there very limited opportunity for mitigation measures on these small projects, but there is less need for them because of the lower risk.

The mitigation opportunities which do exist for these small projects are already being identified by existing procedures for reviewing projects under FEMA's Hazard Mitigation regulations (44 CFR Part 205, Subpart M).

The current list of exemptions also includes several forms of assistance to individuals, such as unemployment assistance, certain disaster-related needs and expenses (i.e., medical), and certain forms of temporary housing for those whose homes have been made uninhabitable. This proposal will change the rule to add "use of existing resources for temporary housing, except that Step 1 shall be carried out" to the list of non-reviewable actions under § 9.5(c). The other steps would not need to be carried out prior to temporarily housing someone in a rental unit or government-owned (i.e., existing) undamaged housing unit. The work group examining this issue determined that the reviews delay the provision of temporary housing because of the difficulty of locating (in a timely way) resources which are suitable for family size and composition. Using other rental units already existing in the area, and which are not damaged, is appropriate, especially when the need for temporary housing is immediate.

Other reasons for excluding existing resources from the full eight-step process include:

1. The use of more expensive forms of housing (i.e., mobile homes) is forced if existing resources are determined impracticable, and if they are withdrawn from the resource pool while being reviewed.

2. FEMA's use of existing resources in a floodplain does not cause degradation of the floodplain. Any such condition was already present.

3. There is little justification for moving families into other forms of temporary housing if the existing resources are undamaged and are available for use in the community.

An argument against excluding existing resources from the review process is that FEMA may subject people to some additional flood risk if the resources used are in a floodplain. However, based on statistics from the Federal Insurance Administration concerning the risk of repeated flooding and on the short average stay of a family in an existing resource (approximately 9 months, that risk appears low.

Given the emergency nature of temporary housing, FEMA proposes the following changes: That only step 1 (determining the location of the resource) be carried out; any housing unit (i.e., existing resource) located in a floodplain would be placed at the bottom of the existing resource list, to be used last (a practicability decision) when other forms of temporary housing were not available. A statement will be provided to each temporary housing occupant indicating that the resource is in the floodplain, and warning of possible risk. Using these procedures, the concept of avoidance would be also carried out.

Environmental Considerations. Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (49 CFR Parts 1500–1508), FEMA has prepared an environmental assessment of the issuance by FEMA of the proposed change to the regulations of Floodplain Management and Protection of Wetlands.

The assessment concludes that there will be no significant impact on the natural or manmade environment as a result of the issuance of a change to the regulations for Floodplain Management and Protection of Wetlands (44 CFR Part 9). The change will exempt from the procedural and substantive requirements of the regulations disaster assistance actions which cost less than $5,000. Experience has shown that these actions have no practicable alternative to restoring the facility to its original predisaster condition at the same location. Thus, the repairs will have no impact on the environment that was not preexisting. Other repair actions costing up to $25,000 will not be reviewed for alternate locations, but FEMA will still have to minimize harm to the floodplain or wetland environment.

It is therefore found that there will be no significant impact on the environment caused by FEMA's issuance of a change to the regulations for Floodplain Management and Protection of Wetlands. On this basis an environmental impact statement will not be prepared.

Copies of the environmental assessment are available for inspection at: Federal Emergency Management Agency, Room 835, 500 C Street, SW, Washington, D.C. 20472 Telephone (202) 287–0395.

Executive Order 12291, "Federal Regulations." This rule is not a "major rule" within the context of Executive Order 12291. It will not have an annual effect on the economy of $100 million or more.

The rule will not have a significant economic impact on small entities, within the meaning of 5 U.S.C. 605 (the Regulatory Flexibility Act). Therefore, no regulatory analysis will be prepared.

The rule does not call for the collection of any information.

Authority: This rule is issued under authority of Section 601 of the Disaster Relief Act of 1974 (Pub. L. 93–288), as amended by Pub. L. 96–448 and Executive Orders 11988, "Floodplain Management" and 11990, "Protection of Wetlands."

List of Subjects in 44 CFR Part 9

Flood plains.

PART 9—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS

Accordingly, Part 9 of Title 44 is proposed to be amended as follows:

1. In § 9.5 paragraph (c) introductory text, and (c) (10)–(12) are revised and (c)(13) is added to read as follows:

§ 9.5 Scope.

* * * * *

(c) Decision-making involving certain categories of actions. The provisions set forth in this regulation are not applicable to the actions enumerated below except that the Regional Directors shall comply with the spirit of the Order to the extent practicable. For any action which is excluded from the actions enumerated below, the full 8-step process applies (see § 9.6) except as indicated at paragraphs (d), (f) and (g) of this section. The provisions of these regulations do not apply to the following (all references are to the Disaster Relief Act of 1974, Pub. L. 93–288, as amended):

* * * * *

(10) Use of existing resources in the temporary housing assistance program, [section 404(a)] except that Step 1 (§ 9.7) shall be carried out;

(11) Minimal home repairs [sec. 404(c)];

(12) Debris removal (sec. 403), except those grants involving non-emergency disposal of debris within a floodplain or wetland;

(13) Repairs or replacements under section 402, of less than $5,000 to damaged structures or facilities.

2. In § 9.5 paragraph (d) is revised as follows:

* * * * *

(d) For each action enumerated below, the Regional Director shall apply steps 1, 2, 4, 5, and 8 of the decision-making process (§§ 9.7, 9.8, 9.10 and 9.11, see 9.6). Steps 3 and 6 (§ 9.9) shall be carried out except that alternative sites outside the floodplain or wetland need not be considered. After assessing impacts of the proposed action on the floodplain or wetlands and of the site on the proposed action, alternative actions to the proposed action, if any, and the "no action" alternative shall be considered. The Regional Director may also require certain other portions of the decision-making process to be carried out for individual actions as is deemed necessary. For any action which is excluded from the actions listed below, except as indicated in paragraphs (c), (f) and (g) of this section, the full 8-step process applies (see § 9.6). The references are to the Disaster Relief Act of 1974, Pub. L. 93–288, as amended.

* * * * *

3. Paragraph 9.5(e) is revised as follows:

* * * * *

(e) Other categories of actions. Based upon the completion of the 8-step decision-making process (§ 9.6), the Director may find that a specific category of actions either offers no potential for carrying out the purposes of the Orders and shall be treated as those actions listed in § 9.5(c), or has no practicable alternative sites and shall be treated as those actions listed in § 9.5(d), or has no practicable alternative actions or sites and shall be treated as those actions listed in § 9.5(g). This finding will be made in consultation with the Federal Insurance Administration and the Council on Environmental Quality as provided in section 2(d) of E.O. 11988. Public notice of each of these determinations shall include publication in the **Federal Register** and a 30-day comment period.

4. In § 9.5 a new paragraph (g) is added as follows:

* * * * *

(g) For each action enumerated below, the Regional Director shall apply steps 1, 4, 5 and 8 of the decision-making process (§§ 9.7, 9.10 & 9.11). For any action which is excluded from the actions listed below, except as indicated in paragraphs (c), (d) and (f) of this section, the full 8-step process applies (see § 9.6). The Regional Director may also require certain other portions of the decision-making process to be carried out for individual actions as is deemed necessary. The references are to the Disaster Relief Act of 1974, Pub. L. 93–288.

(1) Repairs, under section 402, between $5,000 and $25,000 to damaged structures or facilities except for:

(i) Actions in a floodway or coastal high hazard area; and

(ii) New or substantially improved structures or facilities.

5. Section 9.6(b) introductory text is revised as follows:

§ 9.6 Decision-making process.

* * * * *

(b) Except as otherwise provided in § 9.5 (c), (d), (f), and (g), when proposing an action, the Agency shall apply the 8-step decision-making process. FEMA shall:

* * * * *

6. Section 9.11(d) is revised as follows:

§ 9.11 Mitigation.

* * * * *

(d) Minimization Standards. In its implementation of the Disaster Relief Act of 1974, the Agency shall apply at a minimum, the following standards to its

actions to comply with the requirements of paragraphs (b) and (c), of this section: Except as provided in § 9.5 (c), (d), and (g), any Agency action to which the following specific requirements do not apply, shall nevertheless be subject to the full 8-step process (§ 9.6) including the general requirement to minimize harm to and within floodplains.

* * * * *

§ 9.13 [Amended]

7. Section 9.13 is amended by removing paragraph (c)(1) and reserving the paragraph number.

Date: October 24, 1983.

Louis O. Giuffrida,

Director.

[FR Doc. 83-29341 Filed 10-27-83; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Part 67

[Docket No. FEMA-6557]

National Flood Insurance Program; Proposed Flood Elevation Determinations; New York; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 48 FR 40913 on September 12, 1983. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the City of Saratoga Springs, Saratoga County, New York.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Managment Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Saratoga Springs, Saratoga County, New York, previously published at 48 FR 40913 on September 12, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

The Notice has been amended to read as follows. The remainder of the Notice of Proposed Base Flood Elevations remains unchanged.

List of Subjects in 44 CFR Part 67

Flood Insurance, Flood plains.

Source of Flooding	Location	Elevation in Feet National Geodetic Vertical Datum
Saratoga Lake	Entire shoreline within community.	*210

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: October 17, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Program and Support.

[FR Doc. 83-29340 Filed 10-27-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

[Docket No. 83-38]

Inquiry and Intent to Review Regulation of Ports and Maritime Terminal Operators

AGENCY: Federal Maritime Commission.

ACTION: Notice of procedure.

SUMMARY: On September 23, 1983, the Commission designated Commissioner Robert Setrakian as the Inquiry Officer in the above-captioned Inquiry, the purpose of which is to solicit public comment on the Commission's regulation of ports and marine terminal operators.

At this time, it is appropriate to specify the procedure to be employed in this proceeding.

FOR FURTHER INFORMATION CONTACT: Commissioner Robert Setrakian, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5721.

SUPPLEMENTARY INFORMATION: In an effort to inform as many potentially interested parties as possible of the existence of this proceeding in order to provide for the broadest possible response to the matters put forth in the Notice of Inquiry, ports and other industry-related entities and organizations will be directly invited to participate.

As it would be impossible to create an all-inclusive list of potential participants, it is not to be interpreted that those who receive direct notice of this proceeding represent the universe of those whose comments are sought. The comments of all interested parties are welcomed.

Written comments to the proceeding are due on or before December 12, 1983. No requests for extensions of this time period will be entertained. Upon receipt of all written comments, a synopsis of those comments will be prepared and issued. Copies of the synopsis will be forwarded to all parties who failed written comment.

The Commission has authorized the Inquiry Officer to solicit and receive further comment, written or oral, in furtherance of the objective of the Inquiry. The need for further comments will be evaluated upon receipt of written comments. Oral hearings, for example, may be necessary to augment and clarify particular, designated issues. A staff analysis of the written comments, including more precise notice of any oral hearings and their location, or of further opportunity for comment, will issue subsequent to December 12, 1983.

Robert Setrakian,

Inquiry Officer.

[FR Doc. 83-29280 Filed 10-27-83; 8:45 a.m.]

BILLING CODE 6729-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-842; FFC 83-376]

Elimination of Unnecessary Broadcast Regulation

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes deletion/modification of three policy statements restricting the broadcast of horse race programming and betting advertisements. This action is taken by the Commission in its ongoing efforts to eliminate unnecessary broadcast regulation no longer warranted or required by the public interest. This action will permit the more efficient utilization of Commission resources.

DATES: Comments are due by December 5, 1983 and replies by December 20, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hudgens, Office of Plans and Policy, (202) 653-5940.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of elimination of unnecessary broadcast regulation (MM Docket 83–842).

Adopted: August 4, 1983.
Released: October 21, 1983.

By the Commission: Commissioner Rivera issuing a separate statement at a later date.

1. In a companion action taken today in this docket,[1] the Commission eliminated ten broadcast regulatory "underbrush" policies dealing with broadcast program content. In this Notice of Proposed Rule Making we propose the elimination or substantial modification of three additional Commission policies, which restrict the broadcast of horse race programming and betting advertisements.

2. "Underbrush" is defined as the accumulation of Commission policies, doctrines, declaratory rulings, rules, informal rulings, and interpretive statements that have grown up around major regulations (and broadcast licensees) over the years. We deem it important to review such matters in this docket and to eliminate those matters which are no longer justified and not required. This is a continuing process.

3. In today's companion action, we explain that "underbrush" matters have the potential to impede the competitive marketplace by imposing unnecessary restraints upon licensee discretion. Selected policies were reviewed therein for their continued validity, in light of regulatory cost/benefit considerations and First Amendment concerns. The ten policies were eliminated for several reasons: In some cases the policies unnecessarily restrict the editorial discretion of licensees; other policies concern matters which do not warrant federal intervention through the promulgation of uniform national policies and are better left to state and local jurisdictions; and still others involve issues more appropriately resolved in other federal or state forums. Because much of the same rationale is applicable to the matters under consideration herein, and for the sake of brevity, that proceeding is hereby incorporated by reference in its entirety.

4. The horse race programming policies to be reviewed in this proceeding were adopted, in principal part, through notice and comment procedures. In an abundance of caution, and because current views and information are sought, we are requesting comment from the general public and interested parties. It is our tentative position that these policies should be eliminated, but we seek comment upon whether they should be retained, modified, or eliminated.

5. *Section 73.4125 Horse racing information broadcast,*[2] *§ 73.4126 Horse racing information SCA transmissions;*[3] and *§ 73.4130 Horse racing; Off-track and pari-mutuel betting advertising.*[4] In 1961, the Commission adopted a policy statement concerning the broadcasting of horse racing information,[5] as a result of newly enacted federal legislation which provided penalties for the use of wire communications facilities for the transfer of wagering information by persons engaged in the business of betting or wagering (Pub. L. 87–216, 18 U.S.C. Section 1084). The purpose of that legislation was to preclude use of interstate wire communications facilities to organize gambling interests to transmit wagering information.

6. In 1964 the Commission initiated a rule making proceeding to consider the adoption of specific rules to give more precise guidance to broadcasters in implementing the policy of Pub. L. 87–216. The Commission, however, ultimately declined to adopt rules, and instead issued a *Report and Order* (FN #2) which superseded the 1961 policy statement. In brief, the Commission explained that illegal off-track gambling interests depended upon the transmission of rapid and accurate gambling information which could be disseminated by broadcasting as well as wire, and announced in pertinent part that:

> We shall continue on a case-by-case basis—in line with our previous policy statement—to question at renewal time what interest is being served by stations which regularly engage in one or more of the following practices:
>
> 1. The broadcasting of a full program of races from a racetrack, simultaneously with their running.
>
> 2. Broadcasting detailed changes in prerace information, such as post positions, jockeys, probable odds and scratches, prior to the race.
>
> 3. Broadcasting of off times as soon as this information is available, or shortly thereafter.
>
> 4. Broadcasting race results and prices paid on a race before the next race has been run at the same track on the same day.
>
> 5. Broadcasts of horseracing information sponsored by publishers of "scratch-sheets" or other publications disseminating detailed horseracing information by touts, or other persons whose activities may result in aiding illegal gambling or furnishing information to illegal gamblers or bookmakers. [Footnote Omitted]

7. The second horse racing "policy" which we shall review and upon which we seek comment is that of § 73.4130. This "policy" actually consists of three separate Commission actions issued subsequent to the 1964 policy statement which interpreted and amplified that statement. The first action (32 FCC 2d 705) was issued in 1971 in response to a request by the New York City Off-Track Betting Corporation (OTB) for a Declaratory Ruling upon some ten different hypothetical broadcasts or cablecasts. The Commission construed its 1964 Policy Statement and issued specific interpretations. The requests and rulings, in parentheses, are briefly summarized: (1) Replays of selected races on which OTB accepted wagers (denied); (2) results of all races, with odds and other details, on which OTB accepted wagers (denied); (3) live showings of some or all races (full program of races is inconsistent with policy); (4) news reports of some or all subjects in (1) to (3), (bona fide news stories permissible); (5) advertisements of OTB, including expalanations of how to use OTB facilities (only "institutional advertisements" permitted); (6) documentary programs (denied); (7) transmission by wire of racing information to OTB (permissible); (8) dissemination by telephone of racing information to OTB (permissible); and (9) and (10) daily thirty minute programs with replays of some races and live coverage of the final race at a given track (permissible). The second Commission action (41 FCC 2d 172) in this "policy" was its 1973 reconsideration of the above Declaratory Ruling. Petitioner OTB requested the Commission to set aside its ruling (#5, *supra*) that broadcast licensees may accept no advertising from OTB except "institutional advertising." The Commission reconsidered and issued a new ruling permitting advertisements "which encourage people to patronize the State-operated off-track organization and which explain how to use OTB facilities." The third Commission action referred to in Section 73.4130 was a clarification (41 FCC 2d 893) of the above reconsideration requested by

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[1] *Elimination of Unnecessary Broadcast Regulation and Inquiry into Subscription Agreements Between Radio Broadcast Stations and Music Format Service Companies*, Dockets No. 19743 and MM 83–842, adopted August 4, 1983, FCC 83– ——, —— FCC 2d ——.

[2] *See Horse Racing Information*, 36 FCC 1571 (1964).

[3] *See Street Broadcasting Corporation*, 72 FCC 2d 793 (1979).

[4] *See Horse Racing Information (OTB)*, 32 FCC 2d 705 (1971), clarified 41 FCC 2d 172 (1973). (b) *See Horse Racing Information*, 41 FCC 2d 893 (1973).

[5] *Restatement of Commission Policy on the Broadcast of Horse Racing Information*, Public Notice, November 22, 1961, FCC 61–1404.

Harness Tracks of America. Petitioners requested that the Commission clarify that the nature of the advertising permitted OTB "will be equally acceptable for advertising the pari-mutuel tracks which are licensed by the state for the same purposes that OTB has been authorized." The Commission granted the request.

8. The most recent Commission horse racing policy statement—Section 73.4126—was issued in 1979 and concerned an application by a New York state FM station for Subsidiary Communications Authorization (SCA) to transmit horse racing information to off-track betting parlors. The Commission granted the request.

9. These then are the Commission's collective policies concerning the broadcast of horse race programming and advertising. We have set them forth in considerable detail not only because we seek a total review of such policies but also to illustrate how all-encompassing and inflexible they are. Indeed, of all the Commission's policies and rules dealing with broadcast program content, these collective policies possibly represent our most stringent regulation—yet this is accomplished not by statute or rule but by a series of policy statements. Thus these policies are appropriate for review in this phase of our "underbrush" proceeding where we are scrutinizing policies which affect program content to determine if they are unwarranted or unnecessary.

10. The first topic for review and upon which we seek comment is the extent of the Commission's jurisdiction over this area of broadcast programming and advertising. We particularly wish to review the premise of our original exercise of jurisdiction herein. That is, shortly after the enactment in 1961 of Pub. L. 87-216, 18 U.S.C. Section 1084, the Commission took action, on its own motion, to establish *broadcasting* policies to restrict the dissemination of information which could aid illegal gambling, yet the statute itself made no reference to broadcasting, only to wire communications, and the only reference to the Commission (18 U.S.C. Section 1084(d), was in connection with its regulation of common carriers. The Commission commented on this subject in its 1964 Policy Statement:

> The statute was not made applicable to the use of radio and television stations for broadcasting wagering information, although broadcast stations—either through design or inadvertence—can be, and have been used, as an effective means of disseminating rapid and accurate gambling information. Omission of radio and television from the statute was not due to lack of recognition of this fact, rather the omission stemmed from a specific determination that the Commission has adequate authority to deal with broadcast stations which program in a manner that aids illegal gambling. [Citing S. Rept. 588 on S. 1656, 87th Cong., 1st sess., P. 3; H. Rept. No. 967 on S. 1656, 87th Cong., 1st sess., P. 2.] Although commenting parties have argued that Congress did not intend that the Commission issue rules in this area, it is clear that Congress intended that the Commission participate actively in the national goal of suppressing illegal gambling and organized crime and that it use its regulatory power to insure that broadcast stations were not used improperly to aid illegal gambling activities. That these powers include the promulgation of rules as well as case-by-case consideration is well established. See *Security and Exchange Commission* v. *Chenery Corp.*, 332 U.S. 194; *Logansport Broadcasting Corp.* v. *United States*, 93 U.S. App. D.C. 342, 210 F. 2d 24.

However, inasmuch as criminal statutes are to be strictly construed,[6] we seek comment upon the correctness of the above interpretation.

11. The Commission, of course, exercised certain jurisdiction in this area prior to the adoption of the 1964 Policy Statement.[7] We seek comment upon all aspects of Commission jurisdiction, including whether even though the Commission may have jurisdiction whether that jurisdiction is permissive and should not be exercised. In this connnection we are specifically concerned with First Amendment considerations. Are these policies inside or outside the broadcasters' protected area of editiorial discretion? Or are they so close that they should either be deleted or substantially modified?

12. A second broad topic for comment is the continued validity of these policies. Horse racing is one of the nation's most popular sports, yet there is very little radio or television coverage of the sport. Is there a legitimate sporting interest of the public in hearing or viewing horse racing events, which goes beyond the ultimate purpose of illegal gambling? Our basic policies reviewed herein were formulated as much as twenty years ago; have circumstances changed substantially in the interim so as to warrant a different regulatory approach? For example, our radio deregulation action, recently sustained by the U.S. Court of Appeals [8] represents a major trend toward increased reliance upon licensee discretion, licensee editorial judgment, and counter-balancing marketplace forces; do policies this rigid run counter to the public interest? In light of our regulatory cost/benefit concerns, should this area continue as a part of our investigatory and enforcement efforts?[9] Have circumstances changed enough in two decades as to warrant a fresh approach, or are these policies so fundamental, so bedrock, that we would be best advised to leave them in place?

13. Lastly, a total review of this subject triggers additional areas of inquiry. For example, the applicability of these policies to cable-oriented programming (cablecasting) needs to be treated thoroughly, in view of court precedent which looks closely at our jurisdictional nexus over cable television systems and cablecasting.[10] Another area for exploration is that of the scope of the policies; we ask here both whether the scope is too broad or too narrow. Our policies focus upon horse racing; as such, are they unnecessarily discriminatory, vis-a-vis other programming or advertising? What about baseball or football? Our 1964 Policy Statement acknowledged this potential problem area, stating (at FN #4):

> This proceeding was directed only to the relationship between broadcasting and illegal gambling on horseracing, although we recognize that illegal gambling on other sporting events is widespread. We do not think it inappropriate to have focused our attention on horseracing, since it has been an area of some concern in the past and appears more amenable to regulation than other sporting events in which there is far less knowledge of the role of broadcast stations in aiding illegal gambling. We would, of course, be concerned with any improper use of broadcast stations of further any illegal gambling activities.

We here solicit comment upon the appropriate scope of Commission policies, if any, in this entire area. Finally, we point out that we shall seek the views of the Department of Justice concerning any policy changes. These policies were promulgated after consultation with the Department, which remains responsible for the enforcement

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[6] See E. Crawford, *The Construction of Statutes*, 460–467 (1940); R. Dickerson, *The Interpretation and Application of Statutes*, 208–211 (1975); L. Hall, *Strict or Liberal Construction of Penal Statutes*, 48 Harv. L. Rev. 748 (1935); and 3 C.D. Sands, *Sutherland Statutory Construction* 59.03 (1974).

[7] *Capitol Broadcasting Co.*, 12 FCC 648 (1948); *Port Frere Broadcasting Co., Inc.*, 5 R.R. 1137 (1949); *Annapolis Broadcasting Corp.*, 7 R.R. 1053 (1952); *Community Broadcasting Service, Inc.*, 13 R.R. 179 (1955).

[8] *Office of Communication of the Church of United Church of Christ v. FCC*, No. 81–1032, (D.C. Cir., May 10, 1983).

[9] The Commission specifically noted, at Par. 6 (ii) of the 1964 Policy Statement: "We have instructed our investigatory personnel that * * * special attention is to be given this area * * *."

[10] *See, e.g., Home Box Office, Inc. v. FCC*, 567 F. 2d 9 (D.C. cir. 1977) and *Midwest Video Corp. v. FCC*, 571 F. 2d 1025 (8th Cir. 1978).

of 18 U.S.C. 1804 and all other related criminal laws, and we shall continue to do so here.

14. Accordingly, public comment is requested upon the advisability of deleting or substantially modifying the policies referred to in §§ 73.4125, 73.4126, and 73.4130 of the Commission's Rules. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

15. Pursuant to Section 605 of the Regulatory Flexibility Act, 5 U.S.C. Section 601 *et.seq.*, the Commission ceritifies that the action proposed will not have a significant economic impact on a substantial number of small entities. Repeal of the stated policies, if anything, may have a slight beneficial economic impact.

16. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that persentation to the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentationn addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation that written summary must be served on the Commission officieal receiving the oral presentation. Each *ex parte* presentation described above must also state by docket mumber the proceeding to which it related. *See generally*, §§ 1.1241 and 1.1243 of the Commission's Rules and Regulations, 47 CFR 1.1241 and 1.1243.

17. Pursuant to applicable procedures set out in §§1.4 and 1.415 of the Commission's Rule and Regulations, 47 CFR 1.4 and 1.415, interested parties may file comments on or before December 5, 1983 and reply comments on or before December 20, 1983 All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Reply comments shall be served on the person(s) who filed comments to which the reply is directed.

18. In accordance with the provisions of § 1.419 of the Commission's Rule and Regulations, 47 CFR 1.419, an original and 5 copies of all comments, reply comments, pleadings, briefs or other documents shall be furnished to the Commission. Members of the general public who wish to participate informally in the preceeding may submit one copy of their comments, specifying the docket number in the hearing. All filings in this proceeding will be available for public inspection by interested persons during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C. 20554.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-29286 Filed 10-27-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1123; RM-4520]

FM Broadcast Station in Garberville, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Class C FM Channel 284 for Channel 261A at Garberville, California, and modification of the Class A license of Station KERG(FM), in response to a petition filed by Daniel J. Healy. The assignment could provide Garberville with its first Class C station.

DATES: Comments must be filed on or before December 5, 1983, and reply comments must be filed on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Garberville, California); MM Docket No. 83-1123, RM-4520.

Adopted: October 6, 1983.
Released: October 19, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by Daniel J. Healy ("petitioner"), licensee of FM Station KERG (Channel 261A), Garberville, California, which seeks to substitute Class C FM Channel 284 for Channel 261A, and to modify his license to specify operation on the Class C channel.

2. Petitioner indicates that because Garberville is surrounded by mountainous terrain and valleys, FM reception is severely restricted. As a result, petitioner adds that the signal of its present facility, operating atop Pratt Mountain with an antenna height of 2,527 feet HAAT and 40 watts ERP (which is equivalent to a Class A station operating with 3 kW at 300 feet), does not provide adequate service to many segments of the listening audience.

3. Further, petitioner notes that Garberville is located a few miles north of the 40th parallel, in Zone II, to which only Class A or Class C stations are assigned. Although petitioner indicates that a Class B facility would more appropriately meet his requirements, such a proposal would require the relocation of KERG's transmitter in Zone I-A. This, petitioner asserts, is not feasible since terrain factors would preclude the required line-of-sight service to Garberville. Therefore, petitioner seeks to substitute Class C Channel 284 for Channel 261A and to modify the license of Station KERG accordingly.

4. Petitioner states that although, under the circumstances, he must seek a Class C facility, he believes the minimum ERP required (25 kW) greatly exceeds that needed to serve the sparsely polulated Garberville area, and that the cost of such a facility is not economically justified because of the limited population to be served. As a result, petitioner indicates that if the substitution is made, he may seek a waiver of § 73.211(a) to operate with fewer than 25 kW ERP.

5. In support of his proposal, petitioner submitted numerous letters from

Garberville citizenry advocating support for a higher power facility to serve their community. Moreover, petitioner contends that if the substitution is made, it would free Channel 261A for reassignment elsewhere, thereby conforming to the standards of proper spectrum management.

6. In view of the above, we believe the petitioner's proposal warrants consideration, and therefore we will propose to modify the license of Station KERG (FM), as requested, to specify operation on Channel 284. However, in conformity with Commission precedent, as expressed in *Cheyenne, Wyoming*, 62 FCC 2d 63 (1976), should another interest in the assignment be shown, the proposed modification could not be made and the channel, if assigned, would be open to competing applications.

7. An *Order to Show Cause* is not required since consent to the modificaiton of license is indicated by petitioner's request for the Class C channel.

8. Channel 284 can be assigned to Garberville consistent with the minimum distance separation requirements of Section 73.207 of the Commission's Rules.

9. As petitioner acknowledges, we would expect the use of Channel 284 to comply with minimum Class C operating values. However, we note that in the near future, implementation of BC Docket No. 80–90 would provide for the assignment of Class "G2" stations. This class is the equivalent to a Class B facility, and would permit a power of 0.9 kW to correspond with the current antenna height of Station KERG.

10. In consideration of the foregoing, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with regard to Garberville, California, as follows:

City	Channel No.	
	Present	Proposed
Garberville, Calif.	261A	284

11. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

12. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner's counsel, as follows: John P. Bankson, Jr., Esq., Hamel, Park, McCabe and Saunders, 888 16th Street, NW., Washington, D.C. 20006.

13. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

14. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the preceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead to the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pledings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All fillings made in this proceeding will be available for examination by interested

parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-28286 Filed 10-27-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1119; RM-4500]

TV Broadcast Stations in Merced, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF television Channel 51 to Merced, California, in response to a petition filed by Stephen J. Mewhort. The assignment could provide Merced with its first television broadcast service.

DATES: Comments must be filed on or before December 5, 1983, and reply comments must be filed on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Merced, California); MM Docket No. 83-1119, RM-4500.

Adopted: October 6, 1983.
Released: October 19, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by Stephen J. Mewhort ("petitioner"), requesting the assignment of UHF television Channel 51 to Merced, California, as that community's first television allocation. Petitioner states that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. Merced (population 36,499),[1] the seat of Merced County (population 134,560), is located approximately 180 kilometers (112 miles) southeast of San Francisco. It is devoid of any local television service.

3. UHF television Channel 51 can be assigned to Merced consistent with the minimum distance separation requirements of § 73.610 of the Commission's Rules, provided the transmitter location is restricted to an area 2.3 miles south of the community to avoid short spacing to a construction permit for Station KSCH-TV (Channel 58) in Stockton, California.

4. Since the proposed assignment could provide a first local television broadcast service to Merced, we believe the proposal merits consideration. Therefore, the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Merced, Calif.		51

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows:

Stephen J. Mewhort, P.O. Box 843, Clovis, GA 93612 (Petitioner)
and
Edward M. Johnson, One Regency Square, Suite 450, Knoxville, TN 37915 (Consultant).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should not that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Comission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0,61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-29270 Filed 10-27-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1118; RM-4474]

TV Broadcast Stations in Naples, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF television Channel 46 to Naples, Florida, in response to a petition filed by Meycom, Inc. The assignment could provide Naples with its second commercial television service.

DATES: Comments must be filed on or before December 5, 1983, and reply comments must be filed on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Naples, Florida); MM Docket No. 83-1118, RM-4474.

Adopted: October 6, 1983.
Released: October 19, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by Meycom, Inc. ("petitioner"), requesting the assignment of UHF television Channel 46 to Naples, Florida as that community's second commercial television service. Petitioner states that it will apply for the channel, if assigned.

2. Napels (population 17,581),[1] the seat of Collier County (population 85,791), is located approximately 160 kilometers (100 miles) northwest of Miami, Florida. Currently, it is served by Station WEVU-TV (Channel 26).

3. UHF television Channel 46 can be assigned to Naples consistent with the minimum geographic separation and other technical requirements. Since the proposed assignment could provide a second commercial television broadcast service to Naples, we believe the proposal merits consideration. Accordingly, the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Naples, Fla	26-	26-, 46

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows:

Meycom, Inc., P.O. Box 478, Marco Island, FL 33937 (Petitioner), and
Edward M. Johnson, One Regency Square, Suite 450, Knoxville, TN 37915 (Consultant to Petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-28271 Filed 10-27-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1115; RM-4509]

TV Broadcast Stations in Clermont, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF television Channel 68 to Clermont, Florida, in response to a petition filed by H. James Sharp. The assignment could provide Clermont with its first television broadcast service.

DATES: Comments must be filed on or before December 2, 1983, and reply comments must be filed on or before December 19, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Clermont, Florida); MM Docket No. 83-1115, RM-4509.

Adopted: October 6, 1983.
Released: October 18, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by H. James Sharp ("petitioner"), requesting the assignment of UHF television Channel 68 to Clermont, Florida, as that community's first television broadcast service. Petitioner states that he will apply for the channel, if assigned as proposed.

2. Clermont (population 5,461),[1] in Lake County (population 104,870), is located in central Florida, approximately 40 kilometers (25 miles) west of Orlando. Currently, it is devoid of any local television service.

3. We believe petitioner's proposal merits consideration since UHF television Channel 68 can be assigned to Clermont consistent with the minimum distance separation requirements of Section 73.610 of the Commission's Rules, and other technical criteria.

4. In view of the foregoing and the fact that the proposed assignment could provide a first local television service to Clermont, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Clermont, Fla		68

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before December 2, 1983, and reply comments on or before December 19, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner's counsel as follows: James A. Koerner, Esq., Baraff, Koerner, Olender & Hochberg, P.C., 2033 M Street, N.W., Suite 203, Washington, D.C. 20036.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick R. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal (s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-28228 Filed 10-27-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-121; RM-4547]

TV Broadcast Station in Palatka, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: Action taken herein proposes to assign UHF television Channel 63 to Palatka, Florida, as that community's first commercial television allocation.

DATES: Comments must be filed on or before December 5, 1983, and reply comments must be filed on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Palatka, Florida); MM Docket No. 83-1121, RM-4547.

Adopted: October 6, 1983.
Released: October 20, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by the Pentecostal Revival Association, Inc. ("petitioner"), proposing the dereservation of noncommercial educational UHF television Channel *42 in Palatka, Florida, and substitution of Channel *63 in lieu thereof, to provide that community with its first commercial television assignment. Petitioner states that it will apply for the channel, if assigned as proposed.

2. Palatka (population 10,175),[1] the seat of Putnam County (population 50,549), is located in northeastern Florida, approximately 70 kilometers (45 miles) south of Jacksonville, Florida.

3. Although we believe the petitioner has demonstrated a need for a first commercial television channel at Palatka, we do not think that the public interest would be served by deleting the educational reservation on Channel *42. The mere fact that Channel *42 is presently vacant and unapplied for is not a sufficient basis for dereservation especially where, as here, another channel is available to accommodate petitioner's commercial interest.[2] Therefore, we shall propose to assign Channel 63 to Palatka, Florida to satisfy the expressed interest for a first commercial television service to that community.

4. UHF television Channel 63 can be assigned to Palatka, Florida, in conformity with the mileage separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

5. In view of the foregoing, the Commission believes it is appropriate to seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	[illegible]	[illegible]
Palatka, Fla	[illegible]	*42, 63+

6. Interested parties may file comments on or before December 5, 1983, and reply comments on or before

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

[2] See, *Houston, Texas*, 50 RR 2d 1420 (1982); and *Vancouver, Washington*, 46 RR 2d 1496 (1980).

December 20, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows: Reverend Dolly M. Harrell, President, Pentecostal Revival Association, Inc., Rt. 4, Box 1506, Palatka, Florida 32077.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83–29267 Filed 10–27–83; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–1117; RM–4513]

TV Broadcast Station in Sebring, Fla.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF television Channel 60 to Sebring, Florida, in response to a petition filed by Focus Broadcast Communication, Inc. The Assignment could provide Sebring with its first local commercial television service.

DATES: Comments must be filed on or before December 2, 1983, and reply comments must be filed on or before December 19, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606 (b) Table of Assignments, TV Broadcast Stations. (Sebring, Florida); MM Docket No. 83–1117, RM–4513.

Adopted: October 6, 1983.
Released: October 18, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by Focus Broadcast Communications, Inc. ("petitioner"), requesting the assignment of UHF television Channel 60 to Sebring, Florida, as that community's first commercial television allocation. Petitioner states that it will apply for the channel, if assigned as proposed.

2. Sebring (population 8,736),[1] the seat of Highlands County (population 47,526), is located in central Florida, approximately 210 kilometers (75 miles) south of Orlando. Currently, Sebring is assigned noncommercial educational Channel *48, which is unoccupied.

3. A staff engineering study reveals that UHF television Channel 60 can be

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

assigned to Sebring, Florida, consistent with the minimum distance separation requirements of §§ 73.610(b) and 73.698 of the Commission's Rules.

4. In view of the above, we believe the petitioner's proposal warrants consideration since the proposed television assignment could provide Sebring with its first local commercial television broadcast service. Accordingly, the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Sebring, Fla.	[illegible]	*48, 60

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before December 2, 1983, and reply comments on or before December 19, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows: David W. Eakin, President, Focus Broadcast Communications, Inc., 129 South Commerce Street, Sebring, Florida 33870.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other doucments shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-29272 Filed 10-27-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1120; RM-4512]

TV Broadcast Stations in Ft. Dodge and Hampton, Iowa; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to reassign UHF television Channel 50 from Ft. Dodge to Hampton, Iowa, in response to a petition filed by Harold A. Jahnke. The assignment could provide Hampton with its first local television service.

DATES: Comments must be filed on or before December 5, 1983, and reply comments must be filed on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Ft. Dodge and Hampton, Iowa); MM Docket No. 83-1120, RM-4512.

Adopted: October 6, 1983.
Released: October 19, 1983.

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration a petition for rule making filed by Harold A. Jahnke ("petitioner"), requesting the reassignment of UHF television Channel 50 from Ft. Dodge to Hampton, Iowa, as a first television allocation to that community. Petitioner states that he will apply for the channel if it is reassigned to Hampton, as proposed.

2. Hampton (population 4,630),[1] the seat of Franklin County (population 13,036), is located in north central Iowa approximately 140 kilometers (85 miles) north of Des Moines, Iowa.

3. UHF television Channel 50 at Hampton would be short-spaced to Channel 50 in Ft. Dodge, Iowa, since the two communities are approximately 50 miles apart, whereas a separation of 175 miles is required between co-channel assignments. However, Channel 50 has been vacant and unapplied for at Ft. Dodge since June 1981.[2] Thus, since there has been no interest in the use of Channel 50 at Ft. Dodge recently, and since the assignment could provide a first local television service to Hampton, Iowa, we shall propose to reassign the channel as requested by petitioner.

4. The channel can be reassigned to Hampton consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules. In view of the above considerations, we believe petitioner's proposal warrants consideration. Accordingly, the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Ft. Dodge, Iowa	*21, 50+	*21
Hampton, Iowa		

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

[2] The facility was previously licensed to Northwest Television Company for Station KVFD-TV.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows: Harold A. Jahnke, 421 Central Avenue E., Hampton, Iowa 50441.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Commissions Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to bulid a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of

service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-29289 Filed 10-27-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1122; RM-4342]

TV Broadcast Stations in Murray, Ky.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF television Channel 38 to Murray, Kentucky, in response to a petition filed by Stanley G. Emert. The assignment could provide Murray with its first local commercial television service.

DATES: Comments must be filed on or before December 5, 1983, and reply comments must be filed on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Murray, Kentucky); MM Docket No. 83-1122, RM-4342.

Adopted: October 6, 1983.
Released: October 20, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Stanley G. Emert ("petitioner"), requesting the assignment of UHF television Channel 38 to Murray, Kentucky, as that community's first local commercial television broadcast service. Petitioner indicates that he will apply for the channel, if assigned as proposed.

2. Murray (population 14,248),[1] the seat of Callaway County (population 30,031), is located in southwestern Kentucky, approximately 290 kilometers (180 miles) southwest of Louisville, Kentucky.

3. A staff engineering study reveals that UHF television Channel 38 can be assigned to Murray consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

4. In view of the above considerations, we believe the petitioner's proposal warrants consideration since it could provide a first local commercial television service to Murray, Kentucky. Accordingly, the Commission proposes to amend the Television Table of Assignments, § 72.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Murray, Ky	*21+	*21+, 38+

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel, or consultant, as follows: Edward M. Johnson, One Regency Square, Suite 450, Knoxville, TN 37915 (Consultant to Petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), and 73.504 and 73.606(b) of the Commission's Rules.* 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *exparte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any Comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

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[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, brief, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-28698 Filed 10-27-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1116; RM-4517]

TV Broadcast Station in Arlington, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF television Channel 68 to Arlington, Texas, in response to a petition filed on behalf of Samuel R. Levatino. The assignment could provide Arlington with its first local television broadcast service.

DATES: Comments must be filed on or before December 2, 1983, and reply comments must be filed on or before December 19, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.606(b), Table of assignments, TV Broadcast stations. (Arlington, Texas) MM Docket No. 83-1116, RM-4517.

Adopted: October 6, 1983.
Released: October 18, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed on behalf of Samuel R. Levatino ("petitioner"), seeking the assignment of UHF television Channel 67 to Arlington, Texas, as that community's first local television broadcast service. Petitioner has failed to indicate the necessary commitment to apply for the channel, if assigned, and should correct that omission in his supporting comments.

2. Arlington (population 160, 123),[1] in Tarrant County (population 860,880), is located in north Texas between Dallas and Ft. Worth. It is presently devoid of any local television service.

3. Petitioner supplied a comprehensive community profile with respect to Arlington to demonstrate a need for the proposed assignment. Moreover, petitioner submitted preclusion data, although that information is not required for proposals to amend the Television Table of Assignments.

4. A staff engineering study reveals that proposed Channel 67 at Arlington is short-spaced to a proposal in MM Docket No. 83-335 (RM-4305) to assign Channel 52 to Ft. Worth, Texas. However, Channel 68 is available to Arlington, consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules. Therefore, we shall propose that channel instead of Channel 67 at Arlington.

5. In view of the fact that the proposed assignment could provide a first local television service to Arlington, we believe the proposal warrants consideration. Therefore, we shall propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Arlington, Texas		68

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before December 2, 1983, and reply comments on or before December 19, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner's consultant, as follows: A. G. Thiessen, President, Sterling Communications, Inc., Uptain Bldg., Suite 418, Chattanooga, TN 37411 (Consultant to Samuel R. Levatino, petitioner).

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitute an

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

ex parte presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead to the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pledings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-29273 Filed 10-27-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1124; RM-4548]

FM Broadcast Stations in Kerrville, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 221A to Kerrville, Texas, as that community's second FM assignment, in response to a petition filed by Werlinger Communications Company.

DATES: Comments must be filed on or before December 5, 1983, and reply comments on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Kerrvile, Texas); MM Docket No. 83-1124, Rm-4548.

Adopted: October 6, 1983.

Released: October 20, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed July 1, 1983, by Werlinger Communications Company ("petitioner") proposing the assignment of Channel 221A to Kerrville, Texas, as that community's second FM assignment. Petitioner submitted information in support of the proposal and expressed its interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed assignment could provide a second FM broadcast service to Kerrville, Texas, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	[illegible]	[illegible]
Kerrville, Texas	[illegible]	221A, 232A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or his counsel or consultant, as follows: Petitioner: Don Werlinger, Werlinger Communications Company, 98 Willow Bend, Huntsville, Texas 77340.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public

should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-29264 Filed 10-27-83; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 210
Friday, October 28, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

President's Task Force on Food Assistance; Meeting

In compliance with the Federal Advisory Committee Act (5 U.S.C. App. I) the United States Department of Agriculture announces the following series of meetings:

Name: President's Task Force on Food Assistance.
Date: November 14, 1983.
Time: 8:30–5:00
Place: City Hall, City Council Chamber, 414 East 12th Street, Kansas City, Missouri.

Date: November 15, 1983.
Time: 9:00–3:15.
Place: City Hall, 419 Fulton Street, Peoria, Illinois.

Date: November 16, 1983.
Time: 9:30–4:00.
Place: Veterans Memorial Auditorium, (Georgia State University) 30 Courtland Street, Atlanta, Georgia.

Date: November 17, 1983.
Time: 9:45–3:45.
Place: Continuing Education Center, University of Houston—University Park 4800 Calhoun, Houston, Texas.

Date: November 18, 1983.
Time: 9:00–4:00.
Place: Auditorium, Woolfolk State Office Building, 501 N. West Street, Jackson, Mississippi.

Type of meetings: All are open to the public. Task Force will conduct open hearings, time permitting, in all locations. Persons wishing to speak at the hearings should call or write the Task Force on Food Assistance, New Executive Office Building, Room 2020, 720 Jackson Place, NW., Washington, D.C. 20503 (Telephone 202–895–3454) in order to obtain a place on the agenda.

Contact for Further Information: Ms. Irene Lankford, Food and Nutrition Service, U.S. Department of Agriculture, Room 1103, 3101 Park Center Drive, Alexandria, Virginia 22302 (Telephone 703–756–3065).

Done at Washington, D.C. this 25th day of October 1983.

Dated: October 25, 1983.

John J. Franke, Jr.

Assistant Secretary for Administration.

[FR Doc. 83-28302 Filed 10-27-83; 8:45 am]

BILLING CODE 3410-01-M

Determination of the Market Stabilization Price for Sugar for Fiscal Year 1984

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice sets forth the market stabilization price for sugar for the period October 1, 1983-September 30, 1984. The market stabilization price was announced as 21.17 cents per pound on September 1, 1983 by the Secretary of Agriculture.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: James Truran, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250, Telephone (202) 447–2916.

SUPPLEMENTARY INFORMATION: On September 1, 1982, the Secretary of Agriculture established a market stabilization price for sugar for October 1, 1982-September 30, 1983 of 20.73 cents. The notice of this determination was published in the Federal Register on September 30, 1982 (47FR 43101). The market stabilization price is the sum of: (1) The price support level for the applicable fiscal year expressed in cents per pound of raw cane sugar; (2) adjusted average transportation costs; (3) interest costs, if applicable; and (4) 0.2 cent. The adjusted average transportation costs are the weighted average costs of handling and transporting domestically produced raw cane sugar from Hawaii to Gulf and Atlantic Coast ports, as determined by the Secretary. Interest costs is the amount of interest, as determined or estimated by the Secretary, that would be required to be paid by a recipient of a price support loan for raw cane sugar upon repayment at full maturity. Interest costs are only applicable if a price support loan recipient is not required to pay interest upon forfeiture of the loan collateral.

Presidential Proclamation No. 4940 dated May 5, 1982 requires the Secretary of Agriculture to announce the market stabilization price applicable to each subsequent fiscal year not later than 30 days prior to the beginning of the fiscal year for which such market stabilization price is applicable. The Secretary made this announcement on September 1, 1983.

The Secretary of Agriculture has determined that the applicable loan rate under the price support program for sugar, expressed in cents per pound for raw cane sugar, shall be 17.5 cents per pound. Furthermore, under the sugar price support program, a loan recipient is not required to pay interest upon forfeiture of the loan collateral.

Accordingly, after appropriate review, it has been determined that the market stabilization price for fiscal year 1984 shall be 21.17 cents per pound. This consists of the 17.5 cent loan rate; adjusted average transportation costs of 2.62 cents; an interest cost of 0.65 cent; and 0.2 cent per pound. The transportation factor represents data for the most recent year for which complete data are vailable, 1982, projected forward to 1984 by applying a projected increase in the Producer Price index for finished goods over this time. The interest factor is based on an estimated average interest of 9.75 percent over the year, and a six month loan maturity period.

Notice is hereby given that in conformity with the provisions of paragraph (c) of Headnote 4 of part 3 of the Appendix to the Tariff Schedules of the United States, the market stabilization price for sugar for fiscal year 1984 has been determined to be 21.17 cents per pound.

Signed at Washington, D.C. on October 18, 1983.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83-29331 Filed 10-25-83; 1:22 pm]

BILLING CODE 3410-10-M

Federal Grain Inspection Service

Designation Renewals of Amarillo Grain Exchange, Inc. (TX), and Wisconsin Department of Agriculture, Trade and Consumer Proctection (WI)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Amarillo Grain Exchange, Inc., and Wisconsin Department of Agriculture, Trade and Consumer Protection, as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: December 1, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulatin as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The June 1, 1983, issue of the **Federal Register** (48 FR 24401) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Amarillo's and Wisconsin's designations terminate on November 30, 1983, and requesting applications for designation as the agency to provide official services within each specified geographic area. Applications were to be postmarked by July 1, 1983.

Amarillo and Wisconsin were the only applicants for each respective designation.

FGIS announced the names of these applicants and requested comments on same in the August 1,1983, issue of the **Federal Register** (48 FR 34788). Comments were to be postmarked by September 15, 1983.

No comments were received regarding designation renewal of these agencies.

FGIS has evaluated all available information, regarding the designation criteria in section 7(f)(1)(A) of the Act and in accordance with section 7(f)(1)(B), and has determined that Amarillo and Wisconsin are able to provide official services in the geographic area for which their designations are being renewed. Each assigned area is the entire geographic area, as perviously described in the June 1 **Federal Register** issue. In Amarillo's case, the assigned geographic area also includes those areas previously serviced by Amarillo on an interim basis in Texas and Oklahoma, together with the additional geographic area as discussed below.

The June 16 issue of the **Federal Register** (48 FR 27589) requested comments on the need for service in a geographic area in north central Texas and requested designation applicants to perform official inspection services. Comments and applications were to be postmarked by June 18, 1983. No comments were received, but it was determined that there is need for official inspection services in the area. Amarillo submitted the only application. The August 8 issue of the **Federal Register** (48 FR 35974) requested comments on Amarillo. Comments were to be postmarked by September 22, 1983; none were received.

FGIS has evaluated all available information, regarding the designation criteria in section 7(f)(1)(A) of the Act and in accordance with section 7(F)(1)(B), and has determined that Amarillo is able to provide official services in the geographic area in north cental Texas, as previously described in the June 16 **Federal Register** issue.

Effective December 1, 1983, and terminating November 30, 1986, the responsibility for providing official inspection services in its specified geographic area is assigned to Amarillo; for providing official inspection , official weighing, and supervision of weighing services in its specified geographic area is assigned to Wisconsin.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency to conduct official inspection services and where the agency and one or more of its licensed inspectors are located. In addition to the specified service points within the assigned geographic area, and agency will provide official services not requiring a licensed inspector to all locations within its geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons also may obtain a list of the specified service points by contacting the agencies at the following addresses:

Amarillo Grain Inspection, Inc., 1300 South Johnson Street, Amarillo, TX 79101

Wisconsin Department of Agriculture, Trade and Consumer Protection, 501 West Badger Road, Madison, WI 53713.

(Sec. 8, Sec. 9, Pub. L. 94–582, 90 Stat. 2873, 2875 (7 U.S.C. 79, 79a))

Dated: October 19, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83–29173 Filed 10–27–83; 8:45 am]

BILLING CODE 3410–EN–M

Request for Comments on Designation Applicant in the Area Currently Assigned to Columbus Grain Inspection, Inc. (OH)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in the area curently assigned to Columbus Grain Inspection, Inc.

DATE: Comments to be postmarked on or before December 12, 1983.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Information Resources Management Branch, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The September 1, 1983, issue of the **Federal Register** (48 FR 39669) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (U.S.C. 71 *et seq.*) (Act), in the area currently assigned to the official agency. Applications were to be postmarked by October 3, 1983.

Columbus Grain Inspection, Inc., the only applicant, requested designation for the entire geographic area currently assigned to that agency.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their comments concerning the applicant for designation.

All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice, and postmarked not later than December 12, 1983.

Comments and other available information will be considered before a final decision is made in this matter. Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Date: October 19, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83–29174 Filed 10–27–83; 8:45 am]

BILLING CODE 3410–EN–M

Request for Designation Applicants To Perform Official Services in the Geographic Areas Currently Assigned to Chattanooga Grain Inspection Co., Inc. (TN), and Enid Grain Inspection Co., Inc. (OK)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), official agency designations shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and requests applications from parties, including the agencies currently designated, interested in being designated as the official agency to conduct official services in the geographic area currently assigned to each specified agency. The official agencies are Chattanooga Grain Inspection Company, Inc., and Enid Grain Inspection Company, Inc.

DATE: Applications to be postmarked on or before November 28, 1983.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. 71 *et seq.*, at 79(f)(1)) specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official services after a determination is made that the applicant is better able than any other applicant to provide such official services in an assigned geographic area.

Chattanooga Grain Inspection Company, Inc. (Chattanooga), P.O. Box 5113, Chattanooga, Tennessee 37406, was designated as an official agency under the Act for the performance of inspection functions on October 15, 1978. Enid Grain Inspection Company, Inc. (Enid), P.O. Box 229, Enid, Oklahoma 73701, was designated as an official agency under the Act for the performance of inspection functions on October 5, 1978.

The agencies' designation will terminate on April 30, 1984. This date reflects administrative extensions of official agency designations, as discussed in the July 16, 1979, issue of the **Federal Register** (44 FR 41275). Section 7(g)(1) of the Act states generally that official agencies' designations shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Chattanooga, in Tennessee, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation is the following:

Bounded: on the North by the northern Tennessee State line from Sumner County east;

Bounded: on the East by the eastern Tennessee State line southwest;

Bounded: on the South by the southern Tennessee State line west to Interstate 65; and

Bounded: on the West by Interstate 65 north to the northern Williamson County line; the northern Williamson County line east; the western Rutherford, Wilson, and Sumner County lines north.

The geographic area presently assigned to Enid, in Oklahoma, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation is the following: Atoka, Blaine, Bryan, Canadian, Carter, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Garfied, Garvin, Grady, Grant, Harmon, Hughes, Jackson, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Mayes, Murray, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Rogers, Seminole, Stephens, Tillman, Tulsa, Wagoner, and Washington Counties.

Interested parties, including Chattanooga and Enid, are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic areas, as specified above, under the provisions of Section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. Designations in the specified geographic areas are for the period beginning May 1, 1984, and ending April 30, 1987. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than November 28, 1983 to be eligible for consideration.

Applications submitted and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Date: October 19, 1983.

J. T. Abshier,

Director, Compliance Division

[FR Doc. 83–29175 Filed 10–27–83; 8:45 am]

BILLING CODE 3410–EN–M

Voluntary Cancellation of the Designation Issued to William F. Christen Grain Inspection (IN), Interim Assignment of a Designation to Winchester Grain Inspection (IN), and Request for Designation Applicants

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the voluntary cancellation of designation of William F. Christen Grain Inspection, owned and operated by Mr. William F. Christen. The notice also announces interim assignment of this designation to another official agency, Winchester Grain Inspection (Winchester), owned and operate by Mr. Dan Gross. A request for designation applicants is also included in this notice. Winchester will provide official inspection services, on an interim basis, in the specified geographic area from November 15, 1983, until April 30, 1984. The new

designation for the selected applicant will begin May 1, 1984, and will not exceed a 3-year period.

DATE: Applications to be postmarked on or before November 28, 1983.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, D.C. 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

William F. Christen Grain Inspection (Christen), Decatur, Indiana, currently owned and operated by Mr. William F. Christen, requested voluntary cancellation of its designation, effective November 15, 1983. Mr Dan Gross has purchased the Christen Agency's assets.

Mr. Gross' currently designated official agency, Winchester Grain Inspection (Winchester), Farmland, Indiana, will provide official inspection services to the Decatur, Indiana, geographic area, on an interim basis, effective November 15, 1983, until April 30, 1983. Official grain inspection services may be obtained from Winchester in this geographic area at the following address: Winchester Grain Inspection, 209 South Fifth Street, P.O. Box 544 Decatur, Indiana 46733.

The Administrator of the Federal Grain Inspection Service has determined that interim assignment of this geographic area to Winchester is consistent with the provisions and objectives of the Act and that this action will facilitate providing official inspection services in the specified geographic area.

Section 7(f)(1) of the Act (7 U.S.C. 71 *et seq.*, at 79(f)(1)) specifies that the Administrator is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official services after a determination is made that the applicant is better able than any other applicant to provide such official services in an assigned geographic area.

The geographic area to be provided service by Winchester, on an interim basis, and which is available to the applicant selected for the new designation is the following:

Bounded: on the North by the northern Lagrange and Steuben County lines;

Bounded: on the East by the eastern Steuben, De Kalk, Allen and Adams County lines;

Bounded: on the South by the southern Adams and Wells County lines; and eastern Grant County line south to State Route 18, State Route 18 west to State Route 221; State Route 221 north to Huntington County; the southern Huntington and Wabash County lines;

Bounded: on the West by the western Wabash County line north to State Route 114; State Route 114 northwest to State Route 19; State Route 19 north to Kosciusko County; the western and northern Kosciusko County lines; the western Noble and Lagrange County lines.

Interested parties are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic area, as specified above, under the provisions of Section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. Designation in the specified geographic area wil begin May 1, 1984, and will not exceed a 3-year period. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than November 28, 1983 to be eligible for consideration.

Applications submitted and other available information will be considered in determining which applicant will be designated to provide official services in the specified geographic area.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Date: October 24, 1983.

J. T. Abshier,
Director, Compliance Division.

[FR Doc. 83–29176 Filed 10–27–83; 8:45 am]
BILLING CODE 3410–EN–M

Forest Service

Quartz Hill Molybdenum Mine, Tongass National Forest, Ketchikan Area, Ketchikan, Alaska; Revision of Availability Date for the Draft and Final Environmental Impact Statement

A Notice of Intent to prepare an Environmental Impact Statement for the development of a proposed Molybdenum Mine at Quartz Hill was published in the **Federal Register**, Vol. 47–248, p. 57528, December 27, 1982.

The revised availability date for the draft environmental impact statement is March 1984. The final environmental impact statement is expected to be available in August 1984.

Dated: October 19, 1983.

Michael A. Barton,
Deputy Regional Forester.

[FR Doc. 83–29301 Filed 10–27–83; 8:45 am]
BILLING CODE 3410–11–M

Carson National Forest Grazing Advisory Boards; Meetings

The West Carson Grazing Advisory Board will meet at 10:00 a.m. on November 18, 1983, on the Tres Piedras Ranger Station, Tres Piedras, New Mexico.

The East Carson Grazing Advisory Board will meet at 10:00 a.m. on November 19, 1983, in the Conference Room—Forest Supervisor's Office Carson National Forest, Cruz Alta Road, Taos, New Mexico.

The purpose of the meetings will be to discuss the expenditure of Range Betterment Funds and the status of Management Plans.

The meetings will be open to the public. Persons who wish to attend should notify Ken Bishop, Telephone 505/758–2237, P.O. Box 558, Taos, New Mexico 87571.

Written statements may be filed before or during the meetings.

Dated: October 21, 1983.

Kenneth E. Bishop,
Acting Forest Supervisor.

[FR Doc. 83–29329 Filed 10–27–83; 8:45 am]
BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended October 21, 1983

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Oct. 18, 1983	41762	United Air Carriers, Inc. d/b/a National Airlines, Inc. c/o Richard J. Kendall, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036. Application, of United Air Carriers, Inc. d/b/a National Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for issuance or amendment of a certificate of public convenience and necessity for authority to engage in scheduled foreign air transportation with respect to persons, property, and mail, between the United States and Hong Kong. Conforming Applications, Motions to Modify Scope and Answers maybe filed by November 15, 1983.
Oct. 21, 1983	41768	DHL Airways, Inc., c/o Herbert A. Rosenthal, Hauseman and Rosenthal, 2020 K Street, NW., Suite 350, Washington, D.C. 20006. Conforming Application of DHL Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests that additional segments be added to its certificate for Route 195–F as follows: (a) Between the co-terminals Guam and Saipan, on the one hand and the co-terminal Nagoya and Tokyo, Japan, on the other; (b) Between the terminal point Honolulu, Hawaii, the intermediate points Johnston Island; Majuro and Kwajalein, Marshall Islands; Yap, Ponape, and Truk, Caroline Islands; Koror, Palau Islands; and the co-terminal points Saipan, Marianas Islands and Guam. (c) Between co-terminal points Guam and Saipan, Marianas Islands; and the terminal point Manila, Philippines. Answers may be filed by November 4, 1983.
Nov. 19, 1983	32629	Saudi Arabian Airlines Corporation, c/o William A. Nelson, Shea & Gould, 1627 K Street, NW., Suite 1000, Washington, D.C. 20006. Application of Saudi Arabian Airlines Corporation pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests that its authority as reflected in its current amended permit, to engage in: Plane load charter flights of property between the co-terminal points New York, New York and Houston and Dallas/Ft. Worth Texas, on the one hand, and a point or points in Saudi Arabia on the other hand be renewed for a two-year period with an expiration date of December 14, 1985. The terms, conditions, and limitations set forth in the permit issued by Order 81–12–83 are acceptable to Saudia. Answers may be filed by November 16, 1983.
Nov. 21, 1983	41637	National Express, Inc., c/o Morris R. Garfinkle, Galland, Kharasch, Calkins Morse, 1054 Thirty-first Street, NW. Washington, D.C. 20007. Amendment No. 1 to the Application of National Express, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations to engage in interstate and overseas scheduled air transportation. Answers may be filed by November 18, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83–29381 Filed 10–27–83; 8:45 am]
BILLING CODE 6320–01–M

[Docket 41639]

Application of Frontier Horizon, Inc. for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting the *Frontier Horizon, Inc. Fitness Investigation*, 83–10–90.

SUMMARY: The Board is instituting an investigation to determine the fitness of Frontier Horizon, Inc., to engage in interstate and overseas scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to intervene and/or proposing to request additional evidence in the *Frontier Horizon, Inc. Fitness Investigation* shall file their petitions in Docket 41639 by November 4, 1983.

ADDRESSES: Requests for additional evidence and petitions to intervene should be filed in Docket 41639 and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Nancy R. Kessler, Legal Affairs, Competition Maintenance Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Phone: (202) 673–5450.

SUPPLEMENTARY INFORMATION: The complete text of Order 83–10–90 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83–10–90 to that address.

By the Civil Aeronautics Board: October 24, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83–29379 Filed 10–27–83; 8:45 am]
BILLING CODE 6320–01–M

[Order 83–10–73]

Foreign Forwarder Registration; J. H. International

AGENCY: Civil Aeronautics Board.

ACTION: Rejection of Foreign Forwarder Registration.

SUMMARY: The Board, having previously established in Orders 82–6–11, and 82–9–21 that there is unsatisfactory Taiwanese reciprocity for U.S. freight forwarders, rejected the foreign freight forwarder registration request of J. H. International, owned by a citizen of Taiwan—Order 83–10–73, adopted 1983.

To obtain a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Dean L. Johnson, (202) 673–5134, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: October 18, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83–29380 Filed 10–27–83; 8:45 am]
BILLING CODE 6320–01–M

[Docket 41640, Order 83–10–90]

Institution of Frontier Group Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Tentative approval, under section 408 of the Federal Aviation Act of 1958, as amended, of the common control relationships among General

Tire and Rubber Company, RKO General, Inc., Frontier Airlines, Inc., Frontier Horizon, Inc., without antitrust immunity and without conditions protective of labor; and tentative exemption of the interlock relationship of William D. Wayne from section 409 of the Act, pursuant to 14 CFR 287.8. (Docket 41640, Order 83–10–90).

SUMMARY: The Board tentatively finds that the formation of Frontier Horizon, Inc., a non-union airline, as a subsidiary of Frontier Holdings, Inc. (which also owns Frontier Airlines, Inc.) will have no anticompetitive effects within the meaning of section 408 of the Federal Aviation Act of 1958, as amended. It further tentatively finds that there are no public interest considerations warranting disapproval of the control and affiliate relationships or imposition of conditions protective of labor. In addition, the Board tentatively exempts, from the requirement of Board approval under section 409, the interlock relationship of William D. Wayne, pursuant to § 287.8 of its Economic Regulations.

The Board is instituting the Frontier Group Show-Cause Proceeding directing interested persons to show cause why its tentative findings and conclusions should not be made final.

DATES: Objections to the issuance of an order making final the proposed findings and conclusions shall be filed in Docket 41640, Docket Section, Room 714, Civil Aeronautics Board, Washington, D.C. 20428, by November 9, 1983.

FOR FURTHER INFORMATION CONTACT: Nancy R. Kessler, Legal Affairs, Competition Maintenance Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, Phone (202) 673–5450.

By the Civil Aeronautics Board: October 24, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–29378 Filed 10–27–83; 8:45 am]

BILLING CODE 6320–01–M

[Order 83–10–93]

Order to Show Cause; Trans Carib Air, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice.

SUMMARY: The Board proposed to issue an amended certificate of public convenience and necessity to Trans Carib Air, Inc. to authorize scheduled foreign air transportation of persons, property, and mail between the United States and Shannon, Ireland; Athens, Greece; and Tel Aviv, Israel, and a point or points in the Federal Republic of Germany, Belgium, The Netherlands, Austria, Switzerland, Egypt, and Jordan. The amended certificate would also permit Trans Carib Air to serve various Caribbean points from "a point or point in the United States," instead of from only certain named U.S. points, as is now the case.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions, as described in the order cited above, shall, NO LATER THAN November 21, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 41190, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to all affected carriers and the Departments of State and Transportation. Answers to objections shall be filed by December 1, 1983.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board will issue an order which will make final the Board's tentative findings and conclusions and issue the proposed certificate.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5432. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION, CONTACT: Jeffrey B. Gaynes, (202) 673–5154, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: October 24, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–29382 Filed 10–27–83; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–007]

Preliminary Determination of Sales at Less Than Fair Value; Certain Circular Welded Carbon Steel Pipes and Tubes From the Republic of Korea

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain circular welded carbon steel pipes and tubes (CWPT) from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value. Petitioner alleges that home market sales of CWPT have been made at less than the cost of producing this merchandise in Korea. We will investigate whether CWPT have been sold in Korea at below their costs of production for our final determination. We have notified the United States International Trade Commission (ITC) of our determination, and we have directed the United States Customs Service to suspend, with noted exceptions, the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

We have also preliminarily determined that two producers of CWPT, Dong Jin Steel Co., Ltd. and Hyundai Pipe Co., Ltd., should be excluded from this preliminary determination because we found weighted-average margins of 0.08 and 0.41 percent, respectively. These margins are *de minimis*.

If this investigations proceeds normally, we will make a final determination by January 9, 1984.

EFFECTIVE DATE: October 28, 1983.

FOR FURTHER INFORMATION CONTACT: Holly Kuga, Agreements Compliance Division, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–3833.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that there is a reasonable basis to believe or suspect that CWPT from Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

The Preliminary results for each company are as follows:

	Weighted-average margin percentage	Percentage of total sales compared
Union Steel Manufacturing Co., Ltd	0.08	65.84

	Weighted-average margin percentage	Percentage of total sales compared
Pusan Steel Pipe Co., Ltd.	1.55	22.16
Hyundai Pipe Co., Ltd.	0.41	78.05
Korea Steel Pipe Co., Ltd.	1.63	80.00
Dong Jin Steel Co., Ltd.	0.00	63.49

The overall weighted-average margin on all sales compared is 0.83 percent.

If this investigation proceeds normally, we will make our final determination by January 9, 1984.

Case History

On April 21, 1983, we received a petition filed by counsel for the Committee on Pipe and Tube Imports (CPTI). The CPTI represents the following domestic manufacturers of CWPT: Allied Tube and Conduit Corp.; American Tube Co., Inc; Bull Moose Tube Co.; Copperweld Tubing Group; Kaiser Steel Corp.; Merchants Metals, Inc.; Pittsburgh-International; Southwestern Pipe, Inc.; and Western Tube and Conduit. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alleged that CWPT from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 11, 1983 (48 FR 22179). On June 6, 1983, the ITC found that there is a reasonable indication that imports of certain CWPT are materially injuring, or are threatening to materially injure, a United States industry.

Questionnaires were presented in Seoul, Korea to Korean CWPT producers on June 9, 1983. The five Korean producers that responded to our questionnaires account for approximately 90 percent of Korean CWPT exports to the United States during the period of investigation. They are: Union Steel Manufacturing Co., Ltd. (Union); Pusan Steel Pipe Co., Ltd. (Pusan); Hyundai Pipe Co., Ltd. (Hyundai); Korean Steel Pipe Co., Ltd. (KSP) and Dong Jin Steel Co., Ltd. (Dong Jin).

On July 6, 1983 counsel for the Korean CWPT producers requested additional time to respond to our questionnaires. We granted a two-week extension on July 11, 1983. On July 21, 1983 counsel for the respondents requested an additional two-week extension which we also granted. We received the responses on August 8, 1983, and have used this information in our analyses.

Pursuant to section 733(c)(1)(A) of the Act, we postponed the preliminary determination, at the request of the petitioner, to no later than October 24, 1983 (48 FR 41055).

We received submissions from counsel for petitioner on September 12 and 29, 1983 and October 5 and 11, 1983 alleging that home market sales of CWPT have been made at less than the cost of producing this merchandise in Korea. We have determined, pursuant to section 773(b) of the Act, that there are reasonable grounds to believe or suspect that home market sales have been made at prices which are less than their costs of production. However, since we did not recieve the cost of production information in time for the preliminary determination, we will investigate whether home market sales of CWPT have been made at prices which are less than their costs of production for our final determination.

Scope of the Investigation

The merchandise covered by this investigation is CWPT, which are defined for purposes of this proceeding as: Welded carbon steel pipes and tubes, of circular cross section, currently provided for in items 610.3231, 610.3232, 610.3241 and 610.3244 of the *Tariff Schedules of the United States Annotated* (1983).

We investigated sales of CWPT by Union, Pusan, Hyundai, KSP and Dong Jin during the period from November 1, 1982 to April 30, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by the Korean producers, because the merchandise was sold to unrelated purchasers, either directly or through a sales organization, prior to its importation into the United States. We calculated the purchase price based on the f.o.b., c.i.f., c.&f., ex-dock duty-paid, or c.i.f. duty paid and delivered, packed price. We made deductions, where appropriate, for U.S. brokerage, U.S. inland freight, U.S. customs duties, wharfage, ocean freight, marine insurance, foreign inland freight, foreign brokerage and handling, and government testing and inspection fees. With the exception of Union, we made an addition for import duties which were rebated or not collected by reason of the exportation of the merchandise to the United States, in accordance with section 772(a)(1)(B) of the Act. In the case of Dong Jin, we also added, pursuant to section 772(d)(1)(D) of the Act, the amount of countervailing duty currently being imposed in this company's CWPT imports into the United States to offset an export subsidy.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market sales.

We calculated home market prices based on f.o.b., ex-factory, or c.&f., packed on CWPT sold to unrelated distributors. From these prices we deducted, where appropriate, inland freight and rebates. In accordance with § 353.15 of the Commerce Regulations, we made adjustments, where appropriate, for differences in credit expenses, advertising expenses, intransit warehousing expenses and for indirect selling expenses in the home market used as an offset to U.S. commissions. W also deducted home market packing costs and added the cost of U.S. packing, pursuant to 773(a)(1) of the Act.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation on all entries of CWPT from Korea, with the exception of CWPT produced by Dong Jin and Hyundai, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. This suspension of liquidation will remain in effect until further notice. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The weighted-average margins are as follow:

Firms	Adjusted rate (percent)
Union	0.66
Pusan	1.55
KSP	1.63
Hyundai	0.41
Dong Jin	0.00
All Other Producers/Manufacturers/Exporters	0.83

Don Jin and Hyundai are excluded from this preliminary determination, because their margins are *de minimis* at 0.08 and 0.41 percent, respectively.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on December 21, 1983, at the United States Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by December 14, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed pursuant to section 353.46 of the Commerce Department Regulations within 30 days of publication of this notice, at the above address and in at least 10 copies.

Dated: October 24, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-29328 Filed 10-27-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-008]

Certain Welded Carbon Steel Pipes and Tubes From Taiwan; Preliminary Determination of Sales at Less than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain welded carbon steel pipes and tubes from Taiwan are being, or are likely to be, sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin, as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by January 9, 1984.

EFFECTIVE DATE: October 28, 1983.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Agreements Compliance Division, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-4036.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that there is a reasonable basis to believe or suspect that certain welded carbon steel pipes and tubes (CWPT) from Taiwan are being, or are likely to be, sold in the United States at less than "fair value," as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act).

The estimated dumping margin is based on the best information available, as explained in the section of this notice which describes our fair value comparisons.

Our analysis of information submitted by the petitioner and import data gathered as part of our ongoing monitoring of basic steel mill imports indicates that the foreign market value of CWPT exceeded the United States price on 100 percent of sales. The estimated margin is 60.8 percent. Since the responses from the individual producing companies were not used, we did not arrive at weighted-average margins for each company.

If this investigation proceeds normally, we will make our final determination by January 9, 1984.

Case History

On April 21, 1983, we received a petition filed by counsel for the Committee on Pipe and Tube Imports (CPTI). The CPTI represents the following domestic manufacturers of CWPT: Allied Tube and Conduit Corp., American Tube Co., Inc., Bull Moose Tube Co., Copperweld Tubing Group, Kaiser Steel Corp., Merchants Metals, Inc., Pittsburgh-International, Southwestern Pipe Inc., and Western Tube and Conduit. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alleged that CWPT from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 11, 1983 (48 FR 22179). On June 6, 1983, the ITC subsequently found that there is a reasonable indication that imports of CWPT are materially injuring a United States industry.

The petitioner alleges that at least 16 Taiwanese companies produce CWPT for export to the United States. However, we identified three producers and exporters which account for approximately 95 percent of the exports to the United States. Questionnaires were presented in Taiwan to these producers and exporters on June 7, 1983.

On July 5, 1983, we received a letter from counsel for the Taiwan CWPT producers and exporters requesting additional time in which to respond because of the lack of computer capability and the complexity of the responses. We granted an extension and, on July 13, 1983, we received a response from Kao Hsing Chang Tube & Steel Corporation. On July 23, 1983, we received responses from Tai Feng Industries, Inc. and Yieh Hsing Enterprise Co., Ltd.

The preliminary determination in this investigation was scheduled for September 28, 1983. Pursuant to section 733(c)(1)(A) of the Act, we subsequently postponed the preliminary determination, at the request of the

petitioner, to no later than October 24, 1983 (48 FR 41055).

Scope of Investigation

The merchandise covered by this investigation is certain welded carbon steel pipes and tubes, which are defined for purposes of this proceeding as: welded carbon steel pipes and tubes, of circular cross section, with walls not thinner than 0.065 inches, and 0.375 inches or more but not over 4.5 inches in outside diameter, provided for in items 610.3231, 610.3232, 610,3241 and 610.3244 of the *Tariff Schedules of the United States Annotated* (TSUSA). When this investigation was initiated, the scope of the investigation also included welded carbon steel pipes and tubes of rectangular (including square) cross section, provided for in TSUSA items 610.3955 and 610.4975. However, in its preliminary determination, the ITC found that there is no reasonable indication that imports of welded rectangular pipes and tubes are materially injuring, or are threatening to materially injure, a United States industry. Accordingly, we terminated our investigation on these products.

Since the three respondents produced and exported over 95 percent of the CWPT from Taiwan to the United States during the period of this investigation, we limited our investigation to them.

We investigated sales of CWPT by these respondents during the period from November 1, 1982, to April 30, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by Kao Hsing, Tai Feng and Yieh Hsing because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

For all companies, we used best information available, in accordance with section 776(b) of the Act, because proper responses were not submitted. The "Supplemental Information Section" of this notice contains a full discussion of the reasons for using the best information available. The best information available for purposes of this preliminary determination is the information contained in the petition. This information consists of the C.I.F. ex-dock, duty-paid U.S. price with deductions for freight, insurance, handling charges and U.S. Customs duties.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market sales.

For all companies, we used best information available, in accordance with section 776(b) of the Act, because we did not receive a proper response to our questionnaire. The "Supplemental Information Section" of this notice contains a full discussion of the reasons for using the best information available. The best information available for purposes of this preliminary determination is the information contained in the petition. This information consists of average Taiwanese home market prices for steel pipes and tubes. We adjusted for differences in credit costs, pursuant to § 353.15 of the Commerce Regulations.

Supplemental Information Requested

Section 776(b) of the Act states that whenever any party refuses or is unable to produce information requested, the Commerce Department may use the best information otherwise available for determining the existence of sales at less than fair value. We did so with respect to all respondents, for the following reasons.

We presented the questionnaire to respondents on June 7, 1983. The response was due no later than July 7, 1983. Subsequently, at the request of the respondent, we granted an extension to July 13, 1983. On August 25, 1983, we cautioned counsel for the respondents that we might not be able to use the information contained in the responses for the preliminary determination if they were not amended to include data, by size, of pipes and tubes sold in the home market and in the United States. We consider size data essential because the unit prices of pipes and tubes vary widely due to differences in size.

On September 2, 1983, we gave written notice to counsel for the respondents that the data requested on August 25, 1983, would have to be submitted no later than September 9, 1983, in order to be used for the September 28, 1983, preliminary determination. On September 8, 1983, we notified counsel for the respondents that the preliminary determination had been postponed until no later than October 24, 1983, and that the requested information had to be submitted no later than September 26, 1983, in order to be used for the preliminary determination. On September 22 and September 29, 1983, counsel for the respondents submitted responses to the Department's request for information. However, information, by size, on home market and United States sales of pipes and tubes was not included.

On September 29, 1983, we gave written notice to counsel for the respondents that the information requested would have to be submitted by October 14, 1983, in order to be verified for use in our final determination and that absent a timely and adequate response, we may base our final determination on the best information otherwise available.

Verification

We will verify all data used in reaching the final determination in this investigation, as provided in section 776(a) of the Act.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of certain welded carbon steel pipes and tubes from Taiwan. This suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The margin is as follows:

Manufacturers/Producers/Exporters	Margin
All manufacturers/producers/exporters	[illegible]

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and noncofidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such informtion, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring, or are threatening to materially injure, a United States industry before the later of 120 days after the Department of

Commerce makes its preliminary affirmative determination or 45 days after the Department makes its final affirmative determination.

Public Comment

In accordance with § 353.47 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 1 p.m. on December 7, 1983, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by November 30, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of the publication of this notice, at the above address in at least 10 copies.

Dated: October 24, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-29025 Filed 10-27-83; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1984 services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: October 28, 1983.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On August 5, and July 8, 1983, the Committee for Purchase From the Blind and Other Severely Handicapped published notices (48 FR 35695 and 48 FR 31446) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the services listed.

c. The actions will result in authorizing small entities to provide services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1984:

SIC 0782

Grounds Maintenance, Marine Corps Air Station, Yuma, Arizona

SIC 7217

Carpet Cleaning, Portland, Oregon, plus 10-mile radius

C. W. Fletcher,

Executive Director.

[FR Doc. 83-29064 Filed 10-27-83; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1984; Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has receive proposals to add to Procurement List 1984 commodities and military resale commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before November 30, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities, military resale commodities, and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities, military resale commodities, and services to Procurement List 1984, October 18, 1983 (48 FR 48415):

Class 1330

Tape Stiffener Assembly: 1330-01-051-1533
(25% of Total Government Requirement)

Class 2920

Cable Assembly, Electrical: 2920-01-027-0125
(50% of Total Government Requirement)

Class 5140

Belt, Tool, Repairman's: 5140-00-529-5217, 5140-00-529-2694, 5140-00-529-2691

Class 7360

Dining Packet, Inflight: 7360-00-NIB-0006

Class 9505

Tree Seedling Anchor Wire Stakes: 9905-00-NSH-0001, 9905-00-NSH-0002, 9905-00-NSH-0003,
(Requirements for U.S. Forest Service, Modoc National Forest, Alturas, California only)

Tree Seedling Anchor Wire Pins: 9905-00-NSH-0004, 9905-00-NSH-0006
(Requirements for U.S. Forest Service, Fremont National Forest, Lakeview, Oregon Only)

Tree Seedling Anchor Wire Pin: 9905-00-NSH-0005
(Requirements for U.S. Forest Service, Klamath National Forest, Yreka, California only)

Military Resale Item Nos. and names

No. 940, Mushroom Design Kitchen Towel
No. 942, Mushroom Design Waffle-Weave Dish Cloth (2-pk.)
No. 943, Lemon Wedge Kitchen Towel
No. 944, Lemon Wedge Dish Cloth
No. 947, Lemon Wedge Oven Mitt
No. 948, Lemon Wedge Potholder
No. 973, Kitchen Script Kitchen Towel
No. 974, Kitchen Script Dish Cloth
No. 977, Kitchen Script Oven Mitt
No. 978, Kitchen Script Potholder
No. 971, Sea Shell Kitchen Towel
No. 972, Sea Shell Dish Cloth
No. 975, Sea Shell Ovem Mitt
No. 979, Sea Shell Potholder

SIC 7349

Janitorial/Custodial Services, Supervisor's Office, Umpqua National Forest, 2900 N.W. Stewart Parkway, Roseburg, Oregon

Janitorial Service, Alamo Exchange Region, Army and Air Force Exchange, 5315 Summit Parkway, San Antonio, Texas

C. W. Fletcher,

Executive Director.

[FR Doc. 83-28335 Filed 10-27-83; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1984; Notice of Establishment; Correction

In FR Doc. 83-28332 appearing at page 48415 in the issue for Tuesday, October 18, 1983, make the following corrections:

1. On page 48416, third column, under Class 3510, Net, Laundry, second line, four-digit number reading "–9439" should read "–9739". Same column, under Class 3990, Pallet, Wood, second line, two-digit number reading "–77" should read "–X77".

2. On page 48417, second column, first line, Light, Desk, second three-digit number reading "–771" should read "–7771". Same column, under Class 6530, Pad, Cooling, Chemical, second line, now reading "–5299" should read "–4299".

3. On page 48417, third column, under Class 6840, Disinfectant, Detergent, second line, last four-digit number reading "–8345" should read "–8346". Same column, under Class 7110, Table, Wood, second line, first three-digit number reading "–932" should read "–823".

4. On page 48418, second column, eleventh line from the top, Towel, Bath, Disposable, first line, two-digit number reading "–00" should read "–01". Same column, under Class 7360, Dining Packet, third line, third four-digit number reading "–6741" should read "–6411".

5. On page 48419, first column, the eighth line under Pencil, Mechanical, two-digit number reading "–00" should read "–01".

6. On page 48419, second column, the fourth line under Paper, Teletypewriter, first two-digit number reading "–00" should read "01". Same column, second line under Paper, Writing, two-digit number reading "–00" should read "–01".

7. On page 48419, third column, second line from the top, second four-digit number reading "–6672" should read "–6627". Same column, the fifth and sixth line now reading "U.S. ARMY" should read "NO SMOKING".

8. On page 48421, first column, under Class 8415, Cover, Helmet, Camouflage, Pattern, second line, first two-digit number reading "–00" should read "–01".

9. On page 48422, third column, under SIC 0782, Grounds Maintenance, fourth line under Bergstrom Air Force Base, Texas, second four-digit number reading "4567" should read "4557".

10. On page 48424, second column, the tenth line under Department of Navy, sixth three-digit number reading "286" should read "386".

11. On page 48428, third column, the third line under Department of Army, last three-digit number reading "–000" should read "–00".

C. W. Fletcher,

Executive Director.

[FR Doc. 83-28336 Filed 10-27-83; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Application for Designation To Trade Options on Deutsche Mark Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions for trading commodity options on a futures contract on a domestic board of trade.

SUMMARY: The Chicago Mercantile Exchange has applied for contract market designation to trade options on Deutsche mark futures contracts under the three-year pilot program adopted by the Commodity Futures Trading Commission ("Commission"). 48 FR 41575 (September 16, 1983). The Commission has determined that the terms and conditions of the proposed options contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with its options regulations, 46 FR 54500 (November 3, 1981), and with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before November 28, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference shuld be made to the CME application to trade options on the Deutsche mark futures contract.

FOR FURTHER INFORMATION CONTACT: Eugene Moriarty, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., (202) 254-6990.

SUPPLEMENTARY INFORMATION: The Commission previously adopted regulations to govern a three-year pilot program which allow each domestic board of trade to apply for designation as a contract market to trade options on one contract for future delivery for which it is already designated as a contract market (46 FR 54500 (November 3, 1981)). The Commission subsequently expanded the domestic exchange-traded commodity options program to allow any domestic board of trade, regardless of whether it is currently engaged in the trading of futures contracts or options on those contracts, to apply for contract market designation for one option on an actual commodity ("physicals"). (47 FR 56996 (December 22, 1982)). The Commission has determined to modify the option pilot program to provide the boards of trade with greater flexibility in allocating the permitted number of options contracts between options on futures and options on physicals. The new rule allows each board of trade to be designated as a contract market for either two options on futures contracts, two options on physical commodities or one option on a futures contract and one option on a physical commodity. (48 FR 41575 (September 16, 1983)). This amendment became effective on October 28, 1983.

The Chicago Mercantile Exchange applied for contract market designation, pursuant to Section 6 of the Commodity Exchange Act, 7 U.S.C. 8 (1982) and Commission Regulations § 33.5, to trade options on Deutsche mark physicals.[1] The Division determined that the terms and conditions of that proposed contract were of major economic significance and made available the proposed contract for public inspection and comment. 48 FR 28530 (June 22, 1983). In light of the recent amendment to the option pilot program, the CME has determined to seek designation on an option on Deutsche mark futures rather than on physicals.

Given the similarity of the two contracts, and due to the fact that the Commission has already received comment on the option on the physical contract, the Commission feels that it is appropriate to request public comment on the option on the futures contract for a thirty day period. A copy of the terms and conditions of the proposed option on the Deutsche mark futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington. D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the

[1] On January 6, 1983, the Chicago Mercantile Exchange was designated as a contract market to trade options on the Standard and Poor's 500 Index futures contract.

Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the CME in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1982)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed options contract, or with respect to other materials submitted by the CME in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by November 28, 1983. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on October 24, 1983

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 83-29053 Filed 10-27-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee, Arctic Warfare Task Force; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee, Arctic Warfare Task Force will meet on November 15-16, 1983, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to meeting the Soviet naval threat from the Arctic region and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy had determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander R. Robinson Harris, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 568, Alexandria, Virginia 22311. Telephone: (202) 694-8422.

Dated: October 25, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register, Liaison Officer.

[FR Doc. 83-29394 Filed 10-27-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Office of the Secretary

Second Plan of Action To Implement the International Energy Program

AGENCY: Department of Energy.

ACTION: Request for comments on the draft "Second Plan of Action to Implement the International Energy Program".

SUMMARY: The Department of Energy requests written comments on a draft "Second Plan of Action to Implement the International Energy Program". The draft document describes the types of substantive actions which the U.S. oil companies participating in the Voluntary Agreement and Plan of Action to Implement the International Energy Program (Voluntary Agreement), adopted in 1976, may take during implementation of emergency international oil sharing as provided in the Agreement on an International Energy Program (IEP), TIAS 8278. The IEP emergency oil sharing system, operated by the International Energy Agency (IEA), can be activated only when the IEA group of countries as a whole or an individual IEA country experiences an oil supply emergency involving at least a seven percent supply shortfall.

Section 252 of the Energy Policy and Conservation Act (EPCA) makes available a limited antitrust defense with respect to actions taken by U.S. oil companies to implement the information and allocation provisions of the IEP, provided that such actions are described in a voluntary agreement or plan of action. A plan of action is required to be as specific in its description of proposed substantive actions as is reasonable in light of known circumstances.

A draft "Plan of Action to Implement the International Energy Program" was published for public comment on May 8, 1981 (46 FR 26026). The draft "Second Plan of Action to Implement the International Energy Program" which we publish today, prepared by the Department of Energy in consultation with the Department of Justice, the Department of State and the staff of the Federal Trade Commission, takes into account the comments received on the previous draft. Following review of submitted comments and possible revision of this new draft plan of action in light thereof, the new draft will be furnished to the companies participating in the Voluntary Agreement for their consideration. Any plan of action adopted by them is subject to approval by the Secretary of Energy, and by the Attorney General after consultation with the Federal Trade Commission.

If adopted and approved, the "Second Plan of Action to Implement the International Energy Program" would go into effect only if the President makes a finding that an "international energy supply emergency" exists.

DATE: All comments received by January 2, 1984, will be considered.

ADDRESS: Comments should be submitted to: Craig S. Bamberger, Assistant General Counsel, International Trade and Emergency Preparedness (GC-11), Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: (202) 252-2900.

FOR FURTHER INFORMATION CONTACT:

The above or

Catherine L. Monzel, Voluntary Agreement Coodinator, Office of International Emergency Measures, International Affairs (IA-11), Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: (202) 252-6154

Melanie S. Cutler, Chief, Energy Section, Antitrust Division, Department of Justice, P.O. Box 14141, Washington, D.C. 20044, Telephone: (202) 724-6410

SUPPLEMENTARY INFORMATION:

I. Background
II. Comments on Previous Draft
1. Recordkeeping Requirements
2. "Type 1" Transactions
3. ISAG/Secretariat Access to Prices
4. Other Issues
III. Subject of Comments
IV. Specific Comments Requested
V. Comment Procedures

I. Background

Following the oil embargo of 1973, the United States and certain other members of the Organization for Economic Cooperation and

Development (OECD) entered into the IEP Agreement, which provides for the international sharing of oil during supply emergencies. Pursuant to the IEP, the IEA was esablished as an autonomous institution within the OECD to operate the IEP emergency sharing system. The IEP emergency sharing system may be activated only when the IEA group of twenty-one member countries as a whole or an individual IEA country experiences a seven percent or greater shortfall of available pertroleum supplies, measured against a specified base period.

The oil companies of the U.S. and the other IEA countries would play a vital role in the implementation of the emergency sharing system, providing essential information, advising the IEA on suppy and logistical matters, and actually effectuating international oil allocation. To facilitate U.S. company participation in the IEA, the Congress in 1975 enacted Section 252 of EPCA, which authorizes the development of voluntary agreements and plans of action to implement the allocation and information provisions of the IEP, and makes available a limited antitrust defense with respect to actions taken to develop or carry out voluntary agreements and plans of action.

The Voluntary Agreement was agreed to in 1976 by a number of U.S. oil companies. See 41 FR 14998. At the present time the following twenty companies which have agreed to be IEA Reporting Companies are participants in the Voluntary Agreement:

Amerada Hess Corporation
Ashland Oil Inc.
Atlantic Richfield Company
Caltex Petroleum Corporation
Champlin Petroleum Company
Cities Service Company
Continental Oil Company
Exxon Corporation
Gulf Oil Corporation
Mobil Oil Corporation
Murphy Oil Company
Occidental Petroleum Company
Phillips Petroleum Company
Shell Oil Company
Standard Oil Company of California
Standard Oil Company of Indiana
Standard Oil Company of Ohio
Sun Company, Inc.
Texaco, Inc.
Union Oil Company of California

Section 6(c)(1) of the Voluntary Agreement provides for the development of plans of action elaborating and applying IEA allocation principles and measures, and describing the types of substantive actions which may be taken under the plan, in the event that the sharing system is triggered by an oil supply emergency. Section 6(c)(1) and EPCA Section 252(d)(3) require that such a plan of action be as specific in its description of proposed substantive actions as is reasonable in light of known circumstances. Approval of the Secretary of Energy, and of the Attorney General after consultation with the Federal Trade Commission, is required before a plan of action may be carried out.

A plan of action is contained within the existing Voluntary Agreement, but it has not been revised since 1976 to reflect specifics of the IEA allocation system, as that system has evolved. A draft of a second "Plan of Action to Implement the International Energy Program" was published for public comments on May 8, 1981 (46 FR 26026), and was the subject of ten comments submitted on behalf of fifteen U.S. and two foreign oil companies, one State government, two groups of industrial energy users, and the IEA Secretariat.

The purpose of this Notice is to obtain comments on a revised draft "Second Plan of Action to Implement the International Energy Program" in the form of an amendment to the existing Voluntary Agreement. This has been prepared by the Department of Energy, in consultation with the Department of Justice, the Department of State and the staff of the Federal Trade Commission, in light of the public comments received on the draft published May 8, 1981, and experience gained in the IEA's Fourth Allocation Systems Test (AST–4) conducted in May and June 1983. The Justice Department has indicated its tentative approval of this draft, subject to consideration of whatever comments may be received in response to this Notice. Comments submitted in response to this Notice will be considered in reviewing and possibly revising this draft plan of action, prior to its consideration by industry.

If adopted by the Voluntary Agreement participants and approved by the Secretary of Energy and by the Attorney General after consultation with the Federal Trade Commission, the "Second Plan of Action to Implement the International Energy Program" would go into effect only if the President finds that an "international energy supply emergency" exists. EPCA Section 252(e)(1) defines this term as meaning a period when the Prsident determines that oil allocation to IEA countries is required by the IEP.

II. Comments on Previous Draft

Comments on the draft plan of action published in May 1981 identified three central issues. These concerned the burdensomeness of recordkeeping requirements, the question of providing antitrust protection for so-called "Type 1" transactions, and the need for price and other commercial term information to flow through the IEA's Industry Supply Advisory Group (ISAG) or the IEA Secretariat.

1. Recordkeeping requirements

The comments were especially critical of section 11 of the previous draft, "Requirements for Recordkeeping." Various respondents described this section as: "unprecedented and unwarranted . . . unreasonable . . . unnecessary duplicative reporting"; "onerous"; "too restrictive"; "burdensome . . . a torrent of paper"; "much more heavily weighted to theoretical antitrust considerations than to effective . . . allocation . . . complex, detailed and extremely difficult to understand"; and "unnecessarily detailed and would severely impede the functioning of the Emergency Management Organization."

The concerned Government agencies have taken heed of these comments. In preparing for AST–4, a new antitrust approval letter was developed, containing operating procedures and recordkeeping requirements which had been substantially simplified and made considerably less burdensome than the recordkeeping requirements contained in the May 1981 draft plan of action. The modified requirements were successfully tested in AST–4, and we have incorporated the substance of these liberalized AST–4 provisions into the new draft plan of action, where they appear as Section 10.

It should be noted that changes in the Voluntary Agreement and in DOE's regulations at 10 CFR Part 209 would be necessary to conform them to the proposed Section 10.

2. "Type 1" Transactions

The issue of antitrust protection for "Type 1" IEA oil supply transactions has been growing in prominence. "Type 1" transactions are defined as those in which, early in each monthly IEA allocation cycle and continuing thereafter throughout the allocation process, companies rearrange their own supply systems voluntarily and independently of any requests by the IEA. These are distinguished from "Type 2" transactions, which involve voluntary offers submitted to the IEA for its approval after IEA country allocation rights and obligations for the monthly cycle are known, and "Type 3" transactions mandated by national governments.

The concern of industry, based on experience gained in IEA systems tests,

is that in the course of allocation the U.S. oil companies may be exhorted by the IEA to undertake Type 1 transactions which will move oil in a timely manner from countries which otherwise would be expected to have allocation obligations, to those which would have allocation rights. Such attempts to influence oil movements, it is feared, could break down the distinction between Type 1 and Type 2 transactions and subject the U.S. oil companies to the same kinds of risks for which they receive an antitrust defense in Type 2 or Type 3 transactions. Thus counsel for eleven of the U.S. Reporting Companies commented as follows:

> In view of the fact that the same company personnel will be performing both Type 2 and Type 1 activities, and that the distinction between Type 2 and Type 1 activities may be very difficult to maintain, it would seem that the Plan of Action, and thus the antitrust defense afforded by Section 252 of EPCA, should apply to Type 1 activities. We note further that U.S. Government observers will have access to and be able to monitor Type 1 activities. Those activities should not, however, be subject to the full-scale record making, record-keeping and reporting requirements associated with Type 2 activities. Because of the far greater number of transactions involved, those requirements could impose a crushing burden on companies if applied to Type 1 transactions.

On the other hand, granting antitrust protection for Type 1 transactions would involve certain problems. Affording antitrust protection for all of industry's Type 1 transactions would seem out of the question, since by definition these include the normal international business activity which the industry would have undertaken in any event. In any case, given the volume of activity involved, such extensive antitrust coverage probably would be impracticable in light of the requirement in EPCA section 252(c)(3) that a full and complete record of every communication connected therewith be deposited with the Department of Energy.

Selective coverage of Type 1 transactions might be more acceptable. However, to this point no fully satisfactory method has been devised for distinguishing between those Type 1 transactions which should and those which should not enjoy antitrust protection. Consequently, while we consider the issue deserving of further consideration, we do not at this time propose to approve applicability of the antitrust defense to Type 1 transactions through the plan of action. Accordingly, section 4.2 of the draft plan of action excludes Type 1 transactions from the plan of action's coverage. We request below specific comments on how a workable system of selective Type 1 antitrust protection might be structured.

3. ISAG/Secretariat Access to Prices

When the previous draft plan of action was published for public comment in May 1981, specific comments were requested on this issue:

> 3. The draft plan of action does not cover the communication of confidential or proprietary price or other commercial term information or data to U.S. Reporting Company representatives serving on the ISAG, or to the IEA Secretariat. What impact, if any, will this exclusion have on implementation of the IEA emergency sharing system?

Comments submitted on behalf of a number of U.S. oil companies and by the IEA Secretariat in response to the May 1981 notice supported the need for antitrust protection for the communication of price and other commercial term aspects of oil sale or purchase offers channeled through the ISAG or the Secretariat. However, when this issue was explored more recently during post-test appraisal activities for AST–4, both the Group of Experts engaged as consultants to the IEA to appraise AST–4, and the government/industry Design Group which designed AST–4 pointed out that ISAG and Secretariat access to price and other commercial term aspects of voluntary offers could create a number of difficult problems for the voluntary offer system. In light of the concerns expressed by these groups, we do not at this time propose to cover in the plan of action, Reporting Company communication to the ISAG or the Secretariat of proposed or actual Type 2 voluntary offer prices or related commercial terms. Section 7.5 of the draft we publish today so provides.

It should be noted that the Government does not intend, by this exclusion, to deny antitrust protection to U.S. Reporting Company representatives serving on the ISAG who through no fault of their own receive Type 2 transactional price or other commercial term information. Thus the exclusion is meant to apply only to a Reporting Company's communication, but not to an ISAG member's receipt of it.

Notwithstanding the position evidenced by the current draft plan of action, we remain open to persuasion as to the need for additional antitrust coverage in this area, as actual requirements for successful operation of the emergency sharing system become clearer.

4. Other Issues

Specific comments were requested in May 1981 on the following seven other questions:

> 1. Does the draft plan of action comprehensively and adequately detail the potential emergency sharing actions and communications of U.S. Voluntary Agreement participants?

Comments in response to this question generally reflected satisfaction that the draft plan of action was sufficiently detailed. Several commenters pointed out that the plan of action should expressly apply not only to company activities during a "general" triggering of the IEA emergency sharing system, but also to activities during a "selective" trigger involving sharing with one or more, but less than all, IEA countries. IEA sharing requirements and procedures for a selective trigger differ from those applying in a general trigger, and section 6 of the new draft plan of action recognizes that the company activities described therein may have to be modified in case of a selctive trigger.

> 2. Section 9.15 provides that, with certain exceptions related to the resolution of disputes, the draft plan of action does not cover the communication of confidential or proprietary oil prices or other commercial terms. The draft plan of action does not cover the communication of such information or data by or to U.S. Reporting Companies for the purpose of carrying out voluntary offers, or of implementing oil shipments mandated by governments of IEA countries. What impact, if any, will this exclusion have on implementation of the IEA emergency sharing system?

Comments submitted on behalf of fourteen of the twenty U.S. oil companies which have agreed to be IEA Reporting Companies, and by the IEA Secretariat, attested to the essential need for antitrust coverage of communications between Reporting Companies with respect to price and other commercial terms, in the IEA's voluntary offer process. The concerned Government agencies agree with the point made in these comments that the volumetric aspect of an oil supply transaction between companies cannot be separated from the price element of such a transaction. Accordingly, the new draft plan of action does not contain the exclusion which previously was at section 9.15.

> 4. It is necessary for the draft plan of action to spell out in further detail the communications which may take place between ISAG or Reporting Companies and various other entities, or the actions which may be taken by Reporting Companies?

A number of comments were received about specific aspects of the previous draft plan of action's coverage of these communications and actions; the new draft reflects a substantial number of revisions made in response to them.

In addition, this draft plan of action contains at section 8.14 a new provision dealing with approval of company disclosures of their confidential or proprietary information or data, which was utilized for the first time in the antitrust approval letter for company participation in AST–4. In previous IEA systems tests, the clearance letters enumerated the types of confidential or proprietary information or data which could be disclosed by the companies, and required further Government approval before other types of such information or data could be communicated. Section 8 of the draft plan of action, like a comparable provision of the AST–4 antitrust approval letter, enumerates specific types of covered information, but also makes it permissible to disclose "such additional . . . types of information or data as may be needed on a timely basis in implementing the [IEA's] oil allocation procedures" if a request for advance approval of such disclosure were not feasible. However, prompt notice of any such additional disclosure must be given to U.S. Government observers at the allocation site along with an explanation of why advance approval could not be obtained, and approval for the continued submission or exchange of such information or data can be terminated prospectively by U.S. Government observers if that proves warranted. *See* section 8.14.

5. Should the proceedings of the IEA's Dispute Settlement Centre be covered by the draft plan of action?

There was general agreement among those commenting that Dispute Settlement Centre proceedings need not be covered by the plan of action. Accordingly, references to such procedures have been omitted from the new draft.

6. The definition of "oil", which is based on that contained in the IEP, is not the same as the definition of "petroleum" contained in the Voluntary Agreement. What definition is most appropriate and useful?

Diverse views were expressed on this question. We have concluded that the definition of "petroleum" contained in the Voluntary Agreement should be adopted in the plan of action, in lieu of the IEP definition of "oil," in order to avoid the confusion which might arise from the use of two different definitions in the documents governing the U.S. Reporting Companies.

7. Should the draft plan of action quote or describe pertinent legal authorities or other provisions bearing on implementation of the Plan of Action, such as EPCA Section 252(d)(1) and Section 6(c)(2) and (e)(3) of the Voluntary Agreement empowering the Attorney General to amend, modify, disapprove or revoke a plan of action at any time?

Opinion also was mixed on this issue. We do not propose to include an enumeration of pertinent legal authorities in the plan of action. Since the Attorney General's power to modify or revoke a plan of action is recited in Articles 6(c)(2) and 11(b) of the Voluntary Agreement, into which the new plan of action would be incorporated by reference, it does not seem necessary to recite it again.

8. Section 13 of the draft Plan of Action provides for the subsequent issuance of monitoring guidelines establishing procedures for Government approvals, modification or revocation of the Plan of Action, further implementation of recordkeeping requirements, notice to or from U.S. Government observers, and other matters. Should these procedures be detailed in the draft plan of action?

This is another question which drew contradictory responses from commenting persons. We do not propose to attempt to detail monitoring guidelines at this time, because we believe that such procedures quickly could become outdated. Monitoring guidelines are likely to be more realistic if issued close to an activation of the IEA's emergency sharing system.

III. Subject of Comments

Second Plan of Action To Implement the International Energy Program

1.0 *Introduction.*

1.1 This Plan of Action is adopted pursuant to Section 252 of the Energy Policy and Conservation Act ("EPCA"), 42 U.S.C. 6272, and Sections 5 and 6 of the existing Voluntary Agreement and Plan of Action to Implement the International Energy Program ("Voluntary Agreement"), as an amendment to the Voluntary Agreement, in order to enable oil companies and their employees to participate in the IEP and in advisory bodies created by the IEA during an international energy supply emergency. Section 6(a) of the existing Voluntary Agreement is hereby amended to read: "The Second Plan of Action to Implement the International Energy Program is incorporated by reference." Section 6(e) of the Voluntary Agreement is hereby deleted. 1.2 Section 252(f) of EPCA provides that persons engaged in activities pursuant to a plan of action shall have a defense to any civil or criminal action brought under the antitrust laws of the United States, or under any similar state laws, that challenged actions were taken in the course of carrying out a plan of action and were in compliance with the requirements of Section 252 of EPCA and rules promulgated thereunder. Section 252(k) provides a breach of contract defense that an alleged breach was caused predominantly by action taken during an international energy supply emergency to carry out a voluntary agreement or plan of action.

2.0 *Activation.*

This Plan of Action shall enter into effect upon a determination by the President that an international energy supply emergency exists, and notification of the participants in the Voluntary Agreement.

3.0 *Definitions.*

For purposes of this Plan of Action:

"Allocation site" is that space in IEA headquarters or elsewhere designated by the Allocation Coordinator as the work area in which the Emergency Management Organization shall conduct its operations.

"Confidential or proprietary information or data" is information or data relating to a firm or group of firms that (A) may tend to cause harm to competition or to the competitive position of that firm or group of firms if disclosed and (B) customarily (i) is not disclosed by that firm or group of firms to other persons or (ii) is disclosed to other persons pursuant to a restriction on further disclosure of such information or data.

"Communication" is any written or unwritten disclosure, provision or exchange of information or data relating to the carrying out of emergency allocation.

"Emergency Management Organization" is all of the functional offices or groups at the allocation site which will supervise the allocation process, and includes the Standing Group on Emergency Questions, the Standing Group on Emergency Questions Emergency Group, the Allocation Coordinator, various task forces on the IEA Secretariat, the Industry Advisory Board and the Industry Supply Advisory Group.

"EMM" is the Emergency Management Manual issued by the IEA as in effect during an international energy supply emergency.

"ISOM" is the Industry Supply Advisory Group/IEA Secretariat Operations Manual describing activities of the Industry Supply Advisory Group

and the IEA Secretariat during a period when the Secretariat and the Industry Supply Advisory Group are assisting the Allocation Coordinator in the international allocation of oil pursuant to Chapters III and IV of the IEP.

"Questionnaire A" means the monthly data submission by a Reporting Company to the IEA which provides for the current month, the two prior months and the two following months, specified data on imports by origin, exports by destination, indigenous production, bunkers, stocks at sea and inventories to, from or in IEA countries as prescribed in the EMM and denominated therein as "Questionnaire A".

"Questionnaire B" means the monthly data submission by the National Emergency Sharing Organization or other governmental agency of an IEA country which provides for the current month, the two prior months and the two following months, specified data on imports by origin, exports by destination, indigenous production, bunkers, stocks at sea and inventories for all oil firms engaged in such activities in the country concerned, as prescribed in the EMM and denominated therein as "Questionnaire B".

"Type 2 activities" include those activities of Reporting Companies defined or described as "Type 2 activities" in the EMM. In general, these include submission of data to National Emergency Sharing Organizations or other governmental agencies of IEA countries and to the IEA, communications with National Emergency Sharing Organizations, the IEA and other Reporting or Non-Reporting Companies in connection with the making of "voluntary offers" to reallocate or redirect oil supplies in response to a request of the Emergency Management Organization, and implementation of transactions pursuant to those voluntary offers which have been accepted by the Allocation Coordinator.

"Type 3 activities" include those activities defined or described as "Type 3 activities" in the EMM. Generally, these will include all actions to implement international oil allocation mandated by governments of IEA countries, pursuant to the IEP.

4.0 *Scope of Coverage.*

4.1 This Plan of Action describes the activities of U.S. companies and persons, which it presently is anticipated would take place during an international energy supply emergency, in advising and assisting the IEA in implementing Chapters III and IV of the IEP. Actions and communications comprehended within these activities come within the coverage of this Plan of Action and, if carried out in accordance with the terms of Section 252 of EPCA, applicable regulations implementing Section 252, the Voluntary Agreement, and the conditions set forth in this Plan of Action, are entitled to the antitrust defense accorded under Section 252(f) of EPCA. It is intended that any significant changes occurring in the anticipated activities of U.S. companies and persons will be set out in amendments to this Plan of Action as early as practicable following a determination that an international energy supply emergency exists.

4.2 Specifically excluded from coverage of this Plan of Action are the following activities: (A) Those defined or described in the EMM as "Type 1" activities, which are undertaken voluntarily and independently of any specific request by the IEA during a period of international energy supply emergency and which may be considered to constitute usual commercial activities of U.S. oil companies in both domestic and international commerce, including sales or exchanges with non-affiliated companies; and (B) any actions initiated during times other than an international energy supply emergency (although these may be covered elsewhere in the Voluntary Agreement).

5.0 *General Description of Entities Involved.*

This section describes generally the entities presently expected to participate in the IEA's allocation activities during an international energy supply emergency.

5.1 The Standing Group on Emergency Questions ("SEQ"), composed of representatives of IEA countries, carries out the functions assigned to it in Chapter IV and the Annex of the IEP, and any other function delegated to it by the Governing Board. The SEQ Emergency Group ("SEQ–EG") is an IEA body reporting to the SEQ, composed of representatives from each IEA country, which is convened during the period when the IEA allocation mechanism is activated. It is responsible for ensuring intergovernmental agreement or consensus as regards decisions taken in implementation of the IEP during an emergency; it also is responsible for maintaining communication between the IEA and IEA countries on matters of emergency policy or problems.

5.2 The Allocation Coordination is the Executive Director of the IEA; he is assisted by a small team and may designate one or more members of this team to act on his behalf on particular matters. The Allocation Coordinator and his team will be responsible to the SEQ–EG for the supervision and direction of the allocation process. This responsibility will include reviewing and approving proposed allocation actions, coordinating with the SEQ–EG on policy guidance and on problems, and ensuring that the implementation of allocation is consistent with the principles and objectives of the IEP and the EMM and that all of the appropriate resources of all Reporting Companies as a group are used in resolving allocation problems. The Allocation Coordinator is responsible for accepting for implemention those voluntary offers he deems most suitable in the circumstances.

5.3 The IEA Secretariat, consisting of the Executive Director and staff of the IEA, will be organized as appropriate to deal with various aspects of the emergency operation.

5.4 The National Emergency Sharing Organizations ("NESOs") are governmental organizations in each IEA country which will be responsible for national oil reallocation, other national energy emergency measures, and liaison with the IEA on matters of international oil allocation in an emergency. They may at times include industry personnel.

5.5 The Industry Supply Advisory Group ("ISAG") is an *ad hoc* group of the Industry Advisory Board made up of representatives from the Reporting Companies, which in its substantive allocation activities is responsible to the IEA. The ISAG will serve as an advisory group to the Allocation Coordinator during a period of oil allocation under Chapters III and IV of the IEP and will coordinate, under the guidance of the Allocation Coordinator, voluntary rearrangement of supplies by Reporting and Non-Reporting Companies, including independent development of transactions in order better to direct supplies to meet IEA calculated supply rights. It is composed of oil industry supply, logistics, maritime and other experts employed by Reporting Companies and presently includes an ISAG Manager, a Deputy Manager and the heads and members of the following subgroups:

(A) The Supply Coordination Group, each of whose members is assigned to communicate with and process the material received from a group of Reporting Companies.

(B) The Country Supply Group, each of whose members is assigned, together with a memnber of one of the Secretariat's task forces, to

communicate with and process the material received from a specified group of IEA country NESOs.

(C) The Supply Analysis Group, which assists the analytical efforts of the Supply Coordination Group and the Country Supply Group as assigned, and is responsible for all other ISAG analytical work on supply reallocation problems or potential problems identified in the course of the supply emergency.

5.6 The Reporting Companies are a group of oil companies so designated by the IEA, including all U.S. company participants in the Voluntary Agreement and their designated foreign affiliates. During each monthly cycle they are responsible for submitting appropriate Questionnaire A data to the IEA and NESOs or other governmental agencies in countries in which they operate, and for carrying out Type 1, Type 2 and Type 3 allocation activities.

5.7 The Non-Reporting Companies are firms which are not Reporting Companies and which may submit data on indigenous production, imports, exports, stocks at sea and inventories, and may make voluntary offers to redirect petroleum supplies. These submissions and offers are made to NESOs but not to the IEA directly.

5.8 The Industry Advisory Board ("IAB"), whose members are drawn from the group of Reporting Companies, has been established by the IEA to provide advice and consultation on emergency petroleum sharing and related questions. When the emergency sharing system is activated the IAB may be consulted on specific petroleum sharing and related questions by the Allocation Coordinator and his team and by the ISAG, as described in Section 6.8. It also may be consulted from time to time by the ISAG Manager on ISAG organizational, administrative and personnel matters.

6.0 *General Description of the Allocation Process.*

The IEA international allocation operation is governed by a cycle of scheduled activities set by the Allocation Coordinator, based upon the calculation of allocation rights and allocation obligations monthly or at changed intervals as necessary. While normal commercial activities of the Reporting Companies and Non-Reporting Companies, both within countries and in international trading, will go forward and change throughout the allocation cycle in response to changing circumstances, the international allocation activities of U.S. Reporting Companies and the ISAG which are contemplated under this Plan of Action are guided by this schedule as to both timing and type of activity undertaken. Unless circumstances require modification by the Allocation Coordinator, the timetable governing operations typically would be in accordance with Sections 6.1 through 6.9. It is expected that some modifications in the activities described in this section may be necessary in the case of a selective rather than general activation of the emergency allocation system, instigated pursuant to Article 17 of the IEP.

6.1 After, or in anticipation of notification of an emergency which would warrant the triggering of an international energy supply emergency (or, in a subsequent month, after the beginning of the monthly cycle), Reporting Companies will submit Questionnaire As to the IEA. At the same time, they or their affiliates in IEA countries will submit to their NESOs or other governmental agencies similar information or data on operations in those countries. These data will be incorporated, along with aggregate information with respect to domestic Non-Reporting Companies, in Questionnaire Bs which will be submitted to the IEA by IEA countries.

6.2 The ISAG, but mainly the Supply Coordination Group, will analyze Questionnaire As for errors or anomalies, and ISAG, but mainly the Country Supply Group, with its counterparts from the Secretariat, will do the same with Questionnaire Bs. Possible errors in the questionnaires, as well as discrepancies between Questionnaire As and Bs, then will be discussed with the Reporting Companies and NESOs.

6.3 The questionnaire data will be processed by the Secretariat to obtain the supply right, and the allocation right or allocation obligation of each IEA country for the monthly cycle, taking into account adjustments provided for in the EMM. The resulting allocation rights and allocation obligations are available to the Allocation Coordinator, the Secretariat, the SEQ–EG and the ISAG, and are transmitted to NESOs and Reporting Companies and through NESOs to Non-Reporting Companies.

6.4 Based on this allocation right/allocation obligation information, the Reporting Companies and Non-Reporting Companies will ascertain whether their supplies can be reallocated in order to assist in balancing allocation rights and allocation obligations. They may explore with non-affiliated companies whether this result can be accomplished through sale or exchange with those companies. Within a specified time Reporting Companies are expected to notify the IEA of their potential voluntarily to meet each IEA country's allocation right or allocation obligation, and may submit to the IEA a number of voluntary offers to reallocate supplies. These may be "open" offers to supply a quantity of petroleum to any destination chosen by the IEA or to receive oil from any available source. They also may be "closed-loop" offers of a transaction between affiliates or with another firm or a NESO to divert quantities of oil from a specified country to another specified country. During the same period, ISAG may solicit such voluntary offers, and NESOs will seek to develop such voluntary offers from Non-Reporting Companies in their jurisdictions and submit them to the IEA.

6.5 The ISAG, but mainly the Supply Coordination Group, will analyze voluntary offers received from Reporting Companies, and may contact the Reporting Companies for clarification of details, to suggest possible modifications, or to explore the possibility of additional offers. The ISAG and its Country Supply Group and its Secretariat counterparts will do the same for voluntary offers received from NESOs.

6.6 In accordance with criteria set forth in Sections 7.3(I) and 7.3(J), ISAG and Secretariat personnel will undertake a balancing of allocation rights and allocation obligations, including a matching of "supply" and "receive" offers and an examination of "closed-loop" offers for suitability, for the periods covered under the current monthly allocation cycle, for future monthly cycles where applicable, and to fulfill unsatisfied allocation rights or allocation obligations from prior monthly cycles.

6.7 ISAG and the Secretariat will notify the Reporting Companies and NESOs of the extent to which the Allocation Coordinator has approved ISAG's recommendation for acceptance of certain offers. Within a specified period the notified entities will advise whether they are implementing these offers. If appropriate, the Reporting Companies and NESOs also will confirm whether they have been able to conclude any additional arrangements previously suggested to them by ISAG or the Secretariat. All these results are to be reported by ISAG to the Allocation Coordinator, who in turn may report the information to the SEQ–EG.

6.8 If substantial unfulfilled allocation rights and allocation obligations remain among IEA countries, the SEQ–EG may request the ISAG and

Allocation Coordinator to consult with the IAB, and with others, on ways to elicit further voluntary offers to balance these allocation rights and allocation obligations. If the imbalances remain after subsequent efforts by ISAG to implement the recommendations agreed on by the Allocation Coordinator and the IAB, and cannot be resolved on a voluntary basis, the Allocation Coordinator will so inform the SEQ–EG.

6.9 The SEQ–EG then will undertake intergovernmental consultation and, after contacts by the Allocation Coordinator or his team with the Reporting Companies concerned, will determine whether corrective actions previously identified and advised to Reporting Companies, but not undertaken by them on a voluntary basis, should be mandated by IEA country governments. As a last resort IEA country governments having jurisdiction over the Reporting Companies and Non-Reporting Companies may order them to carry out Type 3 allocation shipments.

7.0 *Description of Contemplated Activities.*

7.1 *U.S. Reporting Companies.* Except as otherwise provided in this Plan of Action, the following activities of a U.S. Reporting Company and its designated affiliates, including communications and other actions, are contemplated under it:

(A) Preliminary communications with the Emergency Management Organization to ensure that communication channels are working and to discuss schedules for submission of Questionnaire As.

(B) The submission to the IEA of Questionnaire As, and subsequent discussion with ISAG or the Secretariat of these and of other relevant information reasonably required to confirm Questionnaire A data, including provision of amplifying or collateral information.

(C) The receipt of the monthly allocation rights and allocation obligations from the IEA, the subsequent development of voluntary offers to supply or receive petroleum in order to assist in balancing IEA countries' allocation rights and allocation obligations, and the submission of voluntary offers to the IEA. The voluntary offers may consist of sales or exchanges with other companies as well as intracompany movements.

(D) Communications with other Reporting or Non-Reporting Companies, or with the ISAG or NESOs, following receipt of the monthly allocation rights and allocation obligations, for the purpose of developing voluntary offers for the current monthly cycle, including the current and two succeeding months, even if a voluntary offer cannot be agreed on by the parties or subsequently is rejected by the Allocation Coordinator.

(E) Discussion with ISAG or the Secretariat to clarify aspects of a voluntary offer submitted, to consider possible modification of a voluntary offer which is seen as needed by ISAG to balance supplies among IEA countries more effectively, or to explore and identify possible additional voluntary offers which might be made.

(F) Any communications and actions necessary and appropriate to carry out a voluntary offer after notification by ISAG or the Secretariat that it has been accept ed by the Allocation Coordinator.

(G) Communications with ISAG or the Secretariat to report that accepted voluntary offers are or are not being implemented.

(H) Consultations with the SEQ-EG, interested IEA country governments and, as required, other firms about possible or actual mandatory shipments of petroleum, and actions taken to carry out mandated shipments of petroleum.

(I) Communications with ISAG or the Secretariat dealing with study or appraisal of the allocation cycle.

(J) Any other communication with ISAG, a NESO or the Secretariat which relates directly to timely aspects of implementing the allocation cycle as generally set out in Section 6.

(K) Communications with the Allocation Coordinator to resolve a dispute arising out of a Type 2 or Type 3 transaction described in this Section 7.1.

7.2 *U.S. IAB Members.* Except as otherwise noted in this Plan of Action, the following activities of a U.S. Reporting Company member of the IAB are contemplated under it, subject to such recordkeeping requirements as may be provided for pursuant to Section 12 of this Plan of Action:

(A) Participation as an IAB member in meetings of the IAB or with the SEQ-EG, the Allocation Coordinator, ISAG representatives or the Secretariat, to develop and transmit advice on the substantive issues set forth in Section 6.8.

(B) Participation as an IAB member in meetings with the ISAG organizational, administrative or personnel matters.

(C) It is understood that during the course of an international energy supply emergency, other meetings of the IAB and its subcommittees, or other industry bodies created by the IEA, may be scheduled to advise on matters unrelated to the emergency or only marginally related to the international emergency allocation operation. Such meetings are not covered under this Plan of Action. The provisions of Section 5 of the Voluntary Agreement continue to apply to them as if no emergency had occurred.

7.3 *U.S. ISAG Members.* Except as otherwise noted in this Plan of Action, the following activities of U.S. Reporting Companies and their representatives serving on the ISAG are contemplated under it, if related to the representatives' assigned duties:

(A) Communications with Reporting Companies, NESOs, and the Secretariat, to ensure that communication channels are working and to discuss schedules for submission of Questionnaire As or Bs, and with NESOs with respect to domestic policies, practices or issues which may affect international emergency allocation.

(B) Receipt and analysis of Reporting Company Questionnaire As to assist in the allocation process, including detection of possible errors or anomalies, and subsequent communications with these Reporting Companies and with NESOs to resolve such potential discrepancies.

(C) Receipt and analysis of NESO Questionnaire Bs to assist in the allocation process, including detection of possibe errors or anomalies, and subsequent communications with NESOs to resolve them.

(D) Receipt of the monthly allocation rights and allocation obligations from the Secretariat, the transmission of allocation rights and allocation obligations to Reporting Companies, and analytical discussions within ISAG and with Reporting Companies or NESOs, as well as study of ISAG work formats as required, in order to identify the types of actions which may be needed to correct the imbalances in available supplies among IEA countries.

(E) Contacts with Reporting Companies or NESOs and with the Secretartiat on formulations of voluntary offers; the receipt and analysis of voluntary offers, and discussion of them within ISAG; and follow-up contacts with Reporting Companies or NESOs to clarify aspects of voluntary offers submitted, to consider possible modification of an offer which is seen as needed by ISAG more effectively to balance supplies among IEA countries, or to explore and identify possible additional voluntary offers.

(F) Analytical work to develop a country supply/demand profile for an IEA country and to study general product imbalance problems within an IEA country in order to advise the Secretariat or a NESO on possible

resolution of these problems. To assist his study of product imbalance problems within a country, a U.S. Reporting Company representative on the ISAG may receive from the government of that IEA country of from the Secretariat, data on historical supply patterns for that country, including indigenous production, imports of crude and products by country of origin, exports of crude and products to country of destination, stocks at sea and crude and product inventory profiles. Data or information with respect to regions of a country may be provided as required.

(G) Other analytical work on country or company supply plans as requested by the Allocation Coordinator, including with respect to such plans, following, analyzing and forecasting shipping tonnage availability and requirements, during the course of an emergency, in addition to communications within ISAG or with outside persons in order to develop necessary information for such shipping analyses.

(H) Participation in the ISAG/Secretariat process of balancing allocation rights and allocation obligations of IEA countries for the periods covered in an allocation cycle, including matching available "supply" and "receive" voluntary offers and examining "closed-loop" offers.

(I) The ISAG in consultation with the Secretariat will evaluate the voluntary offers by Reporting Companies and by NESOs for Non-Reporting Companies. In making its evaluation and recommendations to the Allocation Coordinator, it may be guided by technical factors including the following, in addition to specific guidance from the Allocation Coordinator:

(i) The volumes of petroleum required to balance the allocation rights and allocation obligations of individual IEA countries;

(ii) The petroleum logistics system of each country, including harbor capacity, storage capacity, and barge/pipeline facilities;

(iii) The specifications of the crude oil being delivered in relation to the refining capability within the country to process that oil;

(iv) Product imbalance problems in IEA countries as compared with the supply mix scheduled for these countries;

(v) Insofar as possible and consistent with Section 7.3(J), maintenance of normal supply patterns for various IEA countries and normal supply proportions between crude oil and products and among different categories of crude oil and products;

(vi) Minimization of transportation costs, for example, by avoidance to the greatest possible extent of logistical disadvantages arising from unduly long voyages or empty backhaul voyages;

(vii) Spreading as evenly as possible over all IEA countries the overall deviation from the normal IEA crude oil quality due to the supply disruptions;

(viii) Utilization of backhaul voyages for vessels;

(ix) The need for priorities in considering offers, as among such voluntary offers.

If, after such an evaluation process, there remain alternative allocation possibilities for an IEA country or too many voluntary offers so that a selection must be made, such alternatives may be discussed with the relevant NESO and Reporting Companies as will as with the Secretariat for the purpose of exchanging views on the choices to be made.

(J) In evaluting potential alternative actions to balance allocation rights and allocation obligations, ISAG is not to take into account the economic benefit or penalty to any Reporting Company on IEA country, or the market share of any Reporting or Non-Reporting Company in any country. Internal fair sharing of available supply is solely a matter for decision by each IEA country.

(K) Participation in development of an ISAG appraisal of the monthly allocation cycle.

(L) Participation, at meetings of ISAG, of the ISAG Manager and Deputy Manager with subgroup heads, and of ISAG subgroups, as well as participation by U.S. Reporting Company representatives on the ISAG in joint work sessions, relating to carrying out of the international emergency monthly allocation cycle as indicated in Sections 6 and 7.3.

(M) Any communications, not already specifically mentioned, with members of ISAG, with the Secretariat, with Reporting Companies and with NESO's, on subjects which relate directly to aspects of implementing the international emergency allocation cycle as indicated in Sections 6 and 7.3.

7.4 *Other Activities.* Such additional actions or communications as may be needed on a timely basis to meet specific problems as they arise in implementing the emergency allocation program of the IEA, provided that such actions or communications are approved by the U.S. Government, in such manner as may be provided for pursuant to Section 12 of this Plan of Action.

7.5 *Exclusion.* This Plan of Action does not cover the communication by a U.S. Reporting Company or its designated affiliate of proposed or actual Type 2 Voluntary offer prices or related commercial terms to the ISAG or the Secretariat.

8.0 *Confidential or Proprietary Information Which May Be Communicated by or to Voluntary Agreement Participants and Their Employees.*

The following types of confidential or proprietary information or data may be communicated by or to Voluntary Agreement participants or their employees in carrying out activities covered by this Plan of Action:

8.1 Disaggregated Questionnaire A or B data submitted by Reporting Companies or NESOs of IEA countries, *i.e.*, data as required by the Questionnaire A and B reporting instructions specified in the EMM, and ISAG work formats derived from such data, including:

(A) Indigenous production of crude oil and natural gas liquids (NGLs) and feedstocks;

(B) Imports and exports of crude oil, NGLs and feedstock;

(C) Petroleum product imports and exports (in crude oil equivalents);

(D) International marine bunkers;

(E) Inventory levels and changes; and

(F) Stocks at sea.

8.2 Capability of a refinery to process crude oil or specific crude oils, and the capability of a pipeline, dock or terminal or other storage or transit facility to receive, store, or throughput crude oils or specific crude oils or petroleum products or specific petroleum products.

8.3 Capability of a port, installation, or waterway to receive or move vessels of various sizes and configurations.

8.4 The availability of tankers, including their location, routing, size, specifications and operating characteristics.

8.5 Main characteristics of crude grades and product specifications (excluding individual company crude yields and product specifications).

8.6 Actual and estimated historical production data on crude oils and NGLs for individual countries.

8.7 Aggregated historical country supply patterns for crude oil, NGLs and petroleum products, *e.g.*, imports by country of origin, exports to country of destination, and inventory profiles.

8.8 Specific refinery considerations that prevent acceptance or release of certain crudes, *e.g.*, the inability of a refinery to process specific types of crude oil or to make certain specialty products for which the crude oil is particularly suited; the inability of a type of crude oil to meet product specifications; hazards to refinery

operations which processing of a particular type of crude oil might cause; or the need for a refinery to operate at a minimum throughput level.

8.9 Identification of supply logistics problems relating to certain countries or regions of countries.

8.10 Identification, without disclosure of specific costs, prices or financial information, or other underlying facts, of the existence of certain individual company considerations which would preclude or make impracticable a proposed movement of oil, involving:

(A) Commercial policy;

(B) Supply or transportation factors;

(C) Affiliate, third-party, concessional or other contractual arrangements; or

(D) constraints relating to actions or policies of governments.

8.11 Identification of differences between the crude oil and petroleum product supply mix and demand for products in certain countries or regions of countries.

8.12 Information or data concerning voluntary offers made by Reporting Companies to supply or receive, and information or data concerning the implementation of voluntary offers which have been accepted by the Allocation Coordinator.

8.13 Clarification, amplification, correction, explanation or supplementation of the types of information enumerated in Sections 8.1–8.12, provided that this Section 8.13 does not supersede any specific prohibition contained in this Plan of Action.

8.14 Such additional information or data or types of information or data as may be needed on a timely basis in implementing the oil allocation procedures of the IEP as guided by the EMM and the ISOM, if a request for advance approval is not feasible; provided, that prompt written notice of such submission or exchange together with a description of the circumstances necessitating such submission or exchange without a request for advance approval must be given to the representatives of the Secretary of Energy, the Attorney General and the Federal Trade Commission at the allocation site. Approval for the continued submission or exchange of such information or data can be terminated prospectively by the Department of Energy representative or the Department of Justice representative.

8.15 This Plan of action does not cover the communication of the following types of information or data:

(A) Company costs or market shares of crude oil or petroleum products (other than those which can be derived from Questionnaire A or B data); or

(B) Individual company information regarding overall long-term investment, divestment, refining, operating, transportation or marketing program.

9.0 *Disposition of an Access to Confidential or Proprietary Information or Data.*

9.1 In no case shall an employee or representative of a U.S. company participant in the Voluntary Agreement or any affiliate of such a U.S. company, which affiliate is designated as a participant in the Voluntary Agreement, supply to his company or to any other person, any confidential or proprietary information or data obtained as a consequence of his membership in the ISAG, except such information or data as is necessary to be supplied in the course of carrying out the international petroleum allocation provisions of the IEP as described in the EMM. No U.S. Reporting Company representative serving on the ISAG may remove any docuements related to such allocation from the IEA premises, except as authorized by the U.S. Government in such manner as may be provided for pursuant to Section 12 of this Plan of Action.

9.2 One copy of all Questionnaire A data shall be provided in Questionnaire A format, as distinguished from telex format, in accordance with Section 10.8(B), to each of the recipients there indicated, and to such other persons as the U.S. Government may specify, as may be provided pursuant to Section 12 of this Plan of Action.

10.0 *Requirements for Recordkeeping.*

10.1 *Introduction.* Section 252 of EPCA provides that a U.S. Government representative shall be present at all emergency allocation meetings under the Voluntary Agreement and that a full and complete record (where practicable, a verbatim transcript) shall be made. The following sections are in further implementation of the existing U.S. recordkeeping requirements in Section 252 of EPCA and 10 CFR Part 209 and apply such requirements to IEA emergency allocation activities. These requirements apply to U.S. Reporting Companies and to U.S. Reporting Company representatives serving on the ISAG who will be participating in the allocation activities at the allocation site. If experience indicates the need, the U.S. Government observers at the allocation site will have discretion to allow alternative operating procedures and recordkeeping requirements consistent with Section 252 of EPCA and existing regulations.

10.2 *Definitions.* For purposes of these requirements the following additional definitions apply:

(A) "Communication" excludes the communication of administrative, procedural, or ministerial information or data, and communications which are subject to attorney-client privilege.

(B) "Allocation site communication" means any unwritten face-to-face communication occurring on the allocation site, other than in an allocation meeting.

(C) "Allocation site telephone communication" means any telephonic communication received at or sent from the allocation site.

(D) "Off-site communication" means any unwritten face-to-face or telephonic communication which does not occur on the allocation site.

(E) "Allocation meeting" includes the following group meetings held at the allocation site (with or without IEA Secretariat participation):

(i) Meetings of the entire ISAG;

(ii) Meetings of the ISAG's Country Supply, Supply Coordination or Supply Analysis subgroups;

(iii) Meetings of the ISAG Manager or Deputy Manager and Industry Supply Advisory Group subgroup heads; and

(iv) Meetings of the ISAG Manager or other ISAG personnel with members of the IAB.

10.3 *U.S. Government Monitoring and Recordkeeping at the Allocation Site.*

(A) A U.S. Government observer shall be present throughout all allocation meetings, and may be present at the allocation site during any other communications. It is intended that a U.S. Government observer will be present continuously at the allocation site to monitor allocation meetings, communications, work sessions and individual work by Reporting Company representatives serving on the ISAG: (i) During such regular work hours as ISAG adopts; and (ii) at any extraordinary hours if given reasonable advance notice. U.S. Reporting Company representatives serving on the ISAG may: (i) Engage in individual work or in communications other than allocation site communications or communications in allocation meetings, even if no U.S. Government observer is present at the allocation site; or (ii) engage in allocation site communications despite the absence of a U.S. Government observer at the allocation site if reasonable advance notice of such communications has been given to the U.S. Government observers, or if reasonable advance notice cannot be given; provided, that adequate records

of such communications and, with respect to (ii), of the circumstances concerning notice given or of the circumstances which necessitated such communications without reasonable advance notice, are made by the U.S. Reporting Company representatives serving on the ISAG.

(B) Allocation meetings shall be monitored by a U.S. Government observer, who shall be responsible for keeping a written record of each session, or for ensuring that a verbatim transcript is made. Failure of the U.S. Government to maintain a full and complete written record shall not vitiate the antitrust defense accorded by Section 252 of EPCA unless such failure is due to the willful act of a U.S. Reporting Company representative serving on the ISAG or of a U.S. Reporting Company.

(C) U.S. Government observers shall be permitted to be present during any allocation activities, including communications, involving a U.S. Reporting Company representative serving on the ISAG, except communications between an individual U.S. Reporting Company representative serving on the ISAG and his legal counsel.

10.4 *Unwritten Communications Involving U.S. Reporting Company Representatives Serving on the ISAG.*

(A) These recordkeeping requirements for unwritten communications apply to allocation site communications, allocation site telephone communications, and off-site communications by or to U.S. Reporting Company representatives serving on the ISAG, including communications with members of the IAB, but excluding Communications with the IEA Secretariat, members of the SEQ–EG, or the U.S. NESO.

(B) All unwritten communications of the U.S. Reporting Company representatives serving on the ISAG which relate to allocation activities shall occur on the allocation site except when circumstances make an off-site communication necessary, *i.e.*, when a need for an immediate communication arises unexpectedly or after normal working hours or otherwise makes a return to the allocation site impracticable or unreasonable, or when time zone differences involved in necessary communications otherwise would require early morning arrival or late night stay at the allocation site.

(C) Except when a U.S. Government observer present agrees to make the record, a U.S. Reporting Company representative serving on the ISAG shall make a full and complete record of any allocation site communication, allocation site telephone communication or off-site communication, by means of entering in a standardized log the date, time, approximate duration of the communication, identity of the parties (by name and organization) and a description of the transaction or information or data discussed, including identification of any problem involved and any conclusions reached or recommendations made. In the cse of an off-site communication, he also shall state the special circumstances necessitating this communication; and in the case of an allocation site communication occurring in the absence of a U.S. Government observer from the allocation site, he also shall state the circumstances concerining reasonable advance notice given to the U.S. Government observers, or the circumstances which necessitated such communication without reasonable advance notice.

(D) When a U.S. Reporting Company representative serving on the ISAG has been assigned to a joint work session to solve a specific identified problem, the overall subject matter of which already is contained in a full and complete record of an allocation meeting, the result of which work session will be reported at a meeting where a full and complete record will be maintained, then notwithstanding subsection (c), the record of such session to be kept by the U.S. ISAG representative need only include the date, time and identity of the parties and a brief indication of the substance of the discussion during the work session, with a reference to the allocation meeting where it was more fully discussed.

(E) When a U.S. Reporting Company representative serving on the ISAG communicates with an individual in a NESO, he shall seek to ascertain whether the NESO individual normally is employed by an oil company, and if so the identity of that company should be recorded in the log kept pursuant to Section 10.4(C).

(F) When more than one U.S. Reporting Company representative serving on the ISAG is involved in a communication, the representatives may designate who shall make and supply the record. Non-U.S. Reporting Company representatives serving on the ISAG may agree to furnish the records of communications with U.S. Reporting Companies and with U.S. Reporting Company representatives serving on the ISAG which are otherwise required to be furnished by the U.S. Reporting Companies or their representatives on the ISAG, if such records are kept in the required form and supplied to a U.S. Government observer in accordance with these requirements, and if the U.S. Reporting Companies or their representatives involved so agree.

10.5 *Disposition of Records Made and Documents Prepared or Received at the Allocqtion Site by U.S. Reporting Company Representatives Serving on the ISAG.*

(A) Each U.S. Reporting Company representative serving on the ISAG shall provide to a U.S. Government observer at the allocation site, within three working days of the first day it covers, a copy of any log kept pursuant to Section 11.4(c), and within one working day of the occurrence, a copy of any other written communication which he prepares or receives that relates to allocation activities.

(B) The requirement imposed by paragraph (A) of this Section may be waived by the U.S. Government observers at the allocation site, to the extent that the IEA Secretariat agrees to provide copies of such communications to the U.S. Government observers in accordance with these requirements.

10.6 *U.S. Government Monitoring at U.S. Reporting Company Offices.*

(A) U.S. Government observers shall be permitted to interview all U.S. Reporting Company employees engaged in allocation activities at Reporting Company offices upon reasonable advance notice to the U.S. Reporting Company involved. Any interviewed employee may have counsel present.

(B) U.S. Government observers shall be permitted to examine and copy, at company headquarters during normal business hours and upon reasonable notice to the Reporting Company involved, any communication, or any document or other information source not subject to attorney-client privilege, in the possession of a U.S. Reporting Company, concerning the carrying out of allocation activities.

10.7 *Recordkeeping Requirements for U.S. Reporting Companies.*

(A) A U.S. Reporting Company promptly shall make a full and complete record of the following communications or documents (excluding documents which are administrative, procedural or ministerial in nature) and shall maintain such records and records of any other of the following documents (other than those which are administrative, procedural or mainsterial in nature) which relate to the carrying out of allocation activities:

(i) Intra-corporate documents, not subject to attorney-client privilege, including telexes received and sent, memoranda concerning intra-company discussions of sales or exchanges, documentation concerning actions

requested by the ISAG or proposed by a Reporting Company, and any other documents generated by allocation activities;

(ii) Communications with Reporting Company representatives serving on the ISAG, including any of its own representatives serving on the ISAG, except when the Reporting Company has agreed with the ISAG or with a Reporting Company representative serving on the ISAG that the record of the communication will be made and provided to U.S. Government observers at the allocation site, by ISAG or the Reporting Company representative or, pursuant to Section 10.5(b), by the IEA Secretariat; and

(iii) Communications with another company or with the IEA Secretariat, including communications with respect to developing or implementing a voluntary offer.

(B) Records of unwritten communications should be made by U.S. Reporting Companies in the manner described in Section 10.4 for U.S. Reporting Company representatives serving on the ISAG.

10.8 *Disposition of Records by Reporting Companies.*

(A) Each U.S. Reporting Company within two weeks of preparation shall forward copies of all records required by Section 10.7 to an appropriate office at company headquarters, where they shall be maintained for five years separately from other company records. These records may be subject to U.S. Government examination during and after allocation.

(B) Each U.S. Reporting Company shall send to the Department of Energy, the Department of Justice and the Federal Trade Commission, within seven days after the close of the week (ending Saturday) of the communications recorded thereunder, records required to be made and maintained under Sections 10.7(A) (ii) and (iii), except that records of unwritten communications with another company shall be sent no later than the close of the week (ending Saturday) of the communications recorded. Any portions of such records which are believed not to be subject to public disclosure should be specified. If possible, copies of communications by U.S. Reporting Companies shall be sent to the U.S. Government simultaneously with and by the same means of transmission used to send the original, rather than by the later dates indicated in this paragraph.

10.9 *Reports of Actions Taken.*

(A) Under the Voluntary Agreement, U.S. Reporting Company must report to the U.S. Government actions taken pursuant to a plan of action. Therefore, each U.S. Reporting Companies shall report to the Departments of Energy and Justice and the Federal Trade Commission, actions taken, such as voluntary offers accepted, and reallocations of supply in response to accepted voluntary offers. Communications with respect to developing or implementing a voluntary offer are to be reported under Section 10.8(B).

(B) A report shall be submitted within seven days of the end of the week (ending Saturday) in which the action was taken.

(C) The style and content of a report are left to the discretion of the individual U.S. Reporting Company. It can be submitted in any fashion a company believes will best reflect what it has done. In the case of voluntary offers, the record should include substantially all of the material terms contained in the voluntary offer itself.

11.0 *ISAG Meetings—Notice Requirements*

11.1 Pursuant to the notice requirements of Section 5 of the Voluntary Agreement, the ISAG emergency activities at the allocation site will be conducted as a single ISAG meeting. Because it will be impracticable to notice all allocation meetings, communications and other activities during the course of a supply emergency, there will be only one **Federal Register** notice at the beginning of an emergency supply allocation operation.

11.2 U.S. Government observers shall be notified in advance of the time and place of each allocation meeting, and of any meeting held pursuant to Section 7.2 (A) or (B). If all or a portion of the allocation site is to be in a place other than IEA headquarters, the Allocation Coordinator and/or the ISAG Manager shall so notify the U.S. Government observers assigned to monitor activities of U.S. Reporting Company representatives serving on the ISAG during the allocation period, as much in advance as possible.

12.0 *U.S. Government monitoring.*

This Plan of Action shall be governed by monitoring guidelines to be issued by the Secretary of Energy pursuant to the provisions of section 252 of EPCA, 10 CFR Part 209, and the Voluntary Agreement. Such monitoring guidelines may establish procedures for the approvals described in Sections 7.4 and 8.14 or for modification or revocation of this Plan of Action, for further implementation of the recordkeeping requirements established hereunder, for notice to or from U.S. Government observers, or for other matters pertaining to implementation of this Plan of Action.

IV. Specific Comments Requested

Comments are invited on the draft "Second Plan of Action to Implement the International Energy Program" in general, or on particular provisions of it. In addition to such other comments as respondents wish to make, specific comments are requested on the following issues (please reference the pertinent paragraph number when commenting):

1. What would be a workable system for giving antitrust protection only to those Type 1 voluntary offer transactions which are undertaken to facilitate the operation of the IEA's emergency sharing system?

2. At present, it is possible for U.S. ISAG members to be assigned as liaison with their own companies during the voluntary offer process. How important is such an assignment to the efficiency of the voluntary offer process? What risks to competition may it pose?

3. Is the language of section 7.5 adequate to assure that antitrust protection will not be denied company representatives serving on the ISAG who, through no fault of their own, receive Type 2 transactional price or other commercial term information?

4. What conforming changes in the Voluntary Agreement and DOE's implementing regulations at 10 CFR Part 209 would this plan of action make necessary?

V. Comment Procedures

You are invited to submit your comments on the draft plan of action, and on the specific questions raised with respect to this draft. Comments should be in writing, identified on the outside envelope and on the documents submitted with the designation, "IEA Plan of Action". Comments should be submitted by the date indicated in the "Date" section of this Notice and to the address indicated in the "Address" section. Ten copies should be submitted. Any information or data submitted and which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination. We will consider all comments received by January 2, 1984.

Issued in Washington, D.C., October 24, 1983.

Theodore J. Garrish,

General Counsel.

[FR Doc. 83-28314 Filed 10-27-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement, European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning peaceful uses of atomic energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the return of 80 Kilograms of highly enriched research reactor fuel from the HFR material test reactor in the Netherlands to the DOE facility at Idaho for reprocessing and storage.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this Subsequent Agreement will not be inimical to the common defense and security. This arrangement for the return of U.S. origin highly enriched uranium (HEU) is consistent with U.S. non-proliferation policy in that it serves to reduce the amount of HEU abroad.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 21, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-29290 Filed 10-27-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements, Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Governments of the United States of America and Japan Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/EU (JA)-58, from Japan to Belgium, fuel rods containing 1,000 grams of uranium, enriched to 3.4 percent in U-235, with gadolinium, for irradiation, post-irradiation examination, and ultimate disposal.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 21, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-29293 Filed 10-27-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Governments of the United States of America and Japan Concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Governments of the United States of America and Norway Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD/NO(JA)-23 from Japan to Norway, 900 grams of uranium, containing 31 grams of U-235 (3.4 percent enrichment) in the form of fuel rods, for irradiation, post irradiation examination, and subsequent disposal as waste.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 21, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affair.

[FR Doc. 83-29292 Filed 10-27-83; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Governments of the United States of America and Norway concerning civil uses of atomic energy, as amended, and the Agreement for Cooperation Between the Governments of the United States of America and Sweden concerning civil uses of atomic energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the retransfer of U.S. origin special nuclear material as follows:

RTD/NO(SW)-14, from Sweden to Norway, miscellaneous samples for analysis of uranium content, enrichment, and rare earth metals. Total shipments will approximate 10 Kilograms, enriched to about 3.5 percent in U-235, over a two year period. After examination, the samples will be disposed on as waste.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 21, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-29291 Filed 10-27-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/25D; PH-FRL 2450-1]

Ethylene Dibromide; Intent To Cancel Registrations of Pesticide Products Containing Ethylene Dibromide; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Position Document

Correction

In FR. Doc. 83-27645 beginning on page 46234 in the issue of Tuesday, October 11, 1983, make the following corrections:

1. On page 46236, in Table 2, eight lines from the bottom of the table, "S=" should read "f=".

2. On page 46237, second column, second complete paragragh, three lines from the bottom of that paragraph, "8 x 10^{-2}" should read "8 x 10^{-3}".

BILLING CODE 1505-01-M

[ER-FRL-2453-6]

Availability of Environmental Impact Statements Filed October 17 Through October 21, 1983 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5075 or (202) 382-5076

EIS No. 830526, Final, BLM, CO, Clear Creek Shale Oil Development, Right-of-Way, Garfield County, Due: Nov. 28, 1983.

EIS No. 830563, Draft, FHW, OH, US 35 West Construction, I-75 to West Third Street, Montgomery County, Due: Dec. 12, 1983.

EIS No. 830564, Final, FHW, OH, I-490 Cap Closure, I-71/I-90 to I-77, Cleveland, Cuyahoga County, Due: Nov. 28, 1983.

EIS No. 830565, Final, FHW, WA, San Juan Island/Friday Harbor Airport Construction, San Juan County, Due: Nov. 28 1983.

EIS No. 830566, Final, FWS, CA, PRO Trinity River Basin Fish/Wildlife Mgmt., Humboldt & Trinity Cos., Due: Nov. 28, 1983.

EIS No. 830567, Final, COE, NM, Abiquiu Dam and Reservoir, Water Supply Storage, Rio Arriba County, Due: Nov. 28, 1983.

EIS No. 830568, Final, OSM, WY, Red Rim Coal Development, Leasing, Fremont, Sweetwater and Carbon Cos., Due: Dec. 23, 1983.

EIS No. 830569, Final, EPA, ATL, GA SC NC Savannah/Charleston/Wilmington Disposal Site, Designation, Due: Nov. 28, 1983.

EIS No. 830570, Draft, BLM, NV, White Pine Power Project, Construction/Operation, Right-of-Way, Due: Dec. 12, 1983.

EIS No. 830571, Final, COE, FL, Monroe County Beach Erosion Control Plan, Monroe County, Due: Nov. 28, 1983.

EIS No. 830572, Final, AFS, REG, SEV, Eastern Region Land/Resource Mgmt. Plan, Standards & Guidelines, Due: Nov. 28, 1983.

Amended Notice:

EIS No. 830498, Draft, BLM, CA, Benton-Owens Valley/Bodie-Coleville WSA's Designation Published Federal Register 9/23/83—Review extended, Due: Dec. 21, 1983.

Dated: October 25, 1983.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 83-28693 Filed 10-27-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Access and Divestiture Related Tariffs; Investigation; Memorandum Opinion and Order

In the matter of investigation of access and divestiture related tariffs (CC Docket No. 83-1145, FCC 83-470).

Adopted October 18, 1983.

Released October 19, 1983.

By the Commission.

1. We have before us a petition filed by the Western Union Telegraph Company (Western Union) on September 21, 1983 requesting the Commission to defer or suspend the effective date of the tariffs filed pursuant to our Access Charge Orders, Third Report and Order in CC Docket No. 78-72, FCC 83-579, released February 28, 1983, as modified on reconsideration, FCC 83-356, released August 22, 1983. These orders required tariffs for interstate access services to be filed yearly beginning in 1983, to be effective January 1 upon 90 days' notice. Thus, all local telephone exchange carriers were required to file access tariffs by October 3, 1983 to be effective January 1, 1984, to replace existing access compensation mechanisms during 1984, the first year of common tariffed access charges. January 1, 1984 is also the scheduled date for the divestiture of the local Bell Operating Companies (BOCs) from the American Telephone and Telegraph Company (AT&T). AT&T and the divested BOCs were required by the Modification of Final Judgment (MFJ) issued in the divestiture proceeding [1] to file cost-based access charge tariffs to be effective at the time of divestiture.

2. Western Union urges that because of the volume of tariff and support materials filed to implement the Access Charge Orders and the novelty, complexity and importance of the issues involved, the Commission should defer the effective dates for the access charge tariffs until June 30, 1984. Alternatively, it asks the Commission immediately to suspend the tariffs for the statutory period of five months, or until May 31, 1984. Western Union requests that during the deferral or suspension period the Commission investigate the lawfulness of the tariffs and establish and expanded comment period. Numerous comments were filed in support of the petition.[2] The BOCs and AT&T, supported by five other commenters, [3] opposed the request. We also consider a request for a stay of the access charge order pending appeal, filed by the District of Columbia Public Service Commission (D.C. PSC).

3. In view of the great volume of filings before us, the importance and breadth of the issues they raise for the public and the entire telecommunications industry, and the substantial questions of lawfulness which are apparent from our initial review of the filings, we agree with Western Union and other commenters that an immediate investigation of the access and divestiture tariffs, including all tariffs filed by AT&T and other interexchange carriers, is necessary. To afford the public a reasonable opportunity to comment on the lawfulness of these tariffs, as well as to give this Commission time to resolve at least the major issues necessary to begin workable access arrangements, we

[1] United States v. American Telephone and Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982), *aff'd. mem. sub nom.* Maryland v. United States, 103 S.Ct. 1240 (1983).

[2] Aeronautical Radio, Inc.; Americall LDC, Inc.; the American Satellite Co.; the Associated Press; joint comments for the Central Committee on Telecommunications of the American Petroleum Institute, the Association of Data Communications Users, and the Utilities Telecommunications Council; Combined Netwrok, Inc.; EMX Telecom; the Iowa State Commerce Commission; Lexitel Corporation; RCA Corporation; joint comments for Satelco Incorporated, Teletec Savings Communicataions Co., and Tel Systems Corporation; Satellite Business Systems; Satellite Data Broadcast Networks, Inc.; TeleMarketing Communications, Inc.; Telesphere Network, Inc.; United States Transmission Systems, Inc. U.S. Telephone, Inc. In addition, the Ad Hoc Telecommunications Users Committee supported Western Union's position in a petition to suspend which requested, in the event the Commission was unable to grant the relief sought by Western Union, that an investigation of all access and access-related tariffs be established subject to an accounting order.

[3] Continental Telecom, Inc.; the United States Independent Telephone Association; International Communications Association; United Telephone System, Inc.; and GTE Service Corporation.

believe that six months will be required. For these reasons, as we explain more fully below, we are granting Western Union's petition in part, suspending the January 1, 1984 effective dates of the tariffs until April 3, 1984, and establishing an extended pleading cycle. Although the effect of our decision will be to provide much of the substantive relief sought by the D.C.PSC, we deny the motion for stay.

Discussion

4. The tariffs seeking to implement the Access Charge Orders and divestiture are voluminous and unprecedented in their complexity. The more than 1500 local exchange companies have filed 76 separate access tariffs plus over 100 associated tariffs. (A total of 1328 carriers joined in issuing the access tariffs of the Exchange Carrier Association (ECA) which we directed be established to manage access revenue pools. The filing of this tariff was actually coordinated by the AT&T Central Service Organization.) Significantly, AT&T has filed 8 new tariffs which would wholly replace all of its existing tariffs for interstate facilities and services, while implementing divestiture and reflecting the substantial changes it will experience as a result of the access tariffs. The BOCs and certain other local exchange companies have filed many "copycat" tariffs which claim to mirror existing AT&T tariffs for services which customers may now obtain from the AT&T interstate tariffs and may obtain from the exchange company or from AT&T after divestiture. Altogether, we have received about 43,000 pages of new access and divestiture-related tariffs and over 160,000 pages of support information.

5. These tariffs would establish an entirely new structure of relationships among customers, carriers, and equipment suppliers. Moreover, the tariffs as filed include provisions which go far beyond those required by the Access Charge Orders or the MFJ. AT&T has taken this occasion to propose substantial increases in private line rates, [4] plus a complete restructuring of private line services which raises important issues. While it proposes to reduce rates for Message Telecommunications Service (MTS) and Outward Wide Area Telecommunications Service (OutWATS), AT&T also proposes modifications of the rate relationships in those tariffs and an increase in 800 Service (Inward WATS) rates. [5] Its filing also apparently proposes a substantial overall increase in the total amount the public would pay for local and long distance sevices, because rates would be increased to produce a total 12.75 percent rate of return, which is well above current earnings levels. In other words, AT&T seeks to lower its long distance rates by less than its reduction in access costs associated with the customer access line charges called for by our access charge orders. All of these aspects of the AT&T filings, as well as others, are sure to be controversial and, in many cases, will clearly require investigation.

6. The numerous access tariffs also present substatial questions of lawfulness, notably in areas where the Access Charge Orders are silent or provide only general guidelines. For example, we stated in the Reconsideration Order that we would scrutinize carefully exchange carrier proposals for non-recurring charges (*e.g.*, charges for planning, developing and installing facilities used by interexchange carriers) and Special Access (*i.e.* various services and facilities associated primarily with local private lines and WATS access lines). In the filed access tariffs, the ECA, as a single example, proposes substantial non-recurring charges and other related charges and obligations which would be imposed primarily on carriers seeking to enter new interexchange markets. These provisions could have substantial effects on competitors. Other access tariffs contain similar terms. The ECA tariff also lists 30 pages of Special Access offerings, comprising hundreds of individual rates. Many such Special Access rates for the same service differ sharply from one access tariff to another—by factors of a hundred or more—for reasons which are presently unclear. About 50 small independent exchange carriers also have not filed access tariffs at all. Substantial further efforts may be necessary to bring these carriers into compliance with our Access Charege Orders by the time access charges are to commence. We must also consider numerous technical questions (*e.g.*, standards for interconnection) and problems involving the unbundling of rate elements previously separated but now remixed and the discontinuance of some services.

7. Western Union and the commenters supporting its petition urge that both the public and the Commission will need more time to review and analyze these filing than is possible within the ordinary 90 day notice period. The BOCs and AT&T argue in opposing the petition that the Commission can issue accounting orders and award damages or refunds after the tariffs become effective if they are later found to be unlawful. They state in addition that review of the access tariffs can substantially be performed before January 1, 1984 because the questions presented will basically involve compliance with the Part 69 Rules. Finally, they claim serious and adverse consequences of delay, including needless confusion in implementing divestiture, the need to redesign the present division of revenues process to reflect the redistribution of assets between AT&T and the BOCs, and the realignment of service offerings which would be accomplished in the filed tariffs.

8. Based on our initial review of the access and access-related tariffs, it is apparent that we will have to resolve numerous and substantial questions as to the lawfulness of specific provisions. In this regard, AT&T's claim that we can correct any unlawfulness by later investigations and refunds is wholly unrealistic. The terms and conditions of these tariffs are of critical importance to every telephone customer and every member of the industry. Unlawful provisions have the potential to cause substantial harm to consumers as well as to competitors. AT&T's suggestion that our inquiry is limited to compliance with Part 69 of the Rules is overly simplistic, as the numerous non-access issues raised by its own filings demonstrate. Our responsibility is to address any questions of lawfulness that these tariffs present—not just questions of compliance with the Access Charge Orders. [6] It is vitally important that the access charge system and divestiture tariffs function in a workable manner from the outset.

9. Because of the volume of the filings and the substantial issues they raise, issues both related and unrelated to access, we will not be able to complete our investigation of these tariff filings

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[4] Private line rates would be raised an average of 9.4 percent before application of the Special Access surcharge and some rates would be increased by 100 percent or more.

[5] The increase in 800 Service rates results in part from application of the Special Access surcharge, and in part because AT&T proposes to assign a greater share of access cost savings to OutWATS than to 800 Service.

[6] AT&T and the BOCs argue that Western Union's request for suspension should be denied as premature and not in compliance with Secton 1.773 of the Commission's rules, 47 CFR 1.773. We need not reach these arguments, since the Commission has the authority on its own motion to suspend and investigate tariffs, 47 U.S.C. 204(a), and we have concluded that the circumstances of this case warrant such action.

within the 90 day notice period. We also believe that Western Union's request that the public be allowed a longer period to review and prepare comments than the 25 days allowed by our rules is reasonable and desirable. Effective public participation in the review of these tariffs will be essential to achieve a workable set of tariffs.

10. Moreover, we are convinced that the costs and burdens of delay are far outweighed by the need for careful initial review. [7] It is important to note, for example, that in the event our planned action on AT&T's Section 214 application prior to January 1 is favorable, divestiture may proceed as sheduled. As AT&T's filing recognizes, delay in the effective date of these tariffs will not affect divestiture, except to the extent that court approval may be required for adjustments to MFJ procedures. [8] We also expect that existing settement agreements and division of revenues procedures will continue in force during the period of delay. AT&T and the BOCs should proceed to make changes necessary to adapt the division of revenues process to reflect the redistribution of their assets after divestiture.

11. Based on these considerations, we will grant Western Union's petition in part. At present we believe that an additional three months should be adequate to allow effective review of these tariffs and to resolve the major issues they present. Accordingly, we are suspending the effective date all access and divestiture-related tariffs, presently scheduled to become effective January 1, 1984, until April 3, 1984. [9] During that period we will conduct to two phase notice and comment investigation. Phase I comments, which will be due fifty days after the October 3 deadline for access tariffs (November 22, 1983), should address all issues regarding the lawfulness of the access tariffs filed by local exchange carriers. Phase II comments, which will be due December 5, 1983, should address all issues regarding the lawfulness of the revised interstate tariffs implementing divestiture. We have already established a consolidated filing schedule for the BOC and independent company "copycat" tariffs. We will allow 10 additional days for these pleadings. Those issues will also be included in Phase II of this proceeding. A public notice will be issued shortly giving more details on the procedures to be followed in both phases of this investigation.

12. We recognize that even with this expanded timeframe the resolution of the major issues will require enormous effort by this Commission, the carriers, and the interested public. Achieving this goal will require the full cooperation of carriers in implementing any changes needed in their tariffs and providing any additional information. We are prepared to adopt any reasonable means necessary and a variety of investigative procedures, but lack of cooperation may well require a further suspension or prescription of tariff provisions on an interim or permanent basis. If the work can be completed early, we will consider terminating the suspension prior to April 3, 1984. Because we believe that a three month suspension will be sufficient, we deny Western Union's request for a longer delay at this time. [10] We do not reach or address Western Union's argument concerning our authority to order deferral of the effective date beyond the five month suspension period.

13. Lastly, we address the D.C. PSC request for a stay of our Access Charge Orders pending appeal. Our suspension of the access charge tariffs will have the practical effect of granting additional time before the access rules become effective. The appeal, which is presently scheduled for oral argument the week of November 14, [11] could be decided before the end of the suspension period. Thus, a stay may be unnecessary. However, we also find that the stay request is deficient as matter of law. The grant of a stay pending appeal requires a showing of irreparable harm unless the effect of an order is stayed. The D.C. PSC argues that the increase of $2 in local exchange rates mandated by the Access Charge Orders could cause irreparable harm because, even though refunds could be granted if the charge is reversed, some customers may be unable to afford it and might be forced to cancel local service. It seems to us very unlikely that a rate increase of this size would cause any significant number or customers to cancel local service during the period before a decision on appeal. [12] In any event, we specifically provided in our rules and orders for lifeline waivers of the $2 charge in order to permit local companies and public service commissions to assure that needy customers are not deprived of service. Accordingly, we find no basis for concluding that the $2 charge would cause irreparable harm justifying a stay.

14. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the adoption date of this Memorandum Opinion and Order until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addressess the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally,* Section 1.1231 of the Commission's Rules, 47 CFR 1.1231.

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[7] AT&T did not provide any estimate of the costs of delay, stating only that the costs of revising its divison of revenues procedures would be "tremendous." The potential costs to the public of unlawful or unworkable tariffs, by contrast, may be far greater.

[8] Although the MFJ directs the BOCs "to file, to become effective on the effective date of the reorganization . . . tariffs for the provision of exchange access" (MFJ, Appendix B, para. B.l), this judicial decision does not, and cannot, deprice the Commission of its clear statutory power to suspend and investigate tariffs. 47 U.S.C. 204(a).

[9] Suspension to April 3 will harmonize access tariffs with OCC facility tariffs filed upon six months' notice pursuant to the Settlement Agreement in Docket No. 20099. A decision by that date will also pecede the scheduled April 15 expiration date of the ENFIA tariff under which OCCs currently receive local access for MTS/WATS-type services.

[10] Our decision in this order also moots the Ad Hoc petition's request for an accounting order in the event the Western Union petition were to be denied.

[11] Several other parties have appealed as well, and the cases have been consolidated. National Association of Regulatory Utility Commissioners v. F.C.C., D.C. Cir. Nos. 83-1225, 83-1329, 83-1463, 83-1464, 83-1493 and 83-1505.

[12] We are currently reexamining the question of customer impact from the access charge tariffs in Petition of the State of Michigan, CC Docket No. 83-788, Notice of Inquiry released August 1, 1983. We expect to make a preliminary report by December 1, 1983. If the evidence compiled there reveals any undue impact stemming from the access charges, we stand ready to take corrective action before the effective date of the revised tariff.

15. It is therefore ordered, pursuant to Sections 4(i), 4(j), 201(b), 202, 204 and 205 of the Communications Act, 47 U.S.C. 154(i), 154(j), 201(b), 202, 204 and 205, that the above-described tariffs are suspended until April 3, 1984 and that an investigation is instituted into their lawfulness.

16. It is further ordered, that parties may file comments regarding the tariffs for local exchange access on or before November 22, 1983. Replies may be filed on or before December 22, 1983. Comments regarding the tariffs for interstate services may be filed on or before December 5, 1983. Replies may be filed on or before January 6, 1984. Comments on the "copycat" tariffs for interstate services filed by the Bell Operating Companies and certain independent local exchange telephone companies may be filed on or before November 7, 1983. Replies may filed on or before November 21, 1983. Requests for extension of these dates will not be considered.

17. It is further ordered, that the petition of the Western Union Telegraph Company for deferral of effective date of initial access tariffs, the petition to suspend filed by the Ad Hoc Telecommunications Users Committee are granted to the extent indicated herein, but otherwise denied.

18. It is further ordered, that the motion for stay of decision pending appeal filed by the Public Service Commission of the District of Columbia is denied.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-29276 Filed 10-27-83; 8:45 am]

BILLING CODE 6712-01-M

Canyon Communications, et al.; Applications for Construction Permits

In re application of Canyon Communications, Caldwell, Idaho (MM Docket No. 82-746, File No. BPCT-820216KF), Cascade Broadcasting Group, Ltd., Caldwell, Idaho (MM Docket No. 82-747, File No. BPCT-820216KH), Caldwell Television Associates, Ltd., Caldwell, Idaho (MM Docket No. 83-1097, File No. BPCT-820217KE) for a construction permit.

Adopted: October 6, 1983.
Released: October 18, 1983.

By the Commission: Commissioner Dawson dissenting.

1. The Commission has before it for consideration: (a) the above-captioned application of Caldwell Television Associates, Ltd. (CTA) for a new commercial television station to operate on Channel 9 in Caldwell, Idaho; (b) the Commission's May 26, 1983, action reversing a Mass Media Bureau decision to return the application as untimely filed; [1] (c) a petition for reconsideration of that action, filed by Canyon Communications (Canyon), a competing applicant for Channel 9; and (d) related pleadings.

2. The background of this case was set out fully in our May 26 decision; however, a brief summary would be instructive. On February 15, 1982 (the day before the cut-off date for filing applications for Channel 9), CTA delivered its application to an air express courier service in Chattanooga, Tennessee. En route to Washington, the airplane carrying the application was grounded by fog in Columbus, Ohio, and next day delivery to the Commission was not possible. The Application was ultimately delivered at 8:50 a.m. the following day (February 17); however, the staff returned it as untimely filed on February 25. On March 29, 1982, CTA sought reconsideration of that action arguing, *Inter alia,* that it had done everything required in order to assure that the application would be timely filed and that acceptnace of the application would not have disrupted the Commission's processing of the Caldwell applications, since they had not yet been designated for hearing.

3. On September 23, 1982, the Bureau, in denying CTA's petition, found that the Commission's cut-off rule had been strictly enforced with waivers granted only in "unusual and compelling circumstances" and that CTA had not shown the existence of such circumstances here. Upon review of the Bureau's action, we reaffirmed our intent to continue to enforce strictly our cut-off rules and cautioned parties waiting until the last possible day to effect delivery of their submissions from out-of-town that, absent "unusual and compelling circumstances," reliance on the guarantees of courier services would be misplaced. We found, however, that severe weather conditions in another part of the country constituted such circumstances, since the fog could not have been reasonably anticipated and was a circumstance beyond the applicant's control. Moreover, we concluded that CTA had exercised reasonable diligence to assure timely delivery of its application. Consequently, we found that waivers of §§ 73.3572(c) (cut-off rule) and 1.227(b) (consolidation rule) were warranted, and we ordered CTA's application to be accepted for filing. Canyon has now requested reconsideration of that action.

4. In support of its petition, Canyon argues that the Commission's decision was internally inconsistent, since we found that CTA had exercised reasonable diligence in delivering its application to the courier, despite stating that reliance on the guarantee of a courier service would be misplaced. It further contends that none of the circumstances that typically delay overnight couriers—such as inclement weather, air traffic congestion, mishandling, or clerical error—can be predicted or controlled by the applicant in a given case, despite the fact that they occur with some regularity. Finally, Canyon argues that permitting such circumstances to excuse late-filings would lead to an increase in untimely applications where reliance was placed on an overnight courier.

5. Canyon's assessment that our decision is internally inconsistent is faulty. We said that the applicant had been reasonably diligent in delivering its application to the carrier in Tennessee the day prior to the due date for delivery in Washington. Perhaps, as we observed earlier, it would have been more prudent to have allowed extra time to protect against delays by the carrier, but we found that unforeseeable weather conditions in a distant city constituted "unusual and compelling" circumstances. We did not state, as Canyon alleges, that parties may never rely on the "guarantee" of an express courier service to excuse the consequences of untimely filings. Rather, our action established the principle that if a party relies on such a "guarantee," a late-filing would be excusable *only* if there are "unusual and compelling"circumstances. What is "unusual and compelling" will depend upon the particular facts and circumstances of each situation. This is not inconsistent with the position that delivery of the application to the carrier the day before the due date was reasonable diligence. Finally, we do not believe that our decision will signal a spate of untimely applications where reliance is placed on an overnight carrier. We will continue to reject waiver requests where reliance is placed solely upon a carrier's guarantee and there are no unusual or compelling circumstances. Consequently, Canyon's petition for reconsideration will be denied.

6. In reversing the Bureau's decision to return CTA's application as untimely filed, we ordered the Bureau to accept the application for filing, and on June 6, 1983, it was placed on a "B" cut-off list. *TV Broadcast Application Accepted for Filing,* Report No. B-66, Mimeo No. 4586.

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[1] *Caldwell Television Associates, Ltd.,* 53 R.R. 2d 1686 (1983).

We find the applicant qualified to construct and operate as proposed; however, since the applications of CTA, Canyon, and a third applicant for Channel 9 in Caldwell, Cascade Broadcasting Group, Ltd. (Cascade), are mutually exclusive, the Commission is unable to make the statutory finding that grant of them would serve the public interest. Since Canyon's and Cascade's applications have already been designated for hearing, it is necessary to designate CTA's application for hearing and to consolidate it into the proceeding now in progress in BC Docket Nos. 82–746 and 82–747 on the general comparative and ultimate issues already specified in that proceeding.

7. Accordingly, it is ordered, That Canyon's petition for reconsideration is denied.

8. It is further ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, amended, the above-captioned application of Caldwell Television Associates, Ltd. is designated for hearing and consolidated in the proceeding how iff progress in BC Docket Nos. 82–746 and 82–747.

9. It is further ordered, That to avail itself of the opportunity to be heard, CTA shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified.

10. It is further ordered, That CTA shall, pursuant to Section 311(a)(2) of the Communications Act and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

11. It is further ordered, That the Secretary shall send by Certified Mail-Receipt Requested, a copy of this order to each of the parties in this proceeding.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83–29274 Filed 10–27–83; 8:45 am]

BILLING CODE 6712–01–M

National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

October 20, 1983.

The National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on October 28, 1983 from 9:30 a.m. until 12:00 Noon in Room 1912, Department of State, 2201 C Street, NW., Washington, D.C.

The National Committee assists in the resolution of administrative/ procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the International Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

The National Committee will begin its examination of issues relating to the upcoming CCITT Plenary Assembly scheduled for October 1–12, 1984. These issues will include study questions for the next Plenary period (1985–1988); candidates for Director of the CCITT; candidates for chairmanships and vice chairmanships of the various Study Groups; etc. It is requested that all current U.S. and international CCITT Chairmen and Vice Chairmen be in attendance.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore suggested that prior to the meeting, persons who plan to attend, so advise Mr. Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632–3405. All attendees must use the C Street entrance to the building.

Federal Communications Commission.

William J. Tricarico,

Secretary,

[FR Doc. 83–29278 Filed 10–27–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Steering Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group Steering Committee scheduled to meet on Monday, November 14, Tuesday, November 15, Wednesday, November 16 and, if necessary, Thursday, November 17, 1983. The meeting will be open to the public. The following is a schedule of meeting dates and locations:

Monday, November 14, 1:00 p.m.

Federal Communications Commission, Room 330, Brown Building, 1200 19th Street, NW., Washington, D.C.

Tuesday, November 15

Federal Communications Commission, Room 330, Brown Building, 1200 19th Street NW., Washington, D.C.

Wednesday, November 16

Federal Communications Commission, Room 7317, 2025 M Street NW., Washington, D.C.

Thursday, November 17 (if necessary)

Federal Communications Commission, Room 330, Brown Building, 1200 19th Street NW., Washington, D.C.Q02
The agenda is as follows:

I. Review of Minutes of Previous Meeting
II. General Administrative Matters
III. Report on Cost of Removal/Salvage Considerations Relating to the Depreciation Reserve
IV. Auditing and Regulatory Subcommittee Report on Application of GAAP to Revised USOA
V. Plant Accounts Subcommittee Report on Revised Plant Account Structure
VI. Definitions and Rules Subcommittee Report on the Ceneral Section of the Revised USOA
VII. Defmitions and Rules Subcommittee Report on Recommendations to Account for Unregulated Activities
VIII. Other Business
IX. Presentation of Oral Statements
X. Adjournment

With prior approval of the Chairman, Gerald P. Vaughan, oral statement while not favored or encouraged, may be allowed if time permits and the Chairman determines that an oral presentation is conductive to the effective attainment of Steering Committee objectives. Anyone not a member of the Steering Committee and wishing to make an oral presentation should contact Stephen T. Duffy, Group Vice-Chairman ((202) 634–1509), at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communicotions Commission.

[FR Doc. 83–29275 Filed 10–27–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Plant Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry

Group (TIAG) Plant Accounts Subcommittee scheduled to meet on Wednesday and Thursday, November 9 and 10, 1983. The meeting will begin on November 9 at 10:00 a.m. in the offices of MCI Telecommunications Corporation, 1133 19th Street, NW., Washington, D.C., and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Report of Subcommittee Members
IV. Discussion of Instructions for Telephone Plant Accounts, including:
  Purpose of Telephone Plant Accounts (Sec. 31.2–20)
  Telephone Plant Acquired (Sec. 31.2–21)
  Cost of Construction (Sec. 31.2–22)
  Overhead Construction Costs (Sec. 31.2–22A)
V. Discussion of Appendix A of Part 31
VI. Further Assignments
VII. Other Business
VIII. Adjournment

With prior approval of Subcommittee Chairman Gyles Norwood, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Norwood ((703) 486–4168) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–29277 Filed 10–27–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Definitions and Rules Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Definitions and Rules Subcommittee scheduled to meet on Monday, November 7, and Tuesday, November 8, 1983. The meeting will begin on November 7 at 9:00 a.m. in the offices of Ernst & Whinney, 332 North Magnolia, Orlando, Florida 32801, and will be open to the public.

The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Discussion of Assignments
IV. Other Business
V. Presentation of Oral Statements
VI. Adjournment

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the subcommittee and wishing to make an oral presentation should contact Mr. Utzinger ((203) 965–2800) at least five days prior to the meeting date.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83–29283 Filed 10–27–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Income and Other Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Income and Other Accounts Subcommittee scheduled for Tuesday and Wednesday, November 8 and 9, 1983. The meeting will begin on November 8 at 9:30 a.m. in the offices of AT&T, Conference Room F, 10th Floor, 1120 20th Street, NW., Washington, D.C., and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Griffin ((214) 659–3484) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–29282 Filed 10–27–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Expense Accounts Subcommittee; Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby give of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on November 9 and 10, 1983. The meeting begin at 9:00 a.m., on November 9 and will be open to the public. The meeting location is: AT&T Conference Room A (10th Floor), 1120 20th Street NW., Washington, DC.

The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman John Howes, oral statements while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of a subcommittee and wishing to make an oral presentation should contact Mr. Howes (212/393–4029) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–29281 Filed 10–27–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Expense Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on November 29 and 30, 1983. The meeting will begin at 9:00 a.m. on November 29 and will be open to the public. The meeting location is: GTE SPRINT, 1828 L Street NW., 5th Floor (Large Conference Room), Washington, D.C.

The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman John Howes, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of a Subcommittee and wishing to make an oral presentation should contact Mr.

Howes (212) 393–4029] at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–29280 Filed 10–27–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Expense Accounts Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on December 14 and 15, 1983. The Meeting will begin at 9:00 a.m. on December 14 and will be open to the public. The meeting location is: USITA Conference Room, Suite 1201, 1801 K Street NW., Washington, D. C.

The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman John Howes, oral statements, while not favored or encouraged, may be allowed if time permits and the Chairman determines that an oral presentation is conductive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Howes ([212] 393–4029) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–29279 Filed 10–27–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Form Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Revisions of OMB Nos. 3067–0004, 3067–0005, 3067–0006.

Title: Application for Mortgage or Rental Assistance (3067–0004); Mortgagor/Landlord Verification Statement (3067–0005); Recertification for Mortgage or Rental Payment Assistance (3067–0006).

Abstract: Forms are used to establish the request and need of a victim of a Presidentially-declared disaster for mortgage or rental payment assistance. Information is used in contact and identification of need, to determine eligibility and continuing need for assistance and verification of data obtained from the applicant by contact with employers, lending institutions and landlords.

Type of respondents: Individual or Households.

Number of respondents: 50.

Burden hours: 51¾.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C Street, SW, Washington, DC 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235 New Executive Office Building, Washington, DC 20503.

Dated: October 24, 1983.

Walter A. Girstantas,

Assistant Associate Director, Administrative Support.

[FR Doc. 83–29344 Filed 10–27–83; 8:45 am]

BILLING CODE 6718–01–M

[FEMA–691–DR]

Amendment to Notice of Major Disaster Declaration; Arizona

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of Arizona (FEMA–691–DR), dated October 5, 1983, and related determinations.

DATED: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0501.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Arizona dated October 5, 1983, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 5, 1983.

For Public Assistance: That portion of Fort Apache Indian Reservation located in Navajo and Apache Counties, and that portion of Apache County located south of Township Line No. 16.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718–02)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–29343 Filed 10–27–83; 8:45 am]

BILLING CODE 6718–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the list was published on October 21.

Public Health Service

Food and Drug Administration

Subject: Hearing Aid Devices: Professional and Patient Labeling and Conditions for Sale—New
Respondents: Business, small businesses, or other for-profit organizations
Subject: Initial Registration of Medical Device Establishment (0910–0059)—Revision
Respondents: Business, small businesses, or other for-profit organizations

OMB Desk Officer: Bruce Artim

Office of the Assistant Secretary for Health

Subject: 1984 National Health Interview Survey (NHIS) Random Digit Dialing (RDD) Feasibility Study—NEW
Respondents: Individuals or households
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Medicaid/Medicare Abuse Report (0938–0076) (HCFA–51)—Extension/no Change
Respondents: State or local governments; businesses or other for-profit organizations
Subject: Application for Hospital Insurance (0938–0251) (HCFA–18)—Reinstatement
Respondents: Individuals or households

Subject: Medicaid Program Budget Report (0938–0101) (HCFA–25)—Extension/no Change
Respondents: State Medicaid agencies
Subject: Contractors Information Collections—Admissions (0938–0178) (HCFA–292, HCFA–R–9003)—Revision
Respondents: Hospitals and Skilled Nursing Facilities participating in the Medicare program
Subject: Direct Dealing Letter Number 329 Requirement for Narrative Notation of Home Health Visit in Medical Records (0938–0188) (HCFA–296)—Extension/no Change
Respondents: Home Health Agencies participating in the Medicare program and dealing directly with HCFA for reimbursement
Subject: Hospice Request for Certification in the Medicare and/or Medicaid Program (HCFA–417)—New
Respondents: Hospice participating in the Medicare and Medicaid programs
Subject: Chronic Renal Disease Medical Evidence Report (0938–0046) (HCFA–2728)—Extension/no Change
Respondents: Individuals and businesses participating in the Medicare program and dealing with End Stage Renal Disease
Subject: Information Collection Requirements in Regulations Section 505.476(b) Sole Community Hospital Exception (Prospective Payment BERC 263) (0938–0309) (HFCA–R–32)—Extension/no Change
Respondents: Sole Community Hospitals participating in the Medicare program
Subject: Information Collection Requirements in Regulations Section 405.476(d) Sole Community Hospital Request for Additional Payment (Prospective Payment, BERC–263) (0938–0308) (HCFA–R–33)—Extension/no Change
Respondents: Sole Community Hospitals participating in the Medicare program
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Subject: Hospice Request for Certification in the Medicare and/or Medicaid Program (HCFA–417)—New
Respondents: Hospice participating in the Medicare and Medicaid programs
Subject: Chronic Renal Disease Medical Evidence Report (0938–0046) (HCFA–2728)—Extension/no Change
Respondents: Individuals and businesses participating in the Medicare program and dealing with End Stage Renal Disease
Subject: Information Collection Requirements in Regulations Section 405.476(b) Sole Community Hospital Exception (Prospective Payment BERC 263) (0938–0309) (HFCA–R–32)—Extension/no Change
Respondents: Sole Community Hospitals participating in the Medicare program
Subject: Information Collection Requirements in Regulations Section 405.476(d) Sole Community Hospital Request for Additional Payment (Prospective Payment, BERC–263) (0938–0308) (HCFA–R–33)—Extension/no Change
Respondents: Sole Community Hospitals participating in the Medicare program
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance package can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn: (name of OMB Desk Officer).

Dated: October 25, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83–29359 Filed 10–27–83; 8:45 am]

BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 82N–0301; DESI 5597]

Synalgos New Formulation and Synalgos-DC New Formulation; Final Actions on Supplemental New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) refuses to approve supplemental new drug applications (NDA's) fpr Synalgos New Formulation (NDA 10–437) and Synalgos New Formulation (NDA 11–483), both submitted by Ives Laboratories, insofar as they provide for the presence of promethazine hydrochloride in the products. Ives Laboratories has further supplemented NDA 11–483 to delete promethazine hydrochloride, and FDA announces the conditions for marketing the reformulated product for the indication for which it is regarded as effective. Ives Laboratories chose not to supplement NDA 10–437 further, but instead to delete promethazine hydrochloride and market the reformulated product over-the-counter; permission to market the old formulations under NDA 10–437 is therefore withdrawn.

EFFECTIVE DATE: October 28, 1983.

ADDRESSES: Communications in response to this notice should be indentified with Docket No. 82N–0301, and directed to the attention of the appropriate office named below:

Supplements to full new drug applications (identify with NDA number): Divison of Neuropharmacological Drug Products (HFN–120), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFN–530), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinon of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN–301), National Center For Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane Rockville, MD 20857.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFN–501), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md 20857.

FOR FURTHER INFORMATION CONTACT: David T. Read, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: After evaluating reports received from the National Academy of Sciences/National Research Council, Drug Efficacy Study Group (NAS/NRC), the Commissioner of Food and Drugs announced his conclusion that the prescription products Synalgos Capsules (NDA 10–437) (promethazine hydrochloride, aspirin, phenacetin, and mephentermine sulfate) and Synalgos-DC Capsules (NDA 11–483) (the same as Synalgos Capsules, with dihydrocodeine bitartrate) are possibly effective and that additional evidence was required to establish their effectiveness. The announcement was published in the **Federal Register** of January 10, 1970 (35 FR 396). Because no data were submitted, and order withdrawing approval of both products was published in the **Federal Register** of March 18, 1975 (40 FR 12302).

However, before the notice withdrawing approval of the basic new drug applications was published, the manufacturer, Ives Laboratories, Inc., 685 Third Ave., New York, NY 10017 ("Ives"), submitted supplemental applications in which it proposed to reformulate Synalgos Capsules and Synalgos-DC Capsules (by replacing mephentermine sulfate with caffeine) and to rename the reformulated products Synalgos New Formulation and Synalgos-DC New Formulaton. By letter dated May 21, 1973, FDA's then Bureau of Drugs (now National Center for Drugs and Biologics) informed Ives that the marketing of the reformulated products would be permitted pending a final decision on the effectiveness of the new formulations.

Subsequently, Ives submitted clinical data on both products. These studies were reviewed in a March 18, 1975 **Federal Register** notice (40 FR 12302; then, Docket No. FDC–D–718) in which FDA proposed to refuse approval of the supplemental applications and offered Ives an opportunity for hearing. In that notice, the agency concluded: (1) That the studies failed to demonstrate that the promethazine hydrochloride component in any way contributes to the effectiveness of the combinations; (2) that the recommended use of the products, "relief of pain where the physician wishes to add a mild sedative effect," was not a meaningful indication; and (3) that even if promethazine had been shown to provide additional sedation (as then claimed by Ives), Ives would still have to show that there was a significant patient population which required each of the components in the Synalgos products.

Thereafter, Ives submitted additional clinical data to support its claims for the Synalgos products, and again reformulated the two products by deleting phenacetin and increasing the amount of aspirin. Subsequently, Ives formally withdrew its hearing request for both products, and communicated its intention to reformulate the two products further by deleting promethazine from each product.

Synalgos has now been reformulated and is an over-the-counter product containing aspirin and caffeine, marketed under the proposed monograph for over-the-counter internal analgesic drugs (42 FR 35346; July 8, 1977). Therefore, FDA hereby refuses to approve the previous supplements that proposed reformulations under NDA 10–437, and revokes its interim action that permitted Ives to market the promethazine-containing formulation. (Approval of 10–437 was withdrawn on March 18, 1975 (40 FR 12302).)

With respect to Synalgos-DC, Ives supplemented NDA 11–483 to change the prescription formulation to 356.4 mg aspirin, 30 mg caffeine, and 16 mg dihydrocodeine bitartrate, and to change the labeling of the product. FDA has approved this supplement.

In addition to the holder of the new drug applications specifically named above, this notice applies to any person who manufactures or distributes a drug product that is not the subject of an approved new drug application and that is identical to a drug product named above. It may also be applicable, under 21 CFR 310.6, to a related or similar drug product that is not the subject of an approved new drug application. (This notice does not apply to over-the-counter drugs. 21 CFR 310.6(f).) It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* FDA has reviewed all available evidence and concludes that Synalgos-DC, containing 356.4 mg aspirin, 30 mg caffeine, and 16 mg dihydrocodeine bitartrate, is effective for the indication in the labeling conditions below. The drug product lacks substantial evidence of effectiveness in its old formulations and for other labeled indications.

B. *Conditions for approval and marketing.* FDA is prepared to approve abbreviated new drug applications for the formulation now regarded as effective under conditions described herein.

1. *Form of drug.* The preparation is a capsule suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Federal Food, Drug, and Cosmetic Act and FDA's regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

For the relief of moderate to moderately severe pain.

3. *Marketing status.* Approval of an abbreviated new drug application (21 CFR 314.2) or a supplement to an approved or effective new drug application must be obtained before marketing such products. The bioavailability regulations (21 CFR 320.21) require any person submitting a full or abbreviated new drug application or a supplement for reformulation after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Marketing the drug products before approval of a new drug application or a supplement will subject those products, and those persons who caused the products to be marketed, to regulatory action.

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under the authority delegated to him (see 21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982) finds on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications were submitted, that there is a lack of substantial evidence that the drug products described above containing promethazine will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in any of their supplemental labeling.

Therefore, pursuant to the foregoing finding, approval of all supplements to NDA 10–437 is refused and permission to market the product covered by NDA 10–437 is revoked effective October 28, 1983. Also, approval of all supplements to NDA 11–483, except the one described above providing for the deletion of promethazine, is refused effective October 28, 1983.

Shipment in interstate commerce of the products described above containing promethazine, or any identical, related, or similar product that is not the subject of a pending hearing request or an approved new drug application, will then be unlawful.

Dated October 24, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83–29289 Filed 10–27–83; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice

also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Panel on Review of Allergenic Extracts

Date, time, and place. November 14, 8 a.m., Rm. 121, Bldg. 29, Office of Biologics, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Closed presentation of data, November 14, 8 a.m. to 11:30 a.m.; open public hearing, 11:30 a.m. to 12:30 p.m.; Clay Sisk, National Center for Drugs and Biologics (HFN–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee reviews and evaluates data on the safety, effectiveness, and appropriate use of allergenic products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Closed presentations of data. The committee will hear and discuss with the manufacturer trade secret or confidential commercial information relevant to a pending biological license application for a modified ragweed pollen allergenic extract. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the commitee's work.

Meetings of advisory committees shall be conducted, insofaras is practical, in accodance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matte for discussion involves a trade secret; commercial of financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; informaton the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commerical or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clincial test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed durgs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amendd; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: October 25, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83–29455 Filed 10–27–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 78C–0369]

FD&C Red No. 4; Denial of Petition for Permanent Listing; Availability of Commissioner's Decision

Correction

In FR Doc. 83–28540 beginning on page 48533 in the issue of Wednesday, October 19, 1983, make the following correction on page 48533 in the third column: In the **DATE** paragraph, "December 19, 1983" should have read "January 17, 1984".

BILLING CODE 1505–01–M

National Institutes of Health

Vision Research Program Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, November 17 and 18, 1983, Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on November 17 from 8:30 a.m. to 9:30 a.m. for opening remarks and discussion of proper guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:30 a.m. on November 17 until adjournment on November 18 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Carter, Committee Management Officer, National Eye Institute, Building 31, Room 6A–03, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–4903, will provide summaries of the meeting and rosters of committee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–06, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–5561, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health.)

Dated: October 18, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 83–29309 Filed 10–27–83; 8:45 am]

BILLING CODE 4140–01–M

National Diabetes Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Diabetes Advisory Board on November 10, 1983, 8:30 a.m. to 5:00 p.m., at the Bethesda Marriott, 5151, Pooks Hill Road, Bethesda Maryland. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat diabetes mellitus. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the Hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, P.O. Box 30174, Bethesda, Maryland 20814, (301) 496–6045, will provide an agenda and roster of members. Summaries of the meeting may be obtained by contacting Barbara Shapiro, Secretary, National Diabetes Advisory Board, National Institutes of Health, P.O. Box 30174, Bethesda, Maryland 20814, (301) 496–6045.

Dated: October 20, 1983.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83–29307 Filed 10–27–83; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service Orphan Products Board; Public Meeting

AGENCY: Orphan Products Board, PHS, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Department of Health and Human Services and the Office of the Assistant Secretary for Health announce that a public meeting will be held on December 8, 1983, in Washington, D.C., to receive information and views from interested persons on increasing the availability of information about the development of orphan drugs and rare diseases or conditions. The meeting will be chaired by Glenna Crooks, Ph. D., Deputy Assistant Secretary for Health (Planning and Evaluation) and will commence at 9:30 a.m., in Room 800, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 2020,.

ADDRESS: Written notice of participation should be sent to Stephen C. Groft, Pharm. D., Orphan Products Development/HF–35, Food and Drug Administration, Room 12–11, 5600 Fishers Lane, Rockville, Maryland 20857, and should be received by November 23, 1983.

FOR FURTHER INFORMATION CONTACT: Stephen C. Groft, Pharm. D., Executive Secretary, Orphan Products Board, Food and Drug Administration/HF–35, Department of Health and Human Services, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4903.

SUPPLEMENTARY INFORMATION: An orphan drug is a drug for the treatment of a rare disease or condition which occurs so infrequently in the United States that there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drugs. The Orphan Drug Act (Pub. L. 97–414) was enacted in January 1983 and contains a number of mechanisms to encourage the development and production of orphan drugs. No specific drugs were mentioned in the Act. However, diseases such as myoclonus, Huntington's disease, Amyotrophic Lateral Schlerosis (ALS or Lou Gehrig's Disease), Tourette syndrome and muscular dystrophy were provided as examples of rare diseases or conditions.

The Act also established an Orphan Products Board to promote the development of drugs and devices for rare diseases or conditions and to assure appropriate coordination among all interested Federal agencies, manufacturers and organizations representing patients, in their activities related to the development of orphan drugs. At the first public meeting of the Orphan Products Board, considerable sentiment was expressed for the development of improved mechanisms for dissemination of information about orphan drugs and rare diseases or conditions to patients, physicians and voluntary associations. In the ensuing months, the Board has learned that some voluntary organizations, information centers and professional associations distribute information on rare diseases and current treatment to the public or to specific segments of the population.

The Assistant Secretary for Health has concluded that an open public meeting on the issues related to information dissemination in this area will provide the Board with information to guide it in its future approach to these issues. The purpose of this meeting is to survey rare disease organizations, professional associations, Federal agencies and other interested parties and to assess the types of information disseminated as well as the functions and activities of these groups. There is the need to determine if additional information networks are required, and if so, what they might be.

The Board will permit the submission of both oral and written comments on

these issues at the public meeting. The results of this meeting will be presented in a report to the Orphan Products Board for consideration of future action. This report will be made available to all participants, registrants and others who contact the Executive Secretary of the Orphan Products Board.

The Board requests that discussion presented at this meeting be directed to the specific questions that follow:

What are the information gaps in the area of orphan drugs or rare diseases or conditions? Whom do these gaps affect—patients and their families, physicians, researchers or others?

To whom should information dissemination efforts be directed: health professionals (researchers, physicians, pharmacists, nurses), organizations (voluntary associations, private foundations) or the general public (patients with a particular disease or condition and their families)? Where else could the target audience receive the needed information?

For those engaged in such efforts now, how do you respond to inquiries? Do you talk directly with patients or go through intermediaries such as physicians or voluntary patient associations? Is information disseminated on request only or is a type of subscription service utilized in which everyone who requests to be placed on a general mailing list receives the same information?

What data-bases do you utilize or have available? What type of information is stored and disseminated? Do you issue formal publications, such as state-of-the-art reports or other materials, such as bibliographies or fact sheets? Do you focus on the dissemination of information or do you serve as a referral service to inform the requester where the information may be found? Does any of the information receive preclearance before release? What sources of information are utilized? Is there a "master" source of information on specific items or do you prepare your own documents?

For those representing organizations, what is the range of activities of your organization? Do you make presentations about the activities of your organization? Are exhibits prepared for meetings and conferences that are attended by the target populations? Are news releases prepared or advertisements placed in specialty journals or mass media magazines?

Are your services reimbursable? What is the source of funding for your information dissemination activities? What are your long term plans for the next five years? How do you intend to provide a continued response to your target audience?

Those person wishing to make presentation at the meeting should submit a written request to th Executive Secretary of the Orphan Products Board for a time slot. The request for participation should be submitted before November 23, 1983 and should include:

1. Name, address and telephone number of the person desiring to make a presentation;
2. Affiliation, if any;
3. A summary of the presentation; and
4. The approximate amount of time required for the presentation (no more than 15 minutes, unless more time can be justified).

Individuals and organizations with common interests or proposals are urged to coordinate or consolicate their presentations. The time available for the meeting will be allocated among the individuals who request an opportunity for a presentation. A schedule of the meeting with the approximate times will be made available prior to the meeting so that participants may plan their travel arrangements. Formal written statements or extensions of remarks (preferably 5 copies) may be presented to the Chairman on the day of the meeting for inclusion in the record of the meeting. At the discretion of the Chairman and as time permits, any person in attendance may be heard with respect to the questions under consideration. This time will, most likely, be at the end of the session.

For those not able to attend the meeting, comments may be sent to Stephen C. Groft, Pharm. D., Executive Secretary of the Orphan Products Board, at the address listed above.

Dated: October 24, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83-29358 Filed 10-27-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 7282]

Realty Action; Exchange of Public and State Lands in Harney and Malheur Counties, Oregon

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Willamette Meridian, Harney County, Oregon

T. 26 S., R. 35 E.,
Sec. 22, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Secs. 24, 25 and 26;
Sec. 27, NE¼, E½NW¼, and E½SE¼;
Sec. 35, N½, E½SW¼, and SE¼.

T. 27 S., R. 35 E.,
Sec. 1, Lots 2, 3, and 4, SW¼NE¼, S½NW¼, and S½;
Sec. 2, Lots 1, 2, and 3, S½NE¼, SE¼NW¼, and S½;
Secs. 11 to 14, inclusive;
Sec. 23, E½, N½NW¼, SE¼NW¼, and NE¼SW¼;
Sec. 24;
Sec. 25, N½, N½S½, SE¼SW¼, and S½SE¼;
Sec. 26, NE¼ and NE¼SE¼;
Sec. 36, NE¼NE¼.

T. 26 S., R. 36 E.,
Sec. 20;
Sec. 28, W½SW¼;
Sec. 30;
Sec. 32, NW¼NE¼ and E½NW¼.

T. 27 S., R. 36 E.,
Sec. 4, W½SW¼, and SE¼SW¼;
Sec. 5, Lot 3, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, Lots 1, 2, and 3, SE¼NW¼, and NE¼SW¼;
Sec. 8, NE¼, E½NW¼, SW¼NW¼, and S½;
Sec. 9, W½NE¼, SE¼NE¼, W½, and SE¼;
Sec. 10, SW¼–NW¼, SW¼, W½SE¼, and SE¼SE¼;
Sec. 11, SW¼SW¼;
Sec. 13, W½NW¼, SE¼NW¼, and S½;
Sec. 14, S½NE¼, W½, and SE¼;
Sec. 15;
Sec. 17, NE¼, NE¼NW¼, W½W½, N½SE¼, and SE¼SE¼;
Sec. 18, Lot 2, W½NE¼, SE¼NW¼, E½SW¼, and SW¼SE¼;
Sec. 19, Lots 3 and 4, E½, and E½W½;
Sec. 20, NW¼ and S½;
Sec. 21 to 27, inclusive;
Sec. 28, E½, E½NW¼, and NE¼SW¼;
Sec. 29, W½E½, W½, and SE¼SE¼;
Sec. 30;
Sec. 31, Lot 1, NE¼, E½NW¼, and NE¼SE¼;
Sec. 32;
Sec. 33, N½NE¼, W½W½, and E½SE¼;
Secs. 34 and 35.

T. 28 S., R. 36 E.,
Secs. 1, 2, and 3;
Sec. 4, Lots 1, 2, 3, and 4, S½NE¼, SE¼NW¼, NE¼SW¼, and SE¼;
Sec. 10, NE¼, NE¼NW¼, and E½SE¼;
Secs. 11, 12, and 13;
Sec. 14, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 23, N½NE¼ and NE¼NW¼;
Sec. 24, N½.

Willamette Meridian, Malheur County, Oregon

T. 27 S., R. 37 E.,
Sec. 1, Lots 1, 2, 3, 5, 6, and 7, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 12, NE¼NE¼, S½NE¼, and SE¼;
Sec. 13, E½, SW¼SW½, and E½SW¼;
Sec. 17, S½NW¼, SW¼, W½SE¼, and SE¼SE¼;
Sec. 18, Lots 2, 3, and 4, S½NE¼, and SE¼;
Sec. 19, Lots 1, 2, 3, and 4, and E½;
Sec. 20 and 21;

Sec. 22, S½NE¼, W½, and SE¼;
Sec. 23, S½N½ and S½;
Sec. 25 to 28 inclusive;
Sec. 29, N½N½, SE¼NE¼, W½SW¼, NE¼SE¼, and S½SE¼;
Sec. 30, Lots 1, 2, 3, and 4, N½NE¼, SW¼NE¼, and S½SE¼;
Sec. 31, Lots 1, 2, 3, and 4, and E½;
Secs. 32 and 33;
Sec. 34, N½, N½S½, SW¼SW¼, and S½SE¼;
Sec. 35.

T. 28 S., R. 37 E.,
Secs. 1 and 2;
Sec. 3, Lots 1 and 4, SE¼NE¼, SW¼NW¼, W½SW¼, NE¼SE¼, and S½SE¼;
Secs. 4 to 9, inclusive;
Sec. 10, E½, W½W½, and SE¼SW¼;
Secs. 11 and 12;
Sec. 13, NW¼NE¼, S½NE¼, NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 14, N½, NE¼SW¼, SW¼SW¼, and NW¼SE¼;
Sec. 15, N½NE¼, SW¼NE¼, W½, NW¼SE¼, and S½SE¼;
Sec. 17, N½, N½S½, SW¼SW¼, and S½SE¼;
Sec. 18;
Sec. 19, Lot 1, N½NE¼, and NE¼NW¼;
Sec. 20, NE¼NE¼;
Sec. 21, NE¼, N½NW¼, SE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 22;
Sec. 23, SW¼NE¼, NW¼NW¼, S½NW¼, and S½;
Sec. 24, NE¼NE¼;
Sec. 25, SE¼NE¼, SE¼NW¼, E½SW¼, and NE¼SE¼;
Sec. 26, N½N½, S½NW¼, W½SW¼, SW¼SE¼, and E½SE¼;
Sec. 27, E½, NE¼NW¼, and SE¼SW¼;
Sec. 34, W½NE¼, E½NW¼, and S½;
Sec. 35, N½NE¼, SW¼NE¼, E½NW¼, NW¼SW¼, and SE¼SE¼;

T. 27 S., R. 36 E.,
Sec. 1, SE¼NE¼, SE¼SW¼, and SE¼;
Sec. 5, E½SW¼;
Sec. 6, Lots 4, 5, 6, and 7, and SE¼SW¼;
Sec. 7, Lots 1, 2, 3, and 4, SW¼NE¼, E½W½, and W½SE¼;
Sec. 8, S½NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 12;
Sec. 13, N½N½ and S½NW¼;
Sec. 14, N½, SW¼, and W½SE¼;
Sec. 15, S½SE¼;
Sec. 17, S½NE¼, SW¼NW¼, E½SW¼, and SE¼;
Sec. 18, Lots 1, NW¼NE¼, S½NE¼, E½NW¼, SE¼SW¼, and S½SE¼;
Sec. 19, 20, and 21;
Sec. 22, N½NE¼, SW¼NE¼, NW¼, N½S½, and SW¼SW¼;
Sec. 23, NW¼NE¼ and N½NW¼;
Sec. 28, N½NE¼, and W½;
Sec. 29;
Sec. 30, Lots 1, 2, 3, and 4, E½W½, NE¼SE¼, and S½SE¼;
Sec. 31;
Sec. 32, N½NE¼, SE¼NE¼, W½, and S½SE¼;
Sec. 33, NE¼;
Sec. 35, S½NE¼, W½SW¼, and SE¼;

T. 28 S., R. 38 E.,
Sec. 1, Lots 1, 2, 3, and 4, and S½N½;
Sec. 2, Lots 1, 2, and 3, S½NE¼, SE¼SW¼, and SE¼;
Sec. 5, Lots 1, 2, 3, and 4, S½N½, SW¼, and SW¼SE¼;
Sec. 6;
Sec. 7, Lots 1, 2, 3, and 4, NE¼, E½W½, N½SE¼, and SW¼SE¼;
Sec. 8, N½, NE¼SW¼, and SE¼;
Sec. 9, S½NW¼, and S½;
Sec. 10, S½;
Sec. 11, NE¼, NE¼NW¼, S½NW¼, and S½;
Secs. 12, 13, 14, 15, and 17;
Sec. 18, Lots 3 and 4, E½, and E½W½;
Sec. 19, Lots 1 and 3, E½, and E½W½;
Sec. 20, N½, N½SW¼, SE¼SW¼, and SE¼;
Secs. 21 to 28, inclusive;
Sec. 29, E½, E½NW¼, NE¼SW¼, and S½SW¼;
Sec. 30, Lots 2, 3, and 4, E½, and E½W½;
Sec. 31, Lots 1, 2, and 3, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 32, N½, and N½S½;
Sec. 33, N½, N½S½, SE¼SW¼, and S½SE¼;
Sec. 34 and 35.

T. 29 S., R. 38 E.,
Secs. 1 and 2;
Sec. 3, Lots 1, 2, 3, and 4, S½N½, and N½SE¼;
Sec. 4, Lots 1 and 2;
Secs. 11 to 14, inclusive;
Sec. 23, N½NE¼, and NW¼;
Sec. 24, N½N½;

T. 27 S., R. 39 E.,
Sec. 3, Lots 4, SW¼NW¼, and NE¼SE¼;
Sec. 4, Lots 1, 2, 3, and 4, S½N½, SW¼, and SW¼SE¼;
Sec. 5;
Sec. 6, Lots 1, 2, 5, 6, and 7, S½NE¼, SE¼NW¼, E½SW¼, NE¼SE¼, and W½SE¼;
Secs. 7, 8, and 9;
Sec. 10, W½E½, and W½;
Sec. 13, S½;
Sec. 14, S½NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 17, NE¼ and E½NW¼;
Sec. 18, N½NE¼, SW¼NE¼, and NE¼NW¼;
Sec. 21, SE¼SE¼;
Sec. 22, S½S½ and NE¼SE¼;
Sec. 23;
Sec. 24, N½, SW¼, and W½SE¼;
Secs. 25, 26, and 27;
Sec. 28 E½ and E½SW¼;
Sec. 31, Lots 1, 2, 3, and 4, NE¼NE¼, S½NE¼, E½SW¼, and SE¼;
Secs. 32 to 35, inclusive.

T. 28 S., R. 39 E.,
Secs. 1 to 15, inclusive;
Secs. 17 to 35, inclusive.

T. 29 S., R. 39 E.,
Sec. 1, lots 1, 2, 3, and 4, S½N½, N½S½, S½SW¼, and SW¼SE¼;
Secs. 2 to 11, inclusive;
Sec. 12, W½NE¼, NW¼, N½SW¼, and SW¼SW¼;
Sec. 14, N½NE¼, SW¼NE¼, NW¼, and NW¼SW¼;
Sec. 15, N½, N½S½, S½SW¼, and SW¼SE¼;
Secs. 17 and 18;
Sec. 19, Lot 1, N½NE¼, and NE¼NW¼;
Sec. 20, N½N½;
Sec. 21, N½N½.

T. 27 S., R. 40 E.,
Sec. 18, Lots 2, 3, and 4, and SE¼NW¼;
Sec. 30, Lots 1, 2, 3, and 4, NW¼NE¼, S½NE¼, E½W½, and SE¼;
Sec. 31.

T. 28 S., R. 40 E.,
Secs. 6, 7, 18, 19, 30, and 31.

T. 29 S., R. 40 E.,
Sec. 6, Lots 2, 3, 4, and 5, and SE¼NW¼.

Aggregating 135,814.09 acres (30,135.66 acres in Harney County and 105,678.43 acres in Malheur county).

In exchange for these lands, the Federal Government will acquire scattered tracts of land from the State of Oregon, described as follows:

Willamette Meridian, Harney County, Oregon

T. 35 S., R. 35 E.,
Sec. 36.

T. 36 S., R. 35 E.,
Sec. 36.

T. 37 S., R. 35 E.,
Secs. 16 and 36.

T. 28 S., R. 36 E.,
Sec. 36, SW¼SW¼ and E½SE¼.

T. 34 S., R. 36 E.,
Sec. 36.

T. 35 S., R. 36 E.,
Sec. 16;
Sec. 36, W½.

T. 36 S., R. 37 E.,
Sec. 16, Lots 1, 2, 3, and 4, and S½.
Sec. 36.

T. 36 S., R. 36 E.,
Sec. 16, Lots 1, 2, 3, and 4, NW¼SW¼, NE¼SE¼, and S½S½;
Sec. 36.

T. 39 S., R. 38 E.,
Secs. 16 and 36.

T. 40 S., R. 38 E.,
Sec. 25, SE¼SW¼;
Sec. 35, SE¼NE¼;
Sec. 36.

Willamette Meridian, Malheur County, Oregon

T. 18 S., R. 37 E.,
Sec. 16.

T. 19 S., R. 37 E.,
Sec. 36.

T. 20 S., R. 37 E.,
Sec. 36, N½, N½SW¼, and SE¼.

T. 24 S., R. 37 E.,
Sec. 36.

T. 25 S., R. 37 E.,
Sec. 16.

T. 26 S., R. 37 E.,
Secs. 16 and 36.

T. 27 S., R. 37 E.,
Sec. 16.

T. 29 S., R. 37 E.,
Sec. 36.

T. 30 S., R. 37 E.,
Secs. 16 and 36.

T. 30½ S., R. 37 E.,
Sec. 36, Lots 1, 2, 3, and 4, S½N½, and S½.

T. 31 S., R. 37 E.,
Sec. 16;
Sec. 36, W½NE¼, SE¼NE¼, W½, and SE¼.

T. 31½ S., R. 37 E.,
Sec. 36.

T. 35 S., R. 37 E.,
Sec. 36.
T. 36 S., R. 37 E.,
Secs. 16 and 36.
T. 37 S., R. 37 E.,
Secs. 16 and 36.
T. 17 S., R. 38 E.,
Sec. 16, NE¼, N½W¼, SW¼NW¼, and S½SW¼;
Sec. 24, E½;
Sec. 36, E½, NE¼NW¼, SE¼SW¼, and W½W½.
T. 18 S., R. 38 E.,
Sec. 36, N½ and N½SE¼.
T. 19 S., R. 38 E.,
Sec. 16, E½.
T. 20 S., R. 38 E.,
Sec. 36, E½NE¼, S½SW¼, and SE¼.
T. 23 S., R. 38 E.,
Sec. 25, SW¼NE¼ and N½SE¼.
T. 25 S., R. 38 E.,
Sec. 16.
T. 26 S., R. 38 E.,
Sec. 36.
T. 29 S., R. 38 E.,
Sec. 36.
T. 30 S., R. 38 E.,
Sec. 16, E½ except 13.98 acres in highway right-of-way, W½NW¼NW¼, SW¼NW¼, S½SE¼NW¼, and SW¼;
Sec. 36, All, except 12.77 acres in highway right-of-way.
T. 30½ S., R. 38 E.,
Sec. 36, All, except 15.59 acres in highway right-of-way.
T. 31 S., R. 38 E.,
Secs. 16 and 36.
T. 31½ S., R. 38 E.,
Sec. 36..
T. 32 S., R. 38 E.,
Secs. 16 and 36.
T. 33 S., R. 38 E.,
Sec. 36.
T. 34 S., R. 38 E.,
Secs. 16 and 36.
T. 35 S., R. 38 E.,
Secs. 16 and 36.
T. 15 S., R. 39 E.,
Sec. 36, W½E½ and W½.
T. 17 S., R. 39 E.,
Sec. 19;
Sec. 30, Lot 1, N½NE¼, and NE¼NW¼.
T. 18 S., R. 39 E.,
Sec. 16, NE¼, NW¼NW¼, S½NW¼, and S½;
Sec. 36.
T. 29 S., R. 39 E.,
Sec. 36.
T. 30 S., R. 39 E.,
Secs. 16 and 36.
T. 30½ S., R. 39 E.,
Sec. 36.
T. 31 S., R. 39 E.,
Sec. 16, All, except 5.38 acres in highway right-of-way;
Sec. 36.
T. 32 S., R. 39 E.,
Secs. 16 and 36.
T. 33 S., R. 39 E.,
Sec. 16;
Sec. 36, All, except 18.37 acres in highway right-of-way.
T. 33½ S., R. 39 E.,
Sec. 36, All, except 11.96 acres in highway right-of-way.
T. 34 S., R. 39 E.,
Sec. 16;
Sec. 36, All, except 18.26 acres in highway right-of-way.
T. 35 S., R. 39 E.,
Sec. 16;
Sec. 36, All, except 8.36 acres in highway right-of-way.
T. 38 S., R. 39 E.,
Secs. 16 and 36.
T. 39 S., R. 39 E.,
Secs. 16 and 36.
T. 40 S., R. 39 E.,
Sec. N½NE¼, SW¼NE¼, W½, W½SE¼, and SE¼SE¼.
T. 41 S., R. 39 E.,
Sec. 16 N½, N½, SW¼, SE¼.
T. 18 S., R. 40 E.,
Sec. 36, S½NE¼, N½NW¼, SW¼NW¼, NE¼SW¼, S½SW¼, and SE¼.
T. 20 S., R. 40 E.,
Sec. 19, Lot 3;
Sec. 36, N½S½SE¼, except 9.14 acres in railroad right-of-way.
T. 27 S., R. 40 E.,
Sec. 36.
T. 28 S., R. 40 E.,
Secs. 16 and 36.
T. 29 S., R. 40 E.,
Secs. 16 and 36.
T. 30 S., R. 40 E.,
Secs. 16 and 36.
T. 30½ S., R. 40 E.,
Sec. 36.
T. 31 S., R. 40 E.,
Secs. 16 and 36.
T. 32 S., R. 40 E.,
Sec. 16, All, except 18.24 acres in highway right-of-way.
T. 33 S., R. 40 E.,
Secs. 16 and 36.
T. 33½ S., R. 40 E.,
Sec. 36.
T. 34 S., R. 40 E.,
Secs. 16 and 36.
T. 35 S., R. 40 E.,
Secs. 16 and 36.
T. 36 S., R. 40 E.,
Secs. 16 and 36.
T. 37 S., R. 40 E.,
Sec. 16, Lots 1, 2, 3, and 4, SW¼, N½SE¼, and SE¼SE¼;
Sec. 36.
T. 38 S., R. 40 E.,
Sec. 16, N½, W½SE¼, and SE¼SE¼.
T. 39 S., R. 40 E.,
Secs. 16 and 36.
T. 40 S., R. 40 E.,
Sec. 16.
T. 41 S., R. 40 E.,
Sec. 16, W½NW¼NE¼, NW¼SW¼NE¼, N½SW¼SW¼NE¼, N½NW¼, SW¼NW¼, N½SE¼NW¼, N½S½SE¼NW¼, and NW¼SW¼.
T. 30 S., R. 40½ E.,
Sec. 36.
T. 15 S., R. 41 E.,
Sec. 36.
T. 16 S., R. 41 E.,
Sec. 36, W½ and SE¼.
T. 17 S., R. 41 E.,
Sec. 16;
Sec. 25, S½S½;
Sec. 26, S½SE¼;
Sec. 35, N½NE¼, SE¼NE¼, and SE¼;
Sec. 36.
T. 18 S., R. 41 E.,
Sec. 1, Lots 1, 2, 3, and 4, S½N½, N½S½;
Sec. 2, Lot 1, SE¼NE¼, and NE¼SE¼.
T. 28 S., R. 41 E.,
Sec. 16.
T. 29 S., R. 41 E.,
Sec. 16, W½.
T. 35 S., R. 41 E.,
Secs. 16 and 36.
T. 36 S., R. 41 E.,
Sec. 16;
Sec. 36, E½, W½W¼, and E½W½ except 19 in highway right-of-way.
T. 37 S., R. 41 E.,
Secs. 16 and 36.
T. 38 S., R. 41 E.,
Secs. 16 and 36.
T. 39 S., R. 41 E.,
Sec. 16;
Sec. 36, NE¼.
T. 40 S., R. 41 E.,
Secs. 16 and 36.
T. 41 S., R. 41 E.,
Sec. 16.
T. 15 S., R. 42 E.,
Sec. 27, E½NW¼.
T. 16 S., R. 42 E.,
Sec. 1, Lot 4;
Sec. 2, Lot 1.
T. 17 S., R. 42 E.,
Sec. 2, SE¼NW¼.
T. 18 S., R. 42 E.,
Sec. 36.
T. 22 S., R. 42 E.,
Sec. 36, N½, NW¼SW¼, S½SW¼ and NE¼SE¼.
T. 35 S., R. 42 E.,
Secs. 16 and 36.
T. 36 S., R. 42 E.,
Secs. 16 and 36.
T. 37 S., R. 42 E.,
Secs. 16 and 36.
T. 38 S., R. 42 E.,
Sec. 61, All, except 8.80 acres in highway right-of-way;
Sec. 36, N½N½NE¼ and S½.
T. 39 S., R. 42 E.,
Secs. 16 and 36.
T. 40 S., R. 42 E.,
Secs. 16 and 36.
T. 41 S., R. 42 E.,
Sec. 16, W½NW¼ and SW¼.
T. 19 S., R. 43 E.,
Sec. 16, E½.
T. 20 S., R. 43 E.,
Sec. 36.
T. 21 S., R. 43 E.,
Secs. 16 and 36.
T. 22 S., R. 43 E.,
Secs. 16 and 36.
T. 36 S., R. 43 E.,
Secs. 16 and 36.
T. 37 S., R. 43 E.,
Secs. 16 and 36.
T. 38 S., R. 43 E.,
Secs. 16 and 36.
T. 39 S., R. 43 E.,
Secs. 16 and 36.
T. 40 S., R. 43 E.,
Sec. 16, N½ and N½S½.
Sec. 36.
T. 41 S., R. 43 E.,
Sec. 16
T. 15 S., R. 44 E.,
Sec. 16, NW¼ SE¼ and SE¼SE¼.
T. 20 S., R. 44 E.,

Sec. 10, S½NE¼, SW¼NW¼, and S½;
Sec. 36.
T. 21 S., R. 44 E.,
Secs. 16 and 36.
T. 22 S., R. 44 E.,
Sec. 16.
T. 36 S., R. 44 E.,
Secs. 16 and 36.
T. 37 S., R. 44 E.,
Secs. 16 and 36.
T. 38 S., R. 44 E.,
Secs. 16 and 36.
T. 39 S., R. 44 E.,
Secs. 16 and 36.
T. 40 S., R. 44 E.,
Sec. 36, E½ and NW¼.
T. 16 S., R. 45 E.,
Sec. 36, NW¼ and S½.
T. 17 S., R. 45 E.,
Secs. 16 and 36.
T. 20 S., R. 45 E.,
Sec. 16, SE¼NE¼ and S½.
T. 21 S., R. 45 E.,
Sec. 16.
T. 39 S., R. 45 E.,
Sec. 16;
Sec. 36, S½NW¼ and S½.
T. 40 S., R. 45 E.,
Secs. 16 and 36.
T. 41 S., R. 45 E.,
Sec. 16.
T. 39 S., R. 46 E.,
Secs. 16 and 36.
T. 40 S., R. 46 E.,
Secs. 16 and 36.
T. 41 S., R. 46 E.,
Sec. 16.
T. 40 S., R. 47 E.,
Sec. 16.
T. 40 S., R. 47 E.,
Sec. 36.
T. 41 S., R. 47 E.,
Sec. 16.
T. 39 S., R. 48 E.,
Sec. 36.
T. 40 S., R. 48 E.,
Secs. 16 and 36.
T. 41 S., R. 48 E.,
Sec. 16.

Aggregating, after making the aforesaid exceptions, 118,509.23 acres (8,335.95 acres in Harney County and 110,173.28 acres in Malheur County).

The purpose of the exchange is to facilitate multiple use management of the public lands and acquire State lands which will benefit and support a multiple use Federal management program. The lands to be acquired have values for wildlife and wild horse habitat, livestock grazing, public recreation, potential wilderness and cultural resources. The State of Oregon and its citizens will benefit through consolidation of its land holdings to provide more efficeint and economic management.

The exchange is consistent with the Bureau's land use planning and the public interest will be well served by making the exchange. The value of the lands to be exchanged are equal or will be equalized.

The publication of this notice segregates the public lands described above from settlement, sale, location, and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The terms, conditions, covenants, and reservations applicable to the land exchange are:

1. The lands exchanged are subject to value equalization by cash payment or acreage adjustment.

2. A reservation will be made to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945 as to the lands to be transferred out of Federal ownership.

3. The public lands exchanged are subject to all valid existing rights, including any rights-of-way, easements, and leases of record.

4. Both parties in the exchange will reserve all minerals in the lands being exchanged.

Detailed information concerning the exchange, including the environmental assessment and land report, is available for review at the Vale District Office, 100 E. Oregon Street, P.O. Box 700, Vale, Oregon 97918.

For a period of 45 days interested parties may submit comments to the District Manager, Bureau of Land Management, 100 E. Oregon Street, P.O. Box 700, Vale, Oregon 97918. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the the State Director, this realty action will become the final determination of this Department.

Dated: October 21, 1983.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-29204 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-84-M

Bakersfield District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Bakersfield District Advisory Council Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR 1780 that the Bakersfield District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet formally Friday, December 2, 1983, in the Conference Room of the Forest Supervisor's Office at 873 N. Main, Bishop, California, from 8 a.m. to 5 p.m.

SUPPLEMENTARY INFORMATION: The primary agenda topic for this meeting will be the Council's review of the Benton-Owens Valley/Bodie-Coleville Draft Wilderness Environmental Impact Statement, and of the public comments received on the document.

The meeting is open to the public, with time allotted from 3 to 5 p.m. for oral comments to the Council. If written comments will be presented for the Council's consideration, they must be submitted before the close of the meeting.

Summary minutes of the meeting will be maintained in the Bakersfield District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Marta Witt, Public Affairs Officer, Bureau of Land Management, Bakersfield District, 800 Truxtun Avenue, Room 302, Bakersfield, California, 93301; (805) 861-4191.

Dated: October 20, 1983.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-29294 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-84-M

[N-257, N-257B, N-1575, N-1575A]

Nevada; Classification Vacated; Correction

October 19, 1983.

In the **Federal Register** Doc. 83-26782, published on page 44938-40, on Friday, September 30, 1983, the following corrections are made:

On page 44939, column 1:

T. 13 S., R. 70 E., sec. 34, omit comma after NW¼

On page 44939, column 2:

After T. 16 S., R. 70 E.,
Sec 23, SE¼, add:

T. 15 S., R. 71 E.,
Sec. 17, S½SE¼;
Sec. 20, NE¼, E½NW¼, SW¼NW¼, S½.

Change legal description in T. 18 S., R. 55 E., sec. 1, to read:

W½ of lot 1, lots 2, 3, 4, W½SE¼NE¼, SW¼ NE¼, S½NW¼, SW¼, S½SE¼;

Change legal description in T. 20 S., R. 55 E., sec. 12 to read:

W½NE¼, NW¼, N½SW¼, SW¼SW¼, NE¼SE¼, S½SE¼;

On page 44939, column 3:

Change legal description in T. 20 S., R. 56 E., sec. 7, to read:

Lots 2, 3, 4, NE¼ of Lot 1, S½ of Lot 1, E½ W½, E½;

Change legal description in T. 21 S., R. 56 E., sec. 3, to read:

Lots 1, 2, S½NE¼, SW¼, N½SE¼;

Change legal description in T. 18 S., R. 57 E., to read:

secs. 25, 36.

Change legal description in T. 28 S., R. 59 E:

Sec. 16 to read:

S½NW¼, N½SW¼, N½SW¼SW¼, SE¼SW¼; SW¼;

Sec. 17 to read:

SE¼SE¼SE¼;

On page 44940, column 1:

Change legal description in T. 21 S., R. 60 E., sec. 3 to read:

Lot 65;

Omit:

SE¼NE¼SW¼ in T. 21 S., R. 60 E., Sec. 10

Omit:

Lot 133 in T. 22 S., R. 61 E., Sec. 5

On page 44940, column 2:

Add to T. 15 S., R. 71 E:

Sec 20, NE¼NW¼.

Melvin R. Bunch,

Acting State Director, Nevada.

[FR Doc. 83-28298 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-84-M

[N-32273]

Nevada; Order Providing for Opening of Lands

October 19, 1983.

The following described lands were reconveyed to the United States in an exchange and title was accepted on September 21, 1983.

Mount Diablo Meridian, Nevada

T. 12 N., R. 23 E.
Sec. 4, SW¼SW¼, NE¼NE¼NE¼SE¼, W½E½NE¼SE¼, W½NE¼SE¼, SE¼SE¼NE¼SE¼;
Sec. 8, NE¼NE¼;
Sec. 9, NW¼NW¼.
T. 13 N., R. 23 E.
Sec. 32, SE¼SE¼.
T. 12 N., R. 24 E.
Sec. 8, SE¼SW¼.

The area described comprises approximately 235 acres. The land lies in Lyon and Douglas Counties, approximately 10 miles north of Wellington, Nevada.

All minerals were reconveyed to the United States.

On the 30th day, commencing with the date of this publication, the land described above will be open to the operation of the public land laws, subject to valid existing rights, existing classifications, and the requirements of applicable laws. All valid applications received from the date of this publication and until the opening of business on the 30th day, will be considered as simultaneously filed. Those received thereafter shall be considered in the order of filing.

On the 30th day, commencing with the date of this publication, the land described above will be open to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning this land should be addressed to District Manager, Bureau of Land Management, 1050 E. William Street, Carson City, NV 89701.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Lacel E. Bland,

Acting, Deputy State Director, Operations.

[FR Doc. 83-28299 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 36316 (WA)]

Amendment To Notice of Realty Action—Sale; Public Land in Okanogan County, Washington

The legal description of the Notice of Realty Action-Sale (OR 36316 (WA)) published on page 45476, in Vol. 48, No. 194 of the **Federal Register** on Oct. 5, 1983, is corrected to read as follows:

Willamette Meridian, Okanogan County, Washington

T. 35 N., R. 28 E.,
Sec. 22, N½NW¼NW¼, SE¼NW¼NW¼,
Aggregating 30 Acres.

Date of Issue: October 19, 1983.

Albert L. Martin,

Acting District Manager.

[FR Doc. 83-28295 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of plats of survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., October 17, 1983.

Wind River Meridian

T. 1 N., R. 1 E.

The plat representing the dependent resurvey of a portion of the subdivisional lines and subdivision of section 17, and the survey of the subdivision of section 17, T. 1 N., R. 1 E., Wind River Meridian, Wyoming, Group No. 376, was accepted October 7, 1983.

T. 2 N., R. 1 E.

The plat representing the dependent resurvey of a portion of the subdivisional lines and subdivision of certain sections, and the survey of the subdivision of certain sections and Parcels A and B in section 23, T. 2 N., R. 1 E., Wind River Meridian, Wyoming, Group No. 376, was accepted October 7, 1983.

T. 3 N., R. 1 W.

The plat representing the dependent resurvey of portions of the subdivisional lines, subdivision of section 27 and both the 1890 and 1914 adjusted meander line through section 27, and the survey of a portion of the subdivision of section 27, T. 3 N., R. 1 W., Wind River Meridian, Wyoming, Group No. 376, was accepted October 7, 1983.

T. 4 N., R. 4 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of section 24, T. 4 N., R. 4 W., Wind River Meridian, Wyoming, Group No. 376, was accepted October 7, 1983.

These surveys were executed to meet certain administrative needs of the Bureau of Indian Affairs.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: October 20, 1983.

Richard L. Oakes,

Chief Cadastral Surveyor.

[FR Doc. 83-28296 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau Orders; Abolishment

AGENCY: Bureau of Land Management, Interior.

ACTION: Abolishment of System of Bureau Orders.

SUMMARY: Over a number of years, the Bureau of Land Management (BLM) has maintained a system of numbered Bureau Orders. These Orders contained management directives and procedural instructions to BLM officials and employees. The content of these Orders have been replaced, superseded, or eliminated by the provisions of Departmental or BLM regulations, Manuals, or other instructional directives. Because of these changes, a separate system of exclusively internal Orders as a part of the BLM directives system is no longer required and all such Orders now in effect are cancelled and rescinded. This action does not affect the authority of the Secretary of the Interior to issue, revise, or cancel Secretarial Orders. Similarly, this action does not affect the Bureau's authority to issue, revise, or cancel operating orders (Onshore Oil Gas Orders, General Mining Orders, and Geothermal Resources Operational Orders) used for the purpose of providing lessees and operators with greater specificity as to certain procedural and regulatory requirements of the Bureau.

EFFECTIVE DATE: October 31, 1983.

ADDRESS: Director (855), Bureau of Land Management, U.S. Department of the Interior, 18th & C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Michael J. Hangel, (202) 343–6152.

Dated: October 24, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-28330 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-84-M

[M–37203]

Airport Lease Application; Nevada

October 21, 1983.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214), the City of Wells has applied for an airport lease for the following land:

Mount Diablo Meridian, Nevada

T. 37 N., R. 62 E.,
Sec. 1, SE¼ (within);
Sec. 2, W½ (within);
Sec. 3, E½ (within).
T. 37 N., R. 63 E.,
Sec. 6, SW¼ (within);
Sec. 7, NW¼ (within).

The area described is located in Elko County, Nevada. The application was filed on September 21, 1983, and on that date the land was segregated from all other forms of appropriation under the public land laws.

Interested persons may submit comments to the District Manager, Bureau of Land Management, P.O. Box 831, Elko, Nevada 89801.

Lacel E. Bland,

Acting Deputy State Director, Operations.

[FR Doc. 83-28329 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-84-M

[N–32273]

Issuance of Land Exchange Conveyance Document Exchange of Public and Private Land in Lyon and Douglas Counties, Nevada

October 19, 1983.

The United States issued an exchange conveyance document to Associated Ranch Management on September 21, 1983 for the following described lands under the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716:

Mount Diablo Meridian, Nevada

T. 12 N., R. 23 E.,
Sec. 28, SW¼NW¼;
Sec. 29, E½E½;
Sec. 32, N½NE¼NE¼.

Comprising 220 acres of public land.

In exchange for these lands, the United States acquired the following described lands from Associated Ranch Management:

Mount Diablo Meridian, Nevada

T. 13 N., R. 23 E.,
Sec. 32, SE¼SE¼.
T. 12 N., R. 24 E.,
Sec. 8, SE¼SW¼.
T. 12 N., R. 23 E.,
Sec. 4, SW¼SW¼, NE¼NE¼NE¼SE¼, W½, E½, W½NE¼SE¼, SE¼SE¼ NE¼SE¼;
Sec. 8, NE¼NE¼;
Sec. 9, NW¼NW¼.

Comprising 235 acres of private land.

The purpose of this exchange was to acquire the non-Federal lands which will be beneficial to the Carson City District's wildlife program. The public interest was well served through completion of this exchange.

The values of the public land and the non-Federal land in the exchange were appraised at $88,000 and $70,500 respectively. An equalization payment in the amount of $17,500 was paid to the United States.

Lacel E. Bland,

Acting Deputy State Director, Operations.

[FR Doc. 83-28330 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-84-M

[I–17736, I–18530 A, I–18531 A, and I–18532 A]

Realty Action; Idaho Falls District; Sale of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I–17736, I–18530 A, I–18531 A, and I–18532 A; Competitive Sale of Public Lands in Bear Lake, Caribou and Franklin Counties, Idaho.

SUMMARY: The following described land has been examined, and through the development of land use decisions which included public input, it has been determined that the sale of these parcels is consistent with Section 203(a) 1 of the Federal Land Policy and Management Act of 1976 (FLPMA). The lands will be offered for sale at public auction for no less than the appraised fair market value and any bids for less than such value will be rejected as required by FLPMA. Both sealed and oral bids will be accepted.

Parcel A—I–17736, 80 acres

T. 16 S., R. 45 E., Boise Meridian
Section 11: E½SE¼

Parcel B—I–18530 A, 10 acres

T. 8 S., R. 40 E., Boise Meridian
Section 13: NE¼NE¼NE¼

Parcel C—I–18531 A, 35 acres

T. 13 S., R. 40 E., Boise Meridian
Section 31: N½SE¼NE¼, SE¼NE¼, E½ SW¼SE¼NE¼

Parcel D—I–18531 A, 40 acres

T. 10 S., R. 41 E., Boise Meridian
Section 28: NW¼NW¼

Parcel E—I–18532 A, 41.80 acres

T. 12 S., R. 40 E., Boise Meridian
Section 3: Lot 3

The above aggregates 206.80 acres.

Patent for all parcels, when issued, will contain the following reservations to the United States:

1. Ditches and Canals
2. All Minerals, including Oil and Gas
3. All Existing Rights and Reservations of Record
4. (For Parcel A only) A reservation to the United States of an easement over and across an existing County road.

DATES AND ADDRESSES: The public auction will be held on December 27, 1983, at 2 p.m. at the Caribou County Courthouse, 159 South Main, Soda Springs, Idaho 83276. If no qualifying bids are received on the date of this offering, the lands will be offered for sale at the Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho on February 14, 1984 at 11 a.m. If no

qualifying bids are received on that day, the sale will be cancelled.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw any land or interest in land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with Section 203(g) of FLPMA or other applicable laws.

These parcels are identified by the following Government Land Office Cadastral Surveys: Parcel A—1884, Parcels B and C—1914, Parcels D and E—1874.

For further information contact: Additional information concerning the tract terms and conditions of the sale, and bidding instructions may be obtained from Wallace Evans, Area Manager, at the Pocatello Resource Area Office, 250 South 4th Avenue, Room 172, Pocatello, Idaho 83201 or by calling (208) 236–6860.

Dated: October 21, 1983.

O'dell A. Frandsen,

District Manager.

[FR Doc. 83–29336 Filed 10–27–83; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Steve Martin and Martin Dinnes, Acton, CA—PRT 2–10919

The applicant requests a permit to purchase in interstate commerce two Asian elephants (*Elephas maximus*) from Christiana Elephants, Inc., Myakka City, FL, for enhancement of survival through conservation education.

Applicant: International Animal Exchange, Ferndale, MI—PRT 2–11235

The applicant requests a permit to purchase in interstate commerce one captive-born Diana monkey (*Cercopithecus diana*) from Houston Zoo, Houston, TX, and export it to Sapporo Maruyama Zoo, Sapporo City, Japan, for enhancement of propagation and survival.

Applicant: International Animal Exchange, Ferndale, MI—PRT 2–11253

The applicant requests a permit to purchase in interstate commerce one captive-born jaguar (*Panthera onca*) from Oklahoma City Zoo, OK, and export it to Seoul Grand Park Zoo, Seoul, Korea for enhancement of propagation and survival.

Applicant: National Zoological Park, Washigton, D.C.—PRT 2–11213

The applicant requests a permit to import and subsequently reexport blood, other tissue and whole carcasses of wild-taken and captive-born golden lion tamarins (*Leontopithecus rosalia*) from and to zoos and other scientists worldwide for scientific research.

Applicant: Arlan Vaughan Pueblo, CO—PRT 2–11257

The applicant request a permit to import three male and three female captive-born white eared pheasants (*Crossoptilon crossoptilon*) from Harry Hardy, British Columbia, for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in Room 601, 1000 North Glebe Rd., Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: October 25, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83–29383 Filed 10–27–83; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1192, Block 41, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Cameron and Morgan City, Louisiana.

Purpose: the purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Land Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the Code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Mineral Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations. Accordingly, a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

A copy of the Consistency Certification and the Plan are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70804. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the Plan from the Minerals Management Service.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, 3301 North

Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

Dated: October 18, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 83-28980 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Kerr-McGee Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0839, block 229, Ship Shoal Area, offshore Louisiana.

The purposes of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager. Gulf of Mexico Region, Minerals Management Service 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 20, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 83-28937 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Pacific Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for proposed oil and gas operations on the Pacific OCS Region.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations 40 CFR (Sections 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs), prepared by the Minerals Management Service for the following oil and gas activities proposed on the Pacific OCS Region. This listing includes all proposals for which environmental documents were prepared by the Pacific OCS Region in the 3-month period preceding this notice.

Exploration Plans:

Operator	Location	FONSI date
Dyco Petroleum, Inc.	OCS-P 0415, P 0416, P 0421 and P 0422 (7 miles southwest of Point Sal, CA).	Sept. 7, 1983.
Chevron U.S.A., Inc.	OCS-P 0473 and P 0474 (15 miles west-southwest of Ventura, CA).	Sept. 28, 1983.
Texaco, Inc.	OCS-P 0494 and P 0496 (16 miles southwest of Purisima Point, CA).	Sept. 30, 1983.
Chevron U.S.A., Inc.	OCS-P 0366 (16 miles south of San Pedro, CA).	Oct. 13, 1983.

The documents are available for inspection in the public information room at the Pacific OCS Region office. Persons interested in obtaining information about EAs and FONSIs proposed for activities on the Pacific OCS are encouraged to contact the Minerals Management Service office in the Pacific OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Field Operations Office, Pacific OCS Region, Minerals Management Service, 1340 West 6th Street, Los Angeles, CA 90017, (213) 688-2087.

SUPPLEMENTARY INFORMATION. The Minerals Management Service prepares EAs and FONSIs for proposals which relate to exploration for oil and gas resources on the Pacific OCS Region. The EAs examine the potential environmental effects of activities described in proposals and present Minerals Management Service's conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the Minerals Management Service finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Thomas W. Dunaway,

Acting Regional Supervisor, Pacific OCS Region.

[FR Doc. 83-28360 Filed 10-27-83; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30288]

Rail Carriers; Chesapeake and Ohio Railway Co.; Abandonment Exemption, in Huron County, MI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by The Chesapeake and Ohio Railway Company of 7.42 miles of rail line in Huron County, MI, subject to employee protective conditions.

DATES: This exemption shall be effective on November 28, 1983. Petitions to stay must be filed by November 7, 1983, and petitions for reconsideration must be filed by November 17, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30288 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Wasington, DC 20423

(2) Petitioner's representative: Rene J. Gunning, Suite 2204, The Chesapeake and Ohio Railway Company, 100 N. Charles St., Baltimore, MD 21201

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc. Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: October 21, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29305 Filed 10-27-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 82]

Rail Carriers; Seaboard System Railroad, Inc.; Abandonment , Elmore County, AL

The Commission has issued a certificate authorizing the Seaboard System Railroad, Inc., to abandon its 6.12-mile rail line between Elmore, AL (milepost G-476.20) and Wetumpka, AL (milepost G-482.32) in Elmore County, AL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29304 Filed 10-27-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Henco, Incorporated, Post Office Box 547, Selmer, Tennessee, 38375, a Tennessee corporation.

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

(i) Pro Sports, Inc., 205 Henco Drive, Selmer, Tennessee, a Tennessee corporation.

(ii) C-Mac Oil Company, Inc., P.O. Box 130, North Railroad, Hornsby, Tennessee, a Tennessee corporation.

1. Parent Corporation and address of principal office: Nutritional Distributors, Inc., d.b.a. Nutritional Foods, Inc., 336 Oyster Point Blvd., South San Francisco, California 94080

2. Wholly owned subsidiaries which will participate in the operations, and state(s) of incorporation:

(a) Landstrom Distributors, Inc.—California
(b) Keene Distributors, Inc.—Texas
(c) Collegedale Distributors, Inc.—Tennessee
(d) Mottel Distributors, Inc.—New Jersey

1. Parent corporation and address of principal office: Waverly Gravel & Ready-Mix Co., Shell Rock, IA 50670

2. Wholly-owned subsidiaries which will participate in the operations and State(s) of incorporation:

(i) Brent Industries, Inc. (an Iowa corporation)
(ii) Iowa Sands Trucking, Ltd. (an Iowa corporation)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29306 Filed 10-27-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 81-26]

David W. Bradway, M.D.; Revocation of Registration

On or about November 1, 1981, the Administrator of the Drug Enforcement Administration (DEA) issued to David W. Bradway, M.D. (Respondent), an Order to Show Cause proposing to revoke DEA Certificate of Registration AB7672517 issued to Respondent under 21 U.S.C. 823. Respondent, through counsel and *pro se*, requested a hearing on the issues raised by the Order to Show Cause.

The hearing in this matter was held in Washington, D.C. on January 11, 1983. Administrative Law Judge Francis L. Young presided. On August 18, 1983 Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. In compliance with 21 CFR 1316.65(b), as amended, copies of the Administrative Law Judge's opinion were served on the Respondent and on Government counsel. Respondent filed exceptions to Judge Young's opinion and recommended decision. On September 14, 1983, Judge Young transmitted the record of these proceedings, including Respondent's exceptions, to the Administrator. The Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

On January 30, 1979, New Jersey police found the body of one Albert Bateman. Detective James Grusemeyer found a receipt for a prescription written by Respondent on Albert Bateman's body. This began an investigation of Respondent that ultimately resulted in his conviction on November 3, 1981, in the New Jersey Superior Court for Cumberland County of:

(a) One count of conspiring: to distribute, possess and possess with the intent to distribute, controlled substances; to induce, persuade, aid and contribute to the unlawful use of a narcotic drug; and to knowingly and intentionally keep a residence for the purpose of using controlled dangerous substances;

(b) Thirty counts of unlawful distribution of controlled substances;

(c) Four counts of unlawful possession with the intent to distribute controlled substances;

(e) One count of manslaughter by unlawfully distributing controlled substances in such a grossly negligent reckless manner as to cause the death of an individual, one Albert Bateman.

During the investigation Detective Grusemeyer went to area pharmacies to obtain controlled substance prescriptions written by Respondent. He discovered a large number of prescriptions for Demerol written by Respondent at various pharmacies. The young men, whose names appeared on these prescriptions, testified at Respondent's criminal trial that they had habitually abuse Demerol with Bateman and Respondent Bradway from early 1977 until January, 1979.

Judge Young, in his findings of fact, discusses each of the youth's personal experiences with Respondent. These findings are relevant, but there is no need to repeat them here at length since the Administrator adopts the recommended rulings, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety.

The Administrative Law Judge found that Respondent would write prescriptions in his own name, in the names of those youths who would use the Demerol and methaqualone (Quaaludes) with him, and in the names of some of his relatives, none of whom ever received a prescription from

Respondent. All of these prescriptions were written so that the substances could be abused. Only on a few rare occasions was there even a hint of a legitimate medical reason for the drugs to be prescribed.

The majority of the prescriptions were for Demerol. Once the youth had the prescription filled, he would return with the Demerol to Respondent's house in Vineland, New Jersey. Respondent would dissolve the tablets into a liquid form and then he would inject not only those present at his house but also he would inject himself. In one weekend in 1978, Respondent injected one individual thirteen times with Demerol. Respondent would often take Demerol and methaqualone in combination, saying that the Demerol was the "icing on the cake" while the Quaaludes were the "cake." He never warned the others of the dangers involved in taking the two substances together.

During a seven month period from January to July, 1978, Dr. Bradway ordered and received from a pharmaceutical distributorship large quantities of controlled substances. During this period however, Respondent was pursuing his residency in radiology. He had no legitimate medical practice need for these drugs. The only logical inference is that these controlled substances were obtained for abusive purposes.

At Respondent's criminal trial, it was established that on January 27, 1979, a pharmacist for the Thrift Drug Company in Vineland filled a Demerol prescription for "Melvin Bradway" written by Respondent. This prescription was presented and the drug received from the pharmacist by Albert Bateman. It was eventually established that Bateman died during the night of January 27–28, 1979. On the last evening of Albert Bateman's life, Respondent injected both Bateman and himself with 125–150 mg. of Demerol in Respondent's Vineland, New Jersey house. Respondent then went to sleep leaving Bateman seated at a table in the kitchen with a quart-size bottle of vodka. It is extremely hazardous to mix vodka and Demerol, a fact that Respondent, as a trained physician, should have been well aware of. Upon awakening, Respondent realized that Bateman was dead. Respondent took Bateman's body in an automobile and placed it on the side of the road about 18 miles from the house. During the drive to dispose of Bateman's body, Respondent passed closed by the Millville Hospital.

The autopsy performed on Albert Bateman's body revealed needle marks on Bateman's arm. Frothy liquid was found in the lungs. Ethyl alcohol, pentobarbital, amobarbital, Demerol and methaqualone were found in Bateman's organs. The pathologist concluded that the cause of Bateman' death was drug overdose.

The Administrative Law Judge in his opinion states that David Bradway was a guru for these youths. They worshipped him. They felt that they had nothing to worry about because Respondent was a doctor and he would take care of them. These young men, as a result of Respondent's "care," became addicted to Demerol. Respondent himself was addicted to the drug. Many times, as a result of "shooting up" with Demerol, Respondent became incoherent. On one occasion two of Respondent's friends though he was dead. However, Respondent was always aware that what he was doing was wrong. This is evidenced by the fact that Respondent warned one of the youths against going to the same pharmacy to get the prescriptions filled because Respondent did not want to lose his medical practice license.

The Administrative Law Judge notes that the record is devoid of reasonable assurances that Respondent, as of the time of the hearing in January, 1983, was a different person, markedly changed from January, 1977. The report of psychologist Sonja Samson, Ph.D. in July, 1982, (only six months prior to the hearing) stated that Respondent is emotionally immature. He refused to examine his problems and this leaves him very vulnerable to future potential relapses, especially if and when he encounters interpersonal stresses. Judge Young suggested in his opinion that the lack of a report from Dr. Robert Jones, M.S., Dr. Bradway's present clinical psychologist, was significant. Respondent included with his exceptions a copy of Dr. Jones' most recent psychosocial history. After reviewing this report, the Administrator is not convinced that Respondent has changed sufficiently to permit him DEA registration.

Respondent's actions were not only irresponsible conduct in a physician, but they were also unlawful. Respondent should not be placed in a position where he might be tempted to go back to his old ways. The Administrative Law Judge therefore recommended revocation. The Administrator has considered the entire record including Respondent's exceptions and he concurs with the Administrative Law Judge's opinion.

Having concluded that there is a lawful basis for the revocation of Respondent's Certificate of Registration and having further concluded that under the facts and circumstances presented in this case the registration should be revoked, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AB87672517, previously issued to David W. Bradway, M.D., be, and it hereby is, revoked.

Dated: October 21, 1983.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 83–29327 Filed 10–27–83; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 83–20]

Louis J. Weinstein, M.D., Arnaudville, Louisiana; Hearing

Notice is hereby given that on June 30, 1983, the Drug enforcement Administration, Department of Justice, issued to Louis J. Weinstein, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AW3416410, as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, November 15, 1983, in the East Courtroom, Room 223, U.S. Court of Appeals for the Fifth Circuit, 600 Camp Street, New Orleans, Louisiana.

Dated: October 21, 1983.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 83–29328 Filed 10–27–83; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surpus Area Classifications Under Executive Orders 12073 and 10582; Annual List; Arkansas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The addition of one labor surplus area effective November 1, 1983.

SUMMARY: The purpose of this notice is to announce a change to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service (Attention: TEEPA) 601 D Street NW., Washington, D.C. 20213. Telephone: 202–376–6700.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on September 29, 1983 (48 FR 44676).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

Pursuant to those regulations the Assistant Secretary of Labor is publishing below the addition of one labor surplus area for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on October 25, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

Additions to the Annual List of Labor Surplus Areas

November 1, 1983

Labor Surplus Area and *Civil Jurisduction Included*

Arkansas:

Cross County—Cross County

[FR Doc. 83–29382 Filed 10–27–83; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Maryland State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State Plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland State plan provides for the adoption of Federal standards as State standards after comments and public hearing. Sections 1952.210–1952.214 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letters dated August 1, 1983 from Commissioner Dominic N. Fornaro, Maryland Division of Labor and Industry to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.99 pertaining to amendments, corrections and revisions to Sources of Standards as published in the **Federal Register** (48 FR 2768) dated January 21, 1983, and 29 CFR 1910.1000 (Table 2–1) and 1910.1002 pertaining to amendments, corrections and revisions to Coal Tar Pitch Volatiles as published in the **Federal Register** (48 FR 2768) dated January 21, 1983. These standards, which are contained in COMAR 09.12.31 Maryland Occupational Safety and Health Standards, were promulgated after public hearing pursuant to Article 41 § 25 F(e), Annotated Code of Maryland, and effective August 1, 1983.

2. *Decision.* Having reviewed the State submission in comparison with the Federal Standards, it has been determined that the State standards are identical to the Federal standards and, accordingly, are approved.

3. *Location of supplements for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations; Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202; Office of the Regional Administrator, OSHA, 3535 Market Street, Suite 2100, Philadelphia, Pennsylvania 19104; and the OSHA Office of State Programs, Room N3700, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective October 28, 1983.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, PA 22nd day of August 1983.

Linda R. Anku,

Regional Administrator.

[FR Doc. 83–29380 Filed 10–27–83; 8:45 am]

BILLING CODE 4510-29-M

South Carolina Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a

delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(e) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the **Federal Register** (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated March 29, 1983 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor, to William W. Gordon, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to Federal Standards: Correction to 29 CFR 1910.95 Noise, dated September 11, 1981; 29 CFR 1910.106 Flammable and Combustible Liquids, dated September 7, 1982; 29 CFR Part 1910 Corrections to Subpart L Fire Protection, dated May 1, 1981; 29 CFR 1910.401 Diving, Scope and Application, and 29 CFR 1910.402 Diving, Definitions, dated November 26, 1982; 29 CFR 1910.1025 Lead, Respirator Fit Testing, dated November 12, 1982.

These standard were promulgated after public hearings held on March 7, 1983 and filed with the South Carolina Secretary of State March 7, 1983, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40–261 through 40–274 South Carolina Code of Laws, 1962).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards.

The state standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30367; and Director of Federal-State Operations, Room N3700, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective October 28, 1983.

(Sec. 18, Pub. L. 91–596 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 10th day of June 1983.

William W. Gordon,

Regional Administrator.

[FR Doc. 83–28360 Filed 10–27–83; 8:45 am]

BILLING CODE 4510-26-M

Tennessee Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedurs under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17838) of the approval of the Tennessee plan and the adoption of Subpart P to Part 1952 containing the decision. The Tennessee plan provides for the adoption of Federal Standards as State standards by reference. Section 1953.20 of 29 CFR provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required." In response to Federal standard changes, the State has submitted by letter dated May 28, 1982 from J. B. Richesin, Jr., Commissioner of Labor, Tennessee Department of Labor, to William W. Gordon, Regional Administrator, and incorporated as a part of the plan, amended State standards comparable to amendments to Federal standards: § 1910.308 (a) and (b) Electrical application, deleted, dated January 16, 1981; 29 CFR 1910.308(d) Electrical applications, transferred to 29 CFR 1910.399 Definitions, dated January 16, 1981; 29 CFR 1910.309 (a) and (b) National Electric Code, transferred to 29 CFR 1910.302(b) Electric utilization systems, dated January 16, 1981; 29 CFR 1910.309(c) Ground Fault Protection transferred to 29 CFR 1910.304(b) Wiring design and protection, dated January 16, 1981; 29 CFR 1910.308 and 29 CFR 1910.309 of Subpart S Electrical, deleted, dated January 16, 1981; Subpart S Electrical 29 CFR 1910.301 Introduction, dated January 16, 1981; 29 CFR 1910.302 Electric utilization systems, dated January 16, 1981; 29 CFR 1910.303 General requirements, dated January 16, 1981; 29 CFR 1910.304 Wiring design and protection, dated January 16, 1981; 29 CFR 1910.305 Wiring methods, components, and equipment for general use, dated January 16, 1981; 29 CFR 1910.306 Specific purpose equipment and installation, dated January 16, 1981; 29 CFR 1910.307 Hazardous (classified) locations, dated January 16, 1981; 29 CFR 1910.308 Special systems, dated January 16, 1981; 29 CFR 1910.399 Definitions, dated January 16, 1981; Appendix A to Subpart S, Reference documents, dated January 16, 1981; 29 CFR 1910.95(b)(3) Occupational noise exposure, deleted, dated January 16, 1981; 29 CFR 1910.95 Occupational noise exposure, amended by addition of new paragraphs (c) through (s) and Appendix A, dated January 16, 1981; 29 CFR 1910.1025 Lead, amended, dated January 21, 1981; 29 CFR 1910.1025, Lead, amended, dated March 27, 1981; 29 CFR 1910.95(c)–(s) and Appendix A, amended, dated April 10, 1981; 29 CFR Part 1910 Fire Protection, Means of Egress, and Hazardous Materials, corrections, dated May 1, 1981; 29 CFR 1910.1025 Lead, amended, dated May 1, 1981; 29 CFR 1910.1025 Lead, amended, dated May 29, 1981; 29 CFR 1910.95 Occupational noise exposure, dated May 29, 1981; 29 CFR 1910.1028 Benzene, deleted, dated June 19, 1981; 29 CFR 1910.1046 Cotton dust in cotton gins, deleted, dated June 19, 1981; 29 CFR 1910.1000 Toxic and hazardous material, amended, dated June 19, 1981; 29 CFR 1910.19 Air contaminants, amended, dated June 19, 1981; 29 CFR 1928.113

Cotton dust in cotton gins, deleted, dated June 19, 1981; 29 CFR 1910.1025 Lead, amended, dated June 30, 1981; 29 CFR 1910.1025 Lead, amended, dated July 24, 1981, 29 CFR 1910.95(s) amended, dated July 31, 1981; 29 CFR 1910 Subpart S Electrical standards, corrections dated August 7, 1981; 29 CFR 1910.95 Occupational noise exposure, corrections, dated August 21, 1981; 29 CFR 1910.95 Appendix A, Appendix E, Appendix H, Table E-2 corrected, dated August 21, 1981; 29 CFR 1910.1025 Lead, amended, dated August 28, 1981; 29 CFR 1910.1025 Lead, amended, dated October 9, 1981; 29 CFR 1910.1025 Lead, amended, dated December 11, 1981. These standards were promulgated by filing with the Tennessee Secretary of State on February 26, 1982 pursuant to the Tennessee Occupational Safety and Health Act of 1972 (Title 50, Chapter 5, Tennessee Code annotated as amended July 1, 1977).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the updated standards are identical to Federal Standards. The standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standard supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, 501 Union Building, Nashville, Tennessee 37219; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.W., Atlanta, Georgia 30367; Office of the Director of Federal Compliance and State Programs, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the Tennessee State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further public participation would be unnecessary.

This decision is effective October 28, 1983.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 30th day of July, 1982.

[FR Doc. 83-28301 Filed 10-27-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-68]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Materials and Structures.

DATE AND TIME: Nov 17, 1983, 8:30 a.m. to 4:30 p.m.; Nov 18, 1983, 9:00 a.m. to 4 p.m.

ADDRESS: Ames Research Center, Moffett Field, CA.

FOR FURTHER INFORMATION CONTACT: Mr. Charles F. Bersch, National Aeronautics and Space Administration, Code RTM-6, Washington, DC 20546 (202-755-3277).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Materials and Structures was established to assist the NASA in assessing the current adequacy of Materials, Structures, and Structural Dynamics technology for space research and to recommend actions to reduce deficiencies through modification of the planned NASA research and technology program. The Subcommittee, chaired by Dr. John Hedgepeth, is comprised of eleven members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

Type of Meeting: Open.

Agenda:

November 17, 1983

8:30 Welcome to Ames.
9:00 Introduction and Minutes of Previous Meeting.
9:15 Overview of Materials and Structures Program and Issues for this Meeting.
10:00 Control of Flexible Structures Overview.
11:00 Large Deployable Reflector.
1:00 Ames Center-of Excellence Report.
1:45 Langley Center-of-Excellence Report.
2:45 Future Needs for Thermal Protection Systems.
2:30 Langley Durable Thermal Protection Systems Program.
4:30 Adjourn.

November 18, 1983

9:00 Ames Thermal Protection Systems Program and Facilities Tour
1:00 Discussions.
4:00 Adjourn.

Dated: October 24, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-28281 Filed 10-27-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Social Economic Science; Subpanel for Economics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, The National Science Foundation announces the following meeting:

Name: Subpanel for Economics of the Advisory Panel for Social and Economic Science.

Date & time: November 18 & 19, 1983; Friday—8:30 am to 7:00 pm, Saturday—8:30 am to 4:00 pm.

Place: Room 642, National Science Foundation, 18th & G Street, NW., Washington, DC 20550.

Type of meeting: Closed.

Contact person: Daniel H. Newlon, Program Director for Economics, Room 312, National Science Foundation, Washington, DC 20550 Telephone (202) 357-9674.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in the Economics Program.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed inlcude information of a proprietary or confidential nature, inlcuding technical information; financial data; such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such

determinations by the Director, NSF, of July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordiantor.

October 25, 1983.

[FR Doc. 83-28375 Filed 10-27-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Social and Economic Science; Subpanel on History and Philosophy of Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on History and Philosophy of Science, Advisory Panel for Social and Economic Science.

Date and time: November 17 and 18, 1983: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 523, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Ronald J. Overmann, Program Director, History and Philosophy of Science Program, Room 312, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-9677.

Purpose of subpanel: To provide advice and recommendation concerning support for research in History and Philosophy of Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 25, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-28372 Filed 10-27-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Social and Economic Science; Subpanel on Measurement Methods and Data Resources; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting-

Name: Subpanel on Measurement Methods and Data Resources of the Advisory Panel for Social and Economic Science.

Date and time: November 18-19, 1983: 9:00 AM to 5:00 PM.

Place: Room 421, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Closed-November 18-19, 1983: 9:00 AM to 5:30 PM.

Contact person: Dr. Murray Aborn, Program Director, Subpanel on Measurement Methods and Data Resources, Room 312, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-7913.

Summary of minutes: May be obtained from the contact person, Dr. Murray Aborn at the above address.

Purpose of subpanel: To provide advice and recommendations concerning support for research and research-related projects in Measurement Methods and Data Resources.

Agenda: Review and evaluation of research and research-related proposals as part of the award selection process.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 25, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-28374 Filed 10-27-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Social and Economic Science; Subpanel on Regulation and Policy Analysis; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Regulation & Policy Analysis of the Advisory Panel for Social & Economic Science

Date and time: November 18, 1983—8:00 a.m. to 4:00 p.m.

Place: National Science Foundation, 1800 G St., NW (Rm. 338) Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. Laurence C. Rosenberg, Program Director Regulation & Policy Analysis, National Science Foundation, Washington, DC 20550, Room 310, Phone (202) 357-7417.

Purpose of subpanel: To provide advice and recommendations concerning research in Regulation and Policy Analysis.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

October 25, 1983.

[FR Doc. 83-28373 Filed 10-27-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Earth Sciences Subcommittees; Meeting

In accordance with the Federal Advisory Committee Act, as amended Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Earth Sciences (Stratigraphy & Paleontology, Environmental Geosciences, Crustal Structure & Tectonics, Seismology & Deep Earth Structure, Experimental & Theoretical Geophysics, Petrogenesis & Mineral Resources, Mantle Geochemistry, and Experimental & Theoretical Geochemistry Subcommittees).

Date and time: November 16, 17, 18, and 19, 1983; 8:30 a.m. to 5:00 p.m. each day.

Place: The National Science Foundation, Room 642, 1800 G Street N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. James Fred Hays, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 357-7958.

Purpose of committee: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

October 25, 1983.

[FR Doc. 83–29370 Filed 10–27–83; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Behavioral and Mental Sciences; Subpanel on Neurobiology Group "A" Meeting

In accordance with the Federal Advisory Committee Act, as amended Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Neurobiology of the Advisory Panel for Behavorial and Neural Sciences.

Date and time: November 14, 15, and 16, 1983; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street, NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Joel S. Colton, Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550 telephone 202/357–7471.

Purpose of panel: To provide advice and recommendations concerning support for research in neurobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

October 29, 1983.

[FR Doc. 83–28369 Filed 10–27–83; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Behavioral and Neural Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences—Subpanel for Anthropology (Social-Cultural Anthropology).

Date and time: November 14, 1983, 8:30–6:00 p.m.; November 15, 1983, 8:30–5:00 p.m.

Place: Conrad Hilton Hotel, 720 South Michigan Avenue, Chicago, Illinois 60605.

Type of meeting: Closed.

Contact person: Dr. Daniel R. Gross, Anthropology Program—Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 357–7804.

Purpose of subpanel: To provide advice and recommendation concerning support for research in social-cultural anthropology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer, pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

October 25, 1983.

[FR Doc. 83–28367 Filed 10–27–83; 8:45 am]

BILLING CODE 7555–01–M

Subpanel on Decision and Management Science Program; Advisory Panel for Social and Economic Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Decision and Management Science of the Advisory Panel for Social and Economic Science.

Date and time: November 17, 1983—8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550, November 17, Room 536.

Contact person: Dr. Trudi C. Miller, Acting Program Director, National Science Foundation, Room 312—Phone (202) 357–7569.

Purpose of subpanel: To provide advice and recommendation concerning research in Decision and Management Science.

Agenda: Closed: to review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

October 25, 1983.

[FR Doc. 83–28371 Filed 10–27–83; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Social and Economic Science; Subpanel for Geography and Regional Science Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel for Geography & Regional Science of the Advisory Panel for Social and Economic Science.

Date and time: November 14, 1983; 8:30 a.m. to 5:00 p.m.; November 15, 1983; 8:30 a.m. to 2:00 p.m.

Place: Room 523, National Science Foundation, 1800 G Street, N.W., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. George J. Demko, Program Director, Geography & Regional Science, Room 312, National Science Foundation, Washington, D.C. 20550; telephone (202) 357–7328.

Purpose of subpanel: To provide advice and recommendations concerning support for research in Geography and Regional Science.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: October 25, 1983.
M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 83-29368 Filed 10-27-83; 8:45 am]
BILLING CODE 7555-01-M

Advisory Panel for Social and Economic Science, Subpanel for Sociology, Meeting

In accordance with the Federal Advisory Committee Act. Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel for Sociology of the Advisory Panel for Social and Economic Science.

Date and time: November 14–15, 1983, Monday—9:00 a.m. to 5:30 p.m.; Tuesday—9:00 a.m. to 4:00 p.m.

Place: National Science Foundation, 1800 G Street, N.W., Washington, DC, Room 338.

Type of meeting: Closed.

Contact person: Joanne Miller, Program Director for Sociology or Thomas M. Guterbock, Associate Program Director for Sociology, Room 316, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 357–7802

Purpose of subpanel: To provide advice and recommendation concerning support for research in the Sociology Program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, of July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
October 25, 1983.
[FR Doc. 83-29369 Filed 10-27-83; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302]

Florida Power Corp., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-72, issued to Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainsville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees), for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida.

The proposed amendment would revise the Crystal River Unit 3 Technical Specifications insofar as which section of the Technical Specifications contains requirements for the emergency feedwater system ultrasonic flow indicator. Following the Three Mile Island, Unit 2 accident, the Commission required installation of control-grade direct indication of auxiliary (or emergency) feedwater into all steam generators at each operating nuclear power plant. These indicators were not intended to be safety-related instrumentation but instead an interim measure pending upgrading auxiliary feedwater systems as a whole to safety-grade. When these interim feedwater flow indicators were installed at Crystal River 3, the corresponding Technical Specification requirements were placed in the section dealing with the emergency feedwater system (Section 4.7.1.2) rather than in the section dealing with post-accident monitoring instrumentation (4.3.3.6). The result of this oversight has been an unnecessary restriction on operability of the Crystal River Unit 3 emergency feedwater system. Specifically, by having the operability requirement in the system section of the Technical Specifications, an entire train of the emergency feedwater system must be declared inoperable if the control-grade ultrasonic flow sensor is not functioning properly. This could result in placing the entire reactor plant in a shutdown condition if the instrument could not be repaired within 72 hours. The licensees consider that this would constitute an unnecessary and unintended cycle on the plant. The licensees submitted an application for amendment to make this change on February 7, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of guidance regarding actions not likely to involve significant hazards considerations is a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The proposed change, although largely administrative in nature, does slightly alter the nature of the monthly operational check of the ultrasonic feedwater flow instrument and removes the existing requirement that declaring this instrument inoperable renders an entire emergency feedwater train inoperable. By classifying this instrument as a post-accident monitoring instrument rather than part of the emergency feedwater system, the action statement for restoring operability would have an associated time limit of 30 days rather than 72 hours. This instrumentation was installed on an interim basis as a redundant indication of emergency (or auxiliary) feedwater flow during an abnormal event or accident. Other indications primarily steam generator level indication, are also used to verify proper operation of this system. These indicators are, in fact, non-safety grade post-accident monitoring instruments. The Technical Specification change requested by the licensees is consistent with the Standard Technical Specifications (STS) for Babcock & Wilcox Pressurized Water Reactors (NUREG–0103), as well as with the Technical Specifications for other operating Babcock & Wilcox plants, in that the auxiliary feedwater flowrate instrumentation is included in the accident monitoring instrumentation section and not in the auxiliary feedwater system section. Therefore, the Commission proposes to determine that

the amendment will invovle no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 28, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to S. A. Brandimore, Florida Power Corporation, Vice President and General Counsel, P.O. Box 14042, St. Petersburg, Florida 33733.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Dated at Bethesda, Maryland, this 11th day of October 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-29001 Filed 10-27-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Consideration of Issuance of Amendment to Facility Operating Licenbe and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-72, issued to Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainsville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees), for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida.

The proposed amendment would permit operation after approval of changes to the Radiological Effluent Technical Specifications that bring them into compliance with Appendix I of 10 CFR Part 50. The amendment would specifically provide new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual. The proposed amendment is in accordance with the licensees' request dated January 17, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of guidance regarding actions not likely to involve significant hazards considerations relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications. The Commission, in a revision to Appendix I, 10 CFR Part 50, required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the Crystal River Unit 3 Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The Commission proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable".

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 28, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to S. A. Brandimore, Florida Power Corporation, Vice President and General Counsel, P.O. Box 14042, St. Petersburg, Florida 33733.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)–(i)(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Dated at Bethesda, Maryland, this 13th day of October 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83–28362 Filed 10–27–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–116]

Iowa State University; Renewal of Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. R–59 to the Iowa State University (the licensee) that renews the license for operation of the Argonaut reactor (the facility) located on the campus of Iowa State University in Ames, Iowa. The facility is a research reactor that has been operating at power levels not in excess of 10 kilowatts (thermal).

The amendment extends the duration of Facility License No. R–59 for twenty years from its date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I. Those findings are set forth in the license amendment. Notice of the proposed issuance of this action was published in the **Federal Register** on November 5, 1979 at 44 FR 63585. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the renewal of the Facility Operating License and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendment dated September 5, 1979, as supplemented; (2) Amendment No. 7 to License R–59, and (3) the Commission's related Safety Evaluation Report (NUREG–1016) and Environmental Impact Appraisal. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

The Safety Evaluation Report (NUREG–1016) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 21st day of October 1983.

For the Nuclear Regulatory Commission.

Gary C. Meyer,

Acting Branch Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 83–29089 Filed 10–27–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–259]

Tennessee Valley Authority; Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–33, issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Power Plant, Unit No. 1, located in Limestone County, Alabama.

The amendment would revise the Technical Specifications (T.S.) of the operating license to: (1) Modify the core physics, thermal and hydraulic limits to be consistent with the reanalyses associated with replacing about ⅓ of the core during the current refueling outage and (2) reflect plant modifications performed during the current refueling and modification

outage, which started on April 16, 1983. Specifically, the amendment would result in changes to the T.S. in the following eleven areas:

(1) Changes to the license related to the Cycle 6 core reload involving removal of depleted fuel assemblies in about one-third of the nuclear reactor core and replacement with new fuel of the same type previously loaded in the core with attendant license changes in the core protection safety limits and reactor protection system setpoints. The actual changes are a slight adjustment (by 0.01 in initial core life) in the Operating Limit Minimum Critical Power Ratio (OLMCPR), an added table on maximum average planar linear heat generation rate (MAPLHGR) versus average planar exposure and a change to the bases for the total relief capacity of the safety relief valves.

(2) Changes to the T.S. to revise the tables listing surveillance instrumentation for suppression pool bulk temperature reflecting the installation of 16 sensors for an improved torus temperature monitoring system and a revision to the basis for the existing limits on torus water temperature;

(3) Changes to the T.S. to reflect modifications to the scram discharge volumes (SDV), and the addition of a second scram discharge instrument volume (SDIV); each of the SDIVs now have redundant vent and drain valves and new, diverse level instrumentation. The changes to the T.S. are to add operability, surveillance and calibration requirements on the new level instrumentation and valves.

(4) Changes to T.S. surveillance instrumentation tables to add new instrumentation for containment high-range radiation monitors and to add new instrumentation, and delete current instrumentation for drywell pressure-wide range and suppression chamber wide-range water level in response to requirements in NUREG–0737,; items II.F.1.3, II.F.1.4 and II.F.1.5.

(5) T.S. changes to incorporate calibration and surveillance requirements for time delay relays to prevent spurious isolation of the HPCI and RCIC systems as required by NUREG–0737; item II.K.3.15.

(6) Revision of the T.S. table for containment isolation valve surveillance to add two new isolation valves that are part of a newly installed redundant discharge line from the drywell compressor into containment;

(7) Revision of the T.S. to reflect installation of strong backs on personnel airlock doors to allow testing in accordance with 10 CFR Part 50, Appendix J;

(8) Revision of T.S. to provide limiting conditions for operation and surveillance requirements for electric power monitoring for the reactor protection system power supply;

(9) Modify the T.S. to apply to the new analog (continuous measuring) instrumentation. The analog instrumentation replaces certain mechanical-type pressure and level switches with a more accurate and more stable electronic transmitter/electronic switch system and will provide improved performance of trip functions for reactor protection system actuation, and containment isolation. The changes to the T.S. include:

a. In the tables on functional test frequencies, calibration frequencies and surveillance requirements, for each switch replaced, add the instrument number and type of sensor beneath the parameter being monitored and/or controlled.

b. Add notes to the above tables to specify how the functional and calibration tests are to be conducted.

c. In additon to the above administrative changes, the calibration requirements have been changed to incorporate extended calibration intervals. However, the required setpoints, functional test frequencies and channel check frequencies for the instrumentation will not be changed. The new calibration requirements, together with the new instrumentation, are expected to provide a more reliable instrumentation system.

(10) Change the T.S. to reflect the addition of a thermal power monitor. The purpose of this monitor is to have the Average Power Range Monitor (APRM) flow biased neutron flux signal respond to the thermal flux rather than the neutron flux in the core by accounting for the approximately 6-second thermal time constant of the fuel. The specific changes to the T.S. are:

a. Add the words "flow biased" in parenthesis to the heading to the heading for the limits on "APRM Flux Scram Trip Settings" to indicate that the settings are reduced according to the equations given in this section when there is less than 100% core flow.

b. There is a trip unit-separate from the APRM flow-biased scram at less than 120% instantaneous neutron flux. A new requirement is being added to require that whenever the mode switch is in the run position, the APRM fixed high flux scram trip setting shall be operable and set at S 120% power.

c. The bases for the neutron flux scram are revised to describe the functions of the APRM Flow-Biased High Flux Scram Trip Setting and the Fixed High Neutron Flux Scram Trip.

d. Since there is now a new trip system, the tables listing the operability requirements and functional test frequencies on the scram instrumentation have to be revised to add this new instrumentation.

(11) Administrative changes to the T.S. involving changes to the Table of Contents to reflect the above license changes, and editorial change and corrections to the list of sample valves to be consistent with present plant configuration.

These revisions to the Technical Specifications would be made in response to the licensee's application dated July 13, 1983, as supplemented July 21, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings as required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards by providing examples of actions that are likely, and are not likely, to involve significant hazards considerations (48 FR 14870). The first three examples of actions not likely to involve significant hazards considerations are:

"(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature.

(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

(iii) For a nuclear power reactor, a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical

specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable."

Each of the eleven changes to the T.S. described previously is encompassed by one of the above examples of actions not likely to involve a significant hazards consideration. The basis for the staff's determination on each of the eleven changes is discussed below.

1. *Core Reload*

The changes to the T.S. associated with removing depleted spent fuel from the reactor and replacing these with new fuel assemblies is encompassed by example (iii) above of those actions not likely to involve a significant hazards consideration.

The proposed reload involves fuel assemblies of the same type as previously found acceptable by the staff and loaded in the core in previous cycles. The analytical methods used by the license to demonstrate conformance to the technical specifications have been previously approved by the staff. In addition, no changes have been made to the acceptance criteria for the technical specification changes involved.

Since the replacement fuel assemblies are of the same type previously added to all three Browns Ferry units and other BWRs and since the codes, models and analytical techniques used to analyze the reload have been generically approved by the NRC, the changes to the T.S. associated with the reload are clearly encompassed by example (iii) of the guidance provided by the Commission for an action not likely to involve a significant hazards consideration.

2. *Changes Related to Torus Modifications*

On January 19, 1982, the Commission issued an Order in the matter of Browns Ferry Unit 1 requiring completion—during the current refueling outage—of the plant modification required by the Mark I program so as to comply with the Staff's Acceptance Criteria contained in Appendix A to NUREG–0661. Numerous modifications are being implemented in the Unit 1 torus during the reload 5 refueling outage as part of the Mark I Containment Program. These modifications are required by NRC to restore originally intended margins of safety in the containment design. Most of the major internal structural modifications to the torus were completed during the previous refueling outage. These modifications are discussed in Amendment No. 76 to Facility Operating License No. DPR–33 issued September 15, 1981. The modifications being made during this outage will complete the requirements specified in NUREG–0661, "Safety Evaluation Report, Mark I Containment Long-Term Program."

One of the changes to the T.S. is to revise the tables that list the surveillance instrumentation associated with the suppression pool bulk temperature. This modification provides an improved torus temperature monitoring system which consists of 16 sensors. This will provide a more accurate indication of the torus water bulk temperature as required by NUREG–0661 and will replace the suppression chamber water temperature instruments presently listed in the T.S.

Another change to the T.S. is to revise the bases for the present limits on temperature of water in the torus. The present bases for suppression pool temperature limits were founded on the Humboldt Bay and Bodega Bay tests. Consistent with the long-term torus integrity program of NUREG–0661 and NUREG–0783, the bases require change to account for steam mass fluxes through the safety/relief valve (S/RV) T-quenchers. The proposed bases describe assurances of stable and complete condensation of steam discharged through the S/RVs and adequate residual heat removal (RHR) and core spray pump net positive suction head.

As noted above, the Commission ordered that the above torus modifications be implemented. The changes to the T.S. are necessary administrative follow up actions essential to the implementation of these improvements. The changes to the T.S. place operability and calibration requirements on the new temperature monitoring system. Since these are new instruments, the surveillance requirements are not presently in the T.S. Thus, adding these restrictions and controls is encompassed by example (ii) provided by the Commission.

The bases for the suppression pool temperature limits are also being changed to account for steam mass fluxes through the safety relief valve T-quenchers as required by NUREG–0661 and NUREG–0783. The proposed bases describe assurances of stable and complete condensation of steam discharged through the S/RVs and adequate RHR and core spray pump net positive suction head. The changes are necessary administrative follow up action essential to the implementation of improvements required by the Commission. Modifying these restrictions is encompassed by example (ii) provided by the Commission.

3. *Scram Discharge Instrument Volume*

The SDVs and SDIVs are being modified to address inadequacies identified by the partial rod insertion event on Browns Ferry Unit 3 in June 1980. One of the modifications includes adding another valve in series to the existing drain and vent valves on the SDV and SDIV. Another modification includes adding electronic level switches to initiate a scram on a high level in the SDIV. On June 24, 1983, the Commission issued Orders for the Browns Ferry Nuclear Plant, Units 1 and 3 to install permanent Scram Discharge System modifications during the Cycle 5 outages for Units 1 and 3. (This is the Cycle 5 outage for Unit 1.) The modifications have been previously completed for Unit 2. The Orders included "Model Technical Specifications which are provided as guidance for preparing Technical Specifications which are provided as guidance for preparing Technical Specification changes that will be required to be approved before operation with the modified system." Both the modification of the systems and submission of T.S. changes to place operability and surveillance requirements on the new instruments and valves were required of the licensee to be in compliance with a Commission Order. Thus, the changes to the T.S. are necessary administrative follow up actions essential to the implementation of these improvements. Adding these new restrictions and controls, which otherwise would not be in the T.S., is encompassed by example (ii) of the guidance provided by the Commission.

4. *Accident Monitoring Instrumentation*

Item II.F.1 of NUREG–0737, "Clarification of TMI Action Plan Requirements," requires all licensees to install five new monitoring systems and to provide onsite sampling/analysis capability for a specified range of radionuclides. For all six categories, NUREG–0737 states: "Changes to technical specifications will be required." During this refueling outage, the licensee has installed: (a) A containment high-range monitoring system, (b) a drywell wide-range pressure monitoring system and (c) a suppression chamber wide-range water level monitoring system. These three items were required by NUREG–0737, items II.F.1.3, II.F.1.4 and II.F.1.5, respectively. The changes to the T.S., which track the model T.S. provided to the licensee by the staff, are to add

operability and surveillance requirements on the new monitoring systems to the T.S.

The revisions also delete the present drywell pressure and suppression chamber water level instruments since they are being replaced by items b and c above. The changes to the technical specifications are necessary administrative follow up actions required by the Commission. Adding the new surveillance requirements and controls is encompassed by example (ii) of the guidance provided by the Commission.

5. *NUREG–0737, Item II.K.3.15*

TMI Action Plan Item II.K.3.15 requires licensees of BWRs to modify pipe-break-detection circuitry so that pressure spikes resulting from high pressure coolant injection (HPCI) and reactor core isolation cooling (RCIC) initiation will not cause inadvertent system isolation. The licensee elected to employ the BWR Owners Group modification which incorporates a three-second time delay relay (TDR) to prevent spurious isolation. In our letter to the licensee of October 13, 1981, we requested the licensee to provide certain analyses and to "propose the appropriate Surveillance Requirements and Limiting Conditions of Operation for the HPCI and RCIC systems which address this item." The safety evaluation was provided by the licensee's letter of December 16, 1981. All of the Browns Ferry units have had a three-second TDR on the HPCI system. During the current outage for Browns Ferry Unit 1, a TDR was added to the RCIC system. The proposed changes to the Technical Specifications requiring calibration and surveillance of the time delay relays is in accordance with the requirements of NUREG–0737, item II.K.3.15 and the staff's follow up letter. The changes to the T.S. are necessary administrative follow up actions essential to the implementation of these improvements. The addition of requirements in the T.S. for the operability and surveillance of the new time delay relays clearly imposes additional limitations and controls not presently included in the T.S. and is therefore encompassed by example (ii) of the guidance provided by the Commission.

6. *Redundant Air Supply to Drywell*

During the current outage, TVA has installed a second discharge line from the drywell compressor into containment. This line was added to provide the capability for isolation of approximately one-half of the drywell suppression equipment in the case of a drywell line leak. This air supply will be used to supply two inboard main steam isolation valves (MSIVs), approximately one-half of the main steam relief valves (MSRVs), and approximately one-half of all other air-operated equipment in the drywell. This will significantly reduce the possibility of any one control air pipe break inside containment from requiring immediate shutdown and isolation due to MSIVs, MSRVs, and drywell coolers being inoperable. Since any line penetrating containment requires two isolation valves, the table in the Technical Specifications listing the isolation valves that must be periodically tested is being revised to add these two new isolation valves. TVA has concluded that this modification will increase the margin of safety. The changes to the technical specifications are necessary administrative follow up actions essential to the implementation of this improvement. The two isolation valves being added to the T.S. are new valves not presently listed in the T.S. If they were not added to the table of valves to be periodically tested, there would be no T.S. requirement to test these valves. Adding these additional controls is encompassed by example (ii) of the guidance provided by the Commission.

7. *Modification of Airlock Doors*

Section III.D.2(b) of Appendix J, 10 CFR Part 50, requires that air locks shall be tested at 6 month intervals at an internal pressure not less than P_a. P_a is defined as "the calculated peak containment internal pressure related to the design basis accident and specified either in the technical specification or associated bases." Reactor plants designed prior to the issuance of Appendix J often do not have the capability to test airlocks at P_a without the installation of strongbacks or the performance of mechanical adjustments to the operating mechanisms of the inner doors. The reason for this is that the inner doors are designed to seat with accident pressure on the containment side of the door, and therefore, the operating mechanisms were not designed to withstand accident pressure in the opposite direction. When the airlock is pressurized for a local airlock test (i.e., pressurized between the doors), pressure is exerted on the airlock side of the inner door, causing the door to unseat and preventing the performance of a meaningful test. The strongback or mechanical adjustments prevent the unseating of the inner door, allowing the test to proceed. Section 4.7.A.2.g of the present T.S. requires that "the personnel airlock shall be tested at a pressure of 49.6 psig during each operating cycle." The proposed change to the T.S. is to require that "the personnel airlock shall be tested at 6-month intervals at an internal pressure of not less than 49.6 psig." This more stringent surveillance requirement is clearly encompassed by example (ii) of the guidance provided by the Commission.

8. *Monitoring of RPS Power Supply*

By letter dated August 7, 1978, we advised TVA that during review of Hatch Unit 2, the staff had identified certain deficiencies in the design of the voltage regulator system of the motor generator sets which supply power to the reactor protection system (RPS). Pursuant to 10 CFR 50.54(f), TVA was required to evaluate the RPS power supply for Browns Ferry 1, 2 and 3 in light of the information set forth in our letter. Based on our review of TVA's response, by letter dated September 24, 1980, we informed TVA (and most other BWRs) that "we have determined that modifications should be performed to provide fully redundant Class IE protection at the interface of non-Class IE power supplies and the RPS." We also advised TVA that "we have found that the conceptual design proposed by the General Electric Company and the installed modification on Hatch are acceptable solutions to our concern." By letter dated December 4, 1980, TVA committed to install the required modifications. By letters dated October 30, 1981 and July 28, 1982, we sent TVA model Technical Specifications for electric power monitoring of the RPS design modification. During the current outage of Unit 1, the RPS is being modified to provide a fully redundant Class IE protection at the interface of the non-Class IE power supplies and the RPS. This will ensure that failure of a non-Class IE reactor protection power supply will not cause adverse interaction to the Class IE reactor protection system. The Technical Specifications are being revised similar to the model T.S. provided to TVA to reflect the limiting conditions for operation and surveillance requirements associated with the RPS modifications. Page 42 is being modified to add a description of these sections in the bases. The changes to the T.S. are necessary administrative follow up actions essential to the implementation of these improvements. The additional limitations and controls, which are presently not in the T.S., are encompassed by example (ii) of the guidance provided by the Commission.

9. *Analog Trip System*

The RPS, the primary containment isolation system (PCIS), and the core standby cooling systems (CSCS) use mechanical-type switches in the sensors that monitor plant process parameters. These mechanical-type switches are very subject to drift in the set-point as is evident from the many licensee event reports (LERs) that have been submitted reporting calibration drifts in these switches.

Advance in technology make it possible to replace the mechanical-type switches with a more accurate and more stable electronic transmitter/ electronic switch system. For several years, TVA has been planning to replace existing pressure switches that sense drywell and reactor pressures with analog loops and modify the reactor water level indication loops to improve the reliability, accuracy and response time of this instrumentation. The modification involves removing one device and substituting other devices to perform the same function. Changes in design bases, protective function, redundancy, trip point and logic are not involved. Similar modifications have been approved for other BWRs. As described previously, most of the changes to the T.S. are administrative in nature (i.e., adding the specific number and types of sensor and adding notes to describe how testing is conducted). As such, they are encompassed by example (i) of the guidance provided by the Commission. The changes in surveillance requirements related to example (ii) of the guidance provided by the Commission. Some of the surveillance intervals have been decreased as appropriate for each new instrument. However, the overall effect of the changes in technical specifications will be to increase the total surveillance requirements in support of a more reliable instrumentation system.

10. *Thermal Power Monitor*

During this outage, the licensee is installing a flow-biased simulated thermal power monitor. These monitors are installed on most all BWRs; the justification for these monitors is discussed in the "Bases" for the APRM settings in the BWR Standard Technical Specifications, NUREG–0123 (BWR/4, STS, Section 2.2.1, page B2–7). The monitors are installed to have the APRM flow-biased neutron flux signal respond to the thermal flux rather than the neutron flux by accounting for the approximately 6-second thermal time constant of the fuel. The addition of the thermal power monitor will prevent a flow-biased neutron flux scram when a transient-induced neutron flux spike occurs that is a short time duration and does not result in an instantaneous heat flux in excess of transient limits. Neutron flux is damped by approximately a 6-second fuel time constant. This feature will reduce the number of scrams due to small fast flux transients such as those which result from control valve and MSIV testing and small perturbations in water level and pressure.

A thermal power monitor was installed in Browns Ferry Unit 2 during the last outage and approved by Amendment No. 85 to Facility Operating License No. DPR–52 issued March 11, 1983.

As identified previously, the changes to the T.S. are to add operability and functional test frequency requirements for this new trip system and to add a description of this new trip system in the "Bases." The changes to the T.S. are necessary administrative follow up actions essential to the implementation of these improvements. The additional limitations, restrictions and controls, which are not presently included in the T.S., are encompassed by example (ii) of the guidance provided by the Commission.

11. *Administration Changes*

Several administrative changes are being made to the Technical Specifications. These include revising the Table of Contents to reflect the changes discussed above, an editorial change and corrections to the list of sample valves to reflect the current plant configuration. These changes are editorial in nature and have no safety significance. These changes are encompassed by example (i) cited by the Commission as an action not likely to pose a significant hazards consideration.

Since all of the changes to the T.S. are encompassed by an example in the guidance provided by the Commission of actions not likely to involve a significant hazards consideration, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 28, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating licensee and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of

the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Domenic B. Vassallo: petitioner's name and telephone number; date petition was mailed; plant name; and publication data and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B 33C, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment, dated July 13, 1983, as supplemented July 21, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Athens Public Library, South and Forrest, Athens, Alabama 35611.

Dated at Bethesda, Maryland, this 24th day of October, 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing

[FR Doc. 83-29364 Filed 10-27-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on R. E. Ginna Nuclear Power Plant Unit No. 1; Meeting

The ACRS Subcommittee on R. E. Ginna Nuclear Power Plant Unit No. 1 will hold a meeting on November 16, 1983, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review the application of the Rochester Gas and Electric Corporation to convert its Provisional Operating License (POL) to a Full Term Operating License (FTOL) for Ginna. The Subcommittee will also review NUREG–0821 and NUREG–0821 Supplement 1 regarding the Systematic Evaluation Program at Ginna.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, November 16, 1983—11:00 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Rochester Gas and Electric Corporation, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. David C. Fischer (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: October 24, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-29365 Filed 10-27-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20320; SR-Amex-83-22, et al.]

American Stock Exchange, Inc., et al.; Order Approving Proposed Rule Changes

October 21, 1983.

In the Matter of: American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006; Boston Stock Exchange, Inc., One Boston Place, Boston, Massachusetts 02108; Cincinnati Stock Exchange, Inc., 209 Dixie Terminal

Building, Cincinnati, Ohio 45202; Midwest Stock Exchange, Inc., 120 South LaSalle Street, Chicago, Illinois 60603; New York Stock Exchange, Inc., 11 Wall Street, New York, New York 10005; Pacific Stock Exchange, Inc., 301 Pine Street, San Francisco, California 94104; and Philadelphia Stock Exchange, Inc., 1900 Market Street, Philadelphia, Pennsylvania 19103; File–Nos. SR–Amex–83–22, SR–BSE–83–13, SR–CSE–83–4, SR–MSE–83–6, SR–NYSE–83–47, SR–PSE–83–15, SR–Phlx–83–47..

The self-regulatory organizations ("SROs") listed above each have filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, copies of proposed rule changes that would implement a recent amendment to the "Plan for the Purpose of Creating and Operating an Intermarket Communication Linkage" ("Intermarket Trading System ("ITS") Plan") ("ITS Amendment").[1]

The proposed rules provide for: (1) Revised ITS preopening application procedures, (2) an enhanced computer interface between ITS and the Midwest Stock Exchange, Inc. ("MSE"), the Pacific Stock Exchange, Inc. ("PSE") and the Philadelphia Stock Exchange, Inc. ("Phlx"), (3) modifications to each SRO's ITS trade-through rule and block policy, and (4) standards for assessing damages under the ITS Plan.[2]

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and a national market system for securities, and in particular the requirements of Sections 6(b)(5), 11A(a)(1)(C) and 11A(a)(1)(D) of the Act and the rules and regulations thereunder.

The Commission finds good cause for summarily approving the American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., MSE, New York Stock Exchange, Inc., PSE and Phlx rule proposals; these filings are substantially identical and contain provisions that were developed jointly by representatives from each SRO following extensive discussions with the members of each SRO. In this respect, the Commission believes that simultaneous approval of all the SPRs' proposals is desirable in order to achieve system-wide implementation of the ITS Amendment as soon as possible.

It is therefore ordered, pursuant to Section 19(b)(3)(B) of the Act, that the above-mentioned proposed rule changes be, and hereby are, approved effective as of the date of this release.

Request for Comment

Publication is expected to be made in the Federal Register during the week of October 24, 1983. In order to assist the Commission in determining whether to abrogate the above-mentioned rule changes, interested persons are invited to submit written comments concerning the submission within 21 days from the date of publication in the Federal Register. Persons desiring to make written comment should file six copies with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. All communications should refer to any of the file numbers listed previously. Copies of the submission, including all amendments and all written statements with respect to the rule changes which are filed with the Commission, and all written communications relating to the rule changes between the Commission and any other persons, other than those which may be withheld from the public [3] will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–29316 Filed 10–27–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20319; (File No. 4–208)]

American Stock Exchange, Inc., et al.; Temporary Approval and Summary Effectiveness of Amendment to the Intermarket Trading System Plan

October 21, 1983.

In the matter of American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exhange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc.

The Securities and Exchange Commission has issued an order, pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act") and Rule 11Aa3–2 ("National Market System ("NMS") Plan Rule") thereunder, approving on a temporary basis an amendment ("Amendment") to the "Plan for the Purpose of Creating and Operating an Intermarket Communication Linkage ("Intermarket Trading System ("ITS") Plan").[1]

I. Background and Description of Amendment

The ITS participants filed the Amendment with the Commission on September 30, 1983. The Amendment generally effects changes in four areas.

A. Regional Exchange Automated Interface

The ITS Plan currently provides for two automated interfaces with the ITS: the interface between ITS and the National Association of Securities Dealers, Inc.'s Computer Assisted Execution System ("CAES"), and the New York Stock Exchange, Inc.'s Universal Floor Device Control System. The Amendment authorizes and specifies the allocation of costs for the creation of a Regional Computer Interface with ITS, to be operated by the Midwest, Pacific, and Philadelphia Stock Exchanges.

B. Pre-Opening Application Procedures

The ITS Plan currently requires an ITS market center that intends to open trading in an ITS stock at a price more than 1/4 point from the previous day's consolidated close ("Inquiring Market Center") to apprise other ITS market centers ("Participating Market Centers") of its intention to so open the stock. Upon notification, Participating Market Centers have five minutes to respond by communicating their respective agency and dealer buying and selling interests to the Inquiring Market Center.

The Amendment changes the pre-opening application procedures for Network A ("NYSE listed") stocks selling below $15 and Network B (American Stock Exchange and certain regional exchange listed) stocks selling below $5. For these stocks, an Inquiring Market Center must notify Participating Market Centers of any intention to open the stock at a price more than 1/8 point from the previous day's consolidated

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[1] *See* Securities Exchange Act Release No. *20319* (October 21, 1983). The National Association of Securities Dealers, Inc. ("NASD") has agreed to the ITS Amendment and is still in the process of preparing a conforming change to its rules.

[2] For a further description of the content of the proposed rule changes, *see* the release approving the ITS Amendment. *Id.*

[3] 17 CFR 240.24b–2.

[4] *See* Pub. L. No. 87–592, 76 Stat. 394 (15 U.S.C. 78d–1); 17 CFR 200.30–3(a)(29).

[1] The ITS Plan and subsequent amendments are contained in File No. 4–208. The Commission initially approved the ITS Plan on an interim basis on April 14, 1978. Subsequently, the Commission authorized the ITS participants to act jointly in operating the ITS for a further period of indefinite duration. *See* Securities Exchange Act Release No. 19456 (January 23, 1983), 48 FR 4938.

close.[2] Additionally, the Amendment reduces the pre-opening application response period from five minutes to three minutes for all ITS stocks.[3]

The Amendment also requires an Inquiring Market Center to notify Participating Market Centers, of the price range within which it anticipates opening the stock. For Network A stocks whose previous day's consolidated closing price was under $50, and for Network B stocks whose price was under $10, the applicable price range is 1/2 point. For Network A stocks whose price is over $50,[4] and for Network B stocks whose price is over $10, the applicable price range is one point. The Amendment provides that the price range cannot straddle the previous day's consolidated closing price, although it may include it as an end point.

C. Trade-Through Rule and Block Policy

The Amendment also effects several changes to the model trade-through rule included as an exhibit to the ITS Plan.[5] While the current trade-through rule applies only to transactions at inferior prices within a market, as amended, it would apply the trade-through rule to transactions through ITS between two participant markets at a price inferior to the displayed quotation of a third participant market.

Additionally, the Amendment makes clear that "block size" [6] transactions that do not constitute "block trades" for purposes of the block application of the trade-through rule are subject to the trade-through rule. The trade-through rule, however, would be amended to provide that if a member in an ITS market center executes a "block size" transaction at a price inferior to a bid or offer displayed by another ITS market center, it must satisfy such better priced bid or offer at the print price if a commitment to trade is not issued within a two minute period.[7]

D. Damages

The Amendment would limit an aggrieved party's damages with respect to claims under the ITS Plan to the amount of loss that would have been sustained had prompt market action been taken upon notice of a dispute or at such point that it should have been reasonably known that a potential dispute existed.

II. Discussion

In its order authorizing ITS to operate on an indefinite basis, the Commission applauded the ITS participants' continuous efforts in improving the system through technical and procedural modifications. The Commission believes that the Amendment represents these types of improvements. In particular, the Commission believes that the proposed development of the interface between ITS and three regional exchanges represents a positive technical enhancement ITS which creates opportunities for more "efficient and effective market operations." [8]

The ITS Participants have requested that the Amendment become effective on or before October 24, 1983 so that technical work can progress on the regional exchanges' automated interface with ITS as well as the programming changes necessitated by the enhanced pre-opening application procedures.

In light of the above, and because the Commission has been informed that all of the ITS Participants have agreed to the terms of the Amendment, the Commission, pursuant to paragraph (c)(4) of the NMS Plan Rule, has determined to grant the Amendment summary effectiveness until January 21, 1984.

Accordingly, the Commission finds that granting the Amendment summary effectiveness and approving the Amendment on a temporary basis is in furtherance of the purposes of the Act, for the protection of investors, and removes impediments to and perfects mechanisms of, a national market system.

III. Request for Comment

Publication is expected to be made in the **Federal Register** during the week of October 24, 1983. In order to assist the Commission in determining whether to approve the Amendment permanently, interested persons are invited to submit written comments, concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comment should file six copies with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. All communications should refer to File No. 4–208. Copies of the submission, including all amendments, all written statements with respect to the Amendment which are filed with the Commission, and all written coummunciations relating to the Amendment between the Commission and any other persons, other than those which may be withheld from the public [9] will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–29317 Filed 10–27–83; 8:45 am]

BILLING CODE 8010–01–M

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[2] For Network A stocks priced above $15 and for Network B stocks priced above $5, an Inquiring Market Center must notify Participating Market Centers if it plans to open at a price more than 1/4 point from the previous day's consolidated closing price.

[3] The Amendment, however, provides for a four minute response period during the initial six months following the effective date of the Amendment.

[4] If the previous day's consolidated closing price of a Network A stock exceeded $100 and the security does not underlie an individual stock option contract listed and currently traded on a national securities exchange, the applicable price range is two points.

[5] A "trade-through" occurs when an execution takes place in one market center at a time when another market center is publicly displaying a quotation at a better price. To discourage trade-throughs, as well as to provide specific remedies should they occur, the ITS Participants have adopted trade-through rules similar to the model trade-through rule contained in the ITS Plan.

[6] Block-size transactions are transactions of 10,000 shares or more or involving over $200,000 value.

[7] The Amendment also would effect miscellaneous other changes to the trade-through rule and block policy such as including the exceptions of the trade-through rule in the Block Policy, and clarifying the applicability of the trade-through rule and block policy to indicate when the time to execution occures in situations where a trade in one ITS market center is dependent upon withdrawals of an order form other ITS market centers.

[8] *See* Section 11A(a)(1)(B) of the Act.

[9] 17 CFR 240.24b–2.

[10] *See* Pub. L. No. 87–592, 76 Stat. 394 (U.S.C. 78d–1); 17 CFR 200.30–3(a)(29).

[Release No. 13591; 812–5645]

Great Lakes Housing Limited Partnership and Winthrop Financial Co., Inc.; Application

October 21, 1983.

Notice is hereby given that Great Lakes Housing Limited Partnership (the "Partnership"), 225 Franklin Street, Boston, Massachusetts, 02110, to be formed as a Massachusetts limited partnership to invest in other limited partnerships ("Local Limited Partnerships") which will own and operate government-assisted housing developments in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974), and Winthrop Financial Co., Inc. (the "General Partner" and, jointly with the Partnership, the "Applicants"), a co-general partner of the Partnership with Linnaeus-Phoenix Associates, filed an application on September 15, 1983, for an order of the Commission pursuant to

Section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and such persons are referred to the Act for the provisions of Section 6(c) thereof.

Applicants represent that the Partnership intends to offer 150 limited partnership interests ("Units") in a private offering pursuant to Rule 506 under Regulation D under the Securities Act of 1933 for a total price of $99,940 per Unit, with a minimum subscription of one-half Unit ($49,970 including interest). Any subscriptions for Units must be approved by the General Partner, which approval shall be conditioned upon representations as to the suitability of the investment for each subscriber. The application states that each subscriber will represent, among other things, that he estimates that some part of his income for the current year will be taxable at a marginal federal income tax rate of at least 48% or more for 1983, and thereafter at the rate of 45% or more.

The fees which are payable by the Partnership and the Local Limited Partnerships to the General Partners and their affiliates are identified, described and disclosed to all potential investors in the Partnership's Private Placement Memorandum. Applicants represent that such fees and reimbursements are reasonable and fair, do not involve overreaching and are competitive from the point of view of the Partnership, and Local Limited Partnerships and investors in the Partnership.

Applicants assert that the contemplated arrangement of the Partnership is not susceptible to abuses of the sort the Act was designed to remedy. Applicants further assert that pertinent governmental regulations imposed on each Local Limited Partnership by various government agencies provide protections to the Limited Partners comparable to, and in some respects greater than, those provided by the Act. Applicants submit that exemption would therefore be entirely consistent with the protection of investors and the purposes and policies of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 15, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its on motion.

For Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28312 Filed 10-27-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23093; 70-6895]

Middle South Energy, Inc.; Proposal

October 21, 1983.

Middle South Energy, Inc. ("MSE"), 225 Baronne Street, New Orleans, Louisiana, 70112, a subsidary of Middle South Utilities, Inc., a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6 and 7 of the Public Utility Holding Company Act of 1935 and rules 42(b)(2) and 50 thereunder.

By order dated February 3, 1982 (HCAR No. 22380) MSE was authorized to enter into a revolving loan agreement with a group of foreign banks ("Loan Agreement"). Under the Loan Agreement MSE may borrow up to $378 million with interest at a fluctuating rate equal to 1% over the one, three, or six month LIBOR. As of July 31, 1983, MSE has borrowed the entire amount. On October 14, 1983, the one month LIBOR was 9¼, the three month 9 13/16 and the six month 10 3/16.

MSE wants to convert all or a portion of its floating interest rate obligations under the Loan Agreement into fixed rate term obligations. Accordingly, MSE proposes to contract with one or more financial institutions ("Counterparty"). Under the agreements MSE would make fixed interest rate payments on a certain amount of the Loan Agreement debt and the Counterparty would make floating rate interest payments to MSE based on the same amount ("Swap Agreement"). Each Swap Agreement might be arranged by the Counterparty itself or another party not participating directly in the Swap Agreement. Each Swap Agreement would provide that the floating rate to be paid by the Counterparty to MSE would be based on a floating index rate specified in the agreement for a period ending not later than February 5, 1989 (the maturity date under the Loan Agreement).

In no event will the fixed rate of interest to be paid by MSE under any Swap Agreement exceed a rate equal to 1.5% per annum above the interest rate, at the time of entering into such Swap Agreement, on direct obligations of the Federal Government having maturities comparable to the term of such Swap Agreement. In addition to such interest rate, MSE will also pay the difference between the floating interest rate it receives from the Counterparty and the interest rate applicable to borrowings under the Loan Agreement (e.g., 1% per annum, if MSE receives a floating interest rate equal to the LIBOR from the Counterparty), and ½% per annum for expenses related to the Swap Agreement.

Based on the October 17, 1983 yield on a government security due in November 1989 of 11.36%, the effective cost to MSE would be 14.36%. A Swap Agreement may contain early termination provisions under which MSE may need to make or may receive a settlement payment in the form of liquidated damages in certain circumstances.

MSE presently contemplates entering into separate Swap Agreements with respect to amounts equal to one-ninth of the borrowings outstanding under the Loan Agreement. Such borrowings under the Loan Agreement become due semiannually, commencing in February 1985, in installments of one-ninth of the borrowings outstanding on December 31, 1983. Accordingly, each such Swap Agreement would have a term matched to the maturity of the portion of the borrowings under the Loan Agreement to which it relates. MSE requests authority to enter into one or more Swap Agreements at any time through December 31, 1984. To the extent a transaction is not excepted from Rule 50 by 50(a)(2), MSE proposes to follow competitive procedures in accordance with the Commission's Statement of Policy, dated September 2, 1982 (HCAR NO. 22823).

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 14, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be

filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28311 Filed 10-27-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23092; 70-6838]

National Fuel Gas Company, et al; Proposed Issuance and Sale

October 21, 1983.

In the Matter of National Fuel Gas Co., 30 Rockefeller Plaza, Suite 4545, New York, New York 10112, and Seneca Resources Corp., 10 Lafayette Square Buffalo, New York 14203.

National Fuel Gas Company ("National"), a registered holding company, and its wholly owed subsidiary, Seneca Resources Corporation ("Seneca"), have filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to Sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder.

By order in this proceeding dated February 28, 1983 (HCAR No. 22864), Seneca was authorized to issue and sell short-term notes to RepublicBank Houston, N.A. ("RepublicBank") and Citibank, N.A., up to an aggregate amount of $85 million outstanding at any one time pursuant to a line of credit of $85 million with each bank. All of the notes were to be guaranteed by National. Now, Seneca intends to increase its available lines of credit with the two banks by $38,500,000 each and proposes to borrow up to an aggregate principal amount of up to $103,500,000 under said lines of credit. National again proposes to guarantee repayment of all amounts borrowed by Seneca under its lines of credit. Seneca also proposes to extend the maturity of said short-term borrowings from February 29, 1984, to September 30, 1984. Seneca will utilize funds borrowed under the increased lines of credit to develop certain oil and gas leases located offshore, adjoining Plaquemines Parish, Louisiana, and for other day to day operations. The notes will be secured by a portion of Seneca's interest in oil and gas properties and a portion of Seneca's Pennsylvania hardwood timber acreage. It is stated that the effective cost of borrowing will be the prime rate at RepublicBank or the base rate at Citibank, both of which were 11% as of October 11, 1983. Seneca, at its option, may also borrow at an alternative rate of interest set by each bank.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 21, 1983, to the Secretary, Securities and Exchange Commission, Washington, DC. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28310 Filed 10-27-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23091; 70-6912]

National Fuel Gas Co.; Proposed Issuance and Sale of Common Stock and Options

October 21, 1983.

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 62 promulgated thereunder.

National proposes to grant options and issue and sell common stock pursuant to an Incentive Stock Option Plan ("Plan") adopted on September 16, 1983. Eligible employees will be restricted to key employees of National and its subsidiaries. The company's compensation committee may grant options in such amounts to such eligible employees as it deems appropriate, except that the fair market value of the shares of National's common stock, no par value, for which any employee may be granted options in a calendar year, may not exceed $100,000 plus an "unused limit carryover" to such year as provided in the Internal Revenue Code. The total number of shares that may be purchased pursuant to the Plan is limited to 250,000. No option may be exercised within one year after, or more than ten years after, the date of the grant thereof. The exercise price of each option is fixed by the committee and cannot be less than the fair market value of National's common stock on the date of the grant of the option. Unless ended earlier, the Plan will terminate on September 15, 1993. The Plan is subject to approval by the holders of shares of National's common stock, no par value, voting at National's 1984 Annual Meeting, scheduled to be held on February 16, 1984. National proposes to solicit proxies in connection therewith.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 21, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29309 Filed 10-27-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13592; 812-5639]

New York Life Insurance and Annuity Corp., et al.; Application

October 21, 1983.

Notice is hereby given that New York Life Insurance and Annuity Corporation ("NYLIAC"), 372 Park Avenue South, New York, New York, 10010, NYLIAC MFA Separate Accounts I and II, registered under the Investment

Company Act of 1940 ("Act") as unit investment trusts and established by NYLIAC in connection with the proposed issuance of certain variable annunity contracts ("Accounts"), and New York Life Variable Contracts Corporation (the principal underwriter for the contracts) (collectively, "Applicants") filed an application on August 29, 1983 for an order pursuant to section 6(c) of the Act granting exemptions from the provisions of sections 22(e), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the Act to the extent necessary to permit transactions described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein in support of the requested relief pursuant to Section 6(c), which are summarized below, and are referred to the Act for a statement of the relevant provisions.

Applicants request exemption from section 26(a) and 27(c)(2) to the extent necessary to permit NYLIAC to hold assets of the Accounts without appointment of a trustee or custodian, and to permit the Accounts to hold the securities of New York Life MFA Series Fund, Inc. (registered under the Act as an open-end diversified management investment company and established to serve as the investment vehicle for the Account) in book-entry form.

Applicants request exemption from sections 26(a)(2)(C) and 27(c)(2) to the extent necessary: to deduct from contract values the amount of any premium taxes imposed thereon; to impose on flexible premium policies a guaranteed administration fee of the lesser of $30 or 1% of the value of the contract upon each anniversary of the issuance of a contract; and to impose a daily charge for administrative services equal to .50%, on an annual basis, of daily net assets. Applicants represent that these latter two charges are not designed to exceed the actual expenses incurred in connection with contract administration and contain no element of profit.

Applicants also request relief from these sections to the extent necessary to deduct a mortality and expense risk charge from the Accounts at an effective annual rate of 1.25% of the value of the assets of the Accounts and represent that this charge is reasonable in amount as determined by industry practice with respect to comparable annuity products, and that the basis for this representation is reflected in documents on file with NYLIAC. Applicants will impose in some cases a surrender charge upon partial and total contract surrenders, not to exceed 8.5% of total premuims paid under the contracts. Applicants acknowledge that the surrender charge may be sufficient to cover all costs of distributing the contracts and that any shortfall would be absorbed by the general account of NYLIAC, which might include assets attributable to the risk charge. In this regard, NYLIAC represents that it has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Accounts and contract owners and the Accounts represent that they will invest only in funds which undertake to have a board with disinterested majority formulate and approve any plan under Rule 12b-1 to finance distribution expenses.

Applicants request an exemption from sections 22(e), 27(c)(1) and 27(d) to the extent necessary to permit issuance of contracts to participants in the Texas Optional Retirement Program.

Notice is further given that any interested person wishing to request a hearing on the application may, not later then November 14, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28313 Filed 10-27-83; 8:45 a.m.]

BILLING CODE 8010-01-M

[Release No. 20321; SR-NYSE-83-50]

New York Stock Exchange, Inc.; Filing

October 21, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on October 17, 1983, the New York Stock Exchange, Inc. ("NYSE") 11 Wall Street New York, New York, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The NYSE's proposed rule change would extend the NYSE's pilot program relating to the operation of enhancements to the Automated Bond System ("ABS Enhancements") [1] from October 15, 1983 to December 15, 1983. The ABS Enhancements, as approved in SR-NYSE-83-11, consist of a pilot program whereby a universal contra party name is used: (1) To compare transactions effected by matching orders through the ABS, and (2) to automate submission of trade data entered in the ABS to comparison.[2] The NYSE has noted it is requesting an extension to allow the Exchange additional time to codify the ABS Enhancements in a permanent rule change proposal. The NYSE states that the ABS Enhancements are not proposed to be changed during the extension of the pilot program. According to the NYSE the statutory basis for the proposed rule change is § 6(b)(5) Section 11A(a)(1) and § 17A(a) of the Act.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all witten communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

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[1] The Commission approved the adoption of the pilot program (SR-NYSE-82-11) on July 14, 1982 (Securities Exchange Act No. 18890, July 14, 1982; 47 FR 32874, July 29, 1982). The Commission subsequently approved an extension to the pilot program until October 15, 1983 as proposed in SR-NYSE-83-27 July 29, 1983 (Securities Exchange Act No. 20023 July 29, 1983; 48 FR 36237 August 9, 1983.

The original filing of NYSE 83-11 noted that the pilot program would require modification to certain NYSE rules prior to Commission approval of the program on a permanent basis, and that any necessary changes to its rules would be submitted to the Commission during the pilot program.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that it will provide the Exchange with the additional time necessary to codify the ABS Enhancements into a permanent rule change proposal as well as permitting it to file with the Commission the necessary modifications to NYSE rules prior to Commission approval on a permanent basis. Therefore, the Commission believes it is appropriate to extend the pilot program until December 15, 1983.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29318 Filed 10-27-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20316; File No. SR-PCC-83-05]

Filing of Proposed Rule Change; Pacific Clearing Corp.

October 21, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), the Pacific Clearing Corporation ("PCC"), on October 11, 1983, filed with the Securities and Exchange Commission the proposed rule change described below. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

The proposed rule change [1] would amend, in two ways, PCC's recently approved Rule XXX relating to its clearing fund.[2] First, within ten calendar days prior to the expiration of any letter of credit, the member for whom the letter was issued must substitute, for the expiring letter, sufficient collateral to secure the member's open account indebtedness. That substitute collateral can be in any form allowed by PCC Rule XXX and must be tendered to PCC prior to, or contemporaneously with, the letter of credit's expiration.

Second, the proposal would amend PCC's authority to pledge clearing fund non-cash assets, *e.g.*, certain U.S. Government securities and letters of credit. Currently, PCC can pledge those assets as security for loans for purposes allowable under PCC Rule XXX.[3] Under the proposal, if PCC suffers a loss or liability and exercises its borrowing authority under PCC's By-laws to meet that loss or liability, PCC must repay any resulting loans in full within thirty days after they are made.

PCC states in its filing that the proposed rule change would enhance PCC's ability to safeguard securities and funds in its custody or control or for which it is responsible. Accordingly, PCC believes that the proposal is consistent with Sections 17A(b)(3)(A) and (F) of the Act.

Persons interested in the proposal can submit written comments to the Commission within 21 days after this notice is published in the **Federal Register**. Please file six copies of your comments with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and refer to File No. SR-PCC-83-05.

Copies of the proposal, including any amendments, written comments, and all related correspondence, other than that correspondence which can be withheld from the public under 5 U.S.C. 552, can be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any amendments also can be inspected and copied at PSDTC.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29315 Filed 10-27-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20317; File Nos. SR-OCC-83 and SR-OCC-82-3]

Options Clearing Corporation ("OCC"); Order Approving Proposed Rule Change; Order Withdrawing Proposed Rule Change

On February 24, 1983, OCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder, proposed rule change File No. SR-OCC-83-4 amending OCC Rule 1106 to require that OCC close-out segregated long positions carried by a suspended participant.[1] Notice of this proposed rule change, together with its terms of substance, was given by publication of Securities Exchange Act Release No. 19586 (March 14, 1983), 48 FR 11800 (March 21, 1983). No letters of comment were received.

I. Description of the Proposed Rule Change

The proposed rule change would expand OCC's insolvency liquidation procedures to provide OCC with the authority to close-out insolvent participants' uncovered short positions and long positions respecting which OCC has no liens. For reasons discussed below, OCC believes that this proposal will reduce financial exposure to OCC and to solvent participants, and will minimize delays for customers of insolvent participants.

OCC's current insolvency rules provide that OCC may close-out the insolvent participant's short positions in all accounts [2] and long positions in (i) market makers' accounts;[3] (ii) specialist accounts;[4] (iii) firm lien accounts;[5] (iv) unsegregated customers' accounts;[6] and (v) firm non-lien accounts.[7] OCC Rule

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[1] The proposed rule change is modelled closely on current National Securities Clearing Corporation Rule 4, § 1.

[2] *See* Securities Exchange Act Release No. 20287 (October 14, 1983).

[3] PCC Rule XXX, § 1(e) provides that clearing fund assets may be used to satisfy PCC losses or liabilities incident to PCC's operation of its "clearance and settlement business."

[1] On January 15, 1982, OCC filed with the Commission proposed rule change File No. SR-OCC-82-3 that, among other things, would have amended OCC Rule 1106 to eliminate OCC's obligation to transfer segregated long positions from an insolvent participant to a solvent participant. Notice of that proposed rule change, together with its terms of substance, was given by publication of Securities Exchange Act Release No. 18460 (February 1, 1982), 47 FR 5589 (February 5, 1982). No letters of comment were received. Because proposed rule change File No. SR-OCC-83-4 supersedes proposed rule change File No. SR-OCC-82-3, OCC has requested, in a letter from Marc L. Berman, Esq., Executive Vice President and General Counsel of OCC to the staff dated September 7, 1983, that SR-OCC-82-3 be withdrawn if the Commission approves SR-OCC-83-4. Accordingly, the Commission hereby grants that withdrawal.

[2] OCC Rule 1106(d). That rule further provides, however, that OCC will not close-out open short positions (i) in call options for which specific or escrow deposits have been made by the participant or (ii) in put options for which treasury bills have been deposited by the participant. *Id.*

[3] OCC Rule 1106(b).

[4] *Id.*

[5] OCC Rule 1106(c).

[6] *Id.* OCC By-law Art. I, section 1(x) defines a "customers' account" as "an account established by the Clearing Member which is confined to Exchange transactions cleared and positions carried by the Clearing Member on behalf of its customers * * *." OCC By-law Art. I, section 1 (111) defines an "unsegregated long position" as "any long position or position thereof in a firm non-lien or customers' account which is not a segregated long position and all long positions maintained in firm lien accounts and market makers' and specialist accounts." OCC Rule 611 states that OCC "shall have a lien on each unsegregated long position carried in a customers' account * * *."

[7] *Id.* OCC By-law Art. I, section 1(z) defines a "firm account" as:

An account established by the Clearing Member which is confined to Exchange transactions cleared and positions carried on behalf of non-customers of

Clearing

1106(a) provides, however, that long positions in segregated customer accounts and segregated firm non-lien accounts, in general, must be maintained by OCC until OCC can arrange a transfer of the account to a solvent participant. The proposal would amend OCC Rule 1106 to require OCC to close-out all long positions in all accounts, including positions in segregated customer and firm non-lien accounts, with only limited exceptions.[8] The proceeds of these close-out transactions would be disposed of in accordance with OCC's existing Rule 1105.[9]

II. Rationale for the Proposed Rule Change

OCC has submitted this proposed rule change because it believes that its current procedures for transferring segregated customer and firm non-lien account long positions are impractical and create unnecessary financial losses. OCC explains that when a participant becomes insolvent,[10] OCC, in cooperation with the Securities Investor Protection Corporation ("SIPC") [11] and the trustee appointed by the court to manage the insolvent participant's assets, attempt to transfer the customer long positions to a solvent OCC participant. OCC states, however, that these transfers are difficult to effect because the insolvent participant's records may be in disarray, making it difficult for the trustee to identify individual customer accounts, and because the process of searching for various participants willing to accept positions is time consuming and has no assurance of success. While a transfer of accounts is being negotiated, customers on whose behalf the failed participant is holding these long positions often experience a decline in the time value of their positions. (Options are wasting assets which, by design, expire in less than one year.) SIPC further indicates that, upon a participant's insolvency, its customers, not knowing whether or when their long positions will be transferred, are unable to hedge and, as a practical matter, have difficulty exercising or closing-out their positions.[12]

OCC points out that the current requirement of maintaining long positions in segregated customer accounts and firm non-lien accounts prevents OCC from netting these positions against short positions, which OCC customarily elects to close-out. Accordingly, OCC, in order to close out the short positions, is required to purchase offsetting long positions. Because of the large number of contracts that may need to be purchased, that purchase activity may result in OCC bidding up the price of these options with resultant increased costs to OCC.[13]

To avoid these difficulties, OCC has proposed these amendments which, in general, allow it to close-out all long positions in addition to most short positions. As noted, OCC would be able to net long and short positions against each other and would not have to engage in options transactions. OCC further suggests that customers will be able to avoid the uncertainty and delays caused by efforts to transfer segregated long positions and will have the opportunity promptly to reestablish their positions with a solvent broker-dealer.[14]

III. Discussion

The Commission believes that the proposal is consistent with the requirements of the Act, and in particular with Section 17A(b)(3)(A), which requires, among other things, that a clearing agency be so organized and have the capacity to safeguard securities and funds in its custody or control, or for which it is responsible. The Commission believes that the amendments to the insolvency procedures will reduce the financial exposure that OCC could face when a participant becomes insolvent by, for example, allowing OCC to net most of the participant's long and short positions. OCC would not be forced to purchase as many offsetting long positions, which should reduce the drain on the liquidating settlement account[15] and the need to use the insolvent's margin deposits or resort to clearing fund assets of solvent participants to satisfy the insolvent participant's liabilities.[16]

The Commission further believes that the proposal constitutes a practicable solution to the difficulties of transferring segregated customer long positions from an insolvent to a solvent participant.[17] The Commission believes that, despite good faith efforts of both OCC and SIPC to arrange the quick transfer of these positions, customers have experienced delays awaiting transfer, with attendant market and opportunity losses. While this problem exists, to some degree, with all securities, it is greatly exacerbated by the short-term nature of options contracts. Because options are "wasting" assets that provide investors substantial leverage, the inability to access an account effectively, even for a short period of time, may have substantial adverse effects on customers of broker-dealers in SIPC liquidations.

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the Clearing Member. The term "firm lien account" means a firm account as to which [OCC] shall have a lien on all long positions in the option contracts in the account * * * and the term "firm non-lein account" means a firm account as to which [OCC] shall have a lien only on unsegregated long positions therein.

OCC Rule 611 provides that OCC shall have a lien "on each unsegregated long position carried in a firm non-lien account."

[8] The proposal would permit OCC to exercise an unsegregated long position instead of closing it out. The proposal further provides that OCC must exercise a segregated long position on the option's expiration date if the position has not been transferred or closed-out and has a specified minimum value. Although this provision appears in OCC's current Rule 1106(a), the amended rule now refers to minimum values below which OCC may let a non-equity option expire without exercise. The proceeds generated by closing-out an exercised option, in general, are to be distributed in accordance with OCC's existing Rule 1107. Finally, the proposal also includes various conforming changes to OCC's insolvency procedures, some of which are incorporated by reference from changes originally filed in File No. SR–OCC–82–3.

[9] The proposal further provides that if OCC closes-out an open long position in a suspended participant's pledge account, the net proceeds from that account will be paid to the pledgee, pursuant to OCC Rule 614. *See* SR–OCC–82–25, approved in Securities Exchange Act Release No. 19956 (July 19, 1983), 48 FR 33956 (July 26, 1983).

[10] Currently, only broker-dealers are participants in OCC.

[11] *See* companion filing SR–SIPC–83–1, submitted pursuant to Section 3(e)(2) of the Securities Investor Protection Act of 1970 ("SIPA"), which is being approved concurrently with the OCC proposal.

[12] If no transfer is made, SIPC guarantees that the customer will receive no less than the value of his option contracts as of the date that SIPC files an application for a protection decree ("filing date"). *See* Section 16(7) of SIPA. Because the customer, however, is not able to anticipate whether a successful transfer will occur (at which point he would receive the actual option position, regardless of its value at the time of receipt), he is not in a position to react intelligently or effectively to market movements. *See* Letter from Theodore H. Focht, General Counsel, SIPC, to George A. Fitzsimmons, Secretary, SEC, dated July 13, 1983, in support of File No. SR–SIPC–83–1.

[13] SR–OCC–83–4 at 17. OCC further argues that if SIPC and OCC cannot arrange the transfer of customer longs, SIPC will be forced to close-out these positions, depressing their market value, and forcing SIPC to incur greater losses. *Id.*

[14] Delays in closing-out these positions, of course, can increase the amount that must be paid out of the SIPC fund to customers. As noted, SIPA provides that customers must be paid the filing date value of any liquidated position. If SIPC and OCC are unable to complete a successful transfer of accounts and must liquidate those positions, SIPC must pay for any decline in the value of those positions subsequent to the filing date. Similarly, if these positions simply expire worthless to SIPC, SIPC remains liable to customers for the full filing date value of those positions.

[15] *See* OCC Rule 1104.

[16] *See* OCC By-laws Art VIII.

[17] Trustees in some SIPC liquidations involving OCC participants have accepted close-out and exercise orders from customers, which OCC arranged to have executed. OCC states, however, that there are often delays before customers' orders are satisfied.

Moreover, because OCC customarily closes-out customer short positions, customers can find their spread positions transformed into one-sided long positions. As a result, because customers have no way of knowing whether transfer of their positions will be effected or whether, instead, the trustee will ultimately close-out those positions, customers cannot know whether to take protective action.

In view of these problems, the Commission believes that allowing OCC immediately to close-out all long position would be preferable to the current OCC/SIPC procedures. The proposal addresses the unique problems associated with closing-out an OCC participant's options positions during an insolvency proceeding. The Commission believes that the proposed close-out authority, which enables OCC to net long and short positions and requires OCC promptly to close-out long positions that remain after netting is completed, will reduce OCC's and SIPC's liability[18] and will provide customers with certainty, enabling them to reestablish their positions promptly.[19] Accordingly, the Commission believes that the proposal provides significant benefits to OCC, its participants, and public customers and furthers the purposes and requirements of the Act, including in particular, Section 17A.

It is therefore ordered, pursuant to Section 19(b) of the Act, that the proposed rule change (File No. SR–OCC–83–4), be, and hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28320 Filed 10-27-83; 8:45 am]

BILLING CODE 8010-01-M

[Released No. 20313; File No. SR–NYSE–83–51]

Self-Regulatory Organizations; Proposed Rule Change; New York Stock Exchange, Inc., Relating to Amendment to NYSE Rule 750

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 17, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exhange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule change consists of an amendment to Exchange Rule 750 to permit an options specialist to "popularize" a specialty option, provided he makes appropriate disclosure of his market-making status, as required in Rule 750 as amended.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The purpose of the proposed rule change is to permit an options specialist, his member organization, or any other member, allied member or approved person in such organization, or any officer or employee thereof, to "popularize", either orally or in writing, any option in which the specialist is registered. "Popularizing", as defined in the proposed rule change, means the issuance of advertisements, market letters, sales literature, research reports, buy or sell recommendations or any other communication with the public, whether oral or written, by the specialist or a person associated with the specialist, and the solicitation of customers' orders with respect to any option in which the specialist is registered.

Exchange Rule 750 currently incorporates by reference Rule 113.20, which provides that "It is contrary to good business practice for a specialist or his member organization or any other member, allied member or approved person in such organization or any officer or employee thereof to "popularize", either orally or in writing, and security in which he is registered." Under the proposed rule change, "popularizing" of a specialty option would be permitted where there is disclosure that:

- The specialist makes a market in the option;
- The specialist may have "long" or "short" inventory position in the option;
- The specialist may be on the opposite side of orders executed on the Floor of the Exchange.

Disclosure as to association with a specialist who makes a market in the option would have to be made by the specialist's member organization, or any other member, allied member or approved person.

The Exchange notes that bans no "popularizing" by options specialists have traditionally been rooted in concerns that (1) specialists and persons associated with them face conflicts of interest in making recommendations or soliciting orders in a specialty option; and (2) there is potential for market manipulation of "popularizing" is done in a security underlying a speciality option to affect price movements in the overlying option. The Exchange believes that the first concern can be greatly minimized where disclosure of market-making status is made, and that the second concern is not really relevant to the type of option contract approved for trading on the Exchange at this time.

The Exchange believes that "popularizing" accompanied by disclosure of market-making status will provide investors with sufficient information as to the existence of a possible conflict of interest. Investors would then be free to decide for themselves what to make of this information. This approach is entirely consistent with the underlying philosophy of the Securities Exchange Act, which places emphasis on providing *adequate disclosures* to investors. The Exchange also notes that the approach taken in the proposed rule change is the same approach followed currently as to over-the-counter equity market-making status. (See Article III, Section 35 of the National Association of Securities Dealers' Rules of Fair Practice). This has apparently not created significant conflict of interest problems in the over-the-counter market, and the Exchange sees no reason why this approach should not be extended to options specialists and to those associated with them.

The Exchange notes that "popularizing" restrictions in certain other markets have been applied not only as to an option, but to the underlying security as well. The

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[18] *See supra* at note 14.

[19] Although customers will continue to bear the commission costs associated with reestablishing their positions, they will not continue to run the risk that transfer may occur much later than the filing date with substantially reduced time value in their positions, and they will not need to attempt to effect an exercise or sale through the trustee.

rationale for this is that "popularizing" the underlying security may unduly influence price movements in the option.

The Exchange notes that the only option contract approved for trading on the NYSE at this time is the option on the NYSE Composite Stock Index. This option contract does not have a single underlying security, and price movements in the option reflect the broad market movement of more than 1,500 stocks. It is simply unrealistic to assume that "popularizing" as to general market trends would in fact affect the price movement of more than 1,500 stocks, which would then, in turn, affect the price of the option on the NYSE composite index. Similarly, it is inconceivable that "popularizing" the option on the NYSE composite index would somehow influence the price movements of more than 1,500 stocks. Thus, the Exchange has concluded that concerns that "popularizing" may provide opportunities for maniputation of prices are simply not relevant as to "popularizing" the option on the NYSE composite index.

(2) *Statutory Basis.* The Exchange anticipates that the option on the NYSE composite stock index will prove to be a valuable trading vehicle for many investors, and that many broker-dealers may routinely "popularize" this security to their clients. The Exchange believes that an options specialist doing a public business, or a person associated with an options specialist doing a public business, will be placed at a significant competitive disadvantage in attracting orders in the option if they cannot "popularize" on an equal footing with all other broker-dealers.

By permitting specialists to "popularize" a specialty option, the proposed rule change enables specialists and associated persons to compete on a more equal footing with other broker-dealers, which are not currently subject to comparable "popularizing" restrictions on the same security. Thus, the proposed rule change can be said to promote the purposes of Section 6(b)(8) of the Securities Exchange Act, which states that the rules of an exchange shall not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act. In fact, as noted above, the proposed rule change will enhance competition by permitting specialists and associated persons to "popularize" a specialty option on a more equal footing with other broker-dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

((B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the pubic in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submmitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 21, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28919 Filed 10-26-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

General Aviation District Office at San Diego, California; Relocation

Notice is hereby given that on or about November 1, 1983, General Aviation District Office Number 3 at San Diego, California will be relocated to 8665 Gibbs Drive, Suite 110, San Diego, California 92123. Services to the aviation public will continue without interruption. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Los Angeles, CA, on October 14, 1983.

R. L. Devereaux,

Acting Director, Western-Pacific Region.

[FR Doc. 83-28948 Filed 10-27-83; 8:45 am]

BILLING CODE 4910-13-M

Air Carrier District Office at San Diego, California; Relocation

Notice is hereby given that on or about November 1, 1983, Air Carrier District Office Number 32 at San Diego, California will be relocated to 8665 Gibbs Drive, Suite 110, San Diego, California 92123. Services to the aviation public will continue without interruption. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Los Angeles, CA, on October 14, 1983.

R. L. Devereaux,

Acing Director, Western-Pacific Region.

[FR Doc. 83-28949 Filed 10-27-83; 8:45 am]

BILLING CODE 4910-13-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendment of Systems Notices; Revised System of Records

Notice is hereby given that the VA (Veterans Administration) is considering changing two systems of records entitled, "Loan Guaranty Fee Personnel and Program Participant Records—VA" (17VA26), and "Loan Guaranty Home, Condominium and Manufactured Home

Loan Applicant Records, Specially Adapted Housing Applicant Records and Vendee Loan Applicant Records—VA" (55VA26). The two systems, respectively, are set forth on pages 668 and 691 of a **Federal Register** publication entitled "Privacy Act Issuances, 1980 Compilation, Volume V." These two systems are being completely revised as part of an overall Agency effort to administratively update its Privacy Act systems of records. The notices of the systems of records are being rewritten in a clearer, more comprehensive manner to better identify to the public the types of individuals and entities covered by the systems of records, the types of records being maintained by the VA, and the types of routine use disclosures currently being made from the systems. The statements on the categories of records in the systems have been extensively expanded to provide greater details as to the types of information contained in the records and the routine use statements have been rewritten to be more concise and to conform with the requirements of VA confidentiality statutes. A new provision, "Systems exempted from certain provisions of the Act" has been added in order to properly carry out the law enforcement functions of the Department of Veterans Benefits, Loan Guaranty Service to prevent subjects of fraud investigations from frustrating the investigatory process, to protect the confidentiality of informants and for purposes of determining the eligibility, suitability or the qualifications of prospective VA program participants.

In VA system of records 17VA26, the seven current routine uses have been revised and rewritten into ten new notices in order to be more specific as to what information in the record is subject to routine use release, the categories of users and the purposes of such releases. None of the routine uses are being deleted, but the sequence of listing the routine use statements is being changed.

Routine use number 1 permits the release of information to a member of Congress or his/her staff personnel acting on behalf of and at the individual's request. Routine uses numbers 2, 3 and 4 permit the release of any information in the system to other governmental agencies which is necessary for the VA or these agencies to make decisions regarding employment, contracting, licensing, personnel matters, or to conduct civil or criminal investigations. Routine use number 5 permits the exchange of information between the VA and other Federal agencies relating to suspension of program participants in the housing and finance industry. Routine use number 6 permits the disclosure to other governmental agencies of professional information and performance records of fee appraisers and compliance inspectors. Routine use number 7 provides for identifying information to be released to business and professional organizations in order to obtain recommendations on qualifications of prospective VA program participants.

Routine use number 8 allows the release of identifying information and the reasons for suspension of program participants to business and professional organizations in order for those organizations to take any disciplinary actions based on this information. Routine uses numbers 9 and 10 allow disclosure of any information in the system to a Federal Grand Jury, a Federal court or party in litigation, or to a Federal agency or party to an administrative hearing conducted by a Federal agency and to similar entities in State and local jurisdictions in response to a subpoena from a Federal, State or local entity.

In the VA system of records 55VA26, seventeen current routine uses have been revised and rewritten into twenty-seven new notices. These new notices incorporate all of the provisions of the current routine use statements. The new notices separate and expand the routine use categories in order to be more specific and comprehensive as to routine use releases, the categories of users and the purposes of such releases.

Routine use number 1 permits release of information to a member of Congress or his/her staff personnel on behalf of and at the request of the individual. Routine uses numbers 2, 3 and 4 permit the release of information in the system to other governmental entities for the purpose of investigating or prosecuting civil or criminal violations of statutes, rules, orders or regulations. Routine use number 5 allows the release of a veteran's name, name of the veteran's spouse, and property address to companies, firms, agencies, and parties involved in providing information to the VA regarding the employment and financial status of any applicant for loan assistance. Routine use number 6 allows VA to disclose information on a loan application to a prospective lender. Routine uses numbers 7 and 8 allow the disclosure of the status (i.e., approved, rejected, pending) of a loan application to a prospective lender, the veteran, the seller and spouse, or the spouse of the veteran with limitations.

Routine use number 9 allows the disclosure of information on the prospective buyer of a VA property to a broker aiding in the purchase and sale of a VA-acquired property. Routine use number 10 permits the disclosure of the payment record of veteran purchasers to persons or organizations extending credit or rendering services to veterans. Routine use number 11 allows disclosure of the names and addresses of individuals who have a VA loan or bought a VA property to hazard insurance companies and real estate taxing authorities. Routine use number 12 allows the disclosure of information about prospective assumers of VA loans to the person currently liable for the loan. On a loan which has been assumed, routine use number 13 allows disclosure of information where the loan is in default or is otherwise delinquent to the prior property owner who remains liable on the loan. Routine uses numbers 14 and 15 allow disclosure of loan account information to U.S. Attorneys for foreclosure or litigation purposes and to the General Accounting Office for debt collection purposes. Routine use number 16 allows names and addresses of obligors, loan balances, and interest rates of VA direct loans to be disclosed to prospective purchasers on such loans from VA. Routine use number 17 permits any information in this system to be disclosed to a debtor's Federal employer or commanding officer for financial counseling and to assist in collection of debts due the United States. Routine use number 18 allows disclosure to the guardian ad litem for an incompetent if disclosure is for the veteran's benefit. Routine use number 19 permits identifying information on a debtor to be disclosed to Federal agencies, State courts, and license bureaus, etc. to obtain current information in collection actions for obligations owing to the United States. Routine use number 20 permits the release of loan application information or information regarding a defaulted loan to fee attorneys, fee appraisers, brokers, title companies and similar parties in order to approve or terminate a loan, to obtain possession of property, to file judgments and to carry out any other VA responsibilities in connection with a VA loan. Routine use number 21 allows release of an obligor's social security number and other identifying information to State and local authorities to assist in identifying judgment debtors on State and local records. Routine use number 22 permits the disclosure of information that a veteran loan applicant has been adjudicated incompetent by a court or by VA rating action to a prospective lender. Routine uses numbers 23 and 24 allow disclosure of any information in the system to a Federal grand jury, a

Federal Court or party in litigation, or to a Federal agency or party to an administrative hearing conducted by a Federal agency and to similar entities in State and local jurisdictions in response to a subpoena from a Federal, State or local entity. Routine uses numbers 25 and 26 permit VA to release any information, including personal information obtained from other Federal agencies through computer matching programs, to third parties or consumer reporting agencies to collect overdue indebtedness or to initiate legal actions relative to the wrongful obtainment of title 38 benefits. Releases pursuant to routine uses numbers 25 and 26 will be consistent, and within the strict requirements, of 38 U.S.C. 3301. Routine use number 27 permits VA to release any information, except the name and address of a veteran, to a Federal agency in order for the VA to obtain information relevant to the making, guaranteeing or insuring of a loan under chapter 37 of title 38 U.S.C. The veteran's name and address may also be disclosed under this routine use if they are required by the Federal agency in order to respond to the VA inquiry.

For the purposes of these two VA systems of records the definition of terms or concepts are as follows:

A. Veteran. A person who served in the active military, naval or air service, and who was discharged or released under conditions other than dishonorable and whose name and address and other information is maintained by the VA by virtue of the administration of veterans benefits under title 38, United States Code. For purposes of these system notices (unless specifically stated otherwise in the "Categories of individuals covered by this system" section of a system of records) the term "veteran" will also include the dependents of a veteran and any other individual who has been granted veteran status by virtue of a specific statutory authority. The name, address and other information regarding a veteran is protected by 38 U.S.C. 3301 and 4132 in addition to the Privacy Act. Accordingly, any disclosures of information concerning a veteran made from these Privacy Act systems of records under a routine use or other Privacy Act authority shall be consistent with the provisions of 38 U.S.C. 3301 and 4132.

B. Claimant. Any individual making a claim for a benefit under title 38, United States Code; e.g. veteran, nonveteran life insurance beneficiaries.

C. Record. Any item, collection or grouping of information about an individual that is maintained by the agency. The term "record" may be used with regard to as little as one descriptive item about an individual.

D. Information vs. Data. "Information" is individually identifiable (e.g., record includes an individual's name or address or other identifying information) whereas "data" is not individually identifiable.

E. Subsidiary Records. Subsidiary records contain information which is part of a more comprehensive, published VA system of records. Subsidiary records may be physically located separate and apart from the rest of the system of records. Any subsidiary records are maintained for the same general purposes as a published system of records and, therefore, are considered to be part of that published system of records. (OMB Circular A–108).

F. Disclosures Made "At the Request of the Veteran." In a few routine use notices, for purposes of section 3301 of title 38, United States Code, the VA has identified situations when the disclosure of a veteran's name and address by the VA to a third party is being made "at the request of the veteran." In these instances, an express or implied consent to disclose a veteran's name or address may be inferred by the VA when a veteran has submitted a claim for VA benefits, inquired into benefits provided by the VA, or has sought assistance from the VA in obtaining any other benefits (e.g., employment, State or local agency benefits programs) to which the veteran might be entitled and referral of the name and address of the veteran by the VA to a third party will reasonably be required for the VA to act on the request of the veteran for assistance.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed systems of records to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before November 28, 1983 will be considered. All written comments will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until December 12, 1983. Any person visiting the Veterans Administration Central Office for the purpose of inspecting any comments should visit the VA Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be advised that the records are available only in the Central Office and will be furnished the above address and room number.

If no public comment is received during the 30-day review period allow for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the revised systems of records are effective November 28, 1983.

Approved: October 19, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

1. The system identified as 17VA26, "Loan Guaranty Fee Personnel and Program Participant Records—VA" appearing at page 668, Privacy Act Issuances, 1980 Compilation, Volume V is revised as follows:

17VA26

SYSTEM NAME:

Loan Guaranty Fee Personnel and Program Participant Records—VA.

SYSTEM LOCATION:

Records on nonsuspended fee personnel and program participants are maintained at VA regional offices, medical and regional office centers, VA offices and VA centers having loan guaranty activities. Records of nonsupervised lenders and subsidiaries of supervised lenders having authority to process VA loans automatically are maintained in VA Central Office. National Control List of suspended program participants and fee personnel are maintained at VA regional offices, medical and regional office centers, VA offices and VA centers having loan guaranty activities. A Master Control list is maintained only at VA Central Office. Address locations are listed in Appendix 1 at the end of this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals will be covered by this system: (1) Fee personnel who may be paid by the VA or by someone other than the VA (i.e., appraisers, compliance inspectors, management brokers, loan closing and fee attorneys who are not VA employees but are paid for actual case work performed), and (2) program participants (i.e., property management brokers and agents, real estate sales brokers and agents, participating lenders, and title companies whose fees are paid by someone other than the VA, and manufactured home dealers, manufacturers, and manufactured home park or subdivision owners).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) may include: (1) Applications by individuals to become VA-approved fee basis appraisers, compliance inspector, fee attorneys, or management

brokers. These applications include information concerning applicant's name, address, business phone numbers and professional qualifications; (2) applications by non-supervised lenders for approval to close guaranteed loans without the prior approval of VA (automatically); (3) applications by lenders supervised by Federal or State agencies for designation as supervised automatic lenders in order that they may close loans without the prior approval (automatically) of the VA; applications for automatic approval or designation (i.e., (2) and (3)) contain information concerning the corporate structure of the lender, professional qualifications of the lender's officers or employees, financial data such as profit and loss statements and balance sheets to insure the firm's financial integrity; (4) identifying information such as names, business names (if applicable), addresses, phone numbers and professional resumes of corporate officials or employees; (5) corporate structure information on prior approval lenders, participating real estate sales brokers or agents, developers, builders, investors, closing attorneys or other program participants as necessary to carry out the functions of the Loan Guaranty Program; (6) records of performance concerning appraisers, compliance inspectors, management brokers, or fee attorneys on both firms and individual employees; (7) records of performance concerning program participants; e.g., lenders, investors, real estate brokers, builders, and developers both as to the firm and to individual employees maintained on an as-needed basis to carry out the functions of the Loan Guaranty program; (8) National Control Lists which identify suspended real estate brokers and agents, lenders, investors, manufactured home dealers and manufacturers, and builders or developers; and (9) a master record of the National Control List (i.e., Master Control List) which includes information regarding parties previously suspended but currently reinstated to participation in the Loan Guaranty program in addition to all parties currently suspended.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, chapter 3, section 210(c)(1); title 38, United States, Code, chapters 21 and 37.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

2. Any information in this system may be disclosed to a Federal, State or local agency, upon its official request, to the extent the agency has demonstrated that it is relevant and necessary to that agency's decision on: The hiring, transfer or retention of an employee; the issuance of a security clearance; the letting of a contract; or the issuance or continuance of a license, grant or other benefit by that agency.

3. Any information in this system may be disclosed to a Federal, State or local agency maintaining civil or criminal violation records, or other pertinent information such as prior employment history, prior Federal employment background investigations, and personal or educational background in order for the VA to obtain information from that agency relevant to the hiring, transfer or retention of an employee, the letting of a contract, the granting of a security clearance, or the issuance of a grant or other benefit.

4. Any information in this system which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal, State, local or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

5. Identifying information and the reasons for the suspension of builders, developers, lenders, real estate sales brokers and agents, manufactured home dealers, manufacturers, or other program participants suspended from participation in the Loan Guaranty Program may be disclosed to the Department of Housing and Urban Development (HUD), the Federal Housing Administration (FHA), United States Department of Agriculture (USDA), Farmers Home Administration (FHA) or other Federal, State or local agencies to enable that agency to consider imposing similar restrictions on these suspended persons and/or firms.

6. Identifying information and the performance records of qualified fee appraisers and compliance inspectors including any information regarding their suspension from participation in the Loan Guaranty Program, may be disclosed to Federal, State or local agencies to permit these agencies to employ the services of qualified fee personnel. This information may also be used by these agencies to ascertain causes for a compliance inspector's or a fee appraiser's subsequent removal for misconduct, untimely completion of assignments or other professional improprieties.

7. Identifying information as well as other information such as educational background and former business associations may be disclosed to business and professional organizations in order for the VA to obtain these organizations' recommendations concerning the performance, character, professional activities and other qualifications relating to participation in the VA Loan Guaranty Program.

8. Identifying information and the reasons for suspension of individuals and/or firms suspended from the VA Loan Guaranty Program may be disclosed to business and professional organizations in order for these organizations to take any appropriate disciplinary action.

9. Any information in this system may be disclosed to a Federal Grand jury, a Federal court or a party in litigation, or a Federal agency or party to an administrative proceeding being conducted by a Federal agency, in order for the VA to respond to and comply with the issuance of a Federal subpoena.

10. Any information in this system may be disclosed to a State or municipal Grand jury, a State or municipal court or a party in litigation, or to a State or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such agency, in order for the VA to respond to and comply with the issuance of a State or municipal subpoena; provided, that any disclosure of claimant information made under this routine use must comply with the provisions of 38 CFR 1.511.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records on nonsuspended fee personnel and program participants are kept on paper documents and maintained in file folders; and records on suspended fee personnel and program participants are maintained on paper documents and file cards.

RETRIEVABILITY:

All records are indexed or cross-indexed by the name of the individual or the firm.

SAFEGUARDS:

Access to VA working spaces and record file storage areas is restricted to VA employees on a "need to know" basis. Generally, VA file areas are locked after normal duty hours and are protected from outside acess by the Federal Protective Service or other VA security personnel. Sensitive files involving pending suspension or a legal action are stored in separate locked files.

RETENTION AND DISPOSAL:

File cards and paper documents on suspended fee personnel and program participants are maintained until there has been a notification that the suspension has been terminated and the party reinstated into the VA Loan Guaranty Program, at which time these records are destroyed by VA regional offices or centers. The Master Control List records are retained indefinitely. Records on fee personnel and program participants are retained for various periods extending up to two years after all loans have been liquidated. Destruction of all the above records is accomplished by either shredding or burning.

SYSTEM MANAGER AND ADDRESS:

Director, Loan Guaranty Service (26), VA Central Office, Washington, D.C. 20420.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier or wants to determine the contents of such record should submit a written request or apply in person to the nearest Veterans Administration regional office or center. Address locations are listed in VA Appendix 1 at the end of this document. All inquiries must reasonably identify the relationship of the individual with the VA loan program. Inquiries should include the individual's name, address, firm represented, if any, and capacity in which the individual participates or participated in the VA loan program. However, some of the records in this system are exempt from the notification requirement under 5 U.S.C. 552a(k). To the extent that records in this system of records are not subject to exemption, they are subject to notification. A determination as to whether an exemption applies shall be made at the time a request for notification is received.

RECORDS ACCESS PROCEDURE:

An individual seeks access to or wishes to contest records maintained under his or her name on this system may write, call or visit the nearest Veterans Administration regional office or center. Address locations are listed in VA Appendix 1 at the end of this document. However, some of the records in this system are exempt from the record access and contesting requirements under 5 U.S.C. 552a(k). To the extent that records in this system of records are not subject to exemption, they are subject to access and contest. A determination as to whether an exemption applies shall be made at the time a request for access or contest is received.

CONTESTING RECORD PROCEDURES:

(See Records access procedures above.)

RECORD SOURCE CATEGORIES:

The information and the records in this system are obtained from the applicant, lenders, brokers and builder/sellers, credit and financial reporting agencies, an applicant's credit sources, depository institutions and employers, independent auditors and accountants, hazard insurance companies, taxing authorities, title companies, fee personnel, business and professional organizations, other VA records, other Federal, State and local agencies, and other parties of interest involving VA-guaranteed, insured, vendee or direct loans or specially adapted housing.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Administrator of Veterans Affairs has exempted this system of records from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(k)(2) and (5).

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H) and (I)
5 U.S.C. 552a(f)

Reasons for exemptions: The exemption of information and material in this system of records is necessary in order to accomplish the law enforcement functions of the Loan Guaranty Service to prevent subjects of internal audit investigations for potential fraud and abuse in the VA Loan Guaranty Program from frustrating the investigatory process, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information and to avoid endangering these sources. This information is also being exempted to maintain the confidentiality and integrity of material compiled solely for the purpose of determining the suitability, eligibility or the qualifications of prospective VA program participants.

2. The system identified as 55VA26, "Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records and Vendee Loan Applicant Records—VA" page 691, Privacy Act Issuances, 1980 Compilation, Volume V is revised as follows:

55VA26

SYSTEM NAME:

Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records—VA.

SYSTEM LOCATION:

Records are maintained at the VA Central Office, the regional offices, medical and regional office centers, VA offices and VA data processing centers. These records generally will be maintained by the regional office, medical and regional office center or VA office having jurisdiction over the geographic area in which the property securing a VA guaranteed, insured or direct loan or on which a specially adapted housing grant has been issued is located and at the servicing Data Processing Centers at Hines, Illinois; Austin, Texas; and St. Paul, Minnesota. Records may be temporarily transferred between field stations or to VA Central Office for necessary appeals, reviews, or quality control reviews. Address locations are listed in VA Appendix 1 at the end of this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals will be covered by this system: (1) Disabled veterans who have applied for and received specially adapted housing assistance under title 38, United States Code, chapter 21; (2) veterans, their spouses or unmarried surviving spouses who have applied for and received VA housing credit assistance under title 38, United States Code, chapter 37; (3) person(s) applying to purchase VA owned properties (vendee loans); (4) transferee owners of properties encumbered by a VA-guaranteed, insured, direct or vendee loan (e.g., individuals who have assumed a VA-guaranteed loan and those who have purchased property directly from the VA); and (5) individuals other than those identified above who may have applied for loan guaranty benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) may include the following: (1) Military service information from a veteran's discharge certificate (DD Form 214, 215) which specifies name, service number, date of birth, rank, period of service, length of service, branch of service, pay grade, and other information relating to a veteran's military service (e.g., character of service, assigned separation reason code, whether a veteran is out of the service); (2) medical records containing specific information regarding a veteran's physical disability (e.g., blindness, paraplegic condition, loss of limbs) which is used to determine eligibility and need for specially adapted housing. Adjudication records relating to: (a) Medical determinations by the VA that a veteran is eligible and needs specially adapted housing; or (b) VA determinations on whether a veteran who has received an other than honorable discharge should be eligible for VA credit assistance benefits; (3) applications for certificates of eligibility (these applications generally contain information from a veteran's military service records except for character of discharge); (4) applications for FHA veterans' low-downpayment loans (these applications generally contain information from a veteran's military service records including whether or not a veteran is in the service); (5) applications for a guaranteed or direct loan, applications for release of liability and applications for substitutions of VA entitlement and applications for specially adapted housing (these applications generally contain information relating to employment, income, credit, personal data; e.g., marital status, number and identity of dependents; assets and liabilities at financial institutions, profitability data concerning business of self-employed individuals, information relating to an individual veteran's loan account and payment history on a VA-guaranteed, direct, or vendee loan on an acquired property, medical information when specially adapted housing is sought, and information regarding whether a veteran owes a debt to the United States) and may be accompanied by other supporting documents which contain the above information; (6) applications for VA acquired property (e.g., vendee loans—these applications generally contain personal and business information on a prospective purchaser such as credit, income, employment history, payment history, business references, personal information and other financial obligations and may be accompanied by other supporting documents which contain the above information); (7) loan instruments including deeds, notes, installment sales contracts, and mortgages; (8) property management information; e.g., condition and value of property, inspection reports, certificates of reasonable value, correspondence and other information regarding the condition of the property (occupied, vandalized), and a legal description of the property; (9) information regarding VA loan servicing activities regarding default, repossession and foreclosure procedures, assumability of loans, payment of taxes and insurance, filing of judgments (liens) with State or local authorities and other related matters in connection with active and/or foreclosed loans; and (10) information regarding the status of a loan (i.e., approved, pending or rejected by the VA).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, chapter 3, section 210(c)(1); title 38, United States Code, chapters 21 and 37.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

2. Any information in this system, except for the name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal, State, local or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

3. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto, in response to its official request.

4. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law concerning public health or safety, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to any foreign, State or local government agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name and address be provided for a purpose authorized by law.

5. Any information in this system, such as the name and address of a veteran or the veteran's spouse, and the property address may be disclosed to credit reporting agencies, companies extending credit, depository institutions, utility companies, investors, insurance companies, governmental agencies, lenders, and employers to enable such parties to provide the VA with information regarding income, credit, assets and liabilities information on applicants, mortgagors, or obligors and to provide the VA with information regarding the status of obligations, payment records, employment histories, assets for closing fees and other assets and liabilities.

6. Information on the application for a guaranteed or direct loan, and on the certificate of reasonable value and information verifying an applicant's employment and/or amount of deposit in a financial institution, may be disclosed to a prospective mortgagee proposing to make a guaranteed loan on the veteran applicant's behalf.

7. Information regarding the status (i.e., approved, pending, or rejected) or an application for VA loan benefits or for a loan account and the reasons for rejection may be disclosed to a prospective lender. When the VA has rejected a loan application, the information disclosed may include information from another VA record such as a debt which the veteran owes to the United States or information from a claims file relating to a veteran's ability to discharge an obligation.

8. Only the fact that the loan has been approved, rejected, or is pending may be disclosed to a seller, a spouse of a seller, or the spouse of the veteran-applicant who is an actual party in interest to the guaranteed, insured or direct loan transaction in order to inform such party

of the status of the loan application. However, a statement of the reason for rejection of the loan may also be provided to the spouse of the veteran-applicant, if the spouse is a joint applicant for the loan or would be jointly liable on the loan.

9. Any information on the application for a VA-acquired property (vendee loan) concerning a prospective purchaser may be disclosed to a broker aiding in the sale of a VA-acquired property in order that the broker may assist the prospective purchaser in completing his or her application. Such information may include an explanation of specific loan document discrepancies or specific information on income or credit.

10. Information on the status (i.e., the payment record), of a guaranteed, insured, direct, or VA-acquired property (vendee) loan account(s) may be disclosed to persons or organizations extending credit or providing services or other benefits to the obligor, or persons or organizations considering the extension of credit, services or other benefits to the potential obligor provided the name, address, or other information necessary to identify the obligor is given beforehand by the requester.

11. The name and address of an obligor (e.g., an individual who has obtained a VA-guaranteed loan or purchased a VA property), and the account number (insurance, tax number) may be disclosed to hazard insurance companies and real estate taxing authorities to obtain billings and to authorize payments of such obligations as they become due from the direct and vendee (portfolio) loan escrow accounts.

12. Information as to the acceptability or nonacceptability of a prospective purchaser preparing to assume liability to VA under a mortgage contract or as to the acceptability or nonacceptability of a prospective purchaser preparing to substitute loan guaranty entitlement for the party presently obligated may be disclosed to parties presently liable on a VA loan, loan guaranty or loan insurance agreement. Generally, the reason(s) for nonacceptability of the prospective loan assumer (e.g., poor credit history, insufficent income and/or debts owed the U.S.) may also be disclosed to parties presently liable on a VA loan, loan guaranty or loan insurance agreement in order to inform the parties presently liable of the reasons for the nonacceptability.

13. Information on the default status of a delinquent loan account (e.g., amount of payments in arrears, number of months in arrears, what efforts the VA has taken to service the loan, condition of the property, repayment schedule, and total amount of debt) may be disclosed to prior owners remaining contingently liable for indebtedness to permit prior owners to take necessary action(s) to protect their interest where loan liquidation is indicated and to prevent a possible debt to the Government which may be placed against the prior owner.

14. Any information in this system such as current obligor, prior obligors, debt outstanding, current credit reports containing an obligor's name and address and date(s) and cause of the default, and loan account information (e.g., loan account number, property condition, legal description, date loan issued, amount of loan and amount in arrears) may be disclosed to the U.S Department of Justice or United States Attorneys, in order for the Department of Justice or U.S. Attorneys to liquidate a defaulted loan by judicial process, and take title on the foreclosed property in accordance with State law. Any information in this system may also be disclosed to the Department of Justice or U.S. Attorneys in order for the foregoing parties to prosecute or defend litigation involving or pertaining to the United States.

15. Loan account information (e.g., loan account number, property condition, legal description of property, date loan issued, amount of loan and amount in arrears), current credit reports containing name and address of an obligor and the cause and date(s) of default may be disclosed to the General Accounting Office (GAO) to enable the GAO to pursue necessary collection activities and obtain a judgment against the obligor(s).

16. The names and addresses of current and original obligors, loan balance and interest rate may be disclosed to actual investors purchasing or considering the purchase of VA direct and/or vendee loans. Such information will be furnished to prospective investors to provide a basis for their submitting an offer to purchase loans and to actual investors in order that they may establish loan accounts on purchased loans.

17. Any information in this system, including the nature and amount of a financial obligation, may be disclosed to a debtor's Federal employing agency or commanding officer so that the debtor-employee may be counseled by his or her Federal employer or commanding officer and to assist in the collection of unpaid financial obligations owed the U.S. This purpose is consistent with 5 U.S.C 5514, 4 CFR 102.5, and section 206 of Executive Order 11222 of May 8, 1965 (30 FR 6469).

18. Any information in this system may be disclosed to a guardian ad litem in relation to the guardian's representation of a veteran in any legal or administrative proceeding so long as the disclosure is for the benefit of the veteran.

19. Any information in this system such as available identifying information regarding the debtor(s), name of debtor(s) spouse, social security account number of debtor(s), VA insurance number(s), VA loan number(s), VA claim number(s), place(s) of birth and date(s) of birth of debtor(s), name(s) and address(es) of debtor(s) employer(s), and dates of employment may be disclosed to other Federal agencies, State probate courts, State drivers license bureaus, and State automobile title and license bureaus in order for the VA to obtain current name, address, locator and credit report assistance in the collection of unpaid financial obligations owed to the United States. This purpose is consistent with the Federal Claims Collection Act of 1966 (Pub. L. 89-508, 31 U.S.C. 951-953 and 4 CFR Parts 101-105), and the disclosure is authorized by 38 U.S.C. 3301(b)(6).

20. Any information in this system, such as a loan applicant's or a defaulted obligor's (i.e., a defaulted obligor is an individual that has not performed one or more of the required obligations under the terms of the loan instruments) name and address, property address, balance of debt, amount of debt owed per month, loan account number, credit reports and reasons for notice to quit, may be disclosed to fee attorneys, fee appraisers, management brokers, process servers, title companies, and abstractors for the purposes of loan approval or loan termination of direct or vendee loans by judicial or nonjudicial means, to obtain possession of VA property in cases of default or foreclosure, to issue and post Demands for Possession or Notices to Quit, to file judgments (liens) in accordance with State and local law and to carry out all other necessary VA program responsibilities.

21. An obligor's social security number and other information regarding the filing of judgments (liens) may be disclosed to appropriate State and local authorities in order to conform to State and local law requirements and to assist the VA and State and local authorities in identifying VA judgment debtors on State and local judgment records. This disclosure is consistent with 38 U.S.C. 3301(b)(6).

22. Any information in this system relating to the adjudication of

incompetency of a veteran either by a court of competent jurisdiction or by the VA may be disclosed to a lender or prospective lender extending credit or proposing to extend credit on behalf of a veteran in order for the VA to protect incompetent veterans from entering into unsound financial transactions which might deplete the resources of the veteran and to protect the interests of the Government giving credit assistance to a veteran.

23. Any information in this system may be disclosed to a Federal Grand jury, a Federal court or a party in litigation, or a Federal agency or party to an administrative proceeding being conducted by a Federal agency, in order for the VA to respond to and comply with the issuance of a Federal subpoena.

24. Any information in this system may be disclosed to a State or municipal court or a party in litigation; or to a State or municipal grand jury, a State or municipal administrative agency functioning in a quasi-jurdicial capacity or a party to a proceeding being conducted by such agency, in order for the VA to respond to and comply with the issuance of a State or municipal subpoena; provided, that any disclosure of claimant information made under this routine use must comply with the provisions of 38 CFR 1.511.

25. Any information concerning the veteran's indebtedness to the United States by virtue of a person's participation in a benefits program administered by the VA, including personal information obtained from other Federal agencies through computer matching programs, may be disclosed to any third party, except consumer reporting agencies, in connection with any proceeding for the collection of any amount owed to the United States. Purposes of these disclosures may be (a) to assist the VA in collection of title 38 benefit overpayments, overdue indebtedness, and/or costs of services provided individuals not entitled to such services, and (b) to initiate legal actions for prosecuting individuals who willfully or fraudulently obtained title 38 benefits without entitlement. This disclosure is consistent with 38 U.S.C. 3301(b)(6).

26. The name and address of a veteran, other information as is reasonably necessary to identify such veteran, including personal information obtained from other Federal agencies through computer matching programs, and any information concerning the veteran's indebtedness to the United States by virtue of the person's participation in a benefits program administered by the VA may be disclosed to a consumer reporting agency for purposes of assisting in the collection of such indebtness, provided that the provisions of 38 U.S.C. 3301(g)(4) have been met.

27. Any information in this system, except for the name and address of a veteran, may be disclosed to a Federal agency in order for the VA to obtain information relevant to the making, insuring, or guaranteeing of a loan under chapter 37 of title 38 U.S.C. The name and address of a veteran may be disclosed to a Federal agency under this routine use if they are required by the Federal agency to respond to the VA inquiry.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

VA-guaranteed, insured, direct and vendee loan records are maintained in individual folders on paper documents and on automated storage media (i.e, microfilm, microfiche and magnetic tape).

RETRIEVABILITY:

All VA loan applications and loan records are indexed by name and VA loan file number in the local VA office having jurisdiction over the geographic area in which the property is located. All automated records are indexed by a file number, field station and county code number and lender identification number.

SAFEGUARDS:

Access to VA working spaces and record file storage areas is restricted to VA employees on a "need to know" basis. Generally, VA file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service and other VA security personnel. Loan and property security instruments are stored in separate fire resistant locking files. VA employee loan file records and other files which, in the opinion of VA, are, or may become, sensitive are stored in separate locked files.

RETENTION AND DISPOSAL:

Records in individualized case folders concerning active VA guaranteed or insured loans are retained at the VA servicing facility for up to three years and forwarded to the Federal Archives and Records Center (FARC) where they are retained up to thirty-three years and then destroyed. Active direct loan case folders are retained at the VA servicing facility until the case becomes inactive; e.g., existing loan balance is paid in full.

Inactive guaranteed and direct loan folders are forwarded to the FARC annually, retained for five years and then destroyed. Vendee loan records being maintained in case folders are kept at the VA servicing facility until five years after the case becomes inactive and are then destroyed. Specially adapted housing (SAH) records are maintained either at VA Central Office (VACO) and/or the VA servicing facility. Once SAH records are closed, SAH records at VACO are maintained for one year and then sent to the FARC where they are retained for thirty years and then destroyed. Closed SAH records maintained at regional offices are maintained for ten years and then destroyed. Generally, automated records (e.g., computer lists, discs and microfiche) are maintained for up to five years and then destroyed. Destruction of records is accomplished by shredding, burning and/or erasure.

SYSTEM MANAGER AND ADDRESS:

Director, Loan Guaranty Service (26), VA Central Office, Washington, D.C. 20420.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained in this sytem under his or her name or other personal identifier or wants to determine the contents of such record should submit a written request or apply in person to the nearest Veterans Administration regional office or center. Addresses for VA regional offices and centers may be found in VA Appendix 1 at the end of this document. All inquiries must reasonably identify the benefit or system of records involved, i.e.; Loan Guaranty. Inquiries should include the individual's full name, VA file number or loan number. If the VA file or loan number is not available, then as much of the following information as possible should be forwarded: Address of the property secured by a VA-guaranteed, insured or portfolio loan, owner or former owners of the property, name of lender and lender's loan number, branch of service, service number or social security number. Some of the records in this system are exempt from the notification requirement under 5 U.S.C. 552a(k). To the extent that records in this system of records are not subject to exemption, they are subject to notification. A determination as to whether an exemption applies shall be made at the time a request for notification is received.

RECORD ACCESS PROCEDURES:

An individual who seeks access to or wishes to contest records maintained under his or her name in this system

may write, call or visit the nearest Veterans Administration regional office or center. Address locations are listed in VA Appendix 1 at the end of this document. However, some of the records in this system are exempt from the record access and contesting requirements under 5 U.S.C. 552a(k). To the extent that records in this system of records are not subject to exemption, they are subject to access and contest. A determination as to whether an exemption applies shall be made at the time a request for access or contest is received.

CONTESTING RECORD PROCEDURES:

(See Record access procedures above.)

RECORD SOURCE CATEGORIES:

The VA records in this system are obtained from the applicant, lenders, brokers and builder/sellers, an applicant's credit sources, depository institutions and employers, hazard insurance companies, taxing authorities, title companies, fee personnel, other VA records, other Federal, State and local agencies, and other parties of interest involving VA-guaranteed, insured, vendee or direct loans or specially adapted housing.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Administrator of Veterans Affairs has exempted this system of records from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(k)(2).

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H) and (I)
5 U.S.C. 552a(f)

Reasons for exemptions: The exemption of information and material in this system fo records is necessary in order to accomplish the law enforcement functions of the Loan Guaranty Service to prevent subjects of internal audit investigations for potential fraud and abuse in the VA Loan Guaranty program from frustrating the investigatory process, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information and to avoid endangering these sources.

[FR Doc. 83-29333 Filed 10-27-83; 8:45 am]
BILLING CODE 8320-01-M

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUPPLEMENTARY INFORMATION: The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains proposed extensions and revisions and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) the agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisenger, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503 (202) 395-6880.

DATES: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: October 14, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extensions

1. Department of Veterans Benefits
2. Statement of Termination of Marital Relationship
3. VA Form 21-8798
4. On occasion
5. Individuals or households
6. 2,900 responses
7. 1,450 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Income-Net Worth and Employment Statement
3. VA Form 21-527
4. On occasion
5. Individuals or households
6. 130,550 responses
7. 130,550 hours
8. Not applicable

Extension

1. Department of Medicine and Surgery
2. Authorization and Invoice for Medical and Hospital Services
3. VA Form 10-7078
4. On occasion
5. Individuals or households, businesses or other for-profit, small businesses or organizations
6. 252,200 responses
7. 10,100 hours
8. Not applicable

Extension

1. Office of Construction
2. Construction Progress Report
3. VA Form 08-6159
4. On occasion
5. Businesses or other for-profit
6. 500 responses
7. 125 hours
8. Not applicable

Revision

1. Department of Veterans Benefits
2. Application for Benefits Under the Provisions of Section 156, Pub. L. 97-377
3. VA Form 21-8924
4. On occasion
5. Individuals or households
6. 18,000 responses
7. 6,000 hours
8. Not applicable

[FR Doc. 83-29332 Filed 10-27-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 210
Friday, October 28, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Credit Corporation	1
Equal Employment Opportunity Commission	2, 3
Federal Home Loan Bank Board	4
Federal Maritime Commission	5
Federal Reserve Board	6
Legal Services Corporation	7, 8
Nuclear Regulatory Commission	9
Securities and Exchange Commission	10
Tennessee Valley Authority	11

1

COMMODITY CREDIT CORPORATION:

TIME AND DATE: 9:30 a.m., November 2, 1983.

PLACE: Room 5085 South Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda to be announced.

CONTACT PERSON FOR MORE INFORMATION: Richard A. Ashworth, Secretary, Commodity Credit Corporation, P.O. Box 2415, Room 3086 South Building, U.S. Department of Agriculture, Washington, D.C. 20013: telephone, (202) 447-6165

[S-1514-83 Filed 10-25-83; 4:58 pm]
BILLING CODE 3410-05-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, November 1, 1983, 9:30 a.m. (eastern time)

PLACE: Commission Conference Room No. 200, Second floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote/s.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-8-FOIA-77-DA, concerning a request for a legal opinion from closed ADEA charge file.
4. Freedom of Information Act Appeal No. 83-9-FOIA-132-SL, concerning a request for information from a charge film.
5. Recommendation for certifying Austin Human Relations Commission and Corpus Human Relations Commission.
6. Management Directive 404. "Theories of Discrimiantion" to be used in Investigating and Making Decisions in Federal Sector EEO Complaints Processing.
7. Amendment to the Procedures for Processing Conviction Cases.

Closed:

1. Litigation Authoriztion: General Counsel Recommendations.
2. Consideration of Certain ORA Decisions.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides records announces a full week in advances on future Commission sessions.

Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

Issued: October 25, 1983.

[S-1513-83 Filed 10-25-83; 4:54 pm]
BILLING CODE 6570-06-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

STATUS: This notice is made to correct a prior omission of the Commission meeting agenda notice of July 26, 1983, from the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Treva McCall, Executive Secretary, 2401 E Street, NW., Washington, D.C. 20506. (202/634-1356).

MATTERS TO BE CONSIDERED: Notice is hereby given pursuant to the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b, *et seq.*, that the Equal Employment Opportunity Commission held a meeting on Tuesday, July 26, 1983, commencing at 9:30 a.m., at 2401 E Street NW., Washington, D.C., to consider the following items:

1. Announcement of Notation Vote/s.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-6-FOIA-102, concerning a request for information for the filing and disposition of charges against a particular employer from files other than his own.
4. Freedom of Information Act Appeal No. 83-5-FOIA-39-NO, concerning a request for sign-in sign-out sheets for unit employees.
5. Notice of Proposed Rulemaking—Revision of 29 CFR 1613—Enforcement of Commission Decisions (Amendments as directed by the Commission).
6. EEOC's Proposed Budget for fiscal year 1985.
7. Recordkeeping Portions of the Uniform Guidelines on Employee Selection Procedures (UGESP)—**Federal Register** Notice.

Closed:

1. Litigation Authorization; General Counsel Recommendations.
2. DOL's Rules on OFCCP.
3. DOL's Rules on Airline Deregulations.
4. Proposed Withdrawal of Commissioners Charges.

Public notices were timely posted at the Commission and entered into the Commission's public telephone recording. A notice was not, however, received by the Office of Federal Register due, it is believed, to a faulty electronic transmission and, until this date, was not published in the **Federal Register.** This notice has been made in the **Federal Register** at the earliest practicable time.

Signed at Washington, D.C., this 24th day of October 1983.

Clarence Thomas,
Chairman.

[S-1508-83 Filed 10-25-83; 5:02 pm]
BILLING CODE 6570-06-M

4

FEDERAL HOME LOAN BOARD

TIME AND DATE: 10 a.m., Thursday, November 3, 1983.

PLACE: Board Room, Sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6970).

MATTERS TO BE CONSIDERED:

Insurance of Accounts
[No. 62, October 26, 1983]

[S-1519-83 Filed 10-26-83; 3:33 pm]
BILLING CODE 6725-01-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., November 2, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

1. Agreement No. 10045–9: Modification of the South Atlantic and Gulf-Panama and Costa Rica Rate Agreement to expand its scope and revise voting procedures.

Portions closed to the public:

1. Agreement No. 6200–24: Modification of U.S. Atlantic and Gulf/Australia-New Zealand Conference Agreement to authorized intermodal ratemaking.

2. Docket No. 79–2: Agreement No. 10293; Docket No. 79–3—Agreement No. 10295—Consideration of request for oral argument and possible consideration of the record.

3. Insurance Company of North America, Inc. v. United States Line, et al.—Request to intervene *amicus curiae*.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1515–83 Filed 10–26–83; 10:12 am]

BILLING CODE 6730–01–M

6

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, November 2, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: October 25, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1512–83 Filed 10–25–83; 4:54 p.m.]

BILLING CODE 6210–01–M

7

LEGAL SERVICES CORPORATION

Executive Session, Board of Directors

STATUS OF MEETING: Closed to discuss personnel, personal, litigation, and investigatory matters under 45 CFR 1622.5 (a), (e), (f) and (h). Vote and certification of authorization for the closing are recorded below.

The Legal Services Corporation Board of Directors Executive Session is called pursuant to the vote of the four Directors presently in office who adopted the following resolution:

Upon motion of Board Member and Chairman, Robert E. McCarthy, duly seconded, the Legal Services Corporation hereby authorizes closing its meeting to be scheduled for November 6, 1983. The closing of the meeting from the public for an executive session is authorized pursuant to the provisions of 45 CFR 1622.6, in order to discuss matters falling under 45 CFR 1622.5 (a), (e), (f) and (h).

The members of the Board voted as follows:

Robert McCarthy (Aye)
Milton Masson (Aye)
Daniel Rathbun (Aye)
Donald Santarelli (Aye)

Certification

As General Counsel of the Legal Services Corporation, I hereby certify that a majority of the members of the Board of Directors of the Legal Services Corporation has approved closing the Board meeting scheduled to be held on November 6, 1983, to discuss internal personnel procedures, personal matters, investigations and litigation concerning the Corporation. I hereby certify that in my opinion the closing of the meeting is authorized by the Government in Sunshine Act, 5 U.S.C. 552b(c) (2), (6), (7), and (10), and under the Legal Services Corporation regulations, 45 CFR-1622.5 (a), (e), (f), and (h).

Alan Swendiman,

General Counsel.

October 26, 1983.

PLACE: Holiday Inn Van Ness, 1500 Van Ness street, San Francisco, California 94109.

TIME AND DATE: 5 p.m., Sunday, November 6, 1983.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Secretary of the Corporation, (202) 272–4040.

Dated: October 26, 1983.

Alan Swendiman,

General Counsel.

[S–1517–83 Filed 10–26–83; 1:44 pm]

BILLING CODE 6820–35–M

8

LEGAL SERVICES CORPORATION

(Board of Directors Meeting)

TIME AND DATE: 10 a.m., to 5 p.m., Monday, November 7, and 8:30 a.m. to 1 p.m., Tuesday, November 8, 1983.

PLACE: Holiday Inn Van Ness, Emerald Room, 1500 Van Ness Street, San Francisco, California 94109.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes.
3. Report from President.
4. Report from Office of Government Relations:
   a. Authorization.
   b. GAO Investigation.
5. Report from Office of General Counsel:
   a. Final Review of Proposed Regulations—
   (1) Transfer of Funds (45 CFR 1627)—Proposed Regulation Published June 22, 1983.
   (2) Denial of Refunding (45 CFR 1606 and 1625)—Proposed Regulation Published August 15, 1983.
   (3) Eligibility (45 CFR 1611)—Proposed Regulation Published August 29, 1983.
   b. Discussion of Regulations to be Published as Proposed Regulations—
   (1) Attorney Fees (45 CFR 1609).
   (2) Priority Setting (45 CFR 1620).
   (3) Denial of Refunding (45 CFR 1606).
6. Report from Office of Field Services:
   a. Announcement of Instruction—
   (1) Private Attorney Involvement.
   (2) Fund Balance.
   b. Discussion of Reginald Heber Smith Community Fellowship Program.
7. Report from Vice President of Finance:
   a. 1983 Third Quarter Budget Review.
   b. Fund Transfer for Support Centers and National Clients Council.
   c. 1984 Budget.
   d. 1985 Mark.
8. Needs Study Update.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Dated: October 26, 1983.

Alan Swendiman,

General Counsel.

[S–1516–83 Filed 10–26–83; 1:27 pm]

BILLING CODE 6820–35–M

9

NUCLEAR REGULATORY COMMISSION

DATE: Week of October 31, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Thursday, November, 3:*

2:00 p.m.:
Briefing by Breaker Vendors (Public Meeting)

3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting):
a. Amendments to 10 CFR 50 Related to ATWS Events (*Postponed* from October 27)
b. Final Rulemaking Concerning Fitness for Duty for Personnel with Unescorted Access to Protected Areas (*Postponed* from October 27)
c. Hearing Requests on Proposed Decommissioning of West Chicago Rare Earths Facility

d. Fuel Load Decision—Diablo Canyon (*Tentative*)
e. Final Immediate Effectiveness Order for San Onofre 2 and 3 (*Tentative*)
f. Revision to 10 CFR Part 51 and Related Conforming Amendments—Implementation of CEQ NEPA Regulations (*Tentative*)

To verify the status of meetings call (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

October 26, 1983.

Walter Magee,

Office of the Secretary.

October 26, 1983.

[S–1520–83 Filed 10–26–83; 2:45 pm]

BILLING CODE 7535-01-M

10

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: To be published.

STATUS: Close meeting.

PLACE: 450 5th Street NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, October 18, 1983.

CHANGE IN THE MEETING: Additional items. The following additional items will be considered at a closed meeting scheduled for Tuesday, October 25, 1983, at 1 p.m.:

Regulatory matter regarding financial institution.
Freedom of information Act appeal.
Consideration of amicus participation.

Commissioners Evans, Longstreth and Treadway determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Robert Lipsher at (202) 272–3195.

October 25, 1983.

[S–1510–83 Filed 10–25–83; 4:05 pm]

BILLING CODE 8010-01-M

11

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1320]

TIME AND DATE: 2 p.m. (e.s.t.) Wednesday, November 2, 1983.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

DISCUSSION ITEMS:

1. TVA policy relating to future development of hydroelectric generating facilities at TVA dams.

2. Proposed arrangements for limited interruptible power to TVA's directly served customers.

ACTION ITEMS:

A—Budget and Financing Items
A1. Adoption of supplemental resolution authorizing 1983 Series E power bonds.
A2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1983 Series E power bonds.

B—Purchase Awards
B1. Requisition 85—Coal for Allen Steam Plant.

C—Power Items
C1. letter arrangement with Southern Company Services, Inc., providing for reduction in the seasonal base amount of seasonal capacity exchange from 140 MW to 0 MW.
C2. Consideration of alternative resale rate arrangements for seasonal service for use by distributors of TVA power.

D—Personnel Items
D1. Consulting contract with Roy W. Carlson, Berkeley, California, for services in connecting with design criteria and decisions regarding the design and construction of major hydro projects, requested by the Office of Engineering Design and Construction.
D2. Proposed revised pay plan and salary schedule for the management and specialist schedule and for the physicians schedule.

E—Real Property Transactions
E1. Grant of permanent easement to the city of Savannah, Tennessee, for public recreation purposes affecting approximately 7.6 acres of Kentucky Reservoir Land in Hardin County, Tennessee—Tract No. XTGIR–128RE.
E2. Reconveyance to TVA by the State of Tennessee of approximately 110 acres (59 public access areas) located on eight reservoirs throughout the State of Tennessee.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, (202) 245–0101.

Dated: October 26, 1983.

[S–1518–83 Filed 10–26–83; 3:10 pm]

BILLING CODE 8120-01-M

federal register

Friday
October 28, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

VOL 48 ISS 210 OCT 28 1983

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards; Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Connecticut: CT83–3021	June 3, 1983.
Delaware: DE82–3015	June 4, 1982.
Florida: FL83–1032	Apr. 29, 1983.
Illinois:	
IL82–2049	Oct. 15, 1982.
IL83–2052	July 1, 1983.
Iowa:	
IA82–4049	Oct. 8, 1982.
IA83–4056	July 29, 1983.
Kentucky: KY82–1066	Oct. 15, 1982.
Massachusetts:	
MA83–3046	Sept. 23, 1983.
MA83–3045	Aug. 26, 1983.
North Carolina: NC83–1077	Oct. 10, 1983.
New Mexico: NM83–4071	Oct. 7, 1983.
Pennsylvania:	
PA81–3027	July 17, 1981.
PA81–3068	Sept. 25, 1981.
PA81–3069	Do.
PA81–3076	Oct. 9, 1981.
PA81–3080	Oct. 23, 1981.
PA82–3008	Feb. 26, 1982.
PA82–3010	Mar. 5, 1982.
PA82–3012	Do.
Texas:	
TX83–4005	Jan. 7, 1983.
TX83–4075	Oct. 21, 1983.
West Virginia:	
WV83–3000	Mar. 11, 1983.
WV82–3002	Oct. 29, 1982.

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Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida: FL83-1060(FL83-1064)	Sept. 9, 1983.
Virginia: VA81-3092(VA83-3040)	Dec. 18, 1981.
Wisconsin:	
WI82-2024(WI83-2084)	Apr. 9, 1982.
WI82-2022(WI83-2085)	Do.

Agencies with construction projects pending to which the cancelled decision would have been applicable should utilize the project determination procedure by submitting form SF-308. See Regulations Part 1 (29 CFR), § 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR, 1.7(b)(2) the incorporation of the cancelled decision in contract specifications, the opening of bids which is within ten (10) days of this notice, need not be affected.

Cancellation of General Wage Determination Decision

General Wage Decision CO82-5124, El Paso County, Colorado is cancelled.

Signed at Washington, D.C., this 21st day of October 1983.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. CT83-3021 - MOD. #7 (48 FR 25090 - June 3, 1983) STATEWIDE	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS; CEMENT MASONS; CEMENT FINISHERS; MARBLE MASONS; PLASTERERS; STONE MASONS; TERRAZZO WORKERS; TILE SETTERS:		
BUILDING CONSTRUCTION:		
Area 1	15.83	3.45
Area 2	16.20	2.68
Area 3	16.08	2.55
GLAZIERS:		
Area 1	16.75	5.35
Area 2	16.68	2.64+h
Area 3	13.16	3.84+h
Area 4	15.88	1.53+i
LABORERS (HEAVY & HIGHWAY):		
Group 1	12.35	2.35
Group 2	12.60	2.35
Group 3	12.85	2.35
Group 4	13.10	2.35
PLUMBERS & STEAMFITTERS:		
Area 3	19.12	2.60
AREA DESCRIPTIONS:		
PLUMBERS & STEAMFITTERS:		
Area 3: FAIRFIELD (Norwalk, Georgetown, Westport, Weston, Wilton)		

DECISION #FL83-1032 - Mod. #4 (48 FR 19562 - April 29, 1983) Broward County, Florida	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Group 1	$13.20	2.22
Group 2	13.05	2.22
Group 3	12.55	2.22
Group 4	12.40	2.22
Group 5	12.25	2.22
Group 6	12.15	2.22
Group 7	12.05	2.22
Group 8	11.95	2.22
Group 9	11.30	2.22

DECISION NO. DE82-3015 - MOD. #8 (47 FR 24526 - June 4, 1982) STATE OF DELAWARE	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS BUILDING & HEAVY CONSTRUCTION:		
GROUP 1	15.65	25.6% +h
GROUP 2	15.36	25.6% +h
GROUP 3	14.28	25.6% +h
GROUP 4	13.97	25.6% +h
GROUP 5	13.40	25.6% +h
GROUP 6	12.89	25.6% +h
SPRINKLER FITTERS	16.67	3.23

POWER EQUIPMENT OPERATORS - BUILDING & HEAVY CONSTRUCTION

WAGE GROUP 1 - Handling steel and stone in connection with erection, Cranes doing hook work, any machines handling machinery and cable spinning machine helicopters

WAGE GROUP 2 - All types of cranes, all types of backhoes, cableways, drag lines, keystones, all types of shovels, derricks, trench shovels, trenching machines, pippin type backhoes, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists - double drum (unless used as single drum) mucking machines in tunnel, gradalls, front-end loaders, boat captain, tandem scrapers, tower type crane operation, erecting, dismantling, jumping or jacking, drills self-contained (drillmaster type), fork lift (20 ft. and over) motor patrols (fine grade) batch plant with mixer scrapers & Tournapulls rollers (high Grade Finishing) mechanic-welder, spreaders bulldozers and tractors

WAGE GROUP 3 - Core dill, conveyors (except building conveyors) building hoists (single drum), asphalt plant engineers, high or low pressure boilers, concrete pumps well drillers, fork lift trucks of all types, ditch witch type trencher, motor patrol, concrete breaking machines, rollers

WAGE GROUP 4 - Seaman pulverizing mixer, tireman on power equipment, maintenance (Power Boat) farm tractors, fine grade machines, form line graders, road finishing machines, power broom (self-contained) seed spreader, grease truck

UMI 1983 OCT 28 ISS 210 VOL 48

DECISION NO. DE82-3015 -
(CONT'D)

POWER EQUIPMENT OPERATORS - BUILDING & HEAVY CONSTRUCTION

WAGE GROUP 5 - Conveyors (Building) welding machines, heaters, wellpoints, compressors, pumps

WAGE GROUP 6 - Fireman, oilers and deck hands, grease truck helper, drill helper

DECISION NO. IL82-2049 - Mod. #2
(47 FR 46221 - October 15, 1982)
Peoria and Tazewell Counties, Illinois

Omit:
Laborers Classifications Definitions for (Remainder of Tazewell County):

Add:
Laborers Classifications Definitions for (Remainder of Tazewell County):

Unskilled: Carpenter Tender; Tool Cribmen; Cleaning and Oiling of Machinery and Tools; Firemen or Salamander Tenders; Gravel Box Men; Form Handlers; Material Handlers; Fencing Laborers; Cleaning Lumber; Pit Men; Landscapers; Unloading Explosives; Laying of Sod; Planting of Trees; Removal of Trees; Pile Driver Helpers; Asphalt Plant Helpers; Wrecking Laborers; Fireproofing Laborers; Driving of Stakes, String Lines for all machinery; the unloading and Laborers with Steel Workers and Re-bars; Mason Tenders; Scaffold Workers; Laborers with De-watering Systems; Plaster Tenders; Truck Driver Helper to load and unload materials

Semi-Skilled: Handling of materials treated with oil, creosote, asphalt, and/or foreign material harmful to skin or clothing, by any mode or method; Track Laborers; Cement Handlers; Concrete Workers (wet); Cloride Handlers; Tunnel Helpers in free air; Batch Dumpers; Kettle and Tar Men; Tank Cleaners; Plastic Installers; Motorized Buggies or Motorized Units used for wet concrete or building materials; Sewer Workers; Vibrator Operators; Mortar Mixer Operators; Cement Silica, Clay, Fly Ash, Lime and Plaster Handlers (bulk or bag); Cofferdam Workers, on concrete paving, placing, cutting, and typing of reinforcing; Deck Hand, Dredge Hand and Shore Laborers; Bank Men on floating plant; Asphalt Workers and Layers with machine; Grade Checker, Dumpmen, and Spotter where Grade is to be established; Power Tools; Chain Saw Operators; Jackhammer and Drill Operators; Air Tamping Hammerman; Tree Topping· Signalling and Spotting of Rigs and equipment; Stripping Concrete Forms, with composite crew of Laborers and Carpenters. This applies only to forms erected by Carpenters with Laborers tending them. High Pressure Water Jetting Workers

Skilled: Caisson Workers plus depth; Gunnite Nozzlemen; Leadmen on Sewer work; Welders, Cutters, Burners and Torchmen to include but not limited to scrap; Layout Man and/or Tile Layer; Steel Form Setters - street and highway; Concrete Saw Operator; Screenman on Asphalt Pavers; Front End Man on Chip Spreader; Laborers tending Masons with hot materials or where foreign materials are used; Multiple Concrete Duct - Leadman; Luteman; Curb Asphalt Machine Operator; Ready Mix Scalemen, permanent, portable or temporary plant; Laborers handling Masterplate or similar materials; Laser Beam Operator; Concrete Burning Machine Operator; Coring Machine Operator; Underpinning and Shoring of buildings; Dynamite Shooter; Setting and using of all Laser Beam equipment; Setting up and Using of all Concrete Burning, Bars, whether burning concrete or any type of material; Operation of High Pressure Water Jetting (over 3000 PSI) Gun

DECISION NO. IL83-2052 - Mod. #2
(48 FR 30576 - July 1, 1983)
Adams, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Clinton, DeKalb, Fulton, Greene, Hancock, Henderson, Henry, Jersey, JoDaviess, Knox, LaSalle, Lee, Livingston, Logan, McDonough, McLean, Macoupin, Marshall, Mason, Menard, Mercer, Monroe, Montgomery, Morgan, Ogle, Pike, Putnam, Randolph, Rock Island, Schuyler, Scott, Stark, Stephenson, Warren, Washington, Whiteside, Winnebago, and Woodford Counties, Illinois

Add:
Laborers classifications for Area 28:

Unskilled: Carpenter Tender; Tool Cribmen; Cleaning and Oiling of Machinery and Tools; Firemen or Salamander Tenders; Gravel Box Men; Form Handlers; Material Handlers; Fencing Laborers; Cleaning Lumber; Pit Men; Landscapers; Unloading Explosives; Laying of Sod; Planting of Trees; Removal of Trees; Pile Driver Helpers; Asphalt Plant Helpers; Wrecking Laborers; Fireproofing Laborers; Driving of Stakes, String Lines for all machinery; the unloading and Laborers with Steel Workers and Re-bars; Mason Tenders; Scaffold Workers; Laborers with De-watering Systems; Plaster Tenders; Truck Driver Helper to load and unload materials

Semi-Skilled: Handling of materials treated with oil, creosote, asphalt, and/or foreign material harmful to skin or clothing, by any mode or method; Track Laborers; Cement Handlers; Concrete Workers (wet); Cloride Handlers; Tunnel Helpers in free air; Batch Dumpers; Kettle and Tar Men; Tank Cleaners; Plastic Installers; Motorized Buggies or Motorized Units used for wet concrete or building materials; Sewer Workers; Vibrator Operators; Mortar Mixer Operators; Cement Silica, Clay, Fly Ash, Lime and Plaster Handlers (bulk or bag); Cofferdam Workers; on concrete paving, placing, cutting, and typing of reinforcing; Deck Hand, Dredge Hand and Shore Laborers; Bank Man on floating plant; Asphalt Workers and Layers with machine; Grade Checker, Dumpmen, and Spotter where Grade is to be established; Power Tools; Chain Saw Operators; Jackhammer and Drill Operators; Air Tamping Hammerman; Tree Topping; Signalling and Spotting of Rigs and equipment; Stripping Concrete Forms, with composite crew of Laborers and Carpenters. This applies only to forms erected by Carpenters with Laborers tending them. High Pressure Water Jetting Workers

Skilled: Caisson Workers plus depth; Gunnite Nozzlemen; Leadmen on Sewer work; Welders, Cutters, Burners and Torchmen to include but not limited to scrap; Layout Man and/or Tile Layer; Steel Form Setters - street and highway; Concrete Saw Operator; Screedman on Asphalt Pavers; Front End Man on Chip Spreader; Laborers tending Masons with hot materials or where foreign materials are used; Multiple Concrete Duct - Leadman; Luteman; Curb Asphalt Machine Operator; Ready Mix Scalemen, permanent, portable or temporary plant; Laborers handling Masterplate or similar materials; Lazer Beam Operator; Concrete Burning Machine Operator; Coring Machine Operator; Underpinning and Shoring of buildings; Dynamite Shooter; Setting and using of all Laser Beam equipment; Setting up and Using of all Concrete Burning, Bars, whether burning concrete or any type of material; Operation of High Pressure Water Jetting (over 3000 PSI) Gun

DECISION NO. IA82-4049 - MOD. #10 (47 FR 44667 - 10/8/82) Scott County, Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plumbers & pipefitters	$16.60	2.85

DECISION NO. IA83-4056 - MOD. #4 (48 FR 34611 - 7/29/83) Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Zone 3 - Millwrights	16.28	3.57
Zones 6 & 7-Millwright	15.28	3.57
Plumbers & pipefitters:		
Zone 3	16.60	2.85
Marble, tile & terrazzo workers & finishers:		
Zones 6 & 7-tile setter	14.93	80

DECISION NO. KY82-1066 Mod # 4 (47 FR 46226 - October 15, 1982) FAYETTE & FRANKLIN COS., KENTUCKY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PAINTERS:		
Brush, Drywall Finishers & Tapers, & Paperhangers	$10.95	.92
Steeple Jack Work, Window Jack Work, & Work in enclosed buildings over 35' in height from permanent work area	11.45	.92
Sandblast & Spray	11.70	.92

UMI 1983 28 OC 0 1 2 ISS 48 VOL

DECISION NO. MA83-3046 - MOD. #2 (48 FR 43524 - September 23, 1983 ESSEX, SUFFOLK, MIDDLESEX, NORFOLK, BRISTOL, PLYMOUTH, BARNSTABLE, DUKES AND NANTUCKET COUNTIES, MASS.	Basic Hourly Rates	Fringe Benefits
OMIT:		
BRICKLAYERS; CEMENT MASONS (except in areas 2, 3, 4, 5, 7 & 8); PLASTERERS; STONE MASONS; POINTERS; CAULKERS; CLEANERS:		
Areas 1,2,3,4,5,6,7,8,9, 10,12,13,14,15 & 16: Separate classification and rates for "Residential and Veneer plastering"		
CHANGE:		
BRICKLAYERS; CEMENT MASONS (except in areas 2, 3, 4, 5, 7 & 8); PLASTERERS; STONE MASONS; POINTERS; CLEANERS; CLEANERS:		
Areas 1, 2, & 3	16.71	3.87
Area 4	17.11	3.47
Areas 5, 6 & 7	17.21	3.37
Areas 8 & 9	18.06	2.52
Area 10	16.16	4.42
Area 12	16.91	3.67
Area 13	17.11	3.47
Area 16	16.36	4.22
CEMENT MASONS		
Areas 3, 4 & 5	17.95	2.85
ELECTRICIANS		
Area 11	16.98	1.00+ 17.5%
GLAZIERS		
Area 2	15.88	1.53
IRONWORKERS		
Area 2	17.25	4.25
PAINTERS		
Sign painters	12.55	1.84
Area 1:		
New construction:		
Brush; Taper	15.86	3.86
Spray; Sandblast	16.86	3.86
Repaint:		
Brush; Taper	14.28	3.86
Spray	15.18	3.86
Steel	18.64	3.86
ROOFERS:		
Area 1:		
Roofers	15.76	4.25
Slaters	16.01	4.25
Hot pitch	16.76	4.25
Area 2	11.70	2.25
ADD:		
AREA DESCRIPTIONS: CARPENTERS		
AREA 5: PLYMOUTH (Remainder of County)		
DECISION NO. MA83-3045 - MOD. #1 (48 FR 38959 - Aug. 26, 1983) BERKSHIRE, FRANKLIN, HAMPDEN & HAMPSHIRE COUNTIES, MASS.		
CHANGE:		
CARPENTERS; SOFT FLOOR LAYERS, DRYWALL CARPENTERS: BERKSHIRE; FRANKLIN (Monroe, Monroe Bridge)	13.48	2.89
ELECTRICIANS		
FRANKLIN (Remainder of County); HAMPSHIRE (except Middlefield, Cummington, Plainfield, Belchertown, Ware); Hampden (Chester, Holyoke and north portion of Chicopee)		
Electrical contracts of $125,000 and over	15.36	3.47+3%
Electrical contracts under $125,000	13.36	3.47+3%
ELEVATOR CONSTRUCTORS	16.19	3.00+ a+b
ELEVATOR CONSTRUCTORS' HELPERS	11.33	3.00+ a+b
ELEVATOR CONSTRUCTORS' PROBATIONARY HELPERS	8.095	
SHEET METAL WORKERS	15.66	4.79

DECISION NO. NM83-4071 - MOD. #1 (48 FR 45910 - 10/7/83) Statewide New Mexico	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Commercial Line Work:		
Area A:		
Cable splicers:		
Zone IV	$22.38	E

DECISION NO. NC83-1077 - MOD. #1 (48 FR 45906 - October 10, 1983) Beaufort, Bertie, Chowan, Dare, Hertford, Northampton, Tyrrell, & Washington Counties, North Carolina	Basic Hourly Rates	Fringe Benefits
OMIT:		
Counties of Franklin, Warren and Vance Counties, North Carolina		

	Basic Hourly Rates	Fringe Benefits

DECISION NO. PA81-3027 - MOD. #12 (46 FR 37212 - July 17, 1981) FRANKLIN COUNTY, PA.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS	15.21	1.67+ 3 1/4%
DECISION NO. PA81-3068 - MOD. #12 (46 FR 47403 - Sept. 25, 1981) LABABON COUNTY, PA		
CHANGE:		
ELECTRICIANS	15.21	1.67+ 3 1/4%
DECISION NO. PA81-3069 - MOD. #7 (46 FR 47401 - Sept. 25, 1981) BERKS COUNTY, PA		
CHANGE:		
ELECTRICIANS:		
Herford, Longswamp & Washington, Twps., portion of Maxatawney, Twp., east of Sacony Creek	15.35	1.84+ 3%
Marion, Tulpehocken & Bethel Twps.	15.21	1.67+ 3 1/4%
Remainder of County	15.59	1.89+ 3%
ROOFERS:		
Remainder of County	18.17	2.73+ d
Mechanic II - handle and transport all materials tools, and equipment; clean-up debris	8.25	2.73+ d

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	15.25	25.6%+ a
Group 2	14.86	"
Group 3	14.09	"
Group 4	13.44	"
Group 5	12.97	"
Group 6	12.06	"
OMIT:		
POWER EQUIPMENT OPERATORS:		
Group 7	15.10	25.6%+ a
Group 7-A	15.35	"
Group 7-B	15.59	"
STEAMFITTERS	18.16	3.81
DECISION NO. PA81-3076 - MOD. #8 (46 FR 50263 - October 9, 1981) SCHUYLKILL COUNTY, PA		
CHANGE:		
ELECTRICIANS:		
North Manheim, South Manheim, West Brunswick, Wayne, Washington, Pottsville, Schuylkill Haven Twps.	15.59	1.89+ 3%
Fremont and Pine Grove Twps.	15.21	1.67+ 3 1/4%

DECISION NO. PA81-3080 - MOD. #7 (47 FR 52078 - October 23, 1981) LEHIGH COUNTY, PA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
STEAMFITTERS	18.16	3.81
DECISION NO. PA82-3008 - MOD. #9 (47 FR 8487 - February 26, 1982) BUCKS, CHESTER, DELAWARE, MONTGOMERY & PHILADELPHIA COUNTIES, PENNSYLVANIA		
CHANGE:		
ELECTRICIANS:		
Philadelphia (Only)	18.13	23%
DECISION NO. PA82-3010 - MOD. #9 (47 FR 9684 - March 5, 1982) CLINTON, CENTRE, HUNTINGDON, FULTON & MIFFLIN COUNTIES, PENNSYLVANIA		
CHANGE:		
ELECTRICIANS:		
Mifflin County	15.21	1.67+ 3 1/4%

DECISION NO. PA82-3012 - MOD. #7 (47 FR 9681 - March 5, 1982) COLUMBIA, MONTOUR & SNYDER COUNTIES, PA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
South of U.S. Highway #522 in Snyder County	15.21	1.67+ 3 1/4%

SUPERSEDEAS DECISION

UMI 1983 OCT 28 VOL 48 ISS 210

	Basic Hourly Rates	Fringe Benefits
DECISION NO. TX83-4005 - MOD. #7 (48 FR 934 - 1/7/83) Lubbock Co., Texas		
CHANGE:		
Ironworkers:		
Structural, ornamental & reinforcing	$12.50	2.95
All ironworkers on jobs 30 miles or more from the city of Lubbock	13.625	2.95
DECISION NO. TX83-4075 - MOD. #1 (48 FR - 10/21/83) Ector & Midland Cos., Texas		
CHANGE:		
Ironworkers:		
Ironworkers	12.50	2.95
All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland)	12.625	2.95

	Basic Hourly Rates	Fringe Benefits
DECISION NO. WV83-3000 - MOD. #5 (48 FR 10585 - March 11, 1983) STATEWIDE, WEST VIRGINIA		
CHANGE:		
AREA 17		
Contracts under $30,000:		
Wiremen	9.00	.50+4%
Contracts $30,000 or more:		
Wiremen	13.95	.50+4%
DECISION NO. WV82-3002 - MOD. #6 (47 FR 49220 - October 29, 1982) STATEWIDE, WEST VIRGINIA EXCLUDING THE COUNTIES OF BERKELEY, JEFFERSON & MORGAN		
CHANGE:		
HARDY & PENDLETON COS.:		
Contracts under $30,000 (excluding industrial plants):		
Wiremen	9.00	.50+4%
Contracts $30,000 or more (plus all contracts for industrial plants):		
Wiremen	13.95	.50+4%

STATE: FLORIDA — COUNTIES: *SEE BELOW
DECISION NUMBER: FL83-1084 — DATE: Date of Publication
Supersedes Decision No.: FL83-1060 dated September 9, 1983 in 48 FR 38958
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments of 4 stories or less); HEAVY CONSTRUCTION & HIGHWAY CONSTRUCTION PROJECTS.
*Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center, & Melabar Radar Site in Brevard & Volusia Counties, Florida.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.90	2.81
BOILERMAKERS	16.20	3.315
BRICKLAYERS, BLOCKLAYERS, PLASTERERS, TERRAZZO WORKERS, TILE SETTERS & CEMENT MASONS	11.61	1.00
CARPENTERS:		
Carpenters	11.62	1.55
Piledrivermen	12.12	1.55
ELECTRICIANS:		
Wiremen	14.30	4%+ 1.80
Cable Splicers	14.55	4%+ 1.80
ELEVATOR CONSTRUCTORS:		
Mechanic	13.03	3.00+a
Helper	9.12	3.00+a
Prob. Helper	6.515	
IRONWORKERS	13.68	3.10
LABORERS:		
1. Air Tool Oper., Concrete Laborers, Hod Carriers, Mason Tenders, Mortar Mixers, Kettlemen (excluding roofing & waterproofing), Pipelayers, Powdermen, Form Setters (paving curbing & gutter), Well Point, Gunnite Laborer, and Gunnite Nozzlemen	8.45	.97
2. Unskilled Laborer	8.30	.97
LINE CONSTRUCTION:		
1. Line & Class A Opers. (hole boring machines, cranes, tracked equipment, fifth wheel tractors, tension, & wire pulling machines, mobile cranes & backhoes)	14.57	4%+.65
2. Cable Splicers	14.72	4%+.65
3. Class B Opers. (flatbed material trucks, line trucks when either is mounted with winch and/or 'A' frame, trucks mounted with digging units, power wagons, driving of mobile cranes, & bucket trucks	9.94	4%+.65
4. Groundmen	7.33	4%+.65
MILLWRIGHTS	14.55	2.72
PAINTERS:		
Brush	11.00	1.73
Spray, Paperhanging, & Sandblasting	11.50	1.73
PLUMBERS, PIPEFITTERS, & STEAMFITTERS:		
1. Industrial-Bulk Plants, Powerhouses, Chemical Plants, Missile Sites, Oil Refineries, etc., and such other work which is related to & considered a part of the above type projects	17.15	2.27
2. Commercial-Commercial, Schools, Hospitals, Shopping Centers, & work not listed as Industrial.	13.62	1.70
ROOFERS:		
Roofers	11.50	1.00
Kettlemen	10.05	1.00
SHEET METAL WORKERS	14.50	3%+ 1.71
SPRINKLER FITTERS	15.00	2.88
TRUCK DRIVERS	13.00	.80
WELDERS - Receive rate for craft to which the welding is incidental.		
POWER EQUIPMENT OPERATORS:		
GROUP I	13.34	2.45
GROUP II	11.96	2.45
GROUP III	9.56	2.45

UMI 1983 OCT 28 OCT 21 0 ISS 2 1 0 VOL 48

POWER EQUIPMENT OPERATORS: Classification Definitions.

GROUP I - Crane or Derrick oper., clam shell oper., Dragline oper., Pile-driver Oper. including Auger & Boring Machine Oper. for Drilling in Piling, Backhoe Oper., Hydra Crane Oper., Gradall Oper., Shovel Oper., Patrol Oper., Cableways Oper., Tugboat Captain (150 hp or more), Bulti-Bowl Oper. (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cubic yard Scrapers), Side Boom Cat Oper., Multi-Drum Hoist Oper. for Rigging Work, Mechanic (heavy equipment), Tower Crane Oper., (stationary, climbing, & travelling), Gantry Crane Oper., Locomotive Crane Oper., Bridge Crane Oper. (over 20 ton capacity), Concrete Pump w/Boom (mobile) Oper., High lift or Forklift Oper. (10 ft. or higher).

GROUP II - Bulldozer, Bridge Crane (20 tons & under), Highlift or Forklift (less than 10 ft), Straddle Buggy, Hoist (other than Rigging work) including Winch Truck Oper. where Winch Truck is not Mobile & used as a Hoist, Trenching Machine, (ladder & wheel type) over 6 ft. cut & over 24 inches in width, Concrete Paver, Scraper, Front End Loader, Fireman-Floating Equipment, Mobile Winch Truck, Self-Propelled Sub-Grader, Asphalt Paving Machine, Lubricating Engineer (Mobile Plant, Pavement Breaker.

GROUP III - Tractor Operated Sweeper, Trenching Machine (ladder & wheel type) maximum cut 6 ft & maximum width 24 inches Fireman, Self-Propelled Roller, Wellpoint Pump & Supervise Installation (one operator for 3 pumps, not including standby units, w/in 300 ft radius), Asphalt Distributor, Water Truck Driver, Motor Boat, Oiler, Pumpman (other than wellpoint) up to & including Pumps w/in 300 ft. radius, Conveyor (motor operated), Welding Machine (3 or more Combustion Type), Pulver Mixer, Compressor (from 1 up to & including 3 compressors) w/in 300 ft. radius, Self-Propelled Sweeper, Combination Pump, Compressor & Combustion Type Welding Machine, (any group of 3 units) with 300 ft. radius, Concrete Mixer, Concrete Pump, Tractor, Street Sweeping Machine.

FOOTNOTE:
a. Six Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day.

Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 8% for employee who has worked in business more than 5 years.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: VIRGINIA

COUNTIES: AMELIA, BRUNSWICK, CHARLES CITY, CHESTERFIELD, DINWIDDLE, GOOCHLAND, HANOVER, HENRICO, LUNENBURG, MECKLENBURG, NEW KENT, NOTTOWAY, POWHATAN, PRINCE GEORGE, and the City of RICHMOND

DECISION NO. VA83-3040
DATE: DATE OF PUBLICATION
Supersedes Decision No. VA81-3092 dated December 18, 1981 in 46 FR 61819
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits
ASPHALT RAKER	5.48	
CARPENTER, STRUCTURE	6.27	
CARPENTER HELPER, STRUCTURE	5.01	
CONCRETE FINISHER	6.10	
CONCRETE FINISHER HELPER	4.97	
ELECTRICIANS	10.74	
FORM SETTER	5.55	
GUARDRAIL/FENCE ERECTOR	5.93	
IRON WORKER, REINF.	7.57	
IRON WORKER, REINF. HELP HELPER	6.16	
LABOR, UNSKILLED	4.47	
MASON STRUCTURE	6.00	
MECHANIC	6.87	
PAINTER	6.50	
PAINTER, BRIDGE	5.75	
PIPE LAYER	5.75	
SIGN ERECTOR	5.64	
ASPHALT DISTRIBUTOR OPER.	5.46	
ASPHALT PAVER OPERATOR	5.56	
BACKHOE OPERATOR	6.21	
BULLDOZER OPERATOR	6.24	
CONCRETE FINISH MACHINE OP.	5.50	
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD. & Under)	6.67	
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1 YD.)	6.99	
DRILL OPERATOR	8.25	
LOADER OPERATOR (2 YDS. & UNDER)	6.14	
LOADER OPERATOR (OVER 2 YDS.)	6.21	
MOTOR GRADER OPERATOR (FINE GRADE)	6.98	
MOTOR GRADER OPERATOR (ROUGH GRADE)	6.98	
OILER GREASER	5.00	
POWER TOOL OPERATOR	5.07	
ROLLER OPERATOR (ROUGH)	4.91	
ROLLER OPERATOR (FINISH)	4.91	
SCRAPER PAN OPERATOR	5.62	
SLIP-FORM PAVER OPERATOR	5.65	
SLURRY SEAL MACHINE OPERATOR	5.63	
SLURRY SEAL PAVER TRUCK DRIVER	5.13	
STONE SPREADER OPERATOR	5.15	
TRACTOR OPERATOR (UTILITY)	4.81	
TRENCHING MACHINE OPERATOR	6.75	
TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)	5.23	
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	5.23	
TRUCK DRIVER (MULTI-REAR AXLE)	4.45	
TRUCK DRIVER (SINGLE-REAR AXLE)	4.45	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Wisconsin
DECISION NO. WI83-2084
Supersedes Decision No. WI82-2024, dated April 9, 1982 in 47 FR 15513
DESCRIPTION OF WORK: Building and Residential Construction

COUNTY: Racine
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.10	2.94
BOILERMAKERS	16.12	2.825
BRICKLAYERS	13.87	3.55
CARPENTERS:		
(West of Hwy. #7[illegible])		
Carpenters & Soft Floor Layers	15.39	2.41
Millwrights	15.99	2.41
Piledrivermen	15.54	2.41
Carpenters:		
(Remainder of County)		
Carpenters & Soft Floor Layers	14.71	1.96
Millwrights	15.00	1.96
Piledrivermen	14.80	1.96
CEMENT MASONS	13.67	1.65
ELECTRICIANS	17.50	70+3%
ELEVATOR CONSTRUCTORS:		
Constructor	15.97	3.465
Helpers	11.18	2.465
Probationary Helpers	7.99	
IRONWORKERS	14.81	5.55
LABORERS:		
General	11.97	3.53
Plasterer Laborer	12.10	3.53
Air Spade and Jackhammer Operator	11.29	2.53
PAINTERS:		
Brush	13.00	2.15
Structural Steel	13.15	2.15
Spray	13.75	2.15
PLASTERERS	12.91	1.65
PLUMBERS & STEAMFITTERS	16.53	3.14
ROOFERS	13.32	1.65
SHEET METAL WORKERS	15.16	3.76
TERRAZZO MECHANIC	14.60	3.88
TILE SETTER	11.96	2.97

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	15.67	3.20
Group 2	15.40	3.20
Group 3	14.65	3.20
Group 4	14.52	3.20
Group 5	13.61	3.20
Group 6	13.15	3.20

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (bridge type), Concrete Paver (over 27E), Concrete Spreader and Distributor

Group 2: Material Hoists, Tractor or Truck mounted Hydraulic Backhoe, Tractor or Truck mounted Hydraulic Crane (5 tons and under), Manhoist, Tractor (over 40 H.P.), Bulldozer (H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (Wheel type or chain type having over 8 inch bucket)

Group 3: Concrete and Group Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (road type), Roller (rubber tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (Well Points), Trencher (chain type having bucket 8 inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (Pile Drivers and Derricks)

Group 4: Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors (riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (Tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and Launch

Group 5: Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor mounted equipment, Post Hole Diggers, Stone Crusher and Screening Plants, Firemen (Aphalt Plants), Air Compressor (300 CFR or over)

Group 6: Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination small equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12" and over)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.1 (a)(1)(ii))

SUPERSEDEAS DECISION

TATE: Wisconsin

COUNTIES: Langlade, Lincoln, & Marathon

ECISION NO. WI83- 2085

DATE: Date of Publication

upersedes Decision No. WI82-2022, dated April 9, 1982 in 47 FR 15512

ESCRIPTION OF WORK: Building construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.56	1.80
BOILERMAKERS	16.12	2.825
BRICKLAYERS & STONEMASONS	13.22	2.19
CARPENTERS; Soft Floor LAYERS & LATHERS	13.66	2.11
CEMENT MASONS	12.72	2.19
ELECTRICIANS	15.13	.75 11%
ELEVATOR CONSTRUCTORS:		
Mechanic	16.005	2.465
Helpers	11.20	2.465
Helpers (Prob.)	8.00	
IRONWORKERS:		
Structural, Ornamental and Reinforcing	14.08	2.85
LABORERS:		
General & Air Spade Operator	11.03	1.43
Mason Tender	11.28	1.43
Jackhammer Operator, & Mortar Mixer	11.28	1.43
PAINTERS:		
Brush	13.85	.50
Spray	14.60	.50
PLASTERERS	13.22	2.20
PLUMBERS & STEAMFITTERS	17.25	1.75
ROOFERS	13.00	
SHEET METAL WORKERS	15.94	1.66
TERRAZZO MECHANIC & TILE SETTER	12.97	2.20

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	15.22	2.90
Group 2	14.92	2.90
Group 3	14.56	2.90
Group 4	14.44	2.90
Group 5	13.88	2.90
Group 6	13.41	2.90

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (bridge type), Concrete Paver (over 27E), Concrete Spreader and Distributor

Group 2: Material Hoists, Tractor or Truck mounted Hydraulic Backhoe, Tractor or Truck mounted Hydraulic Crane (5 tons and under), Manhoist, Tractor (over 40 H.P.), Bulldozer (H.P.), End-loader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (Wheel type or chain type having over 8 inch bucket)

Group 3: Concrete and Group Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (road type), Roller (rubber tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (Well Points), Trencher (chain type having bucket 8 inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (Pile Drivers and Derricks)

Group 4: Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors (riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (Tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and Launch

Group 5: Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor mounted equipment, Post Hole Diggers, Stone Crusher and Screening Plants, Firemen (Aphalt Plants), Air Compressor (300 CFM or over)

Group 6: Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination small equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12' and over)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

[FR Doc. 83-29122 Filed 10-27-83; 8:45 am]

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federal register

Friday
October 28, 1983

Part III

Department of the Interior

Fish and Wildlife Service

Study Concerning Potential Sources of Funding; Fish and Wildlife Conservation Act of 1980

VOL 48 ISS 210 OCT 28 1983 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Study Concerning Potential Sources of Funding; Fish and Wildlife Conservation Act of 1980

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service is identifying and evaluating potential sources of revenue for funding the Fish and Wildlife Conservation Act of 1980. Sec. 12 of that Act instructed the Service to conduct a study to determine the most equitable and effective mechanism for funding the program and to provide the results along with the Director's recommendations to the appropriate Congressional committees by December 31, 1984. The purpose of this notice is to inform potentially affected parties and invite comments to be utilized in the study.

DATE: Comments should be submitted on or before December 12, 1983.

ADDRESS: Written statements should be addressed to the Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments received will be available for examination in Room 638, 1000 N. Glebe Road, Arlington, Virginia, between 7:45 a.m. and 4:15 p.m., Monday through Friday. Those persons desiring notification of receipt of comments must include a self-addressed, stamped postcard or use the U.S. Postal Service return receipt system.

FOR FURTHER INFORMATION CONTACT: Mr. C. Phillip Agee, (703) 235–1526, Division of Federal Aid, 1000 N. Glebe Road, Arlington, Virginia. Office hours for this location are 7:45 a.m. to 4:15 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The Fish and Wildlife Conservation Act of 1980 was enacted September 29, 1980. Its purpose is to provide grants to the States for developing State fish and wildlife conservation plans and for carrying out actions for the benefit of fish and wildlife, especially nongame species and populations. The term nongame is defined to include all unconfined, wild vertebrates which are not ordinarily taken for sport, fur, food, or commerce, are not listed as endangered or threatened under the Endangered Species Act of 1973, are not marine mammals under the Marine Mammal Protection Act of 1972, and are not domesticated species reverted to feral existence.

The Act authorized funding by appropriation for the first 4 years and provided for long-term funding by specifying in Sec. 12:

> The Director of the United States Fish and Wildlife Service, in consultation with affected parties, shall conduct a comprehensive study to determine the most equitable and effective mechanism for funding State conservation plans and actions under this Act, including but not limited to, funding by means of an excise tax on appropriate items. On or before December 31, 1984, the Director shall report to the Committee on Environment and Public Works of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives the results of such study, together with his recommendations with respect thereto. (As amended December 31, 1982.)

Study

Preliminary screening: In 1975 an independent study was published analyzing potential excise taxes on 17 items or groups of items that could be applied to grants for nongame species and estimating the revenue each would yield (Wildlife Management Institute, 1975, "Current Investments, Projected Needs and Potential Sources of Income for Nongame Fish and Wildlife Programs in the United States." 93 pp.). Later, in hearings related to various pieces of proposed legislation for the benefit of nongame, additional sources were suggested in testimony before Congress. From these records, 25 potential sources of funding were selected for consideration in this study. In a preliminary screening, the Fish and Wildlife Service examined each of the 25 regarding: (1) The relationship between the potential contributors of the revenue and the beneficiaries of the program (i.e., Would program costs be paid by the users?); (2) the estimated amount of revenue to be generated each year and the portion of that amount which would be required to administer its collection; and (3) whether the potential revenue tended to be collected disproportionately from certain economic strata in the population. As a result of the screening, several of the 25 potential fund sources were modified or eliminated leaving 18 to be evaluated in detail. The 18 remaining sources being evaluated in this study are as follows:

1. Annual appropriation from the general fund.
2. An excise tax of 5 to 10% on wild-bird seed levied at the manufacturer/importer level.
3. An excise tax of 5 to 10% on wild-bird houses, levied at the manufacturer/importer level.
4. An excise tax of 5 to 10% on wild-bird feeders, levied at the manufacturer/importer level.
5. An excise tax of 5 to 10% on wild-bird waterers, baths, and heaters, levied at the manufacturer/importer level.
6. An excise tax of 5 to 10% on wild furs, levied at the point of their purchase from trappers.
7. An excise tax of 5 to 10% on backpacking and camping equipment (tents, flies, pack frames, packs, camp stoves, lanterns, tent heaters, camp cooking gear, sleeping bags and mattresses), levied at the manufacturer/importer level.
8. An excise tax of 2 to 5% on off-road vehicles (snowmobiles; off-road motorcycles, including trail bikes and three-wheelers; other all-terrain vehicles and four-wheel-drive vehicles), levied at the manufacturer/importer level.
9. An excise tax of 5 to 10% on binoculars, monoculars, and spotting scopes, levied at the manufacturer/importer level.
10. An excise tax of 5 to 10% on wildlife identification books, levied at the publisher/importer level.
11. Fees of $.50 to $2.00 (new fees or surcharges on existing fees) on the use of selected Federal lands and waters, including wildlife refuges, national parks, and areas managed by the Forest Service, Bureau of Land Management, Corps of Engineers, Tennessee Valley Authority, and Bureau of Reclamation.
12. Voluntary contribution by checkoff on the Federal income tax return (deductible the following year as a contribution).
13. Sale of semi-postal stamps for nongame, with the contribution being 25 to 50% of the postage value of the stamp.
14. An excise tax of 5 to 10% on recreational diving equipment (masks, snorkels, tanks and attachments, flippers, wetsuits, and spearguns), levied at the manufacturer/importer level.
15. An excise tax of 1 to 5% on photographic equipment and film (still cameras, lenses, filters, and tripods), levied at the manufacturer/importer level.
16. A tax of 1 to 5% on certain locatable minerals extracted from Federal lands and waters where those rights are currently controlled by the Federal Government.
17. An excise tax of 1 to 5% on travel trailers and campers, levied at the manufacturer/importer level.
18. An excise tax of 1 to 5% on motorhomes, levied at the manufacturer/importer level.

Detailed evaluation: Each of the 18 potential sources of funds will be evaluated critically. This detailed

evaluation will involve a more thorough application of the criteria used in the preliminary screening in addition to the following factors:

(1) The effect on sales of the commodity or service expected to result from the addition of a tax or fee to the persent cost.

(2) For purposes of revenue collection, the separability of the studied commodity or service from other commodities or services on which a fee is not to be added.

(3) Changes in legislation and regulations that would be required in order to adopt and implement each potential surface of funds.

(4) The views of parties who may be affected (information to be derived largely from comments submitted in response to this notice).

Report: As required by the Act, the findings of this study, together with the recommendations of the Director, will be delivered to the Chairman of the House Committee on Merchant Marine and Fisheries and the Chairman of the Senate Committee on Environment and Public Works on or before December 31, 1984.

Dated: October 24, 1983.

Robert A. Jantzen,

Director, Fish and Wildlife Service.

[FR Doc. 83-29335 Filed 10-27-83; 8:45 am]

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VOL
48
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federal register

Friday
October 28, 1983

Part IV

Department of the Interior

Minerals Management Service

Outer Continental Shelf; Oil and Gas Lease Sale

UMI
1983
OCT 28
VOL 48
ISS 210

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Central California
Oil and Gas Lease Sale 73

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1331-1364), and the regulations issued thereunder (30 CFR Part 256, formerly 43 CFR Part 3300; see the Federal Register at 47 FR 47006, October 22, 1982). A revision of those regulations appeared in the Federal Register of June 16, 1982, at 47 FR 25967 and 26031.

2. Filing of Bids. Sealed bids will be received by the Regional Manager, Pacific Outer Continental Shelf (OCS) Office, Minerals Management Service, 1340 West 6th Street, Los Angeles, California 90017. Bids may be delivered, either by mail or in person, to the above address until the Bid Submission Deadline at 12:00 noon, Pacific Standard Time (p.s.t.), November 29, 1983. Bids will not be accepted on November 30, 1983. Bids received by the Regional Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the Regional Manager prior to 12:00 noon, p.s.t., November 29, 1983. Bids may not be withdrawn unless written withdrawal is received by the Regional Manager prior to 9:00 a.m., p.s.t., November 30, 1983. Bid Opening Time will be 10:00 a.m., p.s.t., November 30, 1983, at the Long Beach Convention Center, 300 East Ocean Boulevard, California Room, Long Beach, California. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale was published at 48 FR 45318 on October 4, 1983.

3. Method of Bidding. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease Tract (insert number of tract), not to be opened until 10:00 a.m., p.s.t., November 30, 1983," must be submitted for each tract. A suggested bid form appears in 30 CFR Part 256, Appendix A. The total amount bid must be in whole dollar amounts (no cents). Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on Official Protraction Diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Minerals Management Service. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder in percent to a maximum of five decimal places after the decimal point, e.g., 50.12345 percent. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All bids submitted at this sale must provide for a cash bonus in the amount of $371 or more per hectare or fraction thereof. All leases awarded for this sale will provide for a yearly rental payment of $8 per hectare or fraction thereof. The following bidding systems will be utilized:

(a) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on tracts 73-126, 73-127, 73-148, 73-153, 73-154, 73-173, 73-174, 73-193, 73-194, 73-227, 73-233, 73-234, 73-249, 73-250, 73-270, 73-339, 73-341, and 73-346 must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent.

(b) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on the remaining tracts must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent.

5. Equal Opportunity. Each bidder must have submitted by the Bid Submission Deadline, stated in paragraph 2, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982) and the Affirmative Action Representative Form, Form 1140-7 (June 1982). See paragraph 14(d), "Information to Bidders and Lessees."

6. Bid Opening. Bids will be opened starting at the Bid Opening Time, at the second address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight on November 30, 1983, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

9. Acceptance, Rejection, or Return of Bids. The United States reserves the right to reject any and all bids. In any case, no bid for any tract will be awarded to any bidder unless:

(a) the bidder has complied with all requirements of this notice and applicable regulations;

(b) the bid is the highest valid bid; and

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of at least $371 per hectare or fraction thereof. Any bid submitted which does not conform to the requirements of this notice, the OCS Lands Act, as amended, or applicable regulations, may be returned to the person submitting that bid by the Regional Manager and not considered for acceptance.

10. Successful Bidders. To obtain a lease on the tract bid upon, each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid with the first year's rental, and satisfy the bonding requirements of 30 CFR 256, Subpart I within the following time periods:

(a) 15 days, if payment is made by Federal Reserve check. Federal Reserve checks are instruments which originate at Federal Reserve member banks. These checks are to be drawn on the Los Angeles Branch of the Federal Reserve Bank of San Francisco. Cut-off time for the presentation of Federal Reserve checks to the Pacific OCS Regional Manager or his designee shall be specified at the time the leases are transmitted to successful bidders for execution.

(b) 14 days, if payment is made by commercial checks. Commercial checks are instruments drawn on a commercial bank located in Los Angeles, California. Cut-off time for the presentation of commercial checks to the Pacific OCS Regional Manager or his designee shall be specified at the time that leases are transmitted to successful bidders for execution.

New payment procedures under development requiring the payment of the balance of the cash bonus with the first year's rental by means of electronic funds transfer, announced at 48 FR 26778 (June 10, 1983), will not be effective until after January 1, 1984. The implementation of such new payment procedures will be announced in the notice for the offering to which they will apply.

11. Official Protraction Diagrams. Tracts offered for lease may be located on the following Official Protraction Diagrams which may be purchased for $2 each from the Pacific OCS Regional Office at the address stated in paragraph 2 of this notice:

Outer Continental Shelf Official Protraction Diagrams.

NI 10-3 (Revised 5/11/83)
NI 10-6 (Approved 3/26/76)

12. Tract Descriptions. The tracts offered for bid are as follows:
Note: There may be gaps in the numbers of the tracts listed.

OCS OFFICIAL PROTRACTION DIAGRAM NI 10-3
(Revised May 11, 1983)

Tract	Blank	Description	Hectares
73-003	580	All	2304.00
73-004	581	All	2304.00
73-005	582	All	2304.00
73-006	583	All	2304.00
73-007	584	All	2304.00
73-008	585	All	2304.00
73-009	586	All	2304.00
73-010	587	All	2304.00
73-011	588	All	2304.00
73-020	625	All	2304.00
73-021	626	All	2304.00
73-022	627	All	2304.00
73-023	628	All	2304.00
73-024	629	All	2304.00
73-025	630	All	2304.00
73-026	631	All	2304.00
73-027	632	All	2304.00
73-036	670	All	2304.00
73-037	671	All	2304.00
73-038	672	All	2304.00
73-039	673	All	2304.00
73-040	674	All	2304.00
73-041	675	All	2304.00
73-042	676	All	2304.00
73-051	714	All	2304.00
73-052	715	All	2304.00
73-053	716	All	2304.00
73-054	717	All	2304.00
73-055	718	All	2304.00
73-056	719	All	2304.00
73-057	720	All	2304.00
73-066	758	All	2304.00
73-067	759	All	2304.00
73-068	760	All	2304.00
73-069	761	All	2304.00
73-070	762	All	2304.00
73-071	763	All	2304.00
73-072	764	All	2304.00
73-073	765	All	2304.00
73-074	766	All	2304.00
73-083	803	All	2304.00
73-084	804	All	2304.00
73-085	805	All	2304.00
73-086	806	All	2304.00
73-087	807	All	2304.00

UMI
1983
OC
28
ISS
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VOL
48

NI 10-3 (Continued)

Tract	Block	Description	Hectares
73-088	808	All	2304.00
73-089	809	All	2304.00
73-090	810	All	2304.00
73-100	847	All	2304.00
73-101	848	All	2304.00
73-102	849	All	2304.00
73-103	850	All	2304.00
73-104	851	All	2304.00
73-105	852	All	2304.00
73-106	853	All	2304.00
73-107	854	All	2304.00
73-121	892	All	2304.00
73-122	893	All	2304.00
73-123	894	All	2304.00
73-124	895	All	2304.00
73-125	896	All	2304.00
73-126	897	All	2304.00
73-127	898	All	2304.00
73-141	936	All	2304.00
73-142	937	All	2304.00
73-143	938	All	2304.00
73-144	939	All	2304.00
73-145	940	All	2304.00
73-146	941	All	2304.00
73-148	943	All	2304.00
73-153	948	All	2304.00
73-154	949	1/	* 1620.67
73-162	981	All	2304.00
73-163	982	All	2304.00
73-164	983	All	2304.00
73-165	984	All	2304.00
73-166	985	All	2304.00
73-167	986	All	2304.00
73-173	992	All	2304.00
73-174	993	1/	* 1003.03

OCS OFFICIAL PROTRACTION DIAGRAM NI 10-6
(Approved March 26, 1976)

Tract	Block	Description	Hectares
73-182	12	All	2304.00
73-183	13	All	2304.00
73-184	14	All	2304.00
73-185	15	All	2304.00
73-186	16	All	2304.00

NI 10-6 (Continued)

Tract	Block	Description	Hectares
73-193	23	All	2304.00
73-194	24	2/	* 485.18
	68		* 794.79
73-202	56	All	2304.00
73-203	57	All	2304.00
73-204	58	All	2304.00
73-205	59	All	2304.00
73-206	60	All	2304.00
73-222	101	All	2304.00
73-223	102	All	2304.00
73-224	103	All	2304.00
73-225	104	All	2304.00
73-226	105	All	2304.00
73-227	106	All	2304.00
73-233	112	1/	* 2280.65
73-234	113	2/	* 464.80
	157		* 179.91
73-244	146	All	2304.00
73-245	147	All	2304.00
73-246	148	All	2304.00
73-247	149	All	2304.00
73-249	151	All	2304.00
73-250	152	All	2304.00
73-265	191	All	2304.00
73-266	192	All	2304.00
73-267	193	All	2304.00
73-268	194	All	2304.00
73-270	196	All	2304.00
73-285	235	All	2304.00
73-286	236	All	2304.00
73-287	237	All	2304.00
73-288	238	All	2304.00
73-289	239	All	2304.00
73-307	280	All	2304.00
73-308	281	All	2304.00
73-309	282	All	2304.00
73-310	283	All	2304.00
73-327	324	All	2304.00
73-328	325	All	2304.00
73-329	326	All	2304.00
73-330	327	All	2304.00
73-331	328	All	2304.00
73-336	370	All	2304.00
73-337	371	All	2304.00
73-338	372	All	2304.00
73-339	373	All	2304.00
73-341	375	All	2304.00

NI 10-6 (Continued)

submitted and determine, in writing, whether a special biological

NI 10-6 (Continued)

Tract	Block	Description	Hectares
73-344	415	All	2304.00
73-345	416	All	2304.00
73-346	417	All	2304.00
73-352	459	All	2304.00
73-353	460	All	2304.00
73-354	461	All	2304.00
73-355	462	All	2290.33

* Estimated acreage.
1/ That portion seaward of the Three Geographical Mile Line.
2/ Those portions of each block seaward of the Three Geographical Mile Line.

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale for tracts 73-003, 73-004, 73-005, 73-020, and 73-352 will be for an initial term of 10 years. All other leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form MMS-2005 (August 1982), available from the Regional Manager at the address stated in paragraph 2 of this notice.

(b) Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale.

Stipulation No. 1

(a) If the Regional Manager (RM) has reason to believe that biological populations or habitats exist and require protection, the RM shall give the lessee notice that the lessor is invoking the provisions of this stipulation and the lessee shall comply with the following requirements. Prior to any drilling activity or the construction or placement of any structure for exploration or development on lease areas including, but not limited to, well drilling and pipeline and platform placement, hereinafter referred to as "operation," the lessee shall conduct site specific surveys as approved by the RM and in accordance with prescribed biological survey requirements to determine the existence of any special biological resource including, but not limited to:

(1) Very unusual, rare, or uncommon ecosystems or ecotones;

(2) A species of limited regional distribution that may be adversely affected by any lease operation.

If the results of such surveys suggest the existence of a special biological resource that may be adversely affected by any lease operation, the lessee shall: (1) relocate the site of such operation so as not to adversely affect the resources identified; (2) establish to the satisfaction of the RM on the basis of the site specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist. The RM will review all data submitted and determine, in writing, whether a special biological resource exists and whether it may be significantly affected by the lessee's operation. The lessee may take no action until the RM has given the lessee written directions on how to proceed.

(b) The lessee agrees that if any area of biological significance should be discovered during the conduct of any operation on the leased area, the lessee shall report immediately such findings to the RM and make every reasonable effort to preserve and protect the biological resource from damage until the RM has given the lessee directions with respect to its protection.

Stipulation No. 2

(a) "Cultural resource" means any site, structure, or object of historic or prehistoric archeological significance. "Operations" means any drilling, mining, or construction or placement of any structure for exploration, development, or production of the lease.

(b) If the Regional Manager (RM) believes a cultural resource may exist in the lease area, the RM will notify the lessee in writing. The lessee shall then comply with subparagraphs (1) through (3).

(1) Prior to commencing any operations, the lessee shall prepare a report, as specified by the RM, to determine the potential existence of any cultural resource that may be affected by operations. The report, prepared by an archeologist and geophysicist, shall be based on an assessment of data from remote sensing surveys and of other pertinent cultural and environmental information. The lessee shall submit this report to the RM for review.

(2) If the evidence suggests that a cultural resource may be present, the lessee shall either:

(i) Locate the site of any operations so as not to adversely affect the area where the cultural resource may be; or

(ii) Establish to the satisfaction of the RM that a cultural resource does not exist or will not be adversely affected by operations. This shall be done by further archeological investigation, conducted by an archeologist and a geophysicist, using survey equipment and techniques deemed necessary by the RM. A report on the investigation shall be submitted to the RM for review.

(3) If the RM determines that a cultural resource is likely to be present on the lease and may be adversely affected by operations, the RM will notify the lessee immediately. The lessee shall take no action that may adversely affect the cultural resource until the RM has given the lessee written directions on how to protect it.

UMI 1983 OC 28 0 2 1 0 ISS 48 VOL

(c) If the lessee discovers any cultural resource while conducting operations on the lease area, the lessee shall report the discovery immediately to the RM. The lessee shall make every reasonable effort to preserve the cultural resource until the RM has told the lessee how to protect it.

Stipulation No. 3

(a) The lessee agrees that prior to operating or causing to be operated on its behalf boat or aircraft traffic into individual designated warning areas, the lessee shall coordinate and comply with instructions from the Commander, Western Space and Missile Center (WSMC), the Commander, Pacific Missile Test Center (PMTC), and the Commander, Fleet Area Control and Surveillance Facility (FACSFAC), or other appropriate military agency. Such coordination and instruction will provide for positive control of boats and aircraft operating in warning areas at all times.

(b) The lessee, recognizing that mineral exploration and exploitation and recovery operations of the leased areas of submerged lands can impede tactical military operations, hereby recognizes and agrees that the United States reserves and has the right to temporarily suspend operations of the lessee under this lease in the interests of national security requirements. Such temporary suspension of operations, including the evacuation of personnel and appropiate sheltering of personnel not evacuated (an appropriate shelter shall mean the protection of all lessee personnel for the entire duration of any Department of Defense activity from flying or falling objects or substances), will come into effect upon the order of the Regional Manager (RM) after consultation with the Commander, WSMC, the Commander, PMTC, and the Commander, FACSFAC, or other appropriate military agency, or higher authority, when national security interests necessitate such action. It is understood that any temporary suspension of operations for national security may not exceed 72 hours; however, any such suspension may be extended by order of the RM. During such periods equipment may remain in place.

(c) The lessee agrees to control its own electromagnetic emissions and those of its agents, employees, invitees, independant contractors or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the Commander, WSMC, the Commander, PMTC, and the Commander, FACSFAC, or other appropriate military agency, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing, or operational activities conducted within individual designated warning areas. Necessary monitoring, control, and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors will be affected by the Commander of the appropriate onshore military installation conducting operations in the particular warning area; provided, however, that control of such electromagnetic emissions shall permit at least one continuous channel of communication between a lessee, its agents, employees, invitees, independent contractors or subcontractors, and onshore facilities.

Stipulation No. 4

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents, or employees, being conducted as a part of, or in connection with, the programs and activities of the Western Space and Missile Center, the Pacific Missile Test Center, the Fleet Area Control and Surveillance Facility or other appropriate military agency.

Nothwithstanding any limitations of the lessee's liability in Section 14 of the lease, the lessee assumes the risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessees, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations and agencies, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

Stipulation No. 5

(a) Pipelines will be required: (1) if pipeline rights-of-way can be determined and obtained; (2) if laying of such pipelines is technologically feasible and environmentally preferable; and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced mutliple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State, and local governments and the industry.

(b) Following the development of sufficient pipeline capacity, no

Stipulation No. 8

(b) Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Regional Manager.

(c) Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act, as amended, 33 U.S.C. 1221, et seq. (1980).

Stipulation No. 6

(a) Wells. Subsea wellheads and temporary abandonments, or suspended operations that leave protrusions above the sea floor, shall be protected, if feasible, in such a manner as to allow commercial trawl gear to pass over the structure without snagging or otherwise damaging the structure or the fishing gear. Latitude and longitude coordinates of these structures, along with water depths, shall be submitted to the Regional Manager. The coordinates of such structures will be determined by the lessee utilizing state-of-the-art navigation systems with the accuracy of at least ±50 feet (15.25 meters) at 200 miles (322 kilometers).

(b) Pipelines. All pipelines, unless buried, including gathering lines, shall have a smooth-surface design. In the event that an irregular pipe surface is unavoidable due to the need for valves, anodes, or other structures, those irregular surfaces shall be protected in such a manner as to allow trawl gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

Stipulation No. 7

The lessee shall include in its exploration and development plans, submitted under 30 CFR 250.34, a proposed fisheries and wildlife training program for review and approval by the Regional Manager. The training program shall be for all personnel involved in exploration, development, and production operations, and for platform and shorebased supervisors. The purpose of the training program shall be to familiarize persons working on the project with the value of the commercial fishing industry, the methods of offshore fishing operations, the potential conflicts between fishing operations and offshore oil and gas activities, the locations of marine mammal and bird rookery sites in the area, the locations of gray whale and other endangered whale migration routes in the area, the seasonal abundance and sensitivities of these animals to disturbance, and the Federal laws that have been established to protect endangered and threatened species from harassment or injury. Additionally, the lessee shall include in the training program required above, information on the behavior of gray whales during migration and how to avoid conflicts with the migration. The program shall be formulated and implemented by qualified instructors.

Stipulation No. 8

(To be included in any lease resulting from this sale for tracts 73-141 through 73-143, 73-162 through 73-164, 73-182, 73-183, 73-202, and 73-203).

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to well drilling and pipeline and platform placement, hereinafter referred to as "operation," the lessee shall investigate the potential existence of any radioactive waste, munitions, or toxic chemical waste on the lease. This investigation shall consist of examination of data acquired in the course of the shallow geologic hazard survey as conducted in accordance with the current Notice to Lessees issued by the Regional Manager (RM) and examination of the dump site records. This survey shall be over an acceptable grid and shall employ a magnetometer, water depth recorder, and dual side scan sonar or other equipment as determined necessary by the RM. If the results of the survey indicate the presence of such dumped materials, further investigation shall be included in the shallow geologic hazards survey report.

If the presence of dumped material is established, the lessee shall: (1) locate the site of the operation so as not to disturb the material, (2) conduct the operation in a manner that minimally disturbs the ocean floor (e.g., dynamically positioned drilling vessel), or (3) establish to the satisfaction of the RM on the basis of further investigation that disturbance of the material would not result in any adverse effects on the human or marine environments.

Stipulation No. 9

(To protect the sea otter and other important biological resources from potential oilspills, the following stipulation will be included in leases issued for tracts within 20 miles of the sea otter range (tracts 73-010, 73-011, 73-026, 73-027, 73-041, 73-042, 73-056, 73-057, 73-071 through 73-074, 73-087 through 73-090, 73-104 through 73-107, 73-125 through 73-127, 73-146, 73-148, 73-153, 73-154, 73-167, 73-173, 73-174, 73-193, 73-194, 73-233, and 73-234) and will be applied pursuant to OCS Operating Order No. 7, subject to consultation with the U.S. Coast Guard).

(a) The lessee shall be required to maintain state-of-the-art oilspill containment and cleanup equipment (as determined by the U.S. Coast Guard (USCG)) onsite and in the vicinity of exploratory drilling and development and production operations. Such equipment shall be capable of operating in severe weather conditions. In addition, suitable means of deployment and personnel trained in deployment and use of this equipment must be available. Such deployment for exploration, development, and production operations shall, in order to provide extra protection to the sea otter population, have the capability of immediate initiation of oilspill containment and cleanup.

UMI 1983 28 OC 0 2 1 0 ISS VOL 48

In the case of spills larger than can be contained by equipment on exploration vessels or production platforms, the lessee shall maintain state-of-the-art equipment on vessels which, based on proximity to the sea otter range, are capable of responding to a request for assistance and being on the scene within 2 to 4 hours of the request. The lessee shall install on exploration vessels and production platforms real time-monitoring capability to assist the USCG in acquiring meteorological and oceanographic data necessary to make accurate predictions of the trajectory of oilspills. This information shall support oilspill containment and cleanup operations. When a spill greater than 1 barrel occurs, the lessee shall notify the California Office of Emergency Services within 24 hours of such spill.

(b) The oilspill contingency plan must be designed to protect, to the extent feasible, coastal wetlands, estuaries, and recreational beaches, as well as the critical habitats of seabirds and marine mammals, including the threatened southern sea otter. As part of the oilspill contingency plan, the lessee shall be required to:

(1) Ensure that facilities are available for the capture and care of oiled or injured sea otters, pinnipeds, and seabirds;

(2) Work with the Minerals Management Service, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game to ensure that the best available cleaning and rehabilitation methodologies and equipment are available at these facilities; and

(3) Make available to the public a list of the agencies which can provide this care.

Stipulation No. 10

The lessee shall conduct semiannual full-scale drills for platforms and operator controlled contracted cleanup vessels for deploying equipment in open water to test the equipment and the contingency plan. These drills must involve all primary equipment identified in the oilspill contingency plans as satisfying OCS Operating Order No. 7. At least two of these drills shall include the primary equipment controlled and operated by the appropriate cooperative. These drills should be held under realistic environmental conditions in which deployment and operations can be accomplished without endangering safety of personnel. The Minerals Management Service inspectors will inspect frequently oil and gas facilities where oilspill containment and cleanup equipment are maintained in order to assure readiness.

Stipulation No. 11

Any initial processing of oil will be conducted at an onshore facility, subject to the granting of necessary permits by local authorities within a reasonable period of time as provided for in State of California law. If after review by local and State authorities these permits cannot be acquired, then the Regional Manager shall determine, in cooperation and participation with the State, what further action needs to be taken in regard to the lessee's development and production plan. Exemptions to the initial onshore processing include standard oil/gas/water separation processes and necessary treatment of oil prior to being pumped into a pipeline to shore.

Stipulation No. 12

(To minimize space use conflicts with California's commercial fishing industry, the following stipulation will be included in leases issued for tracts 73-153, 73-154, 73-173, 73-174, 73-193, 73-194, 73-233, and 73-234).

The lessee shall be required to employ jack-up drilling rigs for drilling exploratory wells in water depths of 275 feet or less. The Regional Manager (RM) may approve other drilling vessels when geological or bottom conditions prohibit the use of jack-ups. When considering the use of other drilling vessels, the RM will consult with the California Department of Fish and Game to determine the effects of the vessels on commercial fishing.

Stipulation No. 13

(a) The lessee, operators, subcontractors, and all personnel involved in exploration, development, and production operations shall cooperate fully with the commercial fishing industry to minimize conflicts between the oil and gas industry and the commercial fishing industry. Prior to conducting any exploratory or development activities, appropriate oil and gas personnel shall contact potentially affected commercial fishermen or their representatives to discuss potential conflicts with the siting, timing, and methods proposed.

(b) In Plans of Exploration and Development and Production, the lessee is required to show crew and supply boat operation routes which will be used in order to protect commercial fishing and marine mammals. Conflicts foreseen in the planning stages or that develop later shall be resolved as early as possible. The lessee shall consult with fishing industry representatives and the California Department of Fish and Game to assure that exploratory activities and production platform locations are compatible with seasonal fishing operations and will not result in permanently barring commercial fishing from important fishing grounds. The lessee will send copies of exploration and development and production plans to appropriate fishing industry representatives for concurrent review and comment as part of the plan approval process.

(c) All activities associated with exploration and production shall be conducted so as to prevent the creation of obstacles, other than drilling vessels or platforms, to commercial fishing operations. If the Regional Manager has reason to believe that the sea bottom

has not been adequately cleared, surveys will be run [illegible]

has not been adequately cleared, surveys will be required at the completion of operations to detect the location of obstacles to commercial fishing.

(d) The lessee shall include analyses of the effects of operations on the allocation and use of local dock space by fishing boats and crew and supply boats in the environmental documents for exploration and development and production plans. Such analyses shall include present (baseline) uses, predicted oil and gas uses which increase the level of demand, and an assessment of individual and cumulative impacts.

Stipulation No. 14

All drilling muds discharged from exploration and development and production operations must contain only those components approved by the Environmental Protection Agency in accordance with National Pollutant Discharge Elimination System permits issued for this lease.

Stipulation No. 15

(a) The Regional Manager (RM), in cooperation and participation with the State of California, shall prepare and update annually a list of air pollutant control technologies for NO_x, SO_x, and other pollutants, as deemed appropriate, which can be applied to drilling vessels and crew and supply vessels used in exploration activities and that are the most effective emission control technologies, performance standards, or emission limitations, other than offsets, which have been achieved successfully in practice in similar offshore applications or that are used for onshore applications and can be transferred successfully to offshore applications. The initial list shall be completed in a time frame which assures that it will be available prior to any action by the lessor to approve any plan of exploration. The RM shall require the lessee to apply these identified emission control technologies or other control measures that result in equivalent emissions limitations on drilling vessels and crew and supply vessels while attached to a facility for emissions of NO_x and for such other pollutants as the RM, in cooperation and participation with the State, may deem necessary to protect onshore air quality. If the lessor has statutory authority to impose requirements on vessels while in transit, the RM shall also require the lessee to apply the identified emissions control technologies for emission of NO_x and such other pollutants as deemed necessary by the RM, in cooperation and participation with the State, or measures that result in equivalent emission limitations on crew and supply vessels while in transit in the area of the lease sale. Only pollution control technologies which can be approved by the U.S. Coast Guard (USCG), the American Bureau of Shipping (ABS), and/or other agencies as appropriate, will be required.

(b) The lessee shall provide the RM with the schedule and locations of proposed exploration activities at least 2 months in advance of the activities. The timing and location of operations will be approved by the RM, in cooperation and participation with the State, in such a manner as to reduce, to the maximum extent feasible, the onshore impacts of emissions from exploration activities.

(c) For all plans of exploration and plans of development and production, the lessee shall provide an evaluation of the impacts of emissions of NO_x and VOC on onshore concentrations of ozone and NO_2, of the impacts of emissions of SO_x on onshore concentrations of SO_2, and of the impacts of directly emitted particles on onshore concentrations of particulate matter. The RM, in cooperation and participation with the State, shall prepare and may update periodically a list of acceptable evaluation methods, including models approved by the Environmental Protection Agency, which shall be used by the lessee. The list shall specify the parameters of the evaluation to be performed by the lessee. The list of evaluation methods shall be completed in a time frame which assures that it will be available prior to any action by the lessor to approve any plans of exploration or development and production. The RM will provide the State with the evaluation. The RM, in cooperation and participation with the State, may also require impact evaluations for pollutants other than those specified above. Evaluations pursuant to this paragraph shall be based on the emission levels predicted after the installation of emission controls and shall assess impacts from the individual facilities as well as impacts from the facility cumulatively with emissions from other Outer Continental Shelf (OCS) facilities. The evaluations shall take into account all emissions in the area of the lease sale from vessels used to transport oil and from crew and supply vessels associated with a facility to the extent that such emissions are not subject to regulation by the State and/or local air pollution control districts.

(d) The RM, in cooperation and participation with the State, shall prepare and update annually a list of air pollution control technologies for NO_x, VOC, and SO_x from development and production facilities and from vessels used to transport oil and from crew and supply vessels. The technologies listed shall be the most effective emission control technologies, performance standards, or emission limitations, other than offsets, that have been achieved successfully in practice in similar offshore applications or that are used for onshore applications and can be transferred successfully to offshore applications. The initial list shall be completed in a time frame which assures that it will be available prior to any action by the lessor to approve any plan of development and production. The RM shall require the lessee to use on development and production facilities, on vessels used to transport oil while attached to the facility, and on crew and supply vessels while attached to the facility, such emission

UMI 1983 OCT 28 OCS 2 1 0 ISS VOL 48

control measures for NO_x and VOC or measures that result in equivalent emission limitations. The RM, in cooperation and participation with the State, may list emission control technologies for other pollutants and may require the lessee to apply these technologies if the RM, in cooperation and participation with the State, determines that these actions are necessary to protect onshore air quality. Only pollution control technologies which can be approved by the USCG, the ABS, and/or other agencies as appropriate, will be required. To the extent that the State and/or a local air pollution control district does not have the authority to regulate emissions from vessels used to transport oil and from crew and supply vessels while in transit in the area of the lease sale, and to the extent that the lessor has authority to regulate such emissions, the RM shall require the lessee to use the identified emission control measure or measures that result in equivalent emission limitations on vessels used to transport oil and on crew and supply vessels while in transit in the area of the lease sale.

(e) Pending the final resolution of California v. Watt, No. 81-3234-CMB (C.D. Cal. filed July 1, 1981), the RM will require the lessee to install on sources of emissions of oxides of sulfur, including vessels used to transport oil while attached to a facility, and to the extent the lessor has statutory authority to regulate the emissions of vessels while in transit, while such vessels are in transit, emission control technologies or limitations for oxides of sulfur whenever emissions from an OCS facility, individually or cumulatively with other OCS facilities, have the potential to prevent onshore areas from attaining or maintaining California's ambient air quality standards for SO_2. The technologies or limitations imposed will be those on the lists prepared under paragraphs (a) and (d) of this stipulation or measures which result in equivalent reductions of oxides of sulfur.

(f) For development and production facilities located within 15 miles of the California mainland, the lessee shall use electricity supplied by onshore power generation facilities in lieu of offshore power generation, if technically feasible as determined by the RM, in cooperation and participation with the State. In all other cases, except for emergencies or back-up, natural gas shall be used to generate electricity on the platform if gas is produced or available in sufficient quantity.

(g) For equipment used to treat, store, and transfer oil by means other than by pipeline, the lessee shall install pollution control technology that is the most effective emission control technology, performance standard, or emission limitation, other than offsets, that has been achieved successfully in practice in similar offshore applications or that is used for onshore applications and can be transferred successfully to offshore applications for VOC emissions from storage vessels and marine terminals. The RM will, in cooperation and participation with the State, make the determination of appropriate pollution control technology. Only pollution control technologies which can be approved by the USCG, the ABS, and/or other agencies as appropriate, will be required.

(h) The lessee shall submit a performance plan for monitoring compliance and effectiveness of installed air emissions control systems. The RM, in cooperation and participation with the State, shall review the plan to determine if it is sufficient. The RM will allow State personnel to be observers on inspection checks of air emissions control and monitoring equipment.

(i) The RM, in cooperation and participation with the State, shall determine, based on the impact evaluation performed pursuant to paragraph (c), whether the onshore impacts of emissions from a lessee's facilities either individually or cumulatively with emissions from other OCS facilities will prevent onshore areas from attaining or maintaining the National Ambient Air Quality Standards (NAAQS) or will cause an exceedance of an applicable Prevention of Significant Deterioration (PSD) increment. If the RM determines that emissions would have such an impact, then the RM, in cooperation and participation with the State, will require further onshore or offshore mitigation measures from the lessee sufficient to ensure that emissions from the lessee's facilities will not prevent onshore areas from attaining or maintaining the NAAQS or from complying with applicable PSD increments.

(j) The lessee shall comply with such further measures as the RM may impose, in addition to those specified in paragraphs (a) through (i), if the RM determines, based on information which the State provides, that emissions from the lessee's facility, either individually or cumulatively with emissions from other OCS facilities, will cause a State ambient air quality standard to be exceeded or will prevent a State ambient air quality standard from being attained.

Stipulation No. 16

(To be included in leases within the U.S. Department of the Navy Warning Area 532 for tracts 73-202, 73-222, 73-285, and 73-327).

No surface structure or drilling rigs will be allowed to occupy the following portion of this lease: South and West of a diagonal line from the NW corner to the SE corner.

Stipulation No. 17

(This stipulation shall be effective for each tract to which it applies only if the Secretary of the Interior and the Governor of the State of California, prior to the approval of a development and production plan for that tract by the Department of the Interior, enter into an agreement pursuant to section 8(g) of the Outer Continental Shelf Lands Act, as

of exploration intention prior to the end of the ninth lease year.

that tract by the Department of the Interior, enter into an agreement pursuant to section 8(g) of the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. section 1337(g). If such agreement has been entered into, this stipulation is to be applied to leases resulting from this sale for tracts 73-153, 73-154, 73-173, 73-174, 73-193, 73-194, 73-233, 73-234, and 73-341).

(a) No producing well may be drilled where the well bore in the producing intervals is closer to the seaward boundary of the State of California than the distance agreed to between the State and the Department of the Interior based on analysis of pertinent site-specific data, except that in no event shall the agreed distance be further than 750 feet from the seaward boundary of the State. In the absence of an agreed distance, no well shall be drilled closer than 500 feet to the seaward boundary of the State.

(b) The constraint in paragraph (a) shall not apply:

(1) If oil or gas pools or fields underlying both the Outer Continental Shelf and lands subject to the jurisdiction of the State are included in a production unit entered into by the relevant lessees and approved by the lessors, or in a production unit entered into by the Federal lessee and the State when it is the carried, nonoperating owner.

(2) If, in the absence of a production unit as described in (1) above, the State permits production from State lands from a point closer than 750 feet from the Federal-State boundary. In the event that such production from State lands does occur, the Federal lessee shall be allowed to produce from offset wells equally close to the boundary in the area of Federal jurisdiction.

14. Information to Bidders and Lessees.

(a) Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

(b) Bidders are advised that in accordance with section 16 of each lease offered, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with a different royalty rate.

(c) For those tracts identified in paragraph 13(a) as having lease terms with an initial period of 10 years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to the Minerals Management Service (MMS) either an exploration plan or a general statement of exploration intention prior to the end of the ninth lease year.

(d) Revisions of Department of Labor regulations of Affirmative Action requirements for Government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form, Form MMS-2005 (August 1982), would be deleted from leases resulting from this sale. In addition, existing stocks of the Affirmative Action Forms described in paragraph 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1). Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms.

(e) Surface occupancy or other activities which would, in the opinion of the U.S. Coast Guard (USCG), create a hazard to vessel traffic may be prohibited. Such areas, where this might be the situation, include, but are not limited to, vessel safety fairways, precautionary areas, or vessel traffic separation schemes established by the USCG pursuant to the Ports and Waterways Safety Act, as amended, 33 U.S.C. 1221, et seq. (1980).

(f) U.S. Army Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf (OCS) in accordance with section 4(e) of the OCS Lands Act, as amended.

(g) Bidders and lessees are alerted that the Department of the Air Force has advised that photography of military events offshore Vandenberg Air Force Base is prohibited.

(h) Activities which result in harm to or which jeopardize an endangered species, including the gray whale, shall be prohibited by appropriate Federal officials acting pursuant to the Endangered Species Act and the Marine Mammal Protection Act.

(i) Aircraft should operate to reduce effects of aircraft disturbances on seabird colonies and marine mammals including migrating gray whales and sea otters, consistent with aircraft safety, at distances from the coastline, at altitudes for specific areas identified by the Fish and Wildlife Service (FWS), the National Marine Fisheries Service (NMFS), and the California Department of Fish and Game (CDFG). A minimum altitude of 1,000 feet is recommended near all concentration areas of the sea otter range. The lessee is advised that all violations will be reported to and enforced by the above agencies, as appropriate.

UMI 1983 28 OC 0 2 1 0 ISS 48 VOL

(j) The MMS, the FWS, the CDFG, the State of California Resources Agency, and the Secretary of Environmental Affairs shall work toward the establishment of a sea otter population translocation program under consideration by the FWS.

(k) The MMS will be in close contact with affected harbor districts in reviewing analyses of the effects of oil and gas operations on the allocation and use of local dock space by fishing boats and crew and suppy boats. These analyses will be included in subsequent environmental documents prepared by the MMS.

(l) The MMS will fund studies of cumulative and chronic effects of ocean disposal of drill muds and cuttings and other biologically important matters. These studies will assist the industry, Federal, State, and local government in monitoring the environmental impacts of offshore energy development activities. These studies will be designed in cooperation and participation with the State.

(m) Prior to invoking Stipulation No. 1, the Regional Manager (RM) will consult with the CDFG on the biological stipulation. Such consultation will address the tracts which will be surveyed and the classes of biota to be considered.

(n) The MMS will participate in the Environmental Protection Agency's upcoming State implementation plan review for Santa Barbara County. Such review will include photochemical modeling to assess ozone concentrations. An emissions inventory of offshore facilities will be included. If the assessment shows that emissions from offshore facilities will prevent the onshore areas from meeting National Ambient Air Quality Standards, then further emission control measures will be necessary.

(o) Bidders are advised that the Department of the Interior and the State of California have entered into a Memorandum of Agreement (MOA) dated October 6, 1983. In addition to certain stipulations and information to bidders and lessees clauses listed in paragraphs 13 and 14 of this notice, the MOA contains other provisions including the continuation of environmental studies and future conferences between the two parties. Copies are available from the RM at the address stated in paragraph 2 of this notice.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Pacific Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

16. New OCS Bid Adequacy Procedures. The following system of OCS bid adequacy procedures will be used for this sale. The system is composed of two phases. Phase 1 includes market-oriented evaluation criteria for accepting some bids on tracts and determining what other bids will receive further evaluation in Phase 2. Phase 2 utilizes an independent Government evaluation and the bid adequacy rules based upon the Mean of the Range of Values (MROV), Discounted Mean of the Range of Values (DMROV), and Geometric Average Evaluation of the Tract (GAEOT).

Phase 1

Phase 1 is composed of criteria designed to partition tracts receiving bids into three general categories:

- Those receiving bids which the Minerals Management Service (MMS) has identified as being non-prospective tracts;
- Those where opportunities for strategic underbidding, information asymmetry, collusion, and other noncompetitive practices might most likely occur and where the Government has the most detailed and reliable data; and
- Those where the competitive market forces can be relied upon to assure fair market value.

Based on these categories, the following four Phase 1 criteria are applied to all tracts receiving bids:

1. High bids on all tracts classified by MMS as being either development or drainage will be referred directly for further evaluation in Phase 2.
2. All legal high bids for tracts judged by MMS not to be located on a viable prospect will be accepted.
3. After screening for anomalously low bids through application of the "one-eighth rule," [1/] all legal high bids will be accepted for prospective wildcat and proven tracts receiving three or more bids and more than the average number of bids for prospective tracts bid upon in the sale, i.e., whichever is more.
4. After adjusting for anomalously low bids through application of the "one-eighth rule," all legal high bids will be accepted for those prospective tracts classified by MMS as wildcat and proven where the geometric average bonus bid for the tracts is in the upper 50th percentile of the geometric average of bonus bids for all prospective wildcat and proven tracts receiving bids in the sale.

Phase 1 is conducted tract-by-tract and will be completed within three days of the Bid Opening.

Phase 2

All prospective wildcat and proven tracts which are not accepted as a result of the application of the Phase 1 criteria and all drainage and development tracts will receive further evaluation by comparing the high bids with the

1/ Anomalously low bids will not be included in the bid number; e.g., if the lowest bid on a tract is less than 1/8th of the next lowest bid, the lowest bid will not be included in the number of bids. This rule can exclude no more than one bid for a given tract.

MROV, DMROV, and GAEOT.

Since the inception of the OCS leasing program, the Department has

MROV, DMROV, and GAEOT.

After the high bids are compared to the MROV, DMROV, and GAEOT, other factors are considered on a tract-by-tract basis when certain circumstances are present. These circumstances include instances when a tract is subject to additional delay costs related to expeditious exploration/development or drainage, unusual bidding patterns, or an unusual degree of uncertainty regarding MMS data.

When any of these circumstances exist, in the judgment of the Regional Manager, the other factors can be considered. These factors are, as follows:

- Type of tract;
- Number of bids received;
- Average number of bids received for tracts of the same type;
- Reliability of MMS data;
- Drainage costs due to delays associated with bid rejection;
- Costs attributable to delays in exploration/development of other blocks located on the same prospect if the subject tract is not leased;
- Relative agreement of industry bids;
- Number of companies participating in the bids received for the tract;
- Number of bids and bidders participating in bids received for other tracts on the same and other prospects; and

While it is expected that most analyses would be undertaken based upon data available at the time of the sale, additional geological and geophysical analyses, including additional mapping, can be undertaken post-sale at the discretion of the Regional Manager.

The bid adequacy recommendations developed in Phase 2 will be completed within three weeks of the sale.

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Since the inception of the OCS leasing program, the Department has continually sought to improve upon techniques which determine bid adequacy. Much of the best information regarding the fair market value of a tract is that which is available through observing the market for leases. The above procedures are designed to make better use of that information.

Approved:

Secretary of the Interior
Jim Watt

10/25/83
Date

Acting Director, Minerals Management Service
David C. Russell

OCT 24 1983

UMI 1983 OCT 28 ISS 210 VOL 48

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf
Central California

Notice of Leasing Systems, OCS Sale No. 73--Central California

Section 8(a)(8)(43 U.S.C. 1337(a)(8)) of the Outer Continental Shelf Lands Act (OCSLA), as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

1. identifying the bidding systems to be used and the reasons for such use; and

2. designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

1. Bidding systems to be used. In the Outer Continental Shelf (OCS) Sale No. 73--Central California, tracts will be offered under the following two bidding systems as authorized by section 8(a)(1) (43 U.S.C. 1337(a)(1)): (a) bonus bidding with a fixed 16 2/3-percent royalty on 18 tracts; and (b) bonus bidding with a fixed 12 1/2-percent royalty on all remaining unleased tracts.

a. Bonus Bidding with a 16 2/3-Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. This system has been used extensively since the passage of the OCSLA in 1953 and imposes greater risks on the lessee than systems with higher contingency payments, but may yield more rewards if a commercial field is discovered. The relatively higher front-end bonus payments will encourage more rapid exploration.

b. Bonus Bidding with a 12 1/2-Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA, as amended. It has been chosen for deeper water tracts proposed for OCS Sale No. 73--Central California because these tracts are expected to require substantially higher exploration, development, and production costs, as well as longer times before initial production, in comparison to shallow water tracts. The Department of the Interior analyses indicate that the minimum economically developable discovery on a tract in such high-cost areas under a 12 1/2-percent royalty system would be about 10 percent less than for the same tracts under a 16 2/3-percent royalty system. As a result, more tracts may be explored and developed. In addition, the lower royalty rate system is expected to encourage more rapid production and higher economic profits if exploration is successful. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since we believe that the high costs for exploration and development are the primary factors affecting competition.

2. Designation of Tracts. The selection of tracts to be offered under the two systems has been based on the following factors:

a. Lease terms on adjacent, previously leased tracts were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.

b. Tracts in deeper water were selected for the 12 1/2-percent

b. Tracts in deeper water were selected for the 12 1/2-percent royalty system based on the favorable performance of this system in these high cost areas as evidenced in our analysis.

The specific tracts to be offered under each system are as follows:

1. Bonus bidding with 16 2/3-percent royalty--Tracts 73-126, 73-127, 73-148, 73-153, 73-154, 73-173, 73-174, 73-193, 73-194, 73-227, 73-233, 73-234, 73-249, 73-250, 73-270, 73-339, 73-341, and 73-346.

2. Bonus bidding with 12 1/2-percent royalty--All remaining tracts.

David C. Russell OCT 24 1983

Acting Director, Minerals Management Service
David C. Russell

Approved:

Jim Watt

Secretary of the Interior
Jim Watt

OCT 25 1983

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UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Central California
Oil and Gas Lease Sale 73

Statement of Reasons for Final Notice of Sale

The Department of the Interior (DOI) has conducted an extensive examination of the information relating to Sale 73 offshore Central California, including the following:

- Official comments of the State of California on the proposed Notice of Sale pursuant to section 19 of the Outer Continental Shelf Lands Act, as amended (OCSLA), as provided by the letter of September 8, 1983, from Mr. Gordon W. Duffy, Secretary of Environmental Affairs.
- Memorandum of Agreement (MOA) signed by David C. Russell, Acting Director, Minerals Management Service (MMS), on September 29, 1983, and by Secretary Duffy on October 6, 1983.
- Comments of the California Coastal Commission (CCC) on the determination that Sale 73 would be consistent to the maximum extent practicable with the California Coastal Management Program (CCMP), as provided by letter from the CCC's Executive Director, Michael L. Fischer, on August 29, 1983, and supplemented by letters of September 15, 1983, and October 11, 1983.
- The Final Environmental Impact Statement (EIS) and comments received following publication of the EIS.
- The Biological Opinions of the Fish and Wildlife Service (FWS) in DOI and the National Marine Fisheries Service (NMFS) in the Department of Commerce dated June 8, 1983, and August 9, 1983, respectively.

Based on this examination, DOI has decided to offer for sale 137 tracts. This offering defers from the proposed offering 22 tracts recommended for deferral by the State and 121 tracts recommended by the U.S. Department of the Navy. In addition, DOI has adopted extensive stipulations and other measures incorporating the conditions of the proposed Notice of Sale plus the conditions of the MOA. These measures are stated fully in the final Notice of Sale published in the Federal Register.

DOI has concluded that these deferrals, stipulations, and additional measures achieve a reasonable balance between the national interest in obtaining oil and gas supplies in a balanced manner and the well-being of the citizens of the State of California, as required by section 19 of the OCSLA. In addition, Sale 73 will be conducted in a manner which is, to the maximum extent practicable, consistent with the federally approved CCMP, in accordance with section 307(c)(1) of the Coastal Zone Management Act, 16 U.S.C. 1456(c)(1). Further, the choice among decision alternatives in Sale 73 is based upon a complete and careful analysis of environmental impacts, as required by the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq. Finally, DOI consulted with FWS and NMFS regarding endangered and threatened species and structured Sale 73 to insure that the action is not likely to jeopardize the continued existence of any such species, as required by the Endangered Species Act (ESA), 16 U.S.C. 1531(a)(2). The bases for these conclusions are set forth below.

I. OCSLA Section 19 Comments on Size, Timing, or Location

Section 19 of the OCSLA provides, in pertinent part:

> Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale * * * * Prior to submitting recommendations to the Secretary the executive of any affected local government in any affected State must forward his recommendations to the Governor of such State.
>
> * * *
>
> The Secretary shall accept recommendations of the Governor * * * if he determines * * * that they provide for reasonable balance between the national interest and the well-being of the citizens of the affected State.
>
> * * *
>
> The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

43 U.S.C. 1345(a), (c). The Secretary's determination shall be final "unless found to be arbitrary and capricious." 43 U.S.C. 1345(d).

The national interest is determined based on the desirability of

The national interest is determined based on the desirability of obtaining oil and gas supplies in a balanced manner, and on the findings, purposes, and policies of the OCSLA. It can be expressed as the net of the expected national gains and losses from leasing. The expected gains and losses take into consideration the mitigating potential of the measures described in the final Notice of Sale. The gains include net income from production, the gains in national security and decreased vulnerability from imports disruption, the reduction in our balance of payments deficit, and the potential environmental gains, including an increased supply of natural gas, an environmentally preferable fuel.

The potential losses include the potential adverse environmental effects of oilspills and other discharges into certain areas offshore; some losses in fisheries productivity; and possible adverse effects on endangered and threatened species. These expected gains and losses are described in the Secretarial Issue Document (SID), sent to California Governor George Deukmejian as an enclosure to a letter from MMS dated June 30, 1983, concerning the proposed Notice of Sale for Sale 73, and also are discussed in the EIS.

The September 8, 1983, letter from Secretary Duffy indicated that Sale 73 could be balanced with the interests of the State if certain additional measures were included in the final Notice of Sale. The major concerns of the State involve air quality, protection from oilspill risks, effects on commercial fishing, the method used to transport oil to shore, deletion of certain tracts from the sale, and protective stipulations for areas seaward of the southern sea otter range. In addition, Secretary Duffy recommended that MMS consider comments of other State agencies and local governments. An analysis balancing the national interest in the lease sale and the well-being of the citizens of California relative to each comment is provided below.

1. Sale Deferral Options

The section 19 comments of the State, sent to MMS in a September 8, 1983 letter, initially recommended deferral of tracts near Morro Bay, deferral of tracts litigated in Sale 53, deferral of tracts between Point San Luis and Purisma Point, and deferral of tracts west of the litigated tracts in Sale 53. Similar, though in some cases broader, recommendations were made by the California Coastal Commission (CCC), the California Department of Justice, other State agencies, and local government officials. These comments were attached to the Governor's section 19 letter.

MMS and the Governor's staff have engaged in extensive consultation to address the State's concerns. Following publication of the EIS and the request on June 30, 1983, for the Governor's comments on the size, timing or location of Sale 73, MMS officials met with Secretary Duffy to identify the precise issues of concern to the State. Following that meeting, technical experts on the two staffs prepared detailed descriptions of the additional measures to provide for the well-being of the citizens of California. Correspondence was exchanged and further meetings were held to narrow the differences between the parties in achieving terms and conditions to be implemented in the final Notice of Sale. On September 29, 1983, MMS signed the MOA, which had been drafted jointly to reflect a reasonable balance between the national interests (obtaining oil and gas supplies in a balanced manner and on carrying out the policies of the OCSLA) with the well-being of the citizens of the State (including protection of air and water quality, coastal and biological resources, and the other measures contained in the MOA). Secretary Duffy, as the Governor's representative, signed the MOA for the State on October 6, 1983, thereby successfully completing the section 19 consultation.

The final Notice of Sale defers all tracts adjacent to Morro Bay and all Sale 53 litigated tracts. Seven of 15 tracts between Port San Luis and Purisma Point also are deferred pursuant to provisions of the MOA negotiated with the State. In addition, 34 tracts generally westward of the Sale 53 litigated tracts will be subject to a new stipulation for rapid deployment capability of oilspill response equipment and special rehabilitation programs for oiled marine birds and mammals. Secretary Duffy's October 6, 1983, letter confirms that, in view of the MOA, additional tracts need not be deferred.

The CCC and some other State agencies recommended that tracts potentially containing hazardous wastes should be deferred from the sale. The area known as Dumpsite Charlie includes 70 tracts within the sale area. Sixty of these tracts are within the area deferred from the sale pursuant to the request of the Department of the Navy. The remaining ten tracts will be subject to a hazardous waste stipulation to require surveys prior to any OCS activity, as well as appropriate mitigating action whenever such surveys indicate the presence and potential for disturbance of waste material. Although Dumpsite Charlie was approved for receipt of low level radioactive waste, a special concern to the State, there is no record of such material actually being dumped in this area.

The CCC and several local governments also requested deferral of all tracts within proposed Coast Guard vessel traffic areas. An Information to Lessees (ITL) clause has been adopted in the final Notice of Sale to advise lessees of Coast Guard regulations under which surface occupancy or other activities potentially creating a hazard to vessel traffic may be prohibited. The Coast Guard's authority appears fully adequate to prevent any hazardous activity. In addition, proposed vessel traffic lanes are in excess of 20 miles offshore at the southern boundary of the sale area and 30 miles offshore at the northern boundary of the sale area. This distance provides an extensive buffer area against

UMI 1983 OCT 28 ISS 210 VOL 48

any potential coastal area adverse effects from a possible oilspill originating from vessel traffic related incidents. New oilspill response measures agreed to in the MOA and included as Stipulation No. 9, as well as existing regulations, assure timely response capability in any deployment of containment and cleanup equipment.

The Governor's tract deferral requests on the size and location of Sale 73 have been carefully considered and, following the consultation described above, accepted by MMS. In executing the MOA, Secretary Duffy sent MMS a letter on October 6, 1983, stating that "the State's recommendations pursuant to section 19 of the OCS Lands Act regarding Lease Sale 73 expressed in our letter of September 8, 1983, have been adequately addressed." DOI notes that the eight nearshore tracts left in the sale received substantial industry interest in the tract nomination process, including nominations from smaller companies which cannot afford to compete for tracts in deeper waters. These tracts may well receive similar expressions of interest in the bidding process. That result would help to ensure competition and promote both the State and national interests in assuring receipt of fair market value, a concern raised by California in earlier litigation. See Watt v. Energy Action Educational Foundation, 454 U.S. 151 (1981) (DOI has discretion to experiment with bidding systems).

DOI finds that the Governor's recommendations on size, timing, or location, as contained in the MOA, constitute a reasonable balance between the national and State interests. Under section 19 of the OCSLA, therefore, the "Secretary shall accept" the recommendations of the Governor.

The conditions of the final Notice of Sale will allow carefully regulated OCS development of areas not deferred, thus carefully balancing the national interest in increasing domestic oil and gas supplies and the interests expressed by State and local officials in protecting special areas, particularly the habitat and buffer area for protection of the southern sea otter.

2. Oilspill Risk Analysis and Mitigation

The State expressed a variety of concerns with regard to oil spill risks. The State indicated a need for additional meteorological and oceanographic data to assist in refining oil spill trajectory analysis. Article I of the MOA responds to this concern by requiring lessees to install monitoring capability on exploration vessels and production platforms to collect such data. Article VI of the MOA also commits MMS to undertake further physical oceanographic circulation modeling and field measurements through its Environmental Studies Program.

The State strongly recommended transportation of oil by pipeline. Stipulation No. 5 in the final Notice of Sale provides for pipeline transport, where warranted by considerations of economic and technological feasibility and "net social loss." In addition, Article III of the MOA (Stipulation No. 11) provides for initial processing of oil onshore after transportation to shore. Exceptions are allowed for standard oil/gas/water separation and for treatment necessary to prepare oil for pipeline pumping.

The State recommended that oilspill containment and cleanup measures be defined more fully prior to leasing. Article I of the MOA (Stipulation No. 9) responds by requiring maintenance of state-of-the-art oilspill containment and cleanup equipment onsite and in the vicinity of exploratory drilling and development and production operations for leased tracts within 20 miles of the sea otter range. Detailed oil spill contingency plans will be developed under OCS Operating Order No. 7 after leasing. The contingency plan will be required by Article I of the MOA (Stipulation No. 9) to include a program for cleaning and rehabilitation of marine organisms. Article II of the MOA (Stipulation No. 10) supplements these provisions by requiring semiannual full-scale drills to deploy oilspill response equipment for all leases.

As California has agreed, these measures, together with the deferral of nearshore tracts, existing regulations (30 C.F.R. 250.12, 250.30, 250.34, and 250.43), and OCS Operating Order No. 7 will provide adequate protection to coastal recreation uses and tourist resources and to the sea otter and other biological resources of concern.

3. Air Quality

The State expressed a concern that the Sale 73 proposed Notice of Sale did not contain measures adequate to mitigate potential adverse air quality effects. DOI has the statutory authority under the OCSLA and its implementing regulations, 30 C.F.R. 250.57, to regulate OCS operations as necessary to prevent significant adverse onshore air quality effects resulting from offshore oil and gas related emissions. The MOA negotiated with the State now provides additional assurances for air quality maintenance and protection, which are included in the final Notice of Sale. Article III of the MOA (Stipulation No. 11), generally requiring initial onshore processing of oil, will help maintain California's air quality. Onshore processing facilities, of course, are subject to State and local air quality regulations.

Article VI of the MOA (Stipulation No. 15) provides the following specific air quality measures, to be implemented by the MMS Regional Manager with the cooperation and participation of the State:

(1) prepare and update annually a list of most effective emission control technologies and require their use as necessary for exploration activities;

(2) require lessees to schedule proposed exploration activities

spill contact with biological resources and sensitive habitats (8

(2) require lessees to schedule proposed exploration activities at least two months in advance;

(3) provide, in all exploration and development and production plans, an evaluation of the impacts of offshore emissions on onshore concentrations of pollutants;

(4) prepare and update annually a list of the most effective emission control technologies and require their use as necessary for development and production activities;

(5) require lessees to install emission control technologies for oxides of sulfur on sources of emissions, including any vessels used to transport oil to shore;

(6) use onshore power cables for development and production facilities located within 15 miles of shore, if technically feasible;

(7) for equipment used to treat, store, and transfer oil by means other than pipeline, install the most effective emission control technology used successfully in similar applications;

(8) submit performance plans for monitoring compliance and effectiveness of installed air emissions control systems;

(9) apply additional measures to insure that offshore emissions will not prevent onshore areas from complying with National Ambient Air Quality Standards (NAAQS); and

(10) apply additional measures, when required by the Regional Manager, to insure that offshore emissions will not prevent onshore areas from complying with State air quality standards.

The MOA also provides for DOI to participate in the upcoming air quality implementation plan review for Santa Barbara County to establish whether any further emission control measures will be necessary. The MMS Environmental Studies Program will include air quality trajectory modeling. Finally, the State and DOI officials have agreed to meet and confer semiannually regarding air quality control measures.

4. Protection of Biological Resources

DOI is adopting a number of measures under the MOA to comply with the State's requests to protect biological resources, particularly the threatened southern sea otter. Stipulation No. 1 in the final Notice of Sale requires the conduct of biological surveys and appropriate protective measures ordered by MMS officials. Articles I and II of the MOA establish quick response oilspill containment and cleanup measures and provide for semiannual testing of response equipment. These elements of the MOA, as incorporated into the final Notice of Sale through Stipulation Nos. 9 and 10, will reduce the possibility of oil-spill contact with biological resources and sensitive habitats. Under MOA Article V (Stipulation No. 14), all muds discharged from OCS drilling activities must contain only components approved by the Environmental Protection Agency (EPA). The MOA (Stipulation No. 7) also requires lessees to develop a fish and wildlife training program for oil industry personnel and supervisors.

In addition, the MOA contains ITL clauses to protect marine mammals and other marine life. These ITLs, contained in paragraph 14 of the final Notice of Sale, advise lessees that:

- MMS will consult with the California Department of Fish and Game (CDFG) in implementing Stipulation No. 1;
- activities which harm or jeopardize threatened or endangered species are prohibited by the Marine Mammal Protection Act and the Endangered Species Act;
- aircraft must avoid disturbing sea bird colonies and marine mammals and generally should operate at altitudes more than 1,000 feet over critical habitat areas;
- DOI and the State will work to establish a sea otter translocation program;
- MMS will fund studies of the cumulative and chronic effects of ocean disposal of drilling muds and cuttings and other biologically important matters.

Finally, MMS has deferred 22 tracts (tract nos. 12, 15, 16, 28, 31, 43, 58, 59, 60, 91, 92, 94, 108, 109, 112, 113, 114, 128, 129, 132, 133, and 134) to protect biological resources. These stipulations and deferrals together with the existing regulations and OCS Operating Orders will assure adequate protection of biological resources.

5. Protection of Commercial Fisheries

The State recommended a number of added measures to protect commercial fishing and reduce possible conflicts with OCS oil and gas operations. The proposed Notice of Sale had contained the following conditions to mitigate potential adverse effects on commercial fishing:

- Stipulation No. 1, to require surveys and measures to protect biological resources;
- Stipulation No. 5, to require pipeline transportation of oil to shore if feasible;
- Stipulation No. 6, to require shielding of subsea installations so that fishing trawl gear may pass over unobstructed; and

UMI 1983 OCT 28 VOL 48 ISS 210 50026

o Stipulation No. 7, to establish a fish and wildlife training program.

The Governor's section 19 comments identified additional areas believed to require mitigation for commercial fishing concerns relating to the well-being of the citizens of California. Following extensive consultation and correspondence, the State and MMS agreed to balance national and State interests by including additional measures in the MOA.

Article IV (Stipulation Nos. 12, 13) requires lessees to: (a) use jack-up rigs for exploration in water up to 275 feet where feasible, thus minimizing the loss of areas available to commercial fishermen; (b) cooperate with commercial fishing interests to minimize conflicts in exploration and development and production plans; (c) identify crew and supply boat routes and consider comments of commercial fishing industry representatives as part of the drilling plan approval process; (d) conduct exploration and development and production activities to avoid subsea obstacles and conduct surveys after operations to assure adequate clearing of any obstacles which do result from oil and gas activity; and (e) analyze potential effects on allocation and use of local dock space.

Article VII (Stipulation No. 7) augments the required fisheries and wildlife training program for commercial fishing and marine mammals and assures use of qualified instructors. If adverse effects on commercial fishing do occur, several statutory sources of compensation are available to protect the interests of the State and its citizens, including the Offshore Oil Spill Pollution Fund, the Fishermen's Contingency Fund, the Fishing Vessel and Gear Damage Compensation Fund, and compensation under the Clean Water Act.

6. Onshore Support Facilities

Several State and local government agencies have expressed concerns relative to onshore support facilities as described in the EIS. The EIS analyses, as explained therein, are prepared to allow the analysis of potential environmental effects. Actual development scenarios could vary, but the EIS relies on the most useful information available. Actual site selection and construction approvals for onshore support facilities, of course, are regulated by local and State agencies. To address these concerns under section 19, the MOA and final Notice of Sale assure that MMS and lessees will maintain close coordination with harbor district officials and that information on allocation and use of available dock space will be included in subsequent environmental documents.

7. Water Supply and Water Quality

Several State and local government agencies expressed concerns about Sale 73's possible effects on water supply and water quality. MMS recognizes that Southern California has limited onshore water supplies. Lessees may produce fresh water offshore through desalinization, secure necessary State and local approvals for developing new onshore water sources, or purchase water through some established water supply authorities. Any use of onshore sources will be regulated by State and local authorities. Any issue related to coastal area uses or discharges which may affect water quality will be regulated pursuant to requirements for securing National Pollutant Discharge Elimination System (NPDES) permits. Article V of the MOA (Stipulation No. 14) requires that discharged drilling muds must contain only components approved by EPA pursuant to NPDES permits.

8. Timing

The Governor's Office initially expressed a concern on September 8, 1983, regarding the ability of MMS and the State to resolve their differences on the configuration, terms, and conditions of Sale 73 in the time available. In order to provide additional time to resolve those concerns, MMS delayed the scheduled sale date and entered into the intensive consultation described above, culminating in the MOA on October 6, 1983. As a result of the successful conclusion of that agreement, the Governor's representative stated on October 6, 1983, that California's concerns has been "adequately addressed," thereby removing any objection to the timing of the sale.

Several State and local government agencies may not share the Governor's view. The CCC, for example, stated in its response to the consistency determination that "the necessary modifications cannot realistically be implemented by the time of the proposed sale. Lease Sale 73 must therefore be cancelled." That statement, however, preceded the intensive and ultimately successful negotiations leading up to the MOA and the resolution of the Governor's original concerns. The CCC objected based on the belief that further modifications were needed to achieve consistency. DOI carefully reviewed the CCC comments in light of the MOA and finds that the sale is consistent with the CCMP. As a result, MMS finds that the State and national interests are reasonably balanced by proceeding with the sale as currently scheduled, subject to the extensive terms, stipulations, and other mitigating measures contained in the final Notice of Sale.

II. CZMA Section 307(c)(1) Consistency

fishing, and vessel traffic safety. The MOA and the final Notice

II. CZMA Section 307(c)(1) Consistency

Section 307(c)(1) of the CZMA provides that:

> Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

16 U.S.C. 1456(c)(1). DOI and the CCC disagree on standards for application of this provision to OCS preleasing and lease sale decisions. That matter has been the subject of litigation and currently is pending before the United States Supreme Court. California v. Watt, 520 F. Supp. 1359 (C.D. Cal. 1981), aff'd in part, rev'd in part, modified in part, vacated in part, 683 F.2d 1253 (9th Cir. 1982), cert. granted, 103 S. Ct. 2083 (1983). The court of appeals opinion held that a consistency determination was required in connection with Lease Sale 53, but concluded that the degree of consistency required - "to the maximum extent practicable" - permits the DOI to "take into account that further consistency determinations will be made at the exploration, development, and production stages when more complete information will be available." 683 F.2d at 1265.

Without waiving its legal position before the Supreme Court, and based on the court of appeals' opinion, DOI sent the CCC a consistency determination on June 30, 1983, in connection with the proposed Notice of Sale. DOI also sent a negative determination for 12 tracts that were included in the Sale 53 litigation and which either did not receive bids or received bids that failed to meet the criteria for acceptance. Because the 12 tracts have been deferred from the final Notice of Sale, the negative determination is moot. The consistency determination identified mandatory and enforceable policies in the CCMP to be addressed for consistency with the proposed sale and, with respect to each policy, determined whether the proposed action was consistent to the maximum extent practicible.

On August 29, 1983, the CCC responded with detailed comments. The CCC's response also represented the CCC's recommendations to the Governor under section 19 of the OCSLA and its comments on the Final EIS. The CCC objected to the consistency determination (and the now-moot negative determination), asserting the proposed Notice of Sale was not consistent to the maximum extent practicable. The CCC identified 10 specific issues, each of which is addressed below.

The MOA reached with California following the CCC response addressed virtually all concerns expressed by the CCC, including oilspills, pipeline transportation, biological habitat, air quality, ocean dumping, onshore support facilities, commercial fishing, and vessel traffic safety. The MOA and the final Notice of Sale, with its extensive series of stipulations, mitigating measures, and existing regulations, respond comprehensively to all applicable issues raised by the CCC.

Despite the measures incorporated into the final Notice of Sale to respond to the State's concerns, the CCC sent MMS a letter dated October 11, 1983, in which it requested a new consistency determination under 15 C.F.R. 930.37, as well as a supplemental EIS, to take into account the terms and conditions of the MOA. MMS finds no legal basis in the CZMA regulations for requiring the preparation of a new or supplemental consistency determination. MMS also finds, as a matter of policy, that preparation of a new consistency determination would substantially delay the sale, contrary to the Governor's recommendation on timing accepted by the Secretary. The CCC previously indicated that it might request formal mediation with the Department of Commerce under the applicable regulations, but has not done so to date. MMS does not believe that such mediation is necessary or warranted.

MMS finds that the federal activity in question under section 307(c)(1) - the lease sale itself - is consistent with the CCMP policies, in some cases actually providing more protection for resources of concern than the CCC itself requested. Accordingly, MMS finds that the final Notice of Sale, which sets the terms and conditions for the actual leasing, are consistent to the maximum extent practicable with the CCMP. A specific analysis in response to CCC's concerns follows.

A. Oilspills

Section 30232 of the CCMP requires "effective containment and cleanup facilities and procedures" be provided for oilspills. The CCC indicates that "effective" means that "containment and recovery equipment must have the ability to keep the spills off the coastline." The CCC emphasized four principal concerns: (1) that Sale 73 resource estimates are too low; (2) that cumulative resource estimates from prior sales (Sale 53, RS-2) are too low; (3) that the assumed oil transportation scenario does not assure use of pipelines, but may permit tankering; and (4) the oilspill model relies on inaccurate wind and wave assumptions. The CCC stated that, for Sale 73 to be consistent, MMS must delete tracts within 12 miles of the sea otter range, assure pipeline transportation, and update oilspill probabilities. As noted, MMS has agreed to defer and/or impose stipulations on tracts within 20 miles of the sea otter range, as requested by the Governor pursuant to section 19 of the OCSLA.

MMS previously responded to the CCC on September 22, 1983, regarding the inherent speculation involved in estimating oil resources and reserves at this stage. That letter, incorporated herein by reference, demonstrates the appropriateness of MMS's position in conducting its own independent analyses of resource

UMI 1983 OCT 28 OCS 2 1 0 ISS VOL 48

estimates, rather than relying on news accounts. The CCC policy in section 30231, MMS notes, relates only to "containment and cleanup."

The oilspill risk analysis is based on a mathematical model using the best available information, specifically including information on the CCC's four above-enumerated factors. As stated in the EIS and recognized specifically in the CCC comments, "The model attempts to predict statistically what is likely to occur given the large state of uncertainty . . ." which prevails prior to the lease sale.

The lease sale is an administrative action which does not directly result in spill risks. Prior to exploration, lessees must prepare an exploration plan, including a requirement for an oilspill contingency analysis and response plan. This basic requirement is repeated at the development and production stage, when plans are subject to review under section 307(c)(3)(B) of the CZMA. Oilspill risks are minimal at the exploration stage and increase only at the development and production stage. MMS requires regulatory measures based on the assessment of risks at each stage. The oilspill contingency measures will employ the best available and safest technologies (BAST) under section 21 of the OCSLA, 30 C.F.R. 250.30, and OCS Operating Order No. 5. Equivalent measures for containment and cleanup equipment are required by U.S. Coast Guard regulations.

At the exploration and at the development and production plan stages, MMS will develop more precise estimates of spill risks and impose regulatory measures necessary to minimize risks within the limits of the then-available oilspill prevention, containment, and cleanup technology. The CCC may participate in this further review through section 307(c)(3)(B) of the CZMA. Only those plans that CCC finds "consistent" with the CCMP may be approved.

The oilspill response stipulation for Sale 73 as detailed in the MOA, requires immediate initiation of oilspill containment and cleanup, establishes a response time standard of two to four hours for larger scale equipment, requires installation of real-time meteorological and oceanographic monitoring equipment, and requires a program for capture and care for oiled sea otters, pinnipeds, and sea birds. These measures apply to tracts creating a 20-mile buffer zone for sea otter habitat, not only those within 12 miles, as the CCC had requested. The MOA also requires semi-annual full scale development drills and frequent MMS inspection to assure that equipment is maintained in a state of readiness for rapid response. These standards will be applied in approving exploration and development and production plans for all leases. Detailed implementation plans will be spelled out by lessees in the oilspill contingency analysis and response plans, which will be subject to the CCC's section 307(c)(3)(B) consistency review. The MOA provides much more extensive protection from oilspills than the CCC requested or the CCMP required. As a result, the federal action - Sale 73 - is consistent with this aspect of the CCMP.

3. Transportation by Pipeline

The CCC cited CCMP sections 30230 and 30231 concerning protection of biological productivity, section 30232 related to oilspills, and section 30262 requiring consolidation of facilities as a basis for the State's policy favoring oil transportation by pipeline. DOI generally agrees with the CCC's preference for pipelines to deliver offshore oil production to appropriate onshore processing, distribution, and/or refining facilities. To this end, the final Notice of Sale requires that pipelines are to be used, provided that:

1. pipeline rights-of-way can be determined and obtained;

2. laying of such pipelines is technologically feasible and environmentally preferable; and

3. in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple-use conflicts.

The use of pipelines under these criteria fulfills the BAST requirement under section 21(b) of the OCSLA that OCS technologies ". . . be economically feasible, whenever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies." 43 U.S.C. 1347(b).

Stipulation No. 5 commits DOI to cooperate fully with the CCC and other California regulatory authorities through the established the Regional Technical Working Groups of the OCS Advisory Board. DOI, however, cannot implement this stipulation until offshore oil and gas exploration has revealed the sites feasible for development and production operations and specific information is available by which to evaluate the criteria established. Any procedure which did not allow for development of specific information would conflict with DOI's statutory obligation under section 21(b) of the OCSLA to assess the benefits and costs associated with available OCS technologies.

CCC's requests to commit without qualification to pipeline

CCC's requests to commit without qualification to pipeline transportation "prior to leasing" and to delete "net social loss" determinations contravene the OCSLA and, without apparent justification, presume that DOI will not implement the lease stipulation. DOI fully intends to implement the stipulation in reviewing plans for development and production operations. These plans will be subject to State and CCC review, including the specific requirements of section 307(c)(3)(B) for prior State concurrence in exploration and development and production plans.

To accommodate the State's concerns over transportation of oil, the MOA for Sale 73 includes a provision requiring initial onshore processing of oil. This provision, incorporated as Stipulation No. 11 in the final Notice of Sale, provides for initial onshore processing unless the necessary permits for onshore facilities are not granted by local and State authorities within a reasonable period of time. Thus, the CCC, along with Santa Barbara County and San Luis Obispo County, and the local communities, will exercise substantial control over the feasibility of oil transportation by pipeline. This requirement appears to be fully consistent with the CCC policy opposing the use of offshore storage and treatment systems and favoring the siting of marine terminals through local coastal program approval procedures.

3. Biological Resource Habitats

The CCC stated that, for the sale to be consistent, MMS must defer tracts within 12 miles of shore, impose the biological stipulation for tracts adjacent to state waters, provide additional mitigation for oilspills, require pipeline transportation of oil as part of local planning, and consult regularly with the CCC. The CCC based its assessment upon policies in sections 30230 and 30231 (protection of marine resources and productivity of coastal waters) section 30232 oilspills (containment and cleanup), and section 30240 (environmentally sensitive habitat areas). The final Notice of Sale addresses and responds to each of the CCC's concerns.

The CCC expressed particular concern for the protection of the southern sea otter, a threatened species. The terms and conditions of Sale 73 have been developed in accordance with the Endangered Species Act. Consultation with the Fish and Wildlife Service (FWS) indicates that the sea otter population is not likely to be jeopardized by leasing or exploration activities. The FWS biological opinion was issued before the additional protective measures were adopted in the MOA. The FWS requested additional consultation prior to approval of development and production plans. The FWS also recommended that MMS consider alternative conservation measures, including:

1. alternative pipeline and tanker routes to minimize exposure risks and review of conservation measures to reduce oilspill risks to the lowest possible level;

2. stringent conservation measures or deletion of certain tracts to prevent oilspills originating at certain launch points;

3. further studies to determine effects of oil contamination and oil containment techniques on sea otters; and

4. oilspill contingency plans providing for deployment of containment equipment within 6 hours of a spill.

Species recovery plans also recommend establishing the sea otter population in areas outside the limits of its current range.

The measures available to protect the sea otter, including DOI's authority to cancel a lease, if necessary, and provide compensation to the lessee, were further reviewed in the Sale 73 consistency determination, which concluded that the sale as proposed in the proposed Notice of Sale was consistent with this element of the CCMP. DOI is fully aware of the issues of concern in protecting the sea otter. The final Notice of Sale includes extensive protective measures consistent with the CCMP and the Endangered Species Act, in addition to existing regulatory protections. DOI will implement these and other necessary or appropriate measures to protect the sea otter population, as required by the ESA.

The CCC also expressed concerns regarding the protection of biological productivity of State coastal waters, the biological resources of the Channel Islands, and coastal wetlands and estuaries. The proposed and final Notices of Sale both contain several measures to assure consistency with these concerns. Stipulation No. 1 authorizes the MMS Regional Manager (RM) to require surveys to determine the possible existence of any special biological resource and to order measures, including relocation of the site of proposed operations, necessary to protect such resources. Other requirements in the proposed Notice of Sale include Stipulation No. 5 (pipeline transportation of oil production), Stipulation No. 6 (protection of sea floor installations), Stipulation No. 7 (fisheries and wildlife training program), Stipulation No. 8 (related to hazardous wastes), and ITLs on Coast Guard restrictions on surface occupancy and overflight disturbance of wildlife populations. The general requirement to prepare an oilspill contingency plan prior to exploration and development and production plan approval, as well as the safety and technology mandates of the Pacific OCS Operating Orders, also will to satisfy the CCC's concerns. These measures are subject to consultation with the CCC through the operations plan review requirements of section 307(c)(3)(B) of the CZMA. Again, all of the concerns of the CCC have been examined and measures have been established to assure adequate response to those concerns. Specific environmental protection measures will be identified and implementation provided for prior to OCS operations.

UMI 1983 28 OC 0 2 1 0 ISS 48 VOL

The MOA and final Notice of Sale contain further measures to protect fish and wildlife habitats. Twenty-two tracts in nearshore areas are deferred from the sale to enhance sea otter and coastal resource protection. Oilspill response measures, previously discussed, are required. All drilling muds discharged must contain only components approved by EPA pursuant to NPDES permits. This requirement, which affirms of the application of the EPA regulatory system, is subject to coastal zone consistency certification procedures of section 307(c)(3)(A). The stipulation for a fish and wildlife training program has been refined to enhance protection of gray whales. ITLs warn lessees of aircraft overflights in important habitat areas and affirm DOI's intent to (i) establish a program for sea otter translocation, (ii) continue biological studies under the Environmental Studies Program, and (iii) consult with the State in implementing the biological stipulation. These new stipulations and ITLs reinforce the conclusion that the sale will be consistent with the CCMP policies to protect biological resources.

4. Air Quality

The CCC notes that, under section 30253(3) of the CCMP, new development must be consistent with requirements of local air pollution control districts and the State Air Resources Board. Section 30250 requires new development to be located where it will not have "significant adverse effects" on coastal resources. Section 30263(b) defines requirements for new sources of air emissions to be offset by other emissions reductions. These requirements apply to onshore support facilities and assure that site selection, construction, and operation of facilities within the coastal zone will be consistent with the CCMP. The CCC, however, expressed concerns that DOI's air quality regulations applicable to OCS facilities, 30 C.F.R. 250.57, will not provide adequate protection for the State's onshore air quality. The CCC's specific concerns include: cumulative OCS impacts; pipeline transportation of oil if feasible; emissions controls on drillships, production platforms, and support vessels; and onshore offsets to mitigate emissions that may exceed national or state standards.

The consistency determination noted that regulation of air emissions from OCS operations is within DOI's exclusive jurisdiction. Each facility is reviewed to determine its potential for onshore impact. DOI can order any necessary measures to meet the Clean Air Act and NAAQS. State and local regulation of onshore and coastal area activities, combined with DOI regulation of offshore activities, will assure compliance with relevant air quality measures, consistent with the CCMP.

MMS and the State have consulted extensively since the consistency determination to devise additional measures that will satisfy California's air quality concerns and ensure that Sale 73 is consistent with the State's policies. The MOA recognizes that DOI and California are parties to litigation on the adequacy of the DOI regulations, and neither party waives its legal position on these regulations. Nonetheless, the MOA sets forth several specific measures to be implemented as lease stipulations for Sale 73 within the framework of the existing regulations. The MOA specifically includes ten provisions, which also appear in the final Notice of Sale as lease stipulations, to be implemented by lessees and/or the MMS Regional Manager. These measures are listed above in the air quality discussion for section 19 of the OCSLA.

The MOA also provides for DOI to participate in the upcoming implementation plan review for Santa Barbara County to establish if any further emission control measures will be necessary. The MMS Environmental Studies Program will include air quality trajectory modeling. Finally, the State and DOI officials have agreed to meet and confer semiannually regarding air quality control measures.

5. Ocean Dumping

The CCC cites section 30230 concerning protection of biological productivity of coastal waters and sections 30231 and 30232 concerning protection of biological resources as the basis for its finding regarding ocean dumping that the proposed Notice of Sale was not consistent to the maximum extent practicable with the CCMP. The CCC expressed concern over the limited information on the munitions reportedly dumped and found the proposed stipulation insufficient. The CCC stated that, for the sale to be consistent to the maximum extent practicable, DOI should delete tracts within the hazardous waste dumpsite area and provide a buffer zone, perform preleasing surveys on several tracts, and consult with State agencies (CCC and CDFG) under the stipulation.

Following the consistency determination, DOI reached an agreement with the Department of the Navy to defer 121 tracts within offshore naval operations zones. As a result, 60 of the 70 tracts in the offshore dumping area of concern to the CCC are deferred. The remaining 10 tracts will be subject to the hazardous waste survey stipulation. Stipulation No. 8 of the proposed and final Notices of Sale requires lessees to avoid conflicts with hazardous wastes by conducting site-specific surveys, and MMS will enforce this stipulation diligently. The extensive tract deferrals, combined with the preoperations survey requirements, represent strong protection for the biological resources and coastal areas identified by the CCC.

6. Onshore Support

The CCC claimed that Sale 73 must be cancelled or delayed to allow for completion of coordinated federal, state, and local planning for onshore infrastructure and support facilities. The CCC noted that the CZMA requires the coastal program to provide a

planning process for planning and siting energy facilities of

planning process for planning and siting energy facilities of national interest. The CCC has not identified any provision of the CCMP that applies directly to onshore support facilities. Under the CCMP, this policy of consolidated planning is implemented primarily through local land use plans. DOI hypothesized a scenario of possible onshore development in the EIS to facilitate environmental analysis of OCS activities and to provide assistance to State and local planning and regulatory authorities. DOI does not advocate or approve any particular complement of necessary onshore and coastal area facilities, but merely endeavors to determine if its hypotheses concerning such facilities are reasonable. It appears that onshore support requirements for Sale 73 will be minimal, with only a single onshore crew support base at Avila Bay (Port San Luis) hypothesized to be developed as a direct result of Sale 73. This development appears consistent with the State program. In addition, no local coastal program has been approved and, therefore, only the State program applies to the port area hypothesized to be developed as a crew boat support site. The CCC's expressed concerns about need to review and approve various exploration and development and production plans are specifically matters within its jurisdiction under section 307(c)(3)(B) of the CZMA. Nothing requires DOI to delay the sale as a matter of law. No exploration plan or production and development plan can be approved before CCC review. Moreover, there appears no reason to delay for policy reasons. The CCC may examine cumulative impacts at that time under section 30250 of the CCMP. The CCC has objected to several such plans because of cumulative impact concerns.

The MOA essentially acknowleges DOI's limited role in relation to onshore support facilities. An ITL is included to affirm MMS's intent to cooperate with harbor districts potentially affected by OCS development and to require lessees to include analyses of the effects of OCS operations on allocation and use of local dockspace in subsequent environmental documents.

7. Water Supply

The CCC states that section 30231 requires protection of groundwater basins and section 30250 requires location of new development so as not to adversely impact coastal resources. Southern California, particularly Santa Barbara County, has limited onshore water supplies and a need for careful water management to avoid overdrafting of groundwater supplies. The CCC claims that DOI has not proposed mitigation for possible effects of offshore activities on the onshore water supply.

The CCC notes that increased OCS activity could be consistent with the CCMP if local planning were completed, if a stipulation prohibiting increased water withdrawals in Santa Barbara or San Luis Obispo Counties were adopted, or if small scale water supply projects were developed to deter growth and would avoid increasing groundwater overdraft.

Options to increase water supplies through the State Water Project remain available for development at the discretion of local authorities. Water supplies also may be reallocated among existing uses. Reallocation is common and frequently beneficial in water short areas as water use rights can be expected to be acquired by the use providing the greatest return relative to the costs of developing scarce water supplies.

Lessees may produce freshwater through desalinization, secure necessary State and local approvals for developing new water sources, or purchase water through established water authorities. Any use of onshore sources will be regulated fully by State and local authorities. Actual mitigating measures related to potential coastal effects of offshore water uses cannot be identified at this time, when no leases have been let, no facilities proposed, and no water supply requirements identified. Future requests for permit approvals for specific actions will be subject to coastal program authorities to impose conditions on permit approvals. Thus, water supply actions cannot be undertaken unless consistent with the CCMP, and the CCC and local governing bodies have the statutory authority to control these permits under section 307(c)(3) of the CZMA. This provision in the CZMA provides the same measure of protection as a federally imposed stipulation. As a result, Sale 73 is on a "path" that is consistent with the CCMP.

8. Commercial Fishing

The CCC finds that commercial fishing is an important coastal activity which must be protected. Section 30230 provides for protection of areas and species of economic significance. Section 30231 requires maintenance of biological productivity and the quality of coastal waters. Section 30234 requires that facilities servicing commercial fishing be protected and upgraded. The CCC notes a large number of mitigating provisions in OCS Operating Orders and proposed sale stipulations, but still concludes that the sale is not sufficiently consistent with the CCMP. The CCC

> . . . bases this finding on its practical experience in reviewing OCS projects on existing leased tracts. In reviewing fifty plans of exploration (POEs) on Lease Sale 53 tracts, the Commission has had to object to or partially object to drilling for seven plans because of unavoidable conflicts with commercial fishing activities. In eighteen of these projects, it was necessary to require plan revisions to mitigate the adverse impacts on the fisheries. In at least three-quarters of the POEs, the Commission's experience was that commercial fishing issues were not resolved by the

UMI 1983 OCT 28 ISS 210 VOL 48

review process of the Minerals Management Service, the agency which implements DOI Orders and Regulations.

In its further findings, the CCC notes that, even with the numerous existing mitigating measures and certain additional proposals noted in its comments, it still could not concur in the DOI's consistency determination prior to: (1) resolution of ongoing planning efforts (i.e., San Luis Obispo County's crew boat basing station and Santa Barbara County's marine terminal consolidation study) designed to minimize possible conflicts between OCS development and commercial fishing; and (2) incorporation into the lease sale of a program to provide compensation measures for permanent displacement of commercial fisheries.

DOI initially notes that the CZMA is designed to protect natural resources within a state's coastal zone, but not "the economic health of a particular industry located with the coastal zone except as its economic health may be affected by management of the physical resources in the coastal zone itself. Kean v. Watt, No. 82-2620 (DRD), slip op. at 41 (D.N.J. Oct. 8, 1982), appeal pending, No. 82-5679 (3rd Cir. filed Nov. 9, 1982). As a result, commercial fishing activities limited to the OCS do not directly affect California's coastal zone and are not subject to the CCC's consistency review. The CCC's first objection concerns ongoing planning procedures which must respond to changing conditions and accumulated experience. Marine facility studies are concerned mostly with conditions resulting from prior sales and will be marginally influenced by Sale 73 as it enters the exploration and production phases. These planning concerns involve primarily issues of exploration and development and production, which will be reviewed by the CCC under section 307(c)(3)(B). The ongoing nature of these studies does not provide a valid reason to delay Sale 73.

The CCC's second objection relates to the Fishermen's Contingency Fund. DOI lacks the statutory authority to compensate fishermen, other than through existing funds. Other existing measures include the Offshore Oil Spill Pollution Fund and the Fishing Vessel and Gear Damage Compensation Fund, both of which may compensate fishermen under appropriate circumstances. Additional compensation measures would require Congressional approval.

As to CCC's concerns over possible conflicts between oil and gas and fishing operations, the MOA includes additional stipulations for the final Notice of Sale to protect commercial fisheries. A number of fishing areas have been deferred, and eight tracts near shore still in the sale are subject to use of jack-up drilling rigs in water depths of 275 feet or less, if consistent with geological or bottom conditions. Provisions applying to all areas require: cooperation by lessees with fishermen to minimize conflicts in exploration, development, and production; consultation to assure that exploratory activities and production operations consider seasonal fishing operations; and circulation of exploration plans and development and production plans directly to fishing industry representatives for review and comment. Exploration and production activities shall prevent creation of obstacles to fishing activity, and bottom surveys may be required to clear obstacles after operations. Lessees must analyze effects of proposed activities on allocation and use of dock space in their exploration and development and production plans. Each stipulation involves a specific activity associated with exploration and development and production. These actions will be subject, therefore, to section 307(c)(3)(B) procedures for consistency certification of operation plans by the CCC.

9. Geologic Hazards

The CCC finds that sections 30253 and 30262 require that new development minimize risks of geologic hazards. The CCC " . . . agrees with DOI in this instance that the subsequent exploration and production review phases are the appropriate areas in which to address these concerns." DOI shares this view that the sale is consistent to the maximum extent practicable with the CCMP.

10. Vessel Traffic

The CCC states that section 30260 and 30262 permit oil and gas development if facilities are sited to avoid substantial hazards to vessel traffic. That determination is to be made in consultation with the Coast Guard and U.S. Army Corps of Engineers. The CCC submitted that OCS leasing "at this time will inhibit establishment of the recommended lanes, fairways and precautionary areas." Sale 73 would be consistent with the CCMP, according to the CCC, if MMS deferred the tracts or imposed a stipulation prohibiting surface occupancy in the designated tracts and in a buffer zone.

Vessel traffic, however, is not subject to DOI regulation. This responsibility rests primarily with the Coast Guard, while the Army Corps of Engineers has the authority under section 4 of the OCSLA to regulate the placement of structures which might interfere with navigation. The Coast Guard has proposed - but not yet adopted - vessel traffic regulations which it believes to be appropriate for the area. DOI has fully described this proposal in the EIS, the SID, and other sale decision documents. DOI also included an ITL in the proposed and final Notices of Sale to advise potential lessees that operations on certain tracts may be restricted by the Coast Guard and the Army Corps of Engineers, which are obligated to ensure vessel safety. Under these circumstances, tract deferrals are not necessary for this sale to avoid hazards to vessel traffic. In addition, a binding lease stipulation at this time would not be appropriate prior to final Coast Guard designation of vessel traffic areas. MMS concludes that the decisions on permitting structures should be left to the discretion of the agencies with jurisdiction and reviewed on a case-specific basis. Further consistency issues on

specific regulatory actions should be addressed to the Coast Guard and the Corps of Engineers as the [illegible] for State and federal approval. Finally, MMS will consult with

specific regulatory actions should be addressed to the Coast Guard and the Corps of Engineers as the responsible Federal agencies in connection with individual permit applications. The final Notice of Sale's ITL fully apprises prospective lessees of this situation.

III. NEPA Environmental Impact Statement Correspondence

On June 29, 1983, MMS published a notice in the Federal Register announcing the availability of a final EIS for Sale 73. 43 Fed. Reg. 29959 (June 29, 1983). Following publication of the EIS, additional consultation and correspondence occurred with several federal and State agencies and with other interested persons. A brief summary of the post-EIS consultation is included below to inform the public of supplemental NEPA-related concerns taken into account in the final decision-making process for Sale 73.

On July 26, 1983, both the Monterey Bay Unified Air Pollution Control District (APCD) and the San Luis Obispo APCD wrote to MMS to convey continuing concerns on air quality effects of offshore oil and gas operations. Both APCDs criticized the EIS for failing to provide adequate mitigation to potential offshore emissions and asserted that a "worst case analysis" must address the cumulative effects of emissions on coastal communities. DOI has reviewed these comments and has concluded that a worst case analysis is not required. MMS has substantial information available on the potential air quality impacts, certainly enough to present the decisionmaker with a basis to choose among alternatives under 40 C.F.R. 1502.22. As explained in the response to comments in the EIS, moreover, MMS did postulate "worst case" meteorological conditions in modeling the possible cumulative impact of air quality emissions. As discussed above, the MOA entered into between MMS and the State of California provides substantial additional measures to mitigate adverse effects that could result from offshore emissions, including cumulative impact analysis, additional controls on platforms and vessels, and continued monitoring and studies to ensure adequate protection for the State's air quality. The MOA, along with the extensive stipulations incorporated into the final Notice of Sale, should provide the necessary assurances to the APCDs.

The EPA wrote to MMS on August 1, 1983, and recommended, as an environmentally preferable alternative, that nearshore tracts be deferred to provide additional protection for coastal and biological habitats. EPA also urged MMS to require cumulative impact assessment of offshore emissions and additional controls on platforms. Finally, EPA urged more specific criteria for implementing the biological stipulation to protect benthos. Each of these points has been addressed and, in large part adopted, through the MOA and lease stipulations in the final Notice of Sale. Most nearshore tracts have been deferred, with oilspill and air quality and commercial fishery stipulations imposed on those few nearshore tracts left in the sale. Lessees will perform cumulative impact analysis in submitting operating plans for State and federal approval. Finally, MMS will consult with State agencies in implementing the biological stipulation, to ensure the necessary protection for important biological resources.

The Natural Resources Defense Council, Inc. (NRDC) sent MMS a lengthy critique of the EIS on September 15, 1983. NRDC first reiterated several procedural objections (e.g., scoping, comment period) to the EIS, all of which previously were considered and addressed in the final EIS. NRDC also criticized the lack of "site-specific" analysis, the alleged inadequacy of proposed mitigating measures, and the relatively brief discussions of various alternatives. NRDC renewed its claim that MMS must perform worst case analyses for oilspills and hazardous waste dumpsites. Further, NRDC challenged the cumulative impact analysis and MMS's use of resource estimates. Finally, NRDC claimed that MMS must await the completion of ongoing environmental studies and the receipt of the NMFS biological opinion before it could ensure that Sale 73 would not be likely to jeopardize the continuing existence of any endangered species. MMS has examined these arguments and presents the following responses.

The type of site-specific analysis that NRDC apparently recommends simply is not warranted. NRDC has not provided any relevant example of the type of analysis that it claims must be performed. As the federal courts frequently have recognized, an analysis of possible impacts from oil and gas operations is necessarily limited before drilling operations have commenced, as no one knows whether, where, and how much hydrocarbon resource exists. As additional information becomes available following the sale and in connection with individual plans of operation, the type of site-specific analysis that NRDC requests will be performed and made available for public review.

The NRDC's concerns of inadequate mitigation measures have been addressed by the MOA with California and the extensive series of stipulations contained in the final Notice of Sale. As to the number of pages devoted to each alternative, NRDC apparently fails to comprehend that the proposed action -- offering all available tracts -- encompasses the universe of possible impacts and necessarily is the most detailed, lengthy and complex. As a result, the various deferral, delay, and cancel options warrant less discussion, as the EIS principally distinguishes the reduced level of effects likely to result if an alternative is adopted from the effects of the proposed action. Theoretically, MMS could reproduce the massive discussion under Alternative I for each of the remaining alternatives, as NRDC seems to suggest. That approach, however, clearly is unwarranted and discouraged by CEQ regulations.

The question of resource estimates and the cumulative impact analysis are discussed above in Part II of the Statement, in response to similar concerns voiced by the CCC. Briefly, MMS

UMI 1983 OCT 28 10 2 1 ISS 48 VOL

cannot rely on newspaper accounts of speculative resource estimates, but must maintain its objectivity and adopt a cautious approach until confirmation of new discoveries is available. Resource estimates in an active exploration area like Santa Maria Basin frequently will change, but the EIS must select one point in time at which to base its analyses, based on verifiable data.

As to the endangered species matters, MMS has considered the best available and scientific evidence in making decisions on the final Notice of Sale. This information includes the EIS analysis and more recent information, such as the biological opinion received from NMFS following publication of the EIS. Both biological opinions found no likely jeopardy as a result of exploration resulting from Sale 73. NRDC has not cited any information to contradict the biological opinions or any studies discussed in the EIS.

Finally, on the question of "worst case analysis," NRDC has done little more than invoke a regulatory phrase. It has not provided any specific or concrete evidence of why such analysis is required to permit the decisionmaker to select among alternatives under 40 C.F.R. 1502.22. Two federal courts have held that a worst case analysis need not be performed at the prelease stage to speculate as to the possible effects of an oilspill, even before drilling has commenced. North Slope Borough v. Andrus, 642 F.2d 589 (D.C. Cir. 1980); Village of False Pass v. Watt, 565 F. Supp. 1123 (D. Alaska 1983). As to the hazardous waste dumpsite, 60 of the 70 tracts potentially affected have been deferred from the federal action in question, and a stringent survey and enforcement stipulation has been adopted for the remaining 10 tracts. First, with this mitigation, no significant adverse effects are likely to occur as a result of the leasing of tracts. Any drilling operations will be preceded by surveys to detect the possible existence of dumped wastes. Second, the precise information and knowledge as to the contents of containers is not necessary to a reasoned choice among the alternatives, as the decisionmaker could select the use of the stipulation. Third, NRDC has failed to provide the necessary base of evidence upon which a reasonable worst case analysis could be constructed, by demonstrating that the wastes could be contacted and released as a result of the proposed action without protective measures in place. Finally, the EIS, in fact, did predict that severe environmental effects could occur if certain wastes were released by drilling operations; and NRDC does not claim that this prediction underestimates the potential impact.

IV. ESA Biological Opinion of NMFS

The NMFS biological opinion on certain endangered and threatened species was not made available to MMS until August 9, 1983, approximately six weeks after the publication of the final EIS. The opinion had been requested on March 4, 1983. Because the opinion was not available for public review in the EIS, MMS has prepared an environmental assessment (EA) to examine the opinion and determine whether the information presented warranted a supplemental EIS. The EA is being published separately in the Federal Register, along with a Finding of No Significant Impact (FONSI). In summary, the EA and FONSI conclude that the opinion reaches conclusions regarding the effects of Sale 73 on endangered species that are virtually identical to our conclusions presented in the EIS. Of particular importance, the opinion concluded that seismic activities and oil spills are not likely to jeopardize the continued existence of the gray whale or other endangered whales or sea turtles in the Sale 73 area, at least through the exploration stage. The EA may be consulted for additional details and information.

V. Summary

This Statement of Reasons provides an explanation of the considerations that led to the decisions reached in establishing the size, timing and location of Sale 73, as well as the terms and conditions of the sale. The exact terms and conditions, as well as the specific terms offered, appear in the final Notice of Sale.

Acting Director, Minerals Management Service David C. Russell

Approved:

Secretary Jim Watt

OCT 25 1983

Date

[FR Doc. 83-29428 Filed 10-27-83; 8:45 am]
BILLING CODE 4310-MR-C

4310-MR

Environmental Assessment

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Central California
Oil and Gas Lease Sale 73

Finding of No Significant Impact

Action: Review Biological Opinion of the National Marine Fisheries Service (August 9, 1983) for the Proposed 1983 Outer Continental Shelf Oil and Gas Lease Sale Offshore Central California to determine if the Offering requires a supplemental impact statement.

Result of Review: Finding of no significant impact (FONSI)

Documents included with the FONSI are as follows:

Environmental Assessment . . . . . see attached

Final EIS OCS Sale No. 73. . . . . available on request

Biological Opinion - National Marine
Fisheries Service (August 9, 1983) . . . . available on request

FONSI: Based on the Environmental Assessment no significant impacts were identified through the biological opinion that were not already assessed in the Final EIS for OCS Sale No. 73. In rendering this opinion, I have given special consideration to 30 CFR 250.34-4 (compliance with NEPA).

Based on the Environmental Assessment of the proposed action and the additional information provided by National Marine Fisheries Service, I have determined that a supplemental EIS is not required.

Carolita Kallaur
"Acting" Associate Director
for Offshore Minerals Management

10/25/83
Date

Environmental Assessment

Proposed 1983 Outer Continental Shelf
Oil and Gas Lease Sale
Offshore Central California

I. Purpose of Environmental Assessment

To determine whether the Biological Opinion of the National Marine Fisheries Service (August 9, 1983) regarding proposed OCS Oil and Gas Lease Sale No. 73 requires preparation of a supplemental environmental impact statement.

II. Description of the Proposed Action and Alternatives

The proposed action, alternatives, environmental impacts, and lists of agencies and individuals consulted are presented in detail in the Final Environmental Impact Statement (EIS) for proposed Sale No. 73. That document is incorporated by reference.

III. Analysis

On August 9, 1983, the National Marine Fisheries Service issued its biological opinion for Lease Sale 73, approximately two months after the Department issued the final environmental impact statement for the sale [1/]. We have reviewed the opinion to see whether it contains "significant new circumstances, or information relevant to environmental concerns and bearing on the proposed action or its impacts." 40 CFR §1502.9(c)(1)(ii). We also find the opinion to be thoroughly researched, well-reasoned, and well-written. The opinion agrees with the assessment of impacts in the impact statement, and it contains no significant new information. For a detailed discussion, see National Marine Fisheries Service, 1983.

The two documents considered the same same species. (Compare Op. pp.4 with EIS pp. III-45 and III-54 to 55.) Both discuss the distribution and abundance of whales in the sale area; and though the opinion is more detailed, it is based largely on the same study used in the impact statement. (Compare Op. pp. 4-8 with EIS pp. III-44 to 45.) Both agree on the distribution and abundance of endangered turtles within the sale area. (Compare Op. p. 8 with EIS pp. III-55.)

1/ When citing to the biological opinion and the environmental impact statement, we will use the abbreviations "Op." and "EIS."

Both documents agree on the effects of noise on endangered whales. The opinion finds that while noise will not cause physical harm to the whales, noise from a full array of airguns (used in deep seismic surveying) could, at close range, impair a whale's hearing. The impact statement is similar. (Compare Op. pp. 9-11 with EIS pp. IV-32 and IV-124.) Both note that years of geophysical surveying off the coast of California have not prevented the recovery of the gray whale population. (Compare Op. pp. 13-4 with EIS IV-124.) Both agree that noise from drilling and vessels as a result of the sale will have a low level of effect. (Compare Op. pp. 14-15 with EIS p. IV-124.)

The documents reach similar conclusions on the effects of oil spills on endangered whales and turtles. Both discuss the data indicating that baleen plates clean themselves after being fouled by oil. (Compare Op. p. 17 with EIS pp. IV-142 to 43.) Other effects, such as from ingesting the oil or inhaling its vapors, are also likely to be minor. (Compare Op. pp. 17-18 with EIS pp. IV-142 to 43.) Both agree that effects on turtles are likely to be low because so few are in the area of the sale. (Compare Op. pp. 18 with EIS p. IV-143.)

References

Minerals Management Service. 1983. Final Environmental Impact Statement for Proposed 1983 Outer Continental Shelf Oil and Gas Lease Sale Offshore Central California. OCS Sale No. 73. U.S. Department of the Interior, Pacific OCS Region, Los Angeles, CA.

National Marine Fisheries Service. 1983. Section 7 - Biological Opinion, Operations pertaining to oil and gas leasing and exploration in the Santa Maria Basin, OCS Sale No. 73, U.S. Department of Commerce.

[FR Doc. 83-29468 Filed 10-27-83; 8:45 am]

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October 28, 1983

Part V

Department of Transportation

Federal Aviation Administration

Special Federal Aviation Regulation; Model B Airspace (Airport Radar Service Area)

VOL 48 ISS 210 OCT 28 1983 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71, 91, 103, and 105

[Docket No. 23708; SFAR No. 45]

Special Federal Aviation Regulation; Model B Airspace (Airport Radar Service Area)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This Special Federal Aviation Regulation (SFAR) designates airspace, called an Airport Radar Service Area (ARSA), at Austin, TX, and Columbus, OH, within which each person operating an aircraft must maintain two-way radio communications with air traffic control (ATC). Ultralight vehicle and parachute jump operations in the ARSA are not allowed except under the terms of an ATC authorization. Within these ARSA's, ATC will, in addition to the services and separation currently applied to aircraft operating under instrument flight rules (IFR), resolve any potential conflict between an aircraft operating under IFR and an aircraft operating under visual flight rules (VFR), as well as provide traffic advisory services and arrival sequencing to all aircraft. Pilots are required to comply with ATC clearances and instructions while operating in an ARSA. The purpose of this SFAR is to confirm any national applicability of the recommendation of the National Airspace Review, Terminal Airspace Task Group 1–2.2 that an ARSA program replace the existing Terminal Radar Service Area (TRSA) program. If the operational confirmation demonstrates national applicability and feasibility, appropriate general rulemaking actions will be initiated. During the effective periods of this SFAR, any one or all of its provisions may be suspended temporarily, or revoked by NOTAM for reasons of safety or efficiency.

EFFECTIVE DATES: Austin, TX: December 22, 1983, through December 21, 1984. Columbus, OH: January 19, 1984, through January 18, 1985. Comments may only be submitted after December 22, 1983, and must be received on or before May 21, 1984.

ADDRESSES: Comments may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 23708, 800 Independence Avenue, S.W, Washington, D.C., 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Davis, Airspace-Rules and Aeronautical Information Division, AAT–200, Federal Administration, 800 Independence Avenue, S.W., Washington, D.C., 20591, telephone (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this operational confirmation by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 23708." The postcard will be date/time stamped and returned to the commenter. All communications received between the specified opening and closing dates for comments will be considered by the Administrator before taking action on any further rulemaking. Also, this SFAR may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control system. The three main objectives of the NAR are:

(1) To develop and incorporate into the air traffic system a more efficient relationship between traffic flows, airspace allocation, and system capacity. This will involve the use of improved air traffic flow management to maximize system capacity and improved airspace management.

(2) To review and eliminate, wherever possible, governmental restraints to system efficiency levied by Federal Aviation Regulations (FAR) and FAA directives—reducing complexity and simplifying the ATC system.

(3) To revalidate ATC services within the National Airspace System with respect to state-of-the-art and future technological improvements.

Organizations participating in the NAR task group were:
Federal Aviation Administration
Department of Defense
Airline Pilots Association
Air Transport Association
National Business Aircraft Association
National Association of State Aviation Officials
Regional Airline Association
Aircraft Owners and Pilots Association
Experimental Aircraft Association
Helicopter Association International

The comprehensive plan contains an administrative structure and detailed task assignments which have resulted in recommendations to the FAA, including the NAR Task Group 1–2.2 recommendations set forth below.

NAR 1–2.2.1 Replace TRSAs With Model B Airspace and Services

"The Task Group recommends that the current Terminal Radar Service Area (TRSA) program—Airspace and Services—be discontinued. The Task Group further recommends that the concept identified herein as Model B Airspace and Services be implemented as replacement for the TRSA program in accordance with the recommendations to follow."

NAR 1–1.2.2 Inner Area (Core) Size and Operating Requirements

"The Task Group recommends that the physical dimensions of the Model B Airspace Core shall be a 10 NM radius capped at 4,000 feet height above airport (HAA) from the primary airport. This airspace shall extend down to 1200 feet above the surface except that an inner core with a 5 nautical mile radius shall extend down to the surface. Except for aircraft departing from satellite airports/heliports within the Model B Airspace Core, all aircraft shall establish two-way radio communications with ATC prior to entering the airspace. Aircraft departing satellite airports/heliports within the surface area of the Model B Airspace Core shall establish two-way radio communications with ATC as soon as possible. Pilots must comply with approved FAA traffic patterns when departing these airports."

NAR 1–2.2.3 Outer Area Limits and Operating Requirements

"The Task Group recommends that the outer limit of Model B airspace be

the same dimensions as the radar/radio coverage within each approach control's delegated airspace. While strongly encouraged, two-way radio communications is *not* a VFR requirement in the outer limits of Model B airspace and aircraft are not restricted from entering/transitting this airspace."

NAR 1–2.2.4 ATC Services

Services provided within the Model B Airspace Core shall be as follows: sequencing of arriving aircraft; IFR be provided standard IFR separation; IFR to VFR be provided traffic advisories and conflict resolution so that targets do not merge at the same altitude; and VFR to VFR be provided traffic advisories. Furthermore, aircraft operating outside the Core but within the confines of the Outer Limits will receive Model B services upon establishing two-way radio communications and radar contact."

[NAR 1–2.2.5 Not applicable to this proposal]

NAR 1–2.2.6 Airspace Designation Criteria

"The Task Group recommends that, excluding TCA locations, all airports with an operational airport traffic control tower and currently contained within a TRSA serviced by Level III, IV, or V radar approach control facility shall have Model B airspace designated; unless a study indicates that such designation is inappropriate for a particular location. Any other location serviced by a radar approach control facility may be considered as a candidate location for Model B airspace on the basis of a thorough staff study considering, but *not limited to* the following:

1. Traffic mix, flow, density, and volume.
2. Airport configuration, geographical features and adjacent airspace/facilities.
3. Collision risk assessment.
4. ATC capabilities to provide Model B services to the users at maximum benefit and minimum cost.

All proposed Model B airspace actions shall be subject to regional and headquarters approval. Military operated facilities will process requests through appropriate military and FAA channels. Any Model B location which fails to meet the establishing criteria for its respective location for more than 12 consecutive months, shall be subject to a regulatory review to terminate the Model B airspace designated."

NAR 1–2.2.7 Charting

"The Task Group recommends for further consideration by Task Group 1–6 that all Model B Airspace Cores be charted, and that either a visual or narrative method of identifying the Outer Limits of Model B Airspace be undertaken."

NAR 1–1.2.8 Education

"The Task Group recommends the aviation community be made aware of Model B Airspace by educational programs to support ATC operational and procedural information, phraseology, practices, and the desirability of voluntary participation. Specifically, it is recommended:

1. All FAA pilot exams and appropriate textbooks must contain a significant amount of questions and information concerning radar operation in terminal areas. Specifically, operations and procedures be included in written and practical tests for pilot certification, ratings, and reviews.
2. Specific questions and answers must be required on all flight reviews and other appropriate occasions (air carrier initial and recurrent proficiency training, pilot proficiency exams, biennial flight review, ect.) to assure that users in every aviation community have shown a current understanding of radar terminal areas and their use of these areas.
3. The FAA develop and fund a traveling air traffic team to speak to pilot groups on operations within the National Airspace System; i.e., Model B airspace. Emphasis should be given to flight instructor contact.
4. An advisory circular dealing with Model B airspace be published to include well presented, up-to-date information on operations in terminal airspace and that this advisory circular be given the widest possible dissemination to aviation users and organizations.
5. The Airman's Information Manual (AIM) be distributed free of charge to all fixed base operators (FBO's) at all public use airports.
6. FAA Public Affairs Office develop and promote through the general news media, aviation awareness of FAA services and publications available to the pilot and general public.
7. Facts about terminal airspace in some form of questionnaire be developed and distributed by the FAA to appropriate agencies (licensed pilots, fixed base operators, business organizations, etc.). This questionnaire could be a public relations effort, advisory circular, or included in the Airman's Information Manual.
8. FAA continue to make available to interested pilot groups training or other audio-visual aids that deal with terminal radar operations."

A copy of the task group report is in the public docket.

The Current Situation

A TRSA is the airspace surrounding designated airports wherein the FAA provides radar vectoring, sequencing, and separation on a full-time basis to all aircraft operating under IFR and participating aircraft operating under VFR.

Within the National Terminal Radar Program, there are three levels of service provided to aircraft operating under VFR. The first or basic level of service is referred to as basic radar service and consists of traffic advisories and radar vectoring when requested by the pilot or when suggested by ATC and accepted by the pilot. This service is provided by all commissioned terminal radar facilities as an additional service.

In addition to the basic service, certain terminal radar facilities provide radar advisory and arrival sequencing to aircraft operating under VFR. This enhanced level of service, referred to as Stage II, is intended to adjust the flow of all arriving aircraft into the traffic pattern in a safe and orderly manner and to provide radar traffic information to departing aircraft operating under VFR. Pilot participation is urged but is not mandatory.

The third and most enhanced level of service provided to aircraft operating under VFR in the terminal radar environment is known as Stage III Service. This program offers radar sequencing and separation as well as all of the other level services to all participating aircraft operating under VFR. As with the other levels of service, pilot participation is also urged but is not mandatory. Stage III is in use at all TRSA locations. TRSA's are depicted on sectional aeronautical charts.

The task group identified a number of problems with the TRSA program which they felt should be corrected. The task group stated that, because there are different levels of service offered within the TRSA, users are not always sure of what they are getting in terms of service; and they are not always sure of what restrictions/privileges exist, or how to cope with them. According to the task group, there is a feeling shared among users that TRSA's are often poorly defined, generally dissimilar in dimensions and encompass more area than is necessary or desirable. There are other users who believe that the voluntary nature of the TRSA does not adequately address the problems associated with nonparticipating aircraft operating close to the airport and associated approach and departure

courses. There is strong advocacy among user organizations that terminal radar facilities should provide all pilots the same service, in the same way, and to the extent feasible, within standard size airspace designations.

Certain provisions of FAR section 91.87 add to the problem identified by the task group. For example, aircraft operating under VFR to or from a satellite airport in an airport traffic area (ATA) are excluded from the two-way radio communications requirement of FAR section 91.87. This condition is acceptable until the volume and density of traffic at the primary airport dictates the installation of a radar approach control. In the past, the FAA has resorted to special rulemaking under FAR Part 93, or designated TCA airspace in order to maintain safety and efficient utilization of airspace. Both of these actions represent one extreme end of the spectrum of needed control. On the other extreme is the simple airport traffic area with its attendant provisions in FAR sections 91.85 and 91.87. The FAA believes an ARSA with associated ATC services represents a compromise action between a TCA and an ATA.

Analysis of Comments

The FAA published the NAR Task Group 1–2.2 recommendation in Notice 83–9 (July 28, 1983; 48 FR 34286). The FAA received a total of 46 comments.

The Aircraft Owners and Pilots Association (AOPA) states that Notice 83–9 did not explain that a NAR recommendation may represent a consensus or a simply majority of the members of the NAR task group. AOPA also stated that it and other task group members differed with one or more aspects of the task group recommendation as noted in the staff study. Although Notice 83–9 set forth the recommendation without explaining the workings of the task group, it did indicate that a copy of the staff study is in the public docket. As stated in the comment of the National Business Aircraft Association, Inc. (NBAA) in support of the proposal, the recommendation was "the result of a conscientious effort on the part of all task group participants to compromise on the best possible solution without being overly restrictive on any of the airspace users." AOPA objects to the use of the word "confirmation" and prefers the words "operational test" to describe the purpose of the proposed rulemaking. The FAA does not agree with AOPA's statement that: "Use of the word 'confirmation' throughout appears to be an effort to prejudge the results of the test." Since the NAR task group recommendation did not address how the recommendation should be implemented, the FAA chose to proposed to confirm the recommendation at selected locations rather than proposing the recommendation for national implementaton.

AOPA further commented that Notice 83–9 should have contained a more detailed description of the ATC procedures that would be used in an ARSA and that the users should be given the opportunity to review the ATC procedures before implementation. There is little difference between a TRSA and an ARSA with regard to ATC procedures. The only "new" ATC procedure planned for use in the ARSA is conflict resolution; however, this is merely the existing "merging target procedures" set forth in paragraph 47 of the Air Traffic Control Handbook (FAA Order 7110.65) with a mandatory element added by the SFAR. The text of that paragraph is as follows:

"47. Merging Target Procedures

a. Except while they are established in a holding pattern, apply merging target procedures to all radar identified:

(1) Aircraft at 10,000 feet and above.

(2) Turbojet aircraft regardless of altitude.

(3) Presidential aircraft regardless of altitude.

b. Issue traffic information to those aircraft listed in a. whose targets appear likely to merge unless the aircraft are separated by more than the appropriate vertical minima.

c. If the pilot requests, vector his aircraft to avoid merging with the target of previously issued traffic.

47.c. Note: Aircraft closure rates are so rapid that when applying merging target procedures, controller issuance of traffic must be commenced in ample time for the pilot to decide if a vector is necessary.

d. If unable to provide vector service, inform the pilot." The mandatory element enhancing the above procedure is that ATC must initiate action to resolve any potential conflict, and paragraph 3(c) of the SFAR requires each pilot to comply with ATC clearances and instructions. The phraseology used by ATC in communicating instructions and clearances to a pilot will be the same as it is today in a TRSA.

AOPA believes confusion might be caused by the requirement to maintain two-way radio communications with the facility having jurisdiction over the ARSA in situations where a nearby airport traffic area overlaps the ARSA. The FAA agrees and the SFAR has been modified to provide that the two-way radio communications requirement is met when communications are established with the appropriate tower or ARSA facility. AOPA objects to the statement in Notice 83–9 that "The NAR task group recommended the replacement of all TRSA's with Model B airspace (ARSA's)." The FAA agrees that the statement is too broad and that it should have reflected the limitations contained in the task group recommendation, NAR 1–2.2.6 Airspace Designation Criteria, which is set forth in Notice 83–9 and is repeated in this preamble. AOPA further states that the mere existence of terminal radar at an airport is not justification for an ARSA and that their information indicates the FAA is considering up to 138 locations for ARSA's. Other commenters felt the ARSA establishment criteria was vague. Both of the confirmation sites fall within the NAR recommended criteria; i.e., both locations are TRSA's and are serviced by either a Level III, IV, or V radar approach control facility. Under the task group recommendation, similar Level III, IV, or V facilities would be candidates for an ARSA. These locations are:

Anchorage, AK	Orlando, FL
Mobile, Al	Tampa, FL
Little Rock, Ar	Macon, GA
Burbank, CA	Cedar Rapids, IA
Ontario, CA	Champaign, IL
San Diego, CA	Rockford, IL
Windsor Locks, CT	Fort Wayne, IN
Jacksonville, FL	Wichita, KS
Tallahassee, FL	Louisville, KY
Columbus, GA	Lake Charles, LA
Kahului, HI	Portland, ME
Boise, ID	Kalamazoo, MI
Peoria, IL	Gulfport, MS
Evansville, IN	Charlotte, NC
South Bend, IN	Raleigh, NC
Lexington, KY	Atlantic City, NJ
Lafayette, LA	Albany, NY
Baltimore, MD	Rochester, NY
Grand Rapids, MI	White Plains, NY
Saginaw, MI	Dayon, OH
Billings, MT	Oklahoma City, OK
Greensboro, NC	Allentown PA
Omaha, NE	Kwajalein, PC
Reno, NV	Charleston, SC
Islip, NY	Bristol, TN
Syracuse, NY	Memphis, TN
Columbus, OH	Austin, TX
Youngstown, OH	El Paso, TX
Portland, OR	San Antonio, TX
Harrisburg, PA	Nofolk, VA
Quonset Pt., RI	Burlington, VT
Greer, SC	Green Bay, WI
Knoxville, TN	Charleston, WV
Amarillo, TX	Huntsville, AL
Corpus Christi, TX	Forth Smith, AR
Midland, TX	Tucon, AZ
Chantilly, VA	Oakland, CA
Roanoke, VA	Scaramento, CA
Tacoma, WA	Colorado Springs, CO
Milwaukee, WI	Ft. Lauderdale, FL
Birmingham, AL	Pensacola, FL
Montgomery, AL	W. Palm Beach, FL
Phoenix, AZ	Savannah, GA
Monterey, CA	Des Moines, IA
Palm Springs, CA	Moline, IL
Santa Ana, CA	Springfield, IL
Daytona Beach, FL	Indianapolis, IN

Cincinnati, KY	Tulsa, OK
Baton Rouge, LA	Erie, PA
Shreveport, LA	San Juan, PR
Flint, MI	Columbia, SC
Lansing, MI	Chattanooga, TN
Jackson, MS	Nashville, TN
Fayetteville, NC	Beaumont, TX
Lincoln, NE	Lubbock, TX
Alburquerque, NM	Salt Lake City, UT
Buffalo, NY	Richmond, VA
Rome, NY	Spokane, WA
Akron Canton, OH	Madison, WI
Toledo, OH	

Also, under the task group's recommendation, the following Level II TRSA locations may be ARSA candidate locations depending on an FAA review of those locations in the light of the criteria, in NAR Recommendation 1–2.2.6, the FAA's existing TRSA establishment criteria, and comments received on operations conducted under this SFAR.

Augusta, GA	Asheville, NC
Muskegon, MI	Binghamton, NY
Great Falls, MT	Abilene, TX
Fargo, ND	Bangor, ME
Sioux Falls, SD	Rochester, MN
Huntington, WV	Wilmington, NC
Monroe, LA	Wilkes Barre, PA
Duluth, MN	Longview, TX

AOPA commented that users must be readily able to visually distinguish the ARSA from other charted airspace areas, e.g., a TRSA. Further, it felt that only the dimensions of the 5 mile "core" and the airspace between 5 and 10 miles should be charted. The FAA agrees and has developed a prototype depiction for the confirmation locations. Comments on this aspect are especially requested. Commenting further on charting, AOPA recommends that the existing criteria in FAA Order 7400.2B, paragraph 167, or an on-airport VORTAC be used to determine the surface center of an ARSA. For this confirmation period, the criteria in FAA Order 7400.2B, paragraph 167, will be used. The text of that criteria is as follows:

"167. Geographic Position of Airport

A control zone radius is measured from the 'geographic position' of the primary airport.

Note.—'Geographic position' expressed in coordinates to the nearest five seconds, is established by National Ocean Survey as follows:

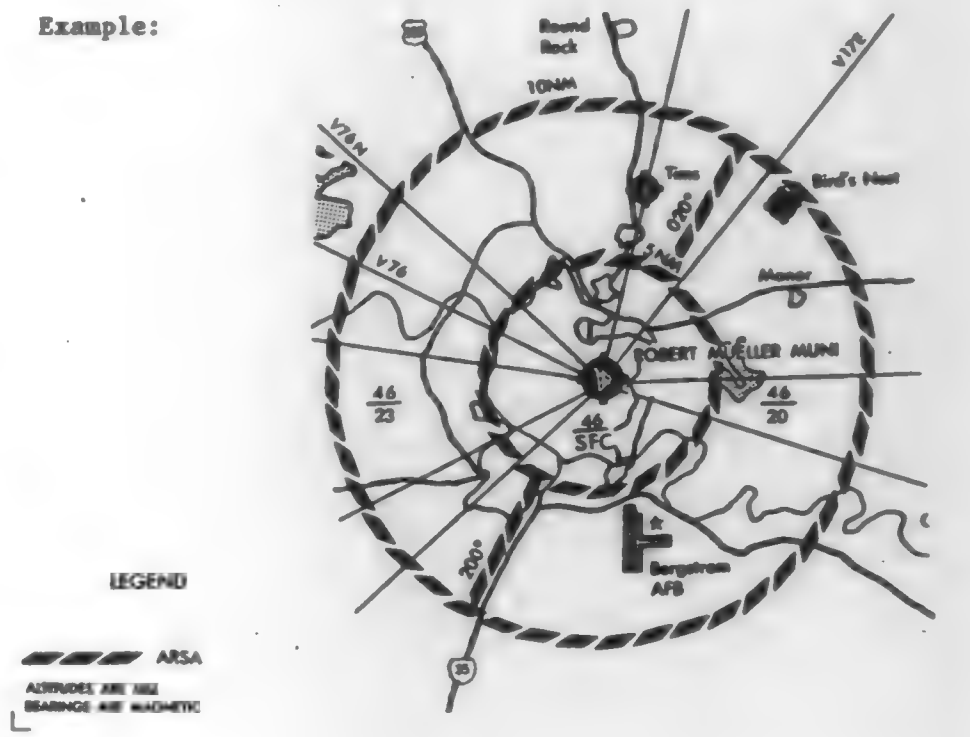
a. Box the runway pattern, excluding overruns, with a rectangle (based line oriented E-W) which touches the outermost runway on each of the four sides. Only active runways or those temporarily closed are considered.

b. Draw lines through the box from diagonal corners.

c. The intersection of the diagonals is the geographic position."

AOPA suggests the NAR Recommendation 1–2.2.8 (Education) should be accomplished before the confirmation period begins. The FAA agrees that the recommended education should be accomplished if ARSA's are established on a national scale. However, the SFAR establishes ARSA's only at two locations and the FAA is confident the education techniques specified in Notice 83–9 are sufficient for those locations during the limited confirmation period. AOPA also proposes that the floor of airspace juxtaposed to the ARSA be raised at one of the two locations to coincide with the 1,200 feet above ground level (AGL) floor of the ARSA airspace in order to allow greater flexibility to airport operators that try to circumnavigate the 5-mile portion of the ARSA that extends to the surface. The FAA believes it premature to adjust a standing airspace description in FAR Part 71 for an action that may not be permanent. Furthermore, the FAA believes the 1,200 foot AGL vertical base of the ARSA airspace between 5 and 10 miles could be confusing to pilots and ATC, especially to pilots who are trying to remain under the base and to ATC personnel who are trying to determine when the mandatory aspects of ATC services must be applied. Therefore, the FAA has decided to segment the ARSA airspace between 5 and 10 miles and establish the floors of those segments based on altitudes above MSL. The floor of a segment represents 1,200 feet above the highest terrain in the segment. This SFAR reflects this segmentation.

Example:



AOPA also suggests that there were sufficient members of NAR Task Group 1–2.2 having reservations on any need to designate an ARSA up to 4,000 feet above the airport elevation (AAE) to bring the ARSA ceiling limit back into question. AOPA suggests that an altitude of 3,000 feet AAE be established as the ceiling of one of the ARSA's. Other commenters suggest that because of the VFR crusing altitude requirements of FAR section 91.109, flights that now avoid the airport traffic area by flying at 3,000 feet above the airport would, depending on direction of flight, be required to fly an additional 2,500 feet higher. The FAA believes the ARSA altitude ceiling recommendation as presented by the task group should be used for the purpose of confirming any national application of the NAR recommendation. If national application of the ARSA is indicated during the confirmation period, the FAA will review FAR section 91.109 to determine if the FAA should propose any amendment to that section or to the ARSA description.

A number of commenters believe that national implementation of ARSA's

should not be based solely on the operational acceptance of the ARSA's at the two selected sites. The FAA does not propose to implement additional ARSA's without first seeking public comment. Several commenters suggest that a standardized statement should "tell" the pilot that he has permission to enter an ARSA. Obtaining permission (authorization) to enter an ARSA is not a requirement of the rule unless the two-way radio communications requirement of the rule cannot be met. Pilots have "permission" to enter an ARSA when they meet the two-way radio communications requirement of the SFAR.

A number of commenters believe the proposed SFAR would cause the density of traffic to increase in the airspace adjacent to the ARSA because an increased number of overflights would be forced under or around the outside of the ARSA in attempting to avoid the ARSA. The FAA does not believe that the overflight operators currently participating in the voluntary provision of the TRSA's would elect to forego the similar services of an ARSA merely because of the new two-way radio communications requirement of the SFAR. This is especially true since FAR section 91.85 now requires any operator of any overflight to obtain an ATC authorization before conducting an overflight in an airport traffic area. Several commenters, mostly sailplane operators, object to the two-way radio requirement of the SFAR. An FAA review of airport operations within a 15 nautical mile radius of Austin and Columbus indicated that no sailplane operations would be directly affected by the SFAR. However, if for reasons of efficiency or safety, an operator cannot meet, or is incapable of meeting, the two-way radio communications requirement of the SFAR, that operator may request and, as appropriate, receive authorization from ATC.

Contrary to one commenter's belief, the 5 mile "core" and the airspace between 1 and 10 miles of the ARSA are not separate recommendations of the NAR task group and therefore were not treated separately in Notice 83–9.

The Airline Pilots Association (ALPA), while generally favoring the SFAR, objects to provisions in the SFAR which would allow ultralight and parachute jump operations to be conducted in the ARSA under ATC authorizations because Notice 83–9 did not address the issue of ATC separation service between any such authorized operations and aircraft operations. Under existing regulation, ultralight and parachute jump operations must obtain an authorization before conducting such operations in a control zone. Ultralight operations are likewise restricted in airport traffic areas. Any ATC element that issues an authorization must ensure that an acceptable level of safety is provided for the authorized and any other affected operations, e.g., segregation, advisories, etc. The FAA does not intend any changes in these requirements. Further, ALPA suggests the phrase "conflict resolution" when relating to ATC services should be replaced with the words "ensure aircraft do not conflict." For the purposes of this SFAR the procedure referred to as conflict resolution means that ATC will initiate action designed to ensure that aircraft do not conflict. ALPA also questions the adequacy and accuracy of terminal radars which permit a reduction of separation from the current minimums to simply ensuring that the aircrafts' radar targets do not merge with each other. Conflict resolution, for the purpose of this confirmation, is a procedure, not a separation minimum, and may be equated to the current merging target procedures in FAA Order 7110.65. Under merging target procedures, however, the controller is directed to vector an aircraft to avoid a potential merging target only upon the pilot's request. Under conflict resolution procedures the controller must initiate actions to ensure that the radar targets do not merge, i.e., the pilot's request for a vector is not a prerequisite for applying conflict resolution procedures. Any of the following conflict resolution techniques may be applied by the controller to resolve potential conflicts: (1) Vertically separate the aircraft by 500 feet; (2) assign the separation responsibility to the pilot if one of the pilots has the other aircraft in sight; or (3) vector one or both aircraft to ensure that the aircraft radar targets do not merge. ALPA further expressed concern with what they believe would be a derogation in the current wake turbulence procedures if conflict resolution procedures are put into practice. The FAA has not proposed a change and no change is contemplated in the application of the wake turbulence procedures. The adoption of conflict resolution procedures will in no way replace the application of wake turbulence procedures. Also, ALPA questions the discussion in Notice 83–9 entitled, "Related Airspace Studies," which it took to mean that the ARSA may be reclassified under a separate airspace action. The intent in including this item in Notice 83–9 was to advise the aviation community that another NAR task group has reviewed the current airspace classification. The FAA is considering that group's recommendations. A copy of the task group report is in the public docket. ALPA suggests that the ARSA's be described and graphically depicted on special charts and the Class II NOTAM publication in addition to the FAA's intention to depict the ARSA on appropriate sectional charts. As stated in the Notice, the FAA plans to depict the ARSA's on the affected sectional charts. Time does not permit development of special charts and the FAA does not believe the expense of such special charts would be justified in view of the limited period of time the SFAR will be effective. This is especially true since the similarity of the ARSA with TRSA lends itself to a relatively easy transition. Nevertheless, the Class II NOTAM publication will contain appropriate announcements, depictions, and information.

One commenter, while agreeing with the proposal as it pertains to arrivals at an ARSA, believes that requiring mandatory participation by aircraft departing airports in the ARSA was unnecessary. The commenter favors making the participation voluntary for departing aircraft. The FAA believes that, for the purposes of the confirmation period, the task group recommendation should be followed in order that all aspects of the recommendation can be considered and commented on based on service experience. A number of commenters believe the period allocated for commenting was insufficient. Most of these commenters objected to an envisioned application of the ARSA provisions beyond the two confirmation locations. As noted in Notice 83–9, the FAA determined that a 30-day comment period was sufficient because of the participation of the aviation community in the development of the recommendations and especially since the SFAR only affects two locations for a limited period of time. Further, one of the purposes of the SFAR is to obtain substantive comments on ARSA's based on operational experience. Therefore, this SFAR provides for a 5-month comment period on the ARSA and any potential national application it may have.

The Air Transport Association (ATA) suggests specific separation criteria be established for use in the ARSA which would apply between an aircraft operating under VFR and an aircraft operating under IFR, i.e., 500 feet vertical and 1 mile horizontal. This new separation criteria would, they suggest, replace the ATC procedure, conflict

resolution, as described in Notice 83–9. The FAA would have considered some type of specific separation minimum for the situations ATA addresses if the selected locations had the traffic density and air carrier/general aviation mix that exists today at terminal control area (TCA) locations. However, the FAA believes the conflict resolution procedure identified in this SFAR provides an adequate level of safety for aircraft operations at the selected locations and the use of these procedures may indicate that they provide a viable alternative that could be applied to similar situations in a TCA where today a separation minimum is applied.

Several commenters believe that prospective ARSA's should be the subject of meetings with the public before the issuance of a final rule. Since the ARSA designations under this SFAR are not permanent, and their purpose is to seek operational experience under the NAR recommendation there is no need to precede this SFAR with public meetings. However if operational experience or comments received during the confirmation period indicate that follow-on ARSA action is warranted, the FAA will hold informal airspace meetings at the affected locations. A number of commenters suggest that climb corridors, similar to those in existence at some military bases years ago, should be used to confine operations into and out of Robert Mueller Municipal Airport at Austin, TX, and Port Columbus International Airport at Columbus, OH. The FAA believes an ARSA should accommodate a random flow of aircraft. Therefore, existing traffic flows at the selected terminal areas should remain virtually unchanged with an ARSA. A climb corridor would drastically change those traffic flows by requiring affected airport operations to be funneled into narrow corridors and for that reason the FAA does not believe the climb corridor is a valid replacement for either an ARSA or TRSA. Several commenters object to what they perceived as a proposal to require aircraft to be equipped with transponders for operations in ARSA. Others believe that the two-way radio communications requirement of the ARSA was simply a first step to requiring transponders. One commenter suggests that transponders be required for aircraft operations in the ARSA. The task group did not recommend requiring transponders, and the FAA does not evision any need in the near future to require aircraft operating in an ARSA to be equipped with transponders.

A number of commenters believe that the ARSA would cause an increase in the number of aircraft using ATC radio frequencies and thereby cause two-way radio congestion. The FAA recognizes this as a potential problem and is prepared, should the need arise, to take appropriate actions to relieve levels of activity on ATC radio frequencies that might jeopardize safety and efficiency. Such actions could include decombining control sectors, adjusting controller functions, and redistributing overall controller workload.

One commenter requested the FAA to depict satellite airport traffic flows or patterns on aeronautical charts. The FAA believes that such depiction would tend to increase chart clutter and therefore would be more detrimental than beneficial. Another commenter believes that there are no departure traffic patterns except those in FAR Part 93. FAR Part 1, in pertinent part, defines a traffic pattern as either an arrival or departure traffic flow. FAR section 91.89, requires departure operations conducted at an airport without a control tower to comply with any FAA traffic pattern. Such traffic patterns may be specified under an FAR Part 157 determination on any new or altered airport, or under a revised determination issued for reasons of safety. When such traffic patterns are established, corresponding aeronautical information is published in the Airport/Facility Directory. Another commenter believes the ARSA would render existing training areas unusable. The FAA is not aware of any training areas in the ARSA airspace between 5 and 10 miles that conflict with the existing airport traffic flows. Nonconflicting training areas may continue to exist under appropriate ATC authorizations or letters of agreement containing ATC authorizations with the facility having jurisdiction over the ARSA. It should be noted that any operations conducted in training areas within the 5 mile "core" currently are conducted under the airport traffic area requirements of FAR Sections 91.85 and 91.87 and no new requirements are contemplated for such operations in the ARSA.

The Experimental Aircraft Association (EAA) stated it supports the task group recommendation to eliminate the present TRSA program and establish a new ARSA concept in terms of design criteria, service, and standardization, on the basis of voluntary participation. EAA favors a totally voluntary participation ARSA and believes that controllers would be able to determine, by the use of radar, any hazardous situation developing between a participant and a nonparticipant and take appropriate action. In such a situation, the action would have to be the controller requiring a participant to take action to avoid a nonparticipant even though it may be the nonparticipant that is creating the potential conflict. Thus, if the mandatory aspects of ATC services in an ARSA were to be applied to a voluntary participation ARSA, then total accountability would rest solely on participants and ATC in avoiding nonparticipants. The FAA is not convinced the EAA recommendation is a viable alternative to the task group recommendation and specific comments are requested on this suggested modification of the NAR recommendation.

Adoption of NAR Recommendations

After reviewing the NAR recommendations published in Notice 83–9 in the light of comments received, the FAA believes the potential safety and efficiency benefits to be realized justify the issuance of a SFAR to implement the task group recommendation at two locations. Implementation of these recommendations is limited to establishing ARSA's to replace the Austin, TX, and Columbus, OH, TRSA's to determine national applicability of the NAR recommendations. The FAA's action with respect to each of the recommendations is set forth below.

NAR 1–2.2.1 Replace TRSA's With ARSA's and ARSA Services

The FAA will confirm the ARSA concept at two airports. During the confirmation period, the TRSA's at the designated locations will be suspended by NOTAM. To the extent the operational confirmation demonstrates a realistic standard that has national applicability, general rulemaking will be initiated to replace appropriate TRSA's with ARSA's.

NAR 1–2.2.2 Inner Area (Core) Size and Operating Requirements

The physical dimensions of the ARSA and the operating requirements recommended by the task group are adopted except that the floors of the airspace between 5 and 10 miles will be segmented and expressed in altitudes above MSL instead of AGL because of variations in terrain elevations. This deviation is in the spirit of the task group's recommendations and every effort will be made to ensure that the ARSA airspace between 5 and 10 miles will be segmented only as necessary.

NAR 1–2.2.3 Outer Area Limits and Operating Requirements

The airspace that would have been affected by this recommendation is currently designated as controlled airspace. Since the task group has not proposed any new operating requirements for that airspace, rulemaking is not required.

NAR 1–2.2.4 ATC Services

The ATC services that the task group recommended the FAA provide within the ARSA will be implemented under the FAA directives system. The services which will be mandatorily applied by ATC in the ARSA will be available to pilots on a voluntary participation basis elsewhere in the approach control's area of jurisdiction. These services will be in addition to the services and separation currently applied to aircraft operating under IFR. Specifically, ATC will: (1) resolve potential conflictions between aircraft operating under IFR and aircraft operating under VFR so that those aircraft's radar targets do not merge; and (2) provide traffic advisory service and arrival sequencing to aircraft.

NAR 1–2.2.6 Airspace Designation Criteria

The Austin, TX, and Columbus, OH, Airports meet the airspace disignation criteria recommended by the task group.

NAR 1–2.2.7 Charting

During the confirmation period, the affected sectional charts will depict the ARSA as designated in the SFAR.

NAR 1–2.2.8 Education

Education activities will be directed toward the two confirmation locations and the task group recommendations will be further considered in the light of information developed during the confirmation period. For each ARSA, the FAA will conduct informal user briefings in the local areas affected and issue "letters to airmen" to pilots in the surrounding areas. These actions are designed to explain the mandatory nature of the ACT services described above (NAR 1–2.2.4 ATC Services).

Related Airspace Studies

Coincidental with this action, another NAR Task Group (1–7) is considering a proposal that would classify all U.S. airspace except special use airspace. Classification of airspace has been a topic of discussion for sometime especially by the International Civil Aviation Organization (ICAO). The U.S. airspace system has become increasingly complex in recent years, as it has been subdivided and modified in order to accommodate new and changing operational requirements. The objective of the U.S. airspace classification effort would be to simplify the system and provide compatible interface with bordering countries. The ARSA could be easily incorporated into the overall classification plan for terminal radar locations currently under consideration.

Synopsis of the Rule

This SFAR describes a new type of airspace assignment, designates airspace within that description at two locations, Austin, TX, and Columbus, OH, airports, and prescribes operating rules for aircraft, ultralight vehicles, and parachute jump operations associated with the airspace assignments. The ATC services addressed above are an essential part of the overall SFAR and will be provided through appropriate ATC clearances, instructions, and advisories. These rules and airspace assignments will not replace any existing FAR Part 71 airspace rule or assignment; or any airport traffic area as defined by FAR Part 1 and within which FAR Part 91 rules apply. Operations under the proposed SFAR must be in compliance with all other applicable regulations and rules.

For aircraft arriving at any airport within the ARSA, prior to entering the ARSA: (1) Two-way radio communications must be established with ATC; and (2) while in the ARSA, two-way radio communications must be maintained with ATC. For aircraft departing from the primary airport in the ARSA, two-way radio communications must be maintained with ATC while operating in the ARSA. For aircraft departing a satellite airport or heliport within the ARSA, as soon as practicable after takeoff, two-way radio communications must be established with ATC, and therefore maintained with ATC while operating within the ARSA.

All aircraft operating within an ARSA are required to comply with all ATC clearances and instructions and any FAA arrival or departure traffic pattern for the airport of intended operation. However, the rule permits ATC to authorize appropriate deviations to any of the operating requirements of the SFAR when safety considerations justify the deviation or more efficient utilization of the airspace can be attained.

Economic Impact

The FAA conducted a detailed regulatory evaluation which is included in the regulatory docket. Based on a review of local airport traffic control tower (ATCT) operations data, the National Transportation Safety Board (NTSB) accident data file and the FAA Accident/Incident Data System, the FAA has determined that the provisions of this SFAR provide cost savings to society in general and certain general aviation (GA) operators that outweigh the additional costs imposed on those operators. Specifically, the benefits will be proposed to society in terms of a reduction in midair collisions (MAC's) as a result of the ARSA two-way communications requirement and arrival sequencing service. Benefits to certain GA operators will also be realized by the reduction of aircraft separation minimums as well as airspace simplicity. The provisions of this SFAR impose new costs on certain GA operators in terms of additional delays that may be incurred because of the possibility of receiving ATC instructions or clearances which would delay access to the ARSA. Additionally, the Federal Government will incur costs associated with educating the airmen populace in the lead site locations. There are no costs associated with: (1) Avionics upgrading; (2) FAA recurring program administration; (3) materials; (4) sectional charting; or (5) circuituous routing operations.

Benefits

Implementing the proposed ARSA's is expected to provide three primary benefits: (1) A reduction in MAC occurrences; (2) operating cost savings due to reduced separation minimums; and (3) airspace simplicity.

Society is expected to benefit from a reduction in MAC's as a result of the ARSA mandatory two-way communications requirement and ATC's arrival sequencing service. These provisions provide a mechanism for reducing the amount of unknown traffic and thus the incidence of MAC's.

The FAA conducted an extensive review of MAC accidents that occurred during the period of 1978–1982. Data was derived from NTSB accident reports and the FAA Accident/Incident Data System. The FAA determined that 34 accidents that would have been preventable at an ARSA location occurred at 136 airports which employ TRSA services. FAA then developed a regression analysis for these accidents per airport providing TRSA services over a 5-year period as a function of annual aircraft operations based on 1982 operations. The result of this regression analysis is a nonlinear equation that determines the annual number of expected MAC's based on annual airport operations at airports that provide TRSA services.

The equation is:

$$c=.027(n)^{1.80}$$

where c=annual expected number of MAC's
.027 and 1.80=the coefficients which yielded the least error between the actual and estimated number of collisions and
n=annual operations in units of 100,000. FAA assumes n=2.0, for Austin, Texas, and 2.6, for Columbus, Ohio, in 1984 and increases by 5 percent annually.

Solving the equation for Austin, the number of annual expected ARSA-preventable MAC's will range from 0.094 in 1984 to 0.190 in 1992, or a total 1.24 expected preventable MAC's over the 9-year period.

Solving the equation for Columbus, the number of annual expected ARSA preventable MAC's will range from 0.151 in 1984 to 0.304 in 1992, or a total of 1.98 expected preventable MAC's over the 9-year period.

Next, the FAA considered the costs of a MAC which include the value of lives lost, injuries, and aircraft damage. Based on a review of FAA and NTSB accident data, published aviation activity and cost reports, the FAA determined that the average weighted cost per MAC (assuming two GA aircraft are involved) in 1983 dollars is $1,644,000. This determination considers such factors as different types of GA aircraft, average numbers of occupants on board, probabilities of fatalities, injuries, and aircraft damage associated with relevant costs and distribution of hours flown by aircraft. By considering MAC costs associated with GA accidents, only, the minimum level of benefits is derived.

Based on the above formula and GA collision costs, the undiscounted MAC cost savings in 1984 are approximately $155,000 for Austin and $248,000 for Columbus. Tables 1 and 2 depict the estimated undiscounted benefits for years 1984 through 1992 for Austin and Columbus, respectively. These estimates incorporate a 5 percent annual increase in forecasted operations.

Additionally, certain VFR operators would experience 1 minute savings in arrival time as a result of reduced separation minimums during selected nonpeak hours (operators would also benefit during peak hours; however, these benefits are examined as a tradeoff against VFR sequencing delay under costs). ATC management at the confirmation sites estimates that 12,480 operations at Austin and 6,240 operations at Columbus would benefit each year. Assuming an average GA aircraft variable operating cost (VOC) of $89.94 per hour[1], which is inflated to 1983 dollars, the undiscounted cost savings in 1984 are approximately $18,700 for Austin and $9,400 for Columbus. Tables 1 and 2 depict the estimated undiscounted benefits for years 1984 through 1992 for Austin and Columbus, respectively. These estimates incorporate a 5 percent annual increase in forecasted operations.

Finally, FAA believes the simplicity of the ARSA airspace structure and the standardized services provided within the ARSA should be easier for GA operators to understand.

Costs

This SFAR imposes new costs on GA operators in terms of additional delay and costs on the Federal Government associated with educating the airman populace in the lead site locations.

FAA estimates that 36,000 and 8,667 VFR departure operations in 1984 will be impacted at Austin and Columbus, respectively, by requirements to contact clearance delivery for a departure frequency. The estimated time to accomplish this is approximately 1 minute per operation. FAA also estimates the value of operator time is $58.95 per hour (see footnote 1). This estimate assumes that these are GA operators and the mix of aircraft flown by these operators is 50 percent, 30 percent, 20 percent for single engine piston, multiengine piston, and turboprop aircraft, respectively.

Therefore, the undiscounted cost of delay due to VFR departure requirements in 1984 is approximately $35,400 for Austin and $8,500 for Columbus. Tables 1 and 2 depict the estimated undiscounted costs for years 1984 through 1992 for Austin and Columbus, respectively. These estimates incorporate a 5 percent increase in forecast operations.

Certain VFR operators are expected to experience some delay during peak hours resulting from arrival sequencing. FAA estimates that 9,360 Austin and 15,600 Columbus operations would be delayed an average 1.5 minutes per operation (delays of 2.5 minutes minus 1 minute gained from reduced separation). Based on a GA VOC of $89.94 per hour, the undiscounted cost of VFR arrival sequencing in 1984 is approximately $21,000 for Austin and $35,000 for Columbus. Undiscounted costs for years 1984 through 1992 are depicted in Tables 1 and 2 for Austin and Columbus, respectively. These estimates assume an annual increase of 5 percent in forecast operations.

Certain VFR operators could experience delay resulting from being denied immediate access into the ARSA when traffic is at or near capacity. FAA estimates that 3,120 Austin and 2,080 Columbus operations would be impacted annually with an average delay time of 3 minutes per operation. Assuming an average GA aircraft VOC of $89.94 per hour, the undiscounted cost of delay to enter a proposed ARSA in 1984 is approximately $14,000 for Austin and $9,400 for Columbus. Cost estimates are shown in Tables 1 and 2 for Austin and Columbus, respectively, for years 1984 through 1992 and assume an annual increase in operations of 5 percent.

Additionally, the Federal Government will incur a one-time only cost in 1983 to establish and provide training at Austin and Columbus. Costs include FAA salaries and fringe benefits, travel expenses, public meetings, bulletins, and letters to airmen. The estimated cost of this task is approximately $20,000 per site.

Benefit Cost Conclusion

Based on the above methodology, for Austin, the discounted value of the cost savings for the period 1983 to 1992 is approximately $1.36 million and the discounted value of the costs is $0.50 million, for a benefit cost ratio of 2.70 to 1. For Columbus, the discounted value of the cost savings for the period 1983 to 1992 is approximately $2.03 million and the discounted value of the costs is $0.40 million, for a benefit cost ratio of 5.32 to 1. This is shown in Tables 1 and 2, respectively.

International Trade Impact Analysis

This SFAR will not influence or affect international trade involving aviation products or services. No comments were received concerning the international trade impact statement in Notice 83–9. Therefore, FAA certifies that this rule will not eliminate existing, or create additional, barriers to the sale of foreign aviation products or services in the U.S. and will not eliminate or create additional barriers to the sale of U.S. aviation products and services in foreign countries.

Comments Received on the Economic Impact

Comments concerning the regulatory evaluation and regulatory flexibility determinations in Notice 83–9 were received from nine commenters. None of these comments resulted in any change to the benefit/cost considerations in this SFAR. These comments are discussed in

[1] *Economic Values for Evaluation of FAA Investment and Regulatory Programs*, U.S. DOT, FAA, September 1981.

the regulatory evaluation that is in the public docket.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have a "significant economic impact on a substantial number of small entities."

Small entities impacted by this proposed rule include operators of GA aircraft such as private businesses, fixed-base operators and corporate/executive operators. FAA estimates that a minimum of 30 and 40 of these operators at Austin and Columbus, respectively, conduct local and itinerant operations.

The costs incurred by operators in Austin would be net operating costs due to delay. The total undiscounted 1984 cost (in 1983 dollars) as shown in Table 1 is $51,829 (reduced separation standard benefits of $18,708 minus total delay costs of $70,537). Therefore, the average cost per operator in 1984 is $1,728. FAA applies an averages cost per operator because the number of annual operations for these small entities individually is not known.

The costs incurred by operators in Columbus would be net operating costs due to delay. The total undiscounted 1984 cost (in 1983 dollars) as shown in Table 2 is $43,592 (reduced separation standard benefit of $9,354 minus total delay costs of $52,946). Therefore, the average cost per operator in 1984 is $1,090. FAA applies an average cost per operator because the number of annual operations for these small entities individually is not known.

FAA and Small Business Administration published standards do not define threshold significant regulatory costs for these operators. Based on standards recently adopted by the FAA, the lowest threshold annualized cost level for a small entity group applies. The costs per operator of $1,728 and $1,090 are below the lowest threshold.

Therefore, FAA has determined that the proposed rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects

14 CFR Part 71

Airspace, Navigation (air).

14 CFR Part 91

Air traffic control, Airports, Aviation safety, Flight rules, Terminal control areas.

14 CFR Part 103

Aircraft, Aviation safety, Recreation and recreation areas, Ultralights.

14 CFR Part 105

Aircraft, Aviation safety, Recreation and recreation areas, Parachute jumps.

Accordingly, the following Special Federal Aviaton Regulation is issued, effective December 22, 1983, through December 21, 1984, for Austin, TX, and January 19, 1984, through January 18, 1985, for Columbus, OH and added to 14 CFR Parts 71, 91, 103, and 105:

Special Federal Aviation Regulation No. 45

Contrary provisions of the Federal Aviation Regulations notwithstanding,

1. The Robert Mueller Municipal Airport, Austin, TX, and the Port Columbus International Airport, Columbus, OH, are designated Airport Radar Service Areas (ARSA) airports at which, unless otherwise provided for in a Notice to Airmen issued by the ARSA facility, radar services will be provided continuously.

2. For purposes of this Special Federal Aviation Regulation:

(a) The Austin, TX, ARSA is that airspace extending upward from the surface to and including 4,600 feet MSL within a 5 nautical mile radius of the Robert Mueller Municipal Airport and that airspace extending upward from 2,000 feet MSL to 4,600 feet MSL within a 10 nautical mile radius of Robert Mueller Municipal Airport from the 027° true bearing from the airport clockwise to the 207° true bearing from the airport and that airspace extending upward from 2,300 feet MSL to 4,600 feet MSL within a 10 nautical mile radius of the airport from the 207° true bearing from the airport clockwise to the 027° true bearing from the airport.

(b) The Columbus, OH, ARSA is that airspace extending upward from the surface to and including 4,800 feet MSL within a 5 nautical mile radius of the Port Columbus International Airport and that airspace extending upward from 2,500 feet MSL to 4,800 feet MSL within a 10 nautical mile radius of Port Columbus International Airport from the 008° true bearing from the airport clockwise to the 127° true bearing from the airport and that airspace extending upward from 2,200 feet MSL to 4,800 feet MSL within a 10 nautical mile radius of the airport from the 127° true bearing from the airport clockwise to the 008° true bearing from the airport.

(c) The primary airport is the airport for which the ARSA is designated; a satellite airport is any other airport, heliport, helipad, etc., within that ARSA.

3. Unless otherwise authorized or required by ATC—

(a) Arrivals and Overflights—no person may operate an aircraft in an ARSA unless two-way radio communication is established with ATC prior to entering that ARSA and is thereafer maintained with ATC while within that ARSA;

(b) Departures—no person may operate an aircraft within an ARSA unless two-way radio communication is maintained with ATC while within that ARSA, except that for aircraft departing a satellite airport, two-way radio communication is established as soon as practicable and thereafter maintained with ATC while within that ARSA;

(c) ATC Instructions and Clearances—except in an emergency, no person may, while within an ARSA, operate an aircraft contrary to an ATC clearance or instruction;

(d) Traffic Patterns—no person may takeoff or land an aircraft within an ARSA except in compliance with FAA arrival and departure traffic patterns; and

(e) Ultralight Vehicle and Parachute Jump Operations—no person may operate an ultralight vehicle within, or make a parachute jump within or into, an ARSA except under the terms of an ATC authorization issued by the ATC facility having jurisdiction over that ARSA.

4. In addition to the required preflight actions of FAR Section 91.5, each pilot in command shall review NOTAM's pertaining to flight within an ARSA prior to conducting flight in an ARSA.

This Special Federal Aviation Regulation terminates at 12:01 a.m. local time: December 22, 1984, at Austin, TX; and January 19, 1985, at Columbus, OH, unless sooner superseded or rescinded.

(Secs. 307 and 313(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.45; and 14 CFR 11.65.)

Note.—For the reasons stated under the heading "Economic Impact," the FAA has determined that this document involves a regulation which: (1) Is not a major rule under Executive Order 12291; and (2) is not a significant rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979). Also, for the reasons stated under the heading "Regulatory Flexibility Determination," I certify that the rule will not have a significant economic impact on a substantial number of small entities. The total projected impact of the amendment may be found in a copy of the final regulatory evaluation contained in the public docket. A copy of that evaluation may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on October 3, 1983.

J. Lynn Helms,
Administrator.

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Friday
October 28, 1983

Part VI

Department of Health and Human Services

Office of Community Services

Rural Development Loan Fund; Availability of Funds and Request for Applications

VOL 48 ISS 210 OCT 28 1983 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

[Program Announcement No. OCS-84-1]

Availability of Funds and Request for Applications Under Rural Development Loan Fund

AGENCY: Office of Community Services, HHS.

ACTION: Announcement of Availability of Funds under Rural Development Loan Fund, Office of Community Services, HHS.

SUMMARY: The Office of Community Services announces the availability of funds from the Rural Development Loan Fund (RDLF) in the amount of $10,000,000 to be awarded on or before December 31, 1983. Applications will be accepted prior to November 28, 1983. Application and funding procedures are outlined below.

DATES: The deadline for the submission of applications is November 28, 1983. See the section titled "Deadline for submission of Applications".

FOR FURTHER INFORMATION CONTACT: Rural Development Loan Fund, Office of Community Services, 1200 19th Street, NW., Suite 500, Washington, D.C. 20506, Telephone: (202) 653–5675 or 254–5444.

Authority: This announcement, and the funds made available pursuant thereto, are governed by Pub. L. 97–35, Sec. 623–624, 42 U.S.C. 9812, and Sec. 681, 42 U.S.C. 9910; the Supplemental Appropriations Act of 1983; and RDLF Regulations, 45 CFR § 1076.50

Scope of This Announcement

The Office of Community Services will make available $10,000,000 in RDLF funds to be obligated on or before December 31, 1983. The funds will be made available in the form of direct loans only to intermediaries and public agencies as outlined in section entitled "Eligible Applicants," and preference will be given to non-profit organizations with previous experience in administering RDLF funds, on the basis of criteria outlined below in the section entitled "Funding Procedures and Rating Criteria, Special Considerations." This announcement applies only to the funds to be awarded as outlined herein and does not restrict the Department in the future to make loans directly to all eligible applicants, to make loan guarantees as well as direct loans or to change the priorities and conditions under which loans are made.

Purpose of Program

The purpose of the Rural Development Loan Fund is to alleviate rural poverty by promoting economic and community development activities which result in expanded opportunities for low-income rural residents to increase their *ownership of, employment in,* or *income from local economic enterprise.* In accomplishing this purpose the program seeks to provide loans at the lowest possible cost and to leverage other governmental and private resources in a coordinated attempt to arrest tendencies toward dependency, chronic unemployment, and community deterioration.

Eligible Applicants

Organizations generally eligible to receive RDLF funds are listed in current RDLF regulations at § 1076.50–3 and in newly proposed regulations at § 1076.50–3. For the purpose of funding actions to be conducted on or before December 31, 1983 only the following organizations or agencies will be eligible to receive funds: (1) Those organizations proposing to serve as intermediaries for the purpose of relending RDLF funds, and (2) public agencies which propose to utilize the funds to promote community-wide or state-wide coordinated economic or community development activities supported by a variety of resources including local or state public and private funds.

Other borrowers normally eligible to receive funds under the RDLF should apply directly to intermediaries. A list of current intermediaries is included as a part of this announcement, Appendix A. A new list of intermediaries will be published in the **Federal Register** following announcement of loan awards as of December 31, 1983.

Application Procedures

Note.—Prior to the preparation of applications, applicants should familiarize themselves with the statute, the RDLF regulations and this program announcement. The statute and the regulations contain the basic policy and terms and conditions governing RDLF loans. This program announcement does not repeat what is contained in those documents and, therefore, is not to be considered sufficient by itself as a guide for the preparation of an application for RDLF funds.

1. *Availability of Forms:* Kits containing application forms, a copy of the statute, a copy of proposed regulations governing the RDLF, and a copy of this program announcement (which includes instructions for completing applications) may be obtained by writing to: Office of Community Services, Rural Development Loan Fund, 1200 19th Street, NW., Suite 500, Washington, D.C. 20506 or by calling (202) 653–5675.

2. *Application Submission:* Applications should be submitted to: Office of Community Services, Grants Management Office, 1200 19th Street, NW., Suite 543, Washington, D.C. 20506.

The original, plus two copies of the application should be submitted.

3. *Intergovernmental Review:* The Rural Development Loan Fund is not covered by Executive Order 12371, nor the Department's regulations (45 CFR Part 100), which provide for review of proposed Federal assistance by State and local governments.

Therefore applicants for funds under this announcement are not subject to these clearance procedures and requirements. Nevertheless, applicants are urged to inform and to coordinate their activities with State and local governments where such information and coordination is appropriate or necessary for the success of the project.

Contents of Application

The first item of the application should be a "table of contents" which clearly indicates the page number where each major section and subsection of the application can be found. Please number the pages at the bottom (which will facilitate future referencing once the application becomes part of the Agency's permanent files). Applicants are instructed to use three-ring, loose-leaf binders and the labeled dividers provided in the application kit in assembling their applications.

Each application must contain the following forms and documents:

I. SF 424

Instructions for completing this form are attached to the form. Do not Complete Item 22–b.

II. Project Approval Information

Instructions for completing form: Items 1–3 will be answered in the negative. Items 4–7 and 9 are self-explanatory. If the answer to item 8 is yes, describe the beneficial or harmful effect of the project on the environment and the action that will be taken to minimize any harmful effect. If the answer to item 10 is yes, state the type of assistance, the source, amount and status (whether previous, pending or anticipated).

III. Budget Information

Instructions for completing form:

Section A: On line 1, column (a) write "RDLF Loan". In column (b)–1 write the number 13.644. In column (c) write the current unobligated balance of your existing RDLF loan portfolio (the amount available for relending). In column (d)

list the non-federal funds which support the RDLF portfolio either for administrative or loan purposes. In column (e) list the amount of your RDLF loan request. In column (f) list any nonfederal funds which will support the project. If you operate projects other than the RDLF and if staff and facilities for the operation of those projects will also be used for the RDLF, then list those projects in Section A, lines 2–4.

Section B: List the administrative costs that are assigned to each of the projects that are listed in Section A. Column (1) of Section B will show the administrative costs of the RDLF project.

Section C: Complete line 8, which corresponds to line 1, Column (f) in Section A: List sources and amounts of all non-federal funds which will support the RDLF project.

Section D: Do not complete.

Section E: Do not complete.

Section F: Complete lines 21 and 22. Use the space provided on line 23 and continuation sheets if necessary to fully explain and justify the items contained in Section B, Column (1).

IV. Project Narrative

Instructions for completing this part: The program narrative for all applications must follow the format outlined below:

A. *Executive Summary.* The executive summary should contain all the essential elements of the project including the amount of funds requested, loan duration, name and location of applicant, why the project is needed, goals, anticipated impact, resources to be mobilized, coordinative linkages, and applicant's experience and expertise in administering such projects. The length of the summary should not be more than two pages.

B. *Description of Applicant and Target Area.* The application must fully and accurately describe the type and nature of the organization applying for funds, and define the target area, including the population of urban areas and the population density of suburban areas. This information is vital in order to determine the eligibility of the applicant.

C. *Analysis of Needs.* The nature and extent of the problem, such as unemployment, community deterioration and inability of small businesses or families to get loans, should be described and supported with appropriate statistical data. Priority will be given to projects where the need is greatest and the nature of those needs most clearly analyzed.

D. *Project Objectives.* The project objectives are the immediately intended outcomes of project activities. They are what the project seeks to accomplish. For example, the objectives may be to enable 10 small businesses to be established through the making of loans or guarantees which leverage significant other resources in support of the borrower's undertaking. Project objectives should be measurable and should be projected on the basis of a timetable.

E. *Anticipated Impact.* Anticipated impact is the ultimately intended result or outcome of a project's activities. The ultimate purpose of all RDLF loans is to create increased employment, income or ownership opportunities for low income rural residents. Applicants should clearly indicate the extent to which the proposed project will bring this about by quantifying the number of permanent or part-time jobs or other benefits that their lending, economic development, or community development activities will ultimately produce.

F. *Project Activities.* This section simply describes the activities that must be carried out in order to reach project objectives. It is the work plan and it should set milestones or timetables for the accomplishment of various segments of the plan and should indicate the number and kinds of staff required to carry them out.

G. *Mobilization of Resources.* Each project will be expected to mobilize resources and leverage to the maximum extent possible the funds awarded. Intermediaries operating relending programs will be expected to mobilize funds to cover at least a portion of administrative expenses. They likewise will be expected to mobilize additional funds for relending *or* pursue a strategy in their relending so that their RDLF funds leverage or mobilize other funds.

For example, the RDFL project makes possible a sizeable bank loan by funding a part of the cost of the project or by guaranteeing a portion of the bank loan.

State and local governments applying for funds will be expected to mobilize significant other resources in a concerted, coordinated community or economic development effort. Preference will be given those are who are most successful in documenting that they either have or can achieve significant mobilization of other resources. Such projects will be expected to achieve at least a one-to-one match but preference will be given to those which offer a tow-to-one or greater match.

H. *Coordination.* Each applicant must demonstrate that it has established coordination linkages appropriate to its purpose and scope. Applicants proposing State-wide or community-wide economic or community development projects must show a greater degree of coordination with other agencies than those who intend merely to operate revolving loan funds. Both should show, however, that they have involved appropriate agencies in the planning process and will involve such agencies in the implementation of project activities to the extent their involvement is necessary to achieve project goals.

I. *Ability of Applicant to Perform.* Each applicant must describe recent past experience (last 2–3 years) in conducting economic or commuity development, banking, or other similar activities that would qualify it to successfully administer the proposed RDFL project. Particular attention should be paid to the experience and expertise of the staff that will run the RDFL project, the administrative capacity of the applicant agency, and the results of projects undertaken in the past. Evaluations of past efforts should be included and references (names and telephone number of project managers) of funding sources of recent projects should be included.

Applicants operating current RDLE projects must provide an assessment of the results of their loan activities to date in terms of increased permanent and part-time employment for low income residents as well as increased income and ownership opportunities. They must also show the total administrative costs to date, the number of loans made, the amount of those loans, the outstanding loans balance, the number of defaults and the amount written off as bad debts.

J. *Special Requirements for Intermediaries.* Applicants proposing to serve as intermediaries must submit the following additional information as appendices to their project narrative:

(1) Standards and criteria for relending or guaranteeing funds, including determinations of :

(a) Applicants' eligibility,

(b) Rates of interest and other fees,

(c) Terms of loans,

(d) Repayment schedules,

(e) Collateral security,

(f) Default and collection procedures,

(g) Criteria for determining priorities or preferences in awarding funds, etc;

(2) Procedures for reviewing and approving loan applications;

(3) Plan for loan servicing;

(4) Copies of forms and relending documents, such as

(a) Application forms,

(b) Loan agreements,

(c) Promissory notes, etc; and

(5) How availability of funds will be publicized.

V. Assurances

(See forms in application kit.)

Instructions for completing forms: self-explanatory.

Interest Rates

Loans made by the Secretary pursuant to this announcement shall bear interest at a rate determined by the Secretary of the Treasury (taking into consideration the average market yeild on outstanding Treasury obligations of comparable maturity), except that for the five years following the date on which the funds are initially awarded, the rate of interest shall be 4 percentage points below the rate established by the Secretary of the Treasury, but not less than 5 percent.

Funding Procedures and Rating Criteria

Applications will be reviewed and funding decisions will be based on the criteria outlined below:

1. *Special considerations:* Congress, through the recently enacted Supplemental Appropriations Act (August, 1983), directed the Department to give priority consideration to non-profit organizations with previous experience in administering activities under the Rural Development Loan Fund on the basis of performance standards to be developed by the Department. Those performance standards are prescribed below. Such organizations must demonstrate that they have:

(1) Obligated to the maximum extent possible the loan funds originally provided them;

(2) Remitted interest payments in a timely fashion;

(3) Provided the Office of Community Services with required reports, audits etc., on a timely basis;

(4) Complied with the requirements of the regulations and loan agreement; and

(5) Resolved any outstanding audit or programmatic issues that have been raised by OCS.

2. *Rating Criteria:* Applications will be reviewed and rated on the basis of the criteria listed below. The criteria are presented in the order of their importance:

(1) *Ability of Applicant to Perform:*

- Staff is adequate and has appropriate experience and expertise;
- past administrative practices have been characterized by efficiency and cost effectiveness; and
- Past activities have resulted in significant achievement or impact.

(2) *Anticipated Impact:*

- The project will have a significant impact in terms of increased employment or income and ownership opportunities for low-income rural residents.

(3) *Mobilizations of Resources:*

- Administrative costs will be covered by other public or private sources.
- The project significantly leverages other public or private resources (with preference going to projects which propose a two-for-one or better match, i.e., two or more "other" dollars for each RDLF dollar invested).

(4) *Activities:*

- The activities to carry out the project are clearly described and are adequate to achieve project goals.

(5) *Goals:*

- Goals are appropriately related to needs, are realistic, have timetables and are specific and measurable.

(6) *Analysis of Needs:*

- The nature and extent of the problem to be solved is adequately described and documented.

(7) Coordination:

- The applicant has significantly involved other appropriate organizations in the planning of the project and has secured commitments to help carry out the project.

3. *Other Factors:* In addition to the above special considerations and rating criteria, the Director reserves the right, at his discretion, to entertain additional factors in reaching funding decisions, such as:

(1) Geographical spread (based on relative needs);

(2) Information other than that supplied by an applicant; and

(3) The desirability of funding a variety or mix of different types of applicant, etc.

Reviewing officials will be OCS staff. The deciding official will be the Director of OCS and his decisions will be final.

Deadlines for Submission of Applications

A. *Deadlines.* The deadline for the receipt of applications is November 28, 1983. Applications shall be considered as meeting this deadline if they are:

1. Received on or before the deadline date at the place specified above under "Application Submission", or

2. Sent on or before the deadline date and received by OCS in time for review. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

B. *Late applications.* Applications which do not meet the criteria in paragraph A. of this section are considered late applications. OCS shall notify each late applicant that its application will not be considered in the current competition.

Catalog of Federal Domestic Assistance No: 13.664.

Dated: October 27, 1983.

Harvey R. Vieth,

Director.

Appendix A: Intermediaries Currently Operating RDLF Loan Program

1. Blue Mountain Action Council, Inc., 19 East Poplar, Walla Walla, Washington 99632, (509) 529–4980.
Phyllis F. Pulfer, Executive Director

2. Chicanos Por La Causa, 1112 Buckeye Road, Phoenix, Arizona 85034, (602) 257–0700.
Tommy Espinoza, President

3. Coastal Enterprises, Inc., P.O. Box 268, Middle Street, Wiscasset, Maine 04578, (207) 882–7552.
Ronald Phillips, Executive Director

4. Community Enterprise Development Corp. of Alaska, 1011 East Tudor Road, Anchorage, Alaska 99503, (907) 562–2322.
Perry Eaton, President

Intermediary

5. Corporation for New Enterprise Development, 560 2nd Street, Natchitoches, Louisiana 71457, (318) 352–7961.
Joseph E. Le Brum, President

6. Delta Foundation, P.O. Box 588, 819 Main Street, Greenville, Mississippi 38701, (601) 335–5291.
Charles Bannerman, Executive Director

7. Housing Assistance Council, 1025 Vermont Avenue, N.W., Washington, D.C. 20005, (202) 842–8600.
Harold Wilson, Executive Director

8. Impact Seven, Inc., P.O. Box 335, Turtle Lake, Wisconsin 54889, (715) 986–4469.
William Bay, Executive Director

9. Lokahi-Pacific Corporation, P.O. Box 767, Kihei, Maui, Hawaii 96753, (808) 242–5761.
Albert Flemming, Executive Director

10. Midwest Minnesota Community Development Corporation, Grey Stone Complex, 117 Pioneer, Detroit Lake, Minnesota 56501, (218) 847–3191.
Emil Marotzke, President

11. Mountain Association for Community Economic Development, 213 Short Street, Berea, Kentucky 40403, (606) 986–8497.
William Duncan, President

12. National Rural Development and Finance Corporation, 1300 19th Street, Suite 360, Washington, D.C. 20506.
Neal Nathanson, President

13. North Carolina Rural Fund for Development, P.O. Box 3415, New Bern, North Carolina 28560, (919) 638–3041.

Royce Jordan, Executive Director

14. Northern Community Investment Corp., P.O. Box 396, St. Johnsbury, Vermont 05819, (802) 748–5101.

Stephen C. McConnell, Executive Vice President

15. Rural America, 1900 M Street, Suite 320, Washington, D.C. 20036, (202) 659–2800.

David Raphael, Executive Director

16. Southern Cooperative Development Fund, 1006 Surrey Street, P.O. Box 3885, Lafayette, Louisiana 70501, (318) 232–9206.

Marvin Beaulieu, Executive Vice President

17. Southwest Virginia Community Development Fund, 401 First Street, N.W., Roanoke, Virginia 24016, (703) 344–6624.

Stanley R. Hale, President

[FR Doc. 83–29562 Filed 10–27–83; 11:05 am]

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VOL
48
ISS
2
1
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OC
28
1983
UMI

IN
FE
450
452
453
455
457
460
462
464
467
469
482
484
486
487
489
492
494
496
498

Reader Aids

Federal Register

Vol. 48, No. 210

Friday, October 28, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093–45218.....3
45219–45370.....4
45371–45522.....5
45523–45752.....6
45753–46004.....7
46005–46258.....11
46259–46486.....12
46487–46730.....13
46731–46962.....14
46963–48214.....17
48215–48438.....18
48439–48642.....19
48643–48792.....20
48793–48996.....21
48997–49204.....24
49205–49498.....25
49499–49650.....26
49651–49836.....27
49837–50052.....28

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....45266, 46795
Ch. IV.....47976
305.....45266

3 CFR

Executive Orders:
July 15, 1875 (Revoked in part by PLO 6479).....45559
11459 (Superseded by EO 12445).....48441
12002 (See EO 12444).....48215
12214 (See EO 12444).....48215
12444.....48215
12445.....48441
12446.....48443

Proclamations:
5110.....45219
5111.....45221
5112.....45371
5113.....45523
5114.....45753
5115.....46259
5116.....46963
5117.....46965
5118.....48217
5119.....48439
5120.....49205
5121.....49207

5 CFR

Ch. XIV.....45373
213.....46261
300.....49472
335.....49472
351.....49462
430.....49472
431.....49472
451.....49472
531.....49472
532.....49472
540.....49472
551.....49494
771.....49472
752.....45525
1255.....45373

Proposed Rules:
Ch. I.....47990
Ch. III.....47982
293.....49492
550.....49023

7 CFR

Ch. IV.....48449
27.....49209
2.....46261, 48449
28.....48997
51.....46487
247.....46731
301.....46262, 48449
319.....46732
752.....45526
900.....45374
908.....45526, 46488, 48643
910.....45374, 45755, 46961, 48793, 49837
919.....45374
929.....45374
981.....45374
989.....49214
991.....45374, 48219
1065.....48793
1093.....48996
1205.....48451
1435.....45374
1901.....45532
1945.....48999
1951.....48967
1955.....48967
1962.....48967
1965.....48967

Proposed Rules:
Subtitle A.....47236
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
Ch. VI.....47236
Ch. VII.....47236
Ch. XI.....47236
Ch. XIV.....47236
Ch. XVII.....47236
Ch. XVIII.....47236
226.....45779
278.....49863
279.....49863
402.....46062
411.....48675
421.....49250
441.....45782
781.....46065
904.....45786
910.....45565
966.....46544
981.....49254
983.....49025
1065.....45117
1093.....49512
1125.....49255
1131.....46343
1133.....49255
1139.....46797
1207.....49026
1446.....48471
1700.....48830
1701.....48472

8 CFR

100.....48794
103.....45093, 49499, 49651
214.....45093, 48452, 48999

238.....45093, 48796
246.....45093

Proposed Rules:
Ch. I.....47530
103.....48242

9 CFR
92.....49499
166.....48643

Proposed Rules:
Ch. I.....47236
Ch. II.....47236
Ch. III.....47236
92.....46355, 49000
101.....48679
113.....48679
317.....45118
318.....48242
319.....45118
325.....46996
350.....45755
362.....45755
381.....45118, 46996, 48224

10 CFR
2.....46489
50.....46489
55.....45223
71.....45381
95.....48644
458.....48622
761.....45746
710.....45499

Proposed Rules:
Ch. I.....48156
Ch. II.....47324
Ch. III.....47324
Ch. X.....47324
50.....45787
60.....48473
140.....48474

11 CFR
114.....48650
9001.....49653
9002.....49653
9003.....49653
9004.....49653
9005.....49653
9006.....49653
9007.....49653
9012.....49653

12 CFR
5.....48452
7.....46502, 48452
29.....45532
34.....49216
204.....46005, 48262
207.....45533, 48219, 48796
217.....45756, 46262, 49654
220.....45533, 48219
221.....45533, 48219, 48797
224.....45533
226.....48219
561.....45382
563.....45382, 48455
760.....48004

Proposed Rules:
Ch. I.....47716
Ch. II.....46996
Ch. V.....48110
Ch. VI.....48074
Ch. VII.....46150

5.....49291
29.....47001
215.....49293
224.....49295
304.....49517
349.....49517
701.....48630

13 CFR
101.....45224
123.....45225
136.....46008

Proposed Rules:
Ch. I.....48020
Ch. III.....47254

14 CFR
21.....48796, 49216
39.....45093, 45535, 46008, 46009, 46503, 46969, 48220, 48222, 48801–48804, 49837, 49838
71.....45094, 45095, 45536, 45537, 46010, 46503, 48805, 49500, 49501, 50038
91.....50038
95.....46504
97.....45096, 49001
103.....50038
105.....50038
205.....46264
248.....46265
294.....46265
320.....45236
380.....46265
389.....45758

Proposed Rules:
Ch. I.....46358, 47582, 48681, 49659
Ch. II.....47003, 48038
Ch. V.....47972
21.....45214, 45565
25.....46218, 46250
29.....46250
39.....46070, 49296, 49297
43.....48364
61.....45214
65.....45214
71.....45118, 45566, 48244, 48831, 49863, 49864
91.....48364
107.....45214
109.....45214
121.....45214, 46218, 46250, 48364
127.....48364
135.....45214, 48364
145.....45214
320.....48832

15 CFR

Proposed Rules:
Subtitle A.....47254
Ch. I.....47254
Ch. III.....47254, 49659
Ch. IV.....47254
Ch. VIII.....47254
Ch. IX.....47254
Ch. XXIII.....47254

16 CFR
13.....48651, 49217, 49225, 49839
305.....49654
453.....45537

Proposed Rules:
Ch. I.....48120
Ch. II.....48064
13.....49299, 49865
300.....48682
301.....48682
303.....48683
305.....49660
1212.....45405
1500.....45567
1513.....45567

17 CFR
1.....49003, 49501
145.....46010, 48223, 49839
146.....46010, 48223
147.....46010, 48223
229.....46012
230.....46012, 46736
231.....46012, 46969
239.....45386, 46012
240.....46012, 46736
241.....46012
270.....46012
274.....46012
300.....49840

Proposed Rules:
Ch. I.....48056
Ch. II.....48190
33.....46797
230.....46801
240.....45119, 48245
249.....48245

18 CFR
2.....46012
4.....49010
6.....49010
35.....46012, 46970
154.....49655
157.....46021
270.....48223
271.....45097, 46266–46268, 48223, 49010, 49503, 49505
274.....45097, 49505
282.....45758
301.....46970
375.....49010
385.....45388

Proposed Rules:
Ch. I.....48104
2.....49028
4.....49028, 49520
11.....49520
32.....49028
101.....46361
104.....46361
141.....46361
154.....46361, 47003, 49028
157.....47003
159.....46361
201.....46361
204.....46361
260.....46361
270.....49028
271.....46071, 49032, 49033
273.....49028
274.....49033
275.....47003
282.....45787
292.....49028
300.....49301
410.....45568

19 CFR
4.....46510, 46978, 48653
7.....46740
10.....46510, 46740
18.....48655, 49655
22.....46740
101.....45536
103.....45538
113.....46740
134.....48657
145.....46740
148.....46978
158.....46740
191.....46740
210.....45544

Proposed Rules:
Ch. I.....46805, 47724
4.....46808, 46810
18.....46812
101.....45409
123.....46812
144.....46812

20 CFR
404.....46142
626.....48744
632.....48744
633.....48744
634.....48744
635.....49198
636.....48744
684.....48744

Proposed Rules:
Ch. I.....47538
Ch. II.....48012
Ch. III.....47340
Ch. IV.....47538
Ch. V.....47538
Ch. VI.....47538
10.....48249
416.....48684
422.....46072, 47008

21 CFR
81.....45237, 45760, 46022, 49233
109.....45544
131.....45545
133.....49012
175.....48228
178.....46773, 46774
179.....46022
182.....48805
184.....48456, 48457, 48805
186.....48456, 48457
193.....45547
211.....46979
430.....46270
436.....46270, 49656
442.....46270, 49656
520.....46979, 48229, 49841
522.....46023, 48229, 48659, 49233, 49656
540.....45760
558.....45102, 46023, 46024, 46514, 46515, 48659
700.....46979
800.....46979
1308.....46516

Proposed Rules:
Ch. I.....47340
122.....48836
155.....48836
182.....45121
184.....45121
211.....47008
341.....48576

351 46694
355 48304
610 ..... 46815, 47009, 49660
620 47009
630 47009
640 47009
650 47009
660 47009
680 47009
700 47008
800 47008
1040 48837

22 CFR

41 48660
201 49233

Proposed Rules:

Ch. I 47578
Ch. II 47970

23 CFR

655 46775

Proposed Rules:

Ch. I 47582
Ch. II 47582
658 46545

24 CFR

26 46980
201 46980
215 46980
221 46980
236 46980
570 ..... 45760, 46778, 46980
841 46980
882 46980
888 ..... 45547, 46980
890 46980

Proposed Rules:

Subtitle A 47418
24 ..... 46072, 46817
3280 49520

25 CFR

71 45103
114 48806

Proposed Rules:

Ch. I 47472
140 45789
216 49174

26 CFR

1 ..... 45761, 46272, 46296
4 46272
31 46296
35a 45362

Proposed Rules:

Ch. I 47730
1 ..... 47010, 48255, 49304
5c 49304
5f 48255
20 48837
25 48837
31 47010
52 48837

27 CFR

4 45549
5 ..... 45549, 46518
7 45549
9 ..... 45238, 45239, 46518–46524, 48810–48820
170 46526
240 46526

Proposed Rules:

Ch. I 47706
5 49870
9 ..... 46387, 48685

28 CFR

2 48230
50 49509
500 48968
527 48968
552 48968
571 48970
572 48972

Proposed Rules:

Ch. I 47530

29 CFR

4 49736
1601 46298
1952 48822

Proposed Rules:

Subtitle A 47538
Ch. II 47538
Ch. IV 47538
Ch. V 47538
Ch. XII 47946
Ch. XIV 47928
Ch. XVII 47538
Ch. XXV 47538
Ch. XXVI 48004
1908 45411
1910 ..... 45956, 49521
1926 45872

30 CFR

223 48661
251 46025
913 46528
917 46299
935 ..... 46027, 46301, 46530
938 45389
946 46028

Proposed Rules:

Ch. I 47538
Ch. II 47472
Ch. VII 47472
55 45336
56 45336
57 45336
58 45336
700 49174
701 49174
750 49174
755 49174
917 48255
935 45420
938 46817
953 49870

31 CFR

1 48460
51 46982
240 49014

Proposed Rules:

Subtitle A 47702
Ch. I 47702
Ch. II 47702
390 48688

32 CFR

235 48824
251 45242
706 49233

Proposed Rules:

Ch. I 47302
Ch. V 47302
Ch. VI 47302
Ch. VII 47302
Ch. XVI 48016
199 45791

33 CFR

100 ..... 45244, 46531
117 ..... 45245, 46532, 48662, 48656
130 46178
131 46178
132 46178
151 45704
155 45704
157 ..... 45718, 46985
163 48220
165 ..... 46533, 46534, 46779, 48663, 48664, 49657
166 49018

Proposed Rules:

Ch. I 47582
Ch. II 47302
Ch. IV 47582
117 48690
146 48475
150 48475
162 45798
164 46819
165 49660

34 CFR

668 45670
690 45670

Proposed Rules:

Subtitle A 47308
Ch. I 47308
Ch. II 47306
Ch. III 47308
Ch. IV 47308
Ch. V 47308
Ch. VI 47308
Ch. VII 47308
350 45568
351 45568
352 45568
353 45568
354 45568
355 45568
357 45568

35 CFR

Proposed Rules:

Ch. I 47998

36 CFR

7 ..... 46779, 46780
60 46306

Proposed Rules:

Ch. I 47472
Ch. II 47236
Ch. III 47302
Ch. VIII 47858
Ch. IX 48002
7 48257
216 45421
1190 47860

37 CFR

Proposed Rules:

Ch. I 47254
1 45424
2 45424

38 CFR

1 46685

Proposed Rules:

Ch. I 48024
21 ..... 45123, 45268, 45572, 47011

39 CFR

111 ..... 45761, 46031
447 ..... 48230, 48231
601 49019

Proposed Rules:

111 ..... 45269, 48850
3001 46545

40 CFR

51 48978
52 ..... 45245, 45246, 46046, 46047, 46309, 46986, 48664, 48665, 48978, 49020
60 ..... 46535, 46536, 48328, 48368, 49669, 49456
61 46535
81 ..... 46537, 46782, 49235
86 48598
87 46481
123 48826
180 ..... 46310, 49509
192 45926
256 46787
271 48826
420 46942
433 45105
439 49808
467 49126
469 45249
717 45765

Proposed Rules:

Ch. I 47864
51 ..... 45269, 46152, 48672
52 ..... 46081, 46391–46393, 46548, 46823, 46981, 48982, 49305, 49521, 49522, 49672, 49674
60 ..... 45701, 46224, 46472, 48932, 48960
81 ..... 46082, 46085, 46393, 46540–46553
141 45502
145 49875
162 46397
180 ..... 45573, 46395, 46396, 48476, 48477, 49524
228 45708
261 45210
271 ..... 46824, 48690, 49525
403 46944
415 49406
420 46944
439 49832
464 45573
465 45573
1502 ..... 46554, 47862
1508 46554

41 CFR

Ch 1 ..... 45392, 45557, 48462
Ch. 101 45105
1–4 48827
9–1 46987
9–7 46987
9–4 45766
9–51 45766
101–11 ..... 46310, 49236
101–25 48231

VOL 48 ISS 210 OCT 28 1983 UMI

101–35.....49236
101–36.....49236, 49240
101–37.....49240
101–37.....46827
101–41.....46788
105–61.....45392

Proposed Rules:
Ch. 1.....47948
Ch. 4.....47226
Ch. 5.....48305
Ch. 9.....47324
Ch. 12.....47582
Ch. 13.....47254
Ch. 14.....47472
Ch. 25.....47980
Ch. 29.....47538
Ch. 60.....47538
Ch. 101.....47948
Ch. 105.....47948
101–41.....46554

42 CFR

51c.....45558
52b.....45558
55a.....45558
56.....45558
57.....45112
110.....45250
122.....45558
405.....45766, 48467
409.....48467
489.....48467

Proposed Rules:
Ch. I.....47340
Ch. III.....47340
Ch. IV.....47340

43 CFR

Subtitle A.....45654
3160.....48916

Public Land Orders:
44 (Revoked by PLO 6478).....45401
98 (Revoked by PLO 6478).....45401
399 (Revoked in part by PLO 6477).....45395
698 (Revoked by PLO 6473).....45393
780 (Revoked by PLO 6478).....45401
3645 (Revoked by PLO 6472).....45393
5170 (Revoked in part by PLO 6477).....45395
5179 (Revoked in part by PLO 6477).....45395
5180 (Revoked in part by PLO 6477).....45395
5184 (Revoked in part by PLO 6477).....45395
5515 (Corrected by PLO 6483).....49022
6467 (Corrected).....49242
6472.....45393
6473.....45393
6474.....45394
6475.....45394
6476.....45395
6477.....45395
6478.....45401
6479.....45559
6480.....46048
6481.....46049
6482.....46050
6483.....49022
6484.....49022

Proposed Rules:
Subtitle A.....47472
Ch. I.....47472
Ch. II.....47472
20.....49662
2620.....48400
2680.....48478

44 CFR

61.....46789
62.....46789
64.....46988, 46989, 49242, 49641
65.....46990, 48233
67.....46050, 46312, 46992

Proposed Rules:
Ch. I.....46934
9.....49876
65.....48258
67.....45425, 46085, 47014–47020, 48259, 49306–49308, 49879

45 CFR

13.....45251

Proposed Rules:
Subtitle A.....47340
Ch. II.....47340
Ch. III.....47340
Ch. VI.....47980
Ch. XI.....47978
Ch. XII.....47856
Ch. XIII.....47340

46 CFR

160.....45113
162.....45727
380.....45558
530.....48469
542.....46175
543.....46175
544.....46175

Proposed Rules:
Ch. I.....47582
Ch. IV.....45269, 48114, 49879
7.....45574
10.....46556
24.....45425
25.....45425
26.....45425
30.....45425
31.....45425
32.....45425
35.....45425
70.....45425
71.....45425
75.....45425
77.....45425
78.....45425
90.....45425
91.....45425
94.....45425
96.....45425
97.....45425
107.....45425
108.....45425
109.....45425
157.....46556
163.....45425
188.....45425
189.....45425
192.....45425
195.....45425
196.....45425
298.....46825
508.....45800
524.....45270
531.....45270, 49308
536.....45270
538.....45272
540.....49664

47 CFR

0.....45652
1.....45652, 48234
2.....45560
25.....49242
31.....49843
61.....46791
63.....46791
69.....48234
73.....45401–45403, 46994, 48234, 49852
81.....45114, 45560
83.....45114, 45560
87.....45114
97.....45652, 49244, 49861

Proposed Rules:
Ch. I.....47020, 48080
1.....49033, 49069, 49309
21.....49309
61.....49033
67.....46556, 47021
73.....45428–45438, 47023–47031, 48264, 49069, 49438, 49879–49893
83.....45439
95.....49314

48 CFR

Ch. I.....46541

Proposed Rules:
Ch. 9.....47324, 49315

49 CFR

192.....48669
195.....48669
350.....48469
567.....46994
571.....46053, 46793, 48235
1033.....45257
1043.....45775
1162.....46542
1307.....46542, 46794

Proposed Rules:
Subtitle A.....47582
Ch. I.....47582
Ch. II.....47582
Ch. III.....47582
Ch. V.....47582
Ch. VI.....47582
Ch. X.....46399, 48134
27.....46399
171.....48483
172.....48483
173.....48483
192.....49665
195.....46589
218.....45272
231.....49666
450.....49074
451.....49074
452.....49074
453.....49074
571.....47032, 48483, 48622, 49075
1039.....45137
1155.....45440
1056.....49526

50 CFR

17.....46053, 46328–46337, 49244, 49245
23.....45259, 45775
258.....48619
285.....46995
611.....45403, 46542
646.....45404
654.....46057
655.....45403, 45404
656.....45403
657.....45403
658.....46057
661.....45263
663.....48241
672.....46542
681.....46342

Proposed Rules:
Ch. I.....47472
Ch. II.....47254
Ch. III.....47254
Ch. IV.....47254, 47472
Ch. V.....47254
17.....45574, 46086, 46590, 49316
23.....45575, 49667
611.....45804, 45806, 49668, 49669
641.....49527
655.....49077
663.....45274, 48265
681.....48853

LIST OF PUBLIC LAWS

Last Listing October 27, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 1062/Pub. L. 98–137 To authorize the Secretary of the Interior to convey, without consideration, certain lands in Lane County, Oregon. (Oct. 25, 1983; 97 Stat. 864) Price: $1.50

VOL
48
ISS
2
1
0
OC
28
1983
UMI

VOL
48
ISS
2
1
1
OC
31
1983
UMI

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VOL
48
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Federal Register

Monday
October 31, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Banks, Banking
Depository Institutions Deregulation Committee

Bilingual Education
Education Department

Commodity Futures
Commodity Futures Trading Commission

Employee Benefit Plans
Pension Benefit Guaranty Corporation

Endangered and Threatened Wildlife
Fish and Wildlife Service

Estate Taxes
Internal Revenue Service

Fisheries
National Oceanic and Atmosphereic Administration

Hazardous Materials Transportation
Research and Special Programs Administration

Imports
Animal and Plant Health Inspection Service

Marketing Agreements
Agricultural Marketing Service

CONTINUED INSIDE

VOL
48
ISS
2
1
1
OC
31
1983
UMI

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Selected Subjects

National Parks
National Park Service

Natural Gas
Federal Energy Regulatory Commission

Plants (Agriculture)
Animal and Plant Health Inspection Service

Quarantine
Animal and Plant Health Inspection Service

Trade Practices
Federal Trade Commission

Contents

Federal Register
Vol. 48, No. 211
Monday, October 31, 1983

The President
EXECUTIVE ORDERS
50055 Cost Control in the Federal Government, President's Private Sector Survey on (EO 12447)
PROCLAMATIONS
50053 Poison Prevention Week, National (Proc. 5122)

Executive Agencies

Agricultural Marketing Service
RULES
50064 Oranges (Valencia) grown in Ariz. and Calif.

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food Safety and Inspection Service.

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
50064 Mares from countries affected with CEM; interim rules affirmed
Plant quarantine, foreign:
50057 Sugarcane diseases
50062 West Indian sugarcane root borer
PROPOSED RULES
Plant quarantine, foreign:
50082 West Indian sugarcane root borer; withdrawal

Civil Aeronautics Board
NOTICES
50196 Meetings; Sunshine Act

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
RULES
Domestic-exchange-traded commodity options:
50073 Margin requirements; pilot options program

Customs Service
RULES
Vessels in foreign and domestic trades:
50075 American vessels, foreign equipment purchases and repairs; correction

Defense Department
NOTICES
50147 Privacy Act; systems of records

Depository Institutions Deregulation Committee
RULES
Interest on deposits:
50067 Deposit rate ceilings deregulation
50065 Money market deposit accounts, Super-NOW accounts, and 7 to 31-day time deposits; elimination of minimum deposit requirements

Education Department
PROPOSED RULES
Bilingual education and minority language affairs:
50122 State educational agency projects for coordinating technical assistance
NOTICES
Grants; availability, etc.:
50147 Bilingual education; materials development projects
50148 Guaranteed student loan and PLUS programs; special allowances
Special education and rehabilitative services:
50149 Arbitration panel decision under the Randolph Sheppard Act

Energy Department
See Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
50077 New Hampshire
50078 South Carolina
50079 Tennessee
NOTICES
50157 Agency information collection activities under OMB review
Air quality criteria:
50159 Epichlorohydrin and vinylidene chloride; draft health assessment documents; availability
Committees; establishment, renewals, terminations, etc.:
50158 National Drinking Water Advisory Council; request for nominations
Meetings:
50157 Ozone and photochemical oxidants; health assessment document
Toxic and hazardous substances control:
50157 Premanufacture notices; monthly status reports; correction
50159 Premanufacture notices review period extensions; correction

Federal Aviation Administration
RULES
Airworthiness directives:
50069 Boeing et al.
50070 British Aerospace
50071 Gates Learjet
50068 McDonnell Douglas
50071 Piper
PROPOSED RULES
Airworthiness directives:
50083 Airbus Industrie

Federal Deposit Insurance Corporation
NOTICES
50196, 50197 Meetings; Sunshine Act (4 documents)

Federal Emergency Management Agency
PROPOSED RULES
Flood elevation determinations:
50125 North Dakota; correction
NOTICES
Disaster and emergency areas:
50159 New Mexico

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
50074 Incremental pricing; acquisition cost
PROPOSED RULES
Natural Gas Policy Act:
50085, 50086 Ceiling prices for high cost natural gas produced from tight formations; various States; Colorado (2 documents)
NOTICES
Hearings, etc.:
50152 Colorado Interstate Gas Co.
50153 Columbia Gas Transmission Corp.
50149 Connecticut Light & Power Co.
50150 Empire District Electric Co.
50153 Florida Gas Transmission Co.
50153 Inter-City Minnesota Pipelines Ltd., Inc.
50154 Mississippi River Transmission Corp.
50150 North Carolina Utilities Commission et al.
50154 Northwest Pipeline Corp.
50150 Otter Tail Power Co.
50151 Pacific Power & Light Co.
50151 Puget Sound Power & Light Co. (2 documents)
50151 Southern California Edison Co.
50196 Meetings; Sunshine Act
Natual gas companies:
50152 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (Cities Offshore Production Co. et al.)
Natural gas Policy Act:
50282, 50289 Jurisdictional agency determinations (2 documents)
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
50154 Blincoe, James H.
50155 Boott Hydropower, Inc.
50155 Broadview Heights Gas & Electric Co.
50155 Coastal States Petroleum Co.
50155 Grossmont Hospital District
50156 Hartwell Brothers
50156 Howell, James B.
50156 Nashville Thermal Transfer Corp.
50157 University Energy

Federal Home Loan Bank Board
NOTICES
Applications, etc.:
50160 Magnet Bank
50160 St. Louis Federal Savings & Loan Association

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
50160 American International Forwarders, Inc.
50160 Argonaut Maritime Co., et al.
50161 F. W. Myers (Atlantic) & Co., Inc.
50160 Frank P. Dow Co., Inc.
50161 Gray International, Inc.
50161 Interford Corp.
50161 Jet Express, Inc.
50161 Universal Shipping Corp.

Federal Reserve System
NOTICES
Applications, etc.:
50162 Barnett Banks of Florida, Inc.
50163 CB Financial Corp.
50162 Charter Financial Corp. et al.
50163 Community Bancshares, Inc.
50162 Depositors Corp.
50164 Key Banks, Inc.
50164 Mid-Southern Indiana Bancorp et al.
Bank holding companies; proposed de novo nonbank activities:
50165 Chase Manhattan Corp. et al.
50164 One Stone Corp. et al.

Federal Trade Commission
RULES
Prohibited trade practices:
50072 Bayleysuit, Inc.
50073 Foote, Cone & Belding Advertising, Inc.

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
50126 Camissonia benitensis

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
50077 Diethylcarbamazine citrate capsules; correction
50077 Monensin; correction
Color additives:
50076 D&C Red Nos. 19 and 37; provisional listing; closing date postponed
Food additives:
50076 Polymers; vinylidene chloride/methyl acrylate; correction
Human drugs, cosmetics, and medical devices:
50077 Tamper-resistant packaging requirements interim stay of effective date; correction
NOTICES
Food additive petitions:
50167 E.I. duPont de Nemours & Co.
50170 Riken Vitamin Co., Ltd.
50170 Rohm & Haas Co.
Human drugs:
50167 Heparin sodium injection; professional labeling guideline; availability

Food Safety and Inspection Service
PROPOSED RULES
Meat and poultry inspection, mandatory:
50082 Preparation and cleanup time, reimbursement; withdrawn

Health and Human Services Department
See also Food and Drug Administration; Social Security Administration.
NOTICES
Meetings:
50167 Social Security Advisory Council

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; National Park Service; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.
NOTICES
50170 Privacy Act; systems of records

Internal Revenue Service
PROPOSED RULES
Estate and gift taxes:
50087 Actuarial tables and interest factors

International Trade Administration
NOTICES
Antidumping:
50132 Rectangular welded carbon steel pipes and tubes from Korea
Countervailing duties:
50133 Canned tuna from Philippines
50140 Fresh cut roses from Israel
Scientific articles; duty free entry:
50143 Brown University et al.
50143 Robert B. Brigham Hospital et al.
50144 Columbia University
50144 Lenox Hill Hospital et al.
50145 University of California
Trade adjustment assistance determination petitions:
50131 Cochrane Furniture Co., Inc., et al.

International Trade Commission
NOTICES
Import investigations:
50178 Vertical milling machines and parts, attachments, and accessories

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
50179 Seaboard System Railroad, Inc.

Justice Department
See Parole Commission.

Land Management Bureau
NOTICES
Sale of public lands:
50174 South Dakota

National Bureau of Standards
NOTICES
Information processing standards, Federal:
50145 FORTRAN (FIPS PUB 69); nested parentheses in expressions; interpretation; correction

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
50080 Atlantic mackerel, squid and butterfish, foreign fishing
PROPOSED RULES
Fishery conservation and management:
50128 Atlantic surf clam and ocean quahog
50129 Pacific Coast groundfish
NOTICES
Marine mammal permit applications, etc.:
50145 Mystic Marinelife Aquarium (2 documents)
50146 National Marine Mammal Laboratory
50145 Seoul Grand Park Zoo

National Park Service
PROPOSED RULES
50124 Archeological, architectural, historic, and scientific properties; identification and protection; withdrawal

Nuclear Regulatory Commission
PROPOSED RULES
Rulemaking petitions:
50083 McNally, Lillian
NOTICES
Applications, etc.:
50179 Carolina Power & Light Co.
50180 Northern States Power Co.
50182 Tennessee Valley Authority
Meetings:
50183– Reactor Safeguards Advisory Committee (4
50184 documents)

Occupational Safety and Health Review Commission
NOTICES
50198 Meetings; Sunshine Act (2 documents)

Parole Commission
NOTICES
50198 Meetings; Sunshine Act

Peace Corps
NOTICES
50184 Agency information collection activities under OMB review

Pension Benefit Guaranty Corporation
PROPOSED RULES
Single-employer plans:
50111 Benefit reductions in terminated plans and recoupment of benefit overpayments

Railroad Retirement Board
NOTICES
50185 Supplemental annuity program; determination of quarterly rate of excise tax

Reclamation Bureau
NOTICES
Contract negotiations:
50175 Quarterly status tabulation of water service and repayment

Research and Special Programs Administration
RULES
50234 United Nations shipping descriptions, use of; optional hazardous materials table; amendments

Securities and Exchange Commission
NOTICES
Hearings, etc.:
50185 CCI Corp.
50186 Mobil Oil Corp.
Self-regulatory organizations; proposed rule changes:
50185 American Stock Exchange, Inc.
50187 Options Clearing Corp.

50189 Philadelphia Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
50194 Red River Ventures, Inc.

Social Security Administration
RULES
Social Security benefits:
50076 Minimum benefit provision and rounding of benefits, repeal; correction

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
50122 Indian lands program; correction

Synthetic Fuels Corporation
NOTICES
Synthetic fuels projects, competitive solicitations; availability, etc.:
50194 Bituminous coal gasification, eastern province and eastern region of interior province; amendments

Textile Agreements Implementation Committee
NOTICES
Export visa requirements; certification, etc.:
50146 Philippines

Transportation Department
See also Federal Aviation Administration; Research and Special Programs Administration.
PROPOSED RULES
50125 Nondiscrimination on the basis of handicap in programs receiving financial assistance; extension of time

Treasury Department
See also Customs Service; Internal Revenue Service.
NOTICES
50194 Agency information collection activities under OMB review

---

Separate Parts in This Issue

Part II
50234 Department of Transportation, Research and Special Programs Administration

Part III
50282 Department of Energy, Federal Energy Regulatory Commission

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12369 (Amended by EO 12447)..... 50055
12447..... 50055
Proclamations:
5122..... 50053

7 CFR
301..... 50057
318 (2 documents)..... 50057, 50062
331..... 50062
908..... 50064
Proposed Rules:
301..... 50082

9 CFR
92..... 50064
Proposed Rules:
307..... 50082
381..... 50082

10 CFR
Proposed Rules:
50..... 50083

12 CFR
1204 (2 documents)..... 50065, 50067

14 CFR
39 (5 documents)..... 50068–50071
Proposed Rules:
39..... 50083

16 CFR
13 (2 documents)..... 50072, 50073

17 CFR
33..... 50073

18 CFR
282..... 50074
Proposed Rules:
271 (2 documents)..... 50085, 50086

19 CFR
4..... 50075
10..... 50075

20 CFR
404..... 50076

21 CFR
81..... 50076
177..... 50076
211..... 50077
520..... 50077
558..... 50077
700..... 50077
800..... 50077

26 CFR
Proposed Rules:
1..... 50087
11..... 50087
20..... 50087
25..... 50087

29 CFR
Proposed Rules:
2623..... 50111

30 CFR
Proposed Rules:
750..... 50122

34 CFR
Proposed Rules:
503..... 50122

36 CFR
Proposed Rules:
1213..... 50124

40 CFR
52 (3 documents)..... 50077–50079

44 CFR
Proposed Rules:
67..... 50125

49 CFR
171..... 50234
172..... 50234
Proposed Rules:
27..... 50125

50 CFR
611..... 50080
655..... 50080
Proposed Rules:
17..... 50126
652..... 50128
663..... 50129

VOL
48
ISS
2
1
1
OC
31
1983
UMI

Federal Register
Vol. 48, No. 211
Monday, October 31, 1983

Presidential Documents

Title 3—

The President

Proclamation 5122 of October 26, 1983

National Poison Prevention Week, 1984

By the President of the United States of America

A Proclamation

Childhood poisonings continue to pose a major public health problem in the United States. Each year, more than 100,000 children are treated in hospital emergency rooms because they accidentally ingested chemical household products.

For the past 23 years, the Poison Prevention Week Council has coordinated a network of organizations which seek to raise public awareness of the importance of preventing childhood poisonings. Working together as sponsors of National Poison Prevention Week are national medical, pharmacy, nursing, dental, and hospital associations; health and safety groups; organizations representing manufacturers, packagers, and distributors of consumer products, including medicines; the media; and government agencies. Most of these groups have State and local chapters and affiliates that, along with community organizations, are the backbone of what has become a successful nationwide poison prevention program.

In recent years, the number of poisonings among children has fallen dramatically for those substances that have been required to be packaged in child-resistant closures. However, despite these successes, many childhood poisonings continue to occur. Some adults purchase regulated products in conventional rather than child-resistant packaging or, alternatively, defeat the child-resistant packaging. In addition, adults who are using potentially poisonous products sometimes are distracted for a moment by a telephone call, a doorbell, or food cooking on the stove. These seemingly innocuous distractions can have disastrous consequences if a child ingests the poisonous product. The theme of National Poison Prevention Week is "Children Act Fast . . . So Do Poisons," and this theme emphasizes how important it is that adults never leave potential poisons unattended.

To assist in encouraging the American people to learn of the dangers of accidental poisoning and to take appropriate preventive measures, the Congress, by a joint resolution approved September 26, 1961 (75 Stat. 681), requested the President to issue annually a proclamation designating the third week in March as National Poison Prevention Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning March 18, 1984, as National Poison Prevention Week.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of October, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-29566
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VOL
48
ISS
2
1
1
OC
31
1983
UMI

Presidential Documents

Executive Order 12447 of October 27, 1983

President's Private Sector Survey on Cost Control in the Federal Government

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), and in order to extend the life of the President's Private Sector Survey on Cost Control in the Federal Government, it is hereby ordered that Section 4(b) of Executive Order No. 12369 of June 30, 1982, as amended, is further amended to read:

"The Committee shall terminate on December 31, 1983, unless sooner extended.".

Ronald Reagan

THE WHITE HOUSE,
October 27, 1983.

[FR Doc. 83-29686
Filed 10-28-83; 11:20 am]
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VOL
48
ISS
2
1
1
OC
31
1983
UMI

Rules and Regulations

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Vol. 48, No. 211
Monday, October 31, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 82-342]

7 CFR Parts 301 and 318

Sugarcane Diseases; Domestic Quarantine Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the domestic quarantine notices by adding a new subpart in 7 CFR Part 301 to quarantine Hawaii and Puerto Rico because of leaf scald disease and to continue quarantining Puerto Rico because of gummosis disease, and to establish restrictions on the interstate movement of certain articles from Hawaii and Puerto Rico because of the occurrence of such sugarcane diseases. In addition, this document removes provisions in 7 CFR 318.16 and 318.16a concerning restrictions on the interstate movement of certain articles from Hawaii, Puerto Rico and the Virgin Islands of the United States because of gummosis disease. This action appears necessary to update regulations and prevent the artificial spread of these sugarcane diseases into noninfected areas of the United States.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this action would not have a significant effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This document restricts the interstate movement from Hawaii and Puerto Rico of the following articles which are designated as regulated articles:

(a) Sugarcane plants, whole or in part, including true seed and bagasse, but not including pieces of cane boiled for a minimum of 30 minutes during processing into sugarcane chews;

(b) Used sugarcane processing equipment (sugarcane mill equipment, such as equipment used for extracting and refining sugarcane juice; and experimental devices, such as devices used for extracting juice);

(c) Used sugarcane field equipment (equipment used for sugarcane field production purposes, e.g. planters, tractors, discs, cultivators, and vehicles); and

(d) Any other product, article, or means of conveyance, of any character whatsoever, not covered by items (a), (b), or (c), when it is determined by an inspector that it presents a risk of spread of a sugarcane disease and the person in possession of it has actual notice that the product, article, or means of conveyance is subject to the restrictions of the regulations.

The final rule is established in lieu of restrictions that had been imposed on the interstate movement from Hawaii, Puerto Rico, and the Virgin Islands of the United States of canes of sugarcane, cuttings or parts thereof; sugarcane leaves; and bagasse.

It appears that there is little, if any, movement from Hawaii, Puerto Rico, and the Virgin Islands of the United States of the articles that are affected by this document. Further, it is not anticipated that this situation would change because of changes made by this document.

Alternatives were considered in connection with the final rule.

Consideration was given concerning whether (1) to allow the unrestricted interstate movement from Hawaii and Puerto Rico of articles designated as regulated articles, or (2) to establish a federal quarantine and regulations with respect to the interstate movement of such articles from Hawaii and Puerto Rico. Alternative (2) is adopted because it appears that without a federal quarantine and implementing regulations, the unrestricted interstate movement of such articles from Hawaii and Puerto Rico could cause the spread of gummosis disease and leaf scald disease, and thereby cause serious economic damage to sugarcane crops.

Consideration was given concerning whether (1) to list as regulated articles only those articles which were previously regulated or (2) to expand the list of regulated articles to include those articles specified as regulated articles in the final rule. Alternative (2) is adopted, because it appears that the provisions of alternative (2) are necessary to protect against the possible spread of gummosis disease and leaf scald disease.

Also, consideration was given concerning whether (1) to continue imposing restrictions on the interstate movement of articles from the Virgin Islands of the United States because of gummosis disease or (2) to remove such restrictions. Alternative 2 is adopted since it appears that gummosis disease does not occur in the Virgin Islands of the United States.

Further, it appears that there is no other feasible alternative to consider concerning the requirement that agencies choose the alternative that maximizes net benefits to society at the lowest net cost.

Effective date

The final rule is made effective on the date of publication. The final rule relieves restrictions which have been found to be unnecessary. Accordingly, prompt action should be taken to delete these restrictions. The final rule also imposes additional restrictions on the movement of articles from Hawaii and Puerto Rico. These additional restrictions are necessary to prevent the spread of gummosis disease and leaf

scald disease. Therefore, in order to prevent the spread of these diseases, good cause is found for making these additional restrictions effective less than 30 days after publication of this document in the Federal Register.

Background

In a document published in the Federal Register on February 8, 1980 (45 FR 8630–8637), the Animal and Plant Health Inspection Service proposed to add to 7 CFR Part 301 a new "Subpart—Sugarcane Diseases" to quarantine Florida and Hawaii because of sugarcane smut disease, to quarantine Hawaii and Puerto Rico because of leaf scald disease, and to continue quarantining Puerto Rico because of gummosis disease; and to establish regulations for the purpose of restricting the interstate movement of certain articles from Florida, Hawaii, and Puerto Rico because of the occurrence of such sugarcane diseases. In addition, the document of February 8, 1980, proposed to remove emergency regulations in 7 CFR 301.6 concerning restrictions on the interstate movement of certain articles from Florida because of sugarcane smut disease, to remove provisions in 7 CFR 318.16 and 318.16a concerning restrictions on the interstate movement of certain articles from Hawaii because of gummosis disease and West Indian sugarcane root borer, and to remove provisions in 7 CFR 318.16 concerning restrictions on the interstate movement of certain articles from Puerto Rico and the Virgin Islands of the United States because of gummosis disease. This document takes action with respect to the provisions of the proposal except for the provisions of the proposal relating to sugarcane smut disease and West Indian sugarcane root borer. Based on the reasons set forth in the proposal, the provisions in the proposal other than those relating to sugarcane smut and West Indian sugarcane root borer are adopted in the final rule except as otherwise explained below.

A separate document published in the Federal Register on November 12, 1982 (47 FR 51091–51092 and 51149) addressed the issues relating to sugarcane smut disease. Also, a companion document captioned "West Indian Sugarcane Root Borer" addresses the issues relating to the West Indian sugarcane root borer. The companion document (FR Doc. 83–26307) is published in the rules section in this issue of the Federal Register.

As stated in the proposal of February 8, 1980 (45 FR 8631), the provisions in 7 CFR 318.16 and 318.16a were implemented for the purpose of preventing the spread of gummosis disease and West Indian Sugarcane root borer. Changes made by this document and by the companion document captioned "West Indian sugarcane Root Borer" remove all of the provisions in 7 CFR 318.16 and 318.16a.

The document of February 8, 1980, provided that written comments were to be received on or before April 8, 1980. Also, in accordance with the notice given in the document of February 8, 1980, a public hearing concerning the proposal was held on March 11, 1980, in Orlando, Florida.

Four written comments were received in response to the proposal. In addition, three oral comments were made at the public hearing.

Several comments concerned aspects of the proposal relating to sugarcane smut disease. These comments are not discussed in this document since this document does not concern the portion of the proposal relating to sugarcane smut disease. Also, no comments were received specifically concerning the movement of articles from Hawaii because of the West Indian sugarcane root borer.

A written comment submitted by representatives of a Hawaiian sugar planters' association concerned heat treatments for certain regulated articles. Under the regulations certain seedpieces or canes of sugarcane and bagasse would be eligible to move interstate from Hawaii and Puerto Rico when accompanied by a certificate based on specified treatments involving the use of heat. The comment suggests that these articles should be allowed to move interstate for research purposes without requiring these treatments since treatments with heat could interfere with certain analysis procedures. No changes are made based on this comment. The provisions in § 301.87-5 set forth two methods for allowing the interstate movement of these articles from Hawaii and Puerto Rico without requiring heat treatments. It is provided that such articles may be moved interstate from Puerto Rico under a certificate without heat treatments if, among other things, an inspector determines, based on inspection of the article and the premises or origin, that it is free from gummosis disease and leaf scald disease. It is also provided that such articles may be moved interstate from Hawaii under a certificate without heat treatments if, among other things, an inspector determines, based on inspection of the article and the premises of origin, that it is free from leaf scald disease. Further, it is provided that such articles may be moved interstate from Hawaii and Puerto Rico under a limited permit without heat treatments if, among other things, an inspector determines, in consultation with the Deputy Administrator, that they are to be moved (1) for a specified purpose (such as for consumption or manufacturing) stated on the limited permit, other than for processing or harvesting sugarcane, and (2) to a specified destination stated on the limited permit, which is not in a county or parish where sugarcane is produced, and which is not within 10 miles of a sugarcane field. Accordingly, it appears that the rule contains adequate procedures which could be utilized to allow the interstate movement of seedpieces or canes of sugarcane and bagasse from Hawaii and Puerto Rico for research purposes without heat treatments.

It was asserted by a representative of an association of Florida sugarcane growers and harvesters and by representatives of a Hawaiian sugar planters' association that leaf scald disease has been found to occur in Florida and that action should be taken to prevent the spread of the leaf scald from infested areas in Florida. No changes are made based on this comment. Leaf scald disease has been found to occur in Florida only at a research facility at Canal Point, Florida. The research facility is operated by the U.S. Department of Agriculture. Strict measures are utilized to prevent the spread of the disease, and there does not appear to be a need for establishing a quarantine and regulations to prevent the spread of the disease from the research facility.

The representatives of the Hawaiian sugar planters' association also asserted that the proposed treatment for seedpieces (pieces of sugarcane, sets) or canes of sugarcane should be changed. The proposed treatment consisted of immersing these items in water at 52° C (126.5° F) for 45 minutes. It was asserted that this would not be sufficient to destroy leaf scald disease from infected sets. It was further asserted that more stringent treatment provisions should be established based on additional research. The Department agrees that more stringent treatment provisions should be established. Based on a further review of the literature [1] it has

[1] A list of this literature can be obtained from the Biological Assessment Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, USDA, Room 628 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

been determined that it is necessary to change the treatment provisions for seedpieces (pieces of sugarcane, sets) or canes of sugarcane to consist of presoaking the articles for 24 hours in water at room temperature and then immersing them in water at 50° C (122° F) for 3 hours. This treatment appears to be adequate to eliminate any significant risk of spread of leaf scald disease or gummosis disease. Accordingly, § 301.78-10 of the final rule reflects this change.

The representatives of the Hawaiian sugar planters' association also asserted that leaf scald disease is only seldom observed in the fields in Hawaii and poses only a minor threat to Hawaii's sugar industry. No changes are made based on these comments. The quarantine and regulations are designed to prevent the spread of leaf scald disease from Hawaii to other sugarcane growing areas in the United States. Based on departmental expertise it has been determined that it is necessary to take action to prevent the spread of leaf scald disease from Hawaii to other sugarcane growing areas in the United States because it appears that leaf scald could cause significant damage to sugarcane grown in other United States sugarcane growing areas.

The final rule also contains changes from the proposal to improve clarity and to reflect that the final rule concerns only those aspects of the proposal relating to gummosis disease and leaf scald disease.

List of Subjects

7 CFR Part 301

Agricultural commodities, Plant diseases, Plants (agriculture), Quarantine, Sugarcane, Gummosis disease, Leaf scald disease.

7 CFR Part 318

Agricultural commodities, Guam, Plant diseases, Plants (agriculture), Puerto Rico, Quarantine, Transportation, Virgin Islands, Sugarcane.

Accordingly, 7 CFR Chapter III is amended as follows:

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

§§ 318.16 and 318.16a (Subpart-Sugarcane) [Removed]

1. That portion of "Subpart—Sugarcane" (7 CFR 318.16, 318.16a) in 7 CFR Part 318 not relating to West Indian sugarcane root borer is removed. A companion document (FR Doc. 83–26307) published in the rules section of this edition of the **Federal Register** removes the portion of "Subpart-Sugarcane" which relates to the West Indian sugarcane root borer; accordingly, all of "Subpart-Sugarcane" is removed.

PART 301—DOMESTIC QUARANTINE NOTICES

2. A new "Subpart-Sugarcane Diseases" (7 CFR 301.87–301.87–10) is added to 7 CFR Part 301 to read as follows:

Subpart—Sugarcane Diseases

Quarantine and Regulations

Sec.

301.87 Quarantine; restrictions on interstate movement of specified articles.
301.87–1 Definitions.
301.87–2 Regulated articles.
301.87–3 Regulated areas.
301.87–4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.
301.87–5 Issuance and cancellation of certificates and limited permits.
301.87–6 Compliance agreement; cancellation.
301.87–7 Assembly and inspection of regulated articles.
301.87–8 Attachment and disposition of certificates and limited permits.
301.87–9 Costs and charges.
301.87–10 Treatments.

Authority: Secs. 8 and 9, 37 Stat. 318, as amended; secs. 105 and 106, 71 Stat. 32, 33 (7 U.S.C. 161, 162, 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2.

Subpart—Sugarcane Diseases

Quarantine Regulations

§ 301.87 Quarantine; restrictions on interstate movement of specified articles.[1, 2]

(a) *Notice of quarantine.* Pursuant to sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and sections 105 and 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150dd, 150ee), the Secretary of Agriculture hereby quarantines Hawaii in order to prevent the artificial spread of leaf scald disease and quarantines Puerto Rico in order to prevent the artifical spread of gummosis disease and leaf scald disease; and hereby establishes regulations governing the interstate movement from Hawaii and Puerto Rico of regulated articles described in § 301.87–2 of this subpart.

[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd).

[2] Regulations concerning the movement of gummosis bacteria and leaf scald bacteria in interstate or foreign commerce are contained in Part 330 of this chapter.

(b) *Quarantine restrictions on interstate movement of regulated articles.* No common carrier or other person shall move interstate from any regulated area any regulated article except in accordance with the conditions prescribed in this subpart.

§ 301.87–1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

Certificate. A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that the article is eligible for interstate movement in accordance with § 301.87–5(a) of this subpart.

Compliance agreement. A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, in which the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant to such provisions.

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for Plant Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

Gummosis disease. A dangerous plant disease of sugarcane which is caused by the highly infectious bacterium, *Xanthomonas vasculorum* (Cobb) Dowson, and which is not widely prevalent or distributed within and throughout the United States.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the quarantine and regulations in this subpart.

Interstate. From any State into or through any other State.

Leaf scald disease. A dangerous plant disease of sugarcane which is caused by the highly infectious bacterium, *Xanthomonas albilineans* (Ashby) Dowson, and which is not widely prevalent or distributed within and throughout the United States.

Limited permit. A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that the regulated article is eligible for interstate movement in

accordance with § 301.87–5(b) of this subpart.

Moved (movement, move). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or caused or allowed to be moved by any means. "Movement" and "move" shall be construed in accordance with this definition.

Person. Any individual, partnership, corporation, company, society, association, or other organized group.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and quarantines and regulations promulgated under these laws.

Regulated area. Any quarantined State, or any portion thereof, listed as a regulated area in § 301.87–3(c) of this subpart, or otherwise designated as a regulated area in accordance with § 301.87–3(b) of this subpart.

Regulated article. Any article listed in § 301.87–2(a), (b), or (c) or otherwise designated as a regulated article in accordance with § 301.87–2(d).

State. Any State, Territory, or District of the United States, including the Commonwealth of Puerto Rico.

Sugarcane disease. This means leaf scald disease with respect to activities in Hawaii, and means gummosis disease or leaf scald disease with respect to activities in Puerto Rico.

§ 301.87–2 Regulated articles.

(a) Sugarcane plants, whole or in part, including true seed and bagasse, but not including pieces of cane boiled for a minimum of 30 minutes during processing into sugarcane chews;

(b) Used sugarcane processing equipment (sugarcane mill equipment, such as equipment used for extracting and refining sugarcane juice; and experimental devices, such as devices used for extracting sugarcane juice);

(c) Used sugarcane field equipment (equipment used for sugarcane field production purposes, e.g. planters, tractors, discs, cultivators, and vehicles); and

(d) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraph (a), (b), or (c), when it is determined by an inspector that it presents a risk of spread of a sugarcane disease and the person in possession of it has actual notice that the product, article, or means of conveyance is subject to the restrictions of this section.

§ 301.87–3 Regulated areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a regulated area in paragraph (c) of this section, each quarantined State, or each portion thereof, in which a sugarcane disease has been found by an inspector or in which the Deputy Administrator has reason to believe that a sugarcane disease is present, or each portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to a sugarcane disease or its inseparability for quarantine enforcement purposes from localities in which a sugarcane diseas occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of a sugarcane disease.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such an area. Written notice of the designation shall be given to the owner or person in possession of the nonregulated area and, thereafter, the interstate movement of any regulated article from the area shall be subject to the applicable provisions of this subpart. As soon as practicable, the area shall be added to the list in paragraph (c) of this section or the designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas;

Hawaii

All of Hawaii.

Puerto Rico.

All of Puerto Rico.

§ 301.87–4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.[1]

Any regulated article may be moved interstate from any regulated area in a quarantined State if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.87–5 and 301.87–8 of this subpart, or

(b) Without a certificate or limited permit, if

(1) Moved directly through any regulated area, and

(2) The article originated outside of any regulated area, and

(3) the point of origin of the article is clearly indicated by shipping documents, its identity has been maintained, and it has not been used for the production of sugarcane while in the regulated area.

§ 301.87–5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the movement of a regulated article if the inspector:

(1)(i) Determines that it has been treated under the direction of an inspector [4] in accordance with § 301.87–10 of this subpart, or

(ii) Determines based on inspection of the article and the premises of origin that it is free from sugarcane diseases;[5]

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of sugarcane diseases pursuant to § 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[6] and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines applicable to the article.

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[1] Requirements under all other applicable Federal domestic plant quarantines must also be met.

[4] Treatments shall be monitored by inspectors in order to assure compliance with requirements in this subpart.

[5] The term sugarcane diseases means leaf scald disease with respect to movement of regulated articles from Hawaii and means gummosis disease and leaf scald disease with respect to movements of regulated articles from Puerto Rico.

[6] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides, among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if the inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved—

(i) For a specified purpose (such as for consumption or manufacturing) stated on the limited permit, other than for processing or harvesting sugarcane; and

(ii) To a specified destination stated on the limited permit, which is not in a county or parish where sugarcane is produced, and which is not within 10 miles of a sugarcane field;

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of sugarcane diseases pursuant to § 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[6] and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines applicable to the article.

(c) Certificates and limited permits for shipments of regulated articles may be issued by an inspector or by any person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if the person has treated the regulated article to destroy infection in accordance with the provisions of § 301.87–10 of this subpart and the inspector has made the determination that the article is otherwise eligible for a certificate in accordance with paragraph (a) of this section; or if the inspector has made the determination that the article is eligible for a certificate in accordance with paragraph (a) of this section without such treatment. Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that the article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if the inspector determines that its holder has not complied with any condition under the regulations for its use. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict under rules of practice which shall be adopted by the Administrator of the Animal and Plant Health Inspection Service, USDA, for the proceeding.

§ 301.87–6 Compliance agreement; cancellation.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[7] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, in which the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant to such provisions.

(b) Any compliance agreement may be canceled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant to such provisions. If the cancellation is oral, the decision and the reasons for the cancellation shall be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, to the Deputy Administrator within ten days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict under rules of practice which shall be adopted by the Administrator of the Animal and Plant Health Inspection Service, USDA, for the proceeding.

[7] Compliance Agreement forms are available without charge from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of Plant Protection and Quarantine. (Local offices are listed in telephone directories.)

§ 301.87–7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.87–5(c) of this subpart) who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector [8] to take any necessary action under this subpart prior to movement of the regulated article.

(b) The regulated article shall be assembled at whatever point and in whatever manner the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.87–8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at all times during such movement, shall be securely attached to the outside of the container containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document; provided however, that the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping document only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify the article.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.87–9 Costs and Charges.

The services of the inspector shall be furnished without cost. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

§ 301.87–10 Treatments.

Treatment for regulated articles shall be as follows:

(a) Seedpieces (pieces of sugarcane, sets) or canes of sugarcane: Presoak for

[8] Inspectors are assigned to local offices of Plant Protection and Quarantine, which are listed in telephone directories. Information concerning local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

24 hours in water at room temperature and then immerse in water at 50° C (122° F) for 3 hours.

Note.—Some seedpieces or canes of sugarcane which have germinated may be damaged by this procedure.

(b) True seed (fuzz): Immerse in 0.525 percent sodium hypochlorite solution for 30 minutes (solution shall contain 1 part of solution containing 5.25 percent sodium hypochlorite with 9 parts water by volume). Air dry at least 8 hours before packaging.

(c) Bagasse: Subject to dry heat at 70° C (158° F) for 2 hours.

(d) Sugarcane harvesting and processing equipment: Remove all debris and soil from the equipment with water at high pressure (at least 300 pounds per square inch) or with steam.

Authority

Sections 8 and 9, 37 Stat. 318, as amended; sections 105 and 106, 71 Stat. 32, 33 (7 U.S.C. 161, 162, 150dd, 150ee); 7 CFR sections 2.17, 2.51, and 371.2.

Done at Washington, D.C. this 22nd day of September 1983.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-28309 Filed 10-28-83; 8:45 am]

BILLING CODE 3410-34-M

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7 CFR Parts 318 and 331

[Docket No. 82-341]

West Indian Sugarcane Root Borer

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document removes provisions in 7 CFR 318.16 and 318.16a concerning restrictions on the interstate movement of certain articles from Hawaii, Puerto Rico, and the Virgin Islands of the United States because of the West Indian sugarcane root borer (root borer); and removes emergency regulations in 7 CFR 331.7 concerning restrictions on the interstate movement of certain articles from Puerto Rico and the Virgin Islands of the United States because of the root borer. These provisions in 7 CFR 318.16, 318.16a, and 331.7 were designed to restrict the interstate movement of articles from Hawaii, Puerto Rico, and the Virgin Islands of the United States to prevent the spread of the root borer. However, there is no longer a basis for imposing such restrictions, and, accordingly, they are removed. A companion document withdraws a proposal to establish a quarantine and regulations to restrict the interstate movement of certain articles from proposed regulated areas in Florida, and from any in Puerto Rico and the Virgin Islands of the United States because of the root borer. The companion document (FR Doc. 83-26308) captioned "West Indian Sugarcane Root Borer" is contained in the proposed rule section of this issue of the **Federal Register**.

DATES: The effective date of the interim rule is October 31, 1983. Written comments must be received on or before December 30, 1983.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Assistant Director Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The interim rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will not have a significant effect in the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512-1.

Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

This document deletes restrictions on the interstate movement from Hawaii of sugarcane, or cuttings or parts thereof; sugarcane leaves, and bagasse. Based on Departmental expertise, it appears that there is little, if any, interstate movement from Hawaii of these articles. Further, it is not anticipated that this situation would change because of changes made by this document.

This document also deletes restrictions on the interstate movement from Puerto Rico and the Virgin Islands of the United States of the following articles:

(1) All trees, plants, and shrubs, and parts or products thereof, for or capable of propagation, except seeds (this includes canes of sugarcane, or cuttings or parts thereof; sugarcane leaves; and bagasse); and

(2) Cut flowers.

The interstate movement of these articles from Puerto Rico and the Virgin Islands of the United States represents an insignificant portion of any of these articles which are moved interstate within the United States. It is not anticipated that this situation would change because of the removal of the restrictions.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this document without opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any changes required will be published in the **Federal Register** as soon as possible.

Background

On February 8, 1980, the Animal and Plant Health Inspection Service (APHIS) published a document in the **Federal Register** (45 FR 8654–8662) which proposed to establish a quarantine and regulations to restrict the interstate movement of certain articles from proposed regulated areas in Florida, and from any area in Puerto Rico and the Virgin Islands of the United States because of the West Indian sugarcane root borer (root borer). The document of February 8, 1980, also proposed to remove the provisions in 7 CFR 318.16 and 318.16a concerning restrictions on the interstate movement of certain articles from Hawaii, Puerto Rico and the Virgin Islands of the United States because of the root borer. In addition, the document of February 8, 1980, proposed to remove emergency regulations in 7 CFR 331.7 concerning restrictions on the interstate movement of certain articles from Puerto Rico and the Virgin Islands of the United States because of the root borer.

The document of February 8, 1980, provided that written comments were to be received on or before April 8, 1980. Also, in accordance with that document a public hearing was held on March 12, 1980, in Orlando, Florida.

On August 8, 1980, a document was published in the **Federal Register** (45 FR 52816–52817) changing the proposal of February 8, 1980, by changing the list of proposed regulated areas in Florida. Also, the document of August 8, 1980, reopened the comment period until October 7, 1980, and gave notice of an additional public hearing. Pursuant to this notice the additional public hearing was held in Rio Piedras, Puerto Rico, on September 16, 1980.

Eight written comments were received in response to the documents of February 8 and August 8, 1980. Also, ten persons made comments at the public hearings. Three persons who made oral comments also submitted additional written comments.

Seven of the comments were expressly in favor of the proposal to establish a quarantine and regulations with respect to Florida, Puerto Rico, and the Virgin Islands of the United States. Two of these seven comments and all of the remaining comments suggested that changes or clarifications should be made with respect to the proposed provisions.

This document removes the provisions in 7 CFR 318.16 and 318.16a concerning restrictions on the interstate movement of certain articles from Hawaii, Puerto Rico, and the Virgin Islands of the United States because of the root borer. This document also removes the emergency regulations in 7 CFR 331.7 concerning restrictions on the interstate movement of certain articles from Puerto Rico and the Virgin Islands of the United States because of the root borer.

In addition, the proposal to establish a quarantine and regulations to restrict the interstate movement of certain articles from proposed regulated areas in Florida and from Puerto Rico and the Virgin Islands of the United States because of the root borer is not adopted. These proposed provisions are withdrawn by a companion document (FR Doc. 83–26308) captioned "West Indian Sugarcane Root Borer" which is published in the proposed rule section of this issue of the **Federal Register**.

As a result of these actions, there are no longer in effect any federal regulations concerning the root borer.

Because of the root borer, consideration was given concerning the establishment of a quarantine and regulations to restrict the interstate movement from Florida, Puerto Rico and the Virgin Islands of the United States of (1) the articles listed in the proposal; (2) the articles that have been subject to restrictions under provisions of 7 CFR 318.16, 318.16a, and 331.7; and (3) soil. In addition to soil, this group of articles consists of:

(1) All trees, plants, and shrubs, and parts or products thereof, for or capable of propagation, except seeds (this includes canes of sugarcane, or cuttings or parts thereof; sugarcane leaves; and bagasse); and

(2) Cut flowers.

Soil was considered because one commenter suggested that soil should be added to the proposed list of regulated articles.

There is no longer an adequate basis for establishing a quarantine and regulations to restrict the movement of any of the listed articles from Florida, Puerto Rico or the Virgin Islands of the United States because of the root borer. Currently no federal funds are available for root borer regulatory activities relating to any of these areas. Accordingly, it does not appear that a quarantine and regulations relating to Florida would be effective since the Department would not be able to conduct those activities necessary to update such a quarantine and regulations, and would not be able to take the necessary action to enforce such a quarantine and regulations.

In addition, it should be noted that Florida is enforcing State regulations which, among other things, regulate the movement of the listed articles. These State regulations appear to be effective for preventing the spread of the root borer from infested areas in Florida. Also, it has been determined from recent pest interception records that the interstate movement of the listed articles from Puerto Rico and the Virgin Islands of the United States does not present a significant risk of carrying the root borer. And, with respect to soil, it should be noted that the interstate movement of soil from Puerto Rico and the Virgin Islands of the United States is already prohibited except under very limited circumstances (see the imported fire ant quarantine and regulations contained in 7 CFR 301.81 *et seq* and the "Movement of Soil, Stone, and Quarry Products" regulations contained in 7 CFR 330.300 *et seq.).*

In addition, it should be noted that the withdrawal of the proposal and the removal of the provisions concerning the root borer in 7 CFR 318.16, 318.16a, and 331.7 does not mean that the Department will not take action should root borer be found on articles intended for movement into areas in the continental United States from other areas of the United States, including Puerto Rico and the Virgin Islands of the United States. If any root borers are found during any inspections, pursuant to sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff), the Department would take emergency action at the time of inspection to prevent the spread of the root borer.

Hawaii

The proposal to remove the provisions in 7 CFR 318.16 and 318.16a which imposed restrictions on the interstate movement of articles from Hawaii because of the root borer is adopted. No comments were submitted concerning Hawaii. Based on surveys conducted by the U.S. Department of Agriculture, it was determined that the root borer does not occur in Hawaii. Accordingly, it was proposed to remove such provisions in 7 CFR 318.16 and 318.16a. There is no evidence to establish that the root borer occurs in Hawaii. Therefore, it appears that there is still a basis for removing such provisions in 7 CFR 318.16 and 318.16a.

List of Subjects

7 CFR Part 318

Agricultural Commodities, Guam, Plant Pests, Plants (Agriculture), Puerto Rico, Quarantine, Transportation, Virgin Islands, Soil, Sugarcane.

7 CFR Part 331

Agricultural Commodities, Plant Pests, Plants (Agriculture), Quarantine, Transportation, West Indian Sugarcane Root Borer.

Accordingly, 7 CFR Parts 318 and 331 are amended as follows:

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

1. That portion of "Subpart Sugarcane" (7 CFR 318.16 and 318.16a) relating to the West Indian sugarcane root borer is removed. A companion document (FR Doc. 83–26309) captioned "Sugarcane Diseases" and published in the rules section of this edition of the Federal Register removes the portion of "Subpart Sugarcane" which does not relate to the West Indian sugarcane root borer; accordingly, all of "Subpart-Sugarcane" is removed.

PART 331—PLANT PEST REGULATIONS GOVERNING INTERSTATE MOVEMENT OF CERTAIN PRODUCTS AND ARTICLES

2. "Subpart—West Indian Sugarcane Root Borer" (7 CFR 331.7) is removed.

Authority

Secs. 8 and 9, 37 Stat. 318, as amended; secs. 105 and 106, 71 Stat. 32, 33 (7 U.S.C. 161, 162, 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2.

Done at Washington, D.C. this 22nd day of September 1983.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83–28307 Filed 10–28–83; 8:45 am]

BILLING CODE 3410–34

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 322, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This regulation increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period October 21–October 27, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: Effective for the period October 21–27, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on October 25, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is fair.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements, California, Arizona, Oranges.

1. § 908.622 Valencia Orange Regulation 322 (48 FR 48643) is revised to read as follows:

Section 908.622 Valencia Orange Regulation 322.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period October 21, 1983 through October 27, 1983, are established as follows:

(a) District 1: Unlimited cartons;

(b) District 2: Unlimited cartons;

(c) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 26, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–29464 Filed 10–28–83; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

[Docket No. 83–091]

9 CFR Part 92

Ports Designated for the Importation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which designated International Falls, Minnesota, as a port for the importation of horses from Canada. The rule is necessary in order to eliminate unnecessary administrative activities, and to reflect the fact that a veterinarian is now available on a regular basis at International Falls, for port activities with respect to horses.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. M. R. Crane, Import/Export Animals and Products Staff, VS, APHIS, USDA, Room 840, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

A document was published in the Federal Register on May 3, 1983 (48 FR 19867–19868) which set forth an interim rule amending § 92.3(b) of the regulations in 9 CFR Part 92 by adding International Falls, Minnesota, as a port for the importation of horses from Canada. The interim rule was made effective on the date it was published.

Comments were solicited on or before June 27, 1983; however, no comments were received. The factual situation set forth in the document of May 3, 1983, still provides a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the Federal Register on May 3, 1983.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will have an annual effect on the economy of less than $2,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

This action affirms an interim rule which designated International Falls, Minnesota, as a port for the importation of horses from Canada. It is anticipated that only approximately 50 importations of horses annually will be offered for entry into the United States from Canada through International Falls, Minnesota, as compared with more than 20,500 horses imported into the United States at all other Canadian ports. In addition, this action will be beneficial to importers by relieving them of unnecessary travel time and expenses.

Under the circumstances explained above, Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Transportation.

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134c, and 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 24th day of October, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83–29488 Filed 10–28–83; 8:45 am]
BILLING CODE 3410–34–M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. 0033]

Minimum Deposit Requirements

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: Effective December 1, 1983, the Depository Institutions Deregulation Committee ("Committee") has eliminated all minimum deposit requirements for Money Market Deposit Accounts ("MMDA"), Super-NOW accounts, and seven- to 31-day time deposits held pursuant to Individual Retirement Account* (IRA) and Keogh Plan agreements. This action affects only such accounts issued, renewed or extended on or after that date. The Committee's action was taken to increase the flexibility of depository institutions to design deposit accounts for use by IRAs and Keogh plans and thereby expand IRA and Keogh investment opportunities.

In addition, the Committee established scheduled reductions to the current $2,500 minimum denomination requirement on the short-term ceilingless accounts (the "Super-NOWs", MMDAs, and ceilingless seven-to 31-day time deposits) for all other depositors. The minimum denomination requirement will be reduced to $1,000 effective January 1, 1985, and will be removed effective January 1, 1986. This action will result in the effective elimination of all interest rate ceilings applicable to deposit accounts at depository institutions.

EFFECTIVE DATE: December 1, 1983. Other amendments will be effective January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Jules Bernard, Senior Attorney, Federal Deposit Insurance Corporation (202/389–4147); Paul S. Pilecki, Senior Counsel, Board of Governors of the Federal Reserve System (202/452–3281); Francis S. Rath, Attorney, Office of the Comptroller of the Currency (202/447–1880); Betty A. Whelchel, Attorney-Advisor, Treasury Department (202/566–8737); or Robert H. Ledig, Attorney, Federal Home Loan Bank Board (202/377–7057).

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96–221; 12 U.S.C. 3501, *et seq.)* ("DIDA") was enacted to provide for the orderly phaseout and the ultimate elimination of ceilings on the maximum rates of interest and dividends that may be paid on deposit accounts by depository institutions. These actions are to occur as rapidly as economic conditions warrant. Under the DIDA, the Committee is authorized to phase out interest rate ceilings by any one of a number of methods including elimination of ceilings applicable to particular categories of accounts.

Pursuant to the DIDA, the Committee created a number of new accounts, either subject to ceilings at market-rates or without ceilings, designed to gradually remove interest rate ceilings and increase the rate available to depositors while protecting the safety and soundness of depository institutions. Among these accounts were 91-day account (12 CFR 1204.120), the seven- to 31-day account (12 CFR 1204.121), the MMDA (12 CFR 1204.122), and the "Super-NOW" account (12 CFR 1204.108(b)). All of these accounts were subject to minimum deposit requirements in order to protect depository institutions from the earnings problems that could result from sudden shifts of deposits from lower cost deposit accounts, such as savings accounts, into these higher yielding accounts.

At its June 30, 1983 meeting, the Committee eliminated, effective October 1, 1983, all interest rate ceilings on time deposits with maturities or required notice periods of 31 days or more. In connection with this action, the Committee postponed discussion and consideration of the elimination or phaseout of the $2,500 minimum denomination requirement on the short-term ceilingless accounts.

In the past, the Committee has solicited comment on the appropriate minimum denomination for deposits not subject to an interest rate ceiling. On October 19, 1982 (47 FR 46530), the Committee requested public comment on features of the MMDA not specifically set forth in the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320), such as the minimum denomination. Comments were received from over 1,400 respondents with approximately 1,300 commenting on the minimum balance requirement. Although there was no consensus on this requirement, about

one-third of these respondents preferred $5,000, one-fourth favored $2,500 and one-fourth preferred no regulatory requirement.

On December 28, 1982 (47 FR 57729), comments were requested on a possible phaseout of the $2,500 minimum balance requirement on short-term deposit accounts, including the seven- to 31-day time deposit. Of the 365 respondents, 111 commented on the minimum balance question. Fifty-seven percent of these favored a scheduled or immediate phaseout of the minimum balance requirement and 43 percent recommended that the Committee retain a minimum denomination of $2,500.

At its September 30, 1983 meeting, the Committee eliminated, effective December 1, 1983, the minimum denomination on the short-term ceilingless accounts for IRA/Keogh-designated deposit accounts. The Committee also adopted a phaseout schedule for the $2,500 minimum denomination for the MMDA, Super-NOW, and ceilingless seven- to 31-day accounts. Under this schedule, the minimum denomination on these accounts will be decreased to $1,000 on January 1, 1985, and will be eliminated on January 1, 1986. This action is consistent with the Committee's mandate to eliminate all interest rate ceilings by March 31, 1986.

Annual contributions to IRAs and Keogh plans may be under $2,500 and, if so, have been precluded from earning market rates if placed in a short-term account at a depository institution. For example, the maximum contribution to an IRA is limited to $2,000 per year for individuals and $2,250 per year for spousal accounts. Therefore, the $2,500 minimum on the MMDA, Super-NOW, and seven- to 31-day accounts limited their use for initial individual or spousal IRA accounts. Similarly, the $2,500 minimum made it difficult for depository institutions to offer short-term market rate accounts on periodic small contributions to IRA/Keogh accounts (*e.g.*, payroll deductions).

The Committee's action increases the flexibility of depository institutions to design deposit accounts for use by IRAs and Keogh plans and thereby expands IRA/Keogh investment opportunities.

The Committee's actions are consistent with the previously noted purpose of establishing a minimum denomination on short-term, market-rate accounts, *i.e.*, to provide depository institutions with some protection from abrupt and significant increases in their cost of funds due to depositors suddenly shifting their funds from low yielding accounts into higher yielding accounts. The Committee remains committed to controlling the risks posed by deposit shifts and notes that such shifts have apparently been relatively modest, even though survey data collected in early 1982 suggested that the majority of total passbook deposits and balances in excess of $2,500. (*See* Depository Institutions Deregulation Committee Staff Paper, *Reducing the $2,500 Minimum Balance on Short-Term Accounts to Accommodate IRA Deposits*, September 26, 1983.)

Since the Committee's action eliminating the minimum deposit requirement effective December 1, 1983, is only applicable to IRAs and Keogh plans, it is extremely unlikely that this action will cause significant shifts from passbook accounts over the next year. The phaseout of minimum deposit requirements for all short-term ceilingless accounts beginning on January 1, 1985, may cause more deposit shifting out of low-rate accounts into the market-rate accounts than would otherwise be the case, thereby placing greater pressure on earnings. However, the fact that large volumes of passbook accounts with balances exceeding $2,500 apparently have not yet shifted suggests that the minimum balance requirement may not be a significant factor in limiting the volume of funds transferred into short-term ceilingless accounts. In addition, since Congress mandated that all accounts must be deregulated by March 31, 1986, the potential problems associated with deposit shifting and the resultant pressure on earnings would occur on that date in any event. Phasing out the minimum balance requirement over time instead of postponing deregulation of these accounts until 1986 may reduce the potential for rapid deposit shifting and reduce the resultant one time impact on earnings that the remaining congressionally required interest rate deregulation would otherwise entail. Finally, in considering the impact of a reduction in the minimum balance requirements, it should be noted that depository institutuions are free to establish a higher minimum denomination, if they desire.

The Committee, as required by the Regulatory Flexibility Act (5 U.S.C. 603, *et seq.*), considered the potential effect on small entities of phasing out all minimum balance requirements and removing minimum balance requirements on IRA/Keogh accounts. The Committee's action in this regard will not impose any new reporting or recordkeeping requirements. Small entities that are depositors should benefit from the Committee's actions since they will have a wider selection of market-rate instruments that may be used for IRA/Keogh deposits. Such entities will also gradually have a wider selection of market-rate instruments available for all deposits as the phaseout takes effect. Small entities that are depository institutions should also benefit generally from this action since they would be more competitive with non-depository institutions. If, however, low-yielding deposits shift into the accounts authorized by this regulation, small entities which are depository institutions may experience some increased costs. However, as discussed previously, the staff study concluded that any shift from low yielding deposits is likely to be manageable. The effect of such shifts may be attenuated by the use of a phased out elimination instead of allowing an abrupt deregulation of remaining deposit accounts on March 31, 1986.

List of Subjects in 12 CFR Part 1204

Banks, Banking.

Pursuant to its authority under Title II of Pub. L. 96–221 (94 Stat. 142; 12 U.S.C. 3501, *et seq.*) to prescribe rules governing the payment of interest and dividends on deposits and accounts of federally insured commercial banks, savings and loan associations, and savings banks, the Committee amends Part 1204—Interest on Deposits, as follows:

1. Effective December 1, 1983, § 1204.108 is amended by removing the introductory text, revising paragraph (a), amending the first sentence of paragraph (b)(1), and adding new paragraphs (c) and (d) to read as follows:

§ 1204.108 Maximum rates of interest payable by depository institutions on deposit subject to negotiable orders of withdrawal.

(a) Commercial banks, savings and loan associations, and savings banks ("depository institutions") may pay interest on any deposit or account subject to negotiable or transferable orders of withdrawal that is authorized pursuant to 12 U.S.C. 1832(a) at: (1) A rate not to exceed 5¼ percent per annum, or (2) as provided for in paragraphs (b) and (c).

(b)(1) Notwithstanding paragraph (a)(1), a depository institution may pay interest at any rate agreed to by the depositor on any deposit or account subject to negotiable or transferable orders of withdrawal that is authorized pursuant to 12 U.S.C. 1832(a) subject to the conditions of this paragraph with an initial balance (as computed in

paragraph (b)(2) of this section) of no less than $2,500. * * *

* * * * *

(c) Notwithstanding paragraphs (a)(1) and (b), a depository institution may pay interest at any rate agreed to by the depositor on an account issued under paragraph (b), regardless of amount if, that account consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) 219, 401, 408 and related provisions.

(d) Effective January 1, 1985, this section is amended by striking out "$2,500" wherever it appears and inserting in its place "$1,000".

2. Effective January 1, 1986, § 1204.108 is amended by: (1) Removing paragraphs (b)(1), (b)(2), (b)(3), (b)(5), (c), and (d); (2) redesignating paragraph (b)(4) as (b); and (3) revising paragraph (a) to read as follows: "(a) Commercial banks, savings and loan associations, and savings banks ("depository institutions") may pay interest on any deposit or account subject to negotiable or transferable orders of withdrawal that is authorized pursuant to 12 U.S.C. 1832(a) at any rate agreed to by the depositor."

3. Effective December 1, 1983, § 1204.121 is amended by revising paragraph (a) and adding a new paragraph (g) to read as follows:

§ 1204.121 Seven to 31-day time deposits.

(a)(1) Commercial banks, savings banks, and savings and loan associations ("depository institutions") may pay interest at any rate as agreed to by the depositor on any time deposit with a maturity or required notice period of not less than seven days nor more than 31 days: (i) In an amount of $2,500 or more; or (ii) that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) 219, 401, 408 and related provisions.

(2) Except as provided in paragraph (a)(1)(ii), a depository institution shall not pay interest in excess of the ceiling rate for regular savings deposits or accounts provided for at 12 CFR 1204.124(a) on any day the balance in a time deposit issued under this section is less than $2,500.

* * * * *

(g) Effective January 1, 1985, this section is amended by striking "$2,500" wherever it appears and inserting in its place "$1,000".

§ 1204.121 [Amended]

4. Effective January 1, 1986, § 1204.121 is amended in paragraph (a) by inserting a period after "31 days" and by removing the designation of paragraph (a)(1).

5. Effective December 1, 1983, § 1204.122 is amended by revising paragraph (a) and by adding a new paragraph (i) to read as follows:

§ 1204.122 Money market deposit account

(a)(1) Commercial banks, savings banks, and savings and loan associations ("depository institutions") may pay interest at any rate on a deposit account as described in this section: (i) With an initial balance of no less than $2,500 and an average deposit balance (as computed in paragraph (b) of this section) of no less than $2,500; or (ii) that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) 219, 401, 408 and related provisions.

(2) Except as provided in paragraph (a)(1)(ii) for an account with an average balance of less than $2,500, a depository institution shall not pay interest in excess of the ceiling rate for NOW accounts (12 CFR 1204.108(a)(1)) for the entire computation period, as described in paragraph (b) of this section.

* * * * * *

(i) Effective January 1, 1985, this section is amended by striking "$2,500" wherever it appears and inserting in its place "$1,000".

6. Effective January 1, 1986, paragraph (a) of § 1204.122 is revised to read as follows:

(a) Commercial banks, savings banks, and savings and loan associations ("depository institutions") may pay interest at any rate on a deposit account as described in this section.

7. Effective December 1, 1983, § 1204.123 is amended by revising paragraph (a) to read as follows:

§ 1204.123 Payment of interest on time deposits issued on or after October 1, 1983.

(a) Notwithstanding any other provision of Part 1204, a commercial bank, savings bank, or savings and loan association may pay interest at any rate agreed to by the depositor on any time deposit issued, renewed, or extended on or after October 1, 1983, that has an original maturity or required notice period prior to withdrawal of more than 31 days.

* * * * *

By Order of the Committee, October 25, 1983.

Mark G. Bender,

Executive Secretary.

[FR Doc. 83-29085 Filed 10-28-83; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 1204

[Docket No. 0032]

Interest Rate Ceilings on Time and Savings Deposits

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("the Committee") has amended its rules, effective January 1, 1984, to increase the interest rate ceiling for commercial banks on savings accounts and on time deposits of less than $2,500 with maturities or required notice periods of seven to 31 days to 5½ percent, the same rate ceiling applicable to federally-insured savings and loan associations and mutual savings banks. (The interest rate ceiling for NOW accounts of less than $2,500 and savings accounts subject to automatic transfers to checking accounts ("ATS accounts") will remain at 5¼ percent for all depository institutions.) This action was taken as a result of section 326 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320; 96 Stat. 1500), which requires that all interest rate ceiling differentials between commercial banks and thrift institutions must be phased out or eliminated on or before January 1, 1984.

EFFECTIVE DATE: January 1, 1984. Certain conforming amendments are effective January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Senior Counsel, Board of Governors of the Federal Reserve System (202/452-3281); Francis Rath, Attorney, Office of the Comptroller of the Currency (202/447-1880); Jules Bernard, Senior Attorney, Federal Deposit Insurance Corporation (202/389-4171); Robert H. Ledig, Attorney, Federal Home Loan Bank Board (202/377-7057); or Betty A. Whelchel, Attorney-Advisor, Treasury Department (202/566-8737).

SUPPLEMENTARY INFORMATION: Section 326(b) of the Garn-St Germain Depository Institutions Act of 1982 ("the Act") requires that interest rate differentials for all categories of deposits or accounts between commercial banks and thrift institutions

be phased out on or before January 1, 1984, and that no differential shall be maintained on or after that date. Section 326(d) of the Act provides that where a differential for a category of deposits is eliminated or reduced, the maximum rate of interest which shall be established for commercial banks shall be equal to the highest rate of interest which thrift institutions were permitted to pay on such category of deposits immediately prior to the elimination or reduction of such interest rate differential.

Effective October 1, 1983, the Committee eliminated all interest rate ceilings on time deposits with maturities or required notice periods of 32 days or more. The elimination of interest ceilings on these accounts also eliminates any differential that existed on such accounts. The following table shows the remaining categories of accounts subject to an interest rate ceiling differential as of October 1, 1983:

Account	Interest rate ceiling (percent)	
	Commercial banks	Thrifts
Savings	5¼	5¼
Time Deposits of 7–31 days under $2,500	5¼	5¼

Upon elimination of the interest rate differential, the interest rate ceiling structure will be as follows for all depository institutions:

Account	Deposit size	Interest rate ceiling (percent)
NOW Accounts	0–$2,499	5¼
NOW Accounts	$2,500 or more [1]	None.
ATS Accounts	All	5¼
Savings	All	5¼
Money Market Deposit Accounts	$2,500 or more [1]	None.
Time Deposits of 7–31 days.	0–$2,499 [2]	5¼
Time Deposits of 7–31 days.	$2,500 or more [1]	None.
Time Deposits of 32 days or more.	All	None.

[1] Effective December 1, 1983, no minimum deposit requirement will apply to accounts held pursuant to Individual Retirement Account or Keogh Plan agreements.

[2] Depository institutions may continue to issue to governmental units time deposits of less than $2,500 with maturities or required notice periods of seven to 31 days, subject to the current ceiling of eight percent in effect for such deposits.

In order to meet the statutory requirement for removing the differential, the Committee amends its rules, effective January 1, 1984, to authorize commercial banks to pay 5½ percent on savings accounts and on time deposits of less than $2,500 with required notice periods or maturities of seven to 31 days. The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with adoption of this amendment because the change involves the implementation of a statutory provision according to its terms. Accordingly, the Committee has determined that notice and public participation is unnecessary with respect to this action.

List of Subjects in 12 CFR Part 1204

Banks, banking.

Pursuant to its authority under Title II of Pub. L. 96–221 (94 Stat. 142; 12 U.S.C. 3501 *et seq.*) to prescribe rules governing the payment of interest and dividends on deposits and accounts of federally insured commercial banks, savings and loan associations, and savings banks, and under section 326 of Pub. L. 97–320 (96 Stat. 1500; 12 U.S.C. 3503 note), the Committee amends Part 1204—Interest on Deposits, as follows:

1. Effective January 1, 1984, by adding a new § 1204.124 to read as follows:

§ 1204.124 Maximum Rate of Interest Payable on Savings Deposits and Time Deposits of Less Than $2,500 with Maturities of Seven to 31 Days.

(a)(1) Except as provided in paragraph (a)(2), a commercial bank, savings bank, or savings and loan association may pay interest on a savings deposit (as defined in 12 CFR 217.1(e) (1) and (2) and 329.1(e)(1)) or a regular account (as defined in 12 CFR 526.1(d)) at a rate not to exceed 5½ percent per annum.

(2) Notwithstanding paragraph (a)(1), a commercial bank, savings bank, or savings and loan association may pay interest at a rate not to exceed 5¼ percent on an account that consists only of funds in which the entire beneficial interest is held by one or more individuals and permits withdrawals to be made automatically through payment to the depository institution itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the depository institution.

(b)(1) A commercial bank, savings bank, or savings and loan association may pay interest on a time deposit of less than $2,500 with a maturity of seven to 31 days at a rate not to exeed 5½ percent, except that a rate not to exceed eight percent may be paid on such a time deposit which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, the United States, any state of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof.

(2) Effective January 1, 1985, this section is amended by removing the term "$2,500" whereever it appears and inserting in its place "$1,000".

2. Effective January 1, 1986, § 1204.124 is amended by removing "And Time Deposits of Less Than $1,000 with Maturities of Seven to 31 Days" from the name of the section, by removing paragraph (b), and by redesignating paragraphs (a)(1) and (a)(2) and references thereto as paragraphs (a) and (b), respectively.

By Order of the Committee, October 25, 1983.

Mark G. Bender,

Executive Secretary.

[FR Doc. 83–28304 Filed 10–28–83; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–NM–79–AD; Amdt. 39–4744]

Airworthiness Directives; McDonnell Douglas Model DC–10–15, DC–10–30, and Military KC–10A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing airworthiness directive (AD) 83–13–09 applicable to certain McDonnell Douglas Model DC–10 and Military KC–10A Series airplanes, which requires rework of the electrical wiring associated with the flight interphone system. This amendment corrects the aircraft fuselage number effectivity and thus reduces the number of airplanes affected.

EFFECTIVE DATE: October 27, 1983.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Eugene F. Huettner, Aerospace Engineer, Systems & Equipment Branch, ANM–130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald

Douglas Drive, Long Beach, California 90808, telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: AD 83-13-09, Amendment 39-4679, requires modification of the service and flight interphone wiring in accordance with the accomplishment instructions in McDonnell Douglas DC-10 Service Bulletin No. 23-46, dated May 12, 1983, to prevent loss of all communications transmission capability from airplane to ground, on certain aircraft fuselage numbers. After issuing Amendment 39-4679, it was determined that not all fuselage numbers noted were affected. The detailed effectivity is contained in the McDonnell Douglas DC-10 Service Bulletin 23-46.

This amendment corrects the effectivity and reduces the number of airplanes requiring modification. It imposes no additional burden on any person, therefore, notice and public procedure hereon are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising the first paragraph of AD 83-13-09, Amendment 39-4679 (48 FR 31632; July 11, 1983), to read as follows:

McDonnell Douglas: Applies to certain McDonnell Douglas DC-10-15 and DC-10-30 airplanes, and all KC-10A airplanes, certified in all categories, which are listed in McDonnell Douglas DC-10 Service Bulletin 23-46, dated May 12, 1983, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office. Compliance required within 30 days from the effective date of this AD unless already accomplished.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective October 27, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves an amendment that corrects an existing AD and does not impose any additional burden on any person. Therefore: (1) It is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and (2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since both the original rule and this amendment involve few, if any small entities, and this amendment merely corrects the effectivity and reduces the number of entities affected.

Issued in Seattle, Washington on October 7, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-29408 Filed 10-28-83; 4:08 pm]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-ASW-40; Amdt. 39-4757]

Airworthiness Directives Boeing Vertol Company Model 107-II and Kawasaki Heavy Industries, Ltd., Model KV107-II and KV107-IIA Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which establishes a retirement life and requires removal from service of synchronizing shafts having time in service of 8750 or more hours prior to further flight on Boeing Vertol Model 107-II and Kawasaki Model KV107-II and KV107-IIA series helicopters. The AD is prompted by a failure of a No. 3 synchronizing shaft and subsequent loss of a helicopter.

DATE: Effective November 14, 1983. Compliance required prior to further flight after the effective date of this AD on all No. 1, 2, 3, and 4 synchronizing shafts having time in service of 8750 or more hours.

FOR FURTHER INFORMATION CONTACT: Mr. Murry Schoenberger, ANE-174, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone number (516) 791-7421.

SUPPLEMENTARY INFORMATION: There has been a fatigue failure emanating from a rivet hole used to attach a balance weight of the No. 3 synchronizing shaft, P/N 107D3141-13, on a Boeing Vertol 107-II helicopter. The total time on the part when failure occurred was 17,500 hours, and it had been inspected 400-450 hours prior to the failure. The FAA has determined that there is sufficient justification for an 8750-hour retirement life. The P/N 107D3141 synchronizing shafts were used on the Boeing Vertol 107-II helicopter and the P/N 107D3341 shafts are used in the Kawasaki KV107-II and -IIA helicopters. The P/N 107D3341 shafts are also now being used on the Boeing Vertol 107-II helicopters. All of the shafts have balance weights riveted to the shaft tubes except P/N 107D3341-17 (weight is riveted to an adapter flange). All shafts are assigned the 8750-hour retirement life. P/N 107D3341-17 is included on a temporary basis, pending data review. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which establishes an 8750-hour service life for the No. 1, 2, 3, and 4 synchronizing shafts and requires replacement as necessary on Boeing Vertol Model 107-II and Kawasaki Heavy Industries Model KV107-II and KV107-IIA helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing Vertol Company and Kawasaki Heavy Industries, Ltd.: Applies to Boeing Vertol Model 107-II and Kawasaki Model KV107-II and KV107-IIA helicopters certificated in all categories equipped with synchronizing shafts, P/N 107D3141-1, -8, -10, -11, -13 or -14, or 107D3341-16, -17, -18, or -21.

Compliance is required as indicated (unless already accomplished).

To prevent possible hazards in flight associated with cracking of the No. 2, 2, 3, or 4 synchronizing shafts, accomplish the following:

(a) Prior to further flight after the effective date of this AD, remove from service all synchronizing shafts P/N 107D3141-1, -8, -10,

–11, –13, or –14; or 107D3341–16, –17, –18, or –21 having 8750 or more hours' total time in service and replace with a serviceable part.

(b) Synchronizing shafts P/N 107D3141–1, –6, –10, –11, –13, or –14; or 107D3341–16, –17, –18, or –21 with less than 8750 hours' time in service must be replaced with a servicable part prior to accumulating 8750 hours' total time in service.

(c) An equivalent method of compliance with this AD may be used when approved by the Manager, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This amendment becomes effective November 14, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 106(g) [Revised, Pub. L. 97–449, January 12, 1983]; and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Fort Worth, Texas, on October 18, 1983.

Roger G. Knight,

Acting Director, Southwest Region.

[FR Doc. 83–29497 Filed 10–28–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 83–NM–53–AD; Amdt. 39–4754]

Airworthiness Directives; British Aerospace Model HS 125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain British Aerospace Aircraft Group Model HS 125 series airplanes which requires modification of the fan housing of the air conditioning system. This action is necessary to protect the main engine beam in the event of a fan burst failure. The manufacturer has determined that the fan housing alone provides inadequate protection.

DATES: Effective December 1, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431–2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority of the United Kingdom (CAA) has classified British Aerospace Aircraft Group, Hatfield-Chester Division, 125 Service Bulletin 21–123–(2815), Revision 2, as mandatory. Investigations have determined that a burst failure of the cold air unit fan can damage the main engine beam because the fan housing provides inadequate protection. The service bulletin prescribes installation of a fragmentation guard around the fan housing.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring installation of a fragmentation guard around the fan housing was published in the **Federal Register** on June 27, 1983 (48 FR 29536). The comment period closed on August 15, 1983, and interested parties have been afforded an opportunity to participate in the making of this amendment. Only one comment was received; it stated no objection to the proposal.

It is estimated that 100 U.S. registered airplanes will be affected by this AD, that it will take approximately 3 manhours per airplane to accomplish the required action, and that the average labor cost will be $35 per manhour. Repair parts are estimated at $25 per airplane. Based on these figures, the total cost impact of this AD will be $13,000. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has detemined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

British Aerospace Aircraft Group (Hatfield-Chester Division): Applies to model HS 125 (pre-Modification 251600) with serial numbers listed in the Planning Information of the service bulletin. Compliance required as indicated, unless already accomplished. To protect the main engine beam from a burst failure of the cold air unit fan, accomplish the following:

A. Install a fragmentation guard around the fan housing of the cold air unit in accordance with the Accomplishment Instructions of British Aerospace Aircraft Group, Hatfield-Chester Division, 125 Series Aircraft Service Bulletin 21–123–(2815), Revision 2, dated October 29, 1982, within 120 days after the effective date of this AD.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective December 1, 1983.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on October 17, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–29498 Filed 10–28–83; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 83-NM-83-AD; Amdt. 39-4751]

Airworthiness Directives; Gates Learjet Models 25, 25A, 25B, and 25C

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing airworthiness directive (AD) applicable to certain Learjet Model 25 airplanes. This amendment extends the inspection interval for unmodified Stall Warning Accelerometers from 150 to 165 hours time in service. This will permit the inspection to be done in conjunction with other airplane maintenance.

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert R. Jackson, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Central Region, Room 238, Terminal Building 2298, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 269-7006.

SUPPLEMENTARY INFORMATION: Airworthiness Directive AD 82-01-04 (47 FR 012; January 4, 1982), Amendment 39-4296, required initial and repetitive inspections of the unmodified stall warning system on certain Learjet model 25 airplanes. The specified repetitive inspection interval is 150 hours time in service. This amendment extends the 150 hours time in service by 15 hours so that the interval is now 165 hours time in service, which coincides with Gates Learjet airplane maintenance schedule and FAA Approved Aircraft Inspection Programs. The FAA has determined that this inspection interval can be extended without compromising safety.

This AD involves only a minor extension of an inspection interval, has no adverse economic impact, and imposes no additional burden on any person. Therefore, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

List of Subjects 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Regulation (14 CFR 39.13) is amended by further amending AD 82-01-04, Amendment 39-4296 (47 FR 012; January 4, 1982), by revising paragraph D. to read as follows:

"D. To assure proper operation of the Stall Warning Accelerometer Unit, unless previously inspected in the last 180 hours time in service before the effective date of this AD, within the next 50 hours time in service, and thereafter at intervals not to exceed 165 hours time in service, inspect the Stall Warning Accelerometer in accordance with appropriate Gates Learjet Service Bulletins SB 23, 24, 25-301B."

This amendment becomes effective November 1, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that does not impose any additional burden on any person. Therefore, 1) it is not major under Executive Order 12291 (46 FR 13193; February 19, 1981), and 2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it involves only a minor extension of an inspection interval, thereby slightly reducing the burden to operators of affected aircraft.

Issued in Seattle, Washington on October 12, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-28893 Filed 10-28-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-CE-73-AD; Amdt. 39-4753]

Airworthiness Directives; Piper Models PA-23-235, PA-E23-250 and PA-E23-250 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper Models PA-23-235, PA-23-250 and PA-E23-250 airplanes, which supersedes AD 83-13-10, Amendment 39-4680. This superseded AD required installation of a revised Airplane Flight Manual (AFM) containing zero-fuel weight limitations in certain Piper Models PA-23-235 and PA-23-250 airplanes. Subsequent to the issuance of AD 83-13-10, the manufacturer advised the FAA that Piper Model PA-23-250 airplanes should have been included in the applicability statement of the AD. The superseding AD includes this airplane model and incorporates the provisions of AD 83-13-10.

EFFECTIVE DATE: November 3, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Airplane Flight Manuals (Piper Reports) applicable to this AD may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: C. Kallis, Airframe Section, ANE-172, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; Telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: The FAA issued AD 83-13-10, Amendment 39-4680 (48 FR 31190, 31191) which required installation of a revised AFM containing zero-fuel weight limitations in certain Piper Models PA-23-235 and PA-23-250 airplanes. This action resulted from an awareness by the manufacturer and the FAA that some operators are using Piper Models PA-23-235 and PA-23-250 airplanes to haul heavy parts, cargo, mail, checks and similar material for relatively short distances. This usage of airplanes which incorporate substantial quantities of electronics or other fuselage installed equipment may cause the structural capability of the wings to be exceeded under maximum design gust conditions as the wing carried fuel load approaches zero or minimum allowable quantities.

To eliminate the possibility of structural damage to the wings and/or operation of the airplanes with reduced margins of safety under these conditions, the manufacturer established zero-fuel weight limitations for these airplanes and published them in revisions to the applicable AFMs. When incorporated into the Limitations Section of the AFM as Operating Limitations, FAR 91.31 requires that zero-fuel weights be observed by the operator. The FAA found that to assure the continued safe operation of these airplanes, the incorporation of the applicable current AFMs in the affected airplanes and adherence to the zero-fuel weight limitations therein are necessary and issued AD 83-13-10. Subsequent to

this action, the manufacturer advised the FAA that the Piper Model PA–E23–250 airplane was similar in design and also subject to the same unsafe conditions as the Piper Models PA–23–225 and PA–23–250 airplanes.

Therefore, an AD superseding AD 83–13–10 is being issued which incorporates the provisions of AD 83–13–10 and includes in the applicability statement Piper Model PA–E23–250 airplanes.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this statement effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR Section 39.13) is amended by adding the following new AD:

Piper: Applies to Models PA–23–235 (S/N 27–505 through S/N 27–822); PA–23–250 (S/N 27–1 and up) and PA–E23–250 (S/N 27–2505 through 27–7554168, 27–7654001 and up) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent possible wing structure damage, accomplish the following:

(a) Within 30 days after the effective date of this AD, attach a copy of this AD to the Airplane Flight Manual in the Limitations Section and operate the airplane in accordance with the Zero Fuel Weight Limitations specified below:

Zero Fuel Weight Limitations

PA–23–235 and PA–23–250 (S/Ns 27–1 thru 27–1999), Zero Fuel Weight—4,000 lb.

PA–23–250 and PA–E23–250 (S/Ns 27–2000 and up), Zero Fuel Weight (normally aspirated) 4,400 lbs; (Turbocharged)—4,500 lbs.

(b) Within 12 months after the effective date of this AD, install the appropriate Airplane Flight Manual as indicated below in the airplane:

Airplane Flight Manuals (Piper Reports)

PA–23–235 (S/Ns 27–505 thru 27–822)—Report 1207 Rev. B.

PA–23–250 (S/Ns 27–1 thru 27–1999)—Report 1036 Rev. B.

PA–23–250 (S/Ns 27–2000 thru 27–2504)—Report 1204 Rev. C.

PA–23–250 (S/Ns 27–2505 thru 27–3836) (27–3838 thru 27–3943)—Report 1308 Rev. B (4800 lbs. Gross Weight), normally aspirated.

PA–23–250 (S/Ns 27–2505 thru 27–3836), (27–3838 thru 27–3943)—Report 1360 Rev. B (5200 lbs Gross Weight), Turbocharged.

PA–23–250 (S/Ns 27–3837, 27–3944 thru 27–4425, 27–4427 thru 27–4573)—Report 1520 Rev. B.

PA–23–250 (S/Ns 27–4426, 27–4574 thru 27–7554168)—Report 1630 Rev. 17.

PA–23–250 (S/Ns 27–7654001 and up)—Report 1948 Rev. 13.

PA–E23–250 (S/Ns 27–2505 thru 27–3836, 27–3838 thru 27–3943)—Report 1378 Rev. B (S/Ns 27–3837, 27–3944 thru 27–4425, 27–4427 thru 27–4573)—Report 1521 Rev. B) (S/Ns 27–4426, 27–4574 thru 27–7554168)—Report 1631, Rev. B (S/Ns 27–7654001 and up)—Report 2049, Amendment 5.

(c) Compliance with this AD may be accomplished by the owner/operator of the airplane. This person must make the prescribed entry indicating compliance with this AD in the Airplane Maintenance Records.

(d) An equivalent method of compliance with this AD may be used, if approved, by the Manager, New York Aircraft Certification Office, FAA, ANE–170, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This AD supersedes AD 83–13–10, Amendment 39–4680.

This amendment becomes effective on November 3, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on October 18, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83–29495 Filed 10–28–83; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C–3117]

Bayleysuit, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires the Fortuna, Calif. manufacturer of the "Bayley exposure suit," among other things, to publish advertisements, send notices and use its best efforts to locate and notify users of the suits that the bladder hose assembly used to inflate the flotation pillow requires a safety modification. The manufacturer is required to send to each Bayleysuit user who requests it, a retrofit kit, together with understandable instructions to permit easy repair of the suit. If, by July 15, 1983, 80% of Bayleysuit users have not requested a retrofit kit, the manufacturer is required to search dealer records, ship registries and listings and the rolls of fishermen's unions to obtain the names and addresses of retail purchasers, so they can be notified by letter of the safety hazard and provided with a repair kit request card. The order additionally prohibits false representations concerning the buoyancy or safety of the Bayley exposure suit or any other product.

DATES: Complaint and Order issued Sept. 30, 1983.*

FOR FURTHER INFORMATION CONTACT: George J. Zweibel, Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 442–4655.

SUPPLEMENTARY INFORMATION: On Thursday, July 7, 1983, there was published in the **Federal Register**, 48 FR 31243, a proposed consent agreement with analysis In the Matter of Bayleysuit, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made

* Copies of the Complaint and the Decision and Order filed with the original document.

its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.170 Qualities or properties of product or service; § 13.190 Results; § 13.195 Safety; 13.195–60 Product; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records. Subpart—Misrepresenting Oneself and Goods—Goods: § 1710 Qualities of properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Survival suits, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83-29503 Filed 10-28-83; 8:45 a.m.]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket C-3116]

Foote, Cone & Belding Advertising, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Chicago, Ill. advertising agency affiliated with Amana Refrigeration, Inc., among other things, to cease representing that only Amana microwave ovens passed independent laboratory testing conducted in 1980 and that Amana was rated "best quality" in a 1980 consumer survey. The order prohibits the agency from misrepresenting the purpose, content or conclusion of any test or survey and requires the agency to maintain accurate records which substantiate and/or contradict any claim made for products covered by this order. Further, the agency is required to have a reasonable basis for all future quality, safety or comparative performance representations made for microwave ovens.

DATES: Complaint and Order issued Sept. 30, 1983.*

FOR FURTHER INFORMATION CONTACT: FTC/PA, Andrew Sacks, Washington, D.C. 20580. (202) 724–1524.

SUPPLEMENTARY INFORMATION: On Monday, July 18, 1983, there was published in the **Federal Register**, 48 FR 32598, a proposed consent agreement with analysis In the Matter of Foote, Cone & Belding Advertising, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10–5 Knowingly by advertising agent; § 13.20 Comparative data or merits; § 13.175 Quality of product or service; § 13.195 Safety; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.255 Surveys. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–45 Maintain records. Subpart—Disseminating Advertisements, etc.: § 13.1043 Disseminating advertisements, etc. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1575 Comparative data or merits; § 13.1715 Quality; § 13.1740 Scientific or other relevant facts; § 13.1757 Surveys. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1886 Quality, grade or type; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Advertising, Appliances, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83-29502 Filed 10-28-83; 8:45 am]

BILLING CODE 6750-01-M

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*Copies of the Complaint and the Decision and Order filed with the original document.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 33

Options on Futures; Margins

AGENCY: Commodity Futures Trading Commission.

ACTION: Rule-related notice.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is publishing the text of a letter which it has sent to the Chicago Mercantile Exchange ("CME") and the New York Futures Exchange ("NYFE"). The letter notifies the Exchanges that the Commission will consider proposed amendments to their option margin rules which permit extension of the application of the Exchanges' margining system for floor traders trading for their own accounts to certain additional categories of members. This letter is in response to a written request by CME and NYFE that the Commission interpret their floor trader margin rules as applying to all members rather than just floor traders. The Commission is publishing the text of the letter in order to notify the public and other exchanges of the Commission's position regarding the proper application of such floor trader margining systems, and because the Commission previously requested comment on whether use of the margin system for floor traders should be permitted to be extended to other categories of members.

FOR FURTHER INFORMATION CONTACT: Karen Matteson, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: In order to determine whether any changes in the system for assessing and collecting margin on futures option contracts should be tested as part of the pilot option program, the Commission issued a Notice and Request for Comment which set forth a list of specific inquiries to which commenters were requested to respond. 48 FR 10857 (March 15, 1983). One of the issues on which the Commission requested comment was:

> The advantages and disadvantages of extending the floor trader margining systems, like that of CME, approved by the Commission beyond active floor traders to all members of a contract market [where] the instrument is traded.

48 FR at 10858.

By letter dated March 15, 1983, the CME and NYFE requested that the

Commission interpret the application of their delta margining systems for futures options to apply to all members of both exchanges, rather than merely to members who are present on the floor and trading for their own accounts. These delta margining systems permit the market value of a long option, adjusted by formula for the risk of one day's market move, to be used to reduce the aggregate margin obligations on short option positions and on futures positions held in a floor trader's account.

The Commission has determined to notify the CME and NYFE of its willingness to consider Exchange rule submissions pursuant to section 5a(12) of the Commodity Exchange Act which would permit expansion of application of the Exchanges' delta margining systems for floor traders to certain other categories of Exchange members, rather than simply interpreting exchange margin rules as permitting such an expansion. The Commission believes that the language of Exchange rules regarding margin should accurately state to whom those rules may be applied.

The Commission has determined to publish the text of the letter it has sent to NYFE, notifying it of the Commission's willingness to consider such section 5a(12) submissions in order to inform the public of the Commission's resolution of this issue as set forth in the March 15 Notice and Request for Comment. (The identical letter is being sent to the CME.) For the reasons stated in the text of the letter set forth below, the Commission has determined to consider favorably an extension of the Exchanges' delta margining systems which now apply to floor traders trading for their own accounts to other categories of exchange members:

Mr. Lewis Horowitz,
President, New York Futures Exchange, 20 Broad Street, New York, New York 10005

Dear Mr. Horowitz: By letter dated March 15, 1983 ("Exchange letter"), Dr. Frank J. Jones, then Executive Vice President and Chief Operating Officer of the New York Futures Exchange ("NYFE"), requested on behalf of the NYFE and the Chicago Mercantile Exchange ("CME") that the Commission reinterpret the permissible scope of the "delta" margining systems employed by the two Exchanges for margining futures options. Specifically, each Exchange requested that the Commission concur that the Exchanges' respective delta margining systems could be applied to all transactions by its members on that exchange.

The Commission, in originally approving the options margin systems proposed by NYFE and CME, had indicated that because these "delta" margining systems permitted the value of long option positions held in a member's account to reduce margin obligations with respect to other market positions, the use of these margin systems was to be restricted to the positions of members who were present on the trading floor when initiating an order. The Commission reached this determination, at least in part, because the original submission by each exchange had identified its proposed options margin system as a system applicable to "floor traders," and had suggested that floor traders were the equivalent on futures exchanges of "marketmakers," even though they do not have specific affirmative marketmaking obligations. As you are aware, the obligation of a member to assume affirmative marketmaking obligations has been the basis upon which the Board of Governors of the Federal Reserve System historically has specifically addressed the margin obligations of specialists and other marketmakers in the securities industry. The Exchanges also noted that the primary reasons which had previously been articulated by the Commission for restricting the use of the value of long options for customer positions—*i.e.*, the protection of customer funds and the avoidance of confusion as to subsequent obligations to make payments on long options positions—did not apply to market professionals. 48 FR 54500, 54504 (November 3, 1981).

The Commission has evaluated the Exchanges' request and has determined that it would be inappropriate for the Commission to interpret the term "floor trader" as set forth in existing Exchange rules and options margin submissions to include all Exchange members. The Commission will, however, accept for review pursuant to section 5a(12) of the Commodity Exchange Act and 17 CFR 1.41(b) amendments to the Exchanges' rules which establish their options margins systems to broaden the category of Exchange members who may employ the margining system which the Commission has approved for floor traders. The Commission believes that amendment of the Exchanges' rules will require the Exchanges to clearly delineate the scope of the system in its rules and to focus on the justification for extending such systems to members who do not initiate all of their transactions on the floor of the exchange.

In this context, the Commission believes that it would be appropriate to consider favorably rule changes which would extend the Exchanges' options margining systems to the accounts of those members which are defined as "proprietary accounts" in the Exchanges' and Commission's net capital rules for two reasons.[1] First, because members make guaranty and capital contributions, generally own or lease seats whose value may be used to meet unsatisfied margin obligations, and because Exchange's scrutinize members' positions for risk in their daily review of pay and collect information, members' positions generally present a lower risk to the solvency of the Exchanges' clearing systems than do the positions of customers. The Exchanges also have represented that they can more easily assess and collect variation margin on a timely basis from members than from customers because of the members' close proximity to the Exchanges and the accessibility of their accounts.

Second, members who are floor traders, as well as other members trading for their personal accounts, are more likely than customers to understand the degree of their exposure to increased demands for margin under the Exchanges' options margining systems and the distribution of risk inherent in those systems. While the Commission believes that individual member and member firm accounts may have the financial and professional characteristics upon which more favorable margin treatment may be based, the Commission does not intend to consider favorably the extension of the options margining systems previously approved for floor traders to those employees of member firms who are not themselves members, but who nonetheless normally would be reflected as proprietary accounts on the members' financial statements,[2] nor to the positions of market professionals which are not defined as proprietary by the net capital rules.

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List of Subjects in 17 CFR Part 33

Commodity options, Commodity futures.

Issued in Washington, D.C., on October 26, 1983 by the Commission.

Jean A. Webb,
Deputy Secretary of the Commission.

[FR Doc. 83-29501 Filed 10-28-83; 8:45 am]
BILLING CODE 6351-01-M

[1] Commission regulation § 1.17(b)(3) defines "proprietary account" to mean: "a commodity futures or options account carried on the books of the applicant or registrant for the applicant or registrant itself, or for general partners in the applicant or registrant." Thus for purposes of reviewing proposed Exchange rules submitted in response to this interpretation, the Commission will use a more restrictive definition of proprietary account than that found in Commission regulation § 1.3(y).

[2] Accordingly, all accounts which may be identified pursuant to Commission regulation § 1.35(e) with customer type indicators as "house" accounts will not necessarily be entitled to options margin treatment as floor traders.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-14]

Natural Gas Policy Act; Incremental Pricing; Acquisition Cost Thresholds

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357–8500.

Issued October 25, 1983.

Order of the Director, OPPR

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of November 1983 is issued by the publication of a price table for the applicable month. See FERC Statutes and Regulations ¶24,764.

List of subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

CALENDAR YEAR 1980

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental Pricing Threshold	$1.702	$1.738	$1.750	$1.762	$1.770	$1.790	$1.804	$1.819	$1.834	$1.849	$1.860	$1.877
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.586	2.614	2.640
NGPA Section 109 Threshold	1.706	1.709	1.812	1.825	1.838	1.851	1.867	1.883	1.898	1.915	1.926	1.943
130 Percent of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.840	7.290	7.400	7.400	7.450	7.560

CALENDAR YEAR 1981

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental Pricing Threshold	$1.891	$1.906	$1.925	$1.942	$1.954	$1.967	$1.980	$1.990	$2.000	$2.010	$2.025	$2.041
NGPA Section 102 Threshold	2.667	2.686	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.908	2.940	2.971
NGPA Section 109 Threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130 Percent of No. 2 Fuel Oil in New York City Threshold	7.610	7.760	8.250	8.010	8.510	8.430	8.360	9.280	8.860	8.700	8.830	8.980

CALENDAR YEAR 1982

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental Pricing Threshold	$2.057	$2.071	$2.085	$2.099	$2.106	$2.713	$2.120	$2.129	$2.139	$2.149	$2.159	$2.169
NGPA Section 102 Threshold	3.003	3.028	3.063	3.093	3.112	3.132	3.152	3.176	3.200	3.224	3.248	3.274
NGPA Section 109 Threshold	2.126	2.143	2.156	2.173	2.180	2.197	2.194	2.294	2.214	2.224	2.234	2.244
130 Percent of No. 2 Fuel Oil in New York City Threshold	8.160	9.340	8.470	8.340	9.260	8.000	8.170	8.670	8.680	8.950	8.840	8.890

CALENDAR YEAR 1983

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental Pricing Threshold	$2.179	$2.187	$2.195	$2.205	$2.214	$2.225	$2.236	$2.245	$2.254	$2.263	$2.270	$
NGPA Section 102 Threshold	3.299	3.321	3.344	3.367	3.394	3.421	3.448	3.472	3.496	3.520	3.542	
NGPA Section 109 Threshold	2.254	2.292	2.270	2.278	2.289	2.300	2.311	2.320	2.329	2.338	2.345	
130 Percent of No. 2 Fuel oil in New York City Threshold	9.420	9.320	8.820	8.120	7.550	8.850	7.540	7.810	7.440	7.550	7.670	

[FR Doc. 83–29404 Filed 10–28–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4 and 10

[T.D 83–214]

Customs Regulations Amendments Relating to the Vessel Documentation Act; Correction

AGENCY: Customs Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects an error in a document which clarified the documentation procedure for U.S. vessels engaged in various trades and defined clearly the types of supplies and equipment for vessels which are exempt from the payment of Customs duties and internal revenue taxes. The document was published in the **Federal Register** on Thursday, October 13, 1983 (48 FR 46510).

FOR FURTHER INFORMATION CONTACT: Harold Singer, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

In FR Doc. 83–27827, appearing at page 46510, in the issue of October 13, 1983, on page 46514, item 27, under the heading for § 4.96, erroneously amended Part 4, Customs Regulations (19 CFR Part 4), by removing § 4.96(h). The correct section to be removed was § 4.96(i), not § 4.96(h). Thus, the corrected listing for § 4.96 should be as follows:

§ 4.96 [Amended]

27. Part 4 is further amended by removing § 4.96(i) and footnotes 131b and 132c.

Dated: October 21, 1983.

B. James Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 83-29491 Filed 10-28-83; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance Benefits; Repeal of Minimum Benefit Provision and Rounding of Benefits

Correction

In FR Doc. 83-27096 beginning on page 46142 in the issue of Tuesday, October 11, 1983, make the following correction:

Appendix III—[Corrected]

On page 46143, column three, Appendix III—Benefit Table, line four, "died" should appear after "who".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Red No. 19 and D&C Red No. 37 for Use in Externally Applied Drugs and Cosmetics; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Red No. 19 and D&C Red No. 37 for use as color additives in externally applied drugs and cosmetics. The new closing date will be December 2, 1983. This postponement will provide additional time for determining the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Red No. 19 and D&C Red No. 37.

DATES: Effective October 31, 1983, the new closing date for D&C Red No. 19 and D&C Red No. 37 will be December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of October 31, 1983, for the provisional listing of D&C Red No. 19 and D&C Red No. 37 for use in externally applied drugs and cosmetics by a rule published in the **Federal Register** of August 26, 1983 (48 FR 38814). The agency had previously extended the closing date for these color additives on several occasions. (See 48 FR 38814 for a full procedural history of this matter.)

The agency extended the closing date on these occasions to permit it to consider the scientific and legal aspects of the submissions by the petitioner, the Cosmetic, Toiletry and Fragrance Association, Inc., in support of the safety of the external uses of these color additives. Although D&C Red No. 19 and D&C Red No. 37 have been shown to be animal carcinogens upon ingestion, the agency believes that somewhat different questions are raised by the request to list these color additives for noningested use. It has taken more time to evaluate the data involved in resolving these questions than the agency anticipated. FDA finds that it still needs additional time to determine the applicability of the statutory standard for the listing of color additives for noningested use to D&C Red No. 19 and D&C Red No. 37. The regulations set forth below will postpone the October 31, 1983 closing date for the provisionally listed uses until December 2, 1983. This postponement will also provide additional time for the agency to prepare and to publish a **Federal Register** document setting forth its final decision on the petition for the permanent listing of these color additives for external use. The continued use of these color additives in externally applied products for the short time needed for adequate evaluation of the data and for preparation of the **Federal Register** document will not pose a hazard to the public health.

Because of the short time until the October 31, 1983 closing date, FDA concludes that notice and public procedure on these amendments are impracticable, and that good cause exists for issuing the postponement as a final rule. This final rule will permit the uninterrupted use of these color additives until December 2, 1983. To prevent any interruption in the provisional listing of D&C Red No. 19 and D&C Red No. 37 and in accordance with 5 U.S.C. 553(d) (1) and (3), this final rule is being made effective October 31, 1983.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055-1056 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376 (b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives,* by revising the closing date for "D&C Red No. 19" and "D&C Red No. 37" in paragraph (b) to read "December 2, 1983."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing,* by revising the closing date for "D&C Red No. 19" and "D&C Red No. 37" in paragraph (d) to read "December 2, 1983."

Effective date. This final rule shall be effective October 31, 1983.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055-1056 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note))

Dated: October 20, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-29484 Filed 10-28-83; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Part 177

[Docket No. 80F-0312]

Indirect Food Additives; Polymers; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended the food additive regulations to provide for the safe use of vinylidene chloride/methyl acrylate copolymers as articles or components of articles in contact with

food. FDA is correcting the regulation by inserting a word that was omitted and by correcting the references to degrees Celsius that are incorrect.

EFFECTIVE DATE: August 25, 1983.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In FR Doc. 83–23281 appearing at page 38604 in the issue for Thursday, August 25, 1983, the following corrections are made on page 38605 under § 177.1990 *Vinylidene chloride/methyl acrylate copolymers:*

§ 177.1990 [Corrected]

1. In the second column in paragraph (c)(2), first line, the word "weight" is inserted between the words "The" and "average".

2. In the third column:

a. In paragraph (d)(1), the third line, "157° C" is corrected to read "121° C"; and in the fifth line, "101° C" is corrected to read "66° C".

b. In paragraph (d)(2), third line, "157° C" is corrected to read "121° C".

c. In paragraph (e), last line, "157 C" is corrected to read "121 C".

Dated: October 17, 1983.

Richard J. Rank,

Acting Director, Bureau of Foods.

[FR Doc. 83–29463 Filed 10–28–83; 8:45 a.m.]

BILLING CODE 4160–01–M

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21 CFR Parts 211, 700, and 800

[Docket Nos. 82N–0330 and 82N–0332]

Tamper-Resistant Packaging Requirements; Interim Stay of Retail Level Date; Correction

Correction

In FR Doc. 83–28095 appearing on page 46979 in the issue of Monday, October 17, 1983, make the following correction: In column one, **SUMMARY**, line eighteen, "initial" should read "interim" and in line nineteen "interim" should read "initial".

BILLING CODE 1505–01–M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject To Certification; Diethylcarbamazine Citrate Capsules

Correction

In FR Doc. 83–28096 appearing on page 46979 in the issue of Monday, October 17, 1983, make the following correction: In column two, **SUPPLEMENTARY INFORMATION,** line four, "12.5-, 200-, and 400-milligram" should read "12.5-, 50-, 200-, and 400-milligram".

BILLING CODE 1505–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended the monensin regulation to provide additional labeling statements for use of monensin in cattle feeds. The regulation fails to reflect properly that this medicated feed can now be administered to pasture cattle, including dairy and beef cattle replacement heifers. This document corrects that error.

EFFECTIVE DATE: September 28, 1983.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION:

§ 558.355 [Corrected]

In FR Doc. 83–26338 appearing at page 44204 in the **Federal Register** of Wednesday, September 28, 1983, the following correction is made on page 44204 in in § 558.355 *Monensin:* The first sentence in paragraph (f)(3)(iii)(*b*) is revised to read "Feed to pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers) weighing more than 400 pounds."

Dated: October 24, 1983.

Max L. Crandall,

Associate Director for Surveillance & Compliance.

[FR Doc. 83–29462 Filed 10–28–83; 8:45 am]

BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. NH 1343; A–1–FRL 2461–3]

Approval and Promulgation of Implementation Plans, New Hampshire; VOC Regulation Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of New Hampshire. These revisions control emissions from major sources of volatile organic compounds (VOCs). The intended effect of this action is to satisfy requirements for non-attainment areas as required under Section 172(b)(2) of the Clean Air Act.

EFFECTIVE DATE: November 30, 1983.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW, Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. 20408; and the Air Resources Agency, Health and Welfare Bldg., Hazen Drive, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: Betsy Horne, (617) 223–5130.

SUPPLEMENTARY INFORMATION: On April 29, 1983, (48 FR 19417), EPA published a Notice of Proposed Rulemaking (NPR) for revisions to New Hampshire's regulation to control emissions of VOCs.

This action involves three regulatory changes:

1. "Equivalent" is defined to include "solids-applied basis" for calculating compliance with EPA's procedures for controlling emissions of VOCs.

2. The date for compliance schedule extensions has been changed from December 31, 1987 to July 1, 1985.

3. The miscellaneous metal parts regulation is now approvable based on the change indicated in 1. above.

The revisions and the rationale for EPA's proposed approval are explained in detail in that NPR and will not be restated here. No public comments were received on the NPR.

Final Action

EPA is approving the amendments to Air 1204.02(c) and 1204.21(j) submitted on August 9, 1983 and an amendment to Air 1204.17 submitted on August 17, 1981.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead,

Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations, Incorporation by reference.

Authority: Sections 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Note.—Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 21, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations, is amended as follows:

Subpart EE—New Hampshire

1. Section 52.1520, paragraph (c) is amended by adding paragraph (27) as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(27) Amendments to Regulation Air 1204.02(c), defining "equivalent" to include "solids-applied basis" and Air 1204.21(j), altering the maximum time for compliance schedule extensions from December 31, 1987 to July 1, 1985 were submitted on August 9, 1983. An additional regulation, Air 1204.17, "Emission Standards for Miscellaneous Metal Parts and Products" was submitted on August 17, 1981.

§ 52.1522 [Amended]

2. Paragraph (c) of § 52.1522, Approval Status, is removed and reserved.

[FR Doc. 83-29451 Filed 10-28-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL 2461-2; SC-005]

Approval and Promulgation of Implementation Plans; South Carolina; Miscellaneous SIP Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The South Carolina Department of Health and Environmental Control (DHEC) has revised its State Implementation Plan (SIP) by making changes in the definitions and requirements for permitting, monitoring, periodic testing, source testing, and open burning, as well as by making nonsubstantial wording changes in several regulations. EPA is approving these changes since they are consistent with Agency requirements for SIP's.

EFFECTIVE DATE: This action will be effective on December 30, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Denise W. Pack of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

Air Management Branch, EPA Region IV, 345 Courtland St., NE., Atlanta, Georgia 30365;

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005; and

Bureau of Air Quality, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Denise W. Pack, EPA Region IV Air Management Branch, 345 Courtland St., NE, Atlanta, Georgia 30365, at 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On March 3, May 5, and July 11, 1983 the South Carolina Department of Health and Environmental Control (DHEC) submitted several changes in the regulatory portion of its SIP. DHEC made these changes to eliminate inconsistencies in the SIP and to make the SIP comply with Federal regulations. The revisions being approved today are as follows:

Regulation 62.1, Definitions, Permit Requirements and Emission Inventory

(a) Section I: Definitions, was revised by adding the terms and definitions of emission data, fugitive emissions, major plant, plant, potential to emit, secondary emissions, stationary source.

(b) Exemptions were added to Section II: Permit Requirements, excluding from permit requirements process sources having both process weight rates less than 0.05 tons per year (TPY) and emission rates no greater than 0.55 lbs/hr and Volatile Organic Compound (VOC) sources having both process weights less than 0.05 TPY and emission rates of less 1000 lbs/mo.

(c) Permit requirements under Section II were also expanded to include requirements for obtaining an operating permit, for transferring an operating permit, and for source inspection prior to issuance or renewal of an operating permit.

(d) Section III: Emission Inventory, was added. This requires the annual review of emission inventories of all major plants and specifies confidentiality requirements.

Regulation 62.2: Open Burning

The restriction on practice burning was deleted and limitations were added on open burning for purposes of destroying trade waste.

Regulation 62.5: Air Pollution Control Standards

(a) Added to Section IV, Standard No. 1: Emission from Fuel Burning Operations, was a requirement for monitoring opacities of woodwaste boilers.

(b) Section VI was added to Standard No. 1. This requires fuel burning operations to demonstrate compliance through periodic testing.

(c) Section VII was added to Standard No. 1 to specify how tests required in Section VI are to be performed.

(d) The note "F=effect factor" was added to the Process Weight Equation in Section VI, Standard No. 4.

(e) Section IX was added to Standard No. 4 to require the semi-annual testing of particulates and/or sulfur oxides from certain process sources.

(f) Section X was added to Standard No. 4 to specify the procedures to be followed in the tests designated in Section IX.

In addition nonsubstantial word changes were made in Regulation 62.3: Emergency Episode; Regulation 62.5, Standard No. I: Emission from Fuel Burning Sources: Standard No. 5: Volatile Organic Compounds and Standard No. 6: Alternative Emission Limiting Options.

Action

EPA has reviewed these revisions and determined that they comply with applicable Federal requirements. Therefore, EPA is announcing approval of the miscellaneous changes submitted by DHEC.

This action is being taken without prior proposal because the South Carolina regulation changes are noncontroversial and EPA anticipates no comments on them. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be

withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements is Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 30, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Note—Incorporation by reference of the South Carolina State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: October 24, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart PP—South Carolina

In § 52.2120, paragraph (c) is amended by adding paragraph (26) as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(26) Changes in Regulations 62.2, 62.3, and 62.5, submitted on March 3, May 5, and July 11, 1983 by the South Carolina Department of Health and Environmental Control.

[FR Doc. 83-29449 Filed 10-28-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[TN-009; A-4-FRL 2460-5]

Approval and Promulgation of Implementation Plans; Tennessee; Prevention of Significant Deterioration, New Source Review in Nonattainment Areas, and Miscellaneous Regulations for Nashville/Davidson County

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today approving regulations adopted by the Nashville-Davidson County Metropolitan Health Department (Metro) to meet EPA's requirements for the prevention of significant air quality deterioration (PSD), new source review in nonattainment areas (NSR), good engineering practice (GEP) stack height, control of volatile organic compounds (VOC), and an equivalent opacity standard for a source. All these regulations or actions apply to Davidson County, Tennessee or sources located there. EPA is approving the above revisions on condition that changes be made in the GEP stack height and NSR regulations. The effect of this action will be to allow Metro to be responsible for the PSD, NSR, and GEP stack height requirements in Davidson County. In addition, Metro's submitted regulations will control emissions from certain VOC sources, and allow an equivalent opacity standard for a source (Ford Motor Company plant) in Davidson County.

DATE: This action is effective November 30, 1983.

ADDRESSES: Copies of the materials submitted to Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Tennessee Air Pollution Control Division, 150 9th Avenue North, Nashville, Tennessee 37203

Air Pollution Control Division, Metropolitan Health Department, Nashville-Davidson County, 311 23rd Avenue, North, Nashville, Tennessee 37203

FOR FURTHER INFORMATION CONTACT: Mr. Raymond S. Gregory, EPA Region IV's Air Management Branch, at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: In the May 3, 1983, **Federal Register** (48 FR 19898), EPA proposed conditional approval of several regulations adopted by Metro and announced a 30-day public comment period. No comments were received. A discussion of the regulations being approved follows (a more detailed discussion can be found in the proposal notice).

Metro submitted regulations or supplemental information to comply with EPA's requirements for PSD, NSR, GEP stack height, and control of certain sources of VOC on October 9, 1981, June 3, September 1, October 22, and November 22, 1982. An equivalent opacity standard for two emission points at a Ford Motor Company plant was included in the June 3, 1982, submittal.

There are two areas within the NSR and GEP stack height regulations which do not meet EPA requirements and for which conditional approval is being given. During EPA's review of the NSR revisions, an issue surfaced concerning the approvability of allowing offset credits for source shutdowns for other than replacement units. EPA is conditionally approving Metro's NSR revisions to allow for submittal of conforming amendments within twelve months from the date of conditional approval. If the twelve-month period expires and EPA is in the process of revising the new source review requirements, but has not finalized the changes, the Administrator can extend the deadline specified for corrective submittal.

The regulation adopted by Metro for GEP stack heights is approvable except for the lack of definitions of "nearby" and "excessive concentration," and a provision required (40 CFR 51.18(e)) for notification of the public of the availability of certain fluid model demonstration studies and for providing an opportunity for public hearing for the same. EPA is conditionally approving the GEP regulation on the condition that Metro adopt the required definitions and the provision for required public notice and opportunity for public hearing, and submit them to EPA by [12 months from publication date].

Action

EPA has reviewed the submitted revisions and found them to meet present EPA requirements except in the two areas noted.

EPA is today approving the Nashville-Davidson County NSR and GEP stack height regulation on condition that the State submit the necessary conforming amendments by [12 months from date of publication] and, in the interim, implement these regulations in a manner consistent with EPA requirements. Also, EPA is today approving the revisions by Metro for PSD, control of VOC and the equivalent opacity standard for Ford Motor Company.

Under Section 307(b)(1) lof the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV office (see address above).

Incorporation by reference of the Tennessee State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

(Secs. 110, 161, and 172 of the Clean Air Act (42 U.S.C. 7410, 7471, and 7502))

Dated: October 24, 1983.

William D. Ruckelshaus,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart RR—Tennessee

1. Section 52.2220 is amended by adding paragraph (55) to paragraph (c) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(55) Nashville-Davidson County regulations for prevention of significant deterioration and for new source review in nonattainment areas, submitted on October 9, 1981 (revised regulation No. 3), June 3 and November 22, 1982 (changes in revised regulation No. 3 and in Chapter Four of the Metropolitan Code of Nashville and Davidson County), and regulations submitted on June 3, 1982, for the control of volatile organic compounds, determination of good engineering practice stack height, and permits for an equivalent opacity standard for Ford Motor Company, by the Tennessee Department of Public Health.

2. Section 52.2228 is amended by adding paragraphs (c) and (d) as follows:

§ 52.2228 Review of new sources and modifications.

* * * * *

(c) *Part D conditional approval.* The Nashville-Davidson County regulation for the review of new sources and modifications in nonattainment areas is approved on condition that the State by October 31, 1984 submit a revision limiting source shutdown credit for offsets to replacement units, and, in the interim, assure implementation of the regulation in conformity with Federal requirements.

(d) *Section 123 conditional approval.* The plan's provision for implementation of the requirements of Section 123 of the Clean Air Act in Nashville-Davidson County is approved on condition that the State by October 31, 1984 submit:

(1) Definitions in the local regulation of "nearby" and "excessive concentration" and

(2) Provision in the local regulation for public notification and opportunity for hearing in cases where stack heights in excess of normal good engineering practice are proposed on the basis of fluid modeling demonstrations, and, in the interim, assure implementation of the local regulation in conformity with Federal requirements.

[FR Doc. 83-29448 Filed 10-28-83; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 655

[Docket No. 31025-207]

Foreign Fishing; Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice of inseason adjustment.

SUMMARY: NOAA issues this notice to allocate 10,166 metric tons (mt) of the 11,000 mt *Loligo* squid reserve to the total allowable level of foreign fishing, with 834 mt remaining in the reserve. This action is required by regulations implementing the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries. The allocation will encourage achievement of the optimum yield.

EFFECTIVE DATE: October 26, 1983.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600 ext. 273.

SUPPLEMENTARY INFORMATION: Final initial specifications for the Atlantic mackerel, squid, and butterfish fisheries for the fishing year 1983-1984 effective July 18, 1983 (48 FR 33001, July 20, 1983), established a reserve of 11,000 mt of *Loligo* squid. Regulations provide a mechanism to allocate all or part of the reserve to the total allowable level of foreign fishing (TALFF) in October of each year. Sections 611.50(b)(3) and 655.23(a)(1) direct the Regional Director of the Northeast Region, National Marine Fisheries Service (NMFS), in September to project the total domestic harvest for the entire fishing year (April 1 through March 31) by multiplying the domestic catch (exclusive of joint venture harvest) from April through August by a multiplication factor derived from either the previous fishing year or the average annual U.S. *Loligo* landings since 1977, whichever is greater. *Loligo* landings (April 1–August 31, 1983) are 7,423 mt which is multiplied by a factor 1.5, derived from the greater amount, the previous 1982 fishing year landings.

The result is a projected domestic annual harvest of 22,834 mt, including 11,700 mt authorized for joint venture harvest. This amount exceeds the level of domestic harvest by 834 mt. Therefore, 834 mt will be retained in *Loligo* reserve, and the balance of the 11,000 mt reserve i.e., 10,166 mt is allocated to TALFF. The new total for TALFF is 21,166 mt.

This action is taken under the authority of 50 CFR 611.50(b)(3) and 655.23(a)(1), and is taken in compliance with Executive Order 12291.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 655

Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: October 25, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29400 Filed 10-28-83; 2:43 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 211
Monday, October 31, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 82-344]

7 CFR Part 301

West Indian Sugarcane Root Borer; Domestic

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposal to establish a quarantine and regulations to restrict the interstate movement of certain articles from certain areas in Florida and from any area in Puerto Rico and the Virgin Islands of the United States because of West Indian sugarcane root borer (root borer). This action is taken because there is no longer a basis for adopting these proposed provisions.

A companion document removes provisions in 7 CFR 318.16 and 318.16a concerning restrictions on the interstate movement of certain articles from Hawaii, Puerto Rico, and the Virgin Islands of the United States because of the root borer; and removes emergency regulations in 7 CFR 331.7 concerning restrictions on the interstate movement of certain articles from Puerto Rico and the Virgin Islands of the United States because of the root borer. The companion document (FR Doc. 83-26307) captioned "West Indian Sugarcane Root Borer" is published in the final rule section of this issue of the Federal Register.

DATE: This withdrawal is effective on October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION: This document withdraws the proposals published in the **Federal Register** on February 8, 1980 and August 8, 1980 (45 FR 8654-8662, 52816-52817), to establish a quarantine and regulations to restrict the interstate movement of certain articles from certain areas in Florida and from any area in Puerto Rico and the Virgin Islands of the United States because of the West Indian sugarcane root borer. For a further discussion of the basis and purpose of the withdrawal of the proposal, see the companion document captioned "West Indian Sugarcane Root Borer" in the final rule section of this issue of the **Federal Register**.

Currently no federal funds are available for root borer regulatory activities relating to Florida, Puerto Rico or the Virgin Islands of the United States. Accordingly, it does not appear that a quarantine and regulations relating to these areas would be effective since the Department would not be able to conduct those activities necessary to update such a quarantine and regulations, and would not be able to take the necessary action to enforce such a quarantine and regulations. Further, Florida is enforcing state regulations which appear to be effective for preventing the spread of the root borer from infested areas in Florida, and recent pest interception records on the interstate movement of listed articles from Puerto Rico and the Virgin Islands of the United States reveal that there is not a significant risk of introducing root borer through the movement of the listed articles from the Virgin Islands of the United States and Puerto Rico into other areas in the United States.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (Agriculture), Quarantine, Transportation, West Indian sugarcane root borer.

Authority: Sec. 8 and 9, 37 Stat. 318, as amended; sec. 105 and 106, 71 Stat. 32, 71 Stat. 33, (7 U.S.C. 161, 162, 150dd, 150ee), 7 CFR §§ 2.17, 2.51, and 371.2.

Done at Washington, D.C. this 22nd day of September 1983.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-26308 Filed 10-28-83; 8:45 am]
BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 307 and 381

[Docket No. Docket No. 82-007W]

Reimbursement for Preparation and Cleanup Time; Withdrawal of Proposal

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Food Safety and Inspection Services (FSIS) is withdrawing its proposed rule relating to the reimbursement of preparatory and cleanup activities. The proposed rule would have provided that time up to 15 minutes a day spent by an inspector on certain preparatory and cleanup activities would be treated the same as any other inspection service in determining the cost of overtime and holiday inspection service to be reimbursed by official establishments. This withdrawal action is being taken due to the recent issuance of final regulations by the Office of Personnel Management regarding premium and overtime pay provisions for Federal employees.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Manis, Director, Labor Management Relations Staff, Room 4437, South Agriculture Building, U.S. Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, (202) 447-4819.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 7, 1982 (47 19701), FSIS proposed to amend the overtime and holiday inspection service sections of the Federal meat and poultry products inspection regulations (9 CFR 307.5 and 381.38). The proposed amendments provided that the performance of compensable preparatory and cleanup activities (up to 15 minutes per day) by slaughter line inspectors would be treated the same as the performance of any other inspection

service for the purposes of determining the cost of overtime and holiday inspection service to be reimbursed by official establishments.

The amendments proposed by FSIS were derived from an agreement negotiated between FSIS and the National Joint Council of Food Inspection Locals, AFGE. This agreement provided that the time involved in the performance of compensable preparatory and cleanup activities will be included in calculating the hours of work of slaughter line inspectors. Other inspectors who, at the time of performing the compensable activities, were acting in the capacity of slaughter line inspectors were also covered by the provisions of the agreement. This agreement was intended to implement decisions by the Comptroller General upholding a determination by the Office of Personnel Management (OPM) that the performance of certain preparatory and cleanup activities by slaughter line inspectors activity and that the time spent on such activities was therefore compensable under the Fair Labor Standards Act (FSIS).

On July 2, 1982, FSIS published a notice in the **Federal Register** (47 FR 28966) extending the comment period on this proposal from July 6, 1982, to August 5, 1982. Also on July 2, 1982, OPM published proposed regulations for the computation of fractional hours of overtime work performed by Federal employees under Title 5, United States Code and the FLSA.

New OPM regulations published on August 15, 1983 (48 FR 36803) specify the procedures to be used for compensating Federal employees for fractional hours of overtime work and for determining whether time spent in preshift and postshift (preparatory and concluding) activities is compensable.

Section 4(f) of the Fair Labor Standards Act, as amended, 29 U.S.C. 204(f), authorizes the Civil Service Commission [1] to administer the FLSA as it pertains to Federal employees. Therefore, OPM determinations relating to matters under the FLSA are binding on the Agency. Since the regulations of OPM establish criteria for determining whether preshift/postshift activities are compensable there is no need for independent regulations of FSIS on the subject. All determinations on the compensation of inspectors for preshift/postshift activities will be made in accordance with the OPM regulations.

Accordingly, FSIS hereby withdraws the proposed rule published in the **Federal Register** on May 7, 1982 (47 FR 19701).

Done at Washington, DC, this 25th day of October, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

October 25, 1983.

[FR Doc. 83-29485 Filed 10-28-83; 8:45 am]

BILLING CODE 3410-DM-M

[1] Now Office of Personnel Management.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-37]

Lillian McNally; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from Lillian McNally.

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking dated July 6, 1983, which was filed with the Commission by Lillian McNally. The petition was docketed by the Commission on July 8, 1983, and has been assigned Docket No. PRM-50-37. The petitioner subsequently filed a supplement to the petition dated September 20, 1983. The petitioner requests that the Commission amend its regulations to require new standards for levels of deuterium and tritium in water circulated in and around nuclear power plants.

DATE: Comment period expires December 30, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7086 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION: The Petitioner asks that new standards be set for all water circulated in and around nuclear power plants. The petitioner specifically proposes, in part, that "* * * water circulated in and around Nuclear Power Plants is not to exceed the natural environmental concentration of Deuterium and Tritium for one year; that * * * one year [later] the concentration shall be limited to less than one part by weight in 10,000 parts; and that the [level] * * * of contaminants shall be reviewed annually thereafter to determine the attainable purity of circulating water." The petitioner requests the limit on deuterium to reduce the formation of tritium from deuterium by neutron absorption.

The petitioner further states that if there are specially designed facilities that can properly contain contaminated or heavy water, these facilities could be exempted from the proposed requirement.

Finally, in support of the specific proposal noted above, the petitioner states that the new standards are requested in the interest of public safety since, according to the petitioner, three incidents are on record where radioactive water was released to the atmosphere and a fourth may also have occurred.

Dated at Washington, DC this 25th day of October 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-28511 Filed 10-28-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-87-AD]

Airworthiness Directives; Airbus Industrie Model A300 B2-1A, B2-1C, B4-2C, B2K-3C, B4-103, B2-203 and B4-203 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require replacement of certain components of the slat and flap transmission systems on the Airbus Industrie Model A300 B2 and B4 series airplanes. At least 13 cases of failures in these transmission systems have been reported. These failures create nonoperative slats or flaps which can lead to asymmetrical deployment of flight control surfaces, compromising the controllability of the airplane.

DATES: Comments must be received no later than December 16, 1983.

ADDRESSES: The applicable service information maybe obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-87-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Direction General de l'Aviation Civile (DGAC), the civil air authority of France, the country of manufacture for the Airbus Industrie Model A300, has classified certain Airbus Industrie (AI) and Lucas Aerospace (LA) service bulletins as mandatory.

These service bulletins specify actions necessary to solve the following service difficulties on the flap and slat transmission systems:

A. Five cases of fatigue failures of bolts on Hookes universal joints of the slat system have been reported. To avoid failures of the universal joints, the bolts installed on the Hookes universal joints must be replaced by new properly torqued bolts of the same type.

B. Four cases of fatigue failure of bolts on the flap control system Hookes universal joints have been reported. To prevent failure of the flap control system, the bolts installed on Hookes universal joints should be replaced by new properly torqued bolts of the same type.

C. Four cases of failures of Halo type universal joints on the leading edge slat control linkages have been reported. The cause of the failure was premature wear of the inner bushes of the universal joints. This wear causes a significant play between fork ends, pivot pins, and fork end holes which results in fork end failure. Replacement of the Halo universal joints is prescribed.

Based on this service history, Airbus Industrie has issued service bulletins A300-27-101, A300-27-151, A300-27-156, and A300-27-159; and Lucas Aerospace has issued service bulletins 704-27-599, 704-27-602, and 722-27-1053. The DGAC has classified these service bulletins as mandatory.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require accomplishment of the actions described above. Failure of these components of slat and flap transmission systems on these airplanes can lead to asymmetrical deployment of flight control surfaces and possible loss of control of the aircraft.

It is estimated that 26 U.S. registered airplanes would be affected by this AD, that it would take approximately 65 manhours per airplane to accomplish the required action, and that the average labor cost would be $40 per manhour. Repair parts are estimated at $2,000 per airplane. Based on these figures, the total cost impact of this AD to the U.S. operator is estimated to be $119,600. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Airbus Industrie: Applies to model A300 B2 and B4 series airplanes, certificated in all categories. To prevent failure of the flap and slat control linkages, within 120 days after the effective date of this AD or upon reaching the landing thresholds specified in the service bulletins, whichever occurs later, accomplish the following, unless previously accomplished:

A. Inspect, repair, and modify, as necessary, the slat and flap linkages in accordance with the service bulletins listed below:

Airbus Industrie A300-27-159, Revision 4, dated December 20, 1982,
Airbus Industrie A300-27-159, Revision 2, dated December 20, 1982,
Airbus Industrie A300-27-158, Revision 1, dated March 9, 1982,
Airbus Industrie A300-27-101, Revision 2, dated March 2, 1982,
Lucas Aerospace 704-27-599, Revision 1, dated September 25, 1981,
Lucas Aerospace 704-27-1053, Revision 1, dated October 11, 1982, and
Lucas Aerospace 704-27-602, Revision 1, dated November 27, 1981.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the

Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on October 17, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-29089 Filed 10-28-83; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-174 (Colorado-33)]

Natural Gas Policy Act; High-Cost Gas Produced from Tight Formations; Colorado

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Shannon Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on December 9, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written request for a public hearing are due on November 9, 1983.

ADDRESS: Comments and request for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

Issued October 25, 1983

I. Background

On January 10, 1983, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Shannon Formation located in Boulder and Weld Counties, Colorado, be designated as a tight formation. By letter dated January 28, 1983, the Director of the Commission's Division of NGPA Compliance (presently Division of Producer Audits and Pricing), requested that Colorado submit addfitional information sufficient to determine the average depth to the top, the average thickness, and the vertical limits of the Shannon Formation in the recommended area. On March 7, 1983, a partial response was received from Colorado, and on March 25, 1983, OPPR requested that additional data be submitted. On September 1, 1983, Colorado submitted the remainder of the requested data. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Shannon Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

Description of Recommendation

The recommended formation is located in the western portion of the Denver-Julesburg Basin and is approximately 15 miles north of the city of Denver, Colorado. Less than two percent of the recommended area is federal land with the remaining acreage being state and fee lands. The Shannon formation is defined as that interval located between 5,095 feet and 5,125 feet on the electric type log of Amoco's Coslett A-1 well located in Section 1, Township 1 North, Range 68 West, 6th P.M. The top of the Shannon Formation is found at an average depth of 4,900 feet and the average thickness of the Shannon Formation is 50 feet.

The recommended area is subject to Colorado Order No. 250-12, issued May 18, 1976, which authorizes infill drilling in the Spindle Field. Accordingly, certain portions within the proposed area may be subject to exclusion pursuant to §271.703(c)(2)(i)(D) of the regulations.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG-39 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.7032(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977-1981] FERC Stats. and Regs. ¶ 30,180 (1980), issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Shannon Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 9, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-174 (Colorado-33), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise

participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than November 9, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703 is amended by adding paragraph (d)(160) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(160) *Shannon Formation in Colorado.* RM79–76–174 (Colorado–33).

(i) *Delineation of formation.* The Shannon Formation is located in all of Township 1 North, Range 69 West; Township 2 North, Ranges 64 through 66, 68, and 69 West; Township 3 North, Ranges 64 through 68 West; Township 4 North, Ranges 66 through 68 West; and Township 5 North, Range 67 West, 6th P.M. The Shannon Formation is also located in parts of Township 1 North, Range 68 West and Township 2 North, Range 67 West, 6th P.M.

(ii) *Depth.* The Shannon Formation is found at an average depth of 4,900 feet and is approximately 50 feet in thickness. The Shannon Formation is defined as that interval located between 5,095 feet and 5,125 feet on the electric type log of Amoco's Costlett A–1 well located in Section 1, Township 1 North, Range 68 West, 6th P.M.

[FR Doc. 83-29405 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

Natural Gas Policy Act; High-Cost Gas Produced from Tight Formations; Colorado

[Docket No. RM79–76–175 (Colorado–34)]

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). this rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Sussex Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on December 9, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on November 9, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

Issued October 25, 1983.

I. Background

On January 7, 1983, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Sussex Formation located in Boulder and Weld Counties, Colorado, be designated as a tight formation. By letter dated January 26, 1983, the Director of the Commission's Division of NGPA Compliance (presently Division of Producer Audits and Pricing), requested that Colorado submit additional information sufficient to determine the average depth to the top, the average thickness, and the vertical limits of the Sussex Formation in the recommended area. On March 7, 1983, a partial response was received from Colorado, and on March 25, 1983, OPPR requested that additional data be submitted. On September 1, 1983, Colorado submitted the remainder of the requested data. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Sussex Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation is located in the western portion of the Denver-Julesburg Basin and is approximately 15 miles north of the city of Denver, Colorado. Less than two percent of the recommended area is federal land with the remaining acreage being state and fee lands. The Sussex Formation is defined as the interval located between 4,650 feet and 4,740 feet on the electric type log of Amoco's Coslett A–1 well located in Section 1, Township 1 North, Range 68 West, 6th P.M. The top of the Sussex Formation is found at an average depth of 4,450 feet and the average thickness of the Sussex Formation is 150 feet.

The recommended area is subject to Colorado Order No. 250–12, issued May 18, 1976, which authorizes infill drilling in the Spindle Field. Accordingly, certain portions within the proposed area may be subject to exclusion pursuant to § 271.703(c)(2)(i)(D) of the regulations.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–40 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 milidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of

Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Sussex Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 9, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–175 (Colorado–34), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of the time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than November 9, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18 *Code of Federal Regulations*, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703 is amended by adding paragraph (d)(161) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(161) *Sussex Formation in Colorado.* RM79–76–175 (Colorado–34).

(i) *Delineation of formation.* The Sussex Formation is located in all of Township 1 North, Range 69 West; Township 2 North, Ranges 64, 65, and 69 West; Township 3 North, Ranges 64 through 68 West; Township 4 North, Ranges 67 and 68 West; and Township 5 North, Range 67 West, 6th P.M. The Sussex Formation is also located in parts of Township 1 North, Ranges 67 and 68 West; Township 2 North, Ranges 66 through 68 West; and Township 4 North, Range 66 West, 6th P.M.

(ii) *Depth.* The average depth to the top of the Sussex Formation is 4,450 feet. The Sussex Formation is defined as that interval located between 4, 650 feet and 4, 740 feet on the electric type log of Amoco's Coslett A–1 well located in Section 1, Township 1 North, Range 68 West, 6th P.M.

[FR Doc. 83–29408 Filed 10–28–83; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 11, 20, and 25

[LR–85–80]

Revision of Actuarial Tables and Interest Factors

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to tables for valuing annuities, life estates, terms for years, remainders, and reversions for purposes of Federal income, estate, and gift taxation. Changes to the applicable regulations are necessary because the interest rate used in the tables no longer reflects prevailing interest rates. The regulations would provide the necessary guidance to Internal Revenue Service personnel who administer the Code and members of the public who are subject to and must comply with these tables.

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 30, 1983. The proposed effective date would be November 30, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–85–80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Neil W. Zyskind of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202) 566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 52, 170, 642, and 664; the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11) under section 414; the Estate Tax Regulations (26 CFR Part 20) under sections 2031 and 2055; and the Gift Tax Regulations (26 CFR Part 25) under sections 2512, 2522, and 2523 of the Internal Revenue Code of 1954 (Code). The proposed regulations contain tables based on a 10 percent discount and income factor. This percentage rate reflects the average annual rate paid on U.S. Government obligations of 10 year maturity rounded to the nearest whole percent.

These tables will replace the 6 percent tables currently in the regulations. The proposed tables contain factors for valuing annuities, life estates, terms for years, remainders, and reversions. In addition, the proposed tables eliminate the distinction between male and female mortality and provide for tables which are gender neutral.

In addition, the proposed regulations update the tables under §§ 1.170A12, 1.642(c)–6, and 1.664–4 to reflect the changes resulting from the adoption of unisex tables and the 10 percent interest rate. Furthermore, the tables were amended to reflect factors for higher yearly rate of returns than those presently provided for in the existing regulations.

The Internal Revenue Service will periodically reexamine the rates contained in the regulations, and if necessary revise them, so as to correlate the regulatory rate to the market rate.

These regulations are to be issued under the authority contained in section 170(f)(4) (83 Stat. 544; 26 U.S.C. 170(f)(4)), section 642(c)(5) (83 Stat. 560; 26 U.S.C. 642(c)(5)) and section 7805 of the Code (68A Stat. 917; 26 U.S.C. 7805).

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is

therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Office for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed regulations is Neil W. Zyskind of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR 1.641—1.692–1

Income taxes, Estates, Trusts and trustees, Beneficiaries.

26 CFR Part 11

Income taxes, Pensions, Employee Retirement Income Security Act of 1974.

26 CFR Part 20

Estate taxes.

26 CFR Part 25

Gift taxes.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1, 11, 20, and 25 are as follows:

§ 1.52–1 [Amended]

Paragraph 1. The second sentence of paragraph (f) of § 1.52–1 is amended by removing "§ 20.2031–10" and inserting in lieu thereof "§§ 20.2031–7 or 20.2031–10, whichever is appropriate,".

§ 1.101–2 [Amended]

Par. 2. Section 1.101–2 is amended as follows:

a. Paragraph (e)(1)(iii)(*b*)(3) is amended by removing "as supplemented by "Actuarial Values for Estate and Gift Tax" (Internal Revenue Service Publication No. 11, Rev. 5–59)".

b. Example (1)(i) of paragraph (e)(2) is amended by inserting in the beginning of the example the sentence "A died on January 1, 1969."

§ 1.170A–6 [Amended]

Par. 3. Section 1.170A–6 is amended as follows:

a. Paragraph (c)(3)(i) is amended by removing § 20.2031–10" and inserting in lieu thereof "§§ 20.2031–7 or 20.2031–10, whichever is appropriate,".

b. The second sentence of paragraph (c)(4) is amended by removing "§ 20.2031–10" and inserting in lieu thereof "§§ 20.2031–7 or 20.2031–10, whichever is appropriate,".

§ 1.170A–7 [Amended]

Par. 4. The third sentence of paragraph (c) of § 1.170A–7 is amended by removing "§ 20.2031–10" and inserting in lieu thereof "§§ 20.2031–7 or 20.2031–10, whichever is appropriate,".

§ 1.170A–12 [Amended]

Par. 5. Section 1.170A–12 is amended as follows:

a. The fourth sentence of paragraph (a)(3) is amended by removing "§ 25.2512–9" and inserting in lieu thereof "§§ 25.2512–5 or 25.2512–9, whichever is appropriate,".

b. The first sentence of paragraph (b)(1) is amended by removing "§ 25.2512–9 of this chapter (Gift Tax Regulations), using Table A(1) or A(2) (whichever is appropriate) contained in paragraph (f) of such section" and inserting in lieu thereof "§§ 25.2512–5 or 25.2512–9 of this chapter (Gift Tax Regulations), using Table A, A(1), or A(2) (whichever is appropriate)".

c. The second sentence of paragraph (b)(1) is amended by removing "Table A(1) or A(2) in paragraph (f) of § 25.2512–9 of this chapter (Gift Tax Regulations) before such figure is used in paragraph (d) of such section" and inserting in lieu thereof "Table A in paragraph (f) of § 25.2512–5 or Table (A)(1) or A(2) in paragraph (f) of § 25.2512–9 (whichever is appropriate) of this chapter (Gift Tax Regulations) before such figure is used in paragraph (d) of such sections".

d. Paragraph (b)(2) is revised to read as set forth below.

e. Paragraph (c) is amended by removing "§ 25.2512–9" wherever it appears and inserting in lieu thereof "§§ 25.2512–5 or 25.2512–9, whichever is appropriate." and by removing the term "section" in the first sentence and inserting in lieu thereof "sections".

f. The second sentence of paragraph (e)(1) is revised to read as set forth below.

g. Paragraph (e)(2) is amended by removing "§ 20.2031–10(f)" and inserting in lieu thereof "§§ 20.2031–7(f) or 20.2031–10(f), whichever is appropriate,".

h. Paragraph (f) is amended by inserting a new Table C immediately before Table C (1) to read as set forth below.

§ 1.170A–12 Valuation of a remainder interest in real property for contributions made after July 31, 1969.

* * * * *

(b) *Valuation of a remainder interest following only one life*—* * *

(2) *Computation of depreciation adjustment factor.* Computations under this paragraph (b)(2) are based upon Table C (Tables C(1) and C(2) for contributions made before December 1, 1983) contained in paragraph (f) of this section, which reflect interest at the rate of 10 percent (6 percent for contributions made before December 1, 1983) a year compounded annually, life contingencies determined from the values of lx that are set forth in Table LN of paragraph (f) of § 20.2031–7 or (§ 20.2031–10 for contributions made before December 1, 1983) of this chapter (Estate Tax Regulations), and depreciation on a straight line basis. The factor determined under this paragraph (b)(2) is the amount determined by dividing—

(i) The difference between—

(A) The R-factor in column 2 of Table C opposite the initial age of the life tenant in column 1, and

(B) The R-factor in column 2 of such Table opposite the terminal age in column 1; by

(ii) The product of—

(A) The estimated useful life of the depreciable property, and

(B) The D-factor in column 3 of the Table opposite the initial age of the life tenant in column 1.

For purposes of this paragraph (b)(2), the term "initial age of the life tenant" means the age of the life tenant at the life tenant's birthday nearest the date of the contribution of the remainder interest, and the term "terminal age" is 110 or the sum of the initial age of the life tenant and the estimated useful life of the depreciable property, if that sum is less than 110. The factor determined under this paragraph (b)(2) is carried to the fifth decimal place.

* * * * *

(e) *Valuation of a remainder interest following more than one life or a term certain concurrent with one or more lives*—(1) * * * The special factor is to be computed on the basis of (1) interest at the rate of 10 percent (6 percent for contributions made before December 1, 1983) a year, compounded annually, (ii) life contingencies determined from the values of lx that are set forth in Table LN of paragraph (f) of § 20.2031–7 (§ 20.2031–10 for contributions made before December 1, 1983) of this chapter (Estate Tax Regulations) and (iii) if depreciation is involved, the assumption that the property depreciates on a straight line basis over its estimates useful life. * * *

* * * * *

(f) *Tables for computation of depreciation adjustment factor.* * * *

TABLE C.—SINGLE LIFE, UNISEX, 10 PERCENT SHOWING COMMUNICATION FACTORS FOR REDUCING ASSURANCES

Age	R-Factors (Rx-0.5Mx)	D-Factors (Dx)
(1)	(2)	(3)
0	20,601.8620	100,000.0000
1	19,745.1078	89,369.0809
2	17,896.7675	81,869.2562
3	17,134.4941	73,472.5770
4	16,429.7372	66,748.9069
5	15,767.6180	60,644.1438
6	15,136.2770	55,103.3806
7	14,535.8488	50,070.3771
8	13,958.0999	45,486.8313
9	13,394.8755	41,346.9732
10	12,848.7712	37,575.0490
11	12,315.0662	34,146.8206
12	11,791.7386	31,034.8803
13	11,278.4296	28,203.7517
14	10,776.5123	25,627.9043
15	10,288.4629	23,283.5101
16	9,817.2902	21,149.4170
17	9,366.3872	19,207.3540
18	8,934.3009	17,440.9068
19	8,524.5640	15,835.0948
20	8,135.8143	14,376.2171
21	7,766.4572	13,050.9105
22	7,416.1070	11,847.0230

TABLE C.—SINGLE LIFE, UNISEX, 10 PERCENT SHOWING COMMUNICATION FACTORS FOR REDUCING ASSURANCES—Continued

Age	R-Factors (Rx-0.5Mx)	D-Factors (Dx)
(1)	(2)	(3)
23	7,083.4750	10,753.7132
24	6,767.2364	9,761.1786
25	6,465.8620	8,860.4158
26	6,177.7248	8,043.0936
27	5,901.3340	7,301.3762
28	5,636.3643	6,626.2534
29	5,378.8854	6,016.9856
30	5,131.2180	5,461.9063
31	4,891.8674	4,957.8067
32	4,660.4462	4,499.5746
33	4,436.5633	4,083.5025
34	4,219.9416	3,705.4661
35	4,010.3334	3,362.0572
36	3,807.5085	3,050.0436
37	3,611.2884	2,766.5317
38	3,421.5837	2,508.8786
39	3,236.3081	2,274.7237
40	3,061.3521	2,061.9429
41	2,890.6420	1,868.5882
42	2,726.0815	1,692.8483
43	2,567.5086	1,533.3216
44	2,414.8086	1,386.3086
45	2,268.2027	1,250.5015
46	2,127.3081	1,125.7480
47	1,992.2092	1,027.9491
48	1,862.8256	929.1339
49	1,738.9853	839.3916
50	1,620.5496	757.9125
51	1,507.8894	683.9255
52	1,400.0247	616.7502
53	1,297.5614	555.7731
54	1,200.2128	500.4133
55	1,107.8260	450.1766
56	1,020.5111	404.5966
57	937.9552	363.2734
58	860.1101	325.8178
59	786.8483	291.8987
60	718.0318	261.1947
61	653.5150[illegible]	233.425032
62	593.151050	208.323184
63	536.788458	185.646400
64	484.274647	165.169118
65	435.470923	146.691057
66	390.231191	130.029927
67	348.412484	115.018399
68	309.871028	101.510180
69	274.456725	89.373690
70	242.023790	78.485089
71	212.410624	68.738934
72	185.462525	60.025503
73	161.090414	52.240720
74	139.979278	45.286194
75	119.181106	39.079472
76	101.516377	33.554790
77	85.857470	28.655743
78	72.071225	24.332315
79	60.017955	20.537736
80	49.554188	17.225536
81	40.[illegible]9161	14.345119
82	32.838728	11.851618
83	26.[illegible]2909	9.709333
84	20.881049	7.881790
85	16.329823	6.337736
86	12.612963	5.037936
87	9.606528	3.950399
88	7.213017	3.053341
89	5.337461	2.327112
90	3.88944207	1.74985139
91	2.78792754	1.29647139
92	1.96[illegible]996	.94419491
93	1.35241017	.67495116
94	.92475286	.47333801
95	.61870301	.32280372
96	.40787627	.21071148
97	.26464185	.14[illegible]089
98	.16999658	.09644301
99	.10779721	.06162281
100	.06758075	.03933062
101	.04187043	.02479831
102	.02567917	.01541272
103	.01555022	.00954095
104	.00927755	.00579891
105	.00543684	.00351448
106	.00307741	.00213000
107	.001629198	.001206001
108	.000746156	.000744754

TABLE C.—SINGLE LIFE, UNISEX, 10 PERCENT SHOWING COMMUNICATION FACTORS FOR REDUCING ASSURANCES—Continued

Age	R-Factors (Rx-0.5Mx)	D-Factors (Dx)
(1)	(2)	(3)
109	.000205622	.000430849

* * * * *

§ 1.642 [Amended]

Par. 6. Section 1.642(c)–6 is amended as follows:

a. Paragraph (a)(2) is amended by removing the sixth and seventh sentences and inserting in lieu thereof "A copy of the publication containing many such special factors, may be purchased from the Superintendant of Documents, United States Government Printing Office, Washington, D.C. 20402."

b. Paragraph (b)(1) is amended by removing "as to each male and female life involved, from the values of lx that are set forth in columns (2) and (3), respectively, of Table LN of paragraph (f) of § 20.2031–10" and inserting in lieu thereof "from the values of lx that are set forth in Table LN of paragraph (f) of §§ 20.2031–7 or 20.2031–10, whichever is appropriate,".

c. Paragraph (b)(2) is amended by removing "6 percent" wherever it appears and inserting in lieu thereof "10 percent (6 percent for transfers of property to pooled income funds made before December 1, 1983)".

d. Paragraphs (d) (1) through (3) are redesignated as paragraphs (e) (1) through (3), respectively, and new paragraphs (d) (1) through (3) are inserted immediately following paragraph (c) (5) to read as set forth below.

e. The heading of redesignated paragraph (e) and the first sentence of redesignated paragraph (e)(1) are revised to read as set forth below.

f. A new sentence is added at the end of redesignated paragraph (e)(1) to read as set forth below.

(d) *Present value of remainder interest dependent on the termination of one life; for transfers to pooled income funds made after November 30, 1983*—(1) *In general.* For transfers to pooled income funds made after November 30, 1983, the present value under this section of a remainder interest which is dependent on the termination of the life of one individual shall be determined under paragraphs (d) (1) through (3) of this section. The present value of such a remainder interest shall be computed by the use of Table G in paragraph (d)(3) of

this Section. For purposes of the computations under this section, the age of an individual is to be taken as the age of the individual at the individual's nearest birthday. For transfers to pooled income funds made before December 1, 1983, see paragraphs (e) (1) through (3) of this section.

(2) *Computation of value of remainder interest.* The factor which is used in determining the present value of the remainder interest is the factor under the appropriate yearly rate of return in column (2) of Table G opposite the number in column (1) which corresponds to the age of the individual upon whose life the value of the remainder interest is based. If the yearly rate of return is a percentage which is between yearly rates of return for which factors are provided in Table G, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying, by the factor determined under this paragraph (d)(2), the fair market value on the appropriate valuation date. If the yearly rate of return is below 2.2 percent of above 14 percent, see paragraph (a)(2) of this section. This paragraph (d)(2) may be illustrated by the following example:

Example. A, who will be 50 years old on April 15, 1984, transfers $100,000 to a pooled income fund on January 1, 1984, and retains a life income interest in such property. The highest yearly rate of return earned by the fund for its 3 preceding taxable years is 9.9 percent. In Table G the figure in column (2) opposite 50 years under 9.8 percent is .15653 and under 10 percent is .15257. The present value of the remainder interest is $15,455, computed as follows:

Factor at 9.8 percent for male aged 50	.15653
Factor at 10 percent for male aged 50	.15257
Difference	.00396
Interpolation adjustment: 9.8%−8.8%/× =.00198÷0.1%=× T1÷.00396	
Factor at 9.8 percent for male aged 50	.15653
Less:	
Interpolation adjustment	.00198
Interpolated factor	.15455
Present value of remainder interest ($100,000 × .15455	$15,455

(3) *Actuarial tables.* The following tables shall be used in the application of the provisions of this section.

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN

(1) Age	(2) Yearly rate of return (percent)				
	2.2	2.4	2.6	2.8	3.0
0	.23930	.21334	.19077	.17113	.15401
1	.23891	.20924	.17903	.15880	.14114
2	.23297	.20810	.16265	.16218	.14439
3	.23744	.21035	.18968	.16800	.14787
4	.24212	.21486	.19098	.17006	.15171
5	.24701	.21956	.19547	.17434	.15577
6	.25207	.22442	.20015	.17880	.16001
7	.25726	.22944	.20457	.18342	.16441
8	.26259	.23461	.20925	.18820	.16898
9	.26809	.23995	.21511	.19315	.17373
10	.27373	.24544	.22043	.19828	.17865
11	.27953	.25110	.22592	.20358	.18375
12	.28546	.25690	.23156	.20904	.18902
13	.29143	.26283	.23731	.21462	.19443
14	.29757	.26877	.24312	.22026	.19988
15	.30368	.27476	.24896	.22593	.20535
16	.30978	.28078	.25481	.23161	.21085
17	.31589	.28678	.26068	.23732	.21637
18	.32204	.29280	.26659	.24306	.22193
19	.32825	.29892	.27257	.24888	.22759
20	.33457	.30514	.27867	.25484	.23336
21	.34099	.31148	.28489	.26092	.23927
22	.34751	.31794	.29124	.26712	.24532
23	.35416	.32452	.29773	.27348	.25152
24	.36096	.33127	.30439	.28002	.25791
25	.36791	.33821	.31124	.28676	.26452
26	.37509	.34535	.31832	.29374	.27136
27	.38244	.35269	.32569	.30093	.27844
28	.38996	.36029	.33311	.30836	.28577
29	.39767	.36795	.34090	.31599	.29330
30	.40553	.37584	.34888	.32382	.30104
31	.41352	.38388	.35872	.33182	.30897
32	.42195	.39206	.36494	.34001	.31710
33	.43063	.40044	.37333	.34839	.32543
34	.43934	.40894	.38188	.35694	.33395
35	.44809	.41760	.39060	.36567	.34266
36	.45688	.42640	.39947	.37458	.35156
37	.46605	.43534	.40850	.38365	.36063
38	.47525	.44440	.41767	.39288	.36987
39	.48525	.45358	.42696	.40225	.37927
40	.49136	.46288	.43640	.41177	.38884
41	.50056	.47228	.44598	.42143	.39856
42	.51058	.48182	.45586	.43125	.40846
43	.51927	.49145	.46547	.44120	.41850
44	.52874	.50118	.47546	.45128	.42869
45	.53826	.51099	.48543	.46146	.43899
46	.54788	.52088	.49554	.47176	.44943
47	.55754	.53083	.50574	.48216	.45998
48	.56726	.54087	.51604	.49267	.47068
49	.57703	.55097	.52643	.50327	.48144
50	.58686	.56114	.53686	.51398	.49234
51	.59670	.57136	.54740	.52478	.50333
52	.60658	.58161	.55798	.53569	.51441
53	.61647	.59189	.56859	.54651	.52556
54	.62636	.60217	.57923	.55744	.53675
55	.63622	.61246	.58987	.56840	.54798
56	.64606	.62273	.60052	.57937	.55923
57	.65589	.63299	.61117	.59037	.57052
58	.66569	.64324	.62181	.60138	.58183
59	.67546	.65347	.63246	.61237	.59316
60	.68521	.66368	.64309	.62338	.60450
61	.69492	.67388	.65372	.63440	.61587
62	.70461	.68406	.66434	.64542	.62728
63	.71425	.69420	.67494	.65643	.63865
64	.72384	.70430	.68550	.66742	.65002
65	.73336	.71434	.69602	.67837	.66137
66	.74281	.72431	.70647	.68926	.67267
67	.75218	.73418	.71684	.70009	.68391
68	.76143	.74396	.72714	.71086	.69509
69	.77060	.75370	.73735	.72153	.70622
70	.77969	.76334	.74750	.73216	.71728
71	.78870	.77290	.75758	.74272	.72830
72	.79764	.78240	.76760	.75323	.73928
73	.80648	.79178	.77751	.76364	.75018
74	.81511	.80099	.78725	.77387	.76088
75	.82353	.80995	.79674	.78386	.77132
76	.83169	.81866	.80596	.79357	.78146
77	.83960	.82710	.81491	.80301	.79139
78	.84727	.83530	.82360	.81218	.80101
79	.85473	.84328	.83207	.82112	.81041

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	2.2	2.4	2.6	2.8	3.0
80	.86201	.85106	.84034	.82986	.81960
81	.86905	.85881	.84837	.83815	.82853
82	.87585	.86629	.85612	.84605	.83717
83	.88239	.87291	.86360	.85447	.84552
84	.88873	.87971	.87085	.86216	.85362
85	.89487	.88630	.87789	.86963	.86150
86	.90070	.89256	.88459	.87674	.86901
87	.90609	.89836	.89079	.88332	.87597
88	.91106	.90372	.89650	.88939	.88239
89	.91570	.90872	.90184	.89507	.88839
90	.92014	.91350	.90696	.90051	.89416
91	.92435	.91804	.91183	.90569	.89964
92	.92822	.92222	.91630	.91045	.90469
93	.93170	.92597	.92032	.91474	.90923
94	.93477	.92929	.92387	.91853	.91325
95	.93743	.93218	.92695	.92191	.91679
96	.93967	.93459	.92956	.92458	.91966
97	.94157	.93674	.93186	.92704	.92228
98	.94342	.93863	.93388	.92921	.92457
99	.94505	.94041	.93566	.93124	.92673
100	.94672	.94218	.93770	.93326	.92897
101	.94818	.94377	.93940	.93508	.93080
102	.94978	.94550	.94125	.93704	.93288
103	.95180	.94766	.94357	.93952	.93550
104	.95377	.94979	.94585	.94194	.93806
105	.95563	.95286	.94818	.94547	.94181
106	.96101	.95762	.95425	.95191	.94760
107	.96688	.96398	.96110	.95824	.95539
108	.97580	.97354	.97141	.96928	.96717
109	.99024	.98829	.98733	.98636	.98544

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	3.2	3.4	3.6	3.8	4.0
0	.13906	.12603	.11461	.10461	.09583
1	.12870	.11220	.10036	.08998	.08086
2	.12662	.11489	.10284	.09225	.08290
3	.13106	.11862	.10576	.09496	.08544
4	.13588	.12141	.10883	.09781	.08821
5	.13943	.12503	.11234	.10112	.09121
6	.14345	.12884	.11593	.10451	.09439
7	.14763	.13280	.11968	.10806	.09773
8	.15188	.13694	.12360	.11176	.10125
9	.15652	.14126	.12771	.11567	.10496
10	.16123	.14576	.13200	.11975	.10883
11	.16613	.15045	.13648	.12402	.11290
12	.17119	.15531	.14113	.12847	.11715
13	.17638	.16029	.14591	.13304	.12152
14	.18164	.16535	.15076	.13766	.12597
15	.18693	.17044	.15565	.14238	.13045
16	.19224	.17554	.16055	.14707	.13494
17	.19756	.18068	.16547	.15178	.13946
18	.20294	.18584	.17044	.15655	.14401
19	.20840	.19110	.17550	.16140	.14866
20	.21399	.19650	.18069	.16639	.15344
21	.21972	.20203	.18602	.17152	.15836
22	.22559	.20771	.19151	.17680	.16344
23	.23162	.21356	.19716	.18225	.16869
24	.23784	.21960	.20301	.18791	.17414
25	.24429	.22586	.20910	.19380	.17984
26	.25096	.23240	.21546	.19996	.18601
27	.25792	.23918	.22206	.20639	.19205
28	.26512	.24623	.22894	.21310	.19859
29	.27253	.25366	.23606	.22004	.20534
30	.28016	.26106	.24341	.22724	.21236
31	.28799	.26871	.25097	.23464	.21961
32	.29603	.27664	.25877	.24230	.22710
33	.30426	.28478	.26679	.25018	.23484

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—CONTINUED STRIP IN BY HAND CARRY—Continued

(1) Age	(2) Yearly rate of return (percent)				
	3.2	3.4	3.6	3.8	4.0
34	.31273	.29714	.27504	.25600	.24280
35	.32139	.30172	.28351	.26665	.25102
36	.33024	.31050	.29220	.27523	.25948
37	.33929	.31949	.30111	.28404	.26816
38	.34851	.32867	.31022	.29305	.27707
39	.35791	.33804	.31953	.30228	.28620
40	.36749	.34759	.32904	.31172	.29555
41	.37724	.35733	.33874	.32137	.30512
42	.38717	.36727	.34866	.33124	.31493
43	.39727	.37739	.35877	.34132	.32495
44	.40752	.38768	.36906	.35159	.33518
45	.41791	.39811	.37952	.36204	.34560
46	.42844	.40871	.39014	.37267	.35621
47	.43910	.41944	.40092	.38347	.36701
48	.44990	.43034	.41188	.39446	.37801
49	.46083	.44137	.42299	.40562	.38919
50	.47189	.45255	.43427	.41695	.40056
51	.48306	.46386	.44567	.42844	.41209
52	.49432	.47528	.45721	.44006	.42378
53	.50567	.48679	.46886	.45182	.43562
54	.51708	.49838	.48060	.46367	.44758
55	.52854	.51004	.49242	.47563	.45962
56	.54004	.52175	.50430	.48766	.47177
57	.55159	.53352	.51626	.49978	.48402
58	.56316	.54533	.52827	.51196	.49636
59	.57476	.55719	.54036	.52424	.50879
60	.58643	.56910	.55250	.53658	.52131
61	.59811	.58107	.56471	.54901	.53393
62	.60982	.59307	.57697	.56150	.54662
63	.62155	.60510	.58928	.57405	.55940
64	.63327	.61714	.60161	.58664	.57222
65	.64498	.62918	.61395	.59926	.58508
66	.65666	.64120	.62628	.61188	.59796
67	.66829	.65319	.63859	.62448	.61083
68	.67986	.66512	.65086	.63706	.62370
69	.69139	.67702	.66311	.64963	.63656
70	.70286	.68886	.67533	.66218	.64942
71	.71431	.70073	.68754	.67474	.66231
72	.72572	.71255	.69974	.68730	.67520
73	.73704	.72429	.71188	.69980	.68805
74	.74819	.73590	.72384	.71214	.70075
75	.75909	.74718	.73557	.72424	.71320
76	.76971	.75822	.74700	.73606	.72538
77	.78004	.76897	.75815	.74758	.73726
78	.79010	.77944	.76902	.75883	.74886
79	.79993	.78969	.77965	.76984	.76023
80	.80955	.79971	.79008	.78064	.77140
81	.81891	.80948	.80024	.79118	.78230
82	.82796	.81894	.81009	.80140	.79286
83	.83672	.82810	.81962	.81131	.80314
84	.84525	.83700	.82891	.82096	.81314
85	.85352	.84567	.83795	.83037	.82291
86	.86141	.85394	.84659	.83934	.83224
87	.86874	.86162	.85461	.84771	.84092
88	.87549	.86870	.86201	.85542	.84893
89	.88182	.87534	.86895	.86266	.85645
90	.88789	.88171	.87562	.86961	.86369
91	.89367	.88778	.88198	.87625	.87059
92	.89900	.89338	.88784	.88237	.87697
93	.90379	.89842	.89312	.88786	.88271
94	.90803	.90288	.89780	.89277	.88781
95	.91171	.90675	.90185	.89701	.89223
96	.91481	.91001	.90527	.90058	.89594
97	.91757	.91291	.90831	.90376	.89926
98	.91999	.91546	.91096	.90655	.90217
99	.92227	.91786	.91349	.90917	.90490
100	.92453	.92023	.91598	.91177	.90761
101	.92656	.92236	.91821	.91410	.91003
102	.92875	.92457	.92063	.91662	.91266
103	.93152	.92756	.92367	.91980	.91597
104	.93423	.93042	.92665	.92291	.91920
105	.93818	.93456	.93101	.92747	.92395
106	.94430	.94104	.93779	.93457	.93127
107	.95256	.94975	.94696	.94418	.94143
108	.96507	.96209	.96090	.95683	.95676
109	.98450	.98258	.98263	.98170	.98077

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN

(1) Age	(2) Yearly rate of return (percent)				
	4.2	4.4	4.6	4.8	5.0
0	.09811	.09132	.07534	.07006	.06520
1	.07263	.06676	.05952	.05400	.04912
2	.07471	.06748	.06108	.05529	.05007
3	.07704	.06992	.06334	.05722	.05205
4	.07962	.07202	.06529	.05890	.05356
5	.08243	.07484	.06773	.06129	.05612
6	.08542	.07745	.07037	.06408	.05844
7	.08857	.08042	.07316	.06668	.06091
8	.09188	.08355	.07612	.06944	.06354
9	.09540	.08687	.07926	.07245	.06635
10	.09908	.09037	.08258	.07560	.06934
11	.10298	.09406	.08609	.07894	.07251
12	.10701	.09793	.08977	.08245	.07586
13	.11119	.10191	.09356	.08606	.07932
14	.11544	.10597	.09745	.08978	.08285
15	.11972	.11007	.10136	.09350	.08640
16	.12402	.11416	.10527	.09723	.08995
17	.12832	.11827	.10919	.10096	.09351
18	.13268	.12243	.11315	.10474	.09711
19	.13712	.12667	.11720	.10860	.10078
20	.14170	.13105	.12138	.11259	.10458
21	.14642	.13557	.12570	.11671	.10853
22	.15129	.14024	.13017	.12099	.11261
23	.15634	.14506	.13481	.12544	.11687
24	.16159	.15013	.13967	.13009	.12133
25	.16709	.15543	.14477	.13500	.12604
26	.17286	.16101	.15014	.14018	.13103
27	.17891	.16686	.15580	.14564	.13630
28	.18525	.17301	.16175	.15140	.14187
29	.19183	.17940	.16796	.15742	.14770
30	.19867	.18606	.17443	.16370	.15380
31	.20574	.19295	.18114	.17025	.16018
32	.21307	.20010	.18811	.17702	.16684
33	.22064	.20751	.19535	.18407	.17382
34	.22846	.21516	.20293	.19138	.18075
35	.23653	.22307	.21058	.19906	.18818
36	.24484	.23124	.21859	.20681	.19584
37	.25340	.23966	.22685	.21492	.20379
38	.26218	.24831	.23536	.22328	.21199
39	.27120	.25720	.24411	.23188	.22044
40	.28045	.26633	.25311	.24075	.22916
41	.28992	.27569	.26236	.24986	.23814
42	.29965	.28532	.27188	.25926	.24741
43	.30966	.29518	.28168	.26890	.25693
44	.31977	.30527	.29164	.27880	.26671
45	.33013	.31557	.30185	.28892	.27679
46	.34071	.32609	.31230	.29926	.28709
47	.35148	.33681	.32296	.30988	.29750
48	.36246	.34777	.33387	.32072	.30826
49	.37364	.35893	.34499	.33178	.31927
50	.38503	.37030	.35634	.34310	.33053
51	.39659	.38187	.36790	.35462	.34201
52	.40832	.39362	.37965	.36636	.35371
53	.42021	.40554	.39158	.37829	.36562
54	.43222	.41760	.40367	.39038	.37771
55	.44436	.42980	.41591	.40264	.39007
56	.45660	.44212	.42828	.41504	.40239
57	.46897	.45456	.44078	.42760	.41496
58	.48142	.46712	.45342	.44030	.42771
59	.49398	.47980	.46620	.45314	.44062
60	.50666	.49260	.47916	.46615	.45387
61	.51944	.50552	.49214	.47927	.46690
62	.53232	.51856	.50531	.49256	.48029
63	.54529	.53169	.51860	.50598	.49381
64	.55832	.54491	.53198	.51950	.50746
65	.57140	.55819	.54544	.53312	.52121
66	.58451	.57152	.55896	.54681	.53506
67	.59763	.58486	.57251	.56054	.54896
68	.61078	.59823	.58609	.57432	.56292
69	.62390	.61162	.59971	.58816	.57695
70	.63705	.62503	.61337	.60204	.59104
71	.65025	.63849	.62709	.61600	.60522
72	.66344	.65199	.64086	.63003	.61949
73	.67661	.66547	.65465	.64407	.63378
74	.68964	.67882	.66827	.65796	.64790
75	.70248	.69193	.68168	.67168	.66182
76	.71495	.70477	.69482	.68511	.67563
77	.72717	.71731	.70758	.69826	.68905
78	.73912	.72959	.72006	.71114	.70231
79	.75083	.74163	.73252	.72379	.71515
80	.76235	.75348	.74479	.73627	.72792
81	.77360	.76506	.75688	.74848	.74043
82	.78452	.77632	.76827	.76036	.75260
83	.79511	.78725	.77952	.77192	.76445

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	4.2	4.4	4.6	4.8	5.0
84	.80547	.79752	.78961	.78225	.77506
85	.81457	.80636	.80128	.79429	.78742
86	.82524	.81635	.81157	.80489	.79852
87	.83425	.82764	.82115	.81477	.80847
88	.84253	.83623	.83002	.82390	.81787
89	.85003	.84391	.83836	.83250	.82672
90	.85784	.85206	.84639	.84076	.83525
91	.86502	.85951	.85408	.84871	.84342
92	.87164	.86636	.86116	.85605	.85098
93	.87761	.87257	.86758	.86267	.85781
94	.88290	.87806	.87327	.86854	.86386
95	.88751	.88282	.87820	.87364	.86913
96	.89136	.88683	.88236	.87793	.87355
97	.89481	.89041	.88606	.88178	.87751
98	.89783	.89354	.88930	.88511	.88096
99	.90067	.89649	.89235	.88826	.88430
100	.90348	.89941	.89538	.89139	.88762
101	.90590	.90202	.89807	.89416	.89029
102	.90873	.90484	.90099	.89717	.89339
103	.91217	.90841	.90466	.90099	.89733
104	.91553	.91188	.90827	.90469	.90114
105	.92047	.91701	.91358	.91018	.90680
106	.92819	.92504	.92181	.91880	.91571
107	.93666	.93596	.93025	.93056	.92786
108	.95471	.95267	.95064	.94862	.94661
109	.97985	.97880	.97801	.97710	.97619

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN

(1) Age	(2) Yearly rate of return (percent)				
	5.2	5.4	5.6	5.8	6.0
0	.06126	.05750	.05433	.05143	.04884
1	.04480	.04196	.03754	.03450	.03178
2	.04591	.04181	.03841	.03527	.03246
3	.04715	.04306	.03972	.03646	.03360
4	.04924	.04502	.04125	.03789	.03487
5	.05124	.04689	.04300	.03952	.03639
6	.05342	.04893	.04488	.04131	.03808
7	.05574	.05112	.04687	.04324	.03990
8	.05822	.05345	.04910	.04531	.04186
9	.06086	.05596	.05156	.04768	.04408
10	.06372	.05866	.05411	.05000	.04638
11	.06673	.06153	.05684	.05260	.04877
12	.06992	.06457	.05973	.05536	.05141
13	.07328	.06772	.06274	.05824	.05415
14	.07659	.07090	.06581	.06117	.05695
15	.07998	.07417	.06895	.06411	.05976
16	.08337	.07736	.07197	.06704	.06255
17	.08675	.08052	.07494	.06996	.06533
18	.09016	.08367	.07812	.07290	.06813
19	.09367	.08720	.08130	.07591	.07099
20	.09750	.09085	.08458	.07904	.07397
21	.10106	.09423	.08800	.08229	.07707
22	.10486	.09796	.09155	.08568	.08030
23	.10903	.10185	.09525	.08923	.08368
24	.11330	.10584	.09918	.09297	.08726
25	.11782	.11026	.10334	.09696	.09106
26	.12262	.11480	.10779	.10122	.09516
27	.12771	.11978	.11249	.10576	.09955
28	.13308	.12488	.11751	.11066	.10421
29	.13878	.13044	.12278	.11570	.10914
30	.14484	.13617	.12828	.12107	.11433
31	.15079	.14214	.13412	.12666	.11977
32	.15722	.14826	.14016	.13256	.12548
33	.16391	.15490	.14652	.13873	.13147
34	.17097	.16168	.15312	.14515	.13772
35	.17811	.16874	.16001	.15186	.14426
36	.18562	.17606	.16717	.15886	.15108
37	.19340	.18365	.17462	.16613	.15819
38	.20144	.19157	.18253	.17388	.16577
39	.20974	.19971	.19031	.18149	.17322
40	.21830	.20813	.19856	.18958	.18115
41	.22714	.21681	.20710	.19797	.18938

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	5.2	5.4	5.6	5.8	6.0
42	.23827	.22579	.21594	.20865	.19791
43	.24566	.23505	.22505	.21562	.20673
44	.25532	.24458	.23445	.22488	.21585
45	.26522	.25436	.24410	.23440	.22523
46	.27536	.26441	.25402	.24420	.23490
47	.28579	.27471	.26421	.25427	.24484
48	.29647	.28529	.27469	.26463	.25508
49	.30739	.29613	.28543	.27527	.26562
50	.31859	.30724	.29646	.28620	.27645
51	.33001	.31860	.30774	.29740	.28755
52	.34167	.33020	.31928	.30886	.29893
53	.35355	.34204	.33105	.32057	.31056
54	.36562	.35407	.34304	.33250	.32243
55	.37787	.36630	.35523	.34465	.33452
56	.39029	.37870	.36761	.35699	.34682
57	.40289	.39130	.38020	.36956	.35935
58	.41565	.40408	.39297	.38231	.37208
59	.42859	.41704	.40595	.39529	.38504
60	.44170	.43019	.41912	.40847	.39822
61	.45499	.44353	.43250	.42187	.41164
62	.46845	.45706	.44607	.43548	.42527
63	.48208	.47076	.45984	.44930	.43913
64	.49583	.48461	.47377	.46329	.45317
65	.50971	.49859	.48784	.47744	.46738
66	.52369	.51269	.50204	.49173	.48175
67	.53774	.52688	.51635	.50614	.49625
68	.55187	.54115	.53075	.52066	.51086
69	.56607	.55551	.54526	.53530	.52563
70	.58035	.56997	.55987	.55006	.54053
71	.59474	.58455	.57463	.56498	.55559
72	.60923	.59924	.58952	.58004	.57082
73	.62375	.61398	.60446	.59518	.58613
74	.63818	.62864	.61933	.61026	.60140
75	.65240	.64310	.63402	.62515	.61649
76	.66636	.65731	.64846	.63981	.63135
77	.68005	.67124	.66263	.65420	.64598
78	.69347	.68492	.67655	.66836	.66033
79	.70669	.69840	.69028	.68232	.67452
80	.71973	.71171	.70384	.69613	.68856
81	.73252	.72477	.71717	.70970	.70237
82	.74499	.73751	.73016	.72295	.71587
83	.75713	.74992	.74284	.73589	.72905
84	.76901	.76208	.75527	.74857	.74196
85	.78067	.77402	.76748	.76104	.75471
86	.79185	.78548	.77921	.77304	.76695
87	.80228	.79617	.79015	.78423	.77838
88	.81193	.80607	.80029	.79460	.78899
89	.82102	.81540	.80985	.80438	.79899
90	.82979	.82441	.81909	.81384	.80867
91	.83820	.83304	.82795	.82292	.81796
92	.84598	.84104	.83616	.83134	.82657
93	.85300	.84828	.84357	.83894	.83437
94	.85924	.85468	.85017	.84570	.84130
95	.86466	.86025	.85589	.85158	.84732
96	.86922	.86494	.86071	.85652	.85238
97	.87329	.86913	.86501	.86093	.85690
98	.87686	.87279	.86877	.86479	.86085
99	.88019	.87622	.87230	.86841	.86456
100	.88351	.87964	.87580	.87200	.86824
101	.88648	.88267	.87891	.87519	.87150
102	.88965	.88594	.88227	.87863	.87503
103	.89370	.89011	.89654	.88301	.87952
104	.89763	.89414	.90088	.88725	.88385
105	.90345	.90013	.90683	.89356	.89032
106	.91285	.90961	.90858	.90358	.90080
107	.92522	.92258	.91995	.91734	.91474
108	.94461	.94262	.94063	.93866	.93670
109	.97529	.97438	.97348	.97259	.97170

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Cont.

(1) Age	(2) Yearly rate of return (percent)				
	6.2	6.4	6.6	6.8	7.0
0	[illegible]	.04447	.04252	.04065	.03948
1	[illegible]	.02720	.02525	.02351	.02194
2	[illegible]	.02769	.02567	.02385	.02221
3	[illegible]	.02860	.02650	.02460	.02290
4	.03216	.02973	.02755	.02558	.02380
5	.03359	.03108	.02879	.02674	.02488
6	.03517	.03255	.03019	.02805	.02612
7	.03686	.03416	.03171	.02949	.02747
8	.03874	.03592	.03337	.03106	.02896
9	.04077	.03784	.03519	.03278	.03061
10	.04295	.03992	.03717	.03457	.03240
11	.04531	.04217	.03931	.03672	.03436
12	.04782	.04457	.04161	.03888	.03647
13	.05045	.04708	.04402	.04122	.03868
14	.05312	.04964	.04646	.04357	.04093
15	.05581	.05220	.04891	.04591	.04317
16	.05847	.05474	.05134	.04823	.04538
17	.06111	.05726	.05374	.05051	.04756
18	.06378	.05979	.05615	.05280	.04974
19	.06650	.06238	.05861	.05514	.05196
20	.06933	.06507	.06117	.05756	.05429
21	.07228	.06788	.06384	.06013	.05671
22	.07535	.07081	.06664	.06275	.05925
23	.07856	.07389	.06958	.06559	.06192
24	.08201	.07717	.07276	.06856	.06477
25	.08567	.08067	.07606	.07178	.06765
26	.08960	.08444	.07968	.07527	.07118
27	.09380	.08848	.08357	.07901	.07478
28	.09830	.09283	.08775	.08304	.07867
29	.10306	.09742	.09216	.08732	.08280
30	.10806	.10225	.09688	.09187	.08720
31	.11335	.10736	.10182	.09665	.09182
32	.11890	.11275	.10704	.10170	.09672
33	.12471	.11840	.11252	.10703	.10186
34	.13079	.12432	.11827	.11261	.10732
35	.13716	.13052	.12431	.11849	.11305
36	.14381	.13701	.13063	.12465	.11905
37	.15075	.14378	.13724	.13110	.12534
38	.15796	.15083	.14412	.13782	.13190
39	.16545	.15815	.15129	.14483	.13875
40	.17322	.16576	.15874	.15212	.14589
41	.18129	.17367	.16648	.15971	.15332
42	.18967	.18190	.17456	.16763	.16108
43	.19834	.19041	.18293	.17585	.16915
44	.20731	.19924	.19160	.18437	.17753
45	.21656	.20834	.20055	.19318	.18619
46	.22606	.21773	.20981	.20229	.19516
47	.23590	.22741	.21935	.21170	.20443
48	.24602	.23741	.22922	.22144	.21405
49	.25644	.24770	.23928	.23148	.22394
50	.26718	.25831	.24966	.24185	.23419
51	.27816	.26921	.26038	.25253	.24475
52	.28945	.28040	.27176	.26351	.25562
53	.30100	.29187	.28313	.27478	.26679
54	.31279	.30357	.29475	.28631	.27822
55	.32482	.31553	.30663	.29810	.28990
56	.33707	.32771	.31875	.31014	.30186
57	.34955	.34015	.33112	.32244	.31411
58	.36225	.35280	.34372	.33499	.32658
59	.37519	.36571	.35664	.34781	.33936
60	.38836	.37886	.36971	.36089	.35239
61	.40177	.39226	.38309	.37425	.36572
62	.41542	.40591	.39674	.38786	.37932
63	.42930	.41981	.41064	.40176	.39321
64	.44338	.43392	.42477	.41591	.40734
65	.45765	.44823	.43910	.43027	.42171
66	.47206	.46271	.45364	.44483	.43630
67	.48666	.47736	.46834	.45958	.45108
68	.50136	.49215	.48320	.47450	.46605
69	.51624	.50711	.49824	.48961	.48122
70	.53125	.52223	.51340	.50481	.49650
71	.54645	.53756	.52896	.52045	.51229
72	.56183	.55307	.54453	.53621	.52828
73	.57731	.56870	.56030	.55211	.54412
74	.59275	.58431	.57606	.56801	.56015
75	.60803	.59976	.59168	.58378	.57607
76	.62304	.61500	.60709	.59938	.59178
77	.63766	.63000	.62227	.61470	.60730
78	.65247	.64477	.63723	.62984	.62261
79	.66697	.65906	.65203	.64481	.63777
80	.68114	.67286	.66672	.65971	.65284
81	.69516	.68612	.68119	.67438	.66770
82	.70901	.70207	.69535	.68875	.68227
83	.72232	.71572	.70922	.70283	.69655

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	6.2	6.4	6.6	6.8	7.0
84	.73550	.72913	.72285	.71666	.71061
85	.74847	.74234	.73630	.73035	.72449
86	.76096	.75506	.74925	.74353	.73789
87	.77263	.76696	.76137	.75585	.75042
88	.78345	.77799	.77261	.76730	.76207
89	.79357	.78842	.78323	.77812	.77306
90	.80350	.79851	.79353	.78862	.78376
91	.81306	.80821	.80344	.79871	.79405
92	.82167	.81722	.81263	.80810	.80361
93	.82984	.82538	.82096	.81658	.81228
94	.83694	.83263	.82837	.82416	.81998
95	.84310	.83893	.83481	.83073	.82670
96	.84829	.84424	.84023	.83626	.83234
97	.85291	.84897	.84508	.84120	.83738
98	.85696	.85310	.84929	.84551	.84177
99	.86070	.85696	.85325	.84956	.84590
100	.86452	.86084	.85718	.85357	.85000
101	.86785	.86424	.86066	.85711	.85360
102	.87146	.86792	.86442	.86094	.85759
103	.87626	.87261	.86921	.86583	.86248
104	.88047	.87713	.87382	.87053	.86727
105	.88710	.88390	.88073	.87758	.87446
106	.89764	.89471	.89179	.88889	.88601
107	.91218	.90960	.90705	.90451	.90199
108	.93474	.93280	.93088	.92894	.92702
109	.97061	.96992	.96904	.96816	.96729

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Cont.

(1) Age	(2) Yearly rate of return (percent)				
	7.2	7.4	7.6	7.8	8.0
0	.03811	.03669	.03578	.03476	.03386
1	.02052	.01924	.01809	.01704	.01609
2	.02074	.01940	.01819	.01710	.01611
3	.02136	.01996	.01870	.01756	.01652
4	.02219	.02074	.01942	.01822	.01713
5	.02321	.02169	.02031	.01905	.01791
6	.02437	.02278	.02134	.02003	.01883
7	.02565	.02399	.02248	.02111	.01986
8	.02706	.02533	.02376	.02232	.02101
9	.02863	.02682	.02518	.02367	.02230
10	.03034	.02846	.02674	.02517	.02373
11	.03221	.03025	.02846	.02682	.02532
12	.03424	.03219	.03032	.02861	.02704
13	.03635	.03422	.03228	.03049	.02885
14	.03851	.03630	.03427	.03240	.03069
15	.04066	.03836	.03624	.03430	.03252
16	.04277	.04037	.03817	.03615	.03429
17	.04485	.04236	.04007	.03796	.03602
18	.04693	.04434	.04196	.03976	.03773
19	.04904	.04635	.04387	.04159	.03947
20	.05125	.04845	.04588	.04349	.04125
21	.05356	.05065	.04797	.04548	.04310
22	.05597	.05295	.05016	.04756	.04505
23	.05853	.05539	.05248	.04979	.04710
24	.06124	.05799	.05497	.05217	.04957
25	.06421	.06081	.05767	.05475	.05205
26	.06739	.06386	.06062	.05758	.05476
27	.07086	.06721	.06382	.06067	.05773
28	.07460	.07082	.06730	.06402	.06097
29	.07859	.07467	.07102	.06762	.06444
30	.08284	.07879	.07500	.07146	.06815
31	.08733	.08312	.07920	.07553	.07209
32	.09207	.08773	.08366	.07986	.07626
33	.09709	.09260	.08839	.08445	.08075
34	.10237	.09773	.09338	.08929	.08546
35	.10794	.10315	.09865	.09442	.09045
36	.11379	.10884	.10420	.09983	.09572
37	.11992	.11483	.11003	.10552	.10128
38	.12633	.12106	.11614	.11148	.10706
39	.13302	.12762	.12253	.11772	.11318
40	.14000	.13445	.12921	.12425	.11957
41	.14728	.14158	.13619	.13109	.12626

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	7.2	7.4	7.6	7.8	8.0
42	.15490	.14904	.14350	.13825	.13328
43	.16260	.15660	.15111	.14572	.14060
44	.17104	.16488	.15905	.15351	.14825
45	.17955	.17326	.16727	.16159	.15619
46	.18838	.18184	.17562	.16999	.16445
47	.19751	.19083	.18467	.17870	.17302
48	.20698	.20026	.19386	.18778	.18194
49	.21678	.20991	.20326	.19715	.19119
50	.22689	.21991	.21325	.20689	.20080
51	.23732	.23023	.22344	.21695	.21074
52	.24808	.24086	.23396	.22735	.22102
53	.25914	.25181	.24478	.23807	.24252
54	.27047	.26304	.25591	.24908	.25372
55	.28208	.27455	.26733	.26039	.25372
56	.29395	.28633	.27901	.27197	.26521
57	.30610	.29840	.29099	.28386	.27700
58	.31851	.31074	.30325	.29604	.28909
59	.33122	.32337	.31581	.30853	.30150
60	.34420	.33630	.32867	.32132	.31422
61	.35748	.34953	.34188	.33444	.32727
62	.37106	.36307	.35535	.34786	.34066
63	.38492	.37691	.36915	.36165	.35439
64	.39905	.39102	.38324	.37571	.36841
65	.41342	.40536	.39760	.39005	.38272
66	.42803	.42000	.41221	.40469	.39731
67	.44293	.43493	.42708	.41949	.41215
68	.45784	.44987	.44211	.43457	.42724
69	.47307	.46513	.45741	.44990	.44254
70	.48851	.48063	.47296	.46549	.45821
71	.50422	.49641	.48880	.48135	.47418
72	.52018	.51246	.50493	.49758	.49042
73	.53631	.52870	.52126	.51400	.50691
74	.55247	.54497	.53764	.53048	.52347
75	.56852	.56115	.55393	.54687	.53997
76	.58439	.57714	.57005	.56311	.55632
77	.60005	.59284	.58599	.57917	.57248
78	.61551	.60856	.60174	.59506	.58851
79	.63084	.62405	.61730	.61085	.60443
80	.64609	.63946	.63296	.62657	.62030
81	.66114	.65469	.64835	.64213	.63602
82	.67589	.66963	.66347	.65742	.65146
83	.69037	.68429	.67831	.67243	.66664
84	.70463	.69875	.69298	.68726	.68165
85	.71872	.71304	.70745	.70194	.69651
86	.73233	.72665	.72146	.71614	.71089
87	.74507	.73978	.73456	.72944	.72439
88	.75691	.75181	.74679	.74183	.73694
89	.76810	.76316	.75834	.75355	.74883
90	.77897	.77424	.76957	.76496	.76040
91	.78945	.78490	.78040	.77598	.77158
92	.79919	.79481	.79048	.78621	.78198
93	.80801	.80380	.79993	.79550	.79143
94	.81587	.81180	.80777	.80379	.79995
95	.82271	.81877	.81487	.81100	.80719
96	.82846	.82462	.82063	.81707	.81306
97	.83360	.82985	.82615	.82246	.81885
98	.33828	.83441	.83079	.82720	.82385
99	.84226	.83869	.83514	.83188	.82815
100	.84645	.84294	.83947	.83603	.83262
101	.85012	.84688	.84327	.83988	.83653
102	.85409	.85072	.84737	.84405	.84077
103	.85917	.85588	.85262	.84939	.84615
104	.86403	.86083	.85766	.85449	.85136
105	.87136	.86829	.86524	.86221	.85921
106	.88815	.88532	.87750	.87476	.87192
107	.89949	.89700	.89452	.89206	.88961
108	.92511	.92321	.92132	.91944	.91757
109	.96042	.96555	.96468	.96382	.96296

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEAR RATE OF RETURN SHOWN—Cont.

(1) Age	(2) Yearly rate of return (percent)				
	8.2	8.4	8.6	8.8	9.0
0	.03305	.03250	.03161	.03098	.03040
1	.01523	.01444	.01372	.01307	.01247
2	.01521	.01458	.01392	.01294	.01236
3	.01557	.01476	.01391	.01319	.01252
4	.01613	.01522	.01439	.01363	.01294
5	.01667	.01581	.01504	.01424	.01351
6	.01774	.01674	.01582	.01486	.01421
7	.01871	.01756	.01670	.01581	.01500
8	.01990	.01870	.01760	.01676	.01581
9	.02104	.01989	.01883	.01785	.01685
10	.02241	.02120	.02008	.01906	.01812
11	.02394	.02257	.02150	.02042	.01943
12	.02560	.02427	.02305	.02192	.02086
13	.02734	.02595	.02467	.02348	.02240
14	.02912	.02766	.02632	.02509	.02394
15	.03087	.02935	.02795	.02666	.02546
16	.03257	.03096	.02952	.02817	.02691
17	.03423	.03257	.03104	.02962	.02831
18	.03586	.03414	.03253	.03105	.02967
19	.03752	.03572	.03404	.03249	.03105
20	.03925	.03737	.03562	.03399	.03246
21	.04107	.03910	.03727	.03557	.03398
22	.04257	.04061	.03869	.03722	.03556
23	.04498	.04282	.04083	.03897	.03723
24	.04715	.04491	.04282	.04087	.03905
25	.04959	.04718	.04499	.04290	.04105
26	.05213	.04958	.04740	.04527	.04327
27	.05498	.05243	.05005	.04782	.04573
28	.05811	.05545	.05295	.05062	.04844
29	.06146	.05868	.05608	.05365	.05136
30	.06506	.06217	.05945	.05691	.05452
31	.06888	.06586	.06303	.06036	.05789
32	.07295	.06981	.06687	.06410	.06148
33	.07728	.07401	.07095	.06806	.06525
34	.08185	.07845	.07527	.07227	.06944
35	.08671	.08319	.07988	.07675	.07386
36	.09184	.08819	.08475	.08150	.07843
37	.09725	.09347	.08988	.08652	.08332
38	.10295	.09901	.09531	.09180	.08846
39	.10889	.10483	.10098	.09736	.09391
40	.11514	.11094	.10697	.10320	.09963
41	.12186	.11735	.11324	.10934	.10564
42	.12898	.12408	.11984	.11581	.11197
43	.13574	.13113	.12675	.12256	.11862
44	.14325	.13850	.13399	.12957	.12558
45	.15105	.14618	.14150	.13693	.13253
46	.15917	.15414	.14935	.14478	.14041
47	.16760	.16244	.15751	.15280	.14831
48	.17639	.17109	.16602	.16119	.15656
49	.18551	.18007	.17489	.16991	.16516
50	.19499	.18942	.18410	.17900	.17412
51	.20480	.19911	.19366	.18844	.18343
52	.21495	.20914	.20357	.19822	.19309
53	.22544	.21951	.21381	.20835	.20308
54	.23622	.23019	.22437	.21878	.21341
55	.24732	.24116	.23524	.22954	.22406
56	.25870	.25244	.24641	.24060	.23501
57	.27046	.26404	.25791	.25200	.24630
58	.28239	.27584	.26971	.26370	.25781
59	.29472	.28817	.28186	.27576	.26967
60	.30736	.30076	.29434	.28816	.28210
61	.32035	.31365	.30718	.30092	.29488
62	.33368	.32692	.32038	.31405	.30791
63	.34735	.34054	.33394	.32754	.32134
64	.36133	.35448	.34783	.34138	.33512
65	.37562	.36873	.36204	.35554	.34924
66	.39018	.38327	.37655	.37003	.36367
67	.40502	.39809	.39134	.38478	.37841
68	.42011	.41317	.40642	.39985	.39345
69	.43547	.42854	.42179	.41522	.40882
70	.45112	.44421	.43748	.43091	.42451
71	.46711	.46023	.45352	.44696	.44059
72	.48342	.47658	.46992	.46341	.45705
73	.49998	.49321	.48660	.48014	.47382
74	.51680	.51009	.50339	.49699	.49075
75	.53322	.52661	.52014	.51381	.50762
76	.54917	.54315	.53678	.53053	.52446
77	.56595	.55954	.55328	.54710	.54106
78	.58209	.57579	.56961	.56356	.55761
79	.59614	.59196	.58590	.57996	.57410
80	.61415	.60810	.60217	.59633	.59060
81	.63001	.62418	.61836	.61260	.60699
82	.64561	.63965	.63419	.62862	.62314
83	.66096	.65488	.64983	.64441	.63907

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEAR RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	8.2	8.4	8.6	8.8	9.0
84	.67012	.67086	.66533	.66006	.65486
85	.69118	.68589	.68070	.67566	.67065
86	.70573	.70083	.69606	.69133	.68678
87	.71936	.71446	.70991	.70491	.70009
88	.73211	.72735	.72285	.71801	.71343
89	.74417	.73956	.73501	.73052	.72624
90	.75590	.75146	.74707	.74273	.73849
91	.76724	.76296	.75873	.75464	.75061
92	.77781	.77368	.76995	.76556	.76136
93	.78740	.78342	.77948	.77568	.77173
94	.79594	.79210	.78829	.78452	.78078
95	.80341	.79967	.79597	.79231	.78869
96	.80967	.80603	.80242	.79885	.79552
97	.81528	.81170	.80818	.80470	.80135
98	.82013	.81665	.81320	.80979	.80841
99	.82470	.82129	.81791	.81456	.81125
100	.82924	.82580	.82258	.81936	.81625
101	.83322	.82993	.82667	.82344	.82024
102	.83751	.83428	.83106	.82791	.82477
103	.84301	.83988	.83674	.83365	.83058
104	.84826	.84518	.84213	.83910	.83610
105	.85623	.85327	.85053	.84741	.84492
106	.86915	.86641	.86389	.86098	.85829
107	.88718	.88476	.88236	.87997	.87758
108	.91571	.91385	.91201	.91017	.90834
109	.96211	.96125	.96041	.95958	.95872

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	9.2	9.4	9.6	9.8	10.0
0	.03067	.02938	.02816	.02851	.02812
1	.01198	.01141	.01094	.01031	.01012
2	.01173	.01119	.01070	.01025	.00983
3	.01192	.01136	.01084	.01036	.00992
4	.01229	.01170	.01118	.01066	.01019
5	.01263	.01221	.01164	.01111	.01062
6	.01350	.01284	.01226	.01166	.01115
7	.01425	.01358	.01293	.01233	.01178
8	.01512	.01439	.01372	.01309	.01256
9	.01612	.01535	.01464	.01396	.01337
10	.01724	.01644	.01569	.01499	.01436
11	.01851	.01766	.01686	.01613	.01547
12	.01991	.01902	.01818	.01743	.01671
13	.02139	.02045	.01956	.01877	.01802
14	.02298	.02195	.02098	.02013	.01934
15	.02435	.02331	.02229	.02146	.02066
16	.02575	.02466	.02366	.02272	.02186
17	.02709	.02595	.02490	.02391	.02305
18	.02839	.02721	.02610	.02507	.02410
19	.02971	.02846	.02730	.02621	.02525
20	.03106	.02977	.02855	.02741	.02650
21	.03251	.03114	.02986	.02866	.02756
22	.03402	.03258	.03125	.02998	.02886
23	.03562	.03410	.03269	.03137	.03014
24	.03736	.03577	.03428	.03290	.03159
25	.03927	.03761	.03605	.03458	.03323
26	.04141	.03966	.03803	.03649	.03504
27	.04377	.04194	.04023	.03861	.03710
28	.04639	.04447	.04267	.04098	.03936
29	.04922	.04721	.04532	.04354	.04187
30	.05228	.05017	.04819	.04633	.04457
31	.05554	.05334	.05125	.04926	.04746
32	.05904	.05674	.05456	.05251	.05056
33	.06279	.06038	.05810	.05595	.05390
34	.06677	.06435	.06187	.05960	.05750
35	.07102	.06839	.06590	.06355	.06132
36	.07552	.07278	.07018	.06773	.06540
37	.08030	.07746	.07474	.07217	.06974
38	.08534	.08237	.07955	.07687	.07436
39	.09066	.08756	.08462	.08182	.07917

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued—Continued

(1) Age	(2) Yearly rate of return (percent)				
	9.2	9.4	9.6	9.8	10.0
40	.09624	.09502	.09396	.09706	.09429
41	.10212	.09976	.09560	.09256	.08970
42	.10833	.10486	.10158	.09842	.09543
43	.11484	.11125	.10783	.10456	.10145
44	.12167	.11799	.11441	.11102	.10779
45	.12880	.12486	.12126	.11777	.11442
46	.13625	.13227	.12847	.12484	.12137
47	.14402	.13991	.13598	.13223	.12863
48	.15214	.14791	.14386	.13997	.13625
49	.16060	.15625	.15207	.14806	.14422
50	.16944	.16496	.16065	.15653	.15257
51	.17862	.17401	.16959	.16534	.16125
52	.18816	.18343	.17888	.17451	.17031
53	.19805	.19320	.18853	.18404	.17972
54	.20825	.20329	.19850	.19389	.18946
55	.21878	.21370	.20881	.20409	.19954
56	.22963	.22443	.21943	.21460	.20994
57	.24081	.23551	.23040	.22546	.22069
58	.25231	.24691	.24170	.23665	.23178
59	.26418	.25866	.25336	.24822	.24325
60	.27640	.27081	.26540	.26016	.25509
61	.28899	.28333	.27782	.27249	.26733
62	.30197	.29623	.29064	.28525	.27996
63	.31533	.30950	.30385	.29836	.29304
64	.32905	.32316	.31743	.31188	.30648
65	.34311	.33716	.33138	.32576	.32030
66	.35751	.35151	.34568	.34001	.33449
67	.37221	.36618	.36030	.35458	.34902
68	.38723	.38116	.37526	.36950	.36390
69	.40257	.39648	.39056	.38478	.37914
70	.41826	.41217	.40623	.40043	.39476
71	.43435	.42827	.42233	.41652	.41086
72	.45084	.44478	.43885	.43305	.42739
73	.46765	.46161	.45571	.44994	.44429
74	.48460	.47861	.47274	.46700	.46136
75	.50156	.49561	.48979	.48409	.47851
76	.51841	.51253	.50677	.50112	.49568
77	.53514	.52934	.52364	.51806	.51256
78	.55177	.54605	.54043	.53492	.52951
79	.56837	.56273	.55720	.56177	.54643
80	.58497	.57944	.57401	.56866	.56341
81	.60148	.59606	.59073	.58548	.58033
82	.61775	.61245	.60723	.60210	.59706
83	.63361	.62851	.62354	.61852	.61358
84	.64874	.64370	.63973	.63484	.63002
85	.66358	.66068	.65586	.65110	.64641
86	.68096	.67822	.67154	.66692	.66236
87	.69542	.69262	.68828	.68186	.67736
88	.70891	.70446	.70005	.69570	.69141
89	.72172	.71739	.71312	.70891	.70474
90	.73422	.72994	.72591	.72182	.71779
91	.74632	.74229	.73839	.73435	.73045
92	.75793	.75373	.74968	.74606	.74228
93	.76791	.76414	.76042	.75673	.75308
94	.77710	.77345	.76983	.76626	.76272
95	.78510	.78155	.77804	.77457	.77113
96	.79183	.78837	.78494	.78155	.77819
97	.79723	.79388	.79110	.78779	.78450
98	.80306	.79979	.79647	.79322	.79000
99	.80797	.80471	.80148	.79830	.79514
100	.81253	.80964	.80648	.80335	.80025
101	.81708	.81394	.81062	.80774	.80466
102	.82168	.81856	.81500	.81247	.80948
103	.82754	.82452	.82153	.81887	.81583
104	.83312	.83017	.82723	.82403	.82144
105	.84185	.83880	.83597	.83316	.83038
106	.85562	.85297	.85034	.84772	.84512
107	.87523	.87288	.87054	.86822	.86591
108	.90653	.90471	.90291	.90111	.89932
109	.95798	.95704	.95620	.95537	.95455

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	10.2	10.4	10.6	10.8	11.0
0	.02778	.02743	.02712	.02682	.02655
1	.00975	.00941	.00909	.00880	.00852
2	.00945	.00909	.00875	.00844	.00816
3	.00952	.00914	.00879	.00846	.00815
4	.00978	.00936	.00899	.00865	.00832
5	.01018	.00974	.00935	.00898	.00864
6	.01068	.01023	.00981	.00943	.00907
7	.01128	.01080	.01036	.00995	.00957
8	.01196	.01146	.01101	.01058	.01017
9	.01281	.01228	.01179	.01133	.01090
10	.01375	.01319	.01267	.01219	.01173
11	.01483	.01425	.01370	.01318	.01270
12	.01604	.01542	.01484	.01430	.01379
13	.01732	.01666	.01605	.01548	.01494
14	.01866	.01792	.01727	.01667	.01610
15	.01996	.01913	.01845	.01783	.01723
16	.02103	.02027	.01956	.01889	.01827
17	.02214	.02134	.02059	.01988	.01923
18	.02320	.02236	.02157	.02084	.02014
19	.02426	.02337	.02254	.02177	.02104
20	.02536	.02442	.02356	.02273	.02197
21	.02650	.02552	.02460	.02374	.02293
22	.02770	.02667	.02570	.02479	.02394
23	.02886	.02789	.02687	.02591	.02501
24	.03007	.02923	.02815	.02714	.02619
25	.03194	.03073	.02960	.02853	.02752
26	.03370	.03243	.03123	.03010	.02904
27	.03566	.03434	.03307	.03188	.03076
28	.03789	.03647	.03514	.03389	.03271
29	.04029	.03880	.03740	.03608	.03483
30	.04291	.04135	.03987	.03848	.03716
31	.04572	.04407	.04252	.04105	.03966
32	.04875	.04702	.04538	.04384	.04237
33	.05200	.05019	.04847	.04684	.04530
34	.05548	.05358	.05177	.05008	.04843
35	.05921	.05722	.05532	.05352	.05181
36	.06319	.06110	.05911	.05722	.05543
37	.06743	.06524	.06315	.06117	.05930
38	.07191	.06962	.06744	.06536	.06336
39	.07666	.07425	.07197	.06980	.06773
40	.08166	.07916	.07677	.07450	.07233
41	.08690	.08434	.08185	.07947	.07721
42	.09237	.08981	.08725	.08477	.08239
43	.09848	.09564	.09293	.09034	.08787
44	.10470	.10175	.09883	.09623	.09365
45	.11121	.10815	.10522	.10241	.09972
46	.11805	.11486	.11182	.10880	.10610
47	.12519	.12189	.11873	.11569	.11279
48	.13288	.12927	.12600	.12285	.11983
49	.14054	.13660	.13361	.13035	.12721
50	.14876	.14511	.14160	.13822	.13497
51	.15734	.15356	.14994	.14645	.14309
52	.16627	.16238	.15864	.15504	.15156
53	.17557	.17156	.16770	.16399	.16040
54	.18519	.18107	.17710	.17327	.16957
55	.19515	.19092	.18684	.18290	.17909
56	.20544	.20110	.19691	.19286	.18894
57	.21608	.21164	.20734	.20316	.19916
58	.22707	.22252	.21811	.21380	.20972
59	.23844	.23378	.22928	.22491	.22066
60	.25018	.24543	.24082	.23636	.23203
61	.26233	.25749	.25279	.24823	.24381
62	.27490	.26996	.26517	.26052	.25601
63	.28787	.28286	.27798	.27325	.26866
64	.30124	.29615	.29120	.28639	.28171
65	.31500	.30983	.30481	.29993	.29517
66	.32912	.32390	.31881	.31386	.30904
67	.34360	.33832	.33318	.32817	.32328
68	.35843	.35311	.34791	.34285	.33791
69	.37365	.36828	.36305	.35794	.35296
70	.38925	.38386	.37860	.37346	.36844
71	.40532	.39991	.39463	.38946	.38443
72	.42185	.41644	.41115	.40597	.40091
73	.43875	.43336	.42807	.42289	.41782
74	.45586	.45050	.44522	.44005	.43489
75	.47304	.46769	.46244	.45729	.45225
76	.49016	.48485	.47963	.47451	.46949
77	.50721	.50193	.49676	.49168	.48670
78	.52419	.51896	.51385	.50882	.50386
79	.54119	.53604	.53097	.52600	.52111
80	.55825	.55318	.54819	.54328	.53846
81	.57526	.57027	.56536	.56053	.55578
82	.59206	.58716	.58236	.57762	.57295
83	.60871	.60392	.59920	.59455	.58997

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	10.2	10.4	10.6	10.8	11.0
84	.62527	.62059	.61597	.61143	.60695
85	.64179	.63723	.63273	.62830	.62393
86	.65787	.65344	.64907	.64475	.64050
87	.67302	.66871	.66446	.66026	.65612
88	.68717	.68298	.67885	.67477	.67074
89	.70063	.69656	.69255	.68858	.68466
90	.71380	.70986	.70597	.70212	.69831
91	.72659	.72278	.71901	.71528	.71160
92	.73856	.73488	.73123	.72762	.72406
93	.74947	.74590	.74236	.73887	.73541
94	.75922	.75575	.75233	.74893	.74557
95	.76773	.76436	.76102	.75772	.75445
96	.77487	.77158	.76832	.76510	.76190
97	.78125	.77803	.77485	.77169	.76858
98	.79681	.78365	.78052	.77742	.77435
99	.79201	.78891	.78583	.78279	.77977
100	.79717	.79412	.79111	.78811	.78515
101	.80165	.79865	.79568	.79273	.78981
102	.80645	.80353	.80060	.79768	.79481
103	.81271	.80952	.80660	.80411	.80129
104	.81856	.81574	.81292	.81013	.80730
105	.82761	.82457	.82214	.81943	.81675
106	.84254	.83958	.83743	.83490	.83238
107	.86362	.86133	.85906	.85681	.85456
108	.89755	.89577	.89401	.89226	.89051
109	.95372	.95290	.95208	.95126	.95045

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Cont.

(1) Age	(2) Yearly rate of return (percent)				
	11.2	11.4	11.6	11.8	12.0
0	.02630	.02606	.02583	.02562	.02542
1	.00827	.00803	.00780	.00759	.00739
2	.00789	.00763	.00740	.00718	.00697
3	.00787	.00760	.00736	.00712	.00690
4	.00802	.00774	.00748	.00723	.00700
5	.00832	.00802	.00774	.00746	.00724
6	.00873	.00841	.00812	.00784	.00758
7	.00921	.00886	.00856	.00827	.00799
8	.00979	.00944	.00910	.00879	.00850
9	.01049	.01012	.00976	.00943	.00912
10	.01131	.01091	.01053	.01018	.00985
11	.01225	.01183	.01143	.01106	.01070
12	.01331	.01286	.01244	.01205	.01168
13	.01444	.01397	.01352	.01311	.01271
14	.01558	.01506	.01461	.01417	.01375
15	.01657	.01614	.01565	.01519	.01475
16	.01768	.01713	.01661	.01612	.01566
17	.01962	.01803	.01749	.01697	.01649
18	.01949	.01886	.01831	.01776	.01725
19	.02035	.01971	.01910	.01853	.01799
20	.02124	.02056	.01992	.01932	.01875
21	.02217	.02145	.02078	.02014	.01954
22	.02313	.02236	.02166	.02099	.02035
23	.02416	.02336	.02261	.02190	.02122
24	.02529	.02445	.02365	.02290	.02218
25	.02657	.02568	.02484	.02404	.02328
26	.02804	.02710	.02620	.02536	.02456
27	.02970	.02870	.02776	.02686	.02601
28	.03158	.03053	.02953	.02858	.02768
29	.03366	.03253	.03147	.03047	.02951
30	.03591	.03473	.03361	.03255	.03154
31	.03834	.03709	.03591	.03478	.03372
32	.04099	.03966	.03841	.03722	.03610
33	.04393	.04244	.04112	.03987	.03867
34	.04689	.04543	.04403	.04271	.04145
35	.05018	.04865	.04716	.04578	.04446
36	.05372	.05210	.05055	.04907	.04767
37	.05749	.05578	.05418	.05260	.05112
38	.06150	.05970	.05799	.05636	.05480
39	.06575	.06387	.06207	.06035	.05871
40	.07026	.06828	.06639	.06459	.06296
41	.07504	.07297	.07099	.06909	.06726
42	.08013	.07796	.07589	.07390	.07200

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	11.2	11.4	11.6	11.8	12.0
43	.08550	.08323	.08106	.07896	.07693
44	.09116	.08881	.08654	.08437	.08228
45	.09714	.09467	.09230	.09003	.08784
46	.10341	.10084	.09837	.09599	.09371
47	.10999	.10731	.10473	.10226	.09988
48	.11683	.11414	.11145	.10888	.10638
49	.12420	.12130	.11852	.11583	.11325
50	.13186	.12864	.12555	.12316	.12047
51	.13985	.13674	.13373	.13064	.12805
52	.14822	.14499	.14186	.13898	.13626
53	.15695	.15361	.15039	.14729	.14428
54	.16601	.16258	.15934	.15632	.15282
55	.17542	.17186	.16843	.16511	.16190
56	.18516	.18150	.17796	.17454	.17122
57	.19527	.19150	.18786	.18430	.18081
58	.20573	.20188	.19811	.19448	.19096
59	.21658	.21262	.20877	.20504	.20142
60	.22784	.22377	.21982	.21589	.21227
61	.23952	.23535	.23131	.22736	.22357
62	.25163	.24737	.24324	.23922	.23531
63	.26418	.25984	.25561	.25151	.24751
64	.27716	.27273	.26842	.26423	.26015
65	.29054	.28604	.29165	.27738	.27322
66	.30434	.29976	.28530	.29096	.28672
67	.31852	.31386	.30935	.30494	.30063
68	.33310	.32840	.32381	.31933	.31496
69	.34809	.34334	.33870	.33417	.32976
70	.36353	.35874	.35405	.34948	.34500
71	.37946	.37466	.36994	.36532	.36081
72	.39590	.39111	.38636	.38172	.37718
73	.41286	.40801	.40325	.39859	.39403
74	.43004	.42518	.42042	.41575	.41118
75	.44750	.44245	.43770	.43304	.42846
76	.46457	.45974	.45509	.45035	.44579
77	.48181	.47700	.47229	.46766	.46311
78	.49903	.49426	.48956	.48497	.48045
79	.51631	.51158	.50694	.50236	.49789
80	.53371	.52905	.52446	.51994	.51550
81	.55110	.54650	.54197	.53752	.53313
82	.56835	.56382	.55937	.55497	.55065
83	.58546	.58101	.57663	.57231	.56808
84	.60253	.59817	.59388	.58965	.58547
85	.61961	.61536	.61116	.60703	.60294
86	.63690	.63215	.62806	.62402	.62004
87	.65203	.64800	.64401	.64007	.63619
88	.66676	.66282	.65894	.65510	.65131
89	.68079	.67686	.67318	.66944	.66574
90	.69455	.69084	.68716	.68353	.67993
91	.70795	.70435	.70078	.69726	.69377
92	.72052	.71703	.71357	.71015	.70677
93	.73198	.72860	.72524	.72192	.71864
94	.74225	.73896	.73570	.73248	.72928
95	.75121	.74801	.74488	.74189	.73898
96	.75874	.75561	.75250	.74943	.74639
97	.76546	.76240	.75936	.75635	.75336
98	.77131	.76830	.76531	.76235	.75942
99	.77678	.77382	.77088	.76798	.76509
100	.78221	.77930	.77642	.77356	.77072
101	.78681	.78404	.78119	.77837	.77557
102	.79196	.78912	.78632	.78353	.78077
103	.79649	.79572	.79297	.79024	.78753
104	.80460	.80186	.79917	.79648	.79381
105	.81406	.81143	.80881	.80630	.80381
106	.82569	.82340	.82494	.82249	.82006
107	.85233	.85012	.84791	.84572	.84353
108	.88877	.88704	.88532	.88361	.88190
109	.94954	.94863	.94803	.94725	.94643

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	12.2	12.4	12.6	12.8	13.0
0	.02523	.02505	.02488	.02472	.02456
1	.00721	.00703	.00687	.00671	.00657
2	.00678	.00659	.00642	.00626	.00610
3	.00670	.00650	.00632	.00615	.00599
4	.00678	.00656	.00638	.00620	.00603
5	.00701	.00679	.00656	.00639	.00620
6	.00733	.00710	.00686	.00666	.00648
7	.00733	.00748	.00725	.00703	.00682
8	.00822	.00796	.00771	.00748	.00726
9	.00882	.00854	.00828	.00803	.00780
10	.00953	.00924	.00896	.00869	.00844
11	.01037	.01006	.00976	.00948	.00922
12	.01132	.01099	.01068	.01038	.01010
13	.01234	.01199	.01166	.01134	.01104
14	.01336	.01299	.01264	.01231	.01199
15	.01434	.01395	.01358	.01323	.01289
16	.01522	.01481	.01442	.01405	.01371
17	.01603	.01559	.01518	.01480	.01443
18	.01677	.01631	.01588	.01547	.01508
19	.01748	.01700	.01654	.01611	.01570
20	.01821	.01770	.01722	.01677	.01633
21	.01897	.01843	.01792	.01744	.01698
22	.01975	.01918	.01864	.01813	.01765
23	.02059	.01998	.01941	.01887	.01836
24	.02151	.02087	.02027	.01970	.01915
25	.02257	.02189	.02125	.02064	.02006
26	.02380	.02308	.02240	.02175	.02114
27	.02521	.02445	.02373	.02304	.02239
28	.02683	.02602	.02525	.02452	.02383
29	.02861	.02775	.02694	.02616	.02543
30	.03058	.02967	.02881	.02798	.02720
31	.03270	.03174	.03082	.02995	.02911
32	.03502	.03400	.03303	.03210	.03122
33	.03754	.03646	.03543	.03444	.03350
34	.04025	.03910	.03801	.03697	.03597
35	.04318	.04197	.04081	.03971	.03865
36	.04633	.04505	.04383	.04266	.04154
37	.04971	.04836	.04707	.04583	.04465
38	.05331	.05188	.05052	.04922	.04797
39	.05714	.05564	.05420	.05282	.05150
40	.06121	.05963	.05812	.05667	.05528
41	.06554	.06388	.06229	.06076	.05929
42	.07018	.06843	.06675	.06514	.06360
43	.07508	.07324	.07148	.06979	.06817
44	.08028	.07325	.07651	.07473	.07308
45	.08575	.08373	.08180	.07993	.07814
46	.09152	.08941	.08738	.08543	.08356
47	.09759	.09539	.09326	.09122	.08926
48	.10401	.10171	.09949	.09735	.09530
49	.11078	.10836	.10605	.10382	.10167
50	.11788	.11538	.11297	.11065	.10840
51	.12535	.12276	.12025	.11782	.11548
52	.13319	.13049	.12786	.12536	.12292
53	.14139	.13856	.13586	.13326	.13072
54	.14992	.14701	.14420	.14149	.13865
55	.15880	.15579	.15288	.15006	.14733
56	.16801	.16491	.16190	.15898	.15615
57	.17760	.17439	.17128	.16827	.16534
58	.18755	.18424	.18103	.17792	.17489
59	.19790	.19450	.19119	.18798	.18488
60	.20866	.20516	.20175	.19844	.19523
61	.21986	.21626	.21276	.20936	.20605
62	.23151	.22782	.22423	.22073	.21733
63	.24362	.23984	.23616	.23257	.22908
64	.25617	.25231	.24854	.24487	.24129
65	.26917	.26522	.26137	.25761	.25395
66	.28259	.27857	.27464	.27081	.26707
67	.29643	.29233	.28833	.28443	.28061
68	.31070	.30653	.30246	.29849	.29461
69	.32542	.32120	.31707	.31303	.30908
70	.34063	.33635	.33217	.32807	.32407
71	.35639	.35207	.34784	.34370	.33965
72	.37273	.36837	.36410	.35993	.35583
73	.38955	.38517	.38068	.37667	.37255
74	.40670	.40230	.39799	.39377	.38962
75	.42396	.41958	.41526	.41102	.40686
76	.44131	.43691	.43259	.42825	.42419
77	.45864	.45425	.44994	.44571	.44155
78	.47601	.47164	.46734	.46312	.45897
79	.49348	.48914	.48487	.48067	.47654
80	.51112	.50882	.50259	.49842	.49432
81	.52881	.52455	.52036	.51624	.51218
82	.54639	.54219	.53805	.53396	.52998
83	.56386	.55973	.55566	.55164	.54768

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	12.2	12.4	12.6	12.8	13.0
84	.58128	.57790	.57459	.57134	.56545
85	.59891	.59484	.59102	.58715	.58330
86	.61610	.61222	.60839	.60460	.60086
87	.63185	.62858	.62481	.62111	.61746
88	.64787	.64386	.64021	.63659	.63302
89	.66209	.65848	.65491	.65139	.64790
90	.67630	.67287	.66939	.66596	.66258
91	.69032	.68691	.68353	.68019	.67689
92	.70342	.70011	.69683	.69359	.69039
93	.71506	.71217	.70889	.70564	.70271
94	.72512	.72209	.71908	.71613	.71324
95	.73355	.73045	.72743	.72447	.72157
96	.74337	.74009	.73683	.73370	.73060
97	.75081	.74745	.74418	.74101	.73790
98	.74852	.75384	.75078	.74787	.74517
99	.76224	.75941	.75669	.75402	.75145
100	.76791	.76513	.76257	.76009	.75666
101	.77280	.77006	.76732	.67462	.76194
102	.77604	.77832	.77263	.76999	.76752
103	.78485	.76218	.77954	.77692	.77432
104	.79117	.78854	.78594	.78336	.78079
105	.80103	.79648	.78585	.79545	.79309
106	.81784	.81524	.81265	.81048	.80815
107	.84137	.83921	.83706	.83498	.83291
108	.88020	.87851	.87682	.87515	.87348
109	.94562	.94484	.94405	.94326	.94248

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Cont.

(1) Age	(2) Yearly rate of return (percent)				
	13.2	13.4	13.6	13.8	14.0
0	.02443	.02426	.02414	.02402	.02389
1	.00643	.00629	.00617	.00603	.00591
2	.00596	.00582	.00569	.00556	.00544
3	.00583	.00568	.00555	.00542	.00529
4	.00589	.00571	.00556	.00542	.00529
5	.00603	.00587	.00571	.00556	.00542
6	.00630	.00612	.00595	.00579	.00565
7	.00663	.00644	.00626	.00610	.00594
8	.00705	.00685	.00666	.00648	.00631
9	.00757	.00736	.00716	.00697	.00679
10	.00821	.00798	.00777	.00756	.00737
11	.00896	.00872	.00850	.00828	.00807
12	.00983	.00956	.00934	.00911	.00889
13	.01078	.01048	.01024	.00999	.00976
14	.01170	.01141	.01114	.01088	.01064
15	.01258	.01228	.01200	.01172	.01147
16	.01337	.01306	.01278	.01247	.01220
17	.01408	.01375	.01343	.01313	.01284
18	.01471	.01436	.01403	.01371	.01341
19	.01531	.01494	.01459	.01426	.01394
20	.01592	.01553	.01516	.01481	.01447
21	.01655	.01614	.01574	.01537	.01503
22	.01719	.01675	.01634	.01594	.01557
23	.01787	.01741	.01697	.01655	.01615
24	.01863	.01814	.01768	.01723	.01681
25	.01952	.01899	.01850	.01802	.01757
26	.02058	.02000	.01947	.01897	.01848
27	.02177	.02116	.02061	.02006	.01956
28	.02317	.02254	.02194	.02137	.02082
29	.02472	.02405	.02342	.02281	.02223
30	.02645	.02574	.02506	.02441	.02379
31	.02832	.02756	.02684	.02615	.02549
32	.03037	.02957	.02880	.02806	.02736
33	.03261	.03178	.03093	.03015	.02940
34	.03502	.03411	.03324	.03241	.03162
35	.03764	.03668	.03576	.03488	.03403
36	.04048	.03945	.03847	.03754	.03664
37	.04352	.04244	.04140	.04040	.03945
38	.04677	.04563	.04453	.04347	.04248
39	.05024	.04903	.04787	.04675	.04568
40	.05394	.05268	.05148	.05025	.04912
41	.05788	.05653	.05524	.05396	.05276

TABLE G.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A POOLED INCOME FUND HAVING THE YEARLY RATE OF RETURN SHOWN—Continued

(1) Age	(2) Yearly rate of return (percent)				
	13.2	13.4	13.6	13.8	14.0
42	[illegible]	[illegible]	.05932	.05800	[illegible]
43	[illegible]	.06511	[illegible]	.06227	.06093
44	.07138	.06980	[illegible]	.06682	.06541
45	.07642	.07476	.07316	.07162	.07013
46	.08174	.08000	.07832	.07670	.07514
47	[illegible]	.08553	.08377	.08207	[illegible]
48	.09331	[illegible]	.08955	.08776	[illegible]
49	[illegible]	.09759	[illegible]	.09378	[illegible]
50	.10624	.10414	.10212	.10016	[illegible]
51	.11322	.11104	[illegible]	[illegible]	.10490
52	.12057	.11829	.11608	.11395	.11188
53	.12827	.12590	.12360	.12138	.11922
54	.13631	.13384	.13145	.12913	.12689
55	[illegible]	.14213	.13964	.13724	.13490
56	.15341	.15075	.14817	.14567	.14324
57	.16250	.15975	.15708	.15448	.15196
58	.17196	.16911	.16634	.16365	.16104
59	.18183	[illegible]	.17602	.17324	.17053
60	.19210	.18906	.18611	.18323	[illegible]
61	.20283	.19970	.19665	.19368	.19079
62	.21402	.21079	.20766	.20460	[illegible]
63	[illegible]	.22237	.21914	.21600	.21293
64	.23780	[illegible]	.23109	.22786	.22471
65	.25038	.24690	.24350	.24019	[illegible]
66	.26342	.25996	[illegible]	.25298	.24967
67	[illegible]	.27325	[illegible]	.26623	[illegible]
68	[illegible]	.28711	.28248	[illegible]	.27647
69	.30523	.30145	.29776	.29415	[illegible]
70	.32015	.31632	.31257	.30890	[illegible]
71	.33568	.33179	[illegible]	[illegible]	.32061
72	.35182	[illegible]	.34404	.34027	.33657
73	.36851	[illegible]	[illegible]	.35685	.35311
74	.38555	[illegible]	.37765	.37381	[illegible]
75	.40278	.39877	[illegible]	[illegible]	[illegible]
76	.42010	.41608	.41213	[illegible]	.40445
77	.43746	.43344	.42949	.42561	.42179
78	.45489	.45088	.44693	.44305	.43923
79	.47248	[illegible]	[illegible]	.46057	[illegible]
80	.49028	.48631	[illegible]	.47854	.47475
82	.50818	.50423	.50035	.49653	[illegible]
82	.52600	.52210	[illegible]	.51447	.51074
83	.54377	[illegible]	.53613	.53238	.52869
84	.56160	.55781	[illegible]	.55038	.54674
85	.57956	.57584	.57216	[illegible]	[illegible]
86	.59717	.59353	.58993	.58638	.58287
87	.61385	.61028	[illegible]	[illegible]	.59984
88	.62950	.62601	.62256	.61915	.61578
89	.64445	.64104	.63767	.63434	[illegible]
90	[illegible]	[illegible]	.65259	.64934	.64612
91	.67362	.67039	.66719	[illegible]	[illegible]
92	[illegible]	[illegible]	.68094	.67786	.67481
93	[illegible]	.69657	[illegible]	[illegible]	.68757
94	.71078	.70780	.70485	[illegible]	[illegible]
95	.72053	.71763	.71475	.71189	.70906
96	.72872	.72587	.72305	.72026	.71748
97	.73604	.73325	.73048	.72773	.72501
98	.74239	[illegible]	.73692	.73422	.73154
99	.74833	.74562	.74294	.74028	.73764
100	.75423	.75156	.74892	.74630	.74370
101	[illegible]	.75804	.75403	.75144	.74887
102	.76469	[illegible]	.75950	.75694	.75440
103	.77174	.76916	[illegible]	.76413	[illegible]
104	.77824	.77571	.77320	.77071	.76824
105	.78845	[illegible]	.78054	.78111	.77870
106	[illegible]	[illegible]	[illegible]	[illegible]	.79657
107	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
108	[illegible]	.87016	[illegible]	[illegible]	[illegible]
109	.94170	[illegible]	.94014	.93937	[illegible]

(e) *Present value of remainder interest dependent on the termination of one life; for transfers to pooled income funds made before December 1, 1983*—(1) *In general.* For transfers to pooled income funds made before December 1, 1983, the present value under this section of a remainder interest which is dependent on the termination of the life of one individual shall be determined under paragraphs (e) (1) through (3) of this section. * * * For transfers to pooled income funds made after November 30, 1983, see paragraphs (d) (1) through (3) of this section.

* * * * *

§ 1.664–1 [Amended]

Par. 7. Section 1.664–1 is amended as follows:

a. Paragraphs (a) (5) (i) (*a*) and (*b*) are amended by removing "6 percent" and inserting in lieu thereof "10 percent (6 percent before December 1, 1983)".

b. Paragraph (a) (5) (ii) (*a*) (*3*) is amended by removing "6 percent" and inserting in lieu thereof "10 percent (6 percent before December 1, 1983)".

§ 1.664–2 [Amended]

Par. 8. The last sentence of paragraph (c) of § 1.664–2 is amended by removing "§ 20.2031–10" and inserting in lieu thereof "§§ 20.2031–7 or 20.2031–10, whichever is appropriate,".

§ 1.664–4 [Amended]

Par. 9. Section 1.664–4 is amended as follows:

a. Paragraph (a) (1) (i) of § 1.664–4 is amended by removing "set forth in columns (2) (3), respectively, of table LN paragraph (f), § 20.2031–10" and inserting in lieu thereof "set forth in Table LN of paragraph (f) of §§ 20.2031–7 or 20.2031–10, whichever is appropriate,".

b. Paragraph (a) (1) (ii) is amended by removing "6 percent" and inserting in lieu thereof "10 percent (6 percent for transfers to charitable remainder unitrusts made before December 12; 1983)".

c. Paragraph (a) (3) is amended by removing the second and third to last sentences and inserting in lieu thereof "A copy of the publication containing many such special factors, may be purchased from the Superintendant of Documents, United States Government Printing Office, Washington, D.C. 20402."

d. Paragraphs (b) (1) through (5) are redesignated as paragraph (c) (1) through (5), respectively, and new paragraphs (b) (1) through (5) are inserted immediately following paragraph (a)(4) to read as set forth below.

e. The heading of redesignated paragraph (c) and the first sentence of redesignated paragraph (c) (1) are revised to read as set forth below.

f. A new sentence is added at the end of redesignated paragraph (c) (1) to read as set forth below.

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

* * * * *

(b) *Valuation of charitable remainder unitrusts having certain payout sequences; for transfers made after November 30, 1983*—(1) *In general.* For transfers made after November 30, 1983, the present value determined under this section of a remainder interest which is dependent on a term of years or the termination of the life of one individual shall be determined under paragraphs (b) (1) through (5) of this section provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount which the trust could distribute on such date under paragraph (a) (1) (v) of § 1664.3 if the taxable year of the trust were to end on such date. The present value of the remainder interest in such trust shall be determined by computing the adjusted payout rate (as defined in paragraph (b) (2) of this section) and following the procedure outlined in paragraph (b) (3) or (b) (4) of this section, whichever is applicable. The present value of a remainder interest which is dependent on a term of years is computed under paragraph (b) (3) of this section. The present value of a remainder interest which is dependent on the termination of the life of one individual is computed under paragraph (b) (4) of this section. For transfers made before December 1, 1983, see paragraph (c) (1) through (5) of this section.

(2) *Adjusted payout rate.* The adjusted payout rate is determined by multiplying the fixed percentage described in paragraph (a) (1) (i) (*a*) of § 1.664–3 by the figure in column (2) of Table F (1) which describes the payout sequence of the trust opposite the number in column (1) of Table F (1) which corresponds to the number of months by which the valuation date for the first full taxable year of the trust precedes the first payout date for such taxable year. If the governing instrument does not prescribe when the distribution shall be made during the taxable year of the trust, see paragraph (a) (3) of this section. In the case of a trust having a payout sequence for which no figures have been provided by Table F (1) and in the case of a trust which determines the fair market value of the trust assets by taking the average of valuations on more than one date during the taxable year, see paragraph (a) (3) of this section.

(3) *Period is a term of years.* If the period described in paragraph (a)(5) of § 1.664–3 is a term of years, the factor which is used in determining the present

value of the remainder interest is the factor under the appropriate adjusted payout rate in column (2) of Table D in paragraph (b)(5) of this section opposite the number in column (1) of Table D which corresponds to the number of years in the term. If the adjusted payout rate is an amount which is between adjusted payout rates for which factors are provided in Table D, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this paragraph (b)(3). For purposes of this section, the term "appropriate valuation date" means the date on which the property is transferred to the trust by the donor except that, for purposes of section 2055 or 2106, it means the date of death unless the alternate valuation date is elected in accordance with section 2032 and the regulations thereunder in which event it means the alternate valuation date. If the adjusted payout rate is greater than 15 percent, see paragraph (a)(3) of this section. The application of this paragraph may be illustrated by the following example:

Example. D transfers $100,000 to a charitable remainder unitrust on January 1, 1984. The trust instrument requires that the trust pay to D semiannually (on June 30 and December 31) 10 percent of the fair market value of the trust assets as of June 30th for a term of 15 years. The adjusted payout rate is 9.767 percent (10% x 0.976731). The present value of the remainder interest is $21,404.90, computed as follows:

Factor at 9.6 percent for 15 years	0.220053
Factor at 9.8 percent for 15 years	.212862
Difference	.007191

9.767% − 9.6% ÷ 0.2% = X ÷ .007191
X = .006004

Factor at 9.6 percent for 15 years	0.220053
Less: X	.006004
Interpolated factor	.214049

Present value of remainder interest = $100,000 × 0.214049 = $21,404.90

(4) *Period is the life of one individual.* If the period described in paragraph (a)(5) of § 1.664–3 is the life of one individual, the factor which is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in column (2) of Table E in paragraph (b)(5) of this section opposite the number in column (1) which corresponds to the age of the individual whose life measures the period. For purposes of the computations described in this paragraph (b)(4), the age of an individual is to be taken as the age of that individual at the individual's nearest birthday. If the adjusted payout rate is an amount which is between adjusted payout rates for which factors are provided for in Table E, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this paragraph (b)(4). If the adjusted payout rate is greater than 14 percent see paragraph (a)(3) of this section. The application of this paragraph may be illustrated by the following example:

Example. A, who will be 50 years old on April 15, 1984, transfers $100,000 to a charitable remainder unitrust on January 1, 1984. The trust instrument requires that the trust pay to A at the end of each taxable year of the trust 10 percent of the fair market value of the trust assets as of the beginning of each taxable year of the trust. The adjusted payout rate is 9.091 percent (10 percent × .909091). The present value of the remainder interest is $15,259.00 computed as follows:

Factor at 9 percent at age 50	0.15472
Factor at 9.2 percent at age 50	[illegible]
Difference	[illegible]

9.091% − 9% ÷ 0.2% = X ÷ 0.00469
X = 0.00213

Factor at 9 percent at age 50	.15472
Less: X	.00213
Interpolated factor	[illegible]

Present value of remainder interest = $100,000 × 0.15259 = $15,259.00

(5) *Actuarial Tables.* The following tables shall be used in the application of the provisions of this section:

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN

(1) Years	(2) Adjusted payout rate				
	2.2%	2.4%	2.6%	2.8%	3.0%
1	.978000	.976000	.974000	.972000	.970000
2	.956484	.952576	.948676	.944784	.940900
3	.935441	.929714	.924010	.918330	.912673
4	.914862	.907401	.899966	.892557	.885293
5	.894735	.885623	.876587	.867624	.858734
6	.875051	.864368	.853795	.843330	.832972
7	.855799	.843624	.831597	.819717	.807980
8	.836972	.823377	.809975	.796765	.783745
9	.818558	.803616	.788916	.774455	.760231
10	.800556	.784329	.768404	.752771	.737424
11	.782938	.765505	.748425	.731693	.715301
12	.765713	.747135	.728966	.711206	.693842
13	.748868	.729202	.710013	.691292	.673027
14	.732393	.711701	.691553	.671936	.652836
15	.716280	.694620	.673573	.653121	.633251
16	.700522	.677949	.656060	.634834	.614254
17	.685110	.661678	.639002	.617059	.595826
18	.670036	.645796	.622386	.599781	.577951
19	.655297	.630299	.606206	.582987	.560613
20	.640881	.615172	.590445	.566664	.543794

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	(2) Adjusted payout rate				
	3.2%	3.4%	3.6%	3.8%	4.0%
1	.968000	.966000	.964000	.962000	.960000
2	.937024	.933156	.929296	.925444	.921600
3	.907009	.901429	.895841	.890277	.884738
4	.878014	.870780	.863591	.856447	.849347
5	.849918	.841174	[illegible]	.823902	.815373
6	.822720	.812574	[illegible]	.792583	.782758
7	.796352	.784946	.773641	.762475	.751447
8	.770909	.758258	.745790	.733501	.721390
9	.746238	.732477	.718841	.705628	.692534
10	.722360	.707573	.693059	.678814	.664833
11	.699244	.683516	.668109	.653019	.638239
12	.676908	.660278	.644057	.628204	.612710
13	.655289	.637827	.620871	[illegible]	.588201
14	.634242	.616141	.598520	[illegible]	.564673
15	.613946	.595192	.576973	.559278	.542086
16	.594381	.574955	.556202	[illegible]	[illegible]
17	.575262	.555407	.536179	.517578	.499587
18	.556873	.536523	.516876	.497911	.479603
19	.539053	.518281	.498269	.478990	.460419
20	.521804	[illegible]	[illegible]	.460786	.442002

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	(2) Adjusted payout rate				
	4.2%	4.4%	4.6%	4.8%	5.0%
1	.958000	.956000	.954000	.952000	.950000
2	.917764	.913936	.910116	.906304	.902500
3	.879218	.873723	.868251	.862801	.857375
4	.842291	.835279	.828311	.821387	.814506
5	.806915	.798527	.790209	.781960	.773781
6	.773024	.763392	.753859	.744426	.735092
7	.740557	.729802	.719182	.708694	.698337
8	.709454	.697691	.686099	.674677	.663420
9	.679657	.666993	.654539	.642292	.630249
10	.651111	.637645	.624430	.611462	.598737
11	.623764	.609589	.595706	.582112	.568800
12	.597566	.582767	.568304	.554170	.540360
13	.572469	.557125	.542162	.527570	.513342
14	.548425	.532611	.517222	.502247	.487675
15	.525391	.509177	.493430	.478139	.463291
16	.503325	.486773	.470732	.455186	.440127
17	.482185	.465355	.449079	.433339	.418120
18	.461933	.444879	.428421	.412539	.397214
19	.442532	.425304	.408714	.392737	.377354
20	.423946	.406591	.389913	.373886	.358488

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Cont.

(1) Years	(2) Adjusted payout rate				
	5.2%	5.4%	5.6%	5.8%	6.0%
1	.948000	.946000	.944000	.942000	.940000
2	.898704	.894916	.891136	.887364	.883600
3	.851971	.846591	.841232	.835897	.830584
4	.807669	.800875	.794123	.787415	.780749
5	.765670	.757627	.749652	.741745	.733904
6	.725855	.716716	.707672	.698724	.689870
7	.688111	.678013	.668042	.658198	.648478
8	.652329	.641400	.630832	.620022	.609569
9	.618408	.606765	.595317	.584061	.572995
10	.586251	.573999	.561979	.550185	.538615
11	.555766	.543003	.530508	.518275	.506296
12	.526868	.513681	.500800	.488215	.475920
13	.499469	.485942	.472755	.459998	.447365
14	.473496	.459701	.446281	.433224	.420523

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	(2) Adjusted payout rate				
	5.2%	5.4%	5.6%	5.8%	6.0%
15	.446875	.434878	.421289	.408097	.395292
16	.425333	.411394	.397697	.384427	.371574
17	.403405	.389179	.375426	.362131	.348890
18	.382429	.368163	.354402	.341127	.328323
19	.362542	.348282	.334555	.321342	.309024
20	.343600	.329475	.315820	.302704	.290906

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	(2) Adjusted payout rate				
	6.2%	6.4%	6.6%	6.8%	7.0%
1	.938000	.936000	.934000	.932000	.930000
2	.879844	.870096	.872356	.866624	.864900
3	.825294	.820036	.814781	.809558	.804257
4	.774125	.767544	.761005	.754508	.748052
5	.726126	.718421	.710779	.703201	.695688
6	.681110	.672442	.663867	.655383	.646990
7	.638881	.629406	.620052	.610817	.601701
8	.599270	.589124	.579129	.569283	.559582
9	.562115	.551421	.540906	.530571	.520411
10	.527264	.516129	.505206	.494492	.483982
11	.494574	.483087	.471883	.460980	.450104
12	.463918	.452179	.440720	.429527	.418596
13	.435148	.423359	.411832	.400320	.389296
14	.408169	.396152	.384465	.373095	.362044
15	.382862	.370709	.359090	.347727	.336701
16	.359125	.347087	.335590	.324082	.313132
17	.336850	.324955	.313254	.302044	.291218
18	.315974	.304064	.292879	.281505	.270826
19	.296363	.284314	.273269	.262363	.251870
20	.278026	.266389	.255233	.244522	.234259

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	(2) Adjusted payout rate				
	7.2%	7.4%	7.6%	7.8%	8.0%
1	.926000	.928000	.924000	.922000	.920000
2	.861184	.857476	.853776	.850084	.846400
3	.799172	.794023	.788889	.783777	.778686
4	.741638	.735265	.728933	.722643	.716393
5	.688340	.680855	.673535	.666277	.659082
6	.638987	.630472	.622346	.614307	.606355
7	.592701	.583817	.575048	.566391	.557847
8	.550027	.540615	.531344	.522213	.513219
9	.510425	.500609	.490962	.481480	.472161
10	.473674	.463564	.453649	.443925	.434388
11	.439570	.429260	.419171	.409298	.399637
12	.407931	.397495	.387314	.377373	.367666
13	.378650	.368081	.357879	.347938	.338253
14	.351598	.340843	.330680	.320799	.311199
15	.326602	.315620	.305548	.295777	.286297
16	.303579	.292264	.282326	.272706	.263394
17	.282747	.270637	.260870	.251435	.242322
18	.263633	.250610	.241044	.231823	.222936
19	.245775	.232065	.222724	.213741	.205101
20	.228967	.214892	.205797	.197089	.188683

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	(2) Adjusted payout rate				
	8.2%	8.4%	8.6%	8.8%	9.0%
1	.919000	.916000	.914000	.912000	.910000
2	.842724	.839056	.835396	.831744	.828100
3	.773621	.768575	.763552	.758551	.753571
4	.710184	.704015	.697886	.691798	.685750
5	.651946	.644878	.637868	.630920	.624032
6	.598429	.590701	.583212	.575959	.567939
7	.549213	.541089	.532873	.524764	.516761
8	.504361	.495837	.487048	.478585	.470250
9	.463003	.454004	.445100	.436469	.427900
10	.425037	.415867	.406876	.398060	.389416
11	.390184	.380934	.371885	.363031	.354369
12	.358189	.348936	.339902	.331084	.322475
13	.328817	.319625	.310671	.301949	.293453
14	.301854	.292777	.283953	.275377	.267042
15	.277102	.268184	.259533	.251144	.243006
16	.254380	.245656	.237213	.229043	.221137
17	.233521	.225021	.216815	.208897	.201235
18	.214372	.206119	.198167	.190505	.183124
19	.196794	.188805	.181125	.173741	.166643
20	.180657	.172945	.165568	.158452	.151645

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	(2) Adjusted payout rate				
	9.2%	9.4%	9.6%	9.8%	10.0%
1	.908000	.906000	.904000	.902000	.900000
2	.824464	.820836	.817218	.813604	.810000
3	.748913	.743577	.738263	.733971	.729000
4	.679741	.673772	.667842	.661951	.656100
5	.617205	.610437	.603725	.597069	.590490
6	.560422	.553056	.545771	.538566	.531441
7	.508863	.501069	.493377	.485787	.478297
8	.462048	.453966	.446013	.438189	.430467
9	.419526	.411295	.403196	.395238	.387420
10	.380943	.372634	.364489	.356505	.348678
11	.345895	.337506	.329466	.321567	.313811
12	.314078	.305871	.297898	.290054	.282430
13	.285178	.277119	.269271	.261628	.254187
14	.258942	.251070	.243421	.235989	.228768
15	.235119	.227469	.220053	.212862	.205891
16	.213486	.206067	.198928	.192001	.185302
17	.193847	.186715	.179830	.173185	.166772
18	.176013	.169164	.162567	.156213	.150095
19	.159820	.153263	.146980	.140904	.135185
20	.145117	.138856	.132852	.127096	.121577

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	Adjusted payout rate				
	10.2%	10.4%	10.6%	10.8%	11.0%
1	.898000	.896000	.894000	.892000	.890000
2	.806404	.802816	.799236	.795664	.792100
3	.724151	.719023	.714517	.709732	.704869
4	.650287	.644514	.638778	.633081	.627422
5	.583956	.577464	.571068	.564768	.558406
6	.524394	.517426	.510535	.503720	.496981
7	.470905	.463813	.456818	.449918	.442313
8	.422874	.415398	.408038	.400788	.393659
9	.379741	.372196	.364786	.357506	.350356
10	.341007	.333488	.326116	.318886	.311817
11	.306224	.298805	.291550	.284458	.277517
12	.274999	.267729	.260645	.253734	.246990
13	.246941	.239866	.233017	.226331	.219821
14	.221753	.214937	.209317	.201887	.195641
15	.199134	.192584	.186236	.180083	.174121

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	Adjusted payout rate				
	10.2%	10.4%	10.6%	10.8%	11.0%
16	.178832	.172555	.166495	.160634	.154967
17	.160582	.154809	.149246	.143896	.127821
18	.144200	.138930	.133899	.127911	.122750
19	.129494	.124129	.119003	.114007	.109247
20	.116298	.111214	.106552	.101994	.097729

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	(2) Adjusted payout rate				
	11.2%	11.4%	11.6%	11.8%	12.0%
1	.888000	.886000	.884000	.882000	.880000
2	.788544	.784996	.781456	.777924	.774400
3	.700227	.695506	.690807	.686129	.681472
4	.621802	.616219	.610673	.605166	.599695
5	.552180	.545970	.539835	.533756	.527732
6	.490315	.483729	.477214	.470773	.464404
7	.435402	.428584	.421858	.415222	.408676
8	.386637	.379726	.372922	.366226	.359635
9	.343334	.336437	.329663	.323011	.316475
10	.304881	.298069	.291422	.284898	.278501
11	.270734	.264102	.257617	.251278	.245081
12	.240412	.233994	.227734	.221627	.215671
13	.213486	.207319	.201317	.195475	.189791
14	.189575	.183664	.177954	.172439	.167116
15	.168343	.162744	.157320	.152065	.146974
16	.149466	.144191	.139071	.134121	.129337
17	.132748	.127754	.122939	.118295	.113817
18	.117878	.113190	.108678	.104336	.100159
19	.104676	.100288	.096071	.092024	.088140
20	.092952	.088853	.084927	.081166	.077563

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	(2) Adjusted payout rate (percent)				
	12.2	12.4	12.6	12.8	13.0
1	.878000	.876000	.874000	.872000	.870000
2	.770884	.767376	.763876	.760384	.756900
3	.676936	.672221	.667528	.662855	.658208
4	.594262	.588866	.583507	.578184	.572898
5	.521762	.515847	.509985	.504176	.498421
6	.458107	.451882	.445727	.439642	.433626
7	.402218	.395848	.389565	.383368	.377255
8	.353147	.346783	.340480	.334237	.328212
9	.310063	.303764	.297570	.291507	.285544
10	.272236	.266098	.260084	.254194	.248422
11	.239023	.233102	.227314	.221657	.216128
12	.209862	.204197	.198672	.193285	.188032
13	.184259	.178877	.173640	.168544	.163588
14	.161779	.156696	.151761	.146971	.142321
15	.142042	.137268	.132639	.128158	.123819
16	.124713	.120245	.115927	.111754	.107723
17	.109498	.105234	.101320	.097450	.093719
18	.096139	.092273	.088554	.084976	.081535
19	.084419	.080831	.077396	.074099	.070936
20	.074112	.070808	.067644	.064614	.061714

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(2) Adjusted payout rate (percent)	(1) Years				
	13.2	13.4	13.6	13.8	14.0
1	.856000	.856000	.864000	.862000	.860000
2	.753424	.743956	.746496	.743044	.739600
3	.653972	.649462	.644973	.640504	.636056
4	.567646	.562434	.557256	.552114	.547008
5	.492718	.487068	.481468	.475923	.470427
6	.427679	.421871	.415990	.410345	.404557
7	.371228	.365279	.359415	.353631	.347928
8	.322224	.316332	.310535	.304830	.299218
9	.279690	.274044	.268302	.262764	.257327
10	.242771	.237235	.231813	.226502	.221302
11	.210725	.205446	.200286	.195245	.190319
12	.182910	.177916	.173047	.168201	.163675
13	.158786	.154075	.149513	.145076	.140760
14	.137809	.133429	.129179	.125055	.121054
15	.119618	.115550	.111611	.107798	.104106
16	.103828	.100056	.096432	.092922	.089531
17	.090123	.086657	.083317	.080096	.076997
18	.078227	.075045	.071998	.069045	.066217
19	.067901	.064989	.062196	.059517	.056947
20	.058938	.056280	.053737	.051303	.048974

TABLE D.—TABLE SHOWING THE PRESENT WORTH OF A REMAINDER INTEREST POSTPONED FOR A TERM OF YEARS IN A CHARITABLE REMAINDER UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(2) Adjusted payout rate (percent)	(1) Years				
	14.2	14.4	14.6	14.8	15.0
1	.858000	.856000	.854000	.852000	.850000
2	.736164	.732736	.729316	.725904	.722500
3	.631620	.627222	.622836	.618470	.614125
4	.541937	.536902	.531902	.526937	.522006
5	.464982	.459588	.454244	.448950	.443705
6	.398955	.393407	.387925	.382505	.377150
7	.342303	.336757	.331288	.325895	.320577
8	.293696	.288264	.282920	.277663	.272491
9	.251991	.246754	.241613	.236568	.231617
10	.216209	.211221	.206338	.201556	.196874
11	.185507	.180805	.176212	.171726	.167343
12	.159165	.154769	.150485	.146310	.142242
13	.136564	.132483	.128515	.124656	.120905
14	.117172	.113405	.109751	.106207	.102770
15	.100533	.097075	.093726	.090489	.087364
16	.086257	.083096	.080043	.077096	.074251
17	.074009	.071130	.068357	.065688	.063113
18	.063500	.060867	.058377	.055965	.053646
19	.054483	.052120	.049854	.047682	.045599
20	.046746	.044614	.042575	.040625	.038760

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	2.2	2.4	2.6	2.8	3.0
0	.23253	.20635	.18364	.16394	.14685
1	.22136	.19506	.17170	.15139	.13372
2	.22597	.19884	.17523	.15468	.13676
3	.23039	.20304	.17920	.15840	.14024
4	.23503	.20747	.18340	.16237	.14387

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	2.2	2.4	2.6	2.8	3.0
5	.23088	.21211	.16765	.16656	.14763
6	.24489	.21883	.19243	.17094	.15207
7	.25004	.22189	.19718	.17548	.15597
8	.25534	.22701	.20309	.18016	.16084
9	.26080	.23230	.20718	.18503	.16546
10	.26646	.23774	.21243	.18006	.17031
11	.27217	.24335	.21785	.19536	.17532
12	.27807	.24911	.22344	.20066	.18048
13	.28407	.25487	.22913	.20616	.18579
14	.29013	.26089	.23486	.21175	.19115
15	.29621	.26684	.24067	.21735	.19655
16	.30229	.27279	.24647	.22296	.20199
17	.30838	.27876	.25228	.22858	.20738
18	.31451	.28477	.25813	.23427	.21287
19	.32070	.29085	.26407	.24003	.21844
20	.32699	.29704	.27012	.24591	.22413
21	.33339	.30335	.27629	.25192	.22996
22	.33991	.30977	.28259	.25807	.23592
23	.34655	.31634	.28904	.26437	.24205
24	.35334	.32306	.29566	.27085	.24836
25	.36031	.32998	.30246	.27754	.25490
26	.36746	.33710	.30952	.28446	.26167
27	.37481	.34443	.31678	.29161	.26869
28	.38236	.35197	.32427	.29901	.27596
29	.39008	.35968	.33194	.30660	.28344
30	.39793	.36757	.33980	.31439	.29113
31	.40594	.37561	.34783	.32237	.29902
32	.41410	.38383	.35605	.33054	.30711
33	.42240	.39220	.36444	.33890	.31541
34	.43084	.40072	.37299	.34744	.32389
35	.43942	.40941	.38172	.35617	.33258
36	.44813	.41824	.39061	.36508	.34148
37	.45696	.42720	.39966	.37418	.35053
38	.46591	.43630	.40885	.38339	.35977
39	.47498	.44552	.41818	.39276	.36917
40	.48412	.45486	.42765	.40232	.37878
41	.49336	.46432	.43725	.41201	.38849
42	.50275	.47391	.44700	.42187	.39840
43	.51221	.48360	.45686	.43186	.40847
44	.52175	.49340	.46685	.44199	.41870
45	.53136	.50327	.47693	.45223	.42905
46	.54104	.51323	.48712	.46258	.43953
47	.55077	.52327	.49739	.47305	.45013
48	.56058	.53339	.50777	.48363	.46087
49	.57043	.54358	.51823	.49432	.47173
50	.58035	.55384	.52878	.50510	.48271
51	.59029	.56415	.53940	.51597	.49378
52	.60027	.57450	.55008	.52692	.50496
53	.61026	.58486	.56080	.53793	.51620
54	.62025	.59525	.57154	.54897	.52750
55	.63022	.60567	.58230	.56004	.53884
56	.64018	.61606	.59306	.57113	.55021
57	.65012	.62644	.60384	.58225	.56163
58	.66004	.63681	.61461	.59337	.57306
59	.66993	.64717	.62538	.60452	.58450
60	.67978	.65751	.63615	.61567	.59592
61	.68963	.66784	.64692	.62683	.60754
62	.69944	.67815	.65769	.63801	.61908
63	.70922	.68844	.66843	.64918	.63063
64	.71893	.69868	.67915	.66032	.64217
65	.72850	.70898	.68982	.67144	.65368
66	.73817	.71897	.70043	.68250	.66517
67	.74788	.72901	.71098	.69350	.67666
68	.75706	.73889	.72142	.70443	.68796
69	.76637	.74892	.73181	.71530	.69928
70	.77559	.75881	.74212	.72610	.71053
71	.78475	.76833	.75237	1.73685	1.72178
72	.79383	.77799	.76257	.74756	.73294
73	.80279	.78753	.77266	.75818	.74403
74	.81156	.79689	.78256	.76858	.75494
75	.82013	.80602	.79223	.77876	.76561
76	.82844	.81488	.80163	.78867	.77599
77	.83648	.82347	.81076	.79828	.78609
78	.84426	.83182	.81961	.80764	.79592
79	.85187	.83964	.82824	.81677	.80552

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	2.2	2.4	2.6	2.8	3.0
80	.85927	.84787	.83669	.82569	.81491
81	.86645	.85556	.84487	.83427	.82404
82	.87336	.86290	.85278	.84275	.83288
83	.88003	.87014	.86042	.85084	.84142
84	.88648	.87708	.86782	.85870	.84971
85	.89273	.88381	.87501	.86633	.85778
86	.89868	.89021	.88196	.87369	.86547
87	.90417	.89613	.88818	.88034	.87269
88	.90923	.90156	.89402	.88655	.87917
89	.91396	.90668	.89946	.89237	.88533
90	.91848	.91156	.90471	.89794	.89124
91	.92278	.91620	.90968	.90324	.89686
92	.92673	.92046	.91426	.90812	.90204
93	.93027	.92426	.91837	.91251	.90670
94	.93341	.92768	.92211	.91649	.91092
95	.93612	.93062	.92518	.91976	.91440
96	.93841	.93309	.92782	.92258	.91740
97	.94044	.93529	.93018	.92512	.92009
98	.94223	.93723	.93226	.92733	.92244
99	.94392	.93905	.93421	.92942	.92466
100	.94558	.94086	.93615	.93148	.92686
101	.94709	.94248	.93780	.93324	.92882
102	.94873	.94424	.93979	.93536	.93096
103	.95077	.94645	.94216	.93789	.93365
104	.95278	.94862	.94449	.94037	.93628
105	.95570	.95178	.94787	.94399	.94012
106	.96017	.95662	.95309	.94957	.94607
107	.96616	.96313	.96010	.95709	.95408
108	.97515	.97291	.97067	.96861	.96620
109	.98900	.98800	.98700	.98600	.98500

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	(2) Adjusted payout rate (percent)				
	3.2	3.4	3.6	3.8	4.0
0	.13106	.11901	.10774	.09721	.08737
1	.11834	.10480	.09324	.08302	.07418
2	.12113	.10749	.09557	.08514	.07601
3	.12437	.11050	.09835	.08770	.07837
4	.12787	.11376	.10139	.09052	.08098
5	.13159	.11725	.10468	.09357	.08382
6	.13548	.12092	.10810	.09680	.08684
7	.13956	.12476	.11171	.10019	.09002
8	.14380	.12877	.11549	.10376	.09337
9	.14822	.13296	.11946	.10751	.09691
10	.15282	.13734	.12361	.11144	.10063
11	.15761	.14190	.12795	.11555	.10454
12	.16257	.14663	.13247	.11986	.10863
13	.16764	.15148	.13711	.12436	.11289
14	.17278	.15643	.14183	.12898	.11712
15	.17796	.16146	.14657	.13381	.12143
16	.18318	.16656	.15133	.13785	.12576
17	.18840	.17126	.15611	.14241	.13010
18	.19367	.17643	.16094	.14702	.13449
19	.19903	.18157	.16586	.15172	.13897
20	.20452	.18686	.17092	.15655	.14358
21	.21014	.19228	.17612	.16153	.14833
22	.21591	.19783	.18148	.16666	.15324
23	.22185	.20356	.18698	.17195	.15832
24	.22798	.20948	.19270	.17746	.16361
25	.23434	.21565	.19867	.18321	.16914
26	.24094	.22207	.20489	.18922	.17494
27	.24780	.22875	.21136	.19551	.18102
28	.25492	.23570	.21814	.20208	.18739
29	.26228	.24288	.22514	.20889	.19400
30	.26982	.25029	.23239	.21596	.20088
31	.27756	.25792	.23985	.22324	.20796
32	.28557	.26577	.24755	.23078	.21528

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Years	(2) Adjusted payout rate (percent)				
	3.2	3.4	3.6	3.8	4.0
33	.29377	.27385	.25548	.23855	.22293
34	.30217	.28214	.26364	.24656	.23077
35	.31079	.29065	.27203	.25481	.23887
36	.31961	.29939	.28065	.26330	.24721
37	.32863	.30833	.28950	.27202	.25579
38	.33784	.31747	.29855	.28096	.26460
39	.34722	.32680	.30780	.29011	.27363
40	.35679	.33633	.31727	.29948	.28290
41	.36654	.34606	.32693	.30908	.29239
42	.37648	.35599	.33683	.31890	.30213
43	.38659	.36610	.34691	.32894	.31209
44	.39687	.37640	.35720	.33918	.32227
45	.40728	.38685	.36765	.34961	.33265
46	.41785	.39746	.37828	.36023	.34323
47	.42856	.40823	.38906	.37103	.35400
48	.43941	.41917	.40006	.38202	.36499
49	.45040	.43025	.41121	.39320	.37617
50	.46153	.44140	.42252	.40457	.38756
51	.47277	.45266	.43398	.41609	.39911
52	.48412	.46435	.44558	.42776	.41084
53	.49556	.47595	.45731	.43956	.42272
54	.50707	.48763	.46913	.45151	.43473
55	.51864	.49939	.48104	.46354	.44685
56	.53026	.51121	.49303	.47567	.45906
57	.54192	.52310	.50510	.48789	.47143
58	.55363	.53503	.51723	.50019	.48387
59	.56538	.54703	.52945	.51258	.49642
60	.57717	.55909	.54173	.52506	.50906
61	.58901	.57120	.55408	.53763	.52181
62	.60087	.58336	.56650	.55028	.53466
63	.61277	.59556	.57898	.56300	.54760
64	.62467	.60778	.59149	.57577	.56060
65	.63656	.62000	.60402	.58857	.57365
66	.64842	.63221	.61654	.60139	.58672
67	.66023	.64439	.62905	.61420	.59980
68	.67200	.65653	.64154	.62699	.61289
69	.68373	.66865	.65400	.63976	.62596
70	.69541	.68072	.66645	.65257	.63908
71	.70708	.69279	.67890	.66538	.65222
72	.71870	.70484	.69134	.67819	.66538
73	.73025	.71682	.70372	.69095	.67850
74	.74163	.72863	.71595	.70356	.69147
75	.75275	.74019	.72792	.71593	.70421
76	.76360	.75147	.73962	.72802	.71667
77	.77415	.76246	.75102	.73981	.72883
78	.78443	.77318	.76214	.75133	.74073
79	.79448	.78365	.77303	.76261	.75236
80	.80432	.79392	.78371	.77369	.76384
81	.81390	.80393	.79413	.78450	.77504
82	.82317	.81362	.80423	.79499	.78590
83	.83214	.82301	.81402	.80517	.79645
84	.84086	.83214	.82355	.81508	.80674
85	.84935	.84104	.83284	.82476	.81679
86	.85745	.84953	.84172	.83401	.82640
87	.86496	.85741	.84996	.84260	.83533
88	.87189	.86468	.85757	.85054	.84359
89	.87838	.87150	.86471	.85799	.85135
90	.88461	.87808	.87157	.86516	.85881
91	.89055	.88430	.87812	.87200	.86594
92	.89602	.89006	.88416	.87831	.87252
93	.90094	.89524	.88959	.88400	.87846
94	.90530	.89983	.89441	.88904	.88372
95	.90908	.90361	.89850	.89341	.88828
96	.91226	.90716	.90211	.89709	.89212
97	.91510	.91015	.90525	.90038	.89555
98	.91759	.91277	.90800	.90326	.89855
99	.91993	.91524	.91058	.90596	.90137
100	.92225	.91766	.91315	.90865	.90417
101	.92433	.91987	.91544	.91104	.90667
102	.92659	.92225	.91799	.91364	.90936
103	.92943	.92524	.92107	.91692	.91280
104	.93221	.92816	.92413	.92012	.91614
105	.93627	.93244	.92863	.92483	.92105
106	.94257	.93909	.93562	.93217	.92872
107	.95107	.94808	.94509	.94211	.93914
108	.96398	.96173	.95950	.95728	.95505
109	.98400	.98300	.98200	.98100	.98000

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	4.2	4.4	4.6	4.8	5.0
0	.08183	.07527	.06952	.06446	.06006
1	.06629	.05945	.05344	.04817	.04354
2	.06801	.06098	.05481	.04939	.04460
3	.07017	.06297	.05663	.05104	.04611
4	.07258	.06520	.05868	.05294	.04786
5	.07523	.06765	.06096	.05505	.04982
6	.07805	.07029	.06342	.05734	.05195
7	.08103	.07307	.06603	.05978	.05423
8	.08418	.07603	.06880	.06238	.05666
9	.08752	.07917	.07175	.06516	.05928
10	.09103	.08249	.07486	.06811	.06206
11	.09473	.08600	.07820	.07125	.06503
12	.09861	.08968	.08169	.07456	.06817
13	.10261	.09348	.08530	.07799	.071442
14	.10669	.09735	.08899	.08148	.07474
15	.11080	.10126	.09269	.08500	.07808
16	.11491	.10516	.09640	.08852	.08142
17	.11903	.10906	.10012	.09204	.08475
18	.12321	.11304	.10387	.09560	.08812
19	.12747	.11709	.10771	.09923	.09156
20	.13186	.12126	.11168	.10300	.09513
21	.13639	.12556	.11578	.10690	.09883
22	.14108	.13005	.12004	.11094	.10288
23	.14594	.13469	.12446	.11516	.10669
24	.15101	.13954	.12910	.11958	.11091
25	.15632	.14464	.13398	.12426	.11537
26	.16191	.15001	.13914	.12920	.12011
27	.16778	.15567	.14459	.13444	.12514
28	.17394	.16162	.15032	.13997	.13046
29	.18035	.16782	.15632	.14575	.13604
30	.18702	.17429	.16259	.15181	.14189
31	.19393	.18100	.16909	.15811	.14799
32	.20109	.18797	.17586	.16466	.15436
33	.20851	.19520	.18290	.17152	.16100
34	.21618	.20268	.19018	.17861	.16789
35	.22411	.21043	.19775	.18599	.17508
36	.23228	.21844	.20558	.19363	.18253
37	.24071	.22670	.21367	.20154	.19026
38	.24938	.23521	.22201	.20971	.19825
39	.25827	.24398	.23060	.21814	.20650
40	.26741	.25295	.23945	.22682	.21502
41	.27679	.26220	.24855	.23577	.22381
42	.28642	.27172	.25793	.24501	.23289
43	.29629	.28147	.26756	.25450	.24224
44	.30639	.29147	.27745	.26426	.25186
45	.31689	.30169	.28756	.27426	.26173
46	.32722	.31213	.29791	.28450	.27185
47	.33795	.32280	.30849	.29498	.28222
48	.34890.	.3337o.	.31932	.30573	.29287
49	.36007	.34482	.33039	.31672	.30377
50	.37144	.35617	.34170	.32797	.31494
51	.38301	.36773	.35322	.33944	.32635
52	.39476	.37948	.36495	.35113	.33799
53	.40668	.39141	.37688	.36304	.34986
54	.41874	.40350	.38897	.37512	.36191
55	.43093	.41574	.40123	.38739	.37416
56	.44324	.42811	.41364	.39980	.38657
57	.45568	.44062	.42620	.41240	.39918
58	.46823	.45325	.43890	.42514	.41194
59	.48091	.46603	.45175	.43805	.42489
60	.49370	.47893	.46475	.45112	.43802
61	.50661	.49198	.47790	.46436	.45133
62	.51983	.50515	.49120	.47776	.46481
63	.53275	.51844	.50463	.49131	.47846
64	.54598	.53182	.51817	.50498	.49225
65	.55922	.54528	.53180	.51877	.50616
66	.57253	.55880	.54551	.53264	.52018
67	.58586	.57235	.55926	.54657	.53427
68	.59921	.58594	.57308	.56057	.54845
69	.61258	.59956	.58692	.57463	.56270
70	.62597	.61322	.60082	.58877	.57704
71	.63941	.62695	.61481	.60300	.59149
72	.65289	.64073	.62887	.61731	.60605
73	.66635	.65449	.64293	.63165	.62064
74	.67976	.66814	.65688	.64588	.63514
75	.69275	.68156	.67061	.65990	.64944
76	.70557	.69470	.68407	.67366	.66348
77	.71809	.70756	.69724	.68714	.67724
78	.73033	.72014	.71015	.70036	.69075
79	.74235	.73251	.72284	.71336	.70405
80	.75417	.74468	.73535	.72619	.71718
81	.76573	.75659	.74759	.73875	.73006
82	.77696	.76816	.75951	.75099	.74261
83	.78787	.77942	.77110	.76291	.75484

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	4.2	4.4	4.6	4.8	5.0
84	.79852	.79042	.78243	.77457	.76681
85	.80893	.80118	.79353	.78599	.77856
86	.81889	.81148	.80417	.79695	.78983
87	.82816	.82107	.81408	.80716	.80034
88	.83673	.82994	.82324	.81662	.81007
89	.84478	.83829	.83186	.82551	.81923
90	.85253	.84632	.84016	.83410	.82808
91	.85994	.85401	.84813	.84232	.83656
92	.86679	.86111	.85549	.84993	.84441
93	.87296	.86752	.86213	.85679	.85150
94	.87844	.87321	.86803	.86289	.85789
95	.88319	.87815	.87314	.86818	.86327
96	.88719	.88239	.87745	.87264	.86787
97	.89076	.88601	.88129	.87661	.87197
98	.89368	.88925	.88465	.88009	.87558
99	.89682	.89230	.88781	.88338	.87894
100	.89973	.89533	.89095	.88660	.88228
101	.90233	.89802	.89374	.88948	.88528
102	.90515	.90094	.89676	.89260	.88848
103	.90871	.90464	.90059	.89656	.89256
104	.91217	.90823	.90431	.90040	.89652
105	.91729	.91354	.90981	.90610	.90240
106	.92529	.92187	.91846	.91507	.91169
107	.93617	.93322	.93027	.92732	.92439
108	.95263	.95062	.94840	.94619	.94398
109	.97900	.97800	.97700	.97600	.97500

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	5.2	5.4	5.6	5.8	6.0
0	.05615	.05272	.04969	.04701	.04464
1	.03945	.03585	.03268	.02986	.02737
2	.04039	.03667	.03337	.03046	.02787
3	.04176	.03791	.03450	.03147	.02879
4	.04336	.03938	.03585	.03272	.02993
5	.04518	.04107	.03741	.03416	.03127
6	.04717	.04292	.03914	.03577	.03276
7	.04929	.04490	.04099	.03750	.03436
8	.05158	.04704	.04300	.03938	.03615
9	.05404	.04936	.04518	.04143	.03808
10	.05666	.05183	.04751	.04364	.04016
11	.05947	.05449	.05003	.04602	.04242
12	.06245	.05731	.05271	.04856	.04484
13	.06554	.06025	.05549	.05121	.04735
14	.06869	.06324	.05834	.05391	.04992
15	.07186	.06625	.06119	.05662	.05250
16	.07502	.06924	.06403	.05931	.05504
17	.07817	.07223	.06685	.06199	.05757
18	.08136	.07524	.06970	.06468	.06012
19	.08462	.07832	.07261	.06743	.06272
20	.08800	.08152	.07564	.07029	.06542
21	.09151	.08485	.07879	.07327	.06824
22	.09516	.08831	.08207	.07636	.07119
23	.09897	.09193	.08551	.07984	.07428
24	.10299	.09576	.08915	.08310	.07756
25	.10725	.09982	.09302	.08679	.08108
26	.11179	.10416	.09717	.09075	.08486
27	.11661	.10878	.10160	.09500	.08892
28	.12173	.11370	.10632	.09953	.09328
29	.12710	.11866	.11130	.10432	.09786
30	.13276	.12433	.11656	.10938	.10276
31	.13865	.13002	.12205	.11469	.10787
32	.14482	.13599	.12783	.12026	.11326
33	.15126	.14223	.13387	.12612	.11892
34	.15796	.14874	.14018	.13223	.12485
35	.16494	.15553	.14678	.13864	.13107
36	.17221	.16260	.15366	.14533	.13757
37	.17975	.16996	.16082	.15231	.14435
38	.18756	.17758	.16826	.15955	.15142
39	.19563	.18547	.17597	.16708	.15875
40	.20397	.19364	.18395	.17488	.16636
41	.21259	.20209	.19223	.18296	.17430
42	.22152	.21084	.20082	.19140	.18254

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	5.2	5.4	5.6	5.8	6.0
43	.23071	.21888	.20989	.20010	.19107
44	.24018	.22829	.21885	.20910	.19991
45	.24992	.23778	.22826	.21837	.20902
46	.25991	.24864	.23799	.22788	.21842
47	.27016	.25876	.24798	.23777	.22818
48	.28070	.26918	.25829	.24792	.23812
49	.29150	.27997	.26883	.25837	.24845
50	.30258	.29084	.27970	.26911	.25905
51	.31391	.30206	.29084	.28014	.26998
52	.32548	.31356	.30224	.29144	.28115
53	.33729	.32532	.31390	.30302	.29263
54	.34931	.33726	.32579	.31482	.30434
55	.36152	.34945	.33786	.32686	.31621
56	.37392	.36181	.35002	.33912	.32850
57	.38652	.37438	.36276	.35162	.34093
58	.39929	.38715	.37556	.36432	.35399
59	.41226	.40013	.38847	.37727	.36650
60	.42543	.41331	.40165	.39044	.37965
61	.43878	.42670	.41506	.40386	.39306
62	.45233	.44029	.42869	.41750	.40671
63	.46604	.45409	.44253	.43138	.42060
64	.47994	.46805	.45656	.44545	.43471
65	.49397	.48217	.47076	.45971	.44902
66	.50811	.49642	.48510	.47413	.46350
67	.52235	.51078	.49957	.48869	.47814
68	.53668	.52525	.51416	.50339	.49293
69	.55110	.53983	.52888	.51823	.50786
70	.56563	.55452	.54373	.53322	.52299
71	.58029	.56936	.55875	.54839	.53830
72	.59507	.58436	.57392	.56374	.55380
73	.60990	.59941	.58917	.57918	.56942
74	.62485	.61459	.60457	.59476	.58502
75	.63990	.62919	.61940	.60963	.60046
76	.65351	.64275	.63419	.62464	.61598
77	.66755	.65804	.64873	.63961	.63066
78	.68133	.67209	.66303	.65414	.64542
79	.69492	.68595	.67714	.66850	.66001
80	.70834	.69965	.69111	.68272	.67448
81	.72151	.71311	.70484	.69671	.68872
82	.73436	.72624	.71825	.71039	.70265
83	.74689	.73906	.73135	.72376	.71627
84	.75917	.75163	.74421	.73688	.72967
85	.77122	.76396	.75685	.74980	.74286
86	.78260	.77586	.76901	.76224	.75556
87	.79359	.78693	.78026	.77366	.76744
88	.80388	.79720	.79068	.78403	.77848
89	.81302	.80688	.80061	.79400	.78886
90	.82213	.81624	.81041	.80405	.79894
91	.83086	.82522	.81963	.81410	.80882
92	.83895	.83354	.82818	.82287	.81782
93	.84628	.84106	.83591	.83081	.82575
94	.85275	.84774	.84278	.83787	.83299
95	.85839	.85355	.84876	.84400	.83929
96	.86313	.85844	.85378	.84918	.84458
97	.86737	.86289	.85826	.85377	.84930
98	.87107	.86681	.86218	.85779	.85343
99	.87455	.87019	.86586	.86157	.85736
100	.87800	.87374	.86951	.86532	.86115
101	.88108	.87689	.87275	.86863	.86456
102	.88437	.88030	.87625	.87222	.86822
103	.88758	.88363	.88070	.87579	.87290
104	.89266	.88882	.88600	.88126	.87741
105	.89872	.89506	.89141	.88778	.88417
106	.90532	.90496	.90161	.89628	.89496
107	.92146	.91854	.91552	.91271	.90951
108	.94177	.93956	.93796	.93516	.93298
109	.97400	.97300	.97200	.97100	.97000

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted Payout Rate (percent)				
	5.2	5.4	5.6	5.8	6.0
0	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2	.02557	.02458	.02171	.02006	.01852
3	.02640	.02427	.02537	.02067	.01915
4	.02744	.02523	.02325	.02147	.01988
5	.02868	.02638	.02431	.02246	.02080
6	.03008	.02767	.02552	.02358	.02185
7	.03158	.02909	.02685	.02483	.02302
8	.03325	.03065	.02831	.02621	.02432
9	.03507	.03236	.02993	.02774	.02578
10	.03704	.03423	.03170	.02941	.02736
11	.03916	.03626	.03363	.03125	.02910
12	.04146	.03845	.03571	.03323	.03099
13	.04367	.04073	.03786	.03531	.03297
14	.04602	.04305	.04010	.03742	.03499
15	.04876	.04538	.04231	.03953	.03699
16	.05118	.04767	.04449	.04158	.03896
17	.05357	.04994	.04663	.04356	.04086
18	.05596	.05221	.04878	.04565	.04286
19	.05843	.05453	.05097	.04772	.04476
20	.06099	.05694	.05325	.04988	.04679
21	.06365	.05946	.05564	.05213	.04893
22	.06644	.06210	.05813	.05449	.05116
23	.06937	.06488	.06078	.05699	.05352
24	.07248	.06784	.06357	.05965	.05605
25	.07584	.07108	.06660	.06254	.05879
26	.07945	.07447	.06969	.06557	.06178
27	.08334	.07816	.07345	.06907	.06503
28	.08751	.08215	.07729	.07275	.06856
29	.09194	.08645	.08137	.07667	.07233
30	.09663	.09096	.08572	.08086	.07635
31	.10158	.09572	.09030	.08527	.08056
32	.10677	.10074	.09515	.08995	.08512
33	.11224	.10604	.10027	.09490	.08998
34	.11798	.11158	.10564	.10010	.09494
35	.12401	.11744	.11131	.10556	.10026
36	.13033	.12357	.11727	.11137	.10588
37	.13693	.12995	.12350	.11743	.11175
38	.14380	.13668	.13002	.12377	.11791
39	.15096	.14366	.13681	.13039	.12436
40	.15841	.15092	.14390	.13729	.13109
41	.16615	.15848	.15128	.14450	.13812
42	.17421	.16637	.15899	.15204	.14549
43	.18257	.17456	.16700	.15989	.15316
44	.19124	.18306	.17533	.16804	.16115
45	.20016	.19184	.18395	.17649	.16943
46	.20943	.20092	.19287	.18524	.17802
47	.21897	.21026	.20209	.19431	.18692
48	.22883	.22001	.21185	.20371	.19616
49	.23900	.23004	.22152	.21343	.20573
50	.24948	.24039	.23173	.22348	.21565
51	.26027	.25104	.24225	.23387	.22588
52	.27135	.26200	.25308	.24457	.23645
53	.28271	.27325	.26421	.25558	.24733
54	.29438	.28478	.27561	.26686	.25848
55	.30621	.29654	.28726	.27842	.26993
56	.31832	.30858	.29921	.29025	.28165
57	.33066	.32085	.31142	.30236	.29367
58	.34329	.33339	.32388	.31474	.30595
59	.35615	.34620	.33662	.32741	.31855
60	.36927	.35927	.34964	.34037	.33143
61	.38265	.37262	.36295	.35362	.34463
62	.39630	.38625	.37655	.36719	.35814
63	.41020	.40014	.39043	.38104	.37196
64	.42432	.41428	.40456	.39516	.38606
65	.43866	.42864	.41893	.40955	.40043
66	.45320	.44321	.43355	.42419	.41503
67	.46790	.45798	.44832	.43896	.42987
68	.48277	.47289	.46330	.45396	.44492
69	.49781	.48802	.47849	.46923	.46021
70	.51303	.50333	.49389	.48470	.47574
71	.52847	.51888	.50954	.50044	.49158
72	.54412	.53468	.52544	.51644	.50788
73	.55990	.55059	.54151	.53263	.52396
74	.57566	.56652	.55758	.54885	.54030
75	.59129	.58222	.57354	.56496	.55656
76	.60671	.59762	.58932	.58089	.57263
77	.62189	.61330	.60487	.59661	.58851
78	.63687	.62847	.62024	.61215	.60422
79	.65168	.64349	.63548	.62756	.61981
80	.66637	.65841	.65058	.64289	.63532
81	.68085	.67312	.66551	.65802	.65066
82	.69503	.68753	.68014	.67287	.66571
83	.70890	.70164	.69448	.68743	.68048
84	.72255	.71553	.70861	.70179	.69508
85	.73600	.72924	.72257	.71598	.70948

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted Payout Rate (percent)				
	6.2	6.4	6.6	6.8	7.0
2	.02557	.02458	.02171	.02006	.01852
3	.02640	.02427	.02537	.02067	.01915
4	.02744	.02523	.02325	.02147	.01988
5	.02868	.02638	.02431	.02246	.02080
6	.03008	.02767	.02552	.02358	.02185
7	.03158	.02909	.02685	.02483	.02302
8	.03325	.03065	.02831	.02621	.02432
9	.03507	.03236	.02993	.02774	.02578
10	.03704	.03423	.03170	.02941	.02736
11	.03916	.03626	.03363	.03125	.02910
12	.04146	.03845	.03571	.03323	.03099
13	.04367	.04073	.03786	.03531	.03297
14	.04602	.04305	.04010	.03742	.03499
15	.04876	.04538	.04231	.03953	.03699
16	.05118	.04767	.04449	.04158	.03896
17	.05357	.04994	.04663	.04356	.04086
18	.05596	.05221	.04878	.04565	.04286
19	.05843	.05453	.05097	.04772	.04476
20	.06099	.05694	.05325	.04988	.04679
21	.06365	.05946	.05564	.05213	.04893
22	.06644	.06210	.05813	.05449	.05116
23	.06937	.06488	.06078	.05699	.05352
24	.07248	.06784	.06357	.05965	.05605
25	.07584	.07108	.06660	.06254	.05879
26	.07945	.07447	.06969	.06557	.06178
27	.08334	.07816	.07345	.06907	.06503
28	.08751	.08215	.07729	.07275	.06856
29	.09194	.08645	.08137	.07667	.07233
30	.09663	.09096	.08572	.08086	.07635
31	.10158	.09572	.09030	.08527	.08056
32	.10677	.10074	.09515	.08995	.08512
33	.11224	.10604	.10027	.09490	.08998
34	.11798	.11158	.10564	.10010	.09494
35	.12401	.11744	.11131	.10556	.10026
36	.13033	.12357	.11727	.11137	.10588
37	.13693	.12995	.12350	.11743	.11175
38	.14380	.13668	.13002	.12377	.11791
39	.15096	.14366	.13681	.13039	.12436
40	.15841	.15092	.14390	.13729	.13109
41	.16615	.15848	.15128	.14450	.13812
42	.17421	.16637	.15899	.15204	.14549
43	.18257	.17456	.16700	.15989	.15316
44	.19124	.18306	.17533	.16804	.16115
45	.20016	.19184	.18395	.17649	.16943
46	.20943	.20092	.19287	.18524	.17802
47	.21897	.21026	.20209	.19431	.18692
48	.22883	.22001	.21185	.20371	.19616
49	.23900	.23004	.22152	.21343	.20573
50	.24948	.24039	.23173	.22348	.21565
51	.26027	.25104	.24225	.23387	.22588
52	.27135	.26200	.25308	.24457	.23645
53	.28271	.27325	.26421	.25558	.24733
54	.29438	.28478	.27561	.26686	.25848
55	.30621	.29654	.28726	.27842	.26993
56	.31832	.30858	.29921	.29025	.28165
57	.33066	.32085	.31142	.30236	.29367
58	.34329	.33339	.32388	.31474	.30595
59	.35615	.34620	.33662	.32741	.31855
60	.36927	.36927	.34964	.34037	.33143
61	.38265	.37262	.36295	.35362	.34463
62	.39630	.38625	.37655	.36719	.35814
63	.41020	.40014	.39043	.38104	.37196
64	.42432	.41428	.40456	.39516	.38606
65	.43866	.42864	.41893	.40955	.40043
66	.45320	.44321	.43355	.42419	.41503
67	.46790	.45798	.44832	.43896	.42987
68	.48277	.47289	.46330	.45396	.44492
69	.49781	.48802	.47849	.46923	.46021
70	.51303	.50333	.49389	.48470	.47574
71	.52847	.51888	.50954	.50044	.49158
72	.54412	.53468	.52544	.51644	.50788
73	.55990	.55059	.54151	.53263	.52396
74	.57566	.56652	.55758	.54885	.54030
75	.59129	.58222	.57354	.56496	.55656
76	.60671	.59762	.58932	.58089	.57263
77	.62189	.61330	.60487	.59661	.58851
78	.63687	.62847	.62024	.61215	.60422
79	.65168	.64349	.63548	.62756	.61981
80	.66637	.65841	.65058	.64289	.63532
81	.68085	.67312	.66551	.65802	.65066
82	.69503	.68753	.68014	.67287	.66571
83	.70890	.70164	.69448	.68743	.68048
84	.72255	.71553	.70861	.70179	.69508
85	.73600	.72924	.72257	.71598	.70948

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted Payout Rate (percent)				
	6.2	6.4	6.6	6.8	7.0
66	[illegible]	[illegible]	.73603	.72989	[illegible]
67	[illegible]	.75463	.74864	.74252	[illegible]
68	.77235	.76831	.76035	[illegible]	[illegible]
69	.78208	.77717	.77142	.76578	.76011
70	.79329	.78770	.78217	.77689	.77127
71	[illegible]	.79783	.79252	.78725	.78184
72	.81241	.80725	.80214	.79708	.79206
73	.82074	.81578	[illegible]	.80598	[illegible]
74	.83516	.82337	[illegible]	[illegible]	.80984
75	.83461	[illegible]	.82537	.82081	[illegible]
76	.84003	.83552	.82105	[illegible]	[illegible]
77	.84487	.84048	[illegible]	[illegible]	.82750
78	.84910	.84481	.84054	[illegible]	[illegible]
79	[illegible]	[illegible]	.84469	.84057	.83644
80	.85701	.85290	.84882	.84476	.84075
81	.86049	.85645	[illegible]	.84846	.84451
82	[illegible]	.86029	[illegible]	.85247	.84858
83	.86904	.86520	[illegible]	[illegible]	[illegible]
84	.87365	.86991	[illegible]	[illegible]	.85860
85	.88056	.87700	.87343	.86988	.86635
86	.89165	.88835	.88506	.88179	.87852
87	[illegible]	.90404	.90118	.89829	[illegible]
88	[illegible]	.92858	.92639	.92430	[illegible]
89	.96900	.96800	.96700	.96600	.96500

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	7.2	7.4	7.6	7.8	8.0
0	[illegible]	.03392	.03288	.03209	[illegible]
1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2	.01732	.01615	.01500	.01414	.01329
3	.01778	.01656	.01545	.01446	.01358
4	.01848	.01717	.01601	.01487	.01400
5	[illegible]	.01788	.01674	.01574	.01466
6	[illegible]	[illegible]	.01751	.01645	.01541
7	[illegible]	.01991	[illegible]	.01736	.01627
8	[illegible]	[illegible]	[illegible]	[illegible]	.01724
9	.02397	.02226	.02080	.01956	[illegible]
10	.02548	.02379	[illegible]	[illegible]	.01958
11	.02715	.02538	.02377	.02231	.02086
12	[illegible]	.02710	.02542	[illegible]	[illegible]
13	.03085	.02882	.02716	[illegible]	.02410
14	[illegible]	[illegible]	.02883	[illegible]	.02572
15	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
16	.03656	.03437	.03237	[illegible]	.02886
17	.03938	.03610	[illegible]	.03210	.03035
18	.04020	.03782	[illegible]	[illegible]	.03181
19	[illegible]	.03956	.03729	.03520	.03328
21	[illegible]	[illegible]	.03901	.03683	[illegible]
22	.04589	.04329	.04081	[illegible]	.03844
23	[illegible]	.04529	.04270	.04027	.03813
24	[illegible]	[illegible]	[illegible]	.04222	.03992
25	.05273	.04968	.04686	.04427	.04197
26	.05534	.05216	.04922	.04651	.04400
27	.05819	.05486	.05182	.04896	[illegible]
28	.06136	.05785	.05466	.05170	.04896
29	.06468	.06109	.05777	.05466	.05182
30	.06839	.06457	.06110	.05788	.05490
31	.07217	.06829	.06469	[illegible]	[illegible]
32	.07627	.07224	.06849	[illegible]	.06174
33	.08062	.07644	.07254	.06891	.06552
34	.08524	.08090	.07686	.07300	.06955
35	.09012	.08562	.08142	.07748	.07380
36	.09526	.09062	[illegible]	[illegible]	.07836
37	.10071	.09589	.09137	.08714	.08317
38	[illegible]	.10144	.09676	[illegible]	[illegible]
39	.11242	.10727	[illegible]	.09788	[illegible]
40	.11869	.11337	[illegible]	[illegible]	[illegible]
41	.12526	.11977	.11460	.10972	.10514
42	.13212	.12646	.12113	.11600	.11120
43	.13931	.13348	.12799	.12279	.11799
44	.14681	.14082	.13515	.13009	.12478
45	.15463	.14847	.14264	.13712	.13169

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	7.2	7.4	7.6	7.8	8.0
45	.16274	.15842	.15042	.14474	.13935
46	.17117	.16468	.15853	.15268	.14713
47	.17991	.17326	.16694	.16094	.15523
48	.18900	.18219	.17571	.16955	.16368
49	.19841	.19145	.18481	.17850	.17248
50	.20818	.20106	.19428	.18781	.18163
51	.21827	.21101	.20407	.19745	.19113
52	.22869	.22129	.21421	.20745	.20098
53	.23944	.23190	.22468	.21778	.21117
54	.25047	.24280	.23545	.22841	.22167
55	.26180	.25400	.24653	.23936	.23249
56	.27341	.26550	.25790	.25061	.24361
57	.28532	.27729	.26959	.26218	.25505
58	.29751	.28938	.28157	.27405	.26681
59	.31001	.30180	.29386	.28626	.27892
60	.32282	.31452	.30652	.29880	.29136
61	.33595	.32758	.31950	.31169	.30416
62	.34941	.34097	.33282	.32494	.31733
63	.36318	.35469	.34648	.33854	.33085
64	.37725	.36872	.36046	.35246	.34472
65	.39159	.38304	.37474	.36670	.35891
66	.40620	.39763	.38931	.38124	.37340
67	.42104	.41247	.40414	.39605	.38819
68	.43611	.42755	.41923	.41113	.40326
69	.45144	.44290	.43459	.42650	.41863
70	.46702	.45852	.45025	.44218	.43432
71	.48291	.47447	.46623	.45820	.45037
72	.49909	.49072	.48255	.47458	.46679
73	.51549	.50721	.49912	.49912	.48349
74	.53195	.52377	.51578	.50796	.50031
75	.54832	.54027	.53238	.52466	.51710
76	.56454	.55661	.54884	.54123	.53377
77	.58057	.57278	.56514	.55765	.55030
78	.59644	.58879	.58129	.58393	.56670
79	.61219	.60471	.59736	.59013	.58304
80	.62788	.62057	.61338	.60632	.59936
81	.64341	.63628	.62926	.62236	.61556
82	.65866	.65172	.64488	.63815	.63151
83	.67364	.66689	.66024	.65369	.64723
84	.68843	.68189	.67544	.66907	.66279
85	.70307	.69674	.69050	.68433	.67825
86	.71723	.71112	.70508	.69912	.69323
87	.73050	.72460	.71877	.71300	.70731
88	.74285	.73715	.73151	.72593	.72042
89	.75454	.74903	.74358	.73819	.73286
90	.76591	.76060	.75534	.75014	.74499
91	.77686	.77176	.76670	.76169	.75672
92	.78709	.78217	.77729	.77245	.76766
93	.79635	.79160	.78690	.78223	.77761
94	.80461	.80002	.79547	.79096	.78648
95	.81180	.80735	.80394	.79856	.79421
96	.81784	.81351	.80921	.80494	.80071
97	.82324	.81901	.81481	.81065	.80651
98	.82794	.82380	.81969	.81562	.81157
99	.83235	.82830	.83427	.82028	.81631
100	.83674	.83276	.82882	.82490	.82101
101	.84056	.83668	.83280	.82895	.82512
102	.84474	.84091	.83710	.83332	.82956
103	.85006	.84633	.84262	.83893	.83526
104	.85514	.85150	.84787	.84427	.84068
105	.86284	.85934	.85585	.85239	.84893
106	.87527	.87204	.86881	.86559	.86239
107	.89257	.88972	.88688	.88404	.88121
108	.91983	.91765	.91547	.91330	.91113
109	.96400	.96300	.96200	.96100	.96000

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	8.2	8.4	8.6	8.8	9.0
0	.02786	.02747	.02709	.02673	.02641
1	.00967	.00945	.00906	.00871	.00838
2	.00957	.00913	.00872	.00836	.00800
3	.00965	.00918	.00875	.00836	.00799
4	.00991	.00941	.00896	.00854	.00815
5	.01031	.00979	.00931	.00887	.00846
6	.01084	.01026	.00976	.00931	.00886
7	.01144	.01086	.01032	.00983	.00937
8	.01216	.01154	.01097	.01044	.00996
9	.01299	.01234	.01174	.01118	.01067
10	.01395	.01326	.01262	.01204	.01149
11	.01504	.01432	.01364	.01302	.01245
12	.01626	.01549	.01478	.01413	.01352
13	.01755	.01674	.01599	.01530	.01466
14	.01886	.01800	.01721	.01648	.01581
15	.02011	.01922	.01839	.01762	.01691
16	.02130	.02038	.01949	.01869	.01794
17	.02243	.02144	.02052	.01967	.01888
18	.02350	.02246	.02150	.02061	.01978
19	.02457	.02348	.02247	.02153	.02065
20	.02569	.02454	.02347	.02248	.02156
21	.02685	.02564	.02452	.02347	.02250
22	.02806	.02679	.02561	.02451	.02348
23	.02930	.02802	.02677	.02561	.02453
24	.03076	.02937	.02805	.02683	.02568
25	.03236	.03087	.02949	.02820	.02699
26	.03415	.03258	.03123	.02975	.02848
27	.03615	.03450	.03295	.03151	.03017
28	.03838	.03664	.03502	.03350	.03208
29	.04081	.03898	.03727	.03567	.03416
30	.04346	.04154	.03112	.03804	.03646
31	.04630	.04427	.04237	.04059	.03892
32	.04936	.04723	.04523	.04335	.04159
33	.05264	.05041	.04831	.04633	.04448
34	.05615	.05381	.05160	.04952	.04757
35	.05992	.05748	.05514	.05296	.05099
36	.06393	.06135	.05892	.05663	.05447
37	.06820	.06550	.06295	.06055	.05828
38	.07272	.06990	.06723	.06471	.06233
39	.07749	.07454	.07175	.06912	.06662
40	.08254	.07948	.07655	.07379	.07117
41	.08787	.08466	.08162	.07873	.07599
42	.09352	.09018	.08700	.08399	.08112
43	.09947	.09599	.09268	.08953	.08654
44	.10573	.10211	.09866	.09539	.09227
45	.11229	.10852	.10494	.10152	.09827
46	.11916	.11525	.11153	.10796	.10459
47	.12634	.12229	.11843	.11474	.11122
48	.13388	.12969	.12568	.12186	.11820
49	.14177	.13743	.13329	.12932	.12553

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	8.2	8.4	8.6	8.8	9.0
87	.70168	.69511	.69061	.68518	.67980
88	.71497	.70956	.70425	.69897	.69375
89	.72758	.72336	.71720	.71208	.70702
90	.73989	.73484	.72985	.72490	.72020
91	.75190	.74693	.74210	.73732	.73259
92	.76292	.75821	.75355	.74894	.74436
93	.77302	.76848	.76357	.75851	.75508
94	.78204	.77764	.77325	.76895	.76466
95	.78991	.78563	.78139	.77719	.77302
96	.79651	.79234	.78821	.78411	.78003
97	.80241	.79834	.79431	.79029	.78630
98	.80755	.80356	.79961	.79567	.79176
99	.81226	.80845	.80456	.80071	.79687
100	.81715	.81331	.80949	.80571	.80195
101	.82132	.81754	.81379	.81006	.80636
102	.82552	.82211	.81842	.81478	.81111
103	.83152	.82799	.82438	.82080	.81724
104	.83711	.83356	.83003	.82652	.82302
105	.84550	.84206	.83867	.83528	.83191
106	.85920	.85602	.85285	.84969	.84655
107	.87939	.87691	.87277	.86997	.86718
108	.90896	.90679	.90463	.90246	.90030
109	.95800	.95800	.95700	.95600	.95500

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	9.2	9.4	9.6	9.8	10.0
0	.02788	.02747	.02709	.02673	.02641
1	.00967	.00945	.00906	.00871	.00838
2	.00957	.00913	.00872	.00836	.00800
3	.00965	.00918	.00875	.00836	.00799
4	.00991	.00941	.00896	.00854	.00815
5	.01031	.00979	.00931	.00887	.00846
6	.01084	.01026	.00976	.00931	.00886
7	.01144	.01086	.01032	.00983	.00937
8	.01216	.01154	.01097	.01044	.00996
9	.01299	.01234	.01174	.01118	.01067
10	.01395	.01326	.01262	.01204	.01149
11	.01504	.01432	.01364	.01302	.01245
12	.01626	.01549	.01478	.01413	.01352
13	.01755	.01674	.01599	.01530	.01466
14	.01886	.01800	.01721	.01648	.01581
15	.02011	.01922	.01839	.01762	.01691
16	.02130	.02038	.01949	.01869	.01794
17	.02243	.02144	.02052	.01967	.01888
18	.02350	.02246	.02150	.02061	.01978
19	.02457	.02348	.02247	.02153	.02065
20	.02569	.02454	.02347	.02248	.02156
21	.02685	.02564	.02452	.02347	.02250
22	.02806	.02679	.02561	.02451	.02348
23	.02930	.02802	.02677	.02561	.02453
24	.03076	.02937	.02805	.02683	.02568
25	.03236	.03087	.02949	.02820	.02699
26	.03415	.03258	.03123	.02975	.02848
27	.03615	.03450	.03295	.03151	.03017
28	.03838	.03664	.03502	.03350	.03208
29	.04081	.03898	.03727	.03567	.03416
30	.04346	.04154	.03112	.03804	.03646
31	.04630	.04427	.04237	.04059	.03892
32	.04936	.04723	.04523	.04335	.04159
33	.05264	.05041	.04831	.04633	.04448
34	.05615	.05381	.05160	.04952	.04757
35	.05992	.05748	.05514	.05296	.05099
36	.06393	.06135	.05892	.05663	.05447
37	.06820	.06550	.06295	.06055	.05828
38	.07272	.06990	.06723	.06471	.06233
39	.07749	.07454	.07175	.06912	.06662
40	.08254	.07948	.07655	.07379	.07117
41	.08787	.08466	.08162	.07873	.07599
42	.09352	.09018	.08700	.08399	.08112
43	.09947	.09599	.09268	.08953	.08654
44	.10573	.10211	.09866	.09539	.09227
45	.11229	.10852	.10494	.10152	.09827
46	.11916	.11525	.11153	.10796	.10459
47	.12634	.12229	.11843	.11474	.11122
48	.13388	.12969	.12568	.12186	.11820
49	.14177	.13743	.13329	.12932	.12553

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	8.2	8.4	8.6	8.8	9.0
0	.02786	.02747	.02709	.02673	.02641
1	.00967	.00945	.00906	.00871	.00838
2	.00957	.00913	.00872	.00836	.00800
3	.00965	.00918	.00875	.00836	.00799
4	.00991	.00941	.00896	.00854	.00815
5	.01031	.00979	.00931	.00887	.00846
6	.01084	.01026	.00976	.00931	.00886
7	.01144	.01086	.01032	.00983	.00937
8	.01216	.01154	.01097	.01044	.00996
9	.01299	.01234	.01174	.01118	.01067
10	.01395	.01326	.01262	.01204	.01149
11	.01504	.01432	.01364	.01302	.01245
12	.01626	.01549	.01478	.01413	.01352
13	.01755	.01674	.01599	.01530	.01466
14	.01886	.01800	.01721	.01648	.01581
15	.02011	.01922	.01839	.01762	.01691
16	.02130	.02038	.01949	.01869	.01794
17	.02243	.02144	.02052	.01967	.01888
18	.02350	.02246	.02150	.02061	.01978
19	.02457	.02348	.02247	.02153	.02065
20	.02569	.02454	.02347	.02248	.02156
21	.02685	.02564	.02452	.02347	.02250
22	.02806	.02679	.02561	.02451	.02348
23	.02930	.02802	.02677	.02561	.02453
24	.03076	.02937	.02805	.02683	.02568
25	.03236	.03087	.02949	.02820	.02699
26	.03415	.03258	.03123	.02975	.02848
27	.03615	.03450	.03295	.03151	.03017
28	.03838	.03664	.03502	.03350	.03208
29	.04081	.03898	.03727	.03567	.03416
30	.04346	.04154	.03112	.03804	.03646
31	.04630	.04427	.04237	.04059	.03892
32	.04936	.04723	.04523	.04335	.04159
33	.05264	.05041	.04831	.04633	.04448
34	.05615	.05381	.05160	.04952	.04757
35	.05992	.05748	.05514	.05296	.05099
36	.06393	.06135	.05892	.05663	.05447
37	.06820	.06550	.06295	.06055	.05828
38	.07272	.06990	.06723	.06471	.06233
39	.07749	.07454	.07175	.06912	.06662
40	.08254	.07948	.07655	.07379	.07117
41	.08787	.08466	.08162	.07873	.07599
42	.09352	.09018	.08700	.08399	.08112
43	.09947	.09599	.09268	.08953	.08654
44	.10573	.10211	.09866	.09539	.09227
45	.11229	.10852	.10494	.10152	.09827
46	.11916	.11525	.11153	.10796	.10459
47	.12634	.12229	.11843	.11474	.11122
48	.13388	.12969	.12568	.12186	.11820
49	.14177	.13743	.13329	.12932	.12553

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	7.2	7.4	7.6	7.8	8.0
0	.02936	.02882	.02830
1	.01267	.01209	.01154	.01084	.01008
2	.01251	.01181	.01117	.01058	.01006
3	.01274	.01200	.01133	.01072	.01016

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	9.2	9.4	9.6	9.8	10.0
50	.16923	.14555	.14126	.13716	.13322
51	.15868	.15402	.14958	.14534	.14127
52	.16763	.16286	.15829	.15390	.14969
53	.17696	.17215	.16734	.16261	.15847
54	.18662	.18157	.17672	.17208	.16758
55	.19662	.19144	.18645	.18185	.17703
56	.20695	.20163	.19651	.19157	.18682
57	.21703	.21218	.20693	.20186	.19696
58	.22805	.22307	.21769	.21250	.20749
59	.24005	.23435	.22885	.22353	.21839
60	.25163	.24601	.24038	.23494	.22969
61	.26401	.25808	.25234	.24678	.24141
62	.27691	.27058	.26471	.25905	.25356
63	.29061	.28347	.27752	.27175	.26615
64	.30500	.29677	.29072	.28486	.27916
65	.31878	.31046	.30433	.29837	.29259
66	.33093	.32454	.31832	.31228	.30641
67	.34542	.33897	.33268	.32657	.32062
68	.36027	.35376	.34742	.34124	.33522
69	.37550	.36894	.36255	.35632	.35034
70	.39111	.38452	.37809	.37182	.36570
71	.40718	.40056	.39412	.38782	.38180
72	.42372	.41716	.41064	.40432	.39814
73	.44062	.43422	.42756	.42124	.41506
74	.45774	.45116	.44471	.43848	.43223
75	.47489	.46834	.46193	.45565	.44940
76	.49199	.48550	.47913	.47269	.46675
77	.50902	.50258	.49628	.49006	.48397
78	.52596	.51952	.51336	.50721	.50117
79	.54295	.53667	.53049	.52441	.51843
80	.55999	.55380	.54771	.54171	.53581
81	.57697	.57088	.56489	.55899	.55317
82	.59375	.58778	.58190	.57610	.57039
83	.61038	.60451	.59875	.59306	.58746
84	.62687	.62116	.61553	.60997	.60448
85	.64305	.63779	.63230	.62688	.62152
86	.65929	.65396	.64854	.64337	.63816
87	.67449	.66924	.66405	.65892	.65384
88	.68960	.68350	.67845	.67346	.66852
89	.70202	.69706	.69216	.68731	.68250
90	.71515	.71035	.70559	.70068	.69622
91	.72790	.72325	.71865	.71409	.70957
92	.73962	.73533	.73067	.72648	.72208
93	.75068	.74634	.74202	.73774	.73350
94	.76048	.75618	.75199	.74784	.74372
95	.76888	.76477	.76070	.75606	.75265
96	.77599	.77199	.76801	.76406	.76014
97	.78235	.77843	.77454	.77067	.76684
98	.78788	.78404	.78022	.77642	.77266
99	.79307	.78929	.78554	.78181	.77811
100	.79821	.79450	.79081	.78715	.78351
101	.80266	.79902	.79539	.79178	.78819
102	.80749	.80389	.80031	.79676	.79322
103	.81370	.81018	.80668	.80319	.79973
104	.81955	.81609	.81265	.80923	.80582
105	.82855	.82520	.82187	.81850	.81526
106	.84341	.84029	.83718	.83406	.83099
107	.86439	.86162	.85884	.85606	.85332
108	.89815	.89599	.89384	.89168	.88955
109	.95400	.95300	.95200	.95100	.95000

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	10.2	10.4	10.6	10.8	11.0
0	.02610	.02582	.02556	.02531	.02506
1	.00767	.00779	.00753	.00729	.00707
2	.00768	.00739	.00712	.00686	.00663
3	.00766	.00735	.00705	.00679	.00654
4	.00780	.00747	.00718	.00688	.00662
5	.00808	.00773	.00741	.00711	.00683
6	.00848	.00811	.00776	.00744	.00715
7	.00894	.00855	.00819	.00785	.00753
8	.00951	.00909	.00871	.00835	.00801
9	.01019	.00975	.00934	.00896	.00860
10	.01098	.01052	.01008	.00967	.00930
11	.01191	.01142	.01096	.01052	.01012
12	.01295	.01243	.01194	.01146	.01100
13	.01406	.01351	.01296	.01251	.01206
14	.01518	.01459	.01405	.01354	.01306
15	.01625	.01563	.01506	.01452	.01402
16	.01724	.01659	.01599	.01542	.01489
17	.01815	.01747	.01686	.01624	.01568
18	.01901	.01829	.01761	.01696	.01640
19	.01984	.01908	.01837	.01771	.01709
20	.02070	.01990	.01915	.01846	.01780
21	.02160	.02076	.01996	.01923	.01854
22	.02253	.02164	.02080	.02003	.01930
23	.02352	.02258	.02170	.02088	.02010
24	.02462	.02362	.02269	.02182	.02100
25	.02586	.02481	.02382	.02289	.02203
26	.02729	.02617	.02512	.02414	.02322
27	.02891	.02772	.02662	.02558	.02460
28	.03074	.02949	.02832	.02722	.02618
29	.03276	.03143	.03019	.02902	.02792
30	.03497	.03357	.03225	.03102	.02985
31	.03735	.03587	.03448	.03317	.03193
32	.03993	.03837	.03688	.03551	.03420
33	.04273	.04108	.03952	.03806	.03667
34	.04572	.04399	.04234	.04078	.03933
35	.04896	.04713	.04539	.04376	.04221
36	.05243	.05049	.04867	.04694	.04530
37	.05618	.05410	.05217	.05035	.04862
38	.06007	.05790	.05591	.05398	.05217
39	.06425	.06200	.05987	.05785	.05593
40	.06869	.06633	.06409	.06197	.05995
41	.07339	.07092	.06857	.06634	.06421
42	.07840	.07581	.07335	.07101	.06878
43	.08370	.08099	.07841	.07595	.07361
44	.08930	.08646	.08377	.08119	.07874
45	.09517	.09222	.08940	.08670	.08413
46	.10136	.09828	.09533	.09252	.08983
47	.10796	.10464	.10157	.09864	.09582
48	.11470	.11136	.10816	.10510	.10218
49	.12189	.11842	.11508	.11190	.10884
50	.12946	.12588	.12238	.11907	.11589
51	.13737	.13368	.13008	.12659	.12327
52	.14585	.14177	.13805	.13447	.13088
53	.15428	.15026	.14642	.14271	.13914
54	.16327	.15912	.15513	.15129	.14759
55	.17259	.16831	.16419	.16022	.15639
56	.18225	.17784	.17358	.16948	.16553
57	.19227	.18773	.18335	.17912	.17502
58	.20285	.19798	.19347	.18911	.18490
59	.21343	.20865	.20400	.19951	.19518
60	.22460	.21968	.21492	.21032	.20588
61	.23620	.23117	.22629	.22156	.21698
62	.24824	.24309	.23810	.23325	.22856
63	.26073	.25546	.25036	.24540	.24060
64	.27364	.26827	.26306	.25800	.25308
65	.28696	.28150	.27619	.27103	.26601
66	.30070	.29515	.28974	.28448	.27937
67	.31483	.30919	.30371	.29836	.29316
68	.32936	.32365	.31808	.31266	.30737
69	.34432	.33854	.33290	.32741	.32204
70	.35972	.35389	.34820	.34264	.33721
71	.37565	.36977	.36403	.35842	.35294
72	.39210	.38619	.38042	.37477	.36924
73	.40900	.40306	.39728	.39161	.38605
74	.42618	.42025	.41444	.40876	.40316
75	.44345	.43753	.43173	.42604	.42046
76	.46073	.45483	.44904	.44336	.43778
77	.47799	.47212	.46635	.46069	.45513
78	.49524	.48941	.48368	.47805	.47252
79	.51250	.50678	.50110	.49551	.49001
80	.53001	.52429	.51867	.51313	.50769
81	.54745	.54181	.53628	.53079	.52541
82	.56476	.55921	.55374	.54835	.54303
83	.58193	.57648	.57110	.56579	.56056
84	.59907	.59373	.58845	.58325	.57811
85	.61634	.61102	.60586	.60077	.59574
86	.63300	.62791	.62289	.61791	.61300
87	.64883	.64367	.63866	.63411	.62982
88	.66363	.65860	.65402	.64925	.64461
89	.67775	.67304	.66838	.66377	.65921
90	.69160	.68709	.68250	.67802	.67357
91	.70539	.70066	.69626	.69191	.68760
92	.71775	.71346	.70919	.70498	.70078
93	.72929	.72512	.72098	.71689	.71282
94	.73964	.73559	.73157	.72759	.72362
95	.74957	.74472	.74081	.73692	.73306
96	.75825	.75239	.74856	.74478	.74099
97	.76503	.76225	.75950	.75177	.74807
98	.76892	.76521	.76162	.75799	.75422
99	.77443	.77078	.76715	.76355	.75996
100	.77990	.77631	.77275	.76921	.76569

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	10.2	10.4	10.6	10.8	11.0
101	.78453	.78106	.77757	.77407	.77056
102	.78971	.78622	.78275	.77926	.77577
103	.79629	.79287	.78947	.78606	.78272
104	.80344	.79997	.79672	.79350	.79027
105	.81106	.80771	.80438	.80107	.79780
106	.82702	.82465	.82180	.81878	.81572
107	.84687	.84768	.84509	.84257	.83984
108	.86740	.86526	.86312	.86098	.85885
109	.94800	.94800	.94700	.94600	.94500

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	11.2	11.4	11.6	11.8	12.0
0	.02487	.02466	.02447	.02429	.02412
1	.00686	.00666	.00648	.00631	.00615
2	.00641	.00621	.00601	.00582	.00565
3	.00631	.00609	.00589	.00570	.00552
4	.00627	.00614	.00595	.00576	.00558
5	.00657	.00633	.00610	.00588	.00568
6	.00687	.00661	.00637	.00614	.00593
7	.00724	.00696	.00670	.00646	.00623
8	.00770	.00740	.00712	.00687	.00663
9	.00827	.00796	.00766	.00738	.00713
10	.00894	.00861	.00830	.00800	.00773
11	.00974	.00939	.00906	.00875	.00846
12	.01069	.01029	.00993	.00961	.00929
13	.01184	.01124	.01087	.01052	.01018
14	.01282	.01229	.01181	.01144	.01108
15	.01356	.01311	.01270	.01231	.01194
16	.01440	.01394	.01350	.01309	.01271
17	.01516	.01467	.01421	.01376	.01337
18	.01585	.01534	.01485	.01440	.01397
19	.01651	.01597	.01546	.01498	.01453
20	.01719	.01662	.01608	.01557	.01510
21	.01788	.01728	.01672	.01618	.01568
22	.01861	.01797	.01737	.01680	.01627
23	.01936	.01870	.01808	.01748	.01690
24	.02023	.01951	.01886	.01819	.01758
25	.02121	.02045	.01973	.01906	.01841
26	.02236	.02155	.02078	.02006	.01938
27	.02368	.02283	.02200	.02124	.02051
28	.02521	.02429	.02342	.02261	.02183
29	.02689	.02591	.02496	.02413	.02330
30	.02875	.02772	.02674	.02581	.02494
31	.03078	.02968	.02863	.02764	.02671
32	.03297	.03180	.03070	.02965	.02866
33	.03536	.03412	.03296	.03184	.03079
34	.03794	.03663	.03539	.03421	.03309
35	.04074	.03935	.03803	.03678	.03558
36	.04375	.04228	.04089	.03956	.03826
37	.04699	.04543	.04393	.04255	.04122
38	.05044	.04879	.04723	.04575	.04433
39	.05411	.05238	.05072	.04916	.04766
40	.05802	.05621	.05445	.05279	.05121
41	.06219	.06028	.05843	.05668	.05500
42	.06665	.06462	.06269	.06084	.05908
43	.07136	.06924	.06721	.06528	.06341
44	.07639	.07418	.07202	.06997	.06801
45	.08166	.07933	.07706	.07493	.07287
46	.08726	.08480	.08244	.08016	.07802
47	.09318	.09058	.08809	.08572	.08346
48	.09935	.09666	.09408	.09156	.08922
49	.10591	.10309	.10038	.09780	.09531
50	.11282	.10989	.10707	.10436	.10176
51	.12006	.11702	.11406	.11127	.10856
52	.12772	.12454	.12147	.11853	.11569
53	.13571	.13240	.12923	.12615	.12319
54	.14409	.14060	.13729	.13410	.13102
55	.15270	.14914	.14571	.14240	.13920
56	.16171	.15808	.15447	.15103	.14771
57	.17109	.16735	.16360	.16004	.15660
58	.18083	.17699	.17309	.16941	.16585
59	.19096	.18692	.18294	.17918	.17551

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	11.2	11.4	11.6	11.8	12.0
60	.20154	.19736	.19331	.18938	.18558
61	.21254	.20834	.20407	.20003	.19610
62	.22400	.21958	.21530	.21113	.20709
63	.23593	.23139	.22699	.22272	.21856
64	.24830	.24368	.23915	.23476	.23050
65	.26113	.25638	.25176	.24727	.24290
66	.27439	.26955	.26483	.26023	.25576
67	.28808	.28314	.27833	.27364	.26906
68	.30221	.29718	.29226	.28750	.28283
69	.31681	.31170	.30672	.30185	.29710
70	.33190	.32673	.32167	.31672	.31189
71	.34758	.34234	.33721	.33220	.32731
72	.36384	.35855	.35337	.34831	.34335
73	.38061	.37529	.37007	.36496	.35996
74	.39772	.39237	.38713	.38199	.37695
75	.41499	.40962	.40436	.39920	.39413
76	.43232	.42695	.42168	.41650	.41142
77	.44967	.44431	.43904	.43386	.42878
78	.46708	.46173	.45647	.45130	.44622
79	.48460	.47928	.47405	.46890	.46383
80	.50232	.49705	.49185	.48673	.48169
81	.52010	.51487	.50973	.50465	.49965
82	.53779	.53263	.52754	.52252	.51757
83	.55540	.55031	.54529	.54033	.53544
84	.57304	.56804	.56309	.55822	.55340
85	.59077	.58588	.58102	.57623	.57150
86	.60815	.60335	.59860	.59392	.58928
87	.62458	.61989	.61525	.61066	.60613
88	.63998	.63540	.63086	.62638	.62194
89	.65469	.65022	.64579	.64141	.63707
90	.66918	.66482	.66050	.65623	.65199
91	.68332	.67909	.67489	.67073	.66661
92	.69662	.69251	.68843	.68439	.68038
93	.70879	.70479	.70082	.69689	.69299
94	.71970	.71581	.71195	.70812	.70432
95	.72924	.72544	.72167	.71793	.71422
96	.73724	.73358	.72984	.72618	.72254
97	.74440	.74078	.73714	.73354	.72998
98	.75061	.74703	.74347	.73994	.73643
99	.75642	.75290	.74939	.74591	.74245
100	.76219	.75872	.75527	.75184	.74844
101	.76715	.76372	.76031	.75692	.75356
102	.77246	.76908	.76571	.76236	.75904
103	.77937	.77605	.77274	.76945	.76618
104	.78577	.78249	.77923	.77598	.77275
105	.79579	.79259	.78941	.78625	.78310
106	.81270	.80969	.80670	.80371	.80073
107	.83693	.83422	.83152	.82883	.82614
108	.87672	.87459	.87246	.87034	.86822
109	.94400	.94300	.94200	.94100	.94000

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	12.2	12.4	12.6	12.8	13.0
0	.02398	.02390	.02366	.02352	.02338
1	.00600	.00585	.00572	.00559	.00547
2	.00550	.00535	.00521	.00508	.00495
3	.00536	.00520	.00505	.00491	.00478
4	.00536	.00519	.00504	.00489	.00475
5	.00549	.00532	.00515	.00499	.00484
6	.00572	.00554	.00536	.00519	.00503
7	.00602	.00582	.00563	.00545	.00528
8	.00640	.00618	.00598	.00579	.00561
9	.00688	.00665	.00644	.00623	.00604
10	.00747	.00723	.00699	.00678	.00657
11	.00818	.00792	.00767	.00744	.00722
12	.00900	.00873	.00846	.00822	.00798
13	.00988	.00959	.00931	.00905	.00880
14	.01077	.01046	.01017	.00989	.00963
15	.01160	.01127	.01097	.01067	.01040
16	.01234	.01200	.01167	.01137	.01108
17	.01299	.01263	.01229	.01197	.01166
18	.01357	.01319	.01283	.01249	.01217

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	12.2	12.4	12.6	12.8	13.0
18	.01410	.01370	.01332	.01297	.01263
20	.01465	.01422	.01382	.01345	.01309
21	.01530	.01475	.01433	.01393	.01355
22	.01576	.01529	.01484	.01442	.01402
23	.01636	.01586	.01538	.01493	.01450
24	.01703	.01649	.01599	.01551	.01505
25	.01781	.01724	.01670	.01619	.01571
26	.01874	.01813	.01756	.01701	.01650
27	.01903	.01918	.01857	.01799	.01744
28	.02111	.02042	.01976	.01918	.01856
29	.02253	.02179	.02110	.02044	.01981
30	.02411	.02333	.02256	.02186	.02121
31	.02583	.02500	.02421	.02345	.02274
32	.02772	.02683	.02599	.02519	.02443
33	.02979	.02885	.02795	.02708	.02626
34	.03203	.03102	.03006	.02915	.02829
35	.03447	.03340	.03238	.03141	.03048
36	.03710	.03597	.03488	.03385	.03286
37	.03995	.03874	.03758	.03649	.03544
38	.04299	.04170	.04048	.03931	.03820
39	.04625	.04487	.04356	.04234	.04115
40	.04970	.04825	.04689	.04558	.04432
41	.05341	.05189	.05043	.04904	.04771
42	.05729	.05578	.05424	.05277	.05136
43	.06163	.05993	.05830	.05674	.05525
44	.06614	.06435	.06263	.06099	.05941
45	.07090	.06901	.06720	.06547	.06380
46	.07595	.07396	.07206	.07023	.06847
47	.08128	.07919	.07716	.07525	.07340
48	.08693	.08474	.08263	.08061	.07866
49	.09291	.09061	.08840	.08627	.08423
50	.09925	.09684	.09452	.09229	.09014
51	.10593	.10341	.10096	.09864	.09638
52	.11296	.11032	.10778	.10534	.10297
53	.12034	.11759	.11494	.11238	.10991
54	.12805	.12519	.12243	.11976	.11718
55	.13611	.13313	.13025	.12747	.12470
56	.14451	.14141	.13841	.13551	.13271
57	.15327	.15005	.14694	.14393	.14101
58	.16240	.15906	.15583	.15270	.14967
59	.17194	.16848	.16513	.16189	.15874
60	.18188	.17831	.17485	.17148	.16822
61	.19230	.18860	.18502	.18154	.17816
62	.20317	.19936	.19566	.19207	.18857
63	.21453	.21060	.20679	.20308	.19947
64	.22636	.22231	.21839	.21457	.21085
65	.23864	.23450	.23046	.22653	.22271
66	.25140	.24715	.24301	.23896	.23505
67	.26461	.26026	.25602	.25188	.24785
68	.27826	.27384	.26950	.26527	.26114
69	.29236	.28793	.28350	.27916	.27496
70	.30716	.30258	.29805	.29354	.28933
71	.32251	.31782	.31324	.30878	.30437
72	.33850	.33375	.32910	.32455	.32009
73	.35506	.35026	.34555	.34084	.33642
74	.37201	.36716	.36241	.35770	.35319
75	.39016	.38429	.37950	.37461	.37020
76	.40844	.40154	.39673	.39200	.38737
77	.42678	.41987	.41404	.40930	.40464
78	.44123	.43831	.43148	.42673	.42205
79	.45885	.45394	.44911	.44436	.43969
80	.47673	.47184	.46702	.46229	.45763
81	.49473	.48967	.48509	.48037	.47573
82	.51288	.50767	.50313	.49845	.49383
83	.53062	.52586	.52116	.51655	.51195
84	.54864	.54395	.53931	.53473	.53021
85	.56683	.56221	.55765	.55314	.54869
86	.58470	.58017	.57570	.57127	.56689
87	.60184	.59728	.59281	.58847	.58417
88	.61754	.61320	.60889	.60464	.60042
89	.63377	.62951	.62430	.62013	.61600
90	.64790	.64364	.63953	.63545	.63141
91	.66252	.65848	.65446	.65049	.64658
92	.67640	.67246	.66856	.66468	.66084
93	.68912	.68528	.68148	.67770	.67396
94	.70055	.69689	.69308	.68941	.68576
95	.71064	.70699	.70326	.69966	.69609
96	.71883	.71535	.71190	.70827	.70476
97	.72643	.72292	.71943	.71596	.71252
98	.73294	.72946	.72604	.72263	.71924
99	.73902	.73561	.73222	.72886	.72551
100	.74506	.74170	.73836	.73504	.73174
101	.75021	.74689	.74359	.74030	.73704
102	.75679	.75244	.74918	.74595	.74270

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	12.2	12.4	12.6	12.8	13.0
103	.76253	.75870	.75549	.75329	.75011
104	.76954	.76634	.76316	.76000	.75685
105	.77696	.77384	.77373	.77064	.76756
106	.78777	.78481	.78187	.78894	.78602
107	.82348	.82078	.81812	.81546	.81281
108	.86610	.86396	.86187	.85976	.85765
109	.93800	.93800	.93700	.93600	.93500

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	13.2	13.4	13.6	13.8	14.0
0	.02325	.02313	.02301	.02290	.02279
1	.00536	.00525	.00514	.00505	.00495
2	.00484	.00473	.00462	.00451	.00442
3	.00465	.00453	.00442	.00431	.00421
4	.00461	.00449	.00437	.00426	.00415
5	.00470	.00457	.00444	.00432	.00421
6	.00486	.00474	.00460	.00447	.00435
7	.00512	.00496	.00482	.00466	.00455
8	.00543	.00527	.00512	.00497	.00483
9	.00585	.00568	.00551	.00536	.00521
10	.00637	.00619	.00601	.00584	.00568
11	.00701	.00681	.00662	.00644	.00627
12	.00776	.00755	.00735	.00716	.00697
13	.00857	.00734	.00818	.00793	.00773
14	.00938	.00914	.00892	.00870	.00850
15	.01014	.00986	.00965	.00942	.00921
16	.01080	.01054	.01029	.01005	.00983
17	.01137	.01106	.01083	.01058	.01035
18	.01186	.01157	.01130	.01103	.01078
19	.01230	.01200	.01171	.01143	.01117
20	.01275	.01243	.01212	.01183	.01155
21	.01319	.01285	.01253	.01222	.01189
22	.01364	.01328	.01293	.01261	.01230
23	.01410	.01372	.01336	.01301	.01268
24	.01453	.01422	.01383	.01347	.01312
25	.01525	.01482	.01441	.01401	.01364
26	.01601	.01555	.01511	.01469	.01430
27	.01692	.01643	.01596	.01551	.01509
28	.01800	.01748	.01697	.01650	.01604
29	.01922	.01865	.01812	.01760	.01712
30	.02056	.01998	.01940	.01886	.01833
31	.02206	.02142	.02080	.02022	.01966
32	.02370	.02301	.02236	.02173	.02113
33	.02550	.02477	.02407	.02340	.02276
34	.02748	.02667	.02592	.02521	.02452
35	.02960	.02876	.02796	.02719	.02648
36	.03193	.03103	.03017	.02936	.02858
37	.03444	.03348	.03257	.03170	.03087
38	.03714	.03612	.03515	.03422	.03333
39	.04002	.03894	.03791	.03692	.03597
40	.04312	.04197	.04087	.03981	.03880
41	.04643	.04521	.04404	.04292	.04185
42	.05001	.04871	.04747	.04628	.04514
43	.05382	.05245	.05113	.04987	.04865
44	.05789	.05644	.05506	.05371	.05242
45	.06220	.06067	.05918	.05777	.05641
46	.06678	.06516	.06360	.06210	.06065
47	.07162	.06991	.06825	.06668	.06515
48	.07676	.07496	.07324	.07157	.06996
49	.08225	.08035	.07852	.07676	.07506
50	.08807	.08607	.08415	.08229	.08050
51	.09421	.09211	.09009	.08814	.08625
52	.10070	.09850	.09637	.09432	.09234
53	.10753	.10523	.10300	.10085	.09877
54	.11468	.11227	.10994	.10769	.10551
55	.12216	.11966	.11722	.11487	.11258
56	.12999	.12737	.12485	.12236	.11998
57	.13816	.13545	.13279	.13023	.12773
58	.14673	.14388	.14112	.13844	.13584
59	.15568	.15272	.14986	.14706	.14435
60	.16506	.16196	.15896	.15606	.15327
61	.17488	.17169	.16858	.16558	.16265

TABLE E.—TABLE, SINGLE LIFE, UNISEX, SHOWING THE PRESENT WORTH OF THE REMAINDER INTEREST IN PROPERTY TRANSFERRED TO A UNITRUST HAVING THE ADJUSTED PAYOUT RATE SHOWN—Continued

(1) Age	(2) Adjusted payout rate (percent)				
	13.2	13.4	13.6	13.8	14.0
62	.18518	.18187	.17860	.17554	.17251
63	.19506	.19255	.18923	.18600	.18285
64	.20723	.20371	.20029	.19694	.19368
65	.21808	.21535	.21181	.20836	.20500
66	.23121	.22748	.22380	.22028	.21681
67	.24392	.24008	.23633	.23267	.22910
68	.25711	.25317	.24932	.24556	.24186
69	.27083	.26680	.26285	.25900	.25523
70	.28512	.28100	.27697	.27302	.26916
71	.30007	.29587	.29176	.28773	.28378
72	.31572	.31145	.30726	.30315	.29913
73	.33196	.32765	.32340	.31923	.31514
74	.34871	.34431	.34000	.33577	.33162
75	.36568	.36124	.35688	.35260	.34840
76	.38281	.37833	.37393	.36961	.36537
77	.40006	.39555	.39113	.38677	.38249
78	.41745	.41293	.40848	.40410	.39980
79	.43508	.43055	.42609	.42170	.41737
80	.45303	.44850	.44404	.43964	.43531
81	.47115	.46663	.46218	.45779	.45347
82	.48928	.48479	.48036	.47599	.47166
83	.50744	.50296	.49858	.49424	.48995
84	.52575	.52134	.51696	.51268	.50843
85	.54429	.53994	.53554	.53139	.52720
86	.56257	.55829	.55406	.54988	.54574
87	.57993	.57572	.57156	.56745	.56338
88	.59625	.59212	.58804	.58399	.57999
89	.61191	.60786	.60384	.59987	.59594
90	.62741	.62344	.61952	.61562	.61177
91	.64264	.63877	.63493	.63113	.62736
92	.65703	.65326	.64951	.64580	.64212
93	.67024	.66656	.66291	.65928	.65568
94	.68218	.67854	.67497	.67142	.66791
95	.69255	.68913	.68574	.68207	.67863
96	.70128	.69783	.69440	.69100	.68762
97	.70910	.70570	.70233	.69899	.69566
98	.71587	.71252	.70920	.70590	.70263
99	.72219	.71889	.71562	.71236	.70913
100	.72847	.72522	.72189	.71877	.71558
101	.73390	.73058	.72736	.72420	.72104
102	.73949	.73630	.73313	.72998	.72685
103	.74695	.74381	.74068	.73758	.73449
104	.75372	.75060	.74751	.74442	.74136
105	.75468	.76144	.75840	.75538	.75237
106	.78311	.78021	.77732	.77444	.77157
107	.81016	.80752	.80489	.80227	.79965
108	.83554	.83344	.83134	.84924	.84715
109	.93400	.93300	.93200	.93100	.93000

TABLE F (1).—TABLE, 10 PERCENT, SHOWING FACTORS FOR COMPUTATION OF THE ADJUSTED PAYOUT RATE FOR CERTAIN VALUATIONS AND PAYOUT SEQUENCES

(1) Number of months by which the valuation date precedes the first payout		(2) Factors for payout at the end of each			
At least	But less than	Annual period	Semiannual period	Quarterly period	Monthly period
	1		.976731	.965232	.957616
1	2	.992089	.969004	.957596	.950041
2	3	.984240	.961338	.950021	
3	4	.976404	.953733	.942505	
4	5	.968729	.946188		
5	6	.961065	.938703		
6	7	.953460	.931277		
7	8	.945920			
8	9	.938436			
9	10	.931012			
10	11	.923647			
11	12	.916340			
12		.909091			

(c) *Valuation of charitable remainder unitrusts having certain payout sequences; for transfer made before December 1, 1983*—(1) *In general.* For transfers made before December 1, 1983, the present value determined under this section of a remainder interest which is dependent on a term of years or the termination of the life of one idividual shall be determined under paragraphs (c) (1) through (5) of this section provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount which the trust could distribute on such date under paragraph (a) (1) (v) of § 1.644–3 if the taxable year of the trust were to end on such date. * * * For transfers made after November 30, 1983, see paragraphs (b) (1) through (5) of this section.

* * * * *

§ 11.414(c)–2 [Amended]

Par. 10. The last sentence of paragraph (b) (2) (ii) of § 11.414(c)–2 is amended by removing "§ 20.2031–10" and inserting in lieu thereof "§§ 20.2031–7 or 20.2031–10, which is appropriate.".

§ 11.414(c)–4 [Amended]

Par. 11. The last sentence of paragraph (b) (3) (i) of § 11.414(c)–4 is amended by removing "§ 20.2031–10" and inserting in lieu thereof "§§ 20.2031–7 or 20.2031–10, whichever is appropriate,".

Par. 12. Section 20.2031–7 is revised to read as set forth below.

§ 20.2031–7 Valuation of annuities, life estates, terms for years, remainders, and reversions for estates of decedents dying after November 30, 1983.

(a) *In general.* (1) Except as otherwise provided in this paragraph (a) (1), for estates of decedents dying after November 30, 1983, the fair market value of annuities, life estates, terms for years, remainders, and reversions is their present value determined under this section. The value of annuities issued by companies regularly engaged in their sale, and of insurance policies on the lives of persons other than the decedent is determined under § 20.2031–8. The fair market value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3 is its present value determined under § 1.664–4. The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of valuation less the fair market value of the remainder interest on such date determined under § 1.664–4. The fair market value of interests in a pooled income fund, as defined in § 1.642(c)–5, is their value determined under § 1.642(c)–6. (See § 20.2031–10 with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions includable in estates of decedents dying after December 31, 1970, and before December 1, 1983; § 20.2042–1 with respect to insurance policies on the decedent's life.) With respect to the valuation of annuities, life estates, terms for years, remainders and reversions includable in estates of decedents dying before January 1, 1971, see T.D. 6298, 23 FR 4529, June 24, 1958, as amended by T.D. 7077, 35 FR 18461, December 4, 1970.

(2) The present value of an annuity, life estate, remainder, or reversion determined under this section which is dependent on the continuation or termination of the life of one person is computed by the use of Table A in paragraph (f) of this section. The present value of an annuity, term for years, remainder, or reversion dependent on a term certain is computed by the use of Table B in paragraph (f) of this section. If the interest to be valued is dependent upon more than one life or there is a term certain concurrent with one or more lives, see paragraph (e) of this section. For purposes of the computations described in this section, the age of a person is to be taken as the age of that person at his or her nearest birthday.

(3) In all examples set forth in this section, the decedent is assumed to have died after November 30, 1983.

(b) *Annuities.* (1) If an annuity is payable annually at the end of each year during the life of an individual (as for example if the first payment is due one year after the decedent's death), the amount payable annually is multiplied by the figure in column 2 of Table A opposite the number of years in coumn 1 nearest the age of the individual whose life measures the duration of the annuity. If the annuity is payable annually at the end of each of year for a definite number of years, the amount payable annually is multiplied by the figure in column 2 of Table B opposite the number of years in column 1 representing the duration of the annuity. The application of this paragraph (b)(1) may be illustrated by the following examples:

Example (1). The decedent received, under the terms of the decedent's father's will an annuity of $10,000 a year payable annually for the life of the decedent's elder brother. At the time the decedent died, an annual payment had just been made. The brother at the decedent's death was 40 years eight months old. By reference to Table A, the figure in column 2 opposite 41 years, the number nearest to the brother's actual age, is found to be 9.1030. The present value of the annuity at the date of the decedent's death is, therefore, $91,030 ($10,000 x 9.1030).

Example (2). The decedent was entitled to receive an annuity of $10,000 a year payable annually throughout a term certain. At the time the decedent died, the annual payment had just been made and five more annual payments were still to be made. By reference to Table B, it is found that the figure in column 2 opposite five years is 3.7908. The present value of the annuity is, therefore, $37,908 ($10,000 x 3.7908).

(2) If an annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods during the life of an individual (as for example if the first payment is due one month after the decedent's death), the aggregate amount to be paid within a year is first multiplied by the figure in column 2 of Table A opposite the number of years in column 1 nearest the age of the individual whose life measures the duration of the annuity. The product so obtained is then multiplied by whichever of the following factors is appropriate:

1.0244 for semiannual payments,
1.0368 for quarterly payments,
1.0450 for monthly payments,
1.0482 for weekly payments.

If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods for a definite number of years, the aggregate amount to be paid within a year is first multiplied by the figure in column 2 of Table B opposite the number of years in column 1 representing the duration of the annuity. The product so obtained is then multiplied by whichever of the above factors is appropriate. The application of this paragraph (b)(2) may be illustrated by the following example:

Example. The facts are the same as those contained in example (1) set forth in paragraph (b)(1) of this section, except that the annuity is payable semiannually. The aggregate annual amount, $10,000, is multiplied by the factor 9.1030 and the product multiplied by 1.0244. The present value of the annuity at the date of the decedent's death is, therefore, $93,251.13 ($10,000 x 9.1030 x 1.0244).

(3)(i) If the first payment of an annuity for the life of an individual is due at the beginning of the annual or other payment period rather than at the end (as for example if the first payment is to be made immediately after the decedent's death), the value of the annuity is the sum of (A) the first payment plus (B) the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in paragraphs (b)(1) or (2) of this section, the application of this paragraph (b)(3)(i) may be illustrated by the following example:

Example. The decedent was entitled to receive an annuity of $50 a month during the life of another, a woman. The decedent died on the date the payment was due. At the date of the decedent's death, the person whose life measures the duration of the annuity was 50 years of age. The value of the annuity at the date of the decedent's death is $50 plus the product of $50×12×8.4743 (see Table A)×1.0450 (See paragraph (b)(2) of this section). That is $50 plus $5,313.39, or $5,363.39.

(ii) If the first payment of an annuity for a definite number of years is due at the beginning of the annual or other payment period, the applicable factor is the product of the factor shown in Table B multiplied by whichever of the following factors is appropriate:

1.1000 for annual payments,
1.0744 for semiannual payments,
1.0618 for quarterly payments,
1.0534 for monthly payments,
1.0502 for weekly payments.

The application of this paragraph (b)(3)(ii) may be illustrated by the following example:

Example. The decedent was the beneficiary of an annuity of $50 a month. On the day a payment was due, the decedent died. There were 300 payments to be made, including the payment due. The value of the annuity as of the date of decedent's death is the product of $50×12×9.0770 (see Table B)×1.0534, or $5,737.03.

(c) *Life estates and terms for years.* If the interest to be valued is the right of a person for his or her life, or for the life of another person, to receive the income of certain property or to use nonincome-producing property, the value of the interest is the value of the property multiplied by the figure in column 3 of Table A opposite the number of years nearest to the actual age of the measuring life. If the interest to be valued is the right to receive income of property or to use nonincome-producing property for a term of years, column 3 of Table B is used. The application of this paragraph (c) may be illustrated by the following example:

Example. The decedent or the decedent's estate was entitled to receive the income from a fund of $50,000 during the life of the decedent's elder brother. Upon the brother's death, the remainder is to go to B. The brother was 31 years, five months old at the time of decedent's death. By reference to Table A the figure in column 3 opposite 31 years is found to be 0.95254. The present value of the decedent's interest is, therefore, $47,627 ($50,000×0.95254).

(d) *Remainders or reversionary interests.* If a decedent had, at the time of the decedent's death, a remainder or a reversionary interest in property to take effect after an estate for the life of another, the present value of the decedent's interest is obtained by multiplying the value of the property by the figure in column 4 of Table A opposite the number of years nearest to the actual age of the person whose life measures the preceding estate. If the remainder or reversion is to take effect at the end of the term for years, column 4 of Table B is used. The application of this paragraph (d) may be illustrated by the following example:

Example. The decedent was entitled to receive certain property worth $50,000 upon the death of the decedent's elder sister, to whom the income was bequeathed for life. At the time of the decedent's death, the elder sister was 31 years five months old. By reference to Table A the figure in column 4 opposite 31 years is found to be .04746. The present value of the remainder interest at the date of the decedent's death is, therefore, $2,373 ($50,000×.04746).

(e) *Actuarial computations by the Internal Revenue Service.* If the valuation of the interest involved is dependent upon the continuation or the termination of more than one life or upon a term certain concurrent with one or more lives a special factor must be used. The factor is to be computed on the basis of interest at the rate of 10 percent a year, compounded annually, and life contingencies determined, as to each person involved, from the values of lx that are set forth in column 2 of Table LN of paragraph (f). Table LN contains values of lx taken from the life table for the total population appearing as Table 1 of United States Life Tables: 1969–71, published by the Department of Health, Education, and Welfare, Public health service. A copy of the publication containing many such special factors, may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20404. However, if a special factor is required in the case of an actual decedent, the Commissioner will furnish the factor to the executor upon request. The request must be accompanied by a statement of the date of birth of each person, the duration of whose life may affect the value of the interest, and by copies of the relevant instruments. Special factors are not furnished for prospective transfers.

(f) *Tables.* The following tables shall be used in the application of the provisions of this section:

TABLE A.—SINGLE LIFE, UNISEX, 10 PERCENT SHOWING THE PRESENT WORTH OF AN ANNUITY, OF A LIFE INTEREST, AND OF A REMAINDER INTEREST

(1) Age	(2) Annuity	(3) Life estate	(4) Remainder
0	9.7188	.97188	.02812
1	9.8988	.98988	.01012
2	9.9017	.99017	.00983
3	9.9008	.99008	.00992
4	9.8981	.98981	.01019
5	9.8938	.98938	.01062
6	9.8884	.98884	.01116
7	9.8822	.98822	.01178
8	9.8748	.98748	.01252
9	9.8663	.98663	.01337
10	9.8565	.98565	.01435
11	9.8453	.98453	.01547
12	9.8329	.98329	.01671
13	9.8198	.98198	.01802
14	9.8066	.98066	.01934
15	9.7937	.97937	.02063
16	9.7815	.97815	.02185
17	9.7700	.97700	.02300
18	9.7590	.97590	.02410
19	9.7480	.97480	.02520
20	9.7365	.97365	.02635
21	9.7245	.97245	.02755
22	9.7120	.97120	.02880
23	9.6986	.96986	.03014
24	9.6841	.96841	.03159
25	9.6678	.96678	.03322
26	9.6495	.96495	.03505
27	9.6290	.96290	.03710
28	9.6062	.96062	.03938
29	9.5813	.95813	.04187
30	9.5543	.95543	.04457
31	9.5254	.95254	.04746
32	9.4942	.94942	.05058
33	9.4608	.94608	.05392
34	9.4250	.94250	.05750
35	9.3868	.93868	.06132
36	9.3460	.93460	.06540
37	9.3026	.93026	.06974
38	9.2567	.92567	.07433
39	9.2083	.92083	.07917
40	9.1571	.91571	.08429
41	9.1030	.91030	.08970
42	9.0457	.90457	.09543
43	8.9855	.89855	.10145
44	8.9221	.89221	.10779
45	8.8558	.88558	.11442
46	8.7863	.87863	.12137
47	8.7137	.87137	.12863
48	8.6374	.86374	.13626
49	8.5578	.85578	.14422
50	8.4743	.84743	.15257
51	8.3874	.83874	.16126
52	8.2969	.82969	.17031
53	8.2028	.82028	.17972
54	8.1054	.81054	.18946
55	8.0046	.80046	.19954
56	7.9006	.79006	.20994
57	7.7931	.77931	.22069
58	7.6822	.76822	.23178
59	7.5675	.75675	.24325
60	7.4491	.74491	.25509
61	7.3267	.73267	.26733
62	7.2002	.72002	.27998
63	7.0696	.70696	.29304
64	6.9352	.69352	.30648
65	6.7970	.67970	.32030
66	6.6551	.66551	.33449
67	6.5098	.65098	.343902
68	6.3610	.63610	.363690
69	6.2086	.62086	.37914
70	6.05422	.60522	.39478
71	5.8914	.58914	.41086
72	5.7261	.57261	.42739
73	5.5571	.55571	.44429
74	5.3862	.53862	.46138
75	5.2149	.52149	.47851
76	5.0441	.50441	.49559
77	4.8742	.48742	.51258
78	4.7049	.47049	.52951
79	4.5357	.45357	.54643
80	4.3659	.43659	.56341
81	4.1967	.41967	.58033
82	4.0295	.40295	.59705
83	3.8642	.38642	.61358
84	3.6998	.36998	.63002
85	3.5359	.35359	.64641

TABLE A.—SINGLE LIFE, UNISEX, 10 PERCENT SHOWING THE PRESENT WORTH OF AN ANNUITY, OF A LIFE INTEREST, AND OF A REMAINDER INTEREST—Continued

(1) Age	(2) Annuity	(3) Life estate	(4) Remainder
86	3.3764	.33764	.66236
87	3.2262	.32262	.67738
88	3.0859	.30859	.69141
89	2.9526	.29526	.70474
90	2.8221	.28221	.71779
91	2.6955	.26955	.73045
92	2.5771	.25771	.74229
93	2.4692	.24692	.75308
94	2.3728	.23728	.76272
95	2.2887	.22887	.77113
96	2.2161	.22161	.77839
97	2.1550	.21550	.78450
98	2.1000	.21000	.79000
99	2.0486	.20486	.79514
100	1.9975	.19975	.80025
101	1.9532	.19532	.80468
102	1.9054	.19054	.80946
103	1.8437	.18437	.81563
104	1.7856	.17856	.82144
105	1.6962	.16962	.83038
106	1.5486	.15486	.84512
107	1.3409	.13409	.86591
108	1.0068	.10068	.89932
109	.4545	.04545	.95455

TABLE B.—TABLE SHOWING THE PRESENT WORTH AT 10 PERCENT OF AN ANNUITY FOR A TERM CERTAIN, OF AN INCOME INTEREST FOR A TERM CERTAIN AND OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN

(1) Number of years	(2) Annuity	(3) Term certain	(4) Remainder
1	.9091	.090909	.909091
2	1.7355	.173554	.826446
3	2.4869	.248686	.751315
4	3.1699	.316987	.683013
5	3.7908	.379079	.620921
6	4.3553	.435526	.564474
7	4.8684	.486842	.513158
8	5.3349	.533493	.466507
9	5.7590	.575902	.424098
10	6.1446	.614457	.385543
11	6.4951	.649506	.350494
12	6.8137	.681369	.318631
13	7.1034	.710336	.289664
14	7.3667	.736689	.263311
15	7.6061	.760611	.239392
16	7.8237	.782371	.217629
17	8.0216	.802155	.197845
18	8.2014	.820141	.179859
19	8.3649	.836492	.163508
20	8.5136	.851356	.148644
21	8.6487	.864869	.135131
22	8.7715	.877154	.122846
23	8.8832	.888322	.111678
24	8.9847	.898474	.101526
25	9.0770	.907704	.092296
26	9.1609	.916095	.083905
27	9.2372	.923722	.076278
28	9.3066	.930657	.069343
29	9.3696	.936961	.063039
30	9.4269	.942691	.057309
31	9.4790	.947901	.052099
32	9.5264	.952636	.047362
33	9.5694	.956943	.043057
34	9.6086	.960857	.039143
35	9.6442	.964416	.035584
36	9.6765	.967651	.032349
37	9.7059	.970592	.029408
38	9.7327	.972965	.026735
39	9.7570	.975696	.024304
40	9.7791	.977905	.022095
41	9.7991	.979914	.020086
42	9.8174	.981740	.018260
43	9.8340	.983400	.016600
44	9.8491	.984909	.015091
45	9.8628	.986281	.013719
46	9.8753	.987528	.012472
47	9.8866	.988662	.011338

TABLE B.—TABLE SHOWING THE PRESENT WORTH AT 10 PERCENT OF AN ANNUITY FOR A TERM CERTAIN, OF AN INCOME INTEREST FOR A TERM CERTAIN AND OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN—Continued

(1) Number of years	(2) Annuity	(3) Term certain	(4) Remainder
48	9.8969	.989693	.010307
49	9.9063	.990630	.009370
50	9.9140	.991481	.008519
51	9.9228	.992256	.007744
52	9.9296	.992960	.007040
53	9.9360	.993600	.006400
54	9.9418	.994182	.005818
55	9.9471	.994711	.005289
56	9.9519	.995191	.004809
57	9.9563	.995629	.004371
58	9.9603	.996026	.003974
59	9.9639	.996387	.003613
60	9.9672	.996716	.003284

TABLE LN

(1) Age X	(2) lx
0	100,000
1	97,988
2	97,876
3	97,782
4	97,724
5	97,686
6	97,619
7	97,573
8	97,531
9	97,484
10	97,433
11	97,406
12	97,401
13	97,367
14	97,282
15	97,201
16	97,161
17	97,083
18	96,970
19	96,846
20	96,716
21	96,586
22	96,436
23	96,282
24	96,143
25	96,000
26	95,858
27	95,721
28	95,586
29	95,448
30	95,307
31	95,158
32	95,003
33	94,840
34	94,666
35	94,482
36	94,285
37	94,073
38	93,843
39	93,593
40	93,322
41	93,028
42	92,712
43	92,368
44	91,995
45	91,587
46	91,144
47	90,662
48	90,142
49	89,579
50	88,972
51	88,315
52	87,606
53	86,838
54	86,007
55	85,110
56	84,142
57	83,101
58	81,986
59	80,796
60	79,528
61	78,181
62	76,751

TABLE LN—Continued

(1) Age X	(2) le
53	75,236
54	73,851
55	71,833
56	70,179
57	68,248
58	66,254
59	64,166
70	61,964
71	59,715
72	57,383
73	54,913
74	52,380
75	49,705
76	46,946
77	44,101
78	41,192
79	38,245
80	35,295
81	32,323
82	29,375
83	26,469
84	23,636
85	20,908
86	18,282
87	15,788
88	13,407
89	11,249
90	9,297
91	7,577
92	6,079
93	4,773
94	3,652
95	2,706
96	2,008
97	1,511
98	1,087
99	772
100	542
101	375
102	257
103	176
104	117
105	76
106	52
107	34
108	22
109	14
110	0

§ 20.2031–10 [Amended]

Par. 13. Section 20.2031–10 is amended as follows:

a. The topic heading of § 20.2031–10 is amended by adding ", and before December 1, 1983" immediately following "December 31, 1970".

b. The first sentence of paragraph (a)(1) is amended by adding "and before December 1, 1983," immediately following "December 31, 1970,".

c. The last sentence of paragraph (a)(1) is amended by removing "on or before December 31, 1970" and inserting in lieu thereof "after November 30, 1983".

d. Paragraph (a)(3) is amended by adding ", and before December 1, 1983" immediately following "December 31, 1970".

Par. 14. The last two sentences of paragraph (f)(1) of § 20.2032–1 are revised to read as set forth below.

§ 20.2032–1 Alternate valuation.

* * * * *

(f) *Mere lapse of time.* * * *

(1) *Life estates, remainders, and similar interests.* * * * The value of the decedent's remainder interest at the date of the decedent's death would, as explained in paragraph (d) of § 20.2031–7, be $2,373 ($50,000×.04746). If, because of economic conditions, the property declined in value and was worth only $40,000 6 months after the date of the decedent's death, the value of the remainder interest would be $1,898.40 ($40,000×.04746), even though the elder brother may be 32 years old on the alternate date.

* * * * *

§ 20.2055–2 [Amended]

Par. 15. Section 20.2055–2 is amended as follows:

a. The first sentence of paragraph (f)(2)(iv) is amended by removing "§ 20.2031–10" and inserting in lieu thereof "§ 20.2031–7 or 20.2031–10, whichever is appropriate,"

b. Paragraph (f)(4) is revised to read as set forth below.

§ 20.2055–2 Transfers not exclusively for charitable purposes.

* * * * *

(f) *Valuation of charitable interests—*

* * *

(4) *Other decedents.* The present value of an interest not described in paragraph (f)(2) of this section is to be determined under § 20.2031–7 in the case of decedents dying after November 30, 1983, or under § 20.2031–10 in the case of decedents dying after December 31, 1976, and before December 1, 1983.

* * * * *

Par. 16. Section 25.2512–5 is revised to read as set forth below.

§ 25.2512–5 Valuation of annuities, life estates, terms for years, remainders, and reversions transferred after November 30, 1983.

(a) *In General.* (1)(i) Except as otherwise provided in this paragraph (a)(1)(i), the fair market value of annuities, life estates, terms for years, remainders, and reversions transferred after November 30, 1983, is their present value determined under this section. The value of annuities issued by companies regularly engaged in their sale and of insurance policies issued by companies regularly engaged in their sale is determined under § 25.2512–6. The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3, is its present value determined under § 1.664–4. The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of transfer less the fair market value of the remainder interest on such date determined under § 1.664–4. The fair market value of interests in a pooled income fund, as defined in § 1.642(c)–5, is their value determined under § 1.642(c)–6. Where the donor transfers property in trust or otherwise and retains an interest therein, the value of the gift is the value of the property transferred less the value of the donor's retained interest. If the donor assigns or relinquishes an annuity, life estate, remainder, or reversion which the donor holds by virtue of a transfer previously made by the donor or another, the value of the gift is the value of the interest transferred. See § 25.2512–9 with respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred after December 31, 1970, and before December 1, 1983. With respect to the valuation of annuities, life estates, terms for years, remainders, and reversions transferred before January 1, 1971, see T.D. 6334, 23 FR 8904, November 15, 1958, as amended by T.D. 7077, 35 FR 18464, December 4, 1970.

(ii) If the donor transfers in December of 1983, either—

(A) A remainder or a reversion subject to a life interest or a term for years where the life interest or term for years was transferred by the donor after December 31, 1982, and before December 1, 1983, or

(B) A life interest or term for years, the remainder interest of which was transferred by the donor after December 31, 1982, and before December 1, 1983,

the donor shall make an election. The donor may elect to value both interests transferred in 1983 under § 25.2512–9 as if such section applied to all transfers made before January 1, 1984, or the donor may elect to have both transfers valued under this section. The donor shall indicate the election being made in a statement attached to the donor's gift tax return for 1983.

(iii) If the donor transfers in calendar year 1984, either—

(A) A remainder on a reversion subject to a life interest or a term for years where the life interest or term for years was transferred by the donor in the first eleven months of 1983, or

(B) A life interest or term for years, the remainder interest of which was transferred by the donor in the first eleven months of 1983,

the donor shall make an election. The donor may elect to value the interest transferred in 1984 under § 25.2512–9 as if such section applied to all transfers made before January 1, 1985, or the donor may elect to have the transfer valued under this section. If the donor elects to value the interest transferred in 1984 under § 25.2512–9, the donor shall

indicate the election being made by a statement attached to the donor's gift tax return for 1984. If the donor elects to value the interest transferred in 1984 under this section the election shall not be effective unless the donor declares, in a statement attached to the donor's gift tax return for 1984, that the donor has filed an amended gift tax return for 1983, in which the donor has revalued the transfers made in the first eleven months of 1983 under this section as if this section applied to transfers made after December 31, 1982.

(2) The present value of an annuity, life estate, remainder, or reversion determined under this section which is dependent on the continuation or termination of the life of one person is computed by the use of Table A in paragraph (f) of this section. The present value of an annuity, term for years, remainder, or reversion dependent on a term certain is computed by the use of Table B in paragraph (f) of this section. If the interest to be valued is dependent upon more than one life or there is a term certain concurrent with one or more lives, see paragraph (e) of this section. For purposes of the computations described in this section, the age of the person is to be taken at his or her nearest birthday.

(3) In all examples set forth in this section, the interst is assumed to have been transferred after November 30, 1983.

(b) *Annuities.* (1) If an annuity is payable annually at the end of each year during the life of an individual (as for example if the first payment is due one year after the date of the gift), the amount payable annually is multiplied by the figure in column 2 of Table A opposite the number of years in column 1 nearest the age of the individual whose life measures the duration of the annuity. If the annuity is payable annually at the end of each year for a definite number of years, the amount payable annually is multiplied by the figure in column 2 of Table B opposite the number of years in column 1 representing the duration of the annuity.

The application of this paragraph (b)(1) may be illustrated by the following examples:

Example (1). The donor assigns an annuity of $10,000 a year payable annually during his life immediately after an annual payment has been made. The age of the donor on the date of assignment is 40 years and eight months. By reference to Table A, it is found that the figure in column 2 opposite 41 years is 9.1030. The value of the gift is, therefore, $91,030 ($10,000 multiplied by 9.1030).

Example (2). The donor was entitled to receive an annuity of $10,000 a year payable annually at the end of annual periods throughout a term of 20 years. The donor, when 15 years have elapsed, makes a gift thereof to the donor's son. By reference to Table B, it is found that the figure in column 2 opposite five years, the unexpired portion of the 20-year period, is 3.7908. The present value of the annuity is, therefore, $37,908 (10,000 multiplied by 3.7908).

(2) If an annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods during the life of an individual (as for example if the first payment is due one month after the date of the gift), the aggregate amount to be paid within a year is first multiplied by the figure in column 2 of Table A opposite the number of years in column 1 nearest the age of the individual whose life measures the duration of the annuity. The product so obtained is then multiplied by whichever of the following factors is appropriate:

1.0244 for semiannual payments,
1.0368 for quarterly payments,
1.0450 for monthly payments,
1.0482 for weekly payments.

If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods for a definite number of years the aggregate amount to be paid within a year is first multiplied by the figure in column 2 of Table B opposite the number of years in column 1 representing the duration of the annuity. The product so obtained is then multiplied by whichever of the above factors is appropriate. The application of this paragraph (b)(2) may be illustrated by the following example:

Example. The facts are the same as those contained in example (1) set forth in paragraph (b)(1) above, except that the annuity is payable semiannually. The aggregate annual amount, $10,000 is multiplied by the factor 9.1030, and the product multiplied by 1.0244. The value of the gift is, therefore, $93,251.13 ($10,000×9.1030×1.0244).

(3)(i) If the first payment of an annuity for the life of an individual is due at the beginning of the annual or other payment period rather than at the end (as for example if the first payment is to be made immediately after the date of the gift), the value of the annuity is the sum of (A) the first payment plus (B) the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in paragraphs (b (1) or (2) of this section. The application of this paragraph (b)(3)(i) may be illustrated by the following example:

Example. The donee is made the beneficiary for life of an annuity of $50 a month from the income of a trust, subject to the right reserved by the donor to cause the annuity to be paid for the donor's own benefit or for the benefit of another. On the day a payment is due, the donor relinquishes the reserved power. The donee is then 50 years of age. The value of the gift is $50 plus the product of $50×12×8.4743 (see Table A)×1.0450. That is, $50 plus $5,313.30, or $5,363.30.

(ii) If the first payment of an annuity for a definite number of years is due at the beginning of the annual or other payment period, the applicable factor is the product of the factor shown in Table B multiplied by whichever of the following factors is appropriate:

1.1000 for annual payments,
1.0744 for semiannual payments,
1.0618 for quarterly payments,
1.0534 for monthly payments, or
1.0502 for weekly payments.

The application of this paragraph (b)(3)(ii) may be illustrated by the following example:

Example. The donee is the beneficiary of an annuity of $50 a month, subject to a reserved right in the donor to cause the annuity or the cash value thereof to be paid for the donor's own benefit or the benefit of another. On the day a payment is due, the donor relinquishes the power. There are 300 payments to be made covering a period of 25 years, including the payment due. The value of the gift is the product of $50×12×9.0770 (factor for 25 years Table B)×1.0534, or $5,737.03.

(c) *Life estates and terms for years.* If the interest to be valued is the right of a person for his or her life, or for the life of another person, to receive the income of certain property or to use non-income-producing property, the value of the interest is the value of the property multiplied by the figure in column 3 of Table A opposite the number of years nearest to the actual age of the measuring life. If the interest to be valued is the right to receive income of property for a term of years, column 3 of Table B is used. The application of this paragraph (c) may be illustrated by the following example:

Example. The donor who during his life is entitled to receive the income from property worth $50,000, makes a gift of such interest. The donor is 31 years old on the date of the gift. The value of the gift is $47,627 ($50,000×.95254).

(d) *Remainders or reversionary interests.* If the interest to be valued is a remainder or reversionary interest subject to a life estate, the value of the interest should be obtained by multiplying the value of the property at the date of the gift by the figure in column 4 of Table A opposite the number of years nearest the age of the life tenant. If the remainder or reversion is to take effect at the end of a term for years, column 4 of Table B should be

used. The application of this paragraph (d) may be illustrated by the following example:

Example. The donor transfers by gift a remainder interest in property worth $50,000, subject to the donor's sister's right to receive the income therefrom for her life. The sister at the date of the gift is 31 years of age. By reference to Table A it is found that the figure in column 4 opposite age 31 is .04746. The value of the gift is, therefore, $2,373 ($50,000 x .04746).

(e) *Actuarial computations by the Internal Revenue Service.* If the interest to be valued is dependent upon the continuation or termination of more than one life, or there is a term certain concurrent with one or more lives, or if the retained interest of the donor is conditioned upon survivorship, a special factor is necessary. The factor is to be computed on the basis of interest at the rate of 10 percent a year, compounded annually, and life contingencies is determined, as to each person involved, from the values of l_x that are set forth in column 2 of Table LN of paragraph (f) of § 20.2031-7. Table LN contains values of l_x taken from the life table for the total population appearing as Table 1 in United States Life Tables: 1969-71, published by the Department of Health, Education, and Welfare, Public Health Service. A copy of the publication containing many such special factors, may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402. However, if a special factor is required in the case of an actual gift, the Commissioner will furnish the factor to the donor upon request. The request must be accompanied by a statement of the date of birth of each person the duration of whose life may affect the value of the interest, and by copies of the relevant instruments. Special factors are not furnished for prospective transfers.

(f) *Tables.* The following tables shall be used in the application of the provisions of this section:

TABLE A.—SINGLE LIFE, UNISEX, 10 PERCENT SHOWING THE PRESENT WORTH OF AN ANNUITY, OF A LIFE INTEREST, AND OF A REMAINDER INTEREST

Age	Annuity	Life Estate	Remainder
(1)	(2)	(3)	(4)
0	9.7186	.97186	.02814
1	9.8988	.98988	.01012
2	9.9017	.99017	.00983
3	9.9008	.99008	.00992
4	9.8981	.98981	.01019
5	9.8938	.98938	.01062
6	9.8884	.98884	.01116
7	9.8822	.98822	.01178
8	9.8748	.98748	.01252
9	9.8663	.98663	.01337
10	9.8565	.98565	.01435
11	9.8453	.98453	.01547
12	9.8329	.98329	.01671
13	9.8198	.98198	.01802
14	9.8066	.98066	.01934
15	9.7937	.97937	.02063
16	9.7815	.97815	.02185
17	9.7700	.97700	.02300
18	9.7590	.97590	.02410
19	9.7480	.97480	.02520
20	9.7365	.97365	.02635
21	9.7245	.97245	.02755
22	9.7120	.97120	.02880
23	9.6986	.96986	.03014
24	9.6841	.96841	.03159
25	9.6678	.96678	.03322
26	9.6495	.96495	.03505
27	9.6290	.96290	.03710
28	9.6062	.96062	.03938
29	9.5813	.95813	.04187
30	9.5543	.95543	.04457
31	9.5254	.95254	.04746
32	9.4942	.94942	.05058
33	9.4608	.94608	.05392
34	9.4250	.94250	.05750
35	9.3868	.93868	.06132
36	9.3460	.93460	.06540
37	9.3026	.93026	.06974
38	9.2567	.92567	.07433
39	9.2083	.92083	.07917
40	9.1571	.91571	.08429
41	9.1030	.91030	.08970
42	9.0457	.90457	.09543
43	8.9855	.89855	.10145
44	8.9221	.89221	.10779
45	8.8558	.88558	.11442
46	8.7863	.87863	.12137
47	8.7137	.87137	.12863
48	8.6374	.86374	.13626
49	8.5578	.85578	.14422
50	8.4743	.84743	.15257
51	8.3874	.83874	.16126
52	8.2969	.82969	.17031
53	8.2028	.82028	.17972
54	8.1054	.81054	.18946
55	8.0046	.80046	.19954
56	7.9006	.79006	.20994
57	7.7931	.77931	.22069
58	7.6822	.76822	.23178
59	7.5675	.75675	.24325
60	7.4491	.74491	.25509
61	7.3267	.73267	.26733
62	7.2002	.72002	.27998
63	7.0696	.70696	.29304
64	6.9352	.69352	.30648
65	6.7970	.67970	.32030
66	6.6551	.66551	.33449
67	6.5098	.65098	.34902
68	6.3610	.63610	.36390
69	6.2086	.62086	.37914
70	6.0522	.60522	.39478
71	5.8914	.58914	.41086
72	5.7261	.57261	.42739
73	5.5571	.55571	.44429
74	5.3862	.53862	.46138
75	5.2149	.52149	.47851
76	5.0441	.50441	.49559
77	4.8742	.48742	.51258
78	4.7049	.47049	.52951
79	4.5357	.45357	.54643
80	4.3659	.43659	.56341
81	4.1967	.41967	.58033
82	4.0295	.40295	.59705
83	3.8642	.38642	.61358
84	3.6998	.36998	.63002
85	3.5359	.35359	.64641
86	3.3764	.33764	.66236
87	3.2262	.32262	.67738
88	3.0860	.30860	.69140
89	2.9526	.29526	.70474
90	2.8221	.28221	.71779
91	2.6955	.26955	.73045
92	2.5771	.25771	.74229
93	2.4692	.24692	.75308
94	2.3728	.23728	.76272
95	2.2887	.22887	.77113
96	2.2161	.22161	.77839
97	2.1550	.21550	.78450
98	2.1000	.21000	.79000
99	2.0486	.20486	.79514
100	1.9975	.19975	.80025
101	1.9532	.19532	.80468
102	1.9054	.19054	.80946
103	1.8437	.18437	.81563
104	1.7856	.17856	.82144
105	1.6962	.16962	.83038
106	1.5488	.15488	.84512
107	1.3409	.13409	.86591
108	1.0068	.10068	.89932
109	.4545	.04545	.95455

TABLE B.—TABLE SHOWING THE PRESENT WORTH AT 10 PERCENT OF AN ANNUITY FOR A TERM CERTAIN, OF AN INCOME INTEREST FOR A TERM CERTAIN AND OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN

Number of years	Annuity	Term certain	Remainder
(1)	(2)	(3)	(4)
1	.9091	.090909	.909091
2	1.7355	.173554	.826446
3	2.4868	.248685	.751315
4	3.1699	.316987	.683013
5	3.7908	.379079	.620921
6	4.3553	.435526	.564474
7	4.8684	.486842	.513158
8	5.3349	.533493	.466507
9	5.7590	.575902	.424098
10	6.1446	.614457	.385543
11	6.4951	.649506	.350494
12	6.8137	.681369	.318631
13	7.1034	.710336	.289664
14	7.3667	.736669	.263331
15	7.6061	.760998	.239392
16	7.8237	.782371	.217629
17	8.0216	.802155	.197845
18	8.2014	.820141	.179859
19	8.3649	.836492	.163508
20	8.5136	.851356	.148644
21	8.6487	.864869	.135131
22	8.7715	.877154	.122846
23	8.8832	.888322	.111678
24	8.9847	.898474	.101526
25	9.0770	.907704	.092296
26	9.1609	.916095	.083905
27	9.2372	.923722	.076278
28	9.3066	.930657	.069343
29	9.3696	.936961	.063039
30	9.4269	.942691	.057309
31	9.4790	.947901	.052099
32	9.5264	.952638	.047362
33	9.5694	.956943	.043057
34	9.6086	.960857	.039143
35	9.6442	.964416	.035584
36	9.6765	.967651	.032349
37	9.7059	.970592	.029408
38	9.7327	.973265	.026735
39	9.7570	.975696	.024304
40	9.7791	.977905	.022095
41	9.7991	.979914	.020086
42	9.8174	.981740	.018260
43	9.8340	.983400	.016600
44	9.8491	.984909	.015091
45	9.8628	.986281	.013719
46	9.8753	.987528	.012472
47	9.8866	.988662	.011338
48	9.8969	.989693	.010307
49	9.9063	.990630	.009370
50	9.9148	.991481	.008519
51	9.9226	.992256	.007744
52	9.9296	.992960	.007040
53	9.9360	.993600	.006400
54	9.9416	.994182	.005818
55	9.9471	.994711	.005289
56	9.9519	.995191	.004809
57	9.9563	.995629	.004371

TABLE B.—TABLE SHOWING THE PRESENT WORTH AT 10 PERCENT OF AN ANNUITY FOR A TERM CERTAIN, OF AN INCOME INTEREST FOR A TERM CERTAIN AND OF A REMAINDER INTEREST POSTPONED FOR A TERM CERTAIN—Continued

Number of years	Annuity	Term certain	Remainder
(1)	(2)	(3)	(4)
58	9.9902	.990026	.009974
59	9.9929	.992687	.007313
60	9.9972	.996746	.003254

§ 25.2512–9 [Amended]

Par. 17. Section 25.2512–9 is amended as follows:

a. The topic heading of § 25.2512–9 is amended by adding ", and before December 1, 1983" immediately following "December 31, 1970".

b. The first sentence of paragraph (a)(1)(i) is amended by adding "and before December 1, 1983" immediately following "December 31 1970,".

c. The last sentence of paragraph (a)(1)(i) is amended by removing "on or before December 31, 1970" and inserting in lieu thereof "after November 30, 1983".

d. Paragraph (a)(3) is amended by adding", and before December 1, 1983" immediately following "December 31, 1970".

Par. 18. Section 25.2522(c)–3 is amended as follows:

a. The first sentence of paragraph (d)(2)(iv) is amended by removing " § 25.2512–9" and inserting in lieu thereof "§§ 25.2512–5 or 25.2512–9, whichever is appropriate,".

b. Paragraph (d)(3) is revised to read as set forth below.

§ 25.2522(c)–3 Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.

* * * * *

(d) *Valuation of charitable interest—*

* * * *

(3) *Other transfers.* The present value of an interest not described in paragraph (d)(2) of this section is to be determined under § 25.2512–5 in the case of transfers after November 30, 1983 (§ 25.2512–9 for transfers before December 1, 1983).

* * * *

§ 25.2523(a)–1 [Amended]

Par. 19. Paragraph (d) of § 25.2523(a)–1 is amended as follows:

a. The second and third sentences are amended by removing "§ 25.2512–9 (§ 25.2512–5 in the case of a remainder transferred before January 1, 1971)" wherever it appears and inserting in lieu thereof "§§ 25.2512–5 or 25.2512–9 whichever is appropriate".

b. The fourth and last sentences are amended by removing "§ 25.2512–9(e)" wherever it appears and inserting in lieu thereof "§§ 25.2512–5 (e) or 25.2512–9 (e), whichever is appropriate".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–29137 Filed 10–25–83; 8:45 am]

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2623

Benefit Reductions in Terminated Single-Employer Pension Plans and Recoupment of Benefit Overpayments

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed regulation prescribes rules requiring plan administrators to reduce benefit payments after plan termination when those benefit payments exceed the level of benefits guaranteed and payable by the Pension Benefit Guaranty Corporation under sections 4022 and 4022B of the Employee Retirement Income Security Act of 1974, as amended. This regulation also prescribes rules by which the PBGC will recover from plan participants or beneficiaries any benefit overpayments made after plan termination.

Sections 4022 and 4022B of the Act set limitations on the benefits that are guaranteed and paid by PBGC when a covered plan that has insufficient assets terminates. Often, benefits being paid by the plan at termination exceed those guaranteed benefits. To the extent that higher benefits continue to be paid after termination, plan assets are depleted and a greater expenditure of PBGC's insurance funds is required.

The effect of this proposed regulation, if adopted, would be to require that plan administrators reduce certain benefit payments after plan termination and to provide a method by which PBGC would recoup benefit overpayments after that date.

DATES: Comments must be received on or before December 30, 1982.

ADDRESSES: Comments should be sent to: General Council, Legal Department, Pension Benefit Guaranty Corporation, Code 210, 2020 K Street, NW., Washington, D.C. 20006. Copies of comments will be available for examination in Room 7100, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 A.M. and 4:00 P.M.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Legal Department, Pension Benefit Guaranty Corporation, Code 210, 2020 K Street, NW., Washington, DC 20006 (202–254–6476, not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

Title IV of the Employee Retirement Income Security Act of 1974, as amended by Pub. L. 96–364, 94 Stat. 1208 ("the Act"), provides termination insurance for certain defined benefit pension plans. If a covered pension plan terminates without sufficient assets to pay benefits guaranteed under Title IV of the Act, PBGC will pay those benefits.

Sections 4022 and 4022B of the Act establish the level, and section 4044 the order, of benefits that may be paid when a covered pension plan terminates. Benefits to which assets are allocated under section 4044 of the Act are payable out of plan assets. If there are benefits guaranteed under section 4022 of the Act that cannot be paid after the allocation of plan assets, those benefits are payable out of PBGC insurance funds.

Although PBGC's obligation to pay guaranteed benefits arises on the date of plan termination, PBGC does not actually take over benefit payments on that date. The plan administrator of the plan will continue to pay benefits under it until PBGC trusteeship can be effected and plan records transferred to PBGC so that it can assume the benefit payments. During this period of time, plan administrators typically continue to pay participants the benefits to which they are entitled under the plan's provisions.

In many cases, however, a participant's benefit under the plan's provisions exceeds his or her benefit under Title IV of the Act. This occurs because of the limitations on guaranteed benefits contained in section 4022(b) of the Act. It also occurs because benefits assigned to priority categories 2 through 4, under section 4044, include nonguaranteed benefits as well as guaranteed benefits. To the extent that plan assets are insufficient to pay nonguaranteed benefits in a category and they are paid, an overpayment occurs. Plan assets are thus spent which otherwise would be available to pay guaranteed benefits. Further, because these overpayments are made after the date of termination, they are not reflected in the employer's liability to the PBGC, under section 4062 of the Act, for the plan asset insufficiency. The

result is a loss to the PBGC unless it is recouped.

To avoid the incurrence of resulting extra costs on the insurance system, the benefits of plan participants should be reduced to Title IV Benefits as soon as possible after termination. In order to facilitate the reduction of benefits to Title IV Benefits, this regulation coins, and uses, as a term of art, the phrase "Title IV Benefits" to mean guaranteed benefits plus nonguaranteed benefits in priority categories 2 through 4 to which assets are allocated under section 4044. As of the date of plan termination, a participant in an insufficient plan is entitled to receive, from the Title IV insurance program, only his or her Title IV Benefits and not the benefit that would be payable under the plan's provisions. It is PBGC's intent that, within the limits of practicality and fairness, plan participants should receive only their Title IV Benefits after the date of plan termination. This goal can be achieved through the reduction of benefits to, or close to, Title IV Benefits as quickly as possible following plan termination, and through recoupment by PBGC from plan participants and their beneficiaries of benefit overpayments.

In the past, PBGC has followed a practice of requesting plan administrators of terminated insufficient plans to reduce benefit payments to estimated Title IV Benefits. Generally, plan administrators have complied with this request. PBGC now proposes to issue regulations requiring this action of all plan administrators of insufficient plans that are terminating. By requiring this action to be taken soon after the submission of a Notice of Intent to Terminate, the amount of overpayments to plan participants, and thus the amounts to be recouped from them, will be reduced. These benefit reduction rules are set forth in Subpart B of this proposed regulation.

Subpart C of the regulation sets forth the rules for PBGC recoupment of benefit overpayments and reimbursement of benefit underpayments. These rules apply to all plans that are to be placed into trusteeship under section 4042 of the Act. In rare cases, PBGC must trustee terminated sufficient plans that are "abandoned", *i.e.*, plans for which there is no longer a plan administrator. Although these plans have sufficient assets to pay all guaranteed benefits, benefit payments after termination in excess of Title IV Benefits might result in there being insufficient assets to pay every participant's allocable benefit under section 4044 of the Act. In this event, PBGC would have to use its funds in order to pay each participant his or her Title IV Benefits. Thus, these plans present the same need for recoupment as terminated insufficient plans.

In the past, PBGC has recouped post-termination benefit overpayments by reducing benefit payments by 10 percent until the total overage has been repaid. This has proven to be an administratively cumbersome system for PBGC because, once the overpayments are recouped, the benefit payments must be changed. Therefore, PBGC is now proposing to recoup overpayments by making actuarial reductions in benefits so that the recoupment of overpayments will be spread over the participant's lifetime. This will reduce the burden of recoupment on most participants. It, also, will be administratively simpler for PBGC since it requires one benefit adjustment rather than two.

The Regulation

Subpart B—Benefit Reductions by Plan Administrator

Section 2623.5(b) of the proposed regulation requires the plan administrator to stop paying, as of the section 4041(a) date of termination, any benefit in excess of a participant's accrued benefit payable at normal retirement age. Section 2623.5(c) similarly requires the plan administrator to stop paying, by that same date, benefits in excess of the maximum guaranteeable amount under section 4022(b)(3)(B) of the Act. The "maximum guaranteeable amount" is the so-called "$750 maximum" adjusted annually for changes in the Social Security contribution and benefit base. Section 2623.5(d) requires the plan administrator thereafter to adjust all benefits either to estimated guaranteed levels or to the level of Title IV Benefits. Sections 2623.6 and 2623.7 contain the rules for estimating guaranteed and Title IV Benefits, respectively. These adjustments must be effected by the 30th day after the section 4041(a) date of termination.

This two-step benefit adjustment process reflects a balancing of conflicting considerations. PBGC normally will recoup all benefit overpayments made after the section 4041(a) date of termination. (PBGC's recoupment policy is explained more fully later in this preamble.) Therefore, it is in the interests of plan participants and beneficiaries who are receiving benefits in excess of Title IV Benefits to have their benefit payments reduced to Title IV Benefits as soon as possible after that date in order to lessen the amounts they will have to repay to PBGC. It is arguable that the plan administrator should make such computation before the later of the section 4041(a) date or the date of termination. However, the proposed regulation gives the plan administrator a 30-day period within which to effect the benefit reductions based on these calculations. The 30-day period begins with the section 4041(a) date which, normally, is 10 days after a Notice of Intent to Terminate is filed. Should the plan administrator propose a date of termination that is more than 30 days after the Notice of Intent to Terminate is filed, however, the benefit reductions must be effectuated on that proposed date. We note that extensions of time permitted under PBGC's regulation on Notice of Intent to Terminate, 20 CFR 2616 do not excuse or delay the requirement in this regulation to make the cutbacks within 30 days after the later of the section 4041(a) date or the date of termination.

The determination of benefit amounts in excess of the accrued benefit payable at normal retirement age and the "$750 maximum" is a much simpler process. Effecting these reductions at the section 4041(a) date is feasible and would sharply reduce the aggregate overpayments for a significant number of participants. PBGC determined, in this regard, that for purposes of the initial benefit reductions the plan administrator need not consider the alternative benefit limitation in section 4022(b)(3)(A) of the Act, *i.e.*, that the guaranteed benefit cannot be greater than a participant's average monthly gross income during the 5 consecutive calendar year period during which his or her income was highest. This is because the section 4022(b)(3)(B) limit—the "$750 maximum"—applies in most cases and the paragraph (A) calculation can be very time-consuming.

Further, in order to avoid substantial problems that could result if the plan administrator were to use plan assets to pay for the full amount of a participant's benefits in excess of guaranteed benefit levels, section 2623.5(e) precludes the plan administrator from paying *any* benefit in a lump sum or purchasing an annuity on or after the section 4041(a) date of termination without prior written consent of the PBGC.

Although the benefit reduction rules apply whether the benefit is being paid to the participant or to his or her beneficiary, it should be noted that these rules apply to a benefit payable "with respect to a participant". This means that the appropriate cutback in a participant's benefit must first be determined in order to effect a cutback

in the benefit payable to the participant's beneficiary.

It also should be noted that the various time limits in this regulation refer to the "section 4041(a) date of termination". This date is not necessarily the termination date for the plan established under section 4048 of the Act, although in most cases the two dates will be the same. The section 4041(a) date is always prospective, being defined as the later of the termination date proposed in a Notice of Intent to Terminate or the date 10 days after the notice is filed (§ 2623.2). The use of a prospective date in this regulation is necessary since the cutback in benefit levels requires prospective action.

Finally, § 2623.5(f) authorizes PBGC to establish earlier deadlines for effecting the benefit reductions required by § 2623.5(b)–(d), in order to avoid possible abuse of the insurance system, and reserves to PBGC the right to direct different estimating procedures in particularly difficult or complex cases. The authority to establish earlier deadlines might be exercised by PBGC, for example, when the termination date proposed in a Notice of Intent to Terminate is well after the date the notice is filed. Although that later date would be the section 4041(a) date, if there is at least 10 days between the filing of the notice and the section 4041(a) date, PBGC might want the plan administrator to implement the benefit reductions by an earlier date.

Estimated Guaranteed Benefits

Section 2623.6 of the regulation sets forth the rules by which the plan administrator must determine the estimated guaranteed benefit payable with respect to a participant. There are two different procedures, one for substantial owner participants, paragraph (c), and the other for all other participants, apragraph (d). This is necessary because of the different phase-in rules for each of those groups under section 4022 (b)(5) and (b)(7) of the Act.

It should be noted that, in all the formulae in this section, the benefit with which the computations begin is always the participant's benefit as limited by § 2623.5 (b) and (c). This is because both the regular and the phase-in rules are applied to a benefit after it has been limited in accordance with section 4022(b)(3) of the Act.

The guarantee for a substantial owner under section 4022(b)(5) of the Act is based on a 30-year phase-in, and there is a ceiling on the amount of benefit increases that can be guaranteed. Specifically, in a plan under which there has never been a benefit increase, the guaranteed benefit is the substantial owner's monthly benefit, as limited by section 4022(b)(3), multiplied by a fraction, the numerator of which is the number of full years the substantial owner was an active participant under the plan and the denominator of which is 30. In a plan under which there have been benefit increases, the guaranteed amount of each increase is computed in the same manner, as if each were the original plan benefit. However, the guaranteed amount of all the increases cannot exceed the guaranteed amount of the original plan benefit. Thus, a substantial owner's guaranteed benefit cannot exceed the original plan benefit multiplied by 2x/30, with "x" representing the number of full years the substantial owner was an active participant.

In order to facilitate early benefit reductions, the regulation provides a simplified method for approximating a substantial owner's guaranteed benefit. To this end, the regulation assumes that, if a substantial owner participated in the plan for less than 5 years, there is little likelihood that his or her guaranteed benefit was significantly increased by benefit increases under the plan during that period. Therefore, under § 2623.6(c)(1), in such a case, he estimated guaranteed benefit is the benefit to which the substantial owner was entitled on his or her benefit commencement date, as limited by § 2623.5 (b) and (c), multiplied by x/30, with "x" representing the substantial owner's full years of participation prior to the section 4041(a) date of termination. If there have been no benefit increase under the plan, this amount will equal the substantial owner's actual guaranteed benefit. If there has been an increase, this amount will be slightly greater than the actual guaranteed benefit. This is because the formula uses benefit entitlement on benefit commencement date rather than benefit entitlement under the plan when participation began.

This approach was adopted because the benefit entitlement on benefit commencement date is a figure already known by the plan administrator, whereas benefit entitlement under prior plan provisions might not readily be known.

When a substantial owner has participated for 5 years or more, it is more likely that benefit increases under the plan will have a significant impact on the amount of his or her guaranteed benefit. Therefore, under § 2623.6(c)(2), in such a case, the estimated guaranteed benefit is the lesser of the benefit that would be computed under paragraph (c)(1) and the benefit under the plan when the substantial owner first began participation, as limited by § 2623.5 (b) and (c), multiplied by 2x/30. The reason the regulation uses this two-pronged test is that, in the case of a relatively young plan or a plan with relatively small benefit increases, the computation under paragraph (c)(2)(ii), *i.e.*, twice the original phased-in benefit, could yield an amount much higher than the actual guaranteed benefit. Thus, if only this computation were used, the benefit reduction could be far too small, leaving a large amount to be repaid to PBGC.

The estimated guaranteed benefits for participants other than substantial owners are determined under paragraph (d) of § 2623.6. These rules, too, attempt to provide a simplified method for approximating the limitation on the guaranteed benefits. Since the phase-in rule under section 4022(b) (1) and (7) only applies to benefit increases in effect for less than 5 years at the date of termination, the regulation distinguishes between plans that have no benefit increases in effect for less than 5 years before the section 4041(a) date of termination and those plans that do have such benefit increases. In the latter instance, the regulation also distinguishes between benefit increases arising from plan amendments that advance a participant's or beneficiary's entitlement to a benefit, herein called "new benefits", and benefit increases arising from improvements in the plan's benefit formula.

Plans that had no benefit increases in the 5 years preceding the section 4041(a) date of termination are covered under § 2623.6(d)(1), which provides that the estimated guaranteed benefit is the benefit to which a participant is entitled on his or her benefit commencement date, as limited by § 2623.5 (b) and (c). Since no part of the participant's benefit is subject to phase-in, there is no need to adjust further his or her benefit in order to obtain the estimated guaranteed benefit. For plans that are subject to the guarantee phase-in, however, the determination of the estimated guaranteed benefit is done somewhat differently.

Both increased benefit amounts due to improved benefit formulas and those due to "new benefit" entitlements are subject to phase-in. For the purposes of this regulation, "new benefits" refers only to new plan provisions that advance a participant's or beneficiary's entitlement to a benefit, and not to provisions that provide alternative entitlements for participants who were already entitled to benefits under the former plan provisions. Thus, "new

benefits" include benefit entitlements such as liberalized participation requirements or vesting schedules, but not the introduction of a new joint and survivor benefit.

The creation of new benefits within the 5 years preceding plan termination will normally create a much greater benefit overpayment than will an increase in benefit amount due to an improved benefit formula. For this reason, the estimating procedure in § 2623.6(d)(2) focuses on the phase-in of new benefits and, for the sake of simplicity, ignores increases in benefit amount due to an improved benefit formula except for those occurring in the year preceding the section 4041(a) date of termination.

Under § 2623.6(d)(2), the estimated guaranteed benefit is the new benefit provided under the plan to which the participant is entitled on the benefit commencement date, as limited by § 2623.5 (b) and (c), multiplied by a percentage that varies according to the number of years prior to the section 4041(a) date of termination that the benefit was in effect. In addition, the determination of the applicable percentage depends on whether there was an increase in benefit amount by improvements in the benefit formula in the year immediately preceding the section 4041(a) date. The following table shows the percentage that are used:

Number of full years before section 4041(a) date that new benefit was in effect	Percentage when benefit amount under formula was not increased within 1 year prior to section 4041(a) date	Percentage when benefit amount under formula was increased within 1 year prior to section 4041(a) date
5	90	80
4	80	70
3	65	55
2	50	45
1	35	20

The percentages in the table were derived from data on terminated plans for which PBGC is paying guaranteed benefits. The data show that, in plants with no new benefits during the 5 years preceding termination and with no increase in benefit amount because of an improved benefit formula during the year preceding termination, on average, guranteed benefits equal 90% of vested benefits. The difference is attributable to the phase-in of benefit increases in the second through fifth years preceding termination. In plans that did have an increase in the benefit under the formula in the last year, that ratio drops to 80% because such benefit increases are not guaranteed at all.

The percentages in the table are decreased from 90% and 80%, respectively, to reflect the guarantee phase-in of new benefits within the 5 years preceding termination. Thus, for example, in a plan with a new benefit that was in effect for 3 years before termination and an increase in benefit under the formula during the last year before termination, on average, the guaranteed benefits of those participants entitled to the new benefit equal 55% of their vested benefits. In deriving these percentages, it was assumed that prior to the new benefit entitlement, these participants did have deferred vested benefits.

This procedure provides a relatively simple way for the plan administrator to estimate guaranteed benefit levels under the plan. Of course, since the percentages are based on averages, some participants will have guaranteed benefits that are higher than those obtained under this formula. When that occurs, and the participant is therefore cut back to less than his guaranteed benefit, the PBGC will reimburse the difference between the reduced benefits and the Title IV Benefits, with interest. (This is discussed in greater detail later in this preamble.)

Estimated Title IV Benefits

Because the estimating techniques in § 2623.6 deal only with guaranteed benefits, they will always produce estimated benefits that are too low in plans that have nonguaranteed benefits in priority category 3 to which assets are allocated. Priority category 3 benefits are certain benefits that were, or could have been, in pay status three full years prior to plan termination. Such benefits include a nonguaranteed portion when the benefits that a participant with a category 3 benefit is entitled to receive under the plan exceed the guarantee limits. In addition, in plans with substantial owner participants, if assets are allocable to priority category 4, the substantial owner's Title IV Benefits will be greater than his or her guaranteed benefits. Priority category 4(B) covers substantial owners' benefits that would be guaranteed were it not for the 30-year phase-in rule in section 4022(b)(5). In order to prevent a systematic underestimation of benefits in these plans with these characteristics, § 2623.7 contains methods for estimating Title IV Benefits.

Using this section to estimate Title IV Benefits does not obviate the need to make the guaranteed benefits calculation under § 2623.6. Rather, § 2623.7(a) provides that, when the plan administrator chooses to estimate benefits under § 2623.7, the estimated benefit payable with respect to a participant pursuant to § 2623.5(d) is the higher of the benefits determined for that participant under §§ 2623.6 and 2623.7. This is because, in any given plan, only some of the participants will be entitled to Title IV Benefits that exceed their guaranteed benefits.

To promote equity among plan participants, the regulation, § 2623.7(a), requires that, if the plan administrator chooses to estimate Title IV Benefits for any participants, he or she must do so for all participants who may have Title IV Benefits that exceed their guaranteed benefits. This means that the plan administrator would be required to estimate priority category 3 benefits, under paragraph (c) of § 2623.7, for all plan participants entitled to a category 3 benefit, and to estimate the category 4 benefit, under paragraph (d), for all substantial owner participants.

Both the priority category 3 estimate and the substantial owner category 4 estimate involve making approximations of the amount of benefits in those categories that can be funded by plan assets. In order to do this, the plan administrator will need a reasonably current actuarial report. Therefore, § 2623.7(b) of the regulation provides that § 2623.7 may be used only when an actuarial valuation of the plan has been done for a plan year beginning not more than 18 months prior to the section 4041(a) date of termination. Further, the interest rate used for valuing plan benefits in the actuarial valuation cannot exceed the PBGC interest rate for immediate annuities in effect on the section 4041(a) date. If the actuarial valuation used a higher interest rate, the plan actuary may covert the valuation to the PBGC interest rate in order to meet these requirements.

The reason for this interest rate requirement is that allowing a plan administrator to compute estimated benefits on the basis of a valuation that uses an interest rate higher than PBGC's would frustrate the purpose of the benefit reduction provisions of this regulation. The higher the interest rate used for valuing benefits, the lower the present value of those benefits. This results in plan assets being allocable to more or higher benefits on the assumption that funds are sufficient to provide those benefits. However, when the Title IV Benefits are determined, as they are in terminated trusteed plans, using PBGC's lower interest rates, the higher present value of the benefits could exhaust the assets and necessitate further benefit reductions and additional benefit requirement.

In addition to having to meet these general requirements, the plan administrator may use § 2623.7(c) to estimate priority category 3 benefits

only when certain other conditions exist. First, this provision may be used only when there are plan participants whose benefits under the plan exceed the limitations described in § 2623.5 (b) and (c). If no participants have benefits that exceed those limitations, the estimated Title IV Benefits will never exceed the estimated benefit under § 2623.6 and no useful purpose would be served by estimating benefits under this provision. Second, the plan must have been in effect for at least 5 full years prior to the section 4041(a) date of termination. This is because benefits can only be category 3 benefits if the plan was in effect for at least 5 years prior to plan termination. See § 2618.13(b)(3) of this chapter. These first two conditions assure that the plan does, in fact, have category 3 benefits, some of which are nonguaranteed.

As a final condition, the plan administrator may use § 2623.7(c) to estimate category 3 benefits only when the actuarial valuation of the plan described in § 2623.7(b) shows that the value of plan assets, less all employee contributions with interest credited under the plan, exceeds the present value of all benefits in pay status. This last test is used to determine whether the plan has sufficient assets to fund nonguaranteed benefits in category 3. The test predicts asset availability on the basis of whether plan assets are sufficient to fund all benefits in pay status.

Most category 3 benefits will already be in pay status. For those that are not, it is assumed that, if the plan is able to pay all benefits in pay status, which includes category 4 and category 5 benefits, then the assets currently being used for categories 4 and 5 benefits will be available to fund category 3 benefits not yet in pay status. Obviously, this method does not provide an exact measure of funded category 3 benefits. However, the plan administrator may well be unable to reduce plan benefits within the time limits specified in this regulation if he or she first had to do a complete section 4044 allocation. Thus some precision has been sacrificed in order to provide an estimating technique that is simpler and quicker to apply.

For the purpose of this regulation, the determination of the priority category 3 benefit has been simplified. Category 3 benefits are those benefits that were, or could have been, in pay status three full years prior to the section 4041(a) date of termination. Pursuant to § 2623.7(c)(1), the category 3 benefit with respect to each participant is the benefit that would have been payable with respect to that participant under the terms of the plan in effect on the earlier of the participant's (or beneficiary's) benefit commencement date or the date five full years prior to the section 4041(a) date. As noted earlier, when the plan administrator chooses to use this provision, he or she must make this determination for each plan participant, including a substantial owner, who has a category 3 benefit. The estimated benefit payable with respect to the participant is the higher of the benefit determined under this provision and the guaranteed benefit determined under § 2623.6.

Section 2623.7(d) sets forth the procedure for estimating a substantial owner's priority category 4 benefit. As explained earlier, this procedure may be used only when the plan has the actuarial valuation described in § 2623.7(b) and only if the plan administrator determines the priority category 3 benefits for all participants having a category 3 benefit. The estimated benefit payable with respect to a substantial owner is the highest benefit calculated for him or her under § 2623.6(c), § 2623.7(c), and this paragraph (d).

The first step in this procedure is to calculate the estimated guaranteed benefit, using the appropriate method in § 2623.6(d), that would be payable to the substantial owner if he or she were not a substantial owner. This amount is then multiplied by "the priority category 4 funding ratio" in order to estimate the portion of the benefit that can be funded by plan assets. The result is the estimated priority category 4 benefit.

The priority category 4 funding ratio attempts to estimate, on the basis of the information contained in the actuarial valuation, the amount of plan assets available for allocation to priority category 4. Thus, the category 4 funding ratio, set forth in § 2623.7(d)(2), approximates a ratio of the assets available to pay category 4 benefits to the total benefits in category 4.

Under § 2623.7(d)(2)(i), the funding ratio for a plan that has benefits in category 3 is the following fraction: the numerator is the value of plan assets less voluntary and mandatory employee contributions with interest credited under the plan, and less the present value of benefits in pay status; the denominator is the present value of all deferred vested benefits less voluntary and mandatory employee contributions with interest. In a plan with no priority category 3 benefits, under § 2623.7(d)(2)(ii), the funding ratio is the same, except that there is no deduction in the numerator for the value of benefits in pay status.

The numerator of the funding ratio approximates the value of assets available for category 4 benefits by subtracting from total assets all employee contributions with interest credited under the plan, *i.e.*, category 1 and category 2 benefits, and, in the first formula, the present value of benefits in pay status. As was explained in the discussion of the estimated priority category 3 benefit, the present value of benefits in pay status is used to approximate the value of category 3 benefits. The denominator of the fraction uses the present value of all deferred vested benefits, less employee contributions with interest, to approximate the value of category 4 benefits.

The value of deferred vested benefits used in the denominator will generally be somewhat greater than the actual value of category 4 benefits, since the former will often include category 5 benefits. On average, the value of category 4 benefits will equal 80% to 90% of the deferred vested benefits. However, there is no more precise way, using information readily available to plan administrators, to estimate the value of category 4 benefits. The effect of using this larger number in the denominator of the funding ratio will be to underestimate somewhat the value of the substantial owner's priority category 4 benefit.

Notices of Benefit Reductions

In order to alert plan participants to the possibility of benefit reductions pursuant to this regulation, § 2623.8(a) requires the plan administrator to include a statement about possible reductions in the notice to plan participants of the plan termination, required under § 2616.4 of PBGC's Notice of Intent to Terminate regulation. In addition, within 30 days after the plan administrator begins paying the estimated guaranteed or Title IV Benefits, he or she shall notify PBGC of the benefit reductions. The contents of that notice are set forth in § 2623.8(b).

Subpart C—PBGC Recoupment and Reimbursement of Benefit Overpayments and Underpayments

The early reduction of benefits by plan administrators to estimated guaranteed or Title IV Benefits will reduce, but may not eliminate, benefit overpayments to participants. Overpayments still may result because the estimated benefits exceed the actual Title IV Benefits. Benefit overpayments and underpayments also may occur when the plan participant data is inaccurate or when computations, either

by the plan administrator or by PBGC, are incorrect. To the extent any overpayments are not recouped by PBGC, they constitute a loss borne by the insurance system and may result in increased premiums. Accordingly, PBGC will recoup all overpayments made on or after the section 4041(a) date of termination, or the section 4048 date if later, to participants or beneficiaries who are entitled to annuity payments after the date on which the benefit is adjusted to the Title IV Benefits level. This regulation relates only to recoupment, and not to pursuit of all other PBGC claims for overpayments made to persons who are no longer receiving benefits or entitled to receive them under Title IV, including overpayments made prior to termination. Such cases will be handled on a case-by-case basis.

PBGC will not recoup overpayments made after a retroactive termination date but before the section 4041(a) date. In the context of the statutory scheme, PBGC cannot attribute to Congress an intent that PBGC should seek to recoup benefits paid between a retroactive termination date and the section 4041(a) date of termination. This, § 2623.11(a) provides that only benefit overpayments after the section 4041(a) date, or the section 4048 date if later, will be subject to recoupment by PBGC.

In order to determine whether there has been a benefit overpayment, a comparison is made between (1) The total benefits paid between the later of the section 4041(a) or section 4048 date and the date PBGC makes the determination of the amount of overpayment and (2) the total Title IV Benefits entitlement during that time. Thus, if a participant was underpaid during part of that time and overpaid for the remainder of the period, the underpayments and overpayments, with interest, would be netted-out in order to determine if there is an amount to be repaid to PBGC. (If the participant was underpaid in the aggregate, PBGC will reimburse the participant. This is discussed later in this preamble.)

For example, the initial benefit reductions pursuant to § 2623.5 (b) and (c) might result in an underpayment to a participant with a nonguaranteed priority category 3 benefit. If the plan administrator then makes the estimate of Title IV Benefits, he or she will increase the benefit payment to that participant. If the estimated Title IV Benefits amount is higher than the actual Title IV Benefits of that participant, the original underpayment will be subtracted from the overpayment in order to determine the amount, if any, to be recovered by PBGC.

As in the benefit reduction rules, the benefits under consideration are those payable "with respect to a participant". Thus, the rules for PBGC recoupment of benefit overpayments and reimbursement of benefit underpayments apply whether the benefit is being paid to the participant or to his or her beneficiaries.

Methods of Benefit Recoupment

As was noted earlier, in the past PBGC recouped benefit overpayments by reducing future benefit payments by 10 percent until the total overpayment was recouped. PBGC is now proposing to recoup overpayments by actuarial reductions in benefit payments.

Under the proposed method, recoupment of overpayments will be effected by reducing all future benefit payments by a uniform percentage that will repay the overpayment over the expected term of the remaining benefit payments. The amount of the percentage reduction will be determined by computing the ratio of the net overpayments to be recouped to the total value of the participant's benefit. Under the recoupment formula, which is set forth in § 2632.12(a)(1), the percentage reduction is computed by dividing the total overpayment subject to recoupment by the present value of the Title IV Benefits and multiplying by 100 percent. The present value will be computed as of the date of plan termination, using the appropriate PBGC rates and factors in effect on that date, to avoid the need for the time-consuming and costly revaluing of the plan benefits that have already been valued as of the termination date.

Because recoupment under the proposed method is spread over the entire term of the benefit payments to the participant or beneficiary, the monthly reduction in benefits will generally be less than under the current system of making a flat 10 percent reduction. Thus, the burden of recoupment will be reduced for most participants.

This method, also, is administratively simpler for PBGC to administer, and, thus, less costly to the insurance system. This is because PBGC would not have to adjust a benefit more than one. Under the present system a benefit is adjusted to reflect a 10% reduction and then readjusted when the overpayment is paid in full.

Although it is expected that in most cases this actuarial recoupment method will result in benefit reductions of less than 10 percent, it is possible that under certain circumstances greater reductions would be required in order to effectuate total recoupment. PBGC, however, believes that recoupment should be limited to the greater of 10 percent of the Title IV Benefits or the amount in excess of the maximum guaranteeable amount under section 4022(b)(3)(B). Section 2623.12(a)(2) so provides. Example of how this limitation operates are as follows: For calendar year 1983, the maximum guaranteeable amount under section 4022(b)(3)(B) is $1,517.05 per month. If a participant's Title IV Benefits are $300 per month, and the actuarial, reduction were $35 per month, the 10 percent limitation under § 2623.12(a)(2) would operate to limit the reduction to $30 per month because the participant's Title IV Benefits do not exceed the Section 4022(b)(3)(B) amount. On the other hand, if a participant's Title IV Benefits are $1,700 per month, and the actuarial reduction were $200 per month, the limitations under § 2623.12(a)(2) would operate to limit the reduction to $182.95 per month. This is because the difference between the maximum guaranteeable benefit and the Title IV Benefits ($182.95) is greater than 10 percent of the Title IV Benefits ($170.00).

All overpayments covered under this part will be recouped in the manner discussed above, unless the participant or beneficiary elects to repay in a lump sum as provided in § 2623.12(a) (3) and (b). The election must be made in writing to PBGC, within the time period specified in PBGC's notification to the participant or beneficiary of the amount of the overpayment and the amount of the benefit reduction under § 2623.12(a). The amount of any lump sum repayment will be computed with full regard to the reduction limitation in § 2623.12(a)(2).

Reimbursement by PBGC of Benefit Underpayments

Section 2623.13 sets forth the rules for PBGC reimbursement of benefit underpayments. The initial benefit reductions required under § 2623.12 (a) and (c) will, in some cases, reduce a participant's benefit below the level to which he or she is entitled under Title IV. Underpayments also could result from incorrect computations or inaccurate plan data. In either event, the amount of any benefit underpayments after the section 4041(a) date of termination will be offset against any overpayments, in order to determine the net amount to be recouped or reimbursed. When the total underpayments exceed any overpayments, PBGC will reimburse the participant or beneficiary for the

underpayment in a lump sum, with interest.

Comments Invited

Interested persons are invited to submit written comments on this proposed regulation. Comments should be addressed to : General Counsel, Legal Department, Pension Benefit Guaranty Corporation, Code 210, 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection at the above address, Suite 7100, between the hours of 9:00 a.m. and 4:00 p.m. Each person submitting comments should include his or her name and address, identify this proposed regulation, and give reasons for any recommendation. This proposal may be changed in light of the comments received.

Classification: E.O. 12291 and Regulatory Flexibility Act

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, innovation, or competition.

In addition, PBGC certifies pursuant to section 605 of the Regulatory Flexibility Act, that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation applies only to terminating plans that have insufficient assets to pay for guaranteed benefits. Over 98% of the plans that terminate while covered by PBGC insurance are sufficient plans. Plans with fewer than 100 participants are generally considered to be "small plans." Of the 1.7% of terminating plans that are insufficient, approximately half are small plans. Thus, no more than 1% of the expected 6500 plans terminating yearly are small plans. Accordingly, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

OMB Clearance of Information Collection

The collection of information requirements contained in this proposed regulation have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) for use through August 31, 1986, OMB control number 1212–0029. Comments concerning the proposed collection of information shall be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Pension Benefit Guaranty Corporation.

Subjects Covered

List of Subjects in 29 CFR, Part 2623

Employee benefit plans, Pension insurance, Pensions, and Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend Subchapter C of Chapter XXVI, Title 29, Code of Federal Regulations, to add a new Part 2623 at the end thereof, reading as follows:

PART 2623—BENEFIT REDUCTIONS IN TERMINATED SINGLE-EMPLOYER PENSION PLANS AND RECOUPMENT OF BENEFIT OVERPAYMENTS

Subpart A—General

Sec.
2623.1 Purpose and scope.
2623.2 Definitions.

Subpart B—Benefit Reductions by Plan Administrator

2623.5 Limitations on benefits payable by plan administrator.
2623.6 Estimated guaranteed benefit.
2623.7 Estimated Title IV Benefits.
2623.8 Notices from plan administrator.

Subpart C—PBGC Recoupment and Reimbursement of Benefit Overpayments and Underpayments

2623.11 General rules.
2623.12 Method of recoupment.
2623.13 PBGC reimbursement of benefit underpayments.

Authority: Secs. 4002(b)(3), 4022, 4022B, 4044, Pub. L. 93–406, as amended by secs. 403(1), 403(c), 102, 402(a)(7), respectively, Pub. L. 98–364, 94 Stat. 1208, 1302, 1301, 1210, 1299 (29 U.S.C. 1302(b)(3), 1322, 1322b, 1344).

Subpart A—General

§ 2623.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe rules that will minimize the overpayment of benefits after plan termination by plans that will ultimately be trusteed by the Pension Benefit Guaranty Corporation and to provide for the recoupment of benefit overpayments after plan termination by the PBGC from participants and beneficiaries entitled to an annuity. Subpart B of this part sets forth the rules pursuant to which plan administrators of terminated, insufficient single-employer plans shall reduce plan benefits paid after the section 4041(a) date of termination. Subpart C sets forth the method of recoupment by PBGC of benefit payments in excess of the amounts permitted under sections 4022, 4022B, and 4044 of the Employee Retirement Income Security Act of 1974, as amended, and also provides for PBGC reimbursement to plan participants and beneficiaries of benefit underpayments.

(b) *Scope.* This part applies to terminated "insufficient" single-employer pension plans covered under section 4021 of the Act. In addition, Subparts A and C apply to other terminated single-employer plans covered under section 4021 of the Act that are trusteed under section 4042 of the Act. Subpart B applies to those insufficient plans for which a Notice of Intent to Terminate is required to be filed on or after the effective date of this part. Subpart C applies to all insufficient plans and all other plans that are trusteed by the PBGC.

§ 2623.2 Definitions.

The words and phrases below shall have the following meaning unless otherwise required by the context:

"Act" means the Employee retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq., as amended by* Pub. L. 98–364, 94 Stat. 1208.

"Insufficient plan" means—

(a) A plan that is identified by the plan administrator in a Notice of Intent to terminate as not having sufficient assets to pay all guaranteed benefits; or

(b) A plan that is identified by PBGC, as not having sufficient assets to pay all guaranteed benefits.

"Notice of Intent to Terminate" means the notice filed with PBGC in accordance with section 4041(a) of the Act and Part 2616 of this chapter.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Section 4041(a) date of termination" means (a) the date of termination proposed in a Notice of Intent to Terminate or (b) the tenth day following the date the Notice of Intent to Terminate is filed, whichever is later.

"Section 4048 date of plan termination" means the date of termination established under section 4048 of the Act.

"Substantial owner" means a person described in section 4022(b)(5)(A) of the Act.

"Title IV Benefits" means that portion of the benefit of a participant or a beneficiary under a terminated pension plan that is guaranteed under sections 4022 and 4022B of the Act plus the nonguaranteed portion in priority categories 2 through 4, if any, to which assets are allocated pursuant to section 4044 of the Act.

Subpart B—Benefit Reductions by Plan Administrator

§ 2623.5 Limitations on benefits payable by plan administrator.

(a) *General.* After a plan administrator submits a Notice of Intent to Terminate a plan, and if the conditions described in paragraph (a)(1), (a)(2), or (a)(3), exist, the plan administrator shall limit the payment of benefits in accordance with this section. In applying the time limits set forth in paragraphs (b) and (c) of this section when the condition described in paragraph (a)(2) or (a)(3) exists, the phrase "the 30th day following receipt of the PBGC notice" shall be substituted for the phrase "the section 4041(a) date of termination".

(1) The plan administrator identifies a plan as insufficient by indicating in the Notice of Intent to Terminate that plan assets are not sufficient to pay all guaranteed benefits and that the employer who maintained the plan has not made an irrevocable commitment to make the plan sufficient.

(2) The plan administrator indicates in the Notice of Intent to Terminate that plan assets are adequate to pay all guaranteed benefits without an employer's commitment to make the plan sufficient, and PBGC later determines and notifies the plan administrator that plan assets are not sufficient to pay guaranteed benefits.

(3) The plan administrator indicates in the Notice of Intent to Terminate that the employer has made an irrevocable commitment to make the plan sufficient, and the PBGC determines and notifies the plan administrator that it appears that the employer will not be able to satisfy its commitment and therefore the plan assets are not sufficient to pay all guaranteed benefits.

(b) *Accrued benefit at normal retirement.* Except to the extent permitted by paragraph (d) of this section, beginning on the section 4041(a) date of termination, a plan administrator may not pay that portion of a monthly benefit payable with respect to any participant that exceeds the participant's accrued benefit payable at normal retirement age under the plan.

(c) *Maximum guaranteeable benefit.* Except to the extent permitted by paragraph (d) of this section, beginning on the section 4041(a) date of termination, a plan administrator may not pay that portion of a monthly benefit payable with respect to any participant that exceeds the maximum guaranteeable benefit under section 4022(b)(3)(B)(of the Act and § 2621.3(a)(2) of this chapter, adjusted for age and benefit form.

(d) *Estimated benefit.* Beginning on the 30th day after the section 4041(a) date, or on the section 4041(a) date if the Notice of Intent to Terminate proposes a date of termination that is more than 30 days after the Notice of Intent to Terminate was filed, a plan administrator shall pay the monthly benefit payable with respect to any participant as determined under § 2623.6 or, at the option of the plan adminstrator, as determined under § 2623.7.

(e) *Lump sums and annuity purchases.* Beginning on the section 4041(a) date of termination, a plan administrator may not pay any benefit in a lump sum (including a death benefit or a refund of employee contributions), nor purchase an annuity, without the prior written consent of the PBGC.

(f) *PBGC authority to modify deadlines.* PBGC may, in any case, upon written notice to the plan administrator, establish different deadlines or procedures with respect to the benefit reductions required by paragraphs (b)–(d) of this section and the payment restrictions contained in paragraph (e), or in the case of particularly difficult or complex cases, in order to avoid abuse of the termination insurance system.

(g) *Examples.* This section is illustrated by the following examples:

Example 1

Facts. A plan administrator filed on November 10, 1983 a Notice of Intent to Terminate. The plan pays benefits on the 1st day of each month.

A participant who is in pay status on December 1, 1983 has previously been receiving his accrued benefit of $2,000 per month under the plan. The benefit is in the form of a joint and survivor annuity that upon the participant's death will pay 50% of the benefit amount ($1,000 per month) to the surviving spouse. If the spouse dies first, the participant's benefit will not be reduced. On December 1, 1983 the participant is age 66 and his wife is age 56.

Benefit reductions required commencing on the section 4041(a) date of termination. The plan administrator is required under § 2623.5 to make two benefit reductions commencing on the section 4041(a) date of determination. In this example, the reductions must be made commencing December 1, 1983, the date of termination proposed in the Notice of Intent to Terminate, because this date is more than 10 days after the date the Notice was filed.

Section 2623.5(b) requires the plan administrator to cease paying benefits in excess of the accrued benefit payable at normal retirement age. Since the participant is receiving only his accrued benefit, no reduction is required under subsection (b).

Section 2623.5(c) requires the plan administrator to cease paying benefits in excess of the maximum guaranteeable benefit, adjusted for age and benefit form in accordance with provisions of Part 2621 of this chapter. The maximum guaranteeable benefit for plans terminating in 1983 is $1,517.05 per month, payable in the form of a single life annuity at age 65. Since the participant is older than age 65, no adjustment is required under § 2621.4(c) because of the annuitant's age factor. The benefit form is a joint and survivor annuity (contingent basis) as defined in § 2621.2. The required benefit reduction for this benefit form under § 2621.4(d) is 10 percent; the corresponding adjustment factor is .90 (or 1.00—.10). The benefit reduction factor to adjust for the age difference between the participant and beneficiary is computed under § 2621.4(e). In computing the difference in ages, years over 65 years of age are not counted. Therefore, the age difference is 9 years (or 65 years minus 56 years). The required percentage reduction where a beneficiary is 9 years younger than the participant is 9 percent (or 1 percent times 9); the corresponding adjustment factor is .91 (or 1.00—.09).

The maximum guaranteeable benefit adjusted for age and benefit form is $1,242.46 per month (or $1,517.05 per month times .90 times .91).

The participant's benefit must therefore be reduced from $2,000 per month to $1,242.46. If the participant dies after the section 4041(a) date of termination, the spouse would receive $621.23 per month (or 50 percent of $1,242.46).

Example 2

Facts. The facts are the same as in Example 1, except that the Notice of Intent to Terminate was filed on October 28, 1983, which is more than 30 days in advance of December 1, 1983, the proposed date of plan termination.

The participant's estimated guaranteed benefit is $1,400 per month and his estimated Title IV Benefit are $1,550 per month.

Benefit reductiohs required commencing on the section 4041(a) date of termination. Section 2623.5(d) requires a plan administrator, who proposes a date of termination that is more than 30 days after the date the Notice of Intent to Terminate is filed, to begin paying a participant or beneficiary his or her estimated guaranteed benefit or Title IV Benefits on the section 4041(a) date of termination. In this example the plan administrator would begin paying the participant $1,400 per month, the estimated guaranteed benefit, or $1,550 per month, estimated Title IV Benefits, beginning on December 1, 1983.

Example 3

Facts. A participant's benefit under a plan is a single life annuity of $800 per month until age 62 at which time it is decreased to $400 per month. The participant's accrued benefit under the plan is $450 per month based on 30 years of service and an accrual rate of $15 per month per year of service. On the section 4041(a) date of termination, November 30, 1983, the participant is 61 years old.

The maximum guaranteeable benefit adjusted for age (a form adjustment is not required) is $1,092.28 per month.

Benefit reductions required commencing on the section 4041(a) date of termination. Since the plan benefit of $800 per month payable until age 62 and $400 per month thereafter is

less than the adjusted maximum guaranteeable benefit of $1,092.28 per month, no reduction in the plan benefit is required under § 2623.5(b).

Under § 2623.5(c), the $800 per month benefit would have to be reduced to $450, the participant's accrued benefit.

Benefits reductions required commencing 30 days after the Section 4041(a) date of termination and permitted commencing on the section 4041(a) date of termination. Assume that the estimated benefit under § 2623.5(d) is $800 per month until age 62 and $400 per month thereafter. The plan administrator would increase the participant's benefit from $450 per month, the level payable under § 2623.5(c), to $800 per month beginning 30 days after section 4041(a) date of termination. The plan administrator would reduce the benefit to $400 per month at age 62.

If the plan administrator knows prior to the section 4041(a) date of termination that the estimated benefit for that date is $800 per month, the plan administrator is permitted to pay the participant $800 per month rather than $450 per month beginning on that date and would continue to pay the participant $800 per month until age 62 at which time the monthly benefit would be reduced to $400 per month.

§ 2623.6 Estimated guaranteed benefit.

(a) *General.* The plan administrator shall determine the estimated benefit payable under § 2623.5(d) by computing the estimated guaranteed benefit payable with respect to a substantial owner under paragraph (c) of this section and the estimated guaranteed benefit payable with respect to any other participant under paragraph (d) of this section. The plan administrator may choose to use the optional estimating method contained in § 2623.7, in which event the estimated benefit payable under § 2623.5(d) with respect to each plan participant is the higher of the benefits determined under this section and § 2623.7. The plan administrator shall determine benefits payable to a beneficiary by applying plan provisions to the participants' estimated guaranteed benefit determined under this section or the optional estimating method in § 2623.7.

(b) *Rules for determining benefits.* For the purpose of determining entitlement to a benefit and the amount of a benefit under this section, the following rules apply:

(1) *Participants in pay status on the section 4041(a) date of termination.* For benefits payable with respect to a participant who was in pay status on or before the section 4041(a) date of termination, the plan administrator shall use the participant's age, service, and compensation as of the benefit commencement date.

(2) *Participants who go into pay status after the section 4041(a) date of termination.* For benefits payable with respect to a participant who goes into pay status after the section 4041(a) date of termination, the plan administrator shall use the participant's age as of the benefit commencement date and his or her service and compensation as of the section 4041(a) date of termination.

(c) *Benefits payable with respect to a substantial owner.* The plan administrator shall determine the benefit payable under this paragraph with respect to a substantial owner who commenced participation under the plan less than five full years before the section 4041(a) date of termination pursuant to paragraph (c)(1). The benefit payable with respect to all other substantial owners shall be determined pursuant to paragraph (c)(2).

(1) *Less than five years participation.* The estimated guaranteed benefit under this paragraph is the benefit to which the substantial owner is entitled on his or her benefit commencement date, as limited by § 2623.5 (b) and (c), multiplied by a fraction, not to exceed one, the numerator of which is the number of full years prior to the section 4041(a) date of termination that the substantial owner was an active participant under the plan and the denominator of which is 30.

(2) *Five or more years participation.* The estimated guaranteed benefit under this paragraph is the lesser of—

(i) The estimated guaranteed benefit calculated under paragraph (c)(1) of this section; or

(ii) The benefit to which the substantial owner would have been entitled on his or her benefit commencement date under the terms of the plan in effect when he or she first began participation, as limited by § 2623.5 (b) and (c), multiplied by a fraction, not to exceed one, the numerator of which is 2 times the number of full years of his or her active participation under the plan prior to the section 4041(a) date of termination and the denominator of which is 30.

(d) *Benefits payable with respect to all other participants.* In the case of a plan that has no "new benefits" or other benefit increases because of improvements in the plan's benefit formula that have been in effect for less than five full years as of the section 4041(a) date of termination, the plan administrator shall determine the estimated guaranteed benefit pursuant to paragraph (d)(1). For all other plans, the plan administrator shall determine the estimated guaranteed benefit pursuant to paragraph (d)(2). For the purposes of this paragraph, "new benefits" are benefits created by amendments to plan provisions that advance a participant's or beneficiary's entitlement to a benefit, and that have been in effect less than five full years prior to the section 4041(a) date of termination. These include liberalized participation requirements and vesting schedules, creation of a new disability benefit, and reductions in the age at which a participant can begin to receive his or her unreduced benefit. New benefits do not include changes in annuity form, such as a change from a single-life annuity to a joint and survivor annuity, or an improved benefit formula.

(1) *Plans with no new benefits or benefit increases due to improved benefit formula.* The estimated guaranteed benefit under this paragraph is the benefit to which the participant is entitled on his or her benefit commencement date, as limited by § 2623.5 (b) and (c).

(2) *Plans with new benefits or benefit increases due to improved benefit formula.* The estimated guaranteed benefit under this paragraph is a percentage of the benefit to which the participant is entitled on his or her benefit commencement date, as limited by § 2623.5 (b) and (c). The applicable percentage is dependent upon two variables: the number of full years prior to the section 4041(a) date of termination that the plan provided for a new benefit and whether there was an increase in benefit amount by amendment to the benefit formula during the year prior to the section 4041(a) date. The following table lists these percentages; the middle column is applicable when there was no increased benefit under the plan's benefit formula during the year prior to the section 4041(a) date, and the right hand column is applicable when there was an increased benefit under the plan's benefit formula during that year.

Number of full years before section 4041(a) date that new benefit was in effect	Percentage when benefit amount under formula was not increased within 1 year prior to section 4041(a) date	Percentage when benefit amount under formula was increased within 1 year prior to section 4041(a) date
5	90	80
4	80	70
3	65	55
2	50	45
1	35	30

(e) *Examples.* This section is illustrated by the following examples:

Example 1

Facts. A participant who is not a substantial owner retired December 20, 1979 at age 65 with 20 years of credited service and began receiving his accrued benefit of $3,000 per month payable as a single life annuity. The section 4041(a) date of termination is November 30, 1983.

The plan was amended 3½ years prior to the section 4041(a) date of termination. That amendment increased the percentage of the participant's compensation that is used to compute the amount of the participant's benefit. As a result the participant's benefit increased from $1,800 per month to $3,000 per month. There were no other amendments affecting the participant's benefit in the 5 years preceding the section 4041(a) date of termination.

Estimated Guaranteed Benefit. The participant's estimated guaranteed benefit is determined under § 2623.6(d)(2) since the amount of the participant's benefit was increased by a plan amendment in the 5 years prior to the section 4041(a) date of termination. Because the amount of the participant's benefit was not increased within one year prior to the section 4041(a) date, the center column of the percentage table is used to compute the estimated guaranteed benefit. The estimated guaranteed benefit is 90 percent of the participant's benefit limited by the maximum guaranteeable benefit: 90%×$1,517.05 per month=$1,365.35 per month. Since the participant is older than age 65 and is receiving a single life annuity, the maximum guaranteeable benefit is not adjusted for age or benefit form.

Example 2

Facts. A participant who is a substantial owner retired prior to the section 4041(a) date of termination after 5½ years of active participation in the plan. The participant's benefit under the terms of the plan when he first began active participation was $120 per month. The benefit to which he is entitled on his benefit commencement date is $300 per month.

Estimated Guaranteed Benefit. Section 2623.6(c)(2) is used to compute the estimated guaranteed benefit of substantial owners with 5 or more years of active participation prior to the section 4041(a) date of termination. The estimated guaranteed benefit for the participant in this example is the lesser of:

(1) The benefit which he was entitled to on his benefit commencement date, multiplied by a fraction, the numerator of which is the number of years prior to the section 4041(a) date of termination that he was an active participant, and the denominator of which is 30 ($300×5/30=$50); or

(2) The benefit which he would have been entitled to on his benefit commencement date under the terms of the plan when he first began participation, multiplied by two times his number of years of active participation, divided by 30 ($120 per month×2×5/30=$40 per month).

Thus the participant's estimated guaranteed benefit is $40 per month.

§ 2623.7 Estimated Title IV Benefits.

(a) *General.* Subject to the conditions set forth in paragraph (b) of this section, the plan administrator may choose to use this section to determine the estimated benefit payable under § 2623.5(d). When benefits are determined under this section, the estimated benefit payable under § 2623.5(d) with respect to each plan participant is the higher of the benefits determined under this section and § 2623.6. If the plan administrator chooses to determine the estimated benefit under this section, he or she must use this method for all plant participants. Specifically, the calculation under paragraph (c) of this section must be done for all priority category 3 benefits; the calculations under paragraph (d) must be done for all benefits payable with respect to substantial owners.

(b) *Conditions for use of this section.* The plan administrator may use this section to determine the estimated benefit payable under § 2623.5(b) only when the following conditions exist:

(1) An actuarial valuation of the plan has been done for a plan year beginning not more than 18 months prior to the section 4041(a) date of termination.

(2) Under the valuation described in paragraph (b)(1), the interest rate used to value plan liabilities did not exceed PBGC's rate for immediate annuities in effect on the section 4041(a) date of termination. If a higher interest rate was used, the plan actuary may convert the valuation to the PBGC interest rate in order to satisfy the requirement of this paragraph.

(c) *Estimated priority category 3 benefits.* For the purpose of this section, priority category 3 benefits are benefits that were, or could have been, in pay status three full years prior to the section 4041(a) date of termination. The plan administrator may use this paragraph to estimate the value of Title IV Benefits only when the conditions set forth in paragraph (c)(2) are satisfied.

(1) *Determination of priority category 3 benefit.* With respect to each participant with a priority category 3 benefit, the estimated priority category 3 benefit is the benefit that would have been payable with respect to the participant under the terms of the plan in effect on the earlier of the participant's or beneficiary's benefit commencement date or the date five full years prior to the section 4041(a) date of termination.

(2) *Conditions for use of this paragraph.* The estimated Title IV Benefits determined under paragraph (c)(1) will exceed the estimated guaranteed benefits determined under § 2623.6 only in plans where benefits exceed the limitations contained in § 2623.5 (b) and (c). In addition, the plan administrator may estimate benefits under paragraph (c)(1) only if—

(i) The plan has been in effect for at least five full years prior to the section 4041(a) date of termination; and

(ii) Based on the actuarial valuation described in paragraph (b), the value of plan assets less voluntary and mandatory employee contributions with interest credited under the plan exceeds the present value of all benefits in pay status.

(d) *Estimated substantial owner priority category 4 benefit.* For benefits payable with respect to substantial owners, the estimated Title IV Benefits amount is the higher of the benefits computed under paragraph (c) of this section and this paragraph.

(1) The plan administrator shall first calculate the estimated guaranteed benefit payable with respect to the substantial owner as if he or she were not a substantial owner, using the method set forth in § 2623.6(b).

(2) The benefit computed under paragraph (d)(1) shall be multiplied by the priority category 4 funding ratio. The category 4 funding ratio is the ratio of x to y (not less than 1), where—

(i) In a plan with priority category 3 benefits, x equals plan assets less voluntary and mandatory employee contributions with interest credited under the plan, minus the present value of benefits in pay status, and y equals the present value of all non-pay status vested benefits less voluntary and mandatory employee contributions with interest credited under the plan; or

(ii) In a plan with no priority category 3 benefits, x equals plan assets less voluntary and mandatory employee contributions with interest credited under the plan, and y equals the present value of all non-pay status vested benefits and benefits in pay status less voluntary and mandatory employee contributions with interest credited under the plan.

(e) *Examples.* This section is illustrated by the following examples:

Example 1

Facts. A participant who is not a substantial owner retired two years before the section 4041(a) date of termination with a benefit of $3,000 per month payable as a single life annuity. The participant's benefit under the terms of the plan in effect 5 years prior to the section 4041(a) date of termination based on age and service on the benefit commencement date in $1,800 per month. The participant's estimated guaranteed benefit is $1,365.35 per month.

The plan meets the conditions contained in § 2623.7(b) for estimating Title IV Benefits, as follows: An actuarial valuation of the plan has been done for a plan year beginning not more than 18 months prior to the section 4041(a) date of termination and the interest rate used in that valuation was equal to or less than the PBGC interest rate in effect on the section 4041(a) date of termination for valuing immediate annuities.

In addition, the plan meets the conditions contained in § 2623.7(c), as follows: Some benefits in the plan exceed the limitations contained in § 2623.5 (b) and (c), *i.e.*, the accured benefit at normal retirement and the maximum guaranteeable benefit adjusted for age and benefit form. The plan has been in effect longer than 5 years. There are no employee contributions under the plan. Based on the most recent plan valuation, plan assets are $20 million and the present value of all benefits in pay status is $19 million. Thus the plan administrator may estimate priority category 3 benefits for nonsubstantial owners under § 2623.7(c)(1).

Estimated Title IV Benefits. Under § 2623.7(a), the estimated benefit payable beginning 30 days following the section 4041(a) date of termination with respect to a participant who is a nonsubstantial owner, is the higher of the estimated priority category 3 computed under § 2623.7(c)(1) or the participant's estimated guaranteed benefit computed under § 2623.6.

The estimated priority category 3 benefit is the benefit that would have been payable with respect to the participant under the terms of the plan in effect on the earlier of the participant's benefit commencement date or the date five years prior to the section 4041(a) date of termination. Since the participant retired only two years prior to termination, the estimated priority category 3 benefit is the 5-year-old benefit, $1,800 per month. This benefit exceeds the $1,365.35 per month estimated guaranteed benefit. Therefore, the participant's estimated Title IV Benefits is $1,800 per month.

Example 2

Facts. A participant age 65 who is a substantial owner retires on the section 4041(a) date of termination, October 30, 1983 with 5 years of active participation in the plan. Under the provisions of the plan 5 years prior to the section 4041(a) date of termination, he is entitled to a single life annuity of $500 per month. Under the most recent plan amendments, which were put into effect 3 years prior to the section 4041(a) date of termination, he is entitled to a single life annuity of $1,000 per month.

Assume that all the conditions in § 2623.7 (b) and (c)(2) have been met. Plan assets equal $2,000,000. The present value of all benefits in pay status in $1,500,000. There are no employee contributions, and the present value of all non-pay status vested benefits is $750,000. The participant's estimated guaranteed benefit computed under § 2623.6(c)(2) is $166.67 per month.

Estimated Title IV Benefits. Under § 2623.7(d) the estimated Title IV Benefits payable with respect to a participant who is a substantial owner is the higher of the estimated priority category 3 benefit computed under § 2623.7(c) or the estimated priority category 4 benefit computed under § 2623.7(d).

Under § 2623.7(c) the participant's estimated priority category 3 benefit is $500 per month based on the plan provisions 5 years prior to the section 4041(a) date of termination.

Under § 2623.7(d) the participant's estimated priority category 4 benefit is the estimated guaranteed benefit computed as if the paricipant were not a substantial owner (§ 2623.6(d)), multiplied by the priority category 4 funding ratio. Since the plan has priority category 3 benefits, the ratio is determined under § 2623.7(d)(2)(i), but may not be less than 1. The numerator of the ratio is plan assets minus the present value of benefits in pay status. The denominator is the present value of all non-pay status vested benefits.

The pariticpant's estimated guaranteed benefit under § 2623.6(d) is $1,000 per month times .90 (the factor from the middle column of the table in § 2623.6(d)(2)) or $900 per month. The $900 is then multiplied by the category 4 funding ratio of ⅔ (or ($2,000,000−$1,500,000)/$750,000) to produce an estimated category 4 benefit of $600 per month.

The participant's estimated Title IV Benefits are the $600 per month estimated priority category 4 benefit because this is higher than the $500 per month estimated priority category 3 benefit. The participant's estimated benefit under § 2623.5(d) is $600 per month, the amount of Title IV Benefits, as this amount is higher than the participant's estimated guaranteed benefit of $166.67 per month.

§ 2623.7 Notices from plan administrator.

(a) *To participants.* The plan administrator shall notify plan participants and beneficiaries that benefit reductions may be required by this part in accordance with § 2616.4 of this chapter.

(b) *Certification to PBGC.* Within 30 days after the plan administrator has begun paying the reduced benefits required by § 2623.5(d), he or she shall certify in writing to the PBGC the following information for each participant and beneficiary receiving benefits—

(1) The name, age, and social security number of the participant of beneficiary;

(2) The benefit amount and form payable under the plan;

(3) The estimated benefit being paid and a statement whether it is the estimated guaranteed benefit or estimated Title IV Benefits;

(4) The date of commencement of payments at the estimated level; and

(5) If any benefit has not been reduced to the extent required under this Subpart B, a statement of the reason therefor.

(c) For each participant or beneficiary who goes into pay status after the date of the notice described in paragraph (b) of this section, and for any participant or beneficiary whose benefit is readjusted after payment of the estimated guaranteed benefit or the estimated Title IV Benefits has begun, the plan administrator shall provide PBGC with the information listed in paragraphs (b)(1)–(b)(5) within 30 days after commencement of benefit payments or readjustment of benefit amount.

(Approved by the Office of Management and Budget under control number 1212–0029)

Subpart C—PBGC Recoupment and Reimbursement of Benefit Overpayments and Underpayments

§ 2623.11 General rules.

(a) *Recoupment of benefit overpayments.* If benefits paid with respect to any participant on or after the later of the section 4041(a) date and the section 4048 date of termination exceed the total amount to which a participant or beneficiary is entitled under Title IV, and that participant or his or her beneficiary is entitled to received future benefit payments, PBGC shall recoup the benefit overpayment in accordance with § 2623.12.

(b) *Reimbursement of benefit underpayments.* If benefits paid with respect to any participant on or after the later of the section 4041(a) date and the section 4048 date of termination are less than the amount to which a participant or beneficiary is entitled under Title IV, PBGC shall reimburse the participant or his or her beneficiary for the underpayment in accordance with § 2623.13.

§ 2623.12 Method of recoupment.

(a) *Future benefit reductions.* Absent an election by a participant or beneficiary pursuant to paragraphs (a)(3) and (b) of this section of this section, PBGC shall recoup overpayments of benefits with respect to a participant in accordance with this paragraph. The benefit reduction under this paragraph shall be an amount equal to a uniform percentage determined under (1) below multiplied by each future benefit payment to which the participant is entitled (or payment, if only one payment remains). The percentage, computed in accordance with paragraph (a)(1), shall be the amount that repays the overpayment over the expected term of the remaining benefit payments to the participant and/or beneficiary, subject to the limitation in paragraph (a)(2).

(1) *Computation.* The percentage reduction shall equal the amount of the benefit overpayment divided by the present value of the Title IV Benefits payable with respect to the participant, multiplied by 100 percent. The present value of the Title IV Benefits shall be determined as of the date of plan termination, using the PBGC interest rates and factors in effect on that date.

(2) *Limitation on benefit reduction.* Notwithstanding the provisions of

paragraph (a)(1) of this section, the reduction shall not exceed the greater of 10 percent of the Title IV Benefits, or the amount in excess of the maximum guaranteeable benefit payable under section 4022(b)(3)(B) of the Act with respect to a participant determined without adjustement for age and benefit form.

(3) *PBGC notice to participant/beneficiary.* Before effecting a benefit reduction pursuant to this paragraph, PBGC shall notify the participant or beneficiary in writing of the amount of the benefit overpayment and of the amount of the benefit reduction computed under this section. The notice shall advise the participant or beneficiary of the repayment option set forth in this paragraph and in paragraph (b) of this section and inform the participant or beneficiary that PBGC will proceed to recover the benefit overpayment in accordance with this paragraph unless he or she notifies PBGC, in writing within the time specified in PBGC's notice, of his or her election to repay the overpayment in a single payment.

(b) *Lump sum repayment.* A participant or beneficiary who has received a benefit overpayment may elect, in accordance with paragraph (a)(3) of this section, to repay the excess benefits in a single payment on or before a date agreed to by the participant or beneficiary and PBGC. When this option is elected, the amount of the overpayment recouped by PBGC may not exceed the limitation set forth in paragraph (a)(2) of this section. If the full payment is not made by the agreed upon date, PBGC may proceed to recover the overpayment in accordance with paragraph (a) of this section.

§ 2623.13 PBGC reimbursement of benefit underpayments.

When PBGC determines that there has been a benefit underpayment made with respect to a participant, as described in § 2623.11(b), PBGC shall pay the participant or beneficiary the amount of the underpayment, with interest, in a single payment.

Raymond J. Donovan,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this Notice of Proposed Rulemaking.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 83-29477 Filed 10-28-83; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 750

Surface Mining and Reclamation Operations; Federal Program for Indian Lands and Tribal-Federal Intergovernmental Agreements

Correction

In FR Doc. 83-28625, beginning on page 49174, in the issue of Monday, October 24, 1983, on page 49182, in the second column, in § 750.18, in the fourth line "(d) OSM" should read "(b) OSM".

BILLING CODE 1505-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 503

Office of Bilingual Education and Minority Languages Affairs

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to issue regulations for the implementation of the State Educational Agency Projects for Coordinating Technical Assistance. This program provides financial assistance through grants to State educational agencies to coordinate technical assistance to programs of bilingual education funded under the Bilingual Education Act in their States. The current regulations were reviewed for regulatory burden reduction. These proposed regulations are issued as a result of that review.

DATES: Comments must be received on or before December 15, 1983.

ADDRESSES: Comments should be addressed to Mr. Jesse M. Soriano, Director, Office of Bilingual Education and MInority Languages Affairs, U.S. Department of Education, (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Luis Catarineau, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245-2595.

SUPPLEMENTARY INFORMATION: The State Educational Agency Projects for Coordinating Technical Assistance is authorized under Section 721(b)(5) of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561), 20 U.S.C. 3221, *et seq.*

Regulations for this program were initially published in the Federal Register on April 4, 1980 (45 FR 23219).

These proposed regulations clarify the types of activities eligible for assistance. An activity has been added to the list of eligible activities in § 503.10 that would authorize State educational agencies (SEAs) to provide non-degree training to increase the skills of SEA personnel in coordinating technical assistance to programs of bilingual education. This proposed training activity will enhance the capacity of SEAs to coordinate technical assistance to programs of bilingual education.

The activity permitted under § 503.10(d) is to be deleted because dissemination of information on State certification requirements for teachers of bilingual education is more properly a State function and cannot be determined to constitute the type of coordination of technical assistance for which Federal funds are made available under the Act. The provision in § 503.10(h) has been deleted because this activity has rarely been proposed for support in the past and is not considered critical to the successful implementation of this program.

The proposed regulations require an SEA to include in its application an assurance that the SEA will work cooperatively with, and coordinate with, the support services centers, such as the Support Services Projects Centers and the Multifunctional Support Centers, serving the local educational agencies in the State under the Act. This assurance is needed to clarify the role and responsibility of the SEA in accepting assistance under this program.

The selection criteria used to award a grant are contained in § 503.31. The language of the selection criteria has been slightly modified to make it consistent with the language of the generally applicable selection criteria in 34 CFR Part 75 (Direct Grant Programs) of the Education Department General Administrative Regulations (EDGAR). In addition, the selection criterion in § 503.31(b) used to evaluate the extent to which the project will increase the capacity of agencies and organizations to provide technical assistance to programs of bilingual education funded under the Bilingual Education Act has been corrected to consider only the extent to which the project will increase the capacity of the SEA to provide for the coordination of technical assistance when assistance under the Act is reduced or no longer available.

Executive Order 12291

The proposed regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have significant economic impact on a substantial number of small entities. This program provides assistance to State educational agencies. States and State agencies are not considered small entities under the Regulatory Flexibility Act.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158, June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document.

All comments submitted on or before December 15, 1983 will be considered before the Secretary issues final regulations and will be available for public inspection, during and after the comment period, in Room 421, Reporters Building, 7th and D Streets, SW., Washington, D.C., between the hours of 8.30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations

List of Subjects in 34 CFR Part 503

Bilingual education, Education, Elementary and secondary education, Grant programs—education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

Dated: October 21, 1983.

(Catalog of Federal Domestic Assistance Number 84.003, Bilingual Education)

T. H. Bell,

Secretary of Education.

The Secretary proposes to revise Part 503 of Title 34 of the Code of Federal Regulations to read as follows:

PART 503—BILINGUAL EDUCATION: STATE EDUCATIONAL AGENCY PROJECTS FOR COORDINATING TECHNICAL ASSISTANCE

Subpart A—General

Sec.

503.1 What general provisions apply to this program?

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

503.10 What activities are eligible for assistance?

Subpart C—How Does a State Educational Agency Apply for a Grant?

503.20 What are the requirements when applying for a grant?

Subpart D—How Does the Secretary Make a Grant?

503.30 How are funds distributed to State educational agencies?

503.31 What selection criteria does the Secretary use?

Subpart E—What Conditions Must Be Met by a Grantee?

503.40 What requirements apply to all grantees?

Authority: Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95–561 (20 U.S.C. 3221–3261; 92 Stat. 2268–2284), unless otherwise noted.

Subpart A—General

§ 503.1 What general provisions apply to this program?

The general provisions of 34 CFR Part 500 apply to this program.

(20 U.S.C. 3231 (b)(5))

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 503.10 What activities are eligible for assistance?

An SEA is authorized to carry out the following activities:

(a) Coordinating assistance to improve the quality and adequacy of instruction and management in local educational agency (LEA) programs of bilingual educational.

(b) Coordinating the evaluation of LEA programs of bilingual education to determine their effectiveness.

(c) Coordinating the exchange of information among programs of bilingual education funded under the Act and with State, local, and Federal programs that share similar purposes, goals and approaches.

(d) Coordinating assistance to LEAs in developing budget and funding strategies for continuing programs of bilingual education when assistance under the Act is reduced or no longer available.

(e) Coordinating assistance to improve the assessment and use of curriculum materials developed under the Act.

(f) Reviewing grant applications and grantee performance of LEAs within the State carrying out, or proposing to carry out, programs of bilingual education funded under the Act to determine the need for coordination of technical assistance.

(g) Coordinating assistance to LEAs in the selection and use of instruments in these programs to measure the language proficiency of—

(1) Children of limited English proficiency;

(2) Personnel employed in the programs; and

(3) Trainers in bilingual education training programs at institutions of higher education.

(h) Coordinating the development of formal assessment procedures to determine the need for training LEA personnel who are participating in, or preparing to participate in, programs of bilingual education funded under the Act and communicating the identified training needs to the support services centers serving the State under the Act, such as the Support Services Projects Centers and Multifunctional Support Centers serving the State.

(i) Providing non-degree training to increase the skills of State educational agency (SEA) personnel in carrying out their responsibilities with regard to coordinating technical assistance to programs of bilingual education.

(j) Performing other activities approved in advance by the Secretary as designed to further the coordination of technical assistance to programs of bilingual education funded under the Act.

(20 U.S.C. 3231 (b)(5)(A))

Subpart C—How Does a State Educational Agency Apply for a Grant?

§ 503.20 What are the requirements when applying for a grant?

An SEA must include the following assurances in its application:

(a) An assurance that it will comply with "the supplement not supplant" requirement in Section 721(b)(5)(A) of the Act.

(b) An assurance that the SEA will work cooperatively with and coordinate with support service centers serving the State under the Act, such as the Support Services, Projects Centers and Multifunctional Support Centers providing services to LEAs in the State.

(20 U.S.C 3231(b)(5)(A))

Subpart D—How Does the Secretary Make a Grant?

§ 503.30 How are funds distributed to State educational agencies?

(a) The Secretary awards a grant to each SEA that applies if the SEA—

(1) Meets the applicable requirements in the Act and in these regulations; and

(2) Submits an application that achieves a score of at least 50 points under the selection criteria.

(b) The Secretary permits an SEA to modify and resubmit an application that has been disapproved under paragraph (a)(2) of this section.

(20 U.S.C. 3231 (b)(5))

§ 503.31 What selection criteria does the Secretary use?

In reviewing an SEA application for assistance the Secretary uses the following criteria worth a total of 100 possible points:

(a) *Impact.* (25 points)

The Secretary considers the extent to which the project will improve the quality and increase the quantity of technical assistance provided to programs of bilingual education in the State that are funded under the Act.

(b) *Capacity building.* (25 points)

The Secretary considers the extent to which the project activities will increase the capacity of the SEA to provide for the coordination of technical assistance to programs of bilingual education in the State that are funded under the Act when assistance under the Act is reduced or no longer available.

(c) *Evaluation plan.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows that the methods of evaluation are appropriate for the project and, to the extent possible, are objective and will produce data that are quantifiable.

(d) *Plan of operation.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program; and

(iv) A clear description of the way the applicant plans to use its resources and personnel to achieve each objective.

(e) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adquate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Personnel.* (20 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications established for the position of the project director;

(ii) The qualifications established for each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) The Secretary also considers the quality of the applicant's plan to recruit and employ bilingual personnel for the project.

(4) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(20 U.S.C 3231(b)(3), (b)(5))

Subpart E—What Conditions Must Be Met by a Grantee?

§ 503.40 What requirements apply to all grantees?

(a) A grantee shall use funds made available under this Part to supplement, and to the extent practical, increase the level of funds that, in the absence of the grant, would be made available by the State for activities authorized under § 503.10 for the coordination of technical assistance to programs of bilingual education in the State, and in no case to supplant those funds.

(b) A grantee shall employ bilingual personnel for the project, to the extent possible.

(20 U.S.C 3231(b)(3)(G), (b)(5)(H))

[FR Doc. 83-29433 Filed 10-28-83; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 1213

Procedures for the Identification and Protection of Archeological, Architectural, Historic, and Scientific Properties

AGENCY: National Park Service, DOI.

ACTION: Withdrawal.

SUMMARY: The National Park Service (NPS) of the Department of the Interior (DOI) gives notice that the proposed rule setting forth procedures for the identification and protection of archeological, architectural, historic and scientific properties published by the Heritage Conservation and Recreation Service (44 FR 45417, August 2, 1979) has been withdrawn.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Bennie C. Keel, Assistant Director for Archeology, National Park Service, 1100 L St., NW., Rm 6220, Washington, D.C. 20240. (202) 343-4101.

SUPPLEMENTARY INFORMATION: On August 2, 1979, the Heritage Conservation and Recreation Service

issued a proposed rule (44 FR 45417) concerning procedures that the Department of Interior would follow to meet its responsibilities in the identification, protection, preservation, and management of archeological, architectural, historic, scientific, and other cultural resources. The rule was to fulfill requirements set forth in the National Historic Preservation Act, Executive Order 11593, and other applicable historic preservation laws. Furthermore, the rule was to be a counterpart to 36 CFR 800.10, promulgated by the Advisory Council on Historic Preservation. 36 CFR 1213 was never finalized, and the Heritage Conservation and Recreation Service was abolished on May 31, 1980. Additionally, amendments to the National Historic Preservation Act, passed December 12, 1980, codified relevant parts of Executive Order 11593 and required the Department of Interior to prepare various standards, guidelines, and regulations, including guidelines for Federal agency programs, to implement the Act. These standards, guidelines, and regulations are currently in preparation by the National Park Service. Finally, the regulations published by the Advisory Council on Historic Preservation at 36 CFR Part 800 are currently under revision and will require new DOI counterpart regulations. For these reasons, the National Park Service is withdrawing the proposed rule published as 36 CFR Part 1213.

Russell E. Dickenson,

Director.

FR Doc. 83-29378 Filed 10-28-83; 8:45 am]

BILLING CODE 4310-70-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6499]

National Flood Insurance Program; Proposed Flood Elevation Determination, North Carolina; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed Rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determination of base (100-year) flood elevations for selected locations in the unincorporated areas of Haywood County, North Carolina, previously published at 48 FR 10881 on March 15, 1983. This notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for Haywood County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the unincorporated areas of Haywood County, North Carolina, previously published at 48 FR 10881 on March 15, 1983, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 383 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

The following location and base flood elevations have been amended as follows. The remainder of the Notice of Proposed Base Flood Elevations remains unchanged.

List of Subjects in 44 CFR Part 67

Flood insurance; Flood plains.

Source of flooding	Location	*Elevation in feet (NGVD)
Pigeon River	At confluence of East Fork Pigeon River, just downstream of State Highway 110.	*2,653
Hominy Creek	Just upstream of U.S. Highway 19 & 23 (downstream crossing).	*2,[illegible]
North Hominy Creek.	Approximately 1,000 feet upstream of S.R. 1601.	*2,585
West Fork Pigeon River.	Approximately 150 feet downstream of U.S. Highway 276.	*2,[illegible]
East Fork Pigeon River.	Just upstream of U.S. Highway 276 at downstream crossing.	*2,[illegible]
	Just upstream of U.S. Highway 276 at its second crossing of the river located approximately 350 feet upstream of the confluence of Lemon Creek.	*2,741

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: October 24, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-29679 Filed 10-28-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 27

[Docket No. 56b; Notice No. 83-17]

Nondiscrimination on the Basis of Handicap in Programs Receiving Financial Assistance From the Department of Transportation

AGENCY: Office of the Secretary, DOT.

ACTION: Extension of comment period.

SUMMARY: Section 504 of the Rehabilitation Act of 1973 provides that "no otherwise qualified handicapped individual * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance * * *." The Department is currently implementing this statute in the mass transit area through an interim final rule. On September 8, 1983, the Department published a notice of proposed rulemaking seeking public comment on a proposal to replace the interim final rule. A number of handicapped individuals and groups representing handicapped persons have asked the Department to extend the comment period. This notice extends the public comment period on the proposed rule, originally scheduled to end on November 7, 1983, until December 8, 1983.

DATES: Comments should be received in the Department by December 8, 1983.

ADDRESS: Comments should be addressed to Docket Clerk, Docket 56b, Department of Transportation, Room 10105, 400 7th Street, SW., Washington D.C. 20590. Comments will be available for review by the public at this address from 9:00 a.m. through 5:30 p.m., Monday through Friday. Commenters wishing acknowledgement of their comments should include a stamped, self-addressed postcard with their comment. The Docket Clerk will time and date stamp the card and return it to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10105, 400 Seventh Street, SW., Washington, D.C. 20590. 202/426-4723. Hearing-impaired persons may contact Mr. Ashby by using TTY (202) 755-7687. The NPRM has been taped for the use of visually-impaired persons.

SUPPLEMENTARY INFORMATION: On September 8, 1983, the Department of Transportation published a notice of proposed rulemaking (NPRM) to carry out section 504 of the Rehabilitation Act of 1973 in the context of the Department's financial assistance programs for urban mass transportation. The NPRM proposed provisions to replace a 1981 interim final rule on the same subject. The new proposal is also intended to comply with section 317(c) of the Surface Transportation Assistance Act of 1982, which directed the Department to publish a new section 504 regulation including, among other features, minimum criteria for the provision of transportation services to handicapped and elderly individuals.

The Department originally established a 60-day comment period for the NPRM, which was scheduled to end on November 7. However, a number of handicapped individuals and groups representing handicapped persons have asked the Department to extend the comment period. They have advanced two reasons for their request. First, because of the complexity of the subject matter, handicapped persons and their organizations need more time to study the issues and respond. Second, individuals with handicaps relating to communication or whose handicaps otherwise make it more difficult or time-consuming for them to learn about and gather information to respond to a regulatory proposal should have additional time to prepare comments. In addition, members of Congress have also requested that we extend the comment period.

The Department agrees that a 30-day extension is warranted. Therefore, this notice extends the comment period on the NPRM through December 8, 1983.

Issued this 25th day of October, 1983, at Washington, D.C.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 83-29483 filed 10-28-83; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Camissonia benitensis (San Benito evening-primrose)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the San Benito evening-primrose (*Camissonia benitensis*) to be an Endangered species. This action is being taken because plants are being destroyed and the habitat of this species is undergoing severe modification by heavy off-road vehicle (ORV) use. The San Benito evening-primrose only occurs in parts of the Clear Creek and San Carlos Creek drainages, between Hernandez and New Idria, San Benito County, California. The species exists only as a few scattered populations on serpentine alluvial terraces in these two drainages. The proposed rule would provide protection to wild populations of this species.

DATES: Comments from the public must be received by December 30, 1983. Requests for a public hearing must be received by December 15, 1983.

ADDRESSES: Interested persons or organizations are requested to submit comments to: Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232. Comments and materials relating to this rule are available for public inspection by appointment during normal business hours at the Service's Regional Office at the above address.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed rule, contact Mr. Sanford Wilbur, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232 (503/231-6131).

SUPPLEMENTARY INFORMATION:

Background

This plant is a small, hairy, annual member of the evening-primrose family (Onagraceae) with bright yellow flowers. It grows on alluvial terraces along Clear Creek and San Carlos Creek, San Benito County, California, at 2,500–4,600 feet (760–1,340 meters) elevation. Although the species has never been observed growing on sites other than the alluvial terraces, it is not known whether it can grow on serpentine uplands. It has only a moderate reproductive potential under favorable conditions, apparently is not aggressive or weedy, and is very susceptible to trampling. In May of 1979, a total of only 70 plants were observed to flower. A field examination by U.S. Fish and Wildlife Service personnel in April of 1980 revealed that the plants on Clear Creek numbered perhaps 200 to 300 at a single small location. This site was completely unprotected and numerous tire tracks crisscrossed the area. A second location (first observed in 1978 by Bureau of Land Management (BLM) personnel) had been severely altered by off-road vehicle (ORV) activity, and no plants were observed. The San Carlos Creek site was inaccessible at the time, due to impassable road conditions. Observations in 1982–83 revealed a few scattered populations in the two drainages. The total population is estimated at fewer than 1,000 plants in any given year, all restricted to very vulnerable sites. the primary threat to this species is very heavy recreational use of the alluvial terraces along Clear Creek (Griffin, pers. comm.). ORV activities in the Clear Creek drainage are extremely disruptive to the local landscape, and it appears that the most attractive sites for ORV and camping activities are also the most favorable sites for the plant (Griffin, 1977). *Camissonia benitensis* was first collected by Peter H. Raven in 1960 and later described by him in 1969 (Contributions U.S. Natl. Herb. 37:332–3).

The U.S. Fish and Wildlife Service was petitioned on August 5, 1977, by Ms. Alice Q. Howard of the California Native Plant Society's Rare Plant Project Committee to place the San Benito envening-primrose on the U.S. list of Endangered plants with designation of Critical Habitat. Accompanying this petition was a detailed account of this species and its status prepared by Dr. James R. Griffin of the University of California, Hastings Natural History Reservation. The species was subsequently included in a December 15, 1980, notice of review of plant species for listing under the Act (45 FR 82480). We now find that the petitioned action is warranted as to determination of Endangered status and hereby publish the proposed rule to implement the action in accord with Section 4(b)(3)(B)(ii) of the Act. For reason of hazards posed to the species more fully explained below, we have found that the designation of Critical Habitat for this species is not prudent.

Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations implementing the listing provisions of the Act (codified at 50 CFR Part 424, under revision to comply with 1982 amendments) set forth the factors to be considered in determining whether any species is an Endangered species or a Threatened species. These factors, and their application to the San Benito evening-primrose, are as follows:

A. *The present or threatened destruction, modification, or curtailment*

of its habitat or range. Portions of the Clear Creek population have been adversely affected by ORV activities. In May of 1979, a significant portion of this locale was heavily impacted by ORV traffic that resulted in a substantial loss of both habitat and individual plants (Marcus, 1979). The upper San Carlos Creek site is offered a degree of administrative protection because of its location within the San Benito Mountain Natural Area. The area has been withdrawn from mineral entry and is closed to ORV use, but there is no physical barrier to keep ORV's from the site. Consequently, both locations are extremely vulnerable. Since this plant species may be represented by fewer than 1,000 individuals in any given year, reductions at either site would be significant to the population as a whole. Continued ORV use in the area presents an imminent threat to the plant's continued existence.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable to this species.

C. *Disease or predation* (including grazing). Grazing occurs on limited portions of the private lands in the area from which the species is known. However, suitable grazing areas are generally not located on the serpentine terraces that support *Camissonia benitensis.*

D. *The inadequacy of existing regulatory mechanisms. Camissonia benitensis* is not, at this time, listed as rare or endangered by the State of California and is therefore not subject to State law. The BLM, which recognizes ORV activities as a legitimate use of public lands in this area, does not presently restrict such activities in order to protect this species or its habitat. Listing under the Act will aid in the conservation of this species through interagency cooperation under Section 7. Moreover, Section 9(a)(2)(B) of the Act prohibits removing and reducing to possession any Endangered plant from areas under Federal jurisdiction.

E. *Other natural or manmade factors affecting its continued existence.* Many species of *Camissonia* and the related genus *Oenothera* are known to have specific bee of the genus *Andrena* (family Andrenidae). If *C. benitensis* has such a pollinator, ORV activity may be disruptive to the nesting sites of these ground nesting solitary bees, thereby posing another serious threat to the plant.

Critical Habitat

The Act defines "Critical Habitat" as: "* * *(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to conservation of the species and (II) which may require special management consideration or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed in accordance with the provisions of Section 4 of the Act, upon a determination by the Secretary that such areas are essential for the conservation of the species."

The Act, as amended, requires that Critical Habitat be designated to the maximum extent prudent and determinable at the time a species is listed. The Service considers designation of Critical Habitat to be prudent when such designation will benefit the species involved. In the present case, both the Service and BLM believe that publication of specific areas in which *Camissonia benitensis* occurs would be likely to expose the species to an increased threat of vandalism, which would be difficult to control under existing authorities. Consequently, no Critical Habitat is proposed for this plant species.

Available Conservation Measures

Regulations at 50 CFR 17.61 set forth a series of general trade prohibitions and exceptions that apply to all Endangered plant species. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, ship in interstate or foreign commerce in the course of a commercial activity, or sell this species, or offer it for sale in interstate or foreign commerce. It also would be illegal to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any such plant. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered plant species under certain circumstances. Regulations governing permits are at 50 CFR 17.62 and 17.63. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available. There is no known commercial trade in *Camissonia benitensis* and the Service anticipates few, if any, requests for such permits.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits removal and reduction to possession of any Endangered plant on areas subject to Federal jurisdiction. This prohibition would apply to *Camissonia benitensis.* Permits for exceptions to this provision are available under Section 10(a) of the Act, following the general approach of 50 CFR Section 17.62 until revised regulations are promulgated.

Federal agencies must informally confer with the Secretary on any agency action judged likely to jeopardize the continued existence of any species proposed to be listed under Section 4. This requirement now applies to *Camissonia benitensis.* Apart from informal conference, however, none of the substantive provisions of the Act apply to a species that has only been proposed for listing.

If adopted as a final rule, this proposal would require Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of *Camissonia benitensis.* Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

The Service will review this species to determine whether it should be considered for placement on the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and whether it should be considered under other appropriate international agreements.

Public Comments Solicited

The Service intends that any rules finally adopted should be as accurate and effective as possible in the conservation of Endangered or Threatened species. Therefore, comments or suggestions concerning any aspect of these proposed rules are hereby solicited from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party. Comments are particularly sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act; and

(3) Additional information concerning the range and distribution of this species.

Final promulgation of a regulation on *Camissonia benitensis* will take into consideration the comments and any additional information received by the Service, and such communications may

lead to a final regulation that differs from this proposal.

The Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

Primary Author

The primary author of this rule is Monty Knudsen, Endangered Species Staff, U.S. Fish and Wildlife Service, 1230 "N" Street, 14th Floor, Sacramento, California 95814 (916/440–2791).

References

Griffin, J. R. 1977. Status report for *Camissionia benitensis*. Unpub. Rept. California Native Plant Society.

Griffin, J. R. 1978. Survey of Rare and Endangered Plants of the Clear Creek Recreation Area. Report to Folsom District Manager, BLM, No. CA–040–PH8–078.

Marcus, D. 1979, Inventory of Rare and Endangered Plants of the Folsom District (BLM). Status report for *Camissonia benitensis*. BLM Contract report, unpub.

Raven, P. H. 1969. A revision of the genus *Camissonia* (Onagraceae). Contr. U.S. Natl. Herb. 37:332–3.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is proposed to amend Section 17.12 of Part 17 of Subchapter B of Chapter I of Title 50 of the U.S. Code of Federal Regulations as set forth below:

1. The authority citation is as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–623, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1241; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

§ 17.12 [Amended]

2. It is proposed to amend Section 17.12(h) by adding, in alphabetical order, by family and genus, the following to the List of Endangered and Threatened Plants:

* * * * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Onagraceae—Evening-primrose family						
Camissonia benitensis	San Benito evening-primrose	U.S.A. (CA)	E		NA	NA
*	*	*	*	*		

Dated: September 29, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-28977 Filed 10-28-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 31025–208]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule-related notice; 1984 quotas and request for comments.

SUMMARY: NOAA issues a notice of proposed quotas for the surf clam and ocean quahog fisheries for 1984 and requests public comment. These quotas have been selected from a range defined as the optimum yield for each fishery. The intended effect of this action is to establish allowable harvests of surf clams and ocean quahogs from the fishery conservation zone in 1984; proposed quotas are the same as those for 1983.

EFFECTIVE DATE: Comments will be accepted until November 30, 1983.

ADDRESS: Comments should be sent to the Management Division, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930–3097. A copy of the report on establishing the quotas is available for public inspection at this address; copies may be requested in writing.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Surf Clam Management Coordinator, 617–281–3600.

SUPPLEMENTARY INFORMATION: Amendment 3 of the Fishery Management Plan for the Surf Clam and Ocean Quahog Fisheries was implemented by final regulations published on January 29, 1982 (47 FR 4268). One of the provisions of the amendment directs the Secretary of Commerce (Secretary), in consultation with the Mid-Atlantic Fishery Management Council, to specify quotas for surf clams and ocean quahogs on an annual basis from within ranges which have been identified as optimum yield for each fishery.

To implement this regulatory provision for establishing quotas, the Regional Director has considered the following information: stock assessments, catch records and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, incoming recruitment, projected effort and catches, and areas likely to be reopened to fishing.

Proposed quotas based on that information are published here for public review and comment; a copy of the report on the methodology used in establishing these quotas is available to the public.

Analyses of stock assessments, catch records, and all other relevant information, indicate there is no change in the status of surf clam and ocean quahog stocks from that of 1983; therefore, the following 1984 quotas are not changed from the quotas established for the fisheries for calendar year 1983:

Fishery	1984 Quota in bushels
New England Surf Clam	100,000
Mid-Atlantic Surf Clam	2,350,000
Ocean Quahog	4,000,000

At the present time, no large scale area reopenings have been planned for 1984. However, significant numbers of surf clams from the 1976 and 1977 year classes off New Jersey and the Delmarva Peninsula are expected to reach minimum legal sizes during the coming fishing season. If the size distribution of clams in any of the three

areas presently closed suggests reopening would be appropriate, public hearings will be held on a suitable reopening proposal.

Comments on these proposed quotas will be accepted for 30 days. Comments will be considered by the Secretary, who will determine appropriate final annual quotas for each fishery and publish those quotas in the Federal Register.

Other Matters

This action is taken under the authority of 50 CFR 652.21 and is taken in compliance with Executive Order 12291. The action is covered by the certification for Amendment 3 to the Fishery Management Plan for the Surf Clam and Ocean Quahog Fisheries, under the Regulatory Flexibility Act, that the authorizing regulations do not have a significant economic impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 652

Administrative practice and procedure, Fish, Fisheries, Reporting requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: October 26, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29473 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 663

[Docket No. 31014-200]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to amend the rules implementing the Fishery Management Plan for Pacific Coast Groundfish Fishery. This rulemaking clarifies two measures in § 663.26, Gear restrictions. It clarifies that the mesh of a trawl codend will be measured in the last 50 meshes of the net, and further specifies that a roller or bobbin trawl must have at least two 14-inch bobbins or rollers equally spaced on each side within 10 feet of the center of the footrope of the net. This rule will eliminate differences of interpretation and clarify the understanding of and compliance with the groundfish regulation.

DATE: Comments on this proposed rule will be accepted until December 15, 1983.

ADDRESSES: Send comments to H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, Bin C15700, Seattle, Washington 98115, or Floyd S. Anders, Jr., Acting Director, Southwest Region, National Marine Fisheries Service, 300 Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206-527-6150, or Floyd S. Anders, Jr., 213-548-2575.

SUPPLEMENTARY INFORMATION: Final implementing regulations for the Pacific Coast Groundfish Fishery, Fishery Management Plan (FMP) were published on October 5, 1982 (47 FR 43964). These regulations include gear restrictions for various kinds of trawl nets at § 663.26, Gear restrictions. These gear restrictions were recommended by a subcommittee appointed by the Pacific Fishery Management Council (Council) for this specific purpose. The subcommittee, composed primarily of fishermen, developed gear definitions, which were accepted essentially verbatim by the Council, and used in the implementing regulations.

However, some fishermen are presently having difficulty understanding and complying with the regulations and have indicated that further clarification of § 663.26(b) (2) and (7) is needed. The Council's subcommittee on legal gear was reactivated to clarify these definitions. The subcommittee recommended that (1) Mesh measurements are to be taken in the codend which should be clarified in the definition as the last fifty meshes of a trawl net, and (2) that a roller or bobbin trawl be further defined as having at least two 14-inch rollers or bobbins equally spaced on each side of the footrope within 10 feet of the center of the footrope, and that these rollers or bobbins be free to turn.

The codend clarification is needed so that fishermen will know that mesh size restrictions apply specifically to the codend, rather than the entire net. The subcommittee acknowledge that most of the escapement of small fish through the webbing occurs in the codend. Therefore, that part of the net should be defined to ensure compliance with mesh size requirements.

Part of the purpose of a roller or bobbin trawl is to raise the footrope off the sea bed so that flatfish (soles and flounders) can pass under the footrope. To achieve this purpose, it is necessary to have a minimum of four 14-inch rollers within 20 feet of the center of the net. This requirement was not made clear in the final regulations and clarification is needed now.

Classification

The Northwest Regional Director of the National Marine Fisheries Service (Regional Director) has determined that this proposed rule is consistent with the intent of the FMP and the implementing regulations.

This proposed rule is intended to clarify the existing regulations but does not change their intent, and is therefore within the range of alternatives analyzed in the final environmental impact statement (FEIS) for the Pacific Coast Groundfish Plan approved in 1982. Accordingly, a supplemental EIS is not required. The 1982 FEIS is on file with the Environmental Protection Agency.

This proposed rule does not entail any Federal collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3507.

A regulatory impact review (RIR) which accompanied the final regulations concluded that they were not major under E.O. 12291. That document also served as the regulatory flexibility analysis (RFA) required by the Regulatory Flexibility Act. The final RIR/RFA is available at the address above.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: October 26, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 663—[AMENDED]

For the reasons set out in the preamble, 50 CFR Part 663 is proposed to be amended as follows:

1. The authority citation for Part 663 is as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 663.26, paragraphs (b)(2) and (b)(7) are revised to read as follows:

§ 663.26 Gear restrictions.

* * * * *

(b) * * *

(2) *Mesh size.* Trawl nets may be used if they meet the minimum sizes set forth below. The minimum sizes apply to the last fifty meshes running the length of the net to the terminal (closed) end of the codend. Minimum trawl mesh size requirements are met if a stainless steel wedge can be passed with thumb pressure only through 16 of 20 sets of

two meshes each of wet mesh in the codend.

* * * * *

(7) *Roller trawl or bobbin trawl.* In the Eureka, Columbia, and Vancouver Subareas, if trawl mesh size less than 4.5 inches is used, rollers or bobbins must be at least 14 inches in diameter and free to rotate, with at least 2 rollers or bobbins equally spaced on each side of the footrope within 10 feet of the center of the footrope of the net.

* * * * *

[FR Doc. 83-29618 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-22-M

VOL 48 ISS 211 OCT 31 1983 UMI

Notices

Federal Register
Vol. 48, No. 211
Monday, October 31, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

Petitions by Producing Firms; Determinations of Eligibility To Apply for Trade Adjustment Assistance; Cochrane Furniture Company; Inc., et al.

Petitions have been accepted for filing from the following firms: (1) Cochrane Furniture Company, Inc., P.O. Box 220, Lincolnton, North Carolina 28092, producer of wood furniture (accepted September 19, 1983); (2) Equipment Manufacturing, Inc., 21550 Hoover Road, Warren, Michigan 48089, producer of metal shipping containers and pallet racks (accepted September 19, 1983); (3) Dumore Corporation, 1300 17th Street, Racine, Wisconsin 53403, producer of drill and grinding equipment and motors (accepted September 21, 1983); (4) Universal Foundry Company, 495 Pearl Avenue, Oshkosh, Wisconsin 54901, producer of iron and aluminum castings (accepted September 21, 1983); (5) Winslow Manufacturing Corporation, 9630 N.E. Lafayette Street, Bainbridge Island, Washington 98110, producer of fishing rods and blanks (accepted September 22, 1983); (6) Valpey-Fisher Corporation, 75 South Street, Hopkinton, Massachusetts 01748, producer of electronic components (accepted September 26, 1983); (7) Draper Corporation, P.O. Box 18100, Greensboro, North Carolina 27419, producer of textile machinery and parts, and metal castings (accepted September 26, 1983); (8) M & S Industries, Inc., 1501 N.E. 106th Street, Vancouver, Washington 98665, producer of overlaid plywood (accepted September 26, 1983); (9) Delano Granite, Inc., 265 North River Street, Delano, Minnesota 55328, producer of structural granite (accepted September 27, 1983); (10) Arc Knitwear Mills, Inc., 32 33rd Street, Brooklyn, New York 11232, producer of knit fabric (accepted September 27, 1983); (11) Frank J. Calarco and Sons, P.O. Box 85, Oakfield, New York 14125, producer of onions (accepted September 27, 1983); (12) Marky's Wholesale Potatoes, Inc., 5806 Oak Orchard Road, Elba, New York 14058, producer of potatoes, onions and cabbage (accepted September 27, 1983); (13) General Automotive Specialty Company, Inc., P.O. Box 3042, North Brunswick, New Jersey 08902, producer of automotive switches and locks (accepted September 28, 1983); (14) Black Horse, Inc., of Puerto Rico, P.O. Box 265, Guaynabo, Puerto Rico 00657, producer of men's and boys' belts (accepted September 29, 1983); (15) Kiowa Corporation, 610 South 12th Avenue, Marshalltown, Iowa 50158, producer of metal die castings (accepted September 29, 1983); (16) Hamlin Overton Frame Company, Inc., 125 Elkenburg Street, South Haven, Michigan 49090, producer of wood racks, picture frames, shelves, trays, and other wood products (accepted September 29, 1983); (17) Rudd Plastci Fabrics Corporation, P.O. Box 206, Brooklyn, New York 11220, producer of vinyl fabric (accepted September 30, 1983); (18) Albany International Industries, Inc., P.O. Box 788, Albany, Oregon, producer of sawmill equipment, parts and accessories (accepted September 30, 1983); (19) Tulsa Power Products, Inc., 11130 East 56th Street South, Tulsa, Oklahoma 74146, producer of cable handling equipment and strobe lights (accepted September 30, 1983); (20) Key Largo Fan Company, Inc., 7535 W. 4th Avenue, Hialeah, Florida 33014, producer of ceiling fans and accessories (accepted October 5, 1983); (21) Christen, Incorporated, 59 Branch Street, St. Louis, Missouri 63147, producer of fireplace equipment, barbecue tools and accessories (accepted October 5, 1983); (22) Ithaca Gun Company, Inc., 123 Lake Street, Ithaca, New York 14850, producer of rifles and shotguns (accepted October 5, 1983); (23) E. V. Camp Steel Works, Inc., P.O. Box 5570, Atlanta, Georgia 30332, producer of steel castings (accepted October 6, 1983); (24) Pilgrim Sportswear, Inc., 350 Fifth Avenue, Suite 5301, New York, New York 10001, producer of children's shirts, pants and playwear (accepted October 7, 1983); (25) Berwick Lighting Corporation, 335 S. Poplar Street, Berwick, Pennsylvania 18603, producer oflamps (accepted October 7, 1983); (26) Chipmunk Hollow Product Designs, Inc., 245 Delware Street, Walton, New York 13856, producer of racks, shelves and other wood products (accepted October 7, 1983); (27) K. G. Knitting Mills, Inc., 703 Bedford Avenue, Brooklyn, New York 11206, producer of women's and children's sweaters (accepted October 7, 1983); (28) Himalayan Industries, Inc., 301 Mulberry Street, Pine Bluff, Arkansas 71601, producer of backpacks, luggage, sleeping bags, men's coats, jackets, vests, pants, face masks and gloves (accepted October 11, 1983); (29) Penn Tables, Inc., 325 Meyers Avenue, Meyersdale, Pennsylvania 15552, producer of table and desk tops (accepted October 11, 1983); (30) Cut, Make and Trim, Inc., 227 Lone Star Boulevard, San Antonio, Texas 78204, producer of women's and children's dresses and blouses (accepted October 11, 1983); (31) Vendome Headwear, Inc., 65 Bleecker Street, New York, New York 10012, producer of headwear (accepted October 11, 1983); (32) Kunzmann chain Company, P.O. Box 170, Warwick, Rhode Island 02887, producer of jewelry chains (accepted October 11, 1983); (33) J.P. Tanning Company, Inc., 371–373 Rivers Street, Haverhill, Massachusetts 01830, producer of leather (accepted October 11, 1983); (34) Lone Star Screw Company, P.O. 15211, Houston, Texas 77020, producer of industrial fasteners (accepted October 12, 1983); (35) Liquid Drive Corporation, P.O. Box 207, Holly, Michigan 48442, producer of power transmission equipment (accepted October 12, 1983); (36) Marantz Piano Pompany, Inc., P.O. Box 460, Morganton, North Carolina 28655, producer of pianos, furniture and electronic signs (accepted October 12, 1983); (37) Middle Atlantic Textile, Inc., Star Route, Box 16–C, Emporia, Virginia 23847, producer of children's dresses and tops (accepted October 12, 1983); (38) Arista Novelty Print Company, Inc., 25 Saw Mill River Road, Yonkers, New York 10701, producer of printed fabric, plastic and paper (accepted October 12, 1983); (39) Spaulding Instruments, 1869 Business Center Drive, Duarte, California 91010, producer of machine tool components (accepted October 12, 1983); (40) Hayes Equipment Corporation, 150 New Britain Avenue, Unionville, Connecticut 06085, producer of stoves, trailers and metal stampings (accepted October 12, 1983); (41) Altshule Sales Company, Inc., 533 South Los Angeles Street, Los Angeles,

California 90013, producer of sports bags, luggage, men's and women's jackets and pants, and ski accessories (accepted October 12, 1983); (42) The Bob Allen Companies, Inc., 214 S. W. Jackson Street, Des Moines, Iowa 50315, producer of luggage, sports bags, portifolios, belts, men's and women's jackets, vests, pants, caps and mittens (accepted October 12, 1983); (43) Denim Evolution, Inc., P.O. Box 341, Boulder, Colorado 80306, producer of men's vests and jackets, and women's skirts, vests, jackets and dresses (accepted October 12, 1983); (44) Pacific Grinding Wheel Company, Inc., P.O. Box Marysville, Washington 98270, producer of grinding wheels (accepted October 13, 1983); (45) C & D Marketing, Inc., 4403 Russell Road, Lynnwood, Washington 98036, producer of three wheel vehicles, trailers and pumps (accepted October 13, 1983); (46) Mountain Chemicals, Inc., 16035 W. 4th Avenue, Golden, Colorado 80401, producer of industrial chemicals (accepted October 13, 1983); (47) Empire State Mills Corporation, 22–61 45th Street, Astoria, New York 11105, producer of knitted fabric (accepted October 14, 1983); (48) Roundwood Corporation, P.O. Box 13269, Florence, South Carolina 29504, producer of hardwood dowels (accepted October 17, 1983); (49) The Oeser Company, P.O. Box 156, Bellingham, Washington 98225, producer of treated poles and softwood lumber (accepted October 17, 1983); (50) Circle Jewelry Products, Inc., 148 West 24th Street, New York, New York 10011, producer of costume jewelry (accepted October 19, 1983); (51) Diener Industries, Inc., 20257 Prairie Street, Chatsworth, California 91311, producer of toy figurines and erasers (accepted October 20, 1983); (52) Michigan Instruments Corporation, 55 Sanford Street, East Orange, New Jersey 07018, producer of scissors (accepted October 20, 1983); and (53) Werner Industries, Inc., 29130 Northline Road, Romulus, Michigan 48174, producer of screw machine products.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceeding may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Insofar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 83–29461 Filed 10–28–83; 8:45 am]

BILLING CODE 3510–DR–M

[A–580–010]

Antidumping; Preliminary Determination of Sales at Less Than Fair Value; Certain Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain rectangular welded carbon steel pipes and tubes (RWPT) from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value. We have notified the United States International Trade Commission (ITC) of our determination, and we have directed the United States Customs Service to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by January 9, 1984.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Terry Link, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–0189.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that there is a reasonable basis to believe or suspect that RWPT from Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

We have found that the foreign market value of RWPT exceeded the United States price on 50 percent of the sales. These margins ranged from 0.459 percent to 15.912 percent. The overall weighted-average margin on all sales compared is 3.699 percent.

If this investigation proceeds normally, we will make our final determination by January 9, 1984.

Case History

On July 14, 1983, we received a petition filed by counsel for the Committee on Pipe and Tube Imports (CPTI). The CPTI represents the following domestic manufacturers of rectangular welded carbon steel pipes and tubes: Allied Tube and Conduit Corp.; American Tube Co., Inc.; Bull Moose Tube Co.; Copperweld Tubing Group; Kaiser Steel Corp.; Merchants Metals, Inc.; Pittsburgh-International; Southwestern Pipe, Inc.; and Western Tube and Conduit. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alledged that RWPT from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on August 3, 1983 (48 FR 36502). On August 29, 1983, the ITC found that there is a reasonable indication that imports of certain RWPT are materially injuring, or are threatening to materially injure, a United States industry.

A questionnaire was presented to Union Steel Manufacturing Co., Ltd. (Union) on August 4, 1983. Union, a producer of the subject merchandise, accounts for approximately 97 percent of the exports to the United States during the period of investigation. The response was received on September 12,

1983. A supplemental questionnaire was sent to counsel for Union on September 16, 1983, and the response was received September 28, 1983.

On October 18, 1983, the petitioner alleged that home market sales of RWPT are being made at less than the cost of production in Korea. Since we did not receive this allegation in time for consideration in our preliminary determination, we will investigate whether home market sales of RWPT are being made at prices which are less than their costs of production for our final determination.

Scope of the Investigation

The merchandise covered by this investigation is certain rectangular welded carbon steel pipes and tubes, which are defined for purposes of this proceeding as: welded carbon steel pipes and tubes, of rectangular (including square) cross section, currently provided for in items 610.3955 and 610.4975 of the *Tariff Schedules of the United States Annotated* (1983).

We investigated sales of RWPT by Union during the period from February 1, 1983, to July 31, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for sale by Union, because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the f.o.b., c.i.f. or c. & f., packed price. We made deductions, where appropriate, for Korean inland freight, ocean freight, foreign marine insurance, foreign brokerage and handling, and testing and inspection fees.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market sales.

We calculated home market prices based on c. & f. or ex-factory, packed prices on shipped merchandise to unrelated distributors. From these prices we deducted, where appropriate, inland freight and debates. We made circumstances of sale adjustments for intransit warehousing and for differences between U.S. and home market credit costs, in accordance with section 353.15 of the Commerce Regulations. We also deducted home market packing cost and added the cost of U.S. packing, pursuant to 773(a)(1) of the Act.

We have preliminarily determined that two types of merchandise subject to this investigation, Korean Standard 3568 and Union Standard, are "such or similar" to ASTM A–500 rectangular welded carbon steel pipes and tubes sold in the United States, in accordance with the provisions of section 771(16) of the Act.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation on RWPT from Korea which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer	Weighted-average margin percentage
Union Steel Manufacturing Co., Ltd	3.699
All Other Manufacturers/Producers/Exporters	3.699

Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 1 p.m. on December 15, 1983, at the United States Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by December 9, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46 within 30 days of publication of this notice, at the above address and in at least 10 copies.

Dated: October 24, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-29529 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-DS-M

[C–565–001]

Canned Tuna From the Philippines; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the Philippines of canned tuna, as described in the "Scope of Investigation" section of this notice. The net bounty or grant is 0.72 percent *ad valorem*.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel or Melissa G. Skinner, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377–3464 or 377–3530.

SUPPLEMENTARY INFORMATION:

Final Determination and Order

Based upon our investigation, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in the Philippines of canned tuna as described in the "Scope of Investigation" section of this notice. We determine the net bounty or grant is 0.72 percent *ad valorem*.

Case History

On March 11, 1983, we received a petition in proper form from the Tuna Research Foundation, Inc., on behalf of the U.S. industry producing canned tuna. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in the Philippines of canned tuna.

Since the Philippines is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. Under this section, since the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on March 31, 1983, we initiated a countervailing duty investigation (48 FR 15505).

On April 20, 1983, we presented a questionnaire concerning the allegations to the government of the Philippines at its embassy in Washington, D.C. Subsequently, on May 23, 1983, we determined that the case was "extraordinarily complicated" within the meaning of 703(c)(1)(B) of the Act, and we published a notice of the postponement of the preliminary countervailing duty determination (48 FR 22976). On June 17, 1983, we received the responses to the questionnaire. Verification of the responses was conducted July 5–20, 1983, in the Philippines.

Of the eight producers which responded to the questionnaire, we selected for verification the six companies which accounted for 85 percent, by value, of exports to the U.S. The six companies were: Century Canning Corp., Judric Canning Corp., Philippine Tuna Canning Corp., Pure Foods Corp., Sancanco Canning Corp., and Premier Industrial & Development Corporation (Premier). We verified at the company and government levels the responses of the six companies, except Premier, which refused to cooperate. One additional exporter, Ayala, was discovered during verification and information for that company was collected. We conducted an additional verification in September of Mar Fishing Co., South Pacific Export Company, and Premier Industrial & Development Corporation. In addition, we verified new information received from several of the previously verified companies.

We issued an affirmative preliminary determination on August 8, 1983 (48 FR 37051). We preliminarily determined that there was reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of the Act, are being provided to manufacturers, producers, or exporters in the Philippines of canned tuna. We preliminarily determined the net bounty or grant was 1.30 percent *ad valorem*. The programs preliminarily determined to bestow countervailable benefits were: preferential short-term rediscounted loans, certain tax incentives available under the Omnibus Investments Code, including tax deduction for expansion reinvestment, tax deduction for direct labor costs and local raw materials, tax exemption on imported capital equipment and a tax deduction for export trading companies.

We directed the U.S. Customs Service to suspend liquidation of all entries of the product subject to the preliminary determination which were entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or the posting of a bond on this product in an amount equal to the estimated net bounties or grants.

Our notice of preliminary determination gave interested parties an opportunity to submit oral or written views. We held a public hearing at which representatives of the Philippine government, counsel for the petitioners, respondents and interested parties participated.

Scope of Investigation

The product covered by this investigation is tuna packed or preserved in any manner, not in oil, in airtight containers. The merchandise is currently classified under item numbers 112.3020, 112.3040, and 112.3400 of the *Tariff Schedules of the United States Annotated* (TSUSA).

The Ayala Corporation, Century Canning Corp., Judric Canning Corp., Mar Fishing Corp., Philippine Tuna Canning Corp., Premier Premier Industrial & Development Corporation, Pure Foods Corp., Sancanco Canning Corp., and South Pacific Export Company are the only known producers and exporters in the Philippines of the subject product exported to the United States. Two companies referred to in the petition (Diamond Seafood Corp. and Santa Monica Canning Corp.) were not producers or exporters of tuna during the period for which we are measuring subsidization, which is the 1982 calendar year or 1982 corporate fiscal year, as appropriate.

Analysis of Programs

Based upon our analysis of the petition, the responses to our questionnaire, two verifications, the hearing and comments by interested parties, we have determined the following:

I. Programs Determined to Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in the Philippines of canned tuna under the programs of the government of the Philippines listed below.

A. *Preferential Export Loans.* The petition alleges benefits in the form of preferential loans provided through the Central Bank's operation of a loan rediscounting facility. The Department requested from each of the companies under investigation information on all loans outstanding during the period for which we are measuring subsidization.

The export packing credit (EPC) program is a rediscounting program offered by the Central Bank of the Philippines which provides credit on eligible paper with original maturity of one year or less. Upon receipt of a letter of credit, an exporter may request from a commercial bank a loan predicated on the letter of credit, to finance working capital and other requirements. Exporters are charged a maximum interest rate of 12 percent, including fees. The Central Bank rediscounts up to 80 percent of the letter of credit at a rate of three percent. During the period of investigation, the maximum commercial interest rate for non-rediscounted paper was 18 percent. This program is government directed and controlled, available solely to exporters, and provides for interest rates that are less than those for comparable commercially available loans. Therefore, we determine that this program confers a bounty or grant upon exporters of canned tuna.

The benefit provided by this program was calculated by taking the difference between the actual interest paid by the

companies on export packing credits predicated on exports of tuna not in oil and the amount of interest they would have paid using a comparable commercial interest rate. Since we could not identify a national average commercial interest rate, we used as our benchmark the average interest rate on all short-term loans, other than export packing credits, outstanding for all the tuna companies in the Philippines in 1982. This benchmark was compared to the average interest rate paid by each company on its EPCs. All but two companies paid an average interest rate below the benchmark. We took the difference between the two interest rates and applied it to the annualized principal amount of EPCs. The resulting figure was the amount of benefit for all exports. We then multiplied that benefit amount by the percentage that that company's exports to the U.S. of canned tuna not in oil were of its total exports in order to determine the amount of benefit to be applied to U.S. sales. We allocated the amount of the benefit over the value of all exports to the U.S. of canned tuna, because export packing credits are available only to exporters. On this basis, we calculated an *ad valorem* benefit of 0.03 percent.

B. *Tax Incentives Available Under the Omnibus Investments Code.* The petition alleges that the Omnibus Investments Code (Code)—which provides a variety of investment incentives only to registered enterprises—confers bounties or grants. The allegation includes: (1) Incentives to registered enterprises (Article 45 of the Code); (2) incentives to registered export producers (Article 48 of the Code); and (3) incentives to registered export traders (Article 49 of the Code).

The Code, Presidential Decree No. 1789, establishes various tax incentives for the purpose of accelerating development of the economy of the Philippines by encouraging domestic and foreign investments in projects to develop various sectors of the economy, to achieve self-reliance in basic requirements of food and raw materials, to encourage exports of Philippines products and services, and for other purposes.

The Board of Investments (Board) is composed of five governors appointed by the President of the Philippines, and is responsible for administering the Code. In this regard, the Board prepares an annual Investment Priorities Plan (Plan) listing the "preferred areas of investment." These "areas" are areas of economic activity (rather than geographic areas) and firms operating in these areas are entitled to apply for incentives under the Code. The Board "registers" individual firms operating in the Philippines which wish to take advantage of incentives. The Code incentives are limited to firms which are "registered enterprises," "registered export producers," "registered export traders," or "registered service exporters." Registration generally is limited by government direction to firms in industries included in the Plan. The category "Processed food (fish and other seafood)," which includes canned tuna, is included in the 1982 Plan.

A "registered export producer" is defined in the Code as a registered producer which manufactures and exports or sells for export products that meet certain standards set by the Board. A "registered export trader" is defined as a registered export trading company that trades the product of registered export producers. We determine that the following incentives are provided to registered export producers and export traders under the Code and confer bounties or grants because they are contingent upon export performance and/or stimulate export over domestic sales.

One or more of the canned tuna registered export producers/export traders benefited from the following incentives during the period of investigation:

1. Article 48(b) provides a tax deduction for direct labor costs and local raw materials. A registered export producer may, for the first five years from the date of its registration or initial commercial operation, deduct from its total taxable income from domestic and export sales by its registered operations an amount equivalent to the direct labor costs of its domestic and export products and the local raw material costs incurred in the production of its export products. The total deduction may not exceed 25 percent of the company's total export revenue. One canned tuna producer used this incentive during the period for which we are measuring subsidization. The benefit is the tax savings which were claimed under this program on the tax return filed during the period of investigation.

2. Article 48(f) provides that, within seven years of the date of its registration, a registered export producer is exempt from payment of 100 percent of the tariff duties and compensating tax payable on imported capital equipment and accompanying spare parts, provided that it obtains advance Board approval for the importation. Two canned tuna producers used this benefit during the period for which we are measuring subsidization. The exemption for registered export producers under Article 48(f) is granted "under the same conditions provided for in Article 45(d) of this Code," which is discussed below in Section II of this final determination. The export subsidy, therefore, is the difference between the total amount of the exemptions allowed under Article 48(f) during the year for which we are measuring subsidization and the amount that would have been allowed (50 percent of the total) had the claim been filed under Article 45(d).

3. Article 49(d) provides a tax deduction to export trading companies. For the first five years from the date of its registration or initial commercial operation, a registered export trading company may deduct an amount equal to 20 percent of its total export sales. This deduction is made from taxable income attributable to all registered operations of the firm. However, the Board may apportion up to one half of this deduction to the registered export producer which is exporting through the registered trader. One canned tuna producer and one export trading company shared this benefit. The amount of the benefit is the tax savings which were claimed on the tax return filed during the period of investigation. The tax savings for one of these companies, however, was zero.

The benefits received under Articles 48(b), 48(f) and 49(d) constitute export subsidies and, as such, were allocated by taking the amount attributable to U.S. sales over total export sales of canned tuna to the U.S. The use of these export incentives resulted in a net bounty or grant of 0.69 percent *ad valorem.*

II. Programs Determined Not To Confer Bounties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers, or exporters in the Philippines of canned tuna under the following programs.

A. *Selected Articles of the Omnibus Investments Code.* 1. The petition alleges that Article 45 of the Code—which grants registered enterprises certain incentives—confers bounties or grants. We found at verification that nearly all industries in the Philippines, as classified at the four-digit level of the Philippine Standard Industrial Code (PSIC), are included in the 1982 Investment Priorities Plan. We determine that benefits granted by Article 45 are in law and practice available to more than a specific enterprise or industry or group of enterprises or industries in the Philippines. Therefore, none of the incentive programs available under

Article 45 are countervailable domestic subsidies. We also determine that the incentives available under Article 45 are not contingent on export performance and, therefore, are not export subsidies.

2. The petition also alleges that Article 48(a) of the Code confers bounties or grants. It allows registered export producers to receive tax credits equal to the sales, compensating and specific taxes and duties paid on the supplies, raw materials and semi-manufactured products used in the production of, even if not physically incorporated in, the exported products. In its response, the government of the Philippines stated that tax credits made available under this article are only for raw materials and semi-manufactured products used in production actually forming a part of the product. They further stated that supplies not physically incorporated in the product are not eligible for this tax credit. We verified that companies which used Article 48(a) had received this tax credit for taxes paid on materials physically incorporated in the exported product. Since the tax credit does not exceed taxes actually paid and the materials are physically incorporated in the product, we determine that Article 48(a) of the Code does not confer bounties or grants.

B. *Rediscounted Food Production Credits.* Article 1.2 of Central Bank Circular 784 also provides for another type of loan known as "unsupervised credits". The credits are given on basic food production and agricultural/industrial/commercial paper. Loans which are rediscounted by commercial banks with the Central Bank under this program are available to producers of canned tuna at a ceiling interest rate of 14 percent, including fees. One tuna company obtained food production credits. We verified that loans obtained under Article 1.2 are available to all industries in the Philippines. The fact that there are two subsections under Article 1.2 is only of historical significance, because Circular 784 codifies earlier programs. Article 1.2 is intrinsically one program to which all industries have equal access. It is broken down into subsections only so that companies eligible under the various older programs will know that those programs still exist.

C. *Marginal Deposit Requirements.* The petition alleges that the Central Bank's relaxed cash deposit requirement on letters of credit opened by Philippine importers confers bounties or grants. The Philippine government's response states that the relaxed marginal deposit requirement is a guideline issued by the Bankers Association of the Philippines (BAP). We verified that the BAP is an independent association which is not owned or controlled by the government. Since the BAP operates independently of the government and the Central Bank, and the guidelines reflect its commercial considerations, we determine that the BAP's guideline on relaxed marginal deposits does not confer bounties or grants.

D. *Philippine Export and Foreign Loan Guarantee Corporation.* The petition alleges that the Phillippine Export and Foreign Loan Guarantee Corporation (PHILGUARANTEE) confers bounties or grants through guarantees lowering the cost of credit available for Phillippine exports. Through PHILGUARANTEE, the government of the Philippines guarantees both local and foreign banking and financial inistitutions against any loss that may be incurred in connection with the grant of loans or credit accommodations to Philippine exporters or producers of export products. In its response the government of the Philippines stated that PHILGUARANTEE provides guarantees on bid, performance and advance payment bonds, as well as working capital loans. We verified that guarantees are available from private institutions at the same charges as from PHILGUARANTEE. Thus, we determine that guarantees provided by PHILGUARANTEE do not confer bounties or grants.

E. *Development Bank Loans.* The petition alleges that loans are granted at preferential interest rates to companies producing the products under investigation by the Development Bank of the Philippines, a government-owned bank. The Development Bank can grant loans to any company in the agricultural or industrial sectors, to municipalites and individuals. We verified that in practice the loans are available without restriction, and that the loans are available without restriction, and that the bank granted loans to one tuna producer only on the basis of commercial considerations. Thus, we determine that loans from the Development Bank do not confer bounties or grants.

III. Programs Determined Not To Be Used

We have determined that the following programs which were identified in the notice of "Initiation of Countervailing Duty Investigation, Canned Tuna from the Philippines" are not being used by the manufacturers, producers, or exporters in the Philippines of canned tuna:

A. Selected Articles of the Omnibus Investments Code.

1. The petition alleges that Article 45(a) of the Code confers a bounty or grant. Under this article, all enterprises registered with the Board of Investments may deduct from taxable income all capitalized organizational and pre-operating expenses, over not more than ten years from the beginning of operations. We verified that none of the companies deduct organizational and pre-operating expenses under 45(a) of the Code. Those companies which did take a deduction for pre-operating expenses did so under the Philippine Bureau of Internal Revenue regulations.

2. The petition alleges that Article 45(c) of the Code confers a bounty or grant. Under this article, a registered enterprise may carry forward all net operating losses incurred in any of the first ten years of operation. Such losses may be carried forward for six years immediately following the year in which the loss was incurred, and may be deducted from taxable income. We verified that no company under investigation has deducted losses under this article.

3. The petition alleges that Article 45(d) of the code confers bounties or grants. Article 45(d) allows registered producers a tax exemption on imported capital equipment in the amount of 50 percent of the tariff duties and compensating tax payable on imported capital equipment and accompanying spare parts. Article 48(f) provides registered export producers with a similar exemption. Two producers did receive a tax exemption on imported capital equipment. We verified that they took this exemption under Article 48(f).

4. The petition alleges that Article 45(e) of the Code confers bounties or grants. Under Article 45(e) a registered enterprise which has purchased domestically produced equipment may take a tax credit equal to 100 percent of the value of compensating tax and customs duties that it would have paid had it imported the machinery, equipment and spare parts. We verified that none of the companies under investigation had taken this tax credit on domestically purchased capital equipment.

5. The petition alleges that Article 45(f) of the Code confers bounties or grants. This Article allows a registered enterprise to take a tax credit for taxes withheld on interest payments on foreign loans when no such credit is available to the lender-remittee in its own country and the registered enterprise has assumed the liability for payment of the tax due from the lender-

remittee. We verified that none of the companies under investigation claimed a tax credit under this program.

6. The petition alleges that Article 45(l) of the Code confers bounties or grants. Article 45(l) allows registered enterprises to deduct from taxable income 50 percent of all expenses for labor training incurred for upgrading the productivity and efficiency of unskilled labor, provided that such deduction does not exceed 10 percent of all direct labor wages for a given year. We verified that the companies under investigation had not used this program.

7. The petition alleges that Article 48(e) of the Code confers a bounty or grant. This Article allows a registered export producer an additional deduction from taxable income equal to one percent of the increase in its exports when it uses a new brand name that distinguishes its products from non-Philippine products. We verified that none of the companies used this program.

8. The petition alleges that Article 51 of the Code confers bounties or grants. This article provides for financial assistance to registered enterprises through the preferential granting of government loans. The government of the Philippines responded that Article 51 of the Code merely sets forth a policy that government financial institutions should accord priority to applications for financing made by Board-registered firms. However, this policy is not binding on either government or other financial institutions. We verified that the Article 51 policy is not always followed in practice. In addition, there is no evidence on the record that any company had access to loans as a result of this Article.

9. The petition alleges that Article 52 of the Code confers bounties or grants. Article 52 provides for financial assistance to registered enterprises through preference for private financial assistance. It also authorizes the Insurance Commissioner to allow insurance companies to invest in new issues of stock of registered enterprises. In their responses the companies stated they had not received any preferential loans. We verified that none of the outstanding company stock was held by any insurance companies.

10. The petition alleges that Article 53 of the Code confers bounties or grants. Article 53 provides for financial assistance to employees of registered enterprises through government loans for the purchase of shares of stock in registered enterprises, at a rate not to exceed six percent per annum. We found no evidence of any use of this program at verification.

11. The petition alleges that Article 54 of the Code confers bounties or grants. This Article provides for the creation of an Institute of Export Development which promotes exports by providing government-funded assistance. The government of the Philippines responded and we verified that the Institute of Export Development has not been operational in the last three years. It further stated that the tuna producers never received any assistance from the Institute. The companies responded that they had not received any assistance from ithe Institute.

B. *Export Credit Insurance and Guarantee Corporation.* The petition alleges the government of the Philippines confers bounties or grants through the Export Credit Insurance and Guarantee Corporation which issues insurance policies and certificates of guarantee against credit risks arising out of or in connection with export transactions. The government of the Philippines responded and we verified that although the corporation was established, it has never become operational.

Petitioner's/Domestic Industry's Comments

Comment 1

Article 45 of the Code is a countervailable domestic bounty or grant because it is not generally available to all firms similarly situated. The list of preferred areas of economic activity entitled to investment incentives that constitute the Investment Priorities Plan ("The Plan") contains very few of the relevant "economic activities" included in either the Philippine Standard Industrial Code (PSIC) or the United Nations Standard International Trade Classification (UNSITC).

DOC Position

We have determined that the incentives of Article 45 of the Code are available to more than "a specific enterprise or industry, or group of enterprises or industries." The code does not by its terms limit availability to a specific group of enterprises or industries, and the Plan includes a large number of diverse industries. Therefore, neither the Code nor the Plan is a subsidy, as defined in Section 771(5) of the Act.

Comment 2

The incentives provided under the Code are countervailable export bounties or grants because the Code limits the incentives primarily to certain export-oriented industries listed in the Plan, the registration requirements for individual enterprises are export-oriented, and the Board uses export-oriented criteria in selecting projects to receive incentives under the Code.

DOC Position

Export promotion is an important consideration for the Board in the implementation of the provisions of the Code, but it does not appear to be the dominant consideration in the Board's designation of each "preferred area of investment" in the Plan, or in its registration of each "registered enterprise" or each project to receive incentives. We have determined that incentives under portions of Articles 48 and 49 are export subsidies, because they are given contingent upon export performance (only to "registered export producers" or registered export traders") and because they stimulate export over domestic sales. In contrast, the programs under Article 45 of the Code have no such inherent limitations, and in practice the Board makes them available to firms with varying degrees of export capacity or none at all.

Comment 3

The Code incentives are countervailable because both the priority industry selection process for the Plan and the company registration and project approval process depends entirely on the subjective discretion of the Board.

DOC Position

We obtained a copy of the criteria used by Board to register companies under the Code. We found overall that the criteria are objective. While some criteria by necessity must be broad in order to be all encompassing and flexible, we found no instance of alleged "subjective" criteria.

Comment 4

The government of the Philippines enacted into law two new incentives in April 1983. These incentives were composed of two types of tax credits. The Department should include the use of these benefits in its calculations.

DOC Position

The government of the Philippines requires that firms registered with the Board under the Code must register again with Board to obtain the newly enacted tax credits. However, companies which elect to receive benefits under the 1983 law must renounce the benefits available under the old law. The Department verified that none of the tuna canners has

applied for registration under the 1983 law.

Comment 5

The Department should allocate tax benefits obtained by the tuna canners over the life of the plant and capital equipment for which they were received.

DOC Position

The Department allocates tax benefits received in the period of investigation to that period. Tax incentives provide a benefit to the extent that they reduce the firm's current tax liability. As such, this is a benefit which is realized on an annual basis.

Comment 6

The Department should countervail the use of accelerated depreciation since it is available only to firms registered with the Board of Investments for benefits available under Article 45 of the Code.

DOC Position

The Department found that one firm used accelerated depreciation under the authority of Article 45 of the Code during the period of investigation. In this case, the net benefit to that firm, however, was negative during the period of investigation.

Comment 7

The Department should countervail the use of tax deductions for preoperating and organizational expenses since they are available only to Board-registered firms.

DOC Position

In order for the Department to consider whether this program is a bounty or grant under Article 45, we would have to first determine that one or more tuna companies had taken such a deduction under that Article. None of the tuna firms in this investigation requested a tax deduction for preoperating and organizational expenses under the authority of the Code. They took this deduction under the authority granted by the Philippine Internal Revenue Code, which is generally available. Therefore, we determine that this program was not used.

Comment 8

The Department should countervail the food production credits available under Article 1.2 of the Central Bank Circular 784 concerning rediscounted loans, since by its very title only companies producing food are eligible.

DOC Position

Article 1.2 of the Central Bank Circular 784 codifies several earlier programs. Because of this, it is divided into two subsections: food production credits and credits for agricultural/industrial/commercial paper. We found that all industries have equal access to the loans offered in Article 1.2 without preference of one industry over another.

Comment 9

The Department used the wrong benchmark in comparing preferential loans to a national average rate. The Department should not consider the maximum legal rate of 18 percent. Instead, the Department should use a rate above the legal maximum because the banks in the Philippines normally charge above the legal maximum, generally in the range of 18 to 27 percent. While there is no documentary evidence to support this higher rate, bankers have admitted to the practice of increasing loans fees, etc., in order to increase the effective rate of short-term loans.

DOC Position

For short-term commercial loans the Department found no evidence of interest rates in excess of the legal maximum during the period of investigation. Because no statistics were available on a national average short-term interest rate, we calculated an average interest rate for the tuna canning industry. We calculated this rate by taking an average of all short-term loans other than export packing credits used by all of the tuna canning companies during the period of investigation.

Comment 10

The Department should use the current interest rates in existence today, not those prevalent during the period of investigation.

DOC Position

In determinating whether bounties or grants, have been conferred, we consider the situation of the companies and government during the period of investigation. In the event of an affirmative determination, the Department may consider relevant changes in circumstances since the period of investigation for the purpose of estimating the deposit rate.

Comment 11

The Department should countervail the zero percent marginal deposit rate that exporters pay on import letters of credit because this rate is set by the government, instead of by the BAP predicated on commercial consideration, and acts as a benefit to those exporters who first obtain permission from Board to import goods.

DOC Position

We verified that the BAP has the authority to set the marginal deposit rate on import letters of credit. While the Central Bank is a member of this association, it does not have authority to dicate the terms of these rates. We found that in fact, the BAP does issue guidelines for the marginal deposit rates and that some banks do not follow those guidelines. We found no evidence that the Central Bank either issued guidelines or attempted to enforce thosed guidelines issued by the BAP against those banks failing to adhere to them.

Comment 12

The Department should countervail loans given by the Development Bank of the Philippines, since it gives loans to less than creditworthy firms based on non-commercial considerations at interest rates lower than those given to its creditworthy customers or given by commercial banks.

DOC Position

The Bank is authorized by its charter to grant loans to a broad cross section of industries. The mere fact that it has extended loans to companies that are poor risks is not sufficient reason to countervail them. During the period that one tuna producer received loans from the DBP, the interest rates charged to that company were in line with those charged by the Bank to other creditworthy customers, based on commercial considerations. At that time the Bank was one of three banks in the Philippines that issued long-term loans. All three banks obtained their funds from the same source and re-lent the money at similar increments over their costs.

Comment 13

The Department should countervail the benefits given to Diamond Seafoods. Although Diamond has not yet begun operations, it is believed that Century Canning has bought a portion, if not all, of the company. Thus, the benefits accruing to Diamond should be attributed to its new owner, Century.

DOC Position

We verified that Century has no equity interest in Diamond Seafoods. Since Diamond has not produced or exported to the United States any tuna during the period of investigation, we

have not included any alleged benefits to it in our calculations.

Comment 14

The Department should countervail loan guarantees given by PHILGUARANTEE since they were not given at commercial rates and the interest rates for the loans in question would have been higher but for these guarantees.

DOC Position

We verified that PHILGUARANTEE has given its guarantees to firms at commercial rates. We compared its fees to those of several Philippine banks for guarantees of similar loans. Indeed, we found that commercial bank terms are in some respects less strict than those of PHILGUARANTEE.

Respondent's Comments

Comment 1

Assuming that Article 45 of the Code is generally available, it should be used as the benchmark for evaluating the provisions of Articles 48 and 49. In the event that a firm would have been entitled to a deduction in question under a generally available tax provision, then only the portion of the deduction which exceeds that generally available should be considered countervailable.

DOC Position

Programs available under Article 48(b) and 49(d) are provided in addition to programs generally available under other laws. Under Article 48(f) of the Code, the benefits were provided "under the same conditions" as the generally available benefits under Article 45(d). Since the latter program was incorporated by reference into the former program, we determined that the export subsidy is the additional amount of benefits available under Article 48(f) to registered export producers.

Comment 2

If the Department views accelerated depreciation as countervailable, it should call it a tax deferral and treat it as an interest-free loan. In addition, the Department should use "negative accelerated depreciation" as an offset to other benefits received from the Board.

DOC Position

We did not find any countervailable benefit accruing on accelerated depreciation during the period of investigation. While "negative accelerated depreciation" may be considered an offset by the respondents, it is not provided for in the Act. Therefore, we have not considered it.

Comment 3

The Department should take cognizance in its decision of any tax benefit which has been re-computed, revoked or otherwise modified.

DOC Position

See the Department's position concerning the petitioner's/domestic industry's comment ten.

Comment 4

The Department should calculate any *ad valorem* preferential loan benefits based upon U.S. market share of the benefit recipients.

DOC Position

We agree that the purpose of a countervailing duty investigation is to determine the subsidy amount (if any) on goods exported to the United States. Thus, the calculation of benefits received by a firm under investigation should take account of the ratio of exports to the U.S. to total exports or, in the case of domestic subsidies, total sales.

Comment 5

Neither section 1.2 nor 1.4 of the Central Bank Circular 784 confers bounties or grants within the meaning of the Act because they are not government directed. Any incentive given by the Central Bank to commercial banks as a result of rediscounting does not convey a subsidy to the tuna canners.

DOC Position

We found the loans granted under Article 1.2 to be generally available. Therefore, they are not countervailable and we have not included them in our calculations. Since the government, through the Central Bank, is responsible for the rediscounting program for export packing credits under Article 1.4, we deem the program to be government directed and to confer a bounty or grant merely because it is available solely to exporters.

A subsidy upon the exported merchandise exists to the extent that the program results, as here, in terms and conditions more favorable to the exporter than are otherwise available.

Comment 6

Even if Article 1.4 of Central Bank Circular 784 is countervailable, Article 1.2 is not because it is generally available to all agricultural and industrial firms and, therefore, should be used as the benchmark for any loans determined to be countervailable.

DOC Position

Normally we would use a national average interest rate as the benchmark to compare with preferential loans. The Philippines did not keep statistics for such a rate for the period of investigation. Therefore, we calculated a rate for the tuna canning industry as a whole. We used as our benchmark the average short-term interest rate for all loans other than export packing credits obtained by all the canned tuna producers during the period of investigation.

Comment 7

A loan taken during the investigatory period which remains outstanding after the end of the period should be considered only for the benefit bestowed during the period.

DOC Position

In order to facilitate computation of the countervailable benefit on short-term export packing credits, we have ignored the portion of 1981 loans falling into 1982 and, instead, taken the full amount of all loans obtained in 1982, even if they were not paid until 1983.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During this verification, we followed normal procedures, including meetings with government officials and on-site inspection of the records and operations of the appropriate government agencies and tuna companies.

Suspension of Liquidation

The suspension of liquidation ordered in our preliminary affirmative determination shall remain in effect until further notice. The net bounty or grant for duty deposit purposes is 0.72 percent *ad valorem* for each manufacturer, producer or exporter.

As required by section 706(a)(3), we are directing the United States Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act. The net bounties or grants for the period we are measuring subsidization are smaller than the 1.30 percent *ad valorem* bounty or grant preliminarily determined. Therefore, according to section 707(a)(2) of the Act, if the amount of the cash deposit or bond required as security for

an estimated countervailing duty under section 703(d)(2) is different from the amount determined under this countervailing duty order, then the difference shall be refunded or released, to the extent that the cash deposit or bond or other security is lower than the duty under the order.

Administrative Procedures

The Department has afforded interested parties an opportunity to present their views in accordance with its regulations (19 CFR 355.34(a)). Oral and written views have been received and considered.

The Department intends to conduct an administrative review within 12 months of publication of this determination as provided in section 751 of the Act.

This notice is published pursuant to section 303 and 706 of the Act (19 U.S.C. 1303, 1671e).

Dated: October 24, 1983.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 83-29529 Filed 10-28-83; 8:45 am]

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[C-508-064]

Fresh Cut Roses From Israel; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice or Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on fresh cut roses from Israel. The review covers the period October 1, 1980 through September 30, 1981. As a result of the review, the Department has preliminarily determined the net subsidy to be 27.94 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Laura Kneale or Alan Long, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: 202, 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 36635) the final results of its last administrative review of the countervailing duty order on fresh cut roses from Israel (45 FR 58516, September 4, 1980) and announced its intent to conduct the next administrative review. The Department has now conducted that review.

Scope of the Review

Imports covered by the review are shipments of Israeli fresh cut roses. Such merchandise is currently classifiable under item 192.1800 of the Tariff Schedules of the United States Annotated. The review covers the period October 1, 1980 through September 30, 1981 which is the exporting year for roses. The Department reviewed the programs found countervailable in the previous administrative review and three additional programs which we preliminarily determine to be countervailable.

Analysis of Programs

The Israeli government did not respond to the Department's questionnaire covering the current review period. Therefore, we calculated the benefits from the following countervailable programs using the best information available. Sources include information collected during the previous administrative review and published documents.

1. The Encouragement of Capital Investments Law ("the ECIL")

The purpose of the ECIL is to promote certain national objectives, including exporting, through the use of various financial and fiscal incentives. To become eligible for these benefits, individual enterprises must apply for government approval of each investment project.

Rose growers have not been approved for ECIL benefits. Two rose exporters and eight packing houses were approved as of the previous period of review.

For the current period of review, the following benefits were provided under the ECIL:

A. Five-year exemption from payment of ⅔ of the property tax on buildings. This program was repealed effective June 1978. For the period of review, benefits accrued only to those enterprises approved prior to repeal. Further, the Israeli government abolished all property taxes on buildings in April 1981. Therefore, during the period of review, approved enterprises received benefits from this program for six months.

We calculated the benefit under this program by multiplying the property value of each approved enterprise by one-half of the reduction in the property tax rate. To calculate the benefit to roses, we multiplied total tax savings by the ratios of rose to flower exports during the 1979/80 season, and divided this amount by estimated rose exports during the 1980/81 season. Based on this calculation, we preliminarily determine a benefit of 0.02 percent *ad valorem* for the period of review.

Further, we preliminarily determine that the countervailing duty cash deposit rate should not incorporate an amount for this program since future entries will not benefit from such tax savings.

B. Ten-year exemption from ⅙ of the property tax on stock and machinery/equipment. This program was also repealed in June 1978. The same enterprises which were eligible for benefits under the five-year exemption were eligible for benefits under this program during the period of review.

We have no information on the value of equipment for approved enterprises during the review period. We used as the best information available the amount of tax savings under this program during the 1979/80 period. To calculate the subsidy rate on roses, we multiplied total tax savings by the ratios of total rose to flower exports during the 1979/80 season, and divided this amount by estimated total rose exports during the current review period. Based on this calculation, we preliminarily determine a benefit of 0.01 percent *ad valorem* for the 1980/81 season. This is also the estimated *ad valorem* benefit for duty deposit purposes.

C. Investment grants based on the cost of property and/or machinery/equipment of an approved project. Since 1977, seven enterprises involved in exporting roses have received cash grants under these programs. In computing the benefit during the previous administrative review, we employed the grant methodology set out in Appendix 2 to the notice of "Affirmative Countervailing Duty Determination" on certain steel products from Belgium (47 FR 39304, 39316; August 24, 1982) ("Appendix 2"). In accordance with this methodology, we calculated the present value allocation of all grants received since 1977.

The benefit under this program in the current review period is the sum of the present value allocation of all past grants calculated for the previous review and the present value allocation of any grants received during the current review period. To estimate the amount of grants provided during the current review period, we used as best evidence the highest aggregate grant amount provided to the companies in previous years.

We multiplied the benefit for the current review period by the ratio of total rose to flowers exports to account for the portion attributable to roses, and then divided by total estimated rose exports in 1980/81. Based on this calculation, we preliminarily determine a rate of benefit of 0.37 percent *ad valorem* for the review period. This is also the estimated *ad valorem* benefit for duty deposit purposes.

D. Accelerated depreciation of buildings and machinery/equipment and,

E. Direct reductions in company tax rates and exemption from income taxes. Under the first program, machinery and equipment of an approved project may be depreciated at twice the ordinary rate set by Israeli Income Tax Rules and buildings may be depreciated at 4 times the normal rate. The second program allows for reductions in the company tax rate and exemption from income taxes.

Because final calculation of income taxes can only be made after the close of an accounting year, the amount of the benefit cannot be knowable or calculable during the same accounting year, here the exporting season. Therefore, for the 1980/81 review period, we have used the calculable tax savings for the 1979/80 tax year.

In computing the benefit rate on these programs, we looked first to whether the enterprise benefitted from accelerated depreciation through reduced taxable income and, hence, lower taxes paid. We then looked to the tax savings attributable to the reductions/exemptions. For those firms for which we do not have 1979/80 income tax data, we used the highest tax savings calculated for the other firms as the best information available.

We summed the tax savings amounts for each enterprise and multiplied that total by the ratio of rose to flower exports in 1979/80 to find the portion attributable to roses. We then divided this figure by estimated rose exports for 1980/81 and found an *ad valorem* benefit of 0.26 percent for the review period. This is also the estimated *ad valorem* benefit for duty deposit purposes.

F. "Drawback" Grants. The stated intention of this program is to rebate customs duties on imported materials used for investment in an approved enterprise. Grant awards are based on a fixed percentage of investment. Since 1978, only one packing house, Bickel, has received an award. The ECIL project approvals of the other packing houses state that they are not eligible to receive these grants. Because of the infrequency of use of the program, we have not assumed new grants during 1980/81.

The value of the subsidy is the annual present value allocation of the grant as calculated during the 1979/80 review. We preliminarily determine the rate of benefit to be 0.01 percent *ad valorem* for the 1980/81 review period. This is also the estimated *ad valorem* benefit for duty deposit purposes.

2. Government-Guaranteed Minimum Price Program

Funds provided under this program are awarded as year-end, lump sum payments. These payments are based on claims by accountants submitted to the Ministry of Agriculture ("the MOA") after the close of the exporting season. Thus, the benefits from the program are enjoyed in the succeeding export year. During the previous review, only the Flower Board (the major association of flower growers) submitted a claim for payment.

During the current review period, the Flower Board did not receive final payment for the 1979/80 season. Therefore, we preliminarily determine that there was no subsidy under this program during the period of review.

The estimated benefit for duty deposit purposes is the amount of payments received during the 1981/82 review period, which is the most recent period for which we have information. These 1981/82 payments are comprised of the difference between the final payment claim for 1978/79 and the advance payment received in March 1980, plus the payment for the claimed amount for the 1979/80 export year. To find the *ad valorem* rate of subsidy we divided this amount by the estimated value of total rose exports in 1980/81. We preliminarily determine that the *ad valorem* benefit for duty deposit purposes is 0.36 percent.

3. Preferential Short-term Financing

During the period of review, the Bank of Israel (the Israeli Central Bank) provided preferential short-term financing through three export credit funds: the Export Production Fund (for working capital loans); the Imports-for-Export Fund (to finance imported materials used for export production); and the Export Shipments Fund (for accounts receivable).

A. Export Production Fund. These are local currency loans. Therefore, the commercial benchmark is the published effective rate for overdraft accounts. In contrast to our last review, the effective rate now includes the average interest charged on withdrawals above credit ceilings, determined by the Bank based on the actual frequency of such excess withdrawals. The differential between the commercial rate and the average of the published preferential interest rates prevailing during the 1980/81 period is 138 percent.

The Bank of Israel determines maximum eligibility for these loans using a rate-of-credit formula. The rate-of-credit formula is based on three factors: a value-added rate, a turnover rate, and a rate-of-financing ratio based on the dollar/shekel exchange rate. In the first review, we found that rose exporters used the entire amount of credit available under this program. Further, eligibility is usually adjusted based on the current year's export performance. Therefore, we estimated the amount of credit available to exporters by multiplying 1980/81 rose exports by the rate-of-credit formula.

Multiplying the estimated level of credit by the published interest rate differential for the review period and dividing by estimated 1980/81 total rose exports, we preliminarily find an *ad valorem* benefit for the review period of 18.89 percent.

The Bank's 1981 Annual Report states that the rate-of-financing ratio used to calculate eligibility under this program was reduced in September 1981. We revised our rate-of-crefit formula and multiplied it by the published interest rate differential prevailing in the last quarter of 1981, and found an *ad valorem* subsidy for duty deposit purposes of 15.78 percent.

B. Imports-for-Export Fund. These are dollar-denominated loans. Therefore, the commercial benchmark is the sum of the published interest rate on dollar loans in Israel and the surcharge on foreign currency borrowing (see our notice of preliminary and final results of the last administrative review). In the first review, we found that rose exporters used the entire amount of credit available under this program. We calculated the benefit from this program by multiplying the rate-of-credit eligibility associated with this Fund by the 25.62 percent differential between the average of the published preferential interest rates for these loans and the commercial benchmark. We preliminarily determine the benefit from this program to be 0.37 percent *ad valorem*.

The Bank's 1981 Annual Report indicates that the rate-of-credit eligibility for this program was reduced on October 1981 and, as described in our last review, the Bank has phased out most of the surcharge. As a result, we estimate an *ad valorem* rate for duty deposit purposes of 0.31 percent.

C. Export Shipments Fund. Unlike the other two funds, financing under the Export Shipments Fund is not based on an annual line of credit. Rather, loans are granted based on a specified percentage of the value appearing on the customs documents of the individual shipment to be financed. Maximum eligibility was set at 80 percent of the shipment value in October 1980. Because exporters do not use this program to finance all shipments, we calculated a loan use rate of 21 percent for this program based on data from the previous review period.

These are dollar-denominated loans. Therefore, the commercial benchmark again is the sum of the published interest rate on dollar loans in Israel and the surcharge on foreign currency borrowing. The differential between the commercial rate and the average published interest rate for this program during the period of review is 24.57 percent. Multiplying the interest differential by the loan use rate and prorating this value by the 190-day maximum term for these loans, we preliminarily determine an *ad valorem* benefit for the period of review of 2.68 percent.

Since April 1982, loans under this fund have been charged market interest rates. Consequently, the only remaining benefit provided by this program is exemption from the one percent surcharge on foreign currency loans. We therefore estimate a benefit for duty deposit purposes of 0.11 percent *ad valorem.*

4. Government Funding of AGREXCO

The MOA provided AGREXCO with funds to finance the expansion of its terminal at Ben Gurion Airport in 1978/79 and 1979/80. The Government of Israel maintains that these funds were purchases of equity in AGREXCO. However, in our last review, the Israeli government did not provide sufficient evidence to support this contention.

We therefore converted these infusions to dollars at the prevailing exchange rates and treated them as investment grants, allocating them over eight years as the useful life of the facilities. Because of the infrequency of these infusions, we have assumed no new funding during 1980/81. The benefit from these funds in the current review period is the sum of the annual present value allocation of each grant, multiplied by the portion of both grants attributable to rose exports. We estimate a benefit for the 1980/81 review period of 0.15 percent *ad valorem.* This is also the estimated *ad valorem* benefit for duty deposit purposes.

5. Cash Payments to Growers for Greenhouses

The MOA awards grants to flower growers for the establishment and/or expansion of greenhouses. In the last administrative review, we calculated the benefit by allocating all grants received since 1975/76 over a useful/life of twenty years, using the methodology of Appendix 2. The estimated benefit for the current review period is the sum of the present value allocations of previous years' grants, and the present value allocation of estimated grants for 1980/81. To estimate the amount of grants provided during the current review period, we used as best evidence the highest aggregate grant amount provided to growers in previous years. We preliminarily determine the *ad valorem* benefit for the current review period to be 1.24 percent. This is also the estimated benefit for duty deposit purposes.

6. Cash Payments to Packing Houses

Under this program, the MOA provides grants to packing houses for investment in buildings and machinery/equipment. In the 1979/80 review, we computed the subsidy amount using the methodology of Appendix 2. The estimated benefit for the current review period is the sum of the present value allocations of previous years' grants, and the present value allocation of estimated grants for 1980/81. To estimate the amount of grants provided during the current review period, we used as best evidence the highest aggregate grant amount providing to packing houses in previous years. We preliminarily determine that the amount of benefit bestowed during the period of review is 0.33 percent *ad valorem.* This is also the estimated benefit for duty deposit purposes.

7. Cash Payments From the Export Promotion Fund

The MOA provides cash grants to exporters to compensate for export expenses, such as advertising, merchandising and public relations. These payments are based on exports to specific countries of all flowers. During the 1979/80 review, AGREXCO was the only recipient of these funds. We calculated the *ad valorem* benefit for the current review by multiplying the amount received by AGREXCO in 1980/81 (obtained during verification in the last review) by 26 percent, which is the percentage by value of AGREXCO's rose to flower exports to the United States, and dividing by total exports of roses to the U.S. during 1980/81. On this basis, we have preliminarily found an *ad valorem* benefit of 0.64 percent. This is also the estimated benefit for duty deposit purposes.

8. Programs Not Previously Found Countervailable

In our questionnaire, we requested information on six programs, three of which were not reviewed in the 1979/80 administrative review. For the three others, we found no evidence to indicate that these programs were used during that review period. These programs are: export insurance premiums, exchange rate insurance, and government support of the Flower Board. The programs for which we have evidence of countervailable benefits are: fuel grants to rose growers, long-term loans granted to AGREXCO, and a capital fund for AGREXCO.

A. Fuel Grants to Rose Growers. In 1982 the Israeli Institute for Farm Research published a survey on the profitability of rose production in the 1980/81 season. This study states that gross income for rose growers included grants for fuel expenses, and interest savings on low-cost credit. In the absence of information, we assumed that this program is preferential. We calculated that *ad valorem* benefit by dividing the aggregate amount of the grants and interest savings reported in the survey by total rose exports (as best evidence of production) in 1980/81. Based on this calculation, we preliminarily determine the benefit to be 2.92 percent *ad valorem.* This is also the estimated benefit for duty deposit purposes.

B. Long-term Loans Granted to AGREXCO. AGREXCO's 1979/80 financial report, obtained during the previous review, lists its long-term loans. Comparing the interest rates on all but two of the listed loans (the other two were consistent with commercial terms) with the commercial interest rate for long-term credit published in the Bank of Israel's 1981 Annual Report, we found lower interest rates on most of AGREXCO's loans. In the absence of other information, we assumed that these loans are not generally available.

AGREXCO's financial statement lists the aggregate amount of principal due on its long-term loans in 1981. Because we have no information on the terms of individual loans, however, we cannot construct comparable commercial benchmark rates. Therefore, we cannot use the present value allocation methodology for long-term loans outlined in Appendix 2. To estimate the benefit from these loans during the current review period, we multiplied the weighted-average interest rate

differential by the principal amount due in 1981. Based on this calculation, we preliminarily find an *ad valorem* benefit of 0.04 percent. This is also the estimated benefit for duty deposit purposes.

C. Capital Fund for AGREXCO. AGREXCO's 1979/80 financial statement shows that a capital fund for AGREXCO was created from MOA investment grants. In the absence of information concerning the terms and conditions associated with this fund, we allocated the entire grant installment to the current period of review. We preliminarily determine the *ad valorem* benefit to be 0.01 percent. This is also the estimated benefit for duty deposit purposes.

Preliminary Results of Review

As a result of the review, we preliminarily determine the aggregate net subsidy to be 27.94 percent *ad valorem* for the period of review. The Department intends to instruct the Customs Service to assess countervailing duties of 27.94 percent of the f.o.b. invoice price on all shipments exported on or after October 1, 1980 and on or before September 30, 1981.

As provided for by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 22.56 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later then 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 25, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-29535 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-free Entry of Accessories for Foreign Instruments; Robert B. Brigham Hospital, et al.

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301). (See especially § 301.5(f).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 1523 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83-164. Applicant: Robert B. Brigham Hospital, A Division of Brigham & Women's Hospital, Seeley G. Mudd Bldg., Room 504, 250 Longwood Ave., Boston, MA 02115. Instrument: LKB 14800-3 Cryokit for Ultramicrotome complete with Accessories. Manufacturer: LKB Instruments, Inc., Sweden. Intended use of instrument: See notice on page 16310 in the **Federal Register** of April 15, 1983. Advice submitted by: National Institutes of Health: July 20, 1983.

Docket No.: 83-225. Applicant: Cornell University, Knight Laboratory, Ithaca, N.Y. 14853. Instrument: Diffraction Attachment of VGHB5 STEM. Manufacturer: VG Microscopes Ltd., United Kingdom. Intended use of instrument: See notice on page 36505 in the **Federal Register** of August 11, 1983. Advice submitted by: National Bureau of Standards: September 27, 1983.

Comments: No comments have been received with respect to either of the foregoing applications.

Decision: Applications approved. No instruments or apparatus of equivalent scientific value to the foreign instruments, for the purposes for which the instruments are intended to be used, is being manufactured in the United States.

Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The instruments are being manufactured by the manufacturer which produced the instruments with which they are intended to be used. We are advised by the National Institutes of Health and the National Bureau of Standards in their respectively cited memoranda that the accessories are pertinent to the applicant's intended uses and that they know of no comparable domestic accessories.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instrument with which each accessory is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-29531 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-free Entry of Electron Microscopes; Brown University, et al.

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83-305. Applicant: Brown University, Providence, R.I. 02912. Instrument: Electron Microscope, EM 410G and Accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of instrument: See notice on page 44099 in the **Federal Register** of September 27, 1983. Application received by Commissioner of Customs: September 14, 1983.

Docket No.: 83-306. Applicant: Trustees of Boston University, 881 Commonwealth Avenue, Boston, MA 02215. Instrument: Electron Microscope, EM 410LS and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use of instrument: See notice on page 44099 in the **Federal Register** of September 27, 1983. Instrument ordered: August 18, 1983.

Docket No.: 83-307. Applicant: Hillcrest Baptist Medical Center, Department of Pathology, 3000 Herring

Avenue, Waco, TX 76708. Instrument: Electron Microscope, EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See notice on page 44099 in the **Federal Register** of September 27, 1983. Instrument ordered: June 10, 1983.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-29532 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-DS-M

Notice of Decision on Application for Duty-free Entry of Scientific Instrument; Columbia University

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:00 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83-243. Applicant: Columbia University, Department of Applied Physics, 520 W. 120th St., Rm. 213 S.W. Mudd, New York City, N.Y. 10027. Instrument: CO_2 Laser Amplifier (High Power), Model K-921 and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of instrument: See notice on page 33508 in the **Federal Register** of July 22, 1983.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides very high pulse amplification (15 Megawatt level). The National Bureau of Standards advises in its memorandum dated September 20, 1983 that (1) the characteristic of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-29530 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-DS-M

Applications, for Duty-Free Entry of Scientific Instruments; Lenox Hill Hospital, et al.

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 1523, 14th and Consitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83-191. Applicant: Lenox Hill Hospital, 100 East 77th Street, New York, NY 10021. Instrument: Endoscopic Ultra-Sonic Lithotrite. Manufacturer: Karl Storz GmbH, West Germany. Intended use of instrument: Treatment of patients with kidney stones by application of ultra-sonic waves which pulverize these stones for removal by suction. Application received by Commissioner of Customs: September 28, 1983.

Docket No.: 83-324. Applicant: Wayne State University, Department of Chemistry, Detroit, MI 48202. Instrument: Gas Chromatograph Mass Spectrometer System MS80 and Accessories. Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended use of instrument: Research:

1. High resolution mass spectrometry to determine elemental composition of synthesized or isolated chemical compounds.

2. Capillary gas chromatography/mass spectrometry for the separation and identification of low level components in complex environmental samples.

3. High mass mass spectrometry utilizing a Fast Atom Bombardment source to identify small proteins and other biological molecules that are large and labile.

Application received by Commissioner of Customs: October 7, 1983.

Docket No.: 83-325. Applicant: The University of Arizona, Optical Sciences Center, Tucson, AZ 85721. Instrument: Computer, 36MC consisting of: Four Processor POLYP system with a Mbyte global memory, 4 ea 256k Local Memory Boards, 4 ea Polybus Interface Boards, 4 ea. Double Nodes Power Supplies and System Housing. Manufacturer: University of Heidelberg, West Germany. Intended use of instrument: Research project for the development of automated, high speed systems for early

cancer detection. The experimental goals thus are to implement this experimental device, and test its performance for the stated purpose so that a final system configuration can be specified at the end of the three-year grant period. Application received by Commissioner of Customs: October 16, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-28533 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-DS-M

Decision on Application for Duty-free Entry of Scientific Instrument; University of California

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83-249. Applicant: University of California, Lawrence Livermore National Laboratory, 7000 East Avenue, Livermore CA 94550. Instrument: 2 Microwave Oscillators. Manufacturer: Varian-Canada, Inc., Canada. Intended use of instrument: See notice on page 36505 in the **Federal Register** of August 11, 1983.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instruments or apparatus of equivalent scientific value to the foreign instruments, for such purposes as these instruments are intended to be used, are being manufactured in the United States.

Reasons: The foreign instruments provide microwave power at 70 and 140 gigahertz with peak power outputs of 1 and .2 kilowatts, respectively. The National Bureau of Standards advises in its memorandum dated September 26, 1983 that (1) the characteristics of the foreign instruments described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instruments or apparatus of equivalent scientific value to the foreign instruments for the applicant's intended use.

The Department of Commerce knows of no other instruments or apparatus of equivalent scientific value to the foreign instruments, for such purposes as these instrument's are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-28534 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 30920-193]

Approved Interpretation for FIPS FORTRAN (FIPS PUB 69)

Correction

In FR Doc. 83-28290 appearing on page 48269 in the issue of Tuesday, October 18, 1983, make the following correction. In column three, paragraph seven should read "Effective date of interpretation: This interpretation is effective on November 17, 1983.".

BILLING CODE 1505-01-M

National Oceanic and Atmospheric Administration

Marine Mammal Permit; Makgae-Ree, et al.; Issuance

On August 25, 1983, Notice was published in the **Federal Register** (48 FR 38662), that an application had been filed with the National Marine Fisheries Service by the Seoul Grand Park Zoo, 55 Makgae-Ree, Gwachon-Myun Sheehung-Gun, Kyunggee-Do, Korea to obtain six (6) beached and stranded California sea lions *(Zalophus californianus)* and six (6) beached and stranded harbor seals *(Phoca vitulina)* for the purpose of public display.

Notice is hereby given that on October 21, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) the National Marine Fisheries Service issued a Public Display Permit for the above activities to Seoul Grand Park Zoo subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington 98115; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: October 24, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29432 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permit; Mystic, Marinelife Aquarium; Issuance

On May 10, 1983, Notice was published in the **Federal Register** (48 FR 20976) that an application has been filed with the National Marine Fisheries Service by Mystic Marinelife Aquarium, Mystic, Connecticut 06355, for a permit to take two (2) gray seals (*Halichoerus grypus)* for public display.

Notice is hereby given that on October 21, 1983, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking to Mystic Marinelife Aquarium, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: October 24, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29430 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Premit; Mystic, Marinelife Aquarium; Issuance

On May 23, 1983, Notice was published in the **Federal Register** (48 FR 22976) that an application has been filed with the National Marine Fisheries Service by Mystic Marinelife Aquarium, Mystic, Connecticut 06355, for a permit to take two (2) beluga whales

(*Delphinapterus leucas*) for public display.

Notice is hereby given that an October 21, 1983, as authorized by the provisions of the Marine Mammal protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Mystic Marinelife Aquarium, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street. Federal Building, Gloucester, Massachusetts 01930.

Dated: October 24, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29430 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permit; National Marine Mammal Laboratory; Modification No. 2 to Permit No. 303

Notice is hereby given that pursuant to the provisions of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals and § 222.26 of the regulations governing endangered species permits, Scientific Research Permit No. 303, issued to the National Marine Mammal Laboratory, Northwest and Alaska Fisheries Center, National Marine Fisheries Service, on August 29, 1980 (45 FR 59187), is modified to extend the period of authorized taking for three years.

Accordingly, Section B–3 is deleted and replaced by:

"3. This permit is valid with respect to the taking authorized herein until December 31, 1986.

This modification becomes effective upon publication in the Federal Register.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: October 24, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29429 Filed 10-28-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending the Export Visa Requirements for Certain Cotton and Man-made Fiber Apparel Products Produced or Manufactured in the Philippines

October 26, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1984. For further information contact Carl Ruths, International Trade Specialist, 202/377–4212.

Background

A CITA directive of November 21, 1979 established, effective on January 1, 1980, a new visa and exempt certification mechanism for cotton, wool, and man-made fiber textile and apparel products exported from the Philippines which are subject to the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 24, 1982, as amended, between the Governments of the United States and the Republic of the Philippines. (See 44 FR 68005)

At the request of the Government of the Republic of the Philippines, CITA is directing the U.S. Customs Service to deny entry to apparel products in Categories 335, 336, 337, 341, 342, 348, 352, 359, 635, 636, 637, 641, 642, 646, 648, 652, and 659, produced or manufactured in the Philippines and exported on and after January 1, 1984, for which the visas fail to specify the correct designation (T or NT) in the context of the correct category.

The U.S. Customs Service will classify the merchandise based on the T.S.U.S.A. designations established for these products. A list of the TSUSA numbers which identify the "T" apparel products in the foregoing categories according to designations is published as an enclosure to the letter to the Commissioner of Customs which follows this notice. Merchandise in the affected categories which has been exported before January 1, 1984 will not be denied entry, provided all previously established visa requirements have been met.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of November 21, 1979, which established a visa and exempt certification for certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Philippines and exported on and after January 1, 1980.

Effective on January 1, 1984 and until further notice, the directive of November 21, 1979 is hereby further amended to require that the correct category requirement be amended in terms of cotton and man-made fiber textile products in Categories 335, 336, 337, 341, 342, 348, 352, 359, 635, 636, 637, 641, 642, 646, 648, 652, and 659 to require that the designation "T" or "NT" be included along with the category on the visa to correctly identify the merchandise. Effective on January 1, 1984, merchandise in the foregoing categories, exported on and after January 1, 1984, which does not include the proper "T" or "NT" designation, according to the T.S.U.S.A. assignments established for apparel products in these categories, should be denied entry. A list of the applicable T.S.U.S.A. numbers is enclosed. Merchandise in these categories which has been exported before January 1, 1984 should not be denied entry, provided all other previously established procedures have been met.

The Committee for the Implementation of Texttile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Enclosure

Category traditional (T) TSUSA numbers only TSUSA's

335: 378.5412, 383.0240, 383.0250, 383.2805, 383.2810, 383.2815, 383.3075, 383.0520, 383.0605, 383.0857, 383.3200, 383.3420, 383.3425, 383.3430, 383.3435, 383.3440, 383.3446, 383.3455, 383.3452, 383.3466, 383.4715, 383.5078, 383.5306, 791.7415
336: 383.0306, 383.0615, 383.2920, 383.4816, 383.4820, 383.4823
337: 383.0335, 383.0830, 383.5036, 383.5066, 383.5047
341: 383.0506, 383.4704, 383.4707, 383.4711
342: 383.0844, 383.5063, 383.5069, 383.5073
348: 383.0611, 383.0616, 383.2836, 383.4749, 383.4755, 383.4759, 383.4763
352: 378.0550, 378.0571, 378.1035, 378.2030
359: 383.0350, 383.0855, 383.3080, 383.5075
635: 383.8116, 383.8117
636: 383.2016, 383.2315, 383.8622, 383.9230

637: 383.2035, 383.2330, 383.8645, 383.9211
641: 383.2215, 383.9030
642: 383.8601, 383.9248
646: 383.1857, 383.8070
648: 383.1940, 383.2250, 383.8146, 383.9071
652: 378.6530
659: 383.2050, 383.2350, 383.8650, 383.9265
[FR Doc. 83-29537 Filed 10-28-83; 8:45 am]
BILLING CODE 3810-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; Amendment to a Notice for a System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment to a notice for a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to amend the notice for a system of records subject to the Privacy Act of 1974. It is proposed to amend the notice to include a routine use to permit transfer of needed records to the Department of Justice for use in representing the Department of Defense in litigation.

The proposed amendment and the amended portion of the system notice are set forth below.

DATES: This system shall be effective November 30, 1983, unless comments are received which result in a contrary determination.

ADDRESS: Send comments to: William C. Goforth, Lt. Col., USAF, Staff Executive (Attorney), Defense Privacy Board c/o OSD Mail Room, Room: 3A-948, The Pentagon, Washington, DC 20301. Telephone: (202) 694-3027.

FOR FURTHER INFORMATION CONTACT: William C. Goforth, Lt. Col., USAF, Staff Executive (Attorney, Defense Privacy Board, c/o OSD Mail Room, Room: 3A-948, the Pentagon, Washington, DC 20301, Telephone: (202) 694-3027.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974, as amended (Title 5 United States Code Section 55a) were published in the **Federal Register** on June 6, 1983 at 48 FR 25502.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
October 26, 1983.

Changes

DMRA&L.10.0

SYSTEM NAME:

Equal Opportunity Complaint File

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATAGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete last paragraph and insert:

"Records in the system may be transferred to a DOD Component having the need to know in the performance of business. In addition, they may be transferred to any component of the Department of Justice that request them for the purpose of representing the Department of Defense in litigation to which the records are pertinent."

DMRA&L.10.0

SYSTEM NAME:

Equal Opportunity Complaint File

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATAGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of the file is to cause action to be taken on discrimination complaints.

Office of the Deputy Assistant Secretary of Defense (Equal Opportunity and Safety Policy)-Used to answer queries concerning status or disposition of complaints, for assigning actions and reviewing actions on complaints, and for analyses of trends or patterns in discrimination complaints.

Records in the system may be transferred to a DoD Component having the need to know in the performance of business. In addition, they may be transferred to any component of the Department of Justice that requests them for the purpose of representing the Department of Defense in litigation to which the records are pertinent.

[FR Doc. 83-29504 Filed 10-28-83; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

Bilingual Education Act; State Educational Agency Projects for Coordinating Technical Assistance

AGENCY: Department of Education.

ACTION: Application Notice for New Projects for Fiscal Year 1984.

SUMMARY: Applications are invited for new projects under the Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program.

Authority for this program is contained in Section 721 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). (20 U.S.C. 3231)

This program issues awards to State educational agencies (SEAs) to assist SEAs in the coordination of technical assistance to programs of bilingual education assisted under the Bilingual Education Act within their States.

Closing date for transmittal of applications: An application must be mailed or hand delivered by January 13, 1984.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, attention: 84.003S, Washington, D.C. 20202.

Program information: An application will be approved for a project period of from one to three years.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects which do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States which have established a process, designated a single point of

contact, and have selected this program for review:

State	
Arkansas	Northern Mariana Islands
Connecticut	Oklahoma
Indiana	Tennessee
Kentucky	Vermont
Missouri	Virginia
Nevada	
New Jersey	

Applicants which are governmental entities, including local educational agencies, should immediately get in touch with the appropriate State single point of contact to find out about and to comply with the State's process under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 13, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.003S) 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone Number (202) 245-7913. (Proof of mailing will be determined on the same basis as applications.)

Please note that the above address is not the same address as the one to which the applicant submits its application. *Do not send applications to the above address.*

Available funds: The Continuing Resolution enacted by the Congress on October 1, 1983, effective through November 10, 1983, authorizes the funding level of $3,970,000 for this program for Fiscal Year 1984. Pending resolution of the final level of appropriations, applications are invited to allow sufficient time for their evaluation and for the completion of the grants process prior to the end of the fiscal year should funds become available.

An award to an SEA may not exceed five percent of the total amount paid under Part A of the Bilingual Education Act to local educational agencies in the State of the SEA in fiscal year 1983.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application packages are expected to be ready for mailing in November 1983. They will be mailed to each eligible State Educational Agency. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421 Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information application package. However, the program information package is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those inposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 50 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(1) Regulations governing the State Educational Agency Projects for Coordinating Technical Assistance as proposed in 34 CFR Part 503. (Applications are being accepted based on the notice of proposed rulemaking for the State Educational Agency Projects for Coordinating Technical Assistance which is published in this issue of the **Federal Register**. If any substantive changes are made in the final regulations for this program, applicants will be given an opportunity to revise their applications.)

(2) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact the State Educational Agency Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245-2595.

(20 U.S.C. 3231)

(Catalog of Federal Domestic Assistance No. 84.003, Bilingual Education Act)

Dated: October 24, 1983.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 83-29434 Filed 10-28-83; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Guaranteed Student Loan Program and PLUS Program

AGENCY: Department of Education.

ACTION: Notice of Special Allowances for Quarter Ending September 30, 1983.

SUMMARY: The Assistant Secretary for Postsecondary Education announces a special allowance to holders of eligible loans made under the Guaranteed Student Loan Program (GSLP) or the PLUS Program. This special allowance is provided for under section 438 of the Higher Education Act of 1965 (the Act), as amended (20 U.S.C. 1087-1). Except for loans subject to section 438(b)(2)(B) of the Act, 20 U.S.C. 1087-1(b)(2)(B), for the quarter ending September 30, 1983, the special allowance will be paid at the following rates:

	Percent		
	Applicable interest rate	Annual special allowance rate	Special allowance rate [1]
GSLP loans or PLUS loans made prior to Oct. 1981	7	6.125	1.53125
	8	4.125	1.03125
GSLP loans or PLUS loans made on or after Oct. 1, 1981	7	6.05	1.5125
	8	5.05	1.2625
	9	4.05	1.0125
	12	1.00	0.2625
	14	0.00	0.00

[1] For quarter ending Sept. 30, 1983.

The Assistant Secretary determines the special allowance rate in the manner specified in the Act, for loans at each applicable interest rate by making the following four calculations:

(a) *Step 1.* Determine the average bond equivalent rate of the 91-day Treasury bills auctioned during the quarter for which this notice applies;

(b) *Step 2.* Subtract from that average the applicable interest rate (7, 8, 9, 12, or 14 percent) of loans for which a holder is requesting payment;

(c) *Step 3.* (1) Add 3.5 percent to the remainder; and

(2) In the case of loans made before October 1, 1981, round the sum upward to the nearest one-eight of one percent;

(d) *Step 4.* Divide the resulting percent on Step 3 (either (c)(1) or (c)(2), as applicable) by four.

FOR FURTHER INFORMATION CONTACT: Andrejs Penikis, Program Specialist, or Larry Oxendine, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education on (202) 245–2475.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Program and PLUS Program)

Dated: October 25, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-29436 Filed 10-28-83; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

Notice of Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on October 27, 1982, an arbitration panel rendered a decision in the matter of Joseph F. Muir, Vendor, vs. the District of Columbia Department of Human Services, State Licensing Agency (R–S/80–9). The panel was convened by the Secretary of the Department of Education pursuant to 20 U.S.C. 107d–1(a), upon receipt of a complaint filed by petitioner Joseph F. Muir on October 2, 1981. Under this section of the Act, a blind licensee dissatisfied with the State's operation or administration of the vending facility program may request a full evidentiary hearing from the State Licensing agency. If the licensee is dissatisfied with the State agency decision, the licensee may complain to the Secretary, who is then required to convene an arbitration panel to resolve the dispute.

FOR FURTHER INFORMATION CONTACT: Director, Division for Blind and Visually Impaired, Rehabilitation Services, Room 3330, Mary E. Switzer Building, Department of Education, 330 'C' Street, SW., Washington, D.C. 20202, Area Code (202) 245–0918 TTY (202) 245–0591. The full text of the arbitration panel decision can be obtained from this source.

Dated: October 28, 1983.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

Arbitration Panel Decision

A blind vendor, Joseph F. Muir, Complainant, grieved a determination by the District of Columbia Department of Human Services, State Licensing Agency, Respondent, that it was not liable to claimant for losses of merchandise suffered in a series of thefts at the vending facility operated by him. Mr. Muir retained counsel and pursued his grievance consistent with the procedural requirements of the Randolph-Sheppard Act at 20 U.S.C. 107 *et. seq.*, and the Department of Education's revised Interim Policies and Procedures for Randolph-Sheppard arbitrations.

The issue in this arbitration is whether or not the State licensing agency is liable to Mr. Muir for merchandise lost in a series of thefts. The claimant alleged that the Respondent erroneously advised him that it carried theft insurance on the merchandise and was therefore liable to him under a theory of promissory estoppel. Claimant further alleged that Respondent was obligated to provide him with a facility reasonably secure against break-ins and that it was negligent in the discharge of this obligation.

The arbitration panel, Respondent dissenting, reached the following conclusions:

The Respondent was not liable to claimant under a theory of promissory estoppel as Respondent never represented to claimant it carried theft insurance on the merchandise.

The Respondent was obligated to furnish claimant a facility reasonably secure from break-ins. The panel inferred this general duty from the statutory purpose to enhance the economic position of the blind and from specific terms in the operator's agreement prepared by the State agency.

The Respondent was obligated to act with reasonable diligence to take judicious steps to protect the facility and the merchandise when it became clear that the facility was not reasonably secure.

The Respondent acted negligently in not arranging immediately after the first break-in for a police investigation to determine the means of ingress.

The Respondent is liable to claimant to the extent of all losses suffered after the first break-in and shall reimburse the claimant in the amount of $5,245.28.

The arbitration panel decision does not necessarily represent the views of the Department of Education.

[FR Doc. 83-29436 Filed 10-28-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER84-37-000]

Connecticut Light & Power Co.; Filing

October 26, 1983.

The filing Company submits the following:

Take notice that on October 17, 1983, Connecticut Light and Power Company (CP&L) tendered for filing as an initial rate schedule an agreement (the Agreement) between CL&P Western Massachusetts Electric Company (WMECO, and together with CL&P, the NU Companies) and GPU Service Corporation (GPU) as agent for: 1) Pennsylvania Electric Company, 2) Metropolitan Edison Company, and 3) Jersey Central Power and Light (collectively, GPU Companies). The Agreement, dated as of June 20, 1983, provides for the bilateral sale by the NU Companies or the GPU Companies of energy from their systems ("system energy") that may be available on a daily or weekly basis (a "transaction"). CL&P states that the timing of transactions cannot be accurately estimated but that the NU Companies or the GPU Companies would offer to sell such system energy to the other only when it was economical to do so. The buyer would only accept such offer if it was economical to do so.

The buyer will pay an hourly energy reservation charge to the seller for each transaction in an amount equal to the megawatthours of system energy reserved for the buyer by the seller during a transaction multiplied by an energy reservation charge rate which is negotiated prior to each transaction. The buyer will pay any energy charge for each transaction in an amount equal to the megawatthours delivered by the seller during such transaction times an energy charge rate. The energy charge rate is the weighted average forecasted energy charge rate for the generating unit(s) which the seller determines to be available to provide such energy at the time of a transaction.

CL&P requests an effective date of August 19, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29396 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-2-000]

Empire District Electric Co.; Application

October 26, 1983.

Take notice that on October 17, 1983, Empire District Electric Company ("Empire") submitted for filing an "Application For Authority to Acquire Certain Facilities Under Section 203 Of The Federal Power Act."

Empire requests Commission approval to purchase a 12 Kv distribution line, a 1000 Kva12 Kv/2400 distribution substation and associated facilities, and one 1500 Kva 12 Kv/2400 distribution substation and associated facilities. The purchase price of the facilities is $102,500.00.

Empire states that the acquisition of the facilities will enable it to provide wholesale electric service to the City of Lockwood, Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29397 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL84-2-000]

North Carolina Utilities Commission, Applicant, v. Tapoco, Inc.; Nantahala Power & Light Co.; and Aluminum Co. of America, Respondents; Complaint and Application for Relief, October 26, 1983.

Take notice that on October 14, 1983, North Carolina Utilities Commission ("NCUC") submitted for filing a Complaint under 16 U.S.C. 812, 813 and 824(e), and an Application for Relief under 16 U.S.C. 824(e). NCUC states that the Aluminum Company of America ("Alcoa"), as sole stockholder of Tapoco and Nantahala, has exercised such total and absolute control that it has maximized the amount of electricity available to itself directly or indirectly from its subsidiaries, without regard to the amount of electric energy available to the public or the cost of such energy to the public.

NCUC requests that the Commission (a) conduct an investigation of Tapoco's Rate Schedule 4, (b) determine that the same is unjust, unreasonable and unlawfully preferential and in violation of federal anti-trust laws, and (c) approve a new Tapoco tariff containing terms and conditions pursuant to which Nantahala may purchase and acquire a fair and equitable portion of Tapoco's power and energy entitlements.

Therefore, NCUC applies to the Commission for an order compelling Tapoco to furnish and sell to Nantahala a fair and equitable portion of its power and energy at just and lawful rates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before November 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29398 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-38-000]

Otter Tail Power Co.; Filing

October 26, 1983.

The filing Company submits the following:

Take notice that on October 18, 1983, Otter Tail Power Company (Otter Tail) tendered for filing proposed changes in its rates and charges to 14 municipal customers and 9 state institutions (including low voltage transmission service provided to the Oakes O&M Headquarters), as embodied in proposed Firm Wheeling Electric Rate Schedule and Partial Requirements Electric Rate Schedule along with General Rules and Regulations. Otter Tail proposes to place the proposed rate schedules into effect as of December 19, 1983. The revised rates and charges would increase revenues from jurisdictional sales by $1,815,955, based on the 12 month period ending December 31, 1984.

Otter Tail states that the proposed increase in rates in intended primarily to increase the rate of return to an adequate level. Otter Tail has experienced a substantial investment in net transmission plant since the Company's previous rate case (filed October 4, 1976). The rate of inflation since the 1976 rate case has had an adverse impact upon the Company's Transmission Expense and Administrative and General Expenses. The proposed rates and charges are designed to enable Otter Tail to earn a rate of return of 10.83% on rate base during calendar year 1984, which is Period II.

Otter Tail proposes an effective date of December 19, 1983. and therefore requests waiver of the Commission's notice requirements.

A copy of this filing has been served upon Otter Tail's jurisdictional customers and the State Commissions of Minnesota, North Dakota and South Dakota.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest

should be filed on or before November 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29399 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-3-000]

Pacific Power & Light Co.; Application

October 26, 1983.

Take notice that on October 17, 1983, Pacific Power & Light Company ("PP&L") submitted for filing its "Application For An Order Authorizing the Acquisition of Utility Plant Near Coos Bay, Oregon."

PP&L states that it proposes to purchase from the General Services Administration 13,634 feet of 115 kV transmission line and associated facilities. PP&L further states that 7570 feet of access roads and easements are included in the sale. The proposed purchase price is $115,000.00.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29400 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-40-000]

Puget Sound Power & Light Co.; Filing

October 26, 1983.

The filing Company submits the following:

Take notice that on October 19, 1983, Puget Sound Power & Light Company (Puget) tendered for filing Schedule 5 of Appendix 1 to the Residential Purchase and Sale Agreement between Puget and Bonneville Power Administration (BPA).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 29401 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-41-000]

Puget Sound Power & Light Co.; Filing

October 26, 1983.

The filing Company submits the following:

Take notice that on October 19, 1983, Puget Sound Power & Light Company (Puget) tendered for filing a proposed change in its FERC Rate Schedule No. 69 and in FERC Rate Schedule No. 61 of Pacific Gas and Electric Company (PG and E).

The proposed change is a letter agreement (the "Supplemental Agreement"), dated January 6, 1981, that supplements the Agreement Relating to Exchange of Power between Puget and PG and E, dated July 1, 1980, which is the subject of the above-referenced rate schedule. The Supplemental Agreement changes the rate schedules by providing that, upon agreement of the parties, Puget may sell to PG and E certain energy previously delivered to PG and E in lieu of requiring its return. The purchase price for any energy sold pursuant to the Supplemental Agreement was to be as agreed to by Puget and PG and E, provided that such price did not exceed the greater of (a) Puget's highest cost of energy then in storage or (b) Puget's highest fully allocated cost of energy from one of its resources then in operation.

Puget requests an effective date of January 6, 1981, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon PG and E.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29402 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-39-000]

Southern California Edison Co.; Filing

October 26, 1983.

The filing Company submits the following:

Take notice that on October 19, 1983, Southern California Edison Company (Edison) tendered for filing Amendment No. 1 to the Agreement for Integration and Interruptible Transmission of Nonfirm Energy Purchased, Pursuant to an Energy Agreement, by Vernon from Nevada Power Company (Amendment), which has been executed by Edison and the City of Vernon (Vernon), California, on October 12, 1983.

Edison states that the Amendment provides for the establishment of a new Point Attachment under Edison's Rate Schedule FERC No. 149 at the Victorville-Lugo 500 kV Interconnection Point, at which midpoint, the Department of Water and Power of the City of Los Angeles'(LADWP) 500 kV transmission line from Victorville Substation is physically connected with Edison's 500 kV transmission line from Lugo Substation.

Edison requests an effective date of October 12, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the City of Vernon, California, Nevada Power Company, the Department of Water and Power of the City of Los Angeles, and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 21, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29403 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-10139-001, et al.]

Cities Offshore Production Co., et al.; Application To Amend Certificates of Public Convenience and Necessity and any in Related Proceedings

(October 25, 1983.

Take notice that on September 19, 1983, Cities Offshore Production Co. (Cities) of P.O. Box 300, Tulsa, Oklahoma 74102 filed an application of Cities Offshore Production Co. to Amend Certificates of Public Covenience and Necessity so as to Substitute Cities Offshore Production Co. for Cities Service Company in such certificates and in any other related proceedings Cities is filing contemporaneously herewith a Certificate of Adoption and Requests for Redesignation of Cities Service Company Rate Schedules listed in the attached Appendix.

Effective September 8, 1983, the name of Cities Service Company was changed to Cities Offshore Production Co.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 4, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

APPENDIX

R.S. No. and purchaser		Certificate docket
178	Tennessee Gas Pipeline Co.	G-10139
312	Trunkline Gas Company	CI169-406
397	Tennessee Gas Pipeline Co.	CI73-457
439	Tennessee Gas Pipeline Co.	CI77-19
461	Southern Natural Gas Company	CI78-310
484	Texas Eastern Transmission Corp.	CI79-405
485	Michigan-Wisconsin Pipe Line Co.	CI79-541
491	Tennessee Gas Pipeline Co.	CI80-471
504	Tennessee Gas Pipeline Co.	CI83-132

[FR Doc. 83-29411 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-547-003]

Colorado Interstate Gas Co.; Amendment to Application

October 25, 1983.

Take notice that on October 7, 1983, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP82-547-003, an amendment to its pending application filed in Docket No. CP82-547-000 pursuant to Section 7 of the Natural Gas Act, to reflect certain changes in its proposals, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Specifically, by the subject amendment, Applicant proposes the following:

(1) Revise the requested peak day entitlement changes originally proposed to eliminate the aggregate decrease in total peak day entitlements.

PROPOSED CHANGES IN PEAK DAY ENTITLEMENTS

Customer	Increase (Mcf)	Decrease (Mcf)
Citizens Utilities Company		5,870
City of Colorado Springs, Colorado		28,681
City of Fort Morgan, Colorado		435
City of Walsenburg, Colorado	85	
Eastern Colorado Utility Company	1,043	
K N Energy, Inc.[1]	20,000	
Mountain Fuel Supply Company[1]	23,500	
Raton Natural Gas Company		288
Western Gas Interstate Company		9,100
Total	44,568	44,568

[1] Partial requirement customer.

(2) Delete Applicant's request to adjust its rates to reflect the change in demand revenues associated with revisions to its customers' peak day entitlements.

(3) Revise the cost information and delivery pressure for its proposed modifications at the Schaeffer-Weeks Sales Meter Station. The facility modifications are now estimated to cost $152,300.00 and deliveries are proposed to be made at Applicant's line pressure.

(4) Delete Applicant's request to extend the term of an existing service agreement with Peoples Natural Gas Company.

(5) Withraw Applicant's offer of settlement filed in the instant proceeding on April 13, 1983.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 15, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 3885.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29413 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-11-000]

Columbia Gas Transmission Corp.; Tariff Filing

October 25, 1983

Take notice that on October 20, 1983, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following tariff sheets with a proposed effective date of August 5, 1983:

Original Volume No. 1

Original Sheet No. 1A

Original Volume No. 1–A

Original Sheet Nos. 1 through 10 inclusive

This filing adds Rate Schedules TS–1 and TS–2 to Columbia's tariff. Rate Schedules TS–1 and TS–2 set forth the terms pursuant to which Columbia will perform transportation pursuant to Section 157.209 of the Commission's regulations.

Columbia has requested that Rate Schedules TS–1 and TS–2 be accepted for filing and become effective on August 5, 1983, the effective date of § 157.209 of the Commission's regulations. Columbia also requests a waiver of the Commission's regulations to include Rate Schedules TS–1 and TS–2 in its Original Volume No. 1–A for a one-year period, in order to insure that all transportation services under these Rate Schedules will be placed in a priority below Columbia's sales and firm transportation services in the event of inadequate capacity on Columbia's system. To the extent any other waviers are necessary to the acceptance of the filing, Columbia respectfully requests the same.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 4, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any party wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29414 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-5-000]

Florida Gas Transmission Co.; Request Under Blanket Authorization

October 25, 1983.

Take notice that o n October 6, 1983, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP84–5–000 a request pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that FGT proposes to abandon natural gas service to an individual customer and the facilities used to provide that service in Matagorda County, Texas, under the authorization issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

FGT states that in Docket No. CP80–192 it was authorized to operate the subject metering and appurtenant facilities, to sell gas directly to Edward D. Smith to operate water well facilities. It is further stated that Mr. Smith no longer farms the land for which he used natural gas to operate water well facilities and, accordingly, no longer requires the natural gas service. Consequently, FGT is proposing to abandon the sales tap and related facilities in Matagorda County, Texas, and the transportation of gas by means of such facilities. FGT further states no other customer is being served through these facilities.

FGT also states that the cost of facilities installed is not available and, therefore, FGT does not propose any accounting treatment for purposes of this abandonment.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29415 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-45-001] (PGA84-1)

Inter-City Minnesota Pipelines Ltd., Inc., Tariff Filing

October 25, 1983.

Take notice that on October 20, 1982, Inter-City Minnesota Pipelines Ltd., Inc. (Minnesota Pipelines) tendered for filing Substitute Twentieth Revised Sheet No. 4 and Third Revised Sheet No. 63 to Original Volume No. 1 of Minnesota Pipelines' FERC Gas Tariff. Minnesota Pipelines has requested that the sheets be suspended only for such time as is necessary to allow an effective date of Nobember 1, 1983, for the rates set out therein.

Minnesota Pipelines represents that Substitute Twentieth Revised Sheet No. 4 embodies a correction of values that were juxtaposed by clerical error. The correct values appear elsewhere in Minnesota Pipelines' filing of September 30, 1983, and there will be no disadvantage to any person in permitting a shortened notice period for this tariff sheet. Third Revised Sheet No. 63 represents a change to Minnesota Pipelines tariff that will provide for conformation of interest calculations on the PGA account to Commission regulations. Minnesota Pipelines represents that the PGA application correctly calculates the interest charge, but it overlooked earlier language remaining in its tariff that calls for a different approach.

Minnesota Pipelines states that a copy of the filing has been served on all jurisdictional customers and on the Minnesota Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 4, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29418 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-25-000]

Mississippi River Transmission Corp.; Rate Change Filing

October 25, 1983.

Take notice that on October 19, 1983, Mississippi River Transmission Corporation (Mississippi) submitted for filing Second Substitute Original Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1. Said tariff sheet is proposed to be effective October 1, 1983.

Mississippi states the instant filing reflects significant decreases in Mississippi's cost of purchased gas which will reduce the commodity component of Mississippi's Rate Schedules CD-1 and CD-2 rates, and the single part rates under Rate Schedules SGS-1 and PI-1, by 23.95¢ per Mcf. It is claimed that this rate reduction will reduce Mississippi's annual jurisdictional revenues by approximately $30.0 million. Mississippi states that the gas cost reduction is the result of a departure by Mississippi from its historical purchase patterns on which its PGA filings are required to be based. Mississippi states that the immediate flow through of the benefits of its changed purchase pattern in advance of the winter heating season will provide significant cost relief that would otherwise not be available until March 1, 1984 under the normal operation of Mississippi's PGA provision. Therefore, Mississippi has requested waiver of the applicable provisions of its gas tariff and the Commission Regulations to permit this rate reduction to be effective as proposed on October 1, 1983.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 4, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29421 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-56-001]

Northwest Pipeline Corp.; Compliance Filing

October 25, 1983.

Take notice that on October 20, 1983, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance for the following tariff sheets to its First Revised Volume No. 1 Tariff.

Volume No. 1 tariff	Proposed effective date
Fifth Substitute Seventh Revised Sheet No. 16.	Oct. 1, 1982.
Third Substitute Eighth Revised Sheet No. 10.	Dec. 1, 1982.
Third Substitute First Amended Eighth Revised Sheet No. 16.	Apr. 1, 1983.
Third Substitute Second Amended Eighth Revised Sheet No. 10.	Apr. 11, 1983.
Fourth Substitute Ninth Revised Sheet No. 10.	May 1, 1983.
Third Substitute Tenth Revised Sheet No. 10.	May 3, 1983.
Substitute Eleventh Revised Sheet No. 16.	Oct. 1, 1983.

As more fully explained in the instant filing, the tendered Substitute tariff sheets will reflect the required revisions to correctly state the Purchased Gas Cost Component of the currently effective commodity rates noted on the tariff sheets in effect for each purchased gas cost adjustment period pursuant to Northwest's Stipulation and Agreement in Settlement of Docket No. RP82-56-000.

Northwest requests waiver of Section 154.22 and special permission under Section 154.51 in order to permit the effective dates as shown for each of the tendered tariff sheets listed.

A copy of this filing has been served on all of Northwest's jurisdictional sales customers, transportation and gathering customers and otherwise all parties of interest in Docket No. RP82-56-000.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before November 4, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29423 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-14-000]

Small Power Production and Cogeneration Facilities; James H. Blincoe; Application for Commission Certification of Qualifying Status

October 25, 1983.

On October 14, 1983, James H. Blincoe (Applicant), of 1095 Squire Court, Aurora, Illinois 60505, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at 1095 Squire Court, Aurora, Illinios. The primary energy source for the facility will be natural gas. The facility will consist of a reciprocating engine and an induction generator. The useful thermal output from the facility will be used to produce hot water for heating and cooling purposes. The electric power production capacity of the facility will be 7.8 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29420 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF80-16-001]

Small Power Production and Cogeneration Facilities; Boott Hydropower, Inc.; Application for Amendment of Commission Certification of a Qualifying Facility

October 25, 1983.

On October 14, 1983, Boott Hydropower, Inc. ("Boott") filed with the Federal Energy Regulatory Commission an application for certification that the Lowell Hydroelectric Project with a proposed change in ownership is a qualifying small power production facility to section 292.207 of the Commission's rules.

The Lowell Hydroelectric Project (FERC Project No. 2790) is located at the Pawtucket Dam on the Merrimack River in Lowell, Massachusetts. The Project includes a proposed 15 megawatt hydroelectric power plant and existing hydropower generating stations that have a combined capacity of 7.915 megawatts. Thus, total electric power production capacity of the facility will be 22.915 megawatts.

By notice of October 14, 1982, the Commission certified the Project as a qualifying small power production facility. The requested amendment concerns a proposed change in the identity of the owner of the facility. The owners of the Project will be Boott and one of the following: (i) General Electric Credit Corporation ("GECC"); (ii) a wholly-owned subsidiary of GECC; or (iii) a grantor trust, the grantor and sole beneficiary of which would be a GECC or its wholly-owned subsidiary and the trustee of which would be large financial institution. No electric utility or electric utility holding company will possess either a legal or beneficial ownership interest in the Project.

Any person desiring to be heard or objecting to amending the certification for the qualifying facility should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29409 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-436-000]

Small Power Production and Cogeneration Facilities; Broadview Heights Gas and Electric Co.; Application for Commission Certification of Qualifying Status

October 25, 1983.

On September 19, 1983, Broadview Heights Gas and Electric Co. of 6200 Rockside Woods Blvd., Independence, Ohio 44131, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility is located in Broadview Heights, Ohio. The primary energy source is biomass and waste in the form of landfill gas. The power production facility is 1.95 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29410 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-372-000]

Small Power Production and Cogeneration Facilities; Coastal States Petroleum Co.; Application for Commission Certification of Qualifying Status

October 25, 1983.

On July 28, 1983, Coastal States Petroleum Company (Applicant), of Nine Greenway Plaza, Houston, Texas 77046, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying congeneration facility pursuant to § 292.207 of the Commission's rules. On October 17, 1983, the Applicant filed an addendum to the application.

The topping-cycle cogeneration facility will be located at 1320 Cantwell Lane, Corpus Christi, Texas. The facility will consist of two reconditioned gas turbines with new waste heat recovery boilers. The primary energy source for the facility will be natural gas/refinery fuel gas. The facility will produce 218,000 pounds per hour of process steam and have an electric power production capacity of 46.6 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29412 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-437-000]

Small Power Production and Cogeneration Facilities; Grossmont Hospital District; Application for Commission Certification of Qualifying Status

October 25, 1983.

On September 22, 1983, Grossmont Hospital District of P.O. Box 158, 5555

Grossmont Center Drive, LaMesa, California 92041, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations.

The topping-cycle cogeneration facility is located at the Grossmont Hospital. The primary energy source is natural gas. The power production capacity is 1,600 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29416 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-444-000]

Small Power Production and Cogeneration Facilities; Hartwell Brothers; Application for Commission Certification of Qualifying Status

October 25, 1983.

On September 22 1983, Hartwell Brothers of 1249 Fairfax, Memphis, Tennessee 38106, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations.

The topping-cycle cogeneration facility will be located at 1249 Fairfax, Memphis, Tennessee 38106. The primary energy source will be biomass in the form of wood waste. The power production capacity will be 200 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishes to become a party must file a petition to intervene. Copies of this filing are in file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29417 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-295-000]

Small Power Production and Cogeneration Facilities; James B. Howell; Application for Commission Certification of Qualifying Status

October 25, 1983.

On May 26, 1983, James B. Howell, (Applicant) of 1984 Panama Street, Boise, Ada County, Idaho 83705, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility including two hydroelectric powerhouses as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules. An order certifying the facility as a qualifying facility, but listing the capacity of only one of the powerhouse (788 kilowatts), was issued on August 5, 1983. On October 3, 1983, the Applicant filed a letter pointing out that the notice of his application in the Federal Register issue of Tuesday, June 21, 1983, on page 28322 and the order granting certification failed to include the capacity of the second powerhouse (4,200 kilowatts). This renotice provides the correct information.

The small power production facility will be a hydroelectric facility located in Idaho County, Idaho, 14 miles north of the City of New Meadows. The facility will consist of a rock dam with impoundment, a penstock system, and two powerhouses. The first powerhouse, which will be located at a point just below the confluence of Elk Creek and the Little Salmon River, will contain a vertical turbine generator rated at 4,200 kilowatts. The second powerhouse, which will be located on the Little Salmon River approximately three-quarters of a mile downstream from the first powerhouse, will contain a turbine generator unit rated at 788 kilowatts. The total electric power production capacity of the facility will be 4,988 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29419 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-11-000]

Small Power Production and Congeneration Facilities; Nashville Thermal Transfer Corp.; Application for Commission Certification of Qualifying Status

October 25, 1983.

On October 11, 1983, Nashville Thermal Transfer Corporation, (Applicant) of 110 First Avenue, South, Nashville, Tennessee 37201, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be located at 110 First Avenue, South, Nashville, Tennessee. The primary energy source for the facility will be biomass in the form of municipal solid waste. The electric power production capacity of the facility will be 6,500 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within

30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29422 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-441-000]

Small Power Production and Cogeneration Facilities; University Energy; Application for Commission Certification of Qualifying Status

October 25, 1983.

On September 26, 1983, University Energy of 3430 Camino Del Rio North, Suite 200, San Diego, California 92108, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations.

The topping-cycle facility will be located in Kern County, California. The primary energy source will be natural gas. The power production capacity will be 8.6 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29424 Filed 10-28-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPM-FRL 2458-2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, SW., Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Toxics Programs

- Title: Application for Registration of Pesticide-Producing Establishments (EPA #0158).

Abstract: EPA requires the respondents to register with the Agency and to submit a form providing basic product descriptions.

Respondents: Producers of pesticide products.

- Title: Pesticide Report for Pesticide-Producing Establishments (EPA #0160).

Abstract: Respondents must report annually to EPA the types/amounts of pesticide products and related chemical ingredients they produce.

Respondents: Producers of pesticide products.

Agency PRA Clearance Requests Completed by OMB

Except as noted, the following were cleared on 12 October 1983:

EPA #0034, Wastewater Permittee Noncompliance Reporting (OMB #2040-0048).

EPA #0092, Wastewter Permittee Report of Planned Facility Changes (OMB #2040-0047).

EPA #0093, Recordkeeping of Wastewater Discharge Monitoring Data, (OMB #2040-0048).

EPA #0125, Wastewater Permittee Report of Excessive Toxic Pollutant Discharge (OMB #2040-0045).

EPA #1031, Allegations That Chemical Substances Cause Significant Adverse Reactions, was cleared on October 11 (OMB #2070-0017).

Comments on all parts of this notice should be sent to:

David Bowers (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street SW., Washington, D.C. 20460

and

Don Arbuckle, Vartkes Broussalian or Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, D.C. 20503.

Dated: October 21, 1983.

Mavis Bravo,

Chief, Information Management Staff.

[FR Doc. 83-29180 Filed 10-28-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-53053; TSH-FRL 2443-8]

Premanufacture Notices; Monthly Status Report for August 1983

Correction

In FR Doc. 83-26755 beginning on page 44892 in the issue of Friday, September 30, 1983, make the following corrections:

1. On page 44893, PMN No. 83-1030, "Hydroxy functional acrylic" should have read "Hydroxy functional acrylic copolymer".

2. On page 44894, PMN No. 83-904, "4,4' =thio" should have read "4,4'-thio".

3. On page 44895, PMN Nos. 83-973 and 83-974, every place the symbol "=" appeared (seven places), it should have been "-".

BILLING CODE 1505-01-M

[Docket No. ECAO-CD-81-1; ORD-FRC 2460-2]

Air Quality Criteria for Ozone and Other Photochemical Oxidants; Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: A workshop on the health effects of ozone and other photochemical oxidants will be held by the EPA Environmental Criteria and Assessment Office at the Sheraton Crabtree Motor Inn in Raleigh, North Carolina on November 16-18, 1983 to facilitate preparation of the working draft chapters on respiratory tract

transport and absorption, toxicological effects in experimental animals, clinical studies, and epidemiology of the revised *EPA Air Quality Criteria Document for Ozone and Other Photochemical Oxidants*. The workshop will begin each day at 9:00 a.m. and will end about 5:00 p.m. Pre-registration for the workshop is required.

FOR FURTHER INFORMATION CONTACT: Beverly E. Tilton, EPA Project Officer, Environmental Criteria and Assessment Office, MD–52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919/541–4161.

SUPPLEMENTARY INFORMATION: The existing criteria document, *Air Quality Criteria for Ozone and Other Photochemical Oxidants* (EPA–600/8–78–004), is being updated and revised pursuant to sections 108 and 109 of the Clean Air Act, as amended, 42 U.S.C. §§ 7408 and 7409, and will be used as a basis for the review and, as appropriate, revision of the National Ambient Air Quality Standards (NAAQS) for ozone. As part of this process, a panel of consulting authors and contributors, EPA scientists, and non-EPA scientific experts will discuss the draft chapters and ways of resolving outstanding scientific issues at a public workshop. Peer-review comments received at the workshop will be taken into account in further revisions of the draft chapters to be included as part of an external review draft of the ozone document to be released for formal public comment and review by the Clean Air Science Advisory Committee of EPA's Scientific Advisory Board in 1984.

Pre-registration for this workshop is required. Persons wishing to attend as observers should contact Beverly Tilton (See "**FURTHER INFORMATION**" above). Copies of the draft chapters to be discussed will be provided at the meeting to such observers, who will have an opportunity to make brief oral statements should they so desire. Opportunity for thorough public review of the revised chapters and submission of written comments will also be provided when the first external draft of the entire document is made available for public comment.

Dated: October 25, 1983.

David J. Graham;

Acting Assistant Administrator for Research and Development (RD–672).

[FR Doc. 83-29463 Filed 10-28-83; 8:45 am]

BILLING CODE 6560-50-M

[WH-FRL-2450-6]

National Drinking Water Advisory Council; Request for Nomination of Members

The Environmental Protection Agency (EPA) invites all interested persons to nominate qualified individuals to serve as members of the National Drinking Water Advisory Council. This Advisory Council was established to provide advice, consultation and recommendations to the Agency on the activities, functions and policies relating to the implementation of the Safe Drinking Water Act, as amended, which became effective December 16, 1974. The Charter for this Advisory Committee is reproduced below.

Any interested person or organization may nominate qualified persons for membership. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should include a résumé of the nominee's background, experience and qualifications.

This request for nominations does not imply any commitment by the Agency as to the procedure to be followed in making selections.

Persons selected for membership will receive per diem compensation for travel and nominal daily compensation while attending meetings.

Nominations should be submitted to the Executive Assistant, National Drinking Water Advisory Council, Office of Drinking Water (WH–550), Environmental Protection Agency, Washington, D.C. 20460, no later than November 30, 1983. The Agency will not formally acknowledge or respond to nominations.

Dated: October 18, 1983.

Victor J. Kimm,

Director, Office of Drinking Water.

National Drinking Water Advisory Council

1. *Purpose.* This Charter is reissued for the National Drinking Water Advisory Council in accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. (App. I) 9(c).

2. *Authority.* The Council was created on December 16, 1974, under the Safe Drinking Water Act of 1974, Pub. L. 93–533, 42 U.S.C. 300j–5 and the charter was renewed on December 23, 1976, December 1, 1978, and November 7, 1980.

3. *Objective and Scope of Activity.* The Council advises, consults with, and makes recommendations on a continuing basis to the Administrator, through the Assistant Administrator for Water, on matters relating to activities, functions, and policies of the Agency under the Safe Drinking Water Act.

4. *Functions.* The Council provides practical and independent advice to the Agency on matters and policies relating to drinking water quality and hygiene, and maintains an awareness of developing issues and problems in the drinking water area. It reviews and advises the Administrator on regulations and guidelines that are required by the Safe Drinking Water Act; makes recommendations concerning necessary special studies and research; recommends policies with respect to the promulgation of drinking water standards; assists in identifying emerging environmental or health problems related to potentially hazardous constituents in drinking water; and proposes actions to encourage cooperation and communication between the Agency and other governmental agencies, interested groups, the general public, and technical associations and organizations on drinking water quality.

5. *Composition and Meetings.* The Council consists of fifteen members including a Chairperson, appointed by the Administrator after consultation with the Secretary, Department of Health and Human Services. Five members shall be appointed from the general public; five members shall be appointed from appropriated State and local agencies concerned with water hygiene and public water supply; and five members shall be appointed from representatives of private organizations or groups demonstrating an active interest in the field of water hygiene and pubilc water supply. Except as provided in Section 1446 of the Safe Drinking Water Act, each member of the Council will hold office for a term of three years and will be eligible for reappointment. The Council is authorized to form subcommittees from time to time to consider specific matters and report back to the full Council. Such subcommittees shall consist of the members of the Council. Meetings will be held as necessary and convened by the Assistant Administrator for Water. A full-time salaried officer or employee of EPA will be designated as the Executive Secretary. Each meeting will be conducted in accordance with an agenda approved in advance of the meeting by the designated Agency official. The Executive Secretary will be present at all meetings and is authorized to adjourn any meeting whenever it is determined to be in the public interest. The estimated annual operating cost of the Council is approximately $60,000, which includes .75 work-year of staff support. The Office of Water will provide the necessary staff and support for the Council.

6. *Duration.* As provided in the Safe Drinking Water Act, "Section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council." However, the Charter is subject to the renewal process upon the expiration of each successive two-year period following the date of enactment of the Act establishing this Council.

7. *Supersession.* The former National Drinking Water Advisory Council charter signed on November 7, 1980 is hereby superseded.

Approval Date, November 19, 1982.

Date Filed with Congress, November 20, 1982.

Anne M. Gorsuch

Administrator.

[FR Doc. 83-29452 Filed 10-28-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51485C; BH-FRL 2451-1]

Alkyl-Substituted Aromatic Amine; Premanufacture Notice; Extension of Review Period

Correction

In FR Doc. 83-27782 beginning on page 46617 in the issue of Thursday, October 13, 1983, make the following correction. In column three, **SUPPLEMENTARY INFORMATION,** line six, "EMN" should read "PMN" and "RPA" should read "EPA".

BILLING CODE 1505-01-M

[ORD-FRL 2461-1]

Draft Health Assessment Documents for Epichlorohydrin and Vinylidene Chloride

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability.

SUMMARY: A number of solvents and associated compounds which are emitted to the ambient air are currently being studied by the Environmental Protection Agency to determine whether they should be regulated as hazardous air pollutants under the Clean Air Act. One of the actors in the Agency's study of these compounds is the evaluation of available information pertaining to human health effects. The evaluation for the compounds listed below is contained in draft health assessment documents prepared by the Office of Health and Environmental Assessment of the Office of Research and Development. In order to have a thorough review of the scientific aspects of these documents, external review drafts will be transmitted to the Agency's Science Advisory Board (SAB) for review, and simultaneously, will be made available for public review and comment.

The titles and publication numbers of the draft health assessment documents are:

Title	EPA No.
Health Assessment Document for Epi>chlorohydrin.	[illegible]/8-83-032A.
Health Assessment Document for Vinylidene Chloride.	[illegible]/8-83-031A.

The draft documents on epichlorohydrin and vinylidene chloride will be available for public review on or about November 7, 1983 and the Agency will accept public comments until January 6, 1984.

After receipt of all public comments on these documents, the SAB will hold public meetings to review the documents. Advance notices announcing the time and place for the SAB public meetings and document agenda will be made in the **Federal Register.**

Those persons interested in commenting on the scientific merit of the draft documents will be able to obtain copies as follows:

(1) The draft documents will be available in single copy quantity during the comment period from EPA at the following address: ORD Publications—CERI-FR, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, Tel: 513/684-7562. Requesters should be sure to cite the EPA number assigned to the document.

(2) The draft documents will also be available for public inspection and copying at the EPA library at Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Comments must be received by close of business, January 6, 1984, in order to be considered. Commenters are requested to submit separate comments for each document rather than making a combined submission. Comments must be made in writing and should be addressed in the manner below:

- For epichlorohydrin: send comments to William G. Ewald, Environmental Criteria and Assessment Office (MD-52), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.
- For vinylidene chloride: send comments to Robert M. Bruce, Ph.D., same address as above.

After receipt of all public comments on these documents, the SAB will hold public meetings to review the documents. Advance notices announcing the time and place for the SAB public meetings and document agenda will be made in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Ms. Diane Chappell, Tel: 919/541-3637.

Dated: October 25, 1983.

David J. Graham,

Acting Assistant Administrator for Research and Development.

[FR Doc. 83-29576 Filed 10-28-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-692-DR]

Major Disaster and Related Determinations; New Mexico

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New Mexico (FEMA-692-DR), dated October 24, 1983, and related determinations.

DATED: October 24, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice: Notice is hereby given that, in a letter of October 24, 1983, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended, (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288) as follows:

I have determined that the damage in certain areas of the State of New Mexico, resulting from severe storms and flooding, beginning on September 18, 1983, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of New Mexico.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Lonnie R. Chant of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New Mexico to have been affected adversely by this declared major disaster: The Counties of

Catron, Grant and Hidalgo for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718–02.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–29478 Filed 10–28–83; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–291]

Magnet Bank, FSB, Charleston, West Virginia; Final Action, Approval of Conversion Application

Dated: October 24, 1983.

Notice is hereby given that on September 30, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Magnet Bank, FSB, Charleston, West Virginia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Pittsburgh, Eleven Stanwix Street, Fourth Floor, Gateway Center, Pittsburgh, Pennsylvania 15222–1395.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretry.

[FR Doc. 83–29470 Filed 10–28–83 8:45 am]

BILLING CODE 6720–01–M

[No. AC–290]

St. Louis Federal Savings and Loan Association, Clayton, Missouri; Final Action, Approval of Conversion Application

Dated: October 24, 1983.

Notice is hereby given that on September 30, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of St. Louis Federal Savings and Loan Association, Clayton, Missouri, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Des Moines, 907 Walnut Street, Des Moines, Iowa 50309.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83–29471 Filed 10–28–83 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 75 (stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Joseph W. Daly d.b.a. Argonaut Maritime Company, 100 Church Street, New York, NY 10007

Gunter Wegner d.b.a. Wegner International Forwarding Company, 5333 Tally Green Drive, Marietta, GA 30007

George M. Hodgson d.b.a. International Expediters Services, c/o 5812 8th Avenue, Los Angeles, CA 90043

Logistics & Transportation Services, Inc., 222 East Redwood Street, Suite 200, Baltimore, MD 21202. Officers: William J. Klauberg, President/Director, Bart F. O'Brien, Vice President/Director, Gary V. Morden, Secretary/Treasurer/Director

Daniel H. Cheung, 919 Lurline Drive, Foster City, CA 94404

Select Shipping, Inc., 253 New Dorp Lane, P.O. Box 276, Staten Island, NY 10306. Officers: Marina Vargas, President, Annette A. Cazenave, Vice President, Ellen Rosenfeld, Vice President

Josh Brown Enterprises, Inc. d.b.a. Ocean Transport International, 220 West Iry, Inglewood, CA 90302. Officers: Josh Brown, President, Robert J. Gesso, Secretary/Treasurer, Katharina Schaefer, Vice President

American International Services, Inc., 1025 Connecticut Avenue, N.W., Suite 1009, Washington, D.C. 20036. Officers: Lewis E. Anderson, President, Jackie Anderson, Treasurer, Allen E. Hirschmann, Vice President, George Schweitzer, Secretary.

Dated: October 26, 1983.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83–29519 Filed 10–28–83; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1476]

American International Forwarders, Inc.; Order of Revocation

On October 20, 1983, American International Forwarders, Inc., 2100 Travis Street, #615, Houston, TX 77002 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1476.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission in as set forth in the Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 1476, be revoked effective October 20, 1983.

It is further ordered, that a copy of this order be published in the **Federal Register** and served upon October 20, 1983.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83–29522 Filed 10–28–83; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 923]

Frank P. Dow Co., Inc.; Order of Revocation

On October 17, 1983, Frank P. Dow Co., Inc., 615 W. Walnut Street, Compton, CA 90220 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 923 due to the merger of this company with its parent company, F. W. Myers & Co., Inc.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 923, be revoked effective October 17, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this order be published in the **Federal**

Register and served upon Frank P. Dow Co., Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-29521 Filed 10-28-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2303R]

Gray International, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Gray International, Inc., P.O. Box 6485, Denver, CO 80206 was cancelled effective September 28, 1983.

By letter dated September 6, 1983, Gray International, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2303R would be automatically revoked unless a valid surety bond was filed with the Commission.

Gray International, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2303R be and is hereby revoked effective September 28, 1983.

It is ordered, that a copy of this order be published in the **Federal Register** and served upon Gray International, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-29524 Filed 10-28-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1950]

Interford Corp.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Interford Corporation, 7913 NW., 71st Street, Miami, FL 33166 was cancelled effective October 19, 1983.

By letter dated September 22, 1983, Interford Corporation was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1950 would be automatically revoked unless a valid surety bond was filed with the Commission.

Interford Corporation has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freigh Forwarder License No. 1950 be and is hereby revoked effective October 19, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 1950 issued to Interford Corporation be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Interford Corporation.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-29525 Filed 10-28-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2072]

Jet Express, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Jet Express, Inc., 7343 NW., 54th Street, Miami, FL 33166 was cancelled effective October 19, 1983.

By letter dated September 22, 1983, Jet Express, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2072 would be automatically revoked unless a valid surety bond was filed with the Commission.

Jet Express, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2072 be and is hereby revoked effective October 19, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2072 issued to Jet Express, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Jet Express, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-29523 Filed 10-28-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1397R]

F. W. Myers (Atlantic) & Co., Inc.; Order of Revocation

On October 17, 1983, F. W. Myers (Atlantic) & Co., One World Trade Center, No. 3211, New York, NY 10048 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1397R due to the merger of this company with its parent company, F. W. Myers & Co., Inc.

Therefore, by virtue of authority vested in me by the Federal Maritime Commssion as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 1397R, be revoked effective October 17, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon F. W. Myers (Atlantic) & Co., Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-29520 Filed 10-28-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1414R]

Universal Shipping Corp.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further

provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Universal Shipping Corporation, 1441 W. 132nd Street, Gardena, CA 90249 was cancelled effective October 15, 1983.

By letter dated October 11, 1983, Universal Shipping Corporation was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1414R would be automatically revoked unless a valid surety bond was filed with the Commission.

Universal Shipping Corporation has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder Licnese No. 1414R be and is hereby revoked effective October 15, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 1414R issued to Universal Shipping Corporation be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Universal Shipping Corporation.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-28526 Filed 10-28-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Barnett Banks of Florida, Inc.; Acquisition of Bank Shares by a Bank Holding Company

Barnett Banks of Florida, Inc., Jacksonville, Florida, has applied for the Board's approval under 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire up to 100 percent of the voting shares of up to 100 percent of the outstanding nonvoting series A cumulative convertible Preferred Stock of Florida Coast Banks, Inc., Pompano Beach, Florida. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Barnett Banks of Florida, Inc., Jacksonville, Florida, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Midlantic/Florida Coast Holdings, Inc., Edison, New Jersey, Florida Coast Midlantic Trust Company, N.A., Lighthouse Point, Florida, and Florida Coast Collection Services, Inc., Margate, Florida.

Applicant states that the proposed subsidiary would engage in trust company activities and collection services. These activities would be performed from offices of Applicant's subsidiary in Florida, serving the entire States of Florida. Such activites have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to public, such as greater convenience, increased competitions, or gains in efficiency, that outweigh possible adverse effects, such as under concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writting and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than November 25, 1983.

Board of Governors of the Federal Reserve System, October 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29442 Filed 10-28-83; 8:45 am]

BILLING CODE 6210-01-M

Depositors Corp.; Proposed Retention of Homeowners Mortgage Company

Depositors Corporation, Augusta, Maine, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain voting shares of Homeowners Mortgage Company, Nashua, New Hampshire.

Applicant states that the proposed subsidiary would engage in the activities of mortgage origination and sale of such mortgages in the secondary market. These activities would be performed from offices of Applicant's subsidiary in Nashua, New Hampshire, and the geographic area to be served is southern New Hampshire. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicits of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than November 21, 1983.

Board of Governors of the Federal Reserve System, October 24, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29436 Filed 10-28-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Reserve Bank of Boston, et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by aquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to

each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Charter Financial Corporation,* Framingham, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Framingham Trust Company, Framingham, Massachusetts. Comments on this application must be received not later than November 22, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Gulf Coast Bancshares, Inc.,* Abbeville, Louisiana; to become a bank holding company by acquiring 66.7 percent of the voting shares of Gulf Coast Bank, Abbeville, Louisiana. Comments on this application must be received not later than November 22, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Park Bancorporation, Inc.,* Madison, Wisconsin; to become a bank holding company by acquiring 85.45 percent or more of the voting shares of The Park Bank, Madison, Wisconsin. Comments on this application must be received not later than November 22, 1983.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Citizens National Bancshares of Hope, Inc.,* Hope, Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of the Citizens National Bank of Hope, Hope, Arkansas. Comments on this application must be received not later than November 25, 1983.

2. *United Southern Corporation,* Clarksdale, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of United Souther Bank, Clarksdale, Mississippi. Comments on this application must be received not later than November 25, 1983.

E. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Wyoming Bancshares, Inc.,* Wyoming, Minnesota; to become a bank holding company by acquiring 94 percent of the voting shares of 1st State Bank of Wyoming, Wyoming, Minnesota. Comments on this application must be received not later than November 21, 1983.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First United Holding Company,* St. John, Kansas; to become a bank holding company by acquiring 96 percent of the voting shares of First National Bank and Trust of St. John, Kansas, St. John, Kansas. Comments on this application must be received not later than November 16, 1983.

G. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Planters United Bancshares, Inc.,* Rosebud, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The Planters National Bank of Rosebud, Rosebud, Texas. Comments on this application must be received not later than November 25, 1983.

2. *PSB Financial Corporation,* Many, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Peoples State Bank, Many, Louisiana. Comments on this application must be received not later than November 25, 1983.

H. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Western Security Financial Corporation,* Salem, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of Western Security Bank, Salem, Oregon. Comments on this application must be received not later than November 22, 1983.

Board of Governors of the Federal Reserve System, October 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29444 Filed 10-28-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Reserve Bank of Chicago; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *CB Financial Corporation,* Jackson, Michigan; to acquire 100 percent of the voting shares or assets of Clinton Bank and Trust Company, St. Johns, Michigan. Comments on this application must be received not later than November 22, 1983.

Board of Governors of the Federal Reserve System, October 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc.83-29443 Filed 10-28-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Reserve Bank of Cleveland; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Community Bancshares, Inc.,* McArthur, Ohio; to acquire 100 percent of the voting shares of The First Bremen Bank, Bremen, Ohio. Comments on this application must be received not later than November 22, 1983.

Board of Governors of the Federal Reserve System, October 24, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29437 Filed 10-28-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Reserve Bank of St. Louis, et al; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's appoval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mid-Southern Indiana Bancorp,* Seymour, Indiana; to become a bank holding company by acquiring 80 percent of the voting shares of The Seymour National Bank, Seymour, Indiana. Comments on this application must be received not later than November 22, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Oak Forest Bancshares, Inc.,* Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Oak Forest Bank, Houston, Texas, and Doctor's Center International Bank, Houston, Texas. Comments on this application must be received not later than November 22, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Alaska Mutual Bancorporation,* Anchorage, Alaska; to become a bank holding company by acquiring 100 percent of the voting shares of Alaska Mutual Bank, Anchorage, Alaska. Comments on this application must be received not later than November 21, 1983.

Board of Governors of the Federal Reserve System, October 24, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29440 Filed 10-28-83; 8:45 am]

BILLING CODE 6210-01-M

Key Banks, Inc., Formation of Bank Holding Company

Key Banks, Inc., Albany, New York, has applied for the Board's approval under 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to become a bank holding company by acquiring 100 percent of the voting shares of Depositors Corporation, Augusta, Maine, and thereby acquire indirectly, Depositors Trust Company, Augusta, Maine, Depositors Trust Company of Southern Maine, Portland, Maine, Depositors Trust Company of Aroostock, Fort Fairfield, Maine, and Depositors Trust Company of Eastern Maine, Bangor, Maine. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Key Banks, Inc., Albany, New York, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire indirectly voting shares of Homeowners Mortgage Company, Nashua, New Hampshire, and Firestone Financial Corporation, Newton Centre, Massachusetts.

Applicant states that the proposed subsidiaries would engage, respectively, in the activities of originating mortgage loans and selling them in the secondary market, and in secured commercial lending and leasing, principally for the financing of equipment. These activities would be performed from offices of Applicant's subsidiaries in Nashua, New Hampshire and Newton Centre, Massachusetts, respectively, and the geographic areas to be served are southern New Hampshire and the greater Boston area, respectively. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than November 21, 1983.

Board of Governors of the Federal Reserve System, October 24, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29439 Filed 10-28-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Federal Reserve Bank of Boston, et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating

how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Old Stone Corporation,* Providence, Rhode Island (mortgage banking activities; California and New Mexico): To engage *de novo* through its indirect subsidiary, UniMortgage Corporation of Arizona, Phoenix, Arizona, in acquiring, selling and servicing of first and second mortgage loans. These activities would be conducted from an existing office in Phoenix, Arizona, serving the states of California and New Mexico. Comments on this application must be received not later than November 24, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation,* New York, New York (industrial banking, financing, and insurance activities; Colorado): To continue to engage through its subsidiary, Denver Sunamerica Industrial Bank, in the previously approved activities of operating as an industrial bank in the manner authorized by the laws of the State of Colorado, including receiving time savings deposits; making direct loans and purchasing sales finance contracts and such other extensions of credit as would be made or acquired by an industrial bank; and making available to its debtors credit related insurance. These insurance activities are permissible pursuant to section 601(D) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from a relocated office in Westminster, Colorado, serving the city of Westminster and its environs. Comments on this application must be received not later than November 23, 1983.

2. *Chemical New York Corporation,* New York, New York (financing and insurance activities; Georgia): To continue to engage through its indirect subsidiary, Sunamerica Corporation, in the previously approved activities of generating and servicing loans and other extensions of credit; making or acquiring consumer loans; acquiring installment contracts from retail sellers covering the time sales of goods and related services; making or acquiring loans and other extensions of credit to businesses (including but not limited to, inventory financing); making or acquiring extensions of credit secured by personal property lease contracts; making available to its debtors credit life, credit accident and health, mortgage life, mortgage disability and property and casualty insurance, all directly related to such extensions of credit, such insurance activities being permissible pursuant to sections 601 (A) and (D) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from a relocated office in Atlanta, Georgia, serving the State of Georgia. Comments on this application must be received not later than November 23, 1983.

3. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities): Florida: To establish a *de novo* office of Citicorp Person-to-Person Financial Center of Florida, Inc. and a *de novo* office of Citicorp Homeowners, Inc., to engage in the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The activities of both will be conducted from a single office in Clearwater, Florida and will serve the entire State of Florida for all the aforementioned proposed activities. Comments on this application must be received not later than November 23, 1983.

4. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Florida): To establish a *de novo* office of Citicorp Person-to-Person Financial Center of Florida, Inc. and a *de novo* office of Citicorp Homeowners, Inc. at a shared location in Miami, Florida. The activities in which the *de novo* offices propose to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* offices will comprise the entire State of Florida for all the aforementioned proposed activities. Comments on this application must be received not later than November 23, 1983.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois [illegible]:

1. *Old Kent Financial Corporation,* Grand Rapids, Michigan (leasing real and personal property and making loans; United States): To engage through its subsidiary, Old Kent Leasing Corporation, in leasing real and personal property and equipment, or acting as agent, broker, or adviser, in leasing of such property, where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property; and making or acquiring and servicing, for its own account or the account of others, loans and other extensions of credit, primarily to finance the acquisition of personal property and equipment; such loans would include, but not be limited to, the financing of time sales contracts, conditional sales agreements, installment purchase loans, and secured term loans. These activities would be performed from an office in Grand Rapids, Michigan, serving the entire United States. Comments on this application must be received not later than November 16, 1983.

Board of Governors of the Federal Reserve System, October 24, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29441 Filed 10-28-83; 8:45 am]

[illegible] CODE 6210-01-M

Bank Holding Companies: Federal Reserve Bank of New York, et al; Notice of Proposed De Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company

Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activites indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any commnets that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should idnetify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York (consumer lending, related lending, loan servicing, and insurance agency activities; Georgia): To make or acquire, for its own account and for the account of others, loans and other extensions of credit, both secured and unsecured, including, but not limited to, consumer and business lines of credit, installment loans for personal, household and business purposes and mortgage loans secured by real property; to service loans and other extensions of credit; and to act as insurance agent for credit life insurance and credit accident and health insurance directly related to such lending and servicing activities. These activities will be conducted by a subsidiary, Chase Manhattan Financial Services, Inc., from a *de novo* office in Atlanta, Georgia. Comments on this application must be received not later than November 25, 1983.

2. *Citicorp*, New York, New York (consumer and commercial financing and servicing, leasing and credit-related insurance activities; Connecticut): to establish a *de novo* office of its subsidiary, Citicorp Person-to-Person Financial Center of Connecticut, Inc., to be located in Hamden, Connecticut. The activities in which the *de novo* office proposes to engage are: making or acquiring, for its own account or for the account of others, loans and other extensions of credit, secured or unsecured, to individuals and businesses including but not limited to consumer lending, residential and non-residential real estate lending, commercial lending, sales finance, inventory financing, mobile and manufactured home lending, and factoring; leasing personal or real property or acting as agent, broker or advisor in leasing such property and servicing such leases, subject to all of the qualifications specified in 12 CFR 225.4(a)(6) (a) and (b), where the leases serve as the functional equivalent of an extension of credit to the leasee of the property; servicing loans and other extensions of credit for any person; the sale of credit-related life and accident and health insurance by licensed agents or brokers, as required, and the sale of mortgage life and mortgage disability insurance directly related to the extensions of mortgage loans; and the sale of consumer-oriented financial management courses. The proposed service area of the *de novo* office will comprise the entire State of Connecticut for all of the aforementioned proposed activities. Comments on this application must be received not later than November 25, 1983.

3. *Citicorp*, New York, New York (consumer finance servicing, and credit-related insurance activities; Alabama): To establish a *de novo* office of Citicorp Person-to-Person Financial Center, Inc. and a *de novo* office of Citicorp Homeowners, Inc. at a shared location in Mobile, Alabama. The activities in which the *de novo* offices propose to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit-related life and accident and health insurance by licensed agents or borkers, as required; the sale of consumer-oriented financial mamagement courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* offices will comprise the entire State of Alabama for all the aforementioned proposed activities. Comments on this application must be received not later than November 25, 1983.

3. *Citicorp*, New York, New York (consumer finance servicing, and credit-related insurance activities; New Hampshire): To establish a *de novo* office or Citicorp Person-to-Person Financial Center, Inc. and a *de novo* office of Citicorp Homeowners, Inc. at a shared location in Bedford, New Hampshire. The activities in which the *de novo* offices propose to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit-related life and accident and health insurance by licensed agents or brokers, as required; the sale of consumer-oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* offices will comprise the entire State of New Hampshire for all the aforementioned proposed activities. Comments on this application must be received not later than November 25, 1983.

4. *Midlantic Banks Inc.*, Edison, New Jersey and *Florida Coast Banks Inc.*, Pompano Beach, Florida (fiduciary activities; Florida): To serve customers through their subsidiary, Florida Coast Midlantic Trust Company, N.A., in activities related to or incidential to the trust business including fiduciary, agency, and/or custodial services, from an office in Delray Beach, Florida, serving the towns of Delray Beach, Boynton Beach, Boca Raton, Gulfstream, Highland Beach, and Ocean Ridge. Comments on this application must be received not later than November 24, 1983.

Board of Governors of the Federal Reserve System, October 25, 1983.

James McKee,

Associate Secretary of the Board.

[FR Doc. 83-29445 Filed 10-28-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Advisory Council on Social Security; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Council on Social Security, as established by the Secretary of Health and Human Services in accordance with Section 706 of the Social Security Act, 42 U.S.C. Section 907.

DATE/ADDRESS: The meeting will be held December 4–5, 1983, from 9:00 AM to 4:00 PM each day, in Room 503A of the Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, Advisory Council on Social Security, 200 Independence Avenue, SW., Washington, D.C. 20201; telephone (202) 755–8670/71.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Attendance will be limited to the space available.

Sign language interpreting services will be provided if requested in advance.

The proposed meeting agenda includes further briefings and discussion on the Medicare program; and such other business as the Chairperson, the Executive Director, or the membership may put before the Council.

A previous meeting of the Advisory Council on Social Security was announced in 48 **Federal Register** 46433, October 12, 1983.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Administrative Officer, Advisory Council on Social Security, Room 317–H, HHH Building, 200 Indpendence Avenue, SW., Washington, D.C. 20201.

Thomas R. Burke,

Executive Director

[FR Doc. 83–29536 Filed 10–28–83; 8:45 am]

BILLING CODE 4120–03–M

Food and Drug Administration

[Docket No. 83F–0336]

E. I. duPont de Nemours & Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that E. I. duPont de Nemours & Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of *N,N'*-dioleoylethylenediamine in films made from ionomeric resins and ehtylene vinyl acetate copolymers to be used in contact with food.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 [21 U.S.C. 348(b)(5)]), notice is given that a petition (FAP 3B3755) has been filed by E. I. duPont de Nemours & Co., 1007 Market St., Wilmington, DE 19898, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) and § 175.320 *Resinous and polymeric coatings for polyolefin films* (21 CFR 175.320) be amended to provide for the safe use of *N,N'*-dioleoylethylenediamine in films made from ionomeric resins and ethylene vinyl acetate copolymers to be used in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 21, 1983.

Taylor M. Quinn,

Acting Director, Bureau of Foods.

[FR Doc. 83–29468 Filed 10–28–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 77N–0079; DESI 552]

Heparin Sodium; Professional Labeling Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of an updated guideline for the professional labeling of Heparin Sodium Injection, USP. It also sets forth the Indications and Dosage and Administration sections.

DATE: Effective October 31, 1983, a person may adopt the labeling guideline for heparin sodium and rely on it to meet FDA's professional labeling requirements for prescription drugs.

ADDRESSES: Communications forwarded in response to this notice should be identified with Docket No. 77N–0079, directed to the attention of the appropriate office named below and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for labeling guidelines: Division of Cardio-Renal Drug Products (HFN–110), National Center for Drugs and Biologics.

Supplements to full new drug applications (identify with NDA number): Division of Cardio-Renal Drug Products (HFN–110), National Center for Drugs and Biologics.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFN–530), National Center for Drugs and Biologics.

Written Comments: Dockets Management Branch (HFA–305), Rm. 4–62.

FOR FURTHER INFORMATION CONTACT: Margery Erickson, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 552) published in the **Federal Register** of October 7, 1977 (42 FR 54623), FDA announced its conclusions concerning the effectiveness of heparin sodium preparations and stated the conditions for marketing the drugs. The notice also announced that a labeling guideline for the drugs was available.

FDA has now revised the labeling guideline for heparin sodium to reflect the information that is currently available on the drug. The guideline is available from the Food and Drug Administration on request (address given above). Use of the guideline constitutes compliance with 21 CFR 201.56, 201.57, and 201.100(d)(3) of the agency's regulations for the content and format of professional labeling for human prescription drugs.

The professional labeling of prescription drugs is required to contain

the information and be in the format specified in 21 CFR 201.56 and 201.57. The application of these regulations to drug products is proceeding under the schedule established in 21 CFR 201.59 (published in the **Federal Register** on May 16, 1980; 45 FR 32550). As described more fully in 21 CFR 201.59, the regulations become effective on December 1, 1983, for all heparin sodium drug products that on December 26, 1979, were the subject of an approved new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act (the act), and approved duplicates of those products; the regulations are already in effect for other heparin sodium drug products for which marketing approval under section 505 of the act is sought from FDA.

This notice is issued under 21 CFR 10.90(b), which provides for the use of guidelines to establish procedures or standards of general applicability that are not legal requirements, but are acceptable to the agency. A person who follows these guidelines is assured that his or her conduct is acceptable to the agency. The agency advises that the guideline for heparin sodium drug products complies with the prescription drug labeling regulations in 21 CFR 201.56, 201.57, and 201.100(d)(3) and may be relied upon by any person to meet these requirements. Under the provisions of 21 CFR 314.8, manufacturers are required to submit supplemental new drug applications advising the agency that the labeling is being revised. However, under 21 CFR 314.8(d), the guideline labeling may be used before approval of a supplement to a new drug application. A person may choose to use alternative labeling statements that are not provided for in the guideline. If a person chooses to depart from the guideline, he or she may discuss the matter further with the agency to prevent expenditure of money and effort for labeling that the agency may later determine to be unacceptable.

Effective October 31, 1983, a person may adopt the guideline for heparin sodium. Interested persons may submit written comments on the guideline to the Dockets Management Branch (address above). Comments will be considered in determining whether future amendments to or revisions of the guideline are warranted. Comments should be in two copies, except that individuals may submit single copies, identified with the docket number found in brackets in the heading of this document. The guideline and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The INDICATIONS AND DOSAGE AND ADMINISTRATION sections of the labeling guideline for heparin sodium are given below. These sections of the previous guideline were set forth in the notice of October 7, 1977. The indications that follow are unchanged from that notice.

Heparin sodium injection is indicated for:

Anticoagulant therapy in prophylaxis and treatment of venous thrombosis and its extension;

(In a low-dose regimen) for prevention of postoperative deep venous thrombosis and pulmonary embolism in patients undergoing major abdominothoracic surgery or who for other reasons are at risk of developing thromboembolic disease (see DOSAGE AND ADMINISTRATION);

Prophylaxis and treatment of pulmonary embolism;

Atrial fibrillation with embolization;

Diagnosis and treatment of acute and chronic consumption coagulopathies (disseminated intravascular coagulation);

Prevention of clotting in arterial and heart surgery;

Prophylaxis and treatment of peripheral arterial embolism;

As an anticoagulant in blood transfusions, extracorporeal circulation, and dialysis procedures and in blood samples for laboratory purposes.

The October 7, 1977 notice also included the indications below. However, heparin sodium therapy is now generally regarded as not useful for these indications, and the agency intends to propose appropriate action on these indications in a future **Federal Register** notice. Accordingly, the indications below have not been included in the recommended guideline labeling.

Prevention of cerebral thrombosis in evolving stroke;

As an adjunct in treatment of coronary occlusion with acute myocardial infarction.

The DOSAGE AND ADMINISTRATION section set forth in the notice of October 7, 1977 is revised to read as follows:

Parenteral drug products should be inspected visually for particulate matter and discoloration prior to administration, whenever solution and container permit. Slight discoloration does not alter potency.

When heparin is added to an infusion solution for continuous intravenous administration, the container should be inverted at least 6 times to insure adequate mixing and prevent pooling of the heparin in the solution.

Heparin sodium is not effective by oral administration and should be given by intermittent intravenous injection, intravenous infusion, or deep subcutaneouos (intrafat, i.e., above the iliac crest or abdominal fat layer) injection. *The intramuscular route of administration should be avoided because of the frequent occurrence of hematoma at the injection site.*

The dosage of heparin sodium should be adjusted according to the patient's coagulation test results. When heparin is given by continuous intravenous infusion, the coagulation time should be determined approximately every 4 hours in the early stages of treatment. When the drug is administered intermittently by intravenous injection, coagulation tests should be performed before each injection during the early stages of treatment and at appropriate intervals thereafter. Dosage is considered adequate when the activated partial thromboplastin time (APTT) is 1.5 to 2 times normal or when the whole blood clotting time is elevated approximately 2.5 to 3 times the control value. After deep subcutaneous (intrafat) injections, tests for adequacy of dosage are best performed on samples drawn 4–6 hours after the injections.

Periodic platelet counts, hematocrits, and tests for occult blood in stool are recommended during the entire course of heparin therapy, regardless of the route of administration.

Converting to Oral Anticoagulant

When an oral anticoagulant of the coumarin or similar type is to be begun in patients already receiving heparin sodium, baseline and subsequent tests of prothrombin activity must be determined at a time when heparin activity is too low to affect the prothrombin time. This is about 5 hours after the last I.V. bolus and 24 hours after the last subcutaneous dose. If continuous I.V. heparin infusion is used, prothrombin time can usually be measured at any time.

In converting from heparin to an oral anticoagulant, the dose of the oral anticoagulant should be the usual initial amount and thereafter prothrombin time should be determined at the usual intervals. To ensure continuous anticoagulation, it is advisable to continue full heparin therapy for several days after the prothrombin time has reached the therapeutic range. Heparin therapy may then be discountinued without tapering.

Therapeutic Anticoagulant Effect With Full-Dose Heparin

Although dosage must be adjusted for the individual patient according to the results of suitable laboratory tests, the following dosage schedules may be used as guidelines:

Method of administration	Frequency	Recommended dose[1]
Deep subcutaneous (intrafat) injection.	Initial dose	5,000 units by I.V. injection, followed by 10,000–20,000 units of a concentrated solution subcutaneously.
A different site should be used for each injection to prevent the development of massive hematoma.	Every 8 hours	8,000–10,000 units of a concentrated solution.
	or	
	Every 12 hours	15,000–20,000 units of a concentrated solution.
Intermittent intravenous injection.	Initial dose	10,000 units, either undiluted or in 50–100 mL of 0.9% Sodium Chloride Injection, USP.
	Every 4 to 6 hours	5,000–10,000 units, either undiluted or in 50–100 mL of 0.9% Sodium Chloride Injection, USP.
Continuous intravenous infusion.	Initial dose	5,000 units by I.V. injection.
	Continuous	20,000–40,000 units/24 hours in 1,000 mL of 0.9% Sodium Chloride Injection, USP (or in any compatible solution) for infusion.

[1] Based on 150-lb. (68-kg) patient.

Pediatric Use

Follow recommendations of appropriate pediatric reference texts. In general, the following dosage schedule may be used as a guideline:

Initial Dose: 50 units/kg (I.V., drip)

Maintenance Dose: 100 units/kg (I.V., drip) every four hours, or 20,000 units/M^2/24 hours continuously

Surgery of the Heart and Blood Vessels

Patients undergoing total body perfusion for open-heart surgery should receive an initial dose of not less than 150 units of heparin sodium per kilogram of body weight. Frequently, a dose of 300 units per kilogram is used for procedures estimated to last less than 60 minutes or 400 units per kilogram for those estimated to last longer than 60 minutes.

Low-Dose Prophylaxis of Postoperative Thromboembolism

A number of well-controlled clinical trials have demonstrated that low-dose heparin prophylaxis, given just prior to and after surgery, will reduce the incidence of postoperative deep vein thrombosis in the legs (as measured by the I–125 fibrinogen technique and venography) and of clinical pulmonary embolism. The most widely used dosage has been 5,000 units 2 hours before surgery and 5,000 units every 8 to 12 hours thereafter for 7 days or until the patient is fully ambulatory, whichever is longer. The heparin is given by deep subcutaneous (intrafat, i.e., above the iliac crest or abdominal fat layer, arm or thigh) injection with a fine (25- to 26-gauge) needle to minimize tissue trauma. A concentrated solution of heparin sodium is recommended. Such prophylaxis should be reserved for patients over the age of 40 who are undergoing major surgery. Patients with bleeding disorders and those having brain or spinal cord surgery, spinal anesthesia, eye surgery, or potentially sanguineous operations should be excluded, as should patients receiving oral anticoagulants or platelet-active drugs (see WARNINGS). The value of such prophylaxis in hip surgery has not been established. The possibility of increased bleeding during surgery or postoperatively should be borne in mind. If such bleeding occurs, discontinuance of heparin and neutralization with protamine sulfate are advisable. If clinical evidence of thromboembolism develops despite low-dose prophylaxis, full therapeutic doses of anticoagulants should be given unless contraindicated. Prior to initating heparinization the physician should rule out bleeding disorders by appropriate history and laboratory tests, and appropriate coagulation tests should be repeated just prior to surgery. Coagulation tests values should be normal or only slightly elevated at these times.

Extracorporeal Dialysis

Follow equipment manufacturers' operating directions carefully.

Blood Transfusion

Addition of 400 to 600 USP units per 100 mL of whole blood is usually employed to prevent coagulation. Usually, 7,500 USP units of heparin sodium are added to 100 mL of 0.9% Sodium Chloride Injection, USP (or 75,000 USP units per 1,000 mL of 0.9% Sodium Chloride Injectin, USP) and mixed; from this sterile solution, 6 to 8 mL are added per 100 mL of whole blood.

Laboratory Samples

Addition of 70 to 150 units of heparin sodium per 10 to 20 mL sample of whole blood is usually employed to prevent coagulation of the sample. Leukocyte counts should be performed on heparinized blood within 2 hours after addition of the heparin. Heparinized blood should not be used for isoagglutinin, complement, or erythrocyte fragility tests or platelet counts.

Clearing Intermittent Infusion (Heparin Lock) Sets

To prevent clot formation in a heparin lock set following its proper insertion, dilute heparin solution (Heparin Lock Flush Solution, USP) is injected via the injection hub in a quantity sufficient to fill the entire set to the needle tip. This solution should be replaced each time the heparin lock is used. Aspirate before administering any solution via the lock in order to confirm patency and location of needle or catheter tip. If the drug to be administered is incompatible with heparin, the entire heparin lock set should be flushed with sterile water or normal saline before and after the medication is administered; following the second flush, the dilute heparin solution may be reinstilled into the set. The set manufacturer's instrutions should be consulted for specifics concerning the heparin lock set in use at a given time.

Note.—Since repeated injections of small doses of heparin can alter tests for activated partial thromboplastin time (APTT), a baseline value for APTT should be obtained prior to insertion of a heparin lock set.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.70 and 47 FR 26913 published in the **Federal Register** of June 22, 1982) and under the provisions of 21 CFR 10.90(b).

Dated: October 25, 1983.

Harry M. Meyer, Jr.

Director, National Center for Drugs and Biologics.

[FR Doc. 83–29469 Filed 10–28–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 83F-0287]

Riken Vitamin Co., Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Riken Vitamin Co., Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acetylated monoglycerides, which have a higher Reichert-Meissl (R–M) value than the currently approved additive, for use in or on foods.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3A3746) has been filed by Riken Vitamin Co., Ltd., 8–10, 3-Chome, Nishikanda, Chiyoda-Ku, Tokyo, Japan, proposing that § 172.828 *Acetylated monoglycerides* (21 CFR 172.828) be amended to provide for the safe use of acetylated monoglycerides, which have a higher Reichert-Meissl (R–M) value than the currently approved additive, for use in or on foods.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 21, 1983.

Taylor M. Quinn,

Acting Director, Bureau of Foods.

[FR Doc. 83-29469 Filed 10-28-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0324]

Rohm and Haas Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Rohm and Haas Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of an aqueous dispersion of small particle-size chloromethylated aminated styrene-divinylbenzene resins for treatment of sugar solutions.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF–334), Food and Drug administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3A3751) has been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that Part 173 (21 CFR Part 173) of the food additive regulations be amended to provide for the safe use of an aqueous dispersion of small particle-size chloromethylated aminated styrene-divinylbenzene resins for treatment of sugar solutions.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: October 14, 1983.

Richard J. Ronk

Acting Director, Bureau of Foods

[FR Doc. 83-29467 Filed 10-28-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of Notices of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C 552a), notice is hereby given that the Department of the Interior proposes to revise five notices describing systems of records maintained by the Office of Surface Mining. Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other minor administrative revisions which have occurred since the publication of the material in the **Federal Register** on March 31, 1978 (43 FR 13641). The five revised notices are published in their entirety below.

Four systems of records notices (OSM–1, OSM–2, OSM–3 and OSM–4) are being revised to provide for compatible disclosures to consumer reporting agencies to facilitate the collection of debts pursuant to the provisions of 5 U.S.C. 552a(b)(12) and the Debt Collection Act of 1982 (31 U.S.C. 3711(f)). One system notice (OSM–1 is being revised to reflect the conversion of the records to the integrated Departmental payroll system (PAY/PERS) and to add a compatible disclosure to other Federal agencies for the purpose of collecting debts owed the Federal government through administrative or salary offset.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before November 30, 1983, will be considered. The notices shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: October 21, 1983.

Oscar W. Mueller, Jr.,

Acting Director, Office of Information Resources Management.

INTERIOR/OSM–1

SYSTEM NAME:

Payroll-Interior, OSM–1

SYSTEM LOCATION:

(1) Office of Surface Mining Reclamation and Enforcement, Division of Financial Management, Building 20, Denver Federal Center, Denver, Colorado 80225; (2) Bureau of Mines, Division of Automated Data Processing, Building 53, Denver Federal Center, Denver, Colorado 80225; (3) Input documents suplied by all facilities of the Office of Surface Mining Reclamation and Enforcement (OSM).

Records contained in this system are part of the Departmental integrated system (PAY/PERS) maintained for the Office of Surface Mining in a computer operated by the Bureau of Reclamation which is located in Building 67, Denver Federal Center, Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current OSM employees and employees separated within the prior two years.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee identification, pay rate and grade, retirement, and location data; length of service; pay, leave, time and attendance, allowances, and cost distribution records; deductions for

FICA, savings bonds, insurance, union dues, taxes, allotments, quarters, charities; overtime authorizations, awards, shift schedules, pay differentials, IRS tax lien data; and related personnel data. Also included is information on debts owed to the government as a result of overpayment, refunds owed, or a debt referred for collection on a transferred employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101, et seq., 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primiary uses of the records are for fiscal operations for payroll, attendance, leave, insurance, tax, retirement and cost accounting programs; and to prepare related reports to other Federal agencies including the Treasury Department and the Office of Personnel Management. Disclosures outside the Department of the Interior may be made: (1) To the Department of the Treasury for preparation of payroll checks and other checks to Federal, State, and local government agencies, non-governmental organizations, and individuals; (2) to the Internal Revenue Service and to State, local, tribal and territorial governments for tax purposes; (3) to the Office of Personnel Management in connection with programs administered by that office; (4) to another Federal agency to which an employee has transferred; (5) to the U.S. Department of Justice when related to litigation or anticipated litigation; (6) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (7) to a congressional office from the records of an individual in response to an inquiry from that congressional office made at the request of the individual; (8) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (9) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit; (10) to appropriate Federal and State agencies to provide required reports including data on unemployment insurance; (11) to the Social Security Administration to report FICA deductions; (12) to labor unions to report dues deductions; (13) to insurance carriers to report withholdings for health insurance; (14) to charitable institutions to report contributions; (15) to a Federal agency for the purpose of collecting a debt owed the Federal government through administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Colection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on magnetic tape punched cards, microfiche, and computer printouts.

RETRIEVABILITY:

File folders are maintained by name. Magnetic tape and punched cards are maintained by social security number. Microfiche and computer printouts are maintained by name and social security number.

SAFEGUARDS:

File folders, microfiche; and computer printouts are maintained in metal file cabinets which are in a locker room during periods of non-work. During working hours, access is allowed only to OSM Division of Financial Management personnel. Punched cards have no interpreted printing on them and are retained in cardboard boxes with magnetic tapes in Bureau of Mines Division of Automated Data Processing.

RETENTION AND DISPOSAL:

Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or General Records Schedule 2.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Financial Management, Office of Surface Mining, Building 20, Denver Federal Center, Denver, Colorado 80225.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the individual seeks information concerning his/her records is required (see 43 CFR 2.60).

RECORD ACCESS PROCEDURES:

A request of access may be addressed to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and meet the content requirements, of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, supervisors, timekeepers, official personnel records, previous employers, Internal Revenue Service.

SYSTEM NAME:

Travel Advance File—Interior, OSM–2

SYSTEM LOCATION:

U.S. Department of the Interior, Office of Surface Mining, Division of Financial Management, Building 20, Denver Federal Center, Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Office of Surface Mining Reclamation and Enforcement (OSM) employees who have outstanding or repaid travel advances.

CATEGORIES OF RECORDS IN THE SYSTEM:

File consists of signed forms whereby employees request fund advances for the purpose of paying travel expenses incurred in the performance of official government business. An automated computer system lists all outstanding advances and records repayments whether by offset against travel vouchers or remittances by checks, money orders, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Secs. 4111(b), 5701–5709, 5721–5733, 5742(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (a) To provide an accounting record of obligations due to the U.S. Government from employees' authorized cash advances to defray expenses incurred in official travel. Payments to the traveler and repayments to the Government are reflected in this record; (b) to serve as a backup authority to the entries for travel expenses in the automated Finance system; (c) computer data are reported to each OSM office as part of the

detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual OSM offices are available to that office. Disclosures outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigations involving the records or the subject matter of the records; (2) of information indicating a violation or potential violation of statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation, or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant, or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Currently, active travel advance requests are maintained in file boxes by name of traveler; inactive records are maintained in travel folders by name of traveler; computer printouts are maintained in binders.

RETRIEVABILITY:

Files are stored alphabetically by name of travelers.

SAFEGUARDS:

Files are maintained in a locked room during periods of non-work and are accessible during working hours only to personnel from the Division of Financial Management, Office of Surface Mining.

RETENTION AND DISPOSAL:

Records retained for 3 years, then destroyed. Disposition is in accordance with General Records Schedule, FPMR 101–11.4.

SYSTEM MANAGER AND ADDRESS:

Chief, Division of Financial Management, Office of Surface Mining, Building 20, Denver Federal Center, Denver, Colorado 80225. *Mailing address*: Office of Surface Mining, P.O. Box 25065, Denver Federal Center, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required (see 43 CFR 2.60).

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information for this system originates with the traveler who specifies the need of a travel advance. The request is concurred in by signature of a responsible supervisory official. All entries on the file are as a result of actions taken by the individual to liquidate his/her travel advance.

Interior/OSM–3

SYSTEM NAME:

Travel Vouchers and Authorizations—Interior, OSM–3

SYSTEM LOCATION:

U.S. Department of the Interior, Office of Surface Mining, Division of Financial Management, Building 20, Denver, Federal Center, Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons traveling for or in behalf of OSM on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Voucher file consists of paid travel vouchers which reimburse travelers for expenses incurred in connection with official travel. Travel authorization file consists of record copies of authorizations for travel for which no travel vouchers have been submitted for payment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Sec. 5701 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) As backup entry data for obligations and disbursements in the automated Finance system of OSM; (b) computer data are reported to each OSM office as part of the detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual OSM offices are available to that office; (c) vouchers are used to determine allowability of expenses within the law, authorizing payment of travel expenses. The documents are used to determine which expenses incurred by the traveler can be paid and are sometimes used to report to other Federal agencies summarizations of those types of allowable expenses. Usually, the individual's name is not used in outside reporting but the data is. Disclosures outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of te records; (2) of information indicating a violation or potential violation of a statute. Regulation, rule Order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant, or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in steel filing cabinet in the Division of Financial Management, Office of Surface Mining.

RETRIEVABILITY:

Vouchers are filed by travel authorization number. Authorizations are filed alphabetically by traveler awaiting payment of the travel voucher. Authorization becomes part of the voucher packet at the time of payment.

SAFEGUARDS:

Files are maintained with safeguards meeting the requirements of 43 CFR 2.51, and are available only to personnel of the Division of Financial Management, Office of Surface Mining.

RETENTION AND DISPOSAL:

Records retained for 3 years, then destroyed. Disposition is in accordance with General Records Schedule, FPMR 101–11.4.

SYSTEMS MANAGER AND ADDRESS:

Chief, Division of Financial Management, Office of Surface Mining, Building 20, Denver Federal Center, Denver, Colorado 80225. *Mailing address:* Office of Surface Mining, P.O. Box 25065, Denver Federal Center, Denver, Colorado 80225.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required (see CFR 2.60).

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the Systems Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirement of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information for these files is based on an authorization signed by the traveler in the form of a request. Travel vouchers are submitted by the traveler after incurring expenses for official travel and are a request for payment based on his record of official expenses.

Interior/OSM–4

SYSTEM NAME:

Property Control—Interior, OSM–4.

SYSTEM LOCATION:

U.S. Department of the Interior, Office of Surface Mining, 1100 L Street, NW., Washington, D.C. 20005, and its field facilities. *Mailing address:* Office of Surface Mining, South Interior Building, Room 10, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have custody or responsibility for OSM property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains information indicating what property, including equipment, motor vehicle operator's license, keys, motor pool vehicles, transportation request books, and parking spaces, for which the employee has custody or responsibility. A list is maintained of inventory by name as a cross-reference to case numbers. In addition, all other records directly related to the property control function.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. Section 483(b)(1); 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (a) Identification, assignment, and control of OSM property; (b) assistance in locating carpools. Disclosures outside of the Department of Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, or local or foreign agencies responsible for investigating or prosecuting the violation, or for enforcing or implementing the statute, rule, regulation, order or license.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12, disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders or card indexes, a limited quantity is stored on computer tape.

RETRIEVABILITY:

Indexed by employee name or control number.

SAFEGUARDS:

Security is provided to meet the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records maintained as long as property remains with the agency. Upon completion of the use period, vital records are transferred to the Official Personnel Folder or Federal Records Center, and all other records are destroyed.

SYSTEM MANAGER AND ADDRESS:

Chief, Division of Management Services, Office of Surface Mining, 1100 L Street, NW., Washington D.C. 20005. *Mailing address:* Office of Surface Mining, South Interior Building, Room 10, 1951 Constitution Ave., NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURES:

Contact the System Manager, or with respect to records maintained at field facilities, the administrative officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager, or with respect to records maintained at field facilities, the administrative officer of the facility. The request must be in writing and signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Employees. Property control information required for accountability purposes.

Interior/OSM–5

SYSTEM NAME:

Personnel Identification—Interior, OSM–5.

SYSTEM LOCATION:

(1) Office of Surface Mining, South Interior Building, Room 10, 1951 Constitution Ave., NW., Washington, D.C. 20240. (2) All field facilities of OSM.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of OSM.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning identification and location of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Secs. 301, 3101; 43 U.S.C. Sec. 1457.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (a) To provide identification cards to employees; (b) locator information provided for use by management to contact employees in case of an emergency. Disclosures outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card indexes, manually.

RETRIEVABILITY:

Indexed by employee name and identification card number.

SAFEGUARDS:

Security is provided to meet the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

Records retained until employee leaves Agency rolls. After use period, appropriate records transferred to Federal Records Center; identification cards destroyed 3 months after return to issuing office.

SYSTEM MANAGER AND ADDRESS:

Chief, Division of Personnel, Office of Surface Mining, South Interior Building, Room 122, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURES:

Contact the System Manager, or with respect to records maintained at field facilities, the administrative officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

A request for access may be addressed to the System Manager, or with respect to records maintained at the facilities, the administrative officer of the facility. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Employees. Information necessary to prepare the identification card and locator index.

[FR Doc. 83-29469 Filed 10-28-83; 8:45 am]
BILLING CODE 4310-05-M

Bureau of Land Management

[M-57762 (SD)]

Realty Action; Competitive Sale of Public Land in Perkins County, South Dakota

AGENCY: Bureau of Land Management, Miles City District, South Dakota Resource Area Office, Interior.

ACTION: Notice of realty action M-57762 (SD), competitive sale or public land in Perkins County, South Dakota.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976) at no less than fair market value:

Black Hills Meridian

Township 15 North, Range 15 East, Section 12, NE¼NW¼, containing 40 acres, and SE¼SW¼ containing 40 acres.

The land will be offered for sale by a combination of sealed and/or oral bids utilizing competitive bidding procedures on January 11, 1984, at 1:30 pm, M.S.T., Perkins County courtroom Bison, South Dakota.

The subject land is located approximately 18 miles northwest of Faith, South Dakota, in Perkins County. This parcel has section line access and is being offered for sale because it is isolated from other blocks of public land and is difficult and uneconomical to manage. This parcel has rolling grasslands with some brushy draws.

The proposed sale is consistent with the Bureau's planning system and Perkins County government officials have been notified of the sale. The transfer of the tract into private ownership will benefit the public interest and provide for better land management.

Terms and conditions: The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States, together with the right to explore, prospect for, mine, and remove same under applicable law and regulations;

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945;

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

4. Access to this parcel must be in compliance with County and State regulations.

DATE: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, at the address shown below. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the sale, including environmental assessment, and the record of public discussions is available for review at the Miles City District Office, Miles City, Montana, or the South Dakota Resource Area Office, Belle Fourche, South Dakota.

SUPPLEMENTARY INFORMATION:

Bidder Qualifications: The bidder must be a U.S. citizen or, in the case of a corporation, subject to the laws of any state or the United States. A state, state instrumentality or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of holding and conveying lands or interests therein under the laws of the State of South Dakota. Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value and bids must include all of the land identified in this notice.

Sealed bids will be received at the South Dakota Resource Area Office, 310 Roundup, Belle Fourche, South Dakota 57717, until 1 pm M.S.T. January 11, 1984.

or hand delivered to the Perkins County Courtroom Perkins County Courthouse, Bison, South Dakota, until 1:30 pm M.S.T. on January 11, 1984. Bids will be opened in the *Perkins County Courtroom, Bison, South Dakota* with oral bidding following the opening of the sealed bids.

The sealed bid envelope must be marked in the lower left-hand corner as follows:

Public Land Sale M–57762 SD
Date: January 11, 1984

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Sale Continuation: In the event this parcel is not sold at the inital sale offering, the parcel will then be available for sale over the counter on a first come, first served basis, at the South Dakota Resource Area Office, 310 Roundup Street, Belle Fourche, South Dakota.

Dated: October 24, 1983.

Bruce Whitmarsh,

Acting District Manager.

[FR Doc. 83–29482 Filed 10–28–83; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Proposed Contractual Actions Pending Through December 1983

Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1261), the Department of the Interior must afford the affected public an opportunity to be aware of and to provide comments on water service and repayment contract negotiations being conducted by the Bureau of Reclamation. Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the **Federal Register** February 22, 1982, Vol. 47, page 7763, and the Reclamation Reform Act, a tabulation is provided below of proposed contractual actions in each of the seven Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during October, November, or December of 1983. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the addresses and telephone numbers given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Some of the actions listed have been publicized in the **Federal Register** previously. When this is the case, the date of publication is given. Individual notice of intent to negotiate, and other appropriate announcements, will be made in the **Federal Register** for those actions found to have widespread public interest. In addition, a wide variety of local publicity resources are being used selectively to inform the public affected by a specific contract proposal.

Acronym Definitions Used Herein

(FR) **Federal Register**
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CVP) Central Valley Project
(P–SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act
(SOFAR) Southern Fork American River

Pacific Northwest Region: Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334–9011.

1. Boise Cascade Corporation, Columbia Basin Project, Washington; Industrial water service contract; 250 acre-feet; FR notice published April 7, 1980, Vol. 45, page 23531.

2. Boise Project Board of Control, Boise Project, Idaho-Oregon; Irrigation repayment contract; 22,800 acre-feet of stored water in Arrowrock Reservoir.

3. Douglas County Oregon; SRPA loan repayment contract; $11,605,000 proposed loan obligation. Loan application also includes a request for $14,395,000 in grant funds towards anadromous fish enhancement, recreation, fish and wildlife functions.

4. Miscellaneous Water Users, Pacific Northwest Region, Idaho-Oregon and Washington; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

5. Rogue River Basin water users, Rogue River Basin Project, Oregon; Water service contracts; $5 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water per contractor for terms up to 40 years.

6. Willamette Basin water users, Willamette Basin Project, Oregon; Water service contracts; $1.25 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

7. Granger ID, Yakima Project, Washington; R&B loan repayment contract; $1,111,000 proposed obligation.

8. Washington Water Power Company, Inc., Columbia Basin Project, Washington; Industrial water service contract; 32,000 acre-feet of water per year from Franklin D. Roosevelt Lake for the proposed Creston Powerplant; FR notice published December 11, 1982, Vol. 46, page 60658.

9. Cascade Reservoir water users, Boise Project, Idaho; Irrigation repayment contracts; 57,251 acre-feet of stored water in Cascade Reservoir.

10. Boise Water Corporation, Boise Project, Idaho; Short-term (2 years) M&I water service contract; up to 5,000 acre-feet annually from stored water in Lucky Peak Reservoir.

11. Grandview I.D., Yakima Project, Washington; R&B loan repayment contract; $1,054,000 proposed obligation.

12. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

Mid-Pacific Region: Bureau of Reclamation (Federal Office Building), 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 484–4680

1. El Dorado ID, CVP, California; Amendatory water service contract; 1,000 acre-feet municipal and industrial water supply for service from Folsom Lake to the El Dorado Hills area.

2. 2047 Drain Water Users Association, CVP, California; Water right settlement contract; FR notice published July 25, 1979, Vol. 44, page 43535.

3. Stockton-East Water District, CVP, California; Interim water service contract; 75,000 acre-feet from New Melones Reservoir; FR notice published February 5, 1982; Vol. 47, page 5473.

4. Central San Joaquin Water Conservation District, CVP, California; Water service contract; 49,000 acre-feet firm supply and 39,000 acre-feet interim supplies from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

5. Tuolumne Regional Water District, CVP, California; Water service contract; 3,200 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

6. Calaveras County Water District, CVP, California; Water service contract; 500 acre-feet from New Melones Reservoir; FR notice published Fegruary 5, 1982, Vol. 47, page 5473.

7. Solano ID, Solano Project, California; Amendatory loan contract providing for reconveyance and M&I water supply delivery.

8. Miscellaneous Water Users, Mid-Pacific Region, California, Oregon, and Nevada; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

9. State of California, Department of Water resources, CVP, California; Interim water service contract for approximately 500,000 acre-feet.

10. Madera ID, CVP, California; Agreement for conveyance of nonproject water in Millerton Lake and the Medera Canal; Maximum of 50 cfs, Friant Unit.

11. Pacheco Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mmendota canal to the San Luis Canal.

12. City of Redding, CVP, California; Agreement for operation of the City of Redding's Lake Redding Power Project and resolution of potential impacts on Keswick Powerplant.

13. South San Joaquin ID and Oakdale ID, CVP, California; Operating agreement for conjunctive operation of New Melones Dam and Reservoir on the Stanislaus River; FR notice published June 6, 1979, Vol. 44, page 32483.

14. City of Santa Barbara, Cachuma Project, California; Agreement for conveyance of nonproject water through Lauro Reservoir, Maximum of 21 cfs.

15. Broadview Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

16. The Westside Irrigation District, CVP, California; Amendment to existing water service contract to provide for transportation of District owned water rights through the Delta-Mendota Canal.

17. City of Avenal, CVP, California; Amendment of existing water service contract to provide for furnishing project power to city canalside relift facilities.

18. Colusa County Water District, CVP, California; Amendatory water service and repayment contract to provide for delivery of M&I water and to provide additional water.

19. Colusa County Water District, CVP, California; Distribution System Loan repayment contract; $8,670,700 proposed obligation.

20. Oakdale Irrigation District, SRPA, California; Loan repayment contract; $17,845,000 proposed obligation.

21. Glide Water District, CVP, California; Amendment to existing water service contract to provide additional water.

22. Colusa County Water District, CVP, California; Contract for M&I Water service (40 acre-feet).

23. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub.L. 97–293).

Upper Colorado Region: Bureau of Reclamation, P.O. Box 11568, (125 South State Street) Salt Lake City, UT 84147, telephone (801) 524–5435

1. Miscellaneous water users, Upper Colorado Region, Utah, Wyoming, Colorado, and New Mexico; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 Years.

2. Fontenelle (Chevron) State of Wyoming, Seedskadee Project, Wyoming; Water sales contract for 22,500 acre-feet per year for industrial use. Environmental Impact Statement under preparation; approval pending outcome and compliance with Section 7, Endangered Species Act. FR notice published January 26, 1983, Vol. 48, No. 18, page 3662.

3. Animas-La Plata Conservancy District, Animas-La Plata Project, Colorado; Water service contract; 9,200 acre-feet per year for M&I use; 72,200 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74 page 22474.

4. La Plata Conservancy District, Animas-La Plata Project, New Mexico; Water service contract; 16,000 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74 page 22474.

5. City of Farmington, Animas-La Plata Project, New Mexico; M&I water service contract; 19,700 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

6. City of Aztec, Animas-La Plata Project, New Mexico; M&I water service contract; 5,800 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

7. City of Bloomfield, Animas-La Plata Project, New Mexico; M&I water service contract; 5,300 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

8. Preston-Whitney Irrigation Company, North Cache Water Development Project, Idaho; Small Reclamation Project Act, Pub. L. 84–984. Repayment contract for $28,000,000. Federal loan to convert open ditch system with individual pumps for sprinkler pressurization to a closed pipe gravity pressurized system.

9. Central Utah Project, Bonneville Unit, Utah; Supplemental M&I repayment contract for 99,000 acre-feet per year; negotiations anticipated to be reactivated; FR notice published August 22, 1980, Vol. 45, No. 165, page 56199.

10. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub.L. 97–293).

Lower Colorado Region: Bureau of Reclamation, P.O. Box 427, (Nevada Highway and Park Street) Boulder City, NV 89005, telephone (702) 293–8536

1. City of Yuma, Boulder Canyon Project, Arizona; Supplemental and amendatory M&I water service contract; 3,613 acre-feet per year.

2. Agricultural and M&I water users, Central Arizona Project, Arizona; Water service subcontracts; A certain percent of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

3. Roosevelt Water Conservation District, Higley, Arizona; R&B loan contract; $7,474,424; FR notice published March 30, 1979, Vol. 44, page 19048.

4. Agricultural and M&I water users, Central Arizona Project, Arizona; Contracts for repayment of Federal expenditures for construction of distribution systems.

5. Yuma-Mesa Irrigation and Drainage District; D&MC contract for the installation of one additional 60 cubic feet per second pump in the Yuma Mesa Pump Plant, Gila Project, Arizona.

6. Contracts with 16 agricultural entities located near the Colorado River in Arizona; Boulder Cayon Project; water service contracts for up to 27,894 arce-feet per year total.

7. Fallbrook Public Utility District, Santa Margarita Project, California; repayment and water service contract; $46,000,000 total obligation.

8. Gila River Indian Community-CAP water service; Contract for delivery of up to 173,100 arce-feet per year.

9. Yuma-Mesa Irrigation & Drainage District; Amendatory contract to allow the District to market up to 7,000 acre-feet of water per year for M&I purposes.

10. Hillcrest Water Company; Contract for delivery of 84 acre-feet of water per year to serve existing mobile home park pursuant to recommendation by Arizona Department of Water Resources.

11. Sunset Mobile Home Park; Contract for delivery of 30 acre-feet of water per year pursuant to recommendation of Arizona Department of Water Resources.

12. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

Southwest Region: Bureau of Reclamation, Commerce Guilding, Suite 201, 714 South Tyler, Amarillo, TX 79101, telephone (806) 378–5430

1. City of Belen, San Juan-Chama Project, New Mexico; M&I water service contract for 500 acre-feet annually. FR notice published April 26, 1982, Vol. 47, Page 1782.

2. Fort Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract to convert 4,700 acre-feet of irrigation water to M&I use; FR notice published August 13, 1981, Vol. 46, page 40940.

3. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract for remedial work. Necessity of amendment is dependent upon outcome of pending Safety of Dams legislation, S 956 and H. R. 3208.

4. Harlingen Irrigation District, Lower Rio Grande Valley, Texas; the existing Small Reclamation Projects Act loan repayment contract will require an amendment to provide for the collection of an interest payment for M&I water deliveries by the district. Correction of this deficiency is a prerequisite for eligibility to receive additional benefits through a R & B loand sought by the district.

5. Vermejo Conservacy District, Vermejo Project, New Mexico; Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Pub. L. 96–550.

6. State of Oklahoma, McGee Creek Project, Oklahoma; Repayment contract for State's share of costs associated with development of recreation facilities and certain fish and wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (Pub. L. 89–72), as amended.

7. State of Colorado, Closed Basin Division, San Luis Valley Project; Repayment contract for State's share of costs associated with development of recreation facilities and certain fish and wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (Pub. L. 89–72), as amended; **Federal Register** notice published February 12, 1982, Vol. 47, page 6483.

8. Harlingen Irrigation District (District), Lower Rio Grande Valley, Texas; a Rehabilitation and Betterment Act loan report is in progress to rehabilitate a portion of the District's facilities. The anticipated loan will be in the amount of $3 million.

9. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

Upper Missouri Region: Bureau of Reclamation, P.O. Box 2553, Federal Building, 316 North 26th Street, Billings, Montana 59103, Telephone (406) 657–6413

1. Miscellaneous Water Users, Upper Missouri Region, Montana, Wyoming, North Dakota, and South Dakota; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

2. Individual Irrigators, Canyon Ferry Unit, P–SMBP, Montana; Irrigation water service contracts not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

3. Crook County ID (formerly Belle Fourche-Wyoming Water Association), Keyhole Unit, P–SMBP, Wyoming; Repayment contract for irrigation storage; 10 percent (presently 18,500 acre-feet) of Keyhole Reservoir storage space as provided by Belle Fourche River Compact; **Federal Register** notice published August 21, 1980, Vol. 45, page 55842.

4. Montana Power Company, Yellowtail Unit, P–SMBP, Montana; Industrial water service contract; 6,000 acre-feet of water annually for Colstrip Power Complex; **Federal Register** notice published February 3, 1981, Vol. 46, page 10544.

5. Deaver ID, Shoshone Project, Wyoming; R&B loan repayment contract; Up to $1.6 million; **Federal Register** notice published April 2, 1982, Vol. 47, page 17118.

6. Nokota Company, Lake Sakakawea, P–SMBP, North Dakota; Industrial water service contract; Up to 16,800 acre-feet of water annually; **Federal Register** notice published May 5, 1982, Vol. 47, page 19472.

7. State of Wyoming, Buffalo Bill Dam Modifications, P–SMBP, Wyoming; Contract with State of Wyoming for division of additional water impounded, sharing of revenues, and sharing of costs to construct, operate, and maintain modification of the existing Buffalo Bill Dam and Reservoir.

8. Helena Valley ID, P–SMBP, Montana; R&B loan repayment contract; Up to $2.2 million.

9. Fort Shaw ID, Sun River Project, Montana; R&B loan repayment contract; Up to $1.5 million.

10. Glasgow Irrigation District, Milk River Project, Montana; Rehabilitation and Bettermen Act loan repayment contract; Loan amount up to $2.2 million.

11. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

12. City of Huron, James Diversion Dam, P–SMBP, South Dakota; Agreement for continued use of James Diversion Dam and Reservoir facilities and operation and maintenance arrangements; Contract term 20 years.

13. Shoshone Irrigation District, Shoshone Project, Wyoming; Cost escalation loan under Small Reclamation Projects Act of 1956 to provide funds to complete Garland Canal Power Project; Loan amount $214,000; Contract term 40 years.

14. Individual Irrigators, Garrison Diversion Unit, P–SMBP, North Dakota; Use of surplus capacity in water supply system to deliver water to nonproject lands for terms up to 10 years.

Lower Missouri Region: Bureau of Reclamation, P.O. Box 25247 (Building 20, Denver Federal Center), Denver, Colorado 80225, telephone (303) 234–3327

1. H&RW ID, Frenchman-Cambridge Unit, P–SMBP, Nebraska; Amendatory water service contract; $1,200,000 outstanding; FR notice published February 5, 1982, Vol. 47, Page 5472.

2. Central Nebraska Public Power and ID, Glendo Unit, P–SMBP, Nebraska; Irrigation water service contract; 0,000 acre-feet; FR notice published February 7, 1980, Vol. 45, Page 8364.

3. Purgatoire River Water Conservancy District, Trinidad Project, Colorado; Repayment contract for extension of the development period and revision of the repayment determination methodology; FR notice published September 28, 1982, Vol. 47, page 42642.

4. Casper-Alcova ID, Kendrick Project, Wyoming; Amendatory contract to provide water service to subdivided district lands; FR notice published November 24, 1980, Vol. 45.

5. Corn Creek ID, Mitchell ID, Earl Michael, Glendo Unit, Wyoming, and Nebraska; Irrigation water service contracts. FR notice published January 26, 1983, Vol. 48, page 3662.

6. Town of Breckenridge, Colorado-Big Thompson Project, Colorado; Storage in Green Mountain Reservoir. FR notice published January 26, 1983, Vol. 48, page 3662.

7. Pueblo West Metropolitan District, Fryingpan-Arkansas Project, Colorado; Use of municipal outlet of Pueblo Dam for conveyance service; FR notice published January 26, 1983, page 3662.

8. Miscellaneous water users, Lower Missouri Region, Southeastern Wyoming, Colorado, Nebraska, and northern Kansas; Temporary (interim) water service contracts for surplus poroject water, maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years; FR notice published January 26, 1983, Vol. 48, page 3663.

9. Ruedi Reservoir, Fryingpan-Arkansas Project; Second round of proposed contract negotiations for sale of water form the regulatory capacity of Ruedi Reservoir.

10. Northern Colorado Water Conservancy District and Central Colorado Water Conservancy District, Narrows Unit, Colorado; Water service contracts for repayment of costs.

11. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) All meetings or negotiating sessions scheduled by the Bureau with a potential contractor for the purpose of discussing terms and conditions of a proposed contract will be open to the general public for observation. Only those people with authority to act on behalf of the appropriate public entities may negotiate the terms and conditions of a specific contract proposal. Advance notice of such meetings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau.

(2) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(3) Written comments on a proposed contract must be submitted to the appropriate Bureau officials at locations and within time limits set forth in advance public notices or as otherwise established by Bureau officials. Such written comments received and testimony presented at any public hearing will be reviewed and summarized by regional staff for use by the appropriate contract approving authority; i.e., a Regional Director, the Commissioner of Reclamation, or the Secretary of the Interior.

Dated: October 24, 1983.

Darrell D. Mach,

Acting Commissioner of Reclamation.

[FR Doc. 83-28545 Filed 10-28-83; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–133]

Certain Vertical Milling Machines and Parts, Attachments and Accessories Thereto; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Kiheung Machinery Works, Ltd.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 26, 1983.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Streeet, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: October 26, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-29027 Filed 10-28-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub-No. 74)]

Rail Carriers; Seaboard System Railroad, Inc.; Abandonment in Chatham County, NC; Findings

The Commission has found that the public convenience and necessity permit Seaboard System Railroad, Inc. to abandon its 11.40 mile rail line between Moncure, NC (milepost SD-187.0) and Pittsboro, NC (milepost SD-198.4) in Chatham County, NC. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29467 Filed 10-28-83; 8:45 am]

BILLING CODE 7035-01

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-324]

Carolina Power & Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-62, issued to Carolina Power & Light Company (the licensee), for operation of the Brunswick Steam Electric Plant, Unit No. 2, located in Brunswick County, North Carolina.

The amendment proposed by the licensee would modify Operating License No. DPR-62, paragraph 2H to extend the completion date for modifications to the off-gas system for the Brunswick Steam Electric Plant, Unit 2. Modifications to the off-gas system were required as a result of the adoption of 10 CFR 50 Appendix I, "Numerical Guides for Design Objectives and Limiting Conditions for Operation to Meet the Criterion 'As Low as is Reasonably Achievable' for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents." The schedular requirement for the completion of modifications by December 31, 1983 was added to the Operating License by Amendment No. 58 dated June 3, 1981. This was based on the licensee's scheduled 1983 refueling outage being completed by November 1983. Due to unforeseen delays, the projected refueling schedule could not be met and the licensee has requested that the completion date be extended from December 31, 1983 to "within two months following the extended outage scheduled to begin in March 1984." This proposed schedule is consistent with the original intent to have these modifications performed during this particular extended refueling outage.

Before issuance of the proposed license amendment, the Commission will have made findings as required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a signficant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) invovle a signficant reduction in a margin of safety.

Carolina Powrer & Light Company has determined that the proposed revision to its Operating License involves no significant hazards consideration because the proposed change does not (1) involve an increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a reduction in a margin of safety since the existing Technical Specifications limit gaseous effluents. The Brunswick Technical Specifications limit the annual gaseous releases from the two units to the 10 CFR 50, Appendix I design objectives during the interim period until the modified off-gas system is installed and operational. During the interval from December 31, 1983 to March 1984, gaseous effluents will continue to be maintained within the current Technical Specifications limits.

The staff concurs with the licensee's assessment of hazards considerations and finds that these considerations meet the Commission's three criteria, stated above, for a proposed no significant hazards determination. The staff has also considered that the proposed license amendment will not permit an increase in the amount of effluents or radiation emitted from this facility nor would it allow operation for a time without full safety protections since the objective of Appendix I to 10 CFR 50 in keeping reactor effluents as low as reasonably achievable will be fully met. Based on these considerations the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 30, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and

how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matter within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to a least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make if effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-days notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given datagram Identification Number 3737 and the following message addressed to Domenic B. Vassallo: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave ot intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment, dated September 29, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Dated at Bethesda, Maryland, this 25th day of October 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-28500 Filed 10-28-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-22, issued to Northern States Power Company (the licensee), for operation of the Monticello Nuclear Generating Plant located in Wright County, Minnesota.

The proposed revisions to the Technical Specifications would provide for an expanded Radiation Protection Program requirement and limit the extent of required Operations Committee review of radiation protection procedures. The Radiation Protection Program, consistent with the requirements of 10 CFR Part 20, would consist of a Plan and Procedures. The Radiation Protection Plan would be a complete and concise statement of radiation protection policy and program. The procedures would implement the requirements of the Radiation Protection Plan. Operations Committee review of the radiation protection procedures will be omitted only for those non-safety related procedures governing work activities exclusively applicable to or performed by the health physics personnel. Other changes proposed in the September 24, 1982 application are being noticed separately.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's

regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples. The example of actions involving no significant hazards consideration include actions which are (i) purely administrative change to the Technical Specifications.

The proposed revisions to the Technical Specifications for expanding the Radiation Protection Program requirements and limiting the extent of required Operations Committee review of radiation protection procedures are encompassed by this example. The Radiation Protection Progam would be a formalized program of policy and procedures. Operations Committee review would be omitted only for those non-safety related procedures governing work activities exclusively applicable to or performed by the health physics personnel. The proposed changes are administrative in nature and do not affect any safety-related functions.

Therefore, since the application for amendment involves proposed changes that are administrative in nature and are similar to the examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 30, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding to the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Domenic B. Vassallo: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S.

Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Dated at Bethesda, Maryland, this 25th day of October 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-29609 Filed 10-28-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260, and 50-296]

Tennessee Valley Authority; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-33, DPR-52 and DPR-68, issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Power Plant, Unit Nos. 1, 2 and 3 located in Limestone County, Alabama.

The amendment proposed by the licensee would revise the Technical Specifications of the operating licenses to add additional restrictions, limits and controls on the amount of unidentified leakage into primary containment. The present Technical Specifications limit leakage from unidentified sources to a total of 5 gpm. The changes would add an additional limitation that the unidentified leakage also be limited to an increase of not more than 2 gpm in any 24 hour period. The changes would also require that the systems be checked every 8 hours rather than once every 24 hours as is now required. These additional leakage limitations were proposed by the licensee after discussions with the staff concerning the monitoring of leakage into primary containment.

These revisions to the Technical Specifications would be made in response to the licensee's application dated March 25, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings as required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards by providing examples of actions that are likely, and are not likely, to involve significant hazards considerations (48 FR 14870). Examples of actions not likely to involve significant hazards considerations include:

"(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement."

The additional restrictions, limitations and controls on unidentified drywell leakage which are being added to the present limits in the Technical Specifications are encompassed by the above example.

Thus, this change falls within example (ii) of changes that are not likely to involve significant hazards considerations and on this basis the staff proposes to find that this change does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By November 30, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to he proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner

shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Domenic B. Vassallo: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B 33C, Knoxville, Tennesse 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment, dated March 25, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Athens Public Library, South and Forrest, Athens, Alabama 35611.

Dated at Bethesda, Maryland, this 25th day of October, 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83–29510 Filed 10–28–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on November 16, 1983, Room 1118, 1717 H Street, NW., Washington, D.C. The Subcommittee will review NRC Research Programs in the area of Advanced Reactors, particularly liquid metal fast breeder reactors, for the ACRS Report to the Commission on the FY 1985–1986 research budget.

In accordance with the procedures outlined in the Federal Register on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, November 16, 1983—1:00 p.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding the topics to be discussed.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: October 26, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–29513 Filed 10–28–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Electrical Systems; Meeting

The ACRS Subcommittee on Electrical Systems will hold a meeting on November 16, 1983, GSA Auditorium, 18th and F Street, NW., Washington, D.C. The Subcommittee will discuss the research program activities assigned to this Subcommittee in preparation for the report to Congress on NRC-sponsored research for FY 1985–1986.

In accordance with the procedures outlined in the Federal Register on

September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, November 16, 1983—1:00 p.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: October 26, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–29512 Filed 10–28–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on November 16, 1983, Room 1167, at 1717 H Street, NW., Washington, D.C. The Subcommittee willl discuss the NRC research programs assigned to this Subcommittee in preparation for the report to Congress on NRC sponsored research for FY 1985–1986 and in preparation for a response to the GAO request for comment on NRC sponsored probabilistic risk assessment-related research programs.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members Subcommittees, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

Wednesday, November 16, 1983—10:00 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: October 26, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–29514 Filed 10–28–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Regulatory Activities; Meeting

The ACRS Subcommittee on Regulatory Activities will hold a meeting on November 16, 1983 in Room 1046, 1717 H Street, NW., Washington, D.C.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, November 16, 1983—8:45 a.m.–11:00 a.m.

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following: Regulatory Guide 1.105, Rev. 2, "Instrument Setpoints for Safety-Related Systems".

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Persons wishing to submit written statements regarding Regulatory Guide 1.105, Revision 2, may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. However, to ensure that adequate time is available for full consideration of these comments at the meeting, it is desirable to send a readily reproducible copy of the comments as far in advance of the meeting as practicable to Mr. Sam Duraiswamy, the Designated Federal Employee for the meeting, in care of ACRS, Nuclear Regulatory Commission, Washington, D.C. 20555 or telecopy them to the Designated Federal Employee (202/634–3319) as far in advance of the meeting as practicable. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW, Washington, D.C. 20555.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Sam Duraiswamy, (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: October 26, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–29515 Filed 10–28–83; 8:45 am]

BILLING CODE 7590–01–M

PEACE CORPS

Notification of Extension Request of Peace Corps' Form PC 1532, Volunteer Reference Form

AGENCY: Peace Corps.

ACTION: Notification of Extension Request of Peace Corps' Form PC 1532, Volunteer Reference Form.

SUMMARY: The information collection form described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Peace Corps is requesting a three-year extension approval of the form.

ADDRESS: Interested persons are invited to submit comments regarding this form by name. These comments should be sent to Francine Picoult, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, D. C. 20503. Comments should be received on or before December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Jackson, Special Assistant, Office of Recruitment, Peace Corps, 806 Connecticut Avenue, NW., Room M–900, Washington, D.C. 20526, telephone (202) 254–8387. This is not a toll-free number. For a copy of the form contact Mr. Jackson.

SUPPLEMENTARY INFORMATION: Individuals applying for Peace Corps Volunteer service furnish names and addresses of persons having knowledge of their qualifications for such service. Reference forms are sent to the listed individuals for those applicants basically qualified and nominated for Peace Corps Volunteer service. Information furnished by the referents is used as part of the determination process in selecting and placing applicant/nominees in volunteer projects. Peace Corps has no other means of obtaining this type of appraisal of an applicant's capabilities for volunteer service.

List of Subjects: Volunteers, Privacy Act
Form Title: Peace Corps Volunteer Reference Form
Office: Office of Recruitment, Placement and Staging
Form Number: PC 1532
Frequency of Submission: On occasion.
Affected Public: Individuals listed as references by Peace Corps Volunteer afflicants.
Estimated Burden Hours: 37,500 per annum

This is not a proposal to which 44 U.S.C. 3504(h) applies. This notice is issued in Washington, D.C. on October 26, 1983.

Robert T. Spencer,
Associate Director for Management.

[FR Doc. 83–29425 Filed 10–28–83; 8:45 am]
BILLING CODE 8051–01–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 1984, shall be at the rate of 20 cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning January 1, 1984, 25.5 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 74.5 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: October 24, 1983.

By Authority of the Board.

James T. Brown,
Executive Director.

[FR Doc. 83–29461 Filed 10–28–83; 8:45 am]
BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20324; (SR–Amex–83–20)]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

October 25, 1983.

The American Stock Exchange, Inc. ("Amex") 86 Trinity Place, New York, New York 10006, submitted on August 16, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend Amex Rule 449 [1] ("Agreements for Use of Customer Securities") by deleting from that rule a provision that requires member firms to obtain from a customer a separate written authorization (i.e., a consent to lend agreement) before hypothecating or lending any of the customer's securities held in a margin account. The rule change would also permit member firms to incorporate consent to lend agreements within the margin agreements that must be signed by all margin customers.[2]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20159, September 8, 1983) and by publication in the **Federal Register** (48 FR 43118, September 21, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons
Secretary.

[FR Doc. 83–29540 Filed 10–28–83; 8:45 am]
BILLING CODE 8010–01–M

[1] The Commission has approved similar amendments to Rule 402(b) of the New York Stock Exchange (SR-NYSE-82-4) (Securities Exchange Act Release No. 19611, March 17, 1983; 48 FR 12482, March 24, 1983).

[2] In response to the Commission's concern expressed in connection with a similar NYSE rule change (SR–NYSE–82–4) that elimination of the separate signature requirement would eliminate or reduce informed customer consent to the hypothecation of his securities, the Exchange has added a new commentary .10 to Rule 449 which would require member organizations using a combined margin/loan consent agreement format to include directly above the signature line a bold type face legend which would highlight to the customer that he is authorizing the loan of his securities. This legend would not be required if the member organization used a separate loan consent form.

[File No. 1–4239]

CCI Corp., 12¾% Subordinated Debentures (Due 12–15–96), 13⅞% Subordinated Debentures (Due 7–15–2001); Application To Withdraw From Listing and Registration

October 25, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to

Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2[d] promulgated thereunder, to withdraw the specified security from listing and registration on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The debentures of CCI Corporation ("Company") are listed and registered on the NYSE. Currently, the 12¾% debentures are held by 140 holders of record and the 13⅞% debentures are held by only 29 holders of record. As a result, trading in the debentures has been minimal. For the above reasons, the Company has determined that continued listing on the NYSE is no longer justified. The NYSE has posed no objection in this matter.

Any interested person may, on or before November 15, 1983, submit by letter to the Secertary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28639 Filed 10/28-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12751]

Mobil Oil Corp.; Application and Opportunity for Hearing

October 25, 1983.

Notice is hereby given that Mobil Oil Corporation, a New York corporation, ("Applicant"), has filed an application pursuant to Section 310(b)(1)(ii) of the Trust Indenture Act of 1939 ("Trust Indenture Act"), for a finding by the Securities and Exchange Commission ("Commission") that Bankers Trust Company should not be deemed to have a conflicting interest within the meaning of Section 310(b) of the Trust Indenture Act which would disqualify it from continuing to act as Trustee under an indenture dated as of October 1, 1971 between the Applicant and Bankers Trust Company, and an indenture dated April 1, 1963 between Socony Oil Company, predecessor of the Applicant, and First National City Bank, Trustee and Bankers Trust Company, Successor Trustee, were it to act as Trustee under a new indenture to be entered into by Cortez Capital Corporation and Bankers Trust Company ("New Indenture") and were it to continue to act as Trustee under a separate indenture of Colonial Pipeline Company, Dixie Pipeline Company and Wolverine Pipe Line Company, respectively.

The Applicant alleges the following:

1. Cortez Capital Corporation ("Corporation"), a limited purpose corporation, was incorporated in the State of Delaware in April, 1982. All of the outstanding capital stock of the Corporation is owned by a general partnership ("Partnership") consisting of three corporate partners including a wholly owned subsidiary of the Applicant.

As part of its shelf registration statement that has been filed with the Commission, the Corporation is seeking to qualify under the Trust Indenture Act the New Indenture pursuant to which up to $300,000,000 aggregate principal amount of the Corporation's debt securities ("Debt Securities") may be issued. The Corporation may issue its Debt Securities in series on terms determined by market conditions at the time of sale.

Pursuant to a Financing Agreement between the Corporation and the Partnership, the proceeds from the sale of the Debt Securities will be used to lend to the Partnership in exchange for corresponding partnership notes ("Partnership Notes"). The Partnership's payment obligation on the Partnership Notes will be in an amount equal to the principal and interest on the Debt Securities. As security for the payment of the Debt Securities, the Partnership will assign to Bankers Trust Company, pursuant to a Consent, Assignment and Agreement, its rights under a Throughput and Deficiency Agreement ("Throughput Agreement") between a wholly owned subsidiary of each of Shell Oil Company, The Continental Group, Inc., and the Applicant (collectively, the "Parents"). The Throughput Agreement provides, in essence, that the Throughput Obligors will pay to the Partnership their proportionate share of any amount by which payment due under the Partnership Notes exceeds the amount then available to the Partnership for such payment. The respective performance by the subject subsidiaries under the Throughput Agreement is guaranteed severally by the Parents.

The Debt Securities which may be issued under the New Indenture rank *pari passu* with the other indebtedness of the Corporation.

2. The Applicant has entered into an indenture ("Qualified Indenture") dated as of October 1, 1971 with Bankers Trust Company, as Trustee (the "Colonial Indenture"), pursuant to which the Applicant issued $186,600,000 aggregate principal amount of its 7⅜% Debentures due October 1, 2001 ("7⅜% Debentures"). These securities were sold publicly pursuant to a registration statement filed under the Securities Act of 1933 and the indenture was qualified under the Trust Indenture Act. The 7⅜% Debentures issued under the Qualified Indenture are unsecured obligations of the Applicant.

3. The predecessor of the Applicant, now the Applicant, entered into an indenture ("Qualified Citibank Indenture") dated as of April 1, 1963 with First National City Bank, as Trustee and with Bankers Trust Company as Successor Trustee, pursuant to which the Applicant issued $106,250,000 aggregate principal amount of its 4¼% Debentures due April 1, 1993 ("4¼% Debentures"). These securities were sold publicly pursuant to a registration statement filed under the Securities Act of 1933 and the indenture was qualified under the Trust Indenture Act. The 4¼% Debentures issued under the Qualified Citibank Indenture are unsecured obligations of the Applicant.

4. Bankers Trust Company is also the Trustee under an indenture dated as of June 15, 1962 entered into with Colonial Pipeline Company ("Colonial"), a Delaware corporation, pursuant to which Colonial issued various series of its notes ("Colonial Notes"). There are nine series of Colonial Notes in which $689,146,000 principal amount is outstanding. The Colonial Notes and Colonial Indenture are secured by the assignment of Colonial's rights under a Throughput Agreement dated as of June 15, 1962, as amended (the "Colonial Throughput Agreement"), among Colonial and various other oil companies, including Applicant, that own all its stock. In the Colonial Throughput Agreement each oil company agreed, severally and not jointly, to ship through the pipeline a stated percentage of an amount of petroleum products that will, when taken with shipment by others, at the tariff rates, provide Colonial with sufficient cash to pay all its obligations, including the Colonial Notes. If shipments through the pipeline are insufficient for any reason to provide for Colonial's obligations, each oil company

agreed to make a cash advance against its future shipping costs based on its proportionate share of the throughput obligations. Applicant's proportionate share of the throughput obligations is 11.49 percent.

5. Bankers Trust Company is Trustee under an Indenture dated as of July 15, 1961, as supplemented, between Dixie Pipeline Company, a Delaware corporation ("Dixie") and Bankers Trust Company as Trustee (the "Dixie Indenture"), under which there are outstanding (as of July 31, 1983) $26,000,000 principal amount of three series of notes of Dixie ("Dixie Notes"). The Dixie Notes and Dixie Indenture are secured by the assignment of Dixie's rights under a Throughput Agreement dated as of July 15, 1961, as amended (the "Dixie Throughput Agreement"), among Dixie and various other oil companies, including Applicant which own all its stock. In the Dixie Throughput Agreement each oil company agreed, severally and not jointly, to ship through the pipeline a stated percentage of an amount of petroleum products that will, when taken with shipments by others, at the tariff rates, provide Dixie with sufficient cash to pay all its obligations, including the Dixie Notes. If shipments through the pipeline are insufficient for any reason to provide for Dixie's obligations, each oil company agreed to make cash advance against its future shipping costs based on its proportionate share of the throughput obligations. Applicant's proportionate share of the throughput obligations is 5 percent.

6. Bankers Trust Company is Trustee under an Indenture dated as of October 1, 1971, as supplemented, between Wolverine Pipe Line Company, a Delaware corporation ("Wolverine"), and Bankers Trust Company, as Trustee (the "Wolverine Indenture"), under which there are outstanding (as of July 31, 1983) $33,140,000 principal amount of three series of notes of Wolverine ("Wolverine Notes"). The Wolverine Notes and Wolverine Indenture are secured by the assignment of Wolverine's rights under a Throughput Agreement dated September 15, 1971, as amended (the "Wolverine Throughput Agreement"), among Wolverine and various other oil companies, including Applicant, that own all its stock. In the Wolvering Throughput Agreement each oil company agreed, severally and not jointly, to ship through the pipeline a stated percentage of an amount of petroleum products that will, when taken with shipments by others, at the tariff rates, provide Wolverine with sufficient cash to pay all its obligations, including the Wolverine Notes. If shipments through the pipeline are insufficient for any reason to provide for Wolverine's obligation, each oil company agreed to make a cash advance against its future shipping costs based on its proportionate share of the throughput obligations. Applicant's proportionate share of the throughput obligations is 30 percent.

7. No default has at any time existed under the aforementioned existing indentures.

8. The Applicant does not believe that the proposed New Indenture or any of the aforementioned existing indentures involves, or would involve, a conflicting interest as defined in Section 8.08 of the Qualified Indenture and Section 310(b) of the Trust Indenture Act. Specifically, the Applicant does not consider that the contracts to which it is a party in the foregoing Colonial Pipeline Company, Dixie Pipeline Company and Wolverine Pipe Line Company financings constitute it an "obligor" (as defined in Section 303(12) of the Trust Indenture Act of 1939) upon the securities under any of the indentures involved in these financings. Further, the obligations of the Applicant in respect of the Debentures and its contractual obligations pertinent to the Corporation's proposed financing and the financings of Colonial Pipeline Company, Dixie Pipeline Company and Wolverine Pipe Line Company rank equally with the Applicant's other unsecured indebtedness. The Applicant therefor believes that even if it were to be deemed an "obligor" upon the indentures and the financings described above, the trusteeships of Bankers Trust Company under the New Indenture and under the aforementioned existing indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as trustee under the Qualified Indenture or the Qualified Citibank Indenture.

The Applicant has waived (i) notice of hearing, (ii) hearing on the issues raised by its application, and (iii) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice in connection with this matter.

For a further statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than November 21, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29542 Filed 10-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20323; File No SR-OCC-83-22]

Self/Regulatory Organization; Proposed Rule Change by the Options Clearing Corp.

Prusuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 14, 1983, The Options Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

The Options Clearing Corporation ("OCC") proposes to amend its By-laws and Rules to set forth written standards for facilities management arrangements between OCC Clearing Members. Under a typical facilities management arrangement, an OCC Clearing Member (the "Managing Clearing Member") agrees to provide services for another Clearing Member (the "Managed Clearing Member") for a set fee. Managed Clearing Members rely on these arrangements to fulfill OCC's membership requirements regarding operational capacity, experience and competence. In a few situations non-Clearing Member firms also provide services to Clearing Member firms.

The rule change sets forth guidelines for OCC's Membership Committee to consider when reviewing Clearing Member applicants who rely on facilities management arrangements. The rule change, through an amendment to Article V of OCC's By-laws, describes the various provisions which are to be included in a written facilities management agreement between OCC Clearing Members. Specific standards have not been prepared for new facilities management relationships involving non-Clearing Member Managing firms. OCC will continue to review those infrequent arrangements on a case-by case basis. However for facilities management arrangements in which a Clearing Member acts as manager, OCC will not approve the arrangement unless the agreement: (1) Sets forth the specific services to be performed, (2) provides for written notice to OCC prior to termination of the arrangement, (3) requires that the managed firm withdraw from OCC membership upon termination of the facilities management arrangement if the firm is then unable to meet OCC's membership standards, (4) provides that the Managing Clearing Member will be liable to the Managed Clearing Member for damages resulting from any failure of the Managing firm to perform its obligations, and (5) provides that both Managing and Managed clearing Members will be jointly and severally liable to OCC for any damages incurred by OCC resulting from the firms' failures to perform obligations under the agreement. A Clearing Member will be approved by OCC to act as a Managing Clearing Member only so long as it continues to satisfy OCC that it has the requisite operational capability, experience, competence and resources to enable it to serve as a Managing firm under all facilities management agreements to which it is a party and maintains the net capital prescribed by the Rules for Managing Clearing Members. Clearing Members who are currently involved in facilities management arrangements will have 120 days after the effective date of the proposed rule change to comply with the provisions of the rule change.

Proposed Rule 309 outlines the specific financial requirements to be met by Clearing Member firms who act as Managing Clearing Members. Proposed Rule 309 requires a minimum net capital for Managing Clearing Members of an amount not less than the greater of (i) the minimum net capital required by OCC Rule 302 or (ii) the sum of (A) $300,000 plus (B)$50,000 times the number of Managed Clearing Members in excess of four for which the Managing Clearing Member provides facilities management services. Rule 309 also requires a Managing Clearing Member to provide OCC with an early warning notice if net capital falls below the amount prescribed in the Rule. If net capital falls below that minimum amount, Managing Clearing Members will also be subject to the restrictions on distributions and transactions contained in OCC Rules 304 and 305.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of and Statutory Basis for, the proposed Rule Change

The proposed rule change is intended to set forth specific written standards with regards to facilities management arrangements between OCC Clearing Members. Standards have become necessary due to the increased number of facilities management arrangements, the increased level of dependence on Managing Clearing Members, and the increased number of Clearing firms who have begun offering their services as Managing firms.

By adopting the proposed rule change OCC seeks to ensure that relationships between Managing and Managed Clearing Members will be clearly defined, and that OCC standards with regard to operational capacity, experience, and competence of Clearing Members are met and maintained. Additionally, through this proposed rule change OCC will ensure that the Managing Clearing Members will assume, and be capable of meeting, the potential liabilities of a facilities management relationship.

Specifically, the proposed rule change would accomplish these goals by outlining clear standards to which Clearing Member facilities management agreements must conform, and by requiring that the agreements be approved by OCC before becoming effective. Increased net captial requirements for Clearing Members acting as Managing Firms would ensure that these firms are capable of meeting the additional potential liabilities which might arise as a result of facilities management relationships.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended, in that it will facilitate the prompt and accurate clearance and settlement of securities transactions and will serve to protect the public interest, the Clearing Members involved in the facilities management arrangements and OCC.

(B) Burden on Competition

OCC does not believe that the proposed rule change would have any impact on competition.

(C) Comments on the Proposed Rule Change Received From Members, Participants and Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 24, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29641 Filed 10-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20328; File No. SR-PHLX 83-17]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on October 20, 1983, the Philadelphia Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of Proposed Rule Change

Section 1. Rules Applicable to Trading of Options on Stocks and foreign Currencies

Rules 1000 through 1070—No change.

Section 2. Rules Applicable to Trading of Options on Indicies

Rule 1000A. Applicability and Definitions

(a) *Applicability.* The Rules in this Section are applicable only to index options (options on indicies of securities as defined below). In addition, except to the extent that specific rules in this Section govern, or unless the context otherwise requires, the provisions of the Option Rules applicable to stock options and of the By-Laws and all other Rules and Policies of the Board of Governors shall be applicable to the trading on the Exchange of index options.

(b) *Definitions.* The following terms as used in the Rules in this Section shall, unless the context otherwise indicates, have the meanings herein specified.

(1) The term "put" means an option contract under which the holder of the option has the right, in accordance with the terms and provisions of the option, to sell to the Options Clearing Corporation the closing index value times the index multiplier.

(2) The term "call" means an option contract under which the holder of the option has the right, in accordance with the terms of the option, to purchase from the Options Clearing Corporation the closing index value times the index multiplier.

(3) The term "aggregate exercise price" means the exercise price of the option contract times the index multiplier.

(4) The term "exercise price" means the specified price per unit at which the current index value may be purchased in the case of a call or sold in the case of a put upon the exercise of the option.

(5) The term "underlying security" or "underlying securities" with respect to an index option contract means any of the stocks that are the basis for the calculation of the index.

(6) The term "index multiplier" means the amount specified in the contract by which the closing index value is to be multiplied to arrive at the value required to be delivered to the holder of a call or by the holder of a put upon valid exercise of the contract.

(7) The term "current index value" in respect of a particular index means the level of the index that is derived from the reported prices of the underlying securities that are the basis of the index, as reported by the reporting authority for the index.

(8) The term "closing index value" in respect of a particular index means the current index value calculated at the close of business on the day of exercise, or, if the day of exercise is not a trading day, on the last trading day before exercise.

(9) The term "reporting authority" in respect of a particular index means the institutions or reporting service designated by the Exchange as the official source for calculating and determining the current value or the closing index value of the index.

(10) The term "covered" in respect of a short position in an index call option contract in an account means that the writer holds in the same account a long position in an index call option for the same underlying index with the same index multiplier as the short call and the expiration date of the long call is the same as or subsequent to the expiration date of the short call and the exercise price of the long call is equal to or less than the exercise price of the short call. The term "covered" in respect of a short position in an index put option contract in an account means that the writer holds in the same account a long position in an index put option for the same underlying index with the same index multiplier as the short put and the expiration date of the long put is the same as or subsequent to the expiration date of the short put and the exercise price of the long put is equal to or greater than the exercise price of the short put.

(11) The terms "market index" and "industry index" mean respectively an index designed to be representative of general price movements in the stock market and an index designed to be representative of price movements in particular categories of stocks.

Rule 1001A. Position Limits

(a) In determining compliance with Rule 1001, option contracts on a market index shall be subject to a contract limitation fixed by the Exchange, which shall not be larger than the equivalent of a $300 million position. For this purpose, a position shall be determined by the product of the closing index value times the index multiplier times the number of contracts on the same side of the market.

(b) (i) In determining compliance with Rule 1000, option contracts on an industry index shall, subject to the procedures specified in subparagraph (iii) of this rule, be subject to the following position limits:

—4,000 contracts if the Exchange determines, at the time of a review conducted pursuant to subparagraph (ii) of this paragraph (b), that any single underlying stock accounted, on average, for 30% or more of the index value during the 30-day period immediately preceding the review; or

—6,000 contracts if the Exchange determines, at the time of a review conducted pursuant to subparagraph (ii) of this paragraph (b), that any single underlying stock accounted, on average, for 20% or more of the index value or that any five underlying stocks together accounted, on average, for more than 50% of the index value, but that no single stock in the group accounted, on average, for 30% or more of the index value, during the 30-day period immediately preceding the review; or

—8,000 contracts if the Exchange determines that the conditions specified above which would require the establishment of a lower limit have not occurred.

(ii) The Exchange shall make the determinations required by subparagraph (i) of this paragraph (b) with respect to options on each industry index at the commencement of trading

of such options on the Exchange and thereafter review the determination semi-annually on January 1 and July 1.

(iii) If the Exchange determines, at the time of a semi-annual review, that the position limit in effect with respect to options on a particular industry index is lower than the maximum position limit permitted by the criteria set forth in subparagraph (i) of this paragraph (b), the Exchange may effect an appropriate position limit increase immediately. If the Exchange determines, at the time of a semi-annual review, that the position limit in effect with respect to options on a particular industry index exceeds the maximum position limit permitted by the criteria set forth in subparagraph (i) of this paragraph (b), the Exchange shall reduce the position limit applicable to such options to a level consistent with such criteria; provided, however, that such a reduction shall not become effective until after the expiration date of the most distantly expiring option series relating to such particular industry index, which is open for trading on the date of the review; and provided further that such a reduction shall not become effective if the Exchange determines, at the next succeeding semi-annual review, that the existing position limit applicable to such options is consistent with the criteria set forth in subparagraph (i) of this paragraph (b).

(c) Index option contracts shall not be aggregated with option contracts on any stocks whose prices are the basis for calculation of the index.

Rule 1002A. Exercise Limits

In determinig compliance with Rule 1002, exercise limits for index option contracts shall be equivalent to the position limits described in Rule 1001A.

Rule 1006A. Other Restrictions on Options Transactions and Exercises

With respect to index options, restrictions on exercise may be in effect until the opening of business on the last trading day before the expiration date.

Rule 1009A. Designation of the Index

The underlying securities comprising the index shall be selected by the Exchange and may be revised from time to time, if in the Exchange's discretion such revision is necessary or appropriate to maintain the quality and character of the index. The underlying securities that are the basis for the calculation of the index need not meet the requirements in Rule 1009.

Rule 1033A. Meaning of Premium Bids and Offers

Bids and offers shall be expressed in terms of dollars and fractions of dollars and decimals per unit of the index (*e.g.*, a bid of 85½ and a bid of 85.50 would each represent a bid of $85.50 per unit).

Rule 1042A Exercise of Option Contracts

(a) With respect to index option contracts, clearing members are required to follow the procedures of the Options Clearing Corporation for tendering exercise notices, and member organizations also are required to comply with the following procedures:

(i) A memorandum to exercise any stock index option contract issued or to be issued in a customer or market maker account to The Options Clearing Corporation must be received or prepared by the member organization no later than 4:10 p.m. and must be time-stamped at the time it is received or prepared. Member organizations must accept exercise instructions until 4:10 p.m. each business day.

(ii) A memorandum to exercise any stock index option contract issued or to be issued in a firm account at The Options Clearing Corporation must be prepared by the member organization no later than 4:10 p.m. and must be time-stamped at the time it is prepared.

(b) The provisions of subparagraphs (i) and (ii) of paragraph (a) of this Rule 1042A are not applicable with respect to any series of stock index options on the last day of trading prior to the expiration date of such series of options.

* * * Commentary.

.01 All memoranda of exercise instuctions prepared pursuant to this Rule 980C are subject to Securities and Exchange Commission Rules 17a–3(a)(6) and 17a–4(b).

Rule 1044A. Delivery and Payment

In accordance with the applicable Rules of the Options Clearing Corporation, the settlement of index option contracts will be by the delivery of the difference between the closing index value on the day of exercise and the exercise price times the index multiplier.

Rule 1047A. Trading Rotations, Halts or Suspensions

(a) Trading on the Exchange in any option shall be halted or suspended when ever trading in undelying stocks, whose weighted value represents, in the case of a market index, more than 20% of the current index value, or in the case of an industry index, more than 10% of the current index value, is halted or suspended. Trading shall also be halted whenever the Exchange deems such action appropriate in the interests of a fair and orderly market and to protect investors. Among the factors that may be considered are the following:

(i) All trading has been halted or suspended in the maket that is the primary market for a plurality of the underlying stocks;

(ii) The current calculation of the index derived from the current market prices of the stocks is not available; or

(iii) Other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

(b) The opening rotation for index options shall be held as soon as practicable after underlying securities representing 50% of the aggregate market value of all the securities underlying the index have opened for trading. The Specialist shall open first those series of a class which have the nearest expiration. Thereafter, the Specialist shall open the remaining series in a manner he deems appropriate under the circumstances. One and one-half hours after the opening rotation, trading shall become subject to paragraph (a) of this rule, unless the Exchange determines it is in the public interest to suspend trading at an earlier time.

(c) No closing rotation for expiring index options shall be required.

Rule 1100A. Dissemination of Information

(a) The Exchange shall disseminate or shall assure that the closing index value is disseminated after the close of business and the current index value is disseminated from time-to-time on days on which transactions in index options are made on the Exchange.

(b) The Exchange shall maintain, in files available to the public, information identifying the stocks whose prices are the basis for calculation of the index and the method used to determine the current index value.

Rule 1101A. Terms of Option Contracts

The Exchange shall determine fixed point intervals of exercise prices for index options. Industry index option contracts may expire at three month intervals; provided, however, that no series expiring in more than eighteen months may be listed. Market index options may expire in consecutive months; provided, however, that series expiring in no more than four months may be listed.

Rule 1102A. Limitation of Exchange Liability

The Exchange shall have no liability for damages, claims, losses or expenses caused by any errors, omissions, or

delays in calculating or disseminating the current index value or the closing index value resulting from an act, condition or cause beyond the reasonable control of the Exchange, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error, omission or delay in the reports of transactions in one or more underlying securities; or any error, omission or delay in the reports of the current index value or the closing index value by the Exchange or the reporting authority.

Rule 1103A. Margins

(a) This rule sets forth the minimum amount of margin which must be deposited and maintained in margin accounts of customers having positions in index option contracts dealt in on the Exchange. The Exchange may at any time impose higher margin requirements in respect of such positions when it deems such higher margin requirements to be advisable. The initial deposit of margin required under this rule must be made within seven full business days after the date on which a transaction giving rise to a margin requirement is effected. For purpose of this Rule, the term "current market value" of an index option shall mean the total cost or net proceeds of the option transaction on the day the option was purchased or sold and at any other time shall mean the closing price of that series of options on the Exchange on any day with respect to which a determination of current market value is made.

(b)(i) *Option Contracts of a Market Index.* For each put or call option contract on a market index carried in a short position in the account, margin must be deposited and maintained equal to at least 100% of the current market value of the contract plus 10% of the closing index value times the index multiplier. In each case, the amount shall be decreased by any excess of the aggregate exercise price of the option over the closing index value as multiplied by the index multiplier in the case of a call, or any excess of the closing index value as multiplied by the index multiplier over the aggregate exercise price of the option in the case of a put; provided, however, that the minimum margin required on each such option contract shall not be less than the option current market value of the contract plus 2% of the closing index value times the index multiplier.

(ii) *Option Contracts on an Industry Index.* For each put or call option contract on an industry index carried in a short position in the account, margin must be deposited and maintained equal to at least 30% of the product of the closing index value times the index multiplier, increased by any unrealized loss or reduced by any excess of the aggregate exercise price of the option over the product of the closing index value times the index multiplier in the case of a call, or any excess of the product of the closing index value and times the index multiplier over the aggregate exercise price of the option in the case of a put; provided, however, that the margin shall not be less than $250 per option contract.

(c) The requirements set forth in paragraph (b) hereof are subject to the following exceptions, which in each case may be applied at the discretion of the Member Organization with which the account is maintained.

(1) *Short option offset by long option where long option expires with or after short option.* This subparagraph (c)(1) applies to accounts carrying positions in long call index options (or long put index options) which are offset by positions in short call index options (or short put index options) for the same underlying index with the same index multiplier, provided that the expiration date of the long calls (or long puts) is the same as or subsequent to the expiration date of the offsetting short calls (or short puts).

(A) When the exercise price of the long call index option (or short put index option) is less than or equal to the exercise price of the offsetting short call index option (or long put index option), no margin is required.

(B) When the exercise price of the long call index option (or short put index option) is greater than the exercise price of the offsetting short call index option (or long put index option) margin is required equal to the difference in aggregate exercise prices.

(2) *Short put and short call.* This subparagraph (c)(2) applies to accounts carrying positions in short put index options which are offset by positions in short call index options for the same underlying index with the same index multiplier. The margin required for such a position shall be the margin required for the short put option contract or the margin required for the short call option contract (pursuant to paragraph (b) of this Rule), whichever is greater, as determined by (b) above, increased by the amount of any unrealized loss on the other option contract.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for the Proposed Rule Change

The proposed filing accommodates trading of options on broad and narrow based ("market" and "industry") stock indicies and designates the two industry indicies on which the PHLX will initially begin trading.

The option contracts covered by this filing are similar to those approved for trading by the Securities and Exchange Commission ("Commission") on other national securities exchanges. They will be issued by the Options Clearing Corporation ("OCC") which will guarantee the performance of each contract. They will be settled upon exercise by the payment of cash. The uniform disclosure document prepared by OCC and certain exchanges currently trading index options, "Listed Options on Stock Indicies" ("Disclosure Document"), will be amended to include the PHLX's market in this product.

The option contracts traded pursuant to these rules are intended to provide investors with a way to hedge against general price movements in the case of broad-based stock indices, and against price movements in particular categories of stocks and strike, in the case of narrow based stock indices. As stated in the disclosure document:

> Investors with broadly diversified stock portfolios may use options on broad-based indices to hedge their overall portfolio risk, because the risk of a widely diversified portfolio is largely confined to market risk. Investors holding a single stock or a small number of stocks can use options on broad-based indices to hedge the market risk component of their risk exposure in situations where (1) they wish to assume the risk of a particular stock's performance relative to the market, or (2) options are not available on the particular stock or stocks they hold. Short sellers can use options on broad-based indices to hedge against the risk of a general market rise.[1]

* * * * *

[1] Disclosure Document at p. 7. See also general discussion on broad-based stock indices at pp. 7–11.

[Options on narrow-based indices] are designed to reflect the performance of particular categories of stocks. [A narrow-based index] may cover an entire market sector (*e.g.*, industrials) or be limited to stocks in a particular industry. [They] may be used to hedge against the risk of adverse price movements in particular market sectors or industry groups in the same way that options on broad-based indices are used to hedge against price movements in the market as a whole.[2]

At this time PHLX is requesting permission to list put and call options on the Gold/Silver and Gaming/Hotel indicies.

Underlying Indices—The Gold/Silver index is a capitalization weighted industry index composed of the following stocks, all of which are listed on the NYSE: ASA Ltd. ("ASA"), Callahan Mining ("CMN"), Cambell Red Lake Mines ("CRK"), Dome Mine Ltd. ("DM"), Heckla Mining ("HL"), Homestake Mining ("HM"), and Sunshine Mining Co. ("SSC").

The Gaming/Hotel index is a capitalization weighted industry index composed of the following nine stocks, seven of which are listed on the NYSE and two of which are listed on the AMEX: Bally Mfg. Corp. ("BLY"), Caesars World, Inc. ("CAW"), Golden Nugget, Inc. ("GNG"), Hilton Hotel Corp. ("HLT"), Holiday Inns, Inc. ("HIA"), MGM Grand Hotels ("GRN"), Ramada Inns, Inc. ("RAM"), Resorts International, Inc. ("RAT"), and Showboat, Inc. ("SBO").

Unit of Trading.—Each contract will represent $100, the index multiplier, times the current market prices of the stocks comprising the index. For example, an index value of 105 will result in a dollar value of $10,500 ($100 x 105).

Exercise Prices—Exercise prices will be set at five point intervals in terms of the current value of the indices.

Aggregate Exercise Price—The multipler ($100) times the exercise price.

Expiration—Gaming/Hotel index options will be introduced in months of January, April, July and October and for up to six three-month expiration periods. Gold/Silver index options will be introduced in months of February, May, August, and November and for up to six three-month expiration periods.

Premium Quotations—Option premiums will be expressed in terms of dollars and fractions per unit of index. Each point will represent $100. The minimum fraction will be 1/16. For example, a premium of 1 1/4 will represent $125.

[2] *Id.* at pp. 11 and 12. See also general discussion on narrow-based indices on these same pages.

Position Limits—The Gold/Silver and Gaming/Hotel index option contracts will be subject to a position limit computed in accordance with rule 1001A(b)(i).

In general, those who do a public business in index options will be subject to Rules 1003, 1024, 1025, 1026, 1027, 1028, 1029, and 1049. These rules set forth, in the context of equity options, such matters as the requirements for representatives and member organizations, supervision and opening of accounts and confirmations, statements, communications to customers and reporting of positions. This is the proper regulatory framework for index options because they are essentially a new variety of equity option. The mechanics of index options trading will be the same as that of equity options trading and the vocabulary will also be the same. The purposes of trading and basic trading strategies will be similar to those used with equity options. There are two significant differences between equity options and index options. The first major difference is that at this time there is not a specific underlying instrument which could be used to obtain an exact cover position. The second major difference involves the terms of index options, which will be similar to those used with equity options except that settlement upon exercise will occur through delivery of cash rather than stock. Both of these differences are easy to understand and are addressed in the Dsclosure Document that will be amended to include the PHLX's market in index options.

Rule 1000A. Definitions

This rule sets forth the definitions which are essential to the establishment, pricing, trading, and settlement of index options. The terms "put," "call," "aggregate exercise price," "exercise price," and "index multiplier" provide the basis for calculating the dollar amounts a purchaser or seller of an index option will deliver or receive on exercise. the "current index value" will be computed and disseminated on a current basis by the "reporting authority." The last "current index value" disseminated by the reporting authority on a given day shall be considered the "closing index value" for the day.

Rule 1001A. Position Limits

Position limits for options on a market (broad-based) index shall be a contract limitation which shall not be larger than the equivalent of a $300 million position. Position limits on options on an industry (narrow-based) index will be either 4,000, 6,000 or 8,000 contracts depending on the percentage of concentration of a particular stock(s) in the index.

Rule 1002A. Exercise Limits

The Exchange has determined to establish such limits at a level consistent with position limits.

Rule 1006A. Other Restrictions on Options Transactions and Exercises

Since the exercise of an option settled in cash is the economic equivalent of trading out of a long position, investors with long positions enjoy an advantage over investors with short positions in some situations. The proposed rule change, in order to give the Exchange the ability to "level the playing field," authorizes the Exchange to impose restrictions on the exercise of index options until the last trading day of an expiring option.

Rule 1044A. Delivery and Payment

This rule provides that the settlement of an index option contract upon exercise will be by the delivery of the dollar amount of the difference between the closing index value on the day of exercise and the exercise price multiplied by the index multiplier.

Rule 1009A. Designation of the Index

To compute the Gold/Silver and Gaming/Hotel indicies the following formula is used:

$$\frac{MV(1) + MV(2) + MV(3) + \ldots MV(N)}{BMV} \times 100 = \text{Index value}$$

where

MV = (Price × Shares Outstanding) for the instant computation, summed for all securities.

BMV = Summation (Closing price × shares outstanding) for the day prior to the start of the index calculation.

The current market value of each component security is multiplied by the number of outstanding shares. The resulting market values are added to determine the current aggregate market value of the stocks in each index. To compute the current index value, the aggregate market is divided by the base market value and multiplied by 100. The Gold/Silver and Gaming/Hotel indices

were set to equal 100 on January 1979, the start-up date of both indices. On October 14, 1983, the Gold/Silver Index was split on a three for one basis and the Gaming/Hotel Index was split on a two for one basis in order to produce an index unit (*i.e.*, share equivalent) of approximately $10,000.

To account for changes in capitalization of any of the component securities resulting from mergers, acquisitions, delisting, substitutions, etc., the base market value will be adjusted periodically. The following formula is used to make such adjustments:

$$NBMV = \frac{OBMV \times NMV}{OMV}$$

where
NBMV = new Base Market Value
OBMV = old Base Market Value
NMV = new Market Value
OMV = old Market Value

Adjustments in the value of the index which are necessitated by the addition of a stock to or deletion of a stock from the index are made by adding or subtracting the market value (price times shares outstanding) of the relevant stock.

Rule 1033A. Meaning of Premium Bids and Offers

Bids and offers for index options will be expressed in the same terms as bids and offers for listed stock options, except that the bids and offers will represent a unit of the index.

Rule 1042A. Exercise of Option Contracts

This rule provides procedures for the exercise of index options. Specifically, member organizations must accept from all customers and market makers exercise instructions, for stock index options up until, but no later than 4:10 p.m. The notice of exercise must be time-stamped at the time its is received or prepared. Second, a memorandum to exercise a stock index option contract issued or to be issued in a firm account must be prepared no latter than 4:10 p.m. However, the base provisions would not be applicable to expiring series on the last day prior to expiration.

This rule will enable persons holding long positions to tender exercise notices on a given day knowing the value of the index at the close of trading. Conversely in order to protect holders of short positions in index options from unanticipated events occuring after the close of the market, no exercise notice may be issued after 4:10 p.m.

Rule 1047A. Trading Rotations, Halts and Suspensions

Trading in the particular index option contracts proposed in this filing shall be halted whenever trading in underlying stocks whose weighted value represents 20% in the case of a market index, and 10% in the case of an industry index, of the current index value is halted or suspended. Trading in such options shall also be halted whenever it is necessary for the maintenance of a fair and orderly market and to protect investors. The PHLX may permit trading to resume when it determines that such resumption would best serve the interests of a fair and orderly market.

Trading rotations will be conducted in the same manner as trading rotations in listed stock options. The opening rotation shall be held as soon as practicable after underlying securities representing 50% of the aggregate market value of all the securities underlying the index have opened for trading. If 20% of the underlying securities remain unopened after one and one-half hours after a particular index option contract's opening rotation, trading in such options shall be halted unless it is in the public interest to halt trading at an earlier time.

Because the settlement amount of an index option upon exercise is based on the closing value on the day the notice is tendered, the PHLX proposes to freely trade expiring index options without a closing rotation. This will permit investors holding expiring options to follow the last hour of trading in the component securities of the index and make a more informed decision whether to close out or exercise a position. Based on the experience of the American Stock Exchange,[3] a closing rotation on expiration does not appear necessary to handle order flow which, in contrast to the case of equity options, appears to decrease at expiration.

Rule 1100A. Dissemination of Information

The index will be updated dynamically after each transaction in any security in the index. Updated index values will be disseminated manually every half hour and displayed through the Option Price Reporting Authority ("OPRA"). The index values will also be available on broker dealer interrogation devices to Consolidated Tape Association Subscribers once every minute. In addition, the closing index value will be published in "The Wall Street Journal".

[3] See, SR–AMEX 83–10 which was approved by the Commission in Release No. 20169 (September 9 1983).

Rule 1101A. Terms of Options Contracts

At this time PHLX proposes to establish exercise price intervals of five points for the Gold/Silver and Gaming/Hotel index option contracts. The Exchange may from time-to-time vary the price intervals. One factor that may be considered is the volatility of the index.

Rule 1102A. Limitation of Exchange Liability

This rule will clarify that the Exchange shall not be liable for damages resulting from an error, omission or delay in calculating or disseminating the current or closing index value if the act is beyond its control.

Rule 1103A. Margins

This rule sets forth the minimum amount of margin which a customer holding a position in index options must deposit and maintain in his margin account. For each short position in put or call index option contracts, a customer must deposit and maintain margin equal to at least one hundred percent of current market value of the index option contract plus ten percent of the index value multiplied by the index multiplier. The amount of margin required may be decreased by certain exceptions set forth in the Rule.

The basis under the Securities Exchange Act of 1934 ("Act") for the proposed rule change is Section 6(b)(5) in that the proposed rule change is designed to facilitate transactions in options on a stock index and to bring such transactions within the regulatory framework of the Act and of PHLX's own rules.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and

publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 25, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29539 Filed 10-28-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-0170]

Filing of Application for Transfer of Control of a Licensed Small Business Investment Company; Red River Ventures, Inc.

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.601 of the Regulations governing small business investment companies [13 CFR 107.601 (1983)], to transfer control of Red River Ventures, Incorporated, 2050 Houston Natural Gas Building, Houston, Texas 77002, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C 661, *et seq.*). The proposed transfer of ownership and control of Red River Ventures, Incorporated (Licensee), which was licensed on February 21, 1974, is subject to prior written approval of SBA.

Control of the Licensee is being transferred to Red River Investors, Inc. (RRI) in that RRI is purchasing all of the capital stock of Red River Capital Corporation (RRCC) the Licensee's parent. Mr. Delwin W. Morton owns 50 percent of RRI Inc. and Mr. David C. Brown, Jr., owns 50 percent of RRI.

The current officers, directors, and stockholders of RRCC:

John D. Curtin, Jr., Chairman of the Board—30 percent
Thomas H. Schnitzius, President, Treasurer Director—30 percent
Stewart Cureton, Jr., Vice President—15 percent
Issac Arnold, Jr., Director—25 percent

These individuals hold the same offices in the Licensee.

The proposed offices, directors, and stockholder of the Licensee:

Delwin W. Morton, 2425 N. Central Expressway, Richardson, Texas 77002—President, Chief, Executive Officer, Director
David C. Brown, Jr., 2367 Mandeville Canyon Road, Los Angeles, California 90049—Vice President, Secretary, Treasurer, and Director
Thomas H. Schnitzius, 2050 Houston Natural Gas Building, Houston, Texas 77002—Director
Red River Capital Corporation—100 percent

If the proposed transfer is approved the transferee will move the Licensee to 2425 N. Central Expressway, Suite 323, Richardson, Texas 75080. The transferee intends to invest in companies primarily in Texas, Louisiana, Arkansas, Oklahoma and Colorado.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their managment, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and SBA Rules and Regulations.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416

A similar Notice shall be published in newspapers of general circulation in Richardson, Texas and Houston, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: October 24, 1983.

[FR Doc. 83-28395 Filed 10-28-83; 8:45 am]

BILLING CODE 8025-01-M

SYNTHETIC FUELS CORPORATION

Competitive Eastern Province and Eastern Region of the Interior Province Bituminous Coal Solicitation

AGENCY: Synthetic Fuels Corporation.

ACTION: Amendment of competitive solicitation for Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Projects.

SUMMARY: Notice is hereby given that on October 21, 1983 the United States Synthetic Fuels Corporation issued amendments to the Competitive Solicitation for Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Projects issued June 30, 1983.

EFFECTIVE DATE: October 21, 1983.

FOR FURTHER INFORMATION CONTACT:

Ralph L. Bayner, Vice President—Projects, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586; (202) 822-6436.

For Copies of the Amendments to the Solicitation Contact: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586; (202) 822-6460.

Synthetic Fuels Corporation.

Leonard C. Axelrod,

Acting Executive Vice President.

[FR Doc. 83-29505 Filed 10-28-83; 8:45 am]

BILLING CODE 6820-30-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

On October 24, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department

Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0130
Form Number: 1120S
Type of Review: Revision
Title: U.S. Income Tax Return for an S Corporation, Capital Gains and Losses, and Shareholder's Share of Income, Credits, Deductions, etc.—1983

OMB Number: 1545–0747
Form Number: 5498
Type of Review: Revision
Title: Individual Retirement Arrangement Information.

OMB Number: 1545–0098
Form Number: 1045
Type of Review: Revision
Title: Application for Tentative Refund

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0134
Form Number: ATF 5110.29
Type of Review: Existing Regulation
Title: Tank Record of Spirits in Storage

OMB Number: 1512–0222
Form Number: ATF 5640.2
Type of Review: Extension
Title: Offer in Compromise of Liability Incurred Under the FAA Act as Amended

OMB Number: 1512–0197
Form Number: ATF 5110.27
Type of Review: Revision
Title: Transfer of Spirits, Denatured Spirits, or Wines in Bond

OMB Number: 1512–0194
Form Number: ATF 5110.17
Type of Review: Existing Regulation
Title: Taxpaid Spirits Returned to Bonded Premises

OMB Number: 1512–0196
Form Number: ATF 5110.26
Type of Review: Existing Regulation
Title: Gauge Report or Record

OMB Number: 1512–0073
Form Number: ATF F 1479–A
Type of Review: Existing Regulation
Title: Formula for Article Made With Specially Denatured Alcohol or Rum

OMB Number: 1512–0177
Form Number: ATF F 4440 (5100.29)
Type of Review: Existing Regulation
Title: Catering Locations

OMB Number: 1512–0037
Form Number: ATF F 5020.21
Type of Review: Extension
Title: Form Letter—Request for Arrest Record Check

OMB Reviewer: Norman Frumkin, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Rita A. DeNagy,
Departmental Reports Management Office
October 24, 1983.

[FR Doc. 83–29482 Filed 10–28–83; 8:45 am]
BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 211
Monday, October 31, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Federal Energy Regulatory Commission	2
Federal Deposit Insurance Corporation	3-5
Occupational Safety and Health Review Commission	7, 8
Parole Commission	9

1

CIVIL AERONAUTICS BOARD

[M-393, October 25, 1983]

TIME AND DATE: 10 a.m., November 1, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Delegation of authority to the Associate Director, Economic Affairs, to extend subsidy rates. (Memo 2069, OGC, BDA)
3. Docket 41660, Implementation of the Federal claims Collection Act and Debt Collection Act. (OGC, OMD, OC, BDA, BCAA, OCCCA)
4. Docket 38818, Essential air service for Montpelier/Barre, Vermont. (Memo 304-C, BDA, OCCCA, OC)
5. Docket 39480, Setting a second year subsidy rate for Mesaba Aviation, Inc. at Brookings, Huron, and Mitchell, South Dakota. (Memo 1348-A, BDA, OCCCA, OC)
6. Docket 41585, Application of Mid Pacific Airlines, Inc. to amend its certificate of public convenience and necessity to authorize it to engage in intra-Hawaii all-cargo air service. (Memo 2053, BDA, OGC)
7. Docket 41397, *Alaskan Interstate Charter Entry Proceeding.* (Memo 1583-B, BDA, OGC)
8. Docket 38623, Agreement CAB 29089, IATA agreement which, *inter alia,* revalidates Colombia-US excursion fares with increases. (Memo 2060, BIA)
9. Docket 40960, Agreements CAB 29087, 29088, Intercarrier fare agreements covering U.S.-France/Italy/Portugal/Spain/Switzerland markets. (Memo 1511-M, BIA)
10. Docket 35803 and 38823, Applications of Aeroleon, S.A., for permit and exemption authority to conduct all-cargo operations between the United States and Mexico. (Memo 2066, BIA, OGC)
11. Docket 41556, Application of Thai Airways International Limited for an exemption from section 402 of the Federal Aviation Act of 1958, as amended and Part 222 of the Board's Economic Regulations (intermodal cargo service). (Memo 2065, BIA, OGC, BALJ)
12. Docket 41217, Direct flights—Petition for rulemaking. (OGC, BDA, OCCCA, BIA, OEA)
13. Report on Germany. (BIA)
14. Report on United Kingdom. (BIA)
15. Report on Jamaica. (BIA)
16. Report on Netherlands Antilles. (BIA)
17. Report on Canada. (BIA)
18. Undocketed—Application of Air Canada for a statement of authorization to conduct a series of Fifth Freedom cargo charters between the United States and Scotland. (BIA, OGC)
19. Discussion on Upcoming Negotiations with Spain. (BIA)
20. Report on ECAC. (BIA)

STATUS: 1-11 (open), 12-20 (closed).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-1529-83 Filed 10-27-83; 3:16 P.m.]

BILLING CODE 6320-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 49120, October 24, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. (changed to 9:30 a.m.), October 26, 1983.

CHANGE IN THE MEETING: The meeting will continue at 9:30 a.m., October 27, 1983.

[S-1523-83 Filed 10-26-83; 4:26 pm]

BILLING CODE 6717-02-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:30 a.m. on Monday, October 31, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recomendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Request for an exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations:

Cape County Bank, Jackson, Missouri

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)),

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 50 17th Street NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: October 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1528-83 Filed 10-27-83; 11:30 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sushine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 9 a.m. on Monday, October 31, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Englewood Bank of Charlotte County, a proposed new bank to be locted at 1970 South McCall Road, Englewood, Florida.

Application for consent to merge and establish six branches:

United Carolina Bank, Whiteville, North Carolina, an insured State nonmember bank, for consent to merge, under its charter and title, with Richmond County Bank, Rockingham, North Carolina, and for consent to establish the six offices of Richmond County Bank as branches of the resultant bank.

Application for consent to establish a branch:

Farmers and Merchants Bank, Buckeye, Arizona, for consent to establish a branch at the southwest corner of the intersection of Bell Road and 99th Avenue, Sun City, Arizona.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,782–L: Reserve for Losses—151 Open Liquidation Cases

Memorandum and Resolution re: Proposed amendments to Part 336 of the Corporation's rules and regulations, entitled "Employee Responsibilities and Conduct," which would: (1) Increase the categories of employees required to report indebtedness and employees subject to credit restrictions; (2) ease existing restrictions on credit from affiliates of prohibited creditors and on ownership of bank securities; (3) permit assumptions of home mortgage loans from prohibited creditors; (4) require the reporting of family member employment by insured banks; and 5) make certain technical changes.

Memorandum re: Unclassified format for the Corporation's financial statements.

Memorandum re: Classification of expenses charged to individual liquidations.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and Resolution re: Proposed amendments to Part 346 of the Corporation's rules and regulations, entitled "Foreign Banks," with respect to asset maintenance by insured branches of foreign banks, which would require: (1) The maintenance on a daily basis of assets equal to 105% of liabilities; (2) the exclusion as eligible assets of direct or indirect claims from less than wholly-owned (in addition to wholly-owned as in the existing regulation) subsidiaries, organizations that control the parent bank, and the majority-owned or -controlled subsidiaries of such organizations; and (3) specific additional asset maintenance as deemed necessary.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: October 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1527–83 Filed 10–27–83; 11:30 am]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on Monday, October 24, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), that Corporation business required the withdrawal from the agenda for consideration at the meeting on less than seven days' notice to the public, of the following matter:

Application of Farmers and Merchants Bank and Trust of Watertown, Watertown, South Dakota, for consent to purchase the assets of and assume the liability to pay deposits made in the Rosholt Branch of United National Bank, Sioux Falls, South Dakota, and to establish that office as a branch of Farmers and Merchants Bank and Trust of Watertown

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to Section 13(e) of the Federal Deposit Insurance Act

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter added to the agenda in a meeting open to public observation; and that the matter added to the agenda could be considered in a closed meeting by authority of subsection (c)(4) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4)).

Dated: October 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1525–83 Filed 10–27–83; 11:29 am]

BILLING CODE 6714–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10 a.m. on Monday, October 24, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), that Corporation business required the addition to the agenda for consideration at the meeting on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,795-SR—State Bank of Barnum, Barnum, Minnesota

Personnel actions regarding appointments, promotions, reassignments, etc.

By the same majority vote, the Board further determined that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: October 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1520-83 Filed 10-27-83; 11:39 am]

BILLING CODE 6714-01-M

7

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on November 10, 1983.

PLACE: Suite 316, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell, (202) 634-4015.

Dated: October 26, 1983.

[S-1521-83 Filed 10-28-83; 4:18 pm]

BILLING CODE 7600-01-M

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on November 17, 1983.

PLACE: Suite 316, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: October 26, 1983.

[S-1522 Filed 10-28-83 4:18 pm]

BILLING CODE 7600-01-M

9

PAROLE COMMISSION

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters)

TIME AND DATE: 10 a.m., Wednesday, November 2, 1983.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492-5987.

[S-1524-83 Filed 10-27-83; 10:24 am]

BILLING CODE 4410-01-M

federal register

Monday
October 31, 1983

Part II

Department of Transportation

Research and Special Programs Administration

Optional Hazardous Materials Table; Use of United Nations Shipping Descriptions; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 172

[Docket No. HM-171C; Amdt. Nos. 171-75, 172-84]

Optional Hazardous Materials Table; Use of United Nations Shipping Descriptions

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This document amends the Optional Hazardous Materials Table (Optional Table) which appears in 49 CFR 172.102. The amendment has been necessitated by a number of changes to the International Maritime Organization (IMO), International Maritime Dangerous Goods Code (IMDG Code) upon which the Optional Table is based. The changes have been published by IMO as Amendment 20-82 to the IMDG Code. The purpose of this amendment to the Optional Table is to maintain alignment between the Optional Table and the corresponding provisions of the IMDG Code, in order to ensure that the import and export of hazardous materials will not be adversely affected by potentially conflicting and duplicative requirements for the description, classification, labeling and marking of hazardous materials. Since the use of the Optional Table is, as the name implies, an option for international shipments, this rule will not impose an undue burden on persons affected by the regulations. This amendment also updates the matter incorporated by reference in 49 CFR 171.7 to include Amendment 20-82.

EFFECTIVE DATE: December 1, 1983.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-0656.

SUPPLEMENTARY INFORMATION: The purpose of the Optional Table is to facilitate the international transportation of hazardous materials and to minimize a duplicity of shipping paper descriptions and package marking and labeling requirements that would be required to comply with both domestic and international standards. Consequently, it is essential that the Optional Table be maintained in alignment with the provisions of the applicable international standards to the maximum extent possible.

The Optional Table, in its present form, is reflective of the provisions of the IMDG Code including all amendments through Amendment 19-80. Recently, IMO published Amendment 20-82 to the IMDG Code, and established December 1, 1983, as the worldwide implementation date for the amendment. Consequently, MTB is revising the Optional Table to maintain the necessary alignment with the IMDG Code, and is also updating the matter incorporated in § 171.7 to include a reference to Amendment 20-82. The effective date for these amendments is established as December 1, 1983, in order to conform to the implementation date set by IMO.

Amendment 20-82 to the IMDG Code includes changes to, or deletion of, approximately 480 existing hazardous materials entries and the addition of approximately 85 new entries. In addition, this amendment corrects several errors and omissions in the existing Optional Table. Because of the large number of changes to the table it is being republished in its entirety with all new or amended entries indicated by an asterisk in Column (1). These asterisks do not, however, constitute a part of the amendment.

Since this rule does not impose mandatory additional requirements, notice and procedure thereon are considered unnecessary.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, References, Terms and acronyms.

49 CFR Part 172

Hazardous materials transportation, Hazardous materials description, Terms and acronyms.

In consideration of the foregoing, 49 CFR Parts 171 and 172 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.7, paragraph (d)(17) is revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(17) "International Maritime Dangerous Goods Code" (IMDG Code), Volumes I, II, III, and IV, 1977 Edition, and Amendments 14-76, 15-77, 16-78, 17-79, 18-79, 19-80 and 20-82 thereto.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. In § 172.102, the Optional Hazardous Materials Table is revised to read as set forth below.

[Note to the Reader—The asterisks in Column (1) of the Table indicate new or amended entries and will not appear in the Code of Federal Regulations.]

§ 172.102 [Amended]

BILLING CODE 4910-60-M

172.102 Optional Hazardous Materials Table

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Acetal	3.1	UN 1088	Flammable Liquid	II	1,3	5	Keep cool
	Acetaldehyde	3.1	UN 1089	Flammable Liquid	I	1,3	5	Keep cool
	Acetaldehyde ammonia	9	UN 1841	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Acetaldehyde oxime	3.3	UN 2332	Flammable Liquid	II	1,2	1,2	
	Acetic acid, glacial *or* Acetic acid solution, *more than 80% acid, by weight*	8	UN 2789	Corrosive, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids. Glass carboys in hampers prohibited under deck
	Acetic acid solution, *more than 25% but not more than 80% acid, by weight*	8	UN 2790	Corrosive	II/III	1,2	1,2	Glass carboys in hampers prohibited under deck
	Acetic anhydride	8	UN 1715	Corrosive, Flammable Liquid	II	1,2	1,2	Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives. Segregation same as for flammable liquids
	Acetone	3.1	UN 1090	Flammable Liquid	II	1,3	5	
	Acetone cyanohydrin, *stabilized*	6.1	UN 1541	Poison	I	1	5	Shade from radiant heat. Stow 'away from' [illegible]
	Acetone oils	3.2	UN 1091	Flammable Liquid	II	1,2	1	
	Acetonitrile. *See* Methyl cyanide							
	Acetyl acetone peroxide, *maximum concentration 40% in solution*	5.2	UN 2080	Organic Peroxide	II	1	5	
	Acetyl benzoyl peroxide, *maximum concentration 45% in solution*	5.2	UN 2081	Organic Peroxide	II	1	5	
	Acetyl bromide	8	UN 1716	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Acetyl chloride	3.2	UN 1717	Flammable Liquid, Corrosive	II	1,2	1	
	Acetyl cyclohexane sulphonyl peroxide, maximum concentration 82%, *wetted with minimum 12% water*	5.2	UN 2082	Organic Peroxide	I	1	5	Control temperature -10 deg C. Emergency temperature 0 deg C
	Acetyl cyclohexane sulphonyl peroxide, *maximum concentration 32% in solution*	5.2	UN 2083	Organic Peroxide	II	1	5	Control temperature -10 deg C. Emergency temperature 0 deg C
	Acetylene, *dissolved*	2.1	UN 1001	Flammable Gas	–	1	1	Shade from radiant heat. Stow 'separated from' chlorine
	Acetyl iodide	8	UN 1898	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Acetyl methyl carbinol	3.3	UN 2621	Flammable Liquid	III	1,2	1,2	
	Acetyl peroxide, *maximum concentration 27% in solution*	5.2	UN 2084	Organic Peroxide	II	1	5	Control temperature 20 deg C. Emergency temperature 25 deg C
•	Acid mixtures, spent, nitrating	8	UN 1826	Corrosive	I/II	1	5	Stow 'away from' fluorides
	Acids, liquid, n.o.s. *See* Corrosive liquids, n.o.s.							
	Acridine	4.1	UN 2713	Flammable Solid	III	1,2	1,2	
	Acrolein dimer, *stabilized*	3.3	UN 2607	Flammable Liquid	II	1,2	1,2	
•	Acrolein, inhibited	3.1	UN 1092	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Acrylamide	6.1	UN 2074	St. Andrews Cross	III	1,2	1,2	Shade from radiant heat. Keep cool
•	Acrylic acid, inhibited	8	UN 2218	Corrosive, Flammable Liquid	II	1	1	Shade from radiant heat. Keep cool. Segregation same as for flammable liquids. Glass carboys prohibited on passenger vessels
•	Acrylonitrile, inhibited	3.2	UN 1093	Flammable Liquid, Poison	I	1,3	5	Keep cool
•	Activated carbon. *See* Carbon, activated							
•	Activated charcoal. *See* Carbon, activated							
	Adhesives, *containing a flammable liquid*	3.1	UN 1133	Flammable Liquid	II	1,2	II	Keep cool
		3.2	UN 1133	Flammable Liquid	II	1,2	I	
		3.3	UN 1133	Flammable Liquid	II	1,2	1,2	
	Adiponitrile	6.1	UN 2205	St. Andrews Cross	III	1,2	1,2	Shade from radiant heat
	Aerosol dispensers, *with a capacity below 1400 cubic cm.:*							
	(1) more than 10% by weight of total contents consisting of flammable gas	2.1	UN 1950	Flammable Gas	–	1,3	1,3	
	(2) internal pressure greater than 160 psig at 130 deg F.	2.2	UN 1950	Nonflammable Gas	–	1,3	1,3	
	(3) more than 45% by weight of total contents consisting of flammable liquid. This limit is reduced to 35% if there is any flammable gas present.	3.1	UN 1950	Flammable Liquid	–	1,3	1,3	
		3.2	UN 1950	Flammable Liquid	–	1,3	1,3	
		3.3	UN 1950	Flammable Liquid	–	1,3	1,3	
	(4) more than 10% by weight of toxic substances in the liquid [illegible]	6.1	UN 1950	Poison	I/II	1,3	1,3	
		6.1		St. Andrews Cross	III	1,3	1,3	
	(5) more than 5% by weight of corrosive substances in the liquid [illegible]	8	UN 1950	Corrosive	–	1,3	1,3	
	(6) as specified under Group 2 on page 9011 of IMCO Code	9	UN 1950	None	–			
N	Aerosol dispensers, *with a capacity of 1400 cubic cm. or more*	2	UN 1950		–			
	Agents, blasting, Type B. *See* Explosives, blasting, Type B							
	Agents, blasting, Type E. *See* Explosives, blasting, Type E							
	Air, *compressed*	2.2	UN 1002	Nonflammable Gas	–	1,2	1,2	
	Aircraft thrust device *for assisted take-off*	4.1	UN 2791	Flammable Solid	II	1,2	II	
	Air, *refrigerated liquid*	2.2	UN 1003	Nonflammable Gas, Oxidizer	–	1,3	1,3	Stow 'separated from' acetylene. Do not overstow
°N	Alarm devices, explosive *automatic*	1.4 S	UN 0001	None. Package to be marked '1.4 S'	–	1,3	1,3	
•	Alcohols, n.o.s.	3.1	UN 1987	Flammable Liquid	I/II	1,3	5	Keep cool
		3.2	UN 1987	Flammable Liquid	II	1,2	I	
		3.3	UN 1987	Flammable Liquid	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	Alcohols, toxic, n.o.s.	3.1	UN 1986	Flammable Liquid, Poison	I/II	1,3	5	Keep cool
		3.2	UN 1986	Poison	II	1,2	1	
		3.3	UN 1986	Flammable Liquid, Poison	II	1,2	1,2	
				Flammable Liquid, Poison				
•	Aldehydes, n.o.s.	3.1	UN 1989	Flammable Liquid	I/II	1,3	5	Keep cool
		3.2	UN 1989	Flammable Liquid	II	1,2	1	
		3.3	UN 1989	Flammable Liquid	III	1,2	1,2	
	Aldehydes, toxic, n.o.s.	3.1	UN 1988	Flammable Liquid, Poison	I/II	1,3	II	Keep cool
		3.2	UN 1988	Flammable Liquid, Poison	II	1,2	I	
		3.3	UN 1988	Flammable Liquid, Poison	II	1,2	1,2	
	[illegible]	6.1	UN 2809	Poison	II	1,3	1,3	Keep cool. Shade from radiant heat. Stow 'away from' living quarters
•	Alkali metal alloys, liquid	4.3	UN 1421	Dangerous When Wet	I	1,2	5	
	Alkali metal amalgams, n.o.s.	4.3	UN 1389	Dangerous When Wet	I	1,2	1,2	
	Alkali metal amides, n.o.s.	4.3	UN 1390	Dangerous When Wet	II	1,2	II	
	Alkali metal dispersions, n.o.s. *or* Alkali earth metal dispersions, n.o.s.	4.3	UN 1391	Dangerous When Wet	I	1,2	5	
	Alkaline caustic liquids, n.o.s. *See* Caustic alkali liquids, n.o.s.							
	Alkaline corrosive liquids, n.o.s. *See* Corrosive liquids, n.o.s.							
•	Alkaline earth metal alloys, n.o.s.	4.3	UN 1393	Dangerous When Wet	II	1,2	II	
	Alkaline earth metal amalgams, n.o.s.	4.3	UN 1392	Dangerous When Wet	I	1,2	1,2	
*	Alkaloids, n.o.s. *or* Alkaloid salts, n.o.s., *poisonous*	6.1	UN 1544	Poison	I/II	1,2	1,2	
		6.1	UN 1544	St. Andrews Cross	III	1,2	1,2	
	Alkylamines and polyamines, *flashpoint below 23 deg C and boiling point above 35 deg C but not more than 200 deg C*, n.o.s.	3.2	UN 2733	Flammable Liquid, Corrosive	II	1,2	1	
	Alkylamines and polyamines, *flashpoint 23 deg C or above, boiling point above 35 deg C but not more than 200 deg C*, n.o.s.	8	UN 2734	Corrosive, Flammable Liquid (only if flashpoint 61 deg C or below)	II	1,2	1,2	If flashpoint 61 deg C or below, segregation same as for flammable liquids
	Alkylamines and polyamines, *flashpoint of 23 deg C or above and boiling point above 200 deg C*, n.o.s.	8	UN 2735	Corrosive, Flammable Liquid (only if flashpoint 61 deg C or below)	III	1,2	1,2	If flashpoint 61 deg C or below, segregation same as for flammable liquids
	Alkyl, Aryl *or* Toluene sulphonic acid, liquid, *containing more than 5% free sulphuric acid*	8	UN 2584	Corrosive	II	1,2	1	Glass carboys not permitted under deck
	Alkyl, Aryl *or* Toluene sulphonic acid, liquid, *containing not more than 5% free sulphuric acid*	8	UN 2586	Corrosive	III	1,2	1	Glass carboys not permitted under deck
	Alkyl, Aryl *or* Toluene sulphonic acid, solid, *containing more than 5% free sulphuric acid*	8	UN 2583	Corrosive	II	1,2	1,2	Keep dry
	Alkyl, Aryl *or* Toluene sulphonic acid, solid, *containing not more than 5% free sulphuric acid*	8	UN 2585	Corrosive	III	1,2	1,2	Keep dry
	Alkyl phenols, n.o.s.	6.1	UN 2430	St. Andrews Cross	III	1,2	1,2	
	Allyl acetate	3.2	UN 2333	Flammable Liquid, Poison	II	1,3	II	Keep cool
	Allyl alcohol	3.2	UN 1098	Flammable Liquid, Poison	I	1,2	I	
	Allylamine	3.1	UN 2334	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Allyl bromide	3.2	UN 1099	Flammable Liquid, Poison	I	1,2	I	
	Allyl chloride	3.1	UN 1100	Flammable Liquid, Poison	I	1,3	II	Keep cool
	Allyl chlorocarbonate. *See* Allyl chloroformate							
	Allyl chloroformate	8	UN 1722	Corrosive, Flammable Liquid	I	1	5	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives. Segregation same as for flammable liquids
	Allyl ethyl ether	3.2	UN 2335	Flammable Liquid, Poison	II	1,3	II	Keep cool
	Allyl formate	3.2	UN 2336	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Allyl glycidyl ether	3.3	UN 2219	Flammable Liquid	III	1,2	1,2	
	Allyl iodide	3.2	UN 1723	Flammable Liquid, Corrosive	I	1,2	I	
	Allyl isothiocyanate, stabilized	6.1	UN 1545	Poison, Flammable Liquid	II	1	5	Shade from radiant heat. Stow 'away from' living quarters. Segregation same as for flammable liquids
	Allyl trichlorosilane, stabilized	8	UN 1724	Corrosive, Flammable Liquid	II	1	1	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives. Segregation same as for flammable liquids
•	Aluminium alkyl halides, [illegible]	4.2	UN 2220	Spontaneously Combustible	II	1	1	
*	Aluminium alkyl halides, pure	4.2	UN 2221	Spontaneously Combustible	I	1	II	
*	Aluminium alkyls. *See* Metal alkyls, n.o.s.							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Aluminium borohydride *or* Aluminium borohydride in devices	4.2	UN 2870	Spontaneously Combustible, Dangerous When Wet	I	1	5	
	Aluminium bromide, anhydrous	8	UN 1725	Corrosive	II	1,2	1,2	Keep dry
	Aluminium bromide solution	8	UN 2580	Corrosive	III	1,2	1,2	
	Aluminium carbide	4.3	UN 1394	Dangerous When Wet	II	1,2	1,2	
	Aluminium chloride, anhydrous	8	UN 1726	Corrosive	II	1,2	1,2	Keep dry
	Aluminium chloride solution	8	UN 2581	Corrosive	III	1,2	1,2	
	Aluminium ferrosilicon, *powder*	4.3	UN 1395	Dangerous When Wet	II	1,2	1,2	
	Aluminium hydride	4.2	UN 2463	Spontaneously Combustible	I	1,2	5	
	Aluminium nitrate	5.1	UN 1438	Oxidizer	III	1,2	1,2	
•	Aluminium phosphide	4.3	UN 1397	Dangerous When Wet, Poison	I	1	1,2	
	Aluminium powder, coated	4.1	UN 1309	Flammable Solid	III	1,2	1,2	Keep dry. Stow 'away from' liquid halogenated hydrocarbons
•	Aluminium, powder, pyrophoric. *See* Pyrophoric metals							
•	Aluminium, powder, uncoated, *non-pyrophoric*	4.3	UN 1396	Dangerous When Wet	II	1,2	1,2	Stow 'away from' liquid halogenated hydrocarbons
	Aluminium resinate	4.1	UN 2715	Flammable Solid	III	1,2	1,2	
	Aluminium silicon, *powder, uncoated*	4.3	UN 1398	Dangerous When Wet	III	1,2	1,2	
	2-Amino-4-chlorophenol	6.1	UN 2673	Poison	II	1,2	1,2	
•	2-Amino-5-diethylaminopentane	6.1	UN 2946	St. Andrews Cross	III	1,2	1,2	
	N-Aminoethylpiperazine	8	UN 2815	Corrosive	III	1,3	1,3	Keep cool
	Aminophenols (*o*-, *m*-, *p*-)	6.1	UN 2512	St. Andrews Cross	III	1,2	1,2	
•	Aminopyridines (*o*-, *m*-, *p*-)	6.1	UN 2671	Poison	II	1,3	1	Keep cool. Stow 'away from' living quarters
	Ammonia, *anhydrous, liquefied, or ammonia solutions, density (specific gravity) less than 0.880 at 15 degrees C. in water, containing more than 50% ammonia.*	2.3	UN 1005	Poison Gas	–	1,2	5	Stow 'separated from' chlorine. Stow 'away from' living quarters
•	Ammonia solutions *density (specific gravity) between 0.880 and 0.957 at 15 deg C, in water, with more than 10% and not more than 35% ammonia, by weight*	8	UN 2672	Corrosive	III	1,2	1,2	Stow 'away from' living quarters
	Ammonia solutions, *density (specific gravity) less than 0.880 at 15 degrees C. in water, containing more than 35% and not more than 50% ammonia.*	2.2	UN 2073	Nonflammable Gas	–	1,2	5	Stow 'separated from' chlorine. Stow 'away from' living quarters
	Ammonium arsenate	6.1	UN 1546	Poison	II	1,2	1,2	Stow 'away from' alkalis
	Ammonium bifluoride. *See* Ammonium hydrogen fluoride							
	Ammonium dichromate	5.1	UN 1439	Oxidizer	II	1,2	1,2	Stow 'away from' foodstuffs
	Ammonium dinitro-o-cresolate	6.1	UN 1843	Poison	II	1,2	1	Stow 'away from' heavy metals, 'separated from' flammable substances and 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Ammonium fluoride	6.1	UN 2505	St. Andrews Cross	III	1,3	1,2	Stow 'away from' acids
	Ammonium hydrogen fluoride, solid	8	UN 1727	Corrosive	II	1,2	1,3	Keep dry
	Ammonium hydrogen fluoride, solution	8	UN 2817	Corrosive, Poison	II	1,3	1	
	Ammonium hydrogen sulphate	8	UN 2506	Corrosive	II	1,2	1,3	Stow 'away from' strong alkalis
	Ammonium metavanadate	6.1	UN 2859	Poison	II	1,2	1,2	Stow 'away from' living quarters
•	Ammonium nitrate fertilizers, n.o.s.	5.1	UN 2072	Oxidizer	II	1,3	1,3	Stow 'away from' sources of heat and 'separated from' combustible material, chlorates, hypochlorites, nitrites, permanganates, and metalic powders
	Ammonium nitrate fertilizers, *of the same composition as defined in class 5.1 on pages 5015 and 5016 of the IMCO Code but containing greater amounts of organic and/or combustible material than specified in these entries*	1.1 D	UN 0223	Explosive (1.1D)	–	1,2	1,2	
•	Ammonium nitrate fertilizers, *Type A*							
	(1) Uniform non-segregating mixtures of ammonium nitrate with added matter which is inorganic and chemically inert towards ammonium nitrate, containing not less than 90% of ammonium nitrate and not more than 0.2% of combustible material (including organic material calculated as carbon), or containing less than 90% but more than 70% of ammonium nitrate and not more than 0.4% of total combustible material	5.1	UN 2067	Oxidizer	III	1,3	1,3	Stow 'away from' sources of heat and 'separated from' combustible material, chlorates, hypochlorites, nitrites, permanganates, and metalic powders
	(2) Uniform non-segreting mixtures of ammonium nitrate with calcium carbonate and/or dolomite, containing more than 80% but less than 90% of ammonium nitrate and not more than 0.4% of total combustible material	5.1	UN 2068	Oxidizer	III	1,3	1,3	Stow 'away from' sources of heat and 'separated from' combustible material, chlorates, hypochlorites, nitrites, permanganates, and metalic powders
	(3) Uniform non-segregating mixtures of ammonium nitrate/ammonium sulphate, containing more than 45% but not more than 70% of ammonium nitrate and containing not more than 0.4% of total combustible material	5.1	UN 2069	Oxidizer	III	1,3	1,3	Stow 'away from' sources of heat and 'separated from' combustible material, chlorates, hypochlorites, nitrites, permanganates, and metalic powders
	(4) Uniform non-segregating mixtures of nitrogen/phosphate or nitrogen/potash types or complete fertilizers of nitrogen/phosphate/potash type, containing more than 70% but less than 90% of ammonium nitrate and not more than 0.4% of total combustible material	5.1	UN 2070	Oxidizer	III	1,3	1,3	Stow 'away from' sources of heat and 'separated from' combustible material, chlorates, hypochlorites, nitrites, permanganates, and metalic powders
	Ammonium nitrate fertilizers, *Type B. Uniform non-segregating mixtures of nitrogen/phosphate or nitrogen/potash types or complete fertilizers of nitrogen/phosphate/potash type, containing not more than 70% of ammonium nitrate and not more than 0.4% of total added combustible material or containing not more than 45% of ammonium nitrate with unrestricted combustible material*	9	UN 2071	None	III	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
*	Ammonium nitrate, *with more than 0.2% by weight of combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance*	1.1 D	UN 0222	Explosive (1.1D)	–	1,2	1,2	
*	Ammonium nitrate, *with not more than 0.2% of combustible substance including any organic substance calculated as carbon, to the exclusion of any other add substance*	5.1	UN 1942	Oxidizer	III	1,3	1,3	Stow 'away from' sources of heat and 'separated from' combustible material, chlorates, hypochlorites, nitrites, permanganates, and metalic powders
	Ammonium [illegible]	5.1	UN 1942	Oxidizer	II	1,2	5	Stow 'away from' powdered metals
N	Ammonium perchlorate, *average particle size less than 45 microns*	1.1D	UN 0402	Explosive (1.1D)	–	–	–	
	Ammonium [illegible]	5.1	UN 1444	Oxidizer	III	1,2	1,2	
*N	Ammonium picrate, *dry or wetted with less than 10% water, by weight*	1.1D	UN 0004	Explosive (1.1D)	–	–	–	
*	Ammonium picrate, wetted, *with not less than 10% water, by weight*	4.1	UN 1310	Flammable Solid	I	1	5	Stow 'away from' heavy metals and their compounds
*	Ammonium picrate, wetted, *with not less than 33 1/3 % water, by weight*	4.1	UN 1310	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals and their compounds
	Ammonium [illegible]	8	UN 2818	Corrosive, Poison	II	1,3	1	Keep cool. Stow 'away from' acids
	Ammonium polyvanadate	6.1	UN 2861	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Ammonium silicofluoride	6.1	UN 2854	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Ammonium [illegible] solution	8	UN 2683	Corrosive, Poison, Flammable Liquid (only if flashpoint below 61 deg C)	II	1,3	1	Keep cool. Stow 'away from' all other corrosives. If flashpoint below 61 deg C, segregation same as for flammable liquids
	Ammunition, illuminating, *with or without burster, expelling charge or propelling charge*	1.4 G	UN 0297	Explosive (1.4G)	–	1,3	1,3	
N	Ammunition, illuminating, *with or without burster, expelling charge or propelling charge*	1.2G	UN 0171	Explosive (1.2G)	–	–	–	
N	Ammunition, illuminating, *with or without burster, expelling charge or propelling charge*	1.3G	UN 0254	Explosive (1.3G)	–	–	–	
N	Ammunition, incendiary, *liquid or gel, with burster, expelling charge or propelling charge*	1.3J	UN 0247	Explosive (1.3J)	–	–	–	
	Ammunition, incendiary *(other than water-activated ammunition), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge*	1.4 G	UN 0300	Explosive *(1.4G)*	–	1,3	1,3	
N	Ammunition, incendiary *(other than water-activated ammunition), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge*	1.2G	UN 0009	Explosive (1.2G)	–	–	–	
N	Ammunition, incendiary *(other than water-activated ammunition), without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge*	1.3G	UN 0010	Explosive (1.3G)	–	–	–	
N	Ammunition, incendiary, white phosphorus, *with burster, expelling charge or propelling charge*	1.2H	UN 0243	Explosive (1.2H)	–	–	–	
N	Ammunition, incendiary, white phosphorus, *with burster, expelling charge or propelling charge*	1.3H	UN 0244	Explosive (1.3H)	–	–	–	
	Ammunition, practice	1.4G	UN 0362	Explosive (1.4G)	–	1,3	1,3	
	Ammunition, proof	1.4G	UN 0363	Explosive (1.4G)	–	1,3	1,3	
N	Ammunition, smoke *(other than water-activated ammunition) without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge*	1.2G	UN 0015	Explosive (1.2G), Corrosive	–	–	–	
N	Ammunition, smoke *(other than water-activated ammunition) without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge*	1.3G	UN 0016	Explosive (1.3G), Corrosive	–	–	–	
N	Ammunition, smoke *(other than water-activated ammunition) without white phosphorus or phosphides, with or without burster, expelling charge or propelling charge*	1.4G	UN 0303	Explosive (1.4G), Corrosive	–	–	–	
N	Ammunition, smoke, white phosphorus *(other than water-activated ammunition), with burster, expelling charge or propelling charge*	1.2H	UN 0245	Explosive (1.2H)	–	–	–	
N	Ammunition, smoke, white phosphorus *(other than water-activated ammunition), with burster, expelling charge or propelling charge*	1.3H	UN 0246	Explosive (1.3H)	–	–	–	
	Ammunition, tear producing, non-explosive, *with neither burster nor expelling charge, non-fuzed*	6.1	UN 2017	Poison, Corrosive	II	1,2	5	Keep dry. Stow 'away from' living quarters Segregation same as for corrosives
N	Ammunition, tear producing, *with burster, expelling charge or propelling charge*	1.2G	UN 0018	Explosive (1.2G), Poison, Corrosive	–	–	–	
N	Ammunition, tear producing, *with burster, expelling charge or propelling charge*	1.3G	UN 0019	Explosive (1.3G), Poison, Corrosive	–	–	–	
	Ammunition, tear-producing, *with burster, expelling charge or propelling charge*	1.4 G	UN 0301	Explosive (1.4G), Poison, Corrosive	–	1,3	1,3	
*	Ammunition, *toxic, non-explosive, with neither burster nor expelling charge, non-fuzed*	6.1	UN 2016	Poison	II	1,2	5	Keep dry
N	Ammunition, toxic *(other than water-activated ammunition) with burster, expelling charge or propelling charge*	1.2K	UN 0020	Explosive (1.2K), Poison	–	–	–	
N	Ammunition, toxic *(other than water-activated ammunition) with burster, expelling charge or propelling charge*	1.3K	UN 0021	Explosive (1.3K), Poison	–	–	–	
	Amyl acetates	3.2	UN 1104	Flammable Liquid	II	1,2	1	
		3.3	UN 1104	Flammable Liquid	II	1,2	1,2	
	Amyl acid phosphate	8	UN 2819	Corrosive	III	1,2	1,2	
	Amyl alcohols	3.2	UN 1105	Flammable Liquid	II	1,2	1	
		3.3	UN 1105	Flammable Liquid	II	1,2	1,2	
	Amylamine	3.2	UN 1106	Flammable Liquid	II	1,2	1	
	Amyl butyrates	3.3	UN 2620	Flammable Liquid	III	1,2	1,2	
	Amyl chloride	3.2	UN 1107	Flammable Liquid	II	1,2	1	
	n-Amylene	3.1	UN 1108	Flammable Liquid	I	1,3	5	Keep cool
	Amyl formates	3.3	UN 1109	Flammable Liquid	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Amyl mercaptan	3.2	UN 1111	Flammable Liquid	II	1,2	1	
	Amyl methyl ketone	3.3	UN 1110	Flammable Liquid	III	1,2	1,2	
	Amyl nitrate	3.3	UN 1112	Flammable Liquid	II	1,3	5	
	Amyl nitrite	3.1	UN 1113	Flammable Liquid	II	1,3	5	Keep cool
	tert-Amyl peroxy-2-ethylhexanoate, *technical pure*	5.2	UN 2898	Organic Peroxide	II	1	5	Control temperature 20 deg C. Emergency temperature 25 deg C
	tert-Amyl peroxyneodecanoate *with at least 25% phlegmatizer*	5.2	UN 2891	Organic Peroxide	II	1	5	Control temperature 0 deg C. Emergency temperature 10 deg C
•	tert-Amyl peroxypivalate *maximum concentration 77% in solution*	5.2	UN 2957	Organic Peroxide	II	1	5	Control temperature 10 deg C. Emergency temperature 15 deg C
	Amyl trichlorosilane	8	UN 1728	Corrosive	II	1	1	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives
	Aniline	6.1	UN 1547	Poison	II	1,2	1,2	Stow 'away from' acids and oxidizers
	Aniline hydrochloride	6.1	UN 1548	St. Andrews Cross	III	1,2	1,2	Stow 'away from' alkalis
	Aniline oil. *See* Aniline							
	o-Anisidine	6.1	UN 2431	St. Andrews Cross	III	1,2	1,2	
	Anisole	3.3	UN 2222	Flammable Liquid	III	1,2	1,2	
	Anisoyl chloride	8	UN 1729	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Anti-freeze. *See* Flammable liquid preparations, n.o.s.							
	Antimony chloride. *See* Antimony trichloride, *liquid or solid*							
	Antimony compounds, inorganic, n.o.s.	6.1	UN 1549	Poison	I/II	1,2	1,2	
		6.1	UN 1549	St. Andrews Cross	III	1,2	1,2	
	Antimony lactate	6.1	UN 1550	St. Andrews Cross	III	1,2	1,2	
	Antimony pentachloride, *liquid*	8	UN 1730	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Antimony pentachloride, *solutions*	8	UN 1731	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels
	Antimony pentafluoride	8	UN 1732	Corrosive, Poison	II	1	5	Keep dry
	Antimony potassium tartrate	6.1	UN 1551	St. Andrews Cross	III	1,2	1,2	
	Antimony powder	6.1	UN 2871	St. Andrews Cross	III	1,2	1,2	
	Antimony trichloride, *liquid*	8	UN 1733	Corrosive	II	1	1	Keep dry
	Antimony trichloride, *solid*	8	UN 1733	Corrosive	II	1,2	1,2	Keep dry
	Argon, *compressed*	2.2	UN 1006	Nonflammable Gas	–	1,3	1,3	
	Argon, refrigerated liquid	2.2	UN 1951	Nonflammable Gas	–	1,3	1	
	Arsenic acid, liquid	6.1	UN 1553	Poison	I	1,2	1,2	
	Arsenic acid, solid	6.1	UN 1554	Poison	II	1,2	1,2	
	Arsenical dust	6.1	UN 1562	Poison	II	1,2	1,2	
	Arsenical flue dust. *See* Arsenical dust							
•	Arsenical pesticides, liquid, flammable, toxic, n.o.s., *flashpoint less than 23 deg C*	3.2	UN 2760	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Arsenical pesticides, liquid, toxic, flammable, n.o.s. *flashpoint between 23 deg C and 61 deg C*	6.1	UN 2993	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 2993	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 2993	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Arsenical pesticides, liquid, toxic, n.o.s.	6.1	UN 2994	Poison	I	1	1	
		6.1	UN 2994	Poison	II	1,2	1	
		6.1	UN 2994	St. Andrews Cross	III	1,2	1,2	
•	Arsenical pesticides, solid, toxic, n.o.s.	6.1	UN 2759	Poison	I/II	1,2	1,2	
		6.1	UN 2759	St. Andrews Cross	III	1,2	1,2	
	Arsenic bromide	6.1	UN 1555	Poison	II	1,2	1,2	Keep cool. Stow 'away from' living quarters
	Arsenic chloride. *See* Arsenic trichloride							
•	Arsenic compounds, liquid, n.o.s.	6.1	UN 1556	Poison, Flammable Liquid (if flashpoint between 23 deg C and 61 deg C)	I/II	1,2	1	
		6.1	UN 1556	St. Andrews Cross, Flammable Liquid (if flashpoint between 23 deg C and 61 deg C)	III	1,2	1	
•	Arsenic compounds, solid, n.o.s.	6.1	UN 1557	Poison	I	1,2	1	
		6.1	UN 1557	Poison	II	1,2	1,2	
		6.1	UN 1557	St. Andrews Cross	III	1,2	1,2	
	Arsenic, *metallic*	6.1	UN 1558	Poison	II	1,2	1,2	
	Arsenic pentoxide	6.1	UN 1559	Poison	II	1,2	1,2	
•	Arsenic sulphides, solid, n.o.s. *See* Arsenic compounds, solid, n.o.s.							
	Arsenic trichloride	6.1	UN 1560	Poison	I	1,2	1,2	
	Arsenic trioxide	6.1	UN 1561	Poison	II	1,2	1,2	
	Arsine	2.3	UN 2188	Poison Gas, Flammable Gas	–	1	5	Stow 'away from' living quarters
	Articles, explosive, n.o.s.	1.4B	UN 0350	Explosive (1.4B)	–	1,3	1,3	
	Articles, explosive, n.o.s.	1.4C	UN 0351	Explosive (1.4C)	–	1,3	1,3	
	Articles, explosive, n.o.s.	1.4D	UN 0352	Explosive (1.4D)	–	1,3	1,3	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Groups	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Articles, explosive, n.o.s.	1.4G	UN 0351	Explosive (1.4G)	–	1,3	1,3	
	Articles, explosive, n.o.s.	1.4S	UN 0349	None. Package to be marked "1.4S"	–	1,3	1,3	
N	Articles, explosive, n.o.s.	1.1L	UN 0354	Explosive (1.1L)	–	–	–	
N	Articles, explosive, n.o.s.	1.2L	UN 0353	Explosive (1.2L)	–	–	–	
N	Articles, explosive, n.o.s.	1.3L	UN 0356	Explosive (1.3L)	–	–	–	
N	Articles, pyrophoric	1.2L	UN 0380	Explosive (1.2L)	–	–	–	
	Asbestos, blue	9	UN 2212	None	II	1,2	1,2	
	Asbestos, white	9	UN 2590	None	III	1,2	1,2	
	Asphalt cut-backs. *See* Cut-backs, *asphalt or bitumen*							
*	2,2'-Azodi-(2,4-dimethyl-4-methoxyvaleronitrile)	4.1	UN 2953	Flammable Solid	II	1	1	Control temperature -5 deg C. Emergency temperature 5 deg C
*	2,2'-Azodi-(2,4-dimethylvaleronitrile)	4.1	UN 2953	Flammable Solid	II	1	1	Control temperature 10 deg C. Emergency temperature 15 deg C
*	Azodi-(1,1'-hexahydrobenzonitrile)	4.1	UN 2954	Flammable Solid	II	1,2	1	Shade from radiant heat
*	Azodiisobutyronitrile	4.1	UN 2952	Flammable Solid	II	1	5	Control temperature 40 deg C. Emergency temperature 45 deg C
*	Bags, *empty and unwashed, having contained* Potassium nitrate *or* sodium nitrate	4.1	UN 1339	Flammable Solid	III	1,2	1	
	Barium, *alloys, non-pyrophoric*	4.3	UN 1399	Dangerous When Wet	II	1,2	5	
	Barium alloys, pyrophoric	4.2	UN 1854	Spontaneously Combustible	II	1	5	
*N	Barium azide, *dry or containing, by weight, less than 50% water*	1.1A	UN 0224	Explosive (1.1A), Poison	–	–	–	
*	Barium azide, wetted with *not less than 50% water, by weight*	4.1	UN 1571	Flammable Solid, Poison	I	1	5	Stow 'away from' heavy metals
	Barium bromate	5.1	UN 2719	Oxidizer, Poison	II	1,2	1,2	Stow 'separated from' ammonium compounds and 'away from' finely powdered metals and foodstuffs
*	Barium chlorate	5.1	UN 1445	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' Ammonium compounds
	Barium compounds, n.o.s.	6.1	UN 1564	Poison	I/II	1,2	1,2	
		6.1	UN 1564	St. Andrews Cross	III	1,2	1,2	
	Barium cyanide	6.1	UN 1565	Poison	I	1,2	1,2	Stow 'away from' acids
*	Barium hypochlorite, *with more than 22% available chlorine*	5.1	UN 2741	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' foodstuffs
	Barium, *metal, non-pyrophoric*	4.3	UN 1400	Dangerous When Wet	II	1,2	5	
*	Barium nitrate	5.1	UN 1446	Oxidizer, Poison	II	1,2	1,2	
	Barium oxide	6.1	UN 1884	St. Andrews Cross	III	1,2	1,2	
*	Barium perchlorate	5.1	UN 1447	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' powdered metals
*	Barium permanganate	5.1	UN 1448	Oxidizer, Poison	II	1,2	1,2	Stow 'separated from' ammonium compounds and hydrogen peroxide
*	Barium peroxide	5.1	UN 1449	Oxidizer, Poison	II	1,2	1,2	Keep dry
	Batteries, wet, filled with acid, *electric, storage*	8	UN 2794	Corrosive	III	1,2	1,2	
	Batteries, wet, filled with alkali, *electric, storage*	8	UN 2795	Corrosive	III	1,2	1,2	
*	Batteries, wet, non-spillable, *electric, storage*	8	UN 2800	None. Package to be marked "Class 8"	III	1,2	1,2	
*	Battery fluid, acid	8	UN 2796	Corrosive	II	1,2	1	Stow 'away from' fluorides. Glass carboys in hampers prohibited under deck
	Battery fluid, alkali	8	UN 2797	Corrosive	II	1,2	1,2	
	Benzene	3.2	UN 1114	Flammable Liquid	II	1,2	1	
	Benzene sulphonyl chloride	8	UN 2225	Corrosive	III	1,2	1,2	
	Benzidine	6.1	UN 1885	Poison	II	1,2	1,2	
	Benzine	3.1	UN 1115	Flammable Liquid	II	1,3	5	Keep cool
		3.2	UN 1115	Flammable Liquid	II	1,2	1	
		3.3	UN 1115	Flammable Liquid	II	1,2	1,2	
*	Benzoic derivative pesticides, liquid, flammable, toxic, n.o.s. *flash-point less than 23 deg C*	3.2	UN 2770	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
*	Benzoic derivative pesticides, liquid, toxic, flammable, n.o.s. *flash-point between 23 deg C and 61 deg C*	6.1	UN 3003	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 3003	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 3003	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
*	Benzoic derivative pesticides liquid, toxic, n.o.s.	6.1	UN 3004	Poison	I	1	1	
		6.1	UN 3004	Poison	II	1,2	1	
		6.1	UN 3004	St. Andrews Cross	III	1,2	1,2	
*	Benzoic derivative pesticides, solid, toxic, n.o.s.	6.1	UN 2769	Poison	I/II	1,2	1,2	
		6.1	UN 2769	St. Andrews Cross	III	1,2	1,2	
	Benzonitrile	6.1	UN 2224	Poison	II	1,2	1,2	Stow 'away from' acids
	Benzoquinone	6.1	UN 2587	Poison	II	1,2	1,2	
	Benzotrichloride	8	UN 2226	Corrosive	II	1,2	1,2	Stow 'away from' living quarters
	Benzotrifluoride	3.2	UN 2338	Flammable Liquid	II	1,2	1	
	Benzoyl chloride	8	UN 1736	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Benzoyl peroxide, *in a concentration of more than 77% but less than 81% with water*	5.2	UN 2088	Organic Peroxide	I	1	5	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Benzoyl peroxide, *in a concentration of more than 72% but less than 95% as a paste*	5.2	UN 2086	Organic Peroxide	I	1	5	
	Benzoyl peroxide, *in a concentration of not more than 72% as a paste*	5.2	UN 2087	Organic Peroxide	II	1	5	
	Benzoyl peroxide, *in a concentration of not more than 77% with water*	5.2	UN 2090	Organic Peroxide	II	1	5	
	Benzoyl peroxide, *in concentrations from 30% to maximum 52% with inert solid*	5.2	UN 2085	Organic Peroxide	II	1	5	
	Benzoyl peroxide, *technical pure or in a concentration of more than 52% with inert solid*	5.2	UN 2085	Organic Peroxide	I	1	5	
	Benzyl bromide	8	UN 1737	Corrosive	II	1	5	Keep dry
	Benzyl chloride	6.1	UN 1738	Poison, Corrosive	II	1	5	Keep dry. Segregation same as for corrosives
	Benzyl chloroformate	8	UN 1739	Corrosive	I	1	5	Keep dry
•	Benzyl dimethylamine	8	UN 2619	Corrosive, Flammable Liquid	II	1,3	1,3	Segregation same as for flammable liquids. Stow 'away from' sources of heat
	Benzylidene chloride	6.1	UN 1886	Poison	II	1	5	
	Benzyl iodide	6.1	UN 2653	Poison	II	1,3	1	Keep cool. Stow 'away from' living quarters
	Beryllium compounds	6.1	UN 1566	Poison	II	1,2	1,2	
	Beryllium, *metal powder*	6.1	UN 1567	Poison, Flammable Solid	II	1,2	1,2	Segregation same as for flammable solids
	Beryllium nitrate	5.1	UN 2464	Oxidizer, Poison	II	1,3	1,2	Keep cool. If packaged in a liner within a wooden barrel, fiber drum or plywood drum or in plastic bags within a fiberboard box, stow 'away from' sources of heat
	Bitum	4.1	UN 1327	None	III	1,2	1,2	Stow 'away from' animal or vegetable oils
	Bifluorides, n.o.s.	8	UN 1740	Corrosive	II	1,2	1,2	Keep dry
•	Bipyridilium pesticides, liquid, flammable, toxic, n.o.s., *flashpoint less than 23 deg C*	3.2	UN 2782	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Bipyridilium pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 3015	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 3015	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 3015	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Bipyridilium pesticides, liquid, toxic, n.o.s.	6.1	UN 3016	Poison	I	1	1	
		6.1	UN 3016	Poison	II	1,2	1	
		6.1	UN 3016	St. Andrews Cross	III	1,2	1,2	
•	Bipyridilium pesticides, solid, toxic, n.o.s.	6.1	UN 2781	Poison	I	1,2	1,2	
		6.1	UN 2781	Poison	II	1,2	1,2	
		6.1	UN 2781	St. Andrews Cross	III	1,2	1,2	
	Bisulphites, inorganic, aqueous solution, n.o.s.	8	UN 2693	Corrosive	III	1,2	1,2	Stow 'away from' all other corrosive substances. Glass carboys prohibited on passenger vessels
N	Black powder, compressed	1.1D	UN 0028	Explosive (1.1D)	–	–	–	
N	Black powder, *granular or as meal*	1.1D	UN 0027	Explosive (1.1D)	–	–	–	
	Bleaching powder. *See* Calcium hypochlorite mixtures, dry, *with more than 10% but not more than 39% available chlorine*							
&	Blue asbestos. *See* Asbestos, blue							
N	Bombs, containing flammable liquid, *with bursting charge*	1.1J	UN 0399	Explosive (1.1J)	–	–	–	
N	Bombs, containing flammable liquid, *with bursting charge*	1.2J	UN 0400	Explosive (1.2J)	–	–	–	
N	Bombs, photo-flash	1.1D	UN 0038	Explosive (1.1D)	–	–	–	
N	Bombs, photo-flash	1.1F	UN 0037	Explosive (1.1F)	–	–	–	
N	Bombs, photo-flash	1.2G	UN 0039	Explosive (1.2G)	–	–	–	
N	Bombs, photo-flash	1.3G	UN 0299	Explosive (1.3G)	–	–	–	
	Bombs, smoke, *containing a corrosive liquid, non-explosive, without initiating device*	8	UN 2028	Corrosive	II	1,2	5	Keep dry. Stow 'away from' living quarters
N	Bombs, *with bursting charge*	1.1D	UN 0034	Explosive (1.1D)	–	–	–	
N	Bombs, *with bursting charge*	1.2D	UN 0035	Explosive (1.2D)	–	–	–	
N	Bombs, *with bursting charge*	1.1F	UN 0033	Explosive (1.1F)	–	–	–	
N	Bombs, *with bursting charge*	1.2F	UN 0291	Explosive (1.2F)	–	–	–	
N	Boosters, with detonator	1.1B	UN 0225	Explosive (1.1B)	–	–	–	
N	Boosters, with detonator	1.2B	UN 0268	Explosive (1.2B)	–	–	–	
N	Boosters, *without detonator*	1.1D	UN 0042	Explosive (1.1D)	–	–	–	
N	Boosters, *without detonator*	1.2D	UN 0283	Explosive (1.2D)	–	–	–	
•	Borate and chlorate, mixtures. *See* Chlorate and borate *mixtures*							
	Borneol '	4.1	UN 1312	None. Package to be marked 'Class 4.1'	III	1,2	1,2	
	Boron trihydride	8	UN 2691	Corrosive	I	1	1	Keep cool and dry. Stow 'away from' foodstuffs
•	Boron trichloride	2.2	UN 1741	Nonflammable Gas, Corrosive	–	1	1	Shade from radiant heat. Stow 'away from' foodstuffs and living quarters
	Boron trifluoride	2.3	UN 1008	Poison Gas	–	1	5	Stow 'away from foodstuffs and living quarters
	Boron trifluoride acetic acid complex	8	UN 1742	Corrosive	II	1,2	1,2	
•	Boron trifluoride diethyletherate	4.3	UN 2604	Dangerous When Wet, Flammable Liquid, Corrosive	II	1	5	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Boron trifluoride dihydrate	II	UN 2851	Corrosive	II	1,3	1	Keep cool
•	Boron trifluoride [illegible]	4.3	UN 2965	Dangerous When Wet, Flammable Liquid, Corrosive	II	1	5	
	Boron trifluoride propionic acid complex	8	UN 1743	Corrosive	II	1,2	1,2	
	Box ice gum. *See* Myrcia[illegible]							
•	Brake fluid, *hydraulic*	3.2	UN 1118	Flammable Liquid	II	1,2	1	
		3.3	UN 1118	Flammable Liquid	II	1,2	1,2	
•	Bromates, inorganic, n.o.s.	5.1	UN 1450	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Bromine, *(and solutions)*	II	UN 1744	Corrosive, Poison	I	1	5	Keep cool
•	Bromine chloride	2.3	UN 2901	Poison Gas, Oxidizer, Corrosive	--	1	5	Stow 'away from' combustible materials
	Bromine pentafluoride	5.1	UN 1745	Oxidizer, Poison, Corrosive	I	1	5	Keep dry. Shade from radiant heat
	Bromine trifluoride	5.1	UN 1746	Oxidizer, Poison, Corrosive	I	1	5	Keep dry. Shade from radiant heat
	Bromoacetic acid, *solid*	8	UN 1938	Corrosive	II	1,2	1,2	Keep dry
	Bromoacetic acid, *solution*	II	UN 1938	Corrosive	II	1,2	1,2	Glass carboys in hampers not permitted under deck
	Bromoacetone	6.1	UN 1569	Poison, Flammable Liquid	II	1	5	Segregation same as for flammable liquids. Stow 'away from' living quarters
	Bromoacetyl bromide	II	UN 2513	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels
	Bromobenzene	3.3	UN 2514	Flammable Liquid	III	1,2	1,2	
•	Bromobenzyl cyanides	6.1	UN 1694	Poison	I	1	5	Keep cool. Stow 'away from' living quarters
	2-Bromobutane	3.2	UN 2339	Flammable Liquid	II	1,2	1	
	Bromochloromethane	6.1	UN 1887	St. Andrews Cross	III	1,2	1,2	
	2-Bromoethyl ethyl ether	3.2	UN 2340	Flammable Liquid	II	1,2	1	
	Bromoform	6.1	UN 2515	St. Andrews Cross	III	1,3	1,3	Keep cool
	1-Bromo-3-methylbutane	3.2	UN 2341	Flammable Liquid	II	1,2	1	
	Bromomethylpropanes	3.2	UN 2341	Flammable Liquid	II	1,2	1	
	Bromomethylpropanes	3.3	UN 2342	Flammable Liquid	II	1,2	1,2	
	2-Bromopentane	3.2	UN 2343	Flammable Liquid	II	1,2	1	
	Bromopropanes	3.2	UN 2344	Flammable Liquid	II	1,2	1	
	Bromopropanes	3.3	UN 2344	Flammable Liquid	II	1,2	1,2	
	3-Bromopropyne	3.2	UN 2345	Flammable Liquid	II	1,2	1	
	Bromotrifluoroethylene	2.1	UN 2419	Flammable Gas	--	1,2	1	
	Bromotrifluoromethane	2.2	UN 1009	Nonflammable Gas	--	1,2	1,2	
	Brucine	6.1	UN 1570	Poison	II	1,2	1,2	
N	Bursters, *explosive*	1.1D	UN 0043	Explosive (1.1D)	--	--	--	
	Butadiene, *inhibited*	2.1	UN 1010	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Butanedione	3.2	UN 2346	Flammable Liquid	II	1,2	1	
•	Butane *or* butane mixtures	2.1	UN 1011	Flammable Gas	--	1,2	1	
•	sec-Butanol	3.3	UN 1120	Flammable Liquid	II	1,2	1,2	
•	tert-Butanol	3.2	UN 1120	Flammable Liquid	II	1,2	1	
	Butanol	3.3	UN 1120	Flammable Liquid	II	1,2	1,2	
	Butene. *See* Butylene							
	Butoxyl	3.3	UN 1708	Flammable Liquid	III	1,2	1,2	
	Butyl acetates	3.2	UN 1123	Flammable Liquid	II	1,2	1	
	Butyl acid phosphate	II	UN 1718	Corrosive	III	1,2	1,2	Glass carboys in hampers prohibited under deck
	Butylacrylate, inhibited	3.3	UN 2348	Flammable Liquid	II	1,2	1,2	
	Butyl alcohol. *See* Butanol							
	sec-Butyl alcohol. *See* sec-Butanol							
	tert-Butyl alcohol. *See* tert-Butanol							
	n-Butylamine	3.2	UN 1125	Flammable Liquid	II	1,2	1	
	N-n-Butylaniline	6.1	UN 2738	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Butyl benzenes	3.3	UN 2709	Flammable Liquid	III	1,2	1,2	
	n-Butyl bromide	3.3	UN 1126	Flammable Liquid	II	1,2	1,2	
	n-Butyl chloride. *See* Chlorobutanes							
	n-Butylchloroformate	6.1	UN 2743	Poison, Corrosive, Flammable Liquid	II	1,3	1,3	Keep cool and dry. Shade from radiant heat. Stow 'away from' living quarters. Segregation same as for flammable liquids
	tert-Butyl cumene peroxide. *See* tert-Butyl cumyl peroxide							
	tert-Butyl cumyl peroxide, *technical pure*	5.2	UN 2091	Organic Peroxide	II	1	5	
	tert-Butylcyclohexylchloroformate	6.1	UN 2747	St. Andrews Cross	III	1,3	1,3	Keep cool and dry. Shade from radiant heat
•	n-Butyl-4,4-di-(tert-butylperoxy) valerate, *maximum concentration 52% with inert solid*	5.2	UN 2141	Organic Peroxide	II	1	II	
•	n-Butyl-4,4-di-(tert-butylperoxy) valerate, *technical pure*	5.2	UN 2140	Organic Peroxide	II	1	5	
•	Butylene	2.1	UN 1012	Flammable Gas	--	1,2	1	
	Butyl ether. *See* Dibutyl ethers							
	n-Butyl formate	3.2	UN 1128	Flammable Liquid	II	1,2	1	
	tert-Butyl hydroperoxide, *in a concentration over 72% to maximum 90% with water*	5.1	UN 2094	Organic Peroxide	I	1	II	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	tert-Butyl hydroperoxide, *maximum concentration 80% in di-tert-butyl peroxide and/or solvent*	5.2	UN 2092	Organic Peroxide, Flammable Liquid (only if flashpoint of solvent is 61 deg C. or below)	I	1	5	
	tert-Butyl hydroperoxide, *maximum concentration 72% with water*	5.2	UN 2093	Organic Peroxide	II	1	5	
	N-n-Butyl imidazole	6.1	UN 2690	Poison	II	1,2	1,2	Stow 'away from' living quarters
	tert-Butyl isocyanate	3.2	UN 2484	Flammable Liquid, Poison	I	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	n-Butyl isocyanate	3.2	UN 2485	Flammable Liquid, Poison	II	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	Butyl mercaptan	3.2	UN 2347	Flammable Liquid	II	1,2	1	
	n-Butyl methacrylate	3.3	UN 2227	Flammable Liquid	III	1,2	1,2	
	Butyl methyl ether	3.2	UN 2350	Flammable Liquid	II	1,2	1	
•	tert-Butyl monoperoxymaleate, *maximum concentration 55% as a paste*	5.2	UN 2101	Organic Peroxide	II	1	5	
•	tert-Butyl monoperoxymaleate, *maximum concentration 55% in solution*	5.2	UN 2100	Organic Peroxide	II	1	5	
•	tert-Butyl monoperoxymaleate, *technical pure*	5.2	UN 2099	Organic Peroxide	II	1	5	
	tert-Butyl monoperoxyphthalate, *technical pure*	5.2	UN 2105	Organic Peroxide	II	1	5	
	Butyl nitrite	3.2	UN 2351	Flammable Liquid	II	1,2	1	
	tert-Butyl peroxide. *See* Di-tert-butyl peroxide				–	–	–	
	tert-Butyl peroxyacetate, *in a concentration of more than 52% to a maximum concentration of 76% in solution*	5.2	UN 2095	Organic Peroxide	II	1	5	
	tert-Butyl peroxyacetate, *maximum concentration 52% in solution*	5.2	UN 2096	Organic Peroxide	II	1	5	
	tert-Butyl peroxybenzoate, *maximum concentration 75% in solution*	5.2	UN 2098	Organic Peroxide	II	1	5	
	tert-Butyl peroxybenzoate, *technical pure or in a concentration of more than 75% in solution*	5.2	UN 2097	Organic Peroxide	II	1	5	
•	tert-Butyl peroxybenzoate *with at least 50% inert inorganic solid*	5.2	UN 2890	Organic Peroxide	II	1	5	
	tert-Butyl peroxycrotonate, *maximum concentration 76% in solution*	5.2	UN 2183	Organic Peroxide	II	1	5	
	n-Butyl peroxydicarbonate, *in a concentration of more than 27% to a maximum concentration of 52% in solution*	5.2	UN 2169	Organic Peroxide	II	1	5	Control temperature -15 deg C. Emergency temperature -5 deg C
	n-Butyl peroxydicarbonate, *maximum concentration 27% in solution*	5.2	UN 2170	Organic Peroxide	II	1	5	Control temperature 0 dec C. Emergency temperature 10 deg C
•	tert-Butyl peroxydiethylacetate, *(in a maximum concentration of 33%),* with tert-butyl peroxybenzoate, *(in a maximum concentration of 33%), and with solvent*	5.2	UN 2551	Organic Peroxide	I/II	1	5	
	tert-Butyl peroxydiethylacetate, *technical pure*	5.2	UN 2144	Organic Peroxide	II	1	5	Control temperature 20 deg C. Emergency temperature 25 deg C
•	tert-Butyl peroxy-2-ethylhexanoate, *maximum concentration 30%* with 2,2-di-(tert-butyl peroxy) butane *maximum concentration 35% and with at least 35% phlegmatizer*	5.2	UN 2846	Organic Peroxide	II	1	5	Control temperature 35 deg C. Emergency temperature 40 deg C
•	tert-Butyl peroxy-2-ethylhexanoate *maximum concentration 12%* with 2,2-di-(tert-butyl peroxy)butane *maximum concentration 14%, and with at least 14% phlegmatizer and 60% inert inorganic solid*	5.2	UN 2887	Organic Peroxide	II	1	5	
	tert-Butyl peroxy-2-ethyl hexanoate, *technical pure*	5.2	UN 2143	Organic Peroxide	II	1	5	Control temperature 20 deg C. Emergency temperature 25 deg C
	tert-Butyl peroxy-2-ethylhexanoate, *with at least 50% phlegmatizer*	5.2	UN 2888	Organic Peroxide	II	1	5	Control temperature 35 deg C. Emergency temperature 40 deg C
	tert-Butyl peroxyisobutyrate, *in a concentration of more than 52% to a maximum concentration of 77% in solution*	5.2	UN 2142	Organic Peroxide	II	1	5	Control temperature 15 deg C. Emergency temperature 20 deg C
	tert-Butyl peroxyisobutyrate, *maximum concentration 52% in solution*	5.2	UN 2562	Organic Peroxide	II	1	5	Emergency temperature 15 deg C. Emergency temperature 20 deg C
	tert-Butyl peroxy isopropyl carbonate, *technical pure*	5.2	UN 2103	Organic Peroxide	II	1	5	
	tert-Butyl peroxyneodecanoate, *maximum concentration 77% in solution*	5.2	UN 2177	Organic Peroxide	II	1	5	Control temperature 0 deg C. Emergency temperature 10 deg C
	tert-Butyl peroxyneodecanoate, *technical pure*	5.2	UN 2594	Organic Peroxide	II	1	5	Control temperature -5 deg C. Emergency temperature 5 deg C
	3-tert-Butylperoxy-3-phenyl phthalide, *technical pure*	5.2	UN 2596	Organic Peroxide	II	1	5	
	tert-Butyl peroxypivalate, *maximum concentration 77% in solution*	5.2	UN 2110	Organic Peroxide	II	1	5	Control temperature 0 deg C. Emergency temperature 10 deg C
	tert-Butyl peroxy-3,5,5-trimethyl hexanoate, *technical pure*	5.2	UN 2108	Organic Peroxide	II	1	5	
	Butylphenols, liquid	6.1	UN 2225	St. Andrews Cross	III	1,2	1,2	
	Butylphenols, solid	6.1	UN 2229	St. Andrews Cross	III	1,2	1,2	
	Butyl phosphoric acid. *See* Butyl acid phosphate							
	Butyl propionate	3.3	UN 1914	Flammable Liquid	II	1,2	1,2	
	Butyl toluenes	6.1	UN 2667	Poison, Flammable Liquid (only if flashpoint below 61 deg C)	III	1,2	1,2	Shade from radiant heat. If flashpoint below 61 deg C segregation same as for flammable liquids
	Butyl trichlorosilane	8	UN 1747	Corrosive, Flammable Liquid	II	1	1	Keep dry. Stow 'separated longitudinally by an intervening complete compartment or hold from' explosives. Segregation same as for flammable liquids
	Butyl vinyl ether, *inhibited*	3.2	UN 2352	Flammable Liquid	II	1,2	1	
	1,4-Butynediol	4.1	UN 2716	Flammable Solid	III	1,2	1	Stow 'separated from' mercury salts, strong acids, alkaline compounds and halides
	Butyraldehyde	3.2	UN 1129	Flammable Liquid	II	1,2	1	
	Butyraldoxime	3.3	UN 2840	Flammable Liquid	III	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	n-Butyric acid	8	UN 2820	Corrosive	III	1,3	1,3	Keep cool. Glass carboys in hampers prohibited under deck
	Butyric anhydride	8	UN 2739	Corrosive	III	1,2	1,2	
	Butyronitrile	3.2	UN 2411	Flammable Liquid, Poison	II	1,3	II	Keep cool
•	Butyryl chloride	3.2	UN 2353	Flammable Liquid, Corrosive	II	1	1	Keep dry. Shade from radiant heat
	Cacodylic acid	6.1	UN 1572	Poison	II	1,2	5	Stow 'away from' acids
	Cadmium compounds	6.1	UN 2570	Poison	I/II	1,2	1,2	Stow 'away from' living quarters
		6.1	UN 2570	St. Andrews Cross	III	1,2	1,2	Stow 'away from' living quarters
	Caesium hydroxide, solid	8	UN 2682	Corrosive	II	1,2	1,2	Keep dry
	Caesium hydroxide, solution	8	UN 2681	Corrosive	II	1,2	1,2	
	Caesium, *metal*	4.3	UN 1407	Dangerous When Wet	I	1,2	5	
	Caesium nitrate	5.1	UN 1451	Oxidizer	III	1,2	1,2	
	Caesium, *powdered. See* Pyrophoric metals							
	Calcium arsenate	6.1	UN 1573	Poison	II	1,2	1,2	
	Calcium arsenate and arsenite, *solid mixtures*	6.1	UN 1574	Poison	II	1,2	1,2	
	Calcium bisulphite, *solution. See* Calcium hydrogen sulphite, *solution*							
	Calcium carbide	4.3	UN 1402	Dangerous When Wet	II	1,2	1,2	Stow 'away from' copper, its alloys and its mix
	Calcium chlorate	5.1	UN 1452	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Calcium chlorate, aqueous solution	5.1	UN 2429	Oxidizer	II	1,2	1	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Calcium chlorite	5.1	UN 1453	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and cyanides, 'separated from' ammonium compounds
•	Calcium cyanamide, *containing more than 0.1% and not more than 0.5% of calcium carbide*	4.3	UN 1403	Dangerous When Wet	III	1,2	1,2	
•	Calcium cyanamide, *containing more than 0.5% of calcium carbide*	4.3	UN 1403	Dangerous When Wet	III	1,2	1,2	
	Calcium cyanide	6.1	UN 1575	Poison	I	1,2	1,2	
	Calcium hydride	4.3	UN 1404	Dangerous When Wet	I	1,2	5	
	Calcium hydrosulphite	4.2	UN 1923	Spontaneously Combustible	II	1,2	5	Keep dry
•	Calcium hypochlorite, hydrated *or* Calcium hypochlorite, hydrated mixtures *with not less than 5.5% but not more than 10% water*	5.1	UN 2880	Oxidizer	II	1,2	1,2	Stow 'away from' sources of heat where temperatures in excess of 55 deg C for a period of 24 hours or more will be encountered
•	Calcium hypochlorite, dry *or* Calcium hypochlorite mixtures, *with more than 39% available chlorine (8.8% available oxygen)*	5.1	UN 1748	Oxidizer	II	1,2	5	Stow 'separated from' ammonium compounds and 'away from' sources of heat
	Calcium hypochlorite mixtures, dry, *with more than 10%, but not more than 39% available chlorine*	5.1	UN 2208	Oxidizer	III	1,2	1,2	
	Calcium manganese silicon	4.3	UN 2844	Dangerous When Wet	III	1,2	1,2	
	Calcium, *metal and alloys, non-pyrophoric*	4.3	UN 1401	Dangerous When Wet	II	1,2	5	
	Calcium nitrate	5.1	UN 1454	Oxidizer	III	1,2	1,2	
	Calcium perchlorate	5.1	UN 1455	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals
	Calcium permanganate	5.1	UN 1456	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and hydrogen peroxide
	Calcium peroxide	5.1	UN 1457	Oxidizer	II	1,2	1,2	Keep dry
•	Calcium phosphide	4.3	UN 1360	Dangerous When Wet	I	1,2	5	
	Calcium, *pyrophoric or* Calcium alloys, pyrophoric	4.2	UN 1855	Spontaneously Combustible	II	1	5	
	Calcium resinate, *fused*	4.1	UN 1314	Flammable Solid	III	1,2	1,2	
	Calcium resinate, *technical pure*	4.1	UN 1313	Flammable Solid	III	1,2	1,2	
	Calcium silicide	4.3	UN 1405	Dangerous When Wet	II	1,2	1,2	
	Calcium silicon	4.3	UN 1406	Dangerous When Wet	III	1,2	1,2	
	Camphor, *natural or synthetic*	4.1	UN 2717	Flammable Solid	III	1,2	1,2	
	Camphor oil	3.3	UN 1130	Flammable Liquid	III	1,3	1,3	
	Capryloyl peroxide. *See* n-Octanoyl peroxide							
	Caps, blasting. *See* Blasting caps							
•	Carbamate pesticides, liquid, flammable, toxic, n.o.s., *flashpoint less than 23 deg C*	3.2	UN 2758	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Carbamate pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 2991	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 2991	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 2991	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Carbamate pesticides, liquid, toxic, n.o.s.	6.1	UN 2992	Poison	I	1	1	
		6.1	UN 2992	Poison	II	1,2	1	
		6.1	UN 2991	St. Andrews Cross	III	1,2	1,2	
•	Carbamate pesticides, solid, toxic, n.o.s.	6.1	UN 2757	Poison	I/II	1,2	1,2	
		6.1	UN 2757	St. Andrews Cross	III	1,2	1,2	
	Carbolic acid. *See* Phenols, Phenol solutions *or* Phenol, molten							
	Carbon, activated	4.2	UN 1362	Spontaneously Combustible	III	1,3	1,3	Keep cool. Stow 'away from' oily matter

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	Carbon, *animal or vegetable origin*	4.2	UN 1361	Spontaneously Combustible	III	1,3	1,3	Keep cool. Stow 'away from' oily matter
	Carbon bisulphide. *See* Carbon disulphide							
	Carbon dioxide	2.2	UN 1013	Nonflammable Gas	–	1,2	1,2	
•	Carbon dioxide and ethylene oxide mixtures *with more than 6% ethylene oxide*	2.3	UN 1041	Poison Gas, Flammable Gas	–	1,2	1	
•	Carbon dioxide and ethylene oxide mixtures *with not more than 6% ethylene oxide*	2.3	UN 1952	Poison Gas	–	1,2	1	
	Carbon dioxide and nitrous oxide, *mixtures*	2.2	UN 1015	Nonflammable Gas	–	1,2	1,2	
	Carbon dioxide and oxygen, *mixtures*	2.2	UN 1014	Nonflammable Gas	–	1,2	1,2	
	Carbon dioxide, refrigerated liquid	2.2	UN 2187	Nonflammable Gas	–	1,2	1	
•	Carbon dioxide, solid	9	UN 1845	None	III	1	1	Stow 'away from' living quarters
	Carbon disulphide	3.1	UN 1131	Flammable Liquid, Poison	I	1	5	Prohibited on any ship carrying explosives (except explosives in Division 1.4, Compatibility Group S). Keep cool
	Carbon monoxide	2.1	UN 1016	Flammable Gas, Poison Gas	–	1	5	Stow 'away from' living quarters
•	Carbon monoxide and hydrogen mixture	2.3	UN 2600	Poison Gas, Flammable Gas	–	1	5	
	Carbon paper. See Paper, *treated with unsaturated oils, incompletely dried*							
	Carbon remover, *liquid*	3.2	UN 1132	Flammable Liquid	II	1,2	1	
	Carbon sulphide. *See* Carbon disulphide							
	Carbon tetrabromide	6.1	UN 2516	St. Andrews Cross	III	1,2	1,2	Shade from radiant heat
	Carbon tetrachloride	6.1	UN 1846	Poison	II[7]	1,2	1,2	
	Carbonyl chloride. See Phosgene							
	Carbonyl fluoride	2.3	UN 2417	Poison Gas	-	1	5	Stow 'away from' living quarters
•	Carbonyl sulfide	2.3	UN 2204	Poison Gas, Flammable Gas		1	1	
•	*Cartridge cases. See* Cases, cartridges							
N	Cartridges, flash	1.1G	UN 0049	Explosive (1.1G)	–	–	–	
N	Cartridges, flash	1.3G	UN 0050	Explosive (1.3G)	–	–	–	
	Cartridges for weapons, blank	1.4 C	UN 0338	Explosive (1.4C)	–	1,3	1,3	
[7]N	Cartridges for weapons, blank	1.3C	UN 0413	Explosive (1.2C)	–	–	–	
N	Cartridges for weapons, blank	1.1C	UN 0326	Explosive (1.1C)	–	–	–	
N	Cartridges for weapons, blank	1.3C	UN 0327	Explosive (1.3C)	–	–	–	
•	Cartridges for weapons, blank *or* Cartridges, safety, blank	1.4 S	UN 0014	None. Package to be marked '1.4 S'	–	1,3	1,3	
	Cartridges for weapons, *other than blank*	1.4 S	UN 0012	None. Package to be marked '1.4 S'	–	1,3	1,3	
N	Cartridges for weapons, *with bursting charge*	1.1E	UN 0006	Explosive (1.1E)	–	–	–	
N	Cartridges for weapons, *with bursting charge*	1.2E	UN 0321	Explosive (1.2E)	–	–	–	
N	Cartridges for weapons, *with bursting charge*	1.1F	UN 0005	Explosive (1.1F)	–	–	–	
N	Cartridges for weapons, *with bursting charge*	1.2F	UN 0007	Explosive (1.2F)	–	–	–	
•	Cartridges for weapons, *with bursting charge*	1.4E	UN 0412	Explosive (1.4E)	–	1,3	1,3	
N	Cartridges for weapons, *with bursting charge*	1.4F	UN 0348	Explosive (1.4F)	–	–	–	
	Cartridges for weapons, with inert projectile	1.4 C	UN 0339	Explosive (1.4C)	–	1,3	1,3	
N	Cartridges for weapons, with inert projectile	1.2C	UN 0328	Explosive (1.2C)	–	–	–	
[7]N	Cartridges for weapons, with inert projectile	1.3C	UN 0417	Explosive (1.3C)	–	–	–	
	Cartridges, oil well	1.4 C	UN 0278	Explosive (1.4C)	–	1,3	1,3	
N	Cartridges, oil well	1.3C	UN 0277	Explosive (1.3C)	–	–	–	
	Cartridges, power device	1.4 C	UN 0276	Explosive (1.4C)	–	1,3	1,3	
	Cartridges, power device	1.4 S	UN 0323	None. Package to be marked '1.4 S'	–	1,3	1,3	
N	Cartridges, power device	1.2C	UN 0381	Explosive (1.2C)	–	–	–	
N	Cartridges, power device	1.3C	UN 0275	Explosive (1.3C)	–	–	–	
	Cartridges, safety. *See* Cartridges for weapons, *other than blank (UN 0012) or* Cartridges for weapons, blank *(UN 0014)*							
	Cartridges, signal	1.4 G	UN 0312	Explosive (1.4G)	–	1,3	1,3	
N	Cartridges, signal	1.3G	UN 0054	Explosive (1.3G)	–	–	–	
	Cartridges, signal	1.4S	UN 0405	None. Package to be marked '1.4S'	–	1,3	1,3	
	Cases, cartridge, empty, with primer	1.4C	UN 0379	Explosive (1.4C)	–	1,3	1,3	
	Cases, cartridges, empty, with primer	1.4 S	UN 0055	None. Package to be marked '1.4 S'	–	1,3	1,3	
	Casinghead gasoline	3.1	UN 1257	Flammable Liquid	II	1,3	5	Keep cool
	Castor beans, Castor meal, Castor pomace *or* Castor flake	9	UN 2969	None	II	1,2	1	Stow 'away from' living quarters, foodstuffs, and oxidizing substances
	Caustic alkali liquids, n.o.s.	8	UN 1719	Corrosive	II	1,2	1,2	
	Caustic potash. *See* Potassium hydroxide, *solution*							
	Caustic potash, solid. *See* Potassium hydroxide, *solid*							
	Celluloid, *in blocks, rods, rolls, sheets, tubes, etc. (scrap excluded)*	4.1	UN 2000	Flammable Solid	III	1,2	1,2	
	Celluloid, scrap	4.2	UN 2002	Spontaneously Combustible	III	1	5	
	Cement, *liquid. See Adhesives, containing a flammable liquid*							
	Cerium, crude, *powder*	4.1	UN 1333	Flammable Solid	II	1,2	5	Stow 'separated from' flammable substances and oxidizers

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Cotton, crude, *stain or tar*	4.1	UN 1333	Flammable Solid	III	1,2	1,2	Stow 'separated from' flammable substances and oxidizers
	Charcoal, activated. *See* Carbon, activated							
•	*Charcoal, non-activated, of animal or vegetable origin. See* Carbon, *of animal or vegetable origin*							
N	Charges, demolition	1.1D	UN [illegible]	Explosive (1.1D)	–	–	–	
N	Charges, depth	1.1D	UN 0056	Explosive (1.1D)	–	–	–	
N	Charges, propelling, for cannon	1.1C	UN 0279	Explosive (1.1C)	–	–	–	
*N	Charges, propelling, for cannon	1.2C	UN 0414	Explosive (1.2C)	–	–	–	
N	Charges, propelling, for cannon	1.3C	UN 0242	Explosive (1.3C)	–	–	–	
N	Charges, propelling, for rocket motors	1.1C	UN 0271	Explosive (1.1C)	–	–	–	
*N	Charges, propelling, for rocket motors	1.2C	UN 0415	Explosive (1.2C)	–	–	–	
N	Charges, propelling, for rocket motors	1.3C	UN 0272	Explosive (1.3C)	–	–	–	
N	Charges, propelling, for rocket motors, *composite mixture*	1.1C	UN 0271	Explosive (1.1C)	–	–	–	
*N	Charges, propelling, for rocket motors, *composite mixture*	1.2C	UN 0416	Explosive (1.2C)	–	–	–	
N	Charges, propelling, for rocket motors, *composite mixture*	1.3C	UN 0274	Explosive (1.3C)	–	–	–	
*N	Charges, shaped, commercial, *without detonator*	1.1D	UN 0059	Explosive (1.1D)	–	–	–	
	Charges, shaped, flexible, linear, *metal clad*	1.4 D	UN 0237	Explosive (1.4D)	–	1,3	1,3	
N	Charges, shaped, flexible, linear, *metal clad*	1.1D	UN 0288	Explosive (1.1D)	–	–	–	
N	Charges, supplementary, explosive	1.1D	UN 0060	Explosive (1.1D)	–	–	–	
	Chloral, *anhydrous, inhibited*	6.1	UN 2075	Poison	II	1	II	
•	Chlorate and borate, mixtures	5.1	UN 1458	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and 'separated from' ammonium compounds
•	Chlorate and magnesium chloride, mixture	5.1	UN 1459	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and 'separated from' ammonium compounds
•	Chlorates, inorganic, n.o.s.	5.1	UN 1461	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and 'separated from' ammonium compounds
•	Chloric acid solution with *not more than 10% acid*	5.1	UN 2626	Oxidizer	II	1	5	Stow 'separated from' ammonium compounds and 'away from' finely powdered metals
•	Chlorine	2.3	UN 1017	Poison Gas	–	1	5	Stow 'separated from' acetylene, ammonia, diborane and hydrogen
	Chlorine pentafluoride	2.3	UN 2548	Poison Gas, Oxidizer, Corrosive	–	1	5	Stow 'away from' combustible materials
	Chlorine trifluoride	2.3	UN 1749	Poison Gas, Oxidizer, Corrosive	–	1,2	5	Stow 'away from' food stuffs and living quarters
•	Chlorites, inorganic, n.o.s.	5.1	UN 1462	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and cyanides, 'separated from' ammonium compounds
	Chloroacetaldehyde	6.1	UN 2232	Poison	II	1	5	
	Chloroacetic acid, *liquid*	8	UN 1750	Corrosive	II	1,2	1,2	Glass carboys in hampers not permitted under deck
•	Chloroacetic acid, solid	8	UN 1751	Corrosive	II	1,2	1,2	Keep dry
	Chloroacetone, stabilized	6.1	UN 1695	Poison	II	1	5	Stow 'away from' living quarters
	Chloroacetonitrile	6.1	UN 2668	Poison, Flammable Liquid	II	1,3	1,3	Keep cool. Shade from radiant heat. Stow 'away from' acids. Segregation same as for flammable liquids
	Chloroacetophenone	6.1	UN 1697	Poison	II	1	5	Keep cool. Stow 'away from' living quarters
	Chloroacetyl chloride	8	UN 1752	Corrosive	II	1	5	Keep dry
	Chloroanilines, *liquid*	6.1	UN 2019	Poison	II	1,2	1,2	
	Chloroanilines, *solid*	6.1	UN 2018	Poison	II	1,2	1,2	
	p-Chloro-o-anisidine	6.1	UN 2233	St. Andrews Cross	III	1,2	1,2	
	Chlorobenzene	3.3	UN 1134	Flammable Liquid	II	1,3	1,3	
	Chlorobenzotrifluorides	3.3	UN 2234	Flammable Liquid	III	1,2	1,2	
	p-Chlorobenzoyl peroxide. *See* Di-(4-chlorobenzoyl) peroxide				–	–	–	
	p-Chlorobenzyl chloride	6.1	UN 2235	St. Andrews Cross	III	1,2	1,2	
	1-Chloro-3-bromopropane	6.1	UN 2688	St. Andrews Cross	III	1,2	1,2	
	Chlorobutanes	3.3	UN 1127	Flammable Liquid	II	1,2	1	
	Chlorocresols	6.1	UN 2669	Poison	II	1,3	1,3	Keep cool. Stow 'away from' living quarters
	Chlorodifluorobromomethane	2.2	UN 1974	Nonflammable Gas	–	1,2	1,2	
	Chlorodifluoroethanes	2.1	UN 2517	Flammable Gas	–	1,2	1	Stow 'away from' living quarters
	Chlorodifluoromethane	2.2	UN 1018	Nonflammable Gas	–	1,2	1,2	
	Chlorodifluoromethane and chloropentafluoroethane, *mixture with a fixed boiling point containing about 49% of chlorodifluoromethane*	2.2	UN 1973	Nonflammable Gas	–	1,2	1,2	
	Chlorodinitrobenzene	6.1	UN 1577	Poison	II	1,2	1,2	
	Chloroform	6.1	UN 1888	Poison	II	1,2	1,2	
	Chloroformates, n.o.s., *with a flashpoint not less than 21 deg C*	6.1	UN 2742	Poison, Corrosive, Flammable Liquid (only if flashpoint below 61 deg C)	II	1,3	1,3	Keep cool and dry. Shade from radiant heat. Stow 'away from' living quarters. If flashpoint below 61, segregation same as for flammable liquids
	Chloromethylchloroformate	6.1	UN 2745	Poison, Corrosive	II	1,3	1,3	Keep cool and dry. Shade from radiant heat. Stow 'away from' living quarters
	Chloromethyl ethyl ether	3.2	UN 2354	Flammable Liquid, Poison	II	1,3	5	Keep cool
	3-Chloro-4-methylphenyl isocyanate	6.1	UN 2236	Poison	II	1,2	1,2	Shade from radiant heat
	Chloronitroanilines	6.1	UN 2237	St. Andrews Cross	III	1,3	1,3	
	Chloronitrobenzenes (*o-, m-, p-*)	6.1	UN 1578	Poison	II	1,2	1,2	
	Chloro-o-nitrotoluene	6.1	UN 2433	St. Andrews Cross	III	1,2	1,3	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Name and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Chloropentafluoroethane	2.2	UN 1020	Nonflammable Gas	–	1,2	1,2	
•	3-Chloroperoxybenzoic acid, *maximum concentration 86%*	5.2	UN 3755	Organic Peroxide	II	1	5	
	Chlorophenates, liquid	8	UN 2904	Corrosive	III	1,2	1,2	
	Chlorophenates, solid	8	UN 2905	Corrosive	III	1,2	1,2	
	Chlorophenols, liquid	6.1	UN 2021	St. Andrews Cross	III	1,2	1,2	
	Chlorophenols, solid	6.1	UN 2020	St. Andrews Cross	III	1,2	1,2	
	Chlorophenyl trichlorosilane	8	UN 1753	Corrosive	II	1	1	Keep dry
•	Chloropicrin	6.1	UN 1580	Poison	I	1	5	Stow 'away from' living quarters
	Chloropicrin and methyl bromide, *mixtures*	2.3	UN 1581	Poison Gas	–	1	5	Shade from radiant heat. Stow 'away from' living quarters
	Chloropicrin and methyl chloride, *mixtures*	2.3	UN 1582	Poison Gas	–	1	5	Shade from radiant heat. Stow 'away from' living quarters
•	Chloropicrin mixtures, n.o.s.	6.1	UN 1583	Poison	I/VI	1	1	Stow 'away from' living quarters
		6.1	UN 1583	St. Andrews Cross	III	1	1	
	Chloroplatinic acid, solid	8	UN 2507	Corrosive	III	1,2	1,2	
	Chloroprene, inhibited	3.2	UN 1991	Flammable Liquid, Poison	I	1,2	1	
	2-Chloropropane	3.1	UN 2356	Flammable Liquid	I	1,3	3	Keep cool
	3-Chloropropanol-1	6.1	UN 2849	St. Andrews Cross	III	1,2	1,2	
	2-Chloropropene	3.1	UN 2456	Flammable Liquid	I	1,3	3	Keep cool
	Chloropropionic acid	8	UN 2511	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
•	2-Chloropyridine	6.1	UN 2822	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Chlorosulphonic acid, *with or without sulphur trioxide*	8	UN 1754	Corrosive	I	1	1	Glass carboys prohibited on passenger vessels
	Chlorotrifluoroethane	2.2	UN 1021	Nonflammable Gas	–	1,2	1,2	
	Chlorotoluenes (*o-, m-, p-*)	3.3	UN 2238	Flammable Liquid	III	1,2	1,2	
	4-Chloro-o-toluidine hydrochloride	6.1	UN 1579	St. Andrews Cross	III	1,2	1,2	
	Chlorotoluidines	6.1	UN 2239	St. Andrews Cross	III	1,2	1,2	
	Chlorotrifluoroethane	2.2	UN 1983	Nonflammable Gas	–	1,2	1,2	
	Chlorotrifluoroethane. See Trifluorochloroethane							
	Chlorotrifluoroethylene. See Trifluorochloroethylene							
	Chlorotrifluoromethane	2.2	UN 1022	Nonflammable Gas	–	1,2	1,2	
	Chlorotrifluoromethane and trifluormethane azeotropic mixture *with approximately 60% chlorotrifluoromethane*	2.3	UN 2599	Nonflammable Gas	–	1,2	1,2	
•	Chromic acid, solid. *See* Chromium trioxide, anhydrous							
	Chromic acid, solution	8	UN 1755	Corrosive	II	1	1	
•	Chromic anhydride. *See* Chromium trioxide, anhydrous							
•	Chromic fluoride, solid	8	UN 1756	Corrosive	II	1,2	1,2	
•	Chromic fluoride, solution	8	UN 1757	Corrosive	II	1,2	1,2	
	Chromium nitrate	5.1	UN 2720	Oxidizer	III	1,2	1,2	
	Chromium oxychloride	8	UN 1758	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels
•	Chromium trioxide, anhydrous	5.1	UN 1463	Oxidizer, Corrosive	II	1,2	1,2	Stow 'separated from' flammable substances and 'away from' foodstuffs
	Chromosulphuric acid	8	UN 2240	Corrosive	I	1,2	1	Carboys not permitted on passenger vessels and permitted only on deck on cargo vessels
	Chrysotile. See Asbestos, white							
	Cigarettes, *self-lighting*	4.1	UN 1867	Flammable Solid	III	1,2	1,2	Keep dry
	Cleaning compound. *See* Flammable liquid preparations, n.o.s.							
•	Coal gas	2.3	UN 1023	Poison Gas, Flammable Gas	–	1	1	
•	Coal tar distillate	3.2	UN 1136	Flammable Liquid	II	1,2	1	
		3.3	UN 1136	Flammable Liquid	III	1,2	1,2	
	Coal tar naphtha	3.2	UN 2553	Flammable Liquid	II	1,2	1	
	Coal tar oil. *See* Coal tar distillate							
	Coating solution	3.2	UN 1139	Flammable Liquid	II	1,2	1	
		3.3	UN 1139	Flammable Liquid	II	1,2	1,2	
	Cobalt naphthenates, *powder*	4.1	UN 2001	Flammable Solid	III	1,2	1,2	
	Cobalt resinate, *precipitated*	4.1	UN 1318	Flammable Solid	III	1,2	1,2	
	Cocculus, *solid*	6.1	UN 1584	Poison	II	1,2	1,2	
	Cologne spirits. *See* Ethanol							
	Columbian spirits. *See* Methanol							
	Components, explosive train, n.o.s.	1.4B	UN 0383	Explosive (1.4B)	–	1,3	1,3	
	Components, explosive train, n.o.s.	1.4S	UN 0384	None. Package to be marked '1.4S'	–	1,3	1,3	
N	Components, explosive train, n.o.s.	1.2B	UN 0382	Explosive (1.2B)	–	–	–	
•	Compressed *or* liquefied gases, flammable, *non-toxic*, n.o.s.	2.1	UN 1954	Flammable Gas	–	1	5	Stow 'away from' living quarters
•	Compressed *or* liquefied gases, flammable, toxic, n.o.s.	2.1	UN 1953	Flammable Gas, Poison Gas	–	1	5	Stow 'away from' living quarters
•	Compressed *or* liquefied gases, *non-flammable, non-toxic*, n.o.s.	2.2	UN 1956	Nonflammable Gas	–	1,2	1,2	
•	Compressed *or* liquefied gases, *non-flammable*, toxic, n.o.s.	2.3	UN 1955	Poison Gas	–	1	5	Stow 'away from' living quarters
N	Contrivances, water-activated, *with burster, expelling charge or propelling charge*	1.2L	UN 0248	Explosive (1.2L), Dangerous When Wet	–	–	–	
N	Contrivances, water-activated, *with burster, expelling charge or propelling charge*	1.3L	UN 0249	Explosive (1.3L), Dangerous When Wet	–	–	–	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Copper acetoarsenite	6.1	UN 1585	Poison	II	1,2	1,2	
	Copper arsenite	6.1	UN 1586	Poison	II	1,2	1,2	
•	Copper based pesticides, liquid, flammable, toxic, n.o.s. *flashpoint less than 23 deg C*	3.2	UN 2776	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Copper based pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 3009	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 3009	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 3009	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Copper based pesticides, liquid, toxic, n.o.s.	6.1	UN 3010	Poison	I	1	1	
		6.1	UN 3010	Poison	II	1,2	1	
		6.1	UN 3010	St. Andrews Cross	III	1,2	1,2	
•	Copper based pesticides, solid, toxic, n.o.s.	6.1	UN 2775	Poison	I/II	1,2	1,2	
		6.1	UN 2775	St. Andrews Cross	III	1,2	1,2	
	Copper chlorate	5.1	UN 2721	Oxidizer	II	1,2	1,2	Stow 'separated from' ammoniacal compounds and 'away from' finely powdered metals
	Copper cyanide	6.1	UN 1587	Poison	II	1,2	1,2	Stow 'away from' acids
	Cupra	4.2	UN 1363	None. Package to be marked 'Class 4.2'	III	1,2	1,2	Keep dry. Protect from sparks and open flame
	Cord, detonating, *flexible*	1.4 D	UN 0289	Explosive (1.4D)	--	1,3	1,3	
N	Cord, detonating, *flexible*	1.1D	UN 0065	Explosive (1.1D)	--	--	--	
N	Cord, detonating, *metal clad*	1.1D	UN 0290	Explosive (1.1D)	--	--	--	
N	Cord, detonating, *metal clad*	1.2D	UN 0102	Explosive (1.2D)	--	--	--	
	Cord, detonating, mild effect, *metal clad*	1.4 D	UN 0104	Explosive (1.4D)	--	1,3	1,3	
	Cord, igniter	1.4 G	UN 0066	Explosive (1.4G)	--	1,3	1,3	
•	Corrosive liquids, flammable, n.o.s.	8	UN 2920	Corrosive, Flammable Liquid	I/II	1	1	Segregation same as for flammable liquids. Keep cool. Shade from radiant heat
•	Corrosive liquids, n.o.s.	8	UN 1760	Corrosive	I/II	1,2	1	
		8	UN 1760	Corrosive	III	1,2	1,2	
•	Corrosive liquids, poisonous, n.o.s.	8	UN 2922	Corrosive, Poison	I/II	1,2	1	Stow 'away from' living quarters
•	Corrosive solids, flammable, n.o.s.	8	UN 2921	Corrosive, Flammable Solid	I/II	1,3	1	Keep cool. Shade from radiant heat
•	Corrosive solids, n.o.s.	8	UN 1759	Corrosive	I	1,2	1	Keep dry
		8	UN 1759	Corrosive	II/III	1,2	1,2	Keep dry
•	Corrosive solids, poisonous, n.o.s.	8	UN 2923	Corrosive, Poison	I/II	1,2	1	Keep dry. Stow 'away from' living quarters
•	Cosmetics. *See* Perfumery products							
	Cotton, *dry*: *See* Fibres, *vegetable, dry*							
•	Cotton waste, oily *impregnated with less than 5% of animal or vegetable oil*	4.2	UN 1364	Spontaneously Combustible	III	1,2	1,2	Stow 'separated from' explosives
•	Cotton waste, oily *impregnated with 5% or more of animal or vegetable oil*	4.2	UN 1364	Spontaneously Combustible	III	1,2	1,2	Keep dry. Stow 'separated from' explosives, animal oils or vegetable oils
	Cotton, *wet or contaminated*	4.2	UN 1365	Spontaneously Combustible	III	1,2	1,2	Keep dry
	Cresols (*o-, m-, p-*)	6.1	UN 2076	Poison	II	1,2	1,2	
	Cresylic acid	6.1	UN 2022	Poison	II	1,2	1,2	
	Crocidolite. *See* Asbestos, blue							
	Crotonaldehyde, inhibited	3.2	UN 1143	Flammable Liquid	II	1,2	1	
	Crotonic acid	8	UN 2823	Corrosive	III	1,3	1,3	Keep cool
	Crotonylene	3.1	UN 1144	Flammable Liquid	I	1,3	3	Keep cool
	Cumene hydroperoxide. *See* Cumyl hydroperoxide				--	--	--	
	Cumyl hydroperoxide, *technical pure*	5.2	UN 2116	Organic Peroxide	I	1	3	
•	Cumyl peroxyneodecanoate, *maximum concentration 77% in solution*	5.2	UN 2963	Organic Peroxide	II	1	3	Control temperature -10 deg C. Emergency temperature 0 deg C
•	Cumyl peroxypivalate, *maximum concentration 77% in solution*	5.2	UN 2964	Organic Peroxide	II	1	5	Control temperature -5 deg C. Emergency temperature 5 deg C
	Cupric cyanide. *See* Copper cyanide							
•	Cyclethylenediamine, solution	8	UN 1761	Corrosive, Poison	II	1,2	1,2	
	Cut-backs, *asphalt or bitumen*	3.2	UN 1999	Flammable Liquid	II	1,2	1	
		3.3	UN 1999	Flammable Liquid	II	1,2	1,2	
	Cutters, cable, explosive	1.4 S	UN 0070	None. Package to be marked '1.4 S'	--	1,3	1,3	
	Cyanide mixtures. *See* Cyanides, *(inorganic)*, n.o.s.							
	Cyanides, inorganic, n.o.s.	6.1	UN 1588	Poison	I/II	1,2	1,2	Stow 'away from' acids.
		6.1	UN 1588	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Cyanide, solutions	6.1	UN 1935	Poison	I	1,2	1,2	Stow 'away from' living quarters and acids
	Cyanogen	2.3	UN 1026	Poison Gas, Flammable Gas	--	1	3	Stow 'away from' foodstuffs and living quarters
	Cyanogen bromide	6.1	UN 1889	Poison, Corrosive	I	1	5	Shade from radiant heat. Segregation same as for corrosives
	Cyanogen chloride, inhibited	2.3	UN 1589	Poison Gas	--	1	5	
•	Cyanuric chloride	8	UN 2670	Corrosive	III	1,3	1,3	Keep dry and cool
	Cyclobutane	2.1	UN 2601	Flammable Gas	--	1,2	1	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Cyclobutylchloroformate	6.1	UN 2744	Poison, Corrosive, Flammable Liquid	II	1,3	1,3	Keep cool and dry. Shade from radiant heat. Stow 'away from' living quarters. Segregation same as for flammable liquids
•	1,5,9-Cyclododecatriene	8	UN 2518	Corrosive	II	1,2	5	Stow 'away from' living quarters
	Cycloheptane	3.2	UN 2241	Flammable Liquid	II	1,2	1	
	Cycloheptatriene	3.2	UN 2603	Flammable Liquid, Poison	II	1,3	5	Keep cool
	Cycloheptene	3.2	UN 2242	Flammable Liquid	II	1,2	1	
	Cyclohexane	3.1	UN 1145	Flammable Liquid	II	1,3	5	Keep cool
	Cyclohexanone	3.3	UN 1915	Flammable Liquid	III	1,2	1,2	
	Cyclohexanone peroxides, *in a concentration of more than 90% with less than 10% water*	5.2	UN 2117	Organic Peroxide	I	1	5	
	Cyclohexanone peroxides, *maximum concentration 90%, with at least 10% water*	5.2	UN 2119	Organic Peroxide	I	1	5	
	Cyclohexanone peroxides, *maximum concentration 72% and containing not more than 9% available oxygen, in solution*	5.2	UN 2118	Organic Peroxide	I	1	5	
	Cyclohexanone peroxides, *maximum concentration 72% and containing not more than 9% available oxygen, as a paste*	5.2	UN 2896	Organic Peroxide	II	1	5	
	Cyclohexene	3.1	UN 2256	Flammable Liquid	II	1,3	5	Keep cool
	Cyclohexene	3.2	UN 2256	Flammable Liquid	II	1,2	1	
	Cyclohexenyl trichlorosilane	8	UN 1762	Corrosive	II	1	1	Keep dry
	Cyclohexyl acetate	3.3	UN 2243	Flammable Liquid	III	1,2	1,2	
	Cyclohexylamine	3.2	UN 2357	Flammable Liquid, Corrosive	II	1,2	1	
		3.3	UN 2357	Flammable Liquid, Corrosive	II	1,2	1,2	
	Cyclohexyl isocyanate	6.1	UN 2488	Poison, Flammable Liquid	II	1	5	Shade from radiant heat. Stow 'away from' living quarters. Segregation same as for flammable liquids
	Cyclohexyl trichlorosilane	8	UN 1763	Corrosive	II	1	1	Keep dry
	Cyclooctadienes	3.3	UN 2520	Flammable Liquid	II	1,2	1,2	
	Cyclooctatetraene	3.2	UN 2358	Flammable Liquid	II	1,2	1	
	Cyclopentane	3.1	UN 1146	Flammable Liquid	II	1,3	5	Keep cool
	Cyclopentanol	3.3	UN 2244	Flammable Liquid	III	1,2	1,2	
	Cyclopentanone	3.3	UN 2245	Flammable Liquid	II	1,2	1,2	
	Cyclopentene	3.1	UN 2246	Flammable Liquid	II	1,3	5	Keep cool
•	Cyclopropane, liquefied	2.1	UN 1027	Flammable Gas	–	1,2	1	
•N	Cyclotetramethylenetetranitramine, wetted *with not less than 25% water, by weight, or* desensitized *with not less than 10% phlegmatizer, by weight*	1.1D	UN 0226	Explosive (1.1D)	–	–	–	
•N	Cyclotrimethylenetrinitramine and cyclotetramethylenetetranitramine, mixtures, wetted *with not less than 25% water, by weight, or* desensitized *with not less than 10% phlegmatizer, by weight*	1.1D	UN 0391	Explosive (1.1D)	–	–	–	
•N	Cyclotrimethylenetrinitramine, wetted *with not less than 25% water, by weight, or* desensitized *with not less than 10% phlegmatizer, by weight*	1.1D	UN 0072	Explosive (1.1D), Corrosive	–	–	–	
	Cymenes	3.3	UN 2046	Flammable Liquid	II	1,2	1,2	
	Decaborane	4.1	UN 1868	Flammable Solid, Poison	II	1,2	1,2	
	Decahydronaphthalene	3.3	UN 1147	Flammable Liquid	II	1,2	1,2	
	Decalin. See Decahydronaphthalene							
	n-Decane	3.3	UN 2247	Flammable Liquid	III	1,2	1,2	
N	Deflagrating metal salts of aromatic nitro-derivatives, n.o.s.	1.3C	UN 0132	Explosive (1.3C)	–	–	–	
•	Detonator assemblies, non-electric, *for blasting*	1.4B	UN 0361	Explosive (1.4B)	–	1,3	1,3	
•N	Detonator assemblies, non-electric, *for blasting*	1.1B	UN 0360	Explosive (1.1B)	–	–	–	
•	Detonators, electric, *for blasting*	1.4 B	UN 0255	Explosive (1.4B)	–	1,2	5	
•N	Detonators, electric, *for blasting*	1.1B	UN 0030	Explosive (1.1B)	–	–	–	
	Detonators for ammunition	1.4B	UN 0365	Explosive (1.4B)	–	1,3	1,3	
	Detonators for ammunition	1.4S	UN 0366	None. Package to be marked '1.4S'	–	1,3	1,3	
N	Detonators for ammunition	1.1B	UN 0073	Explosive (1.1B)	–	–	–	
N	Detonators for ammunition	1.2B	UN 0364	Explosive (1.2B)	–	–	–	
•	Detonators, non-electric, *for blasting*	1.4 B	UN 0267	Explosive (1.4B)	–	1,2	5	
•N	Detonators, non-electric, *for blasting*	1.1B	UN 0029	Explosive (1.1B)	–	–	–	
•	Deuterium	2.1	UN 1957	Flammable Gas	–	1,2	5	
	Diacetone alcohol	3.2	UN 1148	Flammable Liquid	II	1,2	1	
		3.3	UN 1148	Flammable Liquid	II	1,2	1,2	
	Diacetone alcohol peroxides, *maximum 57% in solution with maximum 9% hydrogen peroxide, minimum 26% diacetone alcohol and minimum 9% water; total active oxygen content maximum 10%*	5.2	UN 2163	Organic Peroxide	I	1	5	Control temperature 30 deg C. Emergency temperature 35 deg C
	Diallylamine	3.2	UN 2359	Flammable Liquid	II	1,2	1	
	Diallylether	3.2	UN 2360	Flammable Liquid, Poison	II	1,3	5	Keep cool
	4,4'-Diaminodiphenyl methane	6.1	UN 2651	St. Andrews Cross	III	1,2	1,2	
	Di-n-amylamine	6.1	UN 2841	St. Andrews Cross, Flammable Liquid	III	1,3	1,3	Keep cool. Shade from radiant heat. Segregation same as for flammable liquids
N	Diazodinitrophenol, *containing, by weight, at least 40% water or mixture of alcohol and water*	1.1A	UN 0074	Explosive (1.1A)	–	–	–	
	Dibenzyldichlorosilane	8	UN 2434	Corrosive	II	1	1	Keep dry

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Hazardous Materials and Symbols	(2) Hazardous Materials Descriptions and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Dibenzyl peroxydicarbonate, *maximum concentration 87% with water*	5.2	UN 1149	Organic Peroxide	I	1	5	Control temperature 25 deg C. Emergency temperature 30 deg C
*	Diborane	2.1	UN 1911	Flammable Gas, Poison Gas	–	1	5	Stow 'separated from' chlorine and oxidizers
	Dibromobenzene	3.3	UN 2711	Flammable Liquid	III	1,2	1,2	
	1,2-Dibromobutan-3-one	6.1	UN 2648	Poison	II	1,2	1	
	1,3-Dibromo-3-chloropropane	6.1	UN 2872	St. Andrews Cross	III	1,2	1,2	
	Dibromodifluoromethane	9	UN 1941	None	III	1,2	1,2	Shade from radiant heat. Stow 'away from' foodstuffs
	Dibromomethane	6.1	UN 2664	St. Andrews Cross	III	1,2	1,2	
	Di-(n-butyl)amine	8	UN 2248	Corrosive, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids
	N,N-Di-n-butylaminoethanol	6.1	UN 2873	St. Andrews Cross	III	1,2	1,2	
•	Di-(4-tert-butylcyclohexyl) peroxydicarbonate, *maximum concentration 42%, stable dispersion in water*	5.2	UN 2894	Organic Peroxide	II	1	5	Control temperature 25 deg C. Emergency temperature 30 deg C
*	Di-(4-tert-butylcyclohexyl) peroxydicarbonate, *technical pure*	5.2	UN 2154	Organic Peroxide	II	1	5	Control temperature 30 deg C. Emergency temperature 35 deg C
	Dibutyl ether	3.3	UN 1149	Flammable Liquid	III	1,2	1,2	
	Di-tert-butyl peroxide, *technical pure*	5.2	UN 2102	Organic Peroxide, Flammable Liquid	II	1	5	
•	2,2-Di-(tert-butylperoxy) butane, *maximum concentration 55% in solution*	5.2	UN 2111	Organic Peroxide	II	1	5	
*	1,1-Di-(tert-butylperoxy) cyclohexane, *maximum concentration 77% in solution*	5.2	UN 2180	Organic Peroxide	II	1	5	
•	1,1-Di-(tert-butylperoxy) cyclohexane, *technical pure*	5.2	UN 2179	Organic Peroxide	II	1	5	
*	1,1-Di-(tert-butylperoxy) cyclohexane *with at least 13% phlegmatizer and 47% inert inorganic solid*	5.2	UN 2885	Organic Peroxide	II	1	5	
*	1,1-Di-(tert-butylperoxy) cyclohexane *with at least 50% phlegmatizer*	5.2	UN 2897	Organic Peroxide	II	1	5	
	Di-sec-butyl peroxydicarbonate, *maximum concentration 52% in solution*	5.2	UN 2151	Organic Peroxide	II	1	5	Control temperature -15 deg C. Emergency temperature -5 deg C
	Di-sec-butyl peroxydicarbonate, *technical pure*	5.2	UN 2150	Organic Peroxide	I	1	5	Control temperature -20 deg C. Emergency temperature -10 deg C
*	1,4-Di-(2-tert-butylperoxy isopropyl) benzene, *or* ,1,3-di-(2-tert-butylperoxy isopropyl) benzene, *or* mixtures *thereof, technical pure or in a concentration of more than 40% with inert solid*	5.2	UN 2112	Organic Peroxide	II	1	5	
	Di-(tert-butylperoxy)phthalate, *maximum concentration 55% as a paste*	5.2	UN 2108	Organic Peroxide	II	1	5	
	Di-(tert-butylperoxy)phthalate, *maximum concentration 55% in solution*	5.2	UN 2107	Organic Peroxide	II	1	5	
	Di-(tert-butylperoxy)phthalate, *technical pure*	5.2	UN 2106	Organic Peroxide	II	1	5	
•	2,2-Di-(tert-butylperoxy) propane, *with at least 50% phlegmatizer*	5.2	UN 2883	Organic Peroxide	II	1	5	
•	2,2-Di-(tert-butylperoxy) propane, *with at least 13% phlegmatizer and 47% inert inorganic solid*	5.2	UN 2884	Organic Peroxide	II	1	5	
•	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, *technical pure*	5.2	UN 2143	Organic Peroxide	II	1	5	
•	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, *maximum concentration 57% in solvent*	5.2	UN 2146	Organic Peroxide	II	1	5	
•	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane, *maximum concentration 58% with inert solid*	5.2	UN 2147	Organic Peroxide	II	1	5	
	Dicetyl peroxydicarbonate, *maximum concentration 42%, stable dispersion in water*	5.2	UN 2985	Organic Peroxide	II	1	5	Control temperature 25 deg C. Emergency temperature 30 deg C
	Dicetyl peroxydicarbonate, *technical pure*	5.2	UN 2168	Organic Peroxide	II	1	5	Control temperature 20 deg C. Emergency temperature 25 deg C
	Dichloroacetic acid	8	UN 1764	Corrosive	II	1,2	1,2	Glass carboy in hampers not permitted under deck
	1,3-Dichloroacetone	6.1	UN 2649	Poison	II	1,3	1	Keep cool. Stow 'away from' living quarters
	Dichloroacetyl chloride	8	UN 1765	Corrosive	II	1	5	Keep dry
	Dichloroaniline	6.1	UN 1590	Poison	II	1,2	1,2	Stow 'away from' acids
*	o-Dichlorobenzene	6.1	UN 1591	St. Andrews Cross	III	1,2	1,2	
	p-Dichlorobenzene	6.1	UN 1592	St. Andrews Cross	III	1,2	1,2	
	Di-(4-chlorobenzoyl) peroxide, *maximum concentration 52% as a paste*	5.2	UN 2114	Organic Peroxide	II	1	5	
	Di-(4-chlorobenzoyl) peroxide, *maximum concentration 52% in solution*	5.2	UN 2115	Organic Peroxide	II	1	5	
	Di-(4-chlorobenzoyl) peroxide, *maximum concentration 75% with water*	5.2	UN 2113	Organic Peroxide	II	1	5	
	Dichlorodifluoromethane	2.2	UN 1028	Nonflammable Gas	–	1,2	1,2	
	Dichlorodifluoroethane and difluoroethane, azeotropic mixture, *with approximately 74% dichlorodifluoromethane*	2.2	UN 2602	Nonflammable Gas	–	1,2	1,2	
*	Dichlorodimethyl ether, symmetrical	6.1	UN 2249	Poison, Flammable Liquid	I	1	5	Stow 'away from' living quarters
	1,1-Dichloroethane	3.2	UN 2362	Flammable Liquid	II	1,2	1	
	Dichloroethylene	3.3	UN 1150	Flammable Liquid	II	1,2	1	
*	Dichloroethyl ether	6.1	UN 1916	Poison	II	1,2	1,2	
•	Dichloroisocyanuric acid, dry *or* Dichloroisocyanuric acid salts	5.1	UN 2465	Oxidizer	II	1,2	1,2	
	Dichloroisopropyl ether	6.1	UN 2490	Poison	II	1,2	1	
	Dichloromethane	6.1	UN 1593	St. Andrews Cross	III	1,2	1,2	Shade from radiant heat
	Dichloromonofluoromethane	2.2	UN 1029	Nonflammable Gas	–	1,2	1,2	
	1,1-Dichloro-1-nitroethane	6.1	UN 2650	Poison	II	1,3	1,3	Keep cool. Stow 'away from' living quarters
	Dichloropentane	3.3	UN 1152	Flammable Liquid	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Dichlorophenyl isocyanates	6.1	UN 2250	Poison	II	1,3	1,3	Shade from radiant heat. Stow 'away from' living quarters
	Dichlorophenyl trichlorosilane	8	UN 1766	Corrosive	II	1	1	Keep dry
	1,3-Dichloropropanol-2	6.1	UN 2750	Poison	II	1,3	1,3	Keep cool. Stow 'away from' living quarters
	Dichloropropene	3.3	UN 2047	Flammable Liquid	II	1,2	1,2	
	[illegible]	2.3	UN 2189	Poison Gas, Flammable Gas	–	1	5	Stow 'away from' living quarters
	[illegible]	2.2	UN 1958	Nonflammable Gas	–	1,2	1,2	
	Dicumyl peroxide, *technical pure or with inert solid*	5.2	UN 2121	Organic Peroxide	II	1	5	
	Dicyclohexylamine	8	UN 2565	Corrosive	III	1	5	Keep dry
	Dicyclohexylammonium nitrate	6.1	UN 2687	St. Andrews Cross	III	1,2	1,2	
	Dicyclohexyl peroxydicarbonate, *maximum concentration 91% with* [illegible]	5.2	UN 2153	Organic Peroxide	I	1	5	Control temperature 5 deg C. Emergency temperature 10 deg C
	Dicyclohexyl peroxydicarbonate, *technical pure*	5.2	UN 2152	Organic Peroxide	I	1	5	Control temperature 5 deg C. Emergency temperature 10 deg C
	Dicyclopentadiene	3.3	UN 2048	Flammable Liquid	II	1,2	1,2	
	Didecanoyl peroxide, *technical pure*	5.2	UN 2120	Organic Peroxide	II	1	5	Control temperature 15 deg C. Emergency temperature 20 deg C
•	2,2-Di-(4,4-di-tert-butylperoxy cyclohexyl) propane, *maximum concentration 42% with inert solid*	5.2	UN 2168	Organic Peroxide	II	1	5	
	Di-2,4-dichlorobenzoyl peroxide, *maximum concentration 75% with water*	5.2	UN 2137	Organic Peroxide	II	1	5	
	Di-2,4-dichlorobenzoyl peroxide, *maximum concentration 52% as a paste*	5.2	UN 2138	Organic Peroxide	II	1	5	
	Di-2,4-dichlorobenzoyl peroxide, *maximum concentration 52% in* [illegible]	5.2	UN 2139	Organic Peroxide	II	1	5	
•	1,2-Di-(dimethylamino)-ethane	3.2	UN 2372	Flammable Liquid	II	1,2	1	
	Didymium nitrate	5.1	UN 1465	Oxidizer	III	1,2	1,2	
	Diethoxymethane	3.1	UN 2373	Flammable Liquid	II	1,3	5	Keep cool
	3,3-Diethoxypropene	3.2	UN 2374	Flammable Liquid	II	1,2	1	
	Diethylaluminium chloride	4.2	UN 1101	Spontaneously Combustible	I	1	1	
	[illegible]	3.1	UN 1154	Flammable Liquid	II	1,3	5	Keep cool
	Diethylammoethanol	3.3	UN 2686	Flammable Liquid	III	1,2	1,2	
	3-(Diethylamino) propylamine	8	UN 2684	Corrosive, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
	N,N-Diethylaniline	6.1	UN 2432	St. Andrews Cross	III	1,2	1,2	
	[illegible]	3.3	UN 2049	Flammable Liquid	II	1,2	1,2	
	[illegible]	3.3	UN 2706	Flammable Liquid	II	1,2	1,2	
	Diethyl carbonate	3.3	UN 2366	Flammable Liquid	II	1,2	1,2	
	Diethyl dichlorosilane	8	UN 1767	Corrosive, Flammable Liquid	II	1	1	Keep dry. Separate longitudinally by an intervening compartment or hold from explosives. Segregation same as for flammable liquids
	N,N-Diethylene diamine	8	UN 2685	Corrosive, Flammable Liquid	II	1,3	1,3	Keep cool. Segregation same as for flammable liquids
*N	Diethyleneglycol dinitrate, desensitized *with not less than 25% non-volatile water-insoluble phlegmatizer, by weight*	1.1D	UN 0075	Explosive (1.1D)	–	–	–	
	Diethylenetriamine	8	UN 2079	Corrosive	II	1,2	1,2	Stow 'away from' acids, copper and copper alloys, and living quarters; 'separated from' nitric acid
	Diethyl ether	3.1	UN 1155	Flammable Liquid	I	1,3	5	Keep cool
•	Di-(2-ethylhexyl) peroxydicarbonate, *maximum concentration 77% in solution*	5.2	UN 2123	Organic Peroxide	II	1	5	Control temperature -15 deg C. Emergency temperature -5 deg C
•	Di-(2-ethylhexyl) peroxydicarbonate, *maximum concentration 32%, stable dispersion in water*	5.2	UN 2960	Organic Peroxide	II	1	5	Control temperature -10 deg C. Emergency temperature 0 deg C
	Di-(2-ethylhexyl) peroxydicarbonate, *technical pure*	5.2	UN 2122	Organic Peroxide	II	1	5	Control temperature -20 deg C. Emergency temperature -10 deg C
	Diethyl ketone	3.2	UN 1156	Flammable Liquid	II	1,2	1	
	Diethylmagnesium	4.2	UN 1367	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives (except explosives in Division 1.4, Compatibility Group S)
•	Diethyl-p-nitrosoaniline	4.2	–	Spontaneously Combustible	–	1,2	5	Stow 'away from' foodstuff
	Diethyl peroxydicarbonate, *maximum concentration 27% in solution*	5.2	UN 2175	Organic Peroxide	II	1	5	Control temperature -10 deg C. Emergency temperature 0 deg C
	Diethyl sulfide	3.2	UN 2375	Flammable Liquid, Poison	II	1,3	5	Keep cool and dry
	Diethyl sulphate	6.1	UN 1594	Poison	II	1	1	
	Diethylthiophosphoryl chloride	8	UN 2751	Corrosive, Flammable Liquid	II	1	5	Keep cool and dry. Segregation same as for flammable liquids
	Diethylzinc	4.2	UN 1366	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives (except explosives in Division 1.4, Compatibility Group S)
	1,1-Difluoroethane	2.1	UN 1030	Flammable Gas	–	1,2	1	Stow 'away from' living quarters
	1,1-Difluoroethylene	2.1	UN 1959	Flammable Gas	–	1,2	5	Stow 'away from' living quarters
	[illegible]. *See* Chlorodifluoroethane							
	Difluorophosphoric acid, *anhydrous*	8	UN 1768	Corrosive	II	1,2	1,2	
•	2,2-Dihydroperoxy propane, *maximum concentration 25% with inert inorganic solid*	5.2	UN 2178	Organic Peroxide	II	1	5	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	2,3-Dihydropyran	3.2	UN 2376	Flammable Liquid	II	1,2	1	
•	Di-(1-hydroxy cyclohexyl) peroxide, *technical pure*	5.2	UN 2148	Organic Peroxide	II	1	5	
	Diisobutylamine	3.3	UN 2361	Flammable Liquid	II	1,2	1,2	
	Diisobutylene, *(isomeric compounds)*	3.2	UN 2050	Flammable Liquid	II	1,2	1	
	Diisobutyl ketone	3.3	UN 1157	Flammable Liquid	III	1,2	1,2	
	Diisooctyl acid phosphate	8	UN 1902	Corrosive	III	1,2	1,2	Glass carboys in hampers not permitted under deck
	Diisopropylamine	3.3	UN 1158	Flammable Liquid	II	1,2	1	
	Diisopropylbenzene hydroperoxide, *maximum concentration 72% in solution*	5.2	UN 1171	Organic Peroxide	I	1	5	
	N,N-Diisopropyl ethanolamine	8	UN 2925	Corrosive	III	1,2	1,2	Stow 'away from' caustic alkalis
	Diisopropyl ether	3.1	UN 1159	Flammable Liquid	II	1,3	5	Keep cool
	Diisopropyl peroxydicarbonate, *technical pure*	5.2	UN 2133	Organic Peroxide	II	1	5	Control temperature -15 deg C. Emergency temperature -5 deg C
	Diisopropyl peroxydicarbonate, *maximum concentration 52% in solution*	5.2	UN 2134	Organic Peroxide	II	1	5	Control temperature -10 deg C. Emergency temperature 0 deg C
•	Dilauroyl peroxide, *technical pure*	5.2	UN 3149	Organic Peroxide	II	1	5	Control temperature -10 deg C. Emergency temperature 0 deg C
	Dilsotene, inhibited	3.3	UN 2521	Flammable Liquid	II	1,2	1,2	
•	Dilauroyl peroxide, *maximum concentration 42%, stable dispersion in water*	5.2	UN 2893	Organic Peroxide	II	1	5	
	Dilauroyl peroxide, *technical pure*	5.2	UN 2124	Organic Peroxide	II	1	5	
•	1,1-Dimethoxyethane	3.1	UN 2377	Flammable Liquid	II	1,3	5	Keep cool
		3.2	UN 2377	Flammable Liquid	II	1,2	1	
	1,3-Dimethoxyethane	3.2	UN 2252	Flammable Liquid	II	1,2	1	
	Dimethylamine, *anhydrous*	2.1	UN 1032	Flammable Gas	–	1,2	5	Stow 'away from' living quarters
•	Dimethylamine, solution	3.2	UN 1160	Flammable Liquid	II	1,2	1	
	1-Dimethylaminoacetonitrile	3.3	UN 1370	Flammable Liquid, Poison	II	1,2	1,2	
	Dimethylaminoethyl methacrylate	6.1	UN 2522	Poison	II	1,2	1	
	N,N-Dimethylaniline	6.1	UN 2253	Poison	II	1,3	1,3	Stow 'away from' sources of heat
•	Di-(2-methylbenzoyl)peroxide, *with at least 15% water*	5.2	UN 2593	Organic Peroxide	I	1	5	Control temperature 30 deg C. Emergency temperature 35 deg C
	2,3-Dimethylbutane	3.1	UN 2457	Flammable Liquid	II	1,3	5	Keep cool
	1,3-Dimethylbutylamine	3.2	UN 2379	Flammable Liquid	II	1,2	1	
	N,N-Dimethylcarbamoyl chloride	8	UN 2262	Corrosive	II	1,2	1,2	
	Dimethyl carbonate	3.2	UN 1161	Flammable Liquid	II	1,2	1	
	Dimethylcyclohexanes	3.2	UN 2263	Flammable Liquid	II	1,2	1	
	N,N-Dimethylcyclohexylamine	8	UN 2264	Corrosive, Flammable Liquid	II	1,3	1,3	Keep cool. Segregation same as for flammable liquids
•	2,5-Dimethyl-2,5-di-(benzoylperoxy) hexane, *maximum concentration 82% with water*	5.2	UN 2939	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-di-(benzoylperoxy) hexane, *maximum concentration 82% with inert solid*	5.2	UN 2173	Organic Peroxide	II	1	5	
	2,5-Dimethyl-2,5-di-(benzoylperoxy) hexane, *technical pure*	5.2	UN 1171	Organic Peroxide	II	1	5	
•	2,5-Dimethyl-2,5-di-(tert-butylperoxy) hexane, *maximum concentration 72% with inert solid*	5.2	UN 1156	Organic Peroxide	II	1	5	
•	2,5-Dimethyl-2,5-di-(tert-butylperoxy) hexane, *technical pure*	5.2	UN 2155	Organic Peroxide	II	1	5	
•	2,5-Dimethyl-2,5-di-(tert-butylperoxy) hexyne-3, *maximum concentration 52% with inert solid*	5.2	UN 1159	Organic Peroxide	II	1	5	
•	2,5-Dimethyl-2,5-di-(tert-butylperoxy) hexyne-3, *technical pure*	5.2	UN 2158	Organic Peroxide	II	1	5	
	Dimethyldichlorosilane	3.2	UN 1162	Flammable Liquid, Corrosive	I	1,2	1	
	Dimethyldiethoxysilane	3.2	UN 2380	Flammable Liquid	II	1,2	1	
•	2,5-Dimethyl-2,5-di -(2-ethylhexanoylperoxy) hexane, *technical pure*	5.2	UN 2157	Organic Peroxide	II	1	5	Control temperature 20 deg C. Emergency temperature 25 deg C
	2,5-Dimethyl-2,5-dihydroperoxy hexane, *maximum concentration 82% with water*	5.1	UN 2174	Organic Peroxide	I	1	5	
	Dimethyldioxanes	3.2	UN 2707	Flammable Liquid	II	1,2	1	
	Dimethyldioxanes	3.3	UN 2707	Flammable Liquid	II	1,2	1,2	
	Dimethyl disulfide	3.3	UN 2381	Flammable Liquid	II	1,2	1	
	Dimethylethanolamine	3.3	UN 2051	Flammable Liquid	II	1,3	1,3	
	Dimethyl ether	2.1	UN 1033	Flammable Gas	–	1,2	1	Stow 'away from' living quarters
	N,N-Dimethylformamide	3.3	UN 2265	Flammable Liquid	III	1,2	1,2	
	Dimethylhydrazine, *symmetrical*	3.2	UN 2382	Flammable Liquid, Poison	I	1,3	5	Keep cool
•	Dimethylhydrazine, *unsymmetrical*	3.3	UN 1163	Flammable Liquid, Corrosive	I	1,2	1	Stow 'separated from' corrosive liquids and oxidizers
	Dimethylmagnesium	4.2	UN 1366	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives (except explosives in Division 1.4, Compatibility Group S)
	Dimethyl-p-nitrosoaniline. See p-Nitrosodimethylaniline							
•	2,2-Dimethylpropane other than pentane and isopentane	2.1	UN 2044	Flammable Gas	–	1,2	1	
	Dimethyl-N-propylamine	3.2	UN 2266	Flammable Liquid, Corrosive	II	1,2	1	
	Dimethyl sulphate	6.1	UN 1595	Poison	I	1	5	Stow 'away from' living quarters
	Dimethyl sulphide	3.1	UN 1164	Flammable Liquid	I	1,3	5	Keep cool

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Dimethyl thiophosphoryl chloride	8	UN 2267	Corrosive	III	1,2	1	Keep dry. Shade from radiant heat. Glass carboys prohibited on passenger vessels
	Dimethylzinc	4.2	UN 1370	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives (except explosives in Division 1.4, Compatibility Group S)
	Dinyristylperoxydicarbonate, *maximum concentration 22%, stable dispersion in water*	5.2	UN 2892	Organic Peroxide	II	1	5	Control temperature 20 deg C. Emergency temperature 25 deg C
	Dinyristylperoxydicarbonate, *technical pure*	5.2	UN 2595	Organic Peroxide	II	1	5	Control temperature 20 deg C. Emergency temperature 25 deg C
	Dinitroanilines	6.1	UN 1596	Poison	II	1,2	1,2	
	Dinitrobenzenes *(o-, m-, p-)*	6.1	UN 1597	Poison	II	1,2	1,2	
•	Dinitro-o-cresol, *liquid*	6.1	UN 1598	Poison	I	1	1	
		6.1	UN 1598	Poison	II	1,2	1	
		6.1	UN 1598	St. Andrews Cross	III	1,2	1,2	
•	Dinitro-o-cresol, *solid*	6.1	UN 1598	Poison	I/II	1,2	1,2	
		6.1	UN 1598	St. Andrews Cross	III	1,2	1,2	
	Dinitrogen tetroxide. *See* Nitrogen dioxide							
*N	Dinitrophenates *alkali metals, dry or wetted with less than 15% water, by weight*	1.3C	UN 0077	Explosive (1.3C), Poison	–	–	–	
	Dinitrophenolates, wetted *with, by weight, at least 15% water*	4.1	UN 1321	Flammable Solid, Poison	I	1,2	5	Stow 'away from' heavy metals and their compounds
*N	Dinitrophenol, *dry or wetted with less than 15% water, by weight*	1.1D	UN 0076	Explosive (1.1D), Poison	–	–	–	
	Dinitrophenol, solution *in water or flammable liquid*	6.1	UN 1599	Poison, Flammable Liquid (only if flashpoint between 23 deg C and 61 deg C)	II	1,2	5	Stow 'away from' heavy metals and their compounds. Segregation same as for flammable liquids if flash point below 61 deg C
	Dinitrophenol, wetted *with, by weight, at least 15% water*	4.1	UN 1320	Flammable Solid, Poison	I	1,2	5	Stow 'away from' heavy metals and their compounds and sodium compounds
*N	Dinitroresorcinol, *dry or wetted withless than 15% water*	1.1D	UN 0078	Explosive (1.1D)	–	–	–	
	Dinitroresorcinol, wetted *with, by weight, at least 15% water*	4.1	UN 1322	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals and their compounds
N	Dinitrosobenzene	1.3C	UN 0406	Explosive (1.3C)	–	–	–	
•	Dinitrotoluenes, *molten*	6.1	UN 1600	Poison	II	1,2	1,2	
•	Dinitrotoluenes, *solid*	6.1	UN 2038	Poison	II	1,2	1,2	
	Di-n-nonanoyl peroxide, *technical pure*	5.2	UN 2130	Organic Peroxide	II	1	5	Control temperature 0 deg C. Emergency temperature 10 deg C
	Di-n-octanoyl peroxide, *technical pure*	5.2	UN 2129	Organic Peroxide	II	1	5	Control temperature 10 deg C. Emergency temperature 15 deg C
	Dioxane	3.2	UN 1165	Flammable Liquid	II	1,2	1	
	Dioxolane	3.2	UN 1166	Flammable Liquid	II	1,2	1	
	Dipentene	3.3	UN 2052	Flammable Liquid	II	1,2	1,2	
•	Diperoxyazelaic acid, *maximum concentration 27%, with not less than 13% azelaic acid and not less than 53% sodium sulphate*	5.2	UN 2958	Organic Peroxide	II	1	5	Control temperature 35 deg C. Emergency temperature 40 deg C
	Diphenylaminechloroarsine	6.1	UN 1698	Poison	I	1	5	
	Diphenylchloroarsine	6.1	UN 1699	Poison	I	1	5	Stow 'away from' living quarters
	Diphenyl dichloroarsine	8	UN 1769	Corrosive	II	1	1	Keep dry
•	Diphenylmethane-4,4'diisocyanate	6.1	UN 2489	St. Andrews Cross	III	1,2	1,2	Stow 'away from' sources of heat
	Diphenylmethyl bromide	8	UN 1770	Corrosive	II	1	5	
*N	Dipicryl sulfide, *dry or wetted with less than 10% water, by weight*	1.1D	UN 0401	Explosive (1.1D)	–	–	–	
	Dipicryl sulphide, wetted *with, by weight, at least 10% water*	4.1	UN 2852	Flammable Solid	I	1	5	
	Dipropionyl peroxide, *maximum concentration 28% in solution*	5.2	UN 2132	Organic Peroxide	II	1	5	Control temperature 15 deg C. Emergency temperature 20 deg C
	Dipropylamine	3.2	UN 2383	Flammable Liquid	II	1,2	1	
	Dipropyl ether	3.1	UN 2384	Flammable Liquid	II	1,3	5	Keep cool
•	Dipropylketone	3.3	UN 2710	Flammable Liquid	III	1,2	1,2	
	Di-n-propyl peroxydicarbonate, *technical pure*	5.2	UN 2176	Organic Peroxide	I	1	5	Control temperature -25 deg C. Emergency temperature -15 deg C
•	Disinfectants, corrosive, liquid, n.o.s.	8	UN 1903	Corrosive	II	1,2	1,2	
•	Disinfectants, n.o.s., *poisonous, liquid or solid*	6.1	UN 1601	Poison	I	1,2	1	
		6.1	UN 1601	Poison	II	1,2	1,2	
		6.1	UN 1601	St. Andrews Cross	III	1,2	1,2	
•	Distearylperoxydicarbonate, *with 15% stearyl alcohol*	5.2	UN 2592	Organic Peroxide	II	1	5	
•	Disuccinic acid peroxide, *maximum concentration 72%, wetted with water*	5.2	UN 2962	Organic Peroxide	I	1	5	Control temperature 10 deg C. Emergency temperature 15 deg C
	Disuccinic acid peroxide, *technical pure*	5.2	UN 2135	Organic Peroxide	I	1	5	
•	Dithiocarbamate pesticides, liquid, flammable, toxic, n.o.s., *flashpoint less than 23 deg C*	3.2	UN 2772	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Dithiocarbamate pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 3005	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 3005	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 3005	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Dithiocarbamate pesticides, liquid, toxic, n.o.s.	6.1	UN 3006	Poison	I	1	1	
		6.1	UN 3006	Poison	II	1,2	1	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Descriptions and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
		6.1	UN 3006	St. Andrews Cross	III	1,2	1,2	
•	Dithiocarbamate pesticides, solid, toxic, n.o.s.	6.1	UN 2771	Poison	I/II	1,2	1,2	
		6.1	UN 2771	St. Andrews Cross	III	1,2	1,2	
•	Di-(3,5,5-trimethyl-1,2-dioxacyclyl-3)peroxide, *as a paste with at least 50% phlegmatizer*	5.2	UN 2597	Organic Peroxide	II	1	5	Control temperature 30 deg C. Emergency temperature 35 deg C
•	Di-(3,5,5-trimethylhexanoyl)peroxide, *technical pure or in solution*	5.2	UN 2128	Organic Peroxide	II	1	5	Control temperature 0 deg C. Emergency temperature 10 deg C
•	Divinyl ether, inhibited	3.1	UN 1167	Flammable Liquid	II	1,3	5	Keep cool
	Dodecyl trichlorosilane	8	UN 1771	Corrosive	II	1	1	Keep dry
	Dressing, leather. *See* Flammable liquid preparations, n.o.s.							
	Driers, *paint or varnish*, liquid, n.o.s.	3.2	UN 1148	Flammable Liquid	II	1,2	1	
		3.3	UN 1148	Flammable Liquid	II	1,2	1,2	
	Driers, *paint or varnish*, solid, n.o.s.	4.1	UN 1371	Flammable Solid	III	1,2	1,2	
•	Dyes, n.o.s. *or* Dye intermediates, n.o.s., *liquid or solid, corrosive*	8	UN 2801	Corrosive, Flammable Liquid (only if flashpoint between 23 and 61 deg C)	II/III	1,2	1,2	Segregation same as for flammable liquids, if flashpoint between 23 and 61 deg C
•	Dyes, n.o.s. *or* Dye intermediates, n.o.s., *liquid or solid, poisonous*	6.1	UN 1602	Poison	I	1,2	1	
		6.1	UN 1602	Poison	II	1,2	1,2	
		6.1	UN 1602	St. Andrews Cross	III	1,2	1,2	
	Enamels. *See* Paints, etc.							
	Engine starting fluid, *with flammable gas*	2.1	UN 1960	Flammable Gas	–	1,2	5	Stow 'away from' living quarters
	Epibromohydrin	6.1	UN 2558	Poison, Flammable Liquid	I	1	5	Stow 'away from' living quarters. Segregation same as for flammable liquids. Shade from radiant heat
	Epichlorohydrin	6.1	UN 2023	Poison, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids. Stow 'away from' living quarters
	1,2-Epoxy-3-ethoxy propane	3.3	UN 2752	Flammable Liquid	III	1,2	1,2	
	Eradicators, *paint or grease, liquid. To be classified and labeled according to the principle hazardous constituent*	–	UN 1850		–	1,2	1	
•	Essences. *See* Extracts, aromatic, liquid							
	Ethane, *compressed*	2.1	UN 1035	Flammable Gas	–	1,2	5	
	Ethane, *refrigerated liquid*	2.1	UN 1961	Flammable Gas	–	1	5	
•	Ethanolamine *or* Ethanolamine solutions	8	UN 2491	Corrosive	III	1,2	1,2	
	Ethanol *or* Ethanol solutions *including* Alcoholic beverages	3.2	UN 1170	Flammable Liquid	II	1,2	1	
		3.3	UN 1170	Flammable Liquid	III	1,2	1,2	
	Ether. *See* Diethyl ether							
	Ethyl acetate	3.2	UN 1173	Flammable Liquid	II	1,2	1	
•	Ethyl acetylene, *inhibited*	2.1	UN 2452	Flammable Gas	–	1	5	
	Ethyl acrylate, *inhibited*	3.2	UN 1917	Flammable Liquid	II	1,2	1	
	Ethyl alcohol. *See* Ethanol							
	Ethyl aldehyde. *See* Acetaldehyde							
	Ethyl aluminum dichloride	4.2	UN 1924	Spontaneously Combustible	I	1	1	
	Ethyl aluminum sesquichloride	4.2	UN 1925	Spontaneously Combustible	I	1	1	
	Ethylamine	2.1	UN 1036	Flammable Gas	–	1,2	5	
•	Ethylamine solution *in water, concentrations up to 70%*	3.1	UN 2270	Flammable Liquid	II	1,3	5	Keep cool
		3.2	UN 2270	Flammable Liquid	II	1,2	1,2	
		3.3	UN 2270	Flammable Liquid	III	1,2	1,2	
	Ethyl amyl ketone	3.3	UN 2271	Flammable Liquid	III	1,2	1,2	
	N-Ethylaniline	6.1	UN 2272	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	2-Ethylaniline	6.1	UN 2273	St. Andrews Cross	III	1,2	1,2	
	Ethylbenzene	3.2	UN 1175	Flammable Liquid	II	1,2	1,2	
	N-Ethyl-α-benzylaniline	6.1	UN 2274	St. Andrews Cross	III	1,2	1,2	Stow 'away from' living quarters
	N-ethylbenzyltoluidines	6.1	UN 2753	St. Andrews Cross	III	1,3	1,3	Keep cool
	Ethyl borate	3.2	UN 1176	Flammable Liquid	II	1,2	1	
	Ethyl bromide	6.1	UN 1891	Poison	II	1,3	1	Stow 'away from' sources of heat
	Ethyl bromoacetate	6.1	UN 1603	Poison, Flammable Liquid	II	1	5	Stow 'away from' living quarters. Segregation same as for flammable liquids
	2-Ethylbutanol	3.3	UN 2275	Flammable Liquid	III	1,2	1,2	
	Ethylbutyl acetate	3.3	UN 1177	Flammable Liquid	III	1,2	1,2	
	Ethyl butyl ether	3.2	UN 1179	Flammable Liquid	II	1,2	1	
	2-Ethylbutyraldehyde	3.2	UN 1178	Flammable Liquid	II	1,2	1	
	Ethyl butyrate	3.3	UN 1180	Flammable Liquid	II	1,2	1,2	
	Ethyl chloride	2.1	UN 1037	Flammable Gas	–	1,2	5	Stow 'away from' living quarters
	Ethyl chloroacetate	6.1	UN 1181	Poison, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids. Stow 'away from' sources of heat and living quarters
	Ethyl chlorocarbonate. See Ethyl chloroformate							
	Ethyl chloroformate	3.2	UN 1182	Flammable Liquid, Poison, Corrosive	I	1,2	1	
•	Ethyl-2-chloropropionate	3.3	UN 2935	Flammable Liquid	III	1,2	1,2	
•	Ethyl chlorothioformate	8	UN 2826	Corrosive, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids
	Ethyl crotonate	3.2	UN 1862	Flammable Liquid	II	1,2	1	
	Ethyl cyanoacetate	6.1	UN 2666	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	Ethyl-3,3-di-(tert-butylperoxy) butyrate, *maximum concentration 77% in solution*	5.2	UN 2185	Organic Peroxide	II	1	5	
•	Ethyl-3,3-di-(tert-butylperoxy) butyrate, *technical pure*	5.2	UN 2186	Organic Peroxide, Explosive (May not be required under certain conditions. See IMDG Code)	II	1	5	
•	Ethyl-3,3-di(tert-butylperoxy)butyrate, *with at least 50% inert, inorganic solid*	5.2	UN 2598	Organic Peroxide	II	1	5	
	Ethyl dichloroarsine	6.1	UN 1892	Poison	I	1	5	Stow 'away from' living quarters
	Ethyldichlorosilane	3.2	UN 1183	Flammable Liquid, Corrosive	II	1,2	1	
	Ethylene chlorohydrin	6.1	UN 1135	Poison, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids. Stow 'away from' living quarters and sources of heat
	Ethylene, *compressed*	2.1	UN 1962	Flammable Gas	–	1,2	5	Stow 'away from' living quarters
	Ethylenediamine	8	UN 1604	Corrosive, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids
	Ethylene dibromide	6.1	UN 1605	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Ethylene dichloride	3.2	UN 1184	Flammable Liquid, Poison	II	1,2	1	
	Ethylene glycol diethyl ether	3.3	UN 1153	Flammable Liquid	III	1,2	1,2	
	Ethylene glycol monobutyl ether	6.1	UN 2369	St. Andrews Cross, Flammable Liquid (only if flashpoint below 61 deg C)	III	1,3	1,3	Shade from radiant heat. Stow 'away from' living quarters. If flashpoint below 61 deg C, segregation same as for flammable liquids
	Ethylene glycol monoethyl ether	3.3	UN 1171	Flammable Liquid	III	1,2	1,2	
	Ethylene glycol monoethyl ether acetate	3.3	UN 1172	Flammable Liquid	III	1,2	1,2	
	Ethylene glycol monomethyl ether	3.3	UN 1188	Flammable Liquid	III	1,2	1,2	
	Ethylene glycol monomethyl ether acetate	3.3	UN 1189	Flammable Liquid	III	1,2	1,2	
	Ethylenediamine, *inhibited*	3.2	UN 1185	Flammable Liquid, Poison	II	1,2	1	
•	*Ethylene oxide and carbon dioxide,' mixtures.* See Carbon dioxide and ethylene oxide mixtures							
•	Ethylene oxide and propylene oxide mixtures, *not more than 30% ethylene oxide*	3.1	UN 2983	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Ethylene oxide, *containing not more than 0.2% of nitrogen*	2.1	UN 1040	Flammable Gas, Poison Gas	–	1,2	1	Stow 'away from' living quarters
	Ethylene, *refrigerated liquid*	2.1	UN 1038	Flammable Gas	–	1	5	Stow 'away from' living quarters
	Ethyl ether. *See* Diethyl ether							
	Ethyl fluid. *See* Motor fuel antiknock mixtures.							
	Ethyl fluoride	2.1	UN 2453	Flammable Gas	–	1,2	5	
	Ethyl formate	3.1	UN 1190	Flammable Liquid	II	1,3	5	Keep cool
	Ethyl hexaldehyde	3.3	UN 1191	Flammable Liquid	III	1,2	1,2	
	2-Ethylhexylamine	8	UN 2276	Corrosive, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
	2-Ethylhexylchloroformate	6.1	UN 2748	Poison, Corrosive	II	1,3	1,3	Keep cool and dry. Shade from radiant heat. Stow 'away from' living quarters
	Ethylisobutyrate	3.2	UN 2385	Flammable Liquid	II	1,2	1	
	Ethyl isocyanate	3.2	UN 2481	Flammable Liquid, Poison	I	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	Ethyl lactate	3.3	UN 1192	Flammable Liquid	III	1,2	1,2	
	Ethyl mercaptan	3.1	UN 2363	Flammable Liquid, Poison	II	1,3	5	Keep cool and dry. Stow 'separated from' foodstuffs and all odor absorbing cargo
	Ethyl methacrylate, inhibited	3.2	UN 2277	Flammable Liquid	II	1,2	1	
	Ethyl methyl ether	2.1	UN 1039	Flammable Gas	–	1,2	1	Stow 'away from' living quarters
	Ethyl methyl ketone	3.2	UN 1193	Flammable Liquid	II	1,2	1	
	Ethyl methyl ketone peroxide(s), *maximum concentration 60%*	5.2	UN 2127	Organic Peroxide	I	1	5	
	Ethyl methyl ketone peroxide(s), *maximum concentration 50%, containing not more than 10% available oxygen*	5.2	UN 2550	Organic Peroxide	I	1	5	
N	Ethyl methyl ketone peroxide(s), *maximum concentration 50%, containing more than 10% available oxygen*				–	–	–	
•	Ethyl nitrite, solutions	3.1	UN 1194	Flammable Liquid	I	1,3	5	Keep cool
	Ethyl orthoformate	3.3	UN 2524	Flammable Liquid	II	1,2	1,2	
	Ethyl oxalate	6.1	UN 2525	St. Andrews Cross	III	1,2	1,2	
	Ethylphenyldichlorosilane	8	UN 2435	Corrosive	II	1	1	Keep dry
	1-Ethyl piperidine	3.2	UN 2386	Flammable Liquid	II	1,2	1	
	Ethyl propionate	3.2	UN 1195	Flammable Liquid	II	1,2	1	
	Ethyl propyl ether	3.1	UN 2615	Flammable Liquid	II	1,3	5	Keep cool
	Ethyl silicate. *See* Tetraethyl silicate							
	Ethylsulphuric acid	8	UN 2571	Corrosive	II	1,2	1	Keep dry. Metal drums only permitted under deck
	N-Ethyltoluidines *(o,m,p)*	6.1	UN 2754	Poison, Flammable Liquid (only if flashpoint below 61 deg C)	II	1,3	1,3	Keep cool. Shade from radiant heat. Stow 'away from' living quarters. If flashpoint below 61 deg C, segregation same as for flammable liquids
	Ethyltrichlorosilane	3.2	UN 1196	Flammable Liquid, Corrosive	II	1,2	1	
N	Explosives, blasting, Type A	1.1D	UN 0081	Explosive (1.1D)	–	–	–	
	Explosives, blasting, Type B	1.5 D	UN 0331	Explosive (1.5D)	–	6	5	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
N	Explosives, blasting, Type B	1.1D	UN 0082	Explosive (1.1D)	–	–	–	
N	Explosives, blasting, Type C	1.1D	UN 0083	Explosive (1.1D)	–	–	–	
N	Explosives, blasting, Type D	1.1D	UN 0084	Explosive (1.1D)	–	–	–	
	Explosives, blasting, Type E	1.5 D	UN 0331	Explosive (1.5D)	–	6	5	
N	Explosives, blasting, Type E	1.1D	UN 0241	Explosive (1.1D)	–	–	–	
	Extracts, aromatic, liquid	3.3	UN 1169	Flammable Liquid	II/III	1,2	1	
		3.3	UN 1169	Flammable Liquid	III	1,2	1,2	
	Extracts, flavouring, liquid	3.2	UN 1197	Flammable Liquid	II/III	1,2	1	
		3.3	UN 1197	Flammable Liquid	III	1,2	1,2	
•	Fabric, animal or vegetable. *See* Fibres, animal or vegetable							
	Ferric arsenate	6.1	UN 1606	Poison	II	1,2	1,2	
	Ferric arsenite	6.1	UN 1607	Poison	II	1,2	1,2	
	Ferric chloride, anhydrous	8	UN 1773	Corrosive	III	1,2	1,2	
	Ferric chloride, solution	8	UN 2582	Corrosive	III	1,2	1,2	
	Ferric nitrate	5.1	UN 1466	Oxidizer	III	1,2	1,2	
	Ferrocerium	4.1	UN 1323	Flammable Solid	II	1,2	1,2	
•	Ferrosilicon, *containing more than 30% but less than 90% silicon*	4.3	UN 1408	Dangerous When Wet, Poison	III	1,2	1,2	Keep dry. When stowed under deck, stow in a mechanically ventilated space
	Ferrous arsenate	6.1	UN 1608	Poison	II	1,2	1,2	
	Ferrous metal borings, shavings, turnings, or cuttings *in a form liable to self heating*	4.2	UN 2793	Spontaneously Combustible	III	1,2	1,2	
	Fertilizer ammoniating solution, *containing free ammonia in excess of 35% ammonia*	2.3	UN 1043	Nonflammable Gas	–	1,2	5	Stow 'away from' living quarters
•	Fibers, animal or vegetable, *burnt, wet or damp*	4.2	UN 1372	Spontaneously Combustible	III	1,2	1,2	
•	Fibers or Fabric, animal or vegetable, *containing more than 5% of animal or vegetable oil*	4.2	UN 1373	Spontaneously Combustible	III	1,2	1,2	
	Fibers, vegetable, *dry*	4.1	–	None	–	1,2	1,2	Stow 'away from' animal or vegetable oils
	Fillers, *liquid. See* Paints, etc.							
•	Film, motion picture, *nitrocellulose base, exposed and developed film, or unexposed or undeveloped film*	4.1	UN 1324	Flammable Solid	III	1,2	1,2	Stow 'away from' flammable substances. Maximum 250 Kg. net on deck on passenger vessels
	Film, motion picture, *nitrocellulose base, old film*	4.1	UN 1324	Flammable Solid	III	1	1	Stow 'away from' flammable substances
	Fire extinguisher charges, *corrosive liquid*	8	UN 1774	Corrosive	II	1,2	1,2	
	Fire extinguishers, *containing compressed or liquefied gas*	2.2	UN 1044	Nonflammable Gas	–	1,2	1,2	
•	Firelighters, *solid, with a flammable liquid*	4.1	UN 2623	Flammable Solid	II/III	1,2	1,2	
N	Fireworks, Type A	1.1G	UN 0333	Explosive (1.1G)	–	–	–	
N	Fireworks, Type B	1.2G	UN 0334	Explosive (1.2G)	–	–	–	
N	Fireworks, Type C	1.3G	UN 0335	Explosive (1.3G)	–	–	–	
	Fireworks, Type D	1.4 G	UN 0336	Explosive (1.4G)	–	1,3	1,3	
	Fireworks, Type D	1.4 S	UN 0337	None. Package to be marked '1.4 S'	–	1,3	1,3	
•	Fishmeal or fishscrap, *antioxidant treated, moisture content greater than 5% but not exceeding 12%, by weight, fat content not more than 15% by weight*	9	UN 2216	None	III	1,2	1,2	
•	Fishmeal or fishscrap, *high hazard, unrestricted moisture content, unrestricted fat content in excess of 12% by weight; unrestricted fat content in excess of 15%, by weight, in the case of anti-oxidant treated fishmeal or fishscrap*	4.2	UN 1374	Spontaneously Combustible	II	1,2	1,2	
•	Fishmeal or fishscrap, *not antioxidant treated, moisture content greater than 5% but not exceeding 12% by weight, fat content not exceeding 12% by weight*	4.2	UN 1374	None. Package to be marked 'Class 4.2'	III	1,2	1,2	Double strip stowage recommended. Provide good surface and through ventilation
•	*Flammable gas in lighters. See* Lighters for cigars and cigarettes, *etc. with flammable gas*							
•	Flammable liquid preparations, n.o.s.	3.2	UN 1142	Flammable Liquid	II	1,2	1	
		3.3	UN 1142	Flammable Liquid	II	1,2	1,2	
	Flammable liquids, corrosive, n.o.s.	3.1	UN 2924	Flammable Liquid, Corrosive	I/II	1,3	5	Keep cool. Stow 'away from' foodstuffs
		3.2	UN 2924	Flammable Liquid, Corrosive	I/II	1,2	1	
	Flammable liquids, n.o.s.	3.1	UN 1993	Flammable Liquid	I/II	1,3	5	Keep cool
		3.2	UN 1993	Flammable Liquid	II	1,2	1	
		3.3	UN 1993	Flammable Liquid	II	1,2	1,2	
•	Flammable liquids, poisonous, n.o.s.	3.1	UN 1992	Flammable Liquid, Poison	I/II	1,3	5	Keep cool
		3.2	UN 1992		II	1,2	1	
		3.3	UN 1992	Flammable Liquid, Poison Flammable Liquid, Poison	II	1,2	1,2	
•	Flammable solids, corrosive, n.o.s.	4.1	UN 2925	Flammable Solid, Corrosive	I/II/III	1	5	Stow 'separated from' oxidizing substances
•	Flammable solids, n.o.s.	4.1	UN 1325	Flammable Solid	I	1,2	5	
		4.1	UN 1325	Flammable Solid	II/III	1,2	1	
•	Flammable solids, poisonous, n.o.s.	4.1	UN 2926	Flammable Solid	I	1,2	5	
		4.1	UN 2926	Flammable Solid	II	1,2	1	
*N	Flares, aerial	1.1G	UN 0420	Explosive (1.1G)	–	–	–	
*N	Flares, aerial	1.2G	UN 0421	Explosive (1.2G)	–	–	–	
*N	Flares, aerial	1.3G	UN 0093	Explosive (1.3G)	–	–	–	
	Flares, aerial	1.4G	UN 0403	Explosive (1.4G)	–	1,3	1,3	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Flares, aerial	1.4S	UN 0404	None. Package to be marked "1.4S"	–	1,3	1,3	
°N	Flares, surface *(other than water-activated flares)*	1.1G	UN 0418	Explosive (1.1G)	–	–	–	
°N	Flares, surface *(other than water-activated flares)*	1.2G	UN 0419	Explosive (1.2G)	–	–	–	
N	Flares, surface *(other than water-activated flares)*	1.3G	UN 0092	Explosive (1.3G)	–	–	–	
	Flax, dry. See Fibres, vegetable, dry							
	Fluoboric acid	8	UN 1775	Corrosive	II	1,2	1,2	
	Fluoric acid. *See* Hydrofluoric acid, solution							
	Fluorine, *compressed*	2.3	UN 1045	Poison Gas, Oxidizer	–	1	5	Stow 'away from' foodstuffs, organic materials, and living quarters
	Fluoroacetic acid	6.1	UN 2642	Poison	I	1,3	1,3	Keep cool. Stow 'away from' living quarters
•	4-Fluoroaniline	6.1	UN 2941	St. Andrews Cross	III	1,2	1,2	
•	2-Fluoroaniline	6.1	UN 2941	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Shade from radiant heat. Segregation same as for flammable liquids
	Fluorobenzene	3.2	UN 2387	Flammable Liquid	II	1,2	1	
	Fluorophosphoric acid, *anhydrous*	8	UN 1776	Corrosive	II	1,2	1,2	
	Fluorosulphonic acid	8	UN 1777	Corrosive	I	1	5	Keep dry. Stow 'away from' fluorides
	Fluorotoluenes	3.2	UN 2388	Flammable Liquid	II	1,2	1	
		3.3	UN 2388	Flammable Liquid	II	1,2	1,2	
	Fluosilicic acid	8	UN 1778	Corrosive	II	1,2	1,2	
	Formaldehyde solutions	3.3	UN 1198	Flammable Liquid	II	1,2	1,2	
	Formaldehyde, solutions *with a flashpoint above 61 degrees C*	9	UN 2209	None	III	1,2	1,2	Stow 'away from' foodstuffs
	Formalin. *See* Formaldehyde							
	Formic acid	8	UN 1779	Corrosive	II	1,2	1,2	Glass carboy in hampers prohibited under deck
N	Fracturing devices, explosive, *for oil wells*	1.1D	UN 0099	Explosive (1.1D)	–	–	–	
	Fuel, aviation, *turbine engine*	3.2	UN 1863	Flammable Liquid	II	1,2	1	
	Fuel, pyrophoric, n.o.s.	4.2	UN 1375	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives (except explosives in Division 1.4, Compatibility Group S)
	Fumaryl chloride	8	UN 1780	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Furan	3.1	UN 2389	Flammable Liquid	I	1,3	5	Keep cool
	Furfural	3.3	UN 1199	Flammable Liquid	II	1,2	1,2	
	Furfuryl alcohol	6.1	UN 2874	St. Andrews Cross	III	1,2	1,2	Stow 'separated from' oxidizing substances
	Furfurylamine	3.3	UN 2526	Flammable Liquid	II	1,2	1,2	
	Fuse, igniter, *tubular, metal clad*	1.4 G	UN 0103	Explosive (1.4G)	–	1,3	1,3	
N	Fuse, instantaneous, non-detonating	1.3G	UN 0101	Explosive (1.3G)	–	–	–	
	Fuse oil	3.2	UN 1201	Flammable Liquid	II	1,2	1	
	Fuse, safety	1.4 S	UN 0105	None. Package to be marked "1.4 S"	–	1,3	1,3	
	Fuzes, detonating	1.4S	UN 0367	None. Package to be marked "1.4S"	–	1,3	1,3	
	Fuzes, detonating	1.4 B	UN 0257	Explosive (1.4B)	–	1,3	1,3	
N	Fuzes, detonating	1.1B	UN 0106	Explosive (1.1B)	–	–	–	
N	Fuzes, detonating	1.2B	UN 0107	Explosive (1.2B)	–	–	–	
N	Fuzes, detonating, *with protective features*	1.1D	UN 0408	Explosive (1.1D)	–	–	–	
N	Fuzes, detonating, *with protective features*	1.2D	UN 0409	Explosive (1.2D)	–	–	–	
N	Fuzes, detonating, *with protective features*	1.4D	UN 0410	Explosive (1.4D)	–	–	–	
	Fuzes, igniting	1.4S	UN 0368	None. Package to be marked "1.4S"	–	1,3	1,3	
N	Fuzes, igniting	1.3G	UN 0316	Explosive (1.3G)	–	–	–	
N	Fuzes, igniting	1.4G	UN 0317	Explosive (1.4G)	–	–	–	
	Gallium, *metal*	8	UN 2803	Corrosive	III	1,2	1	Stow 'away from' sources of heat and acids
	Gas drips, *hydrocarbon*	3.2	UN 1864	Flammable Liquid	II	1,2	1	
	Gas oil	3.3	UN 1202	Flammable Liquid	II	1,2	1,2	
	Gasoline	3.1	UN 1203	Flammable Liquid	II	1,3	5	Keep cool
	Germane	2.3	UN 2192	Poison Gas, Flammable Gas	–	1	5	Stow 'away from' living quarters
	Glycerol-alpha-monochlorohydrin	6.1	UN 2689	St. Andrews Cross	III	1,2	1,2	
	Glycolaldehyde	3.3	UN 2622	Flammable Liquid, Poison	II	1,2	1,2	
N	Grenades, *hand or rifle, with bursting charge*	1.1D	UN 0284	Explosive (1.1D)	–	–	–	
N	Grenades, *hand or rifle, with bursting charge*	1.2D	UN 0285	Explosive (1.2D)	–	–	–	
N	Grenades, *hand or rifle, with bursting charge*	1.1F	UN 0292	Explosive (1.1F)	–	–	–	
N	Grenades, *hand or rifle, with bursting charge*	1.2F	UN 0293	Explosive (1.2F)	–	–	–	
	Grenades, practice, *hand or rifle*	1.4 S	UN 0110	None. Package to be marked "1.4 S"	–	1,3	1,3	
N	Grenades, practice, *hand or rifle*	1.2G	UN 0372	Explosive (1.2G)	–	–	–	
N	Grenades, practice, *hand or rifle*	1.3G	UN 0318	Explosive (1.3G)	–	–	–	
	Guanidine nitrate	5.1	UN 1467	Oxidizer	III	1,2	1,2	Stow 'separated from' nitro-compounds and chlorates
N	Guanyl nitrosamino guanylidene hydrazine, *containing, by weight, at least 30% water*	1.1A	UN 0113	Explosive (1.1A)	–	–	–	
N	Guanyl nitrosamino guanyl tetrazene, *containing, by weight, at least 30% water or mixture of alcohol and water*	1.1A	UN 0114	Explosive (1.1A)	–	–	–	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	Gutta percha solution	3.2	UN 1205	Flammable Liquid	II	1,2	1	
		3.3	UN 1205	Flammable Liquid	II	1,2	1,2	
	Hafnium *metal* powder, dry	4.2	UN 2545	Spontaneously Combustible	II	1	5	
•	Hafnium *metal* powder, wetted, *with not less than 25% water (a visible excess of water must be present) mechanically produced, particle size less than 53 microns, or chemically produced, particle size less than 840 microns*	4.1	UN 1326	Flammable Solid	II	1,2	5	
	Halogenated irritating liquids, n.o.s.	6.1	UN 1610	Poison, Flammable Liquid (only if flashpoint between 23 and 61 deg C)	I/II	1	5	Stow 'away from' living quarters. If flashpoint below 61 deg C, segregation same as for flammable liquids
		6.1	UN 1610	St. Andrews Cross, Flammable Liquid (only if flashpoint between 23 and 61 deg C)	III	1	5	Stow 'away from' living quarters. If flashpoint below 61 deg C, segregation same as for flammable liquids
	Hay	4.1	UN 1327	None	III	1,2	1,2	Stow 'away from' animal or vegetable oils
	Helium, compressed	2.2	UN 1046	Nonflammable Gas	–	1,2	1,2	
	Helium, refrigerated liquid	2.2	UN 1963	Nonflammable Gas	–	1,2	1	
	Hemp, dry. See Fibres, *vegetable, dry*							
	Heptane, *and its isomers*	3.2	UN 1206	Flammable Liquid	II	1,2	1	
	n-Heptene	3.2	UN 2278	Flammable Liquid	II	1,2	1	
	Hexachloroacetone	6.1	UN 2661	Poison	II	1,3	1	Keep cool
	Hexachlorobenzene	6.1	UN 2729	St. Andrews Cross	III	1,2	1,2	
	Hexachlorobutadiene	6.1	UN 2279	St. Andrews Cross	III	1,2	1,2	Stow 'away from' living quarters
	Hexachlorocyclopentadiene	6.1	UN 2646	Poison	I	I	II	Stow 'away from' living quarters
	Hexachlorophene	6.1	UN 2875	St. Andrews Cross	III	1,2	1,2	
	Hexadecyl trichlorosilane	8	UN 1781	Corrosive	II	1	1	Keep dry
	Hexaldehyde	3.1	UN 2458	Flammable Liquid	II	1,3	II	Keep cool
	Hexaethyl tetraphosphate	6.1	UN 1611	Poison	I/II	1,2	5	Stow 'away from' living quarters
		6.1	UN 1611	St. Andrews Cross	III	1,2	5	Stow 'away from' living quarters
•	Hexaethyl tetraphosphate and compressed gas *mixture*	2.3	UN 1612	Poison Gas	–	I	II	Stow 'away from' living quarters
	Hexafluoroacetone	2.3	UN 2420	Poison Gas	–	I	5	Stow 'away from' living quarters
	Hexafluoroacetone hydrate	6.1	UN 2552	Poison	II	1,2	I	Stow 'away from' living quarters
	Hexafluoroethane	2.2	UN 2193	Nonflammable Gas	–	1,2	1,2	
	Hexafluorophosphoric acid	8	UN 1782	Corrosive	II	1,2	1,2	
	Hexafluoropropylene	2.2	UN 1858	Nonflammable Gas	–	1,2	1,2	
	Hexaldehyde	3.3	UN 1207	Flammable Liquid	III	1,2	1,2	
	Hexamethylenediamine, solid	8	UN 2280	Corrosive	III	1,3	1,3	Keep cool
-•	Hexamethylenediamine, solution	8	UN 1783	Corrosive, Poison	II	1,2	1,2	
	Hexamethylenediisocyanate	6.1	UN 2281	Poison	II	1,2	I	Keep dry
•	Hexamethylenimine	3.2	UN 2493	Flammable Liquid, Corrosive	II	1,2	I	
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane, *maximum concentration 52% with inert solid*	5.2	UN 2166	Organic Peroxide	II	1	5	
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane, *maximum concentration 52% in solution*	5.2	UN 2167	Organic Peroxide	II	1	5	
	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane, *technical pure*	5.2	UN 2168	Organic Peroxide	I	1	5	
	Hexamine	4.1	UN 1328	Flammable Solid	III	1,2	1,2	
	Hexane, *and its isomers*	3.1	UN 1208	Flammable Liquid	II	1,3	5	Keep cool
*N	Hexanecarboxylic acid	1.1D	UN 0079	Explosive (1.1D), Poison	–	--	--	
N	Hexanitrodiphenylamine	1.1D	UN 0079	Explosive (1.1D)	–	--	--	
	Hexanols	3.3	UN 2282	Flammable Liquid	III	1,2	1,2	
N	Hexanoyl chloride	1.1D	UN 0395	Explosive (1.1D)	–	--	--	
	Hex-1-ene	3.1	UN 2370	Flammable Liquid	II	1,3	5	Keep cool
	1-Hexene. *See* Hex-1-ene							
*N	Hexolite, *dry or wetted with less than 15% water, by weight*	1.1D	UN 0118	Explosive (1.1D)	–	--	--	
	Hexyl trichlorosilane	8	UN 1784	Corrosive	II	1	1	Keep dry
	Hydrazine, anhydrous *or* Hydrazine aqueous solutions *containing more than 64%, by weight, hydrazine*	3.3	UN 2029	Flammable Liquid, Poison, Corrosive	I	I	5	
•	Hydrazine hydrate *or* Hydrazine aqueous solutions *with not more than 64% by weight, hydrazine*	8	UN 2030	Corrosive, Poison	II	1,2	5	Under deck permitted only if containing not more than 36%, by weight, hydrazine. Stow 'away from' nitric acids and perchloric acids not exceeding 50% acid by weight
•	Hydrides, *metal*, n.o.s.	4.3	UN 1409	Dangerous When Wet	I	1,2	5	
•	Hydriodic acid, solution	8	UN 1787	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels
•	Hydrobromic acid, solution	8	UN 1788	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels. Stow 'away from' fluorides
•	Hydrocarbon gases, compressed, n.o.s. *or* Hydrocarbon gases, mixtures, compressed, n.o.s.	2.1	UN 1964	Flammable Gas	–	1,2	1	
•	Hydrocarbon gases, liquefied, n.o.s. *or* Hydrocarbon gases, mixtures, liquefied, n.o.s.	2.1	UN 1965	Flammable Gas	–	1,2	1	
•	Hydrochloric acid, solution	8	UN 1789	Corrosive	II	1	1	Glass carboys prohibited on passenger vessels. Stow 'away from' fluorides
•	*Hydrocyanic acid, anhydrous, stabilized. See* Hydrogen cyanide, anhydrous, stabilized							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Hydrocyanic acid, aqueous solutions, *with not more than 20% hydrocyanic acid*	6.1	UN 1613	Poison	I	1	5	Stow 'away from' living quarters
	Hydrofluoric acid and sulphuric acid mixtures	8	UN 1786	Corrosive, Poison	I	1	5	Stow 'away from' fluorides
	Hydrofluoric acid, solution	8	UN 1790	Corrosive, Poison	I/II	1	5	Keep cool
	Hydrofluosilicic acid. *See* Fluosilicic acid							
•	Hydrogen and methane mixtures, compressed	2.1	UN 2034	Flammable Gas	–	1,2	5	
•	Hydrogen bromide, anhydrous	2.3	UN 1048	Poison Gas, Corrosive	–	1	5	
•	Hydrogen chloride, anhydrous	2.2	UN 1050	Nonflammable Gas, Corrosive	–	1	5	Stow 'away from' foodstuffs and living quarters
	Hydrogen, *compressed*	2.1	UN 1049	Flammable Gas	–	1,2	5	Stow 'separated from' chlorine, 'away from' living quarters
•	Hydrogen cyanide, anhydrous, stabilized	6.1	UN 1051	Poison, Flammable Liquid	I	1	5	Shade from radiant heat. Segregation same as for flammable liquids
•	Hydrogen cyanide, anhydrous, stabilized, *absorbed in a porous inert material*	6.1	UN 1614	Poison	I	1	5	Shade from radiant heat. Stow 'away from' living quarters
•	Hydrogen fluoride, anhydrous	2.3	UN 1052	Poison Gas, Corrosive	–	1	5	
•	Hydrogen iodide, anhydrous	2.2	UN 2197	Nonflammable Gas, Corrosive	–	1	5	Stow 'away from' living quarters
•	Hydrogen iodide, solution. *See* Hydriodic acid solution							
•	Hydrogen peroxide, aqueous solutions *with not less than 8% but less than 20% hydrogen peroxide (stabilized as necessary)*	5.1	UN 2984	Oxidizer	III	2	1	Shade from radiant heat. Stow 'away from' powdered metals and 'separated from' permanganates
•	Hydrogen peroxide, aqueous solutions *with not less than 20% but not more than 60% hydrogen peroxide (stabilized as necessary)*	5.1	UN 2014	Oxidizer, Corrosive	II	1	5	Shade from radiant heat. Stow 'away from' powdered metals and 'separated from' permanganates
•	Hydrogen peroxide, stabilized, *or* Hydrogen peroxide, aqueous solutions, stabilized, *with more than 60% hydrogen peroxide*	5.1	UN 2015	Oxidizer, Corrosive	I	1	5	Shade from radiant heat. Stow 'away from' powdered metals and 'separated from' permanganates
	Hydrogen, *refrigerated liquid*	2.1	UN 1966	Flammable Gas	–	5	5	
•	Hydrogen selenide, *anhydrous*	2.3	UN 2202	Poison Gas, Flammable Gas	–	1	5	Stow 'away from' living quarters
	Hydrogen sulphide	2.1	UN 1053	Flammable Gas, Poison Gas	–	1	5	Stow 'away from' foodstuffs and living quarters
	Hydroquinone	6.1	UN 2662	St. Andrews Cross	III	2,2	1,2	
	Hydrosilicofluoric acid. *See* Fluosilicic acid							
	Hydroxylamine sulphate	8	UN 2865	Corrosive	III	1,2	1,2	Keep dry
•	Hypochlorite, solutions *with more than 5% available chlorine*	8	UN 1791	Corrosive	II/III	1,2	1	Glass carboys in hampers prohibited under deck
	Igniter for aircraft thrust device *for assisted take-off*	4.1	UN 2792	Flammable Solid	II	2,2	1	
	Igniters	1.4 G	UN 0325	Explosive (1.4G)	–	1,3	1,3	
N	Igniters	1.1G	UN 0121	Explosive (1.1G)	–	–	–	
N	Igniters	1.2G	UN 0314	Explosive (1.2G)	–	–	–	
N	Igniters	1.3G	UN 0315	Explosive (1.3G)	–	–	–	
	3,3'-Iminobispropylamine	8	UN 2269	Corrosive	III	1,2	1,2	
•	Inflammable gas in lighters. *See* Lighters, for cigars and cigarettes, etc. *with flammable gas*							
	Inflammable liquid preparations, n.o.s. *See* Flammable liquid preparations, n.o.s.							
•	Inflammable liquids, corrosive, n.o.s. *See* Flammable liquids, corrosive, n.o.s.							
•	Inflammable liquids, n.o.s. *See* Flammable liquids, n.o.s.							
•	Inflammable liquids, poisonous, n.o.s. *See* Flammable liquids, poisonous, n.o.s.							
•	Inflammable solids, corrosive, n.o.s. *See* Flammable solids, corrosive, n.o.s.							
	Inflammable solids, n.o.s. *See* Flammable solids, n.o.s.							
•	Inflammable solids, poisonous, n.o.s. *See* Flammable solids, poisonous, n.o.s.							
•	Ink, printers	3.2	UN 1210	Flammable Liquid	II	1,2	1	
		3.3	UN 1210	Flammable Liquid	III	2,2	1,2	
•	Insecticide gases, *non-toxic*, n.o.s.	2.1	UN 1968	Flammable Gas	–	1,2	1	
		2.2	UN 1968	Nonflammable Gas	–	1,3	1,3	
	Insecticide gases, *toxic*, n.o.s.	2.3	UN 1967	Poison Gas	–	1	5	Shade from radiant heat
	Iodine monochloride	8	UN 1792	Corrosive	II	1	5	Keep dry
	Iodine pentafluoride	5.1	UN 2495	Oxidizer, Poison	I	1	5	Keep dry
	2-Iodobutane	3.2	UN 2390	Flammable Liquid	II	1,2	1	
	Iodomethylpropanes	3.2	UN 2391	Flammable Liquid	II	2,2	1	
	Iodopropanes	3.2	UN 2392	Flammable Liquid	II	2,2	1	
		3.3	UN 2392	Flammable Liquid	II	1,2	1,2	
	Iron carbonyl. *See* Iron pentacarbonyl							
	Iron chloride. See Ferric chloride, anhydrous							
	Iron oxide, *spent*	4.2	UN 1376	Spontaneously Combustible	III	2,2	5	
	Iron pentacarbonyl	6.1	UN 1994	Poison, Flammable Liquid	I	1	5	Segregation same as for flammable liquids. Shade from radiant heat
	Iron sesquichloride. *See* Ferric chloride							
	Iron sponge, *spent. See* Iron oxide, *spent*							
•	Isobutane *or* Isobutane mixtures	2.1	UN 1969	Flammable Gas	–	1,2	1	
	Isobutanol	3.3	UN 1212	Flammable Liquid	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Note and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Isobutyl acetate	3.2	UN 1213	Flammable Liquid	II	1,2	1	
	Isobutyl acrylate, inhibited	3.3	UN 2527	Flammable Liquid	II	1,2	1,2	
	Isobutyl alcohol. *See* Isobutanol							
	Isobutyl aldehyde. *See* Isobutyraldehyde							
	Isobutylamine	3.2	UN 1214	Flammable Liquid	II	1,2	1	
*	Isobutylene	2.1	UN 1055	Flammable Gas	--	1,2	1	
	Isobutyl formate	3.2	UN 2393	Flammable Liquid	II	1,2	1	
*	Isobutyl methacrylate	3.3	UN 2283	Flammable Liquid	III	1,2	1,2	
	Isobutyl isocyanate	3.2	UN 2486	Flammable Liquid, Poison	II	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	Isobutyl methacrylate, inhibited	3.3	UN 2283	Flammable Liquid	III	1,2	1,2	
	Isobutyl methyl ketone peroxide, *maximum concentration 62% in solution*	5.2	UN 2126	Organic Peroxide	I	1	5	
	Isobutyl propionate	3.2	UN 2394	Flammable Liquid	II	1,2	1	
	Isobutyraldehyde	3.1	UN 2045	Flammable Liquid	II	1,3	5	Keep cool
	Isobutyric acid	3.3	UN 2529	Flammable Liquid	III	1,2	1,2	
	Isobutyric anhydride	3.3	UN 2530	Flammable Liquid	III	1,2	1,2	
	Isobutyronitrile	3.2	UN 2284	Flammable Liquid, Poison	II	1,3	5	Keep cool
	Isobutyryl chloride	3.2	UN 2395	Flammable Liquid, Poison	II	1	1	Keep dry. Shade from radiant heat
	Isobutyryl peroxide, *maximum concentration 52% in solution*	5.2	UN 2182	Organic Peroxide	II	1	5	Control temperature -20 deg C. Emergency temperature -10 deg C
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s., *boiling point not less than 300 deg C*	6.1	UN 2206	St. Andrews Cross	III	1,2	1,2	Stow 'away from' sources of heat
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s., *flashpoint not less than 23 deg C, boiling point less than 300 deg C*	6.1	UN 2206	Poison, Flammable Liquid (only if flashpoint is below 61 deg C.)	II	1,3	1	Shade from radiant heat. Segregation same as for flammable liquids if flashpoint below 61 deg C
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s. *flashpoint not less than -18 deg C but less than 23 deg C*	3.2	UN 2478	Flammable Liquid, Poison	II	1	5	
	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s. *flashpoint less than -18 deg C*	3.1	UN 2478	Flammable Liquid, Poison	II	1	5	Stow 'away from' sources of heat. Keep cool.
*	Isocyanatobenzotrifluorides	6.1	UN 2285	Poison	II	1,2	1	Shade from radiant heat. Stow 'away from' living quarters
	Isodecene	3.1	UN 2367	Flammable Liquid	II	1,3	5	Keep cool
	Isoheptene	3.1	UN 2287	Flammable Liquid	II	1,3	5	Keep cool
*	Isononanoyl peroxide. *See* Di-(3,3,5-trimethylhexanoyl) peroxide				--	--	--	
	Isooctene	3.2	UN 1216	Flammable Liquid	II	1,2	1	
*	Isopentane. *See* Pentanes							
	Isoprene	3.1	UN 2371	Flammable Liquid	I	1,3	5	Keep cool
	Isophoronediamine	8	UN 2289	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
	Isophorone diisocyanate	6.1	UN 2290	Poison	II	1,2	1	Stow 'away from' living quarters
*	Isoprene, inhibited	3.1	UN 1218	Flammable Liquid	I	1,3	5	Keep cool
	Isopropanol	3.2	UN 1219	Flammable Liquid	II	1,2	1	
	Isopropenyl acetate	3.2	UN 2403	Flammable Liquid	II	1,2	1	
	Isopropenylbenzene	3.3	UN 2303	Flammable Liquid	II	1,2	1,2	
	Isopropyl acetate	3.2	UN 1220	Flammable Liquid	II	1,2	1	
*	Isopropyl acid phosphate	8	UN 1793	Corrosive	III	1,2	1,2	Glass carboys in hampers prohibited under deck
	Isopropyl alcohol. *See* Isopropanol							
	Isopropylamine	3.1	UN 1221	Flammable Liquid	I	1,3	5	Keep cool
	Isopropylbenzene	3.3	UN 1918	Flammable Liquid	II	1,2	1,2	
	Isopropyl butyrate	3.3	UN 2405	Flammable Liquid	II	1,2	1,2	
*	Isopropyl chloroacetate	3.3	UN 2947	Flammable Liquid	III	1,2	1,2	
	Isopropyl chloroformate	3.2	UN 2407	Flammable Liquid, Corrosive	II	1,2	1	
*	Isopropyl-2-chloropropionate	3.3	UN 2934	Flammable Liquid	III	1,2	1,2	
	Isopropyl isobutyrate	3.2	UN 2406	Flammable Liquid	II	1,2	1	
*	Isopropyl isocyanate	3.2	UN 2483	Flammable Liquid, Poison	I	1	5	Keep cool
	Isopropyl nitrate	3.2	UN 1222	Flammable Liquid	II	1,2	1	
	Isopropyl propionate	3.2	UN 2409	Flammable Liquid	II	1,2	1	
	Isosorbide dinitrate mixture *with not less than 60% lactose, mannose, starch, or calcium hydrogen phosphate*	4.1	UN 2907	Flammable Solid	II	1,2	5	
N	Jet perforating guns, charged, *oil well, without detonator*	1.1D	UN 0124	Explosive (1.1D)	--	--	--	
	Jute, dry. See Fibres, *vegetable, dry*							
	Kapok, dry. See Fibres, *vegetable, dry*							
	Kerosene	3.3	UN 1223	Flammable Liquid	II	1,2	1,2	
*	Ketones, liquid, n.o.s.	3.1	UN 1224	Flammable Liquid	I/II	1,3	II	Keep cool
		3.2	UN 1224	Flammable Liquid	II	1,2	I	
		3.3	UN 1224	Flammable Liquid	II	1,2	1,2	
	Krypton, *compressed*	2.2	UN 1056	Nonflammable Gas	--	1,2	1,2	
	Krypton, refrigerated liquid	2.2	UN 1970	Nonflammable Gas	--	1,2	I	
	Lacquer base. *See* Paints, etc.							
	Lacquer chips. *See* Nitrocellulose, *wetted with, by weight, more than 40% flammable liquids.*							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Lacquers. *See* Paints, *etc.*							
	Lauroyl peroxide. *See* Dilauroyl peroxide				–	–	–	
	Lead acetate	6.1	UN 1616	St. Andrews Cross	III	1,2	1,2	
	Lead arsenates	6.1	UN 1617	Poison	II	1,2	1,2	
	Lead arsenites	6.1	UN 1618	Poison	II	1,2	1,2	
N	Lead azide, *containing, by weight, at least 20% water or mixture of alcohol and water*	1.1A	UN 0129	Explosive (1.1A)	–	–	–	
	Lead compounds, soluble, n.o.s.	6.1	UN 2291	St. Andrews Cross	III	1,2	1,2	
	Lead cyanide	6.1	UN 1620	Poison	II	1,2	1,2	Stow 'away from' acids
	Lead dioxide	5.1	UN 1872	Oxidizer	III	1,2	1,2	Stow 'away from' foodstuffs
•	Lead dross. *See* Lead sulphate, *with more than 3% free acid*							
•	Lead nitrate	5.1	UN 1469	Oxidizer, Poison	II	1,2	1,2	
•	Lead perchlorate	5.1	UN 1470	Oxidizer, Poison	II	1,2	1,2	Stow 'away from' powdered metals
	Lead peroxide. *See* Lead dioxide							
•	Lead phosphite dibasic	4.1	UN 2989	Flammable Solid	II	1,2	1	Stow 'away from' foodstuffs
N	Lead styphnate, *containing, by weight, at least 20% water or mixture of alcohol and water*	1.1A	UN 0130	Explosive (1.1A)	–	–	–	
•	Lead sulphate, *with more than 3% free acid*	8	UN 1794	Corrosive	II	1,2	1,2	
	Life-rafts, *inflatable*	9	–	None	–	1,2	1,2	
	Lighter fuels, *cigar and cigarette*	3.2	UN 1226	Flammable Liquid	II	1,2	1	
•	Lighters for cigars and cigarettes, *etc., with flammable gas*	2.1	UN 1057	Flammable Gas	–	1	1	
•	Lighters *for cigars and cigarettes, etc., with* fuel	3.2	UN 1226	Flammable Liquid	II	1,2	1	
	Lighters, fuse	1.4 S	UN 0131	None. Package to be marked '1.4 S'	–	1,3	1,3	
•	*Liquefied gases, n.o.s. See Compressed or Liquefied gases, n.o.s.*							
•	Liquefied non-flammable gases *charged with* nitrogen, carbon dioxide or air	2.2	UN 1058	Nonflammable Gas	–	1,2	1,2	
	Lithium alkyls	4.2	UN 2445	Spontaneously Combustible	I	1	1	
	Lithium aluminium hydride	4.3	UN 1410	Dangerous When Wet	I	1,2	5	
	Lithium aluminium hydride, *ethereal*	4.3	UN 1411	Dangerous When Wet, Flammable Liquid	I	1	5	
	Lithium amide	4.3	UN 1412	Dangerous When Wet	II	1,2	5	
	Lithium borohydride	4.3	UN 1413	Dangerous When Wet	I	1,2	5	
	Lithium ferrosilicon	4.3	UN 2830	Dangerous When Wet	II	1,2	5	
	Lithium hydride	4.3	UN 1414	Dangerous When Wet	I	1,2	5	
	Lithium hydride, fused solid	4.3	UN 2805	Dangerous When Wet	II	1,2	5	
	Lithium hydroxide monohydrate	8	UN 2680	Corrosive	II	1,2	1,2	Keep dry
	Lithium hydroxide, solution	8	UN 2679	Corrosive	II	1,2	1,2	Glass carboys not permitted under deck on passenger vessels
•	Lithium hypochlorite, dry *or* Lithium hypochlorite mixtures *containing more than 39% available chlorine (8.8% available oxygen)*	5.1	UN 1471	Oxidizer	II	1,2	1,2	
•	Lithium, *metal*	4.3	UN 1415	Dangerous When Wet	II	1,2	5	
	Lithium nitrate	5.1	UN 2722	Oxidizer	III	1,2	1,2	
	Lithium nitride	4.3	UN 2806	Dangerous When Wet	I	1,2	5	
	Lithium peroxide	5.1	UN 1472	Oxidizer	II	1,2	1,2	Keep dry
	Lithium silicon	4.3	UN 1417	Dangerous When Wet	II	1,2	1,2	
	London purple	6.1	UN 1621	Poison	II	1,2	1,2	
	Lye. *See* Sodium hydroxide							
•	Magnesium aluminium phosphide	4.3	UN 1419	Dangerous When Wet	I	1,2	5	When stowed under deck, stow in a mechanically ventilated space
	Magnesium arsenate	6.1	UN 1622	Poison	II	1,2	1,2	
	Magnesium bromate	5.1	UN 1473	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
	Magnesium chlorate	5.1	UN 2723	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and 'away from' finely powdered metals
	Magnesium diamide	4.2	UN 2004	Spontaneously Combustible	II	1	1	
	Magnesium diphenyl	4.2	UN 2005	Spontaneously Combustible	I	1	1	
•	Magnesium granules, coated *containing more than 50% magnesium, particle size not less than 149 microns*	4.3	UN 2950	Dangerous When Wet	III	1,2	1,2	
	Magnesium hydride	4.3	UN 2010	Dangerous When Wet	I	1,2	5	
	Magnesium nitrate	5.1	UN 1474	Oxidizer	III	1,2	1,2	
•	Magnesium *or* Magnesium alloys *with more than 50% magnesium, in pellets, turnings or ribbon*	4.1	UN 1869	Flammable Solid	III	1,2	1,2	Stow 'away from' liquid halogenated hydrocarbons
	Magnesium perchlorate	5.1	UN 1475	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals
	Magnesium peroxide	5.1	UN 1476	Oxidizer	II	1,2	1,2	Keep dry
•	Magnesium phosphide	4.3	UN 2011	Dangerous When Wet, Poison	I	1,2	5	When stowed under deck, stow in a mechanically ventilated space
	Magnesium powder *or* Magnesium alloys, powder *containing more than 50% magnesium, non-pyrophoric*	4.3	UN 1418	Dangerous When Wet	II	1,2	1,2	Stow 'away from' liquid halogenated hydrocarbons
	Magnesium silicide	4.3	UN 2624	Dangerous When Wet	II	1,2	1	
	Magnesium silicofluoride	6.1	UN 2853	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Maleic anhydride, *solid or molten*	8	UN 2215	None. Package to be marked 'Class P'	III	1,2	1,2	Stow 'away from' foodstuffs

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Malononitrile	6.1	UN 2647	Poison	II	1,3	1,3	Keep cool. Stow 'away from' living quarters
•	*Maneb, or Maneb preparation(s), stabilized against self-heating*	4.3	UN 2968	Dangerous When Wet	III	1,2	1,2	Stow 'away from' acids, living quarters and foodstuffs
•	*Maneb, or maneb preparation(s) with not less than 60% maneb*	4.2	UN 2210	Spontaneously Combustible, Dangerous When Wet	III	1,2	1,2	Stow 'away from' acids, living quarters and foodstuffs. Keep cool and dry
	Manganese ethylene-bis-dithiocarbamate. See Maneb							
	Manganese nitrate	5.1	UN 2724	Oxidizer	III	1,2	1,2	
	Manganese resinate	4.1	UN 1330	Flammable Solid	III	1,2	1,2	
N	*Mannitol hexanitrate, containing, by weight, at least 40% water or mixture of alcohol and water*	1.1D	UN 0133	Explosive (1.1D)	–	–	–	
	Matches, *fusee*	4.1	UN 2254	Flammable Solid	III	1,2	1,2	
	Matches, *safety*	4.1	UN 1944	Flammable Solid	III	1,2	1,2	
	Matches, *strike anywhere*	4.1	UN 1331	Flammable Solid	III	1,2	1	
	Matches, *wax 'vesta'*	4.1	UN 1945	Flammable Solid	III	1,2	1	
N	Medicines, n.o.s. *to be classified and labeled according to the principle hazardous constituent*	–	UN 1851		–			
	MEKP. See Ethyl methyl ketone peroxide							
	p-Menthane hydroperoxide, *technical pure*	5.2	UN 2125	Organic Peroxide	I	1	5	
•	Mercaptans, liquid, n.o.s. *or* Mercaptan mixtures, liquid, n.o.s.	3.1	UN 1228	Flammable Liquid	II	1,3	II	Keep cool
		3.2	UN 1228	Flammable Liquid	II	1,2	I	
		3.3	UN 1228	Flammable Liquid	II	1,2	1,2	
	Mercuric acetate. *See* Mercury acetate							
	Mercuric arsenate	6.1	UN 1623	Poison	II	1,2	1,2	
	Mercuric bromide. *See* Mercury bromides							
	Mercuric chloride	6.1	UN 1624	Poison	II	1,2	1,2	
	Mercuric cyanide. *See* Mercury cyanide							
	Mercuric nitrate	6.1	UN 1625	Poison	II	1,2	1,2	
	Mercuric oxycyanide. *See* Mercury oxycyanide							
	Mercuric potassium cyanide	6.1	UN 1626	Poison	I	1,2	1,2	Stow 'away from' acids
	Mercuric sulphate	6.1	UN 1645	Poison	II	1,2	1,2	
	Mercurol. *See* Mercury nucleate							
	Mercurous acetate. *See* Mercury acetate							
	Mercurous bromide. *See* Mercury bromides							
	Mercurous nitrate	6.1	UN 1627	Poison	II	1,2	1,2	
	Mercurous sulphate	6.1	UN 1628	Poison	II	1,2	1,2	
	Mercury acetate	6.1	UN 1629	Poison	II	1,2	1,2	
	Mercury ammonium chloride	6.1	UN 1630	Poison	II	1,2	1,2	
•	Mercury based pesticides, liquid, flammable, toxic, n.o.s., *flashpoint below 23 deg C*	3.2	UN 2778	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Mercury based pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 3011	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 3011	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 3011	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Mercury based pesticides, liquid, toxic, n.o.s.	6.1	UN 3012	Poison	I	1	1	
		6.1	UN 3012	Poison	II	1,2	1	
		6.1	UN 3012	St. Andrews Cross	III	1,2	1,2	
•	Mercury based pesticides, solid, toxic, n.o.s.	6.1	UN 2777	Poison	I/II	1,2	1,2	
		6.1	UN 2777	St. Andrews Cross	III	1,2	1,2	
	Mercury fulminate	6.1	UN 1631	Poison	II	1,2	1,2	
	Mercury bisulphate	6.1	UN 1633	Poison	II	1,2	1,2	
	Mercury bromides	6.1	UN 1634	Poison	II	1,2	1,2	
	Mercury compounds, liquid, n.o.s.	6.1	UN 3024	Poison	I/II	1,2	1	
		6.1	UN 3024	St. Andrews Cross	III	1,2	1	
	Mercury compounds, solid, n.o.s.	6.1	UN 3025	Poison	I/II	1,2	1,2	
		6.1	UN 3025	St. Andrews Cross	III	1,2	1,2	
	Mercury cyanide	6.1	UN 1636	Poison	II	1,2	1,2	Stow 'away from' living quarters and acids
N	Mercury fulminate, *containing, by weight, at least 20% water or mixture of alcohol and water*	1.1A	UN 0135	Explosive (1.1A)	–	–	–	
	Mercury gluconate	6.1	UN 1637	Poison	II	1,2	1,2	
•	Mercury iodide	6.1	UN 1638	Poison	II	1,2	1,2	
	Mercury, *metal*	8	UN 2809	Corrosive	III	1,2	1	Stow 'away from' living quarters and azides
	Mercury nucleate	6.1	UN 1639	Poison	II	1,2	1,2	
	Mercury oleate	6.1	UN 1640	Poison	II	1,2	1,2	
	Mercury oxide	6.1	UN 1641	Poison	II	1,2	1,2	
	Mercury oxycyanide	6.1	UN 1642	Poison	II	1,2	1,2	Stow 'away from' acids
	Mercury potassium iodide	6.1	UN 1643	Poison	II	1,2	1,2	
	Mercury salicylate	6.1	UN 1644	Poison	II	1,2	1,2	
	Mercury thiocyanate	6.1	UN 1646	Poison	II	1,2	1,2	
	Mesityl oxide	3.3	UN 1229	Flammable Liquid	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Descriptions and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	Metal alkyls, n.o.s.	4.2	UN 2003	Spontaneously Combustible	I	1	5	
	Metaldehyde	4.1	UN 1332	Flammable Solid	III	1,2	1,2	
	Methacraldehyde	3.2	UN 2396	Flammable Liquid, Poison	II	1,3	5	Keep cool
	Methacrylic acid, inhibited	8	UN 2531	Corrosive	III	1	1	Keep cool. Glass carboys prohibited on passenger vessels
	Methallyl alcohol	3.3	UN 2614	Flammable Liquid	II	1,2	1,2	
•	Methane *or* Natural gases *with a high methane content, compressed*	2.1	UN 1971	Flammable Gas	–	1,2	5	Stow 'away from' living quarters
•	Methane *or* Natural gases *with a high methane content, refrigerated liquid*	2.1	UN 1972	Flammable Gas	–	1	5	Stow 'away from' living quarters
	Methanol	3.2	UN 1230	Flammable Liquid, Poison	II	1,2	1	
	Methoxymethyl isocyanate	3.2	UN 2605	Flammable Liquid, Poison	I	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	4-Methoxy-4-methylpentan-2-one	3.3	UN 2293	Flammable Liquid	III	1,2	1,2	
	Methyl acetate	3.2	UN 1231	Flammable Liquid	II	1,2	1	
	Methyl acetone	3.2	UN 1232	Flammable Liquid	II	1,2	1	
	Methyl acetylene and propadiene *mixture, stabilized*	2.1	UN 1060	Flammable Gas	–	1,2	1	Stow 'away from' living quarters
	beta-Methyl acrolein. *See* Crotonaldehyde, *inhibited*							
	Methyl acrylate, *inhibited*	3.2	UN 1919	Flammable Liquid	II	1,2	1	
	Methylal	3.1	UN 1234	Flammable Liquid	II	1,3	5	Keep cool
	Methyl alcohol. *See* Methanol							
	Methyl allyl chloride	3.1	UN 2554	Flammable Liquid	II	1,3	5	Keep cool
	Methyl aluminium sesquibromide	4.2	UN 1926	Spontaneously Combustible	I	1	1	
	Methyl aluminium sesquichloride	4.2	UN 1927	Spontaneously Combustible	I	1	1	
	Methylamine, *anhydrous*	2.1	UN 1061	Flammable Gas	–	1,2	5	Stow 'away from' living quarters
	Methylamine, aqueous solution	3.1	UN 1235	Flammable Liquid	II	1,3	5	Keep cool. Stow 'away from' mercury and its compounds
	Methylamyl acetate	3.3	UN 1233	Flammable Liquid	III	1,2	1,2	
	Methyl amyl ketone. *See* Amyl methyl ketone							
	N-Methylaniline	6.1	UN 2294	St. Andrews Cross	III	1,2	1,2	
•	Methylbenzene	6.1	UN 2938	St. Andrews Cross	III	1,2	1,2	
•	alpha-Methylbenzyl alcohol	6.1	UN 2937	St. Andrews Cross	III	1,2	1,2	
•	Methyl bromide	2.3	UN 1062	Poison Gas	–	1,2	5	Under deck stowage permitted only if an indicating substance such as chloropicrin has been added
	Methyl bromide and chloropicrin, mixtures. *See* Chloropicrin and methyl bromide, mixtures							
	Methyl bromide and ethylene dibromide mixtures, liquid	6.1	UN 1647	Poison	I	1	1	Stow 'away from' living quarters
	Methyl bromoacetate	6.1	UN 2643	Poison	II	1	5	Keep cool. Stow 'away from' living quarters
	2-Methyl-1,3-butadiene. *See* Isoprene							
	3-Methyl butan-2-one	3.2	UN 2397	Flammable Liquid	II	1,2	1	
	3-Methyl-1-butene	3.2	UN 2561	Flammable Liquid	II	1,2	1	
	2-Methyl-1-butene	3.1	UN 2459	Flammable Liquid	I	1,3	5	Keep cool
	2-Methyl-2-butene	3.1	UN 2460	Flammable Liquid	II	1,3	5	Keep cool
•	N-Methylbutylamine	3.2	UN 2945	Flammable Liquid	II	1,2	1	
	Methyl-tert-butyl ether	3.2	UN 2398	Flammable Liquid	II	1,2	1	
	Methyl butyrate	3.2	UN 1237	Flammable Liquid	II	1,2	1	
•	Methyl chloride	2.3	UN 1063	Poison Gas, Flammable Gas	–	1,2	5	
	Methyl chloride and chloropicrin, mixtures. *See* Chloropicrin and methyl chloride, mixtures							
•	Methyl chloride and methylene chloride, mixtures	2.1	UN 1912	Flammable Gas	–	1,2	5	
	Methyl chloroacetate	3.3	UN 2295	Flammable Liquid	II	1,2	1,2	
	Methyl chlorocarbonate. *See* Methyl chloroformate							
	Methyl chloroformate	3.2	UN 1238	Flammable Liquid, Poison, Corrosive	I	1,2	1	
	Methylchloromethyl ether	3.1	UN 1239	Flammable Liquid	II	1	5	Keep cool
•	Methyl-2-chloropropionate	3.3	UN 2933	Flammable Liquid	III	1,2	1,2	
	Methyl chlorosilane	3.2	UN 2534	Flammable Liquid, Corrosive	I	1,2	1	
	Methyl cyanide	3.2	UN 1648	Flammable Liquid, Poison	II	1,2	1	
	Methyl cyclohexane	3.2	UN 2296	Flammable Liquid	II	1,2	1	
	Methyl cyclohexanol	3.3	UN 2617	Flammable Liquid	III	1,2	1,2	
	Methyl cyclohexanone	3.3	UN 2297	Flammable Liquid	III	1,2	1,2	
	Methyl cyclopentane	3.1	UN 2298	Flammable Liquid	II	1,2	1	
	Methyl dichloroacetate	6.1	UN 2299	St. Andrews Cross	III	1,2	1,2	Stow 'away from' living quarters
	Methyldichlorosilane	3.2	UN 1242	Flammable Liquid, Corrosive	I	1,2	1	
	Methylene chloride. *See* Dichloromethane							
•	*Methylene di (phenylene isocyanate).* *See* Diphenylmethane diisocyanate							
	Methyl ethyl ether. *See* Ethyl methyl ether							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Methyl ethyl ketone peroxide(s). *See* Ethyl methyl ketone peroxide							
	Methyl ethyl ketone. *See* Ethyl methyl ketone							
	3-Methyl-5-ethylpyridine	6.1	UN 2300	St. Andrews Cross	III	1,2	1,2	Stow 'away from' living quarters
	Methyl fluoride	2.1	UN 2454	Flammable Gas	–	1,2	5	
	Methyl formate	3.1	UN 1243	Flammable Liquid	I	1,3	5	Keep cool
	2-Methylfuran	3.1	UN 2301	Flammable Liquid	II	1,3	5	Keep cool
	5-Methylhexan-2-one	3.3	UN 2302	Flammable Liquid	III	1,2	1,2	
	Methylhydrazine	3.2	UN 1244	Flammable Liquid, Corrosive	I	1,2	1	
	Methyl iodide	6.1	UN 2644	Poison	II	1,3	1,3	Keep cool. Stow 'away from' living quarters
	Methyl isobutyl carbinol	3.3	UN 2053	Flammable Liquid	III	1,2	1,2	
	Methyl isobutyl ketone	3.2	UN 1245	Flammable Liquid	II	1,2	1	
•	Methyl isocyanate or Methyl isocyanate solutions	3.2	UN 2480	Flammable Liquid, Poison	I	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	Methyl isopropenyl ketone, *inhibited*	3.2	UN 1246	Flammable Liquid	II	1,2	1	
	Methyl isothiocyanate	3.2	UN 2477	Flammable Liquid, Poison	II	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	Methylmercaptan	3.2	UN 2400	Flammable Liquid	II	1,2	1	
•	Methyl magnesium bromide, in ethyl ether -	4.2	UN 1928	Spontaneously Combustible	I	1	5	
■	Methylmercaptan	2.1	UN 1064	Flammable Gas	–	1,2	1	
	Methyl methacrylate, *monomer, inhibited*	3.2	UN 1247	Flammable Liquid	II	1,2	1	
	Methylmorpholine	3.2	UN 2535	Flammable Liquid, Corrosive	II	1,2	1	
		3.3	UN 2535	Flammable Liquid, Corrosive	II	1,2	1,2	
■	*Methyl nitrite - Carriage Forbidden*							
	Methyl orthosilicate	3.2	UN 2606	Flammable Liquid, Poison	I	1,3	5	Keep cool
	Methylpentadiene	3.1	UN 2461	Flammable Liquid	II	1,3	5	Keep cool
	Methylpentanes	3.1	UN 2462	Flammable Liquid	II	1,3	5	Keep cool
	2-Methylpentan-2-ol	3.3	UN 2560	Flammable Liquid	II	1,2	1,2	
•	Methylphenyldichlorosilane	3.3	UN 2437	Flammable Liquid, Corrosive	II	1	1	
	1-Methylpiperidine	3.2	UN 2399	Flammable Liquid	II	1,2	1	
	Methyl propionate	3.2	UN 1248	Flammable Liquid	II	1,2	1	
	Methyl propyl ether	3.1	UN 2612	Flammable Liquid	II	1,3	5	Keep cool
	Methyl propyl ketone	3.2	UN 1249	Flammable Liquid	II	1,2	1	
	Methyl sulphide. *See* Dimethyl sulfide							
	Methyltetrahydrofuran	3.2	UN 2536	Flammable Liquid	II	1,2	1	
	Methyl trichloroacetate	6.1	UN 2533	St. Andrews Cross	III	1,2	1,2	
	Methyltrichlorosilane	3.2	UN 1250	Flammable Liquid, Corrosive	II	1,2	1	
	alpha-Methyl valeraldehyde	3.3	UN 2367	Flammable Liquid	III	1,2	1,2	
	Methyl vinyl ketone	3.2	UN 1251	Flammable Liquid	II	1,2	1	
M	Mines, *with bursting charge*	1.1D	UN 0137	Explosive (1.1D)	–	–	–	
M	Mines, *with bursting charge*	1.2D	UN 0138	Explosive (1.2D)	–	–	–	
M	Mines, *with bursting charge*	1.1F	UN 0136	Explosive (1.1F)	–	–	–	
M	Mines, *with bursting charge*	1.2F	UN 0294	Explosive (1.2F)	–	–	–	
•	*Mixed acid, spent. See* Acid mixtures, spent, nitrating							
	Molybdenum pentachloride	8	UN 2508	Corrosive	III	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Monochlorotrifluoromethane. *See* Chlorotrifluoromethane							
	Monochloropentafluoroethane. *See* Chloropentafluoroethane							
	Monochlorotetrafluoroethane. *See* Chlorotetrafluoroethane							
	Monochlorotrifluoromethane. *See* Chlorotrifluoromethane							
	Monoethanolamine. *See* Ethanolamine *and solutions thereof.*							
	Monoethylamine. *See* Ethylamine							
	Monomethylamine, *anhydrous. See* Methylamine, *anhydrous*							
•	Monomethylamine, *aqueous solution. See* Methylamine, aqueous solution							
	Mononitrotoluidines	6.1	UN 2660	St. Andrews Cross	III	1,2	1,2	
	Monopropylamine	3.1	UN 1277	Flammable Liquid	II	1,2	5	
	Morpholine	3.3	UN 2054	Flammable Liquid	II	1,2	1,2	
	Motor fuel anti-knock mixtures	6.1	UN 1649	Poison, Flammable Liquid (only if flashpoint below 61 deg C)	I	1	5	If flashpoint below 61 deg C segregation same as for flammable liquids. Stow 'away from' living quarters
	Motor fuel, n.o.s.	3.1	(UN 1203)	Flammable Liquid	II	1,3	5	Keep cool
	Motor spirit. *See* Gasoline							
	Muriatic acid. *See* Hydrochloric acid							
	Naphthalene, crude or refined	4.1	UN 1334	Flammable Solid	III	1,2	1,2	
	Naphtha, petroleum	3.2	UN 1255	Flammable Liquid	II	1,2	1	
	Naphtha, solvent	3.2	UN 1256	Flammable Liquid	II	1,2	1	
	Naphthylamine (alpha)	6.1	UN 2077	St. Andrews Cross	III	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Naphthylamine *(beta)*	6.1	UN 1650	Poison	II	1,2	1,2	
	alpha-Naphthylthiourea	6.1	UN 1651	Poison	II	1,2	1,2	
	Naphthylurea	6.1	UN 1652	Poison	II	1,2	1,2	
	Naphthalene, molten	4.1	UN 2304	Flammable Solid	III	1	1	
•	Natural gases *with a high methane content. See* Methane *or* natural gases, *etc.*							
	Natural gasoline. *See* Casinghead gasoline							
	Neohexane. *See* Dimethyl butane							
	Neon, *compressed*	2.2	UN 1065	Nonflammable Gas	–	1,2	1,2	
	Neon, refrigerated liquid	2.2	UN 1913	Nonflammable Gas	–	1,2	1	
	Nickel carbonyl	6.1	UN 1259	Poison, Flammable Liquid	I	1	1	Keep cool. Prohibited on any ship carrying explosives except explosives in Division 1.4, Compatibility Group S. Shade from radiant heat. Segregation same as for flammable liquids.
•	Nickel catalyst, dry *precipitated or a carrier with a special activator*	4.2	UN 2881	Spontaneously Combustible	I	1,2	1	
•	Nickel catalyst, wetted *with not less than 40% water or other suitable liquid, by weight, finely divided, activated, or spent*	4.2	UN 1378	Spontaneously Combustible	II	1,2	1	
	Nickel cyanide	6.1	UN 1653	Poison	II	1,2	1,2	
	Nickel nitrate	5.1	UN 2725	Oxidizer	III	1,2	1,2	
	Nickel nitrite	5.1	UN 2726	Oxidizer	III	1,2	1,2	
•	Nicotine (*and salts of*), liquid	6.1	UN 1654	Poison	I	1	1	Stow 'separated from' ammonium compounds and cyanides and 'away from' foodstuffs.
		6.1	UN 1654	Poison	II	1,2	1	
		6.1	UN 1654	St. Andrews Cross	III	1,2	1,2	
•	Nicotine (*and salts of*), solid	6.1	UN 1654	Poison	I/II	1,2	1,2	
		6.1	UN 1654	St. Andrews Cross	III	1,2	1,2	
	Nicotine compounds, n.o.s. *or* Nicotine preparations, n.o.s.	6.1	UN 1655	Poison	I/II	1,2	1,2	
		6.1	UN 1655	St. Andrews Cross	III	1,2	1,2	
	Nicotine hydrochloride, *or* Nicotine hydrochloride solutions	6.1	UN 1656	Poison	II	1,2	1,2	
	Nicotine salicylate	6.1	UN 1657	Poison	II	1,2	1,2	
	Nicotine sulphate, solid *or* solution	6.1	UN 1658	Poison	II	1,2	1,2	
	Nicotine tartrate	6.1	UN 1659	Poison	II	1,2	1,2	
	Nitrate of soda and potash, mixture. *See* Sodium nitrate and potash, mixture							
•	Nitrates, inorganic, n.o.s.	5.1	UN 1477	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals.
	Nitrating acid, mixtures	8	UN 1796	Corrosive, Oxidizer (not required if nitric acid content not more than 50%)	I/II	1	5	Stow 'away from' fluorides.
	Nitric acid, *other than red fuming, all concentrations*	8	UN 2031	Corrosive	I/II	1	5	Stow 'separated from' diethylene triamine. Stow 'away from' hydrazine, fluorides, and all other corrosives except sulphuric acid and sulphur trioxide.
•	Nitric acid, red fuming	8	UN 2032	Corrosive, Oxidizer, Poison	I	1	5	Stow 'separated from' diethylene triamine. Stow 'away from' hydrazine, fluorides and all other corrosives except sulphuric acid and sulphur trioxide.
•	Nitric oxide	2.3	UN 1660	Poison Gas	–	1	1	
•	Nitric oxide and nitrogen tetroxide mixtures	2.3	UN 1975	Poison Gas, Oxidizer	–	1	5	Stow 'away from' organic materials.
•	Nitrites, inorganic, n.o.s.	5.1	UN 2627	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and cyanides and 'away from' powdered metals and foodstuffs.
	Nitroanilines (*o-, m-, p-*)	6.1	UN 1661	Poison	II	1,2	1,2	
	Nitrobenzene	6.1	UN 2730	St. Andrews Cross	III	1,3	1,3	Keep cool.
	Nitrobenzene	6.1	UN 1662	Poison	II	1,2	1,2	Stow 'away from' living quarters.
	Nitrobenzenesulphonic acid	8	UN 2305	Corrosive	II	1,2	1,2	
	Nitrobenzol. *See* Nitrobenzene							
N	5-Nitrobenzotriazol	1.1D	UN 0385	Explosive (1.1D)	–	–	–	
	Nitrobenzotrifluorides	6.1	UN 2306	Poison	II	1,2	1,2	Stow 'away from' living quarters.
	Nitrobromobenzene	6.1	UN 2732	St. Andrews Cross	III	1,3	1,3	Keep cool.
	Nitrocellulose, *containing at least 25% alcohol, by weight, and not exceeding 12.6% nitrogen by dry weight*	4.1	UN 2556	Flammable Solid	I	1	5	Shade from radiant heat, keep away from heat and open flame.
	Nitrocellulose, *containing at least 25%, by weight, water*	4.1	UN 2555	Flammable Solid	II	1	5	Shade from radiant heat. Keep away from heat and open flame.
	Nitrocellulose, *containing at least 18% plasticizing substance, by weight, and not exceeding 12.6% nitrogen by dry weight*	4.1	UN 2557	Flammable Solid	I	1	1	Shade from radiant heat. Keep away from heat and open flame.
*N	Nitrocellulose *dry or wetted with less than 25% alcohol, by weight*	1.1D	UN 0340	Explosive (1.1D)	–	–	–	
*N	Nitrocellulose, *dry or wetted with less than 25% water, by weight*	1.1D	UN 0340	Explosive (1.1D)	–	–	–	
	Nitrocellulose, *in solution in flammable liquids*	3.2	UN 2059	Flammable Liquid	II	1,2	1	
		3.3	UN 2980	Flammable Liquid	II	1,2	1,2	
*N	Nitrocellulose, plasticized *with not less than 18% plasticizing substance, by weight*	1.3C	UN 0343	Explosive (1.3C)	–	–	–	
• *N	Nitrocellulose *unmodified or unplasticized with less than 18% plasticizing substance, by weight*	1.1D	UN 0341	Explosive (1.1D)	–	–	–	
	Nitrocellulose, *wetted with, by weight, more than 40% flammable liquids*	3.2	(UN 2556)	Flammable Liquid	II	1,2	1	
		3.3	(UN 2556)	Flammable Liquid	II	1,2	1,2	
*N	Nitrocellulose, wetted *with not less than 25% alcohol, by weight*	1.3C	UN 0342	Explosive (1.3C)	–	–	–	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	3-Nitro-4-chlorobenzotrifluoride	6.1	UN 2307	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Nitrocresols	6.1	UN 2446	St. Andrews Cross	III	1,2	1,2	Stow 'away from' living quarters
•	Nitroethane	3.3	UN 2842	Flammable Liquid	III	1,2	1,2	
	Nitrogen, *compressed*	2.2	UN 1066	Nonflammable Gas	--	1,2	1,2	
	Nitrogen dioxide, *liquefied*	2.3	UN 1067	Poison Gas, Oxidizer	--	1	5	Stow 'away from' foodstuffs, organic materials and living quarters
•	Nitrogen, refrigerated liquid	2.2	UN 1977	Nonflammable Gas	--	1,3	1,3	
	Nitrogen tetroxide. *See* Nitrogen dioxide							
	Nitrogen trifluoride	2.3	UN 2451	Poison Gas	--	1	1	Stow 'away from' living quarters and organic materials
	Nitrogen trioxide	2.3	UN 2421	Poison Gas	--	1	5	Stow 'away from' living quarters and readily [illegible]
*N	Nitroglycerine, desensitized, *with not less than 40% non-volatile water-insoluble phlegmatizer, by weight*	1.1D	UN 0143	Explosive (1.1D), Poison	--	--	--	
*N	Nitroglycerine, spirit of, *with more than 1% but not more than 10% nitroglycerine in solution in alcohol*	1.1D	UN 0144	Explosive (1.1D)	--	--	--	
•	Nitroglycerin solution, in alcohol *with not more than 1% nitroglycerin*	3.2	UN 1204	Flammable Liquid	II	1,2	1	
N	Nitroguanidine, *dry or containing, by weight, less than 20% water*	1.1D	UN 0282	Explosive (1.1D)	--	--	--	
	Nitroguanidine, wetted, *with, by weight, at least 20% water*	4.1	UN 1336	Flammable Solid	I	1,2	5	
	Nitrohydrochloric acid	8	UN 1798	Corrosive	I	1	1	Stow 'away from' fluorides
	Nitromethane	3.3	UN 1261	Flammable Liquid	II	1,2	1,2	
	Nitromuriatic acid. *See* Nitrohydrochloric acid							
	Nitronaphthalene	4.1	UN 2538	Flammable Solid	III	1,2	1,2	
	Nitrophenols (*o-, m-, p-*)	6.1	UN 1663	St. Andrews Cross	III	1,2	1,2	
	Nitropropanes	3.3	UN 2608	Flammable Liquid	III	1,2	1,2	
	p-Nitrosodimethylaniline	4.2	UN 1369	Spontaneously Combustible	II	1,2	5	Stow 'away from' foodstuffs
N	Nitrostarch, *dry or containing, by weight, less than 20% water*	1.1D	UN 0146	Explosive (1.1D)	--	--	--	
	Nitrostarch, wetted *with, by weight, at least 20% water*	4.1	UN 1337	Flammable Solid	I	1	1	
	Nitrosyl chloride	2.3	UN 1069	Poison Gas, Corrosive	--	1	1	Stow 'away from' foodstuffs and living quarters
	Nitrosylsulphuric acid	8	UN 2308	Corrosive	II	1	1	Stow 'away from' organic materials
	Nitrotoluenes (*o-, m-, p-*)	6.1	UN 1664	Poison	II	1,2	1,2	
N	Nitro urea	1.1D	UN 0147	Explosive (1.1D)	--	--	--	
	Nitrous oxide, *compressed*	2.2	UN 1070	Nonflammable Gas, Oxidizer	--	1,2	1,2	
	Nitrous oxide, refrigerated liquid	2.2	UN 2201	Nonflammable Gas	--	1,2	1	
	Nitroxylenes (*o-, m-, p-*)	6.1	UN 1665	Poison	II	1,2	1,2	
	Nonane, *and its isomers*	3.3	UN 1920	Flammable Liquid	II	1,2	1,2	
	Nonyl trichlorosilane	8	UN 1799	Corrosive	II	1	1	Keep dry
	Octadecyl trichlorosilane	8	UN 1800	Corrosive	II	1	1	Keep dry
	Octadiene	3.2	UN 2309	Flammable Liquid	III	1,2	1	
	Octafluorobut-2-ene	2.2	UN 2422	Nonflammable Gas	--	1,2	1,2	
	Octafluorocyclobutane	2.2	UN 1976	Nonflammable Gas	--	1,2	1,2	
	Octafluoropropane	2.2	UN 2424	Nonflammable Gas	--	1,2	1,2	
	Octane *and its isomers*	3.2	UN 1262	Flammable Liquid	II	1,2	1	
	n-Octanoyl peroxide. *See* Di-n-octanoyl peroxide				--	--	--	
*N	Octolite, *dry or wetted with less than 15% water, by weight*	1.1D	UN 0266	Explosive (1.1D)	--	--	--	
	Octyl trichlorosilane	8	UN 1801	Corrosive	II	1	1	Keep dry
	Oil gas	2.1	UN 1071	Flammable Gas, Poison Gas	--	1	5	Stow 'away from' living quarters
•	Oleum. *See* Sulphuric acid, fuming							
	Organic peroxides, mixture (*this description must be supplemented with the name of the primary constituent of the mixture*)	5.2	UN 3756	Organic Peroxide	I/II	1	5	
	Organic peroxides, n.o.s., samples	5.2	UN 2253	Organic Peroxide	I/II	1	5	
	Organic peroxides, n.o.s., trial quantities	5.2	UN 2899	Organic Peroxide	--	1	5	
•	Organochlorine pesticides, liquid, flammable, toxic, n.o.s., *flashpoint less than 23 deg C*	3.3	UN 2762	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Organochlorine pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 2993	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 2995	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 2995	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Organochlorine pesticides, liquid, toxic, n.o.s.	6.1	UN 2996	Poison	I	1	1	
		6.1	UN 2996	Poison	II	1,2	1	
		6.1	UN 2996	St. Andrews Cross	III	1,2	1,2	
•	Organochlorine pesticides, solid, toxic, n.o.s.	6.1	UN 2761	Poison	I/II	1,2	1,2	
		6.1	UN 2761	St. Andrews Cross	III	1,2	1,2	
•	Organophosphorus pesticides, liquid, flammable, toxic, n.o.s., *flashpoint less than 23 deg C*	3.3	UN 2784	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	Organophosphorus pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 3017	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 3017	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 3017	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Organophosphorus pesticides, liquid, toxic, n.o.s.	6.1	UN 3018	Poison	I	1	1	
		6.1	UN 3018	Poison	II	1,2	1	
		6.1	UN 3018	St. Andrews Cross	III	1,2	1,2	
•	Organophosphorus pesticides solid, toxic, n.o.s	6.1	UN 2783	Poison	I/II	1,2	1,2	
		6.1	UN 2783	St. Andrews Cross	III	1,2	1,2	
	Organotin compounds, n.o.s.	6.1	UN 2788	Poison	I/II	1,2	1	Stow 'away from' living quarters
		6.1	UN 2788	St. Andrews Cross	III	1,2	1	
•	Organotin pesticides, liquid, flammable, toxic, n.o.s., *flashpoint below 23 deg C*	3.2	UN 2787	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Organotin pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 3019	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 3019	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 3019	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Organotin pesticides, liquid, toxic, n.o.s.	6.1	UN 3020	Poison	I	1	1	
		6.1	UN 3020	Poison	II	1,2	1	
		6.1	UN 3020	St. Andrews Cross	III	1,2	1,2	
•	Organotin pesticides, solid, toxic, n.o.s.	6.1	UN 2786	Poison	I/II	1,2	1,2	
		6.1	UN 2786	St. Andrews Cross	III	1,2	1,2	
	Osmium tetroxide	6.1	UN 2471	Poison	I	1,2	1	Stow 'away from' living quarters
	Oxalates, *water soluble*	6.1	UN 2449	St. Andrews Cross	III	1,2	1,2	
•	Oxidizing substances, n.o.s.	5.1	UN 1479	Oxidizer	I/II/III	1,2	1,2	Stow 'separated from' ammonium compounds and 'away from' powdered metals
	Oxygen and carbon dioxide, mixtures. See Carbon dioxide and oxygen *mixtures*							
	Oxygen, *compressed*	2.2	UN 1072	Nonflammable Gas, Oxidizer	–	1,2	1,2	
	Oxygen difluoride	2.3	UN 2190	Poison Gas	–	1	5	Keep dry. Stow 'away from' living quarters and readily combustible substances
	Oxygen, *refrigerated liquid*	2.2	UN 1073	Nonflammable Gas, Oxidizer	–	1	5	Stow 'separated from' acetylene. Do not overstow
•	Paints, enamels, lacquers, stains, shellac *solutions*, varnish, polishes, fillers *liquid*, lacquer base *or* thinners	3.2	UN 1263	Flammable Liquid	II/III	1,2	1	
		3.3	UN 1263	Flammable Liquid	II/III	1,2	1,2	
•	Paper, unsaturated oil treated, *incompletely dried*	4.2	UN 1379	Spontaneously Combustible	III	1,2	1,2	
	Paraformaldehyde	4.1	UN 2213	None. Package to be marked 'Class 4.1'	III	1,2	1,2	
	Paraldehyde	3.3	UN 1264	Flammable Liquid	III	1,2	1,2	
	Pentaborane	4.2	UN 1380	Spontaneously Combustible, Poison	I	1	5	
	Pentachloroethane	6.1	UN 1669	Poison	II	1,2	1,2	
•N	Pentaerythrite tetranitrate, wetted *with not less than 25% water, by weight, or* desensitized *with not less than 15% phlegmatizer, by weight*	1.1D	UN 0150	Explosive (1.1D)	–	–	–	
•N	Pentaerythrite tetranitrate, *with not less than 7% wax, by weight*	1.1D	UN 0411	Explosive (1.1D)	–	–	–	
	Pentamethylheptane	3.3	UN 2286	Flammable Liquid	III	1,2	1,2	
	2,4-Pentanedione	3.3	UN 2310	Flammable Liquid	III	1,2	1,2	
	Pentanes	3.1	UN 1265	Flammable Liquid	I	1,3	5	Keep cool
	1-Pentol	8	UN 2705	Corrosive	II	1,2	1	Stow 'away from' all other corrosives
•N	Pentolite, *dry or wetted with less than 15% water, by weight*	1.1D	UN 0151	Explosive (1.1D)	–	–	–	
•	Perchlorates, inorganic, n.o.s.	5.1	UN 1481	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Perchloric acid, *not exceeding 50%, by weight, of acid*	8	UN 1802	Corrosive, Oxidizer	II	1	1	Stow 'away from' hydrazine
	Perchloric acid, *over 50% and not exceeding 72% of acid*	5.1	UN 1873	Oxidizer, Corrosive	I	1	II	
	Perchloroethylene. *See* Tetrachloroethylene							
	Perchloromethyl mercaptan	6.1	UN 1670	Poison	I	1	II	Stow 'away from' living quarters
•	Perfumery products, *with flammable solvents*	3.2	UN 1266	Flammable Liquid	II	1,2	1	
		3.3	UN 1266	Flammable Liquid	II	1,2	1,2	
•	Permanganates, inorganic, n.o.s.	5.1	UN 1482	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and hydrogen peroxide
•	Peroxides, inorganic, n.o.s.	5.1	UN 1483	Oxidizer	II	1,2	1	Stow 'away from' powdered metals. Keep dry
•	Peroxyacetic acid, *maximum concentration 43% in acetic acid or in a mixture of acetic acid and water, with in either case not more than 6% hydrogen peroxide and not more than 1% sulphuric acid*	5.2	UN 2131	Organic Peroxide, Corrosive	I	1	5	
•	Pesticides, liquid, flammable, toxic, n.o.s. *flashpoint below 23 deg C*	3.2	UN 3021	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Note and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	*Pesticides, liquid, toxic, flammable, n.o.s. flashpoint between 23 deg C and 61 deg C*	6.1	UN 2851	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 2903	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 2903	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Pesticides, liquid, toxic, n.o.s.	6.1	UN 2902	Poison	I	1	1	
		6.1	UN 2902	Poison	II	1,2	1	
		6.1	UN 2902	St. Andrews Cross	III	1,2	1,2	
•	Pesticides, solid, toxic, n.o.s.	6.1	UN 2588	Poison	I/II	1,2	1,2	
		6.1	UN 2588	St. Andrews Cross	III	1,2	1,2	
	Petroleum crude oil	3.1	UN 1267	Flammable Liquid	II	1,3	II	Keep cool
		3.2	UN 1267	Flammable Liquid	II	1,2	1	
		3.3	UN 1267	Flammable Liquid	II	1,2	1,2	
	Petroleum distillates, n.o.s.	3.1	UN 1268	Flammable Liquid	II	1,3	II	Keep cool
		3.2	UN 1268	Flammable Liquid	II	1,2	1	
		3.3	UN 1268	Flammable Liquid	II	1,2	1,2	
	Petroleum ether. *See* Petroleum spirit							
•	Petroleum gases, liquefied	2.1	UN 1075	Flammable Gas	–	1,2	1	
	Petroleum oil	3.1	UN 1270	Flammable Liquid	II	1,3	5	Keep cool
		3.2	UN 1270	Flammable Liquid	II	1,2	1	
		3.3	UN 1270	Flammable Liquid	II	1,2	1,2	
	Petroleum spirit	3.1	UN 1271	Flammable Liquid	II	1,3	II	Keep cool
		3.2	UN 1271	Flammable Liquid	II	1,2	1	
		3.3	UN 1271	Flammable Liquid	II	1,2	1,2	
	Petrol. *See* Gasoline							
	Phenacyl bromide	6.1	UN 2645	Poison	II	1,3	1	Keep cool. Stow 'away from' living quarters
•	Phenetidines (*o-, p-*)	6.1	UN 2311	St. Andrews Cross	III	1,2	1,2	
	Phenol	6.1	UN 1671	Poison	II	1,2	1,2	
	Phenol, molten	6.1	UN 2312	Poison	II	1	1	
	Phenol solutions	6.1	UN 2821	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Phenolsulphonic acid, *liquid*	8	UN 1803	Corrosive	II	1,2	1	Metal drums only under deck
•	Phenoxyl pesticides, solid, toxic, n.o.s.	6.1	UN 2763	Poison	I/II	1,2	1,2	
		6.1	UN 2765	St. Andrews Cross	III	1,2	1,2	
•	Phenoxy pesticides, liquid, flammable, toxic, n.o.s., *flashpoint less than 23 deg C*	3.2	UN 2766	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Phenoxy pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 2999	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 2999	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 2999	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Phenoxy pesticides, liquid, toxic, n.o.s.	6.1	UN 3000	Poison	I	1	1	
		6.1	UN 3000	Poison	II	1,2	1	
		6.1	UN 3000	St. Andrews Cross	III	1,2	1,2	
	Phenylacetonitrile, liquid	6.1	UN 2470	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Phenylacetyl chloride	8	UN 2577	Corrosive	II	1	1	Keep dry
	Phenylcarbylamine chloride	6.1	UN 1672	Poison	I	1	5	Stow 'away from' living quarters
	Phenylchloroformate	8.1	UN 2746	Poison, Corrosive	II	1,3	1,3	Keep cool and dry. Shade from radiant heat. Stow 'away from' living quarters
	Phenylenediamines (*o-, m-, p-*)	6.1	UN 1673	St. Andrews Cross	III	1,2	1,2	
	Phenylhydrazine	6.1	UN 2572	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Phenyl isocyanate	6.1	UN 2487	Poison, Flammable Liquid	II	1	5	Shade from radiant heat. Stow 'away from' living quarters. Segregation same as for flammable liquids
	Phenyl mercaptan	6.1	UN 2337	Poison, Flammable Liquid	I	1,2	1	Segregation same as for flammable liquids
	Phenylmercuric acetate	6.1	UN 1674	Poison	II	1,2	1,2	
	Phenylmercuric compounds, n.o.s.	6.1	UN 2026	Poison	I/II	1,2	1,2	
		6.1	UN 2026	St. Andrews Cross	III	1,2	1,2	
	Phenylmercuric hydroxide	6.1	UN 1894	Poison	II	1,2	1,2	
	Phenylmercuric nitrate	6.1	UN 1895	Poison	II	1,2	1,2	
	Phenyl phosphorus dichloride	8	UN 2798	Corrosive	II	1,2	1	
	Phenyl phosphorus thiodichloride	8	UN 2799	Corrosive	II	1,2	1	
	Phenyl trichlorosilane	8	UN 1804	Corrosive	II	1	1	Keep dry
•	Phenyl urea pesticides, liquid, flammable, toxic, n.o.s., *flashpoint less than 23 deg C*	3.2	UN 2768	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Phenyl urea pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 3001	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 3001	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 3001	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Phenyl urea pesticides, liquid, toxic, n.o.s.	6.1	UN 3002	Poison	I	1	1	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
		6.1	UN 2002	Poison	II	1,2	1	
•	Phenyl urea pesticides, solid, toxic, n.o.s.	6.1	UN 3002	St. Andrews Cross	III	1,2	1,2	
		6.1	UN 2767	Poison	I/II	1,2	1,2	
•	Phosgene	6.1	UN 2767	St. Andrews Cross	III	1,2	1,2	
•	9-Phosphabicyonones	2.3	UN 1076	Poison Gas, Corrosive	--	1	5	
	Phosphine	4.2	UN 2940	Spontaneously Combustible	II	1,2	1,2	
		2.3	UN 2199	Poison Gas, Flammable Gas	--	1	5	Stow 'away from' living quarters
•	Phosphoric acid, *liquid*	8	UN 1805	Corrosive	III	1,2	1,2	Glass carboys in hampers prohibited under deck
•	Phosphoric acid, *solid*	II	UN 1805	Corrosive	III	1,2	1,2	
	Phosphoric anhydride. *See* Phosphorus pentoxide							
•	Phosphorous acid, ortho	8	UN 2834	Corrosive	III	1,3	1,3	Stow 'away from' sources of heat. Keep dry
	Phosphorous bromide. *See* Phosphorus tribromide							
	Phosphorous chloride. *See* Phosphorus trichloride							
	Phosphorus, amorphous	4.1	UN 1338	Flammable Solid	III	1,2	1,2	
	Phosphorus heptasulphide, *free from yellow or white phosphorus*	4.1	UN 1339	Flammable Solid	II	1,2	1	Stow 'separated from' oxidizing substances
	Phosphorus oxybromide, molten	II	UN 2576	Corrosive	II	1	1	Keep dry
	Phosphorus oxybromide, solid	II	UN 1939	Corrosive	II	1	1	Keep cool and dry
	Phosphorus oxychloride	II	UN 1810	Corrosive	II	1	1	Keep dry
	Phosphorus pentabromide	II	UN 2691	Corrosive	II	1,3	1	Keep cool and dry
	Phosphorus pentachloride	8	UN 1806	Corrosive	II	1	1	Keep dry
	Phosphorus pentafluoride	2.3	UN 2198	Poison Gas	--	1	5	Stow 'away from' living quarters
	Phosphorus pentasulphide, *free from yellow or white phosphorus*	4.1	UN 1340	Flammable Solid	II	1,2	1,2	Stow 'separated from' oxidizing substances
	Phosphorus pentoxide	8	UN 1807	Corrosive	II	1,2	1,2	Glass bottles prohibited under deck
	Phosphorus sesquisulphide, *free from yellow or white phosphorus*	4.1	UN 1341	Flammable Solid	II	1,2	1	Stow 'separated from' oxidizing substances
	Phosphorus tribromide	II	UN 1808	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Phosphorus trichloride	8	UN 1809	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Phosphorus trioxide	II	UN 2578	Corrosive	III	1,3	1,3	Keep cool and dry
	Phosphorus trisulphide, *free from yellow or white phosphorus*	4.1	UN 1343	Flammable Solid	II	1,2	1	Stow 'separated from' oxidizing substances
	Phosphorus, white, molten	4.2	UN 2447	Spontaneously Combustible, Poison	I	1	5	
	Phosphorus, *white or yellow, dry*	4.2	UN 1381	Spontaneously Combustible	I	1,2	II	
	Phosphorus, *white or yellow, in water*	4.2	UN 1381	Spontaneously Combustible	I	1,2	5	
N	Photo-flash powder *in units*	1.1G	UN 0094	Explosive (1.1G)	--	--	--	
N	Photo-flash powder *in units*	1.2G	UN 0096	Explosive (1.2G)	--	--	--	
N	Photo-flash powder *in units*	1.3G	UN 0305	Explosive (1.3G)	--	--	--	
	Phthalic anhydride, *solid or molten*	II	UN 2214	None. Package to be marked 'Class 8'	III	1,2	1,2	Stow 'away from' foodstuffs
•	Phthalimide derivative pesticides, liquid, flammable, toxic, n.o.s., *flashpoint below 23 deg C*	3.2	UN 2774	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Phthalimide derivative pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 3007	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 3007	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 3007	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Phthalimide derivative pesticides, liquid, toxic, n.o.s.	6.1	UN 3008	Poison	I	1	1	
		6.1	UN 3008	Poison	II	1,2	1	
		6.1	UN 3008	St. Andrews Cross	III	1,2	1,2	
•	Phthalimide derivative pesticides, solid, toxic, n.o.s.	6.1	UN 2773	Poison	I/II	1,2	1,2	
		6.1	UN 2773	St. Andrews Cross	III	1,2	1,2	
	Picolines	3.3	UN 2313	Flammable Liquid	II	1,2	1,2	
•	Picric acid, wetted. *See* Trinitrophenol, wetted							
•	Pinanyl hydroperoxide *technical pure*	5.2	UN 2162	Organic Peroxide	I	1	5	
•	Pindone *(and salts of), liquid*	6.1	UN 2472	Poison	I	1	1	
		6.1	UN 2472	Poison	II	1,2	1	
		6.1	UN 2472	St. Andrews Cross	III	1,2	1,2	
•	Pindone *(and salts of), solid*	6.1	UN 2472	Poison	I/II	1,2	1,2	
		6.1	UN 2472	St. Andrews Cross	III	1,2	1,2	
	alpha-Pinene	3.3	UN 2368	Flammable Liquid	III	1,2	1,2	
	Pine oil	3.3	UN 1272	Flammable Liquid	III	1,2	1,2	
	Piperazine	8	UN 2579	Corrosive	III	1,3	1,3	Keep cool and dry
	Piperidine	3.2	UN 2401	Flammable Liquid	II	1,2	1	Keep dry
•	Plastics moulding materials evolving flammable vapours	9	UN 2211	None	III	1,2	1,2	
•	Plastics, nitrocellulose-based, spontaneously combustible, n.o.s.	4.2	UN 2006	Spontaneously Combustible	III	1	1	
•	Poisonous liquids, corrosive, n.o.s.	6.1	UN 2927	Poison, Corrosive	I/II	1,2	1	Segregation same as for corrosives
•	Poisonous liquids, flammable, n.o.s.	6.1	UN 2929	Poison, Flammable Liquid	I/II	1,2	1	Segregation same as for flammable liquids

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	Poisonous liquids, n.o.s.	6.1	UN 2810	Poison	I/II	1,2	1	
		6.1	UN 2810	St. Andrews Cross	III	1,2	1	
•	Poisonous solids, corrosive, n.o.s.	6.1	UN 2928	Poison, Corrosive	I/II	1,2	1	Segregation same as for corrosives
•	Poisonous solids, flammable, n.o.s.	6.1	UN 2926	Poison, Flammable Solid	I/II	1,2	1	Segregation same as for flammable solids
•	Poisonous solids, n.o.s.	6.1	UN 2811	Poison	I/II	1,2	1	
		6.1	UN 2811	St. Andrews Cross	III	1,2	1	
	Polishes. *See* Paints, etc.							
	Polishing fluid. *See* Flammable liquid preparations, n.o.s.							
	Polychlorinated biphenyls	9	UN 2315	None	II	1,2	1,2	Stow in a recoverable position. Stow 'away from' foodstuffs
•	*Polystyrene beads, expandable, impregnated with flammable liquid.* *See* Plastics moulding materials evolving flammable vapours							
	Potassium arsenate	6.1	UN 1677	Poison	II	1,2	1,2	
	Potassium arsenite	6.1	UN 1678	Poison	II	1,2	1,2	
•	Potassium bifluoride, *solid*	8	UN 1811	Corrosive, Poison	II	1,2	1,2	
	Potassium bifluoride, *solution*	8	UN 1811	Corrosive, Poison	II	1,2	1,2	
	Potassium borohydride	4.3	UN 1870	Dangerous When Wet	I	1,2	5	
	Potassium bromate	5.1	UN 1484	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and 'away from' powdered metals
	Potassium chlorate	5.1	UN 1485	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and 'away from' powdered metals
	Potassium chlorate, *aqueous solution*	5.1	UN 2427	Oxidizer	II	1,2	1	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Potassium cuprocyanide	6.1	UN 1679	Poison	II	1,2	1,2	Stow 'away from' acids
	Potassium cyanide	6.1	UN 1680	Poison	I	1,2	1,2	Stow 'away from' acids
	Potassium fluoride	6.1	UN 1812	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Potassium fluoroacetate	6.1	UN 2628	Poison	I	1,2	5	Stow 'away from' living quarters
•	Potassium hydrogen fluoride. *See* Potassium bifluoride							
	Potassium hydrogen sulphate	8	UN 2509	Corrosive	II	1,2	1,2	Stow 'away from' strong alkalis
	Potassium hydrosulphite	4.2	UN 1929	Spontaneously Combustible	II	1,2	5	Keep dry
•	Potassium hydroxide, solid	8	UN 1813	Corrosive	II	1,2	1,2	Keep dry
•	Potassium hydroxide, solution	8	UN 1814	Corrosive	II	1,2	1,2	
•	Potassium hypochlorite, *solution.* *See* Hypochlorite, solutions, *etc.*							
	Potassium metal	4.2	UN 2257	Spontaneously Combustible	II	1,2	5	
	Potassium, metal alloys	4.3	UN 1420	Dangerous When Wet	II	1,2	5	
	Potassium metavanadate	6.1	UN 2864	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Potassium nitrate	5.1	UN 1486	Oxidizer	III	1,2	1,2	
•	Potassium nitrate and sodium nitrite, mixture	5.1	UN 1487	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and cyanides, and 'away from' foodstuffs
	Potassium nitrate bags, *empty.* *See* Bags, *empty and unwashed, etc.*							
	Potassium nitrite	5.1	UN 1488	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and cyanides, and 'away from' foodstuffs
	Potassium oxide	8	UN 2033	Corrosive	II	1,2	1,2	Keep dry
	Potassium perchlorate	5.1	UN 1489	Oxidizer	II	1,2	1,2	Stow 'away from powdered metals
	Potassium permanganate	5.1	UN 1490	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and hydrogen peroxide
	Potassium peroxide	5.1	UN 1491	Oxidizer	I	1,2	1,2	Keep dry
	Potassium persulphate	5.1	UN 1492	Oxidizer	III	1,2	1,2	
•	Potassium phosphide	4.3	UN 2012	Dangerous When Wet, Poison	I	1,2	II	When stowed under deck, stow in a mechanically ventilated space
N	Potassium salts of nitro-aromatic derivatives, *explosive*	1.3C	UN 0158	Explosive (1.3C)	--	--	--	
	Potassium silicofluoride	8	UN 2655	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Potassium-sodium, *alloy*	4.3	UN 1422	Dangerous When Wet	I	1,2	II	
•	Potassium sulphide, *anhydrous or* Potassium sulphide *with less than 30% water of crystallization*	8	UN 1382	Spontaneously Combustible	II	1,2	1,2	Stow 'separated from' liquid acids
•	Potassium sulphide, hydrated, *with not less than 30% water of crystallization*	8	UN 1847	Corrosive	II	1,2	1,2	Stow 'away from' acids
	Potassium superoxide	8	UN 2466	Oxidizer	I	1,2	I	Keep dry. Stow 'away from' combustible materials including packaging of other cargo
*N	Powder cake, wetted *with not less than 35% water, by weight*	1.3C	UN 0159	Explosive (1.3C)	--	--	--	
N	Powder, smokeless	1.1C	UN 0160	Explosive (1.1C)	--	--	--	
N	Powder, smokeless	1.3C	UN 0161	Explosive (1.3C)	--	--	--	
	Primers, cap type	1.4B	UN 0378	Explosive (1.4B)	--	1,3	1,3	
	Primers, cap type	1.4S	UN 0044	None. Package to be marked '1.4S'	--	1,3	1,3	
N	Primers, cap type	1.1B	UN 0377	Explosive (1.1B)	--	--	--	
	Primers, tubular	1.4G	UN 0320	Explosive (1.4G)	--	1,3	1,3	
	Primers, tubular	1.4S	UN 0376	None. Package to be marked '1.4S'	--	1,3	1,3	
N	Primers, tubular	1.3G	UN 0319	Explosive (1.3G)	--	--	--	
	Projectiles, *inert, with tracer*	1.4 S	UN 0345	None. Package to be marked '1.4 S'	--	1,3	1,3	
*N	Projectiles, *inert, with tracer*	1.3G	UN 0424	Explosive (1.3G)	--	--	--	
•	Projectiles, *inert, with tracer*	1.4G	UN 0425	Explosive (1.4G)	--	1,3	1,3	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
N	Projectiles, *with burster or expelling charge*	1.2D	UN 0346	Explosive (1.2D)	–	–	–	
*N	Projectiles, *with burster or expelling charge*	1.2F	UN 0426	Explosive (1.2F)	–	–	–	
*N	Projectiles, *with burster or expelling charge*	1.4F	UN 0427	Explosive (1.4F)	–	–	–	
N	Projectiles, *with burster or expelling charge*	1.4D	UN 0347	Explosive (1.4D)	–	–	–	
N	Projectiles, *with bursting charge*	1.1D	UN 0168	Explosive (1.1D)	–	–	–	
N	Projectiles, *with bursting charge*	1.2D	UN 0169	Explosive (1.2D)	–	–	–	
N	Projectiles, *with bursting charge*	1.4D	UN 0344	Explosive (1.4D)	–	–	–	
N	Projectiles, *with bursting charge*	1.1F	UN 0167	Explosive (1.1F)	–	–	–	
N	Projectiles, *with bursting charge*	1.2F	UN 0324	Explosive (1.2F)	–	–	–	
•	Propadiene, inhibited	2.1	UN 2200	Flammable Gas	–	1	5	
•	Propane	2.1	UN 1978	Flammable Gas	–	1,2	1	
•	Propanethiols	3.1	UN 2402	Flammable Liquid	II	1,3	5	Keep cool and dry. Stow 'away from' foodstuffs and all odor absorbing cargo
	Propanol	3.2	UN 1274	Flammable Liquid	II	1,2	1	
•	Propionaldehyde	3.1	UN 3275	Flammable Liquid	II	1,3	5	Keep cool
		3.2	UN 1275	Flammable Liquid	II	1,2	1	
•	Propionic acid, *solution containing not less than 80% acid*	8	UN 1848	Corrosive, Flammable Liquid (only if flashpoint 61 deg C or below)	III	1,2	1,2	Stow 'separated by a complete compartment or hold from' organic peroxides, and 'separated longitudinally by a complete compartment or hold from' explosives. If flashpoint is 61 deg C or below, segregation same as for flammable liquids
	Propionic anhydride	8	UN 2496	Corrosive	III	1,2	1,2	Keep dry. Glass carboys prohibited on passenger vessels
	Propionitrile	3.2	UN 2404	Flammable Liquid, Poison	II	1,3	5	Keep cool
	Propionyl chloride	3.2	UN 1815	Flammable Liquid, Corrosive	II	1,2	1	
	n-Propyl acetate	3.2	UN 1276	Flammable Liquid	II	1,2	1	
	sec-Propyl alcohol. *See* Isopropanol							
	n-Propyl alcohol. *See* Propanol							
	Propylamine. *See* Monopropylamine							
	Propyl benzene	3.3	UN 2364	Flammable Liquid	II	1,2	1,2	
	Propyl chloride	3.1	UN 1278	Flammable Liquid	II	1,3	5	Keep cool
	n-Propyl chloroformate	3.3	UN 2740	Flammable Liquid, Poison, Corrosive	I	1,2	1,2	
•	Propylene	2.1	UN 1077	Flammable Gas	–	1,2	1	
	Propylene chlorohydrin	6.1	UN 2611	Poison, Flammable Liquid	II	1,3	1,3	Keep cool. Shade from radiant heat. Segregation same as for flammable liquids
•	Propylenediamine	3.2	UN 2258	Flammable Liquid, Corrosive	II	1,2	1,2	
		3.3	UN 2258	Flammable Liquid, Corrosive	II	1,2	1,2	
	Propylene dichloride	3.2	UN 1279	Flammable Liquid	II	1,2	1	
	Propyleneimine, *inhibited*	3.2	UN 1921	Flammable Liquid	I	1,2	1	
•	Propylene oxide	3.1	UN 1280	Flammable Liquid	I	1,3	5	Keep cool
	Propylene tetramer	3.3	UN 2850	Flammable Liquid	III	1,2	1,2	
	Propyl formates	3.2	UN 1281	Flammable Liquid	II	1,2	1	
	n-Propyl isocyanate	3.2	UN 2482	Flammable Liquid, Poison	I	1	5	Keep cool. Stow 'away from' living quarters and sources of heat
	n-Propyl nitrate	3.2	UN 1865	Flammable Liquid	II	1,2	1	
	Propyl trichlorosilane	8	UN 1816	Corrosive, Flammable Liquid	II	1	1	Keep dry. Stow 'separated longitudinally by an intervening compartment or hold from' explosives. Segregation same as for flammable liquids
	Pyridine	3.2	UN 1282	Flammable Liquid, Poison	II	1,2	1	
	Pyrophoric fuel, n.o.s. *See* Fuel, pyrophoric, n.o.s.							
	Pyrophoric liquids, n.o.s.	4.2	UN 2845	Spontaneously Combustible	I	1	5	Prohibited on any ship carrying explosives (except explosives in Division 1.4, Compatibility Group S)
	Pyrophoric metals, n.o.s. *or* Pyrophoric alloys, n.o.s.	4.2	UN 1383	Spontaneously Combustible	II	1	5	
•	Pyrophoric solids, n.o.s.	4.2	UN 2846	Spontaneously Combustible	I/II/III	1	1	
	Pyrosulphuryl chloride	8	UN 1817	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Pyroxylin. *See* Nitrocellulose							
	Pyrrolidine	3.2	UN 1922	Flammable Liquid	II	1,2	1	
	Quinoline	6.1	UN 2656	St. Andrews Cross, Flammable Liquid (only if flashpoint below 61 deg C)	III	1,3	1,3	Keep cool. Shade from radiant heat. If flashpoint below 61 deg C, segregation same as for flammable liquids
	Rags, *oily*	4.2	UN 1856	Spontaneously Combustible	III	1,2	1,2	Keep dry
	Rare gases, *mixtures*	2.2	UN 1979	Nonflammable Gas	–	1,2	1,2	
	Rare gases, *mixtures with* nitrogen	2.2	UN 1981	Nonflammable Gas	–	1,2	1,2	
	Rare gases, *mixtures with* oxygen	2.2	UN 1980	Nonflammable Gas	–	1,2	1,2	
•	Receptacles, *small, containing* flammable compressed gas, *not fitted with a dispersion device, not refillable*	2.1	UN 2037	Flammable Gas	–			

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Name and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Reducing liquid. *See* Flammable liquid preparation, n.o.s.							
N	Refrigerant gases, n.o.s.	2.1	UN 1078	Flammable Gas	–	1	1	
	Refrigerant gases, n.o.s.	2.2	UN 1078	Nonflammable Gas	–	1,2	1,2	
	Refrigerating machines *containing non-flammable, non-toxic liquefied gases*	2.2	UN 2857	Nonflammable Gas	–	1,2	1,2	
	Release devices, explosive	1.4S	UN 0173	None. Package to be marked '1.4 S'	–	1,3	1,3	
	Removing liquid. *See* Flammable liquid preparations, n.o.s.							
*	Resin solution *in flammable liquid*	3.2	UN 1866	Flammable Liquid	II	1,2	1	
		3.3	UN 1866	Flammable Liquid	III	1,2	1,2	
	Resin solution, poisonous	6.1	UN 1866	Poison, Flammable Liquid (only if flashpoint between 23 and 61 deg C)	I/II	1,2	1,2	If flashpoint between 23 and 61 deg C, segregation same as for flammable liquids
			UN 1866	St. Andrews Cross, Flammable Liquid (only if flashpoint between 23 and and 61 deg C)	III	1,2	1,2	If flashpoint between 23 and 61 deg C, segregation same as for flammable liquids
	Resorcinol	6.1	UN 2876	St. Andrews Cross	III	1,2	1,2	
	Rivets, explosive	1.4S	UN 0174	None. Package to be marked '1.4 S'	–	1,3	1,3	
	Road asphalt, *liquid, cars or oil. See* Cut-backs, *asphalt or bitumen*							
N	Rocket motors	1.1C	UN 0180	Explosive (1.1C)	–	–	–	
N	Rocket motors	1.2C	UN 0281	Explosive (1.2C)	–	–	–	
N	Rocket motors	1.3C	UN 0186	Explosive (1.3C)	–	–	–	
N	Rocket motors, *containing hypergolic liquids, with or without expelling charge*	1.2L	UN 0322	Explosive (1.2L)	–	–	–	
N	Rocket motors, *containing hypergolic liquids, with or without expelling charge*	1.3L	UN 0250	Explosive (1.3L)	–	–	–	
N	Rocket motors, liquid fueled	1.2J	UN 0395	Explosive (1.2J)	–	–	–	
N	Rocket motors, liquid fueled	1.3J	UN 0396	Explosive (1.3J)	–	–	–	
N	Rockets, line throwing	1.2G	UN 0238	Explosive (1.2G)	–	–	–	
N	Rockets, line throwing	1.3G	UN 0240	Explosive (1.3G)	–	–	–	
N	Rockets, liquid fueled, *with bursting charge*	1.1J	UN 0397	Explosive (1.1J)	–	–	–	
N	Rockets, liquid fueled, *with bursting charge*	1.2J	UN 0398	Explosive (1.2J)	–	–	–	
N	Rockets, *with bursting charge*	1.1E	UN 0181	Explosive (1.1E)	–	–	–	
N	Rockets, *with bursting charge*	1.2E	UN 0182	Explosive (1.2E)	–	–	–	
N	Rockets, *with bursting charge*	1.1F	UN 0180	Explosive (1.1F)	–	–	–	
N	Rockets, *with bursting charge*	1.2F	UN 0295	Explosive (1.2F)	–	–	–	
N	Rockets, *with inert head*	1.3C	UN 0183	Explosive (1.3C)	–	–	–	
*	Rodenticides, n.o.s., *liquid*	6.1	UN 1681	Poison	I	1	1	
		6.1	UN 1681	Poison	II	1,2	1	
		6.1	UN 1681	St. Andrews Cross	III	1,2	1,2	
*	Rodenticides, n.o.s., *solid*	6.1	UN 1681	Poison	I/II	1,2	1,2	
		6.1	UN 1681	St. Andrews Cross	III	1,2	1,2	
	Rosin oil	3.2	UN 1286	Flammable Liquid	III	1,2	1	
		3.3	UN 1286	Flammable Liquid	III	1,2	1,2	
	R 22. See Chlorodifluoromethane							
	R 114. See Dichlorotetrafluoroethane							
	Rubber scrap, *powdered or granulated*	4.1	UN 1345	Flammable Solid	II	1,2	1,2	
	Rubber shoddy. *See* Rubber scrap							
	Rubber solutions	3.2	UN 1287	Flammable Liquid	II	1,2	1	
		3.3	UN 1287	Flammable Liquid	II	1,2	1,2	
	Rubidium hydroxide, solid	8	UN 2678	Corrosive	II	1,2	1,2	Keep dry
	Rubidium hydroxide, solution	8	UN 2677	Corrosive	II	1,2	1,2	
*	Rubidium, *metal*	4.3	UN 1423	Dangerous When Wet	I	1,2	II	
N	Samples, explosive, *other than initiating explosive*	1	UN 0190	As directed by the competent authority	–	–	–	
	Sand acid. *See* Fluosilicic acid							
	Seed cake, *containing vegetable oil, mechanically expelled seeds, containing more than 10% of oil or more than 20% of oil and moisture combined*	4.2	UN 1386	None. Package to be marked 'Class 4.2'	III	1,2	5	
	Seed cake, *containing vegetable oil, solvent extractions and expelled seeds, containing not more than 10% of oil and, when the amount of moisture is higher than 10%, not more than 20% of oil and moisture combined*	4.2	UN 1386	None. Package to be marked 'Class 4.2'	III	1,2	1,2	
	Seed cake, *containing vegetable oil, solvent extractions containing not more than 1.5% of oil and 11% of moisture*	4.2	UN 2217	None. Package to be marked 'Class 4.2'	III	1,2	1,2	
	Selenates, n.o.s. *or* Selenites, n.o.s.	6.1	UN 2630	Poison	I	1,2	5	Stow 'away from' living quarters
	Selenic acid	8	UN 1905	Corrosive	I	1,2	1,2	Keep dry
	Selenium disulphide	6.1	UN 2657	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Selenium hexafluoride	2.3	UN 2194	Poison Gas	–	1	5	Stow 'away from' living quarters
	Selenium *metal* powder, *non-pyrophoric*	6.1	UN 2658	St. Andrews Cross	III	1,2	1,2	
	Selenium oxychloride	8	UN 2879	Corrosive, Poison	I	1,2	5	Keep dry
	Shale oil	3.2	UN 1288	Flammable Liquid	II	1,2	1	
		3.3	UN 1288	Flammable Liquid	II	1,2	1,2	
	Shellac. *See* Paints, etc.							

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Signal devices, hand	1.4E	UN 0373	None. Package to be marked "1.4S"	–	1,3	1,3	
	Signal devices, hand	1.4 G	UN 0191	Explosive (1.4G)	–	1,3	1,3	
N	Signals, distress, *ship (other than water-activated)*	1.1G	UN 0194	Explosive (1.1G)	–	–	–	
N	Signals, distress, *ship (other than water-activated)*	1.3G	UN 0195	Explosive (1.3G)	–	–	–	
N	Signals, railway track, explosive	1.1G	UN 0192	Explosive (1.1G)	–	–	–	
N	Signals, railway track, explosive	1.4S	UN 0193	None. Package to be marked "1.4S"	–	–	–	
N	Signals, smoke, *with explosive sound unit*	1.1G	UN 0196	Explosive (1.1G)	–	–	–	
N	Signals, smoke, *with explosive sound unit*	1.2G	UN 0313	Explosive (1.2G)	–	–	–	
	Signals, smoke, *without explosive sound unit*	1.4 G	UN 0197	Explosive (1.4G)	–	1,3	1,3	
*	[illegible]	2.1	UN 2203	Flammable Gas	–	1	5	Shade from ordinary heat. Stow 'separated from' oxidizing substances such as bromine and chlorine
	Silicofluoric acid. *See* Fluosilicic acid							
	Silicofluorides, n.o.s.	8	UN 2856	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Silicon chloride. *See* Silicon tetrachloride							
	Silicon powder, *amorphous*	4.1	UN 1346	Flammable Solid	III	1,2	1,2	
	Silicon tetrachloride	8	UN 1818	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	[illegible] tetrafluoride	2.3	UN 1859	Poison Gas, Corrosive	–	1	5	
	Silver arsenite	6.1	UN 1683	Poison	II	1,2	1,2	
	Silver cyanide	6.1	UN 1684	Poison	II	1,2	1,2	Stow 'away from' strong liquid acids
	[illegible] nitrate	5.1	UN 1493	Oxidizer	II	1,2	1,2	Stow 'away from' foodstuffs
	Silver picrate, wetted *with, by weight, at least 30% water*	4.1	UN 1347	Flammable Solid	I	1	5	
	Sisal, dry. See Fibre, *vegetable, dry*							
	Sludge acid	8	UN 1906	Corrosive	II	1,2	1	Stow 'away from' fluorides. Metal drums only under deck
	Soda lime	8	UN 1907	Corrosive	III	1,2	1,2	Keep dry
*	Sodium aluminate, solution	8	UN 1819	Corrosive	II	1,2	1,2	
	Sodium aluminium hydride	4.3	UN 2835	Dangerous When Wet	II	1,2	5	
	Sodium amalgam	4.3	UN 1428	Dangerous When Wet	I	1,2	1,2	
	Sodium amide	4.3	UN 1428	Dangerous When Wet	II	1,2	5	
	Sodium ammonium vanadate	6.1	UN 2863	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Sodium arsanilate	6.1	UN 2473	St. Andrews Cross	III	1,2	1,2	
	Sodium arsenate	6.1	UN 1685	Poison	II	1,2	1,2	
	Sodium arsenite, aqueous solutions	6.1	UN 1686	Poison	I/II	1,2	1,2	
		6.1	UN 1686	St. Andrews Cross	III	1,2	1,2	
	Sodium arsenite, solid	6.1	UN 2027	Poison	II	1,2	1,2	
	Sodium azide	6.1	UN 1687	Poison	II	1,2	1,2	Stow 'away from' heavy metals and their compounds, 'separated from' acids
*	Sodium bisulphate, solid. *See* Sodium hydrogen sulphate, solid							
*	Sodium bisulphite, solution. *See* Sodium hydrogen sulphite, solution							
	Sodium borohydride	4.3	UN 1426	Dangerous When Wet	I	1,2	5	
	Sodium bromate	5.1	UN 1494	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
	Sodium cacodylate	6.1	UN 1688	Poison	II	1,2	1,2	Stow 'away from' acids
	Sodium chlorate	5.1	UN 1495	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
	Sodium chlorate, *aqueous* solution	5.1	UN 2428	Oxidizer	II	1,2	1	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Sodium chlorite	5.1	UN 1496	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
*	Sodium chlorite, solution *with more than 5% available chlorine*	8	UN 1908	Corrosive	II	1,2	1	Glass carboys in hampers not permitted under deck
	Sodium chloroacetate	6.1	UN 2659	St. Andrews Cross	III	1,3	1,3	Keep cool and dry
	Sodium cuprocyanide, solid	6.1	UN 2316	Poison	I	1,2	1,2	Keep dry. Stow 'separated from' acids
	Sodium cuprocyanide solution	6.1	UN 2317	Poison	I	1,2	1	Stow 'away from' living quarters and 'separated from' acids
	Sodium cyanide	6.1	UN 1689	Poison	I	1,2	1,2	Stow 'away from' acids
[illegible]	Sodium dinitro-o-cresolate, *dry or wetted with less than 15% water, by weight*	1.3C	UN 0234	Explosive (1.3C)	–	–	–	
	Sodium dinitro-o-cresolate, wetted *with, by weight, at least 15% water*	4.1	UN 1348	Flammable Solid, Poison	I	1,2	5	Stow 'away from' heavy metals and their compounds
	Sodium dinitro-o-cresolate, wetted *with, by weight, at least 10% water*	4.1	UN 1348	Flammable Solid, Poison	I	1	5	Stow 'away from' heavy metals and their compounds
*	Sodium dithionite	4.2	UN 1384	Spontaneously Combustible	II	1,2	1,2	Keep dry. Only metal drums permitted on passenger vessels
	Sodium fluoride, solid	6.1	UN 1690	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Sodium fluoride, solution	6.1	UN 1690	St. Andrews Cross	III	1,2	1,2	
	Sodium fluoroacetate	6.1	UN 2629	Poison	I	1,2	5	Stow 'away from' living quarters
	Sodium hydrate. *See* Sodium hydroxide, *solution*							
	Sodium hydride	4.3	UN 1427	Dangerous When Wet	I	1,2	5	
	Sodium hydrogen fluoride	8	UN 2439	Corrosive	II	1,3	1,3	Keep cool and dry
	Sodium hydrogen sulphate, solid	8	UN 1821	Corrosive	II	1,2	1,2	
	Sodium hydrogen sulphate, solution	8	UN 2837	Corrosive	II	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Sodium hydrogen sulphite, solution. *See* Bisulphites, inorganic, aqueous solutions, n.o.s.							
•	Sodium hydrosulphide, *with less than 25% water of crystallization*	4.2	UN 2318	Spontaneously Combustible	II	1,2	1,2	
•	Sodium hydrosulphide, *with not less than 25% water of crystallization*	8	UN 2949	Corrosive	II	1,2	1,2	Keep dry. Stow 'away from' acids
•	Sodium hydrosulphide, *with not less than 25% water of crystallization*	8	UN 2949	Corrosive	II	1,2	1,2	
•	Sodium hydrosulphite. *See* Sodium dithionite							
	Sodium hydroxide, solid	8	UN 1823	Corrosive	II	1,2	1,2	Keep dry
	Sodium hydroxide, solution	8	UN 1824	Corrosive	II	1,2	1,2	
•	Sodium, *metal*	4.3	UN 1428	Dangerous When Wet	II	1,2	5	
	Sodium *metal, dispersion in organic liquids*	4.3	UN 1429	Dangerous When Wet	I	1,2	5	
	Sodium methylate	4.3	UN 1431	Dangerous When Wet	I	1,2	1	
	Sodium methylate, solutions *in alcohol*	3.2	UN 1289	Flammable Liquid	II	1,2	1	
		3.3	UN 1289	Flammable Liquid	II	1,2	1,2	
	Sodium monoxide	8	UN 1825	Corrosive	II	1,2	1,2	Keep dry
	Sodium nitrate	5.1	UN 1498	Oxidizer	III	1,2	1,2	
•	Sodium nitrate and potash, mixtures	5.1	UN 1878	Oxidizer	II	1,2	1,2	
	Sodium nitrate and potassium nitrate, *mixtures*	5.1	UN 1499	Oxidizer	III	1,2	1,2	
	Sodium nitrate bags, *empty. See* Bags, *empty and unwashed, etc.*							
•	Sodium nitrite	5.1	UN 1500	Oxidizer	III	1,2	1,2	Stow 'separated from' ammonium compounds and cyanides and 'away from' foodstuffs
	Sodium pentachlorophenate	6.1	UN 2567	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Sodium percarbonates	5.1	UN 2467	Oxidizer	III	1,2	1,2	Keep dry
•	Sodium perchlorate	5.1	UN 1502	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals
	Sodium permanganate	5.1	UN 1503	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and hydrogen peroxide
	Sodium peroxide	5.1	UN 1504	Oxidizer	I	1,2	1	Keep dry. Stow 'away from' powdered metals, permanganates, and combustible packagings and cargo
	Sodium persulphate	5.1	UN 1505	Oxidizer	III	1,2	1,2	
•	Sodium phenolate, solid	8	UN 2497	Corrosive	III	1,2	1,2	
•	Sodium phosphide	4.3	UN 1432	Dangerous When Wet, Poison	I	1,2	1	When stowed under deck, stow in a mechanically ventilated space
***	Sodium picramate, *dry or wetted with less than 20% water, by weight*	1.3C	UN 0233	Explosive (1.3C)	--	--	--	
	Sodium picramate, wetted *with, by weight, at least 20% water*	4.1	UN 1349	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals and their compounds
	Sodium-potassium, *alloy. See* Potassium-sodium, *alloy*							
***	Sodium salts of nitro-aromatic derivatives, n.o.s., *explosive*	1.3C	UN 0203	Explosive (1.3C)	--	--	--	
	Sodium [illegible]sorbate	8.1	UN 2678	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
•	Sodium sulphide, anhydrous *or* Sodium sulphide *with less than 30% water of crystallization*	4.2	UN 1385	Spontaneously Combustible	II	1,2	1,2	Stow 'separated from' liquid acids
	Sodium sulphide, hydrated, *with at least 30% water*	8	UN 1849	Corrosive	II	1,2	1,2	Stow 'away from' acids
	Sodium superoxide	5.1	UN 2547	Oxidizer	I	1,2	1	Keep dry. Stow 'away from' powdered metals, permanganates and combustible packaging and cargo
N	Sounding devices, explosive	1.1E	UN 0374	Explosive (1.1E)	--	--	--	
N	Sounding devices, explosive	1.2E	UN 0375	Explosive (1.2E)	--	--	--	
N	Sounding devices, explosive	1.1F	UN 0296	Explosive (1.1F)	--	--	--	
N	Sounding devices, explosive	1.2F	UN 0204	Explosive (1.2F)	--	--	--	
	Spent mixed acid. See Acid mixtures, *spent*							
	Spirits of salts. *See* Hydrochloric acid							
	Squibs	1.4E	UN 0206	None. Package to be marked '1.4S'	--	1,3	1,3	
•	Squibs	1.4B	UN 0322	Explosive (1.4B)	--	1,3	5	
•	Squibs	1.4G	UN 0323	Explosive (1.4G)	--	1,3	5	
	Stains. *See* Paints, *etc.*							
•	Stannic chloride, anhydrous	8	UN 1827	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Stannic chloride pentahydrate	8	UN 2440	Corrosive	III	1,2	1,2	Keep dry
•	Stannic phosphides	4.3	UN 1433	Dangerous When Wet	I	1,2	5	When stowed under deck, stow in a mechanically ventilated space
	Stibine	2.3	UN 2676	Poison Gas, Flammable Gas	--	1	1	Stow 'away from' living quarters
	Straw	4.1	UN 1327	None	III	1,2	1,2	Stow 'away from' animal or vegetable oils
	Strike anywhere matches. *See* Matches, *strike anywhere*							
	Strontium, *alloys, non-pyrophoric*	4.3	UN 1434	Dangerous When Wet	II	1,2	5	
	Strontium arsenite	6.1	UN 1691	Poison	II	1,2	1,2	
	Strontium chlorate	5.1	UN 1506	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
	Strontium nitrate	5.1	UN 1507	Oxidizer	III	1,2	1,2	
	Strontium perchlorate	5.1	UN 1508	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals
	Strontium peroxide	5.1	UN 1509	Oxidizer	II	1,2	1,2	Keep dry
•	Strontium phosphide	4.3	UN 2013	Dangerous When Wet, Poison	I	1,2	5	When stowed under deck, stow in a mechanically ventilated space
•	Strychnine *and salts of, liquid*	6.1	UN 1692	Poison	I	1		
		6.1	UN 1692	Poison	II	1,2	1	
		6.1	UN 1692	St. Andrews Cross	III	1,2	1,2	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Note and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
•	Strychnine *(and salts of), solid*	6.1	UN 1692	Poison	I/II	1,2	1,2	
		6.1	UN 1692	St. Andrews Cross	III	1,2	1,2	
	Styrene monomer, inhibited	3.3	UN 1055	Flammable Liquid	II	1,2	1,2	
N	Substances, explosive, n.o.s.	1.1L	UN 0357	Explosive (1.1L)	–	–	–	
N	Substances, explosive, n.o.s.	1.2L	UN 0358	Explosive (1.2L)	–	–	–	
N	Substances, explosive, n.o.s.	1.3L	UN 0359	Explosive (1.3L)	–	–	–	
•	Substances which, in contact with water, emit flammable gases, n.o.s.	4.3	UN 2813	Dangerous When Wet	I/II/III	1,2	5	
•	Substituted nitrophenol pesticides, liquid, flammable, toxic, n.o.s., *flashpoint below 23 deg C*	3.2	UN 2780	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Substituted nitrophenol pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 3013	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 3013	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 3013	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Substituted nitrophenol pesticides, liquid, toxic, n.o.s.	6.1	UN 3014	Poison	I	1	1	
		6.1	UN 3014	Poison	II	1,2	1	
		6.1	UN 3014	St. Andrews Cross	III	1,2	1,2	
•	Substituted nitrophenol pesticides, solid, toxic, n.o.s.	6.1	UN 2779	Poison	I/II	1,2	1,2	
		6.1	UN 2779	St. Andrews Cross	III	1,2	1,2	
	Succinic acid peroxide. *See* Disuccinic acid peroxide							
•	Sulphamic acid	8	UN 2967	Corrosive	III	1,2	1,2	
	Sulphur chlorides	8	UN 1828	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Sulphur dichloride. See Sulphur chlorides							
	Sulphur dioxide, *liquefied*	2.3	UN 1079	Poison Gas	–	1,2	1	Stow 'away from' living quarters
	Sulphur hexafluoride	2.2	UN 1080	Nonflammable Gas	–	1,2	1,2	
•	Sulphuric acid, fuming	8	UN 1831	Corrosive, Poison	I	1,2	1	Keep dry. Stow 'away from' fluorides and all other corrosives except nitric acids and sulphur trioxide. Under deck stowage is permitted in metal drums only
•	Sulphuric acid, spent	8	UN 1832	Corrosive	II	1,2	1	Stow 'away from' fluorides. For concentrations of more than 51% acid, stow 'away from' all other corrosives except nitric acids and sulphur trioxide. Under deck stowage is permitted in metal drums only.
•	Sulphuric acid, *with more than 51% acid*	8	UN 1830	Corrosive	II	1,2	1	Stow 'away from' fluorides and all other corrosives except nitric acids and sulphur trioxide. Under deck stowage is permitted in metal drums only
•	Sulphuric acid, *with not more than 51% acid*	8	UN 2796	Corrosive	II	1,2	1	Stow 'away from' fluorides. Glass carboys in hampers not permitted under deck
	Sulphuric and hydrofluoric acid, mixtures. See Hydrofluoric acid and sulphuric acid mixtures							
	Sulphuric anhydride. *See* Sulphur trioxide, *stabilized*							
•	Sulphur, *lump and coarse grained powder, or fine grained powder*	4.1	UN 1350	Flammable Solid	III	1,2	1,2	Protect from sparks and open flame. Stow 'separated from' oxidizing substances
	Sulphur, molten	4.1	UN 2448	Flammable Solid	III	1	1	Stow 'separated from' oxidizers, 'away from' living quarters
	Sulphurous acid	8	UN 1833	Corrosive	II	1,2	1	Glass carboys in hampers not permitted under deck
	Sulphur tetrafluoride	2.3	UN 2418	Poison Gas	–	1	5	Stow 'away from' living quarters
	Sulphur trioxide, *stabilized*	8	UN 1829	Corrosive	I	1,2	1,2	Keep dry. Glass bottles not permitted under deck. Stow 'away from' other corrosives except nitric and sulphuric acids
	Sulphuryl chloride	8	UN 1834	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Sulphuryl fluoride	2.3	UN 2191	Poison Gas	–	1,2	1	Stow 'away from' living quarters
	Tars, *liquid. See* Cut-backs, *asphalt or bitumen*							
	Tear gas candles, *non-explosive*	6.1	UN 1700	Poison, Flammable Solid	II	1	1	Segregation same as for flammable solids. Stow 'away from' living quarters
	Tear gas grenades, *non-explosive. See* Tear gas candles							
	Tear gas, *(irritating substances, liquid or solid)*, n.o.s.	6.1	UN 1693	Poison	I/II	1	1	
		6.1	UN 1693	St. Andrews Cross	III	1	5	
	Tellurium hexafluoride	2.3	UN 2195	Poison Gas	–	1	5	Stow 'away from' living quarters
	T.E.L. See Motor fuel anti-knock mixtures							
	Terpene hydrocarbons n.o.s.	3.3	UN 2319	Flammable Liquid	III	1,2	1,2	
	Terpinolene	3.3	UN 2541	Flammable Liquid	III	1,2	1,2	
	Tetrabromoethane	6.1	UN 2504	St. Andrews Cross	III	1,2	1,2	
	1,1,2,2-Tetrachloroethane	6.1	UN 1702	Poison	II	1,2	1,2	
	Tetrachloroethylene	6.1	UN 1897	St. Andrews Cross	III	1,2	1,2	
	Tetraethyl dithiopyrophosphate, liquid *or* mixtures	6.1	UN 1704	Poison	I/II	1	1	
		6.1	UN 1704	St. Andrews Cross	III	1	5	
	Tetraethyl dithiopyrophosphate with gases, *including solutions and mixtures thereof*	2.3	UN 1703	Poison Gas	–	1	5	Stow 'away from' living quarters.
	Tetraethylenepentamine	8	UN 2320	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Notes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Tetraethyl lead. *See* Motor fuel anti-knock mixtures							
	Tetraethyl pyrophosphate and compressed gas, *mixture*	2.3	UN 1705	Poison Gas	–	1	5	Stow 'away from' living quarters
	Tetraethyl silicate	3.3	UN 1292	Flammable Liquid	II	1,2	1,2	
■	Tetrafluoroethylene, inhibited	2.1	UN 1081	Nonflammable Gas	–	1,2	5	
•	Tetrafluorohydrazine	2.3	(UN 1955)	Poison Gas	–	1	5	Stow 'away from' living quarters and readily combustible substances, 'separated from' hydrogen
	Tetrafluoromethane	2.2	UN 1982	Nonflammable Gas	–	1,2	1,2	
	1,2,3,6-Tetrahydrobenzaldehyde	3.3	UN 2498	Flammable Liquid	III	1,2	1,2	
	Tetrahydrofuran	3.1	UN 2056	Flammable Liquid	II	1,3	5	Keep cool
•	Tetrahydrofurfurylamine	3.3	UN 2943	Flammable Liquid	III	1,2	1,2	
	Tetrahydrophthalic anhydrides	II	UN 2698	None. Package to be so marked 'Class 8'	III	1,2	1,2	Keep dry
	1,2,3,6-Tetrahydropyridine	3.2	UN 2410	Flammable Liquid	II	1,2	1	
	Tetrahydrothiophene	3.2	UN 2412	Flammable Liquid	II	1,2	1	
	Tetralin hydroperoxide, *technical pure*	5.2	UN 2136	Organic Peroxide	I	1	5	
	Tetramethylammonium hydroxide	8	UN 1835	Corrosive	II	1,2	1,2	
	1,1,3,3-Tetramethyl butyl hydroperoxide, *technical pure*	5.2	UN 2781	Organic Peroxide	II	1	5	
	1,1,3,3-Tetramethyl butyl peroxy-2-ethyl hexanoate, *technical pure*	5.2	UN 2161	Organic Peroxide	I	1	5	Control temperature 20 deg C. Emergency temperature 25 deg C
	Tetramethylsilane	3.1	UN 2749	Flammable Liquid	I	1	5	Keep cool. Shade from radiant heat
N	Tetranitro-aniline	1.1D	UN 0207	Explosive (1.1D)	–	–	–	
•	Tetranitromethane	5.1	UN 1510	Oxidizer	I	1	5	
•	Tetrapropylorthotitanate	3.3	UN 2413	Flammable Liquid	II	1,2	1,2	
N	Tetrazol-1-acetic acid	1.4C	UN 0407	Explosive (1.4C)	–	–	–	
•	Textile waste, wet, n.o.s.	4.2	UN 1857	Spontaneously Combustible	III	1,2	1,2	
	Thallium chlorate	5.1	UN 2573	Oxidizer, Poison	II	1,2	1,2	Stow 'separated from' ammonium compounds and foodstuffs and 'away from' finely powdered metals
•	Thallium compounds, n.o.s. *liquid*	6.1	UN 1707	Poison	I	1		
		6.1	UN 1707	Poison	II	1,2	1	
		6.1	UN 1707	St. Andrews Cross	III	1,2	1,2	
•	Thallium compounds, n.o.s. *solid*	6.1	UN 1707	Poison	I/II	1,2	1,2	
		6.1	UN 1707	St. Andrews Cross	III	1,2	1,2	
	Thallium nitrate	6.1	UN 2727	Poison	II	1,2	1,2	Stow 'away from' living quarters
	4-Thiapentanal	6.1	UN 2785	St. Andrews Cross, Flammable Liquid (only if flashpoint below 61 deg C)	III	1	5	Segregation same as for flammable liquids if flashpoint below 61 deg C. Shade from radiant heat and sunlight. Stow 'away from' living quarters, acids and bases
	Thinners. *See* Paint, *etc.*							
	Thinning liquid. *See* Flammable liquid preparations, n.o.s.							
	Thioacetic acid	3.2	UN 2436	Flammable Liquid	II	1,2	1	
	Thiocarbonyl chloride. *See* Thiophosgene							
•	Thioglycol	6.1	UN 2966	Poison	II	1,2	1,2	
	Thioglycolic acid	8	UN 1940	Corrosive	II	1,2	1,2	Glass carboys in hampers prohibited under deck
■	Thiolactic acid	6.1	UN 2936	Poison	II	1,2	1,2	
	Thionyl chloride	II	UN 1836	Corrosive	I	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Thiophene	3.2	UN 2414	Flammable Liquid	II	1,2	1	
	Thiophosgene	6.1	UN 2474	Poison	II	1,2	1	Stow 'away from' acids and living quarters
	Thiophosphoryl chloride	II	UN 1837	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Thiourea	6.1	UN 2877	St. Andrews Cross	III	1,2	1,2	
•	Tin chloride, *fuming*. *See* Stannic chloride, anhydrous							
■	Tinctures, medicinal	3.2	UN 1293	Flammable Liquid	II	1,2	1	
		3.3	UN 1293	Flammable Liquid	II	1,2	1,2	
■	Tin tetrachloride. *See* Stannic chloride, anhydrous							
	Titanium hydride	4.1	UN 1871	Flammable Solid	II	1,2	1	
•	Titanium *metal* powder, dry *mechanically produced, particle size between 3 and 53 microns; or chemicaly produced, particle size less than 840 microns*	4.2	UN 2546	Spontaneously Combustible	II	1	1	
■	Titanium *metal* powder, wetted *with not less than 25% water (a visible excess of water must be present) mechanically produced, particle size between 3 and 53 microns; or chemically produced, particle size less than 840 microns*	4.1	UN 1352	Flammable Solid	II	1,2	5	
■	Titanium sponge granules *or* Titanium sponge powders	4.1	UN 2878	Flammable Solid	III	1	5	
	Titanium tetrachloride	II	UN 1838	Corrosive	II	1	1	Keep dry. Glass carboys prohibited on passenger vessels
	Titanium trichloride mixtures, *non-pyrophoric*	II	UN 2869	Corrosive	II	1,2	1,2	Keep dry
	Titanium trichloride, pyrophoric *or* Titanium trichloride mixtures, pyrophoric	4.2	UN 2441	Spontaneously Combustible, Corrosive	II	1,2	1,2	
	Toe puffs, *nitrocellulose base*	4.1	UN 1353	Flammable Solid	III	1	5	
	Toluene	3.2	UN 1294	Flammable Liquid	II	1,2	1	
	Toluene diisocyanate *(T.D.I.)*	6.1	UN 2078	Poison	II	1,2	1	Shade from radiant heat. Stow 'away from' living quarters
	Toluidines (o-, m-, p-)	6.1	UN 1708	Poison	II	1,2	1,2	Stow 'away from' acids

172.102 Optional Hazardous Materials Table (Cont'd)

(1)	(2)	(3)	(4)	(5)	(6)	(7) Vessel Stowage Requirements		
Notes and Symbols	Hazardous Materials Description and Proper Shipping Names	IMCO Class	Identification Number	Label(s) required	Packaging Group	(i) Cargo vessel	(ii) Passenger vessel	(iii) Other requirements
	2,4-Toluylenediamine	6.1	UN 1709	St. Andrews Cross	III	1,2	1,2	
N	Torpedoes, *with bursting charge*	1.1E	UN 0329	Explosive (1.1E)	–	–	–	
N	Torpedoes, *with bursting charge*	1.1F	UN 0330	Explosive (1.1F)	–	–	–	
	Tracers for ammunition	1.4 G	UN 0306	Explosive (1.4G)	–	1,3	1,3	
N	Tracers for ammunition	1.3G	UN 0212	Explosive (1.3G)	–	–	–	
	Triallylamine	3.3	UN 2610	Flammable Liquid	II	1,2	1,2	
	Triallyl borate	6.1	UN 2609	St. Andrews Cross, Flammable Liquid (only if flashpoint below 61 deg C)	III	1,3	1,3	Keep cool and dry. Shade from radiant heat. If flashpoint below 61 deg C, segregation same as for flammable liquids
•	Triazine pesticides, liquid, flammable, toxic, n.o.s., *flashpoint below 23 deg C*	3.2	UN 2764	Flammable Liquid and Poison or St. Andrews Cross (according to toxicity)	I/II	1,2	1	
•	Triazine pesticides, liquid, toxic, flammable, n.o.s., *flashpoint between 23 deg C and 61 deg C*	6.1	UN 2997	Poison, Flammable Liquid	I	1	1	Segregation same as for flammable liquids
		6.1	UN 2997	Poison, Flammable Liquid	II	1,2	1	Segregation same as for flammable liquids
		6.1	UN 2997	St. Andrews Cross, Flammable Liquid	III	1,2	1,2	Segregation same as for flammable liquids
•	Triazine pesticides, liquid, toxic, n.o.s.	6.1	UN 2998	Poison	I	1	1	
		6.1	UN 2998	Poison	II	1,2	1	
		6.1	UN 2998	St. Andrews Cross	III	1,2	1,2	
•	Triazine pesticides, solid, toxic, n.o.s.	6.1	UN 2763	Poison	I/II	1,2	1,2	
		6.1	UN 2763	St. Andrews Cross	III	1,2	1,2	
	Tributylamine	8	UN 2542	Corrosive	III	1,2	1,2	
	Trichloroacetic acid, solid	8	UN 1839	Corrosive	II	1,2	1,2	Keep dry
	Trichloroacetic acid, *solutions*	8	UN 2564	Corrosive	II	1,2	1	Glass carboys in hampers prohibited under deck
	Trichloroacetyl chloride	8	UN 2442	Corrosive	II	1	5	Keep dry
	Trichlorobenzenes, *liquid*	6.1	UN 2321	St. Andrews Cross	III	1,2	1,2	Stow 'away from' living quarters
	Trichlorobutene	6.1	UN 2322	Poison	II	1,2	1,2	Shade from radiant heat. Stow 'away from' living quarters
	1,1,1,-Trichloroethane	6.1	UN 2831	St. Andrews Cross	III	1,2	1,2	
	Trichloroethylene	6.1	UN 1710	St. Andrews Cross	III	1,2	1,2	
•	Trichloroisocyanuric acid, dry	5.1	UN 2468	Oxidizer	II	1,2	1,2	Shade from radiant heat. Keep dry. Stow 'separated from' nitrogen compounds
•	Trichlorosilane	4.3	UN 1295	Dangerous When Wet, Flammable Liquid, Corrosive	I	1	5	
	Tricresylphosphate, *with more than 3% ortho isomer*	6.1	UN 2574	Poison	II	1,2	1,2	
•	Triethylaluminium	4.2	UN 1102	Spontaneously Combustible	I	1	1	
	Triethylamine	3.2	UN 1296	Flammable Liquid	II	1,2	1	
	Triethylenetetramine	8	UN 2259	Corrosive	II	1,2	1	Stow 'separated from' nitric acid, 'away from' acids, copper and copper alloys and living quarters
•	Triethyl phosphite	3.3	UN 2323	Flammable Liquid	III	1,2	1,2	Stow 'separated from' acids
	Trifluoroacetic acid	8	UN 2699	Corrosive	I	1,3	1	Keep cool. Stow 'away from' all other corrosives
	Trifluorobromomethane. See Bromotrifluoromethane							
•	Trifluorochloroethylene, inhibited	2.1	UN 1082	Flammable Gas	–	1,2	1	
	Trifluorochloromethane. See Chlorotrifluoromethane							
	Trifluoromethane	2.1	UN 2035	Flammable Gas	–	1,2	1	Stow 'away from' living quarters
	Trifluoromethane	2.2	UN 1984	Nonflammable Gas	–	1,2	1,2	
•	3-Trifluoromethyl aniline	6.1	UN 2948	Poison	II	1,2	1,2	
•	2-Trifluoromethyl aniline	6.1	UN 2942	St. Andrews Cross	III	1,2	1,2	
	Triisobutyl aluminium	4.2	UN 1930	Spontaneously Combustible	I	1	1	
	Triisobutylene	3.3	UN 2324	Flammable Liquid	II	1,2	1,2	
	Triisocyanatoisocyanurate of isophoronediisocyanate, solution *70% by weight*	3.3	UN 2906	Flammable Liquid	III	1,2	1,2	
	Triisopropyl borate	3.3	UN 2616	Flammable Liquid	II	1,2	1,2	
	Trimethylacetyl chloride	8	UN 2438	Corrosive, Flammable Liquid	II	1	5	Shade from radiant heat. Segregation same as for flammable liquids
•	Trimethylaluminium	4.2	UN 1103	Spontaneously Combustible	I	1	1	
•	Trimethylamine, anhydrous	2.1	UN 1083	Flammable Gas	–	1	5	
	Trimethylamine, *aqueous solutions containing not more than 30% of trimethylamine*	3.2	UN 1297	Flammable Liquid	II	1,2	1	Stow 'away from' mercury and its compounds
	1,3,5-Trimethylbenzene	3.3	UN 2325	Flammable Liquid	III	1,2	1,2	
•	Trimethyl borate	3.2	UN 2416	Flammable Liquid	II	1,2	1	
		3.3	UN 2416	Flammable Liquid	II	1,2	1,2	
	Trimethylchlorosilane	3.2	UN 1298	Flammable Liquid, Corrosive	I	1,2	1	
	Trimethylcyclohexylamine	8	UN 2326	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
•	Trimethylhexamethylene diamines	8	UN 2327	Corrosive	III	1,2	1,2	Glass carboys prohibited on passenger vessels
	Trimethylhexamethylene diisocyanate	6.1	UN 2328	Poison	II	1,2	1	

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Prefixes and Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Numbers	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
*	2,4,4-Trimethylpentyl-2-peroxy phenoxy acetate, *maximum concentration 37%, in solution*	5.2	UN 2963	Organic Peroxide	II	1	5	Control temperature -10 deg C. Emergency temperature 0 deg C
	Trimethyl phosphite	3.3	UN 1329	Flammable Liquid	III	1,2	1,2	
N	Trinitroanilines	1.1D	UN 0153	Explosive (1.1D)	--	--	--	
N	Trinitrotoluenes	1.1D	UN 0213	Explosive (1.1D)	--	--	--	
*N	Trinitrobenzene, *dry or wetted with less than 30% water, by weight*	1.1D	UN 0214	Explosive (1.1D)	--	--	--	
N	Trinitrobenzenesulfonic acid	1.1L	UN 0386	Explosive (1.1L)	--	--	--	
	Trinitrobenzene, wetted with, by weight, *at least 10% water*	4.1	UN 1354	Flammable Solid	I	1	II	Stow 'away from' heavy metals and their compounds
	Trinitrobenzene, wetted *with not less than 30% water, by weight*	4.1	UN 1354	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals and their compounds
N	Trinitrobenzoic acid, *dry or containing, by weight, less than 30% water*	1.1D	UN 0215	Explosive (1.1D)	--	--	--	
	Trinitrobenzoic acid, wetted *with, by weight, at least 10% water*	4.1	UN 1355	Flammable Solid	I	1	5	Stow 'away from' heavy metals and their compounds
	Trinitrobenzoic acid, wetted *with not less than 30% water, by weight*	4.1	UN 1355	Flammable Solid	I	1,2	5	Stow 'away from' heavy metals and their compounds
N	Trinitrochlorobenzene	1.1D	UN 0155	Explosive (1.1D)	--	--	--	
N	Trinitrocumene	1.1D	UN 0387	Explosive (1.1D)	--	--	--	
*N	Trinitro-m-cresol	1.1D	UN 0216	Explosive (1.1D)	--	--	--	
N	Trinitronaphthalene	1.1D	UN 0217	Explosive (1.1D)	--	--	--	
N	Trinitrophenetole	1.1D	UN 0218	Explosive (1.1D)	--	--	--	
*N	Trinitrophenol, *dry or wetted with less than 30% water, by weight*	1.1D	UN 0154	Explosive (1.1D)	--	--	--	
*	Trinitrophenol, wetted, *with not less than 30% water, by weight*	4.1	UN 1344	Flammable Solid	I	1,2	II	Stow 'away from' heavy metals and their compounds
*	Trinitrophenol, wetted *with not less than 10% water, by weight*	4.1	UN 1344	Flammable Solid	I	1	II	Stow 'away from' heavy metals and their compounds
N	Trinitrophenylmethylnitramine	1.1D	UN 0208	Explosive (1.1D)	--	--	--	
N	Trinitroresorcinol, *containing, by weight, not less than 20% water or mixture of alcohol and water*	1.1D	UN 0394	Explosive (1.1D)	--	--	--	
*N	Trinitroresorcinol, *dry or wetted with less than 20% water, by weight (or mixture of alcohol and water)*	1.1D	UN 0219	Explosive (1.1D)	--	--	--	
*N	Trinitrotoluene and hexanitrostilbene mixtures *or* Trinitrotoluene and Trinitrobenzene mixtures	1.1D	UN 0388	Explosive (1.1D)	--	--	--	
*N	Trinitrotoluene, *dry or wetted with less than 30% water, by weight*	1.1D	UN 0209	Explosive (1.1D)	--	--	--	
*N	Trinitrotoluene mixtures containing trinitrobenzene and hexanitrostilbene	1.1D	UN 0389	Explosive (1.1D)	--	--	--	
	Trinitrotoluene, wetted *with, by weight, at least 10% water*	4.1	UN 1356	Flammable Solid	I	1	II	Stow 'away from' heavy metals and their compounds
	Trinitrotoluene, wetted *with not less than 30% water, by weight*	4.1	UN 1356	Flammable Solid	I	1,2	II	Stow 'away from' heavy metals and their compounds
	Tripropylaluminum	4.2	UN 2718	Spontaneously Combustible	I	1	II	
	Tripropylamine	3.3	UN 2260	Flammable Liquid, Corrosive	II	1,2	1,2	
	Tripropylene	3.2	UN 2057	Flammable Liquid	II	1,2	1	
		3.3	UN 2057	Flammable Liquid	II	1,2	1,2	
	Tris-(1-aziridinyl)phosphine oxide, solution	6.1	UN 2501	Poison	II	1,2	1,2	Stow 'away from' living quarters
N	Tritonal	1.1D	UN 0390	Explosive (1.1D)	--	--	--	
*	Tungsten hexafluoride	2.3	UN 2196	Poison Gas	--	1	II	
	Turpentine	3.3	UN 1299	Flammable Liquid	III	1,2	1,2	
	Turpentine substitute	3.2	UN 1300	Flammable Liquid	II	1,2	1	
		3.3	UN 1300	Flammable Liquid	II	1,2	1,2	
*	*U D M H. See* Dimethylhydrazine, unsymmetrical							
	Undecane	3.3	UN 2330	Flammable Liquid	III	1,2	1,2	
	Urea hydrogen peroxide	5.1	UN 1511	Oxidizer	III	1,2	1,2	Keep dry Shade from radiant heat
N	Urea nitrate, *dry or containing, by weight, less than 20% water*	1.1D	UN 0220	Explosive (1.1D)	--	--	--	
*	Urea nitrate, wetted *with not less than 10% water, by weight*	4.1	UN 1357	Flammable Solid	I	1,2	1,2	
	Urea nitrate, wetted *with not less than 20% water, by weight*	4.1	UN 1357	Flammable Solid	I	1,2	1,2	
	Valeraldehyde	3.2	UN 2058	Flammable Liquid	II	1,2	1	
	Valeryl chlorides	II	UN 1502	Corrosive	II	1	1	Keep dry
	Vanadium oxitrichloride	II	UN 2443	Corrosive	II	1	1	Keep dry Stow 'away from' organic compounds
	Vanadium pentoxide, *non-fused form*	6.1	UN 2862	Poison	II	1,2	1,2	Stow 'away from living quarters
	Vanadium tetrachloride	8	UN 2444	Corrosive	I	1	1	Keep dry Glass carboys prohibited on passenger vessels
	Vanadium trichloride	8	UN 2475	Corrosive	III	1,2	1,2	Keep dry
	Vanadium trioxide, *non-fused form*	6.1	UN 2861	Poison	II	1,2	1,2	Stow 'away from' living quarters
*	Vanadyl sulphate	6.1	UN 2931	Poison	II	1,2	1,2	Stow 'away from' living quarters
	Varnish. *See* Paints, etc.							
	Vinyl acetate, *inhibited*	3.2	UN 1301	Flammable Liquid	II	1,2	1	
	Vinyl bromide, *inhibited*	2.1	UN 1085	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Vinyl butyrate, inhibited	3.2	UN 2838	Flammable Liquid	II	1,2	1	
	Vinyl chloride, *inhibited*	2.1	UN 1086	Flammable Gas	--	1,2	1	Stow 'away from' living quarters
	Vinyl chloroacetate	6.1	UN 2589	Poison, Flammable Liquid	II	1,2	1,2	Segregation same as for flammable liquids
	Vinyl ethyl ether, *inhibited*	3.1	UN 1302	Flammable Liquid	I	1,3	5	Keep cool
	Vinyl fluoride, *inhibited*	2.1	UN 1860	Flammable Gas	--	1,2	1	Stow 'away from' living quarters

172.102 Optional Hazardous Materials Table (Cont'd)

(1) Hazardous Materials Symbols	(2) Hazardous Materials Description and Proper Shipping Names	(3) IMCO Class	(4) Identification Number	(5) Label(s) required	(6) Packaging Group	(7) Vessel Stowage Requirements (a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Vinylidene chloride, *inhibited*	3.1	UN 1303	Flammable Liquid	I	1,2	5	Keep cool
	Vinyl isobutyl ether, *inhibited*	3.2	UN 1304	Flammable Liquid	II	1,2	1	
•	Vinyl methyl ether, *inhibited*	2.1	UN 1087	Flammable Gas	--	1,2	1	
	Vinyl toluenes *(mixed isomers), inhibited*	3.3	UN 2618	Flammable Liquid	III	1,2	1,2	
	Vinyl trichlorosilane, inhibited	3.2	UN 1305	Flammable Liquid, Corrosive	I	1,2	1	
N	Warheads, rocket, *with burster or expelling charge*	1.4D	UN 0370	Explosive (1.4D)	--	--	--	
N	Warheads, rocket, *with burster or expelling charge*	1.4F	UN 0371	Explosive (1.4F)	--	--	--	
N	Warheads, rocket, *with bursting charge*	1.1D	UN 0286	Explosive (1.1D)	--	--	--	
N	Warheads, rocket, *with bursting charge*	1.2D	UN 0287	Explosive (1.2D)	--	--	--	
N	Warheads, rocket, *with bursting charge*	1.1F	UN 0369	Explosive (1.1F)	--	--	--	
N	Warheads, torpedo, *with bursting charge*	1.1D	UN 0221	Explosive (1.1D)	--	--	--	
	White asbestos. *See* Asbestos, white							
	White phosphorus, *dry. See* Phosphorus, *white or yellow, dry*							
	White phosphorus, *wet. See* Phosphorus, *white or yellow, in water*							
	Wood alcohol. See Methanol							
	Wool waste, *wet*	4.2	UN 1387	Spontaneously Combustible	III	1,2	1,2	
	Xenon	2.2	UN 2036	Nonflammable Gas	--	1,2	1,2	
	Xenon, refrigerated liquid	2.2	UN 2591	Nonflammable Gas	--	1,2	1	
	Xylenes	3.2	UN 1307	Flammable Liquid	II	1,2	1	
		3.3	UN 1307	Flammable Liquid	II	1,2	1,2	
	Xylenols	6.1	UN 2261	Poison	II	1,2	1,2	
	Xylidines	6.1	UN 1711	Poison	II	1,2	1,2	Stow 'away from' acids
	Xylols. See Xylenes							
	Xylyl bromide	6.1	UN 1701	Poison	II	1	5	
	Yellow phosphorus, *dry. See* Phosphorus, *white or yellow, dry*							
	Yellow phosphorus, *wet. See* Phosphorus, *white or yellow, in water*							
•	Zinc arsenate *or* Zinc arsenite, *or* mixtures *thereof, solid*	6.1	UN 1712	Poison	II	1,2	1,2	
	Zinc ashes	4.3	UN 1435	Dangerous When Wet	III	1,2	1,2	
	Zinc bromate	5.1	UN 2469	Oxidizer	III	1,2	1,2	Stow 'away from' powdered metals and 'separated from' ammonium compounds
	Zinc chlorate	5.1	UN 1513	Oxidizer	II	1,2	1,2	Stow 'away from' powdered metals, 'separated from' ammonium compounds
•	Zinc chloride, anhydrous	8	UN 2331	Corrosive	III	1,2	1,2	Keep dry
•	Zinc chloride, solution	8	UN 1840	Corrosive	III	1,2	1,2	
	Zinc cyanide	6.1	UN 1713	Poison	I	1,2	1,2	Stow 'away from' acids
	Zinc hydrosulphite	9	UN 1931	None	III	1,2	1,2	Keep dry Stow 'away from' acids
	Zinc nitrate	5.1	UN 1514	Oxidizer	II	1,2	1,2	
	Zinc permanganate	5.1	UN 1515	Oxidizer	II	1,2	1,2	Stow 'separated from' ammonium compounds and hydrogen peroxide
	Zinc peroxide	5.1	UN 1516	Oxidizer	II	1,2	1,2	Keep dry
•	Zinc phosphide	4.3	UN 1714	Dangerous When Wet, Poison	I	1,2	II	When stowed under deck, stow in a mechanically ventilated space
	Zinc, *powder or dust, pyrophoric. See* Pyrophoric metals							
•	Zinc powder *or* zinc dust, *non-pyrophoric*	4.3	UN 1436	Dangerous When Wet	II	1,2	1,2	
	Zinc resinate	4.1	UN 2714	Flammable Solid	III	1,2	1,2	
	Zinc silicofluoride	6.1	UN 2855	St. Andrews Cross	III	1,2	1,2	Stow 'away from' acids
	Zirconium hydride	4.1	UN 1437	Flammable Solid	II	1,2	5	
•	Zirconium, *metal,* dry, *finished metal sheets, strip or coiled wire (thinner than 18 microns)*	4.2	UN 2009	Spontaneously Combustible	III	1	5	
	Zirconium, *metal,* dry, *finished sheets, strip or coiled wire (thinner than 254 microns but not thinner than 18 microns)*	4.1	UN 2858	Flammable Solid	III	1,2	1,2	
•	Zirconium *metal* powder, dry *mechanically produced, particle size between 3 and 53 microns; or chemically produced, particle size between 10 and 840 microns*	4.2	UN 2008	Spontaneously Combustible	II	1	5	
•	Zirconium *metal* powder, wetted *with not less than 25% water (a visible excess of water must be present), mechanically produced, having a particle size less than 53 microns; or chemically produced, having a particle size less than 840 microns*	4.1	UN 1358	Flammable Solid	II	1,2	5	
	Zirconium nitrate	5.1	UN 2728	Oxidizer	III	1,2	1,2	Stow 'away from' [illegible]
•N	Zirconium picramate, *dry or wetted with less than 20% water, by weight*	1.3C	UN 0236	Explosive (1.3C)	--	--	--	
	Zirconium picramate, wetted *with, by weight, at least 20% water*	5.1	UN 1517	Oxidizer	I	1	5	Stow 'away from' heavy metals and their salts
	Zirconium, *scrap*	4.2	UN 1932	Spontaneously Combustible	III	1	5	
	Zirconium, *suspended in flammable liquid*	3.1	UN 1308	Flammable Liquid	II	1	5	Keep cool
	Zirconium tetrachloride	8	UN 2503	Corrosive	III	1,2	1,2	Keep dry

[49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53, App. A to Part 1]

Note.—The Materials Transportation Bureau has determined that this document does not constitute a "major rule" under terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq*). I certify that this Amendment will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation and environmental assessment are available for review in the docket.

Issued in Washington, D.C., on October 24, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 83-29297 Filed 10-28-83; 8:45 am]

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Part III

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 986]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 25, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**. Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3: New well (1000 Ft. rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS — VOLUME 986

ISSUED OCTOBER 25, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ATWOOD RESOURCES INC				RECEIVED: 09/28/83		JA: OH			
[illegible]		3411521722		103	107-TF	TOMMY ROSS #1	MCCONNELSVILLE	15.0	KST OIL & GAS CO
-B & B ENTERPRISES				RECEIVED: 09/28/83		JA: OH			
8357231		3411523132		103		PINNEL & CARY #9	STOCKPORT	30.0	
8357232		3411523193		103		PINNELL & CARY #10	STOCKPORT	30.0	
-BARB OIL CO				RECEIVED: 09/28/83		JA: OH			
8357233		3408924731		108		JOHN RAUCH #1	MADISON	0.0	NATIONAL GAS & OI
-BELDEN & BLAKE & CO [illegible]				RECEIVED: 09/28/83		JA: OH			
8357236		3415123833		103		D CLAPPER - 1-341313	DENABURG	36.5	
8357235		3415123713		108		R M HALTER - 1-341315	DENABURG	36.5	
8357234		3401921628		103		W & S FINDLEY COMM #2 - 341297	ROSE	36.5	
-BERTRAM PAUL H JR				RECEIVED: 09/28/83		JA: OH			
8357281		3416725739		103		LOREN TROUT HEIRS #1	WARREN TOWNSHIP - BER	170.0	GAS TRANSPORT INC
-BILL BLAIR INCORPORATED				RECEIVED: 09/28/83		JA: OH			
8357238		3402720955		103	107-TF	HEROLD #2	HOMEWORTH	18.0	EAST OHIO GAS CO
8357237		3402720956		103	107-TF	HEROLD #3	HOMEWORTH	14.0	EAST OHIO GAS CO
-BUCKHORN OIL COMPANY INC				RECEIVED: 09/28/83		JA: OH			
8357239		3407523524		103		LLOYD SCHLAUCH #6	RICHLAND	9.0	COLUMBIA GAS TRAN
-CA D' ORA INC				RECEIVED: 09/28/83		JA: OH			
8357240		3416727392		108		S NEILL #1	WATERFORD	3.7	
-CLINTON OIL CO				RECEIVED: 09/28/83		JA: OH			
8357335		3415321456		107-TF		D HONROTH #1-666	BATH	10.0	
-CNG DEVELOPMENT CO				RECEIVED: 09/28/83		JA: OH			
8357241		3411123601		103	107-TF	P & E BOWERS #1 CNGD #145	BUFFALO	4.0	
-DORFMAN PRODUCTION CO				RECEIVED: 09/28/83		JA: OH			
8357242		3409921592		103	107-TF	GREENAMYER UNIT #1	DAMASCUS	12.0	COLUMBIA GAS TRAN
8357244		3409921618		103	107-TF	PHILLIS UNIT #2	DAMASCUS	12.0	COLUMBIA GAS TRAN
8357243		3409921484		103	107-TF	SMITH UNIT #1	DAMASCUS	12.0	COLUMBIA GAS TRAN
-EDCO DRILLING & PRODUCING INC				RECEIVED: 09/28/83		JA: OH			
8357245		3408323352		103		MCKEE ED-3A	HARRISON	18.0	
-ENERGY DEVELOPMENT CORP				RECEIVED: 09/28/83		JA: OH			
8357249		3405520786		107-RT		BEAN #1	WINDSOR	19.0	COLUMBIA GAS TRAN
8357248		3405520240		107-RT		CLAWSON #1	HUNTSBURG	18.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED: 09/28/83		JA: OH			
8357250		3401921324		103		CLARK-MORRISON #11E	ORANGE	36.5	EAST OHIO GAS CO
8357251		3411523128		103	107-TF	MURRAY #3	MEIGSVILLE	18.2	
-ENVIROGAS INC				RECEIVED: 09/28/83		JA: OH			
8357253		3408922813		103	107-TF	SUNDAY CREEK COAL #6E	DOVER	18.2	
8357252		3408922812		103	107-TF	SUNDAY CREEK COAL #8E	DOVER	18.2	
-EVERFLOW EASTERN INC				RECEIVED: 09/28/83		JA: OH			
8357254		3415123798		103	107-TF	DRUMBAUGH #1	WASHINGTON	0.0	
-FREDERICK PETROLEUM CORP				RECEIVED: 09/28/83		JA: OH			
8357256		3412123013		107-TF		W SMITH #1	JEFFERSON	27.0	
8357255		3412122913		107-TF		MOON/THOMPSON #3	JEFFERSON	7.0	
-GEORGE W SHARP				RECEIVED: 09/28/83		JA: [illegible]			
8357257		3412725778		103		PAUL JAMES #1	HARRISON	18.0	

[illegible] CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-GRAVEL BANK PRODUCTION CO				RECEIVED: 09/28/83 JA: OH					
8357258		3416726426		103		LEGLEIGHTNER #1	MARKER	550.0	GAS TRANSPORT INC
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED: 09/28/83 JA: OH					
8357261B		3412725900	D	107-TF		BERTHA & CHARLES BEATRICE #3	PLEASANT	0.0	COLUMBIA GAS TRAN
8357261A		3412725900		103		BERTHA & CHARLES BEATRICE #3	PLEASANT	0.0	COLUMBIA GAS TRAN
8357259		3411926184		103		HARLAN ANDERS #2	HARRISON	0.0	NATIONAL GAS & OI
8357260		3411926576		103	107-TF	HERMAN CROCK #4	HENDON	0.0	NATIONAL GAS & OI
-KEM-TRAK XI				RECEIVED: 09/28/83 JA: OH					
8357262		3416522530		107-TF		ROBERT MILLER #2	LOWER MISSISSIPPIAN	0.0	COLUMBIA GAS TRAN
-KENOIL				RECEIVED: 09/28/83 JA: OH					
8357264		3416923528		107-TF		KENNETH R MILLER #2	CLINTON	3.0	COLUMBIA GAS TRAN
8357263		3416923375		107-TF		ROBERTA MAIDEN #2	CAHAAN	5.0	COLUMBIA GAS TRAN
-LEW BATES JR				RECEIVED: 09/28/83 JA: OH					
8357265		3408926747		103		A G SADESKI #1	BOWLING-GREEN	0.0	YANKEE RESOURCES
-MARK PRODUCING INC				RECEIVED: 09/28/83 JA: OH					
8357270		3411723450		102-2		BOSH #1	N BLOOMFIELD	850.0	
8357269		3411723449		102-2		CRAMER #1	N BLOOMFIELD	85.0	
8357268		3411723447		102-2		GARVERICK #1	N BLOOMFIELD	85.0	
-MARK RESOURCES CORP				RECEIVED: 09/28/83 JA: OH					
8357271		3408702249		103	107-TF	T KISTER #1	KINGSVILLE	30.0	EAST OHIO GAS CO
-MID-ATLANTIC OIL CO				RECEIVED: 09/28/83 JA: OH					
8357275		3411523214		103	107-TF	P C SILVUS #2	CENTER	50.0	EAST OHIO GAS CO
8357273		3411523196		103	107-TF	PHILLIS/SILVUS #1	CENTER	50.0	EAST OHIO GAS CO
8357274		3411523198		103	107-TF	R HOUSER #2	CENTER	50.0	EAST OHIO GAS CO
8357272		3411523032		103	107-TF	ROBERTS #1	CENTER	50.0	EAST OHIO GAS CO
-MID-CON OIL COMPANY				RECEIVED: 09/28/83 JA: OH					
8357276		3412725931		103		MONT COOPERRIDER #1	THORN	18.0	NATIONAL GAS & OI
8357277		3412725949		103		R WALSER #1	THORN	18.0	NATIONAL GAS & OI
-OHIO HYDROCARBONS INC				RECEIVED: 09/28/83 JA: OH					
8357278		3411320723		103		PLOSKI #3	KNOX	10.0	TENNESSEE GAS PIP
8357279		3416320726		103		PLOSKI #6	MCCARTHUR	10.0	TENNESSEE GAS PIP
-OHIO NATURAL FUEL CO				RECEIVED: 09/28/83 JA: OH					
8357280		3407522824		103		CHARVAT #2	KNOX	1.2	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED: 09/28/83 JA: OH					
8357337		3411926628		103	107-TF	GERALD WAGNER #2	SALT CREEK	10.0	COLUMBIA GAS TRAN
8357336		3408924762		103		JOHN SEWARD #1	PERRY	10.0	
8357339		3412725985		103		LYMAN BASHORE #1-S	THORN	8.0	
8357338		3412725978		103	107-TF	THEODORE WILLIAMS #2	CLAYTON	10.0	NATIONAL GAS & OI
-PETRO EVALUATION SERVICES INC				RECEIVED: 09/28/83 JA: OH					
8357282		3408520321		103	107-TF	LANGSHAW #4	PERRY	4.0	
8357284		3408520427		103	107-TF	SECOR #1	PERRY	34.0	
8357283		3408520425		103	107-TF	SECOR #2	PERRY	10.0	
-POI ENERGY INC				RECEIVED: 09/28/83 JA: OH					
8357287		3405520514		103	107-TF	CLEVELAND GLASS #1	RAINBRIDGE	43.0	
8357286		3405520496		103	107-TF	H&R INVESTMENTS #HG-6	RAINBRIDGE	42.0	
8357288		3405520493		103	107-TF	OLDMAN #HG-1	RAINBRIDGE	11.0	
8357285		3400722191		103	107-TF	SOBIERAJ #1	WAYNE	35.0	
-POMINEX INC				RECEIVED: 09/28/83 JA: OH					
8357289		3409921607		103	107-TF	SWANSTON CHILDREN'S HOME #3	CANFIELD	18.0	
-PREMIUM ENERGY INC				RECEIVED: 09/28/83 JA: OH					
8357290		3403124619		103		FLOYD SHELDON #1	SPRING MOUNTAIN	5.0	
8357291		3407523393		103		OVA RINEHART #1	KILLBUCK	4.0	
8357292		3407524887		107-TF		PLANISEK & MARK COBURN #1	KILLBUCK	8.0	
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED: 09/28/83 JA: OH					
8357293		3405305490		107-TF		BRASEL-STEWART #1	CHESHIRE	1.5	COLUMBIA GAS TRAN
-RELIANCE ENERGY				RECEIVED: 09/28/83 JA: OH					
8357246		3408323315		103		L G STAATS #2	HARRISON	4.0	COLUMBIA GAS TRAN
8357247		3408323319		103		WAYNE BUSKIRK #1	HARRISON	5.0	COLUMBIA GAS TRAN
-ROYAL LEVERAGED LTD 82-III				RECEIVED: 09/28/83 JA: OH					
8357303		3410522635		103	107-TF	L DAVIS #1	BEDFORD	5.0	COLUMBIA GAS TRAN
-ROYAL LEVERAGED LTD 82-IV				RECEIVED: 09/28/83 JA: OH					
8357294		3410522584		103	107-TF	BUMGARDNER #1	RUTLAND	5.0	COLUMBIA GAS TRAN
-ROYAL LEVERAGED LTD 82-V				RECEIVED: 09/28/83 JA: OH					
8357298		3410522623		103	107-TF	B ARNOLD #2	SCIPIO	5.0	COLUMBIA GAS TRAN
8357302		3410522634		103	107-TF	C MOORE #1	BEDFORD	5.0	COLUMBIA GAS TRAN
8357304		3410522638		103	107-TF	C TOBAN #1	BEDFORD	5.0	COLUMBIA GAS TRAN
-ROYAL LEVERAGED LTD 82-VII				RECEIVED: 09/28/83 JA: OH					
8357301		3410522627		103	107-TF	C C HOWARD #1	RUTLAND	5.0	COLUMBIA GAS TRAN
8357305		3410522639		103	107-TF	HOUDASHELT #1	BEDFORD	5.0	COLUMBIA GAS TRAN
8357297		3410522351		103	107-TF	R DAVIS #2	BEDFORD	5.0	COLUMBIA GAS TRAN
-ROYAL LEVERAGED PVT DRLG & FL LTD82				RECEIVED: 09/28/83 JA: OH					
8357299		3410522625		103	107-TF	C ARNOLD #2	SCIPIO	5.0	COLUMBIA GAS TRAN
8357300		3410522626		103	107-TF	C ARNOLD #3	SCIPIO	5.0	COLUMBIA GAS TRAN
8357296		3410522683		103	107-TF	GILLIAM #1	SCIPIO	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM LTD 82-D				RECEIVED: 09/28/83 JA: OH					
8357295		3410522682		103	107-TF	BLAKE #1	SCIPIO	5.0	COLUMBIA GAS TRAN
-RSC ENERGY CORP				RECEIVED: 09/28/83 JA: OH					
8357306		3411926250		103	107-TF	CONSOLIDATION COAL - CR 838	MADISON	25.5	REPUBLIC STEEL CO
8357307		3411926318		103	107-TF	CONSOLIDATION COAL - CR 834	MADISON	27.0	REPUBLIC STEEL CO
8357308		3411926319		103	107-TF	CONSOLIDATION COAL - CR 835	MADISON	27.0	REPUBLIC STEEL CO
8357309		3411926321		103	107-TF	CONSOLIDATION COAL - CR 837	MADISON	21.9	REPUBLIC STEEL CO
-SANTA FE DRILLING CO INC				RECEIVED: 09/28/83 JA: OH					
8357311		3416724025		103		GLEN AND HELEN FULTON #3	SALEM	50.0	COLUMBIA GAS TRAN
8357312		3416724026		103		GLENN AND HELEN FULTON WELL #2	SALEM	50.0	COLUMBIA GAS TRAN
8357314		3416724031		103		NORBERT GERST #1	SALEM	50.0	COLUMBIA GAS TRAN
8357313		3416724030		103		RUBY MILLER #1	SALEM	50.0	COLUMBIA GAS TRAN
8357310		3412122190		103		WILLIAM AND JANET KIDD #1	ELK	50.0	COLUMBIA GAS TRAN
8357316		3416724471		103		WILLIAM AND JANET KIDD WELL #1	SALEM	50.0	COLUMBIA GAS TRAN
8357315		3416724034		103		WYANE ANDERSON #1	SALEM	50.0	COLUMBIA GAS TRAN
-SCHMELZER MARK & JEAN				RECEIVED: 09/28/83 JA: OH					
8357266		3404520763		103		SCHMELZER #1	RICHLAND	11.0	
8357267		3404520815		103		SCHMELZER #2	RICHLAND	365.0	
-STOCKER & SITLER INC				RECEIVED: 09/28/83 JA: OH					
8357331		3415723309		108		DAYTON SPECHT UNIT #2		12.0	EAST OHIO GAS CO
8357329		3415723133		108		EMERSON SPECHT UNIT #1		6.0	EAST OHIO GAS CO
8357321		3415722596		108		HOGUE UNIT #3		5.0	EAST OHIO GAS CO
8357319		3415722539		108		KAIL UNIT #3		5.0	EAST OHIO GAS CO
8357318		3415722538		108		KAIL UNIT #4		4.0	EAST OHIO GAS CO
8357324		3415722755		108		MASCOTTI LEASE #1		7.5	EAST OHIO GAS CO
8357328		3415723131		108		MAURER UNIT		5.0	EAST OHIO GAS CO
8357326		3415723129		108		MAURER UNIT #1		3.0	EAST OHIO GAS CO
8357327		3415723130		108		MAURER UNIT #2		2.0	EAST OHIO GAS CO
8357330		3415723160		108		MAX WENGER LEASE #1		5.7	EAST OHIO GAS CO
8357322		3413722453		108		MORRIS UNIT #1		8.0	EAST OHIO GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8357325		3415723128		108		ROY MILLER LEASE #1		5.0	EAST OHIO GAS CO
8357323		3415722693		108		SACKETT UNIT #2		3.0	EAST OHIO GAS CO
8357332		3415723330		108		SHERRARD UNIT #1		7.0	EAST OHIO GAS CO
8357317		3415722523		108		WIDDER UNIT #1		12.0	EAST OHIO GAS CO
8357320		3415722569		108		WIDDER UNIT #2		3.0	EAST OHIO GAS CO
-[illegible] DRILLING INC		RECEIVED:		09/28/83	JA: OH				
8357337		3412725975		103	107-TF	LANDERMAN UNIT #1	CROOKSVILLE	8.0	NATIONAL OIL & GA
-T B DRILLING CO		RECEIVED:		09/28/83	JA: OH				
8357334		3412723928		107-TF		PEARL R & BEULAH M WISEMAN #1B	BEAKFIELD TWP	6.0	NATIONAL GAS & OI
-VICTOR MCKENZIE		RECEIVED:		09/28/83	JA: OH				
8357340		3412725956		103		CLYDE STOVER #1	HOPEWELL	5.0	NATIONAL GAS & OI
-[illegible] RESOURCES CORP		RECEIVED:		09/28/83	JA: OH				
8357342		3408520452		103	107-TF	BROADWATER #3	MADISON	30.0	
8357341		3408520408		103	107-TF	BROADWATER #5	MADISON	30.0	
-WELSH MILLS OIL & GAS CO		RECEIVED:		09/28/83	JA: OH				
8357343		3408323351		103		JOHN D PURCELL #1	BUTLER	7.0	COLUMBIA GAS TRAN
-WILLIAM E KIDD PRODUCTION CO		RECEIVED:		09/28/83	JA: OH				
8357344		3408924773		103		SHUMAKER-KARR UNIT #1	MANNA	10.0	NATIONAL GAS & OI
-WORTHINGTON OIL COMPANY INC		RECEIVED:		09/28/83	JA: OH				
8357345		3403124548		103		BOY SCOUTS OF AMERICA #1	HANOVER	25.0	COSHOCTON PIPE CO
WEST VIRGINIA DEPARTMENT OF MINES									
-ATLAS ENERGY CORP		RECEIVED:		09/28/83	JA: WV				
8357363		4704700884		107-DV		ROBERT TYSON JR #2	WELCH QUAD (BROWNS CR	0.0	CABOT CORP
-BIG B DRILLING CO INC		RECEIVED:		09/28/83	JA: WV				
8357359		4701303423		107-DV		SIMMONS-BARNHOUSE WELL #1	WASHINGTON	36.0	
-BOWSER GAS & OIL CO		RECEIVED:		09/28/83	JA: WV				
8357372		4701303349		103		SNIDER #1	MARY R SNIDER	0.0	CONSOLIDATED GAS
-BRAXTON OIL AND GAS CORP		RECEIVED:		09/28/83	JA: WV				
8357388		4708300727		103		BENNETT #1	ELLAMORE	60.0	COLUMBIA GAS TRAN
8357375		4709702464		107-DV		DAIL #1	CASSITY	60.0	COLUMBIA GAS TRAN
8357374		4708300709		107-DV		DOVE #1	CASSITY	60.0	COLUMBIA GAS TRAN
8357389		4708300728		103		MALM #1	ELLAMORE 7.5	60.0	COLUMBIA GAS TRAN
-CLINT HURT & ASSOCIATES INC		RECEIVED:		09/28/83	JA: WV				
8357370		4701303362		107-DV		BULLARD #1	CALHOUN	25.0	COLUMBIA GAS TRAN
8357371		4708505418		107-DV		DAGGETT #1	ST MARYS	36.0	COLUMBIA GAS TRAN
8357369		4708505478		107-DV		MCGINNIS #1	RITCHIE	30.0	COLUMBIA GAS TRAN
8357363		4707301449		107-DV		PETER #1	ST MARYS	8.0	COLUMBIA GAS TRAN
8357347		4710500932		107-DV		PRATHER #1	MINT	10.0	COLUMBIA GAS TRAN
8357366		4707301357		107-DV		ROGERS #1	ST MARYS	20.0	COLUMBIA GAS TRAN
8357367		4708505697		103		STOUT #1	KAIRO	2400.0	CONSOLIDATED GAS
8357364		4707301492		107-DV		WAITE #1	ST MARYS	24.0	COLUMBIA GAS TRAN
-D G HANEY INC		RECEIVED:		09/28/83	JA: WV				
8357381		4704103255		103		VILLERS #28	FREEMAN	30.0	CONSOLIDATED GAS
-DAVIS-HARDMAN ASSOC LTD PTNSP		RECEIVED:		09/28/83	JA: WV				
8357385		4708505757		103		GEORGE HARDMAN #1-A	SMITHVILLE	7.3	CONSOLIDATED GAS
8357386		4708505758		103		HARDMAN DAILEY #1	SMITHVILLE	18.3	CONSOLIDATED GAS
-GIBSON GAS CO		RECEIVED:		09/28/83	JA: WV				
8357350		4708504316		108		EVELYN MCCOY H-758	MURPHY DISTRICT	30.0	CONSOLIDATED GAS
-HAUGHT INC		RECEIVED:		09/28/83	JA: WV				
8357349		4708505898		103		A M DOUGLASS H-1355	GRANT DITRICT	15.0	CONSOLIDATED GAS
8357348		4708505482		103		H F SMITH H-1316	MURPHY DISTRICT	5.0	COLUMBIA GAS TRAN
8357358		4708502832		107-DV		INDIANA PRINCE HEIRS H-1351	MURPHY DISTRICT	29.0	CONSOLIDATED GAS
8357356		4701702880		108		RUTH ANN YOHO H-1143	NEW MILTON DISTRICT	15.0	CONSOLIDATED GAS
-L & M PETROLEUM INC		RECEIVED:		09/28/83	JA: WV				
8357360		4707301215		107-DV		WALTER CARPENTER #1	UNION	10.0	COLUMBIA GAS TRAN
-LINVILLE GAS CO		RECEIVED:		09/28/83	JA: WV				
8357366		4704322557		107-DV		MCMELLON-EGNOR HRS #1	UNION DISTRICT	0.0	COLUMBIA GAS TRAN
-MAXUM DRILLING PROGRAM		RECEIVED:		09/28/83	JA: WV				
8357355		4708504364		108		L M STANLEY H-811	UNION DISTRICT	15.0	CONSOLIDATED GAS
-MILLS DRILLING CO INC		RECEIVED:		09/28/83	JA: WV				
8357361		4709901777		107-DV		CLOSTERMAN HEIRS GM-6	LINCOLN DISTRICT	10.8	COLUMBIA GAS TRAN
-MONITOR PETROLEUM CORP		RECEIVED:		09/28/83	JA: WV				
[illegible]357346		4700121545		103		MONITOR #2 WESTVACO	VALLEY	43.2	COLUMBIA GAS TRAN
-NATIONAL OPERATING INC		RECEIVED:		09/28/83	JA: WV				
[illegible]357362		4708506045		107-DV		VALENTINE #1	UNION	36.5	COLUMBIA GAS TRAN
-PEAKE OPERATING CO		RECEIVED:		09/28/83	JA: WV				
[illegible]357399		4708100592		102-4		CRAB ORCHARD #10-AC	NA (TRAP HILL DISTRIC	5.0	
[illegible]357398		4708100610		102-2		CRAB ORCHARD #12-AC	NA (TRAP HILL DISTRIC	5.0	
8357397		4708100599		102-2		CRAB ORCHARD #14-AC	NA (TRAP HILL DISTRIC	5.0	
[illegible]357400		4708100608		102-2		CRAB ORCHARD #15-AC	(TRAP HILL DISTRICT)	5.0	
[illegible]357387		4708100600		107-DV		CRAB ORCHARD #15-AC	(TRAP HILL DISTRICT)	5.0	
[illegible]357396		4708100579		102-4		CRAB ORCHARD #2-AC	(TOWN DISTRICT)	5.0	
8357373		4708100567		103		WELCHLANDS #3-AW	NONE (SLAB FORK DISTR	5.0	CONSOLIDATED GAS
-PETROLEUM RESOURCES INC		RECEIVED:		09/28/83	JA: WV				
8357380		4704103203		103		C O THOMPSON #1	FREEMAN	40.0	CONSOLIDATED GAS
8357377		4704103185		103		J L J BAILEY #1A	FREEMAN	40.0	CONSOLIDATED GAS
8357378		4704103186		103		RICHARD BONNETT #1A	FREEMAN	30.0	CONSOLIDATED GAS
8357379		4704103195		103		Z HEFLIN #1A	FREEMAN	40.0	CONSOLIDATED GAS
-PHILLIPS PETROLEUM COMPANY		RECEIVED:		09/28/83	JA: WV				
8357354		4706100305		108		DALTON B #1	SOUTH BURNS CHAPEL	20.0	CONSOLIDATED GAS
8357357		4706100311		108		HARWORTH A #1	SOUTH BURNS CHAPEL	0.0	CONSOLIDATED GAS
-ROSS-WHARTON GAS CO		RECEIVED:		09/28/83	JA: WV				
8357402		4708300717		102-2		BILL #1	MIDDLE FORK	37.5	COLUMBIA GAS TRAN
8357392		4708300717		103		BILL #1	MIDDLEFORD	37.5	COLUMBIA GAS TRAN
8357376		4708300686		107-DV		KING #1	ELLAMORE	50.0	COLUMBIA GAS TRAN
8357403		4708300731		102-2		LOFTIS #3	MIDDLE FORK	37.5	COLUMBIA GAS TRAN
8357393		4708300731		103		LOFTIS #3	MIDDLE FORK	37.5	COLUMBIA GAS TRAN
-STONEWALL GAS CO		RECEIVED:		09/28/83	JA: WV				
8357395		4703302491		108		CUMBERLEDGE #1-23-SH	UNION	0.0	CONSOLIDATED GAS
8357394		4701702995		108		E MAY SUMMERS #1 79-S	GREENBRIER DISTRICT	200.0	CONSOLIDATED GAS
8357391		4703302801		105		FOX #1 - 138-S	UNION	0.0	CONSOLIDATED GAS
8357390		4701722891		103		REX CUMPSTON #1-27-SH	NEW MILTON	5.0	CONSOLIDATED GAS
-TIGER OIL INC		RECEIVED:		09/28/83	JA: WV				
8357353		4701500839		108		ELK RIVER #1	BUFFALO	3.0	EQUITABLE GAS CO
8357352		4701500855		108		ELK RIVER #2 A/C #2-43-25-181299-1	BUFFALO	3.0	EQUITABLE GAS CO
8357351		4701500856		108		ELK RIVER #3	BUFFALO	3.0	EQUITABLE GAS CO
-TRIO PETROLEUM CORP		RECEIVED:		09/28/83	JA: WV				
8357405		4702102950		107-DV		GILMER COUNTY COURT #2	GLENVILLE - NORTH	20.0	COLUMBIA GAS TRAN
8357404		4702103507		107-DV		GILMER COUNTY COURT #3	GLENVILLE - NORTH	20.0	COLUMBIA GAS TRAN
8357401		4702103885		107-DV		HENDERSON "C" #4	GLENVILLE - NORTH	30.0	COLUMBIA GAS TRAN
-WHITMAN OIL & GAS CORP		RECEIVED:		09/28/83	JA: WV				
[illegible]357382		4708505174		107-DV		CARL & VIVIAN DOTSON #1	GRANT	25.0	
8357384		4708505481		107-DV		STEPHENS #7	RUTHERFORD	25.0	
8357383		4708505345		107-DV		YOCKEY #1	RUTHERFORD FIELD	25.0	

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
79-04051	WV	Braxton Oil & Gas Corp	Feeney No. 1			C:	103 Approved; not denied
80-14640	CO	C.W. Hughes	Fassler #1 34-2N-53W	154	03-14-80	C:	Well Name
80-38561	PA	HK Drilling Inc	Schultz #2	224	07-16-80	C:	103 Approved; not denied
80-54315	TX	Philip B. Berry	Dallas JSLB A #1	278	09-23-80	C:	108 & 108-ER Approved
81-06123	OK	Andover Oil Co	Jensen #34-2	329	12-12-80	C:	102-2 & 103 Approved
81-06936	OK	Andover Oil Co	Lottie Jones #33-2	334	12-17-80	C:	102-2 & 103 Approved
81-06945	OK	Andover Oil Co	Atkinson #11-2	334	12-17-80	C:	102-2 & 103 Approved
81-09395	OK	Andover Oil Co	Jensen #34-4	346	01-27-81	C:	102-2 & 103 Approved
81-09435	KS	Texaco Inc	H M Riffel No. 1	346	01-27-81	C:	108-ER Approved, not 108
81-14412	OK	Andover Oil Co	Lottie Jones #33-3	365	02-20-81	C:	102-2 & 103 Approved
81-18619	OK	Andover Oil Co	Walter Mills #4-3	384	03-20-81	C:	102-2 & 103 Approved
81-18620	OK	Andover Oil Co	Rhodyback #10-1	384	03-20-81	C:	102-2 & 103 Approved
81-22558	NM	Tenneco Oil Co	Aztec Com 2 #1	402	04-22-81	C:	108-ER Approved, not 108
81-41403	OK	Andover Oil Co	Boyd #33-1	482	08-19-81	C:	102-3 & 103 Approved
81-41544US(NM)		Tenneco Oil Co	Hamner #8	483	08-19-81	C:	108 Denied by JA
81-42258	OK	Andover Oil Co.	Earl Mills #28-2	486	08-14-81	C:	102-2 & 103 Approved
81-48451	OK	TXO Production Corp	Patton B #1	513	10-01-81	R:	102-4 Approved rec'd 6/20/83
81-48584	OK	Andover Oil Co	Globe Life K #35-3	514	10-01-81	C:	102-2 & 103 Approved
81-51047	KS	Robert F. White	Grub Unit #1	865	04-12-83	C:	108-ER Approved, not 108
81-51081	UT	Tenneco Oil Co	Dietler State #2-7	929	07-12-83	C:	Well Name
82-12860	OK	Gulf Oil	Horrell #1	584	02-01-82	C:	Applicant Name
82-16796	OK	Malka Production Co	Copenhaver Unit #1	598	02-24-82	C:	108-ER Approved, not 108
82-20651	TX	Henderson Clay Products, Inc	Gray Estate #1	615	04-01-82	C:	102-2 & 107-TF Approved
82-31909	OK	Andover Oil Co	Dyck #9-1	660	06-08-82	C:	102-2 & 103 Approved
82-33829	MS	System Fuels Inc	Gas Unit 19-13 #1	666	06-17-82	C:	107-DP Approved, not 107-TF
82-34357	LA	Ergon Inc	Clara Savage No. 2	669	06-18-82	C:	103 and 107-TF Approved
82-34373	LA	Ergon Inc	L.B. King No. 2	669	06-18-82	C:	103 and 107-TF Approved
82-36895	WV	Bogert Coal & Gas	Brown #1	678	07-06-82	C:	108-ER Approved, not 108
83-15093	OK	Hadson Petro Corp	Burnett #1-21	816	01-27-83	C:	Well Name
83-17999	NM	Phillips Petroleum	E Vac GB/SA, Tr 3333#1	827	02-18-83	C:	Well Name
83-22385	OK	Texas Oil & Gas	Browne Q No. 1	929	03-17-83	C:	Well Name
83-25158	OK	Cities Service O & G	Bass C #1	858	03-28-83	C:	108 & 108-ER Approved
83-28005	OK	Ricks Exploration Co	Sauer #23A	868	04-18-83	C:	102-2 & 103 Approved
83-28085	CO	Amer Resources Mgmt	Calf Canyon #23-1A	869	04-18-83	C:	107-TF Approved; not 103
83-28086	CO	Amer Resources Mgmt	Ival Young #CC 14-1	869	04-18-83	C:	107-TF Approved; not 103
83-28115	CO	Natomas North Amer	State # 1-36	869	04-18-83	C:	107-RT Approved; not 107-TF
83-28447	NM	El Ran Inc.	Pennzoil State #1	870	04-18-83	C:	103 & 107-TF Approved
83-29492	TX	Tenneco Oil Company	Brunson 15-1	874	04-22-83	C:	107-DP Approved, not 107-TF
83-29897	NY	Arapahoe Ventures of New York, Inc.	Gordon Pierson #1	876	04-27-83	C:	107-TF Denied by JA
83-29916	OH	Beardmore Oil & Gas	Jay Morris #1	876	04-27-83	C:	107-DV Approved; not 107-TF
83-31346	NY	Sinclairville Petro Co	Fisher Price #1	884	05-05-83	C:	Well Name
83-33174	KS	R.T.C. Petroleum, Inc	Hine #1	892	05-17-83	C:	Applicant Name
83-33365	PA	Ashtola Prod Co	John M Guzy #1	893	05-17-83	C:	108 Approved, not 103
83-34138	LA	Wheless Industries	CRA SUG Williams ET AL #1	896	05-26-83	C:	102-4 & 107-TF Approved
83-34164	LA	Cities Service Co	CVRA SU32, Clements B #1	896	05-26-83	C:	Well Name
83-34276	OK	Permeator Corp	Rutherford #1	896	05-26-83	C:	108 Denied by JA
83-34277	OK	Permeator Corp	Grover #1	896	05-26-83	C:	108 Denied by JA
83-34279	OK	Permeator Corp	Grover #3	896	05-26-83	C:	108 Denied by JA
83-34306	OK	CJ Casselman	Bel Isle #2-B	896	05-26-83	C:	Well Name
83-34429A	OH	Clarence Sherman	Joe F Raber #1	897	05-26-83	C:	103 Denied by JA
83-34429B	OH	Clarence Sherman	Joe F Raber #1	897	05-26-83	C:	107-RT Approved, not denied
83-34483	OH	Leader Equities Inc	Cherry #2	897	05-26-83	C:	103 Approved, 107-TF Denied
83-34692	OK	Seneca Oil Co	Frazer #2-23	898	05-26-83	C:	102-2 & 103 Approved
83-34705	OK	Springfield Oil & Gas Company	Sutherland #4	898	05-26-83	C:	102-2 & 103 Approved
83-34919	TX	R.L. Burns Corp	Escondido (5X) #1	899	06-01-83	C:	Well Name
83-35410	PA	ZETA S T JV 80	Thompson Trust #1	901	05-27-83	C:	108 Approved, not 103
83-35464	PA	Adobe Oil & Gas	John Baker #1-B	901	05-27-83	C:	Well Name
83-35480	PA	C & C Trover Brothers	Mary Zajac #1	901	05-27-83	C:	Well Name
83-35529	CO	Dome Petroleum	Tiffany #1	901	05-27-83	C:	Well Name
83-35610	CO	Energy Minerals Corp	Clara #1	901	05-27-83	C:	Well Name
83-35649	LA	Sun Exploration & Production Co	P.L. Jacobs #1	902	06-01-83	C:	107-PE Approved, not 107-DP

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
83-35650	LA	Sun Exploration & Production Co	Welori Lumber Co #1 Hoss A Sub	902	06-01-83	C:	107-PE Approved, not 107-DP
83-35671	LA	Mahren Oil & Gas Exploration Inc	Cities Service #1 HARRE SU 760	902	06-01-83	C:	Well Name
83-35677	LA	Hicks Production Co	Lutcher & Moore Cypress Lbr Co #2	902	06-01-83	C:	107-PE Approved, not 107-DP
83-35685	LA	IMC Exploration Co	Stancil-Savage #F-338	902	06-01-83	C:	Well Name
83-35695	LA	Investors Exploration	Prestly #1	902	06-01-83	C:	103 & 108 Approved
83-35707	LA	W J Wegman, Jr	Exxon #4	902	06-01-83	C:	103 & 108 Approved
83-35779	OK	Tenneco Oil Company	Salisbury 1-1	902	06-01-83	C:	102-2 & 103 Approved
83-35888	LA	Wells-Battelstein Oil & Gas Inc	D W Sartor #2	903	06-01-83	C:	103 Approved, not 108
83-35958	WV	Anchorage Oil Co	W C Smith #1	903	06-01-83	C:	Well Name
83-35960	WV	Anchorage Oil Co	Olive Kesler #1	903	06-01-83	C:	Well Name
83-35961	WV	Anchorage Oil Co	George W Sinnett #1	903	06-01-83	C:	Well Name
83-35964	WV	Anchorage Oil Co	Delong Michael #1	903	06-01-83	C:	Well Name
83-35966	WV	Anchorage Oil Co	Roy Kirkhart #1	903	06-01-83	C:	Well Name
83-35967	WV	Anchorage Oil Co	J L Snodgrass #1	903	06-03-83	C:	Well Name
83-36119	TX	Central Producers Inc	Harris-Skaggs Unit #1	905	06-03-83	C:	103 Approved, not 102
83-36157	TX	Superior Oil Company	F I Johnson #18-U	905	06-03-83	C:	Well Name
83-36171	TX	North Ridge Corp	J C Harrell #1	905	05-12-83	C:	Applicant Name
83-36212	TX	Shell Oil Company	Hammon Ranch #13	905	06-03-83	C:	102-4 & 107-TF Approved
83-36257	TX	Chalmers Operating Company Inc	Pritchard Unit #1	905	06-03-83	C:	Well Name
83-36270	TX	Wy-Tex Corp	Arnold #2	905	06-03-83	C:	Well Name
83-36494	OK	Action Petroleum Inc	Clegg #1	906	06-07-83	C:	Well Name
83-36711	WV	Burdette Oil & Gas Co Inc	Orville Carney #1	907	06-10-83	C:	107-DV Approved, not 107-DP
83-37220US(NM)		Amoco Production Co	Rosa Unit No 87	909	06-14-83	C:	Well Name
83-37241US(NM)		Mesa Petroleum Co	Strong Federal Comm #1E	909	06-14-83	C:	Well Name
83-37384	OK	Prospective Investment & Trading Co	Colonial #1	910	06-14-83	C:	102-4 & 103 Approved
83-37412	OK	Kaiser Francis Oil Co	Stephens #1-12	910	06-14-83	C:	Well Name, Applicant Name
83-37576	(Osage)	Class Petroleum Corp	Tate #11	910	06-14-83	C:	103 Approved, not 108
83-37577	(Osage)	Class Petroleum Corp	Tate #15	910	06-14-83	C:	103 Approved, not 108
83-37578	(Osage)	Class Petroleum Corp	Tate #16	910	06-14-83	C:	103 Approved, not 108
83-37580	OK	Stephen F. Duggan	Zink 1-6	910	06-14-83	C:	Well Name
83-37588	NM	McClellan Oil Corp	McClellan Beavers Fee #1	910	06-14-83	C:	102-4 & 107-TF Approved
83-37811	OK	M B Operating Co Inc	D Frank #1	911	06-15-83	C:	Well Name
83-37845	KS	South Eastern Gas & Oil	Benning #2	912	06-15-83	C:	Applicant Name
83-37922	NY	Doran & Associates Inc	J Jones #1 KV-41	912	06-15-83	C:	102-2 & 107-TF Approved
83-38010	OK	Gulf Oil	Taylor-Heath #1	912	06-15-83	C:	108 & 108-PB Approved
83-38039	TX	TXO Production Corp	McAllister A #1	913	06-20-83	C:	103 Approved; not 107-TF
83-38045	TX	Sanchez-O'Brien Oil & Gas Corp	3-D Ranches Ltd Gas Unit 1 #1	913	06-20-83	C:	Well Name
83-38126	TX	Sanchez-O'Brien Oil & Gas Corp	Brysch Gas Unit 2 Well # 3-L	913	06-20-83	C:	Well Name
83-38129	TX	Osborne Oil Co	Annie E. Chiltim #114-1	913	06-20-83	C:	Well Name
83-38130	TX	Osborne Oil Co	Annie E. Chiltim #116-1	913	06-20-83	C:	Well Name
83-38131	TX	Osborne Oil Co	Annie E. Chiltim #142-1	913	06-20-83	C:	Well Name
83-38132	TX	Osborne Oil Co	Annie E. Chiltim #131-1	913	06-20-83	C:	Well Name
83-38147	TX	Bill Forney Inc	Schreiner Ranch Trust II Well #6	913	06-20-83	C:	Well Name
83-38148	TX	Sue-Ann Oil & Gas Co	Hayden #1-C	913	06-20-83	C:	Well Name
83-38255	TX	W R Edwards Jr.	William #6	913	06-20-83	C:	103 Approved, not 108
83-38435	LA	Shedrack Production Co	ST & SD Kennedy #1	914	06-20-83	C:	Well Name
83-38543	OK	D & G Oil & Gas Co Inc	Franks #1	914	06-20-83	C:	Well Name
83-38574	US(LA)	Anadarko Production Co	E Cameron Blk 359 Well #A-9	915	06-21-83	C:	Well Name
83-38599	AR	Tawser Petroleum Co	Carpenter Paul Weir #30-1	915	06-21-83	C:	102-4 Approved, not 103
83-38825	US(NM)	Northwest Pipeline Corp	San Juan 30-5 Unit 30	916	06-21-83	C:	Well Name
83-38831	OK	Midway	Crayling #7	916	06-21-83	C:	103 & 108 Approved
83-38832	OK	Ergon	Clara C Gibson #1	916	06-21-83	C:	103 & 107-TF Approved
83-38875	OK	D & G Oil Co	Franks #2	916	06-21-83	C:	Well Name

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
83-38886	OK	Westheimer-Beustadt Corp	Perkins #2-3	916	06-21-83	C:	Well Name
83-39031	MS	Exxon	Hub Gas Unit 13#1	917	06-22-83	C:	102-4 Approved; not 103
83-39128	OK	Dyne Exploration Co	Wildlife #2	917	06-22-83	C:	Well Name
83-39248	TX	Getty Oil Company	Dix Ranch #1768-A	918	06-24-83	C:	Well Name
83-39296	TX	Dyne Exploration Co	McConnell #7 Lease #00287	918	06-20-83	C:	103 Approved; not 108
83-39323	TX	McClaymond Brothers	Ellis-Farmer "D" #1 104126	918	06-20-83	C:	Well Name
83-39436	TX	Hill International	Kinney-Lindstrom Found #2L	919	06-24-83	C:	102-4 Approved; not 107-TF
83-39349	TX	Dixon ED	White & Baker "Q" Lease Well #7	918	06-24-83	C:	Well Name
83-39359	TX	Tamarack Petroleum Co Inc	Kennedy #1 (RRC #27945)	918	06-24-83	C:	Well Name
83-39377	TX	Itex Energy Corp	Duran "A" #1	918	06-24-83	C:	Well Name
83-39436	TX	Hill International Production Co	Kenney-Lindstrom FD Inc #2-L	919	06-24-83	C:	102-4 Approved; not 107-TF
83-39693US(CO)		Murchison Brothers	Southern Ute Blk 6 #7-5	920	07-05-83	C:	Well Name
83-39730	NY	Gypsum Energy Mgmt Co	Petrillo #1	920	07-05-83	C:	103 & 107-TF Approved
83-39855	OH	Provident Oil & Gas	Welsh #1	920	07-05-83	C:	107-TF Approved; not 107-DV
83-39858	OH	Clinton Oil Co	M W C D #4-565	920	07-05-83	C:	108 Approved; not 108-ER
83-40629	KY	Kentucky West Virginia Gas Company	J W Webb #128	923	07-05-83	C:	Well Name
83-40904	OH	Robert H Hutcheson	C & Stella Hostler #1	924	07-05-83	C:	Well Name
83-41010	NM	Rex Alcorn	Bobbi #4 (was Bobbi #1)	924	07-05-83	C:	Well Name
83-41039	NM	Amoco Production Co	Heath Gas Com F #1	924	07-05-83	C:	Well Name
83-41108US(NM)		Aminoil USA Inc	Federal "19" #1	924	07-05-83	C:	Well Name
83-41174	TX	TXO Production Corp	Williams "O" #1	925	07-07-83	C:	JA Docket F-05-62145
83-41488	MI	Shell Oil Co	State Springdale 2-35A	926	07-07-83	C:	Well Name
83-41559	OK	Bolden Energy Corp	Lamb 9-1	926	07-07-83	C:	Well Name
83-41581	OK	Osborn Heirs Co	Smith-Bernhardt #1	926	07-07-83	C:	Well Name
83-41713	CO	Vessels Oil & Gas Co	Grenemeyer #1	927	07-07-83	C:	108-ER Approved; not 108
83-41716	CO	American Petroleum Energy Co 1	Argenta UTE #2	927	07-07-83	C:	108-PE Approved; not 108
83-41717	CO	American Petroleum Energy Co	Argenta UTE #6	927	07-07-83	C:	108-PE Approved; not 108
83-41718	CO	American Pet. Energy Co	Argenta Ute #7	927	7-07-83	C:	108-PE Approved, not 108
83-41812	OH	Shongum Oil & Gas Inc.	Boneta #1	927	7-07-83	C:	Well Name
83-41813	OH	Shongum Oil & Gas Inc.	Boneta #2	927	7-07-83	C:	Well Name
83-41934US(CO)		J C Thompson	Westwater M-1	928	7-08-83	C:	108 Approved, not 108-ER
83-41936US(CO)		J C Thompson	Horse Pont M-4	928	7-08-83	C:	108 Approved, not 108-ER
83-42269US(NM)		Northwest Pipeline Corp	San Juan 32-7 Unit #80	929	7-12-83	C:	Well Name
83-42296	OK	TXO Production Corp	Brown Q #1	929	7-12-83	C:	Well Name
83-42299	OK	Ok-Tex Oil & Gas Inc.	Williams Ok-Tex #1	929	7-12-83	C:	Well Name
83-42300	OK	Ok-Tex Oil & Gas Inc.	Williams Ok-Tex #2	929	7-12-83	C:	Well Name
83-42301	OK	Ok-Tex Oil & Gas Inc.	Williams Ok-Tex #3	929	7-12-83	C:	Well Name
83-42721	TX	Tom Brown Inc.	Hill-Edwin S. Mayer Jr "BB" #1	931	7-13-83	C:	Well Name
83-42735	TX	Tom Brown Inc.	Hill-Edwin S. Mayer Jr "P" #1	931	7-13-83	C:	103 & 107-TF Approved
83-42747	TX	Tom Brown Inc.	Hill-Rip Ward "B" #1	931	7-13-83	C:	Well Name
83-42750	TX	Triple L Oil Co Inc.	Shaw #1	931	7-13-83	C:	Well Name
83-42758	TX	Tom Brown Inc.	Hill-Edwin S. Mayer Jr "H H" #1	931	7-13-83	C:	Well Name
83-42765	TX	Tom Brown Inc.	Hill-Winnie R. Aldwell Trust "D" #1	931	7-13-83	C:	Well Name
83-42798	TX	Leonard Resources	Sam Cannon #2	931	7-13-83	C:	107-PE Approved, not 107-TF
83-42982	TX	Texaco Inc.	C W Hobbes "B" NCT-2 #8	932	7-13-83	C:	Well Name
83-43422US(LA)		Texaco Inc.	OCS-G2580 Vermilion 380#A-8	933	7-20-83	C:	Well Name
83-43437	CO	Arco Oil and Gas Co	Southern Ute 22-2 33-10	933	7-20-83	C:	103 & 107-TF Approved
83-43510	OK	Eastok Petroleum Corp	Eastok Petroleum #5	934	7-26-83	C:	Well Name
83-43836	TX	Stallworth O & G Inc	Lokey #3	936	7-26-83	C:	107-PE Approved, not 107-TF
83-43909	TX	Loutex Energy Inc.	Maure #1	936	7-26-83	C:	Well Name
83-43947	TX	Petrus Operating Co	Carpenter-Mcterney #1	936	7-26-83	C:	Well Name
83-44257	OK	Phillips Petro. Co	Wiewel "B" #1	938	7-27-83	C:	108-ER Approved, not 108
83-44258	OK	Phillips Petro. Co	Bomhoff "D" #1	938	7-27-83	C:	108-ER Approved, not 108
83-44287	OK	James C. Meade	Hooks #2	938	7-27-83	C:	Well Name
83-44288	OK	James C. Meade	Belt #2	938	7-27-83	C:	Well Name
83-44289	OK	James C. Meade	Williams #1	938	7-27-83	C:	Well Name
83-44293	OK	James C. Meade	White "G" #1	938	7-27-83	C:	Well Name
83-44360US(NM)		Amoco Production Co	EE Elliot B #10	939	7-27-83	C:	108 Approved, not 103
83-44455	NM	Yates Petroleum	Chaves "UY" ST #1	939	7-27-83	C:	102-2 & 107-TF Approved
83-44457	NM	Yates Petroleum	Blythe "SV" #1	939	7-27-83	C:	102-2 & 107-TF Approved

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
83-44491	WY	Doran & Associates Inc	Whitney Unit #1 KA-173	940	8-05-83	C:	102-2 & 107-TF Approved
83-44668	KS	Egan-Wilson Petro. Inc	Varn Foster #4	941	8-05-83	C:	108- Approved, not 108-ER
83-44852	TX	El Paso Natual Gas Co	DeBerry A #2	942	8-05-83	C:	108-ER Approved, not 108
83-44857	TX	Mitchell Energy Corp	M. D. Calwell #1	942	8-05-83	C:	Well Name
83-44864	TX	Champlin Petroleum Co	G. P. Wardner #159-U	942	8-05-83	C:	Well Name
83-44910	TX	Anderson Petroleum Co	Joe Friend Estate 4-28	942	8-05-83	C:	103 & 107-TF Approved
83-44952	TX	Anderson Producing Inc	Harding Harmel #1	942	8-05-83	C:	Applicant name
83-45106	TX	Discovery Operating Inc	Lin "CX" #1	942	8-05-83	C:	102-4, 103 & 107-TF Approved
83-45882	OK	Hamm Production Co	Oakley MG-7	945	8-08-83	C:	Well Name
83-45931	OK	Robert P. Lamberts	Cobb #1	945	8-08-83	C:	Well Name
83-46123US(NM)		Mobil Prdg Tx & NM Inc.	Jicarilla Otero Fed #1	946	8-08-83	C:	Well Name
83-46196	NM	Mobil Prdg Tx & NM Inc.	Brunson Argo #1-T	946	8-08-83	C:	108 Approved, not 108-SA
83-46364	OK	DLB Energy Corp	Ellen #17-8	947	8-15-83	C:	102-4 & 103 Approved
83-46576	NM	Consolidated Oil & Gas Inc.	Chavez #1	948	8-15-83	C:	108-PB Denied by JA
83-46586	MI	North Michigan Land &	State Chester 3-25	948	8-15-83	C:	107-DV Approved, not 107-TF
83-46587	"	Oil Corporation	State Chester 4-35	948	8-15-83	C:	107-DV Approved, not 107-TF
83-46588	"	" " " "	State Chester 5-25	948	8-15-83	C:	107-DV Approved, not 107-TF
83-46589	"	" " " "	State Chester 6-25	948	8-15-83	C:	107-DV Approved, not 107-TF
83-46788US(LA)		Tenneco Oil Company	Vermilion 75 #A-4	948	8-15-83	C:	Well Name Change
83-46834	TX	Four C Oil & Gas Corp	Kitsie #1	949	8-15-83	C:	Well Name
83-46873	TX	Getty	Dix Ranch #1746-A	949	8-15-83	C:	102-4 & 107-TF Approved
83-46918	TX	Maguire Oil Company	Huebner Gas Unit #1	949	8-15-83	C:	107-PE Approved, not 107-TF
83-47000	TX	REG Engineering Inc.	Emma Gay Woodward #1 043506	949	8-15-83	C:	107-PE Approved, not 107-TF
83-47060	TX	Sanchez-Obrien O&G Corp	LT Oliveira #1-A	950	8-22-83	C:	Well Name
83-47303	TX	Vaughn Petroleum Inc	Simmons EST #1	950	8-22-83	C:	Well Name
83-47342	KS	Union Oil Co of Calif	Billy R. Brown 20-11 #2	951	8-22-83	C:	102-2 & 103 Approved
83-47349US(CO)		Arco Oil and Gas Co	Southern Ute 13-5 32-8	951	8-22-83	C:	103 & 107-TF Approved
83-47389	LA	Wheless Industries Inc	Tinsley #1 Wheless-Pelto SMk CRB SUI	951	8-22-83	C:	102-4 & 107-RT Approved
83-48420	PA	Alcova Investments	Ruth L Kimmel #2	954	8-24-83	C:	107-PE Approved, not 107-TF
83-48703	TX	Sun Exploration	MAN D Grimmes #5	955	8-22-83	C:	103 & 107-TF Approved
83-48874	Osage	DCX Resources Ltd	North Bear Creek #1-D	956	8-29-83	C:	Well Name
83-48882	Osage	Centennial Petro Inc	South M W Whitetail #1	956	8-29-83	C:	Well Name

[FR Doc. 83-29407 Filed 10-28-83; 8:45 am]
BILLING CODE 6717-01-C

[Vol. 987]

Determinations, by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 25, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCH).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb
Secretary.

NOTICE OF DETERMINATIONS

ISSUED OCTOBER 25, 1983

VOLUME 987

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
WEST VIRGINIA DEPARTMENT OF MINES									
-ALLEGHENY LAND & MINERAL COMPANY		RECEIVED: 09/30/83 JA: WV							
8357582		4706103210		103		A-1244			
8357581		4706103265		103		A-1270			
8357583		4706701820		103		A-1273			
-ASHLAND EXPLORATION INC		RECEIVED: 09/30/83 JA: WV							
8357433		4706700550		108-SA		LON B ROGERS #18 - 050520	HACKERS CREEK DISTRIC	0.0	CONSOLIDATED GAS
-BEREA OIL AND GAS CORPORATION		RECEIVED: 09/30/83 JA: WV					FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8357554		4700121845		103		E BENNETT #1	SALT LICK DISTRICT	0.0	CONSOLIDATED GAS
8357550		4700121845		107-DV		E BENNETT #1			
8357542		4700121845		102-4		E BENNETT #1	VIRGINIA	14.0	CONSOLIDATED GAS
8357555		4700121858		103		L ENGLAND #2			
8357551		4700121858		107-DV		L ENGLAND #2	GLADE	24.0	CONSOLIDATED GAS
8357543		4700121858		102-4		L ENGLAND #2	GLADE	24.0	CONSOLIDATED GAS
8357552		4700121830		103		L ENGLAND #3	GLADE	24.0	BROOKLYN UNION GA
8357540		4700121830		102-4		L ENGLAND #3	VALLEY DISTRICT	45.1	CONSOLIDATED GAS
8357439		4700121830		107-DV		L ENGLAND #3	VALLEY DISTRICT	45.1	CONSOLIDATED GAS
8357553		4700121833		103		R CARPENTER #2	VALLEY DISTRICT	45.1	CONSOLIDATED GAS
8357541		4700121833		102-4		R CARPENTER #2	VALLEY	63.6	CONSOLIDATED GAS
-BRAXTON OIL AND GAS CORP		RECEIVED: 09/30/83 JA: WV					VALLEY	63.6	
8357622		4700701515		108		CARTER #1	VALLEY	63.6	CONSOLIDATED GAS
8357613		4700701514		108		JOHN POSEY #2	BARKER	23.4	CONSOLIDATED GAS
8357619		4708300596		103		MADDEN #3	BARKER	23.4	CONSOLIDATED GAS
-CABOT OIL & GAS CORP		RECEIVED: 09/30/83 JA: WV							
8357606		4707901092		103		R H RHODES #1	BURNSVILLE	10.0	CONSOLIDATED GAS
8357611		4707901092		107-DV		R H RHODES #1	BURNSVILLE 7 1/2	10.0	CONSOLIDATED GAS
-CAMERON OIL & GAS COMPANY		RECEIVED: 09/30/83 JA: WV					JIM TOWN	80.0	COLUMBIA GAS TRAN
8357510		4708501298		107-DV		ALDERSON #9			
-CHARLES R TATUM		RECEIVED: 09/30/83 JA: WV					UNION DISTRICT	15.0	TENNESSEE GAS PIP
8357525		4710301270		107-DV		WHEELING DOLLAR SAVINGS & TRUST #1	UNION DISTRICT	15.0	TENNESSEE GAS PIP
-CHESTERFIELD ENERGY CORP		RECEIVED: 09/30/83 JA: WV							
8357494		4709702501		103		CASTO WELL #1 47-097-2501	JULIAN-MADISON	30.0	COLUMBIA GAS TRAN
8357492		4709702503		103		FRANKLIN WELL #1 47-097-2503			
8357490		4709702455		103		HOYLE WELL #1 47-097-2455	DUNAMER	0.0	COLUMBIA GAS TRAN
8357519		4700101861		103		HULL #1 47-001-1861			
8357517		4700101869		103		HULL WELL #A-1 47-001-1869	WARREN	0.0	COLUMBIA GAS TRAN
8357491		4709702454		103		ROCKEY WELL #1 47-097-2454	BUCKHANNON	0.0	COLUMBIA GAS TRAN
8357493		4709702502		103		TOMBLYN WELL #1 47-097-2502	WASHINGTON	0.0	COLUMBIA GAS TRAN
8357481		4709702498		103		YOUNG WELL #1 47-097-2498	MILL CREEK	0.0	COLUMBIA GAS TRAN
8357518		4700101868		103		ZIRKLE #A-1 47-001-1868	BARKER	0.0	COLUMBIA GAS TRAN
-CITIES SERVICE COMPANY		RECEIVED: 09/30/83 JA: WV					BUCKHANNON	0.0	COLUMBIA GAS TRAN
8357612		4704700342		108		COMBS "B" #1	UNION	0.0	COLUMBIA GAS TRAN
8357621		4703500113		108		DERRICK "A" #1	BARKER	0.0	COLUMBIA GAS TRAN
8357620		4703501215		108		MITCHELL CONS "A" #1			
8357614		4704700814		108		RUTH POLAN "A" #2	BRADSHAM	16.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED: 09/30/83 JA: WV					COLBON	19.7	CONSOLIDATED GAS
8357665		4701701928		108		A NEELEY EST 1843	CHARLESTON	11.3	COLUMBIA GAS TRAN
							BRADSHAM	12.0	CONSOLIDATED GAS
							GRANT	20.0	GENERAL SYSTEM PU

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8357438		4704102487		108		ARTA R LOUDIN AGENT 12536	FREEMANS CREEK	13.0	GENERAL SYSTEM PU
8357669		4706700217		108		BESSIE MAYS 10212	HAMILTON	11.0	GENERAL SYSTEM PU
8357411		4703301076		108		BUENA M BROWN 12387	COAL	15.0	GENERAL SYSTEM PU
8357455		4703300814		108		C M LANG 11786	COAL	24.0	GENERAL SYSTEM PU
8357670		4704101694		108		CLARK WHITE 11134	FREEMANS CREEK	16.0	GENERAL SYSTEM PU
8357459		4704702670		108		CROZER LAND ASSOC 10525	BROWNS CREEK	39.0	GENERAL SYSTEM PU
8357654		4703300925		108		D L HALL 12059	UNION	22.0	GENERAL SYSTEM PU
8357489		4706100570		108		ELEANOR T DONLEY 12578	CLINTON	31.0	GENERAL SYSTEM PU
8357426		4708101800		102-4		ELMER E CAMPBELL #1 12785	PHILIPPI	18.0	GENERAL SYSTEM PU
8357671		4708501049		108		FEDERAL COAL CO 11742	SHERMAN	18.0	GENERAL SYSTEM PU
8357416		4704101356		108		H DWIGHT SMITH 10669	HACKERS CREEK	16.0	GENERAL SYSTEM PU
8357662		4704101898		108		HITT HEIRS 11528	FREEMANS CREEK	17.0	GENERAL SYSTEM PU
8357674		4704101672		108		ISRAEL SIMMONS 11154	FREEMANS CREEK	20.0	GENERAL SYSTEM PU
8357444		4703300101		108		J A GAWTHROP 7925	CLARK	1.0	GENERAL SYSTEM PU
8357447		4702102944		108		J E ARBUCKLE 12433	CENTER	22.0	GENERAL SYSTEM PU
8357412		4703301062		108		JOHN T WILLIAMS 12297	COAL	16.0	GENERAL SYSTEM PU
8357663		4704500942		108		KELLY - HATFIELD LAND CO 11962	TRIADELPHIA	18.0	GENERAL SYSTEM PU
8357448		4704501084		103		KELLY HATFIELD LAND CO 12779	LOGAN	75.0	
8357416		4708101775		102-4		LLOYD UPTON #1 12780	GLADE	11.0	GENERAL SYSTEM PU
8357649		4701303325		108		LOUIS BENNETT HEIRS 12699	WASHINGTON	16.0	GENERAL SYSTEM PU
8357458		4701303326		108		LOUIS BENNETT HEIRS 12700	WASHINGTON	21.0	GENERAL SYSTEM PU
8357673		4710900044		108		LOUP CREEK COLLIERY CO 8869	OCEANA	15.0	GENERAL SYSTEM PU
8357410		4706700261		108		MARTHA L WHITE 10864	HAMILTON	20.0	GENERAL SYSTEM PU
8357413		4704101459		108		M C ALLMAN 10778	HACKERS CREEK	15.0	GENERAL SYSTEM PU
8357651		4708505247		108		O C BECKNER 12724	GRANT	34.0	GENERAL SYSTEM PU
8357664		4704700182		108		OLGA COAL COMPANY 10165	BIG CREEK	21.0	GENERAL SYSTEM PU
8357661		4704700271		108		OLGA COAL COMPANY 10555	SANDY RIVER	21.0	GENERAL SYSTEM PU
8357658		4704900332		108		R A STEWART 139	MANNINGTON	1.0	GENERAL SYSTEM PU
8357449		4703300587		108		R B BARTLETT 11412	ELK	19.0	GENERAL SYSTEM PU
8357556		4705300300		103		R M MCKINNEY 12774	COLOGNE	4.0	GENERAL SYSTEM PU
8357541		4705300300		107-DV		R M MCKINNEY 12774	COLOGNE	4.0	
8357473		4709701657		108		RUDOLPH L PRINCE 12184	WARREN	16.0	GENERAL SYSTEM PU
8357655		4703300994		108		SARAH E ADAMS 12061	UNION	20.0	GENERAL SYSTEM PU
8357657		4704101819		108		T P BARB 11351	FREEMANS CREEK	21.0	GENERAL SYSTEM PU
8357652		4709702331		108		W H O'DELL 12737	WASHINGTON	20.0	GENERAL SYSTEM PU
8357415		4704101005		108		WALDO GOULD 10426	HACKERS CREEK	14.0	GENERAL SYSTEM PU
8357647		4704102712		108		WHITE - EGAN 8448	FREEMANS CREEK	19.0	GENERAL SYSTEM PU
8357666		4701900250		108		WILLIAM R JOHNSON 11801	FALLS	12.0	GENERAL SYSTEM PU
8357656		4704101741		108		WILLIAM WINANS 11221	FREEMANS CREEK	21.0	GENERAL SYSTEM PU
-DEVON CORP				RECEIVED:	09/30/83	JA: WV			
8357577		4709901797		107-DV		C S DANIELS #1	GRAGSTON CREEK	6.0	TENNESSEE GAS PIP
8357578		4709901796		107-DV		ELLA EKERS #1	GRAGSTON CREEK	18.0	TENNESSEE GAS PIP
8357576		4703501661		107-DV		HARRISON #1022	EAST MIDWAY	11.0	DEVON PIPELINE CO
8357574		4703501764		107-DV		HOPKINS #2 #1030	EAST MIDWAY	20.0	DEVON PIPELINE CO
8357573		4703501765		107-DV		HOPKINS #3 #1031	EAST MIDWAY	25.0	DEVON PIPELINE CO
8357572		4703501766		107-DV		HOPKINS #4 #1032	EAST MIDWAY	14.0	DEVON PIPELINE CO
8357575		4703501662		107-DV		STALNAKER #1023	EAST MIDWAY	19.0	DEVON PIPELINE CO
8357579		4709901795		107-DV		WALLACE #1027	GRAGSTON CREEK	17.0	TENNESSEE GAS PIP
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED:	09/30/83	JA: WV			
8357549		4702103878		107-DV		L RINEHART #3	GLENVILLE	15.0	COLUMBIA GAS TRAN
-ENERGEX OIL & GAS CORP				RECEIVED:	09/30/83	JA: WV			
8357521		4707301539		103		FOX #1	RAVEN ROCK QUADRANGL	75.0	
8357531		4707301538		107-DV		FOX #1	RAVEN ROCK QUADRANGL	75.0	
8357533		4707301524		107-DV		LOWTHER #1	SCHULTZ QUADRANGLE	75.0	
8357523		4707301524		103		LOWTHER #1	SCHULTZ QUADRANGLE	75.0	
8357522		4707301508		103		MCCULLOUGH 1	SCHULTZ	75.0	CONSOLIDATED GAS
8357532		4707301514		107-DV		ROGERS #1	SCHULTZ QUADRANGLE	75.0	
8357520		4707301532		103		RUNNION 1	SCHULTZ	75.0	CONSOLIDATED GAS
-GENE STALNAKER INC				RECEIVED:	09/30/83	JA: WV			
8357586		4702103958		103		FLING B-70-2	DEKALB DISTRICT	8.0	CONSOLIDATED GAS
8357585		4707301353		103		MARPLE #1	JEFFERSON DISTRICT	8.0	CONSOLIDATED GAS
-H D WELLS OIL & GAS EXPL & DEVEL	IN			RECEIVED:	09/30/83	JA: WV			
8357687		4703501781		103		L G BURDETTE #2	FUNO CREEK	8.0	GAS TRANSPORT INC
-HAUGHT-PRUNTY GAS CO				RECEIVED:	09/30/83	JA: WV			
8357432		4708720336		108-SA		HAUGHT-PRUNTY #1	SALT LICK DISTRICT	20.5	EQUITABLE GAS CO
-I S INC ILLINOIS CORP				RECEIVED:	09/30/83	JA: WV			
8357606		4708505988		103		JOHN GOFF #1	UNION DISTRICT	8.0	CARNEGIE NATURAL
8357608		4708505988		107-DV		JOHN GOFF #1	UNION DISTRICT	8.0	CARNEGIE NATURAL
8357607		4708505974		107-DV		KIRKPATRICK #2	UNION DISTRICT	8.0	CONSOLIDATED GAS
-INTERSTATE DRILLING INC				RECEIVED:	09/30/83	JA: WV			
8357624		4704103198		103		CATHER #2	COLLINS	20.0	CONSOLIDATED GAS
8357623		4704103219		103		GOULD #68	COLLINS	15.0	CONSOLIDATED GAS
+INVERNESS PETROLEUM INC				RECEIVED:	09/30/83	JA: WV			
8357516		4710501202		103		FITZSIMMONS #1	PROCTOR	25.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	09/30/83	JA: WV			
8357609		4708101598		103		B-319	VALLEY	8.0	PETRO-LEWIS CORP
8357610		4703302811		103		B-506	TENMILE	8.0	CONSOLIDATED GAS
8357606		4703302825		103		B-509	EAGLE	8.0	CONSOLIDATED GAS
-JACKSON DEVELOPMENT CO INC				RECEIVED:	09/30/83	JA: WV			
8357583		4704300574		103		ELIZABETH ADKINS #1	JEFFERSON DISTRICT	12.0	PENNZOIL CO
-JAMES F SCOTT				RECEIVED:	09/30/83	JA: WV			
8357431		4704102526		108-PS		HORNBECK S-258	HACKERS CREEK	8.0	CONSOLIDATED GAS
-KAISER EXPLORATION & MINING CO				RECEIVED:	09/30/83	JA: WV			
8357591		4703501774		107-DV		BETTY K MCLAUGHLIN KEM #63	ELK/POCA	8.0	KAISER ALUMINUM &
8357590		4703501753		107-DV		DAWN M MYERS KEM #252	ELK/POCA	25.5	KAISER ALUMINUM &
-LINCOLN PRODUCTION CO				RECEIVED:	09/30/83	JA: WV			
8357595		4703302848		103		G ROBINSON #1	CLAY	8.0	
8357596		4703302853		103		G ROBINSON #3	CLAY	8.0	
-MERRILL NATURAL RESOURCES INC				RECEIVED:	09/30/83	JA: WV			
8357484		4710100075		102-2		COASTAL LUMBER CO #1	HACKER VALLEY DISTRIC	12.0	COLUMBIA GAS TRAN
8357483		4701900467		102-2		FOULKE TRUST #1	NUTTALL DISTRICT	18.0	EQUITABLE GAS CO
8357482		4704103132		102-2		LOUIS BENNETT #1	COURTHOUSE DISTRICT	30.0	CONSOLIDATED GAS
-MONITOR PETROLEUM CORP				RECEIVED:	09/30/83	JA: WV			
8357675		4708101526		103		MONITOR #1 PITSENBERGER	BARKER	45.0	COLUMBIA GAS TRAN
-MOSSOR OIL & GAS COMPANY				RECEIVED:	09/30/83	JA: WV			
8357585		4708505173		106		MOSSOR #2	MURPHY	8.0	CONSOLIDATED GAS
-NORMAN SLAUGHTER				RECEIVED:	09/30/83	JA: WV			
8357484		4703501629		107-DV		J L HAYBRIGHT HEIRS	COPPER FORK	20.0	COLUMBIA GAS TRAN
8357485		4703501562		107-DV		PHILLIP WELLS #2	COPPER FORK	25.0	COLUMBIA GAS TRAN
8357487		4703501576		107-DV		WILLIS W ENDICOTT #1-A	COPPER FORK	25.0	COLUMBIA GAS TRAN
-OHIO & WESTERN RESOURCES INC				RECEIVED:	09/30/83	JA: WV			
8357588		4707301472		107-DV		FRYE #1 (1472)	LAFAYETTE	15.0	COLUMBIA GAS TRAN
8357584		4708505717		103		JACKSON #1 5717	LAFAYETTE	15.0	CONSOLIDATED GAS
-OILEX INC				RECEIVED:	09/30/83	JA: WV			

JD NO	JA DKT	APT NO	B	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8357515		4708506889		103		MALLEK #1	GRANT DISTRICT	8.0	CONSOLIDATED GAS
-PANTHER FUEL CO		RECEIVED: 09/30/83 JA: WV							
8357495		4708502755		103		HISSEM-BALL #1	GRANT DISTRICT	45.0	CONSOLIDATED GAS
-PEAKE OPERATING CO		RECEIVED: 09/30/83 JA: WV							
8357569		4708100610		102-4		CRAB ORCHARD #12-AC	(TRAP HILL DISTRICT)	5.0	
8357570		4708100599		102-4		CRAB ORCHARD #14-AC	(TRAP HILL DISTRICT)	5.0	
8357568		4708100608		102-4		CRAB ORCHARD #15-AC	(TRAP HILL DISTRICT)	5.0	
8357571		4708100596		102-4		CRAB ORCHARD #9-AC	(TRAP HILL DISTRICT)	5.0	
8357631		4708501359		103		EUNICE #1-A	(CROOK DISTRICT)	5.0	
8357639		4710900985		103		GEORGIA PACIFIC #2-AGP	(OCEANA DISTRICT)	5.0	
8357634		4708100601		103		JONES & GIBSON #5-AJ	(TRAP HILL DISTRICT)	5.0	
8357633		4708100618		103		JONES & GIBSON #6-AJ	(TRAP HILL DISTRICT)	5.0	
8357632		4708100621		103		JONES & GIBSON #8-AJ	(TRAP HILL DISTRICT)	5.0	
8357638		4708100614		103		NEW RIVER #14-AE	(TOWN DISTRICT)	5.0	
8357636		4710900895		103		SMITH #1-A	(OCEANA DISTRICT)	0.5	
8357637		4710900895		103		SMITH #1-A	(OCEANA DISTRICT)	0.5	
-PETROLEUM DEVELOPMENT CORP		RECEIVED: 09/30/83 JA: WV							
8357428		4708505143		102-3		ALBERT KENNER #2	WHITE OAK CREEK	81.4	CONSOLIDATED GAS
8357486		4701702996		107-DV		B POOLE #1	GREENBRIER	46.0	COLUMBIA GAS TRAN
8357489		4707300910		107-DV		CHAUNCEY MORRIS #1	LAFAYETTE	3.0	COLUMBIA GAS TRAN
8357642		4708505661		103		ELLIOTT #2	WILSON	548.0	CONSOLIDATED GAS
8357425		4708505661		102-3		ELLIOTT #2	WILSON	548.0	CONSOLIDATED GAS
8357560		4708505661		107-DV		ELLIOTT #2	WILSON	548.0	CONSOLIDATED GAS
8357422		4708505537		102-3		ELLIOTT HEIRS #1	CISKO	8.0	CONSOLIDATED GAS
8357563		4708505238		107-DV		GLEN KERNS #1	CISKO	113.0	CONSOLIDATED GAS
8357426		4705057348		102-3		GRIFFIN PRODUCING 1815-2 BA-1	GRIFFIN	146.0	CONSOLIDATED GAS
8357643		4705057348		103		GRIFFIN PRODUCING 1815-2 A-1	GRIFFIN	14.6	CONSOLIDATED GAS
8357558		4708505734		107-DV		GRIFFIN PRODUCING 1815-2 A-1	GRIFFIN	146.0	CONSOLIDATED GAS
8357567		4705058100		107-DV		GRIFFIN PRODUCING 222938 BB-1	GRIFFIN	50.0	CONSOLIDATED GAS
8357419		4705058100		102-3		GRIFFIN PRODUCING 222938 BB-1	GRIFFIN	50.0	CONSOLIDATED GAS
8357646		4708505079		103		GRIFFIN PRODUCING 233133-3 B D-1	GRIFFIN	0.0	CONSOLIDATED GAS
8357566		4705058790		107-DV		GRIFFIN PRODUCING 233133-3 BD-1	GRIFFIN	0.0	CONSOLIDATED GAS
8357429		4705058790		102-3		GRIFFIN PRODUCING 233133-3 BD-1	GRIFFIN	0.0	CONSOLIDATED GAS
8357427		4705057560		102-3		GRIFFIN PRODUCING 2916-1 BC-1	GRIFFIN	0.0	CONSOLIDATED GAS
8357648		4708505754		107-DV		GRIFFIN PRODUCING 2916-1 BC-1	GRIFFIN	0.0	CONSOLIDATED GAS
8357644		4705057348		103		GRIFFIN PRODUCING 2916-1 BC-1	GRIFFIN	0.0	CONSOLIDATED GAS
8357594		4705057720		107-DV		GRIFFIN PRODUCING 3174-2 BE-1	GRIFFIN	0.0	CONSOLIDATED GAS
8357645		4705057720		103		GRIFFIN PRODUCING 3174-2 BE-1	GRIFFIN	0.0	CONSOLIDATED GAS
8357418		4705057720		102-3		GRIFFIN PRODUCING 3174-2 BE-1	GRIFFIN	0.0	CONSOLIDATED GAS
8357593		4705057710		107-DV		GRIFFIN PRODUCING 34-3525-5 BF-1	GRIFFIN	0.0	CONSOLIDATED GAS
8357417		4705057710		102-3		GRIFFIN PRODUCING 34-3525-5 F-1	GRIFFIN	0.0	CONSOLIDATED GAS
8357421		4708505408		102-3		M R WILLIAMS #1	CISKO	8.0	CONSOLIDATED GAS
8357565		4708505144		107-DV		J B TAFT #1	WHITE OAK CREEK	8.0	CONSOLIDATED GAS
8357561		4708505269		107-DV		MATILDA WEST #1	WILSON	1679.0	CONSOLIDATED GAS
8357562		4708505255		107-DV		MAZE #1	CISKO POOL	98.0	CONSOLIDATED GAS
8357588		4710500985		107-DV		MCCAULEY #1	STANDING STONE POOL	657.0	CONSOLIDATED GAS
8357564		4708505237		107-DV		RALPH KUHN #1	CISKO	92.0	CONSOLIDATED GAS
8357592		4708505555		107-DV		VARNER #1	GRIFFIN	8.0	CONSOLIDATED GAS
8357425		4708505555		102-3		VARNER #1	GRIFFIN	8.0	CONSOLIDATED GAS
8357641		4708505647		103		WILLIAMS #2	WILSON	365.0	CONSOLIDATED GAS
8357424		4708505647		102-3		WILLIAMS #2	WILSON	365.0	CONSOLIDATED GAS
8357587		4708505647		107-DV		WILLIAMS #2	WILSON	365.0	CONSOLIDATED GAS
-RARE EARTH ENERGY INC		RECEIVED: 09/30/83 JA: WV							
8357514		4708505970		103		VARNER WELL #2	UNION DISTRICT	8.0	CONSOLIDATED GAS
-RIMROCK PRODUCTION CORP		RECEIVED: 09/30/83 JA: WV							
8357616		4710701232		107-DV		A B WOLFE #1	TUNNELL RUN	38.3	CONSOLIDATED GAS
8357681		4708505044		103		A PIFER #1	DOG COMFORT RUN	24.5	INDUSTRIAL ENERGY
8357598		4707301481		103		B F ABICHT #1	MIDDLE ISLAND	25.0	COLUMBIA GAS TRAN
8357603		4708505797		103		CASSIDY #1	DOG COMFORT RUN	38.3	INDUSTRIAL ENERGY
8357615		4708505956		107-DV		DEVEREUX #1	WOLFFEN RUN	19.8	INDUSTRIAL ENERGY
8357599		4708505956		103		DEVEREUX #1	WOLFFEN RUN	19.8	INDUSTRIAL ENERGY
8357682		4708505845		103		F PIFER #1	DOG COMFORT	22.0	INDUSTRIAL ENERGY
8357605		4708505720		103		GARDNER #1	COMFORT RUN	86.0	INDUSTRIAL ENERGY
8357597		4708505709		103		HEDRICK #1	BEAR RUN	40.0	INDUSTRIAL ENERGY
8357604		4708505752		103		MOYERS #1	MEADOW RUN	38.7	INDUSTRIAL ENERGY
8357688		4708505982		103		STEPHEN BIRD #1	DOG COMFORT RUN	25.6	INDUSTRIAL ENERGY
-ROSS-WHARTON GAS CO		RECEIVED: 09/30/83 JA: WV							
8357636		4708300718		102-2		SHREVE-ED #1	UNION	0.0	COLUMBIA GAS TRAN
8357635		4708300718		103		SHREVE-ED #1	UNION	0.0	COLUMBIA GAS TRAN
8357559		4708300718		107-DV		SHREVE-ED #1	UNION	0.0	COLUMBIA GAS TRAN
-SCYOC ELIZABETH		RECEIVED: 09/30/83 JA: WV							
8357499		4701501660		108		BARBARA PERRY FARM SANDYVILLE WV	BARBARA PERRY FARM WV	0.0	GAS TRANSPORT INC
-SENECA-UPSHUR PETROLEUM CO		RECEIVED: 09/30/83 JA: WV							
8357629		4709702330		103		J C HOOVER #1-A	WASHINGTON	35.0	TENNESSEE GAS PIP
8357628		4709702438		103		SAMPSON #2-B	WASHINGTON	35.0	TENNESSEE GAS PIP
8357626		4709702282		103		T ZICKEFOOSE #1	WASHINGTON	35.0	TENNESSEE GAS PIP
8357627		4709702441		103		ZICKEFOOSE #2	WASHINGTON	35.0	TENNESSEE GAS PIP
8357625		4709702442		103		ZICKEFOOSE #3	WASHINGTON	35.0	TENNESSEE GAS PIP
-SPARTAN GAS COMPANY		RECEIVED: 09/30/83 JA: WV							
8357530		4711900865		108		Y & O COAL COMPANY 85-S-276	OCEANA	18.0	COLUMBIA GAS TRAN
-STERLING DRILLING AND PROD CO INC		RECEIVED: 09/30/83 JA: WV							
8357527		4708703455		107-DV		BIRD 525	HALTON DISTRICT	3.6	
8357497		4701501882		108		BOGGS 395	OTTER DISTRICT	88.3	COLUMBIA GAS TRAN
8357509		4701502036		108		BRAGG 8624	OTTER DISTRICT	23.6	BROOKLYN UNION GA
8357524		4708501496		103		DEBURD 8682 REV	SCOTT DISTRICT	1.5	
8357524		4708501496		107-DV		DEBURD 8682-REV	SCOTT DISTRICT	5.4	
8357529		4703903917		107-DV		MCCABE 8703	ELK DISTRICT	2.0	
8357528		4708703694		107-DV		RYAN 8702	SPENCER DISTRICT	3.0	
8357508		4701502031		108		YATES 8613	OTTER DISTRICT	5.7	BROOKLYN UNION GA
8357507		4701502032		108		YATES 8614	OTTER DISTRICT	6.3	BROOKLYN UNION GA
8357506		4701502033		108		YATES 8615	OTTER DISTRICT	5.7	BROOKLYN UNION GA
-STONESTREET LANDS CO		RECEIVED: 09/30/83 JA: WV							
8357478		4701303478		103		BOGGS #1-S-357	ELMIRA	8.0	COLUMBIA GAS TRAN
8357475		4701303487		103		CLAUDE JARVIS #1-S-367	ELMIRA	14.9	COLUMBIA GAS TRAN
8357479		4701303476		103		DEEL #1-S-358	ELMIRA	10.3	COLUMBIA GAS TRAN
8357476		4701303486		103		H G HICKS #1-S-366	ELMIRA	8.6	COLUMBIA GAS TRAN
8357494		4701303502		103		JACOBS 0 21-S-372	ELMIRA	0.5	CONSOLIDATED GAS
8357472		4701303493		103		JACOBS 022-S-369	ELMIRA	0.9	CONSOLIDATED GAS
8357473		4701303460		103		JACOBS 17-S-354	ELMIRA	0.8	CONSOLIDATED GAS
8357480		4701303437		103		LAUGHLIN #1-S-336	ELMIRA	7.6	COLUMBIA GAS TRAN
8357477		4701303483		103		M YOST #4-S-365	ELMIRA	16.2	COLUMBIA GAS TRAN
8357474		4701502171		103		TIMOTHY MARTIN #1-S-360	ELMIRA	11.3	COLUMBIA GAS TRAN
-SWIFT ENERGY CO		RECEIVED: 09/30/83 JA: WV							
8357463		4708701835		103		BLEIGH #1	HOLLY DISTRICT	23.0	TENNESSEE GAS PIP

JN NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
[illegible]		4700701815		107-DV		BLEIGH #1	HOLLY DISTRICT	25.0	TENNESSEE GAS PIP
8357461		4702103829		103		CLARK "A" #1-A	GLENVILLE - NORTH	50.0	TENNESSEE GAS PIP
[illegible]		4702103829		107-DV		CLARK "A" #1-A	GLENVILLE - NORTH	50.0	TENNESSEE GAS PIP
8357462		4702103811		103		CLARK "A" #3-A	[illegible] NORTH	50.0	TENNESSEE GAS PIP
8357463		4702103811		107-DV		CLARK A #3-A	GLENVILLE DIST	0.0	TENNESSEE GAS PIP
[illegible]		4704103199		103		DOLAN #1	COURTHOUSE DISTRICT	80.0	TENNESSEE GAS PIP
8357491		4704103199		107-DV		DOLAN #1	COURTHOUSE DISTRICT	0.0	TENNESSEE GAS PIP
[illegible]		4700701808		107-DV		FRIEND #5	OTTER DISTRICT	50.0	TENNESSEE GAS PIP
8357464		4700701846		105		GALFORD #2	SALTLICK DISTRICT	25.0	TENNESSEE GAS PIP
8357468		4700701846		107-DV		GALFORD #2	SALT LICK DISTRICT	25.0	TENNESSEE GAS PIP
8357435		4702103911		107-DV		H JONES #1	DEKALB DISTRICT	125.0	TENNESSEE GAS PIP
8357539		4702103911		103		H JONES #1	DEKALB DISTRICT	2.5	TENNESSEE GAS PIP
8357436		4702103912		107-DV		HERSHALL JONES #2	DEKALB DISTRICT	150.0	TENNESSEE GAS PIP
8357432		4700701837		107-DV		KNICELEY #1	HOLLY DISTRICT	50.0	TENNESSEE GAS PIP
8357456		4700701846		107-DV		M DAVIS #1	SALT LICK DISTRICT	25.0	TENNESSEE GAS PIP
8357464		4700701846		103		M DAVIS #1	SALT LICK DISTRICT	25.0	TENNESSEE GAS PIP
8357445		4700701737		107-DV		MICK "D" #2	GLENVILLE - NORTH	10.0	TENNESSEE GAS PIP
8357471		4700701737		103		MICK "D" #2	GLENVILLE - NORTH	10.0	TENNESSEE GAS PIP
[illegible]		4700701794		107-DV		MICK "D" #3	GLENVILLE - NORTH	10.0	TENNESSEE GAS PIP
[illegible]		4700701794		103		MICK "D" #3	GLENVILLE - NORTH	10.0	TENNESSEE GAS PIP
8357467		4700701795		107-DV		MICK "D" #4	GLENVILLE - NORTH	10.0	TENNESSEE GAS PIP
8357467		4700701795		103		MICK "D" #4	GLENVILLE - NORTH	30.0	TENNESSEE GAS PIP
8357448		4700701796		107-DV		MICK "D" #5	GLENVILLE - NORTH	80.0	TENNESSEE GAS PIP
[illegible]		4700701796		103		MICK "D" #5	GLENVILLE - NORTH	80.0	TENNESSEE GAS PIP
[illegible]		4700701798		107-DV		MICK "D" #7	GLENVILLE - NORTH	80.0	TENNESSEE GAS PIP
[illegible]		4700701798		103		MICK "D" #7	GLENVILLE - NORTH	80.0	TENNESSEE GAS PIP
8357565		4702103980		107-DV		MICK "E" #1	GLENVILLE	80.0	TENNESSEE GAS PIP
[illegible]		[illegible]		103		MICK "E" #1	GLENVILLE	50.0	TENNESSEE GAS PIP
[illegible]		4702103981		103		MICK "E" #2	GLENVILLE	80.0	TENNESSEE GAS PIP
[illegible]		4702103981		107-DV		MICK "E" #2	GLENVILLE	50.0	TENNESSEE GAS PIP
[illegible]		4702103982		103		MICK "E" #3	GLENVILLE	50.0	TENNESSEE GAS PIP
[illegible]		4702103982		107-DV		MICK "E" #3	GLENVILLE	50.0	TENNESSEE GAS PIP
8357455		4702103983		103		MICK "E" #4	GLENVILLE	50.0	TENNESSEE GAS PIP
8357548		4702103983		107-DV		MICK "E" #4	GLENVILLE	80.0	TENNESSEE GAS PIP
[illegible]		4702103967		107-DV		MICK "F" #1	GLENVILLE	80.0	TENNESSEE GAS PIP
[illegible]		4702103967		103		MICK "F" #1	GLENVILLE	50.0	TENNESSEE GAS PIP
8357469		4702103977		103		MICK "F" #2	GLENSVILLE DISTRICT	50.0	TENNESSEE GAS PIP
8357564		4702103977		107-DV		MICK "F" #2	GLENSVILLE DISTRICT	50.0	TENNESSEE GAS PIP
8357464		4702103909		107-DV		T MCPHERSON #1	TROY DISTRICT	25.0	TENNESSEE GAS PIP
8357465		4702103909		103		T MCPHERSON #1	TROY DISTRICT	25.0	TENNESSEE GAS PIP
8357459		4702103910		103		T MCPHERSON #2	TROY DISTRICT	25.0	TENNESSEE GAS PIP
8357434		4702103910		107-DV		T MCPHERSON #2	TROY DISTRICT	25.0	TENNESSEE GAS PIP
8357437		4702103935		107-DV		T MCPHERSON #3	TROY DISTRICT	25.0	TENNESSEE GAS PIP
8357454		4702103935		103		T MCPHERSON #3	TROY DISTRICT	25.0	TENNESSEE GAS PIP
-THOMAS M L		RECEIVED: 09/30/83 JA: WV							
[illegible]		[illegible]		108		M A DAVIS #1	OHIO RIVER	2.0	GAS TRANSPORT INC
-TIARA INC		RECEIVED: 09/30/83 JA: WV							
8357618		4707301526		103		CUNNINGHAM #1	MCKIM DISTRICT	8.0	CONSOLIDATED GAS
8357617		4707301305		103		GEORGE MAISH #1	GRANT	8.0	CONSOLIDATED GAS
-UNION DRILLING INC		RECEIVED: 09/30/83 JA: WV							
[illegible]		4709702513		102-2		SUN LUMBER CO #1 1855	BANKS DISTRICT	8.0	COLUMBIA GAS TRAN
[illegible]		4709702515		102-2		SUN LUMBER CO #1 1857	BANKS DISTRICT	8.0	COLUMBIA GAS TRAN
8357502		4702100038		102-2		U S A #1 1831	UNION DISTRICT	0.0	COLUMBIA GAS TRAN
8357513		4709702521		103		UDI-BURNSIDE #1 1844	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
-WACO OIL AND GAS CO INC		RECEIVED: 09/30/83 JA: WV							
8357537		4702103950		107-DV		ARBUCKLE #2A	BEARPEN RUN	40.0	
8357512		4702103950		103		ARBUCKLE #2A	BEARPEN RUN	40.0	
8357535		4702103893		107-DV		COLLINS #3A	COLLINS RUN	50.0	
[illegible]		4702103946		107-DV		CUNNINGHAM #1A	BULL FORK	20.0	
8357511		4702103946		103		CUNNINGHAM #1A	BULL FORK	20.0	
[illegible]		4702103964		107-DV		MESSENGER #5A	MUDLICK RUN	40.0	
[illegible]		4700701801		107-DV		WALDECK #1B	BULL RUN	45.0	

VOL 48 ISS 211 OCT 31 1983 UMI

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
80-38539	OK	Andover Oil	Lottie Jones #33-1	224	7-16-80	C:	102-2 & 103 Approved
80-42154	Ok	Andover Oil	Jensen #34-1	238	7-29-80	C:	102-2 & 103 Approved
80-42180	OK	Andover Oil	Atkinson #11-1	238	7-29-80	C:	102-2 & 103 Approved
80-42902	OK	Andover Oil Co	Jensen #35-1	241	7-31-80	C:	102-2 & 103 Approved
80-45028	OK	Andover Oil Co	Floyd Miller #31-1	248	8-06-80	C:	102-2 & 103 Approved
80-48918	OK	Andover Oil Co	Clouse #5-1	262	9-11-80	C:	102-2 & 103 Approved
80-54248	OK	Andover Oil Co	Tonglin #6-1	277	9-23-80	C:	102-2 & 103 Approved
80-55049	OK	Andover Oil	Evans #12-1	280	9-23-80	C:	102-2 & 103 Approved
80-57856	OK	Andover Oil	Schwab #5-1	292	10-14-80	C:	102-2 & 103 Approve
83-29218	AR	TXO Production Corp	Tobey #1-T & Tobey #1-C	873	4-22-83	C:	Additional Proration Unit Approved
83-34136	LA	Ergon Inc	John M Waldrop #1	896	5-26-83	C:	103 & 107-TF Approved
83-48839US(NM)		Fred Pool Operating Co	Grynberg 35 Fed Com #1	956	8-22-83	C:	102-2 & 107-TF Approved
83-49151	TX	Venus Oil Company	Goebel Unit #2-L	958	8-30-83	C:	Well Name
83-49152	TX	Venus Oil Company	Goebel Unit #2-U	958	8-30-83	C:	Well Name
83-49522	OK	Arkoma Production Co	Hartshorne #1-6	960	9-06-83	C:	107-PK Approved, not 107-TF
83-49588	OK	Phillips Petro Company	Sloup B #2	960	9-06-83	C:	108 Approved, not 103
83-49662	OK	B R Polk Inc	Hamilton #1	960	9-06-83	C:	107-PK Approved, not 107-TF
83-49876	OK	Oak Hill Petro Corp	State 1-36	960	9-06-83	C:	Well Name
83-49726	OK	Robert Gordon Oil Co	Gordon #24-6	960	9-06-83	C:	Well Name; 102-4 Approved not 103
83-51530	WV	Columbia Gas Trans.Corp	King Land Co #14 804627	965	9-12-83	C:	Well Name
83-51590	WV	Columbia Gas Trans.Corp	Central Trust Co. #5 804872	965	9-12-83	C:	Well Name
83-52517	CO	Davis Drlg Inc	#1-17 Griffin	967	9-20-83	C:	107-PK Approved, not 107-TF
83-52671	OH	Sandhill Energy Inc(OH)	Logan 31	967	9-20-83	C:	107-DV Approved, not 107-TF
83-52672	OH	Sandhill Energy Inc(OH)	Miller-Moore #1	967	9-20-83	C:	107-DV Approved, not 107-TF
83-52722	TX	Sun Explo & Prod Co	Marrs Mclean #7U	967	9-20-83	C:	Well Name
83-52784	TX	Thompson J Cleo & James Cleo Inc	University 32-6N #2	967	9-20-83	C:	102-4 & 107-TF Approved
83-53558	LA	Gulf Oil Corporation	Vermilion Blk 24 OCS-G 3543 #5	970	9-20-83	C:	Well Name
83-53568	LA	Tenneco Oil Company	Vermilion 75 #A-3	970	9-20-83	C:	Well Name

[FR Doc. 83-29408 Filed 10-28-83; 8:45 am]
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VOL
48
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450
452
453
455
457
460
462
464
467
469
482
484
486
487
489
492
494
496
498
500

Reader Aids

Federal Register

Vol. 48, No. 211

Monday, October 31, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5284
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, OCTOBER

45093–45218	3
45219–45370	4
45371–45522	5
45523–45752	6
45753–46004	7
46005–46258	11
46259–46486	12
46487–46730	13
46731–46962	14
46963–48214	17
48215–48438	18
48439–48642	19
48643–48792	20
48793–48996	21
48997–49204	24
49205–49498	25
49499–49650	26
49651–49836	27
49837–50052	28
50053–50294	31

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:

Ch. III	45266, 46795
Ch. IV	47976
305	45266

3 CFR

Executive Orders:

July 15, 1875 (Revoked in part by PLO 6479)	45559
11459 (Superseded by EO 12445)	48441
12002 (See EO 12444)	48215
12214 (See EO 12444)	48215
12369 (Amended by EO 12477)	50055
12444	48215
12445	48441
12446	48443
12447	50055

Proclamations:

5110	45219
5111	45221
5112	45371
5113	45523
5114	45753
5115	46259
5116	46963
5117	46965
5118	48217
5119	48439
5120	49205
5121	49207
5122	50053

5 CFR

Ch. XIV	45373
213	46261
300	49472
335	49472
351	49402
430	49472
431	49472
451	49472
531	49472
532	49472
540	49472
551	49494
771	49472
752	45525
1255	45373

Proposed Rules:

Ch. I	47990
Ch. III	47982
293	49402
550	49023

7 CFR

Ch. IV	48449
2	46261, 48449
27	49209
28	48997
51	46467
247	46731
301	46262, 48449, 50057
318	50057, 50062
319	46732
331	50062
752	45526
906	45374
908	45526, 46486, 48643, 50064
910	45374, 45755, 48961, 48793, 49837
919	45374
929	45374
981	45374
989	49214
991	45374, 48219
1065	48793
1093	48998
1205	48451
1435	45374
1901	45532
1945	48999
1951	46967
1955	46967
1962	46967
1965	46967

Proposed Rules:

Subtitle A	47236
Ch. I	47236
Ch. II	47236
Ch. III	47236
Ch. VI	47236
Ch. VII	47236
Ch. XI	47236
Ch. XIV	47236
Ch. XVII	47236
Ch. XVIII	47236
226	45778
278	49863
279	49863
301	50062
402	45082
411	49575
421	49250
441	45782
781	46085
904	45796
910	45585
966	46544
981	49254
983	49085
1065	45117
1093	49512
1125	49255
1131	48343
1133	49255
1139	48797
1207	49026
1446	48471

1700 48830
1701 48472

8 CFR

100 45794
103 ..... 45093, 49499, 49651
214 ..... 45093, 48452, 48999
238 ..... 45093, 48795
248 45093

Proposed Rules:

Ch. I 47530
103 48242

9 CFR

92 ..... 49499, 50064
166 48643

Proposed Rules:

Ch. I 47236
Ch. II 47236
Ch. III 47236
92 ..... 46355, 49000
101 48679
113 48679
307 50082
317 45118
318 48242
319 45118
325 46996
350 45755
362 45755
381 ..... 45118, 46996, 48224, 50082

10 CFR

2 46489
50 46489
55 45223
71 45361
95 48644
458 49822
761 45746
710 46499

Proposed Rules:

Ch. I 48156
Ch. II 47324
Ch. III 47324
Ch. X 47324
50 ..... 45787, 50083
60 48473
140 48474

11 CFR

114 48650
9001 49653
9002 49653
9003 49653
9004 49653
9005 49653
9006 49653
9007 49653
9012 49653

12 CFR

5 48452
7 ..... 46502, 48452
29 45502
34 49216
204 ..... 46005, 46262
207 ..... 45533, 48219, 48796
217 ..... 45756, 46262, 49654
220 ..... 45533, 48219
221 ..... 45533, 48219, 48797
224 45533
226 48219
561 45382
563 ..... 45382, 48455
760 46006
1204 ..... 50065, 50067

Proposed Rules:

Ch. I 47716
Ch. II 46996
Ch. V 48110
Ch. VI 48074
Ch. VII 48150
5 49291
29 47001
215 49293
224 49295
304 49517
349 49517
701 48830

13 CFR

101 45224
123 45225
133 48008

Proposed Rules:

Ch. I 48020
Ch. III 47254

14 CFR

21 ..... 48798, 49216
39 ..... 45093, 45535, 46008, 46009, 46503, 46969, 48220, 48222, 48801–48804, 49837, 49838, 50068, 50071
71 ..... 45094, 45095, 45536, 45537, 46010, 46503, 48805, 49500, 49501, 50038
91 50038
95 46504
97 ..... 45096, 49001
103 50038
105 50038
205 46264
248 46265
294 46265
320 45236
380 46265
389 45758

Proposed Rules:

Ch. I 46358, 47582, 48681, 49659
Ch. II 47003, 48038
Ch. V 47972
21 ..... 45214, 45565
25 ..... 46218, 46250
29 46250
39 ..... 46070, 49296, 49297, 50083
43 48364
61 45214
65 45214
71 ..... 45118, 45566, 48244, 48831, 49863, 49864
91 48364
107 45214
109 45214
121 ..... 45214, 46218, 46250, 48364
127 48364
135 ..... 45214, 48364
145 45214
320 48832

15 CFR

Proposed Rules:

Subtitle A 47254
Ch. I 47254
Ch. III 47254, 49659
Ch. IV 47254
Ch. VIII 47254
Ch. IX 47254
Ch. XXIII 47254

16 CFR

13 ..... 48651, 49217, 49225, 49839, 50072, 50073
305 49654
453 45537

Proposed Rules:

Ch. I 48120
Ch. II 48064
13 ..... 49299, 49865
300 48682
301 48682
303 48683
305 49660
1212 45405
1500 45567
1513 45567

17 CFR

1 ..... 49003, 49501
33 50073
145 ..... 46010, 48223, 49839
146 ..... 46010, 48223
147 ..... 46010, 48223
229 46012
230 ..... 46012, 48736
231 ..... 46012, 46969
239 ..... 45386, 46012
240 ..... 46012, 46736
241 46012
270 46012
274 46012
300 49840

Proposed Rules:

Ch. I 48056
Ch. II 48190
33 46797
230 46801
240 ..... 45119, 48245
249 48245

18 CFR

2 46012
4 49010
6 49010
35 ..... 46012, 46970
154 49655
157 46021
270 48223
271 ..... 45097, 46266–46268, 48223, 49010, 49503, 49505
274 ..... 45097, 49505
282 ..... 45758, 50074
301 46970
375 49010
385 45388

Proposed Rules:

Ch. I 48104
2 49028
4 ..... 49028, 49520
11 49520
32 49028
101 46361
104 46361
141 46361
154 ..... 46361, 47003, 49028
157 47003
159 46361
201 46361
204 46361
260 46361
270 49028
271 ..... 46071, 49032, 49033, 50085, 50086
273 49028
274 49033
275 47003
282 45787
292 49028
300 49301
410 45568

19 CFR

4 ..... 46510, 46978, 48653, 50075
7 46740
10 ..... 46510, 46740, 50075
18 ..... 48655, 49655
22 46740
101 45538
103 45538
113 46740
134 48657
145 46740
148 46978
158 46740
191 46740
210 45544

Proposed Rules:

Ch. I 46805, 47724
4 ..... 46808, 46810
18 46812
101 45409
123 46812
144 46812

20 CFR

404 ..... 46142, 50076
626 48744
632 48744
633 48744
634 48744
635 49198
636 48744
684 48744

Proposed Rules:

Ch. I 47538
Ch. II 48012
Ch. III 47340
Ch. IV 47538
Ch. V 47538
Ch. VI 47538
10 48249
416 48684
422 ..... 46072, 47008

21 CFR

81 ..... 45237, 45760, 46022, 49233, 50076
109 45544
131 45545
133 49012
175 48228
177 50076
178 ..... 46773, 46774
179 46022
182 48805
184 ..... 48456, 48457, 48805
186 ..... 48456, 48457
193 45547
211 ..... 46979, 50077
430 46270
436 ..... 46270, 49656
442 ..... 46270, 49656
520 ..... 46979, 48229, 49841, 50077

522 ..... 46023, 46229, 46659, 49233, 49656
540 45760
558 ..... 45102, 46023, 46024, 46514, 46515, 46659, 50077
700 ..... 46979, 50077
800 ..... 46979, 50077
1308 46516

Proposed Rules:
Ch. I 47340
122 46836
155 46836
182 45121
184 45121
211 47006
341 46576
351 46694
355 49304
610 ..... 46815, 47009, 49660
620 47009
630 47009
640 47009
650 47009
660 47009
680 47009
700 47006
800 47006
1040 46837

22 CFR

41 46660
201 49233

Proposed Rules:
Ch. I 47578
Ch. II 47970

23 CFR

655 46775

Proposed Rules:
Ch. I 47582
Ch. II 47582
658 46545

24 CFR

26 46980
201 46980
215 46980
221 46980
236 46980
570 ..... 45760, 46778, 46980
841 46980
882 46980
888 ..... 45547, 46980
890 46980

Proposed Rules:
Subtitle A 47418
24 ..... 46072, 46817
3280 49520

25 CFR

71 45103
114 48806

Proposed Rules:
Ch. I 47472
140 45789
216 49174

26 CFR

1 ..... 45761, 46272, 46296
4 46272
31 46296
35a 45362

Proposed Rules:
Ch. I 47730
1 ..... 47010, 48255, 49304, 50087
5c 49304
5f 48255
11 50087
20 ..... 46837, 50087
25 ..... 46837, 50087
31 47010
52 46837

27 CFR

4 45549
5 ..... 45549, 46518
7 45549
9 ..... 45238, 45239, 46518–46524, 46810–46820
170 46526
240 46526

Proposed Rules:
Ch. I 47708
5 49870
9 ..... 46367, 48685

28 CFR

2 48230
50 49509
500 48966
527 48966
552 48966
571 48970
572 48972

Proposed Rules:
Ch. I 47530

29 CFR

4 49736
1601 46298
1952 48822

Proposed Rules:
Subtitle A 47536
Ch. II 47536
Ch. IV 47536
Ch. V 47536
Ch. XII 47946
Ch. XIV 47926
Ch. XVII 47536
Ch. XXV 47536
Ch. XXVI 48004
1908 45411
1910 ..... 45956, 49521
1926 45872
2623 50111

30 CFR

223 48661
251 46025
913 46526
917 46299
935 ..... 46027, 46301, 46530
938 45389
946 46026

Proposed Rules:
Ch. I 47538
Ch. II 47472
Ch. VII 47472
55 45336
56 45336
57 45336
58 45336
700 49174
701 49174
750 ..... 49174, 50122
755 49174
917 48255
935 45420
938 46817
953 49870

31 CFR

1 48460
51 48662
240 49014

Proposed Rules:
Subtitle A 47702
Ch. I 47702
Ch. II 47702
390 48668

32 CFR

235 48824
251 45242
706 49233

Proposed Rules:
Ch. I 47302
Ch. V 47302
Ch. VI 47302
Ch. VII 47302
Ch. XVI 46016
199 45791

33 CFR

100 ..... 45244, 46531
117 ..... 45245, 46532, 48662, 49656
130 46178
131 46178
132 46178
151 45704
155 45704
157 ..... 45718, 46985
163 48230
165 ..... 46533, 46534, 46779, 48663, 48664, 49657
166 49018

Proposed Rules:
Ch. I 47582
Ch. II 47302
Ch. IV 47582
117 48690
146 48475
150 48475
162 45798
164 46819
165 49660

34 CFR

668 45670
690 45670

Proposed Rules:
Subtitle A 47306
Ch. I 47306
Ch. II 47306
Ch. III 47306
Ch. IV 47306
Ch. V 47306
Ch. VI 47306
Ch. VII 47306
350 45568
351 45568
352 45568
353 45568
354 45568
355 45568
357 45568
503 50122

35 CFR

Proposed Rules:
Ch. I 47198

36 CFR

7 ..... 46779, 46780
60 46306

Proposed Rules:
Ch. I 47472
Ch. II 47236
Ch. III 47302
Ch. VIII 47656
Ch. IX 48002
7 48257
216 45421
1190 47669
1213 50124

37 CFR

Proposed Rules:
Ch. I 47254
1 45424
2 45424

38 CFR

1 48685

Proposed Rules:
Ch. I 48024
21 ..... 45123, 45268, 45572, 47011

39 CFR

111 ..... 45761, 48031
447 ..... 48230, 48231
601 49019

Proposed Rules:
111 ..... 45269, 49850
3001 46545

40 CFR

51 48978
52 ..... 45245, 45246, 46046, 46047, 46309, 46986, 48664, 48665, 48978, 49020, 50077–50079
60 ..... 46535, 46536, 48326, 48358, 48669, 49458
61 46535
81 ..... 46537, 46782, 49235
85 48598
87 46461
123 48826
180 ..... 46310, 49509
192 45926
256 46787
271 48826
420 46942
433 45105
439 49808
467 49126
469 45249
717 45765

Proposed Rules:
Ch. I 47664
51 ..... 45269, 46152, 49872
52 ..... 46081, 46391–46393, 46548, 46823, 48981, 48982, 49305, 49521, 49522, 49872, 49874
60 ..... 45701, 46224, 46472, 48932, 48980
81 ..... 46082, 48085, 46393, 46549–46553
141 45502
145 49875
162 46397
180 ..... 45573, 46395, 46396, 48476, 48477, 49524
228 45798

261.....45210
271.....46824, 48690, 49525
403.....46944
415.....49408
420.....46944
439.....49832
464.....45573
465.....45573
1502.....46554, 47862
1508.....46554

41 CFR

Ch 1.....45392, 45557, 48462
Ch. 101.....45105
1–4.....48827
9–1.....46987
9–4.....45766
9–7.....46987
9–51.....45766
101–11.....46310, 49236
101–25.....48231
101–35.....49236
101–36.....49236, 49240
101–37.....48827, 49240
101–41.....46788
105–61.....45392

Proposed Rules:

Ch. 1.....47948
Ch. 4.....47236
Ch. 5.....49305
Ch. 9.....47324
Ch. 12.....47582
Ch. 13.....47254
Ch. 14.....47472
Ch. 25.....47960
Ch. 29.....47538
Ch. 60.....47538
Ch. 101.....47948
Ch. 105.....47948
101–41.....46554

42 CFR

51c.....45558
52b.....45558
55a.....45558
56.....45558
57.....45112
110.....45250
122.....45558
405.....45766, 48467
409.....48467
489.....48467

Proposed Rules:

Ch. I.....47340
Ch. III.....47340
Ch. IV.....47340

43 CFR

Subtitle A.....45664
3160.....48916

Public Land Orders:

44 (Revoked by PLO 6478).....45401
98 (Revoked by PLO 6478).....45401
399 (Revoked in part by PLO 6477).....45395
698 (Revoked by PLO 6473).....45393
780 (Revoked by PLO 6478).....45401
3845 (Revoked by PLO 6472).....45393
5170 (Revoked in part by PLO 6477).....45395
5179 (Revoked in part by PLO 6477).....45395
5180 (Revoked in part by PLO 6477).....45395
5184 (Revoked in part by PLO 6477).....45395
5515 (Corrected by PLO 6483).....49022
6467 (Corrected).....49242
6472.....45393
6473.....45393
6474.....45394
6475.....45394
6476.....45395
6477.....45395
6478.....45401
6479.....45559
6480.....46049
6481.....46049
6482.....46050
6483.....49022
6484.....49022

Proposed Rules:

Subtitle A.....47472
Ch. I.....47472
Ch. II.....47472
20.....49662
2620.....48400
2880.....48478

44 CFR

61.....46789
62.....46789
64.....46988, 46989, 49242, 49841
65.....46990, 48233
67.....46050, 46312, 46992

Proposed Rules:

Ch. I.....46934
9.....49876
65.....48258
67.....45425, 46085, 47014–47020, 48259, 49306–49308, 49879, 50125

45 CFR

13.....45251

Proposed Rules:

Subtitle A.....47340
Ch. II.....47340
Ch. III.....47340
Ch. VI.....47980
Ch. XI.....47978
Ch. XII.....47856
Ch. XIII.....47340

46 CFR

160.....45113
162.....45727
380.....45559
530.....48469
542.....46175
543.....46175
544.....46175

Proposed Rules:

Ch. I.....47582
Ch. IV.....45269, 48114, 49879
7.....45574
10.....46556
24.....45425
25.....45425
26.....45425
30.....45425
31.....45425
32.....45425
35.....45425
70.....45425
71.....45425
75.....45425
77.....45425
78.....45425
90.....45425
91.....45425
94.....45425
96.....45425
97.....45425
107.....45425
108.....45425
109.....45425
157.....46556
163.....45425
188.....45425
189.....45425
192.....45425
195.....45425
196.....45425
298.....46825
508.....45800
524.....45270
531.....45270, 49308
536.....45270
538.....45272
540.....49664

47 CFR

0.....45652
1.....45652, 48234
2.....45560
25.....49242
31.....49843
61.....46791
63.....46791
69.....48234
73.....45401–45403, 46994, 48234, 49852
81.....45114, 45560
83.....45114, 45560
87.....45114
97.....45652, 49244, 49861

Proposed Rules:

Ch. I.....47020, 48080
1.....49033, 49069, 49309
21.....49309
61.....49033
67.....46556, 47021
73.....45428–45438, 47023–47031, 48264, 49069, 49438, 49879–49883
83.....45439
95.....49314

48 CFR

Ch. I.....46541

Proposed Rules:

Ch. 9.....47324, 49315

49 CFR

171.....50234
172.....50234
192.....48669
195.....48669
350.....48469
567.....46994
571.....46053, 46793, 48235
1033.....45257
1043.....45775
1162.....46542
1307.....46542, 46794

Proposed Rules:

Subtitle A.....47582
Ch. I.....47582
Ch. II.....47582
Ch. III.....47582
Ch. V.....47582
Ch. VI.....47582
Ch. X.....46399, 48134
27.....46399, 50125
171.....48483
172.....48483
173.....48483
192.....49665
195.....46589
218.....45272
231.....49666
450.....49074
451.....49074
452.....49074
453.....49074
571.....47032, 48483, 48622, 49076
1039.....45137
1155.....45440
1056.....49526

50 CFR

17.....46053, 46328–46337, 49244, 49245
23.....45259, 45775
258.....48619
285.....46995
611.....45403, 46542, 50080
646.....45404
654.....46057
655.....45403, 45404, 50080
656.....45403
657.....45403
658.....46057
661.....45263
663.....48241
672.....46542
681.....46342

Proposed Rules:

Ch. I.....47472
Ch. II.....47254
Ch. III.....47254
Ch. IV.....47254, 47472
Ch. V.....47254
17.....45574, 46086, 46590, 49316, 50126
23.....45575, 49667
611.....45804, 45806, 49668, 49669
641.....49527
652.....50128
655.....49077
663.....45274, 48265, 50129
681.....48853

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing October 28, 1983

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7 Parts:		
0–45	9.00	Jan. 1, 1983
46–51	7.50	Jan. 1, 1983
52	9.00	Jan. 1, 1983
53–209	7.50	Jan. 1, 1983
210–299	7.00	Jan. 1, 1983
300–399	5.50	Jan. 1, 1983
400–699	6.50	Jan. 1, 1983
700–899	6.50	Jan. 1, 1983
900–999	8.50	Jan. 1, 1983
1000–1059	7.50	Jan. 1, 1983
1060–1119	6.50	Jan. 1, 1983
1120–1199	7.00	Jan. 1, 1983
1200–1499	7.00	Jan. 1, 1983
1500–1899	6.50	Jan. 1, 1983
1900–1944	8.00	Jan. 1, 1983
1945–End	7.00	Jan. 1, 1983
8	6.50	Jan. 1, 1983
9 Parts:		
1–199	7.50	Jan. 1, 1983
200–End	7.50	Jan. 1, 1983
10 Parts:		
0–199	9.00	Jan. 1, 1983
200–399	7.50	Jan. 1, 1983
400–499	6.50	Jan. 1, 1983
500–End	7.00	Jan. 1, 1983
11	5.50	July 1, 1983
12 Parts:		
1–199	7.00	Jan. 1, 1983
200–299	8.00	Jan. 1, 1983
300–499	7.00	Jan. 1, 1983
500–End	8.00	Jan. 1, 1983
13	8.00	Jan. 1, 1983
14 Parts:		
1–59	7.00	Jan. 1, 1983
60–139	7.00	Jan. 1, 1983
140–199	5.50	Jan. 1, 1983
200–1199	7.00	Jan. 1, 1983
1200–End	6.50	Jan. 1, 1983
15 Parts:		
0–299	6.50	Jan. 1, 1983
300–399	7.00	Jan. 1, 1983
400–End	7.50	Jan. 1, 1983
16 Parts:		
0–149	7.00	Jan. 1, 1983
150–999	7.00	Jan. 1, 1983
1000–End	7.00	Jan. 1, 1983

Title	Price	Revision Date
17 Parts:		
1–239	$8.00	Apr. 1, 1983
240–End	7.00	Apr. 1, 1983
18 Parts:		
1–149	7.00	Apr. 1, 1983
150–399	8.00	Apr. 1, 1983
400–End	6.50	Apr. 1, 1983
19	8.50	Apr. 1, 1983
20 Parts:		
1–399	5.50	Apr. 1, 1983
400–499	7.00	Apr. 1, 1983
500–End	7.50	Apr. 1, 1983
21 Parts:		
1–99	6.00	Apr. 1, 1983
100–169	6.50	Apr. 1, 1983
170–199	6.50	Apr. 1, 1983
200–299	6.75	Apr. 1, 1983
300–499	8.00	Apr. 1, 1983
500–599	6.50	Apr. 1, 1983
600–799	5.00	Apr. 1, 1983
800–1299	6.00	Apr. 1, 1983
1300–End	5.00	Apr. 1, 1983
22	8.50	Apr. 1, 1983
23	7.00	Apr. 1, 1983
24 Parts:		
0–199	6.00	Apr. 1, 1983
200–499	8.00	Apr. 1, 1983
500–799	5.00	Apr. 1, 1983
800–1699	6.50	Apr. 1, 1983
1700–End	6.00	Apr. 1, 1983
25	8.00	Apr. 1, 1983
26 Parts:		
§§ 1.0–1.169	8.00	Apr. 1, 1983
§§ 1.170–1.300	7.50	[1] Apr. 1, 1982
§§ 1.301–1.400	6.00	Apr. 1, 1983
§§ 1.401–1.500	7.00	Apr. 1, 1983
§§ 1.501–1.640	6.50	Apr. 1, 1983
§§ 1.641–1.850	7.50	[1] Apr. 1, 1982
§§ 1.851–1.1200	8.00	Apr. 1, 1983
§§ 1.1201–End	8.50	Apr. 1, 1983
2–29	7.00	Apr. 1, 1983
30–39	6.00	Apr. 1, 1983
40–299	7.50	Apr. 1, 1983
300–499	6.00	Apr. 1, 1983
500–599	8.00	[2] Apr. 1, 1980
600–End	5.00	Apr. 1, 1983
27 Parts:		
1–199	8.50	Apr. 1, 1983
200–End	6.50	Apr. 1, 1983
28	8.00	July 1, 1982
29 Parts:		
0–99	9.00	July 1, 1982
100–499	5.50	July 1, 1983
500–899	8.00	July 1, 1983
900–1899	5.50	July 1, 1983
1900–1910	9.00	July 1, 1982
1911–1919	4.50	July 1, 1983
1920–End	8.50	July 1, 1982
30 Parts:		
0–199	8.00	July 1, 1982
200–End	10.00	July 1, 1982
31 Parts:		
0–199	6.00	July 1, 1983
200–End	9.00	July 1, 1982
32 Parts:		
1–39 (V.I.)	9.00	Sept. 1, 1982
(V.II)	11.00	Sept. 1, 1982
(V.III)	10.00	Sept. 1, 1982
40–399	13.00	July 1, 1982
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Title	Price	Revision Date
700–799	$8.50	July 1, 1982
800–999	6.50	July 1, 1983
1000–End	6.00	July 1, 1983
33 Parts:		
1–199	9.00	July 1, 1982
200–End	8.00	July 1, 1982
34 Parts:		
1–399	13.00	July 1, 1982
300–399	6.00	July 1, 1983
400–End	8.50	July 1, 1982
35	5.50	July 1, 1983
36 Parts:		
1–199	7.00	July 1, 1982
200–End	7.50	July 1, 1982
37	6.00	July 1, 1983
38 Parts:		
0–17	8.00	July 1, 1982
18–End	7.00	July 1, 1982
39	7.00	July 1, 1982
40 Parts:		
0–51	8.50	July 1, 1982
52	9.00	July 1, 1982
53–80	8.50	July 1, 1982
81–99	8.50	July 1, 1982
100–149	6.00	July 1, 1983
150–189	6.50	July 1, 1983
190–399	7.00	July 1, 1983
400–424	8.00	July 1, 1982
425–End	7.50	July 1, 1982
41 Chapter 1—1-1 to 1-10	7.00	July 1, 1983
Chapter 1—1-11 to Appendix	6.50	July 1, 1983
Chapter 3–6	8.50	July 1, 1982
Chapter 7	5.50	July 1, 1982
Chapter 8	4.75	July 1, 1983
Chapter 9	8.00	July 1, 1982
Chapters 10–17	6.50	July 1, 1983
Chapter 18, Vol. I, Parts 1–5	7.50	Dec. 31, 1982
Chapter 18, Vol. II, Parts 6–19	8.00	Dec. 31, 1982
Chapter 18, Vol. III, Parts 20–52	7.50	Dec. 31, 1982
Chapters 19–100	7.00	July 1, 1983
Chapter 101	9.00	July 1, 1982
Chapter 102–End	6.50	July 1, 1983
42 Parts:		
1–60	7.50	Oct. 1, 1982
61–399	7.00	Oct. 1, 1982
400–End	9.50	Oct. 1, 1982
43 Parts:		
1–999	7.00	Oct. 1, 1982
1000–3999	8.50	Oct. 1, 1982
4000–End	$7.00	Oct. 1, 1982
44	7.50	Oct. 1, 1982
45 Parts:		
1–199	7.00	Oct. 1, 1982
200–499	6.00	Oct. 1, 1982
500–1199	7.50	Oct. 1, 1982
1200–End	7.50	Oct. 1, 1982
46 Parts:		
1–29	6.00	Oct. 1, 1982
30–40	5.50	Oct. 1, 1982
41–69	7.50	Oct. 1, 1982
70–89	6.00	Oct. 1, 1982
90–109	6.50	Oct. 1, 1982
110–139	5.00	Oct. 1, 1982
140–155	7.00	Oct. 1, 1982
156–165	7.50	Oct. 1, 1982
166–199	7.00	Oct. 1, 1982
200–399	8.50	Oct. 1, 1982
400–End	7.00	Oct. 1, 1982
47 Parts:		
0–19	8.50	Oct. 1, 1982
20–69	9.00	Oct. 1, 1982
70–79	8.00	Oct. 1, 1982
80–End	9.00	Oct. 1, 1982
48	1.50	[3] Sept. 19, 1983
49 Parts:		
1–99	6.50	Oct. 1, 1982
100–177	9.00	Oct. 1, 1982
178–199	8.00	Oct. 1, 1982
200–399	7.50	Oct. 1, 1982
400–999	8.00	Oct. 1, 1982
1000–1199	7.50	Nov. 1, 1982
1200–1299	7.50	Oct. 1, 1982
1300–End	7.50	Oct. 1, 1982
50 Parts:		
1–199	7.00	Oct. 1, 1982
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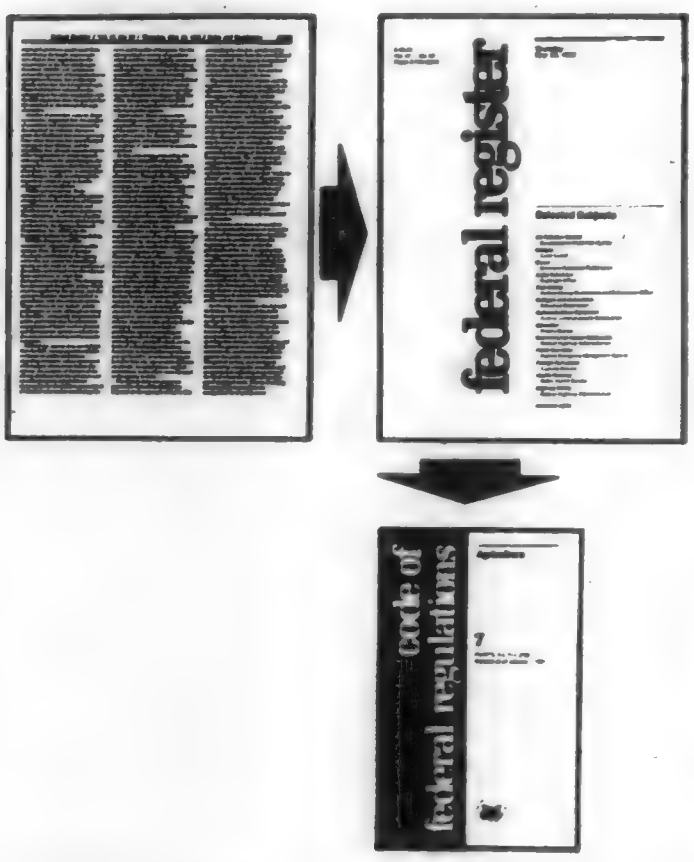
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Selected Subjects

Administrative Practice and Procedure
Employment Standards Administration

Air Pollution Control
Environmental Protection Agency

Anchorage Grounds
Coast Guard

Antitrust
Comptroller of Currency
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board
Federal Reserve System
National Credit Union Administration

Authority Delegations (Government Agencies)
Justice Department

Aviation Safety
Federal Aviation Administration

Banks, Banking
Federal Deposit Insurance Corporation

Black Lung Benefits
Public Health Service

Color Additives
Food and Drug Administration

Communications Equipment
Federal Communications Commission

CONTINUED INSIDE

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Selected Subjects

Customs Duties and Inspection
Customs Service

Flood Insurance
Federal Emergency Management Agency

Fuel Additives
Environmental Protection Agency

Hazardous Materials Transportation
Research and Special Programs Administration

Organization and Functions (Government Agencies)
Animal and Plant Health Inspection Service

Pensions
Veterans Administration

Polychlorinated Biphenyls
Environmental Protection Agency

Prisoners
Prisons Bureau

Railroad Employees
Railroad Retirement Board

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 48, No. 212
Tuesday, November 1, 1983

Agency for International Development
NOTICES
Housing guaranty programs:
50421 Central America

Agriculture Department
See Animal and Plant Health Inspection Service; Food Safety and Inspection Service; Forest Service.

Animal and Plant Health Inspection Service
RULES
Organization, functions, and authority delegations:
50295 Deputy Administrator, Veterinary Services and Plant Protection and Quarantine; commuted traveltime allowances

Army Department
NOTICES
Meetings:
50388 ROTC Affairs Advisory Panel

Arts and Humanities, National Foundation
NOTICES
Meetings:
50432 Humanities National Council Advisory Committee
50431 Inter-Arts Advisory Panel
50431 Museum Advisory Panel
50431 Music Advisory Panel

Bonneville Power Administration
NOTICES
50392 Fish and wildlife consultation procedures; inquiry

Civil Aeronautics Board
NOTICES
50381 Agency information collection activities under OMB review
Hearings, etc.:
50381 AFC International Co.
50381 Frontier Horizon, Inc.
50381 North Pacific Airlines

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
50382 Connecticut
50382 Florida
50382 Maine
50382 Massachusetts
50382 New Hampshire
50383 Ohio

Coast Guard
PROPOSED RULES
Anchorage regulations:
50359 Louisiana
50360 Massachusetts
NOTICES
Meetings:
50435 Coast Guard Academy Advisory Committee
50435 Houston/Galveston Navigation Safety Advisory Committee

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
50438 Meetings; Sunshine Act

Comptroller of Currency
RULES
50296 Management official interlocks

Conservation and Renewable Energy Office
NOTICES
Grants; availability, etc.:
50396 Schools, hospitals, buildings, public care institutions, and Energy Extension Service programs; waivers to provide matching funds

Customs Service
PROPOSED RULES
Forms:
50342 Entry/entry summary

Defense Department
See Army Department.

Economic Regulatory Administration
NOTICES
Consent orders:
50397 Crysen Corp.
Natural gas; fuel oil displacement certification applications:
50398 Aluminum Co. of America et al.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
50398 Power System Engineering, Inc.
Remedial orders:
50397 Mobil Oil Corp. et al.

Education Department
NOTICES
Postsecondary education:
50389 National defense and direct student loan programs directory of designated low-income schools for teacher cancellation benefits; availability

Employment and Training Administration
NOTICES
Adjustment assistance:
50423 California Portland Cement Co. et al.
50424 Caterpillar Tractor Co. et al.
50424 Employment transfer and business competition determinations; financial assistance applications

Employment Standards Administration
RULES
50312 Wage rates; procedures for predetermination

Energy Department
See also Bonneville Power Administration; Conservation and Renewable Energy Office; Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
Meetings:
50390 International Energy Agency Industry Advisory Board
Trespassing on Department property:
50390 Idaho National Engineering Laboratory et al., Idaho Falls, Idaho

Energy Information Administration
RULES
50296 Domestic uranium mining and milling industry, criteria to assess viability; correction
NOTICES
Forms; availability, etc.:
50399 Electric utility company monthly statement (Form EIA–826)

Environmental Protection Agency
RULES
Air programs; fuel and fuel additives:
50482 Average lead content in gasoline
Air quality planning purposes; designation of areas:
50316 South Carolina
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions;
50317 N,N-Diethyl-2-(1-Naphthalenyloxy) propionamide
Water pollution control:
50317 Ocean dumping; site designation, Tampa Harbor
Water pollution; effluent guidelines for point source categories:
50321 Coal mining; correction
50322 Pharmaceutical manufacturing; correction
PROPOSED RULES
Air quality planning purposes; designation of areas:
50361 Idaho
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
50363 Folic acid, nicotinamide, pyridoxine, cystein, glutamine, methionine, tryptophan and adenosine; correction
50363 Maleic hydrazide; correction
Toxic substances:
50486 Polychlorinated biphenyls; exemptions from processing and distribution in commerce prohibitions
NOTICES
Pesticides; experimental use permit applications:
50412 BASF Wyandotte Corp. et al.; correction
Toxic and hazardous substances control:
50412 Premanufacture notices receipts; correction

Federal Aviation Administration
PROPOSED RULES
Airworthiness directives:
50341 Pilatus Aircraft, Ltd.

Federal Communications Commission
RULES
Radio services; special:
50322 Private operational-fixed microwave service; digital termination systems and provision of digital electronic message services

Federal Deposit Insurance Corporation
RULES
50296 Management official interlocks
PROPOSED RULES
50339 Brokered deposits; advance notice

Federal Emergency Management Agency
PROPOSED RULES
Flood elevation determinations:
50366 California, et al.

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
50403 Columbia Gas Transmission Corp.
50404 Michigan Consolidated Gas Co.
50405 Montana-Dakota Utilities Co.
50405 Natural Gas Pipeline Co. of America
50405 Northern Border Pipeline Co.
50406 Peoples Natural Gas Co.
50406 Texas Eastern Transmission Corp.
Natural gas companies:
50404 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (Elms Brothers & Co. Ltd. et al.)
Natural Gas Policy Act:
50464–50471 Jurisdictional agency determinations (3 documents)

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
50435 Philadelphia County, Pa.; intent to prepare

Federal Home Loan Bank Board
RULES
50296 Management official interlocks
PROPOSED RULES
50339 Brokered deposits; advance notice

Federal Maritime Commission
NOTICES
50412 Agreements filed, etc.

Federal Reserve System
RULES
50296 Management official interlocks
NOTICES
Applications, etc.:
50413 Union Bancorp, Inc., et al.
Bank holding companies; proposed de novo nonbank activities:
50413 Chemical New York Corp. et al.

Food and Drug Administration
RULES
Color additives:
50311 D&C Yellow No. 10; provisional listing; effective date stayed and postponement of closing date
PROPOSED RULES
Animal drugs, feeds, and related products:
50358 Medicated feed application procedures; correction

50358 Medicated feed application procedures; extension of time
NOTICES
Meetings:
50417 Advisory committees, panels, etc.

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
50296 Imported meat products; Czechoslovakia withdrawn from list of eligible countries

Forest Service
NOTICES
Meetings:
50381 Routt National Forest Grazing Advisory Board

Health and Human Services Department
See also Food and Drug Administration; Public Health Service; Social Security Administration.
NOTICES
Social security benefits:
50414 Contribution and benefit base, etc., for 1984, average of total wages for 1982

Hearings and Appeals Office, Energy Department
NOTICES
50407 Special refund procedures; implementation and inquiry (Apco Oil Corp.)

Interior Department
See Land Management Bureau; Minerals Management Service; National Park Service.

Internal Revenue Service
NOTICES
50437 Public inspection of written determinations; intent to disclose; inquiry

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
50383 Export trade certificates of review; applications (2 documents)

International Trade Commission
NOTICES
50438 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
50422 Toledo, Peoria & Western Railroad Co.

Justice Department
See also Prisons Bureau.
RULES
Organization, functions, and authority delegations:
50312 Marshals Service, Director; courtroom security for Federal judges

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Pension and Welfare Benefits Programs Office; Veterans' Employment and Training, Office of Assistant Secretary.
NOTICES
50422 Agency information collection activities under OMB review

Land Management Bureau
RULES
Public land orders:
50322 Alaska; correction
NOTICES
Environmental statements; availability, etc.:
50418 Sunnyside combined hydrocarbon lease conversion, Utah

Legal Services Corporation
NOTICES
50430 Grants and contracts; applications

Maritime Administration
NOTICES
50436 Operating-differential subsidy contracts; amendment application guidelines; inquiry; extension of time

Minerals Management Service
NOTICES
50419 Agency information collection activities under OMB review
Environmental statements; availability, etc.:
50419 Gulf of Mexico OCS mineral pipeline rights-of-way application proposals

National Aeronautics and Space Administration
NOTICES
Meetings:
50430 Advisory Council

National Communications System
NOTICES
Meetings:
50431 National Security Telecommunications Advisory Committee

National Credit Union Administration
RULES
50296 Management official interlocks

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
50379 Gulf of Alaska groundfish; foreign fishing
NOTICES
Deep seabed mining; exploration license applications:
50386 Kennecott Consortium
50387 Ocean Management, Inc.
50387 Ocean Minerals Co.
50386 Ocean Mining Associates
Marine mammal permit applications, etc.:
50386 Bengtson, Dr. John L.
Meetings:
50386 New England Fishery Management Council

National Park Service
NOTICES
Historic Places National Register; pending nominations:
50420 Alabama et al.

Management and development plans:
50420 Yukon-Charley Rivers National Preserve, Alaska
Meetings:
50421 Martin Luther King, Jr., National Historic Site Advisory Commission

Nuclear Regulatory Commission
NOTICES
50432 Nuclear waste repository safety guidelines, high-level; NRC concurrence

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
50427 Alaska Carpenters Retirement Plan et al.
50425 Chemical New York Corp.

Personnel Management Office
NOTICES
50433 Agency information collection activities under OMB review

Postal Rate Commission
NOTICES
50433 Visits to facilities (2 documents)

Prisons Bureau
RULES
Inmate control, custody, and care, etc.:
50478 Religious diet requirements, furloughs, and pre-release programs

Public Health Service
PROPOSED RULES
Grants:
50353 Black lung clinics
NOTICES
Medical technology scientific evaluations:
50417 Argon laser trabeculoplasty procedure for treatment of open-angle glaucoma

Railroad Retirement Board
RULES
50308 Rock Island Railroad Transition and Employee Assistance Act; interim

Research and Special Programs Administration
RULES
Hazardous materials:
50440 Cryogenic liquids transportation requirement; correction
50444 Editorial corrections and clarifications

Social Security Administration
NOTICES
Social security benefits:
50414 Contribution and benefit base, etc., for 1984, and average of total wages for 1982

Textile Agreements Implementation Committee
NOTICES
Textile consultation; review of trade:
50387 China

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; Maritime Administration; Research and Special Programs Administration.
NOTICES
50433 Agency information collection activities under OMB review

Treasury Department
See also Comptroller of Currency; Customs Service; Internal Revenue Service.
NOTICES
50436 Agency information collection activities under OMB review

Veterans Administration
RULES
Adjudication; pensions, compensation, dependency, etc.:
50313 Ionizing radiation exposure in military service; disability claims

Veterans' Employment and Training, Office of Assistant Secretary
NOTICES
Meetings:
50423 Veterans' Employment Committee

Separate Parts in This Issue

Part II
50440 Department of Transportation Research and Special Programs Administration

Part III
50444 Department of Transportation, Research and Special Programs Administration

Part IV
50464 Department of Energy, Federal Energy Regulatory Commission

Part V
50478 Department of Justice, Bureau of Prisons

Part VI
50482 Environmental Protection Agency

Part VII
50486 Environmental Protection Agency

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
371 50295

9 CFR
327 50296

10
761 50296

12 CFR
26 50296
212 50296
348 50296
563 f 50296
711 50296

Proposed Rules:
330 50339
337 50339
564 50339

14 CFR

Proposed Rules:
39 50341

19 CFR

Proposed Rules:
10 50342
19 50342
24 50342
113 50342
125 50342
141 50342
142 50342
143 50342
144 50342
146 50342

20 CFR
396 50308

21 CFR
74 50311
81 50311
82 50311

Proposed Rules:
207 (2 documents) 50358
210 (2 documents) 50358
225 (2 documents) 50358
226 (2 documents) 50358
501 (2 documents) 50358
510 (2 documents) 50358
514 (2 documents) 50358
558 (2 documents) 50358

28 CFR
0 50312
548 50478

29 CFR
1 50312
5 50312

33 CFR

Proposed Rules:
110 (2 documents) 50359, 50360

38 CFR
3 50313

40 CFR
80 50482
81 50316
180 50317
228 50317
434 50321
439 50322

Proposed Rules:
81 50361
180 (2 documents) 50363
761 50486

42 CFR
55a 50363

43 CFR

Public Land Orders:
6477 50322

44 CFR

Proposed Rules:
67 50366

47 CFR
2 50322
21 50322
74 50322
94 50322

49 CFR
171 (2 documents) 50440, 50444
172 (2 documents) 50440, 50444
173 (2 documents) 50440, 50444
174 (2 documents) 50440, 50444
175 50444
176 50444
177 50444
178 50444
179 50444

50 CFR

Proposed Rules:
611 50379
672 50379

VOL
48
ISS
2
1
2
NO
1
1983
UMI

FEDERAL REGISTER

Tuesday, January 4, 1983

Part II

Department of Agriculture

Animal and Plant Health Inspection Service

Department of Transportation

Coast Guard

Department of Health and Human Services

Food and Drug Administration

Department of Justice

Immigration and Naturalization Service

Department of Labor

Employment and Training Administration

Department of Transportation

Federal Aviation Administration

Department of the Treasury

Customs Service

Regulatory Programs of the Government

Executive Order 12291 and Department Procedures

Proposed Rules

Final Rules

Notices

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Rules and Regulations

Federal Register
Vol. 48, No. 212
Tuesday, November 1, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions, and Delegations of Authority

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organizations, functions, and delegations of authority of the Animal and Plant Health Inspection Service (APHIS) by specifically delegating authority to prescribe commuted traveltime allowances associated with import-export inspection activities to the Deputy Administrator, Veterinary Services, and the Deputy Administrator, Plant Protection and Quarantine. Authority to determine the circumstances under which such allowances may be paid is reserved to the Administrator, APHIS.

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, USDA, 6505 Belcrest Rd., Hyattsville, MD 20782 (301–436–6466).

SUPPLEMENTARY INFORMATION: The Act of August 28, 1950 (7 U.S.C. 2260) authorizes the Secretary of Agriculture to establish special premium pay for employees performing inspection or quarantine services relating to imports into and exports from the United States. A portion of this authority has been exercised by the Administrator of APHIS pursuant to an internal Departmental regulation. Pursuant to that regulation, the Administrator or his designees have been prescribing commuted traveltime allowances (i.e., allowances paid to inspectors called to perform inspection duties after normal working hours or on a holiday). Such allowances are prescribed in 7 CFR 354.2, for APHIS Plant Protection and Quarantine Officers and in 9 CFR 97.2, for inspection employees of APHIS Veterinary Services. The Secretary has specifically delegated that authority as well as the authority to determine the circumstances under which such allowances may be paid to the Assistant Secretary for Marketing and Inspection Services, who in turn has delegated such authorities to the Administrator, APHIS (48 FR 43286). The purpose of this document is to amend the statement of organization, functions, and delegations of authority of the Animal and Plant Health Inspection Service to specifically delegate to the Deputy Administrator, Plant Protection and Quarantine, and to the Deputy Administrator, Veterinary Services, the authority to issue administrative instructions prescribing the amounts of commuted traveltime pay to be paid to APHIS inspection personnel who fall within the scope of the Act of August 28, 1950. Authority to determine the circumstances under which such commuted travel allowances may be paid is reserved to the Administrator, APHIS.

This rule relates to internal agency management, and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of E.O. 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Organization and functions (Government agencies).

PART 371—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: 5 U.S.C. 301.

2. Section 371.6 is amended by revising paragraph (b) to read as follows:

§ 371.6 Delegations of authority.

* * * * *

(b) *Deputy Administrators.* (1) *General.* The Deputy Administrator, PPQ, the Deputy Administrator, VS, the Deputy Administrator for Management, and the officers they designate—with prior specific approval of the Administrator—to act for them, are hereby delegated the authority, severally, to perform all the duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is reserved to the Administrator. Each Deputy Administrator shall be responsible for the programs and activities of the Animal and Plant Health Inspection Service herein or hereafter assigned to such Deputy Administrator.

(2) *Specific.* The Deputy Administrator, PPQ, and the Deputy Administrator, VS, are specifically delegated the authority to issue administrative instructions respectively, for Plant Protection and Quarantine and for Veterinary Services, prescribing commuted traveltime allowances to be paid to inspectors called to perform inspections and necessary auxiliary services after normal working hours or on holidays, when such services come within the scope of the Act of August 28, 1950 (7 U.S.C. 2260).

3. Section 371.8 is amended by adding a new paragraph (m) to read as follows:

§ 371.8 Reservation of Authority.

* * * * *

(m) Authority to determine the circumstances under which commuted traveltime allowances may be paid to employees performing inspection and necessary auxiliary services after normal working hours or on holidays, when such services come within the scope of the Act of August 28, 1950 (7 U.S.C. 2260).

Issued at Washington, D.C., this 25th day of October 1983.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 83-29580 Filed 10-31-83; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 83-014 N]

Imported Products; Withdrawal of Czechoslovakia From the List of Countries Eligible for Importation of Meat Food Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Rule-related notice

SUMMARY: The publication of this document will bring the Food Safety and Inspection Service into compliance with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) with regard to the above-captioned emergency final rule issued by the Agency on April 29, 1983 (48 FR 19358–60).

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Ragan, Director, Regulations Office, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–3317.

SUPPLEMENTARY INFORMATION:

Background

The Food Safety and Inspection Service (FSIS) published an emergency final rule on April 29, 1983, (48 FR 19358–60) that removed Czechoslovakia from the list of countries eligible for importation of meat products into the United States (9 CFR 327.2). The emergency action was taken when violative levels of PCB's were found in Czechoslovakian product and the Agency was unable to assure correction of the problem. The available evidence indicated that the meat inspection system of Czechoslovakia with respect to the detection and elimination of PCB residues in its meat product exported to the United States, failed to meet the applicable requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the regulations promulgated thereunder (9 CFR 327). The evidence also indicated that the exported product posed a hazard to U.S. consumers sufficient to require emergency publication of the rule, without notice and comment and delayed effective date required for normal informal rulemaking proceedings under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d), respectively).

The Regulatory Flexibility Act, in pertainent part (5 U.S.C. 608), requires that when an emergency rule is promulgated the issuing Agency shall, within 180 days, publish its findings with respect to that rule's regulatory impact on small entities.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that the emergency final rule "Imported Products; Withdrawal of Czechoslovakia from the List of Countries Eligible for Importation of Meat Food Product" (48 FR 19358–60) will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). At the time of promulgation only one U.S. company imported meat product from Czechoslovakia, and even though the effect is significant to that entity the Administrator, in accordance with the standards of the RFA, does not consider that effect as having a "significant economic impact on a *substantial number* of small entities." (Emphasis added).

(5 U.S.C. 605(b))

Done at Washington, D.C. on: October 26, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-29632 Filed 10-31-83; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

Energy Information Administration

10 CFR Part 761

Criteria to Assess Viability of Domestic Uranium Mining and Milling Industry

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Correction to Final Rule.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE), in response to requirements set forth in Section 170B of the Atomic Energy Act of 1954 (42 U.S.C. 2210b), established criteria which will be used to assess the viability of the domestic uranium mining and milling industry. These criteria were issued by Donald Paul Hodel, Secretary of Energy, on October 4, 1983. The final rule promulgating these criteria appeared in the October 6, 1983, issue of the **Federal Register** (see 48 FR 45746, October 6, 1983). The effective date was inadvertently omitted in the publication of the final rule.

EFFECTIVE DATE: November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. R. Gene Clark, Director, Nuclear and Alternate Fuels Division, Energy Information Administration, EI–53—Room BG–057, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6363.

FR Doc. 83–27450, appearing in the **Federal Register** of October 6, 1983 on page 45746, is corrected by inserting the following preamble Caption:

EFFECTIVE DATE: November 7, 1983.

Issued in Washington, D.C., October 25, 1983.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 83-29616 Filed 10-31-83; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

FEDERAL RESERVE SYSTEM

12 CFR Part 212

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

[No. 83-534]

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

Management Official Interlocks

AGENCIES: Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and

the National Credit Union Administration (collectively referred to as the "agencies") are amending their regulations implementing the Depository Institution Management Interlocks Act, which generally prohibit certain management official interlocks between depository institutions, depository holding companies, and their affiliates. These amendments will (1) simplify the procedure for obtaining exceptions to the Act's prohibitions and extensions of time to permit compliance with the Act, (2) ease the burden of the Act on depository institution holding companies by redefining the terms "office" and "total assets," (3) broaden the exclusion for management officials whose functions relate exclusively to retail merchandising and manufacturing, (4) broaden the circumstances under which the exception for disruptive management loss is available, (5) clarify the circumstances that require termination of nongrandfathered management official interlocks, and (6) provide that interlocks between depository organizations and nondepository organizations that become diversified savings and loan holding companies, or their subsidiaries, need not be terminated until November 10, 1988, despite the occurrence of changes in circumstances. These amendments will streamline procedures for administration of the Interlocks Act and provide the management of depository institutions and depository organizations with greater flexibility by easing certain regulatory burdens.

EFFECTIVE DATE: November 30, 1983.

FOR FURTHER INFORMATION CONTACT: Bronwen Mason Chaiffetz ((202) 452–3564) or Melanie Fein ((202) 452–3594), Board of Governors of the Federal Reserve System; James F. E. Gillespie, Jr. ((202) 447–1893) or Rosemarie Oda ((202) 477–1880), Office of the Comptroller of the Currency; Pamela E. F. LeCren or Barbara I. Gersten ((202) 389–4171), Federal Deposit Insurance Corporation; David J. Bristol ((202) 377–6461) or George Scruggs ((202) 377–6963), Federal Home Loan Bank Board; or Steven R. Bisker ((202) 357–1030), National Credit Union Administration.

SUPPLEMENTARY INFORMATION: On October 26, 1982, the agencies published proposed amendments to the regulations (47 FR 47406) implementing the Depository Institution Management Interlocks Act of 1978 ("Interlocks Act"), 12 USC 3201 *et seq.* The proposed amendments would implement provisions of Pub. L. No. 97–110 which was signed into law on December 26, 1981, streamline procedures under existing regulations, and relieve certain regulatory burdens. The proposed changes were designed to ease the current regulatory burden while furthering the Interlocks Act's goal of fostering competition among depository organizations.

Summary of Comments

Eighteen comments were received in response to the publication of the proposed amendments. The overwhelming majority of the commenters favored the adoption of the proposed changes. However, some of those commenters favored clarifying changes. These comments are noted, where relevant, in the discussion of the specific provisions below.

1. *Definition of "Management Official"— Exclusion of Certain Persons.* Under the current regulations, a person whose management functions relate exclusively to the business of retail merchandising or manufacturing is not a management official for purposes of the prohibition based on major assets. Such a person is, however, considered a management official for purposes of the community and Standard Metropolitan Statistical Area ("SMSA") prohibitions. It had come to the agencies' attention that providing an exclusion only from the major assets prohibition creates an inconsistent result. A holding company employee with management functions relating solely to manufacturing or retailing activities may serve as a management official of a depository organization located anywhere in the country except in the SMSA or community where the holding company is located. Accordingly, the agencies proposed to amend the definition so that a person whose management functions relate exclusively to retail merchandising or manufacturing is not considered a management official for purposes of any of the general prohibitions of the regulation. Many commenters specifically favored this proposal. In the absence of adverse comments, the agencies are amending the definition of "management official," as proposed, to eliminate the inconsistency in the present definition.

2. *Definition of "Office."* The proposal suggested excluding from the definition of "office" an office of a depository holding company. This definitional change is necessary to reflect a substantive change in the prohibitions of the regulations discussed at length below under the heading "General Prohibitions." This change is being adopted as proposed.

3. *Definition for "Total Assets"— Total Assets of Certain Holding Companies.* The agencies proposed to amend the definition of "total assets" to provide that the total assets of diversified savings and loan holding companies and bank holding companies exempt from the Bank Holding Company Act by virtue of section 4(d) of that Act ("diversified holding companies") equal only the assets of their depository institution affiliates. Currently, the total assets of a diversified holding company are defined to include the assets of the company's depository institution affiliates for the purposes of the SMSA prohibition and the assets of *all* affiliates for the purposes of the major asset prohibition. Thus, a management official of a diversified holding company with assets exceeding $1 billion is now prohibited from serving as a management official of a depository organization with assets exceeding $500 million regardless of the size or location of the depository institution affiliate that causes the diversified holding company to be included as a depository organization under the regulations.

By adopting the amendment to the definition of total assets substantially as proposed, the agencies would key the regulatory prohibitions to the size of the diversified holding company's depository institution affiliate rather than to the size of the holding company system. The agencies believe that focusing on the depository institution affiliate is appropriate because the primary business activities of diversified holding companies do not normally involve competition among depository organizations of the type that the Interlocks Act is intended to foster. In addition, the depository institution affiliate generally represents a very small part of the assets and income of the holding company. Thus, it has been the experience of the agencies that, in the case of diversified holding companies, the asset size of the holding company itself is not an accurate measure of the market in which its depository institution affiliate actually competes.

The effect of the amended definition is illustrated by the following example: X is a management official of Holding Company A and wishes to serve as a management official of Bank B. Holding Company A is a diversified bank holding company with consolidated assets, including the assets of all of its affiliates, in excess of $1 billion. Its only depository institution is located in SMSA 1. Bank B's total assets exceed $1 billion and all of its offices are located in SMSA 2. Under the proposed amendment the total assets of Holding Company A would equal the total assets of its depository institution affiliate. Thus, X's concurrent service would be

prohibited only if the assets of A's depository institution affiliate exceeded $500 million

One commenter requested that the definition be clarified to indicate that nondiversified subsidiary holding companies of diversified holding companies need not include assets of their parent companies when calculating "total assets." This clarification would avoid the unintended result of attributing the assets of an "upstream" affiliate or "sister" company (i.e., another company held directly by the parent) to a subsidiary nondiversified holding company. The agencies are inserting the word "subsidiary" before the word "affiliates" in the first clause of the second sentence of the definition to effect this change.

The agencies are also making technical changes in the definition of "total assets" to reflect the changes being made in the General Prohibitions discussed below. Under the current regulations, the total assets of a depository holding company include or exclude the assets of its nondepository institution affiliates depending on whether the SMSA or major assets prohibitions are to be applied. The change in definition being adopted would eliminate that distinction since the total assets of a depository holding company will be irrelevant for the purposes of the SMSA prohibitions.

4. *General Prohibitions.* The agencies are adopting, as proposed, a revision to the General Prohibitions section of the regulations to clarify the language of the section and, in conjunction with the redefinition of "office," effect a substantive change in its application. The general prohibitions of the current regulations provide that a management interlock may be prohibited due to the location of a depository holding company regardless of whether its depository institution affiliates are located in the same community or SMSA as the holding company parent. For example, the regulations currently prohibit two depository holding companies located in the same community from sharing management officials even though neither has depository institution affiliates located in that community or in the same community anywhere in the country. The agencies believe that this prohibition is unduly harsh, and the commenters supported this view.

As adopted, the amendment will apply the community and SMSA prohibitions of the regulation solely with reference to the location and asset size of depository institution and would eliminate from consideration the location or asset size of depository holding companies. This change will permit depository holding companies to interlock within the same community or SMSA unless the major assets prohibition would apply or unless the location and sizes of the depository institution affiliates would trigger application of the community or SMSA prohibitions.

5. *Exemption Relating to Diversified Savings and Loan Holding Companies* On December 26, 1981, section 206 of the Interlocks Act was amended by adding new subsection (b), which provides that a person serving as a management official of a nondepository corporation and a depository organization is not prohibited from continuing to serve with both entities as a result of the nondepository corporation becoming a diversified savings and loan holding company, as defined in section 408(a) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)). Without this express exemption, which expires on November 10, 1988, the transformation of a corporation into a depository organization would subject the official's dual service to the prohibitions of the Interlocks Act. Even if such dual service commenced prior to November 10, 1978, it would not be grandfathered under the Interlocks Act since section 206 grants grandfathered rights only to interlocks between depository organizations.

The statutory amendment left open the question of whether subsequent changes in circumstances could result in the termination of an individual's service prior to November 10, 1988. The agencies proposed amending their respective regulations to address that issue so as to provide that a person who was serving as a management official of a depository organization and a nondepository organization (or any subsidiary thereof) could maintain any interlocking service that existed when the nondepository organization became a diversified savings and loan holding company despite the occurrence of any subsequent changes in circumstances. This change would reflect the view of the agencies, which is supported by the legislative history, that section 206(b) of the Interlocks Act grants rights similar to those provided to grandfathered management officials by section 206(a). The commenters specifically urged the adoption of this amendment, and it is being adopted as proposed to satisfy the intent of Congress.

The amendment permits a management official who is serving, for example, at Bank A and nondepository corporation B to continue to serve both A and B after B becomes a diversified savings and loan holding company whether the acquisition of the savings and loan is direct or accomplished through a subsidiary (operating or shell) of B. If the acquisition is accomplished through B's subsidiary corporation, and that subsidiary had a pre-existing management official interlock with Bank A, the interlock between the subsidiary corporation and Bank A may also continue

The agencies in their earlier Federal Register notice indicated that pending consideration of the proposal no supervisory action would be taken with regard to section 206(b) interlocks arguably affected by changes in circumstances. In view of the fact that the agencies have determined that section 206(b) interlocks should receive similar treatment to grandfathered interlocks, i.e., not be subject to early termination due to changes in circumstances, the agencies are adding language that would expressly permit the continuance of interlocks that were the subject of changes in circumstances in the interim period prior to the effective date of this amendment.

6. *Agency Approval of Exceptions.* The proposal included an amendment revising the manner in which the agencies grant exceptions. Under previous regulations, an exception must be approved by both the federal supervisory agency of the institution in need of the exception and the supervisory agency of the other institution(s) involved in the interlocks. Frequently, the primary federal supervisory agency is not the same for each institution, and an applicant for the exception must apply to two or more agencies. In the interests of simplifying the procedure under the regulations and affording prompt relief to institutions in need of management expertise, the agencies proposed that approval by only the federal supervisory agency of the needy institution should be required for the exception to be granted, and the requirement for approval by the other supervisory agencies involved would be eliminated. In addition, the proposed amendment provided that if the depository institution seeking to qualify under one of the exceptions had no federal supervisory agency, the federal supervisory agency of the other institution involved in the proposed interlock would grant or deny the requested exception. This proposed amendment was supported by the commenters and is being adopted as proposed.

7. *Extension for Disruptive Management Loss.* Currently, the regulations provide that the agencies may extend for a period of up to 30 months the compliance period for

depository organizations losing 50 percent or more of their directors or total management officials as a result of changes in circumstances requiring the termination of interlocks. Based on the agencies' experience with these provisions, the agencies solicited comments on the following proposed changes:

(a) The current provision becomes operative when a depository institution faces the loss of 50 percent of either its dierctors or total management officials. Recognizing that the loss of a smaller percentage of management officials may also cause significant disruption to a depository organization, the agencies proposed to reduce to 30 percent the percentage necessary to qualify for the extension.

(b) Under current regulations, the 30-month extension becomes available only when the depository organization facing disruptive management loss experiences a change in circumstances. The proposal noted that it had come to the agencies' attention that a depository organization may experience a disruptive loss of management officals due to changes in circumstances involving other depository organizations but not the affected organization itself, or due to a series of changes in circumstances involving the organization and other depository organizations. Recognizing that these situations also may cause disruptive management loss, the agencies proposed to make the 30-month extension available when any change in circumstances circumstances or combination of changes in circumstances results in the potential loss of 30 percent or more of an organization's directors or total management officials. Under the amendments, which are being adopted as proposed, changes in circumstances that occur within a 15-month period will be viewed in the aggregate in order to determine whether the requisite percentage exists. The 30-month period would be measured from the date of the first change in circumstances that occurred within the 15-month period.

The following example illustrates how the new provision would operate: Bank A, located in SMSA 1, has ten directors. One of Bank A's directors serves as a director of Bank B in SMSA 2, one serves as director of Bank C in SMSA 3, and one serves as director of Bank D in SMSA 4. In Month 1, Bank B merges with a bank in SMSA 1. In Month 7, Bank A merges with a bank located in SMSA 4. In Month 13, Bank C merges with a bank in SMSA 1. As a result of these mergers, Bank A's interlocks with each of the other three banks become prohibited. Bank A's management officials may apply for an extension to terminate the prohibited interlocks, which would end 30 months from the first change in circumstance.

(c) Under the current reguations, an organization qualifying for the 30-month extension must experience a change in circumstances that "requires the termination of service" of its directors or management officals. When some of the directors whose interlocks become prohibited in fact intend to retain their positions with the depository organization experiencing the change in circumstances, the extension would not appear to be necessary to avoid unduly disrupting the affected organization. For this reason, the agencies proposed to limit the availability of the extension by requiring applicants to demonstrate the likelihood of disruptive management loss. The agencies do not believe this requirement would impose an undue regulatory burden; its purpose would be simply to ensure that the 30-month extension is granted only to organizations truly in need of relief. For purposes of demonstrating the likelihood of disruptive management loss, the agencies proposed to establish a rebuttable presumption that a director who is a full-time employee of the affected organization normally would not terminate interlocking service by resigning from that organization. The agencies believe that such a presumption is reasonable and would ease the regulatory burden in evaluating requests under this provision.

One commenter suggested a change in this proposed amendment. It was suggested that instead of using a percentage standard, the agencies process extensions for disruptive management loss on a case-by-case basis. The agencies believe that a 30-percent standard is a useful guideline which facilitates the delegation to staff of the authority to grant extensions thereby streamlining procedures. In addition, it is noted that the agencies can act pursuant to the exception for conditions endangering safety or soundness to alleviate problems caused when management loss of less than 30 percent threatens the viability of a depository institution or organization. Accordingly, as noted above, the agencies are adopting this provision as proposed.

8. *Changes in Circumstances—Nongrandfathered Interlocks.* The Interlocks Act authorizes the agencies to grant a period of time, not in excess of 15 months, for compliance with the Interlocks Act following changes in circumstances that cause interlocks to become prohibited. The current regulations provide that a management official with a nongrandfathered interlock that becomes prohibited as a result of a voluntary change in circumstances may continue to serve until the next regularly scheduled annual meeting of the institutions involved following a change in circumstances, unless the agencies impose a shorter time period. The management official may request an extension of the grace period not in excess of 15 months from the date of the change in circumstances. However, if the management official's nongrandfathered service becomes prohibited due to an involuntary change in circumstances, such as natural growth or a change in community or SMSA boundaries, the maximum 15-month grace period applies.

To simplify the grace period provision, the agencies are adopting, as proposed, an amendment which provides a maximum 15-month grace period for all changes in circumstances, whether voluntary or involuntary. This change will eliminate the necessity for institutions to apply for extensions of time. Since this change eliminates the need to distinguish between voluntary and involuntary interlocks, that distinction is being deleted from the change in circumstances provisions.

Since adopting the regulations, it has been the agencies' experience that other changes in circumstances, such as the termination of an affiliate relationship between two or more depository organizations, may cause nongrandfathered interlocks to become prohibited. The list of changes in circumstances specified in the regulations was intended to reflect the most commonly occurring changes and, as indicated when the regulations were originally adopted, was not intended to be exhaustive. To clarify their intent in this regard, the agencies proposed to amend the regulations to indicate that nongrandfathered interlocks that become prohibited due to changes in circumstances other than those enumerated in the regulation also will be eligible for the grace period. The amendment also will specifically include disaffiliation as a change in circumstances.

9. *Effect on Clayton Act.* The Board of Governors of the Federal Reserve System is adopting its proposal to make a technical change in its regulation by eliminating § 212.7 pertaining to the effect of the Interlocks Act on the Clayton Act. This section states that the Board of Governors regards the

provisions of the first three paragraphs of section 8 of the Clayton Act to have been supplanted by the Interlocks Act. The other agencies' regulations do not include this provision since only the Board of Governors had jurisdiction over management interlocks under the Clayton Act prior to enactment of the Interlocks Act. The substance of the section will be incorporated into the authority section of the regulation. This change will make the agencies' regulations more uniform in appearance.

In addition to the substantive changes described above, minor editorial changes were made in these final rules to improve clarity and readability.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 5 U.S.C. 601 *et seq.*), the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration certify that the amendments will not have a significant economic impact on a substantial number of small entities. The amendments will ease the application of the existing regulations and do not have any particular effect on small entities. The effect of the amendments is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

Regulatory Impact Analysis. Pursuant to section 3(g)(1) of Executive Order 12291 of February 17, 1981, it has been determined that the amendments do not constitute a major rule within the meaning of section 1(b) of the Executive Order. The amendments ease restrictions imposed by regulations implementing the Depository Institution Management Interlocks Act, 12 U.S.C. 3201 *et seq.*, in instances where the easing of such restrictions has no anticompetitive effect. The amendments have no adverse effect on the operations of the depository institutions subject to them. As such, the amendments will not have an annual effect on the economy of $100 million or more, will not effect costs or prices for consumers, individual industries, government agencies, or geographic regions, and will not have adverse effects on competition, employment, investment, productivity, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

List of Subjects

12 CFR Part 26

National banks, Management official interlocks.

12 CFR Part 212

Antitrust, Holding companies.

12 CFR Part 348

Antitrust, Banks, Banking, Holding companies.

12 CFR Part 563f

Antitrust, Savings and loan associations.

12 CFR Part 711

Antitrust, Credit unions.

Accordingly, pursuant to their respective authority under section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207), the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration hereby amend Title 12 of the Code of Federal Regulations, Parts 26, 212, 348, 563f, and 711, respectively, as follows:

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563f

Management Official Interlocks

PART 563f—[AMENDED]

1. Revise paragraphs (f), (g) and (j) of § 563f.2, to read as follows:

§ 563f.2 Definitions.

* * * * *

(f)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(g) "Office" means a principal or branch office of a depository institution located in the United States. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office, or any office of a depository holding company.

* * * * *

(j) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of all its subsidiary affiliates, except that "total assets" of a diversified savings and loan holding company as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

2. Revise pargraphs (a) and (b) of § 563f.3 to read as follows:

§ 563f.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a managment official of another depository organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the same SMSA as a depository institution affiliate of the

other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

* * * * *

3. Amend § 563f.4 by revising the introductory language to paragraph (b), subparagraphs (b)(1), (2), (3) and (5), and paragraph (c), to read as follows:

§ 563f.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of an insured institution, a savings and loan holding company, or an affiliate of either may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the Board shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low-income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low-income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The relationship is necessary to provide management or operating expertise to the organization specified in paragraph (b)(1) (i) or (ii) of this section; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly created organization; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than two years after the newly chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, provided: (i) The relationship is necessary to provide management or operating expertise to the organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to changes in circumstances.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 563f.6 of this Part, the affected management officials may continue to serve in excess of the time periods specified in § 563f.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization demonstrates that, absent a grant of relief in accordance with this paragraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a 15-month period; and (iv) the depository organization develops a plan for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to or in lieu of the foregoing may be imposed by the Federal supervisory agency. In evaluating requests made pursuant to this subparagraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 563f.3, a person who serves as a management official of a depository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)) and may continue to serve until November 10, 1988, despite the occurrence of any changes in circumstances, whether or not those changes in circumstances occurred prior to November 30, 1983.

4. Revise § 563f.6 to read as follows:

§ 563f.6 Changes in circumstances.

(a) *Nongrandfathered interlocks.* If a person's service as a management official is not grandfathered under § 563f.5 of this part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's nongrandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to established a shorter period.

(Secs. 206, 207, 209, 92 Stat. 3674, 3675 (12 U.S.C. 3205, 3206, 3207, *as amended by* International Banking Facility Deposit

Insurance Act, Pub. L. No. 97-110, 302 (December 28, 1981)); Reorg. Plan No. 3 of 1947, 3 CFR 1949-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

BILLING CODE 6720-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 26

[Docket No. 83-47]

Management Official Interlocks

For the reasons set out in the preamble, 12 CFR Part 26 is amended as follows:

PART 26—[AMENDED]

1. The authority citation for Part 26 reads as follows:

Authority: Depository Institution Management Interlocks Act, 92 Stat. 3672 (12 U.S.C. 3201 *et seq.*)

2. Section 26.2(h), (i) and (l) are revised as follows:

§ 26.2 Definitions.

* * * * *

(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. § 3201(4)).

(i) "Office" means a principal or branch office of a depository institution located in the United States. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of all of its subsidiary affiliates, except that "total assets" of a diversified savings and loan holding company as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

* * * * *

3. Section 26.3 (a) and (b) are revised as follows:

§ 26.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the SMSA as a depository institution affiliate of the other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

* * * * *

4. Section 26.4 is amended by revising paragraph (b) introductory text paragraphs (b) (1), (2), (3), and (5) and paragraph (c) to read as follows:

§ 26.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of a national bank, bank located in the District of Columbia, or an affiliate of either may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the Comptroller shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) the relationship is necessary to provide management or operating expertise to the organization specified in paragraph (b)(1)(i) or (ii) of this section (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly-chartered organizaton.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly-chartered organization; (ii) no interlocking relationship permitted by this subparagraph shall continue for more than two years after the newly-chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations

(or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, provided: (i) The relationship is necessary to provide management or operating expertise to such organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officals due to changes in circumstances.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 26.6, the affected management officials may continue to serve in excess of the time periods specified in § 26.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization demonstrates that, absent a grant of relief in accordance with this paragraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a 15 month period; and (iv) the depository organization develops a plan for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to or in lieu of the foregoing may be imposed by the Federal supervisory agency. In evaluating requests made pursuant to this paragraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 26.3, a person who serves as a management official of a depository organization and of non-depository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the non-depository organization becomes a diversified savings and loan holding company as that term is defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)) and may continue to serve until November 10, 1988, despite the occurrence of any subsequent changes in circumstances, whether or not those changes in circumstances occurred prior to November 30, 1983.

5. Section 26.6 is revised as follows:

§ 26.6 Changes in circumstances.

(a) *Non-grandfathered interlocks.* If a person's service as a management official is not grandfathered under § 26.5 of this Part. The person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's non-grandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

Dated: September 28, 1983.

C. T. Conover,

Comptroller of the Currency.

BILLING CODE 4810-33-M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

Management Official Interlocks

12 CFR Part 212 is amended as follows:

PART 212—[AMENDED]

1. The authority citation for Part 212 reads as follows:

Authority: 12 U.S.C. 3201 *et seq.*

2. Section 212.1(h), (i) and (l) are revised as follows:

§212.2 Definitions.

* * * * *

(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose managment functions relate principally to the business outside the United States of a foreign commerical bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(i) "Office" means a principal or branch office, located in the United States, of a depository institution. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The "total assets" of a depository holding company include the total assets of all of its subsidiary affiliates, except that "total assets" of a diversified savings and loan holding company, as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commerical bank means the total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commerical bank.

* * * * *

3. Section 212.3(a) and paragraph (b) introductory text, and paragraphs (b) (1) and (3) are revised to read as follows:

§ 212.3 General Prohibitions.

(a) *Community.* A management official of a depository organization

may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

* * * * *

(3) One is a depository institution that has an office in the same SMSA as a depository affiliate of the other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

4. Section 212.4 is amended by revising paragraph (b) introductory text, paragraphs (b)(1), (2), (3), and (5), and paragraph (c) to read as follows:

§ 212.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of a state member bank, bank holding company, or an affiliate of either, may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the Board shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The relationship is necessary to provide management or operating expertise to the organization specified in paragraph (b)(1) (i) or (ii) of this section; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly-chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly-chartered organization; (ii) no interlocking relationship permitted by this paragraph shall continue for more than two years after the newly-chartered organization commences business; and (iii) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to such organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to changes in circumstances.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 212.6 of this Part, the affected management officials may continue to serve in excess of the time periods specified in § 212.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization demonstrates that, absent a grant of relief in accordance with this paragraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a fifteen-month period; and (iv) the depository organization develops a plan for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to, or in lieu of, the foregoing may be imposed by the appropriate Federal supervisory agency. In evaluating requests made pursuant to this paragraph, the appropriate Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 212.3, a person who serves as a management official of a depository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), and may continue to serve until November 10, 1988, despite the occurrence of any subsequent changes in circumstances, whether or not those changes in circumstances occurred prior to November 30, 1983.

5. Section 212.6 is revised to read as follows:

§ 212.6 Changes in circumstances.

(a) *Nongrandfathered interlocks.* If a person's service as a management official is not grandfathered under § 212.5 of this part, the person's service must be terminated if a change in

circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's nongrandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

By order of the Board of Governors of the Federal Reserve System, effective October 21, 1983.

William W. Wiles,

Secretary of the Board.

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

Management Official Interlocks

Title 12 CFR Part 348 is amended as follows:

PART 348—[AMENDED]

1. The authority citation for Part 348 reads as follows:

Authority: Sec. 209, Pub L. No. 95–630, 92 Stat. 3675 (12 U.S.C. 3207).

2. Section 348.2 (h), (i), and (l) are amended to read as follows:

§ 348.2 Definitions.

* * * * *

(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees *(e.g.,* a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management function relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisions of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(i) "Office" means a principal or branch office of a depository institution located in the United States. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of all of its subsidiary affiliates, except that "total assets" of a diversified savings and loan holding company, as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

* * * * *

3. Paragraphs (a) and (b) of § 348.3 are revised as follows:

§ 348.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area* ("SMSA"). A management official of a depository organization may not serve at the same time as a management official or another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the same SMSA as a depository institution affiliate of the other and either the depository institution or the depository institution affiliate has total assets of $20 million or more.

* * * * *

(4) Paragraphs (b) introductory text, (b) (1), (2), (3), and (5), and (c) of § 348.4 are revised as follows:

§ 348.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by agency order.* A management official or a prospective management official of an insured nonmember bank or any affiliate thereof may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlocks Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications set out below is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the FDIC shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low-income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low-income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The relationship is necessary to provide management or operating expertise to the organization specified in paragraph (b)(1) (i) or (ii) above; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly-chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or affiliates thereof) is a newly-chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly-created organization; (ii) no interlocking relationship permitted by this paragraph shall continue for more than two years after the newly-chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to such organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to change in circumstance.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 348.6 of this part, the affected management officials may continue to serve in excess of the time periods specified in § 348.6, Provided That: (i) the depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization demonstrates that, absent a grant of relief in accordance with this paragraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a fifteen-month period; and (iv) the depository organization develops a plan for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to or in lieu of the foregoing may be imposed by the Federal supervisory agency. In evaluating requests made pursuant to this paragraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 348.3, a person who serves as a management official of a depository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)), and may continue to serve until November 10, 1988, despite the occurrence of any changes in circumstances, whether or not those changes in circumstances occurred prior to November 30, 1983.

5. Section 348.6 is revised to read as follows:

§ 348.6 Changes in circumstances.

(a) *Non-grandfathered interlocks.* If a person's service as a management official is not grandfathered under § 348.5 of this part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger, or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's nongrandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

By Order of the Board of Directors of the Federal Deposit Insurance Corporation this 12th day of September 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

BILLING CODE 6714-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 711

Management Official Interlocks

1. The authority citation for Part 711 reads as follows:

Authority: Depository Institution Management Interlocks Act, 92 Stat. 3674 (12 U.S.C. 3201 et. seq.)

PART 711—[AMENDED]

2. Paragraphs (h), (i) and (l) of § 711.2 are revised as follows:

§ 711.2 Definitions.

* * * * *

(h)(1) "Management official" means (i) an employee or officer with management functions (including a branch manager); (ii) a director (including an advisory director or honorary director); (iii) a trustee of a business organization under the control of trustees (*e.g.*, a mutual savings bank); or (iv) any person who has a representative or nominee serving in any such capacity. (2) "Management official" does not include (i) a person whose management functions relate exclusively to the business of retail merchandising or manufacturing; (ii) a person whose management functions relate principally to the business outside the United States of a foreign commercial bank; or (iii) persons described in the provisos of section 202(4) of the Interlocks Act (12 U.S.C. 3201(4)).

(i) "Office" means a principal or branch office of a depository institution located in the United States. "Office" does not include a representative office of a foreign commercial bank, an electronic terminal, or a loan production office, or any office of a depository holding company.

* * * * *

(l) "Total assets" means assets measured on a consolidated basis as of the close of the organization's last fiscal year. The total assets of a depository holding company include the total assets of all of its subsidiary affiliates, except that "total assets" of a diversified savings and loan holding company as defined in section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730(a)(1)(F)), or of a bank holding company that is exempt from the prohibitions of section 4 of the Bank Holding Company Act of 1956 pursuant to an order issued under section 4(d) of that Act (12 U.S.C. 1843(d)), means only the total assets of its depository institution affiliate. "Total assets" of a United States branch or agency of a foreign commercial bank means total assets of such branch or agency itself exclusive of the assets of the other offices of the foreign commercial bank.

3. Paragraphs (a) and (b) of § 711.3 are revised as follows:

§ 711.3 General prohibitions.

(a) *Community.* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions and each has an office in the same community;

(2) Offices of depository institution affiliates of both are located in the same community; or

(3) One is a depository institution that has an office in the same community as a depository institution affiliate of the other.

(b) *Standard Metropolitan Statistical Area ("SMSA").* A management official of a depository organization may not serve at the same time as a management official of another depository organization not affiliated with it if:

(1) Both are depository institutions, each has an office in the same SMSA, and either institution has total assets of $20 million or more;

(2) Offices of depository institution affiliates of both are located in the same SMSA and either of the depository institution affiliates has total assets of $20 million or more; or

(3) One is a depository institution that has an office in the same SMSA as a depository institution affiliate of the other and either the depository institution or the despository institution affiliate has total assets of $20 million or more.

* * * * *

4. Section 711.4 is amended by revising the introductory language to paragraph (b), paragraphs (b) (1), (2), (3) and (5) and paragraph (c), to read as follows:

§ 711.4 Permitted interlocking relationships.

* * * * *

(b) *Interlocking relationships permitted by Board order.* A management official or a prospective management official of an insured institution, a savings and loan holding company, or an affiliate of either may enter into an otherwise prohibited interlocking relationship with a depository organization that falls within one of the classifications enumerated in this paragraph (b) if the Federal supervisory agency (as specified in section 207 of the Interlock Act) of the organization that falls within one of the classifications determines that the relationship meets the requirements set forth in this paragraph. If the depository organization that falls within one of the classifications is not subject to the interlocks regulations of any of the Federal supervisory agencies, then the Board shall determine whether the relationship meets the requirements of this paragraph.

(1) *Organization in low-income area; minority or women's organization.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations is (i) located, or to be located, in a low-income or other economically depressed area, or (ii) controlled or managed by persons who are members of minority groups or by women, subject to the following conditions: (A) The relationship is necessary to provide management or operating expertise to the organization specified in paragraphs (b)(1) (i) or (ii) of this section; (B) no interlocking relationship permitted by this paragraph shall continue for more than five years; and (C) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(2) *Newly chartered organization.* A person may serve at the same time as a management official of two or more depository organizations if one of the depository organizations (or an affiliate thereof) is a newly chartered organization, subject to the following conditions: (i) The relationship is necessary to provide management or operating expertise to the newly created organization; (ii) no interlocking relationship permitted by this paragraph shall continue for more than two years after the newly chartered organization commences business; and (iii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

(3) *Conditions endangering safety or soundness.* A person may serve at the same time as a management official of two or more depository organizations (or affiliates thereof) if one of the depository organizations faces conditions endangering the organization's safety or soundness, provided: (i) The relationship is necessary to provide management or operating expertise to the organization facing conditions endangering safety or soundness; and (ii) other conditions in addition to or in lieu of the foregoing may be imposed by the appropriate Federal supervisory agency in any specific case.

* * * * *

(5) *Loss of management officials due to changes in circumstances.* If a depository organization is likely to lose 30 percent or more of its directors or of its total management officials due to a change in circumstances described in § 711.6 of this Part, the affected management officials may continue to serve in excess of the time periods specified in § 711.6, provided that: (i) The depository organization's prospective loss of management officials or directors will be disruptive to the internal management of the depository organization; (ii) the depository organization demonstrates that, absent a grant of relief in accordance with this paragraph, 30 percent or more of either its directors or management officials are likely to sever their interlocking relationships with the depository organization; (iii) if the prospective losses of management officials resulted from more than one change in circumstances, such changes in circumstances must have occurred within a 15-month period; and (iv) the depository organization develops a plan for the orderly termination of service by each such management official over a period not longer than 30 months after the change in circumstances which caused the person's service to become prohibited (but if the loss of management officials is the result of more than one change in circumstances, the 30-month period is measured from the first change in circumstances). Other conditions in addition to or in lieu of the foregoing may be imposed by the Federal supervisory agency. In evaluating the request submitted pursuant to this paragraph, the Federal supervisory agency will presume that a director who also is a paid, full-time employee of the depository organization, absent unusual circumstances, will not

resign from the position of director with that depository organization. This presumption may, however, be rebutted by a showing that such unusual circumstances exist.

(c) *Diversified savings and loan holding company.* Notwithstanding § 711.3, a person who serves as a management official of a depository organization and of a nondepository organization (or any subsidiary thereof) is not prohibited from continuing the interlocking service when the nondepository organization becomes a diversified savings and loan holding company as that term is defined in § 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F)) and may continue to serve until November 10, 1988, despite the occurrence of any changes in circumstances, whether or not those changes in circumstances occurred prior to November 30, 1983.

5. Section 711.6 is revised to read as follows:

§ 711.6 Changes in circumstances.

(a) *Nongrandfathered interlocks.* If a person's service as a management official is not grandfathered under § 711.5 of this Part, the person's service must be terminated if a change in circumstances causes such service to become prohibited. Such a change may include, but is not limited to, an increase in asset size of an organization due to natural growth, a change in SMSA or community boundaries or the designation of a new SMSA, an acquisition, merger or consolidation, the establishment of an office, or a disaffiliation.

(b) *Grace period.* If a person's nongrandfathered service as a management official becomes prohibited under paragraph (a) of this section, the person may continue to serve as a management official of all organizations involved in the prohibited interlocking relationship until 15 months after the date on which the change in circumstances that caused the interlock to become prohibited occurred, unless the appropriate Federal supervisory agency or agencies take affirmative action in an individual case to establish a shorter period.

Dated: September 26, 1983.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

[FR Doc. 83-29472 Filed 10-31-83; 8:45 am]

BILLING CODE 7535-01-M

RAILROAD RETIREMENT BOARD

20 CFR Part 396

Regulations Under Section 106 of the Rock Island Railroad Transition and Employee Assistance Act

AGENCY: Railroad Retirement Board.

ACTION: Interim final rule.

SUMMARY: The Railroad Retirement Board hereby adopts a new Part 396 of its regulations to provide for administration of the benefit schedules issued pursuant to section 106 of the Rock Island Railroad Transition and Employee Assistance Act. The benefit schedule, as prescribed by the Federal Railroad Administrator, provides for the payment of benefits of former employees of the Rock Island Railroad. The Railroad Retirement Board has the responsibility to administer the benefit schedule, including the adjudication of claims and award of benefits. This new Part explains the types of benefits that are available, the eligibility requirements for these benefits, and the procedures to be followed in claiming benefits.

EFFECTIVE DATE: November 1, 1983.

ADDRESS: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: James Verplaetse, Bureau of Unemployment and Sickness Insurance, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4830 (FTS 387-4830).

SUPPLEMENTARY INFORMATION: The Board is adopting this new Part as an interim final rule because there is not sufficient time to allow for public comment. Funds to pay benefits under the benefit schedule became available October 1, 1983, and under current law no benefits may be paid after April 1, 1984; therefore, it is necessary that this regulation become effective as soon as possible.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required.

List of Subjects in 20 CFR Part 396

Railroad employees.

Chapter II of Title 20 of the Code of Federal Regulations is amended by adding the following new Part under Subchapter I:

PART 396—REGULATIONS UNDER SECTION 106 OF THE ROCK ISLAND RAILROAD TRANSITION AND EMPLOYEE ASSISTANCE ACT

Sec.

396.1 Purpose.
396.2 Definitions.
396.3 Application for benefits.
396.4 Benefit limit and payment.
396.5 Lump sum reimbursement.
396.6 Retroactive unemployment subsistence allowance.
396.7 Offers of employment.
396.8 Initial determinations and arbitration.
396.9 Recovery of benefits.
396.10 Employer reports.

Authority: 45 U.S.C. 362; 45 U.S.C. 1005; Pub. L. 96-254, 94 Stat. 401; Pub. L. 97-468, 96 Stat. 2543, 2546.

§ 396.1 Purpose.

The Railroad Retirement Board is delegated the responsibility for administering the benefit schedule prescribed by the United States Department of Transportation, Federal Railroad Administrator, on April 28, 1983 pursuant to section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005), as amended by the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982 (Title II of Pub. L. 97-468, 96 Stat. 2543, 2546). The benefit schedule sets forth what benefits are payable to employees of the Chicago, Rock Island and Pacific Railroad Company who are adversely affected as a result of reductions in service by that railroad. The regulations in this Part describe the benefits provided for in the benefit schedule, set forth the requirements for eligibility for such benefits, provide for the computation of benefits, and set forth the procedures to be followed in claiming benefits and in contesting any adverse determinations with respect to claims for benefits. Benefit schedules have been distributed to each Railroad Retirement Board district office and may be inspected at any of those offices.

§ 396.2 Definitions.

As used in this Part—

"Administrator" means the Federal Railroad Administrator, acting as the delegate of the Secretary of Transportation pursuant to section 1.49 of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.49).

"Acquiring rail carrier" means (a) a carrier, as defined in Article I, section 1(a) of the March 4, 1980, Hiring Agreement, that purchased or entered into a long-term lease of a rail line of the Railroad prior to June 30, 1982, (b) the

operator of rail commuter service on the lines of the Railroad for the Regional Transportation Authority of Illinois, including an affiliate or subsidiary of such Authority or a contract operator.

"Adversely affected" means loss of employment or loss of future employment opportunities with the Railroad as a result of a reduction in service by the Railroad on or after December 4, 1979, provided however, that an employee who accepted a position with the Trustee and who remained employed by the Trustee through June 30, 1982, would not be considered adversely affected.

"Board" means the Railroad Retirement Board.

"Change of residence" means change of place of residence occasioned by a change in work location to a place that is more than 30 normal highway route miles from the residence and also farther from the residence than the former work location.

"Employee" means any person who had an active or residual employment relationship with the Railroad as of August 1, 1979, and who—

(a) performed compensated service at any time during the month of August 1979, or was on authorized vacation or military leave at any time during that month;

(b) was furloughed as of August 1, 1979 and claimed and was allowed railroad unemployment insurance benefits for at least one day during the month of August 1979;

(c) was not in active service on August 1, 1979, due to illness and received RUIA sickness benefits for at least one day of sickness in August 1979; or

(d) was on leave of absence from the Railroad as of August 1, 1979, in order to serve as a collective-bargaining representative elected by employees of the Railroad, including the estate of any employee described in paragraphs (i) through (iv), as represented by the administrator or executor of such estate appointed under the laws of the state of the employee's domicile at death, but not including any individual serving as president, vice president, secretary, treasurer, comptroller, counsel, member of the board of directors of the Railroad, or any other person performing such functions.

"Qualified institution" means an educational institution accredited for payment by the Veterans Administration under chapter 36 of title 38 of the United States Code or a State-accredited institution furnishing education for adults.

"Railroad" refers to the Chicago, Rock Island and Pacific Railroad Company, the estate of such Company in its reorganization proceeding, or the trustee appointed in such proceeding.

"RTA" means the operator of rail commuter service on the lines of the Railroad for the Regional Transportation Authority of Illinois, including an affiliate or subsidiary of such authority or a contract operator.

"RUIA" refers to the Railroad Unemployment Insurance Act, as amended, 45 U.S.C. 351 *et. seq.*

"Subsistence fund" means the amount appropriated for the payment of benefits under this schedule, less the amount estimated by the Board to be required for payment of lump sum reimbursements under section 4 of this schedule.

"Year of service" means each 12 months of service prior to January 1, 1980, creditable under the Railroad Retirement Act of 1974, as amended, as determined from the Board's record of the employee's service and compensation.

§ 396.3 Application for benefits.

(a) *Application.* An application for benefits is to be made on the form prescribed by the Board and shall be filed at any Board office within the time limits set forth in subsection (c) of this section. If an application is not filed on time, no benefits shall be paid or payable under the benefit schedule. The application form shall include a statement of the election and waiver described in subsection (b) of this section.

(b) *Election-Waiver.* The filing of an application for benefits shall be deemed to be an election by the employee to receive benefits under the benefit schedule prescribed by the Federal Railroad Administrator and a waiver of any employee protection benefits otherwise available to such employee (other than moving expenses) under the Bankruptcy Act, subtitle IV of Title 49 of the United States Codes, or any applicable contract or agreement, other than the March 4, 1980, Hiring Agreement.

(c) *Time limits.* An employee shall have until January 31, 1984, to file his or her application. An application shall be considered filed on the date that it is received at an office of the Board.

§ 396.4 Benefit limit and payment.

(a) Total benefits available under the benefit schedule are limited to $35 million or such other sum as may be appropriated for the purposes of the schedule, whichever is less. The United States (including any department, agency, or instrumentality thereof) assumes no liability under the benefit schedule beyond the express terms of the benefit schedule not in excess of funds appropriated and available for expenditure for benefits thereunder. No employee may receive benefits under the benefit schedule in excess of $20,000.

(b) If, for whatever reason, a benefit, due to an individual pursuant to the benefit schedule, is not paid on or before April 1, 1984, it cannot be paid.

§ 396.5 Lump sum reimbursement.

(a) *Maximum lump sum amount.* "Maximum lump sum amount" means, with respect to an employee with at least one year of service, $1,000; and with respect to an employee with less than one year of service, $500. No employee shall be eligible to receive more than the maximum lump sum amount ($1,000 or $500, as applicable) under this section.

(b) *Constructive reimbursement—no offer of employment.* An employee (other than an employee who received an offer of employment described in subsection (c) of this section) who was adversely affected shall be eligible to receive a payment in constructive reimbursement of expenses such as the following: retraining expenses, moving expenses, and health and welfare premiums or services. Such payment shall equal the maximum lump sum amount provided in subsection (a) of this section.

(c) *Constructive reimbursement—offer of employment.* An employee who, prior to June 30, 1982, received an offer of permanent employment in his or her craft or class from an acquiring rail carrier under the March 4, 1980, Hiring Agreement, or the RTA, shall—

(1) if such employee made a change of residence (from his or her place of residence as a Railroad employee) in order to accept rail employment, be eligible to receive a payment in the maximum lump sum amount in constructive reimbursement of expenses incurred in such relocation;

(2) if such employee, prior to receiving such offer of employment, claimed and received unemployment benefits under the RUIA for one or more registration periods that began on or after December 4, 1979, in which each day was claimed and allowed as a day of unemployment, be eligible to receive a payment equal to $125 multiplied by the number of such registration periods of unemployment, not to exceed the maximum lump sum amount; or

(3) if such employee, prior to receiving such offer of employment, entered upon a program of retraining for a new occupation and incurred actual expenses or obligations attendant to

such program, be eligible to receive a payment equal to the amount of actual expenses paid by such employee to a qualified institution, not to exceed the maximum lump sum amount.

An employee who is eligible to receive lump sum payments under both subparagraph (2) and subparagraph (3) of this subsection shall receive a payment equal to the aggregate of such payments not exceed the maximum lump sum amount.

§ 396.6 Retroactive unemployment subsistence allowance.

(a) *Eligibility.* An employee who was adversely affected and who claimed and was allowed unemployment insurance benefits for one or more days of unemployment under the RUIA with respect to the period December 4, 1979, through June 30, 1982, shall be eligible to receive a retroactive unemployment subsistence allowance to be paid, at the discretion of the Board, in one or more payments as necessary to assure prompt and equitable distribution of benefits. No employee may receive retroactive unemployment subsistence allowance benefits based on any day of RUIA unemployment after which the employee has received an offer of permanent employment in the employee's class or craft from an acquiring rail carrier under the March 4, 1980, Hiring Agreement, or had received and refused an offer of permanent employment with the RTA.

(b) *Computation.* The retroactive unemployment subsistence allowance shall be based on the number of days for which the applicant claimed and received unemployment benefits under the RUIA for registration periods beginning during the period December 4, 1979, through June 30, 1982. The daily benefit rate for an employee with less than 10 years of service shall be .75 times the rate of an employee with 10 or more years of service. The board shall compute allowable benefits by a method that takes into consideration the aggregate number of days of unemployment for all claimants and the amount available for payment of benefits in the Subsistence Fund. There shall be counted as a day ~~or days of~~ RUIA unemployment any uninterrupted period with respect to which an employee claims and is allowed sickness benefits under the RUIA that either immediately precedes or immediately follows a day of unemployment under the RUIA that is creditable for such computations. The Board shall not include in its computations of final benefit amounts under this section any day of unemployment with respect to which benefits paid have been determined by the Board to be recoverable.

§ 396.7 Offers of employment.

An employee shall not be deemed to have received an offer of employment for purposes of §§ 396.5 or 396.6 of this part if—

(a) in the case of an offer from the RTA, the employee declined such offer but had not previously declined any offer of employment under the March 4, 1980, Hiring Agreement; and

(b) in the case of an offer from an acquiring carrier under the March 4, 1980, Hiring Agreement, the employee declined such offer but (1) did not by such declination exhaust his or her rights to priority hiring under such Agreement, and (2) had not previously declined an offer of employment in his or her class or craft from the RTA.

§ 396.8 Initial determinations and arbitration.

(a) *Initial determinations with respect to applications and claims.* Each claim for benefits under this Part shall be adjudicated and the initial determination with respect thereto shall be made upon the basis of the application and any statement or supplements filed in connection therewith, the evidence submitted by the claimant, and evidence otherwise available.

(b) *Notice of initial determination.* Notice of an initial determination that denies in whole or in part a claim for benefits shall contain a brief statement of the reason for the denial and shall be communicated in writing to the claimant within 15 days after such initial determination is made. Such notice shall contain an explanation of the procedures to be followed by the claimant to contest such determination. Notice shall be deemed to have been communicated to the claimant when it is mailed to the claimant at the latest address furnished by him or her.

(c) *Arbitration.* (1) Within 15 days after notice of an initial determination has been issued pursuant to 396.8(b), any claimant who is dissatisfied with the decision may request resolution of the dispute by final and binding arbitration. As used in this section the term "dispute" refers to any dispute over an employee's eligibility or claim which involves factual issues or the construction of the benefit schedule and excludes issues which are solely computational in nature or only involve questions of law or the benefit schedule prescribed pursuant to the law. A claimant may request final and binding arbitration by mailing a letter to the Director of Unemployment and Sickness Insurance, stating the basis for the request. Unless a request for final and binding arbitration is filed by the claimant in the manner and within the time provided herein, all rights to review of the initial determination are forfeited.

(2) If the Director of Unemployment and Sickness Insurance finds that the request for final and binding arbitration involves issues which are solely computational in nature or only questions of law or the benefit schedule prescribed pursuant to the law, the Director of Unemployment and Sickness Insurance will review all evidence presented and decide whether to sustain or reverse the initial determination. Notice of the decision made upon the review shall be communicated to the claimant in writing within 15 days after such decision is made. Such decision upon review shall be final, binding and conclusive.

(3) As soon as possible after a claimant has filed a request for arbitration of a dispute, the Ordering Officer, who shall be named by the Director of Unemployment and Sickness Insurance, shall appoint an arbitrator to hear the dispute. Such arbitrator shall not have any interest in the parties or in the outcome of the proceeding, or have participated in the initial determination on the claim, or have any other interest that might prevent a fair and impartial hearing. Upon appointing an arbitrator and scheduling hearing on the dispute, the Ordering Officer shall provide written notice to the properly interested parties of the hearing identifying the appointed arbitrator and specifying the place and time of the hearing.

(4) The decision of the arbitrator shall be mailed to the Ordering Officer who shall within five days from acceptance of the decision mail a copy of the decision to the claimant and furnish a copy thereof to the Director of Unemployment and Sickness Insurance. The decision of the arbitrator shall be final, binding and conclusive.

§ 396.9 Recovery of benefits.

(a) *Authorization.* If it is determined by the Board that benefits under any provision of this Part have been paid erroneously, the erroneous payment shall be recovered in full unless a compromise is approved under subsection (c) of this section. An erroneous payment may be recovered by any one or a combination of the methods described in subsection (b) of this section.

(b) *Methods of recovery.*—(1) *Recovery by cash payment.* The Board shall have the right to require that amounts recoverable be immediately

and fully repaid in cash, and any debtor shall have the absolute right to repay such amount recoverable in this manner. However, if the debtor is financially unable to pay the indebtedness in a lump sum, payment may be accepted in regular installments. The amount and frequency of such installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. Whenever possible, installment payments should be sufficient in amounts and frequency to liquidate the debt in not more than three years.

(2) *Recovery by setoff.* An erroneous payment of benefits may be recovered by setoff against any benefit to which the employee is entitled under any Act administered by the Board. In the case of that individual's death, the erroneous payment may be recovered from any payments due under those Acts to his or her estate, designee, next of kin, legal representative, or surviving spouse. If full recovery is not effected by setoff, the balance due may be recovered by one or more of the other methods described in this Part. If the individual dies before recovery is completed, recovery shall be made from his or her estate or heirs.

(c) *Compromise of amounts recoverable.* (1) The Board or the Director of Unemployment and Sickness Insurance may compromise an amount recoverable, provided such amount does not exceed $20,000. Compromise of an amount recoverable may not be considered in any case in which there is an indication of fraud, the presentation of a false claim, or misrepresentation. Compromise is at all times within the discretionary authority of the Board or the Director of Unemployment and Sickness Insurance.

(2) The Board or the Director of Unemployment and Sickness Insurance shall compromise claims only pursuant to standards established by the Comptroller General and the Attorney General.

(d) *Suspension or termination of collection action.* Collection action on a Board claim may be suspended or terminated under the following conditions:

(1) Collection action on a Board claim may be suspended temporarily when the debtor cannot be located and there is reason to believe that future collection action may be productive or that collection may be effected by setoff in the near future.

(2) Collection action may be terminated when:

(i) the debtor is unable to make any substantial payment;

(ii) the debtor cannot be located and setoff is too remote to justify retention of the claim;

(iii) the cost of collection action will exceed the amount recoverable;

(iv) the claim is legally without merit or cannot be substantiated by the evidence.

§ 396.10 Employer reports.

Upon request, the Chicago, Rock Island and Pacific Railroad and any acquiring carrier shall provide any information in its possession that the Board might reasonably require to determine eligibility for benefits. The Board will restrict its request to just that information that it needs for proper administration. In the event of any refusal to provide relevant information, the provisions of sections 12 (a) and (b) of the Railroad Unemployment Insurance Act (45 U.S.C. 362 (a) and (b)) shall be available to the Board to enforce its request.

Dated: October 25, 1983.

By Authority of the Board.

Beatrice Ezerski,

Secretary.

[FR Doc. 83-29504 Filed 10-31-83; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 76N-0366]

Provisional Listing of D&C Yellow No. 10; Postponement of Closing Date and Stay of Effectiveness

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Yellow No. 10 for use as a color additive in drugs and cosmetics. The new closing date will be January 3, 1984. FDA is establishing a new closing date for D&C Yellow No. 10 to give the agency time to complete its evaluation of objections received in response to the final regulation approving the petition for the permanent listing of D&C Yellow No. 10. The final rule that permanently lists D&C Yellow No. 10 and that removes it from the provisional list is stayed until January 3, 1984.

DATES: Effective November 1, 1983, the new closing date for D&C Yellow No. 10 will be January 3, 1984. The amendments to 21 CFR 74.1710, 74.2710, 81.1, 81.25, 81.27, and 82.1710 that were published on August 30, 1983 (48 FR 39217) are stayed until January 3, 1984.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 30, 1983 (48 FR 39217), FDA published a final rule that would "permanently" list D&C Yellow No. 10 for use in drugs and cosmetics, except for use in the area of the eye. The final rule also amended § 81.1(b) (21 CFR 81.1(b) by removing D&C Yellow No. 10 from the provisional list of color additives, § 81.25 (21 CFR 81.25) by removing paragraphs (a)(1), (b)(1)(i), and (c)(1), and § 81.27(d) (21 CFR 81.27(d)) by removing D&C Yellow No. 10 from the conditions of provisional listing. Additionally, the final rule amended § 82.1710 (21 CFR 82.1710) for D&C Yellow No. 10 to reference § 74.1710(a)(1) and (b) (21 CFR 74.1710(a)(1) and (b)).

The agency stated that the final rule would become effective on September 30, 1983, unless stayed by the filing of proper objections. At the same time, to provide for the continued use of D&C Yellow No. 10 during the period established for receipt and evaluation of objections, FDA established the current closing date of November 1, 1983, for the provisional listing of D&C Yellow No. 10 for use in drugs and cosmetics (48 FR 39220).

FDA received three letters objecting to the listing regulation. Because of the objections, under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(2)), the final rule (48 FR 39217) that permanently lists D&C Yellow No. 10 and that removes this color additive from the provisional list is stayed until the agency can rule on the objections. FDA expects that it will need only a brief time to complete its evaluation of the objections. Therefore, FDA concludes that only a brief postponement is necessary at this time. The regulation set forth below will postpone the November 1, 1983 closing date for the provisional listing of D&C Yellow No. 10 Until January 3, 1984.

Because of the short time until the November 1, 1983 closing date, FDA concludes that notice and public procedure on this regulation is impracticable. Thus, good cause exists for issuing the postponement as a final rule. Moreover, this action is consistent with the protection of the public health because the agency has previously concluded that D&C Yellow No. 10 is

safe for its intended uses. This regulation will permit the uninterrupted use of this color additive until January 3, 1984. To prevent any interruption in the provisional listing of D&C Yellow No. 10 and in accordance with 5 U.S.C. 553(d)(1) and (3), this final rule is being made effective on November 1, 1983.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

PARTS 74, 81 AND 82 [AMENDED]

§§ 74.1710 and 79.2710 [Effective date temporarily stayed]

§§ 81.1, 81.25 and 81.27 and 82.1710 [Effective dates temporarily stayed in part]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the effective date of the final rule (adding 21 CFR 74.1710 and 74.2710 and amending 21 CFR 81.1(b), 81.25(a)(1), (b)(1)(i), and (c)(1), and 81.27(d) and 82.1710), which published in the **Federal Register** of August 30, 1983 (48 FR 39217), is stayed until January 3, 1984, and Part 81, *General Specifications and General Restrictions for Provisional Color Additives for Use in Foods, Drugs, and Cosmetics*, is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing date for "D&C Yellow No. 10" in paragraph (b) to read "January 3, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing*, by revising the closing date for "D&C Yellow No. 10" in paragraph (d) to read "January 3, 1984."

Effective date. This final rule shall be effective November 1, 1983.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c) and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-29465 Filed 10-31-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

29 CFR Part 0

[Order No. 1033–83]

Delegation of Authority To Deputize Marshals

AGENCY: Office of the Attorney General, Justice.

ACTION: Final rule.

SUMMARY: This Order authorizes the Director of the United States Marshals service to deputize employees of private security companies so that they may provide courtroom security for federal judges in any district designated by the Director.

EFFECTIVE DATE: October 24, 1983.

FOR FURTHER INFORMATION CONTACT: William E. Hall, Director, United States Marshals Service Room 201, Tysons Corner Center Building, McLean, Virginia (285–1111).

SUPPLEMENTARY INFORMATION: The present delegation authority permits the Director to deputize employees of the federal government and state and local law enforcement officers. This Order expands the Director's authority so that he may also deputize employees of private security companies.

This Order is not a rule within the meaning of either Executive Order 12291, Section 1(a) or the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

The index term for Part 0 of Title 28 of the Code of Federal Regulations is as follows:

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies).

PART 0—[AMENDED]

By virtue of the authority vested in me as Attorney General by 28 U.S.C. 509, 510, 562 and 5 U.S.C. § 301, Part 0 of Title 28 of the Code of Federal Regulations is hereby amended as follows:

§ 0.112 [Amended]

1. Section 0.112 is amended by adding a sentence at the end, reading as follows:

* * * The Director is also authorized to deputize selected employees of private security companies to perform the functions of a U.S. Deputy Marshal in providing courtroom security for the Federal judiciary in any district designated by the Director.

Dated: October 24, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-29587 Filed 10-31-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Employment Standards Administration

29 CFR Parts 1 and 5

Procedures for Predetermination of Wage Rates; Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction and to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Technical amendments.

SUMMARY: This document amends certain sections of Department of Labor regulations relating to labor standards applicable to contracts for federally financed and assisted construction, in order to conform the regulations to recent changes in organizational subcomponents within the Wage and Hour Division of the Department's Employment Standards Administration.

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: 202–523–8305.

SUPPLEMENTARY INFORMATION: Pursuant to a recent reorganization in the national office of the Wage and Hour Division, certain functions relating to the administration of the labor standards provisions applicable to Federal and federally assisted construction contracts under the Davis-Bacon and Related Acts will no longer be performed by the Office of Government Contract Wage Standards (OGCWS). Procedural changes in the text of 29 CFR Parts 1 and 5 are therefore required. Moreover, because the designations of the organizational components or subordinate officials in the Wage and Hour Division have no effect on the vesting of the Wage and Hour Administrator's authority in a designee, it is unecessary to designate such components or subordinate officials in

the regulations. Accordingly, the current references to OGCWS, to the Deputy Administrator, and to the Assistant Administrator for Government Contract Wage Standards are being deleted.

Publication in Final

Since these revisions involve only procedural changes necessitated by agency reorganization and internal procedures and practices, notice of proposed rulemaking and public comment on this rule is found to be unnecessary. Futhermore, the Secretary has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. Therefore, these amendments to Parts 1 and 5 are adopted as a final rule without notice and comment and shall be effective immediately. See 5 U.S.C. 553(b) and 553(d).

Classification

This rule is not classified as a "rule" under Executive Order 12291 on Federal Regulations because it is a regulation relating to agency organization, management or personnel. See Section 1(a)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b) the requirements of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1165, 5 U.S.C. 601 et seq. pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

The rule is not subject to section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3504(h), since it does not require the collection of information.

List of Subjects

29 CFR Part 1

Administrative practice and procedures, Government Contracts, Labor, Minimum wages, Wages.

29 CFR Part 5

Administrative practice and procedures, Government contracts, Investigations, Labor, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Accordingly, 29 CFR Parts 1 and 5 are amended as set forth below.

Signed at Washington, D.C. on this 20th day of October 1983.

Robert B. Collyer

Deputy Under Secretary for Employment Standards.

William M. Otter,

Administrator, Wage and Hour Division.

PART 1—PROCEDURES FOR PREDETERMINATION OF WAGE RATES

1. In § 1.2, paragraph (c) is revised to read as follows:

§ 1.2 Definitions.[1]

* * * * *

(c) The term "Administrator" shall mean the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative.

* * * * *

2. In § 1.5, paragraph (a)(1) is revised to read as follows:

* * * * *

§ 1.5 Procedure for requesting wage determinations.

(a)(1) Except as provided in paragraph (b) of this section, the Federal agency shall initially request a wage determination under the Davis-Bacon Act or any of its related prevailing wage statutes by submitting Standard Form 308 to the Department of Labor at this address:

U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Branch of Construction Contract Wage Determination, Washington, D.C. 20210.

The agency shall check only those classifications on the applicable form which will be needed in the performance of the work. Inserting a note such as "entire schedule" or "all applicable classifications" is not sufficient. Additional classifications needed which are not on the form may be typed in the blank spaces or on a separate list and attached to the form.

* * * * *

Authority: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 29 U.S.C. 259; 40 U.S.C. 276a—276a–7; 40 U.S.C. 276c; and the laws listed in Appendix A of this Part.

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[1] * * *

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

3. In § 5.2, paragraph (b) is revised to read as follows:

§ 5.2 Definitions.

* * * * *

(b) The term "Administrator" means the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative.

* * * * *

4. In § 5.12, paragraph (d)(3)(i) is revised to read as follows:

§ 5.12 Debarment proceedings.

* * * * *

(d) * * *

(3)(i) A request for a determination of interest (or substantial interest, as appropriate), may be made by any interested party, including contractors or prospective contractors and associations of contractor's representatives of employees, and interested Government agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210.

Authority: 40 U.S.C. 276a–276a-7; 40 U.S. C. 276c; 40 U.S.C. 327–332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of this part.

[FR Doc. 83–29633 Filed 10–31–83; 8:45 am]

BILLING CODE 4510–27–M

VETERANS ADMINISTRATION

38 CFR Part 3

Ionizing Radiation Claims

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: A recent decision in the case of *Gott* v. *Nimmo* held that the texts of three documents, considered procedural by the Veterans Administration,

constituted rules and that they must be published in the **Federal Register** for public notice and comment before they could be used as a basis for adjudicating claims. The documents invalidated by the court were (1) a joint VA/Department of Defense memorandum of understanding concerning the processing of requests for information as to a veteran's exposure to ionizing radiation, (2) a VA program guide which provided background information on nuclear weapons testing and some general information on health effects of radiation, and (3) a portion of the Adjudication Procedure manual dealing with development of claims based on radiation exposure. Following standard rulemaking procedures, § 3.311 was created and is now set forth in final form, to replace the documents invalidated by the court. This section may now be used as the basis for development and adjudication of claims based on exposure to ionizing radiation. However, it should be noted that the decision in this case is being appealed, and if the Government is successful, this regulation may be rescinded.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Compensation and Pension Service (211B), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–3005.

SUPPLEMENTARY INFORMATION: On October 27, 1982 (47 FR 47602 to 47607) the VA published for comment three proposed regulations to comply with an order of the U.S. District Court for the District of Columbia. They consisted of the texts of three Agency documents relating to processing of claims for benefits based upon veterans' exposure to ionizing radiation in service. Based on the comments received, we have amended the original proposal and restructured it into one comprehensive regulation. The regulations previously proposed as 38 CFR 3.162, 3.163 and 3.164 have been consolidated into one regulation as § 3.311. Readers are reminded that the VA does not consider this informaton to be regulatory in nature and is appealing the court order which directed its publication. This regulation may be rescinded following appellate review of the underlying litigation.

Pursuant to court order, the regulations, as initially proposed, consisted of the verbatim texts of three documents which had originally been issued in 1979: a joint VA/Department of Defense memorandum of understanding concerning the processing of requests for information as to exposure of veterans to radiation during military service; a VA program guide providing background information to adjudication personnel concerning the atmospheric testing of atomic weapons and, generally, the health effects of exposure to ionizing radiation; and a section of a VA manual detailing procedures for procuring from claimants information concerning the circumstances of exposure.

The arrangement with the Department of Defense was formalized in response to the exigencies present in 1979 when, due to a recent increase in radiation claims activity, it was thought that the information-exchange procedure should be reduced to writing. At present, no documentary structure is needed; it is anticipated that DOD will continue to provide support in evidence development as it has for many years under existing statutory authority, i.e., 38 U.S.C. 3006. VA also considers it no longer necessary that there be VA issuances detailing much of the background information contained in the radiation program guide. This guide was originally promulgated in 1979, when claims based upon atomic-tests participation were relatively recent phenomena and only limited information was readily available to adjudication personnel. The circumstances of veterans' participation are by now more widely known, and detailed historical data are available from other authoritative sources. The program guide's very brief discussion of the health effects of radiation, limited to excerpts from a report by a Federal interagency study group, is no longer necessary in view of VA personnel's access to other, more comprehensive scientific compilations. In any event, inclusion of reference material of this type is not compatible with CFR formats.

The revised rule, condensed to one section to be added to title 38, Code of Federal Regulations, retains much of the procedural instruction from the manual provision, describes how conflicting information is to be resolved in a veteran's favor, and identifies criteria to be considered in adjudicating claims. With regard to subsection (c) of the current proposal, setting forth adjudication policies, it should be noted that VA policy of longstanding effect, 38 CFR 3.102, mandates the resolution of reasonable doubt in favor of any claimant. The policies set out with respect to presence near a nuclear detonation and degree of individual exposure merely reflect the application of the reasonable doubt doctrine in these aspects of radiation claims.

Publication of the initial proposal educed comments on behalf of five groups: The National Association of Atomic Veterans, the National Veterans Law Center, the Environmental Policy Institute, the National Center for Atmospheric Research, and the Natural Rights Center. One group, citing in part the outdated nature of some of the material in the October 27 proposal, recommended that it should be withdrawn. This recommendation appears anomalous, as it was the same group which, in its role as plaintiffs' counsel in the case of *Gott* v. *Nimmo*, No. 80–0906 (D. D.C. September 7, 1982), *appeal pending*, Nos. 82–1159, 82–1448, 82–1454 (D.C. Cir.), sought and obtained a court order that the proposal be published in its verbatim form. In any event, the Agency recognizes that the October 27 proposal, embodying as it did three documents issued in 1979 and rescinded in 1982, did not reflect current information in some respects. A caveat to that effect accompanied publication. We have, however, amended and restructured the original proposal to partially accommodate this comment.

All the groups responding to the proposal commented negatively as to the quality of dose information supplied VA by the DNA (Defense Nuclear Agency). The 1979 program guide addressed this concern by pointing out the recognized potential for variations in film badge and dosimeter readings, as well as the possibility that unrecorded radiation exposure might have been incurred due to inhalation or ingestion of radioactive particles. The new rule cautions VA personnel concerning the limitations of the data provided by DNA, and advises them to give due consideration to any other estimates provided by or on behalf of claimants. As before, official reports of recorded or estimated doses provide important input for determinations, and will be procured whenever available.

Another comment common to those received took issue with the fact that the program guide identified cancer as "the major disease associated with radiation exposure." Concern was expressed that VA thereby ruled out all other disabilities as potentially radiation related. This misapprehension is obviated by deletion of the reference.

One commentator offered the view that the proposal should include precise standards for determining whether particular diseases are caused by exposure to radiation at certain doses. Unfortunately, this is not yet feasible. The vast literature on the subject identifies acute and late somatic effects of exposure, both observed and suspected, but the dose responses (especially at low doses) are not well enough understood to permit the fashioning of hard rules to cover all of the variables known or believed to be

influential. We have chosen instead to list factors to be considered in making determinations of radiation causation. As is required in making decisions regarding service connection in other contexts, VA personnel will continue to apply sound medical principles derived from the scientific literature, notably (in these cases) dose-response findings reported by prestigious national and international scientific bodies. We are aware of two major efforts currently underway to develop disease-specific radiation-risk tables, and will scrutinize the results of these efforts to determine if any such tables should be incorporated into VA procedures.

Another comment was that VA, based upon preliminary findings of a study by the Centers for Disease Control noting that an increased incidence of leukemia has occurred among participants in one nuclear test explosion, should presume all cases of leukemia suffered by veterans of the nuclear weapon tests are service-connected. VA acknowledges the importance of these findings, but also the CDC's caveat that there is need for additional follow-up studies of persons present at other nuclear tests before conclusions can be formed regarding the health risks involved. The difficulty here is that the statistical significance of such findings is dependent upon the size of the population studied; CDC has cautioned that the cited study was not sufficiently large to yield useful conclusions. Fortunately, the group studied is part of a much larger cohort of former test participants whose death records are being reviewed by the Medical Follow-up Agency of the National Academy of Sciences. We await with great interest the findings of this study, due to be released within a few months.

Recognizing the frustration felt by many over the remaining scientific uncertainties in correlating radiation exposure and subsequent disability, VA nevertheless wishes to move responsibly and deliberately in this area. One commentator flatly asserted that it is "virtually certain from what is known today about the health effects of ionizing radiation exposure, that among the servicemen present at the above-ground atomic weapons tests, there will be an excess of cancers, leukemias, heart and lung diseases, and a wide spectrum of chronic, degenerative health problems." Consistent with that assertion, the commentator recommended that service-connected benefits be awarded "in all cases of medical disability or premature death where the serviceman was presumed present at a test site." We believe such an approach would be irresponsible, and would violate the Agency's statutory mandate to adjudicate disability claims on the merits of each individual veteran's situation.

Readers are advised that the regulation proposed herein relates solely to claims for service-connected disability and death benefits, and should be distinguished from Agency guidelines which have previously been issued to implement the veterans' health care provisions of Pub. L. 97-72.

It is again emphasized that this regulation is being published solely to comply with the court order. Should the Government position in this litigation be upheld on appeal, this document may be withdrawn.

Regulatory Flexibility Act

The Administrator hereby certifies that this regulation would not have a significant economic impact, in terms of compliance costs, paperwork and recordkeeping, or any other regulatory burden, on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this regulation would affect only individuals applying for VA disability or death benefits. Pursuant to 5 U.S.C. 605(b), this rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12291

In accordance with Executive Order 12291, Federal Regulation, the administrator has determined that this regulation is nonmajor for the following reasons:

It will not have an effect on the economy of $100 million or more.

It will not cause a major increase in costs or prices.

It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Catalog of Federal Domestic Assistance Program Numbers are: 64.101, 64.109 and 64.110.

Approved: October 7, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 3—[AMENDED]

38 CFR Part 3, ADJUDICATION, is amended by adding a new § 3.311 to read as follows:

§ 3.311 Claims based on exposure to ionizing radiation.

(a) *Development of evidence in atmospheric nuclear weapons test participation cases.* (1) When a claim is made that disability or death resulted from a veteran's participation in the atmospheric testing of nuclear weapons a special search for radiation exposure data will be conducted through the Compensation and Pension Service. Before requesting this search, full evidentiary development will be undertaken to secure, in addition to complete service and post-service medical records, such information as the claimant can provide as to:

(i) Date(s) and location(s) of the test(s);

(ii) Number of tests witnessed;

(iii) Operation or test shot code name(s);

(iv) Veteran's organization or work unit (ship, task group, company, or squadron, etc.) and rank at time of test(s);

(v) Duty place and organizational unit from which the veteran may have been detailed for participation;

(vi) Detailed description of activities during the entire period of participation, including:

(A) How far was the veteran from the center or ground zero at the time of each explosion?

(B) At the time of each explosion, was the veteran in the open, under cover (building, closed vehicle, trench, etc.), in an aircraft, or aboard ship (on or below deck)?

(C) Did the veteran move to or toward ground zero after the explosion; if so, how soon thereafter, and how close?

(D) How long did the veteran remain in the vicinity of the explosion, initially and, if applicable, after advancing?

(E) Is the veteran aware of any peculiarity of the trials (unexpected wind change, severe dust conditions, etc.)?

(vii) Whether a film badge was issued and worn;

(viii) Names of other servicemembers with the veteran at time of participation; and

(ix) Known pre-service and/or post-service radiation exposure, including all medical and occupational sources, and

exposure to other known carcinogenic agents (tobacco, chemicals, etc.).

(2) When the foregoing development is completed, the information obtained as well as the following data will be telephoned to the Compensation and Pension Service:

(i) Name and file number of veteran;

(ii) Social Security number;

(iii) Service number;

(iv) Period(s) of service;

(v) Veteran's or other claimant's telephone number and address;

(vi) Veteran's date and place of birth, and, if applicable, date and place of death; and

(vii) Nature of disability.

(3) The Compensation and Pension Service will initiate the necessary contact with the appropriate Nuclear Test Personnel Review Office of the Department of Defense, and request a report of the veteran's participation and exposure. Final rating action will be deferred until a reply is received from the Compensation and Pension Service.

(4) Information relative to military bases where nuclear weapons may be located within the continental United States is classified Confidential whereas locations past or present outside the continental United States are classified Secret or Top Secret. The fact that a veteran inadvertently revealed such information in an application for benefits should not be compounded by further release within or without the VA in any manner.

(i) Such classified data will be cut out (rather than obliterated from such records or statements.

(ii) Documentation will be prepared for the claim file and signed by the Adjudication Officer or supervisory designee not lower than the Assistant Adjudication Officer, and will cite the kind of evidence removed, the reason for record expungement, and summarize or restate any other obliterated facts or statements not referring to specific military bases where nuclear exposure allegedly occurred.

(b) *Development of evidence in other cases.* When a claimant alleges exposure resulting from duties other than participation in atmospheric nuclear weapon testing, the following evidence will be developed:

(1) All service medical records and post-service records of treatment for the disability in issue;

(2) Such information as the claimant can provide to the circumstances of exposure;

(3) A request will be made for a copy of the veteran's Record of Occupational Exposure to Ionizing Radiation (DD Form 1141), if maintained, from the appropriate service department. (Note: These cases will not be developed through the Compensation and Pension Service.)

(c) *Adjudication policies.* (1) If development with the service department cannot establish the veteran's presence at or absence from a nuclear test site, the veteran's presence at the site will be conceded.

(2) Recorded radiation dose information furnished by service departments will be considered in the context of the known limitations of the particular recording devices employed. For example, consideration will be given to the fact that film badges worn by nuclear weapon test participants measured external gamma and high energy beta radiation, but would not have measured any direct neutron exposure or any dose commitment that may have occurred from inhalation or ingestion of radioactive particles. The possibility of error in the measured doses as a result of defects in either the manufacture or calibration of the dosimetry devices will be considered.

(3) When an individual dosimetry reading for a veteran is not available but the service department is able to supply or estimate a range of doses for the veteran's organizational unit over the corresponding time frame, exposure at the upper limit of the range provided will be conceded. Where the overall estimated exposure level of the veteran's unit, if available, is higher than the documented reading for the veteran, exposure at the estimated dose will be conceded.

(4) Due consideration will be given to any other estimates of dose supplied by or on behalf of claimants.

(5) In determining whether a disease was caused by radiation exposure, the actual or estimated dosage will not be the sole determining factor. All relevant factors will be considered including:

(i) Whether the disease is known to be capable of being induced by radiation;

(ii) In cancer cases, the relative sensitivity of the body site and type of cancer to radiation induction;

(iii) The gender of the exposed individual, age at time of exposure and approximate date of onset of the disease relative to the exposure;

(iv) Where available, such personal histories as would elicit information concerning exposure to other known carcinogens before, during, or after service.

(d) Nothing in this section will be construed to prevent the granting of service-connection with respect to any disease or disorder otherwise shown by sound judgement to have been incurred or aggravated as a result of exposure to radiation during active service.

(38 U.S.C. 210(c))

[FR Doc. 83-28567 Filed 10-31-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-4-FRL 2459-8; SC-004]

Designation of Areas for Air Quality Planning Purposes, South Carolina: Redesignation of TSP and O_3 Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces approval of a request by the South Carolina Department of Health and Environmental Control (DHEC) that a portion of Georgetown County (that portion of Georgetown County within the southern section of Georgetown) be redesignated attainment for the primary and secondary total suspended particulate (TSP) standards and that the Columbia area (Lexington and Richland Counties) be redesignated attainment for the ozone (O_3) standard. The DHEC also requested that the Charleston area be redesignated attainment for the primary and secondary TSP standards; although the ambient air quality data for the last eight quarters show no violations in that area, EPA is not acting on this request now.

EFFECTIVE DATE: This action will be effective on January 3, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESS: Copies of the material submitted by South Carolina may be examined during normal business hours at the following locations:

Air Management Branch, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Bureau of Air Quality Control, SC Dept of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201

FOR FURTHER INFORMATION CONTACT: Denise W. Pack, EPA Region IV, Air Management Branch, at the above address or phone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On March 31, 1983, South Carolina DHEC submitted a request for the redesignation of several areas in the State that had been designated as not meeting the national ambient air quality

standards (NAAQS) for O_3 and TSP. A review of the air quality data (January 1981 through December 1982) gathered at the ozone monitors in the Columbia area (Lexington and Richland County) shows that the concentration of O_3 in the area has not exceeded the NAAQS for ozone of 0.12 parts per million during the last two calendar years. This improvement is due to the effects of the Federal Motor Vehicle Control Program.

The submittal also contained a request for the redesignation of the Georgetown and Charleston TSP nonattainment areas. EPA reviewed the air quality data collected in the Georgetown nonattainment area during calendar years 1981 and 1982 and determined that the concentrations of TSP in the area had not exceeded the national annual standard of 75 $\mu g/m^3$ or the 24-hour standard of 150 $\mu/^3$. This improvement is due to the implementation of approved SLP strategies. The data support the redesignation of the Georgetown area.

EPA also reviewed the air quality data collected in the Charleston nonattainment area and determined that the concentrations of TSP in the area had not exceeded the national standards. However, the Charleston data do not provide evidence that the decrease in the ambient concentration of TSP in the Charleston area is a result of the control strategy applied at Macalloy, the major facility in the area. In fact, the data indicate that the decrease in the ambient concentration of particulates may be a result of lower production rates. Macalloy operated at full capacity for approximately 25% of the period being used in the State's redesignation request (February 1981 through January 1983). Since the attainment request may not adequately and accurately reflect future operating rates, EPA has determined that the submitted air quality data may not be a true representation of the future ambient concentrations in the vicinity and thus do not demonstrate that the area will continue to maintain the NAAQS for TSP Therefore no action will be taken on the redesignation request for Charleston at this time.

Action. EPA today announces the redesignation of that portion of Georgetown County within the southern section of Georgetown as attainment for the primary and secondary total suspended particulate standards and the Columbia area—Lexington and Richland Counties—as attainment for the ozone standard.

This action is being taken without prior proposal because the redesignations are noncontroversial and EPA anticipates no comments on them. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act, as amended (42 U.S.C. 7409))

Dated: October 24, 1983.

William D. Ruckelshaus,

Administrator

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart C—Section 107 Attainment Status Designation

1. In § 81.341, the attainment status designation table for TSP is amended by removing the first entry for Georgetown County (that portion of Georgetown County within southern section of Georgetown) and by revising the remaining entry for Georgetown County to read as follows:

§ 81.341 South Carolina.

SOUTH CAROLINA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be Classified	Better than national standards
.	.	.	.	.
Georgetown County			X	

SOUTH CAROLINA—TSP—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be Classified	Better than national standards
.	.	.	.	.

2. In § 81.341, the attainment status designation table for ozone (O_3) is amended by removing the entry for the Columbia area.

[FR Doc. 83-29450 Filed 10-31-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 3E2849/R606; PH-FRL 2449-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; N, N-Diethyl-2-(1-Naphthalenyloxy) Propionamide

Correction

In FR Doc. 83-27663 appearing on page 46310 in the issue of Wednesday, October 12, 1983, make the following correction: In column three, § 180.328, column two of the table "Parts per million", ".01" should read "0.1"

BILLING CODE 1505-01-M

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40 CFR Part 228

[WH-FRL 2462-7]

Ocean Dumping; Final Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates an ocean disposal site offshore of Tampa Harbor for a period of three years for the disposal of dredged material. This action is necessary to provide an ocean dumping site for the disposal of dredged material from the Tampa Harbor Project which will permit unrestricted access for interstate and foreign commerce to the Port of Tampa.

DATE: This site designation shall become effective December 1, 1983.

ADDRESSES: The Environmental Impact statement (EIS) and other material considered in this rulemaking are available for public inspection at the following locations:

EPA Public Information on Reference Unit (PIRU), Room 2404 (rear), 401 M Street, Southwest, Washington, D.C. 20460; and

Tampa-Hillsborough County Public Library, Special Collections Department, 900 North Ashley Street, Tampa, Florida 33602.

FOR FURTHER INFORMATION CONTACT:
Mr. Jonathan E. Amson, 202/245-3036, Criteria and Standards Division, U.S. Environmental Protection Agency, Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION:

I. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. (hereinafter "the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This site designation is made pursuant to that authority.

Under the Act, EPA is today designating a dredged material disposal site in the Tampa Bay area, known as Site 4. This site is approximately 18 nautical miles west of Egmont Key, positioned in a square with corner coordinates as follows:

27°32'27"N., 83°03'46"W.;
27°30'27"N., 83°03'46"W.;
27°30'27"N., 83°06'02"W.;
27°32'27"N., 83°06'02"W.

The site occupies an area of four nautical square miles. Water depths within this area range from 21.8 to 24.1 meters.

In the selection process for dredged material disposal sites in the Tampa Bay area, one of the important factors considered is the absence or minimal presence of hard bottom areas. Hard bottom areas are unsuitable for dredged material disposal because they may contain productive sponge and coral habitats. These habitats may have valuable recreational or commercial uses.

On January 11, 1977, EPA designated two interim sites in the Tampa Bay area for the disposal of dredged material. 42 FR 2461 et seq. One site ("Site A") is located approximately 13 miles west of Egmont Key at the mouth of Tampa Bay; the other site ("Site B") is located approximately 9 miles from Egmont Key. Dredged material was disposed of at Site B from 1969 to 1973; no dredged material has been disposed there since 1973. The U.S. Army Corps of Engineers ("the Corps") disposed of dredged material from a construction dredging project ("the Tampa Harbor Project") at Site A from June, 1980, until December 24, 1982.

The sites were designated for a three-year period, or until final site designation studies could be completed. On December 9, 1980, the interim designations were renewed until February 1983, pending completion of final site designation studies. 45 FR 81042.

In April 1982, Manatee County sued EPA and the Corps with respect to the interim designation and continuing use of Site A for the disposal of dredged material ("Manatee County v. Gorsuch," 82-248-Civ.-T-GC (M.D. Fla)). On December 21, 1982, the Court enjoined the Corps from disposing of additional dredged material at Site A after December 24, 1982, pending completion of required studies.

The Tampa Harbor Project is a major channel deepening project undertaken by the Corps which will provide deep draft access to parts of the Tampa and Hillsborough Bay system. As of December 24, 1982, the Corps had disposed of approximately 4,936,600 cubic yards of material at Site A from construction phases of the Tampa Harbor Project and two other projects. As a result of the Florida court's decision, the Corps terminated a contract for the dredging and disposal of material from a section of the Tampa Harbor Project, known as "Section 2C (Portion)." Approximately 1,200,000 cubic yards remain to be dredged from Section 2C (Portion). An additional 2,570,000 cubic yards remaining to be dredged from funded portions of the Tampa Harbor Project are not yet under contract.

To avoid delay to, and cost escalation of, the Tampa Harbor Project, EPA proposed to extend the interim designation of Site A for disposal of dredged material from Section 2C (Portion) of the Tampa Harbor Project. 47 FR 44122 (October 6, 1982.) EPA also proposed to designate Site 4 on an interim basis. Following public comment and the decision of the court in the Manatee County case, the Agency has decided not to proceed with the extension of the interim designation of Site A or the interim designation of Site 4. On October 29, 1982, EPA issued a Draft EIS (DEIS) on a proposed dredged material disposal site (Site 4) in the Tampa Bay area (47 FR 49074). On November 8, 1982, the Agency proposed the designation of Site 4 for the continuing disposal of dredged material (47 FR 50524). On September 9, 1983, EPA published a notice of the availability of the Final EIS (48 FR 40780). Today EPA takes final action to designate Site 4.

II. Site Designation Studies

Extensive studies have been made regarding the designation of an ocean disposal site for dredged material in the Tampa Bay area. The sites examined and their distances from Egmont Key at the mouth of Tampa Bay, are presented in Table 1.

TABLE 1

[Nautical miles from Egmont Key]

Site	Location
A (previously designated)	13
B (previously designated)	9
SWAS [1] 1	16.5
SWAS 3	13
SWAS 2A	14
SWAS 3	24
SWAS 4	18
Control Site	19
State Site X	27
State Site Y	28
State Site Z	30

[1] Shallow-water alternative site.

EPA entered into a contract with Interstate Electronics Corporation (IEC) in 1977 for the evaluation of interim-designated sites and the preparation of EIS's. The Corps joined this effort in 1978 by providing financial support, reviews, and consultation. The Tampa Bay interim-designated sites were included in the contractual effort along with a number of other interim-designated ocean dredged material disposal sites (ODMDS).

IEC initiated its studies of the Gulf of Mexico near Tampa Bay in 1979. Initial screening of historical data and information indicated that three general areas should be considered for the location of a permanently-designated ODMDS: Shallow-Water, Mid-Shelf, and Deepwater. The previously designated sites are located in the Shallow-Water area. Based on the initial screening, areas within three miles immediately north and west of the previously designated sites were eliminated from further consideration because of the presence of hard bottom areas and artifical reefs. Waters less than 10m deep also were eliminated because of potential shoaling.

IEC implemented surveys in September-October 1979 and January 1980 on Sites A and B and the immediately surrounding areas, and concluded that those sites might not be the most environmentally acceptable locations for dredged material disposal. IEC recommended that further studies be conducted on potential alternative sites.

In April 1981, Monte Marine Laboratory (MML) of Sarasota, Florida at the request of the Manatee County Board of County Commissioners, began

a study to evaluate the effects of offshore disposal of sediments dredged from Bayboro Harbor, St. Petersburg, Florida. The study was conducted at Site A. The study concluded that partially buried hard bottom habitats were present at the boundaries of the disposal site. Living hard bottom communities, including hard corals, soft corals, and sponges were observed beyond the limit of the disposal site. One of the recommendations of the MML report was that dredged material disposal at Site A be discontinued and efforts be directed toward locating an alternative site(s).

Subsequently, using the Ocean Survey Vessel *Antelope*, EPA performed a reconnaissance survey of potential alternative sites in the Tampa Bay area in October 1981. Using side scan sonar and fathometer tracings provided by IEC, EPA divers observed and photographed the bottoms of Alternative Shallow-Water Sites 1, 2, and 3. Evaluation of the divers' observations and photographs indicated that Alternative Site 1 contained hard bottom outcrops and numerous animal and plant communities. For this reason, Alternative Site 1 was eliminated from further detailed evaluation. Alternative Site 2 was determined to be only marginally acceptable, due to a finger of hard bottom communities extending into the site from the eastern boundary of the site. The western and southern portions of the site consisted of sandy bottoms. Alternative Site 3 appeared to be sandy-bottomed over its entire area.

Based on the results of the reconnaissance survey, more in-depth surveys were planned. In April 1982, the Corps planned and implemented a survey of the area southwest of Alternative Site 2, known as Site 2A. In May 1982, EPA planned and implemented surveys of the two previously designated sites, Alternative Site 3, and an area southwest of Site 2A identified as Alternative Site 4.

The Corps initiated its study in April 1982, and issued a report in May 1982. The report found that Alternative Site 2A was environmentally unacceptable due to the presence of extensive areas of hard-bottom. Based on this finding by the Corps, and on EPA's finding during its reconnaissance survey, Site 2 and 2A were eliminated from further detailed consideration.

The in-depth survey implemented by EPA in May 1982 included videotaping of the bottom of Site A, a transect of the ocean floor between Site A and Shallow-Water Alternative Site 3, and a transect of the ocean floor in a southwest direction from Alternative Site 2A. During the course of the videotaping, an extensive sandy-bottomed area southwest of Alternative Site 2 was discovered. This area, designated Alternative Site 4, was surveyed in addition to Alternative Site 3, and the two previously designated sites. Site 4 was found to be virtually barren of hard bottom areas or coralline growths over the area examined, which was a videocamera track 2.3 nautical miles in length from the northeast boundary of Site 4, through approximately the center of the site, to the southwest boundary of the site.

Examination of the videotape of Alternative Site 3 revealed many more hard bottom areas than had been found in the reconnaissance survey of October 1981. These new results led to the elimination of Alternative Site 3 from further detailed consideration.

Due in part to the public comments received in response to the Tampa Bay DEIS, EPA planned and implemented another survey in February, March, and April, 1983. This survey examined in intense detail Alternative Site 4, and a Control Site approximately five miles southeast of Alternative Site 4; Sites A and B were examined in lesser detail. The Survey consisted of extensive videotaping of the bottom of Alternative Site 4 and the Control Site, as well as side scan sonar mapping of both sites. Three other sites suggested by the State of Florida, and identified as State Sites X, Y, and Z, at approximate distances of 27, 28, and 30 nmi, respectively, west of Egmont Key, were also examined in briefer detail, with videotape recordings.

The February, March, and April 1983 EPA surveys collected over 35 nautical miles of videotape data within and immediately surrounding Site 4. Twenty-two transects, at approximately one-quarter mile intervals, were run within Site 4, providing an extraordinarily detailed view of the substratum of the site, as well as a full transect around the periphery of the site. In addition, approximately eight nautical miles of transects were run within the Control Site, and approximately two nautical miles of transects were run at each of the State Sites X, Y, and Z.

The videocamera transects revealed that the vast majority of Site 4 has a minimum of hard bottom areas, and is characterized by flat, barren, sandy areas occasionally interspersed with one- to six-inch high sand waves interdigitated with shell hash. No significant hard bottom areas were seen in Site 4; a limited and sparsely populated area of hard bottom was noted in the northwest quadrant of Site 4, running in a roughly northwest-southeast direction. Analysis of the videotape of all of Site 4 demonstrated that over 83 percent of the area viewed was virtually devoid of any form of coralline or sponge communities; approximately 17 percent of the site had sparsely covered hard bottom areas, and less than one percent of the site could be characterized as densely populated hard bottoms.

State Site Z was found to contain quite dense growths of hard bottom and associated coralline communities; denser coralline growth were seen at State Site Z than any other site surveyed previously in the Tampa Bay area, including the richly diverse and dense patches of coralline growth seen at Shallow-Water Alternative Site 3. Consequently, State Site Z was eliminated from further detailed consideration. State Site Y was characterized by the presence of immense quantities of the invertebrate *Melitta quinquiesperforata*, commonly known as san dollars. At no time during the survey of State Site Y were the sand dollars not seen; the average density was estimated to be over four animals per square meter. This site is apparently a rare and unique biological area, for this phenomenon has not been seen at any other site surveyed previously in the Tampa Bay area. Consequently, State Site Y was eliminated from further detailed consideration. State Site X was also characterized by the presence of sand dollars, although they were not as dense at Site X as at Site Y. Site X had flat uninterrupted sandy bottoms over the entire area examined, and minimal algal patches were seen in the videocamera transects. Although State Site X may be environmentally acceptable for the disposal of dredged material, more site-specific information would have to be obtained on the site to propose a designation for this purpose.

The February, March, and April 1983 surveys also collected data from a towed side scan sonar fish, geochemical and infaunal sediment analyses, and biochemical invertebrate and teleost tissue analyses.

III. Environmental Impact Statements

A draft environmental impact statement (DEIS) was filed with the EPA Office of Federal Activities on October 22, 1982, and a notice of availability for public review and comment was published in the **Federal Register** on October 29, 1982 (47 FR 49074).

EPA has prepared a "Final Environmental Impact Statement (FEIS) for Tampa Harbor, Florida Ocean Dredged Material Disposal Site Designation." The notice of availability of the FEIS was published in the **Federal Register** on September 9, 1983 (48 FR

40780). This FEIS evaluates the suitability for disposal of material dredged from the Tampa Harbor Project at the two previously designated sites (Sites A and B), as well as at four shallow-water alternative sites (Sites 1, 2, 3, and 4).

The FEIS includes the Agency's assessment of the comments received during the comment period on the DEIS. Comments presenting facts which corrected those in the DEIS were incorporated in the text; those comments which did not require text changes were responded to point by point, in Appendix G of the FEIS.

The FEIS analyzes all pertinent information gathered by EPA from all of its surveys as well as other pertinent information on these sites. Based on the information available to the Agency, Site 4 is an acceptable site from an environmental viewpoint because of its paucity of significant hard bottom areas which may be adversely affected by dredged material disposal.

The FEIS also contains an evaluation of the satutory factors contained in Section 102(a) of the Act, and Section 228.6 of the EPA Ocean Dumping Regulations (40 CFR Part 228). A discussion of the most important of the criteria as applied to Site 4 follows below.

Location in relation to beaches and other amenity areas. The nearest developed beaches are 18 nautical miles away; there is little or no recreational diving, sport or commercial fishing, and very limited hard bottom areas which might support sport or commercial fishing.

Dispersal, horizontal transport, and vertical mixing characteristics of the area, prevailing current direction and velocity, if any. Dispersion and horizontal transport will occur primarily to the north and south, resulting from wind-induced seasonal currents. Vertical mixing is inhibited only during strong late-summer stratification. Influence from waters flowing out of Tampa Bay is less than at Site A, with sediments less likely than those at Site A to be transported back into the entrance channel.

Existence and effects of current and previous discharges and dumping in the area. No disposal has occurred at this site.

Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean. No interference is expected with recreational or commercial interests, nor with shipping, mineral extraction, desalination, fish and shellfish culture, or areas of special scientific importance.

Based on the analysis of these and other factors specified in EPA's regulations, the Agency has decided to designate Site 4 for the disposal of dredged material, for a period of three years. For a more complete discussion of the factors used to evaluate Site 4 and other sites in the area, please refer to Chapter 2 of the FEIS.

IV. Public Comment

On November 8, 1982, EPA proposed designation of this site for the continuing disposal of dredged material (47 FR 50524). The public comment period expired on January 3, 1983. Two comments were received in response to the proposed rule.

The first comment was from the Miami law firm representing the Manatee County Board of County Commissioners. The letter stated that Manatee County was opposed to the designation of Site 4 due to the inadequate information available on Site 4. The letter recommended three actions be taken:

(a) A site-specific survey of Site 4 be performed;

(b) A public hearing be scheduled to allow for public comment;

(c) Pending completion of the recommended environmental studies, no ocean disposal be allowed, and no further "interim" designation of ocean disposal sites be made.

The Agency has completed the site-specific studies of Site 4, which have provided an extraordinary amount of information about Site 4, and have shown it to be environmentally acceptable for the disposal of dredged material. The Agency has met with local, State, and Federal officials on January 26, 1983, in Jacksonville; on April 7, 1983, in Bradenton; on April 8, 1983, in Tampa; and on June 27, 1983, in Tampa. The discussions at these meetings allowed for full comment on the issues at hand. Finally, no ocean disposal of dredged material has occurred in the Tampa area since December 24, 1982; there is no intent on the part of the Agency to make any further interim designations of sites for ocean disposal of dredged material.

The second comment was from the Tampa Port Authority (TPA). The letter stated that the TPA supported the proposed designation of Site 4. The letter recommended that additional investigations of Site 4 be made, using either divers or underwater television to confirm the absence or limited presence of hard bottom communities.

As noted previously, the Agency has completed the additional investigations recommended by the TPA, and these studies have fully confirmed the virtual absence of hard bottom communities throughout the majority of Site 4, and the limited presence of hard bottom areas only in the northwest quadrant of the site.

Based on the above information, EPA is today designating Site 4 for the disposal of dredged material from the Tampa Harbor Project for a period of three years. Management authority of this site is delegated to the Regional Administrator of EPA Region IV.

The Agency fully intends to carefully monitor the effects of disposal operations at Site 4 to assure that no significant adverse environmental effects occur beyond the boundaries of the site. A monitoring plan, including the necessary parameters and their limits, is presently being developed by representatives of the Agency, the Corps, the TPA, and State and local Florida officials and scientists. This plan will be fully in place prior to the initiation of disposal operations, presently scheduled to begin in January 1984. Should the Agency, through its monitoring of disposal operations at Site 4, find that the dredged material is spreading beyond the limits of Site 4 causing significant adverse environmental effects, it will rapidly move to halt disposal operations until methods can be used to assure that the material remains within the site. Should such containment prove impossible, the EPA will terminate the designation or use of Site 4 and rapidly move toward designation of an environmentally acceptable site.

Further, the Agency has agreed to initiate survey operations with OSV *Antelope* in Fall 1983 to locate another ocean dredged material disposal site approximately 30 miles west of Egmont Key. It is the Agency's intention that complete site-specific studies, an EIS, and completion of rulemaking on a final site designation for this alternative 30-mile site be completed prior to the end of the three-year designation of Site 4.

The Agency expects that the Corps will use the diked disposal areas presently existing in Tampa Bay for the disposal of operational and maintenance dredging. It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must

evaluate the proposed dumping in accordance with those criteria. In either case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

The State of Florida has determined that this site designation is consistent to the maximum extent practicable with the State's coastal zone management plan. For any comments by the State of Florida on the DEIS, interested persons should consult the public record, which may be found at the two locations identified in the beginning of this rulemaking.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities. The site designation will only have the effect of providing a disposal site for dredged material. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more, or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this action does not necessitate preparation of a Regulatory Impact Analysis.

This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291. This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water pollution control.

Authority: 33 U.S.C. 1412 and 1418.

Dated: October 27, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water

PART 228—[AMENDED]

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended by adding paragraph (b)(14) to § 228.12 as follows:

§ 228.12 Delegation of management authority for ocean disposal sites.

* * * * *

(b) * * *

(14) Tampa Harbor Site 4—Region IV.

Location: 27°32'27"N., 83°03'46"W.; 27°30'27"N., 83°03'46"W.; 27°30'27"N., 83°06'02"W; 27°32'27"N., 83°06'02"W.

Size: 4 nautical square miles.

Depth: Ranges from 21.8 to 24.1 meters.

Primary Use: Dredged material.

Period of Use: Three years.

Restrictions: Disposal shall be limited to dredged material from the Tampa Harbor Project.

[FR Doc. 83-29719 Filed 11-1-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 434

[WH-FRL 2461-5]

Coal Mining Point Source Category; Effluent Limitations Guidelines and New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Corrections to the final rule.

SUMMARY: On October 13, 1982 EPA promulgated effluent limitations guidelines and standards under the Clean Water Act for the Coal Mining Industrial Category (47 FR 45382). This notice makes various corrections to that final rulemaking which involve typographical, spelling, and wording errors.

FOR FURTHER INFORMATION CONTACT: Ms. Allison Phillips at the Environmental Protection Agency at (202) 382-7167.

SUPPLEMENTARY INFORMATION:

I. Corrections to the October 13, 1982 Rulemaking

Corrections are as follows:

1. On page 45382, column 1, second line of summary; "navigable" is deleted.

2. On page 45382, column 2, line 9 from the bottom; "Regulations" is replaced by "Discharges".

3. On page 45382, column 3, line 3 from the bottom; "to" is replaced by "is".

4. On page 45382, column 2, 16th line from the top; "487-6000" is replaced by "487-4600".

5. On page 45383, column 1, line 29 from the bottom; "(BMOs)" is replaced by "(BMPs)".

6. On page 45384, column 2, line 9 from the top; ")" is added after the word "required".

7. On page 45384, column 2, line 15 from the bottom; "This" is replaced by "These".

8. On page 45385, column 1, line 18 from the bottom; "metal" is replaced by "metals".

9. On page 45385, column 3, line 29 from the top; the comma after "system" is replaced by a period.

10. On page 45836, column 3, line 29 from the bottom; "May 29, 1982" is replaced by "May 29, 1981".

11. On page 45388, column 1, line 30 from the top; "for discharges" is added between "events" and "from".

12. On page 45388, column 2, line 8 from the top; "and" is deleted.

13. On page 45388, column 2, line 10 from the top of footnote 11.; "and" is deleted.

14. On page 45388, column 3, line 28 from the top; "this" is replaced by "these".

15. On page 45388, column 3, line 18 from the bottom; "suggests" is added between "surveyed" and "that".

16. On page 45389, column 1, line 19 from the bottom (not including footnote); "has" is replaced by "have".

17. On page 45389, column 2, line 21 from the bottom; "wordshops" is replaced by "workshops".

18. On page 45389, column 2, line 19 from the top; a comma is inserted after "event" and the words "and three others" is deleted. Lines 20 and 21 from the top are also deleted.

19. On page 45389, column 3, line 7 from the top; "of" is replaced by "or".

20. Page 45390, column 1, line 13 from the bottom; "EPA 440 2-82/006" is replaced by "EPA 440/2-82/006".

21. Page 45390, column 2, line 5 from the top; "were" is replaced by "was".

22. Page 45390, column 3, line 31 from the bottom; "analysis" is replaced by "analyses".

23. Page 45391, column 3, line 8 from the top; "540 R." is replaced by "540 F."

24. Page 45393, column 1, line 29 from the bottom; "Standard" is replaced by "Standards" in the entry for § 434.25 in the table of contents for Part 434.

25. Page 45393, column 2, line 9 from the top; "43.44" is replaced by "434.44" in the table of contents for Part 434.

26. Page 45394, column 1, line 4 from the top; "stope" is replaced by "slope" in § 434.11(j)(1)(ii)(D).

27. Page 45394, column 2, line 16 from the top; "S" is added to the beginning of the line in § 434.22(a).

28. Page 45395, column 1, line 10 from the bottom (not including table);

"sources" is replaced by "source" in § 434.25(c).

29. Page 45395, column 1, table at bottom in § 434.25(c): "( )" around the "1's" in the "pH row is added.

30. Page 45396, column 1, table at top of § 434.42(a); the numbers in the TSS column are changed to read "70.0" and "35.0" instead of "70." and "35.".

31. Page 45396, column 1, table at bottom in § 434.43(a); the vertical lines similar to those shown in the table at the top of the column are added.

32. Page 45396, column 2, tables at top and bottom of columm in §§ 434.45(a) and 434.52(a)(1); the vertical lines similar to those shown in the table at the top of column 1 are added.

33. Page 45397, column 3, line 2 from the bottom; "of" is replaced by "or" in § 434.63(b).

34. Page 45397, column 3, line 3 from the bottom in § 434.63(b); "or series of storms" is deleted.

35. Page 45398, column 1, line 34 from the bottom; "Appendixes" is replaced by "Appendices".

36. Page 45398, column 1, line 23 from the bottom; "[BAT]" is deleted.

37. Page 45398, column 1, line 20 from the bottom; "[BCT]" is deleted.

38. Page 45398, column 2, line 20 from the top; "gps" is replaced by "gpd".

Date: October 24, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-29575 Filed 10-31-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 439

[WH-FRL 2443-2]

Pharmaceutical Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

Correction

In FR Doc. 83-28778, beginning on page 49808, in the issue of Thursday, October 27, 1983, make the following corrections:

1. On page 49821, in the third column, the first section heading in the table of contents now reading "439 Applicability." should read "439.0 Applicability."

2. On page 49822, in the second column, the section heading now reading "§ 439 Applicability." should read "§ 439.0 Applicability."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6477

[F-81398]

Alaska; Partial Revocation; Opening of Lands Withdrawn by Public Land Order Nos. 399, 5170, 5179, 5180, and 5184, as Amended

Correction

In FR Doc. 83-27140 beginning on page 45395 of the issue of Wednesday, October 5, 1983, make the following corrections:

1. On page 45396, first column, "T. 21 N., R. 8 W.," should read "T. 26 N., R. 8 W.,".

2. On page 45397, middle column, in "T. 6 S., R. 9 W.," the third line should read "Sec. 6, W½NE¼, W½, and W½SE¼;".

3. On page 45398, middle column, "R. 6 S., R. 16 W.," the first "R" should be changed to "T".

4. On page 45399, first column, in "T. 4 S., R. 24 W.," the fifth line; "S½SW¼," should be added before the "and".

5. On the same page, second column, in "T. 4 S., R. 28 W.," the fifth line, "SW" should read "SE".

6. On the same page, third column, in "T. 6 S., R. 21 W.," fourth line, "NW" should read "NE".

7. On the same page, same column, in "T. 4 S., R. 23 W.," the figure "23" should read "24".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PARTS 2, 21, 74 and 94

[Gen. Docket No. 79-188; RM-3247; RM-3497; FCC 83-392]

Use of Radio in Digital Termination Systems and in Point-to-Point Microwave Radio Systems for Provision of Digital Electronic Message and Other Specific Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission expands the eligibility for access to the 10.6 GHz DTS band to accommodate private licensees. This action is taken to allocate a portion of the 18 GHz band for use by digital termination systems (DTS) in the Common Carrier and Private Operational-Fixed Microwave services. Further, another portion of the 18 GHz band is rechannelized to accommodate stations more efficiently in the Broadcast, Common Carrier, and Private Radio Services. This action is in response to a Further Notice of Proposed Rule Making in this proceeding.

EFFECTIVE DATE: December 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Murray, Office of Science and Technology, 2025 "M" Street, NW., Washington, D.C. 20554, (202) 653-6168.

List of Subjects

47 CFR Part 2

Frequency allocations, Radio.

47 CFR Part 21

Communications common carriers, Point-to-point microwave.

47 CFR Part 74

Communications equipment, Radio.

47 CFR Part 94

Radio.

Second Report and Order

In the matter of amendment of Parts 2, 21, 74 and 94 of the Commission's rules to allocate spectrum at 18 GHz for, and to establish other rules and policies pertaining to, the use of radio in Digital Termination Systems and in Point-to-Point Microwave Radio Systems of the provision of Digital Electronic Message Services, and for other Common Carrier, Private Radio, and Broadcast Auxiliary Services; and to establish rules and policies for the private radio use of Digital Termination Systems at 10.6 GHz. (General Docket No. 79-188, RM-3247, RM-3497, FCC 83-392).

Adopted: September 9, 1983.
Released: September 30, 1983.

By the Commission.

Introduction

1. On August 4, 1981, the Commission adopted a *Further Notice of Proposed Rulemaking* which proposes the allocation of spectrum at 18 GHz (specifically 18.36-19.04 GHz) for use by Digital Termination Systems (DTS) and by Point-to-Point Microwave Radio Systems.[1] This proposal was made in addition to the allocation at 10.6 GHz previously adopted.[2] Moreover, whereas that Order provided only for the licensing of DTS facilities and related internodal links under common carrier rules, the *Further Notice* proposed rules to make the frequencies at 10.6 and 18 GHz also available to private radio applicants.

[1] *Further Notice of Proposed Rulemaking* in Gen. Docket No. 79-188, 46 FR 45835 (September 14, 1981).

[2] *First Report and Order* in Gen. Docket No. 79-188, 46 FR 23428 (April 27, 1981); 86 FCC 2d 360 (1981). Also, *Memorandum Opinion and Order*, 90 FCC 2d 319 (1982).

2. Also, addressed in the *Further Notice* was a proposal to rechannelize certain segments of the 18 GHz band to permit narrower bandwidth channel assignments. It was stated that little use is made of this band due to its wideband channelization, poor cost competitiveness with other high capacity communications facilities, the shortened path lengths of several kilometers required for reliability of these systems of high channel density and problems with service restoration of such a high capacity system.[3] In contrast, lower capacity microwave systems at 18 GHz using narrowband channels could be attractive for telephone, utility, railroad, and oil companies, particularly because of the congestion at lower frequencies. Those reasons, coupled with the Commission's own projections of possible new uses of the 18 GHz band, led to the release of the *Further Notice* in this docket.

Summay of Decision

3. The *Further Notice* proposed a number of technical rules and requested comment on a wide range of policy issues in addition to proposing a rechannelization of the 18.360–19.040 GHz band. Comments were filed by twenty-four parties and reply comments by eight parties. All comments have been evaluated and considered in the preparation of the rules contained herein. A list of commenters is contained in Appendix A. On the basis of these comments and the record that has been established, this *Second Report and Order* sets forth our findings and conclusions. The key conclusions set forth are the following:

- We are allocating two 100 MHz bands consisting of 10 two-way channels each 10 MHz wide at 18.360–18.460 GHz and 18.940–19.040 GHz for DTS.
- We are rechannelizing the 18.460–18.940 GHz band to provide for both 10 MHz and 20 MHz channel widths.
- We are rechannelizing the 18.640–18.700 GHz and 18.880–18.940 GHz bands to provide for 12 pairs of 5 MHz wide channels.
- We are allowing private radio licensees under Part 94 to use the 10.6 GHz and 18 GHz bands for DTS.[4]
- We are adopting a frequency stability standard at 18 GHz of ±0.001% for DTS nodal stations. We are also adopting a frequency stability standard at 18 GHz of ±0.003% for DTS user stations, for narrowband internodal links, for operational-fixed point-to-point stations, and for other non-DTS operations.
- We are permitting the license of equipment with a modulation spectral efficiency at 18 GHz of 0.6 (bps)/Hz *only until* December 1, 1988 when new licensees must employ equipment with a modulation spectral efficiency no less than 1.0 (bps)/Hz.
- We are permitting MDS licensees to use the 18.460–18.940 GHz band with this new channelization for a return path in connection with their existing one-way channels to provide a two-way communications service.

Allocation Plan

4. In the *Further Notice* we indicated that it was our intent to formulate a comprehansive plan to satisfy an expected demand for services over DTS facilities that may exceed the channel capacity provided at 10.6 GHz and to accommodate the prospective need for narrowband channels for point-to-point uses. In restructuring the 18 GHz band, we proposed to place DTS omni-directional operations in two paired bands, 18.36–18.46 GHz and 18.94–19.04 GHz. The location of these two bands was chosen to avoid overlapping the 200 MHz allocated for passive sensor operation within 18.6-18.8 GHz. A channelization plan consisting of ten (10) MHz wide channels for each of the two bands was proposed.

5. With respect to the DTS proposed allocation at 18 GHz only AT&T and MCI Telecommunications Corporation outrightly opposed it. They desire that the Commission retain the existing channelization plan which consists of eight RF channels 220 MHz wide and a 240 MHz unchannelized segment in the 17.7–19.7 GHz band. They claim that the presently sparse use of these frequencies is not sufficient reason to ignore the bands potential and reallocate it to other services. AT&T and MCI contend that the demand for the proposed services is unknown.

6. In contrast, we received twenty-two comments supporting the proposed allocation for DTS. GTE Telenet indicated that because of the development of fiber optics technology, it is possible that extensive use of the remaining wideband 220 MHz channels in the 18 GHz band for intra and intercity communication may not come to pass. It recommended rechannelization of the entire 18 GHz band into narrower channels. The Farinon Division of the Harris Corporation suggested that four 220 MHz channels be retained, but the remaining spectrum be divided into narrower channels. It claimed that narrow-band operational fixed requirements are real and now exist whereas the wide-band 220 MHz requirements do not.

7. In our *Further Notice* we stated that we did not believe that the lack of use of 18 GHz necessarily justified a wholesale restructuring of the band. In support of this premise, we proposed to leave intact six of the eight 220 MHz paired channels in the 17.7–19.7 GHz band. We stated that a rechannelization of the entire 18 GHz band would be premature, based on an absence of use over a limited period of time and a customer interest in equipment not yet reflected in actual use of these frequencies. However, since the time the *Further Notice* was adopted, a number of other applications for narrow-band usage of this spectrum have been brought to our attention through comments received in Gen. Docket 82–334 (*Notice of Inquiry*, 47 Fed. Reg. 31959 July 23, 1982). The Commission subsequently adopted a *Notice of Proposed Rule Making* in Gen. Docket 82–334 (48 Fed. Reg. 6730, February 15, 1983). Concurrent with the adoption of the instant proceeding, the Commisson adopted a *First Report and Order* in Gen. Docket 82–334 addressing the rechannelization of that portion of the 17.7–19.7 GHz band not dealt with in the instant proceeding (viz., 17.70–18.36 GHz and 19.04–19.70 GHz)

8. For the instant proceeding, we are adopting the attached rules which allocate the 18.36–18.46 GHz band paired with the 18.94–19.04 GHz band for DTS facilities and the 18.46–18.94 GHz band for narrowband, point-to-point usage.

Rechannelization

DTS (18.36–18.46 GHz and 18.49–19.04 GHz)

9. In our proposal we requested the submission of comments on the appropriateness of a 10 MHz channel width for DTS wide-area coverage, which would allow for 10 pairs of two-way channels each 10 MHz wide, within the 200 MHz total proposed for DTS at 18 GHz. We received favorable comment in support of this channelization scheme for DTS; however, Contemporary Communications and Tymnet pointed

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[3] At the time of the *Further Notice*, the 17.7–19.7 GHz band was channelized into eight RF channels 220 MHz wide to be used for common carriers on a cross-polarized basis to derive two communications channels per frequency assignment and a 240 MHz unchannelized segment for channels of 100 MHz or less.

[4] We are reallocating channel Nos. 4, 7, 9 and 19/20 from common carrier to private effective September 9, 1983 to achieve a measure of parity. No new applications for common carrier DTS operations on these channels will be accepted effective September 9, 1983.

out that the receive/transmit frequency separation of 580 MHz between the 18.36–18.46 MHz band and 18.940–19.040 MHz band, in contrast to the 65 MHz separation provided for DTS at the 10.6 GHz allocation may be a cause for some concern. This difference in frequency separation, they noted, might limit equipment commonality and subsequent cost savings. In its reply comments, M/A–COM indicated that a 65 MHz transmit/receive separation at 18 GHz could present substantial filtering problems and result in an increase in equipment cost that could outweigh any possible savings from equipment commonality.

10. We agree with the comments submitted by M/A–COM that a greater transmit/receive separation is necessary at 18 GHz, compared to operation at 10.6 GHz, to facilitate equipment design. We do not believe the 580 MHz transmit/receive separation will increase equipment costs as alleged; accordingly, we adopt the channelization plan for DTS facilities as proposed.

Point-to-Point Narrow-band (18.46–18.94 GHz)

11. With regard to our proposed rechannelization of the band 18.46–18.94 GHz, a large number of comments were received, several of which offered alternative channelizing plans. Those parties submitting detailed plans included MA/COM, Farinon Div. of Harris Corporation, and Loral Microwave Communications. There was no consensus of opinion that one plan was superior over another. Each commenter put forth its own analysis of what it perceived to be the marketplace demand. For example, Loral opined that additional 20 MHz channel pairs are needed to meet "widespread demand for medium density (100 to 300 voice and data circuits) microwave links." Its plan would provide for eight 20 MHz pairs, seven 10 MHz pairs and seven 5 MHz pairs interstitial to the 10 MHz channels. Farinon claimed "the demand is for 45 Mbit radios with 40 MHz bandwidths and 90 Mbit radios with 80 MHz bandwidth in excess of those needs for 274 Mbit radios with 220 MHz bandwidth. The 40 MHz and 80 MHz channels provide 672 [voice] channel and 1344 [voice] channel capabilities, respectively, which can be used in conjunction with longer haul digital microwave systems at lower frequencies." MA/COM supported the proposed channel bandwidth of 5, 10, 20, and 40 MHz but suggested that its revised plan would be more suitable to its perception of user demand. Its plan would provide for three pairs of 40 MHz channels, six pairs of 20 MHz channels, eleven pairs of 10 MHz channels, and twenty-two pairs of 5 MHz channels. The 20 MHz and 5 MHz channels would be derived by "splitting" the 40 MHz and 10 MHz channels. This approach, according to MA/COM, is consistent with the channelization of the 10.7–11.7 GHz common carrier microwave band which incorporates both 40 MHz and 20 MHz "half channels".

12. Another point raised by MA/COM was that the frequency spacing between each paired transmit and receive channel should be constant to minimize the number and complexity of components required in the design of the radio equipment. Its plan provides for a constant transmit/receive separation of 250 MHz for all paired channels.

13. Another concern raised was in regard to our proposal to require licensees to use antenna systems with orthogonal or cross polarization capability to double the utilization of spectrum. A number of commenters claim that at 18 GHz there is a significant depolarization effect by rain which would not provide the isolation necessary to reuse a channel on the same link. To require use of cross polarization on the same path for the same frequencies would necessitate employing shorter path lengths, higher power, larger antennas or other factors that would result in higher equipment costs to users. Moreover, additional hops would require use of additional frequencies as the same frequencies could not be used on adjacent hops.

14. From our analysis of the comments received in this proceeding and in Gen. Docket 82–334, there is a significant demand for channels of bandwidths 5 MHz, 10 MHz, 20 MHz, 40 MHz, and 80 MHz. From a spectrum management viewpoint we believe it is pragmatic to channelize the 480 MHz being allocated (i.e. 18.46–18.94 GHz) into channel bandwidths that have exhibited thus far, the greatest demand. Accordingly, the channeling plan being adopted herein provides for 12 pairs of 20 MHz, two-way channels. A second plan, superimposed on the first, is derived by using half-channels to provide for 24 pairs of 10 MHz, two-way channels. To allow for use of 5 MHz wide internodal links by DTS facilities and other narrow band users, we are further subdividing six pairs of 10 MHz channels, just described, to provide for 12 pairs of 5 MHz, two-way channels in the 18.64–18.70 GHz and 18.88–18.94 GHz bands.[5]

[5] In the *Notice of Proposed Rule Making* in Gen. Docket 82–334, the Commission is proposing a further rechannelization of the 17.7–18.36 GHz and 19.04–19.70 GHz ban which includes a number of two-way paired channels with bandwidths of 40 MHz and 80 MHz.

Additionally, we are arranging the bands to provide for a common transmit/receive channel separation.

15. We concur with the commenters' points stated above and are not implementing the channelization plan which proposed use of interstitial frequencies to derive additional channels. We also concur with the comments regarding problems with implementing the varying frequency spacing between paired transmit and receive channels. In response, we have modified our proposal and are adopting a constant transmit/receive frequency separation of 240 MHz. Finally, we will permit licensees to use cross polarization on the channels being adopted herein when circumstances dictate that such usage would be beneficial. We agree with the comments that indicate difficulties in using cross polarization and have chosen not to make this a requirement.

Accommodation of Services

Common Carrier and Private

16. In addition to authorizing common carriers to provide Digital Electronic Message Service (DEMS) using DTS and associated facilities we proposed in the *Further Notice* authorization of applicants other than common carriers. We stated that different radio services should be authorized in common frequency bands based on the similarity of the radio facilities employed and their electromagnetic compatibility. In particular, we proposed rules under Part 94 to establish that DTS both at 10.6 GHz and 18 GHz be extended to include applicants under the Private Operational-Fixed Microwave Service. It was further proposed that private radio applicants obtaining DTS licenses and related internodal links comply with the same operational and technical standards established for common carriers. We intentionally avoided a proposal to allocate spectrum according to service category.

17. Comments representing various common carrier interest groups expressed the view that only common carriers should be permitted to engage in DEMS operations, as private entities would erode the potential market for smaller entities. They contend that DEMS common carrier operators can adequately serve all potential subscribers. If private radio entities are considered eligible for the DEMS, they continue, then a lower priority status should be given to non-common carrier licensees. At a minimum, they contend, to avoid issues of increased interference and mutual exclusivity of competing

application, the Commission should provide private operators with their own allocation.

18. Several private radio interests voiced opposition to our plan not to bifurcate the allocation. A suggestion was made to provide separate allocations for private and common carriers for a period of 5 years. This time period would enable the telecommunications requirements and preferences of the public to determine the utilization of these portions of the spectrum. A second channelization plan to be superimposed upon the existing channels at 10.6 GHz was also suggested to allow private users thirteen 10 MHz channels for analog transmissions. Also, a number of comments objected to our use of the term "preferred use" in proposed Sections 21.502(h) and 94.189 (d) and (h) as giving preferential treatment to DTS licensees for use of the narrower bandwidth channels.

19. We reiterate that the principal use we had in mind in this docket was to provide spectrum for facilities to handle the expected growth in data communications. As was indicated, past experience, dating back to the authorization of private terrestrial microwave systems, suggests that the public interest has been well served by allowing eligibles in the private services the option of obtaining their own facilities to satisfy private communications requirements. For this reason, we proposed that DTS should be available to satisfy private communications requirements on an equal basis with common carriers at 18 GHz, as well as at 10.6 GHz, previously allocated. However, since the release of the *Further Notice* in 1981, the Commission has received numerous applications from common carriers for nearly all available channels at 10.6 GHz to operate DTS facilities in most of the top 100 U.S. Standard Metropolitan Statistical Areas (SMSA's). As a consequence, there are only a few channels for which private carriers could now submit applications.

20. Consequently, we acknowledge the disparity that exists for private DTS carriers now being allowed access. In an attempt to give private DTS carriers some opportunity to apply for what remaining channels exist at 10.6 GHz, we are reallocating channel Nos. 4, 7, 9 and 19/20 at 10.6 GHz to private carriers effective September 9, 1983. No new applications for common carrier DTS operations on these designated channels will be accepted effective September 9, 1983. All existing common carrier DTS applicants, permittees and licensees on these channels at 10.6 GHz will be grandfathered indefinitely. (Of course, it is recognized that only those applicants that are eventually granted construction permits and authorizations will actually be permitted to continue to operate.) Consequently, these applicants, permittees and licensees will be able to renew their authorization or apply for additional nodal and associated user stations only in the standard metropolitan statistical area (SMSA) indicated on the original applications, permits or authorizations. Applications for private DTS carrier operations within 50 miles of these common carrier DTS operations (as indicated by the application, permit or authorization) must provide an analysis of the potential harmful interference to the common carrier operations. Private carrier DTS operations will not be permitted to cause harmful interference to other DTS oprations, private or common carrier, as currently required for all common carrier DTS operations.

21. At 18 GHz we are assenting to the suggestion to bifurcate the DTS band equally between common carrier and private users. As was raised in the comments, there are a number of technical and administrative problems that would act to impede our desire to implement "across-the board" sharing now. Recognizing these problems, we agree that it would be advantageous to allow the service to develop bifurcated for several years. As the service develops we can better analyze whether the allocation should remain bifurcated. In any case, we point out that either a common carrier or private carrier can request a waiver of the rules (See Section 1.3 of the Commission's Rules) to access the other's 18 GHz DTS channels where good cause is shown.

22. With respect to the 10.6 GHz allocation for DTS, we are not persuaded that an additional channeling scheme superimposed upon the present one would serve to contribute to further utilization of this spectrum. This spectrum is intended for use by DTS and their associated internodal links. Since DTS is effectively omnidirectional, it would not be advisable to mix point-to-point with omnidirectional operations. Moreover, implementation of another channeling plan would introduce additional problems of coordination and interference. In conclusion, we dismiss this suggestion as not being in the overall public interest.

23. In the Appendix to our *Further Notice* the proposed rules specifically stated that the use of the narrowband channels in the 18.46–18.94 GHz segment was preferred to provide internodal links for Digital Termination Systems.[6] Although our intention was to point out that we favored the assignment of DTS internodal stations to these channels, we now recognize that there is no documented reason to stray from our policy to allow similar services equal access to the same spectrum without distinction. To clarify, although these narrower channels have been particularly patterned for DTS operations, we will consider other applications without preferential treatment to DTS. However, because this band is considered an optimal choice for displaced licensees relocating from the 12.2–12.7 GHz band (see para. 29), we are temporarily limiting access for certain applications; these are, (1) Displaced, as well as new, Private Operational-fixed microwave stations, (2) Aural broadcast STL and intercity relay stations, (3) point-to-point return radio links for Multipoint Distribution Service stations, (4) Point-to-Point Microwave Service stations, and (5) internodal links for Digital Termination Systems. Once the displaced licensees from the 12.2–12.7 GHz band have been accommodated either in this band or elsewhere, we will revisit this band to determine if any remaining services can be allowed access.

24. Several comments were also received in regard to footnote 38 in the *Further Notice* which stated that non-common carriers intending to provide data services should apply for spectrum under Part 94. API, in its comments, suggested that there is no legal basis by which the Commission could authorize data service providers to apply under Part 94 to offer a DTS service on a non-carrier basis. A second reason cited by API for not permitting Part 94 licensees to provide data services to customers is that there is insufficient spectrum to accommodate existing private microwave systems.

25. We believe that API's conclusions are wrong. Under our decisions in Docket 19871, the Commission has concluded that the public interest is served by permitting private service licensees to deliver products and services to their customers. Thus, clearly a data service provider is eligible under Part 94 to offer its data services to its customers (See *First Report and Order* adopted May 7, 1981, 86 FCC 2d 299 and *Memorandum Opinion and Order* adopted May 26, 1983, 48 FR 32578 (July 18, 1983)).

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[6] In proposed Sections 21.502(h) and 94.189(d)(h) we included a statement that read as follows: "The preferred use of these channels is to provide internodal communications for Digital Termination Systems."

MDS

26. In our *Further Notice* we requested comments on the feasibility and advisability of making a portion of the spectrum under consideration available for use by licensees in the Multipoint Distribution Service (MDS). It was suggested that MDS licensees could be given access to some spectrum for use in conjunction with their existing one-way channels to provide a two-way communication service. We received generally favorable comment supporting MDS access to 18 GHz. Typical of such comments was that of Tymnet. It said, "The simplex transmission capability imposed upon MDS licensees severely constrains the utility of MDS for non-video applications. Although 18 GHz is unsuitable for a universal return channel, there may be special situations based upon unique customer needs in which point-to-point links at 18 GHz could be utilized as an adjunct to a MDS-based data distribution system." Another commenter, Contemporary Communications Corporation (CCC) is currently developing, under authorization from the Commission, an MDS system in Atlantic City, New Jersey, to establish the possible parameters of service for two-way digital transmission within a single MDS channel. CCC contends, "The availability of frequency spectrum for reverse transmission would enhance this service, particularly in terms of the spectral efficiency that might be achieved. Separation of transmit and receive frequencies at a station lessens the requirements for filtering, as well as the requirement for guard bands to prevent interference, with such guard bands otherwise unused." Although CCC suggests that spectrum in the 2 GHz range would be more desirable for a return link, it supports the proposed availability at 18 GHz.

27. Presently, MDS licensees have access only to the band 2150–2162 MHz to provide one-way radio transmission (usually in an omnidirectional pattern) of subscriber supplied information from a stationary transmitter to multiple receiving facilities located at fixed points designated by the subscriber. (See Subpart K of Part 21). As we are rechannelizing the 18.46–18.94 GHz band into narrower channels for use in point-to-point applications, we are persuaded that MDS licensees should also have access to this spectrum to provide a point-to-point return path to be used in conjunction with their existing operations. We believe that MDS licensees will be enabled as a consequence of this action to increase their clientele, particularly as it relates to the growing demand for two-way data transmission. In summary, the appropriate rules are amended herein to make available the 18.46–18.94 GHz band to MDS for the puposes of providing a fixed point-to-point return radio path from a subscriber location to the MDS transmitting location.

Aural broadcast STL and Intercity Relay Stations

28. To provide room the long range growth of auxiliary broadcast stations [viz. aural studio-to-transmitter links (STL's) and intercity relay stations], we proposed in the *Further Notice* to permit this service to access a certain segment of the proposed allocation. In view of the few, but favorable, comments received, we are herein adopting rules to allow stations in this service to use 12 two-way paired frequencies, each 5 MHz wide. Applicants for these frequencies may use either a frequency pair for a two-way link or one frequency pair for a one-way link. As these frequencies are being shared with other fixed services, auxiliary broadcast stations are subject to the same requirements for frequency coordination and technical standards as set forth in the Rules in the Appendix B herein. Either analog or digital modulation is permissible.

Displaced licensees from the 12.2–12.7 GHz band

29. At the time the *Further Notice* was being written it was uncertain whether an additional need for 18 GHz spectrum would develop because of the consideration of possible broadcast-satellite service operation in the 12.2–12.7 GHz band. Since then, the Commission has set forth a course of action to provide for the use of the 12.2–12.7 GHz band by direct broadcast satellite (DBS) and to relocate the terrestrial microwave links in that band. Based on a detailed analysis of the current terrestrial microwave users in the 12.2–12.7 GHz band, the Commission estimates that between 50 to 85 percent of the links can be accommodated at 18 GHz and higher frequencies. Accordingly, we envision that the 5, 10, and 20 MHz channels in the 18.46–18.94 GHz band being allocated by this *Second Report and Order* could be used to accommodate at least 35 percent of the users relocating from 12.2–12.7 GHz band.[7] Moreover, in an associate proceeding being adopted today the Commission is providing many additional channels in other frequency bands to accommodate other displaced private radio licensees.[8]

Technical Standards

Frequency stability

30. A frequency stability standard of ±0.001% for DTS nodal stations and ±0.003% for DTS user stations, operational-fixed point-to-point and narrow band common carrier stations was proposed in our *Further Notice*. At least one commenter supported a looser frequency stability standard indicating that the cost penalties of tightening the standard are significant and would not provide any operational advantages. There were others who felt that a much tighter standard than what was proposed should be considered. The Microwave Communications Products division of Hughes Aircraft Company recommended a ±0.0005% standard claiming that implementation need not have an undue economic impact on manufacturer or user. However, most commenters expressed agreement that our proposed standards represent reasonable values that may be achieved at low cost.

31. At this time we expect use of a crystal reference will probably be needed to stabilize the equipment oscillator to meet the proposed performance standards. Any tighter standard would probably require the use of an oven to further stablize the crystal. Although a tighter frequency stability standard is apparently achievable, we do not now wish to unnecessarily limit use of the 18 GHz band by placing an economically burdensome requirement on potential users. Accordingly, we are adopting herein the standards for frequency stability as proposed.

Spectrum efficiency

32. In the *Further Notice* we discussed the need to require spectrally efficient modulation techniques as a means of obtaining a more effective use of the spectrum. Because the state-of-the-art has advanced to make achievement of a modulation spectral efficiency of 1.0 (bps)/Hz possible below 18 GHz, we felt this standard might be feasible to achieve also at 18 GHz. However, the majority of comments received did not support an across-the-board adoption of a 1.0 (bps)/Hz standard for the 18 GHz band. Submitting the most cogent set of comments, Local Digital Distribution Company ("LDD") brought to our attention a number of technical factors

[7] *Report and Order* in Gen. Docket 80–603 adopted June 23, 1982, 47 Fed. Reg. 3155 (July 21, 1982)

[8] *First Report and Order* in Gen. Docket 82–334.

that were not considered in the drafting of our *Further Notice*. LDD indicated that a radio design capable of achieving 1 (bps)/Hz is dependent on the availability of low cost 18 GHz GaAs power FETS. As technology has not yet sufficiently developed, such devices are not now readily available. However, LDD predicts within a few years GaAs FETS will be manufactured in quantity at low cost. Alternatively, the use of TWT amplifiers at 18 GHz has not gained wide acceptance due to their greater physical size and higher cost. Another factor concerns the generation of ocillator noise which, at higher frequencies (in this case, 18 GHz), contributes significant interference [at relatively greater bandwidths] compared to lower frequencies (i.e. 10 GHz). As a consequence, it is more difficult to attain a 1 (bps)/Hz efficiency factor given these technological problems.

33. Although LDD requests we hold in abeyance the adoption of any technical standards at 18 GHz, we are compelled based on the needs established earlier to make available this spectrum for public use in implementing the most reasonable plan to increase utilization and efficiency. Accordingly, we are going forward with the technical standards and are choosing to adopt a spectral efficiency factor of 0.6 (bps)/Hz for an interim period of 5 years. Accordingly, a 1.0 (bps)/Hz factor will become effective December 1, 1988. Stations authorized before December 1, 1988 using equipment with a spectral efficiency factor of 0.6 (bps)/Hz will be permitted to continue operating for an indefinite period of time. Adoption of these factors, we believe, will encourage the largest number of possible users to gain access to relatively virgin spectrum with minimal economic impact.

Antenna standards

34. Although we did not propose any changes to the current radiation suppression standards, we received several comments requesting a relaxation of these standards. At the present time, the main lobe of a fixed station's antenna (other than temporary fixed, Digital Termination Nodal Stations and Digital Termination User Stations), in areas not subjected to frequency congestion is required to have a minimum power gain of 38 dbi on frequencies above 5 GHz. M/A–COM claims that this standard should be eased to 36 or 37 dbi to permit the use of 2-foot parabolic dishes at 18 GHz. It contends that the surface tolerance requirements to achieve a 38 dbi power gain at that frequency prohibit the manufacture of a reasonably priced antenna. The Farinon Division of the Harris Corporation supported this view. Tymnet, Inc. and Microband Corporation of America, in their joint comments, suggested that the category B and standard B antennas be allowed without restriction by Digital Termination System users.[9] They pointed out that many users are reluctant to deploy category B or Standard B antennas as the Commission may require the replacement, at the licensee's expense, of any antenna system which does not meet the stricter category A or standard A performance upon a showing that such antenna causes or is likely to cause interference to any other authorized or proposed station which could be avoided by deployment of a category A or standard A antenna.

35. We are appreciative of Tymnet/Microband comments and agree that usage of category B and standard B antennas would definitely increase if there were no restrictions. However, because of increasing congestion of the radio frequency spectrum, it has become imperative to require the use of more directive antennas, particularly in areas of high usage. Although we recognize that this requirement mandates higher costs to the user, we must, of necessity, provide adequate interference protection in such congested areas through the implementation of standards that have been demonstrated to be in the greater public interest. As a consequence, we are not persuaded to revoke such requirements at this time.

36. To investigate the assertion that a category B or standard B antenna with a 2-foot diameter cannot be manufactured to meet the present requirements at a reasonable price, we contacted several manufacturers of antennas at 18 GHz. each one indicated it manufactures a 2 foot parabolic dish that exceeds all of the existing parameters. The price range of the antennas we surveyed was from $1430 to $1500. We also queried each manufacturer whether this price could be lowered if the required main lobe power gain were to be decreased to 36 dBi. Each responded that such reduction in gain would not influence its manufacturing costs and ultimate sale price. Accordingly, we conclude that the existing parameters for a standard B or category B antenna with a 2-foot diameter dish are reasonably obtainable. Therefore, we are maintaining the requirements as they presently appear in our Rules.

[9] Standard A and B antenna requirements are applicable to licensees under the Commission's Common Carrier Radio Service; whereas, category A and B refer to those under the Private Operational-Fixed Microwave Service.

Other Issues

Cable

37. Several comments were received from parties representing cable television interests that said consideration should be given to their needs in this allocation proceeding. Comments indicated that the only band allocated to Cable Television Relay Service (CARS), 12.7–13.2 GHz, also shared by television auxiliary broadcast stations, is heavily congested in many metropolitan areas. Hughes Aircraft Company, Microwave Communications Products (Hughes-MCP), a major manufacturer and distributor of terrestrial microwave systems, requested that a segment of the 17.7–19.7 GHz band be set aside to accommodate 6 MHz bandwidth, vestigial sideband amplitude modulation (VSBAM) equipment. Hughes contends that such a 6 MHz channelization plan should be an adjunct to other channeling plans occupying the same allocation. Accordingly, each applicant would be able to choose whether to use conventional FM or VSBAM equipment depending on its needs, as is possible now in the 12.7–13.2 GHz band.[10] Hughes suggests that a minimum of 160 contiguous 6 MHz channels arranged in a fashion analogous to the present CARS channelization plan is needed particularly in the metropolitan areas. We acknowledge the concerns expressed by the commenters for an increased allocation for CARS. As we do not believe the allocation being adopted herein is able to support any further use such as suggested by Hughes, we are choosing to consider this request in Gen. Docket No. 82–334.[11]

Passive Sensors

38. In the *Further Notice* we pointed out that spectrum was allocated internationally at the World Administrative Radio Conference in 1979 (WARC–79) to provide for the operation of environmental passive sensors in the 18.6–18.8 GHz bands. In response, the Commission has proposed two footnotes in its implementation of WARC–79 which would restrict fixed

[10] Hughes is the primary developer and manufacturer of such equipment. Under Part 78 of the Commission Rules, Cable Television Relay Service, a channeling plan consisting of 42 VSBAM channels is currently provided in the 12.7–13.2 GHz band. Other CARS channeling plans for 12.5 MHz and 25 MHz bandwidths for use by conventional FM Microwave Systems are also provided in the 12.7–13.2 GHz band.

[11] *Supra*, 8.

and mobile operation in the 18.6–18.8 GHz band.[12] These footnotes read as follows:

US254 In the band 18.6–18.8 GHz the fixed and mobile services shall be limited to maximum equivalent isotropically radiated power of +35 dBW and the power delivered to the antenna shall not exceed −3 dBW.

US255 In the band 18.6–18.8 GHz the fixed satellite service shall be limited to a power flux density at the Earth's surface of −101 dBW/M² in a 200 MHz band for all angles of arrival.

As we believe the adoption of these footnotes may take place within the coming year, it is prudent that applicants planning systems in this portion of the spectrum take into consideration the possible adoption of these proposed limitations

Existing Systems

39. The Farinon Division of Harris Corporation pointed out that the Commission had made no provision for relocation, compensation or grandfathering in respect to licensed stations now operating under the current channelization plan in the 18 GHz band. We admit this point was overlooked and have taken into account these systems in the Report and Order. A footnote to the Table of Frequency Allocations (Section 2.106 of the Commission's Rules) is added to "grandfather" all such systems on a co-equal basis for an indefinite time period.

Alaska

40. Alascom in its submission urged the Commission to leave questions regarding the provision of DEMS and DTS service for Alaska by non-common carriers for determination on individual applications in the light of the unique conditions that pertain in Alaska. As indicated in the *First Report and Order*,[13] we generally believe that Alaska should be treated no differently than the contiguous 48 states with the possible exception of MTS and WATS (see *MTS and WATS Market Structure Inquiry*, 81 FCC 2d 177 (1980)). *Also, see DHL Communications, Inc.*, File No. W–P–C 2000 (released Dec. 30, 1980); *See also Integration of Rates and Services*, 81 FCC 2d 380 (1976), *reconsideration*, 65 FCC 2d 324 (1977). We see no overall public interest benefit in establishing a different policy here. Accordingly, the action being taken in this *Order* will equally apply to Alaska as well as to the other areas under the jurisdiction of the Commission.

[12] *First Notice of Proposed Rule Making* in Gen. Docket 80–739, 48 Fed. Reg. 3790 (January 27, 1983).

[13] *Supra*, 2.

41. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

I. Need for and Purpose of the Rules

The Commission has concluded that an allocation at 18 GHz for Digital Termination Systems, a rechannelization of the 18.460–18.940 GHz band into smaller bandwidths, and allowing private DTS licensees to access channels at both 10.6 GHz and 18 GHz would enhance the public interest by providing increased opportunities for spectrum usage as well as by improving the efficiency of spectrum utilization.

II. Summary of issues raised by public comments in response to the initial regulatory flexibility analysis, Commission assessment, and changes made as a result

A. Issues raised

1. No issues or concerns were raised in response to the initial regulatory flexibility analysis.

B. Assessment

1. The Commission views the absence of specific claims of adverse impact with respect to its allocation proposals as indicative of their lack of potential for negative effects on small businesses. In actuality, we believe the actions taken herein will benefit many small businesses by allowing them access to spectrum previously set aside exclusively for common carriers.

C. Changes made as a result of such comments: None.

III. Significant Alternatives Considered and Rejected

The Commission's other alternatives were (1) not to allocate spectrum for DTS use and not to rechannelize the 18 GHz band or (2) to deny private access to DTS frequencies at 10.6 GHz due to the large number of common carrier applications on file. To deny the allocation would be to forego the beneficial objectives sought in this rule making. Similarly, to deny private access to DTS frequencies at 10.6 GHz would interfere with realization of the full potential and benefits the Commission desires by allowing different radio services in common frequency bands based on the similarity of the radio facilities employed and their electromagnetic compatibility.

Motion to Consolidate

42. The Hughes Aircraft Company, Microwave Communications Products ("Hughes-MCP"), filed on March 19, 1983, an item entitled *Motion to Consolidate or to Hold in Abeyance*. It requested that the Commission consolidate proceedings under the *Further Notice of Proposed Rulemaking* in Gen. Docket 79–188 with the proceedings in the *Notice of Proposed Rulemaking in Gen. Docket 82–334*. In the alternative, it requested that the Commission defer consideration and resolution of the issues raised in Gen. Docket No. 79–188 pending resolution of Gen. Docket No. 82–334. Hughes-MCP claims this latter docket effectively modifies the proposals contained in the *Further Notice of Proposed Rulemaking* in Gen. Docket 79–188. First, it states that a determination cannot be made as to the amount of spectrum to allocate for private-operational fixed service (POFS) use at 18 GHz without knowing through comments submitted in Gen. Docket 82–334 how much spectrum will be made available to POFS in other bands. Second, it argues that a channelization plan for the 18 GHz band cannot properly be developed without comprehensively considering the needs of all microwave users. Third, it claims the proposed channelization plan in Gen. Docket 79–188 does not take into consideration the impact of a number of technical rules being considered in Gen. Docket 82–334, such as minimum path length.

43. Comments supporting Hughes-MCP's *Motion* were filed by the Local Distribution Company ("LDD"), the New York Times Company ("The Times"), and the Farinon Division of the Harris Corporation ("Farinon"). While LDD recognizes a similarity in the issues in the two proceedings, it believes that a consolidation could result in delaying both proceedings. It is not opposed to a consolidation, but requests that the Commission not delay allocating frequencies for the Digital Electronic Message Service (DEMS). Since each proceeding addresses allocations and technical standards in the 18 GHz band, according to the Times, each should not be decided independently. Farinon supports a partial consolidation suggesting the Commission complete its action in Gen. Docket No. 79–188 and associate the results with the ultimate findings in Docket 82–334.

44. We agree with the comments that the reference dockets are related and we need to address the issues that are similar for the 18 GHz band. To consolidate the two dockets into a new, third docket, however, would further delay action. As an alternative, we are responding to the concerns of the petitioner and commenters by jointly considering the two proceedings together at the same Agenda meeting.

45. Accordingly, it is ordered, that pursuant to Sections 4(i), 302 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. Sec. 154(i), 302, and 303, the *Motion to Consolidate or to Hold in Abeyance* filed by the Hughes Aircraft Company, Microwave Communications Products is granted to the extent discussed above. Also, it is ordered, that the petition (designated by the Commission as RM–3497) submitted by Farinon Electric, a division of the Farinon Corporation, is granted to the extent discussed above.

46. Accordingly, it is ordered, That pursuant to the authority found in Section 4(i), 301 and 303(r) of the Communications Act of 1934, as amended, (47 U.S.C. 154(i), 301, 303(r)), Parts 2, 21, 74, and 94 of the Commission's Rules and Regulations are amended as specified in Appendix B. These amendments become effective November 1, 1983. It is further ordered that this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

List of parties submitting comments in response to the Further Notice of Proposed Rule Making:

Aerospace and Flight Test Radio Coordinating Council
American Satellite Company
AT&T
American Transcommunication, Inc.
Central Committee on Telecommunications of the American Petroleum Institute
Citicorp
Contemporary Communications Corporation
County of Los Angeles
Cox Cable Communications, Inc.
Datapoint Corporation
Gill Industries
GTE Telenet
Harris Corporation-Farinon Division
Hughes Aircraft Company; Microwave Communications Products
ISA Communications Services, Inc.
Joint comments of Cable TV operators
Local Area Telecommunications, Inc.
Local Digital Distribution Company
M/A-COM, Incorporated
MCI
Rockwell International Corporation
Satellite Business Systems
Satellite Television Corporation
Southern Pacific Communications Company

Parties submitting Reply comments included the following:

Alascom, Inc.
Central Committee on Telecommunications of the American Petroleum Institute
Datapoint Corporation
GTE Telenet Communications Corporation
Harris Corporation-Farinon Division
Hughes Aircraft Company, Microwave Communications Products
ISA Communications Services, Inc.
Utilities Telecommunications Council

Loral Microwave submitted late comments received June 28, 1982.

Appendix B

Chapter I, Parts 2, 21, 74, and 94 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

§ 2.106 [Amended]

In § 2.106, the Table of Frequency Allocation is amended for the frequency bands 10.55–10.68 GHz and 17.7–19.7 GHz in columns 7, 8, 9, 10, and 11 and a new footnote NG144 is added as follows:

FEDERAL COMMUNICATIONS COMMISSION

Band (GHz)	Service	Class of Station	Frequency	Nature of services of stations
7	8	9	[illegible]	11
•	•	•	•	•
10.5–10.55	• • •	• • •	• • •	• • •
10.55–10.565	Fixed	Fixed		Domestic public. Operational fixed.
10.565–10.615	Fixed	Fixed		Domestic public. Operational fixed. Digital Termination nodal stations.
10.615–10.63	Fixed	Fixed		Domestic public. Operational fixed.
10.63–10.68	Fixed	Fixed		Domestic public. Operational fixed. Digital Termination user stations.
•	•	•	•	•
17.7 to 18.36 (NG140) (NG144).	• • •	• • •	• • •	• • •
18.36 to 18.46 (NG144).	Fixed. Fixed-satellite. Mobile.	Fixed. Space		Domestic public. Operational fixed. Digital Termination nodal stations.
18.46 to 18.94 (NG106) (NG144).	Fixed. Fixed-satellite. Mobile.	Fixed. Mobile. Space		Domestic fixed public. Operational fixed Fixed-satellite. Aural studio-transmitter links and intercity relay broadcast.
18.94 to 19.04 (NG144).	Fixed. Fixed-satellite. Mobile.	Fixed. Space		Digital termination user stations. Fixed-satellite.

* * * * *

NG144 Stations authorized as of September 9, 1983 to use frequencies in the band 17.7–19.7 GHz may, upon proper application, continue to be authorized for such operation.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES (OTHER THAN MARITIME MOBILE).

1. Section 21.101 is amended by revising the table for frequency tolerance in paragraph (a) for the frequency range "12,200–40,000 MHz" and adding a new footnote [5] to read as follows:

§ 21.101 Frequency tolerance.

(a) * * *

Frequency range (MHz)	Frequency tolerance (percent)		Mobile stations 3 watts or less [1]
	All fixed and base stations	Mobile stations over 3 watts	
12,200–18,360	0.03	0.03	0.03
18,360–18,460	0.001		
18,460–19,040 [5]	0.003		
19,040–40,000	0.03	0.03	0.03

[5] Existing type accepted equipment with a frequency tolerance of ±0.03% may be marketed until December 1, 1986. Equipment installed and operated prior to December 1, 1986 may continue to operate after that date with a minimum frequency tolerance of ±0.03%. However, the replacement of equipment requires that the ±0.003% tolerance be met.

2. Section 21.106 is amended by revising paragraphs (a)(3) (i) and (ii) to read as follows:

§ 21.106 Emission limitations.

(a) * * *

(3) * * *

(i) In any 4 kHz band, the center frequency of which is removed from the frequency of the center of the Digital Electronic Message Service channel by more than 50 percent of the Digital Electronic Message Service channel bandwidth up to and including 50 percent plus 250 kHz (in the 10,550–10,680 MHz band) or 500 kHz (in the 17,700–19,700 MHz band): As specified by the following equation but in no event less than 50 decibels.

(in the 10,550–10,680 MHz band)

$A = 50 + 0.12(F - 0.5B) + 10 \text{ Log}_{10} N$

(in the 17,700–19,700 MHz band)

$A = 50 + 0.06(F - 0.5B) + 10 \text{ Log}_{10} N$

Where:

A = Attenuation (in decibels) below output power level contained within the Digital Electronic Message Service channel for a given polarization.

B = Bandwidth of Digital Electronic Message Service channel (in kHz).

F = Absolute value of the difference between the center frequency of the 4 kHz band measured and the center frequency of the Digital Electronic Message Service channel (in kHz).

N = Number of active subchannels of the given polarization within the Digital Electronic Message Service channel.

(ii) In any 4 KHz band within the authorized Digital Electronic Message Service band, the center frequency of which is removed from the center frequency of the channel by more than 250 kHz (in the frequency band 10,550–10,680 MHz) or 500 kHz (in the 17,700–19,700 MHz band) plus 50 percent of the channel bandwidth: As specified by the following equation but in no event less than 80 decibels.

$A = 80 + \text{Log}_{10} N$ decibels

* * * * *

3. Section 21.106 is amended by revising that portion of paragraph (c) that appears before the table to read as follows:

§ 21.106 Directional antennas.

* * * * *

(c) Fixed stations (other than temporary fixed, Multipoint Distribution Service Stations, Digital Termination Nodal Stations and Digital Termination User Stations) operating at 2500 MHz or higher shall employ transmitting and receiving antennas meeting the appropriate performance Standard A indicated below, except that in areas not subjected to frequency congestion, antennas meeting performance Standard B may be used subject to the liabilities set forth in § 21.109(c). Additionally, the main lobe of each antenna operating below 5000 MHz shall have minimum power gain of 36 dBi over an isotropic antenna; at or above 5000 MHz the minimum gain shall be 38 dBi. Digital Termination User Station antennas operating in the 10,550–10,680 MHz band shall meet performance Standard B and have a minimum power gain of 34 dBi. The values indicated represent suppression required in the horizontal plane, without regard for the polarization plane of intended operation.

* * * * *

4. Section 21.122 is amended by adding paragraph (e) to read as follows:

§ 21.122 Microwave digital modulation.

* * * * *

(e) Microwave transmitters employing digital modulation techniques operating in the frequency band 18.36–19.04 GHz shall transmit at a bit rate, in bits per second, equal to or greater than the bandwidth specified by the emission designator in Hertz (e.g., to be acceptable, equipment transmitting at a 20 MB/s rate must not require a bandwidth greater than 20 MHz), except the bandwidth used to calculate the minimum rate shall not include any authorized guard band.

Note.—Paragraph (e) is effective December 1, 1988. Until that date, a minimum bit rate of 0.6 (bps)/Hz shall be permitted. Equipment installed and operated prior to December 1, 1988 may continue to operate after that date with a minimum bit rate of 0.6 (bps)/Hz. The replacement of equipment requires that the 1.0 (bps)/Hz be met.

5. Section 21.502 is amended by revising paragraph (a) and adding paragraphs (g) and (h) as follows:

§ 21.502 Frequencies.

(a) Each assignment in the 10,550–10,680 MHz band will be for either Extended network or for Limited network operation. Assignments in the 17,700–19,700 MHz band will be for all DEMS applicants regardless of the size of any intended network an applicant chooses to construct. Assignments for Extended network operation will consist of a pair of 5 MHz channels as set out in paragraph (b) of this section plus internodal channels as set out in paragraph (d) of this section. Assignments for Limited network coverage will consist of a pair of 2.5 MHz channels as designated in paragraph (c) of this section plus internodal channels as set out in paragraph (d) of this section. Assignments in 17,700–19,700 MHz band will consist of a pair of 10 MHz channels as designated in paragraph (g) of this section plus internodal channels set out in paragraph (h) of this section. A Limited network applicant may apply for an additional channel pair on showing the service to be provided will fully utilize all spectrum requested. An Extended network licensee may not apply for an additional channel pair until such time as the applicant has operated its initial channel pair at or near the expected capacity.

Note.—(1) New applications for the assignment of channel nos. 4, 7, 9, and 19/20 in the 10,550–10,680 MHz band that have been reallocated for private DTS stations will not be accepted after September 9, 1983. Existing licensees, permittees and pending applicants are permitted to submit applications for renewal and for additional nodal and associated user stations within the SMSA for which they have applied or have been authorized for use.

(2) Applications for the assignment of frequencies in the 17,700–19,700 MHz band as indicated in subsection (g) will be accepted only for channels 6–A, 6–B, 7–A, 7–B, 8–A, 8–B, 9–A, 9–B, 10–A, and 10–B. Channel Nos. 1–A through 5–A and 1–B through 5–B are availabe for assignment to private DTS stations under Part 94 rules.

* * * * *

(g) Assignments in the 17,700–19,700 MHz band shall be made according to the following plan:

CHANNEL GROUP A

Channel No.	Frequency band limits MHz
5–A	18,410–18,420
7–A	18,420–18,430
8–A	18,430–18,440
9–A	18,440–18,450
10–A	18,450–18,460

CHANNEL GROUP B

Channel No.	Frequency band limits MHz
5–B	18,990–19,000
7–B	19,000–19,010
8–B	19,010–19,020
9–B	19,020–19,030
10–B	19,030–19,040

Each assignment will consist of one channel from Group A, used for the Digital Termination System Nodal Station transmitter, and one channel from Group B, used for the Digital Termination System User Station transmitter. These channels will be assigned in each SMSA starting with channel pair 6 and continuing numerically upward. These channel pairs may be subdivided as desired by the licensee.

(h) The band 18,460–18,940 MHz is available for assignment to Digital Termination Systems for internodal communications. As the band is also allocated to the Point-to-Point Microwave Radio Service (Subpart I of Part 21) and to Private Operational-fixed Microwave Service (Part 94), all applicants for these channels shall follow the frequency coordination procedures of Section 21.100(d) and Subpart F of Part 94. Assignment in this

band shall be made according to the following frequency plan consisting of two-way channels, each 5 MHz wide:

PAIRED FREQUENCIES

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,642.5	18,682.5
18,647.5	18,687.5
18,652.5	18,692.5
18,657.5	18,697.5
18,662.5	18,902.5
18,667.5	18,907.5
18,672.5	18,912.5
18,677.5	18,917.5
18,682.5	18,922.5
18,687.5	18,927.5
18,692.5	18,932.5
18,697.5	18,937.5

6. Section 21.503 is amended by designating the present text as paragraph (a), by revising newly designated paragraph (a), and adding paragraph (b) to read as follows:

§ 21.503 Frequency stability.

(a) In the frequency band 10,550–10,680 MHz the frequency stability of each Digital Termination Nodal Station transmitter authorized for this service shall be ±0.0001%. The frequency stability of each Point-to-Point Microwave Rodio Station transmitter used for an internodal link and each Digital Termination User Station transmitter shall be ±0.0003%.

(b) In the frequency band 17,700–19,700 MHz the frequency stability of each Digital Termination Nodal Station transmitter authorized for this service shall be ±0.001%. The frequency stability of each Point-to-Point Microwave Radio Station Transmitter used for an internodal link and each Digital Termination User Station transmitter shall be ±0.003%.

7. Section 21.504 is amended by adding a new paragraph (d) to read as follows:

§ 21.504 Frequency interference.

* * * * *

(d) In addition a copy of the interference analysis submitted in response to paragraph (c)(1) of this section must be served on all applicants and/or grantees concerned within 5 days of its submission to the Commission.

8. Section 21.506 is amended by revising pargagrphs (a) and (b) and removing paragraphs (c) and (d) to read as follows:

§ 21.506 Transmitter power.

(a) For stations operating in the 10,550–10,680 MHz band, the following restrictions apply:

(1) The output power of a Digital Electronic Message Service nodal transmitter shall not exceed 0.5 watt per 250 kHz. Further, each application shall contain an analysis demonstrating compliance with § 21.107(a).

(2) The output power of a Digital Electronic Message Service user transmitter shall not exceed 0.04 watts per 250 kHz.

(3) The transmitter power in terms of the watts specified in this section is the peak envelope power of the emission measured at the associated antenna input port.

(4) Operating power shall not exceed the authorized power by more than ten (10) percent of the authorized power in watts at any time.

(b) For stations operating in the 17,700–19,700 MHz band the transmitter output power will be governed by § 21.107 of this rule part. Further, each application shall contain an analysis demonstrating compliance with § 21.107(a).

9. Section 21.701 is amended by revising the introductory text of paragraph (a); the table in paragraph (a) and footnote 10; by adding footnote 15 to the table in paragraph (a); and by revising paragraph (j). Paragraph (k) is redesignated as (l) and a new paragraph (k) is added as follows:

§ 21.701 Frequencies.

(a) Frequencies in the following bands are available for assignment to fixed radio stations in the Point-to-Point Microwave Radio Service:

2,110–2,130 MHz [1, 2, 7]
2,160–2,180 MHz [1, 2, 3]
3,700–4,200 MHz [5, 8]
5,925–6,425 MHz [5, 6, 8]
10,550–10,565 MHz [14]
10,615–10,630 MHz [14]
10,700–11,700 MHz [5, 9]
13,200–13,250 MHz [4]
17,700–18,360 MHz [5, 15]
18,460–18,940 MHz [5, 10, 14, 15]
19,040–19,700 MHz [5, 15]
21,200–22,000 MHz [4, 11, 12, 13]
22,000–23,600 MHz [4, 11, 12]
27,500–29,500 MHz [5]
31,000–31,200 MHz [4]
38,600–40,000 MHZ [4]

* * * * *

[10] The band segment 18,460–18,940 MHz is shared with operational-fixed stations and aural broadcast auxiliary and intercity relay stations. This band may be used for analog or digital modulation.

* * * * *

[15] Stations licensed as of September 9, 1983 to use frequencies in the 17.7–19.7 GHz band may, upon proper application, continue to be authorized for such operation.

(j) The bands 17,700–18,360 MHz and 19,040–19,700 MHz are available for assignment on the basis of the following frequency plan consisting of six two-way channels, each 220 MHZ wide ("V" indicates vertical polarization; "H" indicates horizontal polarization), designated channel group A and B:

CHANNEL GROUP A

Channel No.	Frequency band limits (MHz)
1-A	17,700–17,920 (V)
2-A	17,700–17,920 (H)
3-A	17,920–18,140 (V)
4-A	17,920–18,140 (H)
5-A	18,140–18,360 (V)
6-A	18,140–18,360 (H)

CHANNEL GROUP B

Channel No.	Frequency band limits (MHz)
1-B	19,480–19,700 (V)
2-B	19,480–19,700 (H)
3-B	19,260–19,480 (V)
4-B	19,260–19,480 (H)
5-B	19,040–19,260 (V)
6-B	19,040–19,260 (H)

(k) The 18,460–18,940 MHz band is available for assignment on the basis of the following frequency plans consisting of 12 two-way channels, each 20 MHz wide; 24 two-way channels, each 10 MHz wide; and 12 two-way channels, each 5 MHz wide.

(1) The frequency plan of the 12 two-way channels, each 20 MHz wide, is as follows:

Paired Frequencies

Transmit (or receive) (MHz)	Receive (or transmit) MHz)
18,470	18,710
18,490	18,730
18,510	18,750
18,530	18,770
18,550	18,790
18,570	18,810
18,590	18,830
18,810	18,850
18,630	18,870
18,650	18,890
18,670	18,910
18,690	18,930

(2) The frequency plan of the 24 two-way channels, each 10 MHz wide, is as follows:

Paired Frequencies

Transmit (or receive) (MHz)	Receive (or transmit) MHZ)
18,465	18,705
18,475	18,715
18,485	18,725
18,495	18,735
18,505	18,745
18,515	18,755
18,525	18,765
18,535	18,775
18,545	18,785
18,555	18,795
18,565	18,805
18,575	18,815
18,585	18,825
18,595	18,835
18,605	18,845
18,615	18,855

Paired Frequencies—Continued

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,825	[illegible]
[illegible]	18,870
18,845	18,845
[illegible]	18,895
[illegible]	18,[illegible]25
18,875	18,915
18,885	18,925
18,895	18,[illegible]35

(3) The frequency plan of the 12 two-way channels, each 5 MHz wide, is as follows:

Paired Frequencies

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,642.5	18,882.5
18,647.5	18,887.5
18,652.5	18,892.5
18,657.5	18,897.5
18,662.5	18,902.5
18,667.5	18,907.5
18,672.5	18,912.5
18,677.5	18,917.5
18,682.5	18,922.5
18,687.5	18,927.5
18,692.5	18,932.5
18,697.5	18,937.5

10. Section 21.703 is amended by revising paragraph (g) as follows:

§ 21.703 Bandwidth and emission limitations.

* * * * *

(g) The maximum bandwidth authorized shall not exceed that reasonably necessary to provide the proposed service but in no event shall it exceed the limits set forth below:

Frequency band (MHz)	Maximum authorized bandwidth (MHz)
2,110 to 2,130	3.5
2,160 to 2,180	3.5
3,700 to 4,200	20.0
5,925 to 6,425	30.0
10,700 to 11,700	40.0
13,200 to 13,250	25.0
17,700 to 18,360	80.0
18,360 to 18,460	10.0
18,460 to 18,940	80.0
18,940 to 19,040	10.0
19,040 to 19,700	220.0
21,200 to 22,000	100.0
22,000 to 23,600	1000.0
27,500 to 29,500	2500.0
31,000 to 31,200	50.0
38,600 to 40,600	500.0

11. Section 21.901 is amended by adding new paragraph (e) as follows:

§ 21.901 Frequencies.

* * * * *

(e) Frequencies in the band 18.46–18.94 GHz are available for assignment to fixed stations in this service for a point-to-point return link from a subscriber's location to the MDS' transmitting location. As these frequencies are shared with the Point-to-Point Microwave Service, as well as several other services, the applicant is referred to Subpart I of Part 21 for rules governing operation in this band, 18.46–18.94 GHz.

12. Section 21.903 is amended by revising paragraph (a) to read as follows:

§ 21.903 Purpose and permissible service.

(a) Multipoint Distribution Service stations are generally intended to provide one-way radio transmission (usually in an omnidirectional pattern) of subscriber supplied information from a stationary transmitter to multiple receiving facilities located at fixed points designated by the subscriber. A point-to-point return radio link from the subscriber's location to the MDS' transmitting location may be authorized in this service on frequencies in the 18.46–18.94 GHz band. Rules governing such operation are contained in Subpart I of Part 21, the Point-to-Point Microwave Radio Service.

* * * * *

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. In Section 74.502, paragraphs (b) and (c) are redesignated as (c) and (d), respectively and a new paragraph (b) is added as follows:

§ 74.502 Frequency assignment.

* * * * *

(b) The frequency bands 18.64–18.70 and 18.88–18.94 GHz are available for assignment to aural broadcast STL and intercity relay stations and are shared on a co-primary basis with stations in the Point-to-Point Microwave (Part 21), the Private-Operational Fixed Service (Part 94) and internodal stations used in connection with digital termination systems. The bands 18.64–18.70 and 18.88–18.94 GHz consist of 12 two-way channels, each 5 MHz wide.

PAIRED FREQUENCIES

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,642.5	18,882.5
18,647.5	18,887.5
18,652.5	18,892.5
18,657.5	18,897.5
18,662.5	18,902.5
18,667.5	18,907.5
18,672.5	18,912.5
18,677.5	18,917.5
18,682.5	18,922.5
18,687.5	18,927.5
18,692.5	18,932.5
18,697.5	18,937.5

Applicants may use either a two-way link or one frequency of a frequency pair for a one-way link and shall coordinate proposed operations pursuant to procedures required in Parts 21 and 94.

2. In § 74.534 the existing paragraph is designated as (a) and a new paragraph (b) is added as follows:

§ 74.534 Power Limitations.

* * * * *

(b) For the 18 GHz band the transmitter of an aural broadcast STL of an intercity relay station will be licensed with a power output not in excess of that necessary to render service and shall in no event exceed 10 watts.

3. In § 74.535 the phrase "For operation in the 947–952 MHz band:" is added at the beginning of paragraphs (a), (b), and (c); and new paragraphs (d), (e), and (f) are added as follows:

§ 74.535 Emission and bandwidth

(a) For operation in the 947–952 MHz band: * * *

(b) For operation in the 947–952 MHz band: * * *

(c) For operation in the 947–952 MHz band: * * *

(d) For operation in the 18 GHz band: Aural broadcast STL and intercity relay stations may be authorized to employ either digital or frequency modulation.

(e) For operation in the 18 GHz band: The mean power of emission shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) When using frequency modulation:

(i) On any frequency removed from the assigned frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: At least 25 decibels;

(ii) On any frequency removed from the assigned frequency by more than 100 percent up to and including 250 percent of the authorized bandwidth: At least 35 decibels;

(iii) On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least $43+10 \log_{10}$ (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(2) When using digital modulation:

(i) In any 1 MHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 11 decibels.

$$A = 11 + 0.4\,(P-50) + 10 \log 10^{B}$$

Where:

A = Attenuation (in decibels) below the mean output power level.
P = Percent removed from the carrier frequency.
B = Authorized bandwidth in MHz.

(ii) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least 43 + 10 $\log_{10}$ (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(f) For operation in the 18 GHz band: When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion require greater attenuation than specified above.

4. In § 74.536 the existing paragraph is designated as (a) and new paragraphs (b) and (c) is added as follows:

§ 74.536 Directional antenna required.

* * * * *

(b) An aural broadcast STL or intercity relay station operating in the 18 GHz band shall employ transmitting and receiving antennas meeting the appropriate performance Standard A indicated below, except, that in areas not subject to frequency congestion, antennas meeting performance Standard B may be used subject to paragraph (c) of this section. Additionally, the main lobe of each antenna shall have a minimum power gain of 38 dBi over an isotropic antenna. The values indicated represent the suppression required in the horizontal plane without regard for the polarization plane of intended operation.

Angle from center of main lobe	Minimum radiation suppression	
	Standard A (dB)	Standard B (dB)
5° up to, not including 10°	25	20
10° up to, not including 15°	29	24
15° up to, not including 20°	33	28
20° up to, not including 30°	36	32
30° up to, not including 100°	42	35
100° up to, not including 180°	55	36

(c) The Commission may require the replacement, at the licensee's expense, of any antenna or periscope antenna system of a permanent fixed station operating at 2500 MHz or higher which does not meet performance Standard A specified above upon a showing that said antenna causes or is likely to cause interference to (or receive interference from) any other authorized or proposed station whereas an antenna meeting performance Standard A is not likely to involve such interference.

5. A new § 74.550 is added to appear under the existing heading entitled *EQUIPMENT* to read as follows:

§ 74.550 Type acceptance.

Type acceptance is required by the Commission for all Aural broadcast STL and intercity station transmitters employed in the 18 GHz band. Requirements for obtaining type acceptance are contained in Subpart J of Part 2 of this chapter.

6. In § 74.561 the existing paragraph is designated (a) and a new paragraph (b) is added as follows:

§ 74.561 Frequency tolerance.

* * * * *

(b) For the 18 GHz band, the operating frequency of the transmitter shall be maintained within ±0.003% of the assigned frequency.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

1. Section 94.3 is amended by adding the following definitions in appropriate alphabetical order:

§ 94.3 Definitions.

* * * * *

Digital Termination Nodal Station—A fixed point-to-multipoint radio station in a Digital Termination System providing two-way communications with Digital Termination User Stations.

Digital Termination System—A fixed point-to-multipoint radio system consisting of Digital Termination Nodal Stations and their associated Digital Termination User Stations.

Digital Termination User Station—Any one of the fixed microwave radio stations located at users' premises, lying within the coverage area of a Digital Termination Nodal Station, and providing two-way digital communications with Digital Termination Nodal Station.

* * * * *

Extended Network—A group of interconnected Digital Termination Systems that provides service to users in at least 30 Standard Metropolitan Statistical Areas.

* * * * *

Internodal Link—The communications link between two point-to-point microwave radio stations used to provide two-way communications between Digital Termination Nodal Stations or to interconnect Digital Termination Systems to other communications media.

Limited Network—A group of interconnected Digital Termination Systems that provides service to users in fewer than 30 Standard Metropolitan Statistical Areas. A single Digital Termination System will be considered to be a Limited Network for frequency assignment purposes.

* * * * *

2. Section 94.9 is amended by adding paragraph (a)(5) and revising paragraph (b)(1) to read as follows:

§ 94.9 Permissibility of communications.

(a) * * *

(5) Communications on a commercial basis between the licensee and a customer, among different premises of a single eligible user, or from one eligible user to another as part of transmissions by Digital Termination Systems and associated internodal links on the frequencies provided for this purpose.

(b) * * *

(1) Rendition of a common carrier communications service, except stations carrying public correspondence associated with public coast stations licensed under Part 81 may continue in operation for the balance of the term of their licenses and for an additional five-year renewal term.

* * * * *

3. Section 94.15 is amended by adding paragraph (i) to read as follows:

§ 94.15 Policy governing the assignment of frequencies.

* * * * *

(i) Licensees and applicants for Digital Termination Systems will not be subject to the provisions of paragraphs (a) through (h) of this section. They shall comply with frequency assignment policies and procedures prescribed for Digital Termination Systems and associated internodal links in Subpart F of this Part and § 21.100(d) of this chapter.

4. The table in § 94.61 is amended by adding an entry for frequency band 10,550 to 10,680 MHz and by revising the entry for 18,360 to 19,040 MHz in paragraph (b), revising footnote (17), and by adding a new footnote (24) to read as follows:

§ 94.61 Applicability.

* * * * *

(b) Frequencies in the following bands are available for assignment to stations in the Private Operational-Fixed Microwave Service:

Frequency Band (MHz)	
* * * * *	
10,550 to 10,680	(24)
* * *	
18,360 to 18,460	[24]
18,460 to 18,940	(8), (10) (17), (21)
18,940 to 19,040	[24]

* * * * *

(17) Frequencies in this band are shared with (1) DTS internodal links, Point-to-Point Microwave Service stations and point-to-point return radio links for MDS stations under Part 21 rules and (2) aural broadcasts STL and intercity relay stations under Part 74 rules.

* * * * *

(24) Frequencies in this band are shared with the Common Carrier services for Digital Termination Systems. The channelization of this band is indicated in Section 94.189.

* * * * *

5. Section 94.63 is amended by revising paragraph (a) as follows:

§ 94.63 Interference protection criteria for operational fixed stations.

(a) Before filing an application for new or modified facilities under this part, the applicant must perform a frequency engineering analysis to assure that the proposed facilities will not cause interference to existing or previously applied-for stations in this service of a magnitude greater than that specified in the criteria set forth in paragraph (b) of this section, unless otherwise agreed to in accordance with § 94.15(b). In addition, when the proposed facilities are to be operated in the bands 10,550–10,680 MHz, 18,360–19,040 MHz, 21,200–21,800 MHz, 22,400–23,000 MHz, 31,000–31,200 MHz, or 38,600–40,000 MHz, applicants shall follow the prior coordination procedure specified in § 21.100(d) of this chapter or submit the interference analysis required by § 21.504 of this chapter where applicable as regards stations in the Domestic Public Radio Services and when the proposed facilities are to be operated in the bands 2655–2690 MHz or 12,500–12,700 MHz, applications shall also follow the procedures in § 21.706 (c) and (d) and the technical standards and requirements of Part 25 of this chapter as regards licensees in the Communication-Satellite Service. *See also* § 94.77.

* * * * *

6. Section 94.65 is amended by revising paragraph (i) and adding paragraphs (j) and (k) to read as follows:

§ 94.65 Frequencies.

* * * * *

(i) *10,550–10,680 MHz and 18,360–19,040 MHz.* Frequencies in the bands 10,550–10,680 MHz and 18,360–19,040 MHz authorized for Digital Termination Systems and associated internodal links are specified in Section 94.189. (Note, however, that stations authorized as of September 9, 1983 to use frequencies in the band 17.7–19.7 GHz may, upon proper application, continue to be authorized for such operation).

(j) *18,460–18,940 MHz*

(1) 20 MHz maximum bandwidth.

PAIRED FREQUENCIES

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,470	18,710
18,490	18,730
18,510	18,750
18,530	18,770
18,550	18,790
18,570	18,810
18,590	18,830
18,610	18,850
18,630	18,870
18,650	18,890
18,670	18,910
18,690	18,930

(2) 10 MHz maximum bandwidth.

PAIRED FREQUENCIES

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,465	18,705
18,475	18,715
18,485	18,725
18,495	18,735
18,505	18,745
18,515	18,755
18,525	18,765
18,535	18,775
18,545	18,785
18,555	18,795
18,565	18,805
18,575	18,815
18,585	18,825
18,595	18,835
18,605	18,845
18,615	18,855
18,625	18,865
18,635	18,875
18,645	18,885
18,655	18,895
18,665	18,905
18,675	18,915
18,685	18,925
18,695	18,935

(3) 5 MHz maximum bandwidth.

PAIRED FREQUENCIES

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,642.5	18,882.5
18,647.5	18,887.5
18,652.5	18,892.5
18,657.5	18,897.5
18,662.5	18,902.5
18,667.5	18,907.5
18,672.5	18,912.5
18,677.5	18,917.5
18,682.5	18,922.5
18,687.5	18,927.5
18,692.5	18,932.5
18,697.5	18,937.5

(k) Except as provided for in § 94.91 frequencies in bands authorized in § 94.61(b) above 21.2 GHz are not paired and will be specified as in the authorization.

7. Section 94.67(a) is amended by revising the table and adding a new footnote No. 7 and 8 to read as follows:

§ 94.67 Frequency tolerance.

* * * * *

Frequency band (MHz)	Tolerance as percentage of assigned frequency
928–929	0.0005
952–960 [7]	[9]
1850–1990	0.002
2130–2150	0.001
2150–2160	0.001
2180–2200	0.001
2450–2500	0.001
2500–2690	(2)
6525–6,875	0.005
10,550–10,680	[8]
12,200–12,700	* 0.003
12,700–18,360	* 0.03
18,360–18,460	0.001
18,460–19,040	* 0.003
19,040–40,000	* 0.03
Above 40,000	(4)

* * * * *

[7] Existing type accepted equipment with a frequency tolerance of ±0.03% may be marketed until December 1, 1988. Equipment installed and operated prior to December 1, 1988, may continue to operate after that date with a minimum frequency tolerance of ±0.03%. However, the replacement of equipment requires that the ±0.003% tolerance be met.

[8] Digital Termination System transmitters must maintain frequency tolerances in accord with Section 94.191 in this band.

* * * * *

8. Section 94.71 is amended by revising the introductory text of paragraph (b) and adding the frequency band "10,550–10,680 MHz". The band "18,360–19,040 MHz" is replaced by the bands "18,360–18460 MHz", "18,460–18,940 MHz" and "18,940–19,040 MHz". Also, a new paragraph (c)(3) is added as follows:

§ 94.71 Emission and bandwidth limitations.

* * * * *

(b) The maximum bandwidth that will be authorized per frequency assigned is as follows:

Frequency band (MHz)	Maximum authorized bandwidth (MHz [1])
* * * * *	
10,500–10,680	5
* * * * *	
18,360–18,460	10
18,460–18,940	20
18,940–19,040	10

* * * * *

(c) * * *

(3) For Digital Termination System channels and point-to-point microwave channels authorized for internodal communications:

(i) In any 4 kHz band, the center frequency of which is removed from the frequency of the center of the Digital Termination System channel by more than 50 percent of Digital Termination system channel bandwidth up to and including 50 percent plus 250 kHz (in the 10,550–10,680 MHz band) or 500 kHz (in the 17,700–19,700 MHz band): As specified by the following equation but in no event less than 50 decibels.

(in the 10,550–10,680 MHz band) $A = 50 + 0.12(F-0.5B) + 10 \text{ Log}_{10}N$
(in the 17,700–19,700 MHz band) $A = 50 + 0.06(F-0.5B) + 10 \text{ Log}_{10}N$.
Where:
A= Attenuation (in decibels) below mean output power level contained within the Digital Termination System channel for a given polarization.
B= Bandwidth of Digital Termination System channel (in kHz).
F= Absolute value of the difference between the center frequency of the 4 kHz band measured and the center frequency of the Digital Termination System channel (in kHz).
N= Number of active subchannels of the given polarization within the Digital Termination System channel.

(ii) In any 4 kHz band within the authorized Digital Termination System band, the center frequency of which is removed from the center frequency of the channel by more than 250 kHz (in the 10,550–10,680 MHz band) or 500 kHz (in the 17,700–19,700 MHz band) plus 50 percent of the channel bandwidth: As specified by the following equation but in no event less than 80 decibels.

$A = 80 + \text{Log}_{10}N$ decibels.

(iii) In any 4 kHz band the center frequency of which is outside the authorized Digital Termination System band: At least $43 + \text{Log}_{10}$ (mean output power in Watts) decibels.

* * * * *

9. Section 94.73 is amended by revising paragraph (a)(1) to add footnote 6 and by revising paragraph (a)(2) to add footnote 7 to read as follows:

§ 94.73 Power limitations

(a) * * *
(1)

Frequency band	Maximum transmitter output power (watts)
928–929 MHz	5.
952–960 MHz	20 [1].
1,850–6,875 MHz	20.
10,550–10,680 MHz	See footnote 6.
12,200–40,000 MHz	10 [5].
Above 40,000 MHz	As specified in authorization.

(2)

Frequency band	Maximum allowable—ERP [2] dbm
928–929 MHz	47.
952–960 MHz	70 [3].
1,850–2,690 MHz	75 [3,4].
6,525–40,000 MHz	80 [4,5,7].
Above 40,000 MHz	As specified in authorization.

* * * * * * *

[6] The output power of a Digital Termination System nodal transmitter shall not exceed 0.5 watts per 250 kHz. The output power of Digital Termination System user transmitter shall not exceed 0.04 watts per 250 kHz. The transmitter power in terms of the watts specified is the peak envelope power of the emission measured at the associated antenna input port.

[7] Except for Digital Termination Systems as provided in § 94.197.

§ 94.75 [Amended]

10. The table in § 94.75 is amended by revising the fourth element under the heading "Frequency band (megahertz)" to "10,550 to 12,700 [3]," and by revising footnote 3 to read:

* * * * *

[3] Except as provided in § 94.90, in § 94.199 for Digital Termination System antennas, and in § 21.108(c) for antennas employed at point-to-point stations in the 10,550–10,680 MHz band.

* * * * *

11. Section 94.94 is added to read as follows:

§ 94.94 Microwave digital modulation in the 10,550–10,680 MHz and 18,360–19,040 MHz bands

For transmitters operated in the 10,550–10,680 MHz and 18,360–19,040 MHz bands (including for Digital Termination Systems and point-to-point links) the bit rate, in bits per second, shall be equal to or greater than the bandwidth specified by the emission designator in Hertz (e.g., to be acceptable, equipment transmitting at a 20 MB/s rate must not require a bandwidth of greater than 20 MHz), except the bandwidth used to calculate the minimum rate shall not include any authorized guard band.

Note.—Until December 1, 1988 a minimum bit rate of 0.6 (bps)/Hz shall be permitted for the 18,360–19,040 band. Equipment installed and operated prior to December 1, 1988 may continue to operate after that date with a minimum bit rate of 0.6 (bps)/Hz. The replacement of equipment requires that the 1.0 (bps)/Hz be met.

12. A new Subpart F of Part 94 on Digital Termination Systems is added to read as follows:

Subpart F—Digital Termination Systems

Sec.
94.181 Scope.
94.183 Permissible communications.
94.185 Applications.
94.187 Time in which station must be placed in operation.
94.189 Frequencies.
94.191 Frequency tolerance.
94.193 Interference.
94.195 Transmitter power.
94.197 Radiated power limitation in the 10,600–10,680 MHz band.
94.199 Antennas.

Authority: Secs. 4(i), 301, and 303(r), Communications Act of 1934 as amended (47 U.S.C. 154(i), 301, 303(r)).

§ 94.181 Scope.

Digital Termination Systems and associated internodal links are intended to provide for the exchange of digital information between fixed locations.

§ 94.183 Permissible communications.

Unless otherwise directed or conditioned in the applicable instrument of authorization, Digital Termination Systems and associated internodal links may be used to exchange any type of digital information consistent with the Commission's Rules.

§ 94.185 Applications.

(a) A separate application form must be filed for each Digital Termination System. When a set of related applications are filed to form a network of Digital Termination Systems, an exhibit must be included which contains a list of the Standard Metropolitan Statistical Areas (SMSA's) or service areas that will be served by the network and a proposed Digital Termination Nodal Station in the network. Applications proposing frequencies specified for Extended networks must contain at least 30 SMSA's

(b) all applicants for Digital Termination System frequencies must submit as part of the original application a detailed plan indicating how the bandwidth requested will be utilized. In particular the application must contain detailed descriptions of the modulation method, the channel time sharing method, any error detecting and/or correcting codes, any spatial frequency reuse system and the total data throughput capacity in each of the links in the system. Further, the application must include a separate analysis of the spectral efficiency including both information bits per unit bandwidth and the total bits per unit bandwidth.

(c) Only those applications which state an intent to provide interconnected service to users in at least 30 Standard Metropolitan Statistical Areas (SMSA's) within 60 months of the granting of the application will be eligible for assignment of any of the frequencies designated as Extended network frequencies in § 94.189(b). All other applications will be eligible for assignment of the frequencies designated for Limited network frequencies in § 94.189(c) or of the frequencies designated for all DTS applicants in § 94.189(g).

(d) Digital Termination Nodal Stations may be authorized only as a part of an intergrated communication system

wherein Digital Termination User Stations associated therewith also are licensed to the Digital Nodal Station licensee. Applications for Digital Nodal Station licenses should specify the maximum number of Digital Termination User Stations to be served by that nodal station. No separate authorization is required for Digital Termination User Stations.

§ 94.187 Time in which station must be placed in operation.

(a) For stations in an Extended network each authorization issued by the Commission will specify the date of the grant as the earliest date of construction and a maximum of 60 months thereafter as the latest time when all construction shall be completed and the station is ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case. The schedule filed in accordance with § 94.185(a) shall provide for substantial progress in the early years of the construction period. Furthermore, the licensee must file progress reports with the Commission commencing six months after the date of issue of the authorization and continuing every six months thereafter until construction is completed.

(b) For stations in a Limited network each authorization issued by the Commission will specify the date of the grant as the earliest date of construction and a maximum of 30 months thereafter as the latest time when all construction shall be completed and the stations ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case. The schedule filed in accordance with § 94.185(a) shall provide for substantial progress in the early years of the construction period. Furthermore, the licensees must file progress reports with the Commission commencing six months after the date of issue of the authorization and continuing every six months thereafter until construction is completed.

§ 94.189 Frequencies.

(a) Each assignment in the 10,550–10,680 MHz band will be for either Extended network or Limited network operation. Assignments in the 17,700–19,700 MHz band will be for all applicants regardless of the size of the network that an applicant intends to construct.

(1) In the 10,550–10,680 MHz band, assignments for Extended network operations will consist of a pair of 5 MHz channels as set out in subsection (b) of this section plus internodal channels as set out in subsection (d) of this section. Assignment for Limited network operations will consist of a pair of 2.5 MHz channels as designated in subsection (c) plus internodal channels set out in subsection (d) of this section.

Note.—Application for the assignment of frequencies in the 10,550–10,680 MHz band will only be accepted for channel nos. 4, 7, 9, and 19/20. These channels are also used by common carrier licenses or are proposed for use by existing permittees and pending applications under common carrier rules in Part 21.

(2) In 17,700–19,700 MHz band, assignments will consist of a pair of 10 MHz channels as designated in subsection (g) of this section plus internodal channels set out in subsection (h) of this section.

Note.—Applications for the assignment of frequencies in the 17,700–19,700 MHz band will be accepted *only* for channels 1–A, 1–B, 2–A, 2–B, 3–A, 3–B, 4–A, 4–B, 5–A, and 5–B. Channel Nos. 6–A through 10–A and 6–B through 10–B are available for Common Carrier DTS stations under Part 21 rules.

(3) A Limited network applicant or an applicant for assignment in the 17,700–19,700 MHz band may simultaneously apply for more than one channel pair on showing the service to be provided will fully utilize all spectrum requested. An Extended network licensee may not apply for an additional channel pair until such time as the applicant has operated its initial channel pair at or near the expected capacity.

(b) Extended network assignments in the 10,550–10,680 MHz band shall be made according to the following plan:

Channel Group A		Channel Group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
4–A	10,580–10,585	4–B	10,645–10,650
(19/20)–A	10,585–10,590	(19/20)–B	10,650–10,655

The channel from group A will be used for the Digital Termination Nodal Station transmitter and the channel from group B will be used for Digital Termination User Station Transmitters. The channel may be subdivided as desired by the licensee.

(c) Limited network assignments in the 10,550–10,680 MHz band shall be made according to the following plan:

Channel Group A		Channel Group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
7–A	10,605.0–10,607.5	7–B	10,670.0–10,672.5
9–A	10,610.0–10,612.5	9–B	10,675.0–10,677.5

Each assignment will consist of one channel from Group A and the corresponding channel from Group B. The channel from Group A will be used for the Digital Termination Nodal Station transmitter and the channel from Group B will be used for Digital Termination User Station transmitters. These channels may be subdivided as desired by the licensee.

(d) The bands 10,550–10,565 MHz and 10,615–10,630 MHz are available for internodal links and other point-to-point microwave facilities. Assignments in these bands will be made according to the following plan:

Channel Group A		Channel Group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
11–A	10,550.0–10,552.5	11–B	10,615.0–10,617.5
12–A	10,552.5–10,555.0	12–B	10,617.5–10,620.0
13–A	10,555.0–10,557.5	13–B	10,620.0–10,622.5
14–A	10,557.5–10,560.0	14–B	10,622.5–10,625.0
15–A	10,560.0–10,561.25	15–B	10,625.0–10,626.25
16–A	10,561.25–10,562.5	16–B	10,626.25–10,627.5
17–A	10,562.5–10,563.75	17–B	10,627.5–10,628.75
18–A	10,563.75–10,565.0	18–B	10,628.75–10,630.0

The assignment of these channels will be in accord with the demonstrated requirement of the applicant. All applicants for these channels shall follow the frequency coordination procedures of Section 21.100(d). Channels 11–14 will be assigned to Extended network licensees and Channels 15–18 will be assigned to Limited network licensees.

(e) The bands 10,585–10,600 MHz and 10,650–10,665 MHz will be available for Extended network applicants when all the available Extended network channels have been assigned or when applications have been accepted for all available Extended network channels. These bands will be available for Limited network applicants only after April 16, 1986. Assignments in these bands will be according to the following plan:

Channel Group A		Channel Group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
21–A	10,590.0–10,592.5	21–B	10,655.0–10,657.5
22–A	10,592.5–10,595.0	22–B	10,657.5–10,660.0
23–A	10,595.0–10,597.5	23–B	10,660.0–10,662.5
24–A	10,597.5–10,600.0	24–B	10,662.5–10,665.0

(1) An Extended network licensee will be assigned one pair of channels from Group A and the corresponding pair of channels from Group B. These channels may be adjacent, if available as such. The channel from Group A will be used for the Digital Termination Nodal Station transmitter and the channel from Group B will be used for Digital Termination User Station transmitters. Each pair of channels if adjacent may be used as a single channel by all Extended

network licensees. Extended network assignments will start with Channels 19 and 20 and continue numerically upward.

(2) A Limited network licensee will be assigned one channel from Group A and the corresponding channel from Group B. The channel from Group A is to be used for a Digital Termination Nodal Station transmitter and the channel from Group B is to be used for a Digital Termination User Station transmitter. Limited network assignments will start at Channel 24 and proceed numerically downward.

(f) After April 16, 1986, all unassigned Extended network channels will be rechannelized into 2.5 MHz channels. This spectrum, plus any unassigned Limited network channels, will then become available to either Limited or Extended network applicants.

(g) Assignments in the 17,700–19,700 MHz band shall be made according to the following plan:

Channel Group A		Channel Group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
1–A	18,360–18,370	1–B	18,940–18,950
2–A	18,370–18,380	2–B	18,950–18,960
3–A	18,380–18,390	3–B	18,960–18,970
4–A	18,390–18,400	4–B	18,970–18,980
5–A	18,400–18,410	5–B	18,980–18,990

Each assignment will consist of one channel from Group A, used for the Digital Termination System Nodal Station transmitter, and one channel from Group B, used for the Digital Termination System User Station transmitters. These channels will be assigned in each SMSA starting with Channel pair 1 and continuing numerically upward to channel pair 5. These channel pairs may be subdivided as desired by the licensee. (h) The band 18,460–18,940 MHz is available for assignment to Digital Termination systems for internodal communications. As the band is also allocated to the Point-to-Point Microwave Radio Service (Subpart I of Part 21) and to Private Operational-fixed Microwave Service (Part 94), all applicants for these channels shall follow the frequency coordination procedures of § 21.100(d) and Part 94. Assignments in this band shall be made according to the following frequency plan consisting of two-way channels, each 5 MHz wide:

PAIRED FREQUENCIES

Transmit (or receive)	Receive (or transmit)
MHz	MHz
18,642.5	18,682.5
18,647.5	18,687.5

PAIRED FREQUENCIES—Continued

Transmit (or receive)	Receive (or transmit)
18,652.5	18,692.5
18,657.5	18,697.5
18,662.5	18,902.5
18,667.5	18,907.5
18,672.5	18,912.5
18,677.5	18,917.5
18,682.5	18,922.5
18,687.5	18,927.5
18,692.5	18,932.5
18,697.5	18,937.5

§ 94.191 Frequency tolerance.

(a) In the frequency band 10,550–10,680 MHz the frequency tolerance of each Digital Termination Nodal Station transmitter authorized for this service shall be ±0.0001%. The frequency tolerance of each point-to-point operational-fixed transmitter and each Digital Termination User Station transmitter operated in the frequency band 10,550–10,680 MHz shall be ±0.0003%.

(b) In the frequency band 17,000–19,700 MHz, the frequency stability tolerance of each Digital Termination Nodal Station transmitter authorization this service shall be ±0.001%. The frequency tolerance of each point-to-point fixed transmitter and each Digital Termination User station transmitter in this band shall be ±0.003%.

§ 94.193 Interference.

(a) All harmful interference to other users and blocking of adjacent channel use in the same city and co-channel use in nearby Standard Metropolitan Statistical Areas is prohibited. In areas where SMSA's are in close proximity, careful consideration should be given to minimum power requirements and to the location, height, and radiation patten of the transmitter antenna. Licensees, permittees and applicants are expected to cooperate fully in attempting to resolve problems of potential interference before bringing the matter to the attention of the Commission.

(b) As a condition for use of frequencies in this subpart each applicant is required to:

(1) engineer the system to be reasonably compatible with adjacent channel operations in the same city; and

(2) cooperate fully and in good faith to resolve whatever potential interference and transmission security problems may be present in adjacent channel operation.

(c) The following interference studies, as appropriate, shall be included with each application for a new or major modification in a Digital Termination Nodal Station:

(1) an analysis of the potential for harmful interference with other stations if the coordinates of any proposed station are located within 80 kilometers (50 miles) of the coordinates of any authorized, or previously proposed station(s) that utilizes, or would utilize, the same frequency or an adjacent potentially interfering frequency; and

(2) an analysis concerning possible adverse impact upon Canadian communications if the station's transmitting antenna is to be located within 55 kilometers (35 miles) of the Canadian border.

(d) In addition a copy of the interference analysis submitted in response to paragraph (c)(1) of this section must be served on all applicants and/or grantees concerned within 5 days of its submission to the Commission.

§ 94.195 Transmitter power.

(a) For stations operating in the 10,550—10,680 MHz band, the following restrictions apply:

(1) The output power of a Digital Termination Nodal Station transmitter shall not exceed 0.5 watt per 250 kHz. Further each application shall contain an analysis demonstrating compliance with §94.73(a).

(2) The output power of a Digital Termination User Station transmitter shall not exceed 0.04 watts per 250 kHz.

(3) The transmitter power in terms of the watts specified in this Section is the peak envelope power of the emission measured at the associated antenna input port.

(4) Operating power shall not exceed the authorized power by more than ten (10) percent of the authorized power in watts at any time.

(b) For stations operating in the 17,700–19,700 MHz band the transmitter output power will be governed by § 94.73(a) of this rule part. Further, each application shall contain an analysis demonstrating compliance with § 94.73(a).

§ 94.197 Radiated power limitation in the 10,600–10,680 MHz band.

The effective isotropic radiated power (EIRP) of stations in the 10,600–10,680 MHz band cannot exceed the following limits: (1) Digital Termination Stations: + 40 dBW. (2) Point-to-Point Microwave Stations used for internodal communications: = 40 dBW.

§ 94.199 Antennas.

(a) Nodal transmitting antennas may be omnidirectional or directional, consistent with coverage and interference requirements.

(b) The use of horizontal or vertical plane wave polarization, or right hand or left hand rotating elliptical polarization must be used to minimize harmful interference between stations.

(c) Directive antennas shall be used at all Digital Termination User Stations and shall be elevated no higher than necessary to assure adequate service. The Digital Termination User Station antennas shall meet the performance standards as specified in § 21.108(c) and have a minimum power gain of (1) 34 dBi in the 10,550–10,680 MHz band and (2) 38 dBi in the 17,700–19,700 MHz band. User antenna heights shall not exceed the height criteria of Part 17 of this chapter, unless authorization for use of a specific maximum antenna height (above ground and above sea level) for each location has been obtained from the Commission prior to the erection of the antenna. Requests for such authorization shall show the inclusive dates of the proposed operation. (*See* Part 17 of this chapter concerning the construction, marking and lighting of antenna structures).

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Proposed Rules

Federal Register
Vol. 48, No. 212
Tuesday, November 1, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 330 and 337

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 564

Brokered Deposits

AGENCIES: Federal Deposit Insurance Corporation and Federal Home Loan Bank Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") and the Federal Home Loan Bank Board ("Board") (as operating head of the Federal Savings and Loan Insurance Corporation) ("FSLIC") are interested in receiving comments on certain deposit-placement activities in the depository institutions industry. The FDIC and the Board are concerned that a growing dollar amount of brokered and brokered-type deposits is being placed in fully insured accounts at FDIC- or FSLIC-insured institutions ("insured institutions") without an adequate analysis of the managerial strength and financial stability of the insured institutions. The concern is that this lack of analysis facilitates a flow of funds into financially unstable or managerially poor depository institutions. The FDIC and the Board are seeking comment on the extent to which these practices exist and on whether or how to deal with these practices through either limiting the insurance coverage afforded in connection with these deposits or restricting the receipt of such funds by insured institutions.

Additionally, both agencies suspect that the multiple insurance coverage afforded in relation to pension and other custodial deposits also fails to encourage market and institution analyses in the placement of these deposits. Currently, the regulations of both the FDIC and the FSLIC provide that each beneficial owner of such accounts is insured up to $100,000. The Advance Notice also seeks comments regarding whether insurance on these accounts should be limited.

DATE: Comments must be received by November 28, 1983.

ADDRESSES: Comments should be directed to:

Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. Comments may be delivered to Room 6108 on weekdays between 8:30 a.m. and 5:30 p.m.

Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be publicly available at this address.

FOR FURTHER INFORMATION CONTACT: Joseph A. DiNuzzo, Senior Attorney, Legal Division, (202) 389–4171, Room 4126B, 550 17th Street, NW., Washington, D.C 20429, Federal Deposit Insurance Corporation; or Robert H. Ledig, Attorney, (202) 377–7057, Office of General Counsel, 1700 G Street, NW., Washington, D.C. 20552, Federal Home Loan Bank Board.

SUPPLEMENTARY INFORMATION: The FDIC and the Board are concerned that the increased activity of deposit brokers and the emergence of innovative arrangements for the placement of deposits may disrupt market discipline by eliminating the need for risk-sharing by large depositors. These arrangements facilitate the placement of deposits with insured institutions within the insured amount regardless of the institutions' lending practices and financial soundness. Examples of existing brokering and brokering-type activities are as follows:

(1) *Simple Brokering.* The straight brokering of deposits to insured institutions operates in two basic ways. The money broker, acting on its own or at the request of an institution or institutions, solicits deposits from its customers. Under the first method, the interested customer sends funds directly to the institution which has been given prior notice by the broker of the impending purchase. Under the second method, the broker itself transfers the customer's funds to the institution and has the deposit registered at the institution in its name as nominee or agent for the customer. In turn, the broker maintains records reflecting the ownership interest of each customer in the deposit. According to current FDIC and FSLIC regulations, the broker's customers would each be insured on an individual basis under either brokering method. Secion 330.2(a) of the FDIC's regulations and § 564.3(a) of the FSLIC's regulations provide that deposits placed by an individual at an insured institution are insured up to $100,000. 12 CFR 330.2(a), 564.3(a). Sections 330.2(b) and 564.2(b) provide that deposits placed by an agent or nominee on behalf of an individual are insured as funds of the individual to $100,000 in the aggregate with any other deposits maintained by that same individual in his or her own capacity at the same institution. 12 CFR 330.2(a), 564.3(b). In order for this insurance coverage to be provided, however, the records of the institution must indicate that the deposits are being held in an agency capacity and the records of either the institution or the agent must indicate the ownership interest of the principal(s). 12 CFR 330.1, 564.2(b).

(2) *CD Participations.* Some brokers engage in the practice of "participating certificates of deposit to their customers. Under this arrangement a broker-dealer purchases a certificate of deposit issued by an insured institution and sells interests in it to customers. Upon sale of the participations in the deposit to its customer, the broker so informs the issuing institution and requests that the deposits be registered in its own name as nominee for others. The broker's records, in turn, reflect the ownership interest of each customer in the deposit. A CD participation program results in a "flow-through" of insurance coverage to each owner of the deposit. The ownership interest of each participant in the deposit is added to the individually owned deposits held by the participant at the same institution and the total is insured to a maximum of $100,000, provided the proper recordkeeping requirements are maintained. 12 CFR 330.2(b), 330.1(b), 564.3(b) & 564.2(b).

(3) *Deposit-Listing Services.* Deposit-listing services have been formed to facilitate the placing of deposits with insured institutions. Institutions call the listing service and state the quantities, rates and maturities of deposits they wish to offer. Purchasers phone the

listing service to obtain information on available deposits. An agent of the institution delivers the bearer-form deposit certificate to the purchaser's custodial agent subject to receipt of payment and the proceeds are forwarded to the institution. The insurance coverage regulations applicable in a typical principal/agent situation apply in this context. Each customer is insured to $100,000 per insured institution in which he or she has placed a deposit through the deposit-listing service. 12 CFR 330.2(b) & 564.3(b). For purposes of determining insurance coverage per institution, this amount includes any other deposits owned by the customer in the same capacity at each of the institutions.

The FDIC and the Board are concerned that the above-described deposit-placement practices enable virtually all institutions to attract large volumes of funds from outside their natural market area irrespective of the institutions' managerial and financial characteristics. The ability to obtain *de facto* one-hundred-percent deposit insurance through the parceling of funds eliminates the need for the depositor to analyze institutions' likelihood of continued financial viability. The availability of these funds to all institutions, irrespective of financial and managerial soundness, reduces market discipline. Although deposit brokering can provide a helpful source of liquidity to institutions, the practices described above make it possible for poorly-managed institutions to continue operating beyond the time at which natural market forces would have otherwise precipitated their failure. This impediment to natural market forces results in increased costs to the FDIC and the FSLIC in the form of either greater insurance payments or higher assistance expenditures if the institutions are subsequently closed because of insolvency.

The FDIC and the Board are also concerned about the statutory and regulatory provisions which afford multiple insurance coverage in connection with pension fund and other custodial deposits. Part 330 of the FDIC's regulations (12 CFR Part 330) and Part 564 of the FSLIC's regulations (12 CFR Part 564) provide, subject to recordkeeping and qualifying requirements, that deposits consisting of funds in which more than one individual has a beneficial interest are insured up to $100,000 per beneficiary or owner. The most typical of these situations is the deposit account maintained by the trustee of a pension plan. There a $1,000,000 deposit, for example, would be fully insured if ten participants in the plan each had an ascertainable interest in the deposited funds of $100,000. As with the other types of deposits described above, the "flow-through" insurance coverage (*i.e.*, the insurance "flows through" the trustee or agent to the beneficial owner(s) of the account) afforded in connection with trusteed or custodial accounts is effective irrespective of the managerial or financial characteristics of the institution in question, so long as it is insured. Trustees and custodians normally limit deposits in each insured institution in order to keep within the insurance limits of FDIC and FSLIC coverage. The FDIC and the Board are concerned that this provision of multiple insurance undermines market discipline by relieving fiduciaries of their normal obligation to ascertain the soundness of an institution in which they place funds. It is not the FDIC's or Board's intention to shift the risk of loss to the beneficiaries of trusteed or custodial accounts; rather, it is hoped that fiduciaries will be held to a higher standard of care in the placement of such funds.

In order to obtain comments on the matters set forth above, the FDIC and the Board are posing the following questions. Those commenting are also welcome to address related issues not included within the questions. The FDIC notes that, in soliciting comments on a possible revamping of the FDIC insurance coverage regulations, it is not questioning the legality of its current regulation. The agencies intend to consider all possible avenues available for remedying existing industry practices which may have a negative effect upon depository institutions and produce increased costs to the insurance funds as well as to the public. The questions are as follows:

1. Is the reduction in "market discipline" resulting from either brokerage activity or multiple insurance coverage of pension fund and other custodial deposits significant enough to warrant regulatory or legislative action? Why?

2. How should "deposit broker" and "deposit-brokerage activity" be defined?

3. Should the FDIC and the Board take any steps to limit the placement of deposits in insured institutions by a third-party intermediary? Why?

4. Should the FDIC and the Board amend their deposit insurance regulations to limit insurance coverage relative to deposits placed in an insured institution through any of the deposit-placement alternatives noted above or by any other method? Why and in what way?

5. Should the FDIC and the Board request that Congress amend the applicable provisions of the Federal Deposit Insurance Act (12 U.S.C. §§ 1811-31d) and the title IV of the National Housing Act (12 U.S.C. §§ 1724-30) to limit insurance coverage relative to deposits placed in an insured institution through any of the deposit-placement alternatives noted above or by any other method? Why and in what way?

6. Part 337 of the FDIC's regulations (12 CFR Part 337) prohibits certain prescribed activities which are deemed inherently unsafe or unsound banking practices. The Board similarly limits or prohibits certain transactions because they are potentially inconsistent with safe and sound operations. 12 CFR 563.34, 536.41, 563.43. Should the receipt of funds by an insured institution through a deposit-placement arrangement similar to the ones noted above be included within the prohibited activities in Part 337 and §§ 563.34, 563.41, and 563.43? Why?

7. Alternatively, should the FDIC and the Board either prohibit or limit the receipt of brokered deposits only by institutions experiencing financial or managerial problems by deeming such a practice to be inherently unsafe or unsound? Why?

8. Should the FDIC and the Board impose special reporting requirements on: (1) institutions whose deposits consist of a significant percentage of funds placed through intermediaries and/or (2) institutions which are experiencing financial or managerial problems? Why? What should be deemed a significant amount?

9. Should the FDIC require that each bank involved in an FDIC-related enforcement action or memorandum of understanding on certain of the bank's activities obtain approval from the FDIC for deposits placed through intermediaries, and similarly, should the Board require each FSLIC-insured institution covered by a supervisory agreement to obtain such approval from the Board? Why?

10. Should the FDIC and the Board request that Congress enact legislation to require deposit-placement firms to register with the FDIC and the Board and/or report on a regular basis the institutions to which they are channeling investors' funds and the dollar amounts involved? Why?

11. Should the FDIC and the Board request that Congress enact legislation requiring brokers engaged in the placement of deposits at insured

institutions to be registered with the Securities Exchange Commission? Why?

12. Should the FDIC and the Board request that Congress enact legislation requiring that the involved deposit-placement firm share part of the costs ultimately incurred by the insurance fund where funds have been placed with an institution within a specified time (e.g. thirty days) prior to the institution's failure for purposes of exploiting the deposit insurance system?

13. To what extent would any of the proposed limitations or restrictions on deposit-brokerage activities affect the availability of funds for well-run institutions?

14. Should the FDIC and the Board take any steps to limit the multiple insurance coverage of deposits owned by more than one individual, such as pension-fund, trust, agency and escrow deposits? If so, should this be done by amending current FDIC and FSLIC regulations or by requesting that Congress amend the applicable provisions of the Federal Deposit Insurance Act (12 U.S.C. 1811–31d) and title IV of the National Housing Act (12 U.S.C. 1724–30)? Why? To what extent would this shift the risk of loss to the beneficaries of such accounts as opposed to the fiduciaries?

15. To what extent has the placement of brokered funds been subject to a corresponding commitment to enter into a loan agreement with persons affiliated with or represented by a broker? Should such tie-ins be restricted or prohibited?

16. To what extent does the use of direct, nationwide advertising by insured institutions present problems similar to those arising from the acquisiton of brokered funds? To what extent could such practices serve as substitute for raising funds through the use of brokers?

17. Should the Board require FSLIC-insured institutions to establish additional reserves for liabilities secured through brokers? Should such a requirement be limited to institutions whose net worth falls below a specified level?

18. Should the FDIC and the Board afford different treatment to short term (one year or less) and long term brokered deposits? Why?

19 What effect does the use of brokered funds have on the cost of funds of institutions which use them and on the cost of funds for institutions in general?

List of Subjects

12 CFR Part 330

Bank deposit insurance, Banks, banking.

12 CFR Part 337

Banks, banking.

12 CFR Part 564

Savings and loan associations.

By order of the Board of Directors, October 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83–29507 Filed 10–31–83; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–CE–35–AD]

Airworthiness Directives; Pilatus Aircraft, Ltd., and Fairchild-Hiller PC–6 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This action supplements a notice proposing to adopt a new Airworthiness Directive (AD), applicable to Pilatus Aircraft, Ltd., PC–6 series (Up to Serial Number 815) airplanes manufactured in Switzerland. The notice, which would require replacement of the aileron/flap mount attachment fittings to prevent failure of these fittings and resultant loss of an aileron, was published in the **Federal Register** on April 11, 1983 (48 FR 15480, 15481). The FAA has now determined that the condition addressed by the notice may also exist on PC–6 series airplanes built by Fairchild-Hiller. Therefore the notice, as supplemented, includes these airplanes.

DATES: Comments must be received on or before December 5, 1983.

Proposed Compliance: As prescribed in the body of the AD.

ADDRESSES: Pilatus Aircraft, Ltd., Service Bulletin No. 138, dated December 1982, applicable to this AD may be obtained from Pilatus Aircraft, Ltd., C#6370—Stans, Switzerland, or the Rules Docket at the address below.

Send comments on the proposal in duplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 83–CE–35–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or H. Belderok, Foreign FAR 23 Section, FAA, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this supplemental notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Supplemental Notice of Proposed Rulemaking by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83–CE–35–AD, Room 1558, 601 East 12th Street Kansas City, Missouri 64106.

Discussion: The manufacurer received two reports of fatigue cracks being found in the angle brackets which attach the aileron/flap mountings on Pilatus Aircraft, Ltd., PC–6 series airplanes. In one instance, the bracket failed, resulting in loss of an aileron. As a result, Pilatus Aircraft, Ltd., issued Service Bulletin No. 138 which requires replacement of aileron/flap mount attachment fittings. The Federal Office for Civil Aviation (FOA), who has the responsibility and authority to maintain the continuing airworthiness of these airplanes in Switzerland, classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Swiss registration, this

action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the FOA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of Service Bulletin No. 138 and the mandatory classification of this Service Bulletin as an Airworthiness Directive by the FOA and issued a Notice of Proposed Rulemaking (48 FR 15480, 15481), which proposed replacement of the aileron/flap mount attachment fittings on Pilatus, Ltd., PC-6 series airplanes manufactured in Switzerland and certificated for operation in the United States. Subsequently, the FAA determined that the condition may also exist on Model PC-6 airplanes built in the United States by Fairchild-Hiller.

Based on the foregoing, the FAA believes that the condition addressed by Service Bulletin No. 138 is an unsafe condition that may exist on additional products of this type design certificated for operation in the United States. Consequently, the proposed AD, as supplemented, would require replacement of the aileron/flap mount attachment fitting on Pilatus Aircraft, Ltd., PC-6 series airplanes (up to Serial Number 815) and on Fairchild-Hiller PC-6 series airplanes (Serial Numbers 2001 through 2092).

There are approximately 12 U.S. registered airplanes affected by the proposed AD. The cost of complying with the proposed AD is estimated to be $21,000 to the private sector.

List of Subjects in 14 CFR 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 3913 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Pilatus Aircraft, Ltd., and Fairchild-Hiller: Applies to PC-6 series airplanes manufactured by Pilatus Aircraft, Ltd. (up to Serial No. 815), and to Model PC-6 airplanes manufactured by Fairchild-Hiller (Serial Numbers 2001 through 2092) (all variants) certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the aileron support structure, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD for airplanes having more than 2,000 hours time-in-service, or, within the next 200 hours time-in-service, after the effective date of this AD, for airplanes have more than 1,000 hours but less than 2,000 hours time-in-service, or; within the next 300 hours time-in-service after the effective date of this AD, for airplanes having 1,000 or less hours time-in-service, replace the aileron/flap mount attachment fittings in accordance with Pilatus Service Bulletin No. 138 dated December 1982.

(b) Compliance time of this AD can be adjusted up 10 percent to allow accomplishing these modifications concurrent with other scheduled maintenance of the airplane.

(c) Airplanes may be flown under FAR 21.197 to a place where repairs can be made to this AD.

(d) Equivalent means of compliance may be used, if approved, by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Section 11.85 of the Federal Aviation Regulations (14 CFR 11.85))

Note.—For reasons discussed earlier in the preamble: the FAA has determined that this document: (1) Involves a proposed regulation that is not major under the provisions of Executive Order 12291, (2) is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and certifies under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A draft regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contracting the Rules Docket at the location identified under the caption "**ADDRESSES.**"

Issued in Kansas City, Missouri, on October 19, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-29494 Filed 10-31-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 19, 24, 113, 125, 141, 142, 143, 144, and 146

Amendments To Revise Customs Form 7501 and To Replace Other Forms

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend various parts of the Customs Regulations to provide for the use of a revised Customs Form 7501 and the elimination of other forms.

In addition to containing all of the data elements necessary for the assessment of duty and collection of import statistics, the revised Customs Form 7501, the "Entry/Entry Summary," would replace the following Customs Forms:

1. Customs Forms 7501, 7501A, 7501B, 7501C, the "Consumption Entry;"

2. Customs Forms 7502, 7502A, 7502B, 7502c, the "Warehouse or Rewarehouse Entry;"

3. Customs Form 5101, the "Entry Record;"

4. Customs Form 5119-A, the "Informal Entry" (Only the non-serially numbered 4-part carbon salable form used by the importer would be replaced.) The serially numbered Customs Form 5119-A would be retained; and

5. Customs Form 7500, the "Appraisement Entry."

This document includes a draft of the revised Customs Form 7501 and instructions as well as proposed regulations changes. Customes requests public comments on each aspect.

The purpose of this proposal is to improve the procedures used by Customs for the entry of imported merchandise and the collection of statistics, and to reduce the paperwork burden on the importing community by eliminating forms and assuring that only necessary information will be collected.

DATE: Comments must be received on or before January 3, 1984.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229. Comments relating to information collection aspects of the proposal may be addressed to the Commissioner of Customs, as noted above, and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. Attention: Desk Officer for U.S. Customs Services.

FOR FURTHER INFORMATION CONTACT: Herbert H. Geller, Duty Assessment Division, (202-566-5307); Dale F. Snell, Jr., Program Management Staff, (202-566-5865); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 95-410 (92 Stat. 888), the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978 (the "Act"), made

significant changes in the Customs law relating to the entry of imported merchandise. A document amending the Customs Regulations to establish new procedures needed to reflect these changes was published as T.D. 79–221 in the **Federal Register** on August 9, 1979 (44 FR 46794).

Section 102 of the Act amended secton 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), by providing that entry shall be made by filing that documentation necessary to enable Customs to determine whether the merchandise may be released from Customs custody. Section 102 also provided that documentation necessary to classify and appraise merchandise and to verify statistical information shall be filed at the time prescribed by regulation, either when entry is made, or at any time within 10 working day thereafter. Furthermore, section 102 provided for the issuance of regulations to ensure the accuracy and timeliness of statistics under the new entry procedures, particularly statistics with regard to the classification and value of imports.

One of the changes made by T.D. 79–221 involved the revised entry concept. The entry of imported merchandise is a 2-part process consisting of (1) filing the documentation necessary to determine whether merchandise may be released from Customs custody, and (2) filing the documentation which contains information for duty assessment and statistical purposes.

Section 141.0a(a), Customs Regulations (19 CFR 141.0a(a)), defines "entry" to mean that documentation required by § 142.3, Customs Regulations (19 CFR 142.3), to be filed with the appropriate Customs officer to secure the release of imported merchandise from Customs custody, or the act of filing that documentation. Section 141.0a(b), Customs Regulations (19 CFR 141.0a(b)), defines "entry summary" to mean any other documentation necessary to enable Customs to assess duties and collect statistics on imported merchandise, and determine whether other requirements of law or regulation are met.

Entry summary documentation is required to be filed within 10 working days after the "time of entry" as defined in § 141.68, Customs Regulations (19 CFR 141.68).

Section 142.3(a)(1), Customs Regulations (19 CFR 142.3(a)(1)), provides that the entry documentation required to secure the release of merchandise shall consist of Customs Form 3461 (also used currently as an application for special permit for immediate delivery), appropriately modified, or Customs Form 7533, appropriately modified, in place of Customs Form 3461 for merchandise imported from a contiguous country.

Section 142.11(a), Customs Regulations (19 CFR 142.11(a)), states that entry summary shall be on (1) Customs Form 7501 for both merchandise formally entered for consumption, and formally entered under a temporary importation bond; (2) Customs Form 3311 for merchandise which may be entered free of duty; and (3) Customs Form 7502 for warehouse entries.

Section 142.3(b), Customs Regulations (19 CFR 142.3(b)), provides that when the entry summary is filed at the time of entry, Customs Form 3461 or 7533 shall not be required, and Customs Form 7501, 7502, or 3311 shall serve as both the entry and entry summary documentation.

For merchandise entitled to be entered under an informal entry, Customs Form 5119–A, or Customs Form 7501, appropriately modified, may be used.

Under the regulations, various Customs forms may be used for the entry of imported merchandise depending upon the circumstances. However, in light of the changes in the entry procedures necessitated by the Act, Customs believes it would be beneficial to the importing community and the Government if Customs Form 7501 were revised to improve the procedures for entering imported merchandise and at the same time, eliminate other Customs forms. The revised form would be a critical element in achieving national uniformity in entry processing.

Furthermore, revising Customs Form 7501 and eliminating other forms would be consistent with the objectives of the "Paperwork Reduction Act of 1980" (Pub. L. 96–511, December 11, 1980). In this regard, this project would help assure that Customs collects only necessary information from the public and eliminates those burdens which are found to be unnecessary and wasteful.

Therefore, this document proposes to amend various parts of the Customs Regulations to provide for the use of a revised Customs Form 7501, the "Entry/Entry Summary," and the elimination of the following Customs Forms:

1. Customs Forms 7501, 7501A, 7501B, 7501C, the "Consumption Entry;"
2. Customs Forms 7502, 7502A, 7502B, 7502C, the "Warehouse or Rewarehouse Entry;"
3. Customs Form 5101, the "Entry Record;"
4. Customs Form 5119–A, the "Informal Entry" (Only the non-serially numbered 4-part carbon salable form used by the importer would be replaced. The serially numbered Customs Form 5119–A would be retained. All references in the regulations to Customs Form 5119–A would mean the serially numbered form); and
5. Customs Form 7500, the "Appraisement Entry."

This document also includes a draft of the revised Customs Form 7501 (Attachment A to this document) and instructions explaining the use of this form (Attachment B to this document).

Comments are requested on (1) the proposed amendments to the Customs Regulations to reflect the use of the revised form and elimination of the current forms; (2) the format of revised Customs Form 7501 and instructions explaining the use of this form; and (3) the information collection aspects of the proposal.

Change to the regulations necessitated by enactment of Pub. L. 97–446 (January 12, 1983), relating to importers of record and consignees, will be the subject of a separate document. However, the declaration appearing on he front of Customs Form 7051 has been revised to conform to the new provisions of this statute.

Prior Studies

On May 23, 1979, Customs published a notice in the **Federal Register** requesting comments on a revised Customs Form 7501 (T.D. 79–144, 44 FR 29916). Based upon the comments received and Customs review, on October 4, 1982, Customs published in the **Federal Register** (47 FR 43717), a revised Customs Forms 7501 and instructions explaining the use of this form. Commenters had until December 3, 1982, to submit their comments. After review of the comments received, it became clear that extensive changes to the form were necessary and that another notice of proposed rulemaking with a revised Customs Form 7501 and instructions would have to be published.

Discussion of Comments on October 4, 1982, Notice General Comments

Comment: The two question relating to "assists" and "rebates" appearing on the reverse side of the form should be eliminated. The following reasons were provided:

(a) There is no statutory or regulatory authority for the requirement;

(b) The requirement will cause significant difficulty in the automated preparation of the form;

(c) This requirement reinstates certain provisions of Customs Form 5515;

(d) The response to the questions in the declaration can impede the filing of the Customs Form 7501;

(e) The questions involve legal interpretations and could interfere with broker-importer relationships;

(f) The information can be obtained upon request;

(g) The questions will cause confusion for multi-invoice entries;

(h) Customhouse brokers do not have first-hand knowledge of all the facts to enable them to answer the questions;

(i) The questions unjustly expose the preparer to the risk of penalties and drastic legal consequences;

(j) The questions are an unnecessary trap;

(k) The questions should be a part of invoice requirements;

(l) The declaration on the front of Customs Form 7501 is sufficient;

(m) The questions are redundant of present invoice requirements;

(n) The questions increase the burden on the public in contravention with the Paperwork Reduction Act and;

(o) The questions should be answered by the seller, shipper, or their agent.

Response: That portion of the nominal consignee, consignee or agent declaration, which appeared on the back of the form has been removed and combined with the declaration on the front of the form to decrease the difficulty in automated preparation of the form.

With regard to the other comments, Customs notes that section 484(a)(1)(B), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)(1)(B), requires the filing of "such other documentation as is necessary to enable such officer to assess properly the duties on the merchandise, collect accurate statistics with respect to the merchandise, and determine whether any other applicable requirement of law (other than a requirement relating to release from Customs custody) is met." Customs believes that these questions do provide such information and that, because the importer of record is liable for both submitting the above information and for the payment of duties, he should be required to answer the questions contained in declaration. While many of the above objections may have some merit, these comments would be true with almost all the information required on Customs Form 7501. The practical answer to the brokers' concerns is that they should obtain the information necessary to answer these questions in the same manner they obtain the other data for Customs Form 7501. To include the substance of the questions in the declaration on Customs Form 7501 does not increase the reporting burden on the public in contravention of the Paperwork Reduction Act. Customs has determined to continue requiring that a declaration be made concerning rebate and assists.

Comments concerning the format:

(a) Paper size should be 8½" by 11";

(b) Bureau of Census copy should be beige instead of salmon for reproduction purposes;

(c) The Census copy should be 16 to 20 pound weight paper;

(d) A "blip" mark (⅛" by ⅛") should appear in a consistent place on the form; and

(e) The sequence of the entry package should be altered so the Census copy is near the top.

Response:

Customs notes:

(a) The paper size will remain 8½"x11";

(b) For reproduction purposes, the Census copy will be yellow;

(c) Paper weight, for privately printed forms, must be approved by Customs. A standard 16 pound paper weight will be encouraged.

(d) A "blip" mark on the Census copy would create an additional cost to Customs and importers producing their own forms, especially in a continuous mode; and

(e) The Census copy will appear as the 3rd sheet in the set.

Comment: Customs should allow additional data to be placed in the body of the form.

Response: The instructions indicate that when a box cannot contain the required data, the data should be shown in a designated location in the body of the form, or on an attached sheet.

Comment: The canary colored Internal Revenue Service copy should not be required; it merely adds a cost to forms printing.

Response: Customs agrees. The requirement for an additional copy of Customs Form 7501 for the Internal Revenue Service is removed.

Comment: The Paperwork Reduction Act notice should be placed on the reverse of the form.

Response: All printing on the reverse side has been eliminated to reduce printing costs. There is adequate space on the front for the notice.

Comment: The permit copy should be eliminated or Customs should allow use of a regular copy of Customs Form 7501 or 3461 in place of the permit copy.

Response: Customs agrees. Customs will allow a copy of the Customs Form 7501 annotated "Permit" to be used for this purpose.

Comment: The revision may be premature in view of Customs new Automated Broker Interface (ABI) and Automated Commercial System (ACS) programs.

Response: Customs has considered the requirements of ABI and ACS in this revision project. The form has been designed to emphasize compatibility with current and future Customs requirements.

Comment: Customs should retain Customs Form 5101 because its elimination will cause internal processing problems. Furthermore, it should be retained for accelerated drawback.

Response: Customs believes that elimination of Customs Form 5101 will cause no internal processing problems. The elimination has been and is being tested in certain Customs districts with excellent results. A copy of the Customs Form 7501 would be used for accelerated drawback or unitl appopriate drawback forms can be modified. Instructions appended to this document will indicate the appropriate data required when a Customs Form 7501 is filed with a drawback entry.

Comment: A horizontal format would be more beneficial than the current and proposed vertical format.

Response: Customs considered this approach. Designs employing a horizontal format were developed. However, this approach was rejected as being inadequate.

Visa Numbers:

Comment: For imports of textile and apparel products, Customs should collect visa number (a quantity control number assigned by foreign governments to foreign manufacturers) by line item for the following reasons:

(a) Seventy percent of textiles/apparel are exported by countries with visa arrangements.

(b) Lack of reporting causes costly disruptions to trade;

(c) Visa number reporting will avoid unnecessary quota openings and closings;

(d) Reporting visa numbers will avoid law suits;

(e) Reporting will reduce the volume of entry retrievals and;

(f) Reporting will improve the ability to investigate fraudulent shipments.

Response: Customs believes this comment is valid. Accordingly, for imports of textile and apparel products, Customs intends to collect the visa number on the revised Customs Form 7501 when published as a final rule. A location for a visa number on the revised Customs Form 7501 appended to this document is provided in Column 34D. The instructions appended to this document provide information on this requirement.

Comment: It would cost too much to reprogram computers for the revised Customs Form 7501.

Response: Customs acknowledges the expense to reprogram. However, the benefits to be derived, (e.g., fewer forms, uniformity, less burden hours), will be beneficial and cost effective for both the Government and the importing community.

Comment: No provision has been made in the body of the form for inclusion of a manifest number, description, and ultimate consignee's name and address for consolidated shipments.

Response: The information required for consolidated shipments may appear in the body of Customs Form 7501 or may be shown on an attachment.

Comment: The form should provide for more vertical space.

Response: Customs believes adequate space is provided to accommodate the average Customs entry (1.8 line items).

Comment: Customs should eliminate Customs Form 7523 and use revised Customs Form 7501 in its place.

Response: Possible elimination or modification of this form will be considered as a separate project.

Comment:

(a) Proposed § 141.61(e)(1)(ii)(C)(1) should be amended for consistent coding of "P", "C", & "E";

(b) The second sentence of proposed § 141.61(d)(4) should be deleted because it is confusing;

(c) Proposed § 144.11(c) should indicate where on Customs Form 7501 the information should be shown; and;

(d) The second sentence of proposed § 144.41(d) should read, "However, no entry bond shall be required * * *"

Response: Customs has revised the proposed regulations to reflect comments (a), (b), and (d) above. The instructions, rather than the regulations, provide the requested information for (c) above.

Comment: The form should be arranged for ease of data input or there should be a change in E510 (Customs computer format).

Response: The E510 format used by Customs for data transcription will be modified to accommodate the revised Customs Form 7501.

Comment: Will the Immediate Delivery Control (IDC), release system in Detroit be eliminated?

Response: The IDC release system will not be affected by this project.

Comment: The requirement for a minimum of 2 copies (broker and importer) should be eliminated.

Response: Customs agrees. The number of additional copies for use by a broker or importer should be at the option of those parties.

Comment: All statements on the reverse of Customs Form 7501 should be eliminated.

Response: Customs agrees. All data on the revised form appears on one side.

Comment: Customs should provide space on the top of the form for privately printed information such as preparer's name, address, and box number.

Response: Customs notes that privately printed names, etc., are permissible; however, space for this printing is, of necessity, limited.

Comment: Withdrawals from warehouse could be accomplished by using the revised Customs Form 7501.

Response: To use the revised Customs Form 7501 for warehouse withdrawals would require space for additional bond information, withdrawal amounts, balances, name of party withdrawing, and authorizations. Space is not adequate to permit these additions. Furthermore, use of the Customs Form 7501 for withdrawals could cause significant confusion.

Data Elements

Comment: Box 1.

The "Census Use Only" box is unecessary.

Response: Customs agrees and has removed this box from the revised form.

Comment: Box 2.

The broker and importer reference number should appear in this box.

Response: The box is reserved for use by a broker or importer for his own internal control number or code. Therefore, Customs does not wish to dictate use of this box. For clarification, this box is now entitled "Broker/Importer File No."

Comment: Box 3.

(a) This box should be aligned with boxes 2 through 8;

(b) Month-day-year order sequence should be the required format;

(c) Instructions should show acceptable formats; and

(d) WANDA format (Customs automated random batch system), should be required for labels only and not required to be printed on document.

Response: Customs agrees and has so revised the document.

Comment: Box 4.

(a) The entry code should be adequate without spelling out entry type;

(b) An entry code should be assigned to informal entries;

(c) Abbreviations for entry type should be allowed; and

(d) In the last sentence of the instructions for this box, "name" should be deleted and replaced by "code."

Response: Customs agrees with suggestions (a), (b), and (d). The code "O" will be used to designate an informal entry. Concerning suggestion (c), an abbriviation of the type of entry will not be necessary. The code alone will suffice.

Comment: Box 6.

Customs should require a 5 digit numeric code to include region designations required for antidumping and countervailing duty report.

Response: Customs automated systems require only the 4 digit port code to be input. Increasing this field to 5 digits would lead to an increased error rate in data transcription. Since the region code is required only for a small percent of entries, the benefit to be derived would not be significant.

Comment: Box 8.

This should be changed to "Bond Number", rather than "Bond Code".

Response: Customs agrees.

Comment: Box 9.

The box is not sufficient to accommodate a name and address. It should be increased by reducing box 10 "importer number".

Response: The form has been aligned to the U.S. Standard Master/United Nations Layout Key, so that space is now adequate. The U.N. Layout Key is the international basis for the standardization of documents.

Comment: Box 10.

In the instructions, 2 digit suffixes should be added to acceptable formats.

Response: Customs agrees.

Comment: Box 11.

"Ultimate consignee" should be further defined to cover situations such as duty included sales, drop shipments, several ultimate consignees, and trading companies. Customs should provide for additional ultimate consignees to be shown in box 30 in the body of the form with a "see below" designation in box 11.

Response: The ultimate consignee is adequately defined in the instructions. When adequate space is available in the body of the form, information that cannot be contained in an appropriate box may be "shown below" instead of on a supplemental sheet. However a supplemental sheet may be used if desired and *must* be used if placement of additional data in the body of revised Customs Form 7501 will render that data unclear.

Comment: The word "consolidated" should be allowed in this box in accordance with § 141.61(d)(2).

Response: Customs agrees.

Comment: Box 13.

This box should be combined with box 29. Also, the location data should

not be required for goods released on immediate delivery procedure.

Response: Customs agrees. On goods released on entry or immediate delivery, this box need not be completed.

Comment: Box 14.

There is a need for more data concerning containerized cargo, such as the need for origin and ultimate State destination in the United States. Container information should be shown as line item data and the term "containerized" should be defined. A single box in the header portion of the revised Customs Form 7501 will distort statistics on containerized cargo.

Response: The suggestions to report additional data concerning containerized cargo would place a new requirement on the importing public. To require additional data by line item and to show destination State of shipments after unlading at a port of entry would cause an excessive burden on those required to file a Customs Form 7501. However, Customs can appreciate the usefulness of this information to the transportation community, and therefore, a line has been provided in block 9 to record the two character state abbreviation utilized by the Postal Service.

Customs also has discussed this particular subject matter in the "Specific Request For Comments" portion of this document.

Comment: Box 15.

This box should be aligned under boxes 10 and 12. It was noted that this information previously has been transmitted on Customs Form 4811.

Response: Customs believes the location of this element on revised Customs Form 7501 is satisfactory. This information, transmitted via Customs Form 4811, appears on the Entry Record, Customs Form 5101. The information is necessary only when refunds, bills, and notices are to be sent to a party other than the importer of record.

Comment: Box 16.

The date of summary filing should not be required; it cannot be predetermined and the date is normally stamped by the entry unit. This box should be placed with the entry identification information.

Response: The entry summary date box is for Customs use only. The "Entry Summary Date" box has been placed adjacent to entry identification information.

Comment: Box 17.

The bill of lading or air waybill number should be the number of the international carrier, not a domestic carrier. No bill of lading number is available or needed for imports by rail or truck. "Box 17" should read "Box 17, if applicable."

Response: Customs agrees with these comments. The instructions will clarify these points.

Comment: Box 18.

(a) Customs should add to the instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, leave blank;"

(b) Allow for schedule K code (foreign port) and 2-digit province or state code (Canada and Mexico) assigned by Bureau of Census;

(c) For shipments arriving by air, no port of lading should be required, as it is not used;

(d) For transshipments through Canada or Mexico, there is no meaningful port of lading, and one should not be required;

(e) Align box 18 over box 30; and

(f) Add "see below" to be allowed (in instructions).

Response: Customs agrees with comments (a), (b), (c), and (d). Concerning comment (e), Customs disagrees because the suggested alignment would serve no useful purpose. Lastly, the instructions have been modified to allow additional information to appear in the body of the form when space permits.

Comment: Box 20.

(a) The question was raised whether the flag, registration, and flight number are required for air shipments;

(b) Standard airline abbreviations should be allowed; and

(c) Instructions should provide, "For merchandise entering the United States territory from a U.S. foreign trade zone, insert 'FTZ' followed by the 'FTZ number'."

Response: Customs notes that the data listed in (a) above is not now needed. Customs agrees with suggestions (b) and (c).

Comment: Box 21.

(a) Information may not be known at inland port;

(b) Information is not required on Customs Form 7512;

(c) Information is the same as that in box 20; and

(d) Add to instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, specify other."

Response: (a) and (b). Information concerning mode of transportation is normally available or easily obtained for imported goods and Customs Form 7512 does require carrier information; (c) The name of an importing carrier does not always reveal mode of transportation; and (d) as indicated in the instructions appended to this document, Customs has determined to leave this box blank rather than use the word "other."

Comment: Box 22.

This box should be, "M (mandatory), if applicable."

Response: This box is eliminated.

Comment: Box 23.

Customs should:

(a) Add to instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, leave blank;"

(b) Require full date in all instances (MMDDYY) for uniformity; and

(c) Include the date of export from the country of origin for those entries in which country of export differs from country of origin for the proper allocation of quotas.

Response: Customs agrees with comments (a) and (b). The date of export is defined in the instructions.

Comment: Box 24.

Customs should:

(a) Add to instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, leave blank;" and

(b) Provide the option to use the country code from schedule C–1.

Response: Customs agrees with the first suggestion. The country code, included in International Standard ISO 3166, will be acceptable; Country codes included in Schedule C–1 will not be acceptable.

Comment: Box 25.

Customs should (a) Add to the instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, leave blank;" and (b) Require the port of unlading in all instances and add an additional box for the summary filing port code.

Response: Customs agrees with the first suggestion. The U.S. port of unlading is required only for goods arriving by vessel or air. The port code where the entry summary is filed will be collected in box 5.

Comment: Box 26.

The current requirement is to name the delivering in-bond carrier.

Response: This box has been eliminated.

Comment: Box 27.

Customs should (a) Add to the instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, leave blank;" and (b) Require uniform date for this box, i.e., MMDDYY format.

Response: Customs agrees with both suggestions.

Comment: Box 28.

Customs should amend instructions to allow "see below" in this box; and

remove "(/)" between "shipper" and "relation" in instructions.

Response: This box requirement is eliminated.

Comment: Box 29.

This box should be combined with "location of goods".

Response: Customs agrees.

Comment: Box 30.

(a) The field is too small for standard 30 character description;

(b) The requirement for a description should be eliminated;

(c) Column 30a should be divided to provide for a separate column for country of origin and gross weight;

(d) The total value of foreign trade zone goods should be shown at bottom of column 30 (per FTZ Manual Supplement);

(e) Box 30 should not be required for informal entry; and

(f) The description should follow the invoice description of the goods.

Response:

(a) Sufficient space has been provided for recording a standard 30 character description.

(b) A description will not be required on informal entries nor will it be required on entries prepared by computer systems that validate the TSUSA number. It will be required on all other entries.

(c) Gross weight and country of origin fields have been expanded.

(d) Instructions related to goods originating in a Foreign Trade Zone have been addressed.

(e) Agree.

(f) To minimize the space devoted to the description of merchandise, only standard abbreviated descriptions will be accepted.

Comment: Box 31.

(a) The question was raised whether the code P, C, and E can be used and whether parentheses are required;

(b) Since "pext" is rarely different than entered value, it should be dropped; and

(c) The column should be removed and data placed in column 32.

Response: (a) This column has been eliminated; the data will be shown in the body of the form in accordance with the instructions.

Comment: Box 33.

The space is not adequate for the Harmonized System.

Response: The space is increased for future requirements.

Comment: Box 34.

The space shoudl be larger.

Response: Customs has increased the space.

Comment: Box 35.

The space provided is too small, and should be enlarged.

Response: Customs agrees.

Comment: Box 36.

The space should be reduced and allocated to other items requiring additional space. Liquidation data and liquidator code should be printed in this box for Customs liquidation processing.

Response: The space has been reduced but is necessary for Customs use. Customs agrees with the second comment.

Comment: Box 37.

The space will not accommodate multiple missing documents; it is out of alignment for computer printing.

Response: (a) Customs believes the space is adequate because codes will be used. The space is realigned for printing.

Comment: Box 38.

(a) The space is too small;

(b) The box is out of alignment for printing; and

(c) Boxes 38, 39, 41, and 44 should be consecutively numbered.

Response: Customs agrees with all of these comments.

Comment: Box 39.

(a) This block must be broken down for beer, wine, or distilled spirit; and (b) the space is not aligned for printing.

Response: (a) The reporting requirement remains unchanged.

(b) Customs agrees and has aligned the box.

Comment: Box 40.

(a) The space is out of alignment for printing;

(b) The space should be incorporated into box 36; and

(c) There should be a line between I.S. Team and Liq. Code.

Response: Customs notes that the I.S. Team Code has been eliminated and Liquidator Code is incorporated in "Customs Use Only" box.

Comment: Box 41.

(a) The use of this box should be defined. The space is out of alignment for printing.

Response: This space is used to record estimated total antdumping and countervailing duties or other charges or exactions not included in duties and tax. The space has been aligned.

Comment: Box 43.

The space is too small. The word "signature" should be used instead of "authentication."

Response: Customs has provided additonal space. The term "signature" will be used.

Comment: Box 44.

The space is too small.

Response: Customs has provided increased space.

Comment: Box 45.

This box should be combined with box 43. The question was raised as to what title is required?

Response: The box has been combined with the "Signature" box. The job title of person signing the form is require.

Comment: Box 46.

The space is inadequate; and this block duplicates information in box 9.

Response: The box is eliminated.

Comment: Box 47.

This box should be incorporated with box 16 or moved into box 45.

Response: The date is included in the "signature" box.

Specifications of Customs Form 7501

The Government-printed revised Customs Form 7501, the "Entry/Entry Summary," will consist of a carbon interleaved set of 5 pages, each page 8½" X 11". As a minimum, Customs will require the following pages to be filed for each entry:

Page 1. Original—white color for Customs.

Page 2. Cashier Copy—white color for Customs.

Page 3. Statistical Copy—yellow color for Bureau of Census.

The 4th and 5th pages may be used as a permit copy, receipt copy, or to fulfill a requirement of another agency such as in an antidumping duty or countervailing duty case.

The Government also will print a revised Customs Form 7501A, "Entry/Entry Summary Continuation Sheet" consisting of a carbon interleaved set of 5 pages, each page 8½" X 11". If all line items cannot be contained on Customs Forms 7501, the importer may use either (1) another Customs Form 7501 set and leave the header information blank, or (2) the continuation sheet Customs Form 7501A set.

The entry number must appear on each additional sheet.

When the Customs Form 7501 is used as an informal entry, only the following blocks and columns must be completed.

1, 2, 5, 11, 13, 15, 17, 18, 19, 23, 27, 28, 30A, 31A, 32, 33A, 34A, 34C, 35, 36, 37, 38, 39, 40 and 41.

In the October 4, 1982, notice, Customs advised that when Customs Form 7501 is used for an informal entry, only the blocks shaded on the form need be completed. Customs believes that because use of the "shaded block" concept is not entirely satisfactory, it has been eliminated from the present from.

In its place, Customs encircled the number of each block that must be completed for an informal entry.

Discussion of Customs Form 7501

The revised Customs Form 7501 and instructions appended hereto are part of

a continuing Customs effort to improve the procedures for entering imported merchandise and collecting statistics. The form would reduce the paperwork burden on the importing community and Customs by eliminating specified Customs forms and ensuring that only necessary data will be collected from the public.

Customs recognizes and appreciates the concern of members of the public and other agencies desiring Customs to collect additional data elements. However, Customs cannot adopt all of the suggestions and still be consistent with its objective of streamlining commercial procedures and the Administration's goal of reducing public reporting burdens and paperwork. This is especially so in this era of austerity when Customs is faced with an ever-increasing workload and declining resources. In fact, Customs has determined to eliminate some items on the Customs Form 7501 that are useful, but not essential, to the performance of its mission.

The revised Customs Form 7501 is aligned with the U.S. Standard Master/U.N. Layout Key. There are several advantages to this approach. Uniform sequence of data presentation provides a convenient link with computer processing, transmission, and output of information. Simplified standardized document preparation and processing provides savings of time, money, and effort. Standardized preparation of data, and multiple use of data, can result in document consolidation and elimination.

Customs continues to support the Administration's goals of furthering trade relations with our trading partners and reducing paperwork burdens. Adoption of this proposed form will emphasize Customs commitment to international treaties and conventions concerned with documentation simplification and standardization, such as the International Convention on the Simplification and Harmonization of Customs Procedures (the Kyota Convention), to which the United States Senate on June 21, 1983, give its advice and consent to U.S. accession.

The revised Customs Form 7501 has been redesigned to emphasize economy, and the instructions have been simplified and clarified. There will be an overall reduction in costs to brokers and importers because of the elimination of specified forms, and the reduction in the number of data element boxes and columns to 40 from the earlier 47 data element boxes and columns appearing on the form published in the October 4, 1982, notice. Removed data element boxes and columns include:

(a) I.T. port;
(b) I.T. carrier;
(c) Relationship, and
(d) Entry type name.

Production and printing costs will be reduced because there is a minimum number of copies required for each interleaved set of the form; all printing appears on one side; there is a minimum number of tab stops; and there are no spot carbons.

Data collection has been streamlined consistent with automation and the form is compatible with computer printers. Wherever possible, codes have been used in place of words.

The form addresses current requirements and future needs such as the Automated Commercial System (including ABI), the Harmonized System, and the proposed new bond system.

Specific Request for Comments

Containerized Cargo

In the October 4, 1982, notice, Customs Form 7501 had a box 14 designated "Containerized." In accordance with the instructions for that document, when merchandise was containerized, a "Yes" was to be placed in the box. When the merchandise was not containerized, a "No" was to be placed in box 14.

As noted in the analysis of comments portion of this document, the "Containerized" box has been removed.

Customs is aware of trade community interest in retention of this data element. As explained elsewhere in this document, Customs is interested in minimizing reporting burdens placed upon the private sector. Therefore, we request comments on the possibility of incorporating the containerized information with data element 20, "Mode of Transportation" (which is to specify the method of transportation by which the imported merchandise entered the first United States port from the last foreign country). For example, it may be desirable to record a "C" following the "Mode of Transportation" wherever any portion of the merchandise covered by an entry is containerized. Customs also will consider suggestions for alternative approaches.

Effective Date

Customs wishes to assure that sufficient time be provided to permit importers and brokers to reprogram computers, train personnel to use the revised form and use existing stock of current Customs Forms 7501, 7502, 5101, 5119–A, and 7500.

In this regard, the final regulations would not become effective until 6 months after the date of publication of the final rule as a Treasury Decision in the **Federal Register**. After that date, only the revised Customs Form 7501 will be accepted by Customs, and the other forms will be eliminated.

Authority

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), sections 484, 624, 46 Stat. 722, as amended, 759 (19 U.S.C. 1484, 1624); section 301, 80 Stat. 379 (5 U.S.C. 301), Pub. L. 95–410 (October 3, 1978); Pub. L. 96–511 (December 11, 1980).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Regulatory Flexibility Act—Executive Order 12291

Customs has undertaken a review of the economic and financial implications of the proposal to determine the need for a (1) regulatory analysis in light of 5 U.S.C. 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–353), and (2) regulatory impact analysis in light of section 1(b) of Executive Order 12291.

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act, it is hereby certified that the proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Accordingly, this document is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

The proposed amendments do not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Customs expects the proposal to result in a net cost reduction to small brokers and importers primarily because of the proposal's elimination of entry documents.

The major effect of the proposed revisions on brokers and importers will be to reduce the quantity of data currently required to be filed by the importing community. A number of

current Customs forms will be entirely eliminated under the proposal (e.g., 7501, 7501A, 7501B, 7501C, 7502, 7502A, 7502B, 7502C, non-serially numbered 5119A, 7500, 5101). In FY 1982, approximately 12.1 million of these above-mentioned documents were filed. As a result of the proposal, the filing of 7.3 million document filings would fulfill the same requirements. The proposal will thus eliminate 4.8 million document filings for an estimated documentation cost savings of $1.1 million to brokers and importers. The savings more than outweigh the broker-estimated reprogramming costs (estimated at hundreds of thousands of dollars), should the revised customs Form 7501 be adopted. Further, the number of required data element boxes and columns in this revised form has been reduced to 40 from the 47 data element boxes and columns appearing on the form published in the October 4, 1982, domument. This provides further costs benefits. Also, the proposed revision will allow further, as yet unspecified, time and cost savings, because data elements to be collected upon future implementation of the ABI system and the Harmonized System are incorporated in revised Customs Form 7501. Other operational costs are minimzed in the revision by requiring data on only one side of the proposed form.

Paperwork Reduction Act

This proposed project is subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Accordingly, this document has been transmitted to the Office of Management and Budget for review

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Wildlife.

19 CFR Part 19 and 144

Customs duties and inspection, Warehouse.

19 CFR Part 24

Customs duties and inspection, Accounting.

19 CFR Part 113

Customs duties and inspection, Surety bonds

19 CFR Part 125

Customs duties and inspection, Freight forwarders

19 CFR Part 141, 142 and 143

Customs duties and inspection, imports.

19 CFR Part 146

Customs duties and inspection, Foreign-trade zones.

Proposed Amendments

It is proposed to amend Parts 10, 19, 24, 113, 125, 141, 142, 143, 144 and 146, Customs Regulations (19 CFR 10, 19, 24, 113, 125, 141, 142, 143, 144, and 146), in the following manner:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

It is proposed to revise § 10.91(a) to read as follows:

§ 10.91 Importation under item 306.00; entry or withdrawal under bond.

(a) The entry summary for wool or hair of the camel [82] imported for use in the manufacture of any of the articles enumerated in item 306.00, Tariff Schedules of the United States (TSUS),[83] shall be made on Customs Form 7501 and filed with the entry documentation listed in § 142.3(b) of this chapter before the merchandise shall be released. If the merchandise is to be entered for warehouse, the entry summary also shall be made on Customs Form 7501 and filed with the entry documentation listed in § 142.3(b) of this chapter. In either case, Customs Form 7501 shall serve as both the entry and the entry summary

* * * * *

PART 19—CUSTOMS WAREHOUSES CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

It is proposed to amend § 19.11(b) by removing "7502" and inserting, in its place, "7501".

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. It is proposed to revise the fourth sentence of §24.5(d) to read as follows:

§ 24.5 Filing identification number.

* * * * *

(d) *Optional additional identification.* * * * Transactions may be associated with a specific branch office or vessel by reporting the appropriate identification number, including the two-digit suffix code, on Customs Form 7501 or the request for services.

* * * * *

2. It is proposed to amend the first sentence of § 24.5(e) by removing "5101" and inserting, in its place, "7501".

PART 113—CUSTOMS BONDS

It is proposed to revise § 113.41 to read as follows:

§ 113.41 Entry made prior to production of documents.

When entry is made prior to the production of a required document, the importer shall indicate in the "Missing Documents" box on Customs Form 7501 the missing document, whether the importer gives bond Customs Form 7551 or 7553, or other appropirate form, or stipulates to produce such document.

PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

1. It is proposed to revise § 125.31(b) to read as follows:

§ 125.31 Documents used.

* * * * *

(b) Customs Form 7501, Entry/Entry Summary, annotated "Permit".

* * * * *

2. It is proposed to revise § 125.32 to read as follows:

§ 125.32 Merchandise delivered to a bonded store or bonded warehouse.

When merchandise is carted or lightered to and received in a bonded store or bonded warehouse, the proprietor or his representative shall check the goods against the accompanying delivery ticket, Customs Form 6043, or copy of the permit, Customs Form 7501, and countersign the document acknowledging receipt of the merchandise as listed thereon.

PART 141—ENTRY OF MERCHANDISE

1. It is proposed to revise § 141.61(a)(2) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

(a) *Preparation.* * * *

(2) An importer may omit from the warehouse withdrawal for consumption, Customs Form 7505 or 7519, the marks and numbers previously provided for packages released or withdrawn.

* * * * *

2. It is proposed to revise § 141.61(d) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

* * * * *

(d) *Importer number.* The importer number shall be reported on Customs Form 7501 as follows:

(1) *Generally.* Except as provided in paragraph(d)(2) of this section, the importer number of the importer of record and the consignee number of the ultimate consignee shall be reported for each entry summary and for each drawback entry. When the importer of record and the ultimate consignee are the same, the importer number may be entered in both spaces provided on Customs Form 7501, or the importer number may be entered in the space provided for the importer and the word "SAME" may be entered in the space provided for the ultimate consignee.

(2) *Exception.* In the case of a consolidated entry summary covering the merchandise of more than one ultimate consignee, the importer number shall be reported on Customs Form 7501 and the notation "CONSOLIDATED" shall be made in the space provided for the consignee number.

(3) *When refunds, bills, or notices of liquidation are to be mailed to agent.* If an importer of record desires to have refunds, bills, or notices of liquidation mailed in care of his agent, the agent's importer number shall be reported on Customs Form 7501 in the box designated "Reference No." In this case, the importer of record shall file, or shall have filed previously, a Customs Form 4811 authorizing the mailing of refunds, bills, or notices of liquidation to the agent.

(4) *Broker No.* If a broker is used, the broker's number shall be reported in the appropriate location on Customs Form 7501.

* * * * *

3. It is proposed to revise § 141.61(e)(1)(i)(A) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

* * * * *

(e) *Statistical information.*—(1) *Information required on entry summary or withdrawal form.*—(i) *Where form provides space.*—(A) *Single invoice.* For each class or kind of merchandise subject to a separate statistical reporting number, the applicable information required by the General Statistical Headnotes, Tariff Schedules of the United States Annotated ("TSUSA"), shall be shown on the entry summary, Customs Form 7501; the transportation entry and manifest of goods, Customs Form 7512, when used to document an incoming vessel shipment proceeding to a third country by means of an entry for transportation and exportation, or immediate exportation; the rewarehouse entry, Customs Form 7519; the manufacturing warehouse entry, Customs Form 7521; the withdrawal form, Customs Form 7505 or 7506, in the space provided.

* * * * *

4. It is proposed to amend § 141.61(e)(1)(ii) by removing paragraph (B) and marking it "Reserved".

* * * * *

5. It is proposed to revise § 141.61(e)(1)(ii)(C)(1) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

* * * * *

(e) * * *

(1) * * *

(ii) *Where the form does not provide space.* * * *

(C)*(1)* The charges, transaction value, and equivalent value shall be listed on Customs Form 7501 in column 33. The amounts shall be identified in the following order: C (aggregate cost of freight, insurance and all other charges), P (port of exportation transaction value), and E (equivalent port of exportation value). The charges, transaction value, and equivalent value shall be listed on Custom Forms 7505, 7506, and 7521 in column 4 immediately below the TSUSA reporting numbers. These amounts shall be identified by placing in the following order: C (aggregate cost of freight, insurance, and all other charges), P (port of exportation transaction value) and E (equivalent port of exportation value) in column 4 immediately to the left of each statistical value and charge.

* * * * *

6. It is proposed to revise the last sentence of § 141.61(f)(1)(iv) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

* * * * *

(f) *Value of each invoice*—

(1) *Single invoice.* * * *

(iv) * * * The required information shall be shown on a worksheet attached to the form or placed across columns 30 and 31 on Customs Form 7501 and in the same general location on Customs Forms 7505, 7506, 7519, and 7521.

* * * * *

§ 141.68 [Amended]

7. It is proposed to amend the first sentence of § 141.68(h) by removing "7500" and inserting, in its place, "7501".

PART 142—ENTRY PROCESS

§ 142.3 [Amended]

1. It is proposed to amend § 142.3(b)(2) by removing "7502,".

2. It is proposed to revise § 142.11(a) to read as follows:

§ 142.11 Entry summary form.

(a) *Customs Form 7501.* The entry summary shall be on Customs Form 7501 unless a different form is prescribed elsewhere in this chapter. Customs Form 7501 shall be used for merchandise formally entered for consumption, formally entered for warehouse, or rewarehouse in accordance with § 144.11 of this chapter, and formally entered under a temporary importation bond under § 10.31 of this chapter. The entry summary for merchandise which may be entered free of duty in accordance with § 10.1 (g) or (h) of this chapter may be on Customs Form 3311 instead of on Customs Form 7501. For merchandise entitled to be entered under an informal entry, see § 143.23 of this chapter.

* * * * *

3. It is proposed to revise the last sentence of § 142.16(a) to read as follows:

§ 142.16 Entry summary documentation.

(a) *Entry summary not filed at time of entry.* * * * The entry summary documentation also shall include any other documents required for a particular shipment unless a bond for missing documents is on file, as provided in §1141.66 of this chapter.

* * * * *

4. It is proposed to revise the last sentence of § 142.16(b) to read as follows:

§ 142.16 Entry summary documentation.

* * * * *

(b) *Entry summary filed at time of entry.* * * * The importer also shall file any additional invoice required for a particular shipment.

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

1. It is proposed to revise § 143.12 to read as follows:

§ 143.12 Form of entry

Application for an entry by appraisement shall be made in triplicate on the entry summary, Customs Form 7501.

2. It is proposed to revise the heading and text of § 143.24 to read as follows:

§ 143.24 Preparation of Customs Form 7501 and Customs Form 5119–A.

Customs Form 7501 may be prepared by importers or their agents or by Customs officers when it can be presented to a Customs cashier for payment of duties and taxes and for numbering of the entry before the merchandise is examined by a Customs

officer. Where there is no Customs cashier, Customs Form 5119–A must be used, and it shall be prepared by a Customs officer unless the form can be prepared under his control by the importer or agent for immediate use in clearing merchandise under the informal entry procedure. The conditions for the preparation of Customs Form 7501 by importers or their agents, as described in the first sentence of this section, do not apply to the acceptance of these entries for shipments not exceeding $250 in value released under a special permit for immediate delivery in accordance with Part 142 of this chapter.

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. It is proposed to revise § 144.11 (a), (b), and (c) to read as follows:

§ 144.11 Form of entry.

(a) *Entry.* The documentation required by § 142.3 of this chapter shall be filed at the time of entry. If the entry summary, Customs Form 7501, is filed at the time of entry for merchandise to be entered for warehouse, it shall serve as both the entry and the entry summary, and Customs Form 3461 or 7533 shall not be required. If the entry summary is not filed at the time of entry, it shall be filed within the time limit prescribed by § 142.12 of this chapter. If merchandise is released before the filing of the entry summary, the importer shall have a bond on file, as prescribed by § 142.4 of this chapter.

(b) *Customs Form 7501.* The entry summary for merchandise entered for warehouse shall be executed in triplicate on Customs Form 7501, appropriately modified, and shall include all of the statistical information required by § 141.61(e) of this chapter. The district director may require an extra copy or copies of Customs Form 7501, annotated "Permit" for use in connection with delivery of the merchandise to the bonded warehouse.

(c) *Designation of warehouse.* The importer shall designate on the entry summary, Customs Form 7501, the bonded warehouse in which he desires his merchandise deposited.

* * * * *

§ 144.12 [Amended]

2. It is proposed to amend § 144.12 by removing "7502" and inserting, in its place, "7501".

§ 144.14 [Amended]

3. It is proposed to amend the introductory paragraph of § 144.14 by removing "7502" and inserting, in its place, "7501".

§ 144.36 [Amended]

4. It is proposed to amend the first sentence of § 144.36(b) by removing "7502" and inserting, in its place, "7501".

5. It is proposed to revise § 144.41 (b) and (d) to read as follows:

§ 144.41 Entry for rewarehouse.

* * * * *

(b) *Form of entry.* An entry for rewarehouse shall be made in duplicate on Customs Form 7501 and shall contain all of the statistical information as provided in § 141.61(e) of this chapter. The district director may require an extra copy or copies of Customs Form 7501, annotated "Permit," for use in connection with the delivery of the merchandise to the warehouse. No declaration is required on the entry.

* * * * *

(d) *Bond.* A bond on Customs Form 7555 or other appropriate form shall be filed before a permit is issued on Customs form 7501 for sending the merchandise to the bonded warehouse. However, no entry bond shall be required if the merchandise is entered by the consignee named in the original warehouse entry bond filed at the original port of entry, or if it is entered by a transferee who has established his right to withdraw the merchandise and has filed a bond in accordance with subpart C of this part.

PART 146—FOREIGN-TRADE ZONES

§ 146.21 [Amended]

It is proposed to amend § 146.21(c) introductory text by removing "7502" and inserting, in its place, "7501"

William von Raab,
Commissioner of Customs.

Approved: September 21, 1983.

John M. Walker, Jr.,
Assistant Secretary of the Treasury

BILLING CODE 4820-02-M

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

ENTRY/ENTRY SUMMARY

ATTACHMENT A

(1) Entry No.	(2) Entry Type Code	3. Entry Summary Date
4. Entry Date	(5) Port Code	
6. Bond No.	7. Bond Type Code	8. Broker/Importer File No.

9. Ultimate Consignee Name and Address	10. Consignee No.	(11) Importer of Record Name and Address / 12. Importer No.
		(13) Exporting Country / 14. Export Date
		(15) Country of Origin / 16. Missing Documents
	State	(17) I.T. No. / (18) I.T. Date
(19) B/L or AWB No.	20. Mode of Transportation	21. Manufacturer I.D. / 22. Reference No.
(23) Importing Carrier	24. Foreign Port of Lading	25. Location of Goods
26. U.S. Port of Unlading	(27) Import Date	

(28) Line No.	29. Description of Merchandise: (A) T.S.U.S.A. No. / B. ADA CVD Case No.	31. (A) Gross Weight / B. Manifest Qty.	(32) Net Quantity in T.S.U.S.A. Units	33. (A) Entered Value / B. CHGS	34. (A) T.S.U.S.A. Rate / B. ADA/CVD Rate / (C) I.R.C. Rate / D. Visa No.	(35) Duty and I.R. Tax: Dollars	Cents

(36) Declaration of Importer of Record (Owner or Purchaser) or Authorized Agent

I declare that I am the

- ☐ importer of record and that the actual owner or consignee for customs purposes is as shown above

OR

- ☐ owner or purchaser

I further declare that the merchandise

- ☐ was obtained pursuant to a purchase or agreement to purchase and that the price set forth in the invoice [illegible]
- ☐ was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoice as to value or price are true to the best of my knowledge and belief.

I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties and are true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed. I will immediately furnish to the appropriate customs officer any information showing a different state of facts.

Notice required by Paperwork Reduction Act of 1980. This information is needed to ensure that importers/exporters are complying with U.S. customs laws, to allow us to compute and collect the right amount of money, to enforce other agency requirements, and to collect accurate statistical information on imports. Your response is mandatory.

▼ U.S. CUSTOMS USE ▼		TOTALS	
	A. Ascertained Duty	(37) Duty	
	B. Ascertained Tax	(38) Tax	
	C. Ascertained Other	(39) Other	
	D. Ascertained Total	(40) Total	
	E. Liq. Code		

(41) Signature of Declarant, Title, and Date

(UN KEY)

Customs Form 7501 Proposal (10-17-83)

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

ENTRY/ENTRY SUMMARY CONTINUATION SHEET

(1) Entry No.

(32) Line No.	29 Description of Merchandise: 30. (A) TSUSA No. / (B) ADA/CVD Case No.	31 (A) Gross Weight / (B) Manifest Qty.	(32) Net Quantity in TSUSA Units	33 (A) Entered Value / (B) CHGS	34 (A) TSUSA Rate / (B) [illegible] / (C) I.R.C. Rate / (D) Visa No.	(35) Duty and I.R. Tax: Dollars	Cents

BILLING CODE 4820-02-C

Customs Form 7501A Proposal (10-17-83)

Attachment B—Instructions for Form 7501

1. *Entry No*

Record the 12 digit numeric code. Always begin with the three digit code assigned to importers and brokers, followed by the last two digits of the fiscal year and the six digit entry number, and finally, the one digit check digit. Importer and broker codes, entry numbers, and check digits are preassigned to importers and brokers by Customs or may be obtained individually from a Customhouse entry unit. The acceptable format is as follows:

NNN NNNNNN NNN N
1 2 3

1. Importer/broker code number
2. Fiscal year and entry number
3. Check digit

Note.— A new series of eleven character entry numbers that will incorporate a three digit importer/broker filer code is planned. Until this series is adopted and due to space limitations in this block, the existing three digit importer/broker code numbers shall be recorded outside and immediately to the left of block #1.

Example:

NNN

1. Entry No.
NNNNNNNN N

2. *Entry Type Code*

Record the appropriate entry type code by selecting the one digit code for the type of entry summary being filed:

Entry type	Entry type code
Dutiable Consumption	1
Vessel Repair	2
Appraisement (see special instructions)	3
Warehouse, or	4
Rewarehouse	4
Bonded A/C Fuel	6
Free Consumption	7
Informal (see special instructions)	0

For all merchandise constructively transferred into the U.S. Customs territory from a U.S. Foreign Trade Zone (or subzone), the initial FTZ should follow the entry type code number

Note.—A new two digit entry type code is planned which will uniquely identify all entry types including informals, quota, TIB etc.

The new procedures for Entry Number and Entry Type Code discussed above will be the subject of a separate Federal Register document

3. *Entry Summary Date*

This block is for Customs use only to record the date the entry/entry – summary is filed (6 digit numeric code showing month, day, and year—MMDDYY).

4. *Entry Date*

Record the 6 digit numeric code; month, day, and year—MMDDYY. Normally, the date the goods are released except for immediate delivery, quota goods, or where importer/broker requests another date prior to release (see 19 CFR 141.68).

5. *Port Code*

Record the four digit numeric code of the port where the entry summary is filed. Port codes are to be found in Annex A of the TSUSA. The port code should be shown as follows:

NNNN (no spaces or hyphens)

Note.— Upon final acceptance of these instructions, they will be published in pamphlet form and the schedule D port codes (currently listed as Annex A of the TSUSA) will be reproduced in their entirety as an appendix to the instructions).

6. *Bond No*

Record the 3 digit numeric code that identifies the surety company on the bond. The code number is obtained from the ADP report entitled "Surety Master File" which is updated periodically. For U.S. Government importations and other entry types not requiring surety, the code 999 should appear in this block.

7. *Bond Type Code*

Record the 1 digit numeric code as follows:

0 U.S. Government or Appraisement Entry Bond
1 Single Entry Bond
2 Consumption Term Bond
3 Temporary Importation Term Bond
4 Vessel Term Bond
5 General Term Bond

8. *Broker/Importer File No.*

This block is reserved for a broker's or importer's internal file number.

9. *Ultimate Consignee Name and Address*

Record the name and address, including zip code, of the individual or firm for whose account the merchandise is imported (if same as importer of record, record "SAME"), and enter the U.S. Postal Service's standard two-letter state or territory abbreviation in the space provided to identify the ultimate consignee state.

If entry summary represents a consolidated shipment, leave blank.

10. *Consignee No.*

Record the IRS, Customs assigned, or Social Security number (not required if the same as importer of record).

For consolidated shipments, enter the word "CONSOLIDATED" in capitals in this block.

Only the following formats shall be used:

IRS number	NN–NNNNNNN
IRS number with suffix	NN–NNNNNNNNN
Customs assigned number	NNNN–NNNNN
Social Security number	NNN–NN–NNNN

11. *Importer of Record Name and Address*

Record the name and address, including zip code. The importer of record is the individual or firm liable for payment of all duties and meeting all statutory and regulatory requirements incurred as a result of importation.

12. *Importer No.*

Record the IRS, Customs assigned, or Social Security number of the importer of record. For format, see instructions under "Consignee No."

13. *Exporting Country*

Record the exporting country utilizing ISO Alpha–2 country codes specified in the International Standard ISO 3166. (Note: Upon final acceptance of these instructions, they will be published in pamphlet form and the ISO Alpha–2 country codes (International standard ISO 3166) will be reproduced in their entirety as an appendix to the instructions).

The country of exportation shall be the country of origin except when the merchandise while located in a third country is the subject of a new purchase. In which event, the third country shall be regarded as the exporting country.

For merchandise entering the U.S. Customs territory from a U.S. Foreign Trade Zone, leave blank.

14. *Export Date*

For merchandise exported by vessel record the month, day, and year on which the carrier departed the last port in the exporting country (format: MMDDYY).

For mechandise exported by air, record the month, day and year in which the aircraft departed the last airport in the exporting country (format: MMDDYY).

For overland shipments from Canada or Mexico and shipments where the port of lading is located outside the exporting country (e.g., goods are exported from Switzerland but laden and shipped from Hamburg, West Germany), record the month, day, and year in which the goods crossed the border of the exporting

country (Switzerland in this example) (format: MMDDYY).

For mail shipments, record the date of export as noted on the Customs Form 3509, Notice to Addressee (format: MMDDYY).

For goods entering the U.S. Customs Territory from a U.S. Foreign Trade Zone, leave blank

15. *Country of Origin*

Record the country of origin utilizing the ISO country codes specified in International Standard ISO 3166. (Note: Upon final acceptance of these instructions, they will be published in pamphlet form and the ISO Alpha–2 country codes (International standard ISO 3166) will be reproduced in their entirety as an appendix to the instructions).

The country of origin is the country of manufacture, production, or growth of any article of foreign origin. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin."

When the merchandise is invoiced in or exported from a country other than that in which it originated, the actual country of origin shall be specified rather than the country of invoice or exportation.

When a single entry summary covers merchandise from more than one country of origin, record the word MULTI in this block and in column 28 directly below the line number, indicate a separate ISO code for the country of origin corresponding to each line item.

16. *Missing Documents*

Record the appropriate document code number(s) to indicate any documents not available at the time of filing the entry summary.

The following codes shall be used:

01. Commercial invoice
02. Form A
03. CF 3311
04. Assembly Declaration (C.F. 10.24 (a)(1))
05. Declaration of Foreign Shipper (C.R. 10.1., 10.9(e), 10.84)
06. Importer Declaration (C.R. 10.9(f), 10.24(a)(2), 10.84)
07. Repair Affidavit (C.R. 10.8)
08. CF 4455
09. CF 3321 (C.R. 10.43, 10.44, 10.52, 10.75)
10. CF 5523 (C.R. 141.89)
11. CF 3291 (C.R. 12.41)
12. Original Manufacturer's Purchase Order (C.R. 10.84(c))
13. Artist's Declaration (C.R. 10.48(b)(1))
14. Lease Statement (C.R. 10.108(b))
15. Re-melting Certificate (C.R. 54.6(a))
16. Corrected Commercial Invoice (C.R. 141.89, et al)
17. Other Agency Forms (C.R. Part 12)
18. Reserved
19. Reserved
20. Reserved
21. Reserved
22. Reserved
23. Reserved
24. Reserved
25. Reserved
26. Reserved

17. *I.T. Number*

Record the In Transit Entry number (CF 7512).

18. *I.T. Date*

Record the date of the In Transit Entry (CF 7512) (format: MMDDYY).

19. *B/L or AWB No.*

Record the number assigned on the manifest by the international ocean or air carrier delivery the goods to the United States.

For imports by rail or truck or any other means other than sea or air, leave blank.

20. *Mode of Transportation*

Record the method of transportation by which the imported merchandise entered the first U.S. port from the last foreign country utilizing the following 2 digit numeric codes:

10—Vessel (including all cargo at first U.S. port of unloading aboard a vessel regardless of later disposition. Lightered, land bridge, and LASH all included.)
20—Rail
30—Road (including all cargo via highway. Foot and animal borne are considered road.)
40—Air
50—Mail
60—Not used at this time
70—Fixed transport installation (includes pipeline, powerhouse, etc.)
80—Not used at this time
90—Unknown

For merchandise entering the U.S. territory from a U.S. Foreign Trade Zone, leave blank.

21. *Manufacturer I.D.*

This block is provided to accommodate a future reporting requirement.

Note.—For future reference, manufacturers will be identified by their telex number or if not available, their telephone number. Country codes used in conjunction with telex and telephone numbers (manufacturer's number) will then uniquely identify each foreign firm.

22. *Reference No.*

Record the IRS, Customs assigned, or Social Security number of the individual or firm to whom refunds, bills or notices of extension or suspension of liquidation are to be sent.

For correct format of number, see instructions under "Consignee No."

23. *Importing Carrier*

For merchandise arriving in the U.S. by vessel, record the name of the vessel which transported the merchandise from the foreign port of lading to the first U.S. port of unlading (Note: Vessel identifier codes that are currently acceptable to the Bureau of the Census may be recorded in lieu of vessel name).

For merchandise arriving in the U.S. by air, record the IATA code corresponding to the name of the airline which transported the merchandise from the last airport of lading to the first U.S. airport of unlading.

For merchandise arriving in the U.S. by means of transportation other than by vessel or air, leave blank.

Do not record the name of a domestic carrier transporting merchandise after initial unlading in the U.S.

For merchandise arriving in the U.S. Customs territory from a U.S. Foreign Trade Zone, insert "FTZ" followed by the "FTZ" number.

24. *Foreign Port of Lading*

For merchandise arriving in the U.S. by vessel, record the 5 digit numeric code listed in the Department of Commerce Schedule K for the foreign port at which the merchandise was actually laden on the vessel that carried the merchandise to the U.S.

For merchandise entering the U.S. Customs territory from a U.S. Foreign Trade Zone, leave blank.

For merchandise transshipped abroad (except Canada and Mexico) in the course of shipment to the U.S. whether or not covered by a through bill of lading, do not record the code number for the foreign port of original lading or any port of lading other than the last foreign port of lading at which the merchandise was laden on the carrier which transported it to the first U.S. port of unlading.

When a single entry summary covers merchandise laden at more than one foreign port, place the word MULTI in this block, and record the foreign port of lading separately in the " Line No." column directly below the line number for each line item (or group of line items) for the merchandise laden at each foreign port (Where there are multiple ports of lading and also multiple countries of origin, see instructions

under block 15). If both code numbers will be required for one line item, place the country of origin code directly below the line number, and place the port of lading code directly under the country of origin code).

25. *Location of Goods*

Where the entry summary serves as entry/entry summary, record the pier or site where the goods are available for examination.

In the case of merchandise placed in general order record the number assigned by Customs.

In the case of goods placed in a bonded warehouse, record the name of the bonded warehouse where the goods will be delivered (or record the Customs assigned number for the bonded warehouse in this block when available).

26. *U.S. Port of Unlading*

For merchandise imported by vessel or air, record the four digit numeric Schedule D code which identifies the U.S. port at which the merchandise was unladen from the importing vessel or aircraft. (Note: Upon final acceptance of these instructions, they will be published in pamphlet form and the Schedule D port codes (currently listed as Annex A in the TSUSA) will be reproduced in their entirety as an appendix to the instructions).

When the port of entry differs from the port of unlading, record the code number for the port of unlading and not the code number for the port where the entry is filed (for example, if entry is filed at the Port of Los Angeles for merchandise unladen at Long Beach, California, record code 2709 (Long Beach) as the port of unlading). The same principle applies when goods are unladen at a smaller port within a consolidated port of entry (for example, entry filed at the port of Houston for merchandise unladen at Galveston, record code 5310 (Galveston) as port of unlading).

For merchandise arriving in the U.S. by means of transportation other than vessel or air, leave blank.

For merchandise arriving in the U.S. Customs territory from a U.S. Foreign Trade Zone, leave blank.

27. *Import Date*

For merchandise arriving in the U.S. by vessel, record the month, day, and year (MMDDYY) on which the importing vessel transporting the merchandise from the foreign country arrived within the limits of the U.S. port with the intent to unlade.

For merchandise arriving in the U.S. other than by vessel, record the month, day, and year (MMDDYY) in which the merchandise arrived within the limits of the U.S.

For merchandise arriving in the U.S. Customs territory from a U.S. Foreign Trade Zone, leave blank.

28. *Line No.*

Record the appropriate line item number, in sequence, beginning with the number 001.

A "line item" refers to a commodity from one country, covered by a line which includes a net quantity, entered value, TSUSA number, CHGS, PEXT/EPEX, and rate of duty and tax. However, some line items may actually include more than one TSUSA number and value. For example, many items found in schedule 8 require a dual TSUSA number. Articles assembled abroad with American components require the TSUSA number 807.00 along with the appropriate schedule 1 through 7 TSUSA number. Also, for certain steel products, there are additional duties for chromium, molybdenum, tungstun, and vanadium content which require that the individual TSUSA item numbers for these extra duties be reported in addition to the base TSUSA item number for the iron or steel product containing these alloys. In those cases where two or more TSUSA item numbers are required to be shown for one commodity, these dual reporting numbers shall be treated as one line number.

29. *Description of Merchandise* A description of the articles in sufficient detail to permit the classification thereof under the proper statistical reporting number in the TSUSA.

30. *A. TSUSA Number*

Record the appropriate duty/statistical reporting number under which the article is classified in the Tariff Schedules of the U.S. Annotated.

If more than one TSUSA number is required, follow the reporting instructions in the statistical headnotes in the appropriate TSUSA schedule, part, or subpart.

B. Antidumping/Countervailing Duty Case Number (ADA/CVD)

Record, directly below the TSUSA number, the appropriate ADA/CVD case number(s) as assigned by the Department of Commerce, International Trade Administration.

31. *Gross Weight*

Record the gross shipping weight in pounds for articles imported in vessels or aircraft (do not report gross weight for merchandise arriving in the U.S. by other modes of transporation). The gross weight must be reported on the same line with the entered value. Supply separate gross weight information for each TSUSA item number. If the gross weight is not available for each number, approximate shipping weight for each item shall be estimated and reported. The total of these estimated weights should equal the actual gross shipping weight.

In the case of containerized cargo carried in lift vans, cargo vans, or similar substantial outer containers, the weight of such container should not be included in the gross weight of the merchandise covered by each line item.

B. Manifest Qty.

This space is provided to accommodate a future reporting requirement. The instruction will be to enter the manifest quantity and unit.

32. *Net Quantity in TSUSA Units*

When a unit of quantity is specified in the TSUSA for the item number, report the net quantity in the specified unit, and show the unit after the net quantity figure.

Give quantities in whole units unless fractions of units are required for other Customs purposes. When expressing fractions, decimals only shall be used.

If no unit of quantity is specified in the TSUSA for the item number, net quantity is not required to be reported and an "X" shall be recorded in the net quantity column.

If two units of quantity are shown for the item number in the TSUSA, report the net quantity in both units, with the unit indicated in each case. Insert the quantity in terms of the unit marked in the TSUSA with a superior "v" on the line with the entered value or the line immediately below. Put the quantity in terms of any other unit below the first quantity and enclose it in parentheses. Example: Shipment consists of 50 dozen all white T-shirts, weighing 2 pounds per dozen and valued at $10 per dozen.

Block 30	Block 32	Block 33
379.4010	50 doz (100 lbs)	500

33*A. Entered Value*

Record the U.S. dollar value in accordance with the definition in Section 402, Tariff Act of 1930, as amended, for all merchandise.

This value shall be shown for each TSUSA item number on the same line with the item number.

Report the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted.

B. CHGS

In accordance with TSUSA general statistical headnote 1(a)(xvi), record the aggregate cost (not including U.S. import duty, if any) in U.S. dollars of freight, insurance and all other costs, charges and expenses incurred in bringing the merchandise from alongside the carrier at the foreign port of lading in the exporting country and placing it alongside the carrier at the first U.S. port of entry.

This value shall be shown for each TSUSA item number beneath the entered value and identified with the letter "C" (e.g. C550).

Record the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted.

In the case of overland shipments (i.e., merchandise transported to the U.S. by means other than vessel or air) originating in Canada or Mexico both the foreign port of lading and the first U.S. port of entry will be the border crossing; and the costs to the border shall be included in the PEXT value. Expenses incurred in transporting merchandise beyond the Canada-U.S. or Mexico-U.S. borders, by means other than vessel or air (i.e. overland by automobile, truck, train, pipeline, parcel post or mail) are not required to be reported. Consequently, an "X" shall be shown for CHGS.

Immediately below CHGS, the following shall be shown for each line item:

PEXT (P)—In accordance with TSUSA general statistical headnote 1(a)(xiv), record the purchase price, in U.S. dollars, plus, when not included in such price, all charges, costs and expenses incurred in placing the merchandise alongside the carrier at the port of exportation in the country of exportation (or in the case of merchandise not acquired by purchase, the equivalent of such price, charges, costs, and expenses). The legend (P) shall precede the value shown (e.g., (P)5673).

Report the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted.

If the value is estimated, place the legend (E) after the amount of each value (e.g. (P)5673(E)).

EPEX (E)—In accordance with TSUSA general statistical headnote 1(a)(xiv) if the merchandise was acquired in a transaction between related parties, report the equivalent of the arms-length value thereof, in U.S. dollars, plus, when not included in such value, all charges, costs, and expenses incurred in placing the merchandise alongside the carrier at the port of exportation in the country of exportation.

Record the value for each TSUSA item number immediately beneath PEXT and identified with the legend (E) before the value (e.g., (E)5673).

Record the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted.

If the value is estimated, place and (E) after the amount of each value (e.g. (E)5673(E)).

34. TSUSA, ADA/CVD, and/or I.R.C. Rate

A. TSUSA rate—Record the rate(s) of duty for the classified item as designated in the TSUSA: free, ad volorem, specific, or compound.

B. ADA/CVD rate—Record the antidumping and/or countervailing duty rate(s) as designated by the Department of Commerce, International Trade Administration directly opposite the respective antidumping/countervailing duty case number(s) shown in column 30.

C. I.R.C. rate—Record the tax rate(s) for the classified item as designated in the TSUSA.

D. Visa Number—Record the visa number for each line of merchandise as it appears on the invoice. Visa numbers may currently be up to 9 alpha/numeric characters. Standardization is planned.

In the event there is any other charged or exaction (e.g. fees) not enumerated above, record the rate in this column and identify each charged or exaction immediately to the left of such rate.

35. Duty and I.R. Tax

Record the estimated TSUSA duty, antidumping and countervailing duty, I.R. tax, and other charges calculated by applying the rate times the dutiable quantity or value. The amount shown in this column must be directly opposit the appropriate TSUSA, antidumping, countervailing duty, I.R. tax rate and other charges.

Dollar signs commas shall be omitted.

36. Declaration

Self-explanatory

37. Duty

Record the total estimated duty paid (excluding antidumping or countervailing duty).

When the entry summary consists of more than one page, record on the first page, the total estimated duty paid.

38. Tax

Record the total estimated tax paid.

When the entry summary consists of more than one page, record on the first page, the total estimated tax paid.

39. Other

Record the total estimated antidumping or countervailing duties or other charges or exactions paid.

When the entry summary consist of more than one page, record on the first page, the total amount of antidumping or countervailing duties or other charges or exactions paid.

40. Total

Record the sum of blocks 37, 38, and 39.

41. Signature of Delcarant, Title and Date

Record the name and signatuare of the declarant, the job title of the owner, purchaser or agent who signs the declaration, and the month, day and year when the declaration is signed.

When the entry summary consists of more than one page, the signature of the declarant, title, and date must be recorded on the first page.

Facsimile signatures are acceptable when prior approval has been obtained from the district, area, or port director.

Appraisement Entry

When the CF 7501 is used as an appraisement entry, the same declaration which now appears on the CF 7500, requesting appraisement under Section 498(a) of the Tariff Act of 1930, as amended, should be added to the body of the CF 7501 or stapled on top of it in the left margin as follows:

I hereby request appraisement under Section 498(a)( ), Tariff Act of 1930, as amended. I declare, the best of my knowledge and belief, that this entry and the documents presented therewith set forth all the information in my possession, or in the possession of the owner of the merchandise described herein, as to the cost of such merchandise; that I am unable to obtain any further information as to the value of the said merchandise or to determine its value for the purpose of making formal entry thereof; that the information contained in this entry and in the accompanying documents is true and correct; and that the person(s) named above is the owner of the same merchandise.

Signature

Title

To the District Director: The merchandise described above has been examined and the contents and values are noted above.

Examiner

Date

Customs Officer

Date

Informal Entry

Informal entries previously made on the unnumbered CF 5119–A will be made on the CF 7501. The following blocks are to be completed for informal entries: 1, 2, 5, 11, 13, 15, 17, 18, 19, 23, 27, 28, 29, 30A, 31A, 32, 33A, 34A, 34C, 35, 36, 37, 38, 39, 40, and 41.

Block 25, Location of Goods, will be filled in only if merchandise has been placed in a general order warehouse.

Accelerated Drawback

When filing a drawback claim, on the appropriate drawback for,, requesting accelerated drawback payment, include with the drawback entry submission, two copies of CF 7501.

Only the following data need be shown as appropriate (block numbers appear in parentheses):

Entry No. (1); Entry Type Code (2); Entry Date (4); Bond No. (6); Bond Type Code (7); Consignee No. (10); Importer No. (12); Duty (37); IR Tax (38); Total (40); Reference No. (22); Signature of Declarant (41).

All information above pertains to the Drawback entry being filed.

Permit Copy

When the entry summary serves as entry/entry summary, an additional copy of the CF 7501 will be provided. The additional copy will be prominently marked in red ink, "PERMIT" by means of a stamp. The stamp will be in block letters and at least three inches by one inch. The CF 7501 will be stamped in the center of the body of the form.

All appropriate CF 7501 information should be provided.

Multiple Data Elements

Except where specific instructions provide, where a data block wil involve more than one data element, write in the word "MULTI" and identify and list the data elements on a separate attachment to the CF 7501.

[FR Doc. 83–29001 Filed 10–31–83; 8:45 am]
BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 207, 210, 225, 226, 501, 510, 514, and 558

[Docket No. 77N–0076]

New Animal Drugs for Use in Animal Feeds; Definitions and General Considerations; Revised Procedures re Medicated Feed Applications; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Tentative final rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period on the tentative final rule that proposed to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. FDA is extending the comment period because, elsewhere in this issue of the **Federal Register**, the agency is correcting several omissions and editorial errors. This extension will allow interested persons an opportunity to comment on those revisions.

DATE: Written comments by December 1, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: George Graber, Bureau of Veterinary Medicine (HFV–220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4438.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 29, 1983 (48 FR 34574), FDA published a tentative final rule that proposed to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. After publication of the tentative final rule, the agency discovered that the document included several inadvertent omissions and minor editorial errors. Elsewhere in this issue of the **Federal Register**, the agency is correcting the omissions and minor editorial errors.

FDA has concluded that additional time should be provided to allow interested persons an opportunity to comment on the changes published elsewhere in this issue of the **Federal Register**. Therefore, the agency is extending the comment period on the tentative final rule until December 1, 1983.

Interested persons may, on or before December 1, 1983, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 27, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–29888 Filed 10–28–83; 11:57 am]
BILLING CODE 4160–01–M

21 CFR Parts 207, 210, 225, 226, 501, 510, 514, and 558

[Docket No. 77N–0076]

New Animal Drugs for Use in Animal Feeds; Definitions and General Considerations; Revised Procedures re Medicated Feed Applications; Correction

AGENCY: Food and Drug Administration.

ACTION: Tentative final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a tentative final rule that proposed to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. This document corrects inadvertent omissions; corrects calculations which were in error, as indicated by an asterisk (*); and makes editorial corrections in the tentative final regulations. Elsewhere in this issue of the **Federal Register**, the agency is extending the comment period on the tentative final rule to allow interested persons the opportunity to comment on these changes. Because a large number of approvals for applications for medicated feeds containing new animal drugs have been granted since the proposal was issued (January 1, 1981; 46 FR 2456) and others are continuing to be granted on a day-to-day basis, Subpart B of 21 CFR Part 558 will be updated to reflect all such approvals at the time a final rule is issued.

FOR FURTHER INFORMATION CONTACT: George Graber, Bureau of Veterinary

Medicine (HFV–220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4438.

SUPPLEMENTARY INFORMATION: In FR Doc. 83–20030 appearing at page 34574 in the issue for Friday, July 29, 1983, the following corrections are made:

1. On page 34583, in the second column, under § 225.142 *Components*, in the fourth line, the term "medicated feed articles" is corrected to read "medicated articles".

2. On page 34585:

a. In the first column, § 558.3(b)(4)(ii) is corrected to read as follows:

§ 558.3 Definitions and general considerations applicable to this part.

* * * * *

(b) * * *

(4) * * *

(ii) *Category II*—These drugs require a withdrawal period at the lowest use level for at least one species for which they are approved or are regulated on a "no residue" basis or with a "zero" tolerance because of a carcinogenic concern, regardless of whether a withdrawal period is required.

b. In the first, second, and third columns, the tables under paragraph (d) of § 558.4 *Medicated feed applications* are corrected to read as follows:

CATEGORY I

Drug	Type B maximum (200 ×)	Assay limits type B and type C [1]
Aklomide	22.75 g/lb (5.0%)	85–120
Ammonium chloride	4.0 oz/lb (*)	85–120
Amprolium with or without Ethopabate.	22.7 g/lb (5.0%)	85–115
Bacitracin methylene disalicylate.	20.0 g/lb (*)	70–130
Bacitracin zinc	5.0 g/lb (*)	70–130
Bambermycins	800 g/ton	70–130
Buquinolate	10 g/lb (2.2%)	85–120
Chlortetracycline	10 g/lb	70–130
Coumaphos	6.0 g/lb (*)	80–120
Decoquinate	2.72 g/lb (0.6%)	80–120
Dichlorvos	11.0 g/lb (2.4%) (*)	80–130
Erythromycin (thiocyanate salt).	9.25 g/lb	(*)
Ethylenediamine dihydriodide.	1,250 g/lb (0.137%)	80–140
Iodinated casein	20 g/lb (4.4%)	75–125
Nequinate	1.83 g/lb (0.4%)	80–120
Nystatin	5.0 g/lb	75–125
Oleandomycin	1.125 g/lb	70–130
Oxytetracycline	20.0 g/lb	85–135
Penicillin	10.0 g/lb	85–135
Penicillin Streptomycin	1.5 g/lb	85–135
	7.5 g/lb	70–130
Poloxalene	12.0%	85–115
Salinomycin	6.0 g/lb	80–120
Tylosin	10.0 g/lb	75–125
Virginiamycin	10.0 g/lb	70–130
Zoalene	11.35 g/lb (2.5%) (*)	85–115

[1] Percent of labeled amount.
[2] <20 g/ton, 80–180; >20 g/ton, 75–125.

CATEGORY II

Drug	Type B maximum (100 X)	Assay limits type B and type C [1]
Arsanilate sodium	4.5 g/lb (1.0%)	75–125
Arsanilic acid	4.5 g/lb (1.0%)	75–125
Butynorate	17.0 g/lb (3.75%)	85–115
Butynorate	63.45 g/lb (14.0%)	81–115
Piperazine	49.86 g/lb (11.0%)	85–115
Phenothiazine	272.9 g/lb (58.0%)	85–115
Carbadox	2.5 g/lb (0.55%)	75–125
Carbarsone	17 g/lb (3.75%)	85–115
Clopidol	11.4 g/lb (2.5%)	80–120
Dimetridazole	9.1 g/lb (2.0%)	85–120
Famphur	5.5 g/lb (1.21%)	80–120
Furazolidone	10.0 g/lb (2.2%)	85–115
Griseofulvin (*added*)	16.0 g/lb (3.5%)	80–120
Hygromycin B	1200 g/ton	75–125
Ipronidazole	2.8 g/lb (0.624%)	75–125
Lasalocid	5.65 g/ton (1.24%)	75–125
Levamisole	113.5 g/lb (25%)	85–125
Lincomycin	10.0 g/lb	85–135
Melegestrol acetate	200 g/ton (0.022%)	70–120
Monesin	5.5 g/lb (1.21%) (*)	75–125
Morantel tartrate	22 g/lb (*)	80–110
Neomycin	7.0 g/lb	70–125
Oxytetracycline	10.0 g/lb	85–135
Nicarbazine	5.675 g/lb (1.25%)	80–120
Nitrasone	8.5 g/lb (1.875%)	85–115
Nitrofurazone	10.0 g/lb (2.2%)	80–120
Nitromide	11.35 g/lb (2.5%)	85–115
Sulfanitran	13.6 g/lb (3.0%) (*)	75–125
Nitromide	11.35 g/lb (2.5%)	85–115
Sulfanitran	5.65 g/lb (1.25%)	75–125
Roxarsone	2.275 g/lb (0.5%)	85–120
Novobiocin	17.5 g/lb	80–120
Phenothiazine	66.5 g/lb	85–115
Piperazine	165 g/lb (40.25%)	85–115
Pyrantel tartrate	4.8 g/lb (1.1%) (*)	85–115
Robenidine	1.5 g/lb (0.33%)	80–120
Ronnel	6.0%	80–120
Roxarsone	2.275 g/lb (0.5%)	85–120
Roxarsone	2.275 g/lb (0.5%)	85–120
Aklomide	11.35 g/lb (2.5%)	85–120
Roxarsone	2.275 g/lb (0.5%)	85–120
Clopidol	11.35 g/lb (2.5%)	80–120
Bacitracin methylene disalicylate.	5 g/lb	70–130
Roxarsone	2.275 g/lb (0.5%)	85–120
Monensin	5.5 g/lb (1.21%)	75–125
Sulfadimethoxine with Ormetroprim.	5.65 g/lb (1.25%)	75–125
Sulfaethoxypyridazine	50 g/lb (11.0%)	85–115
Sulfamerazine	10 g/lb (4.0%)	80–120
Sulfamethazine	5.0 g/lb (1.25%)	80–120
Chlortetracycline	5.0 g/lb	70–130
Penicillin	2.5 g/lb	85–135
Sulfamethazine	5.0 g/lb (1.25%)	80–120
Chlortetracycline	5.0 g/lb	70–130
Sulfamethazine	5 g/lb (1.25%)	80–120
Tylosin	5 g/lb	75–125
Sulfanitran	13.6 g/lb (3.0%)	75–125
Aklomide	11.29 g/lb (2.5%)	85–120
Sulfanitran	13.6 g/lb (3.0%)	75–125
Aklomide	11.2 g/lb (2.5%)	85–120
Roxarsone	2.715 g/lb (0.625%)	70–130
Sulfaquinoxaline	11.2 g/lb (2.5%)	80–120
Sulfathiazole	5 g/lb (1.25%)	80–120
Chlortetracycline	5 g/lb	70–130
Penicillin	2.5 g/lb	85–135
Thiabendazole	45.4 g/lb (10.0%)	85–115

[1] Percent of labeled amount.

3. On page 34586. In the first column, the introductory text of paragraph (g) is corrected to read as follows:

§ 558.15 Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals.

* * * * *

(g) The submission of applications and data required by paragraphs (a) and (b) of this section is not required for the continued manufacture of any Type A medicated article which is produced solely from another Type A medicated article that is in compliance with the requirements of this section, *Provided*, That the diluted Type A article contains no drug ingredient whose use in or on animal feed requires an approved application pursuant to section 512(m) of the act and/or where the Type A article is approved by regulation in this part.

* * * * *

Dated: October 27, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–29989 Filed 10–28–83; 11:57 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CCGD–83–10]

Anchorage Regulations; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Notice or proposed rulemaking.

SUMMARY: The Coast Guard is considering amending the Anchorage Regulations on the Lower Mississippi River by reducing the Alliance Anchorage two tenths (.2) of a mile. This action is necessary because of a planned barge fleet installation.

DATE: Comments must be received on or before December 16, 1983.

ADDRESS: Comments should be mailed to Captain of the Port, New Orleans, LA, U.S. Coast Guard, 4640 Urquhart Street, New Orleans, LA 70117. The comments will be available for inspection or copying at the above address. Normal office hours are between 7:00 a.m. and 3:30 p.m. Monday through Friday except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: LCDR R. E. Ford, Port Safety Officer, Captain of the Port, New Orleans, LA, U.S. Coast Guard, 4640 Urquhart Street, New Orleans, LA 70117, Tel 504 589–7118.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data; or arguments. Persons submitting comments should include their names and addresses, identify this notice [CCGD–83–10], the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt for comments will be acknowledged if a stamped self-

addressed postcard or envelope is enclosed.

These Rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be hald if written requests for a hearing are received and it is determined that be opportunity to make oral presentations will aid the rulemaking process.

Drafting Information: The principal persons involved in drafting this notice are Lt T. L. McCarty, Project Officer, c/o Commander, Eighth Coast Guard District (mps) and LCDR R. W. Bruce, Jr., Project Attorney, c/o Commander, Eighth Coast Guard District (dl); Hale Boggs Federal Bldg., 500 Camp Street, New Orleans, LA 70130.

Discussion of Proposed Rule: Currently the Alliance Anchorage is located at mile 63.6 to mile 65.8 above Head of Passes on the right descending bank.

There is a proposal now to establish a barge fleeting installation in the vicinity of the lower end of the anchorage, and this installation would extend into the anchorage. Such an arrangement would provide for more efficient use of the river in this area and provide positive economic effects from the barge fleeting. In order to accomodate this proposal, the Cost Guard proposes to relocate the lower limit of the anchorage two-tenths (.2) of a mile upriver. This relocation would reduce size of the anchorage but would not significantly reduce the capacity of the anchorage nor would it reduce the present level of navigation safety. The proposed new anchorage area would remain eight hundred (800) feet wide and with new limits of mile 63.8 to mile 65.8 above Head of Passes on the right descending bank.

Summary of Draft Evaluation: These proposed regulations are considered to be non-significant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis and Review of Regulations [DOT Order 2100.5 or 5-22-80]. An economic evaluation of the proposal has not been conducted since its impact is expected to be minimal. As an existing anchorage is merly being shortened, no new costs will be imposed. It is also certified that in accordance with Section 605(b) of the Regulatory Flexibility Act, that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

PART 110—ANCHORAGE REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations as follows:

1. By revising 33 CFR 110.195(a)(6) as follows:

§ 110.195 Mississippi River below Baton Rouge, LA including South and Southwest passes.

(a)* * *

(6) Alliance Anchorage. An area 2.0 miles in length along the right descending bank of the river, 800 feet wide, extending from mile 63.8 mile 65.8 above Head of Passes.

* * * * *

(33 U.S.C. 471; 49 U.S.C. 1655(g)(1); 49 CFR 1.46(c)(1); 33 CFR 1.05-1(g))

W. H. Stewart,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 83-29612 Filed 10-31-83; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD1-83-3R]

Enlargement of Special Anchorage Area in Marblehead Channel/Salem Harbor, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard proposed to enlarge the existing Special Anchorage Area in Salem Harbor by extending northward into Marblehead Channel and to establish another area in Cat Cove. Both Special Anchorage Areas have been requested by the Cities of Marblehead and Salem and are considered necessary to service the increased number of pleasure craft using Salem Harbor and Marblehead Channel. The establishment of Special Anchorage Areas would provide additional needed space for anchorage of small craft and relieve those vessels of the requirement that they carry and display anchor lights while in the Special Anchorage Area.

DATES: Comments must be received on or before December 16, 1983.

ADDRESS: Comments should be mailed to: Commanding Officer, U.S. Coast Guard, Marine Safety Office, 447 Commercial Street, Boston, Massachusetts. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: LT Brad BALCH, U.S. Coast Guard, Marine Safety Office, 447 Commercial Street, Boston, Massachusetts 02109, Telephone No. (617) 223-1470.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGDI-83-3R) and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed post card or envelope is enclosed.

The proposed rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that oral presentations will aid the rulemaking process.

Drafting Information

The persons responsible for drafting this notice are LCDR Theophilus MONIZ III, Project Officer, U.S. Coast Guard, Marine Safety Office, 447 Commercial Street, Boston, Massachusetts and LT Susan M. KRUPANSKI, Project Attorney, Commander (d1) First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114.

Discussion of Proposed Rule

The Coast Guard proposes to amend the Anchorage Regulations set forth in Title 33 Code of Federal Regulation 110.25(c) pertaining to Salem Harbor and to Marblehead Channel.

This proposed rule is in response to requests from the City of Salem and the City of Marblehead to establish Special Anchorage Areas in Salem Harbor and Marblehead Channel. The areas affected by the proposed rule are currently used as anchorage areas by a great number of pleasure craft both sail and power driven of varying lengths and drafts. The present anchorage areas are outside channels and do not affect marine traffic. Current regulations require that, except in special anchorage areas, boats over 24' in length must display anchor lights while at anchor. The sole effect at this proposed rule is to allow boats of less than 65' in length to anchor in these areas without displaying anchor lights. The designation of this special anchorage area will have no significant impact on the quality of the human

environment. This action is consistent to the maximum extent practicable with the Massachusetts Coastal Zone Management Plan. Environmental information can be obtained from Mr. P. V. Kaselis, Environmental Specialist, First Coast Guard District, 150 Causeway Street, Boston, MA 02114.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since the amendments imposes no economic burdens; small vessel owners will not have to carry or display anchor lights while anchored in the special anchorage. Based on this assessment, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulations and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

In consideration of the above, the Coast Guard proposes to amend Part 110 of Title 33 Code of Federal Regulations, by revising § 110.25(c) to read as follows:

§ 110.25 Beverly and Salem Harbors; Mass.

* * * * *

Salem Harbor and Marblehead Channel.

(1) *Cat Cove.* Bounded by a line commencing at an abandoned lighthouse east of Fort Pickering at latitude 42°31'35.0" N., longitude 70°52'01.0" W.; thence southeasterly to a point at latitude 42°31'33.2" N., longitude 70°51'55.0" W.; thence southwesterly to a point at latitude 42°31'28.0" N., longitude 70°52'00.0" W.; thence southwesterly to a point at latitude 42°31'19.0" N., longitude 70°52'20.1" W. thence westerly to a point at latitude 42°31'20.0" N, longitude 70°52'31.1" W.

(ii) *Salem Harbor North.* Bounded by a line commencing at a position at latitude 42°31'17.1" N., longitude 70°52'57.0" W.; thence southeasterly to a point at latitude 42°31'08.6" N., longitude 70°52'47.9" W.; thence easterly to a point at latitude 42°31'06.2" N., longitude 70°52'21.4" W.; thence northeasterly to a point at latitude 42°31'14.8" N., longitude 70°52'15.1" W.; thence southwesterly to a point at latitude 42°31'13.0" N., longitude 70°52'24.2" W.; thence westerly to a point at latitude 42°31'14.5" N., longitude 70°52'48.1" W.; thence northwesterly to a point at latitude 42°31'17.4" N., longitude 70°52'52.2" W.

(3) *Salem Harbor South.* Bounded by a line commencing at a position off Derby Wharf at latitude 42°31'07.4" N., longitude 70°53'03.8" W.; thence southeasterly to a point at latitude 42°30'55.5" N., longitude 70°52'56.5" W.; thence easterly to a point at latitude 42°30'54.2" N., longitude 70°52'30.0" W.; thence northeasterly to a point at latitude 42°31'04.6" N., longitude 70°52'22.6" W.; thence westerly to point at latitude 42°31'07.1"; W; longitude 70°52'48.2" W.; thence northwesterly to a point at latitude 42°31'14.3" W.; longitude 70°52'56.6" W.

(4) *Palmer Cove.* Bounded by a line commencing at a position off Palmer Point at latitude 42°30'37.1" N., longitude 70°53'07.8" W.; thence northeasterly to a point at latitude 42°30'49.2" N., longitude 70°52'43.8" W.; thence northwesterly to a point at latitude 42°30'52.5" N., longitude 70°52'55.1" W.; thence southwesterly to a point in Palmer Cove at latitude 42°30'47.5" N., longitude 70°53'14.2" W.

(5) *Marblehead Channel.* Bounded by a line commencing at the northern most point of Peach Point at latitude 42°31'08.3" N., longitude 70°50'32.7" W.; thence westerly to a point at latitude 42°31'21.6" N., longitude 70°51'17.0" W.; thence westerly to a point at latitude 42°31'19.0" N., longitude 70°51'49.3" W.; thence southwesterly to a point at latitude 42°31'03.2" N., longitude 70°52'15.6" W.; thence to a point at latitude 42°30'53" N., longitude 70°52'28" W.; thence to a point at latitude 42°30'46.6" N., longitude 70°52'44.5" W.; thence to a point off Palmer Point at latitude 42°30'35.9" N., longitude 70°53'07.7" W.

Note.—The areas will be principally for use by yachts and other recreational craft. Temporary floats or buoys for marking anchors will be allowed in the areas but fixed piles or stakes may not be placed. The anchoring of vessels and the placing of moorings will be under the jurisdiction of the local Harbor Master.

(33 U.S.C. 2030, 2035, and 2071; 49 CFR 1.46, 33 CFR 1.05-1(g))

Dated: October 24, 1983.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, First Coast Guard District.

[FR Doc. 83-29015 Filed 10-31-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-10-FRL 2461-6]

Notice of Proposed Rulemaking—State of Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: By this document, EPA proposes to revise the nonattainment boundaries for total suspended particulates (TSP) in Pocatello and Soda Springs, Idaho. The proposed reduction in the size of the two nonattainment areas is based on documentation submitted by the Idaho Department of Health and Welfare (IDHW) pursuant to Section 107(d) of the Clean Air Act. Air quality date and emission reductions achieved through control strategy implementation support these proposed boundary changes.

DATE: Comments must be received on or before December 1, 1983.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section (10 A-83-12), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101; and

State of Idaho, Department of Health and Welfare, 450 W. State Street, Boise, Idaho 83720.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Michael J. Schultz, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101; telephone (206) 442-1985, FTS 399-1985.

SUPPLEMENTARY INFORMATION:

I. Background

On March 3, 1978 (43 FR 8962) EPA designated, pursuant to the

requirements of Section 107(d) of the Clean Air Act (as amended), all areas of the country as "attainment," "nonattainment," or "unclassifiable" in terms of meeting National Ambient Air Quality Standards. At that time the Pocatello and Soda Springs areas of Idaho were designated "nonattainment" for primary TSP standards in 40 CFR Part 81, Section 313.

On March 18 and May 31, 1983 IDHW submitted a request for EPA to reduce the size of the subject nonattainment areas and provided documentation to justify these revisions.

II. Nonattainment Area Descriptions

A. *Pocatello*—The current TSP nonattainment area is approximately 336 square miles in size encompassing the towns of Pocatello and Inkom and four major stationary sources. There are four TSP monitors in the current nonattainment area. At the time the original designation was made in 1978, three of the four monitors were violating primary standards. The 1977 emissions inventory showed a total of 16,500 tons per year (tpy) of particulate matter being emitted in the nonattainment area with 10,100 tpy being emitted from the four major point sources.

Air quality has markedly improved due in large part to implementing the control strategy. During the two-year period of 1981 through 1982, two of the three original nonattainment monitors showed attainment for primary standards. Emissions decreased from 16,500 tpy total in 1977 to 9,000 tpy in 1983 with the four major point sources reducing emissions from 10,100 tpy to 3,500 tpy.

Only one TSP monitor continued to show violations of primary TSP standards in the 1981–1982 period. This violating monitor is located near the two largest industrial facilities in the area. The two monitors that were violating standards before 1981 but now show attainment of primary standards reflect the results of emission reductions from both point and area sources. Since only one monitor shows violations of TSP standards in the Pocatello area and that instrument is largely impacted by two nearby industrial sources, the current nonattainment boundaries no longer reflect the true air quality picture. Thus, IDHW has requested that the primary TSP nonattainment area be reduced to a 12 square mile area encompassing the monitor showing primary standards violations and the two industrial facilites impacting the monitor. A map of the new primary standard nonattainment area and complete legal description are contained in the docket (10A–83–12) and may be examined at the locations listed in the "ADDRESSES" section.

B. *Soda Springs*—The current TSP nonattainment area is approximately 98 square miles in size encompassing the towns of Soda Springs and Conda and four major stationary sources. There are three TSP monitors in the current nonattainment area. At the time the original designation was made, one of the three permanent network monitors showed violations of the primary standards as well as one of four additional monitors operated in conjunction with a special 12-month study. The 1977 emissions inventory showed a total of 6,900 tpy of particulate matter being emitted from all point and area sources; 4,600 tpy were emitted from the four major point sources in the area.

The original nonattainment designation was based largely on population distribution and industrial concentration as opposed to air quality. For example, the town of Soda Springs, the largest population center in the area, was included within the nonattainment boundaries even though no violations of primary standards were recorded at the TSP monitor. Soda Springs continues to attain primary standards.

The area between Soda Springs and Conda was designated as part of the nonattainment area because of two major stationary sources and limited data from one of the special study monitors. This instrument monitored air quality impact of fugitive emissions from the larger of the two sources and registered violations of the 24-hour primary standard but not annual standard during its 12 months of operation in 1978–1979.

Shortly after the original designation was made, the special study monitoring was discontinued. Thus, no recent air quality data is available for this industrialized area between Soda Springs and Conda. However, major emission reductions were achieved at the larger of the two facilities at this locale. Through implementation of the control strategy, emissions were reduced from 2,500 tpy in 1977 to 3300 tpy in 1983, largely due to controls on fugitive sources. Further, visual observations of fugitive plant emissions implacting nearby residences had been noted. The source of these specific fugitive emissions has since been eliminated.

The Conda area was included in the original nonattainment area due to the presence of two major stationary sources and recorded violations of both annual and 24-hour standards at a permanent network site. Violations of both 24-hour and annual TSP standards continued during 1981 and 1982 at this monitor. Further, the 1977 and 1983 emission inventories show a 23 percent or 460 tpy increase in particulate matter emissions from the two major industrial facilities in the Conda area.

Thus, IDHW has requested that the primary TSP nonattainment area be reduced to a 4.5 square mile area encompassing the town of Conda, the nearby permanent network monitor showing violations of the primary standards, and the two major stationary sources north and northeast of Conda. A map of the new primary standard nonattainment area and complete legal description are contained in the docket (10A–83–12) and may be examined at the locations listed in the "ADDRESSES" section.

III. Proposed Action

EPA proposes to reduce the size of the primary standard TSP nonattainment areas for Pocatello and Soda Springs, Idaho, as discussed in the above "Nonattainment Area Descriptions." This action also proposes to retain the existing TSP nonattainment boundaries in the Pocatello and Soda Springs areas to define the area of secondary standards nonattainment.

The net effect of this proposed rule would be to: (1) Reduce the size of areas that might be impacted by future EPA growth and funding restrictions policy, and (2) generally reduce the stringency of applicable emission requirements for new and modified major sources of particulate matter located in or impacting areas being redesignated to attainment for the primary TSP standard.

Interested parties are invited to comment on all aspects of this proposed promulgation. Comments would be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by December 1, 1983 will be considered in any final action EPA takes on this proposal.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the

requirements of a regulatory impact analysis. This regulation is not major because it is merely changing boundaries of nonattainment areas as requested by the State. There will be no additional regulatory burden.

The Office of Management and Budget has exempted this rule from the requirements of Sections 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107.110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: August 19, 1983.

Ernesta B. Barne,

Regional Administrator.

[FR Doc. 83-29677 Filed 10-31-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2E2676/P313; PH-FRL 2449-5]

Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerance; Maleic Hydrazide

Correction

In FR Doc. 83-27661 beginning on page 46395, in the issue of Wednesday, October 12, 1983, make the following correction: In column three, paragraph two, line twenty-five, *"in vito"* should read *"in vitro"*.

BILLING CODE 1505-01-M

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40 CFR Part 180

[OPP-30078; PH-FRL 2449-2]

Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Exemptions From the Requirement of a Tolerance; Folic Acid, Nicotinamide, Pyridoxine, Cysteine, Glutamine, Methionine, Tryptophan, and Adenosine

Correction

In FR Doc. 83-27662 beginning on page 46396, in the issue of Wednesday, October 12, 1983, make the following correction:

§ 180.1001 [Corrected]

On page 46397, column two, § 180.1001(d), table, column three, "Uses," entry two, "Synergist of formulation" should read "Synergist".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 55a

Program Grants for Black Lung Clinics

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Public Health Service proposed to revise the regulations governing the grants program for black lung clinics established under section 427(a) of the Federal Mine Safety and Health Act of 1977. The revision is in keeping with the Department of Health and Human Services' desire to remove as many programmatic burdens and restrictions from grantees as possible, while maintaining program integrity.

DATE: Written comments must be received by December 16, 1983.

ADDRESS: Send comments to Mr. James J. Corrigan at the address lsited below under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Mr. James J. Corrigan, Associate Bureau Director for Legislation and Policy, Bureau of Health Care Delivery and Assistance, Room 7-05, 5600 Fishers Lane, Rockville, Maryland 20857; (301) 443-2380.

SUPPLEMENTARY INFORMATION: The Public Health Service published revised final regulations (42 CFR Part 55a) for the Black Lung Clinics Program in the **Federal Register** on October 31, 1980 (45 FR 72160). This program, established by section 427(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 937(a)), assists public and private entities in constructing, purchasing and operating clinical facilities for the analysis, examination, and treatment respiratory and pulmonary impairments in coal miners.

The program supports 16 grantees with 72 delivery sites in 14 States which provide services to an estimated 50,000 coal miners. Funding for Fiscal Year 1982 was $3.22 million. Fiscal Year 1983 funding is $3.12 million. States which are grantees are Pennsylvania, West Virginia, Virginia, Tennessee, Alabama, and Ohio. Black lung grantees also are found in Kentucky, Illinois, Indiana, Michigan, New Mexico, Colorado, Utah, and Wyoming. The delivery sites are located within community health centers (CHCs), hospital outpatient departments, home care agencies, and local health departments.

Objectives of the program are: (1) To develop, in areas where there are significant numbers of active and inactive coal miners, high quality patient-oriented integrated systems of care which assure access to and continuity of care with maximum use of existing resources; and (2) to emphasize patient and family member education to maximize the patient's ability for self-care.

Clinics provide analysis, examinations, treatment, and patient education for miners and inactive miners with respiratory or pulmonary (black lung) impairments aimed at enabling them to maximize their pulmonary capacity and avoid debilitating and costly acute episodes.

The Department has proposed to the Congress that the Black Lung Clinics Program be placed in the Primary Care Block Grant Program established by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (42 U.S.C. 300y *et seq.)*. The Department is proposing to revise these regulations in preparation for this transfer to the block grant, and to foster a greater role for States in the administration of the program.

Because of its interest in fostering broadened participation by States—six of which already are grantees—and in reducing the regulatory burden imposed upon grantees, the Department is publishing this notice of proposed rulemaking (NPRM) with a period of time allocated for public comment. Comments on this NPRM should be sent by (December 16, 1983) to Mr. James J. Corrigan whose address appears above in the section entitled **FOR FURTHER INFORMATION CONTACT.** All timely comments will be considered before the final regulations are published. Comments will be available for examination by the public between 8:30 a.m. and 5:00 p.m., Monday through Friday except Federal holidays, at the address given in section above entitled **FOR FURTHER INFORMATION CONTACT.**

Highlights of the Changes

In keeping with its ongoing effort to reduce regulatory requirements imposed on the public, the Department has proposed to eliminate substantial portions of the black lung clinic regulations which were published in the **Federal Register** on October 31, 1980 (45 FR 72160).

A significant change in the regulations would provide that a preference be given to a State which applies for a Black Lung Clinics grant over other types of applicants (e.g., community health centers, local health departments hospitals), (see 55a.103(a)) in that State. State grantees will be free, as they have been in the past, to award grants to subgrantees or to contract for services.

The revised regulations are divided into the following three subparts: Subpart A—General Provisions; Subpart B—Grants to States; and Subpart C—Grants to Entities other than States.

Separate application requirements have been developed for States (see § 55a.201) and for entities other than States (§ 55a.301). States would only be required to submit an assurance that they will provide certain listed services.

The criteria for determining which grant applications the Secretary will fund have been simplified to reduce the burden on applicants and now reflect the preference for State grantees (See proposed § 55a.103).

Various subsections of the existing regulations would be deleted from the new regulations as unnecessary because the subject is adequately covered in the grant application.

The section on confidentiality requirements would be retained and would be applicable to all grantees. Non-discrimination provisions, covered in the application materials but not in these proposed revised regulations, would of course continue to apply.

Eligibility requirements for the program were broadened to permit applications from private "for profit" entities when the Department's policy of authorizing participation by such entities, when not precluded by statute, became effective on December 27, 1982 (47 FR 53007). The new policy is recognized at proposed § 55a.102.

The requirements that projects utilize a fee schedule would be retained for grants to entities other than States (see § 55a.301(a)(2)). While States would not be required to do so, they are encouraged to do so as we believe the established system is reasonable and has been successful in promoting greater third-party revenues. Section 427(a) of the Act recognizes the need for the development of specialized services required by miners applying for or receiving black lung benefits. Most required services for eligible miners are reimbursable under the Black Lung Benefits Program administered by the Department of Labor. It is expected that most ongoing project costs for these beneficiaries will be recovered from this source.

A provision for a waiver of any provisions of the regulations by the Secretary has been added (see § 55a.108). The Secretary will be able to waive any requirement for good cause shown.

Definitions of "applicant" and "nonprofit" would be eliminated from the regulations as unnecessary.

Attached as an appendix to this Supplementary Information is a table which shows black lung clinics grantees and delivery points by State, with information on budget period expiration and grant amounts.

States which apply under this regulation, if adopted in final as proposed below, will be required to assume responsibility for miners presently served by all grantees in the State on a phase-in basis, based on the renewal dates for grants in that State. (See § 55a.201(e).)

Information Collection Requirements

Sections 55a.201 and 55a.301 of this proposed rule contain information collection requirements. The information collection requirements in this proposed rule are presently contained in regulations at 42 CFR Part 55a and are in use without the Office of Management and Budget (OMB) control numbers. We have submitted the existing regulation for clearance under section 3507 of the Paperwork Reduction Act of 1980. Once OMB approves the information collection requirements as they appear in the existing regulations, we will include the OMB control numbers in the rule when it is published in final form.

Regulatory Flexibility Act and Executive Order 12291

The proposed rule is not expected to affect significantly the operation of existing clinics. There are 72 clinics operating under this program, whose 1983 funding is $3.12 million. It is expected that in most cases the existing clinics will continue to be funded. The changes included in this proposed rule would reduce unnecessary burdens on grantees. Therefore, the Department of Health and Human Services has determined that this notice of proposed rulemaking will not significantly impact on a substantial number of small entities and does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96-354.

The Department also has determined that this notice of proposed rulemaking is not a "major rule" under Executive Order 12291. Thus, a regulatory impact analysis is not required because it will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions; or

(3) Result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 42 CFR Part 55a

Black lung benefits, Grant programs, Health care, Health facilities, Miners, Occpational safety and health.

Accordingly, Part 55a of Title 42, Code of Federal Regulations, is proposed to be revised as set forth below.

(Catalog of Federal Domestic Assistance Program No. 13.985 Coal Miners, Respiratory Impairment Treatment, Clinic and Services (Black Lung Clinc))

Dated: August 5, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: August 25, 1983.

Margaret M. Heckler,

Secretary.

BLACK LUNG CLINICS

[Fiscal year 1982 profile]

State	Grantee organization	Delivery points	Fiscal year 1982 award	
			Budget expiration date	Grants amounts
Alabama	Alabama Department of Public Health	1	Apr. 30, 1983	$50,000
	Jefferson Health Foundation	1	Sept. 30, 1983	103,466
Colorado	National Jewish Hospital	1	do	48,000
Illinois	Cook County Hospital	1	Jan. 31, 1983	100,000
	Shawnee Health Services and Development Corporation	8	Sept. 30, 1983	71,944
Indiana	Vincennes Good Samaritan Hospital	1	June 30, 1983	70,921
Kentucky	Muhlenberg Community Hospital	1	Aug. 31, 1983	164,432
Michigan	Henry Ford Hospital	1	Sept. 30, 1983	55,000
New Mexico	Miner's Hospital	1	do	35,607
Ohio	Ohio Department of Health	8	do	237,170
Pennsylvania	Commonwealth of Pennsylvania	32	do	745,000
Tennessee	Tennessee Department of Health	3	Dec. 31, 1983	420,077
Utah	Utah S.E. Health District	1	Mar. 31, 1983	58,000
Virginia	Virginia State Health Department	4	Sept. 30, 1983	169,000
West Virginia	Department of Health	11	do	890,000
Wyoming	Nowcap Black Lung Clinic	1	do	64,543
Totals	16 Grantees	72		3,227,000

PART 55a—PROGRAM GRANTS FOR BLACK LUNG CLINICS

Subpart A—General Provisions

Sec.
55a.101 Definitions.
55a.102 Who is eligible to apply for a black lung clinics grant?
55a.103 What criteria has HHS established for deciding which grant applications to fund?
55a.104 What confidentiality requirements must be met?
55a.105 How must grantees carry out their projects?
55a.106 Provision for waiver by the Secretary.
55a.107 What other regulations apply?

Subpart B—Grants to States

55a.201 What is required for a State application?

Subpart C—Grants to Entities Other Than States

55a.301 What is required for an application from an entity other than a State?

Authority: Sec. 427(a), Federal Mine Safety and Health Act of 1977, 92 Stat. 100 (30 U.S.C. 937(a)).

Subpart A—General Provisions

§ 55a.101 Definitions.

As used in this part, "Act" means the Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 801 *et seq.*). "Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

"Miner" or "coal miner" means any individual who works or has worked in or around a coal mine or coal preparation facility in the extraction or preparation of coal. The term also includes an individual who works or has worked in coal mine construction or transportation in or around a coal mine, to the extent that the individual was exposed to coal dust as a result of employment.

§ 55a.102 Who is eligible to apply for a black lung clinics grant?

Any State or public or private entity may apply for a grant under this part.

§ 55a.103 What criteria has HHS established for deciding which grant applications to fund?

(a) The Secretary will give preference to a State, which meets the requirements of this part and applies for a grant under this part, over other applicants in that State.

(b) Within the limits of funds available for these purposes the Secretary may award grants to assist in the carrying out of those programs which will in the Secretary's judgment best promote the purposes of section 427(a) of the Act, taking into account:

(1) The number of miners to be served and their needs; and

(2) The quality and breadth of services to be provided.

§ 55a.104 What confidentiality requirements must be met?

All information as to personal facts and circumstances obtained by the grantee's staff about recipients of services shall be held confidential and shall not be disclosed without the individual's consent except as may be required by law or as may be necessary to provide service to the individual or to provide for audits with appropriate safeguards for confidentiality of patient records. Other wise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.

§ 55a.105 How must grantees carry out their projects?

Grantees must carry out their projects in accordance with their applications and the provisions of this part.

§ 55a.106 Provision for waiver by the Secretary.

The Secretary may, for good cause shown, waive provisions of these regulations.

§ 55a.107 What other regulations apply?

Other regulations which apply to the Black Lung Clinics Program include, but are not limited to, the following:

42 CFR Part 50, Subpart D—PHS grant appeals process;

42 CFR Part 50, Subpart E—Maximum allowable cost for drugs;

45 CFR Part 16—Department grants appeals process;

45 CFR Part 19—Limitations on payment or reimbursement of drugs;

45 CFR Part 74—Administration of grants;

45 CFR Part 75—Informal grant appeals procedures (indirect cost rates, and other cost allocations);

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare's implementation of Title VI of the Civil Rights Act of 1964;

45 CFR Part 81—Practice and procedure for hearing under Part 80;

45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance; and

45 CFR Part 91—Nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance.

Subpart B—Grants to States

§ 55a.201 What is required for a State application?

An approvable State application must contain assurances that the State will:

(a) Provide the following services for active and inactive miners in the State:

(1) Primary care;

(2) Patient and family education and counseling;

(3) Outreach;

(4) Patient care coordination, including individual patient care plans for all patients;

(5) Antismoking advice; and

(6) Other symptomatic treatments.

(b) Provide medical services in consultation with a physician with special training or experience in the diagnosis and treatment of respiratory diseases.

(c) Meet all criteria for approval and designation by the Department of Labor under 20 CFR Part 725 to perform disability examinations and provide treatment under the Act.

(d) Use grant funds under this part to supplement and not supplant existing services of the State.

(e) Provide the services described above for those miners previously served by a Black Lung Clinic in the State for which grant support expires during the funding period of the State's grant.

(f) Audit its expenditures from amounts received under this part in accordance with the provisions of Attachment P, Audit Requirements, of Office of Management and Budget Circular A-102, Uniform Requirements for Assistance to State and Local Governments, as adopted for the Department of Health and Human Services by 45 CFR Part 74.

Subpart C—Grants to Entities Other Than States

§ 55a.301 What is required for an application from an entity other than a State?

An approvable application must contain the following:

(a) A plan for the provision of the services required by § 55a.201(a), consistent with the requirements of § 55a.201 (b) and (c). The plan must also contain at least the following elements:

(1) A description of the target population to whom services are to be provided, including a statement of the need for services;

(2) An assurance that charges shall be made for services rendered as follows:

(i) A schedule shall be maintained listing fees or payments for the

provision of services, designed to cover reasonable costs of operations;

(ii) A schedule of discounts adjusted on the basis of a patient's ability to pay shall be maintained. The schedule of discounts must provide for a full discount to individuals and families with annual incomes at or below the levels set forth in the most recent Poverty Income Guidelines at 45 CFR 1060.2 (except that nominal fees for service may be collected from individuals and families with annual incomes at or below those levels if imposition of the fees is consistent with project goals). No discounts shall be provided to individuals and families with annual incomes greater than twice those set forth in the Guidelines; and

(iii) Where third-party payors (including Government Agencies) are authorized or under a legal obligation to pay all or a portion of such charges, all services covered by that reimbursement plan will be billed and every reasonable effort will be made to obtain payment.

(b) An assurance that no person will be denied services because of inability to pay.

(c) An assurance that grant funds received under this part will be used to supplement and not supplant existing services of the granted.

[FR Doc. 83-28570 Filed 10-31-83; 8:45 am]
BILLING CODE 4160-15-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6568]

National Flood Insurance Program; Proposed Flood Elevation Determinations; California et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by §60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premimum rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67,

Flood insurance, Flood plains.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
California	Riverside County (unincorporated areas)	Murrieta Creek at Temecula	100 feet upstream from center of Rancho California Road.	*1,009	*1,008
Maps are available for review at the Flood Control Department, 1995 Market Street, Riverside, California.					
Send comments to the Honorable Kay Ceniceros, Chairman, Board of Supervisors, Riverside County, 4080 Lemon Street, Riverside, California 92501-3656.					
Illinois	(C) Northbrook, Cook County	Techny Drain	At downstream corporate limits	*648	*643
			Just downstream of School Foot Bridge	*649	*647
			About 140 feet upstream of School Foot Bridge	*650	*650
Maps available for inspection at Engineering Department, 1225 Cedar Lane, Northbrook, Illinois.					
Send comments to Honorable Robert Wedew, Village Manager, Village of Northbrook, 1225 Cedar Lane, Northbrook, Illinois 60062.					
Illinois	(V) Palatine, Cook County	Salt Creek	About 1,200 feet downstream of Lalonde Avenue	*726	*727
			About 500 feet downstream of Michigan Avenue	*730	*728

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Arlington Heights Branch	Just upstream of Chicago and Northwestern Railroad	*716	*714
			Just downstream of Palatine Road	*718	*717
			Just upstream of Clark Road	*724	*722
			Just upstream of Tahoe Drive	*736	*735
			About 4,800 feet upstream of Smith Street	None	*758

Maps available for inspection at the Village Hall, 200 East Wood Street, Palatine, Illinois.
Send comments to Honorable Robert Guss, Mayor, Village of Palatine, Village Hall, 200 East Wood Street, Palatine, Illinois 60067

Illinois	(C) South Beloit, Winnebago County	Turtle Creek	Upstream of Dearborn Avenue (U.S. Route 51)	*755	*758
			Upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*758	*760

Maps available for inspection at City Hall, 519 Blackhawk Boulevard, South Beloit, Illinois.
Send comments to Honorable Gary Pierce, Mayor, City of South Beloit, City Hall, 519 Blackhawk Boulevard, South Beloit, Illinois 61080.

New York	Cheektowaga, Town	Cayuga Creek	Approximately 900 feet upstream of Union Road	*610	*609

Maps available for inspection at the Town Hall, Broadway and Union Road, Cheektowaga, New York.
Send comments to Honorable Kenneth J. Meyers, Town Supervisor of Cheektowaga, Town Hall, Broadway and Union Road, Cheektowaga, New York 14227

New York	New Paltz, Town, Ulster County	Wallkill River	Approximately 11,500 feet downstream of the most upstream corporate limits.	*185	*194
			Downstream corporate limits of the Village of New Paltz.	*194	*193
			State Route 299 bridge	*194	*199
			Approximately 2,600 feet west of Springtown Road at the downstream corporate limits	None	*199
			Approximately 400 feet west of State Route 32 at the downstream corporate limits.	None	*199

Maps available for inspection at the Town Hall, New Paltz, New York.
Send comments to Honorable William Yeaple, Town Supervisory of New Paltz, P.O. Box 550, New Paltz, New York 12561.

Tennessee	(C) Columbia, Maury County	Duck River	About 2.0 miles upstream of 5th Street	*580	*580
			About 1.6 miles downstream of Industrial Park Drive	None	*575
		Little Bigby Creek	At confluence with Duck River	*577	*577
			Just downstream of Hampshire Pike	*582	*580
			Just downstream of New Experiment Lane	*597	*595
			Just upstream of Louisville and Nashville Railroad	*600	*602
			Just upstream of Trotwood Avenue (U.S. 43)	*607	*618
			About 2.0 miles upstream of U.S Route 43	None	*627

Maps available for inspection at the Engineering Department, City Hall, 707 North Main Street, Columbia, Tennessee.
Send comments to Honorable James L. Bailey, Mayor, City of Columbia, City Hall, 707 North Main Street, Columbia, Tennessee 38401.

The proposed base flood elevations for selected locations are:

PROPOSED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Capitola (city), Santa Cruz County	Noble Creek	25 feet downstream from center of Kennedy Drive	*75
		Soquel Creek	At the intersection of Capitola Avenue and Southern Pacific Railroad	*17

Maps available for inspection at the City Planning Department, 420 Capitola Avenue, Capitola, California.
Send comments to Honorable Ron Graves, 420 Capitola Avenue, Capitola, California 95010.

California	Concord (city), Contra Costa County	Galindo Creek	East side of Newhall Parkway 250 feet southeast of its intersection with Bower Boulevard.	*247
			50 feet upstream from the center of Newhall Parkway	*249
		Pine Creek	Intersection of Arlington Road and Lexington Road	*36
			Intersection of the stream and the center of Treat Boulevard.	*92
		Ditch No. 2	Intersection of Newton Way and Markham Street	*73
			50 feet upstream from the center of Minert Road	*74
		Farm Bureau Road Drain	Intersection of stream and the center of Concord Boulevard.	*124
			50 feet upstream of the upstream culvert opening at Walnut Place.	*142
		Clayton Valley Drain	Intersection of Solano Way and Olivera Road	*16
			Intersection of the stream and center of Port Chicago Way.	*18
		Mt. Diablo Creek	Intersection of Huron Drive and Woodhaven Lane	*1
			40 feet upstream from the center of Ayers Road	*258

Maps available for inspection at the Department of Public Works, 1950 Parkside Drive, Concord, California.
Send comments to the Honorable Diane Longshore, 1950 Parkside Drive, Concord, California 94519.

Connecticut	Monroe, town, Fairfield County	Pequannock River	At downstream corporate limits	*299
			At confluence with West Branch Pequannock River	*305

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1,600 feet upstream of confluence with West Branch Pequonnack River.	*306
		West Branch Pequonoock River	At confluence with Pequannock River	*305
		Downstream crossing of State Route 25 (upstream side)	*336	
		Upstream side of culvert at downstream crossing of Pepper Street	*343	
		Upstream side of culvert at private Drive	*377	
		Approximately 100 feet upstream of upstream crossing of Pepper Street	*388	
		Copper Mill Brook	At confluence with Halfway River	*308
		Upstream side of culvert at Hammertown Road	*340	
		At confluence with Smith Pond Brook	*346	
		Smith Pond Brook	At confluence with Cooper Mill Brook	*346
			Dam (upstream side)	*372
			Approximately 25 feet upstream of Turkey Roost Road	*399
		Far Mill River	Downstream corporate limits	*394
		Dam (upstream side)	*411	
			Approximately 1,850 feet upstream of Jays Road	*423
		Beardsley Brook	At confluence with Far Mill River	*423
			Approximately 3,600 feet upstream of confluence with Beardsley Brook.	*459
		Meads Brook	At downstream corporate limits	*365
		Housatonic River	At downstream corporate limits	*52
			Stevenson Dam (downstream)	*57
		Halfway River	At confluence with Housatonic River	*109
			Confluence with unnamed Tributary No. 1	*201
			Approximately 620 feet upstream of Bagburn Road	*216

Maps available for inspection at the Town Hall, Monroe, Connecticut.
Send comments to Honorable Kenneth Helleziie, Chairman of the Monroe Town Council, Town Hall, 13 Fan Hill Road, Monroe, Connecticut 06468.

Idaho	Bonner County (Unincorporated areas)	Clark Fork	At the intersection of Stream and center of Light Duty Road.	*2,076
		Grouse Creek	10 feet upstream from center of Colburn-Culver Road	*2,149
		Lightning Creek	480 feet upstream from center of State Route 200	*2,105
		Pack River	50 feet upstream from center of Pack River Road	*2,175
		Priest River	At the intersection of River and center of State Route 200	*2,070
			At the confluence of Priest River with East River	*2,240
			100 feet upstream from the center of Peninsula Road	*2,199
		Rapid Lightning Creek	50 feet upstream from the center of Rapid Lightning Creek Road, which is 70 feet dowstream of the confluence with Spring Creek.	*2,413
		Sand Creek North	50 feet downstream from center of Samuels Road	*2,129
		Sand Creek	50 feet upstream from the center of Schweitzer Basin Road.	*2,073
		Spring Creek	50 feet upstream from the center of Spring Creek Road.	*2,184
		Lake Cocolalla	100 feet west of the intersection of Cocolalla Creek and Burlington Northern Railroad.	*2,212
		Lake Kelso	Along entire lake shoreline	*2,154
		Lake Pend Oreille	At mouth of Pack River	*2,071

Maps available for inspection at County Clerk's Office, 2155 1st Avenue, Sandpoint, Idaho.
Send comments to Honorable Harold Anselmo, 2155 1st Avenue, Sandpoint, Idaho 83864.

Illinois	(V) Birds, Lawrence County	Brushy Creek	About 900 feet downstream Main Street (At downstream corporate limits).	*440
			About 1,350 feet upstream Main Street (At upstream corporate limit).	*442

Maps available for inspection inspection at the Post Office.
Send comments to honorable Mike Rigg, Mayor, Village of Birds, P.O. Box 94, Birds, Illinois 62415.

Iowa	(C) Sageville, Dubuque County	Little Maquoketa River	At confluence of Bloody Run Creek	*622
			About 0.64 mile upstream of U.S. Highway 52	*630
		Couler Valley	About 1,000 feet downstream of Chicago and North Western Railroad.	*629
			About 200 feet upstream of Chicago and North Western Railroad.	*629
		Couler Valley Tributary	Just upstream of Sageville Road	*622
			About 1,140 feet upstream of Sageville Road	*638
		Bloody Run Creek	At confluence with Little Maquoketa River	*622
			At upstream corporate limits	*622
		Union Park Hollow	About 300 feet downstream of U.S. Highway 52	*635
			Just upstream of County Road	*641
			At upstream corporate limits	*683

Maps available for inspection at Rt. 1, P.O. Box 245, Dubuque, Iowa.
Send comments to Honorable Joseph Kalvelage, Mayor, City of Sageville, Rt. 1, P.O. Box 245, Dubuque, Iowa 52001.

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Louisiana	Gretna, city, Jefferson Parish	Mississippi River	Entire shoreline within community	*16
		Rainfall-Runoff	Northwest of U.S. Route 90 below northern and southwestern corporate limits, east of Monroe Street, south to 5th Street, then southeast of 5th Street to Fried Street, then southeast of 9th Street to corporate limits.	*25
			East of Missouri Pacific Railroad, west of eastern corporate limits, and south of Hawkins Street extended.	*–1
			Southeast of 24th Street, and south of Belle Chasse Highway to southernmost corporate limits.	*–2

Maps available for inspection at the City Hall, Gretna, Louisiana.

Send comments to Honorable William J. White, Mayor of the City of Gretna, City Hall, P.O. Box 404, Gretna, Louisiana 70054.

Louisiana	Harahan, city, Jefferson Parish	Mississippi River	Downstream corporate limits	*[illegible]
			Upstream corporate limits	*[illegible]
		Rainfall-Runoff Ponding	Between Jefferson Highway and Mississippi River levee, east of Colonial Club Drive to eastern corporate limits.	*12
			Between Jefferson Highway and Mississippi River levee, west of Colonial Club Drive to Woodlawn Avenue.	*11
			Between Jefferson Highway and Mississippi River levee, northwest of Woodlawn Avenue to northwestern corporate limits.	*[illegible]
			North of Suave Road to corporate limits	*2.5
			Between corporate limits, north of Grover Avenue, to a point approximately 900 feet north of Citrus Road.	*4

Maps available for inspection at the City Hall, Harahan, Louisiana.

Send comments to Honorable Carlo R. Ferrara, Mayor of the City of Harahan, 6437 Jefferson Highway, Harahan, Louisiana 70123.

Louisiana	Kenner, city Jefferson Parish	Lake Pontchartrain	Entire shoreline in Kenner back to levee	*16
		Mississippi River	Entire shoreline within community	*21
		Rainfall-Runoff Ponding	Various locations throughout community	*–2.5–*9

Maps available for inspection at the City Hall, Kenner, Louisiana.

Send comments to Honorable Allen Brousseard, Mayor of the City of Kenner, 1801 William Boulevard, Kenner, Louisiana 70062.

Louisiana	Lake Charles, city Calcasieu Parish	Calcasieu River	Downstream corporate limits to Two O'Clock Point	*9
			Two o'clock Point to upstream corporate limits	*10
		Bayou Contraband	Confluence with Calcasieu River to Lake Street	*9
	Pithon Coulee	Confluence with Lake Charles	*9	
	English Bayou	Confluence with Calcasieu River	*10	
		Little Bayou	Confluence with Bayou Contraband	*9

Maps available for inspection at the City Hall, 326 Pujo, Lake Charles, Louisiana.

Send comments to Honorable Paul Savoie, Mayor of the City of Lake Charles, 326 Pujo, Lake Charles, Louisiana 70602.

Louisiana	City of Pineville, Rapides Parish	Red River	Just upstream of Murray Avenue	*94
		Tributary 3 of Lake Buhlow Bayou	Just upstream of U.S. Route 165	*95
			Just upstream of State Highway 107	*92
			Just upstream of Sweek Drive	*98
		Tributary 1 of Bayou Maria	Just downstream of Donahue Ferry Road	*110
		Tributary 4 of Bayou Maria	Just upstream of Sweek Drive	*97
		Tributary 7 of Bayou Maria	Just upstream of State Highway 28	*92
			Just downstream of Iris Park Drive	*112
			Approximately 1,000 feet upstream of Iris Park Drive	*120
			Just downstream of Iris Road	*130
			Just upstream of Donahue Ferry Road	*135
		Tributary 8 of Bayou Maria	Just upstream of Pine Grove Drive	*92
			Just upstream of Fox Road	*92
		Tributary 13 of Bayou Maria	Just upstream of Highland Drive	*92
			Approximately 2,000 feet upstream of Highland Drive	*100
			Just upstream of Wainright Road	*110

Maps available for inspection at City Hall, 910 Main Street, Pineville, Louisiana 71360.

Send comments to Mayor Fred H. Baden or Richard Brackney, Finance Officer, City Hall, P.O. Box 30, Pineville, Louisiana 71362.

Louisiana	Unincorporated areas of Rapides Parish	Red River	Approximately 100 feet upstream of U.S. Highway 71, 165 and 167.	*94
		Bayou Rapides	Approximately 100 feet Plantation Road	*79
		Irish Ditch No. 2	Approximately 50 feet upstream of Texas and Pacific Railroad Spur.	*81
		Philip Bayou	Approximately 100 feet downstream of Missouri Pacific Railroad.	*75
			Approximately 100 feet upstream of Texas and Pacific Railroad.	*76
		Bayou Rapides Diversion Channel	Just upstream of U.S. Highway 165	*71
			Just upstream of State Highway 28 (Bayou Rapides Road).	*72
		Bayou Robert	Approximately 100 feet upstream of Texas and Pacific Railroad.	*79
		Chetlin Lake Canal	Just upstream of confluence with Hynson Bayou	*71

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Bayou Rigolette	Just upstream of the confluence with Tributary 2 of Bayou Rigolette.	*84
		Bayou Rigolette Tributary 2	Approximately 500 feet upstream of confluence with Bayou Rigolette Tributary 5.	*85
			Approximately 200 feet upstream of confluence with Bayou Rigolette Tributary 3..	*100
		Bayou Rigolette Tributary 3	Just downstream of confluence with Bayou Rigolette Tributary 4..	*100
			Approximately 300 feet downstream of Tabernacle Street.	*115
		Bayou Rigolette Tributary 5	Just upstream of Stonesway Road	*87
			Approximately 200 feet upstream of Florida Drive	*110
		Bayou Rigolette Tributary 7	Approximately 100 feet upstream of Secondary State Route 1203.	*90
		Bayou Rigolette Tributary 10	Approximately 500 feet upstream of Secondary Route 1203.	*90
		Bayou Rigolette Tributary 11	Approximately 100 feet downstream of Secondary State Route 1203..	*90
		Lake Buhlow Tributary 3	Approximately 50 feet upstream of confluence with Lake Buhlow Tributary 5..	
			Approximately 100 feet upstream of Kansas City Southern Railroad.	*120
		Lake Buhlow Tributary 4	Just upstream of Kansas City Southern Railroad	*106
		Lake Buhlow Tributary 5	Approximately 1,000 feet upstream of Kansas City Southern Railroad.	*102
		Bayou Maria	Just upstream of confluence with Bayou Maria Tributary 3.	*92
			Just upstream of Leonard Drive	*112
		Bayou Maria Tributary 1	Just upstream of Donahue Ferry Raod	*112
			Just upstream of Wonder Lane	*132
		Bayou Maria Tributary 3	Just upstream of confluence with Bayou Maria Tributary 4.	*90
		Bayou Maria Tributary 4	Just upstream of Molly Moore Drive	*112
		Bayou Maria Tributary 7	Just upstream of Iris Park Road	*114
		Haw Creek	Just upstream of confluence with Flagon Bayou	*117
			Just upstream of confluence with Haw Creek Tributary 4.	*133
		Haw Creek Tributary 5	Approximately 1,000 feet upstream of confluence with Haw Creek.	*127
		Haw Creek Tributary 4	Approximately 1,000 feet upstream of confluence with Haw Creek.	*137
		Haw Creek Tributary 6	Just upstream of confluence with Haw Creek Tributary 7.	*124
		Haw Creek Tributary 7	Just upstream of confluence with Haw Creek Tributary 8.	*124
		Flagan Bayou	Just upstream of confluence with Flagon Bayou Tributary 22.	*94
			Just upstream of Hooper Street	*149
		Flagan Bayou Tributary 2	Just upstream of Kansas City Southern Railroad	*142
		Flagon Bayou Tributary 3	Approximately 200 feet upstream of Kansas City Southern Railroad.	*140
		Flagon Bayou Tributary 6	Just upstream of State Road 623	*129
		Flagon Bayou Tributary 8	Just upstream of U.S. Highway 165	*118
			Just downstream of Kansas City Southern Railroad Spur.	*150
		Flagon Bayou Tributary 9	Just downstream of Kansas City Southern Railroad	*137
			Just downstream of U.S. Highway 165	*151
		Flagon Bayou Tributary 10	Just upstream of State Highway 116	*122
		Flagon Bayou Tributary 11	Approximately 600 feet upstream of State Highway 116.	*111
		Flagon Bayou Tributary 16	Just upstream of State Highway 116	*102
		Flagon Bayou Tributary 17	Just upstream of State Highway 116	*115
		Flagon Bayou Tributary 22	Just downstream of State Highway 116	*102
		Horseshoe Drainage Canal	Just upstream of U.S. Highway 71	*74
		East Prong Bayou	Just downstream of Cattle Crossing	*74

Maps available for inspection at the Parish Secretary's Office, Rapides Parish Courthouse, Alexandria, Louisiana 71301.

Send comments to Mr. L. B. Henry, Rapides Parish Police Jury President, or Angie Murry, Parish Secretary, Rapides Parish Courthouse, P.O. Box 1150, Alexandria, Louisiana 71301.

Louisiana	Westwego, city, Jefferson Parish	Mississippi River	Downstream corporate limits	*19
			Upstream corporate limits	*20
		Rainfall-Runoff Ponding	From western corporate limits along Old Spanish Trail to levee.	*4
			West of Texas and Pacific Railroad yard and north of Texas and Pacific Railroad to western corporate limits.	*2.5
			Along Southern Pacific Railroad to Pond Street extended.	*2
			East of Louisiana Avenue, south of 2nd Street, west of Patterson Street, and north of Texas and Pacific Railroad.	*3
			East of Patterson Street, south of River Road, west of Klien Street, and north of Texas and Pacific Railroad.	*5
			Along eastern corporate limits between River Road and Texas and Pacific Railroad.	*5

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
		Gulf of Mexico-Flooding Affecting Westwego.	South of Texas and Pacific Railroad and north of West Bank Expressway, from western corporate limits to eastern corporate limits.	*3
			South of West Bank Expressway, west to levee, east to corporate limits, and south to corporate limits, over to Dugues Canal in eastern part of city.	*2.5
			Western corporate limits east to levee, north to Otto [illegible] extended.	*5
			In eastern part of city, from Lapalco Boulevard south to southernmost corporate limits, along Dugues Canal.	[illegible]

Maps available for inspection at the City Hall, 419 Avenue A, Westwego, Louisiana.

Send comments to Honorable Ernest J. Tassin, Mayor of the City of Westwego, 419 Avenue A, Westwego, Louisiana 70094.

Michigan	(Chtd. Twp.) Buena Vista, Saginaw County	Saginaw River	About 600 feet upstream of Interstate 75 (At downstream corporate limits).	*586
			About 1.1 miles upstream of Interstate 75 (At upstream corporate limits).	[illegible]
		Koehler Drain	At East Washington Road	[illegible]
			Just upstream Chesee System	*596
			Just downstream of Wadsworth Road	*598
		Cheboyganing Creek	Within corporate limits	[illegible]

Maps available for inspection at the Township Office.

Send comments to Honorable Leon S. Clark, Supervisor, Buena Vista Charter Township, 1160 S. Outer Drive, Saginaw, Michigan 48601

Nebraska	(C) Kearney, Buffalo County	Platte River	About 2.9 miles downstream of State Highway 10 and State Highway 44.	*2,121
			Just downstream of State Highway 10 and State highway 44.	*2,143
			About 3.3 miles upstream of State Highway 10 and State Highway 44.	*2,164
		North Channel Platte River	About 700 feet downstream of County Highway 38	*2,116
			About 100 feet upstream of State Highway 10 and State Highway 44.	*2,142
			About 3.0 miles upstream of County Road X (just downstream of County Road).	*2,168
		Wood River	At confluence of Glenwood Park Creek	*2,139
		Glenwood Part Creek	About 1,200 feet upstream of State Highway 10	*2,145
			About 550 feet upstream of confluence with Wood River.	*2,139
			Just upstream of County Road D-V	*2,152
			Just upstream of Union Pacific Railroad	*2,159
			Just downstream of 17th Avenue	*2,188
			Just upstream of 17th Avenue	*2,195
			About 1,500 Feet upstream of 56th Street	*2,209
		Kearney Canal	At confluence with North Channel Platte River	*2,147
			About 1,400 feet upstream of U.S. Highway 30	*2,153
			About 1,425 feet upstream of U.S. Highway 30	*2,210
			About 3.8 miles upstream of Center Avenue	*2,220
		North Dry Creek Ditch	About 100 feet upstream of North Channel Platte River (just upstream of County Road).	*2,153
			About 3,500 fee upstream of County Road	*2,155
		Shallow Flooding (overflow from North Dry Creek Ditch).	Just east of North Dry Creek Ditch	1 foot

Maps available for inspection at City Hall, Kearney, Nebraska.

Send comments to Honorable Justus Dobesh, Mayor, City of Kearney, City Hall, Kearney, Nebraska 68847.

Nevada	Washoe County (unincorporated areas)	Truckee River	200 feet upstream from center of Clark Gypsum Plant Road.	*4,247
			At the intersection of River and Mayberry Drive	*4,614
		Steamboat Creek	At the intersection of Ellis Street and Sinelo Drive	*4,393
			50 feet upstream from the center of Towne Road	*4,572
		Baily Canyon Creek	50 feet upstream from center of Toll Road	*4,586
		Boynton Slough	200 feet sough along South McCarran Boulevard from its intersection with Pembroke Drive.	*4,393
		North Truckee Drain	50 feet upstream from center of East Prater Way	*4,395
		Dry Creek	125 feet upstream from center of Timothy Drive	*4,577
		Galena Creek	At the intersection of U.S. Highway 395 and East [illegible] Road.	#1
		Thomas Creek	At the intersection of Foothill Road and Thomas Creek Road.	#1
		Evans Creek	500 feet south along Lakeside Drive from intersection with Hash Lane.	#1

Maps available at the County Engineering Department, 1201 Mill Street, Reno, Nevada.

Send comments to Honorable Bellie Williams, P.O. Box 11130, Reno, Nevada 89520.

New Jersey	Atlantic Highlands, borough, Monmouth County	Sandy Hook Bay	Shoreline from western corporate limits to Bowne Avenue, extended.	*18
			Shoreline from Bowne Avenue (extended) to First Avenue (extended).	*17
			Shoreline of Atlantic Highlands Yacht Harbor	*15
			Shoreline from Bellinswood Road extended to eastern corporate limit.	*17

Maps available for inspection at the Borough Hall, 100 First Avenue, Atlantic Highlands, New Jersey.

Send comments to Honorable Everett J. Curry, Mayor of the Borough of Atlantic Highlands, Borough Hall, 100 First Avenue, Atlantic Highlands, New Jersey 07716.

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Addison, town, Steuben County	Canisteo river	Downstream corporate limits	*977
			Downstream corporate limits between Town and Village of Addison.	*982
			Upstream corporate limits between Town and Village of Addison.	*991
			Upstream corporate limits	*994
		Tuscarora Creek	Downstream corporate limits	*996
			Approximately 350 feet upstream of upstream corporate limits.	*1,000

Maps available for inspection at the residence of the Town Clerk, Ms. Kathy Bliss, Rathman Road, Box 23, Addison, New York.
Send comments to Honorable Paul Hendricks, Supervisor of the Town of Addison, R.D. 1, Addison, New York 14801.

New York	Amsterdam, city, Montgomery County	Mohawk River	At downstream corporate limits	*269
			At confluence with South Chuctanunda Creek	*273
			At upstream corporate limits	*278
		North Chuctonunda Creek	Upstream side of culvert at CONRAIL crossing	*272
			State Route 67 (downstream side)	*282
			Prospect Street (upstream side)	*284
			Fourth Avenue (upstream side)	*446
			Second Avenue (upstream side)	*493
			Upstream side of upstream CONRAIL crossing	*525
			Upstream side of Clizbe Avenue	*606
			Upstream corporate limits	*646
		South Chuctonunda Creek	At confluence with Mohawk River	*273
			Florida Avenue crossing (upstream side) approximately 1,000 feet downstream of State Route 55.	*302
			Upstream corporate limits	*336
		Bunn Creek	At confluence with North Chuctanunda Creek	*378
			Upstream side of Brookside Avenue	*448
			Footbridge (upstream side)	*487
			Upstream side of dam approximately 750 feet upstream of Brookside Reservoir.	*597
			Upstream corporate limit	*638
		Dave Creek	Confluence with Mohawk River	*278
			Steadwell Avenue (upstream side)	*301
			Upstream corporate limits	*382

Maps available for inspection at the City Hall, 61 Church Street, Amsterdam, New York.
Send comments to Honorable Mario Villa, Mayor of the City of Amsterdam, 61 Church Street, Amsterdam, New York 12010.

New York	Belmont, village, Allegany County	Genesee River	Downstream corporate limits	*1,364
			At CONRAIL	*1,373
			Upstream State Route 19	*1,380
			Upstream corporate limits	*1,388
		Phillips Creek	Confluence with Genesee River	*1,373
			Upstream corporate limits	*1,382
		Plum Bottom Creek	Confluence with Genesee River	*1,380
			Upstream John Street	*1,384
			Upstream corporate limits	*1,388

Maps available for inspection at the Village Hall, One Schuyler Street, Belmont, New York.
Send comments to Honorable John Jordan, Mayor of the Village of Belmont, One Schuyler Street, Belmont, New York 14813.

New York	Cameron, town, Steuben County	Canisteo River	Downstream corporate limits	* 1,033
			Upsteam second crossing of County Route 432	* 1,059
			Upstream corporate limits	* 1,069

Maps available for inspection at the residence of Dorothy O'Brien, Town Clerk, Depot Street, Cameron, New York.
Send comments to Honorable Ronald Masti, Supervisor of the Town of Cameron, R.D. 1, Cameron, New York 14819.

New York	Canisteo, town, Steuben County	Canisteo River	Downstream corporate limits	*1,068
			Upstream Catatunk Road	* 1,096
			Upstream corporate limits	* 1,131

Maps available for inspection at the Town Hall, Canisteo, New York.
Send comments to Honorable Carl Lamphier, Supervisor of the Town of Canisteo, R.D. 1, Canisteo, New York 14823.

New York	Chautauqua, town, Chautauqua County	Chautauqua Lake	Entire shoreline within community	*1,310
		Big Inlet	Confluence with Chautauqua Lake	*1,315
			State Route 17	*1,315
			Approximately 1,170 feet upstream of Centralia Road	*1,318

Maps available for inspection at the Chautauqua Town Hall, Mayville, New York.
Send comments to Honorable Bradley C. Long, Supervisor of the Town of Chautauqua, Town Hall, Mayville, New York.

New York	Clinton, town, Dutchess County	Crum Elbow Creek	Dowstream corporate limits	* 263
			Upstream of State Route 9G	* 280
			Upstream of Schultz Hill Road	* 298
			Upstream of Frost Road	* 321
			Upstream of downstream crossing Sipe Barracks Road	* 369
		East Branch Wappinger Creek	At Private Drive upstream of State Quarry Road	* 417
			At confluence with Wappinger Creek	* 254
			Upstream of dam	* 262
			Upstream corporate limits	* 263

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Little Wappinger Creek	Downstream corporate limits	*252
			Upstream of Halstead Road	*276
			Upstream of dam located just upstream of Hollow Road.	*305
			Approximately 600 feet upstream of Nine Partners Road.	*337
		Wappinger Creek	Downstream corporate limits	*243
			Upstream of Taconic State Parkway	*249
			Upstream corporate limits	*254
		Silver Lake	Entire shoreline within community	*378
		Long Pond	Entire shoreline	*348

Maps available for inspection at the Town Hall, Center Road, Clinton Corners, New York.
Send comments to Honorable Jeffrey Burns, Supervisor of the Town of Clinton, P.O. Box 108, Clinton Corners, New York 12514.

New York	East Fishkill, town, Dutchess County	Fishkill Creek	Downstream corporate limits	[illegible]
			Upstream Palen Road	[illegible]
			Upstream State Route 376	*240
			Upstream Carol Road	*252
			Upstream of third dam	*287
			Upstream Taconic State Parkway	*295
			Upstream corporate limits	*311
		Sprout Creek	Confluence with Fishkill Creek	*224
			Upstream State Route 82	*231
			Upstream Brown Road	[illegible]
			Upstream Montfort Road	*257
			Upstream Robinson Lane	[illegible]
			Upstream corporate limits	[illegible]
		Whortlekill Creek	Confluence with Fishkill Creek	*234
			Upstream second CONRAIL crossing	*250
			Upstream Creamery Road	*279
			Upstream Taconic State Parkway Ramp	*332
		Sylvan Lake Outlet	Confluence with Fishkill Creek	*295
			Upstream Bogardus Lane	*309
			Upstream corporate limits	*320

Maps available for inspection at the East Fishkill Town Hall, Route 376, Hopewell Junction, New York.
Send comments to Honorable Wesley Virtue, Supervisor of the Town of East Fishkill,Town Hall, Route 376, Hopewell Junction, New York 12533.

New York	Esopus, town, Ulster County	Rondout Creek	Confluence with Hudson River	[illegible]
			State Route 213 (upstream side)	*12
			Confluence of Wallkill River	*36
		Wallkill River	Approximately 175 feet downstream of Perrine's Bridge Road.	*179
			New York State Thruway	*187
			Upstream corporate limits	*192
		Hudson River	Entire shoreline within community	*9

Maps available for inspection at the Esopus Town Hall, Broadway and Sound Streets, Port Ewen, New York.
Send comments to Honorable Marilyn Coffey, Supervisor of the Town of Esopus, P.O. Box 700, Port Ewen, New York 12466.

New York	Fillmore, village, Allegany County	Cold Creek	Downstream corporate limits	*1,175
			1st upstream corporate limits	*1,178

Maps available for inspection at the Village Hall, Fillmore, New York.
Send comments to Honorable Royal Smith, Mayor of the Village of Fillmore, Village Hall, Fillmore, New York 14735.

New York	Fredonia, village, Chautauqua County	Canadaway Creek	Downstream corporate limits	[illegible]
			Matteson Road (downstream side)	[illegible]
			Approximately .38 mile upstream of Matteson Road	[illegible]
			At Risley Street	*679
			Main Street (upstream side)	*703
			Approximately 700 feet upstream of Water Street	*715
			Approximately 2,900 feet downstream of Liberty Street	[illegible]
			Liberty Street (upstream side)	*746
			Approximately .45 mile upstream of Liberty Street	[illegible]
			Upstream corporate limits	*777

Maps available for inspection at the Village Hall, Fredonia, New York.
Send comments to Honorable Louis C. Mancuso, Mayor of the Village of Fredonia, Village Hall, Fredonia, New York 14063.

New York	Larchmont, village, Westchester County	Long Island Sound	Entire shoreline within community	*18

Maps available for inspection at the Office of the Village Clerk, Municipal Building, 120 Larchmont Avenue, Larchmont, New York.
Send comments to Honorable Martin S. Quigley, Mayor of the Village of Larchmont, 120 Larchmont Avenue, Larchmont, New York 10538.

New York	Queensbury, town, Warren County	Hudson River	Most downstream corporate limits	*211
			Downstream of Feeder Dam	[illegible]
			Upstream of Feeder Dam	*290
		Halfway Creek	Approximately .6 mile downstream of Ridge Road	*288
			Upstream of Ridge Road	*298
			Upstream of Cronin Road	*308
			Upstream of Bay Road	*315
			Upstream of U. S. Route 9	[illegible]
			Downstream of Dixon Road	*349

Maps available for inspection at the Town Hall, Glens Falls, New York.
Send comments to Honorable Frances Walter, Supervisor of the Town of Queensbury, R.D. 1, Bay Street, Glens Falls, New York 12801.

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Richmond, town, Ontario County	Hemlock Outlet	Confluence with Honeoye Creek	*791
			South Road (upstream side)	*794
			Pierpont Road (upstream side)	*795
			Reed Road (upstream side)	*837
			Approximately 5,000 feet upstream of Reed Road	*863
			Upstream corporate limits	*878
		Mill Creek	Confluence with Honeoye Creek	*806
			East Lake Road (upstream side)	*844
			Approximately 2,800 feet upstream of spillway	*878
		Honeoye Lake	Entire shoreline within corporate limits	*806

Maps available for inspection at the Town Hall, Route 20A, Honeoye, New York.
Send comments to Honorable Robert Belmont, Supervisor of the Town of Richmond, East Blake Road, Honeoye, New York 14471.

New York	Rosendale, town, Ulster County	Rondout Creek	Downstream corporate limits	*28
			New York State Thruway (upstream side)	*38
			Downstream crossing State Route 213 (upstream side)	*56
			James Street (upstream side)	*68
			Upstream crossing State Route 213 (upstream side)	*91
		Wallkill River	Approximately 125 feet downstream of Perrine's Bridge Road.	*179
			New York State Thruway (upstream side)	*187
			Upstream corporate limits	*192

Maps available for inspection at the Town Hall, Main Street, Rosendale, New York.
Send comments to Honorable Bea Habraneck, Supervisor of the Town of Rosendale, Town Hall, Main Street, Box 423, Rosendale, New York 12472.

New York	Schaghticoke, town, Rensselaer County	Hudson River	Downstream corporate limits	*36
			Lock No. 1 (upstream side)	*36
			Approximately 2 miles upstream of Lock No. 1	*41
			Lock No. 2 (upstream side)	*60
			Mechanicville Bridge (upstream side)	*63
			Lock No. 3 (upstream side)	*82
			Dam (upstream side)	*92
			Upstream corporate limits	*94
		Hoosic River	Confluence with Hudson River	*82
			Approximately 2 miles upstream of confluence with Hudson River.	*100
			Approximately .85 mile downstream of Concrete Arc bridge.	*120
			Concrete Arc bridge (upstream side)	*138
			Most upstream corporate limits within Village of Schaghticoke.	*277
			Fourth upstream corporate limits upstream of State Route 67.	*315
			County Route 111 (upstream side)	*323
			Dam (upstream side) upstream of County Route 111	*353
			Most upstream corporate limits	*356
		Tomhannock Creek	Confluence with Hoosic River	*105
			Approximately .7 mile upstream of Old Schaghticoke Road.	*113
			Approximately 720 feet downstream of Buttermilk Road.	*126

Maps available for inspection at the Office of the Town Supervisor, Town Hall, Schaghticoke, New York.
Send comments to Honorable Mark Zaretzki, Supervisor of the Town of Schaghticoke, Route 40, P.O. Box 180, Schaghticoke, New York 12151.

New York	Woodhull, village, Steuben County	Tuscarora Creek	Downstream corporate limits	*1,306
			Upstream corporate limits	*1,327
			Church Street (upstream side)	*1,318

Maps available for inspection at the Village Hall, Sherwood Street, Woodhull, New York.
Send comments to Honorable Jennings Sawyer, Mayor of the Village of Woodhull, Box 11, 1649 Jasper Street, Woodhull, New York 1486.

Ohio	(C) Cambridge Guernsey County	Wills Creek	About 0.7 mile downstream of Wills Creek Valley Road	*786
			About 2.2 miles upstream of Conrail	*797
		Leatherwood Creek	Mouth at Wills Creek	*786
			About 1,300 feet upstream of County Road 35	*797

Maps available for inspection at the Department of Community Development, City Hall, Cambridge, Ohio.
Send comments to Honorable Charles Schaute II, Mayor, City of Cambridge, 1131 Steubenville Avenue, Cambridge, Ohio 43725.

Ohio	(C) Chillicothe, Ross County	Scioto River	About 0.8 mile downstream of Norfolk Southeren Railroad	*625
			About 1.2 miles upstream of U.S. Route 35	*631

Maps available for inspection at City Hall, 35 S. Paint Street, Chillicothe, Ohio.
Send comments to Honorable Clark S. Alexander, Mayor, City of Chillicothe, City Hall, 35 S. Paint Street, Chillicothe, Ohio 45601.

Ohio	(V) Mantua, Portage County	Cuyahoga River	About 0.8 mile downstream of Main Street	*1,084
			About 0.6 mile upstream of High Street	*1,086

Maps available for inspection at the Village Hall, East High Street, Mantua, Ohio.
Send comments to Honorable Rose Henniger, Mayor, Village of Mantua, Village Hall, East High Street, Mantua, Ohio 44255.

Oregon	Athena (city), Umatilla County	Waterman Gulch	At the intersection of Garfield Street and 2nd Street	*1,728

Maps available for inspection at City Planner's Office, Umatilla County Courthouse, Pendleton, Oregon.
Send comments to Honorable Bob Frink, P.O. Box 686, Athena, Oregon 97813.

PROPOSED BASE FLOOD ELEVATIONS—Continued

[illegible]	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Oregon	Canby (city), Clackamas County	Molalla River	70 feet upstream from center of northwest Knights Bridge Road.	*94
		Willamette River	500 feet east from center of intersection of Redwood Street and the sewage treatment plant access road.	*84

Maps are available at the Public Works Department, 182 N. Holly, Canby, Oregon.
Send comments to the Honorable Michael L. Gabrion, P.O. Box 930, Canby, Oregon 97013.

Oregon	Myrtle Point (city), Coos County	South Fork, Coquille River	50 feet upstream from center of Spruce Street	[illegible]

Maps available for inspection at City Recorder's Office, 424 5th Street, Myrtle Point, Oregon.
Send comments to Honorable Jean Coffman, 424 5th Street, Myrtle Point, Oregon 97458.

Tennessee	City of Clarksville, Montgomery County	Cumberland River	Approximately 3,900 feet upstream of Louisville and [illegible] Railroad.	[illegible]
			Just upstream of New State Highway 13	[illegible]
		Red River	Just downstream of U.S. Highway 79	[illegible]
			Approximately 280 feet upstream of Warfield Boulevard	[illegible]
		Little West Fork	Approximately 250 feet downstream of Louisville and [illegible] Railroad.	[illegible]
			Approximately 1,000 feet upstream of U.S. Highway 41 Alternate.	*411
		Fletchers Fork	Approximately 950 feet upstream of downstream corporate limits (approximately 1.16 miles upstream of confluence with Little West Fork).	*425

Maps available for inspection at Clarksville-Montgomery County Regional Planning Commissioner's Office, or City Building Department or City Engineer's Office, City Hall, Public Square, Clarksville, Tennessee 37040.
Send comments to Mayor Ted Crozier or Alvin Allen, Director, Clarksville-Montgomery County Regional Planning Commission, City Hall, Public Square, Clarksville, Tennessee 37040.

Tennessee	City of LaVergne, Rutherford County	Finch Branch	Approximately 80 feet upstream of Minerva Drive	*554
			Just upstream of Murfreesboro Road	[illegible]
		Hurricane Creek	Approximately 200 feet upstream of U.S. Highway 41	*554
		West Branch Hurricane Creek	Just upstream of Firestone Parkway	[illegible]
		East Branch Hurricane Creek (Before Levee overtopping).	Approximately 700 feet upstream of Firestone Parkway	*579
		East Branch Hurricane Creek (After Levee overtopping).	Approximately 840 feet west of the intersection of Waldron Road and Firestone Parkway.	*579

Maps available for inspection at City Hall, 5218 Murfreesboro Highway, LaVergne, Tennessee 37086.
Send comments to Mayor A.C. Puckett or Mr. Richard Anderson, City Manager, Hall, P.O. Box 177, LaVergne, Tennessee 37086.

Tennessee	City of Millersville, Summer County	Slaters Creek	Approximately 200 feet downstream of Cart Wright Drive extended	*490
			Circle Drive extended	*492
		East Fork Slaters Creek	Approximately 200 feet downstream of Pole Hill Road	*528

Maps availabel for inspection at City Hall, 1379 Louisville Highway, Millersville, Tennessee 37072.
Send comments to Mayor Steve Nichols of Mr. Robert Mayfield, City Mananger, City Hall, P.O. Box 463, Goodlettsville, Tennessee 37072.

Tennesee	Unincorporated areas of Montgomery County	Big West Fork	Approximately 530 feet upstream of Boy Scout Road	*398
			Approximately 700 feet upstream of Peachers Mills Road.	*407
		Little West Fork	Approximately 800 feet upstream of State Highway 41	*411
			Approximately 1,500 feet upstream of East End Road	*430
			Approximately 500 feet upstream of McNair Road	*437
		Red River	Approximately 600 feet upstream of Louisville and [illegible] Railroad.	[illegible]
			Approximately 850 feet upstream of northbound bridge of Interstate Highway 24.	[illegible]
		Fletchers Fork	Approximately 400 feet upstream of Woodlawn Road	*456
			Approximately 250 feet upstream of Lafayette Road	*467
		Cumberland River	Just upstream of the confluence of Cumberland River and Red River.	[illegible]
			Approximately 500 feet upstream of New State Route 13.	[illegible]

Maps available for inspection at Montgomery County Executive's Office, County Courthouse, Commerce Street or Civil Defense Office, Commerce Street, Clarksville, Tennessee 37040.
Send comments to Mr. Joel Plummer, Montgomery County Executive or Mr. Robert Thompson, Accounts and Budget Director, Montgomery County Courthouse, P.O. Box 368, Clarksville, Tennessee 37040.

Mississippi	Unincorporated areas of Harrison County	Gulf of Mexico Mississippi Sound	Intersection of 3rd Street and Bayview Street	*13
		St. Louis Bay	Intersection of Jones Road and Menge Avenue	*12
		Back Bay of Biloxi	Intersection of Bay Shore Road and Lamey Bridge Road.	*11

Maps available for inspection at Harrison County Courthouse, 1801 23rd Avenue, Gulfport, Mississippi 39501.
Send comments to Mr. Ernest Melvin, President, County Board of Supervisors or Mr. Hue B. Snowden, Vice President, County Board of Supervisors, Harrison County Courthouse, P.O. Box CC, Gulfport, Mississippi 39501.

Tennessee	Unincorporated areas of Robertson County	Sulphur Fork	Just upstream of State Road 6279	*535
			At the confluence of Beaver Dam Creek	[illegible]
			Approximately 100 feet upstream of White House road	*601
			Just upstream of St. U House Road	*620
			Just upstream of Mount Pleasant Rd	*647

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Beaver Dam Creek	Just downstream of Owens Chapel Road	*586
			Approximately 150 feet downstream of Louis Draughton Rd.	*630
		Wartrace Creek	Approximately 50 feet upstream of Oakland Road (County Road 6341).	*660
		Lons Branch	At the intersection of Still House Road and an unnamed road 1.50 miles above the confluence with Sulphur Fork).	*846
		Pole Bridge Branch	Just downstream of Kelley Wills road	*703
		Savage Branch	Approximately 50 feet downstream of Still House road	*664
		Carr Creek	Approximately 200 feet downstream of New Chapel Road.	*523
			Approximately 100 feet upstream of Burr Rd.	*548
			Just upstream of New Cut road	*525
			Just upstream of Lights Chapel Road	*641
		Browns Fork	Just downstream of Ammeto Larr Road	*524
		Millers Creek	Approximately 60 feet downstream of State Road 6261.	*548
		Unnamed Tributary of Millers Creek.	Approximately 40 feet downstream of State Road 6260.	*566
		Honey Run Creek	Just upstream of James Stone Road	*487
		Brush Creek	Just downstream of Edd Rose Road	*463
			Approximately 60 feet upstream of Stroudville Road	*550
			Just upstream of Charlie Maxie Road (State Road 6277).	*577
			Just downstream of Pinklet road	*617
		West Fork	Just downstream of Harmony Road	*587
		Red River	Approximately 150 feet upstream of Highland Road	*618
			Just upstream of State Highway 52	*630
			Approximately 200 feet downstream of Stacks Road	*634
			Approximately 350 feet downstream of Interstate Highway 65.	*661
		Unnamed Tributary of Red River	Just upstream of Durers Mill Road	*627
		Frey Branch	Just upstream of Pleasant Grove Road	*693

Maps available for inspection at Planning and Zoning Office, Robertson County Office Building, Springfield, Tennessee 37172.
Send comments to Mr. Emerson Meggs or Mrs. Martha Wilkinson, Director of Planning, Robertson County Courthouse, Room 108, Springfield, Tennessee 37172.

Tennessee	Unincorporated areas of Rutherford County	Stewart Creek	Approximately 350 feet upstream of Old Nashville Highway.	*527
			Just upstream of Interstate Highway 24, Eastbound Lake.	*541
			Just upstream of Burnt Knob Road	*589
		Finch Branch	Approximately 350 feet downstream of Fergus Road	*540
		Rock Spring Branch	Just upstream of Old Nashville Highway	*549
			Just upstream of Rock Spring Road, first crossing upstream of Interstate Highway 24.	*602
			Just upstream of Blair Road	*625
		Olive Branch	Just upstream of Interstate Highway 24, East bound Exit Ramp.	*536
			Just upstream of Lee Road	*554
		West Fork Stones River	Approximately 500 feet upstream of Old Jefferson Pike	*502
			Just downstream of Sulphur Spring Road	*524
			Just upstream of Water Treatment Plant Road	*549
			Just upstream of State Highway 99	*594
			Just downstream of Barfield Road	*616
			Just downstream of Stones River Road	*656
		Overall Creek	Just upstream of Asbury Road	*556
			Approximately 200 feet upstream of State Highway 99	*596
		Puckett Creek	Approximately 500 feet upstream of Franklin Road (State Highway 96).	*596
			Just downstream of State Highway 99 (Eagleville Pike)	*627
		Lytle Creek	Just downstream of Manchester Pike (State Highway 2 and U.S. Highway 41).	*617
			Just upstream of Dilton Road	*648
		Unnamed Tributary of West Fork Stones River.	Just upstream of State Highway 99	*602
		Middle Fork Stones River	Just upstream of State Highway 10 (U.S. Highway 231).	*610
			Just downstream of Elam Mill Road	*631
		East Fork Stones River	Approximately 250 feet upstream of Old Jefferson Pike	*508
			Just downstream of U.S. Highway 231 (Lebanon Pike)	*534
			Approximately 300 feet downstream of Sandford Road	*551
			Just downstream of State Highway 96	*583
		Wades Branch	Approximately 4,000 feet upstream of Barlow Lane	*536
		Bear Branch	Just upstream of Veterans Hospital Road	*547
			Approximately 300 feet downstream of Oakland School Road.	*576
		Bushman Creek	Approximately 500 feet upstream of Osborne Road	*582
			Approximately 200 feed downstream of State Highway 96.	*588
		Bradley Creek	Just upstream of Browns Mill Road	*564
			Just downstream of State Highway 96 (Jefferson Pike)	*580
		East Branch Hurricane Creek	Just upstream of Paul Road (which is located just upstream of Interstate Highway 24).	*608

Maps available for inspection at Rutherford County Executive's Office or Building Commission Office, Rutherford County Courthouse, Maple Street, Murfreesboro, Tennessee 37130.
Send comments to John Manlon, Rutherford County Executive or Mr. Lloyd Hall, Building Commissioner, Rutherford County Courthouse, Maple Street, Murfreesboro, Tennessee 37130.

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Tennessee	Unincorporated areas of Wilson County	Bartons Creek	Just upstream of Coles Ferry Pike (FAS 6300)	*458
			Approximately 400 feet downstream of Hartman Drive	*[illegible]
			Just upstream of Hartman Drive	*[illegible]
		Stoners Creek	Just upstream of Tuckers Gap Road	*547
			Approximately 300 feet downstream of Baptist Church Road	*514
		Cedar Creek	Just downstream of Rutland road	*[illegible]
			Approximately 200 feet upstream of U.S. Highway 70 and State Highway 24	*477
			Just downstream of Louisville and Nashville Railroad	*520
		Spring Creek	Just downstream of Leeville Road	*[illegible]
			Approximately 200 feet downstream of Belotes Ferry Road	*[illegible]
			Approximately 100 feet downstream of State Highway 141 (Lebanon Hartsville Pike)	*501
			Approximately 100 feet upstream of Interstate Highway 40	*[illegible]
			Approximately 500 feet upstream of Louisville and Nashville Railroad	*[illegible]
		Suggs Creek	Approximately 400 feet downstream of Mount Juliet Road	*516
			Just upstream of Mires Road	*545
			Approximately 100 feet downstream of Underwood Road	*565
		Sinking Creek	Approximately 500 feet downstream of Sewage Plant road (extended)	*521
			Approximately 400 feet upstream of Interstate Highway 40	*575
		Cumberland River	Just downstream of Stumpy Lane	*[illegible]
			Just upstream of the confluence of Cumberland River and Spencer Creek	*452
			Just downstream of State Highway 2317	*459

Maps available for inspection at Planning Office, Wilson County Courthouse, Lebanon, Tennessee 37087.

Send comments to Mr. Don Simpson, County Executive, or Mr. Sam Edwards, Director of Planning Department, Wilson County Courthouse, Lebanon, Tennessee 37087.

Texas	Unincorporated areas of Bexar County	West Fork Olmos Creek	Just upstream of Huebner Road	*[illegible]
		Olmos Creek	Approximately 550 feet upstream of DeZavalla Road	*[illegible]
			Approximately 180 feet upstream of George Road	*[illegible]
			Just upstream of DeZavalla Road	*[illegible]
		Martinez Creek	Approximately 150 feet downstream of F.M. 1604	*[illegible]
			Approximately 500 feet upstream of Schuwirth Road	*[illegible]
			Approximately 200 feet upstream of Benz-Englemen Road	*641
		Salitrillo Creek	Just upstream of FM 78	*[illegible]
		West Salitrillo Creek	Just upstream of FM 1976	*[illegible]
			Approximately 100 feet downstream of FM 1516	*[illegible]
		Calaveras Creek	Just upstream of Southern Pacific Railroad	*696
			Just upstream of U.S. Highway 87	*597
		Indian Creek	Just downstream of Triple Trees Road	*[illegible]
			Just upstream of Somerset Road	*[illegible]
		Medio Creek	Just upstream of U.S. Highway 81	*[illegible]
			Approximately 200 feet upstream of U.S. Highway 90	*[illegible]
		Caracol Creek	Approximately 150 feet upstream of FM 1957	*797
			Approximately 200 feet upstream of Talley Road	*[illegible]
		Slick Ranch Creek	Just downstream of FM 1604	*[illegible]
		Helotes Creek	Just upstream of FM 1957	*782
			Just downstream of Leslie Road (downstream crossing)	*914
		Los Reyes Creek	Approximately 150 feet upstream of Wagner Road	*1,088
			Just downstream of State Highway 16 (downstream-most crossing)	*1,095
			Just downstream of State Highway 16 (upstreammost crossing)	*1,236
		Culebra Creek	Approximately 170 feet upstream of State Road 471	*800
			Approximately 150 feet downstream of Loop 1604	*857
			Just upstream of Leslie Road	*866
		Rosillo Creek	Approximately 300 feet downstream of Galm Road	*[illegible]
			Approximately 250 feet upstream of Benz-Englemann Road	*[illegible]
		Huesta Creek	Approximately 80a feet upstream of San Antonio Corporate Limits (Approximately 11,650 feet above mouth)	*[illegible]
		Salado Creek	Approximately 200 feet upstream of West Avenue	*806
		French Creek	Approximately 500 feet upstream of Blanco Road	*848
			Just downstream of San Antonio corporate limits (Approximately 22,200 feet above mouth)	*916
		Leon Creek	Just downstream of U.S. Highway 81	*811
		Huebner Creek	Approximately 90 feet upstream of Heath Road	*798
		Mud Creek	Just upstream of Timber Hill	*[illegible]
			Approximately 200 feet downstream of Jones Meitzburger Road	*812

PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		San Antonio River	Just downstream of San Antonio Corporate Limits (Approximately 2,400 feet downstream of Interstate highway 410).	*510
		Tributary A of Culebra Creek	Approximately 70 feet upstream of Timberwilde Drive	*618
			Just upstream of Tezel Road	*639
Maps available for inspection at Bexar County Department of Public Works, County Courthouse, San Antonio, Texas 78205.				
Send comments to Judge Albert Vustamante or Mr. Robert Tomasini, Bexar County Administrator of Public Works, or Mr. Bill Holchak, Assistant to the Commissioners, Bexar County Courthouse, San Antonio, Texas 78205.				
Texas	City of China Grove, Bexar County	Calaveras Creek	Just downstream of FM 1516	*641
Maps available for inspection at Hero's Ice and Feed Store, Highway 87E and Real Road, China Grove, Texas.				
Send comments to Mayor John Passano or Mr. Louis H. Heimer, City Councilman, P.O Box 367, Adkins, Texas 78101.				
Texas	Pearland, City Brazoria and Harris Counties	Clear Creek	Downstream corporate limits	*33
			Country Club Drive (upstream side)	*40
			Confluence of Hickory Slough	*45
			Upstream corporate limits	*48
		Marys Creek	Downstream corporate limits	*32
			John Luzer Road	*47
			Upstream corporate limits	*51
		Marys Creek By-Pass Channel	Downstream corporate limits	*32
			Confluence with Marys Creek	*43
Maps available for inspection at the City Hall, Pearland, Texas.				
Send comments to Honorable Thomas J. Reid, Mayor of the City of Pearland, P.O. Box 1157, Pearland, Texas 77581.				
Utah	Cedar City (city) Iron County	Coal Creek	At the intersection of Creek and 100 East Street	*5,790
		Cross Hollow	At the intersection of LUND Highway and Cross Hollow Road.	#1
		Dry Canyon	At the intersection of 1050 North Street and 400 West Street.	#1
		Fiddlers Canyon	Approximately 3,000 feet North along State Highway 130 from its intersection with Fiddlers Canyon Road.	#1
		Stephens Canyon	At the intersection of North Field Road and 1750 North Street	#1
Maps available for inspection at the Building Inspector's Office, 110 N. Main, Cedar City, Utah.				
Send comments to Honorable Robert Linford, 110 N. Main, Cedar City, Utah 84720.				
Utah	St. George (city) Washington County	Virgin River	250 feet upstream from center of Interstate Highway 15.	*2,529
		Santa Clara River	200 feet upstream from center of Valley View Drive	*2,633
		Fort Pierce Wash	At the intersection of Creek and Fort Pierce Drive	*2,565
		Sand Hollow Wash	150 feet upstream from center of 2000 North Street	*2,821
		Halfway Wash	50 feet upstream from center of Dixie Downs Road	*2,710
		Middleton Wash	150 feet upstream from center of Middleton Drive	*2,865
Maps available at the City Engineer's Office, 175 E. 200 North, St. George, Utah.				
Send comments to Honorable Karl F. Brooks, 175 E. 200 North, St. George, Utah 84770.				
Washington	Snoqualmie (town), King County	Snoqualmie River	At the intersection of King Street and North Maple Avenue.	*422
Maps available for inspection at the Town Hall, 109 River Street, Snoqualmie, Washington.				
Send comments to the Honorable Darwin Sukut, P.O. Box 337, Snoqualmie, Washington 98065.				
West Virginia	Clendenin, town, Kanawha County	Elk River	Downstream corporate limits	*629
			Confluence of Big Sandy Creek	*630
			Upstream corporate limits	*630
		Big Sandy River	Confluence with Elk River	*630
			Upstream corporate limits	*630
Maps available for inspection at the Mayor's Office, Town Hall, Maywood and 1st Avenues, Clendenin, West Virginia.				
Send comments to Honorable Paul Beighle, Mayor of the Town of Clendenin, Town Hall, P.O. Box 638, Clendenin, West Virginia 25405.				
West Virginia	Handley, town, Kanawha County	Kanawha River	Upstream corporate limits	*620
			Upstream of London Lock and Dam No. 3	*618
			Downstream corporate limits	*616
		Upper Creek	Upstream corporate limits	*736
			Confluence with Kanawha River	*620
		Lower Creek	Upstream corporate limits	*745
			Confluence with Kanawha River	*618
Maps available for inspection at the Town hall, Route 61, Handley, West Virginia.				
Send comments to Honorable Paul Evans, Mayor of the Town of Handley, P.O. Box 100, Handley, West Virginia 25102.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: October 24, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-29480 Filed 10-31-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 31026-209]

Foreign Fishing, Groundfish of the Gulf of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA). Commerce.

ACTION: Proposed rule-related notice; 1984 initial specifications for groundfish, request for comments.

SUMMARY: NOAA proposes 1984 initial specifications for apportionment of optimum yield (OY) for each species of Gulf of Alaska groundfish among the domestic annual processing (DAP), joint venture processing (JVP), reserves, and total allowable level of foreign fishing (TALFF). This action is necessary to provide the pubic with the Secretary's preliminary determination of the amounts of initial apportionments and to obtain the public's comments on the appropriateness of those apportionments. On the basis of the comments received, the Secretary will make 1984 initial apportionments providing for proper and full utilization of the groundfish resources.

DATE: Comments on the notice are invited until December 1, 1983.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Janet Smoker (Fishery Biologist, NMFS, Alaska Region), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields (OYs) for various groundfish species are established by the FMP for Groundfish of the Gulf of Alaska. This FMP was developed under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by rules appearing at 50 CFR 611.92 and Part 672. The OYs are apportioned initially among DAP, JVP, reserves, and TALFF under 50 CFR 672.20 and 611.92(c).

DAP amounts are intended for harvest by United States (U.S.) fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. The reserves are for reapportionment to DAP and/or to JVP if those amounts are under specified. Reserves not reapportioned to DAP or JVP are for reapportionment to TALFF.

Under § 672.20(a)(2), the Secretary is required to publish this notice to propose the 1984 initial apportionments of the OYs among DAP, JVP, reserves, and TALFF. The proposed apportionments of DAP and JVP are the amounts harvested during 1983 plus additional amounts the Secretary has determined will be harvested by the U.S. industry (see table of 1983 U.S. harvests and 1984 proposed apportionments). These additional amounts reflect as accurately as possible the projected increases in U.S. processing and harvesting capacity and the extent to which U.S. processing and harvesting will occur during the coming year. Public comment on these amounts are invited by the Secretary untill [insert date 30 days after filing with Office of the Federal Register). In light of comments received, the Secretary will publish a second rule-related notice in the **Federal Register** by January 1 prescribing the initial apportionment of each OY among DAP, JVP, reserves, and TALFF. These amounts will replace the corresponding amounts for 1983 in § 672.20, Table 1, a revised version of which will be published as part of the notice.

TABLE OF 1983 ESTIMATED U.S. HARVESTS AND PROPOSED 1984 GULF OF ALASKA GROUNDFISH OY APPORTIONMENTS AMONG DOMESTIC ANNUAL PROCESSING (DAP) AND JOINT VENTURE PROCESSING (JVP), RESERVES AND TOTAL ALLOWABLE LEVEL OF FISHING (TALFF)

[All figures in metric tons]

Species, areas	OY	1983 estimated harvests		1984 proposed apportionments		Reserve	TALFF
		DAP	JVP	DAP	JVP		
Pollock:							
Western [1]	57,00	25	400	230	300	11,400	45,070
Central [1]	143,00	100	132,500	19,080	104,000		
Eastern [1]	16,600					3,320	8,280
Total	216,600					14,720	58,350
Pacific cod:							
Western	16,560	500	1,000	500	250	3,312	12,498
Central	33,540	4,680	2,700	11,650	8,621	6,708	6,529
Eastern	9,900	50		120		1,980	7,800
Total	60,000					12,000	26,825
Flounders:							
Western	10,400		700			2,080	8,320
Central	14,700	300	800	102	8,630	2,940	7,028
Eastern	8,400	300		60		1,680	6,600
Total	33,500					6,700	22,018
Pacific ocean perch [2]:							
Western	2,700		1,800		2,300	400	
Central	7,900	100	900	622	4,100	1,580	1,398
Eastern	875	50		469		175	240
Total	11,475					2,155	1,638
Other rockfish [3] (total)	7,600	200	300	374		1,500	5,726
Sablefish [4]:							
Western	1,670	120	150		1,100	334	256
Central	3,060	286	50	1,060	1,100	612	256
West Yakutat District [5]	1,590	300		530		306	514
East Yakutat District [5]	900	300		850-1,135		N/A	N/A
Southeast Outside [5]	470-1,435	2,100		470-1,435		N/A	N/A
Total	7,730-8,980					1,252	1,306
Atka mackerel:							
Western	8,670		750		400	936	3,342
Central	20,830		50			4,167	13,486
Eastern	2,190					657	2,548
Total	29,700					5,740	21,380
Squid (total)	5,000				10	1,000	3,990
Thornyhead rockfish (total)	3,750				50	750	2,950
Other Species [6] (total)	75,100			50	300	15,020	59,730

[1] See figures 1 of section 672.20 for description of regulatory areas and districts.

[2] The category "Pacific ocean perch" includes *Sebastes* species. *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).

[3] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined in footnote 2 above and *Sebastolobus* (thornyhead rockfish).

[4] Excludes values for the Southeast Inside District, which is not governed by these regulations.

[5] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus. The OY is equal to 80% of the target species OYs, the high end of the OY range for sablefish is used in its calculation.

To best determine the intentions of the U.S. industry, the Alaska Regional Director of the National Marine Fisheries Service (Regional Director) conducted a survey during August and September 1983 to determine preliminarily the amounts of groundfish that U.S. processors intend to process or that domestic fishermen intend to deliver to foreign processors in joint ventures. The North Pacific Fishery Management Council (Council) reviewed the results of this survey at its September 28–29, 1983, meeting and recommended to the Regional Director preliminary apportionments of the OYs for 1984. The apportionments proposed by the Secretary by this notice are the same as those recommended by the Council with the following exceptions:

1. Rather than the zero amounts recommended by the Council, the Secretary is proposing DAP and JVP amounts for "other species" of 50 mt and 300 mt, respectively, and JVP amounts for thornyhead rockfish and squid of 50 mt and 10 mt respectively. These proposed amounts are estimates of the by-catches of those species in target fisheries for other fish.

2. The Council's recommendation for apportionments of the Central Regulatory Area pollock OY agreed with the survey results, which indicated DAP and JVP apportionments should be 19,000 mt and 225,000 mt, respectively. The sum of these amounts is 244,000 mt, or 101,000 mt more than the OY. To remain within the OY, DAP and JVP amounts of 19,000 mt and 124,000 mt, respectively, are proposed.

The FMP specifies that 20 percent of the OY for each target species and "other species" category be reserved for reapportionment to foreign or domestic fisheries as the season progresses on the basis of cumulative appraisals of DAH. Under 50 CFR 611.92(c)(ii)(A)(2) and 672.20(c)(ii), reserves may be reapportioned to DAH by the Secretary on such dates as he determines necessary. Under 50 CFR 611.92(c)(ii)(C)(4)(i) and 672.20(c)(iv)(A)(3), comments are invited on the proposed reapportionment when the Secretary determines that reapportionment is required on dates other than those specified. A survey shows that U.S. fishermen intend to harvest certain species in excess of the initial specifications of DAP and JVP that would result if a full 20 percent reserve were established. Accordingly, the Secretary makes these findings: (1) The entire reserve for pollock in the Central Regulatory Area will be harvested by U.S. fishermen and is reapportioned to JVP, effective January 1, 1984; (2) 140 mt of the reserve for Pacific Ocean perch in the Western Regulatory Area will be harvested by U.S. fishermen and is reapportioned to JVP, effective January 1, 1984, and (3) reserves for sablefish in the East Yakutat and Southeast Outside districts are not applicable, because no foreign fishing is permitted in these districts."

Comments are invited on these proposed apportionments. Any additional information on the actual plans for harvesting and processing U.S.-caught groundfish will be considered by the Secretary when making the final OY apportionments.

Other Matters

This action is taken under 50 CFR 611.92(C) and 672.20 and complies with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

Dated: October 26, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29570 Filed 10-27-83; 11:37 am]

BILLING CODE 4160-16-M

Notices

Federal Register
Vol. 48, No. 212
Tuesday, November 1, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Routt National Forest Grazing Advisory Board; Meeting

The Routt National Forest Grazing Advisory Board will meet November 22, 1983, at 10:00 a.m. at the Yampa Valley Electric Association building, Steamboat Springs, Colorado.

The Agenda for the meeting will include: (1) Review range improvement needs on selected areas: (2) a discussion of the projects planned for FY 1984 utilizing range betterment funds; (3) discuss and receive advice and recommendations for the utilization of range betterment funds and development of allotment management plans for FY's 1985 and 1986.

The meeting will be open to the public. Persons who wish to attend and participate should notify Jim Webb, Routt National Forest (303–879–1722) prior to the meeting. Public members may participate in discussions during the meeting at any time or may file a written statement following the meeting.

Dated: October 24, 1983.

Jack Weissling,

Forest Supervisory.

[FR Doc. 83–29568 Filed 10–31–83; 8:45 am]

BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

[Order 83–10–41, Docket 41753]

Application of AFC International

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order of show cause.

SUMMARY: The Board proposes to deny authority to operate as a foreign freight forwarder in interstate and overseas air transportation to AFC International Co., a foreign air freight forwarder owned by a Romanian citizen, because the Government of Romania does not allow U.S. citizens to operate between Romanian domestic points.

Objections: All interested persons having objections to the Board's tentative findings and conclusions as described in the order cited above, shall, no later than November 3, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Ambassador of Romania in Washington, D.C., and to the Departments of State and Transportation.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board may enter an order which would make final the Board's tentative findings and conclusions and deny the requested foreign freight forwarder registration to the applicant.

ADDRESSES:

Docket 41753, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

AFC International Co., c/o Constantin Florescu, 99 East First Street, Clifton, New Jersey 07011

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Dean L. Johnson, (202) 673–5134, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: October 11, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–29610 Filed 10–31–83; 8:45 am]

BILLING CODE 6320–01–M

[Docket No. 41639]

Frontier Horizon, Inc.; Fitness Investigation; Notice of Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communication should be addressed to him.

Dated Washington, D. C., October 26, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83–29609 Filed 10–31–83; 8:45 am]

BILLING CODE 6320–01–M

[Docket No. 40350]

North Pacific Airlines Fitness Investigation; Reopened Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a reopened hearing in the above-titled matter will commence on November 15, 1983, at 10:00 a.m. (local time), in Room 1012, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., October 26, 1983.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 83–29608 Filed 10–31–83; 8:45 am]

BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Collection of Information under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35).

SUMMARY: The Civil Aeronautics Board is requesting the Office of Management and Budget's approval of collection of information in Part 201 of the Board's Economic Regulations which establishes procedures for applications for certificates of public convenience and necessity for U.S. carriers to engage in air transporation, as required by section 401 of the Federal Aviation Act of 1958, as amended.

DATED: October 21, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–6042.

SUPPLEMENTARY INFORMATION: Agency clearance officer from whom a copy of the collection of information and supporting documents are available: Robin A. Caldwell (202) 673–5922—

How often the collection of information must be filed: On occasion
Who is asked or required to report: U.S. Air Carriers
Estimate of number of annual responses: 16
Estimate of number of annual hours needed to complete the collection of information: 1,440

List of Subjects in Part 201

Air carriers.

Phyllis T Kaylor,

Secretary.

[FR Doc. 83-29611 Filed 10-31-83; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 7:30 p.m. and will end at 9:30 p.m. on November 15, 1983, at Dekoven Community Center, 27 Washington Street, Middletown, Connecticut 06457. The purposes of the meeting are to discuss followup steps to the report on battered women and develop plans for a study of civil rights enforcement in the block grant program.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Judith H. Holmes, 24 Towne House Lane, Wethersfield, Connecticut 06109; (203) 247–9211, or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110; (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 26, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-29475 Filed 10-31-83; 8:45 am]
BILLING CODE 6335-01-M

Maine Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 6:00 p.m. and will end at 8:30 p.m. on November 30, 1983, at the Maine Teachers Association, 35 Community Drive Augusta, Maine 04330. One purpose of the meeting is to discuss with representatives from the private and public sectors the civil rights aspects of the opening of a ship refitting facility in Portland. The Committee will also discuss the status of Maine's civil rights bill, the Committee's block grant study, and the State Education Department's survey of educational programs for refugees and immigrants.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Lois G. Reckitt, 38 Myrtle Avenue, South Portland, Maine 04106; (207) 775–1451, or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110; (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 26, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-29643 Filed 10-31-83; 8:45 am]
BILLING CODE 6335-01-M

Massachusetts Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 6:00 p.m. on November 21, 1983, at U.S. Commission on Civil Rights, New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110. The purpose of the meeting is to discuss a proposed conference on affirmative action and other program ideas for the coming year.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Bradford E. Brown, 17 Roberta Jean Circle, P.O. Box 95, East Falmouth, Massachusetts 02536; (617) 548–5123, or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110; (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 25, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-29476 Filed 10-31-83; 8:45 am]
BILLING CODE 6335-01-M

New Hampshire Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 7:30 p.m. and will end at 9:30 p.m. on November 17, 1983, at the Merrimack College, RFD No. 4, Hackett Hill Road, Manchester, New Hampshire 03102. The purposes of this meeting are to discuss followup steps to the report on language minority students in Manchester and to develop plans for a study of civil rights enforcement in the block grant program.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Andrew T. Stewart, Moose Mountain, Enfield, New Hampshire 03748; (603) 523–4882, or the New England Regional Office, 55 Summer Street, 8th Floor Boston, Massachusetts 02110; (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 25, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-29644 Filed 10-31-83; 8:45 am]
BILLING CODE 6335-01-M

Florida Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provision of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee of the Commission will convene at 1:00 p.m. and will end at 6:00 p.m., on Nobember 21, 1983, at the Airport Regency Hotel, 100 N.W. 42nd Avenue, Miami, Florida 33126. The purpose of this meeting is to discuss followup plans for the Confronting Racial Isolation in Miami project and the State Advisory Chairpersons' conference.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Teresa Saldise, 815 South West 13th Court, Miami, Florida 33135, (305) 856–1363; or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Rm. 362 Atlanta, Georgia 30303, (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 27, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-29800 Filed 10-31-83; 8:45 am]
BILLING CODE 6335-01-M

Ohio Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 3:00 p.m. and again at 6:30 p.m. until 9:00 p.m. on November 14, 1983, at the Holiday Inn City Centre, 4th and Town Street, Columbus, Ohio. The purposes of the meetings are to receive a report on the status of the project on educational, equity for Hispanic students and to discuss the feasibility of a project on energy and civil rights implications.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Marian Spencer, 940 Lexington Avenue, Cincinnati, Ohio 45229, (513) 221-5656; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353-7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 27, 1983.

John I. Brinkley,

Advisory Committee Management Officer.

[FR Doc. 83-29589 Filed 10-31-83; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Intex et al.; Export Trade Certificates of Review

The Department of Commerce issued the first Export Trade Certificates of Review ("Certificates") under the Export Trading Company Act of 1982. Two certificates were awarded to two small businesses and a third to a consortium consisting of four individual firms and an agricultural association. These Certificates protect the holders from private treble damage actions and government suits under U.S. antitrust laws for their certified activities.

Intex International Trading Company, Inc., a Connecticut corporation ("Intex") will represent a group of several specialized consulting engineering firms for the purpose of competing overseas. Intex' certificate will allow Intex and its clients to exchange confidential business information while preparing bids on overseas projects.

International Marketing and Procurement Services, Inc. ("IMPS"), a Pennsylvania corporation, acts as a representative for U.S. manufacturers of sports and leisure equipment and services in the Middle East, Europe, Australia and the Far East. IMPS was certified to enter into exclusive sales and foreign distributorship agreements, to fix prices for exports, to allocate quantities for export and export markets among U.S. manufacturers and to refuse to deal with foreign competitors in the export markets

U.S. Farm-Raised Fish Trading Company, Inc., a Mississippi corporation ("Catfish") will engage in the export sale of farm-raised catfish in Europe and the Far East. This certificate protects the horizontal and vertical integration of domestically competitive catfish farmers and processors. Catfish was certified to fix purchase and export sale prices for its members, and to market through exclusive dealing arrangements with its members.

These companies are the first exporters to reduce antitrust uncertainties under a program provided by Title III of the Export Trading Company Act of 1982. Upon signing the Act into law a year ago, President Reagan stated:

> The Bill removes impediments to trade and permits companies to sell American products overseas more efficiently and effectively. It is an innovative idea based on team work and is designed to encourage joint efforts by manufacturers, export management companies, banks, freight forwarders, and others to enter foreign markets. More companies will seek the world of exports when they realize that government is not an adversary. It is your partner.

These first certificates symbolize this concept. Their holders represent the thousands of small and medium sized firms Secretary Baldrige has referred to as:

> Producing goods and services that are competitive overseas but are inhibited from exporting by their unfamiliarity with foreign markets, customers and laws. Individually they can't afford the costs and risks to develop the necessary expertise to penetrate those markets.

Armed with the protection of these certificates and benefiting from the economies of joint activity, IMPS, INTEX and CATFISH have the opportunity to compete on an equal footing with their counterparts in other countries.

Exporters will be interested in these first Certificates in order to learn what conduct is being granted immunity from Federal and State antitrustlaws. The presence of restrictions in a certificate does not necessarily mean that it is the Department of Commerce's or Justice's view that activities beyond those restrictions could not be certified under the Export Trading Act. Restrictions and conditions in a certificate may well result from the applicant's own plans or wishes. For example, the consulting engineers represented by INTEX are non-competing and each has no more than $100 million in annual gross billings. These conditions were not imposed on the applicant by Commerce or Justice but rather were contained in INTEX' description of its business operation in the application. Restrictions and conditions will be applied on a case by case basis where appropriate, rather than as a general rule.

Of particular note is a restriction in the Certificates which states that "this does not apply to sales to the United States Government or to any sale more than half of the cost of which is borne by the United States Government." The mere fact that unrestricted government-to-government foreign assistance ultimately is used to pay all or part of the price of goods or services sold in export trade will not exclude a transaction from protections a certificate would otherwise provide. Neither will the fact that the sale is financed by the Export-Import Bank exclude a transaction from the protections a certificate would otherwise provide.

For further information regarding the subject of this press release, please contact the Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230, Mr. Charles S. Warner, Director, 202/377-5131.

This office offers pre-application counselling for exporters who wish to apply for an export trade certificate of review.

Dated: October 26, 1983.

Irving P. Margulies,

Deputy General Counsel.

[FR Doc. 83-29582 Filed 10-31-83; 8:45 am]
BILLING CODE 3510-DR-M

Intex; Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of export trade certificates of review.

SUMMARY: The Department of Commerce has issued export trade certificates of review to International Marketing and Procurement Services, Inc. (IMPS), U.S. Farm-Raised Fish Trading Company, Inc. (Company), and Intex International Trading Company, Inc. (Intex). This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department request public comments on these certificates. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to the applications as "Export Trade Certificate of Review, application number 83–00002, 83–00004 and/or 83–00008."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, Intenational Trade Administration, 202/377–5131, or Eleanor Roberts Lewis, Assistant General Council for Export Trading Companies, Office of General Counsel, 202/377–0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97–290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act can be found at 48 FR 10596–10604 (March 11, 1983) (to be codified at 15 CFR Part. 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and government criminal and civil suits under federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant;
2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant;
3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant; and
4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meets these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–40 (April 13, 1983).

Description of Certified Conduct

IMPS—Application No. 83–00002

The Office of Export Trading Company Affairs received an application for an export trade certificate of review from IMPS on June 9, 1983. The application was deemed submitted on June 13, 1983. A summary of the application was published in the **Federal Register** on June 24, 1983 (48 FR 29034–35 (1983)). Based on analysis of the information contained in the application, the response to supplementary questions, and other information in their possession, the Department of Commerce has determined, and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by IMPS meet the four standards of the Act:

Export Trade

Sports and Leisure Equipment and Services (all sporting and athletic goods and goods that are intended as part of or are supplied to a recreation center or sports complex, including outdoor and public building furniture intended for a recreation center or sports complex; and the custom design and installation of Sports and Leisure Equipment and the provision of services that are intended as part of or are supplied to a recreation center or sports complex, such as the development, design, installation and management of sports and recreation facilities or programs on a "turn-key" basis or otherwise).

Export Markets

The Middle East (including Saudi Arabia, Oman, Kuwait, Bahrain, the United Arab Emirates, Qatar, Jordan, Iraq, Lebanon, Egypt, Sudan, Morocco and Syria); Europe (including the United Kingdom, Ireland, France, Belgium, the Netherlands, Germany, Switzerland, Greece, Itlay, Spain, Portugal, Denmark, Finland, Norway, Sweden, Austria, Poland, Czechoslovakia, and Yugoslavia); thje Far East (including China, Taiwan, Japan, Korea, the Phillippines, Indonesia, and Hong Kong); and Australia.

Export Trade Activities and Methods of Operation

(a) To enter into any number of non-exclusive agreements with U.S. manufacturers and suppliers ("Suppliers") or with buyers in the Export Markets to act as a Sales Representative or Broker. IMPS may enter into such agreements with Suppliers regardless of whether the Suppliers produce or sell similar or substitutable Sports and Leisure Equipment and Services.

(b) To enter into agreements with Suppliers wherein: as

(1) IMPS agrees to serve as the exclusive Sales Representative and , in addition, may agree not to represent any competitors of such Supplier unless authorized by Supplier; or

(2) The Supplier agrees not to sell, directly or indirectly through any other intermediary, into the Export Markets in which IMPS exclusively represents the Supplier and, if such sales do occur, to pay a commission to IMPS; or

(3) Both (1) and (2) above.

(c) To enter into nonexclusive agreements appointing distributors or sales agents in the Export Markets.

(d) To enter into exclusive agreements with persons in the Export Markets (including distributors and sales agents), wherein (1) IMPS agrees to deal in the Export Markets only through that person, or (2) that person agrees not to represent IMPS's competitors in the Export Markets or not buy from IMPS's competitors, or both (1) and (2).

(e) For itself or on behalf of Suppliers, to engage in any or all of the following activities as part of or in conjunction with or independent of Export Trade Services, whether by agreement with one or more Suppliers, with its distributors or agents in the Export Markets, or with Suppliers' distributors or agent in the Export Markets, or on the basis of its own determination:

(1) To establish prices at which Sports and Leisure Equipment and Services will be sold in the Export Markets,

(2) To establish quantities of Sports and Leisure Equipment and Services to be sold in the Export Markets,

(3) To allocate the foreign markets, territories or customers among such Suppliers and their distributors or agents in the Export Markets or among its distributors or agents in the Export Markets, or

(4) To refuse to quote prices or to market or sell such Sports and Leisure Equipment and Services to foreign purchasers in competition with IMPS in the Export Markets.

(f) To enter into exclusive or non-exclusive agreements with individual buyers in the Export Markets which agreements provide that IMPS will act as a Procuring Agent with respect to a particular transaction.

For purposes of this certificate, the following terms are defined:

(a) "Export Trade Services"—consulting, international market research; advertising, marketing, insurance, product research and design exclusively for export, transportation, trade documentation and freight forwarding, communication, processing, foreign orders, foreign exchange, financing, taking title to goods, providing warehouse facilities, buying, selling and assembling for export and appointing distributors or sales agents in the Export Markets.

(b) "Suppliers"—U.S. manufacturers and suppliers.

(c) "Sales Representative"—an intermediary who represents the Supplier in the Export Markets and who, in so acting, offers, provides or engages in some or all Export Trade Services.

(d) "Broker"—an intermediary who locates buyers in the Export Markets for the Supplier or who locates Suppliers of Sports and Leisure Equipment and Services for buyers in the Export Markets on a straight commission or cost-plus commission basis and who, in so acting, offers, provides or engages in some or all Export Trade Services.

(e) "Procuring Agent"—an intermediary who identifies and locates Sports and Leisure Equipment and Services for purchase, gives advice on or chooses among prospective Suppliers, advises on or negotiates prices, quantity and other purchase terms and conditions, and purchases for its own account or for the account of others Sports and Leisure Equipment and Services and who, in so acting, offers, provides or engages in some or all Export Trade Services.

Company—Application No. 83–00004

The office of Export Trading Company Affairs received an application for an export trade certificate of review from the Company on June 9, 1983. The application was deemed submitted on June 13, 1983 and a summary of the application was published in the **Federal Register** on June 24, 1983 (48 FR 10595–604 (1983)). Based on analysis of the information contained in the application, the response to supplementary questions, and other information in their possession, the Department of Commerce has determined, and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by the Company meet the four standards of the Act:

Export Trade

Live or processed farm-raised catfish.

Export Markets All parts of the world except the United States.

Export Trade Activities and Methods of Operation

1.The Company will purchase live or processed catfish for export from its member catfish processing organizations, and will set purchase prices and allocate export orders among its member processors through a sealed bid procedure or a rotating bid system (in which the export orders would be allocated to one or more of the member processors in turn), or some combination of these two procedures.

2. The Company will set export prices and market the catfish in the Export Markets directly or indirectly through export intermediaries, on exclusive or nonexclusive basis.

3. The Company may enter into agreements with its member processors that prohibit them from exporting independently of the Company, either directly or indirectly through other export intermediaries.

4. The member processors may agree to export exclusively through the Company and may refuse to deal with other export intermediaries.

5. The Company may prescribe the following conditions for withdrawal of members from the Company: The withdrawing member must offer to sell its common stock to the Company at book value for 30 days, and after 30 days, for an additional 30 days to any other member of the Company. After the second 30-day period, the shares may be sold to anyone.

Intex—Application No. 83–00008

The Office of Export Trading Company Affairs received an application for an export trade certificate of review from Intex on June 15, 1983. The application was deemed submitted on June 20, 1983, and a summary of the application was published in the **Federal Register** on July 6, 1983 (48 FR 31060 (1983)). Based on analysis of the information contained in the application, the response to supplementary questions and other information in their possession the Department of Commerce has determined and the Department of Justice concurs, that the following export trade, export trade activities, and methods of operation specified by Intex meet the four standards of the Act:

Export Trade. Consulting engineering services.

Export Markets. All parts of the world except the United States

Export Trade Activities and Methods of Operation. Intex will facilitate the export of consulting engineering services performed by U.S. firms by seeking to identify suitable overseas projects in which some or all of its client base of up to 15 noncompeting U.S. consulting engineering firms could participate. The services Intex may provide to its clients include elaborating on the Terms of Reference and scope of work, assisting in preparing a response to the project originator, assisting in the preparation and submission of the complete proposal, and monitoring the selection process until the contract has been awarded. Subject to certain limitations, Intex may provide its services to non-client consulting engineering firms.

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.5(c), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.10(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

A copy of the certificates will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001–B, U.S. Department of Commerce, 14th street and Constitution Avenue, N.W., Washington, D.C. 20230. The certificates may be inspected and copied in accordance with regulations published in 15 CFR Part 4. Information about the inspection and copying of records at this facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Dated: October 26, 1983.

Irving P. Margulies,

Deputy General Counsel.

[FR Doc. 83-29583 Filed 10-31-83; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Taking and Importing of Marine Mammals; Modification No. 1 to Permit No. 359

Notice is hereby given that pursuant to § 216.33(D) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 359 issued to Dr. John L. Bengtson, Department of Ecology and Behavioral Biology, University of Minnesota, on November 30, 1981 (46 FR 59283), is modified to extend the period of authorized taking for two years.

Accordingly, Section B-3 is deleted and replaced by:

"3. This permit is valid with respect to the taking authorized herein until December 31, 1985."

This modification becomes effective upon publication in the **Federal Register.**

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: October 27, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource, National Marine Fisheries Service.

[FR Doc. 83-29607 Filed 10-31-83; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of Public Meeting.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), will meet to discuss: reports of the lobster, bluefish, surf clam, foreign fishing and groundfish oversight committees; reports on the Mid-Atlantic Council meeting and Joint Executive Committee meeting, the Chairmen/Executive Directors' meeting, Northeast Statistical Technical Committee meeting, NMFS Squid Hearings and PCB meeting in New Jersey; as well as other fishery management and administrative matters.

DATES: The meeting will convene on Wednesday, November 9, 1983 at approximately 10.00 a.m. and adjourn on Thursday, November 10, 1983 at approximately 5:00 p.m. The meeting may be lengthened or shortened, or agenda items rearranged, depending on progress on the agenda.

ADDRESS: The meeting will take place at Howard Johnson's Motor Inn, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Rte. 1), Saugus, Massachusetts 01906, Telephone: 617-231-0422.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: October 27, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29602 Filed 10-31-83; 8:45 am]

BILLING CODE 3510-22-M

Deep Seabed Mining—Receipt of Amendments to Applications for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of receipt of amendments to applications for Deep Seabed Mining Exploration Licenses.

SUMMARY: On June 25, 1982, the National Oceanic and Atmospheric Administration (NOAA) published a notice, at 47 FR 27583, that it had received two applications from the Kennecott Consortium (KCON), 1515 Mineral Square, Salt Lake City, Utah 84147 for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. On September 16, 1983 and October 13, 1983 KCON filed amendments to its applications withdrawing certain areas of the deep seabed previously included in the application area and adding new areas not previously included in the application. The amendments reduce the size of the area included in one application from 150,000 km² to 73,000 km², and reduce the size of the second application area from 150,000 km² to 118,000 km². Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the materials relevant to these amendments and to provide comments to NOAA by January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Laurence J. Aurbach on Nancy Carter, Division of Ocean Minerals and Energy, Office of Ocean and Coastal Resource Management, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, (202) 653-8257.

Approved:

Dated: October 27, 1983.

Peter L. Tweedt,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 83-29626 Filed 10-31-83; 8:45 am]

BILLING CODE 3510-12-M

Deep Seabed Mining—Receipt of Amendments to Applications for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of receipt of amendments to applications for Deep Seabed Mining Exploration Licenses.

SUMMARY: On June 25, 1982, the National Oceanic and Atmospheric Administration (NOAA) published a notice, at 47 FR 27583, that it has received two applications from the Ocean Mining Associates (OMA), P.O. Box 545, Gloucester Point, VA 23062 for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. On September 12, 1983, OMA filed an amendment to each of its applications withdrawing certain areas of the deep seabed previously included in the application areas and adding new areas not previously included in the application areas. The amendments reduce the size of the area included in one application from 150,000 km² to 88,600 km², and reduce the size of the second application area from 140,600 km² to 82,400 km². Subject to 15 CFR

970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the materials relevant to these amendments and to provide comments to NOAA by January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Laurence J. Aurbach or Nancy Carter, Division of Ocean Minerals and Energy, Office of Ocean and Coastal Resource Management, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, (202) 653–8257.

Approved:

Dated: October 27, 1983.

Peter L. Tweedt,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 83–29627 Filed 10–31–83; 8:45 am]

BILLING CODE 3510–12–M

Deep Seabed Mining—Notice of Receipt of Amendments to Applications for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of receipt of amendment to applications for Deep Seabed Mining Exploration License.

SUMMARY: On June 25, 1982, the National Oceanic and Atmospheric Administration (NOAA) published a notice, at 47 FR 27583, that it had received four applications from Ocean Management, Inc. (OMI), One New York Plaza, New York, N.Y. 10004 for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. On September 19, 1983, OMI filed an amendment to its applications withdrawing certain areas of the deep seabed previously included in the application areas and adding new areas not previously included in the application areas. Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the materials relevant to these amendments and to provide comments to NOAA by January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Laurence J. Aurbach or Nancy Carter, Division of Ocean Minerals and Energy, Office of Ocean and Coastal Resource Management, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, (202) 653–8257.

Approved:

Dated: October 27, 1983.

Peter L. Tweedt,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 83–29628 Filed 10–31–83; 8:45 am]

BILLING CODE 3510–12–M

Deep Seabed Mining; Receipt of Amendments to Applications for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of receipt of amendments to applications for Deep Seabed Mining Exploration Licenses.

SUMMARY: On June 25, 1982, the National Oceanic and Atmospheric Administration (NOAA) published a notice, at 47 FR 27583, that it had received two applications from Ocean Minerals Company (OMCO), 465 N. Bernardo Avenue, Mountain View, California 94043 for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. On August 15, 1983, OMCO filed an amendment to each of its applications to add areas of the deep seabed to its applications. On September 14, 1983, OMCO filed a second amendment consolidating the applications, withdrawing certain areas of the deep seabed included in the application areas and adding new areas not previously included in the application areas. The amendment reduces the total size of the application areas from 299,881 km^2 to 165,506 km^2. Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the materials relevant to these amendments and to provide comments to NOAA by January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Laurence J. Aurbach or Nancy Carter, Division of Ocean Minerals and Energy, Office of Ocean and Coastal Resource Management, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, (202) 653–8257.

Approved:

Date: October 27, 1983.

Peter L. Tweedt,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 83–29629 Filed 10–31–83; 8:45 am]

BILLING CODE 3510–12–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Solicitation of Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China To Include a Review of Trade in Category 352 and Controlling Imports in That Category

October 27, 1983.

(1) Soliciting public comment on bilateral textile consultations with the Government of the People's Republic of China concerning trade in Category 352 and

(2) Controlling imports of cotton underwear in Category 352, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began in October 22, 1983 and extends through January 19, 1984.

A description of the textile categories in terms of T.S.U.S.A. members was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: On October 22, 1983, under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 19, 1983 between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of cotton underwear in Category 352 exported from the People's Republic of China.

Anyone wishing to comment or provide data or information regarding the treatment of Category 352 under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of apparel included in this Category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspecton in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or

information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Under the consultation provision of the bilateral agreement, the People's Republic of China is obligated to limit its exports to the United States of these products during the ninety-day period to the following amount:

Category	90-day level of restraint (Oct. 22, 1983–Jan. 19, 1984)
352	248,521 dozen

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve months following the ninety-day consultation period to the following amount:

Category	12-mo. level of restraint (Jan. 20, 1984—Jan. 19, 1985)
352	735,785 dozen

The United States Government has decided, pending a mutually satisfactory solution, to control imports of cotton textile products in Category 352 for the ninety-day period, at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register**.

In the event the limit established for Category 352 for the ninety-day period is exceeded, such excess amount, if allowed to enter at the end of the restraint period, shall be charged to the level (described above) defined in the agreement for the subsequent twelve-month period.

EFFECTIVE DATE: November 2, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4121).

SUPPLEMENTARY INFORMATION: On August 19, 1983 there was published in the **Federal Register** (48 FR 37685) a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1983. The notice document which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Category 352, which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 352, produced or manufactured in the People's Republic of China and exported during the indicated ninety-day period, in excess of 248,521 dozen.

Walter C. Lenahan,

Chairman, Committee for the Implementation on Textile Agreements.

October 27, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 2, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 352, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on October 22, 1983 and extends through January 19, 1984, in excess of 248,521 dozen.[1]

Textile products in Category 352 which have been exported to the United States prior to October 22, 1983 shall not be subject to this directive.

Textile products in Category 352 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

[1] The level of restraint has not been adjusted to reflect any imports exported after October 21, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924)).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the People's Republic of China and with respect to imports of cotton textile products from the People's Republic of China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-29630 Filed 10-31-83; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Advisory Panel on ROTC Affairs; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following panel meeting:

Name of Panel: Army Advisory Panel on ROTC affairs.

Date of Meeting: November 20–30, 1983.

Place: Secretary of the Army Conference Room (1A1071), Pentagon.

Time:

0800–1630, November 29, 1983
0800–1200, November 30, 1983

Proposed Agenda

The meeting will be conducted in both workshop and general sessions. The Panel will discuss major ROTC issues. This meeting is open to the public. Any interested person may appear before or file statements with the Panel at the time and in the manner permitted by the Panel.

John P. Prillaman,

Major General, GS, Deputy Chief of Staff for ROTC.

[FR Doc. 83-29592 Filed 10-31-83; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Availability of the 1983–84 National Defense and Direct Student Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits

AGENCY: Department of Education.

ACTION: Notice of availability of 1983–84 Directory of low-income schools for cancellation of loans for teaching service.

SUMMARY: Borrowers under the National Defense and National Direct Student Loan Programs and other interested persons are advised that they may obtain information from, or copies of, the 1983–84 *National Defense and Direct Student Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits (Directory).* The Directory identifies schools that qualify for teacher cancellation benefits under each of the loan programs.

DATE: A limited number of copies of the Directory will be available upon request on or after November 1, 1983.

ADDRESS: Copies of the 1983–84 *National Defense and Direct Student Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits* may be requested by institutions from the U.S. Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grants Branch, 400 Maryland Avenue, S.W., [Room 4613, ROB–3] Washington, D.C. 20202, Telephone (202) 245–9640.

FOR FURTHER INFORMATION CONTACT: Inquiries concerning the Directory may be made to: (1) The appropriate State educational agency, (2) individuals listed in the ten (10) regional offices of the Department of Education (see Appendix to this notice for the addresses of the regional offices), or (3) Ronald Allen, Campus and State Grants Branch, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, S.W., [Room 4613, ROB–3] Washington, D.C. 20202, Telephone (202) 245–9640.

SUPPLEMENTARY INFORMATION:

General

Borrowers under the National Defense and Direct Student Loan Programs authorized by Title IV–E of the Higher Education Act are entitled to have all or a portion of their loans cancelled for full-time teaching in qualifying elementary and secondary schools. Prior to the 1982–83 academic year, the Secretary annually published in the **Federal Register** a complete list of such qualifying schools.

Beginning with the 1982–83 academic year, the Secretary stopped publishing the complete list of qualifying schools and published instead a notice announcing that he had established a Directory of such schools. A Directory was provided to each institution participating in the National Direct Student Loan Program. Borrowers and other interested parties were advised to check with their lending insititution, the appropriate State Department of Education, regional offices of the Department of Education, or the Office of Student Financial Assistance of the Department of Education concerning the identity of qualifying schools for the 1982–83 academic year. Further, the notice provided that the Office of Student Financial Assistance had a limited number of copies of the Directory that were available upon request.

The Secretary announces that the procedures used for obtaining information concerning the schools that qualify for cancellation for the 1982–83 academic year and for obtaining copies of the Directory of those schools will continue in effect for obtaining information concerning the 1983–84 academic year qualifying schools and for obtaining copies of the Directory of such schools.

The Office of Student Financial Assistance will retain, on a permanent basis, copies of past, current and future Directories.

Defense Loans

Borrowers under the National Defense Student Loan Program may cancel the entire amount of their loan plus interest, if they teach full-time in one of the schools listed. For each complete year of full-time teaching, a borrower may cancel 15 percent of his or her loan and the interest on that amount.

The procedures used for selecting schools are described in the National Defense Student Loan Program regulations (34 CFR 674.53).

The Secretary has determined that for the 1983–84 academic year teaching service in the schools set forth in the Directory qualifies for cancellation in accordance with the above provision.

Direct Loans

Borrowers under the National Direct Student Loan Program may cancel the entire amount of their loan plus interest, if they teach full-time in one of the school listed. For the first two complete years of full-time teaching, the cancellation rate is 15 percent for each year; for the third and fourth complete years of full-time teaching, the cancellation rate is 20 percent for each year; for the fifth complete year, the cancellation rate is 30 percent.

The procedures used for selecting schools are described in the National Direct Student Loan Program regulations (34 CFR 674.54).

The Secretary has determined that for the 1983–84 academic year teaching service in the schools set forth in the Directory qualifies for cancellation in accordance with the above provision.

(Catalog of Federal Domestic Assistance Number 84.037: National Defense/Direct Student Loan Cancellations)

Dated: October 26, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

Appendix to Notice of Availability of 1983–84 Directory of Low-Income Schools for Cancellation of Loans for Teaching Service

Department of Education Regional Offices

Mr. Ted Jones, Training and Dissemination Officer—Region I, Office of Student Financial Assistance, U.S. Department of Education, J.W. McCormack Post Office and Court House, Boston, Massachusetts 02109, (617) 223–6895

Sister Bernadine Hayes, Training and Dissemination Officer—Region II, Office of Student Financial Assistance, U.S. Department of Education, 26 Federal Plaza, Room 3954, New York, New York 10278, (212) 264–4426

Ms. Beatrice Rosenfeld, Training and Dissemination Officer—Region III, Office of Student Financial Assistance, U.S. Department of Education, P.O. Box 13716, 3535 Market Street, Philadelphia, Pennsylvania 19101, (215) 596–0143

Ms. Judy Brantley, Assistant Regional Administrator—Region IV, Office of Student Financial Assistance, U.S. Department of Education, 101 Marietta Tower, 3rd Floor, Atlanta, Georgia 30323, (404) 221–4171

Dr. Morris Osburn, Assistant Regional Administrator—Region V, Office of Student Financial Assistance, U.S. Department of Education, 300 South Wacker Drive, 12th Floor, Chicago, Illinois 60606, (312) 353–8103

Mr. Lyndon Lee, Assistant Regional Administrator—Region VI, Office of Student Financial Assistance, U.S. Department of Education, 1200 Main

Tower Building, Room 1645, Dallas, Texas 75202, (214) 767–3569

Mr. Jerry Craft, Training and Dissemination Officer—Region VII, Office of Student Financial Assistance, U.S. Department of Education, 324 East 11th Street, 9th Floor, Kansas City, Missouri 64106, (816) 374–3136

Mr. Paul Tone, Training and Dissemination Officer—Region VIII, Office of Student Financial Assistance, U.S. Department of Education, Room 390, Federal Office Building, 1961 Stout Streets, 3rd Floor, Denver, Colorado 80294, (303) 837–3676

Ms. Mary Ann Faris, Training and Dissemination Officer—Region IX, Office of Student Financial Assistance, U.S. Department of Education, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–0137

Ms. Tammy Doherty, Training and Dissemination Officer—Region X, Office of Student Financial Assistance, U.S. Department of Education, 3rd and Broad Building, Mail Stop 102 2901 3rd Avenue, Seattle, Washington 98121, (206) 442–0493

[FR Doc. 83–29616 Filed 10–31–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6262(c)(1)(A)(i)), the following meeting notices are provided:

I. A joint meeting of Subcommittees A and C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on November 7, 1983, at the offices of Ente Nazionale Idrocarburi, Piazza Enrico Mattei, Rome, Italy, beginning at 1:30 p.m. The agenda for the meeting is as follows:

1. Opening remarks.
2. U.S. legislation and Plan of Action.
3. Future work programs.

II. A meeting of the IAB will be held on November 8, 1983, at the offices of Ente Nazionale Idrocarburi, Piazza Enrico Mattei, Rome, Italy Beginning at 9:30 a.m. The agenda for the meeting is as follows:

1. Opening remarks:
(a) Adoption of th Agenda; and
(b) Approval of the Record Notes of the September 13, 1983, IAB meeting.
2. Correspondence and communication with the IEA and Reporting Companies.
3. Oil Supply and Demand:
(a) Last monthly oil assessment; and
(b) Quarterly oil forecast.
4. Pricing in an emergency including a proposed amendment to the Emergency Management Mannual (EMM).
5. Report of joint Subcommittee A and C meeting of November 7, 1983.
6. Application for legal clearance under the European Economic Community Treaty.
7. U.S. legislation and Plan of Action.
8. Fourth Allocation Systems Test (AST–4) matters, including:
(a) International aviation fuel demand restraint; and
(b) Internal price tests.
9. AST–5.
10. Industry Supply Advisory Group staffing.
11. IAB organization and next IAB meeting.

III. A meeting of the IAB will be held on November 10, 1983, at the offices of the IEA, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of members of the IAB at a meeting of the IEA Standing Group on Emergency Questions (SEQ) which is being held at Paris on that date. The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the draft agenda.
2. Summary record of the 45th meeting.
3. Oil supply and demand:
(a) End-October assessment;
(b) Quarterly oil forecast; and
(c) Base period final consumption.
4. AST–4 Matters:
(a) Draft report to the Governing Board;
(b) International aviation demand restraint; and
(c) Internal price tests.
5. Proposed EMM amendment—pricing in an emergency.
6. AST–5.

As permitted by 10 CFR 209.32, the usual 7-day notice period has been shortened because unanticipated procedural days prevented processing in sufficient time to provide such notice.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., October 28, 1983.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 83–29772 Filed 10–31–83; 8:45 am]

BILLING CODE 6450–01–M

Idaho Operations Office; Trespassing on DOE Property

AGENCY: Department of Energy.

ACTION: Designation of Idaho Operations Office Properties as Off-Limits Areas.

SUMMARY: The Department of Energy hereby designates the Idaho National Engineering Laboratory, located approximately 50 miles west of Idaho Falls, Idaho, and the Idaho Laboratory Facility and the Computer Science Center, both located in Idaho Falls, as Off-Limits Areas in accordance with 10 CFR Part 860, thereby making it a federal crime under 42 U.S.C. 227 a for unauthorized persons to enter into or upon these Idaho Operations Office properties. If unauthorized entry into or upon these properties is into an area enclosed by a fence, wall, roof or other such standard barrier, conviction for such unauthorized entry may result in a fine of not more than $5,000 or imprisonment for not more than one year or both. If unauthorized entry into or upon the properties is into an area not enclosed by a fence, wall, roof, or other standard barrier, conviction for such unauthorized entry may result in a fine of not more than $1,000.

FOR FURTHER INFORMATION CONTACT:

William Luck, Office of General Counsel, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6975

S. L. Bradley, Office of Chief Counsel, Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho 83401, (208) 526–0274

SUPPLEMENTARY INFORMATION: Pursuant to Section 229 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2278a) and Section 104 of the Energy Reorganization Act of 1974 (42 U.S.C. 5814), as implemented by 10 CFR Part 860, published in the **Federal Register** on July 9, 1975 (40 FR 28789–28790), and Section 301 of the Department of Energy Organization Act (42 U.S.C. 7151), the Department of Energy hereby gives notice that the Idaho National Engineering Laboratory (INEL), located approximately 50 miles west of Idaho Falls, Idaho, and the Idaho Laboratory Facility and the Computer Science Center, both located in Idaho Falls, are designated as Off-Limits Areas. Accordingly, the Department of Energy prohibits the unauthorized entry and the unauthorized introduction of weapons or dangerous materials, as provided in 10 CFR 860.3 and 860.4, into and upon these Idaho Operations Office sites.

The Atomic Energy Commission (AEC), a predecessor of the Department of Energy, published a notice subjecting INEL (then called the National Reactor Testing Station) to the AEC's

trespassing regulations. That notice was published at 30 FR 13284–13285 (October 19, 1965). This present notice reflects a modification of the boundary description previously published for the INEL site. The Idaho Laboratory Facility and the Computer Science Center have not previously been designated as Off-Limits Areas. Descriptions of the three sites being designated at this time are as follows:

Idaho National Engineering Laboratory

Commence at a point which is the SW. corner of sec. 31, T. 2 N., R. 28 E.;
Thence N. approximately 11 miles to the NW. corner of sec. 7, T. 3 N., R. 28 E.;
Thence E. approximately 1 mile to the NE. corner sec. 7, T. 3 N., R. 28 E.;
Thence N. approximately one-fourth mile;
Thence E. approximately one-fourth mile;
Thence N. approximately one-fourth mile;
Thence E. approximately one-fourth mile;
Thence N. approximately one-fourth mile;
Thence E. approximately one-half mile;
Thence N. approximately one-fourth mile; to the NW. corner sec. 4, T. 3 N., R. 28 E.;
Thence E. approximately one-half mile;
Thence N. approximately one-fourth mile;
Thence E. approximately one-half mile;
Thence N. approximately one-fourth mile;
Thence E. approximately one-fourth mile;
Thence N. approximately one-fourth mile;
Thence E. approximately one-half mile;
Thence N. approximately one-fourth mile;
Thence E. approximately one-half mile;
Thence N. approximately one-fourth mile;
Thence E. approximately one-half mile;
Thence N. approximately one-fourth mile;
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Thence N. approximately one-fourth mile;
Thence E. approximately one-fourth mile;
Thence N. approximately one-fourth mile;
Thence E. approximately one-fourth mile;
Thence N. approximately one-fourth mile;
Thence E. approximately one-half mile;
Thence N. approximately one mile;
Thence E. approximately one-fourth mile;
Thence N. approximately 1¼ miles;
Thence E. approximately one-fourth mile; to the NE. corner sec. 32, T. 5 N., R. 29 E.;
Thence N. approximately 1 mile to NW. corner, sec. 28, T. 5 N., R. 29 E.;
Thence E. approximately one-fourth mile;
Thence N. approximately 1 mile;
Thence E. approximately 3¾ miles to the NE. corner, sec. 24, T. 5 N., R. 29 E.;
Thence N. approximately 1½ miles;
Thence E. approximately 2 miles;
Thence N. approximately one-half mile to the NW. corner, sec. 9, T. 5 N., R. 30 E.;
Thence E. approximately 1 mile to the NE. corner, sec. 9, T. 5 N., R. 30 E.;
Thence N. approximately 7 miles to the NW. corner, sec. 3, T. 6 N., R. 30 E.;
Thence E. approximately 2 miles to the NE. corner, sec. 2, T. 6 N., R. 30 E.;
Thence N. approximately 9 miles to NW. corner, sec. 24, T. 8 N., R. 30 E.;
Thence E. approximately 10½ miles;
Thence S. approximately 5 miles;
Thence E. approximately one-half mile to the NE. corner, sec. 18, T. 7 N., R. 33 E.;
Thence S. approximately one-half mile;
Thence E. approximately 1 mile;
Thence S. approximately one-half mile to the SE. corner, sec. 17, T. 7 N., R. 33 E.;
Thence E. approximately 1 mile to the NE. corner, sec. 21, T. 7 N., R. 33 E.;
Thence S. approximately 2 miles to the SW. corner, sec. 28 T. 7 N., R. 33 E.;
Thence W. approximately one-half mile;
Thence S. approximately one-half mile;
Thence W. approximately one-fourth mile;
Thence S. approximately 2½ miles;
Thence E. approximately 3½ miles;
Thence S. approximately one-fourth mile;
Thence E. Approximately one-fourth mile;
Thence SE. parallel to Idaho Highway No. 28 approximately 1¼ miles to the SE. corner of sec. 18, T. 6 N., R. 34 E.;
Thence W. approximately 2 miles;
Thence S. approximately 1 mile;
Thence E. approximately 1 mile;
Thence S. approximately 2 miles;
Thence E. approximately 1 mile;
Thence S. approximately 1 mile;
Thence E. approximately 1¾ mile;
Thence S. approximately 9½ mile;
Thence W. approximately one-fourth mile;
Thence S. approximately 4 mile;
Thence W. approximately one-half mile;
Thence S. approximately one-fourth mile;
Thence W. approximately one-fourth mile to the SW. corner, sec. 16, T. 3 N., R. 34 E.;
Thence S. approximately 1 mile to the SE. corner, sec. 20, T. 3 N., R. 34 E.;
Thence W. approximately one-half mile;
Thence S. approximately three-fourths mile;
Thence W. approximately 2¾ mile;
Thence S. approximately one-eighth mile;
Thence in a westerly direction approximately 4¾ mile; parallel to U.S. Highway No. 20 to the point of intersection with the W. boundary line of sec. 31, T. 3 N., R. 33 E.;
Thence S. approximately 7 mile to the SE. Corner sec. 36, T. 2 N., R. 32 E.;
Thence W. approximately 8¼ mile;
Thence N. approximately one-half mile;
Thence W. approximately one-fourth mile;
Thence S. approximately one-fourth mile;
Thence W. approximately one-fourth mile;
Thence S. approximately one-fourth mile;
Thence W. approximately 1½ mile;
Thence N. approximately one-eight mile;
Thence W. approximately one-fourth mile;

Thence S. approximately one-eighth mile;

Thence W. approximately 16½ mile to the point of beginning at the SW. corner, sec. 31, T. 2 N., R. 28 E.

Idaho Laboratory Facility

Beginning at the center of Section 7, Township 2 North, Range 36 of the Boise Meridian; a point that is N. 0°27'51" E. 2802.42 feet from the South Quarter of said Section 7; running thence S. 0°27'51" W. along the North-South center of said Section 1273.66 feet; thence N. 89°32'09" W. 642.19 feet; thence S. 0°22'28" W. 58.15 feet; thence S. 88°05'30" W. 748.37 feet to the North right-of-way line of the Union Pacific Railroad; thence N. 62°57'30" W. along the North right-of-way line of said railroad 214.72 feet to the Easterly right-of-way of Highway 20; thence N. 33°23'17" E. along said highway right-of-way 1474.50 feet to the East-West center of Section line of said Section 7; thence N. 88°37'36" E. 780.83 feet along said center of Section line to the point of beginning. Containing 35.54 acres, more or less. Subject to the existing road right-of-way along the East side of said tract.

Computer Science center

Beginning at a point that is N. 0° 03'37" W. 1305.49 feet along the Section line to the NW Cor. of Airport Industrial Park Div. No. 4 to the City of Idaho Falls, and S. 89°25'46" E. 466.87 feet along the North line of said Addition, and S. 1°54'23"W. 719.81 feet along the East line of said Addition and S. 89°58'04" E. 180.22 feet from the West ¼ corner of Section 13, T2N, R37 E.B.M. and running thence S. 89°58'04" E. 399.00 feet; thence N. 24°31'56" E. 338.86 feet to a point of curve with radius of 570 feet; thence to the left along said curve a distance of 86.19 feet to a point of compound curve with a radius of 20.00 feet; thence to the left along said curve a distance of 36.944 feet; thence N. 89°58'04" W. 348.54 feet to a point curve with a radius of 753.39 feet; thence to the right along said curve a distance of 164.83 feet to a point of reverse curve with a radius of 708.85 feet; thence to the left along said curve a distance of 24.48 feet; thence S. 1°51'23" W. 437.72 feet to the point of beginning containing 4.655 acres.

Notices stating the pertinent prohibitions of 10 CFR 860.3 and 860.4 and the penalties of 10 CFR 860.5 are being posted at all entrances of the referenced areas and at intervals along their perimeters, as provided in 10 CFR 860.6.

Dated at Washington, D.C., this 26th day of September 1983.

Herman E. Roser,

Assistant Secretary for Defense Programs.

[FR Doc. 83-29671 Filed 10-31-83; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Fish and Wildlife Consultation Procedures

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Intent to Adopt Procedures and Notice of Proposed Procedures. *BPA File No.:* FW-1.

SUMMARY: BPA intends to adopt procedures for consultation in the exercise of BPA's fish and wildlife responsibilities in the management and operation of Federal Columbia River Power System hydroelectric facilities. The Pacific Northwest Electric Power Planning and Conservation Act directs BPA to consult with Columbia River Basin fish and wildlife agencies, Indian tribes, and hydroelectric project operators in discharging these responsibilities. BPA seeks comments on the proposed porcedures. BPA will conduct two public information and comment forums on the proposed procedures during the comment period.

Responsible Official: John R. Palensky, Director, Division of Fish and Wildlife, Office of Power and Resources Management, is the responsible official for the development of the fish and wildlife consultation procedures.

DATES: BPA will accept comments through December 9, 1983. BPA will hold a public information and comment forum Thursday, November 17, 1983, at 1:30 p.m. in the Empire Room, Airport Ramada Inn, Spokane, Washington. BPA will hold a second public information and comment forum Friday, November 18, 1983, at 9 a.m., in Room 464 of BPA's Headquarters Bldg., 1002 NE., Holladay Street, Portland Oregon.

ADDRESS: Comments should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address or 503-230-3478. Oregon callers outside of Portland may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE., Irvine Street, Portland, Oregon 97232, 503-230-4551

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington, 99201, 509-456-2518

Mr. George Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379

Mr. Richard D. Casad, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington, 98109, 206-442-4130

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Popular, Walla Walla, Washington, 99362, 509-525-5500, extension 701

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Loma Street, Idaho Falls, Idaho 83401, 208-523-2706

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208-334-9138

SUPPLEMENTARY INFORMATION:

I. Background

In addition to introducing many changes in electric power planning and development, the Pacific Northwest Electric Power Planning and Conservation Act (Pub. L. 96-501, 94 Stat. 2697 (16 U.S.C. 839, et seq.)) (the Act), created new fish and wildlife responsibilities within the region. It authorized the Northwest Power Planning Council to adopt the Columbia River Basin Fish and Wildlife Program to "protect, mitigate, and enhance" fish and wildlife affected by the development and operation of hydroelectric projects on the Columbia River and its tributaries. The Council adopted the program on November 15, 1982. The Act also defined the fish and wildlife responsibilities of the Federal agencies which manage and operate Federal Columbia River Power System hydroelectric facilities. These agencies include the U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, and BPA. The Act directed these agencies to "protect, mitigate, and enhance" affected fish and wildlife in a manner that provides "equitable treatment" with other system purposes, and to do so "taking into account at

each relevant stage of decisionmaking processes to the fullest extent practicable" the Fish and Wildlife Program. BPA and the other Federal agencies are implementing this responsibility at present by planning for enhanced river flows to aid spring salmon and steelhead migration and other measures called for in the Fish and Wildlife Program.

In exercising these fish and wildlife responsibilities, the Act directs the affected Federal agencies to consult with "the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes, and affected project operators." (16 U.S.C. 839b(h)(11)(B).) Since enactment of the Act, BPA has met this consultation duty by convening meeting to which all consultation parties have been invited. BPA has described proposed actions at these meetings and solicited comments. This procedure has been unsatisfactory. Consultation parties have had to travel from elsewhere in the region to learn whether a proposed action warrants their concern. At times, lengthy meetings have yielded few comments or recommendations. The proposed consultation procedures would replace this approach. The proposed procedures are intended to expedite notice to consultation parties of issues for consultation and to permit tailoring how consultations are conducted to the significance and complexity of a proposed action. They also are intended to permit consultation parties to select the means by which they communicate their views to BPA.

In addition to defining the fish and wildlife responsibilities of BPA and the other Federal agencies that manage and operate the Federal Columbia River Power System hydroelectric system, the Act assigns two related fish and wildlife responsibilities to BPA. It directs BPA to fund and carry out measures to "protect, mitigate, and enhance" fish and wildlife affected by hydroelectric projects on the Columbia River and its tributaries (16 U.S.C. 839b(h)(10)). It also requires that BPA provide for fish and wildlife protection, mitigation, and enhancement in the purchase of power to meet regional electric power demand (16 U.S.C. 839d). However, under the terms of the Act, the consultation duties applicable to the management and operation of Federal Columbia River Power System hydroelectric facilities, for which the proposed procedures provide, do not apply to these additional fish and wildlife responsibilities.

Some issues for which BPA will use the proposed consultation procedures will also be major regional power policies. In these cases, BPA's "Procedure for Public Participation in Major Regional Power Policy Formulation" (46 FR 2636, May 12, 1981) will apply in addition to the consultation procedures. As provided in subsection 5(b) of the proposed consultation procedures, BPA will coordinate the two procedures.

II. Explanation of Proposed Procedures

Section 1, Purpose and Scope. This section delineates the BPA fish and wildlife responsibilities to which the consultation procedures apply. For clarity, the section also lists four areas of BPA responsibility to which the procedures do not apply:

1. BPA is developing policies and procedures for compensating costs and power losses at non-Federal electric power projects pursuant to Sec. 4(h)(11)(A)(ii) of the Act (16 U.S.C. 839b(h)(11)(A)(ii)). See 48 FR 20117, May 4, 1983. The policies and procedures BPA is developing will address consultation on such compensation.

2. In addition to requiring consultation, Sec. 4(h)(11)(B) of the Act (16 U.S.C. 839b(h)(11)(B)) directs BPA, the U.S. Army Corps of Engineers, the U.S. Bureau of Reclamation, and the Federal Energy Regulatory Commission to coordinate with one another in discharging their fish and wildlife responsibilities under Sec. 4(h)(11)(A) of the Act (16 U.S.C. 839b(h)(11)(A). BPA is accomplishing this coordination through existing mechanisms.

The proposed consultation procedures do not apply to BPA's responsibility to fund and implement fish and wildlife measures under Sec. 4(h)(10) of the Act (16 U.S.C. 839b(h)(10)). BPA's public participation procedures apply to policy issues in the exercise of these responsibilities, and BPA's procurement regulations apply to the award of funds.

4. Separate procedures will apply to fish and wildlife considerations in BPA purchases of electric power to meet regional demand and in related actions. Because of the current regional electric power surplus, BPA has no immediate plans to establish procedures for such purchases. However, BPA has established procedures for "billing credits," through which BPA supports electric power conservation and generation undertaken by others. See 48 FR 43484, September 23, 1983.

Section 2, Definitions.

Section 2(c), Fish and Wildlife Agencies. This definition identifies the fish and wildlife agencies with whom Sec. 4(h)(11)(B) of the Act (16 U.S.C. 839b(h)(11)(B)) directs BPA to consult. Sec. 4(h)(11)(B) of the Act directs BPA to consult with "the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region. . ." BPA is seeking confirmation that the Secretary of the Interior and the Administrator of the National Marine Fisheries Service have delegated authority to represent them to the Pacific Northwest regional directors of the U.S. Fish and Wildlife Service and National Marine Fisheries Service, respectively.

Section 2(d), Indian Tribes. BPA believes that "appropriate Indian tribes," as used in Sec. 4(h)(11)(B) of the Act (16 U.S.C. 839b(h)(11)(B)), means federally recognized tribes located in the Columbia River Basin. Tribes recognized by the Federal government are listed at 47 FR 53130, November 24, 1982.

Section 2(e), Project Operators. As applied to BPA, BPA interprets the phrase "affected project operators," as used in Sec. 4(h)(11)(B) of the Act (16 U.S.C 839(h)(11)(B)), to mean non-Federal operators of hydroelectric facilities on the Columbia River or its tributaries which could be affected by the exercise of BPA's fish and wildlife responsibilities in the management and operation of Federal Columbia River Power System hydroelectric facilities. BPA proposes to define "affected project operators" as the operators of hydroelectric projects on the Columbia River and its tributaries which are subject to the terms of the Pacific Northwest Coordination Agreement or located downstream from a Coordination Agreement project. Parties to the Pacific Northwest Coordination Agreement agree to operate their projects as if part of a single system. All Federal hydroelectric projects on the Columbia River and its tributaries are subject to the agreement. Consequently, BPA actions can affect all hydroelectric projects on the Columbia River and its tributaries which are subject to the Coordination Agreement. In turn, BPA actions can affect non-Federal projects operators whose project are located downstream from projects which are subject to the Coordination Agreement. BPA actions are not expected to affect upstream projects.

Section 3, Use of Procedures. The purpose of this section is to define the actions and policies on which BPA will consult. The exercise of BPA's responsibilities in the management and operation of Federal Columbia River Power System hydroelectric facilitities ranges from the establishment of broad

policies to hour-by-hour power production scheduling. BPA markets both power and such services as the storage of energy by holding water in reservoirs, the use of hydroelectric power production to displace higher cost generation, the provision of backup capability for power plant outages, and the purchase and storage of energy for industrial customers.

Under the proposed criteria, BPA would consult on actions or policies which implement the directives of Sec. 4(h)(11)(A) of the Act. For example, BPA has consulted on establishing the Water Budget as a firm operating constraint in coordinated hydroelectric system planning to provide flows for spring salmon and steelhead migration. BPA would consult on the establishment of other fish and wildlife constraints on hydroelectric system operation. Similarly, BPA would consult on power marketing policies and actions that could affect hydroelectric system impacts on fish and wildlife. For example, BPA would consult on policies governing hydroelectric system services, such as energy storage, and on power marketing actions, such as the execution of energy storage agreements with individual customers. However, BPA would not consult on such actions and policies if they were subject to pre-established policies applying the fish and wildlife directives of Sec. 4(h)(11)(A) of the Act. Thus, for example, if a power marketing policy's or action's potential fish and wildlife impacts were confined to flows for spring salmon and steelhead migration, for which the Water Budget will provide protection pursuant to Sec. 4(h)(11)(A) of the Act, BPA would not consult on the policy or action. If the policy or action had pontential fish and wildlife impacts other than on flows for spring salmon and steelhead migration, BPA would consult on the other impacts.

Section 4, Consultation Procedures. The proposed procedures are intended to improve consultation party opportunities to participate in BPA decisionmaking on fish and wildlife issues in hydroelectric system management and operation. The proposed procedures are designed to achieve three objectives: (1) To avoid unnecessary formality; (2) to enable tailoring the manner in which consultations are conducted to the significance and complexity of a proposed action or policy and the amount of time available; and (3) to permit consultation parties to select the means by which they communicate their views to BPA

Section 4(a), Notice. The intent of the procedures is to afford consultation parties as much time as is practicable given BPA's decisionmaking timetable for an action or policy. If the amount of time available to make a decision is less than 30 calendar days, BPA expects normally to follow the expedited procedures in section 4(f) of the procedures.

Section 4(b), Copies of Notices. The Act confines BPA's duty to consult to the consultation parties identified in section 2 of the proposed procedures. BPA recognizes that others are interested in BPA policies and actions in hydroelectric system management and operation affecting fish and wildlife. This section provides for courtesy copies of consultation notices to other interested parties.

Section 4(c), Opportunity to Express Views. This section leaves to consultation parties the choice of how they wish to consult with BPA. BPA expects to accommodate consultation party requests for meetings unless an unreasonable burden on BPA would result.

Section 4(d), Annual Meeting. This section provides for an annual meeting. Several consultation party representatives have recommended an annual meeting to address fish and wildlife issues in hydroelectric system management and operation.

Section 4(e), Other Means. Sections 4(a)–4(d) are intended as minimum procedures; section 4(e) makes it clear that BPA may elect to use additional means of consultation.

Section 4(f), Expedited Procedures. Available time will not always permit BPA to follow the procedures in sections 4(a)–4(c). Unanticipated hydrological, power system, and market conditions sometimes require BPA to take action on short notice. In addition, emergencies sometimes occur. BPA expects the procedures in sections 4(a)–4(c) to take a minimum of 21 to 30 calendar days. The procedures in section 4(f) are intended to provide for consultation when time is short.

Section 5, General Provisions.

Section 5(a), Records. This section identifies the contents of consultation records. BPA does not intend to prepare detailed materials unless needed to aid decisionmaking by the complexity of an action and policy. The aim is to avoid unnecessary formality and to control the administrative burden associated with the procedures. When BPA follows both the consultation procedures in section 4 and the Procedure for Public Participation in Major Regional Power Policy Formulation, the consultation record will be made part of the Official Record under the public participation procedure.

Section 5(b), Relationship to Procedure for Public Participation in Major Regional Power Policy Formulation. A major regional power policy is defined as:

> An agency statement of future effect and general applicability designed to implement or prescribe policy which the Administrator identifies as involving major regional power issues. Major Regional Power Policy does not include the development and execution of particular agreements, contracts, or other instruments between BPA and its customers. (46 FR 26368, May, 12, 1981, section 2(g).)

BPA will follow both the consultation procedures in section 4 and the Major Regional Power Policy Formulation Procedure on policies which qualify for both. Consultation parties may both participate in public information and public comment forums and submit written comments pursuant to the Public Participation Procedure, and meet with BPA pursuant to section 4(c).

Section 5(c), Coordination with National Environmental Policy Act (NEPA) Procedures. The Council on Environmental Quality's regulations for implementing NEPA urge Federal agencies to "integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all procedures run concurrently rather than consecutively." (40 CFR 1500.2(c).) BPA expects to conduct combined NEPA and consultation meetings, when appropriate, and to integrate BPA's NEPA procedures with the proposed consultation procedures in other ways.

Section 5(d), Use of Representatives. This provision is designed to leave to individual consultation parties the choice of using a representative. BPA would always send the written notices provided for in sections 4(a) and 4(d) to individual consultation parties. It would be the option of the consultation party to respond on its own behalf or though an association or other representative. BPA would notify a representative instead of a consultation party only for purposes of the expedited consultation procedures provided for by section 4(f), and only if authorized. This is intended to permit use of the Water Budget managers called for by section 304(b) of the Columbia River Basin Fish and Wildlife Program as channels of communication between BPA and the fish and wildlife agencies and Indian tribes identified in section 2 of the procedures.

Proposed Procedures

1. *Purpose and Scope.* BPA seeks by these procedures to foster an expanded role for fish and wildlife agencies, Indian tribes, and hydroelectric project operators in Federal Columbia River Power System hydroelectric facility management and operation. The purpose of these procedures is to define how BPA will discharge its consultation duties under Sec. 4(h)(11)(B) of the Act. Sec. 4(h)(11)(A) directs BPA to exercise its role in the management and operation of hydroelectric facilities on the Columbia River and its tributaries consistently with the purposes of the Act and other applicable laws to adequately protect, mitigate, and enhance affected fish and wildlife in a manner that provides fish and wildlife equitable treatment with other hydroelectric system purposes. In so doing, BPA must take into account to the fullest extent practicable the Columbia River Basin Fish and Wildlife Program adopted by the Northwest Power Planning Council. Sec. 4(h)(11)(B) of the Act directs BPA to exercise these responsibilities in consultation with the Pacific Northwest's Federal and State fish and wildlife agencies, appropriate Indian tribes, and affected project operators.

These procedures do not apply to: (1) Consultation under Sec. 4(h)(11)(B) of the Act on compensation of costs and power losses at non-Federal electric power projects pursuant to Sec. 4(h)(11)(A)(ii) of the Act; (2) BPA's coordination with other Federal agencies under Sec. 4(h)(11)(B) of the Act, except for coordination of consultation procedures; (3) the use of the BPA Fund and BPA authorities to protect, mitigate, and enhance fish and wildlife affected by hydroelectric facilities on the Columbia River and its tributaries pursuant to Sec. 4(h)(10)(A) of the Act; or (4) BPA's fish and wildlife responsiblities in electric power resource acquisition and development under Sec. 6 of the Act. Other procedures apply to these responsibilities.

2. *Definitions.*

a. *Director.* The Director of BPA's Division of Fish and Wildlife.

b. *Consultation Parties.* The fish and wildlife agencies, Indian tribes, and project operators defined and identified in this section.

c. *Fish and Wildlife Agencies.* The Pacific Northwest's Federal and State fish and wildlife agencies. Agencies within this category are the:

—National Marine Fisheries Service
—U.S. Fish and Wildlife Service
—Idaho Department of Fish and Game
—Montana Department of Fish, Wildlife, and Parks
—Oregon Department of Fish and Wildlife
—Washington Department of Fisheries
—Washington Department of Game

d. *Indian Tribes.* Any Indian tribe or band located in the Comumbia River Basin which has a governing body which is recognized by the Secretary of the Interior. Indian tribes and bands within this category are the:

—Burns Paiute Indian Colony
—Confederated Tribes of the Colville Reservation
—Coeur d'Alene Tribe of the Coeur d'Alene Reservation
—Shoshone-Paiute Tribes of the Duck Valley Reservation
—Kalispel Indian Community of the Kalispel Reservation
—Kootenai Tribe of Idaho
—Nez Perce Tribe of Idaho
—Confederated Salish and Kootenai Tribes of the Flathead Reservation
—Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho
—Spokane Tribe of the Spokane Reservation
—Confederated Tribes of the Umatilla Reservation
—Confederated Tribes of Warm Springs Reservation of Oregon
—Confederated Tribes and Bands of the Yakima Indian Nation of the Yakima Reservation

e. *Project Operators.* Utilities and other non-Federal entities which operate hydroelectric facilities on the Columbia River or its tributaries within the United States which are (1) subject to the Pacific Northwest Coordination Agreement; and/or (2) downstream of at least one Federal or non-Federal hydroelectric facility which is subject to the Pacific Northwest Coordination Agreement. Project operators in this category are the:

—Chelan County PUD No. 1
—Cowlitz County PUD No. 1
—Douglas County PUD No. 1
—Eugene Water and Electric Board
—Grant County PUD No. 2
—City of Idaho Falls
—Idaho Power Company
—Montana Power Company
—Pacific Power & Light Company
—Pend Oreille County PUD No. 1
—Portland General Electric Company
—Seattle City Light
—City of Spokane
—Tacoma City Light
—Washington Water Power Company

f. *Program.* The Columbia River Basin Fish and Wildlife Program adopted by the Northwest Power Planning Council pursuant to Sec. 4(h) of the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501, 16 U.S.C. 839 et seq.

3. *Use of Procedures.* BPA will consult, as provided in this section, on policies and actions applying the directives of Sec. 4(h)(11)(A) of the Act to adequately protect, mitigate, and enhance fish and wildlife and to provide fish and wildlife equitable treatment in the management and operation of Federal Columbia River Power System hydroelectric facilities. BPA will not consult when the provisions of Sec. 4(h)(11)(A) of the Act have already been implemented through other policies and actions, such as the provision of adequate flows for spring salmon and steelhead migration, which the Water Budget addresses.

4. *Consultation Procedures.*

a. *Notice.* Except as stated in subsection 4(f), for all policies or actions on which BPA consults, BPA will send notice of the contemplated policy or action by mail to all consultation parties. BPA will mail notices to the chairperson, director, or chief executive officer of each consultation party, or, upon written request, such person's designee. Notices will describe the contemplated policy or action, identify its potential impacts on Federal Columbia River Power System hydroelectric facility management and operation and fish and wildlife, solicit comments and recommendations, and specify a date by which BPA must receive comments and recommendations. BPA will mail such notices sufficiently in advance of its decision or action to permit consultation parties to respond and to permit BPA to consider their comments and recommendations.

b. *Copies of Notices.* Upon request, BPA will regularly mail courtesy copies of the notices provided for in subsection 4(a) to any person, including employees or members of consultation parties and any other person.

c. *Opportunity to Express Views.* Consultation parties may express their views and make recommendations to BPA through written comments, meetings with appropriate BPA representatives, or both. Consultation parties may meet with BPA either individually or in groups.

d. *Annual Meeting.* In addition to other consultation procedures, BPA will conduct an annual meeting with all consultation parties to discuss BPA policies and actions pursuant to Sec. 4(h)(11)(A) of the Act. BPA will invite from consultation parties recommendations for the agenda of these meetings. BPA will send notices of such meetings to all consultation parties

and will send courtesy copies of such notices to any person who has requested copies of notices pursuant to subsection 4(b).

e. *Other Means.* If necessary or appropriate to achieve the purpose of these procedures, BPA will use additional means for consultation. Such means may include, but are not limited to, meetings convened by BPA, the dissemination of information and analyses, educational activities, and group problem solving techniques.

f. *Expedited Procedures.*

(1) BPA will follow expedited consultation procedures when BPA determines that an emergency or unanticipated immediate power marketing opportunity requires prompt action by BPA so that the time available is insufficient to permit BPA to follow the procedures in subsections (a) through (c) of this section. An emergency is a condition threatening safety or the reliability of the Pacific Northwest electric power system. An immediate power marketing opportunity is a use of the Federal Columbia River Power System which improves the efficiency or economy of the Pacific Northwest electric power system and on which BPA must promptly take action or forego.

(2) Expedited consultation procedures will consist of notice by telephone to interested consultation parties and opportunity for those notified to express their views. For the purpose of this paragraph, an interested consultation party is a consultation party which, as determined by BPA, actively participates in Federal Columbia River Power System management and operation fish and wildlife issues or whose fish and wildlife interests the contemplated action would particularly affect.

5. *General Provisions.*

a. *Records.* The Director will compile and maintain records on actions and policies to which these procedures are applied. Records will contain: (1) Notices issued under these procedures; (2) writtten submittals to BPA and BPA's replies, if any; (3) meeting notes; (4) if prepared, meeting transcripts, summaries or evaluations of comments, and records of decision; and (5) other information the Director determines is appropriate. Such records will be available for inspection and copying.

b. *Relationship to Procedure for Public Participation in Major Regional Power Policy Formulation.* For fish and wildlife policies which qualify as major regional power policies under BPA's Procedure for Public Participation in Major Regional Power Policy Formulation (46 FR 26368, May 12, 1981), BPA will follow both these consultation procedures, if applicable, and the Procedure for Major Regional Power Policy Formultion. BPA will combine and coordinate the two procedures to the extent practicable.

c. *Coordination with National Environmental Policy Act (NEPA) Procedures.* To the extent practicable, BPA will coordinate these procedures with NEPA procedures by combining notices and meetings and by using NEPA documents as sources of information on proposed actions or policies.

d. *Use of Representatives.* Use of individuals or associations to represent consultation parties under these procedures is at the discretion of the party represented. BPA will cooperate with such representatives, and, if a representative is so authorized, BPA will consider the views expressed by the representative as the views of the party represented. Unless authorized to do so for the purpose of the expedited consultation procedures in subsection 4(f), BPA will not substitute notice to a representative for notice to a consultation party under these procedures.

e. *Coordination With the U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, and Federal Energy Regulatory Commission.* To the extent practicable, BPA will coordinate these procedures with the U.S. Army Corps of Engineers, the U.S. Bureau of Reclamation, and the Federal Energy Regulatory Commission when addressing a subject or issue on which BPA shares responsibility with one or more of these agencies.

Issued in Portland, Oregon, October 21, 1983.

Marvin Klinger,

Acting Administrator.

[FR Doc. 83-29572 Filed 10-31-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Docket Nos. CAS-RM-80-509 and CAS-RM-79-505]

Grant Program for Schools and Hospitals and for Buildings and Public Care Institutions; Energy Extension Service; Intention To Grant Waivers

AGENCY: Department of Energy.

ACTION: Notice of Intention to Grant Waivers.

SUMMARY: Notice is given that the Department of Energy (DOE) intends to grant waivers from the requirement of the Grant Program for Schools and Hospitals and for Buildings and Public Care Institutions and from the requirement of the Energy Extension Service that recipients of grants under these programs provide matching funds. DOE intends to grant these waivers to the Virgin Islands, Guam, and American Samoa for both programs, and to the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands for the EES program only. DOE requests comments respecting this intention.

DATES: Written comments (five copies) must be received no later than December 1, 1983 to ensure their consideration.

ADDRESSES: Send written comments to Department of Energy, Office of Conservation and Renewable Energy, Hearings and Dockets Unit, Room 6B-025, 1000 Independence Avenue, SW., Washington, D.C. 20585. (202) 252-9319.

FOR FURTHER INFORMATION CONTACT:

Susan McElhaney, Office of State and Local Assistance Programs, Department of Energy, Mail Stop CE-24, Room 6A087, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-8208

Ted Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6G-094, Room 6B-144, Forrestal Building, 1000 Independence Avenue, SW., (202) 252-9507.

SUPPLEMENTARY INFORMATION: Section 501(d) of the Omnibus Territories Act of 1977, as amended, Pub. L. 95-134, 91 Stat. 1159 (48 U.S.C. 1469a(d)), allows an agency to waive any requirement for matching funds otherwise required by law to be provided by the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands (hereafter collectively referred to as "the Insular Areas"). This subsection also requires an agency to grant such waivers for a matching fund requirement of under $100,000 for American Samoa and the Commonwealth of the Northern Mariana Islands.

The Grant Program for Schools and Hospitals and for Buildings and Public Care Institutions was established by Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3238 (42 U.S.C. 8371) and implemented by regulations in 10 CFR Part 455. This program provides funds to schools, hospitals, public care

institutions, and local governments for energy conservation audits; to schools and hospitals for energy conservation installations; and to States for expenses in administering the program. Under that program the 50 States, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands must provide matching funds in the amount of 50% of the amount of their administrative grants in order to be eligible to receive the grant.

The Energy Extension Service was established by the National Energy Extension Service Act, Title V of Pub. L. 95–39, 91 Stat. 191 (42 U.S.C. 7001). It was amended by Section 1007(b) of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, 95 Stat. 611 (42 U.S.C. 7270 Note) and implemented by regulations in 10 CFR 465. The most recent revision of these regulations was published in the **Federal Register** on July 18, 1983 (48 FR 32722). This program provides funds to States to develop and implement comprehensive programs for developing, demonstrating, and disseminating energy conservation information, techniques, and materials. Under this program the 50 States, the District of Columbia, Puerto Rico, and the Insular Areas are required to provide matching funds in the amount of 20% of the amount of their grants.

DOE intends to use the authority granted to it under the Omnibus Territories Act, as amended, to waive on behalf of the Insular Areas eligible for each program the requirements that they provide matching funds. Because the Insular Areas have scarce revenues from which they can provide matching funds for these energy conservation programs, their ability to participate in the programs is endangered. Participation in energy conservation programs is especially important to the Insular Areas because they are located in areas remote from fuel sources. Because of their location their expenses for importing fuel can be especially costly, and their sources of fuel in the event of an interruption of normal supplies can be very problematic.

For these reasons, it is the intention of DOE to waive the matching fund requirements for the Insular Areas. DOE invites comments concerning this intention.

Issued in Washington, D.C., October 26, 1983.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 83–29638 Filed 10–31–83; 8:45 am]

Economic Regulatory Administration

Crysen Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Crysen Corporation as a final order of the Department.

EFFECTIVE DATE: September 27, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, 440 South Houston, Room 306, Tulsa, Oklahoma 74127, (918) 581–7781.

SUPPLEMENTARY INFORMATION: On August 12, 1983, 48 FR 36643, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with Crysen Corporation on June 23, 1983 which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The proposed Consent Order resolves certain potential civil liability arising out of the Mandatory Petroleum Price and Allocation Regulations, 10 CFR Parts 205, 211 and 212, in connection with Crysen Corporation's transactions involving crude oil during the period August 1979 through January 27, 1981. The proposed Consent Order stated that the sum of $7,114,287 plus interest was to be paid to the United States Department of Energy for ultimate disposition by DOE. The monies are to be paid in six equal annual installments of $1,500,000 each and the initial payment is due on the first day of the calendar month following 60 days after the effective date of the Consent Order.

Comments were received from nineteen entities. None of the comments objected to the Consent Order. All of the comments focused on the proposed distribution of funds. Sixteen commenters advocated that the Consent Order proceeds, after payment to identifiable injured customers, should be distributed on a pro rata basis to the various states to finance energy related projects. One of the entities further suggested specific guidelines for restricting the use of such funds received by each state. Additionally, one commenter suggested that the funds be used to reduce entitlements obligations as part of any final settlement of the entitlements program; while another indicated that it might be an injured party qualified for a refund.

DOE has not yet determined an appropriate distribution for the refunded amount. The ultimate distribution of these funds will depend upon several factors, including the type of alleged violations underlying the Consent Order and the ability of the DOE to identify persons who may have been harmed by the alleged violations. Until an appropriate distribution is determined, the refunded amount will be placed in a DOE interest bearing escrow account.

Having considered all comments submitted, DOE has determined that the proposed Consent Order with Crysen Corporation should be made final. The Consent Order was adopted as a final order of DOE by written notice to Crysen Corporation on September 27, 1983.

Issued in Tulsa, Oklahoma, on the 13th day of October 1983.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 83–29639 Filed 10–31–83; 8:45 am]

BILLING CODE 6450–01–M

Mobil Oil Corp.—General Crude Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Mobil Oil Corporation at 3225 Gallows Road, Fairfax, Virginia 22037, which acquired General Crude Oil Company from International Paper Company on July 6, 1979. This Proposed Remedial Order alleges pricing violations in the amounts of $2,928,942 and $1,846,054 plus interest in connection with General Crude Oil Company's sale of NGLs/NGLPs and crude oil, respectively, at prices in excess of those permitted by the Mandatory Petroleum Price Regulations during the time period August 1973 through June 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Manager, Litigation Support Group, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird Lane, Suite 200–E, Dallas, Texas 75247, or by calling (214)

767–7407. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 3rd day of October 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-29589 Filed 10-31-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA–FC–83–021 OFP Case No. 66015–9239–20–24]

Power Systems Engineering, Inc.; Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order Granting to Power Systems Engineering, Inc. Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On August 15, 1983, Power Systems Engineering, Inc. (Power Systems), Houston, Texas, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the powerplant and Industrial Fuel Use Act of 1978, (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). Criteria governing the cogeneration exemption are contained in 10 CFR 503.37.

Power Systems requested an exemption for a proposed 450 megawatt (net) powerplant consisting of five self contained 73 megawatt combustion gas turbines; five unfired, topping cycle heat recovery steam generators producing 378,400 lbs./hr. of process steam each; and one condensing steam turbine producing 95 megawatts of electric power. The cogeneration facility will: (1) Produce both high pressure and low pressure process steam which will be purchased by ARCO Chemical Company; and (2) produce electric power for sale to Houston Lighting & Power Company (HLPC). The sale of virtually all of the net annual electric power produced by the cogenerator to HLPC makes the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The five combustion gas turbines are the only fuel-consuming equipment in the facility and will use natural gas as the primary fuel, with propane as an emergency stand-by fuel.

Pursuant to section 212(c) of the Act and 10 CFR 503.37, ERA hereby grants a permanent cogeneration exemption for Power Systems' afore-described powerplant. The basis for ERA's Order is provided in the SUPPLEMENTARY INFORMATION section, below.

DATES: In accordance with section 702(a) of FUA, this Order shall take effect on January 3, 1984.

The public file containing a copy of this Order as well as other documents and supporting materials on this proceeding are available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, S.W., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m. except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Anthony Wayne, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–073C, Washington, D.C. 20585, Phone (202) 252–1730

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B–235, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: Power Systems plans to install a cogeneration facility, which it will own and operate, in Channelview, Harris County, Texas, adjacent to the ARCO Chemical Company's Lyondell Plant (ARCO). The

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[ERA Docket No. 83–CERT–314 and ERA Docket No. 83–CERT–319]

Aluminum Company of America and Armstrong World Industries, Inc.; Certifications of Eligible Use of Natural Gas to Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979).

Notice of these applications, along with pertinent information contained in the applications, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, S.W., Washington D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	Federal Register notice of application
Aluminum Co. of America, Pittsburgh, Pa., Lancaster and Lebanon, Pa. plants.	Sept. 22, 1983	83–CERT–314	48 FR 46609 Oct. 13, 1983.
Armstrong World Industries, Inc., Lancaster Pa., Lancaster and Beaver Falls, Pa. plants.	Sept. 30, 1983	83–CERT–319	48 FR 47049 Oct. 17, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on October 24, 1983.

James W. Workman,

Director, Office of Fuels Programs Economic Regulatory Administration.

[FR Doc. 83-29642 Filed 10-31-83; 8:45 am]

BILLING CODE 6450-01-M

Lyondell Cogeneration Project will (1) produce both high pressure and low pressure process steam for sale to ARCO for use in the plant's chemical process units, and (2) generate electric power to sell to HLPC. The proposed system will consist of five General Electric PG7111(E), 73 megawatt combustion gas turbines; five unfired, topping cycle heat recovery steam generators producing 378,400 lbs./hr. of steam each; and one condensing steam turbine. Under normal design conditions, the Lyondell facility will produce 450 megawatts (net) of electric power and 950,000 pounds per hour of process steam, and will produce up to 850,000 pounds per hour of process steam during planned or emergency shutdown of any two of the five gas turbines. The five combustion gas turbines, which will be the only fuel-consuming equipment in the facility, will use natural gas as the primary fuel, with propane as an emergency stand-by fuel.

Power Systems expects to sell all of the net annual electric power from the turbine generators to HLPC. The sale of in excess of 50 percent of the facility's net annual electric power generation causes it to be classified as an electric powerplant under FUA (10 CFR 500.2). It is therefore subject to the Title II construction and fuel use prohibitions contained in the Act.

Pursuant to 10 CFR 503.37(a)(1), Power Systems certified that the natural gas or oil to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and that the use of mixtures is not feasible, as required under 10 CFR 503.9.

Documentary evidence submitted by Power Systems in support of its petition under 10 CFR 503.37(a)(1) includes: (1) The duly executed certifications required under the subparagraph; (2) exhibits containing the basis for the certification, including supporting factual and analytical materials; and (3) an environmental impact analysis, as required under 10 CFR 503.13(a).

After review of Power Systems' environmental impact analysis and other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

In accordance with 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to Power Systems in the **Federal Register** on August 25, 1983 (48 FR 38666), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the petition to the Evironmental Protection Agency for comments. During the 45-day public comment period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed on October 11, 1983. No comments were received and no hearing was requested.

Decision and Order

Based upon the entire record of this proceeding, ERA has determined that Power Systems has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.37(a)(1) and, pursuant to section 212(c) of FUA, ERA hereby grants Power Systems a permanent cogeneration exemption for the proposed powerplant to be located in Channelview, Harris County, Texas, adjacent to the ARCO Chemical Company's Lyondell Plant.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this Order may petition for judicial review thereof at any time before the 60th day following the publication of this Order in the **Federal Register.**

Issued in Washington, D.C., on October 25, 1983.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs Economic Regulatory Administration.

[FR Doc. 83-29641 Filed 10-31-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Notice of Form EIA-826, "Electric Utility Company Monthly Statement," and Solicitation of Comments

AGENCY: Energy Information Administration, DOE.

ACTION: Notice.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) announces a proposed extension of Form EIA–826, "Electric Utility Company Monthly Statement," and invites comments on the survey and contents of the form.

DATES: Written comments must be submitted on or before December 1, 1983.

ADDRESSES: Comments should be sent to Mrs. Charlene Harris-Russell at the address listed below.

FOR FURTHER INFORMATION CONTACT: Mrs. Charlene Harris-Russell (EI–541), Energy Information Administration, Department of Energy, Mail Station: 2F–021, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252–2029.

SUPPLEMENTARY INFORMATION:

I. Background
II. Request for Comments

I. Background

The EIA announces a proposed extension of the Form EIA–826, "Electric Utility Company Monthly Statement." The form superseded FERC Form No. 5 with the same title in December 1982 and continued the electricity sales data series. The form is required of all privately owned electric utilities with annual operating revenues of $100,000,000 or more in addition to a sample of other selected electric utilities. The form provides the EIA with the means to produce data on electricity sales by state and sector (residential, commercial, industrial, and other), collects electric consumption projection information, and provides the Department of Commerce information used to compile the Gross National Product.

The EIA–826 data appear in the *Electric Power Monthly, Monthly Energy Review, Electric Power Annual, Annual Energy Review,* and the *Short-Term Energy Outlook.* These publications have extensive circulation and are used by electric utilities, industry, the general public, DOE, and other Federal and State Government agencies.

II. Request for Comments

A copy of the Form EIA–826 and Instructions has been reproduced and appears following this notice. The EIA invites prospective respondents to comment within 30 days of the publication of this notice. The following general guidelines are provided to assist in the responses:

(As a potential data provider)

a. Are the instructions and definitions clear and sufficient? If not, what instructions require clarification?

b. Can the data be submitted using the definitions included in the instructions?

c. Can the data be submitted in accordance with the response time specified in the instructions?

d. How many hours, including time for preparation and administrative review, will your organization require to complete and submit the form?

e. What is the estimated cost of completing the form, including the direct and indirect costs associated with the data collection? Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP, and other administrative costs directly attributable to providing this information.

f. Do you know of other Federal, state or local agencies that collect similar data? (If yes, please identify.)

g. How can the form be improved? (As a potential user)

h. Do you need data at the levels of detail indicated on the form?

i. For what purpose would you use these data? (Be specific)

j. How could the form be improved to better meet your specific data needs?

k. Are there alternative sources of data and do you use them? What are their deficiencies?

DOE is also interested in receiving comments from persons as to their views on the need for the collection of this information.

Comments submitted in response to this notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C. October 27, 1983.

Yvonne M. Bishop

Director, Statistical Standards, Energy Information Administration.

BILLING CODE 6450-01-M

U.S. DEPARTMENT OF ENERGY
ENERGY INFORMATION ADMINISTRATION
Washington, D.C. 20585
ELECTRIC UTILITY COMPANY MONTHLY STATEMENT

Form Approved. OMB No. 1905-0044
Expires 12/31/83

Company Code Number	
Month Being Reported 19_____	

This report is mandatory under Public Law 93-275. Failure to respond may result in criminal fines, civil penalties, and other sanctions as provided by law. Data reported on EIA-826 are not considered confidential.

PART I: IDENTIFICATION

1. Name of Company

2. Address of Company *(Number, Street, City, State and Zip Code)*

3. Signature of Person Authorized to Sign This Report

4. Phone Number (Including Area Code)

PART II: ELECTRIC ENERGY INFORMATION

Line No. (a)	Items (b)	Revenues *(In thousands of dollars)* (c)	Sales *(In megawatt-hours)* (d)	Number of Customers (e)	Footnote (f)
5	Sales of Electric Energy: Residential, including space heating (440)				
6	Smaller or Commercial (See note A of Account 442)				
7	Larger or Industrial (See note A of Account 442)				
8	Other Sales to Ultimate Consumers (444-446, 448)				
9	Total Sales to Ultimate Consumers (Enter total of lines 5 thru 8)				
10	Sales for Resale (447)				
11	Total Sales of Electric Energy (Enter total of lines 9 thru 10)				
12	Other Electric Revenues (450, 451, 453-456)				
13	Depreciation and Amortization of Property, Plant and Equipment (403-407)				
14	Allowance for all Funds Used During Construction (419.1, 432)				
15	Net Income (433) Before Extraordinary Items (434, 435), Income Taxes (409.1, 409.2, 409.3, 410.1, 410.2, 411.1, 411.2), and Investment Tax Credits (411.4, 411.5, 420)				
16	Gross Additions to Construction Work in Progress (107) for This Month Being Reported				

PART III: FOOTNOTES

Line No.	Column Alpha	Explanation

U.S. DEPARTMENT OF ENERGY
ENERGY INFORMATION ADMINISTRATION (EI-541)
WASHINGTON, D.C. 20585
EQUAL EMPLOYMENT OPPORTUNITY

POSTAGE AND FEES PAID
U.S. DEPARTMENT OF ENERGY

U.S. Department of Energy
Energy Information Administration (EI-541)
Mail Station: BE-079 Forrestal (Form EIA-826)
Washington, D.C. 20585

INSTRUCTIONS FOR FILING EIA-826

General Information

1. This form is designed to obtain information concerning sales of electric energy and certain other selected items of income and the plant.
2. All privately or publicly owned electric utilities listed below must submit the EIA-826.
3. Submit this report within 40 days after the end of each month being reported. For example, the report for the month of February is due April 9.
4. Submit one Form EIA-826 to the address printed above. This form is a self-mailer and may be used as such.

General Instructions

1. Report the sales of electric energy as outlined in accounts 440 through 456 of the Uniform System of Accounts for Public Utilities and Licenses (U.S. of A.) (18 CFR Part 101).
2. Report amounts related to unbilled revenues in with the class of sales giving rise to the unbilled revenues (accounts 440 to 448). Do not report unbilled revenues as a separate line item.
3. Indicate negative amounts by enclosing the figures in parenthesis ( ).
4. Provide, by footnotes, a brief description of any adjustments significantly affecting this report. Mark an "x" in Footnote Column (f) to indicate a footnote has been entered in Part III of the form.
5. Estimates subject to later revision are permissible, provided such revisions are highlighted by footnote. Identify in a footnote revisions to data reported one year prior to the month being reported. For example, you may revise data reported in February, 1982, by footnoting the corresponding data reported for February, 1983.

Specific Instructions

Line No.	Instruction
1 to 14, 16	Report the items as described and in accordance with the U.S. of A. (Reference Account Numbers to the U.S. of A. are provided in parenthesis beside the data items in Part II.)
15	Report Net Income (433) Before Extraordinary Items (434, 435), Income Taxes (409.1, 409.2, 409.3), Provisions for Deferred Income Taxes (410.1, 410.2, 411.1, 411.2), and Investment Tax Credits (411.4, 411.5, 420).

WHO MUST SUBMIT EIA-826

1. All privately owned electric utilities with annual electric operating revenues of $100,000,000 or more, and in addition the following utilities:

Alaska Electric Light and Power Company
Central Vermont Public Service Corporation
Cheyenne Light, Fuel and Power Company
Northwestern Public Service Company
Otter Tail Power Company

2. The following selected publicly owned electric utilities:

Jacksonville Electric Authority, Florida
City of Lincoln Electric System, Nebraska
Los Angeles, Department of Water and Power, Power System of City, California
Nebraska Public Power District, Nebraska
Omaha Public Power District, Nebraska
Orlando Utilities Commission, Florida
Power Authority, State of New York
Salt River Project, Arizona
City Public Service Board of San Antonio, Texas
Department of Lighting, City of Seattle, Washington
Tacoma, Light Division, Department of Public Utilities, Washington

3. Other selected electric utilities:

Bonneville Power Administration
Chugach Electric Association, Inc.
Golden Valley Electric Association, Inc.
Tennessee Valley Authority

4. The information collected on this form is used in various Energy Information Administration publications. These publications are used by electric utilities, industry, the general public, and the U.S. Department of Energy.

[FR Doc. 83-29639 Filed 10-31-83; 8:45 am]
BILLING CODE 6450-01-C

Federal Energy Regulatory Commission

[Docket No. CP84-2-000]

Columbia Gas Transmission Corp.; Application

October 27, 1983.

Take notice that on October 3, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-2-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas under revised service agreements with Acme Natural Gas Company (Acme), Bluefield Gas Company (Bluefield), Cincinnati Gas and Electric Company (CG&E), City of Lancaster, Ohio (Lancaster), Columbia Gas of Kentucky, Inc. (Columbia of Kentucky), Columbia Gas of Maryland, Inc. (Columbia of Maryland), Columbia Gas of New York, Inc. (Columbia of New York), Columbia Gas of Ohio, Inc. (Columbia of Ohio), Columbia Gas of Pennsylvania, Inc. (Columbia of Pennsylvania), Columbia Gas of Virginia Inc. (Columbia of Virginia), Columbia Gas of West Virginia, Inc. (Columbia of West Virginia), Dayton Power & Light Company (Dayton), and National Fuel Gas Supply Corporation (National Fuel), all existing wholesale customers of Columbia, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia requests authorization to sell natural gas under

1. A revised service agreement with Acme effectuating a decrease in its contract demand under Rate Schedule CDS of 1,600 dt per day, from 22,900 dt per day to 21,300 dt per day; a decrease in its maximum daily quantity under Rate Schedule WS of 1,000 dt per day, from 4,200 dt per day to 3,200 dt per day; and a reduction in its winter contract quantity, under Rate Schedule WS of 50,000 dt from 235,600 dt to 185,600 dt in Zone 6.

2. A revised service agreement with Bluefield effectuating a decrease in its contract demand under Rate Schedule CDS of 700 dt per day, from 5,900 dt per day to 5,200 dt per day; a decrease in its maximum daily quantity under Rate Schedule WS of 300 dt per day, from 4,300 dt per day to 4,000 dt per day; and a reduction in its winter contract quantity, under Rate Schedule WS of 18,000 dt from 258,000 dt to 240,000 dt in Zone 1.

3. A revised service agreement with CF&G effectuating a decrease in its contract demand under Rate Schedule CDS of 50,000 dt per day from 362,000 dt per day to 312,000 dt per day; in Zone 3; and a decrease of 10,000 dt per day from 100,800 dt per day to 90,800 dt per day in Zone 4.

4. A revised service agreement with Lancaster effectuating a decrease in its contract demand under Rate Schedule CDS of 2,000 dt per day from 14,300 dt per day to 12,300 dt per day in Zone 4.

5. A revised service agreement with Columbia of Kentucky effectuating a decrease in its contract demand under Rate Schedule CDS of 17,400 dt per day from 38,700 dt per day to 21,300 dt per day; in Zone 1; a decrease of 14,800 dt per day from 110,300 dt per day to 95,500 dt per day in Zone 3; a decrease in its mximum daily quantity under Rate Schedule WS of 3,400 dt per day, from 27,900 dt per day to 24,500 dt per day; and a reduction in its winter contract quantity under Rate Schedule WS of 204,000 dt from 1,674,000 dt to 1,470,000 dt in Zone 1.

6. A revised service agreement with Columbia of Maryland effectuating a decrease in its contract demand under Rate Schedule CDS of 9,300 dt per day from 42,600 dt per day to 33,300 dt per day in Zone 6.

7. A revised service agreement with Columbia of New York effectuating a decrease in its contract demand under Rate Schedule CDS of 7,600 dt per day from 90,600 dt per day to 83,000 dt per day in Zone 7.

8. A revised service agreement with Columbia of Ohio effectuating a decrease in its contract demand under Rate Schedule CDS of 15,800 dt per day from 46,200 dt per day to 30,400 dt per day in Zone 1; a decrease in 435,400 dt per day from 1,441,000 dt per day to 1,005,600 dt per day in Zone 4; and a decrease 20,900 dt per day from 103,000 dt per day to 82,100 dt of in Zone 6.

9. A revised service agreement with Columbia of Pennsylvania effectuating a decrease in its contract demand under Rate Schedule CDS of 55,400 dt per day from 571,800 dt per day to 516,000 dt per day in Zone 6.

10. A revised service agreement with Columbia of Virginia effectuating a decrease in its contract demand under Rate Schedule CDS of 13,900 dt per day from 71,400 dt per day to 57,500 dt per day in Zone 2.

11. A revised service agreement with Columbia of West Virginia effectuating a decrease in its contract demand under Rate Schedule CDS of 33,000 dt per day from 157,300 dt per day to 124,300 dt per day in Zone 1; and a decrease of 73,000 dt per day from 159,100 dt per day to 86,100 dt per day in Zone 6.

12. A revised service agreement with Dayton effectuating a decrease in its contract demand under Rate Schedule CDS of 20,420 dt per day from 317,600 dt per day to 297,180 dt per day in Zone 4.

13. A revised service agreement with National Fuel effectuating a decrease in its contract demand under Rate Schedule CDS of 10,100 dt per day from 32,100 dt per day to 22,000 dt per day in Zone 6.

The service revisions requested by Columbia's customers are said to have been made pursuant to the provisions of Columbia's FERC Gas Tariff, Original Volume No. 1. Columbia states that the effects of conservation, fuel switching and permanent loss of markets resulting from the severe economic downturn in recent years have resulted in a situation in which the contract demands of these customers no longer reflect their actual needs.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein povided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-30549 Filed 10-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI84-18-000, et al.]

Elms Brothers & Co. Ltd., et al.; Application for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

October 26, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest reference to said application should on or before November 2, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without furhter notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review fo the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not povide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI84-18-000, B, Oct. 14, 1983	Elms Brothers & Co., Ltd., 234 E. Greene St., Waynesburg, Pa. 15370.	Columbia Gas Transmission Corp., N. Franklin Township, Washington County, Pa.	(1)	
CI84-19-000, B, Oct. 14, 1983	do	Columbia Gas Transmission Corp., Grey Township, Green County, Pa..	(1)	
CI84-23-000, B, Oct. 17, 1983	E. J. Brumage, 155 Dark Hollow Rd., Waynesburg, Pa. 15370.	do	(1)	

[1] Present purchaser unable to utilize full production of wells. Applicant's are requesting only limited abandonment until such time as Columbia Gas Transmission Corporation is once again able to accept full delivery of the NGPA gas.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-30550 Filed 10-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-13-000]

Michigan Consolidated Gas Co., Interstate Storage Division; Proposed Changes in FERC Gas Tariff

October 26, 1983.

Take notice that on October 21, 1983, Michigan Consolidated Gas Company—Interstate Storage Division (ISD) tendered for filing proposed changes to the following tariff sheets in its FERC Gas Tariff, Original Volume No. 1 and Original Volume No. 2:

	Rate Schedule
Original Volume No. 1:	
Fourth Revised Sheet Nos. 63 & 64	X-7.
Fourth Revised Sheet Nos. 87 & 94	X-9.
Fourth Revised Sheet Nos. 110 & 111	X-11.
Fourth Revised Sheet Nos. 132 & 139	X-13.
Fourth Revised Sheet Nos. 155 & 162	X-15.
Seventh Revised Sheet No. 192	X-19.
Fifth Revised Sheet No. 193	X-19.
Sixth Revised Sheet No. 216	X-20.
Fifth Revised Sheet No. 217	X-20.
Third Revised Sheet No. 240	X-21.
Fourth Revised Sheet No. 241	X-21.
Original Volume No. 2:	
Third Revised Sheet Nos. 6 & 7	X-23.
Third Revised Sheet No. 29	X-24.
Fifth Revised Sheet No. 30	X-24.
Third Revised Sheet Nos. 51 & 52	X-25.
Third Revised Sheet Nos. 73 & 74	X-26.
Third Revised Sheet No. 96	X-27.
Third Revised Sheet Nos. 117 & 118	X-28.
Second Revised Sheet No. 154	X-30.

The proposed changes reflect an increase in cost of service of $4,375,000 over that underlying its presently filed rates.

ISD states that the proposed rates are necessary because the currently effective rates, exclusive of Rate Schedule X-30 are based on a cost of service experienced during the twelve months ended June 30, 1980, as adjusted. In the three years since that time ISD's cost of service has increased because of increased investment in facilities, increased operating expenses, increased *ad valorem* and other taxes, increased return and income tax requirements and changes in contractual storage services. ISD's proposed rates include an overall return of 12.40 percent reflecting its imbedded debt cost of 9.19 percent and a return on equity of 16.50 percent.

Also included in the filing are proposed general storage service and general transportation service rates in compliance with the Commission's order in Docket No. CP82-532 dated November 24, 1982.

ISD requests that its proposed rates become effective on November 21, 1983. ISD states that copies of its filing have been served upon its customers and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29551 Filing 10-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-7-000]

Montana-Dakota Utilities Co.; Application

October 27, 1983.

Take notice that on October 17, 1983, Montana-Dakota Utilities Co. (Applicant), filed an Application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an Order (a) exempting the Applicant from the competitive bidding requirements and (b) authorizing the issuance of up to $50,000,000 of promissory notes due no later than December 31, 1988.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before November 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29552 Filed 10-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-1-000]

Natural Gas Pipeline Company of America; Application

October 27, 1983.

Take notice that on October 3, 1983, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60703, filed in Docket No. CP84-1-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to sell natural gas to its existing sales customers under its proposed Incremental Industrial Service (IIS) rate schedule, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to establish Rate Schedule IIS which would be restricted to sales customers under Applicant's Rate Schedules DMQ-1 and G-1. Applicant indicates that service under Rate Schedule IIS would prevent load loss and allow Applicant's customers to retain industrial sales that would otherwise be lost because of price competition from alternative fuels or alternative gas suppliers. Applicant explains that its distribution customers are unable to benefit from Applicant's low commodity cost since their customers' rates are based on the rolled-in cost of gas purchases. Applicant avers that when its lower gas price is rolled in with the other, higher cost sources of supply, the result is a unit gas cost which may be too high to allow the distributor to compete with alternative fuels or with alternative suppliers who can sell directly to the industrial end-use customer. Applicant states that Rate Schedule IIS would allow its sales customers to establish rates based on Applicant's effective commodity rate rather than a rolled-in rate. Applicant maintains that Rate Schedule IIS would not increase the volumes or change the rates otherwise available to the distribution custromers and that the service would not impose additional costs on Applicant's customers.

Applicant does not propose a special rate or charge for this service. Applicant explains that each distribution customer would be billed a monthly charge computed by multiplying the volumes sold under Rate Scehdule IIS by the effective commodity rate to the customer set out in Sheet No. 5 of the Third Revised Volume No. 1 of Applicant's FERC Gas Traiff. This rate would be the effective commodity rate the customer pays pursuant to its long term firm service agreement with Applicant.

Applicant states that a purchaser of gas pursuant to Rate Schedule IIS must certify that the cost of gas component of the rate asssessed to the end-user is at the unit cost level for gas purchased under Rate Schedule IIS and that the purchaser must obtain an affidavit from the end-user stating that unless the purchaser can flow through directly to that end-user the cost of gas paid to Applicant, the end-user would switch to an alternative fuel or alternative gas supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All portests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and neccessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29553 10-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-12-000]

Northern Border Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 26, 1983.

Take notice that on October 21, 1982, Northern Border Pipeline Company (Northern Border) tendered for filing proposed changes in its FERC Gas Tariff, Original Volume Nos. 1 and 2. By this filing, Northern Border proposes to revise its currently effective provisions pertaining to delivery pressure.

Northern Border's currently effective minimum delivery pressure provisions*

require it to deliver gas to its Shippers at the points of delivery at the existing pipeline pressure provided that Northern Border shall not deliver gas to a Shipper at a pressure less than the minimum pressure specified in the Exhibit A to such shipper's Service Agreement at a point of delivery.

Northern Border proposes to change Subsection 2.2 of the General Terms and Conditions in Original Volume Nos. 1 and 2 of its FERC Gas Tariff. Such change would provide that Northern Border could deliver, and its Shippers accept, gas at pressure below the minimum pressure if the Shippers so desire. Northern Border states that under certain operating circumstances the proposed change will reduce the amount of fuel required from its Shippers and enhance its operational efficiency.

Northern Border states that a copy of the filing has been mailed to all of its Shippers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29554 Filed 10-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-10-000]

Peoples Natural Gas Co.; Filing

October 28, 1983.

Take notice that on October 19, 1982, Peoples Natural Gas Company, a Division of InterNorth, Inc. (Peoples) requested an extension of time to submit the required annual filing to reflect changes in the cost of purchased gas pending the outcome of the proposal pending in Docket No. CP83-377. Peoples states that, pursuant to FPC Gas Tariff, Original Volume No. 4 of Northern Natural Gas Company, Paragraph 19 of the general terms and Conditions, Peoples should have submitted by August 15, 1983, a report showing: the gas purchased cost actually experienced during the twelve month period ending June 30; a cost of Purchased Gas for the ensuing year; a revised Base Average Cost of Purchased Gas for the ensuing year; and the appropriate tariff sheet entitled "Original PGA-1, Statement of Effective Rates".

Peoples states that the following factors have delayed its ability to make the required filing on a timely basis: (1) Peoples has recently contracted for alternate short-term supply of natural gas for this portion of its market area. This alternate supply is lower cost gas which will accrue to the benefit of our jurisdictional customers and is a composite of a number of contracts with various producers. The monthly change in the mix of deliveries from various producers has made it very difficult to determine a Base Average Cost of Purchased Gas for the ensuing year. (2) Peoples is a joint applicant at Docket No. CP83-377 to divest itself of these properties by sale to West Texas Gas, Inc. Accordingly, Peoples believes that it would be most advantageous to all parties if the next reconciliation of the gas cost actually experienced and the revised Base Average Cost for the ensuring year could coincide with the date of the proposed sale and transfer of the properties.

Peoples further states that, under the Purchase Gas Adjustment Clause (PGA) regulations of the Federal Energy Regulatory Commission (FERC), found in 18 CFR Section 154.38, Peoples' Base Tariff Rates must be "restated" every 36 months. This means that all PGA adjustments approved since the last time Base Tariff Rates were restated must be "rolled in". The total of those PGA adjustments is set forth on currently effective Substitute Thirtieth Revised Sheet No. 3a in the above referenced tariff Original Volume No. 4.

Peoples' Base Tariff Rates were last restated on October 30, 1980, when the rates in Docket No. RP80-94 went into effect. New Base Tariff Rates should be established to be effective by October 30, 1983. A cursory comparison of annual revenues and cost of service based on the twelve month period ending June 1983, indicated that revenues exceeded the unadjusted cost of service by less than $10,000. Based on a per book revenue of $3.5 million, the excess is less than three-tenths (3/10) of one percent prior to any annualization or normalization adjustments. The cost of service was computed using an overall rate of return of 10.87%, which was authorized three years ago in Docket No. RP80-94. If Peoples were to use the overall rate of return authorized for Northern Natural Gas Company at Docket No. RP82-71, the annual excess would be less than $4,000.

Peoples states that the proposed new distributor for the market probably will have a cost of capital substantially different than Peoples and will probably experience different O&M costs, etc. than were experienced under Peoples. Peoples states that it might not be in the best public interest of its Texas customers for Peoples to have to expend funds to prepare and prosecute a rate case at this time. Accordingly, Peoples requests an opportunity to discuss alternatives with members of the Commission's Staff. If the pending sales is not consumated, Peoples will proceed on its own to statisfy the the requirement of 154.38 using the most recent data available.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29555 Filed 10-31-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-510-000]

Texas Eastern Transmission Corp.; Request Under Blanket Authorization

October 27, 1983.

Take notice that on September 13, 1983, Texas Eastern Transmission Corporation (Tetco), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP83-510-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Tetco proposes to modify its maximum daily delivery obligation (MDDO) at certain sales delivery points pursuant to the terms of a superseding service agreement dated September 7, 1983, under the authorization issued in Docket No. CP82-535-000 pursuant to Section 7 of

the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tetco and Columbia Gas Transmission Corporation (Columbia Gas) have entered into a superseding service agreement providing for the sale by Tetco of quantities of natural gas to Columbia Gas. Pursuant to Section 157.212(a) and 157.212(b) of the Regulations, Tecto proposes to modify its MDDO at certain of its delivery points to its existing customer, Columbia Gas. Deliveries under this agreement will be for Columbia Gas' general system supply.

Tetco states that its existing tariff does not prohibit the proposed changes in MDDO and that the changes will have no effect on its peak day or annual deliveries. Total volumes covered under the current service agreement with Columbia Gas will not be changed, it is alleged.

The proposed changes are as follows:

Tetco intends to modify MDDO's at the following delivery points:

Points of delivery	Current MDDO	Proposed MDDO	Change
A. Delivery Points in Applicant's Zone C:			
1. M&R Station No. 521 located in Butler County, Ohio, on Applicant's 24-inch Line No. 1 at mile post 776.93	103,809	150,000	+46,191
2. M&R Station No. 041, located in Warren County, Ohio, on Applicant's 24-inch Line No. 1 at mile post 784.20	259,523	215,332	−46,191
3. DM&R Station No. 468, located in Warren County, Ohio on Applicant's 24-inch Line No. 1 at mile post 791.43	934	1,200	+266
4. M&R Station No. 984, located in Fayette County, Ohio, on Applicant's 24-inch Line No. 1 at mile post 836.98	1,038	722	−266
B. Points in Tetco's Rate Zone D:			
1. M&R Station No. 579, located in Somerset County, Pennsylvania on Applicant's 24-inch Line No. 1 at mile post 1069.16	5,190	7,500	+2,310
2. M&R Station No. 068, located in Lancaster County, Pennsylvania on Applicant's 24-inch Line No. 1 at mile post 1203.66	40,485	10,000	−30,485
3. M&R Station No. 070, located in Lancaster County, Pennsylvania on Applicant's 24-inch Line No. 1 at mile post 1218.58	13,495	[illegible]	+29,505
4. M&R Station No. 519, located in Dauphin County, Pennsylvania on Applicant's 24-inch Line No. 12 at mile post 150.26	33,219	[illegible]	+15,381
5. M&R Station No. 321, located in Lebanon County, Pennsylvania on Applicant's 24-inch Line No. 12 at mile post 179.90	11,419	17,000	+5,581
6. M&R Station No. 486, located in Berks County, Pennsylvania on Applicant's 24-inch Line No. 12 at mile post 187.32	8,190	9,500	+1,310

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-29556 Filed 10-31-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $1 million obtained by the DOE under the terms of a consent order entered into with Apco Oil Corporation. This money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Office of Special Counsel.

DATE AND ADDRESS: Comments must be filed on or before December 1, 1983 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0008.

FOR FURTHER INFORMATION CONTACT: Richard T. Tedrow, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-5510.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties a total of $1 million obtained by the DOE under the terms of a consent order entered into with the Apco Oil Corporation. The funds were provided to the DOE by the firm to settle all claims and disputes between Apco and the DOE regarding the manner in which Apco applied the Federal price and allocation regulations with respect to its sales of refined petroleum products during the period January 1, 1973 through January 27, 1981. In the consent order, the parties stipulated that the funds were to be distributed by the DOE pursuant to 10 CFR Part 205, Subpart V.

The DOE has tentatively decided that Applications for Refund should be accepted from firms and individuals who purchased motor gasoline, middle distillates or other covered products from Apco during the consent order period. The Proposed Decision and Order provides that in order to be entitled to receive a portion of the settlement funds, a purchaser must furnish the DOE with evidence which demonstrates that it was injured by the alleged unlawful prices for motor gasoline, middle distillates, or other covered products charged by Apco, including specific documentation concerning the date, place, price, and volume of product purchased, whether the increased costs were absorbed by the claimant or passed through to other purchasers, and the extent of any injury alleged to have been suffered.

The refund process suggested in the Proposed Decision and Order would take place in two separate stages. In the first stage, all meritorious claims for refunds to persons such as the initial purchasers would be paid. For the second stage, which would take place after the claims procedure is completed, the Proposed Decision and Order suggests that the remainder of the consent order funds might be distributed through rate regulated utilities or other regulated industries to persons who are

likely to have been injured by the alleged overcharges. The determination also proposes, alternatively, to distribute the settlement funds to the governments of the cities or states in which products sold by Apco were marketed.

As another alternative, the DOE proposes to deposit all remaining funds directly into the United States Treasury. The Proposed Decision emphasizes that no procedure for the second stage will be adopted until the claims process is completed.

It should be pointed out that until final procedures are adopted for the first stage, no claims for refunds will be accepted. Applications for Refund therefore should not be filed at this time. Appropriate public notice, including notice published in the **Federal Register**, will be given when the submission of claims is authorized. No less than 90 days from publication of such notice in the **Federal Register** will be provided for the filing of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Ave., S.W., Washington, D.C. 20585.

Issued in Washington, D.C. on October 20, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 20, 1983.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

October 20, 1983.

Name of Petitioner: Office of Special Counsel, Economic Regulatory Administration: In the Matter of Apco Oil Corporation.

Date of Filing: December 16, 1982.

Case Number: HEF–0008.

The procedural regulations of the Department of Energy (DOE) permit the Economic Regulatory Administration's Office of Special Counsel (OSC) to request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures for refunds to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with those regulatory provisions, the OSC filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with the Apco Liquidating Trust, as successor to the Apco Oil Corporation (Apco). Under the terms of the consent order, Apco agreed to make refunds in settlement of its alleged violations of the DOE petroleum price and allocation regulations during the period January 1, 1973 through January 27, 1981. As part of the settlement, DOE agreed to release Apco from any civil claims regarding Apco's compliance with the DOE regulations. Apco has remitted $1 million to the DOE and those funds are now being held in an escrow account (1) under the DOE's jurisdiction pending instructions from the Office of Hearings and Appeals regarding their distribution. With respect to distribution of the funds remitted by Apco, the consent order contains one qualification. Firms which receive any distribution will be required to execute an appropriate release and waiver of all claims against Apco concerning Apco's compliance with the Federal petroleum regulations prior to January 28, 1981.

I. Background

During the relevant time periods, Apco was an active "refiner" as that term was defined in 10 CFR 212.31 and 212.83. Apco was subject to the Mandatory Petroleum Price Regulations set forth at 10 CFR Part 212, Subpart E. That Subpart governed the maximum prices that could lawfully be charged by refiners in the sale of fuel oil, motor gasoline, and other covered products. In addition, Apco was subject to the Mandatory Petroleum Allocation Regulations set forth in 10 CFR Part 211. At the time DOE commenced the underlying compliance effort which preceded this refund proceeding, Apco was a corporation in the process of final legal dissolution following liquidation of its assets. Apco sold its refinery located in Arkansas City, Kansas, to Total Petroleum, effective April 1, 1978, and sold its other refinery, located at Cyril, Oklahoma, to Oklahoma Refining Corporation, effective July 1, 1978.

In connection with its compliance activities, the OSC audited Apco's price and allocation practices, including the manner in which the firm applied the Federal petroleum price and allocation regulations to its business activities during the period January 1, 1973 through January 27, 1981 (hereinafter referred to as the "Consent Order Period" or "Settlement Period"). Among its business activities, Apco refined crude oil and unfinished oils into gasoline, middle distillates, and other covered products and sold those finished products to various customers. Subsequently, Apco and the DOE entered into the consent order involved in this proceeding. The consent order resolves all of the issues raised during the OSC's audit relating to the firm's compliance with the petroleum regulations administered by the DOE during the consent order period. In settlement of the DOE's claims against the firm, Apco agreed to deposit $1 million in an escrow account to be disbursed as directed by the DOE. In exchange, DOE agreed to terminate the compliance proceedings.

The consent order was executed on August 5 and August 7, 1982 by the Trustees of The Apco Liquidating Trust and on August 12, 1982 by the Department of Energy. It was published for public comment in the **Federal Register** on August 24, 1982. *See* 47 FR 36885 (1982). The OSC received comments from the States of Indiana, Maine, North Carolina, Oregon and Vermont, as well as from the American Association of Railroads concerning the proposed consent order and after considering those comments concluded that it should adopt the consent order as a final order on October 5, 1982. *See* 47 FR 43998 (1982).

II. Jurisdiction and Authority to Fashion Refund Procedures

The OSC filed a Petition for the Implementation of Special Refund Procedures under Subpart V in connection with the Apco consent order on December 16, 1982. The Subpart V process is used in situations where the DOE is unable to readily identify persons who are entitled to refunds as a result of enforcement proceedings or to readily ascertain the amounts that such persons are entitled to receive. 10 CFR 205.280. Subpart V also authorizes the OHA, upon request by an appropriate DOE enforcement official, to fashion special procedures to distribute moneys obtained as part of a settlement agreement. 10 CFR 205.281, 205.282.

Special refund procedures are part of an overall regulatory program which is intended to implement several different statutes. Congress provided for mandatory allocation and price ceilings for crude oil, residual fuel oil, and refined petroleum products in the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 *et seq.* (1976). The authority to enforce regulations issued under the EPAA was granted by Section 5 of the EPAA, which incorporated enforcement authorities established in the Economic

Stabilization Act (ESA), 12 U.S.C. 1904 note (19070). EPAA, 5(a), 15 U.S.C. 754(a). The statutory authority to enforce the regulations governing the allocation and pricing of petroleum products was delegated to the Administrator of the Federal Energy Administration, and subsequently to the Secretary of Energy. Federal Energy Administration Act (FEAA) 5, 15 U.S.C. 765 (1974); Department of Energy Organization Act (DOE Act), 201(a), 42 U.S.C. 7151(a) (1979). To carry out these statutory mandates, the regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration and the DOE have provided throughout the existence of the price control program for the issuance of notices of probable violation that state one or more alleged violations of the regulations and remedial orders requiring a person to cease a violation or to compensate for the effects of a violation, or both. *See* 6 CFR 155.81(b) (1973); 10 CFR 205.2 (1974) (defining "notice of probable violation" and "remedial order").

In order to implement these statutory and regulatory goals, the DOE's enforcement process is designed to accomplish two independent ends: disgorgement of the fruits of a regulatory violation from the wrongdoer, and refunds to persons injured by the regulatory violation. *See generally Office of Enforcement,* 8 DOE ¶82,597 (1981) (hereinafter referred to as *Vickers*); *Sauder v. DOE,* 648 F.2d 1341 (Temp. Emer. Ct. App. 1981). The latter objective—refunds to overcharged persons—furthers the specific EPAA goal of providing for the "equitable distribution of * * * refined petroleum products at equitable prices * * * among all users." 15 USC 753(b)(1)(F). Until recently, the comprehensive price regulation scheme for crude oil and refined petroleum products could be utilized to facilitate the channeling of refunds to adversely affected purchasers through price rollbacks. However, on January 28, 1981, the President exempted crude oil and all refined petroleum products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (1981). As a result of decontrol, price rollbacks can no longer be used to refund moneys to purchasers who were overcharged in the past. Therefore, to make restitution to the persons affected by the alleged overcharges, a determination must be made regarding the extent to which the first purchasers of the refined products involved absorbed the overcharges or passed the higher costs through to their customers by raising their own sales prices. In such cases, the persons entitled to refunds are not readily identifiable, and the amount of the refunds that any particular person should receive is not readily ascertainable. In such circumstances, we believe that Subpart V provides the most useful mechanism to effect restitution to persons who were likely to have been injured by alleged pricing violations. In several recent cases we have accepted jurisdiction over funds received by the DOE in settlement of enforcement proceedings underlying Petitions for Implementation of Special Refund Procedures. *See, e.g., Office of Enforcement,* 8 DOE ¶82,515 (1981); *Office of Enforcement* 8 DOE ¶82,516 (1981).

After reviewing the record developed in the Apco case, we have concluded that the implementation of Subpart V proceedings is also appropriate here. In view of Apco's defunct corporate status, there is a significant degree of difficulty inherent in identifying the persons who were injured by the alleged overcharges and ascertaining the level of refunds that such persons should receive. The Office of Hearings and Appeals therefore has decided to exercise Subpart V jurisdiction over the funds received from Apco in settlement of the enforcement proceeding which led to the Petition for Implementation of Special Refund Procedures filed by the OSC on December 16, 1982.

III. Proposed Refund Procedures

In view of the objectives expressed in the statutes and regulations discussed previously, and the Apco consent order itself, the procedures to be implemented in this case should, to the maximum extent practicable, provide for the distribution of the refund amount to parties who were adversely affected by the alleged violations.

As we have stated before, refunding moneys obtained through DOE enforcement proceedings is the primary focus of Subpart V. 10 CFR 205.180; *see Coline; Office of Enforcement,* 9 DOE ¶ 82,508 (1981). Subpart V offers a means of compensating many individuals who, because they either lack the resources or do not have a sufficient financial stake in the outcome to institute private lawsuits under section 210 of the ESA, have suffered injuries which would otherwise go unredressed. The Subpart V process is also an efficient administrative mechanism for returning alleged overcharges to injured parties because it eliminates the need for long and costly court actions.

A. Refunds to Identifiable Purchasers

During the first stage in the refund process, the consent order funds should be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by the alleged overcharges in sales of covered products by Apco. We note that the first purchasers of the relevant products from the firm are likely to be claimants in this proceeding. First purchasers can generally be categorized as follows: (1) Resellers of petroleum products, (2) firms or individuals who used the product in question for the production or distribution of goods and services which were purchased by the public, or (3) entities which were the ultimate consumers of the product they purchased.

To the extent that first purchasers who are resellers or who are involved in the production or distribution of goods and services can establish that they absorbed the alleged overcharges rather than passed them on to their customers, they will be entitled to receive a portion of the consent order funds. In order to qualify for a refund, these first purchasers will be required to demonstrate that during the period covered by the consent order they would have kept their prices for petroleum products or goods and services at the same level had the alleged overcharges not occurred. While there are a variety of means by which a claimant could make this showing, a reseller or firm engaged in the production or distribution of goods and services generally should demonstrate that at the time it purchased covered products from its supplier, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, a reseller of petroleum products must show that it maintained a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices.

With respect to first purchasers who are ultimate consumers, we believe that the above showing should not be necessary in order for a firm to qualify for a refund. The types of organizations and individuals that would be included in this group include home owners, schools, religious institutions, federal, state, and local government entities, research foundations, and any other individual or organization which is not engaged in the direct sale of goods or services to other consumers. In order to establish a claim, this type of first purchaser need demonstrate only that it purchased a specific quantity of product which was sold by Apco during the consent order period.

In addition, refund applications from firms whose prices for goods and services are regulated by a governmental agency or by the terms of a cooperative agreement will not be required to demonstrate that the firm absorbed the alleged Apco overcharges. In the case of regulated firms, e.g., public utilities, any overcharges incurred as a result of Apco's alleged violations of the DOE regulations would routinely be passed through to their customers. Similarly, any refund receive by such firms would be reflected in the rates they were allowed to charge their customers. Refunds to agricultural cooperatives will likewise directly influence the prices charged to their member customers. Consequently, such firms will be added to the class of claimants that are not required to show that they did not pass through to their customers cost increases resulting from alleged overcharges. *See, e.g., Office of Special Counsel (Tenneco),* 9 DOE ¶ 82,538 (1982); and *Office of Special Counsel (Pennzoil),* 9 DOE ¶ 82,545 at 85,244 (1982). Instead, those firms should provide with their application a full explanation of the manner in which refunds would be passed through to their customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of any refund money.

In the event that the first purchasers are unable to make the showing described above, firms and individuals who purchased products from first purchaser may be eligible to receive a portion of the funds. In order to establish an entitlement to a refund, a person claiming to be an injured party must satisfactorily demonstrate that it purchased, during the consent order period, a specific quantity of products which were sold by Apco. Privity with either Apco or one of its first purchasers need not be established; evidence need only be presented that the products purchased by the claimant flowed through a chain of distribution leading back to Apco. In addition, unless the purchaser is an ultimate consumer, it should generally be able to demonstrate that it did not pass through the cost increases resulting from the alleged overcharges to its own customers. For example, a purchaser who resold the identified product should be in a position to show that market conditions did not permit it to raise prices charged to downstream customers, and that consequently it was forced to absorb the cost increases that are represented by the alleged overcharges. In the absence of that showing we could conclude that the claimant was not injured in a monetary sense by the alleged overcharge. However, in the *Vickers* decision, we noted that the nature of the showing required could be too complicated for those individuals and firms who might otherwise be entitled to apply for refunds and who purchased relatively small amounts of products. We also observed that many of those purchasers might lack the type of records required to support such a showing. We therefore established a 50,000 gallons per month (or 600,000 gallons per year) threshold level of purchases under which applicants, primarily smaller firms and individuals, were not required to make a detailed showing of actual injury. For those applicants who claim less than that level of purchases, we require only proof of the amount of product purchased by the applicant during the consent order period. We propose to use the same type of procedure for smaller claimants in this proceeding. *See Vickers; Office of Special Counsef for Compliance,* 4 DOE ¶ 82,511 at 85,043–44 (1979); and *Office of Special Counsel,* 9 DOE ¶ 82,545 at 85,245 (1982).

In addition, as in previous cases, we propose that there is a class of potential claimants who may be presumed to have suffered no injury from Apco's regulatory practices. Those parties are firms who made spot purchases of Apco products. As we stated in *Vickers:*

> • • • these customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Vickers motor gasoline at increased prices unless they were able to pass through the full amount of Vickers' quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. We believe that the same rationale applies in this case. Consequently, we will not consider applications for refund from firms who made only spot purchases from Apco.

In *Vickers,* we utilized a "pure" volumetric method of allocating refunds to claimants, i.e., refunds were based on the proportion of product purchased by the applicant to the total amount of product sold by the supplier during the relevant audit period. When the *Vickers* decision was issued in July 1981, we believed that this method of distribution was appropriate for allocating the Vickers settlement funds because: (1) It is an administratively efficient method for determining what proportion of the settlement fund should go to each successful claimant; (2) it serves as a useful approximation of injury in the treatment of overcharged claimants who are unable to quantify their alleged injury; and (3) it allows applicants to recover a significant refund for each gallon of product they purchased.

Based on our experience in Subpart V cases since that time, however, we now believe that the adoption of the "pure" volumetric plan of distribution used in *Vickers* would not be the best mechanism for allocating the Apco consent order funds. There are a number of factors leading to this conclusion. First, we note that the size of the monetary settlements which are involved in Subpart V proceedings are arrived at through negotiations between the DOE and the firms charged with the alleged regulatory violations. In a recent decision that addressed this issue, *Office of Special Counsel (Pennzoil),* 9 DOE ¶82,545 (1982), we noted that the size of a settlement fund is based upon both the magnitude of the violations alleged by the government and other factors such as each party's views as to the probable length, expenses and success of litigation. Those factors would have particular relevance in this case, in view of the uncertainty as to Apco's corporate status. In *Vickers,* the settlement fund happened to be relatively large in proportion to the volume of product covered by the consent order and would therefore yield a significant per gallon refund. In *Pennzoil,* however, the settlement fund was small in relation to the total volume of products involved, and successful claimants would have recovered a refund of only $.000375 per gallon if the settlement fund were distributed on a "pure" volumetric basis. Moreover, we believe that as a general proposition many claimants in these cases will be unable to provide the type of evidence necessary to support the approval of a refund application. For example, it may be difficult and costly for potential claimants to demonstrate that the effects of alleged regulatory violations were not passed through to their downstream customers. As a result, the total amount for which meritorious claims are submitted may be far less than the amount of the settlement funds available for distribution. *See Pennzoil* at 85,246–7.

In this proceeding,we will follow *Pennzoil* and adopt an alternative mechanism of distribution based on a modified version of the "pure" volumetric distribution scheme used in *3Vickers.* As noted above, the size of the fund available for distribution is likely to be less than the amount needed to make full restitution to the injured claimants involved in this proceeding, and the use of a "pure" volumetric mechanism would have the undesirable

effect of placing a further artificial limitation on the amount of the refunds that are eventually received by successful claimants. We therefore believe that it is fully consistent with the restitutionary objectives of the present proceeding to distribute more than a pure volumetric share of the available Apco funds to successful claimants. First, we will establish a "floor" or minimum amount a successful claimant could receive which will assist a potential applicant in deciding whether or not to apply for a refund. In this proceeding the minimum amount that a successful claimant will recover can be determined by multiplying its total covered product purchases (in gallons) by $.000490 per gallon.[2] However, after the minimum refund amount has been determined for each successful claimant, the OHA will also give consideration to the following factors in determining individual refunds: (1) The amount of interest accumulated in the escrow account since the DOE received the settlement from Apco; (2) the number of qualified claimants, and the aggregate volume of their purchases compared to the amount of products sold by Apco during the consent order period; (3) the impact of the alleged violations on the claimant's business; (4) market conditions prevalent during the consent order period; (5) the claimant's position in the distribution chain, i.e., whether it is a refiner, reseller or ultimate consumer; and (6) the manner in which the claimant's business is governed by federal, state or local regulatory agencies, or other relevant private contractual agreements such as those affecting agricultural cooperatives. A weighing and balancing of these factors will enable us to further the restitutionary goals of Subpart V and the underlying statutory objectives.

Any purchaser claiming a portion of the refund amount should file an Application for Refund pursuant to 10 CFR 205.283. Applications should provide all relevant information necessary to establish a claim, including specific documentation concerning the date, place, price, and volume of product purchased, the retention of increased costs, and the extent of any injury alleged. Detailed procedures for filing applications will be provided in a final Decision and Order. *See Vickers.* Before disposing of any of the funds received as a result of the consent order involved in this proceeding, we intend to widely publicize the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the **Federal Register**, notice will be provided in publications in the area in which Apco marketed its products during the period covered by the consent order. As a final matter, we note that refund applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers also will be considered. Such applications will be evaluated on a case-by-case basis.

B. Distribution of the Remainder of the Refund Amount

After all meritorious claimants have received the share of the settlement fund to which they are entitled, the settlement fund provided by Apco pursuant to the consent order, while diminished, may not be exhausted. Any remainder of the settlement funds should be distributed during a second stage of the refund process in furtherance of the goals set forth in the DOE's enabling legislation and implementing regulations. In this decision, we are proposing several alternatives for the second-stage refund procedure. However, we wish to emphasize that any consideration of the second-stage procedure at this point in time involves a number of uncertainties. As we noted in *Vickers:*

> [Such] a step would be difficult to justify before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the Consent Order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme.

8 DOE at 85,397. As in that case, we intend to set forth a number of second-stage alternatives in this proposed decision. We will consider any comments received and then issue a final Decision and Order establishing procedures for the first stage. In that decision, we will summarize and address briefly the comments received concerning the proposed second-stage procedure, and will solicit another round of comments on the distribution of the funds that may remain after payment of claims in the first stage. In this way, we will have adequate opportunity to consider the outstanding issues before reaching a final decision on the second stage.

Since refunding money to injured persons is the primary concern of Subpart V proceedings, we believe that the remaining funds should, if administratively and economically feasible, be distributed to groups of ultimate consumers who were likely to have borne a portion of the higher prices charged by Apco. In view of the relatively small sum of money likely to be involved in claims by many ultimate consumers, and the improbability that members of this class will possess records sufficient to establish their claims, we anticipate that only a limited number of ultimate consumers who were actually injured by the alleged overcharges will be able to prove during the first stage of the refund process that they are entitled to refunds. See Vickers. The fact that claims to specific refunds may not have been proved, however, does not mean that injuries to ultimate consumers have not occurred. Rather, the absence of claims for the full amount of the settlement would tend to reflect the difficulty such parties encounter in establishing a valid claim for a portion of the consent order funds.

If a second stage should prove necessary, refunds might be made in the form of lowered energy or energy related costs in areas where the products associated with the alleged overcharges by Apco were marketed. For example, in *Office of Special Counsel for Compliance,* No. DFF–0003 (March 13, 1981) (proposed decision), 46 FR 17643 (1981) we proposed that the second-stage refund to consumers who were likely to have been overcharged be effected by using rate-regulated utilities to pass through the remaining funds to consumers through fuel adjustment clauses or other appropriate mechanisms. We observed that it is likely that the person who purchased motor gasoline or heating oil in-a particular area would reside there as well and would ultimately be consumers of electricity. They would therefore benefit from the proposed rate reduction. We further suggested that state governments in the affected areas may be designated as refund recipients for the purpose of reducing energy-related expenses subject to their direct control. County and local governments are also candidates for distributing the refund amount to affected citizens. Although we cannot yet determine what actions we will take in the second stage, we will consider these types of restitutionary schemes as possible alternatives.

In the event that the distribution schemes discussed above prove to be inappropriate because of administrative costs or the lack of accurate information, we propose that the portion of the settlement fund which would otherwise go undistributed be deposited in the United States Treasury. We also propose as an alternative to the distribution scheme outlined above, that any funds remaining after the first stage claims procedure be deposited directly in the United States Treasury. Subpart V regulations specifically sanction this course of action, *see* 10 CFR 205.287(c),

and direct payment to the Treasury may well be appropriate in cases where other remedies would be ineffectual or administratively burdensome. *See Golden Eagle Oil Co.*, 6 DOE ¶83,005 at 86,065 (1980); cf. *Chano's Auto Service Center*, 8 DOE ¶83,002 (1981). However, as noted above, we will not be in a position to decide what should be done with any remaining funds until after the first-stage refund procedure is completed. Only then will we know the amount of money available for the second stage of the refund process. This factor, as noted above, will strongly influence the ultimate disposition of those funds.

It Is Therefore Ordered That:

The $1 million refund amount supplied by Apco Oil Corporation will be distributed in accordance with the foregoing Decision.

Footnotes

[1] The escrow account is an interest bearing account, and as of September 30, 1983 the Apco funds have earned $63,747.61, which is also available for distribution.

[2] This per gallon factor is computed by dividing the $1 million available for distribution under the Apco consent order by 2,039,552,000 gallons, which represents Apco's total sales of all covered products during the consent order period.

[FR Doc. 83-29640 Filed 10-31-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50608; PH-FRL 2449]

Pesticides; Issuance of Experimental Use Permits; BASF/Wyandotte Corp.

Correction

In FR Doc. 83-27659 beginning on page 46428 in the issue of Wednesday, October 12, 1983, make the following correction: In column three, **SUPPLEMENTARY INFORMATION,** paragraph one, line six, "N-cyclohexyul-N-methoxy-2" should read "N-cyclohexyl-N-methoxy-2".

BILLING CODE 1505-01-M

[OPTS-51489; TSH-FRL 2455-5]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 83-28706 beginning on page 48863 of the issue of Friday, October 21, 1983, make the following corrections:

1. On page 48865, third column, in PMN 84-35, second line of *Toxicity Data*, change "12,000" to "2,000".

2. On page 48866, first column, in PMN 84-37, first line of *Chemical*, "-1m2-" should read "-1,2-".

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed; Pacific Westbound Conference

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in section 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. 57-128.

Title: Pacific Westbound Conference.

Parties:

American President Lines, Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Korea Marine Transport Co., Ltd.
Mitsui O.S.K. Lines, Ltd.
Moller-Maersk Line A. P.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 57-128 would amend the basic agreement by amending the secret ballot provisions contained in Appendix Article 7, paragraph 6, to insert the words, "except as to proposals to amend the Conference Agreement."

Filing party: Charles L. Coleman, III, Esquire, Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No. T-4144.

Title: New York/USL Lease Agreement.

Parties: City of New York (City)/ United States Lines, Inc. (USL).

Synopsis: Agreement No. T-4144 is an amendment and restatement of a lease agreement between City and USL. Under the agreement City agrees to lease approximately 200 acres of land and terminal facilities to USL at the Howland Hook Terminal for an initial term expiring on August 30, 2006, with additional renewal options of 66½ years.

Filing agent: John Gerhard, General Counsel, The City of New York, Department of Ports and Terminals, Battery Maritime Building, New York, New York 10004.

Agreement No. 9055-3.

Title: Department of Transportation of the State of Hawaii and Matson Navigation Company, Inc. Terminal Lease Modification.

Parties: Department of Transportation of the State of Hawaii (State) and Matson Navigation Company, Inc. (Matson).

Synopsis: The basic agreement would be modified to withdraw Parcel 2A (4,000) square feet from the leased premises at Hilo Harbor to allow the State to construct a shop and warehouse facility and to add Parcel 2B (4,000) square feet to the premises covered by the Agreement in exchange for withdrawal of Parcel 2A.

Filing party: Ryokichi Higashionna, Director of Transportation, State of Hawaii, 869 Punchbowl Street, Honolulu, Hawaii 96813.

Agreement No. 9055-A-5.

Title: Matson Navigation Company, Inc. and Hilo Transportation and Terminal Company, Limited, Restated Terminal Agreement for Loading Sugar on Vessels.

Parties: Matson Navigation Company, Inc. (Matson) and Hilo Transportation and Terminal Company, Limited (Hilo).

Synopsis: The purpose of Agreement No. 9055-A-5 is to restate Agreement No. 9055-A, dated January 1, 1962, in its entirety to reflect in a single document all of the terms and provisions of said Agreement as provided by various approved amendments.

Filing party: Ryokichi Higashionna, Director of Transportation, State of Hawaii, 869 Punchbowl Street, Honolulu, Hawaii 96813.

By Order of the Federal Maritime Commission.

Dated: October 27, 1983.
Francis C. Hurney,
Secretary.
[FR Doc. 83-29619 Filed 10-31-83; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation,* New York, New York (financing and insurance activities; Maryland, South Carolina, Tennessee and Virginia): To continue to engage through its subsidiary, Sunamerica Corporation, in the previously approved activities of making or acquiring for its own account loans and other extensions of credit and servicing loans and other extensions of credit, including but not limited to, making or acquiring loans to consumers; making or acquiring loans and other extensions of credit to businesses (including inventory financing); making or acquiring extensions of credit secured by personal property least contracts; acting as agent or broker for the sale of credit related insurance directly related to such activities. Any credit life and credit accident and health insurance sold in connection with the proposed activities may be reinsured through Sun States Life and Great Lakes Insurance Companies which are indirect subsidiaries of the Applicant. These activities will be conducted from an office in Winston-Salem, North Carolina, serving the states of Maryland, South Carolina, Tennessee and Virginia. Comments on this application must be received not later than November 25, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinios 60690:

1. *Charleston Bancorp, Inc.,* Springfield, Illinois (insurance activities; Illinois): To act, in the offices of its subsidiary, The Bank of Charleston, as a broker in the sale of credit life and credit accident and health insurance. These activities would be performed in Charleston, Illinois, serving Coles County, Illinois. Comments on this application must be received not later than November 16, 1983.

2. *Charleston Bancorp, Inc.,* Springfield, Illinois (insurance activities; Illinois): To engage in general insurance activities in a community that has a population not exceeding 5,000. This activity will be performed from offices in Lewistown, Illinois, serving Fulton County, Illinois. Comments on this application must be received not later than November 16, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Area Financial Corporation,* Redwood City, California (insurance premium financing activities; California): To engage *de novo* through its subsidiary, Insurance Premium Finance Corporation, in the activity of making or acquiring loans to policy holders for the purpose of financing premiums. These activities would be conducted from an office in Redwood City, California, serving the State of California. Comments on this application must be received not later than November 25, 1983.

Board of Governors of the Federal Reserve System, October 26, 1983.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 83-29548 Filed 10-31-83; 8:45 am]
BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Union Bancorp, Inc.

The companies listed in this notice have applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become band holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Rank indicated for the application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Union Bancorp., Inc.,* West Mansfield, Ohio; to become a bank holding company by acquiring 80 percent or more of the voting shares of the Union Banking Company, West Mansfield, Ohio. Comments on this application must be received not later than November 23, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens Express Company,* Gainesville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens Bank, Gainesville, Georgia. Comments on this application must be received not later than November 22, 1983

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Countryside Financial Services, Inc.,* Walworth, Wisconsin; to become a bank holding company by acquiring 80 percent or more of the voting shares of Walworth State Bank, Walworth,

Wisconsin. Comments on this application must be received not later than November 21, 1983.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *VH Bancorporation, Inc.*, Minneapolis, Minnesota; to become a bank holding company by acquiring 80.2 percent of the voting shares of Grand Marais State Bank, Grand Marais, Minnesota. Comments on this application must be received not later than November 25, 1983.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *State Financial Investment, Inc.*, Winfield, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of The State Bank, Winfield, Kansas. Comments on this application must be received not later than November 25, 1983.

Board of Governors of the Federal Reserve System, October 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc.83-29547 Filed 10-31-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Average of the Total Wages for 1982, Contribution and Benefit Base, Quarter of Coverage Amount, Retirement Test Exempt Amounts, Formulas for Computing Benefits, and Extended Table of Benefit Amounts for 1984

AGENCY: Social Security Administration, HHS.

ACTION: Social Security: Notice of Average of the Total Wages for 1982, Contribution and Benefit Base, Quarter of Coverage Amount, Retirement Test Exempt Amounts, Formulas for Computing Benefits, and Extended Table of Benefit Amounts for 1984.

SUMMARY: The Secretary has determined—

(1) The average of the total wages for 1982 to be $14,531.34;

(2) The Social Security contribution and benefit base to be $37,800 for remuneration paid in 1984 and self-employment income earned in taxable years beginning in 1984;

(3) The amount of earnings a person must have to be credited with a quarter of coverage in 1984 to be $390; and

(4) The monthly exempt amount under the Social Security retirement test for taxable years ending in calendar year 1984 to be $580 for beneficiaries age 65 and over and $430 for beneficiaries under age 65.

The formulas we use to compute the benefits for a worker and his or her family who first become eligible for benefits in 1984 are also described below.

Finally, a table reflecting the new higher average monthly wage and related benefit amounts made possible by the higher contribution and benefit base is also published. The table will be used primarily to compute the retirement benefits of workers who reached age 62 before 1979.

FOR FURTHER INFORMATION CONTACT: Eli Donkar, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–3365.

SUPPLEMENTARY INFORMATION: Sections 203(f)(8), 213(d) and 230(a) of the Social Security Act (42 U.S.C. 403(f)(8), 413(d) and 430(a)) require the Secretary of Health and Human Services to publish in the **FEDERAL REGISTER** on or before November 1, 1983, the contribution and benefit base, the amount of earnings required for a quarter of coverage, and the retirement test exempt amounts, for calendar year 1984. In addition, section 215(a)(1)(D) requires that the Secretary publish by November 1, 1983, the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 1984, and section 203(a)(2)(c) requires that the Secretary publish by November 1, 1983, the formula for computing a family's maximum benefits for families of workers who first become eligible for old-age benefits or die in 1984.

Average of the Total Wages for 1982

The determination of the average wage figure for 1982 is based on the 1981 average wage figure of $13,773.10 announced in the **Federal Register** on November 10, 1982 (47 FR 51003) along with the percentage increase in average wages from 1981 to 1982 measured by annual wage data tabulated by the Internal Revenue Service (IRS). The average amounts of wages calculated directly from IRS data were $14,144.50 and $14,923.19 for 1981 and 1982, respectively. To determine an average wage figure for 1982 at a level that is consistent with the series of average wages for 1951–1977 (published December 29, 1978 at 43 FR 61016), we multiplied the 1981 average wage figure of $13,773.10 by the percentage increase in average wages from 1981 to 1982 (based on IRS data) as follows (with the result rounded to the nearest cent): Average wage for 1982 = $13,773.10 × $14,923.19 ÷ $14,144.50 = $14,531.34. Therefore, the average wage for 1982 is determined to be $14,531.34.

Contribution and Benefit Base

General. The 1984 contribution and benefit base is $37,800.

The contribution and benefit base serves two purposes:

(1) It is the maximum annual amount of earnings on which Social Security taxes are paid.

(2) It is the maximum annual amount used in figuring a person's Social Security benefits.

Computation. Section 230(c) of the Social Security Act provides a table with the contribution and benefit base for each year 1978, 1979, 1980, and 1981. For years after 1981, section 230(b) of the Social Security Act contains a formula for determining the contribution and benefit base. Under the prescribed formula, the contribution and benefit base for 1984 shall be equal to the 1983 base of $35,700 multiplied by the ratio of (1) the average amount, per employee, of total wages for the calendar year 1982 to (2) the average amount of those wages for the calendar year 1981. Section 230(b) further provides that if the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Average Wages. The average wage for calendar year 1981 was previously determined to be $13,773.10. The average wage for calendar year 1982 has been determined to be $14,531.34, as stated herein.

Amount. The ratio of the average wage for 1982, $14,531.34, compared to that for 1981, $13,773.10, is 1.055052. Multiplying the 1983 contribution and benefit base of $35,700 by the ratio 1.055052 produces the amount of $37,665.36 which must then be rounded to $37,800, accordingly, the contibution and benefit base for 1984 is $37,800.

Quarter of Coverage Amount

General. The 1984 amount of earnings required for a quarter of coverage is $390. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of $50 or more were paid, or for which $100 or more of self-employment income were credited, to the individual. Beginning in 1978, wages generally are no longer reported on a quarterly basis; instead, annual reports

are made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 (Pub. L. 95–216) amended section 213(d) of the Social Security Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 (up to a maximum of 4 quarters of coverage for the year). Section 213(d) also provides that this amount shall be redetermined each year and many change published in the **Federal Register** no later than November 1 of the year preceding the year for which the change is effective.

Computation. Under the prescribed formula, the quarter of coverage amount for 1984 shall be equal to the 1978 amount of $250 multiplied by the ratio of (1) the average amount, per employee, of total wages for calendar year 1982 to (2) the average amount of those wages reported for calendar year 1976. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. The average wage for calendar year 1976 was previously determined to be $9,226.48. This was published in the **Federal Register** on December 29, 1978, at 43 FR 61016. The average wage for calendar year 1982 has been determined to be $14,531.34 as stated herein.

Quarter of Coverage Amount. The ratio of the average wage for 1982, $14,531.34, compared to that for 1976, $9,226.48, is 1.57496. Multiplying the 1978 quarter of coverage amount of $250 by the ratio of 1.57496 produces the amount ot $393.74 which must then be rounded to $390. Accordingly, the quarter of coverage amount for 1984 is $390.

Retirement Test Exempt Amounts

(a) *Beneficiaries Aged 70 or Over.* Beginning with months after December 1982, there is no limit on the amount an individual aged 70 or over may earn and still receive Social Security benefits. The age at which the retirement test ceases to apply is reduced from age 72 to age 70 by Public Law 97–35, which amended section 203(c)(1) of the Social Security Act.

(b) *Beneficiaries Aged 65 through 69.* The retirement test monthly exempt amount for beneficiaries over age 65 is stated in the Social Security Act at section 203(f)(8)(D) for years 1978 through 1982. A formula is provided in section 203(f)(8)(B) for computing the exempt amount applicable for years after 1982. The monthly exempt amount of 1983 was determined by this formula to be $550. Under the formula, the exempt amount for 1984 shall be the 1983 exempt amount multiplied by the ratio of (1) the average amount, per employee, of the total wages for calendar year 1982 to (2) the average amount of those wages for calendar year 1981. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. Average wages for this purpose are determined in the same way as for the contribution and benefit base. Therefore, the ratio of the average wages for 1982, $14,531.34 compared to that for 1981, $13,773.10 is 1.055052.

Exempt Amount for Beneficiaries Aged 65 through 69. Multiplying the 1983 retirement test montly exempt amount of $550 by the ratio of 1.055052 produces the amount of $580.28. This must then be rounded to $580. The retirement test monthly exempt amount for beneficiaries aged 65 through 69 is determined to be $580 for 1984. The corresponding annual retirement test exempt amount for these beneficiaries is $6,960.

(c) *Beneficiaries Under Age 65.* Section 203 of the Social Security Act provides that beneficiaries aged 65 and over have a higher retirement test monthly exempt amount than those beneficiaries under age 65. The exempt amount for beneficiaries under age 65 is determined by a formula provided in section 203(f)(8)(B) of the Social Security Act. Under the formula, the monthly exempt amount for beneficiaries under age 65 is $410 for 1983. The formula provides that the exempt amount for 1984 shall be the 1983 exempt amount for beneficiaries under age 65 multiplied by the ratio of (1) the average amount, per employee, of the total wages for calendar year 1982 to (2) the average amount of those wages for calendar year 1981. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. Average wages for this purpose are determined in the same way as for the contribution and benefit base. Therefore, the ratio of the average wages for 1982, $14,531.34 compared to that of 1981, $13,773.10 is 1.055052.

Exempt Amount for Beneficiaries Under Age 65. Multiplying the 1983 retirement test monthly exempt amount of $410 by the ratio 1.055052 produces the amount of $432.57. This must then be rounded to $430. The retirement test monthly exempt amount for beneficiaries under age 65 is determined to be $430 for 1984. The corresponding annual retirement test exempt amount for these beneficiaries is $5,160.

Computing Benefits After 1978

The Social Security Amendments of 1977 changed the formula for determining an individual's primary insurance amount after 1978. This basic new formula is based on "wage indexing" and was fully explained with interim regulations published in the **Federal Register** on December 29, 1978 at 43 FR 60877. It generally applies when a worker after 1978 attains age 62, becomes disabled, or dies before age 62. This formula uses the worker's earnings after they have been adjusted, or "indexed," in proportion to the increase in average wages of all workers. Using this method, we determine the worker's "average indexed monthly earnings." We then compute the primary insurance amount, using the worker's "average indexed monthly earnings" and also adjust the computation formula to reflect changes in general wage levels.

Average Indexed Monthly Earnings. To assure that a worker's future benefits reflect the general rise in the standard of living that occurs during their working lifetime, we adjust or "index" the worker's past earnings to take into account the change in general wage levels that has occurred during the worker's years of employment. These adjusted earnings are then used to compute the worker's primary insurance amount.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled, or dying before attaining age 62, in 1984, we divide the average of the total wages for 1982, $14,531.34, by the average of the total wages for each year prior to 1982 in which the worker had earnings. We then multiply the actual wages and self-employment income credited for those years by this ratio to obtain the worker's adjusted earnings for that year. After determining the number of years we must use to compute the primary insurance amount, we pick those years with highest indexed earnings, total those indexed earnings and divide by the total number of months in those years. This figure is rounded down to the next lower dollar amount, and becomes the average indexed monthly earnings figure to be used in computing the worker's primary insurance amount for 1984.

Computing the Primary Insurance Amount. The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the

amount over $1,085. The amounts for 1984 are obtained by multiplying the 1979 amounts by the ratio between the average of the total wages for 1982, $14,531.34, and for 1977, $9,779.44. These results are then rounded to the nearest dollar. For 1984, the ratio is 1.48591. Multiplying the 1979 amounts of $180 and $1,085 by 1.48591 produces the amounts of $267.46 and $1,612.21. These must then be rounded to $267 and $1,612. Accordingly, the portions of the average indexed monthly earnings to be used in 1984 are determined to be the first $267, the amount between $267 and $1,612, and the amount over $1,612.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 1984 or who die in 1984 before becoming eligible for benefits, we will compute their primary insurance amount by adding the following:

(a) 90 percent of the first $267 of their average indexed monthly earnings, plus

(b) 32 percent of the average indexed monthly earnings over $267 and through $1,612, plus

(c) 15 percent of the average indexed monthly earnings over $1,612.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 215(a) of the Social Security Act (42 U.S.C. 415(a)) as amended by Public Law 97–35.

Maximum Benefits Payable to a Family

The 1977 Amendments continued the long established policy of limiting the total monthly benefits which a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits which may be paid to a worker's family. The 1980 Amendments (Pub. L. 96–265) established a new formula for computing the maximum benefits payable to the family of a disabled worker. This new formula is applied to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980 and who first become eligible for these benefits after 1978. The new formula was explained in a Final Rule published in the National Federal Register on May 8, 1981 at 46 FR 25601. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, the family maximum payable is computed the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum. The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. The amounts for 1984 are obtained by multiplying the 1979 amounts by the ratio between the average of the total wages for 1982, $14,531.34, and the average for 1977, $9,779.44. This amount is then rounded to the nearest dollar. For 1984, the ratio is 1.48591. Multiplying the amounts of $230, $332, and $433 by 1.48591 produces the amounts of $341.76, $493.32, and $643.40. These amounts are then rounded to $342, $493, and $643. Accordingly, the portions of the primary insurance amounts to be used in 1984 are determined to be the first $342, the amount between $342 and $493, the amount between $493 and $643, and the amount over $643.

Consequently, for the family of a worker who becomes age 62 or dies in 1984, the total amount of benefits payable to them will be computed so that it does not exceed:

(a) 150 percent of the first $342 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $342 through $493, plus

(c) 134 percent of the worker's primary insurance amount over $493 through $643, plus

(d) 175 percent of the worker's primary insurance amount over $643.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 203(a) of the Social Security Act (42 U.S.C. 403(a)) as amended by Pub. L. 97–35.

Extension of Benefit Table Effective January 1984

The following is an extension of the Table for Determining Primary Insurance Amount and Maximum Family Benefits provided in section 215(a)(5) of the Social Security Act. This extension reflects the higher average monthly wage and related benefit amounts now possible under the increased contribution and benefit base published by this Notice effective January 1984 in accordance with section 215(i) of the Social Security Act. The extended portion of the benefit table shown here will apply primarily to benefits based on earnings of workers who reached age 62 before 1979.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802–13.805, and 13.807 Social Security Programs)

Dated: October 27, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS BEGINNING JANUARY 1984

I (Primary insurance benefit under 1939 act, as modified)—If an individual's primary insurance benefit (as determined under subsec. (d)) is—		II (primary insurance amount effective for December 1983)—or his primary insurance amount (as determined under subsec. (c)) is—	III (average monthly wage)—or his average monthly wage (as determined under subsec. (b)) is—		IV (primary insurance amount)—the amount referred to in the preceding paragraphs of this subsection shall be—	V (maximum family benefits) and the maximum amount of benefits payable (as provided in sec 203 (a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least	But not more than—		
			2976	2980	1471.50	2575.10
			2981	2985	1472.50	2576.80
			2986	2990	1473.50	2578.60
			2991	2995	1474.50	2580.30
			2996	3000	1475.50	2582.10
			3001	3005	1476.50	2583.80
			3006	3010	1477.50	2585.50
			3011	3015	1478.50	2587.30
			3016	3020	1479.50	2589.10
			3021	3025	1480.50	2590.80
			3026	3030	1481.50	2592.60
			3031	3035	1482.50	2594.30
			3036	3040	1483.50	2596.10
			3041	3045	1484.50	2597.80
			3046	3050	1485.50	2599.60
			3051	3055	1486.50	2601.30
			3056	3060	1487.50	2603.10
			3061	3065	1488.50	2604.80
			3066	3070	1489.50	2606.60
			3071	3075	1490.50	2608.30
			3076	3080	1491.50	2610.10
			3081	3085	1492.50	2611.80
			3086	3090	1493.50	2613.60

TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS BEGINNING JANUARY 1984—Continued

I (Primary insurance benefit under 1939 act, as modified)—If an individual's primary insurance benefit (as determined under subsec. (d)) is—		II (primary insurance amount effective for December 1983)—or his primary insurance amount (as determined under subsec. (c)) is—	III (average monthly wage)—or his average monthly wage (as determined under subsec. (b)) is—		IV (primary insurance amount)—the amount referred to in the preceding paragraphs of this subsection shall be—	V (maximum family benefits) and the maximum amount of benefits payable (as provided in sec. 203 (a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least	But not more than—		
			3091	3095	1404.50	2515.30
			3096	3100	1405.50	2517.10
			3101	3105	1406.50	2518.80
			3106	3110	1407.50	2520.60
			3111	3115	1408.50	2522.30
			3116	3120	1409.50	2524.10
			3121	3125	1500.50	2525.90
			3126	3130	1501.50	2527.60
			3131	3135	1502.50	2529.30
			3136	3140	1503.50	2531.10
			3141	3145	1504.50	2532.80
			3146	3150	1505.50	2534.60

[FR Doc. 83-29717 Filed 10-31-83; 8:45 am]
BILLING CODE 4190-11-M

Public Health Service

National Center for Health Services Research; Notice of Assessment of Medical Technology

The Public health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, appropriateness, and use of the argon laser trabeculoplasty procedure. Specifically, we are interested in the medical indications for (1) argon laser trabeculoplasty; (2) optimal levels of laser energy and optimal number of laser spots; (3) contraindications and side effects that potentially result from the application of this procedure, and (4) information on the near- and long-term outcomes resulting from this procedure.

For the purposes of this announcement the laser trabeculoplasty is defined as an alternative procedure that has been used in lieu of conventional surgery for the management of open-angle glaucoma. This procedure has been proposed for the treatment of patients who have been diagnosed as having primary open-angle glaucoma, pigmentary glaucoma, and for cases associated with pseudoexfoliation. The posterior portion of the trabecular meshwork is treated with the laser and is generally provided as an outpatient procedure. Laser trabeculoplasty has been utilized in some settings as a method for the treatment of uncontrolled intraocular pressures (IOP) not managed adequately by medical therapy and where some form of surgical intervention is required.

The PHS assessment consists of synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than December 21, 1983 or within 30 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies since 1975 and other information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology. Proprietary information is not being sought, but published commercial information may be submitted.

Written material should be submitted to: National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3-10, 5600 Fishers Lane, Rockville, Maryland 20857.

Further information is available from Dr. Joel H. Broida, Health Science Analyst, at the above address or by telephone (301) 443-4990.

Dated: October 21, 1983.

Harold Margulies,

Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 83-29679 Filed 10-31-83; 8:45 am]
BILLING CODE 4160-17-M

Food and Drug Administration

[Docket No. 80P-0234/P]

In Vitro Screening Devices; Safety, Effectiveness, and Utility; Public Meeting of Advisory Committee Representatives

AGENCY: Food and Drug Administration.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public meeting of the chairpersons or their representatives of the Immunology Device Section and the Microbiology Device Section of the Immunology and Microbiology Devices Panel and of the Clinical Chemistry Device Section, the Clinical Toxicology Device Section, and the Hematology and Pathology Device Section of the Clinical Chemistry and Hematology Devices Panel. The purpose of the meeting is to solicit the views of these individuals and of interested persons regarding the establishment of guidelines for evaluating the safety, effectiveness, and utility of in vitro screening devices. The meeting is related to an earlier FDA proceeding on gonorrhea antibody screening test kits (GAT's).

DATES: Written notices of participation or comments to be considered at the meeting should be filed by November 16, 1983. The meeting will begin at 9 a.m. on November 18, 1983. Comments on matters discussed at the meeting should be submitted by December 30, 1983.

ADDRESSES: Written notices of participation and comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. The meeting will be held in Rm. 1207, 8757 Georgia Ave., Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Thomas M. Tsakeris, National Center for Devices and Radiological Health (HFK-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: On January 4, 1983, the Deputy Commissioner of Food and Drugs issued a final decision denying a petition of the Health Research Group requesting FDA

to withdraw premarket approval of three gonorrhea antibody screening test kits (Docket No. 80P–0234/P; see 48 FR 335). Among other things, the decision directed the Office of Medical Devices (OMD) of the National Center for Devices and Radiological Health (NCDRH) to articulate the factors to be considered in assessing the adequacy of the performance of particular screening devices. Among the possible factors are the prevalence and seriousness of the disease or condition that is the subject of the screening; whether the disease or condition is acute, chronic, or progressive; and the availability of other diagnostic tools.

Consistent with this directive, NCDRH has sent to the panel chairpersons listed in the summary of this notice a letter listing important questions respecting the assessment of the safety, effectiveness, and utility of in vitro screening devices. These questions will be discussed at a public meeting sponsored by NCDRH beginning at 9 a.m. on November 18, 1983. NCDRH has asked the panel chairpersons, or their representatives, to present their views on the matters raised in the letter. Copies of the letter and any responses to it are on file in the dockets Management Branch, under the docket number appearing in the heading of this notice, and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday. Single copies of the letter and any responses to it may be requested from the contact person named above.

Although the primary purpose of this meeting is to obtain the scientific advice of the panel members, NCDRH also is interested in hearing the views of members of the public. Accordingly, the public meeting will include a brief period for public participation by interested persons who wish to present information, data, and comments on the subjects mentioned in the letter concerning the safety, effectiveness, and utility of in vitro screening devices. Persons who wish to participate are requested to file a notice of participation with the Dockets Management Branch (address above) on or before November 16, 1983. To assure timely handling, any outer envelope should be clearly marked with Docket No. 80P–0234/P and the statement "In Vitro Screening Devices Meeting". Such notice of participation should contain the interested person's name, address, telephone number, any business affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation. NCDRH requests that presentations be limited to 15 minutes, if possible, and that groups having similar interests consolidate their comments and present them through a single representative. NCDRH will allocate the time available for the meeting among the persons who properly file notices of participation. If time permits, NCDRH may allow interested persons attending the meeting who did not submit a written notice of participation to make an oral presentation at the conclusion of the meeting.

After reviewing the notices of participation and accompanying information, NCDRH will schedule each appearance and notify each participant by telephone of the time allotted to the person and of the approximate time the person's oral presentation is scheduled to begin. The meeting schedule will be available at the meeting, and after the meeting it will be placed on file in the Dockets Management Branch under Docket No. 80P–0234/P.

Persons who do not wish to make an oral presentation but who wish to provide written information, data, and comments for consideration at the meeting should file such materials with the Dockets Management Branch (address above) by November 16, 1983. To assure timely handling, any outer envelope should be clearly marked with Docket No. 80P–0234/P and the statement "In Vitro Screening Devices Meeting". In addition to the opportunity for interested persons to submit written or oral comments for consideration at the meeting, interested persons may submit written comments on the matters discussed at the public meeting. These comments should be submitted to the Dockets Management Branch by December 30, 1983.

Because this public meeting is being held in response to the final decision of the Deputy Commissioner in the GAT's proceeding the agency's resolution of the issues discussed at the meeting will be made public through a report that will be placed in the docket. FDA will publish in the **Federal Register** a notice of the availability of any such report.

Dated: October 27, 1983

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs

[FR Doc. 83–29690 Filed 10–28–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT DEIS 83–70]

Sunnyside Combined Hydrocarbon Lease Conversion; Availability of the Draft Environmental Impact Statement (DEIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Availability of the Draft Environmental Impact Statement (DEIS).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the BLM has prepared a DEIS for the proposed Sunnyside Combined Hydrocarbon Lease Conversion. The DEIS will be available November 7, 1983.

DATE: Comments will be accepted until January 6, 1984.

ADDRESS: Comments should be sent to: Gene Nodine, District Manager, Moab District, Bureau of Land Management, 125 West 200 South, P.O. Box 970, Moab, Utah 84532.

SUPPLEMENTARY INFORMATION: The BLM has prepared a DEIS on tar sand lease conversions in the Sunnyside area of east-central Utah. These lease conversions are proposed by five applicants—Amoco Production Company; Chevron USA Inc.—GNC Energy Corporation; Enercor; Mono Power Company; and Sabine Production Company. Each applicant has submitted a plan of operations for converting these leases. The EIS addresses the cumulative and collective impacts of the projects plus other interrelated projects planned for development in the sunnyside area during the analysis period.

This EIS may result in amendments to the Price River Management Framework Plan.

A limited number of the draft statements are available upon request at the following offices:

Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111

Moab District Office, 125 West 200 South, P.O. Box 970, Moab, Utah 84532

Public reading copies are also available in public libraries in the Sunnyside area, Salt Lake City, and Denver.

A public meeting to receive oral and/or written comments on the proposed conversions will be held at 7:00 p.m. December 14, 1983, at the Price River

Resource Area Office, 900 North 7th East, Price, Utah.

FOR FURTHER INFORMATION CONTACT: Robert Pizel, Project Leader, EIS Services, Bureau of Land Management, 555 Zang Street, First Floor East, Denver, Colorado 80228 (303) 234–6737.

Dated: October 24, 1983.

Kenneth V. Rhea,

Associate District Manager.

[FR Doc. 83–29652 Filed 10–31–83; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Information Collection Submitted for Review

The proposal for the Collection of information listed below has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the collection of information requirement and supporting documentation may be obtained by contacting Jane A. Roberts at 703/860–7916. Comments and suggestions on the Collection of information should be made directly to the Office of Information and Regulatory Affairs; Attention: Desk Officer for the Department of the Interior, Office of Management and Budget, Washington, D.C. 20503; with copies to Jane A. Roberts, Legislative and Regulatory Specialist, Offshore Rules and Operations Division, Mail Stop 646, Room 6A110, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

Title: Applying for Permits and Filing Notices

Bureau Form No.: None

Frequency: On Occasion

Description of Respondents: Federal Offshore Permittees

Annual Responses: 504

Annual Burden Hours: 8,032.

Dated: October 14, 1983.

Andrew V. Bailey,

Acting Associate Director for Offshore Minerals Managment.

[FR Doc. 83–29585 Filed 10–31–83; 8:45 am]

BILLING CODE 4310–MR–M

Environmental Documents Prepared for Proposed Oil and Gas Operation on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the Availability of Environmental Documents Prepared for OCS Mineral Pipeline Rights-of-Way Application Proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR Section 1501.4 and Section 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs), prepared by the MMS for the following oil and gas pipeline rights-of-way applications proposed on the Gulf of Mexico OCS. This listing includes all proposals for which environmental documents were prepared by the Gulf of Mexico OCS Region in the 3-month period preceding this Notice.

Activity/Operator	Location	FONSI date
Trunkline Gas Company, OCS–G 5236	High Island Area, East Addition, South Extension, Blocks A–356, A–355, A–364, A–365, and A–376; (7.18 mi. of 10" gas pipeline).	July 12, 1983.
Transcontinental Gas Pipe Line Corporation, OCS–G 5257	Vermilion Area, South Addition, Blocks 330 and 331; (4.19 miles of 6" gas pipeline)	Aug. 16, 1983.
Transcontinental Gas Pipe Line Corporation, OCS–G 5258	Brazos Area, Blocks A–23, A–24, A–21, and A–20; (8.14 miles of 12" gas pipeline)	Dis.
Transcontinental Gas Pipe Line Corporation, OCS–G 5260	Brazos Area, Blocks A–7 and 541; (2.92 miles of 12" gas pipeline)	Aug. 12, 1983
Transcontinental Gas Pipe Line Corporation, OCS–G 5261	Brazos Area, South Addition, Blocks A–133 and A–104; (3.91 miles of 6" gas pipeline)	Dis.
Transcontinental Gas Pipe Line Corporation, OCS–G 5265	Mississippi Canyon Area, Blocks 280, 279, 278, and 277, South Pass Area, Blocks 92 and 93; (15.38 miles of 10" gas pipeline).	July 20, 1983.
Michigan Wisconsin Pipeline Company, OCS–G 5266	High Island Area, East Addition, South Extension, Blocks A–368, A–369, and A–370; (5.26 miles of 12" gas pipeline).	Aug. 19, 1983.
InterNorth, Inc., OCS–G 5267	Matagorda Island Area, Blocks 623 and 624; (3.52 miles of 24" gas pipeline)	Aug. 1, 1983.
InterNorth, Inc., OCS–G 5268	Matagorda Island Area, Blocks 624 and 623; (0.41 Miles of 10" gas pipeline)	Dis.
Transcontinental Gas Pipe Line Corporation, OCS–G 5925	West Cameron Area, Blocks 215 and 222; (3.33 miles of 10" gas pipeline)	Aug. 25, 1983.
Transcontinental Gas Pipe Line Corporation, OCS–G 5926	Ship Shoal Area, South Addition, Block 238 and Ship Shoal Area, Blocks 233 and 232; (3.45 miles of 16" gas pipeline).	Aug. 26, 1983.
SONAT Oil Transmission Inc., OCS–G 5927	East Cameron Area, Blocks 231, 232, and 233; East Cameron Area, South Addition, Blocks 238, 237, and 236; Vermilion Area, Block 242; Vermilion Area, South Addition, Blocks 261, 260, 259, 258, and 265; (23.01 miles of 6" oil pipeline).	July 20, 1983.
The Superior Oil Company, OCS–G 5928	South Marsh Island Area, North Addition, Blocks 243, 244, 245, and 246 and Vermilion Area, Block 71; (12.24 miles of 12" gas pipeline).	July 25, 1983.
Conoco Inc., OCS–G 5929	South Marsh Island Area, Blocks 108 and 107; (0.24 miles of 6" oil pipeline)	Aug. 16, 1983.
Mesa Offshore Company, OCS–G 5930	Vermilion Area, South Addition, Blocks 381, 396, and 397; (1.67 miles of 6" gas pipeline)	Aug. 1, 1983.
Pennzoil Company, OCS–G 5931	Eugene Island Area, South Addition, Blocks 337, 338, and 330; (4.59 miles of 6" oil pipeline)	Aug. 12, 1983.
Pennzoil Company, OCS–G 5932	Eugene Island Area, South Addition, Blocks 337, 338, and 330; (4.01 miles of 6" gas pipeline)	Dis.
Tenneco Inc., OCS–G 5933	Vermilion Area, Blocks 122, 123, 120, and 119; (7.80 miles of 8" gas pipeline)	Aug. 19, 1983.
Southern Natural Gas Company, OCS–G 5934	Mustang Island Area, East Addition, Blocks A–90 and 760; Mustang Island Area, Blocks 759, 737, and 736; (9.25 miles of 12" gas pipeline).	Sept. 29, 1983.
Tenneco Inc., OCS–G 5937	South Marsh Island Area, South Addition, Blocks 160, 161, and 158; (4.40 miles of 6" gas pipeline)	Sept. 7, 1983.
Exxon Corporation, OCS–G 5938	Eugene Island Area, Blocks 182 and 174; (1.74 miles of 6" oil pipeline)	Aug. 16, 1983.
Tesoro-Questor Pipeline Company, OCS–G 5940	High Island Area, East Addition, South Extension, Blocks A–376, A–377, A–364, A–363, A–362, A–361, A–360, A–359, and A–546; (20.10 miles of 6" oil pipeline).	Sept. 6, 1983
Tenneco Inc., OCS–G 6381	Brazos Area, Blocks A–22 and A–23; (1.16 miles of 6" gas pipeline)	Sept. 20, 1983
Samedan Oil Corporation, OCS–G 6383	East Cameron Area, Blocks 215, 214, 221, and 222; (7.05 miles of 6" gas pipeline)	Sept. 28, 1983.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Acting Regional Supervisor, Leasing and Environment, Gulf of Mexico Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, Phone 504/838–2755.

SUPPLEMENTAL INFORMATION: The MMS prepares EAs and FONSIs for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA & 102(2)(C). A FONSI is prepared

in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: October 21, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 83-29583 Filed 10-31-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 22, 1983. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 16, 1983.

Beth Grosvenor,

Acting Chief of Registration, National Register.

ALABAMA

Greene County

Eutaw, *Pierce, William F., House*, 309 Womack Ave.

Talladega County

Talladega, *First Presbyterian Church*, 130 North St. E

ALASKA

Juneau Division

Juneau vicinity, *Taku Lodge*, NE of Juneau

ARIZONA

Maricopa County

Phoenix, *Anderson, Helen, House (Roosevelt Neighborhood MRA)*, 801 N. 1st Ave.
Phoenix, *Celora Stoddard/Lon Harmon House (Roosevelt Neighborhood MRA)*, Roughly bounded by W.
Phoenix, *Chelsa Place Historic District (Roosevelt Neighborhood MRA)*, Roughly bounded by W. Lynwood and W. Willetta Sts. between Central and 3rd Aves.
Phoenix, *Concrete Block House (Roosevelt Neighborhood MRA)*, 640 N. 6th Ave.
Phoenix, *Concrete Block House (Roosevelt Neighborhood MRA)*, 618—620 N. 4th Ave.
Phoenix, *Concrete Block House (Roosevelt Neighborhood MRA)*, 614 N. 4th Ave.
Phoenix, *Dunlap, Charles H., House (Roosevelt Neighborhood MRA)*, 650 N. 1st Ave.
Phoenix, *Elizabeth Seargeant/Emery Oldaker House (Roosevelt Neighborhood MRA)*, 649 N. 3rd Ave.
Phoenix, *Ellis/Shackelford House (Roosevelt Neighborhood MRA)*, 1242 N. Central Ave.
Phoenix, *Greystone Apartments (Roosevelt Neighborhood MRA)*, 645—649 N. 4th Ave.
Phoenix, *Kenilworth Historic District (Roosevelt Neighborhood MRA)*, Roughly bounded by W. Lynwood and W. Willetta Sts. between 3rd and 7th Aves., and W. Culver between 5th and 7th Aves.
Phoenix, *Phoenix LDS Second Ward Church (Roosevelt Neighborhood MRA)*, 1120 N. 3rd Ave.
Phoenix, *Pierce, Harry E., House (Roosevelt Neighborhood MRA)*, 32 N. 3rd Ave.
Phoenix, *Portland Street Historic District (Roosevelt Neighborhood MRA)*, W. Portland St. between 3rd and 7th Aves.
Phoenix, *Roosevelt Historic District (Roosevelt Neighborhood MRA)*, Roughly bounded by Roosevelt St. between 1st and 7th Aves., 6th Ave. between Roosevelt and McKinley, 5th Ave. between Roosevelt and Fillmore, and Portland St. between Central and 3rd Aves.

FLORIDA

Gulf County

White City vicinity, *U.S. Snagboat MONTGOMERY*, S of White City on Intracoastal Waterway

Putnam County

Palatka, *Palatka North Historic District*, Roughly bounded by St. John's River, Bronson, N. 1st, N. 5th, and Main Sts.
Palatka, *Palatka South Historic District*, Roughly bounded by St. John's River, Oak, S. 9th, and Morris Sts.

MISSISSIPPI

Adams County

Natchez, *Upriver Residential District*, Roughly bounded by Pine, Monroe, Elm/Bishop, and Ridge/Maple Sts.

Amite County

Gloster vicinity, *Talbert-Cassels House*, Off MS 574
Liberty vicinity, *Butler, Decatur N., House*, Off MS 567
Liberty vicinity, *Webb, George, House*, E of Old Zion Hill Rd.

Hinds County

Raymond vicinity, *Magnolia Vale*, Off MS 18

Madison County

Tilda Bouge

Warren County

Vicksburg, *1300 Grove Street House*, 1300 Grove St.
Vicksburg, *Shlenker House*, 2212 Cherry St.

NEW JERSEY

Essex County

Newark, *Mutual Benefit Life Insurance Company*, 300 Broadway and 2nd St.

Monmouth County

Roosevelt, *Jersey Homesteads Historic District*, All that area within the corporate boundaries of the Borough of Roosevelt

NEW MEXICO

Rio Arriba County

Leaf Water Pueblo
Tsama Pueblo

PUERTO RICO

Aquadilla County

Isabela, *Hermitage of San Antonio de Padua de la Tuna*, Bo. Coto, Sector Pueblo Viejo

TENNESSEE

Davidson County

Nashville, *Cummins Station*, Demonbreun and 10th Ave. S
Nashville, *Glen Oak*, 2012 25th Ave. S
Pasquo, *Smith Farmhouse*, TN 100

Knox County

Knoxville, *Knoxville YMCA Building*, 605 Clinch Ave.

Warren County

McMinnville, *Black House*, 301 W. Main St.

WASHINGTON

Pierce County

Tacoma, *Fireboat No. 1*, 302 E. 11th St.

[FR Doc. 83-29604 Filed 10-31-83; 8:45 am]

BILLING CODE 4310-70-M

Yukon Charley Rivers National Preserve, Alaska

AGENCY: National Park Service, Interior

ACTION: Notice of availability of Draft General Management Plan/Environmental Assessment for Yukon-Charley Rivers National Preserve, Alaska.

SUMMARY: This notice announces the availability of a Draft General Management Plan/Environmental Assessment for Yukon-Charley Rivers National Preserve, Alaska.

DATES: Comments should be received no later than January 15, 1984. Public meetings are being scheduled and a subsequent notice will be published for these dates and locations.

ADDRESS: Comments on the Draft General Management Plan/Environmental Assessment should be addressed to the Alaska Regional Director, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503. Public reading copies will be available for review at the following locations:

Parks and Forest Information Center,
2525 Gambell Street, Anchorage, Alaska

Headquarters, Yukon-Charley Rivers National Preserve, Eagle, Alaska.
Elmer E. Rasmuson Library, University of Alaska, Fairbanks, Alaska
Alaska State Library Juneau, Alaska
Denver Public Library, Denver, Colorado
Department of the Interior Central Library, Washington, D.C.
U.S. Geological Survey Library, 1526 Cole Boulevard, Golden, Colorado
Seattle Public Library, Seattle, Washington
Interior Resources Library, Federal Building, 701 C Street, Anchorage, Alaska

FOR FURTHER INFORMATION CONTACT: Mr. David Mihalic Superintendent, Yukon-Charley Rivers National Preserve, Box 64, Eagle, Alaska 99738 (telephone: 907/459–8001), or Ms. Linda Nebel, Chief, Division of Planning and Design, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503 (tlelphone: 907/271–4637).

SUPPLEMENTARY INFORMATION: The Preserve was established December 2, 1980, by the Alaska National Interest Lands Conservation Act, ANILCA, Pub. Law 96–487 (16 U.S.C. 1301 et seq.). Subsequently, the National Park Service conducted informal scoping to determine management and environmental concerns of the public, state, and federal agencies. Considering the issues raised within the framework of ANILCA, park policies, resource information, environmental concerns, and the needs of the visitors, four alternatives were developed for consideraton for the preservation and use of the Preserve over the next five to ten years.

Dated: October 19, 1983.

Robert Peterson,

Acting Regional Director

[FR Doc. 83–29605 Filed 10–31–83; 8:45 am]

BILLING CODE 4310–70–M

Martin Luther King, Jr., National Historic Site and Preservation District Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr., National Historic Site Advisory Commission will be held at 10:00 a.m. on Wednesday, November 16, 1983, at The Martin Luther King, Jr., Center for Non-Violent Social Change, Inc., Freedom Hall, Room 261, 449 Auburn Avenue, N.E., Atlanta, Georgia 30312.

The purpose of the Martin Luther King, Jr., National Historic Site Advisory Commission is to consult and advise with the Secretary of the Interior on matters of planning, development and administration of the Martin Luther King, Jr. National Historic Site. The purpose of this meeting will be to update the Advisory Commission on park planning and operations.

The members of the Advisory Commission are as follows:

Mr. William Allison, Chairman
Mr. John H. Calhoun, Jr.
Dr. Elizabeth A. Lyon
Mr. C. Randy Humphrey
Mrs. Christine King Farris
Mr. Handy Johnson, Jr.
Mr. James Patterson
Mrs. Freddye Scarborough Henderson
Mrs. Millicent Dobbs Jordan
Mr. John W. Cox
Reverend Joseph L. Roberts, Jr.
Mrs Coretta Scott King, Ex-Officio Member
Director, National Park Service, Ex-Officio Member.

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Janet C. Wolf, Superintendent, Martin Luther King, Jr., National Historic Site, 522 Auburn Avenue, N.E., Atlanta, Georgia 30312; Telephone 404/221–5190. Minutes of the meeting will be available approximately 4 weeks after the meeting.

Dated: October 21, 1983.

C. W. Ogle,

Acting Regional Director Southeast Region.

[FR Doc. 83–29603 Filed 10–31–83; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized guaranties of a loan or loans for up to Eighteen Million Dollars ($18,000,000) to the Central American Bank for Economic Integration (Borrower) as part of A.I.D.'s development assistance program. The proceeds of these loans will be used to finance shelter projects for low income families in Central America. The following is the name, address, telex number, and telephone number of the representative of the Borrower to be contacted by interested U.S. lenders or investment bankers:

Central American Bank for Economic Integration

Project: 596–HG–005—$18,000,000, Banco Centro Americano de Integracion Economica, Apartado 772, Tegucigalpa, Honduras, Attention: Victoria A. de Diaz, General Financial Manager, Cable: BANCADIE, Telex: 1103 HT, Phone: 011–504–223–119

The Borrower is soliciting counsel from U.S. lenders or investment bankers regarding current market conditions in the United States. Investors should contact the Borrower as soon as possible and indicate their interest in providing financing for this Housing Guaranty project. Following its discussions with interested investors, the Borrower will decide upon a procedure for selecting an investor and will inform interested investors of the procedures to be followed.

Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty covering the loans. Disbursements under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to the authority of Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose capital share is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. Housing Guaranty Program can be obtained from: Director, Office of Housing and Urban Programs, Agency for International Development, Room

625, SA–12, Washington, D.C. 20523. Telephone: (202) 632–9637.

Dated: October 21, 1983.

John T. Howley,

Deputy Director, Office of Housing and Urban Programs.

[FR Doc. 83-29594 Filed 10-31-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30228]

Toledo, Peoria and Western Railroad Company—Exemption From 49 U.S.C. 10901 and 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts Toledo, Peoria and Western Railroad Company (TP&W) from the requirements of prior approval under 49 U.S.C. 10901 for the construction and operation of a connection of track between itself and Norfolk and Western Railway Company (N&W) to replace the existing crossing west of the East Peoria Yard in Tazewell County, IL and (2) 49 U.S.C. 11343 for N&W to exercise trackage rights over TP&W's main line for 1.0 miles west of the east Peoria Yard and for TP&W to exercise trackage rights over N&W's main line for approximately 8.0 miles from the East Peoria Yard, subject to labor protective conditions.

DATES: This exemption will be effective on November 1, 1983. Petitions to reopen must be filed by November 21, 1983.

ADDRESS: Send pleadings referring to Finance Docket No. 30228 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative: Milton E. Nelson, Jr., 80 East Jackson Blvd., Chicago, IL 60604

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: October 21, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29586 Filed 10-31-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form
The title of the form
The OMB and Agency form numbers, if applicable
How often the form must be filled out
Who will be required to or asked to report
Whether small businesses or organizations are affected
An estimate of the number of responses
An estimate of the total number of hours needed to fill out the form
The number of forms in the request for approval
An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

NEW

Bureau of Labor Statistics
January 1984 Displaced Workers supplement
CPS–1
On occasion
Individuals or households
58,000 responses; 2320 hours; 1 Form

The January 1984 Displaced Workers supplement will be collected to obtain accurate information on the labor force status of displaced workers, the reasons for displacement, and health unemployment benefits status. This collection is authorized under Title IV of the Job Training Partnership.

Employment and Training Administration
Unemployment Insurance Random Audit
RC–63
Quarterly
State or local governments
848 responses; 183,000 hours

A sample of individual unemployment insurance benefit payments will be examined to assure they are made properly. The program will assess operating effectiveness of State agencies to reduce errors, save money, and assure benefit payment integrity.

Extension

Employment Standards Administration
Maintenance of Receipts for Benefits Paid by a Coal Mine Operator
1215–0124; CM–200
Monthly
Businesses or Other For-Profit
150 recordkeepers; 1 hour

CFR 725.131 requires self-insured operators or insurance carriers who make benefit payments to black lung beneficiaries to maintain receipts for those payments for five years. Cancelled checks will suffice.

Employment and Training Administration
Interstate Arrangement for Combining Employment and Wages—Interstate Forms
1205–0170; IB–4, IB–5, IB–6
Quarterly; other

State or local governments
619,589 responses; 216,856 hours; 3 forms

These forms are used for administrative purposes to transmit information between the paying State and transferring State with respect to individual claims for Unemployment Compensation filed under the Interstate arrangement for combining employment and wages.

Employment and Training Administration
Job Corps Placement and Assistance Record
1205–0035; ETA 678
On occasion
88,000 responses; 44,000 hours; 1 form

The information is used for evaluating overall program effectiveness. Job Corps Centers complete part of the form and Placement Agencies complete part. The authority for the placement activity is derived from 20 CFR 684.40.

Signed in Washington, D.C., this 27th day of October 1983

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83–29622 Filed 10–31–83; 8:45 am]

BILLING CODE 4510-30-M

Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under Section 308, Title III, Pub. L. 97–306, "Veterans Compensation, Education and Employment Amendments of 1982," to bring to attention of the Secretary problems and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Tuesday, November 15, 1983, at 11:00 A.M., in the Secretary's Conference Room, S2508–FPB.

Items to be discussed are:

- Reorganization of the Office of Assistant Secretary for Veterans' Employment
- Reports of Committee Participants
- Implementation of Job Training Partnership Act and the Emergency Veterans Job Training Act of 1983
- Review of Disabled Veterans Outreach Program.

The Public is invited.

For additional information contact: Mr. Vicent B. Pagano, 200 Constitution Avenue NW., Room S1315–FPB, Washington, D.C. 20210, (202) 523–9116.

Official records of the meeting will be available for public inspection in Room S1315–FPB, 200 Constitution Avenue, NW., Washington, D.C.

William C. Plowden, Jr.,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 83–29621 Filed 10–31–83; 8:45 am]

BILLING CODE 4510-79-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; California Portland Cement

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 17, 1983–October 21, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or porportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–14,445; California Portland Cement Co., Colton, CA
TA–W–14,538; Unilectric, Inc., Frankfort, IN
TA–W–14,518; Republic Steel Corp., Steel & Tubes Div., Cleveland, OH
TA–W–14,517; Republic Steel Corp., Steel & Tubes Div., Elyria, OH
TA–W–14,643; Bristol Steel & Iron Works, Bessemer Works, Bessemer, AL
TA–W–14,754; Par III, Dunmore, PA

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–14,696; Kalamazoo Stamping & Die Co., Kalamazoo, MI

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–14,490; Duquesne Electirc & Manufacturing Co., Pittsburgh, PA

Aggregate U.S. imports of complete industrial control systems for steelmaking are negligible.

TA–W–14,656; Bethlehem Steel Corp., Key Highway Shipyard, Baltimore, MD

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–14,885; Belva Coal Co., Man, WV

Aggregate U.S. imports of metallurgical coal are negligible.

TA–W–14,881; Pollock Co., Youngstown, OH

Aggregate U.S. imports of blast furnaces and related equipment did not increase as required for certification.

TA–W–14,950; Sewell Coal Co., #4 Mine, Nettie, WV

Aggregate U.S. imports of coal did not increase as required for certification.

TA–W–14,943; Chafin Coal Co., Logan, WV

Aggregate U.S. imports of coal did not increase as required for certification.

TA–W–14,954; Amherst Coal Co., Paragon Mine #1, Rum Creek, WV

Aggregate U.S. imports of coal did not increase as required for certification.

Affirmative Determinations

TA–W–14,553; Eric Mann International, Inc., New York, NY

A certification was issued covering all workers separated on or after November 1, 1982 and before January 31, 1983.

TA–W–14,782; Harris Pillow Supply, Inc., Beaufort, SC

A certification was issued covering all workers separated on or after June 15, 1983.

TA–W–14,638; E. I. du Pont de Nemours & Co., Inc., Newport, DE

A certification was issued covering all workers separated on or after April 1, 1983 and before July 1, 1983.

TA–W–14,714; Ohio Ferro Alloys Corp., Philo, OH

A certification was issued covering all workers separated on or after June 2, 1982 and before February 28, 1983.

TA–W–14,715; Philadelphia, Bethlehem & New England Railroad Co., Bethlehem, PA

A certification was issued covering all workers separated on or after May 27, 1982.

TA–W–14,727; Bethlehem Mines Corp., #105 Mine, Century, WV

A certification was issued covering all workers separated on or after May 27, 1982.

TA–W–14,710; Bethlehem Mines Corp., Boone Div., Mines #131 and #132, Boone County, WV

A certification was issued covering all workers separated on or after June 1, 1982.

I hereby certify that the aforementioned determinations were issued durng the periods October 17, 1983–October 21, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D. Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 25, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 28–29023 Filed 10–31–83; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Caterpillar Tractor Co. et al.

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Directior of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 14, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 14, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 24th day of October 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Caterpillar Tractor Co., Milwaukee Plant (Allied Industrial Workers).	Peoria, IL	10/3/83	9/22/83	TA–W–15,064	Steel fabrications.
Cleveland Cliffs Iron Co., General Shops (USWA)	Ishpeming, MI	10/20/83	10/17/83	TA–W–15,065	Service center—rebuild, repair metal fabricating—mining equipment.
Cordis Dow Corp (workers)	Hialeah, FL	10/7/83	10/5/83	TA–W–15,066	Plastic blood line (arterial & venous) and kidney dialyzers.
Evon Industries (IBT)	Camden, NJ	10/4/83	9/26/83	TA–W–15,067	Steel fabrications for construction industry.
Farmland Industries, Inc. (OCAW)	Fort Dodge, IA	10/13/83	10/10/83	TA–W–15,068	Ammonia.
Giddings & Lewis Machine Tool Co. (workers)	Fond du Lac, WI	10/19/83	10/15/83	TA–W–15,069	Large machine tools.
Great Lakes Carbon Corp. (USWA)	Niagara Falls, NY	10/19/83	10/14/83	TA–W–15,070	Graphite electrodes and nipples.
Milwaukee Solvay Coke Co. (ICWU)	Milwaukee WI	10/14/83	10/7/83	TA–W–15,071	Metallurgical coke.
National Steel Pellet Co., The Hanna Mining Co. Agent (USWA).	Hibbing, MI	10/20/83	10/17/83	TA–W–15,072	Iron ore pellets.
Thompson Steel Co., Inc. (USWA)	Worcester, MA	10/20/83	10/17/83	TA–W–15,073	Oil tempered brush wire, wire drawing, card wire
Central Appalachian Coal Co. (UMWA)	Montgomery, WV	10/7/83	10/5/83	TA–W–15,074	Coal, steam—mining.
DeMille Handbag Co. (Leather Goods Union)	Middlesex, NJ	10/17/83	10/12/83	TA–W–15,075	Leather handbags.
Hayes Albion Corp., (Jackson Division (UAW)	Jackson MI	10/4/83	9/19/83	TA–W–15,076	Automobile cooling fans and windows.
Jones & Laughin Steel Corp. (USWA)	Warren, MI	10/17/83	10/12/83	TA–W–15,077	Stainless steel slabs.
Lamb Technicon (workers)	Marysville, MI	10/12/83	10/7/83	TA–W–15,078	Transfer machines & conveyors also small automation equipment.
Laredo Manufacturing Inc. (workers)	Laredo TX	10/5/83	9/28/83	TA–W–15,079	Girl's dresses, pre-teen dresses.
Pittsburgh Pacific Company (USWA)	Hibbing, MI	10/20/83	10/17/83	TA–W–15,080	Mine soft ore.
Rexnord Heavy Machinery Sector (USWA)	Milwaukee WI	10/12/83	10/5/83	TA–W–15,081	Railroad right-of-way repair equipment mining & rock crushing equipment.

[FR Doc. 83–29024 Filed 10–31–83; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facillities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being establishing with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient

demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of application involving the establishment of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, N.W., Room 8000, Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C., this 27th day of October 1983.

Joseph Seiler,

Director, Office of Program Operations.

Applications Received During the Week Ending October 29, 1983

Name of Applicant, Location of Enterprise, and Prinicpal Product or Activity

Computest, Inc., Titusville, Florida.

Manufacture of automatic testing equipment for computer circuits.

[FR Doc. 83-29679 Filed 10-31-83; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

Chemical New York Corp. et al.; Proposed Exemptions

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Chemical New York Corporation (Chemical) Located in New York, New York

[Application No. D-4725]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406 (a) and (b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code shall not apply, effective October 1, 1983, to the reinsurance of risks and the receipt of premiums therefrom by Sun States Life Insurance Company (Sun States Life) from the insurance contracts sold by Metropolitan Life Insurance Company (Metropolitan) to Chemical's Group Life Insurance Plan (the Life Insurance Plan) and from the annuity contracts sold by Credit Life Insurance Company (Credit Life) to the Sunamerica Corporation Retirement Plan (the Retirement Plan), provided the following conditions are met:

(a) Sun States Life—

(1) Is a party in interest with respect to the Life Insurance Plan and Retirement Plan by reason of stock or partnership affiliation with the employers maintaining those Plans that is described in section 3(14) (E) or (G) of the Act,

(2) Is licensed to sell insurance in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Authorization and Deposit from the Insurance Director of its domiciliary state, Arizona, which has neither been revoked nor suspended; and

(4)(A) Has undergone and examination by an independent certified public accountant for its last completed

taxable year immediately prior to the taxable year of the reinsurance transaction; or

(B) Has undergone a financial examination (within the meaning of the law of its domiciliary state, Arizona) by the Insurance Commissioner of the State of Arizona within 5 years prior to the end of the year preceding the year in which the reinsurance transaction occurs.

(b) The Life Insurance Plan and the Retirement Plan pay no more than adequate consideration for the group life insurance and annuity contracts;

(c) No commissions are paid with respect to the direct sale of such contracts, or the reinsurance thereof, after September 30, 1983; and

(d) For each taxable year of Sun States Life, the gross premiums and annunity consideration received in that taxable year by Sun States Life for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which Sun States Life is a party-in-interest by reason of a relationship to such employer described in section 3(14)(E) or (G) of the Act do not exceed 50 percent of the gross premiums and annunity considerations received for all lines of insurance (whether direct insurance or reinsurance) in that taxable year by Sun States Life. For purposes of this condition (d):

(1) The term "gross premiums and annunity considerations received" means as to the numerator the total of premiums and annuity considerations received, both for the subject reinsurance transactions as well as for any direct sale or other reinsurance or life insurance, health insurance, or annuity contracts to such plans (and their employers) by Sun States Life. This total has been reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by Sun States Life.

(2) All premiums and annuity considerations written by Sun States Life for plans which it alone maintains are to be excluded from both the numerator and the denominator of the fraction.

Effective Date: If this proposed exemption it granted, it will be effective October 1, 1983.

Preamble

On August 7, 1979, the Department published a class exemption (Prohibited Transaction Exemption 79–41 (PTE 79–41), 44 FR 46365) which permits insurance companies that have substantial stock or partnership affiliations with emplyers establishing or maintaining employee benefit plans to make direct sales of life insurance, health insurance or annuity contracts which fund such plans, if certain conditions are satisfied.

In PTE 79–41, the Department stated its view that if a plan purchases an insurance contract from a company that is unrelated to the employer pursuant to an arrangement or understanding, written or oral, under which it is expected that the unrelated company will subsequently reinsure all or part of the risk related to such insurance with an insurance company which is a party in interest with respect to the plan, the purchase of the insurance contract would be a prohibited transaction.

The Department further stated that as of the date of publication of PTE 79–41, it had received several applications for exemption under which a plan or its employer would contract with an unrelated company for insurance, and that unrelated company would, pursuant to an arrangement or understanding, reinsure part of all of the risk with (and cede part or all of the premiums to) an insurance company affiliated with the employer maintaining the plan. The Department felt that it would not be appropriate to cover the various types of reinsurance transactions for which it had received applications within the scope of the class exemption, but would instead consider such applications on the merits of each individual case.

Summary of Facts and Representations

1. Chemical is a bank holding company incorporated under the laws of Delaware and registered under the Bank Holding Company Act of 1956, as amended. Chemical is the sponsor of the Life Insurance Plan. Its principal subsidiary is Chemical Bank, a New York banking corporation. Sunamerica Corporation, a wholly owned subsidiary of Chemical, is the sponsor of the Retirement Plan.

2. The Life Insurance Plan is a group life insurance plan which has approximately 18,200 participants. The Life Insurance Plan provides life insurance and survivor's income to active and certain retired employees of Chemical, Chemical Bank and certain of its subsidiaries. The majority of the Life Insurance Plan's participants are employees or former employees of Chemical Bank. The benefits under the Life Insurance Plan are funded by Metropolitan. Metropolitan currently has reinsurance agreements with Equitable, Home Life and Aetna for a portion of the group term life benefit provided by the Life Insurance Plan. The benefits under the Life Insurance Plan are provided unconditionally by Metropolitan. The Life Insurance Plan is not a party to the reinsurance transactions.

3. The Retirement Plan is a pension plan that has approximately 369 participants. It provides retirement benefits to active and certain retired employees of Sunamerica Corporation and its subsidiaries. The benefits under the Retirement Plan are funded by and provided unconditionally by Credit Life. Credit Life currently has no reinsurance agreements in existence.

4. Sun States Life, a wholly owned subsidiary of Sunamerica Financial Corporation, is organized under the laws of the State of Arizona, with its principal offices located in Cleveland, Ohio. Sunamerica Financial Corporation is wholly owned by Sunamerica Corporation. Sun States Life was incorporated in 1956. Its current activities are limited to acting as an insurer in Arizona for group life insurance and disability insurance and to acting as a reinsurer in Florida and South Carolina for group life insurance and disability insurance. As of December 31, 1981, Sun States Life had total assets of $10,664,684.

5. Metropolitan and Sun States Life are currently in the process of negotiating a reinsurance agreement to replace the reinsurance agreements with Equitable, Home Life and Aetna. The proposed reinsurance agreement will involve 55% of the Life Insurance Plan's group term life benefit and will contain a cap on the amount of liability per claim for Sun States Life. The maximum claim to Metropolitan is $600,000 per Life, and the maximum liability to Sun States Life would be 55% of any paid claim. It is intended that the effective date of the proposed reinsurance agreement will be October 1, 1983. Credit Life and Sun States Life have not yet begun negotiating a reinsurance agreement. However, it is intended that any reinsurance agreement will involve up to 95% of the Retirement Plan's retirement benefit provided by annuity payments.

6. The applicants represent that the subject reinsurance transactions will meet all of the conditions of PTE 79–41 covering direct insurance transactions:

(a) Sun States Life is a party in interest within the meaning of section 3(14)(G) of the Act with respect to the Plans by reason of stock affiliation with Chemical and Sunamerica Corporation, the employers sponsoring and primarily contributing to the Life Insurance Plan and Retirement Plan.

(b) Sun States Life is organized and licensed to sell insurance in the State of

Arizona and has authority to act as reinsurer in South Carolina and Florida.

(c) Sun States Life received a certificate of Authorization and Deposit from the State of Arizona Department of Insurance on July 21, 1979. The Certificate of Authorization and Deposit is renewed by the Department of Insurance each year. Sun States Life's Certificate of Authorization and Deposit has never been revoked or suspended.

(d) Sun States Life underwent a financial examination by the Department of Insurance of the State of Arizona at the end of 1981. A similar examination will be required every three years.

(e) The Life Insurance Plan and the Retirement Plan pay no more than adequate consideration for the insurance contracts and annuity contracts. Because Metropolitan and Credit Life are two of the largest group insurance underwriters in the country and enjoy substantial economies of scale in overall policy administration, the premium charge and annuity consideration to the Life Insurance Plan and Retirement Plan are highly competitive. The reinsurance transactions are not a factor in Metropolitan's and Credit Life's premium and annuity consideration computations and, thus, do not in any way affect the cost to the Life Insurance Plan and the Retirement Plan.

(f) No commissions will be paid with respect to the direct sale of the group life insurance or annuity contracts or with respect to the proposed reinsurance agreements between Metropolitan and Sun States Life and between Credit Life and Sun States Life after September 30, 1983.

(g) For each taxable year of Sun States Life, the gross premiums and annuity considerations received by Sun States Life for life and health insurance or annuity contracts for all employee benefits plans (and their employers) with respect to which Sun States Life is a party-in-interest by reason of a relationship to such employer described in Sections 3(14) (E) or (G) of the Act do not exceed 50% of the gross premiums and annuity considerations received for all lines of insurance in that taxable year by Sun States Life. The term "gross premiums and annuity considerations received" means the total of premiums and annuity considerations received, both for the proposed reinsurance transactions as well as for any direct sale of life insurance, health insurance, or annuity contracts, to such plans (and their employers) by Sun States Life. This total has been reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by Sun States Life. All premiums and annuity considerations written by Sun States Life for plans which it alone maintains are to be excluded from both the numerator and denominator of this fraction.

7. In summary, the applicants represent that the subject transactions meet the criteria of section 408(a) of the Act because: (1) the insurance could not be purchased directly from Sun States Life more economically then it is purchased from Metroplitan and Credit Life; (2) participants and beneficiaries of the Retirement Plan and the Life Insurance Plan are afforded insurance protection by Metropolitan and Credit Life, two of the largest and most experienced group insurers in the United States, at competitive rates arrived at through arm's-length negotiations; (3) Sun States Life is a sound, viable insurance company which has been in business for several years, and which does a substantial amount of business outside its affiliated group of companies; and (4) each of the protections provided by PTE 79-41 to the Plans will be met under the subject reinsurance transactions.

Notice to Interested Persons

Notice will be provided to interested persons in the manner agreed upon by the Department and the applicants within 30 days of the date of publication of this proposed exemption. Comments and request for a public hearing are due within 60 days of the date of publication.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does in affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including satutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 26th day of October 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-29638 Filed 10-31-83; 8:45 am]

BILLING CODE 4510-29-M

The Alaska Carpenters Retirement Plan; Grant of Individual Exemptions

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit

comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the enire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Alaska Carpenters Retirement Plan (the Plan) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 83–174; Exemption Application No. D–2348]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) though (D) of the Code, shall not apply to Carr-Gottstein Properties, Inc. (CGP), by reason of the Plan's participation in a mortgage loan made by the Alaska Pacific Bank to CGP on August 16, 1976.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36702.

Effective Date: This exemption is effective August 16, 1976.

Limited Scope of Exemption: Based upon the record submitted, the Department is granting an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to CGP. Thus, CGP is relieved of its excise tax liability arising as a result of this transaction. The Department is not granting exemptive relief for any other aspect of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter into this transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold a participation on the subject loan to the Plan.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Alaska Carpenters Retirement Plan (the Plan) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 83–175; Exemption Application No. D–2349]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) though (D) of the Code, shall not apply to C&C, Inc., Edna Cox, Vernon W. Hickel and Louis G. Palmer (the Borrowers), by reason of the Plan's participation in a mortage loan made by the National Bank of Alaska to the Borrowers on April 30, 1975.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36703.

Effective Date: This exemption is effective April 30, 1975.

Limited Scope of Exemption: Based upon the record submitted, the Department is granting an exemption from the sanctions resulting form the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to the Borrowers. Thus, the Borrowers are relieved of their excise tax liability arising as a result of this transaction. The Department is not granting exemptive relief for any other aspect of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter into this transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold a participation on the subject loan to the Plan.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Alaska Carpenters Retirement Plan (the Plan) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 83–176; Exemption Application No. D–2350]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to Harold Bonner d/b/a Bonner Electric Co. (Bonner), by reason of the Plan's participation in a mortgage loan made by the National Bank of Alaska to Bonner on September 10, 1974.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36703.

Effective Date: This exemption is effective January 1, 1975.

Limited Scope of Exemption: Based upon the record submitted, the Department is granting an exemption from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to Bonner. Thus, Bonner is relieved of his excise tax liability arising as a result of this transaction. The Department is not granting exemptive relief for any other aspect of this transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter into this transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold a participation in the subject loan to the Plan.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Alaska Carpenters Retirement Plan (the Plan) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 83–177; Exemption Application No. D–2351

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply

to Brown Jug, Inc. (Brown Jug), and Ed O'Neill, Diana O'Neill, Michael O'Neill and Onnalee O'Neill (the O'Neill's), by reason of the Plan's participation in a mortgage loan made by the National Bank of Alaska to Brown Jug and the O'Neill's on March 18, 1977.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36704.

Effective Date: This exemption is effective March 18, 1977.

Limited Scope of Exemption: Based upon the record submitted, the Department is granting an exemption from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, with respect to Brown Jug and the O'Neills. Thus Brown Jug and O'Neill's are relieved of their excise tax liability arising as a result of this transaction. The Department is not granting exemptive relief for any other aspect of this transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter into this transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold a participation in the subject loan to the Plan.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–178 Exemption Application No. D–2352]

The Alaska Carpenters Retirement Plan (the Plan) Located in Anchorage, Alaska

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to Anchorage Refuse, Inc. (ARI) and John P. Culhane (Culhane), by reason of the Plan's participation in a mortgage loan made by the National Bank of Alaska to ARI and Culhane on January 14, 1975.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36704.

Effective Date: This exemption is effective January 14, 1975.

Limited Scope of Exemption: Based upon the record submitted, the Department is granting an exemption from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, with respect to ARI and Culhane. Thus, ARI and Culhane are relieved of their excise tax liability arising as a result of this transaction. The Department is not granting exemptive relief for any other aspect of this transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter into this transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold a participation in the subject loan to the Plan.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–179 Exemption Application No. D–2353]

The Alaska Carpenters Retirement Plan (the Plan) Located in Anchorage, Alaska

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to Allerton H. and Helen K. Willis (the Willises), by reason of the Plan's participation in a mortgage loan made by the Home Federal Savings & Loan to the Willises for the period beginning January 8, 1975 through November 24, 1980.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36704.

Effective Date: This exemption is effective from January 8, 1975 through November 24, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is granting an exemption from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, with respect to the Willises. Thus, the Willises are relieved of their excise tax liability arising as a result of this transaction. The Department is not granting exemptive relief for any other aspect of this transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter into this transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold a participation in the subject loan to the Plan.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Alaska Carpenters Retirement Plan (the Plan) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 83–180; Exemption Application No. D–3322]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to RaMar Construction Company (RaMar) and Raymond and Martha Young (the Youngs) by reason of the Plan's participation in a mortgage loan originated by the First National Bank of Fairbanks on December 26, 1974 to the Youngs.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36705.

Effective Date: This exemption is effective January 1, 1975 through January 31, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is granting an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to RaMar and the Youngs. Thus, RaMar and the Youngs will be relieved of their excise tax liability arising as a result of this transaction. The Department is not granting exemptive relief for any other aspects of this transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter into this transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold a participation in the subject loan to the Plan.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Alaska Carpenters Retirement Plan (the Plan) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 83–180; Exemption Application No. D–3322]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to RaMar Construction Company (RaMar) and Raymond and Martha Young (the Youngs) by reason of the Plan's participation in a mortgage loan originated by the First National Bank of Fairbanks on December 26, 1974 to the Youngs.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36705.

Effective Date: This exemption is effective January 1, 1975 through January 31, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is granting an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to RaMar and the Youngs. Thus, RaMar and the Youngs will be relieved of their excise tax liability arising as a result of this transaction. The Department is not granting exemptive relief for any other aspects of this transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter into this transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold a participation in the subject loan to the Plan.

For Further Information Contact: Gary H. Lefkowitz of the Department,

telephone (202) 523-8881. (This is not a toll-free number.)

The Alaska Carpenters Retirement Plan and the Alaska Electrical Pension Fund (Together, the Plans) Located in Anchorage, Alaska

[Prohibited Transaction Exemption 83-101; Exemption Application Nos. D-3548 and D-3551]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to Baugh Construction and Engineering Company (BCE) and Gary M. and Barbara L. Baugh (the Baughs), by reason of the Plans' participation in a mortgage loan originated by Washington Mortgage Company on June 17, 1975 to Anchorage Distribution Associates.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 1983 at 48 FR 36706.

Effective Date: This exemption is effective December 5, 1975.

Limited Scope of Exemption: Based upon the record submitted, the Department is granting an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to BCE and the Baughs. Thus, BCE and the Baughs are relieved of their excise tax liability arising as a result of this transaction. The Department is not granting exemptive relief for any other aspects of the transaction, or for any other parties to the extent such parties may have enaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plans to enter into this transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold participations in the subject loan to the Plans.

For further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881 (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 26th day of October 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-29635 Filed 10-31-83; 8:45 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Grants and Contracts; St. Charles Parish, Louisiana

October 24, 1983.

The Legal Services Corporation, the national, independent organization charged with implementing the federally funded system of legal services for low income people, announces the availability of grant funds for the provision of legal services to eligible Louisiana clients in the St. Charles Parish.

The annualized level of Legal Services Corporation funding for the service area was $36,623.00 for calendar year 1983. The exact level of funding will be contingent on staff recommendations concerning the successful applicant's needs, Legal Services Corporation Board action, and Congressional action concerning the amount and allocation of Legal Services Corporation's Appropriation in 1984.

All groups and persons interested in applying for this grant should request a grant application no later than November 30, 1983, from the Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Georgia 30308. The application submission deadline is December 31, 1983. Two copies of the application should be submitted to the Regional Office and one copy of the application should be submitted to the Director of Field Services, Legal Services Corporation, 733 Fifteenth Street, NW., Washington, D.C. 20005.

Any grant application recommended by the Legal Services Corporation will, pursuant to Section 1007(f) of the LSC Act, be announced in the **Federal Register**, and additional comments and recommendations will be requested at least thirty (30) days prior to final approval.

Gregg Hartley,

Director, Office of Field Services.

[FR Doc. 83-29557 Filed 10-31-83; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[83-89]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force on space Commercialization.

DATE: November 16, 1983, 8:30 a.m. to 5 p.m.

ADDRESS: McDonnell Douglas Astronautics, Room 205, Building 106, McDonnell Boulevard, St. Louis, Missouri 63166.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB-4, National Aeronautics and Space Administration, Washington, DC 20546; (202/755-8380).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force on Space Commercialization was established under the NASA Advisory Council to conduct a study of the directions NASA might consider to foster private ventures in space. The

Task Force is chaired by Robert L. Johnson and has a total of 10 members.

The meeting will be closed to the public from 8:30 a.m. to 10 a.m. on November 16, 1983, for a review of McDonnell Douglas's work in electrophoresis. Because this session involves proprietary matters, it has been determined that this session should be closed to the public under 5 U.S.C. 552.(c)(4).

The meeting will also be closed from 1 p.m. to 5 p.m. because of a discussion on the types of candidates that should be considered in estblishing a NASA advisory group to counsel NASA in its research into the phenomenology of processes as affected by space. Specific individuals and their characteristics will be discussed in establishing the criteria for membership on the proposed advisory group, as well as a possible list of candidates, because this session involves matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this session should be closed to the public.

For the open session, visitors will be admitted to the meeting room up to its capacity, which is approximately 20 persons, including Task Force members and other participants. Visitors will be requested to sign a visitor register.

Type of Meeting: Open—except for the closed sessions as noted in the following agenda.

Agenda

November 16, 1983

8:30 a.m.—McDonnell Douglas's Electrophoresis Program (closed)
10 a.m.—Understanding the Phenomenology and Potential of Materials Processing in Space
1:00 p.m.—Planning Session (closed)
5:00 p.m.—Adjourn

Dated: October 28, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-29546 Filed 10-31-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMUNICATION SYSTEM

National Security Telecommunications Advisory Committee; Open Meeting

A joint meeting of the Resource Enhancement Working Group (REWG) and the Emergency Response Procedures Working Group (ERPWG) of the National Security Telecommunications Advisory Committee (NSTAC) will be open to the public and begin at 9:00 a.m. on Wednesday, November 9, 1983. The meeting will be held in the Westgate Building of the MITRE Corporation, 1820 Dolley Madison Boulevard, McLean, Virginia. The subject of the meeting will be Telecommunications System Survivability (TSS). The agenda is as follows:

A. Opening Remarks
B. Statement of the Issue
C. Review of NSDD-97 Implementation Process
D. Review of National Academy of Sciences Study on National Security/Emergency Preparedness (NS/EP) Telecommunications
E. Proposed TSS Study Elements
F. Proposed Work Plan
G. Resolution of Survivable System Characteristics
H. Adjournment

Any person desiring information about the meeting may telephone (Area Code 202-692-9274) or write to the Manager, National Communications System, Washington, D.C. 20305.

Dated: October 27, 1983.

Joseph C. Wheeler,

Colonel, USAF, NCS Joint Secretariat.

[FR Doc. 83-29587 Filed 10-31-83; 8:45 am]

BILLING CODE 3810-05-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Inter-Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Interdisciplinary Arts Projects Section) to the National Council on the Arts will be held on November 15 and 16, from 9:00 a.m.-6:30 p.m.; November 17, from 9:00 a.m.-8:00 p.m.; and on November 18, from 9:00 a.m.-6:00 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Ave., NW., Washington, D.C.

A portion of this meeting will be open to the public on November 18, from 1:30-3:30 p.m. to discuss policy and guidelines.

The remaining sessions of this meeting on November 15 and 16, from 9:00 a.m.-6:30 p.m.; November 17, from 9:00 a.m.-8:00 p.m.; November 18, from 9:00 a.m.-1:30 p.m.; and on November 18, from 3:30-6:30 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on application for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these session will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-29617 Filed 10-31-83; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Collection Maintenance/Conservation Section) to the National Council on the Arts will be held on November 15-17, 1983, from 9:00 a.m.-5:30 p.m., in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these session will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: October 24, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-29586 Filed 10-31-83; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Music Advisory Panel (Chorus Section) to the National Council on the Arts will be held on November

14, from 9:00 a.m.–6:30 p.m.; November 15, from 9:00 a.m.–9:00 p.m.; and November 16, from 9:00 a.m.–5:30 p.m. in room M–07 and room 527 of the Nancy Hanks Center, 1100 Pennsylvania Ave., NW., Washington, D.C.

A portion of this meeting will be open to the public on November 16, from 2:00–4:00 p.m. to discuss FY 85 Chorus Guidelines and policy and future directions.

The remaining sessions of this meeting on November 14, from 9:00 a.m.–6:30 p.m.; November 15, from 9:00 a.m.–9:00 p.m.; November 16, from 9:00 a.m.–2:00 p.m.; and on November 16, from 4:00–5:30 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** on February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–29618 Filed 10–31–83; 8:45 am]

BILLING CODE 7537–01–M

National Council on the Humanities Advisory Committee; Meeting

October 25, 1983.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on November 16–18, 1983.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, D.C. The afternoon sessions on November 16th and a portion of the morning and afternoon sessions on November 17, 1983 will not be open to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 5, 1978.

The agenda for the sessions on November 16 and 17, 1983 will be as follows:

November 16

Committee Meetings—Challenge Grants—Room 430

1:30 p.m.–2:30—(Open to the Public)—Policy Discussion

2:30 p.m.–5:00—(Closed to the Public)—Discussion of specific grant applications before the Council

3:00—Adjourn—Jefferson Lecture Committee—Room 706

(Closed to the Public)—Discussion of Jefferson Lecture Nominees

November 17

(Open to the Public)

8:30–9:30—Coffee for Council Members—Room 502

9:30–10:30—Committee Meetings—Policy Discussion

Education and State Programs—Room M–07 (W)

Fellowship Programs—Room 315

General Programs—Room 415

Research and Planning—Room M–07 (E)

10:30–Adjourn—(Closed to the Public for the reasons stated above)

Committee Meetings (Continued)—Consideration of specific applications

The morning session on November 18, 1983 will convene at 8:30 a.m. in the 1st Floor Council Room M–04 and will be open to the public. The Agenda for the morning session will be as follows: (Coffee for Staff and Council Attending Meeting will be served from 8:30 a.m.–9:00 a.m.)

Minutes of the Previous Meeting

Reports

A. Introductory Remarks
B. Introduction of New Staff
C. Contracts Awarded in the Previous Quarter
D. Eligibility of State Humanities Councils as Applicants to the Endowment
E. The Endowment and Internal Operations of Institutions
F. Committee Reports on Policy and General Matters
  a. Planning and Assessment Studies
  b. Fellowship Programs
  c. Education Programs
  d. State Programs
  e. General Programs
  f. Challenge Grants
  g. Research Programs
  h. Jefferson Lecture
G. Election of Vice Chairman
H. Congressional Reauthorization of NFAH
I. Application Report
J. Gifts and Matching Report
K. Final Obligations of FY 1983 Funds
L. FY 1984 Appropriations and Program Allocations

The remainder of the proposed meeting will be given to the consideration of specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, D.C. 20506, or call area code 202–786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83–29585 Filed 10–31–83; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

NRC Concurrence in High-Level Waste Repository Safety Guidelines Under the Nuclear Waste Policy Act of 1982

Order

By Memorandum and Order of August 24, 1983, the Commission determined that representatives of interested Indian tribes, State and local governments, Federal agencies, industry groups, public interest groups, and individual citizens would have the opportunity to address the Commission on the Department of Energy's General Guidelines for Recommendation of Sites for Nuclear Waste Repositories, and on whether the NRC should concur in those guidelines.

The Commission has extended the opportunity to participate to only those organizations, governmental entities, and individuals which filed comments with the Department of Energy (DOE) on the proposed guidelines, as well as to DOE itself.

To help the Commission prepare for that public meeting, the Commission

hereby designates the following consolidated groups; Federal agencies, Indian tribes, State and local governments, industry groups, and public interest groups. Any of the groups designated above which wish to participate in the oral presentation should identify their representatives to the extent practicable. Individuals who have commented to DOE and are not affiliated with any of the above designated groups, and who wish to participate in the oral presentation should also inform the Commission of their interest in appearing.

All participants should file their notices to the NRC Office of the Secretary no later than two weeks after the date of this Order. The date of the oral presentation and its procedural format will be announced in a subsequent Order.

It is so ordered.

Dated at Washington, DC, this 26th day of October, 1983.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-29629 Filed 10-31-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Information Collection for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of information collection from the public submitted to OMB for clearance.

SUMMARY: In accordance with the "Paperwork Reduction Act of 1980" (Title 44 U.S.C. Chapter 35), this notice announces a collection of information from the public which has been submitted to OMB for clearance. It is an extension of an existing form (OPM Form 1453–A, Federal Junior Fellowship Program, Individual Nominee Evaluation) which is completed by high school officials when nominating students for positions under the Federal Junior Fellowship Program. The form assists agencies in deciding which students to select for their vacancies. For copies of this proposal, call John P. Weld, Agency Clearance Officer, on (202) 632–7720.

DATES: Comments on this proposal should be received within 10 working days from date of this publication.

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, N.W., Room 6410, Washington, D.C. 20415

and

Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: John P. Weld, (202) 632–7720, Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-29584 Filed 10-31-83; 8:45 am]

BILLING CODE 6325-01-M

POSTAL RATE COMMISSION

Visit; Connecticut

October 26, 1983.

Notice is hereby given that Chairman Steiger, Vice Chairman Crutcher, Commissioner Bright, Commissioner Duffy, Commissioner Folsom and several staff members will visit the Advo-Systems, Inc. plant at 239 West Service Road, Hartford, Connecticut 06101 on November 16, 1983. After a tour of the facility, Advo-Systems employees will answer questions from the Commission party. Further details concerning this visit may be obtained from the Secretary of the Commission, 2000 L Street, NW., Washington, D.C. 20268, telephone (202) 254–3880. A report of the visit will be filed in the Commission's Docket Room.

Charles L. Clapp,

Secretary.

[FR Doc. 83-29591 Filed 10-31-83; 8:45 am]

BILLING CODE 7715-01-M

Notice of Visit

October 27, 1983.

Notice is hereby given that members of the Commission and a number of advisory staff members will visit Donnelley Marketing in Nevada, Iowa on November 3, 1983, and Meredith Corp., 1716 Locust Street, Des Moines, Iowa on November 4, 1983. The purpose of the visit will be to gain general knowledge and understanding of mailer operations. A report of the visit will be filed in the Commission's Docket Room.

Charles L. Clapp,

Secretary.

[FR Doc. 83-29625 Filed 10-31-83; 8:45 am]

BILLING CODE 7715-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB October 3–October 20, 1983

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period October 3–October 20, 1983, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426–1887 or Gary Waxman or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395–7313.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatments of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following

information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration of Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from October 3–October 20, 1983:

DOT No: 2239.
OMB No: New.
By: Office of Secretary—Planning.
Title: Florida/Arizona Trucking Deregulation Study—Phase II.
Forms: Questionnaire.
Frequency: One-time survey/study.
Respondents: Each carrier member of Florida & Arizona Trucking Associations. 500 to 600 shipper/receivers will also be questioned, based on Dun & Bradstreet's "Million Dollar Directory of Business."
Need/Use: Survey is part of DOT's research to assess the impact of deregulation on the trucking industry. Both states deregulated intra-state trucking simultaneously with Motor Carrier Act of 1980, bringing reduced Federal regulations on the trucking industry.

DOT No: 2240.
OMB No: DOT 2240.
By: Research and Special Programs Administration.
Title: Approval of Bulk Portable Container for Special Services.
Forms: None.
Frequency: On occasion.
Respondents: Shippers of liquid nitrogen dioxide, peroxide, tetroxide, and of dry cyanides and cyanide mixtures
Need/Use: to ascertain that handling procedures and packaging of the above materials are such that they may be transported without posing a threat to the general public.

DOT No: 2241.
OMB No: 2133–0006.
By: Maritime Administration.
Title: Documentation, Charter, or Transfer of Vessels.
Forms: MA–29, MA–2913.
Frequency: On occasion.
Respondents: Vessel Owners, Operators.
Need/Use: Monitor control of U.S. flag vessels chartered to noncitizens of the U.S.A.

DOT No: 2242.
OMB No: 2133–0004.
By: Maritime Administration.
Title: Manual of General Procedures for Determining Operating-Differential Subsidy Rates.
Forms: MA–344, MA–421, MA–422, MA–790.
Frequency: On occasion, Annually.
Respondents: Ship Operators.
Need/Use: Operating differential subsidy payments to ship operators are based upon subsidy rates developed from the report forms and the rules in the manual.

DOT No: 2243.
OMB No: None.
By: Maritime Administration.
Title: Suspension of "Operating Subsidy Agreement" for All or a Portion of the Vessels Included Therein.
Forms: None
Frequency: On occasion.
Respondents: Contractors receiving subsidy.
Need/Use: Allows operating differential subsidy contractors to suspend an agreement and operate in foreign trade with greater flexibility and reduced dependency on Maritime subsidies.

DOT No: 2244.
OMB No: 2133–0025.
By: Maritime Administration.
Title: Mandatory Position Reporting System for Vessels (Mandatory AMVER).
Forms: None.
Frequency: On occasion.
Respondents: vessels at sea.
Need/Use: For expediting "Search and Rescue" for Vessels in Emergencies and for Use in Connection with National Defense.

DOT No: 2245.
OMB No: 2133–0008.
By: Maritime Administration.
Title: Statement of Shipbuilder or Ship Operator in Compliance with Section 807 of the Merchant Marine Act, 1936.
Forms: MA–807–1, MA–807–2
Frequency: On occasion.
Respondents: Shipbuilders, ship operators and others presenting matters before the Maritime Subsidy Board.
Need/Use: Disclosure of certain business relationships.

DOT No: 2246.
OMB No: New.
By: Maritime Administration.
Title: Merchant Marine Medals and Awards.
Forms: None.
Frequency: On occasion.
Respondents: Current or former merchant seamen.
Need/Use: To issue medals and decorations for outstanding and meritorious conduct and service in the United States Merchant Marine.

DOT No: 2247.
OMB No: 2115–0056.
By: United States Coast Guard.
Title: Various International Agreement Safety Certificates.
Forms: CG–3347, 3347A, 4359, 4359A, 4761, 967, 969, 969A, Passenger Ship Safety & Nuclear Passenger Ship Safety.
Frequency: Semiannually and biennually.
Respondents: Owners of U.S. flag merchant vessels, over 500 gross tons engaged in international voyages
Need/Use: This is a recordkeeping requirement. Owners of U.S. flag merchant vessels over 500 gross tons engaged in international voyages are required to have evidence of compliance with the "International Convention for the Safety of Life at Sea," of 1974. These certificates attest to the vessel meeting the applicable requirements of the convention to the satisfaction of the Government of the United States when calling on foreign ports. Without these certificates, vessels could be detained or harassed as being "unsafe."

DOT No: 2248.
OMB No: 2115–0080.
By: United States Coast Guard.
Title: Applications for Formal Admeasurement and subapplications.
Forms: None.
Frequency: On occasion.
Respondents: Owners, maritime design consulting firms, builders and shipyards.
Need/Use: The respondents are required by law to notify the local admeasurement offices when new or altered vessels are ready for admeasurement. This information

collection is needed to determine the register tonnages, gross and net, and legal description of a vessel before documentation. If a documented vessel is reconstructed and changes its tonnage, an application for readmeasurement is needed.

DOT No: 2249.
OMB No: 2115–0073.
By: United States Coast Guard.
Title: Certificate of Alternative Compliance with 72 COLREGS.
Forms: None.
Frequency: On occasion.
Respondents: Vessel owners, operators, builders or agents whose vessel cannot fully comply with international regulations for preventing collisions at sea (72 COLREGS).
Need/Use: Vessel owners, operators, builders, and agents, whose vessel cannot fully comply with equipment requirements of 72 COLREGS without interference with special functions of the vessel, may apply for an alternative compliance. This information collection is needed to determine that the alternative compliance is justified, and to determine the conditions thereof.

DOT No: 2250.
OMB No: 2115–0074.
By: United States Coast Guard.
Title: Alternative Compliance with Inland Navigation Rules.
Forms: None.
Frequency: On occasion.
Respondents: Vessel owners, operators, builders and agents.
Need/Use: Vessel owners, operators, builders and agents whose vessel cannot fully comply with equipment requirements of Inland Rules without interference with special functions of the vessel may apply for a waiver. This information collection is needed to determine the necessity of the waiver and to further determine the conditions of the waiver if found necessary.

Issued in Washington, D.C., on October 24, 1983.

Jon Seymour,
Acting Deputy Assistant Secretary for Administration.

[FR Doc. 83–28590 Filed 10–31–83; 8:45 am]
BILLING CODE 4910–62–M

Coast Guard

[CGD 83–060]

Coast Guard Academy Advisory Committee; Meeting.

October 28, 1983.

AGENCY: Coast Guard, DOT.

ACTION: Open meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub, L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held in Hamilton Hall at the U.S. Coast Guard Academy, New London, CT, on Tuesday and Wednesday, November 15–16, 1983. The sessions on Tuesday will be held from 1:00 to 2:00 p.m. An open session will also be held on Wednesday from 10:00 to 11:30 a.m. The agenda for this meeting consists of the following items:

1. Faculty
2. Curricula.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75–38 to advise on the course of instruction at the Academy, and to make recommendations as necessary.

Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to attend or present oral statements at the meeting should notify the U.S. Coast Guard Academy not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Capt. David A. Sandell, USCG, Dean of Academics/Executive Secretary of the Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320, phone (203) 444–8275.

Dated: October 26, 1983.

J. S. Gracey,
Admiral, Coast Guard, Commandant.

[FR Doc. 83–28618 Filed 10–31–83; 8:45 am]
BILLING CODE 4910–14–M

[CGD 83–061]

Houston/Galveston Navigation Safety Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of the fifth meeting of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, November 17, 1983 in the Wortham Auditorium at the Rosenberg Library, 2310 Sealy, Galveton, Texas. The meeting is scheduled to begin at 9 a.m. and end at 4 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of previous recommendations made by the Committee.
3. Reports of Subcommittees.
   A. Houston/Galveston Vessel Traffic Service.
   B. Aids to Navigation.
   C. Inshore Waterway Management.
   D. Offshore Waterway Management.
   E. Environmental.
4. Discussion of Subcommittee Reports.
5. Presentation of any additional new items for consideration to the Committee.
6. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander R. A. Brunell, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA., 70130, telephone number (504) 589–6901.

Dated: October 26, 1983.

W. H. Stewart,
Rear Admiral, Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 83–29614 Filed 10–31–83; 8:45 am]
BILLING CODE 4910–14–M

Federal Highway Administration

Environmental Impact Statement; Philadelphia County, Pennsylvania

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in the city of Philadelphia, Philadelphia County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John R. Krause, Division Environmental Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108, Telephone: (717) 782–2276, or Robert L. Rowland, P.E., District Engineer, Pennsylvania Department of Transportation, 200 Radnor-Chester Road, St. Davids, PA 19087, Telephone: (215) 687–1600.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation, will be preparing an

Environmental Impact Statement (EIS) on a proposal to construct access ramps to and from Interstate Route 95 between the Walt Whitman Bridge and the Vine Street (I–676) Interchange north of the Ben Franklin Bridge. This project is being developed in response to a Consent Decree signed to resolve previous citizen litigation on this project in the United States District Court. Completion of the access ramps will provide more direct access between I–95 and the Philadelphia Central Business District (CBD).

The proposed alternatives being considered are not expected to require acquisition of occupied structures or residential relocations, the physical taking of any parklands, recreational facilities, or properties either on, or eligible for, the National Register of Historic Places. Consequently, preparation of an evaluation under Section 4(f) of the Department of Transportation Act is not anticipated.

Various ramp access alternatives will be considered. They are (1) the *No-Action Alternative* which includes no physical improvements other than those already stated to occur; namely, the construction of the Vine Street Expressway and the opening of the on-ramp at Race Street from Delaware Avenue to I–95 northbound lanes, (2) The *Limited Action Alternative* which includes the two planned improvements as described in the No-Action Alternative, as well as the opening of the I–95 southbound on-ramp at Morris Street for traffic from Delaware Avenue and the completion of the construction of a northbound off-ramp onto Delaware Avenue at Queen Street, (3) The *Flyover Alternative* which is consistent with the consent decree and includes the two planned improvements as described in the No-Action Alternative, as well as the construction of a flyover ramp from the southbound lanes of I–95 crossing over I–95 to Delaware Avenue in the Penns Landing area, (4) the *Single Slide Under Alternative* which includes the two planned improvements mentioned in the No-Action Alternative, the construction opening of both ramps included in the Limited Action Alternative, and the construction of a ramp from the southbound lanes of I–95 that would "slide under" existing I–95 northbound lanes onto Delaware Avenue in the Penns Landing area. Also included in this alternative is the construction of an on-ramp at Front and Market Streets to I–95 southbound lanes, and (5) the Double Slide Under Alternative which includes all of the improvements and ramps listed under the Single Slide Under Alternative, as well as a proposal to reconstruct an existing on-ramp to I–95 northbound from Delaware Avenue at Lombard Street as a second "slide under" ramp to provide access to the westbound lanes of I–95. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have expressed interest in the proposal. Scoping meetings are planned with the agencies in late November or December 1983. A series of public meetings will be held in the city of Philadelphia in the winter and spring of 1983 and 1984. In addition, a public hearing will be held. Public notice will be given of the time and place of these meetings and the hearing. The draft EIS will be available for public and agency review and comment. To ensure that the full range of issues related to this proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Louis M. Papet,

Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 83-29595 Filed 10-31-83; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

Proposed Guidelines for the Consideration of ODS Contract Amendments and Terminations; Extension of Comment Period

AGENCY: Maritime Administration, DOT.

ACTION: Extension of time to file comments on proposed guidelines.

SUMMARY: On October 17, 1983, the Maritime Subsidy Board/Maritime Administration published in the **Federal Register** (48 FR 47093) a notice seeking comments by November 4, 1983, on proposed guidelines for considering the applications of subsidized operators for operating-differential subsidy contract amendments or terminations. A request has been received for an extension of the comment period. Notice is hereby given that the closing date for comments concerning the notice of proposed guidelines is extended to the close of business on November 18, 1983.

By Order of the Maritime Subsidy Board/ Maritime Administration.

Dated: October 27, 1983.

Murray A. Bloom,

Assistant Secretary.

[FR Doc. 83-29831 Filed 10-31-83; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review.

On October 24, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and the Treasury Department Clearance Officer, Room 309, 1625 "I" Street NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0086
Form Number: 1040C
Type of Review: Revision
Title: U.S. Departing Alien Income Tax Return
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of the Managment and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

U.S. Customs Service

OMB Number: 1515–0083
Form Number: CF 5520
Type of Review: Extension
Title: Special Summary Steel Invoice

OMB Number: None.
Form Number: None.
Type of Review: Extisting Regulation
Title: Triennial Reports of Active or Inactive Status by Customhouse Brokers
OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Mangement and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: October 26, 1983.

Rita A. DeNagy,

Department Reports Management Office.

[FR Doc. 83-29588 Filed 10-31-83; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

Public Inspection of Written Determinations; Intention To Disclose

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of intention to disclose.

SUMMARY: This document provides notices that the Service intends to make open to public inspection certain written determinations. This notice also explains how any person may determine whether any of the described written determinations pertain to that person, and explains the procedures that person may follow if there is disagreement regarding the proposed deletions.

DATES: Persons not responding to any earlier **Federal Register** notice of intention to disclose who wish to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice are requested to contact the Service by November 16, 1983.

Requests for additional deletions must be submitted by December 6, 1983. A petition in the United States Tax Court must be filed by January 25, 1984. Except for the disputed portion of any document that is the subject of an action brought in the Unites States Tax Court, the written determinations described in this notice will be made open to public inspection on February 27, 1984.

ADDRESS: Any questions or correspondence regarding this notice should be sent to: Internal Revenue Service, Attention: CC:IND:S:3, Ben Franklin Station, Post Office Box 7604, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Wayne Thomas of the Bulletin and Disclosure Group, Individual Tax Division, Office of the Associate Chief Counsel (Technical); 202–566–4378 or 202–566–3129.

SUPPLEMENTARY INFORMATION: Section 6110(h) of the Internal Revenue Code of 1954 provides that certain written determinations (letter rulings and technical advice memoranda) issued in response to requests submitted before November 1, 1976, shall be open to public inspection. Accordingly, the Service is preparing to open to public inspection certain written determinations issued by the Internal Revenue Service. The written determinations to be made open to public inspection pursuant to this notice have been described in more detail in one of the **Federal Register** notices of intention to disclose published on February 21, 1978, March 31, 1978, May 3, 1978, May 30, 1978, August 2, 1978, November 9, 1978, January 31, 1979, or on April 5, 1979. This notice applies to written determinations that fall within the description of one of these earlier notices but which were not available for processing for public inspection at an earlier date.

Deletions

Section 6110(c) of the Code requires the Internal Revenue Service to delete certain information from the documents described in this notice. The Service intends to delete names, addresses, and taxpayer identifying numbers, and will also attempt to recognize and delete other identifying details, trade secrets, and the other information described in section 6110(c), before making the written determination open to public inspection.

Persons to whom the written determinations described in this notice pertain (or successors in interest, executors, or authorized representatives of these persons) may contact the Internal Revenue Service to find out whether their particular written determinations are among those to be made open to the public inspection pursuant to this notice. These persons may request a copy of their written determinations with proposed deletions indicated. Such requests should be submitted by November 16, 1983. Such requests must indicate the specific name of the party to which the written determination pertains, for example, a corporation acting on behalf of one or more subsidiaries must indicate the name of such subsidiary or subsidiaries. If such a person disagrees with the proposed deletions, that person may indicate any additional information that person believes should be deleted. Any request for additional delections must be submitted by (35 days after this notice is published in the **Federal Register**) and must include a statement indicating which of the exemptions provided in section 6110(c) of the Code is applicable to each additional deletion requested. If the Service feels it cannot make any or all of the additional deletions requested, the Service will so advise the requester. The requester will then have the right to file a petition in the United States Tax Court. This petition must be filed by January 18, 1984.

Additional Disclosure

After the deleted copy of a written determination is made open to public inspection in the National Office Reading Room, any person may request the Service to make additional portions of the written determination to open to public inspection. If the Service receives a request that involves disclosure of names, addresses, or taxpayer identifying numbers; the Service will deny the request. If the request involves disclosure of anything other than names, addresses, or taxpayer identifying numbers, the Service will contact the person to whom the written determination pertains before further action is taken.

Background File Documents

After the deleted copy of a written determination is made open to public inspection, any person may request copies of related background file documents. Notice will be provided to the person to whom the written determination pertains if a request for related background file documents is received.

Any notice regarding background file documents or requests for additional disclosure and any other correspondence relating to public inspection of written determinations, will be mailed to the latest address in the Service's written determination file, unless a later address is provided to the Service in connection with these matters.

The written determinations described in this notice will be made open to public inspection by being placed in the National Office Reading Room, Room 1569, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, D.C. on February 27, 1984, preceding the 121st day after this notice is published in the **Federal Register**. However, the disputed portion of any document that is the subject of an action brought in the United States Tax Court shall not be made available until after a court determination regarding such portion is made.

Effect of Earlier Requests

Persons who contacted the Internal Revenue Service in response to an earlier notice need not contact the Service again. The Service will automatically respond to any person who inquired in response to an earlier notice if the written determination or determinations about which that person inquired will be made open to public inspection in accordance with this notice. That person will be forwarded a proposed deleted copy of any such written determination, and will have the rights with respect to requesting additional deletions that are described in this notice.

October 26, 1983.

James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 83–29634 Filed 10–31–83; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 212
Tuesday, November 1, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
International Trade Commission	2

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Monday, November 21, 1983.

PLACE: 2033 K Street NW., Washington, D.C., Eight Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule enforcement review.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1530-83 Filed 10-28-83; 12:28 am]

BILLING CODE 6351-01-M

2

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-46]

TIME AND DATE: 3 p.m. Monday, November 7, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Certain glass-tempering systems, including frictinally driven oscillating roller hearth furnaces (Docket No. 976).
5. Investigations 731-TA-146/147 (Preliminary) (Flat-Rolled Carbon Steel Products from Belgium and the Federal Republic of Germany—briefing and vote.
6. Investigation 731-TA-148 (Preliminary) (Fresh Cut Roses from Colombia—briefing and vote.
7. Any item left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1531-83 Filed 10-28-83; 1:50 pm]

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federal register

Tuesday
November 1, 1983

Part II

Department of Transportation

Research and Special Programs Administration

Cryogenic Liquids; Final Rule Corrections and Revisions; Delay of Effective Date

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174, 176, 177, 178, and 179

[Docket No. HM–115, Amdt. Nos. 171–74, 172–82, 173–166, 174–43, 176–17, 177–60, 178–77, and 179–32]

Cryogenic Liquids; Final Rule Corrections and Revisions; Delay of Effective Date

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, Department of Transportation.

ACTION: Final rule, corrections and revisions.

SUMMARY: This document makes corrections and revisions to a final rule, Docket HM–115, in **Federal Register** Document 83–15211, beginning on page 27674 in the issue of Thursday, June 16, 1983, which amended the Hazardous Materials Regulations (49 CFR Parts 171–179) by establishing requirements for the transportation of specifically identified cryogenic liquids.

EFFECTIVE DATE: The effective date, published in the **Federal Register** for Amendment Nos. 171–74, *et seq.* (48 FR 27674) on June 16, 1983, is changed to read "October 1, 1984". The corrections and revisions in this document are also effective October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Hattie L. Mitchell, Office of Hazardous Materials Regulation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–2075.

SUPPLEMENTARY INFORMATION: On June 16, 1983, MTB published a final rule in the **Federal Register** which amended the Hazardous Materials Regulations to establish requirements for the transportation of certain cryogenic liquids and also authorize the transportation of certain gases that are transported in cold liquid form. The final rule carried an effective date of January 1, 1984, with voluntary compliance authorized on and after September 15, 1983. A 90-day period for filing petitions for reconsideration was provided in place of the 30-day period specified by 49 CFR 106.35.

MTB received 18 petitions. Several commenters requested reconsideration of the effective date, proper shipping names and the identification numbers. MTB believes that these issues warrant immediate handling prior to publication of the 1983 edition of Title 49, Code of Federal Regulations, Parts 100–199. Other issues raised in these and other petitions will be handled in a later publication of the **Federal Register** in the near future.

In the final rule, MTB added several new entries to the Hazardous Material, Table in § 172.101. The new cryogenic liquid descriptions contain the descriptor "cryogenic liquid" as part of the proper shipping name. The descriptions for other gases, such as carbon dioxide, nitrous oxide, and hydrogen chloride, which are transported in cold liquid form, contain the descriptor "liquid (*refrigerated*)". The identification numbers for these new descriptions are preceded by an "NA" prefix.

Unlike the international system for describing gases, the compressed gas descriptions for the atmospheric gases and helium in 49 CFR 172.101 do not include the word "compressed" in the proper shipping name. A final rule issued under HM–126A (45 FR 34560, May 22, 1980) listed the identification numbers for these compressed gases preceded by a "UN" prefix. In the final rule under HM–115, the prefix was changed from "UN" to "NA" because the descriptions in 49 CFR 172.101 are not exactly the same as the international descriptions.

The changes made under HM–115 are consistent with the premise under which the numerical identification system was adopted under HM–126A. In the NPRM under HM–126A (44 FR 32976; June 7, 1979), MTB stated that identification numbers would be preceded by "UN" if the description preceding it is exactly the same or sufficiently similar to the international description and, if the description in § 172.101 is significantly different but addresses the same material as a UN entry, it would be given the same number but preceded by "NA". The term "significantly different" was intended to cover differences such as the omission of words appearing in an international description or the addition of required words not appearing in the international description. The term "exactly the same or significantly similar" was intended to cover differencies such as the singular and plural forms in a description.

Six commenters objected to the "cryogenic liquid" and the "liquid (*refrigerated*)" descriptors used in the final rule. Four of these commenters supported the international descriptor "refrigerated liquid". Two other commenters objected to the use of "liquid (*refrigerated*)" and "refrigerated liquid" in the shipping descriptions for the cold form gases. One of these commenters indicated a preference for the descriptor "cold" or some other appropriate term to describe these gases.

Commenters also objected to the change to the "NA" prefix for compressed gases. In its comments, the Compressed Gas Association stated, in part:

> Without Administrative Procedure Act notice, HM–115 revised column (3A) in Section 172.101 by assigning to these gases a new identification number prefix NA, to replace the UN prefix assigned in DOT Docket HM–126A, May 22, 1980 (Display of Hazardous Materials by Identification Numbers; Improved Emergency Response Final Rule). If DOT wishes to revise the identification number prefix for the above listed gases (to conflict with HM–126A), it should publish a separate Notice of Proposed Rulemaking, giving the public an opportunity to comment.

After further consideration, MTB agrees with commenters that the international descriptions should be used when possible. Therefore, MTB is revising the proper shipping names for the cryogenic liquids and cold form gases to include the international descriptor, "refrigerated liquid", and the associated "UN" prefix. The cryogenic liquid descriptions are being specifically named (in italics) in § 172.101 to distinguish these gases from the cold form gases

For compressed gases, MTB agrees with CGA that a change in the prefix should be handled by a proposed rule. Therefore, MTB is revising the final rule to provide for continued use of the descriptions as presently found in 49 CFR 172.101 and also for the optional use of the international descriptions. Shippers are advised that shipping descriptions without the word "compressed" are not acceptable for transport of gases in international commerce.

The six commenters who addressed the effective date requested extension periods from one to two years. Most of the commenters maintained that additional time was needed to exhaust existing stocks of shipping documents and product labels and to permit remarking of packagings to conform with the new shipping descriptions and prefix markings. Since fewer changes will be required for shipping documents and package markings, MTB believes that the extension of the effective date until October 1, 1984, is appropriate. Corresponding changes are made to other dates appearing in the final rule.

This document does not impose additional requirements and has the net result of reducing costs imposed under the final rule. A regulatory evaluation and environmental assessment of the

final rule is available for review in the docket. The regulatory evaluation will not be modified to include the changes made under this document.

In consideration of the foregoing, the final rule published on June 16, 1983, in Federal Register Document 83–15211, beginning on page 27674, is corrected and amended as follows:

1. On page 27683, second column, fourth paragraph, in the penultimate line, "§ 173.11" is corrected to read "§ 171.11".

2. On page 27691, in § 171.101, in columns 2 and 3A of the Hazardous Materials Table, entries are revised to read as follows:

Present		Revise to	
(2)	(3A)	(2)	(3A)
Hazardous materials descriptions and proper shipping names	Identification No.	Hazardous materials descriptions and proper shipping names	Identification No.
Revise			
Argon	NA1006	Argon *or* Argon, compressed	UN1006
Ethane	NA1035	Ethane *or* Ethane, compressed	UN1035
Ethylene	NA1962	Ethylene *or* Ethylene, compressed	UN1962
Helium	NA1046	Helium *or* Helium, compressed	UN1046
Hydrogen	NA1049	Hydrogen *or* Hydrogen, compressed	UN1049
Hydrogen chloride (*RQ–5000/2270*)	NA1050	Hydrogen chloride (*RQ–5000/2270*) *or* Hydrogen chloride, anhydrous (*RQ–5000/2270*)	UN1050
Methane	NA1971	Methane *or* Methane, compressed	UN1971
Neon	NA1065	Neon *or* Neon, compressed	UN1065
Nitrogen	NA1066	Nitrogen *or* Nitrogen, compressed	UN1066
Nitrous oxide	NA1070	Nitrous oxide *or* Nitrous oxide, compressed	UN1070
Oxygen	NA1072	Oxygen *or* Oxygen, compressed	UN1072
Add			
Argon, cryogenic liquid	NA1951	Argon, refrigerated liquid (*cryogenic liquid*)	UN1951
Carbon dioxide, liquid (*refrigerated*)	NA2187	Carbon dioxide, refrigerated liquid	UN2187
Ethane, liquid (*refrigerated*)	NA1961	Ethane, refrigerated liquid	UN1961
Ethane-Propane mixture, liquid (*refrigerated*)	NA1961	Ethane-Propane mixture, refrigerated liquid	UN1961
Ethylene, cryogenic liquid	NA1038	Ethylene, refrigerated liquid (*cryogenic liquid*)	UN1038
Helium, cryogenic liquid	NA1963	Helium, refrigerated liquid (*cryogenic liquid*)	UN1963
Hydrogen, cryogenic liquid	NA1966	Hydrogen, refrigerated liquid (*cryogenic liquid*)	UN1966
Hydrogen chloride, liquid (*refrigerated*) (*RQ–5000/2270*)	NA2186	Hydrogen chloride, refrigerated liquid (*RQ–5000/2270*)	UN2186
Methane, cryogenic liquid	NA1972	Methane, refrigerated liquid (*cryogenic liquid*)	UN1972
Natural gas, cryogenic liquid	NA1972	Natural gas, refrigerated liquid (*with high methane content*) (*cryogenic liquid*)	UN1972
Neon, cryogenic liquid	NA1913	Neon, refrigerated liquid (*cryogenic liquid*)	UN1913
Nitrogen, cryogenic liquid	NA1977	Nitrogen, refrigerated liquid (*cryogenic liquid*)	UN1977
Nitrous oxide, liquid (*refrigerated*)	NA2201	Nitrous oxide, refrigerated liquid	UN2201
Oxygen, cryogenic liquid	NA1073	Oxygen, refrigerated liquid (*cryogenic liquid*)	UN1073

3 References in Parts 173, 174, 178 and 179 to the cold form gas names which appear in the June 16, 1983 document, pages 27690–27713, are changed as listed below under "present" to read as shown in the "Revised to" column.

Present	Revise to
Carbon dioxide, liquid (*refrigerated*)	Carbon dioxide, refrigerated liquid.
Ethane, liquid (*refrigerated*)	Ethane, refrigerated liquid.
Ethane-Propane mixture, liquid (*refrigerated*)	Ethane-Propane mixture, refrigerated liquid.
Hydrogen chloride, liquid (*refrigerated*) (*RQ–5000/2270*)	Hydrogen chloride, refrigerated liquid (*RQ–5000/2270*).
Nitrous oxide, liquid (*refrigerated*)	Nitrous oxide, refrigerated liquid.

4. On page 27691, in § 172.203, paragraph (g)(3) is corrected to read "The shipping paper for each Class DOT–113 tank car containing, a flammable gas must contain an appropriate notation, such as "DOT–113A," and the statement "Do Not Hump or Cut Off Car While in Motion."

5. On page 27692, in § 173.11, paragraph (c)(1), "July 1 and August 31, 1984" is revised to read "January 1 and February 28, 1985"; in paragraph (c)(2), second line, the word "even" is revised to read "odd", and in the last line, "1984" is revised to read "1985".

6. On page 27692, in § 173.31, paragraph (a)(8), fourth line "January 1, 1984" is revised to read "October 1, 1984"; in the seventeenth line, "December 31, 1983" is revised to read "September 30, 1984", and in the last line, "January 1, 1984" is revised to read "October 1, 1984".

7. On page 27693, in § 173.31(c)(13)(iv), in the penultimate line, "pressure relief value" is corrected to read "pressure relief valve".

8. On page 27693, in § 173.33(b), seventh line, "§ 178.340," is corrected to immediately precede "178.341", and in the last line, "§ 178–342–5" is corrected to read "§ 178.342–5"; in paragraph (b)(2), fourth line, "January 1, 1984" is revised to read "October 1, 1984"; in the nineteenth line, "December 1, 1983" is revised to read "September 30, 1984"; in the last line, "January 1, 1984" is revised to read "October 1, 1984"; in paragraph (b)(3), fourth line, "January 1, 1984" is revised to read "October 1, 1984", and in the last line "December 31, 1983" is revised to read "September 30, 1984".

9. On page 27694, the Table in § 173.33(d)(2) is corrected to read as follows:

Specification	Ratio[1]
MC–330, MC–331	1¼
MC–338	1¼

[1] Ratio of test pressure to the design pressure (maximum allowable working pressure or rerated pressure) of the tank.

10. On page 27694 in § 173.314(c), in the fifth line, "paragraphs (b) and (h)" is corrected to read "paragraphs (b) through (h)".

11. On page 27695, in the Table in § 173.315(a), the entry for "Hydrogen chloride, liquid (*refrigerated*)" is corrected to read as follows:

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight [see note 1)	Percent by volume (see par. (l) of this section)	Type (see note 2)	Minimum design pressure (psig)
Hydrogen chloride, refrigerated liquid.	103.0	See Note 7	MC-331, MC-338	100; see Note 11.
	[illegible]	do	do	300; see Note 11
	[illegible]	do	do	450; see Note 11.

12. On page 27696, in § 173.316(b)(1)(iii), fifth line, "paragraph 4.3.4" is corrected to read "paragraph 5.3.4.4."

13. On page 27697, in § 173.318(b)(2)(iii), second line, "dics" is corrected to read "discs".

14. On page 27697, in § 173.318(b)(5)(ii), eighth line, "valve" is corrected to read "value".

15. On page 27698, the second entry in the Table in § 173.318(f)(3) is corrected to read as follows:

PRESSURE CONTROL VALVE SETTING OR RELIEF VALVE SETTING

Maximum [illegible] discharge pressure (psig)	Maximum permitted filling density (percent by weight)			
	Carbon monoxide	Ethylene	Hydrogen	Methane or natural gas
15	75.0	[illegible]	5.0	40.0

16. On page 27698, in § 173.318(g)(2)(i), the formula is corrected to read "OWTT=(MRHT-24)/2".

17. On page 27699, in § 174.83(b), the beginning of the sentence is corrected to read "Any car placarded. . . ."

18. On page 27699, in § 176.76(h), second line, "vesel" is corrected to read "vessel".

19. On page 27699, in Part 177, the Table of Sections, the section heading "177.86 Training" is corrected to read "177.816 Training".

20. On page 27700, in § 177.818(a), second line, "vehcile" is corrected to read "vehicle".

21. On page 27700, in § 177.824(e)(2), seventh line, "§ 173.338-16(a)" is corrected to read "§ 178.338-16(a)".

22. On page 27700, in § 177.826, paragraph (c)(1), "1984" is revised to read "1985"; in paragraph (c)(2), the word "even" is revised to read "odd", and in the last line "1984" is revised to read "1985".

23. On page 27703, in the Table in § 178.338-1(e), the entry for "Aluminum" is corrected to read as follows:

Type metal	Jacket evacuated		Jacket not evacuated	
	Gauge	Inches	Gauge	Inches
Aluminum		0.125		0.100

24. On page 27704, in § 178.338-9(b)(2), in the penultimate line, "§ 178.318(b)(9)" is corrected to read "§ 178.338-18(b)(9)".

25. On page 27709, in § 179.400-8(c), the formula is corrected to read "$t=[PL(3+\sqrt{(L/r)})]/(8SE)$".

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A. to Part 1)

Note.—The Materials Transportation Bureau has determined that this document 1) will not result in a "major rule" under the terms of Executive Order 12291, 2) is not a significant regulation under DOT's regulatory policy and procedures (44 FR 11034), and 3) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.*). The original regulatory evaluation and environmental assessment is available for review in the docket.

Issued in Washington, D.C., on October 25, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 83-29447 Filed 10-31-83; 8:45 am]

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federal register

Tuesday
November 1, 1983

Part III

Department of Transportation

Research and Special Programs Administration

Hazardous Materials Regulations; Editorial Corrections and Clarifications

DEPARTMENT OF TRANSPORTATION

49 CFR Parts 171, 172, 173, 174, and 175

[Docket No. HM-189; Amdt. Nos. 171-76, 172-85, 173-16, 174-44, 175-29, 176-18, 177-61]

Hazardous Materials Regulations; Editorial Corrections and Clarifications

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to the Hazardous Materials Regulations (HMR) is to change or delete certain incorrect references, to correct certain editorial errors, and to make minor regulatory changes which will not impose any new requirements on persons subject to the HMR.

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas G. Allan, Exemptions and Regulations Termination Branch, Materials Transportation Bureau, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 472-2726.

SUPPLEMENTARY INFORMATION: In its maintenance of the HMR, MTB performs an annual review of the regulations to detect errors which may be causing confusion to users. Inaccuracies detected in Title 49, Code of Federal Regulations (CFR), Parts 100-199, revised as of October 1, 1982, include incorrect references to other rules and regulations in the CFR, inadvertent omissions of information, and misstatements of certain regulatory requirements. Also, in response to inquiries which MTB has received concerning the clarity of particular requirements specified in the HMR, changes are made which should reduce uncertainties as to their meaning.

Since these amendments do not impose new requirements, public notice has not been provided and these amendments are effective without the customary 30 day delay following publication.

The MTB has determined that this rule, as promulgated, is not a "major rule" under the terms of Executive Order 12291 or significant under DOT implementing procedures (44 FR 11034). A final regulatory evaluation and environmental assessment was not prepared as these amendments are not substantive changes to the HMR.

Based on limited information available concerning size and nature of entities likely to be effected by these amendments, I certify that these amendments will not, as promulgated, have a significant economic impact on a substantial number of small entities.

The following is a section-by-section summary of the amendments.

Section 171.7 is amended to give the current address of certain organizations listed in paragraph (c).

Section 172.101 is amended by removing paragraph (k) since the affected entries to the Hazardous Materials Table are no longer protected by this grandfather clause.

The Hazardous Materials Table is amended by correcting and adding the following entries:

"Battery, *electric storage,* wet, or *filled with* alkali, with automobile *(or specifically named self-propelled vehicle or mechanical apparatus)*" is now assigned identification number NA 2795.

"Chloropicrin and nonflammable, nonliquefied compressed gas mixture" must be labeled with the "NONFLAMMABLE GAS" label.

"Dichlorvos mixture, dry" is subject to the specification packaging requirements of § 173.365 for solid materials.

"Formic acid" and "Formic acid solution" are subject to the specification packaging prescribed in § 173.289 only.

"Pyroxylin plastic, scrap" and "Pyroxylin plastic, rods, sheets, rolls, *or* tubes" are now assigned identification number NA 1325.

"Thiophenol". *See* "Phenyl mercaptan" is added. This entry was proposed in Docket No. HM-166N; Notice No. 82-7 (47 FR 33288, August 2, 1982) but inadvertently omitted from the final rule published June 20, 1983 (48 FR 28095).

Appendix A to Subpart B of Part 172 is revised to update the cross reference of hazardous materials identification numbers to proper shipping names.

Section 172.203 is amended to remove an authorization in paragraph (f) which permitted use of the words "cargo-only aircraft". That authorization expired July 1, 1983.

Paragraph (g) is amended to remove the requirement specified in subparagraph (2) since all DOT 112 and 114 tank cars used to transport flammable compressed gases are now required to have tank head protection.

Section 172.324 is amended by removing the provision in paragraph (c) which delayed the effective date of this section until July 1, 1983.

Section 172.330 is amended by removing the provision in paragraph (h) which permitted, until July 1, 1983, multi-unit tank car tanks to be offered for transportation without the identification numbers being affixed.

Section 172.332 is amended to clarify that the required display of identification numbers on orange panels or placards is limited to portable tanks, cargo tanks, tank cars and multi-unit tank car tanks, and vehicles or freight containers used for the transportation of these bulk containers.

Section 172.336 is amended to reflect in paragraph (b)(1) the correct citation for requirements pertaining to the display of identification numbers on placards.

Paragraph (c)(7) which permitted, until July 1, 1983, multi-unit tank car tanks to be offered for transportation and transported without the display of identification numbers on the multi-unit tank car tanks is removed.

Section 172.402 is amended by removing the provision in paragraph (a)(10) which permitted, until July 1, 1983, certain multiple hazard materials to be offered for transportation and transported without the display of each hazard warning label.

Section 172.403 is amended by removing the provision in paragraph (h) which permitted until, July 1, 1983, the continued use of RADIOACTIVE labels which were required prior to November 20, 1980.

Section 172.519 is amended in paragraph (f) to show the correct reference for the authorization to display identification numbers on placards.

Section 173.7 is amended by changing a reference to the Energy Research and Development Administration in paragraph (b) to its successor, the Department of Energy.

Section 173.23 is amended to redesignate paragraph (d) which was added by amendment 173-165 (48 FR 28095, June 20, 1983) as paragraph (e) since another paragraph (d) was already added by amendment 173-166 (48 FR 27692, June 16, 1983).

Section 173.31 is amended by removing the provision in footnote "c" to Retest Table 2 which granted, until December 31, 1971, an exemption from the quinquennial hydrostatic retest requirement.

Section 173.33 is amended by adding paragraph (d)(12) as another reference in paragraph (d)(15) for which a record of inspections is required.

Section 173.69 is amended to reflect the correct citation for requirements pertaining to radioactive materials.

Section 173.86 is amended to reflect a transfer of functional responsibilities at the Naval Sea Systems Command.

Section 173.114a is amended to reflect a transfer of functional responsibilities at the Naval Sea Systems Command.

Section 173.283 is amended to remove paragraph (b)(3) since the IM 101 portable tank is already specified under provisions of paragraph (b)(1).

Section 173.292 is amended to remove paragraph (a)(3) since the IM 101 portable tank is already specified under provisions of paragraph (a)(1).

Section 173.314 is amended to specify in the table to paragraph (c) that all DOT 114 tank cars used to transport anhydrous ammonia must have tank head protection (S class) as intended by Docket No. HM–174 (46 FR 8005, January 26, 1981).

The entry "Bromotrifluoromethane (R–13B1 or H–1301)" in the table to paragraph (c) is amended to specify the DOT–110A800W multi-unit tank car tank as a suitable container.

The entry "Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s." in the table to paragraph (c) fails to distinguish flammable gases from nonflammable gases. It is, therefore, necessary to revise this entry so that properly equipped tank cars are specified for the flammable gases.

Note 26 to the table in paragraph (c) is amended to clearly indicate that DOT–112T340W and 112J340W tank cars are required for the flammable gases referenced.

Note 27 to the table in paragraph (c) is removed since the specification 112A tank cars are no longer permitted. In addition, the reference to Note 27 is removed from the materials dimethylamine, anhydrous; monomethylamine, anhydrous; and trimethylamine, anhydrous.

Note 28 to the table in paragraph (c) is amended to clearly indicate that DOT–114T340W and 112J340W tank cars are required for the flammable gases referenced.

Note 29 to the table in paragraph (c) is amended to clearly indicate that DOT–114T340W and 114J340W tank cars used to transport the flammable gases referenced may have a maximum safety relief valve setting of 280.5 psig.

Section 173.348 is amended to remove paragraph (a)(5) since the IM 101 portable tank is already specified under provisions of paragraph (a)(1).

Section 173.349 is amended to remove paragraph (a)(4) since the IM 101 portable tank is already specified under provisions of paragraph (a)(1).

Sections 173.386 through 173.388 are amended to show the correct citation of certain requirements specified in 42 CFR.

Section 173.422 is amended to reflect the continuity of requirements specified in paragraphs (e) through (h).

Section 173.427 is amended to cite the correct reference for maximum permissible contamination levels.

Section 173.465 is amended to clearly indicate in Table 11 the free-fall distance required for packages whose weight is precisely at a breakpoint of the Table.

Section 173.510 is amended to show the correct citation of certain requirements specified in 40 CFR.

Section 173.605 is amended to clearly indicate that the name "1,1,1-trichloroethane" is the preferred description of the material "methyl chloroform".

Section 174.25 is amended to clearly indicate in the Table to paragraph (a)(2) that the placard notation for "Blasting agent" is *"Placarded BLASTING AGENTS"*.

Section 175.45 is amended to show a correct references.

Section 175.75 is amended to show correct reference.

Throughout Parts 171, 172, 173 and 175 amendments are made to reflect a change in terminology from "cargo-only aircraft" to "cargo aircraft only".

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Imports.

49 CFR Part 172

Hazardous materials transportation.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 174

Hazardous materials transportation, Railroad safety.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

In consideration of the foregoing, Parts 171, 172, 173, 174 and 175 of Title 49, Code of Federal Regulations are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.7, paragraphs (c)(7), (c)(10)–(14), and (c)(20) are revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) * * *

(7) API: American Petroleum Institute, 1801 K Street, NW., Washington, D.C. 20037.

* * * * *

(10) CMA: Chemical Manufacturers Association, 2501 M Street, NW., Washington, D.C. 20037.

(11) NFPA: National Fire Protection Association, Batterymarch Park, Quincy, Mass. 02269.

(12) Aluminum Association: The Aluminum Association, 818 Connecticut Ave., NW., Washington, D.C. 20006.

(13) NACE: National Association of Corrosion Engineers, 1440 South Creek, Houston, Texas 77084.

(14) IME: Institute of Makers of Explosives, 1575 Eye Street, NW., Washington, D.C. 20005.

* * * * *

(20) AWWA: American Water Works Association, 1010 Vermont Ave., NW., Washington, D.C. 20005.

* * * * *

§ 171.8 [Amended]

2. Section 171.8 is amended by removing the defined term "Cargo-only aircraft" and inserting, in its place, the term "Cargo aircraft only"; the definition itself remains unchanged.

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

§ 172.101 [Amended]

3. In § 172.101, paragraph (k) is removed; column (6)(b) of the Hazardous Materials Table (HMT) is amended by removing the table heading "Cargo only aircraft" and inserting, in its place, the table heading "Cargo aircraft only"; and the HMT is amended by adding and revising the following entries to read as follows:

§ 172.101 Hazardous Materials Table.

✦EAW	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quality in one package		Water shipments		
					Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
(1)	(2)	(3)	(3A)	(4)	5(a)	5(b)	5(a)	5(b)	7(a)	7(b)	7(c)
	ADD *Thiophenol. See* Phenyl mercaptan.										
	REVISE Battery, electric storage, wet, filled with alkali, with automobile (*or specifically named self-propelled vehicle or mechanical appendage*)	Corrosive material	NA2795	Corrosive	173.250	173.260	No limit	No limit	1,2	1,2	Keep dry.
✦	Chloropicrin and nonflammable, nonliquefied compressed gas mixture.	Poison A	NA1955	Poison gas	None	173.329	Forbidden	Forbidden	1	5	Keep cool
E	Dichlorvos mixture, dry (*RQ- 10/4.54*)	Poison B	NA2783	Poison	173.364	173.365	50 pounds	200 pounds	1,2	1,2	
E	Formic acid (*RQ-5000/2270*).	Corrosive material.	UN1779	Corrosive	173.244	173.280	1 quart	5 gallons	1,2	1,2	Glass carboys in hampers not permitted under deck.
E	Formic acid solution (*RQ-5000/2270*).	Corrosive material.	UN1779	Corrosive	173.244	173.280	1 quart	5 gallons	1,2	1,2	
	Pyroxylin plastic, scrap	Flammable solid	NA1325	Flammable solid	None	173.195	Forbidden	Forbidden	I	II	Shade from radiant heat.
	Pyroxylin plastic, rods, sheets, rolls, *or* tubes.	Flammable solid	NA1325	Flammable solid	173.197	173.197	50 pounds	350 pounds	1,3	1	

3a. In Part 172 Subpart B, Appendix A is revised to read as follows:

APPENDIX A—IDENTIFICATION NUMBER CROSS REFERENCE TO PROPER SHIPPING NAMES IN § 172.101 AND § 172.102

This listing is provided for information purposes only.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 0001	102	Alarm devices, explosive
UN 0004	102	Ammonium picrate
UN 0005	102	Cartridges for weapons
UN 0006	102	Cartridges for weapons
UN 0007	102	Cartridges for weapons
UN 0009	102	Ammunition, incendiary
UN 0010	102	Ammunition, incendiary
UN 0012	102	Cartridges for weapons
UN 0014	102	Cartridges for weapons, blank *or* Cartridges, safety, blank
UN 0015	102	Ammunition, smoke
UN 0016	102	Ammunition, smoke
UN 0018	102	Ammunition, tear producing
UN 0019	102	Ammunition, tear producing
UN 0020	102	Ammunition, toxic
UN 0021	102	Ammunition, toxic
UN 0027	102	Black powder
UN 0028	102	Black powder, compressed
UN 0029	102	Detonators, non-electric
UN 0030	102	Detonators, electric
UN 0033	102	Bombs
UN 0034	102	Bombs
UN 0035	102	Bombs
UN 0037	102	Bombs, photo-flash
UN 0038	102	Bombs, photo-flash
UN 0039	102	Bombs, photo-flash
UN 0042	102	Boosters
UN 0043	102	Bursters
UN 0044	102	Primers, cap type
UN 0048	102	Charges, demolition
UN 0049	102	Cartridges, flash
UN 0050	102	Cartridges, flash
UN 0054	102	Cartridges, signal
UN 0055	102	Cases, cartridges, empty, with primer
UN 0056	102	Charges, depth
UN 0059	102	Charges, shaped, commercial
UN 0060	102	Charges, supplementary, explosive
UN 0065	102	Cord, detonating
UN 0066	102	Cord, igniter
UN 0070	102	Cutters, cable, explosive
UN 0072	102	Cyclotrimethylenetrinitramine, wetted
UN 0073	102	Detonators for ammunition
UN 0074	102	Diazodinitrophenol
UN 0075	102	Diethyleneglycol dinitrate. Desensitized
UN 0076	102	Dinitrophenol
UN 0077	102	Dinitrophenates
UN 0078	102	Dinitroresorcinol
UN 0079	102	Hexanitrodiphenylamine
UN 0081	102	Explosives, blasting, Type A
UN 0082	102	Explosives, blasting, Type B
UN 0083	102	Explosives, blasting, Type C
UN 0084	102	Explosives, blasting, Type D
UN 0092	102	Flares, surface
UN 0093	102	Flares, aerial
UN 0094	102	Photo-flash powder
UN 0098	102	Photo-flash powder
UN 0099	102	Fracturing devices, explosive
UN 0101	102	Fuse, instantaneous, non-detonating
UN 0102	102	Cord, detonating
UN 0103	102	Fuse, igniter
UN 0104	102	Cord, detonating, mild effect
UN 0105	102	Fuse, safety
UN 0106	102	Fuzes, detonating
UN 0107	102	Fuzes, detonating
UN 0110	102	Grenades, practice
UN 0113	102	Guanyl nitrosamino guanylidene hydrazine
UN 0114	102	Guanyl nitrosamino guanyl tetrazene
UN 0118	102	Hexolite
UN 0121	102	Igniters
UN 0124	102	Jet perforating guns, charged
UN 0129	102	Lead azide
UN 0130	102	Lead styphnate
UN 0131	102	Lighters, fuse
UN 0132	102	Deflagrating metal salts of aromatic nitro-derivatives, n.o.s
UN 0133	102	Mannitol hexanitrate
UN 0135	102	Mercury fulminate
UN 0136	102	Mines
UN 0137	102	Mines
UN 0138	102	Mines
UN 0143	102	Nitroglycerine, desensitized
UN 0144	102	Nitroglycerine, spirit of
UN 0146	102	Nitrostarch
UN 0147	102	Nitro urea
UN 0150	102	Pentaerythrite tetranitrate, wetted
UN 0151	102	Pentolite
UN 0153	102	Trinitro-aniline
UN 0154	102	Trinitrophenol
UN 0155	102	Trinitrochlorobenzene
UN 0158	102	Potassium salts of nitro-aromatic derivatives
UN 0159	102	Powder cake, wetted
UN 0160	102	Powder, smokeless
UN 0161	102	Powder, smokeless
UN 0167	102	Projectiles
UN 0168	102	Projectiles
UN 0169	102	Projectiles
UN 0171	102	Ammunition, illuminating
UN 0173	102	Release devices, explosive
UN 0174	102	Rivets, explosive
UN 0180	102	Rockets
UN 0181	102	Rockets
UN 0182	102	Rockets
UN 0183	102	Rockets
UN 0186	102	Rocket motors
UN 0190	102	Samples, explosive
UN 0191	102	Signal devices, hand
UN 0192	102	Signals, railway track, explosive
UN 0193	102	Signals, railway track, explosive
UN 0194	102	Signals, distress
UN 0195	102	Signals, distress
UN 0196	102	Signals, smoke
UN 0197	102	Signals, smoke
UN 0203	102	Sodium salts of nitro-aromatic derivatives, n.o.s.
UN 0204	102	Sounding devices, explosive
UN 0206	102	Squibs
UN 0207	102	Tetranitro-aniline
UN 0208	102	Trinitrophenylmethylnitramine
UN 0209	102	Trinitrotoluene
UN 0212	102	Tracers for ammunition
UN 0213	102	Trinitroanisole
UN 0214	102	Trinitrobenzene

(1) Identification Number	(2) Source 172.***	(3) Description
UN 0215	102	Trinitrobenzoic acid
UN 0216	102	Trinitro-m-cresol
UN 0217	102	Trinitronaphthalene
UN 0218	102	Trinitrophenetole
UN 0219	102	Trinitroresorcinol
UN 0220	102	Urea nitrate
UN 0221	102	Warheads, torpedo
UN 0222	102	Ammonium nitrate
UN 0223	102	Ammonium nitrate fertilizers
UN 0224	102	Barium azide
UN 0225	102	Boosters, with detonator
UN 0226	102	Cyclotetramethylenetetranitramine, wetted
UN 0234	102	Sodium dinitro-o-cresolate
UN 0235	102	Sodium picramate
UN 0236	102	Zirconium picramate
UN 0237	102	Charges, shaped, flexible, linear
UN 0238	102	Rockets, line throwing
UN 0240	102	Rockets, line throwing
UN 0241	102	Explosives, blasting, Type E
UN 0242	102	Charges, propelling, for cannon
UN 0243	102	Ammunition, incendiary, white phosphorus
UN 0244	102	Ammunition, incendiary, white phosphorus
UN 0245	102	Ammunition, smoke, white phosphorus
UN 0246	102	Ammunition, smoke, white phosphorus
UN 0247	102	Ammunition, incendiary
UN 0248	102	Contrivances, water-activated
UN 0249	102	Commercial, water-activated
UN 0250	102	Rocket motors
UN 0254	102	Ammunition, illuminating
UN 0255	102	Detonators, electric
UN 0257	102	Fuzes, detonating
UN 0266	102	Octolite
UN 0267	102	Detonators, non-electric
UN 0268	102	Boosters, with detonator
UN 0271	102	Charges, propelling, for rocket motors
UN 0272	102	Charges, propelling, for rocket motors
UN 0273	102	Charges, propelling, for rocket motors
UN 0274	102	Charges, propelling, for rocket motors
UN 0275	102	Cartridges, power device
UN 0276	102	Cartridges, power device
UN 0277	102	Cartridges, oil well
UN 0278	102	Cartridges, oil well
UN 0279	102	Charges, propelling, for cannon
UN 0280	102	Rocket motors
UN 0281	102	Rocket motors
UN 0282	102	Nitroguanidine
UN 0283	102	Boosters
UN 0284	102	Grenades
UN 0285	102	Grenades
UN 0286	102	Warheads, rocket
UN 0287	102	Warheads, rocket
UN 0288	102	Charges, shaped, flexible, linear
UN 0289	102	Cord, detonating
UN 0290	102	Cord, detonating
UN 0291	102	Bombs
UN 0292	102	Grenades
UN 0293	102	Grenades
UN 0294	102	Mines
UN 0295	102	Rockets
UN 0296	102	Sounding devices, explosive
UN 0297	102	Ammunition, illuminating
UN 0299	102	Bombs, photo-flash
UN 0300	102	Ammunition, incendiary
UN 0301	102	Ammunition, tear-producing
UN 0303	102	Ammunition, smoke
UN 0305	102	Photo-flash powder
UN 0306	102	Tracers for ammunition
UN 0312	102	Cartridges, signal
UN 0313	102	Signals, smoke
UN 0314	102	Igniters
UN 0315	102	Igniters
UN 0316	102	Fuzes, igniting
UN 0317	102	Fuzes, igniting
UN 0318	102	Grenades, practice
UN 0319	102	Primers, tubular
UN 0320	102	Primers, tubular
UN 0321	102	Cartridges for weapons
UN 0322	102	Rocket motors
UN 0323	102	Cartridges, power device
UN 0324	102	Projectiles
UN 0325	102	Igniters
UN 0326	102	Cartridges for weapons, blank
UN 0327	102	Cartridges for weapons, blank
UN 0328	102	Cartridges for weapons, with inert projectile
UN 0329	102	Torpedoes
UN 0330	102	Torpedoes
UN 0331	102	Explosives, blasting, Type B
UN 0332	102	Explosives, blasting, Type E
UN 0333	102	Fireworks, Type A
UN 0334	102	Fireworks, Type B
UN 0335	102	Fireworks, Type C
UN 0336	102	Fireworks, Type D
UN 0337	102	Fireworks, Type D
UN 0338	102	Cartridges for weapons, blank
UN 0339	102	Cartridges for weapons, with inert projectile
UN 0340	102	Nitrocellulose
UN 0341	102	Nitrocellulose
UN 0342	102	Nitrocellulose, wetted
UN 0343	102	Nitrocellulose, plasticized
UN 0344	102	Projectiles
UN 0345	102	Projectiles
UN 0346	102	Projectiles
UN 0347	102	Projectiles
UN 0348	102	Cartridges for weapons
UN 0349	102	Articles, explosive, n.o.s.
UN 0350	102	Articles, explosive, n.o.s.
UN 0351	102	Articles, explosive, n.o.s.
UN 0352	102	Articles, explosive, n.o.s.
UN 0353	102	Articles, explosive, n.o.s.
UN 0354	102	Articles, explosive, n.o.s.
UN 0355	102	Articles, explosive, n.o.s.
UN 0356	102	Articles, explosive, n.o.s.
UN 0357	102	Substances, explosive, n.o.s.
UN 0358	102	Substances, explosive, n.o.s.
UN 0359	102	Substances, explosive, n.o.s.
UN 0360	102	Detonator assemblies, non-electric
UN 0361	102	Detonator assemblies, non-electric
UN 0362	102	Ammunition, practice
UN 0363	102	Ammunition, proof
UN 0364	102	Detonators for ammunition
UN 0365	102	Detonators for ammunition
UN 0366	102	Detonators for ammunition
UN 0367	102	Fuzes, detonating
UN 0368	102	Fuzes, igniting
UN 0369	102	Warheads, rocket
UN 0370	102	Warheads, rocket
UN 0371	102	Warheads, rocket
UN 0372	102	Grenades, practice
UN 0373	102	Signal devices, hand
UN 0374	102	Sounding device, explosive
UN 0375	102	Sounding devices, explosive
UN 0376	102	Primers, tubular
UN 0377	102	Primers, cap type
UN 0378	102	Primers, cap type
UN 0379	102	Cases, cartridge, empty, with primer
UN 0380	102	Articles, pyrophoric
UN 0381	102	Cartridges, power device
UN 0382	102	Components, explosive train, n.o.s.
UN 0383	102	Components, explosive train, n.o.s.
UN 0384	102	Components, explosive train, n.o.s.
UN 0385	102	5-Nitrobenzotriazol
UN 0386	102	Trinitrobenzenesulfonic acid
UN 0387	102	Trinitrofluorenone
UN 0388	102	Trinitrotoluene and hexanitrostilbene mixtures *or* Trinitrotoluene and trinitrobenzene mixtures
UN 0389	102	Trinitrotoluene mixtures containing trinitrobenzene and hexanitrostilbene
UN 0390	102	Tritonal
UN 0391	102	Cyclotrimethylenetrinitramine and cyclotetramethylenetetranitramine, mixtures, wetted
UN 0392	102	Hexanitrostilbene
UN 0393	102	Hexotonal, cast
UN 0394	102	Trinitroresorcinol
UN 0395	102	Rocket motors, liquid fueled
UN 0396	102	Rocket motors, liquid fueled
UN 0397	102	Rockets, liquid fueled
UN 0398	102	Rockets, liquid fueled
UN 0399	102	Bombs, containing flammable liquid
UN 0400	102	Bombs, containing flammable liquid
UN 0401	102	Dipicryl sulfide
UN 0402	102	Ammonium perchlorate
UN 0403	102	Flares, aerial
UN 0404	102	Flares, aerial
UN 0405	102	Cartridges, signal
UN 0406	102	Dinitrosobenzene
UN 0407	102	Tetrazol-1-acetic acid
UN 0408	102	Fuzes, detonating
UN 0409	102	Fuzes, detonating
UN 0410	102	Fuzes, detonating
UN 0411	102	Pentaerythrite tetranitrate
UN 0412	102	Cartridges for weapons
UN 0413	102	Cartridges for weapons, blank
UN 0414	102	Charges, propelling, for cannon
UN 0415	102	Charges, propelling, for rocket motors
UN 0416	102	Charges, propelling, for rocket motors
UN 0417	102	Cartridges for weapons, with inert projectile
UN 0418	102	Flares, surface
UN 0419	102	Flares, surface
UN 0420	102	Flares, aerial
UN 0421	102	Flares, aerial
UN 0422	102	Squibs
UN 0423	102	Squibs
UN 0424	102	Projectiles
UN 0425	102	Projectiles
UN 0426	102	Projectiles
UN 0427	102	Projectiles
UN 1001	101	Acetylene
UN 1002	122	Air
UN 1002	101	Air, compressed
UN 1003	102	Air
UN 1005	102	Ammonia
UN 1005	101	Ammonia, anhydrous
UN 1006	102	Argon
NA 1006	101	Argon *or* Argon, compressed
UN 1008	101	Boron trifluoride
UN 1009	101	Bromotrifluoromethane
UN 1010	102	Butadiene
UN 1010	101	Butadiene, inhibited
UN 1011	102	Butane *or* butane mixtures
UN 1012	102	Butylene
UN 1013	101	Carbon dioxide
UN 1014	102	Carbon dioxide and oxygen
UN 1014	101	Carbon dioxide-oxygen mixture
UN 1015	102	Carbon dioxide and nitrous oxide
UN 1015	101	Carbon dioxide-nitrous oxide mixture
UN 1016	101	Carbon monoxide
UN 1017	101	Chlorine
UN 1018	101	Chlorodifluoromethane
UN 1020	101	Chloropentafluoroethane
UN 1021	101	Chlorotetrafluoroethane
UN 1022	101	Chlorotrifluoromethane
UN 1023	102	Coal gas
UN 1026	102	Cyanogen
UN 1026	101	Cyanogen gas
UN 1027	101	Cyclopropane
UN 1027	102	Cyclopropane, liquefied
UN 1028	101	Dichlorodifluoromethane
UN 1029	102	Dichloromonofluoromethane
UN 1030	102	1,1-Difluoroethane
UN 1030	101	Difluoroethane
UN 1032	102	Dimethylamine
UN 1032	101	Dimethylamine, anhydrous
UN 1033	101	Dimethyl ether
UN 1035	102	Ethane
NA 1035	101	Ethane *or* Ethane, compressed
UN 1036	102	Ethylamine
UN 1036	101	Monoethylamine
UN 1037	101	Ethyl chloride
UN 1038	102	Ethylene
NA 1038	101	Ethylene, refrigerated liquid
UN 1039	101	Ethyl methyl ether
UN 1040	101	Ethylene oxide
UN 1041	102	Carbon dioxide and ethylene oxide mixtures
NA 1043	101	Crude nitrogen fertilizer solution
UN 1043	101	Fertilizer ammoniating solution
NA 1043	101	Nitrogen fertilizer solution
UN 1044	101	Fire extinguisher
UN 1044	102	Fire extinguishers
UN 1045	101	Fluorine
UN 1046	102	Helium
NA 1046	101	Helium *or* Helium, compressed
UN 1048	101	Hydrogen bromide
UN 1048	102	Hydrogen bromide, anhydrous
UN 1049	102	Hydrogen
NA 1049	101	Hydrogen *or* Hydrogen, compressed
NA 1050	101	Hydrogen chloride, anhydrous
UN 1050	102	Hydrogen chloride, anhydrous
NA 1051	101	Hydrocyanic acid, liquefied

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1051	102	Hydrogen cyanide, anhydrous, stabilized
UN 1052	101	Hydrogen fluoride
UN 1052	102	Hydrogen fluoride, anhydrous
UN 1053	101	Hydrogen sulfide
UN 1053	102	Hydrogen sulphide
UN 1055	102	Isobutylene
UN 1056	102	Krypton
UN 1057	101	Cigarette lighter
UN 1057	102	Lighters for cigars and cigarettes
NA 1058	101	Liquefied nonflammable gas
UN 1058	102	Liquefied non-flammable gases
UN 1060	102	Methyl acetylene and propadiene
UN 1060	101	Methylacetylene-propadiene, stabilized
UN 1061	102	Methylamine
UN 1061	101	Methylamine, anhydrous
UN 1062	102	Methyl bromide
UN 1062	101	Methyl bromide, liquid
UN 1063	101	Methyl chloride
UN 1064	101	Methyl mercaptan
UN 1064	102	Methylmercaptan
UN 1065	102	Neon
NA 1065	101	Neon *or* Neon, compressed
UN 1066	102	Nitrogen
NA 1066	101	Nitrogen *or* Nitrogen, compressed
UN 1067	102	Nitrogen dioxide
UN 1067	101	Nitrogen dioxide, liquid
NA 1067	101	Nitrogen peroxide, liquid
NA 1067	101	Nitrogen tetroxide, liquid
UN 1069	101	Nitrosyl chloride
UN 1070	102	Nitrous oxide
NA 1070	101	Nitrous oxide *or* Nitrous oxide, compressed
UN 1071	102	Oil gas
UN 1072	102	Oxygen
NA 1072	101	Oxygen *or* Oxygen, compressed
UN 1073	102	Oxygen
NA 1073	101	Oxygen, refrigerated liquid
UN 1075	101	Liquefied petroleum gas
UN 1075	102	Petroleum gases, liquefied
UN 1076	101	Phosgene
UN 1077	102	Propylene
UN 1078	102	Refrigerant gases, n.o.s.
UN 1078	101	Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
UN 1079	101	Sulfur dioxide
UN 1079	102	Sulphur dioxide
UN 1080	101	Sulfur hexafluoride
UN 1080	102	Sulphur hexafluoride
UN 1081	101	Tetrafluoroethylene, inhibited
UN 1082	101	Trifluorochloroethylene
UN 1082	102	Trifluorochloroethylene, inhibited
UN 1083	101	Trimethylamine, anhydrous
UN 1085	102	Vinyl bromide
UN 1086	101	Vinyl chloride
UN 1087	101	Vinyl methyl ether
UN 1088	101	Acetal
UN 1089	101	Acetaldehyde
UN 1090	101	Acetone
UN 1091	101	Acetone oil
UN 1091	102	Acetone oils
UN 1092	101	Acrolein, inhibited
UN 1093	101	Acrylonitrile
UN 1093	102	Acrylonitrile, inhibited
UN 1098	101	Allyl alcohol
UN 1099	101	Allyl bromide
UN 1100	101	Allyl chloride
UN 1101	102	Diethylaluminium chloride
UN 1102	102	Triethylaluminium
UN 1103	102	Trimethylaluminium
UN 1104	101	Amyl acetate
UN 1104	102	Amyl acetates
UN 1105	102	Amyl alcohols
UN 1106	101	Amylamine
UN 1107	101	Amyl chloride
UN 1108	101	Amylene
UN 1108	102	n-Amylene
UN 1109	101	Amyl formate
UN 1109	102	Amyl formates
UN 1110	102	Amyl methyl ketone
UN 1110	101	Methyl amyl ketone
UN 1111	101	Amyl mercaptan
UN 1112	102	Amyl nitrate
UN 1113	101	Amyl nitrite
UN 1114	101	Benzene
UN 1115	101	Benzine
UN 1115	102	Brake fluid
UN 1120	102	Butanol
NA 1120	101	Butyl alcohol
UN 1120	102	sec-Butanol
UN 1120	102	tert-Butanol
UN 1123	101	Butyl acetate
UN 1123	102	Butyl acetates
UN 1125	101	Butylamine
UN 1125	102	n-Butylamine
UN 1126	101	Butyl bromide
UN 1126	102	n-Butyl bromide
UN 1127	101	Butyl chloride
UN 1127	102	Chlorobutanes
UN 1128	101	Butyl formate
UN 1128	102	n-Butyl formate
UN 1129	101	Butyraldehyde
UN 1130	101	Camphor oil
UN 1131	101	Carbon bisulfide, *or* Carbon disulfide
UN 1131	102	Carbon disulphide
UN 1132	102	Carbon remover
UN 1132	101	Carbon remover, liquid
UN 1133	101	Adhesives
UN 1133	102	Adhesives
NA 1133	101	Cement
NA 1133	101	Cement, container, linoleum, tile, *or* wallboard, liquid
NA 1133	101	Cement, leather
NA 1133	101	Cement, pyroxylin
NA 1133	101	Cement, roofing, liquid
NA 1133	101	Cement, rubber
UN 1134	101	Chlorobenzene
UN 1135	101	Ethylene chlorohydrin
UN 1136	101	Coal tar distillate
NA 1136	101	Coal tar light oil
NA 1136	101	Coal tar oil
UN 1137	101	Coal tar distillate
NA 1137	101	Coal tar light oil
NA 1137	101	Coal tar oil
UN 1139	101	Coating solution
NA 1142	101	Antifreeze compound, liquid
NA 1142	101	Antifreeze preparation, liquid
NA 1142	101	Compound, polishing, liquid
NA 1142	101	Compound, vulcanizing, liquid
NA 1142	101	Dressing, leather
UN 1142	102	Flammable liquid preparations, n.o.s.
NA 1142	101	Leather bleach *or* dressing
NA 1142	101	Polish, metal, stove, furniture *or* wood, liquid
NA 1142	101	Rust preventive coating
UN 1143	101	Crotonaldehyde
UN 1143	102	Crotonaldehyde, inhibited
UN 1144	101	Crotonylene
UN 1145	101	Cyclohexane
UN 1146	101	Cyclopentane
UN 1147	101	Decahydronaphthalene
UN 1148	102	Diacetone alcohol
UN 1148	101	Diacetone alcohol
UN 1149	101	Butyl ether
UN 1149	102	Dibutyl ethers
UN 1150	101	Dichloroethylene
UN 1152	101	Dichloropentane
UN 1152	102	Dichloropentanes
UN 1153	101	Ethylene glycol diethyl ether
UN 1154	101	Diethylamine
UN 1155	102	Diethyl ether
UN 1155	101	Ethyl ether
UN 1156	101	Diethyl ketone
UN 1157	101	Diisobutyl ketone
UN 1158	101	Diisopropylamine
UN 1159	101	Diisopropyl ether
UN 1160	101	Dimethylamine, aqueous solution
UN 1160	102	Dimethylamine, solution
UN 1161	101	Dimethyl carbonate
UN 1162	101	Dimethyldichlorosilane
UN 1163	101	Dimethylhydrazine, unsymmetrical
UN 1164	101	Dimethyl sulfide
UN 1164	102	Dimethyl sulphide
UN 1165	101	Dioxane
UN 1166	101	Dioxolane
UN 1167	101	Divinyl ether
UN 1167	102	Divinyl ether, inhibited
UN 1168	102	Diners
UN 1168	101	Diners, paint *or* varnish, liquid, n.o.s.
UN 1169	102	Extracts, aromatic, liquid
UN 1170	101	Alcoholic beverage
NA 1170	101	Cologne spirits
UN 1170	102	Ethanol *or* Ethanol solutions
UN 1170	101	Ethyl alcohol
UN 1171	101	Ethylene glycol monoethyl ether
UN 1172	101	Ethylene glycol monoethyl ether acetate
UN 1173	101	Ethyl acetate
UN 1175	101	Ethyl benzene
UN 1175	102	Ethylbenzene
UN 1176	101	Ethyl borate
UN 1177	102	Ethylbutyl acetate
UN 1177	101	Ethyl butyl acetate
UN 1178	102	2-Ethylbutyraldehyde
UN 1178	101	Ethyl butyraldehyde
UN 1179	101	Ethyl butyl ether
UN 1180	101	Ethyl butyrate
UN 1181	101	Ethyl chloroacetate
UN 1182	101	Ethyl chloroformate
UN 1183	101	Ethyl dichlorosilane
UN 1183	102	Ethyldichlorosilane
UN 1184	101	Ethylene dichloride
UN 1185	102	Ethyleneimine
UN 1185	101	Ethylene imine, inhibited
UN 1188	101	Ethylene glycol monomethyl ether
UN 1189	101	Ethylene glycol monomethyl ether acetate
UN 1190	101	Ethyl formate
UN 1191	102	Ethyl hexaldehyde
UN 1191	101	Ethylhexaldehyde
UN 1192	101	Ethyl lactate
UN 1193	101	Ethyl methyl ketone
UN 1193	101	Methyl ethyl ketone
UN 1194	101	Ethyl nitrite (nitrous ether)
UN 1194	102	Ethyl nitrite, solutions
UN 1195	101	Ethyl propionate
UN 1196	101	Ethyl trichlorosilane
UN 1196	102	Ethyltrichlorosilane
UN 1197	101	Extract, liquid, flavoring
UN 1197	102	Extracts, flavouring, liquid
UN 1198	101	Formaldehyde solution
UN 1198	102	Formaldehyde solutions
UN 1199	101	Furfural
UN 1201	101	Fusel oil
UN 1202	102	Gas oil
UN 1203	101	Gasoline
(UN 1203)	102	Motor fuel, n.o.s.
NA 1203	101	Motor fuel, n.o.s.
UN 1204	102	Nitroglycerin solution, in alcohol
NA 1204	101	Sprits of nitroglycerin
NA 1204	101	Sprits of nitroglycerin, not exceeding 1% nitroglycerin by weight
UN 1205	102	Gutta percha solution
UN 1206	101	Heptane
UN 1207	101	Hexaldehyde
UN 1208	101	Hexane
UN 1208	101	Neohexane
UN 1210	101	Ink
UN 1210	102	Ink, printers
UN 1212	102	Isobutanol
UN 1213	101	Isobutyl acetate
UN 1214	101	Isobutylamine
UN 1216	101	Isooctane
UN 1218	101	Isoprene
UN 1218	102	Isoprene, inhibited
UN 1219	101	Isopropanol
UN 1220	101	Isopropyl acetate
UN 1221	101	Isopropylamine
UN 1222	101	Isopropyl nitrate
UN 1223	101	Kerosene
UN 1224	102	Ketones, liquid, n.o.s.
UN 1225	101	Cigarette lighter
UN 1226	101	Lighter fluid
UN 1226	102	Lighter fuels
UN 1226	102	Lighters
NA 1228	101	Mercaptan mixture, aliphatic
UN 1228	102	Mercaptans, liquid, n.o.s. *or* Mercaptan mixtures, liquid, n.o.s.
UN 1229	101	Mesityl oxide
NA 1230	101	Columbian spirits
UN 1230	102	Methanol
UN 1230	101	Methyl alcohol
UN 1231	101	Methyl acetate
UN 1232	101	Methyl acetone
UN 1233	101	Methylamyl acetate
UN 1234	101	Methylal
UN 1235	101	Methylamine, aqueous solution
UN 1237	101	Methyl butyrate
UN 1238	101	Methyl chloroformate
UN 1239	102	Methylchloromethyl ether
UN 1239	101	Methylchloromethyl ether, anhydrous
UN 1242	101	Methyl dichlorosilane
UN 1242	102	Methyldichlorosilane
UN 1243	101	Methyl formate
UN 1244	101	Methylhydrazine
UN 1245	102	Methyl isobutyl ketone

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1246	102	Methyl isopropenyl ketone
UN 1246	101	Methyl isopropenyl ketone, inhibited
UN 1247	102	Methyl methacrylate
UN 1247	101	Methyl methacrylate monomer, inhibited
NA 1247	101	Methyl methacrylate monomer, uninhibited
UN 1248	101	Methyl propionate
UN 1249	101	Methyl propyl ketone
UN 1250	101	Methyltrichlorosilane
UN 1251	102	Methyl vinyl ketone
UN 1251	101	Methyl vinyl ketone, inhibited
UN 1255	102	Naphtha, petroleum
UN 1255	101	Petroleum naphtha
UN 1256	101	Naphtha, solvent
UN 1257	102	Casinghead gasoline
UN 1259	101	Nickel carbonyl
UN 1261	101	Nitromethane
UN 1262	101	Isooctane
UN 1262	101	Octane
UN 1263	101	Lacquer base *or* Lacquer chips, plastic
UN 1263	101	Paint
NA 1263	101	Paint related material
UN 1263	102	Paints, enamels, lacquers, stains, shellac
UN 1264	101	Paraldehyde
UN 1265	101	Isopentane
UN 1265	101	Pentane
UN 1265	102	Pentanes
UN 1266	102	Perfumery products
UN 1267	101	Crude oil, petroleum
UN 1267	102	Petroleum crude oil
NA 1268	101	Naphtha distillate
UN 1268	101	Petroleum distillate
UN 1268	102	Petroleum distillates, n.o.s.
NA 1268	101	Road oil
NA 1270	101	Oil
UN 1270	102	Petroleum oil
UN 1271	101	Petroleum ether
UN 1271	102	Petroleum spirit
UN 1272	101	Pine oil
UN 1274	102	Propanol
UN 1274	101	Propyl alcohol
UN 1275	101	Propionaldehyde
UN 1276	102	n-Propyl acetate
UN 1276	101	Propyl acetate
UN 1277	102	Monopropylamine
UN 1277	101	Propylamine
UN 1278	101	Propyl chloride
UN 1279	101	Propylene dichloride
UN 1280	101	Propylene oxide
UN 1281	101	Propyl formate
UN 1281	102	Propyl formates
UN 1282	101	Pyridine
UN 1286	102	Rosin oil
UN 1287	102	Rubber solution
UN 1288	102	Shale oil
NA 1289	101	Sodium methylate, alcohol mixture
UN 1289	102	Sodium methylate, solutions
UN 1292	101	Ethyl silicate
UN 1292	102	Tetraethyl silicate
UN 1293	102	Tinctures, medicinal
UN 1294	101	Toluene
UN 1295	101	Trichlorosilane
UN 1296	101	Triethylamine
UN 1297	102	Trimethylamine
UN 1297	101	Trimethylamine, aqueous solution
UN 1298	101	Trimethylchlorosilane
UN 1299	101	Turpentine
UN 1300	101	Turpentine substitute
UN 1301	101	Vinyl acetate
UN 1302	102	Vinyl ethyl ether
UN 1302	101	Vinyl ethyl ether, inhibited
UN 1303	102	Vinylidene chloride
UN 1303	101	Vinylidene chloride, inhibited
UN 1304	101	Vinyl isobutyl ether
UN 1305	101	Vinyl trichlorosilane
UN 1305	102	Vinyl trichlorosilane, inhibited
UN 1307	101	Xylene
UN 1307	102	Xylenes
UN 1308	102	Zirconium
UN 1308	101	Zirconium, metal, liquid, suspensions
UN 1309	102	Aluminium powder, coated
UN 1310	101	Ammonium picrate, wet
UN 1310	102	Ammonium picrate, wetted
UN 1312	102	Borneol
UN 1313	101	Calcium resinate
UN 1314	101	Calcium resinate, fused
UN 1318	102	Cobalt resinate
UN 1318	101	Cobalt resinate, precipitated
UN 1320	102	Dinitrophenol, wetted
UN 1321	102	Dinitrophenolates, wetted
UN 1322	102	Dinitroresorcinol, wetted
UN 1323	102	Ferrocerium
NA 1324	101	Film
UN 1324	102	Film, motion picture
NA 1325	101	Antimony sulfide, solid
NA 1325	101	Burnt cotton, not repicked
NA 1325	101	Cosmetics, n.o.s.
NA 1325	101	Drugs, n.o.s.
UN 1325	101	Flammable solid, n.o.s.
UN 1325	102	Flammable solids, n.o.s.
NA 1325	101	Fusee
NA 1325	101	Garbage tankage
NA 1325	101	N-Methyl-N'-nitro-N-nitrosoguanidine
NA 1325	101	Paper stock, wet
NA 1325	101	Pyroxylin plastic, rods, sheets, rolls, *or* tubes
NA 1325	101	Pyroxylin plastic, scrap
NA 1325	101	Rags, wet
NA 1325	101	Rough ammoniate tankage
NA 1325	101	Smokeless powder for small arms
NA 1325	101	Tankage fertilizer
NA 1325	101	Tankage, rough ammoniate
NA 1325	101	Waste paper, wet
UN 1326	102	Hafnium
UN 1326	101	Hafnium metal, wet
UN 1327	102	Bhusa
UN 1327	101	Hay
UN 1327	101	Hay or straw
UN 1327	102	Straw
UN 1328	102	Hexamine
UN 1330	102	Manganese resinate
UN 1331	102	Matches
UN 1331	101	Matches, strike anywhere
UN 1332	102	Metaldehyde
UN 1333	102	Cerium, crude
UN 1334	102	Naphthalene, crude or refined
UN 1334	101	Naphthalene *or* Naphthalin
UN 1336	102	Nitroguanidine, wetted
UN 1336	101	Nitroguanidine, wet with not less than 20% water
UN 1337	102	Nitrostarch, wetted
UN 1337	101	Nitrostarch, wet with not less than 20% water
NA 1337	101	Nitrostarch, wet with not less than 30% alcohol *or* solvent
UN 1338	102	Phosphorus, amorphous
UN 1338	101	Phosphorus, amorphous, red
UN 1339	101	Phosphorus heptasulfide
UN 1339	102	Phosphorus heptasulphide
UN 1340	101	Phosphorus pentasulfide
UN 1340	102	Phosphorus pentasulphide
UN 1341	101	Phosphorus sesquisulfide
UN 1341	102	Phosphorus sesquisulphide
UN 1343	101	Phosphorus trisulfide
UN 1343	102	Phosphorus trisulphide
NA 1344	101	Picric acid, wet, with not less than 10% water
UN 1344	102	Trinitrophenol, wetted
UN 1345	102	Rubber scrap
UN 1345	101	Rubber scrap *or* Rubber buffings
UN 1345	101	Rubber shoddy *or* Rubber, regenerated *or* Rubber, reclaimed
UN 1346	102	Silicon powder
UN 1347	102	Silver picrate, wetted
UN 1348	102	Sodium dinitro-o-cresolate, wetted
UN 1349	101	Sodium picramate, wet
UN 1349	102	Sodium picramate, wetted
UN 1350	101	Sulfur, solid
UN 1350	102	Sulphur
UN 1352	102	Titanium
UN 1352	101	Titanium metal powder, wet with 25% or more water
UN 1353	102	Toe puffs
UN 1354	101	Trinitrobenzene, wet
UN 1354	102	Trinitrobenzene, wetted
UN 1355	101	Trinitrobenzoic acid, wet
UN 1355	102	Trinitrobenzoic acid, wetted
UN 1356	101	Trinitrotoluene, wet
UN 1356	102	Trinitrotoluene, wetted
UN 1357	101	Urea nitrate, wet
UN 1357	102	Urea nitrate, wetted
UN 1358	102	Zirconium
UN 1358	101	Zirconium metal, wet
UN 1359	102	Bags
UN 1359	101	Bags, sodium nitrate, empty and unwashed
UN 1360	101	Calcium phosphide
UN 1361	102	Carbon
NA 1361	101	Charcoal briquettes *or* briquets
NA 1361	101	Charcoal screenings, made from 'pinon' wood
NA 1361	101	Charcoal, shell
NA 1361	101	Charcoal, wood, ground, crushed, granulated, *or* pulverized
NA 1361	101	Charcoal, wood, lump
NA 1361	101	Charcoal wood screenings, other than 'pinon' wood screenings
NA 1361	101	Coal, ground bituminous, see coal, coal facings
UN 1362	102	Carbon, activated
UN 1362	101	Charcoal, activated
UN 1363	101	Copra
UN 1364	101	Cotton waste, oily
UN 1365	102	Cotton
UN 1365	102	Diethylzinc
UN 1367	102	Diethylmagnesium
UN 1368	102	Dimethylmagnesium
UN 1369	102	p-Nitrosodimethylaniline
UN 1370	102	Dimethylzinc
UN 1371	102	Divers
NA 1372	101	Burnt fiber
NA 1372	101	Fibers
NA 1372	101	Fibers, burnt
UN 1372	102	Fibres, animal or vegetable
NA 1372	101	Hair, wet
NA 1373	101	Fibers *or* fabric, containing more than 5% animal *or* vegetable oil
UN 1373	102	Fibres *or* Fabric, animal *or* vegetable
UN 1374	102	Fishmeal *or* fishscrap
NA 1374	101	Fish meal *or* fish scrap containing less than 6% or more than 12% water
UN 1375	102	Fuel, pyrophoric, n.o.s.
UN 1376	101	Iron mass *or* sponge, spent
UN 1376	102	Iron oxide
UN 1378	101	Nickel catalyst, wet
UN 1378	102	Nickel catalyst, wetted
UN 1379	102	Paper, unsaturated oil treated
UN 1380	101	Pentaborane
UN 1381	102	Phosphorus
UN 1381	101	Phosphorus, white *or* yellow, dry
UN 1381	101	Phosphorus, white *or* yellow, in water
UN 1382	101	Potassium sulfide
UN 1382	102	Potassium sulphide, anhydrous *or* Potassium sulphide
NA 1383	101	Iron mass *or* sponge
UN 1383	102	Pyrophoric metals, n.o.s. *or* Pyrophoric alloys, n.o.s.
UN 1384	102	Sodium dithionite
UN 1384	101	Sodium hydrosulfite
UN 1385	101	Sodium sulfide, anhydrous
UN 1385	102	Sodium sulphide, anhydrous *or* Sodium sulphide
UN 1386	102	Seed cake
UN 1387	101	Waste wool, wet
UN 1387	102	Wool waste
UN 1389	102	Alkali metal amalgams, n.o.s.
UN 1390	102	Alkali metal amides, n.o.s.
UN 1391	102	Alkali metal dispersions, n.o.s. *or* Alkali earth metal dispersions, n.o.s.
UN 1392	102	Alkaline earth metal amalgams, n.o.s.
UN 1393	102	Alkaline earth metal alloys, n.o.s.
UN 1394	102	Aluminium carbide
UN 1395	102	Aluminium ferrosilicon
UN 1396	102	Aluminium, powder, uncoated
UN 1396	101	Aluminium, metallic, powder
UN 1397	102	Aluminium phosphide
UN 1397	101	Aluminium phosphide
UN 1398	102	Aluminium silicon
UN 1399	102	Barium
UN 1400	102	Barium
UN 1401	102	Calcium
UN 1401	101	Calcium, metal
NA 1401	101	Calcium, metal, crystalline
UN 1402	101	Calcium carbide
UN 1403	102	Calcium cyanamide
UN 1403	101	Calcium cyanamide, not hydrated
UN 1404	102	Calcium hydride
UN 1406	102	Calcium silicide
UN 1406	101	Calcium silicon

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1407	102	Caesium
UN 1407	101	Caesium metal
UN 1408	101	Ferrosilicon
UN 1409	102	Hydrides
UN 1410	102	Lithium aluminium hydride
UN 1410	101	Lithium aluminum hydride
UN 1411	102	Lithium aluminum hydride
UN 1411	101	Lithium aluminum hydride, ethereal
UN 1412	102	Lithium amide
UN 1412	101	Lithium amide, powdered
UN 1413	101	Lithium borohydride
UN 1414	101	Lithium hydride
UN 1415	102	Lithium
UN 1415	101	Lithium metal
UN 1415	101	Lithium metal, in cartridges
UN 1417	101	Lithium silicon
UN 1418	102	Magnesium powder *or* Magnesium alloys, powder
UN 1419	102	Magnesium aluminium phosphide
UN 1419	101	Magnesium aluminum phosphide
UN 1420	102	Potassium, metal alloys
UN 1420	101	Potassium, metal liquid alloy
UN 1421	102	Alkali metal alloys, liquid
NA 1421	101	Sodium, metal liquid alloy
UN 1422	102	Potassium-sodium
UN 1422	101	Sodium potassium alloy, liquid
UN 1422	101	Sodium potassium alloy, solid
UN 1423	102	Rubidium
UN 1423	101	Rubidium metal
UN 1423	101	Rubidium metal, in cartridges
UN 1424	102	Sodium amalgam
UN 1425	101	Sodium amide
UN 1426	102	Sodium borohydride
UN 1427	101	Sodium hydride
UN 1428	102	Sodium
UN 1428	101	Sodium, metal *or* metallic
UN 1429	102	Sodium
UN 1429	101	Sodium, metal dispersion in organic liquids
UN 1431	102	Sodium methylate
UN 1431	101	Sodium methylate, dry
UN 1432	101	Sodium phosphide
UN 1433	101	Stannic phosphide
UN 1433	102	Stannic phosphides
UN 1434	102	Strontium
UN 1435	102	Zinc ashes
UN 1436	102	Zinc powder *or* zinc dust
UN 1437	101	Zirconium hydride
UN 1438	102	Aluminium nitrate
UN 1438	101	Aluminum nitrate
UN 1439	101	Ammonium dichromate
UN 1442	101	Ammonium perchlorate
UN 1444	102	Ammonium persulphate
UN 1445	101	Barium chlorate
NA 1445	101	Barium chlorate, wet
UN 1446	101	Barium nitrate
UN 1447	101	Barium perchlorate
UN 1448	101	Barium permanganate
UN 1449	102	Barium peroxide
UN 1449	101	Barium peroxide
UN 1450	102	Bromates, inorganic, n.o.s.
UN 1451	102	Caesium nitrate
UN 1452	101	Calcium chlorate
UN 1453	101	Calcium chlorite
UN 1454	101	Calcium nitrate
UN 1455	102	Calcium perchlorate
UN 1456	101	Calcium permanganate
UN 1457	101	Calcium peroxide
UN 1458	101	Chlorate and borate mixture
UN 1458	102	Chlorate and borate, mixtures
UN 1459	101	Chlorate and magnesium chloride mixture
UN 1459	102	Chlorate and magnesium chloride, mixture
UN 1461	101	Chlorate, n.o.s.
NA 1461	101	Chlorate, n.o.s., wet
UN 1461	102	Chlorates, inorganic, n.o.s.
UN 1462	102	Chlorites, inorganic, n.o.s.
NA 1463	101	Chromic acid mixture, dry
NA 1463	101	Chromic acid, solid
UN 1463	102	Chromium trioxide, anhydrous
UN 1465	102	Didymium nitrate
UN 1466	101	Ferric nitrate
UN 1467	101	Guanidine nitrate
UN 1469	101	Lead nitrate
UN 1470	102	Lead perchlorate
UN 1471	101	Lithium hypochlorite compound, dry
UN 1471	102	Lithium hypochlorite, dry *or* Lithium hypochlorite mixtures

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1472	101	Lithium peroxide
UN 1473	102	Magnesium bromate
UN 1474	101	Magnesium nitrate
UN 1475	101	Magnesium perchlorate
UN 1476	102	Magnesium peroxide
UN 1476	101	Magnesium peroxide, solid
NA 1477	101	Ammonium sulfate nitrate
NA 1477	101	Nitrate, n.o.s.
UN 1477	102	Nitrates, inorganic, n.o.s.
UN 1478	102	Sodium nitrate and potash, mixtures
NA 1479	101	Compound, tree *or* weed killing, solid
NA 1479	101	Cosmetics, n.o.s.
NA 1479	101	Cupric nitrate
NA 1479	101	Drugs, n.o.s.
UN 1479	101	Oxidizer, n.o.s. *or* Oxidizing material, n.o.s.
UN 1479	102	Oxidizing substances, n.o.s.
NA 1479	101	Potassium dichromate
NA 1479	101	Sodium dichromate
NA 1481	101	Perchlorate, n.o.s.
UN 1481	102	Perchlorates, inorganic, n.o.s.
NA 1482	101	Permanganate, n.o.s.
UN 1482	102	Permanganates, inorganic, n.o.s.
UN 1483	102	Peroxides, inorganic, n.o.s.
UN 1484	101	Potassium bromate
UN 1485	101	Potassium chlorate
UN 1486	101	Potassium nitrate
UN 1487	102	Potassium nitrate and sodium nitrite, mixture
UN 1487	101	Sodium nitrite mixed with potassium nitrate
NA 1487	101	Sodium nitrite mixture
UN 1488	101	Potassium nitrite
UN 1489	101	Potassium perchlorate
UN 1490	101	Potassium permanganate
UN 1491	101	Potassium peroxide
UN 1492	102	Potassium persulphate
UN 1493	101	Silver nitrate
UN 1494	101	Sodium bromate
UN 1495	101	Sodium chlorate
UN 1496	101	Sodium chlorite
UN 1498	101	Sodium nitrate
UN 1499	102	Sodium nitrate and potassium nitrate
UN 1500	101	Sodium nitrite
UN 1502	101	Sodium perchlorate
UN 1503	101	Sodium permanganate
UN 1504	101	Sodium peroxide
UN 1505	102	Sodium persulphate
UN 1506	101	Strontium chlorate
UN 1506	101	Strontium chlorate, wet
UN 1507	101	Strontium nitrate
UN 1508	102	Strontium perchlorate
UN 1509	101	Strontium peroxide
UN 1510	101	Tetranitromethane
UN 1511	102	Urea hydrogen peroxide
NA 1511	101	Urea peroxide
UN 1512	101	Zinc ammonium nitrite
UN 1513	101	Zinc chlorate
UN 1514	101	Zinc nitrate
UN 1515	101	Zinc permanganate
UN 1516	101	Zinc peroxide
UN 1517	101	Zirconium picramate, wet
UN 1517	102	Zirconium picramate, wetted
UN 1541	101	Acetone cyanohydrin
UN 1544	102	Alkaloids, n.o.s. *or* Alkaloid salts, n.o.s.
UN 1545	102	Allyl isothiocyanate
UN 1546	102	Ammonium arsenate
UN 1546	101	Ammonium arsenate, solid
UN 1547	102	Aniline
UN 1547	101	Aniline oil, liquid
UN 1548	102	Aniline hydrochloride
UN 1549	102	Antimony compounds, inorganic, n.o.s.
NA 1549	101	Antimony tribromide, solid
NA 1549	101	Antimony tribromide solution
NA 1549	101	Antimony trifluoride, solid
NA 1549	101	Antimony trifluoride solution
UN 1550	102	Antimony lactate
UN 1550	101	Antimony lactate, solid
UN 1551	102	Antimony potassium tartrate
UN 1551	101	Antimony potassium tartrate, solid
UN 1553	102	Arsenic acid, liquid
UN 1553	101	Arsenic acid solution
UN 1554	101	Arsenic acid, solid
UN 1555	102	Arsenic bromide
UN 1555	101	Arsenic bromide, solid

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1556	101	Arsenical compound, liquid, n.o.s., *or* Arsenical mixture, liquid, n.o.s.
UN 1556	102	Arsenic compounds, liquid, n.o.s.
NA 1556	101	Methyldichloroarsine
NA 1556	101	Phenyldichloroarsine
UN 1557	101	Arsenical compound, solid, n.o.s., *or* Arsenical mixture, solid, n.o.s.
NA 1557	101	Arsenical dip, liquid
UN 1557	102	Arsenic compounds, solid, n.o.s.
NA 1557	101	Arsenic iodide, solid
NA 1557	101	Arsenic sulfide, solid
NA 1557	101	Arsenic trisulfide
UN 1558	102	Arsenic
UN 1558	101	Arsenic, solid
UN 1559	102	Arsenic pentoxide
UN 1559	101	Arsenic pentoxide, solid
UN 1560	102	Arsenic trichloride
UN 1560	101	Arsenic trichloride, liquid
UN 1561	102	Arsenic trioxide
UN 1561	101	Arsenic trioxide, solid
UN 1562	101	Arsenical dust
UN 1564	102	Barium compounds, n.o.s.
UN 1565	102	Barium cyanide
UN 1565	101	Barium cyanide, solid
NA 1566	101	Beryllium chloride
UN 1566	101	Beryllium compound, n.o.s.
UN 1566	102	Beryllium compounds
NA 1566	101	Beryllium fluoride
UN 1567	102	Beryllium
UN 1569	102	Bromoacetone
UN 1569	101	Bromoacetone, liquid
UN 1570	102	Brucine
UN 1570	101	Brucine, solid
UN 1571	101	Barium azide, wet
UN 1571	102	Barium azide, wetted
UN 1572	102	Cacodylic acid
UN 1573	102	Calcium arsenate
UN 1573	101	Calcium arsenate, solid
UN 1574	102	Calcium arsenate and arsenite
NA 1574	101	Calcium arsenite, solid
UN 1575	102	Calcium cyanide
UN 1575	101	Calcium cyanide, solid *or* Calcium cyanide mixture, solid
UN 1577	102	Chlorodinitrobenzene
UN 1577	101	Dinitrochlorobenzene
UN 1578	102	Chloronitrobenzenes
UN 1578	101	Nitrochlorobenzene, meta *or* para, solid
UN 1578	101	Nitrochlorobenzene, ortho, liquid
UN 1579	101	4-Chloro-o-toluidine hydrochloride
UN 1580	102	Chloropicrin
UN 1580	101	Chloropicrin, liquid
UN 1581	102	Chloropicrin and methyl bromide
NA 1581	101	Methyl bromide and more than 2% chloropicrin mixture, liquid
UN 1582	102	Chloropicrin and methyl chloride
UN 1582	101	Chloropicrin and methyl chloride mixture
NA 1583	101	Chloropicrin, absorbed
UN 1583	101	Chloropicrin mixture
UN 1583	102	Chloropicrin mixtures, n.o.s.
UN 1584	102	Coccolus
UN 1584	101	Coccolus, solid
UN 1585	102	Copper acetoarsenite
UN 1585	101	Copper acetoarsenite, solid
UN 1586	102	Copper arsenite
UN 1586	101	Copper arsenite, solid
UN 1587	101	Copper cyanide
UN 1588	101	Cyanide *or* cyanide mixture, dry
UN 1588	102	Cyanides, inorganic, n.o.s.
UN 1589	101	Cyanogen chloride
UN 1590	102	Dichloroanilines
UN 1591	101	Dichlorobenzene, ortho, liquid
UN 1591	102	o-Dichlorobenzene
UN 1592	101	Dichlorobenzene, para, solid
UN 1592	102	p-Dichlorobenzene
UN 1593	102	Dichloromethane
UN 1593	101	Dichloromethane *or* Methylene chloride
UN 1594	102	Diethyl sulphate
UN 1595	101	Dimethyl sulfate
UN 1595	102	Dimethyl sulphate
UN 1596	102	Dinitroanilines
UN 1597	102	Dinitrobenzenes
UN 1597	101	Dinitrobenzene, solid, *or* Dinitrobenzol, solid
UN 1597	101	Dinitrobenzene solution
UN 1598	102	Dinitro-o-cresol
UN 1599	101	Dinitrophenol solution

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1599	102	Dinitrophenol, solution
UN 1600	101	Dinitrotoluene, liquid
UN 1600	102	Dinitrotoluenes, molten
UN 1601	101	Disinfectant, liquid
UN 1601	102	Disinfectants, n.o.s.
UN 1601	101	Disinfectant, solid
UN 1602	102	Dyes, n.o.s. *or* Dye intermediates, n.o.s.
UN 1603	102	Ethyl bromoacetate
UN 1604	101	Ethylenediamine
UN 1605	101	Ethylene dibromide
UN 1606	102	Ferric arsenate
UN 1606	101	Ferric arsenate, solid
UN 1607	102	Ferric arsenite
UN 1607	101	Ferric arsenite, solid
UN 1608	102	Ferrous arsenate
UN 1608	101	Ferrous arsenate, solid
UN 1610	102	Halogenated irritating liquids, n.o.s.
UN 1611	102	Hexaethyl tetraphosphate
UN 1611	101	Hexaethyl tetraphosphate, liquid
UN 1612	102	Hexaethyl tetraphosphate and compressed gas
UN 1612	101	Hexaethyl tetraphosphate and compressed gas mixture
UN 1613	102	Hydrocyanic acid, aqueous solutions
UN 1613	101	Hydrocyanic acid solution
UN 1613	101	Hydrocyanic acid solution, less than 5% hydrocyanic acid
UN 1614	102	Hydrogen cyanide, anhydrous, stabilized
UN 1616	101	Lead acetate
UN 1617	102	Lead arsenates
UN 1617	101	Lead arsenate, solid
UN 1618	102	Lead arsenites
UN 1618	101	Lead arsenite, solid
UN 1620	101	Lead cyanide
UN 1621	102	London purple
UN 1621	101	London purple, solid
UN 1622	102	Magnesium arsenate
UN 1622	101	Magnesium arsenate, solid
UN 1623	102	Mercuric arsenate
UN 1624	102	Mercuric chloride
UN 1624	101	Mercuric chloride, solid
UN 1625	101	Mercuric nitrate
UN 1626	102	Mercuric potassium cyanide
UN 1626	101	Mercuric potassium cyanide, solid
UN 1627	102	Mercurous nitrate
UN 1627	101	Mercurous nitrate, solid
UN 1628	101	Mercurous sulfate, solid
UN 1628	102	Mercurous sulphate
UN 1629	101	Mercuric acetate
UN 1629	101	Mercurous acetate, solid
UN 1629	102	Mercury acetate
UN 1630	101	Mercuric ammonium chloride, solid
UN 1630	102	Mercury ammonium chloride
UN 1631	101	Mercuric benzoate, solid
UN 1631	102	Mercury benzoate
UN 1633	102	Mercury bisulphate
UN 1634	101	Mercuric bromide, solid
UN 1634	101	Mercurous bromide, solid
UN 1634	102	Mercury bromides
UN 1636	101	Mercuric cyanide, solid
UN 1636	102	Mercury cyanide
UN 1637	101	Mercurous gluconate, solid
UN 1637	102	Mercury gluconate
UN 1638	101	Mercuric iodide, solid
UN 1638	101	Mercuric iodide, solution
UN 1638	101	Mercurous iodide, solid
UN 1638	102	Mercury iodide
UN 1639	101	Mercurol *or* Mercury nucleate, solid
UN 1639	102	Mercury nucleate
UN 1640	101	Mercuric oleate, solid
UN 1640	102	Mercury oleate
UN 1641	101	Mercuric oxide, solid
UN 1641	101	Mercurous oxide, black, solid
UN 1641	102	Mercury oxide
UN 1642	101	Mercuric oxycyanide, solid
UN 1642	102	Mercury oxycyanide
UN 1643	101	Mercuric potassium iodide, solid
UN 1643	102	Mercury potassium iodide
UN 1644	101	Mercuric salicylate solid
UN 1644	102	Mercury salicylate
UN 1645	101	Mercuric sulfate, solid
UN 1645	102	Mercuric sulphate
UN 1646	101	Mercuric sulfocyanate, solid *or* Mercuric thiocyanate, solid
UN 1646	102	Mercury thiocyanate
UN 1647	102	Methyl bromide and ethylene dibromide mixtures, liquid

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1647	101	Methyl bromide - ethylene dibromide mixture, liquid
NA 1648	101	Acetonitrile
UN 1648	102	Methyl cyanide
UN 1649	101	Motor fuel antiknock compound *or* Antiknock compound
UN 1649	102	Motor fuel anti-knock mixtures
NA 1649	101	Tetraethyl lead, liquid
UN 1650	102	Naphthylamine
UN 1651	102	alpha-Naphthylthiourea
UN 1652	102	Naphthylurea
UN 1653	102	Nickel cyanide
UN 1653	101	Nickel cyanide, solid
UN 1654	102	Nicotine
UN 1654	101	Nicotine, liquid
UN 1655	102	Nicotine compounds, n.o.s. *or* Nicotine preparations, n.o.s.
UN 1656	101	Nicotine hydrochloride
UN 1656	102	Nicotine hydrochloride, *or* Nicotine hydrochloride solutions
UN 1657	101	Nicotine salicylate
UN 1658	101	Nicotine sulfate, liquid
UN 1658	101	Nicotine sulfate, solid
UN 1658	102	Nicotine sulphate, solid *or* solution
UN 1659	101	Nicotine tartrate
UN 1660	101	Nitric oxide
UN 1661	101	Nitroaniline
UN 1661	102	Nitroanilines
UN 1662	102	Nitrobenzene
UN 1662	101	Nitrobenzene, liquid *or* Nitrobenzol, liquid
UN 1663	101	Nitrophenol
UN 1663	102	Nitrophenols
UN 1664	101	Nitrotoluene
UN 1664	102	Nitrotoluenes
UN 1665	102	Nitroxylenes
NA 1665	101	Nitroxylol
UN 1669	102	Pentachloroethane
UN 1670	101	Perchloromethyl mercaptan
UN 1671	101	Phenol
UN 1672	102	Phenylcarbylamine chloride
UN 1673	101	Phenylenediamine, meta *or* para, solid
UN 1673	102	Phenylenediamines
UN 1674	102	Phenylmercuric acetate
UN 1677	102	Potassium arsenate
UN 1677	101	Potassium arsenate, solid
UN 1678	102	Potassium arsenite
UN 1678	101	Potassium arsenite, solid
UN 1679	102	Potassium cuprocyanide
UN 1680	102	Potassium cyanide
UN 1680	101	Potassium cyanide, solid
UN 1680	101	Potassium cyanide solution
UN 1681	102	Rodenticides, n.o.s.
UN 1683	102	Silver arsenate
UN 1684	101	Silver cyanide
UN 1685	101	Sodium arsenate
UN 1686	102	Sodium arsenite, aqueous solutions
UN 1686	101	Sodium arsenite, liquid
UN 1687	101	Sodium azide
UN 1688	102	Sodium cacodylate
UN 1689	102	Sodium cyanide
UN 1689	101	Sodium cyanide, solid
UN 1689	101	Sodium cyanide solution
UN 1690	101	Sodium fluoride, solid
UN 1690	101	Sodium fluoride, solution
UN 1691	102	Strontium arsenite
UN 1691	101	Strontium arsenite, solid
UN 1692	102	Strychnine
UN 1692	101	Strychnine salt, solid
UN 1692	101	Strychnine, solid
NA 1693	101	Irritating agent, n.o.s.
NA 1693	101	ORM-A, n.o.s.
UN 1693	102	Tear gas
NA 1693	101	Tear gas device
UN 1694	102	Bromobenzyl cyanides
UN 1695	102	Chloroacetone
UN 1695	101	Monochloroacetone, stabilized *or* inhibited
UN 1697	102	Chloroacetophenone
UN 1697	101	Chloroacetophenone, gas, liquid, *or* solid
UN 1698	101	Diphenylaminechloroarsine
UN 1699	102	Diphenylchloroarsine
UN 1700	101	Tear gas candle
UN 1700	102	Tear gas candles
UN 1701	101	Xylyl bromide
UN 1702	102	1,1,2,2-Tetrachloroethane
UN 1702	101	Tetrachloroethane

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1703	101	Tetraethyl dithiopyrophosphate and compressed gas mixture
UN 1703	102	Tetraethyl dithiopyrophosphate with gases
UN 1704	101	Tetraethyl dithiopyrophosphate, liquid
UN 1704	102	Tetraethyl dithiopyrophosphate, liquid *or* mixtures
UN 1704	101	Tetraethyl dithiopyrophosphate mixture, dry
UN 1704	101	Tetraethyl dithiopyrophosphate mixture, liquid
UN 1705	102	Tetraethyl pyrophosphate and compressed gas
UN 1705	101	Tetraethyl pyrophosphate and compressed gas mixture
UN 1707	102	Thallium compounds, n.o.s.
NA 1707	101	Thallium salt, solid, n.o.s.
NA 1707	101	Thallium sulfate, solid
UN 1708	102	Toluidines
UN 1709	102	2,4-Toluylenediamine
NA 1709	101	Toluenediamine
UN 1710	101	Trichloroethylene
UN 1711	102	Xylidines
UN 1712	101	Zinc arsenate
UN 1712	102	Zinc arsenate *or* Zinc arsenite, *or* mixtures
UN 1712	101	Zinc arsenite, solid
UN 1713	101	Zinc cyanide
UN 1714	101	Zinc phosphide
UN 1715	101	Acetic anhydride
UN 1716	101	Acetyl bromide
UN 1717	101	Acetyl chloride
UN 1718	101	Acid butyl phosphate
UN 1718	102	Butyl acid phosphate
NA 1719	101	Alkaline liquid, n.o.s.
UN 1719	102	Caustic alkali liquids, n.o.s.
UN 1722	101	Allyl chlorocarbonate
UN 1722	102	Allyl chloroformate
UN 1723	102	Allyl iodide
UN 1724	101	Allyl trichlorosilane
UN 1725	102	Aluminium bromide, anhydrous
UN 1725	101	Aluminum bromide, anhydrous
UN 1726	102	Aluminum chloride, anhydrous
UN 1727	101	Ammonium hydrogen fluoride, solid
UN 1728	102	Amyl trichlorosilane
UN 1728	101	Amyl trichorosilane
UN 1729	101	Anesoyl chloride
UN 1730	101	Antimony pentachloride
UN 1731	102	Antimony pentachloride
UN 1731	101	Antimony pentachloride solution
UN 1732	101	Antimony pentafluoride
UN 1733	102	Antimony trichloride
UN 1733	101	Antimony trichloride, solid
UN 1733	101	Antimony trichloride solution
UN 1736	101	Benzoyl chloride
UN 1737	101	Benzyl bromide
UN 1738	101	Benzyl chloride
UN 1739	101	Benzyl chlorocarbonate
UN 1740	102	Bifluorides, n.o.s.
UN 1741	101	Boron trichloride
UN 1742	102	Boron trifluoride acetic acid complex
UN 1742	101	Boron trifluoride-acetic acid complex
UN 1743	102	Boron trifluoride propionic acid complex
UN 1744	101	Bromine
UN 1745	101	Bromine pentafluoride
UN 1746	101	Bromine trifluoride
UN 1747	101	Butyl trichlorosilane
UN 1748	102	Calcium hypochlorite, dry *or* Calcium hypochlorite mixtures
UN 1748	101	Calcium hypochlorite mixture
UN 1749	101	Chlorine trifluoride
UN 1750	102	Chloroacetic acid
UN 1750	101	Chloroacetic acid, liquid *or* solution
UN 1751	101	Chloroacetic acid, solid
UN 1752	101	Chloroacetyl chloride
UN 1753	102	Chlorophenyl trichlorosilane
UN 1753	101	Chlorophenyltrichlorosilane
UN 1754	101	Chlorosulfonic acid
UN 1754	101	Chlorosulfonic acid-sulfur trioxide mixture
UN 1754	102	Chlorosulphonic acid
UN 1755	102	Chromic acid
UN 1755	101	Chromic acid solution
UN 1756	101	Chromic fluoride, solid
UN 1757	101	Chromic fluoride solution
UN 1757	102	Chromic fluoride, solution
UN 1758	102	Chromium oxychloride

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1758	101	Chromium oxychloride *or* Chromyl chloride
UN 1758	101	Corrosive solid, n.o.s.
UN 1759	102	Corrosive solids, n.o.s.
NA 1759	101	Cosmetics, solid, n.o.s.
NA 1759	101	Drugs, solid, n.o.s.
NA 1759	101	Ferrous chloride, solid
NA 1759	101	Stannous chloride, solid
NA 1760	101	2-(2-Aminoethoxy) ethanol
NA 1760	101	2,2-Dichloropropionic acid
NA 1760	101	Acid, liquid, n.o.s.
NA 1760	101	Aluminum phosphate solution
NA 1760	101	Aluminum sulfate solution
NA 1760	101	Aminopropyldiethanolamine
NA 1760	101	bis (Aminopropyl) piperazine
NA 1760	101	Boiler compound, liquid
NA 1760	101	Chemical kit
NA 1760	101	Compound, cleaning, liquid
NA 1760	101	Compound, rust preventing *or* Compound, rust removing
NA 1760	101	Compound, tree *or* weed killing, liquid
NA 1760	101	Compound, vulcanizing, liquid
UN 1760	101	Corrosive liquid, n.o.s.
UN 1760	102	Corrosive liquids, n.o.s.
NA 1760	101	Cosmetics, liquid, n.o.s.
NA 1760	101	Drugs, liquid, n.o.s.
NA 1760	101	Ethyl phosphonothioic dichloride, anhydrous
NA 1760	101	Ethyl phosphorodichloridate
NA 1760	101	Ferrous chloride, solution
NA 1760	101	Flame retardant compound liquid
NA 1760	101	Hexanoic acid
NA 1760	101	Isopentanoic acid
NA 1760	101	Mermetrahydro phthalic anhydride
NA 1760	101	Methyl phosphonothioic dichloride, anhydrous
NA 1760	101	Morpholine, aqueous, mixture
NA 1760	101	N-Aminopropylmorpholine
NA 1760	101	Nitric acid, 40% or less
NA 1760	101	ORM-B, n.o.s.
NA 1760	101	Paint *or* paint related material
NA 1760	101	Textile treating compound *or* mixture, liquid
NA 1760	101	Titanium sulfate solution
NA 1760	101	Valeric acid
NA 1760	101	Water treatment compounds, liquid
NA 1760	101	White acid
UN 1761	101	Cupriethylene-diamine solution
UN 1761	102	Cupriethylenediamine, solution
UN 1762	101	Cyclohexenyl trichlorosilane
UN 1763	101	Cyclohexyl trichlorosilane
UN 1764	101	Dichloroacetic acid
UN 1765	101	Dichloroacetyl chloride
UN 1766	102	Dichlorophenyl trichlorosilane
UN 1766	101	Dichlorophenyltrichlorosilane
UN 1767	101	Diethyl dichlorosilane
UN 1768	102	Difluorophosphoric acid
UN 1768	101	Difluorophosphoric acid, anhydrous
UN 1769	101	Diphenyl dichlorosilane
UN 1770	102	Diphenylethyl bromide
UN 1770	101	Diphenyl ethyl bromide, solid
UN 1770	101	Diphenyl ethyl bromide solution
UN 1771	101	Dodecyl trichlorosilane
UN 1773	102	Ferric chloride, anhydrous
UN 1773	101	Ferric chloride, solid
UN 1774	101	Fire extinguisher charge containing sulfuric acid
UN 1774	102	Fire extinguisher charges
UN 1775	101	Fluoboric acid
UN 1776	102	Fluorophosphoric acid
UN 1776	101	Monofluorophosphoric acid, anhydrous
UN 1777	101	Fluorosulfonic acid *or* Fluosulfonic acid
UN 1777	102	Fluorosulphonic acid
UN 1778	102	Fluosilicic acid
NA 1778	101	Hydrofluorosilicic acid
UN 1779	101	Formic acid
UN 1779	101	Formic acid solution
UN 1780	101	Fumaryl chloride
UN 1781	102	Hexadecyl trichlorosilane
UN 1781	101	Hexadecyltrichlorosilane
UN 1782	101	Hexafluorophosphoric acid
UN 1783	101	Hexamethylenediamine, solution
UN 1784	102	Hexyl trichlorosilane
UN 1784	101	Hexyltrichlorosilane
UN 1786	102	Hydrofluoric acid and sulphuric acid mixtures
UN 1786	101	Hydrofluoric and sulfuric acid mixture
UN 1787	101	Hydriodic acid
UN 1787	102	Hydriodic acid, solution
UN 1788	101	Hydrobromic acid
UN 1788	101	Hydrobromic acid not more than 49% strength
UN 1788	102	Hydrobromic acid, solution
NA 1789	101	Compound, cleaning, liquid (containing hydrochloric (muriatic) acid)
UN 1789	101	Hydrochloric acid
NA 1789	101	Hydrochloric acid mixture
UN 1789	102	Hydrochloric acid, solution
UN 1789	101	Hydrochloric acid solution, inhibited
NA 1790	101	Compound, cleaning, liquid (containing hydrofluoric acid)
NA 1790	101	Etching acid, liquid, n.o.s.
UN 1790	101	Hydrofluoric acid solution
UN 1790	102	Hydrofluoric acid, solution
UN 1791	101	Hypochlorite solution
NA 1791	101	Hypochlorite solution containing not more than 7% available chlorine
UN 1791	102	Hypochlorite, solutions
UN 1792	101	Iodine monochloride
UN 1793	101	Isopropyl acid phosphate, solid
UN 1793	102	Isopropyl acid phosphatic
NA 1794	101	Lead dross
UN 1794	101	Lead sulfate, solid
UN 1794	102	Lead sulphate
UN 1796	102	Nitrating acid, mixtures
UN 1796	101	Nitrating acid, mixture (with more than 50% nitric acid)
UN 1796	101	Nitrating acid, mixture (with not more than 50% nitric acid)
UN 1798	101	Nitrohydrochloric acid
UN 1798	101	Nitrohydrochloric acid, diluted
UN 1799	102	Nonyl trichlorosilane
UN 1799	101	Nonyltrichlorosilane
UN 1800	102	Octadecyl trichlorosilane
UN 1800	101	Octadecyltrichlorosilane
UN 1801	102	Octyl trichlorosilane
UN 1801	101	Octyltrichlorosilane
UN 1802	102	Perchloric acid
UN 1802	101	Perchloric acid, not over 50% acid
UN 1803	102	Phenolsulphonic acid
UN 1804	102	Phenyl trichlorosilane
UN 1804	101	Phenyltrichlorosilane
UN 1805	101	Phosphoric acid
UN 1806	102	Phosphorus pentachloride
UN 1806	101	Phosphorus pentachloride, solid
NA 1807	101	Phosphoric anhydride
UN 1807	102	Phosphorus pentoxide
UN 1808	101	Phosphorus tribromide
UN 1809	101	Phosphorus trichloride
UN 1810	101	Phosphorus oxychloride
UN 1811	102	Potassium bifluoride
NA 1811	101	Potassium hydrogen fluoride solution
UN 1812	101	Potassium fluoride
UN 1812	101	Potassium fluoride solution
NA 1813	101	Battery
UN 1813	101	Potassium hydroxide, dry solid, flake, bead, *or* granular
UN 1813	102	Potassium hydroxide, solid
UN 1814	101	Potassium hydroxide, liquid *or* solution
UN 1814	102	Potassium hydroxide, solution
UN 1815	102	Propionyl chloride
UN 1816	101	Propyl trichlorosilane
UN 1817	101	Pyrosulfuryl chloride
UN 1817	102	Pyrosulphuryl chloride
UN 1818	101	Silicon chloride *or* Silicon tetrachloride
UN 1818	102	Silicon tetrachloride
UN 1819	101	Sodium aluminate solution
UN 1819	102	Sodium aluminate, solution
UN 1821	101	Sodium hydrogen sulfate, solid
UN 1821	102	Sodium hydrogen sulphate, solid
UN 1823	101	Sodium hydroxide, dry solid, flake, bead, *or* granular
UN 1823	102	Sodium hydroxide, solid
UN 1824	101	Sodium hydroxide, liquid *or* solution
UN 1824	102	Sodium hydroxide, solution
UN 1825	102	Sodium monoxide
UN 1825	101	Sodium monoxide, solid
UN 1826	102	Acid mixtures, spent, nitrating
NA 1826	101	Nitrating acid, spent
UN 1827	102	Stannic chloride, anhydrous
UN 1827	101	Tin tetrachloride, anhydrous
UN 1828	101	Sulfur chlorids
UN 1828	102	Sulphur chlorides
UN 1829	101	Sulfur trioxide
UN 1829	102	Sulphur trioxide
UN 1830	101	Sulfuric acid
UN 1830	102	Sulphuric acid
NA 1831	101	Oleum
UN 1831	102	Sulphuric acid, fuming
UN 1832	101	Sulfuric acid, spent
UN 1832	102	Sulphuric acid, spent
UN 1833	101	Sulfurous acid
UN 1833	102	Sulphurous acid
UN 1834	101	Sulfuryl chloride
UN 1834	102	Sulphuryl chloride
UN 1835	102	Tetramethylammonium hydroxide
UN 1835	101	Tetramethylammonium hydroxide, liquid
UN 1836	101	Thionyl chloride
UN 1837	101	Thiophosphoryl chloride
UN 1838	101	Titanium tetrachloride
UN 1839	101	Trichloroacetic acid, solid
UN 1840	101	Zinc chloride solution
UN 1840	102	Zinc chloride, solution
UN 1841	101	Acetaldehyde ammonia
UN 1843	102	Ammonium dinitro-o-cresolate
UN 1845	102	Carbon dioxide, solid
UN 1845	101	Carbon dioxide, solid, *or* Dry ice, *or* Carbonice
UN 1846	101	Carbon tetrachloride
UN 1847	102	Potassium sulphide, hydrated
UN 1848	101	Propionic acid
UN 1848	101	Propionic acid, solution
UN 1849	102	Sodium sulphide, hydrated
UN 1850	101	Eradicator, paint *or* grease, liquid
UN 1850	102	Eradicators
UN 1851	101	Medicines, liquid, n.o.s.
UN 1851	101	Medicines, n.o.s.
UN 1851	101	Medicines, solid, n.o.s.
UN 1854	102	Barium alloys, pyrophoric
UN 1855	102	Calcium, pyrophoric *or* Calcium alloys, pyrophoric
UN 1856	102	Rags
UN 1856	101	Rags, oily
UN 1857	101	Textile waste, wet
UN 1857	102	Textile waste, wet, n.o.s
UN 1857	101	Waste textile, wet
UN 1858	101	Hexafluoropropylene
UN 1859	101	Silicon tetrafluoride
UN 1860	102	Vinyl fluoride
UN 1860	101	Vinyl fluoride, inhibited
UN 1862	101	Ethyl crotonate
UN 1863	102	Fuel, aviation
UN 1863	101	Fuel, aviation, turbine engine
UN 1864	102	Gas drips
UN 1864	101	Gas drips, hydrocarbon
UN 1865	102	n-Propyl nitrate
UN 1866	101	Resin solution
UN 1867	102	Cigarettes
UN 1867	101	Self-lighting cigarette
UN 1868	101	Decaborane
UN 1869	101	Magnesium, metal
UN 1869	102	Magnesium *or* Magnesium alloys
NA 1869	101	Magnesium scrap
UN 1870	102	Potassium borohydride
UN 1871	102	Titanium hydride
UN 1872	102	Lead dioxide
UN 1872	101	Lead peroxide
UN 1873	101	Perchloric acid
UN 1884	101	Barium oxide
UN 1885	101	Benzidine
UN 1886	102	Benzylidene chloride
UN 1887	101	Bromochloromethane
UN 1888	101	Chloroform
UN 1889	101	Cyanogen bromide
UN 1891	102	Ethyl bromide
UN 1892	102	Ethyl dichloroarsine
UN 1894	102	Phenylmercuric hydroxide
UN 1895	102	Phenylmercuric nitrate
UN 1896	102	Resin solution, poisonous
UN 1897	102	Tetrachloroethylene
UN 1897	101	Tetrachloroethylene *or* Perchloroethylene
UN 1898	101	Acetyl iodide
NA 1902	101	Di-(2-ethylhexyl) phosphoric acid
UN 1902	101	Diisooctyl acid phosphate
UN 1903	101	Disinfectant, liquid
UN 1903	102	Disinfectants, corrosive, liquid, n.o.s.
UN 1905	102	Selenic acid
UN 1905	101	Selenic acid, liquid
UN 1906	101	Acid, sludge

(1) Identification Number	(2) Source 172.***	(3) Description
UN 1906	102	Sludge acid
UN 1907	102	Soda lime
UN 1907	101	Soda lime, solid
UN 1908	101	Sodium chlorite solution
UN 1908	102	Sodium chlorite, solution
UN 1910	101	Calcium oxide
UN 1911	102	Diborane
UN 1911	101	Diborane *or* diborane mixtures
UN 1912	102	Methyl chloride and methylene chloride, mixtures
UN 1912	101	Methyl chloride-methylene chloride mixture
NA 1913	101	Neon, refrigerated liquid
UN 1913	102	Neon, refrigerated liquid
UN 1914	102	Butyl propionate
UN 1915	102	Cyclohexanone
UN 1916	102	Dichloroethyl ether
UN 1917	102	Ethyl acrylate
UN 1917	101	Ethyl acrylate, inhibited
UN 1918	102	Isopropylbenzene
UN 1919	102	Methyl acrylate
UN 1919	101	Methyl acrylate, inhibited
UN 1920	102	Nonane
UN 1921	102	Propyleneimine
UN 1921	101	Propyleneimine, inhibited
UN 1922	101	Pyrrolidine
UN 1923	102	Calcium hydrosulphite
UN 1924	102	Ethyl aluminium dichloride
UN 1925	102	Ethyl aluminium sesquichloride
UN 1926	102	Methyl aluminium sesquibromide
UN 1927	102	Methyl aluminium sesquichloride
UN 1928	101	Methyl magnesium bromide in ethyl ether
UN 1928	102	Methyl magnesium bromide, in ethyl ether
UN 1929	102	Potassium hydrosulphite
UN 1930	102	Triisobutyl aluminium
UN 1931	101	Zinc hydrosulfite
UN 1931	102	Zinc hydrosulphite
UN 1932	102	Zirconium
UN 1932	101	Zirconium scrap
UN 1935	101	Cyanide solution, n.o.s.
UN 1935	102	Cyanide, solutions
UN 1938	102	Bromoacetic acid
UN 1938	101	Bromoacetic acid, solid
UN 1938	101	Bromoacetic acid solution
UN 1939	101	Phosphorus oxybromide
UN 1939	102	Phosphorus oxybromide, solid
UN 1940	101	Thioglycolic acid
UN 1941	101	Dibromodifluoromethane
UN 1942	102	Ammonium nitrate
UN 1942	101	Ammonium nitrate (no organic coating)
NA 1942	101	Ammonium nitrate (organic coating)
UN 1944	101	Matches, safety
UN 1945	102	Matches
UN 1950	102	Aerosol dispensers
NA 1951	101	Argon, refrigerated liquid
UN 1951	102	Argon, refrigerated liquid
UN 1952	102	Carbon dioxide and ethylene oxide mixtures
UN 1953	102	Compressed *or* liquefied gases, flammable, toxic, n.o.s.
NA 1953	101	Poisonous liquid *or* gas, flammable, n.o.s.
UN 1954	101	Compressed gas, n.o.s.
UN 1954	102	Compressed *or* liquefied gases, flammable
NA 1954	101	Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.
NA 1954	101	Refrigerating machine
NA 1955	101	Chloropicrin and nonflammable, nonliquefied compressed gas mixture
UN 1955	102	Compressed *or* liquefied gases
NA 1955	101	Methyl bromide and nonflammable, nonliquefied compressed gas mixture; liquid
NA 1956	101	Organic phosphate, Organic phosphate compound, *or* Organic phosphorus compound; mixed with compressed gas
NA 1956	101	Poisonous liquid *or* gas, n.o.s.
(UN 1955)	102	Tetrafluorohydrazine
NA 1956	101	Accumulator, pressurized
UN 1956	101	Compressed gas, n.o.s.
UN 1958	102	Compressed *or* liquefied gases
NA 1958	101	Hexafluoropropylene oxide

(1) Identification Number	(2) Source 172.***	(3) Description
NA 1958	101	Mine rescue equipment containing carbon dioxide
NA 1958	101	Water pump system
UN 1957	102	Deuterium
UN 1958	102	Dichlorotetrafluoroethane
UN 1959	102	1,1-Difluoroethylene
UN 1960	101	Engine starting fluid
UN 1961	102	Ethane
NA 1961	101	Ethane-Propane mixture, refrigerated liquid
NA 1961	101	Ethane, refrigerated liquid
UN 1962	102	Ethylene
NA 1962	101	Ethylene *or* Ethylene, compressed
NA 1963	101	Helium, refrigerated liquid
UN 1963	102	Helium, refrigerated liquid
UN 1964	102	Hydrocarbon gases, compressed, n.o.s. *or* Hydrocarbon gases, mixtures, compressed, n.o.s.
UN 1964	101	Hydrocarbon gas, nonliquefied
UN 1965	102	Hydrocarbon gases, liquefied, n.o.s. *or* Hydrocarbon gases, mixtures, liquefied, n.o.s.
UN 1965	101	Hydrocarbon gas, liquefied
UN 1966	102	Hydrogen
NA 1966	101	Hydrogen, refrigerated liquid
UN 1967	102	Insecticide gases
NA 1967	101	Insecticide, liquefied gas, containing Poison A material *or* Poison B material
NA 1967	101	Parathion and compressed gas mixture
UN 1968	102	Insecticide gases
NA 1968	101	Insecticide, liquefied gas
UN 1969	102	Isobutane *or* Isobutane mixtures
UN 1970	102	Krypton, refrigerated liquid
NA 1971	101	Methane *or* Methane, compressed
UN 1971	102	Methane *or* Natural gases
UN 1972	102	Methane *or* Natural gases
NA 1972	101	Methane, refrigerated liquid
NA 1972	101	Natural gas, refrigerated liquid
UN 1973	102	Chlorodifluoromethane and chloropentafluoroethane
UN 1974	102	Chlorodifluorobromomethane
UN 1975	102	Nitric oxide and nitrogen tetroxide mixtures
UN 1976	102	Octafluorocyclobutane
NA 1977	101	Nitrogen, refrigerated liquid
UN 1977	102	Nitrogen, refrigerated liquid
UN 1978	102	Propane
UN 1979	102	Rare gases
NA 1980	101	Helium-oxygen mixture
UN 1980	102	Rare gases
UN 1981	102	Rare gases
UN 1982	102	Tetrafluoromethane
UN 1983	102	Chlorotrifluoroethane
UN 1984	102	Trifluoromethane
UN 1986	102	Alcohols, toxic, n.o.s.
NA 1986	101	Denatured alcohol
NA 1986	101	Propargyl alcohol
NA 1986	101	Rum, denatured
UN 1987	101	Alcohol, n.o.s.
UN 1987	102	Alcohols, n.o.s.
UN 1988	102	Aldehydes, toxic, n.o.s.
UN 1989	102	Aldehydes, n.o.s.
NA 1989	101	Benzaldehyde
UN 1991	101	Chloroprene, inhibited
UN 1992	101	Flammable liquid, poisonous, n.o.s.
UN 1992	102	Flammable liquids, poisonous, n.o.s.
NA 1993	101	Combustible liquid, n.o.s.
NA 1993	101	Compound, cleaning, liquid
NA 1993	101	Compound, tree *or* weed killing, liquid
NA 1993	101	Cosmetics, n.o.s.
NA 1993	101	Creosote, coal tar
NA 1993	101	Disinfectant, liquid, n.o.s.
NA 1993	101	Drugs, n.o.s.
NA 1993	101	Ethyl nitrite
UN 1993	101	Flammable liquid, n.o.s.
UN 1993	102	Flammable liquids, n.o.s.
NA 1993	101	Fuel oil
NA 1993	101	Fuel oil, No. 1, 2, 4, 5 *or* 6
NA 1993	101	Heater for refrigerator car, liquid fuel type
NA 1993	101	Insecticide, liquid, n.o.s.
NA 1993	101	Organic peroxide, liquid *or* solution, n.o.s.
NA 1993	101	Plastic solvent, n.o.s.
NA 1993	101	Refrigerating machine
NA 1993	101	Solvent, n.o.s.

(1) Identification Number	(2) Source 172.***	(3) Description
NA 1993	101	Wax, liquid
UN 1994	102	Iron pentacarbonyl
NA 1999	101	Asphalt
NA 1999	101	Asphalt, cut back
UN 1999	102	Cut-backs
UN 1999	101	Tar, liquid
UN 2000	102	Celluloid
UN 2001	102	Cobalt naphthenates
UN 2002	102	Celluloid, scrap
UN 2003	102	Metal alkyls, n.o.s.
UN 2004	102	Magnesium diamide
UN 2005	102	Magnesium diphenyl
UN 2006	102	Plastics, nitrocellulose-based, spontaneously combustible, n.o.s.
UN 2008	102	Zirconium
UN 2008	101	Zirconium metal, dry
UN 2009	102	Zirconium
UN 2010	102	Magnesium hydride
UN 2011	102	Magnesium phosphide
UN 2012	102	Potassium phosphide
UN 2013	102	Strontium phosphide
UN 2014	102	Hydrogen peroxide, aqueous solutions
UN 2014	101	Hydrogen peroxide solution (8% to 40% peroxide)
UN 2014	101	Hydrogen peroxide solution (40% to 52% peroxide)
UN 2015	101	Hydrogen peroxide solution (over 52% peroxide)
UN 2015	102	Hydrogen peroxide, stabilized, *or* Hydrogen peroxide, aqueous solutions, stabilized
UN 2016	102	Ammunition
UN 2016	101	Chemical ammunition, nonexplosive
NA 2016	101	Grenade
UN 2017	102	Ammunition, tear producing, non-explosive
UN 2017	101	Chemical ammunition, nonexplosive
NA 2017	101	Grenade, tear gas
UN 2018	102	Chloroanilines
UN 2019	102	Chloroanilines
UN 2020	102	Chlorophenols, solid
NA 2020	101	Pentachlorophenol
NA 2020	101	Trichlorophenol
UN 2021	102	Chlorophenols, liquid
UN 2022	102	Cresylic acid
NA 2022	101	Mining reagent, liquid
UN 2023	101	Epichlorhydrin
UN 2024	102	Mercury compounds, liquid, n.o.s.
NA 2025	101	Mercuric subsulfate, solid
UN 2025	101	Mercury compound, solid, n.o.s.
UN 2025	102	Mercury compounds, solid, n.o.s.
UN 2026	102	Phenylmercuric compounds, n.o.s
UN 2027	102	Sodium arsenite, solid
UN 2028	102	Bombs, smoke
UN 2029	101	Hydrazine, anhydrous
UN 2029	102	Hydrazine, anhydrous *or* Hydrazine aqueous solutions
UN 2030	101	Hydrazine, aqueous solution
UN 2030	102	Hydrazine hydrate *or* Hydrazine aqueous solutions
UN 2031	101	Nitric acid
UN 2032	101	Nitric acid, fuming
UN 2032	102	Nitric acid, red fuming
UN 2033	102	Potassium oxide
UN 2034	102	Hydrogen and methane mixtures, compressed
UN 2035	102	Trifluoroethane
UN 2036	101	Xenon
UN 2037	102	Receptacles
UN 2038	101	Dinitrotoluene, solid
UN 2038	102	Dinitrotoluenes, solid
UN 2044	102	2,2-Dimethylpropane
UN 2045	102	Isobutyraldehyde
UN 2046	102	Cymenes
UN 2047	101	Dichloropropene
NA 2047	101	Dichloropropene and propylene dichloride mixture
UN 2048	102	Dicyclopentadiene
UN 2049	102	Diethylbenzene
UN 2050	102	Diisobutylene
UN 2051	102	Dimethylethanolamine
UN 2052	102	Dipentene
UN 2053	102	Methyl isobutyl carbinol
UN 2054	101	Morpholine
NA 2054	101	Morpholine, aqueous, mixture
UN 2055	101	Styrene monomer, inhibited
UN 2056	101	Tetrahydrofuran
UN 2057	102	Tripropylene

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2058	102	Valeraldehyde
UN 2059	101	Box toe gum
NA 2059	101	Collodion
UN 2059	102	Nitrocellulose
NA 2059	101	Nitrocellulose, colloided, granular or flake, wet with not less than 25% alcohol or solvent, or block, wet with not less than 25% alcohol
NA 2059	101	Pyroxylin solution
NA 2059	101	Pyroxylin solvent, n.o.s.
UN 2060	101	Box toe gum
UN 2067	101	Ammonium nitrate fertilizer
UN 2067	102	Ammonium nitrate fertilizers
UN 2068	101	Ammonium nitrate-carbonate mixture
UN 2069	101	Ammonium nitrate mixed fertilizer
UN 2070	101	Ammonium nitrate-phosphate
UN 2071	102	Ammonium nitrate fertilizers
UN 2072	102	Ammonium nitrate fertilizers, n.o.s.
UN 2073	101	Ammonia solution
UN 2073	102	Ammonia solutions
UN 2074	102	Acrylamide
UN 2075	102	Chloral
UN 2076	101	Cresol
UN 2076	102	Cresols
UN 2077	102	Naphthylamine
UN 2078	101	Toluene diisocyanate
UN 2079	102	Diethylenetriamine
UN 2081	101	Acetyl acetone peroxide
UN 2081	101	Acetyl benzoyl peroxide
UN 2081	101	Acetyl benzoyl peroxide solution
UN 2082	101	Acetyl cyclohexanesulphonyl peroxide
UN 2082	102	Acetyl cyclohexane sulphonyl peroxide
UN 2083	101	Acetyl cyclohexanesulphonyl peroxide
UN 2083	102	Acetyl cyclohexane sulphonyl peroxide
UN 2084	101	Acetyl peroxide
UN 2084	101	Acetyl peroxide solution
NA 2085	101	Benzoyl peroxide
UN 2085	101	Benzoyl peroxide
UN 2086	102	Benzoyl peroxide
UN 2087	101	Benzoyl peroxide
UN 2088	101	Benzoyl peroxide
UN 2089	101	Benzoyl peroxide
UN 2090	101	Benzoyl peroxide
UN 2091	101	tert-Butyl cumyl peroxide
NA 2091	101	tert-Butyl isopropyl benzene hydroperoxide
UN 2092	101	tert-Butyl hydroperoxide
UN 2093	101	tert-Butyl hydroperoxide
UN 2094	101	tert-Butyl hydroperoxide
UN 2095	101	tert-Butyl peroxyacetate
UN 2096	101	tert-Butyl peroxyacetate
UN 2097	101	tert-Butyl peroxybenzoate
UN 2098	101	tert-Butyl peroxybenzoate
UN 2099	102	tert-Butyl monoperoxymaleate
UN 2099	101	tert-Butyl peroxymaleate
UN 2100	102	tert-Butyl monoperoxymaleate
UN 2100	101	tert-Butyl peroxymaleate
UN 2101	102	tert-Butyl monoperoxymaleate
UN 2101	101	tert-Butyl peroxymaleate
UN 2102	101	Di-tert-butyl peroxide
UN 2103	101	tert-Butyl peroxyisopropyl carbonate
UN 2103	102	tert-Butyl peroxy isopropyl carbonate
UN 2104	102	tert-Butyl peroxy-3,5,5-trimethyl hexanoate
UN 2104	101	tert-Butyl peroxy-3,5,5-trimethylhexanoate *or* tert-Butyl peroxyisononanoate
UN 2105	102	tert-Butyl monoperoxyphthalate
UN 2105	101	tert-Butyl peroxyphthalate
UN 2106	101	Di-(tert-butylperoxy)phthalate
UN 2107	101	Di-(tert-butylperoxy)phthalate
UN 2108	101	Di-(tert-butylperoxy)phthalate
UN 2110	101	tert-Butyl peroxypivalate
UN 2111	101	2,2-Di-(tert-butylperoxy)butane
UN 2111	102	2,2-Di-(tert-butylperoxy) butane
UN 2112	101	1,3-Di-(2-tert-butylperoxyisopropyl) benzene
UN 2112	101	1,3-Di-(2-tert-butylperoxyisopropyl) benzene and 1,4-Di-(2-tert-butylperoxyisopropyl) benzene mixture
UN 2112	101	1,4-Di-(2-tert-butylperoxyisopropyl) benzene
UN 2112	102	1,4-Di-(2-tert-butylperoxy isopropyl) benzene, *or* 1,3-di-(2-tert-butylperoxy isopropyl) benzene, *or* mixtures
UN 2113	102	Di-(4-chlorobenzoyl) peroxide
UN 2113	101	p-Chlorobenzoyl peroxide
UN 2114	102	Di-(4-chlorobenzoyl) perçoxide
UN 2114	101	p-Chlorobenzoyl peroxide
UN 2115	102	Di-(4-chlorobenzoyl) peroxide
UN 2115	101	p-Chlorobenzoyl peroxide
UN 2116	101	Cumene hydroperoxide
UN 2116	102	Cumyl hydroperoxide
UN 2117	102	Cyclohexanone peroxides
UN 2118	101	Cyclohexanone peroxide
UN 2118	102	Cyclohexanone peroxides
UN 2119	101	Cyclohexanone peroxide
UN 2119	102	Cyclohexanone peroxides
UN 2120	101	Decanoyl peroxide
UN 2120	102	Didecanoyl peroxide
NA 2121	101	Dicumyl peroxide
UN 2121	101	Dicumyl peroxide
UN 2121	101	Dicumyl peroxide, dry
UN 2122	101	Di-(2-ethylhexyl) peroxydicarbonate
UN 2123	101	Di-(2-ethylhexyl) peroxydicarbonate
UN 2124	102	Dilauroyl peroxide
UN 2124	101	Lauroyl peroxide
UN 2125	101	Paramenthane hydroperoxide
UN 2125	101	p-Menthane hydroperoxide
UN 2126	102	Isobutyl methyl ketone peroxide
UN 2126	101	Methyl isobutyl ketone peroxide
UN 2127	102	Ethyl methyl ketone peroxide(s)
UN 2128	102	Di-(3,5,5-trimethylhexanoyl)peroxide
UN 2128	101	Nonanoyl peroxide
NA 2129	101	Caprylyl peroxide solution
UN 2129	102	Di-n-octanoyl peroxide
UN 2129	101	n-Octanoyl peroxide
UN 2130	102	Di-n-nonanoyl peroxide
UN 2130	101	Pelargonyl peroxide
NA 2131	101	Peracetic acid solution
UN 2131	101	Peroxyacetic acid
UN 2132	102	Dipropionyl peroxide
UN 2132	101	Propionyl peroxide
UN 2133	102	Diisopropyl peroxydicarbonate
NA 2133	101	Isopropyl percarbonate, unstabilized
UN 2133	101	Isopropyl peroxydicarbonate
UN 2134	102	Diisopropyl peroxydicarbonate
NA 2134	101	Isopropyl percarbonate, stabilized
UN 2134	101	Isopropyl peroxydicarbonate
UN 2135	102	Disuccinic acid peroxide
UN 2135	101	Succinic acid peroxide
UN 2136	101	Tetralin hydroperoxide
UN 2137	101	2,4-Dichlorobenzoyl peroxide
UN 2137	102	Di-2,4-dichlorobenzoyl peroxide
UN 2138	101	2,4-Dichlorobenzoyl peroxide
UN 2138	102	Di-2,4-dichlorobenzoyl peroxide
UN 2139	101	2,4-Dichlorobenzoyl peroxide
UN 2139	102	Di-2,4-dichlorobenzoyl peroxide
UN 2140	101	n-Butyl-4,4-di-(tert-butylperoxy)valerate
UN 2140	102	n-Butyl-4,4-di-(tert-butyl-peroxy) valerate
UN 2141	101	n-Butyl-4,4-di-(tert-butylperoxy)valerate
UN 2141	102	n-Butyl-4,4-di-(tert-butyl-peroxy) valerate
UN 2142	101	tert-Butyl peroxyisobutyrate
UN 2143	101	tert-Butyl peroxy-2-ethylhexanoate
UN 2143	102	tert-Butyl peroxy-2-ethyl hexanoate
UN 2144	101	tert-Butyl peroxydiethylacetate
UN 2145	101	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2146	101	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2147	101	1,1-Di-(tert-butylperoxy)-3,3,5-trimethyl cyclohexane
UN 2148	102	Di-(1-hydroxy cyclohexyl) peroxide
UN 2148	101	Di-(1-hydroxycyclohexyl) peroxide
UN 2149	101	Dibenzyl peroxydicarbonate
UN 2150	101	Di-sec-butyl peroxydicarbonate
UN 2151	101	Di-sec-butyl peroxydicarbonate
UN 2152	101	Dicyclohexyl peroxydicarbonate
UN 2153	101	Dicyclohexyl peroxydicarbonate
UN 2154	101	Di(4-tert-butylcyclohexyl)peroxydicarbonate
UN 2154	102	Di-(4-tert-butylcyclohexyl) peroxydicarbonate
UN 2155	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane
UN 2156	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane
UN 2157	102	2,5-Dimethyl-2,5-di -(2-ethylhexanoylperoxy) hexane
UN 2157	101	2,5-Dimethyl-2,5-di-(2-ethylhexanoylperoxy)hexane
UN 2158	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexyne-3
UN 2159	101	2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexyne-3
UN 2160	101	1,1,3,3-Tetramethylbutyl hydroperoxide
UN 2160	102	1,1,3,3-Tetramethyl butyl hydroperoxide
UN 2161	102	1,1,3,3-Tetramethyl butyl peroxy-2-ethyl hexanoate
UN 2161	101	1,1,3,3-Tetramethylbutyl peroxy-2-ethylhexanoate
UN 2162	101	Pinane hydroperoxide
UN 2162	101	Pinane hydroperoxide solution
UN 2162	102	Pinanyl hydroperoxide
UN 2163	101	Diacetone alcohol peroxide
UN 2163	102	Diacetone alcohol peroxides
UN 2164	101	Diallyl peroxydicarbonate
UN 2165	101	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane
UN 2166	101	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane
UN 2167	101	3,3,6,6,9,9-Hexamethyl-1,2,4,5-tetraoxocyclononane
UN 2168	101	2,2-Di-(4,4-di-tert-butylperoxycyclohexyl)-propane
UN 2169	101	n-Butyl peroxydicarbonate
UN 2170	101	n-Butyl peroxydicarbonate
UN 2171	101	Diisopropylbenzene hydroperoxide
UN 2171	101	Diisopropylbenzene hydroperoxide solution
UN 2172	101	2,5-Dimethyl-2,5-di-(benzoylperoxy)hexane
UN 2173	101	2,5-Dimethyl-2,5-di-(benzoylperoxy)hexane
UN 2174	101	2,5-Dimethyl-2,5-dihydroperoxy hexane
UN 2174	101	Dimethylhexane dihydroperoxide, (with 18% or more water)
UN 2175	101	Diethyl peroxydicarbonate
UN 2176	101	Di-n-propyl peroxydicarbonate
UN 2177	101	tert-Butyl peroxyneodecanoate
UN 2178	101	2,2-Dihydroperoxy propane
UN 2179	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2179	102	1,1-Di-(tert-butylperoxy) cyclohexane
UN 2180	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2180	102	1,1-Di-(tert-butylperoxy) cyclohexane
UN 2181	101	1,2-Di-(tert-butylperoxy)cyclohexane
UN 2182	101	Diisobutyryl peroxide
UN 2182	102	Isobutyryl peroxide
UN 2183	101	tert-Butyl peroxycrotonate
UN 2184	101	Ethyl-3,3-di-(tert-butylperoxy)butyrate
UN 2184	102	Ethyl-3,3-di-(tert-butylperoxy) butyrate
UN 2185	101	Ethyl-3,3-di-(tert-butylperoxy)butyrate
UN 2185	102	Ethyl-3,3-di-(tert-butylperoxy) butyrate
NA 2186	101	Hydrogen chloride, refrigerated liquid
NA 2187	101	Carbon dioxide, refrigerated liquid
UN 2187	102	Carbon dioxide, refrigerated liquid
UN 2188	101	Arsine
UN 2189	102	Dichlorosilane
UN 2190	102	Oxygen difluoride
UN 2191	101	Sulfuryl fluoride
UN 2191	102	Sulphuryl fluoride
UN 2192	101	Germane
UN 2193	102	Hexafluoroethane
UN 2194	102	Selenium hexafluoride
UN 2195	102	Tellurium hexafluoride
UN 2196	101	Tungsten hexafluoride
UN 2197	102	Hydrogen iodide, anhydrous
UN 2198	102	Phosphorus pentafluoride
UN 2199	101	Phosphine
UN 2200	102	Propadiene, inhibited
NA 2201	101	Nitrous oxide, refrigerated liquid
UN 2201	102	Nitrous oxide, refrigerated liquid
UN 2202	101	Hydrogen selenide
UN 2203	102	Silane
UN 2204	102	Carbonyl sulfide
UN 2205	102	Adiponitrile
UN 2206	102	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2207	102	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s.
UN 2208	101	Bleaching powder
UN 2208	102	Calcium hypochlorite mixtures, dry
UN 2209	101	Formaldehyde solution
UN 2209	102	Formaldehyde, solutions
UN 2210	102	Maneb; *or* maneb preparation(s)
NA 2210	101	Pesticide, water reactive
UN 2211	102	Plastics moulding materials evolving flammable vapours
UN 2212	102	Asbestos, blue
UN 2213	101	Paraformaldehyde
UN 2214	102	Phthalic anhydride
NA 2215	101	Maleic acid
UN 2215	101	Maleic anhydride
UN 2216	102	Fishmeal *or* fishscrap
NA 2216	101	Fish meal *or* fish scrap containing 6% to 12% water
UN 2217	102	Seed cake
UN 2218	101	Acrylic acid
UN 2218	102	Acrylic acid, inhibited
UN 2219	102	Allyl glycidyl ether
UN 2220	102	Aluminium alkyl halides
UN 2221	102	Aluminium alkyl halides
UN 2222	102	Anisole
UN 2224	101	Benzonitrile
UN 2225	102	Benzene sulphonyl chloride
UN 2226	102	Benzotrichloride
UN 2227	102	n-Butyl methacrylate
UN 2228	102	Butylphenols, liquid
UN 2229	102	Butylphenols, solid
UN 2232	102	Chloroacetaldehyde
UN 2233	102	p-Chloro-o-anisidine
UN 2234	102	Chlorobenzotrifluorides
UN 2235	102	p-Chlorobenzyl chloride
UN 2236	102	3-Chloro-4-methylphenyl isocyanate
UN 2237	102	Chloronitroanilines
UN 2238	102	Chlorotoluenes
UN 2239	102	Chlorotoluidines
UN 2240	102	Chromosulphuric acid
UN 2241	102	Cycloheptane
UN 2242	102	Cycloheptene
UN 2243	102	Cyclohexyl acetate
UN 2244	102	Cyclopentanol
UN 2245	102	Cyclopentanone
UN 2246	102	Cyclopentene
UN 2247	102	n-Decane
UN 2248	102	Di-(n-butyl)amine
UN 2249	102	Dichlorodimethyl ether, symmetrical
UN 2250	102	Dichlorophenyl isocyanates
UN 2252	102	1,2-Dimethoxyethane
UN 2253	102	N,N-Dimethylaniline
UN 2254	102	Matches
UN 2255	101	Organic peroxide, sample, n.o.s.
UN 2255	102	Organic peroxides, n.o.s., samples
UN 2256	102	Cyclohexene
UN 2257	102	Potassium metal
UN 2257	101	Potassium, metal *or* metallic
UN 2258	101	Propylenediamine
UN 2259	102	Triethylenetetramine
UN 2260	102	Tripropylamine
UN 2261	101	Xylenol
UN 2261	102	Xylenols
UN 2262	102	N,N-Dimethylcarbamoyl chloride
UN 2263	101	1,4-Dimethylcyclohexane
UN 2263	102	Dimethylcyclohexanes
UN 2264	102	N,N-Dimethylcyclohexylamine
UN 2265	102	N,N-Dimethylformamide
UN 2266	102	Dimethyl-N-propylamine
UN 2267	102	Dimethyl thiophosphoryl chloride
UN 2269	102	3,3'-Iminobispropylamine
UN 2269	101	Iminobispropylamine
UN 2270	102	Ethylamine solution
UN 2271	102	Ethyl amyl ketone
UN 2272	102	N-Ethylaniline
UN 2273	102	2-Ethylaniline
UN 2274	102	N-Ethyl-n-benzylaniline
UN 2275	102	2-Ethylbutanol
UN 2276	102	2-Ethylhexylamine
UN 2277	102	Ethyl methacrylate, inhibited
UN 2278	102	n-Heptene
UN 2279	102	Hexachlorobutadiene
UN 2280	101	Hexamethylenediamine, solid
UN 2281	102	Hexamethylenediisocyanate
UN 2282	102	Hexanols
UN 2283	102	Isobutyl methacrylate
UN 2284	102	Isobutyronitrile
UN 2285	102	Isomeric nitrobenzotrifluorides
UN 2286	102	Pentamethylheptane

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2287	102	Isoheptene
UN 2288	102	Isohexene
UN 2289	102	Isophoronediamine
UN 2290	102	Isophorone diisocyanate
NA 2291	101	Lead chloride
UN 2291	102	Lead compounds, soluble, n.o.s.
NA 2291	101	Lead fluoborate
NA 2291	101	Lead sulfate
NA 2291	101	Lead sulfide
NA 2291	101	Lead thiocyanate
UN 2293	102	4-Methoxy-4-methylpentan-2-one
UN 2294	102	N-Methylaniline
UN 2295	102	Methyl chloroacetate
UN 2296	102	Methyl cyclohexane
UN 2296	101	Methylcyclohexane
UN 2297	102	Methyl cyclohexanone
UN 2296	101	Cyclopentane, methyl
UN 2298	102	Methyl cyclopentane
UN 2298	101	Methylcyclopentane
UN 2299	101	Methyl dichloroacetate
UN 2300	102	2-Methyl-5-ethylpyridine
UN 2300	101	Methyl ethyl pyridine
UN 2301	102	2-Methylfuran
UN 2301	101	Methylfuran
UN 2302	102	5-Methylhexan-2-one
UN 2303	102	Isopropenylbenzene
UN 2304	102	Naphthalene, molten
UN 2305	102	Nitrobenzenesulphonic acid
UN 2306	102	Nitrobenzenefluorides
UN 2307	102	3-Nitro-4-chlorobenzotrifluoride
UN 2308	102	Nitrosylsulphuric acid
UN 2309	102	Octadiene
UN 2310	102	2,4-Pentanedione
UN 2311	102	Phenetidines
UN 2312	102	Phenol, molten
UN 2313	102	Picolines
UN 2315	101	Polychlorinated biphenyls
UN 2316	102	Sodium cuprocyanide
UN 2317	102	Sodium cuprocyanide solution
UN 2318	101	Sodium hydrosulfide, solid
UN 2318	102	Sodium hydrosulphide
UN 2319	102	Terpene hydrocarbons n.o.s.
UN 2320	102	Tetraethylenepentamine
UN 2321	102	Trichlorobenzenes
UN 2322	102	Trichlorobutene
UN 2323	102	Triethyl phosphite
UN 2324	102	Triisobutylene
UN 2325	102	1,3,5-Trimethylbenzene
UN 2326	102	Trimethylcyclohexylamine
UN 2327	102	Trimethylhexamethylene diamines
UN 2328	102	Trimethylhexamethylene diisocyanate
UN 2329	102	Trimethyl phosphite
UN 2330	102	Undecane
UN 2331	102	Zinc chloride, anhydrous
UN 2331	101	Zinc chloride, solid
UN 2332	102	Acetaldehyde oxime
UN 2333	102	Allyl acetate
UN 2334	102	Allylamine
UN 2335	102	Allyl ethyl ether
UN 2336	102	Allyl formate
UN 2337	101	Phenyl mercaptan
UN 2338	102	Benzotrifluoride
UN 2339	102	2-Bromobutane
UN 2340	102	2-Bromoethyl ethyl ether
UN 2341	102	1-Bromo-3-methylbutane
UN 2342	102	Bromomethylpropanes
UN 2343	102	2-Bromopentane
UN 2344	102	Bromopropanes
UN 2345	102	3-Bromopropyne
UN 2346	102	Butanedione
UN 2346	101	Diacetyl
UN 2347	101	Butyl mercaptan
UN 2348	102	Butylacrylate, inhibited
UN 2350	102	Butyl methyl ether
UN 2351	102	Butyl nitrite
UN 2352	102	Butyl vinyl ether
UN 2353	101	Butyryl chloride
UN 2354	102	Chloromethyl ethyl ether
UN 2356	102	2-Chloropropane
UN 2357	101	Cyclohexylamine
UN 2358	102	Cyclooctatetraene
UN 2359	102	Diallylamine
UN 2360	102	Diallylether
UN 2361	102	Diisobutylamine
UN 2362	102	1,1-Dichloroethane
UN 2363	101	Ethyl mercaptan
UN 2364	102	Propyl benzene
UN 2366	102	Diethyl carbonate

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2367	102	alpha-Methyl valeraldehyde
UN 2368	102	alpha-Pinene
UN 2368	101	Pinene
UN 2369	102	Ethylene glycol monobutyl ether
UN 2370	102	Hex-1-ene
UN 2371	102	Isopentenes
UN 2372	102	1,2-Di-(dimethylamino)-ethane
UN 2373	102	Diethoxymethane
UN 2374	102	3,3-Diethoxypropene
UN 2375	102	Diethyl sulfide
UN 2376	102	2,3-Dihydropyran
UN 2376	101	Dihydropyran
UN 2377	102	1,1-Dimethoxyethane
UN 2378	102	2-Dimethylaminoacetonitrile
UN 2378	102	1,3-Dimethylbutylamine
UN 2380	102	Dimethyldiethoxysilane
UN 2381	102	Dimethyl disulfide
UN 2382	102	Dimethylhydrazine
UN 2383	102	Dipropylamine
UN 2384	102	Dipropyl ether
UN 2385	102	Ethylisobutyrate
UN 2386	102	1-Ethyl piperidine
UN 2387	102	Fluorobenzene
UN 2388	102	Fluorotoluenes
UN 2389	101	Furan
UN 2391	102	2-Iodobutane
UN 2392	102	Iodomethylpropanes
UN 2392	102	Iodopropanes
UN 2393	102	Isobutyl formate
UN 2394	102	Isobutyl propionate
UN 2395	102	Isobutyryl chloride
UN 2396	102	Methacrylaldehyde
UN 2397	102	3-Methyl butan-2-one
UN 2398	102	Methyl-tert-butyl ether
UN 2399	102	1-Methylpiperidine
UN 2400	102	Methylisovalerate
UN 2401	102	Piperidine
UN 2402	102	Propanethiols
UN 2403	102	Isopropenyl acetate
UN 2404	102	Propionitrile
UN 2405	102	Isopropyl butyrate
UN 2406	102	Isopropyl isobutyrate
UN 2407	102	Isopropyl chloroformate
UN 2409	102	Isopropyl propionate
UN 2410	102	1,2,3,6-Tetrahydropyridine
UN 2411	102	Butyronitrile
UN 2412	102	Tetrahydrothiophene
UN 2413	102	Tetrapropylorthotitanate
UN 2414	102	Thiophene
UN 2416	102	Trimethyl borate
UN 2417	102	Carbonyl fluoride
UN 2418	102	Sulphur tetrafluoride
UN 2419	102	Bromotrifluoroethylene
UN 2420	102	Hexafluoroacetone
UN 2421	102	Nitrogen trioxide
UN 2422	102	Octafluorobut-2-ene
NA 2422	101	Perfluoro-2-butene
UN 2424	102	Octafluoropropane
UN 2426	101	Ammonium nitrate, solution
UN 2427	102	Potassium chlorate
UN 2428	102	Sodium chlorate
UN 2429	102	Calcium chlorate
UN 2430	102	Alkyl phenols, n.o.s.
UN 2431	102	p-Anisidine
UN 2432	102	N,N-Diethylaniline
UN 2433	102	Chloro-o-nitrotoluene
UN 2434	102	Dibenzyldichlorosilane
UN 2435	101	Ethyl phenyl dichlorosilane
UN 2435	102	Ethylphenyldichlorosilane
UN 2436	102	Thioacetic acid
UN 2437	102	Methylphenyldichlorosilane
UN 2438	101	Trimethylacetyl chloride
UN 2439	101	Sodium bifluoride, solid
UN 2439	101	Sodium bifluoride, solution
UN 2439	102	Sodium hydrogen fluoride
UN 2440	102	Stannic chloride pentahydrate
UN 2441	102	Titanium trichloride, pyrophoric *or* Titanium trichloride mixtures, pyrophoric
UN 2442	102	Trichloroacetyl chloride
UN 2443	102	Vanadium oxytrichloride
UN 2443	101	Vanadium oxytrichloride
NA 2443	101	Vanadium oxytrichloride and titanium tetrachloride mixture
UN 2444	101	Vanadium tetrachloride
UN 2445	102	Lithium alkyls
UN 2446	102	Nitrocresols
UN 2447	102	Phosphorus, white, molten
UN 2448	102	Sulphur, molten

(1) Identification Number	(2) Source 172.***	(3) Description
NA 2449	101	Ammonium oxalate
NA 2449	101	Cupric oxalate
UN 2449	102	Oxalates
UN 2451	101	Nitrogen trifluoride
UN 2452	102	Ethyl acetylene, inhibited
UN 2453	102	Ethyl fluoride
UN 2454	102	Methyl fluoride
UN 2455	101	2-Chloropropene
UN 2457	101	2,3-Dimethylbutane
UN 2458	101	Hexadiene
UN 2459	102	2-Methyl-1-butene
UN 2460	102	2-Methyl-2-butene
UN 2461	101	Methyl butene
UN 2461	101	Methylpentadiene
UN 2462	101	Methyl pentane
UN 2462	102	Methylpentanes
UN 2463	102	Aluminium hydride
UN 2463	101	Aluminium hydride
UN 2464	101	Beryllium nitrate
UN 2465	102	Dichloroisocyanuric acid, dry *or* Dichloroisocyanuric acid salts
NA 2465	101	Potassium dichloro-s-triazinetrione
UN 2465	101	Sodium dichloro-s-triazinetrione
UN 2466	101	Potassium superoxide
UN 2467	102	Sodium percarbonates
NA 2468	101	(mono-(Trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry
UN 2468	102	Trichloroisocyanuric acid, dry
UN 2469	101	Trichloro-s-triazinetrione
UN 2469	102	Zinc bromate
UN 2470	152	Phenylacetonitrile, liquid
UN 2471	102	Osmium tetroxide
UN 2472	102	Pindone
UN 2473	102	Sodium arsanilate
UN 2474	101	Thiophosgene
UN 2475	102	Vanadium trichloride
UN 2477	102	Methyl isothiocyanate
UN 2478	102	Isocyanates, n.o.s. *or* Isocyanate solutions, n.o.s.
UN 2480	101	Methyl isocyanate
UN 2480	102	Methyl isocyanate *or* Methyl isocyanate solutions
UN 2481	102	Ethyl isocyanate
UN 2482	102	n-Propyl isocyanate
UN 2483	102	Isopropyl isocyanate
UN 2484	102	tert-Butyl isocyanate
UN 2485	101	n-Butyl isocyanate
UN 2486	102	Isobutyl isocyanate
UN 2487	102	Phenyl isocyanate
UN 2488	102	Cyclohexyl isocyanate
UN 2489	102	Diphenylmethane-4,4'diisocyanate
UN 2490	101	Dichloroisopropyl ether
UN 2491	102	Ethanolamine *or* Ethanolamine solutions
UN 2491	101	Monoethanolamine
UN 2493	101	Hexamethyleneimine
UN 2495	101	Iodine pentafluoride
UN 2496	101	Propionic anhydride
UN 2497	101	Sodium phenolate, solid
UN 2498	101	1,2,3,6-Tetrahydrobenzaldehyde
UN 2501	101	Tris-(1-azridinyl) phosphine oxide
UN 2501	102	Tris-(1-azridinyl)phosphine oxide, solution
UN 2502	101	Valeryl chloride
UN 2502	102	Valeryl chlorides
UN 2503	102	Zirconium tetrachloride
UN 2503	101	Zirconium tetrachloride, solid
UN 2504	101	Acetylene tetrabromide
UN 2504	102	Tetrabromomethane
UN 2505	101	Ammonium fluoride
UN 2506	101	Ammonium hydrogen sulfate
UN 2506	102	Ammonium hydrogen sulphate
UN 2507	101	Chloroplatinic acid, solid
UN 2508	101	Molybdenum pentachloride
UN 2509	101	Potassium hydrogen sulfate, solid
UN 2509	102	Potassium hydrogen sulphate
UN 2511	102	Chloropropionic acid
UN 2512	102	Aminophenols
UN 2513	102	Bromoacetyl bromide
UN 2514	101	Bromobenzene
UN 2515	102	Bromoform
UN 2516	102	Carbon tetrabromide
UN 2517	101	Chlorodifluoroethane
UN 2517	102	Chlorodifluoroethanes
UN 2518	102	1,5,9-Cyclododecatriene
UN 2520	102	Cyclooctadienes
UN 2521	102	Diketene, inhibited
UN 2522	102	Dimethylaminoethyl methacrylate.
UN 2524	102	Ethyl orthoformate
UN 2525	102	Ethyl oxalate
UN 2526	102	Furfurylamine
UN 2527	102	Isobutyl acrylate
UN 2528	102	Isobutyl isobutyrate
UN 2529	101	Isobutyric acid
UN 2530	101	Isobutyric anhydride
UN 2531	102	Methacrylic acid, inhibited
UN 2533	102	Methyl trichloroacetate
UN 2534	102	Methyl chlorosilane
UN 2535	102	Methylmorpholine
UN 2536	102	Methyltetrahydrofuran
UN 2538	102	Nitronaphthalene
UN 2541	102	Terpinolene
UN 2542	102	Tributylamine
UN 2545	102	Hafnium
UN 2545	101	Hafnium metal, dry.
UN 2546	102	Titanium
UN 2546	101	Titanium metal powder, dry *or* wet
UN 2547	101	Sodium superoxide
UN 2548	102	Chlorine pentafluoride
UN 2550	102	Ethyl methyl ketone peroxide(s)
UN 2550	101	Methyl ethyl ketone peroxide
UN 2551	102	tert-Butyl peroxydiethylacetate
UN 2551	101	tert-Butyl peroxydiethylacetate, with tert-Butyl peroxybenzoate
UN 2552	152	Hexafluoroacetone hydrate
UN 2553	152	Coal tar naphtha
NA 2553	101	Coal tar naptha
UN 2553	101	Naphtha
UN 2554	102	Methyl allyl chloride
UN 2555	102	Nitrocellulose
NA 2555	101	Nitrocellulose, colloided, granular *or* flake, wet with not less than 20% water
NA 2555	101	Nitrocellulose, wet with not less than 20% water
(UN 2556)	152	Nitrocellulose
UN 2556	102	Nitrocellulose
NA 2556	101	Nitrocellulose, wet with not less than 30% alcohol *or* solvent
NA 2557	101	Lacquer base, *or* Lacquer chips, dry
UN 2557	102	Nitrocellulose
UN 2558	102	Epibromohydrin
UN 2560	102	2-Methylpentan-2-ol
UN 2561	102	3-Methyl-1-butene
UN 2562	101	tert-Butyl peroxyisobutyrate
UN 2564	152	Trichloroacetic acid
UN 2564	101	Trichloroacetic acid solution
UN 2565	102	Dicyclohexylamine
UN 2567	101	Sodium pentachlorophenate
NA 2570	101	Cadmium acetate
NA 2570	101	Cadmium bromide
NA 2570	101	Cadmium chloride
UN 2570	102	Cadmium compounds
UN 2571	102	Ethylsulphuric acid
UN 2572	102	Phenylhydrazine
UN 2573	151	Thallium chlorate
UN 2574	102	Tricresylphosphate
UN 2576	152	Phosphorus oxybromide, molten
UN 2577	102	Phenylacetyl chloride
UN 2578	102	Phosphorus trioxide
UN 2579	102	Piperazine
UN 2580	152	Aluminium bromide solution
UN 2581	102	Aluminium chloride solution
UN 2582	101	Ferric chloride solution
UN 2582	152	Ferric chloride, solution
UN 2583	102	Alkyl, Aryl *or* Toluene sulphonic acid, solid
UN 2584	101	Alkanesulfonic acid
UN 2584	102	Alkyl, Aryl *or* Toluene sulphonic acid, liquid
NA 2584	101	Dodecylbenzenesulfonic acid
UN 2584	101	Toluene sulfonic acid, liquid
UN 2585	152	Alkyl, Aryl *or* Toluene sulphonic acid, solid
UN 2586	102	Alkyl, Aryl *or* Toluene sulphonic acid, liquid
UN 2587	102	Benzoquinone
NA 2588	101	Insecticide, dry, n.o.s.
UN 2588	151	Pesticides, solid, toxic, n.o.s.
UN 2589	102	Vinyl chloroacetate
UN 2590	102	Asbestos, white
UN 2591	152	Xenon, refrigerated liquid
UN 2592	101	Diisoamyl peroxydicarbonate
UN 2592	152	Diisoamylperoxydicarbonate
UN 2593	101	Di-(2-methylbenzoyl)peroxide
UN 2594	101	tert-Butyl peroxyneodecanoate
UN 2595	101	Dimyristyl peroxydicarbonate
UN 2595	102	Dimyristylperoxydicarbonate
UN 2596	101	3-tert-Butyl peroxy-3-phenylphthalide
UN 2596	152	3-tert-Butylperoxy-3-phenyl phthalide
UN 2597	101	Di-(3,5,5-trimethyl-1,2-dioxolanyl-3)peroxide
UN 2598	152	Ethyl-3,3-di(tert-butylperoxy)butyrate
UN 2598	101	Ethyl-3,3-di-(tert-butylperoxy)butyrate
UN 2599	102	Chlorotrifluoromethane and trifluoromethane azeotropic mixture
UN 2600	102	Carbon monoxide and hydrogen mixture
UN 2601	102	Cyclobutane
UN 2602	102	Dichlorodifluoromethane and difluoroethane, azeotropic mixture
UN 2603	102	Cycloheptatriene
UN 2604	102	Boron trifluoride diethyletherate
UN 2605	152	Methoxymethyl isocyanate
UN 2606	152	Methyl orthosilicate
UN 2607	152	Acrolein dimer
UN 2608	152	Nitropropanes
UN 2609	152	Triallyl borate
UN 2610	102	Triallylamine
UN 2611	102	Propylene chlorohydrin
UN 2612	102	Methyl propyl ether
UN 2614	102	Methallyl alcohol
UN 2615	102	Ethyl propyl ether
UN 2616	102	Triisopropyl borate
UN 2617	102	Methyl cyclohexanol
UN 2618	102	Vinyl toluenes
UN 2619	152	Benzyl dimethylamine
UN 2620	102	Amyl butyrates
UN 2621	102	Acetyl methyl carbinol
UN 2622	102	Glycidaldehyde
UN 2623	102	Firelighters
UN 2624	102	Magnesium silicide
NA 2626	101	Chloric acid
UN 2626	102	Chloric acid solution
UN 2627	102	Nitrites, inorganic, n.o.s.
UN 2628	102	Potassium fluoroacetate
UN 2629	102	Sodium fluoroacetate
UN 2630	102	Selenates, n.o.s. *or* Selenites, n.o.s.
UN 2630	101	Sodium selenite
UN 2642	102	Fluoroacetic acid
UN 2643	102	Methyl bromoacetate
UN 2644	102	Methyl iodide
UN 2645	102	Phenacyl bromide
UN 2646	101	Hexachlorocyclopentadiene
UN 2647	102	Malononitrile
UN 2648	102	1,2-Dibromobutan-3-one
UN 2649	102	1,3-Dichloroacetone
UN 2650	102	1,1-Dichloro-1-nitroethane
UN 2651	102	4,4'-Diaminodiphenyl methane
UN 2653	102	Benzyl iodide
UN 2655	152	Potassium silicofluoride
UN 2656	101	Quinoline
UN 2657	102	Selenium disulphide
UN 2658	102	Selenium
UN 2659	102	Sodium chloroacetate
UN 2660	102	Mononitrotoluidines
UN 2661	102	Hexachloroacetone
UN 2662	102	Hydroquinone
UN 2664	152	Dibromomethane
UN 2666	152	Ethyl cyanoacetate
UN 2667	152	Butyl toluenes
UN 2668	152	Chloroacetonitrile
UN 2669	152	Chlorocresols
UN 2670	152	Cyanuric chloride
UN 2671	102	Aminopyridines
UN 2672	152	Ammonia solutions
NA 2672	101	Ammonium hydroxide
UN 2673	102	2-Amino-4-chlorophenol
UN 2674	152	Sodium silicofluoride
UN 2676	152	Stibine
UN 2677	152	Rubidium hydroxide, solution
UN 2678	152	Rubidium hydroxide, solid
UN 2679	152	Lithium hydroxide, solution
UN 2680	152	Lithium hydroxide monohydrate
UN 2681	102	Caesium hydroxide, solution
UN 2682	152	Caesium hydroxide, solid
NA 2683	101	Ammonium hydrosulfide solution
UN 2683	101	Ammonium sulfide solution
UN 2683	102	Ammonium sulphide, solution
UN 2684	102	3-(Diethylamino) propylamine
UN 2685	152	N,N-Diethylene diamine
UN 2686	102	Diethylaminoethanol
UN 2687	102	Dicyclohexylammonium nitrate
UN 2688	152	1-Chloro-3-bromopropane
UN 2689	102	Glycerol-alpha-monochlorohydrin
UN 2690	102	N-n-Butyl imidazole

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2691	102	Phosphorus pentabromide
UN 2692	101	Boron tribromide
NA 2693	101	Ammonium bisulfite, solid
NA 2693	101	Ammonium bisulfite solution
UN 2693	102	Bisulphites, inorganic, aqueous solution, n.o.s.
NA 2693	101	Calcium hydrogen sulfite solution
NA 2693	101	Potassium metabisulfite
NA 2693	101	Sodium hydrogen sulfite, solid
NA 2693	101	Sodium hydrogen sulfite, solution
NA 2693	101	Sodium metabisulfite
UN 2698	102	Tetrahydrophthalic anhydrides
UN 2699	102	Trifluoroacetic acid
UN 2703	101	Isopropyl mercaptan
UN 2704	101	Propyl mercaptan
UN 2705	102	1-Pentol
UN 2706	102	Diethylcarbinol
UN 2707	102	Dimethyldioxanes
UN 2708	102	Butoxyl
UN 2709	102	Butyl benzenes
UN 2710	102	Dipropyllketone
UN 2711	102	Dibromobenzene
UN 2713	102	Acridine
UN 2714	102	Zinc resinate
UN 2715	102	Aluminium resinate
UN 2716	102	1,4-Butynediol
UN 2717	102	Camphor
UN 2718	102	Tripropylaluminum
UN 2719	102	Barium bromate
UN 2720	102	Chromium nitrate
UN 2721	102	Copper chlorate
UN 2722	102	Lithium nitrate
UN 2723	102	Magnesium chlorate
UN 2724	102	Manganese nitrate
UN 2725	101	Nickel nitrate
UN 2726	102	Nickel nitrite
UN 2727	102	Thallium nitrate
UN 2728	101	Zirconium nitrate
UN 2729	102	Hexachlorobenzene
UN 2730	102	Nitrophenols
UN 2732	102	Nitrobromobenzenes
UN 2733	102	Alkylamines and polyamines
UN 2734	102	Alkylamines and polyamines
UN 2735	102	Alkylamines and polyamines
UN 2738	102	N-n-Butylaniline
UN 2739	102	Butyric anhydride
UN 2740	102	n-Propyl chloroformate
UN 2741	102	Barium hypochlorite
UN 2742	102	Chloroformates, n.o.s.
UN 2743	102	n-Butylchloroformate
UN 2744	102	Cyclobutylchloroformate
UN 2745	102	Chloromethylchloroformate
UN 2746	102	Phenylchloroformate
UN 2747	102	tert-Butylcyclohexylchloroformate
UN 2748	102	2-Ethylhexylchloroformate
UN 2749	102	Tetramethylsilane
UN 2750	102	1,3-Dichloropropanol-2
UN 2751	102	Diethylthiophosphoryl chloride
UN 2752	102	1,2-Epoxy-3-ethoxy propane
UN 2753	102	N-ethylbenzyltoluidines
UN 2754	102	N-Ethyltoluidines
UN 2755	101	3-Chloroperoxybenzoic acid
UN 2756	101	Organic peroxide, mixture.
UN 2756	102	Organic peroxides, mixture
UN 2757	101	Carbamate pesticide, liquid, n.o.s.
UN 2757	101	Carbamate pesticide, solid, n.o.s.
UN 2757	102	Carbamate pesticides, solid, toxic, n.o.s.
NA 2757	101	Carbaryl
NA 2757	101	Carbofuran
NA 2757	101	Carbofuran mixture, liquid
NA 2757	101	Mercaptodimethur
NA 2757	101	Mexacarbate
UN 2758	101	Carbamate pesticide, liquid, n.o.s.
UN 2758	102	Carbamate pesticides, liquid, flammable, toxic, n.o.s.
UN 2759	101	Arsenical pesticide, liquid, n.o.s.
UN 2759	101	Arsenical pesticide, solid, n.o.s.
UN 2759	102	Arsenical pesticides, solid, toxic, n.o.s.
NA 2759	101	Bordeaux arsenite, liquid
NA 2759	101	Bordeaux arsenite, solid
UN 2760	101	Arsenical pesticide, liquid, n.o.s.
UN 2760	102	Arsenical pesticides, liquid, flammable, toxic, n.o.s.
NA 2761	101	Aldrin
NA 2761	101	Aldrin, cast solid
NA 2761	101	Aldrin mixture, dry
NA 2761	101	Aldrin mixture, dry, with 65% or less aldrin
NA 2761	101	DDT or Dichlorodiphenyltrichloroethane
NA 2761	101	Dieldrin
NA 2761	101	Dieldrin
NA 2761	101	Endosulfan
NA 2761	101	Endosulfan mixture, liquid
NA 2761	101	Endrin
NA 2761	101	Endrin mixture, liquid
NA 2761	101	Heptachlor
NA 2761	101	Kelthane
NA 2761	101	Kepone
NA 2761	101	Lindane
NA 2761	101	Methoxychlor
UN 2761	101	Organochlorine pesticide, liquid, n.o.s.
UN 2761	101	Organochlorine pesticide, solid, n.o.s.
UN 2761	102	Organochlorine pesticides, solid, toxic, n.o.s.
NA 2761	101	TDE
NA 2761	101	Toxaphene
NA 2762	101	Aldrin mixture, liquid
NA 2762	101	Aldrin mixture, liquid, with 60% or less aldrin
NA 2762	101	Chlordane, liquid
UN 2762	101	Organochlorine pesticide, liquid, n.o.s.
UN 2762	102	Organochlorine pesticides, liquid, flammable, toxic, n.o.s.
UN 2763	101	Triazine pesticide, liquid, n.o.s.
UN 2763	101	Triazine pesticide, solid, n.o.s.
UN 2763	102	Triazine pesticides, solid, toxic, n.o.s.
UN 2764	101	Triazine pesticide, liquid, n.o.s.
UN 2764	102	Triazine pesticides, liquid, flammable, toxic, n.o.s.
NA 2765	101	2,4,5-Trichlorophenoxyacetic acid
NA 2765	101	2,4,5-Trichlorophenoxyacetic acid amine, ester, or salt
NA 2765	101	2,4,5-Trichlorophenoxypropionic acid
NA 2765	101	2,4,5-Trichlorophenoxypropionic acid ester
NA 2765	101	2,4-Dichlorophenoxyacetic acid
NA 2765	101	2,4-Dichlorophenoxyacetic acid ester
UN 2765	102	Phenoxyl pesticides, solid, toxic, n.o.s.
UN 2765	101	Phenoxy pesticide, liquid, n.o.s.
UN 2765	101	Phenoxy pesticide, solid, n.o.s
NA 2765	101	Propargite
UN 2766	101	Phenoxy pesticide, liquid, n.o.s.
UN 2766	102	Phenoxy pesticides, liquid, flammable, toxic, n.o.s.
NA 2767	101	Diuron
UN 2767	101	Phenylurea pesticide, liquid, n.o.s.
UN 2767	101	Phenylurea pesticide, solid, n.o.s.
UN 2767	102	Phenyl urea pesticides, solid, toxic, n.o.s.
UN 2768	101	Phenylurea pesticide, liquid, n.o.s.
UN 2768	102	Phenyl urea pesticides, liquid, flammable, toxic, n.o.s.
UN 2769	101	Benzoic derivative pesticide, liquid, n.o.s.
UN 2769	101	Benzoic derivative pesticide, solid, n.o.s.
UN 2769	102	Benzoic derivative pesticides, solid, toxic, n.o.s.
NA 2769	101	Dicamba
NA 2769	101	Dichlobenil
UN 2770	101	Benzoic derivative pesticide, liquid, n.o.s.
UN 2770	102	Benzoic derivative pesticides, liquid, flammable, toxic, n.o.s.
UN 2771	101	Dithiocarbamate pesticide, liquid, n.o.s.
UN 2771	101	Dithiocarbamate pesticide, solid, n.o.s.
UN 2771	102	Dithiocarbamate pesticides, solid, toxic, n.o.s.
NA 2771	101	Thiram
UN 2772	101	Dithiocarbamate pesticide, liquid, n.o.s.
UN 2772	102	Dithiocarbamate pesticides, liquid, flammable, toxic, n.o.s.
UN 2773	101	Phthalimide derivative pesticide, liquid, n.o.s.
UN 2773	101	Phthalimide derivative pesticide, solid, n.o.s.
UN 2773	102	Phthalimide derivative pesticides, solid, toxic, n.o.s.
UN 2774	101	Phthalimide derivative pesticide, liquid, n.o.s.
UN 2774	102	Phthalimide derivative pesticides, liquid, flammable, toxic, n.o.s.
UN 2775	101	Copper based pesticide, liquid, n.o.s.
UN 2775	101	Copper based pesticide, solid, n.o.s.
UN 2775	102	Copper based pesticides, solid, toxic, n.o.s.
UN 2776	101	Copper based pesticide, liquid, n.o.s.
UN 2776	102	Copper based pesticides, liquid, flammable, toxic, n.o.s.
UN 2777	101	Mercury based pesticide, liquid, n.o.s.
UN 2777	101	Mercury based pesticide, solid, n.o.s.
UN 2777	102	Mercury based pesticides, solid, toxic, n.o.s.
UN 2778	101	Mercury based pesticide, liquid, n.o.s.
UN 2778	102	Mercury based pesticides, liquid, flammable, toxic, n.o.s.
UN 2778	101	Substituted nitrophenol pesticide, liquid, n.o.s.
UN 2778	101	Substituted nitrophenol pesticide, solid, n.o.s.
UN 2779	102	Substituted nitrophenol pesticides, solid, toxic, n.o.s.
UN 2780	101	Substituted nitrophenol pesticide, liquid, n.o.s.
UN 2780	102	Substituted nitrophenol pesticides, liquid, flammable, toxic, n.o.s.
UN 2781	101	Bipyridilium pesticide, liquid, n.o.s.
UN 2781	101	Bipyridilium pesticide, solid, n.o.s.
UN 2781	102	Bipyridilium pesticides, solid, toxic, n.o.s.
NA 2781	101	Diquat
UN 2782	101	Bipyridilium pesticide, liquid, n.o.s.
UN 2782	102	Bipyridilium pesticides, liquid, flammable, toxic, n.o.s.
NA 2783	101	Azinphos methyl
NA 2783	101	Azinphos methyl mixture, liquid
NA 2783	101	Chlorpyrifos
NA 2783	101	Coumaphos
NA 2783	101	Coumaphos mixture, liquid
NA 2783	101	Diazinon
NA 2783	101	Dichlorvos
NA 2783	101	Dichlorvos mixture, dry
NA 2783	101	Disulfoton
NA 2783	101	Disulfoton mixture, dry
NA 2783	101	Disulfoton mixture, liquid
NA 2783	101	Ethion
NA 2783	101	Ethion mixture, dry
NA 2783	101	Hexaethyl tetraphosphate mixture, dry
NA 2783	101	Hexaethyl tetraphosphate mixture, liquid
UN 2783	101	Hexaethyl tetraphosphate mixture, liquid
NA 2783	101	Malathion
NA 2783	101	Methyl parathion, liquid
NA 2783	101	Methyl parathion mixture, dry
NA 2783	101	Methyl parathion mixture, liquid
NA 2783	101	Methyl parathion mixture, liquid, (containing 25% or less methyl parathion)
NA 2783	101	Mevinphos
NA 2783	101	Mevinphos mixture, dry
NA 2783	101	Mevinphos mixture, liquid
UN 2783	101	Mipafox
NA 2783	101	Naled
NA 2783	101	Organic phosphate mixture, Organic phosphate compound mixture, or Organic phosphorus compound mixture; liquid
NA 2783	101	Organic phosphate mixture, Organic phosphate compound mixture, or Organic phosphorus-compound mixture; solid or dry
NA 2783	101	Organic phosphate, Organic phosphate compound, or Organic phosphorus compound; liquid
NA 2783	101	Organic phosphate, Organic phosphate compound, or Organic phosphorus compound; solid or dry
UN 2783	101	Organophosphorus pesticide, liquid, n.o.s.

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2782	101	Organophosphorus pesticide, solid, n.o.s.
UN 2783	102	Organophosphorus pesticide solid, toxic, n.o.s.
NA 2783	101	Parathion, liquid
NA 2783	101	Parathion mixture, dry
NA 2783	101	Parathion mixture, liquid
NA 2783	101	Phencapton
NA 2783	101	Tetraethyl pyrophosphate, liquid
NA 2783	101	Tetraethyl pyrophosphate mixture, dry
NA 2783	101	Tetraethyl pyrophosphate mixture, liquid
NA 2783	101	Trichlorfon
UN 2784	101	Organophosphorus pesticide, liquid, n.o.s.
UN 2784	102	Organophosphorus pesticides, liquid, flammable, toxic, n.o.s.
UN 2785	102	4-Thiapentanal
UN 2786	101	Organotin pesticide, liquid, n.o.s.
UN 2786	101	Organotin pesticide, solid, n.o.s.
UN 2786	102	Organotin pesticides, solid, toxic, n.o.s.
UN 2787	101	Organotin pesticide, liquid, n.o.s.
UN 2787	102	Organotin pesticides, liquid, flammable, toxic, n.o.s.
UN 2788	102	Organotin compounds, n.o.s.
UN 2789	101	Acetic acid, glacial
UN 2789	102	Acetic acid, glacial *or* Acetic acid solution
UN 2790	101	Acetic acid
UN 2790	102	Acetic acid solution
NA 2791	101	Aircraft rocket engine
UN 2791	102	Aircraft thrust device
UN 2792	101	Aircraft rocket engine igniter
UN 2792	102	Igniter for aircraft thrust device
UN 2793	102	Ferrous metal borings, shavings, turnings, *or* cuttings
UN 2793	101	Metal borings, shavings, turnings, *or* cuttings
UN 2794	102	Batteries, wet, filled with acid
NA 2794	101	Battery
UN 2794	101	Battery
UN 2795	102	Batteries, wet, filled with alkali
NA 2795	101	Battery
UN 2795	101	Battery
UN 2796	101	Battery fluid, acid
NA 2796	101	Battery fluid, acid, with battery
NA 2796	101	Battery fluid, acid, with electronic equipment *or* actuating device
UN 2796	102	Sulphuric acid
UN 2797	101	Battery fluid, alkali
UN 2797	101	Battery fluid, alkali, with battery
NA 2797	101	Battery fluid, alkali, with electronic equipment *or* actuating device
UN 2798	101	Benzene phosphorus dichloride
UN 2798	102	Phenyl phosphorus dichloride
UN 2799	101	Benzene phosphorus thiodichloride
UN 2799	102	Phenyl phosphorus thiodichloride
UN 2800	102	Batteries, wet, non-spillable
NA 2801	101	Coal tar dye, liquid
UN 2801	101	Dye intermediate, liquid
UN 2801	102	Dyes, n.o.s. *or* Dye intermediates, n.o.s.
UN 2802	101	Copper chloride
UN 2803	102	Gallium
UN 2803	101	Gallium metal, liquid
UN 2803	101	Gallium metal, solid
UN 2805	102	Lithium hydride, fused solid
UN 2805	101	Lithium hydride in fused solid form
UN 2806	101	Lithium nitride
UN 2807	101	Magnetized material
UN 2809	102	Mercury
NA 2809	101	Mercury, metallic
NA 2810	101	Arsenious and mercuric iodide solution
NA 2810	101	Compound, tree *or* weed killing, liquid
NA 2810	101	Drugs, liquid, n.o.s.
UN 2810	101	Poisonous liquid, n.o.s. *or* Poison B, liquid, n.o.s.
UN 2810	102	Poisonous liquids, n.o.s.
NA 2811	101	Drugs, solid, n.o.s.
NA 2811	101	Flue dust, poisonous
NA 2811	101	Lead fluoride
NA 2811	101	Lead iodide
NA 2811	101	Lead materate
UN 2811	101	Poisonous solid, n.o.s. *or* Poison B, solid, n.o.s.
UN 2811	102	Poisonous solids, n.o.s.
NA 2811	101	Selenium oxide
UN 2812	101	Sodium aluminate, solid
NA 2813	101	Lithium acetylide-ethylene diamine complex
UN 2813	102	Substances which, in contact with water, emit flammable gases, n.o.s.
UN 2813	101	Water reactive solid, n.o.s.
NA 2814	101	Etiologic agent, n.o.s.
UN 2814	101	Infectious substance, human, n.o.s.
UN 2815	101	N-Aminoethylpiperazine
UN 2817	101	Ammonium hydrogen fluoride solution
UN 2817	102	Ammonium hydrogen fluoride, solution
UN 2818	101	Ammonium polysulfide solution
UN 2818	102	Ammonium polysulphide, solution
UN 2819	101	Amyl acid phosphate
UN 2820	101	Butyric acid
UN 2820	102	n-Butyric acid
NA 2821	101	Phenol, liquid *or* solution
UN 2821	102	Phenol solutions
UN 2822	102	2-Chloropyridine
UN 2823	101	Crotonic acid
UN 2825	102	N,N-Diisopropyl ethanolamine
UN 2826	101	Ethyl chorothoformate
UN 2830	101	Lithium ferrosilicon
UN 2831	101	1,1,1-Trichloroethane
UN 2831	102	1,1,1,-Trichloroethane
UN 2834	102	Phosphorous acid, ortho
UN 2835	102	Sodium aluminium hydride
UN 2835	101	Sodium aluminum hydride
UN 2837	101	Sodium hydrogen sulfate solution
UN 2837	102	Sodium hydrogen sulphate, solution
UN 2838	102	Vinyl butyrate, inhibited
UN 2839	102	Aldol
UN 2840	102	Butyraldoxime
UN 2841	102	Di-n-amylamine
UN 2842	102	Nitroethane
UN 2844	102	Calcium manganese silicon
UN 2845	101	Pyrophoric liquid, n.o.s. *or* Pyroforic liquid, n.o.s.
UN 2845	102	Pyrophoric liquids, n.o.s.
UN 2846	102	Pyrophoric solids, n.o.s.
UN 2849	102	3-Chloropropanol-1
UN 2850	102	Propylene tetramer
UN 2851	102	Boron trifluoride dihydrate
UN 2852	102	Dipicryl sulphide, wetted
UN 2853	102	Magnesium silicofluoride
UN 2854	101	Ammonium silicofluoride
UN 2855	101	Zinc silicofluoride
UN 2856	102	Silicofluorides, n.o.s.
UN 2857	101	Refrigerating machine
UN 2857	102	Refrigerating machines
UN 2858	102	Zirconium
UN 2859	102	Ammonium metavanadate
UN 2860	102	Vanadium trioxide
UN 2861	102	Ammonium polyvanadate
UN 2862	101	Vanadium pentoxide
UN 2863	102	Sodium ammonium vanadate
UN 2864	102	Potassium metavanadate
UN 2865	102	Hydroxylamine sulphate
UN 2867	101	Ink
UN 2868	101	Resin solution
UN 2869	102	Titanium trichloride mixtures
UN 2870	102	Aluminium borohydride *or* Aluminium borohydride in devices
UN 2871	102	Antimony powder
UN 2872	102	1,2-Dibromo-3-chloropropane
UN 2873	102	N,N-Di-n-butylaminoethanol
UN 2874	102	Furfuryl alcohol
UN 2875	102	Hexachlorophene
UN 2876	101	Resorcinol
UN 2877	102	Triiodures
UN 2878	102	Titanium sponge granules *or* Titanium sponge powders
UN 2879	102	Selenium oxychloride
UN 2880	102	Calcium hypochlorate, hydrated *or* Calcium hypochlorite, hydrated mixtures
UN 2880	101	Calcium hypochlorite, hydrated
UN 2881	102	Nickel catalyst, dry
UN 2983	101	2,2-Di-(tert-butylperoxy)propane
UN 2983	102	2,2-Di-(tert-butylperoxy) propane
UN 2984	101	2,2-Di-(tert-butylperoxy)propane
UN 2984	102	2,2-Di-(tert-butylperoxy) propane
UN 2985	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2985	102	1,1-Di-(tert-butylperoxy) cyclohexane
UN 2986	102	tert-Butyl peroxy-2-ethylhexanoate
UN 2986	101	tert-Butyl peroxy-2-ethylhexanoate, with 2,2-Di-(tert-butylperoxy)butane
UN 2987	101	tert-Butyl peroxy-2-ethylhexanoate
UN 2988	101	tert-Butyl peroxy-2-ethylhexanoate
UN 2989	102	Disotridecyl peroxidicarbonate
UN 2989	101	Disotridecyl peroxydicarbonate
UN 2990	101	tert-Butyl peroxybenzoate
UN 2991	102	tert-Amyl peroxyneodecanoate
UN 2991	101	tert- Amyl peroxyneodecanoate
UN 2992	101	Dimyristyl peroxydicarbonate
UN 2992	102	Dimyristylperoxydicarbonate
UN 2993	102	Dilauroyl peroxide
UN 2993	101	Lauroyl peroxide
UN 2994	101	Di-(4-tert-butylcyclohexyl)peroxydicarbonate
UN 2994	102	Di-(4-tert-butylcyclohexyl) peroxydicarbonate
UN 2995	101	Dicetyl peroxydicarbonate
UN 2996	101	Cyclohexanone peroxide
UN 2996	102	Cyclohexanone peroxides
UN 2997	101	1,1-Di-(tert-butylperoxy)cyclohexane
UN 2997	102	1,1-Di-(tert-butylperoxy) cyclohexane
UN 2998	101	tert-Amyl peroxy-2-ethylhexanoate
UN 2998	102	Organic peroxides, n.o.s., trial quantities
UN 2999	101	Organic peroxide, trial quantity, n.o.s.
UN 2901	102	Bromine chloride
NA 2902	101	Allethrin
NA 2902	101	Insecticide, liquid, n.o.s.
UN 2902	102	Pesticides, liquid, toxic, n.o.s.
UN 2903	102	Pesticides, liquid, toxic, flammable, n.o.s.
UN 2904	102	Chlorophenates, liquid
UN 2905	102	Chlorophenates, solid
UN 2906	102	Trisocyanatoisocyanurate of isophoronediisocyanate, solution
UN 2907	102	Isosorbide dinitrate mixture
UN 2908	101	Radioactive material, empty packages
UN 2909	101	Radioactive material, articles, manufactured from natural *or* depleted uranium *or* natural thorium
UN 2910	101	Radioactive material, limited quantity, n.o.s.
UN 2911	101	Radioactive material, instruments and articles
UN 2912	101	Radioactive material, low specific activity *or* LSA, n.o.s.
UN 2918	101	Radioactive material, fissile, n.o.s.
UN 2920	102	Corrosive liquids, flammable, n.o.s.
UN 2921	102	Corrosive solids, flammable, n.o.s.
UN 2922	101	Corrosive liquid, poisonous, n.o.s.
UN 2922	102	Corrosive liquids, poisonous, n.o.s.
NA 2922	101	Dimethyl chlorothiophosphate
NA 2922	101	Sodium hydrosulfide, solution
UN 2923	102	Corrosive solids, poisonous, n.o.s.
NA 2923	101	Sodium hydrosulfide, solid
NA 2924	101	Dichlorobutane
UN 2924	101	Flammable liquid, corrosive, n.o.s.
UN 2924	102	Flammable liquids, corrosive, n.o.s.
UN 2925	101	Flammable solid, corrosive, n.o.s.
UN 2925	102	Flammable solids, corrosive, n.o.s.
UN 2926	101	Flammable solid, poisonous, n.o.s.
UN 2926	102	Flammable solids, poisonous, n.o.s.
UN 2927	102	Poisonous liquids, corrosive, n.o.s.
UN 2928	101	Poisonous solid, corrosive, n.o.s.
UN 2928	102	Poisonous solids, corrosive, n.o.s.
NA 2929	101	Chloropicrin mixture, flammable
UN 2929	102	Poisonous liquids, flammable, n.o.s.
UN 2930	102	Poisonous solids, flammable, n.o.s.
UN 2931	102	Vanadyl sulphate
UN 2933	102	Methyl-2-chloropropionate
UN 2934	102	Isopropyl-2-chloropropionate
UN 2935	102	Ethyl-2-chloropropionate
UN 2936	102	Thiolactic acid
UN 2937	102	alpha-Methylbenzyl alcohol
UN 2938	102	Methylbenzoate
UN 2940	102	9-Phosphabicyononanes
UN 2941	102	2-Fluoroaniline
UN 2942	102	2-Trifluoromethyl aniline
UN 2943	102	Tetrahydrofurfurylamine
UN 2944	102	4-Fluoroaniline
UN 2945	102	N-Methylbutylamine
UN 2946	102	2-Amino-5-diethylaminopentane
UN 2947	102	Isopropyl chloroacetate

(1) Identification Number	(2) Source 172.***	(3) Description
UN 2948 ...	102	3-Trifluoromethyl aniline
UN 2949 ...	102	Sodium hydrosulphide
UN 2950 ...	101	Magnesium granules coated
UN 2950 ...	102	Magnesium granules, coated
UN 2952 ...	102	Azodisobutyronitrile
UN 2953 ...	102	2,2'-Azodi-(2,4-dimethylvaleronitrile)
UN 2954 ...	102	Azodi-(1,1'-hexahydrobenzonitrile)
UN 2955 ...	102	2,2'-Azodi-(2,4-dimethyl-4-methoxyvaleronitrile)
UN 2957 ...	102	tert-Amyl peroxypivalate
UN 2958 ...	102	Diperoxyazelaic acid
UN 2959 ...	102	2,5-Dimethyl-2,5-di-(benzoylperoxy) hexane
UN 2960 ...	102	Di-(2-ethylhexyl) peroxydicarbonate
UN 2961 ...	102	2,4,4-Trimethylpentyl-2-peroxy phenoxy acetate
UN 2962 ...	102	Disuccinic acid peroxide
UN 2963 ...	102	Cumyl peroxyneodecanoate
UN 2964 ...	102	Cumyl peroxypivalate
UN 2965 ...	102	Boron trifluoride dimethyl etherate
UN 2966 ...	102	Thioglycol
UN 2967 ...	102	Sulphamic acid
UN 2968 ...	102	Maneb, *or* Maneb preparation(s)
UN 2969 ...	102	Castor beans, Castor meal, Castor pomace *or* Castor flake
UN 2974 ...	101	Radioactive material, special form, n.o.s.
UN 2975 ...	101	Thorium metal, pyrophoric
UN 2976 ...	101	Thorium nitrate
UN 2977 ...	101	Uranium hexafluoride, fissile
UN 2978 ...	101	Uranium hexafluoride, low specific activity
UN 2979 ...	101	Uranium metal, pyrophoric
UN 2980 ...	101	Uranyl nitrate hexahydrate solution
UN 2981 ...	101	Uranyl nitrate, solid
UN 2982 ...	101	Radioactive material, n.o.s.
UN 2983 ...	102	Ethylene oxide and propylene oxide mixtures
UN 2984 ...	102	Hydrogen peroxide, aqueous solutions
UN 2985 ...	102	Diethyl peroxydicarbonate
UN 2989 ...	102	Lead phosphite dibasic
UN 2991 ...	102	Carbamate pesticides, liquid, toxic, flammable, n.o.s.
UN 2992 ...	102	Carbamate pesticides, liquid, toxic, n.o.s.
UN 2993 ...	102	Arsenical pesticides, liquid, toxic, flammable, n.o.s.
UN 2994 ...	102	Arsenical pesticides, liquid, toxic, n.o.s.
UN 2995 ...	102	Organochlorine pesticides, liquid, toxic, flammable, n.o.s.
UN 2996 ...	102	Organochlorine pesticides, liquid, toxic, n.o.s.
UN 2997 ...	102	Triazine pesticides, liquid, toxic, flammable, n.o.s.
UN 2998 ...	102	Triazine pesticides, liquid, toxic, n.o.s.
UN 2999 ...	102	Phenoxy pesticides, liquid, toxic, flammable, n.o.s.
UN 3000 ...	102	Phenoxy pesticides, liquid, toxic, n.o.s.
UN 3001 ...	102	Phenyl urea pesticides, liquid, toxic, flammable, n.o.s.
UN 3002 ...	102	Phenyl urea pesticides, liquid, toxic, n.o.s.
UN 3003 ...	102	Benzoic derivative pesticides, liquid, toxic, flammable, n.o.s.
UN 3004 ..	102	Benzoic derivative pesticides liquid, toxic, n.o.s.
UN 3005 ...	102	Dithiocarbamate pesticides, liquid, toxic, flammable, n.o.s.
UN 3006 ...	102	Dithiocarbamate pesticides, liquid, toxic, n.o.s.
UN 3007 ...	102	Phthalimide derivative pesticides, liquid, toxic, flammable, n.o.s.
UN 3008 ...	102	Phthalimide derivative pesticides, liquid, toxic, n.o.s.
UN 3009 ...	102	Copper based pesticides, liquid, toxic, flammable, n.o.s.
UN 3010 ...	102	Copper based pesticides, liquid, toxic, n.o.s.
UN 3011 ...	102	Mercury based pesticides, liquid, toxic, flammable, n.o.s.
UN 3012 ...	102	Mercury based pesticides, liquid, toxic, n.o.s.
UN 3013 ...	102	Substituted nitrophenol pesticides, liquid, toxic, flammable, n.o.s.
UN 3014 ...	102	Substituted nitrophenol pesticides, liquid, toxic, n.o.s.
UN 3015 ...	102	Bipyridilium pesticides, liquid, toxic, flammable, n.o.s.
UN 3016 ..	102	Bipyridilium pesticides, liquid, toxic, n.o.s.
UN 3017 ...	102	Organophosphorus pesticides, liquid, toxic, flammable, n.o.s.
UN 3018 ...	102	Organophosphorus pesticides, liquid, toxic, n.o.s.
UN 3019 ...	102	Organotin pesticides, liquid, toxic, flammable, n.o.s.
UN 3020 ...	102	Organotin pesticides, liquid, toxic, n.o.s.
UN 3021 ...	102	Pesticides, liquid, flammable, toxic, n.o.s.
NA 9011 ...	101	Camphene
NA 9018 ...	101	Dichlorodifluoroethylene
NA 9026 ...	101	Dinitrocyclohexylphenol
NA 9035 ...	101	Gas identification set
NA 9037 ...	101	Hexachloroethane
NA 9053 ...	101	Oiled material
NA 9069 ...	101	Tetramethylmethylenediamine
NA 9077 ...	101	Adipic acid
NA 9078 ...	101	Aluminum sulfate, solid
NA 9079 ...	101	Ammonium acetate
NA 9080 ...	101	Ammonium benzoate
NA 9081 ...	101	Ammonium bicarbonate
NA 9083 ...	101	Ammonium carbamate
NA 9084 ...	101	Ammonium carbonate
NA 9085 ...	101	Ammonium chloride
NA 9086 ...	101	Ammonium chromate
NA 9087 ...	101	Ammonium citrate, dibasic
NA 9088 ...	101	Ammonium fluoborate
NA 9089 ...	101	Ammonium sulfamate
NA 9090 ...	101	Ammonium sulfite
NA 9091 ...	101	Ammonium tartrate
NA 9092 ...	101	Ammonium thiocyanate
NA 9093 ...	101	Ammonium thiosulfate
NA 9094 ...	101	Benzoic acid
NA 9095 ...	101	n-Butyl phthalate
NA 9096 ...	101	Calcium chromate
NA 9097 ...	101	Calcium dodecylbenzenesulfonate
NA 9099 ...	101	Captan
NA 9100 ...	101	Chromic sulfate
NA 9101 ...	101	Chromic acetate
NA 9102 ...	101	Chromous chloride
NA 9103 ...	101	Cobaltous bromide
NA 9104 ...	101	Cobaltous formate
NA 9105 ...	101	Cobaltous sulfamate
NA 9106 ...	101	Cupric acetate
NA 9109 ...	101	Cupric sulfate
NA 9110 ...	101	Cupric sulfate, ammoniated
NA 9111 ...	101	Cupric tartrate
NA 9117 ...	101	Ethylenediaminetetraacetic acid
NA 9118 ...	101	Ferric ammonium citrate
NA 9119 ...	101	Ferric ammonium oxalate
NA 9120 ...	101	Ferric fluoride
NA 9121 ...	101	Ferric sulfate
NA 9122 ...	101	Ferrous ammonium sulfate
NA 9125 ...	101	Ferrous sulfate
NA 9126 ...	101	Fumaric acid
NA 9127 ...	101	Isopropanolamine dodecylbenzenesulfonate
NA 9134 ...	101	Lithium chromate
NA 9137 ...	101	Naphthenic acid
NA 9138 ...	101	Nickel ammonium sulfate
NA 9139 ...	101	Nickel chloride
NA 9140 ...	101	Nickel hydroxide
NA 9141 ...	101	Nickel sulfate
NA 9142 ...	101	Potassium chromate
NA 9145 ...	101	Sodium chromate
NA 9146 ...	101	Sodium dodecylbenzenesulfonate
NA 9147 ...	101	Sodium phosphate, dibasic
NA 9148 ...	101	Sodium phosphate, tribasic
NA 9149 ...	101	Strontium chromate
NA 9151 ...	101	Triethanolamine dodecylbenzenesulfonate
NA 9152 ...	101	Vanadyl sulfate
NA 9153 ...	101	Zinc acetate
NA 9154 ...	101	Zinc ammonium chloride
NA 9155 ...	101	Zinc borate
NA 9156 ...	101	Zinc bromide
NA 9157 ...	101	Zinc carbonate
NA 9158 ...	101	Zinc fluoride
NA 9159 ...	101	Zinc formate
NA 9160 ...	101	Zinc phenolsulfonate
NA 9161 ...	101	Zinc sulfate
NA 9162 ...	101	Zirconium potassium fluoride
NA 9163 ...	101	Zirconium sulfate
NA 9165 ...	101	Uranyl acetate
NA 9183 ...	101	Organic peroxide, liquid *or* solution, n.o.s.
NA 9184 ...	101	Pyrethrins
NA 9187 ...	101	Organic peroxide, solid, n.o.s.
NA 9188 ...	101	Hazardous substance, liquid *or* solid, n.o.s.
NA 9189 ...	101	Hazardous waste, liquid *or* solid, n.o.s.
NA 9190 ...	101	Ammonium permanganate
NA 9191 ...	101	Chlorine dioxide hydrate, frozen
NA 9192 ...	101	Oxidizer, corrosive, liquid, n.o.s.
NA 9194 ...	101	Oxidizer, corrosive, solid, n.o.s.
NA 9195 ...	101	Metal alkyl, solution, n.o.s.
NA 9199 ...	101	Oxidizer, poisonous, liquid, n.o.s.
NA 9200 ...	101	Oxidizer, poisonous, solid, n.o.s.
NA 9201 ...	101	Antimony trioxide
NA 9202 ...	101	Carbon monoxide, cryogenic liquid
NA 9206 ...	101	Methyl phosphonic dichloride

§ 172.203 [Amended]

4. In § 172.203, paragraph (f) is amended by removing the last sentence, paragraph (g)(2) is removed, and paragraph (g)(3) is redesignated (g)(2).

§ 172.204 [Amended]

5. In § 172.204, paragraph (c)(3) is amended by removing the words "cargo-only aircraft" and inserting, in their place, the words "cargo aircraft only".

§ 172.324 [Amended]

6. In § 172.324, paragraph (c) is removed.

§ 172.330 [Amended]

7. In § 172.330, paragraph (h) is removed.

8. In § 172.332, paragraph (a) is revised to read as follows:

§ 172.332 Identification number markings.

(a) *General:* When required by §§ 172.326, 172.328, 172.330 of this subpart, identification numbers shall be displayed on orange panels or placards as specified in this section.

* * * * *

§ 172.336 [Amended]

9. In § 172.336, paragraph (b)(1) is amended by removing the reference "§ 172.332 (c)(2) and (c)(3)" and inserting, in its place, the reference "§ 172.332 (c)(1) and (c)(2)"; and paragraph (c)(7) is removed.

§ 172.402 [Amended]

10. In § 172.402, paragraph (a)(10) is removed.

§ 172.403 [Amended]

11. In § 172.403, paragraph (h) is removed.

§ 172.519 [Amended]

12. In § 172.519, paragraph (f) is amended by removing the reference "§ 172.334" and inserting, in its place, the reference "§ 172.332".

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

§ 173.7 [Amended]

13. In § 173.7, paragraph (b) is amended by removing the words "Energy Research and Development Administration" and inserting, in their place, the words "Department of Energy".

13a. In § 173.23 paragraph (d) is revised and paragraph (e) is added as set forth below. This amendment supersedes the amendments to § 173.23(d) published on June 16, 1983, at 48 FR 27692 and on June 20, 1983, at 48 FR 28099.

§ 173.23 Previously authorized packaging.

* * * * *

(d) Cylinders (spheres) manufactured and marked DOT–E 6610 prior to January 1, 1983, may be continued in use if marked before or at the time of the next retest with the specification identification "4BA" near the exemption marking.

(e) After October 1, 1984, cylinders manufactured for use under exemptions DOT–E6668 or E–8404 may be continued in use, and must be marked "DOT–4L" in compliance with Specification 4L (§ 178.57 of this subchapter) before or at the time of the first required retest. The "DOT–4L" marking must appear in proximity to other required specification markings.

§ 173.31 [Amended]

14. In § 173.31, paragraph (d)(6) is amended by having footnote "c" to Retest Table 2 removed and reserved.

§ 173.33 [Amended]

15. In § 173.33, paragraph (d)(15) is amended by removing the reference "paragraphs (d)(10) and (d)(11)" and inserting, in its place, the reference "paragraphs (d)(10), (d)(11), and (d)(12)".

§ 173.69 [Amended]

16. In § 173.69, Note 1 to paragraph (a) is amended by removing the reference "§§ 173.389 through 173.398" and inserting, in its place, the reference "Subpart I of this Part".

§ 173.86 [Amended]

17. In § 173.86, paragraph (b)(2) is amended by removing the code "(NAVSEA 04H)" and inserting, in its place, the code "(NAVSEA 06H)".

§ 173.114a [Amended]

18. In § 173.114a, paragraph (d)(3)(ii) is amended by removing the code "(NAVSEA 04H)" and inserting, in its place, the code "(NAVSEA 06H)".

§ 173.283 [Amended]

19. In § 173.283, paragraph (b)(3) is removed.

§ 173.292 [Amended]

20. In § 173.292, paragraph (a)(3) is removed.

§ 173.314 [Amended]

21. In § 173.314, the Table in paragraph (c) is amended by revising the following entries; note 27 is removed and reserved; and notes 26, 28, and 29 are revised to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

* * * * *

(c) * * *

Kind of gas	Maximum permitted filling density, Note 1	Required tank car, see § 173.31(a)(2) and (3)
* * *	* * *	* * *
Anhydrous ammonia	56.6	DOT–112S400F, 112S340W, 114S340–W, Note 15.
* * *	* * *	* * *
Bromotrifluoromethane (R–1381 or H–1301).	124	DOT–110A800W, Notes 13 and 25.
* * *	* * *	* * *
Dimethylamine, anhydrous.	61	DOT–112T340W, 112J340W, Note 26.
* * *	* * *	* * *
Monomethylamine, anhydrous.	61	DOT–112T340W, 112J340W, Notes 4 and 26.
* * *	* * *	* * *
Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s. (classed as a flammable gas) Note 13.	Note 21	DOT–106A500X, 110A500W, Note 25. DOT–105A300W, Note 25. DOT–112T340W, 112J340W, 114T340W, 114J340W, Notes 28 and 29.
Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s. (classed as a nonflammable gas) Note 13.	Note 21	DOT–106A500X, 110A500W, Note 25. DOT–105A300W, DOT–112A340W, 114A340W, Note 29.
* * *	* * *	* * *
Trimethylamine, anhydrous.	58	DOT–112T340W, 112J340W, Note 26.

* * * * *

Note 26: For these materials only, Specifications 105A300W, and 112T340W or 112J340W tank cars may be equipped with safety relief devices with a start-to-discharge pressure setting of 247.5 psi and 280.5 psi respectively.

Note 27: [Reserved].

Note 28: DOT–114T340W and 114J340W tank cars may be equipped with bottom outlets, except that the bottom outlets must be rendered inoperative and effectively sealed to preclude bottom unloading when transporting flammable gases.

Note 29: A maximum safety relief valve setting of 280.5 psig is authorized on DOT Specification 114A340W, 114T340W, and 114J340W tank car tanks.

* * * * *

§ 173.348 [Amended]

22. In § 173.348, paragraph (a)(5) is removed.

§ 173.349 [Amended]

23. In § 173.349, paragraph (a)(4) is removed.

§ 173.366 [Amended]

24. In § 173.366, paragraph (a)(1) is amended by removing the reference "42 CFR 72.3(c)" and inserting, in its place, the reference "42 CFR 72.3"; and paragraph (c) is amended by removing the reference "42 CFR 72.25" and inserting, in its place, the reference "42 CFR Part 72".

§ 173.367 [Amended]

25. In § 173.367, paragraph (b) is amended by removing the reference "42 CFR 72.25(c)" and inserting, in its place, the reference "42 CFR Part 72".

§ 173.388 [Amended]

26. In § 173.388, paragraph (a) is amended by removing the reference "42 CFR 72.25(c)(4)" and inserting, in its place, the reference "42 CFR 72.3(d)".

27. In § 173.422, paragraph (g) is reserved, and paragraphs (3) and (f) are revised to read as follows:

§ 173.422 Exception for instruments and articles.

* * * * *

(e) The nonfixed (removable) radioactive surface contamination on the external surface of the package does not exceed the limits specified in § 173.443(a);

(f) Except as provided in § 173.424, the package does not contain more than 15 grams of uranium-283; and

(g) [Reserved].

* * * * *

§ 173.427 [Amended]

28. In § 173.427, paragraph (c) is amended by removing the reference "§ 173.433(a)" and inserting, in its place, the reference "§ 173.443(a)".

29. In § 173.465, Table 11 in paragraph (c)(2) is revised to read as follows:

§ 173.465 Type A packaging tests.

* * * * *

(c) * * *

(2) * * *

TABLE 11—FREE-FALL DISTANCE FOR PACKAGINGS WEIGHING MORE THAN 5,000 KILOGRAMS

Packaging weight		Free-fall distance	
Kilograms	Pounds	Feet	Meters
>5,000 to 10,000	>11,000 to 22,000	[illegible]	[illegible]
>10,000 to 15,000	>22,000 to 33,000	[illegible]	[illegible]
More than 15,000	More than 33,000	[illegible]	[illegible]

* * * * *

§ 173.510 [Amended]

30. In § 173.510, paragraph (a)(1) is amended by removing the reference "40 CFR 761.10 and 761.42" and inserting, in its place, the reference "40 CFR 761.60 and 761.65".

§ 173.605 [Amended]

31. In § 173.605, the section heading and introductory text of paragraph (a) are amended by removing the name "methyl chloroform" and inserting, in its place, the name "1,1,1-trichloroethane".

32. In addition to the amendments set forth above, Part 173 is amended by removing the words "cargo-only aircraft" and inserting, in their place, the words "cargo aircraft only" in the following sections:

§ 173.3(b)
§ 173.6(a)
§ 173.9(a); (d)(5); and (g)
§ 173.118(b)
§ 173.123(c)
§ 173.124(b)
§ 173.448(g)(3)
§ 173.620(a)
§ 173.645(b)
§ 173.655(b)
§ 173.850(a)
§ 173.945(b)

PART 174—CARRIAGE BY RAIL

§ 174.25 [Amended]

33. In § 174.25, the Table to paragraph (a)(2) is amended by removing the entry "Blasting agent—Do—Do" and inserting, in its place, the entry "Blasting agent—Placarded BLASTING AGENTS—Do".

PART 175—CARRIAGE BY AIRCRAFT

§ 175.45 [Amended]

34. In § 175.45, paragraph (a)(6) is amended by removing the reference "paragraph (b)(1), (2), or (3)" and inserting, in its place, the reference "paragraph (a)(1), (2), or (3)".

§ 175.75 [Amended]

35. In § 175.75, paragraph (a) is amended by removing the reference "§ 175.85(b)" and inserting, in its place, the reference "§ 175.85(c)(3)"; and paragraph (a)(3)(ii) is amended by removing the reference "§ 175.702(b)(3)" and inserting, in its place, the reference "§ 175.702(b)(2)(iv)".

36. In addition to the amendments set forth above, Part 175 is amended by removing the words "cargo-only aircraft" and inserting, in their place, the words "cargo aircraft only" in the following sections:

§ 175.75(a)(2)(iii); and (a)(3)(ii)
§ 175.85(c)(1); (c)(2); and (c)(3)
§ 175.320(b)(8)
§ 175.702 Heading; and (b)
§ 175.703(c)(1)

(49 U.S.C. 1803, 1804, 1806; 49 CFR 1.53, App. A to Part 1)

Issued in Washington, D.C., on October 24, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 83-29334 Filed 10-31-83; 8:45 am]

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Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 988]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 27, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
107-DP: 15,000 feet or deeper
Section 107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 988 — ISSUED OCTOBER 27, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-MID LOUISIANA GAS COMPANY		RECEIVED: 09/30/83 JA: LA							
8357677	83-0788	1711123086		108		MLGC FEE GAS #1032	MONROE GAS FIELD	11.9	MID LOUISIANA GAS
8357678	83-0795	1711123697		108		MLGC FEE GAS #1142	MONROE GAS FIELD	12.5	MID LOUISIANA GAS
8357679	83-0773	1711123783		108		MLGC FEE GAS #1170	MONROE GAS FIELD	10.7	MID LOUISIANA GAS
-NOE & WOODS		RECEIVED: 09/30/83 JA: LA							
8357676	83-767	1711123489		108		UNION A #8	MONROE GAS	19.0	DEVON CORP
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AMERADA HESS CORPORATION		RECEIVED: 10/03/83 JA: ND							
8400008	831	3310500778		103		STATE "E" 32-16	HOFFLUND DEEP	73.0	MONTANA DAKOTA UT
-ENERGETICS INC		RECEIVED: 10/03/83 JA: ND							
8400010	828	3305301199		102-2		G TANK 22-22	E DIMMICK LAKE	111.0	AMINOIL USA INC
8400011	827	3305301595		102-2		TANK 24-15	CAMEL BUTTE	141.0	
-GETTY OIL COMPANY		RECEIVED: 10/03/83 JA: ND							
8400006	833	3305301442		102-2		BOB CREEK #36-1	LONE BUTTE	10.0	KOCH HYDROCARBON
8400002	837	3300700391		102-2		MYSTERY CREEK "A" #36-12	TR FIELD	20.0	KOCH HYDROCARBON
-MILESTONE PETROLEUM INC		RECEIVED: 10/03/83 JA: ND							
8400003	836	3300700874		102-2		BN 23-27	WHISKEY JOE	1.9	WESTERN GAS PROCE
-MONSANTO COMPANY		RECEIVED: 10/03/83 JA: ND							
8400007	832	3301300332		103		BEARD #1	NORTHEAST FOOTHILLS	2.0	CITIES SERVICE CO
-SUN EXPLORATION & PRODUCTION CO		RECEIVED: 10/03/83 JA: ND							
8400001	838	3310501055		102-2		V J OSTER #1	EIGHTMILE	33.0	PHILLIPS PETROLEU
-TEXACO INC		RECEIVED: 10/03/83 JA: ND							
8400004	835	3305301653		103		BLUE BUTTES MADISON UNIT #M305	BLUE BUTTES	55.0	AMERADA HESS CORP
8400005	834	3305301128		102-3		C M LOOMER #11	BLUE BUTTES SOUTH	131.0	MONTANA-DAKOTA UT
-TXO PRODUCTION CORP		RECEIVED: 10/03/83 JA: ND							
8400009	829	3301300838		103		FAAREN #1	RIVAL	20.0	NORTHWEST CENTRAL
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BAY ENERGY CO #1		RECEIVED: 08/22/83 JA: NY							
8357814	5213	3102915842		108		WILK UNIT #0-E101-31029-15842	ORCHARD PARK	3.1	NATIONAL FUEL GAS
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ADOBE OIL & GAS CORPORATION		RECEIVED: 09/29/83 JA: PA							
8357686	20788	3712922158		103		BENNIE MARTIN #1	SALTSBURG	25.0	T W PHILLIPS GAS
-CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED: 09/29/83 JA: PA							
8357705	21064	3703321040		108		JOSEPH D TONKIN #3 WN-1832	BURNSIDE	12.0	GENERAL SYSTEM PU
-DOC-MCC SERVICE CO		RECEIVED: 09/29/83 JA: PA							
8357683	19800	3712921384		108		E C BAKER B846-1	WINSLOW	13.7	TEXAS EASTERN TRA
8357684	19804	3712922030		108		FRANK L SMITH 1590-1	WINSLOW	13.7	TEXAS EASTERN TRA
-DONALD W DEITZ		RECEIVED: 09/29/83 JA: PA							
8357681	18954	3705300000		108		WT 2993 COLLINS #1	HOWE	7.0	UGI CORP
-DORAN & ASSOCIATES INC		RECEIVED: 09/29/83 JA: PA							

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8357685	20764	3706521773		103		HOWARD KNARR #1 KL-161	UPPER DEVONIAN SANDS	20.0	CONSOLIDATED GAS
8357687	20945	3706320748		103		MARY ZOLD #1 KG-9	UPPER DEVONIAN SANDS	20.0	CONSOLIDATED GAS
-HAMILTON-RICHARDS				RECEIVED:	09/29/83	JA: PA			
8357692	20971	3706300000		108		BLAIR RUPERT #1	ELDERS RIDGE	4.1	PEOPLES NATURAL G
8357693	20973	3706500000		108		C T CULP #1	FREEPORT	3.5	PEOPLES NATURAL G
8357691	20970	3706500000		108		C T CULP #2	FREEPORT	0.0	PEOPLES NATURAL G
8357694	20974	3706500000		108		IDA RUPERT #1	ELDERS RIDGE	2.5	PEOPLES NATURAL G
-J & J ENTERPRISES INC				RECEIVED:	09/29/83	JA: PA			
8357703	21052	3706524134		108		LOUIS ZAMBOTTI #2	YOUNG	0.0	T W PHILLIPS GAS
8357682	19112	3706522603		103		R & P COAL CO #46 (595A)	WINSLOW	0.0	COLUMBIA GAS TRAN
8357704	21058	3706324502		108		R & P COAL COMPANY #5 221A	WHITE	0.0	COLUMBIA GAS TRAN
8357702	21051	3706521323		108		W ZIMMERMAN #1	BELL	0.0	T W PHILLIPS GAS
-J C ENTERPRISES				RECEIVED:	09/29/83	JA: PA			
8357696	20983	3706522801		103		BURTON MOTTERN & 206-1 JEF-22801	TIMBLIN	45.0	
8357699	20986	3706522779		103		CH OF J C OF I D S 8202 JEF - 22779	TROUT RUN	43.0	
8357700	20987	3706522637		103		CLARENCE A REDDINGER 8201 JEF-22637	NORTH POINT	40.0	
8357698	20981	3706522790		103		DENNIS WOODROW 8204-1 JEF-22790	FROSTBURG	50.0	
8357697	20984	3706522802		103		RAYMOND REDDINGER 8205-1 JEF-22802	NORTH POINT	42.0	
-KEPCO INC				RECEIVED:	09/29/83	JA: PA			
8357710	21019	3705921840		102-4		FRANKLIN L HART #1 (PK-115)	KHEDIVE	9.0	TEXAS EASTERN TRA
8357706	21026	3705921837		102-4		FRANKLIN L HART #2 (PK-111)	KHEDIVE	14.0	TEXAS EASTERN TRA
8357707	21707	3705921843		102-4		FRANKLIN L HART #3 (PK-112)	KHEDIVE	7.5	TEXAS EASTERN TRA
8357708	21028	3705921838		102-4		FRANKLIN L HART #4 (PK-113)	KHEDIVE	17.5	TEXAS EASTERN TRA
8357709	21029	3705921839		102-4		FRANKLIN L HART #5 (PK-114)	KHEDIVE	7.5	TEXAS EASTERN TRA
8357711	21031	3705921836		102-4		GEORGE A WILLIS #1 (PK-118)	KHEDIVE	10.0	TEXAS EASTERN TRA
8357712	21032	3705921845		102-4		J K WILLISON #3 (PK-38)	GUMP	9.0	TEXAS EASTERN TRA
8357714	21034	3705921791		102-4		ROY L LEMLEY #1 (PK-76)	GUMP	14.0	TEXAS EASTERN TRA
8357713	21033	3705921792		102-4		WILBUR ORNDOFF #3 (PK-75)	GUMP	11.0	TEXAS EASTERN TRA
-M & E ASSOCIATES				RECEIVED:	09/29/83	JA: PA			
8357701	21044	3706325612		108		CLAYTON SUNDERLAND #1	CANOE	16.0	T W PHILLIPS GAS
-PENN PROJECTS LTD DRILLING PROGRAM				RECEIVED:	09/29/83	JA: PA			
8357688	20962	3712922127		102-4		JOSEPH M PIPER #2	EAST HUNTINGTON	25.0	
-RICHARDS & FLEMING				RECEIVED:	09/29/83	JA: PA			
8357690	20969	3706321336		108		GENO CRIVELLI #1	ELDERTON	2.0	PEOPLES NATURAL G
-RICHARDS JOSEPH L				RECEIVED:	09/29/83	JA: PA			
8357695	20975	3706320505		108		JOSEPH CANALE #2	ELDERTON	1.7	PEOPLES NATURAL G
-S T JOINT VENTURE #2-D				RECEIVED:	09/29/83	JA: PA			
8357689	20966	3706522741		103		ELLINGER #1	WINSLOW	25.0	NATIONAL FUEL GAS
UTAH DIVISION OF OIL,GAS, & MINING									
-AMOCO PRODUCTION CO				RECEIVED:	10/03/83	JA: UT			
8400022	K-121-19	4304330161		102-2		ISLAND RANCHING "D" #1	ANSCHUTZ RANCH-NUGGET	1.2	COLORADO INTERSTA
-COASTAL OIL & GAS CORP				RECEIVED:	10/03/83	JA: UT			
8400019	K-136-13	4304731268		103		NBU 213-36	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8400018	K-136-12	4304731268		107-TF		NBU 213-36	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8400021	K-136-11	4304731282		103		NBU 217-2	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8400020	K-136-14	4304731282		107-TF		NBU 217-2	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
-LOMAX EXPLORATION COMPANY				RECEIVED:	10/03/83	JA: UT			
8400017	K-152-4	4301330748		102-2		GILSONITE STATE #6-32	MONUMENT BUTTE	0.0	MOUNTAIN FUEL SUP
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
-ALTA ENERGY CORP				RECEIVED:	10/03/83	JA: CO 1			
8400015	CD-0113-83	0507708516		103	107-TF	FEDERAL 32-5	SHIRE GULCH	100.0	NORTHWEST PIPELIN
-COSEKA RESOURCES (USA) LIMITED				RECEIVED:	10/04/83	JA: CO 1			
8400024	CD-0164-83	0510300000		102-2		FEDERAL #13-1-1S-	RANGELY SOUTH	146.1	SOUTHWEST GAS COR
-FUEL RESOURCES DEVELOPMENT CO				RECEIVED:	10/03/83	JA: CO 1			
8400014	CD-0158-83	0510308978		107-TF		#21-16 FEDERAL	PHILADELPHIA CREEK	0.0	NORTHWEST PIPELIN
-M PEYTON BUCY				RECEIVED:	10/04/83	JA: CO 1			
8400025	CD-0169-83	0504506330		102-2		FEDERAL 32-1	SOUTH CANYON AREA	365.0	WESTERN SLOPE GAS
-NATOMAS NORTH AMERICA INC				RECEIVED:	10/04/83	JA: CO 1			
8400023	CD-0162-83	0506706243		102-2		PINE RIVER #1-30	IGNACIO BLANCO	0.0	EL PASO NATURAL G
-NORRIS OIL CO				RECEIVED:	10/03/83	JA: CO 1			
8400013	CD-0147-83	0507708148		108		FEDERAL 36-3	SHIRE GULCH	0.0	ROCKY MOUNTAIN NA
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES,CA									
-TEXACO INC				RECEIVED:	07/18/83	JA: CA 2			
8366007B	OCS-P-10-83	0431120487		102-5		PITAS POINT UNIT #A-1 LOWER	CHANNEL ISLANDS AREA	2193.0	PACIFIC INTERSTAT
-UNION OIL COMPANY OF CALIF				RECEIVED:	09/30/83	JA: CA 1			
8357680		0431120544		102-5		SANTA CLARA UNIT S-14	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING
-UNION OIL COMPANY OF CALIF				RECEIVED:	10/03/83	JA: CA 2			
8400016	OCS-P 19-83	0431120546		102-5		SANTA CLARA UNIT S-19	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
-AMOCO PRODUCTION CO				RECEIVED:	09/30/83	JA: NM 4			
8357715	NM 0643-83	3004525544		103		FEDERAL GAS COM "L" #1E	BASIN DAKOTA	0.0	SOUTHERN UNION GA
8357748	NM-0163-83	3003923067		103		JICARILLA APACHE 102 #13R	BASIN DAKOTA	40.0	NORTHWEST PIPELIN
8357735	NM 0562-83	3003922844		103		SAN JUAN UNIT 29-6 #24	EAST BLANCO - PICTURE	28.0	NORTHWEST PIPELIN
-ARCO OIL AND GAS COMPANY				RECEIVED:	09/30/83	JA: NM 4			
8357730	NM 0607-83	3004525339		103		ATLANTIC C #101	EAST AZTEC	170.0	NORTHWEST PIPELIN
8357813	NM 0694-83PB	3004520443		108-PB		MARRON WN FED COM #7	SOUTH BLANCO PICTURED	16.0	EL PASO NATURAL G
-BLACKWOOD & NICHOLS CO LTD				RECEIVED:	09/30/83	JA: NM 4			
8357753	NM-0526-83	3004522528		108		NORTHEAST BLANCO UNIT #65	BLANCO MESAVERDE	18.0	EL PASO NATURAL G
-CHACE OIL COMPANY INC				RECEIVED:	09/30/83	JA: NM 4			
8357736	NM 0560-83	3003923124		103		JICARILLA 47-3-JV	SOUTH LINDRITH GALLUP	8.0	NORTHWEST PIPELIN
-CONSOLIDATED OIL & GAS INC				RECEIVED:	09/30/83	JA: NM 4			
8357738	NM-0535-83	3003921521		108		CHAMPLIN 3-A	BLANCO MESAVERDE	7.0	NORTHWEST PIPELIN
-DIETRICH RESOURCES CORP				RECEIVED:	09/30/83	JA: NM 4			
8357785	NM-0421-83	3004523748		108		DIETRICH RESOURCES 28 J-2	WAW PICTURED CLIFF	0.0	EL PASO NATURAL G
8357783	NM-0424-83	3004523012		108		FEDERAL 27-7	WAW PICTURED CLIFF	0.0	EL PASO NATURAL G
8357784	NM-0422-83	3004523013		108		FEDERAL 34-1	WAW PICTURED CLIFF	0.0	EL PASO NATURAL G
-DUGAN PRODUCTION CORP				RECEIVED:	09/30/83	JA: NM 4			
8357725	NM 0628-83	3004523502		103		ELWOOD P DOWD #1	WILDCAT-PICTURED CLIF	10.0	EL PASO NATURAL G
8357737	NM 0539-83	3003922962		103		HILL #1	GAVILAN PICTURED CLIF	30.0	NORTHWEST PIPELIN
8357726	NM 0618-83	3004526154		103		LAVA FALLS #1 WELL	UNDESIGNATED GALLUP	10.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	09/30/83	JA: NM 4			
8357791	NM-0248-83PB	3004505844		108-PB		BALLARD #10	BALLARD	0.0	EL PASO NATURAL G
8357796	NM-0688-83PB	3003920543		108-PB		CANYON LARGO UNIT #180	BALLARD	0.0	EL PASO NATURAL G
8357763	NM-0487-83	3003920888		108		CANYON LARGO UNIT #279	BASIN - DAKOTA	23.0	EL PASO NATURAL G
8357799	NM-0187-83PB	3003906059		108-PB		CANYON LARGO UNIT #29	SOUTH BLANCO	0.0	EL PASO NATURAL G
8357777	NM-0442-83	3004510495		108		ELLIOTT A #1	BLANCO - MESA VERDE	11.0	EL PASO NATURAL G
8357767	NM-0463-83	3004509140		108		GOEDE #3	BLANCO - PICTURED CLI	17.0	EL PASO NATURAL G
8357811	NM-0677-83PB	3004506332		108-PB		GORDON #5	FULCHER KUTZ	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8357748	NM-0682-83	3004524876		19A		NANCOCK B 05 E	BASIN - DAKOTA	14.0	EL PASO NATURAL G
8357809	NM-0679-83PB	3004522883		19A	PB	MORTON #2	BLANCO	0.0	EL PASO NATURAL G
8357808	NM-0684-83PB	3004521458		19A	PB	HUBBELL #13	AZTEC	0.0	EL PASO NATURAL G
8357774	NM-0449-83	3004524792		19A		HUBBELL #6	AZTEC - PICTURED CLIF	9.0	EL PASO NATURAL G
8357803	NM-0680-83PB	3004520883		19A	PB	HUBBELL #9	BLOOMFIELD	0.0	EL PASO NATURAL G
8357773	NM-0453-83	3004500000		19A		HUERFANITO UNIT #75	BASIN - DAKOTA	16.0	EL PASO NATURAL G
8357786	NM-0687-83PB	3004511944		19A	PB	HUERFANO UNIT #159	BASIN	0.0	EL PASO NATURAL G
8357739	NM-0534-83	3004511945		19A		HUERFANO UNIT #160	ANGELS PEAK - GALLUP	21.0	EL PASO NATURAL G
8357810	NM-0678-83PB	3004505743		19A	PB	HUERFANO UNIT MP #23	HUERFANO	0.0	EL PASO NATURAL G
8357789	NM-0699-83PB	3003906001		19A	PB	JICARILLA E #4	SOUTH BLANCO	0.0	EL PASO NATURAL G
8357801	NM-0682-83PB	3003966504		19A	PB	JICARILLA F #13	SOUTH BLANCO	0.0	EL PASO NATURAL G
8357805	NM-0684-83PB	3004507220		19A	PB	LACKEY B #4 MV & CH	BLANCO & HARRIS MESA	0.0	EL PASO NATURAL G
8357769	NM-0459-83	3004507258		19A		LACKEY B #9	AZTEC - PICTURED CLIF	0.0	EL PASO NATURAL G
8357792	NM-0692-83PB	3003922381		19A	PB	LINDRITH UNIT #108	SOUTH BLANCO	0.0	EL PASO NATURAL G
8357793	NM-0691-83PB	3003922385		19A	PB	LINDRITH UNIT #145	SOUTH BLANCO	0.0	EL PASO NATURAL G
8357794	NM-0690-83PB	3003921107		19A	PB	LINDRITH UNIT #65	SOUTH BLANCO	0.0	EL PASO NATURAL G
8357795	NM-0689-83PB	3003922067		19A	PB	LINDRITH UNIT #96	SOUTH BLANCO	0.0	EL PASO NATURAL G
8357776	NM-0443-83	3004505991		19A		LUTHY A #2	SOUTH BLANCO - PICTUR	14.0	EL PASO NATURAL G
8357765	NM-0480-83	3004505696		19A		MCCONNELL #6	BALLARD - PICTURED CL	14.0	EL PASO NATURAL G
8357772	NM-0455-83	3004505564		19A		MCMANUS #10	BALLARD - PICTURED CL	18.0	EL PASO NATURAL G
8357807	NM-0681-83PB	3004513208		19A	PB	MUDGE #20	BASIN	0.0	EL PASO NATURAL G
8357778	NM-0458-83	3004505505		19A		QUITZAU #6	BALLARD - PICTURED CL	0.0	EL PASO NATURAL G
8357804	NM-0675-83PB	3003906537		19A	PB	RINCON UNIT #94	SOUTH BLANCO	0.0	EL PASO NATURAL G
8357775	NM-0445-83	3003906859		19A		SAN JUAN 27-5 UNIT #28 PC & MV	TAPACITO - PICTURED C	11.0	EL PASO NATURAL G
8357759	NM-0495-83	3003906962		19A		SAN JUAN 27-5 UNIT #43 PC & MV	TAPACITO-PICTURED CLI	15.0	EL PASO NATURAL G
8357771	NM-0456-83	3003982363		19A		SAN JUAN 27-5 UNIT #88	TAPACITO - PICTURED C	0.0	EL PASO NATURAL G
8357806	NM-0680-83PB	3003907397		19A	PB	SAN JUAN 28-5 UNIT #19	BLANCO	0.0	EL PASO NATURAL G
8357761	NM-0493-83	3003920872		19A		SAN JUAN 28-6 UNIT #192	SOUTH BLANCO - PICTUR	10.0	EL PASO NATURAL G
8357778	NM-0441-83	3003907189		19A		SAN JUAN 28-6 UNIT #68	BLANCO - MESA VERDE	11.0	EL PASO NATURAL G
8357812	NM-0676-83PB	3003920960		19A	PB	SAN JUAN 28-7 MP UNIT #202 CH & PC	LARGO & SOUTH BLANCO	0.0	EL PASO NATURAL G
8357806	NM-0543-83PB	3003920624		19A	PB	SAN JUAN 28-7 UNIT #193	BASIN	0.0	EL PASO NATURAL G
8357760	NM-0494-83	3003920990		19A		SAN JUAN 28-7 UNIT #228	BASIN - DAKOTA	20.0	EL PASO NATURAL G
8357758	NM-0496-83	3003920777		19A		SAN JUAN 30-6 UNIT #34	EAST BLANCO - PICTURE	12.0	EL PASO NATURAL G
8357779	NM-0438-83	3003907844		19A		SAN JUAN 30-6 UNIT #66	BLANCO - MESA VERDE	10.0	EL PASO NATURAL G
8357796	NM-0700-83PB	3004506406		19A	PB	SCHWERDTFEGER A #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
8357762	NM-0489-83	3003920603		19A		SJ 28-6 UNIT #174	SOUTH BLANCO - PICTUR	14.0	EL PASO NATURAL G
8357802	NM-0683-83PB	3004506953		19A	PB	STOREY C #3	SOUTH BLANCO	0.0	EL PASO NATURAL G
8357757	NM-0497-83	3004521265		19A		TAPP #11	SOUTH BLANCO - PICTUR	16.0	EL PASO NATURAL G
8357798	NM-0062-83PB	3004507497		19A	PB	WARREN #1	BLANCO	0.0	EL PASO NATURAL G
8357797	NM-0257-82	3004507497		19A	PB	WARREN #1	BLANCO	0.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	09/30/83	JA: NM 4			
8357742	NM-0385-83	3004506459		19A		G R GENTLE #1	SOUTH BLANCO PICTURED	20.0	EL PASO NATURAL G
-HIXON DEVELOPMENT COMPANY				RECEIVED:	09/30/83	JA: NM 4			
8357747	NM-0229-83	3004523717		19A		KA DA PAM #1-R	WAW-FRUITLAND-PC	12.5	EL PASO NATURAL G
-JEROME P MCHUGH				RECEIVED:	09/30/83	JA: NM 4			
8357744	NM 0380-83	3003922945		103		GALLO RED #1	UNDESIGNATED GALLUP	27.0	NORTHWEST PIPELIN
8357743	NM 0381-83	3003922944		103		GALLO WHITE #1	UNDESIGNATED GALLUP	38.0	NORTHWEST PIPELIN
8357750	NM 0100-83	3003922962		103		HILL #1	GAVILAN P C	50.0	NORTHWEST PIPELIN
8357749	NM 0101-83	3004525532		103		LITTLE STINKER #1	BASIN DAKOTA	500.0	EL PASO NATURAL G
-MERRION OIL & GAS CORP				RECEIVED:	09/30/83	JA: NM 4			
8357724	NM 0621-83	3003923091		103		SALAZAR G COM #22-3	DEVILS FORK GALLUP	33.0	EL PASO NATURAL G
8357764	NM-0484-83	3004523595		19A		SOUTHLAND #4	WAW FRUITLAND/PICTURE	1.0	EL PASO NATURAL G
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	09/30/83	JA: NM 4			
8357740	NM-0408-83	3003920162		19A		JICARILLA "B" #8	TAPACITO PICTURED CLI	15.3	NORTHWEST PIPELIN
8357745	NM-0273-83	3003920167		19A		JICARILLA "D" #13-PC	GAVALIN PICTURED CLIF	15.1	NORTHWEST PIPELIN
8357741	NM-0407-83	3003907044		19A		JICARILLA "E" #3	BLANCO MESAVERDE GAS	19.6	NORTHWEST PIPELIN
8357746	NM-0265-83	3003906540		19A		JICARILLA "H" #10	GAVALIN PICTURED CLIF	11.2	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	09/30/83	JA: NM 4			
8357782	NM-0429-83	3003721114		10A		ROSA UNIT 56	BASIN DAKOTA	0.0	NORTHWEST PIPELIN
8357754	NM 0525-83	3003922751		103		SAN JUAN 31-6 UNIT 28	BASIN DAKOTA	81.8	NORTHWEST PIPELIN
8357732	NM 0576-83	3003922750		103		SAN JUAN 31-6 UNIT 41	BASIN	86.9	NORTHWEST PIPELIN
8357755	NM 0524-83	3003923158		103		SAN JUAN 31-6 UNIT [illegible]	BASIN DAKOTA	86.9	NORTHWEST PIPELIN
8357756	NM 0523-83	3004525392		103		SAN JUAN 32-7 UNIT COM 81	BLANCO MESAVERDE	111.2	NORTHWEST PIPELIN
8357781	NM-0431-83	3004511184		103		SAN JUAN 32-8 UNIT 25	BLANCO MESAVERDE	21.0	NORTHWEST PIPELIN
-SCHALK DEVELOPMENT COMPANY				RECEIVED:	09/30/83	JA: NM 4			
8357780	NM 0433-83	3003920929		19A		SCHALK 52-6	BLANCO MESA VERDE	0.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	09/30/83	JA: NM 4			
8357734	NM 0569-83	3003923049		103		CAPULIN MESA #2	GAVILAN	42.0	NORTHWEST PIPELIN
8357733	NM 0571-83	3003923055		103		CAT DRAW #1E	BLANCO	150.0	NORTHWEST PIPELIN
8357752	NM-0527-83	3004511669		10A		THOMPSON #9	BASIN AND BLANCO	16.0	SOUTHERN UNION GA
-TENNECO OIL COMPANY				RECEIVED:	09/30/83	JA: NM 4			
8357766	NM-0465-83	3004525519		103		DAYLE	BASIN DAKOTA	42.0	NORTHWEST PIPELIN
8357729	NM 0608-83	3004525467		103		LUDWICK A 1E	BASIN DAKOTA	71.0	NORTHWEST PIPELIN
8357727	NM 0610-83	3004525554		103		OMLER A-16	OTERO CHACRA	[illegible]	
8357728	NM 0609-83	3004525539		103		OMLER A-17	OTERO CHACRA	111.0	
-UNICOM PRODUCING CO				RECEIVED:	09/30/83	JA: NM 4			
8357787	NM-0410-83	3004507993		19A		ALBRIGHT #7	BASIN DAKOTA	38.0	EL PASO NATURAL G
8357719	NM 0633-83	3004525529		103		ANGEL PEAK #24	WILDCAT GALLUP	115.0	SOUTHERN UNION GA
8357716	NM 0637-83	3004525491		103		ANGEL PEAK "B" 32	WILDCAT GALLUP	131.0	SOUTHERN UNION GA
8357717	NM 0635-83	3004525492		103		ANGEL PEAK "B" 34	WILDCAT GALLUP	145.0	SOUTHERN UNION GA
8357722	NM 0630-83	3004525512		103		CONGRESS #11	WILDCAT GALLUP	115.0	SOUTHERN UNION GA
8357723	NM 0629-83	3004525513		103		CONGRESS #12	UNDESIGNATED GALLUP	165.0	GAS CO OF NEW MEX
8357720	NM 0632-83	3004525538		103		CONGRESS LACHMAN 4-E	WILDCAT GALLUP	118.0	SOUTHERN UNION GA
8357718	NM 0634-83	3004525511		103		CONGRESS 13	UNDESIGNATED GALLUP	111.0	SOUTHERN UNION GA
8357786	NM-0413-83	3003922419		10A		JICARILLA "J" #20	S BLANCO PICTURED CLI	52.0	GAS CO OF NEW MEX
8357751	NM-1558-82	3004524025		10A		NEWSOM A-7E	BASIN DAKOTA & BALLAR	17.9	EL PASO NATURAL G
8357721	NM 0631-83	3004525268		103		SUMMIT 10	WILDCAT CHACRA	407.0	GAS CO OF NEW MEX
-SUPERIOR OIL CO				RECEIVED:	09/30/83	JA: UT 4			
8357731	UA 0589-83	4303730747		19A		SENTINEL PEAK #27-21	SENTINEL PEAK	0.0	EL PASO NATURAL G
## DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, TULSA,OK									
-TXO PRODUCTION CORP				RECEIVED:	10/03/83	JA: OK 6			
8400012	OK-T-3-83	3504321762		19A		THUNDERBULL #1	NW CANTON	0.0	

[FR Doc. 83-29658 Filed 10-31-83 8:45 am]

[Volume 989]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 27, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The application for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED OCTOBER 27, 1983
VOLUME 989

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADA OIL EXPLORATION CORP				RECEIVED:	10/03/83	JA: TX			
8400157	F-03-069447	4205100000		102-2		BIRCH CREEK PARK 02	GIDDINGS AUSTIN CHALK	0.0	PHILLIPS PETROLEU
8400118	F-03-068077	4205100000		102-2		BIRCH CREEK PARK 03	GIDDINGS	0.0	PHILLIPS PETROLEU
-ALPAR RESOURCES INC				RECEIVED:	10/03/83	JA: TX			
8400059	F-10-065317	4221131361		103		ISAACS 4-91	GEM MEMPHILL (DOUGLAS	36.0	NORTHWEST CENTRAL
-ANDERSON PETROLEUM INC				RECEIVED:	10/03/83	JA: TX			
8400033	F-7C-057228	4241331190		103	107-TF	VIOLA FINNIGAN UNIT 2-29	ELDORADO N (CANYON B)	300.0	PRODUCERS GAS CO
-ANDRESS PETROLEUM INC				RECEIVED:	10/03/83	JA: TX			
8400189	F-02-070939	4239131531		102-4		J F WELDER HEIRS 03	DEVILS RUN (5050)	0.0	TENNESSEE GAS PIP
-ARCO OIL AND GAS COMPANY				RECEIVED:	10/03/83	JA: TX			
8400189	F-04-067875	4221531280		102-4		A E EWING 01	DONNA (7100 PROPOSED)	300.0	TENNESSEE GAS PIP
8400188	F-04-070926	4213136213		102-4		ARCO ET AL HUMBLE FEE GAS UNIT 05	E SEVEN SISTERS (0-55	500.0	TEXAS EASTERN TRA
-B & B FARM INDUSTRIES INC				RECEIVED:	10/03/83	JA: TX			
8400145	F-10-069111	4206500000		103		BURNET "A" 010-72 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400143	F-10-069106	4206500000		103		BURNET "A" 010-73 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400146	F-10-069112	4206500000		103		BURNET "A" 011-72 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400142	F-10-069105	4206500000		103		BURNET "A" 011-73 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400147	F-10-069113	4206500000		103		BURNET "A" 012-72 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400141	F-10-069104	4206500000		103		BURNET "A" 012-73 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400140	F-10-069103	4206500000		103		BURNET "A" 013-73 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400149	F-10-069115	4206500000		103		BURNET "A" 014-72 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400139	F-10-069102	4206500000		103		BURNET "A" 014-73 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400138	F-10-069101	4206500000		103		BURNET "A" 07-72 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400137	F-10-069100	4206500000		103		BURNET "A" 08-72 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400136	F-10-069099	4206500000		103		BURNET "A" 09-72 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400144	F-10-069107	4206500000		103		BURNET "A" 09-73 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
8400148	F-10-069114	4206500000		103		BURNET "A" NO 13-72 (04258)	PANHANDLE CARSON COUN	100.0	PANHANDLE EASTERN
-BAGNALL & BARBER INC				RECEIVED:	10/03/83	JA: TX			
8400226	F-02-071762	4246931891		102-4		HEDWIG DENTLER 01	DENTLER (FRIO)	0.0	HOUSTON PIPE LINE
-BANAM CORP				RECEIVED:	10/03/83	JA: TX			
8400085	F-7B-067004	4215131614		102-4		BIRDIE CROWDER 01-6	SATURDAY EAST (CANYON	252.0	CONOCO INC
-BARBEE INC				RECEIVED:	10/03/83	JA: TX			
8400216	F-7B-071476	4225332523		102-4		ALLRED 01	JEFFERIES LUCK (BROWN	22.0	CONOCO INC
8400218	F-7B-071479	4225332522		102-4		SHANNON 03	JEFFERIES LUCK (BROWN	30.0	CONOCO INC
8400105	F-7B-067818	4225300000		102-4		SHIELDS 01	JEFFERIES LUCK (PALO	12.6	CONOCO INC
8400217	F-7B-071478	4225332524		102-4		SHIELDS 03	JEFFERIES LUCK	3.6	CONOCO INC
-BEST PETROLEUM EXPLORATION INC				RECEIVED:	10/03/83	JA: TX			
8400112	F-09-067929	4223734365		103		SANDERS 01	DEARING (CADDO)	0.0	LONE STAR GAS CO
-BJB EXPLORATION CO				RECEIVED:	10/03/83	JA: TX			
8400158	F-02-069533	4246900000		103		J SALINAS 01	COLOGNE (1550)	85.0	
-BOGE CO				RECEIVED:	10/03/83	JA: TX			
8400190	F-7B-070987	4208300000		103		D D SMITH 02	COLEMAN COUNTY REGULA	25.0	UNION TEXAS PETRO
-BRABBIN OIL & GAS				RECEIVED:	10/03/83	JA: TX			
8400069	F-7B-066059	4204932736		103		BRABBIN 01 (096643)	BROWN COUNTY REGULAR	6.0	EL PASO HYDROCARB
-BUCK WHEAT RESOURCES INC				RECEIVED:	10/03/83	JA: TX			
8400194	F-7B-071053	4213331315		103		L W TUCKER 01	EASTLAND COUNTY REGUL	0.0	EL PASO HYDROCARB

BILLING CODE 6717-01-M

JD NO	JA DET	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8400223	F-7B-071621	4213334321		102-4		T P SIMPSON #1	HAWK-EYE (ADAMS BRANC	3.0	SOUTHWESTERN GAS
-BURNS - MOORE OIL CO		RECEIVED: 10/03/83 JA: TX							
8400065	F-09-065643	4207732768		102-4		SIMMS #1	SHANNON W (CONGL)	40.0	LONE STAR GAS CO
-CAG PETROLEUM CORP		RECEIVED: 10/03/83 JA: TX							
8400046	F-03-063334	4205132355		102-2		KARISCH "A" #3	GIDDINGS AUSTIN CHALK	365.0	CLAJON GAS CO
-CAL ENERGY PROPERTIES INC		RECEIVED: 10/03/83 JA: TX							
8400062	F-7B-065415	4242933392		102-4		VAN WINKLE #1 (19161)	VAN WINKLE (CADDO)	30.0	WARREN PETROLEUM
-CHAMPLIN PETROLEUM COMPANY		RECEIVED: 10/03/83 JA: TX							
8400073	F-03-066356	4206130886		102-2		CHARLES PATRANELLA "A" #1	KURTEN (BUDA)	87.0	FERGUSON CROSSING
8400100	F-04-067746	4235531668		103		G P WARGNER #152	STRATTON (K-33)	8.0	TENNESSEE GAS PIP
-CHARLES F HAAS		RECEIVED: 10/03/83 JA: TX							
8400124	F-02-068444	4223900000		102-4	103	J A JACOBS #1	EDNA SOUTH (WILDCAT)	8.0	LONE STAR GAS CO
-CHARLES PITTS CO		RECEIVED: 10/03/83 JA: TX							
8400082	F-7B-066684	4208931588		102-4		PITTS BROTHERS #3	GROSVENOR SW (DUFFER)	46.0	EL PASO HYDROCARB
-CHESAPEAKE BAY GAS GATH & CROCKETT		RECEIVED: 10/03/83 JA: TX							
8400196	F-7C-071085	4210534385		103	107-TF	ADAMS #5-114	ADAMS-BAGGETT FIELD	80.0	DETROIT-TEXAS GAS
-CHESTER E UPHAM JR		RECEIVED: 10/03/83 JA: TX							
8400051	F-7B-061619	4236300000		102-4		CALABRIA ESTATE #7	CALABRIA (CONGL 3700)	8.0	SOUTHWESTERN GAS
8400102	F-7B-067769	4236700000		102-4		JONES ESTATE #1	LAZY BEND (STRAWN 195	8.0	LIQUID ENERGY COR
8400103	F-7B-067771	4236700000		102-4		KERBY #1	LAZY BEND (STRAWN 195	8.0	LIQUID ENERGY COR
8400119	F-7B-067985	4236700000		102-4		SMITH HEIRS #1	ARTEBURN (CONGL)	8.0	SOUTHWESTERN GAS
-CHWCO INC		RECEIVED: 10/03/83 JA: TX							
8400169	F-04-070145	4247933541		102-2	107-TF	P M FROST #2	RAPTURE (LOBO - WALKE	8.0	
-COURSON OIL & GAS INC		RECEIVED: 10/03/83 JA: TX							
8400250	F-10-071881	4235731193		107-TF		FIRST NATIONAL TRUST 03-571	ELLIS RANCH (CLEVELAN	120.0	TRANSWESTERN PIPE
-CREST RESOURCES & EXPL CORP		RECEIVED: 10/03/83 JA: TX							
8400256	F-03-071962	4207131398		103		JACKSON HEIRS #1	LAKE STEPHENSON (FRIO	800.0	WINNIE PIPELINE C
-CRYSTAL OIL & LAND CO		RECEIVED: 10/03/83 JA: TX							
8400259	F-06-071972	4236531243		104		E DOUGLAS ESTATE #1	PANOLA	3.9	UNITED GAS PIPELI
8400258	F-06-071971	4236530593		104		E DOUGLAS ESTATE #2	PANOLA	3.9	UNITED GAS PIPELI
8400257	F-06-071970	4236530946		104		REAVIS #1	PANOLA	3.3	UNITED GAS PIPELI
-D K BOYD OIL & GAS CO		RECEIVED: 10/03/83 JA: TX							
8400253	F-8A-071939	4216532564		103		JONES ESTATE #30-2	RUSSEL (CLEARFORK 700	18.0	CITIES SERVICE OI
8400255	F-8A-071941	4216532458		103		JONES ESTATE #697-1	RUSSEL (CLEARFORK 700	8.0	CITIES SERVICE OI
8400254	F-8A-071940	4216532166		103		JONES ESTATE #698-1	RUSSEL (CLEARFORK 700	18.3	CITIES SERVICE OI
-DALLAS SUNBELT OIL & GAS INC		RECEIVED: 10/03/83 JA: TX							
8400088	F-7B-067063	4213333503		102-4		CARVER "B" #3 (18178)	SNOW (DUFFER)	7.0	LONE STAR GAS CO
8400089	F-7B-067197	4213332222		102-4		SHEED #1	R E B (MARBLE FALLS)	47.0	LONE STAR GAS CO
-DISCOVERY OPERATING INC		RECEIVED: 10/03/83 JA: TX							
8400133	F-08-068884	4232931054		103		WIMBERLEY "A" #1	SPRABERRY (TREND AREA	8.0	PHILLIPS PETROLEU
-DIXON M D		RECEIVED: 10/03/83 JA: TX							
8400098	F-08-067690	4237100000		108		WHITE & BAKER "Q" LEASE #6	WHITE & BAKER	8.0	DBH GAS INC
-DYNEX ENERGY INC		RECEIVED: 10/03/83 JA: TX							
8400195	F-06-071081	4238531564		102-4	103	R G RICHARDSON ET AL #1 PER #185918	ITEX PETTET	24.8	EASTEX GAS TRANSM
-EL PASO NATURAL GAS COMPANY		RECEIVED: 10/03/83 JA: TX							
8400246	F-10-071854	4208726203		108		NEWKIRK #2	PANHANDLE - EAST	16.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC		RECEIVED: 10/03/83 JA: TX							
8400198	F-09-071092	4219730556		103		J L POTTS #1	REPRIEVE	164.8	
8400026	F-09-020682	4249700000		108-SA		W J DURHAM #1	BOONSVILLE	0.0	LONE STAR GAS CO
-EXXON CORPORATION		RECEIVED: 10/03/83 JA: TX							
8400117	F-03-068068	4207131420		103		BROUSSARD-HEBERT A/C/837	ANAHUAC (FB D-1 FRIO	182.5	ARMCO STEEL CORP
8400188	F-08-069850	4248533288		103		FULLERTON CLEARFORK UNIT #535	FULLERTON	15.0	PHILLIPS PETROLEU
8400132	F-06-068862	4242330636		102-4	107-TF	GRADY B WILSON	OVERTON (COTTON VALLE	352.0	ARMCO STEEL CORP
8400218	F-08-071338	4200333467		103		J S MEANS A/C 4 #333	MEANS SOUTH (WOLFCAMP	15.0	
8400184	F-03-067848	4247330388		103		KATY GAS FIELD UNIT 1 W-54	KATY (FIRST WILCOX)	1460.0	ARMCO STEEL CORP
8400179	F-08-068824	4200333426		103		MEANS/SAM ANDRES/UNIT #6272	MEANS	15.0	PHILLIPS PETROLEU
8400209	F-8A-071335	4216532536		103		ROBERTSON CLEARFORK UNIT #8001	ROBERTSON W (CLEAR FO	15.0	PHILLIPS PETROLEU
8400207	F-7C-071312	4233932725		103		SALLIE ODOM E #96	FORT CHADBOURNE (GARD	102.0	EL PASO HYDROCARB
8400243	F-7C-071836	4233932726		103		SALLIE ODOM E #97	FORT CHADBOURNE (GARD	22.0	EL PASO HYDROCARB
8400125	F-06-068721	4242330587		102-2	107-TF	SALLY M WARREN HEIRS #1	OVERTON (COTTON VALLE	290.0	ARMCO STEEL CORP
8400192	F-04-071017	4227331454		103		SEELIGSON ZONE 21-B 1204-CT 105563	ZONE 21-B TREND	204.0	ARMCO STEEL CORP
8400254	F-08-071837	4200333529		103		STATE UNIVERSITY MUTEX CONS #23	MUTEX (DEVONIAN)	4.0	PHILLIPS PETROLEU
8400116	F-03-068067	4207131421		103		TRINITY BAY STATE UNIT #1 #120	TRINITY BAY WEST (FRI	58.0	HOUSTON PIPELINE
-F W BURGER INC		RECEIVED: 10/03/83 JA: TX							
8400215	F-7C-071362	4233932643		103		GOETZ #1A (18146)	HRO (CAPPS)	85.0	UNION TEXAS PETRO
-FARGO ENERGY CORP		RECEIVED: 10/03/83 JA: TX							
8400040	F-03-066764	4214930970		108		CASPER #1 RRC #14235	GIDDINGS (AUSTIN CHAL	1.8	PHILLIPS PETROLEU
-FIREROCK CO		RECEIVED: 10/03/83 JA: TX							
8400043	F-7B-062688	4206933258		102-4		HEARN-SMITH #2	LIL' AUDREY (COMYN) L	353.0	EL PASO HYDROCARB
-FLYNN ENERGY CORP		RECEIVED: 10/03/83 JA: TX							
8400075	F-02-066465	4217531552		103		DENNIS REITZ #1 ID#104580	GOTTSCHALT (CROCKETT	82.5	UNITED GAS PIPE L
-FRED G BROWN INC		RECEIVED: 10/03/83 JA: TX							
8400233	F-7C-071779	4232730116		102-2	103	BOBBY R SYKES #1	BAR-F (CROSS CUT)	301.0	CIBOLO GAS INC
8400232	F-7C-071778	4232730297		102-2	103	BOBBY R SYKES #2	BAR-F (CROSS CUT)	360.0	CIBOLO GAS INC
8400231	F-7C-071777	4232730341		102-2		BOBBY R SYKES #3	BAR-F (CROSS CUT)	499.3	CIBOLO GAS INC
8400230	F-7C-071776	4232730525		102-2	103	BOBBY R SYKES #5	BAR-F (CROSS CUT)	338.9	CIBOLO GAS INC
8400229	F-7C-071775	4232730520		102-2	103	BOBBY R SYKES #6	BAR-F (CROSS CUT)	320.5	CIBOLO GAS INC
8400234	F-7C-071780	4232730399		102-2	103	SPECK ESTATE #1	BAR-F (CROSS CUT)	384.3	CIBOLO GAS INC
-GALAXY ENERGIES INC		RECEIVED: 10/03/83 JA: TX							
8400049	F-04-063721	4248700000		102-4		HERNANDEZ #2 ID NO 099589	SINTON WEST (1750)	26.0	UNITED GAS PIPELI
-GILLRING OIL CO		RECEIVED: 10/03/83 JA: TX							
8400181	F-04-070671	4233500000		102-4		RODDY RIPPLE #1	BRAYTON N	140.0	HOUSTON PIPELINE
-GOLDKING PRODUCTION COMPANY		RECEIVED: 10/03/83 JA: TX							
8400173	F-03-070522	4248100000		102-4	103	POOLE #3	S LISSIE	0.0	TENNESSEE GAS PIP
-GRAHAM PRODUCTION CO		RECEIVED: 10/03/83 JA: TX							
8400167	F-03-069844	4248132347		102-4		KOSTKA UNIT #1	WHARTON SOUTH (FRIO 5	100.0	HOUSTON PIPE LINE
-GULF OIL CORPORATION		RECEIVED: 10/03/83 JA: TX							
8400164	F-08-069698	4247532764		103		UNIVERSITY 18-31 #7	QUITO EAST (CHERRY CA	807.0	TEXACO INC
-GUS EDWARDS CO		RECEIVED: 10/03/83 JA: TX							
8400094	F-8A-067508	4218130329		102-4	103	PEARL ARMSTRONG #1	ARMSTRONG (ATOKA CONG	0.0	LONE STAR GAS CO
-HANSON MINERALS CO		RECEIVED: 10/03/83 JA: TX							
8400176	F-03-070587	4208931388		102-4		RALPH S FULLER #1	STARR-LITE (WILCOX A-	255.5	DELHI GAS PIPELIN
-HENRY PETROLEUM CORP		RECEIVED: 10/03/83 JA: TX							
8400178	F-8A-070253	4211500000		103		KIEFER 82-1Y	TEX-HAMON (DEAN)	0.0	GETTY OIL CO
-HILL INTERNATIONAL PRODUCTION CO		RECEIVED: 10/03/83 JA: TX							
8400030	F-06-061920	4240100000		103	107-TF	JOHN G MINOR #4	OAK HILL (COTTON VALL	0.0	DELHI GAS PIPELIN
8400029	F-06-061887	4240100000		103	107-TF	W C STRONG #2	OAK HILL (COTTON VALL	0.0	DELHI GAS PIPELIN
-HLM PETROLEUM CORP		RECEIVED: 10/03/83 JA: TX							
8400083	F-7B-066695	4228100000		102-4		TINER ZUMWALT #1-279	LOS COLINAS (CANYON R	54.0	CONOCO INC
-HNG OIL COMPANY		RECEIVED: 10/03/83 JA: TX							
8400087	F-04-067039	4250500000		103	107-TF	SAN YGNACIO UNIT #1	J C MARTIN (LOBO)	100.0	HOUSTON PIPE LINE
-HOWELL DRILLING INC		RECEIVED: 10/03/83 JA: TX							
8400037	F-02-058497	4228500000		102-4	107-TF	LEON BARNES "B" GAS UNIT #1	HALLETTSVILLE	0.0	VALERO TRANSMISSI
-HUNTER BROTHERS		RECEIVED: 10/03/83 JA: TX							

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8400084	F-7B-066934	4213300000		102-4		L P HAMMOND 100870	CADDO	300.0	NORTHERN GAS PROD
-HURLEY PETROLEUM CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400183	F-06-070753	4236531548		102-4		SCOTT MCGEE #4 NOT ASSIGNED	BETHANY (PALMER SAND)	150.0	TENNESSEE GAS PIP
-INTERNORTH INC				RECEIVED:	10/03/83	JA: TX			
8400200	F-08-071204	4243100000		102-4		CHAPPELL 62 #4	ROSE CREEK N	18.0	SUN EXPLORATION &
-JACKSON EXPLORATION INC				RECEIVED:	10/03/83	JA: TX			
8400035	F-7C 058238	4246330259		107-TF		INGHAM "6" #1	MESA GRANDE (DEVONIAN	60.0	LINK SYSTEMS INC
8400036	F-7C 058241	4246330272		107-TF		RUTH WHITE "B" #1	MESA GRANDE (DEVONIAN	100.0	LINK SYSTEMS INC
-JAY-LIN ENTERPR SES INC				RECEIVED:	10/03/83	JA: TX			
8400086	F-02 067028	4217500000		103		RENFRO #2	BOMBA (YEGUA)	100.0	HOUSTON PIPELINE
-JEM PETROLEUM CORP				RECEIVED:	10/03/83	JA: TX			
8400197	F-08-071088	4222733019		102-4		COWDEN #2	MOORE (WOLFCAMP)	60.0	EL PASO HYDROCARI
-JOHN L COX				RECEIVED:	10/03/83	JA: TX			
8400161	F-7C-069600	4238332547		103		ROCKEN B "B" #8 RRC#04449	SPRABERRY (TA)	10.0	EL PASO NATURAL G
8400162	F-7C-069603	4238332546		103		ROCKEN B "N" #22 (#05142)	SPRABERRY (TA)	10.0	EL PASO NATURAL G
8400093	F-08-067385	4232931134		103		WILLIS "B" #2-X (#22584)	SPRABERRY (TA)	10.0	EL PASO NATURAL G
-K S HARVEY OIL & GAS				RECEIVED:	10/03/83	JA: TX			
8400036	F-04-057396	[illegible]		102-4		LAURIE MCNEILL ID #101040 #2	SANDIA S (KNL SD)	73.0	NUE WELLS PIPE LI
-KILROY CO OF TEXAS				RECEIVED:	10/03/83	JA: TX			
8400123	F-03-068366	4236130445		102-4		C W LANIER #1-T	RED LINE (HARTBURG)	438.0	HOUSTON PIPE LINE
8400060	F-03-065375	4270430220		102-4		STATE TRACT 367-L #3-U	MIDDLE BANK REEF (MIO	1186.0	FLORIDA GAS PIPEL
-KINGWOOD ENERGY INC				RECEIVED:	10/03/83	JA: TX			
8400071	F-7B-066262	4204933308		103		BEN H MOORE #1	BROWN COUNTY REGULAR	9.3	SIOUX PIPELINE CO
-LEONARD BROTHERS OPERATING CO				RECEIVED:	10/03/83	JA: TX			
8400168	F-7B-067851	4214330586		102-4		C L SMITH #1 (19756)	BYRNES (DUFFER)	60.0	CORONODO TRANSMIS
-M BRAD BENNETT INC & RKH LTD				RECEIVED:	10/03/83	JA: TX			
8400191	F-08-071003	4238900000		102-4		TRAVIS #1	COLLIE (DELAWARE)	23.7	INTRATEX GAS CO
-MARINE CONTRACTORS & SUPPLY INC				RECEIVED:	10/03/83	JA: TX			
8400052	F-03-063889	4232100000		102-4		CEST #1	MELLON	150.0	TENNESSEE GAS PI
-MARK PRODUCING INC				RECEIVED:	10/03/83	JA: TX			
8400206	F-03-071308	4219931853		103		SCHNEIDER #1 (ID# NOT ASSIGNED)	PROPOSED OLIVE FIELD	350.0	
-MAY PETROLEUM INC				RECEIVED:	10/03/83	JA: TX			
8400219	F-10-071521	4229530798		102-4		ALTMILLER #1	BROWN (TONKAWA)	14.6	ENDEVCO INC
8400220	F-10-071522	4229530616		102-4		C R BROWN #1	BROWN (TONKAWA)	73.0	ENDEVCO INC
8400155	F-10-069316	4229530619		103		NEUMAN #1	LIPSCOMB (TONKAWA)	182.5	ENDEVCO INC
-MCCANN CORP				RECEIVED:	10/03/83	JA: TX			
8400188	F-8A-070656	4211531765		103		F M FUHRMAN "2" #1	ACKERLY NORTH (CANYON	32.0	GETTY OIL CO
-MCDONALD PRODUCTION CO				RECEIVED:	10/03/83	JA: TX			
8400193	F-7B-071052	4215731547		103		J G WARSHAW #1 (106338)	CLAYTONVILLE WILDCAT	36.5	TIPPERARY CORP
-MCMORAN PRODUCTION CO				RECEIVED:	10/03/83	JA: TX			
8400065	F-04-065846	4221530902		102-4		WIESEHAN #1-C	MCALLEN SOUTH	350.0	TRANSCONTINENTAL
8400067	F-04-065847	4221530902		102-4		WIESEHAN #1-T	MCALLEN SOUTH	350.0	TRANSCONTINENTAL
-MEWBOURNE OIL COMPANY				RECEIVED:	10/03/83	JA: TX			
8400249	F-10-071860	4229531196		102-4	103	BELL #1 ID # N/A	BOOKER EAST (MORROW U	0.0	CALICHE PIPELINE
-MITCHELL ENERGY CORPCRATION				RECEIVED:	10/03/83	JA: TX			
8400159	F-09-069558	4249732515		103		EARL MOONEY #2	BOONSVILLE (BEND CONG	397.4	NATURAL GAS PIPEL
8400127	F-09-068781	4249700000		103		S F PEEKS #2 #028775	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8400027	F-09-036045	4249700000		108-ER		WIRT DAVIS #1	BOONSVILLE	0.0	NATURAL GAS PIPEL
-N D MCINTYRE				RECEIVED:	10/03/83	JA: TX			
8400056	F-7C-065049	4243532866		103	107-TF	BAKER "A" #1	INTERSTATE (CANYON)	36.0	PRODUCERS GAS CO
-NATURAL RESOURCES CORP				RECEIVED:	10/03/83	JA: TX			
8400072	F-03-066317	4208900000		102-4		PRIESMEYER-POOLE UNIT 2 WELL #1	RAMSEY EAST (WILCOX 1	0.0	AMOCO PRODUCTION
-NEUMIN PRODUCTION CO				RECEIVED:	10/03/83	JA: TX			
8400114	F-02-068022	4229731879		102-4	103	M E GRAY INGERSOLL #2	OAKVILLE E (WILCOX 7,	0.0	ALUMINUM CO OF AM
-NORTH CENTRAL OIL CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400135	F-09-069015	4249732516		103		J G THOMPSON UNIT #2	BOONESVILLE (BEND CON	0.0	NATURAL GAS PIPEL
-O I L ENERGY INC				RECEIVED:	10/03/83	JA: TX			
8400175	F-7C-070583	4245131198		103		HOHENSEE #2	S S R (CANYON UPPER)	0.0	EL PASO HYDROCARB
-OGE DRILLING				RECEIVED:	10/03/83	JA: TX			
8400184	F-08-070775	4243231316		102-4		SELLERS 66 #1	TRIPLE M (FUSSELMAN)	55.0	PHILLIPS PETROLEU
-ORLA PETCO INC				RECEIVED:	10/03/83	JA: TX			
8400211	F-08-071339	4238931382		102-4		BRO SELTZER #1	JESS BURNER (DELAWARE	[illegible]	
8400213	F-08-071341	4238931388		102-4		GRACE #1	JESS BURNER (DELAWARE	0.0	
8400212	F-08-071340	4238931395		102-4		WYCHE #1	JESS BURNER (DELAWARE	0.0	
-OUTLINE OIL CORP				RECEIVED:	10/03/83	JA: TX			
8400104	F-03-067780	4240700000		102-4		ELLISOR UNIT 1 WELL #2	OLD WAVERLY (YEGUA 40	125.0	TEXAS EASTERN TR/
-OZARK EXPLORATION INC				RECEIVED:	10/03/83	JA: TX			
8400039	F-7C-060725	4210534031		102-4	107-TF	BEAN JOE #1-58	UNIVERSITY 31 (STRAWN	675.0	INTRATEX GAS CO
-PALMER PETROLEUM INC				RECEIVED:	10/03/83	JA: TX			
8400081	F-06-066622	4240100000		102-2	107-TF	S S LAIRD "B" #4	HENDERSON NORTH (COTT	650.0	LONE STAR GAS CO
-PALO PETROLEUM INC				RECEIVED:	10/03/83	JA: TX			
8400088	F-7C-066587	4238332408		103		MERTZ "2" #1	SPRABERRY (TREND AREA	0.0	
8400078	F-7C-066585	4238300000		103		MERTZ "2" #3	SPRABERRY (TREND AREA	0.0	
8400079	F-7C-066586	4238300000		103		POWELL "31" #2	SPRABERRY (TREND AREA	0.0	
8400077	F-7C-066584	4238300000		103		SCHNEEMANN "31" #1	SPRABERRY (TREND AREA	0.0	
-PANHANDLE PRODUCING COMPANY				RECEIVED:	10/03/83	JA: TX			
8400053	F-10-064273	4206500000		103		BOONE #2-85	PANHANDLE CARSON COUN	0.0	GETTY OIL CO
8400057	F-01-065226	4206500000		103		CRUMPACKER #3-84	PANHANDLE	0.0	GETTY OIL CO
8400179	F-10-070651	4223300000		108		WHITTENBURG #3 (023804)	WEST PANHANDLE	9.0	COLORADO INTERST/
-PATTERSON PETROLEUM INC				RECEIVED:	10/03/83	JA: TX			
8400128	F-03-068805	4214931505		102-2		SPECKELS #1	GIDDINGS AUSTIN CHALK	292.0	PHILLIPS PETROLEU
-PAUL DE CLEVA				RECEIVED:	10/03/83	JA: TX			
8400134	F-09-068969	4219730460		103		WORD #1	THEISS (MISS)	20.0	SHELL OIL CO
-PETRO-TEX PETROLEUM CO				RECEIVED:	10/03/83	JA: TX			
8400153	F-03-069312	4220131544		102-4		SMITH GAS UNIT #1	OLCOTT (3950' MIOCENE	2.7	TERMAC GATHERING
-PHILLIPS OIL CO				RECEIVED:	10/03/83	JA: TX			
8400111	F-06-067908	4242330650		102-4		SALLY WALTON #1	CHAPEL HILL N E	54.8	
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	10/03/83	JA: TX			
8400151	F-10-069249	4242100000		108		GILMORE #2	TEXAS HUGOTON	0.0	MICHIGAN WISCONSI
-POGO PRODUCING COMPANY				RECEIVED:	10/03/83	JA: TX			
8400172	F-08-070442	4237133191		107-DP		PAGE ROYALTY #1	ROJO CABALLOS	0.0	
-PROSPECTIVE INVESTMENT & TRADING CO				RECEIVED:	10/03/83	JA: TX			
8400171	F-09-070284	4218100000		102-4		BROOKS 1-A	WILDCAT	0.0	UNION TEXAS PRODU
-R A W ENERGY CORP				RECEIVED:	10/03/83	JA: TX			
8400121	F-7B-068197	4236700000		102-4		ECHO VALLEY #1	KUZELL (CONGLOMERATE)	200.0	EMPIRE PIPELINE C
8400240	F-7B-071832	4236732513		102-4		MIGHTOWER #2	MINERAL WELLS S (STRA	100.0	LIQUID ENERGY COR
8400247	F-7B-071857	4236332963		102-4		RICHARDSON "B" #1	RICHARDSON	200.0	SOUTHWESTERN GAS
8400239	F-7B-071831	4208333446		102-4		SEALY-SMITH #4	LAKE COLEMAN (GARDNER	150.0	PERMIAN CORP
-RANDALL LEE				RECEIVED:	10/03/83	JA: TX			
8400225	F-10-071726	4234130869		108		TEALA #1	PANHANDLE-MOORE COUNT	0.0	PHILLIPS PETROLEU
-RANKIN OIL CO				RECEIVED:	10/03/83	JA: TX			
8400163	F-7C-069051	4208130670		108		CALLA MAE "A" #1	ARLEDGE	4.0	SUN GAS CO
8400224	F-08-071673	4200332591		108		SAVAGE STATE #3	SHAFTER LAKE	1.0	PHILLIPS PETROLEU
8400252	F-08-071918	4200332590		108		SAVAGE STATE #4	SHAFTER LAKE	1.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8400177	F-08-070603	4200332888		102		SAVAGE STATE #5	SHAFTER LAKE	1.0	PHILLIPS PETROLEU
-RED-TEX PETROLEUM INC				RECEIVED:	10/03/83	JA: TX			
8400166	F-7B-069707	4208300000		102-4		BILLIE MCCORD #1	GLEN COVE S (PALO PIN	0.0	UNION TEXAS PETRO
8400165	F-7B-06970	4208300000		102-4		R HAMON #1	GLEN COVE S (PALO PIN	10.0	UNION TEXAS PETRO
-RIDGE OIL CO				RECEIVED:	10/03/83	JA: TX			
8400201	F-7B-071218	4213334925		102-4	103	HAGAMAN (SOUTH) #2	HAGAMAN (3500)	105.1	COMPRESSOR RENTAL
-ROME EXPLORATION CO INC				RECEIVED:	10/03/83	JA: TX			
8400038	F-01-058549	4290700000		102-4		CHAPARROSA SECTION 37 #1	HIGH LONESOME EAST (E	0.0	VALERO TRANSMISSI
-SAGE ENERGY CO				RECEIVED:	10/03/83	JA: TX			
8400160	F-7C-069591	4238332589		101		PHILLIPS STATE #1 RRC #10149	FARMER (SAN ANDRES)	0.7	NORTHERN NATURAL
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	10/03/83	JA: TX			
8400156	F-02-069349	4229733232		102-2		BRYSCH-OWENS G/U #1 WELL #1	GEORGE WEST WEST (830	500.0	UNITED TEXAS TRAN
8400061	F-03-065391	4207131396		102-4		C T WANGENSTEEN #1 42 071 31396	WEST ANAHUAC AREA	500.0	CENTRAL POWER & L
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	10/03/83	JA: TX			
8400067	F-03-063468	4228700000		102-2	103	BIGON #2	GIDDINGS (AUSTIN CHAL	109.0	PERRY PIPELINE CO
8400068	F-03-063566	4228700000		101		PRELLOP #3	GIDDINGS (BUDA)	109.0	PERRY PIPELINE CO
-SHA JAM OPERATING CORP				RECEIVED:	10/03/83	JA: TX			
8400222	F-03-071607	4214931453		102-2		MAXINE #1	GIDDINGS (AUSTIN CHAL	18.2	SOUTH CEN-TEX GAS
-SHELL OIL CO				RECEIVED:	10/03/83	JA: TX			
8400092	F-04-067340	4250531566		107-DP		PAULA DEGARZA ESTATE #1	FANDANGO (WILCOX 1550	500.0	TENNESSEE GAS PIP
8400099	F-04-067741	4250531405		107-DP		R J WORLEY #1	FALCON LAKE E (WILCOX	400.0	UNITED TEXAS TRAN
-SNOW OIL CO				RECEIVED:	10/03/83	JA: TX			
8400096	F-7B-067686	4213334378		102-4		ATKINS #1	SNOW (DUFFER)	0.0	LONE STAR GAS CO
8400214	F-7B-071358	4213300000		102-4		MONROE WALKER #3	REB (MARBLE FALLS)	0.0	LONE STAR GAS CO
-SOUTHEASTERN RESOURCES CORP				RECEIVED:	10/03/83	JA: TX			
8400221	F-7B-071573	4213300000		102-4		M K COURTNEY "A" ##	LEE RAY (DUFFER LIME	0.0	EL PASO HYDROCARB
-SPENCER PETROLEUM CO				RECEIVED:	10/03/83	JA: TX			
8400115	F-7B-068035	4208331772		103		O C BERTRAND #2 (15268)	GLEN COVE S (PALO PIN	5.0	UNION TEXAS PETRO
-SUBURBAN PROPANE EXPLORATION CO INC				RECEIVED:	10/03/83	JA: TX			
8400074	F-7C-066409	4210534169		103		HENDERSON "20" #1	LIVE OAK DRAW N/STRAW	0.0	INTRATEX GAS CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	10/03/83	JA: TX			
8400125	F-04-068516	4242731319		102-4		FROST NATL BANK IND EX -B- #34	GARCIA	1068.0	
8400237	F-7C-071790	4246131991		103		GUTHRIE-DUNBAR UNIT #1	HELUMA SE (DEVONIAN)	122.0	PHILLIPS PETROLEU
8400205	F-8A-071304	4221933671		103		HOBGOOD-LOPER UNIT #1	ANTON WEST	8.0	
8400236	F-7C-071789	4210533974		103	107-TF	INEZ HUDSPETH -A- #1	ADAMS-BAGGETT RANCH	53.0	TEXAS INTRA-MARK
8400182	F-03-070672	4207131078		102-4		JACOBSON UNIT #3	WILLIE N	28.0	TEXAS EASTERN TRA
8400070	F-04-066234	4213136100		103		L WIEDERKEHR #205	GOVT WELLS N	19.0	VALERO INTERSTATE
8400028	F-04-037219	4242700000		108-ER		MARRS MCLEAN #13L	LOCKHART	0.0	TENNESSEE GAS PIP
8400204	F-8A-071300	4207931672		101		WRIGHT UNIT #7-21A	LEVELLAND	5.0	CITIES SERVICE CO
-SUPERIOR OIL CO				RECEIVED:	10/03/83	JA: TX			
8400122	F-04-068244	4221500000		102-4	103	F I JOHNSON #14	MONTE CHRISTO (5950)	38.3	FLORIDA GAS TRANS
-TEE OPERATING CO				RECEIVED:	10/03/83	JA: TX			
8400152	F-03-069252	4216730940		102-4		HALLS BAYOU RANCH #3	GREENS LAKE EAST (MIO	0.0	AMOCO GAS CO
-TENNECO OIL COMPANY				RECEIVED:	10/03/83	JA: TX			
8400068	F-04-065929	4221531284		103	107-TF	A A MCALLEN #13	MCALLEN RANCH	850.0	CHANNEL INDUSTRIE
8400032	F-7C-056947	4210533943		102-4		MITCHELL 102-1X	J M N (ELLENBURGER)	0.0	EL PASO NATURAL G
-TEXACO INC				RECEIVED:	10/03/83	JA: TX			
8400131	F-08-068855	4232931144		102-4		C M TURNER #1	BRADFORD RANCH	36.5	EL PASO NATURAL G
8400090	F-08-067217	4213500000		103		O B HOLT MCT-1 #95	NORTH CONDEN	0.6	AMOCO PRODUCTION
8400241	F-08-071833	4243231246		101		STERLING "O" FEE #6	CONGER (PENN)	0.0	VALERO TRANSMISSI
8400041	F-03-061663	4203931857		101		W T BELCHER "A" #50	MANVEL	365.0	TEXACO INC
8400058	F-03-063779	4224531599		102-4	103	WALTER CO MCT-1 #2	CONSTITUTION SOUTH	547.5	WINNIE PIPELINE
8400242	F-8A-071834	4216532547		101		WHARTON UNIT #123	HARRIS	0.0	PHILLIPS PETROLEU
-TEXAS CRUDE INC				RECEIVED:	10/03/83	JA: TX			
8400238	F-03-071802	4236100000		102-4		ORANGE COUNTY DEVELOPMENT CO INC #1	ECHO (9910)	1095.0	
[illegible]	J CLEO & JAMES CLED JR			RECEIVED:	10/03/83	JA: TX			
8400045	F-7C-062883	4210500000		102-4	107-TF	UNIVERSITY 32-6 #1	UNIVERSITY 31 (STRAWN	0.0	PRODUCERS GAS CO
-TOKA INC				RECEIVED:	10/03/83	JA: TX			
8400251	F-7B-071897	4236332984		102-4	103	BELLE STARR #1	SANTO SE (CONGL)	58.0	INTRASTATE GATHER
-TRANSCO EXPLORATION COMPANY				RECEIVED:	10/03/83	JA: TX			
8400248	F-04-071858	4224731283		102-4		E M CALDWELL #2	LAS VIVORITAS	182.0	TRANSCONTINENTAL
-TXO PRODUCTION CORP				RECEIVED:	10/03/83	JA: TX			
8400031	F-06-052689	4248131664		102-4	103	BOLTON "A" #3	MINDEN E (TRAVIS PEAK	0.0	FERGUSON CROSSING
8400101	F-02-067753	4212331284		101		DOEHRMANN #1	DOEHRMANN (YEGUA 5200	0.0	DELHI GAS PIPELIN
8400064	F-06-065566	4240131288		102-4		GRADY SANDERS #1	RUFUS (PETTIT UPPER)	0.0	DELHI GAS PIPELIN
8400042	F-06-061962	4248131542		102-4		HALE "E"	W DANVILLE (PETTIT LO	283.0	DELHI GAS PIPELIN
8400058	F-06-065256	4234730801		103		HOLT "B" #1	DOUGLASS (PETTIT)	0.0	
8400208	F-05-071322	4216100000		103	107-TF	MIDDLETON "E" #1	MIMMS CREEK (BOSSIER)	0.0	DELHI GAS PIPELIN
8400044	F-06-062735	4220331000		103		MIKE #1	BETHANY	0.0	UNITED GAS PIPELI
8400174	F-06-070525	4231530612		102-4		MITCHELL "J" ##	AVINGER (PETTIT)	0.0	DELHI GAS PIPELIN
8400154	F-05-069313	4216130775		101	107-TF	ORAND #1-2	REED N (COTTON VALLEY	0.0	DELHI GAS PIPELIN
8400130	F-05-068848	4216130794		101	107-TF	STEWARDS MILL GAS UNIT #4-2	STEWARDS MILL (COTTON	0.0	DELHI GAS PIPELIN
8400097	F-02-067626	4217531065		102-4		VINTON #1	DANFORTH (2960')	0.0	TRANSCONTINENTAL
8400107	F-08-067845	4237100000		107-PE		WOODWARD "64" #1	CHENOT (WOLFCAMP)	175.0	DELHI GAS PIPELIN
-U S OPERATING INC				RECEIVED:	10/03/83	JA: TX			
8400245	F-03-071849	4247730499		102-2		MIRIAM #1 RRC ID #N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
8400235	F-03-071783	4228731352		102-2		MOZELLE #1 RRC ID # N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
8400202	F-03-071242	4228731333		101		PHYLLIS #1 RRC ID # N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-UNION HILL DRILLING CO				RECEIVED:	10/03/83	JA: TX			
8400203	F-7B-071269	4236732462		101		WHALIN #1	ALEDO SE (1200 STRAWN	19.0	SOUTHWESTERN GAS
-UNION TEXAS PETROLEUM				RECEIVED:	10/03/83	JA: TX			
8400185	F-7C-070792	4223532074		103		SUGG "15" #2	ANDREW A (CANYON)	256.0	FARMLAND INDUSTRI
8400063	F-08-065554	4249531456		102-4		UNIVERSITY 21-16-A #1		2.0	
-W B D OIL & GAS CO				RECEIVED:	10/03/83	JA: TX			
8400150	F-10-069181	4234130920		103		JONATHAN #5 (ID# 05148)	PANHANDLE MOORE	70.0	PHILLIPS PETROLEU
-W C S PETROLEUM INC				RECEIVED:	10/03/83	JA: TX			
8400113	F-03-067984	4228700000		102-2		JPB CAMERON #1	GIDDINGS (AUSTIN CHAL	0.0	PERRY GAS PRODUCT
8400091	F-03-067243	4205132372		102-2		MILLIE PAGE! #2	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-W J WHITT				RECEIVED:	10/03/83	JA: TX			
8400076	F-7B-066534	4242[illegible]426		102-4		HOLLAND BONEY #1-A	RANGER NW (MARBLE FAL	57.0	LONE STAR GAS CO
-WARRIOR OIL & GAS CORP				RECEIVED:	10/03/83	JA: TX			
8400178	F-02-070619	4246906000		102-4		N F JANSSEN #4-A	NURSERY SE (900) - PR	50.0	CJW CORP
-WESSELY ENERGY CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400187	F-05-070912	4239530280		103	107-TF	MITCHELL UNIT III #1	BALD PRAIRIE (COTTON	650.0	TEXAS UTILITIES F
-WHEELER OIL COMPANY				RECEIVED:	10/03/83	JA: TX			
8400199	F-10-071116	4223331567		101		MCCONNELL #1	PANHANDLE E (ALBANY D	765.0	PHILLIPS PETROLEU
-WILLIFORD ENERGY CO				RECEIVED:	10/03/83	JA: TX			
8400186	F-10-070890	4229531271		102-4		D SELL #2-10	BOOKER NORTH (MORROW	148.9	PHILLIPS PETROLEU
-WINN EXPLORATION/DULCE CO				RECEIVED:	10/03/83	JA: TX			
8400055	F-01-064302	4250731803		102-4		PRYOR RANCH #125-C	WINN-DULCE	0.0	NORTHERN NATURAL
8400054	F-01-064301	4250731803		102-4		PRYOR RANCH #125-T	WINN-DULCE	0.0	NORTHERN NATURAL
8400095	F-01-067574	4250731836		102-4		PRYOR RANCH #161-C	WINN-DULCE	0.0	NORTHERN NATURAL
8400120	F-01-068096	4250700000		102-4		PRYOR RANCH #175-C	WINN-DULCE	0.0	NORTHERN NATURAL
8400119	F-01-068095	4250731946		102-4		PRYOR RANCH #175-T	WINN-DULCE	0.0	NORTHERN NATURAL
-WYOMING RESOURCES-KEYSTONE				RECEIVED:	10/03/83	JA: TX			
8400228	F-7C-071773	4238332930		101		PALOMINO "36" #1	SPRABERRY (TREND AREA	106.2	UNION TEXAS PETRO
8400227	F-7C-071772	4238332431		101		PALOMINO "41" #1	SPRABERRY (TREND AREA	21.6	UNION TEXAS PETRO

[FR Doc. 83-29659 Filed 10-31-83; 8:45 am]

[Volume 990]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 27, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1:New OCS lease
- 102-2: New well (2.5 Mile rule)
- 102-3: New well (1000 Ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease

Section 107-DP: 15,000 feet or deeper
- 107-GB: Geopressured brine
- 107-CS: Coal Seams
- 107-DV: Devonian Shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-FT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS — VOLUME 990

ISSUED OCTOBER 27, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-A N NORWOOD INC				RECEIVED:	10/03/83	JA: TX			
8400431	F-7C-072772	4223531036		108		HENRY #1	ROCK PEN (CANYON)	8.8	FARMLAND INDUSTRI
8400461	F-08-072894	4210333078		108		VAN COURT #1	LEA (CLEARFORK)	6.6	WARREN PETROLEUM
8400462	F-08-072895	4210333205		108		VAN COURT #2	LEA (CLEARFORK)	27.2	WARREN PETROLEUM
-ADOBE OIL & GAS CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400329	F-8A-072435	4216932068		103		O B FRANKLIN #5-G	PMD GLORIETA	21.0	MID PLAINS PIPELI
-AMERADA HESS CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400473	F-8A-072932	4216500008		108		MANN GAS UNIT #1	SEMINOLE	21.6	WESTAR TRANSMISSI
8400467	F-08-072913	4222730064		108		W K FURRH "A" #1	HUTTO SOUTH	2.3	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	10/03/83	JA: TX			
8400324	F-8A-072405	4230330918		103		ANTON IRISH CLEARFORK UNIT #661	ANTON IRISH	56.0	WESTAR TRANSMISSI
8400401	F-8A-072708	4230330913		103		ANTON IRISH CLEARFORK UNIT #663	ANTON IRISH	0.0	WESTAR TRANSMISSI
8400404	F-8A-072709	4221933844		103		EAST RKM UNIT #82	SLAUGHTER	0.3	EL PASO NATURAL G
8400405	F-08-072711	4200333501		103		FRANK COWDEN R/A "D" #31	COWDEN NORTH	0.6	AMOCO PRODUCTION
8400406	F-08-072712	4200333502		103		FRANK COWDEN R/A "D" #33	COWDEN NORTH	0.1	AMOCO PRODUCTION
8400539	F-03-073071	4224531646		103		KEITH & DOWLEN #31	BEAUMONT WEST	20.0	AMOCO GAS CO
8400325	F-8A-072406	4221933693		103		MAY MONTGOMERY UNIT #49	LEVELLAND	42.0	AMOCO PRODUCTION
8400265	F-8A-072031	4221933695		103		MAY MONTGOMERY UNIT #57	LEVELLAND	8.4	AMOCO PRODUCTION
-ARAPAHO PETROLEUM INCORPORATED				RECEIVED:	10/03/83	JA: TX			
8400512	F-06-072996	4206700000		108		BOSTWICK #1	RODESSA (NORTH HILL)	2.0	BRECKENRIDGE GASO
8400511	F-06-072995	4206700000		108		EVA FIELDS #2	RODESSA (ANHYDRITE LO	19.0	BRECKENRIDGE GASO
8400513	F-06-072997	4206700000		108		J W LAND #1	RODESSA (DEES YOUNG)	2.0	BRECKENRIDGE GASO
8400488	F-06-072718	4206700000		108		J W LAND #213	RODESSA (DEES YOUNG)	6.0	BRECKENRIDGE GASO
-ARCO OIL AND GAS COMPANY				RECEIVED:	10/03/83	JA: TX			
8400331	F-04-072440	4235504341		108		PERKINS GAS UNIT #3	WEST MINNIE ROCK (22)	18.3	TENNESSEE GAS PIP
8400318	F-04-072438	4235530589		108		STATE 438 GAS UNIT #3	REDFISH BAY - MUSTANG	19.4	TENNESSEE GAS PIP
-ARGENT PETROLEUM CORP				RECEIVED:	10/03/83	JA: TX			
8400355	F-06-072623	4248131600		102-4		106932 ALFORD #1	MINDEN W (TRAVIS PEAK	365.0	TEXAS UTILITIES F
-AUDAX ENERGY Corp				RECEIVED:	10/03/83	JA: TX			
8400412	F-08-072736	4213534185		103		MILLARD "15" #1	PENWELL	9.1	PHILLIPS PETROLEU
-BARBEE & CO INC				RECEIVED:	10/03/83	JA: TX			
8400292	F-09-072223	4250336645		102-4		BOOZER #1 (106212)	BARBEE (ATOKA)	900.0	DAMSON GAS PROCES
-BASS ENTERPRISES PRODUCTION CO				RECEIVED:	10/03/83	JA: TX			
8400420	F-08-072749	4249531398		103		M J HILL A/C 3 #37	HALLEY (CLEARFORK)	26.0	TRANSWESTERN PIPE
-BOB BLACK OPERATING				RECEIVED:	10/03/83	JA: TX			
8400379	F-7C-072663	4239932793		102-4		B I MAYO #4 (89087)	JOYCE ANN (LOWER GARD	90.0	UNION TEXAS PETRO
-BTA OIL PRODUCERS				RECEIVED:	10/03/83	JA: TX			
8400334	F-7C-072443	4238332552		103		COATES "B" #4	SPRABERRY (TREND AREA	26.0	EL PASO NATURAL G
8400332	F-7C-072441	4238332550		103		KILE #5	SPRABERRY (TREND AREA	26.0	EL PASO NATURAL G
8400333	F-7C-072442	4238332597		103		64 ROCKER "B" #21	SPRABERRY (TREND AREA	27.0	EL PASO NATURAL G
-BURNETT OIL CO INC				RECEIVED:	10/03/83	JA: TX			
8400299	F-01-072262	4231131834		102-4	103	BILLY A KILLOUGH #1	A W P (OLMOS)	57.0	WPI TRANSMISSION
8400319	F-01-072368	4231131833		102-4	103	GRANT H WILLIAMS #1	AWP (OLMOS)	99.0	WPI TRANSMISSION
8400346	F-01-072537	4231131860		102-4	103	M WHEELER #2	AWP (OLMOS)	36.0	WPI TRANSMISSION
-BURNS PETROLEUM				RECEIVED:	10/03/83	JA: TX			
8400322	F-09-072378	4200935403		102-4		COWAN & MCKINNEY "LL" #1	LAKE KICKAPOO E	27.0	E A WOOD - OPERAT

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-C R GALLAGHER JR				RECEIVED:	10/03/83	JA: TX			
8400310	F-7B-072316	4213331753		102-4		EARNEST SNEED #2	REB (MARBLE FALLS)	50.0	LONE STAR GAS CO
-CALLAWAY OIL & GAS CO				RECEIVED:	10/03/83	JA: TX			
8400423	F-8B-072752	4228333346		193		NOBLES "A" 1	EMBAR (FUSSELMAN)	0.0	PHILLIPS PETROLEU
-CHAMPLIN EXPLORATION INC				RECEIVED:	10/03/83	JA: TX			
8400359	F-8A-072629	4207931610		195		RJR RANCH-YOUNG 1-2	BONANZA (SAN ANDRES)	2.5	WARREN PETROLEUM
8400358	F-8A-072628	4207931546		103		RJR RANCH-YOUNG 1-3	BONANZA (SAN ANDRES)	15.0	WARREN PETROLEUM
8400361	F-8A-072631	4207931690		103		RJR RANCH-YOUNG 2-2	BONANZA (SAN ANDRES)	17.0	WARREN PETROLEUM
8400360	F-8A-072630	4207931590		103		RJR RANCH-YOUNG 2-3	BONANZA (SAN ANDRES)	10.5	WARREN PETROLEUM
8400357	F-8A-072627	4207931689		103		RJR RANCH-YOUNG 3-3	BONANZA (SAN ANDRES)	15.0	WARREN PETROLEUM
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	10/03/83	JA: TX			
8400426	F-04-072759	4235500000		106		CHAPMAN RANCH #647	CHAPMAN RANCH	0.0	TEXAS EASTERN TRA
8400424	F-04-072756	4235500000		106		G P WARDNER #32	STRATTON (F-20)	0.0	TENNESSEE GAS PIP
8400425	F-04-072758	4235500000		106		J B BUTTS #1	STRATTON	0.0	TENNESSEE GAS PIP
-CHANOCO CORP				RECEIVED:	10/03/83	JA: TX			
8400523	073039	4231131856		102-4		SOUTH TEXAS SYNDICATE - #1-1	BIG MULE (5500 SAND)	13.0	ESPERANZA TRANSMI
8400524	F-01-073040	4231131799		102-4		SOUTH TEXAS SYNDICATE - #2-20	BIG MULE (5500 SAND)	13.0	ESPERANZA TRANSMI
8400525	F-01-073041	4231131789		102-4		SOUTH TEXAS SYNDICATE #1-20	BIG MULE (5500 SAND)	13.0	ESPERANZA TRANSMI
-CHAPARRAL MINERALS INC				RECEIVED:	10/03/83	JA: TX			
8400321	F-03-072376	4204130891		102-4		D M C CORP "A" #2	BRYAN (WOODBINE)	0.0	VANGUARD-BRAZOS C
-CHASE-MANN PETROLEUM INC				RECEIVED:	10/03/83	JA: TX			
8400297	F-7B-072259	4213300000		102-4		B MCGOUGH #1 LEASE 8	CAMERON P (MARBLE FAL	17.6	EL PASO HYDROCARB
-CHRISTI CO INC				RECEIVED:	10/03/83	JA: TX			
8400311	F-7B-072317	4204932193		108		BURCHAM #1 ID #086509	BROWN CO REGULAR (MAR	14.5	EL PASO HYDROCARB
8400312	F-7B-072318	4204932361		108		BURCHAM #2 ID #088891	BROWN CO REGULAR (MAR	12.0	EL PASO HYDROCARB
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	10/03/83	JA: TX			
8400469	F-8A-072915	4216532566		101		WEST SEMINOLE SAN ANDRES UNIT #324	SEMINOLE WEST	46.0	CITIES SERVICE OI
8400468	F-8A-072914	4216532567		101		WEST SEMINOLE SAN ANDRES UNIT #716	SEMINOLE WEST	50.0	CITIES SERVICE OI
-CLARK EXPLORATION & PRODUCTION CO I				RECEIVED:	10/03/83	JA: TX			
8400447	F-04-072849	4224900000		101		INGRAM ESTATE NO 1 WELL RRC #105102	TOM GRAHAM (3500A)	100.0	DELHI GAS PIPELIN
-CONOCO INC				RECEIVED:	10/03/83	JA: TX			
8400476	F-7B-072936	4243331389		108		ARTHUR BRINKLEY JR -A- #47 ID #4263	FLOWERS/CANYON SAND/	0.4	CITIES SERVICE OI
8400465	F-10-072902	4236500000		108		BARRETT E C #1	WEST PANHANDLE	0.0	NORTHWEST CENTRAL
8400448	F-10-072854	4206500000		108		BURNETT #50A	WEST PANHANDLE	0.0	NORTHWEST CENTRAL
8400481	F-8A-072941	4216931600		108		CITIZENS NAT BK LUBBOCK #13 #63498	HUNTLEY E /SAN ANDRES	0.0	MID PLAINS PETROC
8400483	F-8A-072943	4211530480		108		EAST ACKERLY DEAN UNIT #60 ID 60687	ACHERLY /DEAN SAND/	0.6	TEXACO INC
8400482	F-8B-072942	4238900000		108		FORD GERALDINE UNIT #299 ID 21021	GERALDINE /FORD/	0.0	EL PASO NATURAL G
8400449	F-10-072855	4217900000		108		HEXTER A M #2	WEST PANHANDLE	0.0	NORTHWEST CENTRAL
8400488	F-8A-072940	4216900000		108		HUNTLEY E SAN ANDRES #2 #60957	HUNTLEY E /SAN ANDRES	0.0	MID PLAINS PETROC
8400479	F-8A-072939	4250100000		108		L M HOOKER #1 ID 16197	OWNBY/WICHITA/ALBANY	4.4	AMOCO PRODUCTION
8400487	F-02-072713	4217500000		108		PETTUS UNIT #38	CABEZA CREEK (PETTUS)	18.0	UNITED GAS PIPELI
8400486	F-8B-072944	4213500000		108		SOUTH COWDEN CANYON UT #1 ID 23179	SOUTH COWDEN/8900 CAN	6.8	PHILLIPS PETROLEU
8400477	F-8A-072937	4211500000		108		SYDNEY ALEXANDER #1 ID 16324	ACKERLY/DEAN SAND/	1.7	TEXACO INC
8400485	F-8B-072946	4200333158		108		UNIVERSITY -A- #9 ID 27460	FULLERTON/8500/	0.6	PHILLIPS PETROLEU
8400486	F-7B-072947	4243330405		108		WEST FLOWERS - UNIT #50 ID 11787	FLOWERS WEST/CANYON S	0.3	CITIES SERVICE CO
8400478	F-09-072938	4248535341		108		WICHITA COUNTY REGULAR #53 ID 18376	WICHITA COUNTY REGULA	0.1	EAGLE PETROLEUM C
-CROMERA OIL & GAS CO				RECEIVED:	10/03/83	JA: TX			
8400262	F-7B-072007	4241734934		102-4		JOHN SEDWICK #12	CROMERA (MORAN)	1.5	WARREN PETROLEUM
8400263	F-7B-072008	4241735017		102-4		JOHN SEDWICK #13	CROMERA (MORAN)	1.5	WARREN PETROLEUM
-CURTIS HANKAMER CORP				RECEIVED:	10/03/83	JA: TX			
8400410	F-02-072724	4228531730		102-4		ANNIE MARIE VAUGHN #1	WEST MCDANIEL (K-4 YE	450.0	
-DAMERON PETROLEUM CORP				RECEIVED:	10/03/83	JA: TX			
8400305	F-7C-072278	4210534341		102-2		W P HOOVER - SEC 14 BLK NN	AMERICAN (SPRABERRY B	11.0	EL PASO NATURAL G
8400304	F-7C-072277	4210534340		102-2		W P HOOVER - SEC 14 BLK 1	AMERICAN (SPRABERRY A	14.0	EL PASO NATURAL G
-DAVID A SCHLACHTER OIL & GAS				RECEIVED:	10/03/83	JA: TX			
8400293	F-7C-072241	4210533923		101		VERNON COX - 1	COX NORTH (STRAWN & D	543.9	DELHI GAS PIPELIN
-DCB OIL & GAS INC				RECEIVED:	10/03/83	JA: TX			
8400388	F-08-072684	4231732674		103		KELLY #4	SPRABERRY (TREND AREA	13.1	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400503	F-10-072976	4229500000		108		HARRY PARKER #1-785	MAMMOTH CREEK	0.0	WESTAR TRANSMISSI
-DORCHESTER EXPLORATION INC				RECEIVED:	10/03/83	JA: TX			
8400387	F-10-072682	4221131594		103		LUCILLE WRIGHT #3	CANADIAN SE	50.0	
-DYNE OIL & GAS INC				RECEIVED:	10/03/83	JA: TX			
8400356	F-10-072624	4223331618		103		STEVENSON #4 LEASE NO #1595	PANHANDLE HUTCHINSON	0.0	DIAMOND SHAMROCK
-EDEN EXPLORATION INC				RECEIVED:	10/03/83	JA: TX			
8400269	F-7B-072129	4236732538		102-4		P M CARDWELL #1 (NEW)	LAZY BEND (STRAWN 195	140.0	PARKER GAS INC
-ENERGY DEVELOPMENT CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400340	F-02-072504	4239131628		102-4		V TATTON #1 - ID#	SALT CREEK S (FRIO 97	328.5	PUBLIC SERVICE EL
-ENRE CORP				RECEIVED:	10/03/83	JA: TX			
8400283	F-7B-072194	4205934200		103		JACKSON 21 #2	CALLAHAN COUNTY REGUL	11.0	BENGAL GAS TRANSM
8400282	F-7B-072192	4205934160		103		JACKSON 68 #1	CALLAHAN COUNTY REGUL	2.0	BENGAL GAS TRANSM
-ENRICH OIL CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400455	F-7B-072866	4235331357		102-4		J M MCLAUGHLIN #8011 (18878)	ADAIR CREEK (COOK SAN	110.0	SUN GAS CO
8400454	F-7B-072865	4235331461		102-4		J M MCLAUGHLIN #9011 (18878)	ADAIR CREEK (COOK SAN	210.0	SUN GAS CO
-ENSERCH EXPLORATION INC				RECEIVED:	10/03/83	JA: TX			
8400350	F-7B-072591	4242933679		103		J W STOUARD #1	IVADELL	219.0	
-ESTATE OF WM D MCBEE				RECEIVED:	10/03/83	JA: TX			
8400352	F-06-072612	4245930553		103	107-TF	PORTER GAS UNIT #1 WELL #2	ROSEWOOD (COTTON VALL	365.0	WESTERN GAS CORP
-EXXON CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400326	F-05-072410	4216130803		102-4		BEN H CARPENTER #1	INGRAM-TRINITY (RODES	45.0	ARMCO STEEL CORP
8400327	F-06-073411	4236531561		103	107-TF	BESS SMITH BRODERICK GU 2 #2	CARTHAGE (COTTON VALL	393.0	ARMCO STEEL CORP
8400417	F-03-072739	4233930575		101		CONROE FIELD UNIT #1941	CONROE	0.2	MORAN UTILITIES C
8400368	F-03-072645	4233930574		105		CONROE FIELD UNIT #2720	CONROE	50.0	MORAN UTILITIES C
8400367	F-03-072644	4233930570		103		CONROE FIELD UNIT #3909	CONROE	0.1	MORAN UTILITIES C
8400432	F-03-072781	4220131531		103		EXXON WEST FEE "C" A/C 1 #85	CLEAR LAKE	140.0	ENTEX INC
8400291	F-08-072208	4200333493		103		FULLERTON CLEARFORK UNIT #639	FULLERTON	15.0	PHILLIPS PETROLEU
8400294	F-08-072242	4210333120		103		J B TUBB A/C 1 #274	SAND HILLS (MCKNIGHT)	15.0	EL PASO HYDROCARB
8400347	F-08-072541	4210333184		103		J B TUBB A/C 1 #277	SAND HILLS (JUDKINS)	94.0	EL PASO NATURAL G
8400384	F-08-072676	4210333185		103		J B TUBB A/C 1 #278	SAND HILLS (JUDKINS)	81.0	EL PASO NATURAL G
8400385	F-08-072677	4210333187		103		J B TUBB A/C 1 #286	SAND HILLS (JUDKINS)	25.0	EL PASO NATURAL G
8400464	F-03-072899	4215731455		103		J M P DAVIS #66	THOMPSON SOUTH	25.0	ARMCO TEEL CORP
8400442	F-04-072819	4226130812		102-4		K R SAN JOSE DE LA PARRA 51-D106098	CALANDRIA (G-28 W)	590.0	
8400290	F-04-072205	4227331749		103		KING RANCH BORREGOS 592 (105947)	BORREGOS (M-21)	558.0	ARMCO STEEL CORP
8400328	F-05-072412	4234933222		102-4		KIT W ROWE ESTATE #1	INGRAM TRINITY (RODES	128.8	ARMCO STEEL CORP
8400314	F-03-072335	4215731438		101		LOCKWOOD & SHARP "B" TR 1 #66	THOMPSON SW (MIOCENE	9.0	ARMCO STEEL CORP
8400313	F-02-072322	4229733299		101		MARY REYNOLDS 38 PENDING	RAMIRENA S W (YEGUA 3	505.9	NATURAL GAS PIPEL
8400275	F-04-072167	4242731587		101		MCGILL BROS 480 (ID PENDING)	KELSEY SOUTH (19-A)	40.0	TRUNKLINE GAS CO
8400339	F-04-072480	4204731226		103		VIBORAS FIELD G U IV-109-D	VIBORAS (MASSIVE SECO	336.0	ARMCO STEEL CORP
8400369	F-03-072646	4220131540		103		WEBSTER FIELD UNIT #1829	WEBSTER	8.5	ARMCO STEEL CORP
-FOREST OIL CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400516	F-8A-073008	4211531827		102-4		FOC MICHIE #1	DEROEN (MISSISSIPIAN)	23.0	TEXACO INC
-FRIEMEL & CARPENTER				RECEIVED:	10/03/83	JA: TX			
8400487	F-08-072956	4200333482		103		UNIVERSITY 16 #3 WELL #25678	FUHRMAN-MASCHO (GRBG-	54.7	PHILLIPS PETROLEU
-GEODYNE RESOURCES INC				RECEIVED:	10/03/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8400382	F-10-07267	4229531236		103		FRAZIER #1	DARROUZETT	11.7	PHILLIPS PETROLEU
8400414	F-10-072736	4229531306		102-4		FRAZIER #2	DARDEN (MORROW UPPER)	766.5	PHILLIPS PETROLEU
-GETTY OIL COMPANY				RECEIVED:	10/03/83	JA: TX			
8400353	F-7B-072620	4243300000		106		FLOWERS CANYON SAND UNIT #136	FLOWERS (CANYON SAND)	0.7	CITIES SERVICE OI
8400517	F-8A-073011	4207900000		103		SOUTHWEST LEVELLAND UNIT #107	LEVELLAND	2.9	CITIES SERVICE OI
8400518	F-8A-073012	4207931437		103		SOUTHWEST LEVELLAND UNIT #108	LEVELLAND	1.5	CITIES OIL & GAS
8400521	F-8A-073015	4207931435		103		SOUTHWEST LEVELLAND UNIT #109	LEVELLAND	1.1	CITIES OIL & GAS
8400519	F-8A-073013	4207931439		106		SOUTHWEST LEVELLAND UNIT #110	LEVELLAND	4.4	CITIES OIL & GAS
8400520	F-8A-073014	4207931438		101		SOUTHWEST LEVELLAND UNIT #111	LEVELLAND	2.2	CITIES OIL & GAS
-GULF OIL CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400395	F-08-072698	4213530247		106		GOLDSMITH C A ETAL #1244	GOLDSMITH (5600)	1.0	PHILLIPS PETROLEU
8400391	F-08-072694	4213531850		106		GOLDSMITH SAN ANDRES UNIT #1-1356	GOLDSMITH	4.7	PHILLIPS PETROLEU
8400356	F-08-072699	4213500706		106		GOLDSMITH SAN ANDRES UNIT #1-296	GOLDSMITH	1.0	PHILLIPS PETROLEU
8400389	F-08-072692	4213500725		106		GOLDSMITH SAN ANDRES UNIT #1-316	GOLDSMITH	1.6	PHILLIPS PETROLEU
8400390	F-08-072693	4213500757		106		GOLDSMITH SAN ANDRES UNIT #1-352	GOLDSMITH	3.2	PHILLIPS PETROLEU
8400392	F-08-072695	4213501120		106		GOLDSMITH SAN ANDRES UNIT #1-743	GOLDSMITH	1.0	PHILLIPS PETROLEU
8400393	F-08-072696	4213502468		106		GOLDSMITH SAN ANDRES UNIT #2-008	GOLDSMITH	1.9	PHILLIPS PETROLEU
8400394	F-08-072697	4213503482		106		GOLDSMITH SAN ANDRES UNIT #3-005	GOLDSMITH	4.0	PHILLIPS PETROLEU
8400397	F-08-072701	4247532828		101		HUTCHINGS STOCK ASSN #1269	WARD-ESTES NORTH	8.7	CABOT CORP
8400356	F-8A-072622	4221932350		103		M G GORDON #31	SLAUGHTER (CLEARFORK	0.0	AMOCO PRODUCTION
8400492	F-08-072961	4210333083		103		W M WADDELL #1174	UNIVERSITY WADDELL (D	0.0	
-HABER OIL CO INC				RECEIVED:	10/03/83	JA: TX			
8400336	F-03-072455	4208931368		102-4		J E LAPRADE #1 (105860)	HABER (FRIO 3800) FIE	365.0	MGI CORP
-HEARTLAND RESOURCES INC				RECEIVED:	10/03/83	JA: TX			
8400318	F-7B-072367	4242933615		102-4		BROWN #4 ID #APPLIED FOR	FRANKEL L S (STRAWN -	52.0	BENGAL GAS TRANSM
-HENRY ENERGY CORP				RECEIVED:	10/03/83	JA: TX			
8400338	F-09-072477	4200936785		103		COWAN-MCKINNEY A #1 (22905)	HULL-SILK-SIKES (3800	3.0	LONE STAR GAS CO
-HNG OIL COMPANY				RECEIVED:	10/03/83	JA: TX			
8400284	F-04-072196	4250530607		103		CATALINA L MCCANN #2	LA PERLA (WILCOX FOUR	60.0	HOUSTON PIPE LINE
-J PAUL GOLDSMITH				RECEIVED:	10/03/83	JA: TX			
8400320	F-06-072369	4234731915		102-4		EDDIE C LEE	TOOLAN (PETTIT LOWER)	277.0	LIBERTY NATURAL G
-JAKE L HAMON				RECEIVED:	10/03/83	JA: TX			
8400295	F-10-072256	4221131562		103		URSCHEL 3 #4	CANADIAN SE (DOUGLAS)	1825.0	NORTHWEST CENTRAL
-JAMES K ANDERSON INC				RECEIVED:	10/03/83	JA: TX			
8400501	F-7B-072972	4244132416		102-4		PERINI #3	LAKE ABILENE (4000)	200.0	UNION TEXAS PETRO
-JJB OIL & GAS INC				RECEIVED:	10/03/83	JA: TX			
8400267	F-7B-072086	4236732442		102-4		FARRIS #1 ID APPLIED FOR	MCDANIEL (CONGL)	41.0	TEXAS UTILITIES F
-K & S LAND CO INC				RECEIVED:	10/03/83	JA: TX			
8400538	F-7B-073064	4215131529		103		J P MABERRY "58" #3	SYLVESTER (GOEN	150.0	PALO DURO PIPELIN
-KIM PETROLEUM CO INC				RECEIVED:	10/03/83	JA: TX			
8400437	F-10-072793	4217931007		103		DENNIS #2	PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO
-L & L PETROLEUM CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400510	F-02-072987	4212331220		102-4	103	VAUGHN GAS UNIT #1	THOMASTON (WILCOX 780	135.0	CHRISTI-BAM ENERG
-L M YOUNG				RECEIVED:	10/03/83	JA: TX			
8400309	F-7B-072312	4206933404		102-4		R J GOODALL "J" #6	DALE (CADDO)	26.0	EL PASO HYDROCARB
-LA PARRITA OIL & GAS CORP				RECEIVED:	10/03/83	JA: TX			
8400345	F-04-072529	4227300792		106		84-3U RIVIERA 04003244	YEARY/RIVIERA	11.5	VALLEY GAS TRANSM
-LADD PETROLEUM CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400344	F-7C-072517	4210534433		103	107-TF	MILLSPAUGH #13-3	OZONA (CANYON SAND)	216.2	AMERICAN PIPELINE
8400342	F-7C-072514	4210534439		103	107-TF	MONTGOMERY #10-5	OZONA (CANYON SAND)	1861.5	AMERICAN PIPELINE
8400341	F-7C-072513	4210534445		103	107-TF	MONTGOMERY #10-6	OZONA (CANYON SAND)	575.0	AMERICAN PIPELINE
8400343	F-7C-072515	4210534482		103	107-TF	MONTGOMERY #10-7	OZONA (CANYON SAND)	602.3	AMERICAN PIPELINE
-LAMBERT HOLLUB DRILLING CO				RECEIVED:	10/03/83	JA: TX			
8400446	F-03-072846	4205132456		102-4		AUSLEY #6	HOOKER CREEK (NAVARRO	35.0	FERGUSON CROSSING
-LARIAT OIL & GAS				RECEIVED:	10/03/83	JA: TX			
8400260	F-7B-071998	4236732528		102-4		J D ST CLAIR #2 (106475)	WILDCAT LARIAT (STRAW	500.0	SOUTHWESTERN GAS
-MARALO INC				RECEIVED:	10/03/83	JA: TX			
8400515	F-08-073007	4200333414		101		LARIO SLOAM #4	DEEP ROCK (PENN)	11.0	PHILLIPS PETROLEU
-MILLS DENNIS ENTERPRISES INC				RECEIVED:	10/03/83	JA: TX			
8400441	F-10-072805	4217931267		103		HEIDI #3 (ID #05281)	PANHANDLE GRAY	60.0	CABOT PIPELINE CO
-MINDEM OIL & GAS INC				RECEIVED:	10/03/83	JA: TX			
8400281	F-06-072179	4220330957		102-4		SOUTHERLAND #1 ( )	SABINE SE (COTTON VAL	110.0	ESPERANZA TRANSMI
-MITCHELL EMERGY CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400418	F-09-072743	4249700000		108		J S WARDEN #2 19849	CHICO WEST (CONGL 570	0.0	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	10/03/83	JA: TX			
8400532	F-8A-073053	4216532606		103		H & J SEC 127 #4	SEMINOLE EAST (SAN AN	107.0	PHILLIPS PETROLEU
8400452	F-8A-072861	4221933791		103		NORTH CENTRAL LEVELLAND UNIT #379	LEVELLAND	2.9	AMOCO PRODUCTION
8400363	F-8A-072635	4221933800		103		NORTH CENTRAL LEVELLAND UNIT #386	LEVELLAND	8.0	AMOCO PRODUCTION
8400365	F-04-072637	4240904103		106		RACHAL #73	WHITE POINT EAST/1850	21.9	UNITED GAS PIPE L
8400364	F-08-072636	4200333453		103		SHAFTER LAKE SAN ANDRES UNIT #322	SHAFTER LAKE (SAN AND	0.4	PHILLIPS PETROLEU
8400362	F-08-072634	4200333450		103		SHAFTER LAKE SAN ANDRES UNIT #323	SHAFTER LAKE (SAN AND	0.4	PHILLIPS PETROLEU
8400453	F-8A-072862	4203330854		103		W ED MURPHY #14	VON ROEDER	90.2	GETTY OIL CO
-MONSANTO COMPANY				RECEIVED:	10/03/83	JA: TX			
8400463	F-08-072897	4247532823		103		HALL #5	RHODA WALKER (CANYON	52.0	NORTHERN NATURAL
-MURPHY W BAXTER				RECEIVED:	10/03/83	JA: TX			
8400456	F-03-072874	4232131272		102-4		HENLEY UNIT #2 WELL #1B	ASHBY (9000 SAND FB-B	365.0	UNITED TEXAS TRAN
8400457	F-03-072875	4232131257		102-4		HENLEY UNIT NO 1 #1A	ASHBY (8850 SAND)	365.0	UNITED TEXAS TRAN
-N D STOVALL & SON & WEST GORDON JR				RECEIVED:	10/03/83	JA: TX			
8400268	F-7B-072087	4244733433		101		ROBERTS UNIT RRC 19648	THROCKMORTON COUNTY R	5.2	GREAT WESTERN GAS
-NUGGET OIL CORP				RECEIVED:	10/03/83	JA: TX			
8400383	F-02-072671	4217531744		102-4		LIESMAN #1 (ID # NOT ASSIGNED)	ANDER (1400' SAND)	137.0	ESPERANZA TRANSMI
-OMEGA ENERGY				RECEIVED:	10/03/83	JA: TX			
8400514	F-10-073003	4206531453		103		WINTERS #3 (05248)	PANHANDLE CARSON COUN	120.0	GETTY OIL CO
-PANSTAR OIL & GAS INC				RECEIVED:	10/03/83	JA: TX			
8400443	F-10-072834	4217931393		103		HILDRETH #1 (ID #05436)	PANHANDLE GRAY	50.0	CABOT PIPELINE CO
8400444	F-10-072835	4217931394		103		HILDRETH #2 (ID #05436)	PANHANDLE GRAY	80.0	CABOT PIPELINE CO
-PEND OREILLE OIL & GAS CO				RECEIVED:	10/03/83	JA: TX			
8400264	F-02-072010	4229700000		102-4		A B GEFFERT GU #1	FANT	1000.0	VALLEY GAS TRANSM
-PETRO-LEWIS CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400272	F-10-072159	4221130910		103		JONES ESTATE #3	FELDMAN (DOUGLAS)	25.0	PHILLIPS PETROLEU
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	10/03/83	JA: TX			
8400502	F-7C-072974	4238332566		103		ROCKER 71 #2	SPRABERRY (TREND AREA	44.9	EL PASO NATURAL G
-PETROLEUM MANAGEMENT INC				RECEIVED:	10/03/83	JA: TX			
8400289	F-04-072203	4224900000		106		F L BLUNDELL #B-1	CAPTAIN LUCEY (4925')	20.0	NUE-WELLS PIPE LI
8400288	F-04-072202	4224900000		106		FRED BLUNDELL C-3	CAPTAIN LUCEY (4800')	5.0	NUE-WELLS PIPE LI
8400286	F-04-072199	4224900000		106		FRED ERCK B-1	CAPTAIN LUCEY (S)	15.0	NUE-WELLS PIPE LI
8400285	F-04-072198	4224900000		106		LEONA DODD #2	CAPTAIN LUCEY (4100')	3.0	NUE-WELLS PIPE LI
8400287	F-04-072201	4224900000		106		W E POPE #4	CAPTAIN LUCEY (VICKSB	10.0	NUE-WELLS PIPE LI
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	10/03/83	JA: TX			
8400509	F-7C-072984	4238301162		108		(01621) STOUT A #2	SPRABERRY (TREND AREA	15.0	NORTHERN NATURAL
8400508	F-7C-072983	4246101190		108		(03913) M PEMBROOK SPRABERRY #5-26	SPRABERRY (TREND AREA	5.0	NORTHERN NATURAL
8400507	F-08-072982	4200304553		106		(14536) TEXAS UNIVERSITY M #2	FULLERTON S (WOLFCAMP	2.0	EL PASO NATURAL G
8400506	F-08-072981	4200333527		103		(19710) EMBAR-B #43	GOLDSMITH M (SAN ANDR	1.0	EL PASO NATURAL G
8400505	F-08-072978	4213508450		108		(21193) GOLDSMITH ANDECTOR #K-02	GOLDSMITH (CLEARFORK)	24.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8400504	F-08-072977	4213502725		108		(21193) GOLDSMITH ANDECTOR 8T-14	GOLDSMITH (CLEARFORK)	0.0	EL PASO NATURAL G
8400459	F-10-072885	4242100000		108		BUELOW #2	TEXAS HUGOTON - DOLOM	0.0	MICHIGAN WISCONSI
8400533	F-10-073057	4235700000		108		FRANK F #2	SPICER - MARMATON	0.0	EL PASO NATURAL G
8400536	F-10-073060	4217900000		108		J M PALMER #5	PANHANDLE GRAY	0.0	
8400535	F-10-073059	4217900000		108		J M PALMER #7	PANHANDLE GRAY	0.0	
8400534	F-10-073058	4217900000		108		J M PALMER #9	PANHANDLE GRAY	0.0	
8400450	F-10-072856	4242100000		108		OQUINN A #1	TEXAS HUGOTON - DOLOM	0.0	MICHIGAN WISCONSI
8400537	F-10-073062	4235700000		108		POPE #2	HORIZON CLEVELAND	0.0	
8400458	F-10-072884	4242100000		108		SECTION #1	TEXAS HUGOTON - DOLOM	0.0	MICHIGAN WISCONSI
-R A W ENERGY CORP				RECEIVED:	10/03/83	JA: TX			
8400323	F-7B-072386	4248333333		102-4		SEALY-SMITH #6	J R F (GRAY SAND LOWE	150.0	UNION TEXAS PETRO
-R C BENNETT CO				RECEIVED:	10/03/83	JA: TX			
8400500	F-08-072971	4213534116		103		SHELL-COWDEN #3	HARPER	11.0	PHILLIPS PETROLEU
-RANDALL LEE				RECEIVED:	10/03/83	JA: TX			
8400300	F-10-072263	4234130995		103		TEALA #4	PANHANDLE-MOORE COUNT	0.0	PHILLIPS PETROLEU
-RANKIN OIL CO				RECEIVED:	10/03/83	JA: TX			
8400381	F-08-072668	4200332917		103		FLY #3	FUHRMAN-MASCHO	4.0	PHILLIPS PETROLEU
8400419	F-08-072748	4200332423		103		MACFARLANE #1	FUHRMAN MASCHO	1.0	PHILLIPS PETROLEU
8400411	F-08-072729	4200333254		103		MACFARLANE #2	FUHRMAN MASCHO	3.0	PHILLIPS PETROLEU
8400380	F-08-072665	4213533704		103		SOUTHWEST #2	HARPER SE	4.0	PHILLIPS PETROLEU
-SCANDRILL INC				RECEIVED:	10/03/83	JA: TX			
8400522	F-09-073030	4223735285		101		MCCONNELL #7	BRYSON EAST	40.1	LONE STAR GAS CO
8400460	F-09-072892	4223735079		101		SANDERS #9	JACK COUNTY REGULAR	36.5	LONE STAR GAS CO
8400445	F-09-072841	4250336447		102-4		SCAN-KING "E" NO 11	WOODWARD RANCH (STRAW	25.6	J H TAYLOR GAS CO
-SHA JAM OPERATING CORP				RECEIVED:	10/03/83	JA: TX			
8400296	F-7B-072257	4214330775		102-4		LEDBETTER #1	LEDBETTER (MARBLE FAL	109.5	LONE STAR GAS CO
-SIDWELL OIL & GAS INC				RECEIVED:	10/03/83	JA: TX			
8400261	F-10-071999	4217900000		108		W P LATHAM #1	PANHANDLE WEST	0.3	NORTHWEST CENTRAL
8400271	F-10-072139	4217900000		108		W P LATHAM #4	PANHANDLE WEST	0.3	NORTHWEST CENTRAL
8400270	F-10-072138	4217900000		108		W P LATHAM #5	W P LATHAM #5	0.3	NORTHWEST CENTRAL
-SNOW OIL CO				RECEIVED:	10/03/83	JA: TX			
8400311	F-7B-072598	4213335047		102-4		HENDERSON #2	SNOW (DUFFER)	0.0	LONE STAR GAS CO
8400317	F-7B-072359	4213335071		102-4		MONROE WALKER #4 (19612)	REB (MARBLE FALLS)	0.0	LONE STAR GAS CO
8400337	F-7B-072457	4213335057		102-4		WALKER-WEST #1	REB (MARBLE FALLS)	40.0	LONE STAR GAS CO
8400316	F-7B-072358	4213335058		102-4		WILLIAMSON HOMEPLACE #1	SNOW (DUFFER)	400.0	LONE STAR GAS CO
-SOUTHLAND ROYALTY CO				RECEIVED:	10/03/83	JA: TX			
8400273	F-08-072164	4243130984		103	107-TF	FLINT ESTATE #6	CONGER PENN	45.0	VALERO TRANSMISSI
8400278	F-08-072177	4243131111		107-TF		FLINT ESTATE #7	CONGER PENN	12.0	VALERO TRANSMISSI
8400279	F-08-072176	4243131110		107-TF		FLINT ESTATE #8	CONGER PENN	13.0	VALERO TRANSMISSI
8400276	F-08-072175	4243131030		107-TF		FLINT ESTATE "A" #1	CONGER PENN	140.0	VALERO TRANSMISSI
8400277	F-08-072174	4243131109		107-TF		FLINT ESTATE "A" #2	CONGER PENN	60.0	VALERO TRANSMISSI
8400275	F-08-072173	4243131239		107-TF		FLINT ESTATE "A" #3	CONGER PENN	27.0	VALERO TRANSMISSI
8400274	F-7C-072166	4210533609		107-TF		UNIVERSITY "13" #1	CUESTA HILL	15.0	WTG EXPLORATION I
-STAHL PETROLEUM CO				RECEIVED:	10/03/83	JA: TX			
8400427	F-10-072761	4242130276		103		CRABTREE #1	TEXAS HUGOTON	0.0	PHILLIPS PETROLEU
8400413	F-10-072732	4248330873		103		WALKER #3	PANHANDLE WHEELER	0.0	PHILLIPS PETROLEU
-STEARNS OPERATING CO				RECEIVED:	10/03/83	JA: TX			
8400373	F-7B-072653	4204933505		103		GLADYS NICHOLS #3 ID #105984	BROWN CO REG (MARBLE	55.0	SIOUX PIPELINE CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	10/03/83	JA: TX			
8400526	F-8A-073042	4250131299		103		BENNETT RANCH UNIT #278	WASSON	0.7	SHELL OIL CO
8400529	F-8A-073046	4221933852		165		CENTRAL LEVELLAND UNIT #187-A	LEVELLAND	4.0	AMOCO PRODUCTION
8400347	F-04-072282	4204700000		108		D J SULLIVAN #11	FLOWELLA	0.0	FLORIDA GAS TRANS
8400374	F-08-072656	4213534102		103		FOSTER-JOHNSON UNIT #1414	FOSTER	4.0	EL PASO HYDROCARB
8400376	F-7B-072658	4213334218		103		M CENTRAL RANGER UNIT #1123	EASTLAND COUNTY REGUL	0.7	
8400375	F-7B-072657	4213334215		103		M CENTRAL RANGER UNIT #525	EASTLAND COUNTY REGUL	1.0	
8400377	F-7B-072659	4213334229		103		M CENTRAL RANGER UNIT #526	EASTLAND COUNTY REGUL	3.0	
8400378	F-7B-072660	4213334217		103		M CENTRAL RANGER UNIT #530	EASTLAND COUNTY REGUL	0.3	
8400531	F-7B-073048	4213334659		103		M W RANGER UNIT #2401	EASTLAND COUNTY REGUL	1.0	SUN GAS TRANSMISS
8400527	F-08-073043	4213534118		103		O B HOLT A/C 2 #26	COWDEN NORTH	4.0	AMARILLO NATURAL
8400348	F-08-072582	4213534117		103		O B HOLT A/C-2 NO 27	COWDEN NORTH	14.0	AMARILLO OIL CO
8400528	F-08-073045	4213500000		108		O B HOLT JR ESTATE #1	COWDEN NORTH	2.0	AMOCO PRODUCTION
8400529	F-7B-072766	4213334471		103		P O HARRIS #1	EASTLAND COUNTY REGUL	1.0	
8400530	F-7B-073047	4213334792		103		RANGER (MCCLESKY SD) FIELD UNIT #25	RANGER	3.0	SUN GAS TRANSMISS
8400106	F-06-072280	4236500000		108		S J NEAL -A- #2L	CARTHAGE	10.0	TENNESSEE GAS PIP
8400528	F-7B-072765	4213334432		103		STATE OF TEXAS "J" #2	EASTLAND COUNTY REGUL	1.0	
-TAMARACK PETROLEUM CO	INC			RECEIVED:	10/03/83	JA: TX			
8400474	F-08-072933	4231732597		101		CATCH BASIN UNIT #1 (RRC #28041)	SPRABERRY (TREND AREA	24.0	PHILLIPS PETROLEU
8400475	F-08-072934	4231732619		103		STANTON TOWNSITE UNIT II #1 #27997	SPRABERRY (TREND AREA	20.0	PHILLIPS PETROLEU
-TEAGUE OPERATING CO				RECEIVED:	10/03/83	JA: TX			
8400366	F-7B-072643	4204933528		102-2		D R & W A HUTCHINS #1	THRIFTY S (CHAPPEL	182.0	EL PASO HYDROCARB
-TEXACO INC				RECEIVED:	10/03/83	JA: TX			
8400298	F-03-072261	4203931886		101		HOFA #50	MANVEL	14.6	TEXACO INC
8400401	F-8A-072706	4216931747		103		I M MCCRARY NCT-1 #2	POST (GLORIETA)	10.5	
8400400	F-8A-072705	4216931763		103		I M MCCRARY NCT-1 #3	POST (GLORIETA)	3.3	
8400402	F-8A-072707	4216931886		103		I M MCCRARY NCT-1 #5	POST (GLORIETA)	5.1	
8400416	F-8A-072703	4216981973		103		I M MCCRARY NCT-1 #7	POST (GLORIETA)	13.1	
8400398	F-8A-072702	4216931885		103		I M MCCRARY NCT-1A #4	POST (GLORIETA)	10.2	
8400399	F-8A-072704	4216981884		103		I M MCCRARY NCT-1A #6	POST (GLORIETA)	12.1	
-TOM BROWN INC				RECEIVED:	10/03/83	JA: TX			
8400302	F-7C-072267	4243532859		103	107-TF	HILL-EDWIN S MAYER JR "KK" #1	SAWYER (CANYON)	73.0	LONE STAR GAS CO
8400301	F-7C-072266	4243532898		103	107-TF	HILL-EDWIN S MAYER JR "W" #1	SAWYER (CANYON)	73.0	LONE STAR GAS CO
-TOM MCGEE CORP				RECEIVED:	10/03/83	JA: TX			
8400335	F-10-072447	4229531275		102-4		KIRSCHMAN #1	DUKE-MAY (TONKAWA)	18.3	DIAMOND SHAMROCK
-TRI-SERVICE DRILLING				RECEIVED:	10/03/83	JA: TX			
8400436	F-7C-072787	4238300000		108		ROCKER "B" 024 #04794	SPRABERRY TREND (SPRA	5.5	PHILLIPS PETROLEU
8400435	F-7C-072786	4238300000		108		ROCKER "B" 025 #04794	SPRABERRY TREND (SPRA	1.1	PHILLIPS PETROLEU
8400434	F-7C-072785	4238300000		108		ROCKER "B" 026 #04794	SPRABERRY TREND (SPRA	11.1	PHILLIPS PETROLEU
8400433	F-7C-072784	4238300000		108		ROCKER "B" 027 #04794	SPRABERRY TREND (SPRA	2.7	PHILLIPS PETROLEU
8400472	F-7C-072930	4238300000		108		ROCKER "B" 033 #04794	SPRABERRY TREND (SPRA	1.8	PHILLIPS PETROLEU
8400471	F-7C-072929	4238300000		108		ROCKER "B" 035 #04794	SPRABERRY TREND (SPRA	0.7	PHILLIPS PETROLEU
-TRITON OIL & GAS CORP				RECEIVED:	10/03/83	JA: TX			
8400308	F-7C-072286	4239932501		102-4		H W BOWEN #1	FRITZESS (GARDNER SD)	118.0	UNION TEXAS PETRO
-UNION HILL DRILLING CO				RECEIVED:	10/03/83	JA: TX			
8400266	F-7B-072085	4236333872		102-4		COX #1 ID # APPLIED FOR	UNION HILL (STRAWN 70	9.0	SOUTHWESTERN GAS
-UNION OIL COMPANY OF	CALIF			RECEIVED:	10/03/83	JA: TX			
8400303	F-03-072272	4270830242		102-4		HIGH ISLAND 55-L #1U	HIGH ISLAND BLOCK 55-	1095.0	HIGH ISLAND PIPE
8400478	F-8A-072917	4230330919		102-2		MCCAULEY #4	EDMISSON (CLEAR FORK)	1.0	
-UPHAM OIL & GAS CO				RECEIVED:	10/03/83	JA: TX			
8400448	F-09-072800	4249700000		103		TURNER #2	BOONSVILLE (BEND CONG	0.0	LONE STAR GAS CO
-USEMCO INC				RECEIVED:	10/03/83	JA: TX			
8400348	F-7B-072557	4236732448		101		KEEL #1	BETHESDA (CADDO)	15.0	LONE STAR GAS CO
-VANDERBILT RESOURCES	CORPORATION			RECEIVED:	10/03/83	JA: TX			
84004154	F-04-072737	4247931971		108		PALAFOX -A- #1	PALAFOX (OLMOS)	950.0	TEJAS GAS CORP
-W B D OIL & GAS CO				RECEIVED:	10/03/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8400451	F-10-072860	4223331501		103		ROSS #4 (ID 005209)	PANHANDLE HUTCHINSON	50.0	DIAMOND SHAMROCK
-W T WAGGONER ESTATE				RECEIVED:	10/03/83	JA: TX			
8400371	F-09-072651	4248731657		103		GAIL THIEBAUD #1 (23434)	WILBARGER COUNTY REGU	10.0	KIBO COMPRESSOR C
-WAGNER & BROWN				RECEIVED:	10/03/83	JA: TX			
8400386	F-08-072681	4243131311		103		GLASS "E" 65-36	CONGER (PENN)	75.9	TEXAS UTILITIES F
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	10/03/83	JA: TX			
8400497	F-08-072967	4210300769		108		C-BAR SAN ANDRES UNIT #C-7	C-BAR (SAN ANDRES)	0.6	EL PASO NATURAL G
8400496	F-08-072966	4210331155		108		C-BAR SAN ANDRES UNIT #I-13	C-BAR (SAN ANDRES)	0.5	EL PASO NATURAL G
8400499	F-08-072969	4210300470		108		E M SNODGRASS #2	MADDELL	0.5	EL PASO NATURAL G
8400370	F-08-072650	4210333162		103		J B TUBB "B" #60	SAND HILLS (MCKNIGHT)	0.1	EL PASO NATURAL G
8400493	F-08-072962	4210300856		108		J B TUBB "B" #9 TR A	SAND HILLS (TUBB)	8.2	EL PASO NATURAL G
8400488	F-08-072957	4210300872		108		M B MCKNIGHT #16	SAND HILLS (MCKNIGHT)	6.5	EL PASO NATURAL G
8400494	F-08-072964	4210300864		108		M B MCKNIGHT #75	SAND HILLS (MCKNIGHT)	4.0	EL PASO NATURAL G
8400490	F-08-072959	4210300180		108		M F HENDERSON #98	C-BAR (SAN ANDRES)	0.9	EL PASO NATURAL G
8400489	F-08-072958	4210310036		108		P J LEA #44	LEA (SAN ANDRES)	2.8	EL PASO NATURAL G
8400498	F-08-072968	4210332513		108		UNIVERSITY P #9	DUNE	0.5	EL PASO NATURAL G
8400491	F-08-072960	4210331906		108		W A ESTES #106	SAND HILLS (WEST)	0.4	EL PASO NATURAL G
8400495	F-08-072965	4210300789		108		W A ESTES #11	SAND HILLS (WEST)	0.3	EL PASO NATURAL G
-WES-MOR DRILLING INC				RECEIVED:	10/03/83	JA: TX			
8400466	F-09-072906	4223734058		103		ELSIE RIDER "A" #4 #106241	JACK COUNTY REGULAR/G	63.5	LONE STAR GAS CO
-WILLIAMS EXPLORATION COMPANY				RECEIVED:	10/03/83	JA: TX			
8400315	F-03-072352	4219931906		103		CHOATE BLOCK 4 LOT 3 #8	NEW BATSON FIELD	4.0	MATADOR PIPELINE
8400438	F-03-072797	4219931923		103		CHOATE BLOCK 4 LOT 3 #9	NEW BATSON	5.0	MATADOR PIPELINE
-WILSON ENERGY INC				RECEIVED:	10/03/83	JA: TX			
8400422	F-08-072751	4217331364		103		CLARK #1	SPRABERRY (TREND AREA	8.0	PHILLIPS PETROLEU
8400372	F-08-072652	4222732906		103		KENTEX #1	SPRABERRY (TREND AREA	8.0	PHILLIPS PETROLEU
8400421	F-08-072750	4231732658		103		NAIL "O" #1	SPRABERRY (TREND AREA	8.0	NORTHERN GAS PROD
-WOODS PETROLEUM CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400439	F-8A-072799	4207931705		102-4		RJR RANCH #806	BONANZA (SAN ANDRES)	13.0	WARREN PETROLEUM
-WORLDWIDE ENERGY CORPORATION				RECEIVED:	10/03/83	JA: TX			
8400430	F-7C-072769	4241331056		103		UNIVERSITY 57-5	UNIVERSITY 54 (CANYON	25.5	
-WY-VEL CORP				RECEIVED:	10/03/83	JA: TX			
8400409	F-10-072719	4217931310		103		KERSEY (05256) #4	PANHANDLE	133.0	GETTY OIL CO

[FR Doc. 83-29560 Filed 10-31-83; 8:45 am]

BILLING CODE 6717-01-C

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federal register

Tuesday
November 1, 1983

Part V

Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment, and Instruction of Inmates; Religious Diets; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 548

Control, Custody, Care, Treatment, and Instruction of Inmates; Religious Diets

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is publishing an amendment to its final rule on religious diets. The amended rule language expands the limited scope of the previous rule. The Bureau's new rule provides an inmate who wishes to observe religious dietary laws with the opportunity to receive a diet which meets or exceeds recommended daily allowances and which complies with religious dietary laws to the extent practicable, within the constraints of budget limitations and the security and orderly running of the institution and the Bureau of Prisons. This amendment was originally proposed as a revision of Part 547, Subpart B, Religious Diet Requirements. The Bureau has now determined that religious diets is more appropriately included within Part 548, Subpart B, Religious Beliefs and Practices of Committed Offenders. Accordingly, in finalizing the present amendment, the Bureau is removing its existing rule (Part 547, Subpart B) on religious diet requirements; it reappears as part of the rule on religious beliefs and practices of committed offenders.

EFFECTIVE DATE: December 1, 1983.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street N.W., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724–3062.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons is publishing an amended final rule on religious diets. This subject was published as a proposed rule in the **Federal Register** June 1, 1983 (at 48 FR 24626 et seq.).

The amended rule is necessitated by the variety of groups and subgroups within the Bureau of Prisons, each with its own religious dietary requirements. One recent survey determined that there were 29 such distinct groups or subgroups within Bureau institutions. The Bureau of Prison's existing rule on religious diet requirements focused primarily on a Kosher program and not sufficiently on other religious dietary requirements. To rectify this situation, the Bureau of Prisons published a proposed amendment to its rule on religious diet requirements. The amendment provided that inmates who wish to observe religious dietary laws would receive a diet which meets or exceeds recommended daily allowances established by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, and which complies with religious dietary laws to the extent practicable within the constraints of budget limitations and the security and orderly running of the institution.

Interested persons were invited to submit comments on the proposed amendment. One comment was received, from an inmate at the Federal Correctional Institution, Lexington. The commenter expressed concern that opening the Kosher kitchen to all would make the kitchen non-Kosher and "would effectively destroy the religius (sic) rights we have," and its main means of group solidarity. In proposing its revised rule, the Bureau was not intending to destroy the inmate's religious rights, nor do we think this is the effect. The purpose of the rule is to assure that all inmates with dietary requirements are offered a similar opportunity to receive a diet consistent with their religious beliefs.

The Bureau is now initiating a pilot program in which inmates who wish to observe religious dietary requirements may take their meals from a separate menu. The pilot program will last 3–6 months. Basic elements of this program are discussed in the appendix to this preamble.

At this time, the Bureau makes final its amended rule on religious diet requirements. There are only two minor changes in the rule language. The final rule deletes refcrence to the main food line, because this is implementing language. Also, the final rule adds to the constraints to be considered those of the Bureau of Prisons as a whole.

Also, the Bureau now redesignates amended § 547.10 as new § 548.12(a). This consolidates the rule on religious diets with the more comprehensive rule on religious beliefs and practices of committed offenders. The existing § 548.12(a) pertained to religious diets and cross-referenced Part 547, Subpart B, Religious Diet Requirements. Based on this redesignation, the final rule on religious diet requirements contained in Part 547, Subpart B is removed.

The Bureau recognizes that some persons may not have considered the proposed amendment to religious diet requirements in the light of the rule on religious beliefs and practices. In recognition of this fact, and because we plan to publish in the **Federal Register**, within the near future, a proposed revision to the rule on religious beliefs and practices, the Bureau will re-open § 548.12 for public comment at the time these revisions are published.

By internal staff instructions, the Bureau is implementing the pilot project described in the appendix, and continuing existing practices, with some modifications, in its other four regions. The use of the pilot project will allow the Bureau to test a common fare program. If the pilot project appears a realistic approach to accommodating inmates whose religious dietary needs cannot be met on the main serving line, the Bureau will publish the common fare program as a proposed rule. Public comment will be invited prior to deciding whether to implement the program system-wide.

The Bureau of Prisons has determined that this rule on religious diet is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 548

Prisoners.

Appendix

I. Common Fare Menu

a. A 14-day common fare cycle menu will be used. This menu has been determined to be nutrionally adequate. By using the specific portion sizes indicated, nutritional requirements will be met.

b. *No changes may be made* in the menu during the pilot project without the approval of both the South Central Regional Director and the Central Office Food Service Administrator. This is necessary to assure religious and nutritional adequacy and to provide a constant base for research data and documentation.

c. There will be no separate food kitchen. However, due to the nature of foods used in the common fare menu, special handling and service are required.

d. No pork, pork derivatives, or non-Kosher meat may be used at any time on the common fare menu.

e. Any equipment used in regular food service is not to be used in the common fare program.

f. Cooking of any food items is not provided on the common fare program.

g. All foods purchased (except such foods as fresh fruits and vegetables) shall be fully prepared, ready to use, and bear certification by a recognized Orthodox Standard, such as "Ⓤ", "Ⓚ", "Ⓚ" and "CRC". Halal foods which do not violate the above Orthodox standards may be used.

II. Common Fare Program

a. Upon establishing a common fare program, the Warden shall discontinue any other existing religious dietary line or program, other than the use of an asterisk placed opposite those items containing pork or pork derivatives on main line or other diets.

b. Food served on this program shall be prepared and handled completely separate from the regular food menu. A pre-plating progam may be instituted.

c. All food items will be served or pre-plated from disposable inserts. Disposable plates, cups, utensils, and other items will be used.

d. An urn of hot water will be provided for instant coffee, tea, and soups. The urn may be one that is used by all inmates in the institution.

III. Application for or Removal From the Common Fare Program

a. The Associate Warden (O) or designee may approve an inmate to eat from the common fare menu. An inmate who wishes to eat from the common fare menu shall sign a statement to that effect with the stipulation that, if the inmate does not adhere to the common fare menu, the inmate may be removed from the program. An inmate who selects food from the common fare menu *may not* also select food from the regular food line. The inmate's signed statement requesting to eat from the common fare menu shall be provided to the local Food Administrator. No religious affiliation is necessary to qualify for the common fare program.

b. Upon approving an inmate to eat from the common fare menu, a common fare diet card is initialed by the Associate Warden (O) and assigned a number. After the inmate and the Associate Warden (O) sign this card, it is to be laminated and given to the inmate.

c. An inmate shall ordinarily be approved to eat from the common fare menu within three days of receipt of the inmate's written request. The Food Service Administrator is to ensure that the Associate Warden (O) or designee receives a weekly common fare diet record of inmates approved to use the common fare program, and a record of that inmate's actual participation.

d. To assure the integrity of the common fare program, inmates assigned to food service to prepare and serve the common fare menu will receive appropriate training and supervision.

e. An inmate who wishes to withdraw from the common fare program and to eat from the main line must notify the Associate Warden (O) or designee in writing of this intent. Upon presentation of this statement, the inmate will be removed from the common fare program and will be approved to select food from the regular food line or, where appropriate, from the medical diet line, as soon as practicable (ordinarily within three work days of receipt of the inmate's request).

f. An inmate removed, or who elects to withdraw, from the common fare program may request readmission to this program after 30 days. An inmate's participation in the common fare program is not affected by temporary placement on a medically prescribed diet, so that the inmate may resume common fare upon termination of the medical diet.

IV. Inmates in Special Housing/ Hospital

Inmates in segregation, administrative detention, or the hospital will be provided a common fare diet, if already on the common fare program record, or subject to application and approval as provided in section III above.

VI. Assessment/Research on the Pilot Program

A research project will cover specific aspects of the common fare pilot program to determine the efficacy of this program.

VII. Miscellaneous

a. The Commissary shall stock for sale to inmates several food items meeting the religious certification described in section I(g) of this appendix.

b. Questions regarding the common fare program shall be directed to either the Regional Food Service Administrator or to the Regional Counsel.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR, Chapter V is amended as set forth below.

Norman A. Carlson,

Director, Bureau of Prisons.

Amend Subchapter C, Institutional management of 28 CFR, Chapter V as follows:

PART 547—[AMENDED]

§§ 547.10–547.13 (Subpart B) [Removed]

1. In Subchapter C, remove Part 547, Subpart B §§ 547.10, 547.11, 547.12 and 547.13.

PART 548—RELIGIOUS PROGRAMS

Amend Part 548 as follows:

Subpart B—Religious Beliefs and Practices of Committed Offenders

1. The authority citation for Part 548, Subpart B is as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 42 U.S.C. 1996; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. Revise § 548.12(a) to read as follows:

§ 548.12 Diet.

(a) An inmate who wishes to observe religious dietary laws will be provided a diet which meets or exceeds recommended daily allowances established by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, and which complies with religious dietary laws to the extent practicable within the constraints of budget limitations and the security and orderly running of the institution and the Bureau of Prisons.

* * * * *

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Part VI

Environmental Protection Agency

Regulation of Fuels and Fuel Additives; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMF-FRL 2385-5]

Regulation of Fuels and Fuel Additives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On February 9, 1983, the U.S. Court of Appeals for the District of Columbia Circuit issued an order vacating a portion of the definition of small refinery promulgated on October 29, 1982, by EPA as part of revised gasoline lead content regulations. 47 FR 49322. On April 22, 1983, the Court issued an opinion fully explaining the rationale for its order. In today's action, EPA is amending the small refinery definition so as to make it consistent with the Court's order. 40 CFR 80.2(p)(3) is therefore amended to require only that a refinery otherwise meeting the definition of "small refinery" not be currently owned or controlled by a refiner with total gasoline production greater than 70,000 barrels per day (bpd). The additional requirement that a small refinery may not have been owned by such a refiner at any time since July 1981 has been deleted.

DATE: This rule is effective November 1, 1983.

ADDRESS: Information relevant to the gasoline lead content regulations is contained in Docket No. A–81–36, which may be reviewed at the Central Docket Section (LE–131), EPA, 401 M Street, S.W., West Tower Lobby, Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:30 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Robert E. Kenney, Senior Staff Attorney, Field Operations and Support Division (EN–397), EPA, 401 M Street, S.W., Washington, D.C. 20460. Telephone (202) 382–2659.

SUPPLEMENTARY INFORMATION: On October 29, 1982, EPA promulgated revised regulations governing the allowable lead content of leaded gasoline. 47 FR 49322. These regulations included a revised four-part definition of a small refinery. 40 CFR 80.2(p). Facilities qualifying as small refineries were subject to less stringent lead content standards than other refineries through June 30, 1983.

Petitions to review the regulations were filed pursuant to § 307 of the Clean Air Act, 42 U.S.C. 7607, by the Small Refiner Lead Phase-Down Task Force (SRTF), Plateau Incorporated, and Simmons Oil Company. On January 26, 1983, the U.S. Court of Appeals for the District of Columbia Circuit issued an order concerning the challenges to the regulations presented by SRTF and Plateau. The Court upheld all parts of the challenged regulations except that which established an interim standard of 1.90 grams of lead per gallon of leaded gasoline (gplg) for small refineries for the period November 1, 1982, to June 30, 1983. In response to the Court's order vacating the 1.90 gplg interim standard, EPA on February 1, 1983, promulgated new interim standards of 2.15 and 2.65 grams of lead per gallon of total (leaded and unleaded) gasoline produced (gptg). 48 FR 5724 (February 8, 1983). The February 8 **Federal Register** notice contains a discussion of the Court's January 26, 1983, order and an explanation of the Agency's rationale for the new interim standards.[1]

On February 9, 1983, the Court issued an order in response to Simmons Oil's petition, which challenged the portion of the small refinery definition that precluded a facility from qualifying as a small refinery if, "during any period of ownership or control since July 1, 1981," it was owned or controlled by a refiner with total gasoline production greater than 70,000 bpd. 40 CFR 80.2(p)(3). Simmons did not challenge the portion of § 80.2(p)(3) which precludes qualification as a small refinery by facilities currently owned by such a refiner.

The Court found that the addition of a past ownership requirement was procedurally flawed due to a lack of notice, and vacated this criterion in § 80.2(p)(3). The Court left in force the current ownership criterion in that provision. On April 22, 1983, the Court issued a full opinion explaining more fully the underlying reasoning for its February 9 order concerning the Simmons petition, as well as for its January 26 order dealing with the other petitions.[2]

In this notice, EPA is taking final action to revise § 80.2(p)(3) so as to be consistent with the Court's order. Although the Agency continues to believe that facilities with the demonstrated capability to meet the large refinery standard of 1.10 gplg should have been subject to that standard since November 1, 1982, the limited amount of time between the date of the court's decision and the expiration of the interim small refinery standards on June 30, 1983, and the very small number of facilities likely to have been affected would have made any rulemaking to correct the procedural error and to repromulgate the vacated regulation a futile and wasteful use of Agency resources.

The final action described in this notice is made under the authority of sections 211 and 301 of the Clean Air Act and is nationally applicable. Under section 307(b)(1) of the Clean Air Act, judicial review may be sought only in the U.S. Court of Appeals for the District of Columbia Circuit. Petitions for judicial review must be filed on or before January 3, 1984.

EPA finds that there is "good cause" under the Administrative Procedure Act, 5 U.S.C. 553 (b) and (d), to promulgate this rule without prior notice and public comment, and to make this rule effective immediately. Prior notice and public comment are unnecessary because this action merely codifies the Court's action in vacating a regulatory provision. Further support for making this rule effective immediately exists because this action "relieves a restriction" contained in the previous regulations.

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires the preparation of a regulatory flexibility analysis for any final rule unless the Administrator certifies that the rule will not have a significant impact on a substantial number of small entities. Since the Agency is presently aware of only three facilities which may be affected by this rule, I certify that this rule will not have a significant impact on a substantial number of small entities.

EPA has determined that this rule is not a major rule as defined in Executive Order 12291. Therefore, a regulatory impact analysis has not been prepared. This action was submitted to the Office of Management and Budget (OMB) for review under E.O. 12291. Any comments from OMB and any EPA responses are available for public inspection at Docket A–81–36, Central Docket Section, U.S. EPA, West Tower Lobby, 401 M Street, SW., Washington, D.C. 20460.

List of Subjects in 40 CFR Part 80

Fuel additives, Gasoline, Motor vehicle pollution, Penalties.

(Secs. 211 and 301(a), Clean Air Act, as amended (42 U.S.C. 7545 and 7601(a))

[1] On March 31, 1983, the Agency announced its enforcement policy concerning the interim standards and its interpretation of the inter-refinery averaging provision in 40 CFR 80.20(d)(1)(iii) in light of different compliance periods for large and small refineries. 48 FR 13428.

[2] *Small Refiner Lead Phase-Down Task Force v U.S. EPA*, 705 F.2d 506 (D.C. Cir. 1983).

Dated: October 21, 1983.

William D. Ruckleshaus,

Administrator.

PART 80—[AMENDED]

For the reasons set forth in the preamble, § 80.2 is amended by revising paragraph (p)(3) to read as follows:

§ 80.2 Definitions.

* * * * *

(p) * * *

(3) Which is not owned or controlled by any refiner that has a total combined average daily production of greater than 70,000 barrels of gasoline during any compliance period since July 1, 1981; and

* * * * *

[FR Doc. 83-29574 Filed 10-31-83; 8:45 am]

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Part VII

Environmental Protection Agency

Polychlorinated Biphenyls (PCBs); Manufacturing, Processing and Distribution in Commerce Exemptions; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS-66006; TSH FRL 2389-7]

Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, and Distribution in Commerce Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule addresses each of the 172 pending individual and class petitions for exemption from the prohibition against the manufacture, processing, and distribution in commerce of PCBs. This proposed rule identifies 49 petitions which EPA proposes to grant, 73 petitions which EPA proposes to deny, and 50 petitions on which EPA is deferring action. EPA solicits comments on these proposed actions.

DATE: Informal hearings, if requested, will be held in Washington, D.C., Chicago, and San Francisco beginning approximately January 16, 1984. The exact times and locations of the hearings will be available by calling EPA's TSCA Assistance Office. Comments on this proposed rule and requests to participate in the informal hearing must be submitted by January 3, 1984. Petitioners, whose exemption petitions EPA has proposed to deny, may submit additional information by this date. EPA will review this information and reconsider the proposed disposition of these petitions, prior to issuing a final rule. Reply comments made in response to issues raised at each hearing must be submitted no later than one week after the date of that hearing.

See Supplementary Information for EPA's procedures for conducting rulemaking on these exemption petitions.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460. Comments should include the docket number OPTS-66008.

Comments received on this proposed rule will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Confidential Business Information

EPA encoruages commentors to submit nonconfidential information. However, commentors who believe they can state their position only by using confidential information may submit it in accordance with the requirements of 40 CFR 750.16 (for manufacturing exemptions) or 40 CFR 750.36 (for processing and distribution in commerce exemptions). Commentors who submit confidential information must, at the same time, submit a nonconfidential summary of the information claimed to be confidential for inclusion in the public record. Please mark confidential information "CONFIDENTIAL" and send it via certified mail to the Document Control Officer (see address listed under "**ADDRESS**"). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. Information not marked "CONFIDENTIAL" will be placed in the public record and may be disclosed publicly by EPA without prior notice.

II. Comments and Rulemaking Procedures

EPA will conduct all hearings in accordance with EPA's "Procedures for Conducting Rulemaking Under Section 6 of the Toxic Substances Control Act" (40 CFR Part 750). Commentors who want to participate in the informal hearings must write to EPA's TSCA Assistance Office (see address listed under "**FOR FURTHER INFORMATION CONTACT**") and indicate whether they want to participate in Washington, D.C., Chicago, or San Francisco. All requests to participate must include an outline of the topics to be addressed, the amount of time requested for the opening statement, and the names of participants. The informal hearings are meant to provide an opportunity for commentors to presaent additional information or to discuss new issues, not to repeat information already presented in written comments.

III. Recodification of 40 CFR Part 761

EPA's PCB regulations are published in the Code of Federal Regulations at 40 CFR Part 761. These regulations were recodified in the **Federal Registur** of May 6, 1982 (47 FR 19526) and published in the 1982 edition of the Code of Federal Regulations. This proposed rule uses the recodified section numbers.

IV. Background

A. Statutory Authority

Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e), prohibits the use of PCBs after January 1, 1978, prohibits the manufacture of PCBs after January 1, 1979, and prohibits the processing and distribution in commerce of PCBs after July 1, 1979.

Section 6(e)(2) of TSCA creates two exceptions under which EPA may, by rule, allow the use of PCBs to continue. First, EPA may find that the use of PCBs is in a "totally enclosed" manner. Section 6(e)(2)(C) of TSCA defines a "totally enclosed" manner as "any manner which will ensure that any exposure of human beings or the environment to a polychlorinated biphenyl will be insignificant as determined by the Administrator by rule." Second, EPA may authorize the use of PCBs in a manner other than in a "totally enclosed" manner, if the Agency finds that such activities "will not present an unreasonable risk of injury to health or the environment."

Section 6(e)(3)(B) of TSCA permits the Administrator to grant exemptions from the ban on the manufacture, processing, and distribution in commerce of PCBs. Under section 6(e)(3)(B) of TSCA, any person may petition the Administrator for an exemption from the prohibitions against the manufacture, processing, and distribution in commerce of PCBs.The Administrator may by rule grant such an exemption if the Administrator finds that "(i) an unreasonable risk of injury to health or environment would not result, and (ii) good faith efforts have made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl." EPA may set terms and conditions for an exemption and may grant an exemption for not more than one year.

B. History of PCB Rulemaking

1. *PCB Ban Rule.* EPA issued a rule, which was published in the **Federal Register** of May 31, 1979 (44 FR 31514), to modify the general ban on the manufacture, processing, distribution in commerce, and use of PCBs. This rule is referred to as the PCB Ban Rule and is listed in the Code of Federal Regulations under 40 CFR Part 761. Among other things, the PCB Ban Rule (1) prohibited the manufacture, import, processing,

distribution in commerce, and export of PCBs, unless an exemption was granted: (2) generally exclude from regulation material containing PCBs in concentrations of less than 50 parts per million (ppm); (3) designated all intact, nonleaking capacitors, electromagnets, and transformers other than railroad transformers as "totally enclosed," thus permitting their use without specific authorization or conditions; and (4) authorized 11 non-totally enclosed uses of PCBs, based on consideration of the health and environmental effects of PCB,s the exposure to PCBs resulting from those uses, the availability of substitutes for the PCB's and the economic impact of restricting those uses. Among the 11 authorized non-totally enclosed uses relevant to this rulemaking are the use of PCBs in servicing transformers (40 CFR 761.30(a)), the use of small quantities of PCBs for research and development until July 1, 1984 (40 CFR 761.30(j)), and the use of PCBs as a mounting medium in microscopy until July 1, 1984 (40 CFR 761.30(k)).

2. *EDF v. EPA.* The Environmental Defense Fund (EDF) obtained judicial review of the PCBs Ban Rule in the U.S. Court of Appeals for the District of Columbia Circuit. *Environmental Defense Fund* v. *Environmental Protection Agency,* 636 F. 1267 (D.C. Cir. 1980). A number of issues decided in the court's opinion, issued on October 30, 1980, are relevant to this rulemaking proceeding. The court invalidated EPA's 50 ppm regulatory exclusion and EPA's determination that the use of PCBs in electrical equipment was "totally enclosed." The court remanded these issues to EPA for further action consistent with its opinion. The court upheld all PCB use authorizations. Other matters discussed in this proposed rule were not subject to the *EDF* v. *EPA* lawsuit.

The effect of this decision would have been to make the manufacture, processing, or distribution in commerce of products containing any concentration of PCBs a violation of section 6(e) of TSCA. The decision also would have had the effect of making the use of all electrical equipment, other than railroad transformers, containing any concentration of PCBs a violation of section 6(e) of TSCA. An immediate ban of these uses not only would have disrupted electrical service but also would have caused severe economic hardship for the public and United States industry. Therefore, EPA, EDF, and certain industry intervenors asked the court to stay its mandate.

The court granted the stay and imposed restrictions on EPA in two separate orders. On February 12, 1981, the court issued an order staying its mandate pending further rulemaking. The text of the court's order is published in the **Federal Register** of March 10, 1981 (46 FR 16090). The court's order allowed the totally enclosed classification of transformers, capacitors, and electromagnets to remain in effect for the duration of the stay. Therefore, persons who used PCB-containing transformers, capacitors, and electromagnets were premitted to use this electrical equipment during the stay of the court's mandate, provided that they complied with the PCB Ban Rule and the Iterim Measures Program detailed in the Court's order. On April 13, 1981, the court stayed its mandate with respect to activities involving PCBs in concentrations of less than 50 ppm pending further rulemaking. The text of the court's order is published in the **Federal Register** of May 20, 1981 (46 FR 27615). Thus, the 50 ppm regulatory cutoff remains in effect for the duration of the stay, and persons who manufacture, process, distribute in commerce, or use PCBs in concentrations of less than 50 ppm may continue these activities during the stay.

3. *Court Ordered Rulemaking.* In response to the court order, EPA has issued two rules and is now working on a third rule.

First, EPA authorized the totally enclosed use of PCBs in certain electrical equipment. This rule, the Electrical Equipment Rule, was published in the **Federal Register** of August 25, 1982 (47 FR 37342). Among other things, this rule authorizes the continued use of PCB small capacitors (40 CFR 761.30(1)); The use of PCB large capacitors until 1988 or longer if certain conditions are met (40 CFR 761.30(1)); and the use of PCB transformers and PCB-contaminated transformers, if certain conditions are met (40 CFR 761.30(a)).

Second, EPA issued a rule excluding from regulation the manufacture, processing, distribution in commerce, and use of PCBs created in closed manufacturing processes and controlled waste manufacturing processes. EPA considers these PCBs to present very low risks. This rule, the Closed and Controlled Waste Manufacturing Processes Rule, was published in the **Federal Register** of October 21, 1982 (47 FR 46980). This rule permits the manufacture, processing, and distribution in commerce of PCBs without an exemption, provided that (1) the PCBs are released only in concentrations below the practical limits of quantitation for PCBs in air emission, water effluents, products, and process wastes and (2) the wastes from these manufacturing processes are controlled and disposed of in accordance with the methods for disposal specified in the rule.

Third, EPA has begun rulemaking with respect to the manufacture, processing, distribution in commerce, and use of low concentrations of PCBs in other than closed manufacturing processes and processes that produce only controlled wastes. For convenience, EPA refers to this rulemaking as the Uncontrolled PCB Rule. EPA reported to the court that it will propose the rule by December 1, 1983, and issue the final rule by July 1, 1984.

C. History of the PCB Exemptions Process

1. *Background.* While EPA was conducting rulemaking to control PCBs, EPA also was addressing the issue of exemptions from the prohibitions against the manufacture, processing, and distribution in commerce of PCBs. To provide a better understanding of EPA's actions, EPA is providing a brief history of the PCB exemptions process.

EPA's Interim Procedural Rules for PCB Manufacturing Exemptions, 40 CFR 750.10 *et seq.*, were published in the **Federal Register** of November 1, 1978 (43 FR 50905). These rules describe the required content of manufacturing exemption petitions and the procedures EPA will follow in rulemaking on these petitions.

In the **Federal Register** of January 2, 1979 (44 FR 108), EPA announced that petitioners who has previously filed manufacturing exemption petitions could continue the manufacturing or importation activity for which they sought exemption until EPA acted on their petitions.

EPA's Interim Procedural Rules for PCB Processing and Distribution in Commerce Exemptions, 40 CFR 750.30 *et seq.*, were published in the **Federal Register** of May 31, 1979 (44 FR 31558). These rules describe the required content of processing and distribution in commerce exemption petitions and the procedure EPA will follow in rulemaking on these petitions.

EPA's proposed rule for PCB manufacturing exemptions, which addressed the exemption petitions received at that time, was published in the **Federal Register** of May 31, 1979 (44 FR 41564). EPA held a hearing and received comments on that proposed rule. EPA included additional manufacturing exemption petitions and

extended the reply comment period on the proposed rule in a notice published in the **Federal Register** of July 20, 1979 (44 FR 42727).

In the **Federal Register** of March 5, 1980 (45 FR 14247), EPA clarified its previously announced policy for acceptance of late PCB exemption petitions published in the **Federal Register** of January 2, 1979 (44 FR 108) and May 31, 1979 (44 FR 31514). In that notice, EPA stated that it would require persons filing late exemption petitions to show "good cause" why the petition is being submitted after the filing deadlines of December 1, 1978 (for manufacturing exemptions) or July 1, 1979 (for processing and distribution in commerce exemptions). If a petitioner shows "good cause," EPA permits it to continue the activities for which it seeks exemption until EPA acts on the exemption petition, as long as the activities were underway before January 1, 1979 (for manufacturing) and July 1, 1979 (for processing and distribution in commerce).

In the **Federal Register** of May 1, 1980 (45 FR 29115), EPA reiterated the policy stated in 40 CFR 761–20(b) by closing the border to the export and import of PCBs for disposal after that date. In addition, EPA affirmed that exports of PCBs for use would be permitted only if EPA granted an exemption to do so pursuant to section 6(e)(3)(B) of TSCA. EPA set forth criteria it would consider in reviewing a petition for exemption to export PCBs. A petitioner must show that the nation to which export is destined has proper PCB disposal facilities and that the PCBs will be used for a use that is authorized in the United States. EPA also explained that, in the context of exports, the requirement to show good faith efforts to find a substitutes puts the burden on the petitioner to show that there are no substitute for the PCBs, produced either by the petitioner or a competitor, and that the petitioner proves that it has expended substantial amounts of time and money searching for a substitute.

2. *Renewal of PCB Exemption Petitions.* As EPA acted to comply with the court ordered rulemaking, it became necessary to resolve a number of issues involving the outstanding exemption petitions. In June 1982 EPA sent a letter to each of approximately 400 petitioners who had previously requested an exmption to manufacture, process, or distribute in commerce PCBs. Since the information in many of the petitions was old, EPA asked these petitioners to renew their petitions, if necessary, by submitting updated information. EPA received and accepted 172 exemption petitions (including 164 renewed and eight newly-filed petitions), which EPA evaluated according to the requirements of TSCA and the Interim Procedural Rules for PCB Exemptions. The remainder of the petitions were not renewed, or dismissed by EPA because the activities for which exemption was requested did not require an exemption.

Among the 172 petitions that EPA received and accepted are 50 exemption petitions to manufacture, process, or distribute in commerce substances or mixtures inadvertently contaminated with 50 ppm or greater PCBs. These petitions are listed under unit VII.J. Depending on the definition of PCBs and the method of calculating PCB concentration levels in the Uncontrolled PCB Rule, these petitioners may be excluded from the PCB Ban Rule and would not need exemptions. EPA believes that any proposal now would be premature and, therefore, is deferring action on these petitions until it proposes the Uncontrolled PCB Rule in December 1983. In this rule EPA is proposing to act on the remainder of the petitions that will not be affected by the Uncontrolled PCB Rule.

D. Effect of This Rule on Previous Policy Statements

Once EPA has acted to grant or deny an exemption petiton, EPA's policy of permitting activities to continue will become unnecessary. EPA will therefore revoke that policy, which was published in the **Federal Register** of January 2, 1979 (44 FR 108) and March 5, 1980 (45 FR 14247), as of the effective date of the final rule in this rulemaking. This means that a petitioner, whose exemption request is granted, will be allowed to manufacture, process, or distribute in commerce PCBs only for the period of time granted in this rule. When the exemption expires, a petitioner will not be permitted to engage in such activities, even if it renews its exemption request, until EPA has acted on that request.

EPA will continue its policy of requiring petitioners who file late exemption petitions to show "good cause" why EPA should accept the petition, as described in the notice published in the **Federal Register** of March 5, 1980 (45 FR 14247).

V. Unreasonable Risk Determination

Section 6(e)(3)(B)(i) of TSCA requires a petitioner to demonstrate that granting an exemption would not result in an unreasonable risk of injury to health or the environement. In this rule EPA proposes to grant some exemption petitions to manufacture, process, and distribute in commerce PCBs and to deny others. EPA's unreasonable risk findings for each exemption petition are discussed in later units of this proposed rule.

To determine whether a risk is unreasonable, EPA balances the probability that harm will occur against the benefits to society from granting or denying each exemption. Specifically, EPA considers the following factors:

1. The effects of PCBs on human health and the environment, including the magnitude of PCB exposure to humans and the environment.

2. The benefits to society of granting an exemption and the reasonably ascertainable costs to petitioner of denying an exemption petition.

These are the same factors that EPA must consider in deciding whether a chemical presents an unreasonable risk under sections 6(a) and 6(e) of TSCA.

A. Effects on Human Health and the Environment

In deciding whether to grant an exemption, EPA considered the effects of PCBs on human health and the environment, including the magnitude of PCB exposure to humans and the environment. The effects of PCBs were described in various documents that are part of the rulemaking record for the May 31, 1979, PCB Ban Rule. EPA evaluated this information, new information submitted to the Agency, and other recent literature. The results are presented in EPA's "Response to Comments on Health Effects of PCBs," which is included in the rulemaking record and summarized below. Copies of this document are available through EPA's TSCA Assistance Office (see address listed under "**FOR FURTHER INFORMATION CONTACT**").

1. *Health effects.* EPA has determined that PCBs are toxic and persistent. PCBs can enter the body through the lungs, gastrointestinal tract, and skin, circulate throughout the body, and be stored in the fatty tissue.

In some cases chloracne may occur in humans exposed to PCBs. Chloracne is painful, disfiguring, and may require a long time before the symptoms disappear. Although the effects of chloracne are reversible, EPA considers these effect to be significant.

In addition, EPA finds that PCBs may cause reproductive effects, developmental toxicity, and oncogenicity in humans exposed to PCBs. Available data show that some PCBs have the ability to alter reproductive processes in mammalian species, sometimes even at doses that do not cause other signs of toxicity. Animal data and limited available human data indicate that prenatal

exposure to PCBs can result in various degrees of developmentally toxic effects. Postnatal effects have been demonstrated on immature animals, following exposures to PCBs prenatally and via breast milk.

Available animal studies indicate an oncogenic potential, the degree of which would depend on exposure. Available epidemiological data are not adequate to confirm or negate oncogenic potential in humans at this time. Further epidemiological research is needed to correlate human and animal data, but EPA finds no evidence to suggest that the animal data would not predict an oncogenic potential in humans.

Available data indicate little or no mutagenic activity from PCBs. EPA believes, however, that more information is needed to draw a conclusion on the possibility of mutagenic effects from PCBs.

2. *Environmental effects.* Certain PCB congeners are among the most stable chemicals known and decompose very slowly once they are released into the environment. They remain in the environment and are taken up and stored in the fatty tissue of organisms. EPA has concluded that PCBs can be concentrated in freshwater and marine organisms. The transfer of PCBs up the food chain from phytoplankton to invertebrates, fish, and mammals can result ultimately in human exposure through consumption of PCB-containing food sources.

Available data show that PCBs affect the productivity of phytoplankton and the composition of phytoplankton communities; cause deleterious effects on environmentally important freshwater invertebrates; and impair reproductive success in birds and mammals.

PCBs also are toxic to fish at very low exposure levels. The survival rate and the reproductive success of fish can be adversely affected in the presence of PCBs. Various sublethal physiological effects attributed to PCBs have been recorded in the literature. Abnormalities in bone development and reproductive organs also have been demonstrated.

3. *Risks.* Toxicity and exposure are the two basic components of risk. Based on animal data, EPA concluded that in addition to chloracne, there is the potential for reproductive effects, developmental toxicity, and oncogenicity in humans. EPA also concluded that PCBs present a hazard to the environment.

Minimizing exposure to PCBs should minimize any potential risk. EPA has taken exposure into consideration when evaluating each exemption petition, and this is discussed in later units of this proposed rule.

B. Benefits and Costs

The benefits to society of granting an exemption vary, depending on the activity for which exemption is requested. The reasonably ascertainable costs of denying an exemption vary, depending on the individual petitioner. EPA has taken the benefits and costs into consideration when evaluating each exemption petition. Because of the range of activities for which exemptions are requested, the specific benefits and costs are discussed in later units of this proposed rule.

VI. Good Faith Effort Determination

Section 6(e)(3)(B)(ii) of TSCA requires petitioners to demonstrate a good faith effort to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for PCBs. EPA considers several factors in determining whether a petitioner has demonstrated a good faith effort. For each petition, EPA considered the kind of exemption the petitioner is requesting, whether substitutes exist and are readily available, and whether the petitioner expended time and money to develop or search for a substitute. In each case, the burden is on the petitioner to show specifically what it did to substitute non-PCBs for PCBs or to show why it did not seek to substitute non-PCBs for PCBs. EPA's evaluation of each petitioner's attempt to demonstrate a good faith effort is discussed in later units of this proposed rule.

VII. Disposition of Exemption Petitions

A. Distribution in Commerce of PCB Small Capacitors for Purposes of Repair and PCB Equipment Containing PCB Small Capacitors

EPA received 20 petitions to distribute in commerce existing inventories of PCB small capacitors for purposes of repairing equipment such as air conditioners, microwave ovens, and office machines. EPA also received 21 petitions to distribute in commerce existing inventories of PCB equipment containing PCB small capacitors, including fluorescent light ballasts, light fixtures, small electric motors, computer assemblies, air conditioners, and office machines. In 40 CFR 761.3(d)(1), EPA defines "PCB small capacitor" as "a capacitor which contains less than 1.36 kg (3 lbs.) of dielectric fluid." PCB small capacitors commonly contain between 0.1 and 0.6 pounds of PCBs. In 40 CFR 761.30(1), EPA authorizes the use of the PCB small capacitors indefinitely. EPA proposes to grant exemptions to the petitioners listed below for the following reasons:

EPA has concluded that granting these exemptions would not present an unreasonable risk of injury to health or the environment. PCBs are rarely released when these capacitors and equipment are distributed in commerce and used. Although granting these exemptions would allow approximately 720,000 pounds of PCBs in small capacitors to be distributed in commerce, individual capacitors: (1) Contain small quantities of PCB dielectric fluid; (2) contain significant amounts of absorbent material such as paper; and (3) are airtight. The petitioners, their customers, and the ultimate users are not likely to be exposed to the PCBs from the capacitors or equipment, nor is release of PCBs to the environment likely. Moreover, EPA believes it is more reasonable to allow the petitioners to distribute these PCB small capacitors as replacement parts, which will eventually be randomly disposed of by individual users in small amounts over time, than to deny the petitions, which might concentrate PCBs in certain locations if one or more petitioners disposed of their PCB small capacitors at once.

EPA estimates the total costs associated with denial of all the exemption petitions to be at least $7.52 million. The specific costs would vary from petitioner to petitioner. The cost estimate includes: (1) The cost of replacing all PCB small capacitors sold for purposes of repair ($4.61 million); and (2) the cost of disposing of ballasts, fluorescent light fixtures, and PCB small capacitors removed from other PCB equipment, and the cost of replacing such equipment with non-PCB equipment (at least $2.91 million). The estimated costs would be even greater if the additional costs associated with identifying and removing PCB small capacitors that have already been processed into existing PCB equipment were included.

Finally, granting these exemptions will benefit society by allowing useable articles and equipment to be distributed in commerce and used.

EPA also has concluded that each of these petitioners demonstrated a good faith effort to substitute non-PCB capacitors for PCB small capacitors. Some petitioners began substituting non-PCB capacitors as early as 1977, and all petitioners stopped purchasing PCB small capacitors by July 1979 and now restock only with non-PCB capacitors. Each of these petitioners provided information to show that it reduced the

number of PCB items and the volume of PCBs in its inventory. Each of the petitioners who request an exemption to distribute inventories of PCB equipment has redesigned and modified equipment to accommodate the non-PCB capacitors it now processes into equipment.

EPA proposes to grant exemptions for one year to distribute in commerce PCB small capacitors for purposes of repair to:

Advance Transformer Co., Chicago, IL 60618 (PDE 4).
Air Conditioning Contractors of America, Washington, DC 20036 (PDE 7).
Association of Home Appliance Manufacturers, Chicago, IL 60606 (PDE 26.2).
B & B Motor & Control Corp., New York, NY 10012 (PDE 30).
Complete-Reading Electric Co., Hillside, IL 60162 (PDE 48).
Dunham-Bush, Inc., Harrisonburg; VA 22801 (PDE 71).
Emerson Quiet Kool Corp., Woodbridge, NJ 07095 (PDE 84).
Harry Alter Co., Chicago, IL 60609 (PDE 111).
Motors & Armatures, Inc., Hauppauge, NY 11788 (PDE 161).
Minnesota Mining and Manufacturing Co., St. Paul, MN 55133 (PDE 157.1)
National Association of Electrical Distributors, Stamford, CT 06901 (PDE 163).
National Capacitor Corp., Garden Grove, CA 92641 (PDE 165)
Service Supply Co., Phoenix, AZ 85013 (PDE 237).
Webzeb Enterprises, Inc., Lebanon, IN 46052 (PDE 297).
Westinghouse Electric Corp., Pittsburgh, PA 15222 (PDE 298).

In addition, EPA proposes to grant exemptions for one year to distribute in commerce PCB equipment containing PCB small capacitors to :

Advance Transformer Co., Chicago, IL 60618 (PDE 4).
Coleman Co., Inc., Wichita, KS 67201 (PDE 45.1).
Donn Corp., Westlake, OH 44145 (PDE 63).
Dunham-Bush, Inc., Harrisburg, VA 22801 (PDE 71).
Emerson Quite Kool Corp., Woodbridge, NJ 07095 (PDE 84).
Friedrich Air Conditioning & Refrigeration Co., San Antonio, TX 78295 (PDE 93).
Gould, Inc., Electric Motor Division, St. Louis, MO 63166 (PDE 103).
GTE Products Corp., Danvers, MA 01923 (PDE 105).
King-Seeley Thermos Co., Queen Products Division, Albert Lea, MN 56007 (PDE 139).
L.E. Mason Co., Red Dot Division, Boston, MA 02136 (PDE 223).
Minnesota Mining and Manufacturing Co., St. Paul, MN 55133 (PDE 157.3).
National Association of Electrical Distributors, Stamford, CT 06901 (PDE 163).
Royalite Co., Flint, MI 48502 (PDE 231).
Sola Electric, Unit of General Signal, Elk Grove Village, IL 60007 (PDE 246).
Transco, Inc., West Columbia, SC 29169 (PDE 261.1).
Westinghouse Electric Corp., Pittsburgh, PA 15222 (PDE 298).

The overall goal of section 6(e) of TSCA is to phase out the manufacture, processing, and distribution in commerce of PCBs. Although EPA proposes to grant exemptions to the above-named petitioners, it strongly urges them to eliminate their remaining inventories of PCBs before the exemption expires. Most of the petitioners have had since July 1979 to process and distribute their inventories of PCBs and providing an additional year will make it possible for them to eliminate any PCBs that remain in stock. Any petitioner who requests a further exemption after its one year exemption expires must overcome the substantial burden of showing why it did not eliminate its inventory of PCBs.

EPA proposes to deny the following exemption petitions, because the petitioners did not provide the information necessary for EPA to conclude that granting an exemption would not result in an unreasonable risk of injury to health or the environment and that the petitioners made a good faith effort to substitute non-PCBs for PCBs:

Aireco Supply, Inc., Arlington, VA 22202 (PDE 8), did not provide information describing the specific activities for which it seeks exemption, including a description of the PCB articles or equipment to be distributed in commerce; the length of time requested for exemption; the number of PCB articles or equipment to be distributed; the amount of PCBs to be distributed (by pound and/or volume); its basis for contending that granting an exemption would not result in an unreasonable risk of injury to health or the environment; its basis for contending that it made a good faith effort to substitute non-PCBs for PCBs; and the reasonably ascertainable economic consequences of denial.

Carrier Corp., Syracuse, NY 13221 (PDE 39, 39.1, and 39.2), did not provide information about the number of PCB small capacitors and pieces of PCB equipment to be distributed; the amount of PCBs to be distributed (by pound and/or volume) in the capacitors and equipment; and the reasonably ascertainable economic consequences of denial.

General Electric Co., Fairfield, CT 06431 (PDE 99), did not provide information about the number of pieces of PCB equipment to be distributed and the amount of PCBs to be distributed (by pound and/or volume).

Raytheon Co., Lexington, MA 02173 (PDE 208 and 209), did not provide information describing the specific activities for which it seeks exemption, including a description of the PCB capacitors and equipment to be distributed in commerce; the number and size of PCB capacitors to be distributed; its basis for contending that granting an exemption would not result in an unreasonable risk of injury to health or the environment; its basis for contending that it made a good faith effort to substitute non-PCBs for PCBs; and the resonably ascertainable economic consequences of denial.

RIP, Inc., Fort Worth, Tx 76112 (PDE 227), did not provide information about the number of PCB small capacitors to be distributed; the amount of PCBs to be distributed (by pound and/or volume); and the reasonably ascertainable economic consequences of denial.

Traco Industrial Corp., New York, NY 10027 (PDE 276), did not provide information to describe the size of capacitors it wants to distribute in commerce; the amount of PCBs to be distributed (by pound and/or volume); its basis for contending that granting an exemption would not result in an unreasonable risk of injury to health or the environment; its basis for contending that it made a good faith effort to substitute non-PCB capacitors for PCB small capacitors; and the reasonably ascertainable economic consequences of denial.

Trans-State Corp., Houston, TX 77036 (PDE 281), did not provide information about the amount of PCBs to be distributed in PCB small capacitors (by pound and/or volume); and the reasonably ascertainable economic consequences of denial.

B. Processing PCB Articles and PCB Equipment into other Equipment and Distributing in Commerce That Equipment

EPA received 16 petitions to process existing inventories of PCB articles and PCB equipment into other equipment and to distribute in commerce that equipment. Five petitioners want to process PCB small capacitors into ballasts; ballasts into fluorescent light fixtures; and small electric motors into equipment. Raytheon Co. submitted nine

petitions to process PCB articles (small capacitors, large capacitors, and transformers) and PCB equipment containing such articles into defense equipment containing such articles into defense equipment, and two petitions to process PCB capacitors into office equipment. All the petitioners want to distribute in commerce the finished PCB equipment. EPA proposes to grant exemptions to all the petitioners, except Raytheon, for the following reasons:

EPA has concluded that granting these exemptions would not present an unreasonable risk of injury to health or the environment. Although granting these exemptions would allow approximately 191,000 pounds of PCBs in small capacitors to be processed and distributed in commerce, individual capacitors: (1) Contain small quantities of PCB dielectric fluid; (2) contain significant amounts of absorbent material such as paper; and (3) are airtight. Thus, PCBs are rarely released when PCB small capacitors and PCB equipment containing PCB small capacitors are processed, distributed in commerce, and used. Consequently, the petitioners, their customers, and the ultimate users are not likely to be exposed to the PCBs in the capacitors or equipment, nor is released of PCBs to the environment likely.

EPA estimates the total costs associated with denial of all the petitions to be at least $1.63 million. The specific costs would vary from petitioner to petitioner. The cost estimate includes: (1) The cost of disposing of existing inventories of PCB small capacitors held for processing; and (2) the cost of replacing existing inventories of PCB small capacitors and other equipment containing PCB small capacitors. The estimated cost would be even greater if the cost associated with identifying and removing PCB small capacitors that have already been processed into existing PCB equipment were included. It should be noted that, except for information about the volume of PCBs submitted by Raytheon, the number of pounds of PCBs and the costs of denial are included in the totals previously discussed under unit VII.A.

Finally, granting these exemptions will provide benefits by allowing useable articles and equipment to be processed, distributed in commerce, and used.

EPA also has concluded that each of these petitioners demonstrated a good faith effort to develope PCB substitutes. Each of these petitioners provided information to show that it reduced the number of PCB items and the volume of PCBs in its inventory. Furthermore, each of these petitioners provided information to show that it has redesigned and modified equipment to accomodate non-PCB items.

EPA proposes to grant exemptions for one year to process PCB small capacitors and PCB equipment containing PCB small capacitors into other equipment and to distribute in commerce that equipment to:

Advance Transformer Co., Chicago, IL 60618 (PDE 4).
Gould, Inc., Electric Motor Division, St. Louis, Mo 63166 (PDE 103).
GTE Products Corp., Danvers, MA 09123 (PDE 105).
L. E. Mason Co., Red Dot Division, Boston, MA 02136 (PDE 223).
Westinghouse Electric Corp., Pittsburgh, PA 15222 (PDE 298).

The overall goal of section 6(e) of TSCA is to phase out the manufacture, processing, and distribution in commerce of PCBs. Although EPA proposes to grant exemptions to the above-named petitioners, it strongly urges them to eliminate their inventories of PCBs before the exemption expires. Most of the petitioners have had since July 1979 to process and distribute their inventories of PCBs and providing an additional year will make it possible for them to eliminate any PCBs that remain in stock. Any petitioner who requests a further exemption after its one year exemption expires must overcome the substantial burden of showing why it did not eliminate its inventory of PCBs.

EPA proposes to deny the following exemption petitions, because the petitioner did not provide the information necessary for EPA to conclude that granting an exemption would not result in an unreasonable risk of injury to health or the environment and that the petitioner made a good faith effort to substitute non-PCBs for PCBs:

Raytheon Co., Lexington, MA 02173 (PDE 193–196, 201, 208, 209, 211, 212, 214, and 215), did not provide information describing the specific activities for which it seeks exemption, including a description of the PCB articles and equipment to be processed and distributed in commerce; the number of PCB small capacitors, PCB large capacitors, PCB transformers, and PCB-contaminated transformers to be processed and the number of pieces of PCB equipment to be distributed; its basis for contending that granting an exemption would not result in an unreasonable risk of injury to health or the environment; its basis for contending that it made a good faith effort to substititute non-PCBs for PCBs; and the reasonably ascertainable economic consequences of denial.

C. Processing and Distributing in Commerce PCBs for Purposes of Servicing Customers' Transformers

EPA received 34 exemption petitions to process and distribute in commerce PCBs for purposes of servicing customers' PCB transformers and PCB-contaminated transformers. As defined in 40 CFR 761.3(y), PCB transformers contain 500 ppm or greater PCBs; as defined in 40 CFR 761.3(z), PCB-contaminated transformers contain at least 50 but less than 500 ppm PCBs. Some petitioners want to introduce their own PCB fluid (i.e., fluid containing 500 ppm or greater PCBs) into a customer's PCB transformer. Some petitioners want to introduce their own PCB-contaminated fluid (i.e., fluid containing at least 50 but less than 500 ppm PCBs) into a customer's PCB transformer or PCB-contaminated transformer. Each of these petitioners needs an exemption to engage in such activities, because the activities constitute processing of PCBs, as defined in section 3(10) of TACA and 40 CFR 761.3(bb), and distribution in commerce of PCBs, as defined in section 3(4) of TSCA and 40 CFR 761.3(i). In contrast, a person does not need an exemption to drain PCB fluid or PCB-contaminated fluid from a customer's transformer and later return it to the same transformer. Nor does a person need an exemption to introduce PCB fluid he already owns into his own PCB transformer or to introduce PCB-contaminated fluid he already owns into his own PCB transformer or PCB-contaminated transformer for purposes of servicing. These activities are authorized by EPA's Electrical Equipment Rule under 40 CFR 761.30(a), published in the **Federal Register** of August 25, 1982 (47 FR 37342), and do not require an exemption, because there is no processing or distribution in commerce of PCBs. Finally, a person does not need an exemption to introduce non-PCB fluid to any transformer, and EPA strongly encourages the use of non-PCB fluid as a substitute for PCB fluid and PCB-contaminated fluid.

Thirty of these petitions are renewed petitions for activities that were underway before July 1, 1979, and four are new petitions for activities that were not underway before July 1, 1979. As explained in unit IV. C. l., petitioners whose activities were underway before that date are permitted to continue the activities for which they seek exemption until EPA acts on the exemption petition.

EPA proposes to deny all 34 exemption petitions. EPA has concluded that granting these exemptions would

result in an unreasonable risk of injury to health or the environment, because the added risk of exposure to PCBs resulting from transformer-related servicing activities and the small costs of denial outweigh the relatively small benefits to society of allowing these activities to continue. EPA has determined that the transfer of PCB fluid and PCB-contaminated fluid between transformer servicing companies and their customers is likely to result in a significant risk of exposure to humans or the environment to PCBs due to the normal leaks and spills attendant to handling liquid PCBs and PCB-containing transformers. In addition, the petitioners did not provide estimates of the volume of their business which requires exemption or the reasonably ascertainable consequences of denial. EPA has estimated that denying these petitions would result in small costs to petitioners. EPA estimated the total costs of denying all the petitions to be approximately $20,000 to $36,000. This cost estimate includes $17,500 to $29,200 for processing and distributing in commerce PCB fluid and $2,500 to $6,800 for processing and distributing in commerce PCB-contaminated fluid. These cost estimates represent: (1) The incremental costs of substituting new non-PCB fluid to "top off" transformers; and (2) disposal of PCB fluid and PCB-contaminated fluid that could not be processed and distributed in commerce. Assuming these costs are divided evenly among the approximately 334 companies represented by the 34 petitions, the average annual cost would be less than $90 per company for denying petitions to process and distribute in commerce PCB fluid and less than $20 per company for denying petitions to process and distribute in commerce PCB-contaminated fluid. In sum, the potential for exposure to PCBs and the small costs of denial far outweigh any benefits of allowing the petitioners to process and distribute in commerce their PCB fluid and PCB-contaminated fluid.

This reasoning should be contrasted with that supporting the Electrical Equipment Rule, which permits owners of PCB transformers and PCB-contaminated transformers to service their own transformers with their own PCB fluid and PCB-contaminated fluid, provided they comply with the servicing restrictions of 40 CFR 761.30(a). In that rule, EPA determined that allowing such activities to continue was necessary to avoid disrupting efficient and reliable electrical service throughout the United States, an enormous benefit that far outweighed the potential risk of exposure to humans or the environment associated with the use and servicing of PCB-containing transformers. The petitioners did not provide information for EPA to reach a similar conclusion with respect to their servicing activities.

EPA considered granting exemption in part, by permitting petitioners to process and distribute in commerce only PCB-contaminated fluid for purposes of servicing customers' PCB transformers and PCB-contaminated transformers. Granting such an exemption would remove from circulation the transformer dielectric fluid containing the most concentrated level of PCBs. However, the petitioners did not provide EPA with information to justify even such a limited exemption. EPA especially solicits comment on whether it should grant exemptions to process and distribute in commerce PCB-contaminated fluid for purposes of servicing customers' transformers.

EPA proposes to deny the following exemption petitions to process and distribute in commerce PCBs for purposes of servicing customers' transformers:

Ace Transformer Service Co., Inc., Livonia, MI 48154 (PDE 3).
American Electric Corp., Jacksonville, FL 32205 (PDE 18).
American Environmental Energy Corp., Baldwin, FL 32220 (PDE 18.1).
American Environmental Protection Corp., Jacksonville, FL 32205 (PDE 18.2).
Davis and Associates, Corpus Christi, TX 78413 (PDE 59).
Eastern Electric of Florida, Inc., Jacksonville, FL 32205 (PDE 73).
Electrical Apparatus Service Association, St. Louis, MO 63132 (PDE 77).
Electrical Installation & Service Corp., Rio Piedras, PR 00928 (PDE 166.3).
Electro Test, Inc., San Ramon, CA 94583 (PDE 166.2).
Environmental Cleaning Specialists, Inc., Kingston, PA 18704 (PDE 84.1).
General Electric Co., Fairfield, CT 06431 (PDE 99).
High Voltage Maintenance Corp., Mentor, OH 44060 (PDE 115).
Interstate Transformer, Inc., Ellwood City, PA 16117 (PDE 128).
Jerry's Electric, Inc., Colman SD 57017 (PDE 133).
Niagara Transformer Corp., Buffalo, NY 14225 (PDE 169.1).
National Electrical Testing Association, Inc., Dayton, OH 45429 (PDE 166).
Northeast Electrical Testing, Inc., Meridian, CT 06450 (PDE 166.1).
Northern Electrical Testing, Inc., Troy, MI 48098 (PDE 170.1).
Ohio Transformer Corp., Louisville, OH 44641 (PDE 173).
Recovery Specialists, Inc., Saline, MI 48176 (PDE 221).
Solomon Electric Supply, Inc., Solomon, KS 67480 (PDE 247).
Sunohio, Canton, OH 44707 (PDE 264).
T & R Service Co., Colman, SD 57017 (PDE 265).
Temco, Inc., Corpus Christi, TX 78410 (PDE 268).
Texas Power & Light Co., Dallas, TX 75266 (PDE 271).
Three-C Electric Testing Co., Ashland, MA 01721 (PDE 275).
Transformer Consultants, Division of S.D. Myers, Inc., Akron, OH 44310 (PDE 277).
Transformer Inspection Retrofill Corp., Royal Oak, MI 48073 (PDE 278).
Transformer Sales and Service, Inc., Smithfield, NC 27577 (PDE 108).
Transformer Service, Inc., Concord, NH 03301 (PDE 280.1).
Transformer Service, Inc., Akron, OH 44309 (PDE 280).
U.S. Transformer Co., Jordan, MN 55352 (PDE 289).
Ward Transformer Co., Inc., Raleigh, NC 27622 (PDE 294).
Westinghouse Electric Corp., Pittsburgh, PA 15222 (PDE 298).

D. Processing and Distributing in Commerce PCBs in Buying and Selling Transformers

EPA received 12 exemption requests from petitioners who want to process and distribute in commerce PCBs in buying and selling used PCB transformers and PCB-contaminated transformers. Each of these petitioners is engaged in one or more of the following activities for which exemption is required: (1) Buying and selling PCB transformers or PCB-contaminated transformers without introducing PCBs into these transformers; (2) buying PCB transformers or PCB-contaminated transformers, introducing non-PCB fluid into these transformers, and then selling them before they have been reclassified as non-PCB transformers in accordance with the provisions of 40 CFR 761.30(a)(2)(v), published in the **Federal Register** of August 25, 1982 (47 FR 37342); and (3) buying PCB transformers or PCB-contaminated transformers, introducing PCB fluid or PCB-contaminated fluid into these transformers (including fluid originally taken from and returned to the same transformer), and then selling them. The petitioners who introduce PCBs into these transformers need an exemption, because they are processing PCBs, as defined in section 3(10) of TSCA and 40 CFR 761.3(bb). The petitioners who sell these transformers need an exemption, because they are distributing in

commerce PCBs, as defined in section 3(4) of TSCA and 40 CFR 761.3(i).

All of the petitions are renewed petitions for activities that were underway before July 1, 1979. As explained in unit IV.C.1., petitioners whose activities were underway before that date are permitted to continue the activities for which they seek exemption until EPA acts on the exemption petition.

Not all activities for which EPA received exemption petitions require exemption. EPA does not regulate the distribution in commerce of certain PCB transformers and PCB-contaminated transformers. In accordance with section 6(e)(3)(C) of TSCA and 40 CFR 761.20(c)(1), a person may distribute in commerce PCB transformers and PCB-contaminated transformers without the need for an exemption prouided that the transformer was originally distributed in commerce before July 1, 1979, for purposes other than resale, and the transformer is totally enclosed when it is subsequently distributed in commerce. For purposes of distribution in commerce of transformers sold for purposes other than resale, EPA considers only intact and nonleaking transformers to be totally enclosed, for the reasons stated in the notice published in the **Federal Register** of August 25, 1982 (47 FR 37342). If all the conditions stated above are not met, a person must petition for and obtain an exemption from EPA before distributing in commerce the PCB transformer or PCB-contaminated transformer. Even if all the conditions are met, a person needs an exemption to introduce PCBs into such a transformer (including PCB fluid or PCB-contaminated fluid originally taken from and returned to the same transformer), because this is processing PCBs, as defined in section 3(10) of TSCA and 40 CFR 761.3(bb).

EPA proposes to deny all 12 exemption petitions, because the petitioners did not provide information for EPA to conclude that granting these exemptions would not result in an unreasonable risk of injury to health or the environment. EPA has determined that the processing and distribution in commerce of PCB fluid, PCB-contaminated fluid, and PCB-containing transformers are likely to result in a significant risk of exposure to humans or the environment, due to the normal leaks and spills attendant to handling liquid PCBs and PCB-containing transformers. In addition, the petitioners did not provide estimates of the volume of their business which requires exemption or the reasonably ascertainable economic consequences of denial. EPA was able to estimate the costs of denying these petitions on an individual transformer basis but could not estimate total costs, since the petitioners did not estimate the number of transformers to be bought and sold. Denying the petitions would raise the costs of rebuilding or refurbishing used transformers, since PCB fluid and PCB-contaminated fluid would have to be replaced with non-PCB fluid prior to resale. EPA estimated that the incremental costs of denial would be $90 to $240 for an average size PCB-contaminated transformer and $2,400 to $4,000 for an average size PCB transformer, assuming all the transformer fluid had to be replaced in both cases. Depending on the purchase price and resale value of used transformers, these additional costs may render a portion of petitioners' buying and selling activities unprofitable. In the absence of information to show that granting an exemption would not result in an unreasonable risk of injury to health or the environment, EPA is proposing to deny exemptions to these petitioners.

EPA considered granting exemptions in part, by permitting petitioners to process only PCB-contaminated fluid into PCB-containing transformers and to distribute in commerce only PCB-contaminated transformers. Granting such an exemption would remove from circulation the trasformer dielectric fluid containing the most concentrated level of PCBs. However, the petitioners did not provide EPA with information to justify even such a limited exemption. EPA especially solicits comment on whether it should grant exemptions to process and distribute in commerce PCB-contaminated fluid in buying and selling transformers.

EPA proposes to deny the following exemption petitions to process and distribute in commerce PCBs in buying and selling transformers:

Davis and Associates, Corpus Christi, TX 78413 (PDE 59). Electrical Apparatus Service Association, St. Louis, MO 63132 (PDE 78).
Electro Test, Inc., San Ramon, CA 94583 (PDE 166.2).
G & S Motor Equipment Co., Kearny, NJ 07032 (PDE 94).
Interstate Transformer, Inc., Ellwood City, PA 16117 (PDE 128).
Jerry's Electric, Inc., Colman, SD 57017 (PDE 133).
Ohio Transformer Corp., Louisville, OH 44641 (PDE 173).
Solomon Electric Supply, Inc., Solomon, KS 67480 (PDE 247).
Temco, Inc., Corpus Christi, TX 78410 (PDE 268).
Transformer Sales and Service, Inc., Smithfield, NC 27577 (PDE 108).
U.S. Transformer, Inc., Jordan, MN 55352 (PDE 289).
Ward Transformer Co., Inc., Raleigh, NC 27622 (PDE 294).

E. Research and Development

EPA received four petitions to manufacture and seven petitions to process and distribute in commerce small quantities of PCBs for rersearch and development. EPA defines "Small Quantities for Research and Development" in 40 CFR 761.3 (ee) as "any quantity of PCBs (1) that is originally packaged in one or more hermetically sealed containers of a volume of no more than five (5.0) milliliters, and (2) that is used only for purposes of scientific experimentation or analysis, or chemical research on, or analysis of, PCBs but not for research or analysis for the development of a PCB product." The petitioners intend to manufacture, process, and distribute in commerce PCBs for use in health and environmental research, including research in the following areas: to analyze and monitor PCBs in the air, soil, rivers, and sediments; to conduct bioassay and toxicology studies; and to produce reference standards for identifying PCBs using gas chromatography. EPA has recognized the need for using PCBs in such research by authoring this use until July 1, 1984 (40 CFR 761.30 (j)), and is currently considering whether to reauthorize this use. EPA proposes to grant three manufacturing exemptions and five processing and distributions in commerce exemptions to the petitioners who are listed below for the following reasons:

EPA has concluded that granting these exemptions would not present an unreasonable risk of injury to health or the environment. Most of these petitioners want to manufacture, process, or distribute in commerce less than one kilogram of PCBs and only one petitioner requested an exemption to distribute in commerce as much as five kilograms of PCBs. The PCBs are manufactured and processed using laboratory practices that are designed to minimize human and environmental exposure to hazardous substances. The PCBs also are packaged and distributed in commerce in hermetically sealed containers no larger than 5.0 milliliters, which minimizes human and environmental exposure to PCBs during storage and shipment. Once these petitioners have distributed the PCBs, the risk of exposure to humans and the environment is minimized by the small

quantities of PCBs used in each application, by the viscosity of the PCBs, and by the careful handling procedures typical of laboratory work. In addition, the petitioners asserted that denying the petitions would result in financial hardship.

Granting the exemptions would provide substantial benefits to society by allowing important health, environmental, and analytical research to continue. EPA has concluded that the good faith effort test is not relevant here, because their are no substitutes for pure PCBs for health and environmental research activities. Pure PCBs are needed for these activities, becuase commercial PCBs contain a mixture of isomers and contaminants which may adversely affect experimental results.

EPA proposes to grant exemptions for one year (or until July 1, 1984, if EPA does not extend the use authorization in 40 CFR 761.30(j)) to manufacture small quantities of PCBs for research and developoment to:

Analabs/Foxboro Analytical, Division of Foxboro Co., North Haven, CT 06473 (ME 6).
California Bionuclear Corp., Sun Valley, CA 91352 (ME 13).
Ultra Scientific, Inc., Hope, RI 02831 (ME 99.1).

In addition, EPA proposes to grant exemptions for one year (or until July 1, 1984, if EPA does not extend the use authorization in 40 CFR 761.30(j)) to process and distribute in commerce small quantities of PCBs for research and develpment to:

Analabs/Foxboro Analytical, Division of Foxboro Co., North Haven, CT 06473 (PDE 21.1).
California Bionuclear Corp., Sun Valley, CA 91352 (PDE 38.1).
Chem Service, Inc., West Chester, PA 19380 (PDE 41).
PolyScience Corp., Niles, IL 60648 (PDE 178).
Ultra Scientific, Inc., Hope, RI 02831 (PDE 282.1).

EPA proposes to deny the petitions of Pathfinder Laboratories, Inc., St. Louis, MO 63141 (ME 76 and PDE 174.1), and General Electric Co., Fairfield, CT 06431 (PDE 99), because neither of these petitioners provided the information necessary for EPA to conclude that granting an exemption would not result in an unreasonable risk of injury to health or the environment.

Pathfinder did not provide information about the amount of PCBs to be manufactured, processed, and distributed in commerce (by pound and/or volume); the size of the containers in which the PCBs are packaged for distribution in commerce; how the containers are sealed; and the reasonably ascertainable economic consequences of denial.

General Electric did not provide information about the amount of PCBs to be processed and distributed in commerce (by pound and/or volume); the size of the containers in which the PCBs are packaged for distribution in commerce; how the containers are sealed; what it does to minimize human and environmental exposure to PCBs during processing; and the reasonably ascertainable economic consequences of denial.

F. Microscopy

EPA received two petitions to process and distribute in commerce PCBs for use as a mounting medium in microscopy. PCBs are used in art and historic conservation to preserve specimens for later study, and in identifying and preserving small particles, including environmental contaminants, industrial contaminants, and crime scene trace evidence. The identification of these particles is based on the form, structure, and optical properties of these particles as they appear relative to the optical properties of PCBs.

In mounting for microscopy, a particle is placed on a slide, a cover slip is placed over the particle, and a drop of PCB is placed near the interface of the cover slip and the slide. The slide is prepared on a slightly heated surface. The PCB moves under the cover slip through capillary action, and the particle is thereby permanently mounted. The principal users of PCBs are mineralogists and chemical microscopists in police crime laboratories, museum conservation laboratories, and laboratories identifying industrial and environmental contaminants. EPA recognized the need for using PCBs by authorizing the use of PCBs as a mounting medium in microscopy until July 1, 1984 (40 CFR 761.30(k)), and is currently considering whether to reauthorize this use. EPA proposes to grant an exemption to process and distribute in commerce PCBs for use as a mounting medium in microscopy, but to limit that exemption to uses in art and historic conservation, to the petitioners who are listed below for the following reasons:

EPA has concluded that granting a limited exemption would not present an unreasonable risk of injury to health or the environment. Each of these petitioners processes PCBs in small quantities, using laboratory practices designed to minimize human and evironmental exposure to PCBs, including the use of exhaust fume hoods and personal protective equipment. Once the petitoners have distributed the PCBs, the risk of exposure to humans and the environment is minimized by the small quantities of PCBs used in each application, by the viscosity of the PCBs, and by the careful handling procedures typical of museum laboratory work.

EPA believes that, of the many uses of PCBs as a mounting medium in microscopy, the use in art and historic conservation may be the only essential use. Sample particles from rare art and historic works can be taken, for the most part, only once. Thus, such samples must be permanently mounted in a medium that will not discolor or lose its optical properties in time. The only medium that has these properties at this time is PCBs, although work is underway to develop a substitute. These properties make PCBs attractive to other users as well, but since these other users are not expected to be frequently called upon to prepare permanent slides of rare particles, the use of PCBs may be more a matter of convenience than of necessity. That is, other users would prefer to use PCBs to prepare a permanent slide once, instead of having to use a substitute mounting medium or having to prepare a new slide every ten years.

Although the costs of denying the petitions would be small (less than $6,500 according to the petitioners), granting the exemptions will provide substantial benefits to society by allowing specialized microscopy work in art and histroric conservation to continue.

EPA propses to grant exemptions for one year (or until July 1, 1984, if EPA does not extend the use authorization in 40 CFR 761.30(k)) to process and distribute in commerce PCBs for use as a mounting medium in microscopy in art and historic conservation to:

McCrone Research Institute, Chicago, IL 60616 (PDE 149)
R.P. Cargille Laboratories, Inc., Cedar Grove, NJ 07009 (PDE 181).

In additon to its request for an exemption to process and distribute PCBs for use as a mounting medium in microscopy, Cargille also requests an exemption to blend PCBs with mineral oil to produce microscope immersion liquids and calibration standards. Neither of these uses has been authorize by EPA. In fact, EPA determined in 1979 that there are adequate substitutes for PCBs for use as a microscope immersion liquid and as a refractive index oil and, therefore, did not authorized these uses of PCBs (USEPA, OTS, "Support-Document/Voluntary Environmental Impact Statement," April 1979, pp. 99–

101). Since these uses are not authorized, EPA proposes to deny this portion of Cargille's exemption petition.

G. Honeywell

Honeywell, Inc., Waltham, MA 02154 (ME 51 and PDE 119), petitioned EPA for an exemption to: (1) Import PCB equipment (i.e., computer assemblies and subassemblies containing PCB small capacitors) for purposes of repair, resale, and disposal; (2) distribute the repaired PCB equipment within the United States; and (3) export the repaired PCB equipment.

When a computer assembly or subassembly fails in service overseas, Honeywell ships a replacement part and imports the failed equipment for repair at its service facilities in the United States. Honeywell states that it discovers whether failed equipment contains PCB small capacitors only after the equipment has been imported, opened, and inspected. If a piece of equipment contains a defective PCB small capacitor, Honeywell removes and disposes of it in an EPA-approved incinerator and replaces it with a non-PCB capacitor. Honeywell estimated that it removes and disposes of five to 40 PCB small capacitors annually. However, if a PCB small capacitor is functional, as it usually is, Honeywell does not remove it. Rather, Honeywell repairs the equipment and places it back in stock for distribution within the United States and for export, as the need arises.

Honeywell stated that in 1981 it imported for repair 1,105 pieces of equipment, which are known to have contained, or are suspected of containing, PCB small capacitors. In addition, Honeywell stated that at the end of 1982 it had in stock 1,620 repaired pieces of equipment, which are known to have contained PCB small capacitors when manufactured. Honeywell was unable to estimate how many of these pieces of equipment still contain PCB small capacitors.

1. *Importing PCB Equipment.* Honeywell's petition for exemption to import PCB equipment is discussed under unit VII.H.1.

2. *Distributing PCB Equipment Containing PCB Small Capacitors Within the United States.* EPA proposes to grant Honeywell's petition to distribute its existing inventory of PCB equipment containing PCB small capacitors within the United States. This PCB equipment was previously imported, repaired, and placed back in stock. EPA has concluded that granting an exemption to distribute this existing inventory of PCB equipment would not result in an unreasonable risk of injury to health or the environment, because the PCB equipment contains only intact, nonleaking PCB small capacitors. In addition, EPA has concluded that Honeywell demonstrated a good faith effort to find substitutes for these PCBs, since it stopped purchasing PCB small capacitors prior to 1979 and disposed of its inventory of PCB small capacitors held for purposes of repair in October 1982. Thus, Honeywell is in the same situation as petitioners who want to distribute their existing inventories of PCB equipment containing PCB small capacitors, which is discussed under unit VII.A.

Therefore, EPA proposes to grant an exemption for one year to distribute in commerce previously imported and repaird PCB equipment containing PCB small capacitors to Honeywell, Inc., Waltham, MA 02154 (PDE 119).

3. *Exporting PCB Equipment.* Honeywell's petition for exemption to export PCB equipment is discussed under unit VII.I.1.

H. Importing PCBs

EPA received the following two petitions for exemption to Import PCBs:

1. *Honeywell.* Honeywell, Inc., Waltham, MA 02154 (ME 51), requested an exemption to import PCB equipment, the facts of which are described under unit VII.G. EPA proposes to deny Honeywell's petition, because granting an exemption would result in an unreasonable risk of injury to health or the environment. EPA has concluded that the added risk of exposure from importing PCBs into the United States outweighs the small costs of denial to Honeywell. Honeywell admitted that when the equipment is imported, Honeywell does not know whether the equipment contains PCB small capacitors and whether the capacitors are intact and nonleaking. Thus, there is a risk of exposure to humans and the environment to PCBs. Honeywell stated that it imports the non-functioning PCB equipment to its service facilities in the United States, because its overseas service facilities are currently unable to repair the equipment there and that it would cost $20,000 to set up proper overseas service facilities plus $10,000-$30,000 a year to identify and remove PCB small capacitors from the non-functioning equipment at these service facilities. EPA believes that the costs of setting up and operating the proper overseas facilities to identify and remove PCB small capacitors from the non-functioning equipment at these service facilities is not burdensome to Honeywell, whose 1982 sales revenues were $5.35 billion.

2. *Dow Corning.* Dow Corning Corporation, Midland, MI 48640 (ME 31.1), requested an exemption to import samples of PCB-containing fluid taken from PCB transformers, which have been retrofilled with Dow Corning's silicone transformer fluid, for purposes of testing and analysis. Dow Corning will analyze this fluid for PCB concentration, moisture content, and contaminants as part of its customer service program. The samples will be shipped in groups of five to ten individually packaged and hermetically sealed five milliliter vials. Dow Corning estimated that it will import two groups of samples, with a total of approximately 600 milliliters of fluid containing no more than 6 percent PCBs, per month. EPA proposes to grant Dow Corning's petition for the following reasons:

EPA has concluded that granting this exemption would not present an unreasonable risk of injury to health or the environment. The vials hold only a small volume of fluid containing PCBs, and granting an exemption would result in the importation of less than one pound of PCBs a year. Furthermore, the vials will be hermetically sealed, properly labeled, and assembled in packages with sufficient absorbent material to ensure that PCBs will not be released into the environment if an accident should occur.

To insure proper handling of samples, Dow Corning will train people who will ship these samples. Initially, Dow Corning intends to limit the number of people authorized to ship these samples and will instruct them in the safe handling of material containing PCBs, the proper precautions to minimize the incidence of spills, and the proper clean-up of spills. Trained personnel with experience in handling hazardous substances, including PCBs, will conduct or directly supervise the analyses of the samples in Dow Corning's laboratories in the United States. Dow Corning requires its workers to wear eye protection, prepare samples in a vented hood, take samples through a septum into a syringe, and weigh substances in sealed bottles, all of which will minimize exposure to PCBs. Dow Corning periodically audits its laboratories to assure that proper safety procedures are being followed.

Dow Corning claims that the costs of denial are confidential, but would be large enough to terminate the overseas marketing of its non-PCB transformer fluid. Dow Corning investigated having these fluids tested abroad, but did not find a qualified laboratory that could perform the analyses at a cost that

would allow its non-PCB transformer fluid to remain competitively priced with other transformer fluids.

EPA also has concluded that Dow Corning demonstrated a good faith effort to substitute non-PCBs. Indeed, Dow Corning's exemption petition to test the samples is an important part of its program to get customers to substitute Dow Corning's non-PCB transformer fluid for PCB transformer fluid. Granting this exemption will benefit society by promoting the use of a non-PCB transformer fluids as a substitute for PCBs, which will reduce PCB contamination both within the United States and abroad. In addition, Dow Corning's success in marketing the non-PCB transformer fluid abroad may indirectly help it market such substitutes in the United States, as the substitutes become more widely accepted and used. Thus, granting Dow Corning's exemption petition furthers EPA's goal of phasing out PCBs.

Therefore, EPA proposes to grant an exemption for one year to import samples of PCB-containing fluid taken from PCB transformers for purposes of testing and analysis to DOE Corning Corp., Midland, MI 48640 (ME 31.1).

I. Exporting PCBs

EPA received three petitions for exemptions to export PCBs. EPA treats petitions to export PCBs more stringently than petitions to distribute PCBs within the United States, because it has no control over the distribution, use, and disposal of PCBs once the PCBs have been exported. In a policy statement published in the **Federal Register** of May 1, 1980 (45 FR 29115), EPA described specifically what petitioners who want to export PCBs must demonstrate to meet the statutory requirements of section 6(e)(3)(B) of TSCA: "EPA will not grant an exemption unless the nation to which export is destined has proper disposal facilities for ultimate disposal. EPA also will not grant an exemption for export for a use not authorized in the United States. In the context of exports, good faith efforts to find a substitute means the burden is on the petitioner to show that there are no substitutes for the PCBs, produced either by the petitioner or a competitor; and that the petitioner proves that it has expended substantial amounts of time and money searching for a substitute."

1. *Honeywell.* Honeywell, Inc., Waltham, MA 02154 (PDE 119), requested an exemption to export PCB equipment, the facts of which are described under unit VII.G. EPA proposes to deny Honeywell's petition, because granting an exemption would result in an unreasonable risk of injury to health or the environment. Honeywell produced no information to show that the nations to which export is destined have proper disposal facilities for the ultimate disposal of PCBs. Nor did Honeywell provide information about the reasonably ascertainable economic consequences of denying its petition to export PCB equipment.

2. *PolyScience.* PolyScience Corp., Niles, IL 60648 (PDE 178), requested an exemption to export small quantities of PCBs for research purposes. PolyScience wants to process and export reference standard kits, each of which contains 1.4 milligrams of PCBs for use by analytical chemists. Each kit contains PCB samples that are packaged in hermetically sealed 5 milliliter glass ampuls. EPA proposes to grant PolyScience's petition for the following reasons:

EPA has concluded that granting an exemption would not present an unreasonable risk of injury to health or the environment. PolyScience would export only a small amount of PCBs (approximately 14 milligrams) for purposes of scientific research as laboratory reference standards by analytical chemists. The risk of exposure to PCBs is small, because they are hermetically sealed, which minimizes exposure during storage and shipment. Once the PCBs have been distributed, the risk of exposure to humans and the environment is minimized by the small quantities of PCBs used in each application, by the viscosity of the PCBs, and by the careful handling procedures typical of laboratory work.

Although the costs of denial would be small (approximately $945 to $1,875), granting the exemption will provide substantial benefits to society by allowing important scientific research to continue. EPA has concluded that the good faith effort test is not relevant here, because there are no substitutes for pure PCBs for use as laboratory reference standards by analytical chemists.

EPA proposes to grant an exemption for one year (or until July 1, 1984, if EPA does not extend the use authorization in 40 CFR 761.30(j)) to PolyScience Corp., Niles, IL 60648 (PDE 178), to export small quantities of PCBs for research and development.

3. *Traco.* Traco Industrial Corp., New York, NY 10027 (PDE 276), submitted a petition to distribute in commerce PCB capacitors. Traco did not specifically request an exemption to export PCBs, but stated that "the capacitors are being sold to our overseas market that does not carry the restrictions of the U.S. market." EPA has considered this as a petition to export PCBs. Traco's stated reason for wanting to export PCBs is in direct opposition to the clear intent of TSCA, which is to minimize the addition of PCBs to the environment. Traco's only relief from the ban on exporting PCBs is to meet requirements of section 6(e)(3)(B) of TSCA for obtaining an exemption. Traco did not produce any information for EPA to conclude that granting an exemption would not result in an unreasonable risk of injury to health or the environment. Traco produced no information to show that the nations to which export is destined have proper disposal facilities for the ultimate disposal of PCBs. Nor did Traco provide information about the reasonably ascertainable economic consequences of denial. Finally, Traco provided no information to show that it made a good faith effort to substitute non-PCBs for PCBs. Accordingly, EPA proposes to deny Traco's petition to export PCBs.

J. Deferred Actions

EPA received 50 exemption petitions to manufacture, process, or distribute in commerce substances or mixtures inadvertently contaminated with 50 ppm or greater PCBs. The activities for which each of these petitioners requests exemption will be addressed in EPA's ongoing Uncontrolled PCB Rule. EPA is under a court order to issue a rule as a result of the U.S. Court of Appeals decision in *Environmental Defense Fund v. Environmental Protection Agency,* 636 F.2d 1267 (D.C. Cir. 1980). EPA has reported to the court that it will issue a proposed rule by December 1, 1983, and a final rule by July 1, 1984. Depending on the definition of PCBs and the method of calculating PCB concentration levels in that rulemaking, these petitioners may be excluded from the PCB Ban Rule and would not need exemptions. Thus, any proposal to grant or deny an exemption now would be premature.

Each of these petitions, except for the one submitted by Mobay Chemical Corp., requests an exemption for activities that were underway before January 1, 1979 (for manufacturing) or July 1, 1979 (for processing and distribution in commerce). In accordance with EPA's policy described in unit IV.C.1., each of these petitioners (except Mobay Chemical Corp.) is permitted to continue the activities for which it seeks exemption until EPA acts on the exemption petition, because such activities where underway before the effective dates of the ban on PCBs. Mobay Chemical Corp. is not permitted to engage in the activities for which it seeks exemption until EPA acts on the exemption petition, because such

activities were not underway before July 1, 1979.

Therefore, EPA is deferring action on the following petitions until it proposes the Uncontrolled PCB Rule in December 1983:

Manufacturing Exemptions

Aluminum Co. of America, Pittsburgh, PA 15219 (ME 3).
American Hoechst Corp., Somerville, NJ 08876 (ME 5).
Diamond Shamrock Corp., Pasadena, TX 77501 (ME 27).
Dow Chemical Co., Midland, MI 48640 (ME 29, 30, and 30.1).
General Electric Co., Fairfield, CT 06431 (ME 39).
Hilton-Davis Chemical Co., Division of Sterling Drug Inc., Cincinnati, OH 45237 (ME 50).
Honeywell, Inc., Waltham, MA 02154 (ME 51).
Olin Corp., Stamford, CT 06904 (ME 75).
PPG Industries, Inc., Pittsburgh, PA 15222 (ME 81 and 81.1).
SDS Biotech Corp., Painesville, OH 44077 (ME 28 and 28.1).
Stauffer Chemical Co., Westport, CT 06880 (ME 90).

Processing and Distribution in Commerce Exemptions

Acme Printing Ink Co., Chicago, IL 60607 (PDE 164.1).
Aluminum Co. of America, Pittsburgh, PA 15219 (PDE 13).
American Can Co., Greenwich, CT 06830 (PDE 14).
American Cyanamid Co., Savannah, GA 31402 (PDE 16).
American Hoechst Corp., Somerville, NJ 08876 (PDE 70.5).
American Paper Institute, Inc., Washington, DC 20036 (PDE 89)
American Thermoplastics Corp., Subsidiary of Phillips Petroleum Co., Houston, TX 77020 (PDE 245.1).
Binney & Smith, Inc., Easton, PA 18042 (PDE 34).
Buckeye Printing Ink Co., Inc., Columbus, OH 43215 (PDE 164.2).
Chemical Specialties Manufacturers Association, Washington, DC 20036 (PDE 42).
Columbia Paint Corp., Huntington, WV 25728 (PDE 47).
Crown Metro, Inc., Greenville, SC 29606 (PDE 70.1).
Daicolor Division, Dainichiseika Color & Chemicals America, Inc., Pine Brook, NJ 07058 (PDE 58).
Dow Chemical Co., Midland, MI 48640 (PDE 64 and 67).
Dow Chemical Co., Plaquemine, LA 70764 (PDE 68).
Eastman Kodak Co., Eastman Chemicals Division, Kingsport, TN 37662 (PDE 70.6).
Forrest Paint Co., Eugene, OR 97402 (PDE 90).
Galaxie Chemical Corp., Paterson, NJ 07524 (PDE 95).
Goodyear Tire & Rubber Co., Akron, OH 44316 (PDE 102).
Hilton-Davis Chemical Co., Division of Sterling Drug Inc., Cincinnati, OH 45237 (PDE 70.4).
Ideal Toy Corp., Hollis, NY 11423 (PDE 70.3).
Inmont Corp., Clifton, NJ 07015 (PDE 123).
Minnesota Mining & Manufacturing Co., St. Paul, MN 55133 (PDE 157.2).
Mobay Chemical Corp., Dyes and Pigments Division, Union, NJ 07083 (PDE 157.10).
National Association of Chemical Distributors, Chicago, IL 60602 (PDE 162).
National Paint and Coatings Association, Washington, DC 20005 (PDE 167).
Prestige Printing Ink Co., Fort Worth, TX 76105 (PDE 70.2).
Reed Plastics Corp., Holden, MA 01520 (PDE 224).
Soap and Detergent Association, New York, NY 10016 (PDE 244).
Society of the Plastics Industry, Inc., New York, NY 10017 (PDE 245).
Uniroyal Chemical Co., Rovel Polymers Group, Naugatuck, CT 06770 (PDE 283).
Uniroyal, Inc., Middlebury, CT 06749 (PDE 284).
U.S. Department of the Treasury, Bureau of Engraving and Printing, Washington, DC 20228 (PDE 288).
United States Printing Ink Co., East Rutherford, NJ 07073 (PDE 164.3).

VIII. Exective Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this proposed rule is not a major rule as the term is defined in section 1(b) of the Executive Order.

EPA has concluded that this proposed rule is not "major" under the criteria of section 1(b) because the annual effect of the rule on the economy will be considerably less than $100 million; it will not cause any noticeable increase in costs or prices for any sector of the economy or for any geographic region; and it will not result in any significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of United States enterprises to compete with foreign enterprises in domestic or foreign markets. This proposed rule allows the continued manufacture, processing, and distribution in commerce of PCBs that would otherwise be prohibited by section 6(e)(3)(A) of TSCA for the petitioners who met the requirements of section 6(e)(3)(B) of TSCA and the Interim Procedural Rules for PCB Exemptions.

Although this proposal is not a major rule, EPA has prepared an Economic Impact Analysis using the guidance in the Executive Order to the extent possible. This proposed rule was submitted to the Office of Management and Budget (OMB) prior to publication, as required by the Executive Order.

IX Regulatory Flexibility Act

Section 603 of the Regulatory Flexibility Act (the Act), 5 U.S.C. 603, requires EPA to prepare and make available for comment an initial regulatory flexibility analysis in connection with any rulemaking for which EPA must publish a general notice of proposed rulemaking. The initial regulatory flexibility analysis must describe the impact of the proposed rule on small business entities.

Section 605(b) of the Act, however, provides that section 603 of the Act "shall not apply to any proposed or final rule if the head of the Agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."

EPA has tried to estimate the cost of this proposed rule on small businesses, whose petitions EPA proposes to deny. For purposes of this regulatory flexibility analysis, EPA considers a small business to be one whose annual sales revenues were less than $30 million. This cutoff is in accordance with EPA's Notice of Proposed Rulemaking for defining small businesses for purposes of reporting under section 8(a) of TSCA, which was published in the **Federal Register** of June 23, 1982 (47 FR 27206).

EPA proposes to deny four exemption petitions that were submitted by small businesses who want to distribute in commerce PCB small capacitors and PCB equipment containing PCB small capacitors. None of these petitioners provided any information about the economic consequences of denial. However, based on other information provided by two of the petitioners, EPA was able to estimate the economic costs of denying those two petitions. EPA estimated the cost of denial to Traco Industrial Corp. to be $65,100, or roughly one percent of its 1981 sales revenues of $6 million. EPA estimated the cost of denial to Trans-State Corp. to be $37,200, or roughly 1.5 percent of its 1981 sales revenues of $2.5 million.

EPA is proposing to deny 31 exemption petitions that were submitted on behalf of approximately 330 small businesses who want to process and distribute in commerce PCBs in servicing customers' transformers. Based on information provided in these petitions, EPA estimated the cost of denying all these petitions to be approximately $20,000 to $36,000: this includes $17,500 to $29,200 for processing and distributing in commerce PCB fluid and $2,500 to $6,800 for processing and distributing in commerce PCB-contaminated fluid. Assumimg these costs are divided evenly among the approximately 330 servicing companies represented by the petitions, the average annual cost would be less than $90 per company for denying petitions to process and distribute in commerce PCB fluid and less than $20 per company for denying petitions to process and distribute in commerce PCB-contaminated fluid.

EPA proposes to deny the 12 petitions that were submitted on behalf of approximately 300 small businesses who want to process and distribute in commerce PCBs in buying and selling transformers. Based on the limited information provided in these petitions, EPA could estimate only the costs of denying these petitions on an individual tranformer basis. EPA estimated that the incremental costs of denial would be approximately $90 to $240 for an average size PCB-contaminated transformer and $2,400 to $4,000 for an average size PCB transformer, assuming all the transformer fluid had to be replaced in both cases. Depending on the purchase price and resale value of used transformers, these additional costs may render a portion of petitioners' buying and selling activities unprofitable. EPA was unable to estimate the total costs of denial, because the petitioners did not provide information about the number of transformers to be bought and sold, the purchase price and resale value of such transformers, and estimates of the costs of denial.

EPA proposes to deny Traco Industrial Corp.'s petition to export PCB small capacitors. Traco did not provide any information about the costs of denying its petition to export PCBs, and EPA was unable to estimate such costs.

EPA proposes to grant a limited exemption to two petitioners to process and distribute in commerce PCBs for use as a mounting medium in microscopy and to deny the portion of R.P. Cargille Laboratories' petition to process and distribute in commerce PCBs for uses in microscopy that EPA has not authorized. The costs of denial would be less than $2,000 for McCrone Research Institute and less than $4,500 for Cargille, which were the upper bounds estimated by the petitoners. Cargille's petition stated that the "economic consequences of denying the petition are quite small."

EPA proposes to deny Pathfinder Laboratories, Inc.'s petition to manufacture, process, and distribute PCBs for purposes of research and development. Pathfinder did not provide information about the costs of denial, and EPA was unable to estimate such costs.

Therefore, in accordance with section 605(b) of the Act, I certify that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. EPA solicits comments from petitioners and other interested persons concerning the economic impact of this proposed rule on small business entities. In addition, EPA is sending a copy of this proposed rule to the Chief Counsel for Advocacy of the Small Business Administration.

EPA further notes that section 606 of the Act states that the requirements of section 603 do not alter in any manner standards otherwise applicable by law to agency action. Section 6(e)(3)(A) of TSCA and EPA's PCB Ban Rule, 40 CFR Part 761, prohibit the manufacture, processing, and distribution in commerce of PCBs. Section 6(e)(3)(B) of TSCA permits EPA to grant exemptions from these prohibitions, if it finds that petitioners have demonstrated that granting an exemption would not result in an unreasonable risk of injury to health or the environment and that they have made good faith efforts to develop substitutes for PCBs. Both small and large businesses must meet the same statutory standard. Thus, even if EPA believed that it was an economically desirable policy to grant an exemption petition from a small business, it could do so only if the small business met the requirements set forth in TSCA.

X. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, authorizes the Director of the Office of Management and Budget (OMB) to review certain information collection requests by Federal agencies. EPA's information collection requests for this proposed rule were approved by OMB and were assigned OMB Control Number 2000–0466.

Future information collection requests will be submitted to OMB for approval under section 3504(b) of the PRA.

XI. Official Rulemaking Record

For the convenience of the public and EPA, all of the information originally submitted and filled indocket number OPTS–66001 (manufacturing exemptions) and OPTS–66022 (processing and distribution in commerce exemptions) is being consolidated into one docket number OPTS–66008.

In accordance with the requirements of section 19(a)(3) of TSCA, EPA is publishing the following list of documents, which constitutes the record of this proposed rulemaking. A supplementary list or lists may be published any time on or before the date the final rule is issued. However, public comments, the transcript of the rulemaking hearing, or submissions made at the rulemaking hearing, or submissions made at the rulemaking hearing or in connection with it will not be listed, because these documents are exempt from **Federal Register** listing under section 19(a)(3). A full list of these materials will be available on request from EPA's TSCA Assistance Office listed under **"FOR FURTHER INFORMATION CONTACT."**

A. Previous Rulemaking Records

(1) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Disposal and Marking Rule," Docket No. OPTS–68005, 43 FR 7150, February 17, 1978.

(2) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions Rule," 44 FR 31514, May 31, 1979.

(3) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs); Proposed Rulemaking for PCB Manufacturing Exemptions," Docket No. OPTS–66001, 44 FR 31564, May 31, 1979.

(4) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Use in Electrical Equipment," Docket No. OPTS–62015, 47 FR 37342, August 25, 1982.

(5) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Use in Closed and Controlled Waste Manufacturing Processes," Docket No. OPTS–62017, 47 FR 46980, October 21, 1982.

(6) Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Amendment to Use Authorization for

PCB Railroad Transformers," Docket No. OPTS–62020, 48 FR 124, January 3, 1983.

B. **Federal Register** *Notices*

(7) 43 FR 50905, November 1, 1978, USEPA, "Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act; Interim Procedural Rules for Polychlorinated Biphenyls (PCBs) Ban Exemption."

(8) 44 FR 108, January 2, 1979, USEPA, "Polychlorinated Biphenyls (PCBs); Policy for Implementation and Enforcement."

(9) 44 FR 31558, May 31, 1979, USEPA, "Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act; Interim Procedural Rules for Exemptions from the Polychlorinated Biphenyl (PCB) Processing and Distribution in Commerce Prohibitions."

(10) 44 FR 31564, May 31, 1979, USEPA, "Polychlorinated Biphenyls (PCBs); Proposed Rulemaking for PCB Manufacturing Exemptions."

(11) 44 FR 42727, July 20, 1979, USEPA, "Proposed Rulemaking for Polychlorinated Biphenyls (PCBs); Manufacturing Exemptions; Notice of Receipt of Additional Manufacturing Petitions and Extension of Reply Comment Period."

(12) 45 FR 14247, March 5, 1980, USEPA, "Polychlorinated Biphenyls (PCBs); Statement of Policy on All Future Exemption Petitions."

(13) 45 FR 29115, May 1, 1980, USEPA, "Polychlorinated Biphenyls (PCBs); Expiration of the Open Border Policy for PCB Disposal."

C. Support Documents

(14) USEPA, OTS, "PCB Exemption Petitions Economic Impact Analysis" (July 1983).

(15) USEPA, OTS, "Response to Comments on Health Effects of PCBs" (August 1982).

(16) USEPA, OTS, "Support Document/Voluntary Environmental Impact Statement and PCB Manufacturing, Processing, Distribution in Commerce, and Use Ban Regulation: Economic Impact Analysis" (April 1979).

(17) USEPA, OPTS, EED, Letter from Marigene H. Butler, Philadelphia Museum of Art, to Martin P. Halper, EPA, "Use of PCBs in Microscopy" (April 29, 1983).

(18) USEPA, OPTS, EED, Telephone Communication between Denise Keehner, EPA, and Martha Goodway, Smithsonian Institution, "Use of PCBs in Microscopy" (May 9, 1983).

D. Reports

(19) USEPA, ORD, EMSL, "A Method for Sampling and Analysis of Polychlorinated Biphenyls (PCBs) in Ambient Air" (August 1978). EPA–600/4–78–048.

E. Other

(20) Manufacturing Exemption Petitions and Related Communications in Docket No. OPTS–66001.

(21) Processing and Distribution in Commerce Exemption Petitions and Related Communications in Docket No. OPTS–66002.

EPA will identify the complete rulemaking record on or before the date of promulgation of the final rule, as prescribed by section 19(a)(3) of TSCA. EPA will consider for inclusion in the record additional material submitted at any time between the publication of this proposed rule and the date the Agency identifies the final record. The final rule also will permit persons to point out any omissions or errors in the record.

List of Subjects in 40 CFR Part 761

Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

(Sec. 6, Pub. L. 94–469, 90 Stat. 2020 (15 U.S.C. 2605))

Dated: October 21, 1983.

William D. Ruckelshaus,

Administrator.

PART 761—[AMENDED]

Therefore, it is proposed that 40 CFR Part 761 be amended by adding a new Subpart E consisting at this time of § 761.80 to read as follows:

Subpart E—Exemptions

§ 761.80 Manufacturing, Processing, and Distribution in Commerce Exemptions.

(a) The Administrator grants an exemption for one year to distribute in commerce PCB small capacitors for purposes of repair to:

(1) Advance Transformer Co., Chicago, IL 60618 (PDE 4).

(2) Air Conditioning Contractors of America, Washington, DC 20036 (PDE 26.2).

(3) Association of Home Appliance Manufacturers, Chicago, IL 60606 (PDE 26.2).

(4) B & B Motor & Control Corp., New York, NY 10012 (PDE 30).

(5) Complete-Reading Electric Co., Hillside, IL 60162 (PDE 48).

(6) Dunham-Bush, Inc., Harrisonburg, VA 22801 (PDE 71).

(7) Emerson Quiet Kool Corp., Woodbridge, NJ 07095 (PDE 84).

(8) Harry Alter Co., Chicago, IL 60609 (PDE 111).

(9) Motors & Armatures, Inc., Hauppauge, NY 11788 (PDE 161).

(10) Minnesota Mining and Manufacturing Co., St. Paul, MN 55133 (PDE 157.1).

(11) National Association of Electrical Distributors, Stamford, CT 06901 (PDE 163).

(12) National Capacitor Corp., Garden Grove, CA 92841 (PDE 165).

(13) Service Supply Co., Phoenix, AZ 85013 (PDE 237).

(14) Wedzeb Enterprises, Inc., Lebanon, IN 46052 (PDE 297).

(15) Westinghouse Electric Corp., Pittsburgh, PA 15222 (PDE 298).

(b) The Administrator grants an exemption for one year to distribute in commerce PCB equipment containing PCB small capacitors to:

(1) Advance Transformer Co., Chicago, IL 60618 (PDE 4).

(2) Coleman Co., Inc., Wichita, KS 67201 (PDE 45.1).

(3) Donn Corp., Westlake, OH 44145 (PDE 63).

(4) Dunham-Bush, Inc., Harrisonburg, VA 22801 (PDE 71).

(5) Emerson Quiet Kool Corp., Woodbridge, NJ 07095 (PDE 84).

(6) Friedrich Air Conditioning & Refrigeration Co., San Antonio, TX 78295 (PDE 93).

(7) Gould, Inc., Electric Motor Division, St. Louis, MO 63166 (PDE 103).

(8) GTE Products Corp., Danvers, MA 01923 (PDE 105).

(9) King-Seeley Thermos Co., Queen Products Division, Albert Lea, MN 56007 (PDE 139).

(10) L. E. Mason Co., Red Dot Division, Boston, MA 02136 (PDE 223).

(11) Minnesota Mining and Manufacturing Co., St. Paul, MN 55133 (PDE 157.3).

(12) National Association of Electrical Distributors, Stamford, CT 06901 (PDE 163).

(13) Royalite Co., Flint, MI 48502 (PDE 231).

(14) Sola Electric, Unit of General Signal, Elk Grove Village, IL 60007 (PDE 246).

(15) Transco, Inc., West Columbia SC 29169 (PDE 276.1).

(16) Westinghouse Electric Corp., Pittsburgh, PA 15222 (PDE 298).

(c) The Administrator grants an exemption for one year to process PCB small capacitors and PCB equipment containing PCB small capacitors into other equipment and to distribute in commerce that equipment to:

(1) Advance Transformer Co., Chicago, IL 60618 (PDE 4).

(2) Gould, Inc., Electric Motor Division, St. Louis, MO 63166 (PDE 103).

(3) GTE Products Corp., Danvers, MA 01923 (PDE 105).

(4) L. E. Mason Co., Red Dot Division, Boston, MA 02136 (PDE 223).

(5) Westinghouse Electric Corp., Pittsburgh, PA 15222 (PDE 298).

(d) The Administrator grants an exemption for one year (or until July 1, 1984, if EPA does not extend the use authorization in §761.30(j)) to manufacture small quantities of PCBs for research and development to:

(1) Analabs/Foxboro Analytical, Division of Foxboro Co., North Haven, CT 06483 (ME 6).

(2) California Bionuclear Corp., Sun Valley, CA 91352 (ME 13).

(3) Ultra Scientific, Inc., Hope, RI 02831 (ME 99.1).

(e) The Administrator grants an exemption for one year (or until July 1, 1984, if EPA does not extend the use authorization in §761.30(j)) to process and distribute in commerce small quantities of PCBs for research and development to:

(1) Analabs/Foxboro Analytical, Division of Foxboro Co., North Haven, CT 06473 (PDE 21.1).

(2) California Bionuclear Corp., Sun Valley, CA 91352 (PDE 38.1).

(3) Chem Service, Inc., West Chester, PA 19380 (PDE 41).

(4) PolyScience Corp., Niles IL 60648 (PDE 178).

(5) Ultra Scientific, Inc., Hope, RI 02831 (PDE 282.1).

(f) The Administrator grants an exemption for one year (or until July 1, 1984, if EPA does not extend the use authorization in §761.30(k)) to process and distribute in commerce PCBs for use as a mounting medium in microscopy in art and historic conservation to:

(1) McCrone Research Institute, Chicago IL 60616 (PDE 149).

(2) R.P. Cargille Laboratories, Inc., Cedar Grove, NJ 07009 (PDE 181).

(g) The Administrator grants an exemption for one year to distribute in commerce previously imported and repaired PCB equipment containing PCB small capacitors to:

(1) Honeywell, Inc., Waltham, MA 02154 (PDE 119).

(2) [Reserved] .

(h) The Administrator grants an exemption for one year to import samples of PCB-containing fluid taken from PCB transformers for purposes of testing and analysis to:

(1) Dow Corning Corp., Midland, MI 48640 (ME 31.1).

(2) [Reserved].

(i) The Administrator grants an exemption for one year (or until July 1, 1984, if EPA does not extend the use authorization in §761.30(j)) to export small quantities of PCBs for research and development to:

(1) PolyScience Corp., Niles, IL 60648 (PDE 178).

(2) [Reserved].

[FR Doc. 83-29573 Filed 10-31-83; 8:45 am]

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Reader Aids

Federal Register
Vol. 48, No. 212
Tuesday, November 1, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

50295-50500..... 1

TABLE OF EFFECTIVE DATES AND TIME PERIODS—NOVEMBER 1983

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
November 1	November 16	December 1	December 16	January 3	January 30
November 2	November 17	December 2	December 19	January 3	January 31
November 3	November 18	December 5	December 19	January 3	February 1
November 4	November 21	December 5	December 19	January 3	February 2
November 7	November 22	December 7	December 22	January 6	February 6
November 8	November 23	December 8	December 23	January 9	February 6
November 9	November 25	December 9	December 27	January 9	February 7
November 10	November 25	December 12	December 27	January 9	February 8
November 14	November 29	December 14	December 29	January 13	February 14
November 15	November 30	December 15	December 30	January 16	February 14
November 16	December 1	December 16	January 3	January 16	February 14
November 17	December 2	December 19	January 3	January 16	February 15
November 18	December 5	December 19	January 3	January 17	February 16
November 21	December 6	December 21	January 5	January 20	February 20
November 22	December 7	December 22	January 6	January 23	February 20
November 23	December 8	December 23	January 9	January 23	February 21
November 25	December 12	December 27	January 9	January 24	February 23
November 28	December 13	December 28	January 12	January 27	February 27
November 29	December 14	December 29	January 13	January 30	February 27
November 30	December 15	December 30	January 16	January 30	February 28

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing October 28, 1983



VOL
48
ISS
2
1
2
NO
1
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11-2-83
Vol. 48 No. 213

federal register

Wednesday
November 2, 1983

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11-2-83
Vol. 48 No. 213
Pages 50501-50698

federal register

Wednesday
November 2, 1983

Selected Subjects

Administrative Practice and Procedure
Nuclear Regulatory Commission

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Authority Delegations (Government Agencies)
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Commodity Futures
Commodity Futures Trading Commission

Communications Common Carriers
Federal Communications Commission

Elections
Federal Election Commission

Employment Taxes
Internal Revenue Service

Fisheries
National Oceanic and Atmospheric Administration

Investment Advisers
Securities and Exchange Commission

Loan Programs—Education
Veterans Administration

CONTINUED INSIDE

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Selected Subjects

Marketing Agreements and Orders
Agricultural Marketing Service

Pesticides and Pests
Environmental Protection Agency

Radio Broadcasting
Federal Communications Commission

Security Measures
Consumer Product Safety Commission

Television Broadcasting
Federal Communications Commission

Veterans
Employment and Training Administration

Vocational Rehabilitation
Veterans Administration

Contents

Federal Register
Vol. 48, No. 213
Wednesday, November 2, 1983

Administrative Conference of United States
NOTICES
Meetings:
50588 Administration Committee

Agricultural Marketing Service
RULES
50501 Oranges and grapefruit grown in Tex.
Tobacco inspection:
50501 Burley; alternative packaging; clarification
PROPOSED RULES
Milk marketing orders:
50549 Ohio-Pennsylvania

Agricultural Research Service
NOTICES
Meetings:
50588 Soybean Research Advisory Institute

Agricultural Stabilization and Conservation Service
NOTICES
Marketing quotas and acreage allotments:
50589 Rice

Agriculture Department
See also Agricultural Marketing Service; Agricultural Research Service; Agricultural Stabilization and Conservation Service.
NOTICES
50588 Agency information collection activities under OMB review

Army Department
NOTICES
50597 Agency information collection activities under OMB review

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
PROPOSED RULES
Registration, etc.:
50554 Temporary licenses and statutory disqualification

Community Services Office
NOTICES
Grant and loan programs; availability, etc.:
50616 Community development credit union loan program

Consumer Product Safety Commission
RULES
50514 Security regulation for confidential business information obtained from EPA

Copyright Royalty Tribunal
NOTICES
Cable royalty fees:
50595 Distribution determination (1979); rescinded

Defense Department
See also Army Department; Defense Intelligence Agency.
NOTICES
50597 Agency information collection activities under OMB review

Defense Intelligence Agency
NOTICES
50598 Privacy Act; systems of records

Education Department
NOTICES
Meetings:
50599 Bilingual Education National Advisory Council

Employment and Training Administration
RULES
50527 Employment service cost reimbursable grants program, 1983 FY
Job Training Partnership Act:
50662 Wagner-Peyser Act implementation; establishment and functioning of State employment services

Energy Department
See Federal Energy Regulatory Commission.

Environment and Energy Office, Housing and Urban Development Department
NOTICES
Environmental statements; availability, etc.:
50620 Vicksburg Subdivision, Missouri City, Fort Bend County, Tex.

Environmental Protection Agency
RULES
Air quality implementation plans:
50686 Clean Air Act Part D, compliance with statutory provisions, etc.
Air quality implementation plans; approval and promulgation; various States:
50530 Ohio
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
50532 Aluminum tris(*O*-ethylphosphonate)
50533 Inorganic bromides resulting from fumigation with methyl bromide
Pesticides; tolerances in food and animal feeds:
50528 Dicamba; extension of time; correction
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
50670 Glass manufacturing plants
NOTICES
Meetings:
50606 Air Pollution Control Techniques National Advisory Committee
50606 Science Advisory Board
Pesticide registration, cancellation, etc.:

50606 Cosan Chemical Corp.
50605 D-H Polyram 3.5 Dust Fungicide, etc.

Equal Employment Opportunity Commission
NOTICES
50654 Meetings; Sunshine Act

Federal Aviation Administration
RULES
Air traffic operating and flight rules:
50510 Emergency air traffic regulations; update
Airworthiness directives:
50508 Pilatus Britten-Norman
50510 Jet routes and VOR Federal airways
50512 Standard instrument approach procedures
PROPOSED RULES
50553 Rulemaking petitions; summary and disposition

Federal Communication Commission
RULES
Common carrier services:
50534 Telephone companies; uniform systems of accounts; detariffing customer premises equipment
Radio services, special:
50548 Maritime, Alaska-fixed, and aviation services; editorial amendments; correction
PROPOSED RULES
Radio broadcasting:
50571 Nighttime power limitations and antenna systems for Class IV AM broadcast stations
Radio stations; table of assignments:
50574 California
50575 Colorado
50584 Florida
50576 Kentucky
50577 Massachusetts
50578 Michigan
50579 Mississippi
50580 South Carolina
50581 Tennessee
50582 Virginia
Television broadcasting:
50571 Aural baseband of television transmitters; subcarrier frequencies use; extension of time
Television stations; table of assignments:
50585 North Carolina
NOTICES
Hearings, etc.:
50607 Advanced Mobile Phone Service, Inc., et al.
50611 Burlington Broadcasting Co., Ltd., et al.
50611 Charleston Community Television, Ltd., et al.
50607 Phoenix Media Corp. et al.
50611 Rulemaking proceedings, filed, granted, denied, etc.; petitions

Federal Election Commission
RULES
50502 Corporation and labor organizations; nonpartisan communications

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
50599 Baltimore Gas & Electric Co.
50602 Bonneville Power Administration
50601 Bowman, Steve, et al.
50599 Canyon Creek Compression Co.
50600 Consumers Power Co.
50600 Mid Louisiana Gas Co.
50600 Mountain Fuel Supply Co.

Federal Home Loan Bank Board
NOTICES
Applications, etc.:
50613 Boston Five Cents Savings Bank
50613 Farm & Home Savings Association
50613 First Federal Savings & Loan Association of South Carolina
50613 Landmark Savings Association
50613 Nebraska Savings & Loan Association, F.A.

Federal Maritime Commission
NOTICES
Energy and environmental statements; availability, etc.:
50613 Costa Armatori, S.p.A., et al.
50614 Korea Marine Transport Co., Ltd., et al.

Federal Reserve System
NOTICES
50614 Agency information collection activities under OMB review
Applications, etc.:
50615 Allied Bancshares, Inc.
50615 Gardner Bancorp, Inc., et al.
50615 Northwest Florida Banking Corp. et al.
Bank holding companies; proposed de novo nonbank activities:
50616 Union Bancorp
50654 Meetings, Sunshine Act

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
50653 Builders Mutual Surety Co.; termination

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
50528 Fenbendazole granules
Organization and authority delegations:
50527 Drugs and Biologics National Center officials

Health and Human Services Department
See Food and Drug Administration; Health Resources and Services Administration; Human Development Services Office.

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
50619 National Health Service Corps scholarship program; individual payback activities

Housing and Urban Development Department
See also Environment and Energy Office.
NOTICES
50620- Agency information collection activities under
50625 OMB review (6 documents)

Human Development Services Office
NOTICES
Meetings:
50619 Federal Council on Aging

Interior Department
See also Land Management Bureau; National Park Service.
Meetings:
50625, 50626 Fair Market Value Policy for Federal Coal Leasing Commission (2 documents)

Internal Revenue Service
PROPOSED RULES
Employment taxes:
50567 Railroad retirement tax deposits
50567 Railroad retirement tax deposits; hearing

International Trade Administration
NOTICES
Countervailing duties:
50592 Cotton yarn from Brazil
50594 Export trade certificates of review; applications

International Trade Commission
NOTICES
50631 Changing world crude petroleum prices, possible effects; study; hearing cancelled
Import investigations:
50626 Barium chloride and carbonate from China
50629 Color television receivers from Korea and Taiwan
50627 Combination punch press and laser assemblies and components
50630 Portland hydraulic cement from Australia and Japan
50627 Rotary wheel printers
50628, 50629 Self-stripping electrical tap connectors (3 documents)
50627 Skinless sausage casings and resulting product, manufacturing processes
50629 Single handle faucets
50631 Wood and upholstered household furniture industry; competitive assessment study; inquiry and hearing

Interstate Commerce Commission
NOTICES
Motor carriers:
50632 Finance applications
Rail carriers:
50631 Alaska Railroad; certificate of public convenience and necessity for acquisition and operation
Railroad operation, acquisition, construction, etc.:
50632 Norfolk & Western Railway Co.
50633 Vandalia Railroad Co.

Labor Department
See also Employment and Training Administration.
RULES
50529 Federal service contract labor standards; correction

Land Management Bureau
NOTICES
Sale of public lands:
50626 Wyoming

Management and Budget Office
NOTICES
50642 Hospital and medical care and treatment furnished by U.S., cost; rates regarding recovery from tortiously liable third persons

National Capital Planning Commission
NOTICES
Senior Executive Service:
50633 Performance Review Board; membership

National Credit Union Administration
NOTICES
50634 Agency information collection activities under OMB review

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
50586 Bering Sea and Aleutian Islands groundfish; foreign fishing

National Park Service
NOTICES
Meetings:
50626 Santa Monica Mountains National Recreation Area Advisory Commission; cancellation

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities, domestic licensing:
50550 Adjudicatory licensing hearings, NRC staff role
NOTICES
50640 Agency information collection activities under OMB review
Applications, etc.:
50635 Georgia Power Co. et al.
50640 Long Island Lighting Co.
50637 Mississippi Power & Light Co. et al.
50638 South Carolina Electric & Gas Co. et al.
50640 University of California Regents
Meetings:
50640 Reactor Safeguards Advisory Committee
50654 Meetings; Sunshine Act

Securities and Exchange Commission
RULES
Investment advisers:
50526 Registration exclusion for persons offering advice to their employer-sponsored employee benefit plans; rescission
NOTICES
50642 Agency information collection activities under OMB review
Hearings, etc.:
50647 Columbia Gas System, Inc., et al.
50642 First Investors Tax Exempt Fund, Inc.
50643 Management of Managers Equity Fund et al.
50649 Related Forest City Elderly Housing Ltd. Partnership II et al.
50647 Royal Bank of Scotland plc.
50649 Western Massachusetts Electric Co.
50654 Meetings; Sunshine Act
Self-regulatory organization; proposed rule changes:
50651 New York Stock Exchange, Inc.
50649 Philadelphia Stock Exchange, Inc.

Small Business Administration
NOTICES
50652 Agency information collection activities under OMB review

Disaster loan areas:
50652 Oklahoma

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
50595 Pakistan
50596 Taiwan
50596 Thailand

Transportation Department
See Federal Aviation Administration; Urban Mass Transportation Administration.

Treasury Department
See also Fiscal Service; Internal Revenue Service.
NOTICES
Organization, function, and authority delegations:
50653 Currency Operations Divisions; transfer to Engraving and Printing Bureau

Urban Mass Transportation Administration
NOTICES
Grants; availability, etc.:
50656 Federal Public Transportation Act of 1982; funds apportionment

Veterans Administration
RULES
Vocational rehabilitation and education:
50529 Post-Vietnam era veterans' educational assistance program; lump-sum payment rate, etc.
PROPOSED RULES
Vocational rehabilitation and education:
50568 Educational loan forgiveness; cancellation
50569 Education loans, flight training, correspondence training; elimination, reduction and restrictions

Wage and Hour Division
RULES
50529 Federal service contract labor standards; correction (Editorial Note: For a document on this subject see entry under Labor Department.)

Separate Parts in This Issue

Part II
50656 Department of Transportation, Urban Mass Transportation Administration

Part III
50662 Department of Labor, Employment and Training Administration

Part IV
50670 Environmental Protection Agency

Part V
50686 Environmental Protection Agency

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
29 50501
906 50501
Proposed Rules:
1036 50549

10 CFR
Proposed Rules:
2 50550

11 CFR
114 50502

14 CFR
39 50508
71 50510
75 50510
91 50510
97 50512
Proposed Rules:
Ch. I 50553

16 CFR
1017 50514

17 CFR
275 50526
Proposed Rules:
3 50554
10 50554

20 CFR
602 50662
603 50662
604 50662
621 50527
651 50662
652 50662
653 (2 documents) 50527, 50662
654 50527
655 50527
656 50527

21 CFR
5 50527
193 50528
520 50528
561 50528

26 CFR
Proposed Rules:
31 (2 documents) 50567

29 CFR
4 50529

38 CFR
21 50529
Proposed Rules:
21 (2 documents) 50568, 50569

40 CFR
51 50686
52 (2 documents) 50530, 50686
180 (2 documents) 50532, 50533
Proposed Rules:
60 50670

47 CFR
31 50534
81 50548
83 50548
87 50546
Proposed Rules:
73 (13 documents) 50571–50585

50 CFR
Proposed Rules:
611 50585
675 50586

VOL
48
ISS
2
1
3
NO
2
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 213
Wednesday, November 2, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection; Alternative Packaging for Burley Tobacco

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Clarification.

SUMMARY: The purpose of this notice is to clarify and correct a statement in the **"SUPPLEMENTARY INFORMATION"** of a final rule concerning official grading published by the Department in the **Federal Register** on September 7, 1983. The statement was in reference to the close monitoring by the Department of untied, sheeted sales to insure strict compliance with a 250-pound maximum weight per sheet. Such weight monitoring is currently a State-regulated function.

EFFECTIVE DATE: November 2, 1983.

FOR FURTHER INFORMATION CONTACT: Lioniel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, Room 502 Annex Building, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–2567.

SUPPLEMENTARY INFORMATION: A final rule was published at 48 FR 40365, September 7, 1983, amending the Department's regulations to provide for official grading of untied, sheeted sales of burley tobacco. The authority for promulgating these regulations is contained in the Tobacco Inspection Act of 1935 (49 Stat. 731; 7 U.S.C., 511 *et seq.*).

In the **"SUPPLEMENTARY INFORMATION"** of the rulemaking document, the Department, in addressing a public comment stated: "A comment by a buying concern which consistently had been opposed to untied, sheeted sales stated that if untied, sheeted sales were allowed that the action be conditioned by (1) Compliance with the regulations regarding leaf orientation; (2) a 250-pound maximum weight per sheet; and (3) one sheet only should constitute a 'lot.' These conditions are well received. The Department, in an effort to provide improved services to the industry, shall closely monitor untied, sheeted sales across the burley belt to insure strict compliance with the aforestated conditions."

While items (1) and (3) are specifically addressed in the revised regulations in the final rule published at FR 40365, September 7, 1983, item (2) is not. Weight limitations are presently controlled at the State rather than the federal level. Therefore, the Department is giving notice that the part of the above statement regarding weight monitoring is hereby revised to indicate that such monitoring is the responsibility of the states and not the federal inspector.

Dated: October 27, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-29714 Filed 11-1-83; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 906

Oranges and Grapefruit Grown in Texas; Special Purpose Exemption

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule permits shipment of Texas oranges and grapefruit mixed with other kinds of fruit, such as apples and avocados, exempt from certain container and pack requirements under certain conditions. Such action is designed to expand the market for such oranges and grapefruit by authorizing another type of special purpose shipment.

DATES: Effective date: November 2, 1983.
Comments due: December 2, 1983.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under Secretary's Memorandum 1512–1 and Executive order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the Texas orange and grapefruit crops for the benefit of producers, and will not substantially affect costs for the directly regulated handlers. Any comments relating to economic impact on small entities should be filed within the 30 days provided.

This interim rule is issued under the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Texas Valley Citrus Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Shipment of oranges and grapefruit mixed with other types of fruit, such as apples and avocados, is not permitted under current regulations, as such shipments would not meet certain container and pack requirements. This rule would exempt such shipments from such container and pack requirements by permitting oranges and grapefruit mixed with other types of fruit to be shipped as special shipments under the provisions specified in § 906.42 subject to certain conditions. One such condition is that at least 50 percent, by count, of the contents of any container of mixed fruit be oranges and/or grapefruit. The purpose of this condition is to ensure that Texas oranges and grapefruit are prominently featured in mixed packs of fruit. Another condition is that such mixed fruit shipments be made in containers not larger than the

7/10 bushel carton, in that containers larger than such carton are considered unsuitable for this type of shipment. The other condition establishes minimum grade requirements for both grapefruit (U.S. No. 1), and oranges (a modified U.S. Combination grade). This condition recognizes that such mixed fruit packs are a special type of shipment intended for a distinct market which demands high quality fruit. Grapefruit and oranges in such shipments would also be subject to the current minimum size assessments, and inspection and certification requirements. This action is intended to expand the market for Texas oranges and grapefruit.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this interim rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because of insufficient time between the date when information became available upon which this rule is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on this rule at an open meeting. Handlers have been apprised of this rule's provisions and the effective time. The 1983–84 Texas orange and grapefruit shipping season has already begun, and handlers need to make use of this rule's provisions as soon as possible. This rule relieves restrictions on the handling of oranges and grapefruit, and it provides 30-day comment period. A longer comment period would be contrary to the public interest, as any comments on the effect of the rule need be received within 30 days, so that any necessary changes can be made promptly to enhance orderly marketing of Texas citrus. All comments received will be considered prior to finalization of this interim rule.

List of Subjects in 7 CFR Part 906

Marketing agreements and orders, Oranges, Grapefruit, Texas.

PART 906—[AMENDED]

Therefore, § 906.120(c) of Subpart—Rules and Regulations (§§ 906.120–906.151) is amended by adding a new paragraph (c)(4) and by revising current paragraph (e) to read as follows:

§ 906.120 Fruit exempt from regulations.

* * * * *

(c) * * *

(4) Oranges and grapefruit may be handled exempt from container and pack regulations issued pursuant to § 906.40(d), under the following conditions:

(i) Such oranges and/or grapefruit are mixed with other types of fruit;

(ii) Such oranges and/or grapefruit constitute at least 50 percent, by count, of the contents of any container, and any such container is not larger than a 7/10 bushel carton; and

(iii) Such grapefruit grade at least U.S. No. 1, and such oranges grade at least U.S. Combination (with not less than 60 percent, by count, of the oranges in any lot grading at least U.S. No. 1).

* * * * *

(e) *Terms.* The term "bushel" means a unit of measure equivalent to 2,150.42 cubic inches; the term "level full" means that the fruit is level with the top edge of the bottom section of the carton; the term "six-pack" means any container with a capacity of one-fourth of a bushel, the term "basket" means any container made of interwoven material; the term "closed" means closed in accordance with good commercial practices; and terms relating to grade mean the same as in the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona) (7 CFR 51.620–51.653), or in the U.S. Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 51.680–51.714).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 28, 1983.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agriculture Marketing Service.

[FR Doc. 83-29780 Filed 11-1-83; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL ELECTION COMMISSION

11 CFR Part 114

[Notice 1983-28]

Nonpartisan Communications by Corporations and Labor Organizations

AGENCY: Federal Election Commission.

ACTION: Final rule; Transmittal of Regulations to Congress.

SUMMARY: The Federal Election Commission regulations at 11 CFR 114.3 and 114.4 governing contributions and expenditures by corporations and labor organizations for nonpartisan communications have been revised and transmitted to Congress pursuant to 2 U.S.C. 438(d). The revisions were initiated in response to issues raised in several advisory opinions which the Commission has issued in this area.

The revisions clarify the classes of persons to whom nonpartisan communications may be made under each section and indicate the types of communications which are permissible. They also expand the types of publications which may be distributed to the general public by corporations and labor organizations to include nonpartisan voting records and voter guides. Further information on the revised regulations is contained in the supplementary information which follows.

EFFECTIVE DATE: Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before the Congress 30 legislative days in accordance with 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20463, (202) 523–4143 or (800) 824–9530.

SUPPLEMENTARY INFORMATION: The Commission has considered public comments received in response to its Advance Notice of Proposed Rulemaking (45 FR 56349; August 25, 1980) and Notice of Proposed Rulemaking (46 FR 44964; September 8, 1981). The proposed regulations were first transmitted to Congress on March 1, 1983, (48 FR 9236; March 4, 1983); but were withdrawn on April 21, 1983, to seek further public comment (48 FR 17566; April 22, 1983). Following the close of the comment period on the Commission's Second Notice of Proposed Rulemaking (48 FR 17567; April 22, 1983), the Commission held a second round of public hearings on August 9 and 10, 1983.

The Commission notes that many commentors raised issues that cannot be resolved in the context of this rulemaking. For instance, concern was expressed over perceived differences between the Commission's proposed rules and those of the Internal Revenue Service in this area. While efforts have been made to make the Commission's rules consistent with those of the IRS, any remaining differences result from the fact that the mandate and jurisdiction of each agency is different. See, 2 U.S.C. 438(f). Concern was also raised regarding the inclusion of corporations that are exempt from federal taxation under section 501 (c) (3) or (c) (4) of the Internal Revenue Code. However, the Act does not specifically exclude such nonprofit corporations from the broad prohibition against contributions and expenditures by corporations in connection with federal

elections. As that statutory prohibition is the basis for these regulations, the Commission may not exempt nonprofit corporations from the scope of the regulations in the absence of a clear legislative intent to do so.

2 U.S.C. 438(d) requires that any rule or regulation prescribed by the Commission to carry out the provisions of Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. The following regulations were transmitted to Congress on October 27, 1983.

Explanation and Justification of 11 CFR 114.3 and 114.4.

Section 114.3 Disbursements for Communications in Connection with a Federal Election to Restricted Class.

Section 114.3(a) General.

Paragraph (a)(1) sets forth the basic rule of 2 U.S.C. 441b(b)(2)(A), which allows corporations and labor organizations to communicate with their restricted class on any subject. A corporation's restricted class includes its stockholders, executive and administrative personnel and their families. The restricted class of labor organizations has been redefined in this paragraph to include the organizations' executive and administrative personnel and their families, as well as members and their families. This inclusion is consistent with the legislative intent "that unions, insofar as they are employers, stand in the same shoes as corporations." *See, generally*, H.R. Conf. Rep. No. 1057, 94th Cong., 2d Sess. 64 (1976).

This paragraph also distinguishes between the communications that may be made to the restricted class and those that may be made to the general public as permitted under 11 CFR 114.4. Finally, language has been added to paragraph (a)(1) to make it clear that national banks and corporations organized pursuant to a Congressional enactment may not make contributions or expenditures for partisan communications to the general public in connection with any election, including State and local elections.

Paragraph (a)(2) clarifies the application of § 114.3 to incorporated membership organizations, incorporated trade associations, incorporated cooperatives, and corporations without capital stock. The restricted class of these organizations has been redefined to include families of members. This addition is consistent with the provisions defining the restricted classes of corporations and unions under 2 U.S.C. 441b, both of which include families.

Section 114.3 (b) Reporting Partisan Communications.

This paragraph generally follows current § 114.3(b) while clarifying which disbursements for communications to the restricted class must be reported.

Section 114.3(c) Means of Making Partisan Communications.

This paragraph generally follows current § 114.3(c), but explains that the kinds of communications listed in this subsection are examples of those for which disbursements must be reported under paragraph (b).

Section 114.3(c)(1) Partisan Publications.

Paragraph (c)(1) generally follows current § 114.3(c)(1). However, section (c)(1)(ii) has been revised to state that a corporation or labor organization may use brief quotations from speeches or other materials prepared by a candidate in expressing its own views under this section.

Section 114.3(c)(2) Partisan Candidate and Party Appearances.

Paragraph (c)(2) expands current § 114.3(c)(2) by eliminating the requirements that a meeting at which a candidate or party representative appears to address members of the sponsor's restricted class be one that is "regularly scheduled" and "primarily held for other purposes." In addition, this paragraph now permits the presence of employees who are outside the restricted class, a limited number of invited guests and observers, and representatives of the news media at such meetings. At the Commission's public hearing on these regulations the presence of such persons was described as a necessary element of such meetings and, therefore, the Commission was urged to provide an exception for them under this section. The Commission notes, however, that this provision is limited to those employees necessary to administer the meeting. Similarly, the presence of invited guests and observers is limited to speakers, recipients of awards, and other persons specially invited to attend such a meeting and is not intended to permit a sponsor to invite large numbers of persons outside the solicitable class, such as rank and file employees of a corporation, whose presence would otherwise trigger the rules governing nonpartisan appearances under § 114.4.

Section 114.3(c)(3) Partisan Phone Banks.

Paragraph (c)(3) generally follows current § 114.3(c)(3).

Section 114.3(c)(4) Partisan Registration and Get-Out-The-Vote Drives.

Paragraph (c)(4) generally follows current § 114.3(c)(4).

Section 114.4 Expenditures for Communications in Connection with a Federal Election to the Restricted Class and the General Public.

Section 114.4(a) Nonpartisan Communications by a Corporation or Labor Organization to its Restricted Class.

Section 114.4(a)(1) General.

Paragraph (a)(1)(i) makes clear that corporations and labor organizations may make the nonpartisan communications permitted under this section just to their restricted class if they so choose. It also clarifies the distinction between this section and § 114.3, which describes communications that may only be made to the restricted class. As in § 114.3, this section adds "executive and administrative personnel" to the restricted class of labor organizations.

Paragraph (a)(1)(ii) was added to clarify the application of this section to incorporated membership organizations, incorporated trade associations, incorporated cooperatives and corporations without capital stock. These organizations are treated as corporations for the purpose of making the communications to the general public permitted under § 114.4 (b) and (c). As in § 114.3, the restricted class of these organizations has been expanded to include families of members.

Section 114.4(a)(2) Nonpartisan Candidate and Party Appearances on Corporate Premises or at a Meeting, Convention or Other Function.

This section generally follows current § 114.4(b)(1) but has been revised to include meetings, conventions or other functions sponsored by the corporation, regardless of whether they are held on corporate premises. Also, the category of Presidential and Vice Presidential candidates that may request to appear at such meetings is more specifically defined under paragraph (a)(2)(ii) than in the current regulations to reduce the burden on sponsoring organizations that must provide a forum under this rule.

It should be noted that the operation of this subsection involves appearances in connection with a federal election.

Such appearances can be distinguished from those in which an incumbent, who may also be a "candidate" under the Act, is requested to appear in his or her capacity as an officeholder at a public meeting sponsored by a corporation or labor organization. If the discussion at the meeting is limited to issues of concern to the sponsoring organization or its industry and avoids any reference to campaign activity, the sponsor may finance the meeting without triggering the "same opportunity to appear" requirements of this paragraph. *See* e.g., Advisory Opinion 1980–22.

Section 114.4(a)(3) Nonpartisan Candidate and Party Appearances on Labor Organization Premises or at a Meeting, Convention or Other Function.

This section generally follows current § 114.4(b)(2) and, like § 114.4(a)(2), has been expanded to include nonpartisan candidate and party appearances at meetings, conventions or other functions sponsored by the labor organization which are not held on its premises.

Section 114.4(b) Nonpartisan Communications by Corporations and Labor Organizations to the General Public.

Section 114.4(b)(1) General.

This paragraph clarifies that the communications described in § 114.4(b) may be made to the general public. It also permits the sponsor of a communication made under this section to identify itself or include its logo on materials prepared and distributed under this section, consistent with the Commission's decision in Advisory Opinion 1980–55.

Section 114.4(b)(2) Nonpartisan Registration and Voting Communications.

This paragraph has been added to incorporate the Commission's decision in Advisory Opinion 1980–20 into the regulations. It broadens the class of persons to whom a nonpartisan registration or voting communication may be made to include members of the general public. Under current § 114.4(c)(1), such communications are limited to employees of the corporation or labor organization.

Paragraph (b)(2)(i) contains three factors that the Commission may consider in determining whether a communication made under this section is nonpartisan. The first two factors generally follow current § 114.4(c)(1)(ii) but permit the list of candidates, if included, to name only those running for a particular seat or office rather than requiring the sponsor to print all the candidates on the official ballot. The third factor generally follows current § 114.4(c)(1)(i).

Paragraph (b)(2)(ii) expands the list of media through which a communication may be made under this section from that set forth in current § 114.4(c)(1).

Section 114.4(b)(3) Official Registration and Voting Information.

This subsection generally follows the provisions of current § 114.4(c)(2). Paragraph (b)(3)(iii) has been included consistent with the Commission's decision in Advisory Opinion 1980–55. That paragraph provides that a corporation or labor organization may donate funds to State or local election administrators to pay for the printing and distribution costs of official registration materials and voter information.

Section 114.4(b)(4) Voting Records.

This paragraph permits corporations and labor organizations to prepare and distribute nonpartisan voting records which contain a factual recital of an incumbent's or candidate's vote on bills and other measures. Voting records that contain indices or scores of votes on specific issues would be permissible if they are based on an individual's actual vote on a bill or other legislative measure. The preparation and distribution of such voting records under this subsection may not be for the purpose of influencing a Federal election.

Section 114.4(b)(5) Voter Guides.

Under paragraph (b)(5)(i), corporations and labor organizations may prepare and distribute nonpartisan voter guides which describe a candidate's position on campaign issues. Corporations and labor organizations may submit questions to candidates on one or more campaign issues and then print their responses. To ensure the nonpartisanship of such publications, this subsection lists six factors which the Commission may consider in determining whether a particular voter guide is nonpartisan. These factors are intended to be illustrative, not exhaustive, and are based in part upon factors articulated by the Internal Revenue Service in Revenue Rulings 78–248 and 80–282. The first factor in paragraph (b)(5)(i)(A) is whether the questionnaires are sent to all candidates running for a particular office. With regard to Presidential and Vice Presidential candidates however, only those candidates seeking a major party's nomination or who are on the general election ballot in enough States to win a majority of the electoral votes need be included. While permitting the sponsoring organization to impose restrictions on the length of the candidates' responses, paragraph (b)(5)(i)(B) requires that the sponsor reprint the candidates' responses without change or additional comment. If the candidates' responses exceed the stated word limit, the sponsor may choose to print the responses either in their entirety or after deleting that part of each response which exceeds the word limit.

Furthermore, under paragraph (b)(5)(i)(C), the Commission may consider whether the wording of the questions is slanted to suggest the sponsor's viewpoint on any issue. The next factor, in paragraph (b)(5)(i)(D), concerns whether the voter guide expresses an editorial opinion or indicates support for or opposition to any candidate or political party. Paragraph (b)(5)(i)(E) would permit the inclusion of biographical information on each candidate in the voter guide, such as schools attended, degrees earned, past employment and any office held. The sponsoring organization would also be allowed to limit the number of words on this information. Finally, paragraph (b)(5)(i)(F) concerns whether the voter guide is distributed in the geographic area in which the sponsoring organization normally operates.

Paragraph (b)(5)(ii) follows current § 114.4(c)(3). The reference to civic and nonprofit organizations in the current provisions of § 114.4(c)(3) has been changed to "nonprofit organization which is exempt from federal taxation under 26 U.S.C. 501(c) (3) or (4) and which does not support, endorse or oppose candidates or political parties." Publications obtained from such organizations need not comply with the guidelines set forth at paragraphs (b)(5)(i) (A) through (F); however, they may not favor one candidate or political party over another.

Section 114.(c) Nonpartisan Registration and Get-Out-The-Vote Drives.

Section 114.(c)(1) Requirements for Conducting Nonpartisan Drives.

This paragraph generally follows current § 114.4(d). References to civic and nonprofit organizations in the current provisions of § 114.4(d) have been changed in the revised regulations to "nonprofit organization which is exempt from federal taxation under 26 U.S.C. 501(c) (3) or (4) and which does not support, endorse or oppose candidates or political parties." In addition, this paragraph now permits co-

sponsorship by a State or local election agency. To meet the requirement that the drive be "conducted" by the tax-exempt organization or election agency, one or more persons from such co-sponsors must participate in the administration of the drive. This requirement does not preclude, however, the presence of corporate or labor organization personnel or members to assist in the activity. Paragraph (c)(1)(ii) allows corporations and labor organizations to set up a table or rack on their own premises for distributing official voting information without co-sponsorship with a tax-exempt organization.

Section 114.4(c)(2) Donation of Funds.

This paragraph incorporates the Commission's decision in Advisory Opinion 1980–55 into the regulations by providing that corporations and labor organizations may donate funds to State or local election administrators and nonpartisan tax-exempt organizations to defray the costs of registration and voting drives conducted by such officials and organizations.

Section 114.4(c)(3) Use of Personnel and Facilities.

This paragraph generally follows the provisions of current § 114.4(d)(3).

Section 114.4(c)(4) When Co-sponsorship Not Required.

This paragraph has been added to incorporate the Commission's decision in Advisory Opinion 1980–45. Pursuant to this paragraph, a nonpartisan tax-exempt organization may conduct registration and voting drives without the need for a co-sponsor.

Section 114.4(c)(5) Identification of Drive Sponsors.

This paragraph requires that any materials produced for use in connection with a registration or get-out-the-vote drive aimed at the general public contain the names of all the sponsors of the drive.

Section 114.4(d) Incorporated Membership Organizations, Incorporated Trade Associations, Incorporated Cooperatives and Corporations Without Capital Stock.

This paragraph permits corporations without capital stock, and incorporated membership organizations, trade associations and cooperatives to invite candidates, their representatives or the representatives of political parties to address the members or employees of the organization subject to the requirements of § 114.4(a)(2).

Conforming Amendments

Several conforming amendments have been made to other sections of Part 114. These amendments reflect the addition of a labor organization's executive and administrative personnel and the families of members of a membership organization to the restricted class of each type of organization.

List of Subjects in 11 CFR Part 114

Business and industry, Elections, Labor.

11 CFR Part 114 is amended as follows:

1. By revising §§ 114.3 and 114.4 paragraphs (a)–(d) as follows:

§ 114.3 Disbursements for communications in connection with a Federal election to restricted class.

(a) *General.* (1) A corporation may make communications including partisan communications to its stockholders and executive or administrative personnel and their families on any subject. A labor organization may make communications including partisan communications to its members and executive or administrative personnel and their families on any subject. Corporations and labor organizations may also make the nonpartisan communications permitted under 11 CFR 114.4 to their restricted class or any part of that class. No corporation or labor organization may make contributions or expenditures for partisan communications to the general public in connection with a federal election and no national bank or corporation organized by authority of any law of Congress may make contributions or expenditures for partisan communications to the general public in connection with any election to any political office including any State or local office.

(2) An incorporated membership organization, incorporated trade association, incorporated cooperative or corporation without capital stock may communicate with its members and executive or administrative personnel, and their families, as permitted in 11 CFR 114.3 (a)(1) and (c), and shall report disbursements for partisan communications to the extent required by 11 CFR 100.8(b)(4) and 104.6.

(b) *Reporting Partisan Communications.* Disbursements for partisan communications made by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and executive or administrative personnel and their families shall be reported to the extent required by 11 CFR 100.8(b)(4) and 104.6.

(c) *Means of Making Partisan Communications.* The means of making partisan communications for which disbursements must be reported under 11 CFR 114.3(b) include, but are not limited to, the examples set forth in 11 CFR 114.3(c) (1) through (4).

(1) *Partisan Publications.* Printed material of a partisan nature may be distributed by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and executive or administrative personnel and their families, provided that:

(i) The material is produced at the expense of the corporation or labor organization; and

(ii) The material constitutes a communication of the views of the corporation or the labor organization, and is not the republication or reproduction in whole or in part, of any broadcast, transcript or tape or any written, graphic, or other form of campaign materials prepared by the candidate, his or her campaign committees, or their authorized agents. A corporation or labor organization may, under this section, use brief quotations from speeches or other materials of a candidate that demonstrate the candidate's position as part of the corporation's or labor organization's expression of its own views.

(2) *Partisan Candidate and Party Appearances.* A corporation may allow a candidate or party representative to address its stockholders and executive or administrative personnel, and their families, at a meeting, convention or other function of the corporation. A labor organization may allow a candidate or party representative to address its members and executive or administrative personnel, and their families, at a meeting, convention or other function of the labor organization. Employees outside the restricted class of the corporation or labor organization who are necessary to administer the meeting, limited invited guests and observers, and representatives of the news media may also be present during a candidate or party representative appearance under this section. The candidate or party representative may ask for contributions to his or her campaign or party, or ask that contributions to the separate segregated fund of the corporation or labor organization be designated for his or her campaign or party. The incidental solicitation of persons outside the

corporation's or labor organization's restricted class who may be present at the meeting as permitted by this section will not be a violation of 11 CFR 114.5(g).

(3) *Partisan Phone Banks.* A corporation may establish and operate phone banks to communicate with its stockholders and executive or administrative personnel, and their families, urging them to register and/or vote for a particular candidate or candidates, and a labor organization may establish and operate phone banks to communicate with its members and executive or administrative personnel, and their families, urging them to register and/or vote for a particular candidate or candidates.

(4) *Partisan Registration and Get-Out-The-Vote Drives.* A corporation may conduct registration and get-out-the-vote drives aimed at its stockholders and executive or administrative personnel, and their families, or a labor organization may conduct registration and get-out-the-vote drives aimed at its members and executive or administrative personnel, and their families. Registration and get-out-the-vote drives include providing transportation to the polls. Such drives may be partisan in that individuals may be urged to register with a particular party or to vote for a particular candidate or candidates, but assistance in registering or voting may not be withheld or refused on a partisan basis, and if transportation or other services are offered in connection with a registration or get-out-the-vote drive, such transportation or services may not be withheld or refused on a partisan basis.

§ 114.4 Expenditures for Communications in Connection with a Federal Election to the Restricted Class and the General Public.

(a) *Nonpartisan Communications by a Corporation or Labor Organization to its Employees or its Restricted Class.* (1) *General.* (i) A corporation may make the nonpartisan communications permitted under 11 CFR 114.4 (b) and (c) to its stockholders, executive or administrative personnel, other employees, and their families. A labor organization may make such communications to its members, executive or administrative personnel, other employees, and their families. Communications which a corporation or labor organization may make only to its solicitable class are found at 11 CFR 114.3.

(ii) An incorporated membership organization, incorporated trade association, incorporated cooperative or corporation without capital stock may make the communications permitted under 11 CFR 114.4 (b) and (c) to its members, executive or administrative personnel, other employees, and their families, as provided by 11 CFR 114.4(d). The organizations covered under this section will be treated as corporations for the purpose of making communications to the general public under 11 CFR 114.4 (b) and (c).

(2) *Nonpartisan Candidate and Party Appearances on Corporate Premises or at a Meeting, Convention or Other Function.* Corporations may permit candidates, candidates' representatives or representatives of political parties on corporate premises or at a meeting, convention, or other function of the corporation to address or meet stockholders, executive or administrative personnel, and other employees of the corporation, and their families, under the conditions set forth in 11 CFR 114.4(a)(2) (i) through (v).

(i) If a candidate for the House or Senate or a candidate's representative is permitted to address or meet employees, all candidates for that seat who request to appear must be given the same opportunity to appear;

(ii) If a Presidential or Vice Presidential candidate or candidate's representative is permitted to address or meet employees, all candidates for that office who are seeking the nomination of a major party or who are on the general election ballot in enough States to win a majority of the electoral votes and who request to appear must be given the same opportunity to appear;

(iii) If representatives of a political party are permitted to address or meet employees, representatives of all political parties which had a candidate or candidates on the ballot in the last general election or which are actively engaged in placing or will have a candidate or candidates on the ballot in the next general election and who request to appear must be given the same opportunity to appear;

(iv) A corporation, its stockholders, executive or administrative personnel, or other employees of the corporation or its separate segregated fund shall make no effort, either oral or written, to solicit or direct or control contributions by members of the audience to any candidate or party in conjunction with any appearance by any candidate or party representative under this section; and

(v) A corporation, its stockholders, executive or administrative personnel or other employees of the corporation or its separate segregated fund shall not, in conjunction with any candidate or party representative appearance under this section, endorse, support or oppose any candidate, group of candidates or political party.

(3) *Nonpartisan Candidate and Party Appearances on Labor Organization Premises or at a Meeting, Convention or Other Function.* A labor organization may permit candidates, candidates' representatives or representatives of political parties on the labor organization's premises or at a meeting, convention, or other function of the labor organization to address or meet members, executive or administrative personnel, and other employees of the labor organization, and their families, if the conditions set forth in 11 CFR 114.4 (a)(2) (i) through (iii) and 11 CFR 114.4(a)(3) (i) and (ii) are met.

(i) An official, member, or employee of a labor organization or its separate segregated fund shall not make any effort, either oral or written, to solicit or direct or control contributions by members of the audience to any candidate or party representative under this section.

(ii) An official, member, or employee of a labor organization or its separate segregated fund shall not, in conjunction with any candidate or party representative appearance under this section, endorse, support or oppose any candidate, group of candidates or political party.

(b) *Nonpartisan Communications by Corporations and Labor Organizations to the General Public.* (1) *General.* A corporation or labor organization may make the communications described in 11 CFR 114.4(b) (2) through (5) to the general public. The corporation or labor organization may include its logo or otherwise identify itself as the sponsor of the communication.

(2) *Nonpartisan Registration and Voting Communications.* A corporation or labor organization may make nonpartisan registration and get-out-the-vote communications to the general public.

(i) For purposes of 11 CFR 114.4(b)(2), the following are factors that the Commission may consider in determining whether a registration or get-out-the-vote communication is nonpartisan:

(A) It neither names nor depicts any particular candidate(s) or it names or depicts all candidates for a particular Federal office without favoring any candidate(s) over any other(s);

(B) It names no political party(s) except that it may include the political party affiliation of all candidates named or depicted under 11 CFR 114.4(b)(2)(i)(A);

(C) It is limited to urging acts such as voting and registering and to describing

the hours and places of registration and voting.

(ii) A corporation or labor organization may make communications permitted under this section through posters, billboards, broadcasting media, newspapers, newsletters, brochures, or similar means of communication with the general public.

(3) *Official Registration and Voting Information.* (i) A corporation or labor organization may distribute to the general public, or reprint in whole and distribute to the general public, any registration or voting information, such as instructional materials, which has been produced by the official election administrators.

(ii) A corporation or labor organization may distribute official registration-by-mail forms to the general public if registration by mail is permitted by the applicable State law.

(iii) A corporation or labor organization may donate funds to State or local agencies responsible for the administration of elections to help defray the costs of printing or distributing registration or voting information and forms.

(iv) the information and forms referred to in 11 CFR 114.4(b)(3)(i) through (iii) must be distributed in a nonpartisan manner, and the corporation or labor organization may not, in connection with the distribution, endorse, support, or otherwise promote registration with or voting for a particular party or candidate.

(4) *Voting Records.* A corporation or labor organization may prepare and distribute to the general public the voting records of Members of Congress as long as the preparation and distribution is not for the purpose of influencing a Federal election.

(5) *Voter Guides.*

(i) A corporation or labor organization may prepare and distribute to the general public nonpartisan voter guides consisting of questions posed to candidates concerning their positions on campaign issues and the candidates' responses to those questions. The following are factors that the Commission may consider in determining whether a voter guide is nonpartisan:

(A) the questions are directed to all of the candidates for a particular seat or office, giving the candidates equal time to respond, except that in the case of Presidential and Vice Presidential candidates the questions may be directed only to those candidates seeking the nomination of a major party or to those appearing on the general election ballot in enough States to win a majority of the electoral votes;

(B) The voters guide reprints verbatim the responses of each candidate to whom questions were sent, without any additional comment, editing, or emphasis, although the sponsoring organization may impose limitations on the number of words per response when the questions are initially sent to the candidates for their comments;

(C) The wording of the questions presented does not suggest or favor any position on the issues covered;

(D) The voter guide expresses no editorial opinion concerning the issues presented nor does it indicate any support for or opposition to any candidate or political party;

(E) The sponsor may ask each candidate to provide biographical information such as education, employment positions, offices held; and community involvement and may impose a limitation on the number of words per submission;

(F) The voter guide is made available to the general public in the geographic area in which the sponsoring organization normally operates.

(ii) A corporation or labor organization may distribute voter guides or other types of brochures describing the candidates or their positions which are obtained from a nonprofit organization which is exempt from Federal taxation under 26 U.S.C. 501(c) (3) or (4) and which does not support, endorse or oppose candidates or political parties. Publications obtained from such nonprofit organizations need not comply with the guidelines set forth at 11 CFR 114.4(b)(5)(i), but they may not favor one candidate or political party over another.

(c) *Nonpartisan Registration and Get-Out-The-Vote Drives.* (1) *Requirements for Conducting Nonpartisan Drives.* (i) A corporation or labor organization may support nonpartisan voter registration drives which are not limited to its restricted class if the conditions in paragraph (c)(1)(i) (A) through (C) of this section are met. A corporation or labor organization may support nonpartisan get-out-the-vote drives, such as by transporting people to the polls, which drives are not limited to its restricted class if the conditions of paragraph (c)(1)(i) (A) through (C) of this section are met.

(A) The corporation or labor organization shall jointly sponsor the drives with a nonprofit organization which is exempt from federal taxation under 26 U.S.C. 501(c) (3) or (4) and which does not support, endorse or oppose candidates or political parties, or with a State or local agency which is responsible for the administration of elections; and

(B) The activities shall be conducted by the tax-exempt organization or by person authorized by a State or local agency; and

(C) These services shall be made available without regard to the voter's political preference.

(ii) For the purposes of 11 CFR 114.4(c)(1)(i)(B), a corporation or labor organization which provides space on the corporation's or labor organization's premises for a table, rack or booth from which official registration or voting information is distributed to the general public, and which provides its employees or members to aid in the distribution of such materials, shall not be considered to be "conducting" a registration or voting drive.

(2) *Donation of Funds.* A corporation or labor organization may donate funds to be used for nonpartisan registration drives to State or local agencies responsible for the administration of elections and to nonprofit organizations which are exempt from federal taxation under 26 U.S.C. 501(c) (3) or (4) and which do not support, endorse or oppose candidates or political parties.

(3) *Use of Personnel and Facilities.* A nonpartisan tax-exempt organization, or by persons authorized by the State or local agency, in conducting nonpartisan registration and get-out-the-vote activities, may utilize the employees and facilities of a corporation or the employees or members and facilities of a labor organization.

(4) *When Co-Sponsorship Not Required.* A nonprofit organization which is exempt from federal taxation under 26 U.S.C. 501(c) (3) or (4) and which does not support, endorse or oppose any candidates or political parties may conduct nonpartisan voter registration and get-out-the-vote activities on its own without a cosponsor.

(5) *Identification of Drive Sponsors.* All materials prepared for distribution to the general public in connection with the registration or voting drive shall include the full names of all drive sponsors.

(d) *Incorporated Membership Organizations, Incorporated Trade Associations, Incorporated Cooperatives and Corporations without Capital Stock.* An incorporated membership organization, incorporated trade association, incorporated cooperative or corporation without capital stock may permit candidates, candidates' representatives or representatives of political parties to address or meet members and employees of the organization, and their families, on the organization's premises or at a meeting, convention or other

function of the organization, provided that the conditions set forth in 11 CFR 114.4(a)(2) (i) through (v) are met.

(e) *Nonpartisan Candidate Debates.*

* * * * *

Conforming Amendments

2. By revising § 114.1(a)(2)(i), (a)(2)(ii), the introductory text of (c), and (c)(2)(iv) to read as follows:

§ 114.1 Definitions.

(a) * * *

(2) * * *

(i) Communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and executive or administrative personnel, and their families, on any subject;

(ii) Nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families or by a labor organization aimed at its members and executive or administrative personnel, and their families;

* * * * *

(b) * * *

(c) "Executive or administrative personnel" means individuals employed by a corporation or labor organization who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(1) * * *

(2) * * *

(iv) Individuals who may be paid by the corporation or labor organization, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)–1, of the corporation or labor organization for the purpose of income withholding tax on employee wages under Internal Revenue Code of 1954, section 3402.

* * * * *

3. By revising § 114.5(g)(2) and (l) as follows:

§ 114.5 Separate segregated funds.

* * * * *

(g) * * *

(2) A labor organization, or a separate segregated fund established by a labor organization is prohibited from soliciting contributions to such a fund from any person other than its members and executive or administrative personnel, and their families.

* * * * *

(l) *Methods permitted by law to labor organizations.* Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members and executive or administrative personnel.

4. By revising 114.7 (a), (e) and (h) as follows:

§ 114.7 Membership organizations, cooperatives or corporations without capital stock.

(a) Membership organizations, cooperatives, or corporations without capital stock, or separate segregated funds established by such persons may solicit contributions to the fund from members and executive or administrative personnel, and their families, of the organization, cooperative, or corporation without capital stock.

* * * * *

(e) There is no limitation upon the number of times an organization under this section may solicit its members and executive or administrative personnel, and their families.

* * * * *

(h) A membership organization, cooperative, or corporation without capital stock may communicate with its members and executive or administrative personnel, and their families, under the provisions of § 114.3.

* * * * *

5. By revising § 114.8 (h) and (i) as follows:

§ 114.8 Trade associations.

* * * * *

(h) *Communications other than solicitations.* A trade association may make communications, other than solicitations, to its members and their families under the provisions of § 114.3. When making communications to a member which is a corporation, the trade association may communicate with the representatives of the corporation with whom the trade association normally conducts the association's activities.

(i) *Trade association employees.* (1) A trade association may communicate with its executive or administrative personnel and their families under the provisions of § 114.3; a trade association may communicate with its other employees under the provisions of § 114.4.

(2) A trade association may solicit its executive or administrative personnel and their families under the provisions of § 114.5(g); a trade association may solicit its other employees under the provisions of § 114.6.

(2 U.S.C. 441b, 437d(a)(6))

Dated: October 27, 1983.

Danny Lee McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83–28643 Filed 11–1–83; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–CE–53–AD; Amendment 39–4764]

Airworthiness Directives; Pilatus Britten-Norman Ltd. Models BN–2, BN–2A and BN–2B Islander airplanes equipped with wing tip tanks (Mod NB/M/364) except MKIII Trislander Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directives (AD), applicable to certain Pilatus Britten-Norman Ltd., Models BN–2, BN–2A and BN–2B Islander airplanes equipped with wing tip tanks (Mod NB/M/364) except MKIII Trislander Series airplanes, which requires changes to the wing tip fuel tank selector switches, placarding and indicator lamps. Two accidents involving fuel mismanagement have occurred. The modifications of the switches, placarding and indicators will reduce the possibility of mismanagement of the tip tank fuel system.

EFFECTIVE DATE: December 8, 1983. Compliance: Within 100 hours time-in-service, but no later than December 31, 1983.

ADDRESSES: Pilatus Britten-Norman Ltd. Service Bulletin No. BN–2/SB.157, dated March 14, 1983, applicable to this AD may be obtained from Pilatus Britten-Norman Ltd., Bembridge, Isle of Wight, England. A copy of this information is also contained in the Rules Docket, FAA, Office of Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: A. Astorga, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or L. Werth, Foreign FAR 23 Section, FAA ACE–109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring changes in the wing tip fuel tank selector switches, system placarding and selection indicator lamps on certain Pilatus Britten-Norman Ltd., Models BN–2, BN–2A and BN–2B Islander Series airplanes was published in the **Federal Register** on May 31, 1983 (48 FR 24089, 24090). The proposal resulted from the findings of two accident investigations which indicated the pilots may not have understood proper operation of the fuel system. The manufacturer initiated changes in the wing tip fuel tank selector switches, system placarding and selection indicator lamps, on aircraft currently in production and made available a kit and instructions in Pilatus Britten-Norman Ltd. Service Bulletin No. BN–2/SB.157, dated March 14, 1983, for incorporating these changes on airplanes in service with wing tip tanks (Mod NB/M/364) installed.

The United Kingdom Civil Aviation Authority (UKCAA), who has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the UKCAA combined with FAA review of the pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Service Bulletin No. BN–2/SB.157, dated March 14, 1983, and the mandatory classification of this Service Bulletin by the UKCAA.

Based on the foregoing, the FAA has determined that the condition addressed by Service Bulletin No. BN–2/SB.157, dated March 14, 1983, is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States. Consequently, an AD was proposed which would require changes in the wing tip fuel tank selector switches, placarding and indicator lamps on the affected airplanes.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public.

The FAA has noted, however, that to insure clarity and full compliance with the AD, reference should be made to the specific flight manual supplement that must be incorported in the flight manual of each particular airplane model. Also a paragraph authorizing incorporation of the supplements in the AFM by a certificated pilot was inadvertently omitted from the notice. Thus the NPRM as published has been changed by:

(1) Inserting subparagraph (a)(1) immediately after paragraph (a).

This paragraph specifies the supplement that must be inserted in the appropriate airplane flight manual for each of the affected airplanes.

(2) Inserting subparagraph (a)(2) immediately after subparagraph (a)(1). This paragraph permits individuals holding a pilot certificate to accomplish the flight manual revision.

The costs that are associated with this AD are estimated to be $140 for each of the 34 airplanes in service. The total is estimated to be $4,760. For these reasons, the rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

Accordingly, the rule is adopted with the above discussed changes.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Pilatus Britten-Norman Ltd: Applies to Models BN–2, BN–2A and BN–2B Islander Series Airplanes equipped with wing tip tanks (Mod NB/M/364) certificated in any category except BN–2A MKIII Series Trislander Airplanes.

Compliance: Required within 100 hours time-in-service after the effective date of this AD, but no later than December 31, 1983, unless already accomplished.

To preclude fuel mismanagement and possible fuel starvation, accomplish the following:

(a) Modify the wing tip tank fuel management system in accordance with steps 1. through 12. of the ACTION section of Pilatus Britten-Norman Ltd. Service Bulletin No. BN–2/SB.157, dated March 14, 1983.

(1) Upon completion of the modification described in paragraph (a) Update and annotate the appropriate airplane flight manual as follows:

(i) BN–2A–3 Model: insert Issue 4 of Supplement No. 8 to Section 7 of Flight Manual FM/10 dated March 4, 1983;

(ii) BN–2A–9 Model: insert Issue 2 of Supplement No. 16 to Section 7 of Flight Manual FM/2 dated March 4, 1983;

(iii) BN–2A–21 Model: insert Issue 4 of Supplement No. 8 to Section 7 of Flight Manual FM/10 dated March 4, 1983;

(iv) BN–2A–27 Model: insert Issue 2 of Supplement No. 1 to Section 7 of Flight Manual FM/20 dated March 4, 1983;

(v) BN–2B–21 Model: insert Issue 3 of Supplement No. 1 to Section 7 of Flight Manual FM/43 dated March 4, 1983;

(vi) BN–2B–27 Model: insert Issue 5 of Supplement No. 1 to Section 7 of Flight Manual FM/42 dated March 4, 1983.

Note:— The requirement for insertion of specific revisions in the affected Airplane Flight Manuals does not prohibit incorporation of later revisions containing the same information.

(2) The requirement of paragraph (a)(1) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FAR) on any airplane owned or operated by him. The person accomplishing this action must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(b) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(c) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

This amendment becomes effective on December 8, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449 January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)).

Note.— For the reasons discussed earlier in this rulemaking action, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the Rules Docket under the caption "ADDRESSES."

Issued in Kansas City, Missouri, on October 21, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-29666 Filed 11-1-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 83-AWA-23]

Alteration of VOR Federal Airways and Jet Routes; State of Louisiana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule realigns segments of VOR Federal Airways V-114, V-212, V-245 and Jet Routes J-50 and J-58; and establishes new airways V-542 and V-544. This rule is issued due to the decommissioning of the Alexandria, LA, VORTAC and the upgrading of the Esler, LA, VOR.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Boyd V. Archer, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8526.

SUPPLEMENTARY INFORMATION:

History

On August 29, 1983, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations [14 CFR Parts 71 and 75) to realign segments of VOR Federal Airways V-114, V-212, V-245 and Jet Routes J-50 and J-58; and to establish new V-542 and V-544 (48 FR 39080). The FAA has decommissioned the Alexandria, LA, VORTAC and simultaneously the Esler, LA, VOR has been upgraded with new solid state equipment, changed to a VORTAC, and will be commissioned. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as the proposed in the notice. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations are to realign segments of VOR Federal Airways V-114, V-212, V-245 and Jet Routes J-50 and J-58; and to establish new V-542 and V-544. The FAA has decommissioned the Alexandria, LA, VORTAC and simultaneously the Esler, LA, VOR has been upgraded with new solid state equipment, changed to a VORTAC, and has been commissioned.

List of Subjects in 14 CFR Parts 71 and 75

VOR Federal airways, Jet routes, Aviation safety.

Adoption of the Amendments

PARTS 71 AND 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regualtions (14 CFR Parts 71 and 75), are amended, effective 0901 GMT, January 19, 1984, as follows:

1. V-114 [Amended]

By deleting the words "; Alexandria, LA, including a north alternate from Gregg County to Alexandria via Shreveport, LA, and INT Shreveport 176° and Alexandria 302° radials; INT Baton Rouge, LA, 307° and Lafayette, LA, 042° radials; 7 miles wide (3 miles north and 4 miles south of centerline) Baton Rouge; New Orleans, LA, including a north alternate from Alexandria to New Orleans via INT Alexandria 109° and New Orleans 312° radials, excluding the portion within R-3801B, R-3801C and R-3801D." and substituting the words ", via INT Gregg County 121° and Esler, LA, 288° radials; Esler; Baton Rouge, LA: to New Orleans, LA."

2. V-212 [Amended]

By deleting the words "; Alexandria, LA" and substituting the words ", via INT Lufkin 088° and Esler, LA, 253° radials; Esler" and also deleting ", including a north alternate via Natchez, MS"

3. V-245 [Amended]

By deleting the words "Alexandria, LA, via"

4. V-542 [New]

From Gregg County, TX; via Shreveport, LA; via INT Shreveport 166° and Esler, LA, 288° radials; Esler; via INT Esler 122° and New Orleans, LA, 312° radials; New Orleans.

5. V-544 [New]

From Esler, LA; via Natchez, MS; to McComb, MS.

6. J-50 [Amended]

By deleting the words "INT of the Lufkin 086° and the Alexandria, LA, 270° radials; Alexandria;"

7. J-58 [Amended]

By deleting the words ", Alexandria, LA; INT of the Alexandria 126° and the New Orleans, LA, 295° radials; New Orleans" and substituting the words "; Esler, LA; New Orleans, LA"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulation for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on October 25, 1983.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-29669 Filed 11-1-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 21022A; Reg. Notice No. 91-100]

Emergency Air Traffic Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Update of emergency air traffic regulations.

SUMMARY: Section 91.100 of the Federal Aviation Regulations (FAR) (14 CFR 91.100) requires aircraft operators to comply with emergency air traffic regulations issued under that section and covered by Notices to Airmen (NOTAM's) that are also issued under that section. This document provides notice of regulations already adopted that were immediately effective under § 91.100, for which the FAA has also issued NOTAM's. It adds, to Notice 91-100, emergency regulations implementing Special Federal Aviation Regulation (SFAR) No. 44, as amended, that were necessary to respond to a shortage in air traffic control personnel.

EFFECTIVE DATE/TIME: As stated in each regulation listed.

ADDRESSES: Send comments on the listed regulations, in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21022A, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be examined in the Rules Docket, Room 915, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: B. Keith Potts, Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, DC 20591, telephone (202) 426–3731.

SUPPLEMENTARY INFORMATION:

Comments Invited

The regulations issued under § 91.100 and listed herein are emergency final rules involving immediate air traffic requirements throughout the United States. The need for immediate regulatory response under § 91.100 is stated at 46 FR 16666, *et seq.* In issuing the regulations in this notice, the FAA has found that the conditions cited in § 91.100 exist or will exist and that the regulations are necessary in order to respond to those conditions in the public interest. Where necessary, these regulations may be supplemented or amended hourly, or even more frequently, as air traffic conditions change. Accordingly, good cause exists for making these regulations effective immediately, without prior notice and public procedure.

Comments are invited on any aspect of the listed regulations, individually or cumulatively, and on any aspect of the emergency air traffic control conditions they respond to. When § 91.100 was issued, the FAA noted that it was an emergency regulation under Executive Order 12291 and DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and had no cost impact in itself since it was only procedural. However, the FAA also stated (at 46 FR 16669) that the regulations distributed in accordance with § 91.100 will be evaluated individually, as appropriate, to determine whether they have cost impacts. To assist the FAA in determining, as soon as practicable after issuance, the cost impacts of the regulations issued under § 91.100, comments on economic impact are specifically invited.

Commenters wishing the FAA to acknowledge receipt of their comments in response to these rules must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21022A." The postcard will be date/time stamped and returned to the commenter.

Effect of Publication

Publication, in the **Federal Register**, of emergency air traffic regulations issued under § 91.100 provides constructive legal notice of those regulations to all persons who may not have received the NOTAM's concerning those regulations or who otherwise may not have legal notice of the adoption of those regulations. This document provides this constructive legal notice of immediately effective emergency regulations that have already been adopted. Additional emergency rules will be published periodically if the need for their adoption continues.

Availability Prior to Publication: Preflight Requirement

Since there is a necessary time lag between the issuance of emergency air traffic regulations and NOTAM's under § 91.100 and the publication of these regulations in the **Federal Register**, and since these regulations and NOTAM's respond to emergency conditions that exist, or will exist, relating to the FAA's ability to operate the air traffic control system, the NOTAM's concerning these regulations are available at operating air traffic facilities and regional air traffic division offices prior to **Federal Register** publication and as long as they remain effective. Under § 91.5 *Preflight Action* (14 CFR 91.5), each pilot in command is required to familiarize himself or herself with all available information concerning each flight.

Air Traffic Controller Shortage: SFAR No. 44, as Amended

The air traffic regulations listed in this amendment to Notice 91–100 follow the adoption of SFAR Nos. 44 through 44–6, in response to an organized air traffic controller job action. The emergency aspects of that action are described at 46 FR 39997, *et seq.* As a result, air traffic control facilities have experienced staffing shortages that have reduced the level of air traffic that can be handled with the required levels of safety and efficiency. To ensure that these levels of safety and efficiency are fully maintained during this shortage of air traffic personnel, the emergency regulations listed in section 2 of this notice have been issued under § 91.100.

Regulatory Impact

The FAA has determined that the regulations listed in this notice are emergency regulations that are not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to these regulations, since they were issued in response to existing or expected emergency conditions relative to FAA's ability to operate the air traffic control system. It has been further determined that the listed regulations are emergency regulations under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If these regulations are later determined to be significant, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 91

Air traffic control, Airspace, Aviation safety.

Notice of Adoption

PART 91—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator in § 91.100 of the Federal Aviation Regulations (14 CFR 91.100; 46 FR 16666 March 13, 1981) and that cited below, the following emergency air traffic regulations have been adopted and covered by NOTAM's under that section.

Secs. 307, 313(a), 601, 603, 902, 1110, and 1202, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1442, 1443, 1472, 1510, and 1522); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)

In consideration of the foregoing, section 2 of Notice 91–100 is hereby amended by adding the following emergency regulations following the regulation numbered FDC No. 3/1299.

Air Traffic Controller Shortage of 1981, and Related Emergency Conditions (SFAR–44, as amended; Docket No. 21022A)

. . . . . .

FDC 3/1917 Emegency Flight Rules—IFR Flight Plan Filing/General Aviation Reservation Rule, effective 1830 GMT, September 6, 1983.

The IFR capacity of the en route ATC system is increasing and permits planned gradual elimination of the General Aviation Reservation (GAR) rule. However, existing restrictions under the GAR rule remain in effect and will continue in effect after December 31, 1983, for operations from airports that are capacity controlled by SFAR 44 as amended. Also, this rule corrects an error in the August 11, 1983 **Federal Register** (48 FR 36442).

Accordingly, pursuant to SFAR 44, as amended, and Section 91.100 of the Federal Aviation Regulations, the following regulation is effective immediately, unless otherwise specified:

1. All aircraft operators planning a flight under IFR with a proposed departure/en route pick-up time from 0600 local to 1959 local shall file a flight plan with and obtain a departure/en route pick-up reservation from an FAA flight service station at least 30 minutes before but not more than 24 hours before his/her proposed departure/en route

time if any segment of the flight will enter ARTCC airspace.

2. ATC clearance must be requested not later than 1 hour after proposed departure/en route pick-up time.

3. Multiple-leg Flight Plans may be filed provided:

A. The conditions of paragraph 1 above are met.

B. The last proposed departure/en route pick-up time does not exceed the 24-hour filing time limitation specified in paragraph 1 above.

C. The same departure/en route pick-up point is not specified twice in the request.

D. The request does not involve more than three departure/en route pick-up points.

4. The provisions of this regulation do not apply to the following operators and flights:

A. FAR Part 121 or Part 135 operators with FAA/ICAO approved two-letter or three-letter call signs.

B. Military flights.

C. Medical emergency flights.

D. Presidential or Vice-Presidential flights.

E. FAA critical flights.

F. NASA flights supporting space shuttle launch and recovery operations during periods designated by the Director, Air Traffic Service.

G. Flights to or from Washington National, John F. Kennedy, LaGuardia, and O'Hare Airports during periods when reservations are required by Subpart K of FAR Part 93—High Density Traffic Airports.

H. Flights originating within the airspace areas of Anchorage and Honolulu ARTCC's.

I. Turbojet aircraft operations at FL 290 and above to a destination 200 nautical miles or more from the point of departure.

J. Nonstop flights destined for airports outside the continental United States.

K. Intra-ARTCC.

L. Inter-ARTCC—

(1) Effective immediately, flights within the airspace of any of the following groups—

(a) Seattle, Salt Lake, Oakland, and Los Angeles;

(b) Albuquerque, Kansas City, Memphis, Denver; and Ft. Worth;

(c) Cleveland and Boston (turboprops only);

(d) Atlanta, Jacksonville, Washington, Miami, and Houston; and

(e) New York and Boston.

(2) Effective 0600 local time on the dates specified, flights within the airspace of any of the following groups—

(a) September 9, 1983—Minneapolis, Chicago, Indianapolis, Cleveland, New York, and Boston;

(b) October 1, 1983—Seattle, Salt Lake City, Oakland, Los Angeles, Albuquerque, Kansas City, Memphis, Denver, and Ft. Worth; and

(c) October 30, 1983—Seattle, Salt Lake City, Oakland, Los Angeles, Albuquerque, Kansas City, Memphis, Denver, Ft. Worth, Atlanta, Jacksonville, Washington, Miami, and Houston.

M. Effective 0600 local time, December 31, 1983, any operator or flight.

5. Notwithstanding 4K, 4L, and 4M above, this rule applies to flights from airports that are capacity controlled by SFAR 44, as amended.

6. Limitations on obtaining an IFR clearance while airborne remain in effect in the Anchorage ARTCC areas as specified in the pertinent regulatory NOTAM.

Cancel FDC NOTAM 3/1299.

Issued in Washington, D.C., on October 25, 1983.

R. J. Van Vuren,

Director, Air Traffic Service.

[FR Doc. 83-29667 Filed 11-1-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23811; Amdt. No. 1254]

Air Traffic and General Operating Rules; Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The

provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationships between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Adoption of the Amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By Amending Part 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

** * * Effective January 19, 1984*

Alexandria, LA—Esler Regional, VOR RWY 14, Amdt. 12
Alexandria, LA—Esler Regional, VOR/DME RWY 32, Amdt. 13
Bunkie, LA—Bunkie Muni, VOR/DME–A, Amdt. 1, Cancelled
Pineville, LA—Pineville Muni, VOR–A, Amdt. 3

** * * Effective December 22, 1983*

Chicago/Wheeling, IL—Pal-Waukee, VOR RWY 16, Amdt. 19
Grand Forks, ND—Grand Forks Intl, VOR RWY 17, Amdt. 2
Grand Forks, ND—Grand Forks Intl, VOR/DME or TACAN RWY 17, Amdt. 9, Cancelled
Grand Forks, ND—Grand Forks Intl, VOR RWY 35, Amdt. 2
Grand Forks, ND—Grand Forks Intl, VOR/DME or TACAN RWY 35, Amdt. 9, Cancelled

** * * Effective December 8, 1983*

Ft. Lauderdale, FL—Ft Lauderdale-Hollywood Intl, VOR RWY 9L, Amdt. 17
Sarasota/Bradenton, FL—Sarasota-Bradenton, VOR RWY 14, Amdt. 14
Sarasota/Bradenton, FL—Sarasota-Bradenton, VOR RWY 22, Amdt. 8
Sarasota/Bradenton, FL—Sarasota-Bradenton, VOR RWY 32, Amdt. 5
Athens, GA—Athens Muni, VOR RWY 2, Amdt. 9
Athens, GA—Athens Muni, VOR RWY 27, Amdt. 9
Madison, GA—Madison Muni, VOR/DME–A, Amdt. 4
Winder, GA—Winder, VOR/DME–A, Amdt. 8
Ames, IA—Ames Muni, VOR.RWY 31,Amdt. 7
Oskaloosa, IA—Oskaloosa Muni, VOR/DME RWY 31, Amdt. 2
Washington, IA—Washington Muni, VOR/DME–A, Amdt. 2
Topeka, KS—Forbes Field, VOR/DME or TACAN RWY 3, Amdt. 4
Topeka, KS—Forbes Field, VOR/DME or TACAN RWY 21, Amdt. 5
Ionia, MI—Ionia County, VOR RWY 27, Amdt. 6
Salem, MI—Salem, VOR–A, Amdt. 4, Cancelled
Kennett, MO—Kennett Memorial, VOR RWY 35, Amdt. 3
Saranac Lake, NY—Adirondack, VOR/DME RWY 5, Amdt. 2
Syracuse, NY—Syracuse Hancock Intl, VOR RWY 14, Amdt. 17
Monroe, NC—Monroe, VOR–A, Amdt. 7
Salisbury, NC—Rowan County, VOR–A, Amdt. 2
Upper Sandusky, OH—Wyandot County, VOR–A, Amdt. 2
Ardmore, OK—Ardmore Muni, VOR RWY 4, Amdt. 15
Philadelphia, PA—Northeast Philadelphia, VOR RWY 6, Amdt. 10
Philadelphia, PA—Northeast Philadelphia, VOR RWY 24, Amdt. 18
Gallatin, TN—Gallatin Muni, VOR/DME–A, Amdt. 4, Cancelled
Burlington (Mt Vernon), WA—Skagit Regional/Bay View, VOR RWY 10, Amdt. 1, * * * Cancelled
Bluefield, WV—Mercer County, VOR RWY 23, Amdt. 6
Bluefield, WV—Mercer County, VOR/DME RWY 23, Amdt. 1

** * * Effective November 24, 1983*

Willmar, MN—Willmar Muni, VOR RWY 10, Orig.
Willmar, MN—Willmar Muni, VOR RWY 10, Amdt. 9, Cancelled
Willmar, MN—Willmar Muni, VOR RWY 28, Orig.
Willmar, MN—Willmar Muni, VOR RWY 28, Amdt. 4, Cancelled
Clovis, NM—Clovis Muni, VOR/DME RWY 21, Amdt. 4, Cancelled
Clovis, NM—Clovis Muni, VOR RWY 22, Admt. 1
Yakima, WA—Yakima Air Terminal, VOR–A, Amdt. 5
Yakima, WA—Yakima Air Terminal, VOR/DME or TACAN RWY 27, Amdt. 6
LaCrosse, WI—LaCrosse Muni, VOR RWY 13, Amdt. 23
LaCrosse, WI—LaCrosse Muni, VOR RWY 36, Amdt. 24

2. By amending Part 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

** * * Effective January 19, 1984*

Alexandria, LA—Esler Regional, LOC BC RWY 8, Amdt. 8

** * * Effective December 22, 1983*

Grand Forks, ND—Grand Forks Intl, LOC BC RWY 17, Amdt. 7

** * * Effective December 8, 1983*

Sarasota/Bradenton, FL—Sarasota-Bradenton, LOC/DME BC RWY 14, Amdt. 3
Ames, IA—Ames Muni, LOC RWY 31, Amdt. 1
Lake Charles, LA—Lake Charles Muni, LOC BC RWY 33, Amdt. 14
Ardmore, OK—Ardmore Muni, LOC RWY 30, Amdt. 1
Charlotte, NC—Charlotte/Douglas Intl, LOC BC RWY 23, Amdt. 2

** * * Effective November 24, 1983*

Ukiah, CA-Ukiah Muni, LOC/DME RWY 15, Orig.
Clovis, NM-Clovis Muni, LOC RWY 4, Amdt. 1
Yakima, WA-Yakima Air Terminal, LOC/DME BC-B, Amdt. 1

3. By amending Part 97.27 NDB and NDB/DME SIAPs identified as follows:

** * * Effective January 19, 1984*

Alexandria, LA-Esler Regional, NDB RWY 26, Amdt. 7
DeRidder, LA-Beauregard Parish, NDB RWY 36, Amdt. 1
New Roads, LA- False River Airpark, NDB RWY 36, Amdt. 1
Jasper, TX-Jasper County Airport-Bell Field, NDB-A, Amdt. 2
Jasper, TX-Jasper County Airport-Bell Field, NDB RWY 17, Amdt. 4

** * * Effective December 22, 1983*

Dallas-Fort Worth, TX-Dallas-Fort Worth Regional, NDB RWY 17R, Amdt. 5
Dallas-Fort Worth, TX-Dallas-Fort Worth Regional, NDB RWY 35R, Amdt. 5

** * * Effective December 8, 1983*

Sarasota/Bradenton, FL-Sarasota-Bradenton, NDB RWY 32, Amdt. 3
Cordele, GA-Crisp County-Cordele, NDB RWY 9, Orig.
Ames, IA-Ames Muni, NDB RWY 13, Amdt. 2
Ames, IA-Ames Muni, NDB RWY 31, Amdt. 8
Boone, IA-Boone Muni, NDB RWY 14, Amdt. 0
Boone, IA-Boone Muni, NDB RWY 32, Amdt. 2
Oskaloosa, IA-Oskaloosa Muni, NDB RWY 22, Amdt. 2
Vinton, IA-Vinton Veterans Meml Arpk, NDB RWY 27, Amdt. 1
Washington, IA-Washington Muni, NDB RWY 31, Amdt. 4
Topeka, KS-Forbes Field, NDB RWY 13, Amdt. 4
Vicksburg, MS-Vicksburg Muni, NDB RWY 1, Amdt. 4, Cancelled
Vicksburg, MS-Vicksburg Muni, NDB RWY 1, Orig.
Charlotte, NC-Charlotte/Douglas Intl, NDB RWY 5, Amdt. 26
Charlotte, NC-Charlotte/Douglas Intl, NDB RWY 23, Amdt. 2
Mt Airy, NC-Mt Airy-Surry County, NDB-A, Amdt. 1
West Union, OH-Alexander Salamon, NDB RWY 23, Amdt. 1
Ardmore, OK-Ardmore Muni, NDB RWY 30, Amdt. 1
Reading, PA-Reading Muni, Gen Carl A Spaatz Field, NDB RWY 36, Amdt. 21
Bremerton, WA-Bremerton National, NDB RWY 1, Amdt. 13

** * * Effective November 24, 1983*

Clovis, NM-Clovis Muni, NDB RWY 4, Amdt. 1

4. By amending Part 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

** * * Effective January 19, 1984*

Alexandria, LA-Esler Regional, ILS RWY 26, Amdt. 11
Dallas-Fort Worth, TX-Dallas-Fort Worth Regional, ILS RWY 18L, Amdt. 12

** * * Effective December 22, 1983*

Chicago/Wheeling, IL-Pal-Waukee, ILS RWY 16, Amdt. 5
Grand Forks, ND-Grand Forks Intl, ILS RWY 35, Amdt. 6
Dallas-Fort Worth, TX-Dallas-Fort Worth Regional, ILS RWY 17R, Amdt. 11

** * * Effective December 8, 1983*

Sarasota/Bradenton, FL-Sarasota-Bradenton, ILS RWY 32, Amdt. 2
Topeka, KS-Forbes Field, ILS RWY 31, Amdt. 6
Lafayette, LA-Lafayette Regional, ILS RWY 21, Amdt. 2
Lake Charles, LA-Lake Charles Muni, ILS RWY 15, Amdt. 17
Syracuse, NY-Syracuse Hancock Intl, ILS RWY 28, Amdt. 27
Charlotte, NC-Charlotte/Douglas Intl, ILS RWY 5, Amdt. 29
Reading, PA-Reading Muni, Gen Carl A Spaatz Field, ILS RWY 36, Amdt. 26
Bremerton, WA-Bremerton National, ILS RWY 19, Amdt. 10

** * * Effective November 24, 1983*

Yakima, WA-Yakima Air Terminal, ILS RWY 27, Amdt. 25

** * * Effective October 17, 1983*

Charleston, WV-Kanawha, ILS RWY 5, Amdt. 1

5. By amending Part 97.31 RADAR SIAPs identified as follows:

** * * Effective December 8, 1983*

Ft Lauderdale, FL—Ft Lauderdale-Hollywood Intl, RADAR-1, Amdt. 3
Sarasota/Bradenton, FL—Sarasota-Bradenton, RADAR-1, Amdt. 4
Syracuse, NY—Syracuse Hancock Intl, RADAR-1, Amdt. 4
Charlotte, NC—Charlotte/Douglas Intl, RADAR-1, Amdt. 16
Philadelphia, PA—Philadelphia Intl, RADAR-1, Amdt. 16
Gallatin, TN—Gallatin Muni, RADAR-1, Orig.

6. By amending Part 97.33 RNAV SIAPs identified as follows:

** * * Effective December 8, 1983*

Washington, DC—Washington National, RNAV-A, Amdt. 4
Athens, GA—Athens Muni, RNAV RWY 20, Amdt. 1
Ames, IA—Ames Muni, RNAV RWY 31, Amdt. 4
Washington, IA—Washington, Muni, RNAV RWY 31, Amdt. 2
Topeka, KS—Forbes Field, RNAV RWY 13, Amdt. 2
Charlotte, NC—Charlotte/Douglas Intl, RNAV RWY 23, Amdt. 2
Gastonia, NC—Gastonia Muni, RNAV RWY 3, Amdt. 2, Cancelled
Gastonia, NC—Gastonia Muni, RNAV RWY 3, Orig.
Kenton, OH—Hardín County, RNAV RWY 22, Orig.
Reading, PA—Reading Muni, Gen Carl A Spaatz Field, RNAV RWY 13, Amdt. 5
Reading, PA—Reading Muni, Gen Carl A Spaatz Field, RNAV RWY 18, Amdt. 5

7. By amending Part 97.35 COPTER SIAPs identified as follows:

** * * Effective December 8, 1983*

Boone, IA—Boone Muni, COPTER NDB 225°, Orig.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on October 28, 1983.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 83-29871 Filed 11-1-83; 8:45 am]
BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1017

Security Regulation for Confidential Business Information Obtained From EPA

AGENCY: Consumer Product Safety Commission.

ACTION: Final regulation.

SUMMARY: The Commission issues a regulation establishing security procedures for safeguarding confidential business information obtained by the Commission from the Environmental Protection Agency (EPA). The Commission intends that at this time the procedures in Subparts B through G of Part 1017 will apply only to confidential business information obtained by EPA under the Toxic Substances Control Act (TSCA) which the EPA shares with the Commission.

EFFECTIVE DATE: November 2, 1983.

FOR FURTHER INFORMATION CONTACT: Dorothy Drago, Directorate for Epidemiology (301-492-6468), Consumer Product Safety Commission, Washington, D.C. 20207.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission (CPSC) is responsible under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051 *et seq.*, for, among other things, protecting the public against unreasonable risks of injury associated with consumer products, and promoting research and investigation into the causes and prevention of product-related deaths, illnesses and injuries, 15 U.S.C. 2051(b)(4). In carrying out these responsibilities, the Commission is required to conduct such continuing studies and investigations of deaths, injuries, diseases, other health impairments, and economic losses resulting from accidents involving consumer products as it deems necessary, 15 U.S.C. 2054(a)(2). It may conduct research, studies, and

investigations on the safety of consumer products and on improving the safety of such products, 15 U.S.C. 2054(b)(1).

In some instances, the Commission, in carrying out its responsibilities, receives reports or obtains from businesses and/or government agencies information that contains trade secrets or other proprietary data. Section 6(a)(2) of the CPSA, 15 U.S.C. 2055(a)(2), as amended by the Consumer Product Safety Amendments of 1981 (Pub. L. 97–35, 95 Stat. 703–752), requires the Commission to keep such information confidential. In some instances, the nature of confidential information reported to or obtained by the Commission requires the Commission to take extraordinary security procedures to prevent unauthorized disclosure of the information. For example, the Commission determined that certain special procedures were necessary to safeguard chemical product formula information submitted to it by chemical manufacturers in response to its special order of August 21, 1975 (40 FR 36617). The Commission published security procedures for safeguarding that information, and other similar information, at 16 CFR Part 1017, Subpart B.

The Commission, as part of its investigative and/or regulatory activities, anticipates requesting the Environmental Protection Agency (EPA) to provide it with "Confidential Business Information" (CBI) that EPA has received under (TSCA).[1] The EPA will furnish this information to the Commission *only* if the Commission meets EPA's standards for maintaining the security of the information and promises to treat the information as confidential in accordance with EPA's regulations at 40 CFR Part 2.

Proposal of July 7, 1982

On July 7, 1982, the Commission published a notice (47 FR 29562 *et seq.*) proposing to revise its security procedures at 16 CFR Part 1017 by adding Subart A, revoking and revising Subpart B, and by adding Subparts C, D, E, F and G. The regulation was proposed to establish security procedures for safeguarding the CBI the Commission received from EPA and the chemical product formula data submitted to the Commission in response to its special order of August 21, 1975 (40 FR 36617). (The latter was previously covered under 16 CFR Part 1017, Subpart B. It is now Subpart H, instead of Subpart A, the latter being reserved at this time.) The July 7, 1982 notice provided for a 60-day period for public comment.

Comments on Proposal

In response to the July 7, 1982 notice, the Commission received comments from two companies.

One commenter, Coleman Company, Inc., objected to the proposed regulation as being arbitrary and unreasonably narrow, stating that Section 6(a)(2) of the Consumer Product Safety Act (CPSA) does not authorize the Commission to determine that certain types of information are more important than others; further, that the security procedures followed by other Federal agencies are given general applicability.

The fact is that the Commission already invokes security procedures in its efforts to assure security for confidential information entrusted to it. The precedent for establishing special security procedures was set some time ago.

Special procedures were established (16 CFR Part 1017, Subpart B) to protect the security of confidential chemical product formula data submitted in response to CPSC's special order of August 21, 1975. Further, the Commission periodically undertakes to review, evaluate and, if necessary, revise current security procedures to further assure the security of such information.

The EPA will furnish the Commission information obtained by it pursuant to TSCA *only* if the Commission implements EPA's standards for maintaining the security of the information and promises to treat the information as confidential in accordance with EPA's regulations at 40 CFR Part 2—hence, the requirement for the Commission to establish the special procedures proposed on July 7, 1982. The Commission does not propose to make these special procedures applicable for other confidential information, because present procedures are deemed adequate and to do so would result in unnecessary administrative burden and cost.

The Commission, however, is revising the proposed regulation by retaining the procedures for safeguarding the chemical product formula data submitted pursuant to its special order of August 21, 1975 (formerly set forth at 16 CFR Part 1017, Subpart B) and redesignating it as 16 CFR Part 1017, Subpart H; and designating the new procedures for safeguarding the confidentiality of CBI obtained from EPA (which the latter receives pursuant to TSCA) as 16 CFR Part 1017, Subparts B, C, D, E, F and G.

The other company, Polaroid Corporation, commented as follows:

1. Section 1017.1 of the regulation, setting forth its purpose and scope, should expressly state that no disclosure of TSCA CBI shall be permitted except as expressly authorized by Section 14 of TSCA (15 U.S.C. 2613), Section 6 of the CPSA as amended (15 U.S.C. 2055) and by this regulation.

The Commission has revised this section to state that no disclosure of CBI shall be permitted except as authorized by Section 6 of the CPSA and this regulation. The combined effect of section 6 of the CPSA (the Commission's enabling statute) and this rule is believed adequate to limit access to those with a "need to know" who have already obtained access authorization. The inclusion of reference to Section 14 of the TSCA would not provide any further limitation of access and might result in ambiguity as to the role of the EPA Administrator with respect to materials provided to the Commission.

2. Polaroid stated that the regulation, as proposed, authorized the Commission to disclose TSCA CBI received from EPA to contractors and subcontractors, which disclosure, Polaroid contends, is prohibited by Section 14 of TSCA and Section 6 of the Consumer Product Safety Act. Polaroid further contends that neither TSCA nor the CPSA authorizes disclosure to subcontractors.

Since receiving the comment, Commission staff has determined, through EPA's Office of General Counsel, that EPA considers subcontractors as "contractors." In fact, the 1978 TSCA Confidential Business Information Security Manual, Chapter V, page 26 (TSCA Security Manual) sets forth circumstances and procedures under which TSCA CBI may be furnished by EPA to a contractor *or* subcontractor.)

EPA regulation 40 CFR 2.209 sets forth the circumstances under which EPA may disclose CBI to other agencies and states. 40 CFR 2.209(c)(5) provides that EPA may disclose the confidential information if the other agency agrees in writing not to disclose it unless (i) the other agency has statutory authority both to compel firms to furnish the information and to make the proposed

[1] The term "Confidential Business Information" is defined in EPA's TSCA Confidential Business Information Security Manual July 1978, as meaning, "• • • any information in any form received by EPA for any person, firm, partnership, corporation, association, or local, state, or Federal agency, or foreign government, which contains trade secrets or commercial or financial information, and which has been claimed as confidential by the person submitting it and which has not been determined to be non-confidential under the procedures in 40 CFR Part 2". A copy of the manual is available from EPA's Office of Industry Assistance, Room 511, East Tower, 401 M Street, SW., Washington, D.C. 20460 or from the Commission's Office of the Secretary, Washington, D.C. 20207

disclosure, and (ii) the other agency has, prior to disclosure of the information to anyone other than its officers and employees, furnished to each affected business at least the same notice to which the affected business would be entitled under this subpart.

Pursuant to Sections 27(b)(1), (3) and (4) and 27(e) of the CPSA (15 U.S.C. 2076(b)(1), (3) and (4) and (e), respectively), the Consumer Product Safety Commission does have statutory authority to compel production of the type of CBI which EPA receives pursuant to TSCA. Pursuant to Section 6(a)(8), the Commission is authorized to disclose confidential information to its employees. The Commission considers that contractors and subcontractors fall within the category of persons to whom such information may be furnished.

Accordingly, the Commission considers that it meets the criteria for disclosure to contractors and subcontractors set forth in 40 CFR 2.209(c)(5)(i). The Commission only rarely may find it necessary to disclose CBI to contractors and subcontractors—these occasions will be the exception. It has added a provision in the regulation stating that, prior to any disclosure to a contractor or subcontractor, the affected business will be notified.

3. Polaroid stated that, as proposed, the regulation could be interpreted as authorizing the establishment of a permanent storehouse of TSCA CBI with access to be granted at the discretion of Commission personnel for purposes other than those for which the Commission obtained it.

It is not the intention of the Commission to create such a "subsystem" (depository) of information. The Commission only obtains from EPA information that relates to consumer products that EPA believes the Commission needs to know about; this encompasses specific information relating to potential adverse human health effects. After it serves the specific purpose or purposes for which the Commission obtained it, the Commission will promptly return the information to EPA or destroy it. The Commission has revised the regulation to clarify this.

4. Polariod stated that the regulation, as proposed, authorizes "an unknown number of Commission employees" to have more or less general access to TSCA confidential business information. It recommended that the number be reduced to an absolute minimum.

The regulation has been revised to: limit access to the specific Commission and/or contract employees who have a need to know; provide that the Commission's security officer shall have access only for purposes of audit and investigations; provide that there shall be only one assistant to the Document Control Officer and that this assistant shall have access only when the Document Control Officer is unavailable and with the written approval of the Associate Executive Director for Health Sciences (AEDHS); and eliminate access by the (AEDHS) except as provided in § 1017.27. The result is that under normal circumstances only the Document Control Officer, Assistant Document Control Officer and specific Commission employees with a need to know will have acess to the data.

5. Polaroid stated that: (a) As proposed, the regulation (§ 1017.27) provided that access by an employee be granted unless the AEDHS determines that the employee does not have a legitimate need. The burden of proof should be reversed so that each employee requesting access should be required to demonstrate a legitimate need, and the decision to grant access should, at a minimum, be subject to EPA's concurrence.

The Commission has revised the regulation to reverse the burden of proof of need for access so that employees requesting access must demonstrate a legitimate need to know. However, the Commission does not agree that an individual's access to a document should be subject to EPA's concurrence. To require such approval could result in unacceptable delays and place EPA in the untenable position of having to keep apprised of which CPSC employees were working on various aspects of different projects, the status of access authorizations, personnel matters at CPSC and the relative importance of various CPSC projects, all of which fall within the responsibility of the Commission. Such concurrence was not contemplated by the Information Control Branch Management Support Division, EPA (now, Security Management Support Division), which reviewed and approved the procedures as set forth in the proposed regulation. It did not request or reserve the right to approve access by Commission employees.

Polaroid further stated that:

(a) As proposed, the security check requirement is subject to the proviso that it may be waived temporarily (except in the case of the security officer) where the employee has an "urgent need" for access. Polaroid states it is unclear whether the "urgency" contemplated relates to administrative convenience as well as the need to protect against imminent threats of harm to consumers' health. The regulation should be clarified to specify that it relates only to situations where there is a concern with immediate potential harm.

The Commission agrees and has revised the regulation accordingly.

In addition Polaroid stated that:

A provision should be added to require "remedial" actions in the case of employees who subsequently fail the security check. Polaroid suggests that at a minimum, such employees' access should be terminated immediately, all data in their possession should be reclaimed immediately and any affected business should be notified immediately.

The Commission has revised the regulation to provide that Commission and/or contract employees who do not meet the suitability guidelines of the Federal Personnel Manual, as unilaterally determined by the Commission, will have their access terminated immediately; all data in their possession shall be reclaimed immediately and in the event of a compromise of CBI any affected business shall be notified immediately.

6. Polaroid stated that the regulation, as proposed, did not provide for notification to affected businesses of actual or possible security breaches. Polaroid stated that because these are the parties most affected and they need to be able to act quickly to restrain possible misuse, it is imperative that they be notified immediately of any actual or suspected security breaches, "including inadvertent ones and the temporary misplacement or loss of documents" containing TSCA confidential business information. The regulation should be revised to require such notification at the earliest possible moment by the most expeditious means of communication.

The regulation has been revised to the extent that the affected company will be notified if the CPSC Executive Director determines that a document containing TSCA CBI is lost or otherwise unaccounted for, or if there is an actual or suspected security breach. The Commission believes this revision adequately assures that affected firms will be notified when appropriate.

7. Polaroid stated that a number of provisions in the regulation, as proposed, should be "tightened," as follows:

(a) The provisions of proposed § 1017.17 should be clarified to require that TSCA CBI be returned to the secure storage area when it is not in use during the day, rather than merely "covered" or "turned face down" as proposed. It would be preferable to require that it be used only in a secure room.

The Commission has revised the regulation to require that TSCA CBI be returned to the secure storage area when not in use during the day. The Commission is continuing to consider whether to require that confidential business information be viewed only in a secure room.

(b) Polaroid states that as proposed the regulation permits transfer of TSCA CBI by registered mail. In contrast, Polaroid points out that it sends its confidential PMNs (pre-manufacturing notifications) to EPA only by messenger with instructions to deliver the package directly to the appropriate document control officer and to notify Polaroid immediately of such delivery. Considering the enormous value of the information involved, Polaroid contends that at least the PMNs should be transferred by hand.

Procedures for transferring TSCA CBI by registered mail were modeled after EPA's own procedures (TSCA Security Manual, Chapter III, 3(d)). Therefore, the Commission considers transfer by registered mail to be appropriate.

The Commission, however, has revised the regulation to provide that, when feasible, documents containing TSCA CBI routinely shall be transmitted by personal delivery by a CPSC employee with instructions to deliver the materials directly to the appropriate document control officer at EPA and to obtain a written receipt of such delivery.

(c) In addition to requiring (in proposed § 1017.21) that newly created documents be numbered and logged, Polaroid states that the regulation should be clarified to require that all such documents be clearly and prominently marked as being confidential and subject to the requirements of TSCA, the Commission and the regulation. Polaroid also suggests that this section be clarified to require that the creation of such new documents be kept to an absolute minimum.

The Commission has revised the regulation to incorporate these suggestions.

(d) Proposed § 1017.32(a), according to Polaroid, should be amended to make it clear that its prohibition of computer storage or processing of "confidential business information obtained from EPA" applies both to the information and documents originally received from EPA *and* to all new confidential documents and data containing, based on, compiled from or otherwise derivative of such original information and documents. Polaroid states that a determination that such new information and documents is not TSCA CBI should be required pursuant to (proposed) § 1017.32(b), together with the concurrence of EPA. Polaroid also advises that computerization presents particularly difficult security problems, and special efforts should be made to ensure that the proposed section dealing with it is totally effective.

The Commission has revised the regulation to provide, only in Subpart H of 16 CFR Part 1017, procedures for handling confidential chemical products formula data received pursuant to the Commission's special order of August 21, 1975 and to eliminate from the other subparts all reference to that particular data. Subpart C provides that no TSCA CBI shall be computerized by the Commission and the regulation has been revised to prohibit the Commission, contractors, and subcontractors from computerizing confidential data based on, compiled from or otherwise derived from original CBI furnished by EPA.

The security procedures published below as 16 CFR Part 1017, Subparts B, C, D, E, F, and G are modeled after the procedures contained in the EPA's TSCA Security Manual. The procedures have been reviewed and approved by the Security Management Support Division, EPA, as meeting EPA requirements for sharing TSCA CBI with other agencies (See TSCA Security Manual, Chapter VI).

Certification of No Significant Economic Impact on Small Entities

In accordance with section 605(b) of the Regulatory Flexibility Act (RFA, 5 U.S.C. 605(b) *seq.*)) the Commission hereby certifies that the rule set forth below will not have a significant economic impact on a substantial number of small entities because it does not impose any requirement or obligation on any person or firm subject to the Commission's jurisdiction. The rule issued below establishes internal Commission procedures to safeguard confidential business information obtained by the Commission from EPA.

Environmental Consideration

The amendments set forth below fall within the categories of Commission actions described in CFR 1021.5(c) that have little or no potential for affecting the human environment. For this reason, neither an environmental assessment nor an environmental impact statement is required.

Effective Date

Because the rule issued below involves rules of agency practice only and does not impose any substantive requirements on the public, publication of the final rule at least 30 days before its effective date is not required by the APA at 5 U.S.C. 553(d). For this reason, the rule issued below shall become effective immediately.

List of Subjects in 16 CFR Part 1017

Business and industry, Chemicals, Confidential business information, Security measures.

Accordingly, under section 6(a) of the Consumer Product Safety Act (Pub. L. 92–573; 86 Stat. 1212–1215, as amended, Pub. L. 95–631, 92 Stat. 3742–45, Pub. L. 97–35, 95 Stat. 703, 752, 15 U.S.C. 2055(a)(2)), the Commission amends 16 CFR Part 1017 by redesignating Subpart B as Subpart H, 1017.50–1017.53; and adding new Subparts B, C, D, E, F and G.

PART 1017—PROCEDURES FOR SAFEGUARDING CONFIDENTIAL BUSINESS INFORMATION RECEIVED FROM EPA

Subpart A—[Reserved]

Subpart B—Purpose and Description of Information

Sec.

1017.1 Purpose and scope.
1017.2—1017.4 [Reserved]

Subpart C—Responsibilities

1017.5 Safeguarding confidential business information received from EPA; Associate Executive Director for Health Sciences responsibilities.
1017.6 Document Control Officer and Assistant responsibilities.
1017.7 Employee responsibilities.
1017.8 Security Officer responsibilities.
1017.9 Other individuals responsibilities; Chief Contracts Branch; Project Officer
1017.10—1017.14 [Reserved]

Subpart D—Procedures for Handling Confidential Business Information

1017.15 Document Control Officer procedures upon receiving information.
1017.16 Storage of confidential business information.
1017.17 Protection of confidential business information during use.
1017.18 Reproduction of confidential business information.
1017.19 Return of confidential business information to EPA or destruction.
1017.20 Discussion of confidential business information in meetings.
1017.21 Newly created documents containing confidential business information.
1017.22 Transfer of confidential business information.
1017.23 Lost or misplaced documents; violations of security by Commission employees.
1017.24–1017.26 [Reserved]

Subpart E—Procedures for Authorizing Access for Employees and for Employees To Obtain Access

1017.27 Request and approval for access to confidential business information.
1017.28 Investigations.

Sec.
1071.29 Employee access to information.
1017.30–1017.33 [Reserved]

Subpart F—Authorization for the Commission To Provide Access to Confidential Business Information to Members of the Chronic Hazard Advisory Panels

1017.34 Chronic Hazard Advisory Panels access to confidential business information.
1017.35 [Reserved]

Subpart G—Security Requirements for Contracts and Subcontractors

1017.35 Contractor and subcontractor access to confidential business information.
1017.36 Contracts and subcontracts involving access to confidential business information.
1017.37 Award of contracts and subcontracts involving confidential business information.
1017.38 Modifying existing contracts and subcontracts involving confidential business information.
1017.39 Contractor prohibition on computer use of confidential business information.
1017.40 Transfer of confidential business information to contractors and subcontractors.
1017.41 Inspection of contractor and subcontractor facilities.
1017.42 Return of information.
1017.43 Violations of security by contractors and subcontractors.

Subpart H—Chemical Formulations For Consumer Products

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Appendices

I. Confidentiality Agreement for employees.
II. Confidentiality Agreement for Employees Upon Termination or Transfer.
III. Request for Access to Confidential Business Information.
IV. Confidential Business Information User Sign-Out Log.
V. Confidential Business Information Document Control No. Form.
VI. Confidential Business Information Inventory Log.
VII. Confidential Business Information Record Disposition Log.
VIII. Security procedures for handling confidential business information provided to contractors or subcontractors.

Authority: Section 6(a)(2), Pub. L. 92–573, 86 Stat. 1212–1215; as amended Pub. L. 95–631, 92 Stat. 3742–45; Pub. L. 97–35, 95 Stat. 703, 752 (15 U.S.C. 2055(a)(2)).

Subpart A—[Reserved]

Subpart B—Purpose and Description of Information

§ 1017.1 Purpose and scope

This part sets forth the security measures that Consumer Product Safety Commission employees must follow to safeguard confidential business information (CBI) which the Environmental Protection Agency obtains pursuant to the Toxic Substances Control Act (TSCA) and furnishes to the Commission. This part also establishes security measures for Commission contractors and subcontractors obtaining access to this information. No such CBI shall be disclosed except as expressly authorized by Section 6 of the CPSA, as amended (15 U.S.C. 2055), and by this regulation.

§§ 1017.2–1017.4 [Reserved]

Subpart C—Responsibilities

§ 1017.5 Safeguarding Confidential Business Information Received From EPA; Associate Executive Director for Health Sciences Responsibilities.

(a) The Commission's Associate Executive Director for Health Sciences (AEDHS) has the primary responsibility for safeguarding CBI obtained by EPA pursuant to TSCA and furnished to the Commission.

(b) The AEDHS shall:

(1) Ensure that all CBI is handled under these procedures;

(2) Authorizes the use of storage room(s) for CBI and any reproduction of CBI, and approve the return to EPA or destruction of selected documents.

(3) Designate a Document Control Officer (DCO) and one Assistant Document Control Officer (DCOA) to serve under the direct supervision of the AEDHS to implement the procedures in this part;

(4) Provide authorization for Commission employees, contractors and subcontractors to have access to CBI in accordance with §§ 1017.15, 1017.27 and 1017.35.

(5) Ensure that no CBI or confidential data based on, compiled from or otherwise derived from original CBI furnished by EPA, is computerized.

(6) Initiate appropriate action when any employee contractor or subcontractor fails to comply with these procedures, e.g., disciplinary action against such employee or termination of a contract or subcontract.

(7) The AEDHS shall immediately notify the Executive Director and General Counsel of any investigation by the Security Officer that covers the suspected or actual compromise of CBI, a violation of or apparent violation of the security provisions of this part, including the unauthorized disclosure of CBI.

(8) The AEDHS will have acess to CBI only to the extent to fullfill the specific responsibilities set forth above and elsewhere in this regulation and to carry out his responsibilities as AED as provided in §1017.27 of this regulation.

§ 1017.6 Document Control Officer and Assistant responsibilities.

(a) The Document Control Officer (DCO) is responsible for the following:

(1) Maintaining a current list of Commission personnel, contractors and subcontractors who are authorized to have access to CBI, including any limitations on access;

(2) Maintaining document control records for all CBI, both incoming and outgoing;

(3) Assigning document control numbers to all documents containing CBI;

(4) Releasing CBI only to authorized employees;

(5) Ensuring that CBI when not in use is stored in accordance with these procedures.

(6) Changing the room lock and storage container combinations in accordance with § 1017.16(e).

(7) Maintaining a system for retrieval of documents;

(8) Supervising the reproduction, and destruction or return of CBI to EPA.

(9) Conducting with the security officer periodic, but not less than annual, inventory checks of documents containing CBI and furnishing the results to the AEDHS; such inventory checks also will occur whenever there is a change of the AEDHS, DCO, Document Control Officer's Assistant (DCOA) or Security Officer, a suspected breach of security, or when a Commission or contract employee who receives an unfavorable suitability determination by the Commission as set forth in § 1017.28.

(10) Immediately reporting any violation of these procedures to the AEDHS.

(11) Conducting routine training on good security procedures for employees accessing CBI.

(b) The DCOA designated by the AEDHS is responsible for performing the duties assigned by the DCO and acting for the DCO in routine matters only in the absence of the DCO and only after written approval has been obtained from the AEDHS.

§ 1017.7 Employee responsibilities.

(a) Commission and/or contract employees who are authorized access to CBI are responsible for the following:

(1) Controlling and safeguarding all CBI they receive. This will be done in accordance with these procedures, any additional Commission security procedures which may be implemented in the future and common sense. Employees must sign the appropriate appended Confidentiality Agreement and meet the suitability/investigative

requirements set forth in 1017.28 before they are granted access to CBI;

(2) Discussing CBI only with authorized persons who need to know;

(3) Safeguarding CBI when it is in actual use;

(4) Immediately reporting possible violations of these procedures to the DCO;

(5) Not reproducing CBI except with the approval of the AEDHS and under the supervision of the DCO;

(6) Not discussing CBI over the telephone;

(7) Returning CBI to the DCO when not in use and at the close of business each day for safeguarding in accordance with these procedures.

§ 1017.8 Security Officer responsibilities.

(a) The Executive Director shall appoint a Security Officer.

(b) The Security Officer shall be responsible for the following:

(1) Ensuring that appropriate investigations required in 1017.28 are conducted for the AEDHS, the DCO, DCOA and also for employees to whom access to CBI is provided in accordance with these procedures;

(2) Maintaining a file of signed Confidentiality Agreements (Appendix I) which must be executed by all employees who are granted access to CBI;

(3) Conducting periodic physical security surveys to ensure compliance with these procedures;

(4) Investigating any alleged or suspected wrongful disclosure of CBI and furnishing the results of the investigation to the DCO, AEDHS, and the Associate Executive Director for Administration (AEDAD) for any appropriate action.

(5) Investigating any alleged or suspected violation of these procedures by an employee and furnishing the results to the DCO, AEDHS, and AEDAD for any appropriate action;

(6) Investigating any alleged or suspected violations of contract or subcontract security procedures and reporting the results to the DCO and AEDHS for any appropriate action.

(7) Administering, witnessing, and maintaining the Confidentiality Agreement for CPSC Employee Upon Termination or Transfer (Appendix II) for each employee who has had access to CBI and is transferring from or terminating his/her employment with the Commission;

(8) Accompany personnel from EPA Security Management Support Division to conduct periodic inspection of contractor or subcontractor facilities to determine compliance with required security procedures.

(c) The Security Officer will have access to CBI only to the extent necessary to fulfill the responsibilities set forth above.

§ 1017.9 Other individuals' responsibilities; Chief, Contracts Branch; Project Officer.

(a) The Chief of the Contracts Branch of the Directorate for Administration is responsible for the following:

(1) Ensuring that the clause entitled "Security Procedures for Handling Confidential Business Information Provided to Contractors and Subcontractors (Appendix VIII) is included in any Request for Proposals, contract, or subcontract where the contractor or subcontractor will have access to CBI obtained from EPA pursuant to TSCA.

(2) Reporting any alleged or suspected violations of the contract or subcontract security provisions to the Security Officer.

(b) The Project Officer for a contract, who has been approved for access to CBI in accordance with § 1017.27, is responsible for obtaining from the DCO and securely transferring CBI to a contractor/subcontractor and ensuring that all the information is returned to the DCO at the completion of the contract work. Prior to transferring CBI to a contractor/subcontractor the Project Officer for a contract is responsible for notifying the affected business at least ten days in advance of the transfer.

§§ 1017.10—1017.14 [Reserved]

Subpart D—Procedures for Handling Confidential Business Information

§ 1017.15 Document Control Officer procedures upon receiving information.

(a) Upon receipt of documents containing CBI, the DCO shall:

(1) Assign a document control number to each document;

(2) Attach a Confidential Business Information cover sheet to the information (Appendix V); and

(3) Enter the required information into the Inventory Log (Appendix VI) including a description of the document, date received, and name of submitter.

§ 1017.16 Storage of confidential business information.

(a) When CBI is not in use and at the close of business each day, the DCO, at a minimum, must store the CBI within a metal cabinet with a bar and a three-way changeable combination padlock approved by the Security Officer.

(b) The metal cabinet or other approved security container must be located in a room(s) that the AEHDS has authorized and which is approved, before use, by the Security Officer and by the EPA.

(c) The room(s) must have doors with a simplex combination or similarly-rated lock and one or more of the following, depending upon the location, construction, and configuration of the room:

(1) Contact alarmed doors/windows;

(2) Ultrasonic alarm;

(3) Vibration alarms; or

(4) Other remote intrusion alarms.

(d) Only the DCO and DCOA are authorized to be given the combinations to the room(s) and to the storage container(s).

(e) The room lock and the storage container combinations must be changed by the DCO at least once each year and every time an employee having access to the storage containers terminates employment, transfers to responsibilities that do not allow access, has breached security, or who has had his/her access authorization terminated.

§ 1017.17 Protection of confidential business information during use.

(a) Except as provided in paragraph (b) of this section, CBI, when in actual use by an authorized person, shall be protected as follows:

(1) Kept under the constant surveillance of an authorized person who is in a physical position to exercise direct security control over the material;

(2) Covered, turn face down, placed in storage containers, or otherwise protected when unauthorized persons are also present; and, when the material is not in use it shall be returned to the secure storage area.

(3) Discussed only with other authorized persons; and

(4) Returned to the DCO not later than close of business each day.

(b) In instances where CBI is to be given to a contractor or subcontractor, the information shall be handled in the same manner as described in paragraph (a) of this section except that it shall be returned at the close of business each day to the person designated by the contractor or subcontractor to safeguard CBI.

1017.18 Reproduction of confidential business information.

The reproduction of CBI should be kept to an absolute minimum. Reproduction of CBI may be done only with the approval of the AEDHS and under the supervision of the DCO. The DCO shall enter all copies into the document control system (Inventory Log, Appendix VI), notify the AEDHS, and apply the same control requirements as for the original.

§ 1017.19 Return of confidential business information to EPA or destruction.

(a) Documents containing CBI will either be returned to EPA promptly when the information has served the purpose or purposes for which it was obtained or will be destroyed.

(b) Whenever possible and feasible, documents shall be returned to EPA by personal delivery by authorized Commission personnel in accordance with the procedures set forth in § 1017.22 (a) and (b) of this regulation.

(c) If the information is to be returned by mail, it must be transmitted in accordance with the procedures set forth in § 1017.22(c) of this regulation.

(d) In instances where it is not possible or feasible to return documents to EPA, the documents shall be destroyed by shredding or burning under the supervision of the DCO and in the presence of a witness.

(e) The DCO shall record the return/destruction on the Inventory Log (Appendix VI) and the Record Disposition Log (Appendix VII) in the presence of the employee returning CBI. The DCO shall maintain the Inventory Log and a copy of the User Sign-Out Log (Appendix IV) for all materials returned/destroyed for a period of at least five years.

§ 1017.20 Discussion of confidential business information in meetings.

(a) In any meeting, symposium, panel discussion, or seminar in which CBI will be discussed by Commission employees, the meeting chairman shall:

(1) Be a person authorized to have access to CBI;

(2) Ensure that only persons authorized to have access to CBI are present when such information is to be discussed;

(3) Provide a sign-in sheet, including the date, time, place, subject of the meeting, and type CBI discussed and require all attendees to sign it. The meeting chairperson shall give the sign-in sheet to the DCO who will retain it for at least one year.

(4) Review with the attendees their responsibility for safeguarding CBI.

(5) Ensure that no electronic recording is made of the meeting unless the AEDHS has authorized it. If authorized, the recording must be treated as all other CBI and the DCO must enter it into the document control system;

(6) Ensure that the meeting room is secured after the meeting. This shall include erasing all blackboards, destroying all tear sheets and other notes, and ensuring that nothing is left in the room which would lead to an unauthorized disclosure of CBI.

§ 1017.21 Newly created documents containing confidential business information.

Creation of new documents by extracting information from documents containing CBI should be kept to an absolute minimum. When a new document is created by extracting information from documents containing CBI, the newly created document shall be brought to the attention of the DCO by the close of business on the day it is created. The DCO shall follow the procedures in this subpart of numbering and logging the new documents. The new document should be clearly and prominently marked as being confidential and subject to the requirements of Section 6 of the CPSA and of this regulation. Notes containing CBI taken from a document or at a meeting shall likewise be brought to the attention of the DCO for numbering, logging and marking confidential and subject to Section 6 of the CPSA and this regulation on the day they are created.

§ 1017.22 Transfer of confidential business information.

(a) CBI routinely will be transferred between geographic locations by authorized CPSC personnel, provided that the DCO maintains a record and obtains a receipt from the person receiving the information. When hand-delivery is not feasible, the information will be transmitted by registered mail. In no instance will the information be transmitted by regular or certified mail.

(b) The information to be transmitted by hand must be in a double envelope. The inner envelope must reflect the name and address of the recipient, with the following wording on the front side: "Confidential Business Information—To Be Opened By Addressee Only." The outer envelope must reflect the normal address, without the additional wording, and be marked "BY HAND."

(c) If the information cannot reasonably be delivered by hand and thus is to be transmitted by mail, the DCO must send it by registered mail, return receipt requested, in a double envelope. The inner envelope must reflect the name and address of the recipient with the following wording on the front side of the inner envelope: "Confidential Business Information—To Be Opened By Addressee Only." The outer envelope must reflect the normal address without the additional wording.

§ 1017.23 Lost or misplaced documents; violations of security by Commission employees.

(a) If any employee becomes aware that a document containing CBI is lost or otherwise unaccounted for, he/she shall immediately notify the DCO. If the document is not located within eight working hours, the DCO shall refer the matter to the Security Officer and the AEDHS for processing in accordance with paragraphs (b) through (e) of this section.

(b) If an employee intentionally or unintentionally violates or apparently violates the security provisions of this Part the Security Officer shall investigate the violations or apparent violations, and report the matter to the DCO and the AEDHS. The AEDHS shall immediately notify the Executive Director and the General Counsel.

(c) If the investigation by the Security Officer uncovers a violation of the security requirements of this part and there is no evidence of any unauthorized disclosure, the Security Officer shall inform the DCO and the AEDHS.

(d) If the investigation by the Security Officer uncovers the probable unauthorized disclosure of CBI, the Security Officer immediately shall inform the DCO and the AEDHS. The AEDHS shall immediately notify the Executive Director and the General Counsel.

(e) If the Executive Director determines that there is a suspected or actual unauthorized compromise of CBI, he/she shall immediately notify the Chief, Security Management Support Division, EPA, and the affected business.

(f) If the investigation by the Security Officer uncovers information reflecting a possible criminal violation, the Security Officer will immediately inform the AEDHS and DCO. The AEDHS shall immediately inform the Executive Director, and the General Counsel. If there is evidence of a criminal violation, the General Counsel shall refer the matter to the Department of Justice pursuant to 28 U.S.C. 535.

§§ 1017.24–1017.26 [Reserved]

Subpart E—Procedures for Authorizing Access for Employees and for Employees To Obtain Access

§ 1017.27 Request and approval for access to confidential business information.

(a) The Commissioners, the Executive Director, Deputy Executive Director, Associate Executive Directors, General Counsel and Office Directors have authority to request access to CBI for themselves or employees under their supervision. A request must be made to the AEDHS by completing Part 1 of the document "Request for Access to Selected Confidential Business

Information." (Appendix III). The request must be accompanied by a Confidentiality Agreement (Appendix I) signed by the employee for whom access is requested.

(b) The AEDHS shall approve the request for access by completing Part 2 of the request form (Appendix III) if the person requesting access can demonstrate a legitimate need to have access to CBI. If the AEHDS approves the request for access, the AEDHS shall send the completed form to the Security Officer who will be responsible for ensuring that an appropriate security investigation has been conducted, as described in § 1017.28.

(c) If the AEDHS determines that an employee has not demonstrated a legitimate need to have access to CBI, the employee will not be granted access. This decision may be appealed to the CPSC Executive Director with a copy of the appeal being sent to the General Counsel. If the Executive Director upholds the decision of the AEDHS, the denial of access may be appealed to the Chairman with a copy of the appeal being sent to the General Counsel.

§ 1017.28 Investigations.

(a) All employees must have a National Agency Check and Inquiries (NACI) completed before being given access to CBI unless a temporary waiver is obtained in accordance with paragraph (b) of this section. The Security Officer, upon receipt of completed Parts 1 and 2 of a request form for employee access to CBI (Appendix III), will contact the Personnel Office and obtain in writing the fact that an NACI has been completed with a favorable suitability determination. The Security Officer will then complete Part 3 of the request form (Appendix III) to authorize the employee to have access to CBI. The Security Officer shall then notify the employee, the AEDHS and the DCO who will place the employee's name on the authorized access list.

(b) If a NACI investigation has not been completed for an employee and there is an urgent need for the employee to have access to CBI in order to protect against immediate potential harm to consumers' health, the Director of Personnel or his/her designated representative may grant a temporary waiver. A temporary waiver may be granted only after review of official personnel documentation consistent with the suitability criteria contained in chapter 731 of the Federal Personnel Manual. If the Director of Personnel or designated representative makes a favorable suitability determination after such a review he/she shall notify the DCO and the Executive Director and General Counsel of the temporary waiver in writing and authorize the DCO to place the employee's name on the authorized access list. If derogatory information later identified in the NACI causes the Commission to reevaluate the employee's suitability with an unfavorable determination, his/her access to CBI shall be immediately terminated, all data in his/her possession shall be immediately reclaimed and the procedures set forth in § 1017.23(b) followed, as appropriate.

(c) The DCO and DCOA, because of their positions, must have a background investigation with a favorable suitability determination completed before assuming their responsibilities under this Part except as provided in paragraph (d) of this section. The Personnel Office will verify to the Security Officer and the AEDHS that a background investigation of the responsible officials has been conducted and that there is nothing of record to preclude them from having access to CBI or from assuming their responsibilities under this Part.

(d) The Director of Personnel or his/her designated representative may temporarily waive the requirement for a background investigation for the DCO and DCOA when there is an urgent need for the person to assume his/her duties to protect against immediate potential harm to consumers' health. The Director of Personnel or his/her designated representative will notify the person in writing that he/she may assume responsibilities immediately, provided (1) that an NACI investigation has been completed and there is nothing of record to preclude the person from assuming responsibilities, and (2) that the employee, at that time, applies for a background investigation. If the Director of Personnel or his/her designated representative temporarily waives the requirement for a background investigation he/she must immediately notify the Executive Director and General Counsel in writing. If an unfavorable suitability determination is later made, based on the results of the background investigation, his/her access to confidential business information shall be immediately terminated, all data in his/her possession shall be immediately reclaimed and the procedures set forth in § 1017.23 (b) through (e) followed, as appropriate.

§ 1017.29 Employee access to information.

(a) To obtain access to CBI, an employee who is authorized to have access to CBI in accordance with this regulation must complete a "Request For Access to Confidential Business Information" (Appendix III), obtain all necessary additional signatures, and present the completed form to the DCO.

(1) The DCO must verify that the requester is on the authorized access list;

(2) The DCO will retrieve the document from storage and give it to the authorized employee;

(3) The authorized employee must return the document to the DCO as soon as he/she has finished using it but not later than by close of business the day that it was accessed;

(4) The DCO will enter the appropriate information in the User Sign-out Log (Appendix IV);

(5) The DCO will assure that each document has a control number and CPSC Confidential Business Information cover sheet (Appendix V) before releasing the document, as required by Subpart E below.

(b) If a document is not returned to the DCO by the end of the day accessed, if not sooner, the DCO will immediately attempt to retrieve the document and notify the AEDHS and the Security Officer who will investigate the matter.

§§ 1017.30–1017.33 [Reserved].

Subpart F—Authorization for the Commission To Provide Access to Confidential Business Information to Members of the Chronic Hazard Advisory Panels

§ 1017.34 Chronic Hazard Advisory Panels Access to confidential business information.

(a) The Commission is authorized to provide access to CBI to members of the Chronic Hazard Advisory Panels (CHSPA), established pursuant to Section 28 of the CPSA, as amended in 1981, 15 U.S.C. 2077.

(b) The CBI will be furnished to CHAP members under all of the safeguards relating to Commission employees provided in Subparts B through E herein.

(c) Members of CHAP who obtain access to CBI are subject to all of the provisions of Subpart G herein relating to Commission contractors and subcontractors.

Subpart G—Security Requirements for Contractors and Subcontractors

§ 1017.35 Contractor and subcontractor access to confidential business information.

(a) Contractors and subcontractors are responsible for maintaining the confidentiality of CBI to which they are

given access under the terms of a contract.

(b) CBI may be furnished to Commission contractors and subcontractors only when it is necessary for the performace of work specified in the contract or subcontract, when the contract or subcontract contains the required clauses, when the contractor or subcontractor and their employees sign confidentiality agreements, and when the procedures in this Subpart have been followed. The affected business will be notified at least ten days in advance of disclosure of CBI to contractors or subcontractors.

§ 1017.36 Contracts and subcontracts involving access to confidential business information.

(a) When a Commission office initiates a Request for Proposals for a contract and the contractor or subcontractor will need access to CBI to perform the work, the CPSC Project Officer responsible for the contract must request approval for such access from the AEDHS prior to initiating a Request for Proposals. The AEDHS shall approve or disapprove the request in writing based upon a determination of whether the contractor/subcontractor would require access to perform the contract and shall notify the person making the request of the decision.

(b) If the AEDHS determines that a contractor or subcontractor does not have a legitimate need to have access to data, this decision may be appealed to the Executive Director. If the Executive Director upholds the decision of the AEDHS, the denial of access may be appealed to the Chairman. Throughout this appeal process the General Counsel will be kept apprised.

(c) After the AEDHS has approved a request for contractor or subcontractor access, the office requesting the access shall notify the Contracts Branch that the Request for Proposals and resulting contract must include the contract provision set forth in Appendix VIII, "Security Procedures for Handling Confidential Business Information Provided to Contractors and Subcontractors" and that contract employees who require access to Confidential Business Information must meet the same suitability investigative requirements as Federal employees as set forth in § 1017.28.

§ 1017.37 Award of contracts and subcontracts involving confidential business information.

In evaluating the proposals submitted by offerors responding to the Request for Proposals, the Contracts Branch and the requesting office shall consider any potential conflicts of interest that might preclude the handling of CBI by the successful offeror. They shall also consider the offeror's past performance on similar contracts or subcontracts involving the handling of CBI or other information of confidential and/or a sensitive nature, such as national defense information or privacy information.

§ 1017.38 Modifying existing contracts and subcontracts involving confidential business information.

When a contract or subcontract is already in effect and a Commission office determines that it will be necessary to furnish CBI to a contractor or subcontractor to perform the work required, the procedures set forth in §§ 1017.25, 1017.36 and 1017.37 will be followed. The contract or subcontract shall be modified to include the provisions set forth in Appendix VIII.

§ 1017.39 Contractor prohibition on computer use of confidential business information.

(a) CBI or confidential data based on, compiled from or otherwise derived from original CBI furnished by EPA may not be computerized by a contractor or subcontractor.

§ 1017.40 Transfer of confidential business information to contractors and subcontractors.

(a) The project officer responsible for the contract or subcontract shall request the required CBI from the DCO. The request shall include the identity of the contractor or subcontractor, the number of the contract or subcontract, a statement that the appropriate clauses are included in the contract or subcontract and that the contractor and subcontractor employees having access to the information have signed a nondisclosure statement. A copy of the approval given by the AEDHS should also be attached.

(b) Upon receipt of a request, the DCO shall provide the requested information to the Project Officer who shall deliver the information to the contractor or subcontractor in person, if feasible. The Project Officer shall obtain a written receipt for the information from the contractor or subcontractor and send it to the DCO.

(c) The information will routinely be transferred to the contractor or subcontractor by personal delivery by authorized CPSC personnel, provided that the DCO maintains a record and obtains a receipt from the person receiving the information. When hand-delivery is not feasible, the information will be transmitted by registered mail. In no instance will the information be transmitted by regular or certified mail.

(d) When the information is to be transmitted by personal delivery, the procedures set forth in § 1017.22 (a) and (b) of this regulation must be followed. If the information is to be transmitted by registered mail, the procedures set forth in § 1017.22(c) of this regulation must be followed.

§ 1017.41 Inspection of contractor and subcontractor facilities.

(a) Before the award or modification of a contract, the Contracts Office shall request the EPA Security Management Support Division to verify and certify in writing that a contractor or subcontractor has in place adequate facilities, safeguards and procedures to insure the security of CBI.

(b) Until CPSC receives EPA approval it shall not furnish to any contractor or subcontractor any CBI it has received from EPA.

(c) The Contracts Office may periodically request the Security Officer to conduct unannounced security inspections to assure that the contractor or subcontractor is taking the necessary steps to protect the CBI. A copy of the Security Officer's report shall immediately be sent to the Chief, Security Management Support Division. EPA.

§ 1017.42 Return of information.

Upon completion of the contract or subcontract, the Project Officer responsible for the contract or subcontract shall obtain from the contractor or subcontractor all copies of CBI previously provided to the contractor or subcontractor and shall send them to the DCO under the procedures set forth in § 1017.41(e).

§ 1017.43 Violations of security by contractors and subcontractors

(a) If a contractor or subcontractor violates or is suspected of violating the security terms of a contract or subcontract obligating it to protect CBI the Security Officer shall investigate the violations or apparent violations, and report the matter to the DCO, AEDHS and the General Counsel.

(b) If the investigation by the Security Officer uncovers a violation of the security requirements of the contract and there is no evidence of any unauthorized disclosure, the Security Officer shall inform the DCO, AEDHS and the Contracting Officer who shall take appropriate action under the terms of the contract or subcontract. The AEDHS shall immediately notify the Executive Director and the General Counsel.

(c) If the investigation by the Security Officer uncovers the suspected or actual compromise of CBI, the Project Officer immediately will retrieve all CBI and return it to the DCO. The Security Officer shall immediately inform the DCO and AEDHS. The AEDHS shall immediately notify the Executive Director and the General Counsel. If in the judgment of the Executive Director there is a suspected or actual compromise of CBI, he shall immediately notify the Chief, Security Management Support Division, EPA and the affected business. Appropriate action under the terms of the contract or subcontract shall be taken. This action may include terminating the contract or subcontract, without penalty to CPSC.

(d) If the investigation by the Security Officer uncovers information reflecting a possible criminal violation, the Security Officer will immediately inform the DCO and AEDHS. The AEDHS shall immediately notify the Executive Director and the General Counsel. If there is evidence of a criminal violation, the General Counsel shall refer the case to the Department of Justice pursuant to 15 U.S.C. 2613(d)(2).

Subpart H—Chemical Formulations for Consumer Products

* * * * *

Appendix I—Confidentiality Agreement for Consumer Product Safety Commission Employees

I understand that I will have access to certain Confidential Business Information (CBI). This access has been granted in accordance with my official duties as an employee of the Consumer Product Safety Commission.

I understand that CBI may not be disclosed to other employees or persons, except as authorized in accordance with the CPSC Security Regulation (16 CFR Part 1017 Subparts B, C, D, E, F and G). I understand that the unauthorized disclosure of this information may subject me to civil and criminal penalties. In addition, I understand that I may be subject to disciplinary action for violation of this agreement with penalities ranging up to and including dismissal.

I have read and understand the CPSC Security Regulation. I agree that I will treat any CBI furnished to me as confidential and that I will follow the procedures set forth in the CPSC Security Regulation. I also agree that I will not remove any CBI from the premises of CPSC and that I will return all copies of any CBI in my possession to the Document Control Officer when I am finished with their use but not later than the end of the day accessed. I further agree that I will not disclose any CBI to any person after termination of employment with CPSC.

I am aware that I may be subject to criminal penaltjes under 18 U.S.C. 1001 if I have made any statement of material facts knowing that such a statement is false or if I willfully conceal any material fact.

Signature

Date

Name

CPSC Employee Number

Appendix II—Confidentiality Agreement for Consumer Product Safety Commission Employees Upon Termination or Transfer

In accordance with my official duties an an employee of the Consumer Product Safety Commission, I have had access to CBI. I understand that CBI information may not be disclosed to other employees or persons except as authorized by the CPSC Security Regulation (16 CFR Part 1017 Subparts B, C, D, E, F, and G).

I certify that I have returned all copies of *any* CBI information in my possession to the document control officer as required by the CPSC Security Regulation.

I agree that I will not remove any copies of CBI from the premises of other Agency upon my termination or transfer. I further agree that I will not disclose any CBI to *any* person after my termination or transfer.

I understand that as an employee of the United States who has had access to CBI I am liable to civil and criminal penalties for unauthorized disclosure.

If I am still employed by the United States, I also understand that I may be subject to disciplinary action for violation of this agreement.

I am aware that I may be subject to criminal penalties under 18 U.S.C. 1001 if I have made any statement of material facts knowing that such a statement is false or if I willfully conceal any material fact.

Signature

Date

Name

CPSC Employee Number

Appendix III—Request for Access to Confidential Business Information

1. The following named employee will require access to Confidential Business Information (CBI) in the performance of official duties.

Full Name

CPSC Employee Number

Position

Office

Date Required

Justification

Please authorize access, for the above named employee, to CBI. Attached is a copy of the Confidentiality Agreement signed by the employee.

Signature of Designating Official

Date

Title

Office

2. *Associate Executive Director for Health Sciences.*

The authorization for the above named individual has been:

( ) Approved for access contingent upon verification by the Security Officer that a satisfactory investigation has been conducted. Access is limited to the information specified.

( ) Disapproved—Operational need for access has not been demonstrated.

Signature

Date

3. *Security Officer.*

( ) A National Agency Check and Inquiries (NACI) investigation has been conducted on the above-named individual. The individual meets the investigative requirement and nothing is of record to preclude access to CBI.

Signature

Date

( ) A temporary waiver from the NACI investigation has been granted by the Association Executive Director for Health Sciences and the individual approved for immediate access to CBI.

Signature

Date

BILLING CODE 6355-01-M

APPENDIX IV.
CONFIDENTIAL BUSINESS INFORMATION
USER SIGN-OUT LOG

Control/ Copy Number	Document Description	SIGN OUT				SIGN IN		
		Checked out Date/Time	Employee Number	Name (Print)	Signature	DCO Initials	Returned Date/Time	DCO Initials

Appendix V.

CONFIDENTIAL BUSINESS INFORMATION

Document Control No. Room ____ Date Received ____
for Confidential Business Information

Document Control Officer ____

The attached document contains Confidential Business Information. This information may not be disclosed or copied except as authorized in the procedures set forth in the CPSC Security Regulation on Confidential Business Information (16 CFR Part 1017). The unauthorized disclosure of Confidential Business Information may subject an individual to civil and criminal penalties.

Only persons approved by the Associate Executive Director for Health Sciences may be given access to this document.

Each person who is given access to this document must fill in the information below.

Name	Signature	CPSC ID No.	Date/Time Out	Date/Time In	DCO Initial

DO NOT DETACH

APPENDIX VI.

CONFIDENTIAL BUSINESS INFORMATION

INVENTORY LOG

DATE RECEIVED	SOURCE OF INFORMATION	CONTROL/ COPY NUMBER	No. PAGES	DOCUMENT DESCRIPTION	DCO INITIAL
	Name Address City State Zip				
	Name Address City State Zip				
	Name Address City State Zip				

APPENDIX VII.

SELECTED CONFIDENTIAL INFORMATION

RECORD DISPOSITION LOG

CONTROL/ COPY NUMBER	DISPOSITION	DATE	IF DESTROYED, BY WHOM?	METHOD OF DESTRUCTION	DESTRUCTION WITNESSED BY	IF RETURNED, METHOD OF RETURN
	☐ Returned to Source ☐ Destroyed		Name CPSC ID Number			
	☐ Returned to Source ☐ Destroyed		Name CPSC ID Number			
	☐ Returned to Source ☐ Destroyed		Name CPSC ID Number			
	☐ Returned to Source ☐ Destroyed		Name CPSC ID Number			

BILLING CODE 6355-01-C

Appendix VIII—Security Procedures for Handling Confidential Business Information Provided to Contractors or Subcontractors

A. The Project Officer may disclose to the Contractor confidential business information (CBI) necessary to carry out the work required under this Contract. The Contractor agrees to use the CBI only under the following conditions.

1. The Contractor and Contractor's employees shall (i) use CBI only for the purposes of carrying out the work required by the Contract; (ii) not disclose the information to anyone other than CPSC employees authorized to have access to CBI without prior written CPSC approval, (iii) return to the Project Officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Project Officer; whenever the information is no longer required by the Contractor for the performance of the work required by the Contract; or upon completion of the Contract; and (iv) comply with the CPSC Security Regulation (16 CFR Part 1017) in handling and storing CBI.

2. The Contractor shall obtain a written agreement to comply with the above limitations from each of the Contractor's employees who will have access to the information, before the employee is allowed access. A copy of each agreement shall be furnished to the Project Officer.

B. The Contractor shall not use any CBI supplied by CPSC or obtained during performance hereunder to compete with any business to which the CBI information relates, or in any other manner except as authorized by the contract. Unauthorized use or disclosure of CBI may result in termination of the Contract for default and may subject the Contractor and Contractor's employees to civil and criminal penalties.

C. The Contractor shall not computerize any CBI obtained by the CPSC from the Environmental Protection Agency under TSCA and furnished by CPSC to the Contractor.

D. The Contractor agrees that these contract conditions concerning the use and disclosure of CBI are included for the benefit of, and shall be enforceable by, both CPSC and any affected business having a proprietary interest in the information.

E. The Contractor agrees to obtain the written consent of the Commission's Contracting Officer and the Acting Executive Director for Health Sciences prior to entering into any subcontract that will involve the disclosure of CBI by the contractor to a subcontractor. The Contractor also agrees to include this clause, including this subparagraph, in each subcontract where CBI will be furnished to the subcontractor.

F. The Contractor shall, upon request of the CPSC Contracting Officer, permit the Contracting Officer or other Commission personnel access to and inspection of the Contractor's facilities for the purpose of ascertaining the Contractor's compliance with this clause.

Effective Date. This rule shall be effective November 2, 1983.

(Sec. 6(a) of the Consumer Product Safety Act (Pub. L. 92–573; 86 Stat. 1212–1251, as amended, Pub. L. 95–631, 92 Stat. 3742–45, Pub. L. 97–35, 95 Stat., 703, 752, 15 U.S.C. 2055(a)(2))

Dated: October 17, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83–28572 Filed 11–1–83; 8:45 am]

BILLING CODE 6355–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA–888; File No. S7–984]

Rescission of a Rule Excluding From Registration as Investment Advisers Certain Persons Who Offer Investment Advice to Employee Benefit Plans Sponsored By Their Employers

AGENCY: Securities and Exchange Commission.

ACTION: Rescission of a rule.

SUMMARY: The Commission is rescinding a rule under the Investment Advisers Act of 1940 which generally prohibits persons serving as in-house investment managers of certain employee benefit plans from registering as investment advisers. The Commission has determined that the rule is no longer necessary or appropriate in the public interest. Rescission of the rule will mean that persons described in the rule will no longer be excluded from the definition of investment adviser under the Act.

EFFECTIVE DATE: December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Forrest R. Foss, Esq., (202) 272–2079, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 5–2, Washington, D.C. 20549. After the effective date, questions should be directed to the Office of Chief Counsel, (202) 272–2030, Division of Investment Management, 450 Fifth Street, N.W., Stop 5–2, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On July 14, 1983, the Commission proposed for public comment[1] the recission of rule 202–1 [17 CFR 275.202–1] under the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. 80b–1 *et seq.*]. Rule 202–1 under the Advisers Act excludes from the definition of an investment adviser certain persons who offer investment advice to employee benefit plans (as defined under the Employee Retirement Income Security Act of 1974 (ERISA)) sponsored by their employers. The effect of rule 202–1 is to prohibit those in-house investment managers of employee benefit plans described in the rule from registering with the Commission as investment advisers. As discussed in detail in Investment Advisers Act Release No. 870 (Release No. 870), the Commission's proposal to rescind rule 202–1 was based on its conclusion that the rule no longer is necessary or appropriate in the public interest.

In response to its request for comment on the proposed rescission of rule 202–1, the Commission received only one comment letter. This comment supported the Commission's action as proposed. Accordingly, based on its consideration of this comment and the lack of objection to the proposal, and for the reasons stated in Release No. 870, the Commission is rescinding rule 202–1 under the Advisers Act.

List of Subjects in 17 CFR Part 275

Investment Advisers, Reporting and recordkeeping requirements, Securities.

Commission Action

The Commission hereby amends Part 275 of Chapter II Title 17 of the Code of Federal Regulations under the Investment Advisers Act of 1940 by removing § 275.202–1.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

§ 275.202–1 [Removed]

Statutory Authority

The Commission is rescinding rule 202–1 pursuant to the authority contained in section 211(a) of the

[1] Investment Advisers Act Release No. 870, July 15, 1983 [48 FR 33312, July 21, 1983].

Advisers Act [15 U.S.C. 80b–11(a)]. By the Commission.

George A. Fitzsimmons,

Secretary.

October 26, 1983.

[FR Doc. 83–29708 Filed 11–1–83; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 621, 653, 654, 655, and 656

Cost Reimbursable Agreements; Applicable Regulations Pursuant to the Wagner-Peyser Act, as Amended

AGENCY: Employment and Training Administration, Labor.

ACTION: Rule-related notice.

SUMMARY: This notice describes the applicable regulations relating to cost reimbursable agreements negotiated with States by the Department of Labor, pursuant to Section 7(c) of the Wagner-Peyser Act, as amended. Cost reimbursable agreements were negotiated with States during the planning phase preceding the start of the new fiscal year on October 1, 1983. Therefore, effective October 1, 1983, and each subsequent year, the regulations applicable to the particular activities to be carried out by States through cost reimbursable agreements are listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Gilliland, Director, United States Employment Service, 601 D Street NW., Room 8000, Washington, D.C. 20213, Telephone (202) 376–6289 or the appropriate Employment and Training Administration Regional Office.

SUPPLEMENTARY INFORMATION: The Employment and Training Administration, Department of Labor, through a Notice in the **Federal Register**, on June 22, 1983 (48 FR 28575), announced the availability of funds for selected activities (Labor Certification; Housing Inspections; Employment, Wages, and Contributions Report (ES–202); and the Targeted Jobs Tax Credit Program). The Notice also stated that these funds would be awarded to States through a reimbursable grant.

On July 25, 1983, at 48 FR 33832, the Department published proposed regulations governing the establishment and functioning of State Employment Services administered under the Wagner-Peyser Act, as amended. At that time, the Department indicated that a separate Notice would be published announcing the applicable regulations for the certification of permanent and temporary foreign labor, for the provision of services related to agricultural clearance orders and housing, and for the determination of areas of substantial unemployment pursuant to Defense Manpower Policy No. 4A and Executive Order 10582.

Funds for Labor Certification, Housing Inspections and ES–202 are being awarded under a cost reimbursable grant through a solicitation of grant application process; funds for TJTC and certain other activities are being awarded through a second segment to this overall reimbursable grant. However, in the case of activities which apply to the determination of areas of substantial unemployment, the Employment and Training Administration, under a memorandum of agreement with the Bureau of Labor Statistics, has transferred the data gathering responsibility for this activity to the Bureau. The Bureau of Labor Statistics will be awarding funds under separate reimbursable agreements with States for national labor statistics programs and within these agreements the provisions of data which apply to the determination of areas of substantial unemployment will be included.

Effective October 1, 1983, the following regulations apply to the selected activities under cost reimbursable agreements negotiated by the Secretary with States pursuant to Section 7(c) of the Wagner-Peyser Act:

Regulations at 20 CFR Parts 621, 655, and 656 shall apply to the administration of the certification of permanent and temporary foreign labor;

Regulations at 20 CFR Parts 653, Subpart F, and 654 shall apply to the provision of employment services related to agricultural worker clearance orders and housing inspections; and

Regulations at 20 CFR Part 654, Subparts A and B shall apply to the activities in the determination of areas of substantial unemployment.

. Signed at Washington, D.C. this 28th day of October, 1983.

Richard C. Gilliland,

Director, U.S. Employment Service.

[FR Doc. 83–29754 Filed 11–1–83; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Petitions Under Part 10

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority to add a new delegation of authority to act on petitions submitted under 21 CFR Part 10 to officials in the National Center for Drugs and Biologics (NCDB). The petitions covered by this delegation of authority are those that are submitted seeking a determination of the suitability of submission of an abbreviated new drug application (ANDA) for a product.

EFFECTIVE DATE: November 2, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: The authority to evaluate and respond to petitions seeking determination of ANDA suitability is being redelegated down to the Director, Office of Drugs, NCDB, because of that Office's past and continued involvement in ANDA matters.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended in § 5.31 by adding new paragraph (f), to read as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

§ 5.31 Petitions under Part 10.

* * * * *

(f) The following officials are

authorized to issue responses to citizen petitions submitted under § 10.30 of this chapter seeking a determination of the suitability of an abbreviated new drug application for a drug product:

(1) The Director, NCDB.

(2) The Director, Office of Drugs, NCDB.

Effective date. This regulation shall become effective November 2, 1983.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: October 26, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-29798 Filed 10-31-83; 11:08 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Parts 193 and 561

[FAP 1H5321/R139C; PH-FRL 2460-1]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; Dicamba; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule; correction.

SUMMARY: This notice corrects the estimated residue contribution and oncogenic risk computations in a supplementary information notice in support of the food and feed additive regulations permitting the combined residues of the herbicide dicamba and its metabolite in or on the commodity sugarcane molasses.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: In FR Doc. 83-20291 published in the **Federal Register** of July 27, 1983 (48 FR 34024), the Agency issued a notice that provided additional information in support of regulations permitting the combined residues of the herbicide dicamba (3,6-dichloro-*o*-anisic acid) and its sugarcane metabolite 3,6-dichloro-5-hydroxy-*o*-anisic acid in or on sugarcane molasses. The following corrections are being made:

1. The computation for estimated residue contribution of dimethyl-*N*-nitrosoamine (DMNA), appearing in the second paragraph of the second column on page 34025, is corrected to read:

$$\frac{6.75\times10^{-9}\ \text{mg/day}}{60\ \text{kg}} = 1.13\times10^{-10}\ \text{mg/kg/day}$$

2. The exposure × slope risk computation, appearing in the third paragraph of the second column, on page 34025, is corrected to read:

$1.3\times10^{-9}\ \text{mg/kg/day}\times25.88\ (\text{mg/kg/day}) = 2.9\times10^{-8}$.

Dated: October 18, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-29454 Filed 11-1-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Fenbendazole Granules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by American Hoechst Corp. providing for safe and effective use of fenbendazole granules as a canine anthelmintic.

EFFECTIVE DATE: November 2, 1983.

FOR FURTHER INFORMATION CONTACT: Bob Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Animal Health Division, Route 202-206 North, Somerville, NJ 08876, is sponsor of NADA 121-473 providing for use of fenbendazole granules 22.2 percent (Panacur® Granules 22.2%). The granules are indicated for oral use in dogs for the removal of ascarids (*Toxocara canis, Toxascaris leonina*), hookworms (*Ancylostoma caninun, Uncinaria stenocephala*), whipworms (*Trichuris vulpis*), and tapeworms (*Taenia posiformis*). The application is approved, and the regulations are amended accordingly.

The basis for approval is discussed in the freedom of information summary. In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(*a*)), may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 520.905b is amended by revising paragraph (c) to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.905b Fenbendazole granules.

* * * * *

(c) *Conditions of use—(1) Horses—(i) Amount.* 5 milligrams per kilogram (2.3 milligrams per pound) for the control of large strongyles, small strongyles, and pinworms; 10 milligrams per kilogram for the control of ascarids.

(ii) *Indications for use.* For the control of infections of large strongyles (*Strongylus edentatus, S. equinus, S. vulgaris*), small strongyles, pinworms (*Oxyuris equi*), and ascarids (*Parascaris equorum*).

(iii) *Limitations.* Sprinkle the appropriate amount of drug on a small amount of the usual grain ration. Prepare for each horse individually. Witholding feed or water is not necessary. Retreat in 6 to 8 weeks if required. Do not use in horses intended for food. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(2) *Dogs—(i) Amount.* 50 milligrams per kilogram (22.7 milligrams per pound) daily for 3 consecutive days.

(ii) *Indications for use.* For the removal of ascarids (*Toxocara canis, Toxascaris leonina*), hookworms (*Ancylostoma caninum, Uncinaria*

stenocephala), whipworms (*Trichuris vulpis*), and tapeworms (*Taenia pisiformis*).

(iii) *Limitations.* Mix the appropriate amount of drug with a small amount of the usual food; dry dog food may require slight moistening to facilitate mixing. Medicated food must be fully consumed. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation is effective November 2, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 27, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83 29667 Filed 11-1-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 4

Service Contract Act; Labor Standards for Federal Service Contracts

Correction

In FR Doc. 83–28862, beginning on page 49736, in the issue of Thursday, October 27, 1983, make the following corrections:

1. On page 49739, in the third column, in the seventeenth line, "producer" should read "procedure".

2. On page 49749, in the third column, in the thirteenth line from the bottom, "are unique" should read "are not unique".

3. On page 49755, in the first column, in the sixteenth line, "in considered" should read "is considered".

4. On page 49768, in the second column, in § 4.6(g)(1), in the fifteenth line, "(vi) approved" should read "(iv) approved".

5. On page 49777, in the second column, in § 4.108, in the ninth line from the top, "statutes. District" should read "statutes, District".

6. On page 49778, in the third column, in § 4.113(a)(4), in the sixth line "or other" should read "of other".

7. On page 49780, in the first column, in § 4.116(c)(2); in the first line, "(2) *Services* " should read "(2) *Service* ".

8. On page 49791, in the first column, in § 4.167, in the last line, there should be a period at the end of the line.

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Post-Vietnam Era Veterans' Educational Assistance Program; Implementing Legislation

AGENCY: Veterans Administration and Department of Defense.

ACTION: Final regulations.

SUMMARY: The Veterans' Compensation, Education and Employment Amendments of 1982 contain several provisions which affect the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP). One of these provisions requires the VA (Veterans Administration) to consider a serviceperson's lump-sum payments to the fund to have been made at the rate of $100 per month unless the serviceperson specifies a lower rate. In addition, individuals who are receiving educational assistance under VEAP no longer will have the assistance reduced or eliminated when they are incarcerated.

These amended regulations implement these provisions of law.

EFFECTIVE DATE: As is required by the Veterans' Compensation, Education and Employment Amendments of 1982, the effective date of the regulations is October 14, 1982. The revocation of 38 CFR 21.5139 is effective the same date.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: On pages 23444 and 23445 of the **Federal Register** of May 25, 1983 there was published notice of intent to amend Part 21 to implement some provisions of the Veterans' Compensation, Education and Employment Amendments of 1982.

Interested people were given 30 days in which to submit comments, suggestions or objections. The VA and DOD (Department of Defense) received one letter from a community college official containing an objection.

The official objected to the removal of the restriction on payments to incarcerated VEAP recipients. She suggested limiting payments to reimbursement for tuition, fees, books, and a stated amount for supplies.

While VA and DOD appreciate the concern behind this suggestion, the law does not permit its implementation. The previous limitations on payments to incarcerated veterans receiving VEAP payments were based on 38 U.S.C. 1780(a)(6). This provision forbids payment of educational assistance to any eligible veteran or person incarcerated in a Federal, State or local prison or jail to the extent the tuition and fees of the veteran or person were paid under any Federal program or under any State or local program, or for which there are no tuition and fees. The Veterans' Compensation, Education and Employment Amendments of 1982 rescinded this provision of law. Consequently, VA and DOD have no legal authority to reduce a veteran's assistance under VEAP when the veteran is incarcerated. VA and DOD are making the regulations final without change.

These regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. They will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs and the Secretary of Defense hereby certify that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b). These regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because these regulation changes concern only individual participants in VEAP, and simply reflect changes which have been made by Pub. L. 97–306, 96 Stat. 1429. Accordingly, they will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.120.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Veterans Administration, Vocational education, Vocational rehabilitation.

Approved: September 7, 1983.

Everett Alvarez, Jr.,

Deputy Administrator.

By direction of the Administrator:

Approved: October 17, 1983.

W. J. Gost,

Acting Deputy Assistant Secretary of Defense.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

38 CFR Part 21 is amended as follows:

1. In § 21.5052, the introductory text of paragraph (f) is reprinted for the convenience of the reader and paragraph (f)(2) is revised as follows:

§ 21.5052 Contribution requirements.

* * * * *

(f) *Lump-sum contribution.* After September 30, 1980, an individual may make a lump-sum contribution or contributions in place of or in addition to monthly contributions.

* * * * *

(2) The Veterans Administration will consider the lump-sum contributions to have been made by monthly deductions from the participant's military pay at the rate of $100 per month unless the participant specifies a different rate which must be

(i) No lower than $25 per month,

(ii) No higher than $100 per month, and

(iii) Evenly divisible by five. (38 U.S.C. 1622(d); Pub. L. 97–306, 96 Stat. 1429)

* * * * *

2. In § 21.5071, paragraph (b) is revised as follows:

§ 21.5071 Months of entitlement allowed.

* * * * *

(b) *Entitlement based on lump-sum contributions.* If an individual elects to make a lump-sum contribution, the Veterans Administration will credit an individual with 1 month of entitlement for—

(1) Every $100 included in the lump sum, or

(2) Every amount included in the lump sum which—

(i) Is at least $25 but no more than $100,

(ii) Is evenly divisible by five, and

(iii) Is specifically designated by the individual at the time he or she makes the contribution. (38 U.S.C. 1622(d); Pub. L. 97–306, 95 Stat. 1429)

* * * * *

3. In § 21.5072, paragraph (a)(1) is revised as follows:

§ 21.5072 Entitlement charge.

* * * * *

(a) *Residence training.* (1) A charge against the period of entitlement for a program other than one leading to a secondary school diploma or an equivalency certificate where the monthly rate is based on the individual's tuition and fees or one consisting exclusively of flight training will be made as follows:

(i) The Veterans Administration will charge an individual who is a full-time student 1 month's entitlement for each monthly benefit paid to him or her. (38 U.S.C. 1631; Pub. L. 97–306, 96 Stat. 1429)

(ii) The Veterans Administration will charge an individual who is other than a full-time student 1 month's entitlement for each sum of money paid equivalent to what the individual would have been paid had he or she been a full-time student for 1 month.

* * * * *

4. In § 21.5138, the introductory portion preceding paragraph (a) and the introductory portion of paragraph (b) are revised to read as follows:

§ 21.5138 Computation of benefit payments and monthly rates.

The Veterans Administration will compute all monthly rates and benefit payments as stated in this section except for those individuals to whom § 21.5136(b)(1) applies. (38 U.S.C. 1631; Pub. L. 97–306, 96 Stat. 1429)

* * * * *

(b) *Computation of benefit payment.* The Veterans Administration will compute benefit payments as follows: for all training except for those individuals to whom § 21.5136(b)(1) applies: (38 U.S.C. 1631; Pub. L. 97–306, 96 Stat. 1429)

* * * * *

§ 21.5139 [Removed]

5. Section 21.5139 is removed.

6. In § 21.5294, the introductory text of (d)(2) is reprinted for the convenience of the reader and paragraph (d)(2)(iv) is revised as follows:

§ 21.5294 Transfer of entitlement.

* * * * *

(d) *Application of sections to this portion of the pilot program.* * * *

(2) The following sections apply to this portion of the pilot program with amendments as noted:

* * * * *

(iv) In §§ 21.5132 through 21.5138 references to payment to the individual apply equally to payment to the spouse or child. (Sec. 903, Pub. L. 96–342; Pub. L. 97–306, 96 Stat. 1429)

* * * * *

[FR Doc. 83–29727 Filed 11–1–83; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL 2460–8]

Approval and Promulgation and Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: On July 14, 1982, the State of Ohio submitted revisions to the total suspended particulate (TSP) and sulfur dioxide (SO_2) portions of its State Implementation Plan (SIP). These revisions are in the form of individual variances for each of the four boilers at the Toledo Edison Company, Bay Shore Station, located in Washington Township (Lucas County) Ohio. The revisions include an alternative particulate emission control strategy ("bubble") along with an equivalent visible emission limitation (EVEL), as well as a provision to allow compliance with the existing SO_2 emission limitation to be based on a rolling weighted 30-day average. This notice approves the bubble strategy and EVEL, and takes no action on the SO_2 emission limitation.

DATE: This final rulemaking becomes effective December 2, 1983.

ADDRESSEES: Copies of this SIP revision are available at the following addressees:

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

Office of the Federal Register, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Regulatory Analysis Section, Air Programs Branch, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6038.

SUPPLEMENTARY INFORMATION: On April 7, 1982 (47 FR 15076), the Environmental Protection Agency issued a proposed Emissions Trading Policy Statement, General Principles for Creation, Banking, and Use of Emission Reduction Credits. This statement indicated that it is the policy of EPA to encourage use of emissions trades to achieve more flexible, rapid, and efficient attainment

of national ambient air quality standards. This policy statement described emissions trading, sets out general principles EPA will use to evaluate emissions trades under the Clean Air Act, and expands opportunities for states and industry to use these less costly control approaches. The April 7, 1982 notice indicates that until EPA takes final action on its policy statement, state actions involving emission trades would be evaluated under the provisions set forth in the proposed policy statement.

In accordance with the provisions contained in the proposed Emissions Trading Policy Statement, the State of Ohio on July 14, 1982, submitted to EPA revisions to the TSP portion of its SIP. These revisions are in the form of individual variances for each of the four boilers located at the Toledo Edison Company, Bay Shore Station, in the City of Oregon, Washington Township, Lucas County, Ohio. Washington Township is designated as a secondary nonattainment area for particulates (43 FR 46012). The variances contain particulate and sulfur dioxide emission limitations, equivalent visible emission limitations, and associated test methods and procedures. The State is requesting (1) the establishment of an alternative emission strategy ("bubble") that will incorporate the emissions of particulate matter from all four boilers under one limit, and (2) an equivalent visible emission limitation (EVEL) for the common stack serving the four boilers at the facility. For sulfur dioxide, the variances contain provisions to allow Toledo Edison to achieve compliance with its current Federally approved SO_2 limitation based on a rolling, 30-day weighted average of its fuel.

EPA reviewed the bubble strategy, the EVEL, and the SO_2 limitations and on January 21, 1983 (48 FR 2801) proposed to approve the bubble and the EVEL, and take no action on the SO_2 limits. Because EPA's review of these items were explained in detail in the notice of proposed rulemaking, EPA at this time will only summarize the main points regarding the bubble, EVEL, and SO_2 limits.

I. Bubble Strategy

- Rule 3745–17–10 of the Ohio Administrative Code (OAC) establishes a particulate limit of 0.1 lb/MMBTU for each of the four boiler's stacks at the Bay Shore Station.
- Particulate emissions from the four boilers at Bay Shore are now vented to the atmosphere through one stack instead of the individual four stackes used in the past.
- The State is requesting a TSP allowable emission limitation of no greater than 0.1 lb/MMBTU for the four boilers in the aggregate, considering the total heat imput to all four boilers, rather than the current limitation of 0.1 lb/MMBTU for each boiler.
- Under the proposed Emission Trading Policy, no modeling is needed to support the proposed Toledo Edison revision because:

(1) The trade does not result in a net increase in the appropriate RACT baseline emission level;

(2) The relevant sources are located in the same immediate vicinity; and

(3) No increase in emissions will occur at the sources with the lower effective plume height.

- EPA expects that Toledo will be able to achieve compliance with the 0.1 lb/MMBTU limit.
- EPA believes the 0.1 lb/MMBTU particulate emission limitation for the combined emissions from the four boilers is an appropriate RACT limit for these boilers.

II. Equivalent Visible Emission Limitation

- Rule 3745–17–07 of the Ohio Administrative Code specifies, for each stack, a general 20 percent opacity limitation with a 6 minute exemption up to 60 percent opacity.
- The State is requesting an EVEL of no greater than 29 percent opacity, with a 6 minute exemption of up to 60 percent opacity for the one stack.
- The 29 percent EVEL should ensure that Toledo Edison Company will be in compliance with the 0.1 lb/MMBTU RACT limitation.

III. Sulfur Dioxide Limitation

- Rule 3745–18–54 of the OAC establishes a sulfur dioxide limit of 1.94 lbs/MMBTU for each boiler, based on a rolling, 30-day weighted average of its fuel.

In an April 13, 1982 notice (47 FR 15782), EPA announced its decision to withold action on 30-day averaging provisions in the Ohio SO_2 SIP until a general review of 30-day averaging is complete. Since this review is still in process, EPA maintains its position that it is administratively more efficient and equitable to take no action on 30-day averaging at this time.

Interested parties were given until February 22, 1983, to provide comments on the notice of proposed rulemaking. EPA did not receive any comments during the comment period but did receive a comment from the State of Connecticut on March 14, 1983. The comment and EPA's response are addressed below.

Comment: The State of Connecticut objects to the lack of modeling for the Toledo Edison Bubble. They believe that a complete modeling analysis should be performed for any source which requests a bubble, especially for sources which have never undergone a thorough modeling review using current reference methods.

Response: EPA's guidelines for reviewing bubble trades are contained in the proposed Emissions Trading Policy Statement (47 FR 15076). Under that interim policy, EPA will approve bubbles in nonattainment areas lacking a fully approved demonstration of attainment by the end of 1982 if the State can show that the ambient effect of the new emission limits will be equivalent to what would occur under a baseline of reasonably available control technology (RACT).

In the Agency's view, a showing of ambient equivalence to the RACT baseline is adequate to assure that a bubble will not interfere with attainment or reasonable further progress toward attainment. However, the showing of ambient equivalence require of the States under the emissions trading policy does not necessarily required modeling. The proposed policy establishes a three-tiered modeling approach that States must use to demonstrate ambient equivalence. Level 1 requires no modeling if: (1) The proposed trade does not result in a net increase in applicable baseline emissions, (2) the relevant sources are located within 250 meters of each other, and (3) no increase in emissions occurs at the source with the lower effective stack height. It is EPA's position that if these three conditions are met, then the bubble will result in ambient equivalence. The Toledo Edison bubble satisfies each of these conditions and therefore EPA believes no modeling analysis is necessary to meet the requirements of the Clean Air Act.

Under this bubble, the single new stack at the plant will be taller than the four stacks it replaces. This means that maximum ground level concentrations under this bubble will decrease, thereby resulting in an improvement in the area's air quality.

After review of the public comment EPA takes final action today to approve the bubble strategy, the EVEL and take no action on the SO_2 limitations.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this

action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: October 24, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended:

1. Section 52.1870(c) is amended by adding new paragraph (58) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(58) On July 14, 1982, the State submitted revisions to its State Implementation Plan for TSP and SO_2 for Toledo Edison Company's Bay Shore Station in Lucas County, Ohio.

2. Section 52.1881 is amended by revising paragraph (a) and by adding new paragraph (a)(9) as follows:

§52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

(a) USEPA is approving the portions of the Ohio sulfur dioxide control plan listed in paragraphs (a) (1), (2), (3) and (4) of this section; disapproving the portions listed in paragraphs (a) (5) and (7) of this section; and is neither approving nor disapproving the emission limitations listed in paragraphs (a)(8) and the emission measurement methods contained in (a) (6) and (9) of this section pending further review. The disapproved portions of the Ohio plan do not meet the requirements of § 51.13 of this chapter in that they do not provide for attainment and maintenance of the national standards for sulfur oxides (sulfur dioxide). (Where USEPA has approved the State's sulfur dioxide plan, those regulations supersede the federal sulfur dioxide plan contained in paragraph (b) of this section and § 52.1882.)

* * * * *

(9) *No Action.* EPA takes no action on the 30-day averaging provisions contained in the Toledo Edison Company's Bay Shore Station State Implementation Plan revision until a general review of 30-day averaging is complete.

[FR Doc. 83-29721 Filed 11-1-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2F2702/R620; PH-FRL 2458-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Aluminum Tris(O-Ethylphosphonate)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the fungicide aluminum tris (*O*-ethylphosphonate) in or on pineapples and pineapple fodder and forage. This regulation to allow the presence of residues of the fungicide in or on the commodities resulting from the preplanting dipping of pineapple crown seed pieces was requested by Rhone-Poulenc, Inc.

EFFECTIVE DATE: Effective on November 2, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of July 14, 1982 (47 FR 30640), which announced that Rhone-Poulenc, Inc., Agrochemical Division, P.O. Box 125, Monmouth Junction, NJ 08852, had submitted pesticide petition 2F2702 to the Agency. The petition proposed that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act amend 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for residues of the fungicide aluminum tris(O-ethylphosphonate) in or on the raw agricultural commodity pineapples resulting from the use of the fungicide as a preplant dip to pineapple crown seed pieces. This petition was subsequently amended by withdrawing the exemption and proposing tolerances of 0.1 ppm in pineapple and pineapple fodder and forage. No comments or request for referral to an advisory committee were received in response to the notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerances included an oncogenicity study in mice with no oncogenic effects induced at any dose level under the conditions of the study (the highest dose tested was 2,857–4,286 mg/kg body weight/day). A rat chronic feeding/oncogenic study with a no-observed-effect level (NOEL) of 100 mg/kg body weight/day for systemic effects; a dog feeding study with a NOEL of 250 mg/kg body weight/day; a reproduction study with a NOEL of 300 mg/kg body weight/day; and teratology studies in rabbits and rats with the teratogenic NOEL's of 500 mg/kg/day and 1,000 mg/kg/day respectively.

Oncogenic effects were observed in the rat chronic feeding/ocogenic study at the mid- and high-dose levels. Microscopic pathology of the urinary bladder in males at the highest dose tested (30,000–40,000 ppm) revealed transitional cell carcinoma (no metastasis observed) and transitional cell papilloma. In addition, an increased incidence of pheochromocytoma was observed in male rats at the mid-dose (8,000 ppm) and the high-dose (30,000–40,000 ppm). The results of this study are summarized below:

Effects	Doses in parts per million			
Bladder tumors	0	2,500	8,000	30,000–40,000
Transitional cell carcinoma	1/78	0/80	0/81	5/76
Transitional cell papilloma	0/78	1/78	1/81	9/59
Pheochromocytoma (adrenal tumors):				
Malignant Pheochromocytoma	1	0	1	2
Pheochromocytoma	5	7	15	16
Totals	6/80	7/79	16/81	16/81

Based on these results, a provisional dietary oncogenic risk assessment was made for the worst case situation (i.e. all pineapple harvested and eaten would contain 0.1 ppm of aluminum tris ((O-ethylphosphonate) residues. This risk calculation is $2.4–2.7 \times 10^{-8}$.

Aluminum tris *O*-ethylphosphonate) readily breaks down into phosphorous

acid and ethanol with an estimated half life of 1 month. The time period from treatment to harvest for pineapples is 18 to 22 months. Therefore the actual residue expected in pineapples are expected to approach zero, giving an oncogenic risk which is many magnitudes lower than the Agency's calculated worst case risk.

Using a 100 fold safety factor and the NOEL of 100 mg/kg body weight/day determined by the 2-year rat feeding study, the allowable daily intake (ADI) is 1.0 mg/kg body weight/day. The maximum pearmissible intake (MPI) for a 60-kg person is 60.0 mg/day. The tolerances result in a theoretical maximum residue contribution (TMRC) of 0.00045 mg for 1.5 kg diet. These tolerances utilize less than 0.001 percent of the ADI and represents a provisional dietary oncogenic risk of $2.4-2.7\times10-^{8}$.

The metabolism of aluminum tris(*O*-ethylphosphonate) is adequately understood. There is no reasonable expectations of residues occuring in milk and meat of livestock or poultry. An adequate enforcement method exists for these tolerances.

Based on the above information considered by the Agency, the establishment of these tolerances by amending 40 CFR Part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after the date of publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by ground legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 4 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirement do not have a significant economic impact in a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: October 19, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended by establishing a new § 180.415 to read as follows:

§ 180.415 Aluminum tris (O-ethylphosphonate); tolerances residues.

Tolerances are established for residues of the fungicide aluminum tris (*O*-ethylphosphonate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Pineapple	0.1
Pineapple fodder	0.1
Pineapple forage	0.1

[FR Doc. 83-29489 Filed 11-1-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2853/R608; PH-FRL 2459-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Inorganic Bromides Resulting From Fumigation With Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of inorganic bromides, resulting from postharvest fumigation with the pesticide methyl bromide, in or on the raw agricultural commodity blueberries. The regulation to establish a maximum permissible level for residues of inorganic bromides in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on November 2, 1983.

ADDRESSES: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (202-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of August 31, 1983 (48 FR 39474), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 3E2853 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of New Jersey and the New Jersey Department of Agriculture proposing the establishment of a tolerance for residues of inorganic bromides, resulting from postharvest fumigation with the pesticide methyl bromide, in or on the raw agricultural commodity blueberries at 20 parts per million (ppm).

There were no comments or request for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 14, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.123 is amended by adding, and alphabetically inserting, the raw agricultural commodity blueberries to read as follows:

§ 180.123 Inorganic bromides resulting from fumigation with methyl bromide; tolerances for residues.

* * * * * *

Commodities	Parts per million
Blueberries (Post-H)	20.0

[FR Doc. 83-29459 Filed 11-1-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 31

[CC Docket No. 82-681; FCC 83-457]

Detariffing of Customer Premises Equipment and Customer Provided Cable/Wiring

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending the Uniform System of Accounts for telephone companies as a result of detariffing customer premises equipment. This order establishes new account classifications and accounting instructions for coin-operated and credit card telephones, company-used station apparatus, key systems, and private branch exchanges. These changes are necessary to make the accounts consistent with regulatory changes adopted in CC Docket 20828. The action will minimize the record keeping burden on the telephone industry associated with regulated investment.

EFFECTIVE DATE: May 2, 1984.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Accounting and Audits Division, Common Carrier Bureau, 202/634-1861.

List of subjects in 47 CFR Part 31

Communications common carriers, Telephone, Uniform system of accounts.

Report and Order

In the matter of modifications to the Uniform System of Accounts for Class A and Class B Telephone Companies required by detariffing of customer premises equipment and proposed detariffing of customer provided cable/wiring installed as part of an intrasystem of PBXs and key systems; CC Docket No. 82-681.

Adopted: October 6, 1983.

Released: November 2, 1983.

By the Commission.

I. Introduction

1. This Report and Order amends various provisions of the Uniform System of Accounts for Class A and Class B Telephone Companies (USOA), Part 31 of the Commission's Rules and Regulations, to make the accounting rules consistent with previous Commission decisions concerning the detariffing of customer premises equipment (CPE) [1] and the expensing of inside wiring.[2] These amendments are necessary to separate certain regulated and nonregulated costs currently recorded in the same accounts and to clarify the accounting instructions as they relate to our decisions. The amendments adopted herein will become effective six months after publication of this Report and Order in the **Federal Register**, but as proposed carriers are permitted to implement these amendements retroactive to January 1, 1983.

2. The amendments adopted in this Report and Order are based on changes proposed in a Notice of Proposed Rulemaking (NPRM) released on October 4, 1982, 47 FR 44770 (October 12, 1982). In the NPRM, the Commission proposed the following accounting changes: (1) New account classifications and accounting instructions for coin-operated and credit card telephones; (2) new instructions to reclassify station apparatus, key systems, and private branch exchanges (PBXs) when used by a telephone company as part of its regulated business; (3) new accounting instructions to establish the intrasystem concept for PBXs and key systems and to provide for the detariffing of intrasystem wiring; (4) new instructions to clarify the accounting for network terminating wire installed for large PBXs; and (5) new instructions to account for detariffed PBXs or key systems installed by telephone companies on a sale or lease basis.

II. Background

3. In our *Computer II* decisions we determined that the provision of CPE was not communications common carriage subject to regulation and that CPE should not be provided under tariff. We also decided that the detariffing of CPE would be accomplished through a bifurcated transition plan that distinguished between "new" and "embedded" CPE. Under this plan new CPE was detariffed on January 1, 1983, and embedded CPE is to be detariffed after completion of a separate implementation proceeding, Docket 81-983,[3] which addresses problems of capital recovery and asset valuation, and various methods by which transition to an unregulated CPE environment can be achieved.

4. Under the current accounting rules account 231, "Station apparatus," and account 234, "Large private branch exchanges" primarily include embedded CPE which is to be detariffed under Docket 81-893. However, these accounts also included some equipment which was not detariffed under our *Computer II* decisions. Account 231 includes coin-operated and credit card telephones which were specifically excluded from the detariffing of CPE under *Computer II*, and accounts 231 and 234 include telephone equipment that is used by the telephone companies to conduct their regulated business which should remain in the regulated accounts. To avoid problems that might arise from recording these regulated assets in the same accounts with embedded CPE, we proposed several new accounts and accounting instructions in this proceeding.

5. In Docket 79-105, *First Report and Order*, the Commission decided that inside wiring included in account 232, "Station connections," should be expensed. Additionally, we stated that Docket 79-105 would be extended by separately issuing a *Further Notice of Inquiry* (*FNOI*) which would solicit comments on a proposal to deregulate the customer premises portion (inside wiring) of station connections. Based on the comments received, we believed that complex inside wiring [4] installed for use

[1] See Amendment of § 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384 (1980) (Final Decision), reconsideration, 88 FCC 2d 50 (1980), further reconsideration, 88 FCC 2d 512 (1981), aff'd sub. nom., CCIA v. FCC, 693 F. 2d 198 (D.C. Cir. 1982).

[2] See First Report and Order in Docket 79-105 (Expensing of Inside Wiring), 85 FCC 2d 818 (1981); Further Notice of Inquiry (Deregulation of Inside Wiring), 86 FCC 2d 885 (1981).

[3] Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry), 48 FR 29891 (1983).

[4] We define this wiring as intrasystem wiring which includes all cable and wire and its associated components (e.g., connecting blocks, terminal boxes, conduit between buildings on the same customer's premises, etc.) which connect station components to one another or to the common equipment of a PBX or a key system.

with complex systems, such as a PBX or key system, could be detariffed. Therefore, we proposed in this proceeding to detariff the inside wiring installed for detariffed complex systems.

III. Proposed Revisions

Accounting for Coin Operated and Credit Card Telephones (Public Telephone Equipment)

6. In order to provide separate accounts for public telephones that would continue to be offered under tariff, we proposed to establish account 235, "Public telephone equipment" and account 607 "Repairs of public telephone equipment" to be used for recording the investment and expense, respectively, associated with coin-operated and credit card telephones. We also proposed to depreciate public telephone equipment using the more traditional retirement unit basis [5] instead of the "cradle-to-grave" method [6] that has been used for CPE in the past. The proposed change in depreciation would require the establishment of a Continuing Property Record (CPR) [7] on an accounting area basis.[8] Also, under our proposal an appropriate number of operating spares needed to provide for continuity of public telephone service would be capitalized in account 235. In the expense area we proposed to record in account 607: (1) The cost of replacing the coin-operated and credit card telephone with an operating spare; (2) the cost of premises wiring and its associated installation labor; and (3) all normal and ordinary maintenance.

7. We also stated in the NPRM that telephone extensions provided with semi-public telephones are ordinary subscriber equipment and have been detariffed under our *Computer II* decisions but the inside wiring installed for these extensions remain tariffed. We also determined that emergency telephone equipment (i.e., highway, bridge, fire and police, etc.) does not come under our definition of public telephone equipment and that emergency telephone equipment was detariffed under *Computer II.*

[5] Commission's Rules and Regulations, Part 31, § 31.2–25.

[6] Cradle-to-grave is a form of plant accounting wherein life indication considers a unit of plant as being in service from the time it is first delivered and booked until it is finally junked, reclassified to another account, or is otherwise finally disposed of.

[7] Commission's Rules and Regulations, Part 31, § 31.2–28(d).

[8] Commission's Rules and Regulations, Part 31, Appendix B, 1(a).

Accounting for Company Used Station Apparatus and Large PBXs

8. In order to separate company-used equipment from embedded CPE, we proposed to record company-used equipment in the regulated plant accounts on a functional basis rather than by type of equipment. We proposed to record company-used equipment that only handles the company's internal business operations in account 261, "Furniture and office equipment" and company-used equipment that also handles the switching of customer traffic in account 221, "Central office equipment." Additionally, we proposed the establishment of retirement units covering company-used equipment and proposed to extend to company-used equipment the $200 criterion [9] that is used as a basis for determining whether the equipment should be capitalized or charged to expense.

Accounting Instruction To Establish the Intrasystem Concept for PBXs and Key Systems To Provide for the Detariffing of New Intrasystem Wiring

9. We proposed an intrasystem concept for new detariffed PBXs and key systems, which would consist of common equipment (a switchboard or switching equipment shared by all stations), station equipment (usually, telephones or key telephone systems), and intrasystem wiring. The intrasystem wiring would consist of all cable or wiring and associated components located on the customer's side of the demarcation point when it is inside a building or between a customer's buildings located on the same or contiguous property not separated by a public thoroughfare. Based on the intrasystem concept, we proposed to detariff intrasystem wiring in the same way and the same basis as we detariffed CPE in Computer II. We also proposed that account 232 be amended to preclude the recording of new intrasystem wiring.

Accounting for Network Terminating Wire

10. In addition to large PBX systems, account 234 includes a small portion of cable (wire) that runs from the house cable terminal to the demarcation point (network terminating wire) which carriers must provide under tariff. Capitalization of this wire in account 234 is currently required by the accounting rules. We proposed that all new installations of network terminating wire be expensed on a flash-cut basis to account 605.

[9] See Docket 81–273 Report and Order (Expensing Minor Items), 87 FCC 2d 1137.

Accounting for Sale or Lease of Detariffed PBXs or Key Systems

11. We proposed interim accounting instructions for telephone companies that directly (not through a separate subsidiary) sell or lease detariffed PBXs, key systems, and station apparatus. For this purpose, we applied the interim accounting ordered in Docket 79–105 for CPE that is sold. That is, the transactions related to nonregulated sale of CPE would be recorded in account 124, "Merchandise and materials held for sale," account 316, "Miscellaneous income," and account 327, "Other non-operating taxes," as appropriate. For CPE leased on a nonregulated basis, we proposed to record the CPE in account 103, "Miscellaneous physical property," and we proposed to apply the current rules for account 315, "Income from miscellaneous physical property," and account 174, "Other deferred credits," to record the revenue and cost for this detariffed activity. We stated that final accounting to record nonregulated activities in separate books of account would be addressed in Docket 81–893.

IV. Summary of Comments

12. In our NPRM interested parties were invited to file comments on or before November 8, 1982, and reply comments on or before November 23, 1982. Comments and reply comments were received from American Telephone and Telegraph Company and its associated Bell System Operating Companies (AT&T); GTE Service Corporation and it affiliated domestic telephone companies (GTE); United Telecommunications System, Inc. (UTS); United States Independent Telephone Association (USITA); State of California and California Public Utilities Commission (California); Michigan Public Service Commission (Michigan); Tennessee Public Service Commission (Tennessee); and North American Telephone Association (NATA). Reply comments only were received from Rochester Telephone Corporation (RTC) and the National Telephone Cooperative Association (NTCA).

Comments on Accounting for Coin Operated and Credit Card Telephones (Public Telephone Equipment)

13. The respondents generally support our proposal to establish accounts 235 and 607 to separate public telephone plant and expense from embedded CPE. However, several respondents recommend refinements or modifications related to the new accounts.

14. AT&T and RTC urge that account 235 be used for embedded public telephone equipment as well as new equipment at the time this account is established. They contend that our proposal to leave the embedded equipment in account 231 until the method of allocating depreciation reserves is determined in Docket 81–893 would create extremely difficult administrative problems and would cause additional costs to be incurred to establish procedures to separately identify new and embedded telephone equipment. AT&T claims that it has the means to identify the book cost of its embedded public telephone equipment and the depreciation reserve associated with this investment on a reasonable interim allocation basis until the resolution of the valuation issue raised in Docket 81–893.

15. MCI suggests that our proposal should be modified to require that coin-operated telephones and credit card telephones be separated in the accounting records. MCI states that coin-operated telephones can serve both local and long distance customers whereas credit card telephones are primarily for long distance toll calls, and exclusively for long-distance calls placed over the AT&T long distance network. It claims that none of the investment or expenses associated with credit card telephones should be attributed to MCI or the other OCCs.

16. AT&T and RTC object to our proposal to capitalize the labor costs of installing public telephones. They maintain that installation labor costs were required to be expended in Docket 79–105 and that the rationale for expensing these costs is still valid and should not be modified where public telephone installation costs are involved. On the other hand, GTE, MCI, California, Michigan and Tennessee generally support our proposal.

17. UTS and GTE recommend that we require "cradle-to-grave" accounting to be used for account 235 instead of the retirement unit basis that we proposed. Both parties feel that public telephone equipment, including operating spares should be recorded in accordance with "cradle-to-grave" procedures. This would allow the carriers the option of subaccounting between in-servce and inventoried items in account 235. Otherwise, they believe that there will be unnecessary administrative burdens in distinguishing items of public telephone equipment recorded in account 122 from those recorded in account 235. However, AT&T, RTC, USITA and Michigan favor our proposal to require the more traditional retirement unit basis.

18. Michigan and AT&T request that we modify our proposal to capitalize as operating spares in account 235 an appropriate number of public telephone sets and other equipment needed to provide continuity of service. Specifically, they suggest that we define operating spares as spare equipment which is available on an "as needed" basis, not to exceed six months supply in terms of turnover, to installers from locations in reasonable proximity to the location of the installed equipment. USITA, on the other hand, disagreed with our proposal for operating spares. USITA recommends that spares and all other materials or equipment purchased for public telephone equipment inventory be recorded in account 122. It feels this recommendation would simplify the accounting process for smaller telephone companies. As stated above, UTS and GTE recommend that all spares be recorded in account 235.

19. Five parties commented on our proposal to expense the cost of the premise wiring including its associated installation labor in account 607. AT&T, GTE and RTC support our proposal, whereas, California and Tennessee disagree. California and Tennessee claim that the premise wiring installed for public telephones has characteristics similar to those of drop and block wires which are capitalized. Moreover, these parties maintain that this wiring is not subject to the churn that led to the decision to expense inside wiring when used with CPE as discussed in the Commission's decision in Docket 79–105. They claim, therefore, that the premise wiring should be capitalized. AT&T in its reply comments disagrees with California and Tennessee. In the opinion of AT&T the public telephone premise wiring is an item of minor cost and low intrinsic value, the usefulness of which is controlled in most instances by a property owner and not by the telephone company.

20. We received only one comment on our proposal to expense the labor cost of replacing public telephone equipment with operating spares. California states that if premise wiring for public telephones is capitalized then the costs of replacing coin-operated and credit card telephones with operating spares should also be capitalized. California maintains the replacement costs associated with operating spares should be accounted for the same as other plant items; that is, the removal cost of the old equipment should be charged to the depreciation reserve and installation cost of the operating spare should be capitalized to account 235.

21. RTC and UTS argue that telephone extensions should be treated as part of the public telephone service rather than being subject to our *Computer II* decisions. RTC argues that such extensions should only be used to answer calls. Further, RTC states its customers are not permitted to interconnect extensions to coin telephones since extensions can originate telephone calls without charge Therefore, coin extensions should not necessarily be accounted for as detariffed items, but should be treated as coin telephones. UTS indicates that, if connection of CPE to coin lines is permitted, then it would endure significant economic burden to either modify public telephones or discontinue offering public telephones with noncoin extensions to prevent fraudulent toll billing. In its reply comments, AT&T states that it does not foresee any insurmountable technical problems with the detariffing of extension telephones connected to public telephones since it can install a network interface to provide security and privacy features.

Comments on Accounting for Company Used Station Apparatus and Large PBXs

22. AT&T, GTE, RTC, UTS, USITA, MCI, California, Michigan and Tennessee favor our proposal to classify all new equipment acquired for company use in account 221 or account 261 based on the equipment's function. However, several of the respondents offer modifications to our proposal.

23. As in the case of our proposal for public telephone equipment, AT&T and RTC state that our proposal to leave embedded company used equipment in accounts 231 and 234 would create substantial administrative problems. Also, these respondents point out that under our bifurcated accounting identical equipment serving the same function in the same or similar location would be given completely different accounting treament according to when it was put into service. In order to avoid these problems AT&T and RTC recommend that we reclassify embedded investment in company-used equipment from account 231 and account 234 to account 221 or account 261, as appropriate, upon the effective date of the accounting change. AT&T states it can readily identify the book cost of the company-used equipment and that the depreciation reserve could be allocated on an interim basis and trued up upon resolution of the valuation question being considered in Docket 81–893.

24. Although MCI generally supports our proposal to reclassify company-used equipment, it believes that such equipment devoted to company use should be placed in a separate account or at least in separate subaccounts of accounts 221 and 261. While MCI does not express the specific benefit that would be achieved by this disaggregation, it indicates its desire to identify company-used equipment separately from other equipment.

25. RTC expresses concern that our proposal would require additional retirement units for company-used telephone equipment transferred to account 261. RTC states that items currently recorded in account 261 have separate identifiable retirement units for which individual property records are kept, and that each item is normally retired at its own identifiable and distinct unit cost. However, station apparatus property records which we propose to transfer are maintained on average unit cost. Additionally, station apparatus includes the basic instrument and miscellaneous auxiliary equipment. RTC believes it would not be practical to maintain individual cost records for each item of official station apparatus as is required for other items recorded in account 261. RTC prefers that station apparatus be maintained in account 261 on the average cost basis as it is currently maintained in account 231.

26. AT&T, GTE, RTC and UTS support our proposal to extend the $200 expensing limit criterion as a basis for determining whether the company-used equipment should be capitalized to account 221 or account 261, as appropriate, or charged to expense. However, AT&T, RTC, and UTS request that the Commission provide for amortization of the embedded investment in company-used equipment covered by the $200 expensing limit. These parties recommend that the Commission implement procedures identical to those established in Docket 81–273, 87 FCC 2d 1137, which would amortize embedded investment in company-used equipment within the $200 expense limit over a period of five years.

27. California and Tennessee express the belief that the proposed $200 criterion is inappropriate for key systems, PBX systems, and centrex systems. They suggest that the intrasystem concept be applied to all individual items including the telephone sets of company-used key systems, PBX systems, and centrex systems. They state that the retirement unit should consist of all components of the intrasystem necessary to make it a functioning unit. AT&T and GTE, in their reply comments, state that this proposal would be administratively burdensome since individual sets can be installed as stand alone units or connected and interchanged among systems.

28. Michigan also disagrees with our proposal to use the $200 criterion as a basis in determining whether to capitalize or expense company-used equipment. Michigan believes that physical inventory controls would be made impractical because property units which were capitalized one year and expensed the next would not be distinguishable and depreciation histories would be based upon incomplete records. Michigan suggests that the basis for expensing or capitalizing company-used equipment should be determined by the broad category or type of equipment or apparatus involved. Michigan suggests that this method would provide meaningful inventory checks and depreciation asset histories based upon the total activity associated with such units.

Comments on Proposed Detariffing of Intrasystem Wiring

29. The respondents generally favor our proposal to define PBXs and key systems on an intrasystem basis and to detariff the intrasystem wiring. An intrasystem was defined as common equipment (a switchboard or switching equipment shared by all stations), station equipment (usually telephones or key telephone systems), and intrasystem wiring. Intrasystem wiring was defined as all cable or wiring and associated components which connect the common equipment and the station equipment and which are located inside a building or between a customer's buildings located on the same or contiguous property not separated by a public thoroughfare.

30. AT&T and NATA raise questions and request clarification concerning our proposal as it relates to house cable. House cable is the cable on a customer's premises that runs from the outside plant terminal up through various floors of the building and is located on the company's side of the demarcation point. AT&T states that our proposal could be interpreted as prohibiting the continued classification of house cable in account 242:1, "Aerial cable," when the house cable serves solely as intrasystem wiring. NATA believes that our proposal would require house cable to be offered pursuant to tariff and asks whether this cable would be tariffed apart from the local exchange. NATA wants to ensure that this proposal would not inhibit free access to this cable by users and the vendors that service them.

31. Several respondents request clarifications or modifications concerning intrasystem wiring. AT&T and RTC ask that we make it clear that the detariffing of intrasystem wiring applies only to wiring installed as part of a detariffed CPE system. NATA and RTC object to the exclusion of wiring that crosses a public thoroughfare or that connects noncontiguous property. They claim that this exclusion is too restrictive and does not ensure that the goals of competition and user benefits will be adequately served. RTC also states that technical configurations and state law should govern where an entity could place this wiring. California and Tennessee suggest that the embedded intrasystem wiring be included in Docket 81–893 so that problems associated with the valuation and sale of intrasystem wiring and its associated complex business systems will be resolved.

32. NATA claims that American Bell Inc. (ABI) and the regulated carriers should not be permitted to retain ownership in any new detariffed intrasystem wiring for the next five years. NATA feels this restriction would mitigate a dangerous potential bottleneck that could occur when a customer wants to replace or modify its existing system but is denied access to the intrasystem wiring. AT&T, in its reply comments, states that such a restriction would in effect prohibit ABI and other regulated carriers from installing detariffed intrasystem wiring on a lease basis. AT&T maintains that this would place ABI and the regulated carriers at a competitive disadvantage in the PBX market.

33. Finally, Michigan and California comment on our proposal to no longer permit the recording of intrasystem wiring in account 232. Michigan suggests that the present accounting should continue until after divestiture is completed to ensure that the total cost of all complex systems will have been accounted for and valued in a consistent manner. California asks for clarification of paragraph 25 of our NPRM which states that intrasystem wiring is currently recorded in account 232. California believes that Note A to account 232 limits the recording of intrasystem wiring in that account to wiring costs associated with small PBXs and that the intrasystem wiring for large PBXs is recorded in account 234. It asks for clarification of this matter so that it can determine whether carriers have been improperly expensing wiring pursuant to Docket 79–105, *supra*, that

should have been capitalized in account 234.

Comments on Proposed New Instructions To Clarify the Accounting for Network Terminating Wire Installed for Large PBXs

34. AT&T, GTE, UTS, MCI, and USITA favor our proposal to change the costs of installing network terminating wire on all new installations of large PBXs to expense account 605. Currently, these costs are capitalized in account 234.

35. California, NATA, and RTC offer an alternative to our proposal. They suggest that this wire be capitalized in account 242:1, "Aerial cable," or account 242:2, "Underground cable," as appropriate. They contend that this wiring is similar to the "other" subclass of account 232, which we established in Docket 79–105, *supra*, and that it is available to provide service for all future customers. In its reply comments, AT&T opposes capitalization of this cost. It states that network terminating wire is customer-specific and is not available for use by all future customers.

36. Although in favor of our proposal to expense network terminating wire, MCI and AT&T suggest modifications. MCI suggests that the expenses for installing network terminating wire be accounted for in a separate subaccount of account 605 in order to provide a better keep cost record on the cost-causative ratepayer. AT&T suggests that this rule also cover the embedded network terminating wire which we excluded from this proceeding. AT&T states that this investment serves a network distribution function as distinguished from the terminal equipment function and should be segregated and reclassified to account 232. It states that the embedded investment should be amortized under the same procedures as are being used for the amortization of inside wiring subclass of account 232, pursuant to our Order in Docket 79–105, *supra*.

Comments on Proposed Accounting for Sale or Lease of Detariffed PBXs and Key Systems

37. AT&T, RTC, MCI, and NATA commented on our proposed accounting for detariffed sale of PBXs and key systems in which we proposed to use account 124, "merchandise and material held for sale," account 316, "Miscellaneous income," and account 327, "Other nonoperating taxes." All four parties agree with the basic proposal, but MCI and NATA suggest that separate subaccounts be prescribed for account 316 to avoid difficulty in determining what revenues and expenses are associated with these sales.

38. Our proposed accounting for detariffed leasing of PBXs and key systems is favored by AT&T, GTE, RTC, USITA, and MCI and is opposed by UTS, NATA, and NTCA. For leases we proposed to use account 103, "Miscellaneous physical property," account 315, "Income from miscellaneous physical property," and account 174, "Other deferred credits." Although MCI favors our proposal, it believes that separate subaccounts should be maintained for large PBXs, small PBXs and key systems to the maximum extent possible. MCI feels its suggestion will provide flexibility in obtaining data for separate detariffed leased systems.

39. UTS, NATA and NTCA disagree with our proposal arguing that the proposed accounting is inappropriate. UTS feels that account 103 is not descriptive of these detariffed leases that would be recorded in this account. UTS recommends that the detariffed leases be recorded in a new account which would be more descriptive of the content. In a similar vein, NTCA states that leased detariffed PBXs and key systems are telecommunications plant and should not be classified with non-telecommunications plant equipment held incident to the company's telephone operations. Accordingly, NTCA recommends that we establish a new account for these leases, account 100.8, "Other telecommunications plant." It recommends further that this account include the telephone company's investment in telephone property retired and held for sale. Also, NTCA states account 103 should be redefined to exclude the carrier's investment in physical property that is telecommunications plant. Finally, NTCA suggests that the titles and texts to accounts 315 and 174 should be changed to specify other telecommunications plant.

40. In a related matter, USITA states that our present reporting requirement for Annual Report Form M Schedule 16 "Miscellaneous Physical Property" covering detariffed leased systems activity recorded in account 103, account 315, etc., on a location basis should be modified. It claims that the lease of detariffed PBX systems and key systems will be a part of the carriers nonregulated operations, and should not be subject to the present reporting requirement of Schedule 16. It also believes that much of the information involved is proprietary and should not be included in a public document such as Form M. In its reply comments AT&T supports USITA's position.

V. Discussion

Accounting for Coin-Operated and Credit Card Telephones (Public Telephone Equipment)

41. Generally, all respondents favor our proposal to establish a new plant account (account 235) and a new expense account (account 607) to separate costs associated with public telephones from costs associated with embedded CPE. There are, however, several related issues raised by the respondents.

42. The first issue was raised by AT&T and RTC. They recommend that embedded telephone equipment be reclassified to account 235, on a flash-cut basis. They state that our proposal to limit account 235 to new equipment until valuation questions on embedded equipment are resolved in Docket 81–893 will cause extreme hardships on the carriers by requiring detailed records to be maintained in order to separately identify new and embedded public telephone equipment. We believe there is merit to their contention and we have determined that the embedded public telephone equipment can be included in this proceeding, without impacting the valuation problem of CPE being addressed in Docket 81–893. Therefore, we have modified our proposal and require the transfer of the embedded public telephone investment on a flash-cut basis. Further, any adjustments to the embedded public telephone plant that arise when the CPE valuation is resolved will be addressed in Docket 81–893.

43. The second issue was raised by MCI. MCI states that credit card telephones, thereafter will be designated as coinless telephones, should be recorded in separate accounts or subaccounts from coin-operated telephones. It claims that credit card telephones should be segregated in the accounts because they are used exclusively for calls over AT&T's long-distance network. MCI states that the investment and expenses associated with coinless telephones should not, therefore, be attributed to MCI or other common carriers. After carefully considering these points we believe that the segregation of telephones in the accounts is necessary. Additionally, we believe the coinless telephone costs should be segregated in order to provide any cost data we may require for access costs or any other regulatory need. Therefore, we will require a separate subclass to be established in account

235 and account 607 to identify coinless telephone investment and expense.

44. The third issue concerns our proposal to record operating spares in account 235. USITA, UTS and GTE believe that our proposal would cause unwarranted administrative burdens in identifying operating spares recorded in account 235 as opposed to spares recorded in account 122. On the other hand, Michigan and AT&T favor our accounting but suggest that we define operating spares as spare equipment which is available on an "as needed" basis, not to exceed a six month supply in terms of turnover, to installers from locations in reasonable proximity to the location of the installed equipment. Our primary objective for capitalizing operating spares was to establish the accounting that would provide carriers the ability to maintain a continuity of service for public telephones without incurring retirement accounting to cover this activity. Moreover, we feel that our operating spares concept will not cause any additional hardships on the carriers since we envision the capitalized operating spares to be located in specific locations that would be separate and distinct from the locations used to house equipment classified to account 122. However, we believe that the definition of operating spares that Michigan and AT&T suggest will provide a sound basis to be used for identifying the capitalized operating spares. Therefore, we have amended § 31.235 to include this definition.

45. The fourth issue results from the comments of AT&T, RTC, California, and Tennessee. We proposed to expense the costs of premise wiring associated with the installation of public telephones and to capitalize all other installation costs. AT&T and RTC state that all costs of installing public telephones should be expensed. They contend that Docket 79–105 required these costs to be expensed, and they see no reason to deviate from that decision in this proceeding. California and Tennessee, on the other hand, argue that premise wiring installed for use with public telephones should be capitalized instead of expensed as we proposed. They maintain that this wiring is not subject to churn from customer movement that was the basis for expensing inside wiring in Docket 79–105.

46. We proposed to capitalize the costs of installing public telephones because expensing these costs appeared inappropriate. Unlike other customer premises equipment there is no cost causative customer that could be billed immediately to recover the cost of installing public telephones. The costs of installing public telephones are recovered in future revenues from users of the public telephones. For this reason we believe it is appropriate to capitalize the costs of installing public telephones and to depreciate these costs with the future revenues. Moreover, in reviewing this matter, we agree with California and Tennessee that the rationale for capitalizing the installation costs is equally applicable to the premise wiring associated with public telephones. Accordingly, we are requiring that all costs of installing public telephone equipment including premise wiring should be capitalized in account 235.

47. The fifth issue was raised by California. California states that if premise wiring is capitalized, the cost of replacing a public telephone with an operating spare should be charged to depreciation reserve account 171 rather than to expense to account 607. Our purpose in proposing to record operating spares in account 235 was to avoid the accounting associated with retirements that California would have to apply to operating spares. We established the accounting for operating spares so that the costs for replacing equipment which is normal maintenance would be charged to expense. Moreover, we believe our proposal is consistent with good accounting principles in that it provides for capitalizing the initial spare equipment purchased to support operated plant. Also, we believe that if the replacement costs are capitalized the ratepayer will be burdened with costs that provide no additional benefit to them. Therefore, we are adopting our proposal to expense the cost of replacing a public telephone with an operating spare.

48. The sixth issue is the concern of GTE and UTS. They contend that cradle-to-grave accounting should continue to be applied to public telephone equipment. They also recommend that all spares be recorded in account 235 to accommodate the cradle-to-grave accounting and avoid unnecessary recordkeeping to distinguish between in-service and inventoried public telephone equipment. We have reviewed their suggestions and are convinced that the traditional retirement unit method for depreciation accounting is more appropriate for account 235. When the Commission established account 231 in 1956 [10] our reason for requiring cradle-to-grave accounting was to provide for a simplified accounting to be applied to the frequent movement of customer premise station apparatus. We have received no evidence from the comments that leads us to believe that the public telephone equipment will be subject to the same movement as CPE. Therefore, we deny the request of UTS and GTE for cradle-to-grave accounting.

49. The seventh issue was raised by RTC and UTS. They argue that public telephone extension should be treated as part of the public telephone equipment and not considered CPE subject to our *Computer II* decision. RTC indicates that the extensions cannot originate calls but only receive calls and as such should not be considered CPE. UTS states that the detariffing of public telephone extensions could result in fraudulent toll billings. UTS feels it could only correct this problem by either modifying the public telephones or no longer offering public telephones with noncoin extensions. We believe the carriers have the capability to provide security and privacy features, and these same problems exist today. As a matter of fact AT&T supports this point in its reply comments. Furthermore, the wiring from the public telephone to the extension or at least to the interface is still regulated, so that the carriers will be able to install the appropriate interface to overcome the problem UTS has raised. Therefore, we reconfirm that public telephone extensions are CPE and were deregulated in our *Computer II* decision.

Accounting for Company Used Station Apparatus and Large PBXs

50. All of the respondents favor our proposal to classify all new equipment installed for company use on a functional basis. However, as in the case of public telephones, some parties raise related issues.

51. The first issue concerns the treatment of embedded company used equipment. We proposed to require the functional classification of company used equipment only for new equipment. We did not propose to require the reclassification of embedded equipment on a functional basis because questions related to the allocation of depreciation reserves for embedded equipment are being addressed in Docket 81–893, *supra*. In the NPRM we stated our intention to reclassify embedded equipment after the reserve allocation questions were resolved. AT&T and RTC state, however, that delay in reclassifying embedded equipment would require unnecessary accounting

[10] Amended Part 31 of the Commission's Rules and Regulations with respect to accounting for station apparatus station installations and station wiring. Docket 11769, Report and Order (Simplified Accounting for Station Equipment), 21 FR 7446 (1956)

records to segregate identical equipment installed at the same location and performing the same function. Therefore, they recommend functional classification for embedded as well as new equipment. One of our primary purposes in proposing to delay reclassification of embedded equipment was to avoid unnecessary recordkeeping for the carriers. Since the comments indicate that delay would cause the recordkeeping problems we wanted to avoid, we have decided to apply the new functional account classifications to both new and embedded company used equipment.

52. The second issue is whether account 261, "Furniture and office equipment," should be used to record company-used equipment that only handles the company's internal business. RTC indicates that recording this equipment in account 261 would cause costly additional recordkeeping because items currently recorded in that account have separate identifiable retirement units with individual property records whereas the company-used station apparatus which we proposed to reclassify is maintained in the records on an average unit cost basis. RTC believes it would not be practical to maintain individual cost records for each item of official station apparatus and recommends that this equipment continue to be maintained on an average cost basis. Our purpose in proposing to reclassify company-used equipment was to segregate it from embedded CPE. We did not intend to increase carrier recordkeeping requirements. In view of RTC's comments, we have decided to establish a new account 262, "Other communications equipment," to be used to record the costs associated with the installation of the new and embedded company official business equipment. Additionally, we have established retirement units for account 262, see appendix to this Order, and require all retirements of this equipment to conform with our rules covering normal retirement accounting as prescribed in the Commission's Rules and Regulations Part 31, § 31.2–25. Under account 262, the carriers can record this equipment in the CPR by accounting area. The establishment of account 262 will permit the carriers to maintain records for this equipment on an average unit cost basis as they have in the past.

53. The third issue concerns our proposal to extend to the reclassified company-used equipment the $200 criterion for determining whether to expense or capitalize equipment. Michigan disagrees with our proposal. It suggests that the basis for expensing or capitalizing company-used equipment should be determined by broad category or type of equipment or apparatus involved. No other respondent opposes use of the criterion. However, California and Tennessee argue that, in applying the criterion, telephone sets used with PBXs should be capitalized as part of the intrasystem regardless of their cost. They contend that telephone sets are an integral part of the system and should be accounted for the same as the other items that make up the system. AT&T and GTE, on the other hand, argue that capitalizing telephone sets when part of an intrasystem would be administratively burdensome because individual telephone sets can be installed as stand alone units or connected and interchanged among systems.

54. We believe the proposed $200 criterion is a practical method of determining when assets of relatively minor value should be expensed rather than capitalized. Using this criterion reduces the administrative costs of maintaining inventory and depreciation records for equipment we have identified as minor items. We also believe, however, that this criterion should be based on the total cost of the asset acquired. This is consistent with sound accounting principles which require capitalization of all costs of acquiring an asset and making it ready for use. In this regard we believe that when complex intrasystems are installed for company use, the asset acquired is the intrasystem. Therefore, we agree with California and Tennessee that telephone sets should be capitalized when installed as part of the initial installation of an intrasystem. In such instances, however, we believe the retirement unit is the intrasystem. Therefore, we do not believe that extensive recordkeeping would be necessary for the individual telephone sets that are used in the system. This should reduce administrative burdens. Based on the foregoing, we have decided to adopt the $200 criterion we proposed, but we have modified the rules to make it clear that individual telephone sets, as well as wiring, installed as part of the initial installation of an intrasystem should be capitalized. Thus, the $200 criterion with regard to telephone sets would be applied to stand alone units and units used for replacement or repairs of intrasystems.

55. The fourth issue concerns the application of the $200 expensing criterion to embedded investment. Several parties argue that the embedded investment in company used equipment covered by the $200 expensing limit should be amortized over a period of five years. these parties state the rationale established in Docket 81–273, 87 FCC 2d 1137,[11] supports their recommendation to use a five year amortization period. Although we did not address this issue in our NPRM, we agree that the embedded company-used equipment subject to the $200 limit should be amortized. We have reviewed the amortization rationale put forth in Docket 81–273, and we have determined that it is appropriate for the $200 or less company used equipment when applied on an intrasystem basis as discussed in the preceding paragraph. The change from depreciation to amortization for the Bell System's estimated $129 million embedded base will increase Bell System expenses by approximately $10 million per year. This change could also add about $6 million in additional Bell System expenses for new purchases. Initially, this will result in a minor encrease in the telephone companies' operating expenses for station apparatus. This initial increase will be partially offset, however, by reduced recordkeeping expenses. Moreover, in the long run, the elimination of these costs from the rate base will reduce the carriers revenue requirements. Therefore, the long range effect of this change will be beneficial to the ratepayers. We see no need to transfer this investment from account 231 since it will be removed from the regulated rate base after five years. However, we will require that this equipment be separately identified and amortized as a specific subclass of account 231.

Detariffing of Intrasystem Wiring

56. Generally, all comments favor our basic proposal to define complex systems (PBXs and key systems) on an intrasystem basis and to detariff intrasystem wiring. There are, however, several requests for clarification, interpretation, or modification which require discussion.

57. First, AT&T asks for clarification of the status of house cable under our proposal. It is concerned that under the proposal house cable used solely as intrasystem wiring could no longer be recorded in account 242:1, "Aerial cable." House cable is the cable on the customer's premises that runs from the outside plant terminal up through various floors of the building and is located on the company's side of the

[11] Docket 81–273 Report and Order (Expensing Minor Items), increased the dollar limit for expensing minor items to $200 and requires the embedded investment between the old and new limits to be amortized over a 5 year period.

demarcation point. Under our proposal intrasystem wiring is located on the customer's side of the demarcation point. Thus, there is nothing in our proposal to prohibit recording house cable in account 242:1. We would point out, however, that stub runs of cable installed for a specific PBX or key system customer on the customer's side of the demarcation point constitute intrasystem wiring, not house cable, and should not be recorded in account 242:1. We are modifying the rules to clarify these points.

58. Second, NATA raises questions concerning access to house cable by users and the vendors that service them. In this regard, NATA questions whether house cable would be offered pursuant to tariff under our proposal and, if so, whether it would be tariffed apart from the local network. Nothing in our proposal would change the tariff status of house cable on the company's side of the demarcation point. Likewise, we have proposed nothing that should inhibit access to house cable by users or the vendors that service them. Therefore, house cable on the company's side of the demarcation point (house cable recorded in account 242:1) should continue to be offered pursuant to local tariff and should be accessible to users and vendors.

59. Third, several points were raised concerning our definition and detariffing of intrasystem wiring. AT&T and RTC ask that we make it clear that the detariffing of intrasystem wiring applies only to wiring installed as part of a detariffed CPE system. We believe that point was clearly made in the NPRM. However, to avoid confusion as to our intent, we reiterate that we are detariffing new intrasystem wiring installed with new CPE systems. The next point was raised by NATA and RTC. They claim that our exclusion of wiring that crosses a public thoroughfare in our definition of intrasystem wiring is too restrictive. Essentially, they believe that such wiring should be part of the intrasystem wiring if its installation is not prohibited by state or local ordinance. After reviewing this matter, we agree that the only reason for excluding this wiring was that it may be subject to state or local ordinance. Therefore, we have decided to include this wiring as part of the detariffed intrasystem subject to approval by the appropriate state or local authority. Finally, California and Tennessee suggest that embedded intrasystem wiring be included in Docket 81–893 so that problems be associated with the valuation and sale of intrasystem wiring and its associated complex business systems will be resolved. We agree with them. In fact, we stated in the NPRM that embedded intrasystem wiring would be addressed in Docket 81–893.

60. Fourth, NATA claims that ABI and the other regulated carriers should not be allowed to retain ownership in any new detariffed intrasystem wiring for the next five years. They contend that ownership in this wiring will give the above entities a competitive advantage in the CPE market. Our primary goal for detariffing intrasystem wiring is to foster competition in the same manner *Computer II* did for CPE. NATA's request would result in this Commission restraining a regulated carrier or ABI from providing customers a detariffed intrasystem wiring on a lease basis. We find noting in NATA's comments to justify such a restriction on these entities.

61. Fifth, Michigan and California raise questions about our proposal to no longer permit the recording of intrasystem wiring in account 232. Michigan suggests that the present accounting continue until after divestiture is completed to ensure that the total cost of all complex systems will have been accounted for and valued in a consistent manner. We disagree. We do not believe the detariffing of new intrasystem wiring would adversely affect the divestiture procedure any more than the detariffing of the PBX or key system which are part of an intrasystem. California asks for a clarification on the proper accounting for intrasystem wiring as it relates to Docket 79–105. It believes that Note A to account 232 requires intrasystem wiring for large PBXs to be recorded in account 234 and that the carriers have been improperly expensing this wiring. We have reviewed our accounting rules for account 232 and find no support for California's interpretation concerning Note A. First the items list for account 232 clearly requires that wires used to connect private branch exchanges, switchboards or their distributing frames with terminal stations should be recorded in account 232. This clearly applies to all PBXs and the wires we have defined as intrasystem wiring. The language in Note A that relates to account 234 covers cables from the interface with permanent house or outside cables or wires to a large PBX. These cables or wires have always been recorded in account 234 and were not affected by the expensing required in Docket 79–105. Therefore, California's interpretation that intrasystem wiring should be recorded in account 234 is incorrect.

Accounting for Network Terminating Wire

62. Our purpose in proposing to expense new installations of the terminating wire for large PBXs was to avoid recording this wire, which must be offered under tariff, in the same account with detariffed CPE. This wire is currently recorded in account 234. All of the respondents agree that network terminating wire should no longer be recorded in account 234. However the respondents suggest three modifications to our proposal.

63. The most significant modification is suggested by California, NATA, and RTC. They suggest that new network terminating wire be capitalized in outside plant accounts instead of being expensed to account 605 as we proposed. They believe this wire serves the same function as the drop wire and, therefore, should be given the same accounting classification as proposed for drop wire in Docket 82–679, 47 FR 44767 (1982). In our opinion the network terminating wire closely resembles the inside wire we expensed in Docket 79–105 rather than the drop wire. It is for this reason that we proposed to expense this wiring. Therefore, we are adopting our proposal and will require each carrier to expense all new installations of network terminating wire to account 605. It is estimated that this will add about $2 million per year to Bell System expenses.

64. The second modification is suggested by AT&T. AT&T suggests that embedded network terminating wire be handled in this proceeding and not be deferred to Docket 81–893. AT&T recommends that the embedded wire be reclassified to account 232 and amortized under the same procedures that are being used for amortization of the inside wiring subclass of account 232. We agree that embedded wiring should be handled in this proceeding. We proposed to defer this to Docket 81–893 only because we believed carriers would have problems of valuation for this wire. Moreover, we feel the other carriers can also reasonably determine the value of this wire. We are not persuaded, however, that embedded network terminating wire should be classified to account 232. We see no need to reclassify this wire from account 234. After it is separately identified, it can be amortized from account 234. Moreover, because of the *de minimus* amount involved, we find no compelling reason to apply a long ten year amortization period to this wiring. We believe a shorter five year amortization period is reasonable without any

significant impact to the ratepayer. Therefore, we will require the embedded network terminating wire to be separately identified and amortized over a five-year period from a specific subclass of account 234. It is estimated that the impact of shortening the amortization period from ten years to five years will increase Bell System expense by about $1.5 million annually.

65. The third modification is suggested by MCI. MCI suggests that network terminating wire be recorded in a separate subaccount of account 605. It contends this would provide more accurate cost data on the cost-causative ratepayer. After considering this we believe that a separate subaccount is not necessary for network terminating wire. Therefore, we dismiss the request to establish a separate subaccount in account 605.

Accounting for Sale or Lease of Detariffed PBXs or Key Systems

66. Our purpose in proposing accounting for the sale or lease of detariffed PBXs and key systems in this proceeding was to provide interim accounting instructions for these activities using existing accounts. Our primary objective was to remove these activities from accounts used in rate regulation to below the line accounts. More substantial accounting changes involving adding and deleting accounts were deferred to Docket 81–893. These instructions of course would apply only to those companies that offered CPE directly (not through a separate subsidiary). Actually, we had already provided interim accounting instructions for the sale of detariffed CPE in Docket 79–105, and we simply reiterated those instructions in this proceeding. We had not provided interim accounting guidance for the leasing of detariffed CPE, however, until the NPRM was issued in this proceeding.

67. All of the comments recommending changes in our proposal concern the inadequacy of the proposed accounts for recording unregulated activities. MCI wants separate subaccounts prescribed for both the sale and lease of detariffed CPE. NATA also wants separate subaccounts for the sale of detrariffed CPE and recommends, along with UTS and NTCA, that new accounts and new instructions for leased detariffed CPE be added in this proceeding. As discussed above, however, our objective in this proceeding is to provide instructions to remove detariffed activities from the accounts for regulated service using existing below the line accounts. We believe the comments recommending new accounts, new subaccounts, or modifications of existing accounts for these activities are beyond the scope of this proceeding. New accounts are being considered in Docket 81–893. Accordingly, we are adopting our interim accounting instructions as proposed.

68. There is one remaining matter that requires discussion. USITA and AT&T believe that the reporting of detariffed leased systems on Schedule 16 of Annual Report Form M should be modified. Currently, Schedule 16 requires all items having a book cost in excess of $50,000 to be reported separately for each location. The schedule also requires detailing the date the investment was included in account 103, the book cost of property at the end of the year, and separately identifying the total revenues and the total expenses. We agree with the respondents that this detailed information about their detariffed leases is sensitive and, in any case, need not be required in disaggregated form for purposes of our regulations. Accordingly, effective with the 1983 Annual Report Form M, Schedule 16 will not require the carriers to report a detailed listing of detariffed leased systems. These detariffed leased systems are to be reported in the aggregate on one line of Schedule 16.

VI. Regulatory Flexibility Act

69. In compliance with the provisions of Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we believe the above discussion sets forth the purpose of these amendments. Further, we certify that these accounting changes can be readily implemented by all carriers subject to Part 31 without economic impact.

VII. Ordering Clauses

70. Accordingly, it is ordered, pursuant to Section 4(i), 4(j) and 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j) and 220 that Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies of the Commission's Rules is amended as set forth in the attached appendix to be effective May 2, 1984. However, any company desiring to, may make such accounting changes retroactive to a date no earlier than January 1, 1983.

71. It is further ordered, that the Secretary shall cause a copy of this *Report and Order* to be served on the state Commissions.

72. It is further ordered, that Docket 82–681 is hereby terminated.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, is amended as follows:

PART 31—[AMENDED]

1. Section 31.02–80 is amended by revising paragraph (c) to read as follows:

§ 31.02–80 Computation of depreciation rate.

* * * * *

(c) The company shall keep such records of property and property retirements as will reflect the service life of property which has been retired, or will permit the determination of service life indications by mortality, turnover, or other appropriate methods, and also such records as will reflect the percentage of salvage value, or net salvage value, as appropriate, for property retired from each class of depreciable plant. Further, account 232 will be amortized according to the schedule noted in account 232(b). (See also accounts 605 and 232 for the accounting for costs incurred in the disconnection and removal of station apparatus.) Also, the station apparatus-company used equipment for embedded equipment that costs $200 or less will be amortized according to the schedule noted in account 231(c). Finally, the large private branch exchange embedded network terminating wire will be amortized according to the schedule noted in account 234(b).

* * * * *

2. Section 31.02–82 is amended by revising the list after the introductory text and adding new Note B, Note C and Note D to read as follows:

§ 31.02–82 Classes of depreciable telephone plant.

* * * * *

Building (Account 212).
Central office equipment (Account 221).
Station apparatus (Account 231).
Station connections—inside wiring (Account 232).
Large private branch exchanges (Account 234).
Public telephone equipment (Account 235).
Pole lines (Account 241).
Aerial cable (Account 242.1).
Underground cable (Account 242.2).
Buried cable (Account 242.3).
Submarine cable (Account 242.4).
Aerial wire (Account 243).
Underground conduit (Account 244).
Furniture and office equipment (Account 261).
Other communications equipment (Account 262).

Vehicles and other work equipment (Account 264).

* * * * *

Note B.—The embedded investment in account 231 for company used equipment that costs $200 or less shall be maintained in a separate subclass. Depreciation of this subclass shall be maintained in a separate subclass of account 171, "Depreciation reserve."

Note C.—The embedded investment for network terminating wire in account 234 shall be maintained in a separate subclass. Depreciation of this subclass shall be maintained in a separate subclass of account 171, "Depreciation reserve."

Note D.—The investment in account 235 shall be maintained in two separate subclasses, "Public telephone equipment—coin-operated," and "Public telephone equipment—coinless."

3. Section 31.103 is revised to read as follows:

§ 31.103 Miscellaneous physical property.

This account shall include the company's investment in physical property other than property the investment in which is includible in accounts 100:1, "Telephone plant in service," 100:2 "Telephone plant under construction," 100:3, "Property held for future telephone use," and 100:4, "Telephone plant acquisition adjustment." It shall include the company's investment in telephone property retired and held for sale; also property such as lighting, water, power, detariffed leased private branch exchanges, key systems and station apparatus, and manufacturing plants, not incident to the company's telephone operations, and assessments against miscellaneous physical property for the construction of public improvements.

4. Section 31.124 is revised to read as follows:

§ 31.124 Merchandise and material held for sale or lease on a detariffed basis.

This account shall include the cost of all station equipment purchased for lease or resale and the cost of material and supplies held for use in the provision of repair service on customer provided equipment or equipment leased on a detariffed basis. (Note accounts 231 and 234.) The cost shall include applicable transportation charges, sale and use taxes, cash and other purchase discounts. Inventory shortages and overages shall be charged and credited, respectively, to account 316.

Note A.—The cost of material used to install and connect and maintain customer premises equipment that is provided on a resale basis shall be charged to account 316, "Miscellaneous income."

Note B.—The cost of material used to install and connect customer premises equipment that is provided on a leased basis shall be charged to account 103, "Miscellaneous physical property," or account 315, "Income from miscellaneous physical property," as appropriate.

5. Section 31.221 is amended by revising paragraph (a) and the items list and adding new Notes E, F, and G to read as follows:

§ 31.221 Central office equipment.

(a) This account shall include the original cost of electrical instruments, apparatus and equipment (including company used), other than station equipment installed on customer's premises, in central offices (including terminal and test rooms), repeater stations and test stations used in transmitting traffic and operating signals, and similar equipment in operators' schools and other centralized locations. (See also accounts 231, 232, 234 and 262.)

* * * * *

Items

Aisle-lighting equipment.
Announcement equipment—time, weather forecast, etc.
Automatic message recording equipment.
Balconies for distributing frames.
Banks—connector, selector.
Batteries.
Battery cabinets.
Boards—floor alarm, power, test, service observing.
Building alterations, minor, such as opening and closing holes in ceilings, partitions, walls and floors to permit installations of equipment, power conduit, and wiring.
Cables. (See also Notes B and E to this account.)
Calculagraphs.
Call registers.
Carrier current equipment.
Carrier line filters.
Circuit breakers.
Data sets. (See also Note G of this account.)
Desk sets, hand sets, wall sets, and combined sets, including those used at main and extension stations and the associated inside wiring. (See also Note G to this account.)
Engines, including special foundations not a part of buildings.
Facsimile equipment, including the associated inside wiring. (See also Note G to this account.)
Frames—alarm connector, decoder, decoder connector, line finder, line switch, repeater, selector, sender, test.
Fuse boards.
Fuse panels.
Generators, including special foundations not a part of building.
Jump wires.
Key indicator equipment.
Line concentrator equipment.
Line filters.
Loading coils. (See also Note C to this account.)
Loudspeaker equipment.
Main and intermediate frames.
Meters.
Motors, including special foundations not a part of buildings.
Multiplex apparatus.
Operators' transmitters.
Operators' chairs.
Operators' head sets.
Permits and privileges and rights of way for installation of externally mounted central office equipment. (Note also § 31.2–22(b)(7) and Note F to account 211.)
Platforms, not part of buildings.
Pole changers.
Power circuits for emergency use including payment for installation by others of circuits not owned.
Power panels.
Power plants.
Printer—telegraph equipment, including the associated inside wiring. (See also Note G to this account.)
Private branch exchange, including common equipment (power equipment, a switchboard or switching equipment shared by all stations), station equipment (usually telephones or key telephone systems), and wires connecting the common equipment and the station equipment plus the terminal boxes or cross connector points, and the cable or wires that connect the private branch exchange with the network interface. (See also Note E of this account.)
Protectors.
Pulse machines and tone machines.
Radio transmitting and receiving equipment.
Rectifiers.
Register cabinets.
Relay racks and coil racks.
Relay.
Repeater sets.
Rheostats.
Ringing machines, including special foundations not a part of buildings.
Rolling ladders.
Station switching and signaling devices, in large installations such as certain key systems, including relay rack equipment, apparatus cabinets, key cabinets, key boxes, telephone sets, and wiring connecting the common equipment and the telephone sets plus the terminal boxes or cross connector points, and the cable or wires that connect the key system with the network interface. (See also Note E of this account.)
Submarine cable repeaters.
Switchboards and other electrical equipment used in operators' school.
Switchboards—Subscribers' "A" and "B" trunk, toll, dial system.
Switches—connector, line repeater, selector, repeater, test, distributor.
Tarpaulins.
Telegraph instruments and equipment.
Telephotographic equipment.
Teletypewriter switchboards and equipment.
Test boards.
Testing and routining central office equipment prior to assignment to service.
Testing equipment and tools, central office. (See also Note D to this account.)
Test tables.
Ticket holders.
Toll ticket carriers.

Traffic load counting equipment.
Turrets.
Water stills for battery service.
* * * * *

Note E.—The cost of wires or cables used for company used equipment that handles switching of customer traffic that was previously recorded in account 232 or account 234 shall be included in this account.

Note F.—The cost of company used equipment that handles official company business shall be charged to account 262.

Note G.—Company used equipment that cost $200 or less shall be charged to the appropriate expense account, including the inside wiring installed to be used with this equipment.

6. Section 31.231 is amended to revise paragraph (a) and add a new paragraph (c) and revise items list and Notes A and C read as follows:

§ 31.231 Station apparatus.

(a) This account shall include the original cost of station apparatus, including small private branch exchanges installed for customers' use. (Note also accounts 221, 235, and 262) This account shall also include the cost of material in stock which are normally used as station apparatus or additions thereto, as distinguished from items normally used for repair purposes. (Note also accounts 124, 221, 235 and 262.) Items included in this account which are normally used as station apparatus shall remain herein until finally disposed of or until used in such manner as to be includible in other accounts.
* * * * *

(c) The embedded company used equipment that costs $200 or less (Note § 31.2–20(d)) must be separately identified and amortized over a five year period. The amortization should be charged to account 608, "Depreciation," with a corresponding credit to account 171, "Depreciation reserve." In calculating this amortization, the company shall first determine the net book cost for this equipment by subtracting the depreciation reserve attributable to this equipment. This net book cost shall be divided by the number of months remaining in the five year amortization for that month. When this equipment is physically removed, sold, destroyed or abandoned, the original cost (actual or estimated average cost) carried in this account for this category of plant shall be charged to account 171. Under no circumstances shall the accumulated amortization credits to account 171 exceed the balance of the investment for this category of plant.

Items

(Note s31.01–8)

Amplifying equipment.
Answering equipment.
Attendants' cabinets.
Attendants' desks.
Backboards.
Code call units.
Code sending sets.
Data sets.
Desk sets, hand sets, wall sets, and combined sets, including those used at main, extension, private branch exchange, and private line stations, etc. (See also paragraph (c) and Note C to this account.)
Distributing frames.
Extension bells.
Facsimile equipment.
Hand-set mountings.
Messenger, and similar signalling devices.
Mobile telephone equipment.
Operators' chairs.
Operators' head sets and transmitters. (See also paragraph (c) and Note C to this account.)
Ordering receiving tables.
Order turrets.
Power equipment.
Printer—telegraph equipment.
Private branch exchange equipment—non-multiple manual and cordless switchboards and dial equipment of types designed to accommodate fewer than 100 lines and which cannot normally be expanded to more than 99 lines. (See also accounts 221 and 262.)
Program supply equipment—other than television.
Public address equipment.
Station switching and signalling devices, including apparatus cabinets, keys, key cabinets, and other devices used as parts of intercommunicating systems. (See also account 221, 234 and 262.)
Subscriber sets.
Telegraph equipment.
Teletypewriter equipment, including switching equipment. (See also accounts 221, 234 and 262.)

Note A.—The cost of installation (including customers' station protectors, and wiring on the customer's side of the protector or equivalent) shall be charged to account 232, "Station connections-inside wiring," and/or account 605, "Installations and repairs of station equipment," as appropriate. (See also account 235.)
* * * * *

Note C.—Operators' head sets and transmitters in central offices and at large private branch exchanges, and test sets such as those used by wire chiefs, linesmen and others, shall be included in account 221, "Central office equipment," account 234, "Large private branch exchanges," account 262, "Other communications equipment," as appropriate.
* * * * *

7. Section 31.232 is amended by revising paragraph (a) and the items list and Note A also add new note F to read as follows:

§ 31.232 Station connections-inside wiring.

(a) This account shall include the original cost of installing or connecting items of station apparatus and the original cost of inside wiring and cabling. (See also accounts 221, 235, 262 and 605.)
* * * * *

Items

(Note 31.01–8)

The wires (or small cables) from the station apparatus to the point of connection with the outside plant cable or wire facilities. (See also accounts 221, 235 and 262.)
The wires (or small cables) used to connect station apparatus in the same building, such as main stations with extension stations, and stations of intercommunicating systems. (See also accounts 221, 235 and 262.)
The wires (or small cables) used to connect private branch exchange switchboards or their distributing frames with terminal stations located in the same building. (See also accounts 221 and 262.)
The wires (or small cables) used to connect the various parts of a small private branch exchange, such as the cable or wires from distributing frames to switchboard. (See also accounts 221 and 262.)
The wires (or small cables) installed specifically to serve as trunk, battery, or generator-circuits from a small private branch exchange to the point of connection with the permanent house or outside cables or wires. (See also accounts 221 and 262.)
Connecting blocks, ground wires, ground rods, station protectors, clamps, cleats, nails, screws and other material used in the installation of station apparatus and inside wiring and cabling. (See also accounts 221, 235 and 262.)
Labor and other costs incurred in connection with station apparatus and station connection installations or additions thereto.(See also accounts 221, 235 and 262.)

Note A.—Costs charged to this account prior to October 1, 1981, in connection with inside cabling are restricted to cables used in station installations instead of wires, such as those that run from wall outlets or floor terminals to the station apparatus, and to cables used in installing small private branch exchanges. (See also accounts 103, 221, 235, 262 and 316.) The cost of wires or cabling used in installing equipment includible in account 234, "Large private branch exchanges," shall be included in that account and shall not be included or in part in account 232. (See also accounts 103, 221, 262 and 316.) The cost of riser and distributing cables, including associated cross-connection boxes, terminals, distributing frames, etc. is chargeable to account 242:1, "Aerial cable."
* * * * *

Note F.—The items shown above when provided on detariffed lease or sale basis shall be charged to account 103, "Miscellaneous physical property," or account 316, "Miscellaneous income," as appropriate.

8. Section 31.234 is amended by redesignating existing paragraph as (a) and add a new paragraph (b) and

revising the items list and add new Notes D, E and F to read as follows:

§ 31.234 Large private branch exchanges.

* * * * *

(b) The embedded network terminating wire, wiring that runs from the house cable terminal to the demarcation point, must be separately identified and amortized over a five year period. The amortization should be charged to account 608, "Depreciation," with a corresponding credit to account 171, "Depreciation reserve." In calculating this amortization, the company shall first determine the net book cost for this equipment by subtracting the depreciation reserve attributable to this equipment. The net book cost shall be divided by the number of months remaining in the five year amortization period to determine the appropriate amortization for that month. When this equipment is physically removed, sold, destroyed or abandoned, the original cost (actual or estimated average cost) carried in this account for this category of plant shall be charged to account 171. Under no circumstances shall the accumulated amortization credits to account 171 exceed the balance of the investment for this category of plant.

Items

(Note s31.01–8)

Cables or wires from distributing frame to switchboard.

Dial system private branch exchanges of types designed to accommodate 100 or more lines or which can normally be expanded to 100 or more lines, including any nonmultiple manual switchboards used as attendants positions in connection with such dial system exchanges.

Distributing frames.

Multiple manual switchboards.

Operators' chairs.

Operators' head sets and transmitters.

Power equipment, including special foundations.

Switching and signaling devices in large installations, such as certain key systems for governmental agencies, including relay rack equipment, apparatus cabinets, key cabinets, key boxes, and other components of such systems.

Switching equipment at switching or relay centers of Large private line teletypewriter systems.

Television program supply equipment and other television equipment on customers' premises except portable equipment subject to use in central offices.

Wires (or small cables used instead of wires) installed specifically to serve as trunk, battery or generator circuits from a Large private branch exchange to the point of connection with the network interface jack (demarcation point).

* * * * *

Note D.—New network terminating wire shall be charged to account 605, "Installations and repairs of station equipment."

Note E.—The items shown above when provided on a detariffed lease or sale shall be charged to account 103, "Miscellaneous physical property," or account 316, "Miscellaneous income," as appropriate.

Note F.—Large private branch exchanges and key systems, including the associated cable/wiring, installed for company use shall be recorded in account 221, "Central office equipment," or account 262, "Other communications equipment," as appropriate.

9. Section 31.235 is added to read as follows:

§ 31.235 Public telephone equipment.

(a) This account shall include the original cost of coin-operated and coinless telephones in separate subclasses, "Public telephone equipment—coin-operated," and "Public telephone equipment—coinless." These subclasses shall also include the original cost of the premise wiring installed for use by the public telephones.

(b) This account shall also include the original cost of operating spares that are required to provide a continuity of service for public telephones. The operating spares shall not exceed six months supply in terms of turnover and available to installers from locations in reasonable proximity to the location of the installed equipment.

Items

(Note s31.01–8)

Enclosure—a complete installation with or without booth, directory hangers and shelves, shield and public telephone signs.

Mounting (pedestal, post or wall)—a complete installation with or without a base plate.

Directory stand or shelf (in proximity to public telephones)—a complete installation with or without directory hangers.

Telephone sets—a complete item (coin-operated and credit card).

Note A.—The cost of replacing operating spares shall be charged to account 607, "Repair of public telephone equipment."

Note B.—The cost of a detariffed telephone extension installed for use with a semi-public telephone shall be charged to account 103, "Miscellaneous physical property," or account 316, "Miscellaneous income," as appropriate.

10. Section 31.241 is amended by adding a Note as follows:

§ 31.241 Pole line.

* * * * *

Note.—The cost of poles that are considered part of a detariffed PBX or key system intrasystem shall be charged to account 103, "Miscellaneous physical property," or account 316, "Miscellaneous income," as appropriate.

11. Section 31.242:1, is amended by adding a new Note C to read as follows:

§ 31.242:1 Aerial cable.

* * * * *

Note C.—The cost of aerial cable, including house cable that is considered part of a detariffed PBX or key system intrasystem shall be charged to account 103, "Miscellaneous physical property," or account 316, "Miscellaneous income," as appropriate.

12. Section 31.242:2 is amended by adding a new Note F to read as follows:

§ 31.242:2 Underground cable.

* * * * *

Note F.—The cost of underground cable that is considered part of a detariffed PBX or key system intrasystem shall be charged to account 103, "Miscellaneous physical property," or account 316, "Miscellaneous income," as appropriate.

13. Section 31.242:3 is amended by adding new Note C to read as follows:

§ 31.242:3 Buried cable.

* * * * *

Note C.—The cost of buried cable that is considered part of a detariffed PBX or key system intrasystem shall be charged to account 103, "Miscellaneous physical property," or account 316, "Miscellaneous income," as appropriate.

14. Section 31.243 is amended by redesignating original Note to Note A and adding a new Note B to read as follows:

§ 31.243 Aerial wire.

* * * * *

Note B.—The cost of aerial wire that is considered part of a detariffed PBX or key system intrasystem shall be charged to account 103, "Miscellaneous physical property," or account 316, "Miscellaneous income," as appropriate.

15. Section 31.244 is amended by adding a new Note C as follows:

§ 31.244 Underground conduit.

* * * * *

Note C.—The cost of underground conduit that is considered part of a detariffed PBX or key system intrasystem shall be charged to account 103, "Miscellaneous physical property," or account 316, "Miscellaneous income," as appropriate.

16. Section 31.262 is added to read as follows:

§ 31.262 Other communications equipment.

This account shall include the original cost of private branch exchange and key system intrasystems and station apparatus, including its associated inside wiring, installed for official company use. (See also account 221.)

Items

(Note § 31.01–8

Data sets including the inside wiring.

Desk sets, hand sets, wall sets, and combined sets including the associated inside wiring. This excludes such sets when used as part of a private branch exchange or key system intrasystem. (See also Note C to this account.)
Distributing frames.
Facsimile equipment including associated inside wiring.
Multiple manual switchboards.
Operators' chairs.
Operators' headsets and transmitters.
Power equipment, including special foundations.
Printer-telegraph equipment including associated inside wiring.
Private branch exchange, including common equipment (power equipment, a switchboard or switching equipment shared by all stations), station equipment (usually telephones or key telephone systems), and wires connecting the common equipment and the station equipment plus the terminal boxes or cross connector points, and the cable or wires that connect the private branch exchange with the network interface. (See also Note D to this account.)
Station switching and signaling devices in large installations, such as certain key systems, including relay rack equipment, apparatus cabinets, key cabinets, key boxes, telephone sets, and wires connecting the common equipment and the telephone sets plus the terminal boxes or cross connector points, and the cable or wires that connect the key system with the network interface. (See also Note D of this account.)
Switching equipment at switching or relay centers of teletypewriter systems.
Teletypewriters, including associated inside wiring.

Note A.—The cost of riser and distributing cables in buildings other than central offices, which by their physical characteristics, method of installation, and permanence constitute regular house cables shall be charged to account 242:1.

Note B.—The cost of cross-connection boxes installed as a part of the house cable system, including those used as distributing frames, should be charged to account 242:1.

Note C.—Equipment that cost $200 or less shall be charged to the appropriate expense account, including the associated inside wiring.

Note D.—The cost or wires or cables used for equipment in this account that were previously recorded in account 232 or account 234 should be included in this account.

17. Section 31.6–65 is amended by adding a new account as follows:

§ 31.6–65 Operating expense accounts to be maintained.

* * * * *

Accounts for Class A Companies.

* * * * *

607 Repairs of public telephone equipment.

* * * * *

Accounts for Class B Companies.

* * * * *

607 Repairs of public telephones.

* * * * *

18. Section 31.605 is amended by revising paragraph (a), the items list and Note A as follows:

§ 31.605 Installations and repairs of station equipment.

(a) This account shall include the cost of installing items of station apparatus (included in 231) and the cost of inside wiring under either the phase-in or flash-cut approach. Under the phase-in approach this installation activity shall be charged to this account on the following basis: 25% between October 1, 1981, and September 30, 1983 50% between October 1, 1982 and September 30, 1983; 75% between October 1, 1983, and September 30, 1984; and 100% after September 30, 1984. Under the flash-cut approach all costs of installation activity shall be charged to this account. Carriers shall maintain the cost of installing wiring under either of the above approaches in a separate subaccount. This account shall also include the cost of reconnecting customers' lines at customers' premises (Note also account 103, account 232 and account 316).

* * * * *

Items

(Note 31.01–8)

The wires (or small cables) extending from the point of connection with (1) terminal boxes of house cables or (2) protectors or other terminating devices of service wires to customers' station apparatus or terminal equipment.
The wires (or small cables) used to connect customers' station apparatus in the same building, such as main stations and extension stations, and stations of intercommunicating systems.
The wires (or small cables) used to connect customers' small private branch exchange switchboards or their distributing frames (or equivalent distributing panels) with terminal stations in the same building.
The wires (or small cables) used to connect the various parts of a customers' small private branch exchange, such as the cables or wires from distributing frames (or equivalent distributing panels) to switchboards.
The wires (or small cables) installed specifically to serve as trunk, battery, or generator circuits from a customers' small private branch exchange to the point of connection with the permanent or service wires.
The wires (or small cables) installed specifically to serve as trunk, battery, or generator circuits for private branch exchanges from the point of connection with the permanent house cable of service wires up to and including the network interface.
Connecting blocks, jacks, ground wires, station protectors, clamps, cleats, nails, screws, and other material used in the installation of customers' station apparatus and inside wiring.
Labor and other costs incurred in connection with customers' station apparatus and wiring installations or additions thereto.
Changing customers' inside wiring.
Changing type of customers' telephone, such as from nondial to dial or from one color to another.
Cleaning customers' station apparatus and large private branch exchange equipment.
Connecting or installing customers' station apparatus.
Disconnecting customers' lines at customers' premises at the System Network Interface or equivalent. (See also accounts 602:2, 602:4 and 604.)
Disconnecting or removing customers' station apparatus.
Inspecting, testing, and reporting on condition of customers' equipment to determine the need for repairs and replacements. (See also account 603.)
Material normally used as repair parts for customers' station apparatus.
Moves or relocations of items of customers' station apparatus.
Number plate changes.
Plant dispatch and completion and related clerical work (e.g., service order dispatch, service order final completion).
Reconnecting customers' lines at customers' premises at the System Network Interface or equivalent. (See also accounts 602:2, 602:4 604.)
Removing customers' inside wiring.
Removing sediment from and cleaning batteries.
Repairing used customers' station equipment for reuse.
Replacing defective customers' station apparatus.
Replacing dry-cell batteries.
Replacing minor items of customers' large private branch exchanges, including labor and material used and the removal and recovery of the items retired less salvage recovered, except when such items are replaced through the replacement of retirement units. (Note also § 31.2–25.)
Replacing one customers' small private branch exchange with another.
Supply expense applicable to customer station apparatus being reused.
Testing for, locating and clearing trouble in customers' station apparatus and large private branch exchanges. (See also account 603.)

Note A.—Costs chargeable to this account in connection with inside cabling are restricted to cables used in station installations instead of wires, such as those that run from wall outlets or floor terminals to the station apparatus, and to cables used in installing small private branch exchanges. The cost of wires or cabling used in installing equipment includible in account 234, "Large private branch exchanges," *other than* those installed specifically to serve as trunk, battery, or generator circuits for large private branch exchanges from the point of connection with the permanent house cable or service wires, up to and including the network interface jack, shall be included in

account 234. The cost of house cable, including associated cross-connection boxes, terminals distributing frames, etc. is chargeable to account 242:1, "Aerial cable."

* * * * *

19. Section 31.607 is added to read as follows:

§ 31.607 Repairs of public telephone equipment.

This account shall include the cost of repairs of public telephone equipment. (Note also account 632.) Carriers shall maintain the cost of repairs for coinless public telephones in separate subaccounts.

Items

(Note § 31.01–8)

Cleaning public telephone equipment.

House service for public telephone equipment.

Inspecting, testing, and reporting on condition on equipment to determine the need for repairs or replacements. (See also account 603.)

Materials normally used as repair parts for public telephone equipment.

Moves or relocations of items of public telephone equipment (within the same accounting area).

Repainting and other repairs of booths, including those owned by others.

Repairing used public telephone equipment for reuse.

Replacing defective public telephone equipment (labor only). (See Note A of this account.)

Supply expense applicable to public telephone equipment.

Testing for, locating and clearing trouble in public telephone equipment. (See also account 603.)

Note A.—The material cost of operating spares shall be charged to account 235. However, the installation labor and repair cost of this equipment shall be charged to this account.

20. Section 31.608 is revised to read as follows:

§ 31.608 Depreciation.

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of depreciable telephone plant, except amounts chargeable to clearing accounts. The depreciation charges shall be made in accordance with §§ 31.02–8 to 31.02–82 and 31.2–23(c). This account shall also include the amount of amortization of station apparatus, station connections, and network terminating wire. (Note accounts 231, 232 and 234 for amortization schedules; note accounts 315 and 174 for depreciation of miscellaneous physical property.)

21. Section 31.8 is amended by revising subsection 221 Central Office Equipment and adding new subsections 235 Public Telephone Equipment and 262 Other Communications plant.

Retirement Units

§ 31.8 List or retirement units.

* * * * *

221 Central Office Equipment

Switchboards, desks and testboards:
- Switchboards (i.e., local, toll, dial system "A", cordless "B", call distributing "B", observing, teletypewriter, etc.)—a complete section or lower unit.
- Desks (i.e., operating, observing, testing, etc.)—a complete section.
- Testboards, or test and control boards (board type)—a complete section.
- Testboards, or test and control boards (rack type):
- All the equipment in one bay.
- A complete upper unit.
- A complete lower unit.
- A complete installation or rack framework for one board.
- Test panels—a complete panel.
- Test cabinets—a cabinet complete with equipment.

Distributing frames:
- Main distributing frames (including wall type)—a complete installation for one central office (in multi-unit offices, for one operating unit).
- Intermediate distributing frames—a complete installation for one central office (in multi-unit offices, for one operating unit).
- Mezzanine balconies—a complete installation for one frame.

Racks:
- Relay rack equipment:
- A panel or unit complete with equipment.
- All the equipment in one bay, exclusive of any panels or units.
- Coil rack equipment—all the equipment on one shelf.
- Message and traffic register rack equipment—all the equipment in one bay.
- Iron framework—a complete line of rack with or without enclosing cabinet or case.

Cable:
- All of the cables in one run used for the same purpose, such as between:
- (1) Main frame and intermediate frame for subscribers' lines.
- (2) Main frame and intermediate frame for outgoing trunk multiple.
- (3) Intermediate frame and connector frame or final frame for subscribers' lines.
- (4) Intermediate frame and answering jacks.
- (5) Intermediate frame and switchboard for outgoing trunk multiple jacks.
- (6) Intermediate frame and switchboard for multiple jacks.
- Iron framework—a complete installation of rack for one cable run.

Power equipment:
- Frame or rack-mounted equipment:
- A panel or shelf complete with equipment, such as fuses, meters, control equipment, etc.
- Iron framework—a complete line of frame or rack for one fuse board, one power switchboard, etc.
- A generator, motor, motor-generator set, gas engine, rectifier, ringing machine, harmonic converter, pole changer, interrupter, power filter, or choke coil.
- Storage batteries:
- A complete battery with or without rack, cabinet, or counter electric motive force cells.
- All positive or all negative plates in an entire battery, i.e., in all cells of a 24 volt battery, in all cells of a morse battery, etc.
- All tanks or all jars of an entire battery.
- A complete battery rack or cabinet, storage or dry.
- A complete group of bus bars, cable, or wiring (with or without conduit) such as between battery and fuse panel, or between power switchboard and machines.

Telephone repeater equipment (including testing equipment):
- A complete floor mounted rack type set.
- Relay rack mounted equipment:
- A panel or unit complete with equipment.
- All the equipment in one bay, exclusive of any panels or units.
- Coil rack mounted equipment—all the equipment on one shelf.
- Iron framework—a complete line of rack.

Carrier equipment (telephone, telegraph, repeater, and testing equipment):
- A complete floor mounted rack type set.
- Relay rack mounted equipment:
- A panel or unit complete with equipment.
- All the equipment in one bay, exclusive of any panels or units.
- A line filter.
- A complete test table.
- Iron framework—a complete line of rack.

Telegraph equipment (printer and manual):
- Telegraph testboard—a complete section or bay.
- Duplex, single line telegraph, and polar repeaters—a table or bay complete with equipment.
- Metallic telegraph repeaters:

A complete floor mounted rack type set.
A panel or unit complete with equipment.
Voice frequency carrier equipment—a panel or unit complete with equipment.
Voice frequency carrier battery supply apparatus:
- A complete bay of equipment.
- A complete test table.
- Iron framework—a complete line of rack.

Telephotograph equipment:
- Table-mounted sending or receiving equipment:
- A table complete with equipment.
- A complete optical system.
- A complete mechanical system.
- A complete fork box.
- A complete amplifier-modulator box.
- Rack-mounted sending or receiving equipment:
- A panel complete with equipment.
- All the equipment in one bay.
- Iron framework—a complete line of rack.
- Power equipment:
- A complete power board.
- A complete storage battery.
- Photographic equipment:
- A copying camera or a copying, enlarging, and reducing camera, each with or

without associated stands, illuminators, and copy boards.
A print machine.
A drying cabinet.
A developing, fixing, and washing tank.
Radio equipment—a complete transmitter and receiver.
Miscellaneous equipment:
A calculagraph, a master clock, or a secondary clock.
Electrically driven calculagraph and clock systems—a complete installation.
Mechanical or pneumatic tube ticket distributing system—a complete installation.
Each complete tool or portable test set the original cost of which was charged to the telephone plant account, such as a plug remover and attacher, cam aligning fixture, multiple bank resetting gauge, or shaft straightening tool, a relay adjusting set, line-finder set, or wagon-type set.
Each complete item of furniture or other miscellaneous equipment, the original cost of which was charged to the telephone plant account, such as a desk or table equipped with central office equipment, an operator's chair, a complete switchboard platform, an operator's telephone set cabinet, a rotary file or directory cabinet, a ticket cabinet or rack, a tarpaulin with or without cabinet, a portable service-observing cabinet, or a holding-time recorder.
Loud speaker equipment—a complete installation.
Aisle-lighting equipment—a complete installation on one floor.
Rolling ladders—a complete installation for one side of one frame or rack.
Message and traffic register cabinets—a cabinet complete with equipment.
Telephone sets including associated inside wiring—a complete item.
Facsimile sets including associated inside wiring—a complete item.
Teletypewriter sets including associated inside wiring—a complete item.
Private branch exchange, including common equipment (power equipment, a switchboard, or switching equipment shared by all stations), station equipment (telephone sets), and wires connecting the common equipment and the station equipment plus the terminal boxes or cross connector points, and cable or wires that connect the private branch exchange with the network interface—a complete item.
Station switching and signaling devices in large installations, such as certain key systems, including relay rack equipment, apparatus cabinets, key cabinets, key boxes, telephone sets, and wires connecting the common equipment and the telephone set plus the terminal boxes or cross connector points, and the cable or wires that connect the key system with the network interface—a complete item.
Panel dial system equipment:
A complete equipment frame such as line-finder frame, line-switch frame, selector frame, link frame, routine test frame, decoder frame, sender frame, or floor alarm board.
Pulse-machine equipment—a complete pulse machine.
Pulse-machine control apparatus—a complete installation controlling a set of pulse machines.
Step-by-step dial system equipment—a complete equipment frame, such as a line-finder frame, line-switch frame, selector frame, connector frame, or repeater frame.
Key-indicator equipment or key-pulsing equipment—a complete equipment frame, such as a link or sender frame.

Note.—When a substantial expenditure is incurred in the replacement of minor items that are parts of a retirement units in a central office or at a large private branch exchange (apart from the replacement of the retirement units with which their cost is associated) for the purpose of improving or changing the type of equipment or its method of operation, the material installed and retired and the labor and incidental costs involved in replacing the minor items shall be handled through the telephone plant and depreciation reserve accounts.

* * * * *

235 Public Telephone Equipment

Housing—a complete installation with or without booth, directory hangers and shelves, shield and public telephone sign.
Pedestal—a complete installation with or without a base plate.
Shelf in proximity to public telephones—a complete installation with or without directory hangers.
Telephone set—a complete item.

* * * * *

262 Other Communications equipment

Units specified under subsection 221 Central office equipment of this section.

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47 CFR Parts 81, 83, and 87

Editorial Amendment of Rules Governing Stations on Land and on Shipboard in the Maritime Services, the Alaska Fixed Service, and the Aviation Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an instruction in final regulations implementing editorial amendments to the FCC's rules relating to Stations on Land and on Shipboard in the Maritime Services the Alaska Fixed Service and the Aviation Service. The codified text appeared correctly in the **Federal Register** on Monday, October 3, 1983. However, instruction 6 was incorrect. It failed to mention that §§ 81.602 and 81.605 were removed, and it erroneously stated that § 81.602 was revised.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Private Radio Bureau (202) 632-7175.

Erratum

In the Matter of Editorial Amendment of Parts 81, 83, and 87 of the FCC's Rules and Regulations.

Released: October 27, 1983.

On September 22, 1983, the Commission released an Order (FCC mimeo 6513) in the above-captioned proceeding. It was printed in the **Federal Register** on October 3, 1983, 48 FR 45114. The order was incorrect in instruction #6. It failed to mention that §§ 81.602 and 81.604 were removed, and it erroneously stated that § 81.602 was revised (48 FR 45115, middle column). The instruction #6, which pertains to Subpart P of Part 81, is corrected to read as follows:

6. Subpart P is amended by revising the heading and adding new center headings; by redesignating § 81.603 as § 81.625 and adding new § 81.603; by adding new §§ 81.609–81.623; by revising §§ 81.601 §§ 81.607; by adding a new § 81.605; and by removing §§ 81.602 and 81.604 as follows:

Robert S. Foosaner,

Chief, Private Radio Bureau.

[FR Doc. 83-28685 Filed 11-1-83; 8:45 am]
BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 48, No. 213
Wednesday, November 2, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final ru es.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1036

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions affecting the regulatory status of milk bottling plants under the order. The proposed action, which would apply during November 1983 through March 1984, was requested by the operator of a distributing plant that is regulated under the order. The proposal would reduce the percentage of a distributing plant's receipts that must be disposed of on routes from 50 percent to 40 percent to qualify such a plant as a pool plant. The proponent contends that the suspension is needed to maintain pool status for its plant because route dispositions have been reduced due to closings of grocery stores during a labor strike.

DATE: Comments are due on or before November 9, 1983.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building; U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures and the inclusion of November 1983 in the suspension period if this is found necessary. The initial request for the action was received on October 25, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have all of their milk deliveries priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is being considered for November 1983 through March 1984.

In § 1036.7(a)(1), the words "50 percent (", and the words, "for each month of April through August)".

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include November 1983 in the suspension period if this is found necessary.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension for November 1983 through March 1984 would reduce the percentage of a distributing plant's receipts that must be disposed of on routes from 50 percent to 40 percent to qualify such a plant as a pool plant. The proposed action was requested by Hawthorn Mellody, Inc., for its Brookfield Dairy plant, which is regulated under the order. Proponent claims that such plant will be unable to meet the minimum route disposition requirement for pool plant status under the order in November 1983 because a strike has closed several grocery stores that buy a significant portion of the plant's fluid milk products.

Proponent anticipates that the stores may be closed for quite some time. For that reason, he asks that the minimum route disposition percentage for distributing plant qualification be lowered from 50 percent to 40 percent of the plant's receipts from November 1983 through March 1984.

Proponent claims that his distributing plant will be unable to pool all of the milk of the individual dairy farmers associated with the plant unless the suspension is granted. He indicated that pool plant status could otherwise be maintained only by withholding from the pool substantial quantities of milk produced by individual dairy farmers. The handler claims that this procedure would be costly to him. Also, depooling the milk of certain dairy farmers would be disruptive to his overall procurement practices, he states. The requested suspension would avoid development of such uneconomic and disorderly marketing conditions, according to proponent.

List of Subjects in 7 CFR Part 1036

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on October 31, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83–29854 Filed 11–1–83; 8:45 am]
BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Rules of Practice for Domestic Licensing Proceedings; Role of NRC Staff in Adjudicatory Licensing Hearings

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Nuclear Regulatory Commission is considering amending its rules of practice to change the NRC staff's role as a full party in administrative adjudicatory hearings in initial licensing proceedings for nuclear power reactors. This advance notice of proposed rulemaking is being issued to invite advice and recommendations on several proposals which are under active consideration and on a series of related questions to help the NRC decide whether and to what extent changes should be made in the NRC staff's present role. The proposals described in this notice may change in light of the comments received.

DATES: The comment period expires December 2, 1983. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Send written comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received by the Commission may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Linda S. Gilbert, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492-7678.

SUPPLEMENTARY INFORMATION:

Background

In November 1981, a Regulatory Reform Task Force composed of senior NRC Personnel was established to review the reactor licensing process of the Nuclear Regulatory Commission. Instructed to develop and make recommendations to the Commission on possible actions, administrative as well as legislative, which could be taken to improve the effectiveness of the licensing process in both the near term and over the longer range, the Regulatory Reform Task Force was asked to consider the following objectives:

—To create a more effective and effective vehicle for raising and resolving legitimate public safety and environmental issues regarding the applications under review,
—To develop means for more effective future use of NRC resources in the licensing of new plants,
—To avoid regulatory uncertainty and placing unjustifiable economic burdens on utilities that may wish to build a nuclear plant (and their rate payers),
—To accomplish the above without impairing protection of public health and safety.

An extensive review system to consider the recommendations of the Regulatory Reform Task Force was also devised. In November 1981, chairman Palladino appointed a Senior Advisory Group to assist him in reviewing materials presented by the Task Force. In March 1982, an Ad Hoc Committee for Review of Nuclear Reactor Licensing Proposals, made up of representatives from industry, public interest groups and state governments, was formed. The review process called for the recommendations of the Task Force to be presented first to the Senior Advisory Group and then to the Commission. After presentation to the Commission, the recommendations were to be forwarded to the Ad Hoc Committee so that its members could review the recommendations and submit a report to the Commission. After the Ad Hoc Committee filed its report, the Commission would determine a course of action.

Since November 3, 1982, when the Regulatory Reform Task Force submitted its draft report [1] to the Commission, the Commission has been meeting periodically to consider the topics covered by the draft report. The Ad Hoc Committee recently filed its final report on the administrative reform proposal. On July 13, 1983, the Commission held a public meeting to discuss a proposal, outlined in Chapter 6 of Part I of the Task Force draft report, to amend Commission policy on participation of NRC staff in initial licensing proceedings. The Commission decided to publish this advance notice of proposed rulemaking outlining its concerns, describing in general terms several possible approaches which are under active consideration, and inviting suggestions and public comments. Following review and analysis of the responses received, the Commission will determine whether and to what extent the NRC staff's present role as an advocate in initial licensing proceedings should be changed and the manner in which its Rules of Practice should be revised.

[1] SECY–82–447, November 3, 1982, transmitting the draft report of the Regulatory Reform Task Force to the Commission for appropriate action. This document has been placed in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555, where it is available for inspection and copying for a fee.

The Role of the NRC Staff in Adjudicatory Licensing Hearings and the Need for Change

In a proceeding for the issuance of a permit to construct or a license to operate a nuclear power reactor, the license applicant has the burden of showing that it can contruct and operate the plant safely. During the course of the licensing proceeding, an intervenor may challenge the applicant. The NRC staff has no stake in the issuance of the license, a circumstance which has led some persons to conclude that there is no need for NRC staff participation in a licensing hearing. However, the Commission relies heavily on the staff's special expertise in determining whether the applicant has met the requirements for issuance of a license and what conditions the license should contain.

The type of hearing used in NRC licensing proceedings is adversarial in nature and requires that all parties, including the NRC staff, advocate specific positions on a variety of issues. The NRC staff makes every effort to address each issue in a fair and objective manner to ensure that the radiological health and safety of the public will be adequately protected. When the staff's participation in the hearing process lends support to the case in favor of the application, however, an impression is created among some members of the public that the NRC staff is advocating the applicant's case. As a consequence, the credibility of the Commission as an impartial and objective regulatory agency has been questioned. This perception of partiality has contributed to an erosion of public confidence in the safety of nuclear power plants.

Under the Atomic Energy Act of 1954, as amended, the function of the Nuclear Regulatory Commission and its staff is to protect the radiological health and safety of the public. In carrying out its duties as a full party in a contested licensing proceeding, the NRC staff must satisfy this statutory obligation to represent and protect the public interest. In view of the importance and highly technical nature of the safety issues which must be considered in determining whether, or under what

conditions, to license a nuclear power plant, the Commission is concerned whether participation by the NRC staff as an advocate in individual licensing proceedings, is the most effective method of achieving this objective. It is conceivable that the interest of the public in securing adequate radiological health and safety protection might be better served, and the expertise of the NRC staff better used, if staff resources now committed to litigating admitted contentions in individual licensing proceeding were reduced and more staff resources were made available for the study, analysis and resolution of other important noncontested matters involved in particular proceedings and generic safety questions common to one or more classes of light water reactors. A separate, but related, concern is whether limiting the participation of the NRC staff in individual licensing proceedings will mitigate in any meaningful way the legal constraints placed on the Commission's access to and use of NRC staff expertise by the separation of functions requirements of the Administrative Procedure Act.[2]

Proposals Under Consideration

The Commission is actively considering several proposals for restructuring the role of the NRC staff in formal administrative adjudications[3] in contested initial licensing proceedings.

Option 1

The first proposal would alter the NRC staff's current role as a full party in all formal licensing adjudications by limiting staff participation as a party in contested initial licensing proceedings to those controverted factual issues on which it disagrees with the technical bases, rationale or conclusions of the license applicant or other parties in the proceeding. This proposal would also permit the staff to act as an *amicus* in these proceedings. As an *amicus*, the staff would be able to advise presiding officers on the record regarding any other matter in the proceeding, either on its own initiative or upon request of the presiding officer. The proposal would not change the NRC staff's role as a full party in other types of proceedings, such as enforcement matters.

Under Option 1, the staff would become a party to contested proceedings involving initial licensing on a discretionary basis. If the staff disagrees with a party's technical basis, rationale or conclusions, the staff could provide notice to the parties and introduce evidence at the hearing articulating its position and its basis for disagreement. In this way, the staff would become a party to the proceeding, but only with respect to the particular issue(s) on which it elected to participate. Other parties would have an opportunity to rebut the staff's evidence. Cross-examination by and of the staff would also be permitted to the extent otherwise allowed by the Commission's Rules of Practice.

With respect to Option 1, several points should be emphasized. First, Option 1 would apply only to initial licensing proceedings. Initial licensing would include any formal proceeding on an application for a construction permit, operating license, or any other license for a facility or other activity, including any amendment or modification. Normally excluded from initial licensing would be proceedings involving the renewal, revocation, suspension, annulment, withdrawal or agency-initiated modification of licenses. Thus, under Option 1, the staff would remain a full party in all agency enforcement actions and in all license renewal and withdrawal proceedings.

Second, Option 1 would permit discretionary participation by the staff on one or more issues in a proceeding. There may be instances where the public interest would be better served through staff participation as a party. For example, the staff may take exception to a methodology, analysis or conclusion of a party and, therefore, may find it necessary to function as a formal party on selected issues in order to fully develop the record. The frequency of staff participation as a party in such instances would depend on the standards chosen to govern such participation. Within that constraint, this provision would give the staff the flexibility to carry out the agency mission as circumstances may require.

Third, under Option 1 the staff would become a party to the proceeding only with respect to the particular issue(s) on which it elected to participate. Thus, while the staff would submit evidence, file proposed findings of fact, take appeals, and otherwise exercise party rights on matters relating to those elected issues, the staff would not participate on other matters, except to a limited extent as an *amicus*.

In addition to permitting the staff to become a party to an initial licensing proceeding on a particular issue, Option 1 would permit the staff to participate in the proceeding to a limited extent as an *amicus*. In this capacity, the staff could provide on-the-record advice "on any matter in the proceeding" to the presiding officer, either on its own initiative or at the request of the presiding officer. The staff and presiding officers would have great flexibility in providing or requesting advice. The only exception would be that such advice could not be requested or provided concerning issues on which the staff was already participating as a party

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[2] 5 U.S.C. 554(d) states: "The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title, unless he becomes unavailable to the agency. Except to the extent required for the disposition of ex parte matters as authorized by law, such an employee may not—

(1) Consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or

(2) Be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative of prosecuting functions for an agency.

An employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 557 of this title, except as witness or counsel in public proceedings. This subsection does not apply—

(A) In determining applications for initial licenses;

(B) To proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or

(C) To the agency or a member or members of the body comprising the agency."

[3] The Nuclear Regulatory Commission and its predecessor agency, the Atomic Energy Commission, have consistently taken the position that reactor licensing proceedings, which are subject to the hearing provisions of section 189a. of the Atomic Energy Act of 1954, as amended, are on-the-record adjudications under the applicable provisions of the Administrative Procedure Act (5 U.S.C. 554, 556 and 557).

Section 189a.(1) of the Atomic Energy Act of 1954, as amended, provides: "In any proceeding under this Act, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award, or royalties under sections 153, 157, 186c., or 186, the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. The Commission shall hold a hearing after thirty days' notice and publication once in the **Federal Register**, on each application under section 103 or 104b. for a construction permit for a facility, and on any application under section 104c. for a construction permit for a testing facility. In cases where such a construction permit has been issued following the holding of such a hearing, the Commission may, in the absense of a request therefor by any person whose interest may be affected, issue an operating license or an amendment to a construction permit or an amendment to an operating license without a hearing, but upon thirty days' notice and publication once in the **Federal Register** of its intent to do so. The Commission may dispense with such thirty days' notice and publication with respect to any application for an amendment to a construction permit or an amendment to an operating license upon a determination by the Commission that the amendment involves no significant hazards consideration."

because of a disagreement with the license applicant or other party.

While *amicus* advice on any procedural or substantive matter pending before a presiding officer would be permitted, such advice would not necessarily be offered or solicited routinely. The Commission could direct that the *amicus* mechanism be used sparingly for unusal, important or complex questions in which the staff perspective could be of significant benefit to the presiding officer. For example, a presiding officer may wish to request staff views on the merits of a motion for summary disposition which concerns a key issue in a proceeding, or the staff may wish to provide its views to a presiding officer when it believes that a particular procedural request or substantive issue may have significant implications for other proceedings or invites an unwarranted departure from past practice. Formal cross-examination of staff members could be provided, or the parties to the proceeding could be given a reasonable opportunity to comment on the staff's views.

Under Option 1, the staff would continue to be served with all documents filed in the proceeding, regardless of whether the staff participates as a party or acts as an *amicus*. However, the Commission's formal procedural rules governing the staff's participation, including the deposition of named NRC employees and the answering of interrogatories by NRC personnel, could be used to reach the staff concerning only those issues on which the staff participates as a party. Any ACRS report, safety evaluation report or environmental impact statement relating to the proceeding might be deemed to be admitted as part of the hearing record of the proceeding without the formality of being offered into evidence by the NRC staff. Or, the staff could be required to respond to discovery requests on these documents, and to provide witnesses to sponsor the documents and to respond to cross-examination.

Option 2

Like Option 1, Option 2 would apply only to initial licensing proceedings. The staff would remain a full party in all agency enforcement actions and in all license renewal and withdrawal proceedings. Under Option 2, however, the role of the NRC staff in initial licensing proceedings would be structured somewhat differently in order to permit the staff to carry out its primary function in those proceedings; namely, to assist in the development of a full and balanced record. In this way, the staff would help the Licensing Board and the Commission to make a sound determination in the case—the kind of determination that would foster greater public confidence in the level of protection provided with respect to radiological health and safety matters.

In order to accomplish these objectives, the NRC staff would cease to function as an advocate in initial licensing proceedings. Under Option 2, the NRC staff would not be involved in the resolution of any procedural matters, including, for example, such matters as the standing of persons to participate in the proceeding, qualifications of witnesses and the relevance of testimony. Nor would the NRC staff be involved in the selection and formulation of contentions or in the preparation of proposed findings of fact or conclusions of law.

Once the contentions have been formulated and the issues joined in a particular proceeding, however, the NRC staff would be required to supply views and analyses for the record on every substantive issue raised. Neither the staff nor the Licensing Board would have any discretion in selecting issues on which the staff would present evidence. All substantive issues to be considered in the hearing would have to be addressed. The NRC staff would be required to respond to discovery requests, would be subject to cross-examination and would be permitted to cross-examine witnesses of other parties who challeged the staff's analyses. Although the NRC staff would be permitted to submit views respecting possible license conditions, it would be precluded from providing formal findings of fact and conclusions of law. Instead, the applicant and the intervenor, as the parties in dispute, would be responsible for preparing proposed findings of fact and conclusions of law. Responsibility for summarizing the record in the proceeding and for making the requisite factual findings and legal conclusions to support the decision reached would rest in each case with the Licensing Board.

Option 3

Option 3 would be to retain the staff's existing role in the licensing process. The staff would continue to function as a full party advocate on all aspects of initial licensing proceedings. This option could be implemented without any modification of existing practice. Alternatively, it could be coupled with measures designed to improve public perception of the staff's role (as, for example, in Option 4 below) or to allow greater Commission access to staff expertise, consistent with applicable law.

Option 4

Option would involve expanded public involvement in initial licensing proceedings before a notice of opportunity for hearing is issued. This option could be used in combination with any of the first three options. It would require that, whenever the applicant and staff met to discuss various aspects of the license application and to resolve their differences, notice of the meeting would be provided and interested persons would be permitted to attend. Meetings would be held in places convenient for interested members of the public; *i.e.*, near the proposed plant site rather than at Commission headquarters. Interested persons would be permitted to identify and discuss issues of particular concern regarding the application and to ask questions of the applicant and staff. Thereafter, the staff would address those questions and concerns in a section of its Safety Evaluation Report, much as it now discusses comments received on its environmental analaysis in the Environmental Impact Statement.

This option would allow interested members of the public to observe the staff's initial review of the application and to contribute to the process of negotiating with the applicant for various changes that may be considered desirable. It would likely contribute to increased public understanding of the staff's role. It could also provide useful information about local and site-related concerns in a non-adversarial setting.

Questions and Concerns

In its preliminary consideration of the role of the NRC staff in initial licensing hearings, the Commission has identified several matters relating to the NRC staff's responsibility to the public and to the basic fairness and integrity of the licensing proceeding which it believes warrant careful study and should be taken into consideration in assessing the strengths and weaknesses of any specific proposal. Advice and recommendations on the relevance and relative importance of these matters and on any other points considered pertinent are invited from all interested persons. comments and supporting reasons are also requested on the extent to which Options 1 and 2, or any suggested alternative proposal, might provide a constructive response to these concerns. Responses to the following questions are particularly requested.

General

1. What should be the role of the NRC staff in initial licensing proceedings? Why?

2. Should the staff present its views on all aspects of the proceeding?

a. Does the staff have a public obligation to do so?

b. Is the staff's participation necessary to develop a sound record for decisionmaking?

3. What role for the NRC staff would make the most effective use of staff resources?

4. What do commenters believe is the public's perception of the staff's role in the licensing process? Would any of the proposed options help to improve that perception?

5. Would changes in the staff's role be useful in alleviating legal constraints on the Commission's access to staff expertise on contested issues?

Option 1

1. Should the staff be accorded the discretion to choose those substantive issues on which it will participate in initial licensing proceedings?

a. What criteria should the staff use in determining on which issues it will participate?

b. If the staff does not choose to participate, what would be the status of staff-prepared documents in those proceedings—for example, the SER and the EIS? Should the staff's licensing review documents be treated as evidence and always entered into the record of the proceeding? Should the staff have to provide witnesses to sponsor those documents? Should parties be permitted to examine those witnesses? Should parties be able to obtain discovery on information covered in those documents?

c. To what extent and under what conditions should discovery be permitted against the staff?

d. Should members of the staff serve as witnesses in the hearing—either as Board witnesses or as witnesses for a party?

e. If the Commission consults staff members concerning contested issues on which the staff is not a "party", what legal constraints would there be on the relationship of those staff members to the parties? to other staff members? to the Licensing Board?

2. Should the staff serve as an informal or formal advisor to the licensing board on contested issues on which it does not participate as a party?

a. How formal should the staff's participation be? Should staff members serve as board witnesses? Should they provide their advice in writing?

b. Should parties be able to question or dispute that advice? obtain discovery on it? cross-examine staff witnesses?

c. If the staff advises the licensing board, are there any legal constraints on the relationship of those staff members to the parties? to the Commission? to other staff members?

3. What should be the staff's role on appeal?

Option 2

1. If the staff remains a party in initial licensing proceedings, should it take a position on procedural issues?

a. Should the staff be given the discretion to choose on which procedural issues it will provide views?

b. Should the Commission establish criteria to guide the staff on when to participate on procedural issues? What should they be?

c. Should the staff participate in the formulation of contentions?

d. Should the staff be required to file proposed findings of fact and conclusions of law?

2. What should be the staff's role on appeal?

Option 3

1. Can steps be taken to improve the public's perception of the staff's role in licensing proceedings without altering the staff's existing role as an advocate?

Option 4

1. Should the Commission provide an opportunity for greater public involvement in the early states of licensing proceedings?

2. How might that approach affect public perception and acceptance of the staff's role? negotiations between the applicant and staff concerning the application? resolution of contested aspects of the application?

Availability of Reference Documents

In recent years, several studies and reports have been written, both within and outside NRC, re-examining the NRC staff's role in the adjudicatory licensing process. Commenters are invited to examine the following documents which fall within the scope of and are particularly pertinent to the topic addressed in this advance notice of proposed rulemaking.

1. NUREG–0292, "Nuclear Power Plant Licensing: Opportunities for Improvement," June 1977.

2. Marcus A. Rowden, Report: *Achieving a More Effective Licensing Process—Basic Reform Withing Existing Law*, Atomic Industrial Forum, 6–8 November, 1981.

3. NRC Office of General Counsel, *Study of NRC Staff's Role in Contested Nuclear Power Reactor Initial Licensing Proceedings*, June 3, 1983.

4. Draft Report of the Regulatory Reform Task Force, November, 1982.

5. Final Report of the Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals on The Administrative Reform Proposals of the Regulatory Reform Task Force, July 12, 1983.

These documents have been placed in the Commission's Public Document Room at 1717 H Street, NW., Washington, D. C. 20555 where they are available for inspection and copying for a fee.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

The authority citation for this document is: Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201).

Dated at Washington, D.C., this 27th day of October, 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc.–83–29742 Filed 11–1–83; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR–83–10]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the

inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before January 3, 1983.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn. Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB-10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on October 27, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
23751	Bell Helicopter, Textron Inc.	*Description of Petition:* To amend registration marks requirements as follows: (1) FAR 45.27(a) be amended to read ". . . horizontally on both side surfaces (tailboom) the marks . . ." (2) FAR 45.29(b)(3) be amended to read ". . . must be at least six inches high, . . ." (3) FAR 45.29(f) be amended to read "If the surface authorized for displaying required markes under 45.25 is not large enough for displaying the required marks under 45.25, then marks as large as practicable shall be displayed." *Regulations affected:* 14 CFR 45.27(a), 45.29(b)(3), and 45.29(f) *Petitioner's reason for rule:* By imposing this 12-inch registration number on helicopters there has been a significant economic impact on a substantial number small entities. Further, there are in excess of 9,000 helicopters being operated in the U.S. by operators meeting the criteria for small entities. Our analysis of this cost for compliance by helicopter owners is in excess of $9,000 per aircraft. Of this amount $3,000 to $5,000 is attributed to the industrial designer for development of the paint scheme and $6,000 is for the repaint of the aircraft. We believe that these are significant costs to us, the manufacturer, and to the thousands of operators using Bell products. Six-inch high N-Numbers located on the tailboom would establish a commonality throughout the aerospace industry for both rotorcraft and fixed wing, which would obviously be beneficial for easy identification to both air traffic personnel and the general public. Standardizing the registration numbers on the tailboom would also result in increased commonality with Foreign Government requirements further reducing both foreign and domestic operator hardships in renumbering and repainting cost associated with the transfer of aircraft across international boundaries.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the rule requested
None this period		

[FR Doc. 83-29729 Filed 11-1-83; 8:45 am]
BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3 and 10

Temporary Licenses; Statutory Disqualification From Registration; Notice of Statutory Disqualification and Other Regulatory Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Futures Trading Act of 1982 ("1982 Act") amended the registration provisions of the Commodity Exchange Act ("Act") to provide the Commission with greater flexibility in the administration of its registration program. Specifically, the Act, as amended, authorizes the Commission to grant temporary licenses to qualified applicants for a period not to exceed six months and, in addition, establishes a new system of "statutory disqualifications" which enumerate the most important bases for finding applicants or registrants unfit for registration. These statutory disqualification standards are particularly important in connection with any temporary licensing program in that they will permit the Commission staff to determine, generally on the face of an application, whether the applicant qualifies for a temporary license.

The Commission is thus proposing regulations to implement these new provisions of the Act. In accordance with Congressional expectations, the proposed rules with respect to the statutory disqualification provisions of the Act will promote fairness and uniformity of treatment by providing applicants and registrants with advance notice of the most significant standards for disqualification used by the Commission and the likely regulatory response to the existence of such standards. Moreover, as also intended by Congress, the Commission's staff in most cases will no longer bear the burden of establishing what conditions warrant a Commission finding of unfitness. Therefore, the amount of time and resources which the staff, as well as applicants and registrants, currently devote to registration cases should be correspondingly reduced.

The Commission is also proposing to adopt certain technical and conforming amendments to its existing registration rules contained in Part 3 and Part 10 of the Commission's regulations.

DATE: Comments must be submitted no later than December 2, 1983.

ADDRESS: Send comments to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Kevin M. Foley, Chief Counsel, or Bruce A. Beatus, Attorney, Division of Trading and Markets, at the address listed above. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The Futures Trading Act of 1982, Pub. L. 97-444, 96 Stat. 2294 (1983), amended the Commodity Exchange Act [1] in

[1] 7 U.S.C. 1 *et seq.*

several important respects to provide the Commission with greater flexibility in the administration of its registration program. Specifically, the Act was amended to authorize the Commission to grant temporary licenses under certain circumstances [2] and to establish a system of "statutory disqualifications" from registration.[3] In enacting these amendments, Congress intended to "streamline and simplify the current registration procedures to enable the Commission to register fit persons more expeditiously and to remove unfit persons from the industry more promptly." [4]

By its very nature, the making of a full fitness check can be timeconsuming. Generally, a minimum of 8 to 10 weeks are required to process an application for registration as an associated person ("AP"), even if the applicant, on the basis of the application itself, which includes a sponsor's certification as to fitness, does not appear to be unfit for registration. Because an applicant may not act in any capacity requiring registration during this fitness review period, certain hardships may be imposed on firms and, in particular, individuals seeking to enter the futures industry. Therefore, the Commission requested and Congress granted the Commission authority to issue temporary licenses to apparently qualified applicants pursuant to such rules, regulations and orders as the Commission may adopt.

Although the process by which registration is granted may seem an unnecessarily lengthy one, the process by which registration is denied, suspended or revoked takes even longer. Prior to the 1982 Act, a full administrative proceeding pursuant to section 6(b) of the Act and the Commission's rules of practice [5] was required before any registration could be denied, suspended or revoked.[6] Moreover, the only statutory standards for denial, suspension or revocation were felony convictions, outstanding suspension or revocation, debarrment from federal contracting, false or misleading statements in a registration application, or "for other good cause shown." [7]

The lack of more specific bases upon which registration could be denied, suspended or revoked, the limiting of the expedited procedure to matters specified in the rules, and the requirement that all proceedings be conducted pursuant to section 6(b) of the Act often meant that the status of a person's registration would not be resolved for a year or more. Pending final determination, an applicant would be unable to act in any capacity requiring registration. More important, however, a registrant who, for example, may have been convicted of a felony in a separate criminal proceeding and was clearly unfit to be registered, could nonetheless remain in business for a number of years. Thus, the procedure was unfair both to applicants who might ultimately be found fit to be registered and to customers who might be affected by the misconducted of an unfit registrant.

The 1982 Act significantly revised the former statutory framework by enumerating the most important bases for finding applicants or registrants unfit for registration and by providing the Commission with the authority, in appropriate cases, to deny, condition, restrict and suspend the registration of a registrant without a hearing. These revisions are intended to expedite the denial of entry into or the removal from the futures industry of persons who are clearly unfit for registration.

The following is a summary of the administrative procedures which the Commission is proposing to adopt to make use of its authority to provide for the granting of temporary licenses to apparently qualified applicants for registration as associated persons and to implement the new system of statutory disqualification from registration established in the 1982 Act. The Commission believes that these procedures will fulfill the House Agriculture Committee's expectation that the statutory authority granted in sections 8a(1)–8a(4) of the Act:

> * * * will permit the Commission to develop an expedited procedure for registration, provide notice of the most important fitness standards which the Commission will apply, and promote uniformity of treatment of applicants and registrants.[8]

II. Temporary Licenses

Section 8a(1) of the Act has been amended by the 1982 Act to authorize the Commission to grant a temporary license to an applicant for registration for a period not to exceed six months, subject to such rules as the Commission may adopt. Even if the Commission has received no derogatory information concerning an applicant or, as appropriate, an applicant's principals (either from the applicant itself or from other sources), a minimum of 8 to 10 weeks nonetheless is presently required to process a properly completed application for initial registration. Much of this time is necessary to permit the Federal Bureau of Investigation and the Securities and Exchange Commission to check their records to assist the Commission in evaluating the applicant's fitness for registration. This is true even though the vast majority of applicants are qualified for registration. In this regard, the Commission estimates that less than one percent of applicants are eventually found to be disqualified from registration because of past misconduct.

Therefore, pursuant to the provisions of section 8a(1) of the Act, the Commission is proposing procedures which will permit an apparently qualifed applicant for registration as an associated person to begin work prior to completion of a full fitness check.[9] The Commission, however, is not proposing to extend the applicability of these procedures to applicants for registration in other capacities (*i.e.*, futures commission merchants ("FCMs"), introducing brokers, commodity pool operators, commodity trading advisors and floor brokers).

The Commission believes that a temporary license is particularly appropriate for an applicant for registration as an AP because such an applicant must be sponsored by another registrant which must conduct a preliminary fitness check of the

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[2] Section 8a(1) of the Act, *as amended by* the Futures Trading Act of 1982, Pub. L. 97–444, section 223, 96 Stat. 2310 (1983).

[3] Section 8a(2)–8a(4) of the Act, *as amended by* the Futures Trading Act of 1982, Pub. L. 97–444, section 224(1)–(4), 96 Stat. 2310–15 (1983).

[4] H.R. Rep. No. 565 (Part 1), 97th Cong., 2d Sess. 50 (1982).

[5] 17 CFR Part 10 (1983).

[6] Sections 8a(2) and 8a(3) of the Act, 7 U.S.C. 12a(2) and 12a(3) (Supp. V 1981). The former section 8a(2)(A) of the Act did permit summary denial of an applicant whose prior registration had been suspended (and such suspension was still in effect) or revoked. There also existed an expedited procedure for commencing a proceeding to deny registration to an applicant with an obvious disqualification, with authority delegated to the Director of the Division of Trading and Markets. However, the applicant still was accorded a full "on the record" hearing. *See* Rule 3.20, 17 CFR 3.20 (1983).

[7] Section 8a(2)(B) of the Act, 7 U.S.C. 12a(2)(B) (Supp. V 1981). In 1975, the Commission issued an interpretative statement which set forth a number of factors which, in the Commission's opinion, would constitute "other good cause" for denial of an application for registration. 40 FR 28125 (July 3, 1975). This interpretative statement was amended in 1980. 45 FR 14210 (March 5, 1980).

[8] H.R. Rep. No. 565 (Part 1), 97th Cong., 2d Sess. 98 (1982).

[9] Although the Commission is proposing these temporary license rules at this time, the Commission is still conducting a study of the feasibility of itself implementing temporary licensing. If the Commission should determine that it cannot implement this program itself, it nonetheless may delegate to the National Futures Association ("NFA") the authority to grant temporary licenses to those associated persons whom the NFA is authorized to register.

applicant and which must directly supervise the applicant's conduct.[10] In contrast, other registrants are not subject to such scrutiny or direct supervision. Moreover, if a temporary license were granted to applicants other than APs, the applicant would be able to commence business, hire employees and, in the case of an FCM, accept customer funds, subject to a subsequent denial determination by either the Commission or the National Futures Association. The Commission believes that the potential disruptions to both customers and employees which might result from interrupting an ongoing business outweigh the benefits which might be achieved by granting temporary licenses to such applicants.

The procedures the Commission is proposing set out the conditions for obtaining a temporary license. Temporary licenses will be granted only to applicants who contemporaneously file with the Commission: (1) A properly completed Form 8–R which contains no derogatory information;[11] (2) alegible set of fingerprints on a fingerprint card provided by the Commission (or a copy in certain cases); and (3) the appropriate sponsor's certification. *See* proposed § 3.40. These procedures differ from the procedures for registration of associated persons presently set forth in Commission rules 3.12 and 3.16 in that under those rules: (1) An applicant eventually may be registered even if the application discloses derogatory information; and (2) the sponsor's certification may be submitted after the application has been filed.

Before granting a temporary license, the Commission's staff will review the application and query its own computer files to ensure that the Commission has no information indicating that the applicant may be subject to a statutory disqualification. If the Commission has such information, obviously a temporary license will not be granted. In this connection, the Commission wishes to remind applicants and their sponsors that it is a felony under section 9(b) of the Act, 7 U.S.C. 13(b) (1982), "knowingly to make any false or misleading statement of a material fact in any registration application * * *, or knowingly to omit in any application * * * any material fact that is required to be stated therein." *See also* 18 U.S.C. 1001. Moreover, any willfully false or misleading material statement or omission of a material fact is a separate basis for disqualification from registration.[12]

The Commission also wishes to emphasize that, if the temporary license program is to succeed, applicants and their sponsors must comply with these filing requirements exactly. If the Form 8–R is incomplete or the fingerprint card is illegible or the sponser's certification does not accompany the application, the application will be returned to the applicant. The application fee, however, will not be returned.

If the Commission's staff were required to spend as much time as it currently spends dealing with deficient applications, the temporary license program would surely fail. Although it is the applicant's responsibility to file a complete application with the Commission, applicants have become so lax that fully forty percent of all applications filed are deficient in some way. As a result, an unnecessary burden is placed on the Commission's staff and the time required to process all applications is increased. Thus, those who file complete applications suffer additional delays.

The Commission's proposal would permit an individual who receives a temporary license to act in the capacity of an associated person and would require that individual to comply with all of the obligations imposed on APs by the Act and the Commission's rules, regulations and orders thereunder. In particular, individuals who have received a temporary license would be subject to reparations proceedings under section 14 of the Act. The grant of such a temporary license, however, would not constitute registration, or create any inference in favor of registration, nor would denial of a temporary license necessarily mean that ultimately registration would be refused. *See* Proposed § 3.41.

As noted above, section 8a(1) of the Act provides that the term of a temporary license may not exceed a period of six months. The Commission believes that the applications of applicants who have received temporary licenses will be processed before the expiration of that six month period. If the applicant is found fit for registration, he will be registered; if he is found to be subject to a statutory disqualification, the applicant will be sent a notice of intent to deny under proposed rules §§ 3.52 or 3.60 and the temporary license will be terminated immediately.[13] In the event that the Commission fails either to register the applicant or to serve notice of its intent to deny registration before the six month period has expired, the proposed rules provide that registration will be granted automatically.[14] See proposed §§ 3.42–3.43.

III. Statutory Disqualifications

Among the more significant amendments to the Act adopted in the 1982 Act are those contained in sections 8a(2) through 8a(4) of the Act, which establish a system of statutory disqualifications from registration and provide the Commission with greater flexibility in the administration of its registration program. The 1982 Act creates a two-tiered system of statutory disqualifications. The most egregious bases for disqualification from registration are set forth in section 8a(2) of the Act. The registration of an applicant or registrant subject to a section 8a(2) disqualification may be denied, conditioned, restricted or suspended "upon notice, but without a hearing" and may be revoked "with such hearing as may be appropriate." Thus, persons whose prior conduct has rendered them statutorily disqualified from registration may be denied registration or temporarily suspended from registration without first being provided a complete oral hearing pursuant to section 6(b) of the Act.

The disqualification standards set forth in section 8a(3) of the Act are of the type for which additional evidence may be useful. Therefore, if an applicant is subject to one of the section 8a(3) disqualification standards, the Commission may refuse to register such person or, pursuant to section 8a(4) of the Act, may suspend, revoke, condition or place restrictions upon the registration of a disqualified person, but only after the opportunity for a hearing. The procedures which the Commission is proposing to adopt to implement the

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[10] *See, e.g.*, Section 4k(5) of the Act, 7 U.S.C. 6k(5) (1982) and Commission rule § 166.3, 17 CFR 166.3 (1983).

[11] The Commission is presently revising the Form 8–R so that applicants and the Commission staff may more readily identify past conduct which may subject the applicant to a statutory disqualification from registration.

[12] Sections 8a(2)(G) and 8a(3)(G) of the Act, 7 U.S.C. 12a(2)(G) and 12a(3)(G) (1982).

[13] A temporary license also will terminate whenever the association of the applicant with the registrant which filed the sponsorship certification ceases. This is consistent with the provisions of Commission rules §§ 3.12(b) and 3.16(b) which provide that the registration of an AP ceases when the AP ceases to be associated with the sponsoring registrant.

[14] A person who receives a letter granting a temporary license to act as an associated person will not receive a second letter when registration has been granted. Since a person who has not been notified of the Commission's intent to deny registration before the expiration of six months is automatically registered, the Commission believes that a second letter is unnecessary. However, the Commission (or NFA when it has been delegated more of the Commission's registration responsibilities) will publish a directory of registered APs from time to time.

provisions of sections 8a(2) through 8a(4) of the Act are described below.

A. Withdrawal of Application for Registration

Since late 1978, the Director of the Division of Trading and Markets, pursuant to authority delegated by the Commission, has been able to send an applicant for registration a so-called "withdrawal" letter under Commission rule § 3.20 (formerly rule 1.10e), 17 CFR 3.20 (1983), if it appears that the applicant would be found unfit for registration after further investigation, generally in circumstances where the applicant has disclosed disqualifying information on the application or such information has been obtained as a result of the fitness checks conducted by the Federal Bureau of Investigation or the Securities and Exchange Commission. The withdrawal procedure permits applicants who receive such letters to withdraw their applications, in which case the procedures for denial of registration will not be instituted. If the recipient of a "withdrawal" letter wishes to pursue registration rather than to withdraw, the applicant has 30 days in which to confirm that the Commission should give the application further consideration.

The Commission has adapted this[14] existing withdrawal procedure to the proposed regulations implementing sections 8a(2) through 8a(4) of the Act. Under this proposal, whenever the Commission has information which indicates that an applicant may be subject to a statutory disqualification under sections 8a(2) or 8a(3), the applicant will be notified and given the opportunity to withdraw the application. This function is delegated to the Director of the Division of Trading and Markets, who is required to issue the withdrawal notice in every applicable case. *See* proposed § 3.51. If the applicant elects to pursue registration, a denial proceeding under section 8a(2) or section 8a(3), as appropriate, will be instituted.

B. Denial of Registration Pursuant to Section 8a(2)

Under the amendments contained in the 1982 Act, an applicant subject to a statutory disqualification under section 8a(a) of the Act may be denied registration upon notice, but without a hearing. The House and Senate Committee Reports on the 1982 Act suggest how Congress intended this provision to be implemented. For example, the House report provides:

> It is contemplated that the Commission will develop procedures pursuant to section 8a(2) that will provide adequate notice to an applicant or registrant that the Commission has information which indicates that he is subject to a statutory disqualification, and which also will afford him an opportunity to reply or explain in writing (e.g., advise the Commission of a clerical error or a case of mistaken identity).

H.R. Rep. No. 565 (part 1), 97th Cong., 2d Sess. 96–97 (1982). Similarly, the Senate Report indicates that under section 8a(2) "[t]he Commission could take [action other than revocation] after notice but without giving the affected party a hearing," but also expresses the expectation that "the Commission will develop procedures pursuant to section 8a(2) which will satisfy the constitutional requirements of due process of law." S. Rep. No. 384, 97th Cong., 2d Sess. 36, 92 (1982). *Accord,* 128 Cong. Rec. S13074–75 (daily ed. October 1, 1982) (remarks of Sen. Helms).

It is thus clear that Congress expected that the Commission would use the flexibility provided by section 8a(2) to develop procedures which would expedite the processing of registration applications for persons subject to section 8a(2) disqualifications, while at the same time satisfying due process requirements. The Commission has not chosen to interpret the words "without a hearing" literally to preclude any showing with respect to the alleged disqualification. The applicant will have an opportunity to establish that a factual error has been made and that the applicant is not subject to a statutory disqualification. The type of hearing which the Commission proposal contemplates, however, is a hearing which will provide "an opportunity to reply or explain in writing," without opportunity for an oral presentation, as to certain limited matters concerning the fact of the statutory disqualification.[15]

Consistent with Congressional intent, the Commission is proposing procedures that provide for written notice to an applicant that the Commission is in possession of information which indicates that such an applicant is subject to a section 8a(2) disqualification, that the applicant may submit evidence in writing (not including evidence with respect to rehabilitation) challenging the accuracy of the allegations set forth in the notice within a specified period of time and that, if the applicant is subject to the disqualification indicated, the registration can be denied. *See* proposed § 3.52. A copy of the record establishing the disqualification, *e.g.*, the court order of conviction or injunction upon which the notice is based, would be enclosed therewith.

Under the proposal, the applicant will have twenty days after notice is served to file a written response. If the applicant files a written submission challenging the accuracy of the allegations against him, the Division of Trading and Markets and the Division of Enforcement will have ten days in which to file a reply. Thereafter, a hearing officer, based upon the written record, will determine whether the applicant is subject to a statutory disqualification. If the hearing officer finds that the applicant is subject to a statutory disqualification, the hearing officer must issue an order denying registration which will become effective as a final order of the Commission ten days after it is served on the applicant, unless an appeal is filed with the Commission.[16] *See* proposed § 3.53.

As the legislative history indicates, once the fact of the disqualification is established, Commission action affecting the person's registration application or status follows as a matter of law.[17] Therefore, the type of written submission contemplated under this proposal does not include the submission of arguments concerning matters other than those directly bearing on the existence of the disqualification such as a clerical error in a governmental record or a case of mistaken identity.

Moreover, as noted earlier, Congress granted the Commission greater flexibility in the administration of its registration program by authorizing the Commission to condition as well as deny an application for registration. At the same time, however, Congress expressed its intent that the procedures adopted by the Commission ensure the uniform treatment of all applicants.[18] In order to ensure such uniformity, and given the nature of the violations set forth in section 8a(2), the Commission has determined that it will not exercise its authority to grant conditional registrations to persons subject to 8a(2) disqualifications at this time. The Commission believes that applicants

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[15] As already noted, the key distinction between sections 8a (2) and (3) is that under section 8a(2) (and unlike under former law) the Commission is not required, except in the case of a proceeding to revoke the registration of a registrant, to provide an opportunity for a hearing to an applicant or registrant. Therefore, the Commission has determined not to provide an opportunity for an oral presentation by the applicant who may be subject to a section 8a(2) disqualification.

[16] If the applicant fails to file a written submission, proposed rule 3.54 provides that the applicant will be deemed to be in default and registration will be denied.

[17] *See, e.g.,* H.R. Rep. No. 565 (Part 1), 97th Cong., 2d Sess. 96 (1982).

[18] H.R. Rep. No. 565 (Part 1), 97th Cong., 2d Sess. 96 (1982).

subject to such disqualifications are not qualified to enter the business and thus should not be registered under any conditions. This finding is essential if the procedures for denial are to be as uniform and expeditious as possible. The Commission will follow closely the implementation of this determination, however, and will monitor its effect to assess whether undue hardship results.

C. Suspension and Revocation Under Section 8a(2)

With respect to registrants subject to a section 8a(2) statutory disqualification, the proposed rules establish a two-step procedure pursuant to which the registrant is entitled first to a paper hearing on the fact of the statutory disqualification, similar to that provided applicants. If the registrant is found subject to a statutory disqualification, the Administrative Law Judge will issue an interim order immediately suspending the registrant and requiring the registrant to show cause why registration should not be revoked. The suspension will remain in effect pending completion of the revocation proceeding. *See* proposed § 3.55(a)–(d). Thus, this two-step procedure will enable the Commission to remove an unfit registrant from the business expeditiously while, at the same time, grant the registrant an appropriate hearing before registration is revoked.

The language of section 8a(2) treats revocation of an existing registration as a special case which the Commission may effect only "with such a hearing as may be appropriate." This demonstrates Congress' understanding, as reflected in the legislative history, that revocation constitutes a deprivation of an existing interest.[29] Therefore, revocation must be preceded by a type of hearing more elaborate than that otherwise generally provided under section 8a(2).

Pursuant to Congressional intent, the Commission is proposing that a registrant be afforded an opportunity for a limited form of hearing in which the registrant may submit in addition to evidence in writing challenging the accuracy of the allegations which form the basis for the statutory disqualification, memoranda, briefs and affidavits in support of the contention that, notwithstanding the existence of a statutory disqualification under section 8a(2) of the Act, the registration of the registrant should not be revoked. The Administrative Law Judge may permit oral hearings, but requests will be granted only under exceptional circumstances. *See* proposed § 3.55(f)–(h). Based upon the written submission filed by the registrant, any reply filed by the Division of Trading and Markets and the Division of Enforcement and the oral hearing, if granted, the Administrative Law Judge will issue an appropriate order. *See* proposed § 3.55(i).

In general, the Commission expects that the registration of a registrant subject to a section 8a(2) disqualification will be revoked. Nonetheless, the Administrative Law Judge retains the discretion, upon a clear and compelling showing by the registrant, to suspend such registration for an additional period of time. In addition, the proposed rules also authorize the Administrative Law Judge to restrict the registration of an associated person if the sponsor confirms in writing that it is willing to supervise the associated person notwithstanding the statutory disqualification and the Administrative Law Judge finds, under the facts and circumstances of the particular case, that restriction of registration is otherwise appropriate.

The proposed rules provide that a sponsor may not offer to supervise a disqualified associated person if the sponsor is the subject of a pending administrative action before the Commission or, if the sponsor is an FCM, is subject to the financial reporting requirements of section 1.12(b) of the regulations. The proposed rules also set forth the circumstances when an associated person's registration may not be restricted and only revocation is appropriate. *See* proposed § 3.55 (f) and (i).[30]

D. Constitutional Considerations

The Commission believes that the procedures proposed to implement section 8a(2) of the Act fully comport with the constitutional requirements of due process. The Fifth Amendment to the Constitution provides, in pertinent part, that the Federal government may not deprive any person of "life, liberty or property, without due process of law", and the Commission is aware that certain actions pursuant to section 8a(2) which affect the license of a registrant may affect a property interest. However, the nature and extent of this property interest, as created and defined by the pertinent provisions of the Commodity Exchange Act and the Commission's regulations thereunder, is relevant to what process is due. Thus, the absence of a statutory disqualification may be deemed to be a condition of retaining a license and its retention in the event of the existence of such a disqualification would be at the Commission's discretion, subject to judical review.

Moreover, the risk of an erroneous deprivation of such interest through these procedures is slight, as each section 8a(2) disqualification involves matters which ordinarily will be documented in officially maintained governmental records, *e.g.*, criminal convictions, judicial orders, etc. Consequently, whether a person is subject to a statutory disqualification is an issue which may be resolved without adjudicating the underlying facts and does not involve questions of credibility or veracity which might require the cross-examination of witnesses. The probable value of additional or substitute procedural safeguards such as a formal oral hearing or even of an oral presentation to the Commission is therefore negligible, as the type of claim which typically will be made in these situations, *e.g.*, a clerical error or a case of mistaken identity, is particularly suited to be handled by the submission of papers.[31] In addition, the person will already have had an opportunity for a full hearing before a court or other governmental body as to the facts constituting the disqualification and the Commission decision is subject to judicial review, a further safeguard of significance. The Commission, of course, has reserved to itself the discretion to conduct additional proceedings in exceptional cases. *See* proposed § 3.75(c).

E. Proceedings Under Sections 8a(3) and 8a(4)

Section 8a(3) of the Act, as amended, authorizes the Commission "to refuse to

[29] *See, e.g.*, S. Rep. No. 384, 97th Cong., 2d Sess. 36 (1982) ("The Commission * * * prior to revocation, must give the registrant the opportunity for a hearing and submit evidence forming a basis for the finding that the registrant is subject to a statutory disqualification."); *id.* at 37 ("The Committee expects that the Commission will exercise its discretion judiciously and not use its powers to suspend or restrict a registration, without a hearing, *as de facto* revocation of that registration.")

[30] The Commission wishes to make clear that the obligations imposed on a registrant which is willing to sponsor an associated person who is otherwise disqualified from registration are significant and, therefore, should not be assumed lightly. Indeed, the Commission believes that the failure of a registrant to supervise properly such associated person may, under the facts and circumstances of a particular case, establish "good cause", pursuant to which the registration of the registrant may be suspended, restricted or revoked. *See* section 8a(3)(M) of the Act, 7 U.S.C. 12a(3)(M) (1982).

[31] The ability of applicants and registrants to communicate their cases effectively to the Commission in writing is not to be doubted. Moreover, the information upon which the Commission will base its decision to affect registration will be provided to the person, enabling him to challenge its accuracy easily. "These procedures * * * enable the [person] to 'mold' his argument to respond to the precise issues which the [Commission] regards as crucial." Mathews v. Eldridge, 424 U.S. 319, 346 (1976).

register or to register conditionally any person" if "after opportunity for hearing," the Commission makes certain findings of misconduct, which are enumerated in subparagraphs (A) through (N) of that provision. Section 8a(4) authorizes the Commission to suspend, place restrictions upon or revoke registration based upon the grounds set forth in section 8a(3) and in accordance with the procedures of section 6(b). A hearing under Part 10 of the Commission's regulations is available to all applicants and registrants. The only significant change is that the Commission has delegated to the staff the authority to commence a proceeding in all cases by serving notice on the applicant or registrant without the necessity of obtaining separate Commission approval each time a proceeding is initiated. *See* proposed § 3.60.

IV. Notice Under Section 4k(5)

Ancillary to Sections 8a (2) and (3) is Section 4k (5) *as enacted by* the 1982 Act, Pub. L. No. 97–444, Section 212, 96 Stat. 2305 (1983), which provides that it is:

> * * * unlawful for any registrant to permit a person to become or remain an associated person of such registrant, if the registrant knew or should have known of facts regarding such associated person that are set forth as statutory disqualifications in section 8a (2) of this Act, unless such registrant has notified the Commission of such facts and the Commission has determined that such person should be registered or temporarily licensed.

The pertinent legislative history indicates that this provision imposes on a registrant "a duty to make reasonable inquiry into the background of any person who becomes or remains associated with it as an associated person" which includes, "at a minimum, a check of the person's background with the Commission and with prior employers." H.R. Rep. No. 565 (Part 1), 97th Cong. 2d Sess. 89–90 (1982). That report further explains that "[b]y imposing greater statutory responsibilities on employers for the fitness of their employees than [formerly existed], section 4k (5) should lead to an upgrading of the level of employees in the industry." *Id.* at 90.[22] With respect to its implementation by the Commission, the Senate Committee report indicates an expectation that the Commission will "issue regulations specifying how compliance with this provision shall be achieved." S. Rep. No. 384, 97th Cong., 2d Sess. 39 (1982).

Earlier this year, the Commission adopted interim procedures to implement section 4k(5).[23] The Commission is now proposing to require registrants to notify the Commission whenever the registrant knows or should know that an associated person whom it has sponsored pursuant to §§ 3.12 or 3.16 of the regulations is subject to a statutory disqualification under section 8a(2) of the Act. Such notice must be received within ten business days of the date upon which the registrant knows or should know that the associated person is subject to a statutory disqualification. *See* proposed § 3.70(a). Failure to notify the Commission could, under the facts and circumstances of a particular case, constitute a basis for suspending, restricting or revoking the registration of the registrant under section 8a(3)(L) of the Act.

In accordance with the provisions of section 4k(5) of the Act, the Commission is further proposing that upon such notification to the Commission, or upon notification by the Commission to the registrant under these regulations that the associated person is subject to a statutory disqualification, the registrant may not permit the associated person to act in the capacity as such until the Commission determines that such associated person should nonetheless be registered. *See* proposed § 3.70(b).

V. Reservation of Authority

Proposed rule § 3.75:(1) Delegates the authority to perform the functions specified in these regulations to the persons authorized to perform them, (2) reserves to the Commission the authority to exercise the delegated authority if it so desires, (3) reserves to the Commission the authority to proceed by order or to institute a proceeding itself in any case, (4) reserves to the Division of Enforcement the authority to take such other action as may be appropriate in a particular case and (5) reserves to the Commission the authority to delegate its registration to a registered futures association.

Pursuant to section 8a(10) of the Act, the Commission has delegated to NFA the authority to register introducing brokers and their APs.[24] This delegation, however, does not include the authority to condition or deny registration. As NFA assumes more of the Commission's registration functions, the Commission expects to delegate to NFA the authority to deny, condition, suspend, restrict or revoke registration, subject to review by the Commission. In performing these functions, NFA will be required to adopt procedures essentially similar to those adopted by the Commission.

VI. Amendments of Existing Regulations

The Commission is proposing to amend several additional rules contained in Part 3 of the Commission's regulations. In general, these amendments will conform the existing regulation to the procedures being proposed in this notice. The Commission, however, is proposing one amendment to eliminate certain unintended difficulties which have arisen in the administration of the Commission's registration regulations.

A. Changes Requiring a New Registration

Rule § 3.32, 17 CFR 3.32 (1983) as amended by 48 FR 35298 (Aug. 3, 1983), sets forth the circumstances which require a new registration. The Commission notes that under current § 3.32(a), a new registration is required in the event of a change "[i]n the name of the registrant if the registrant is a futures commission merchant, commodity trading advisor, commodity pool operator, or introducing broker."

Because the duration of an AP's registration is coextensive with its association with a particular, sponsoring registrant,[25] an AP's registration terminates technically whenever a registrant changes its name. Absent an exemption, such APs are required to re-register with the Commission as APs of the newly-named entity even though their applications were "sponsored" by the original entity just a short time before and none of the principals of the newly-named entity have changed.

The Commission is aware that this requirement has created certain hardships whenever a registrant seeks to change its name. In this regard, the Division of Trading and Markets, pursuant to authority delegated by § 3.12(g)(2)(i), 17 CFR 3.12(g)(2)(i) (1983), has recently granted several exemptions from § 3.12(b) where a registrant simply sought to conduct business under a new name. Accordingly, the Commission is

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[22] In this regard, section 8a(4) , through section 8a(3)(L), authorizes the Commission to suspend, place restrictions or revoke the registration of any person, if it is found, after opportunity for hearing, that: Such person has associated with such person any other person and kowns, or in the exercise of reasonable care should know, of facts regarding such other person that are set forth as statutory disqualifications in paragraph (2) of this section, unless such person has notified the Commission of such facts and the Commission has determined that such other person should be registered or temporarily licensed * * *.

[23] 48 FR 22779 (May 20, 1983).

[24] 48 FR 35158 (Aug. 3, 1983).

[25] Rule § 3.12(b), 17 CFR 3.12(b) (1983) as amended by 48 FR 35292 (Aug. 3, 1983) and rule § 3.16(b), as added by 48 FR at 35295.

proposing to amend § 3.32 to delete the requirement that a new registration be obtained in the event of a change in the name of a registrant. The Commission wishes to make clear, of course, that the registrant would still be required to notify the Commission of any change in the name of the registrant on the Form 3–R pursuant to Rule 3.31, 17 CFR 3.31 (1983) as amended by 48 FR at 35297.

The Commission also is proposing to amend § 3.32 to require a new registration in the event of a change in the control of a registrant in the case of a corporation. For purposes of this section, proposed paragraph (d) of § 3.32 specifies the circumstances which the Commission shall deem to constitute a change in the control of a corporation. As the Commission has previously stated, one of the central objectives of registration is to ensure, to the extent reasonably possible, the fitness of all registrants,[26] and the Commission notes that § 3.32 already requires a new registration in the event of change in the ownership of the business in the case of a sole proprietorship and in the event of a change in the personnel of a partnership resulting from the addition of a general partner. The proposed amendment, therefore, merely fills a gap in the existing regulation.

To make certain that an appropriate background check and review of an applicant's or principal's fitness is undertaken whenever a new person intends to assure control of a registrant, the Commission is also proposing to require the new principals of a firm to submit a Form 8–R and a fingerprint card in connection with the new registration.[27] It should be noted that the exemption from filing a fingerprint card under § 3.21 is the only exemption applicable under proposed § 3.32.

For the same reasons that the Commission is proposing that new principals of a firm requiring new registration file a Form 8–R and fingerprint card with the Commission in every instance, the Commission believes that the exemptions for APs, floor brokers and principals from filing a Form 8–R and fingerprint card contained in §§ 3.10–3.15 are no longer appropriate. However, the Commission is not now proposing to repeal these exemptions, but it is specifically requesting comment on whether such exemptions are necessary.

[26] *See* 45 FR 80485, 80488 (Dec. 5, 1980).

[27] If the person assuming control of a registrant is not a natural person, the Commission has the authority under § 3.22(b) of the regulations to require principals of that controlling person to file a Form 8–R and fingerprint card.

B. Technical Amendments

Sections 3.12(c)(2) and 3.16(c)(2) of the regulations presently permit a sponsoring registrant to submit the certification required with respect to an applicant for registration as an associated person after the Form 8–R and fingerprint card with respect to such applicant. As discussed above, the Commission is proposing that applicants who are seeking a temporary license must file the sponsor's certification contemporaneously with the Form 8–R and fingerprint card. Since the Commission believes that the vast majority of applicants will be seeking a temporary license, the Commission is proposing to amend §§ 3.12(c)(2) and 3.16(c)(2) to require that the sponsor's certification always be submitted at the same time as the Form 8–R and fingerprint card. This amendment should have an effect on relatively few applicants and reflects the intent of Congress in enacting section 4k(5) of the Act that registrants make a reasonable inquiry into the background of an individual before permitting that individual to become associated with it as an associated person.

The Commission is proposing to delete Appendix A to Part 3 of the Commission's regulations, which is an interpretative statement regarding the "good cause" standards for denial of registration. The Commission notes that the statutory disqualifications established in sections 8a(2) and 8a(3) by the 1982 Act, with one exception, are drawn either from the existing policy of the Commission set forth in the Act, Commission regulations or this interpretative statement or from section 15 of the Securities and Exchange Act of 1934,[28] the comparable provision of the securities laws regarding broker-dealers and their associated persons. Since almost all of the factors listed in the Commission's interpretative statement are now expressly enumerated in the Act, as amended, the Commission believes it is no longer necessary to retain Appendix A of Part 3 of its regulations. Repeal of Appendix A, of course, will not affect pending proceedings to deny, suspend or revoke registration under former section 8a(2)(B)(ii).

At the same time, however, the Commission wishes to emphasize that section 8a(3)(M) of the Act authorizes the Commission to deny, condition, suspend, restrict or revoke registration for "other good cause shown." Therefore, the Commission retains authority to initiate a proceeding against a registrant for conduct other than that specifically set forth in sections 8a(2) and 8a(3) of the Act. For example, as discussed above, the Commission believes that the failure of a registrant to supervise properly an associated person who is otherwise subject to a statutory disqualification may constitute "good cause" for suspending, restricting, or revoking the registration of the registrant.

The Commission is proposing certain other technical and conforming amendments to Part 3 of the Commission's regulations. For example, the Commission is proposing to amend § 3.2 to authorize the National Futures Association to grant temporary licenses to eligible APs of introducing brokers. In addition, as noted earlier, the Commission is proposing to amend § 3.21(a) to include reference to proposed §§ 3.32 and 3.40. This amendment would expand the exemption from the Commission's fingerprinting requirement in certain cases to incorporate the rules proposed herein which also require the submission of a fingerprint card.

[28] 15 U.S.C. 78*o*.

VII. Related Matters

A. Regulatory Flexibility and Other Matters

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. In this regard, the Commission has already established that neither futures commission merchants nor registered commodity pool operators should be considered small entities for purposes of the RFA.[29] Accordingly, the requirements of the RFA do not apply to those entities. With respect to the remaining entities, the Commission believes that the proposed rules would not impose any additional burdens upon such parties since all registrants are already subject to the registration requirements of the Act and Part 3 of the Commission's regulations. To the contrary, as the Commission has already noted above, the proposed rules will streamline and simplify the current registration procedures. Accordingly, pursuant to section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman-Designate hereby certifies that the proposed amendments to Part 3 would not have a significant economic impact on a substantial number of small entities. The Commission, however, particularly invites comment from any firm which

[29] *See* 47 FR 18618 (April 30, 1982).

believes that this proposal would have a significant economic impact on it.

Finally, the Commission wishes to note that certain of these proposed new or amended rules extend current information collection requirements to cover the new system of temporary licenses, statutory disqualifications from registration and conditional registration established by the Futures Trading Act of 1982. In each case, the proposed new or amended rule is part of a package of reporting or recordkeeping rules that was previously reviewed by the Office of Management and Budget ("OMB"), pursuant to the Paperwork Reduction Act of 1980, and assigned an OMB Control Number. Accordingly, the Commission is submitting to the OMB Inventory Correction Worksheets for each of the Control Numbers involved, and is also submitting a copy of these specific amendments and rules proposed herein.

B. Comment Period

The Commission is providing a 30-day comment period for the foregoing proposed rules and rule amendments in order to enable the Commission to adopt final rules governing the granting of temporary licenses and the new system of statutory disqualifications in a timely manner. The Commission believes that a 30-day comment period, the comment period otherwise required under 5 U.S.C. 553(d), will satisfactorily balance the need to adopt such procedures in a timely manner against the benefits to be attained by receiving public comment. Although the Commission does not intend to extend the comment period on this proposal, the Commission and its staff will endeavor to consider all comments that are received prior to final action by the Commission in this rulemaking proceeding.

List of Subjects

17 CFR Part 3

Reporting and recordkeeping requirements, Conditional registration, Temporary licenses, Statutory disqualifications, Authority delegations, Brokers, Commodity futures.

17 CFR Part 10

Administrative practice and procedure, Commodity futures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 2(a)(1), 4, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4k, 4m, 4n, 4o, 4p, 6, 8, 8a, 14, 15 and 17 thereof, 7 U.S.C. 2 and 4, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a and 13b, 12, 12a, 18, 19 and 21 (1982), and pursuant to the authority contained in 5 U.S.C. 552 and 552b, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

1. The existing text, sections 3.1 through 3.33, are proposed to be designated under a new Subpart heading.

Subpart A—Registration

2. Section 3.2 is proposed to be amended by revising paragraphs (a) and (c) to read as follows:

§ 3.2 Registration processing by the National Futures Association; notification and duration of registration.

(a) With respect to the registration of introducing brokers and the associated persons of introducing brokers, the registration functions of the Commission set forth in this section and in §§ 3.12, 3.15 , 3.21, 3.31, 3.32, and 3.40 shall be performed by the National Futures Association.

* * * * *

(c) Upon receipt of an application for registration or renewal thereof, the Commission or the National Futures Association will, if registration is granted, notify the registrant, or the sponsor in the case of an application for registration as an associated person, that registration has been granted under the Act. If an applicant for registration as an associated person receives a temporary license in accordance with § 3.40 of this part, the Commission or the National Futures Association will notify the sponsor only that a temporary license has been granted.

* * * * *

3. Section 3.12 is proposed to be amended by revising paragraphs (c)(2) and (d)(1)(iv) to read as follows:

§ 3.12 Registration of associated persons of futures commission merchants and introducing brokers.

* * * * *

(c) * * *

(2) The certification required by paragraph (c)(1) of this section must be submitted concurrently with the Form 8–R.

* * * * *

(d) * * *

(1) * * *

(iv) Whether there is a pending proceeding under sections 6(b) or 8a of the Act or §§ 3.52, 3.55 or 3.60, or § 3.20 or former § 1.10e, to deny, suspend, revoke, condition or restrict such person's registration in any capacity or if, within the preceding twelve months, the Commission has permitted the withdrawal of an application for registration in any capacity after instituting the procedures provided in § 3.51 or § 3.20 and, if so, that the sponsor has been given a copy of the complaint or letter issued by the Commission in connection therewith; and

* * * * *

4. Section 3.16 is proposed to be amended by revising paragraphs (c)(2) and (d)(1)(iv) to read as follows:

§ 3.16 Registration of associated persons of commodity trading advisors and commodity pool operators.

* * * * *

(c) * * *

(2) The certification required by paragraph (c)(1) of this section must be submitted concurrently with the Form 8–R.

* * * * *

(d) * * *

(1) * * *

(iv) Whether there is a pending proceeding under sections 6(b) or 8a of the Act or §§ 3.52, 3.55 or 3.60, or § 3.20 or former § 1.10e, to deny, suspend, revoke, condition or restrict such person's registration in any capacity or if, within the preceding twelve months, the Commission has permitted the withdrawal of an application for registration in any capacity after instituting the procedures provided in § 3.51 or § 3.20 and, if so, that the sponsor has been given a copy of the complaint or letter issued by the Commission in connection therewith; and

* * * * *

5. Section 3.20 is proposed to be amended by adding a new paragraph (j) to read as follows:

§ 3.20 Delegation of authority to deny registration.

* * * * *

(j) Notwithstanding the provisions of §§ 3.51, 3.55 and 3.60, pending proceedings brought under this section shall continue to completion.

6. Section 3.21 is proposed to be amended by revising paragraph (a) to read as follows:

§ 3.21 Exemption from fingerprinting requirement in certain cases.

(a) Any person who is required by §§ 3.10, 3.11, 3.12, 3.13, 3.14, 3.15, 3.16, 3.32 or 3.40 to submit a fingerprint card may file, or cause to be filed, in lieu of such card:

(1) A legible, accurate and complete photocopy of a fingerprint card which has been submitted to the Federal Bureau of Investigation for identification

and appropriate processing and of each report, record, and notation made available by the Federal Bureau of Investigation with respect to that fingerprint card if such identification and processing has been completed satisfactorily by the Federal Bureau of Investigation not more than ninety days prior to the filing with the Commission or the National futures Association of the photocopy; or

(2) A statement that such person's application for initial registration in any capacity was granted within the preceding ninety days: *Provided,* That the provisions of paragraph (a)(2) shall not be applicable to any person who, by Commission rule, regulation, or order, was not required to file a fingerprint card in connection with such application for initial registration.

* * * * *

7. Section 3.32 is proposed to be revised to read as follows:

§ 3.32 Changes requiring new registration.

(a) If the registrant is a futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor, a new registration is required in the event of a change:

(1) In the form of organization of the registrant;

(2) In the ownership of the business of the registrant in the case of a sole proprietorship;

(3) In the personnel of a partnership resulting from the addition of a general partner; and

(4) In the control of the registrant in the case of a corporation or other form of association.

(b) Application for a new registration required under paragraph (a) of this section must be on Form 7–R, completed and filed with the Commission in accordance with the instructions thereto.

(c) Notwithstanding any other provision of this part, each Form 7–R filed in accordance with paragraph (b) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the registrant and who was not properly listed on the registrant's initial application for registration or any amendment thereto. The Form 8–R for each such principal must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose.

(d) For purposes of this section, a change in the control of a corporation shall be deemed to have occurred whenever a person not listed on the corporate registrant's initial application for registration:

(1) Acquires the right to vote, or becomes the beneficial owner of, ten percent or more of that registrant's voting securities;

(2) Becomes entitled to receive ten percent or more of that registrant's net profits;

(3) Has contributed ten percent or more of that registrant's capital;

(4) Becomes a director of that registrant; or

(5) Becomes the chief executive officer of that registrant or occupies a position of similar status or performs a similar function.

(e) (1) Any person adversely affected by the operation of this section may file a petition with the Secretary of the Commission, which petition must set forth with particularity the reasons why that person believes that it should be exempted from the requirements of this section and why such an exemption would not be contrary to the public interest and the purposes of this section. The petition will be granted or denied by the Commission on the basis of the papers filed. The Commission may grant such a petition if it finds that the exemption is not contrary to the public interest and the purposes of this section. The petition may be granted subject to such terms and conditions as the Commission may find appropriate.

(2)(i) Until such time as the Commission orders otherwise, the Commission hereby delegates to the Director of the Division of Trading and Markets or the Director's designee the authority to grant or deny petitions filed pursuant to this paragraph (e).

(ii) The Director of the Division of Trading and Markets may submit to the Commission for its consideration any matter which has been delegated to the Director pursuant to paragraph (e)(2)(i) of this section.

8. Subparts B through E are proposed to be added to 17 CFR Part 3 to read as follows:

Subpart B—Temporary Licenses

Sec.
3.40 Temporary licensing of applicants for associated person registration.
3.41 Restrictions upon activities.
3.42. Termination.
3.43 Relationship to registration.

Subpart C—Denial, Suspension or Revocation of Registration

3.50 Service.
3.51 Withdrawal of application for registration.
3.52 Notice of intent to deny registration pursuant to section 8a(2) of the Act.
3.53 Determination by hearing officer.
3.54 Default.
3.55 Suspension and revocation of registration pursuant to section 8a(2) of the Act.
3.56 Applicability of the Rules of Practice.
3.57–3.59 [Reserved]
3.60 Authority to deny, condition, suspend, revoke or place restrictions upon registration pursuant to section 8a (3) and (4) of the Act.
3.61 Request for hearing.
3.62 Waiver of hearing.
3.63 Service of order issued by a hearing officer.

Subpart D—Notice Under Section 4k(5) of the Act

3.70 Notification of certain information regarding associated persons.

Subpart E—Delegation and Reservation of Authority

3.75 Delegation of reservation of authority.

Authority: Secs. 4, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4k, 4m, 4n, 4o, 4p, 6, 8, 8a, 14, 15, and 17 of the Commodity Exchange Act (17 U.S.C. 2, 4, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 18, 19, and 21).

Subpart B—Temporary Licenses

§ 3.40 Temporary licensing of applicants for associated person registration.

Notwithstanding any other provision of these regulations and pursuant to the terms and conditions of this subpart, the Commission may grant a temporary license to any applicant for registration as an associated person upon the contemporaneous filing with the Commission of:

(a) A Form 8–R, properly completed in accordance with the instructions thereto, which contains no derogatory information indicating that the applicant may be subject to a statutory disqualification under sections 8a(2) through 8a(4) of the Act;

(b) The fingeprints of the applicant on a fingeprint card provided by the Commission for that purpose; and

(c) The sponsor's certification required by § 3.12(c) or § 3.16(c), as appropriate.

§ 3.41 Restrictions upon activities.

(a) Subject to the provisions of § 3.42 and all of the obligations imposed on such registrants under the Act (in particular, section 14 thereof) and the rules, regulations and orders thereunder, an applicant for registration as an associated person who has received written notification that a temporary license has been granted may act in the capacity of an associated person.

(b) Until registration has been granted, an applicant for registration as an associated person who has received a temporary license may not be sponsored by any registrant other than

the registrant which has filed the certification described in § 3.40(c).

§ 3.42 Termination.

(a) A temporary license shall terminate:

(1) Five days after service upon the applicant of a notice by the Commission pursuant to § 3.52 or § 3.60 that the applicant for registration may be found subject to a statutory disqualification from registration; or

(2) Immediately upon termination of the association of the applicant with the registrant which filed the sponsorship certification described in § 3.40(c).

(b) Upon termination, the applicant may not engage in any activity which requires registration with the Commission as an associated person or be associated with any person required to be registered under the Act.

§ 3.43 Relationship to registration.

(a) A temporary license shall not be deemed to be a registration or to confer any right to such registration.

(b) Unless a temporary license has terminated pursuant to § 3.42, a temporary license shall become a registration with the Commission upon the earlier of:

(1) A determination by the Commission that the applicant is qualified for registration as an associated person; or

(2) The expiration of six months from the date of its issuance.

Subpart C—Denial, Suspension or Revocation of Registration

§ 3.50 Service.

(a) For purposes of this subpart, service upon an applicant or registrant will be sufficient if mailed by registered mail or certified mail return receipt requested properly addressed to the applicant or registrant at the address shown on his application or any amendment thereto, and will be complete upon mailing.

(b) A copy of any notice served in accordance with paragraph (a) of this section shall also be served upon:

(1) Any registrant sponsoring the applicant pursuant to the provisions of § 3.12 or § 3.16, if the applicant or registrant is an individual registered as or applying for registration as an associated person; or

(2) Any futures commission merchant which has entered into a guarantee agreement in accordance with § 1.10(j) of this chapter if the applicant or registrant is registered as or applying for registration as an introducing broker.

(c) Documents served upon the Division of Trading and Markets or upon the Division of Enforcement or filed with the Commission under this subpart shall be considered served or filed only upon actual receipt at the Commission's Washington, D.C. office, 2033 K Street NW., Washington, D.C. 20581.

(d) Except for the documents which may be served under § 3.51, any documents served upon an applicant or registrant or upon the Division of Trading and Markets or the Division of Enforcement or filed with the Commission under this subpart shall be concurrently filed with the Hearing Clerk, together with proof of service, in accordance with the provisions of § 10.12 (d) and (e) of this chapter.

§ 3.51 Withdrawal of application for registration.

(a) *Notice.* Whenever information comes to the attention of the Commission that an applicant for initial registration in any capacity under the Act may be found subject to a statutory disqualification under sections 8a(2) or 8a(3) of the Act, the Director of the Division of Trading and Markets or the Director's designee may serve written notice upon the applicant, which notice shall specify the statutory disqualifications to which the applicant may be subject and advise the applicant that:

(1) The information, if true, is a basis upon which the applicant's registration may be denied;

(2) Unless the applicant voluntarily withdraws the application, it may be necessary to institute the denial procedures described in this subpart; and

(3) If the applicant does not confirm in writing that the applicant wishes to have the application given further consideration, the application of the applicant will be deemed to have been withdrawn.

(b) The applicant must serve the written confirmation referred to in paragraph (a)(3) of this section upon the Director of the Division of Trading and Markets or the Director's designee on or before twenty days after the date the notice described in paragraph (a) of this section is served.

§ 3.52 Notice of intent to deny registration pursuant to section 8a(2) of the Act.

On the basis of information obtained by the Commission, the Director of the Division of Trading and Markets or the Director's designee, with the concurrence of the Director of the Division of Enforcement and the General Counsel or their designees, may at any time, subject to the provisions of § 3.51, serve a notice upon any applicant for registration in any capacity under the Act that:

(a) The Commission alleges and is prepared to prove that the applicant is subject to one or more of the statutory disqualifications set forth in section 8a(2) of the Act;

(b) The allegations set forth in the notice, if true, constitute a basis upon which registration can be denied;

(c) The applicant is entitled to have a hearing officer make a determination, based upon written evidence submitted in accordance with the procedure set forth in § 3.53, as to whether the applicant is subject to such statutory disqualification; and

(d) If the applicant does not timely submit such evidence in accordance with the procedure set forth in § 3.53, registration will be denied as provided in § 3.54.

§ 3.53 Determination by hearing officer.

(a) If the applicant wishes to have a hearing officer make a determination as to whether the applicant is subject to a statutory disqualification under section 8a(2) of the Act, the applicant may submit evidence in writing limited to challenging the accuracy of the allegations set forth in the notice, including evidence as to: (1) The applicant's identity, (2) the existence of a clerical error in any record documenting the statutory disqualification, (3) the nature or date of the statutory disqualification, (4) the post-conviction modification of any record of conviction or (5) the favorable disposition of any appeal. Such written submission must be serviced upon the Division of Trading and Markets and the Division of Enforcement and filed with the Hearing Clerk within twenty days after the date of service upon the applicant of the notice under § 3.52.

(b) Within ten days after receipt of any written submission filed by the applicant, the Division of Trading and Markets and the Division of Enforcement may serve upon the applicant and file with the Hearing Clerk a reply. Thereafter, a hearing officer will determine whether the applicant is subject to a statutory disqualification under section 8a(2) of the Act. Such determination must be based upon the application, the evidence of the statutory disqualification, the notice with proof of service, the written submission filed by the applicant in response thereto, any written reply submitted by the Division of Trading and Markets or the Division of Enforcement and such other papers as the hearing officer may require or permit.

(c) Within thirty days after receipt of the applicant's written submission, and any reply thereto, the hearing officer must issue an order, pursuant to section 8a(2) of the Act, granting or denying registration, which shall be deemed a final order of the Commission fifteen days after the date it is served upon the applicant in accordance with the provisions of § 3.50(a), unless a timely application for review under paragraph (d) of this section is filed. A copy of such order shall be served upon the Division of Trading and Markets and the Division of Enforcement.

(d) *Appeal to the Commission.* Written fifteen days of service of the hearing officer's order under paragraph (c) of this section, the applicant or the Division of Enforcement may file with the Commission an application for review thereof, together with supporting argument and proof of service on the other party. The Commission may in its discretion grant review of the hearing officer's order. Should the Commission refuse to grant review, the hearing officer's order shall be deemed a final order of the Commission five days after service upon the registrant of notice of such refusal in accordance with the provisions of § 3.50(a).

§3.54 Default.

(a) *Failure to timely file a submission.* If the applicant fails to file a timely written submission in accordance with § 3.53:

(1) The applicant will be deemed to have waived the right to submit evidence in writing on all issues and the facts stated in the notice shall be deemed to be true for the purpose of finding that the applicant is subject to a statutory disqualification under section 8a(2) of the Act; and

(2) Twenty days after the date the notice of intent to deny provided under § 3.53(a) is served upon the applicant such notice shall be effective as a final order of the Commission denying registration. The Director of the Division of Trading and Markets or the Director's designee shall serve written confirmation upon the applicant in accordance with the provisions of §3.50(a) that such registration has been denied.

(b) *Vacating of order.* Notwithstanding the foregoing, an applicant for registration against whom an order referred to in paragraph (a)(2) of this section is effective may file a petition and supporting affidavit with the Director of the Division of Trading and Markets if the notice under §3.52 was not timely received by the applicant. Upon receipt of such a petition, such order shall be vacated, and the Director of the Division of Trading and Markets shall serve upon the applicant the written notice required under §3.52. The procedures set forth in this paragraph shall be available only once to an applicant.

§ 3.55 Suspension and revocation of registration pursuant to section 8a(2) of the Act.

(a) *Notice.* On the basis of information obtained by the Commission, the Director of the Division of Trading and Markets or the Director's designee, with the concurrence of the Director of the Division of Enforcement and the General Counsel or their designees, may at any time serve notice upon a registrant in any capacity under the Act that:

(1) The Commission alleges and is prepared to prove that the registrant is subject to one or more of the statutory disqualifications set forth in section 8a(2) of the Act;

(2) An Administrative Law Judge shall make a determination, based upon written evidence, as to whether the registrant is subject to such statutory disqualification; and

(3) If the registrant is found to be subject to a statutory disqualification, the registration of the registrant shall be suspended and the registrant ordered to show cause why such registration should not be revoked.

(b) *Written submission.* If the registrant wishes to challenge the accuracy of the allegations set forth in the notice, the registrant may submit written evidence limited to the type described in § 3.53(a). Such written submission must be served upon the Division of Trading and Markets and the Division of Enforcement and filed with the Hearing Clerk within twenty days of the date of service of notice to the registrant.

(c) *Reply.* Within ten days of receipt of any written submission filed by the registrant, the Division of Trading and Markets and the Division of Enforcement may serve upon the registrant and file with the Hearing Clerk a reply.

(d) *Determination by Administrative Law Judge.* A determination by the Administrative Law Judge as to whether the registrant is subject to a statutory disqualification must be based upon the evidence of the statutory disqualification, notice with proof of service, the written submission, if any, filed by the registrant in response thereto, any written reply submitted by the Division of Trading and Markets or the Division of Enforcement and such other papers as the Administrative Law Judge may require or permit.

(e) *Suspension and order to show cause.* (1) If the registrant is found to be subject to a statutory disqualification, the Administrative Law Judge, within thirty days after receipt of the registrant's written submission, if any, and any reply thereto, shall issue an interim order suspending the registration of the registrant and requiring the registrant to show cause within twenty days of the date of the order why, notwithstanding the existence of the statutory disqualification, the registration of the registrant should not be revoked. The registration of the registrant shall be suspended, effective five days after the order is served upon the registrant in accordance with § 3.50(a), until a final order with respect to the order to show cause has been issued: *Provided,* That if the sole basis upon which the registrant is subject to a statutory disqualification is the existence of a temporary order, judgment or decree of the type described in section 8a(2)(C) of the Act, the order to show cause shall not be issued and the registrant shall be suspended until such time as the temporary order, judgment or decree shall have expired.

(2) If the registrant is found not to be subject to a statutory disqualification, the Administrative Law Judge shall issue an order to that effect which shall be effective as a final order of the Commission fifteen days after the date it is served upon the registrant in accordance with the provisions of § 3.50(a), unless a timely application for review under paragraph (k) of this section is received. A copy of such order shall be served upon the Division of Trading and Markets and the Division of Enforcement.

(f) *Response.* Within twenty days of the date of the order to show cause, the registrant shall file a written response which may include briefs, affidavits and supporting memoranda, but in any event shall be limited in content to:

(1) Evidence, not previously set forth in any written submission filed under paragraph (b) of this section, challenging the accuracy of the allegations establishing the statutory disqualification;

(2) The existence of any facts which constitute a clear and compelling showing that, notwithstanding the existence of the statutory disqualification, the continued registration of the registrant would be in the public interest; or

(3) In the case of an associated person, written confirmation by the registrant's sponsor that, notwithstanding the existence of the statutory disqualification, the sponsor is

willing to supervise the activities of the registrant subject to such restrictions as the Administrative Law Judge shall impose: *Provided,* That, with respect to such sponsor, (i) an adjudicatory proceeding brought by or before the Commission pursuant to the provisions of section 6(b), 6(c), 6d or 8a of the Act is not pending; and (ii) in the case of a sponsor which is a futures commission merchant, the sponsor is not subject to the reporting requirements of § 1.12(b) of this chapter.

(g) *Reply.* Within ten days after receipt of the response of the registrant, the Division of Enforcement may serve upon the registrant and file with the Hearing Clerk a reply.

(h) *Oral hearings.* Oral hearing shall not be granted except under extraordinary circumstances and upon written request, which shall include the issues to be addressed, the evidence to be adduced and a showing of compelling need. If the Administrative Law Judge determines to grant a request for oral hearing, such hearing shall be conducted pursuant to such sections of the Commission's Rules of Practice, 17 CFR Part 10, as the Administrative Law Judge deems necessary and in a manner which shall ensure that the proceeding is resolved expeditiously.

(i) *Order.* (1) Upon receipt of a response, and any reply thereto, the Administrative Law Judge shall within thirty days, upon consideration of the record as a whole, make a finding as to whether the registrant has shown cause why his registration should not be revoked and shall issue an order accordingly, which shall be deemed to be a final order of the Commission fifteen days after the date it is served upon the registrant in accordance with the provisions of § 3.50(a), unless a timely application for review under paragraph (k) of this section is filed. If the Administrative Law Judge finds that the registration of the registrant should not be revoked, the Administrative Law Judge may issue an order further suspending or, in the case of an associated person, restricting the registration of the registrant. Any such order shall be served upon the registrant, the Division of Enforcement and the Division of Trading and Markets in accordance with the provisions of § 3.50(a).

(2) Notwithstanding the sponsor's written confirmation under paragraph (f)(3) of this section, the Administrative Law Judge may issue an order revoking or further suspending the registration of an associated person and, in any event, may not issue an order restricting such registration if:

(i) The associated person is subject to a statutory disqualification under section 8a(2) of the Act as a result of his conviction of a felony or misdemeanor under section 9 of the Act; or

(ii) The associated person has been the subject of more than one proceeding in which findings of fact constituting a statutory disqualification under section 8a(2) of the Act have been entered against the associated person; or

(iii) The associated person is subject to an adjudicatory proceeding brought by or before the Commission pursuant to the provisions of section 6(b), 6(c), 6d or 8a of the Act; or

(iv) The associated person was previously granted a restricted registration and was found to have failed to conform to such restriction; or

(v) The associated person willfully made any material false or misleading statement or willfully omitted to state any material fact in any written submission filed under this section as to any facts which would constitute statutory disqualifications under section 8a(2) of the Act; or

(vi) The registrant with whom the associated person is associated willfully made any false or misleading statement of a material fact in the confirmation referred to in paragraph (d)(3) of this section or willfully failed to state any material fact that was required to be stated therein.

(j) *Default.* 1. If the registrant fails to file a timely response to the order to show cause, the registrant shall be deemed in default, and the Administrative law Judge shall within fifteen days thereafter, upon a finding that service was effected pursuant to § 3.50(a), enter an order revoking the registrant's registration based upon the evidence of the statutory disqualification, any written submission filed by the registrant in response to the notice provided in accordance with paragraph (a) of this section and any written reply submitted by the Division of Trading and Markets or the Division of Enforcement. Any such order shall be served upon the registrant in accordance with the provisions of § 3.50(a) and shall be deemed a final order of the Commission five days after the date it is served upon the registrant.

(2) Notwithstanding the foregoing, if the Administrative Law Judge issues an order under paragraph (j)(1) of this section revoking the registration of the registrant, the registrant may file a petition and supporting affidavit with the Administrative Law Judge setting forth the reasons the registrant failed to file a response to the order to show cause. Upon receipt of such a petition, the Administrative Law Judge may, for good cause shown, vacate such order.

(k) *Appeal to the Commission.* Within fifteen days of service of the Administrative Law Judge's order under paragraph (e)(2), paragraph (i) or paragraph (j)(2) of this section, the registrant or the Division of Enforcement may file with the Commission an application for review thereof, together with supporting argument and proof of service on the other party. The Commission may in its discretion grant review of the Administrative Law Judge's order. Should the Commission refuse to grant review, the Administrative Law Judge's order shall be deemed a final order of the Commission five days after service upon the registrant of notice of such refusal in accordance with the provisions of § 3.50(a).

§ 3.56 Applicability of the Rules of Practice.

With exception of §§ 10.2, 10.4 through 10.11, and 10.12(a)(3) through 10.12(g), or unless otherwise provided in §§ 3.52 through 3.55 herein, the provisions of the Commission's Rules of Practice, 17 CFR Part 10, shall not apply in any proceeding to deny, suspend, revoke or restrict registration pursuant to section 8a(2) of the Commodity Exchange Act.

§§ 3.57—3.59 [Reserved]

§ 3.60 Authority to deny, condition, suspend, revoke or place restrictions upon registration pursuant to secton 8a (3) and (4) of the Act.

On the basis of information obtained by the Commission, the Director of the Division of Trading and Markets or the Director's designee, with the concurrence of the Director of the Division of Enforcement and the General Counsel or their designees, may at any time give written notice to any applicant for registration or any registrant in any capacity under the Commodity Exchange Act that:

(a) The Division of Trading and Markets and the Division of Enforcement allege and are prepared to prove that the registrant or applicant is subject to one or more of the statutory disqualifications set forth in sections 8a(3) or 8a(4) of the Act;

(b) The allegations set forth in the notice, if true, constitute a basis upon which registration may be denied, conditioned, suspended, revoked or restricted. If the notice proposes conditioning or placing of restrictions upon registration, the notice shall specify these conditions or restrictions;

(c) The applicant or registrant is entitled to a hearing at which the applicant or registrant may challenge the accuracy of the allegation set forth in the notice or show cause why, notwithstanding the accuracy of those allegations, registration should nevertheless be granted or should not be conditioned, suspended, revoked or restricted.

(d) A hearing for these purposes may be obtained by filing a written request with the Hearing Clerk, Office of Hearings and Appeals, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, within twenty days after the date the notice is served on the applicant or registrant, which shall state whether the applicant or registrant admits or denies or does not have and is unable to obtain sufficient information to admit or deny each allegation set forth in the notice; and

(e) If the applicant or registrant does not timely request a hearing:

(1) The applicant or registrant will be deemed to have waived his right to a hearing on all issues and the facts stated in the notice shall be deemed to be true for the purpose of finding that the applicant or registrant is subject to a statutory disqualification under section 8a (3) or (4) of the Act; and

(2) The hearing officer may thereafter decide whether to deny, condition, suspend, revoke, or place restrictions upon registration based upon the facts set forth in the notice.

§ 3.61 Request for hearing.

(a) If an applicant or registrant should request a hearing, an adjudicatory proceeding on the question of whether the applicant or registrant is subject to a statutory disqualification under section 8a (3) or (4) of the Commodity Exchange Act shall thereafter be conducted and concluded in accordance with the Commission's Rules of Practice, 17 CFR Part 10.

(b) For purposes of that proceeding:

(1) The notice given in accordance with § 3.60 shall be treated as a duly authorized complaint by the Division of Enforcement seeking the relief specified therein; and

(2) The request for hearing shall be treated as an answer.

§ 3.62 Waiver of hearing.

If no request for a hearing is received by the Hearing Clerk within twenty days after a notice has been given in accordance with § 3.60, the Hearing Clerk shall transmit the record to a hearing officer who shall determine whether the applicant or registrant is subject to a statutory disqualification and thereafter issue an order under section 8a(3) or 8a(4) of the Act denying, suspending, revoking, conditioning or placing restrictions upon registration based upon the notice with proof of service, an appropriate showing that a hearing has not been requested, and the evidence of the statutory disqualification.

§ 3.63 Service of order issued by a hearing officer.

(a) A copy of any order issued pursuant to § 3.62 shall be served promptly upon the applicant or registrant, the Division of Trading and Markets and the Division of Enforcement in accordance with the provisions of § 3.50(a) and shall be deemed a final order of the Commission fifteen days after the date of such service, unless a timely application for review under paragraph (b) of this section is filed.

(b) Within fifteen days after such service, the applicant, the registrant or the Division of Enforcement may file with the Commission a petition for review setting forth the grounds in support thereof. The petition for review of an applicant or registrant shall not be based upon any matter other than those as to which the applicant or registrant had notice and opportunity for hearing under § 3.60. Should the Commission refuse to grant review, the hearing officer's order shall be deemed a final order of the Commission five days after service upon the registrant of notice of such refusal in a manner in accordance with the provisions of § 3.50(a).

Subpart D—Notice Under Section 4k(5) of the Act

§ 3.70 Notification of certain information regarding associated persons.

(a) *Notice.* A registrant must notify the Commission under section 4k(5) of the Act of any facts regarding an associated person of the registrant or an applicant for registration as an associated person whom it has sponsored pursuant to the provisions of § 3.12 or § 3.16 or whom it intends to hire or otherwise employ as an associated person which are set forth as statutory disqualifications in section 8a(2) of the Act within ten business days of the date upon which the registrant first knows or should know such facts. Notice to the Commission shall be sufficient if the registrant gives notice to the Director of the Division of Trading and Markets or the Director's designee by telephone and confirms such notice in writing by mail to the Commission at its Washington, D.C. office (Attn: Assistant Director for Registration, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581).

(b) *Unlawful to act as an associated person.* Upon the earlier of notification to the Commission by the registrant pursuant to paragraph (a) of this section, or actual receipt of notice to the registrant pursuant to § 3.50(b)(1) of this part, that an associated person of the registrant or an applicant for registration as an associated person may be subject to a statutory disqualification as set forth in section 8a(2) of the Act, it shall be unlawful for the registrant to permit such person to act in the capacity of an associated person of the registrant until the Commission determines that such person should nonetheless be registered.

§§ 3.71–3.74 [Reserved]

Subpart E—Delegation and Reservation of Authority

§ 3.75 Delegation and reservation of authority.

(a) The Commission hereby delegates, until such time as it orders otherwise, the authority to perform all functions specified in Subparts B through D to the persons authorized to perform them thereunder.

(b) Nothing in this subpart shall prevent the Commission from exercising the authority delegated therein.

(c) The Commission reserves to itself the decision in any case: (1) To proceed by order, upon notice but without a hearing, to deny, suspend, condition or restrict the registration of any person pursuant to section 8a(2) of the Act, or (2) to institute a proceeding pursuant to section 6(b) of the Act to determine whether to deny, condition, suspend, place restrictions upon or revoke the registration of any person for the reasons described in subpart C or for other good cause.

(d) The Commission may, by order of delegation, authorize a futures association registered pursuant to section 17 of the Act to perform all or any portion of the registration functions under subparts B through D in accordance with rules or procedures adopted by such futures association and submitted to the Commission pursuant to section 17(j) of the Act and subject to the applicable provisions of the Act.

Appendix A—[Removed]

9. Part 3 is proposed to be amended by removing Appendix A.

PART 10—RULES OF PRACTICE

10. Section 10.1 is proposed to be amended by revising paragraph (a) to read as follows:

§ 10.1 Scope and applicability of rules of practice.

* * * * *

(a) Denial, suspension, revocation, conditioning or restricting of registration as a futures commission merchant, introducing broker, or associated person, floor broker, commodity pool operator or commodity trading adivisor pursuant to sections 6(b), 8a(3) and 8a(4) of the Act, 7 U.S.C. 9, 12a(3), 12a(4), or denial, suspension, or revocation of designation as a contract market pursuant to sections 6 and 6(a) of the Act, 7 U.S.C. 8;

* * * * *

Issued in Washington, D.C. on October 26, 1983 by the Commission.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 83-29500 Filed 11-1-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[LR-219-83]

Deposits of Railroad Retirement Tax Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to remittance by employers of railroad retirement tax to the Railroad Retirement Account.

DATES: The public hearing will be held on Wednesday, December 14, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, November 30, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-219-83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6302 of the Internal Revenue Code of 1954. The proposed regulations appear in this issue of the **Federal Register** (see FR Doc. 83-29762).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who submit comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Wednesday, November 30, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-29763 Filed 10-28-83; 4:37 pm]

BILLING CODE 4830-01-M

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26 CFR Part 31

[LR-219-83]

Deposits of Railroad Retirement Tax; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulatory amendments relating to remittance by employers of railroad retirement tax to the Railroad Retirement Account. Changes to the applicable tax law were made by the Railroad Retirement Solvency Act of 1983, which requires, among other things, (a) that certain railroad employers remit railroad retirement tax more rapidly and more frequently than before and (b) that payments to the Railroad Retirement Account be allocated more rapidly than before. The proposed amendments would, if promulgated, implement the Act's requirements regarding remittance of such tax.

DATES: Written comments must be delivered or mailed by December 2, 1983. This relatively brief comment period is necessitated by the January 1, 1984, effective date set by the Act with respect to these provisions. These amendments are proposed to be effective with respect to railroad retirement tax withheld or imposed after December 31, 1983.

ADDRESS: Please mail or deliver comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-219-83), 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John A. Tolleris of the Legislation and Regulations Divisions, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR Part 31) under section 6302(c) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 226 of the Railroad Retirement Solvency Act of 1983 (Pub. L. 98-76; 97 Stat. 426). These amendments are proposed to be issued under the authority contained in section 6302(c) (68A Stat. 775; 26 U.S.C. 6302(c)) and section 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Explanation of Provisions

Currently, non-railroad employers who have $500 or more of undeposited social security and withheld income taxes at the end of a month must remit those taxes through the Federal Tax Deposit (FTD) system at an authorized financial institution within 15 days after the end of that month. However, employers who have $3,000 or more of such undeposited taxes at the end of any eighth-monthly period must deposit those taxes within 3 banking days after the end of the eighth-monthly period.

Although railroad and non-railroad employers are subject to the same deposit requirements for withheld Federal income taxes, railroad employers currently are required to make only one deposit per month of undeposited railroad retirement taxes of $100 or more under sections 3202 and

3221. These deposits must be made within 15 days after the end of the first or second month of a calendar quarter in which such taxes were withheld or imposed and within one month after the end of the third month of a calendar quarter. The Railroad Retirement Solvency Act of 1983 mandates that, effective on and after January 1, 1984, the schedule for depositing railroad retirement taxes be revised so that it will coincide with the schedule which applies to non-railroad employers for purposes of depositing social security and withheld income taxes.

In its report on the Act, the House Ways and Means Committee requested,

"[W]hen the Secretary of the Treasury accelerates the deposit schedule, he will take the actions necessary to ensure that the Railroad Retirement Account does not suffer the loss on interest income due to delays in transferring payroll tax deposits to the Railroad Retirement Account. One method of accomplishing this goal would be to require that employers making relatively large deposits of railroad retirement taxes use the Treasury Financial Communication System (TFCS) when depositing such taxes." H.R. Rep. No. 30, Pt. 2, 98th Cong., 1st Sess. 30 (1983).

To accomplish this the proposed regulations would require relatively large railroad employers to make their railroad retirement tax deposits by means of a wire transfer to the Treasury, in accordance with a revenue procedure to be issued in the future. This would allow Treasury to credit and invest funds to the account of the Railroad Retirement Board several days earlier than would otherwise be the case. For this purpose, a "large railroad employer" is defined as one which had at least $1,000,000 of railroad retirement taxes for the year 2 years prior to the current calendar year.

The proposed regulations do not change the existing requirement that railroad retirement taxes be deposited separately from social security and withheld income taxes.

Non-Applicability of Executive Order 12291

It has been determined that this notice of proposed rulemaking is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the order dated April 29, 1983.

Regulatory Flexibility Act

Although this document proposes legislative regulations under section 6302(c) of the Internal Revenue Code of 1954, the Internal Revenue Service has concluded that the amendments proposed herein do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6) since these revisions were mandated by section 228 of the Railroad Retirement Solvency Act of 1983.

Comments—Public Hearing

Before adoption of these proposed amendments, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held in accordance with the notice of hearing published in this issue of the **Federal Register**.

Paperwork Reduction Act

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed amendments is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Lotteries, Railroad retirement, Social security, Unemployment tax, Withholding.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 31 are as follows:

PART 31—[AMENDED]

Section 31.6302(c)–2 is amended as follows:

1. Paragraph (a)(2) is redesignated as paragraph (a)(3), and the phrase "beginning after March 31, 1984," in paragraph (a)(3) as so redesignated is removed and the phrase "before January 1, 1984," is inserted in lieu thereof.

2. Paragraph (a)(1) is redesignated as paragraph (a)(2), *"In general; before 1984"* is inserted as the heading of paragraph (a)(2) as so redesignated in lieu of *"In general"*, and the phrase "before January 1984" is inserted immediately following the term "any calendar month" therein.

3. A new paragraph (a)(1) is added. The added provisions read as follows:

§ 31.6302(c)–2 Use of Government depositaries in connection with employee and employer taxes under Railroad Retirement Tax Act.

(a) *Requirement*—(1) *In general; after 1983.* In the case of a calendar month which begins after December 31, 1983, if, at a time prescribed under § 31.6302(c)–1(a)(1) (i) or (iv) for the deposit of undeposited taxes, the aggregate amount of undeposited employee tax withheld after December 31, 1983, under section 3202 and employer tax imposed after December 31, 1983, under section 3221 equals an amount required to be deposited under § 31.6302(c)–1(1)(a) (i) or (iv), the employer shall deposit such undeposited railroad retirement taxes at such time in the manner prescribed in § 31.6302(c)–1(a)(1) (i) or (iv). Notwithstanding the preceding sentence, if, for the calendar year prior to the calendar year preceding the current calendar year, the aggregate amount of taxes imposed under sections 3202 and 3221 with respect to an employer equalled or exceeded $1 million, such employer shall deposit his undeposited railroad retirement taxes required to be deposited for the current calendar year in accordance with Revenue Procedure ———— (relating to transfers by wire to the Treasury).

* * * * *

(Sec. 6302(c), 68A Stat. 775; 26 U.S.C. 6302(c), Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805, Internal Revenue Code of 1954)

James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 83-29702 Filed 10-28-83; 4:36 pm]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Educational Loan Forgiveness

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: The VA (Veterans Administration) is proposing cancellation of regulations dealing with education loan forgiveness through accelerated payment of educational

assistance allowance. The law required that by January 1, 1983 States or local governmental units which wanted to participate in this program must have established a matching program. None did so. This cancellation will make clear that veterans and eligible persons may not receive education loan forgiveness through accelerated payments.

DATE: Comments must be received on or before December 5, 1983. It is proposed to make the cancellation of these regulations effective the date of final approval.

ADDRESSES: Send written comments to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 15, 1983. Anyone visiting VA Central Office in Washington, D.C. for the purpose of inspecting any of these comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, D.C. 20420 (202–389–2091).

SUPPLEMENTARY INFORMATION: Sections 21.1045(j), 21.4502(c) and 21.4506 are canceled. These sections dealt entirely with education loan forgiveness through accelerated payment. Since no State or local governmental unit established a matching program before the deadline of January 1, 1983, there can be no education loan forgiveness through accelerated payment. Hence, all regulations dealing with this program must be canceled.

The VA has determined that the regulations which it proposes to cancel are not major rules as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The cancellation will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans Affairs hereby certifies that the proposed cancellation of these regulations, if made final, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this proposed cancellation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because no education loan forgiveness has ever occurred. Hence canceling the regulations that provide for education loan forgiveness will have no economic impact whatever.

The Catalog of Federal Domestic Assistance numbers for the program affected by this proposed cancellation of regulations are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Veterans Administration, Vocational education, Vocational rehabilitation.

Approved: October 19, 1983.

By direction of the Administrator:

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration proposes to amend 38 CFR Part 21 as set, forth below:

§ 21.1045 [Amended]

1. In § 21.1045, paragraph (j) is removed.

§ 21.4502 [Amended]

2. In 21.4502, paragraph (c) is removed.

§ 21.4506 [Removed]

3. Section 21.4506 is removed.

[FR Doc. 83-29728 11-1-83; 8:45 am]
BILLING CODE 8320-01-M

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38 CFR Part 21

Veterans Education; Education Loans, Flight Training, Correspondence Training

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: The following regulatory provisions implement some of the provisions of the Omnibus Budget Reconciliation Act of 1981 which affect people receiving educational assistance under chapters 34, 35 and 36, title 38, United States Code.

The proposed amendments provide for the gradual elimination of flight training, reductions in the rate of reimbursement for correspondence training; and further restrictions on payment of educational loans.

DATES: Comments must be received on or before December 5, 1983.

In accordance with Pub. L. 97–35, it is proposed that the amendments to all these sections be made effective October 1, 1981.

ADDRESSES: Send written comments to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 15, 1983. Anyone visiting the VA (Veterans Administration) Central Office in Washington, D.C. for the purpose of inspecting any comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, D.C. 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: Sections 21.4136, 21.4137, 21.4232 and 21.4503 are amended to implement portions of the Omnibus Budget Reconciliation Act of 1981. These policy changes are required by law.

The agency has determined that these proposed regulations contain no major rules as that term is defined in Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. They will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United-States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act

(RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these regulations therefore are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that the proposed changes simply conform VA regulations to amendments previously made by Pub. L. 97–35. These regulations will have no significant economic impact in themselves. Also, they deal with the entitlements of individuals; they are not directed at small entities.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these proposed regulations are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Veterans Administration, Vocational education, Vocational rehabilitation.

Approved: October 3, 1983.

By direction of the Administrator:

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—[AMENDED]

The Veterans Administration proposes to amend 38 CFR Part 21 as set forth below:

1. In § 21.4136, paragraph (a) and footnotes 1–5 are revised as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. Chapter 34.

(a) *Rates.* Educational assistance allowance is payable at the following monthly rates effective October 1, 1981:

Type of courses	Monthly rate: No dependents	1 dependent	2 dependents	Additional for each additional dependent
Payment designated training assistance allowance:				
First 6 months	249	278	305	13
Second 6 months	186	217	243	13
Third 6 months	124	155	180	13
Fourth 6 months and succeeding periods	82	92	119	13
Correspondence	(4)	(4)	(4)	(4)
Flight training	(5)	(5)	(5)	(5)
Farm cooperative:				
Full time	276	323	367	21
¾ time	207	242	275	16
½ time	138	162	184	11

[1] If a veteran under chapter 34 receiving benefits under § 21.4280(b)(2) completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed $171 or $86, as appropriate, per month if the maximum allowance is not initially authorized.

[2] See paragraph (b) of this section.

[3] See footnote 5 of § 21.4270(b) for measurement of full time and paragraph (i) of this section for proportionate reduction in award for completion of less than 120 hours per month.

[4] 55 percent of the established charge for number of lessons completed by the veteran and serviced by the school. Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible veteran, whichever is the lesser. Enrollments before January 1, 1973, will receive 100 percent of the established charges. Enrollment after December 31, 1972 and before September 2, 1980 will receive 90 percent of the established charges provided the student remains continuously enrolled in his or her program. Those veterans and servicepersons who are not entitled to receive 90 percent of the established charges will receive 70 percent of the established charges for all lessons they complete and submit to the educational institution before October 1, 1981. The Veterans Administration considers the continuity or an enrollment broken when there are more than 6 months between the servicing of lessons—Allowance paid quarterly. See § 21.1045(g) (Sec. 2004(b), Pub. L. 97–35)

[5] 60 percent of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay. If a veteran or serviceperson enrolls in a flight course before September 2, 1980, he or she will receive 90 percent of the established charge for the course, provided he or she remains continuously enrolled in his or her program. If a veteran or serviceperson enrolls in a flight course after September 1, 1980 and before September 1, 1981 and is not entitled to receive 90 percent of the established charge for the course, he or she will receive 60 percent of the established charge for the course provided he or she remains continuously enrolled in his or her program. If a veteran or serviceperson enrolls in a flight course during September 1981, and this does not form part of a continuous enrollment begun before September 1, 1981, he or she will receive 60 percent of the established charge for that portion of the course completed during September 1981. He or she will receive no payment for any portion of the course completed after September 30, 1981. If,after September 30, 1981, a veteran or service person receives flight training after breaking the continuity of his or her enrollment, or after enrolling in a flight course for the first time, the Veterans Administration will make no payment for the flight training. The Veterans Administration will consider the continuity of the enrollment broken any time the veteran or serviceperson receives no flight training for a period of 6 or more consecutive months. Allowance paid monthly based on actual flight training received. See § 21.1045(e). (Secs. 2003 and 2006, Pub. L. 97–35) (38 U.S.C. 1677, 1682, 1786, 1787)

* * * * *

2. In § 21.4137, paragraph (a) and footnotes 1–3 are revised as follows:

§ 21.4137 Rates; educational assistance allowance—38 U.S.C. Chapter 35.

(a) *Rates.* Educational assistance allowance is payable at the following rates effective October 1, 1981:

Type of courses	Monthly rate
Institutional:	
Full time	$342
¾ time	257
½ time	171
Less than ½ but more than ¼ time [3]	171
¼ time or less [3]	86
Cooperative, other than farm cooperative (full time only)	276
Apprentice or on-job (full time only but see footnote [1] below) Payment designated training assistance allowance:	
First 6 months	249
Second 6 months	186
Third 6 months	124
Fourth 6 months and succeeding periods	82
Farm cooperative:	
Full time	276
¾ time	207
½ time	138
Correspondence	(2)

[1] See footnote 5 of § 21.4270(b) for measurement of full time and paragraph (i) of this section for proportionate reduction in award for completion of less than 120 hours per month.

[2] 55 percent of the established charge for number of lessons completed by eligible spouse or surviving spouse and serviced by the school. Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible spouse or surviving spouse, whichever is the lesser. Eligible spouses or surviving spouses who enroll before September 2, 1980 will receive 90 percent of the established charges, provided the student remains continuously enrolled in his or her program. Those spouses and surviving spouses who are not entitled to receive 90 percent of the established charges will receive 70 percent of the established charges for all lessons they complete and submit to the educational institution before October 1, 1981. The Veterans Administration considers the continuity of an enrollment to be broken when there are more than 6 months between the servicing of lessons. Allowance paid quarterly. (38 U.C. 1734, 1786; sec. 2004(b), Pub. L. 97–35)

[3] If an eligible person under chapter 35 receiving benefits under paragraph (n) of this section completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed $164 or $82 as appropriate per month, effective Octobe 1, 1980, and $171 or $86 as appropriate per month, effective January 1, 1981 if the maximum allowance is not initially authorized. (38 U.SC. 1732(c)(3)

* * * * *

3. In § 21.4252, paragraph (c) is revised as follows:

§ 21.4252 Courses precluded.

* * * * *

(c) *Flight training.* The Veterans Administration may approve an enrollment in any of the following types of courses of flight training if an institution of higher learning offers the course for credit toward the standard college degree the veteran or eligible person is pursuing. The Veterans Administration otherwise will not approve an enrollment in—

(1) A course of flight training to obtain a private pilot's license or equivalent level training under chapter 34.

(2) Any other course of flight training under chapter 34 if the veteran—

(i) Enrolled in the first course of flight training in his or her program of education after September 30, 1981, or

(ii) Enrolled in the second or subsequent course in a program of flight training after September 30, 1981, and more than 6 months have elapsed since

the veteran last received flight training, or

(iii) Enrolled in the first course of flight training in his or her program of education during September 1981, and the course in question is any course in which the veteran first receives training after September 30, 1981, or

(3) Any course of flight training under chapter 35. (Sec. 2003, Pub. L. 97–35)

* * * * *

4. In § 21.4503, paragraph (b)(10) and (11) is added as follows:

§ 21.4503 Determination of loan amount.

* * * * *

(b) *Amount.* * * *

(10) If the enrollment period for which a loan is sought begins after September 30, 1981, the Veterans Administration may grant a loan only if—

(i) The veteran's or eligible person's delimiting date as determined by § 21.1042, § 21.1043 or § 21.3046(a), (b) or (d) has expired, or

(ii) The veteran is eligible to receive educational assistance allowance for a course of flight training and is eligible to be reimbursed at the rate of 60 percent of the established charges for tuition and fees.

(11) If a veteran or eligible person whose delimiting date as determined by § 21.1042, § 21.1043 or § 21.3046(a), (b) or (d) has not expired seeks a loan for an enrollment period that begins before October 1, 1981 and ends after September 30, 1981, the Veterans Administration will calculate the loan amount by—

(i) Considering the loan period to extend only through September 30, 1981, and

(ii) Prorating the veteran's or eligible person's financial resources and actual cost of attendance accordingly. (38 U.S.C. 1798(a); secs. 2005 and 2006, Pub. L. 97–35)

[FR Doc. 83–29729 Filed 11–1–83; 8:45 am]

BILLING CODE 8320–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 21323]

The Use of Subcarrier Frequencies in the Aural Baseband of Television Transmitters; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: Action taken herein extends the comment period in this proceeding involving the use of subcarrier frequencies in the aural baseband of TV transmitters. This action is taken in response to a request by the Electronics Industries Association. This action is intended to allow interested parties time to evaluate a comprehensive report on proposed TV multichannel sound transmission and companding systems, to be issued on or about October 31, 1983. The intended effect of this action is to improve the quality of the comments to be filed in this proceeding.

DATES: New dates for filing comments and reply comments are December 30, 1983, and January 30, 1984, respectively.

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Federal Communications Commission, Washington, D.C. 20554 (202) 632–9660.

Order Extending Time for Filing Comments and Reply Comments

In the matter of the use of subcarrier frequencies in the aural baseband of television transmitters, Docket No. 21323.

Adopted: October 24, 1983.
Released: October 26, 1983.
By the Chief, Policy and Rule Division.

1. On July 28, 1983, the Commission adopted a Further Notice of Proposed Rule Making ("Further Notice") in the above-entitled matter which was released on August 15, 1983, and published in the **Federal Register** (48 FR 37457) on August 18, 1983.

2. On October 14, 1983, The Consumer Electronics Group of the Electronics Industries Association ("EIA") filed a "Petition for Extension of Comment Period" requesting that the comment and reply comment dates be extended to December 30, 1983 and January 30, 1984, respectively. The time would allow interested parties to evaluate an extensive and detailed technical report on proposed TV multichannel sound transmission and companding systems. This report is in the final stages of preparation by EIA's Multichannel Sound Subcommittee and is scheduled for release on October 31, 1983. We agree that industry consideration and evaluation of this report will materially improve the quality of the comments to be submitted in this proceeding.

3. Accordingly, it is ordered that the time for filing comments in Docket No. 21323 is extended to December 30, 1983, and January 30, 1984, respectively.

4. This action is taken pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,
Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–29804 Filed 11–1–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 79–265; RM–2023; RM–2255; RM–3228; FCC 83–483]

Nighttime Power Limitations and Antenna Systems for Class IV AM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Comments are invited on proposals to increase the nighttime power of Class IV AM broadcast stations. This step would increase the signal-to-noise ratio within the established nighttime service areas of these stations. Improved ability to overcome interference and render better service would result. Noise increases have heightened the need for this action.

DATES: Comments are due by December 7, 1983 and replies by December 15, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Frederic Schottland (engineer) or Jonathan David (attorney) of the Mass Media Bureau, Federal Communications Commission , Washington, D.C. 20554. Telephone numbers, respectively are (202) 632–5414 and (202) 632–7792.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making and Memorandum Opinion and Order

In the matter of Nighttime Power Limitations and Antenna Systems for Class IV AM Broadcast Stations; BC Docket No. 79–265, RM–2023, RM–2255, RM–3228; FCC 83–483.

Adopted: October 19, 1983.
Release: October 27, 1983.

By the Commission: Commissioner Quello absent.

Background

1. The issue of increased nighttime

power for Class IV AM stations [1] was first raised in three rule making petitions (RM–2023, 2255 and 3228) filed in 1972, 1973 and 1978, respectively. In RM–2023, Community Broadcasters Association, Inc., proposed an across-the-board power increase from the present limit of 250 watts to 1000 watts. In RM–2255, Paul Dean Ford proposed permitting an increase in antenna height for Class IV stations to as much as 5/8 wavelength. Finally, in RM–3228, Douglas Broadcasting Corporation proposed increasing the nighttime power limit to 1000 watts along with the use of 5/8 wavelength antenna structures.

2. In response to these petitions, and in order to develop a U.S. position to be presented at the Region 2 Administrative Radio Conference on AM broadcasting,[2] the Commission issued a *Notice of Inquiry* in 1979.[3] That *Notice* raised a series of questions designed to explore whether a nighttime power increase for Class IV stations to 1000 watts would be desirable, and if so, to determine the procedures to be employed to implement any such increase. In this latter regard, particular concern was expressed over the feasibility of extending antenna height requirements as had been suggested in two petitions.

3. Virtually all of the comments submitted in response to the *Notice* supported a nighttime power increase to 1000 watts for Class IV stations. Thus, at the First Session of the Region 2 Conference, the U.S. proposed that Class IV stations (under Conference terminology referred to as Class C stations) be permitted to operate with at least 1000 watts power at night. In fact, this proposal was adopted at the First Session. However, the governing agreements with Canada and Mexico precluded use of such power by U.S. Class IV stations pending renegotiation of these agreements. Accordingly, the U.S. took steps to avoid any potential conflict with other nations in the Region by placing its Class IV stations in the southeastern U.S. in the Regional Plan with a nighttime power of 1000 watts [4] Since then, the necessary bilateral negotiations with Canada and Mexico have taken place. Although final drafts of the proposed bilateral agreements with these countries have not been completed, tentative agreements have been developed, with implementation anticipated in late 1983 and early 1984 for Canada and Mexico, respectively. Now that the international impediments to increased nighttime power for Class IV stations are about to be removed, it is appropriate to proceed with consideration of specific rule changes to make such an increase possible.

The Proposal

4. Based on our review of the comments filed in response to the *Inquiry*, it is clear that there are serious nighttime reception problems for Class IV stations. Generally, man-made electrical noise is causing a degradation in the nighttime service by Class IV stations. Operating with a maximum power of only 250 watts, these stations are unable to overcome the noise problems. However, a power increase could be expected to help alleviate this problem by increasing the signal-to-noise ratio. Likewise, an increase in power could assist some Class IV stations in the Southeastern U.S. which receive interference from stations elsewhere in the Region in recouping lost service resulting from such interference.

5. In view of the foregoing, the Commission believes that a nighttime power increase for Class IV stations should be proposed. As an alternative to an across-the-board power increase, two of the petitioners have suggested an approach based on increasing antenna heights. As discussed further at paragraph 9, this would be of no help to the many Class IV stations which would be unable to increase their antenna heights. Therefore, it seems preferable to propose an across-the-board rule change to permit Class IV stations on local channels to increase their nighttime power from the current limit of 250 watts to 1000 watts (one kilowatt). This proposal, would permit all currently authorized Class IV stations, after appropriate application, to increase their nighttime power by a factor of four. Thus, Class IV stations currently operating with 250 watts at night would be permitted to increase nighttime power to one kilowatt. Stations currently authorized to operate with nighttime power of 100 watts would be permitted to increase their nighttime power to 400 watts. Some Class IV stations may not be able to operate with daytime power of one kilowatt because of co-channel and/or adjacent channel protection requirements. If adopted, the Commission's proposal would permit those stations to use higher power at night than during the day. Such higher power nighttime use is not permitted under the existing rules.

6. *Structural Economic Benefits*—In addition to the benefits to listeners from increased nighttime service, the proposed rule changes would be expected to have significant desirable economic effects on the viability and economic position of individual Class IV radio stations and on the competitive structure of radio markets. The expanded reach that would be possible through increased nighttime power would be expected to increase the potential revenue base of Class IV stations. This would improve the ability of these stations to provide quality program service and to compete more effectively with other stations that operate without nighttime power restrictions. The Commission believes that these anticipated economic effects are desirable and consistent with its goals to further economic competition in radio markets and to rely on the economic forces in such markets to achieve its objective of increased public service by the radio industry.

7. *Other Matters*—The Commission desires to reduce the administrative impact upon licensees and the Commission that would result from the across-the-board nighttime power increase being proposed. Accordingly, the Commission proposes to redefine such nighttime power increases as minor changes, thereby greatly decreasing the administrative difficulties in filing and processing these applications. In fact, most Class IV stations already operate with 1000 watts daytime. Thus, no construction is needed to operate with this power at night. Although an application would be required to authorize a nighttime power increase for these stations, it seems unnecessary to use a two-step application procedure to implement the increase in power since ordinarily no construction would be necessary. For stations not operating with 1000 watts daytime, however, we do contemplate separate permit and license applications. This is necessary so that matters such as 2/25 mV/m overlap with stations on second adjacent channels could be considered.

[1] Class IV stations operate on a full-time basis on one of six local channels. They operate with a maximum power of 1000 watts daytime and 250 watts at night.

[2] The purpose of the Conference was to develop an AM broadcasting agreement for Region 2 which includes the Americas, Greenland and the Caribbean. The first session was held during March 1980 and the second session was held during November and December of 1981. Subsequently, the Commission has been involved in a series of bilateral negotiations with Canada and Mexico on this issue and on other AM matters of common interest.

[3] Adopted October 16, 1979, 44 FR 62307 (1979).

[4] As a result of having the Class IV stations in the Southeastern U.S. included in the Rio Plant at 1000 watts, the need to consider the impact on other Region 2 nations was virtually elininated.

8. Comments are sought on all aspects of the proposed changes in the Commission's rules to permit an increase in the nighttime power of Class IV stations to a maximum of 1000 watts.[5] In addition to general comments on such an increase, parties may wish to comment on the treatment of stations now operating with 250 watts or 500 watts daytime. Interested parties are invited to offer suggestions on the timing and methodology for effectuating such a power increase.

Increased Antenna Height

9. As noted above, we have decided not to propose the increased antenna height approach to Class IV power increases urged by Paul Dean Ford and Douglas Broadcasting Corporation. It is true that an increase in antenna height could be used to produce an increase in groundwave radiation, but this could be accomplished to any significant degree only by the construction of taller towers of 1/2 to 5/8 wavelength. For a variety of reasons, it appears that this approach is not a feasible one to use alone or in combination.[6] If some, but not all of the Class IV stations increase their antenna height, their present service areas would not be maintained; some would increase at the expense of the reduction of others. Further, construction to increase antenna height often is not feasible because of economic or technical restraints. In some cases, interference problems prevent such an increase. Likewise, municipal codes or aeronautical considerations can preclude such tower construction. Because only a few Class IV licensees could benefit, it would not be fair to limit the benefits of power increases to those stations able to increase antenna height. In addition, it would lead to gains of service to the increasing stations at the cost of those unable to obtain it. Accordingly, we must reject this approach and therefore will deny the two petitions (RM–2255 & RM–3228) which advocate it.

10. Accordingly, it is ordered, That the petitions for rule making filed by Paul Dean Ford (RM–2255) and by Douglas Broadcasting Corporation (RM–3228) ARE DENIED.

11. *Regulatory Flexibility Initial Analysis:*

I. Reason for Action

A substantial number of Class IV stations on local channels appear to suffer noticeable nighttime interference from man-made sources within their otherwise interference free contours. In addition, Class IV stations are limited to an antenna power input of 250 watts, whereas elsewhere in the Western Hemisphere such stations are authorized to operate with much greater nighttime antenna input power, often to the detriment of U.S. Stations.

II. The objective

The Commission proposes to increase the nighttime power of Class IV station's nighttime antenna power input to four times its currently authorized level. Such an across-the-board power increase would double the received signals in the service areas of Class IV stations, thus reducing the signal degradation caused by man-made noise or other sources of interference.

III. Legal basis

Action as proposed is in furtherance of Section 303 of the Communications Act of 1934, as amended, which charges the Commission to determine the power that each station shall use so as best to serve the public convenience, interest, or necessity.

IV. Description, potential impact and number of small entities affected

The only group of small entities affected by this proposal are the Class IV stations themselves. This proposal would provide them with substantial relief from the nightime signal degradation they now suffer. Except for those few stations which might choose not to take advantage of the opportunity to increase their nighttime power, there would be a potential favorable impact on all 1072 small entities currently assigned to the six Local Channels.

V, Recording, record keeping and other compliance requirements:

None.

VI. Federal rules which overlap duplicate or conflict with this rule:

None.

VII. Any significant alternative minimizing impact on small entities and consistent with stated objective:

None.

12. For the purpose of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written summary of that presentation, on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by Docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

13. *This Notice of Proposed Rule Making* is issued pursuant to authority contained in Section 4(i) and 303 of the Communications Act of 1934, as amended. Interested parties may file comments on or before December 1, 1983, and reply comments on or before December 15, 1983. All relevant and timely comments filed in response to this *Notice* will be considered by the Commission. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and five copies of all comments, replies, briefs and other documents filed in this proceeding shall be furnished the Commission. Further, members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the heading. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided the fact of the Commission's reliance is noted in the Report and Order.

14. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's

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[5] To effect the changes proposed will require amendment of several sections of the Commission's rules, most notably Sections 73.14, 73.21, 73.27, 73.182, 83.189, 73.1665(b) and 73.3571. In addition, since these are minor change applications, the multiple ownership rules would not preclude their grant even if overlap with a commonly owned station resulted.

[6] Moreover, it is no longer necessary to consider this approach now that international impediments to increasing power are being removed.

Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

15. For further information concerning this proceeding, contact Jonathan David, Mass Media Bureau, (202) 632-7792.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-29983 Filed 11-1-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1125; RM 4531]

FM Broadcast Stations in Mount Bullion, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Class B FM Channel 260 to Mount Bullion, California, as that community's first FM assignment, in response to a petition filed by Eric R. Hilding.

DATES: Comments must be filed on or before December 5, 1983, and reply comments must be filed on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6350.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Mount Bullion, California) MM Docket No. 83-1125, RM-4531.

Adopted: October 6, 1983.
Released: October 20, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed June 24, 1983, by Eric R. Hilding ("petitioner"), proposing the assignment of Class B FM Channel 260 to Mount Bullion, California, as that community's first FM service. Petitioner submitted information in support of the channel and expressed his interest in applying for the channel, if assigned. The proposed assignment meets all spacing requirements, based on the issuance of a construction permit for Station KRFD (Channel 260), in Marysville, California.

2. In view of the fact that the proposed assignment could provide a first FM broadcast service to Mount Bullion, California, the Commission believes it is appropriate to seek comments on the proposal to amend the FM Table of Assignment, § 73.02(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Mount Bullion, California		260

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note:—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Eric R. Hilding, P.O. Box 1300, Freedom, CA 95019.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filing in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or

before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspeciton of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-29080 Filed 11-1-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1131; RM-4571]

FM Broadcast Station in Silverton, Colorado; Proposed Changes in Table of Assignment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to substitute Class C FM Channel 279 for Channel 280A at Silverton, Colorado, and to modify the Class A license of Station KDRW(FM), in response to a petition filed by Longhorn Communications, Incorporated.

DATES: Comments must be filed on or before December 5, 1983, and reply comments must be filed on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Silverton, Colorado) MM Docket No. 83-1131, RM-4571.

Adopted: October 6, 1983.
Released: October 21, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by Longhorn Communications, Incorporated ("petitioner"), licensee of FM Station KDRW (Channel 280A), Silverton, Colorado, which seeks to substitute Class C FM Channel 279 for Channel 280A, and to modify its license to specify operation on the Class C channel. The channel can be assigned in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

2. Petitioner states that because Silverton is located in a mountainous area, its request is founded on a desire to provide expanded coverage not only to area residents, but also to persons residing in nearby communities.

3. In view of the above, we have determined that the proposal merits further consideration. Therefore, as requested by petitioner, we will propose to modify the license of Station KDRW to specify operation on Channel 279. However, in conformity with Commission precedent, as expressed in *Cheyenne, Wyo.*, 62 FCC 2d 63 (1976), should another interest in the assignment be shown, the proposed modificaiton could not be made and the channel, if assigned, would be open to competing applications.

4. An *Order to Show Cause* to the petitioner is not required since consent to the modification of its license is indicated by its request for the Class C channel.

5. Also pending before the Commission is a proposal to assign Class C Channel 297 to Silverton, Colorado, in MM Docket No. 83-738.

6. Accordingly, the Commission believes it is appropriate to solicit comments on the proposal to amend the FM Table of Assignments as follows:

City	Channel No.	
	Present	Proposed
Silverton, Colorado	257A, 280A,	257A, 279, and 297

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows: Longhorn Communications, Incorporated, Attn: Theresa S. Kessler, 1911 Main Avenue, Suite 254, Durango, Colorado 81301.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which the Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-29879 filed 11-1-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1133; RM-4580]

FM Broadcast Stations in Somerset, Kentucky; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 272A to Somerset, Kentucky, in response to a petition filed by Cumberland Communications, Inc. The proposal could provide for a second FM service to Somerset.

DATES: Comments must be filed on or before December 5, 1983, and reply comments on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of §73.202(b) Table of Assignments, FM Broadcast Stations (Somerset, Kentucky) MM Docket No. 83-1133, RM-4580.

Adopted: October 6, 1983.
Released: October 21, 1983.

By the Chief, Policy and Rules Division.

1. Cumberland Communications, Inc.[1] ("petitioner"). on July 22, 1983, submitted a petition for rule making seeking the assignment of Channel 272A to Somerset, Kentucky, as that community's second FM channel. Petitioner stated its intention to apply for the channel if assigned.

2. We have determined that a Channel 272A assignment to Somerset, Kentucky, will require a site restriction of 3.1 miles southwest of the city. This site restriction is necessary to avoid a short-spacing to Station WLJC(FM) (Channel 272A), Beattyville, Kentucky.

3. I view of the fact that the proposal could provide for a second FM service to Somerset, the Commission proposes to amend the FM Table of Assignment, §73.202(b) of the Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Somerset, Kentucky	244A	244A, 272A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follow: Cumberland Communications, Inc., P.O Box B, Somerset, Kentucky 42501.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment

[1] Cumberland Communications, Inc. is the licensee of AM Station WTLO, Somerset, Kentucky.

which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-29873 Filed 11-1-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1126; RM-4516]

FM Broadcast Stations in Truro, Massachusetts; Proposed Changes in Table Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 272A to Truro, Massachusetts, as that community's first FM assignment, in response to a petition filed by John T. Galanses.

DATES: Comments must be filed on or before December 5, 1983, and reply comments on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Truro, Massachusetts) MM Docket No. 83-1126, RM-4516.

Adopted: October 6, 1983.
Released: October 20, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed June 17, 1983, by John T. Galanses ("petitioner") proposing the assignment of Channel 272A to Truro, Massachusetts, as that community's first FM service. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed assignment could provide a first local FM broadcast service to Truro, Massachusetts, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Truro, Massachusetts		272A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

NOTE—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: John T. Galenses, 205 Casa Solana, Key West, Florida 33040, Petitioner.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-29661 Filed 11-1-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1134; RM-4527]

FM Broadcast Station in Norway, Michigan; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a first FM channel assignment to Norway, Michigan, in response to a petition filed by Robert A. Sherman.

DATES: Comments must be filed on or before December 5, 1983, and reply comments on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Norway, Michigan) MM Docket No. 83-1134, RM-4527.

Adopted: October 6, 1983.
Released: October 21, 1983.

By the Chief, Policy and Rules Division.

1. On June 17, 1983, Robert A. Sherman ("petitioner") filed a petition for rule making seeking to assign Channel 232A to Norway, Michigan, as its first FM channel. Peitioner stated his intention to apply for the channel, if assigned.

2. Since Norway, Michigan, is located within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence in the propose assignment must be obtained.

3. In view of the fact that the proposal could provide a first local broadcast service to Norway, we shall seek comments on the proposal to amend the FM Table of Assignments (§ 73.202(b) of the Rules) with respect to the following city:

City	Channel No. Present	Proposed
Norway, Michigan		232A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirement are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Robert A. Sherman, 1039 Division, Port Huron, Michigan, 48060.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do No Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filing in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83–29874 Filed 11–1–83; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–1132; RM–4586]

FM Broadcast Station in Marion, Mississippi; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 276A to Marion, Mississippi, in response to a petition filed by Larry G. Fuss, Sr. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before December 5, 1983, and reply comments must be filed on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Marion, Mississippi), MM Docket No. 83–1132, RM–4586.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Larry G. Fuss, Sr. ("petitioner"), proposing the assignment of Channel 276A to Marion, Mississippi, as its first local FM service. Petitioner expressed his intention to apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements with a site restriction of 2.7 miles east to avoid short-spacing to WMSI, Channel 275, in Jackson, Mississippi.

2. In view of the fact that the proposed assignment could provide a first local FM service to Marion, Mississippi, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Marion, Mississippi		276A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and area advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner (or his consultant) as follows: Larry G. Fuss, Sr., 331 Belliford Court, Mars, Pennsylvania 16046.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings of this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83–28872 Filed 11–1–83; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–1130; RM–4514]

FM Broadcast Station in Folly Beach, South Carolina; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 249A to Folly Beach, South Carolina, as that community's first FM channel in response to a petition filed by John T. Galanses.

DATE: Comment must be filed on or before December 5, 1983, and reply comments on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Folly Beach, South Carolina) MM Docket No. 83–1130, RM–4514.

Adopted: October 6, 1983.
Released: October 21, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rulemaking filed June 15, 1983, by John T. Galanses ("petitioner"), proposing the assignment of Channel 249A to Folly Beach, South Carolina, as that community's first FM channel. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned. A site restriction of 2.4 miles southwest of Folly Beach is required to avoid short spacing to Station WGMB (Channel 249A) in Georgetown, South Carolina.

2. In view of the fact that the assignment could provide a first local

FM broadcast service to Folly Beach, South Carolina, the Commission believes that it is appropriate to propose amending the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) with respect to the following community.

City	Channel No.	
	Present	Proposed
Folly Beach, South Carolina		249A

3. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: John T. Galanses, 205 Casa Solana, Key West, Florida 33040, Petitioner.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-29979 Filed 11-1-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1129; RM-4579]

FM Broadcast Stations in Jamestown Tennessee; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign a second FM channel to Jamestown, Tennessee, in response to a petition filed by Jamestown Broadcasting Company, Inc.

DATE: Comments must be filed on or before December 5, 1983, and reply comments on or before December 20, 1983.

ADDRESS: Federal Communication Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations

(Jamestown, Tennessee) MM Docket No. 83–1129, RM–4379.

Adopted: October 6, 1983.
Released: October 20, 1983.

By the Chief, Policy and Rules Division.

1. Jamestown Broadcasting Company, Inc. ("petitioner"), on July 21, 1983, submitted a petition for rule making which seeks the assignment of Channel 276A to Jamestown, Tennessee, as its second FM assignment. Petitioner stated that it would apply for the channel, if assigned.

2. The proposed assignment of Channel 276A to Jamestown can be made in conformity with the minimum distance separation requirements, provided the transmitter site is located approximately 0.7 miles northeast of the city. This restriction is necessary to avoid short-spacing to Station WKDR (FM) (Channel 277), Nashville, Tennessee.

3. In view of the foregoing and the fact that the proposed assignment could provide a second FM service to Jamestown, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Jamestown, Tennessee	280A	276A, 280A

4. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Jamestown Broadcasting Company, Inc., c/o Barbara R. Feeherry, Tierney and Swift, Law Offices, 1925 K Street, NW., Suite 300, Washington, D.C. 20006.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponents of a proposed asignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Proceedings.* The following procedures will govern the consideration of filings in this proceedings.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanies by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83–29677 Filed 11–1–83; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–1127; RM–4521]

FM Broadcast Stations in Strasburg, Virginia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Proposed assignment of Channel 285A to Strasburg, Virginia, as that community's first FM assignment, in response to a petition filed by John T. Galanses.

DATE: Comments must be filed on or before December 5, 1983, and reply comments on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Strasburg, Virginia) MM Docket No. 83–1127, RM–4521.

Adopted: October 6, 1983.
Released: October 20, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed June 20, 1983, by John T. Galanses ("petitioner") proposing the assignment of Channel 285A to Strasburg, Virginia, as that community's first FM assignment. Petitioner submitted information in support of the proposal and expressed his interest on applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. In view of the fact that the proposed assignment could provide a first local FM service to Strasburg, the Commission believes it is appropriate to propose amending the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) with respect to the following community.

City	Channel No.	
	Present	Proposed
Strasburg, Virginia		285A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: John T. Galanses, 205 Casa Solana, Key West, Florida 33040, Petitioner.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g)(and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be

available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-29882 Filed 11-1-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1128; RM-4562]

Television Broadcast Stations in Venice, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF Television Channel 62 to Venice, Florida, as its first television assignment in response to a petition filed by Holiday Group, Inc.

DATES: Comments must be filed on or before December 5, 1983, and reply comments on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Venice, Flroida) MM Docket No. 83-1128, RM-4562.

Adopted: October 6, 1983.
Released: October 20, 1983.

By the Chief, Policy and Rules Division.

1. Holiday Group, Inc. ("petitioner"), submitted a petition for rule making which seeks the assignment of UHF television Channel 46 to Venice, Florida, as its first television assignment. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned.

2. Venice (population 12,153)[1], in Sarasota County (population 202,251), is located on the west coast of Florida, approximately 92 kilometers (60 miles) south of Tampa, Florida.

3. Assignment of Channel 46 to Venice would be short-spaced on the co-channel to a proposed assignment at Naples, Florida (RM-4474). However, a staff engineering study reveals that Channel 62 can be assigned to Venice in compliance with the minimum distance separation requirements.

4. In view of the foregoing and the fact that the proposed television assignment could provide a first commercial television broadcast service to Venice, Florida, the Commmssion believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Venice, Florida		62

5. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner of this proceeding, as follows: Holiday Group, Inc., c/o Colby M. May, May, Dunne & Gay, 1156—15th Street, N.W., Washington, D.C. 20005.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commissions Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published Feburary 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (see § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be

[1] Population figures are from the 1980 U.S. Census, Advance Report.

made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules).

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-29870 Filed 11-1-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1135; RM-4581]

Television Broadcast Stations in Cullowhee, North Carolina; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a first UHF television assignment to Cullowhee, North Carolina, in response to a petition filed by Greg Ryder.

DATES: Comments must be filed on or before December 5, 1983, and reply comments on or before December 20, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of §73.606(b), Table of Assignments, Television Broadcast Stations (Cullowhee, North Carolina MM Docket NO. 83-1135, RM-4581.

Adopted: October 6, 1983.
Released: October 21, 1983.

By the Chief, Policy and Rules Division.

1. Greg Ryder ("petitioner"), on July 22, 1983, submitted a petition for rule making requesting the assignment of UHF Television Channel 31 to Cullowhee, North Carolina. Petitioner stated that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. Cullowhee (population 3,583) [1], in Jackson County (population 25,811), is located in western North Carolina, approximately 110 kilometers (70 miles) southeast of Knoxville, Tennessee. Cullowhee is currently without local television service.

3. In support of his proposal, petitioner submitted population data and statistics on the consumer spendable income and retail sales for Jackson County.

4. The proposed assignment of Channel 31 to Cullowhee would require a site restriction of 24.2 miles northwest of the city to avoid short-spacing to Station WGGS-TV (Channel 16), Greenville, South Carolina. In view of the large site restriction, petitioner is requested to provide a showing that the facilities he intends to use could provide the required 80 dBu city grade signal to Cullowhee in comments to this proposal.

5. In view of the fact that the proposal could provide a first local television service to Cullowhee, comments are invited on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Rules, as it pertains to the following community:

City	Channel No.	
	Present	Proposed
Cullowhee, North Carolina		31-

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before December 5, 1983, and reply comments on or before December 20, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Greg Ryder, P.O. Box 172, Cullowhee, North Carolina.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See. *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do not apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-29875 Filed 11-1-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 31027-210]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule-related notice; 1984 initial specifications for groundfish, request for comments.

SUMMARY: NOAA proposes 1984 initial specifications for total allowable catch (TAC) amounts for the Bering Sea and Aleutian Island area target species and the "other species" category and apportionments of those TAC's between domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF) for the 1984 fishing year. This action is intended to provide domestic and foreign fishermen and processors the opportunity to express their views on the proposed fishery specifications, and the extent to which the proposed specifications would ensure full use of groundfish resources and meet the anticipated needs of the U.S. fishery industry.

DATE: Comments on proposed TAC, DAH, and TALFF amounts are invited until December 1, 1983.

ADDRESS: Comments should be sent to Robert W. McVey, Director Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Copies of the Resource Assessment Document upon which the proposed TACs are based may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510, 907–274–4563.

FOR FURTHER INFORMATION CONTACT: Janet Smoker (Fishery Biologist, NMFS, Alaska Region), 907–586–7230

SUPPLEMENTARY INFORMATION:

Background

Amendment 1 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) was approved by the NOAA Assistant Administrator for Fisheries (Assistant Adminstrator) on July 25, 1983, and the proposed implementing regulations for the amendment were published in the **Federal Register** on September 19, 1983 (48 FR 41788). Among other actions, the proposed rule sets forth the procedure by which TAC and the domestic annual processing (DAP) and joint venture processing (JVP) components of DAH are determined annually for each target species and the "other species" category. Because Amendment 1 is not expected to be implemented until January 1, 1984, and because public input on the proposed 1984 TAC, DAP, JVP, and TALFF amounts is necessary prior to NOAA's final determination on these figures, NOAA now is soliciting public comment on the proposed figures under the authority granted to the Secretary of Commerce to initiate such action under Section 305(g) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). NOAA is taking this action to provide for an orderly conversion to the framework management approach under Amendment 1 if the implementing rule for that amendment is made effective in early 1984. Public comments received on the proposed fishery specifications will be considered by NOAA when making the final determination of initial TAC, DAP, JVP, and TALFF amounts for 1984. At that time, a rule-related notice will be issued by NOAA under the authority of the final rule implementing Amendment 1 and will establish the subject TAC, DAP, JVP, and TALFF amounts as revised by public comment being solicited by this notice. If the final rule implementing Amendment 1 is not effective by January 1, 1984, the fishery will be managed under the current species-specific OY, DAH, TALFF, and reserve amounts until the final rule implementing Amendment 1 becomes effective.

Under Amendment 1, the sum of the TACs for target species and the "other species" category may not exceed the established OY range for these species: 1.4–2.0 million metric tons (mt). Using this OY range as a limit, the 1984 TACs for each target species and for the "other species" category are based on the most recent assessment by NMFS scientists on the status of groundfish stocks as presented in the Council's resource assessment document (RAD). Copies of the RAD may be obtained from the Council at the adress noted above. The total TAC for target species and "other species" category proposed by the Council for 1984 is 2.0 million mt (Table 1). This harvest level represents about a 400,000 mt increase over the current total allowable groundfish harvest for target species and the "other species" category of approximately 1.6 million mt. Most of the proposed increase in the 1984 groundfish harvest reflects increases in the abundance of Pacific cod, yellowfin sole and "other flatfish". The proposed TAC for "other

rockfish" for the first time, separates harvest amounts for the Bering Sea (Fishery Areas I, II, and III) and the Aleutian area (Fishery Area IV) to accomodate the results of resource assessment surveys that indicate separate stock units in these two areas. Previously, the TAX for "other rockfish" was combined for all four areas.

TABLE 1.—ESTIMATED 1983 DOMESTIC CATCHES AND PRELIMINARY SPECIFICATIONS OF DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP) AND TOTAL ALLOWABLE LEVEL OF FISHING (TALFF) IN THE BERING SEA/ALEUTIAN ISLANDS AREA

[All figures in metric tons]

Species	Management Area	Proposed TAC	1983 Catches (projected)		1984 preliminary specifications		
			Domestic operations	Joint ventures	DAP	JVP	TALFF
Bering Sea/Aleutian Islands:							
Pollock	Bering Sea (BS)	1,067,710	1,600	144,000	14,782	231,930	259,782
	Aleutian Islands (AI)	86,980	0	2,600	500	3,000	72,123
Pacific Ocean Perch	(BS)	1,780	10	130	1,513	0	0
	(AI)	8,520	0	20	0	50	5,042
Sablefish	(BS)	3,740	100	50	1,575	100	1,401
	(AI)	1,800	0	70	50	100	1,230
Other Rockfish	(PS)	2,760	50	10	50	20	2,278
	(AI)	9,700	0	0	0	0	8,321
Atka Mackerel		29,130	0	10,700	0	16,000	2,688
Pacific Cod		256,920	54,000	14,500	115,312	14,188	80,590
Yellowfin Sole		275,830	200	22,500	1,606	29,000	204,852
Turbots		59,610	100	100	0	100	59,588
Other Flatfish		123,460	50	11,700	100	22,000	91,341
Squid		8,800	10	10	25	25	7,525
Other Species		54,270	3,000	1,700	8,000	2,288	41,129
Total		[1] 2,000,000	59,120	209,090	137,885	379,170	1,182,845

[1] 15 percent of the total TAC, or 300,000 mt, is apportioned to the reserve and the remaining TAC is apportioned to DAP, JVP, and TALFF.

Under the proposed implementing regulations for Amendment 1, the groundfish reserve at the beginning of each year will equal the sum of 15 percent of each TAC established for target species and the "other species" category. Thus, only 85 percent of each TAC is available for apportionment to initial DAP, JVP, and TALFF amounts.

Amounts specified as DAP are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. Amounts specified as JVP are intended for harvest by U.S. fishermen for delivery and sale to foreign processors at sea in joint ventures. The amounts specified as total reserve is intended for reapportionment to DAP and/or to JVP if those amounts are underspecified. That portion of the reserve not reapportioned to DAP or JVP is available for reapportionment to TALFF.

The Magnuson Fishery Conservation and Management Act (Magnuson Act), gives priority to U.S. fish processors when apportioning groundfish among user groups. Under section 204(b)(6)B)(i) of the Magnuson Act, the Secretary of Commerce may apportion to JVP only those amounts of U.S.-caught groundfish that are excess to amounts U.S. fish processors will process during any one fishing year.

To best determine the intentions of the U.S. industry, the Alaska Regional Director of the National Marine Fisheries Service (Regional Director) conducted a survey during August and September 1983 to determine preliminary the amounts of groundfish that U.S. processors intend to process or that domestic fishermen intend to deliver to foreign processors in joint ventures. The Council reviewed the results of this survey at its September 28–29, 1983, meeting, and recommended to the Regional Director preliminary specifications of DAP and JVP for 1984. The Council set these amounts equal to the amounts harvested in 1983 plus any additional amounts that are expected to be harvested in 1984 as indicated from results of the Regional Director's survey of the groundfish industry. The specifications proposed by the Secretary by this notice (Table 1) are the same as those recommended by the Council with the following exceptions:

1. The Secretary's proposed DAP and JVP specifications for Pacific ocean perch in the Bering Sea are 1,513 mt and zero mt, respectively, rather than the 1,864 mt DAP and 50 mt JVP recommended by the Council. The Secretary is proposing the revised amounts so that the TAC for Pacific ocean perch in the Bering Sea (1,780 mt) is not exceeded and DAP receives priority consideration consistent with section 204(b)(6)(B)(i) of the Magnuson Act. If determined necessary and permissible under the final rule implementing Amendment 1, the JVP specifications for Pacific ocean perch in the Bering Sea may be increased during the 1984 fishing year through the reapportionment of reserves.

2. The Secretary's proposed DAP and JVP specifications for squid are both 20 mt and the DAP and JVP specifications for the "other species" category are 3,000 mt and 2,000 mt respectively. The Council's recommended DAP and JVP specifications for squid and the "other species" category were zero. The increases in DAP and JVP specifications are proposed by the Secretary to provide for a by-catch of these species in other DAP and JVP target fisheries.

Comments are invited on the adequacy of the preliminary fishery specifications set forth in Table 1. Any additional information on industry plans for harvesting and processing U.S.-caught groundfish will be considered by the Secretary when making the final determination, after consultation with the Council, of the 1984 TACs and initial DAP, JVP, and TALFF specifications for each target species and the "other species" category in the Bering Sea and Aleutian Islands area. The final specifications of initial TAC, DAP, JVP, and TALFF amounts under Amendment 1 will be set forth in a rule-related notice published in the Federal Register once the final rule implementing the amendment is effective.

Other Matters

Any rule-related notice setting initial 1984 TAC, DAP, JVP and TALFF amounts as described above would be required by proposed 50 CFR 675.20(a) (48 FR 41795, September 18, 1983), and would comply with E.O. 12291.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*).

Dated: October 27, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29740 Filed 11-1-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 213
Wednesday, November 2, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Administration of the Administrative Conference of the United States, to be held at 9:30 a.m., Tuesday, November 22, 1983, at 400 Maryland Avenue, SW., Room 7002, Washington, D.C.

The Committee will meet primarily to discuss pending and possible projects on its agenda, including Professor George D. Brown's draft report on procedures for administering federal block grant programs.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information contact Charles Pou, Jr., Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. (Telephone: 202–254–7065) Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.
October 28, 1983.
[FR Doc. 83–29755 Filed 11–1–83; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

October 28, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

● Animal and Plant Inspection Service
Witchweed Mail Survey
Annually
Farms: 3,250 responses; 1,625 hours; not applicable under 3504(h)
B. Adams (301) 436–7776

● Agricultural Marketing Service
Celery Grown in Florida—Marketing Order 967
On Occasion, Annually
Farms, Businesses: 1,178 responses; 61 hours; not applicable under 3504(h)
Anne M. Dec (202) 475–3930

Revised

● Animal and Plant Health Inspection Service
Epidemiologic Investigation of Brucellosis Reactor Herd
VS 4–108, 4–108A, 4–108B, 4–108C
Occasion
Farms: 11,747 responses; 9,867 hours; not applicable under 3504(h)
W.C. Ray (301) 436–8713

Reinstatement

● Rural Electrification Administration
Estimated Schedule of Advances on FFB Notes Guaranteed by REA
REA—152
Annually
Small Businesses: 100 responses; 25 hours; not applicable under 3504(h)
Charles Weaver (202) 382–1900

Dewayne Hamilton,
Acting Department Clearance Officer.
[FR Doc. 83–29715 Filed 11–1–83; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Research Service

Soybean Research Advisory Institute; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Agricultural Research Service announces the following meeting:

Name: Soybean Research Advisory Institute.

Date: December 8–9, 1983 (9:00 a.m. daily).

Place: Room 3109, South Building, U.S. Department of Agriculture, 12th and Independence Avenue, SW., Washington, DC 20250.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: This is the fourth meeting of the Soybean Research Advisory Institute. The purpose of this Advisory Institute is to provide a temporary advisory body to assess soybean production and utilization research in the United States and to submit a comprehensive report to Congressional committees on its findings. The fourth meeting includes work sessions on the report,

and planning for the publication of the final report.

Contact person: Dr. Robert C. Leffel, Executive Secretary, Soybean Research Advisory Institute, Bldg. 011, HH–19, BARC-West, Beltsville, MD 20705. Telephone: (301) 344–1722.

Done at Beltsville, Maryland, this 24th day of October 1983.

Robert C. Leffel,

Executive Secretary, Soybean Research Advisory Institute.

[FR Doc. 83–29761 Filed 11–1–83; 8:45 am]
BILLING CODE 3410–03–M

Agricultural Stabilization and Conservation Service

Proposed Determinations With Regard to the 1984 Rice Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1984 crop of rice: (a) The loan and purchase rate; (b) the established (target) price; (c) the national program acreage (NPA); (d) whether a voluntary reduction percentage should be proclaimed and, if so, the level of such percentage reduction; (e) whether an acreage reduction program (ARP) should be established and, if so, the percentage of such reduction and the method to be used in establishing the acreage bases; (f) whether a payment-in-kind (PIK). program should be established and, if so, the percentage of acreage reduction under the program and the level of payment; (g) whether to permit haying and grazing of conservation use acreage if an acreage reduction or payment-in-kind program is established; (h) whether a land diversion program should be established and, if so, the extent of such diversion and the level of payment; (i) whether to require offsetting compliance if an acreage reduction program is established; and (j) other provisions. The determinations are required to be made in accordance with provisions of the Agricultural Act of 1949, as amended, (hereinafter referred to as the "Act").

DATE: Comments must be received on or before December 2, 1983, to be assured consideration.

ADDRESS: Dr. Howard C. Williams, Director, Analysis Division, USDA-ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: George H. Schaefer, Supervisory Agricultural Marketing Specialist, Analysis Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, or call (202) 447–4634. A Preliminary Regulatory Impact Analysis describing the options considered in developing these proposed determinations and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major." It has been determined that these program provisions will affect the supply and price of rice during the 1984/85 marketing year, which will in turn impact upon producers, processors, exporters and consumers of rice.

The titles and numbers of the federal assistance programs to which this notice applies are: Title—Rice Production Stabilization, Number 10.065, and Title—Commodity Loans and Purchases, Number 10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of proposed determinations since Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

It is necessary that the determinations for the 1984 crop be made in sufficient time to permit rice producers to make adequate plans for production of their crop. Therefore, it has been determined that the period for submitting comments with respect to this notice is being limited to 30 days in order to allow the Secretary sufficient time to properly consider the comments received before determining the final program provisions.

The following proposed program determinations are to be made with respect to the 1984 crop of rice:

Proposed Determinations

1. *The Loan and Purchase Rate.* Section 101(i)(1) of the Act provides that the Secretary of Agriculture shall make available to producers in the several States of the United States loans and purchases for the 1984 crop of rice at such level as bears the same ratio to the loan level for the 1983 crop as the established price for the 1984 crop of rice bears to the established price for the 1983 crop. The loan and purchase rate for the 1984 crop of rice shall be established on the basis of the 1983 loan rate prior to any adjustments. If the Secretary determines that loans and purchases at the foregoing level would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States, the Secretary may establish loans and purchases at such level, not less than $8.00 per hundredweight, as the Secretary determines necessary to avoid such consequences.

Section 403 of the Act provides that appropriate adjustments may be made in the support price for differences in grade, type, and other factors. Section 403 further provides that such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support.

The loan and purchase rate grade and grade-factor discounts are based on Federal Grain Inspection Service (FGIS) standards which permit moisture of fifteen percent for rice grades one through six. Rice having moisture in excess of thirteen percent is generally unmarketable for milling use because it may cause heat damage and thereby reduce the quality of rice with which it is stored on a commingled basis. The Commodity Credit Corporation (CCC) has experienced losses in inventory value due to the receipt and storage of high-moisture and sample grade rice. The Agricultural Stabilization and Conservation Service (ASCS) is, therefore, considering establishing loan and purchase rate discounts in the range of $3.00 to $4.00 per hundredweight for sample grade rice and rice of any grade with moisture exceeding thirteen percent in order to discourage the delivery of such rice to CCC.

ASCS currently establishes the loan value of farm-stored rice at the national average loan rate regardless of actual type, quality, or milling outturn. ASCS is considering revising this procedure for farm-stored rice loans by calculating the initial loan value based on the type and State average quality and milling outturn of the rice placed under loan. In the event such farm loan collateral is forfeited to CCC, final settlement would be made, as is the current practice, based upon actual appraisal grade and milling outturn. Loans which are made on warehouse-stored rice are currently based on the type and appraised grade and milling outturn of the actual rice collateral. Accordingly, no procedural change in determining loan values is being considered for such loans.

ASCS is considering establishing the following quality and milling outturn

levels as the basis for determining farm-stored loan values:

State	Grade/ milling outturn
Arkansas, Oklahoma, Tennessee:	
Long grain	#2: 53/116
Medium/short grain	#2: 58/67
California:	
Long grain	#1: 46/67
Medium/short grain	#1: 53/68
Florida:	
Long grain	#2: 56/70
Medium grain	#2: 54/66
Louisiana:	
Long grain	#2: 52/65
Medium/short grain	#2: 54/67
Mississippi:	
Long grain	#2: 53/65
Missouri:	
Long grain	#2: 53/66
Medium/short grain	#2: 56/67
Texas:	
Long grain	#1: 57/68
Medium grain	#2: 56/54

The following loan and purchase levels are currently being considered for the 1984 crop of rice: (a) $8.93 per hundredweight, the rate calculated in accordance with the statutory formula; (b) $8.14 per hundredweight, the 1983 crop loan and purchase rate; and (c) $8.00 per hundredweight, the statutory minimum loan rate. Export utilization for Marketing Year (MY) 1984/85 is forecast to decline from the MY 1983/84 level should the 1984-crop loan and purchase rate be established by the statutory formula.

Comments along with supporting data, are requested as to: (a) The national average loan and purchase rate for the 1984 crop of rice; (b) the loan and purchase rate value factors for types of rice; (c) the level of grade discounts appropriate for the 1984 crop of rice; (d) whether USDA should establish loan and purchase rate discounts in the range of $3.00 to $4.00 per hundredweight for sample grade rice and higher grade rice having moisture in excess of 13.0 percent; and (e) whether USDA should base initial farm-stored loans on average State quality and milling outturn by type, and if so, appropriate State grades and milling outturns.

2. *The established (Target) Price.* Section 101(i)(2)(C) of the Act provides that the established price for rice shall be not less than $11.90 per hundredweight for the 1984 crop. Such established price may be adjusted by the Secretary as the Secretary determines to be appropriate to reflect any change in: (a) The average adjusted cost of production per acre for the two crop years (1982 and 1983) immediately preceding the year for which the determination is made from (b) the average adjusted cost of production per acre for the two crop years (1981 and 1982) immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production may be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and may include variable costs, machinery ownership costs, and general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop. The Secretary has proposed legislation which would permit the target price level for the 1984 and 1985 crops to be established at not less than $11.40 per hundredweight, the 1983-crop target price level.

Comments are requested on the level of the established (target) price for the 1984 crop of rice.

3. *National Program Acreage (NPA).* Section 101(i)(4)(A) of the Act provides that the Secretary shall proclaim an NPA for the 1984 crop of rice not later than January 31 of each calendar year for the crop harvested in that calendar year. The NPA for rice shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm established yield for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the 1984/85 marketing year. If the Secretary determines that carryover stocks of rice are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the NPA by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks. The Secretary may later revise the NPA first proclaimed if the Secretary determines it is necessary based upon the latest information. If an acreage reduction program is implemented for the 1984 crop of rice, the NPA shall not be applicable to such crop. If required, the likely NPA for the 1984 crop of rice would be:

a. Estimated Domestic Use, 1984/85 (mil. cwt)	83.5
b. Plus Estimated Exports, 1984/85 (mil. cwt)	72.0
c. Minus Imports (mil. cwt)	.5
d. Minus Stock Adjustment (mil. cwt)	5.0
e. Divided by National Weighted Average Farm Program Payment Yield (cwt. acre)	46.90
f. Equals 1984 crop NPA (mil. acres)	2.77

Comments on the NPA and the appropriate carryover stock level for the 1984 crop of rice, along with supporting data, are requested.

4. *Whether a Voluntary Reduction Percentage Should Be Proclaimed and, if so, the Level of Such Voluntary Reduction Percentage.* Section 101(i)(4)(C) provides that the 1984 individual farm program acreage of rice eligible for payments shall not be reduced by application of an allocation factor (not less that 80 percent nor more than 100 percent) if the producer voluntarily reduces the acreage of rice planted for harvest on the farm from the 1984-crop established rice acreage base by at least the percentage recommended by the Secretary in the proclamation of the NPA for the 1984 crop.

If an acreage reduction program is implemented for the 1984 crop of rice, the voluntary reduction percentage shall not be applicable to such crop. If required, the likely national recommended voluntary reduction percentage for the 1984 crop of rice would be:

a. 1984 Established Rice Acreage Base (mil. acres)	4.013
b. Minus 1984 Preliminary NPA (mil. acres)	2.770
c. Equals Acreage Reduction Needed from Acreage Base (mil. acres)	1.243
d. Divided by 1984 Rice Acreage Base (mil. acres)	4.013
e. Equals 1984-Crop Recommmended Reduction Percentage (percent)	30.974

Comments from interested persons with respect to the voluntary reduction percentage, if any, are requested.

5. *Whether an Acreage Reduction Program (ARP) Should Be Established and, if so, What Percentage.* Section 101(i)(5)(A) of the Act provides that the Secretary may establish a limitation on the acreage planted to rice if the Secretary determines that the total supply of rice, in the absence of such limitation, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each rice-producing farm. Producers who knowingly produce rice in excess of the permitted rice acreage for the farm shall be ineligible for rice loans, purchases and payments with respect to that farm. If an acreage reduction program is in effect for any crop, the national program acreage, voluntary reduction percentage, program allocation factor, and the application of the program allocation factor to the individual farm program acreage are not applicable to such crop.

Section 101(i)(5)(A) of the Act further provides that the acreage base for any farm for the purpose of determining any reduction required to be made for any year shall be the acreage planted on the farm to rice for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the

average acreage planted to rice for harvest in the two crop years immediately preceding the year for which the determination is made. Acreage planted to rice for harvest shall include any acreage which the producers were prevented from planting to rice or other nonconserving crop in lieu of rice because of drought, flood, or other natural disaster, or other condition beyond the control of the producers.

The Secretary may permit all or any part of the reduced acreage to be devoted to sweet surghum, hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

Section 101(i)(5)(A) of the Act authorizes the Secretary to make adjustments in the acreage base established for any farm to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. For the 1983-crop rice program, the Secretary permitted the adjustment of rice acreage bases, on a case by case basis, for the purpose of controlling red rice. However, it has become evident that in a number of situations these adjustments were being requested for the purpose of moving the production history from farm to farm for the convenience of leasing arrangements rather than to control the infestation of red rice. There has been a sharp increase in landlord-tenant disputes which can be shown to be a direct result of allowing adjustments in the farm acreage base for these red rice problems. Accordingly, ASCS is considering not permitting any adjustments of the farm acreage bases for the control of red rice with respect to the 1984-crop rice program. Comments are requested on the adjustment of bases for the purpose of controlling red rice.

The need for a production adjustment program for the 1984 crop of rice will be based on estimates of stock levels and domestic and export utilization for MY 1983/84 and MY 1984/85. Beginning stocks for MY 1983/84 have been estimated at 66.6 million hundredweight. The 1983 crop planted and harvested acreages have been estimated at 2.335 and 2.110 million acres respectively. Based on an estimated harvested yield or 4,627 pounds per acre, production is estimated at 103.9 million hundredweight resulting in a total supply, including imports, of 171.1 million hundredweight.

Domestic rice use for MY 1983/84 is forecast to be approximately 62.0 million hundredweight, about fifteen percent above domestic use in MY 1982/83. Export utilization is forecast at 69.0 million hundredweight, essentially the same as in MY 1982/83. U.S. exports are not expected to increase because U.S rice is generally expected to be priced above comparable rice from competing origins. Based on these estimates, ending stocks of rice for MY 1983/84 will be about 30.1 million hundredweight, a 55 percent decline from the record-level ending stocks of the prior year.

Without some production adjustment program for the 1984 crop of rice, it is estimated that planted rice acreage would increase to about 3.9 million acres, about the level of acreage which was planted in MY 1981/82. Such an increase could be expected because of the profitability of rice compared with competing crops. With plantings at this level, harvested yields are forecast at 4,600 pounds per acre, resulting in producting of about 176.0 million hundredweight. This level of production, combined with beginning stocks and imports, results in a total supply for MY 1984/85 of about 206.4 million hundredweight.

Total utilization of rice for MY 1984/85 is forecast at about 145.5 million hundredweight. Domestic use is forecast to increase about 2 percent to 63.5 million hundredweight while export use is forecast at 70.5 million hundredweight. These levels of utilization will result in ending stocks of about 62.4 million hundredweight—about 43.3 percent of total utilization for the year and nearly equal to the record level ending stocks of MY 1982/83. Stocks at such a level tend to depress farm level prices and contribute to high program costs. This assessment could change if 1983/84 or 1984/85 marketings, world trade, or world price levels change from estimated levels.

The acreage reduction options under consideration at this time are: (a) A 15 percent acreage reduction program; (b) a 15 percent acreage reduction program combined with a 15 percent land diversion program; (c) a 30 percent acreage reduction program; and (d) a 20 percent acreage reduction program combined with a 10 percent payment-in-kind program.

Comments and supporting data are requested on: (a) The appropriate level of an acreage reduction program for the 1984 crop of rice; (b) the appropriate level of ending stocks, expressed as a percentage of total utilization, which is not considered excessive; (c) the adjustment of bases for the purpose of controlling red rice; (d) the procedure for establishing the 1984 rice acreage base for any farm; and, (e) the type of crop(s) which should be allowed to be planted on the reduced acreage.

In addition, comments are requested as to whether producers who desire to participate in the rice program should be required to execute binding contracts at the time of enrollment in the program. Presently, a producer desiring to participate in the program signs an intention to participate and later provides a certification with respect to the applicable acreage in order to receive program benefits. If a producer is required to execute a binding contract to participate in the program at the time of program enrollment it should aid in deterring the producer from failing to comply with the terms and conditions of the program at a later time.

6. *Whether a Payment-In-Kind (PIK) Program Should be Established and, if so, What Percentage.* Section 101(i)(5)(B) of the Act authorizes the Secretary to make land diversion payments to producers of rice if the Secretary determines that the payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. The Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.*) gives the Corporation broad authority to support the price of agricultural commoditites, stabilize agricultural commodity markets, and remove and dispose of agricultural surpluses.

The Department is considering implementing a Payment-In-Kind program for the 1984 crop of rice which would be similar to the one established for the 1983 crop. Any such program would be in addition to a 20 percent ARP. The percentage of the farm's established yield which would be made available to the producer as payment-in-kind under such a program would range from 50 percent to 80 percent.

With respect to a 1984 Payment-In-Kind Program for rice, a producer would enter into a contract with the Commodity Credit Corporation to divert not less that 5 percent nor more than 10 percent of the rice acreage based established for the farm. With respect to such contracts, the quantity of rice which the producer would be eligible to receive as payment-in-kind would be equal to the acreage which was diverted multiplied by the established yield multiplied by the payment percentage. If

a producer elects to participate in the Payment-In-kind Program for rice and if such producer has an outstanding quantity of rice pledged as collateral for a price support loan, the producer would be required to redeem a quantity of such loan collateral equal to that quantity of rice which the producer is entitled to receive as payment in kind. The producer would be required to sell that quantity of rice which has been redeemed to CCC and such quantity would then be made available to such producer as payment in kind. To the extent that a producer has no 1983 crop price support loan collateral which could be made available to CCC for payment-in-kind purposes, the producer would be required to pledge a quantity of his 1984 rice production as loan collateral and then redeem and sell it to CCC for use as payment in kind. Interested parties are intived to comment on the need for a Payment-in-Kind Program in 1984, as well as the various program provisions. Comments should include supporting data.

7. *Whether to Allow Haying and Grazing of Conservation Use Acreage.* Section 101(i)(5)(A) of the Act provides that the regulations issued by the Secretary with respect to acreage required to be devoted to conservation uses shall assure protection of such acreage from weeds and wind and water erosion. Interested persons are invited to comment on the grazing and haying of conservation use acreage and the conservation measures applied to land removed from production under any 1984 crop acreage reduction program.

8. *Whether a Land Diversion Program Should Be Established, and, if so, the Extent of Such Diversion and the Level of Payments.* Section 101(i)(5)(B) of the Act provides that the Secretary may make cash land diversion payments to producers of rice, whether or not an acreage limitation for rice is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Such land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community. The land diversion option under consideration at this time is a 15 percent land diversion program combined with a 15 percent acreage reduction program.

Interested persons are encouraged to comment regarding: (a) The appropriate level of a land diversion program for the 1984 crop of rice; and (b) the appropriate land diversion program payment rate.

9. *Whether to Require Offsetting Compliance.* Section 101(i)(9) of the Act provides that the Secretary may issue such regulations as the Secretary determines necessary to carry out the rice program. If offsetting compliance is required by the Secretary, owners and operators of farms would have to assure that all of the farms in which they have an interest are in compliance with program requirements which are specified with respect to the rice program (e.g., planting within the rice acreage bases established for the farms), in order to be eligible for program benefits. Offsetting compliance was not in effect for the 1983 crop of rice.

Interested persons are encouraged to comment on the need for the Secretary to require offsetting compliance for the 1984 crop of rice.

10. *Other Related Provisions.* A number of other determinations must be made in carrying out the rice loan and purchase programs such as: (a) Commodity eligibility; (b) storage requirements; and (c) such other provisions as may be necessary to carry out programs.

CCC currently stores its rice inventory in private warehouses which are subject to a Uniform Rice Storage Agreement. The rice is stored either in a commingled or identity-preserved (IP) manner. Under true IP storage, individual lots of a particular type, grade and quality of rice are binned and stored separately. However, current IP storage practices for CCC rice are such that the identity of an individual lot of rice is not adequately preserved. Commingled storage has been the most prevalent method of storage for CCC over the years and most closely represents commercial storage practices. ASCS is, therefore, considering adopting the policy of storing all rice inventory on a commingled basis.

Interested parties are encouraged to comment on the need to continue the identity preserved storage of CCC rice inventory and whether this policy change would affect: (a) The availability of rice storage; (b) the cost of rice storage to CCC; and, (c) other considerations which relate to CCC use of IP or commingled storage.

Comments are also requested on any other program provisions, including commodity eligibility, as may be necessary to carry out any programs. Consideration will be given to any data, views and recommendations that may be received relating to the above items.

Signed at Washington, D.C., October 28, 1983.

C. Hoke Leggett,

Acting Administrator.

[FR Doc. 83-29739 Filed 11-1-83; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-351-037]

Cotton Yarn From Brazil; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on cotton yarn from Brazil. The review covers the period January 1, 1982 through December 31, 1982.

As a result of the review, the Department has preliminarily determined the aggregate net subsidey for the period to be 7.40 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 2, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Brian Kelley, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 34999) the final results of its last administrative review of the

countervailing duty order on cotton yarn from Brazil (42 FR 14089, March 15, 1977) and announced its intent to conduct the next review. As required by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Brazilian cotton yarn. Such merchandise is currently classifiable under items 300.6000 through 302.9800 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1982 through December 31, 1982, and five programs that we previously found countervailable: (1) Preferential financing for exports, (2) income tax exemptions for export earnings, (3) the export credit premium for the Industrial Products Tax ("IPI"), (4) fiscal benefits for special export programs, and (5) preferential export financing under CIC–CREGE 14–11.

The review also covers twelve additional programs that the petitioner alleged confer subsidies on exports of Brazilian cotton yarn.

Analysis of Programs

(1) Preferential Financing for Exports

Under this program the Department of Foreign Commerce of the Banco Central do Brasil ("CACEX") declares companies eligible to receive working capital loans at preferential rates. These loans have a duration of up to one year. During the period of review, each firm producing cotton yarn could obtain preferential financing for up to 40 percent of its previous year's exports.

We calculated the subsidy under this program by multiplying the principal outstanding under the program during 1982 by the differenctial between the commercial interest rate and the preferential interest rate for each loan. For loans granted prior to the period, we included only that portion extending past January 1, 1982 in our calculation. We similarly prorated loans extending past December 31, 1982.

The commercial rate for short-term working capital is the rate established by the Banco do Brasil for discounting sales of accounts receivable. We chose this as the benchmark rate because the Government of Brazil provided information indicating that working capital is normally raised within the Brazilian financial system through the sale of accounts receivable. The commercial rate includes the tax on financial transactions ("the IOF"), from which loans under the preferential financing program are exempt; the rate was 66.50 percent during 1982.

During 1982, firms exporting cotton yarn had loans outstanding under Resolution 674 (effective January 22, 1981) of the Banco Central do Brasil. The effective annual rate for loans granted under this resolution was 44 percent and the differential between the commercial and preferential rates therefore was 22.50 percent. We calculated the benefit conferred by the program for 1982 to be 5.91 percent *ad valorem*.

On February 21, 1983, the Government of Brazil reduced the maximum eligibility for preferential financing under Resolution 674 from 40 percent of the previous year's exports to 30 percent. Effective January 3, 1983, the Banco do Brasil increased its discount rate to 72 percent. In addition, the Government of Brazil increased the effective preferential interest rate for export financing from 44 percent to 69 percent and lowered the IOF from 4.50 percent to 1.50 percent on June 10, 1983 (Resolutions 832 and 830, respectively).

Adding the 1.50 percent IOF to the 72 percent rate for discounting accounts receivable, the adjusted benchmark commercial interest rate is 73.50 percent. As a result, the differential between the commercial benchmark rate and the preferential interest rate is 4.50 percent.

To estimate the potential benefit and cash deposit of estimated countervailing duties for this program, we summed the prorated value of loans outstanding during 1982, and found a weighted average used rated of 27.41 percent. This rate is lower than the reduced annual amount manufacturers can borrow. We then multiplied the current 4.50 percent interest rate differential by the weighted average loan use rate to find a potential benefit under this program of 1.23 percent *ad valorem*.

(2) Income Tax Exemptions for Export Earnings

Exporters of cotton yarn are eligible under this program for exemption from income tax of the percentage of profit attributable to export revenue. The Brazilian government calculates the tax-exempt fraction of profit as the ratio of export revenue to total revenue. The benefit equals the product of the amount of tax-exempt profit and the prevailing 35 percent corporate income tax rate. We preliminarily determine the benefit from this program to be 0.17 percent *ad valorem* for 1982.

(3) IPI Export Credit Premium

Exporters of cotton yarn are eligible for the maximum IPI export credit premium. A percentage of the f.o.b. invoice price of the exported merchandise is reimbursed in cash to exporters through the bank involved in the export transaction. During the period of review the Brazilian government made three reductions in the maximum level of the IPI credit premium. The first, on March 31, 1982, reduced the level from 15 percent to 14 percent; the second, on June 30, to 12.50 percent; and the most recent, on September 30, to 11 percent.

Since June 28, 1981, the Brazilian government has been collecting an export tax on exports of cotton yarn to the U.S. (Resolution 669), completely offsetting the benefit received under this program. Therefore, we preliminarily determine that no net subsidy was attributable to this program during the period of review. Currently, the tax collected on exports of cotton yarn to the U.S. continues to fully offset the benefit received under this program. Therefore, for purposes of the cash deposit of estimated countervailing duties, the potential subsidy under this program is zero percent.

(4) Fiscal Benefits for Special Export Programs

Under Decree Law 1219 of May 15, 1972, any firm that produces manufactured products is eligible to receive benefits from the Commission for the Granting of Fiscal Benefits for Special Export Programs ("BEFIEX"), as long as the company makes an appropriate export commitment. Under Decree No. 77,065, a company can receive a reduction of 70 percent to 90 percent of the import duties and IPI tax on the import of machinery and equipment necessary to meet the approved export commitment. Cotton yarn exporters are eligible for benefits under this program, and one of the exporters for which we have data received benefits during 1982. We divided the amount of the benefits received by the total 1982 exports covered by the response, and found an *ad valorem* benefit under this program of 1.26 percent during 1982.

(5) Preferential Export Financing Under CIC–CREGE 14–11

CIC–CREGE 14–11 is a program operated by the Banco do Brasil that provides preferential financing to exporters, who are then required to maintain a minimum fixed level of foreign exchange contracts with the Banco do Brasil. Exporters of cotton yarn participated in this program in 1982.

To calculate the amount of benefit conferred under the program, we multiplied the prorated principal

outstanding during 1982 of each loan by the differential between the commercial and preferential interest rates on each loan. Using the preferential rate for each loan (provided by the Brazilian government) and again using the rate for discounting accounts receivable as the commercial rate, we found that the differential between the commercial and preferential rates was 11.50 percent. We preliminarily determine the benefit conferred by the program to be 0.06 percent *ad valorem*.

(6) Other Programs

We also examined the following programs and preliminarily find that exporters of cotton yarn did not use them during 1982.

A. Tax Reduction on Equipment Used in Export Production ("CIEX")
B. Fundo de Democratizacao do Capital das Empresas
C. Gold Draft of Exportation
D. Preferential Export Financing under Resolution 68 of the National Council for Foreign Commerce ("FINEX")
E. Preferential Financing for the Storage of Merchandise Destined for Export (Resolution 330)
F. Incentives for Trading Companies (Resolution 643)
G. Partially-Indexed Long-Term Loans
H. Accelerated Depreciation for Capital Goods Manufactured in Brazil
I. Fundo National de Participadoes ("FUNPAR")
J. Export Promotion Financing ("PROEX")
K. Import Substitution ("PROISM")
L. Green-Yellow Drawback

Preliminary Results of the Review

As a result of the review, we preliminarily determine the aggregate net subsidy to be 7.40 percent *ad valorem* for the period January 1, 1982 through December 31, 1982.

On August 3, 1981, the International Trade Commission ("the ITC") notified the Department that the Brazilian government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or threat of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties in the amount of the estimated duties required to be deposited on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after August 3, 1981 and through the date of the ITC's notification to the Department of its determination.

As provided by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 2.72 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 26, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-29711 Filed 11-1-83; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on this application must be submitted on or before November 17, 1983.

ADDRESS: Interested parties should submit thier written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 83-00027."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificate of Review. A certificate of review protects its holder from civil and criminal liability under Federal and state antitruts laws for the export trade, export trade activities and methods of operation specified in the certificate. A certificate of review is to be issued to any applicant that establishes that its specified export trade, export trade activities, and methods of operation will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

Applicant: SOR, Inc.
Application: #83-00027
Dated Received: October 14, 1983
Date Deemed Submitted: October 20, 1983
Members in Addition to Applicant: Controls International, Ltd., SOR Export, Inc., Roy R. Dunlap and Ross E. Johnson

Summary of Application: SOR, Inc., incorporated in the State of Kansas and located at 11705 Blackbob Road, Olathe, Kansas 66061, submitted an application seeking certification for the following export trade activities and methods of operation for its export trade worldwide.

A. Export Trade

The Applicant and its members intend to export process control instruments, including but not limited to pressure, vacuum, differential pressure and temperature switches, and hand calibration pumps, and intend to provide all services related to the sales and maintenance of its products, including marketing of products and providing technical assistance to end-users or representatives.

B. Activities/Methods of Operation

The applicant and its members seek to enter into exclusive and non-exclusive representation agreements with suppliers, including suppliers within the same industry. The Applicant and its members propose to enter into, and from time to time terminate, exclusive and non-exclusive agreements with distributors, sales representatives, and customers located in foreign countries and in the United States for goods and services being exported or in the course of being exported. The foregoing agreements might contain territorial, customer, price and/or quantity restrictions.

In addition, the Applicant and its members seek to have certified the "packaging" of quotations responsive to invitations to bid, including the supply of products or services in the same industry, and seek certification for the designation and coordination of the sharing of business among the suppliers of the Applicant and its members. In addition, with respect to goods or services in the course of being exported, the Applicant and its members propose to consult and exchange information with competitors, to ascertain the existence of, prepare bids for, and share business from foreign customers.

The Applicant and its members intend to market it products and services worldwide, including but not limited to the Mid-East, Africa, Far East, Latin America, and Europe.

The Office of Export Trading Company Affairs is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register**. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued. Information submitted by any person in connection with this application will be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

Dated: October 19, 1983.

Irving P. Margulies,

Deputy General Counsel.

[FR Doc. 83-29758 Filed 11-1-83; 8:45 am]

BILLING CODE 3510-25-M

COPYRIGHT ROYALTY TRIBUNAL

[CRT Docket No. 80-4]

Order To Rescind CRT Order of October 12, 1983 Directing Additional Partial Distribution of the 1979 Cable Royalty Fund

The Copyright Royalty Tribunal (Tribunal) published on October 12, 1983 (48 FR 46411) an order directing additional partial distribution of the 1979 cable royalty fund. Subsequently, the U.S. Court of Appeals for the District of Columbia Circuit issued its decision in the Appeals of the Tribunal's 1979 cable determination. The Tribunal's order provides for the retention of 20% of the fund "to accommodate the practical consequences of any adjustment resulting from judicial review." The decision of the Court of Appeals rejected a number of challenges to the Tribunal's determination and may thus justify a larger partial distribution than is provided in the Tribunal's order of October 12, 1983. The Tribunal has therefore resolved to set aside its order, and to consider at an early date the issuance of a new order for partial distribution.

The National Association of Broadcasters (NAB) filed on October 18, 1983 in the Court of Appeals an Emergency Motion for Summary Reversal of the Tribunal's Order. The basis for this motion is NAB's computation of all of the claims at issue in the proceeding before the Court. The Tribunal rejects the premise of the NAB position that the total claims of all parties determines what royalty fees are in controversy for partial distribution purposes.

The order of October 12, 1983 is rescinded.

Dated: October 27, 1983.

Commissioner Edward W. Ray,

Chairman.

[FR Doc. 83-29737 Filed 11-1-83; 8:45 am]

BILLING CODE 1410-09-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Cotton Textile Products from Pakistan

October 28, 1983.

Granting an increase for swing and carryforward from 513,361 dozen pairs to 581,401 dozen pairs for cotton gloves and mittens in Category 331, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

SUMMARY: The Bilateral Cotton Textile Agreement of March 9 and 11, 1982, as amended, between the Governments of the United States and Pakistan provides, among other things, for percentage increases in certain specific category ceilings during an agreement year (swing) and for the borrowing of yardage from the level in the following year (carryforward). The amount of carryforward used will be deducted from the 1984 level for Category 331. Pursuant to the terms of the bilateral agreement, and at the request of the Government of Pakistan, the import restraint limit established for Category 331 is being increased to 581,401 dozen pairs for goods exported during the twelve-month period which began on January 1, 1983.

EFFECTIVE DATE: October 28, 1983.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 17, 1982 there was published in the **Federal Register** (47 FR 56536) a letter dated December 14, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton textile products, including Category 331, produced or manufactured in Pakistan and exported to the United States during the twelve-month period which began on January 1, 1983. In accordance with the terms of the bilateral agreement and at the request of the Government of Pakistan, the Chairman of the Committee for the Implementation of Textile Agreements is directing the

Commissioner of Customs to increase the limit for Category 331 to 581,401 dozen pairs.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 28, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: On December 14, 1982, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, beginning on January 1, 1983 of cotton textile products in certain specified categories, produced or manufactured in Pakistan and exported during the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to increase, effective on October 28, 1983, the twelve-month level of restraint established for cotton textile products in Category 331 to 581,401 dozen pairs.[2]

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-29743 Filed 11-1-83; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting the Import Restraint Limits for Certain Cotton, Wool, and Man-Made Fiber Apparel Products From Taiwan

October 28, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs, to be effective on October 28, 1983. For further information contact William Boyd, International Trade Specialist (202/3377-4212).

Background

A CITA directive dated December 16, 1982 (47 FR 57083) established import restraint limits for specific categories of cotton, wool, and man-made fiber textile products, including Categories 340, 341, 435, and 353/354/653/654, produced or manufactured in Taiwan which have been exported during the twelve-month period which began on January 1, 1983. At the request of the authorities in Taiwan, swing is being applied, increasing the limits for Categories 340 (men's and boy's woven cotton shirts), 341 (women's girls' and infants' woven cotton blouses), and 435 (womens' girls', and infants' wool coats). To account for the increases, the limit for cotton and man-made fiber down and feather-filled coats, jackets and vests in Category 353/354/653/654 is being reduced by a corresponding amount in equivalent square yards from 153,674 dozen to 126,853 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation on Textile Agreements.

October 28, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 16, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1983.

Effective on October 28, 1983, the directive of December 16, 1982 is hereby further amended to adjust the previously established limits for Categories 340, 341, 435, and 353/354/653/654, as provided under the terms of the bilateral agreement of November 18, 1982: [1]

Category	Adjusted 12-month level of restraint [1] (dozen)
340	630,919
341	392,036
435	20,793
353/354/653/654	126,853

[1] The levels have not been adjusted to reflect any imports exported after December 31, 1982.

The Committee for the Implementation of Textile Agreements has determined that these actions falls within the Foreign affairs exception to the rulemaking provisions fo 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-29744 Filed 11-1-83; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting Import Limits for Certain Cotton, Wool, and Man-Made Fiber Apparel Products Exported From Thailand

October 28, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs, to be effective on October 31, 1983. For further information contact Gordana Slijepcevic (202/377-4212).

Background

A CITA directive dated August 16, 1983 (48 FR 37684) established levels of restraint for specified categories of

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982 as amended, between the Governments of the United States and Pakistan which provide, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports exported after December 31, 1982

[1] The bilateral agreement of November 18, 1982 concerning cotton, wool, and man-made fiber textile products from Taiwan provides, in part, that: (1) Specific limits or sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more specific limits or sublimits during the same agreement year; (2) certain specific limits and sublimits may be increased for carryforward; (3) specical shift may be applied to certain categories, provided a corresponding amount in equivalent square yards is deducted from designated categories; and (4) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

cotton, wool, and man-made fiber textile products, including Categories 313, 314, 315, 317, 320, 331, 334/335, 338/339, 340, 341, 347/348, 445/446, 604, 634/635, 638, 641, 645/646, and 647/648, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1983. At the request of the Government of Thailand flexibility provided under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of July 27, and August 8, 1983 is being applied in the form of carryover to the limits for Categories 315, 334/335, 338/339, 340, 341, 347/348, 445/446, 634/635, 638, 641, 645/646, and 647/648. Swing is being applied to the limits for Categories 313, 314, 315, 317, and 604 with an equal square yard equivalent amount being deducted from the level for Category 320. Carryforward is being applied to Categories 313, 314, 315, 317, and 331. Carryforward used in these latter categories in 1983 will be deducted from the 1984 category limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

October 28, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs;
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of August 16, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products produced or manufactured in Thailand, and exported during the twelve-month period which began on January 1, 1983.

Effective on October 31, 1983, you are directed to amend the levels of restraint established for Categories 313, 314, 315, 317, 320, 331, 334/335, 338/339, 340, 341, 347/348, 445/446, 604, 634/635, 638, 641, 645/646, and 647/648 in the directive of August 16, 1983 to the following amounts, according to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27, and August 8, 1983: [1]

Category	12-month adjusted limit [1]
313	13,456,000 square yards.
314	9,806,000 square yards.
315	20,087,813 square yards.
317	6,554,000 dozen.
320	5,503,100 square yards.
331	465,067 dozens pairs.
334/335	61,894 dozen.
338/339	624,942 dozen.
340	117,729 dozen.
341	129,649 dozen.
347/348	217,834 dozen.
445/446	18,448 dozen.
604	749,000 pounds of which not more than 434,959 pounds shall be in T.S.U.S.A. No. 310.5048.
634/635	445,426 dozen.
638	144,818 dozen.
641	192,360 dozen.
645/646	87,892 dozen.
647/648	499,572 dozen.

[1] The levels have not been adjusted to reflect any imports after December 31, 1982.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-29745 Filed 11-1-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New Collection

Family Support Center Information.

Air Force Family Support Centers need to gather information from Air Force personnel and their families in order to determine center usage, to provide data to higher headquarters for Air Force wide planning and programming, to evaluate effectiveness of programs, and to ensure effective delivery of services to families.

Individuals or households: 156,150 annual responses; 15,615 annual hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694-0187.

A copy of the information collection proposal may be obtained from Lt Col. Tewell, HQ/MPXHF, Room 5C232, Washington D.C. 20330, telephone (202) 697-4720.

October 27, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-29713 Filed 11-1-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Information on Applicant for U.S. Army Nurse Corps.

Information on applicants is needed to determine suitability and qualifications for appointment in the Army Nurse Corps.

Individual nursing applicants: 3500 responses, 292 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and

[1] The agreement provides, in part, that: (1) Under certain specified conditions any non-apparel specific limit or sublimit may be exceeded by not more than 7 percent, provided that the amount of the increase is compensated for by an equal square yard equivalent decrease in another specific limit in the same group; during the first agreement year special swing is available between Categories 313, 314, 315, and 320; (2) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG–OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695–5111.

October 27, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-29712 Filed 11-1-83; 8:45 am]

BILLING CODE 3710-08-M

Defense Intelligence Agency

Privacy Act of 1974; Deletion and Amendment to Systems of Records Notices

AGENCY: Defense Intelligence Agency, DOD.

ACTION: Notice of deletion and amendment to systems of records.

SUMMARY: The Defense Intelligence Agency proposes to amend a system notice for a system of records subject to the Privacy Act by combining it with the notice for another system. The notice for the other system is being deleted. The amended system is set forth in its entirety below.

DATES: This system notice shall be amended as proposed without further notice on December 2, 1983 unless comments are received that would result in a contrary determination.

ADDRESS: Send comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Helen E. Shuford, (RTS–1), Defense Intelligence Agency, Washington, D.C. 20301. Telephone: 202/695–0364.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, has been published in the **Federal Register** at: FR Doc. 83–12048 (48 FR 25950), June 6, 1983.

This amendment does not require an altered system report in accordance with 5 U.S.C. 552a(o).

October 28, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

L DIA 0740

SYSTEM NAME:

Attache Special Project (ASP) and Companion Channel Information System.

Reason: This system has been incorporated into L DIA 0800 Operation Record System (48 FR 25961 (June 6, 1983)).

L DIA0800

SYSTEM NAME:

Operation Record Systems.

SYSTEM LOCATION:

Defense Intelligence Agency, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in foreign intelligence and/or training activities conducted by the Department of Defense, who are of interest, either because of the actual, apparent, or potential use.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include operational, biographic, policy, management, training, and administrative matters related to the foreign intelligence activities of the Department of Defense.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, as amended, the Secretary of Defense issued Department of Defense Directive 5105.2 which created the Defense Intelligence Agency as a separate agency of the Department of Defense and charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

PURPOSE(S):

To provide information for the conduct of foreign intelligence operations and to provide for staff management of foreign intelligence training conducted by the Department of Defense.

Provided to other DoD Components when needed for the conduct of foreign intelligence operations or in connection with foreign intelligence training.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, USES, AND PURPOSE OF SUCH USES:

Information may be provided to other Federal agencies when it is required for the conduct of foreign intelligence operations or in connection with foreign intelligence training activities.

See blanket routine uses above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated files maintained on magnetic tapes and discs. Also stored on microfilm and aperture cards as well as paper records.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

RETENTION AND DISPOSAL:

Master files are retained indefinitely. Temporary records are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Director for Attaches and Training, Defense Intelligence Agency, Washington, D.C. 20201.

NOTIFICATION PROCEDURES:

To determine if this system of records contains information pertaining to you, submit a written request to: The Freedom of Information Office (RTS–1), Defense Intelligence Agency, Washington, D.C. 20301. Your request must include your full name, current address, telephone number and social security account number or date of birth. Requests submitted on behalf of other persons must include their written, notarized authorization.

RECORD ACCESS PROCEDURES:

All requests for copies of records must be in writing. You must include in your request: Your full name, current address, telephone number and social security account number or date of birth. You should also state whatever the cost involved is acceptable to you or acceptable up to a specified limit. Requests submitted on behalf of other persons must include their written, notarized authorization. Requests should be mailed to: RTS–1 (FOIA Office), Defense Intelligence Agency, Washington, D.C. 20301.

CONTESTING RECORD PROCEDURES:

An individual who disagrees with the Agency's initial determination may file a request for review. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester must provide a statement setting forth the reasons for disagreement with the initial determination and provide such additional material to support an appeal. Requests should be mailed to: RTS–1 (FOIA Office), Defense

Intelligence Agency, Washington, D.C. 20301.

RECORD SOURCE CATEGORIES:

Other Department of Defense Components, Federal agencies, foreign sources, overt publications and private citizens.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of these systems may be exempt under Title 5 U.S.C. 552a(k)(5). For additional information see Agency rules contained in 32 CFR Part 292a (DIA Regulation 12–12).

[FR Doc. 83–29736 Filed 11–1–83; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

National Advisory Council on Bilingual Education; Hearing

AGENCY: National Advisory Council on Bilingual Education, Ed.

ACTION: Notice of hearing.

SUMMARY: This notice sets forth the Schedule and proposed agenda of a forthcoming hearing of the National Advisory Council on Bilingual Education. Notice of this hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: November 16, 1983—Public Hearing—9:00 a.m.–5:00 p.m. Public Hearing will be held at the Coliseito on Franklin Delano Roosevelt Avenue, Hato Rey, Puerto.

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporter's Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202 (202–245–2600).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations.

November 16, 1983, in consonance with the Council's mission to advise in the preparation of regulations under the Bilingual Education Act, testimony will be heard on the following topics which impact on Puerto Rico's Bilingual programs:

(1) Education Technology

(2) Research

(3) Higher Education and Efforts in Bilingual Education

(4) Special Education and Gifted Students

(5) Nation At Risk—Implications on Bilingual Education

Witness should notify Ramon Ruiz (see address above) of their intention of testifying.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis

(2) Witnesses shall limit their testimony to twenty minutes

(3) All testimony shall be tape recorded

(4) Exceptions to the aforementioned procedures shall be at the discretion of the Chairperson.

Records are kept of all Council proceedings, and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Room 421, Reporters Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202 from the hours of 8:00 a.m.– 4:30 p.m.

Dated: October 28, 1983.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 83–29644 Filed 11–1–83; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES84–9–000]

Baltimore Gas & Electric Co.; Application

October 27, 1983.

Take notice that on October 21, 1983, Baltimore Gas and Electric Company (Applicant) filed an application seeking authority, pursuant to Section 204 of the Federal Power Act, to issue up to $400,000,000 principal amount of short-term debt to be issued from time to time with maturities not later than December 31, 1985.

Any person desiring to be heard or to make protest with reference to said application should on or before November 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–29645 Filed 11–1–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. CP82–538–002]

Canyon Creek Compression Co.; Petition To Amend

October 27, 1983.

Take notice that on October 12, 1983, Canyon Creek Compression Company (Canyon Creek), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82–538–002 a petition pursuant to Section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations, to amend the order issued January 20, 1983, in Docket Nos. CP82–538–000 and CP82–538–001 (22 FERC ¶62,809) all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of January 20, 1983, granted Canyon Creek a certificate of public convenience and necessity for blanket authorization to transport natural gas on behalf of interstate pipeline companies. Canyon Creek is seeking retroactive amendment of ordering paragraph (F) of said order so that Canyon Creek may retain that portion of the revenues received from transactions performed under the blanket authorization which is attributable to the commodity rate component, in addition to the one-cent per million cubic feet of gas already allowed for other out-of-pocket expenses. It is stated that this commodity rate is the variable portion of the electric charge attributable to the customers for whom Canyon Creek is providing service under the blanket authorization. Canyon Creek states that retention of the commodity rate component, in addition to the one-cent allowance, is necessary in order that Canyon Creek may fully recover its costs in proving compression and transportation service under the blanket authorization.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests

filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29846 Filed 11-1-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-8-000]

Consumers Power Co.; Application

October 27, 1983.

Take notice that on October 20, 1983, Consumers Power Company (Applicant) filed an application, pursuant to Section 204 of the Federal Power Act, seeking authorization to issue up to $600,000,000 of short-term debt to be issued from time to time between January 2, 1984 and December 31, 1984, with maturities of 364 days or less.

Any person desiring to be heard or to protest with reference to said application should on before November 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. Washington, D.C. 20426, petitions to intervene or protests in accordance with requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). The application is on file with Commission in with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29847 Filed 11-1-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP73-43-013 (PGA77-2) et al.]

Mid Louisiana Gas Co.; Filing

October 27, 1983.

Take notice that on October 17, 1982, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing pursuant to the Commission's "Order Modifying Initial Decision" issued in this proceeding August 2, 1983, the following:

Exhibit A—Computation of the Jurisdictional Portion of the Amounts paid to Grand Bay for the Compression of Liquefiable Hydrocarbons

Exhibit B—Computation of Carrying Charges to the Amounts paid to Grand Bay for the Compression of Liquefiable Hydrocarbons

Mid Louisiana states that Exhibit A reflects the detailed computations, calculated separately for the instant docket and all subsequent dockets which are subject to the outcome of this proceeding, utilized to calculate the jurisdictional portion of the amounts paid to Grand Bay attributable to the compression of, liquefiable hydrocarbons for the period January, 1977 through April 1983.

Exhibit B reflects the calculation of carrying charges, calculated separately for the instant docket and all subsequent dockets which are subject to the outcome of this proceeding, at the rate and method provided in § 154.67(d) of the Commission's Regulations, on the principal amounts reflected on Exhibit A.

Mid Louisiana has credited, as of April 30, 1983, to Account 191 the summation of Exhibits A and B ($87,166). Beginning with the month of May, 1983, Mid Louisiana will, on a monthly basis, calculate the amount of dollars paid to Grand Bay attributable to the compression of liquefiable hydrocarbons and credit the jurisdictional portion of these amounts to Account 191. Such amounts will be reflected in Mid Louisiana's subsequent PGA filings.

A Copy of this filing has been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29848 Filed 11-1-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-3-000]

Mountain Fuel Supply Co.; Application

October 27, 1983.

Take notice that on October 4, 1983, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP84-3-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the use of the two existing points of pipeline interconnection between Applicant and Colorado Interstate Gas Company (CIG) as delivery points to implement the sale of natural gas by Applicant's Distribution Division to Husky Oil Company (Husky) of Cheyenne, Wyoming, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to use two existing points of interconnection between its interstate transmission facilities and those of CIG as delivery points to implement the sale of approximately 11,000 Mcf of natural gas per day by its Distribution Division to Husky on a best-efforts, interruptible basis. Applicant states that Husky intends to use the gas purchased from Applicant's Distribution Division for various process, boiler and pilot fuel uses in the refining of crude oil at its Cheyenne, Wyoming, oil refinery.

It is stated that Applicant and Husky entered into a gas purchase agreement on September 1, 1983, that provides for the delivery of gas by Applicant at either of the proposed delivery points for an initial term of two years from the date of first delivery. Applicant states that Husky's payments under the agreement are based on minimums of 61,000 dt and 195,000 dt equivalent of natural gas per month during the months of January through March and April through December, respectively.

Applicant further explains that it is informed that Husky, in conjunction with this transaction, has entered into contractual arrangements with the local Cheyenne gas distribution utility, Cheyenne Light, Fuel & Power Company, and CIG to transport natural gas from Applicant's delivery points to Husky's Cheyenne refinery for the account of Husky.

It is stated that Applicant would charge Husky an intial base rate of $2.80 per dt with minor seasonal variations. Applicant further states that Husky would be required to pay $0.40 per dt equivalent for any deficiency in takes below 61,000 dt per month during January-March and below 195,000 dt per month during April-December but that this non-gas-cost minimum is subject to makeup over the term of the agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1983, file with the Federal

Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commision or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29049 Filed 11-1-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-21-000]

Steve Bowman, et al., Complainants v. Columbia Gas Transmission Corporation, et al., Respondents; Complaint

October 27, 1983.

Take notice that on October 14, 1983, the Office of the Consumers Counsel, 137 East State Street, Columbus, Ohio 43215, filed in Docket No. CP84-21-000 on behalf of Steve Bowman, *et al.*, Complainants,[1] a complaint pursuant to Section 385.206 of the Commission's Rules of Practice and Procedure (18 CFR Part 385.206) relative to the proposed abandonment of Pipeline D-75 by Columbia Gas Transmission Corporation, *et al.*, Respondents,[2] all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

The complaint states that Complainants are residential customers who receive natural gas and/or are owners of properties which receive natural gas service from Respondent Columbia Gas of Ohio, Inc. (Ohio), Through Pipeline D-75 (D-75) located near the Village of Harpster, Wyandot County, Ohio, and controlled by Respondent Columbia Gas Transmission Corporation (Columbia). The complaint further states that the Office of the Consumers' Counsel is an agency of the State of Ohio responsible for representing the interests of Ohio residential customers of investor-owned public utilities pursuant to Chapter 4911, Ohio Revised Code. In addition, the complaint states that Respondent Columbia is a natural gas company subject to the jurisdiction of this Commission under the Natural Gas Act.

The complaint alleges that Columbia and Ohio have indicated their intention to cease the delivery of natural gas through D-75 although neither Columbia nor Ohio has commenced the appropriate abandonment proceedings. The complaint asserts that D-75 was orignally employed as a transmission line by Ohio Fuel Gas Corporation and its successors in interest, Columbia and Ohio, and that D-75 has not been used for many years for any purpose other than to supply gas to Complainants. Complainants submit that the question of whether D-75 is now validly classified as a transmission line is one for this Commission to resolve and complainants assert that this pipeline is actually a distribution line not within the jurisdiction of this Commission.

The complaint states that Columbia and Ohio wish to abandon D-75 because of its deteriorated condition and that the direct cause of this deteriorated condition is Respondents' failure properly to maintain the pipelines. The complaint further states that Complainants have at all times pertinent hereto paid to Ohio its standards retail rates and alleges that such rates include sums paid for the maintenance and repair of Ohio's plant in service and from which, the complaint states, Complainants have never benefitted.

Complainants aver that Respondents have planned to abandon D-75 for an uncertain number of years and that Respondents have granted new service arrangements along this pipeline since deciding to abandon the pipeline. Complainants further allege that Respondents have, since deciding to abandon D-75, induced certain Complainants to invest in appliances which require a continuing supply of natural gas for their operation.

Stating that the issues in this controversy are complex and that jurisdiction over some of those issues may be with various judicial and regualtory entities, Complainants indicate that they have filed complaints in the Court of Common Pleas of Wyandot, County, Ohio, and before the Public Utilities Commission of Ohio, in addition to the complaint filed in Docket No. CP84-21-000.

Complainants request that this commission relinquish jurisdiction over D-75, asserting that the pipeline is not a transmission line and is not within this Commission's jurisdiction. In the alternative, Complainants request that this Commission, in the exercise of its jurisdiction over D-75, (1) order Respondents to cease any and all attempts to terminate service to any of Complainants pending resolution of this controversy, (2) initiate a hearing to determine the propriety of Respondents' actions with regard to said pipeline, (3) determine that due to Respondents' negligence and improper inducement of Complainants, Respondents should not be permitted to abandon said pipeline, (4) order Respondents to continue service to Complainants, and (5) order such other relief the Commission may deem just and reasonable.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before November 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to

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[1] Steve Bowman, R.J. Denman, Carl E. Lewis, Mrs. Arthur Mauer, Stanley Pack, Roy Pool, H.R. Schwilk, Randall Schwilk, Hubert Shaeffer, Regina Gabriel, Jane Hunt, Russell Manhart, Fred Smith, and Robert Hawk.

[2] Columbia Gas Transmission Corporation and Columbia Gas of Ohio, Inc.

intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-29080 Filed 11-1-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. EF84-2011-000 and EF84-2021-000]

United States Department of Energy—Bonneville Power Administration; Order Granting Interim Approval of Rates in Part, Granting Interventions, Denying Motion for Partial Summary Disposition, and Extending Prior Confirmation of Transmission Rates

Issued: October 26, 1983.

On October 3, 1983, the Bonneville Power Administration (BPA or Bonneville) filed proposed wholesale power and transmission rate increases. BPA requests interim approval of these rates as of November 1, 1983, pursuant to section 7(i)(6) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act or Act), 16 U.S.C. 839e(i)(6), and the Commission's Rules for the Confirmation and Approval of the Rates of the Bonneville Power Administration, 18 CFR Part 300. In addition, BPA concurrently requests final confirmation and approval of these rates pursuant to section 7(a)(2) of the Regional Act, 16 U.S.C. 839e(a)(2), for the period November 1, 1983, through September 30, 1985.[1]

The proposed rates would provide for an increase in revenues of approximately $434 million over revenues which would have been collected under current rates for the twelve month period beginning July 1, 1984.[2] In order to implement the rates as of November 1, 1983, BPA requested waiver of the Commission's 90 day advance filing requirement.[3] According to BPA, if the rates do not become effective as of November 1, 1983, contractual limitations may prevent BPA from adjusting its rates to certain customers until several months after that date, to the detriment of the Federal Treasury.

Notice of the filing was published in the **Federal Register**, with comments due on or before October 20, 1983.

On or before October 20, 1983, eleven separate pleadings were filed by individual petitioners or groups of petitioners.[4] On October 21, 1983, a late-filed motion to intervene was filed by the California Energy Commission along with separate comments in opposition to BPA's request for interim rate approval. On October 24, 1983, late motions to intervene were filed by the Northwest Environmental Defense Center, the Public Generating Pool, the Association of Public Agency customers, and United States Representative James Weaver. Responsive comments were also filed by BPA and a group collectively referring to themselves as the Pacific Northwest Parties.

All petitioners have requested intervenor status in these proceedings. Of the sixteen sets of comments filed, most petitioners contend that Bonneville's rates do not comply with the statutory standards set forth in the Regional Act. As a result, some of the petitioners have requested that the Commission disapprove Bonneville's rate schedules.[5]

Three of the petitioners[6] contend that Bonneville's filing fails to comply with section 4(h)(10)(A) of the Regional Act which relates to the protection, mitigation, and enhancement of fish and wildlife in the Pacific Northwest. By failing to recover sufficient revenues through its rates to fund implementation of the Columbia River Basin Fish and Wildlife Program, as required by the Regional Act, the petitioners submit that Bonneville's rates are not based upon the Administrator's "total system costs," as required under section 7(a)(2)(B) of the Regional Act.

The petitioners from California (hereinafter California intervenors),[7] have requested the Commission to deny interim approval of various aspects of Bonneville's non-firm rates for service outside the region but within the United States. California intervenors claim that Bonneville has provided insufficient support to justify approval of the non-firm and surplus power rates. Intervenors contend that these rates, particularly the NF-83 rates are not based upon the cost of providing non-firm service, but intstead are developed with an eye toward maximizing revenues from these customers and, at the same time, minimizing competition from alternative sources of supply for non-firm power to California over the Pacific-Northwest/Southwest intertie. California intervenors therefore contend that the NF-83 rate is, on its face, discriminatory and anticompetitive. The petitioners further contend that the standards for implementation of the various components under the NF-83 rate schedule are unclearly defined, leaving Bonneville with broad discretion in determining when service under the various rates will be provided. The California Utilities specifically request that Rate Schedule NF-83 be summarily disapproved by the Commission and sent back to BPA for revision and resubmission. All of the California intervenors request that a hearing be ordered on all Bonneville's rates, including the rates governed by section 7(k) of the Regional Act.

In addition to the substantive comments noted above, the California Utilities and the California Energy Commission object to the short time period that has been provided for the filing of comments by the parties. These intervenors point to BPA's repeated failure to conform to the Commission's advance filing regulations. The intervenors fear that, as a result of the time contraint imposed by the shortened period for comments, Bonneville has rendered the interim review and approval process meaningless. The California Utilities request that a further opportunity for comment be provided prior to final confirmation and approval of BPA's rates.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR

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[1] BPA also has pending before the Commission a request for interim or final confirmation and approval of its rates for sale of power generated at the Handford Generating Project. On August 4, 1983, in Docket No. EF83-2031-000, BPA requested an extension of the approval which had been granted by the Economic Regulatory Administration when that entity had responsibility for BPA rates. That approval expired on June 30, 1983. We have not as yet acted on the request for extension. On October 17, 1983, BPA supplemented its October 3, 1983 rate filing by requesting interim or final confirmation and approval of its Handford rates. The Handford rates will be dealt with in a subsequent order. No action in this order should be construed as action on the Handford rate request.

[2] Bonneville has requested approval of wholesale power rates which would increase power revenues to approximately $2.9 billion in operating year (OY) 1985, an increase of 17 percent over projected revenues for the same period from current rates. The proposed transmission rates would increase revenues for these services to about $96 million, an increase of about 40 percent. The rate increase to BPA's wholesale power preference customer class averages about 23.6 percent for OY 1985. The industrial firm rate increase is approximately 9 percent and the new resources rate has increased by less than one percent.

[3] *See* 18 CFR § 300.10(a)(3). The 90 day requirement was reduced to 60 days when the Commission issued its final rule on BPA rate review. Order issued August 9, 1983, Docket No. RM82-6-000, 24 FERC ¶ 61,161. The final rules became effective on October 17, 1983.

[4] *See* Attachment A for a complete list of intervenors.

[5] Columbia River Inter-Tribal Fish Commission, California Energy Commission, California Public Utilities Commission, and the California Utilities.

[6] National Marine Fisheries Service, Columbia River Inter-Tribal Fish Commission, and the Northwest Environmental Defense Center.

[7] California Utilities, Public Utilities Commission of California, and the California Energy Commission.

385.214), the timely motions to intervene serve to make the timely movants parties to this proceeding absent opposition within fifteen days of their respective pleadings. Given the shortened comment period necessitated in these dockets, the early stage of these proceedings, and the fact that the interventions should not unduly delay the proceeding of prejudice any other party, the late-filed motions of the California Energy Commission, the Northwest Environmental Defense Center, the Public Generating Pool, the Association of Public Agency Customers, and Representative James Weaver will be granted.

As noted above, BPA has requested approval of these rates on a final basis as of November 1, 1983. In the alternative, BPA seeks interim approval as of that date. The current filing represents the second BPA request for interim rate approval under Part 300 of the Commission's regulations. In each instance, BPA has requested waiver of the 90 (now 60) day advance filing requirement, citing delays in its rate development process. Bonneville's last rates were filed 45 days before the requested effective date; the instant proposal was submitted just 29 days in advance of the proposed effective date (BPA initially requested waiver for the current rates by letter dated August 18, 1983). On both occasions, BPA has advanced the claim that, despite its substantial delay, failure to promptly implement the rates would result in a significant shortfall of Federal revenue recovery. We note that we question the justification for BPA's contractual "filing windows" which effectively compel this agency to act within whatever period Bonneville provides. However, in recognition of Bonneville's timing difficulties, the Commission has recently abbreviated the advance filing requirement to 60 days. This period *must* be considered an *absolute* minimum if the Commission is expected to undertake any meaningful review and affected parties are to be given any reasonable period in which to offer comments. In the present case, our staff has made extraordinary efforts to review a filing consisting of 8 large cartons of material in a very short time. This is an untenable situation. We recognize that BPA encountered certain unique circumstances in developing the instant rates; in particular, publication of the initial rate proposals was delayed by nearly two months to allow for an extensive reexamination of the rate proposals. Having been apprised of this delay and Bonneville's intention to seek a waiver of the advance filing requirements, our staff attempted to cooperate with BPA in order to obtain as much pre-filing information as possible. However, the waiver request and the timing of BPA's filing have substantially limited the Commission's options. While we shall reluctantly grant BPA's request for waiver in this case, we emphasize that Bonneville should take whatever steps are necessary, including review of contractual arrangements if necessary, to assure that such delay does not arise again.

Due to the complexities of the filing and the extreme time constraints placed upon the Commission by BPA's delay in filing these rates, it is impossible at this time for the Commission to make a determination with respect to BPA's request for final approval. Therefore, our current review will be limited to consideration on an interim basis which, necessarily, is a more limited review process than the review of rates for confirmation and approval on a final basis. We also shall make separate determinations with respect to the wholesale power and transmission rates for the reasons discussed below.

The Commission's regulations, in Part 300, set forth the standards to be used in considering appropriate action with respect to a request by the Administrator for interim approval of rates. Our initial review suggests that the wholesale power rate schedules proposed in the filing are developed at a level which, assuming accurate cost and revenue estimates, would produce the needed revenues to allow BPA to meet its financial obligations and to repay deficits incurred in previous years. Thus, on its face, Bonneville's system power rates appear to comply with the applicable provisions of the Regional Act. This observation, of course, is based upon the limited analysis possible in view of BPA's proposed effective date and is being made without the benefit of more comprehensive public comments and an in-depth Commission analysis. Given these time constraints, we shall deny at this time the California Utilities' request for summary rejection of the NF–83 rates. We are not persuaded by the information provided that the later availability of refunds will constitute an inadequate remedy for the concerns raised. We also find insufficient cause at this time to reject Bonneville's rates based upon the objections raised by the California intervenors or the claims relating to Bonneville's purported failure to comply with the fish and wildlife requirements of the Regional Act. These findings, however, are without prejudice to our further consideration of the issues raised in the pleadings and, if appropriate, disapproval of Bonneville's rates at a later date. A more detailed review of BPA's proposal will be conducted for purposes of determining whether the rates should be confirmed and approved on a final basis. We shall grant Bonneville's request for approval of the proposed wholesale power rates on an interim basis for a period of one year or until final approval is granted. We cannot, however, make the same conclusions with respect to BPA's transmission rates.

By order of August 3, 1982, we approved BPA's 1976 transmission rates on a final basis, but ordered BPA to implement a separate accounting of costs for its transmission system. 20 FERC ¶61,142. Specifically, we ordered BPA to maintain a separate accounting of revenues and deficits of the transmission system attributable to the Federal and non-Federal users. We also required BPA to provide an accounting for its transmission system separate and apart from the accounting for its generating system. That order stated:

> Bonneville shall be required to provide a readily identifiable accounting of its transmission system costs and the revenues generated from its use, along with the status of repayment of each major segment of investment in transmission facilities. Only by providing such an accounting can the Commission assure that the statutory standards of sections 9 and 10 of the Transmission Act have been met, and that Bonneville's rate schedules will provide a sufficient level of revenues to Bonneville to recover its capital costs and to repay the U.S. investment in the system over a reasonable period of time. Such an accounting will also allow the Commission to more easily determine whether transmission costs have ben equitably allocated between Federal and non-Federal users. *Id.* at 61,315.

BPA did not seek rehearing of that order. Indeed, BPA later requested an extension of our interim approval of its 1981 transmission rates, citing attempts to comply with the August 1982 order as the basis for additional time. 22 FERC ¶ 61,178 (1983). On June 15, 1983, we approved those rates on a final basis, despite the fact that BPA had not yet initiated a system of separate accounting, since the proposed rates were developed prior to the August 1982 order. 23 FERC ¶ 61,378. We approved those rates, however, based in part upon what we construed as assurances by BPA that a separate accounting would be forthcoming in its 1983 rate filing, in accordance with our order.[6]

[6] The Commission also found that none of the issues raised by the intervenors would have justified rejection of the rates.

BPA's 1983 filing has finally arrived, but without the separate accounting mandated. In his letter of transmittal, the Administrator explicitly states that Bonneville has not complied with our order and requests reconsideration of our directive. The Administrator states that implementation of "separate accounting would lock BPA into recovering fixed shares of transmission system costs from Federal and non-Federal customers regardless of changes in relative usage." Letter at 3. We are not persuaded by this reasoning.

Section 7(a)(2)(C) of the Regional Act expressly states that rates approved by this Commission must be found to "equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system." In our August 1982 order, we stated that such a determination cannot be made without the separate accounting information. We can no longer rely on the fact that Bonneville has had inadequate notice or opportunity to develop such information.

BPA's refusal to comply with our order precludes any type of tracking system which demonstrates that: (1) Transmission revenues are only used to repay transmission costs; (2) costs assigned to transmission are ony transmission related costs; and (3) any deficiencies or surpluses in transmission revenues are being tracked and collected or credited to the appropriate customer class.[9] Without this information, we cannot determine whether BPA's transmission rates satisfy the statutory requirements of the Regional Act, as well as similar provisions in sections 9 and 10 of the Federal Columbia River Transmission System Act.

On the other hand, we also have the statutory obligation to protect the interests of the Federal Treasury. Approximately one-half of BPA's transmission contracts contain a notice provision which BPA reads as potentially precluding it from adjusting rates for a number of months if the rates are not permitted to take effect on November 1, 1983.[10] This situation has been created by BPA in that it has negotiated contracts with these provisions and has failed to account for its filing delay under the contracts. As noted above, this situation places the Commission "between a rock and a hard place,"—a situation which BPA uses to its advantage.

We believe, however, the contractual provisions, however narrowly interpreted, must not be used to force the Commission to approve rates, even on a temporary basis, when there is insufficient information to analyze the rates. Consequently, pursuant § 300.20 of the Commission's regulations, we shall deny BPA's request for interim approval of its transmission rate filing for failure to comply with our order of August 3, 1982, and our resulting inability to find that the transmission rates comply with the applicable provisions of the Regional Act. We recognize that denial of interim approval may temporarily hinder BPA's efforts to meet its Federal repayment obligations. We cannot, however, abrogate one statutory obligation in favor of another. Based on the information provided in BPA's filing, we cannot make even a preliminary determination that the proposed rates equitably allocate the transmission costs between Federal and non-Federal customers. We note that the filed rates would increase BPA's revenues from power sales in operating year 1985 by 17 percent, while transmission revenues would increase by 40 percent. Since the Federal transmission rates are rolled into the power system rates, it would appear that the transmission rates (which apply only to non-Federal users) have been disproportionately increased. Due to the lack of accounting information, we are unable to determine whether the disproportionate increase is justified or whether this increase in transmission rates reflects an assignment of the Federal transmission revenue deficiencies from power sales to non-Federal transmission customers.

We note that BPA's current rate, as established in Docket No. EF81–2021–000, will expire as of December 31, 1983. We shall extend the current rate for a period of one year. BPA is directed to cure the deficiency in its filing by submitting the separate accounting information a soon as possible. While this may not remedy BPA's losses due to contractual limitations, it will, however, substantially mitigate its losses under all of its transmission contracts, particularly the approximately one-half which do not contain the limited adjustment notice provision.

In light of the limited time in which parties were permitted to file comments on BPA's filing, we shall allow an additional period during which parties may comment on any and all issues related to final confirmation and approval of BPA's rates. In particular, the parties are invited to comment on the need for a further hearing before this Commission.

The Commission orders:

(A) The untimely motions to intervene of the California Energy Commission, Northwest Environmental Defense Center, the Public Generating Pool, the Association of Public Agency Customers, and Representative James Weaver are hereby granted pursuant to the Commission's Rules of Practice and Procedure.

(B) The California Utilities' motion for partial summary rejection of Bonneville's NF–83 rates is hereby denied without prejudice.

(C) BPA's request for waiver of the advance filing requirement is hereby granted.

(D) BPA's request for interim approval of its transmission rates submitted in Docket No. EF84–2021–000 is hereby denied. BPA is directed to cure the deficiency in its filing by submitting the separate accounting information previously required by the Commission. Confirmation and approval of the current transmission rates, which would otherwise expire on December 31, 1983, is hereby extended for a period of one year until December 31, 1984.

(E) BPA's wholesale power rates are hereby permitted to be placed into effect on an interim basis, for a period of one year effective November 1, 1983, subject to refund with interest as set forth in Part 300 of the Commission's regulations, pending final confirmation and approval, or disapproval of BPA's wholesale power rates and charges.

(F) Within thirty (30) days of the date of this order, all parties who wish to do so shall file additional comments regarding final confirmation and approval of BPA's rates. The parties should specifically delineate in their comments any and all issues that they feel should properly be set for hearing under section 7(k) of the Act in light of the Commission's interpretation of the Act set forth in its September 1, 1982 order resolving the scope of the Commission's jurisdiction (20 FERC ¶ 61,292). All timedly comments will be considered by the Commission in

[9] The transmission rates at issue in this proceeding apply only to non-Federal customers using BPA's transmission facilities. Bonneville's wholesale power customers receive transmission as an unsegregated element of service under the wholesale power rates. Thus, while the distinction between generation and transmission costs is relevant, if the total cost recovery is appropriate under the power rates, this distinction is not a critical factor for purposes of our review. However, to the extent that something other than transmission costs is recovered from non-Federal users under the specified transmission rate, the allocation between Federal and non-Federal users is directly at issue.

[10] We believe that other interpretations of this contract language could be advanced although, for present purposes, we believe that Bonneville is in the best position to construe the terms of its relevant contracts.

determining the ultimate disposition of BPA's rate proposals.

(G) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Filings in Response to "Notice of Filing" (issued October 4, 1983) in the Matter of Bonneville Power Administration's Wholesale Power Rates, Docket EF842011–000, and Transmission Rates, Docket EF84–2021–000

Filing entity	Representing
(1) Public Power Council	A nonprofit Washington (State) Corporation consisting of 116 consumer-owned utility customers of BPA.
(2) Direct Service Industries.	Aluminum Company of America; ARCO Metals Co., Carborundum Co.; Crown Zellerbach Corp.; Georgia-Pacific Corp.; Intalco Aluminum Corp.; Kaiser Aluminum and Chemical Corp.; Martin Marietta Aluminum Inc.; Oregon Metallurgical Corp.; Pacific Carbide and Alloys Co.; Pennwalt Corp.; and Reynolds Metals Co.
(3) Hanna Nickel Smelting Co.	
(4) Columbia River Inter-Tribal Fish Commission.	Nez Perce Tribes; Confederated Tribes of the Umatilla Indian Reservation; Confederated Tribes of the Warm Springs Reservation of Oregon; and Confederated Tribes and Bands of the Yakima Indian Nation.
(5) National Oceanic and Atmospheric Administration, U.S. Department of Commerce.	National Marine Fisheries.
(6) Utah Power and Light Co.	
(7) Idaho Power Co.	
(8) Puget Sound Power and Light Co.	
(9) California Utilities	Southern California Edison Co., Department of Water & Power, city of Los Angeles; Public Service Department, city of Glendale; Water and Power Department, city of Burbank; Water and Power Department, city of Pasadena; San Diego Gas and Electric Co.; and Pacific Gas and Electric Co.
(10) Public Utility Commission of the State of California.	
(11) Northwest Utilities	Portland General Electric Co., Pacific Power and Light Co.; Washington Water Power Co.; CP National Corp.; and Montana Power Co.
(12) California Energy Commission.	
(13) Northwest Environmental Defense Center.	
(14) Public Generating Pool.	Eugene Water and Electric Board; City of Seattle Light Department; City of Tacoma; Chelan County Public Utility District; Cowlitz County Public Utility District; and Douglas County Public Utility District.
(15) Association of Public Agency Customers.	
(16) United States Representative James Weaver.	

[FR Doc. 83–29651 Filed 11–1–83; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66102; PH–FRL 2458–7].

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protect Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the names of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Distribution or sale of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: December 2, 1983.

ADDRESS:

By mail, submit comments to: Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By mail: Lela Sykes, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 718C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2126).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
248–117	D–H Polyram 3.5 Dust Fungicide	Daly-Herring Co., P.O. Box 426 Kinston, NC 28501	Mar. 27, 1967.
279–2567	Terraclor 5 Zineb 2.5 Thimet 5 Coated Granules	FMC Corporation, 2000 Market St., Philadelphia, PA 19103	Mar. 13, 1975.
390–44	Petit Marine Paint Unepoxy Anti-Fouling 1020 Clear Tropic Formula	Petit Paint Co., Inc., P.O. Box 378, Borough of Rockaway, NJ 07866	Sept. 15, 1972.
476–1166	Zineb 5 Dust	Stauffer Chemical Co., 1200 S. 47th St., Richmond, CA 94804	Oct. 9, 1957.
476–1912	Methl Parathion-Thiodan 2-3-E	do	Dec. 10, 1965.
1706–56	Nalco 2706	Nalco Chemical Co., 2901 Butterfield Road, Oak Brook, IL 60521	Sept. 3, 1964.
2124–543	Naco Parathion Ferbam 1–11.4 Dust	W. R. Grace and Co., Agricultural Chemicals Group, P.O. Box 277 Memphis, TN 38101.	Apr. 13, 1967
2124–599	Naco Lindane-Maneb-Sulphur Dust Squash Special	do	Sept. 13, 1967
2342–729	Fasco Polyram R Boron Dust 5-2.4	Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City, OK 73125	Apr. 6, 1971.
2342–877	5.6 Maneb Dust	do	June 30, 1967
8120–41	Amercoat 279 Anti-fouling	Ameron Protective Coatings Division, P.O. Box 1020, Brea, CA 92621	Sept. 21, 1961.
8120–47	Amercoat 67S Red, Anti-fouling	do	Mar. 10, 1962.
10383–1	Weco Weed Killer 104	Weco Chemical Co., Inc., 825 Foxwood Circle Geneva, IL 60134	Feb. 18, 1969.

The Agency has agreed that each cancellation shall be effective December 2, 1983, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continued in

commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Sale or distribution of any quantity of any of these products produced after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP–66102]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in Room 236, CM#2, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended, 86 Stat. 973, 89 Stat. (751, 7 U.S.C. 136))

Dated: October 18, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83–29458 Filed 11–1–83; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30222B; PH–FRL 2458–8]

Cosan Chemical Corp.; Approval of Application to Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has conditionally approved the application by the Cosan Chemical Corp. to register the preservative Cosan 145 containing an ingredient not included in any previously registered pesticide product, pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: John Lee, Product Manager (PM) 31, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 252 CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–3675).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of January 12, 1983 (48 FR 1349) which announced that Cosan Chemical Corp., 400 14th St., Carlstadt, NJ 07072, had submitted an application to register the preservative Cosan 145 containing 50 percent of the active ingredient Methanol [[[2-(dihydro-5-methyl-3(2*H*)-oxazolyl)-1-methylethoxy]methoxy] methoxy], an ingredient not included in any previously registered product.

The application was approved on September 21, 1983 for general use in pesticide formulation. The product was assigned EPA Registration No. 8489–26.

A copy of the approved label and the list of data references used to support the registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration data. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: October 18, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83–29457 Filed 11–1–83; 8:45 am]

BILLING CODE 6560–50–M

[AD–FRL 2462–6]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held on November 29 and 30, 1983, at the Ramada Hotel of Old Town, United Way (2nd Floor), 901 North Fairfax Street, Alexandria, Virginia 22314. The commercial telephone number is (703) 683–6000.

The tentative agenda for the meeting is as follows:

November 29 (Tuesday)

9:00 a.m.

Introduction of new Members of the National Air Pollution Control Techniques Advisory Committee

Nitric Acid Plants, Review of Standards of Performance for New Stationary Sources (Section 111 of the Clean Air Act)

Secondary Brass and Bronze Plants, Review of Standards of Performance for New Stationary Sources (Section 111 of the Clean Air Act)

Mercury, Review of National Emission Standards for Hazardous Air Pollutants (Section 112 of the Clean Air Act)

Determination of Nonsulfuric Acid Particulate Matter From Stationary Sources, Discussion of Test Method 5B

November 30 (Wednesday)

9:00 a.m.

Continuation of November 29—As required

Coke Ovens, Discussion of Emerging Technologies for Consideration in National Emission Standards for Hazardous Air Pollutants (Section 112 of the Clean Air Act)

Flares as Volatile Organic Compounds Control Devices, Current Status

All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by November 23, 1983. The commercial telephone number is (919) 541–5571, and the FTS number is 629–5571.

The dockets containing material relevant to nitric acid plants (A–83–34), secondary brass and bronze plants (A–83–06), mercury (A–82–41), and nonsulfuric acid particulate matter (A–81–05) are located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby-Gallery 1, 401 M Street, SW., Washington, D.C. 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

Dated: October 21, 1983.

Shelton Meyers.

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 83–29756 Filed 11–1–83; 8:45 am]

BILLING CODE 6560–50–M

[SA–FRL 2462–4]

Science Advisory Board Environmental Engineering Committee Open Meeting—November 17–18

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the Environmental Engineering Committee

(EEC) of the Science Advisory Board will be held in Conference Room S–353, U.S. Environmental Protection Agency, 401, M Street, SW, Washington, D.C. on November 17–18, 1983. The meeting will begin at 9:00 am and will last until approximately 5:00 pm each day.

The agenda for the meeting will include final action on the Committee's review of technical documents supporting the proposed effluent guidelines for the pesticides industry, briefings on Agency sludge management and RCRA programs, and consideration of future Committee activities.

The meeting is open to the public. Any member of the public wishing to participate or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382–2552, or Terry F. Yosie, Staff Director, Science Advisory Board, at (202) 382–4126. Public comment will be accepted at the meeting. Written comment will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make such comment must contact Mr. Torno prior to November 14, 1983, in order to be placed on the agenda.

EPA has recently instituted new visitor control procedures. In order to minimize any inconvenience, persons wishing to attend are requested to call at (202) 382–2552, so that they may be included on a roster that will be prepared for the building security guards. Attendees are also requested to enter the building at the West Tower entrance.

Dated: October 26, 1983.

Terry F. Yosie,

Science Advisory Board.

[FR Doc. 83–29722 Filed 11–1–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83–1010, File No. BPIH–821129AH, et al.]

Applications; Phoenix Media Corp. et al.; Order

In re applications of Phoenix Media Corp., MM Docket No. 83–1010, File No. BPIH–821129AH; Barnes, London, & Lockhart d.b.a. Long Island Radio, MM Docket No. 83–1011, File No. PHIH–830223AA; Island Sound Communications MM Docket No. 83–1012, File No. BPIH–830223AB; Nassau Broadcasting, Inc., MM Docket No. 83–1013, File No. BPIH–830223AF; for interim authority to operate the facilities of Former Station WLIR(FM) Garden City, New York. (92.7 MHz, Channel 224, 1 kW at 5213 feet) (10–13–83; 48 FR 46620).

Adopted: October 21, 1983.
Released: October 26, 1983.

By the Commission.

1. The Commission, by the Chief, Mass Media Bureau, acting under delegated authority, adopted a Memorandum Opinion and Order on September 21, 1983 (Mimeo No. 6820, released October 4, 1983) designating the above-captioned applications for oral arguement before the Review Board.

2. It is order, That, on our own motion, the aforementioned Memorandum Opinion and Order is hereby rescinded.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division Mass Media Bureau.

[FR Doc. 83–29705 Filed 11–1–83; 8:45 am]

BILLING CODE 6712–01–M

[CC Docket No. 83–1149; File No. 26008–CL–P–(8)–82, et al.]

Advanced Mobile Phone Service, Inc. et., al.; Memorandum Opinion and Order Granting Application, Dismissing and Designating Applications for Hearing

In re applications of Advanced Mobile Phone Service, Inc., GTE Mobilnet of San Diego, Inc.; File No. 26008–CL–P–(8)–82, File No. 26050–CL–P–(7)–82, for construction permits to establish a cellular system operating on frequency Block B in the Domestic Public Cellular Radio Telecommunications Service to serve the San Diego, California, Standard Metropolitan Statistical Area; and in re applications of Gencom, Inc., CC Docket No. 83–1149, File No. 26034–CL–(10)–82, Metro Mobile CTS, File No. 26065–CL–P–(9)–82, Cellular Mobile Systems of California, Inc. File No. 26179–CL–P–(12)–82, for construction permits to establish a cellular system operating on frequency Block A in the Domestic Public Cellular Radio Telecommunications Service to serve the San Diego, California, Standard Metropolitan Statistical Area.

Adopted October 18, 1983.
Released October 24, 1983.

By the Common Carrier Bureau.

1. Before the Bureau are the captioned applications filed by wireline carriers Advanced Mobile Phone Service, Inc. (AMPS) and GTE Mobilnet of San Diego (GTE), and by nonwireline carriers Gencom, Incorporated (Gencom), Metro Mobile CTS (Metro Mobile), and Mobile Systems of California, Inc. (CMS), for new cellular radio systems to serve the San Diego, California, Standard Metropolitan Statistical Area (SMSA). AMPS and GTE have filed a Limited Partnership Agreement, together with a Joint Request for Approval of Agreement, which would result in the granting of AMPS' amended application and the dismissal of GTE Mobilnet's application.[1] Metro Mobile and CMS filed Petitions to Dismiss or Deny against Gencom's and each other's applications. Metro Mobile and the U.S. Department of Justice (DOJ) filed comments on the wirelines' Joint Request, and Gencom filed a Petition to Defer Grant of Construction Permit.

2. As discussed below, we find that the petitions fail to raise any substantial and material issues requiring designation for hearing. We are granting the AMPS application, as amended, and dismissing the GTE application. The Gencom, Metro Mobile, and CMS applications are electronically mutually exclusive; accordingly, we are designating those applications for a comparative hearing in accordance with *Cellular Communications Systems*, Docket No. 79–318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), and *further modified*, 90 FCC 2d 571 (1982). We are also requiring that the CMS application be modified, as set forth below.

Gencom Application

3. In its petition, Metro Mobile alleges that Gencom failed to demonstrate that it has funds available and committed to construct and operate for one year, and, therefore, Gencom has not demonstrated that it is financially qualified. Metro Mobile also states that a lawsuit alleging anticompetitive behavior has been filed against D/FW Signal, Inc. (D/FW, a corporation in which Communications Industries (CI), Gencom's parent, is a shareholder; if the allegations are proven correct, Metro Mobile argues, they could reflect adversely on Gencom's qualifications to be a licensee. CMS argues that Gencom in its proposed tariff has included charges for equipment that was to be detariffed and that, therefore, the application is defective. CMS also argues that the Gencom application is defective because it has not provided essential engineering data concerning the interconnection of its base stations by point-to-point microwave links.

4. *Financial Qualifications.* We find Metro Mobile's argument that Gencom has not demonstrated it is financially qualified to be without merit. Gencom estimates its costs and first year operating expenses for San Diego at $7.6 million. Gencom's aggregate costs and expenses for its six cellular applications in the 30 largest cities are estimated at $32.3 million. To finance these

[1] The Joint Request, reflecting agreement, was filed on November 9, 1982, and appeared on Public Notice Report No. CL–7, dated November 29, 1982.

obligations, Gencom relies on existing cash of $10 million, a cash surplus of $10 to $20 million to be generated from internal funds, a $30 million line of credit at the First National Bank in Dallas [2] and equity financing of $40 million. In *Celcom Communications Corp. of Georgia (Atlanta Order)*, Mimeo No. 1988, released January 26, 1982, the Bureau found that Gencom had provided reasonable assurance of sufficient funds to cover construction of six proposed cellular systems. The Bureau further concluded that no financial issues should be designated for hearing against Gencom based on the ability of Gencom to finance the construction and operation for one year of the six cellular systems. Those findings control the disposition of CMS's argument here.

5. Two issues are raised by Metro Mobile concerning Gencom's San Diego financial showing that were not raised in the *Atlanta Order*. One concerns Gencom's ability to rely on its current assets because the liquidity of the marketable securities, inventories, accounts receivable and other assets [3] has not been demonstrated; the second concerns whether Gencom properly estimated its first year operating expenses in view of the apparent exclusion of certain salaries. We reviewed CI's balance sheet in the *Atlanta Order* and found that CI may rely on net liquid assets of approximately $9 million in cash and receivables. Together with the $28 million available from a letter of credit (Gencom may draw down approximately $28 million of the $30 million line of credit), Gencom would have available $37 million, or $4.7 million more than the projected requirements of $32.2 million. Thus, the liquidity of the other assets is irrelevant for determining Gencom's basic financial ability to construct and operate its San Diego facility. Similarly, that there may be a modest understatement of salary expenses—a point that Gencom denies—is irrelevant in light of the surplus of funds available to cover relatively minor, unspecified expenses. [4]

6. *Character Qualifications.* As to Metro Mobile's allegations against CI's character, the litigation in question is a private action filed by Radio Relay Corporation—Texas, against the nine other shareholders, of D/FW Signal, Inc., a cellular applicant in the Dallas-Ft. Worth market. [5] As discussed in the *Atlanta Order, supra*, at para. 16, the Commission has been reluctant, especially with regard to cellular proceedings, to inquire into allegations pending in another forum, but it is the Commission's usual practice to condition any award to taken into account the pending litigation. *Peoples Broadcasting Corporation, et al.*, 68 FCC 2d 1569, 1573–74 (1978). We will include a condition here, [6] but we emphasize that it would be premature to examine this matter in a cellular comparative hearing.

7. *Technical Defects.* CMS' allegation that Gencom's application is defective for not providing engineering information as to its point-to-point microwave interconnection is without merit. Common Carrier Public Notice, Mimeo No. 567, released November 1, 1982, at page 3, stated that applicants need not include in their applications microwave applications and/or authorizations to connect the cell sites with the system control station to meet the required basic qualifications, and that no comparative preference would be accorded to an applicant submitting such interconnection information. The Public Notice reflects the absence of any requirement in the cellular rules, specifically, or in Part 22 of the rules, generally, that applicants specify the method of connection transmitter sites with swithces and control points. As to CMS' allegation concerning Gencom's improper tariffing of mobile equipment, we find it to be without merit. Gencom in its response points out that it did not provide a tariff but only a schedule of proposed charges as required by FCC Form 401. Gencom also states that it will comply with the requirement that it offer mobile equipment on a non-tariffed basis. We find that Gencom's reponse is sufficient, and its application is not defective in this respect. [7]

Metro Mobile Application

8. In its petition, CMS alleges that Metro Mobile has failed to demonstrate the requisite technical qualifications because it has made no showing of site availability, has not demonstrated the basis on which it will determine when system expansion is warranted, and has failed to offer the requisite assurances of continuous service. CMS also alleges that Metro Mobile has failed to demonstrate its financial qualifications. In response, Metro Mobile argues that its application contains an adequate demonstration of the reasonable assurance of site availability, fully explains its system expansion plans, and provides for continuous and reliable public service. Metro Mobile also responds that it has demonstrated that it has the requisite financial qualifications as required by Section 22.917 of the rules.

9. *Technical Qualifications.* CMS's arguments as to Metro Mobiles's tecnical qualifications are without merit. First, in its application Metro Mobile stated that it had " . . . received from the owner or the authorized agent of the owner of each of the cell sites proposed herein a commitment to lease or to negotiate a lease for the land, building, and/or tower space necessary to construct the facilities proposed at each location." (FCC Form 401, Ex. 10 p. 4). In its reply, Metro Moble further states that before it filed its application, it contacted the owner or the authorized agent of the owner of each site proposed and obtained a written letter summarizing the arrangements. By a minor amendment to its application dated July 29, 1982, Metro Mobile provided these written documents evidencing site availability, and CMS has not provided any information to the contrary. All that the Commission requires is that an applicant demonstrate a reasonable assurance of the sites being available, and we find that Metro Mobile has met that burden. *Sampson Broadcasting Co., Inc.*, 52 FCC 2d 954, 959 (1975); *Silver Beehive Telephone Company*, 35 FCC 2d 333, 336 (Rev. Bd. 1972). Second, Metro Mobile in its application set forth its method for determining when to expand its system and the grade of service objectives to be followed (FCC Form 401, Ex. 5 & 6). Absent any showing to the contrary, this information satisfies the rules. Finally, we also find CMS' argument that Metro Mobile has failed to provide assurance of continuous service to be without merit. In its maintenance proposal, Metro Mobile states that it will have sufficient spare parts as well as full complement of qualified RF and switch technicians specifically trained in the operation, maintenance and repair of equipment. Metro Mobile's showing in its application does not conflict with any Commission rule or policy. Our rules do not require that an applicant demonstrate "hot standby" transmitters

[2] The First National Bank of Dallas has changed its name to Inter First Bank Dallas, N.A. (InterFirst).

[3] We considered that credit to be given accounts receivable in the Atlanta Order, but we did not consider the other three items.

[4] James B. Francis, *et al.*, 41 FCC 2d 308, 310 (Rev. Bd. 1973).

[5] Radio Relay Corporation—Texas v. D/FW Signal, Inc., *et al.*, No. CA3 82-0677 G (N.D. Tex., filed June 7, 1982). In Exhibit 10.4 of its application, Gencom states that it is a defendant in a civil antitrust action brought by Westside Communications of Tampa, Inc., Westside Communications of Tampa, Inc. v. Gencom Incorporated, (Hillsborough County Florida Circuit Court, filed September 16, 1981).

[6] *See* para 29, *infra*.

[7] *See* Advance Mobile Phone Service, Inc. (Buffalo Order), Mimeo No. 1320, released December 14, 1982, at para. 23.

or redundancy in its proposal as CMS suggest.

10. *Financial Qualification.* CMS's argument that Metro Mobile has not demonstrated its financial qualifications to construct and operate its proposed system is without merit. Metro Mobile estimates its costs and first year operating expenses for San Diego at $12.6 million. The aggregate construction costs and expenses for the nine Metro Mobile applications [8] are estimated at $99.3 million. To finance these obligations, Metro Mobile relies on a loan for $115 million from the First National Bank of Chicago (First National). A letter of commitment dated June 1, 1982, from First National was included in the application as Exhibit 6.3. The letter stated that First National is prepared to make available a total credit package of $115 million for the purpose of construction and operation of cellular radio systems. In *Celcom, Inc.* (*Minneapolis Order*), Mimeo No. 1573, released December 30, 1982, the Bureau found that Metro Mobile had provided reasonable assurance that it will have sufficient funds available to cover construction of nine cellular systems in the 30 largest markets.[9] The Bureau further concluded that no financial issues should be designated for hearing against Metro Mobile based on the ability of Metro Mobile to finance the construction and operation for one year of nine cellular systems. Sine CMS has not raised any points particular to the San Diego application, those findings control the disposition of CMS' argument here.

CMS Application

11. In its petition, Metro Mobile contends that CMS has failed to comply with § 22.903 because some of its 39 dBu contours extend beyond its proposed Cellular Geographic Service Area (CGSA). Metro Mobile also argues that CMS has not demonstrated its financial qualifications to construct and operate its proposed system pursuant to Section 22.917 of the rules.

12. *Financial Qualifications.* We find Metro Mobile's argument concerning CMS's financial qualifications to be without merit. Graphic Scanning Corp. (Graphic), CMS' parent company, has committed itself to fund the $9.8 million for the San Diego cellular system. The Graphic commitment letter to CMS covers the projected costs of construction and operation for one year and specifically states that none of those funds have been committed to other cellular system applications or to other projects. We find that this satifies the requirement of Section 22.917(b) that resources used to demonstrate financial ability regarding one cellular system may not include funds committed elsewhere. In the *Chicago Order, supra,* the Commission found that Graphic and its cellular subsidiarires have provided reasonable assurance that they will have sufficient funds available to cover construction of 30 cellular systems in the top 30 markets. The Commission further concluded that no financial issues would be designated for hearing against any Graphic subsidiary based on the ability of Graphic to finance the construction and operation for one year of 30 cellular systems. Those findings control the disposition of Metro Mobile's argument here.[10]

13. *CGSA.* We reject Metro Mobile's argument that the CMS application is defective for its failure to comply with § 22.903 because some of its 39 dBu contours extend beyond its CGSA. Metro Mobile's interpretation of Section 22.903(a) is incorrect, and its reliance on §22.903(d) is misplaced. Section 22.903(a) simply explains how the 39 dBu contours are to be depicted on the required map; it does not equate the boundaries of the 39 dBu contour with the boundaries of the CGSA. As explained in Common Carrier Bureau Public Notice, Mimeo No. 567, November 1, 1982, *de minimis* extensions of the 39 dBu contours into secondary SMSAs or into non-SMSA areas are acceptable. Because the extensions involved here meet this description, we find them to be in compliance with the Commission's rules.[11] Metro Mobile erroneously relies on § 22.903(d), which by its terms applies only to a "presently authorized CGSA," not to one proposed in an application. This section is therefore irrelevant to our present consideration.

14. *Cell site No. CA011011 at 7840 El Cajon Boulevard, La Mesa, California.* CMS proposed a site at 7840 El Cajon Boulevard. The proposed El Cajon site is the location of the San Diego FCC Field Office, and the use of that site by CMS for transmitting purposes could cause interference to the FCC's receiving equipment. The FCC uses the equipment at the El Cajon site to resolve interference problems affecting safety services, to perform routine enforcement duties and for other important Commission activities. Therefore, we will require CMS to find a new site location for cell CA011011, the El Cajon site. Accordingly, CMS is directed to file an amendment to its application specifying a new base station location for cell site CA011011 with the Administrative Law Judge (ALJ) to be assigned to this hearing within 15 days of the publication of this order in the **Federal Register.** The amended cell site application shall not cover any areas not previously covered by the 39 dBu contour of this cell site. The amendment should consider the effects, if any, that this change may have on other parts of the application. Due to this circumstance, brief extensions of time for the applicants to file rebuttal cases may be granted at the discretion of the ALJ.

AMPS Application

15. AMPS is the remaining applicant for wireline Block B in the San Diego market under the terms of the Agreement submitted on November 9, 1982. This Agreement is one of a series of similar agreements by which AMPS, which filed applications on June 7, 1982 in 29 of the top-30 markets, and GTE, which filed in 15 of these markets, together with 18 other wireline companies, proposed to settle their electrically mutually exclusive applications in 18 of the top 30 markets. Pursuant to the terms of the agreements, AMPS will operate cellular systems in twelve markets and GTE will operate cellular systems in six markets. San Diego is one of two markets (St. Louis being the other) in which a wireline—GTE in this case—has agreed to withdraw its application rather than accept a minority share of a new limited partnership. In *Advanced Mobile Phone Service, Inc.* (Los Angeles Wireline Order), FCC 83–124, released April 26, 1983, the Commission considered these agreements and the issues raised by DOJ, among other petitioners, and concluded that approval of the settlement agreements was consistent with the public interest, convenience and necessity. We find the Commission's decision to be dispositiv of all objections to the San Diego Agreement itself.

16. Gencom, in its petition, and Metro Mobile, in its comments, argue that we should defer issuing a construction permit to AMPS until the Commission is ready to issue a construction permit to a nonwireline applicant. Gencom supports

[8] Metro Mobile filed applications in Cincinnati, Denver, Houston, Kansas City, Miami, Minneapolis, Phoenix and Tampa, as well as San Diego.

[9] *See* Advance Mobile Phone Service, Inc., (Chicago Order), 91 FCC 2d 512 (1982, at para. 4, and cases cited therein.

[10] Metro Mobile also argues that CMS cannot rely on projected revenues because its showing was not a convincing evidentiary showing. In response CMS points out that it did not specifically identify revenues as a basis for demonstrating its financial qualifications and is not relying on such funds to demonstrate its financial ability.

[11] The CMS proposal includes extensions westward into the Pacific Ocean, a non-SMSA area, and southward into Mexico, a situation dealt with at note 13, *infra.*

its petition with two studies purporting to demonstrate the harmful competitive impact of a headstart by the wireline carrier. In the *Chicago Order, supra,* at para. 18, the Commission found that it was premature to consider a request for deferral at the time of granting the construction permit. Rather, any such requests are to be considered prior to the issuance of a license to begin commercial operations. For the reasons stated in the *Chicago Order,* we defer any action on Gencom's petition until AMPS files its application for a license on FCC Form 403.

Conclusions

17. Based on our analysis of the applications and our resolution of the contested issues in this order, we find the applicants to be legally, technically, financially and otherwise qualified to construct and operate their proposed cellular system. CMS has been ordered to change the cell site location of Cell CA011011. We emphasize that the amendment ordered here may not be used to give CMS a comparative advantage in the hearing proceeding.

18. Accordingly, it is ordered, pursuant to § 22.29 of the Commission's rules, that the Joint Request for Approval of Agreements and Conditional Dismissal filed by Advanced Mobile Phone Service, Inc., and GTE Mobilnet of San Diego is granted.

19. It is further ordered, that the amended application of Advanced Mobile Phone Service, Inc. is granted, and that the application of GTE Mobilnet of San Diego is dimissed.[12]

20. It is further ordered, that the authorization to AMPS and the authorization to a nonwireline carrier as a result of the proceeding instituted here are conditioned upon the permittees' obtaining antenna structure clearances and upon notification from the Commission of applicable conditions concerning the use of the frequencies along the U.S.-Mexican border.[13]

21. It is further ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Gencom, Incorporated, Cellular Mobile Systems of California, Inc., and Metro Mobile CTS, are designated for Hearing in a Consolidated Proceeding upon the following issues:[14]

(a) To determine on a comparative basis the geographic area and population that each applicant proposed to serve;[15] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(b) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;[16]

(c) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities (including switching capabilities);[17] and

(d) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

22. It is further ordered, That the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[18]

23. It is further ordered, That the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commission's rules within 10 days after publication of this order in the **Federal Register**.

24. It is further ordered, That the hearing shall be held according to the procedures specified in § 22.916 of the rules, except as otherwise noted here, at a time and place and before an Administrative Law Judge to be specified in a later order.

25. It is further ordered, That exceptions to the initial decision of the Administrative Law Judge under § 1.276 of the Commission's rules shall be taken directly to the Commission.

26. It is further ordered, That Cellular Mobile Systems of California, Inc., is directed to file the amendment specified in this order within 15 days after publication of this order in the **Federal Register** and that all the applicants are directed to file rebuttal cases under § 22.916(b)(4) of the Rules within 45 days rather than 30 days after publication of this order in the **Federal Register**.

27. It is further ordered, That the Petitions to Deny filed by Metro Mobile and CMS are denied.

28. It is further ordered, That any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D.*

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[12] AMPS will not be authorized to render service to the public during service tests even after it files FCC Form 403 for a license. Service to the public cannot commence until the covering license becomes effective. Equipment tests, however, may be conducted. AMPS' authorization (FCC Form 463) will reflect this condition.

[13] The United States has reached an agreement with Mexico governing cellular operations along the U.S.-Mexican border that will only permit construction of cellular systems in San Diego at this time. Authority to operate is the subject of further discussions with Mexico.

[14] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). We have found all of the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of California, Inc. or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing, A.S.D. Answer Service, Inc., *et al.* (ASD), FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 28, *infra,* the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of California, Inc., to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals. *See Chicago Order,* at no. 19.

[15] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 38 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area. Consideration should be given to the presence of densely populated regions, highways, and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[16] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502–03.

[17] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[18] Members of the separated trial staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. *See* Communications Act of 1934, as amended, Section 409(c) (47 U.S.C. 409(c)); Administrative Procedure Act of Section 554(c) (5 U.S.C. 554(d)); § 1.1221 of the Commission's rules.

Answering Service, Inc., et al., FCC 82–391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

29. It is further ordered, That any authorization granted to Gencom, Incorporated, is without prejudice to any action the Commission might deem appropriate as a result of the final disposition of the antitrust litigation described in para. 6, and note 5, *supra*.

30. This order is issued under § 0.291 of the Commission's rules and the *Order Delegating Authority*, 91 FCC 2d 633 (1982), and is effective on its release date. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the rules may be filed within the time limits specified in those sections. *See also* § 1.4(b)(2).

31. The Secretary shall cause a copy of this order to be published in the **Federal Register**.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 83–29707 Filed 11–1–83; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 83–1150, File No. BPCT–830208KE, et al.]

Charleston Community Television, Ltd. et. al.; Hearing Designation Order

Adopted: October 20, 1983.
Released: October 25, 1983.

In re applications of Charleston Community Television, Ltd., Charleston, South Carolina, MM Docket No. 83–1150, File No. BPCT–830208KE; Lucille S. Whipper and Glen Thiessen d/b/a, Charleston 24, Ltd., Charleston, South Carolina, MM Docket No. 83–1151, File No. BPCT–830428KO; South Jersey Radio, Inc., Charleston, South Carolina, MM Docket No. 83–1152, File No. BPCT–830429KH; Charleston Television Partners, Charleston, South Carolina, MM Docket No. 83–1153, File No. BPTC–830429KI, for construction permit:

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 24, Charleston, South Carolina.

2. Charleston Community Television Ltd. states that it has not completed its financing arrangements, and that it would make the proper certification promptly after it has completed its financial arrangements. We have not received its financial certification. Accordingly, the applicant will be given 20 days from the date of release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant connot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue.

3. Charleston Television Partners specified 2010 feet as the overall height of its antenna supporting structure above ground (AGL) in Section V–C, item 6 of its application. This does not agree with the AGL of 2000 feet in its Engineering Exhibit, page 1, figures 1 and 2. Charleston Television Partners will be required to submit an amendment correcting the discrepancy to the presiding Administrative Law Judge within 20 days after this Order is released.

4. The applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

6. It is further ordered, That Charleston Community Television, Ltd. shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate, within 20 days after the release date of this Order.

7. It is further ordered, That Charleston Television Partners shall submit to the presiding Administrative Law Judge, within 20 days after this Order is released, an amendment correcting the overall height above ground in Section V–C, item 6, FCC Form 301 or its Engineering exhibit.

8. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83–29709 Filed 11–1–83; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1430]

Petitions for Reconsideration of Actions in Rule Making Proceedings

October 21, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of the Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: American Telephone and Telegraph Company. Manual and Procedures for the Allocation of Costs. (CC Docket No. 79–245)

Filed by: Bennett Feigenbaum, Gary A. Swenson, Parlen L. McKenna & Francine J. Berry, Attorneys for American Telephone and Telegraph Company on 9–29–83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–29708 Filed 11–1–83; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket No. 83–1154, File No. BPCT–830606KF; MM Docket No. 83–1155, File No. BPCT–830607KE]

Burlington Broadcasting Co., Limited, and Metro Program Network, Inc., for Construction Permit; Hearing Designation Order

Adopted: October 21, 1983.
Released: October 27, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above captioned mutually exclusive applications of Burlington Broadcasting Company, Limited (Burlington Broadcasting), Burlington, Iowa and Metro Program Network, Inc. (Metro), Burlington, Iowa for a new commercial television station to operate on Channel 26, Burlington, Iowa.

2. The effective radiated visual power, antenna height above average terrian and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, for the purposes of comparison, the areas and population which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accure to either of the applicants.

3. Because of the proximity of Burlington Broadcasting's proposed tower to Station KBUR(AM), Burlington, Iowa, any grant of a construction permit to the applicant will be conditioned to ensure that KBUR's radiation pattern is not adversely affected by construction of the proposed facility.

4. Since the Commission is not in receipt of the Federal Aviation Administration's study for Metro, no determination has been made that its proposed tower height and location would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

5. Section II (Other Broadcast Interests), item 7(d), F.C.C. Form 301, inquires whether an applicant had a broadcast application in any Commission proceeding which left unresolve character issues against it. Metro has not responded to the question. Accordingly, Metro will be required to answer the question by an appropriate amendment, within 20 days after this Order is released, to the presiding Administrative Law Judge.

6. The contour calculations submitted by Metro in Section V–C, item 15, FCC Form 301, do not reflect a main lobe at zero degrees True as indicated in Section V–C, item 7 and Exhibit 4. If the information in Section V–C, item 15 is correct, Metro's proposed station would not encompass all of Burlington with its predicted city grade contour. Accordingly, Metro will be required to file with the presiding Administrative Law Judge, within 20 days after this Order is released, an amendment to correct or verify the information contained in Section V–C, items 7 and 15, and Exhibit 4. If Metro verifies that the information in Section V–C, item 15 is correct, it may submit an amendment (minor amendment only) which contains an engineering proposal which would result in the city grade contour encompassing all of Burlington or a request for waiver of § 73.685 of the rules, to the presiding Administrative Law Judge who shall then specify an appropriate issue.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Metro Program Network, Inc. whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, that in the event of a grant of Burlington Broadcasting Company, Limited's application, the construction permit will be conditioned as follows:

Prior to construction of the tower authorized herein, permittee shall notify AM Station KBUR, Burlington, Iowa, so that that station may commence determining operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, antenna impedance measurements of the AM station shall be made and sufficient field strength measurements, taken at a minimum of 10 locations along each of eight equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional. Prior to or simultaneous with the filing of the application for license to cover this permit, the results of the field strength measurements and the impedance measurements shall be submitted to the Commission in an application for the AM station to return to the direct method of power determination.

10. It is further ordered, that the Federal Aviation Administration IS MADE A PARTY RESPONDENT with respect to issue 1.

11. It is further ordered, that, within 20 days after this Order is released, Metro Program Network, Inc. shall submit an amendment containing its answer to item 7(d), Section II, FCC Form 301 to the presiding Administrative Law Judge.

12. It is further ordered, that, within 20 days after this Order is released, Metro Program Network, Inc. shall submit an amendment to the presiding Administrative Law Judge, to either correct or verify the information in Section V–C, items 7 and 15, and Exhibit 4, or request a waiver of Section 73.685 of the Commission's Rules.

13. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

14. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83–29709 Filed 11–1–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOME LOAN BANK BOARD

[No. AC-292]

The Boston Five Cents Savings Bank, Boston, Massachusetts; Final Action, Approval of Conversion Application

Notice is hereby given that on October 3, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of The Boston Five Cents Savings Bank, Boston, Massachusetts, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Board, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Board at the Federal Home Loan Bank of Boston, P.O. Box 2196, Boston, Massachusetts 02106.

Dated: October 24, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-29734 Filed 11-1-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-293]

Farm & Home Savings Association, Nevada, Missouri; Final Action, Approval of Conversion Application

Notice is hereby given that on September 30, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Farm & Home Savings Association, Nevada, Missouri, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Board, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Board at the Federal Home Loan Bank of Des Moines, 907 Walnut Street, Des Moines, Iowa 50309.

Dated: October 24, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-29733 Filed 11-1-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-295]

First Federal Savings and Loan Association of South Carolina, Greenville, South Carolina; Final Action; Approval of Conversion Application

Notice is hereby given that on October 6, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of South Carolina, Greenville, South Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Board, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Board at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

Dated: October 24, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-29731 Filed 11-1-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-294]

Landmark Savings Association, Pittsburgh, Pennsylvania; Final Action, Approval of Conversion Application

Notice is hereby given that on October 6, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Landmark Savings Association, Pittsburgh, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Board, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Board at the Federal Home Loan Bank of Pittsburgh, Eleven Stanwix Street, Fourth Floor, Gateway Center, Pittsburgh, Pennsylvania 15222-1395.

Dated: October 24, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-29732 Filed 11-1-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-296]

Nebraska Savings and Loan Association, F.A., Fremont, Nebraska; Final Action, Approval of Conversion Application

Notice is hereby given that on October 7, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Nebraska Savings and Loan Association, F.A., Fremont, Nebraska, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Board, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Board at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

Dated: October 24, 1983.

By the Federal Home Loan Bank Board

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-29730 Filed 11-1-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 10485]

Availability of Finding of no Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 10485 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, (42 U.S.C. 4321 et seq.), and that preparation of an environmental impact statement is not required. Agreement No. 10485, among Costa Armatori, S.p.A.; Farrell Lines, Inc.; Italia di Navigazione, S.p.A. and Sea Land Service, Inc. proposes to establish a conference in the trade from United States Atlantic Ports and points in the United States via such ports to Italy, Spain and Mediterranean ports of France and to points in Europe via such ports.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this Notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI is available from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83-29795 Filed 11-1-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83–28; In re Agreements Nos. 10457, 10458 10332–3 and 10371–2]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Docket No. 83–28 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. Docket No. 83–28 is an investigation of Agreements Nos. 10332–3, 10457, 10458 and 10371–2.

Agreements Nos. 10332–3 and 10457 are between Korea Marine Transport Company, Ltd. (KMTC) and Nippon Yusen Kaisha (NYK). Under Agreement No. 10332–3, KMTC and MYK are authorized to operate two vessels between Korea and U.S. Pacific Coast ports. The Agreement also provides, among other things, for NYK and KMTC authority to charter up to 420 TEU's per month to Showa Line Ltd. (Showa). Agreement No. 10457 is a space charter arrangement under which the parties will: (1) Provide a three vessel direct service between ports in Korea, Taiwan and Hong Kong and U.S. Pacific Coast ports, and (2) continue to subcharter to Showa.

Agreement Nos. 10371–2 and 10458 are between NYK, KMTC and Showa. Pursuant to Agreement No. 10371–2, NYK and KMTC agree to subcharter to Showa space not to exceed 420 TEU's monthly on vessels in accordance with Agreement No. 10332–3. Under Agreement No. 10458, NYK and KMTC agree to subcharter space to Showa up to 600 TEU's per month.

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this notice in the **Federal Register** unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83-29794 Filed 11-1-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

For further information contact:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880)

Request for revision of existing reports

1. Report title: Report of Bank Holding Company Intercompany Transactions and Balances
Agency form number: FR Y–8
Frequency: Semiannual
Reporters: Bank holding companies
SIC Code: 671
Small businesses are not affected.
General description of report:
Respondent's obligation to reply is mandatory [12 U.S.C. 1844]; a pledge of confidentiality is promised [5 U.S.C. 552(b)(4)].

This required report collects data on the movement of funds between a domestic bank holding company and its subsidiaries, in order to identify broad categories of funds flows, internal transactions and balances that may have an adverse impact on the financial condition of the subsidiary bank(s).

2. Report title: Report of Intercompany Transactions for Foreign Banking Organizations and their U.S. Bank Subsidiaries
Agency form number: FR Y–6f
Frequency: Semiannual
Reporters: Foreign banking organizations
SIC Code: 671
Small businesses are not affected.
General description of report:
Respondent's obligation to reply is mandatory [12 U.S.C. 1844]; a pledge of confidentiality is promised [5 U.S.C. 552(b)(8)].

This report is required by all foreign banking organizations that control a U.S. subsidiary bank, and provides the Federal Reserve System with information to monitor and supervise intercompany funds flows to ensure that U.S. subsidiary banks are not engaging in certain types of unsafe and unsound practices with their foreign owners.

3. Report title: Report of Condition for Edge Corporations
Agency form number: FR 2886b
Frequency: Quarterly
Reporters: All banking Edge and Agreement Corporations
Small businesses are not affected.

General description of report:
Respondent's obligation to reply is mandatory [12 U.S.C. 602 and 625]; a pledge of confidentiality is partially promised.

This report collects financial information about international banking and financing corporations. These corporations are supervised by the Federal Reserve System, and most of them accept deposits that are part of the domestic money supply. The report is used both for supervisory and monetary policy purposes.

4. Report title: Monthly Survey of Loan Commitments
Agency form number: FR 2039
Frequency: Monthly
Reporters: Selected Large U.S. Commercial Banks
Small businesses are not affected.
General description of report:
Respondent's obligation to reply is voluntary [12 U.S.C. 248(a) and (i)]; a pledge of confidentiality is promised [5 U.S.C. 552(b)(4)].

This survey provides information on the volume and composition of loan commitments at selected large U.S. commercial banks. Data are used in current analysis of banking developments and credit market conditions.

5. Report title: Senior Loan Officer Opinion Survey on Bank Lending Practices
Agency form number: FR 2018
Frequency: Up to eight times a year
Reporters: Large U.S. Commercial Banks
Small businesses are not affected.
General description of report:
Respondent's obligation to reply is voluntary [12 U.S.C. 248(a) and (i)]; a pledge of confidentiality is promised [5 U.S.C. 552(b)(4)].

This report collects subjective information from a sample of large U.S. banks on recent changes in bank lending policies with respect to commercial and industrial loans. This information supplements statistical information collected on other reports and is used in analyzing business loan developments and bank responses to monetary policy.

Board of Governors of the Federal Reserve System, October 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29605 Filed 11-1-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Allied Bancshares Leasing Company; Allied Bancshares, Inc.

Allied Bancshares, Inc., Houston, Texas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and 225.4 (b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Allied Bancshares Leasing Company, Houston, Texas.

Applicant states that the proposed subsidiary would engage in the activities of leasing personal and real property, acting as lessor, agent, broker or advisor in leasing such property. These activities would be performed from offices of Applicant's subsidiary in Houston, Texas and the geographic areas to be served are Texas, New Mexico, Oklahoma, Arkansas, Louisiana, California, and New York.

Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than November 25, 1983.

Board of Governors of the Federal Reserve System, October 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29603 Filed 11-1-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Gardner Bancorp, Inc.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Gardner Bancorp, Inc.*, Morris, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Exchange Bank, Gardner, Illinois. Comments on this application must be received not later than November 22, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *East River Bancshares*, Benton, Louisiana; to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Benton, Benton, Louisiana. Comments on this application must be received not later than November 25, 1983.

Board of Governors of the Federal Reserve System, October 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29602 Filed 11-1-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Holding Companies; Northwest Florida Banking Corporation

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons

may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Northwest Florida Banking Corporation*, Quincy, Florida; to acquire 100 percent of the voting shares or assets of Citizens Commercial Bank of Tallahassee, Tallahassee, Florida. Comments on this application must be received not later than November 25, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Northstream Investments, Inc.*, Geddes, South Dakota; to acquire 83.4 percent of the voting shares or assets of Fort Pierre National Bank, Fort Pierre, South Dakota. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than November 17, 1983.

2. *Rainwood Corporation*, Omaha Nebraska; to acquire 86.75 percent of the voting shares or assets of Forest City Bank & Trust Company, Forest City, Iowa ("Bank") through acquisition of 100 percent of the voting shares of Bank's parent, Forest City Limited, Forest City, Iowa. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than November 22, 1983.

3. *United Texas Bancshares, Inc.*, Austin, Texas; to acquire at least 80 percent of the voting shares or assets of CenTex Bancshares, Inc., Cranfills Gap, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than November 25, 1983.

Board of Governors of the Federal Reserve System, October 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29883 Filed 11-1-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company; Proposed de Novo Nonbank Activities; Union Bancorp

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be sumitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Franciso, California 94105:

1. *Union Bancorp*, Los Angeles, California and its parent holding companies (Standard Chartered Overseas Holdings, Ltd., and Standard Chartered Bank PLC, London, England) (discount brokerage activities; United States): To engage, through its subsidiary, Market Investment Services Corporation, in discount brokerage activities by buying and selling securities solely as agent for the account of customers, without providing underwriting for investment advisory services; and in securities credit lending pursuant to Regulation T. These activities would be conducted from offices in Los Angeles, California, serving potential customers thoughout the country. Comments on this application must be received not later than November 25, 1983.

Board of Governors of the Federal Reserve System, October 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29884 Filed 11-1-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

[Program Announcement No. OCS 84-2]

Availability of Funds and Request for Application for Loans Under the Community Development Credit Union Program

AGENCY: Office of Community Services, HHS.

SUBJECT: Announcement of availability of funds and request for applications under the Community Development Credit Union Loan Program.

SUMMARY: The Office of Community Services (OCS) announces the availability of funds from the Community Development Credit Union (CDCU) Loan Fund in the amount of approximately $2,700,000 to be awarded in the form of loans on or before December 31, 1983. Applications will be accepted through November 30, 1983. Application and funding procedures are detailed below.

DATES: The deadline for the submission of applications is November 30, 1983. See the section titled "Deadline for Submission of Applications".

FOR FURTHER INFORMATION CONTACT: Mr. Francis Rupp, Division of Business Development Loans, Office of Community Services, 1200 19th Street NW., Room 500, Washington, D.C. 20506. (202) 653-5675.

Authority

This announcement, and the funds made available pursuant thereto, are governed by Pub. L. 97-35, Sec. 623, 633, and 681, 95 Stat. 494, 498, and 518, 42 U.S.C. 9812, 9822, and 9910; Pub. L. 98-63, 97 Stat. 331.

Scope of This Announcement

The Office of Community Services will make available approximately $2.7 million in CDCU loan funds to be obligated on or before December 31, 1983. The funds will be made available in the form of loans Loans will be

awarded to community development credit unions and to organizations forming such CDCUs. Loans will be made on a competitive basis, utilizing the evaluative criteria described herein, plus any additional relevant information that the Director may receive. Loans of up to $200,000 will be made to existing credit unions, and up to $100,000 for newly created credit unions. The term of the loans will not exceed five years. Loans under this announcement will be governed by new regulations, for which a notice of proposed rule making was published in the Federal Register on August 16, 1983, p. 37042.

Purpose of the Program:

The purpose of this program is to support community based credit unions in efforts to:

(1) Stimulate economic development activities in the community they serve which result in increased income, ownership, and employment opportunities for low-income residents;

(2) Stimulate community revitalization efforts which result in improved community facilities, housing, transportation, etc., and

(3) Provided needed financial and related services to residents of their communities.

Eligible Applicants

Any credit union, and any organization proposing to form a credit union, which meets the requirements of the regulation may apply for assistance under this loan program. See the regulation for the definition and description of community development credit unions.

Application Procedures

Note.—*Prior to the preparation of an application, an applicant should become familiar with the statute, the CDCU Program Regulations, and this program announcement. The statute and regulations contain the basic policy and terms and conditions governing CDCU loans. This program announcement does not repeat everything that is contained in those documents and therefore is not to be considered sufficient by itself as a guide for the preparation of an application for a CDCU loan.*

1. *Availability of Forms:* A kit containing an application form, a copy of the statute, a copy of the CDCU Program regulations, and a copy of this program announcement (which includes instructions for completing applications), and three certification forms may be obtained by writing to: Community Development Credit Union Loan Program, Division of Business Development Loans, Office of Community Services, 1200 19th Street NW., Room 500, Washington, D.C. 20506, or by calling (202) 653–5675.

2. *Application Submission:* Applications should be submitted as follows:

A. The original, plus two copies to: Grants Management Office, Office of Community Services, 1200 19th Street NW., Room 543, Washington, D.C. 20506.

B. A copy to the regional office of the National Credit Union Administration which is appropriate for the location of the applicant.

3. *Intergovernmental Review:* The Community Development Credit Union Loan Fund is not covered by Executive Order 12371, nor the Department's regulation (45 CFR, Part 100) which requires the clearance of applications through State and local governments. Therefore applicants for funds under this announcement are not subject to these clearance procedures and requirements. Nevertheless, applicants are urged to inform and to coordinate with the State and local governments where such information and coordination is appropriate or necessary for the success of the program.

4. *Contents of Application:* Each application must contain the following forms and documents:

A. Three certification forms (which are available in the application kit)—HHS Form 441 "Civil Right Assurance of Compliance; HHS Form 641 "Assurances of Compliance with Section 504 of the Rehabilitation Act of 1973, as amended" and "Certification of Small, Minority, and Women-Owned Businesses ("for-profit" applicants only).

B. The Standard Form 424 "Application for Federal Assistance" consists of five parts:

I. Cover Sheet (pp. 1 and 2)

Instructions for completing this form are attached to the form.

II. Project Approval Information

Instructions for completing form: Items 1–3 will be answered in the negative. Items 4–7 and 9 are self-explanatory. If the answer to item 8 is yes, describe the beneficial or harmful effect of the project on the environment and the action that will be taken to minimize any harmful effect. If the answer to item 10 is yes, state the type of assistance, the source, amount, and status (whether previous, pending or anticipated).

III. Budget Information

Instructions for completing form:

Section A: On line 1, column (a), write CDCU loan. On line 1, column (b), write the Catalog of Federal Domestic Assistance No. 13.663. On line 1, columns (e) and (g), enter the amount of CDCU loan being applied for.

Section B: List in column 1 the estimated expenses attributable to the first year of the CDCU loan for the added lending activity brought about by the CDCU loan funds, plus any other projects or services initiated or expanded due to the CDCU loan assistance or requirements of the CDCU loan agreement (such as the Community Needs Plan). Enter total on line (k). Disragard line 7.

Section C: If any commitments for funds or other assistance from groups or individuals outside the applicant are mentioned in paragraph F of the Program Narrative (Part IV of the SF 424), enter those amounts and sources on line 8.

Section D, E, and F: Do not complete. Instead attach a copy of the most recent financial statements (balance sheet, income statement, and loan delinquency analysis) for the credit union or for the organization forming a credit union. Further, a copy of the most recent credit union examiner's report must be included.

IV. Program Narrative

Instructions for completing this part: The program narrative must follow the format outline below, with each page numbered and a table of contents.

A. Executive Summary

The executive summary should contain all the essential elements of the program including the amount of funds requested, the term of loan requested, why the program is needed, goals, anticipated impact, resouraces to be mobilized from other organizations or agencies, and the applicant's expertise and experience in conducting credit union business and achieving community development and revitalization successes. The length of the summary should not exceed two pages.

B. Description of Applicant and Target Area

The applicant must fully and accurately describe the type and nature of the applicant, including a copy of the statement of field of membership, a description of the target area defined by the community served, and demographic information on the income levels within the target area covered by the field of membership. This information is essential to determine the eligibility of the applicant.

C. Analysis

The nature and extent of the problem, such as chronic dependency, community deterioration, unemployment, low performance schooling, inadequate physical security, inability of community residents to secure financial services such as loans, check cashing, financial counseling, etc. Priority will be given where the need is greatest, the nature of the problem is most clearly documented and analyzed, and proper statistical data is best presented.

D. Program Objectives and Anticipated Impact

The program objectives and anticipated impact are the outcomes of the program activities. They are what the program seeks to accomplish. They should be measurable and projected on the basis of a timetable. Included among them should be increases in credit union membership, assets, services, and loans to members.

E. Program Activities

Program activities should all be aimed at providing a variety of financial and related services designed to meet the particular needs of the low income community served. Activities may include, but are not limited to, those which aim at (a) supporting and stimulating economic development and revitalization efforts within the low income community, (b) providing member services such as financial counseling, and (c) increasing the membership and capitalization base of the credit union.

See the regulation for a fuller delineation of potential program activities. This description of the program activities should include a timetable for implementing the activities, along with an explanation of the staffing required. Also to be included is the current schedule of loan types offered, interest rates, fees, and maturities.

F. Mobilization of Resources

Each credit union will be expected to mobilize resources to the maximum extent possible within its own membership and with the rest of the community. Applications which demonstrate a higher match of increased member share deposits than the minimum required will be given greater consideration (the minimum match being one dollar of increased member share deposits for every two dollars of loan from OCS). Applicants who expect to seek assistance and cooperation from other community groups, or have already done so, should include a complete description of this outreach including documentation of any financial commitments obtained.

G. Ability of Applicant To Perform

The ability of the applicant to conduct a successful credit union program is essential. For existing credit unions, a history for the past two or three years should include all significant events and achievement. For organizations that are forming credit unions, a history of the sponsoring organization for the past two or three years will be needed, with emphasis on the ability to generate successful financial or other business enterprises and to coordinate community improvement programs. A description of the board of directors and managerial staff of the credit union (or organization forming a credit union) will be necessary, including copies of resumes.

V. Assurances

Instructions are self-explanatory.

Review Criteria

All applications received in accordance with the deadline will be reviewed by OCS staff or other Federal officials. The National Credit Union Administration will provide input as to the legal requirements and the capacities of the credit unions and the status of organizations forming credit unions. Selection of applicants for awards of loans will be based upon the following criteria, and the final decision will be made by the Director of OCS, taking into consideration the information presented in the application and from other sources. Applicants who make a commitment to provide a greater match of increased member share deposits than the minimum required shall be given special consideration. General review criteria will be as follows, in descending order of priority:

1. Program Evaluation:
—Problems of the community to be addressed.
—Well coordinated approach by which the program activities will meet the objectives and anticipated impact.
—Description of quantifiable outcomes of the program.

2. Organizational Capability.
—Skills and experience of board members and management adequate to implement the programs and activities.
—Sufficient qualified staff with appropriate training necessary to carry out the proposed services and projects.
—Organizational history of achievements as a credit union (or organization forming credit union).

3. Significant and beneficial Impact:
—Impact towards alleviating the causes of provety and chronic dependency.
—Increased provision of financial services to community members.
—Community development and revitalization efforts.

4. Community Coordination and Liaison:
—Significant linkages with community organizations, including for profit and non-profit groups, governmental agencies, and educational establishments.
—Commitments of funds or other support from the community for credit union's activities.

Loan Terms and Conditions

1. The interest rate will be determined in accordance with the regulation.

2. The term of the loans will not exceed five years from the date of award of the loan.

3. The repayment of the principal and interest will be made according to the regulations.

4. The matching requirements of increased member share deposits are included in the regulation. The base upon which the increase shall be measured will be the total amount of member share deposits as of the date of award of the loan.

5. For organizations forming credit unions, no funds may be drawn down until the credit union has been charatered and able to receive funds on its own.

6. Each credit union shall forward a copy of its Community Needs Plan to OCS upon its completion and submission to the board of directors.

Deadlines for Submission of Applications

1. *Deadlines.* The deadline for the receipt of applications is November 30, 1983. Applications shall be considered as meeting this deadline if they are-

A. received on or before the deadline date at the place specified above under "Application Submission" or

B. sent on or before the deadline date and recived by OCS in time to be considered. (Applicants should be aware that the mail system may be experiencing heavy usage during this part of the year, and are therefore encouraged to use means to ensure prompt delivery so that OCS will be able to consider the application. Applicants must be cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered

postmarks shall not be acceptable as proof of timely mailing.)

2. *Late applications.* Applications which do not meet the criteria in paragraph 1 of of this section are considered late applications. OCS shall notify each late applicant that its application will not be considered in the current competition.

Dated: October 21, 1983.

(Catalog of Federal Domestic Assistance No. 13.663)

Harvey R. Vieth,

Director.

[FR Doc. 83-29064 Filed 11-1-83; 10:42 am]

BILLING CODE 4150-04-M

Office of Human Development Services

Federal Council on the Aging, Meeting

Agency holding the meeting: Federal Council on the Aging.

Time and date: Meeting begins at 8:30 AM on Monday, November 21, 1983 and ends at 7:00 PM.

Place: San Francisco Hilton and Tower, Mason and O'Farrell Sts., San Francisco, CA. This meeting is being held in conjunction with the 36th annual meeting of the Gerontological Society of America.

Status: Meeting is open to the public.

Contact person: Rita Lowry, Room 309D, HHH Building, 245-2451.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-453, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will hold a meeting November 21, 1983 from 8:30 AM to 7:00 PM at the San Francisco Hilton and Tower, Mason and O'Farrell Streets, San Francisco, California.

The agenda will include a presentation to the Gerontological Society of America by the Federal Council on Aging (FCA) on FCA recommendations on the 1984 reauthorization of the Older Americans Act. There will be presentations on "National Employment Policy and Older Americans" and "Diseases of Western Lifestyle". In addition, reports of the Housing, Family Support, and Health Committees will be given at this session.

Dated: October 26, 1983.

Adelaide Attard,

Chairperson, Federal Council on the Aging.

[FR Doc. 83-29718 Filed 11-1-83; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

Payback Activities of an Individual after a National Research Service Award (NRSA) as Repayment for Obligated Service Under the National Health Service Corps (NHSC) Scholarship Program

AGENCY: Public Health Service, HHS.

ACTION: General notice.

SUMMARY: The Secretary of Health and Human Services will establish annual notification deadlines for persons who wish to substitute NRSA payback activity after a period of NRSA research training for obligated service under the NHSC Scholarship Program. Persons who wish to substitute the payback obligation under a NRSA institutional award for NHSC scholarship service must submit evidence to the Secretary prior to such deadline that they have received a NRSA appointment. Persons who wish to substitute the payback obligation under a NRSA individual award for NHSC scholarship service should submit evidence to the Secretary prior to the deadline that they have made an application for such award. Failure to meet this deadline will result in the applicant being denied permission for substitution of NRSA payback activity.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Daugherty, Director, Division of Health Service Scholarships, Bureau of Health Care Delivery and Assistance, 5600 Fishers Lane, Room 7-34, Rockville, Maryland 20857. Telephone number 301 443-3744.

SUPPLEMENTARY INFORMATION: Persons receiving support under the NHSC scholarship program section 338A of the Public Health Service (PHS) Act) incur an obligation upon completion of their health services training to practice their profession in a designated health manpower shortage area. This obligation is equal to one year of service for each year of scholarship support received, with a minimum of two years service. The NRSA program section (472 of the PHS Act) consists of a period of award supported research training and, after training is completed, a period of obligated payback activity equivalent to the number of months NRSA support was received. Under section 338B(e) of the PHS Act a person with a scholarship obligation may substitute a period of research activity required as payback under the NRSA program for an equal amount of service obligation time under the NRSC scholarship program. To meet the statutory intent of the NHSA program, the Secretary grants deferments from NHSC obligated service for such periods of time necessary for research training under a NRSA appointment.

To effectively administer the program of repayment of obligated service under the NHSC scholarship program and to make necessary commitments with communities for the assignment of NHSC health service providers, the Secretary has established a notification deadline for persons seeking to substitute NRSA payback activity for their NHSC scholarship service obligation. All NHSC scholarship recipients will receive notification of the established NRSA deadline as they near completion of their approved graduate training.

Persons who wish to substitute NRSA payback activity performed pursuant to a NRS institutional award must submit evidence of a secured appointment to the Secretary by the established deadline. Persons who wish to substitute NRSA payback activity performed pursuant to a NRSA individual award must provide the Secretary with evidence of an application for such an award by the established deadline.

Those individuals who have not submitted the required evidence by the deadline will not be allowed to substitute NRSA payback activity for their NHSC scholarship service obligation. Consequently, no deferment of the commencement of an individual's NHSC obligation service will be granted for the purpose of securing a NRSA institutional award or applying for a NRSA individual award after the established deadline.

Persons who receive a NRSA appointment at any time prior to the completion of their NHSC training, even before they are informed of their NRSA deadline, should notify the Secretary of their NRSA award at the earliest possible time. However, notification of the Secretary at any time prior to the NRSA deadline will be sufficient to meet the requirements of this notice.

Persons who have begun providing obligated service in a health manpower shortage area will not, subsequently, be allowed to substitute NRSA payback activity for the remaining portion of their scholarship obligation service.

(The NHSC Scholarship Program is listed as No. 13.288 in the OMB Catalog of Federal

Domestic Assistance and the NRSA program is listed as No. 13.297.)

Dated: October 28, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83-29797 Filed 11-1-83; 8:45 am]

BILLING CODE 4160-20-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. N-115]

Finding of No Significant Impact

The Department of Housing and Urban Development gives notice that a Finding of No Significant Impact (FONSI) has been made subsequent to the completion of an Environmental Assessment (EA) for the Vicksburg Subdivision located Missouri City, Fort Bend County, Texas. This Notice is required by the Council on Environmental Quality (CEQ) under 40 CFR Part 1500 and implementing HUD regulations. Interested individuals, governmental agencies, and private organizations are invited to comment on the FONSI. Pursuant to 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969, the FONSI and supporting Environmental Assessment will be available for public inspection during regular business hours in HUD's Houston Office, Two Greenway Plaza, Suite 200, Houston Texas.

Issued at Washington, D.C., October 26, 1983.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Notice of Finding of No Significant Impact

Vicksburg Subdivision, Missouri City, Fort Bend County, Texas

(As authorized by 40 CFR Section 1501.4(c)(2)(i).)

The Fort Worth Regional Office of the Department of Housing and Urban Development hereby publishes a Notice of Finding of No Significant Impact for a proposed development to be known as Vicksburg Subdivision located partially within the corporate limits of Missouri City and partially within its extraterritorial jurisdiction, Fort Bend County, Texas. The purpose of this notice is to inform all interested persons, local, State and Federal Agencies of the decision not to prepare an Environmental Impact Statement.

Description—General Homes, Incorporated and the Lexington Development Company, both of Houston, Texas have filed applications with the Houston Office of the Department of Housing and Urban Development to accept the proposed subdivision for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934, as amended. The proposed subdivision is located north of State Highway No. 6 and Trammel Fresno Road in Missouri City, Texas. The proposed subdivision will consist of 1,154 acres of land and will provide approximately 4,700 lots for single family development. When fully developed over a ten-year period the subdivision will provide housing for approximately 15,000 persons.

Finding—An Environmental Assessment was prepared by HUD's Houston Office. The assessment has been reviewed by both the Dallas Office and the Fort Worth Regional Office of the Department of Housing and Urban Development. It was found that the proposed subdivision has no environmental concerns that cannot be resolved and that the project will have no significant impact upon the human environment. It is believed that an Environmental Impact Statement need not be prepared as authorized by 40 CFR 150.14(c)(2)(i). It has been determined that the project is in compliance with the National Environmental Policy Act and all related environmental laws and authorities cited in 24 CFR Part 50.

Contact—Comment should be sent within 30 days following the publication of the Notice in the **Federal Register** to L. J. Ramsbottom, 6CE, Regional Environmental Officer, 221 West Lancaster, Fort Worth, Texas 76113. The commercial telephone number of this office is 817–870–5482 and the FTS number is 728–5482. The Environmental Assessment and its supporting documentation may be reviewed at either the Houston Office, Two Greenway Plaza East, Suite 200, Houston, Texas or the Fort Worth Regional Office, 221 West Lancaster, Fort Worth, Texas.

[FR Doc. 83-29800 Filed 11-1-83; 8:45 am]

BILLING CODE 4210-29-M

Office of Secretary

[Docket No. N-83-1293]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be set to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 312, Rehabilitation Loan Program
Office: Community Planning and Development
Form Number: HUD–6230, HUD–6230C, HUD–6236, HUD–6239, HUD–6240, HUD–6243, and HUD–6243A
Frequency of submission: On Occasion

Affected public: Individuals or Households, State or Local Governments, and Federal Agencies or Employees
Estimated burden hours: 8,256
Status: New
Contact: Harold Huecker, HUD, (202) 755–6336; Robert Neal, OMB (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1983.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration, AD.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Audit Guide for Audits of Government National Mortgage Association Approved Issuers of Mortgage-Backed Securities for Use by Independent Public Accountants
Office: Inspector General
Form Number: None
Frequency of submission: Annually
Affected public: Businesses or Other For-Profit
Estimated burden hours: 4,800
Status: Extension
Contact: Dennis A. Raschka, HUD, (202) 755–6397; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1983.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration, AD.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Statement of Profit and Loss
Office: Housing
Form Number: HUD–92410
Frequency of submission: Annually
Affected public: Businesses or Other For-Profit and Non-Profit Institutions
Estimated burden hours: 16,000
Status: Extension
Contact: William J. Schick, HUD, (202) 755–6870; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1983.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration, AD.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Summary of Guaranty Agreement (to include recordkeeping requirements contained in the Guaranty Applications)
Office: Government National Mortage Association
Form Number: HUD–1716, HUD–1723, HUD–1727, and HUD–1730
Frequency of submission: On Occasion
Affected public: Businesses or Other For-Profit
Estimated burden hours: 2,055
Status: Extension
Contact: Patricia Gifford, HUD, (202) 755–5550; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1983.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration, AD.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Supplemental Application and Processing Form—Housing for the Elderly and Handicapped
Office: Housing
Form Number: HUD–92013–E
Frequency of submission: On Occasion
Affected public: Business or Other For-Profit and Non-Profit Institutions
Estimated burden hours: 300
Status: Extension
Contact: Edward M. Winiarski, HUD, (202) 755–5743; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1983.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration, AD.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and in Clear Zones and Accident Potential Zones at Military Airfields
Office: Community Planning and Development
Form Number: None
Frequency of submission: On Occasion
Affected public: Individuals or Households, State or Local Governments, Farms, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions, and Small Businesses or Organizations
Estimated burden hours: 25
Status: New
Contact: Gretchen Van Hyning, HUD, (202) 755–6580; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1983.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration, AD.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Weekly Opinion Poll of Mortgage Market Conditions
Office: Housing
Form Number: None
Frequency of submission: Weekly
Affected public: Businesses or Other For-Profit
Estimated burden hours: 156
Status: Extension
Contact: John Dickie, HUD, (202) 755–7270; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1983.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration, AD.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Jobs Bill Civil Rights Data
Office: Fair Housing and Equal Opportunity
Form Number: EEO–1, EEO–4, and SF–257
Frequency of submission: Annually
Affected public: State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions
Estimated burden hours: 2,564
Status: Revision
Contact: Peter Kaplan, HUD, (202) 755–7727; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1983.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration, AD.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for Environmental Review Form
Office: Housing
Form Number: HUD–92250
Frequency of submission: On Occasion
Affected public: Businesses or Other For-Profit
Estimated burden hours: 2,500
Status: Extension
Contact: Joseph Emmi, HUD, (202) 426–7212; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1983.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration, AD.

[FR Doc. 83-29864 Filed 11-1-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N–83–1294]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street S.W., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Request for Extension of Title I Claim Period
Office: Housing
Form Number: HUD–9299
Frequency of submission: On Occasion
Affected public: Individuals or Households and Small Businesses or Organizations
Estimated burden hours: 9,000
Status: Extension
Contact: James L. Anderson, HUD, (202) 755–6880; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 23, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Statement of Taxes
Office: Administration
Form Number: HUD–434
Frequency of submission: On Occasion
Affected public: Businesses or Other For-Profit
Estimated burden hours: 150
Status: Extension
Contact: Engene Morroni, HUD, (202) 755–7523; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 23, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Contractor's Prevailing Wage Certificat/Contractor's Requisition
Office: Housing
Form Number: FHA–2403–A and FHA–2448
Frequency of submission: Monthly
Affected public: Businesses or Other For-Profit and Non-Profit Institutions
Estimated burden hours: 60,000
Status: Extension
Contact: Jack Kaufman, HUD, (202) 426–0035; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 23, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Recertifiation of Family Income and Composition
Office: Housing
Form Number: HUD–93101, HUD–93101A, and HUD–93101B
Frequency of submission: Monthly, Annually, and On Occasion
Affected public: Individuals or Households and Businesses or Other For-Profit
Estimated burden hours: 550,000
Status: Extension
Contact: Ann M. Sudduth, HUD, (202), 755–6672; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 23, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Construction Complaint
Office: Housing
Form Number: HUD–92556
Frequency of submission: On Occasion
Affected public: Individuals or Households, Businesses or Other For-Profit, and Federal Agencies or Employees
Estimated burden hours: 4,000

Status: Extension
Contact: Albert Stevens, HUD, (202)755–6700; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 23, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-29855 Filed 11-1-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1295]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Local Appeals to Single Family Mortgage Limits
Office: Housing
Form Number: None
Frequency of submission: On Occasion
Affected public: Individuals or Households
Estimated burden hours: 480
Status: New
Contact: Morris Carter, HUD, (202) 426–7212; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(D).

Dated: September 19, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-29856 Filed 11-1-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1296]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Exective Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Report on Program Activity—Section 8 Moderate Rehabilitation Programs
Office: Housing
Form Number: HUD–52686
Frequency of Submission: Semi-Annually
Affected public: State or Local Governments
Estimated burden hours: 1,000
Status: Extension
Contact: Mary Proctor, HUD, (202) 755–5433; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 15, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Deed-in Lieu of Foreclosure (Corporate Mortgagors or Mortgagors Owning More Than One Property)

Office: Housing
Form Number: None
Frequency of submission: On Occasion
Affected public: Individuals or Households and Businesses or Other For-Profit
Estimated burden hours: 300
Status: New
Contact: Ann Marie Sudduth, HUD, (202) 755–6672; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 15, 1983.

Lee Hamilton,

Director, Office of Information Policies and Systems.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Schedule of Subscribers and Contractual Agreement
Office: Government National Mortgage Association
Form Number: HUD–1705
Frequency of submission: On Occasion
Affected public: Businesses or Other For-Profit
Estimated burden hours: 2,150
Status: Revision
Contact: Patricia Gifford, HUD, (202) 755–5550; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 15, 1983.

Lee Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-29857 Filed 11-1-83; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. N–83–1297]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer of the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Annual Operating Budget for Cooperative Housing Corporations
Office: Housing
Form Number: HUD–93240
Frequency of submission: Annually
Affected public: Businesses or Other For-Profit
Estimated burden hours: 6,810
Status: Extension
Contact: Judy Lemeshewsky, HUD, (202) 755–6870; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42, U.S.C. 3535(d).

Dated: October 11, 1983.

Lee Hamilton,

Director, Office of Information Policies and Systems.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Negotiated FHA Interest Rate Program
Office: Housing
Form Number: HUD–9722 and HUD–9723
Frequency of submission: On Occasion
Affected public: Busineses or Other For-Profit
Estimated burden hours: 25,000
Status: Extension
Contact: John N. Dickie, HUD, (202) 755–7271; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 1983.

Lee Hamilton,

Director, Office of Information Policies and Systems.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Schedule of Charges and Project Information—Housing for the Elderly (Non-Profit)
Office: Housing
Form Number: HUD–92458A
Frequency of submission: On Occasion
Affected public: Businesses or Other For-Profit
Estimated burden hours: 165
Status: Extension
Contact: Judy Lemeshewsky, HUD, (202) 755–6870; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 1983.

Lee Hamilton,

Director, Office of Information Policies and Systems.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Premium Reconcilement
Office: Administration
Form Number: HUD–239A
Frequency of submission: Monthly
Affected public: Businesses or Other For-Profit
Estimated burden hours: 1,500
Status: Revision
Contact: DeOssie Hillard, HUD, (202) 755–7022; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

Notice of Submission of Proposed Information Collection to OMB

Proposal: PHA-Owned or Leased Projects; Maintenance and Operations; Tenant Allowances for Utilities
Office: Housing
Form Number: None
Frequency of submission: On Occasion
Affected public: Individuals or Households and Non-Profit Institutions
Estimated burden hours: 8,000
Status: New
Contact: Charles Ashmore, HUD, (202) 755–6640; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 8 Housing Assistance Payments Program for New Construction or Substantially Rehabilitated Projects—Contract Rent Adjustments
Office: Housing
Form Number: None
Frequency of submission: Annually
Affected public: Businesses or Other For-Profit
Estimated burden hours: 600
Status: New
Contact: James Tahash, HUD, (202) 755–5654; Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-29858 Filed 11-1-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1298]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Request for Alternative Construction ("No Action Letter")
Office: Housing
Form number: None
Frequency of submission: On Occasion
Affected public: Businesses or Other For-Profit
Estimated burden hours: 500
Status: New
Contact: Richard Mendlen, HUD, (202) 755–5798, Robert Neal, OMB, (202) 395–716

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 21, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-29859 Filed 11-1-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Commission on Fair Market Value Policy for Federal Coal Leasing; Meeting

AGENCY: Commission on Fair Market Value Policy for Federal Coal Leasing, Interior.

ACTION: Notice of Business Meeting of the Commission.

SUMMARY: Notice is hereby given that the Commission on Fair Market Value Policy for Federal Coal Leasing will hold a Business Meeting on November 9 and 10, 1983. The meeting will be held at 1925 K St., NW., Washington, D.C., Room 740 on November 9th and at the Brick Room, 1015 20th St., NW., Washington, D.C., on November 10th. The meetings will convene at 9:00 a.m. each day.

FOR FURTHER INFORMATION CONTACT: F. Scott Bush, Executive Director, or Sorrell Caplan, Public Affairs Director, Commission on Fair Market Value Policy for Federal Coal Leasing, Suite 400, 1015 20th Street, NW., Washington, D.C. 20036. Phone: (202) 632–6501.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the authority and requirements of Pub. L. 98–63, approved July 30, 1983, making supplemental appropriations for fiscal year 1983, and for other purposes, and in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

The Commission on Fair Market Value Policy for Federal Coal Leasing will hold a Business Meeting on November 9–10, 1983, to receive briefings by Department of the Interior personnel and to discuss issues and facts presented at its public hearings October 25–26, 1983. The meeting will commence at 9:00 a.m. each day.

The deadline of January 20, 1984, by which the law requires the Commission to produce a report and recommendations requires that the Commission operate on an expedited schedule. Because of the exceptional cricumstances the usual 15 day notice required of an advisory committee provided for by 41 CFR 107–8.1015(b) has been waived for this meeting.

The Commission was established by Pub. L. 98–63 approved by President Reagan on July 30, 1983, to review Federal coal leasing statutes, policies and procedures to ensure receipt of fair market value. To complete its mandate, the Commission will:

a. Examine the current statutes, plicies and procedures to ensure receipt of fair market value of Federal coal leases;

b. Evaluate efforts to improve the Department's program; and

c. Recommend improvements in those statutes, policies, and procedures.

Dated: October 31, 1983.

David F. Linowes,

Chairman.

[FR Doc. 83–29899 Filed 11–1–83; 8:47 am]

BILLING CODE 4310–01–M

Commission on Fair Market Value Policy for Federal Coal Leasing; Meeting

AGENCY: Commission on Fair Market Value Policy for Federal Coal Leasing, Interior.

ACTION: Notice of Location of Washington, D.C. Meeting.

SUMMARY: Notice is hereby given that the previously announced November 17–18, 1983, meeting of the Commission on Fair Market Value Policy for Federal Coal Leasing will be held in Room 138, Senate Dirksen Office Building, Constitution Avenue between 1st St. and 2nd St., NE., Washington, D.C. The meetings will convene at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: F. Scott Bush, Executive Director, or Sorrell Caplan, Public Affairs Director, Commission on Fair Market Value Policy for Federal Coal Leasing, Suite 400, 1015 20th Street, NW., Wshington, D.C. 20036. Phone: (202) 632–6501.

SUPPLEMENTARY INFORMATION: Follwong a business meeting, the Commission will receive further public testimony on fair market value policy and procedures. All witnesses will be formally invited to testify by the Chairman. Persons who wish to testify before the Commission may make such a request of the Commission staff. The Commission invites written testimony at any time. witnesses testifying at hearing are requested to submit 10 copies of the testimony in writing at least 5 days in advance of their appearance. On the day of the testimony, at least 50 copies of written testimony should be available for distribution at the hearings. Witnesses wil be sworn and all oral testimony recorded.

This notice is published pursuant to the authority and requirements of Pub. L. 98–63, signed July 30, 1983, making supplement appropriations for fiscal year 1983, and for other purposes, and in accordance with the Federal Advisory Committee Act (Pub. L. 92–463)

Dated: October 31, 1983.

David F. Linowes,

Chairman.

[FR Doc. 83–29905 Filed 11–1–83; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

[W–81677]

Wyoming; Conveyance Sale of Public Land in Park County, Wyoming

Notice is hereby given that pursuant to Sections 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, 1719 (1976), William D. Fields and Joanne Fields have purchased and received a patent for the following described public land in Park County, Wyoming:

Sixth Principal Meridian, Wyoming

T. 57 N., R. 102 W.,
Sec. 20, N½NW¼.
Containing 80.00 acres.
Dated: November 25, 1983.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 83–29853 Filed 11–1–83; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Meeting Cancellation

Cancellation notice is hereby given for two public hearings of the Santa Monica Mountains National Recreation Area. The announcement, recently published in the **Federal Register** (48 FR 48297, Tuesday, October 18, 1983), listed two meetings; one for Tuesday, November 8, 1983 at 7:30 p.m., in the Elkins Auditorium at Pepperdine University, 24255 West Pacific Coast Highway, Malibu, California; and another on Wednesday, November 9, 1983 at 7:30 p.m. in the City Council Hall Chambers, 401 Hillcrest Drive, Thousand Oaks, California.

The topic for discussion would have been the Code of Federal Regulations, special regulations for the Santa Monica Mountains National Recreation Area.

Dated: October 26, 1983.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 83–29741 Filed 11–1–83; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–149–150 (Preliminary)]

Barium Chloride and Barium Carbonate From the People's Republic of China

AGENCY: International Trade Commission.

ACTION: Institution of Preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: October 25, 1983

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a) to determine whether there is a reasonable indication that an industry in the UnitedStates is materially injured, or is threratened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of barium chloride and/or barium carbonate (precipitated), provided for in items 417.70 and 472.06 of the Tariff Schedules of the United States, respectively, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Reavis, Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington,D.C. 20436, telephone 202–523–0296.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on October 25, 1983, by counsel on behalf of Chemical Products Corporation, Cartersville, Georgia. The Commission must make its determinations in these investigaions within 45 days after the date of the filing of the petitions, or by December 9, 1983 (19 CFR 207.17).

Participation

Persons wishing to participate in either or both of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the persons desiring to file the notice.

Service of Documents

The Secretary will complile service lists from the entries of appearance filed in these investigations. Any party submitting a document in connection with these investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation(s). Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written Submissions

Any person may submit to the Commission on or before November 18, 1983, a written statement of information pertinent to the subject matter of either or both of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on November 15, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact Mr. John MacHatton (202–523–0439), not later than 1:00 p.m., November 14, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public Inspection

Copies of the petitions and all written submissions, except for confidential business data, will be available for public inspection during regular hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts, A through E (19 CFR part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: October 28, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29794 Filed 11–1–83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–168]

Import Investigations; Certain Combination Punch Press and Laser Assemblies and Components Thereof; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: October 25, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83–29775 Filed 11–1–83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–169]

Import Investigations; Certain Processes for the Manufacture of Skinless Sausage Casings and Resulting Product; Order No. 2

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: October 27, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83–29778 Filed 11–1–83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–145]

Import Investigation; Certain Rotary Wheel Printers; Commission Decision not to Review Initial Determination Designating This Investigation "More Complicated"

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has decided not to review Order No. 31, an initial determination granting a motion to designate this investigation "more complicated." Thus, the deadline for final Commission action in this case has been extended to October 20, 1984. The initial determination of the presiding officer must be certified to the Commission no later than June 20, 1984.

Authority: The authority for Commission disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in sections 210.15 and 210.53(c), (h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982, 48 FR 20225, May 5, 1983, and 48 FR 21115, May 11, 1983; to be codified at 19 CFR 210.15, 210.53(c), (h)).

SUPPLEMENTARY INFORMATION: On April 20, 1983, the Commission instituted inv. No. 337–TA–145, *Certain Rotary Wheel Printers*, on the basis of a complaint filed by Qume Corporation. (48 FR 16975.) The purpose of the investigation is to determine whether there is a violation of section 337 in the unauthorized importation and sale of certain rotary wheel printers by virtue of their alleged infringement of certain claims of U.S. Letters Patent 4,118,129. The notice of investigation was amended on July 27, 1983, to add five additional respondents. (48 FR 34149.)

On August 25, 1983, respondent Brother Industries, Ltd., filed a motion to designate the investigation "more complicated" within the meaning of section 337(b)(1) of the Tariff Act of 1930 and § 210.15 of the Commission's Rules of Practice and Procedure. (Motion No.145–37.) The presiding officer granted Motion No.145–37 on September 6, 1983. The presiding officer designated the investigation "more complicated" because of the complexity of the subject matter, the number of parties involved, and the difficulty in obtaining information. The Commission subsequently extended the deadline for deciding whether to review the initial determination, and remanded the initial determination to the presiding officer for additional findings and clarification. The presiding officer filed his supplemental findings with the Commission on October 17, 1983. Comments were filed by Silver Seiko Ltd. in support of the presiding officer's findings.

Copies of the initial determination, the additional findings, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington,D.C. 20436, telephone 202–523–1627.

Issued: October 27, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-29779 Filed 11-1-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–150]

Import Investigations; Certain Self-Stripping Electrical Tap Connectors; Commission Decision Not To Review Initial Determination Terminating Respondent Chieftain-Uniworld Corporation on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 6) granting a joint motion (Motion No. 150–4) by complainant Minnesota Mining and Manufacturing Company (3M) and respondent Chieftain-Uniworld Corporation (Chieftain-Uniworld) to terminate Chieftain-Uniworld as a respondent in the above-captioned investigation on the basis of a settlement agreement.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.53(c) and 210.53(h) of the Commission Rules of Practice and Procedure (47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983; to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On June 2, 1983, the Commission voted to institute investigation No. 337–TA–150, *Certain Self-Stripping Electrical Tap Connectors*, on the basis of a complaint filed by 3M. Notice of the investigation was published in the **Federal Register** on June 8, 1983. 48 FR 26542. The purpose of this investigation is to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain self-stripping electrical tap connectors into the United States, or in their sale, by reason of infringements of U.S. Letters Patent 3,388,370, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

On September 20, 1983, 3M and Chieftain-Uniworld filed a joint motion (Motion No. 150–4) to terminate Chieftain-Uniworld as a respondent in this investigation on the basis of a settlement agreement. On the same day 3M filed joint motions with two other respondents to terminate them from the investigation. Motion 150–4 was unopposed. The Commission investigative attorney filed a public interest statement and supported the motion. On September 28, 1983, the presiding officer issued an initial determination (Order No. 6) granting Motion No. 150–4 and terminating Chieftain-Uniworld as a respondent with prejudice.

A notice seeking comments on the proposed termination was published in the **Federal Register** on October 14, 1983. 48 FR 46867 (1983). No petitions for review or public or agency comments have been received.

Copies of the presiding officer's initial determination, the settlement agreements, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, Tel. 202–523–0079.

Issued: October 28, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-29782 Filed 11-1-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–150]

Import Investigations; Certain Self-Stripping Electrical Tap Connectors; Commission Decision Not To Review Initial Determination Terminating Respondent Blazer International Corporation on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 4) granting a joint motion (Motion No. 150–2) by complainant Minnesota Mining and Manufacturing Company (3M) and respondent Blazer International Corporation (Blazer) to terminate Blazer as a respondent in the above-captioned investigation on the basis of a settlement agreement.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.53(c) and 210.53(h) of the Commission Rules of Practice and Procedure (47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983; to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: On June 2, 1983, the Commission voted to institute investigation No. 337–TA–150, *Certain Self-Stripping Electrical Tap Connectors*, on the basis of a complaint filed by 3M. Notice of the investigation was published in the **Federal Register** on June 8, 1983, 48 FR 26542. The purpose of this investigation is to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain self-stripping electrical tap connectors into the United States, or in their sale, by reason of infringements of U.S. Letters Patent 3,388,370, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

On September 20, 1983, 3M and Blazer filed a joint motion (Motion No. 150–2) to terminate Blazer as a respondent in this investigation on the basis of a settlement agreement. On the same day

3M filed joint motions with two other respondents to terminate them from the investigation. Motion 150–2 was unopposed. The Commission investigative attorney filed a public interest statement and supported the motion. On September 28, 1983, the presiding officer issued an initial determination (Order No. 4) granting Motion No. 150–2 and terminating Blazer as a respondent with prejudice.

A notice seeking comments on the proposed termination was published in the **Federal Register** on October 14, 1983. 48 FR 46867 (1983). No petitions for review or public or agency comments have been received.

Copies of the presiding officer's initial determination, the settlement agreements, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, Tel. 202–523–0079.

Issued: October 28, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29783 Filed 11–1–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–150]

Import Investigations; Certain Self-Stripping Electrical Tap Connectors; Commission Decision Not To Review Initial Determination Terminating Respondent Allison Corporation on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (Order No. 5) granting a joint motion (Motion No. 150–3) by complainant Minnesota Mining and Manufacturing Company (3M) and respondent Allison Corporation (Allison) to terminate Allison as a respondent in the above-captioned investigation on the basis of a settlement agreement.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.53(c) and 210.53(h) of the Commission Rules of Practice and Procedure (47 F.R. 25134, June 10, 1982, and 48 FR 20225, May 5, 1983; to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On June 2, 1983, the Commission voted to institute investigation No. 337–TA–150, *Certain Self-Stripping Electrical Tap Connectors,* on the basis of a complaint filed by 3M. Notice of the investigation was published in the **Federal Register** on June 8, 1983. 48 FR 26542. The purpose of this investigation is to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain self-stripping electrical tap connectors into the United States, or in their sale, by reason of infringements of U.S. Letters Patent 3,388,370, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

On September 20, 1983, 3M and Allison filed a joint motion (Motion No. 150–3) to terminate Allison as a respondent in this investigation on the basis of a settlement agreement. On the same day 3M filed joint motions with two other respondents to terminate them from the investigation. Motion 150–3 was unopposed. The Commission investigative attorney filed a public interest statement and supported the motion. On September 28, 1983, the presiding officer issued an initial determination (Order No. 5) granting Motion No. 150–3 and terminating Allison as a respondent with prejudice.

A notice seeking comments on the proposed termination was published in the **Federal Register** on October 14, 1983. 48 FR 46867 (1983). No petitions for review or public or agency comments have been received.

Copies of the presiding officer's initial determination, the settlement agreements, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, Tel. 202–523–0079.

Issued: October 28, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary

[FR Doc. 83–29781 Filed 11–1–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–167]

Import Investigations; Certain Single Handle Faucets; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge John J. Mathias as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: October 25, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83–29777 Filed 11–1–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–134 and 135 (Final)]

Color Television Receivers From the Republic of Korea and Taiwan

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

EFFECTIVE DATE: October 27, 1983.

SUMMARY: As a result of affirmative preliminary determinations by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from the Republic of Korea and Taiwan of color television receivers, complete or incomplete, provided for in items 685.11 and 685.14 of the Tariff Schedules of the United States are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigations Nos. 731–TA–134 and 135 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports of such merchandise. Unless the investigations are extended, the Department of Commerce will make its final dumping determinations in the cases on or before December 23, 1983, and the Commission will make its final injury determinations by February 15, 1984 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Leahy (202–523–1369), Office

of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

In June 1983, the Commission determined, on the basis of the information developed during the course of its preliminary investigations, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly LTFV imports of color television receivers from the Republic of Korea and Taiwan. The preliminary investigations were instituted in response to a petition filed on May 2, 1983, by counsel on behalf of the Industrial Union Department (AFL–CIO), the Independent Radionic Workers of America, the International Brotherhood of Electrical Workers, the International Union of Electrical, Radio and Machine Workers, and the Committee to Preserve American Color Television (COMPACT).

Participation in the investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), Not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to these investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report

A public version of the staff report containing preliminary findings of fact in these investigations will be placed in the public record on December 23, 1983, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m. on January 12, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 22, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on January 3, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is January 5, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 19, 1984.

Written submissions

As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before January 19, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary of the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subpart A and C (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982) and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

Issued October 28, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29780 Filed 11–1–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–108 and 109 (Final)]

Portland Hydraulic Cement From Australia and Japan

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Australia and Japan of portland hydraulic cement, provided for in item 511.14 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective April 29, 1983, following preliminary determinations by the Department of Commerce that imports of portland hydraulic cement from Australia and Japan are being sold in the United States at LTFV.

Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission,

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

Washington, D.C., and by publishing the notice in the **Federal Register** on June 2, 1983 (48 FR 24799). The hearing was held in Los Angeles, Calif., on September 12, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on these investigations to the Secretary of Commerce on October 20, 1983. A public version of the Commission's report, Portland Hydraulic Cement from Australia and Japan (investigations Nos. 731–TA–108 and 109 (Final), USITC Publication 1440, 1983) contains the views of the Commission and information developed during the investigations.

Issued: October 20, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29776 Filed 11–1–83; 8:45 am]

BILLING CODE 7020–02–M

[332–161]

Cancellation of Hearing on Crude Petroleum

AGENCY: International Trade Commission.

ACTION: Cancellation of Hearing.

EFFECTIVE DATE: October 25, 1983.

Background

The Commission, on it own motion, instituted, effective April 20, 1983, investigation No. 332–161, under the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), for the purposes of gathering and presenting information on the future supply and prices of crude petroleum. This information will be used in assessing the possible effects of changing crude petroleum prices on such areas as United States trade, the petroleum industry, the petrochemical industry, and other energy-intensive industries.

Public Hearing

A public hearing was scheduled to be held in Houston, Texas, beginning Nov. 1, 1983, in connection with the investigation. Because of the limited number of witnesses requesting an opportunity to testify, the Commission, on its own motion, cancelled the hearing.

Written Submission

In lieu of or in addition to appearance at the public hearing, interested persons were invited to submit written statements concerning the investigation, no later than Oct. 24, 1983. Because of the cancellation of the hearing, written submissions concerning the investigation will be received until November 14, 1983.

Notice of the institution of the investigation containing the date of the scheduled hearing was published in the **Federal Register** of April 27, 1983 (48 FR 19087); the date and site of the hearing was published July 20, 1983 (48 FR 33083).

Issued: October 25, 1983.

By the Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29775 Filed 11–1–83; 8:45 am]

BILLING CODE 7020–02–M

[332–170]

A Study on a Competitive Assessment of the U.S. Wood and Upholstered Household Furniture Industry

AGENCY: International Trade Commission.

ACTION: Following receipt, on October 3, 1983, of a letter from the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, the Commission, on its own motion, instituted investigation No. 332–170 under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), for the purpose of gathering and presenting information on a competitive assessment of the U.S. wood and upholstered household furniture industry.

EFFECTIVE DATE: October 20, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Rhett Leverett, or Mr. Ruben Moller, General Manufactures Division, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202–724–1725 or 202–724–1732, respectively.

Background

As requested by the Subcommittee, the Commission's study will specifically address:

(1) A profile of the U.S. and major foreign industries including both a descriptive view of the industry and an analysis of the various strengths and weaknesses of each industry in terms of such factors as raw material, capital, labor availability and cost, and technology level.

(2) An analysis of the key economic factors in the U.S. market including U.S. consumption, production, trade, and other relevant factors.

(3) A discussion of U.S. and foreign government policies and regulations and their influence on the wood and upholstered household furniture industry.

(4) An analysis of the conditions of competition in the U.S. market between domestic and foreign products including factors such as price, quality, marketing techniques, and after sales service.

Public Hearing

A public hearing in connection with the investigation will be held in High Point, North Carolina (exact location to be announced later), beginning at 10:00 a.m. e.s.t., on April 3, 1984, to be continued on April 4, 1984, if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C., not later than noon, March 27, 1984.

Written Submissions

In lieu of or in addition to appearance at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by March 23, 1984. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules and Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's Office in Washington, D.C.

Issued: October 25, 1983.

By the Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–29774 Filed 11–1–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 446]

Alaska Railroad Certification

AGENCY: Interstate Commerce Commission.

ACTION: Certificate of Public Convenience and Necessity.

SUMMARY: Pursuant to the Alaska Railroad Transfer Act of 1982, the Commission is issuing a certificate of public convenience and necessity permitting the Alaska Railroad to be acquired by the State of Alaska and to be operated as a State-owned railroad. The certificate will become effective upon transfer of the Alaska Railroad from the United States to the State.

DATE: The decision is effective on November 2, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: October 19, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–29699 Filed 11–1–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the *ICC Register*. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quailty of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: October 19, 1983.

By the Commission, Review Board Members Parker, Fortier, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–15484, filed October 4, 1983. BRAY FREIGHT SYSTEMS (BFS) (1703 Embarcadero Road, Palo Alto, CA 94303)—PURCHASE—BRAY LINES INCORPORATED (BLI) (P.O. Box 1191, 1401 North Little St., Cushing, OK 74023). Representatives: Joseph P. Ficurelli, 1703 Embarcadero Road, Palo Alto, CA 94303. Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. BFS, a non carrier, seeks authority to purchase all of the interstate operating rights and property of BLI. David P. Roush, David H. Roush, Brian Roush, and Gregory Roush, who control BFS seek authority to acquire control of the operating rights and property through the transaction. BFS is purchasing the interstate operating rights contained in Certificate No. MC–112822 and sub numbers thereunder, which authorize the transportation of general commodities and various specified commodities, such as food and related articles, chemicals and related articles, petroleum products, and metal products, between named points and facilities throughout the U.S. and between all points in the U.S. generally over irregular routes. Also, permit No. MC–112822 (Sub-Nos. 494 and 495) authorizing the transportation of general commodities (with exceptions) between points in the coterminous United States under continuing contracts with Kraft, Inc., and Phillips Petroleum Company. BFS holds no authority from this Commission. However, David P. Roush, majority stockholder of BFS, is in control of ROCOR International, a non-carrier holding company, which controls through stock ownership Altruk Freight Systems, Inc. (MC–116544), and Pacific Carriers (MC–157284). ROCOR also controls Western Freightways (MC–71459), pursuant to MC–F–12675. David P. Roush, David H. Roush, Brian Roush, and Gregory Roush control through stock ownership DonCo Carriers, Inc. (MC–138469).

Note.—(1) This notice does not purport to be a complete description of the operating rights of the carriers involved. (2) Application for temporary authority has been filed.

[FR Doc. 83–29702 Filed 11–1–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30295]

Rail Carriers; Norfolk and Western Railway Co.—Merger Exemption—Norfolk, Franklin and Danville Railway Co.; Notice of Exemption

Norfolk and Western Railway Company (NW) and its subsidiary Norfolk, Franklin and Danville Railway Company (NF&D) jointly filed an application for the proposed merger of NF&D into NW. In the alternative

applicants request that we consider the application as a Notice of Exemption under 49 CFR 1180.2(d)(3). The Railway Labor Executives' Association (RLEA) opposes the merger, and alternatively seeks the imposition of labor protective conditions if the applicants' request is granted.

NW owns all the stock of NF&D. Pursuant to a plan of merger, all stock of NF&D will be canceled and NF&D will be merged into NW. No monetary consideration will be involved. As part of NW's ongoing program of corporate simplification, the merger is designed to eliminate unnecessary or duplicative accounting and recordkeeping, provide a more streamlined corporate structure for the furnishing of transportation services, and achieve operating economies in an existing rail transport network. It will have no significant effect on intermodal or intramodal competition, nor will there be any lessening of competition, creation of a monopoly or restraint of trade, because NW already owns and controls NF&D. *Norfolk & W. Ry. Co.-Control-Norfolk, F. & D. Ry. Co.*, 320 I.C.C. 407 (1962).

This is a transaction within a corporate family and will not result in adverse changes in service levels, significant operational changes or a change in the competitive balance with carriers outside the corporate family. Therefore, the proposed transaction is of the type specifically exempted from the necessity for prior review and approval under 49 CFR 1180.2(d)(3). Since the Commission need not determine whether to approve the proposed transaction, RLEA's statement opposing approval of the transaction is inappropriate and will not be considered.

As a condition to use of the exemption, any employee of the NW or NF&D affected by this transaction shall be protected pursuant to the labor conditions set forth in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2) regarding protection of employees affected by this transaction.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Decided: October 26, 1983.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29700 Filed 11-1-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30315]

Rail Carriers; Vandalia Railroad Co.—Operation—Vandalia, IL; Modified Rail Certificate

October 25, 1983.

On October 17, 1983, Vandalia Railroad Company (VRC) filed an application for a certificate of public convenience and necessity under 49 U.S.C. 10901 for operation of a rail line at Vandalia, IL, embracing a petition under 49 U.S.C. 10505 for an immediate temporary exemption to provide service for IMCO Container Company located on the involved line pending the outcome of (VRC)'s application.[1] The considered line is that subsegment of the Illinois Central Gulf Railroad's (ICG's) former "Charter Mainline" between milepost 689.09 and ICG mileposts 692.54, a distance of 3.45 miles.

VRC's petition has been treated as a notice of request for a temporary modified rail certificate under 49 CFR Part 1150 (Subpart C) pending the outcome of its section 10901 application because (1) a state entity, the City of Vandalia, IL, has acquired the involved line formerly abandoned in No. AB-43 (Sub-No. 66), *Illinois Central Gulf Railroad Company, Abandonment in Christian, Fayette, Marion and Shelby Counties, Illinois* (not printed), served August 31, 1981,[2] and (2) the City of Vandalia and VRC have entered into a lease agreement requiring VRC to provide service over the considered line. Under 49 CFR 1150.22, when a state acquire an abandoned rail line and contracts with an operator to provide service over the line, the operator, in this case VRC, incurs a common carriers obligation but it nonetheless may be exempted from the requirements of 49 U.S.C. 10901 and 10903, providing that it applies for a modified certificate of public convenience and necessity. Issuance of this notice will permit VRC to operate over the line providing service for IMCO Container Company pursuant to its agreement with the City of Vandalia and pending the outcome of its section 10901 application.

This notice shall be served upon the Association of American Railroad (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and upon the American Short Line Railroad Association.

[1] VRC also requests an exemption under section 10505 from the securities issuance approval requirements of 49 U.S.C. 11301 which request is being handled in a separate decision.

[2] The State of Illinois, through its Department of Commerce and Community Affairs, awarded a grant of $271,650 to the City or Vandalia to purchase the involved rail line.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich

Secretary

[FR Doc. 83-29701 Filed 11-1-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL CAPITAL PLANNING COMMISSION

Establishment of Agency SES Performance Review Board and Names of Board Members

AGENCY: National Capital Planning Commission.

ACTION: Notice.

SUMMARY: Section 4314(c) of Title 5, U.S.C. (as amended by the Civil Service Reform Act of 1978) requires that each agency establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards (PRB) to review, evaluate and make a final recommendation on performance appraisals assigned to individual members of the agency's Senior Executive Service. The PRB established for the National Capital Planning Commission also makes recommendations to the agency head regarding SES Performance awards, ranks and bonuses. Section 4314(c)(4) requires that notice of appointment of Performance Review Board members be published in the **Federal Register.**

The following persons have been appointed to serve as members of the Performance Review Board for the National Capital Planning Commission: Reginald W. Griffith, Donald F. Bozarth, Robert E. Gresham, George H. F. Oberlander and Daniel H. Shear.

DATE: November 2, 1983.

FOR FURTHER INFORMATION CONTACT: Malcolm L. Trevor, Special Assistant for Administration to the Executive Director, National Capital Planning Commission, 1325 G Street, N.W., Suite 1007, Washington, D.C. 20576, (202) 724-0200

Daniel H. Shear,

Secretary.

October 28, 1983.

[FR Doc. 83-29769 Filed 11-1-83; 8:45 am]

BILLING CODE 7520-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

The following are those packages submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 CFR Ch. 35).

Subject: 703.2 Investment in loans to non-member credit unions—

This regulation requires the lending FCU to obtain certain financial information and determine that the negotiating person is authorized to make the loan.

Respondents: Federally Chartered Credit Unions.

Subject: 748.1—Security Program—NCUA 4501 and 9610.

Each federally insured credit union is required to file an annual certification of compliance with security requirements.

Respondents: Federally Insured Credit Unions.

Subject: 12 U.S.C. 1784—Continued Insurability Status Report.

Respondents: State Credit Union Supervisors.

Explanation: The Federal Credit Union Act contains provisions for NCUA to examine federally insured state chartered credit unions. Additionally, the Act provides that NCUA may accept the examination reports of the state credit unions' supervisory authorities to the extent feasible to determine continued insurability. State credit union regulators are requested to complete the NCUA 9853, Continued Insurability Status Report, during each examination of a federally insured state credit union. This form aids NCUA in determining continued insurability and reduces the need for NCUA to examine each credit union. The procedure reduces the cost and regulatory burden by eliminating duplicate examination procedures.

Subject: Areas of Non-compliance and Examiner's Comments Report (Federally-Insured State Credit Unions).

Respondents: State Credit Union Supervisors/Examiners.

Explanation: 12 SC 1784 permits NCUA to examine federally-insured state chartered credit unions. Statute also provides that NCUA may accept any report by a commission, Board or authority having supervision over state credit unions. State examiners complete form NCUA 9654 when they discover that a federally insured state credit union is not in compliance with regulatory requirements for continued insurability. This form aids compliance with regulatory requirements for continued insurability without NCUA having to examine each federally insured state credit union. This procedure reduces costs and regulatory burden by reducing duplicate examination effort.

Subject: 12 U.S.C. 1761—This statutory provision requires that a list of all Board and committee and all officers including addresses, be submitted to the NCUA Board within 10 days from the annual election.

Respondents: Federal Credit Unions.

Subject: Supervisory Committee Manual for Federal Credit Unions NCUA 8023.

This manual describes the standards, procedures and recordkeeping requirements for audits of Federal credit unions

Respondents: Federal Credit Unions.

Subject: 12 CFR Part 749—Records Preservation Program.

This regulation requires the offsite storage of records of members' share and loan balances and credit union financial reports to be used for records reconstruction in the event of destruction of the credit union's records.

Respondents: Federal Credit Unions.

Subject: 12 CFR Part 704 Management of Corporate Central Federal Credit Unions.

12 CFR Part 704 requires the board of directors of corporate credit unions to establish detailed written management policies which must be reviewed at least annually.

Respondents: Federal Corporate Central Credit Unions.

Subject: 12 CFR 701.36 FCU Ownership of Fixed Assets.

12 CFR 701.36 requires that credit unions with $2 million or more in assets obtain the approval of the Agency prior to investing in fixed assets in excess of 5% of total assets.

Respondents: Federal Credit Unions.

Subject: Federal Credit Union Act, Section 113 and Article II, Section 2 of the Federal Credit Union Bylaws.

Respondents: Federal Credit Unions.

Explanation: Article II, Section 2 of the Federal Credit Union Bylaws provides that persons must make application for membership in a Federal credit union and that the membership application will be acted upon by the Board of Directors, executive Committee, or a membership office. Section 113 of the Federal Credit Union Act. (12 U.S.C. 1761b) provides that the Board of Directors must furnish the written reasons for any denial of a membership application to the applicant upon his/her request.

Subject: Investigation Report, Report of Officials, and Management Report for new Federal credit unions.

Respondents: Applicants for Federal Credit Union Charters.

Explanation: Section 104 of the Federal Credit Union Act (12 U.S.C. 1754) requires investigating applications for new Federal credit union charters. A determination is to be made on: (1) Whether the organization certificate meets requirements, (2) the general character and fitness of the charter subscribers, and (3) the economic advisability of establishng the proposed Federal credit union. The forms covered by this request aid in making these determinations.

Subject: Federal Credit Union Bylaws, Article VII, Section 4.

Respondents: Federal Credit Unions.

Explanation: The Federal Credit Union Bylaws are incorporated by reference (§ 701.2) into the National Credit Union Administration Rules and Regulations. This section of the bylaws provides for a "recordkeeping requirement" as defined in 5 CFR 1320.7(R). The bylaw requires the chief executive officer of a Federal credit union board of directors to call a special meeting of the board upon the written request to do so signed by a majority of the directors then holding office.

Subject: Federal Credit Union Bylaws, Article VIII, Section 8.

Respondents: Federal Credit Unions.

Explanation: The Federal Credit Union Bylaws are incorporated by reference (§ 701.2) into the National Credit Union Administration Rules and Regulations. This section of the bylaws provides for a "recordkeeping requirement" as defined in 5 CFR 1320.7(R). This section requires the secretary to prepare and maintain minutes of meetings of the members and the board of directors, and to notify NCUA of any change of address of the credit union office or records. Section 113 of the Federal Credit Union Act requires a credit union's board of directors to meet at least once a month and requires that "minutes of all meetings shall be kept."

Subject: Federal Credit Union Bylaws; Article III, Sections 5 (c) and (d).

Respondents: Federal Credit Unions.

Explanation: The Federal Credit Union Bylaws are incorporated by reference (§ 701.2) into the National Credit Union Administration Rules and Regulations. These two sections of the bylaws provide for a "recordkeepng requirement" as defined in 5 CFR 1320.7(R). These sections require written approval of the credit committee or loan officer before a credit union member

may withdraw shares he/she pledged as security for a loan or before he/she may withdraw unpledged shares in the credit union if he/she is delinquent on a loan from the credit union or is cosigner, endorser or guarantor on a delinquent loan at the credit union.

Subject: Federal Credit Union Bylaws, Article XIX, Section 5.

Respondents: Federal Credit Unions.

Explanation: The Federal Credit Union Bylaws are incorporated by reference (§ 701.2) into the National Credit Union Administration Rules and Regulations. This section of the bylaws provides for a "recordkeepng requirement" as defined in 5 CFR 1320.7(R). The bylaw requires that each Federal credit union maintain on file a copy of its organization certificate, its bylaws and any amendments thereof, and any special authorizations by NCUA. The bylaws also requires that all returns of nominations and elections and proceedings of all regular and special meetings of the members and directors be recorded in minute books and that the minutes be signed.

Subject: Federal Credit Union Bylaws, Article IX, Section 1.

Respondents: Federal Credit Unions.

Explanation: The Federal Credit Union Bylaws are incorporated by reference (§ 701.2) into the National Credit Union Administration Rules and Regulations. This section of the bylaws provides for a "recordkeeping requirement" as defined in 5 CFR 1320.7(R). This section of the bylaws requires Federal credit unions to prepare and maintain on file a copy of the board of directors resolution increasing or decreasing the number of members of the credit committee.

Subject: Federal Credit Union Bylaws, Article X, Section 2.

Respondents: Federal Credit Unions.

Explanation: The Federal Credit Union Bylaws are incorporated by reference (§ 701.2) into the National Credit Union Administration Rules and Regulations. This section of the bylaws provides for a "recordkeeping requirement" as defined in 5 CFR 1320.7(R). This section of the bylaws requires the secretary of the credit union's supervisory committee to prepare, maintain, and have custody of full and correct records of all actions taken by the committee.

Subject: 12 CFR 702.3 Full and Fair Disclosure.

The regulation requires a credit union to fully and fairly disclose its financial condition to its members.

Respondents: Federal Credit Unions.

OMB Desk Officer: Judith McIntosh.

Copies of the above information collection clearance packages can be obtained by calling the National Credit Union Administration, Special Projects Officer, on 202–357–1080.

Written commemts and recommendations for the listed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, Attn: Judith McIntosh.

Dated: October 25, 1983.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 83-29735 Filed 11-1-83; 8:45 am]

BILLING CODE 7535-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-321]

Georgia Power Company; Oglethorpe Power Corporation; Municipal Electric Authority of Georgia, City of Dalton, Georgia; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–57, issued to Georgia Power Company (GPC), Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the licensees), for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility), located in Appling County, Georgia.

The proposed amendment would revise the Hatch Unit 1 Technical Specifications to: (1) Accommodate the replacement of leaking fuel assemblies, and (2) extend the allowable fuel burnup limit from 30 gigawatt days per ton ($Gwd/_t$) to 40 $Gwd/_t$. The proposed amendment includes: (1) Numerical changes to four curves that specify maximum average planar linear heat generation rate (MAPLHGR) limits to specify allowable MAPLHGR limits for burnup beyond 30 $Gwd/_t$, (2) numerical changes to two curves that specify minimum critical power ratio (MCPR) limits, (3) modification of the nomenclature on two additional MAPLHGR curves to make them consistent with the nomenclature on the other MAPLHGR curves and the listing of an additional type of fuel assembly not previously used in Hatch 1 as being covered by one of these two curves, and (4) the addition of three new MAPLHGR curves that provide limiting values for three more additional types of fuel assemblies that have not been previously used in Hatch Unit 1. These four additional fuel assembly types may be used to replace the leaking fuel assemblies that have been removed from the Hatch Unit 1 core. All four additional fuel assembly types are 8X8 assemblies that have been previously irradiated in the Hatch Unit 2 core and that are available in the fuel storage pool. These changes are in accordance with the licensees' application for amendment dated September 29, 1983, as supplemented October 24, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no significant hazards considerations relates to reload amendments involving no fuel assemblies significantly different than those previously found acceptable at the facility in question (example ii). This amendment involves repalcement of leaking fuel assemblies. Such a replacement is similar in effect to a limited reload and while some of the fuel assemblies involved in this application are somewhat different from those previously authorized for Hatch Unit No. 1, i.e., some 8X8 repalcement assemblies have slightly different dimensions from the 8X8 assemblies currently authorized for use in Hatch Unit 1, the Commission proposes to determine that the application does not involve a significant hazards consideration since fuel elements of this design have been previously reviewed and approved for use in Hatch Unit No. 2. While there ae some differences between Hatch Unit No. 1 and Hatch Unit No. 2 operating characteristics which require a plant specific analysis for the use of the new fuel, these differences are not significant.

Another of the examples of actions likely to involve no significant hazards

considerations relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: For example, a change resulting from application of a small refinement of a previously used calculational model or design method (example vi).

The NRC staff, in a letter dated February 3, 1982, informed GPC that it would accept General Electric positions that "credit for approved but unapplied Emergency Core Cooling System evaluation model changes be used to offset MAPLHGR penalties on operating reactors due to high burnup fission gas release." GPC has referenced its use of this credit in proposing MAPLHGR limits for fuel burnup in excess of 30 Gwd/$_t$ and has stated that the results of this proposed change meet the Emergency Core Cooling System criteria specified in 10 CFR 50.46 and 10 CFR Part 50, Appendix K. These are the criteria for acceptable accident analysis results specified by the Standard Review Plan. We conclude, therefore, that the proposed extension of MAPLHGR curves to fuel burnup beyond 30 Gwd/$_t$ fits example vi.

Still another of the examples of actions likely to involve no significant hazards considerations relates to a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature (example i). The modification of the nomenclature on two curves fits this example. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By December 2, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of

the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G.F. Trowbridge, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20006, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and / or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Maryland this 27th day of October 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-29747 Filed 11-1-83; 8:48 am]
BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power & Light Company; Middle South Energy, Inc.; South Mississippi Electric Power Association; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-13, issued to Mississippi Power & Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees), for operation of the Grand Gulf Nuclear Station, Unit 1, located in Claiborne County, Mississippi.

The amendment would provide changes to the Technical Specifications in accordance with the licensees' applications for amendment dated June 23, 1983, and September 12, 1983. These changes to the Technical Specifications involve the following sections:

(a) 4.3.4.2.3: Postpones the surveillance test for breaker arc suppression time until first refueling outage (June 23, 1983), and

(b) Table 3.3.6–2 and 4.3.7.6: Lowers the minimum allowable countrate for Source Range Monitor (SRM) Operability (September 12, 1983).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The proposed changes to the Technical Specifications were proposed to achieve consistency with the as-built condition of the plant and with Regulatory guidance given in the Standard Review Plan as applied for other operating BWRs. The proposed changes for the breaker arc suppression time: (a) Would recognize the test time determined by the manufacturer until a suitable test procedure and appropriate Technical Specifications are established prior to the first refueling outage. As currently written, the Technical Specifications would require verification of an arc suppression time of 50 ms while the manufacturer has determined by test that the actual arc suppression time for the Grand Gulf breaker is 12 ms. The current Technical Specifications incorrectly incorporate other parameters into the specified time value. The required total system response time of <190 ms in Table 3.3.4.2–3 remains unchanged. Thus, there is no affect on the accident analysis involving this system. The proposed changes for the Source Range Monitor (b) would lower the minimum allowable countrate from 3 cps to 0.7 cps. Regulatory Guide 1.68, Revision 2, as referenced in Chapter 14 of the Standard Review Plan, states that a neutron countrate of at least 0.5 cps should register on the startup channels prior to startup and the signal-to-noise level should be known to be greater than 2. The licensee has proposed an allowable countrate value of 0.7 and states that the SRM instrumentation sensitivity provides a signal-to-noise level of at least 5. The licensee further states that a NSSS analysis supporting a value of 0.3 cps would be valid for Grand Gulf.

The Commission has made a proposed determination that the amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve significant hazards consideration (48 FR 14870). Examples of amendments which will likely be found to involve no significant hazards consideration are listed as follows:

(i) A purely administrative change to Technical Specifications: For example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: For example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

Proposed changes (a) and (b) fall within examples (i) and (vi), respectively, as given above, for amendments which will likely be found to involve no significant hazards consideration. Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment requests involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By December 2, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a

hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amendment petition must satisfy the specificity requirements described above.

Not later than fifteen (15) day prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment requests involve no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination will consider all public and state comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to A. Schwencer: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the applications for amendment which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154.

Dated at Bethesda, Maryland, this 27th day of October 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83–29748 Filed 11–1–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–395]

South Carolina Electric & Gas Company; South Carolina Public Service Authority; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees), for operation of the Virgil C. Summer Nuclear Station, Unit 1, located in Fairfield County, South Carolina.

The amendment would correct an error in the calculations for the predicted hoop tendon base values listed in Technical Specification Tables 4.6–1a and 4.6–1b. The error involved incorrect recording of the ultimate specific creep constant. The error caused the base value for each hoop tendon listed to be from 0 to 7 Kips (<1%) too high. Because the values were too high in Tables 4.6–1a and 406–1b,

and therefore more conservative, previous testing results are still acceptable. Four tendon surveillance substitutions would also be made. In order to make the surveillance more random, tendons D–219 (listed twice) and 36AC would be changed because they were checked during the first surveillance conducted prior to startup. Tendon D–312 would be changed because of a physical interference problem which makes inspection impossible. This amendment was requested in the licensees' application for amendment dated July 22, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of these examples relates to a change which may reduce a safety margin in some way, but were the results of the change are clearly within all acceptable criteria with respect to the component specified in the Standard Review Plan. The amendment involved here is similar, because it results from correction of a small error (<1%) in the calculations and changes some Tendons listed for surveillance to make the surveillance more random. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By December 2, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final detemination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700).

The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor C. Adensam: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29218, Attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. The determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29218.

Dated at Bethesda, Maryland, this 26th day of October 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-29749 Filed 11-1-83; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35):

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: 10 CFR Part 71—Packaging and Transportation of Radioactive Material.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Applications for package certification may be made at any time. Required reports are collected and evaluated on a continuing basis as events occur.

5. Who will be required or asked to report: All NRC specific licensees who place byproduct, source, or special nuclear material into transportation, and all persons who wish to apply for NRC approval of package designs for use in such transportation.

6. An estimate of the number of responses: 685.

7. An estimate of the total number of hours needed to complete the requirement or request: 73,417.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: NRC regulations in 10 CFR Part 71 establish requirements for packaging, preparation for shipment, and transportation of licensed material, and prescribe procedures, standards, and requirements for approval by NRC of packaging and shipping procedures for fissile material and for quantities of licensed material in excess of type A quantities.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott (301) 492-8585.

Dated at Bethesda, Maryland, this 28th day of October 1983.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 83-29750 Filed 11-1-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-3]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Emergency Planning Proceeding; Amended Notice of Hearing

October 27, 1983.

Please take notice that the hearing in this proceeding will commence on Tuesday, December 6, 1983 at 9:00 a.m. in the "Auditorium," Suffolk County Legislative Building, County Center, Veterans Memorial Highway, Hauppauge, New York. The hearing will continue at that location through Friday, December 9, 1983.

The hearing will reconvene at 10:30 a.m. on Monday, December 12, 1983, in the Riverhead Legislative Meeting Room, Office of County Legislative, County Center, Riverhead, New York, and will adjourn on Friday, December 16.

On Tuesday, January 3, 1984, the hearing will reconvene at the Hauppauge location at 10:00 a.m.

Atomic Safety and Licensing Board.

James A. Laurenson,

Chairman, Administrative Law Judge.

[FR Doc. 83-29751 Filed 11-1-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-142 OL]

The Regents of the University of California (UCLA Research Reactor); Proposed Renewal of Facility License; Resumption of Evidentiary Hearing

October 27, 1983.

Please take notice that the evidentiary hearing in the above-captioned matter will resume on Tuesday, November 29, 1983 at 9:30 a.m. local time at the Federal Trade Commission, Los Angeles Regional Office, Suite 13209, 11000 Wilshire Boulevard, Los Angeles, California 90024. The hearing will continue at the same location, commencing at 9:30 a.m. each day through December 2, 1983.

For the Atomic Safety and Licensing Board.

John H. Frye III,

Chairman, Administrative Judge.

[FR Doc. 83-29752 Filed 11-1-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on November 17-19, 1983 in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on September 15, 1983 and October 26, 1983.

The agenda for the subject meeting will be as follows:

Thursday, November 17, 1983

8:30 a.m.-8:45 am.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

8:45 a.m.–11:45 a.m.: R. E. Ginna Nuclear Power Plant (Open)—The Committee will hear and discuss reports from its subcommittee and from representatives of the NRC Staff and the licensee regarding the request for a full term operating license for this plant.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this project.

11:45 a.m.–12:30 p.m.: Discuss Topics for Meeting with NRC Commissioners (Open)—The Committee members will discuss ACRS comments with respect to topics to be discussed with the NRC Commissioners including consideration of seismic design margins in nuclear power plants and proposed use of an NTSB-type board to investigate nuclear power plant accidents.

1:30 p.m.–3:30 p.m.: Meeting with NRC Commissioners (Open)—The Committee will meet with members of the Commission to discuss topics noted above.

3:30 p.m.–5:00 p.m.: Standards for Protection Against Radiation (Open)—The Committee members will hear and discuss reports from its Subcommittee, and from representatives of the NRC Staff and invited experts regarding proposed changes to NRC regulation 10 CFR Part 20, Standards for Protection Against Radiation.

5:00 p.m.–6:00 p.m.: Containment Hydrodynamic Loads (Open)—The Committee members will hear and discuss reports from its subcommittee and representatives of the regulatory staff regarding the proposed NRC Staff position for resolution of hydrodynamic loads in Mark III—type containments.

Friday, November 18, 1983

8:30 a.m.–8:45 a.m.: Anticipated ACRS Activities (Open)—The members will discuss anticipated ACRS subcommittee activities and items proposed for ACRS consideration.

8:45 a.m.–9:15 a.m.: NRC Severe Accident Policy (Open)—The Committee will hear and discuss a status report regarding NRC Staff activities related to development of a decisionmaking process to consider servere accidents in the NRC licensing process, including related safety research activities.

9:15 a.m.–12:30 p.m. and 1:30 p.m. and 3:15 p.m.: Big Rock Point Nuclear Plant (Open)—The members will hear and discuss reports of its subcommittee and representatives of the NRC Staff and the licensee regarding the IPSAR for this project.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this project.

3:15 p.m.–4:15 p.m.: BWR Primary System Integrity (Open)—The Committee members will hear and discuss a report from representatives of the NRC Staff regarding the status of NRC activities related to cracking in BWR primary system piping.

4:15 p.m.–4:45 p.m.: Systems Interactions (Open)—The members will meet with representatives of the NRC Staff and discuss proposed NRC Staff activities regarding consideration of systems interactions in the licensing review of nuclear power plants and the generic resolution of this issue.

4:45 p.m.–5:30 p.m.: Activities of Office for Analysis and Evaluation of Operational Data (Open)—The Committee members will hear and discuss a report by the NRC Director, Office for Analysis and Evaluation of Operational Data.

5:30 p.m.–6:30 p.m.: NRC Safety Research Program Related to Probabilistic Risk Assessment (Open)—The ACRS members will hear and discuss the report of the ACRS Subcommittee regarding ACRS response to a General Accounting Office inquiry regarding selected NRC programs related to probabilistic risk assessment. Representatives of the NRC Staff will participate as appropriate.

Saturday, November 19, 1983

8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports (Open/Closed)—The ACRS members will discuss proposed reports to the NRC and GAO regarding matters considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information and Information involved in an adjudicatory proceeding.

1:30 p.m.–1:45 p.m.: ACRS Subcommittee Report (Closed)—The members will hear and discuss the report of its Subcommittee regarding qualification of candidates proposed for appointment to the Committee.

This session will be closed to discuss information that would clearly represent an unwarranted invasion of personal privacy.

1:45 p.m.–2:45 p.m.: Use of Statistics (Open)—The members will hear a briefing from a member of the Committee regarding use of statistics in evaluation of nuclear plant safety.

2:45 p.m.–3:15 p.m.: ACRS Subcommittee Activity (Open/Closed)—The members will hear and discuss reports of ACRS subcommittee activity including proposed changes in ACRS procedures consistent with 41 CFR Part 101–6, qualifications of candidates proposed for ACRS membership, proposed changes in NRC Regulatory Guides (R.G. 1.105, Instrument Setpoints) and nomination of ACRS Officers for CY–1984.

Portions of this session will be closed to discuss information that would constitute a clearly unwarranted invasion of personal privacy and relate solely to the internal personnel rules and practices of the agency.

3:15 p.m.–4:00 p.m.: Completion of Meeting Items—The Committee will complete discussion of items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 28, 1982 (48 FR 44291). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director, R. F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C 552b(c)(4)), information related solely to the internal pesonnel rules and practices of the agency (5 U.S.C. 552b(c)(2)), information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)), and information involved in an adjudicatory proceeding (5 U.S.C. 552b(c)(10)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS

Executive Director, Mr. Raymond F. Fraley (telephone 202/634-3265), between 8:45 a.m. and 5:00 p.m. est.

October 31, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-29863 Filed 11-1-83; 10:12 am]

BILLING CODE 7555-01-M

OFFICE OF MANAGEMENT AND BUDGET

Cost of Hospital and Medical Care and Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by Section 2(a) of the Act of September 25, 1962 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 FR 10737), the following three sets of rates are established for use in connection with the recovery, as authorized by such Act, from tortiously liable third persons of the cost of hospital and medical care and treatment furnished by the United States (Part 43 of Chapter I of Title 28 of the Code of Federal Regulations) through three separate Federal agencies. These rates have been established in accordance with the requirements of OMB Circular A-25, requiring reimbursement for full cost of all services provided. This has been determined as follows:

(a) For the Department of Defense—historical costs and workload data provided through the Uniform Chart of Accounts (UCA) reporting system provides an operating cost base to which are added systemwide costs and allowances for actual inflation and pay raises to obtain the estimates for the fiscal year under review. The costs added are those items required by OMB Circular A-25: (a) retirement for military personnel—26.5% of the pay of the military personnel; (b) retirement for civilian personnel—13.4% of the pay of the civilian personnel; (c) an asset charge of 4% of the other costs in lieu of a specific depreciation cost on fixed assets; and (d) a 3% surcharge for the cost to DOD of administering the medical care program.

(b) For the Veterans Administration—the actual costs and per diem rates by type of care for the previous year are added to the estimated costs for depreciation of buildings and equipment, administrative overhead, interest on capital investment, and Government employee retirement and disability charges. These computed rates are then adjusted by the budgeted percentage increase to arrive at the estimated rates for the fiscal year under review.

(c) For the Department of Health and Human Services—the sum of obligations for providing medical services is broken down into amounts attributable to inpatient and outpatient care on the basis of the proportion of staff devoted to each. Total inpatient costs and outpatient costs thus determined are divided by the relevant workload statistic (inpatient day, outpatient visits) to produce the inpatient and outpatient rates. The data are based on obligations and statistical reports for FY 1982.

These rates represent the reasonable cost of hospital, nursing home, medical, surgical or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished:

(a) For such care and treatment furnished by the United States in Federal hospitals, nursing homes, and outpatient clinics, administered by any of the three Federal agencies—Department of Defense, Veterans Administration or Department of Health and Human Services.

(b) For such care and treatment furnished at Government expense in a facility not operated by the United States, the rates shall be the amounts expended by the United States for such care and treatment.

	Effective Nov. 1, 1983 and thereafter		
	DOD	VA	HHS
Hospital care per inpatient day:			
General medical, surgical, and tuberculosis care	[illegible]	[illegible]	[illegible]
Psychiatric care		105	210
Nursing home care		126	
Burn Center, U.S. Army Institute of Surgical Research, Brooke Army Medical Center, Fort Sam Houston, Texas	1,610		
Outpatient medical and dental treatment: Per outpatient visit	[illegible]	71	56

For the period beginning November 1, 1983, the rates prescribed herein supersede those established by the Director of the Office of Management and Budget on December 15, 1982 (47 FR 55743).

Dated: October 28, 1983.

David A. Stockman,

Director, Office of Management and Budget.

[FR Doc. 83-29728 Filed 11-1-83; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review By Office of Management and Budget

Agency Clearance Office—Kenneth Fogash, (202) 272-2142

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Amendment

Guide 1 of the Securities Act Industry Guides

Guide 1 of the Exchange Act Industry Guides No. 270-280

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance a proposed amendment to Securities Act Industry Guide 1 and Exchange Act Industry Guide 1 dealing with disclosure of principal sources of revenues by electric and gas utilities.

The amendments are being proposed in response to a rulemaking petition filed by the California Association of Utility Shareholders.

Submit comments to OMB Desk Officer: Robert Veeder, (202) 395-4814

By the Commission.

Dated: October 26, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29884 Filed 11-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13600; 812-5640]

First Investors Tax Exempt Fund, Inc.; Filing of Application

October 27, 1983.

Notice is hereby given that First Investors Tax Exempt Fund, Inc. ("Applicant"), 120 Wall Street, New York, NY, 10005, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on August 26, 1983, for an order pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 22(d) of the Act to permit holders of units of Investor's Quality Tax-Exempt Trust ("Trust") to invest their distributions of interest income, capital gains or principal in shares of Applicant at net asset value plus a reduced sales charge. All interested persons are referred to the application on file with the Commission for a statement of the representations

contained therein, which are summarized below, and to the Act for the text of applicable sections.

According the application Applicant is an open-end, diversified management investment company currently engaged in continuous offerings of its shares to the public through First Investors Corporation and First Investors Management Company, Inc. First Investors Management Company, Inc., serves as Applicant's investment advisor. Applicant's shares are sold at net asset value plus a sales charge which ranges from 7.25% to 1.25%. Applicant states that those sales charges are described in its current prospectus.

Applicant states that its investment objective is to provide a high level of tax-exempt investment income by investing in a diversified, managed portfolio of debt obligations the interest on which is exempt from federal income tax, and the principal and interest payments on which are insured by an independent insurance company. The Trust is a series company comprised of separate but similar unit investment trusts that invest in tax-free interest bearing obligations. Van Kampen, Filkin & Merritt, Inc., a broker-dealer registered under the Securities Exchange Act of 1934, is sponsor for the Trust and Bradford Trust Company ("Trustee") is the trustee.

Applicant requests an order to permit holders of past and future series of the Trust to reinvest their semi-annual, quarterly, or monthly distributions of interest income, capital gains or principal in shares of Applicant at net asset value plus a sales charge of 0.4%, a purchase price which is less than the current public offering price described in Applicant's prospectus. According to the application, all unitholders will be eligible to participate in the reinvestment program but will be required to reinvest the entire amount of their semi-annual, quarterly or monthly distributions from any series of the Trust.

Applicant states that First Investor's Management Company, Inc., will retain the 0.4% sales charge and will bear the expenses of offering the reinvestment program to unitholders of the Trust. Separate accounts for each unitholder who reinvests his distributions will be maintained by Administrative Data Management Corporation and confirmations of the transactions will be mailed to unitholders. Applicant represents that notice of the availability of the reinvestment program will be given in all future prospectuses of the Trust and existing shareholders will be notified of the reinvestment privilege and of the means to indicate interest in the program. Applicant also states that each unitholder may request a current prospectus from the Trustee before participating in the reinvestment program.

According to the application, a unitholder who has elected to participate in the reinvestment program, will be entitled to all rights of any shareholder of Applicant, but will not be entitled to reduced sales charges for quantity purchases of shares or the right to exchange shares of Applicant for shares of other funds managed by First Investors Management Company, Inc. Applicant states that any participant in the reinvestment program wishing to purchase additional shares of Applicant outside of the reinvestment program will be required to meet Applicant's minimum investment requirements, which prescribe a minimum initial investment of $2,000 and a minimum of $500 for any subsequent investment.

Applicant states that on each distribution date of the Trust or immediately thereafter, the Trustee will forward money representing distributions of interest income, capital gains or principal of participating unitholders to First Investors Corporation, who will purchase shares of Applicant for each participant at the net asset value per share next determined after receipt of the purchase order, plus the sales charge of 0.4%. According to the application, a participant may elect to terminate his participation in the reinvestment program and receive future distributions on his units in cash by notifying the Trustee in writing five days before the next distribution date.

Applicant represents that the proposed reinvestment of Trust distributions into Fund shares would not lead to a diminution of assets of the investment company of the equity position of existing shareholders. Applicant asserts that its shareholders will benefit from an increase in cash flow which will enable it to meet redemptions without liquidating portfolio investments and to diversify further its securities holdings.

Applicants argues that sales costs will be less for shares purchased in the reinvestment program than shares not purchased in the reinvestment program for which commissions to sales representatives must be paid and other costs incurred in connection with a public solicitation. Applicant believes that the savings resulting from those reduced costs should be passed on to investors in the form of a lower sales charge.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 21, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-28696 Filed 11-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13594; 812-5558]

Management of Managers Equity Fund et al.; Application

Notice of Application for an order pursuant to Section 6(c) of the Act for exemption from certain provisions of Section 15(a) of the Act; and from certain requirements set forth in Rules 20a-2(a)(1), 20a-2(b)(1), 20a-2(a)(8), 20a-2(a)(9), and 20a-2(b)(4) under the Act, Items 13(a)(5), 13(a)(6), and 13(d)(3) of Form N-1, and subparagraphs (a), (g), and (h) of Item 20 of Form N-1R under the Act, and from Rules 6-07.2 (a) and (c) of Regulation S-X; and for an order pursuant to Sections 6(c) and 17(b) of the Act exempting applicants from Sections 12(d)(1), 17(a)(1) and (2), and 17(d) of the Act and Rules 17d-1 thereunder.

Notice is hereby given that Management of Managers Equity Fund, Management of Managers Special Equity fund, Management of Managers Income Equity Fund, Management of Managers Intermediate Fixed Income Fund, Management of Managers Money Market Fund, Management of Managers Municipal Bond Fund, Management of Managers Short Term Municipal Bond Fund (the "Funds"), and Evaluation Associates Investment Management Co. ("Manager") (together with the Funds, the "Applicants") 25 Sylvan Road South, Westport, Connecticut, 06880 filed an application on May 25, 1983; and an

amendment thereto on September 20, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants (and similarly organized, substantially identically situated investment companies) from certain provisions of Section 15(a) of the Act; and from requirements set forth in Rules 20a–2(a)(1), 20a–2(b)(1), 20a–2(a)(8), 20a–2(a)(9), and 20a.2(b)(4) under the Act, Items 13(a)(5), 13(a)(6), and 13(d)(3) of Form N–1, and subparagraphs (a), (g), and (h) of Item 20 of Form N–1R under the Act, and from Rules 6–07.2 (a) and (c) of Regulation S–X; and for an order pursuant to Sections 6(c) and 17(b) of the Act exempting Applicants from Sections 12(d)(1), 17 (a) (1) and (2), and 17(d) of the Act and Rule 17d–1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and rules thereunder for information as to the provisions to which the exemptions apply.

Recently organized by the Manager, the Funds are open-end, diversified, management investment companies that enable the Manager to provide asset management consulting services to investors on a commingled basis. The Manager, a registered investment adviser, will enter into agreements ("Fund Management Agreements") with the Funds whereby the Manager will provide consulting, investment, and administrative services to the Funds. The Fund Management Agreements, which will be approved by the Funds' shareholder and the boards of trustees, stipulate that the Manager, subject to the management and direction of the Funds' boards of trustees and officers, will evaluate, select, and monitor the various sub-advisers ("Portfolio Managers") who make the specific security investments for each Fund. The Funds and the Manager will enter into advisory contracts ("Portfolio Management Agreements") with the Portfolio Managers. The Manager will allocate assets to Portfolio Managers and will define investment strategies to be used by a Portfolio Manger for the portion of an Applicant's portfolio assigned to that Portfolio Manager. Each Portfolio Manager will be an "investment adviser" as defined by Section 2(a)(20) of the Act, and will have discretionary authority to invest assets from a particular Fund. The Manager and the Funds will enter into consulting agreements with Evaluation Associates, Inc. ("EAI") pursuant to which EAI will provide advice regarding asset allocation, investment objectives, long-term rates of return, and risk levels. EAI, a registered investment adviser, will also research and recommend potential Portfolio Managers, and monitor and report on existing Portfolio Managers.

The Funds will offer their shares only to institutions and individuals who have entered into agreements ("Asset Management Consulting Agreements") with the Manager pursuant to which the Manager will assist the investor in defining appropriate investment objectives and in allocating its assets among different investment media. The Asset Management Agreement will also provide for the payment of fees by the investor to the Manager based upon the services rendered and the amount of the investor's assets managed by Applicants. The Manager will negotiate with each investor the fee to be paid to the Manager. The Manager will be compensated by its investors, pursuant to the provisions of the Asset Management Consulting Agreements, for all services it provides to the funds. The Funds will pay no "investment advisory" or "management" fee to either the Manager or the Portfolio Managers. The fee an investor pays to the Manager will include the compensation that the Manager will pay to the Portfolio Managers, as well as the Manager's compensation for consulting services. Applicants contend that the maximum fees to be paid by any investor compare reasonably with the aggregate expense to an investor of obtaining the complete set of services elsewhere, assuming an investor could even obtain all of the services elsewhere.

The Manager believes that its market for investors consists of institutions such as bank trust departments, employee welfare plans, charitable foundations, endowment funds, and employee pension and profit-sharing plans. Applicants assert that such institutional investors will have sufficient assets to bear the proposed fees (EAI has a minimum base fee of $50,000 per year for consulting services for new clients) and generate sufficient revenues for the Manager to provide services on a profitable basis. The Manager has not adopted minimum asset size requirements, but the costs of providing services to an investor effectively limit to a substantial degree the institutions the Manager can serve. The Manager does not intend to undertake any "retail" marketing efforts aimed at soliciting direct investment by individuals in the Funds. Applicants will consider accepting individual investors when there is no financial intermediary located in the geographical vicinity of the potential individual investor that has already entered into an Asset Management Consulting Agreement with the Manager. The Manager would analyze the size of the potential investment by the individual investor, the scope of services required by the individual, the cost of such services, and the additional burdens required to service an individual in a program designed for institutional investors. The Manager would determine, as a matter of business judgment, whether the individual's investment would be accepted. Should a financial intermediary located in the geographical area of the individual investor subsequently enter into an Asset Management Consulting Agreement with the Manager, the individual investor would be advised to transfer his direct investment in the Applicants to an indirect investment through the financial intermediary.

The Funds' Fund Management Agreements with the Manager will be approved by the Funds' shareholders and by the Funds' board of trustees, including a majority of the trustees who are not "interested persons" of the Funds or the Manager, at the times and in the manner required by the Act and the rules thereunder. These trustees recognize that the Manager has a fiduciary duty with respect to the receipt of compensation for services attributable to the Funds, and they will evaluate information concerning: The fees charged by the Manager to investors who have contracted with it, the fees paid by the Manager to the Portfolio Manager, and any reduction in fees that the Manager obtains from the Portfolio Managers. Such information will be maintained by the Funds, pursuant to Rule 31a-2(a)(1), and will be available to the Commission in the manner authorized by the Act.

Applicants request exemption from Section 15(a) of the Act to permit the Funds to enter into, and Portfolio Managers to act pursuant to, advisory contracts without prior approval by a majority of the outstanding voting securities of the Funds, and to permit the Funds and a Portfolio Manager to enter into and act pursuant to a new Portfolio Management Agreement—notwithstanding a change of control of the Portfolio Manager—without shareholder approval. Applicants also seek exemption from Section 15(a) to permit the Funds and the Portfolio Managers to enter into written contracts which do not provide for termination by shareholders. As a condition to the requested exemptions, the Funds'

boards of trustees, including a majority of the disinterested trustees, shall discharge their duties and responsibilities imposed by Section 15(c) of the Act, prior to the entry into a new or amended contract, or prior to the entry into a new contract following a change of control resulting in an assignment of a contract. Additionally, the Funds shall mail written notice of the employment of a new Portfolio Manager, or entry into a new advisory contract as a result of an assignment, to each shareholder of record of the Fund for which the Portfolio Manager has been engaged, as promptly as practical under the circumstances. But for the shareholder approval provisions of Sections 15(a) (2) and (3), Applicants intend to comply with Section 15(a).

In support of their request for exemption from Section 15(a), Applicants assert that they are distinctly different investment vehicles from the conventional investment company or investment company complex and that shareholder approval requirements are not necessary and may be harmful to their shareholders' best interests. Applicants contend that, while investors in conventional investment companies must evaluate their funds' investment advisers, investors in the Funds have chosen to have the Manager select their investment advisers. Applicants assert that their investors will have decided to employ the Manager on terms established between the Manager and the investor, and to rely upon the Manager to select specific advisers for the various segments of the Funds' Portfolios. Unlike the shareholders in the conventional investment company, the Funds' shareholders are independent of their Portfolio Manager, whose sole function is to invest all or a portion of a Fund's assets in specific securities. Applicants claim that the Funds' investors are indifferent as to the identity of the specific Portfolio Managers. The Funds' shareholders are protected because they control, through shareholder approval of the Fund Management Agreements, the Manager's relationship with the Funds. Applicants contend that shareholder approval of the Portfolio Management Agreements is unnecessary, expensive, and would delay the prompt implementation of the most desirable course of action.

Applicants assert that complete compliance with Section 15(a), given their unconventional structure and their investors' reasons for investing in them, would result in expenses to their shareholders that provide them no benefits when they employ additional Portfolio Managers. The potentially adverse consequences of a delay resulting from the shareholder approval process might be even more significant. The Funds assert that their best interests are served if they can immediately, subject to review and approval by their boards of trustees, employ new Portfolio Managers. Given the Funds' operating mode and their investors' reasons for investing in the Funds, a delay would, arguably, provide no meaningful benefit to the Funds' investors and could be detrimental. The Funds agree to notify their shareholders, as promptly as possible under the circumstances, of any event that would, but for the requested exemptions, have required shareholder approval.

Applicants request relief from various disclosure provisions under the Act and Regulation S–X requiring disclosure of advisory fees paid to the Portfolio Manager. Each investor that becomes a client of the Manager will enter into an Asset Management Consulting Agreement with the Manager which will set forth the fee to be paid by the investor to the Manager. This fee will be negotiated individually with each investor and will reflect not only the specific services provided to an investor, but also the costs and expenses (including the Portfolio Managers' compensation) to the Manager of managing the Funds' business. Each investor will know in advance the total fees it will bear, and will be able, arguably, to determine whether the total package of services is priced reasonably in relation to the services the investor could obtain elsewhere. Applicants contend that the investor does not need to know the fees of various persons or entities providing services to the Manager. The provisions from which Applicants seek exemptive relief in this respect are: Rule 20a–2(a)(1) and, under certain circumstances, Rule 20a–2(b)(1), which both require disclosure of advisory fees in Applicants' proxy statements; and Rule 20a–2(b)(4), which provides that any registered investment company seeking shareholder approval of its advisory contract must include the rate of its adviser's compensation in its proxy statement. Applicants seek relief from Items 13(a) (5) and (6), and 13(d)(3) of the Form N–1 registration statement under the Act and the Securities Act of 1933, which require disclosure of the advisory fee paid by Applicants, and from Items 20 (a), (g), and (h) of the Form N–1R Annual Report under the Act, which also require such disclosure. Applicants seek relief from Rules 6–07.2 (a) and (c) of Regulation S–X, which require that Applicants' statements of operations and related footnotes contain information concerning fees paid to the Portfolio Managers, the nature of the Portfolio Managers' affiliations with the Manager, and the names of any Portfolio Manager accounting for 5 percent or more of the Portfolio Managers' aggregate fees.

Exemption from the various disclosure provisions regarding advisers' fees could benefit the Funds' investors by reducing the total costs charged by the Manager. The Manager believes that in many instances it will be able to secure lower fee rates from Portfolio Managers if those rates are not publicly disclosed. If, however, the Portfolio Managers' fees must be publicly disclosed, the Manager believes that some Portfolio Managers will not deviate from their "posted" fee rates. To the extent the Manager can negotiate reduced fees from the Portfolio Managers, the Manager can lower its fees to investors. Each investor will benefit from these fee reductions because each investor will have negotiated a fee with the Manager which reflects, among other expenses, the Portfolio Manager's fee. Applicants contend that disclosure of such fees provides no meaningful information to an investor because investors with substantially less assets than the Funds would not be able to obtain such rates for themselves.

Applicants seek relief from certain other proxy statement disclosure requirements. The Funds seek relief from Rule 20a–2(a)(8) to permit them to omit from their proxy statements information concerning transactions in securities issued by the Portfolio Managers (or their parents) to the extent such transactions are effected by the principal executive officer, any director or general partner, or any parent of the Portfolio Managers. Applicant seek relief from Rule 20a–2(a)(9) to permit the Funds to omit from their proxy statements, to the extent required by that rule, the Portfolio Managers' balance sheets. Applicants assert that compliance with Rule 20a–2(a)(8) is unnecessary because no director, officer, or employee of the Applicants knowingly has or will have any direct or indirect beneficial interest in any security issued by a Portfolio Manager (or a controlling person of a Portfolio Manager) or stands to profit or benefit in any manner from transactions in the Portfolio Manager's securities. Applicants conclude that disclosures concerning transactions of numerous Portfolio Managers unrelated in any manner to the Applicants other than as Portfolio Managers provides no

necessary, appropriate, or meaningful investor protection. Moreover, making the inquiries and gathering the information required to respond to this rule would impose substantial administrative burdens and expenses upon Applicants while providing no meaningful corresponding benefits to investors. Applicants argue that compliance with Rule 20a–2(a)(9) would provide the Funds' shareholders with information of very limited relevance due to Applicants' unconventional structure. Because Applicants are not dependent upon their Portfolio Managers for any of their ongoing administrative requirements, a Portfolio Manager's financial condition (and hence its balance sheet) is not as important to the Funds' shareholders as in the conventional investment company context. Applicants assert that obtaining balance sheets from the numerous Portfolio Managers will impose significant administrative burdens and expenses upon Applicants (and possibly the Portfolio Managers) and would produce no benefit to the Funds' investors which justifies such costs.

Applicants request exemption, pursuant to Sections 6(c) and 17(b) of the Act, from Sections 12(d)(1), 17(a) (1) and (2), and 17(d) of the Act, and Rule 17d–1 thereunder, to permit the "Money Market Fund" (one of the "Funds") to sell and redeem its shares from the other "Funds". Because the Money Market Fund may be deemed an affiliated person of each of the other Funds, the issuance by Money Market Fund of its shares to the other Funds may be deemed a sale to a registered investment company by an affiliated person of such company in violation of section 17(a)(1) of the Act. Conversely, the redemption by Money Market Fund of its shares may be deemed a purchase by Money Market Fund, as an affiliated person of a registered investment company, in violation of Section 17(a)(2).

The Money Market Fund invests solely in short-term, money market instruments. It intends to use the amortized cost method to value its portfolio securities. Applicants designed the Money Market Fund as a repository and very short-term investment vehicle for investors' monies destined for one of the other Funds, and as a means for investing the cash reserves of the other Funds. The other Funds expect to have cash reserves emanating from a variety of sources, including dividends or interest received on portfolio securities, unsettled or "failed" securities transactions, reserves held for investment strategy purposes, cash arising from the liquidation of investment securities to meet anticipated redemptions and cash dividend payments, and from new monies received from investors. Because the other Funds offer their shares for sale only twice a month, cash reserves arising from new monies may exceed those arising in the conventional investment company context. Although an investor can be a shareholder of the Money Market Fund without being a shareholder of any of the other Funds, and *vice versa*, over time it can be expected that there will be a significant similarity between shareholders of the Money Market Fund and the other Funds.

The Funds' custodian and transfer agent, which also serves as the sole Portfolio Manager of the Money Market Fund, (State Street Bank and Trust Company, the "Custodian") will be in the best position to know at any given moment the cash reserves held by each Fund and by each of its Portfolio Managers, to know the purpose and need for these reserves, and to make and implement decisions with respect to the investment of these reserves. The Custodian is in this position because it is the initial recipient of dividends and interest paid on securities owned by the Funds, the entity which pays redemption orders and dividend checks, the only entity immediately aware of and in a position to act in a timely fashion upon information with respect to the current deliveries and/or fails to deliver positions of the Funds' securities settlements, and the central communications point for daily contact with each of the Portfolio Managers concerning their portfolio investment commitments and strategies. As Portfolio Manager for the Money Market Portfolio, the Custodian could simply "sweep" the cash reserves held by each Portfolio Manager for its segment of a Fund's portfolio, invest those cash reserves in shares of the Money Market Fund, and have the Money Market Fund invest all of its cash assets in short-term, money market instruments.

Applicants cite several advantages to justify their Section 12(d)(1) request. They contend that their proposal will lower their aggregate custodial charges, and that a higher return will result from the pooling of assets for cash investment (in general, the larger the amount invested, the higher the obtainable return). Finally, to the extent the Portfolio Managers' cash reserves remain fragmented, the Funds will face reduced investment opportunities (large, attractive instruments are unaffordable) and lost investment opportunities (small cash balances cannot, as a practical matter, be readily and promptly invested).

Applicants contend that none of the abuses that Section 12(d)(1) was designed to prevent arise from their proposal. No layering of sales charges, advisory fees, or administrative expenses will exist. An investor pays a single fee to the Manager based upon its aggregate investment in the Funds irrespective of whether its assets are in the Money Market Fund or in one or more of the other Funds. The Funds themselves pay no direct fees to the Manager. Nor will control of the Money Market Fund create a problem for the Applicants' Section 12(d)(1) proposal. Applicants assert that the Money Market Fund's Portfolio Manager is aware of the short-term (frequently overnight) nature of the Funds' cash reserves and has no reason or incentive to manage the Money Market Fund in a manner contrary to the other Funds' needs. The Manager will not be susceptible to undue influence, from threatened redemptions, in its management of the Money Market Fund, because it derives its compensation from total assets managed, whether the assets are in the Money Market Fund or another Fund. Control through voting will not create a problem either, because the Funds will vote their Money Market Fund shares in the same proportion as the vote of all other Money Market Fund shareholders. The Applicants' Section 12(d)(1) proposal will not disrupt the orderly management of the Money Market Fund by forcing it to maintain greater liquidity than it would normally maintain. Unlike equity funds, for whom redemptions can create significant problems, the Money Market Fund is designed specifically to maintain a highly liquid portfolio. In fact, the Money Market Fund will purchase money market instruments based upon the liquidity needs of the other Funds. Applicants contend that their Section 12(d)(1) proposal will not prevent investors from appraising the true value of their investment. They state that the Money Market Fund's financial statements and schedule of portfolio securities will appear in the same annual and periodic reports as the other Funds' statements, and the investment objectives, policies, and restrictions of all Funds appear in the same prospectus. Thus, an investor will have no difficulty assessing the true value of a Fund's holding in the Money Market Fund.

Applicants assert that their Section 12(d)(1) proposal satisfies the exemptive standards of Section 17(b). Because the Money Market Fund intends to value its

portfolio pursuant to the amortized cost method, its shares will be bought and sold at their fair market value and therefore no overreaching will occur. Because the Portfolio Managers retain the freedom to invest some or all of their cash reserves directly in money market instruments, and would do so to enhance their total return and to thereby obtain a favorable evaluation, there exists and independent check upon the investment of a Fund's assets in an investment which produces a non-competititive rate of return. Conversely, the Money Market Fund reserves the right to discontinue selling shares to the other Funds if such sales adversely affect the portfolio management and operations of the Money Market Fund.

Applicants contend that their Section 12(d)(1) proposal deserves exemption from Section 17(d) of the Act and Rule 17d–1 thereunder because their proposal provides no basis on which to predict that any Fund would receive greater benefits than another. Because the Funds will participate in the proposal on the same basis, none will participate in a transaction on a basis "different or less advantageous" than that of other participants. Neither the Manager nor any Portfolio Manager will receive an unfair or unreasonable benefit; the Manager may experience reduced clerical costs and administrative convenience, but these benefits will be offset by the increased fees the Money Market Fund's Portfolio Manager will earn for managing more assets. The other Funds' Portfolio Managers may experience nominal cost savings, but their biggest benefit is the elimination of the need to invest relatively small sums of money in cash instruments. The Money Market Fund's Portfolio Manager will experience increased Portfolio Manager fees, but reduced custodial changes. Applicants contend that no "conflict of interest" exists between or among the Funds, and that no inherent bias exists to favor one Fund over another.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 18, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–29083 Filed 11–1–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 23098; 70–5872]

The Columbia Gas System, Inc., et al.; Proposal To Add New Subsidiaries

October 27, 1983.

In the matter of the Columbia Gas System, Inc.; Columbia Alaskan Gas Transmission Corporation; Columbia LNG Corporation; and Columbia Gas System Service Corporation, 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; Columbia Gas of Ohio, Inc.; Columbia Gas of West Virginia, Inc.; Columbia Gas of Kentucky, Inc.; Columbia Gas of Virginia, Inc.; Columbia Gas of Pennsylvania, Inc.; Columbia Gas of New York, Inc.; and Columbia Gas of Maryland, Inc., 99 North Front Street, Columbus, Ohio 43215; Columbia Coal Gasification Corporation; Columbia Hydrocarbon Corporation; and the Inland Gas Company, Inc., 340 17th Street, Ashland, Kentucky 41101; Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77077; Columbia Gas Development of Canada Ltd., 639 5th Avenue, S.W., Calgary, Alberta, Canada T2POM9; Columbia Gas Development Corporation, 1700 West Loop, South, Houston, Texas 77027; Commonwealth Gas Pipeline Corporation; Commonwealth Gas Services, Inc.; and Commonwealth Propane, Inc., 200 South Third Street, Richmond, Virginia 23219; Supplemental notice of proposal to add new subsidiaries to filing relating to system policy for loans and advances made to employees for moving expenses on intra-system transfers.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its above-named wholly-owned subsidiary companies have filed a post-effective amendment to their declaration with this Commission pursuant to Sections 3(d), 9, and 20 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 48(d) thereunder.

By order dated August 24, 1976 in this proceeding (HCAR No. 19656), Columbia and its subsidiaries at that time were authorized to make loans in excess of $10,000 and without security of a first mortgage in accordance with Columbia's Transfer of Personnel Policy. By order dated August 8, 1981 (HCAAR No. 22166), in a separate proceeding, Columbia was authorized to acquire Commonwealth Gas Pipeline Corporation, Commonwealth Gas Services, Inc., and Commonwealth Propane, Inc. ("Commonwealth Companies").

Columbia now seeks authorization to add the Commonwealth Companies to the filing and to have them participate in the Transfer of Personnel Policy applicable to the other system subsidiaries.

The amended declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 21, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–29087 Filed 11–1–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13599; 812–5654]

The Royal Bank of Scotland; Application

October 27, 1983.

Notice is hereby given that The Royal Bank of Scotland plc ("Applicant") 42nd St. Andrew Square, Edinburgh, EH2, 2YE, filed an application on September 23, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested

persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable sections.

Applicant states that it was originally incorporated by Royal Charter in 1727, and now is a wholly-owned subsidiary of The Royal Bank of Scotland Group plc, a publicly quoted holding company. Applicant states that it is the largest bank in Scotland as of July 27, 1983.

Applicant states that it is a typical commercial bank, primarily engaged in receiving deposits and extending credit. Applicant further states that as of September 30, 1982, its total assets were approximately $8.170 billion (at the rate of exchange prevailing on that date) and its total liabilities were approximately $8.170 billion, of which approximately 87% consisted of deposits. As of September 30, 1982, the aggregate amount of loans made by Applicant constituted approximately 77% of its total assets. Interest income from loans (including deposits from other banks) accounted for 90% of Applicant's total income for the year period ended September 30, 1982. Applicant states that in addition to accepting deposits and making loans, it offers a full range of personal and commercial banking services.

Applicant represents that it is regulated by the Bank of England which requires Applicant to complete over thirty comprehensive returns annually, mostly on a monthly basis. The returns, cover all aspects of Applicants business and are in addition to visits made by Bank of England officials to discuss matters such as capital and liquidity adequacy, bad debt experience, geographic exposure, leverage, fixed asset ratios and profitability. Applicant represents that it is audited by independent accountants on behalf of its stockholders. Applicant also represents that its United States banking activities are subject to extensive federal supervision and regulation under the International Banking Act of 1978. Applicant states that its agency and branch are also subject to state regulation substantially similar to that of domestic banks.

Applicant proposes to issue and sell prime quality, unsecured short-term promissory notes of the type generally referred to as commercial paper (the "Notes"), denominated in United States dollars and in minimum denominations of $100,000. Applicant proposes to issue and sell the notes for the purpose of obtaining supplemental United States dollar funding for its current transactions. Applicant represents that the Notes will have a maturity of nine months or less, and will not be payable on demand nor provide for any extension renewal or automatic "roll-over" at the option of either the holder or Applicant. Applicant states that the Notes will be sold to one or more commercial dealers in the United States which will reoffer the Notes as principals to institutional investors and other sophisticated individuals who ordinarily buy commercial paper. Applicant represents that the offering will not be advertised or otherwise offered for sale to the general public. Applicant states that it will undertake to ensure that each offeree who has indicated an interest in the Notes will be provided, prior to sale, a memorandum which describes, Applicant's business and contains Applicant's most recent audited public annual financial statement (including a balance sheet, income statement, statement of changes in shareholder's equity, and a statement of appropriations for contingencies). The memorandum will also describe the material differences, if any, between the accounting principles applied in the preparation of Applicant's financial statements and generally accepted accounting principles applicable to United States banks. Applicant states that the memorandum will be at least as comprehensive as those customarily used in commercial paper offerings in the United States, and will be updated periodically to reflect material changes in Applicant's business and financial condition.

Applicant states that the Notes will be direct liabilities of the Applicant and will rank *pari passu* among themselves and equally with all other unsecured and unsubordinated indebtedness (including deposit liabilities) of Applicant and superior to Applicant's equity securities. Applicant represents that the terms and manner of offering the Notes will be such that the Notes will qualify for the exemption from registration under the Securities Act of 1933 (the "1933 Act") provided by Section 3(a)(3) of the Act. Applicant further represents that it will not offer, issue or sell the Notes until it has received an opinion of its United States counsel to the effect that the Notes would be entitled to exemption under Section 3(a)(3) of the 1933 Act. Applicant does not request Commission review or approval of the opinion letter and the Commission expresses no opinion concerning availability of any such exemption. Applicant represents that the proposed issue of Notes and any future issuance of Notes by Applicant in the United States shall have received, prior to issuance, one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that Applicant's legal counsel in the United States will certify that such rating has been received.

Applicant states that it will appoint a bank in the United States as its authorized agent to issue the Notes from time to time. It will also appoint its New York branch as its agent to accept any process to be served upon it in any action based on the Notes and instituted by a holder thereof in any state or federal court. Applicant further states that it will expressly accept the jurisdiction of any state or federal court in the City and State of New York in respect of any such action, and that such appointment and consent will be irrevocable until all amounts due and to become due in respect of the Notes have been paid by Applicant. Applicant states that it will also be subject to suit regarding such an action, in any other court in the United States which would have jurisdiction.

Applicant states that it may, from time to time, offer other debt securities for sale in the United States. Applicant represents that any such future offering will be accompanied by disclosure documents at least as comprehensive in their description of Applicant, its business and its financial condition as those disclosure documents which customarily accompany offerings of similar securities in the United States. Applicant also represents that it will undertake to ensure that such disclosure documents will be provided to each interested offeree prior to sale. In connection with any future offering in the United States of its debt securities, Applicant makes the same representations with regard to appointment of an authorized agent to accept services of process and consent to jurisdiction that it makes with regard to its proposed commercial paper offerings. Applicant also consents to having an order pursuant to Section 6(c) of the Act being expressly conditioned on its compliance with the undertakings and representations set forth in its application.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Applicant contends that without an exemption it would suffer a loss of competitiveness with respect to other commercial banks in the United States because domestic banks are expressly exempted from the definition of "investment company." Applicant asserts that its activities are extensively regulated by the Bank of England and the Federal and state

banking authorities in the United States. Applicant further asserts that, as a commercial bank, it is not an entity which Congress intended to regulate under the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 21, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29698 Filed 11-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23096; 70-6571]

Western Massachusetts Electric Company; Issuance and Sale of Notes

October 28, 1983.

Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts, 01089, an electric utility subsidiary of Northeast Utilities, a registered holding company, has filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act").

By orders dated November 9, 1976, and June 27, 1979, in File No. 70-5912 (HCAR Nos. 19750 and 21119) and by order dated March 27, 1981, in File No. 70-6571 (HCAR No. 21983), WMECO was authorized to issue and sell its secured promissory notes equally to Chemical Bank and Citibank, N.A., in the aggregate principal amount of $30 million pursuant to a Term Loan Agreement. Currently, WMECO pays interest at a rate equal to the greater of (a) 102% of the prime rate of Chemical Bank or (b) 102% of a rate ½ of 1% above the certificate of deposit rate. WMECO now proposes to amend the Term Loan Agreement effective as of October 1, 1983: (1) To extend the final maturity of the notes to December 31, 1988, from December 31, 1985; (2) to provide for an amortization schedule of four equal semiannual payments, each in the amount of $7,500,000, on the last days of June and December commencing June 30, 1987; and to change the interest payment provisions so as to allow WMECO to request, from time to time, that the loan, or any portion of the loan, be classified either as a Eurodollar Loan or an Alternate Base Rate Loan (both as defined in the Term Loan Agreement), resulting in an estimated savings of approximately $60,000 in interest expense.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 22, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29699 Filed 11-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20331; (SR-Phlx-83-11]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

October 27, 1983.

The Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA 19103, submitted on June 28, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to require all Phlx floor members to "clear the post" for a security on the Phlx floor before directly inputting the order (commitment) into the Intermarket Trading System ("ITS"). Floor brokers "clear the post" by requesting a market quote from the specialist; alternate specialists must in addition bid or offer at the post for the price and size of their intended interest prior to transmitting a commitment to another market via the ITS.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19935, July 1, 1983) and by publication in the **Federal Register** (48 FR 31953, July 12, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29691 Filed 11-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13596; (812-5552)]

Related Forest City Elderly Housing Limited Partnership II and the Related Companies, Inc.; Application

October 24, 1983.

Notice is hereby given that Related Forest City Elderly Housing Limited Partnership II ("Partnership"), a Massachusetts limited partnership, and its managing general partner, The Related Companies, Inc., a Delaware corporation ("Related Companies" or the "Managing General Partner" and, together with the Partnership, referred to hereinafter as "Applicants"), 645 Fifth Avenue, New York, New York 10022, filed an application on May 16, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting the Partnership from all provisions of the Act and rules thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicants state that the Partnership was formed under the Massachusetts Uniform Limited Partnership Act on October 28, 1982, as a vehicle for equity investment in government-assisted rental housing for occupancy by elderly and/or handicapped persons in accordance with the provisions of Section 8 of the United States Housing Act of 1937, and Sections 221(d)(4) and 236(f)(2) of the National Housing Act of 1934, as amended, and in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). It is further stated that the Partnership is operating as a "two-tier" entity, i.e., the Partnership, as the sole limited partner, has reinvested in four other limited partnerships ("Local Limited Partnerships"), that in turn, engage in the ownership and operation of government-subsidized apartment complexes ("Projects"). Each Local Limited Partnership, it is stated, owns and operates a fully-constructed Project for occupancy by elderly and/or handicapped persons in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974).

Applicants state that in addition to Related Companies, the general partners of the Partnership are Related Elderly II Associates Limited Partnership, a Massachusetts partnership ("Related Elderly II"), and Forest City Dillon, Inc. ("Forest City"), an Ohio corporation ("Associate General Partners") (Related Companies, Related Elderly II and Forest City are collectively referred to hereinafter as "General Partners"). Applicants also state that the general partners of each Local Limited Partnership ("Project General Partners") are Forest City ("Project Managing General Partner"), Related Project Partnership Corporation ("Project Associate General Partner"), an affiliate of the Managing General Partner; and F.C.D. Third Limited Dividend Corp., an affiliate of Forest City, which will act as a Project General Partner of one Local Limited Partnership only (i.e., Brookpark Place Associates).

It is further stated that the Partnership has sold 90 units of limited partnership interest ("Units") at $50,400 per Unit; in transactions exempted from the registration requirement of Section 5 of the Securities Act of 1933, as amended ("Securities Act") and in compliance with Rule 506 of Regulation D under Section 4(2) of the Securities Act. Applicants state that the Units were sold on a "best efforts" basis through Shearson/American Express Inc. ("Placement Agent"), a member of the National Association of Securities Dealers, Inc., which received placement fees of $374,220 ($4,158 per Unit) amounting to 7% of gross offering proceeds. It is stated further that the offering of Units ended on April 18, 1983, and that the outstanding securities of the Partnership are presently beneficially owned by not more than 100 persons.

After deducting sales commissions and offering expenses (1.6% of gross offering proceeds), Applicants further state $4,886,780 remained available to the Partnership for investment. Applicants state that the Partnership paid expenses and fees to the Managing General Partner (in such capacity) in the amount of $121,400 (2.3% of gross offering proceeds) as a portion of the Partnership Management Fee for services to be rendered by the Managing General Partner in overseeing the management, administration and supervision of the business and affairs of the Partnership during the years 1983–1987. It is further stated that the Managing General Partner will receive a total Partnership Management Fee of $250,000 during the years 1983–1987 ($50,000 per year), the balance of $128,600 derived from cash flow from the Local Limited Partnerships. From this Partnership Management Fee, Applicants state, the Managing General Partner will pay $5,000 each year to Shearson/American Express Real Estate Corporation ("Special Limited Partner/Financial Servicer"), an affiliate of the Placement Agent, for assisting the Managing General Partner in providing financial, consulting and communications services concerning the Partnership. For its services in connection with the maintenance of records of the Limited Partners, communicating with the Limited Partners, and consulting with the Managing General Partner, the accountants and other professionals engaged by the Managing General Partner with respect to the Limited Partners' continuing participation in the Partnership, the Special Limited Partner Financial Servicer received $160,380 (3% of gross offering proceeds), paid by the Partnership from the amount available for investment, Applicants state. It is also stated that the Partnership paid to Forest City, City Rental Properties Corporation ("Properties"), an affiliate of Forest City, $2,275,000 (42.5% of the gross offering proceeds) as part of the consideration for the Partnership's acquisition from Properties of the beneficial ownership of the limited partner interest in each Local Limited Partnership, representing a 99% interest in each Local Limited Partnership. The balance of such consideration consists of a short-term purchase money note in the aggregate amount of $200,000, and a long-term purchase money note in the principal amount of $2,900,000. Also coming from the amount available for investment, Applicants state, was $1,050,000 (19.6% of gross offering proceeds) which the Partnership invested in the local Limited Partnerships, and which was paid directly to Forest City for services relating to the Projects.

Applicants further state that, because the Projects are ready to become operational, rather than establishing a reserve for contingencies, Forest City has agreed to lend to the Local Limited Partnerships any funds necessary to cover any operating deficits occurring during the three-year period commencing with the admission of the Partnership as limited partner of the Local Limited Partnerships, up to an aggregate amount not to exceed $1,100,000 at any time outstanding for all Local Limited Partnerships. It is further stated that the $1,280,000 (23.9% of the gross offering proceeds) balance of the amount available for investment will be used to finance a loan from Related Companies (the "Related Loan"), $142,222 representing an Origination Fee for the Related Loan, and $1,137,778 which will be used to pay interest on the Related Loan. The Partnership will use the proceeds of the Related Loan to fund these payments, it is stated.

Applicants state that the total acquisition cost of the Partnership's beneficial interest in all of the Local Limited Partnerships is $5,375,000. It is represented that this price was determined on the basis of an independent appraisal by Joseph J. Blake and Associates, Inc. of Woodbury, New York, a member of the American Institute of Real Estate Appraisers. Applicants also state that of $1,050,000 to be invested in the Local Limited Partnerships from the gross offering proceeds, $440,000 will be paid to Forest City as an "operating deficit guarantee fee", paid in consideration for Forest City's commitment to lend funds to the Local Limited Partnerships to meet operating deficits as described above, and the remaining $610,000 will be paid to Forest City as Partnership Management Fees in consideration of its management services for the Local Limited Partnerships. It is also stated that in connection with the transactions contemplated for the Partnership and the Local Limited Partnerships, Forest City has agreed to pay to Related Companies $275,000 in consideration of

its performance of certain tax, financial and consulting services.

It is stated further that Related Companies believes the fee structure to be fair, normal and not excessive for transactions structured with the tax characteristics of an offering of this type and sold to investors meeing suitability standards such as those applicable to holders of Partnership Units.

Applicants state further that the Partnership is controlled by the Managing General Partner pursuant to the Partnership Agreement. The Limited Partners, consistent with their limited liability status, are not entitled to participate in the control of the Partnership's business. A majority in interest of the Limited Partners, however, has the right to amend the Partnership Agreement, dissolve the Partnership and remove any General Partners and elect a replacement therefor under the circumstances set forth in the Partnership Agreement, it is stated. Applicants also state that under the Partnership Agreement, each Limited Partner is entitled to review all books of account of the Partnership at any and all reasonable times. It is further stated that under each Local Limited Partnership Agreement, the Project General Partners of that Partnership have the exclusive responsibility for operating the Local Limited Partnership and its Project. That responsibility, Applicants state, has been irrevocably delegated to Forest City, as Project Managing General Partner. Applicants assert that although the Partnership's direct control over the management of each apartment complex is limited, the Partnership's ownership of interests in Local Limited Partnerships is, in an economic sense, tantamount to direct ownership of the Projects themselves.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Partnership be exempted from all provisions of the Act pursuant to Section 6(c) of the Act. In support of this request, Applicants assert that such exemption is both necessary and appropriate in the public interest and would be consistent with the protection of investors and the purposes and policies underlying the Act.

Applicants assert that investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form. They assert that the limited partnership structure provides the only means of bringing private equity capital into government-assisted housing, particularly because public investors typically consider investment in low and moderate income housing programs as involving greater risk than real estate investment generally. Applicants state that the limited partnership form insulates each limited partner from personal liability and limits financial risk incurred by the limited partner to the amount he has invested in the program, while also allowing the limited partner to claim on his individual income tax return his proportionate share of the income and losses from the investment.

Applicants assert that despite the advantages it affords investors in government-assisted housing, the limited partnership form of organization is incompatible with the operational framework of the Act. By way of example, it is claimed that the Act requires annual approval by investors of a management contract, but a limited partner may incur general liability if given such voting rights and that the same problem exists with respect to the election of directors and the termination of the investment company management contract. In addition, it is further claimed that the asset coverage limitations imposed by Section 18 of the Act were designed to protect investors in securities from wide fluctuations in market prices and that such concerns are inapposite to the mortgage financing and other federal, state and local government-assisted programs developed for low and moderate income housing.

Applicants further state that interests in the Partnership were sold only to investors who met specified suitability standards which the Partnership believes are consistent with the securities laws of all states where the Units were sold. Subscriptions for Units were approved by the Managing General Partner, and such approval was required to be made conditional upon representations as to suitability of the investment for each subscriber, it is stated. It is represented that investors will receive extensive reports concerning the Partnership's business and operations. Applicants represent, in addition, that under the Partnership Agreement, each Limited Partner is entitled to review the books of account of the Partnership during normal business hours. Applicants further state that, although the interests of the General Partners and their affiliates may conflict in varous ways with the interests of Limited Partners, Limited Partners are adequately protected through disclosure in the private placement memorandum. Further protection for the interests of Limited Partners is provided, Applicants assert, by the numerous provisions of the Partnership Agreement designed to prevent overreaching by the General Partner and to assure fair dealing the General Partners with the Limited Partners.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 18, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact of law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29892 Filed 11-1-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20330; (SR-NYSE-83-31)]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

October 26, 1983.

The New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, New York 10005, submitted on September 14, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to provide for the additional listing of three-month options series of NYSE index options that will expire during the months not included in the quarterly option series expiration cycle. Under the proposal, at least three and as many as four series with respect to any particular class of index options will expire in consecutive months and series expiring in five different months would be open for trading at any given time. In addition, the NYSE proposes to specify a March–June–September–December expiration cycle for the long-term series in the NYSE's proposed Composite Index option.

Notice of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20190, September 16, 1983) and by publication in the Federal Register (48 FR 43470, September 23, 1983). No comments were received with respect to the proposed rule filing.

We have previously approved proposed rule changes submitted by the American Stock Exchange, Inc. ("Amex") and the Chicago Board Options Exchange, Incorporated ("CBOE") that permitted Amex and CBOE to list and trade broad-based stock index options series that expire in consecutive months.[1] The only difference between the NYSE's proposal and those of the Amex and CBOE is that the NYSE proposal permits series with five different expiration months, possibly as long as nine months away, while the Amex and CBOE proposals permitted only four series, all of which would be in consecutive months.[2] The NYSE states in its filing that it believes that there may be sufficient investor interest in longer-term options series to warrant the retention of such series. The NYSE adds that, because interest in longer-term series cannot be met by shorter-term options, the retention of longer-term options is likely to have little impact on the liquidity and depth of the Exchange's shorter-term options series. The Exchange explains that it is proposing to specify a March–June–September–December expiration cycle for the longer-term series in its Composite Index Option in order to facilitate strategies using both options and futures upon the NYSE Composite Index. The futures contract on the Composite Index trades on a March cycle.

We agree with the NYSE that its proposal, by providing for five expiration months, as many as four of which may be consecutive, does not create any significantly greater potential for reducing the liquidity and depth of any particular series of options than did the Amex or CBOE proposals. Furthermore, the NYSE proposal, by providing for the retention of longer-term options series, may provide investors with strategies not available under the Amex and CBOE proposals.[3] We find for these reasons as well as for the reasons discussed in the Amex and CBOE Releases, that the proposed rule change is consistent with the requirements of the Act and the rules under the Act applicable to a national securities exchange, and, in particular, the requirements of Section 6. For the reasons stated in the Amex and CBOE releases, this approval shall be effective as of December 1, 1983.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change is approved, effective as of December 1, 1983.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29787 Filed 11-1-83; 8:45 am]

BILLING CODE 8010-01-M

[1] Securities Exchange Act Release No. 20201, September 28, 1983; 48 FR 41742, September 26, 1983; (the "Amex Release") and Securities Exchange Act Release No. 20284, October 14, 1983 (the "CBOE Release"). The approved proposed rule changes by Amex and CBOE will be effective on December 1, 1983.

[2] The NYSE proposal also differs from the Amex and CBOE proposals in that by its terms it is not limited to broad-based index options, while the Amex and CBOE proposals, as amended, applied only to broad-based index options. At this time, however, the only option the NYSE trades is the NYSE Composite Index Option, a broad-based index option. We also note that the Amex has filed and the Commission is reviewing a proposal to trade narrow-based index options which expire in consecutive months. Securities Exchange Act Release No. 20282, October 13, 1983.

[3] We note that one of the comments we received regarding the Amex proposal was that that proposal might deprive investors of the opportunity to take longer-term positions, *see* letter dated August 31, 1983, from Gerald Kuschuk, Senior Vice President, Options, Prudential Bache, to George A. Fitzsimmons, Secretary, SEC.

SMALL BUSINESS ADMINISTRATION

Proposed Information Collections Submitted for OMB Review

ACTION: Notice of proposed information collections submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before November 30, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

Copies: Copies of the proposed forms, the requests for clearance (S.F. 83), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653–8338.

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395–4814.

Forms Submitted for Review:

Title: Retention of Books and Records on and Evidence of use of Disaster Loan Proceeds.
Form No.: SBA 1368.
Frequency: On occasion.
Description of Respondents: Disaster Loan Borrowers.
Annual Responses: 6,750.
Annual Burden Hours: 6,750.
Type of Request: Revision.

Title: Application for Business Loan (SBA Form 4, et al.).
Form Nos.: SBA Form 4, 4I, and 4 Schedule A.
Frequency: On occasion.
Description of Respondents: Lender, applicant or appraiser.
Annual Responses: 30,000.
Annual Burden Hours: 600,000.
Type of Request: Extension.

Dated: October 28, 1983.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 83-29771 Filed 11-1-83; 8:45 am]

BILLING CODE 8025-01-M

Oklahoma; Declaration of Disaster Loan Area No. 2106

As a result of the President's major disaster declaration, I find that the Counties of Caddo, Canadian, Cleveland, Comanche, Garvin, Grady, Logan, McClain, Oklahoma and Pottawatomie, in the state of Oklahoma constitute a disaster loan area because of damage resulting from severe storms and flooding beginning on or about October 19, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 27, 1983, and for economic injury until July 26, 1984, at: U.S. Small Business Administration, 200 NW. 5th Street, Suite 670, Federal Building, Oklahoma City, Oklahoma 73102 or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	12.750
Homeowners without credit available elsewhere	6.375
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organizations including charitable and religous organizations)	10.500

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 27, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 83-29770 Filed 11-1-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Number: 135-1]

Transfer of Currency Operations Division to the Bureau of Engraving and Printing

Dated: October 17, 1983.

By virtue of the authority vested in me by 5 U.S.C. 301, 31 U.S.C. 321, 31 U.S.C. 3112 and 31 U.S.C. 5120, there is transferred to the Bureau of Engraving and Printing, the Currency Operations Divison of the Bureau of Government Financial Operations, together with its functions relating to the redemption and destruction of security items.[1] All positions, personnel, records, property, contracts, powers, duties, responsibilities and unexpended balances (available or to be made available) attributable to the Currency Operations Division are transferred to the Bureau of Engraving and Printing, and such physical transfers as necessary to effectuate this Order shall be performed in a manner and at such time as agreeable to the Commissioner of the Bureau of Government Financial Operations and the Director of the Bureau of Engraving and Printing.

The authority, subject to the Departmental review process, to promulgate regulations governing the destruction of security items is hereby delegated to the Treasurer of the United States and to the Assistant Secretary (Enforcement and Operations). Such regulations now in effect shall remain in effect until amended or otherwise modified, except those inconsistent with this Order.

Treasury Department Order 235, April 4, 1975, is rescinded. Treasury Department Order 229, January 14, 1974, and Treasury Department Order 229-1, March 11, 1974 are amended to effect the transfer of this function. All other functions provided for in Treasury Order 229 and Treasury Order 229-1 shall remain in effect.

This Order is effective immediately.

Donald T. Regan,

Secretary of the Treasury.

[FR Doc. 83-29716 Filed 11-1-83; 8:45 am]

BILLING CODE 4810-25-M

[1] Security items for purposes of this order are defined as unfit currency, redeemed and unissued securities and coupons, waste and spoiled items produced in printing currency, securities, postage stamps, food stamps, and the like, worn-out or obsolete plates, dies, bedpieces, and other similar items and materials.

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 29]

Builders Mutual Surety Company; Surety Companies Acceptable on Federal Bonds, Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Builders Mutual Surety Company, under Sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective October 1, 1983. The company was last listed as an acceptable surety on Federal bonds at 47 FR 28873, July 1, 1982.

With respect to any bonds currently in force with Builders Mutual Surety Company, bond-approving officers for the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

Questions concerning this notice may be directed to the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226, telephone (202) 634-5745.

Dated: October 25, 1983.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 83-29740 Filed 11-1-83; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 213
Wednesday, November 2, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Reserve System	2
Nuclear Regulatory Commission	3
Securities and Exchange Commission	4

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, November 1, 1983.

CHANGE IN THE MEETING: The meeting is postponed until 9:30 a.m. (eastern time), Tuesday, November 8, 1983.

In addition to publishing notices on EEOC Commission Meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions.

Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Secretary to the Commission at (202) 634–6748.

Issued: October 31, 1983.

[S–1536–83 Filed 10–31–83; 3:13 pm]

BILLING CODE 6570–06–M

2

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, November 7, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: October 28, 1983.

William W. Wiles,

Secretary of the Board.

[S–1533–83 Filed 10–28–83; 4:45 pm]

BILLING CODE 6210–01–M

3

NUCLEAR REGULATORY COMMISSION

DATE: Week of October 31, 1983 (revised).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Thursday, November 3:*

10:00 a.m.
Briefing by Breaker Vendors (Public Meetings) (Time Change)

1:30 p.m.
Report of New Allegations (Closed—Exemptions 5 and 7) (New Item)

2:00 p.m.
Discussion of Hearing Requests and Whether to Lift Suspension at Diablo Canyon (Closed—Exemptions 5 and 10) (New Item)

4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (Item Revised)
a. Amendments to 10 CFR 50 Related to ATWS Events
b. Final Rulemaking Concerning Fitness for Duty for Personnel with Unescorted Access to Protected Areas
c. Hearing Requests on Proposed Decommissioning of West Chicago Rare Earths Facility
d. Final Immediate Effectiveness Order for San Onofre 2 and 3 *(Tentative)*
e. Revision to 10 CFR Part 51 and Related Conforming Amendments—Implementation of CEQ NEPA Regulations *(Tentative)*

ADDITIONAL INFORMATION: Affirmation of Fuel Load Decision—Diablo Canyon scheduled for November 3 is *postponed.*

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

October 27, 1983.

Walter Magee,

Office of the Secretary.

[S–1532–83 Filed 10–28–83; 4:28 pm]

BILLING CODE 7590–01–M

4

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: 48 FR 48895, October 21, 1983.

STATUS: Closed Meeting.

PLACE: 450 5th Street NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, October 18, 1983.

CHANGE IN THE MEETING: Additional item. The following additional item was considered at a closed meeting scheduled on Tuesday, October 25, 1983, at 1 p.m.:

Formal order of investigation.

Chairman Shad and Commissioners Evans and Treadway determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorties require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Robert Lipsher at (202) 272–3195.

October 28, 1983.

[S–1534–83 Filed 10–31–83; 11:13 am]

BILLING CODE 8010–01–M

federal register

Wednesday
November 2, 1983

Part II

Department of Transportation

Urban Mass Transportation Administration

Appointment of the Formula Funds Provided Under the Federal Public Transportation Act of 1982

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Apportionment of the Formula Funds Provided Under the Federal Public Transportation Act of 1982

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Public Transportation Act of 1982 (Pub. L. 97–424) establishes a new Section 9 formula program for FY 1984. This notice contains the complete apportionment for all urbanized and non-urbanized areas.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Bolton, Director, Office of Policy, (202) 426–4060, 400 Seventh Street, S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: The Federal Public Transportation Act of 1982 (Pub. L. 97–424), effective January 6, 1983, establishes a new Section 9 formula program in FY 1984. The statutory formula requires for its calculation data which had not previously been submitted to UMTA. UMTA, on February 2, 1983, published Circular 9020.1 requesting the required supplemental data. The supplemental data has now been received.

This Notice, based on previously submitted Section 15 reports and the supplemental data, is a 100 percent apportionment for all urbanized areas of Section 9 funds. In addition, the Notice also includes the Section 18 program apportionments for non-urbanized areas.

Funds apportioned under Section 9 are available for a period of three (3) years following the fiscal year in which the funds are apportioned, after which time all unobligated carryover funds become available for reapportionment under Section 9. Further information on the program is contained in UMTA Circular 9030.1, published June 27, 1983.

Funds apportioned to non-urbanized areas under Section 18 are available for a period of two (2) years following the fiscal year in which the funds are apportioned, after which time all unobligated carryover funds become available for reapportionment under Section 18. Further information on the program is contained in UMTA Circular 9040.1, published September 26, 1983.

On August 8, 1983, UMTA published in the **Federal Register** a Notice (48 FR 36051) inviting comments on adopting a broader definition of eligibility for privately provided services than was followed in the FY 1983 Section 9A program. The comments are available for public inspection at the Urban Mass Transportation Administration, 400 Seventh Street, S.W., Room 9223, Washington, D.C. 20590, Docket 83–E.

UMTA believes that data for certain private transit services should be included in the future in the statistical data base upon which the Section 9 apportionment is calculated. However, after reviewing the comments to the docket and other information, UMTA has determined that because of definitional questions resulting from the diversity in the types of services and issues regarding the availability and reliability of data, these categories of private services should be phased in over time. Thus, apportionments for FY 1984 will be based on existing criteria requiring that such services be under contract to a public body.

Regarding phasing services, UMTA has made the following determination regarding the categories of privately provided services described in the August 8, 1983, Notice. First, data for private conventional and subscription bus services can be immediately included in annual Section 15 reports. Such services need not be under contract with a public body. This means the data currently being collected for the 1984 reporting period to be used for FY 1986 apportionments (reporter's fiscal years ending between July 1, 1983 and June 30, 1984) can include all private conventional and subscription bus services. It is UMTA's intention that such data be voluntarily provided by the private service providers and proprietary information need not be divulged. Second, we will continue to analyze the possible inclusion of jitney and airport limousine services for future year allocations. These two categories are not to be included in data collection for the FY 1984 operating period, but may be in future years. Third, the remaining private services not under contract such as carpools and vanpools are not being considered for inclusion at this time.

UMTA will shortly publish a supplemental **Federal Register** Notice which will provide a more detailed analysis of the comments received, the rationale for UMTA's decision, and specific information on data collection for conventional and subscription bus services.

All service level statistical data provided for the Section 9 apportionment must be verifiable and will be audited. Audits now are required under the STAA of 1982 and UMTA will conduct such audits to assure that the data is valid and to assure that the apportionment is fair. This apportionment has been adjusted as necessary to correct for excess apportionments received by certain urbanized areas in FY 1983 under Section 9A due to errors in reporting data. Urbanized areas that have had statistical data and financial adjustments will be notified by UMTA.

Issued on October 27, 1983.

G. Kent Woodman,

Acting Deputy Administrator.

FISCAL YEAR 1984 FINAL APPORTIONMENT OF FORMULA FUNDS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

State/urbanized area	Obligation level
Alabama:	
Birmingham	[illegible]
Mobile	1,921,711
Governor's apportionment for areas 50,000 to 200,000 population	[illegible]
Montgomery	[illegible]
Huntsville	(1,005,171)
Tuscaloosa	[illegible]
Anniston	[illegible]
Gadsden	[illegible]
Florence	[illegible]
Decatur	[illegible]
Dothan	[illegible]
Auburn	[illegible]
Non-urbanized	1,671,754
State total	13,108,897
Alaska:	
Governor's apportionment for areas 50,000 to 200,000 population	1,142,834
Anchorage	(1,142,834)
Non-urbanized	181,911
State total	1,324,745
Arizona:	
Phoenix	10,234,793
Tucson	5,480,829
Governor's apportionment for areas 50,000 to 200,000 population	(485,235)
Yuma, AZ–CA	(485,235)
Non-urbanized	831,989
State total	16,832,846
Arkansas:	
Little Rock-North Little Rock	2,273,585
Governor's apportionment for areas 50,000 to 200,000 population	1,684,824
Fort Smith, AR–OK	(587,827)
Pine Bluff	(540,418)
Fayetteville-Springdale	(394,600)
Texarkana, AR–TX	(161,880)
Non-urbanized	1,353,369
State total	5,311,790
California:	
Los Angeles-Long Beach	137,644,282
San Francisco-Oakland	100,109,892
San Diego	21,460,855
San Jose	19,955,208
Sacramento	8,020,573
Riverside-San Bernardino	8,241,724
Oxnard-Ventura-Thousand Oaks	2,732,712
Bakersfield	2,250,298
Governor's apportionment for areas 50,000 to 200,000 population	16,978,491
Stockton	(2,141,429)
Modesto	(1,790,536)
Santa Barbara	(1,657,044)
Santa Rosa	(1,311,863)
Santa Cruz	(939,691)
Seaside-Monterey	(1,210,187)
Antioch	(946,877)
Salinas	(1,162,405)
Simi Valley	(824,171)
Fairfield	(596,425)
Palm Springs	(423,629)
Yuba City	(554,706)
Napa	(624,349)
Visalia	(526,787)

FISCAL YEAR 1984 FINAL APPORTIONMENT OF FORMULA FUNDS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982—Continued

State/urbanized area	Obligation level
Santa Maria	(332,237)
Lancaster	(380,837)
Hemet	(458,817)
Redding	(350,846)
Chico	(433,987)
Yuma, AZ-CA	(3,667)
Non-urbanized	3,060,078
State Total	325,525,444
Colorado:	
Denver	16,737,168
Colorado Springs	2,495,906
Governor's apportionment for areas 50,000 to 200,000 population	3,731,616
Pueblo	(1,009,777)
Boulder	(921,855)
Fort Collins	(690,667)
Greeley	(954,978)
Grand Junction	(444,201)
Non-urbanized	586,612
State total	23,550,302
Connecticut:	
Hartford	7,106,626
Bridgeport	4,829,203
New Haven	3,956,456
Governor's apportionment for areas 50,000 to 200,000 population	14,420,824
Stamford	(3,199,743)
Waterbury	(2,978,162)
New London-Norwich	(1,089,989)
New Britain	(1,300,082)
Norwalk	(2,595,493)
Danbury, NY-CT	(2,187,363)
Bristol	(648,820)
Meriden	(521,712)
Non-urbanized	922,663
State total	32,937,804
Delaware:	
Wilmington, DE-NJ	3,861,213
Non-urbanized	178,119
State total	4,039,332
Florida:	
Miami	22,368,425
Fort Lauderdale	8,543,136
St. Petersburg	7,361,250
Jacksonville	5,546,067
Orlando	3,345,509
Tampa	3,902,985
West Palm Beach	4,267,962
Sarasota-Bradenton	2,373,610
Pensacola	1,436,783
Melbourne-Cocoa	1,297,913
Governor's apportionment for areas 50,000 to 200,000 population	7,794,625
Daytona Beach	(1,269,042)
Fort Myers	(1,019,921)
Tallahassee	(924,224)
Lakeland	(831,377)
Gainesville	(663,299)
Fort Walton Beach	(605,836)
Panama City	(550,981)
Winter Haven	(539,609)
Fort Pierce	(461,133)
Naples	(344,335)
Ocala	(344,820)
Non-urbanized	1,820,517
State total	71,697,763
Georgia:	
Atlanta	23,784,101
Augusta	1,578,824
Columbus	1,523,443
Governor's apportionment for areas 50,000 to 200,000 population	8,340,313
Savannah	(1,346,778)
Macon	(1,115,889)
Albany	(825,961)
Athens	(462,934)
Warner Robins	(437,936)
Rome	(350,915)

FISCAL YEAR 1984 FINAL APPORTIONMENT OF FORMULA FUNDS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982—Continued

State/urbanized area	Obligation level
Non-urbanized	2,545,251
State total	35,770,937
Hawaii:	
Honolulu	17,711,924
Governor's apportionment for areas 50,000 to 200,000 population	1,115,845
Kailua-Kaneohe	(1,115,845)
Non-urbanized	217,187
State total	18,044,756
Idaho:	
Governor's apportionment for areas 50,000 to 200,000 population	1,618,695
Boise City	(1,166,341)
Pocatello	(452,324)
Non-urbanized	593,517
State total	2,212,212
Illinois:	
Chicago,IL-Northwestern, IN	187,934,448
Davenport-Rock Island-Moline	2,522,185
Peoria	2,223,495
Rockford	1,954,853
Governor's apportionment for areas 50,000 to 200,000 population	10,714,977
Joliet	(1,516,907)
Aurora	(1,418,246)
Springfield	(1,170,351)
Champaign-Urbana	(1,321,829)
Decatur	(852,253)
Elgin	(1,057,852)
Alton	(704,596)
Bloomington-Normal	(827,911)
Round Lake Beach	(491,584)
Kankakee	(815,861)
Danville	(457,536)
Beloit, WI-IL	(58,779)
Dubuque, IA-IL	(20,477)
Non-urbanized	2,460,504
State total	207,848,253
Indiana:	
Indianapolis	8,997,285
Fort Wayne	2,430,846
South Bend, IN-MI	2,294,448
Governor's apportionment for areas 50,000 to 200,000 population	8,537,487
Evansville, IN-KY	(1,482,271)
Muncie	(666,835)
Lafayette-West Lafayette	(982,737)
Elkhart-Goshen	(570,484)
Anderson	(590,555)
Terre Haute	(853,027)
Bloomington	(575,148)
Kokomo	(621,512)
Non-urbanized	2,269,188
State total	20,439,052
Iowa:	
Des Moines	2,668,034
Governor's apportionment for areas 50,000 to 200,000 population	2,678,365
Cedar Rapids	(1,146,868)
Waterloo	(910,385)
Sioux City, IA-NE-SD	(818,382)
Dubuque, IA-IL	(613,096)
Iowa City	(486,032)
Non-urbanized	1,956,706
State total	7,301,033
Kansas:	
Wichita	3,778,630
Governor's apportionment for areas 50,000 to 200,000 population	1,572,471
Topeka	(1,052,294)
Lawrence	(510,282)
St. Joseph, MO-KS	(9,895)
Non-urbanized	1,186,330
State total	5,536,431
Kentucky:	
Louisville, KY-IN	9,109,490

FISCAL YEAR 1984 FINAL APPORTIONMENT OF FORMULA FUNDS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982—Continued

State/urbanized area	Obligation level
Governor's apportionment for areas 50,000 to 200,000 population	3,997,285
Lexington	(1,818,467)
Owensboro	(655,808)
Evansville, IN-KY	(259,681)
Clarksville, KY-TN	(136,575)
Huntington, KY-OH-WV	(547,554)
Non-urbanized	1,997,126
State total	14,414,011
Louisiana:	
New Orleans	14,338,600
Baton Rouge	2,563,108
Shreveport	2,514,963
Governor's apportionment for areas 50,000 to 200,000 population	3,912,847
Lake Charles	(882,181)
Lafayette	(1,035,298)
Monroe	(841,435)
Alexandria	(663,240)
Houma	(458,885)
Non-urbanized	1,574,212
State total	26,814,788
Maine:	
Governor's apportionment for areas 50,000 to 200,000 population	1,676,306
Portland	(812,986)
Lewiston-Auburn	423,674)
Bangor	(356,144)
Portsmouth-Dover-Rochester, NH-ME	(71,332)
Non-urbanized	667,647
State total	2,383,759
Maryland:	
Baltimore	38,023,726
Governor's apportionment for areas 50,000 to 200,000 population	1,472,412
Hagerstown, MD-PA	(513,636)
Annapolis	(536,036)
Cumberland, MD-WV	(422,739)
Non-urbanized	944,824
State total	29,000,962
Massachusetts:	
Boston	54,416,578
Springfield-Chicopee-Holyoke, MA-CT	5,141,080
Worcester	2,516,861
Lawrence-Haverhill, MA-NH	2,574,140
Governor's apportionment for areas 50,000 to 200,000 population	7,322,107
Brockton	(1,761,663)
Lowell, MA-NH	(1,469,083)
Fall River, MA-RI	(1,349,152)
New Bedford	(1,496,304)
Fitchburg-Leominster	(514,500)
Pittsfield	(393,524)
Taunton	(317,631)
Non-urbanized	1,915,098
State total	72,995,596
Michigan:	
Detroit	46,361,159
Grand Rapids	3,251,350
Flint	2,597,487
Lansing	2,875,361
Ann Arbor	2,312,479
Governor's apportionment for areas 50,000 to 200,000 population	6,571,143
Kalamazoo	(1,265,208)
Saginaw	(1,463,356)
Muskegon-Muskegon Heights	(841,437)
Jackson	(701,317)
Battle Creek	(682,574)
Bay City	(662,326)
Benton Harbor	(695,219)
Port Huron	(511,707)
Non-urbanized	2,733,585
State total	69,700,543
Minnesota:	
Minneapolis-St. Paul	19,388,882

FISCAL YEAR 1984 FINAL APPORTIONMENT OF FORMULA FUNDS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982—Continued

State/urbanized area	Obligation level
Governor's apportionment for areas 50,000 to 200,000 population	3,206,550
Duluth-Superior, MN-WI	(843,538)
Rochester	(810,727)
St. Cloud	(536,507)
Fargo, ND-MN	(290,778)
Grand Forks, ND-MN	(87,998)
LaCrosse, WI-MN	(35,914)
Non-urbanized	1,586,186
State total	23,180,638
Mississippi:	
Jackson	1,709,034
Governor's apportionment for areas 50,000 to 200,000 population	2,111,778
Biloxi-Gulfport	(1,280,821)
Pascagoula-Moss Point	(441,825)
Hattiesburg	(389,333)
Non-urbanized	1,517,364
State total	5,338,197
Missouri:	
St. Louis, MO-IL	19,901,810
Kansas City, MO-KS	9,376,093
Governor's apportionment for areas 50,000 to 200,000 population	2,503,179
Springfield	(1,148,554)
St. Joseph, MO-KS	(506,516)
Columbia	(474,249)
Joplin	(371,858)
Non-urbanized	1,003,818
State total	33,664,890
Montana:	
Governor's apportionment for areas 50,000 to 200,000 population	1,890,282
Billings	(743,962)
Great Falls	(657,539)
Missoula	(488,831)
Non-urbanized	454,041
State total	2,344,423
Nebraska:	
Omaha, NE-IA	6,179,539
Governor's apportionment for areas 50,000 to 200,000 population	1,769,253
Lincoln	(1,053,351)
Sioux City, IA-NE-SD	(75,902)
Non-urbanized	734,518
State total	8,682,259
Nevada:	
Las Vegas	2,921,553
Governor's apportionment for areas 50,000 to 200,000 population	1,424,873
Reno	(1,424,873)
Non-urbanized	161,277
State total	4,507,703
New Hampshire:	
Governor's apportionment for areas 50,000 to 200,000 population	2,154,500
Portsmouth-Dover-Rochester, NH-ME	(547,500)
Manchester	(548,583)
Nashua	(549,516)
Lowell, MA-NH	(8,848)
Non-urbanized	492,897
State total	2,647,590
New Jersey:	
Trenton, NJ-PA	3,386,025
Governor's apportionment for areas 50,000 to 200,000 population	1,871,048
Atlantic City	(1,179,002)
Vineland-Millville	(391,044)
Non-urbanized	842,953
State total	7,506,016
New Mexico:	
Albuquerque	3,053,016

FISCAL YEAR 1984 FINAL APPORTIONMENT OF FORMULA FUNDS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982—Continued

State/urbanized area	Obligation level
Governor's apportionment for areas 50,000 to 200,000 population	812,071
Las Cruces	(433,919)
Santa Fe	(378,152)
Non-urbanized	810,729
State total	5,485,825
New York:	
New York, NY-NE, NJ	601,097,531
Buffalo	9,956,806
Rochester	7,228,905
Albany-Schenectady-Troy	7,903,114
Syracuse	5,159,369
Governor's apportionment for areas 50,000 to 200,000 population	5,348,662
Binghamton	(1,497,741)
Utica	(1,261,842)
Poughkeepsie	(1,052,991)
Elmira	(852,952)
Newburgh	(477,048)
Glens Falls	(283,354)
Danbury, CT-NY	(22,930)
Non-urbanized	2,957,733
State total	639,651,260
North Carolina:	
Charlotte	3,695,512
Fayetteville	1,232,721
Raleigh	1,972,938
Governor's apportionment for areas 50,000 to 200,000 population	9,142,622
Winston-Salem	(1,272,662)
Greensboro	(1,520,608)
Durham	(1,355,382)
Gastonia	(755,104)
Asheville	(690,068)
High Point	(718,773)
Wilmington	(583,175)
Jacksonville	(480,656)
Concord	(486,177)
Burlington	(490,451)
Hickory	(407,247)
Goldsboro	(382,140)
Non-urbanized	3,047,308
State total	19,091,091
North Dakota:	
Governor's apportionment for areas 50,000 to 200,000 population	1,500,799
Fargo-Moorhead, ND-MN	(640,818)
Bismarck-Mandan	(509,470)
Grand Forks, ND-MN	(450,709)
Non-urbanized	373,779
State total	1,874,578
Ohio:	
Cleveland	28,928,592
Cincinnati	13,821,056
Columbus	9,346,539
Dayton	12,125,706
Akron	4,992,044
Toledo, OH-MI	8,084,865
Youngstown-Warren	2,469,217
Canton	1,782,787
Lorain-Elyria	939,699
Governor's apportionment for areas 50,000 to 200,000 population	5,194,356
Hamilton	(840,926)
Middletown	(679,734)
Springfield	(925,552)
Mansfield	(593,624)
Steubenville-Weirton, OH-WV-PA	(345,023)
Lima	(600,258)
Newark	(403,020)
Parkersburg, WV-OH	(74,336)
Sharon, PA-OH	(49,224)
Wheeling, WV-OH	(238,615)
Huntington-Ashland, WV-KY-OH	(302,967)
Non-urbanized	3,345,527
State total	88,827,378
Oklahoma:	
Oklahoma City	4,211,403

FISCAL YEAR 1984 FINAL APPORTIONMENT OF FORMULA FUNDS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982—Continued

State/urbanized area	Obligation level
Tulsa	3,603,781
Governor's apportionment for areas 50,000 to 200,000 population	1,137,588
Lawton	(756,282)
Enid	(364,865)
Ft. Smith, AR-OK	(16,465)
Non-urbanized	1,381,143
State total	10,323,923
Oregon:	
Portland, OR-WA	15,832,707
Governor's apportionment for areas 50,000 to 200,000 population	3,813,252
Eugene	(1,855,824)
Salem	(1,289,039)
Medford	(496,141)
Longview, WA-OR	(12,068)
Non-urbanized	1,072,032
State total	20,518,031
Pennsylvania:	
Philadelphia, PA-NJ	107,840,573
Pittsburgh	33,352,488
Scranton-Wilkes-Barre	3,696,009
Allentown-Easton-Bethlehem, PA-NJ	4,256,718
Harrisburg	2,626,572
Governor's apportionment for areas 50,000 to 200,000 population	10,326,788
Erie	(2,032,739)
Reading	(1,894,704)
Lancaster	(1,425,826)
York	(1,253,388)
Johnstown	(543,067)
Altoona	(792,062)
Monessen	(496,056)
Williamsport	(563,868)
State College	(588,410)
Sharon, PA-OH	(432,177)
Hagerstown, MD-PA	(9,896)
Steubenville, OH-WV-PA	(3,663)
Non-urbanized	3,668,152
State total	165,819,390
Rhode Island:	
Providence-Pawtucket, RI-MA	15,165,117
Governor's apportionment for areas 50,000 to 200,000 population	816,320
Newport	(450,402)
Fall River, MA-RI	(165,918)
Non-urbanized	122,800
State total	15,904,237
South Carolina:	
Charleston	1,319,082
Columbia	1,330,357
Greenville	1,195,300
Governor's apportionment for areas 50,000 to 200,000 population	1,606,369
Spartanburg	(695,865)
Florence	(330,420)
Anderson	(372,298)
Rock Hill	(349,805)
Non-urbanized	1,317,586
State total	7,171,614
South Dakota:	
Governor's apportionment for areas 50,000 to 200,000 population	116,356
Sioux Falls	(716,889)
Rapid City	(416,867)
Sioux City, IA-NE-SD	(14,600)
Non-urbanized	433,611
State total	1,581,957
Tennessee:	
Memphis, TN-MS	8,830,697
Nashville-Davidson	4,536,255
Chattanooga	2,318,625
Knoxville	2,506,804
Governor's apportionment for areas 50,000 to 200,000 population	2,036,566
Kingsport, TN-VA	(527,904)

FISCAL YEAR 1984 FINAL APPORTIONMENT OF FORMULA FUNDS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982—Continued

State/urbanized area	Obligation level
Johnson City	[536,309]
Clarksville, TN–KY	(412,123)
Bristol, TN–VA	(211,570)
Jackson	[346,526]
Non-urbanized	1,967,206
State total	22,194,173
Texas:	
Dallas-Fort Worth	21,582,873
Houston	21,632,696
San Antonio	12,638,894
El Paso	4,861,209
Auston	3,485,912
Corpus Christi	1,902,227
Governor's apportionment for areas 50,000 to 200,000 population	18,071,795
Lubbock	[1,409,439]
McAllen-Pharr-Edinburg	(1,464,798)
Amarillo	(1,195,907)
Waco	[909,843]
Beaumont	(907,201)
Port Arthur	[808,042]
Texas City-La Marque	[665,142]
Odessa	[681,533]
Abilene	[572,297]
Laredo	(1,242,025)
Wichita Falls	[754,468]
Brownsville	[833,484]
Killeen	(786,115)
Bryan-College Station	[645,735]
San Angelo	[803,085]
Tyler	[806,300]
Midland	[589,367]
Longview	(482,713)
Harlingen-San Benito	[563,958]
Texarkana, TX–AR	[300,573]
Galverston	(521,284)
Sherman-Denison	(375,472)
Temple	[345,936]
Victoria	(474,437)
Non-urbanized	4,006,405
State total	89,382,016
Utah:	
Salt Lake City	9,712,347
Ogden	829,737
Governor's apportionment for areas 50,000 to 200,000 population	1,464,365
Provo-Orem	(1,464,365)
Non-urbanized	323,125
State total	12,329,574

FISCAL YEAR 1984 FINAL APPORTIONMENT OF FORMULA FUNDS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982—Continued

State/urbanized area	Obligation level
Vermont:	
Governor's apportionment for areas 50,000 to 200,000 population	[illegible]
Burlington	(572,965)
Non-urbanized	341,610
State total	914,575
Virginia:	
Norfolk-Portsmouth	8,427,510
Richmond	5,171,578
Newport News-Hampton	2,888,011
Governor's apportionment for areas 50,000 to 200,000 population	4,078,882
Roanoke	(1,462,844)
Petersburg-Colonial Heights	(625,642)
Lynchburg	(580,877)
Charlotteville	(805,370)
Danville	(427,705)
Bristol, TN–VA	(125,064)
Kingsport, TN–VA	(29,118)
Non-urbanized	1,809,361
State total	22,375,322
Washington:	
Seattle-Everett	34,475,254
Tacoma	5,622,452
Spokane	2,911,799
Governor's apportionment for areas 50,000 to 200,000 population	3,843,389
Richland-Kennewick	(847,258)
Yakima	(743,723)
Olympia	(516,457)
Bremerton	(513,159)
Longview, WA–OR	(405,304)
Bellingham	(417,423)
Non-urbanized	1,188,563
State total	47,648,622
West Virginia:	
Governor's apportionment for areas 50,000 to 200,000 population	3,718,858
Huntington-Ashland, WV–OH–KY	(782,964)
Charleston	(1,373,171)
Wheeling, WV–OH	(781,598)
Parkersburg, OH–WV	(579,604)
Cumberland, MD–WV	(24,578)
Steubenville, OH–WV–PA	(253,933)
Non-urbanized	1,214,501
State total	4,929,359
Wisconsin:	
Milwaukee	17,015,750

FISCAL YEAR 1984 FINAL APPORTIONMENT OF FORMULA FUNDS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982—Continued

State/urbanized area	Obligation level
Madison	[illegible]
Governor's apportionment for areas 50,000 to 200,000 population	[illegible]
Green Bay	[illegible]
Appleton	[illegible]
Racine	[illegible]
Kenosha	[illegible]
Eau Claire	(557,725)
La Crosse, WI–MN	[illegible]
Sheboygan	(559,808)
Wausau	(440,105)
Oshkosh	(545,800)
Janesville	[456,807]
Beloit, WI–IL	[illegible]
Duluth, MN–WI	(189,422)
Non-urbanized	1,880,799
State total	31,568,552
Wyoming:	
Governor's apportionment for areas 50,000 to 200,000 population	[illegible]
Casper	[illegible]
Cheyenne	(501,258)
Non-urbanized	276,350
State total	1,357,826
Washington, D.C. MD–VA:	
State total	[illegible]
Puerto Rico:	
San Juan	10,567,456
Governor's apportionment for areas 50,000 to 200,000 population	7,295,367
Non-urbanized	1,160,195
State total	24,022,828
American Samoa:	
Non-urbanized	25,367
State total	25,367
Guam:	
Non-urbanized	83,240
State total	83,240
N. Mariana:	
Non-urbanized	13,180
State total	13,180
Virgin Islands:	
Non-urbanized	75,849
State total	75,849

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Part III

Department of Labor

Employment and Training Administration

Establishment and Functioning of State Employment Services (Wagner-Peyser Act as Amended by Pub. L. 97-300); Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 602, 603, 604, 651, 652, and 653

Establishment and Functioning of State Employment Services (Wagner-Peyser Act as Amended by Pub. L. 97-300)

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains final regulations to implement the Wagner-Peyser Act as amended by the Job Training Partnership Act regarding establishment and functioning of State employment services. The amendments to the Wagner-Peyser Act expand the role of Governors and private employers in matters relating to unemployment and the development of a skilled work force, and link more closely the employment service and Job Training Partnership Act programs.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Keefe, Telephone (202) 376-6500.

SUPPLEMENTARY INFORMATION: The rules published in this document implement the Wagner-Peyser Act (the Act), as amended by the Job Training Partnership Act (JTPA), Pub. L. 97-300. They replace the regulations at 20 CFR Parts 602, 603, 604, 651.1-651.9, 653 Subparts A and E, which are hereby rescinded as of the effective date of this action. The regulations at 20 CFR Parts 651.10; 653, Subparts B and F; and 654 Supbart E, pertaining to the provision of services to migrant and seasonal farmworkers (MSFWs), are retained in accordance with the requirements of the *NAACP* v. *Marshall* order and settlement agreement.

The JTPA amendments to the Act are effective October 1, 1983.

A comprehensive reading of the Act, and in particular the provisions of Section 6, shows that Congress intended the revised program to be in place and operational by October 1, 1983. The Wagner-Peyser system is an ongoing program which is being affected by statutory changes that became effective October 1, 1983. These changes are basic to the operation of the system, and these final regulations implement the statutory changes. The fiscal year 1984 grants have been executed, funded, and reflect the statutory changes. A time difference between the effective dates of the statutory amendments and the regulations implementing those amendments will result in operating confusion with possible disruption of services to the public. Therefore, for good cause found, the effective date of these final regulations has been established as October 1, 1983.

Additional actions related to these rules are anticipated as follows:

1. 20 CFR Part 601 will be amended to clarify that it will govern administrative procedures associated only with State unemployment insurance program operations.

2. Regulations governing services to veterans, especially disabled and Vietnam-era veterans, provided in accordance with 38 U.S.C. Chapters 41 and 42 will be revised. A notice of proposed rulemaking on this matter was published on August 1, 1983 (48 FR 34866).

3. Cost reimbursement agreements will be negotiated with agencies by the Secretary of Labor pursuant to Section 7(c) of the Wagner-Peyser Act for programs and activities described, *inter alia*, in: (a) 20 CFR Parts 621, 655, and 656 (procedures for administration of the certification of permanent and temporary foreign labor), and (b) 20 CFR Parts 653, Subpart F, and 654 (special responsibilities of employment services related to agricultural worker clearance orders and housing, Defense Manpower Policy No. 4A, and Executive Order 10582 regarding the determination of areas of substantial unemployment). The regulations contained in Part 621 will be transferred to Part 655, as a new Subpart A, to effect consolidation of regulations governing certification of temporary foreign labor.

As a general policy, OMB Circulars apply to Wagner-Peyser grants. OMB Circular A-102 codified in 41 CFR 29-70, and OMB Circular A-87 codified in 41 CFR 1-15.7, will govern Wagner-Peyser grant administration and cost determination. In the event of a conflict between a requirement of the regulations at Part 652 and any requirement of 41 CFR Part 29-70 or 41 CFR 1-15.7, the Part 652 regulations shall govern. These regulations provide a limited exception to 41 CFR 1-15.7 for fringe benefit and retirement plans. This exception provides a transition period for State Employment Security Agencies to bring their employees' fringe benefit and retirement plans into conformity with 41 CFR 1-15.7.

Proposed rulemaking governing the Wagner-Peyser amendments was published in the **Federal Register** on July 25, 1983 (48 FR 33832), for public comment. The Department received 21 written comments.

Scope and Purpose

Several commentators suggested that the statement of scope and purpose of § 652.2 specify additional responsibilities of the system for assuring that those who seek its services are legally qualified to do so. Section 652.2 sets forth minimum requirements to establish the system's basic scope, purpose, and elements. Although the Department believes that the State agencies will engage in some screening activity, it does not believe that the Federal Government should require the State agencies to be the guarantors of the employability of persons referred to employers. Therefore, the proposed revision was not made.

Basic Labor Exchange System

It was suggested that the specification of the basic labor exchange system at § 652.3 also provide enhanced coordination between the labor exchange and unemployment compensation systems. Section 7(a)(3)(F) of the Act provides that Wagner-Peyser funds may be used for administering the work test for the State unemployment compensation system. This section is implemented in the regulations at § 652.3(e). Given that § 652.3 establishes minimum capacities, the Department believes the regulations adequately provide for the minimum requirements of coordination between the labor exchange and unemployment compensation system. Thus, no change has been made.

Notice of Within-State Resource Distributions

Several comments suggested the deletion of the requirement at § 652.4(a) that the State make public the substate resource distributions and the procedures by which these resources will be issued, planned, and committed. The commentators viewed these requirements as going beyond the requirements of the Wagner-Peyser amendments. Section 6 of the Act grants to the Secretary the authority to approve or disapprove State plans. This authority, read in conjunction with the Secretary's rulemaking authority (Section 12), at least implicitly authorizes the Secretary to require the publication of substate resource distributions. By requiring public notice of the substate resource distributions and the procedures relating to them, the Secretary assures broad awareness of and participation in the decisions affecting how employment services will be delivered. Accordingly, no change has been made in this requirement.

Appeals of Substate Resource Distribution

Several commentators suggested deleting the required appeals process at § 652.4(a) pertaining to intrastate resource distribution complaints. The commentators expressed the concern that such an appeals process would be costly and would delay the planning and implementation of employment services. By requiring a process for resolving complaints, the Secretary is providing an opportunity for resolution of disagreements over resource distribution. Section 8(b)(5) of the Act anticipates intrastate disagreements on State plans and provides that the Secretary will ultimately decide such disputes. With respect to resource distribution disputes, however, the Department believes the States are in the best position to resolve any disagreements. The appeal procedures secure broad participation in the planning of employment services. This section has been modified, by deletion of the word "appeals", to clarify that these processes need not be burdensome or unduly time-consuming.

Grant Agreement

Commentators also requested elimination of the proposed Governor/Secretary agreement described at § 652.4(b). Because such an agreement is a prerequisite to a continuing funding relationship between the State and Department, this provision was retained.

State Planning Process

Section 652.6(a) describes the State planning process. Commentators suggested deletion of the requirement that the State agency plan be submitted "through the Governor". Because Section 8(c) of the Wagner-Peyser Act, as amended, requires that the Governor be given the opportunity to comment on the State agency plan and to propose modifications to it, and to assure that the Secretary's review for the purposes of Section 8(e) of the Wagner-Peyser Act is timely, the requirement that the plan be submitted through the Governor has been retained.

Deletion was also suggested for the requirement that the plans include assurances that other recipients of funds under the Wagner-Peyser Act comply with the Act and applicable law, rules and regulations. In response to this comment, § 652.6 has been revised to limit these assurances to subrecipients of the State agency. This limitation is necessary because it would be unfair to hold State agencies responsible for the acts of other direct Wagner-Peyser fund recipients.

The proposed regulations provided, at § 652.6(c), that the plan relating to the funds reserved pursuant to section 7(b) of the Wagner-Peyser Act could be a separate component of the State agency plan or submitted separately, timed to coincide with the submission of the State agency plan to the Secretary. It was suggested that the plan for these funds should be included as part of the State agency plan only, without the option of a separate submission. At their discretion, the Governors may choose various approaches to planning the utilization of funds reserved for their use by 7(b) of the Wagner-Peyser Act that would not necessarily be consistent with a requirement that the plans for this set-aside be included in the State agency submission. Accordingly, to provide the Governors with necessary flexibility, this provision was not revised.

Review and Approval of Plans

Section 652.7 of the proposed regulations describes the review and approval of plans. Commentators suggested that this section be expanded to provide for the submission of revised plans if the Secretary disapproves the plan originally submitted. Subsection (c) of this section has been revised to provide the State agency thirty (30) days to submit a revised plan responsive to the Secretary's reasons for disapproval. If the Secretary continues to disapprove the plan at the end of that period, the appeals procedures at 20 CFR 658.707–711 are available to the State agency.

It was also suggested that, if an alternative to the State agency plan has been submitted pursuant either to section 8(b)(5) or section 8(c) of the Wagner-Peyser Act, the State agency submission be approved by the Secretary, except where the State agency submission was not in conformity with the Act or not reasonably appropriate and adequate to carry out the purposes of the Act. The final regulation retains the provisions of the proposal at § 652.7(b). In reviewing alternatives to the State agency plan, the Secretary shall first assure that all proposals conform to the requirements of applicable law and regulation and that they are reasonably appropriate and adequate to achieve the purposes of the Act. To constrain the Secretary's authority beyond these criteria, as suggested by the commentators, would deny the Secretary the latitude necessary to discharge his responsibilities in approving plans submitted under the Wagner-Peyser Act.

Administrative Provisions

Section 652.8 of the proposed regulations describe the administrative provisions governing programs under the Wagner-Peyser Act. Commentators suggested that this section be expanded to include references to section 13 of the Act with respect to referrals to private agencies and the use of Wagner-Peyser funds to pay for advertising in newspapers for high paying jobs. In this instance, Section 13 is explicit and warrants no additional explanation or interpretation. Therefore, the suggested expansion of the regulation was not adopted.

Commentators requested that the reporting requirements be described in fuller detail and made available for public comment prior to adoption. While the detailed reporting requirements (e.g., the specific data elements and formats) are not specified in the final regulation, it is the Secretary's intention that these requirements will be made available for review and comment prior to final adoption.

One commentator requested modification of § 652.8(d)(5) to require the retention of job orders for two years, rather than one as in the proposed regulation. The Department believes that the one year retention period is sufficient for it to meet its monitoring and enforcement responsibilities under the Act. For this reason, the regulation remains as proposed.

Commentators suggested that the regulations should authorize State agencies to charge for the incremental costs associated with providing information pursuant to Section 3(b) of the Wagner-Peyser Act as amended. Although such a change was not made in the final regulation, it is noted that nothing in the Wagner-Peyser Act, nor its implementing regulations, precludes State agencies from imposing reasonable charges for the extraordinary costs associated with fulfilling such requests.

Several commentators requested modifications of the proposed audits and sanctions regulations (cf., §§ 652.8 (f) and (g), respectively). The Secretary is charged with assuring that funds appropriated under the Wagner-Peyser Act, as amended, are expended responsibly and in conformity with applicable law and regulations. Accordingly, these sections of the final regulation were retained as proposed. One comment suggested changing the audit cycle for the funds reserved under Section 7(b) of the Act from annually to once every two years. Because the concept of set-aside in Section 7(b) is

new, however, the Department needs to retain close oversight. Therefore, the provision remains unchanged. Another commentator requested a specific definition of the amount of cash maintained that would constitute an "excess of reasonable grant needs." Due to the fact that the size of grants varies greatly, a precise definition is not feasible. Thus, this provision was retained as proposed. In addition, one comment suggested making the offsetting of debts the preferred means of settlement. The regulations, however, do not provide for any preference among the sanctions. The Secretary retains the discretion, based on the facts and circumstances of each case, to fashion the appropriate sanction to each individual situation. Therefore, the suggestion that there be a preference among sanctions was not accepted.

Nondiscrimination and Affirmative Action Requirements

Commentators suggested combining all nondiscrimination and affirmative action requirements in one section. Accordingly, § 652.8(a)(2) was moved to § 652.8(j).

It was also suggested that § 652.8(j)(3) be revised by requiring the State agency to "make every effort" to assure the referral of a significant number of qualified applicants from target groups when employers file valid affirmative action requests with the agency. Because of the importance of employment services in matching employers and jobseekers, particularly in instances were employers are seeking to fulfill valid affirmative action obligations, this section was retained as proposed.

Cost Reimbursement Agreements

One commentator suggested that the cost reimbursement funding agreements might result in inadequate enforcement of housing standards and the temporary alien labor certification process. Although the Act does not require that the State agencies perform these activities, the Department is committed to diligent enforcement of housing standards and the operation of a temporary alien labor certification program. Section 7(c) of the Act states that service and activities not otherwise authorized by the Wagner-Peyser Act may be provided through separate agreements and funding, and the Department believes that through the use of cost reimbursement funding, it will meet its obligation under the *NAACP* v. *Marshall* settlement agreement.

Retention of Regulations

As noted above, these regulations replace, in whole or part, several parts of the Code of Federal Regulations. Commentators suggested the retention of several sections of the current regulations, including: those prescribing a "Job Service logo"; those provisions relating to the payment of postage for State agency mailings; those detailing coordination of the activities of State unemployment compensation and employment service systems; and those dealing with the confidentiality of records. The Department believes States should be permitted to work out these administrative details, thereby reducing the Federal presence in the administration and management of States agency activities consistent with the thrust of the Wagner-Peyser Amendments. Accordingly, they have not been retained.

It was suggested that the regulations be extended to include requirements for a merit system of personnel administration. The final regulations have not been revised to include this requirement; however, it is noted that nothing in the Wagner-Peyser Act, as amended, or the final regulations inhibits or discourages the States from utilizing merit systems for personnel administration.

Commentators suggested that the regulation make clear that neither the Department nor the State guarantee the accuracy or truthfulness of information provided by jobseekers or employers. Because this information is provided voluntarily, these agencies cannot take responsibility for verifying its accuracy. A statement to this effect was added at § 652.8(d).

It was also suggested that the regulations provide an inventory of all legislation, regulations or other directives (e.g., Executive Orders) that relate to the employment service or the activities provided by it. Although this recommendation was not adopted in the final regulation, the Department, through its continuing technical assistance, will provide information of this type and keep it current in a way that would not be possible were these materials to be incorporated in the regulations.

Referrals Involving Labor Disputes

As proposed, the regulation did not provide guidance with respect to Section 11(b) of the Act. This section provides that "(i)n carrying out the provisions of this Act the Secretary is authorized and directed to provide for the giving of notice of strikes and lockouts to applicants before they are referred to employment".

Commentators representing workers and State agency personnel questioned the omission of a regulation implementing section 11(b) of the Act. In response to these comments, the final regulation now includes, at § 652.9, a restatement of the regulation formerly set forth at 20 CFR 653.8 concerning the referral of applicants to job openings affected by labor disputes involving strikes or lockouts.

Regulatory Changes by Section

In § 652.4(a), the word "appeals" has been deleted to clarify that, while a complaint resolution process is necessary, it need not be burdensome or unduly time-consuming.

In § 652.7(c), the procedures relating to the disapproval of a State agency plan have been revised to allow the State agency thirty (30) days to revise the plan in response to the Secretary's notice of disapproval. If at the end of the thirty (30) day period the Secretary continues to disapprove the plan, the State agency may appeal that determination in accordance with the procedures set forth at 20 CFR 658.707–711.

The provisions of § 652.8(a)(2) in the proposed regulations have been redesignated § 652.8(j)(5) and moved accordingly. This consolidates all nondiscrimination and affirmative action requirements.

In § 652.8(d), a new paragraph has been added to clarify that neither the Department nor the States are guarantors of information provided voluntarily by jobseekers or employers using the labor exchange services authorized by the Wagner-Peyser Act, as amended. The remaining paragraphs of § 652.8(d) were renumbered accordingly.

In § 652.9, language has been added relating to the giving of notice and making referrals, where a strike or lockout exists.

In other places, language of the proposed regulation was changed for greater clarity.

Rulemaking Certifications

The proposed rules are procedural in character and give direction to States on the implementation of programs under the Wagner-Peyser Act. Therefore, these rules are not classified as "major" under Executive Order 12291 on Federal regulations, and no regulatory impact analysis is required.

The Department has determined that these rules will have no "significant economic impact upon a substantial number of small entities" within the meaning of Section 3(a) of the

Regulatory Flexibility Act, Pub. L. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). The only direct recipients of Federal funds under these regulations are the Governors and/or designated State agencies.

Paperwork Reduction Act

Information collection, within the meaning of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), is required by the rules at §§ 652.4, 652.6, and 652.7. The Office of Management and Budget (OMB) has approved these information collection requirements and has assigned OMB control number 1205–0209. In addition, the Department will submit to OMB for its review and approval the planned reporting requirements as authorized under 20 CFR 652.8(c).

List of Subjects in 20 CFR Parts 602, 603, 604, 651, 652, and 653

Grant programs—labor, Employment.

Accordingly, Chapter V of Title 20 of the Code of Federal Regulations is amended as follows:

PART 602—FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM—[REMOVED]

1. The authority for Part 602 reads as follows:

Authority: Sec. 12, 48 Stat. 117, as amended; Secs. 1–13, 48 Stat. 113, as amended; secs. 2010–2014, 72 Stat. 1221; 29 U.S.C. 49–49 l; 38 U.S.C. 2010–2014.

2. Part 602 is removed.

PART 603—STATE PROGRAM BUDGET PLANS UNDER THE WAGNER-PEYSER ACT—[REMOVED]

3. The authority for Part 603 reads as follows:

Authority: Sec. 12, 48 Stat. 117, as amended; Secs. 1–13, 48 Stat. 113, as amended; secs. 2010–2014, 72 Stat. 1221; 29 U.S.C. 49–49 l; 38 U.S.C. 2010–2014.

4. Part 603 is removed.

PART 604—POLICIES OF THE UNITED STATES EMPLOYMENT SERVICE—[REMOVED]

5. The authority for Part 604 reads as follows:

Authority: Sec. 12, 48 Stat. 117, as amended; Secs. 1–13, 48 Stat. 113, as amended; secs. 2010–2014, 72 Stat. 1221; 29 U.S.C. 49–49 l; 38 U.S.C. 2010–2014.

6. Part 604 is removed.

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

7. The authority for Part 651 reads as follows:

Authority: Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 et seq.; 5 U.S.C. 301; and 38 U.S.C. Chs. 41 and 42.

§§ 651.1—651.9 [Removed]

8. Part 651 is amended by removing §§ 651.1 through 651.9.

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

9. The authority for Part 653 reads as follows:

Authority: 38 U.S.C. Chs. 41 and 42; Wagner-Peyser Act, as amended, 29 U.S.C. 49 et seq.; Sec. 104 of the Emergency Jobs and Unemployment Assistance Act of 1974, Pub. L. 93–567, 88 Stat. 1845.

§§ 653.1—653.13 [Removed]

10. Part 653 is amended by removing §§ 653.1 through 653.13 which constitutes Subpart A.

§§ 653.400—653.409 [Removed]

11. Part 653 is amended by removing §§ 653.400 through 653.409 which constitutes Subpart E.

PART 652—ESTABLISHMENT AND FUNCTIONING OF STATE EMPLOYMENT SERVICES

12. Part 652 is amended by revising its title to read as set forth above.

13. Part 652 is amended by adding text to read as follows:

Sec.

652.1 Introduction and definitions.
652.2 Scope and Purpose of the employment service system.
652.3 Basic labor exchange system.
652.4 Allotment of funds and grant agreement.
652.5 Services authorized.
652.6 State planning process and plan.
652.7 Review and approval of plans.
652.8 Administrative provision.
652.9 Labor disputes.

Authority: Wagner-Peyser Act, 29 U.S.C. 49 et seq.

§ 652.1 Introduction and definitions.

(a) These regulations implement the provisions of the Wagner-Peyser Act, as amended by the Job Training Partnership Act (JTPA), known hereafter as the Act. Congress intended that the States exercise broad authority in implementing the provisions of the Act.

(b) Except as otherwise provided the definitions contained in Section 2 of the Act apply to these regulations.

"Act" means the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

"Department" means the United States Department of Labor (DOL), including its agencies and organizational units.

"Director" means the chief official of the United States Employment Service.

"Governor" means the chief executive of any State.

"JTPA" means the Job Training Partnership Act of 1982 (29 U.S.C. 1501 *et seq.).*

"State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

"State agency" means the State governmental unit designated pursuant to section 4 of the Act to cooperate with the United States Employment Service in the operation of the public employment service system.

"State Job Training Coordinating Council (SJTCC)" means the entity within a State appointed by the Governor under section 122 of the Job Training Partnership Act which reviews and certifies the employment service plan.

§ 652.2 Scope and purpose of the employment service system.

The basic purpose of the employment service system is to improve the functioning of the nation's labor markets by bringing together individuals who are seeking employment and employers who are seeking workers.

§ 652.3 Basic labor exchange system.

At a minimum, each State shall administer a labor exchange system which has the capacity:

(a) To assist jobseekers in finding employment;

(b) To assist employers in filling jobs;

(c) To facilitate the match between jobseekers and employers;

(d) To participate in a system for clearing labor between the States, including the use of standardized classification systems issued by the Secretary pursuant to JTPA Section 462(c)(3); and

(e) To meet the work test requirements of the State unemployment compensation system.

§ 652.4 Allotment of funds and grant agreement.

(a) *Allotments.* The Secretary shall provide planning estimates in accordance with section 6(b)(5) of the Act. Within 30 days of receipt of planning estimates from the Secretary, the State shall make public the substate resource distributions, and describe the process and schedule under which these resources will be issued, planned and committed. This notification shall

include a description of the procedures by which the public may review and comment on the substate distributions, including a process by which the State will resolve any complaints.

(b) *Grant Agreement.* To establish a continuing relationship under the Act, the Governor and the Secretary shall sign a Governor/Secretary Agreement, including a statement assuring that the State shall comply with the Act and all applicable rules and regulations. Consistent with this Agreement and Section 6 of the Act, State allotments will be obligated through a Notification of Obligation.

(Approved by the Office of Management and Budget under OMB control number 1205–0209.)

§ 652.5 Services authorized.

The sums allotted to each State pursuant to Section 6 of the Act shall be expended consistent with an approved plan pursuant to § 652.7 of these regulations. At a minimum, each State shall provide the basic labor exchange elements defined at § 652.3 of these regulations.

§ 652.6 State planning process and plan.

(a) The State agency designated pursuant to Section 4 of the Act shall prepare and submit to the Secretary, through the Governor, an annual plan for providing services and activities within the State as authorized under Section 7(a) of the Act. The Secretary shall establish a date for receipt of plans by the Secretary. The plans:

(1) Shall be developed in accordance with the processes established by the State under § 652.4(a) of these regulations;

(2) Shall be consistent with Section 8 of the Act;

(3) Shall include assurances that the State agency and its subrecipients will comply with the Act and applicable law, rules and regulations; and

(4) Shall, in addition to the requirements of section 8(d) of the Act, contain a description of each of the following:

(i) The overall goals and objectives of the State agency and their relationship to the Governor's annual statement of goals and objectives pursuant to Section 121(a) of the JTPA;

(ii) The overall services to be provided by the State agency in implementation of section 7(a) of the Act, as planned pursuant to paragraph (a)(1) of this section; and

(iii) The State agency plans for meeting the requirements of a basic labor exchange system, including a description of how:

(A) Jobseekers will be assisted in finding employment;

(B) Employers will be assisted in filling jobs;

(C) The match between jobseekers and employers will be facilitated;

(D) The State will participate in a system for clearing labor between the States, including the use of standardized classification systems issued by the Secretary pursuant to Section 462(c)(3) of JTPA; and

(E) The work test requirements of the State unemployment compensation system will be met.

(b) Plans submitted to the Secretary pursuant to section 8(b)(5) of the Act shall include:

(1) The State agency submission pursuant to paragraph (a) of this section, including the State agency's proposals for the component(s) in dispute;

(2) The alternative(s) proposed jointly by the appropriate Private Industry Councils (PIC(s)) and Chief Elected Officials (CEO(s));

(3) The SJTCC's proposed resolution; and

(4) Any comments or alternative(s) the Governor may submit relating to the disputed component(s).

(c) The Governor shall describe the use of resources set-aside pursuant to Section 7(b) of the Act. Such description may be provided:

(1) As a separate component of the State plan developed pursuant to paragraph (a) of this section; or

(2) As a separate submission to the Secretary, timed to coincide with the submission of the State plan to the Secretary.

(Approved by the Office of Management and Budget under OMB control number 1205–0209.)

§ 652.7 Review and approval of plans.

(a) Within 30 days of receipt of the plans submitted pursuant to § 652.6 of these regulations, the Secretary shall provide written notification of his determination to the Governor, the State agency and the SJTCC. Any notice of disapproval shall include an explanation of the reasons for such determination. The Secretary shall approve such plans unless:

(1) They fail to conform to a specific provision of the Act or applicable law or regulations; or

(2) The description pursuant to § 652.6(a)(4)(iii) of these regulations indicates that the services to be provided are not reasonably appropriate and adequate to achieve the requirements of a basic labor exchange system as described in § 652.3 of these regulations.

(b) Where alternative plans, or components, are submitted pursuant to sections 8(b)(5) or 8(c) of the Act, the Secretary shall, within 30 days of receipt of such plans, assure their conformity with § 652.6 of these regulations and choose one of the alternatives and thereby resolve the dispute.

(c) If the Secretary disapproves the State agency plan, pursuant to paragraph (a) of this section, the State agency shall have a thirty (30) day period to bring the plan into conformance. If, at the end of the thirty (30) day period, the Secretary continues to disapprove the plan, the State agency may appeal the determination as set forth in 20 CFR 658.707–711.

(d) The Secretary's determination pursuant to paragraph (b) of this section is final agency action.

(e) Modifications of plans already approved by the Secretary shall be developed, submitted and reviewed pursuant to §§ 652.6 and 652.7 of these regulations.

(Approved by the Office of Management and Budget under OMB control number 1205–0209.)

§ 652.8 Administrative provisions.

(a) *Administrative Requirements.* The Employment Security Manual shall not be applicable to funds appropriated under the Wagner-Peyser Act. Except as provided for in paragraph (f) of this section, administrative requirements and cost principles applicable to grants under this Part 652 are as specified in 41 CFR Part 29–70 and 41 CFR Part 1–15.7.

(b) *Management systems, reporting and recordkeeping.* (1) The State shall ensure that financial systems provide fiscal control and accounting procedures sufficient to permit preparation of required reports, and the tracing of funds to a level of expenditure adequate to establish that funds have not been expended in violation of the restrictions on the use of such funds (Section 10(a)).

(2) The financial management system and the program information system shall provide federally required records and reports that are uniform in definition, accessible to authorized Federal and State staff, and verifiable for monitoring, reporting, audit and evaluation purposes (Section 10(c)).

(c) *Reports Required.* (1) Each State shall make reports pursuant to instructions issued by the Secretary and in such format as the Secretary shall prescribe.

(2) The Secretary is authorized to monitor and investigate pursuant to Section 10 of the Act.

(d) *Special Administrative and Cost Provisions.* (1) Neither the Department

nor the State is a guarantor of the accuracy or truthfulness of information obtained from employers or applicants in the process of operating a labor exchange activity.

(2) Prior approval authority, as described in various sections of 41 CFR Part 29–70 and 41 CFR 1–15.7, is delegated to the State except that the Secretary reserves the right to require transfer of title on nonexpendable Automated Data Processing Equipment (ADPE), in accordance with provisions contained in 41 CFR 29–70.215. The Secretary reserves the right to exercise prior approval authority in other areas, after providing advance notice to the State.

(3) Application for financial assistance and modification requirements shall be as specified under this Part.

(4) Cost of promotional and informational activities consistent with the provisions of the Act, describing services offered by employment security agencies, job openings, labor market information, and similar items are allowable.

(5) Each State shall retain basic documents for the minimum period specified below:

(i) Work Application: One year.

(ii) Job Order: One Year.

(6) Costs of employer contributions and expenses incurred for State agency fringe benefit plans that do not meet the requirements in 41 CFR 1–15.711–13 and 711–10 are allowable, provided that:

(i) For retirement plans, on behalf of individuals employed before the effective date of this part, the plan is authorized by State law and previously approved by the Secretary; the plan is insured by a private insurance carrier which is licensed to operate this type of plan; and any dividends or similar credits due to participation in the plan are credited against the next premium falling due under the contract;

(ii) For retirement plans on behalf of individuals employed after the effective date of this Part, and for fringe benefit plans other than retirement, the Secretary grants a time extension to cover an interim period if State legislative action is required for such employees to be covered by plans which meet the requirements of 41 CFR 1–15.711–13 and 711–10. During this interim period, State agency employees may be enrolled in plans open to State agency employees only. No such extension may continue beyond the 60th day following the completion of the next full session of the State legislature which begins after the effective date of this part;

(iii) For fringe benefit plans other than retirement, the Secretary grants a time extension which may continue until such time as they are comparable in cost to those fringe benefit plans available to other similarly employed employees of the State on the condition that there are no benefit improvements. The Secretary may grant this time extension if the State agency can demonstrate that the extension is necessary to prevent loss of benefits to current States agency employees, retirees and/or their fringe benefit plan beneficiaries, or that it is necessary to avoid unreasonable expenditures on behalf of the employee or employer to maintain such fringe benefits for current employees and retirees. At such time as the cost of these fringe benefit plans becomes equitable with those available to other similarly employed State employees, the time extension will cease and the requirements of 41 CFR 1–15.711–13 and 1–15.711–10 will apply;

(iv) Requests for time extensions under this section will include an opinion of the State Attorney General, that either legislative action is required to accomplish compliance with 41 CFR 1–15.711–13 and 1–15.711–10 or, for (d)(6)(iii) of this section that such compliance would result in either loss of current benefits to State agency employees and retirees or unreasonable expenditures to maintain these benefits. Such requests will be filed with the Secretary no later than 30 days after the effective date of this Part; and

(v) Time extensions granted relative to (d)(6)(iii) of this section require a signed statement by the State agency Administrator, that no improvements have been made to fringe benefits under the extension and that the plan(s) is (are) not consistent with those available to other similarly employed State employees, for each year of the extension. Documentation supporting the affidavit shall be maintained for audit purposes.

(7) Payments from the State's Wagner-Peyser allotment made into a State's account in the Unemployment Trust Fund for the purpose of reducing charges against Reed Act funds (Section 903(c) of the Social Security Act, as amended (42 U.S.C. 1103(c)) are allowable costs, provided that:

(i) The charges against Reed Act funds were for amounts appropriated, obligated, and expended for the acquisition of automatic data processing installations or for the acquisition or major renovation of State owned office building; and

(ii) With respect to each acquisition of improvement of property pursuant to paragraph (d)(7)(i) of this section, the payments are accounted for in the State's records as credits against equivalent amounts of Reed Act Funds used for administrative expenditures.

(e) *Disclosure of Information.* (1) The State shall assure the proper disclosure of information pursuant to Section 3(b) of the Act.

(2) The information specified in Section 3(b) and other Sections of the Act, shall also be provided to officers or any employee of the Federal Government of a State government lawfully charged with administration of unemployment compensation laws, employment service activities under the Act or other related legislation, but only for purposes reasonably necessary for the proper administration of such laws.

(f) *Audits.* (1) At least once every 2 years, the State shall prepare or have prepared an independent financial and compliance audit covering each full program year not covered in the previous audit, except that funds expended pursuant to Section 7(b) of the Act shall be audited annually.

(2) The Comptroller General and the Inspector General of the Department shall have the authority to conduct audits, evaluations or investigations necessary to meet their responsibilities under Sections 9(b)(1) and 9(b)(2), respectively, of the Act.

(3) The audit, conducted pursuant to paragraph (f)(1) or (f)(2) of this section, shall be submitted to the Secretary who shall make an initial determination. Such determinations shall be based on the requirements of the Act, regulations, and State plan.

(i) The initial determination shall identify the audit findings, state the Secretary's proposed determination of the allowability of questioned costs and activities, and provide for informal resolution of those matters in controversy contained in the initial determination.

(ii) The Secretary shall not impose sanctions and corrective actions without first providing the State with an opportunity to present documentation or arguments to resolve informally those matters in controversy contained in the Secretary's initial determination. The informal resolution period shall be at least 60 days from issuance of the initial determination and no more that 170 days from the receipt by the Secretary of the final approved audit report. If the matters are resolved informally, the Secretary shall issue a final determination pursuant to paragraph (f)(3)(iii) of this section which notifies the parties in writing of the nature of the resolution and may close the file.

(iii) If the matter is not resolved informally, the Secretary shall provide each party with a final written

determination by certified mail, return receipt requested. In the case of audits, the final determination shall be issued not later than 180 days after the receipt by the Secretary of the final approved audit report. The final determination shall:

(A) Indicate that efforts to resolve informally matters contained in the initial determination have been unsuccessful;

(B) List those matters upon which the parties continue to disagree;

(C) List any modifications to the factual findings and conclusions set forth in the initial determination;

(D) Establish a debt if appropriate;

(E) Determine liability, method of restitution of funds and sanctions;

(F) Offer an opportunity for a hearing in accordance with 20 CFR 658.707 through 658.711 in the case of a final determination imposing a sanction or corrective action; and

(G) Constitute final agency action unless a hearing is requested.

(g) *Sanctions for Violation of the Act.* (1) The Secretary may impose appropriate sanctions and corrective actions for violation of the Act, regulations, or State plan, including the following:

(i) Requiring repayment, for debts owed the Government under the grant, from non-Federal funds;

(ii) Offsetting debts arising from the misexpenditure of grant funds, against amounts to which the State is or may be entitled under the Act, provided that debts arising from gross negligence or willful misuse of funds shall not be offset against future grants. When the Secretary reduces amounts allotted to the State by the amount of the misexpenditure, the debt shall be fully satisfied;

(iii) Determining the amount of Federal cash maintained by the State or a subrecipient in excess of reasonable grant needs, establishing a debt for the amount of such excessive cash, and charging interest on that debt;

(iv) Imposing other appropriate sanctions or corrective actions, except where specifically prohibited by the Act or regulations.

(2) To impose a sanction or corrective action, the Secretary shall utilize the initial and final determination procedures outlined in (f)(3) of this section.

(h) *Other violations.* Violations or alleged violations of the Act, regulations, or grant terms and conditions except those pertaining to audits or discrimination shall be determined and handled in accordance with 20 CFR Part 658, Subpart H.

(i) *Fraud and abuse.* Any persons having knowledge of fraud, criminal activity or other abuse shall report such information directly and immediately to the Secretary. Similarly, all complaints involving such matters should also be reported to the Secretary directly and immediately.

(j) *Nondiscrimination and Affirmative Action Requirements.* States shall:

(1) Assure that no individual be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any services or activities authorized under the Act because of age, race, sex, color, religion, national origin, handicap, political affiliation or belief. All complaints alleging discrimination shall be filed and processed according to the procedures in 29 CFR Part 31;

(2) Assure that discriminatory job orders will not be accepted, except where the stated requirement is a bona fide occupational qualification (BFOQ). See, generally, 42 U.S.C. 2000(e)–2(e), 29 CFR Parts 1604, 1606, 1625.

(3) Assure that employers' valid affirmative action requests will be accepted and a significant number of qualified applicants from the target group(s) will be included to enable the employer to meet its affirmative action obligations.

(4) Assure that employment testing programs will comply with 41 CFR Part 60–3 and 29 CFR Parts 1627 and 32.

(5) Nondiscrimination and equal opportunity requirements and procedures, including complaint processing and compliance reviews, will be governed by the provisions of 29 CFR Parts 31 and 32.

§ 652.9 Labor disputes.

(a) State agencies shall make no job referral on job orders which will aid directly or indirectly in the filling of a job opening which is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage.

(b) Written notification shall be provided to all applicants referred to jobs not at issue in the labor dispute that a labor dispute exists in the employing establishment and that the job to which the applicant is being referred is not at issue in the dispute.

(c) When a job order is received from an employer reportedly involved in a labor dispute involving a work stoppage, State agencies shall:

(1) Verify the existence of the labor dispute and determine its significance with respect to each vacancy involved in the job order; and

(2) Notify all potentially affected staff concerning the labor dispute.

(d) State agencies shall resume full referral services when they have been notified of, and verified with the employer and workers' representative(s), that the labor dispute has been terminated.

(e) State agencies shall notify the regional office in writing of the existence of labor disputes which:

(1) Result in a work stoppage at an establishment involving a significant number of workers; or

(2) Involve multi-establishment employers with other establishments outside the reporting State.

Signed at Washington, D.C., this 28th day of October, 1983.

Raymond J. Donovan,

Secretary of Labor.

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Part IV

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Glass Manufacturing Plants; Grant and Denial of Petitions for Reconsideration and Proposal of Amendments to Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 1907-7]

Standards of Performance for New Stationary Sources; Glass Manufacturing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Grant and denial of petitions for reconsideration and proposal of amendments to rule.

SUMMARY: The Environmental Protection Agency (EPA) is granting petitions for reconsideration of certain aspects of the air pollutant control standards of performance for glass manufacturing plants and is proposing appropriate amendments. After the current standards of performance were promulgated in October 1980, several glass manufacturers petitioned EPA to reconsider the standards. After reviewing these petitions, EPA decided to convene a proceeding to reconsider several aspects of the standards. Consequently, EPA is proposing, among other changes, emission limits for glass melting furnances which effectively reduce emissions through the use of modified processes. As to certain issues, EPA is denying the petitions to reconsider.

DATES: To the extent that the petitions to reconsider are denied, the denials are a final action under Sections 307(d)(7)(B) and 307(b)(1) of the Clean Air Act. Review of the denials is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication, as provided in Section 307(b)(1).

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by November 21, 1983, a public hearing will be held on December 5, 1983 beginning at 9:00 a.m. Persons interested in attending the hearing should call Mrs. Pat Finch at (919) 541–5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by November 25, 1983.

Comments. Comments must be received by January 4, 1984

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Central Docket Section (LE–131), Attention: Docket No. OAQPS–79–2, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. If a public hearing is held (see *DATES: Public Hearing.*), the public hearing will be held at the Environmental Research Center Auditorium, Corner of Hwy 54 & Alexander Drive, Research Triangle Part, N.C. Persons interested in attending the hearing should call Mrs. Pat Finch at (919) 541–5578 to verify that a hearing will occur.

Persons wishing to present oral testimony should notify Mrs. Pat Finch, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5570.

Docket. The docket, No. OAQPS–79–2, containing supporting information used in developing the proposed revision is available for public inspection and copying between 8:00 a.m. and 4:30 p.m., Monday through Friday, at Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M. Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying

Background Information Documents. The background information documents (BID's) for the current standards may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, telephone number (703) 487–4650. Please refer to "Glass Manufacturing Plants, Background Information: Proposed Standards of Performance," EPA–450/3–79–005a (NTIS PB 298528) and "Glass Manufacturing Plants: Background Information for Promulgated Standards of Performance," EPA–450/3–79–005b (NTIS PB81–105967).

FOR FURTHER INFORMATION CONTACT: Mr. Fred Dimmick, Standards Development Branch (MD–13), Emission Standards and Engineering Divison, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

SUPPLEMENTARY INFORMATION:

Background

On March 18, 1977, the Governor of New Jersey petitioned EPA to establish standards of performance for glass manufacturing plants. The petition was primarily motivated by the Governor's concern that the glass manufacturing industry might locate plants in other States rather than comply with New Jersey's State implementation plan limiting emissions of particulate matter. On July 20, 1977 (42 FR 37213), a notice of intent to develop standards of performance for glass manufacturing plants was published in the **Federal Register** by EPA. Prior to proposal of the standards, interested parties were advised by public notice in the **Federal Register** (March 17, 1978, 43 FR 11259) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the glass manufacturing plant standards recommended for proposal. As a result of this meeting, several changes were made to the standards recommended for proposal.

On June 15, 1979 (44 FR 34840), EPA proposed standards of performance for glass manufacturing plants under the authority of Section 111 of the Clean Air Act. Glass manufacturing plants had been added on June 14, 1979 (44 FR 34183), to the list of categories of stationary sources which EPA judges may contribute significantly to air pollution that causes or contributes to the endangerment of public health or welfare. Public comments were requested on the proposed standards and the listing of glass manufacturing plants. After review of the public comments on the proposed standards and the listing, EPA promulgated the final standards of performance for glass manufacturing plants in the **Federal Register** on October 7, 1980 (45 FR 66742).

EPA received petitions to reconsider the final standards from PPG Industries, Inc., (PPG); the Glass Packaging Institute, their 18 member companies, 5 other glass companies, and the Glass Industry Air Quality Group (GPI *et al*); Owens-Corning Fiberglas Corporation (OCF); Libbey-Owens-Ford Company (LOF); and Ford Motor Company (Ford). After reviewing the petitions, EPA met with these petitioners as well as other glass manufacturers. As a consquence of these meetings, additional petitions and information were submitted by glass manufacturers to EPA.

Criteria for Review of the Petitions for Reconsideration

The petitioners have requested EPA for reconsideration under Section 307(d)(7)(B) of the Act. This section is limited both in time and scope. Specifically, Section 307(d)(7)(B) provides that EPA shall convene a proceeding to reconsider the rule in question if a person raising an objection can demonstrate that: (1) It was impracticable to raise such objection during the comment period or that the grounds for such objection arose after the comment period but within the time specified for judicial review [which EPA concludes means within the 60-day time period provided for judicial review under section 307(b), 42 U.S.C. 7607(b)(1)]; and (2) such objection is of

central relevance to the outcome of the rule. In EPA's view, such objections are of central relevance only if they provide substantial support for the argument that the standards should be revised. *See:* Denial of Petition to Revise NSPS for Stationary Gas Turbines, 45 FR 81653, 81654 (Dec. 11, 1980), and decisions cited therein.

Other petitions for reconsideration were filed in part under the Administrative Procedure Act instead of Section 307(d)(7)(B). The criteria for evaluating those petitions are essentially the same as for the Section 307(d)(7)(B) petitions. *See:* Denial of Petition to Revise NSPS for Stationary Gas Turbines, 45 FR 81653.

Summary of Petitions and Responses

As noted above, petitions for reconsideration were submitted by PPG Industries, Incorporated, the Glass Packaging Institute *et al.*, Owens-Corning Fiberglas Corporation, Libbey-Owens-Ford Company, and Ford Motor Company. These petitions raised the following issues: (1) The significance of glass manufacturing plants as a cause or contributor to air pollution, (2) the reasonableness of the cost of the standards as the standards affect glass melting furnaces which effectively control emissions using modified processes, (3) the rescinding of the standard for textile fiberglass until evidence exists in the record to support an achievable standard, (4) the reasonableness of the economic impact of the standards on research (experimental) glass melting furnaces, and (5) the inclusion of forming (flow) channels in the definition of "glass melting furnace" insofar as that definition applies to wool fiberglass and textile fiberglass furnaces, (6) the achievability of the flat glass manufacturing plant standard, and (7) other general issues.

After reviewing the petitions, acquiring additional information, and meeting with the glass manufacturers for additional clarification of the issues, EPA reached the following decisions:

(1) With regard to the significance of glass manufacturing plants, EPA has found that even though new data and information may be available, the objection raised by this new data and information is not of central relevance to the outcome of this issue, and, therefore, EPA has denied reconsideration of this issue.

(2) With regard to the reasonableness of the cost of the standards as they affect furnaces which effectively control emissions using modified processes, EPA believes that it is appropriate to reconsider the standards with respect to this issue. EPA agrees that to the extent modified processes are effective in continuously reducing emissions, this should be considered in establishing these standards and, therefore, is proposing to revise the standards to allow glass melting furnaces which effectively reduce emissions using modified processes to avoid the cost of add-on control devices. Furnaces using modified processes have operational characteristics which make them more desirable than conventional furnaces; reduce particulate emissions as a result of the modified design with costs considerably less than the costs of add-on controls; and , in addition, reduce emissions of sulfur dioxides (SO_x) and nitrogen oxides (NO_x) for little or no costs.

(3) With regard to OCF's request to rescind the standard for textile fiberglass until there exists evidence in the record to support an achievable standard, evidence in the docket at promulgation and the rationale for the standard support the achievability of the standard by textile fiberglass plants. Nevertheless, due to uncertainty about the adequacy of this information EPA believes that it is appropriate to reconsider the achievability of the standard. Accordingly, EPA has obtained additional information and has reviewed this information. This information confirms the achievability of the standard. Therefore, the request by OCF to rescind the textile fiberglass standard is denied.

(4) With regard to the reasonableness of the economic impact of the standards on research (experimental) glass melting furnaces, EPA has determined that reconsideration is appropriate. EPA has also concluded the economic impact of the standards is unreasonable for experimental furnaces and, therefore, is proposing to exempt experimental glass melting furnaces from the standards.

(5) With regard to the inclusion of forming (flow) channels in the definition of "glass melting furnace" insofar as that definition applies to wool fiberglass and textile fiberglass furnaces, EPA has found that there is no basis in the record for limiting emissions from the flow channels. Therefore, reconsideration is appropriate and forming (flow) channels should be excluded from the definition of "glass melting furnace" as that definition applies to wool and textile fiberglass furnaces. This exclusion is applicable only if the forming (flow) channels consititute a completely and permanently separate source of emissions from the rest of the furnace such that there is no mixing of emissions prior to their being vented to the atmosphere. EPA is, therefore, proposing to change the standards accordingly.

(6) With regard to the achievability of the flat glass manufacturing plant standard, EPA has concluded that the petitioners have not presented any new information to refute evidence in the record that an emission level of 0.225 grams of particulate per kilogram of glass produced (g/kg) is achievable. Add-on controls are currently being used to control particulate emissions from flat glass melting furnaces at two or more locations in the United States. Information in the docket shows that add-on control devices can effectively control particulate emission to the level of the promulgated standard without substantial adverse economic impact. Therefore, EPA has denied the petitioners' request to reconsider and, consequently, withdraw the standard for flat glass manufacturing plants.

(7) Three other significant issues were raised during discussions between the petitioners and EPA. The Glass Packaging Institute (GPI) requested a change in the definition of certain types of glass. Some of the petitioners requested that the applicability date of the current standards be withdrawn. Finally, GPI requested an exemption from the numerical emission limits during periods of add-on control device maintenance.

With regard to a change in the definition of certain types of glass, EPA finds that GPI's suggestion to use glass "family" (i.e., glass composition) reasonable for defining three major glass types (soda-lime, lead, and borosilicate) is convening a proceeding to reconsider this issue, and is proposing to change the standards. With regard to withdrawal of the applicability date, EPA considers this inconsistent with the language and purposes of the Clean Air Act, and therfore denies this request. With regard to the exemption from the numerical emission limits during periods of add-on control device maintenance, EPA finds that such an exemption may be required by some glass manufacturers in certain situations, is convening a proceeding to reconsider this issue, and is proposing to change the standards.

Petitions and Responses

Significance of Source Category

Issue and Response. GPI *et al.* petitioned EPA to reconsider EPA's determination that glass manufacturing plants "cause [ ], or contribute [ ] significantly to, air pollution which may be reasonably anticipated to endanger public health or welfare." Section

111(b)(1)(A). Hereafter, this determination is stated as "glass manufacturing plants are significant contributors to air pollution." Other petitioners joined GPI *et al.* in this issue. Specifically challenged by GPI *et al.* were EPA's alleged incorrect use of several factors, including industry growth projections, in making the determination that glass manufacturing plants are significant contributors to air pollution.

After review of the petitions, EPA has determined that the only new information relative to this issue is the industry growth projections presented by GPI *et al.* This information raises an objection to the determination that glass manufacturing plants are significant contributors to air pollution. The new growth rates indicate less new plant growth than that used in making the determination. EPA does not consider this objection to be of central relevance to determining whether glass manufacturing plants are significant contributors to air pollution. EPA believes that any major industrial source category with potential emission rates of the magnitude associated with glass manufacturing plants and with projected new plant growth is appropriately considered a significant contributor to air pollution and is appropriately regulated under Section 111. Therefore, EPA is denying the petition to reconsider this issue. As discussed in more detail below, EPA carefully reviewed the data submitted by the petitioners, but EPA believes the importance of the new data and information is vastly overstated by the petitioners and does not warrant a reconsideration of the initial determination in June 1979 that glass manufacturing plants are significant contributors to air pollution.

Discussion of Response. This issue concerns the propriety of EPA's determination that glass manufacturing plants are significant contributors to air pollution. In their petition, GPI *et al.* stated that EPA relied heavily on its industry growth projections to justify the decision to regulate. The petitioners went on to assert that EPA could not justify a determination that glass manufacturing plants are significant contributors to air pollution after considering the new information and data submitted in their December 5, 1980, petition concerning growth rates.

In addressing this issue, a review was made of the factors considered in determining whether glass manufacturing plants are significant sources of air pollution and, in particular, the relationship of the new data and information concerning growth rate projections to this determination. Industry growth projections are an element of an impact analysis which enables EPA to estimate, as accurately as possible, the nationwide increase in emissions attributable to a particular category of air pollutant sources.[1] In the case of glass manufacturing plants, a detailed study was conducted prior to the proposal of the standards and was presented in Chapter 7 of EPA 450/3–79–055a to provide an accurate profile of the industry's growth potential. Container glass production annual growth rate was estimated to be approximately 3.1 percent at the time of the initial study, and wool fiberglass production annual growth rate was estimated to be approximately 7.1 percent. Based on these predictions, it was estimated that 25 container glass furnaces operating at 250 tons per day and 6 wool fiberglass furnaces operating at 200 tons per day would become affected facilities.

The petitioners dispute the estimated growth rates and the predicted numbers of affected facilities estimated to commence construction over the span of the 5-year regulatory period used as the basis for comparison of impacts. GPI *et al.* estimates show that up to six container glass furnaces and fewer than six wool fiberglass furnaces will become affected facilities. They conclude that these newly available growth data indicate that the beneficial impacts associated with the promulgated standards are greatly exaggerated. Based on these considerations, the petitioners conclude that if the EPA had the newer, more accurate growth rates, it would not determine that glass manufacturing plants contribute significantly to air pollution.

EPA reviewed this new information. In most respects, EPA's review showed that the growth rate data of GPI *et al.* for the container glass category were accurate and well-supported. In contrast, the unquantified assertion that the number of affected facilities in the wool fiberglass category should be projected to be substantially fewer than that used by EPA does not appear to be justified.

Next, EPA evaluated the GPI *et al.* conclusion that the EPA could not justify a determination that glass manufacturing plants are significant contributors to air pollution based on the new information and data on estimated growth rates. The new information and data clearly show that new glass manufacturing plants will be affected by these standards even in this period of low economic growth. With respect to the determination that glass manufacturing plants are significant contributors to air pollution, this evaluation only indicates that the extent to which new glass manufacturing plants are affected by the standards in the regulatory period is less than estimated before the new information and data were submitted by GPI *et al.* However, this would not lead EPA to change the determination that glass manufacturing plants are significant contributors to air pollution. EPA believes that any category of sources that have emissions of the level of glass manufacturing plants, and in which there will be a significant number of new, modified, and reconstructed sources, is a significant contributor. Thus, EPA does not believe that the objection raised by the new information and data submitted by GPI *et al.* of central relevance to the standards.

This is consistent with recent revisions to the priority list (40 CFR 60.16). As expressed in the revisions to the priority list of categories (47 FR 950) in the Administrator's judgment, Congress did not intend that source categories showing insignificant growth should be listed under the significant contributor list of Section 111(b)(1)(A) of the Act. In the context of the priority list, the Administrator considers insignificant growth to be indicated by one or no newly constructed, modified, or reconstructed plants within the next 5 years. In the context of the glass manufacturing plants standards, EPA considers the growth rate, including the new data and information associated with the container glass and wool fiberglass manufacturing industry, to be significant, and clearly in excess of the criteria used for the priority list.

[1] Expected growth is one factor considered in assessing "significance" of a source category. Other factors considered include the quantity and characteristics of emissions from that kind of source and their potential impact on public health or welfare. For example, as discussed in the preamble accompanying the proposed and promulgated standards, glass manufacturing plants were selected as a category of stationary sources that emits particulates, SO_x, and NO_x in significant enough quantities to be reasonably anticipated by EPA to endanger public health or welfare. The background information document, EPA 450/3–79–005a, includes a discussion of these air pollutants as they relate to glass manufacturing plants. In addition to being sources of criteria pollutants, glass manufacturing plants are sources of submicrometer-sized particulates. These particulates were specifically discussed at the time of promulgation as part of the health and welfare considerations which were inherent in determining that glass manufacturing plants contribute significantly to air pollution.

The petitioners did not submit any new information on these factors, and they will therefore not be further discussed.

In summary, after review and consideration of the new information and data submitted by GPI *et al.*, EPA has concluded two points. First, the growth rate evidence submitted by GPI *et al.* is new. Second and most importantly, the objection raised by the new growth rate evidence is not of central relevance to the decision to regulate glass manufacturing plants. Thus, EPA has decided that reconsideration of this issue is not warranted.

Use of Modified Processes and Consideration of Costs

Issue and Response. In their petitions, OCF and GPI *et al.* claim that glass melting furnaces using modified processes can substantially reduce particulate emissions to a level below that which was assumed by EPA in its estimates of costs and emission reductions and, in some cases, to a level that almost achieves the promulgated standards. Both petitioners also point out that modified processes are capable of reducing SO_2 and NO_x emissions, whereas add-on control devices do not necessarily reduce these emissions.

OCF indicated (1) that with respect to their gas-boosted electric furnace, it would cost approximately $350,000 per year per furnace to reduce the final increment of particulate emissions (approximately 10.5 tons per year per furnace) through the use of add-on control devices in order for the gas-boosted electric furnaces to meet the promulgated standards; (2) that these furnaces reduce SO_2 and NO_x emissions more than 95 pedrcent from uncontrolled conventional gas-fired furnace SO_2 and NO_x emission levels; and (3) that these furnaces have certain operational characteristics which make their use more desirable than conventional gas-fired furnaces. GPI *et al.* provided specific information on the performance capability of glass furnaces without add-on control devices in New Jersey and stressed at length the need to consider the relatively high cost of requiring add-on control devices to achieve any further small increment of control. GPI *et al.* had recently contacted the operators of 30 container glass furnaces and 15 pressed and blown glass furnaces in New Jersey. They found that "*no* add-on controls are being used in the operation of any container glass furnace in New Jersey—all such furnaces can meet the SIP without the use of such controls—and *less than half* of the pressed and blown furnaces surveyed require use of add-on controls." These findings are in contrast to EPA's further assumption that add-on control devices would be needed to meet the New Jersey standard of approximately 0.5 g/kg and about 1 g/kg for container and pressed and blown glass furnaces, respectively, and to EPA's assumption that the standards would thus only require more effective add-on control devices—not the imposition of add-on control devices to a furnace that would otherwise not have required such control devices. On the basis of this, OCF and GPI *et al.* argue that EPA should reconsider the reasonableness of the standards in light of the relatively high cost of add-on control devices and the small increment of emission reduction achievable beyond that which can be achieved with modified processes.

Upon receipt of these petitions, EPA reviewed and analyzed the issue and supporting information presented by OCF and GPI *et al.* EPA also requested additional information and clarification to supplement the petitions. Upon considering all the information presented by OCF and GPI *et al.*, EPA has determined that new information is available and the objection raised by this information is of central relevance to the outcome of the standards. To the extent that modified processes are effective in continuously reducing emissions, this should be considered in establishing these standards. Accordingly, EPA is convening a proceeding to reconsider the standards by proposing to revise the standards to allow glass melting furnaces which effectively reduce emissions using modified processes to avoid the high cost of add-on control devices.

Discussion of Response. In the initial development of the standards, EPA determined from available information that modified processes were not adequately demonstrated to serve as the sole basis for the standards and that emission reduction by modified processes were uncertain with respect to the effectiveness of the technique, in terms of the amount and the continuity of emission reduction. Because of this uncertainty, EPA based the proposed standards of performance on add-on control devices of known and proven effectiveness.

Prior to the promulgation of the final standards, EPA received many comments which favored the use of modified processes as a method of reducing particulate emissions from glass melting furnaces as the basis for the standards of performance. During this comment period, additional information concerning modified processes was provided to EPA. After reviewing the comments and information, EPA determined that particulate emission reduction by modified processes was still uncertain, that modified processes may be applied intermittently, and, consequently, that modified processes were not an adequately demonstrated means of continuous emission reduction. Thus, modified processes could not necessarily be applied in all instances to effectively reduce emissions. Therefore, EPA based the final standards on add-on control devices of known and proven effectiveness.

After promulgation, EPA received the petitions from OCF and GPI *et al.* which provided new information concerning modified processes. OCF, for example, presented new information which showed the use of a specific, commercially proven modified process (i.e., gas-boosted electric furnace) achieving substantial particulate emission reduction, as well as substantial SO_2 and NO_x emission reduction. EPA considered setting standards based only on use of modified processes. However, EPA continues to believe that modified processes are not an adequately demonstrated means of emission reduction which could necessarily be applied effectively in all instances. The effectiveness of modified processes depends, in part, on the amount of experience a particular company has had with modified processes. In the flat glass category, emissions that result from plants using modified processes range from about 0.3 g/kg for one company to about 0.65 g/kg for another company. These values indicate considerable uncertainty about the capability of modified processes. Because of this uncertainty, EPA does not have an adequate basis upon which to develop standards of performance based only on modified processes. Nevertheless, EPA recognizes that in certain instances modified processes may be capable of substantial particulate, as well as SO_2 and NO_x, emission reduction.

While evaluating the use of modified processes, EPA considered withdrawal of the existing standards. However, withdrawal of the standards would perpetuate the situation which motivated the State of New Jersey to request the standards. This option was, therefore, rejected.

EPA proposes to establish separate standards for a class of sources that can effectively and continously reduce these emissions without the use of add-on control devices. The emission limits being proposed for this class of sources reflect performance that has been achieved by a number of these sources and are expected to be achievable by

most new sources. Even though additional particulate emissions reduction is possible with add-on control devices, the cost of these add-on control devices is considered exorbitant for modified processes meeting the proposed emission limits, considering the relatively small incremental emission reduction which would result. Accordingly, the emission limits being proposed today are judged by EPA to reflect the best technological system of emission reduction (considering cost) for glass melting furnaces using effective modified processes. That is, the standards (at proposed 40 CFR 60.293) are new source performance standards (NSPS) for glass melting furnaces using effective modified processes. Sections 169(3) and 171(3) of the Clean Air Act define the emission control requirements "best available control technology" and "lowest achievable emission rate," respectively. Each of these requirements is defined to be at least as stringent as an "applicable" NSPS. Under today's proposed amendments, a furnace that met the requirements of § 60.293 would not be subject to § 60.292. The "applicable" NSPS for such a furnace for the purposes of Sections 169(3) and 171(3), would therefore include § 60.293 but not § 60.292. It is understood that some glass melting furnaces may not be successful in meeting the proposed emission limits for this class of sources. For such individual sources, add-on control devices are considered to reflect the best technological system of emission reduction (considering cost) and the emission limits previously promulgated remain in effect for such sources.

In selecting the emission limit for modified processes, EPA reviewed the petitions from OCF and GPI *et al.* In the February 4, 1981, petition, data for OCF's Mark VII furnace (a gas-boosted electric furnace) indicate that a particulate emission limit of 0.5 g/kg based on test result using EPA Reference Method 5 set at a filter box temperature of 121°C (250°F) (hereafter, Method 5 at 121°C) can be achieved. (See docket reference VI–A–1.) GPI *et al.* in their February 6, 1981, petition stated that all container glass melting furnaces by using modified processes alone can achieve the level associated with the SIP characterized as typical by EPA, that is, less than 0.5 g/kg. (See docket reference VI–A–2.) GPI *et al.* specifically cited a recent survey of more than 30 glass manufacturers within the State of New Jersey. Recent test results for two new glass melting furnaces using modified processes at a container glass plant in Missouri show that these furnaces have achieved an emission rate of 0.4 g/kg with Method 5 at 121°C. (See docket reference VI–D–10.) OCF and GPI *et al.* noted that glass furnaces using modified processes to control particulate emissions reduce SO_x and NO_x emissions below uncontrolled emission levels. Based on this review of the petitions, EPA selected an emission limit of 0.5 g/kg with Method 5 at 121°C for the container glass manufacturing plant category and the wool fiberglass manufacturing plant category.

A similar review was undertaken to establish standards for modified processes in other glass type categories. Test results on two flat glass plants show that these plants have achieved an emission rate of 0.35 g/kg with Method 5 at 121°C. (See docket reference IV–D–2B.) Other flat glass manufacturers have also been successful in reducing furnace particulate emissions by using modified processes. A flat glass plant in Texas has achieved an emission rate of approximately 0.35 g/kg. (See docket reference VI–C–20.) A flat glass plant in New Jersey has initiated a project to achieve, using modified processes, the State particulate standard for its glass melting furnace at design production rate. (See docket reference VI–C–9.) Based on this information EPA concluded that most major flat glass manufacturers using modified processes have the capability to achieve a 0.5 g/kg emission limit. EPA, therefore, selected 0.5 g/kg as the proposed emission limit for flat glass manufacturing plants using modified processes.

With regard to the pressed and blown glass manufacturing plant category, new information was provided concerning the operation of glass melting furnaces using modified processes to produce borosilicate glass, soda-lime glass, and textile fiberglass. One major manufacturer of bososilicate glass reported it has operated several glass melting furnaces using modified processes to consistently achieve a particulate emission level of 1.0 g/kg or less. (See docket reference VI–A–21.) GPI *et al.* in their February 6, 1981, petition stated that one-half of the 15 pressed and blown glass plants in New Jersey which GPI surveyed could achieve the SIP characterized as typical by EPA using modified processes alone. (See docket reference VI–A–2, p. 29.) In addition, the docket includes material which indicates that some pressed and blown glass plants producing soda-lime glass may achieve emission levels as low as 0.25 g/kg with Method 5 at 121°C. (See docket reference IV–D–21.) In supplemental material to their petition, OCF stated that it has adapted its Mark VII furnace technology to textile fiberglass production. One commercial textile fiberglass melting furnace using Mark VII furnace technology has continuously achieved an emission level less than 0.5 g/kg. (See docket reference VI–A–15). Taking this information into consideration and based on its best judgment, EPA has concluded that separate emission limits are appropriate for pressed and blown glass plants producing borosilicate glass, soda-lime glass, or textile fiberglass using modified processes. Therefore, for the press and blown glass manufacturing plant category, EPA selected an emission limit of 1.0 g/kg for borosilicate glass melting furnaces using modified processes, and an emission limit of 0.5 g/kg for soda-lime and textile fiberglass furnaces using modified processes.

Others Issues Concerning Standards for Modified Processes. In the decision to propose standards for modified processes, several other issues were considered by EPA. These issues concerned a fuel oil increment, the appropriate filter box temperature for use in EPA Reference Method 5, and ensuring continuous compliance with the standards.

Issue 1: Choice of Fuel. The proposed standards for furnaces using modified processes apply to both gas-fired and oil-fired furnaces. That is, furnaces that fire natural gas, fuel oil, or a combination of gas and oil may comply with standards for furnaces using modified processes. Most of the information on modified processes concerns gas-fired furnaces. However, some of the information concerns oil-fired furnaces. This information indicates that glass melting furnaces using modified processes and firing fuel oil have the capability to achieve the proposed standards for modified processes.

Selection of the type of fule burned in furnaces using modified processes is an integral component of modified process techniques. Consequently, additional particulates that might be generated by firing fuel oil can be compensated by modified process techniques. Because the information used to select the proposed standards includes processes using fuel oil and contains data which are substantially less than the proposed standards, the proposed standards do not contain an oil firing increment for glass melting furnaces using modified processes.

Issue 2: Filter Box Temperature. Glass industry representatives suggested that Method 5 be used with a sampling temperature of 177°C (350°F) to determine compliance with the emission

limits for furnaces using modified processes. This is suggested by industry to eliminate the effects of sulfuric acid on sampling of particulates. EPA agrees, in part, with this suggestion and therefore is proposing a maximum sampling temperature at 177°C (above the dew point of condensible acid gases) for furnaces using modified processes and firing a fuel containing more than 0.5 percent sulfur. However, it is neither necessary nor appropriate to do so for furnaces using modified processes and firing a fuel containing less than 0.5 percent sulfur.

Several points support this conclusion. First, essentially all data on furnaces using modified processes were collected at a sampling temperature of about 121°C (250°F). Owners and operators of furnaces using modified processes thus have data to predict the relationship between process operating parameters and emission rates at this temperature. More importantly, since most State particulate regulations use sampling temperatures of about 121°C, EPA can compare the capabilities of modified processes with the levels of control required by States. Second, unlike add-on control devices which would not control condensible matter which exists in gaseous form at stack temperatures (e.g., sulfuric acid), modified processes limit the release of this condensible matter.

The effects of sulfuric acid on sampling of particulates are included in data on modified processes. However, excess sulfuric acid which results from firing fuel oils with more than 0.5 weight percent sulfur may additionally influence the quantity of particulates measured by Method 5 when using a sampling box temperature of about 121°C. The effect occurs because excess sulfuric acid from combustion of fuels containing more than 0.5 weight percent sulfur exists as a gas as it is collected and then condenses onto the filter at a temperature of about 121°C. The effect does not occur with a filter box temperature of 177°C. Thus, to reduce the effects of excess sulfuric acid due to fuel oils, EPA is proposing, for glass melting furnaces using modified processes and burning fuel oil having a sulfur content greater than 0.5 weight percent, that compliance with the emission limits be determined using Method 5 with a sampling temperature up to 177°C.

Issue 3: Continuous Compliance. As noted above, EPA is concerned that modified processes do not necessarily provide continuous emission reduction and that once a performance test is completed, neither the operator nor the EPA would have any basis for knowing whether the facility is continuing to maintain the emission reduction observed during the performance test. To assure that owners and operators of modified processes have sufficient information to operate their modified processes in compliance, and for EPA to assure that these sources effectively operate and maintain their processes, EPA is proposing that opacity monitors be installed and operated on such sources. EPA is not aware of means other than opacity monitoring, with the exception of frequent and, therefore, costly source test, that will provide data to show the continuing emission reduction effectiveness of modified processes. Opacity monitors are estimated to cost about $13,000 annually to install and operate. This cost is very small compared to the cost of add-on control devices and is small in comparison to the emission reduction potential which derives from the ability to monitor emissions and thus to optimize process operation to reduce emissions. EPA is proposing the use of opacity monitors for furnaces using modified processes to ensure proper operation and maintenance based on the correlation between particular concentrations and opacity. This approach would require simultaneous Method 5 and opacity monitoring during the initial performance test. This approach would determine, on a case-by-case basis, a statistical relationship for each furnace between particulate emissions and its opacity. Using this statistical relationship, which would allow for variability in opacity monitoring, the glass plant would be monitored for opacity using a continuous monitor, and excess emissions would be reported to EPA. Compliance with the emission limits in § 60.293(b) would be determined as provided in § 60.293(e). The continuous monitoring required by § 60.293(c) would not be used to determine compliance with § 60.293(b). However, a repeated pattern in excess emission reports would alert EPA enforcement personnel to consider whether the facility was being properly operated and maintained consistent with good air pollution control practices.

During discussions with the petitioners, industry representatives stated that in certain circumstances it can be shown that process parameters may effectively indicate whether the emission rate observed during the performance test is continually being maintained. EPA has not received sufficient data to conclude that a reasonably accurate relationship between emission rates and key process parameters does exist. However, if such a relationship can be defined, EPA has no reason or desire to preclude the alternative of monitoring process parameters in favor of opacity monitoring. Accordingly, for those plants that demonstrate that process parameters or other factors can be used to reasonably indicate whether the emission rate observed during the performance test is continually maintained, EPA will grant approval of these alternatives to the proposed monitoring requirements. The alternative monitoring should be continuous in the sense that the measurement technique provides meaningful by frequent data that enables accurate and representative monitoring of emission rates. EPA does believe, however, that any relationship between process parameters and emission rates is likely to be variable from plant to plant, and thus such approvals may be limited to an individual plant.

Textile Fiberglass

"Issue and Response. A second issue presented in the February 4, 1981, OCF petition for reconsideration was their request that the EPA rescind the promulgated standard for textile fiberglass until there exists in the record evidence to support an achievable standard based on an adequately demonstrated control technology. This request was based on OCF's contention that the docket did not contain any evidence that any textile fiberglass plant has achieved the promulgated 0.25 g/kg standard, or any textile fiberglass plant controls its emissions with an electrostatic precipitator (ESP) or a baghouse.

The docket contains information concerning textile fiberglass manufacturing and the transfer of add-on control technology to textile manufacturing plants. In particular, the docket contains data on the application of a baghouse control system with chemical pretreatment to a textile fiberglass melting furnace. (See docket reference II–D–128 and II–D–166.) Also presented in the docket are data for a fluoride-opal glass melting furnace using an ESP control system. (See docket references II–B–63 and II–D–177.) The control of particulate emissions from fluoride-opal glass melting furnaces shares similar control problems with textile fiberglass melting furnaces because of the presence of boron and fluoride in the exhaust gases. Based on data from these two facilities, EPA concluded that the docket does contain

evidence to support the determination that textile fiberglass plants can achieve the promulgated standard of 0.25 g/kg. However, because of the uncertainty about the adequacy of the data base for the standard, EPA decided to convene a proceeding to reconsider this issue and to obtain additional information. Specifically, information and test data on the application of particulate control technology to a new textile fiberglass melting furnace and on existing textile fiberglass furnace have been obtained from the North Carolina Division of Environmental Management. (See docket references VI–D–3 and VI–D–14.) This information supports the evidence presented in the docket. EPA concludes that, based on its review of the available information, add-on control technology is adequately demonstrated for achieving the promulgated standard of 0.25 g/kg by textile fiberglass melting furnaces. Therefore, the request by OCF to rescind the promulgated standard for textile fiberglass is denied.

In addition to reconsidering the achievability of the textile fiberglass standard, PPG Industries, Inc., (PPG) requested that Method 5 test procedures for determining compliance with the standard be modified to allow the collection of particulate from a minimum exhaust gas sample volume as an alternative to the promulgated minimum collected sample weight requirement. The weight requirement was promulgated to assure an acceptable level of precision in the test method. EPA has concluded the speific gas sample volume flowrate requested by PPG does not provide an equivalent level of precision. Based on this conclusion, EPA believes that PPG's petition does not provide substantial support for their argument that the standards should be revised. Therefore, the requirement that the collected sample must weigh at least 50 milligrams (mg) remains the same as promulgated.

Discussion of Response: Achievability of Standard. In the initial development of the standards, EPA decided to divide the glass manufacturing industry into major categories rather than promulgate individudal standards for over 80 different types of glass. Four categories were selected based on similarities of the process factors including characteristics of glass melting furnaces and types of glass produced. The pressed and blown glass category was further divided into subcategories due to varying emission characteristics and control requirements among the different types of glass. Three glass subcategories were defined in the pressed and blown glass category: borosilicate glass; soda-lime and lead glass; and other than borosilicate, soda-lime, and lead glass (hereafter referred to as the "pressed and blown glass other" category).

The standard of performance promulgated for the pressed and blown glass other category was developed on the belief that add-on control technology is transferable among the different glass types included in this category. It is the conclusion of EPA that emission control levels achieved for a specific type of glass can also be achieved for other glass types having similar glass formulations and similar particulate emission chemcial compositions and physical characteristics. Glass types included in this category were judged by EPA to share similar emission control requirements.

The pressed and blown glass other category includes textile fiberglass, fluoride-opal glass, and other types of speciality glass. The promulgated standard for this category is 0.25 g/kg. The standard is supported by source test data presented in the docket for a fluoride-opal glass melting furnace controlled by a lime slurry ESP system. (See docket reference II–B–63.) Other source test data in the docket also support the standard. (For example, see docket reference II–D–184.) The technique for controlling emissions from fluoride-opal glass and textile fiberglass manufacturing involves injecting lime into the exhaust gases. This is done to control fluoride and boron compound emissions and to control acid gases in order to prevent corrosion in the equipment. The addition of lime increases the particulate grain loading at the control device inlet. This increase in the particulate grain loading represents the worst situation that a glass melting furnace in this category may experience. However, operating emission rates from the fluoride-opal furnace averaged 0.18 g/kg and were distinctly less than the level of the promulgated standard for the pressed and blown glass other category.

Emissions from textile fiberglass melting furnaces also contain fluoride as well as boron compounds. These emissions are comprised of particulates with similar, although not identical, physical and chemical characteristics as found in fluoride-opal furnace emissions. The test data on the fluoride-opal glass melting furnace demonstrate the feasibility of controlling emissions from furnaces that produce glass formulations that include boron or fluoride or both compounds in the batch materials. EPA believes that control levels ahieved for fluoride-opal glass can similarly be achieved for textile fiberglass.

the applicability of add-on control technology and the validity of the standard for textile fiberglass is further supported by additional data presented in the docket. Test results reported for a PPG textile fiberglass melting furnace controlled by a baghouse system with chemical pretreatment ranged from 0.02 to 0.07 g/kg. (See docket reference II–D–128.) These tests results were from a pilot-scale test program conducted at PPG's Lexington, North Carolina, plant. In response to questions raised about these results, additional information about the textile fiberglass melting furnace was obtained from the North Carolina Division of Environmental Management files. In addition to obtaining more detailed data on the pilot scale tests EPA learned that since completion of the pilot-scale test program, a full-scale baghouse system with chemical pretreatment has been installed on this textile fiberglass melting furnace at the Lexington plant.

Specifically, the North Carolina Division of Environmental Management file contains data for a new textile fiberglass melting furnace that PPG has recently built at their Shelby, North Carolina, plant. In their permit application to the State of North Carolina for construction and operation of a new furnace, PPG stated that based on their experience with the baghouse system at the Lexington plant "the baghouse system, with chemical pretreatment, is the only method known to PPG Industries which has been shown to control emissions from continuous strand fiberglass furnaces to the level required by the New Source Performance standards." To confirm this conclusion, EPA requested from PPG test results for the full-scale baghouse system with chemical pretreatment currently in operation at the Lexington plant. The test results show that the Lexington plant textile fiberglass furnace controlled by the baghouse system achieved a particulate emission rate of 0.25 g/kg. (See docket references VI–A–15 and VI–D–9.)

Operation of the new furnace at the Shelby plant began in October 1982. A compliance test of the baghouse system for the furnace was performed in December 1982 (see docket reference VI–D–14). The compliance testing showed the particulate emission rate from the baghouse system to be 0.1 g/kg. Therefore, EPA concluded that PPG's baghouse system demonstrates the achievability of the 0.25 g/kg standard.

In summary, the achievability of the promulgated standard for the pressed and blown glass other category is demonstrated by test results from the fluoride-opal glass melting furnace. EPA's determination that the emission control technology is applicable to textile fiberglass melting furnaces is confirmed by test results reported for an experimental baghouse system with chemical pretreatment installed at the PPG Lexington plant and for the baghouse system installed on the new full scale commercial textile fiberglass furnace at the PPG Shelby plant. EPA has concluded, therefore, that the promulgated standard of 0.25 g/kg can be achieved by textile fiberglass melting furnaces.

Discussion of Response: Alternative Test Procedure. PPG requested that an alternative test method for determining compliance with the standards (as they apply to textile fiberglass furnace) be adopted. The alternative test method would allow the collection of particulate from a minimum exhaust gas sample volume of 90 actual cubic feet (acf). The existing standards require that the collected particulate sample must weight at least 50 mg.

The total particulate sample collected using Method 5 procedures is determined by adding the weight of particulates deposited on the filter plus the weight of particulates which accumulate on the inside walls of the sampling probe. To obtain an accurate and precise sample weight it is important that the sampling probe be thoroughly cleaned to minimize any sample losses due to leaving particulates inside the probe. The significance of any errors introduced by improper cleaning of the sampling probe increases as the total weight of the particulate sample decreases. Therefore, to reduce potential sampling error to an acceptable level, EPA established the requirement of collecting a minimum of 50 mg of particulate sample.

A 50 mg particulate sample can be obtained from most glass melting furnaces in a sampling period of 1 to 2 hours. However, the PPG textile fiberglass furnaces are unique. At these furnaces emissions are controlled by using baghouse technology; and to protect internal components, furnace exhaust gases are cooled by dilution prior to entering the baghouse. Because this procedure dilutes the particulate concentration in the exhaust stream, sampling periods of 8 to 10 hours would be required to collect a 50 mg particulate sample using a conventional Method 5 train. In PPG's opinion, a 10-hour sampling period is excessive. PPG suggests that the test method be changed to allow collecting particulates in a 90 act volume sample. This would allow a test run to be completed in 1 to 2 hours, but would collect only 5 to 10 mg of particulate matter. This weight is significantly below the 50 mg minimum weight considered necessary to assure an acceptable level of precision.

Provision specified in Method 5 allow an owner or operator to use alternative test procedures in order to adapt the procedures to testing conditions. For example, to shorten sampling periods, Method 5 may be run with higher sampling flowrates. This allows a greater quantity of particulate to be collected in a shorter period of time. Equipment is available which operates at a sampling flow rate of 4 cubic feet per minute. At this flowrate, a test run for textile fiberglass furnace controlled by a baghouse could be completed in 2 to 3 hours.

Compliance of a glass melting furnace with the particulate standards is determined only by a performance test and it is therefore important that the test method be accurate and precise. It is not reasonable to compromise the precision of the test method simply to allow the test runs to be completed in a single day instead of 3 days, particularly when considering that alternative methods are available. Therefore, the requirement that the collected sample must weigh at least 50 mg remains the same as promulgated.

Research Glass Melting Furnaces

Issue and Response. PPG Industries, Inc., on December 3, 1980, petitioned the Administrator, pursuant to Section 307(d) (7) (B) of the Clean Air Act, to reconsider the final standards published in the **Federal Register** on October 7, 1980. The petition to reconsider filed by PPG stated that EPA had not sufficiently taken into account the economic impact of the standards on an experimental textile fiberglass melting furnace. The petition revealed that PPB operates an experimental textile fiberglass melting furnace whose sole purpose is to test new batch formulas and glass compositions, and provide a glass for the development of new bushings and fiber-forming concepts.

PPG stated that the information which caused their concerns had arisen after the public comment period, but within the time specified in the Act for judicial and administrative review. Upon review of the petition EPA decided to convene a proceeding to reconsider this issue and requested that PPG provide certain additional information to clarify their petition. After review of the petition and additional information, EPA is proposing to exempt experimental furnaces from compliance with the standards.

Discussion of Response. The special characteristics of the PPG experimental furnace are the use of the glass products and the useful life of the furnace. PPG states that the purpose of their experimental furnace is to test experimental batch formulas and operational modifications and to provide a source of glass for development of concepts and end product testing. PPG also indicates that the useful life of their experimental furnance is about 3 years.

The promulgated standards were developed on the premise that while internal components may be frequently replaced, the furnace superstructure would have a useful life of 50 or more years. In contrast, PPG's petition and additional information revealed that PPG's experimental furnace has an estimated useful life of only 3 years. Therefore, any control system at this experimental furnace would have a useful life of only 3 years.

Based on this new information, the costs associated with the purchase, installation, and maintenance of an add-on control device for an experimental furnace were estimated. The annualized cost was estimated to be $180,000. The emission reduction that would be required by the promulgated standards would be approximately 1.8 Mg/yr.

After considering PPG's petition and additional information, EPA has determined that an exemption from the promulgated emission limits should be granted for experimental furnaces this exemption would apply to all experimental furnaces because EPA has no reason to believe that other experimental furnaces would not be similar to PPG's experimental furnaces. This exemption would provide that furnaces with the sole purpose of being for experimental innovations of glass products and glass production technology are exempt from the numercial emission limits of the standards. If such an exempted furnace should cease at any time to meet all of the criteria set out in the regulation's definition for being an experimental furnace, that furnace will be considered an affected facility, thereby requiring it to meet the numerical emission limits of the promulgated standards.

The criteria upon which this exemption is based are: (1) The sole purpose for operating the experimental glass melting furnace is to evaluate innovative glass melting processes, technologies, or glass products; and (2) the glass products resulting from the experimental glass melting are not sold

or used as a raw material for nonexperimental furnaces. The primary criterion for determination of whether the exemption applies to a glass melting furnace is the use of the glass product produced in the furnace. A glass melting furnace is not exempt if the glass product is sold for uses other than research and development or if the glass product is used for cullet in a nonexperimental furnace. Research and development includes the development of new glass manufacturing technologies as well as the testing of new glass products.

Forming Channels

Issue and Response. In their petition, OCF requested in part that the Administrator delete the phrase "appendages for conditioning and distributing molten glass to forming apparatuses" (hereafter, flow channels) from the promulgated definition of "glass melting furnace" insofar as that definition applies to wool fiberglass and textile fiberglass furnaces.

Upon receipt of the petition, EPA analyzed the issues presented by OCF and requested that additional clarification be provided to supplement OCF's petition. A meeting on June 4, 1981, between OCF and EPA supplied some clarification.

EPA has decided to convene a proceeding to reconsider the standards with respect to this issue. Upon consideration of the information presented by OCF, EPA proposes to exclude "flow channels" from the definition of "glass melting furnace," as that definition applies to wool and textile fiberglass melting furnaces, provided the flow channels constitute a completely and permanently separate source of emissions from the rest of the furnace such that there is no mixing of emissions prior to being vented to the atmosphere.

Discussion of Response. In their petition, OCF claimed that the flow channels are not physically part of the glass melter, the emissions from the flow channels are not exhausted through the same stacks as emissions from the melter, and the background information document supporting the promulgated standards and the docket entries cited therein reveal that no stack emission test used to set the promulgated emission standards for wool fiberglass and textile fiberglass measured flow channel emissions. At the meeting with EPA on June 4, 1981, OCF indicated the presence in both wool fiberglass and textile fiberglass furnaces of an interface which effectively separates the gaseous emissions of the flow channels from the combustion emissions of the glass melter.

The principal difference between the furnaces anticipated by EPA to be regulated by the promulgated standards and OCF's wool fiberglass and textile fiberglass furnaces is with regard to the combination of gaseous emissions from the glass melter and from the flow channels prior to venting to the atmosphere. EPA intended the promulgated standards to regulate the stack where glass melting furnace gases are released to the atmosphere. The standards were developed, in part, on the premise that all emissions from the glass melting furnace (i.e., from the glass melter and the flow channels) were combined prior to venting to the atmosphere. As claimed by OCF, however, this is not necessarily the case for wool and textile fiberglass furnaces where flow channel gaseous emissions are completely and permanently separated from glass melter combustion emissions by an interface, and are vented to the atmosphere through a separate stack.

The data used to set the promulgated emission limits for wool fiberglass furnaces may not include emissions from the flow channels. Therefore EPA has concluded that flow channels whose gaseous emissions are compeletely and permanently separated from glass melter gaseous emissions should be excluded from the promulgated definition of "glass melting furnace" as that definition applies to wool fiberglass furnaces. In addition, EPA has been unable to confirm that the inclusion of textile fiberglass melting furnace flow channel emissions is consistent with the data base. Consequently, EPA is excluding flow channels from the definition of "glass-melting furnace" as it applies to wool fiberglass and textile fiberglass melting furnaces.

Flat Glass

Issue and Response. On June 30, 1981, PPG Industries, Inc., (PPG), Libbey-Owens-Ford Company (LOF), and Ford Motor Company (Ford) submitted a petition specifically requesting EPA to withdraw the standard for the flat glass manufacturing category. The petitioners presented five reasons why they believed the standard should be withdrawn: (1) A standard is not necessary because flat glass plants are not a significant source of particulate emissions; (2) costs of using add-on controls were not adequately considered in developing the standard; (3) an inadequate data base was used to select the standard; (4) the flat glass manufacturers were not given an opportunity to comment on the data base used to select the standard; and (5) the standard was based on a technology which has not been adequately demonstrated.

After review of the petition, EPA has determined that PPG, LOF, and Ford have not presented any new information relative to the need for a standard for flat glass manufacturing plants or the achievability of the promulgated standard of 0.225 g/kg. The first issue is discussed in the "Significance of Source Category" section of this preamble. As noted in that section, information presented by the petitioners does not warrant a reconsideration of the initial determination that glass manufacturing plants are significant contributors to air pollution. A detailed response to the second issue is presented in the "Use of Modified Processes and Consideration of Costs" section of this preamble. EPA agrees with the petitioners that certain modified processes are effective in reducing particulate emissions from glass melting furnaces and is proposing an emission limit of 0.5 g/kg for flat glass melting furnaces using modified processes.

The remaining issues are related to the achievability of the emission limit of 0.225 g/kg for furnaces using add-on control devices. ESP's are currently being used to control particulate emissions at two or more flat glass manufacturing plant locations in the United States. Information in the docket shows that add-on control devices can effectively control particulare emissions to the level of the promulgated standard without substantial adverse economic impact. After reviewing the petitions, EPA concluded that the petitioners do not provide substantial support for their argument. Therefore, reconsideration is denied.

Discussion of Response. PPG, LOF, and Ford presented in their petition five arguments for withdrawing the standard for flat glass manufacturing plants. Two of the arguments reiterate general issues raised by other petitioners, and already have been discussed in the substance elsewhere in this preamble. The other issues raised by PPG, LOF, and Ford are all interrelated and challenge the achievability of the promulgated flat glass manufacturing plant standard. The petitioners contend that the add-on control technology upon which EPA based the promulgated standard of 0.225 g/kg has not been adequately demonstrated. They assert that EPA used an inadequate data base to select the emission limit and that they were not given the opportunity to comment on this data.

The add-on control standard for flat glass manufacturing plants is based on the use of an ESP to control particulate emissions from the glass melting furnace. The docket contains information concerning the use of ESP's on flat glass melting furnaces. At flat glass manufacturing plants located in California, Illinois, and New Jersey, ESP's are currently used or being installed to control particulate emissions from the furnaces. Emission testing was conducted by EPA at a flat glass manufacturing plant located in California. Test results showed that particulate emissions from the furnace controlled by an ESP ranged from 0.14 to 0.225 g/kg. The test results demonstrate the achievability of the standard. (See docket reference VI–C–10.) This plant is producing high quality flat glass without substantial adverse economic impacts related to the ESP.

The petitioners argue that the glass melting furnace tested by EPA was not operated during the testing period in a manner typical of flat glass melting furnace operation because (1) the furnace tested was fired using fuel oil, (2) batch salt cake ratios were possibly adjusted for ESP operation, and (3) insufficient information was available about the furnace operating parameters to allow the petitioners to compare the furnace operation to their own furnace operations.

The glass melting furnace tested by EPA was fired using fuel oil rather than natural gas. Presently, most glass melting furnaces are fired using natural gas. These furnaces usually have the capability of burning either natural gas or fuel oil because fuel oil is burned in the event of natural gas supply curtailment, or as the primary fuel due to economic consideration. Particulate emissions from glass melting furnaces firing fuel oil are at least as great as emissions from glass melting furnaces firing natural gas. At least equivalent uncontrolled particulate loadings in the exhaust gases from a flat gas melting furnace will occur when fuel oil is fired as when natural gas is fired. Thus, test results for a fuel oil fired furnace reflect flat glass melting furnace operation during conditions that do not tend to create low uncontrolled particulate loadings. Therefore, using test results from an oil-fired furnace are an appropriate basis upon which to select an emission limit for flat glass furnaces.

The salt cake ratio of the batch at the flat glass manufacturing plant tested by EPA was not adjusted for ESP operation during the test period. All flat glass manufacturers consider their specific batch formulations to be proprietary information and, consequently, this information is not available to the public. However, EPA has reviewed the data and concluded that the salt cake ratio of the batch melted during the test period remained at the level normally used at the plant to produce architectural and decorative glass and this level is in the range of salt cake ratios typically used to produce flat glass.

The petitioners questioned the representativeness of the furnace operating parameters because they did not have access to specific information about the furnace operating conditions during the test and they could not compare the furnace operation to their own furnace operations. The specific information the petitioners requested about the furnace operating conditions were the furnace pull rate, the percentages of cullet and salt cake in the raw batch, the timing of the furnace regeneration cycle, the furnace capacity, the ESP "rapping" rate, the temperature of the inlet exhaust gas to the ESP, and the exhaust gas flow rate. Most of information requested by the petitioners is available in the public record. (See docket reference VI–C–10.) A review of this information shows that the operating conditions of the furnace during the testing were representative of flat glass melting furnaces.

Finally, the petitioners claim that because souce testing was conducted after the comment period had closed, glass manufacturers had no opportunity to comment to the test results. Before proposal of the standards, the petitioners knew that EPA planned to base the standards for flat glass manufacturing on the plant located in California (44 FR 34849). After the test was conducted, the results were placed in the public record in November 1979, about 1 year before promulgation of the standards. (See docket reference IV–B–29.) EPA did not discourage comments from the petitioners on these test results. In addition, a formal opportunity for interested parties to comment on the standard after the close of the comment period is provided by the reconsideration proceedings specified under Section 307(d)(7)(B) of the Act. By submitting a petition, PPG, LOF, and Ford have used the opportunity to present their comments on the test results.

In summary, ESP's are currently being used to control particulate emissions at two or more flat glass manufacturing plant locations. Flat glass manufacturing companies are achieving emission levels less than 0.225 g/kg while maintaining normal glass quality and production levels. EPA realizes that some flat glass manufacturers prefer to use modified processes to control particulates emissions from their furnaces. As discussed in the use of modified processes and consideration of costs section of this preamble, modified processes are effective in reducing particulate emissions from flat glass melting furnaces. Consequently, EPA is proposing an emission limit of 0.5 g/kg for furnaces using modified processes. However, for glass manufacturers who do not have the capability to use or choose not to use modified processes, add-on control devices have been demonstrated to effectively control particulates emissions to a level of 0.225 g/kg.

An existing flat glass melting furnace is subject to achieving the promulgated standard of 0.225 g/kg if the furnace is modified. A modification of an affected facility is defined in 40 CFR 60.14 as any physical or operational change to an existing facility which results in an increase in the emission rate of the pollutant(s) to which the standard applies. Paragraph (e) of 40 CFR 60.14 lists exceptions to this definition which will not be considered modifications. Major alterations that do not result in increased emissions, such as alterations where existing air pollution control equipment is upgraded to maintain emission at their previous levels, are not considered modifications.

Other Issues Presented by the Petitioners

Definitions of Glass

Issue and Response. On December 9, 1980, the Glass Packaging Institute (GPI) in a letter on behalf of several members of the Ad Hoc Air Quality Task Group requested that certain definitions in the promulgated standards be changed. GPI suggested, for several reasons, that the definitions based on the term "glass recipe(s)" (i.e., batch compositions) be replaced by definitions based on glass compositions, a means of identification more commonly used and understood in the industry.

Upon receiving this suggestion EPA reviewed the alternatives provided. As a result, it was decided to convene a proceeding to reconsider the basis upon which the three major glass types, namely soda-lime, lead, and borosilicate, are defined. Consequently, EPA is proposing to change to "glass recipe(s)" appearing in the standards to reflect glass composition as opposed to batch composition.

Discussion of Response. GPI, in their letter, suggests that the EPA base the

glass type categorizations on glass composition as opposed to batch composition. In support of this recommendation that glass types be defined in terms of compositional oxides, GPI presented several reasons. First, the possibility of raw material substitution was suggested as a cause for potential confusion. It was explained by GPI that market conditions may require that alternate batch compositions be used resulting in possible confusion on the part of the producer as well as EPA personnel responsible for the enforcement of the standards as to what glass type is being produced at a particular plant. Secondly, GPI pointed out that batch compositions are very often considered by industry to be proprietary and, therefore, closely guarded; whereas, glass composition is readily available and ascertainable. The next reason offered for the proposed definitional changes was for regulatory enforcement purposes. GPI suggests that the verification of the glass type of a particular product, by virtue of the previously mentioned GPI points, will be facilitated by the ease of identification of the various glass compositions. Finally, it was explained by GPI that besides being widely used throughout the industry for identification/categorization purposes, the use of glass composition in these standards would be consistent with EPA's having based compliance determinations on production rate criteria (the quantity of glass pulled) rather than the batch feed rate.

Based upon EPA's evaluation of these suggestions and supporting materials, EPA agrees with GPI's position. Therefore, EPA proposes to change the definitions of these glass types as suggested by GPI. EPA believes these changes would not represent substantial changes to the final standards. The only situation where these changes may cause confusion is the application of the new glass recipe definitions to the pressed and blown glass category. The weight proportion ranges of ingredients in each glass recipe are not absolute limits, but instead are reasonably close approximations. For example, lead oxide is generally not used in soda-lime recipes. However, in contrast to container glass where no lead oxide is added to the soda lime recipe (less than 5 percent), some pressed and blown soda-lime glass products may include minor amounts of lead oxide in the glass recipe. For purposes of these standards, these press and blown glass products would still be assigned to the "soda-lime recipe" subcategory and not to the "other than borosilicate, soda-lime, and lead recipe" subcategory.

Withdrawal of the Applicability Date

Issue and Response. On June 30, 1981, the petitioners requested EPA to "withdraw the applicability date" of the current standards of performance. They refer to the fact that under Section 111(a)(2) of the Clean Air Act, a "new source" subject to applicable standards is defined to be any source constructed after the date on which the standards were proposed. The standards for glass manufacturing plants were proposed on June 15, 1979. Plants constructed after that date are therefore new sources under the Act and subject to the standards, and June 15, 1979, is referred to as the applicability date. Petitioners suggest that EPA change the applicability date to the date on which EPA convenes a proceeding to reconsider the standards and proposes appropriate revisions to the standards (i.e., today's date). That is, petitioners ask that EPA vacate the standards insofar as they apply to sources built between June 15, 1979, and today's date.

In EPA's view, vacating the standards as they apply to such sources would be inconsistent with the language and purposes of the Clean Air Act and, therefore, reconsideration is denied. Section 111(a)(2) establishes the applicability date of standards of performance as the date of their proposal. Congress clearly intended that EPA's decision to convene a proceeding to reconsider standards should not have the effect of vacating the standards. Section 307(d)(7)(B) specifically provides:

> Such reconsideration shall not postpone the effectiveness of the rule.[2]

Discussion of Response. The fact that reconsideration creates some uncertainty as to the ultimate form of the standards does not justify deviating from the plain terms of the statute. Indeed, a certain degree of uncertainty is inherent in the NSPS rulemaking process. The effect of such uncertainty was addressed in *United States* v. *City of Painesville*, 644 F.2d 1186 (6th Cir. 1981). In that case, the City argued that the applicability date of the standards should be changed because the standards had been remanded on judicial review. The standards [40 CFR 60.43(a)(2)] has been promulgated in 1971. The record was remanded to EPA for reconsideration in 1973. EPA published an initial response to the remand in 1975 and a final response in 1977. 644 F.2d at 1188–1190. Proceedings to review the final response were initiated, *Appalachian Power Co.* v. *Costle*, No. 78–1092 (D.C. Cir.), and dismissed in 1978. Uncertainty as to the final form of the standard therefore existed for a period of 7 years, from 1971 to 1978. As the Court noted, however, that fact did not affect the applicability date:

> The statute unambiguously establishes the benchmark for determining which sources of a particular pollutant are new sources. "[T]he publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance . . . which will be applicable to such source" determines what sources are new; a source whose construction commended after such publication is subject to the new source standards, whatever they might be or become . . . . A proposed regulation is, or course, subject to both administrative and judicial review and, consequently, modification. By identifying new sources with reference to the publication date of a proposed standard, Congress eschewed the City's position that new sources of SO_2 remain unknown until the substantive standard becomes unreviewable. [644 F.2d at 1189.]

See: Denial of Petitions for Reconsideration of NSPS for Electric Utility Steam Generating Units, 45 FR 8210, 8232 (delay between proposal and promulgation of standards of performance does not affect applicability date); *Pennsylvania* v. *EPA*, 618 F.2d 991 (3rd Cir. 1980) (same result under Clean Water Act).

This result is not unfair or unreasonable. The principal amendment to the current standards being proposed in response to the petitions for reconsideration would relieve furnaces using modified processes from having to install add-on control devices. While some uncertainty exists until EPA takes final action on the proposed amendment, no reason appears why that uncertainty justifies vacating the standards insofar as they apply to sources constructed before today's date. Vacating the standards would in fact have broader effects than today's proposed amendment, which would modify, but not vacate, the standards. It should be noted that any action to vacate standards would be subject to the notice and comment and other procedural requirements of Section 307(d) of the Clean Air Act, pursuant to Section 307(d)(1)(C) and 307(d)(7)(B).

Exemption During Periods of Maintenance

Issue and Response. After the standards were promulgated, GPI commented that an exemption from the

[2] It appears that Congress intended that any relief due to the fact that reconsideration had been granted should be limited to, at most, a 3 month *stay* of the effectiveness of the rule. *Id.*

numerical emission limits is needed during periods of add-on control device maintenance. This suggestion in based on their concern that the numerical emission limits must be achieved on a continuous basis. GPI stated that, if enforced to the letter, the standards would require glass manufacturers to either shut down their furnaces, or be found in violation of the standards, during times when furnace exhaust gases are bypassed around add-on control devices during routine maintenance.

EPA has reviewed this matter and agrees that the extended operating periods which are typical of glass melting furnaces may in some cases exceed the normal maintenance interval of a fabric filter or electorstatic precipitator (ESP). While certain steps (e.g., use of multiple compartment control equipment) can be taken by the owner to minimize emission increases during routine maintenance, duplicate control capacity may be required to prevent totally emissions in excess of the numerical emission limits during routine maintenance. EPA does not intend that duplication be build into these control systems. Accordingly, EPA decided to convene a proceeding to reconsider this issue and is proposing to amend the standards to exempt glass melting furnaces from the numerical emission limits during periods of routine maintenance of add-on control devices. The proposed amendment requires glass manufacturers to minimize air pollution during these periods and limits this exemption to 6 calendar days each year. In addition, the proposed amendment requires glass manufacturers to notify the Administrator prior to these periods of routine maintenance.

Discussion of Response. Commercial glass production requires glass melting furnaces to operate 24 hours per day continuously for several years between furnace shutdowns. Often these periods are 3 years or more. Furnace shutdowns during these periods of continuous operation adversely impact commercial glass production because furnace shutdowns can lead to faster wear on the furnace refractory and prevent the furnace from producing glass of satisfactory quality for several days.

GPI is concerned that, under the current standards, shutdown of glass melting furnaces would be required during the maintenance of add-on control devices. They contend that, if the standards were enforced to the letter, glass manufacturers would have to interrupt production in order to be in compliance with the standards or else be in violation of the standards during maintenance of add-on control devices. GPI is therefore requesting that glass melting furances be exempt from the numerical emission limits during periods of routine maintenance of add-on control devices.

Good air pollution control practice requires that add-on control devices be maintained in proper working order to ensure high collection efficiency and to minimize the potential for equipment breakdown and malfunction. Over the life of an add-on control device, inspection and routine maintenance is needed at periodic intervals (on semi-annual or annual basis depending on the type of control equipment) to maintain it in proper working order. During these periods of routine maintenance, it may be necessary to bypass the exhaust stream around one or more sections of an add-on control device. For most industries, these periods can occur during process shutdowns which occur at least once per year. However, because glass melting furnaces typically operate continuously for several years, periods of routine maintenance occur when the glass melting furnace is operating. Therefore, EPA believes that some glass manufacturers may be faced with the situation that concerns GPI. To evaluate the need for an exemption during periods of maintenance, EPA obtained additional information about control equipment maintenance practices from equipment manufacturers and glass companies operating control Systems.

Even though emissions resulting from the maintenance of a glass melting furnace add-on control device may be in excess of the numerical emission limits, the emissions can be minimized through certain design or operational practices. First, common ESP and fabric filter designs allow most routine maintenance without bypassing all compartments of the add-on control device. Common ESP designs available for glass plants are constructed with multiple compartments. However, these designs are commercially used at glass melting furnaces with large gas flows (e.g. flat glass melting furnaces). Multiple compartment design allows one compartment to be bypassed for maintenance while the furnace exhaust gases are sent through the remaining compartments. Another ESP design installed on glass plants involved internal elements which require infrequent maintenance. Fabric filter designs are available which allow replacement of filters without bypassing the add-on control device. Second, glass melting furnaces are periodically placed in an idle operating mode. Routine maintenance of the add-on control devices could be performed at these times. Thus, while procedures are available to prevent or at least minimize emissions during routine maintenance, it is nevertheless concluded that there may be some cases where emission increase cannot be avoided.

EPA is proposing to exempt, under certain circumstances, glass melting furnaces from the emission limitations for add-on control devices during periods of routine maintenance. This exemption applies to glass melting furnaces which require maintenance to ensure continued compliance with the emission limitations of the standards. The exemption allows a glass melting furnace to exceed the numerical emission limit up to 6 days per year if this occurs during routing maintenance and if the owner or operator performs the maintenance in a manner consistent with good air pollution control practice for minimizing emissions. As a consequence, the exemption would allow complete bypassing of the add-on control device only if it is not practicable to partially bypass the control device, and would require that maintenance be performed during idle or low production periods as often as practicable. The 6-day period was selected on the basis of a semi-annual inspection and routine maintenance program for an ESP having compartments which cannot be isolated and requiring maintenance personnel to enter the compartments. Other control sytem designs expected to be installed by glass companies require less frequent inspection and maintenance intervals, have individual compartments which can be isolated to perform maintenance and repairs without bypass of the system, or allow maintenance to be performed external to the control system compartments. (See docket reference VI–D–11.)

This exemption would not apply to periods when bypassing of the control system was required due to a malfunction (e.g., repair of a mechanical component). These situations are covered by 40 CFR 60.11(d) which requires the glass melting furnace to be operated, to the extent practicable, in a manner consistent with good air pollution control practice for minimizing emissions. The exemption also would not apply to situations where add-on control devices have not been properly operated and maintained. EPA is proposing that owners and operators notify EPA of the use of this exemption and the circumstances of the use; owners and operators would report the

schedule for the maintenance at least 10 days before the maintenance is to occur.

Production Rate Exemptions

Issue and Response. Glass industry representatives submitted to EPA on August 12, 1981, a letter summarizing their position on all of the issues concerning the standards of performance for glass manufacturing plants. (See docket reference VI–A–17.) In their letter they requested EPA to make two additional revisions to the standards. Glass industry representatives requested that the current production rate exemption of less than 4,550 kg/day be extended to furnaces with a design capacity up to 22,700 kg/day. Glass industry representatives also requested the current zero production rate allowance for periods when furnaces are idling or at zero production rate be replaced for most of the glass manufacturing plant categories by hourly emission allowances of 1,135 g/hr for furnaces having a design capacity less than 363 Mg/day and 2,270 g/hr for furnaces having a design capacity of 363 Mg/day or greater.

Comments concerning both provisions were originally received by EPA from glass industry representatives when the standards were proposed. When the standards were promulgated, changes were made to the proposed standards in response to these comments. In EPA's opinion, the glass industry representatives have not presented any new information to give substantial support for their arguments for additional changes to these provisions and therefore their petitions are denied.

Discussion. For the largest segments of the glass industry, container glass, flat glass, wool fiberglass, and textile fiberglass, new glass melting furnaces are expected to have design capacities significantly greater than 22,700 kg/day. However, at some pressed and blown glass plants new furnaces may be built which are rated at design capacities less than 22,700 kg/day. Although EPA used a 45,400 kg/day furnace as the smallest furnace size for its model plant analysis of the pressed and blown glass manufacturing plant category as presented in the background information document for the proposed standards (See docket reference III–B), EPA did reexamine the issue in response to comments and data submitted by glass industry representatives following proposal of the standards. Design of a control system for reducing particulate emissions from a glass melting furnace is influenced by a variety of factors, including glass type and production rate, furnace size, exhaust gas flow rate and temperature, quantity and size of the particulates, resistivity of the particulates, and presence of other pollutants. However, for a specific type of glass production, the costs of controlling particulate emissions are generally proportional to the exhaust gas flow rate. The exhaust gas flow rate from a glass melting furnace depends on the amount of fuel burned in the furnace. Fuel consumption depends on the amount of heat required to melt the batch ingredients in order to produce the desired quantity of glass product. Therefore, it is reasonable to proportion the control costs for the 45,400 kg/day model plant furnace to smaller size furnaces producing the same type of glass. Based on this analysis, EPA concluded the standards are reasonable for the smaller size furnaces likely to be built at pressed and blown plants. No new technical or cost information has been presented in the glass industry's current request which would change this conclusion. Therefore, the exemption will continue to apply only to furnaces having a design capacity less than 4,550 kg/day.

In response to comments on the proposed standards made by glass manufacturers, EPA changed the method for calculation of furnace emission rate by providing zero production rate adjustment factors of 227 g/hr or 454 g/hr depending on the glass manufacturing plant category. The commenters were concerned that emissions from glass melting furnaces during idle or low production rates would be in violation of the standards because of the inability of glass furnaces to achieve a zero emission rate at times when the production rate approaches zero. Commenters noted when the production rate of a glass melting furnace is zero there are still particulate emissions due to the requirement to maintain the molten glass at the proper temperature. To resolve this concern, EPA selected zero production rate adjustment factors based on information provided by the commenters.

Glass industry representatives in their August 12, 1981, letter requested that for most of the glass manufacturing plant categories, the zero production rate adjustment factor and formula be replaced by minimum hourly emission rates of 1,135 g/hr and 2,270 g/hr depending on furnace size. However, no new technical information was presented by the glass industry representatives to give substantial support for adopting these higher emission rates, nor was information provided which would indicate that the zero production rate adjustment which is now contained in the standard is faulty. Therefore, the zero production rate adjustment factors for idling and low production furnaces remains the same as promulgated.

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not "major" because it would reduce the cost of compliance with the current standards.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

The Administrator certifies that a regulatory flexibility analysis under 5 U.S.C. 601, et seq., is not required for this rulemaking, because the rulemaking would not have significant impact on a substantial number of small entities. This regulation would reduce the cost of compliance with the current standards.

The information collection requirements in this proposed rule have been (or will be) submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel Sulfuric acid plants, Waste treatment and disposal, Zinc, tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners.

Dated: October 21, 1983.
William D. Ruckelshaus,
Administrator.

PART 60—[AMENDED]

It is proposed to amend 40 CFR Part 60, Subpart CC, as follows:

1. In § 60.291, the following definitions are revised: "Borosilicate recipe," "Glass melting furnace," "Lead recipe," and "Soda-lime recipe;" and the following definitions are added in alphabetical order: "Experimental furnace," "Flow channels," "Textile fiberglass," and "With modified-processes;" as follows:

§ 60.291 Definitions.

"Borosilicate recipe" means glass product composition of the following approximate ranges of weight proportions: 60 to 80 percent silicon dioxide, 4 to 10 percent total R_2O (e.g., Na_2O and K_2O), 5 to 35 percent boric oxides, and 0 to 13 percent other oxides.

* * * * *

"Experimental furnace" means a glass melting furnace with the sole purpose of operating to evaluate glass melting processes, technologies, or glass products. An experimental furnace does not produce glass that is sold (except for further research and development purposes) or that is used as a raw material for nonexperimental furnaces.

* * * * *

"Flow channels" means appendages used for conditioning and distributing molten glass to forming apparatuses and are a permanently separate source of emissions such that no mixing of emissions occurs with emissions from the melter cooling system prior to their being vented to the atmosphere.

"Glass melting furnace" means a unit comprising a refractory vessel in which raw materials are charged, melted at high temperature, refined, and conditioned to produce molten glass. The unit includes foundations, superstructure and retaining walls, raw material charger systems, heat exchangers, melter cooling system, exhaust system, refractory brick work, fuel supply and electrical boosting equipment, integral control systems and instrumentation, and appendages for conditioning and distributing molten glass to forming apparatuses. The forming apparatuses, including the float bath used in flat glass manufacturing and flow channels in wool fiberglass and textile fiberglass manufacturing, are not considered part of the glass melting furnace.

* * * * *

"Lead recipe" means glass product composition of the following approximate ranges of weight proportions: 50 to 60 percent silicon dioxide, 18 to 35 percent lead oxides, 5 to 20 percent total R_2O (e.g., Na_2O and K_2O), 0 to 8 percent total R_2O_3 (e.g., Al_2O_3), 0 to 15 percent total RO (e.g., CaO, MgO), other than lead oxide, and 5 to 10 percent other oxides.

* * * * *

"Soda-lime recipe" means glass product composition of the following ranges of weight proportions: 60 to 75 percent silicon dioxide, 10 to 17 percent total R_2O (e.g., Na_2O and K_2O), 8 to 20 percent total RO but not to include any PbO (e.g., CaO, and MgO), 0 to 8 percent total R_2O_3 (e.g., Al_2O_3), and 1 to 5 percent other oxides.

"Textile fiberglass" means fibrous glass in the form of continuous strands having uniform thickness.

"With modified-processes" means using any technique designed to minimize emissions without the use of add-on pollution controls.

(Sec. 111, 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7601(a)))

2. In § 60.292, paragraphs (d) and (e) are added as follows:

§ 60.292 Standards for particulate matter.

* * * * * * *

(d) An owner or operator of an experimental furnace is not subject to the requirements of this section.

(e) During routine maintenance of add-on pollution controls, an owner or operator of a glass melting furnace subject to the provisions of § 60.292(a) is exempt from the provisions of § 60.292(a) if:

(1) Routine maintenance in each calendar year does not exceed 6 days;

(2) Routine maintenance is conducted in a manner consistent with good air pollution control practices for minimizing emissions; and6

(3) A report is submitted to the Administrator 10 days before the start of the routine maintenance (if 10 days cannot be provided, the report must be submitted as soon as practicable) and the report contains an explanation of the schedule of the maintenance.

(Sec. 111, 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7601(a)))

3. Section 60.293 is added as follows:

§ 60.293 Standards for particulate matter from glass melting furnaces with modified-processes.

(a) An owner or operator of a glass melting furnace with modified-processes is not subject to the provisions of § 60.292 if the affected facility complies with the provisions of this section.

(b) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator of a glass melting furnace with modified-processes subject to the provisions of this subpart shall cause to be discharged into the atmosphere from the affected facility:

(1) Particulate matter at emission rates exceeding 0.5 gram of particulate per kilogram of glass produced (gkg) as measured according to paragraph (e) of this section for container glass, flat glass, and pressed and blown glass with a soda-lime recipe melting furnaces.

(2) Particulate matter at emission rates exceeding 1.0 gkg as measured according to paragraph (e) of this section for pressed and blown glass with a borosilicate recipe melting furnace.

(3) Particulate matter at emission rates exceeding 0.5 gkg as measured according to paragraph (e) of this section for textile fiberglass and wool fiberglass melting furnaces.

(c) The owner or operator of an affected facility that is subject to emission limits specified under paragraph (b) of this section shall:

(1) Install, calibrate, maintain, and operate a continuous monitoring system for the measurement of the opacity of emissions discharged into the atmosphere from the affected facility.

(2) During the performance test required to be conducted by § 60.8, conduct continuous opacity monitoring during each test run.

(3) Calculate 6-minute opacity averages from 24 or more data points equally spaced over each 6-minute period during the test runs.

(4) Determine, based on the 6-minute opacity averages, the opacity value corresponding to the 97.5 percent upper confidence level of a normal distribution of average opacity values.

(5) For the purposes of § 60.7, report to the Administrator as excess emissions all of the 6-minute periods during which the average opacity, as measured by the continuous monitoring system installed under paragraph (c)(1), exceeds the opacity value corresponding to the 97.5 percent upper confidence level determined under paragraph (c)(4).

(d)(1) After receipt and consideration of written application, the Administrator may approve alternative continuous monitoring systems for the measurement of one or more process or operating parameters that is or are demonstrated to enable accurate and representative monitoring of an emission limit specified in paragraph (b)(1) of this section.

(2) After the Administrator approves an alternative continuous monitoring system for an affected facility, the requirements of paragraphs (c) (1)

through (5) of this section will not apply for that affected facility.

(3) An owner or operator may redetermine the opacity value corresponding to the 97.5 percent upper confidence level as described in paragraph (c)(4) of this section if the owner or operator:

(i) Conducts continuous opacity monitoring during each test run of a performance test that demonstrates compliance with an emission limit of paragraph (b) of this section,

(ii) recalculates the 6-minute opacity averages as described in paragraph (c)(3) of this section, and

(iii) uses the redetermined opacity value corresponding to the 97.5 percent upper confidence level for the purposes of paragraph (c)(5) of this section.

(e) Test methods and procedures as specified in §60.296 shall be used to determine compliance with this section except that to determine compliance for any glass melting furnace using modified processes and fired with either a gaseous fuel or a liquid fuel containing less than 0.50 weight percent sulfur, Method 5 shall be used with the probe and filter holder heating system in the sampling train set to provide a gas temperature of 120±14°C.

(Sec. 111, 114, 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7414, 7601(a)))

4. In § 60.296, the introductory text of paragraph (a) is revised, and paragraph (g) is added to read as follows:

§ 60.296 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under §60.8(b), shall be used to determine compliance with §60.292 and §60.293 as follows:

* * * * *

(g) If an owner or operator changes an affected facility from a glass melting furnace with modified processes to a glass melting furnace without modified processes or from a glass melting furnace without modified processes to a glass melting furnace with modified processes, the owner or operator shall notify the Administrator 60 days before the change is scheduled to occur.

(Sec. 111, 114, 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7414, 7601(a)))

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federal register

Wednesday
November 2, 1983

Part V

Environmental Protection Agency

Compliance With the Statutory Provisions of Part D of the Clean Air Act, Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[AD-FRL 2432-3, Docket A-83-01]

Compliance With the Statutory Provisions of Part D of the Clean Air Act

AGENCY: Environmental Protection Agency.

ACTION: Final action on rulemaking proposals and announcement of policy.

SUMMARY: On February 3, 1983 (48 FR 4972 and 48 FR 5022) the Environmental Protection Agency (EPA) published two rulemaking proposals relating to implementation of the primary national ambient air quality standards under the Clean Air Act. The first package proposed to disapprove State implementation plans and impose construction bans in nonattainment areas that were required to attain the standards by December 31, 1982, but were still experiencing violations. This package also proposed to disapprove plans and impose bans in nonattainment areas that had not received full EPA approval for plan revisions due in 1979.

The second package proposed action on implementation plans submitted in 1982 by nonattainment areas that had obtained extensions of the 1982 deadline for the carbon monoxide or ozone standards. EPA proposed to impose bans in all areas where it was proposing to disapprove 1982 plans.

After evaluating the comments submitted in response to its proposal, EPA has revised its views as to the legal consequences of a failure to meet the 1982 deadline. Today's notice contains two final actions reflecting these changed views. In addition, in Section IV of this notice EPA sets out a general policy for correcting all of the problems identified in both of the proposals published on February 3.

EFFECTIVE DATE: November 2, 1983.

ADDRESSES: Background material for this action is located in Docket No. A-83-01, West Tower Lobby, Gallery 1, U.S. Environmental Protection Agency, Central Docket Section, 401 M Street, S.W., Washington, D.C. 20460. The docket may be examined between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for copying. A duplicate copy of the docket is available in each EPA Regional Office.

FOR FURTHER INFORMATION CONTACT: David Stonefield, Chief, Policy Development Section, Office of Air Quality Planning and Standards (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5540.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 3, 1983, EPA published two large rulemaking proposals relating to implementation of primary national ambient air quality standards (NAAQS) under the Clean Air Act. *See* 48 FR 4972-5021 and 5022-5149. One package spelled out how EPA planned to treat "nonattainment" areas that were to have been free of violations of the relevant primary NAAQS by the end of 1982, but are still experiencing them. The heart of this package was a proposal to impose a ban on new construction in such areas, even if EPA previously had approved the State implementation plan (SIP) that the State had devised for attainment by the end of 1982. The other package consisted of proposals to approve or disapprove numerous implementation plans for another class of nonattainment areas, those that have an extension of the 1982 attainment deadline for the carbon monoxide or ozone standards.

EPA here is taking final action on portions of the first package only. In the main, it is revising its view as to the legal consequences of a failure to meet the 1982 deadline. EPA is not taking any action here on the proposals in the other package, but it sets out the significance of this new view for nonattainment areas that have extensions. Action on those proposals will appear in individual **Federal Register** notices over the next several months.

The balance of this notice gives the background to the first February 3 package, outlines the proposals in that package and the bases for them, summarizes the voluminous comments EPA received in response to the proposals, describes EPA's new interpretation of the Act, elaborates on that view in the form of a policy for all SIP deficiencies in nonattainment areas, and, finally, specifies the final actions EPA is taking today. This notice, it should be emphasized, focuses only on implementation of primary NAAQS.

II. Background

A. 1977 Amendments to the Clean Air Act

In many areas of the country, the first SIPs failed to bring about attainment within the original deadlines established under the 1970 Clean Air Act amendments. In 1976, EPA found these plans to be inadequate under Section 110(a)(2)(H) and called for SIP revisions. *See, e.g.*, 41 FR 28842 (July 13, 1976). EPA later announced that the Act contained a ban on new source construction that would apply in any area that failed to meet the deadlines EPA established for submittal of its SIP revision. *See* 41 FR 55521 (December 21, 1976).

1. *Designations*

When Congress amended the Act in 1977, it addressed the same problem in a similar way. First, Congress set in motion a comprehensive, formal inventory of the attainment status of all areas of the country. A new Section 107(d) required each State to identify immediately areas that were experiencing violations of the standards, areas that were not, and areas that were unclassifiable for lack of adequate data. The section further required EPA to review each identification, make necessary modifications, and promulgate attainment status designations for all areas by February 1978.

2. *Construction Bans and Revised Plans*

Next, Congress conditioned further growth in each nonattainment area on the timely revision of the SIP for the area in accordance with strict new requirements. Section 110(a)(2)(I) required each State to revise its SIP to prohibit the construction or modification of major stationary sources of pollution after July 1, 1979 in any nonattainment area whose SIP did not meet the requirements of a new Part D to Title I of the Act, Sections 171-177. Section 172(a)(1) specified that each SIP for a nonattainment area had to "provide for" attainment of the primary NAAQS as expeditiously as practicable, but no later than December 31, 1982. Section 172(b) detailed other requirements Part D plans had to meet.

Section 172(a)(2) allowed areas that demonstrated that it would be impossible to attain either the ozone or carbon monoxide standards by the end of 1982 to obtain attainment date extensions and defer compliance with some of the requirements of Section 172(b). Section 172(c), and Section 129(c) of the 1977 Amendments, however, required areas that received extensions to submit, no later than July 1, 1982, supplemental SIP revisions containing enforceable measures needed to assure attainment no later than December 31, 1987.

3. *Funding Restrictions as Incentives for Plan Revisions*

As a further incentive to the revision of plans for nonattainment areas, Congress provided funding restrictions in Section 176(a) and 316(b). Under

Section 176(a), EPA and the Department of Transportation must restrict funding in any area where transportation controls are needed to provide for attainment by the applicable deadline and a State fails to submit or make reasonable efforts to submit a plan that "considers" each of the Part D requirements. Under Section 316(b), EPA has discretion to limit funds for construction of sewage treatment facilities in any area where a State does not have in effect a plan that accommodates emissions associated with sewage treatment facilities.

4. *Restrictions as Incentives for Implementation*

Congress also sought to ensure that SIPs for nonattainment areas, once revised, would be implemented. It added two construction bans and two funding restrictions that apply in areas where State or local agencies have failed to carry out the SIP. Section 173(4) requires each SIP for a nonattainment area to contain regulations that prohibit new source construction and modification in any area where a State or local agency has failed to carry out its SIP. In addition, Section 113(a)(95) authorizes EPA to prohibit the construction of any major stationary source in any such area. Section 176(b) prohibits EPA from awarding any grants under the Clean Air Act to any such area. EPA may also apply Section 316(b) in such areas.

5. *Calls for Plan Revisions*

Finally, Congress retained Section 110(a)(2)(H), the remedial mechanism EPA used in 1976. Section 110(a)(2)(H)(ii) requires each SIP to require its own revision if EPA finds that a plan is "substantially inadequate" to achieve timely attainment of the national ambient air quality standard that it implements. In 1977 Congress added new language allowing EPA to call for a revision when a plan fails to comply with any requirement of the 1977 amendments.

B. Implementation of the 1977 Amendements

1. *Designations*

In March 1978, EPA designated over 400 areas as nonattainment for one or more primary or secondary NAAQS. 43 FR 8902. EPA adjusted many of these designations in the fall of 1978. *See, e.g.*, 43 FR 40502 (September 12, 1978).

2. *Construction Bans*

By July 1, 1979 almost none of the nonattainment areas had in effect an SIP provision that met the requirements of Sections 110(a)(2)(I) and 173(4). As a result, on July 2, 1979 (44 FR 39471), EPA published a regulation that inserted the Section 110(a)(2)(I) and Section 173(4) construction bans into SIPs that lacked them and clarified the scope of bans in SIPs that had them. EPA described the regulation as an "interpretive rule" that merely implemented the requirements of Section 110(a)(2)(I) and 173(4).

In the same notice EPA announced that the Section 110(a)(2)(I) ban had gone into effect on July 1, 1979 in each nonattainment area that lacked an approved or promulgated Part D plan. EPA explained that the Act imposed this ban automatically in any area that did not have a Part D SIP in effect on that date. EPA announced that it would lift the ban when it approved or promulgated the necessary Part D provisions.

EPA later explained that once it had approved a Part D plan and removed the initial Section 110(a)(2)(I) ban, new bans would not come into effect automatically. EPA concluded that it would have to evaluate an approved plan and find that it no longer satisfied Part D before the Section 110(a)(2)(I) ban could take effect. *See* 46 FR 62651 (December 28, 1981). EPA implied that it would have to publish notice of its finding before the ban would be effective.

In yet another notice EPA took the position that the Section 173(4) ban was not automatic. That ban applies only where EPA finds that a State or local government is not carrying out an approved or promulgated Part D plan. EPA concluded that it should propose a finding of inadequacy and provide an opportunity to comment on its factual basis before imposing this ban. *See* 47 FR 9477 (March 2, 1982).

3. *Action on Revised Plans*

Also on July 2, 1979 (44 FR 38583), EPA announced that it would approve "Conditionally" any Part D revision that contained only minor deficiencies if the State committed to submit corrections promptly on a definite schedule. EPA said that it would lift the Section 110(a)(2)(I) ban upon a conditional approval and that it would disapprove the plan and reimpose the ban upon a failure to meet the schedule for submitting corrections.[1]

The Section 110(a)(2)(I) construction ban still remains in effect in a few nonattainment areas that do not have an attainment date extension. Some of these areas submitted Part D revisions that EPA disapproved for failure to meet one or more of the Part D requirements. In other cases, areas submitted revisions, but EPA has not yet finally determined whether they meet the Part D requirements. And in a few cases, areas have simply not submitted all or part of their Part D revisions.

For the majority of nonattainment, nonextension area, however, EPA has approved fully or conditionally all portions of a Part D plan. All areas that received conditional approvals committed to fulfill their conditions by specific deadlines. Some of these deadlines have not been met, either because the States have not submitted the necessary corrections, or because EPA has not yet determined whether the submitted material meets the relevant Part D requirements.

The approval status of the nonattainment areas that received attainment date extensions parallels roughly the approval status of the nonextension areas. As noted above, these areas had to submit Part D revisions in 1979 and supplemental revisions in 1982. In a very few areas the section 110(a)(2)(I) moratorium remains in effect because EPA disapproved a portion of a 1979 submission. In most cases, EPA approved fully or conditionally the 1979 submissions.[2]

Each of the States with extension areas has submitted at least a draft of its supplemental revision, and EPA has proposed action on each submittal. On February 3, EPA proposed to disapprove plans for 17 States. *See* 48 5022–5148. EPA has proposed to approve the remaining 14 submissions.

4. *Funding Restrictions*

(a) *Section 176(a).* On April 10, 1980 (45 FR 24692), EPA and the Department of Transportation published a joint policy for the implementation of the Section 176(a) funding restrictions. In this policy, the two agencies took the position that the restrictions would apply only in regions that had not submitted (or made reasonable efforts to submit) Part D SIPs for transportation-related pollutants. The policy stated that EPA would judge each region's efforts on a case-by-case basis.

The policy gives EPA discretion to determine whether funding restrictions should apply throughout an entire air

[1] EPA's authority to grant conditional approvals has been upheld, although the U.S. Court of Appeals for the Second Circuit has ruled that EPA may not lift the Section 110(a)(2)(I) Construction ban upon a conditional approval. *Connecticut Fund for the Environment* v. *EPA*, 672 F.2d 998 (2d Cir. 1982).

[2] Some extension areas apparently have not implemented their 1979 plans. On August 3, 1983 (48 FR 35312) EPA proposed to find that 11 States with extension areas were not implementing vehicle inspection/maintenance programs. EPA proposed to impose contruction moratoriums under Section 173(4) and funding restrictions under Section 176(b).

quality control region, or only in those portions of the region designated nonattainment for a transportation-related pollutant. If restrictions are imposed, EPA has discretion to continue to award air pollution control funds to agencies not directly responsible for the failure to submit a plan. The Department of Transportation has discretion to fund projects meeting the exemptions listed in Section 176(a). The policy provides additional criteria for determining which projects should be exempt.

The policy also sets out procedures for imposing the restrictions, including notice and opportunity to comment. The policy suggests, but does not require, that removal of the restrictions should wait until EPA approves a revised SIP as meeting the Part D requirements. The policy notes that, since Section 176(a) requires action by the State, Federal promulgation of a Part D SIP would not justify removal of the restrictions.

(b) *Section 176(b).* EPA has not issued a formal policy for Section 176(b), which applies when State or local agencies fail to carry out a SIP. However, EPA has taken positions on some issues in its proposals to use Section 176(b). For example, where different levels of government share SIP responsibilities, EPA has stated that it may continue to fund agencies in the level of government that is not responsible for the implementation problem. *See* 47 FR 9477 (March 5, 1982) and 48 FR 35312 (August 3, 1983). EPA has requested comment on alternative formulas for computing the amount of funding that is intended for use in the area where the SIP is not being carried out. Under one of these formulas, EPA would withhold the amount of funds EPA needs to implement the program that the State has not implemented. *See* 48 FR 35312.

Procedurally, EPA has determined that it should provide notice and an opportunity to comment on both the factual basis of its finding and the amount of funding to be withheld. *See* 47 FR 9477 and 48 FR 35312. EPA will also provide an opportunity for a hearing as required under Section 105(e).

(c) *Section 316(b).* EPA published a policy for Section 316(b) on August 11, 1980 (45 FR 53382). The Policy adopts a "reasonable efforts" approach to judging State efforts to submit and implement Part D plans. It also exempts from any restrictions projects needed to meet existing health needs that will not expand capacity by more than 1 million gallons per day, and projects that would improve treatment, but not expand capacity. The policy adopts the procedures developed for imposing and removing Section 176(a) restrictions.

C. EPA's February 3 Proposals for Nonattainment, Nonextension Areas

1. *Proposals to Disapprove and Impose the Section 110(a)(2)(I) Construction Ban*

On February 3, 1983, EPA proposed two sets of findings for SIPs for nonattainment, nonextension areas. First, EPA proposed to find as a factual matter that many of these SIPs had failed to meet one or more Part D requirements. Second, EPA proposed that the legal consequences of such failures should be disapproval and the imposition of a construction ban under Section 110(a)(2)(I). EPA also solicited comment on applying funding restrictions.

EPA's factual proposals addressed three Part D planning problems.

(a) *Failure To Attain by December 31, 1982.* First, EPA proposed to find that SIPs for 111 areas, many of which had received approval or conditional approval of their Part D SIP revisions, had failed to bring about attainment by the end of 1982.[3] For a list of these areas, *see* the first column in "Appendix D" to the proposal, 48 FR 5005–5021. EPA took the position that any area that failed to attain by 1982 could not be said to satisfy Section 172(a)(1), which requires the plan for any nonextension area to "provide for" attainment by the end of 1982. Consequently, EPA proposed to disapprove these SIPs and impose the ban under Section 110(a)(2)(I).

Following this logic, EPA also proposed to disapprove plans for nonattainment areas that it had designated nonattainment after the first round of designations in 1978 and that it thought would continue to experience violations after 1982. EPA announced that the 1982 attainment deadline would apply even to areas it designated as nonattainment after 1982. EPA also stated that the Section 110(a)(2)(I) ban would apply immediately in areas designated nonattainment after 1982, since the designation itself would show that the plan had failed to assure timely attainment and, therefore, was not meeting the requirements of Part D.

EPA earlier had interpreted the Act to allow areas designated nonattainment after July 1, 1979 one year to develop a Part D plan and six months to obtain EPA approval before a construction ban would apply. In 1980, EPA promulgated a regulation postponing the application of any moratorium in such an area for eighteen months. *See* 40 CFR 52.24(k) (1982). On February 3, EPA proposed to revoke this regulation.

In contrast to the above proposals, EPA proposed to exempt from disapproval two groups of nonattainment, nonextension areas for which it projected violations after 1982. One was ozone nonattainment areas that could demonstrate that they (1) would have attained the primary NAAQS for ozone "but for" the impact of ozone transported from other areas and (2) had met all other Part D requirements. *See* 48 FR 4975–4976. To implement this exemption, EPA omitted rural ozone nonattainment areas from its list of areas considered not likely to attain. EPA had previously recognized that violations in such areas typically are caused by ozone transported from urban areas. *See* 44 FR 20372 (April 4, 1979).

The second group of areas were those that could demonstrate that they would have achieved the primary NAAQS in question "but for" emissions of a source that had obtained a compliance date extension beyond 1982 under Section 113 or Section 119 of the Act. These areas also had to show that all other sources in the area were complying with applicable SIP requirements. EPA did not identify any nonattainment area in this second group.

(b) *Failure to Fulfill Conditions.* Next, EPA proposed to find that 41 areas had not met conditions EPA imposed while approving their 1979 plans. For a list of these areas, see the second column of the chart in "Appendix D", 48 FR 5005–5021. EPA also proposed to disapprove plans and impose Section 110(a)(2)(I) bans in these areas.

(c) *Failure To Have in Effect Approved or Conditionally Approved Part D Plans.* Finally, EPA proposed to find that 53 areas did not have in effect fully or conditionally approved Part D SIPs. A few of these areas had never submitted a Part D plan to EPA for review; others had made only partial submittals. A few areas had submitted plan revisions that EPA had not yet approved or disapproved. The remaining areas had submitted plans, but received disapprovals.

The Section 110(a)(2)(I) ban EPA imposed in 1979 is still in effect in almost all of these areas. Consequently, EPA was proposing to maintain the status quo in these areas.

[3] EPA based its preliminary conclusion that these areas had failed to attain by the end of 1982 on estimates of the likelihood that they would experience violations after 1982. EPA, in turn, based these estimates on (1) the most recent available monitoring data for each nonattainment area, generally only data from 1981 and the first two quarters of 1982, and (2) projections of the effectiveness of control measures scheduled for implementation in late 1982.

2. *Funding Restrictions and Other Construction Bans*

In the February 3 notice, EPA solicited comment on whether the funding restrictions of Sections 176(a), 176(b) and 316 of the Act should apply in any area where EPA disapproved a plan for failure to attain or failure to meet the Part D planning requirements. EPA also requested comment on whether there might be circumstances justifying the application of these restrictions without prior notice and opportunity to comment. EPA did not, however, propose to restrict funds in any area. Similarily, EPA did not propose to impose either the Section 173(4) ban or the Section 113(a)(5) ban.

3. *Other Issues*

(a) *Requests for Attainment Date Extensions.* EPA also announced that it would disapprove any new request for an extension of the attainment date for the ozone or carbon monoxide standards for either an "original" or a newly-designated nonattainment area. EPA explained that Section 172(a)(2) requires all extension requests to have been submitted on or before January 1, 1979. EPA acknowledged that it had approved extension requests submitted after that date when they accompanied an areas's original Part D submittal, but asserted that Section 172(a)(2) could not be read to permit extensions any later in the planning process.

(b) *Pending Revisions to NAAQS.* EPA also announced that it could provide no exemptions from construction or funding restrictions for any nonattainment area based on possible changes to any of the NAAQS.

(c) *Areas Expected to Attain by December 31, 1982.* EPA's February 3 proposal also listed all nonattainment, nonextension areas that EPA expected to meet the December 31, 1982 attainment deadline. To confirm that these areas had in fact attained, EPA proposed to require each area to submit by July 1, 1984, a request for redesignation to attainment. EPA implied that it would disapprove the plan for any area that could not demonstrate that it had attained the standards by that time. For a list of areas that EPA expected to meet the 1982 attainment deadline, see "Appendix C" of the February 3 notice, 48 FR 4979–5003.

D. Comments on February 3 Proposals for Nonattainment, Nonextension Areas

1. *Proposed Disapprovals and Construction Moratoriums*

(a) *Failure to Attain by December 31, 1982.*

• *General Legal Issues.* Nearly all of the commenters that addressed these proposals protested EPA's proposal to disapprove already approved plans and reimpose the construction ban for failure to attain by the end of 1982. The commenters asserted that the purpose of Section 110(a)(2)(I) and Part D was not to ensure attainment by the end of 1982, but to induce States that had missed the attainment dates set by the 1970 amendments to the Clean Air Act to revise their plans.

Some commenters, focusing on the language and history of Section 110(a)(2)(I) and Part D, pointed out that Part D merely requires plans to "provide for" attainment by the end of 1982. *See* Section 172(a)(1). They argued that Congress easily could have chosen a stronger word, such as "achieve" or "assure," if it had meant Part D to require actual attainment.

One commenter used legislative history to show that Congress chose to use "provide for" precisely because it is less demanding. As originally drafted, the provision that became Section 172(a)(1) required Part D plans to "assure" attainment. The sponsor of the amendment that replaced "assure" with "provided for" stated that he wanted to ensure that States would not have to guarantee that their revised plans would actually bring about attainment. (Transcript of Senate Clean Air Act Mark-up, May 4, 1977, pages 13–14.)

Other commenters noted that Section 110(a)(2)(I) only requires areas to "plan" for attainment to escape the construction ban. They asserted that the legislative history describes the ban as an inducement to timely planning, rather than a penalty for unsuccessful planning.

Still other commenters, focusing on prior EPA action, reminded EPA that, when SIPs submitted under the 1970 amendments failed to bring about attainment, EPA called for SIP revisions under Section 110(a)(2)(H) instead of disapproving plans for failure to "provide for" attainment under Section 110(a)(1). Moreover, at that time, EPA interpreted the Act as prohibiting new source construction only in areas that failed to submit revised SIPs within the deadlines established by EPA. These commenters argued that EPA should follow the same process for plans that failed to "provide for" attainment under Section 172(a)(1). They felt that the existence of this alternative remedy made it unnecessary to adopt what they regarded as strained interpretations of Sections 110(a)(2)(I) and 172(a)(1).

Most commenters that urged EPA to use Section 110(a)(2)(H) conceded that a construction ban should apply if an area failed to revise its plan in response to a notice of inadequacy. A few, however, argued that EPA should promulgate plan revisions under Section 110(c)(1)(C) instead of imposing a ban.

• *General factual issues.* Many commenters protested EPA's use of projections based on monitoring data from 1981 and 1982. They urged EPA to wait until 1983 data becomes available. One commenter supported the proposed procedure, but argued that EPA had not made sufficient allowance for unusual meteorological conditions that might have caused violations. A few commenters argued that EPA had not given enough information on its selection of data to provide a meaningful opportunity to comment.

• *Ozone transport issues.* Many commenters supported the proposal to exempt ozone areas that can demonstrate that their continued violations are caused by transported pollution. Four commenters, however, felt that it was impossible to make such demonstrations using current data and modeling techniques. Others wanted to expand the exemption to other pollutants.

• *Compliance date extension issues.* All of the comments on this issue supported the idea of exempting areas that could demonstrate that they would have attained but for a source that received a compliance date extension beyond 1982. Many commenters urged EPA to expand the exemptions to other situations. One commenter felt EPA's two-pronged test was too burdensome. This commenter favored relaxing the requirement that all other sources in the area must be in compliance and eliminating the requirement for a demonstration that the area would have attained but for the compliance date extension.

• *Removal of construction ban.* Commenters responded variously to EPA's request for comment on when to remove construction bans. The most common suggestion was that EPA should remove the ban as soon as it approved a revised SIP curing the deficiency that caused EPA to disapprove the plan. Other suggestions included removal upon mere submittal or a revised plan, removal upon commencement of good faith efforts toward submitting a revised plan, and removal upon submittal of a request for redesignation to attainment. One commenter also suggested that the ban could be lifted when a source obtained sufficient offsets to show a net reduction in emissions.

These comments addressed not only disapprovals for failure to attain, but

also disapprovals for failure to fulfill conditions and disapprovals for failure to have in effect by now a fully or conditionally approved plan.

b. *Failure to Fulfill Conditions.* No comment addressed this issue directly. Several commenters, however, argued that EPA should not disapprove a plan in an area that probably attained in 1982, even if the plan failed to meet some of the other Part D Requirements. Since the construction ban and the Part D requirements do not apply in areas designated attainment under Section 107(d), the commenters argued that EPA should not apply them in areas where attainment is considered likely.

c. *Failure to Have in Effect an Approved or Conditionally Approved SIP.* Commenters generally agreed that the construction ban should apply in areas that apparently failed to attain and that lack fully or conditionally approved Part D plans. Some commenters argued however, that the ban should not apply in areas which probably attained the standards in 1982.

d. *Proposals for Newly-Designated Nonattainment Areas.* All of the commenters that addressed this issue objected to EPA's proposals to revoke 40 C.F.R. 52.24(k) and require areas designated nonattainment after the first round of designations to meet the 1982 deadline for attainment. They felt that the proposals would produce absurd results, especially in areas designated nonattainment after December 31, 1982.

Many of the commenters argued that Section 107(d) and Part D do not apply to these areas. They suggested that EPA should issue a notice of deficiency under Section 110(a)(2)(H) if it discovers violations in an area designated attainment or unclassified. A few commenters suggested that EPA should continue to use the time intervals between the specific dates in Section 107(d) and Part D.

2. *Funding Restrictions*

(a) *General legal issues.* All commenters on this issue opposed the use of funding restrictions in areas with approved Part D plans that apparently failed to attain by December 31, 1982, unless EPA could show that a State had failed to carry out its plan. These commenters argued that there was no support in the language of Sections 176(a), 176(b), or 316 for applying the restrictions in an area that had implemented an approved plan but had failed to attain. The commenters also asserted that the legislative history showed that Congress intended EPA to impose Section 176(a) only where a State failed to submit a plan, not where a State failed to bring about attainment.

(b) *Procedural issues.* Many commenters argued that EPA had no authority to impose funding restrictions without providing prior notice and opportunity to comment. Some commenters added that Section 105(e) requires EPA to provide an opportunity for a hearing before it withholds any grants for air pollution control programs. Others urged EPA to follow the special policy and procedures developed by EPA and the Department of Transportation for Section 176(a).

3. *Other issues*

(a) *Attainment date extensions for carbon monoxide and ozone.* All but one of the commenters addressing this provision opposed EPA's proposal to interpret Section 172(a)(2) as prohibiting extensions unless requests were submitted with 1979 plan revisions. Most of these commenters cited a 1979 policy memorandum which stated that EPA would grant extensions later in the planning process. They also argued that it would be unfair to penalize areas that had carried out approved plans in good faith.

The commenter that did not favor extensions suggested that areas that failed to attain should be given an opportunity to revise their plans before any restrictions were imposed.

(b) *Effect of pending revisions to standards.* All comments on this issue urged EPA to refrain from disapproving plans and imposing restrictions in particulate matter nonattainment areas. One commenter suggested that EPA disapprove plans only in those areas that would be nonattainment under a revised particulate matter standard.

(c) *Areas expected to attain by December 31, 1982.* Several commenters supported EPA's proposal to presume nonattainment for any area listed in Appendix C of the February 3 notice that failed to submit a request for redesignation by July 1, 1984. One commenter asked EPA to relax the deadline to October 1984.

A fairly large number of commenters asked EPA to clarify its policy on the data needed to support a redesignation request.

E. Congressional Action

In June 1983 Congress added to the HUD-Independent Agencies Appropriations Bill for fiscal year 1984 a provision which provides:

> None of the funds provided in this Act may be obligated or expended to impose sanctions under the Clean Air Act with respect to any area for failure to attain any national ambient air quality standard established under Section 109 of such Act (42 U.S.C. 7409) by the applicable dates set forth in Section 172(a) of such Act (42 U.S.C. 7502(a)).

Pub. L. 98–45, 97 Stat. 226 (July 12, 1983). The bill, including this measure, was passed by both houses and signed on July 12, 1983. It will limit EPA's ability to impose construction and funding restrictions during fiscal year 1984.

The legislative history shows that Congress enacted this measure largely as a response to EPA's February 3 proposal to disapprove approved and implemented plans that failed to bring about attainment by the end of 1982. *See, e.g.,* 129 Cong. Rec. S8818 (daily ed., June 21, 1983 (remarks of Senator Randolph); 129 Cong. Rec. H3506 (daily) ed. June 2, 1983) (remarks of Representative Dingell). It also shows that Congress intended to prohibit only those "sanctions" imposed for failures to attain. Construction bans and funding restrictions for failures to submit plans or carry out plans are still authorized. *See* 129 Cong. Rec. S8816 (remarks of Senator Randolph); 129 Cong. Rec. H3503–3504, (daily ed. June 2, 1983) (remarks of Representative Waxman); 129 Cong. Rec. H3513 (remarks of Representative Broyhill). In fact, one of the chief spokesmen for the Senate amendment made it clear that EPA could still limit construction and funding in an area with an approved and implemented Part D plan that failed to bring about attainment if the State failed to revise the plan within a reasonable time. *See* 129 Cong. Rec. S8817 (daily ed. June 21, 1983) (remarks of Senator Stafford).

III. Response to Comments

This section provides EPA's response to the major comments on legal and policy issues. EPA will respond to comments on factual issues in the final notices of inadequacy and final disapprovals that it will publish in the near future.

A. Proposed Disapprovals and Construction Bans

1. *Failure to Attain by December 31, 1982*

EPA has been persuaded to change its view on the legal consequences of finding that a nonattainment, nonextension area with a fully approved and implemented Part D plan failed to attain by December 31, 1982. EPA now agrees that the better interpretation of the Act is that Section 110(a)(2)(I) and Part D were intended to produce revised plans that appeared to "provide for" attainment by the 1982 or 1987 deadlines. EPA agrees that the language

and legislative history of Section 172(a)(1) suggest that SIPs were only expected to "provide for" attainment in a prospective or planning sense. Furthermore, EPA agrees that its decision not to apply bans immediately in areas that missed the original attainment deadlines is a significant precedent. In fact, EPA has determined that Congress quite probably endorsed this approach in enacting the 1977 amendments.

Moreover, EPA believes that the legislative history of the construction ban, while not conclusive, suggests that the primary purpose of the ban was to provide an incentive for submitting revised plans that met the Part D requirements. Imposing bans in areas with approved plans that missed the 1982 attainment deadline would do little to further this goal, because these areas have already met the requirements of Part D. This reasoning is set out at greater length in an opinion of the General Counsel dated July 12, 1983, which has been included in the docket for this rulemaking.

EPA is withdrawing its proposals to disapprove plans and impose Section 110(a)(2)(I) bans in areas with approved and implemented Part D plans. Moreover, EPA is promulgating an addition to 40 CFR 52.24(a) that will prevent the Section 110(a)(2)(I) ban from applying in such areas.

EPA, however, will find that approved Part D plans that failed to bring about attainment by 1982 are inadequate under Section 110(a)(2)(H). EPA will call for plan revisions, and impose bans under Section 173(4) and funding restrictions under Section 176(b) in any area that fails to submit a revision in a timely manner.

EPA is retaining the exemptions for ozone transport and compliance date extensions that commenters favored. EPA will not issue findings of inadequacy for areas that can demonstrate that they would have attained but for ozone transport or extended compliance schedule. EPA, however, is eliminating from both exemptions the requirements relating to compliance by other sources. These other requirements are not relevant to the purpose of the exemptions. Where other sources are not in compliance because plans are not being carried out, EPA may impose restrictions for failure to implement under the policy outlined in Section IV of this notice.

2. *Failure to Fulfill Conditions*

EPA is not changing its views on the legal consequences of a failure to fulfill a condition of approval, even for areas that may have attained by 1982. So long as an area is designated nonattainment under Section 107(d), the Act requires compliance with all of the Part D requirements. EPA believes the States should bear the burden of demonstrating attainment. Furthermore, so long as any doubt exists, it better serves the Act's health protection purposes to continue to require compliance with Part D.

3. *Failure to Have in Effect an Approved or Conditionally Approved Part D SIP*

Commenters generally supported EPA's proposal to retain existing disapprovals and bans in these areas. As explained in Section IV of this notice, EPA has decided to retain this proposal.

4. *Newly-Designated Nonattainment Areas*

EPA has been persuaded to retain 40 CFR 52.24(k) and allow newly-designated nonattainment areas a reasonable time to submit Part D plans and provide for attainment. EPA is convinced that Congress could not have intended the 1979 and 1982 dates to apply to areas designated attainment long after the original designations in 1978. Moreover, EPA has concluded that the best way to provide sufficient time is to retain the approach long established by Section 52.24(k) and use the time intervals suggested by Section 110(a)(2)(i) and Part D to establish dates for plan submittal and attainment.

B. Funding Restrictions

After reviewing the comments, EPA agrees that none of the funding restrictions in the Act apply to areas with approved and implemented Part D plans that only missed the 1982 attainment date. Furthermore, if EPA imposes restrictions for other reasons, it will first provide notice and opportunity to comment. EPA will not restrict any Clean Air Act funds under Sections 176(a) or 176(b) without also providing an opportunity for a hearing as required by Section 105(e).

C. Other Issues

1. *Attainment Date Extensions*

EPA is modifying the interpretation of Section 172(a)(2) that it proposed on February 3 to allow newly-designated nonattainment areas for carbon monoxide and ozone to obtain extensions if they submit their requests with their first Part D submissions. Allowing them to request extensions at this time will be more consistent with the practice EPA established for the "original" nonattainment areas. Furthermore, it is consistent with the general approach to dates in Part D that EPA is adopting for newly-designated areas.

EPA did not find that any commenters presented a sound rationale for expanding Section 172(a)(2) to permit areas to request extensions later in the process. Although the legislative history does not explain why Congress imposed a January 1, 1979 deadline on extension requests, it seems likely that Congress wanted to force States to make decisions on extensions early in the planning process, to ensure that there would be sufficient time to implement the stringent controls needed for an area where "reasonable measures" would not provide for attainment. This purpose would not be served by allowing areas to obtain extensions after they submit their initial Part D plans.

2. *Pending Revisions to Standards*

No commenter offered a convincing legal rationale that would allow EPA to stay implementation of the existing particulate matter standard. EPA is considering the possibility of focusing the particulate matter standard on small particles. In an attempt to accommodate the commenters' equitable concerns, EPA intends to allow States to structure their particulate matter revisions so they will concentrate on smaller particulates first.

3. *Areas Expected to Attain by December 31, 1982*

Although the comments generally supported the proposal to require redesignation requests from all areas considered likely to attain, EPA has decided to withdraw the proposal. Some States might wish to retain the stricter Part D regime even in areas that come into attainment. Section 116 of the Act makes it clear that States are always entitled to regulate more strictly than the. Act requires. Consequently, EPA has no clear authority to require a State to redesignate and give up its Part D program.

IV. Policy for Correction of Part D SIPs for Nonattainment Areas

A. Introductory Comments

This section describes the approach EPA wants States to take to remedy SIP deficiencies in nonattainment areas. It addresses both the specific deficiencies indentified in the February 3 proposals and deficiencies that may be identified in the future. Also, it describes EPA's revised view of the legal consequences of a failure to correct a deficiency.

In most cases, EPA wants to give States an opportunity either to show that their SIPs are not deficient or to remedy their deficiencies before

construction and funding restrictions apply. States may show that SIPs are not deficient by requesting redesignation to attainment under Section 107(d). States may remedy deficiencies by either implementing or revising their existing SIPs. EPA is preparing comprehensive guidance for areas that need to implement or revise their plans. EPA expects this guidance to be available later this fall.

If a State neither submits a redesignation request nor cures its SIP deficiencies, EPA will propose construction and funding restrictions. If a State commits to remedy its deficiency by a specific date and, at the same time, shows that it cannot possibly move any more quickly, EPA may defer final action until that date, unless it learns later that the State will not meet its commitment. EPA does not anticipate that any State will need more than one year to correct any of the SIP deficiencies identified in the February 3 proposal.

If a State fails to redesignate or solve its problems within the time limits described below, EPA will publish a notice in the Federal Register announcing that appropriate construction and funding restrictions apply.

If EPA imposes construction and funding restrictions, it will remove them when it approves a redesignation request or finds that the State has cured its deficiency. If the State must submit a plan revision, EPA will remove restrictions only when it approves the State's revision or promulgates a Federal revision. If the State must implement an approved plan, EPA will remove restrictions only when it finds that the State has completed all actions needed to carry out the plan.

Where a SIP is deficient because it lacks needed control measures, EPA will consider promulgating the measures. Resource constraints will almost certainly make it impossible for EPA to promulgate Federal plan revisions immediately in all areas where they might be needed. Consequently, EPA will promulgate first in those areas where air grant funds have been restricted and where it believes that Federal action will be most effective. EPA will remove construction bans if it promulgates a plan revision that brings the area into full compliance with Part D. Promulgation, however, will not remove funding restrictions. To remove these restrictions, States will have to submit or implement their own plans or formally adopt the EPA plans as their own. *See e.g.*, 46 FR 24692 (April 10, 1980) (Section 176(a) policy).

EPA will administer this policy in accordance with the objectives that the Administrator announced in his June 23, 1983 speech to the Air Pollution Control Association. These objectives are:

(1) Carry out the Clean Air Act.

(2) Move the nation closer to the health goals of the Act.

(3) Strengthen Federal, State, and local air pollution control programs.

(4) Treat all parties fairly.

(5) Provide incentives for States to fulfill their planning and implementation obligations rather than punishments for failures.

(6) Avoid unnecessary economic disruption.

B. Policy

EPA has classified SIP deficiencies for nonattainment areas into the following categories:

1. Nonattainment areas without attainment date extensions.

(a) Areas with fully approved 1979 plans or portions of plans.

(i) Areas that failed to implement.

(ii) Areas that failed to attain by the end of 1982.

(b) Areas that failed to fullfill conditions of approval on 1979 plans.

(c) Areas lacking approved or conditionally approved 1979 plans.

(i) Areas that failed to submit plans.

(ii) Areas that received disapprovals.

(iii) Areas that submitted plans that EPA has not acted upon.

(d) Areas with approved and implemented plans that are expected to attain.

2. Nonattainment areas with attainment date extensions.

(a) 1979 plans.

(b) 1982 plans.

(i) Plans proposed for approval.

(ii) Plans proposed for disapproval.

(iii) Plans not submitted.

(iv) Areas that do not implement plans.

3. Newly-designated nonattainment areas with and without extensions.

Each nonattainment area must correct each deficiency that applies to it. Some areas will need to correct more than one deficiency for the same plan. Also, since some areas are nonattainment for more than one pollutant, they may need to revise more than one plan.

1. *Nonattainment Areas Without Attainment Date Extensions*

(a) *Areas With Approved 1979 Part D Plans or Portions of Plans.*

(i) *Areas that did not implement approved plan provisions.* EPA did not propose on February 3, 1983 to find that any nonattainment, nonextension area had failed to carry out an approved Part D plan provision. EPA, however, may discover that some areas failed to carry out their plans. If EPA discovers such problems, it will propose to find that the area is not implementing its plan and propose to limit construction and funding under Sections 173(4) and 176(b). The timing of restrictions and the remedy will vary with the type of provision that is not being implemented.

• *Schedules for adoption of additional control measures.* EPA approved some Part D plans containing schedules that required areas to adopt additional control measures needed to assure attainment. For example, some particulate matter nonattainment plans require areas to study nontraditional sources of particulate matter and adopt additional controls.

If IPA learns that an area has not carried out such a schedule, EPA promptly will propose to find that the area is not implementing its approved Part D SIP. Simultaneously, EPA will propose to limit construction under Section 173(4) and air pollution control funding under Section 176(b). EPA will provide an opportunity to comment and an opportunity to request a hearing.

If, during the comment period, an area commits to a new deadline for adopting the necessary control measures as quickly as possible, EPA will defer its final action until that deadline. To ensure that areas implement their plans expeditiously, EPA will not accept deadlines more than one year from the date of the proposed nonimplementation finding.

If an area misses its deadline for submitting new control measures, EPA will take final action to find that the area has failed to implement and impose the construction and funding restrictions. If, however, an area submits new control measures within its deadlines, EPA may continue to defer action while it evaluates the new measures. If EPA approves the new measures as revisions to the Part D plan, EPA will withdraw the proposed non-implementation finding, construction limitations, and funding restrictions. If EPA disapproves the measures, EPA will impose the restrictions immediately.

• *Implementation or enforcement of existing measures.* All approved Part D plans require areas to implement or enforce adopted control measures. For example, a plan for an ozone area may require a State or local government to construct high-occupancy vehicle lanes. Other plan provisions may require the State or local government to enforce emission limitations for stationary sources. EPA will propose nonimplementation findings and construction and funding restrictions for

any area that has failed to carry out either type of requirement. EPA will proceed generally as described above in the discussion of plans requiring the adoption of control measures. EPA expects, however, that areas would need much less than one year to adopt new policies or procedures or commit new resources to implement existing measures; consequently, it does not anticipate that it will defer final action as long as it would for an area that needs to adopt new control measures. EPA will withdraw proposed or final restrictions when an area shows that it has completed all steps needed to implement the measure that it has neglected.

• *Approvals with understanding.* In some cases EPA approved a Part D plan with the understanding that an area would take additional actions needed to meet a Part D requirement. Where areas submitted commitments to take the additional actions by specific dates, and EPA noted these commitments in its rulemaking actions, EPA will treat a failure to meet a commitment as a failure to implement an approved plan provision. If EPA discovers that areas have failed to meet these commitments, it will propose nonimplementation findings, construction limitations, and funding restrictions as described above.

(ii) *Areas with approved plans that did not attain by December 31, 1982.* On February 3 EPA proposed to disapprove plans for nonattainment, nonextension areas that appeared to have failed to attain by December 31, 1982. As explained earlier in this notice, EPA has decided that the Clean Air Act does not require disapprovals in such cases. Consequently, EPA will proceed as described below.

• *Call for SIP revisions.* Where a fully approved Part D plan failed to bring about attainment by the end of 1982, EPA will treat the plan as "substantially inadequate" to assure attainment under Section 110(a)(2)(H) and call for a SIP revision. EPA will provide one year for the submittal of the new revision under Section 110(c)(1)(C). The revisions will have to provide for attainment as expeditiously as practicable and may need to meet new requirements beyond the scope of Part D. EPA will discuss these requirements in the detailed guidance document that it is preparing.

EPA will treat the disapprovals it proposed on February 3 as proposed findings of inadequacy under Section 110(a)(2)(H). The factual findings concerning pollution levels that supported the proposed disapprovals will also serve as bases for finding of inadequacy. After reviewing all comments that addressed individual areas, EPA will, as appropriate, withdraw its proposed findings of inadequacy or publish final findings and call for SIP revisions. EPA intends to complete its review of comments and act on these proposals in the near future. EPA will provide up to one year from the date of any final finding for the submittal of a plan.

• *Consequences of failing to submit a SIP revision.* If an area fails to meet the deadline for submittal of its plan revisions, EPA will propose immediately to find that the State has failed to implement the provision to its SIP that, in accordance with Section 110(a)(2)(H), requires the State to revise the SIP upon a finding of inadequacy. At the same time, EPA will propose construction and funding restrictions under Sections 173(4) and 176(b). In some cases, EPA may also propose to impose funding restrictions under Section 316(b). Because it is essential to induce States to produce plans providing for attainment as quickly as possible, EPA will take final action as quickly as possible while providing an adequate, but minimal opportunity for comment, including an opportunity to request a hearing.

If an area submits a revision before EPA takes final action on these nonimplementation sanctions, EPA may defer action until it evaluates and acts on the submittal. EPA may, if appropriate, propose approval of a plan containing draft regulations and defer final action until the regulations are formally adopted. If EPA approves a revision, it will withdraw the proposals. If EPA disapproves the plan, it will take final action immediately to impose the restrictions it proposed. The disapproval notice will explain why the Agency rejected the new submittal.

Once restrictions are imposed, they will be lifted only upon approval of a revised SIP or promulgation of a Federal SIP revision.

• *Exceptions.* On February 3, EPA proposed to exempt from disapproval areas that could show that they would have attained "but for" ozone transport or compliance date extensions. For the reasons explained in the February 3 notice, EPA will not call for SIP revisions in areas that can demonstrate that they would have attained but for these reasons.

(b) *Areas with Conditionally Approved 1979 Plans that Did Not Meet Conditions.* On February 3 EPA proposed to disapprove plans and impose Section 110(a)(2)(I) bans in nonattainment, nonextension areas that had failed to fulfill conditions EPA imposed on its approval of 1979 plans. EPA plans to retain these proposals, but modify its final actions as described below.

Many areas with conditionally approved plans also failed to attain by the end of 1982. Fulfilling the condition may not be enough to bring about attainment as expeditiously as practicable. These areas will need to submit further plan revisions following the guidelines above for areas that failed to attain.

• *Review of conditions.* EPA plans to review all outstanding conditions to determine whether they are still germane to attainment or maintenance of the NAAQS or to meeting Part D requirements. EPA will revoke any unnecessary conditions and withdraw its proposals to disapprove and impose the construction ban. Where EPA finds that a condition is necessary,[*] it will

[*] EPA is not at this time planning to call for rule revisions to comply with certain conditions requiring States to meet new source review rules EPA promulgated on August 7, 1980 (45 FR 52676). In February 1982 EPA signed a settlement agreement in which it agreed to propose to revise several of these rules. *Chemical Manufacturer's Association* v *EPA*, D.C. Cir. No. 79-1112. Because of this agreement, EPA conditionally approved several State programs which generally met EPA's 1980 regulations, but which did not meet some of the rules covered by the settlement agreement. The conditions require the States to revise their nonconforming rules within one year unless EPA changes its own rules so that the State rules would be acceptable. *See, e.g.*, 48 FR 9859 (March 9, 1983) (Alabama new source review regulations). EPA has further conditioned approval of these regulations by requiring interim implementation in conformance to the Agency's current rules.

The uncertainty created by the settlement agreement still exists. EPA did promulgate a change to its definition of "source" for nonattainment areas, but this revision was successfully challenged in the U.S. Court of Appeals for the District of Columbia Circuit. *NRDC* v. *Gorsuch*, 685 F. 2d 718 (D.C. Cir 1982). The Supreme Court has accepted EPA's petition for certiorari to review this decision. In addition, on August 25, 1983 (48 FR 38745), EPA proposed to make several other revisions contemplated by the agreement. Accordingly, EPA finds it appropriate to postpone calling for regulatory changes to comply with these conditions. However, States must continue to meet all conditions concerning requirements for interim implementation.

EPA does not intend to postpone calling for compliance with earlier conditions imposed on areas that had not yet begun to adopt regulations meeting EPA's 1980 new source review rules. Areas subject to these earlier conditions must meet existing deadlines for adopting regulations that conform to EPA's 1980 rules. If these areas adopt rules that conform to all portions of EPA's 1980 rules except those covered by the settlement agreement, EPA will issue new conditional approvals like the ones described above.

In addition, there are a few areas that have not met EPA's 1980 regulations that obtained full approval for their new source review programs. EPA intends to impose conditions on these areas that will require compliance with all portions of the 1980 rules except those affected by the settlement agreement. EPA will issue new conditional approvals which deal with the CMA portions of the 1980 regulations.

notify the area and proceed as described below.

EPA intends to complete its review of conditions by the end of 1983. As part of the review, EPA will consider all comments on particular conditions submitted in response to the February 3 proposal.

• *Consequences of not meeting germane conditions.*

—Disapprovals and Section 110(a)(2)(I) bans. EPA expects that it will find that many areas proposed for disapproval on February 3 will still need to meet their conditions.

Where the condition involves a serious plan deficiency and is long overdue, EPA may issue a final disapproval and impose a Section 110(a)(2)(I) construction ban immediately after it completes its review of conditions. If the deficiency is less serious, and if the area commits to meet the condition by a new date, EPA may defer final action until that date. Areas that want to commit to new dates may submit their commitments while EPA is reviewing the conditions. In no case does EPA expect to defer action for more than one year after the completion of its review of conditions.

If a State makes a submittal intended to satisfy the condition before EPA disapproves the plan, EPA will continue to defer action while it reviews the submittal. If EPA approves the submittal, it will withdraw the proposed restrictions. If EPA disapproves the submittal, it will disapprove the plan and proceed with the appropriate funding restriction.

Where a ban is imposed, EPA will remove it only when it takes final action finding that the condition has been met or redesignates the area to attainment.

—Funding restrictions for ozone, carbon monoxide and nitrogen dioxide plans. Where an area has failed to meet a condition for a Part D plan for ozone, carbon monoxide, or nitrogen dioxide, EPA will consider restricting highway and air pollution control funds under Section 176(a). EPA will propose to impose Section 176(a) restrictions where areas have not made reasonable efforts to fulfill their conditions. EPA will provide opportunity to comment and an opportunity for a hearing before it takes final action. As described above for the construction ban, EPA may defer final action for up to one year if an area commits to a new date for meeting its condition. EPA will remove restrictions in accordance with its April 1980 policy.

—Funding restrictions for other pollutants. Section 176(a) does not apply to plans for non-transportation related pollutants. Because EPA believes it is essential to have all areas to meet necessary conditions, it intends to propose funding restrictions under Section 176(b) and a construction ban under Section 173(4) where areas have not met conditions for other pollutants. More specifically, EPA will consider its conditional approval as the equivalent of a finding of inadequacy and a call for a SIP revision under Section 110(a)(2)(H). Any area which has failed to meet the condition has failed to carry out the provision in its SIP that requires a revision when EPA makes a finding of inadequacy. Accordingly, EPA will be able to use Section 176(b) and 173(4), which apply in areas that have not carried out approved plans. EPA will propose to impose these nonimplementation restrictions at the same time it disapproves or proposes to disapprove a plan. As described above for the Section 110(a)(2)(I) construction ban, EPA may defer action if an area commits to a new date for meeting its condition. EPA will review new submittals, impose restrictions and remove restrictions as described above for the construction ban.

(c) *Areas Lacking Approved or Conditionally Approved 1979 Plans.*

(i) *Plan not submitted.*

• *Requirements for plan approval.* All areas designated as nonattainment in 1978 were required to have in effect by July 1, 1979 plans that met the Part D requirements. EPA wants areas that have not obtained approval or conditional approval fo their Part D plans to do whatever is necessary to obtain approval. In most cases, this will require new plan revisions.

Although it will no longer be possible for these areas to submit plans that "provide for" attainment by the end of 1982, EPA has concluded that it may approve plans that "provide for" attainment as expeditiously as practicable while meeting all other Part D requirements. Upon approving such a plan, EPA will remove the existing Section 110(a)(2)(I) ban and withdraw any proposed or final funding restrictions.

• *Consequences of failing to submit plans*

—Section 110(a)(2)(I) construction ban. In each nonattainment, nonextension area that has failed to submit all or part of a 1979 Part D plan, the Section 110(a)(2)(I) ban went into effect on July 2, 1979 and remains in effect today. As EPA proposed on February 3, it will leave this ban in effect until it approves or promulgates a plan for the area as meeting the requirements of Part D.

—Funding restrictions for ozone, carbon monoxide and nitrogen dioxide plans. Where an area has not made reasonable efforts to submit a Part D plan for an ozone, carbon monoxide, or nitrogen dioxide nonattainment area, EPA will propose in the near future to restrict highway and air pollution control funding under Section 176(a). If an area commits to submit a Part D plan at the earliest possible date, EPA will defer action on the proposal until that date so long as the area makes measureable progress. In no case will EPA defer final action for more than one year from the date it proposes to impose funding restrictions. If, however, a State submits a plan to EPA within one year, EPA will continue to postpone final action on the restrictions until it takes final action on the plan. If EPA approves the plan, it will withdraw the proposed funding restrictions. EPA will impose the restrictions if it disapproves the plan.

—Funding restrictions for plans for other pollutants. EPA intends to use the Section 176(b) funding restrictions for areas that are nonattainment for other pollutants. For these areas, EPA will treat the February 3 notice as a proposed finding of inadequacy under Section 110(a)(2)(H). As soon as possible after issuing this policy, EPA will publish final findings of inadequacy and call for plan revisions. EPA intends to set a deadline for submittal of these revisions within 60 days from the date of the final finding. These plans were originally due over four years ago; consequently, EPA is providing the shortest deadline suggested by Section 110(c)(1)(C).

If an area does not submit a Part D plan within this 60 days. EPA will promptly publish a propose finding of nonimplementation, propose to restrict funds under Section 176(b), and propose a limit construction under Section 173(4). If an area commits to a schedule for submitting a revised plan, EPA will postpone final action on the funding restrictions for up to one year after the date of its final finding of inadequacy. If an area submits a plan revision on time, EPA will defer action on the funding restrictions as described above in the discussion of 176(a).

(ii) *Plan disapproved.* In virtually all areas that received disapprovals on their 1979 plans, the Section 110(a)(2)(I) ban remains in effect.[5] As proposed on February 3, these bans will remain in effect until EPA approves a plan as meeting the requirements of Part D.

EPA intends to follow the same policy for using funding restrictions to obtain

[5] EPA has discovered a few areas where it disapproved a Part D plan but neglected to reimpose the Section 110(a)(2)(I) ban. EPA intends to publish notices imposing the ban in these areas as soon as possible after it issues this policy.

new plans that is outlined above for areas that did not submit Part D plans. The rationale for approving revised plans described in that section will also apply to these areas.

(iii) *Plan submitted but no final action by EPA.* For these areas, too, the Section 110(a)(2)(I) moratorium is in effect and will remain in effect until EPA approves a plan as meeting the Part D requirements.

Before EPA and the States can take further action on these plans, EPA must complete its review of the submitted revisions. EPA has proposed action on all of these plans. It currently intends to take final action or, if necessary, to propose different action no later than December 31, 1983. If EPA approves a plan, it will remove the Section 110(a)(2)(I) ban. If EPA disapproves a plan, it will propose funding restrictions as described above in the Section on areas that did not submit Part D plans.

If a State chooses to withdraw a plan before EPA takes final action, EPA will return the plan and proceed under the policy described above for areas that did not submit Part D plans.

(d) *Areas With Approved and Implemented 1979 Plans That Probably Attained.* EPA did not propose to disapprove plans or impose restrictions for these areas on February 3. EPA, however, will continue to monitor air quality data for these areas to determine whether they did attain the standards. If EPA discovers a violation of the standard for which the area is designated nonattainment, EPA will propose to find the plan to be inadequate and call for a plan revision as described above for areas which failed to attain.

These areas may request redesignation to attainment any time that they can submit data meeting EPA's policy requirements. For more information on these requirements, *see* the April 21, 1983 memorandum "Section 107 Designation Policy Summary", from Sheldon Meyers to EPA Regional Air Directors.

2. *Nonattainment Areas With Attainment Date Extensions*

Part D required areas with attainment date extensions for ozone or carbon monoxide to submit plan revisions in 1979 and again in 1982. Either or both of these plan revisions may be deficient.

(a) *1979 Plan Revisions.* None of EPA's February 3 proposals addressed the 1979 plans for extension areas. Nevertheless, these plans may suffer from some of the deficiencies described above. An area may have failed to fulfill a condition of approval or may have failed to submit a portion of a plan. EPA may have disapproved a portion of a 1979 submittal. If EPA finds such deficiencies, it will follow the policies outlined above for nonextension areas.

Extension areas may also have failed to carry out approved portions of their 1979 plans. On August 3, 1983 (48 FR 35312), EPA proposed to find that eleven areas were not implementing approved schedules for motor vehicle inspection/maintenance programs. EPA proposed to restrict construction and funding under Sections 173(4) and 176(b). EPA will publish similar proposals if it finds other implementation failures.

(b) *1982 Plan Revisions.* EPA has proposed action on all 1982 plans for extension areas. The second set of notices published on February 3 contained EPA's proposals for 27 of the 31 States that have areas with attainment date extensions.

(i) *Plans submitted and proposed for approval.* EPA did not propose any construction or funding restrictions for plans which it proposed to approve. EPA currently intends to consider all comments and publish final approvals by March 1, 1984.

In some areas, EPA may find it necessary to change its course and disapprove a plan. Where disapproval will require a reproposal, EPA plans to publish the new proposal by March 1. EPA expects to take final action on any reproposal by September 30, 1984. If EPA disapproves the plan, it will proceed as described below.

(ii) *Plans submitted and proposed for disapproval.* EPA intends to take final action on all proposed disapprovals early next year. Where circumstances warrant, EPA will issue a new proposal and complete its action before the end of next year. Disapproval of a 1982 plan will trigger a construction ban under Section 110(a)(2)(I).

EPA wants to encourage areas where plans are disapproved to submit revised plans meeting the Part D requirements. Accordingly, EPA will consider restricting highway and air grant funding under Section 176(a). EPA will propose restrictions where it finds that an area has not made reasonable efforts to submit an approvable plan. If EPA proposes restrictions, it may defer action for up to one year if an area commits to an expeditious schedule for the submittal of new revisions.

Once EPA imposes construction and funding restrictions, it will lift them only when it approves or promulgates a plan as meeting the Part D requirements for extension areas.

(iii) *Plans not submitted.* In many cases EPA evaluated and proposed action on draft plans. Some States have not yet submitted final plans containing adopted control measures and official commitments. EPA cannot approve plans that do not contain adopted, enforceable measures and commitments. If an area fails to submit its final plan before EPA's internal deadline for final action, EPA will disapprove on the ground that the area failed to meet the Part D requirements for 1982 plans. This disapproval will trigger a construction moratorium under Section 110(a)(2)(I). It may also lead to funding restrictions under Section 176(a) as described above.

EPA will remove any construction or funding restrictions when it approves a final submittal as meeting the applicable Part D requirements.

(iv) *Areas that do not implement approved plans or portions of plans.* Areas with approved plans or portions of plans will be subject to restrictions for failure to implement if they fail to carry out their plans. EPA will monitor closely all approved schedules for the submittal of additional control measures. EPA will also monitor compliance by stationary sources. It will propose findings of nonimplementation and construction and funding restrictions under Sections 173(4) and 176(b) as soon as it sees significant slippage.

3. *Newly-Discovered Nonattainment Areas With and Without Extensions*

(a) *Deadlines for plans and attainment.* EPA has concluded that Congress intended that newly-discovered nonattainment areas should meet the Part D requirements, but have a reasonable amount of time to do so. Accordingly, EPA intends to require newly discovered nonattainment areas to follow the time periods, but not the dates, from Section 110(a)(2)(I) and Part D. Any new nonattainment area will have one year to develop a Part D plan. To obtain approval, that plan must "provide for" attainment as expeditiously as practicable, but no later than five years after the date of the nonattainment designation.

Although EPA does not expect a significant number of new ozone and carbon monoxide nonattainment areas which will be unable to attain standards in five years, an attainment date extension can be granted provided that an area can show that it is impossible to attain carbon monoxide or ozone standards despite the implementation of all reasonably available control measures. The extension is not automatic; it must be requested and it must be accompanied by a demonstration of need that is forwarded with the initial Part D submittal. The

extension may provide up to five additional years to provide for attainment. Areas that receive extensions will have to submit supplemental SIP revisions no later than four and one-half years from the date of the designation.

(b) *Consequences of failures to submit plans.*

• *Construction ban.* Under 40 CFR 52.24(k), a Section 110(a)(2)(I) ban will apply eighteen months after the date of the designation in any area designated nonattainment after July 1, 1979, unless the area has in effect an approved or conditionally approved Part D plan. This ban will apply automatically, but EPA intends to publish in the **Federal Register** a notice advising the area that the ban has come into effect.

Approval of an initial plan as meeting the Part D requirements will lift the ban. Disapproval will maintain or impose the ban. Disapproval of a supplemental submittal for an extension area will also maintain the ban (or impose it, if EPA approved the initial submittal).

• *Funding restrictions for ozone, carbon monoxide and nitrogen dioxide plans.* If an ozone, carbon monoxide or nitrogen dioxide area fails to make reasonable efforts to submit either an original or supplemental Part D revision, EPA will propose funding restrictions under Section 176(a). If the area commits to a schedule for submitting a plan revision, EPA may postpone action on final restrictions for as much as one year.

• *Funding restrictions for plans for other pollutants.* To ensure timely submittal of plans for newly-designated nonattainment areas for other pollutants, EPA will issue a notice of inadequacy and call for a plan revision under Section 110(a)(2)(H) at the time it redesignates the area as nonattainment. If the area fails to submit an approvable Part D plan, EPA will be in a position to find that the area is not implementing its SIP and to propose funding restrictions under Section 176(b) and construction restrictions under Section 173(4).

(c) *Consequences of not implementing approved plans or not attaining.* If EPA approves the Part D plan for a newly discovered nonattainment area, but the area subsequently fails to implement its plan, EPA will propose a finding of nonimplementation as described above in the discussion of 1979 plans that fails to implement. Similarly, if an approved plan fails to bring about attainment by the applicable deadline, EPA will propose a finding of inadequacy under Section 110(a)(2)(H).

(d) *Remedial actions for areas designated nonattainment after July 1, 1979, but before the publication of this policy.* A few areas were designated nonattainment after July 1, 1979, but before the publication of this policy. EPA intends, to the extent possible, to put these areas on equal footing with areas designated nonattainment in the future. For example, EPA will approve qualifying extension requests that accompanied an area's first Part D submittal. Also, where uncertainty about this policy caused a construction ban to come into effect because EPA failed to act on a Part D plan submittal, EPA will move as quickly as possible to act on the plan. If EPA approves the plan, it will remove the moratorium. If the plan is disapproved, the moratorium will continue.

At the same time, EPA wants these newly-discovered nonattainment areas to face the same consequences for failing to submit plans. Accordingly, for nonattainment areas for non-transportation related pollutants, EPA will treat the February 3 proposed disapprovals as proposed findings of inadequacy. This will allow EPA to issue a final finding of inadequacy and propose construction and funding restrictions under Sections 173(4) and 176(b) if an area misses its deadline for submittal of a Part D plan.

C. Other Issues

1. *Definition of "Reasonable Efforts" in Section 176(a)*

EPA's April 1980 policy states that EPA will determine whether a State is making "reasonable efforts" to submit a Part D plan on a case-by-case basis. In making such decisions, EPA will consider the legislative history of Section 176(a). This history suggests that Congress did not intend the funding restrictions to apply in areas unable to meet the 1982 or 1987 attainment deadlines, if those areas make reasonable attempts to provide for attainment. *See* 123 Cong. Rec. S9437–S9439 (June 10, 1977).

2. *Scope of Restrictions on Clean Air Act Funding under Sections 176(a) and (b)*

As mentioned in Section II of this notice, on August 3, 1983 EPA asked for comment on the idea of using funds withheld under Section 176(b) to implement the part of a plan that a State is not implementing. EPA cannot take a final position on this issue until it reviews all comments. If EPA decides that this approach is feasible under Section 176(b), it may use a similar approach under Section 176(a), using funds withheld for EPA promulgation.

3. *Section 316(b) Funding Restrictions*

EPA has discretionary authority under Section 316(b) to restrict sewage treatment funding where an area does not have a Part D plan in effect or is failing to carry out its SIP. EPA may propose to add Section 316 restrictions in areas where further inducements to action are needed. EPA is currently reviewing its August 11, 1980 policy (45 FR 53382) regarding implementation of Section 316. The 1980 policy, however, will remain in effect until revised or rescinded. The revised policy will reflect the current construction grants programs and identify those types of situations where sanctions could be imposed. Any revision will be proposed and will seek public comment by notice in the **Federal Register.**

4. *Section 113(a)(5) Construction Ban*

Section 113(a)(5) gives EPA discretion to impose a construction ban for nonimplementation. EPA intends generally not to exercise this authority. Section 173(4) covers most of the cases that Section 113(a)(5) covers. In addition, imposition of a ban in the remaining cases, where the company has received a construction permit already, would be unnecessarily unfair, except in extreme cases of nonimplementation. For example, EPA might consider using this section where a State issues a permit in violation of a construction ban.

5. *Emissions Trading*

Current EPA policy allows existing-source emissions trades in nonattainment areas lacking adequate attainment demonstrations 47 FR 15076 (April 7, 1982), EPA, however, is re-examining that policy. On August 31, 1983 (48 FR 39580), EPA requested further comment on several issues concerning this interim emissions trading policy, including whether, and under what circumstances, EPA should approve existing-source trades in nonattainment areas that lack fully or conditionally approved Part D plans or in areas with approved plans that missed the 1982 deadline.

EPA invited all interested persons to submit comments before October 31, 1983, in response to the August 31, 1983, emissions trading notice. EPA will evaluate all comments on this issue as quickly as possible after the close of that comment period. EPA expects to announce its position on this issue in both the guidance for correction of Part D SIP's and the final emissions trading policy.

In the interim, existing sources considering trades in such areas should

be aware that EPA has requested comment on grand-fathering issues. However, sources that traded might eventually be subject to additional emission reduction requirements needed to brung an area into attainment, depending upon the control strategy which the State selects.

6. *Pending Review of Standards*

EPA must enforce all existing standards unless and until they are revised. However, to accommodate concerns about the pending review of the particulate matter standard, EPA will consider approving revised plans that consist of enforceable schedules that phase in the adoption and implementation of controls for particulate matter sources. States will be able to address sources of smaller particles first. EPA, however, does not intend to allow any particulate matter nonattainment area to relax existing requirements under this policy.

V. Final Actions

EPA is taking only two final actions today. First, EPA is promulgating a rule that sets out the Agency's new view of the legal consequences of a failure to attain by the deadlines in Part D. Specifically, EPA is amending 40 CFR 52.24(a) to clarify that the Section 110(a)(2)(I) ban does not apply in nonattainment, nonextension areas with fully approved Part D plans that failed to attain by December 31, 1982. This amendment also provides that the moratorium will not apply in extension areas with fully approved 1979 and 1982 Part D submittals.

Second, EPA is withdrawing its proposal to amend 40 CFR 52.24(k). This will continue to postpone construction bans for eighteen months in areas designated nonattainment after July 1, 1979.

EPA regards these actions as interpretive rules of nationwide scope and applicability that restate some of the Act's requirements for all nonattainment areas. Consequently, they are effective upon publication. Under Section 307(b), any petition for review of these actions must be filed in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of the date this notice appears in the **Federal Register**.

VI. Miscellaneous

A. Executive Order 12291 and Regulatory Flexibility Act

Under Executive Order 12291, the final actions EPA is taking today are not "Major" because they have no immediate impact in any area. In addition, they limit the scope of the construction ban under the Clean Air Act. The actions have been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection in the docket.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. As noted above, today's final actions do not impose construction bans or have any other impacts on any small entities. Consequently, the Agency certifies that today's action has no significant impacts.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Authority: Sections 101, 107, 110, 116, 171–178, 301(a) and 316 of the Clean Air Act, as amended (42 U.S.C. 7401, 7407, 7410, 7416, 7501–08, 7601(a), and 7616); Section 129(a) of the Clean Air Act Amendments of 1977 (Pub. L. No. 95–95, 91 Stat. 685 (August 7, 1977).

Dated: October 27, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 52.24 is amended by revising paragraph (a) to read as follows:

§ 52.24 Statutory restriction on new sources.

(a) After June 30, 1979, no major stationary source shall be constructed or modified in any nonattainment area as designated in 40 CFR Part 81, Subpart C ("nonattainment area") to which any State implementation plan applies, if the emissions from such facility will cause or contribute to concentrations of any pollutant for which a national ambient air quality standard is exceeded in such area, unless, as of the time of application for a permit for such construction, such plan meets the requirements of Part D, Title I, of the Clean Air Act, as amended (42 U.S.C. 7501 *et seq.*) ("Part D"). This section shall not apply to any nonattainment area once EPA has fully approved the State implementation plan for the area as meeting the requirements of Part D.

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[FR Doc. 83–29725 Filed 11–1–83; 8:45 am]

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VOL
48
ISS
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FE
502
505

Reader Aids

Federal Register

Vol. 48, No. 213

Wednesday, November 2, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

50295-50500.....1
50501-50698.....2

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

7 CFR

29.....50501
371.....50295
906.....50501

Proposed Rules:

1036.....50549

9 CFR

327.....50296

10 CFR

761.....50296

Proposed Rules:

2.....50550

11 CFR

114.....50502

12 CFR

26.....50296
212.....50296
348.....50296
563f.....50296
711.....50296

Proposed Rules:

330.....50339
337.....50339
564.....50339

14 CFR

39.....50508
71.....50510
75.....50510
91.....50510
97.....50512

Proposed Rules:

Ch. I.....50553
39.....50341

16 CFR

1017.....50514

17 CFR

275.....50526

Proposed Rules:

3.....50554
10.....50554

19 CFR

Proposed Rules:

10.....50342
19.....50342
24.....50342
113.....50342
125.....50342
141.....50342
142.....50342
143.....50342
144.....50342
146.....50342

20 CFR

396.....50308
602.....50662
603.....50662
604.....50662
621.....50527
651.....50662
652.....50662
653.....50527, 50662
654.....50527
655.....50527
656.....50527

21 CFR

5.....50527
74.....50311
81.....50311
82.....50311
193.....50528
520.....50528
561.....50528

Proposed Rules:

207.....50358
210.....50358
225.....50358
226.....50358
501.....50358
510.....50358
514.....50358
558.....50358

26 CFR

Proposed Rules:

31.....50567

28 CFR

0.....50312
548.....50478

29 CFR

1.....50312
4.....50529
5.....50312

33 CFR

Proposed Rules:

110.....50359, 50360

38 CFR

3.....50313
21.....50529

Proposed Rules:

21.....50568, 50569

40 CFR

51.....50686
52.....50530, 50568
80.....50482
81.....50316
180.....50317, 50532, 50533

228.....50317
434.....50321
439.....50322
Proposed Rules:
81.....50361
180.....50363
761.....50486
Proposed Rules:
60.....50670

42 CFR

Proposed Rules:
55a.....50363

43 CFR

Public Land Orders:
6477.....50322

44 CFR

Proposed Rules:
67.....50366

47 CFR

2.....50322
21.....50322
31.....50534
74.....50322
81.....50540
83.....50548
87.....50548
94.....50322
Proposed Rules:
73.....50571-50585

49 CFR

171.....50440, 50444
172.....50440, 50444
173.....50440, 50444
174.....50440, 50444
175.....50444
176.....50440
177.....50440
178.....50440
179.....50440

50 CFR

Proposed Rules:
611.....50379, 50506
672.....50379
675.....50506

LIST OF PUBLIC LAWS

Last Listing October 28, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

H.R. 3044/Pub. L. 98-138

To grant the consent of the Congress to an interstate agreement or compact relating to the restoration of Atlantic Salmon in the Connecticut River Basin, and to allow the Secretary of Commerce and the Secretary of the Interior to participate as members in a Connecticut River Atlantic Salmon Commission. (Oct. 28, 1983; 97 Stat. 866) Price: $1.75

VOL
48
ISS
2
1
3
NO
2
1983
UMI

VOL
48
ISS
2
1
4
NO
3
1983
UMI

11-3-83
Vol. 48 No. 214

federal register

Thursday
November 3, 1983

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VOL
48
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4
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11-3-83
Vol. 48 No. 214
Pages 50699-50874

federal register

Thursday
November 3, 1983

Selected Subjects

Administrative Practice and Procedure
Postal Rate Commission

Animal Drugs
Food and Drug Administration

Cultural Exchange Programs
United States Information Agency

Flood Insurance
Federal Emergency Management Agency

Food Assistance Programs
Food and Nutrition Service

Foreign Investments in U.S.
Internal Revenue Service

Government Property
Federal Emergency Management Agency

Hazardous Materials
Environmental Protection Agency

Household Appliances
Consumer Product Safety Commission

Imports
Animal and Plant Health Inspection Service

Income Taxes
Internal Revenue Service

CONTINUED INSIDE

Selected Subjects

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Lobbying
Defense Department
General Services Administration
Management and Budget Office

Marine Safety
Coast Guard
Federal Communications Commission

Marketing Agreements
Agricultural Marketing Service

Organization and Functions (Government Agencies)
Justice Department

Privacy
Army Department

Quarantine
Public Health Service

Radio
Federal Communications Commission

Trade Practices
Federal Trade Commission

Voting Rights
Personnel Management Office

Waste Treatment and Disposal
Environmental Protection Agency

Contents

Federal Register
Vol. 48, No. 214
Thursday, November 3, 1983

The President
PROCLAMATIONS
50699 Drug Abuse Education Week, National (Proc. 5123)

Executive Agencies

Agency for International Development
NOTICES
Meetings:
50804 International Private Enterprise President's Task Force

Agricultural Marketing Service
RULES
50701 Lemons grown in Ariz. and Calif.

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Soil Conservation Service.
NOTICES
Committees; establishment, renewals, terminations, etc.:
50783 Human Nutrition, Scientific Counselors Board

Air Force Department
NOTICES
Meetings:
50785 Scientific Advisory Board

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Grants; availability, etc.:
50794 Psychopathology of the elderly, clinical research centers

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
50701 Mares from countries affected with CEM; interim rules affirmed

Architectural and Transportation Barriers Compliance Board
NOTICES
50783 Meetings

Army Department
PROPOSED RULES
50775 Privacy Act; systems of records

Arts and Humanities, National Foundation
NOTICES
Meetings:
50806 Music Advisory Panel
50806 Visual Arts Advisory Panel

Centers for Disease Control
NOTICES
Meetings:
50795 Charcoal, analytical method for total organics (NIOSH)
50795 Chemicals exposure, epidemiologic study of specific health effects (NIOSH)

Coast Guard
RULES
Safety zones:
50714 New Orleans, La.
PROPOSED RULES
Marine engineerings:
50781 Power and heating symbol stamps; acceptance
NOTICES
Meetings:
50811 Rules of Road Advisory Council

Commerce Department
See National Oceanic and Atmospheric Administration; National Technical Information Service.

Consumer Product Safety Commission
RULES
Coal and wood burning appliances:
50705 Performance and technical data

Defense Department
See also Air Force Department; Army Department; Engineers Corps; Navy Department.
PROPOSED RULES
Defense Acquisition Regulation:
50872 Lobbying and related activities; cost principles

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
50806 Mallinckrodt, Inc.

Economic Regulatory Administration
PROPOSED RULES
Petroleum allocation and price regulation:
50824 January 1981 and Entitlements Adjustments Notices
NOTICES
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
50786 Nekoosa Papers, Inc.
50787 Turbo-Resources

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
50786 International Atomic Energy Agency

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
50785 Lower Ohio River navigation project, Cumberland River, Ill.

Environmental Protection Agency
RULES
Water pollution; effluent guidelines for point source categories:
50717 Copper forming; correction
PROPOSED RULES
Hazardous waste programs; interim authorizations; State Programs:
50776 Louisiana
50776 North Carolina
NOTICES
Toxic and hazardous substances control:
50791 Premanufacture notices review period extensions

Equal Employment Opportunity Commission
NOTICES
50821 Meetings; Sunshine Act

Federal Aviation Administration
NOTICES
Meetings:
50811 National Airspace Review Advisory Committee

Federal Communications Commission
RULES
Radio services, special:
50722 Fixed and mobile services; spectrum utilization policy
50739 Maritime services; Safety of Life at Sea (SOLAS) Convention, implementation; VHF radio watch on vessels outside harbor areas

Federal Deposit Insurance Corporation
PROPOSED RULES
50746 Regulatory agenda
NOTICES
50819, 50820 Meetings; Sunshine Act (4 documents)

Federal Election Commission
NOTICES
50820 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Flood elevation determinations:
50719 California et al.
PROPOSED RULES
50778 Firefighting on federal property; reimbursement for cost
Flood elevation determinations:
50777 Georgia
50778 Minnesota
50778 South Carolina
NOTICES
50792 Agency information collection activities under OMB review
Disaster and emergency areas:
50792 Oklahoma
Radiological emergency; State plans:
50792 Pennsylvania and West Virginia

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
50788 Minnesota Power & Light Co.
50789 New England Power Pool
50789 Northwest Central Pipeline Corp.
50789 Pacific Gas & Electric Co.
50791 Portland General Electric Co.
50788 Stapleton, Margaret M.

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
50812 Clatsop County, Oreg.; intent to prepare
50812 Livingston, Calif.; intent to prepare

Federal Maritime Commission
NOTICES
50822 Meetings; Sunshine Act
50793 Regulatory flexibility plan

Federal Reserve System
NOTICES
50820 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
50702 Dillon Companies, Inc.
50703 Great Dane Distributor Council
50703 Great Dane Trailers, Inc.
50703 New York Coffee and Sugar Exchange, Inc., et al.
50704 Spinal Health Services, Inc., et al.
50704 Washington, D.C., Dermatological Society

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
50707 Pyrantel tartrate
NOTICES
Biological products:
50795 Monoclonal antibody product, licensing
Medical devices; premarket approval:
50796 Travenol Laboratories, Inc.

Food and Nutrition Service
PROPOSED RULES
Child nutrition programs:
50743 Summer food service program; claim and report submission

General Services Administration
PROPOSED RULES
Procurement:
50873 Lobbying and related activities; cost principles
NOTICES
50794 Agency information collection activities under OMB review

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration; Centers for Disease Control; Food and Drug Administration; National Institutes of Health; Public Health Service.

Indian Affairs Bureau
NOTICES
Liquor and tobacco sale or distribution ordinance:
50797 Skokomish Indian Reservation, Wash.

Interior Department
See Indian Affairs Bureau; Land Management Bureau; Minerals Management Service.

Internal Revenue Service
RULES
Income taxes:
50711 Corporations; treatment of interests as stock or indebtedness; withdrawn
PROPOSED RULES
50775 Hazardous waste, petroleum and certain chemicals; environmental taxes collection; extension of time
Income taxes:
50751 Foreign investment in U.S. real property
50751 Foreign investment in U.S. real property; hearing
NOTICES
Senior Executive Service:
50818 Performance Review Board; membership

International Development Cooperation Agency
See Agency for International Development.

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
50805 Seaboard System Railroad, Inc., et al.
Railroad services abandonment:
50805 Seaboard System Railroad, Inc., et al.

Justice Department
See also Drug Enforcement Administration.
RULES
Organization, functions, and authority delegations:
50713 Criminal Division, Assistant Attorney General et al.
50712 Criminal Division, United States Attorneys et al.; civil penalties
NOTICES
Pollution control; consent judgments:
50805 New Martinsville, W. Va.
50806 West Penn Power Co.

Land Management Bureau
RULES
Public land orders:
50719 Alaska; correction
NOTICES
Alaska native claims selection; applications, etc.:
50802 Bethel Native Corp.; extension of time
Classification of public lands:
50803 Nevada; correction
Conveyance of public lands:
50804 California
50801 Montana
Cooperative management agreements:
50800 California
Exchange of public lands for private land:
50801 Idaho
50801 Montana
Meetings:
50798 Boise District Grazing Advisory Board
50802 Las Cruces District Advisory Council
50798 Safford District Grazing Advisory Board
50804 Ukiah District Advisory Council
Oil and gas leases:
50803 Wyoming
Opening of public lands:
50797, 50798, 50800 Arizona (3 documents)
Sale of public lands:
50800 Colorado
50803 Idaho; correction
50803 South Dakota; correction
50798 Wyoming
Survey plat filings:
50799 Colorado
Wilderness areas; characteristics, inventories, etc.:
50802 Colorado
Withdrawal and reservation of lands, proposed, etc.:
50798 Colorado
50803 Idaho

Legal Services Corporation
NOTICES
50806 Recipient fund balances; instruction; correction

Management and Budget Office
NOTICES
Cost principles for nonprofit organizations (Circular A-122); lobbying and related activities, inquiry

Mineral Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
50860 Pennzoil Exploration & Production Co.

National Credit Union Administration
NOTICES
50822 Meetings; Sunshine Act

National Institutes of Health
NOTICES
Meetings:
50796 Diabetes National Advisory Board; cancellation

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
50782 Groundfish of Bering Sea and Aleutian Islands Area; foreign fishing; correction
NOTICES
Meetings:
50784 North Pacific Fishery Management Council (2 documents)
50784 National geodetic vertical control network; new North American vertical datum of 1988; establishment

National Technical Information Service
NOTICES
50784 Inventions, Government-owned; availability for licensing

Navy Department
NOTICES
Environmental statements; availability, etc.:
50786 West Coast Landing Craft Air Cushion, Cockleburr Mesa, Marine Corps Base, Camp Pendleton, Calif.; operational complex

Nuclear Regulatory Commission
PROPOSED RULES
Environmental protection; licensing and regulatory policy and procedure:
50746 Spent fuel; disposition upon expiration of reactors' operating licenses; extension of time.

NOTICES
Applications, etc.:
50807 Northern States Power Co.
50808 Philadelphia Electric Co. et al.
50810 Public Service Electric & Gas Co.
50821 Meeting; Sunshine Act

Personnel Management Office
RULES
Voting rights program:
50721 Mississippi

Postal Rate Commission
RULES
Practice and procedure:
50715 Rate and classification proposals
NOTICES
Post Office closing; petition for appeal:
50810 Oakley, S.C.

Public Health Service
PROPOSED RULES
50777 Foreign quarantine; extension of time

Research and Special Programs Administration
NOTICES
Hazardous materials:
50813 Applications; exemptions, renewals, etc.

Securities and Exchange Commission
NOTICES
Hearings, etc.:
50810 Columbia Gas System, Inc.
50811 Gay International, Inc.
50821 Meetings; Sunshine Act

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
50783 Assiscunk Creek Park Recreation Development RC&D Measure, N.J.

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Research and Special Programs Administration.

Treasury Department
See also Internal Revenue Service.
NOTICES
50818 Agency information collection activities under OMB review

United States Information Agency
RULES
Exchange-visitor program:
50707 Organizational changes

Separate Parts in This Issue

Part II
50824 Department of Energy, Economic Regulatory Administration

Part III
50860 Office of Management and Budget; Department of Defense; General Services Administration

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5123 50699

7 CFR
910 50701
Proposed Rules:
225 50743

9 CFR
92 50701

10 CFR
Proposed Rules:
50 50746
51 50746
211 50824

13 CFR
Proposed Rules:
Ch. III 50746

16 CFR
13 (6 documents) 50702–50704
1406 50705

21 CFR
558 50707

22 CFR
514 50707

26 CFR
1 50711
Proposed Rules:
1 (2 documents) 50751
6a 50751
52 50775

28 CFR
0 (2 documents) 50712, 50713
3 50713
8 50713
9 50713
9a 50713

32 CFR
1–39 50872
Proposed Rules:
505 50775

33 CFR
165 50714

39 CFR
3001 50715

40 CFR
468 50717
Proposed Rules:
271 (2 documents) 50776

41 CFR
Proposed Rules:
1–15 50873

42 CFR
Proposed Rules:
71 50777

43 CFR
Public Land Orders:
6439 50719

44 CFR
67 50719
Proposed Rules:
67 (3 documents) 50777, 50778
151 50778

45 CFR
801 50721

46 CFR
Proposed Rules:
50 50781
52 50781
53 50781
54 50781
63 50781
162 50781

47 CFR
2 50722
21 50722
22 50722
23 50722
74 50722
78 50722
81 50722
83 50739
87 50722
90 50722
94 50722

50 CFR
Proposed Rules:
611 50782

Federal Register
Vol. 48, No. 214
Thursday, November 3, 1983

Presidential Documents

Title 3—

The President

Proclamation 5123 of November 1, 1983

National Drug Abuse Education Week, 1983

By the President of the United States of America

A Proclamation

Drug abuse in the United States continues to be a major threat to the future of our Nation. Millions of our citizens are risking their health and their future by abusing drugs. The effects are clearly demonstrated by the tragic reports in daily news accounts of innocent people killed by drunk drivers, death by overdose, drug-related murders, drug smuggling, and other public outrages. Less obvious, but more pervasive, are the individual tragedies which destroy a person or family and which may cause loss of a job, interruption of schooling, and a reduction in our Nation's productivity.

Federal, State, and local governments have established programs to reduce the supply of illegal drugs. Similarly, government has encouraged the establishment of facilities for providing medical treatment for those suffering from this problem and sponsored extensive research on the effects of drug use. However, government cannot hope to solve the problems of drug abuse without the help of every American.

Drug abuse is a national problem and a target of a nationwide program. All across America, our citizens, community organizations, and the private sector have recognized that they can make a difference in the battle against this serious concern. Expanded drug abuse awareness efforts, the banding together of concerned parents, and the involvement of many community groups are lowering the rate of drug abuse which prevailed during the Seventies. There has been increasing attention focused on the potential of mass communications to discourage drug abuse.

Numerous public education efforts are epitomized in the excellent Chemical People Project which will be presented on public broadcasting stations across the United States on November 2 and 9, 1983. The Chemical People Project is an example of how a grassroots approach to organizing town meetings and community efforts can break through the "wall of denial" common to alcohol and drug abuse and can stimulate constructive action where it counts—in ourselves. We must continue to encourage and support efforts to educate our citizens to the health and societal consequences of drug abuse. Such efforts are an essential foundation for a successful national program to reduce and prevent drug abuse in our country.

In order to draw attention to the seriousness of the drug abuse problem and to encourage the education of parents and children in the home, classroom, and community to the impact of illegal drug abuse, the Congress, by Senate Joint Resolution 57, has designated the week of November 2 through November 9, 1983, as National Drug Abuse Education Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of November 2 through November 9, 1983 as National Drug Abuse Education Week. I call on all Americans to join the battle against drug abuse to protect our children so that we ensure a healthy and productive generation of Americans as our contribution to the future.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of November, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-30042
Filed 11-2-83; 10:34 am]
Billing code 3195-01-M

Editorial Note: For the President's remarks of Nov. 1, 1983, on signing Proclamation 5123, see the *Weekly Compilation of Presidential Documents* (vol. 19, no. 44).

Rules and Regulations

Federal Register
Vol. 48, No. 214
Thursday, November 3, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 434, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action increases the quantity of California-Arizona lemons that may be shipped to the fresh market during the period October 23–29, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: October 23–29, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met by telephone on October 27, 1983, to consider the current and prospective conditions of supply and demand and recommended an increase in the quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to present information and views on the amendment during the telephone meeting, and it relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.734 Lemon Regulation 434 (48 FR 48793) is revised to read as follows:

§ 910.734 Lemon regulation 434.

The quantity of lemons grown in California and Arizona which may be handled during the period October 23, 1983, through October 29, 1983, is established at 205,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 28, 1983.

Charles R. Brader,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-29612 Filed 11-2-83; 8:45 am]
BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

[Docket No. 83-079]

9 CFR Part 92

Importation of Horses; Mares From Countries Affected With CEM

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which allowed mares over 731 days of age from countries affected with contagious equine metritis (CEM) to be moved from the port of importation to the University of California Veterinary College, Davis, California, when surgery required to be performed in the country of origin in order to qualify the mares for importation into the United States is found to be incomplete. This rule is needed to provide a place for treating such mares nearer to west coast ports than Ithaca, New York, which was the only place where such mares could be taken for treatment. The effect of this rule is to provide importers with a choice of facilities where they can obtain required treatment for certain mares over 731 days of age which would otherwise be refused entry into the United States.

EFFECTIVE DATE: November 3, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844–AAA, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i)(2) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain female horses (mares over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met. One of the requirements is that

a licensed veterinarian surgically removes the clitoral sinuses of such mares in the country of origin. This surgical procedure is new, difficult to perform, and difficult to evaluate. Some of the mares presented for importation under this provision have been found to have one or more complete or partial clitoral sinuses still present, even though they had been surgically treated and were accompanied by the required certificate.

Because of the severe hardship which would otherwise be imposed on the owners of such animals, a document was published in the **Federal Register** on April 1, 1983 (48 FR 13965–13966) amending § 92.2(i)(2)(v) of the regulations in 9 CFR Part 92 on an interim basis. This amendment allowed corrective surgery to be performed on such mares in the United States at the University of California Veterinary College, Davis, California. Prior to the publication of this amendment, such corrective surgery could only be performed at The School of Veterinary Medicine, Cornell University, Ithaca, New York.

The interim rule was made effective on the date it was published, April 1, 1983, in order to relieve as soon as possible unnecessary restrictions that had been placed on importers of these mares.

Comments were solicited for 60 days after publication of the amendment. No comments were received.

The factual situation which was set forth in the document of April 1, 1983, still provides a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this action will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment or investment, productivity, innovation, or ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it is anticipated that it will affect only a portion of the approximately 20 mares out of 6,000 horses imported into the United States each year which come from countries where CEM is known to exist and which arrive in the United States without the required surgical treatment.

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock and livestock products, Quarantine, Transportation, Contagious equine metritis (CEM).

Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on April 1, 1983.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C. this 31st day of October, 1983.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 83–29902 Filed 11–2–83; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C–3119]

Dillon Companies, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Hutchinson, Kansas operator of retail grocery stores, among other things, to cease engaging in any concerted action to impede the collection or dissemination of comparative price information. For a period of 5 years, the company is prohibited from requiring price checkers to purchase items to be priced, as a condition of allowing them to price check; denying price checkers the same access to its stores as is provided to customers; or coercing any price checker, publisher or broadcaster to refrain from collecting or reporting comparative price information. Additionally, the order requires the company to offer to reimburse TeleCable up to $1,000 for the broadcast of a comparative grocery price information program. Should the station elect to broadcast such a program, the company is further required to post signs and place newspaper ads notifying the public that such a program is being broadcast.

DATE: Complaint and Order issued Oct. 13, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS–6, Patricia A. Bremer, Washington, D.C. 20580 (202) 724–1256.

SUPPLEMENTARY INFORMATION: On Wednesday, August 3, 1983, there was published in the **Federal Register**, 48 FR 35132, a proposed consent agreement with analysis In the Matter of Dillon Companies, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.395 To control marketing practices and conditions. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–25 Displays, in-house.

List of Subjects in 16 CFR Part 13

Grocery stores, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83–29791 Filed 11–2–83; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

16 CFR Part 13

[Docket C-3121]

Great Dane Distributor Council; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits an unincorporated association of truck trailer dealers, and its individual members, from taking any action which frustrates or eliminates competition in the sale of new Great Dane truck trailers. The dealer's association must distribute a copy of the order to all current and future members and ensure that members' sales personnel are provided with a copy of the order.

DATES: Complaint and Order issued Oct. 13, 1983.[1]

FOR FURTHER INFORMATION CONTACT: Roger E. Meiners, Director, 1R, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree St., NW., Room 1000, Atlanta, GA 30367, (404) 881–4836.

SUPPLEMENTARY INFORMATION: On Wednesday, May 11, 1983, there was published in the **Federal Register**, 48 FR 21156, *correction*, 48 FR 24092, a proposed consent agreement with analysis In the Matter of Great Dane Trailers, Inc., a corporation; and Great Dane Distributor Council, an unincorporated association, and its members, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.388 To control allocation and solicitation of customers; § 13.395 To control marketing practices & conditions; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements. Subpart—Cutting Off Access to Customers or Market: § 13.580 Organizing and controlling seller-suppliers.

List of Subjects in 16 CFR Part 13

Trade practices, Truck trailers.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83-29787 Filed 11-2-83; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

16 CFR Part 13

[Docket C-3120]

Great Dane Trailers, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits the manufacturer and seller of Great Dane truck trailers, among other things, from taking any action which frustrates or eliminates competition in the sale of new Great Dane truck trailers. Great Dane Trailers, Inc. is barred from entering into any agreement with the Great Dane Distributor Council, a dealer's association, or its members, to restrict sales to certain territories or customers; and from formulating or utilizing exclusive territories until Dec. 1, 1984. The manufacturer must make available to dealers and customers a brochure listing all independent dealers and advise customers that any dealer may be contacted regarding the purchase of a new Great Dane truck trailer.

DATES: Complaint and Order issued Oct. 13, 1983.[1]

FOR FURTHER INFORMATION CONTACT: Roger E. Meiners, Director, 1R, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree St., NW., Room 1000, Atlanta, GA 30367. (404) 881–4836.

SUPPLEMENTARY INFORMATION: On Wednesday, May 11, 1983, there was published in the **Federal Register**, 48 FR 21156, *correction*, 48 FR 24092, a proposed consent agreement with analysis in the Matter of Great Dane Trailers, Inc., a corporation; and Great Dane Distributor Council, an unincorporated association, and its members, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.388 To control allocation and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements. Subpart—Cutting Off Access to Customers or Market: § 13.580 Organizing and controlling seller-suppliers.

List of Subjects in 16 CFR Part 13

Trade practices, Truck trailers.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83-29788 Filed 11-2-83; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

16 CFR Part 13

[Docket 6235]

New York Coffee and Sugar Exchange, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Vacating order.

SUMMARY: The Federal Trade Commission has reopened this proceeding and vacated its order issued on April 1, 1955 (20 FR 3427), in light of the Commodity Futures Trading Commission's exclusive jurisdiction over respondents' activities.

DATES: Consent Order Issued April 1, 1955. Vacating Order issued Oct. 18, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580. (202) 634-4606.

SUPPLEMENTARY INFORMATION: In the Matter of New York Coffee and Sugar Exchange, Inc., et al., a corporation. Codification appearing at 20 FR 3427 is deleted.

List of Subjects in 16 CFR Part 13

Commodities exchange, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Order Vacating Cease and Desist Order Issued on April 1, 1955

[Docket No. 6235]

In the matter of New York Coffee and Sugar Exchange, Inc., et. al., a corporation.

On April 1, 1955, the Federal Trade Commission, pursuant to Section 5 of the Federal Trade Commission Act, as amended, issued the consent order in this case against the New York Coffee and Sugar Exchange, Inc., et al. (now known as the Coffee, Sugar and Cocoa Exchange), prohibiting, among other things, the use of certain restrictive contracts for trading in coffee futures.

Since enactment of the Commodity Futures Trading Commission Act, in 1974, 7 USC §§ 1 et seq., the Exchange's activities have come under the exclusive jurisdiction of the Commodity Futures Trading Commission ("CFTC"). Because the conduct covered by the Commission's order is now specifically regulated by the CFTC, the Commission has determined that it would be in the public interest to vacate its order in Docket No. 6235.

On August 1, 1983, the Commission issued an order to show cause why the order in Docket No. 6235 should not be vacated. The proposed action was accepted by the respondents.

Accordingly,

It is ordered, that this matter be, and it hereby is, reopened and that the order in Docket No. 6235 be vacated.

By direction of the Commission.

Issued: October 18, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-29788 Filed 11-2-83; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-3122]

Spinal Health Services, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires two Florida chiropractors and the two companies which they operate, among other things, to cease representing without competent and reliable scientific tests or evidence, that their "laser face lift" or "biostimulation face lift" will reduce, smooth out or remove facial lines, depressions and wrinkles or otherwise give the recipient a more youthful facial appearance; or that their cosmetic treatment will provide as long-lasting an improvement as that of a surgical face lift. The order also requires that respondents retain documentation substantiating claims for a period of three years, and provide its sales and advertising personnel with a copy of the order and an acknowledgement form.

DATES: Complaint and Order issued Oct. 13, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PS, Matthew Daynard, Washington, D.C. 20580. (202) 523-3427.

SUPPLEMENTARY INFORMATION: On Monday, August 1, 1983, there was published in the **Federal Register**, 48 FR 34764, a proposed consent agreement with analysis In the Matter of Spinal Health Services, Inc., a corporation, Laser Toning Center, Inc., a corporation, Fred J. Gehl, D.C., and Samuel Lux, D.C., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections to the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45, Maintain records; § 13.533-45(a) Advertising substantiation.

List of Subjects in 16 CFR Part 13

Doctors, Medical care, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83-29789 Filed 11-2-83; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

16 CFR Part 13

[Docket C-3118]

Washington, D.C., Dermatological Society; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Washington, D.C. medical society, among other things, to cease inhibiting competition by restricting or advising member dermatologists against the truthful advertising of their fees and services; and by declaring such activities unethical. The society is required to remove from its Principals of Professional Conduct, constitution and bylaws, any provision which is inconsistent with the prohibitions contained in the order; and publish revised versions of these documents. The order also requires that the society take no formal action against a person charged with violating an ethical standard without first providing that person with a reasonable notice of the allegations and a hearing, as well as written findings and conclusions concerning the allegations. Further, for a period of 5 years, the society is required to provide each new member with a copy of the complaint and order in this matter.

DATES: Complaint and order issued Oct. 5, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS-6, Jill M. Frumin, Washington, D.C. 20580. (202) 724-1342.

SUPPLEMENTARY INFORMATION: On Monday, July 18, 1983, there was published in the **Federal Register**, 48 FR 32600, a proposed consent agreement

[1] Copies of the Complaint and the Decision and Order filed with the original document.

with analysis In the Matter of Washington, D.C., Dematological Society, a corporation, for the purpose of soliciting pubic comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.367 Members. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements.

List of Subjects in 16 CFR Part 13

Medical societies, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 83-29790 Filed 11-2-83; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1406

Performance and Technical Data for Coal and Wood Burning Appliances; Reporting Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission issues a requirement that manufacturers and importers of coal and wood burning stoves, freestanding fireplaces, and similar appliances provide to the Commission copies of performance and technical data that are required to be supplied with these appliances by a previously-issued Commission regulation. Part of the required data is in the form of labeling on the device, including the depiction of installation clearance distances; also, complete installation, operation, and maintenance directions are required to be furnished with the appliance. The rule being issued also requires the submission of a statement of how the clearance distances (required by the previous rule to be stated on the appliance and in the instructions) were determined. The Commission is requiring the submission of this information, along with the required labeling and directions, in order to assist the Commission in determining that the proper information is being furnished with the appliances. This requirement has been approved by the Office of Management and Budget under the Paperwork Reduction Act. [Control No. 3041-0040.]

DATE: This rule is effective December 6, 1983. Copies of the required data shall be furnished to the Commission by that date or within 30 days after any change in the data or introduction of a new model.

ADDRESSES: All materials the Commission has that are relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, Room 328, 5401 Westbard Avenue, Bethesda, Maryland 20207, phone (301) 492-6800.

FOR FURTHER INFORMATION CONTACT: Wade Anderson, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 492-6400.

SUPPLEMENTARY INFORMATION:

Background

On May 16, 1983, the Commission issued a rule under section 27(e) of the Consumer Product Safety Act, 15 U.S.C. 2076(e), requiring that certain performance and technical data be provided with coal and wood burning stoves, freestanding fireplaces, and similar appliances. 16 CFR Part 1406; 48 FR 21898.[1] Part of the data required to be furnished is in the form of labeling on the device, including the depiction of installation clearance distances, and complete installation, operation, and maintenance directions are also required to be furnished with the appliance.

A complete explanation of the provisions and rationale for this rule is set forth in the **Federal Register** notice that issued the rule.

When this rule was initially proposed, it included a requirement that manufacturers, including importers, of the appliances provide the Commission with copies of the directions and labeling that they are using to satisfy the requirements of 16 CFR Part 1406. Under the proposal, manufacturers would also provide to the Commission a statement of how the clearance distances that are required by the rule to be stated on the appliance were determined. Submission of these data is required so the staff can determine (1) that the specific statements required by the rule are present, (2) that other types of information required by the rule, but not required to be in specific language, are present, and (3) whether the clearance distances stated appear appropriate or whether further investigation is necessary.

When 16 CFR Part 1406 was issued, the Commission stated that these proposed information submission requirements would be issued after they had been approved by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This approval has now been obtained (OMB Control No. 3041-0040), and the requirements are issued below.

Comment on the Proposal

One comment on the proposed rule related to the requirement to submit data to the Commission. This commenter stated that the proposed rule did not provide any protection against disclosure of test data submitted to the Commission to a party who requested it under the Freedom of Information Act. The commenter stated that the rule should provide such protection.

In general, the Commission does not have the authority to withhold information requested under the Freedom of Information Act (FOIA), 5 U.S.C. 552, unless the information fits into one of the exemptions provided in 5 U.S.C. 552(b). The exemption that could fit the situation described by this commenter is in paragraph (4) of that section, which concerns "trade secrets and commercial or financial information obtained from a person and privileged or confidential." If the information submitted fits into this category, under 15 U.S.C. 2055(a)(2) the Commission would be prohibited from disclosing it. Therefore, exemption (3) of the FOIA (which exempts items that are specifically exempted from disclosure by statute, under certain conditions) would also be applicable. Disclosure of trade secrets and certain other types of confidential information is also prohibited by 18 U.S.C. 1905. Furthermore, under 15 U.S.C. 2055 (with certain exceptions), the Commission may not release information that would enable the public to ascertain readily the identity of a manufacturer or private labeler of a consumer product unless (1) the Commission notifies the manufacturer or private labeler of the intended disclosure, (2) provides them an opportunity to comment, and (3) takes the reasonable steps provided in 15 U.S.C. 2055(b). This section provides

[1] The rule was approved by a 4-0 vote of the Commission. Newly appointed Commissioner Terrance Scanlon abstained.

such party with an opportunity to seek an injuction barring the disclosure if the party believes the information to be disclosed is inaccurate.

These statutory procedures should provide adequate protection against the disclosure of test data submitted to the Commission under the requirement of 16 CFR 1406.5. Therefore, no changes in the rule are needed in this regard.

Economic and Environmental Effects

The possible effects of the requirement for manufacturers to provide data to the Commission were considered as part of the rule issued by the Commission on May 16, 1983 (48 FR 21898). In the **Federal Register** notice issuing those requirements, the Commission noted that the overall estimated cost of the rule to manufacturers, including the cost of providing information to the agency, would be up to about $2.05 per stove for most firms. As mentioned in that notice, the information submission requirement accounts for a negligible portion of the overall cost, and issuance of this requirement would have no significant economic impact on manufacturers, distributors, or consumers. Therefore, in accordance with the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612, the Commission certifies that issuance of this rule will not have a significant economic impact on a substantial number of small entities, including small manufacturers and distributors, testing organizations, and local governments. Similarly, issuance of the information submission requirement would have no significant environmental effects; thus, no environmental impact assessment is needed.

Penalties

Failure to submit the data as required by this regulation is a prohibited act, as specified in section 19(A)(9) of the CPSA, 15 U.S.C. 2068(a)(9), and could lead to civil and criminal penalties under sections 20 and 22 of the CPSA, 15 U.S.C. 2069, 2070. Section 21 provides criminal penalties for violations after notice, consisting of fines of not more than $50,000 and imprisonment for not more than one year. Section 20 provides for a civil penalty not to exceed $2,000 for each violation, with a maximum civil penalty of $500,000 for any related series of violations. In addition, section 22 of the act, 15 U.S.C. 2071, authorizes the Commission to obtain an injunction from a United States district court to restrain a violation of the notification requirement.

Statutory Findings

The rule is issued under section 27(e) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 207(e), which authorizes the Commission to require manufacturers of consumer products to provide the Commission with such performance and technical data related to performance and safety as may be required to carry out the purposes of the act. As provided in section 2(b) of the CPSA, 15 U.S.C. 2051(b), two of the purposes of the act are (a) to protect the public against unreasonable risks of injury associated with consumer products and (b) to assist consumers in evaluating the comparative safety of consumer products.

1. *Protecting the public from unreasonable risks of injury.* The estimates of fire incidents that are associated with coal and wood burning appliances show that there is a substantial risk associated with their use. This risk has been addressed by the requirements of 16 CFR Part 1406 at a minimal cost to the consumer. Providing this information to consumers should reduce the number of improperly installed appliances and increase the number of consumers who know how to operate and maintain these devices properly. The Commission therefore concluded that there is an unreasonable risk of injury associated with those coal and wood burning appliances that do not provide the notices and directions required by Part 1406.

2. *Comparative safety.* The requirements of Part 1406 will aid the public in determining which appliances can be safely installed in the space available. This knowledge facilitates the consumer's choice of an appliance to suit his or her installation situation.

Therefore, in order to carry out the purposes of the CPSA to protect the public against unreasonable risks of injury and to assist the public in evaluating the comparative safety of consumer products, the Commission concluded that it is necessary to require the manufacturers of these products to provide the notifications described in Part 1406. The Commission concludes at this time that it is also necessary to require manufacturers (including importers) of these products to submit to the Commission copies of the labels and directions required by Part 1406, as well as to submit to the Commission a statement of how the distances to combustibles required to be stated by § 1406.4 (a)(1) were determined. These submissions are required to help ensure that the appropriate information is being provided to consumers as required by Part 1406.

List of Subjects in 16 CFR Part 1406

Advertising, Consumer protections, Fire prevention, Housing standards, Labeling.

PART 1406—[AMENDED]

Accordingly, under provisions of the Consumer Product Safety Act (secs. 2, 27(e), Pub. L. 92–573, 86 Stat. 1207, 1228; 15 U.S.C. 2051, 2076(e)), the Commission amends Part 1406, Subchapter B, Chapter II, of Title 16 of the Code of Federal Regulations as follows:

§ 1406.1 [Amended]

1. The following sentence is added to the end of § 1406.1(a):

* * * This Part 1406 also requires these manufacturers to provide to the Commission a copy of the notification to consumers and a statement of the reasons supporting the manufacturer's conclusion that certain clearance distances contained in the notification are appropriate for preventing fires.

(OMB Control No. 3041–0040)

2. The following new paragraph (c)(3) is added to § 1406.1:

(c) * * *

(3) Section 1406.5 is effective December 6, 1983.

3. In § 1406.1(c)(1), the introductory phrase "Except as provided in paragraph (c)(2) of this section" is changed to read "Except as provided in paragraphs (c)(2) and (c)(3) of this section".

§ 1406.2 [Amended]

4. The following new paragraph (c) is added to § 1406.2:

* * * * *

(c) The Commission has also determined that in carrying out these purposes of the act, it is necessary for manufacturers to provide to the Commission a copy of the information provided to consumers and a statement of the reasons why some of the information was selected, in accordance with § 1406.5.

5. The following new § 1406.5 is added:

§ 1406.5 Performance and technical data to be furnished to the Commission.

Manufacturers, including importers, of coal and wood burning appliances as defined in § 1406.3(a) shall provide to the Commission the following performance and technical data related to performance and safety.

(a) *Written notice.* Manufacturers shall provide to the Commission copies of the written notice required by § 1406.4(a). If the written notice is provided to purchasers in a way, such as by casting or stamping the notice into the stove, that makes it impractical to furnish a sample of the actual notice to the Commission, the manufacturer will provide an actual-size copy of the notice and a description of the forming process.

(b) *Directions.* Manufacturers shall provide to the Commission a copy of the directions required by § 1406.4(b).

(c) *Rationale.* Manufacturers shall provide to the Commission a statement of how the distances to combustibles required to be stated by § 1406.4(a)(1) were determined. In addition, the maufacturer will state the type of appliance, its fuel, size, and weight, and the material of which it is constructed, unless this information is included in the directions submitted under paragraph (b) of this section.

(d) *General.* (1) The information required to be submitted under paragraph (a) through (c) of this section shall be submitted for each distinct design or model of appliance manufactured. An appliance will be considered to be a distinct design or model if it differs from other appliances of the same manufacturer by functional differences such as performance, weight, size, or capacity. Differences in cosmetic or other nonfunctional features do not require the submission of additional information.

(2) The written notice, directions, and rationale shall be provided to the Associate Executive Director for Compliance and Administrative Litigation, Consumer Product Safety Commission, 5401 Westbard Avenue, Bethesda, Maryland 20207, by December 6, 1983. If there is a susequent change in the component materials or design features of a model for which this information was proviously submitted that could cause the model to require different clearances from combustibles or a different type of chimney, or if a new product is introduced into United States commerce, the required information shall be submitted within 30 days after the change or introduction.

(Approved by Office of Management and Budget under control number 3041–0040)

Dated: October 31, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83–29881 Filed 11–2–83; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Pyrantel Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Ralston-Purina Co. providing for use of a 48-gram-per-pound pyrantel tartrate premix to make a 19.2-gram-per-pound pyrantel tartrate intermediate premix for making complete swine feeds.

EFFECTIVE DATE: November 3, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Ralston-Purina Co., Checkerboard Square, St. Louis, MO 63164, is sponsor of NADA 135–941. The NADA provides for use of a 48-gram-per-pound pyrantel tartrate premix supplied by Pfizer, Inc., to make a 19.2-gram-per-pound pyrantel tartrate intermediate premix for making complete swine feeds used for aid in prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; for aid in prevention of establishment, removal, and control of nodular worm (*Oesophagostomum* spp.) infections; and for removal and control of large roundworm (*Ascaris suum*) infections.

The NADA is approved and the regulations are amended to reflect this approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.485 is amended by revising paragraph (a)(2) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.485 Pyrantel tartrate.

(a) * * *

(2) To 017800: 19.2 and 48 grams per pound, paragraph (e)(1) through (3) of this section

* * * * *

Effective date. November 3, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 27, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83–29815 Filed 11–2–83; 8:45 am]

BILLING CODE 4160–01–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange Visitor Programs

AGENCY: United States Information Agency.

ACTION: Interim rule and request for comments.

SUMMARY: 22 CFR §§ 514.11, 514.13(b) and 514.17 are modified (1) to reflect organizational changes at the U.S.I.A., (2) to update minimum requirements for designating Teenage Exchange Visitor Programs, and (3) to develop a due process procedure for revocation or suspension of designation of an Exchange Visitor Program. The modifications clarify and update existing regulations.

EFFECTIVE DATE: Comments are due December 5, 1983. The interim rule shall be effective November 3, 1983 and shall remain in effect until the publication of a final rule. However, the effective date for § 514.13(b)(12) shall be published at a later date.

ADDRESSES: Send comments to: Richard L. Fruchterman, Assistant General Counsel, United States Information

Agency, 400 "C" Street, SW., Room 700, Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Richard L. Fruchterman Assistant General Counsel, United States Information Agency 400, "C" Street, SW., Room 700, Washington, D.C. 20547 (202) 485–7976.

SUPPLEMENTARY INFORMATION: The United States Information Agency (USIA) modifies its regulations regarding exchange visitors (1) to reflect organizational changes at the USIA, (2) to update minimum requirements for designating Teenage Exchange Visitor Programs, and (3) to develop a due process procedure for revocation or suspension of designation of an Exchange Visitor Program. The modifications clarify and update existing regulations.

Under § 514.11, intending sponsors are to apply to the Director of the USIA. By Delegation Order No. 83–5 dated January 13, 1983, Charles Z. Wick the Director of USIA, delegated his authority to designate Exchange Visitor Programs to the General Counsel and Congressional Liaison. Therefore, § 514.11 is modified to reflect this organizational change.

Additionally, a new subsection is added regarding misrepresentation of the designation. It has come to our attention that some designated sponsors have been using their designation number in such a way that would imply that their program is approved or sponsored by the Agency, or that the Agency or U.S. Government supports the program. Further, some parties apparently have used this designation which governs J–1 visas for foreign visitors in the U.S., in a manner which implies that this Agency has examined their programs for U.S. citizens abroad. Accordingly, we are adding a new subsection on misrepresentation, so that misuse of the designation could result in revocation or suspension of designation.

Section 514.13(b) has been rewritten and re-ordered so that existing obligations of sponsors are clarified. There are several changes which are significant. Discussion of the changes and the reasons therefore follows.

Under the present regulation at § 514.13(b)(2) a sponsor is responsible for providing minimum medical/accident coverage of $2,000 per injury or illness, and for a minimum of $1,500 for preparation and transportation of remains to the home country. Because inflation has affected the cost of medical care it is thought that the minimum of $2,000 and $1,500 could be inadequate in serious cases. Therefore, under the renumbered § 514.13(b)(4), the minimum medical and accident coverage is raised to $15,000 per injury or illness and to $5,000 for preparation and transportation to home country.

Under § 514.13(b)(3)(ii)(D) sponsors are required to notify students of their home placement at least five weeks prior to their departure for the United States. This five week requirement has worked a hardship on the sponsors. Therefore, in the new interim §514.13(b)(7) the time frame is changed from five weeks to three weeks.

The requirement in new §514.13(b)(8) that a student is to be placed with a single host family for the entire academic year is new. It is in the best interest of the student and the formation of good relationships with the host family, that one sound relationship be developed. This can be facilitated by limiting a student's experience to one family only. The regulation allows re-assignment of host families only in extraordinary situations. Whenever a re-assignment is made, the sponsor is required to document the reasons therefore, retain the documents in the sponsor's records, and to make these records available to USIA for inspection. Additionally, because sound host family exchange student relations are delicate, it allows only one teenage Exchange-Visitor with any one host family at any one time without prior written permission of the USIA.

The interim § 514.13(b)(12) specifies the content of the annual report to the USIA. The present regulation at § 514.13(b)(7) requires submission of an annual report but does not specify the content. It is hoped that the new regulation will aid sponsors and the Agency in developing annual reports that are useful to both parties. This requirement is presently before OMB for review pursuant to the Paperwork Reduction Act. Upon approval by OMB, USIA will notify the public, by publication in the **Federal Register**, that this paragraph is effective.

Interim § 514.13(b)(13) is new. However, it merely codifies existing Agency practice so that the public is aware of Agency procedure. This new section states that the Agency will determine the number of Forms IAP–66 to be issued to each sponsor on the basis of information contained in the annual report so as to ensure that sponsor does not bring in more teenage Exchange-Visitors then the sponsor can supervise in accordance with the provisions set forth in the regulations.

Section 514.17, "Revocation or Suspension of Designation", has been completely revised. The section provides that the Agency may suspend or revoke the designation of the sponsor's program for violation of any of the provision of the regulations. The section outlines a procedure whereby due process is provided whenever a program is challenged.

Interim § 514.17(a) provides that the General Counsel or his delegate, upon no less than 10 days written notice, may suspend a sponsor for a period not to exceed 60 days where there is found to be a willful violation of one of the provisions and that violation could endanger the health, safety or welfare of the participants in the program. The section provides for response by the sponsor and written notice to all agencies which would be affected by the suspension.

Interim § 514.17(b) sets forth the bases for revocation of designation of a sponsor. The designation could be revoked for any sufficient cause including but not limited to (1) a continued or repeated failure to comply with the provision, (2) failure to submit required complete, current and accurate reports, or (3) conduct which brings the program into disrepute.

Section 514.17(e) provides for a formal proceeding and a hearing pursuant to Title 5, United States Code, Sections 556 and 557.

Section 514.17(d) requires notification of the revocation to all affected organizations. However, this section provides that revocation does not invalidate visas issued under the sponsor's programs nor diminish the sponsor's legal or financial responsibilities toward visitors already enrolled in the programs.

Section 514.18 states that authority to act under this Subpart resides in the General Counsel, his or her Deputy or delegate.

Section 514.19 states that a program which has been inactive for more than two years may be revoked.

List of Subjects in 22 CFR Part 514

Cultural exchange programs.

E.O. 12291 Federal Regulation

USIA has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United State-based enterprises to compete with foreign-based enterprises in domestic or export

markets. Accordingly, the following modifications to Chapter V, Part 514 are adopted on an interim basis.

PART 514—[AMENDED]

1. § 514.11 is revised to read as follows:

§ 514.11 Application for Exchange-Visitor Program designation

(a) *Application.* Any intending sponsor may apply to the Exchange Visitor Facilitative Staff of the Office of General Counsel and Congressional Liaison of the U.S. Information Agency for designation of one of the organization's programs as an Exchange-Visitor Program. Such application should be made on Form IAP–37, "Exchange-Visitor Program Application." The application shall be completed in all details and shall be submitted to the *Exchange Visitor Facilitative Staff,* United States Information Agency, GC/V, Washington, D.C. 20547 with required supporting documentation, including an audited an certified financial statement if indicated. The officer who signs the application thereby indicates a willingness to assume the duties of Responsible Officer for administering the sponsor's program if it is designated. Official correspondence concerning a designated program will be conducted only between the Agency and the Responsible Officer or duly designated alternate.

(b) *Misrepresentation.* Organizations with designated programs may, in their literature, indicate that they have been designated as a program sponsor by the USIA for foreign exchange visitors in the United States. They shall not imply that the program is approved or sponsored by the Agency or U.S. Government or imply that the Agency or U.S. Government supports their programs. Further, the designation number shall not be used on literature or other materials used for the purpose of attracting U.S. Exchange Visitors into their programs.

2. 514.13 is amended by revising paragraph (b) to read as follows:

514.13 Sponsor obligations—specific.

* * * * *

(b) *Teenager-Exchange Visitors.* The Teenager-Exchange-Visitor Program is designed to give teenage students from other countries an opportunity to spend from six months to one year studying at a high school or other educational institution in the United States. Under this program a foreign student is placed by the Exchange-Visitor sponsor with a United States family which serves as the host family for the duration of the visit. The primary purpose of this program is to improve the foreign student's knowledge of American culture and language through active participation in family, school and community life. A secondary purpose is to improve American knowledge of a foreign culture. This sub-section sets forth the specific criteria and sponsor obligations applicable to the Teenager Exchange-Visitor Program.

(1) *Tax-exempt Status of Sponsor.* The Exchange-Visitor Program Sponsor shall maintain current tax-exempt status from the Internal Revenue Service pursuant to Section 501(c)(3) of the United States Internal Revenue Code as amended.

(2) *Selection of Student.* The sponsor shall be fully responsible for the selection of suitable students for participation in its teenage program. It may utilize the services of organizations engaged in student exchanges in other countries to assist in the selection of suitable students, but shall not under any circumstances use professional recruiters, or employment or travel agencies either in the United States or abroad for the recruitment of foreign students. Selection shall be limited to secondary school students or recent graduates between the ages of 15 and 19 years who have a sufficient command of the English language to enable them to function well in an English-speaking academic and community environment. Students shall also be screened for demonstrated maturity, good character and ability to derive maximum benefit from the program experience.

(3) *Orientation of Students and Host Families.* The sponsor shall provide all students with suitable orientation both prior to departure from their homes and upon arrival in the United States to acquaint them in advance, to the maximum extent feasible, with the United States, its people, and its family and school life as well as providing each of them with detailed knowledge of the nature of the particular academic program in which he or she will be participating. Wherever feasible the sponsor shall include former participants in predeparture orientation sessions. Orientation shall also be provided to each host family in advance of the student's arrival, including information on family and school life, customs, religion and more of the student's native country, information on the academic program in which the student will be enrolled, and information on potential problems in hosting exchange students and suggestions on how to cope with such problems. Each student shall be provided in advance with an identification card which includes: (i) The student's name, and host family name, address and telephone number; (ii) the name and number of the Exchange-Visitor Program in which he or she is sponsored; (iii) the name, address and telephone number of a responsible official of the sponsor; and (iv) the address and telephone number of the Exchange-Visitor Facilitative Staff, Office of the General Counsel and Congressional Liaison, United States Information Agency, Washington, D.C. 20547. In addition, each student, each host family and each school to be attended shall be provided by the sponsor with a copy of the Agency's current "Criteria for Exchange-Visitor Teenager Programs." The host family shall acknowledge, in writing the receipt of this publication and the sponsor shall maintain that acknowledgement in its files.

(4) *Health and Accident Insurance.* The sponsor shall ensure that every student selected to participate in its program has health and accident insurance coverage from the time of departure from home until the student returns to his or her home country. Minimum acceptable insurance is (i) medical and accident coverage of $15,000 per injury or illness and (ii) preparation and transportation of remains to home country (at least $5,000). Coverage may be provided in one of the following ways, with the written approval of the United States Information Agency.

(A) By health and accident insurance coverage arranged for by the student;

(B) By health and accident insurance coverage arranged for by the sponsor;

(C) By the sponsor's assuming all financial responsibilities for a student's illnesses and accidents from the time the student leaves his or her home country until he or she returns home.

(5) *Dispersion of Students.* Each sponsor shall make every effort to ensure that foreign students are widely dispersed throughout the United States. Under no circumstances shall a sponsor place more than four foreign students or more than two of the same nationality in a single school.

(6) *Acceptance of Students.* No teenage Exchange-Visitor student shall be brought into the United States by the sponsor unless he or she has been accepted in writing as a student by the principal or superintendent of the high school or someone designated in writing to authorize the enrollment of foreign students in the school in which he or she is to be enrolled. Copies of such documents authorizing enrollment shall be maintained by the sponsor and will

be made available for inspection by the Agency upon request. Clear and specific arrangements in writing shall be made in advance by the sponsor and the school regarding any tuition payments or waivers of tuition.

(7) *Host Family Arrangements.* The sponsor is responsible for making all arrangments for the placement of each teenage Exchange-Visitor student with a host family whose home is located in a place convenient to the high school or other educational institution in which the student is to be enrolled. The sponsor shall make every effort to assure the maximum degree of compatibility between the family and the student, including, wherever possible, the presence in the family of at least one teenage student who attends the same school as the Exchange-Visitor. A representative of the sponsor shall visit the home of, and personally interview, each host family before an Exchange-Visitor student is assigned to such family. The sponsor shall ensure that its representative selects only those homes which reflect the high quality expected of the Teenage Exchange Visitor Program. A written record shall be made of this visit and interview by the representative. Under no circumstances shall an employment or travel agency be used for this purpose. Selection of host families and assignment of students shall be made as far in advance of the student's arrival as possible, but in no event less than three weeks prior to departure from the student's home. No sponsor shall issue a form IPA–66 for an Exchange-Visitor student without including on the form a notation giving the name and address of host with which he or she is to be placed. The host family shall be advised in writing of the name, age, educational status, other background information and anticipated arrival time of the assigned student, and the student's natural family shall be advised in writing of the name, address, family makeup, and other background information concerning the host family at the earliest possible time, to permit exchange of correspondence between the respective families in advance of the Exchange-Visitor's arrival.

(8) *Changes in Host Family Assignments.* Placement arrangements shall be made with a single host family for the entire academic year or other authorized period of the Exchange Visitor student's visit, but a change in the host family assignment of a student may be made by the sponsor during such period when unforeseen events make a change necessary in the best interests of the student "Welcoming families", "receiving families", "arrival families", or "temporary families" shall not be used. Reports of any such changes and the reasons therefor shall be retained by the sponsor and upon request made available to the Agency for inspection and retention. No more than one teenage Exchange-Visitor shall be placed with any one host family at any one time without the prior written permission of the Agency.

(9) *Employment of Students.* Each sponsor shall advise its students that they may not accept or undertake full-time employment while enrolled in such program, but may engage in part-time employment not to exceed 10 hours per week in non-competitive jobs such as tutoring, grass-cutting, baby-sitting, newspaper delivery and the like. Students may not perform the duties of a household domestic for compensation or otherwise in the home of the host family or elsewhere, but may be asked to assist in normal daily chores in the host family household which other members of the host family must perform.

(10) *Supervision by Sponsor.* The sponsor shall maintain continuous personal contact with each of its Exchange-Visitor students, the host family, and the high-school or other educational institution in which each student is enrolled. The sponsor shall initiate action to resolve any problems which may arise with respect to the student's participation in his or her academic program or with respect to the student's relationship with his or her host family.

(11) *Financial Responsibility of Sponsor.* Each sponsor shall be responsible for the costs of travel of all students sponsored by it back to their homes by air and/or surface modes of commercial transportation, regularly scheduled or charter or a combination of the two, on conclusion or unexpected termination of their designated programs of study. This responsibility shall be carried out by the purchase of a roundtrip ticket or tickets for *each* student prior to the entry of each student into the United States. Such tickets shall be made available to the Agency for inspection upon request.

(12) *Annual Reports of Sponsor.* Each sponsor shall submit to the Agency an Annual Report on the operations of its program as of June of each year. As a minimum, the reports will include the following: The names of all Exchange-Visitors, school or institution of enrollment, location of host family, changes in host family and/school enrollment. Such report shall be submitted no later than September 1 of each year. The sponsor shall also submit such additional reports and information (including an Internal Revenue Service Form 990) as the agency may request from time to time.

(13) *Control and Issuance of Forms IAP–66.* The Agency shall determine the number of Forms IAP–66 to be issued to each sponsor each year for use in its program on the basis of the information contained in the reports submitted by the sponsor pursuant to the preceding paragraph and such other information as may be available, so as to ensure that a sponsor does not bring in more teenage Exchange-Visitors than can be adequately supervised and provided for by it in accordance with the provisions and standards set forth in this paragraph.

* * * * *

3. Section 514.17 is revised to read as follows:

§ 514.17 Revocation or Suspension of Designation.

For violation by a sponsor of any of the provisions of this subpart, the Agency may suspend or revoke the designation of such sponsor's program in the manner set forth below.

(a) The *General Counsel* or his delegate may in his or her discretion, upon not less than ten (10) calendar days written notice to the sponsor specifying the grounds therefor and the effective date thereof, summarily suspend the designation of the sponsor for a period not to exceed sixty (60) days if it is found: (1) That there has been willful violation by the sponsor of one or more provisions of his Subpart and (2) that such willful violation is of such a nature as to endanger the health, safety or welfare of participants in the sponsor's program, PROVIDED, that before effecting the suspension of the sponsor, the Agency shall consider and take into account any response, including any documentary evidence or affidavits submitted by the sponsor in response to such notice. Written notice of suspension shall be given on the effective date thereof to the sponsor, to the Immigration and Naturalization Service, to the Bureau of Consular Affairs of the Department of State, and such other agencies, public or private, as the General Counsel or his delegate shall deem necessary. During the period of such suspension no Forms IAP–66 issued by the sponsor shall be recognized or accepted for the issuance of non-immigrant visas for entry into the United States.

(b) The General Counsel or his delegate may revoke the designation of the sponsor for any sufficient cause, including but not limited to the

following: (1) Continued or repeated failure to comply with the provisions of this Subpart or (2) failure to submit complete, current and accurate reports as required by this Subpart or as requested by the Agency; or (3) conduct on the part of the sponsor having the effect of bringing the Exchange-Visitor programs administered by the Agency into disrepute, PROVIDED: that before the institution of formal proceedings for the revocation of designation, the sponsor shall be given notice in writing of the facts or conduct warranting such revocation and shall be given a reasonable opportunity to demonstrate or to achive compliance with all lawful requirements.

(c) In the event that the sponsor does not, after the written notice last above mentioned, demonstrate to the satisfaction of the Agency that revocation of its designation is not warranted, then the sponsor shall be given not less than thirty (30) days formal notice in writing of intention to revoke such designation, including a full statement of the facts and reasons to be relied on therefor, and advising the sponsor of its right to formal hearing and decision on such revocation pursuant to Title 5, United States Code, Sections 556 and 557, and its right to be represented by counsel and to cross-examine witnesses and to present oral or documentary evidence. If such a hearing is demanded in writing by the sponsor within ten days after receipt of formal notice as aforesaid, such hearing shall be promptly scheduled, after proper notice, and shall be conducted in accordance with Section 556. If such a hearing is not demanded, the Agency shall act on the proposed revocation on the basis of such evidence as is available, including any evidence submitted by the sponsor.

(d) If the Agency decides that the designation of the sponsor should be revoked, notice thereof shall be given to the sponsor, the Immigration and Naturalization Service, the Bureau of Consular Affairs of the Department of State, and to such other agencies, public or private, as the Agency shall deem necessary, and thereafter no Forms IAP-66 issued by the sponsor shall be recognized or accepted for the issuance of non-immigrant visas for entry into the United States, *Provided:* That no such revocation shall invalidate any such visas already issued for Exchange-Visitors enrolled in the sponsor's programs, nor in any way diminish or restrict the sponsor's legal or financial responsibilities toward such visitors.

4. Sections 514.18 and 514.19 are added to read as follows:

§ 514.18 Authority of General Counsel.

Any and all acts herein provided to be done by the Agency shall be performed on its behalf by the General Counsel or his or her Deputy or his or her delegate.

§ 514.19 Revocation for inactivity.

Anything herein to the contrary not withstanding, the designation of any sponsor's program may be revoked when it is determined that the program has remained inactive for a period of more than two years.

Authority

(Sec. 4, 63 Stat. 11; secs. 102, 109 (a), (b), (d), 75 Stat. 527, 534, 535; secs. 101(a)(15)(J), 104(a), 212(e), 66 Stat. 166, 174, 182, 184; sec. 2, 84 Stat. 116, 117 (22 U.S.C. 2058, 2452); (8 U.S.C. 1101(a)(15)(J), 1104(a), 1182(e), 1258); Reorg. Plan No. 2 of 1977; E.O. 12048 of March 27, 1978; the United States Information Agency Authorization Act, Fiscal Years 1982 and 1983, Pub. L. 97-241, Title III, August 24, 1982)

Delegation Order No. 83-5 48 FR 2490.

Dated: October 27, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison, United States Information Agency.

[FR Doc. 83-29589 Filed 11-2-83; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7820]

Income Tax; Taxable Years Beginning After December 31, 1953; Withdrawal of Treasury Decision 7747 Relating to Debt and Equity

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of a Treasury decision.

SUMMARY: This document provides for the withdrawal of Treasury decision 7747 (final regulations under section 385 relating to the treatment of certain interests in corporations as stock or indebtedness) that were originally published in the **Federal Register** for December 31, 1980 (45 FR 86438), and revised by Treasury decision 7774, published in the **Federal Register** for May 4, 1981 (46 FR 24945). Treasury decision 7801, published in the **Federal Register** for January 5, 1982, (47 FR 147), and Treasury decision 7822, published in the **Federal Register** for July 2, 1982 (47 FR 28915). The provisions stated in T.D. 7747 do not fully represent the position of the Treasury Department or the Internal Revenue Service on matters concerning debt and equity.

EFFECTIVE DATE: The withdrawal is effective August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Carolyn Swift of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC: LR:T) (202-566-3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On July 6, 1983, the **Federal Register** published a notice of proposed withdrawal of T.D. 7747 relating to final regulations under section 385 concerning classification of certain interests in corporations as stock or indebtedness (48 FR 31053). A small number of comments were received. Some commenters encouraged Treasury and the IRS to prepare new regulations to replace those being withdrawn and others suggested that the effort to develop regulations under section 385 be abandoned. Treasury and the IRS are now considering whether to publish new section 385 regulations. One commenter argued that the effective date of the regulations had been improperly postponed so that the regulations as published in T.D. 7747 had already become effective. Treasury and the IRS dispute this argument because the regulations were properly postponed in order to allow sufficient time to examine public comments on the published regulations and to properly respond to them. Most comments opposed allowing the regulations to become effective.

All the comments on the withdrawal supported the withdrawal of T.D. 7747. A public hearing was held on August 18, 1983. The two speakers at the hearing supported the withdrawal of TD 7747. Accordingly, the proposed withdrawal is being adopted without change.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefor not required. The Secretary of the Treasury has certified that this final rule will not have a significant impact on a

substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these regulations is Carolyn Swift of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the proposed regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.301–1—1.385–10

Income taxes, Corporations, Corporate distributions, Corporate adjustments, and Reorganizations.

Withdrawal of T.D. 7747

Accordingly, the withdrawal of T.D. 7747 as proposed in the **Federal Register** on July 6, 1983 (48 FR 31053) is adopted without change.

This Treasury decision is issued under the authority contained in section 385 and 7805 of the Internal Revenue Code of 1954 (83 Stat. 613 and 68A Stat. 917; 26 U.S.C. 385 and 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: October 18, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

Treasury decision 7747, published in the **Federal Register** for December 31, 1980 (45 FR 86438) as revised by Treasury decision 7774, published in the **Federal Register** for May 4, 1981 (46 FR 24945), Treasury decision 7801, published in the **Federal Register** for January 5, 1982 (47 FR 147), and Treasury decision 7822, published in the **Federal Register** for July 2, 1982 (47 FR 28915) is hereby withdrawn.

In withdrawing T.D. 7747, the following changes to 26 CFR Part 1 are made:

PART 1—[AMENDED]

Paragraph 1. Section 1.166–9 (c) is revised to read as follows:

§ 1.166–9 Losses of guarantors, endorsers, and indemnitors incurred, on agreements made after December 31, 1975, in taxable years beginning after such date.

* * * * *

(c) *Obligations issued by corporations.* No treatment as a worthless debt is allowed with respect to a payment made by the taxpayer in discharge of part or all of the taxpayer's obligation as a guarantor, endorser, or indemnitor of an obligation issued by a corporation if, on the basis of the facts and circumstances at the time the obligation was entered into, the payment constitutes a contribution to capital by a shareholder. The rule of this paragraph (c) applies to payments whenever made (see paragraph (f) of this section).

* * * * *

§ 1.385–1—1.385–10 [Removed]

Par. 2. Sections 1.385–1 through 1.385–10 are removed.

§ 1.482–2 [Amended]

Par. 3. Section 1.482–2 is amended by removing "(applying section 385, where applicable)" after "bona fide indebtedness" in the first sentence of paragraph (a)(3) and by removing and reserving paragraph (a)(4), (a)(5), and (a)(6).

§ 1.992–1 [Amended]

Par. 4. Section 1.992–1 is amended by removing the phrase "(applying section 385, where applicable)" after the word "debt" in paragraph (d)(2)(i)(*a*) and by inserting the word "Qualifies" in lieu of the phrase "Notwithstanding section 385, qualifies" in paragraph (d)(2)(i)(*b*).

Par. 5. Section 1.1371–1 is amended by removing paragraph (h) and by inserting three sentences at the end of paragraph (g) to read as follows:

§ 1.1371–1 Definition of small business corporation.

* * * * *

(g) *Classes of stock.* * * * Obligations which purport to represent debt but which actually represent equity capital will generally constitute a second class of stock. However, if such purported debt obligations are owned solely by the owners of the nominal stock of the corporation in substantially the same proportion as they own such nominal stock, such purported debt obligations will be treated as contributions to capital rather than a second class of stock. But, if an issuance, redemption, sale, or other transfer of nominal stock, or of purported debt obligations which actually represent equity capital, results in a change in a shareholder's proportionate share of nominal stock or his proportionate share of such purported debt, a new determination shall be made as to whether the corporation has more than one class of stock as of the time of such change.

[FR Doc. 83–29474 Filed 11–2–83; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Criminal Division Directive No. 116]

Redelegations of Authority of United States Attorneys, Deputy Assistant Attorneys General, Section Chiefs, and Director, Asset Forfeiture Office, in Criminal Division

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Criminal Division Directive supersedes Criminal Division Directive No. 2, dated October 31, 1978 (43 FR 50677–78), relating to redelegation of the Assistant Attorney General's authority to compromise civil penalties and forfeitures and close civil claims. It also supersedes the Criminal Division Directive to the Staff dated March 21, 1979, and entitled "Forfeiture Function Under the Reorganization of the Criminal Division."

This Directive redelegates to the Director of the Asset Forfeiture Office the authority of the Assistant Attorney General with respect to civil and criminal forfeiture cases, including the authority to accept or deny petitions for remission or mitigation of forfeiture. It also redelegates to the United States Attorneys all the authority of the Assistant Attorney General to close a forfeiture case or to accept or reject offers in compromise made in relation to civil and criminal forfeiture cases. The United States Attorney would be required to consult with the Asset Forfeiture Office before closing a civil or criminal foreiture case involving an original claim of $60,000 or more, and before accepting or rejecting an offer in compromise in which the difference between the amount claimed and the proposed settlement was $60,000 or more. Finally, the Directive clarifies the delegation of authority pursuant to 28 CFR 0.171.

EFFECTIVE DATE: October 26, 1983

FOR FURTHER INFORMATION CONTACT: John Yoder, Director, Asset Forfeiture Office, Criminal Division, Department of Justice, Washington, D.C. 20530, 202–272–6423.

SUPPLEMENTARY INFORMATION:

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Organization and functions (Government agencies), Penalties, Seizures and forfeitures.

By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, as amended,

particularly §§ 0.160, 0.162, 0.164, 0.168, and 0.171, it is hereby ordered that Criminal Division Directive No. 2 (43 FR 50677–78, October 31, 1978) and the Criminal Division Directive to the Staff dated March 21, 1979, and entitled "Forfeiture Function Under the Reorganization of the Criminal Division," are removed and the following Directive No. 116 is added to the Appendix to Subpart Y, Part 0, to read as follows:

[Directive No. 116]

(a)(1) Each U.S. Attorney is authorized in cases delegated to the Assistant Attorney General of the Criminal Division—

(A) To accept or reject offers in compromise of—

(i) Claims in behalf of the United States in all cases (other than forfeiture cases) in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $60,000, and in all civil or criminal forfeiture cases, except that the U.S. Attorney shall consult with the Asset Forfeiture Office of the Criminal Division before accepting offers in compromise or plea offers in forfeiture cases in which the difference between the gross amount of the original forfeiture sought and the proposed settlement is $60,000 or more; and

(ii) Claims against the United States in all cases, or in administrative actions to settle, in which the amount of the proposed settlement does not exceed $60,000; and

(B) To close (other than by compromise or entry of judgment) claims asserted by the United States in all cases (other than forfeiture cases) in which the gross amount of the original claim does not exceed $60,000, and in all civil or criminal forfeiture cases, except that the U.S. Attorney shall consult with the Asset Forfeiture Office of the Criminal Division before closing a forfeiture case in which the gross amount of the original forfeiture sought is $60,000 or more.

(2) This subsection does not apply—

(A) When, for any reason, the compromise or closing of a particular claim (other than a forfeiture case) will, as a practical matter, control or adversely influence the disposition of other claims which, when added to the claim in question, total more than the respective amounts designated above; or

(B) When the U.S. Attorney is of the opinion that because of a question of law or policy presented, or for any other reason, the matter should receive the personal attention of the Assistant Attorney General.

(b) Notwithstanding the provisions of this Directive, the Assistant Attorney General of the Criminal Division may delegate to U.S. Attorneys authority to compromise or close other cases, including those involving amounts greater than as set forth in paragraph (a) above, and up to the maximum limit of his authority, where the circumstances warrant such delegation.

(c) All other authority delegated to me by §§ 0.160, 0.162, 0.164, and 0.171 of Title 28 of the Code of Federal Regulations not falling within the limitations of paragraph (a) of this directive is hereby redelegated to Section Chiefs in the Criminal Division, except that—

(1) The authority delegated to me by §§ 0.160, 0.162, 0.164, and 0.171 of that title relating to conducting, handling, or supervising civil and criminal forfeiture litigation (other than bail bond forfeiture), including acceptance or denial of petitions for remission or mitigation of forfeiture, is hereby redelegated to the Director of the Asset Forfeiture Office; and

(2) When a Section Chief or the Director of the Asset Forfeiture Office is of the opinion that because of a question of law or policy presented, or for any other reason, a matter described in paragraph (c) should receive the personal attention of a Deputy Assistant Attorney General or the Assistant Attorney General, he shall refer the matter to the appropriate Deputy Assistant Attorney General or to the Assistant Attorney General.

(d) Notwithstanding any of the above redelegations, when the agency or agencies involved have objected in writing to the proposed closing or dismissal of a case, or to the acceptance or rejection of an offer in compromise, and the matter cannot be resolved below the Assistant Attorney General level, it must be decided by the Assistant Attorney General.

Dated: August 19, 1983.

Stephen S. Trott,

Assistant Attorney General, Criminal Division.

Approved: August 22, 1983.

D. Lowell Jensen,

Associate Attorney General.

[FR Doc. 83-29818 Filed 11-2-83; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Parts 0, 3, 8, 9 and 9a

[Order No. 1034–83]

Assignment of Criminal Forfeiture Function to the Assistant Attorney General, Criminal Division, and Assignment of Criminal and Civil Forfeiture Functions to Director, Asset Forfeiture Office, Criminal Division

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order assigns to the Assistant Attorney General, Criminal Division, the function of remission or mitigation of criminal forfeitures. It amends the regulations applicable to the Criminal Division's handling of petitions for remission or mitigation of forfeitures and offers in compromise to make them applicable to all forfeiture statutes assigned to the Criminal Division, including criminal forfeiture statutes, and to place that function in the Director, Asset Forfeiture Office, Criminal Division. It clarifies the authority of an Assistant Attorney General to designate different individuals or units to carry out responsibilities for collection of judgments, fines, penalties, and forfeitures. Finally, it amends various provisions of the forfeiture regulations to conform to the creation of the Asset Forfeiture Office in the Criminal Division.

EFFECTIVE DATE: This order is effective October 26, 1983, except that the amendments to 28 CFR 9.3 are effective July 26, 1983.

FOR FURTHER INFORMATION CONTACT: John Yoder, Director, Asset Forfeiture Office, Criminal Division, Department of Justice, Washington, D.C. 20530. Telephone: (202) 272–6420.

SUPPLEMENTARY INFORMATION: This order is not a rule within the meaning of either Executive Order 12291, section 1(a), or the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

List of Subjects in 28 CFR Parts 0, 3, 8, 9, and 9a

Authority delegations (Government agencies), Organization and functions (Government agencies), Penalties, Seizures and forfeitures.

PART 0—[AMENDED]

By virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 509 and 510, Title 28 of the Code of Federal Regulations is hereby amended as follows:

§ 0.55 [Amended]

1. In § 0.55, paragraph (d) is revised to read as follows:

* * * * *

(d) Civil or criminal forfeiture or civil penalty actions (including petitions for remission or mitigation of forfeitures and civil penalties, offers in compromise, and related proceedings) under the Federal Aviation Act of 1958, the Contraband Transportation Act, the Copyrights Act, the customs laws (except those assigned to the Civil Division which involve sections 592, 704(i)(2) or 734(i)(2) of the Tariff Act of 1930), the Export Control Act of 1949, the Federal Alcohol Administration Act, the Federal Seed Act, the Gold Reserve Act of 1934, the Hours of Service Act, the Animal Welfare Act, the Immigration and Nationality Act (except civil penalty actions and petitions and offers related thereto), the neutrality laws, laws relating to cigarettes, liquor, narcotics and dangerous drugs, other controlled substances, gambling, war materials, pre-Colombian artifacts, coinage, and firearms, locomotive inspection (45 U.S.C. 22, 23, 28–34), the Organized

Crime Control Act of 1970, prison-made goods (18 U.S.C. 1761–1762), the Safety Appliance Act, standard barrels (15 U.S.C. 231–242), the Sugar Act of 1948, and the Twenty-Eight Hour Law.

§ 0.168 [Amended]

2. § 0.168, paragraph (b) is amended by adding "or, if the redelegation is made by the Assistant Attorney General of the Criminal Division, the Associate Attorney General".

§ 0.171 [Amended]

3. In § 0.171, the second sentence in paragraph (a) is amended by revising "performance of those functions" to "performance of each of those functions".

PART 3—[AMENDED]

§ 3.6 [Amended]

4. In § 3.6, the last sentence is amended by revising "or the Assistant Attorney General, Criminal Division" to "the Assistant Attorney General, Criminal Division, Deputy Assistant Attorneys General, Criminal Division, or the Director, Asset Forfeiture Office".

PART 8—[AMENDED]

§ 8.2 [Amended]

5. In § 8.2, the last sentence is revised to read "The Assistant Attorney General in charge of the Criminal Division is designated as the officer authorized to take final action under section 2513 of Title 18, United States Code, on claims for award of compensation to an informer, and the Director, Asset Forfeiture Office, Criminal Division, is designated as the officer authorized to take final action under that section on petitions for remission or mitigation of forfeiture, offers of payment for release of property, offers in compromise, and matters relating to bonds or other security.".

6. The title of Part 9 is revised to read:

PART 9—REMISSION OR MITIGATION OF CIVIL AND CRIMINAL FORFEITURES

7. Section 9.1 is revised to read as follows:

§ 9.1 Purpose and scope.

The following definitions, regulations and criteria are designed to reflect the intent of Congress relative to the remission or mitigation of forfeiture of certain property as set out in section 1618 of Title 19, United States Code, and are applicable only to those civil and criminal forfeitures which arise under statutes in relation to which the Attorney General has assigned the remission or mitigation function to the Criminal Division, the Federal Bureau of Investigation, or the Drug Enforcement Administration (§§ 0.55(d), 0.85, and 0.100 of this title).

§ 9.3 [Amended]

8. In § 9.3, paragraph (c) is amended by revising "the appropriate section" to "Asset Forfeiture Office".

9. In § 9.3, paragraph (c) is amended by revising the last sentence to read: "Upon the basis of the report prepared in this office, the Director of the office shall either grant the petition by remission or mitigation of the forfeiture or shall deny it.".

10. In § 9.3, paragraph (d) is amended by revising "Chief of the section" each place it appears to "Director of the office".

11. In § 9.3, paragraph (e) is amended by revising "Chief of the section" to "Director of the office".

12. In § 9.3, paragraph (h) is amended by revising "Chief of the section" to "Director of the office".

13. In § 9.3, paragraph (i) is amended by revising "Chief of the section" to "Director of the office".

14. In §9.3, paragraph (j) is amended by revising "appropriate Section Chief" to "Director, Asset Forfeiture Office".

15. In § 9.3, paragraph (k) is amended by revising "appropriate Section Chief" to "Director, Asset Forfeiture Office".

PART 9a—[AMENDED]

§ 9a.7 [Amended]

16. In § 9a.7, the chart in paragraph (b) is amended by revising "Special Litigation Section" both places it appears to "Asset Forfeiture Office".

17. In § 9a.7, the chart in paragraph (b) is amended by revising "Chief or Deputy Chief" to "Director or Associate Director".

Dated: October 26, 1983.

William French Smith,

Attorney General.

[FR Doc. 83-29663 Filed 11-2-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD8-83-06]

Safety Zone; Mississippi River Gulf Outlet

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its Safety Zone regulations for the Mississippi River Gulf Outlet (MRGO), the Michoud Canal, and the Inner Harbor Navigation Canal (IHNC) by modifying the reporting points to create a wake free zone by the New Orleans Bulk Terminal, because of heavy lift operations in conjunction with repairs.

EFFECTIVE DATE: This Final Rule becomes effective on November 3, 1983.

FOR FURTHER INFORMATION CONTACT: LCDR R. E. Ford, Port Safety Officer, or LTJG S. Evans, Waterways Safety Officer, c/o U.S. Coast Guard, Captain of the Port, 4640 Urquhart Street, New Orleans, Louisiana 70117, Telephone (504) 589–7108.

SUPPLEMENTARY INFORMATION: On June 4, 1981, the Coast Guard published interim final rules in the **Federal Register** for the regulations (46 FR 29933).

Interested persons were requested to submit comments and seven comments were received. The publishing of timely responses to these seven comments in Final Rulemaking action was delayed by the subsequent unanticipated closure of the New Orleans Vessel Traffic Service (VTS) in March 1982.

Upon reactivation of New Orleans Vessel Traffic Service (VTS) a Final Rule was published in the **Federal Register** on May 31, 1983. The comments solicited in the **Federal Register** of June 4, 1981 were addressed in that **Federal Register** of May 31, 1983. This rulemaking slightly modifies the Safety Zone.

A Notice of Proposed Rulemaking was not published for this regulation and it is being made effective in less than 30 days after the **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since an immediate modification is needed to facilitate navigation.

Drafting Information

The principal persons involved in drafting this rule are LT T. L. McCarty, USCG, Project Officer, c/o Commander, Eighth Coast Guard District (mps) and CDR R. A. Brunnell, USCG, Project Attorney, c/o Commander, Eighth Coast Guard District (dl), Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana, 70130, Telephone (504) 589–6168.

Discussion of Regulations

The Safety Zone requires all vessels meeting certain criteria to report to the New Orleans VTS when passing certain locations. Based on user input, these reporting points are being modified to make compliance with the regulation easier and to improve navigational safety.

The new reporting points are all on the same side of the channel and are the

checkpoints that the pilots use for their internal purposes. The old reporting points were Lighted Buoy #1, MRGO Light 33, and MRGO Light 96. The new reporting points are Lighted Bell Buoy #2, MRGO Lighted Bell Buoy 20 and MRGO Light 94. The changes to this regulation are not substantive and do not significantly change the features of the Safety Zone.

In addition, a typographical error is corrected in § 165.801(b) by adding commas. The section currently reads Vessels including tows over * * * The section should read Vessels, including tows, over * * *

Summary of Final Evaluation

These regulations are considered to be insignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5–22–80). An evaluation under the Regulatory Flexibility Act of 1980 has not been conducted. The changes to this regulation are not substantive. For these reasons, it has been determined that this action will not have a significant economic effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Waterways.

Final Regulations

In consideration of the foregoing, the Coast Guard amends Part 165 of Title 33 Code for Federal Regulations as follows:

PART 165—[AMENDED]

33 CFR 165.801 is amended by revising (b), (c) and (d) as follows:

§ 165.801 Mississippi River Gulf Outlet.

(a) * * *

(b) Vessels, including tows, over 600 feet in length, or over 80 feet in beam, or with a draft in excess of 30 feet, and intending to transit that portion of the Safety Zone from its seaward entrance at Lighted Bell Buoy 2 (LLNR 2015) to the jetty at MRGO Light 62 (LLNR 2068) must receive permission to enter or move within the Safety Zone. Vessels meeting this criteria will not meet or overtake each other in this seaward portion of the Safety Zone unless the pilots and/or operators of both vessels consider such passage to be safe and agree to it. Such an agreement must be reported beforehand to the VTS.

(c) All inbound vessels meeting the criteria of paragraph (b) of this section shall notify New Orleans Vessel Traffic Service (VTS) two hours prior to intended entry into the Safety Zone (in order to be scheduled), and immediately prior to entry (in order to obtain permission to enter), and upon passing MRGO Lighted Bell Buoy 2, and MRGO Lighted Bell Buoy 20 (LLNR 2031), MRGO Light 62, MRGO Light 94 (LLNR 2062.50) and MRGO Light 114 (LLNR 2032).

Notification shall be made on Channel 12 VHF–FM. Notification prior to intended entry which cannot be accomplished on Channel 12 VHF–FM due to extreme range, shall be made by telephone to the VTS at (504) 589–2772 or 589–2773 by the vessel's agent or via the marine operator.

(d) All outbound vessels meeting the criteria of paragraph (b) of this section shall notify VTS two hours prior to intended movement within the Safety Zone (in order to be scheduled), and immediately prior to movement (in order to obtain permission to move), and immediately after heading fair in the outbound direction, and as the vessel passes the junction of the MRGO and Gulf Intracoastal Waterway (Mile 60.0 MRGO), MRGO Light 114, MRGO Light 94, and MRGO Light 62, and MRGO Lighted Bell Buoy 20 and MRGO Lighted Bell Buoy 2. Notification two hours prior to movement shall be made by telephone to the VTS at (504) 589–2772 or 549–2773. Other notification shall be made on channel 12 VHF–FM. Channel 11 VHF–FM may be used in lieu of Channel 12 by vessels above the Paris Road Bridge (mile 60.9 MRGO).

* * * * *

(33 U.S.C. 1225, 1231; 49 CFR 1.46(n)(4))

Dated: August 18, 1983.

W. G. Stewart,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 83–29668 Filed 11–2–83; 8:45 am]

BILLING CODE 4910–14–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM82–3; Order No. 529]

Order Amending Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This final rule adopts the amendments to Rule 54 of the Commission's rules of practice, 39 CFR Part 3001 *et seq.*, that were proposed in the Notice of Proposed Rulemaking issued by the Commission on August 1, 1983 [48 FR 35914 (August 8, 1983)], pursuant to 39 U.S.C. 3603, 3622, and 3623. Previously, Rule 54(f)(2) required that requests for recommended rate or classification decisions be supported by projections of estimated accrued costs for a fiscal year beginning "not more than 12 months" subsequent to the filing date of a request for changes in rates or classification. The amended final rule would allow these projections of estimated costs to be for a fiscal year beginning not more than 24 months rather than 12 months subsequent to the filing of rate and classification cases. Additionally, the Commission is amending Rules 54(n) and 102(d) to require prior rate case reconciliations between actual and estimated revenues and costs to be filed within six months following the end of the last fiscal year included in the test year rather than as a part of the next general rate case.

EFFECTIVE DATE: This rule is effective on November 3, 1983.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 2000 L Street, NW., Washington, D.C. 20268 (telephone: [202] 254–3824).

SUPPLEMENTARY INFORMATION: In connection with each of the last three omnibus rate cases, the Postal Service filed a waiver request to relax the requirement of Rule 54(f)(2) that the Postal Service provide projections of estimated accrued costs "for a fiscal year beginning not more than 12 months subsequent to the filing date of the formal request." The Commission granted the last two waiver requests which sought a relaxation of the requirement that the test year be a "fiscal" year.

Taking cognizance of the need of the Postal Service to request waivers of Rule 54(f)(2) in each of the last three omnibus rate cases, the Commission issued on September 28, 1982, an Advance Notice of Proposed Rulemaking presenting three alternatives to the existing rule and inviting comments thereon.

The first proposal was to eliminate the fiscal year requirement in Rule 54(f)(2) and replace it with a requirement of four consecutive accounting quarters. This amendment to Rule 54(f)(2) would have incorporated permanently the essence of waiver requests the Commission granted in Docket Nos. R77–1 and R80–1 wherein the Commission allowed the Postal Service to use a hybrid test year instead of a fiscal year. The second proposal would expand the test period to more than one year thereby permitting the Commission to recommend rates for a two- to three-year period. The third alternative suggested in the Advance Notice of Proposed Rulemaking was to maintain the fiscal year requirement but to allow a more prospective test year perhaps one beginning up to 21 months

from the filing date of a request for rate or classification changes.

Ten parties including the governors of the Postal Service filed comments addressing the merits of the three proposals presented in the Advance Notice. Those favoring a hybrid test year consisting of four consecutive accounting quarters rather than a fiscal test year expressed concern that the other two alternatives would lead to more prospective test years resulting in higher rates which in turn would be based on more speculative estimates than under the present rule. After reviewing these comments, the Commission concluded that these reasons were insufficient to overcome the benefits to the ratemaking process of a fiscal test year. Thus, on August 1, 1983, the Commission issued a Notice of Proposed Rulemaking proposing for adoption essentially the third alternative described above. Specifically, the Commission proposed requiring that the test year be a fiscal year beginning up to 24 months from the date of filing.

In that notice, the Commission concluded that only by retaining the fiscal test year requirement was it possible to achieve the primary objective of having the rates arising from a omnibus rate case be in effect throughout the test year, while at the same time attaining accountability in the ratemaking process. We explained why a fiscal year test year was necessary to check the validity of the test year data as follows:

> A fiscal test year is required to allow the Commission to check its results with audited figures. A review of Docket No. R80–1 indicates the problems of attempting to reconcile hybrid forecasts and audited fiscal year data. In Docket No. R80–1, the Commission approved the Postal Service's motion to use a hybrid test year of the last two quarters of FY 1981 and the first two quarters of FY 1982. At the end of FY 1981, the Postal Service adjusted its workers' compensation model which resulted in an increase of over $500 million in workers' compensation expense. In attempting to trace these costs to the hybrid test year it is not possible to ascertain which portion of that adjustment should be applied to the hybrid test year. Similarly, in FY 1982, the Postal Service's external auditors adjusted workers' compensation to reduce costs by over $370 million. Although the Postal Service did not accept that adjustment and accepted a qualified endorsement of its financial results from the auditors for that reason, it still remains unclear how this adjustment will affect the hybrid test year. In all probability, without audited financial data, the existence of a $370 million reduction in costs would not be known. An audited statement highlights any problems in the financial data and insures some continuity in treatment of specific items of costs

Nine parties filed comments responding to the Commission's August 1, 1983 Notice.[1] Having considered these comments, we adopt the amendment to Rule 54(f)(2) proposed in our initial Notice.

The Department of Defense and the American Newspaper Publishers' Association endorsed the Commission's proposal generally.

Direct Marketing Association (DMA) and Envelope Manufacturers Association of America (EMAA) expressed partial support for the proposed amendment to Rule 54(f)(2). EMAA believes that the maximum period between the filing date and the beginning of the test year should be 18 or 21 months rather than 24 months. We have decided not to adopt EMAA's proposal because it needlessly restricts the Governors' powers pursuant to section 3622, of the Act to determine when to file rate cases. Assuming rates will go into effect approximately 10 to 12 months after a rate case filing,[2] to reduce the period to 18 or 21 months would defeat the primary objective of ensuring that rates be in effect throughout the test period. For example, assuming the Postal Service planned a December 1983 filing, if the test year had to begin within 18 or 21 months, the test year would have to be FY 1985. Based on a 10 to 12 month period to implement rates after the filing date, such a requirement would result in new rates not going into effect until after FY 1985 had to some extent already elapsed. Thus our primary objective of ensuring that the new rates be in effect throughout the test year would be defeated.

Direct Marketing Association supports the Commission's proposal assuming that the Commission states an intention to reevaluate the test year contingency provision to account for the surplus resulting from higher rates due to a more prospective test year. As we explained in Docket Nos. R76–1 and R77–1 the contingency provision is an allowance to insure against unforeseen imbalances between costs and revenues which occur as a result of errors in assumptions underlying projections as well as unforeseen events. In determining the contingency provision, a critical factor "is the relative ability of the Postal Service to absorb unforeseen expense increases and revenue shortfalls." PRC Op. R77–1, p. 25. DMA's comments are essentially embraced within this criteria, and may, of course, be presented in that context in an omnibus rate case.[3]

Five commenters, Third Class Mail Association, MCI Communications Corp., Mail Order Association of America, Reader's Digest Association and the Postal Service, filed comments opposing adoption of the proposed rule. They repeat arguments raised previously that the proposed rule will lead to a more prospective test year with high rates based on more speculative estimates. Again, we have carefully evaluated their concerns and have concluded that they do not outweigh the benefits flowing from having a fiscal year test period. To reiterate, it is only through a fiscal year test year that it is possible "for the Commission and the parties * * * to compare estimates to actual results * * * to check the validity of test year data." Notice of Proposed Rulemaking, August 1, 1983, p. 9.

With regard to the possibility of higher rates under the proposed rule, the Postal Service pursuant to 39 U.S.C. 3622 is to operate on a breakeven basis. To the extent higher rates result in profits during a period, this surplus is offset by losses resulting from relatively lower rates during another period. These losses presumably will arise during the period a subsequent rate filing is delayed because of the profits arising from the arguably higher rates caused by a more prospective test year.

The Postal Service argues that requiring a fiscal test year negates the Board of Governors' discretion regarding the timing of rates cases. Postal Service Comments, September 9, 1983. According to the Service, the Board's discretion would be restricted because under the amended rule the period prior to the beginning of the test year when new recommended rates are in effect is excessive in length. Because the period is excessive, the Service argues that the Governors will exercise caution and not implement new rates presumably until the beginning of the fiscal year. Underlying the Service's concerns is that a more prospective test year would produce higher rates than under a more proximate test year.

We think this concern is overstated. At the outset we note that it will be rare that the hypothetical presented by the Service in its comments will occur. In its

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[1] Commissioner Duffy filed comments consistent with his position on this matter.

[2] A 10 to 12-month period from filing to rate implementation is consistent with the section 3624 which requires the Commission to issue its Opinion and Recommended Decision within 10 months of filing. The Governors normally act upon the Commission's Decision a short time thereafter.

[3] The Postal Service filed remarks on September 15, 1983, addressing DMA's comments. We leave to the next omnibus rate case resolution of the issues arising from DMA's and the Postal Service's comments

comments at p. 6 the Service hypothesizes a situation in which under the proposed rule the test year would begin 22 to 24 months from the filing date. The Service suggests that a test year this prospective could be challenged because it produces recommended rates "based on projections of costs further in the future, and therefore presumbly greater, than the costs being incurred by the Postal Service when the rates went into effect." (Footnote omitted.)

For both rate cases filed since passage of the 1976 amendments to the Postal Reorganization Act [4] the Governors have chosen to utilize a hybrid test period beginning in the middle of a fiscal year. Apparently this choice was, in part, dictated by the Governors' determination that it results in implementing rates in late winter or spring when volume is relatively low. In contrast, the hypothetical assumes implementation of new rates during the peak Christmas season. On balance, it is far more likely that the Service will continue past practice and avoid implementing new rates during the October to December Christmas mailing season assumed in the hypothetical. In any event, the rule does not foreclose the Postal Service from seeking a waiver if it deems it necessary to avoid the problem envisioned in its comments.

Finally, pursuant to Rule 54(n) the Postal Service provides a reconciliation between prior test year estimates and actual results in its next formal request for changes in rates. Providing this data earlier benefits the Commission and parties as it would allow review and analysis with a view toward improving estimating techniques during the period between rate cases rather than solely during the more hectic period when an omnibus rate case is pending before the Commission. We propose that this reconciliation be made no later than six months following the end of the last fiscal year included in the test year of the last rate case.

Only the Postal Service objects to the rule. The Postal Service opposes producing the report at that time because of possible disruption to internal staffing requirements. Inasmuch as this reconciliation is not a particularly difficult report to prepare and any disruption will be minimal, we are adopting the proposed rule. While we recognize that an administrative "crunch" might arise in a particular case, requiring special consideration, we are not prepared to abandon a useful analysis across the board because of that possibility. This is a question which is better dealt with on the basis of some practical experience, so far as a permanent disposition is concerned.

Impact of proposed changes. Pursuant to Executive Order 12291, the Commission finds that the proposed rule changes do not constitute a "major rule." The changes deal with procedural matters and it is not anticipated that they could result in an appreciable change in the costs of participating in these cases. Nor will the changes have any adverse effects on competition, employment or the other factors listed in E.O. 12291.

The above analysis that the proposed rule changes do not constitute a major rule for purposes of E.O. 12291, applies with equal force to the Regulatory Flexibility Act.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure.

PART 3001—RULES OF PRACTICE AND PROCEDURE

Subparts B and G—Administrative Practice and Procedure

We hereby amend Rules 54(f)(2), 54(n) and 102(d) of the rules of practice [39 CFR 3001.54(f)(2), 3001.54(n) and 3001.102(d)] as follows:

1. Amend § 3001.54(f)(2) to remove the number "12" and inserting in its place the number "24" in the second sentence of Rule 54(f)(2) to read as follows:

§ 3001.54 Contents of formal requests.

* * * * *

(f)* * *

(2) * * * Estimated accrued costs referred to in paragraph (f)(2)(ii) of this section shall be for a fiscal year beginning not more than 24 months subsequent to the filing date of the formal request. * * *

* * * * *

2. Remove § 3001.54(n) and redesignate current paragraphs (o) to (t) as paragraphs (n) through (s) respectively.

3. Amend § 3001.102(d) by adding new paragraph (d)(4) to read as follows:

§ 3001.102 Filing of reports.

* * * * *

(d)* * *

(4) A report containing, to the extent practical, and explanation considering both price and nonprice variables, of the reasons that the costs (by cost segment), revenues and volumes (by class and subclass of mail), projected for the test period used in the most recently concluded rate case, differ from the actual accrued costs, revenues and volumes (six months following the end of the last fiscal year included in the test year of the last rate case).

* * * * *

(39 U.S.C. 3603, 3622, 3623)

By the Commission. Commissioner Duffy abstains.

Charles L. Clapp,

Secretary.

[FR Doc. 83-29809 Filed 11-2-83; 8:45 am]

BILLING CODE 7715-01-M

[4] The 1976 amendment to the Postal Reorganization Act inter alia, established the existing operative framework in which new rates are implemented approximately 10 to 12 months after a rate case filing.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 468

[WH-FRL 2462-5]

Copper Forming Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction of final rule.

SUMMARY: EPA is correcting several errors in the effluent limitations guidelines, pretreatment standards and new source performance standards for the copper forming category which appeared in the **Federal Register** on August 15, 1983 (48 FR 36942). These errors include (1) the omission of a requirement for the drawing spent lubricant stream from 40 CFR 468.01; (2) the number of plants and discharge points included in the discharge monitoring report (DMR) data and (3) typographical errors in both the preamble and 40 CFR Part 468.

DATE: These corrections shall become effective on November 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. David Pepson, at (202) 312-7126.

SUPPLEMENTARY INFORMATION: On August 15, 1983 EPA published final effluent limitations guidelines and standards for the copper forming point source category (40 CFR Part 468; 48 FR 36942). Both the preamble and the regulation contained several errors. These errors are discussed briefly below and are corrected by this notice.

A provision was inadvertently omitted from 40 CFR 468.01 "Applicability" that limits the applicability of a discharge allowance for drawing spent lubricant to only those plants that actually discharge the

drawing spent lubricant waste stream at copper forming sites. No discharge allowance is applicable or allowable where these wastewaters are hauled off-site or otherwise not discharged at copper forming sites. Accordingly, 40 CFR 468.01 is corrected to add paragraph (b) explaining this condition for the allowance. EPA's intent to impose this condition for obtaining a drawing spent lubricant allowance is clearly explained in the preamble at 48 FR 36946, along with the reasons for doing so.

Sections IV and IX of the preamble contain discussions of discharge monitoring report data obtained subsequent to proposal which were analyzed and compared to the treatment effectiveness values used in developing limitations and standards. There are several factual errors in these discussions relating to the number of plants and discharge points for which data were available. These errors are corrected by this notice. The conclusions reached from analyses of the discharge monitoring data are discussed in the preamble to the final rule and are unchanged by the corrections made today.

There are several typographical errors in the preamble and in the numerical limitations and standards of 40 CFR Part 468. These errors are also corrected by this notice.

In addition, it should be noted that on September 15, 1983 the Agency published a technical amendment to 40 CFR Part 468 that deleted a footnote under § 468.04 compliance date for PSES (48 FR 41409). The footnote stated that the compliance date for PSES was subject to Court approval of an EPA modification of the Consent Decree in *NRDC* v. *Train*, 12 ERC 1833 (D.D.C. 1979). Subsequent to promulgation the Court approved EPA's modification allowing three years for compliance. Accordingly, the footnote was deleted.

Dated: October 26, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

PART 468—[CORRECTED]

The following corrections are made to **Federal Register** document OW–FRL–2401–3 published on August 15, 1983 (48 FR 36942).

1. On page 36944, column one, second paragraph, "19 discharges from 15 copper forming plants" is corrected to read "17 discharges from 16 copper forming plants".

2. On page 36944, second column, second paragraph, "the basic for the revised costs" is corrected to read "the basis for the revised costs".

3. On page 36945, second column, fifth paragraph, "(20 plants versus four copper forming plants available)" is corrected to read "(18 plants versus four copper forming plants available)".

4. On page 36946, first column, third paragraph, and again in the second column, first and third paragraphs, "1/kkg" is corrected to replace the number "1" with the letter "l" for liters to read "l/kkg".

5. On page 36947, column two, third paragraph, "1,755 1/kkg" is corrected to read "1755 l/kkg".

6. On page 36952, column one, fourth paragraph, "data points from 20 plants" is corrected to read "data points from 18 plants".

7. On page 36952, second column, first paragraph, the first sentence is corrected and a second sentence added for purpose of clarification. As corrected, this paragraph now reads: "The Agency confirmed that copper forming plants were achieving results that were consistant with the values determined from the CMDB by examining discharge monitoring reports (DMR). Of the 17 discharge points for which data were collected, fifteen discharge points had treatment consistent with the lime and settle technology used as the basis for the copper forming regulation. Although reported in summary form (usually as monthly averages) DMR data can be used to construct annual average effluent concentration values".

8. On page 36952, column two, second paragraph, "42 annual average values for copper from the 19 discharge points" is corrected to read "41 annual average values for copper from the 15 discharge points". In that same paragraph, "These 42 averages" is corrected to read "These 41 copper averages".

9. On page 36952, column two, third paragraph, "Thirty-three of these 42" is corrected to read "Thirty-one of these 41".

10. On page 36952, column two, third paragraph "annual averages for 11 of the discharge points" is corrected to read "annual averages for 8 of the 15 discharge points".

11. On page 36952, column two, third paragraph, "the remaining eight" is corrected to read "the remaining seven".

12. On page 36952, column two, third paragraph, "of the eight discharge points, seven had only one year in which the annual average was greater than the CMDB average and the other discharge point reported two of four annual averages only slightly greater than the CMDB average" is corrected to read "of the seven discharge points, four had only one year in which the annual average was greater than the CMDB average and the other three discharge points reported two annual averages greater than the CMDB average".

13. On page 36952, column two, fourth paragraph, "data on four other" is corrected to read "data on six other".

14. On page 36952, column two, fourth paragraph, "for chromium, nickel, zinc, and TSS" is corrected to read "for nickel, lead, and TSS". Immediately following, a new sentence is added to read "Forty-five percent of the chromium annual averages, forty-seven percent of the iron annual averages, and twenty-two percent of the zinc annual averages were below their respective CMDB long-term average".

15. On page 36953, first column, fourth paragraph, "for the drawing spent lubricant operation" is corrected to read "for drawing spent lubricant".

16. On page 36954, second column, second paragraph, "BPT costs estimates ae higher" is corrected to read "BPT cost estimates are higher".

17. On page 36957, column one, under Appendix C, "The following three (3) pollutants" is corrected to read "The following two (2) pollutants".

§ 468.01 [Corrected]

18. In 40 CFR 468.01 which appears on page 36957, the first paragraph is designated as paragraph (a).

19. In 40 CFR 468.01, a new paragraph (b) is added to read as follows:

* * * * *

(b) The discharge allowances for drawing spent lubricant of 40 CFR 468.11(c), 468.12(c), 468.13(c), 468.14(c) and 468.15(c) are applicable only to those plants that actually discharge the drawing spent lubricant waste stream at copper forming sites. No discharge allowance is applicable or allowable where these wastewaters are hauled off-site for disposal or are otherwise not discharged at copper forming sites.

§ 468.02 [Corrected]

20. 40 CFR 468.02(n) which appears on page 36958, column one, "the mass or copper of copper alloy" is corrected to read "the mass of copper or copper alloy".

§ 468.13 [Corrected]

21. In 40 CFR 468.13(f) which appears on page 36962 the maximum for any 1 day for copper of "10.587" is corrected to read "1.587". In this same paragraph the maximum for any 1 day for zinc of "0.264" is corrected to read "1.264".

22. In 40 CFR 468.13(i) which appears on page 36963, the maximum for any 1 day for chromium of "4.667" is corrected to read "4.677".

23. In 40 CFR 468.13(q) which appears on page 36964, column one, the maximum for monthly average for copper of "1.013" is corrected to read "0.013".

§ 468.15 [Corrected]

24. In 40 CFR 468.15(o) which appears on page 36967, column two, "PSPS" is corrected to read "PSNS".

[FR Doc. 83-29720 Filed 11-2-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6439

[AA-9206]

Alaska; Revocation of Public Land Order No. 5549

Correction

In FR Doc. 83-19996 beginning on page 33713 in the issue of Monday, July 25, 1983, make the following corrections:

1. On page 33713, third column, thirteen lines from the bottom, in the entry for "Sec. 35", "N½N½" should read "N½N½,".

2. On the same page, in the same column, three lines from the bottom, in the entry for "Sec. 4", "S½NE¼" should read "S½NW¼".

3. On page 33714, first column, nine lines from the top, in the entry for "Sec. 21", "N½NW¼ should read "N½NE¼".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; California *et al.*

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik; Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4002-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of The Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

State	City/town/county	Source of flooding	Location	Depth in feet above ground. Elevation in feet (NGVD). Modified
California	Novato, city of Marin County (FEMA-6408)	Novato Creek	At eastern corporate limits	*6
			Approximately 3400 feet downstream of confluence with Simmons Slough	*8
			Area bounded by U.S. Highway 101 and Northwestern Pacific Railroad	*8
			Approximately 100 feet downstream of Northwestern Pacific Railroad Bridge	*9
			Area bounded by U.S. Highway 101, Redwood Boulevard, and Lamont Avenue	*12
		Vineyard Creek	Upstream edge of Center Road bridge	*43
			Approximately 725 feet downstream of Wilson Avenue crossing	*54
			Downstream edge of Trumbull Avenue bridge	*56
			Downstream edge of Mill Road bridge	*58
		Wilson Creek	Approximately 25 feet upstream of McClay Avenue crossing	*57
			Approximately 125 feet downstream of Hanson Road extended	*66
			At Hanson Road extended	*70
			Approximately 100 feet downstream of Shields Lane crossing	*71

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
		Arroyo San Jose	At eastern corporate limits	*8
			Approximately 100 feet downstream of Bel Marin Keys crossing.	*14
			Approximately 100 feet upstream of U.S. Highway 101 crossing.	*27
		Pachecho Creek	At downstream limit of detailed study	*15
			Approximately 25 feet upstream of Northwestern Pacific Railroad crossing.	*27
			At Main Entrance Road crossing	*44
			Approximately 25 feet downstream of second crossing of Bolling Drive.	*52
			Approximately 25 feet upstream of Bolling Drive second crossing.	*71
		San Pablo Bay	At northeastern corporate limits	*8
			At mouth of Novato Creek	*8
			At Hamilton Air Force Base	*8
Maps available for review at the Lobby of the Community Development Department, 901 Sherman Avenue, Novato, California.				
Massachusetts	Westwood, town, Norfolk County (FEMA-6536)	Neponset River	Blue Hill Drive	*47
Maps available for inspection at the Town Hall, 580 High Street, Westwood, Massachusetts.				
Michigan	(C) Detroit, Wayne County (FEMA-6547)	Middle River Rouge	Just upstream of West Warren Road	*588
			About 700 feet upstream of West Warren Road	*589
Maps available for inspection at the Department of Planning, 3400 Cadillac Tower, Detroit, Michigan.				
Minnesota	(C) Stillwater, Washington County (FEMA-6514)	Saint Croix River	At downstream corporate limits	*692
			At upstream corporate limits	*693
		Browns Creek	About 1300 feet upstream of State Highway 96	*705
		Long Lake	Shoreline	*893
Maps available for inspection at City Hall, 216 North Fourth Street, Stillwater, Minnesota.				
Nevada	North Las Vegas, city of Clark County (FEMA-6583)	Las Vegas Wash	25 feet downstream of center of Carey Avenue	*1833
		Unnamed Tributary to Las Vegas Wash.	50 feet upstream of East Cheyenne Avenue	*1859
		Union Pacific Railroad Overflow	Intersection of Frehner Road and Losee Road	*1909
Maps are available for review at 2200 Civic Center Drive, North Las Vegas, Nevada.				
New Jersey	Bernardsville, borough, Somerset County (FEMA-6538).	Passaic River	Downstream corporate limits	*298
			Approximately 1,950 feet downstream of Jockey Hollow Road.	*299
			Just upstream Jockey Hollow Road	*423
			Upstream corporate limits	*428
		Indian Grave Brook	Downstream corporate limits	*298
			Approximately 200 feet downstream of Hardscrabble Road Bridge.	*310
Maps available for inspection at the Borough Hall, Bernardsville, New Jersey.				
Ohio	(V) Whitehouse, Lucas County (FEMA-6506)	Lone Oak Ditch	Downstream corporate limits	*644
			Approximately 900 feet upstream of downstream corporate limits.	*644
		Blue Creek	Downstream corporate limits	*641
		Swan Creek	Downstream corporate limits	*641
			Upstream corporate limits	*642
Maps available for inspection at the Municipal Building, 6655 Providence Street, Whitehouse, Ohio.				
Oklahoma	Webbers Falls, Town, Muskogee County (FEMA-6547).	Arkansas River	Upstream corporate limits	*462
Maps available for inspection at the Town Municipal Building, Webbers Falls, Oklahoma.				
Oregon	Marion County, unincorporated areas (FEMA-6536)	Mill Creek	300 feet upstream of centerline of Interstate Highway 5 northbound.	*226
		Battle Creek	140 feet upstream of centerline of Reese Hill Road	*526
		Claggett Creek	100 feet upstream of centerline of Deerborne Avenue NE.	*126
		East Fork Pringle Creek	At downstream edge of Interstate Highway 5	*221
Maps available for review at the Planning Department, 220 High Street, Salem, Oregon.				
Pennsylvania	East Buffalo, township, Union County (FEMA-6538)	Limestone Run (Bull Run)	Approximately 450 feet upstream of State Route 45 (downstream crossing).	*467
			Approximately 250 feet upstream of CONRAIL (upstream crossing).	*477
Maps available for inspection at the Township Building, 610 Fairground Road, Lewisburg, Pennsylvania.				
Pennsylvania	Solebury, township, Bucks County (FEMA-6522)	Delaware River	Downstream corporate limits	*62
			Downstream corporate limits of Borough of New Hope	*67
			Upstream corporate limits of Borough of New Hope	*73
			Upstream Upper York Road bridge	*83
			Upstream Lumberville bridge	*95
			Upstream corporate limits	*96
		Paunacussing Creek	Upstream River Road bridge	*95
			Upstream Paunacussing Road bridge	*207
			Upstream Fleecy Dale Road bridge	*225
			Upstream Sawmill Road bridge	*257
			Upstream Mechanicsville Road bridge	400

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
		Pennypacasing Creek Tributary No. 1.	Upstream Stovers Mill Road bridge	*231
			Approximately 1,500 feet upstream Stovers Mill Road bridge.	*245
Maps available for inspection at the Township Building, Solebury, Pennsylvania.				
Texas	Denton, city, Denton County (FEMA-6547)	Pecan Creek	Upstream of McKinney Street	*611
			Upstream of Crescent and Fulton Streets	*641
		North Pecan Creek	Upstream of Anna Street	*631
			Upstream of University Drive West	*648
Maps available for inspection at the Municipal Building, Denton, Texas.				
Vermont	Moretown, town, Washington County (FEMA-6532)	Winooski River	Downstream corporate limits	*429
			Upstream of U.S. Route 2	*447
			Upstream of State Route 100B	*501
		Crossett Brook	Approximately 2,700 feet upstream of State Route 100	*452
Maps available for inspection at the Town Hall, Route 100B, Moretown, Vermont.				
Virginia	Campbell County (FEMA-6547)	Dreaming Creek	Downstream corporate limits	*831
			Approximately 200 feet upstream State Route 1554	*850
Maps available for inspection at the County Courthouse, Rustburg, Virginia.				
Virginia	Lynchburg, city (FEMA-6547)	Dreaming Creek	Upstream side of State Route 291 bridge	*709
			Upstream side Norfolk and Western Railway bridge	*728
			Upstream side U.S. Route 460 bridge	*780
			Upstream side State Route 1447 bridge	*809
			Upstream corporate limits	*831
Maps available for inspection at the City Hall, Lynchburg, Virginia.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to Federal Emergency Management Agency)

Issued: October 25, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-29852 Filed 11-2-83; 8:45 am]

BILLING CODE 6718-03-M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program; Mississippi

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This notice identifies the location of a new office for filing applications or complaints under the Voting Rights Act of 1965, as amended. The Attorney General has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution.

EFFECTIVE DATE: November 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Clogston, Coordinator, Voting Rights Program, Office of Personnel Management, Washington, D.C. 20415, 202–632–5691.

SUPPLEMENTARY INFORMATION: The Attorney General has designated Lowndes County, Mississippi, as an additional examination point coming under the provisions of the Voting Rights Act of 1965, as amended. He has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, the U.S. Office of Personnel Management will appoint Federal examiners to review the qualifications of applicants to be registered to vote and Federal observers to observe local elections.

Pursuant to Section 553(b)(3)(B) of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because of OPM's legal responsibilities under 42 U.S.C. 1973e(a) and other parts of the Voting Rights Act of 1965, as amended, which require OPM to publish counties certified by the U.S. Attorney General and locations within these counties where citizens can be Federally listed and become eligible to vote, and where Federal observers can be sent to observe local elections.

Pursuant to Section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately to allow Federal examiners to immediately register voters and Federal observers to observe elections under the authority of the Voting Rights Act of 1965, as amended.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because its purpose is the addition of one new location to the list of counties in the regulation concerning OPM's responsibilities under the Voting Rights Act.

List of Subjects in 45 CFR Part 801

Administrative practice and procedures, Voting rights.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management amends 45 CFR Part 901, Appendix A, by adding Lowndes County, Mississippi, to read as follows:

Appendix A—[Amended]

Mississippi

County;	Place for filing;		Beginning date.	
*	*	*	*	*
Lowndes;	Columbus—Ramada Inn, Room 153, Highway 45 North;		August 22, 1983.	

(5 U.S.C. 1103; Secs. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973c, 1973g))

[FR Doc. 83-29817 Filed 11-2-83; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, 22, 23, 74, 78, 81, 87, 90, and 94

[General Docket 82-334; FCC 83-393]

Spectrum Utilization Policy for the Fixed and Mobile Services in the 947 MHz–40 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission provides spectrum and revises its Rules to provide for the recommendation of private operational fixed links currently operational in the 12.2 to 12.7 GHz (12 GHz) band. This is necessary due to the introduction of the Broadcast Satellite Service in the 12 GHz spectrum. The rule changes permit the displaced links access to the following bands: 6525–6875 MHz, 12.7–13.2 GHz and 17.7–19.7 GHz. Additionally, the rule changes provide for future growth of the private operational fixed service and compatible services at 18 GHz on providing channeling plans for 220, 80, 40, 20, 10, and 6 MHz channels and other appropriate standards.

EFFECTIVE DATE: December 5, 1983.

FOR FURTHER INFORMATION CONTACT: Donald Draper Campbell, (202) 653–8177, James T. Vorhies, (202) 653–9097, Office of Science and Technology, Spectrum Management Division.

List of Subjects

47 CFR Part 2

Frequency allocation, radio.

47 CFR Part 21

Point-to-point microwave, radio.

47 CFR Part 22

Mobile radio service radio.

47 CFR Part 23

Radio.

47 CFR Part 74

Radio.

47 CFR Part 78

Communications equipment, radio.

47 CFR Part 81

Communications equipment, radio.

47 CFR Part 87

Communications equipment.

47 CFR Part 90

Mobile services, radio.

47 CFR Part 94

Radio.

First Report and Order

In the matter of establishment of a spectrum utilization policy for the fixed and mobile services use of certain bands between 947 MHz and 40 GHz Gen. Docket 82–334.

Adopted: September 9, 1983.
Released: September 30, 1983.

By the Commission.

Purpose

1. The purpose of this First Report and Order in General Docket 82–334 is to provide frequencies and revised Rules for the reaccommodation of existing 12 GHz fixed microwave users. This is necessary because the 12 GHz band (12.2 to 12.7 GHz) has been allocated to the Direct Broadcast Satellite (DBS) service on a primary basis, and the fixed services and DBS services cannot use the same frequencies in a geographic area due to interference. This First Report and Order will also allocate spectrum in the 18 GHz band to fixed services. A number of issues concerning future utilization of fixed and mobile services microwave spectrum were raised earlier in this proceeding, however, broader changes in the microwave service rules will be treated in other phases of this Docket.

Introduction

2. On January 13, the Commission adopted and released a *Notice of Proposed Rulemaking (NPRM)* [1] in this proceeding proposing spectrum allocations and standards for certain microwave bands. A major purpose of the *NPRM* was to propose changes in the Commission's Rules to accommodate private fixed users who might be displaced from the 12 GHz frequency band by the allocation of this band to Direct Broadcast Satellite. Earlier, the Commission had released a *Notice of Inquiry* (*NOI*) in this proceeding to examine spectrum allocations and technical standards for certain fixed and mobile services' bands between 17.7 and 40 GHz.[2] The scope of the proceeding was expanded by the *NPRM* to include consideration of certain additional bands between MHz and 17.7 GHz in order to provide a means for developing provisions to accommodate the displaced 12 GHz users.

3. This was in response to the Commission's instruction in the *Report and Order* in Docket 80–603 authorizing Direct Broadcasting Satellite (DBS) service in the 12.2–12.7 GHz band (12 GHz band). In that *Report and Order*, the Commission instructed the staff to prepare a notice of proposed rule making to make spectrum available for private fixed service users who might be displaced from the 12 GHz band by the DBS service.[3] While the Commission recognized that many displaced 12 GHz fixed operations could be supported at frequencies of 18 GHz and higher, it tentatively identified other spectrum that might also support some of them. In particular, it noted that the bands at 6525–6875 MHz and 12.7–13.25 GHz might be used with significantly lower costs than those associated with the 18 GHz band. The Commission stated that it intended to propose a considerable amount of sharing or pooling of microwave spectrum among the broadcast auxiliary, cable television relay (CARS) and private operational fixed services, and to consider the possibility of sharing between these services and common carrier services. By opening up lower bands through interservice sharing, opportunities would be created to reaccommodate displaced 12 GHz users at less cost than would occur if they were restricted to moving only to bands at 18 GHz and higher. Among other issues that the Commission expressed intent to address were: (1) The need for minimum path length criteria for the use of each of the available bands, (2) bandwidth requirements and appropriate channeling plans for the bands, (3) feasibility of continued private fixed use of the 12.2–12.7 GHz band on a secondary basis, (4) coordination and loading practices needed to ensure

[1] *Notice of Proposed Rulemaking* in General Docket 82–334, Adopted and Released January 13, 1983 (FCC 83–2).

[2] *Notice of Inquiry* (FCC 82–288) in General Docket 82–334, Released July 9, 1982.

[3] *Report and Other* (FCC82–285) in General Docket 80–603, Released July 14, 1982.

efficient use of the spectrum, and (5) consolidating non-common carrier microwave licensing within the Commission. Some of these had already been discussed in the *NOI* in this proceeding as they affect the bands between 17.7–40 GHz. The issues are relevant to determining efficiency of use of the spectrum and should be considered during the development of utilization policy.

4. In the *NPRM* in this proceeding, the Commission repeated its firm intention to take action by September, 1983, in a report and order which would allocate additional frequencies for displaced 12 GHz private fixed service licensees, notwithstanding the broader purposes of the proceeding. As a consequence, a very strict schedule for this Docket has been maintained. Several motions for extension of time for filing comments were denied;[4] however, a short extension of time for filing reply comments was granted.[5] In addition, several late filed comments and reply comments have been accepted for filing.

5. Since the *NPRM* addressed substantial changes in the Commission's Rules which were intended to yield more efficient use of microwave spectrum, it was not expected that the initial [September 1983] report and order would resolve all of the issues and proposals contained in the *NPRM*. Consequently, the main objective of this item, a First Report and Order, is to resolve the matter of reaccommodating the 12 GHz fixed service licensees by providing additional frequencies for these users within the proposals given in the *NPRM*. Since the 18 GHz band, which may be expected to satisfy much of this requirement, has been largely undeveloped, the item includes standards for its use by private licensees, as well as common carrier, broadcasting and cable licensees. Remaining broader issues contained in the *NPRM* will be considered in future Commission actions.

12 GHz Band Reaccommodation Proposals

6. There are approximately 2100 private microwave links using frequencies in the 12.2–12.7 GHz band. About 48% of these are authorized in the Business service while the rest are distributed among the other private services, including industrial, transportation and local government services. There are several types of systems operating in this band, including one-way video or data systems; local distribution (short-haul) multi-hop systems used for video, voice or data; single or multi-hop spur systems connected to long-haul backbone systems; and long-haul backbone systems. Approximately 45% of the links are used to support transmission of video signals. Systems composed of multiple links often use frequencies in other bands in addition to 12 GHz band frequencies. Typically, 12 GHz band links have a bandwidth of 20 MHz which is suitable for FM video, frequency division multiplexed voice (FDM/FM) or high speed digital data. Four 10 MHz wide channel pairs have been designated for low power limited coverage systems (0.500 watts power versus 10 watts) and about 140 links are authorized under provisions for these systems.

7. In the *NOI*, the 18 GHz band was identified as the primary future replacement spectrum for the 12 GHz frequency band now used by private radio licensees. With regard to existing 12 GHz operations, the *Report and Order* in Docket 80–603 concerning Direct Broadcast Satellite Services, stated that 50% to 85% of these links could be accommodated in the 18 GHz band, once equipment was available. However, for many systems consisting of longer links requiring high reliability, the cost of moving to 18 GHz would be quite substantial. Because of the reduced propagation distance at the higher band, new towers and sites may be needed for the additional, shorter hops required. The *NPRM* proposed standards for private operational fixed service use of 18 GHz and several other bands.

8. In the *NPRM*, the Commission proposed that 12 GHz licensees be able to choose among several bands, recognizing that spectrum availability in any given band is highly dependent on geographic location. It again noted that the 12.7–13.2 GHz band which is adjacent to the 12 GHz band, and which is used mainly by the Cable Television Relay Service (CARS), would be the most attractive replacement band for existing users from a cost standpoint. However, interference-free frequencies in this band might not be available in all locations. Consequently, the Commission proposed to provide the option for 12 GHz users to relocate to several lower frequency bands at 2 GHz, 6 GHz, and 7 GHz as well. Licensing displaced 12 GHz users in these lower frequency bands would require, in some cases, that the currently authorized bandwidths be modified to accommodate 20 MHz bandwidths and that two-way operation be permitted. Since Business users would no longer have access to the 12 GHz band on a primary basis, and in order to provide Business entities use of longer path lengths than would be practical at 18 GHz and above, the Commission proposed to remove the restriction on their eligibility to use 1850–1990 MHz and 6 GHz.

9. Since the *NPRM* proposed shared use of the lower bands by users not now eligible, the Commission recognized that the number of new applications for frequencies from users under the relaxed eligibility, in addition to those which might normally be applying for frequencies, would jeopardize the timely and cost effective relocation of the 12 GHz users. The Commission recognized the difficulty in fashioning an across-the-board preference scheme but it requested comment on whether some form of priority could be given to the 12 GHz users over other users in the affected bands.

10. In addition to the proposals for reaccommodating 12 GHz users, the *NPRM* made a number of other proposals relating to certain microwave bands and some generally applicable technical standards in order to improve spectrum utilization over the long term. The proposals for the 18 GHz band are very pertinent to the reaccommodation process, since it has been viewed as the primary replacement spectrum for the displaced users.

11. The 18 GHz band is allocated to the fixed service as well as several space services and is used by private and common carrier entities for the transmission of digital signals between fixed points. In the *NPRM* we proposed to provide a 6 MHz channeling plan, a 40/80 MHz channeling plan, and to revise the pairing scheme for existing 220 MHz channel pairs. These changes were in addition to the proposals made for the 18 GHz band in Docket 79–188,[6]

[4] *Denial of Joint Motion for Extension of Time and Modification of Procedures*, Gen. Docket No. 82–334, By the Acting Chief Scientist, Adopted March 3, 1983; Released March 7, 1983. *Denial of Petition of the Los Angeles County Sheriff's Department and Los Angeles Department of Communications to Extend Time for Comments* in General Docket No. 82–334, By the Acting Chief Scientist, Adopted March 15, 1983; Released March 16, 1983. *Denial of Request for Extension of Time for Filing Comments*, In General Docket No. 82–334, By the Acting Chief Scientist, Adopted March 16, 1983; Released March 17, 1983. *Denial of Request For Extension of Time For Filing Comments*, In General Docket No. 82–334, By the Acting Chief Scientist, Adopted March 24, 1983; Released March 25, 1983.

[5] *Order Extending Time For Reply Comment*, In General Docket No. 82–334, By the Deputy Chief Scientist Adopted April 18, 1983; Released April 20, 1983.

[6] *FNPRM* in Docket 79–188, 46 FR 45635 (September 14, 1981).

which concerned Digital Termination Systems (DTS) and associated fixed links in the 18.36–19.04 GHz portion of the band.

Related Commission Actions

12. Since the NPRM in this Docket was released in January 1983, the Commission has acted on a *Petition for Reconsideration* of the DBS Report and Order filed by the County of Los Angeles (LA County).[7] In its petition, LA County alleged that the Commission did not give adequate consideration to the needs of fixed users in the 12.2–12.7 GHz band, that the instant proceeding, Docket 82–334, will not protect adequately the needs of these licensees, and that the Commission did not establish a procedure in the DBS *Report and Order* to adequately compensate fixed service operators who must move from the 12.2–12.7 GHz band. LA County requested that the DBS allocation be suspended pending full Commission consideration of the needs of fixed users after the conclusion of the 1983 Regional Administration Radio Conference, (RARC) [8] and that the public be allowed to comment on the spectrum allocation issue after the RARC is completed.

13. In the *Memorandum Option and Order* denying the LA county Petition,[9] the Commission stated that the accommodation of fixed service users has been a central feature of the DBS rule making and that its procedural rule making processes had been fashioned to ensure that the needs of the public and all interested parties were fully taken into account. The Commission noted that no new facts had been presented to justify the delay of the instant proceeding or to stay the allocation of the 12.2–12.7 GHz band for DBS. The Commission did state, however, that since the LA County use of the 12 GHz band consisted, in part, of public safety and emergency services, that the Commission, given its duty to assure that these services are not impaired, might consider special relief.

14. The Commission went on to state that it might be persuaded to extend the transition period, or to allow interference to be caused to DBS services in certain locations, or to provide some alternative form of relief upon a documented showing of need. The fact that interference to the fixed public safety services will not be caused by DBS operations was especially relevant to the conclusion not to delay the DBS proceeding to protect public safety and emergency services. Since it is anticipated that the reaccommodation procedure adopted in this Report and Order will adequately meet the needs of the existing fixed 12 GHz users, no specific special relief measures are being considered for public safety services at this time; but such measures remain available if required.

15. The Commission also considered the issue of compensation of the fixed users by DBS operators in the *MO&O* denying the LA County Petition. The Commission concluded that cost reduction provisions adopted in the DBS rule making mitigate the cost of the reaccommodation to the extent that nonvoluntary compensation by DBS operators is not required. However, provisions for voluntary arrangements between fixed service users and DBS operators are desirable and are expected to occur.[10] Consequently, the issue of adequate compensation by DBS operators will not be considered further in the instant proceeding.[11]

RARC–83 Results

16. The Final Acts of the RARC [12] confirm the domestic allocation developed in Docket 80–603 for the 12.2–12.7 GHz band. The U.S. was allocated the entire 500 MHz band for satellite use. Both Canada and Mexico have also been allocated this spectrum for satellite use. Consequently, the allocation for DBS in the entire 12.2–12.7 band made in Docket 80–603 will remain in effect domestically, as planned. The fixed service is secondary to the DBS service except that existing terrestrial uses will not become secondary to Broadcasting Satellite use until five years after the date this Rulemaking item is adopted. Criteria for shared use of the 17.7 to 17.8 GHz band (a portion of the 18 GHz band being addressed in this Item) by DBS uplinks and terrestrial stations, was on the agenda for consideration by the RARC. However, specific criteria were not adopted. Consequently, criteria for this segment of the 18 GHz band will be developed in future Commission actions.

Comments Received in Response to NPRM

17. A large number of comments and reply comments were received in response to the *NPRM*. A complete list of commenters is shown in Appendix A. The summary which follows discusses the comments pertaining to the reaccommodation proposals, including proposals for the 18 GHz band. The comments pertaining to more general issues will be treated in future actions.

18. On the key issue of the adequacy of our 12 GHz reaccommodation proposals, all commenters, with one exception, stated that they believe them to be inadequate because they do not guarantee successful reaccommodation. Satellite Television Corporation (STC), a potential DBS operator, however, provided a detailed analysis showing how a large number of existing 12 GHz links, even in major metropolitan areas, could be accommodated in alternative bands. In the New York area for example, STC showed that, by using a combination of frequencies in the 6, 13 and 18 GHz bands and by making technical adjustments, including use of high-performance antennas, existing 12 GHz links could be accommodated. In its Reply Comments, STC showed how all links operated by Los Angeles County and the City of Los Angeles in the 12 GHz band could be accommodated in the 13 GHz band. The Los Angeles analysis, however, included transferring some assignments currently operating with 20 MHz-wide channels to channels of 12.5 MHz bandwidth where existing channel loading was low enough to allow it. [13] The validity of STC's analysis was questioned by several commenters. The principal alternative to the proposed reaccommodation procedure suggested by the 12 GHz users and some others was to permit use of the 11.7 to 12.2 GHz band and the continued use of the 12.2 to 12.7 band, on a primary basis, until such time as interference to DBS systems actually occurs.

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[7] *Petition For Reconsideration*, in Docket 80–603, filed by the County of Los Angeles, August 3, 1982.

[8] The Region 2 Administrative Radio Conference was convened in June 1983 and alloted Direct Broadcast Satellite frequencies and orbital positions, internationally in the western hemisphere. It also developed technical standards for the DBS service.

[9] *MO&O*, General Docket 80–603, Adopted May 7, 1983; Released May 12, 1983.

[10] For example, where an organization may not be able to get requisite funding in the timeframe desired by the DBS operator before September 1988 to make the necessary frequency change, the DBS operator may wish to pay for the change in order to speed up the delivery of his services in that area.

[11] Several comments urging a compensation requirement be placed or the DBS operators were received in response to the *NPRM*. As these comments raise no new facts, they will not be considered further.

[12] The Region 2 Administrative Radio Conference was concluded July 16, 1983. The Final Acts of the Conference were signed by the U.S. (FCC Public Notice, Mimeo No. 5605, July 28, 1983).

[13] STC Reply Comments included the statement "It should also be noted that the channel loading is quite low. This enabled MSI (Microwave Services International, the engineers conducting the study) to transfer some paths from 20 MHz to 12.5 MHz channels. The latter was the narrowest channel used, even though in some cases, channel loading was so low that the paths could have been accommodated using channels as narrow as 1 MHz. This under utilization at least warrants the conclusion that the city and county (of Los Angeles) systems have ample room for growth."

19. Los Angeles County submitted as Reply Comments a filing (previously submitted but not accepted for filing in Docket 80-603) describing the need for high reliability in their public-safety microwave system and future requirements for additional frequencies. The use of the 18 GHz band was rejected as unacceptable because of the lessened path length/reliability problem. The principal new requirement identified was for microwave links to interconnect County-owned telephone PBX's being acquired to reduce use of the public telephone network. A second set of Reply Comments which addressed specific future requirements was received from the State of South Carolina. South Carolina addressed a requirement for a statewide microwave system to distribute educational television programming, closed circuit television and State Agency telephone traffic and requested that use of 20 MHz wide channels for video transmissions be allowed in the 6 GHz band.

20. The existing Private Operational Fixed (POFS) users at 12 GHz made a strong showing of need for access to the 13 GHz band for reaccommodation to be accomplished in a timely and low cost manner. The commenters generally stated that the proposals made for the 18 GHz band would be of limited use because of the lack of actual experience using this band, perceived propagation limitations (short achievable path lengths) and lack of available equipment for the next two to three years.

21. Some 12 GHz users strongly supported the need for frequencies in the 2, 6 and 7 GHz bands. The County of Los Angeles indicated that they are now eligible in the 1850–1990 MHz and 6 GHz bands but have not been able to make use of them due to congestion. There were also comments that stated the technical standards proposed for the 2, 6, 7, and 13 GHz bands should not apply to displaced 12 GHz users if reaccommodation is to proceed in a timely and minimum cost manner. In particular, minimum path lengths and loading standards should not apply.

22. A majority of the comments addressed proposals for sharing the 2 and 7 GHz broadcast auxiliary bands used for fixed links, mobile pick-up and electronic news gathering (ENG) systems with non-broadcast entities. Comments were also received from broadcasters who use the 13 GHz band for mobile operations on a shared basis with cable entities. Sharing of the 2 and 7 GHz bands with additional fixed users was opposed because of what is perceived to be already heavy loading and difficulties in coordinating with mobile broadcast operations. It was stated that any sharing in these bands would limit future use to support Low Power Television and other needs.

23. Cable television operators expressed concern about shared use of the 13 GHz band because it would limit growth in cable television services. They stated that there is insufficient spectrum available at 13 GHz for the 12 GHz users, and that there are not sufficient frequencies available in the 13 GHz band for new cable systems now being franchised.

24. Another area of concern to cable operators was the proposal in the 18 GHz band for 6 MHz wide channels suitable for cable distribution systems. The number of channels proposed was criticized as being insufficient to meet the need of large urban cable systems (60 or more channels) where two-way services are to be installed. Cable operators indicated that the two sub-bands proposed should instead be contiguous frequencies to reduce equipment costs and that additional spectrum is needed at 18 GHz.

25. On the question of allowing the Business service to access to the 1850–1990 and 6525–6875 MHz band, Business users supported the proposal to remove the existing restriction. Utilities and other private users authorized now in these bands opposed this change based on the fear of increased interference and projected future needs of presently authorized uses. Some non-Business private users now operating in the 12 GHz band stated that the number of applications which would be received from new Business service applicants could completely exhaust the remaining available frequencies in these bands before the existing 12 GHz systems were reaccommodated.

Discussion and Conclusions

26. The objective of this general proceeding is two-fold: first, to provide for the reaccommodation of the 12 GHz private users and, second, to propose a common spectrum utilization policy for the terrestrial microwave services. While the *NPRM* took the approach that the reaccommodation would be accomplished within the actions taken to improve spectrum utilization in all microwave bands, the need to decide the reaccommodation issue quickly does not allow for all of the broader issues to be resolved at this time. We also recognize that it would not be appropriate to impose new technical standards on the existing 12 GHz licensees who would be relocated because these users should be considered as being "grandfathered" in the new frequency bands. The reaccommodation of the 12 GHz private users must be accomplished in a very timely fashion while the scope and complexity of the policy issues, as demonstrated in the responses to the *NPRM*, call for more lengthy consideration of the other issues raised in the *NOI* and *NPRM*. Therefore, the broader issues in the utilization of some of the microwave bands and technical standards discussed in the *NPRM* will be pursued further in this Docket. However, we believe there is sufficient record to complete the allocation of the 18 GHz band at this time as this is a necessary adjunct to the reaccommodation. This discussion will be divided into two parts. Under the heading *Reaccommodation Provisions*, we will address the general reaccommodation issues and rule changes to allow access to the 6 and 13 GHz bands for existing 12 GHz users. A second section will deal with the allocations adopted for the 18 GHz band.

Reaccommodation Provisions

27. Our intent in this First Report and Order is to set forth a procedure for the reaccommodation of existing terrestrial 12 GHz users. We anticipate that the assignment of new frequencies for these users can begin immediately and that users can be accommodated by September 1988.[14] We are making available sufficient spectrum in the 13 GHz band and 6 GHz band, as well as in the 18 GHz band so that reaccommodation can be successfully completed in a timely, cost-efficient manner. The Commission will assist the licensees in this process in any way possible. However, the selection of replacement frequencies and other aspects of their microwave operations will remain the responsibility of the microwave licensees. In addition, as indicated above, terrestrial use of the 12 GHz band will be permitted to continue after September 1988 provided no interference is caused to operating Direct Broadcast Satellite systems.

28. We have carefully analyzed the comments regarding the procedure needed to reaccommodate 12 GHz users. The Commission determined in the DBS

[14] OFS stations authorized in the 12.2–12.7 GHz band prior to the issuance of this Report and Order are not required to protect domestic broadcasting satellite systems from interference for a period of five years from the date of the Report and Order. Hence, with the issuance of this document, OFS users already licensed in the 12.2–12.7 GHz band will have primary status in the band until September 1988. *See* Section 94.65(h) of the Rules. Such licensees will be permitted to make necessary modifications to their systems during the period 1983–1988 without losing the primary status.

rulemaking, Docket 80–603, that those users licensed in the 12.2–12.7 GHz band as of the date the instant Report and Order is adopted would be reaccommodated. We have prepared a list of all licensed 12 GHz band users as of September 9, 1983, the date of adoption of this Report and Order. This list will be issued in a Public Notice after this Report and Order is released. While we share the concerns of existing 12 GHz users that significant expense will be incurred, even given use of 13 GHz frequencies where available, few alternatives exist. Several commenters stated that continued use of the 12 GHz band will be necessary for some users and that this may be possible if DBS does not develop as planned. Since the full 12 GHz band has been allocated to DBS by the 1983 RARC and the Commission anticipates that several DBS systems will be in operation by 1988, continued use of the 12 GHz band for terrestrial operations will only be possible on a secondary basis after September 9, 1988. Licensees who choose to stay in the 12 GHz band on that basis do so at their own risk after that date.

29. In analyzing possible frequency bands which could be used for reaccommodation, the Commission examined bands which offered technical compatibility, suitable bandwidths, some available capacity and suitable path lengths. The Commission, in the DBS rulemaking, determined that bands at 18 GHz and higher would be suitable for many private fixed uses of the type now supported at 12 GHz. The Commission noted that it was taking action to promote development of low-cost, low-power microwave equipment in the 22 GHz band (Docket 79–337) and to restructure the 18 GHz band (Docket 79–188) to accommodate some of the existing and future operations displaced from 12 GHz.[15] However, these bands do not offer all existing 12 GHz users adequate reaccommodation options in terms of cost, path length or achievable reliability. The 13 GHz band is the most obviously appropriate band due to its proximity to the 12 GHz band, possibly allowing existing microwave towers and equipment to be reused in many cases. However, a lower frequency band is also required for longer path lengths and where 13 GHz frequencies are not available. Our review indicates that the 6 GHz private band can accommodate additional users and should also be made available for reaccommodation.

30. Other options proposed by the commenters included shared use of the 11.7 to 12.2 GHz band by terrestrial uses. However, this band is now allocated to the Fixed Satellite Services for use by small, uncoordinated, receive-only earth stations. Since these operations are continuing to expand in all geographical areas due to the introduction of video and other services,[16] it would not be possible for terrestrial operations to protect these receivers from interference. Commenters also suggested that portions of several bands (e.g. 2, 5, 14 GHz) allocated to the Government be examined for possible non-Government fixed use. We have considered this possibility; but it does not appear that any of these Government bands could be made available at this time because of high-priority and national security-related use, or because of incompatible operations, such as radiolocation, in these bands. In the *NPRM* the 2 and 7 GHz broadcast auxiliary bands were also proposed, but these have been found to be too heavily used by mobile facilities to be of use for reaccommodation.

31. Several commenters stated that systems which could only be accommodated using more than one frequency band, for example some links using 13 GHz, others using 18 or 6 GHz, would not be acceptable because of operational difficulties and costs in maintaining equipment in more than one band. We note, however, that large microwave systems today often use a combination of frequency bands. Consequently, where necessary we believe that a "mixed band" system will provide a satisfactory reaccommodation option.

32. To avoid future frequency band changes, we will allow existing 12 GHz users to relocate to the alternate bands permanently. However, a question is raised about use of these bands by 12 GHz users who wish to expand or substantially modify their operations in the future. Since the reaccommodation only applies to existing 12 GHz licensees, growth of these systems, particularly for new links, should be considered new requirements which are not eligible for frequencies in the bands available only under the reaccommodation procedure. Consequently, we will not allow frequencies in these additional bands to be used to meet system requirements not licensed on the date of adoption of this First Report and Order, pending a more complete investigation of the use of these bands by the Commission in future phases of this proceeding. However, through appropriate waivers of this provision, we will permit modifications to the systems necessary to adjust operations for the alternative bands.

33. The comments of the existing 12 GHz users have expressed the need for a long lead time to plan the replacement of their systems to insure that operations continue uninterrupted. Since the bands being addressed by the reaccommodation, except the 18 GHz band, are heavily used in many cases, there must be some assurance that frequencies will be available in specific frequency bands during the planning and funding period. Public agencies have indicated that it may be several years between the time a systems design is complete and equipment is operating. Consequently one form of priority that would be appropriate for the systems to be reaccommodated is to extend the time in which a microwave station must be placed in operation after a license is granted. Currently this is one year from the time the license is granted. For the displaced users this will be extended to three years, a period long enough to allow for planning and equipment acquisition.

34. Many existing 12 GHz users expressed concern in their comments that, due to the high level of frequency use in the bands contemplated for reaccommodation, the displaced users would need some form of preference over other applicants in these bands if the reaccommodation is to be completed in a timely and cost efficient manner. The Commission's approach to licensing in shared bands has usually assumed that all applicants have legitimate, pressing needs for spectrum and thus equal priority. In most cases the coordination process applied in these point-to-point services will resolve conflicts between applications from licensees in the 12 GHz band seeking reaccommodation and other eligible applicants for these bands. Therefore, as a matter of practice, we expect applications will be granted on a first-come, first-served basis. We expect applicants to cooperate fully in resolving problems or conflicts about obtaining adequate spectrum space to meet their needs, including consideration of alternative frequencies in the same band or in other bands where they can reasonably be accommodated. If necessary, we will work with the applicants and the frequency coordinators to resolve the problems. However, should this effort fail, we will meet our commitment to assist the displaced licensees in relocating to other bands with a minimum disruption of

[15] *Report and Order* in Docket 80–603, paragraph 63.

[16] *First Report and Order* in Docket 80–739, adopted June 20, 1983; released June 10, 1983.

service and at minimum expense by awarding the license to the displaced licensee rather than the other applicants. Only in extraordinary cases would requests to waive that practice be entertained.

35. The Commission anticipates that the reaccommodation provisions will allow for existing 12 GHz systems to change frequencies by September 1988. We assume that, if a licensee has not applied to change frequencies by this date, a secondary status for the station, with respect to Direct Broadcasting Satellite receivers, is acceptable. Therefore, the special procedure for reaccommodation will not be available after September 9, 1988.

36. One remaining issue is the handling of those applicants who would have been authorized at 12 GHz in the future. The current Rules do not permit the use of band widths greater than 10 MHz on frequencies below 12.2 GHz; furthermore, they prohibit Business service access to the bands at 1850–1990 MHz and 6525–6875 MHz. During the next few years, while equipment is not readily available at 18 GHz, these users will have no spectrum which is available on a primary basis. The consideration of the removal of either, or both, of these restrictions will be considered among the more general sharing issues of this proceeding. In the meantime, until the equipment becomes more available in the higher bands, these requirements may be satisfied by appropriate waiver of the Rules on a case-by-case basis.

Spectrum Available for Reaccommodation

13 GHz Band

37. Portions of this band are used by broadcast and cable entities for the transmission of television signals between studio and transmitter sites, between cable head ends (fixed or fixed point to multi-point), and between remote locations and broadcast and cable studios (mobile operations). This band is channelized into 6.0, 12.5 and 25.0 MHz channels, including off-set channels. According to the Commission's data base, approximately 83,000 links are licensed—about 98% are for fixed operations. The principal use of the band is to support the distribution of 6 MHz bandwidth video signals by cable system operators.

38. To minimize the cost of moving from the 12 GHz band, existing 12 GHz private users supported access to the 13 GHz Cable Television Relay band which is adjacent to the 12 GHz band and has similar technical characteristics. Most commenters believe that only a small number of new links could be accommodated in this band due to the cable television distribution systems now in operation. STC's analysis, on the other hand, demonstrates that many links can be accommodated without great difficulty. However, such analyses are sensitive to individual circumstances and are very dependent on the specific locations of the transmitter and receiver. Therefore, no across-the-board assessment about the number of links that can be accommodated at 13 GHz is possible without actually engineering the replacement systems. Again, we believe it most appropriate for the individual licensee to determine his own best course for his systems. Access to the 13 GHz band does not, therefore, guarantee the use of a 13 GHz frequency for each displaced 12 GHz link.

39. Broadcast auxiliary, developmental private fixed users and common carriers currently can use the band segment 13.20–13.25 GHz for fixed and mobile operations. In the *NPRM* we proposed that this segment be shared by private applicants and cable television relay licensees as well. Several commenters indicated that these frequencies should be reallocated for mobile use only. The use of this small segment will be examined in further actions and is not being made available for reaccommodation.

40. While 25 MHz point-to-point channels are provided in the existing channeling for the 13 GHz band, licensees may wish to employ bandwidths less than those currently used at 12 GHz (typically 20 MHz), and the Commission encourages reduction in bandwidths so that more links can be accommodated in the 13 GHz band. Bandwidths of 6, 12.5 and 25 MHz are currently authorized in the 13 GHz band; and reaccommodated private users will be authorized to use any of these bandwidths. We have also provided a plan for paired operation of these channels.

41. We believe that new coordination procedures for the 13 GHz band will be necessary now that this band will also be shared by private entities. With appropriate care to avoid interference, we do not believe that the existing 13 GHz users will be adversely affected by the accommodation of 12 GHz users in this band. Future growth of cable and broadcast auxiliary use of this band is not precluded by this action. Once private users are operating in the 13 GHz band, future cable television, broadcast and common carrier users must recognize and protect from interference these licensed private users. In order to provide a common coordination approach for the 13 GHz band, we are adopting the coordination procedure contained in Part 94.63 for all services authorized to use the 13 GHz band. Some technical parameters for determining interference between systems employing different emissions and bandwidths in the 13 GHz band have not been finally determined. We anticipate that the Electronic Industries Association (EIA) and Operational Fixed Microwave Council will update the EIA Bulletin on interference criteria to include the 13 GHz band.[17]

42. To minimize disruption of existing operation of systems in the 12 GHz band, it is appropriate for private users to follow existing 12 GHz technical rules where they differ from Rules currently in effect for the 13 GHz band, provided existing 13 GHz users are not adversely affected.

43. On of the factors which will affect the number of links which can be accommodated in the 13 GHz band is the use of higher performance antennas to reduce side-lobe interference. Again, to minimize the impact of the reaccommodation, we will allow continued use of Type B antennas in noncongested areas where they are now employed by 12 GHz private users and where the use of a higher performance antenna would not resolve interference problems. This is in accordance with current Private Rules and Cable Television Relay Rules (§§ 94.75 and 78.105).

6 GHz band

44. This band is used by private entities for the transmission of voice and digital signals between fixed points. This 350 megahertz is divided into seventeen 10 MHz wide channel pairs and fifteen 5 MHz wide channel pairs. Users in the Business service are not eligible in this band under current Rules. The primary purpose of this band is for long-haul voice and data transmission for utilities, railroads and others, some of which may be characterized as "slow growth systems". About 11,000 links are licensed in this band. Usage is more or less evenly distributed across the nation with concentrations in major metropolitan areas. About 61% of the links are licensed to industrial entities, 22% to railroads, and 17% to local government entities.

45. Our review of the loading in the 6 GHz private microwave band indicates that, while this band is used extensively, additional assignments could be made

[17] The EIA Bulletin 10D contains the methodology and criteria for computing carrier signal to interference signal ratios (C/I ratios) for voice, video and digital systems.

without degrading existing uses. Under present rules, users have access to the 6 GHz band only for bandwidths of 10 MHz or less, and we will apply the same rules to the users being reaccommodated in this band. However, since 12 GHz users typically operate with 20 MHz bandwidths, we will consider waivers for up to 20-MHz wide channels in appropriate cases. The *NPRM* also proposed that video transmissions would not be allowed in the 6 GHz band. Since we are addressing only a limited number of new users in this band, a restriction on video use is not required as it might be under a wider sharing policy. Allowing video in addition to other transmission types would increase the reaccommodated licensees' flexibility in choosing an alternative band. Therefore, any transmission type will be allowed provided that its use can be coordinated. However, the usage in this band, as well as in the 1850–1990 MHz band, is such that open eligibility to the Business service, beyond existing 12 GHz users, could jeopardize the primary use. We will study the use of these bands further for the feasibility of allowing less restrictive eligibility.

2 GHz and 7 GHz Bands

46. These bands are used by TV broadcast entities for auxiliary broadcast services for the transmission of frequency modulated video signals between studios and transmitters (STLs), between facilities in different cities (intercity relay) and between remote locations and broadcast studios (TV pick-up, ENG). About 3,900 links are licensed in the 2 GHz band, approximately 75% are for mobile operations and 25% for fixed operations. The 2 GHz band is the primary band for ENG across the country. There are about 4,100 links in the 7 GHz band—3,100 fixed links and 1,000 mobile links.

47. We have reviewed the usage in these bands and the large number of comments received concerning the fixed and mobile use in the bands. It was pointed out that in most urban areas all channel assignments in the 2 GHz band have been for mobile remote pick-up use. Outside these urban areas there is heavy use made of this band for state-wide video distribution networks, particularly by educational broadcasters. Commenters urged that no changes be made in this band because of the level of mobile use and future needs for additional mobile and fixed assignments of the same nature. Several commenters suggested that the 7 GHz band would be suitable for additional fixed use notwithstanding the more difficult coordination required by the presence of mobile operations in this band.

48. While these bands would be attractive for some 12 GHz displaced users, it is unlikely that any substantial number could be accommodated in them. Further, we think it appropriate to maintain spectrum space for future assignments for mobile use in urban areas, while retaining the option to use it for fixed relay purposes where assignments can be made. This will be necessary to provide for growth in ENG and to support future Low Power TV operations. We believe, based on the current activities of the local broadcast frequency coordinating committees, that the objective of maximizing the use of the 2 GHz and 7 GHz bands can be achieved with the current rules for these bands. Hence, no changes for these bands are being adopted at this time and these bands are not being made available for reaccommodation of 12 GHz users.

18 GHz Band Allocations

49. This Report and Order, in conjunction with the *Second Report and Order* in Docket 79–188 makes available a number of channels in the 18 GHz band for private users. We anticipate that at least 30% of the existing 12 GHz links could be accommodated on frequencies in the 18 GHz band without changing transmitter/receiver location.

50. There is minimum use being made of this band at present. Less than a dozen 220 MHz common carrier assignments and something less than a hundred 20 MHz private assignments are currently authorized. In the *NPRM* we proposed to provide 6 MHz channeling in two portions of the band, a 40/80 MHz channeling plan, and to revise the pairing scheme for the 220 MHz channel pairs. These changes were in addition to the proposals made for the 18 GHz band in Docket 79–188.[18] Comments in Docket 79–188 and in this Docket indicated that channel bandwidths wider than 20 MHz may be required at 18 GHz to achieve the same capacity as a 20 MHz channel at 12 GHz due to the state of equipment development. As a consequence, we anticipate that at least a few of the existing 12 GHz users will require 40 MHz bandwidths in the 18 GHz band; and eleven pairs of 40 MHz channels will be available for this. We anticipate that a full range of radio sets will be available for use on 18 GHz frequencies in the near future. The allocations and standards for the 18 GHz are discussed in detail below.

[18] *FNPRM* in Docket 79–188, 46 FR 45635 (September 14, 1981).

51. In the *Second Report and Order* in Docket 79–188, the Commission has adopted Rules to (1) establish a channeling plan including wide channels for the band segment 18.46–18.94 GHz, for private, common carrier, and broadcast entities (for Aural STL's) on a co-equal basis (2) restrict use of this band segment to point-to-point applications, and (3) prescribe minimum antenna standards.[19] Operation of digital point-to-multipoint systems (DTS) by common carrier and private entities is provided in the band segments 18.36–18.46 and 18.94–19.04 GHz. Comments in this proceeding indicated that wider bandwidths should also be available at 18 GHz for digital voice and data systems. The consideration of these requirements was to be addressed in the instant proceeding.

52. The proposals in the *NPRM* took into consideration the future availability of 5, 10 and 20 MHz paired channels in the 18.46–18.94 segment of the 18 GHz band; consequently we proposed to add wider bandwidth channels in other segments of the band. The 18 GHz band currently has provisions for very wideband (220 MHz channels) for high capacity trunked use. Because of the shorter propagation distances of 18 GHz equipment, it is possible to have multiple channeling plans without increasing interference problems. The *NPRM* proposed to overlay 40 and 80 MHz channels in the band, while continuing provision for the 220 MHz channels.

53. For the most part, the comments received support for the proposals in the *NPRM* for 18 GHz band allocations. Cable television interests, however, state that contiguous channeling is preferred for cable television signal distribution systems. We have examined the cable needs as expressed in these comments but find that we cannot provide the extremely large block of contiguous spectrum desired for 100 or more channel systems. The 18 GHz band presently contains several allocations which constrain the use of the band. The 18.6 to 18.8 GHz segment is shared with Earth Exploration Satellite passive sensor operations and it is prudent to avoid use of this segment by services like DTS and cable television distribution which produce high signal densities.[20] The lower portion of the

[19] The channeling plan includes 5, 10, and 20 MHz wide channels. These are available for intermodal communications in DTS as well as other point-to-links. The 20 MHz wide channels, in particular, will be useful to accommodate some displaced 12 GHz operations.

[20] In Docket 80–739, Implementation of the WARC–79 Results, the Commission has proposed a

Continued

band from 17.7 to 17.8 GHz is shared by DBS satellite uplinks which also must be protected from interference. These allocations along with the possible future need for point-to-point use of the 220 MHz-wide common carrier channels in this band have limited the possibilities available to channelizing the band. Further, since the band is not presently developed, we want to maintain flexibility to adjust channel plans according to future events. The proposed channeling was based on these considerations.

54. We had proposed two 30 channel blocks of 6 MHz-wide channels to accommodate cable television signal distribution requirements. We are persuaded that an additional 6 channels in each block would more closely match typical cable system channel capacities.[21] One or both blocks could then be used for one-way operation (permitting use by two cable systems or one cable system of up to 72 channels) or both blocks could be used for paired, two-way use. While these blocks are suitable for cable television signal distribution, they are not limited to this use. We anticipate that these 6 MHz-wide channels may be appropriate for other types of point-to-point video as well. While the allocation of 72.6 MHz channels would not immediately accommodate the very large cable systems currently planned, we are aware that developing technology may soon allow two TV signals to be carried on a 6 MHz channel.[22] This could provide adequate capacity at 18 GHz for the larger systems mentioned.

55. The *NPRM* proposed 40 and 80 MHz channels for the segments 17.7–18.18 GHz and 19.04–19.70 GHz along with a re-paring of the three 220 MHz channels. The addition of the twelve 6 MHz-wide channels for cable television reduces these segments to 17.7–18.14 and 19.06–19.70, thus reducing the number of available 40 MHz wide channel pairs by one pair and the number of available 80 MHz channel pairs by one pair. In reviewing the possible uses to which this band could be put, narrower bandwidth channels also seem appropriate for 17.7–18.14 and 19.06–19.70 band segments. The option of being able to use 10 or 20 MHz-wide channels will provide additional frequency alternatives for the existing 12 GHz users and, in particular, for those future private users who would have made use of the 12 GHz band. Optional channeling plans have proven to be effective in bands where use is compatible. The various bandwidths to be authorized in these segments of the 18 GHz band will all be used for point-to-point operation even though the individual bandwidths and modulations employed may vary. This situation can be handled by the coordination process.

56. Several commenters suggested that a 6 MHz-wide channeling scheme for cable television signal distribution could be overlayed in the entire 17.7–18.18 and 19.04–19.70 GHz segments as another optional channeling plan. This would provide many additional channels for cable use to meet their desires for 100 or more contiguous channels. However, since cable distribution systems are predominately point-to-multipoint operations, we are concerned that they are not compatible, from a frequency management standpoint, with the point-to-point systems which will be operating on these frequencies. The use of this spectrum by cable television distribution systems would be much more intense than a typical arrangement of point-to-point systems, and thus would present difficulties in coordinating these diverse operations. Further, given the shorter available path lengths at 18 GHz, it may be necessary to use multiple cable distribution systems to cover a particular area. Therefore, we believe that overlaying a channeling plan for optional cable television use would be inconsistent with good spectrum management practices, at least at this time. In addition, we believe that the two blocks of thirty-six channels should adequately provide for cable television service.

57. Under present Rules, common carriers, broadcast and private services are authorized to use frequencies in the 18 GHz band. This has been possible because of the similarity of the radio facilities employed and their electromagnetic compatibility. Cable television, however, is not presently authorized in this band. The *NPRM* proposed that all compatible services be permitted access to the non-DTS portion of the 18 GHz band, including cable. (The *Second Report and Order* in Docket 79–188 restricts use of the 18.46–19.04 GHz portion of the band to private, common carrier and aural broadcast STL services). We are adopting Rules which allow the point-to-point channels in the 18 GHz band outside of 18.46–19.04 GHz to be used by all services. However, we do not believe that non-common carriers would have requirements for capacity sufficient to occupy a 220 MHz-wide channel, so this channeling will only be available for common carriers. Further, we do not expect many non-common carriers to require access to 80 MHz wide channels, although this option is given. Although cable operations will have access to channels other than 6 MHz bandwidth, we do not anticipate licensing multiple channel 6 MHz amplitude modulated video systems in these wider channels at this time.

58. The *NPRM* proposed to adopt a single coordination procedure for all bands, including the 18 MHz band. Many comments were received opposing the more complex and formal combined common carrier and private frequency coordination procedure proposed. Since the 18 GHz band is currently shared by several services, the common carrier procedure (Section 21.100 of the Commission's Rules) has been used by all applicants. The common carrier approach is more appropriate than the private coordination procedure when usage of a particular band is relatively light. We conclude that the current common carrier procedure, which includes the notification/response requirement, is more appropriate for the 18 GHz band at this time than either the private procedure or the proposed combination procedure. However, we expect to examine the question of a uniform procedure for all microwave bands in a future Commission action.

59. Few comments were received in response to the *NPRM* on technical standards which would apply to the 18 GHz band. Essentially, however, many of these issues were addressed in Docket 79–188, and we have drawn on those comments as well. The parameters proposed in the *NPRM* for emission attenuation, frequency stability, antenna standards and power output were the same as those that have now been adopted for other portions of the 18 GHz band in Docket 79–188. Because we are authorizing additional types of emissions and channel bandwidths at 18 GHz, the following technical rule changes are necessary:

(a) For broadcast, cable and private licensees, the maximum bandwidth authorized for 18 GHz frequencies will be 80 MHz.

(b) Standards for emission attenuation and power output are added for Cable Television Relay Systems (Part 78) and for Broadcast Auxiliary Services (Part 74). These will be the same as those now

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new allocation table footnote, US 254, which states "In the band 18.6–18.8 GHz the fixed and mobile services shall be limited to a maximum equivalent isotropically radiated power of +35 dBW and power delivered to the antenna shall not exceed −3 dBW."

[21] Approximately 66% of current cable television relay microwave systems are licensed for 36 or fewer 6 MHz-wide channels.

[22] Such systems typically involve interleaving two standard video signals for transmission over a single link; the two signals are reconstructed using digital processing. In other cases two video signals are multiplexed in a 6 MHz-wide channels.

in effect for the 18 GHz band for Private and Common Carrier Services. (§§ 21.703 and 94.71, 94.73.) A new standard for frequency tolerance for the 18 GHz band is added for all authorized services.

(c) For the emission attenuation standard, a new section is needed for amplitude modulated systems which may be authorized at 18 GHz. The standard that now applies to amplitude modulated Cable Television Systems will be used. (§ 78.103.) This change is specified for Private, Common Carrier and Broadcast Services, since each of these may be authorized for this type of modulation at 18 GHz.

(d) The antenna standard now in effect for Domestic Public Fixed stations operating above 5000 MHz (§ 21.108(c) are adopted for the Private Operational Fixed, Broadcast Auxiliary and Cable Television Relay Services in the 18 GHz band.

60. The *NPRM* proposed that only digital forms of modulation be authorized on the 40 and 80 MHz wide channels in the 18 GHz band. While we believe that the predominant use of these frequencies will be for digital data and digital voice channels, it is not necessary to restrict use of the frequencies to only digital modulation. Consequently any form of modulation will be allowed on these frequencies.

61. The *NPRM* proposed that a minimum path length be imposed at 18 GHz. Several commenters stated that the propagation characteristics for this band would limit path lengths such that a standard would not be appropriate. We agree and are not adopting minimum path length standards at this time. However, we plan to study this issue in the future. The *NPRM* also proposed that loading standards might be applied to all types of microwave systems. However, specific standards were not proposed. A digital efficiency standard, which is one form of a loading standard, similar to that now required for common carrier systems was addressed in Docket 79–188 with the result that a standard has been imposed on digital systems in the 18.36–19.04 GHz portion of the 18 GHz band. We believe that the application of such a standard for systems in other portions of the 18 GHz band, as well as in other microwave bands, can promote more efficient use of the spectrum and we will consider it in future Commission actions.

Summary of Rule Changes In This Report and Order

62. The Rule changes being made are shown in Appendix B. The provisions for the reaccommodation are contained in a new section, § 94.93. New provisions for other services appear in Parts 2, 21, 74, 78 and 94.

63. This Report and Order adopts rules to implement the following:

—A reaccommodation procedure for existing 12 GHz users. This procedure includes access to the 13 GHz band and the 6 GHz band. Appropriate channeling and technical standards are adopted for the reaccommodated users in these bands. A frequency coordination procedure is adopted for broadcast auxiliary, cable and private users for these shared bands.

—An allocation for shared use of the 18 GHz band for broadcast auxiliary (fixed-only) operations; cable studio-transmitter links, intercity relays and signal distribution; private operational fixed use; and common carrier fixed use is adopted. Technical rules and frequency coordination procedures for the 18 GHz band are also adopted.

Summary

64. By the actions taken today a reaccommodation procedure has been established for existing 12 GHz users which provides reasonable, least cost alternatives for those who must change frequencies in accordance with our decision in Docket 80–603 authorizing Direct Broadcast Service on the 12 GHz frequencies. Rule changes are adopted in this First Report and Order which implement the 18 GHz band for fixed point-to-point use for all microwave services. We are not limiting the reaccommodation of existing 12 GHz users to this band, however, and we are providing access for these users to two additional bands, the 13 GHz band and the 6 GHz band. In addition, if adequate replacement frequencies cannot be found in these bands, we will entertain waiver requests for other spectrum. While the engineering of replacement microwave systems and selection of frequencies to avoid interferring with existing users in these bands will be the responsibility of the individual licensees, we are reasonably certain that adequate alternatives for each 12 GHz user have been provided by the procedures adopted in this Order. It is anticipated that future Notices and Reports and Orders will address the broader issues of microwave utilization policy raised in the earlier phases of this proceeding.

Regulatory Flexibility Act Final Analysis

I. Reason for Action

65. When broadcasting satellites are operational at 12.2–12.7 GHz, it will be necessary to remove private fixed service operations that cause interference to the satellite service receivers. In order to reaccommodate them, access to spectrum in other frequency bands must be provided.

II. The Objective

66. The Commission is adopting changes to its Rules pertaining to the fixed and mobile services' use of certain bands in order to provide additional frequencies for private fixed service licensees affected by the broadcasting satellite allocation. Furthermore, the Commission intends to accomplish this objective at the lowest practical cost.

III. Legal Basis

67. Legal action is in furtherance of Sections 1, 4(i), 303(c) and (r), and 403 of the Communications Act of 1934, as amended.

IV. Description, Number and Potential Impact of Small Entities Affected

68. It has been determined that most private fixed service users who may be displaced from the 12 GHz band will be affected substantially by these new rules and there may be some future costs, due to coordination of requirements with displaced 12 GHz users, for users of the affected bands. However, costs for the displaced 12 GHz users will be minimized by maintaining existing operational rules and standards in the new bands and by providing a lengthy transition period. Some licensees may continue to operate in the 12 GHz band as long as they do not cause interference to DBS receivers. The number of 12 GHz private microwave licensees who are small businesses is not able to be determined although we believe most 12 GHz licensees are not small entities. There are approximately 2100 links authorized in the band. Those licensees who change frequencies will incur substantial costs, from $5,000 to $100,000 per link, depending on the specific link involved and frequency selected.

V. Reporting, Recordkeeping and Other Compliance Requirements

69. According to our rules, fixed service applicants will have to coordinate their proposed use of the spectrum with existing users and will have to submit application to the Commission for operating authority. These provisions already apply and we believe they are consistent with the requirements of the service.

VI. Federal Rules Which Overlap, Duplicate, or Conflict With These Rules

70. To our knowledge, there are no other Federal rules that overlap, duplicate or conflict with those contained in the Report and Order.

VII. Specific Alternatives Consistent With the Objective Which Would Minimize Impact on Small Entities

71. We do not believe that there is any alternative to our proposals which would have less effect on small entities.

Administrative

72. Pursuant to Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 4(i) and 303, it is ordered, that: Parts 2, 21, 74, 78 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as set forth in Appendix B, effective December 5, 1983 except where otherwise indicated.

73. The point of contact on this matter is Donald Draper Campbell (202) 653–8177, or James Vorhies (202) 653–9097.

Federal Communications Commission.

William J. Tricarico,

Secretary.

(Secs. 4, 303, 48 Stat. as amended 1066, 1082; 47 U.S.C. 154, 303)

Appendix A—Comments Filed in Response to the NPRM in Docket 82–334

Entity	Comments	Reply comments
American Blackhawk Broadcasting Company (KTIV).	x [1]	
American Broadcasting Company		x
American Family Broadcast Group (KFVS-TV, et al).	x [1]	
American Newspaper Publishers Association.	x	
American Petroleum Institute (Central Committee on Telecommunications).	x	x
American Telephone and Telegraph Company.	x	x
American Television and Communications Corporation.	x	
Anaconda-Ericsson	x	x
Apple Valley Broadcasters, Inc (KAPP-TV).	x	
Apple Valley Broadcasters, Inc (KVEV-TV).	x [1]	
Austin-Satellite Television, Inc and Cablecon Corporation.	x	
Avantek, Inc. (Telecommunications Division).	x	
Arkansas Television Company (KTHV).	x	
Arizona Department of Public Safety.	x	
Arizona Television Company (KTVK-TV).	x	
Associated Public Safety Communications Officers, Inc.		x
Association of American Railroads	x	x
Association for Higher Education of North Texas.	x	x
Belo Broadcasting Corporation		x
Buffalo Broadcasting Company, Inc. (WIVB-TV).	x	
Bell Laboratories	x	
Belo Broadcasting Corporation (WFAA et al).	x	x
Bonneville International		x
Cablevision Industries, Inc, Cox Cable Communications, Inc, and Sammons Communications, Inc.	x	x
Cablevision Systems Development Company.		x
California, State of (Communications Division).	x	x
California Oregon Radio Company		x
California Peace Officer's Association.		x
California Public-Safety Radio Association, Inc.	x	
Cannen Communications, Inc (KAMR-TV).	x [1]	
Capitol Broadcasting Company, Inc (WRAL-TV).		
Capital Cities Communications Inc		≡
Carson Broadcasting Corporation (KVVU-TV).		
CBS, Inc	x	x
Cedar Rapids Television Company		x
Central California Educational Television (KVIE), Connecticut Educational Telecommunications Corporation, Duluth-Superior Area Educational Television Corporation, Nebraska Educational Television Commission, State of Wisconsin—Educational Communications Board, The Ohio State University, The University of Nebraska, and WHP, Inc.	x	
Central Texas College System		x
Channel Two Television Company, et al.	x	
Channel 6, Inc		x
Circle L, Inc (KCRL)		
Clay Broadcasting Corporation		x
Colby-Bates Bowdoin Educational Telecasting Corp. (WCBB).		x
Community Antenna Television Association.	x	
Connecticut Educational Telecommunications Corporation.	x	x
Cornhusker Television Corporation (KOLN-TV, KGIN-TV).	x [1]	
Cowles Broadcasting Inc.		x
Cox Communications, Inc	x	x
Crane, Dr. Robert K.	x	
Daniels & Associates, Inc., Rogers US Cablesystems, Inc, and United Cable Television Corporation.	x	x
Duluth-Superior Area Educational Television Corporation (WDSE-TV).		≡
Educational Broadcasting Corporation.	x	
Electronic Industries Association (Fixed Point-to-point Section of the Telecommunications Group).	x	x
Eugene Television, Inc. (KVAL-TV)	x [1]	
Evening News Association, The (WJVM-TV).	x	
Fetzer Television Corporation (WKZO-TV, et al).	x [1]	
First Charleston Corp. (WCIV)	x [1]	
Fisher Broadcasting, Inc (KOMO-TV, etc).	x	
Fort Myers Broadcasting Co		≡
Forward Communications Corporation:		
Forward of Iowa KCAU-TV)	x [1]	
Forward of Texas, Inc (KOSA-TV).	x [1]	
Forward—West Virginia (KTRF-TV).	x [1]	
Forward—Wisconsin (WMTV-TV).	x [1]	
Forward Telecasting, Inc	x [1]	
Freedom Communications (KTVL)		≡
Gainesville Television, Inc	x [1]	
Gannett Co., Inc. (KARL-TV, et al)	x	
Garryowen Corporation (KTVQ, et al).	x [1]	
Gateway Communications Inc.		x
Gaylord Broadcasting Company	x	
General Electric Broadcasting Company, Inc (WNGE).	x	
Gill Industries, and Western Communications, Inc.	x	x
Global Television, Inc (KSCI)	x [1]	
Great Lakes Communications, Inc (WKOI-TV).	x	
Griffin Television, Inc (KWTV)	x [1]	
GTE Service Corporation	x	
Harris Corporation (Broadcast Microwave Operations and Farinon Division).	x	x
Harris Corporation (Broadcast Division).		
Harte-Hanks Communications, Inc (KENS).	x [1]	
Hearst Corporation (WBAL-TV, etc).	x	x
Heritage Communications	x	
Home Entertainment Network, Inc (WBTI-TV).	x [1]	
Houston Post Company, The	x [1]	
Hubbard Broadcasting Co.		x
Hughes Aircraft Company (Microwave Communications Products).	x	x
Illinois Institute of Technology	x	
Independent Broadcasting Co.		x
Iowa State University of Science and Technology (WOI-TV).	x [1]	
Jackson Cable Systems	x	
Jefferson-Pilot Broadcasting Company of Virginia (WWBT).	x [1]	
KOAL	x	
Kelly Broadcasting Company (KCFW-TV).	x [1]	
Kentucky, Commonwealth of—Division of Telecommunications.	x [1]	
KAYU-TV	x [1]	
KETV Television, Inc	x	
KID Broadcasting Corporation (KID).	x [1]	
KIEM-TV	x [1]	
KING Broadcasting Company (KING-TV, etc).	x	
KLAS-TV	x [1]	
KMBC-TV	x [1]	
KMSP-Television	x	
Knight-Ridder Broadcasting Inc.		x
KSAT-TV	x	
KSTU	x [1]	
KTAL-TV, Inc	x	
KTHI-TV	x [1]	
KTNV-TV	x [1]	
KTSP-TV	x [1]	
KTUL-TV		x
KTXL	x [1]	
KUTV, Inc and Kansas State Network, Inc.	x	
KVOS Television Corporation	x [1]	
KXJB-TV	x [1]	
KXLY-TV	x [1]	
KYTV	x [1]	
Leake TV, Inc (KATV, et al)	x	
Lee Enterprises (KFMB-TV, etc)	x	
Lorai TeleCom	x	
Los Angeles, County of [California] (Dept. of Communications).	x	x
Los Angeles, County of [California] (Office of the Sheriff).	x [1]	
Los Angeles Times, The (a div of The Times Mirror Company).	x	
Los Angeles Unified School District (KLCS-TV).	x	
M/A-COM, Inc	x	≡
Manufacturers Radio Frequency Advisory Committee and Flight Test Radio Coordinating Council.	x	x
Marsh Media Inc. (KVIA-TV)	x [1]	x
Marston, W. Bernard	x	
Maximum Service Telecasters	x	x
May Broadcasting Company (KMTV).	x [1]	
May Broadcasting Company (KGUN-TV).	x [1]	
May Department Stores Company, The.	x	
McGraw-Hill Broadcasting Company, Inc. (KGTV).		
MCI Telecommunications Corporation.	x	x
W. E. McIver		x
Meredith Corporation	x	
Metromedia, Inc (KTTV, etc)	x	
Metropolitan Indianapolis Television Association, Inc (WFYI).	x	
Michiana Telecasting Corp.		x
Micro Communications, Inc.		

Entity	Comments	Reply comments
Midcontinent Broadcasting Company (KELO-TV, et al).	x [1]	
Mid-Pacific Television Associates (KIKU-TV).	x	
Midwest Television, Inc. (KFMB-TV).	x [1]	
Minnesota-Iowa Television	x	
Motorola, Inc	x	
Multimedia, Inc (KZTV, etc)	x	x
Multimedia (KCCI)	x [1]	
National Academy of Science	x	
National Aeronautics and Space Administration.	x	x
National Association of Business and Educational Radio, Inc.	x	
National Association of Broadcasters.	x	x
National Association of Public Television Stations and Public Broadcasting Service.	x	
National Broadcasting Company, Inc.	x	x
National Cable Television Association, Inc.	x	x
National Communications, Inc.	x	
Nebraska Educational Television Commission.	x [1]	
New Jersey Public Broadcasting Authority	x	x
New Mexico, Commission on Public Broadcasting		x
New York, City of		x
New Vision, Inc (WNUV-TV)	x	
New York Times Company, The	x	
NTV Television, Inc (KSNB-TV, et al).	x [1]	
Nurad, Inc.	x	
Ohio Educational Broadcasting Network Commission.	x	
Oklahoma State Regents for Higher Education.	x	
Outlet Company (WCPX-TV)	x	
Outlet Company (KOVR-TV)	x [1]	
Orange, County of (California) (Communications Division).	x	
PEC Communications, Inc (WPEC)	x	
Pennsylvania State University, The	x	
Pennsylvania Public Television Network Commission.	x [1]	
Perez, Rose Helen and James A. Rasch.	x [1]	
Pikes Peak Broadcasting Company, The (KRDO).		
Pikes Peak Broadcasting Company, The (KJCT-TV).	x [1]	
Portal Communications, Inc (KOBC-TV).	x [1]	
Post Corporation (WDKR(TV), et al).	x [1]	
Post-Newsweek Stations Inc.		x
Public Service Satellite Consortium.	x	
Ralph C. Wilson Industries, Inc.		x
Rock Island Broadcasting Co. (WHBF).	x [1]	
Rockwell International Corporation	x	x
Radio-Television News Director Association.	x	
Sarkes Tarzain Inc.		x
Satellite Television Corporation	x	x
Schwartz, Woods & Miller (law firm).	x	
Scripps-Howard Broadcasting Company.	x	
Smith and Powstenko	x	
Society of Broadcast and Communications Engineers.	x	x
South Carolina, State of (Office of the Governor).	x [1]	x
Southern Illinois University at Carbondale.	x [1]	
Spectrum Planning, Inc.	x	
State Telecasting Company, Inc (KCBO-TV).	x [1]	
Stoner Communications Inc.	x	
Suburban Cablevision	x	
Sutro Tower Inc.		x
Taft Broadcasting Company		x
Television Station Licensees		x
Television Wisconsin (WEIC-TV)	x [1]	
Thirty-Three, Inc (WKJG-TV)	x [1]	
Tichnor Media System		x
Tribune Company	x	
Turner Broadcasting System, Inc.	x	
Twin Cities Public Television, Inc. (KTCA, et al).	x	
United States Department of Commerce (National Telecommunications and Information Administration).	x	x
United Television, Inc. (KMSP-TV)	x [1]	
University of California, Statewide Administration.		x
University of California at San Diego.	x [1]	
University of Missouri		x
Utilities Telecommunications Council.	x	x
Viacom Broadcasting, Inc (WVIT)	x [1]	
Viacom International, Inc.	x	x
VirginiaSina Inc.		x
Warner-Amex Cable Communications Inc.		x
Washington Executive Broadcast Engineers.	x	
WCBD-TV	x [1]	
WCMH-TV	x	
WCSC, Inc.		x
WCYB-TV	x [1]	
WDBJ Television, Inc. (WDBJ-TV)	x [1]	
WEHCO Equipment Corporation	x	
Westinghouse Broadcasting and Cable, Inc.	x	x
Western Washington Coordinating Committee.		x
WFLD-TV	x [1]	
WFMY	x [1]	
WGBH Educational Foundation	x	
WHAG-TV	x [1]	
WHWC-TV	x [1]	
WHEC-TV		
Wilkins Engineering	x	
Wisconsin TV Network (WAOW-TV.	x [1]	
WJAR-TV	x [1]	
WJAC Incorporated		x
WJLA, Inc	x	
WLFI-TV	x	
WLOX-TV	x [1]	
WNNE-TV	x	
Wometco Enterprises (WTVJ)	x [1]	
Wometco West Michigan TV, Inc (WZZM).	x	
Wometco Skyway Broadcasting Company (WLOS-TV).	x [1]	
WPBN-TV	x [1]	
WPSD-TV	x [1]	
WVIA-TV	x	
WRC-TV4	x	
WREX-TV	x [1]	
WSBT, Inc. (WSBT-TV)	x [1]	
WSET-TV	x [1]	
WSMV-TV	x	
WTVC(TV)	x [1]	
WYFF-TV	x [1]	
Wyneco Communications, Inc (KYCU-TV).	x	
WWHK Corporation (WSNL-TV)	x [1]	

[1] Late filed.

Appendix B

Chapter I, Parts 2, 21, 74, 78 and 94 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

§ 2.106 [Amended]

A. In § 2.106, the Table of Frequency Allocations is amended in columns 7, 8, 9, 10, and 11 for the frequency bands 17.7–19.7 GHz as follows:

FEDERAL COMMUNICATIONS COMMISSION

[7]	[8]	[9]	[10]	(11)
17.7–18.36 (NG140) (NG144)	Fixed	Fixed		Domestic fixed public.
	Fixed-satellite	Space		Operational fixed. Broadcast auxiliary.
	Mobile	Mobile		Cable television relay. Fixed-satellite.
18.36–18.46 (NG106) (NG144)	Fixed	Fixed		Domestic fixed public.
	Fixed-satellite	Space		Operational fixed.
	Mobile	Mobile		Digital termination nodal stations Fixed-satellite.
18.46–18.94 (NG106) (NG144)	Fixed	Fixed		Domestic fixed public.
	Fixed-satellite	Space		Operational fixed.
	Mobile	Mobile		Broadcast auxiliary. Fixed-satellite
18.94–19.04 (NG106) (NG144)	Fixed	Fixed		Domestic fixed public.
	Fixed-satellite	Space		Operational fixed.
	Mobile	Mobile		Digital termination subscriber stations Fixed-satellite.
19.04–19.70 (NG144)	Fixed	Fixed		Domestic fixed public.
	Fixed-satellite	Space		Operational fixed.
	Mobile	Mobile		Cable television relay. Broadcast Auxiliary. Fixed-satellite.

* * * * *

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES (OTHER THAN MARITIME MOBILE)

B.1. Section 21.101 is amended by revising the Table in paragraph (a) to read as follows:

§ 21.101 Frequency tolerance.

(a) * * *

Frequency range (MHz)	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less [1]
25 to 50	0.002	0.002	0.005
50 to 450	0.0005	0.0005	0.005
450 to 512	0.00025	0.0005	0.0005
512 to 1,000 [2]	0.0005	0.0005	0.002
2,110 to 2,200	0.001		
2,200 to 12,200 [2], [4]	0.005	0.005	0.005
12,200 to 17,700	0.03	0.03	0.03
17,700 to 18,360	0.003		
18,360 to 18,460	0.001		
18,460 to 19,700 [2]	0.003		

Frequency range (MHz)	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less[1]
18,700 to 40,000	0.05	0.03	0.03

* * * * *

2. Section 21.701 is amended by revising paragraph (a) and by adding footnote 16 to the table to read as follows and adding new paragraph (m).

§ 21.701 Frequencies.

* * * * *

(a) Frequencies in the following bands are available for assignment to fixed radio stations in the Point-to-Point Microwave Radio Service:

2,110–2,130 MHz [1 2 7]
2,160–2,180 MHz [1 2 5]
3,700–4,200 MHz [5 8]
5,925–6,425 MHz [5 6 8]
10,550–10,565 MHz [14]
10,615–10,630 MHz [14]
10,700–11,700 MHz [8 9]
13,200–13,250 MHz [4]
17,700–18,360 MHz [5 15 16]
18,460–18,940 MHz [5 10 14 15]
19,040–19,700 MHz [5 10 16 16]
21,200–22,000 MHz [4 11 12 13]
22,000–23,600 MHz [4 11 12]
27,500–29,500 MHz [3]
31,000–31,200 MHz [4]
38,600–40,000 MHz [4]

* * * * *

[16] The band segments 17,700–18,360 MHz and 19,040–19,700 MHz are shared with operational-fixed stations, broadcast auxiliary stations and cable television relay stations.

* * * * *

(m) The 17,700–18,360 and 19,040–19,700 MHz bands are also available for assignment on the basis of the following frequency plans consisting of 5 two-way channels, each 80 MHz wide; 11 two-way channels, each 40 MHz; 22 two-way channels, each 20 MHz; 44 two-way channels, each 10 MHz; and 36 two-way channels, each 6 MHz wide:

PAIRED FREQUENCIES

[Center frequency of channel shown]

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
80 MHz channels:	
17,740	19,060
17,820	19,160
17,900	19,240
17,980	19,320
18,060	19,400
40 MHz channels:	
17,720	19,060
17,760	19,100
17,800	19,140
17,840	19,180
17,880	19,220
17,920	19,260
17,960	19,300
18,000	19,340
18,040	19,380
18,080	19,460
18,120	19,460
20 MHz channels:	
17,710	19,050
17,730	19,070
17,750	19,090
17,770	19,110
17,790	19,130
17,810	19,150
17,830	19,170
17,850	19,190
17,870	19,210
17,890	19,230
17,910	19,250
17,930	19,270
17,950	19,290
17,970	19,310
17,990	19,330
18,010	19,350
18,030	19,370
18,050	19,390
18,070	19,410
18,090	19,430
18,110	19,450
18,130	19,470
10 MHz channels:	
17,705	19,045
17,715	19,055
17,725	19,065
17,735	19,075
17,745	19,085
17,755	19,095
17,765	19,105
17,775	19,115
17,785	19,125
17,795	19,135
17,805	19,145
17,815	19,155
17,825	19,165
17,835	19,175
17,845	19,185
17,855	19,195
17,865	19,205
17,875	19,215
17,885	19,225
17,895	19,235
17,905	19,245
17,915	19,255
17,925	19,265
17,935	19,275
17,945	19,285
17,955	19,295
17,965	19,305
17,975	19,315
17,985	19,325
17,995	19,335
18,005	19,345
18,015	19,355
18,025	19,365
18,035	19,375
18,045	19,385
18,055	19,395
18,065	19,405
18,075	19,415
18,085	19,425
18,095	19,435
18,105	19,445
18,115	19,455
18,125	19,465
18,135	19,475
5 MHz channels:	
18,147	19,487
18,153	19,493
18,159	19,499
18,165	19,505
18,171	19,511
18,177	19,517
18,183	19,523
18,189	19,529
18,195	19,535
18,201	19,541
18,207	19,547
18,213	19,553
18,219	19,559
18,225	19,565
18,231	19,571
18,237	19,577
18,243	19,583
18,249	19,589
18,255	19,595
18,261	19,601
18,267	19,607
18,273	19,613
18,279	19,619
18,285	19,625
18,291	19,631
18,297	19,637
18,303	19,643

PAIRED FREQUENCIES—Continued

[Center frequency of channel shown]

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,309	19,649
18,315	19,655
18,321	19,661
18,327	19,667
18,333	19,673
18,339	19,679
18,345	19,685
18,351	19,691
18,357	19,697

PART 74—EXPERIMENTAL, AUXILIARY AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTION SERVICES

C. 1. Section 74.602 is amended by revising the introductory text of paragraph (a), amending paragraph (f) to add a new sentence at the end of the introductory paragraph and adding paragraph (i) as follows:

§ 74.602 Frequency assignment.

(a) The following frequencies are available for assignment to TV pickup, TV STL, TV relay and TV translator relay stations. The bands 17,700–18,360 MHz and 19,040–19,700 MHz are available for broadcast auxiliary stations as shown below. Additionally, the band 38.6–40 GHz is available for assignment without channel bandwidth limitation to TV pickup stations on a secondary basis to fixed stations.

* * * * *

(f) * * *

Band D channels are also shared with certain Private Operational Fixed Stations, see § 74.638.

* * * * *

(i) The following frequencies are also available for assignment to television STL, and television relay stations. These frequencies are shared with Domestic Public Fixed, Operational Fixed and Cable Television Relay services. Applicants may use either a two-way link or one frequency of a frequency pair for a one way link and shall coordinate proposed operations pursuant to procedures required in § 21.100(d).

PAIRED FREQUENCIES

(Center frequency of channel shown)

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
80 MHz channels:	
17,740	19,060
17,820	19,160
17,900	19,240
17,980	19,320
18,060	19,400
40 MHz channels:	
17,720	19,060
17,760	19,100

PAIRED FREQUENCIES—Continued

(Center frequency of channel shown)

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
17,800	19,140
17,840	19,180
17,880	19,220
17,920	19,260
17,960	19,300
18,000	19,340
18,040	19,380
18,080	19,420
18,120	19,460
20 MHz channels:	
17,710	19,050
17,730	19,070
17,750	19,090
17,770	19,110
17,790	19,130
17,810	19,150
17,830	19,170
17,850	19,190
17,870	19,210
17,890	19,230
17,910	19,250
17,930	19,270
17,950	19,290
17,970	19,310
17,990	19,330
18,010	19,350
18,030	19,370
18,050	19,390
18,070	19,410
18,090	19,430
18,110	19,450
18,130	19,470
10 MHz channels:	
17,705	19,045
17,715	19,055
17,725	19,065
17,735	19,075
17,745	19,085
17,755	19,095
17,765	19,105
17,775	19,115
17,785	19,125
17,795	19,135
17,805	19,145
17,815	19,155
17,825	19,165
17,835	19,175
17,845	19,185
17,855	19,195
17,865	19,205
17,875	19,215
17,885	19,225
17,895	19,235
17,905	19,245
17,915	19,255
17,925	19,265
17,935	19,275
17,945	19,285
17,955	19,295
17,965	19,305
17,975	19,315
17,985	19,325
17,995	19,335
18,005	19,345
18,015	19,355
18,025	19,365
18,035	19,375
18,045	19,385
18,055	19,395
18,065	19,405
18,075	19,415
18,085	19,425
18,095	19,435
18,105	19,445
18,115	19,455
18,125	19,465
18,135	19,475
5 MHz channels:	
18,147	19,487
18,153	19,493
18,159	19,499
18,165	19,505
18,171	19,511
18,177	19,517
18,183	19,523
18,189	19,529
18,195	19,535
18,201	19,541
18,207	19,547

PAIRED FREQUENCIES—Continued

(Center frequency of channel shown)

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,213	19,553
18,219	19,559
18,225	19,565
18,231	19,571
18,237	19,577
18,243	19,583
18,249	19,589
18,255	19,595
18,261	19,601
18,267	19,607
18,273	19,613
18,279	19,619
18,285	19,625
18,291	19,631
18,297	19,637
18,303	19,643
18,309	19,649
18,315	19,655
18,321	19,661
18,327	19,667
18,333	19,673
18,339	19,679
18,345	19,685
18,351	19,691
18,357	19,697

2. In § 74.636 the existing paragraph is designated as (a) and a new paragraph (b) is added as follows:

§ 74.636 Power Limitations.

(a) * * *

(b) For operation in the 17,700–19,700 MHz band, the transmitter of a broadcast auxiliary station will be licensed with a peak power output not in excess of that necessary to render service and shall in no event be licensed with a peak power output exceeding 10 watts; its Effective Isotropic Radiated Power (EIRP) shall be limited to 50 dBW.

3. In § 74.637, the introductory text of paragraph (b) is revised; paragraph (c) is renumbered paragraph (d) and a new paragraph (c) is added.

§ 74.637 Emissions and emission limitations.

(a) * * *

(b) The channels assigned to television auxiliary stations are designated by upper and lower frequency limits except in the 17,700–19,700 MHz band. Emissions outside of these frequencies shall be attenuated as follows:

* * * * *

(c) For operation in the 17,700–19,700 MHz band:

Broadcast STL and relay stations may be authorized to employ analog or digital modulation in this band. The mean power of any emission shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) When using frequency modulation:

(i) On any frequency removed from the assigned (center) frequency by more than 50% up to and including 100% of the authorized bandwidth: At least 25 dB;

(ii) On any frequency removed from the assigned (center) frequency by more than 100% up to and including 250% of the authorized bandwidth: At least 35 dB;

(iii) On any frequency removed from the assigned (center) frequency by more than 250% of the authorized bandwidth: At least 43+10 log 10 (mean output power in watts) dB, or 80 dB, whichever is the lesser attenuation.

(2) When using digital modulation:

(i) In any 1 NHz band, the center frequency of which is removed from the assigned frequency by more than 50% up to and including 250% of the authorized bandwidth: As specified by the following equation but in no event less than 11 dB.

$$A = 11 + 0.4\,(P - 50) + 10 \log_{10} B$$

where:

A = Attenuation (in dB) below the mean output power level

P = Percent removed from the carrier frequency

B = Authorized bandwidth in MHz

(ii) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 250% of the authorized bandwidth: At least $43 = 10 \log_{10}$ (mean output power in watts) dB, or 80 dB, whichever is the lesser attenuation.

(3) Amplitude Modulation.

For vestigial sideband AM video: On any frequency removed from the center frequency of the authorized band by more than 50%: at least 50 dB below peak power of the emission.

* * * * *

4. A new section, § 74.638 is added as follows:

§ 74.638 Frequency coordination above 12.7 GHz.

(a) Channels in Band D are shared with certain Private Operational Fixed Stations authorized under Part 94, § 94.93 after September 9, 1983. After this date all Broadcast Auxiliary use of these bands is subject to coordination using the following procedure:

(1) Before filing an applicataion for new or modified facilities under this part the applicant must perform a frequency engineering analysis to ensure that the proposed facilities will not cause interference to existing or previously applied for stations in this band of a magnitude greater than that specified below.

(2) The general criteria for determining allowable adjacent or co-channel interference protection to be afforded, regardless of system length or

type of modulation, multiplexing or frequency band, shall be such that the interfering signal shall not produce more than 1.0 dB degradation of the practical threshold of the protected receiver. Degradation is determined by calculating the ratio in dB between the desired carrier signal and undesired interfering signal (C/I ratio) appearing at the input to the receiver under investigation (the victim receiver). The development of the C/I ratios from the criteria for maximum allowable interference level per exposure and the methods used to perform path calculations shall follow generally acceptable good engineering practices. Procedures as may be developed by the Electronics Industries Association (EIA), the Institute of Electrical and Electronics Engineers, Inc. (IEEE), the American National Standards Institute (ANSI) or any other recognized authority will be acceptable to the FCC.

(3) Where the development of the carrier to interference ratio (C/I) is not covered by generally acceptable procedures or where the applicant does not wish to develop the carrier to interference ratio, the applicant shall employ the following C/I protection ratios.

(i) Co-channel interference: For both sideband and carrier-beat, (applicable to all bands), the previously authorized system shall be afforded a carrier to interfering signal protection ratio of at least 90 dB.

(ii) Adjacent channel interference: The existing or previously authorized system shall be afforded a carrier to interfering signal protection ratio of at least 56 dB.

(b) Coordination of assignments in the 18 GHz band will be performed in accordance with the procedure established in § 21.100

5. Section 74.641 is amended by revising the introduction text of paragraph (a) and the Table in paragraph (a)(1) to read as follows:

§ 74.641 Antenna systems.

(a) For fixed stations operating in 12,700–13,200 and 17,700–19,700 MHz bands, the following rules apply:

* * * * *

ANTENNA STANDARDS

Frequency (MHz)	Category	Maximum beam-width to 3 dB points (included angle in degrees)	Minimum Antenna Gain (dBi)	Minimum radiation suppression to angle in degrees from centerline of main beam in decibels						
				5° to 10°	10° to 15°	15° to 20°	20° to 30°	30° to 100°	100° to 140°	140° to 180°
12,700 to 13,200	A	1.0	n/a	25	29	35	39	41	42	50
	B	2.0	n/a	20	25	29	36	32	37	47
17,700 to 18,360	A	n/a	38.0	25	29	33	36	42	55	55
	B	n/a	36.0	20	24	28	32	35	36	36
19,040 to 19,700	A	n/a	38.0	25	29	33	36	42	55	55
	B	n/a	36.0	20	24	28	32	35	36	36

* * * * *

6. In § 74.661 a new paragraph (e) is added as follows:

§ 74.661 Frequency tolerance.

* * * * *

(e) For operation in the 17,700–19,700 MHz band, the operating frequency of the transmitter shall be maintained within ±0.003% of the assigned frequency.

PART 78—CABLE TELEVISION RELAY SERVICE

1. Section 78.18 (a) is amended by adding paragraph (a)(4) as follows:

§ 78.18 Frequency assignments

(a) * * *

(4) The Cable Television Relay Service is also assigned the following frequencies in the bands from 17,700 to 18,360 MHz and 19,040 to 19,700 MHz. These bands are shared with Domestic Public Fixed, Private-Operational Fixed and Broadcast Auxiliary Services. Applicants may use either a two-way link or one frequency of a frequency pair for a one-way link and shall coordinate proposed operations pursuant to procedures required in § 21.100(d). These bands may be used for analog or digital modulation.

PAIRED FREQUENCIES

[Center frequency of channel shown]

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
80 MHz channels:	
17,740	19,080
17,820	19,160
17,900	19,240
17,980	19,320
18,060	19,400
40 MHz channels:	
17,720	19,000
17,760	19,100
17,800	19,140
17,840	19,180
17,880	19,220
17,920	19,260
17,960	19,300
18,000	19,340
18,040	19,380
18,080	19,460
18,120	19,460
20 MHz channels:	
17,710	19,050
17,730	19,070
17,750	19,090
17,770	19,110
17,790	19,130
17,810	19,150
17,830	19,170
17,850	19,190
17,870	19,210
17,890	19,230
17,910	19,250
17,930	19,270
17,950	19,290
17,970	19,310
17,990	19,330
18,010	19,350
18,030	19,370
18,050	19,390
18,070	19,410
18,090	19,430

PAIRED FREQUENCIES—Continued

[Center frequency of channel shown]

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,110	19,450
18,130	19,470
10 MHz channels:	
17,705	19,045
17,715	19,055
17,725	19,065
17,735	19,075
17,745	19,085
17,755	19,095
17,765	19,105
17,775	19,115
17,785	19,125
17,795	19,135
17,805	19,145
17,815	19,155
17,825	19,165
17,835	19,175
17,845	19,185
17,855	19,195
17,865	19,205
17,875	19,215
17,885	19,225
17,895	19,235
17,905	19,245
17,915	19,255
17,925	19,265
17,935	19,275
17,945	19,285
17,955	19,295
17,965	19,305
17,975	19,315
17,985	19,325
17,995	19,335
18,005	19,345
18,015	19,355
18,025	19,365
18,035	19,375
18,045	19,385
18,055	19,395

PAIRED FREQUENCIES—Continued

[Center frequency of channel shown]

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,095	19,405
18,075	19,415
18,080	19,425
18,085	19,435
18,100	19,445
18,115	19,455
18,125	19,465
18,135	19,475
6 MHz channels:	
18,147	19,487
18,153	19,493
18,159	19,499
18,165	19,505
18,171	19,511
18,177	19,517
18,183	19,523
18,189	19,529
18,195	19,535
18,201	19,541
18,207	19,547
18,213	19,553
18,219	19,559
18,225	19,565
18,231	19,571
18,237	19,577
18,243	19,583
18,249	19,589
18,255	19,595
18,261	19,601
18,267	19,607
18,273	19,613
18,279	19,619
18,285	19,625
18,291	19,631
18,297	19,637
18,303	19,643
18,309	19,649
18,315	19,655
18,321	19,661
18,327	19,667
18,333	19,673
18,339	19,679
18,345	19,685
18,351	19,691
18,357	19,697

* * * * *

2. A new section, § 78.36, is added as follows:

§ 78.36 Frequency coordination.

(a) Channels in the 12.7–13.25 GHz band are shared with certain Private Operational-Fixed stations authorized under Part 94, § 94.93 after September 9, 1983. After this date all CARS use of this band is subject to coordination using the following procedure.

(1) Before filing an application for new or modified facilities under this part the applicant must perform a frequency engineering analysis to ensure that the proposed facilities will not cause interference to existing or previously applied for stations in this band of a magnitude greater than that specified below.

(2) The general criteria for determining allowable adjacent or co-channel interference protection to be afforded, regardless of system length or type of modulation, multiplexing or frequency band shall be such that the interfering signal shall not produce more than 1.0 dB degradation of the practical threshold of the protected receiver. The degradation is determined by calculating the ratio in dB between the desired carrier signal and undesired interfering signal (C/I ratio) appearing at the input to the receiver under investigation (the victim receiver). The development of the C/I ratios from the criteria for maximum allowable interference level per exposure and the methods used to perform path calculations shall follow generally acceptable good engineering practices. Procedures as may be developed by the Electronics Industries Association (EIA), the Institute of Electrical and Electronics Engineers, Inc. (IEEE), the American National Standards Institute (ANSI) or any other recognized authority will be acceptable to the Commission.

(3) Where the development of the carrier to interference ratio (C/I) is not covered by generally acceptable procedures or where the applicant does not wish to develop the carrier to interference ratio, the applicant shall employ the following C/I protection ratios:

(i) Co-channel interference: For both sideband and carrier-beat, (applicable to all bands) the previously authorized system shall be afforded a carrier to interfering signal protection ratio of at least 90 dB.

(ii) Adjacent channel interference: The existing or previously authorized system shall be afforded a carrier to interfering signal protection ratio of at least 56 dB.

(b) Coordination of assignments in the 18 GHz band will be performed in accordance with the procedure established in § 21.100.

3. In § 78.101, a new paragraph (d) is added as follows:

§ 78.101 Power limitations.

* * * * *

(d) For CARS stations operating in the 17.7 to 19.7 GHz band transmitter output power shall not be greater than necessary to accomplish the function of the system and in any case shall not be greater than 100 watts (peak); the maximum EIRP shall be limited to 50 dBW.

4. In § 78.103, paragraph (c) is renumbered paragraph (d) and a new paragraph (c) is added as follows:

§ 78.103 Emissions and emission limitations.

* * * * *

(c) For operation in the 17.7.7–19.7 GHz band:

The mean power of any emission shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) When using frequency modulation:

(i) On any frequency removed from the assigned (center) frequency by more than 50% up to and including 100% of the authorized bandwidth: At least 25 dB;

(ii) On any frequency removed from the assigned (center) frequency by more than 100% up to and including 250% of the authorized bandwidth: At least 35 dB;

(iii) On any frequency removed from the assigned (center) frequency by more than 250% of the authorized bandwidth: At least 43+10 log 10 (mean output power in watts) dB, or 80 dB, whichever is the lesser attenuation.

(2) When using digital modulation:

(i) In any 1 MHz band, the center frequency of which is removed from the assigned frequency by more than 50% up to and including 250% of the authorized bandwidth: As specified by the following equation but in no event less than 11 dB.

$$A = 11 + 0.4\,(P-50) + 10 \log_{10} B$$

where:

A = Attenuation (in dB) below the mean output power level.

P = Percent removed from the carrier frequency.

B = Authorized bandwidth in MHz.

(ii) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 250% of the authorized bandwidth: At least $43 = 10 \log_{10}$ (mean output power in watts) dB, or 80 dB, whichever is the lesser attenuation.

(3) Amplitude Modulation:

For vestigial sideband AM video: On any frequency removed from the center frequency of the authorized band by more than 50%: at least 50 dB below peak power of the emission.

* * * * *

5. Section 78.105 is amended by revising the Table in pargraph (a) to read as follows:

§ 78.105 Antenna systems.

(a) * * *

ANTENNA STANDARDS

Frequency (MHz)	Category	Maximum beam-width to 3 dB points (included angle in degrees)	Minimum antenna gain (dBi)	Minimum radiation suppression to angle in degrees from centerline of main beam in decibels: 5° to 10°	10° to 15°	15° to 20°	20° to 30°	30° to 100°	100° to 140°	140° to 180°
12,700 to 13,200	A	1.0	n/a	29	29	35	35	41	42	50
	B	2.0	n/a	20	25	29	30	32	37	47
17,700 to 18,380	A	n/a	38.0	25	29	33	36	42	55	55
	B	n/a	36.0	20	24	28	32	35	36	36
19,040 to 19,700	A	n/a	36.0	25	29	33	36	42	55	55
	B	n/a	36.0	20	24	28	32	35	36	36

* * * * *

6. In § 78.111, a new paragraph (d) is added as follows:

§ 78.111 Frequency tolerance.

* * * * *

(d) Cable Television Relay stations authorized in the 17.7 to 19.7 GHz band shall maintain a frequency tolerance of .003%.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

E. 1. Section 94.15 is amended by adding a new paragraph (j) as follows:

§ 94.15 Policy governing the assignment of frequencies.

* * * * *

(j) Applications filed pursuant to § 94.93 will not be subject to the provisions of paragraphs (a) through (h) of this section.

2. Section 94.51 is amended by adding a sentence at the end as follows:

§ 94.51 Time in which station must be placed in operation.

* * * Stations authorized under § 94.93 will have a period of 36 months from the date of grant to place the station in operation.

3. The table in paragraph (b) of § 94.61 is amended by revising the bands between 6525 and 12,700, adding a new band for 12,700–13,200, revising the band for 13,200–13,250, adding a new band for 17,700–18,360, revising the band for 18,360–19,040, adding a new band for 19,040–19,700, and adding new Notes (25)-(28) to read as follows:

§ 94.61 Applicability.

* * * * *

(b) Frequencies in the following bands are available for assignment to stations in the Private Operational-Fixed Microwave Service.

FREQUENCY BAND (MHz)

* * * * *	
6525 to 6575	(15) (25)
6570 to 6625	(3) (15) (26)

FREQUENCY BAND (MHz)—Continued

6626 to 6675	(3) (5) (15) (25)
10,550 to 10,680	(26)
12,200 to 12,500	(3) (21) (25)
12,500 to 12,700	(5) (7) (21) (25)
12,700 to 13,200	(26)
13,200 to 13,250	(5) (15) (19) (21)
17,700 to 18,260	(19) (21) (27)
18,260 to 18,460	(24)
18,460 to 18,940	(5) (19) (17) (21)
18,940 to 19,040	(24)
19,040 to 19,700	(19) (21) (27)

* * * * *

(24) Frequencies in this band have been allocated to the Direct Broadcast Service and are authorized for Operational Fixed use only pursuant to § 94.93.

(25) Frequencies in this band are only available for applications filed pursuant to § 94.93.

(27) Frequencies in this band are shared with Broadcast Auxiliary and Cable Television Relay services.

(28) This band is also available for applications filed pursuant to § 94.93.

4. Section 94.65 is amended by revising paragraph (h) and by adding a new paragraph (l) as follows:

§ 94.65 Frequencies.

(h) *12,200–12,700 MHz:* The Commission has allocated the 12.2–12.7 GHz band for use by the broadcasting-satellite service. Operational-fixed stations authorized after September 9, 1983 shall be licensed on a noninterference basis and shall be required to make any and all adjustments necessary to prevent interference to operating domestic broadcasting-satellite systems. (Section 94.93 contains special provisions for stations authorized in the band on or before September 9, 1983). Notwithstanding any other provisions, no operational-fixed stations shall be permitted to cause interference to broadcasting-satellite stations of other countries operating in accordance with the Region 2 plan for the broadcasting-satellite service established at the 1983 RARC.

* * * * *

(l) *17,700 MHz–18,360 MHz and 19,040 MHz–19,700 MHz:* These frequencies are shared with the Domestic Public Fixed, Broadcast Auxiliary, and Cable Relay Services. Applicants may use either a frequency pair for a two-way link or one frequency of a frequency pair for a one way link and shall coordinate proposed operations pursuant to procedures required in § 21.100(d). Any form of emission may be used, except damped waves, subject to the provisions in § 94.71.

PAIRED FREQUENCIES

[Center frequency of channel shown]

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
80 MHz channels:	
17,740	18,060
17,820	18,140
17,900	18,220
17,980	18,300
18,060	18,460
40 MHz channels:	
17,720	18,060
17,760	18,100
17,800	18,140
17,840	18,180
17,880	18,220
17,920	18,260
17,960	18,300
18,000	18,340
18,040	18,380
18,080	18,460
18,120	18,460
20 MHz channels:	
17,710	18,050
17,730	18,070
17,750	18,090
17,770	18,110
17,790	18,130
17,810	18,150
17,830	18,170
17,850	18,190
17,870	18,210
17,890	18,230
17,910	18,250
17,930	18,270
17,950	18,290
17,970	18,310
17,990	18,330
18,010	18,350
18,030	18,370
18,050	18,390
18,070	18,410
18,090	18,430
18,110	18,450
18,130	18,470
10 MHz channels:	
17,705	18,045
17,715	18,055
17,725	18,065
17,735	18,075
17,745	18,085
17,755	18,095
17,765	18,105
17,775	18,115
17,785	18,125
17,795	18,135
17,805	18,145
17,815	18,155
17,825	18,165
17,835	18,175
17,845	18,185
17,855	18,195
17,865	18,205
17,875	18,215

PAIRED FREQUENCIES—Continued

(Center frequency of channel shown)

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
17,885	19,225
17,895	19,235
17,905	19,245
17,915	19,255
17,925	19,265
17,935	15,275
17,945	19,285
17,955	19,295
17,965	19,305
17,975	19,315
17,985	19,325
17,995	19,335
18,005	19,345
18,015	19,355
18,025	19,365
18,035	19,375
18,045	19,385
18,055	19,395
18,065	19,405
18,075	19,415
18,085	19,425
18,095	19,435
18,105	19,445
18,115	19,455
18,125	19,465
18,135	19,475
6 MHz channels:	
18,147	19,487
18,153	19,493
18,159	19,499
18,165	19,505
18,171	19,511
18,177	19,517
18,183	19,523
18,189	19,529
18,195	19,535
18,201	19,541
18,207	19,547
18,213	19,553
18,219	19,559
18,225	19,565
18,231	19,571
18,237	19,577
18,243	19,583
18,249	19,589
18,255	19,595
18,261	19,601

PAIRED FREQUENCIES—Continued

(Center frequency of channel shown)

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,267	19,607
18,273	19,613
18,279	19,619
18,285	19,625
18,291	19,631
18,297	19,637
18,303	19,643
18,309	19,649
18,315	19,655
18,321	19,661
18,327	19,667
18,333	19,673
18,339	19,679
18,345	19,685
18,351	19,691
18,357	19,697

5. Section 94.67 is amended by revising the Table and adding Note 6 in paragraph (a) to read as follows:

§ 94.67 Frequency tolerance.

(a) * * *

Frequency band (MHz)	Tolerance as percentage of assigned frequency
928 to 929	0.0005
952 to 960 [1]	(6)
1,850 to 1,990	0.002
2,130 to 2,150	0.001
2,150 to 2,160	0.001
2,160 to 2,220	0.001
2,450 to 2,500	0.001
2,500 to 2,690	(6)
6,525 to 6,875	0.005
10,550 to 10,680	(6)
12,200 to 13,150	[5] 0.001
13,200 to 13,250	0.09
17,700 to 18,360	[4] 0.003
18,360 to 18,460	0.001
18,460 to 19,700	[4] 0.003
19,700 to 40,000	[5] 0.03
Above 40,000	(6)

* * * * *

[6] For exceptions see § 94.91.

6. Section 94.71 is amended by replacing the band 18,360–19,040 MHz with the following additional bands in the Table in paragraph (b) as follows:

§ 94.71 Emission and bandwidth limitations.

* * * * *

(b) * * *

Frequency band (MHz)	Maximum authorized bandwidth (MHz)
* * * * *	
17,700–18,360	80
18,360–18,460	10
18,460–18,940	20
18,940–19,040	10
19,040–19,700	80
* * * * *	

7. Section 94.75 paragraph (b) is amended by revising the Table and revising Note 3 and adding Note 6.

§ 94.75 Antenna limitations.

* * * * *

(b) * * *

ANTENNA STANDARDS

Frequency (MHz)	Category	Maximum beamwidth to 3 dB points (included angle in degrees)	Minimum Antenna gain (dBi)	Minimum radiation suppression to angle in degrees from centerline of main beam in decibels						
				5° to 10°	10° to 15°	15° to 20°	20° to 30°	30° to 100°	100° to 140°	140° to 180°
952 to 960 (1) [6]	A	14.0	n/a		6	11	14	17	20	24
	B	20.0	n/a			8	10	13	15	20
1,850 to 2,690 [6]	A	5.0	n/a	12	16	22	25	29	32	36
	B	8.0	n/a	5	16	20	20	25	29	36
6,525 to 6,875	A	1.5	n/a	26	29	32	34	38	41	49
	B	2.0	n/a	21	25	29	32	35	39	45
10,550 to 10,680 [6]	A	n/a	38.0	25	29	33	36	42	55	55
	B	n/a	36.0	20	24	28	32	36	36	36
12,200 to 13,250 [6]	A	1.6	n/a	23	26	35	36	41	42	50
	B	2.0	n/a	20	25	26	30	32	37	47
17,700 to 19,700 [6]	A	n/a	38.0	25	29	33	36	42	55	55
	B	n/a	36.0	20	24	28	32	36	36	36
Above 19,700 [6] [7]										

* * * * *

[3] Except as provided in § 94.199 for Digital Termination System antennas.

* * * * *

[5] Except as provided in § 94.90 or, for the band 13,200–13,250 MHz, as provided in the developmental authorization.

[6] To be specified in authorization except that bands shared with domestic public radio service stations (Part 21) shall conform to standards contained in § 21.106(c).

8. A new § 94.93, is added as follows:

§ 94.93 Provisions for Private Operational Fixed use of the 12,200–12,700 MHz Band.

(a) Operational Fixed stations which were authorized in the 12,200–12,700 MHz band on or before September 9, 1983, shall not be required to protect operating domestic broadcasting satellite systems from interference until September 9, 1988. After this date, these Operational Fixed stations may continue operation on a non-interference basis to Direct Broadcast Satellite service reception and shall be required to make any and all adjustments necessary to prevent interference to

operating broadcasting-satellite systems.

(b) Operational-fixed stations authorized in the 12,200–12,700 MHz band after September 9, 1983, shall be required to protect operating domestic broadcasting satellite systems from interference.

(c) Any Operational-fixed stations authorized in the 12,200–12,700 MHz band must not cause interference to broadcasting-satellite systems of other administrations operating in accordance with the plan developed by the 1983 Regional Administrative Radio Conference.

(d) Stations authorized on frequencies in the 12,200 to 12,700 MHz band as of September 9, 1983, except for those authorized under § 94.90, are allowed use of certain other bands listed below in accordance with the provisions of this paragraph. Authority to use the frequencies or special provisions of this paragraph, will not apply to additional system links (transmitter-receiver pair) not licensed as of September 9, 1983. Licensees intending to take advantage of the special reaccommodation provisions provided in this paragraph must submit applications by September 9, 1988.

(1) *Available Frequencies.*

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
6,525–6,875 MHz Band	
10 MHz channels:[1]	
6,545	6,715
6,555	6,725
6,565	6,736
6,585	6,745
6,595	6,755
6,605	6,765
6,615	6,775
6,625	6,785
6,635	6,795
6,645	6,805
6,655	6,815
6,665	6,825
6,675	6,835
6,685	6,845
6,695	6,855
6,705	6,865
12,700–13,200 GHz Band	
25 MHz channels:[1]	
12,712.5	12,937.5
12,725.0	12,950.0
12,737.5	12,962.5
12,750.0	12,975.0
12,762.5	12,987.5
12,775.0	13,000.0
12,787.5	13,012.5
12,800.0	13,025.0
12,812.5	13,037.5
12,825.0	13,050.0
12,837.5	13,062.5
12,850.0	13,075.0
12,862.5	13,087.5
12,875.0	13,100.0
12,887.5	13,112.5
12,900.0	13,125.0
12,912.5	13,137.5
12,700–13,200 GHz Band	
12.5 MHz channels:[1]	
12,706.25	12,931.25
12,718.75	12,943.75
12,731.25	12,956.25
12,743.75	12,968.75
12,756.25	12,981.25
12,768.75	12,993.75
12,781.25	13,006.25
12,793.75	13,018.75
12,806.25	13,031.25
12,818.75	13,043.75
12,831.25	13,056.25
12,843.25	13,067.75
12,856.25	13,080.25
12,868.75	13,092.75
12,881.25	13,105.25
12,893.75	13,117.75
12,906.25	13,130.25
12,918.75	13,142.75

[1] Center frequency of channel shown.

In addition to the above center frequencies, alternative channeling may be used (20 MHz or 6 MHz-wide channels). Frequency pairs may be used for two-way links or one frequency of a pair may be used for a one-way link. Use is subject to the coordination procedure in (d)(2) of this section.

(2) *Coordination Procedure.* (i) Before filing an application for new or modified facilities under this Subsection the applicant must perform a frequency engineering analysis to ensure that the proposed facilities will not cause interference to existing or previously applied for stations in this band of a magnitude greater than that specified below.

(ii) The general criteria for determining allowable adjacent or co-channel interference protection to be afforded, regardless of system length or type of modulation, multiplexing or frequency band shall be such that the interfering signal shall not produce more than 1.0 dB degradation of the practical threshold of the protected receiver, applied by calculating the ratio in dB between the desired carrier signal and undesired interfering signal (C/I ratio) appearing at the input to the receiver under investigation (the victim receiver). The development of the C/I ratios from the criteria for maximum allowable interference level per exposure and the methods used to perform patch calculations shall follow generally acceptable good engineering practices. Procedures as may be developed by the Electronics Industries Association (EIA), the Institute of Electrical and Electronics Engineers, Inc. (IEEE), the American National Standards Institute (ANSI) or any other recognized authority will be acceptable to the Commission.

(iii) Where the development of the carrier to interference ratio (C/I) is not covered by generally acceptable procedures or where the applicant does not wish to develop the carrier to interference ratio the applicant shall employ the following C/I protection ratios:

(A) Co-channel interference: Both sideband and carrier-beat, applicable to all bands, the previously authorized system shall be afforded a carrier to interfering signal protection ratio of at least 80 dB.

(B) Adjacent channel interference: the existing or previously authorized system shall be afforded a carrier to interfering signal protection ratio of least 56 dB.

(iv) For the band 6525–6875 MHz: The existing coordination requirement of § 94.63 as it relates to this band shall be followed.

(3) Applications Mutually Exclusive with other Applications. In the event that applications filed by OFS licensees in the 12.2–12.7 GHz band pursuant to the reaccommodation provisions of this paragraph (d) are mutually exclusive with other applications, the applications of the 12 GHz OFS licensees shall be granted over other applications.

(4) *Technical Standards.*—(i) *Power Limits.* All stations authorized under this paragraph shall be limited to the following:

Power: All bands, 10 watts maximum transmitter output power
EIRP: All bands, 80 dBm

(ii) *Antenna Standards.* Antennas meeting Standard B of § 94.75 can be used by all systems authorized under this paragraph, except that a higher performance antenna meeting Standard A will be used where interference problems can be resolved by the use of such antennas.

(iii) *Types of Emission.* Any modulation type available for use by stations authorized in the Private Operational Fixed Microwave Services are allowed on the frequencies provided in this paragraph.

[FR Doc. 83-29798 Filed 11-2-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 83

[PR Docket No. 83-429; FCC 83-475]

Amendment of the Commission's Rules To Implement the First Set of Amendments to the Safety of Life at Sea Convention of 1974 and Conform Commission Rules in Other Treaty Matters

AGENCY: Federal Communication Commissions.

ACTION: Final rule.

SUMMARY: This document amends Part 83 to complete implementation of the first set of amendments to the 1974

Safety of Life at Sea Convention to provide a VHF radio watch on vessels outside harbor and port areas. These rule amendments will assure that U.S. ships will be compatible with international requirements.

EFFECTIVE DATE: December 6, 1983.

FOR FURTHER INFORMATION CONTACT: Robert C. McIntyre, Private Radio Bureau, (202) 632-7175.

List of Subjects in 47 CFR Part 83

Communication equipment, Marine safety, Vessels.

Report and Order; Proceeding Terminated

In the matter of amendment of Part 83 of the Commission's rules to implement the first set of amendments to the Safety of Life at Sea Convention of 1974 and conform Commission rules in other treaty matters; PR Docket No. 83-429.

Adopted: October 19, 1983.
Released: October 26, 1983.

By the Commission: Commissioner Quello absent.

1. The Commission released a Notice of Proposed Rule Making in this proceeding on May 6, 1983 (FCC 83-204, May 13, 1983, 48 FR 21599). Comments and reply comments were required to be filed by June 13 and June 28, 1983, respectively. Based on the record before us, we are adopting the rules substantially as proposed.

Background

2. The International Maritime Organization (IMO) is a specialized agency of the United Nations concerned solely with maritime affairs. In 1974, IMO convened an international Conference for the purpose of concluding a new International Convention for the Safety of Life at Sea (SOLAS Convention or Safety Convention"[1]). Annexed to the SOLAS Convention and an integral part of it are regulations which govern all aspects of safety practices for ships engaged on international voyages.

3. Although the SOLAS Convention was adopted in 1974, it did not come into force until May 25, 1980. During the hiatus, amendments to the regulations were adopted. The first such set of amendments dealt with some matters which were so important that IMO, in Resolution A. 335, urged administrations to implement the changes even before the Convention itself came into force. We followed this recommendation and on March 15, 1979, we adopted a Report and Order in Docket 21089 which established a communications link between radiotelephone and radiotelegraph vessels. We initiated this proceeding to complete implementation of the first set of amendments to the 194 SOLAS Convention and to align our rules concerning testing of the ship reserve telegraph transmitter with IMO's regulations. The first set of amendments to the 1974 SOLAS are scheduled to come into force on September 1, 1984.

Notice of Proposed Rule Making

4. The Notice of Proposed Rule Making in this proceeding proposed (1) to require vessels navigating outside ports and harbors to maintain a VHF radio watch on Channel 16 (156.8 MHz); (2) to require vessels to maintain a radio log concerning this watch; and (3) to amend our rules concerning the ship reserve transmitter to conform to less stringent SOLAS requirements. We proposed to apply these rules to vessels subject to the Communications Act of 1934, as amended (vessels on national voyages) as well as to vessels subject to the SOLAS Convention (vessels on international voyages). This was consistent with previous Commission actions concerning IMO regulations to assure that vessels operating in the same waters are comparably equipped from a safety standpoint.

5. Comments were filed by the United States Coast Guard (USCG) concerning the Channel 16 watch and the VHF log requirements. The Radio Officers Union, District 3 of the National Marine Engineers' Beneficial Association, AFL-CIO (ROU) commented on the testing of the ships radiotelegraph reserve transmitter.

Channel 16 Watch Requirement

6. The proposed rules would require a radio watch on VHF Marine Channel 16 outside ports and harbors except when the vessel is keeping the required watch on the bridge-to-bridge radiotelephone frequency or when the vessel is participating in a Vessel Traffic Service (VTS) system as required by the U.S. Coast Guard and maintaining an efficient watch on the VTS frequency. We consider that the proposed radio watch on Channel 16, which provides communications between vessels operating outside port areas, will significantly improve the safety of life at sea for all ships operating in these sea areas. Consequently we proposed to extend these SOLAS requirements to vessels which are subject only to the Communications Act—those on national voyages. The USCG urged that these rules be applied to both vessels on national and international voyages.

7. However, the USCG states in its comments that the proposed changes which would permit vessels to discontinue the Channel 16 watch outside harbors and ports when the appropriate VTS frequency *or* bridge-to-bridge frequency is monitored may be in conflict with Section 83.224 of our rules which only permits the watch to be discontinued for vessels subject to the Bridge-to-Bridge Radiotelephone Act *and* participating in a VTS system when an efficient watch is maintained on both the bridge-to-bridge frequency *and* a separate assigned VTS frequency. To avoid this potential conflict and generally improve the safety of vessels, the USCG recommends that the Commission permit the Channel 16 watch in areas outside harbors and ports to be discontinued only if an efficient watch is maintained on the bridge-to-bridge frequency and the appropriate VTS frequency. We agree that the conditions for discontinuance of the watch recommended by the U.S. Coast Guard are appropriate and we have modified the final rules accordingly.

Radio Log Requirements

8. The radio log requirements for ship VHF radiotelephone stations subject to the Communications Act of 1934 and the SOLAS Convention will minimize the burden on operators and provide the necessary information for safety purposes. We received no comments opposing the log requirement which provides for:

—Entry of safety related communications;
—the times when the watch is begun, interrupted, and ended;
—a daily statement concerning the operating condition of the VHF radiotelephone equipment;
—details of service or maintenance work.

The rules concerning radio logs are adopted as proposed.

Testing of Reserve Radiotelegraph Transmitters

9. The rules presently in force require the reserve radiotelegraph transmitter to be tested prior to a vessel's departure from port and on each day the vessel is outside a port or harbor. We proposed in the Notice to accept the test procedure specified in the 1974 SOLAS Convention which was more flexible than the procedure set out in our rules. The SOLAS Convention requires testing if the transmitter is not used daily for communications and permits use of a suitable artificial antenna when testing of the reserve transmitter is required. The convention requires the transmitter to be tested at least once during each

[1] See Section 3(bb) of the Communications Act of 1934, as amended.

voyage with the reserve antenna if it is installed. The ROU feels that the transmitter and antenna should be tested daily and states that the failure rate of the antenna exceeds that of the transmitter which it argues militates against use of an artificial antenna for test purposes. However, after a careful review of this matter, we continue to believe that the testing procedure specified in the SOLAS Convention is adequate to assure system operability during a voyage and, further, will provide more flexibility than currently available under the rules. Accordingly, the present rules governing testing of the reserve transmitter will modified to align them with the less stringent requirements of the SOLAS Convention.

Conclusion

10. We are implementing these requirements on the effective date of the rules adopted in the Appendix and in advance of the September 1, 1984, date for the coming into force of the first set of amendments to the 1974 SOLAS Convention. We believe that the early introduction of these requirements will further improve the safety of life at sea.

11. Pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we certify that the proposed rules will not have a significant economic on a substantial number of small entities. Most vessels subject to these rules are operated by large concerns rather than small businesses. Additionally, because the large majority of vessels currently possess adequate equipment to comply with these rules, no additional cost should be incurred.

12. Regarding questions on matters in this document contact Robert C. McIntyre, 202/632–7175.

13. Accordingly, it is ordered, that under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), the Commission's rules are amended as set forth in the attached Appendix, effective December 6, 1983.

14. It is further ordered, that a copy of this Report and Order shall be sent to the Chief Council for Advocacy of the Small Business Administration.

15 It is further ordered, that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.202 footnotes 1 and 2 are deleted; paragraphs (a), (b) and (c) are revised to read as follows:

§ 83.202 Watch required on vessels subject to the Communications Act.

(a) Each ship of the United States which is equipped with a *radiotelegraph station* for compliance with Part II of Title III of the Communications Act shall:

(1) Keep a continuous and efficient watch on *500 kHz* by means of radio officers while being navigated in the open sea outside a harbor or port. In lieu thereof, on a cargo ship equipped with a radiotelegraph auto alarm in proper operating condition, an efficient watch on 500 kHz shall be maintained by means of a radio officer for at least 8 hours per day in the aggregate, i.e., for at least one-third of each day or portion of each day that the vessel is navigated in the open sea outside of a harbor or port;

(2) Keep a continuous and efficient watch on the radiotelephone distress frequency *2182 kHz* from the principal radio operating position *or* the room from which the vessel is normally steered while being navigated in the open sea outside a harbor or port. A radiotelephone distress frequency watch receiver having a loudspeaker and a radiotelephone auto-alarm facility shall be used to keep the continuous watch on 2182 kHz if such watch is kept from the room from which the vessel is normally steered. A radiotelephone auto-alarm facility may only be used after a determination by the master that conditions are such that maintenance of the listening watch would interfere with the safe navigation of the ship;

(3) Keep a continuous and efficient watch on the VHF distress frequency *156.8 MHz* from the room from which the vessel is normally steered while in the open sea outside a harbor or port. The watch shall be maintained by a designated member of the crew who may perform other duties, relating to the operating or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch. Use of a properly adjusted squelch or brief interruptions due to other nearby VHF transmissions are not considered to adversely affect the continuity or efficiency of the required watch on the VHF distress frequency. This watch need not be maintained by vessels subject to the Bridge-to-Bridge Radiotelephone Act and participating in a Vessel Traffic Services (VTS) system as required or recommended by the U.S. Coast Guard, when an efficient listening watch is maintained on both the bridge-to-bridge frequency and a separate assigned VTS frequency.

(b) Each cargo ship of the United States which is equipped with a *radiotelephone station* for compliance with Part II of Title III of the Communications Act shall while being navigated outside of a harbor or port:

(1) Keep a continuous and efficient watch on *2182 kHz* in the room from which the vessel is normally steered while at sea, whenever such station is not being used for authorized traffic. Such watch shall be maintained by at least one officer or member of the crew of the vessel who has been designated by the master to do so. The person designated by the master may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch. A radiotelephone watch receiver having a loudspeaker and a radiotelephone auto alarm facility shall be used to keep the continuous watch on 2182 kHz. A radiotelephone auto alarm facility may only be used after a determination by the master that conditions are such that maintenance of the listening watch would interfere with the safe navigation of the ship;

(2) Keep a continuous and efficient watch on the VHF distress frequency *156.8 MHz* from the room from which the vessel is normally steered. The watch shall be maintained by a designated member of the crew who may peform other duties, relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch. Use of properly adjusted squelch or brief interruptions due to other nearby VHF transmissions are not considered to adversely affect the continuity or effectiveness of the required watch on the VHF distress frequency. This watch need not be maintained by vessels subject to the Bridge-to-Bridge Radiotelephone Act and participating in a Vessel Traffic Services (VTS) system as required or recommended by the U.S. Coast Guard, when an efficient listening watch is maintained on both the bridge-to-bridge frequency and a separate assigned VTS frequency.

(c) Each vessel of the United States transporting more than six passengers for hire, which is equipped with a *radiotelephone installation* for compliance with Part III of Title III of the Communications Act shall, while being navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or contiguous to

the open sea, keep a continuous and efficient watch on *2182 kHz* while the vessel is beyond VHF communication range of the nearest VHF coast station, whenever such installation is not being used for authorized traffic. A VHF watch shall be kept on *156.8 MHz* whenever such installation is not being used for authorized traffic. The VHF watch shall be maintained at the vessel's steering station actually in use by the qualified operator as defined by § 83.155(e) of this part, or by a designated member of the crew who has been instructed in radio operation and voice procedure by the radio operator. The crew member so designated may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch. The use of a properly adjusted squelch is not considered to adversely affect the continuity or the effectiveness of the required watch on the VHF distress frequency. The VHF watch need not be maintained by vessels subject to the Bridge-to-Bridge Radiotelephone Act and participating in a Vessel Traffic Services (VTS) system as required or recommended by the U.S. Coast Guard, when an efficient listening watch is maintained on both the bridge-to-bridge frequency and a separate assigned VTS frequency.

2. In § 83.203 the heading is revised and a new paragraph (d) is added to read as follows:

§ 83.203 Watch required on vessels subject to the Safety Convention.

* * * * *

(d) Each ship of the United States subject to the Safety Convention shall maintain a continuous and efficient watch while in the open sea outside a harbor or port on the VHF distress frequency 156.8 MHz. The watch shall be maintained by a designated member of the crew who may perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch. Use of properly adjusted squelch or brief interruptions due to other nearby VHF transmissions are not considered to adversely affect the continuity or effectiveness of the required watch on the VHF distress frequency. This watch need not be maintained by vessels subject to the Bridge-to-Bridge Radiotelephone Act and participating in a Vessel Traffic Services (VTS) system as required or recommended by the U.S. Coast Guard, when an efficient listening watch is maintained on both the bridge-to-bridge frequency and a separate assigned VTS frequency.

3. In § 83.368 paragraph (e) is revised to read as follows:

§ 83.368 Radiotelephone station log.

* * * * *

(e) The log of the bridge-to-bridge station required by the vessel Bridge-to-Bridge Radiotelephone Act and the log of ship VHF radiotelephone stations subject to Part II of Title III, of the Communications Act of 1934 or to the provisions of the Safety Convention shall include the following entries:

* * * * *

4. In § 83.449 paragraph (a)(4) is revised to read as follows:

§ 83.449 Tests of reserve installation and automatic radiotelegraph alarm signal keyer.

(a) * * *

(4) On days when not used for communication the reserve transmitter energized by the reserve power supply shall be tested by actual operation when connected to the main antenna, an artificial antenna or a reserve antenna (if installed, the reserve antenna must be used at least once each voyage), noting antenna currents;

* * * * *

5. In Subpart BB the title is revised to read as follows:

Subpart BB—VHF Radiotelephone Stations Provided for Compliance With Part II of Title III of the Communications Act or the Provisions of the Safety Convention

6. In § 83.851 paragraphs (a) and (d) are revised to read as follows:

§ 83.851 VHF radiotelephone station.

(a) The provisions of this subpart are applicable to the VHF radiotelephone station required to be provided on all passenger ships irrespective of size and all cargo ships of 300 gross tons and upwards subject to Part II, Title III of the Communications Act or to the Safety Convention. Vessels subject only to the Communications Act may use a VHF radiotelephone installation complying with the technical standards of the Bridge-to-Bridge Radiotelephone Act in Subpart X of this Chapter to satisfy the watch requirements of § 83.202 (a)(3) and (b)(2) provided that the equipment can transmit and receive on 156.8 MHz.

* * * * *

(d) The radiotelephone stations on vessels subject to Part II, Title III, of the Communications Act shall be capable of operating on the frequency 156.8 MHz and in other respects shall meet the requirements of § 83.106(b). The radiotelephone station on vessels subject to the Safety Convention shall be capable of operating in the simplex mode on the ship station transmitting frequencies specified in the frequency band 156.025 MHz to 157.425 MHz and in the semiduplex mode on the two frequency channels specified in the following table:

* * * * *

[FR Doc. 83-29703 Filed 11-2-83; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 48, No. 214
Thursday, November 3, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program; Claim and Report Submission

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the Summer Food Service Program (SFSP) regulation, Part 225, to mandate that claims be submitted to the State agency within 60 days of the claiming month and that the State agency submit its Program reports to the Department within 90 days of the month covered by the report. This rule also proposes that exceptions to these limits may be granted at the discretion of the Secretary. Furthermore, this proposal specifies appeal rights in the case of request for exceptions. This rule is intended to ensure that timely and accurate data is reported on Program participation.

DATES: All interested parties are invited to comment on this proposal. Comments must be received on or before December 5, 1983, to be assured of consideration in the final rule.

ADDRESS: Written comments should be sent to Mr. Stanley C. Garnett, Acting Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley C. Garnett at the above address or by telephone at (703) 756–3620. Copies of all written comments will be available for review during normal business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at Room 509, 3101 Park Center Drive, Alexandria, Virginia 22302.

SUPPLEMENTARY INFORMATION:

Classification

This rulemaking has been reviewed in accordance with Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or the ability of U.S. enterprises to compete with foreign based enterprises. This rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on the substantial number of small entities.

Although this rule does establiish certain reporting deadlines, the actual reporting or recordkeeping requirements associated with the rule have not been changed. The requirements for the SFSP Claim for Reimbursement Form (FNS–143) have been approved by the Office of Management and Budget (OMB) for use through September 30, 1984 (0584–0041). The monthly report (FNS–44) and the form used to adjust this report (FNS–44A) were approved by OMB for use through December 31, 1985 (0584–0057).

Background

The SFSP is authorized by section 13 of the National School Lunch Act. The last comprehensive regulations for the SFSP were published on February 16, 1982, (47 FR 6790). However, on May 10, 1983, (48 FR 20896) an amendment to the final rule was published to implement a provision mandated by Pub. L. 97–370 that required sponsors to submit claims to the State agency within 60 days of the claiming month and required that the State agency submit the Program report to the Department within 90 days of the month covered by the report. The law further provided that exceptions to these time limits may be made at the decretion of the Secretary. That rule amended both the SFSP and the Child Care Food Program.

This provison was included in the law because in the past, the Department has experienced serious delays in receiving complete and accurate data on participation in the SFSP. Timely and accurate submission of data is essential to retain control of the financial and administrative aspects of the Program. This reporting system helps ensure that sponsors are receiving disbursements of monies expeditiously and enables the Department to closely monitor Program activities and make projections for the following year. The May 10, 1983, rule was effective only for Fiscal Year 1983. However, the Department considers that the circumstances which occasioned the claim and report submission provision in Pub. L. 97–370 must not be allowed to reoccur. Therefore, the Department is now proposing the following permanent amendments to the SFSP regulations, to be effective during Fiscal Year 1984 and thereafter.

1. Deadlines for Submission of Final Claims and Reports

The Department is proposing to require sponsors to submit their final claims for reimbursement to the State agency within 60 days of the month covered by the claim. The 60 day requirement is the maximum amount of time to be allowed to the sponsors for submission of claims; however, State agencies will have the discretion to establish earlier time limits, if they so choose. The food service management companies will be required to submit all Program costs incurred by the sponsor in sufficient time to allow the sponsor to prepare and submit its claim for reimbursement to meet the 60 day submission deadline.

In addition to the requirement that sponsors submit complete and accurate claims in a timely manner, the State agencies will be required to submit their final monthly reports (FNS–44) on SFSP participation within 90 days following the end of the month covered by the report. These time limits are the same as those established in the final regulation on May 10, 1983 (48 FR 20896) which was only effective for Fiscal Year 1983, and are intended to enable both the State agencies and sponsors to deal with delays that may occur from time to time, while still ensuring that the Department receives the necessary data in a timely manner.

The Department emphasizes that sponsors shall not be paid unless the claim is submitted within the 60 day timeframe, and that States shall not be authorized to receive Program funds unless the report is submitted within 90 days after the end of the month covered by the report unless FNS grants an

exception. The deadline dates for submission of the Claim for Reimbursement (FNS–143) or the Program Operations Report (FNS–44) are based on the "postmarked and/or submitted" time to the State agencies or FNS, as appropriate. The language "postmarked and/or submitted" would allow either the sponsor or the State agency to mail or deliver these documents.

This proposed rule also revises the deadline for submission of the final Financial Status Reports (SF–269s) by State agencies. It is proposed that these reports be postmarked and/or submitted to FNS within 120 days after the end of the fiscal year instead of the current 150 days. The revised deadline would allow State agencies 60 days, after claims for reimbursement for the last month of the fiscal year are due, in which to finalize payments to sponsors and close program accounts for the fiscal year. When the current 150 day deadline was established, claims for reimbursement were due 90 days after the end of the fiscal year. This allowed State agencies 60 days in which to finalize their program activities. The proposed 120 day deadline for the final SF–269 would maintain this 60 day time period for State agencies and provide a more timely program closeout.

2. Adjustments

The Department expects that all claims and reports submitted by the 60th and 90th days respectively will be final and will contain the most accurate data available at the time of submission. Nevertheless, the Department recognizes that on occasion, adjustments to claims and reports will be required. Such adjustments may be due to the discovery of errors after the 60 or 90 day submission or may be required as a result of audit or review findings. Downward adjustments shall always be made to reflect the fact that all or part of a final claim was not properly payable, regardless of when the overpayment is discovered. The current regulations require recovery of payments to sponsors not properly payable, unless an audit or a management evaluation is being conducted. When overpayments are collected, it is imperative that the report filed by the State agency be adjusted. Also, the final reports which overstate number of meals served shall be adjusted downward, regardless of when the overstatement is discovered.

Upward adjustments may be made on the following basis. If a claim has been submitted within the 60 day timeframe, the State agency has the option to make an upward adjustment only if the adjustment is completed in time to be reflected in the final FNS–44 report for the month claimed, due within 90 days of the claim month. However, only FNS can grant an exception to adjust either the claim or the report upward if such adjustments are requested after the 90 day time limit for submission of the final FNS–44 report.

3. Exceptions

To ensure uniform implementation of the deadline for submitting both claims and reports and for making upward adjustments, except as specified above, may be granted only by FNS on a case-by-case basis. As mentioned above, the State agency may elect to make upward adjustments to claims after the 60th day has passed, provided that the claim was properly submitted by the 60th day and that the adjustment can be made in time to be reflected in the State's final FNS–44 report. Moreover, the same principle would apply if the State agency discovers that a sponsor inadvertently has been underpaid. Furthermore, the State agency is *not* required to act upon requests for upward adjustments submitted after the 60 day claiming deadline, but prior to the 90 day reporting deadline. Moreover, if a request for an upward adjustment is not submitted in time to be included in the State's final FNS–44, *only* FNS can grant an exception since it would also be necessary to grant the State an exception to the 90 day reporting deadline. Finally, if a claim is submitted after the 60 day deadline, the claim can be paid *only* if FNS grants an exception.

The Department believes that the timeframes established for submission of claims and reports allows each responsible party sufficient time to prepare and submit final documents based on actual data. Therefore, in order to receive an exception, it will be necessary for the sponsor or the State agency, as appropriate, to demonstrate that an exception is justified.

4. Appeals

Because of the nature of the exceptions process, disapprovals by FNS of requests for exceptions will not be subject to review by State hearing officials or, in the case of Regional Office administered programs (ROAPs), by the FNS Administrative Review Staff. Section 13(n) of the National School Lunch Act establishes fair hearings for sponsors aggrieved by State action. Section 16(b) of the Child Nutrition Act authorizes the Secretary of Agriculture to settle, adjust, compromise or deny any claim arising under that Act or the National School Lunch Act. This authority has been delegated to the Administrator or FNS and FNS Regional Administrators and is not subject to delegation to States. Because the final decision concerning the exception request will not be "State action," no appeal is required by Section 13. Institutions may appeal the decision by the State agency not to forward an exception request for a final decision, since in these instances the appeals would involve administrative decisions which are "State action".

5. Sanctions

The Department also proposes in § 225.4(e) that corrective action may be required if State agencies consistently submit inaccurate data which later requires adjustments. As noted above, the Department will approve upward adjustments to reports after the submission deadline only if the State can demonstrate that an exception to the 90 day limit is justified. In the case of downward adjustments, modifications must always be made. However, if the downward adjustment is needed because of an error on the State's part of because the State agency submitted estimated data on its final report, appropriate corrective action would be required to ensure that this situation does not continue. In this regard, the Department also proposes that failure to submit accurate final reports within 90 days may also result in sanctions against the State's administrative funds. Under this proposal, such failure could result in the loss of up to one hundred percent of the administrative funds to which a State agency is entitled during a fiscal year.

List of Subjects in 7 CFR Part 225

Food assistance programs, Grant programs-health, Infants and children, Reporting and recordkeeping requirements, Surplus agriculture commodities.

Accordingly, the Department is proposing to amend 7 CFR 225 as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM

1. In § 225.4 paragraph (c) is revised and a new sentence is added to the end of paragraph (e) to read as follows:

§ 225.4 Payment to State agencies and use of Program funds.

* * * * *

(c) *Remaining funds.* FNS shall make available any remaining Program funds due within 45 days of the receipt of valid Claims for Reimbursement from

sponsors by the State agency. However no payment shall be made for claims submitted later than 60 days after the claiming month.

* * * * *

(e) * * * If a State agency fails to submit timely and accurate reports under § 225.10(c) of this Part, State administrative funds payable under this paragraph shall be subject to sanction. For such failure, FNS may recover, withhold or cancel payment of up to one hundred percent of the funds payable to the State agency under this paragraph during the fiscal year.

* * * * *

2. Section 225.10 paragraph (c) and the first sentence of paragraph (d) are revised to read as follows:

§ 225.10 Records and reports.

* * * * *

(c) Each State agency shall submit to FNS a final report on the Summer Food Service Program Operations (FNS–44) for each month no more than 90 days following the last day of the month covered by the report. States shall not receive Program funds for any month for which the final report is not postmarked and/or submitted within this time limit unless FNS grants an exception. Upward adjustments to a State's report shall not be made after 90 days from the month covered by the report unless an exception is granted by FNS. Downward adjustments shall always be made regardless of when it is determined that such adjustments need to be made. Each State agency shall also submit to FNS a quarterly Financial Status Report (SF–269) on the use of Program funds. Such reports shall be submitted no later than 30 days after the end of each fiscal year quarter. Obligations shall be reported only for the fiscal year in which they occur. Corrective action may be taken against the State agencies, as stated in section 225.4(e) for failure to submit acurate and timely reports. Consistent failure to submit these documents may result in loss of up to one hundred percent of the State administrative funds available under 225.4(e)

(d) The State agency must submit to FNS the final Program Operational and Financial States Report no later than 120 days after the end of the fiscal year, on a form (SF–269) provided by FNS.* * *

* * * * *

3. Section 225.11 paragraph (c)(2), (c)(5), and (c)(6) are removed, and paragraphs (c)(3), (4), (7), (8), (9), (10), (11), (12) and (13) are redesignated as paragraph (c)(2), (3), (4), (5), (6), (7), (8), (9) and (10). In addition, newly redesignated paragraphs (c)(4) and (c)(5) are revised to read as follows:

§ 225.11 Program payments.

* * * * *

(c)* * *

(4) Claims for reimbursement shall report information in accordance with the financial managemnt system established by the State agency, and in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the Reports of the Summer Food Program Service Operations required uner § 225.10(c). In submitting a claim for reimbursement, each sponsor shall certify that the claim is correct and that records are available to support the claim. The cost of meals served to adults performing necessary food service labor and the costs of meals disallowed by the State agency may be included in the claim. The State agency may choose to allow sponsors to include the cost of meals disallowed as meals served to the children, in accordance with § 225.13(e) (1) and (2) in its report of operating costs on its claim for reimbursement. In no case shall the cost of meals in excess of the site's approved level of meal service established under § 225.7(j) be considered allowable.

(5) A final Claim for Reimbursement shall be postmarked and/or submitted to the State agency not later than 60 days following the last day of the month covered by the claim. State agencies may establish shorter deadlines at their discretion. Claims not filed within 60 days shall not be paid unless FNS determines that an exception should be granted. The State agency shall promptly take corrective action with respect to any Claim for Reimbursement as determined necessary through its claim review process or otherwise. In taking such corrective action, State agencies may make upward adjustments in amounts claimed on claims filed within the 60 day deadline if such adjustments are completed within 90 days of the last day of the claim month and are reflected in the final Program Operations and Financial Status Report (FNS–44) for the claim month. Downward adjustments in amounts claimed shall always be made regardless of when it is determined that such adjustments are necessary. Upward adjustments in amounts claimed which are not relfected in the final FNS–44 for the claim month cannot be made unless an exception is granted by FNS.

* * * * *

4. Section 225.15(a) is revised to read as follows:

§ 225.15 Appeal procedures.

(a) Each State agency shall establish a procedure to be followed by an applicant requesting a review of a denial of an application for participation, a denial of a request by a sponsor for an advance payment, a denial of a claim by a sponsor for reimbursement, a denial by the State agency to forward an appeal exception request by the sponsor for an upward adjustment on the claim for reimbursement, a claim against a sponsor for remittance of a payment, the termination of the sponsor or a site, a denial of a sponsor's application for a site, a denial of a food service management company's application for registration, or revocation of that registration. Appeals shall not be allowed on decisions made by FNS on request for exceptions to the claim submission deadlines as stated in § 225.11(c)(5).

* * * * *

5. Section 225.16, a new paragraph (e)(13) is added to read as follows:

§225.16 Procedures for food service management companies.

* * * * *

(e) * * *

(13) The food service management companies shall submit all costs incurred pertaining to the sponsor's food service operation in sufficient time to allow the sponsor to prepare and submit the claim for reimbursement to meet the 60 day submission deadline.

* * * * *

6. Section 225.19(e) is revised to read as follows:

§ 225.19 Operational responsibilities of sponsors.

* * * * *

(e) Sponsors shall submit claims for reimbursement only for meals served to children in accordance with this part. All final claims must be submitted to the State agency within 60 days following the month covered by the claim.

* * * * *

(Sec. 2, Pub. L. 95–627, 92 Stat. 3603, 42 U.S.C. 1766 and Pub. L. 97–370)

Dated: October 28, 1983.

Robert E. Leard,

Administrator Food and Nutrition Service.

[FR Doc. 83–30000 Filed 11–2–83; 8:45 am]

BILLING CODE 3410–30–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 51

Reopening of Comment Period on Limited Proposed Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Reopening of comment period.

SUMMARY: In response to public comments, the Commission has decided to reopen the comment period on its fourth finding in its Waste Confidence decision and on an associated proposed amendment to 10 CFR Parts 50 and 51. The fourth finding states:

"The Commission finds reasonable assurance that, if necessary, spent fuel can be stored safely and without significant environmental effects for at least 30 years beyond the expiration of reactor operating licenses at reactor spent fuel storage basins, or at either onsite or offsite independent spent fuel storage installations."

This finding was based in part on the Commission's determination that there are no significant non-radiological consequences which could adversely affect the environment if spent fuel is stored beyond the expiration of operating power reactor licenses. Radiological consequences were addressed more specifically in other findings.

Comments are to be limited to 20 pages and are to address only the significance of environmental impacts of extended spent fuel storage, since safety matters in the Commission's decision have already been commented on by participants in this proceeding.

DATES: Comments should be filed with the Commission's Secretary not later than December 6, 1983. Comment received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received before this date.

ADDRESSES: Send comments to:

Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch

Hand-deliver comment to: Room 1121, 1717 H Street NW., Washington, DC, between 8:15 a.m. and 5:00 p.m.

Examine comments received at: the NRC Public Document Room 1717 H Street NW., Washington, DC

FOR FURTHER INFORMATION CONTACT:

Dennis Rathbun or Clyde Jupiter, Office of Policy Evaluation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (202) 634–3295

Sheldon L. Trubatch, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, (202) 634–3224

SUPPLEMENTARY INFORMATION: Since October 1979 the Nuclear Regulatory Commission ("NRC" or "Commission") has been conducting a generic rulemaking proceeding known as the "Waste Confidence" proceeding (44 FR 61372, October 25, 1979). On May 16, 1983 the Commission issued a proposed decision in that proceeding. The Commission made five findings on the feasibility of disposal of high-level radioactive waste and spent fuel, the timeliness of availability of disposal capacity and the safety and environmental impacts of the storage of spent fuel for up to thirty years after the expiration of reactor operating licenses. The Commission's request for comments by participants was limited to two issues: (1) Implications of the Nuclear Waste Policy Act of 1982 for the Commission's decision, and (2) the Commission's discussion of the safety of dry storage of spent nuclear fuel.

In a companion action, on May 20, 1983, 48 FR 22730, the Commission proposed an amendment to its NEPA rules in the 10 CFR Part 51 rule regarding the consideration of environmental impacts of the extended storage of spent fuel beyond the licensed operating period of a nuclear power reactor or independent spent fuel storage installation. The Commission found that extended storage for up to thirty years after the expiration of operating licenses at nuclear power plants or at independent spent fuel storage installations will result in no significant safety or environmental impacts. This finding was based on the record of the Waste Confidence proceeding and the NRC's experience with more than eighty individual safety and environmental evaluations conducted in storage licensing proceedings.

In particular, the Commission found that significant release of radioactivity from spent fuel under licensed storage conditions is highly unlikely because of the resistance of spent fuel cladding to corrosive mechanisms, the benign character of the storage system, the ease of maintenance and the absence of conditions that would provide a driving force for disposal of radioactive material. The Commission also found that the non-radiological environmental impacts from spent fuel storage are insignificant. With the possible exception of impacts associated with the site preparation and storage facility construction there are no other significant non-radiological consequences which could adversely affect the environment as a result of storage past the expiration of operating licenses at reactors or at independent spent fuel storage installations.

Some participants in the Waste Confidence proceeding commented that there had been no notice of the Commission's intent to make this environmental finding. Because that finding supports the proposed amendment to Part 51 of the Commission's rules, some of those who commented on the proposed rule contended that they had an inadequate opportunity to comment on the basis of the proposed rule.

The Commission has decided to provide the public an opportunity to comment on: (1) The environmental aspects of its fourth finding—that it has reasonable assurance that, if necessary, spent fuel can be stored without significant environmental effects for at least 30 years beyond the expiration of reactor operaitng licenses at reactor spent fuel storage basins, or at either onsite or offsite independent spent fuel storage installations; (2) the detemrination that there are no significant non-radiological consequences which could adversely affect the environment if spent fuel is stored beyond the expiration of operating licenses either at reactors or at independent spent fuel storage installations; and (3) implications of comments on items (1) and (2) above for the proposed amendment to 10 CFR Part 51.

Comments on the Commission's finding and supporting determination should include a detailed discussion of any environmental impacts associated with the extended storage of spent fuel and should explain how, in the commenter's view, consideration of those impacts should modify the Commission's decision.

Dated at Washington, DC, this 31st day of October 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83–29809 Filed 11–3–83; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is publishing its agenda of regulations for October 1983. The agenda includes descriptions of final rules adopted during the past six months, proposed amendments to FDIC regulations, and regulations under development.

FOR FURTHER INFORMATION CONTACT: John R. Keiper, Jr., Paperwork and Regulation Control Coordinator, Office of the Executive Secretary, telephone (202) 389–4351, or other persons identified under regulations listed in the agenda. The address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agendas is in accordance with both the Regulatory Flexibility Act (Sec. 3, Pub. No. 96–354; 94 Stat. 1166 (5 U.S.C. 602)) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979).

Based on an assessment by the staff, none of the regulations listed in this agenda is expected to have a significant economic impact on a substantial number of small entities, except as otherwise noted. FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

Interested persons may petition the FDIC for the issuance, amendment or repeal of any regulation by submitting a written petition to the Executive Secretary. Petitioners should include complete and concise statements of their interests in the subject matters and reasons why the petitions should be granted.

Section A—PROPOSALS OUTSTANDING

Proposed amendments to regulations listed under this heading have been published for comment and have not yet been issued in final form.

1. Credit Card Agreements and Check Guarantees

(12 CFR Parts 332 and 337)

The FDIC published proposed amendments to its regulations that would allow banks: (1) To sponsor their customers in credit card programs offered by other banks, and (2) to issue check guarantee cards (46 FR 31018, June 12, 1981). The proposal would provide a narrow exemption from prohibitions in the regulations against banks guaranteeing the obligations of third parties.

Comments were due by August 11, 1981.

FDIC postponed final action on these amendments pending the completion of an analysis of the underlying regulations Part 332 and Part 337. Amendments to Part 332 were being evaluated which may have made the proposed exemptions unnecessary.

The FDIC staff currently is preparing the memoranda and documents necessary to withdraw the proposal published in June 1981 because of its stale date and to issue a similar proposal as a proposed regulation. The revised proposed regulation would permit basically the same activities as those originally proposed and would incorporate suggestions received during the initial comment period.

It is anticipated that the withdrawal and publication of revised proposed regulations will be completed during 1983. Because of the time required for the comment period and any subsequent reanalysis arising therefrom, final regulations, if adopted, may not be in place prior to the end of 1983.

For further information, contact Janis R. Blake, Attorney, Legal Division, telephone (202) 389–4446.

2. Special Reporting Basis for Insured Savings Banks

(12 CFR Part 350)

On May 24, 1982, the FDIC proposed a new regulation that would require current value reporting of all debt and equity securities acquired by a savings bank on or after January 1, 1983, for purposes of the reports of condition and income filed with the FDIC by savings banks, and that would permit savings banks to defer and amortize gains and losses on dispositions of financial assets acquired prior to January 1, 1983 (47 FR 23743, June 1, 1982). The regulation would provide savings banks with an opportunity to restructure their asset portfolios and place a market discipline over decisions to acquire or hold investment securities.

Comments were due by August 2, 1982.

Subsequent to the issuance of the proposed regulation, the FDIC staff and staff of the other Federal financial institutions regulatory agencies have been studying current value accounting applications for all financial institutions. This issue remains under continuing study and, therefore, final action on the proposed Part 350 has been postponed.

For further information contact Paul L. Sachtleben, Projects and Planning Specialist, Division of Bank Supervision, telephone (202) 389–4141.

3. Maximum Balance Restriction on Savings Deposits

(12 CFR Part 329)

On August 2, 1982, the FDIC published a proposed amendment to its regulations that would remove the $150,000 maximum balance limitation that applies to savings deposits accepted by commercial banks from corporations, partnerships, associations or certain other organizations (47 FR 33276, August 2, 1982). The amendment was proposed to allow commercial banks to compete for funds more effectively.

Comments were due by October 1, 1982.

The FDIC Board of Directors has decided to defer action on this amendment until the Depository Institutions Deregulation Committee (DIDC) addresses the issue of eligibility for "Super NOW" accounts. The DIDC's position on this issue may impact on FDIC's action.

For further information, contact Peter Kravitz, Senior Attorney, Legal Division, telephone (202) 389–4171.

4. Securities of Insured Nonmember Banks

(12 CFR Part 335)

The FDIC proposed an amendment to its securities disclosure regulation in accordance with the Securities Exchange Act of 1934, which requires that the FDIC issue regulations substantially similar to regulations of the Securities and Exchange Commission ("SEC"), or publish reasons for not doing so (47 FR 53893, November 30, 1982). The proposed amendment conforms to recent changes to SEC regulations.

Comments were due by December 30, 1982.

For further information, contact Gerald J. Gervino, Senior Attorney, telephone (202) 389–4171, or Mulford H. Smith, Senior Financial Analyst, telephone (202) 389–4651.

5. Unsafe and Unsound Banking Practices

(12 CFR Part 337)

In its policy statement concerning the applicability of the Glass Steagall Act to securities activities of subsidiaries of insured nonmember banks (47 FR 38984, September 3, 1982), the FDIC Board of Directors expressed its opinion that the Act does not prohibit an insured nonmember bank from establishing an affiliate relationship with, or organizing or acquiring, a subsidiary corporation that engages in securities activities. In this connection, the FDIC proposed for public comment an amendment to its regulations that would: (1) Define "bona fied" subsidiary, (2) limit a bank's permissible investment in a securities subsidiary, (3) require notice of intent to invest in such a subsidiary, (4) limit the permissible securities activities of nonmember bank subsidiaries, and (5) place certain other restrictions on loans, extensions of credit, and other transactions between nonmember banks and their subsidiaries or affiliates that engage in securities activities (48 FR 22155, May 17, 1983).

The staff anticipates that this proposal will have a significant economic impact on a substantial number of small entities and, therefore, a regulatory flexibility analysis has been prepared.

On June 17, 1983 the FDIC held a public hearing on the proposal at the FDIC Building, 550 17th Street, N.W., Washington, D.C. The comment period on the proposal close on July 18, 1983. Comments are currently being reviewed.

For further information, contact Pamela E. F. LeCren, Senior Attorney, Legal Division, telephone (202) 389–4171.

6. Deposit Insurance Coverage

(12 CFR Part 330)

On July 15, 1983, the FDIC published a proposed rule which would include in the definition of "insured deposit" for insured commercial and savings banks the amount of accrued earnings (either interest or dividends) (48 FR 32356–57, July 15, 1983). This proposal would facilitate the FDIC's insurance activities in paying off deposits at an FDIC-insured depository institution.

Comments were due on or before September 13, 1983.

For further information, contact Roger A. Hood, Assistant General Counsel, or Fredric H. Karr, Attorney, Legal Division, telephone (202) 389–4171.

7. Deposit-Placement Activities

(12 CFR Parts 330 and 337)

The FDIC has developed an advance notice of proposed rulemaking to solicit comments on certain deposit-brokering and brokering-type activities in the banking industry. The F.D.I.C. is concerned that such activities result in a flow of funds, within the insured limits, into banks which are financially unstable and/or poorly managed. The advance notice also solicits views on whether the multiple insurance coverage afforded in connection with pension fund and other custodial accounts fails to encourage market and bank analyses in the placement of such deposits with insured banks.

Comments are due by November 28, 1983.

For further information, contact Joseph A. DiNuzzo, Senior Attorney, Legal Division, telephone (202) 389–4171.

8. Disclosure of Insider Indebtedness

(12 CFR Parts 304 and 349)

The Federal Deposit Insurance Corporation "FDIC") has proposed to amend Parts 304 and 349 of its regulations which require annual reports of ownership of insured State nonmember banks and insider indebtedness to insured State nonmember banks and their correspondent banks (48 FR 49517, October 26, 1983). The proposal implements the amendments to section 7(k) of the Federal Deposit Insurance Act ("FDI Act") and section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 ("BHCA Amendments") contained in sections 428 and 429 of the Garn-St Germain Depository Institutions Act of 1982 ("Garn-St Germain Act"). It reduces the existing reporting burden for banks and provides more meaningful information to the public. The proposal requires an insured State nonmember bank to disclose, upon request, the n ames of its executive officers and principal shareholders who (along with their related interests) have substantial borrowings from the bank or its correspondent banks. The reporting and disclosure requirements of the proposal will apply to institutions, such as mutual savings banks, not previously subject to the reporting and disclosure provisions of section 7(k) of the FDI Act and section 106(b)(2) of the BHCA Amendments as they existed prior to amendment by the Garn-St Germain Act in 1982. The proposed amendments also restate the existing statutory requirement which requires insiders to report to the board of directors of their bank any indebtedness to the correspondent banks of that bank.

Comments are due by November 25, 1983.

For further information, contact Robert E. Feldman, Attorney, Legal Division, telephone (202) 389–4171.

Section B–POTENTIAL ACTIONS

Entries under this heading describe regulations that are either being developed or are anticipated to be developed for consideration by FDIC's Board of Directors. Entries are the result of evaluations of present circumstances; consequently, subsequent action may be taken on matters not included or may not be taken on matters included.

1. Investments in Bank Service Corporations

(12 CFR Parts 303 and 304)

The Garn-St Germain Depository Institutions Act of 1982 empowers banks insured by the FDIC to invest in corporations that engage in "banking" activities. Banks that wish to take advantage of the authority conferred by the Garn-St Germain Depository Institutions Act of 1982 must first obtain the approval of their primary regulator.

The FDIC staff is developing a form for use by nonmember insured banks applying for the FDIC's permission to make investments of this kind.

For further information, contact Jules Bernard, Senior Attorney, Legal Division, telephone (202) 389–4171.

2. Rules of Practice and Procedures

(12 CFR Parts 308)

The Legal Division, in conjunction with the Office of the Executive Secretary, is developing a proposed amendment to Part 308 of the FDIC's Rules and Regulations. Part 308 governs the rules and procedures applicable to hearings held concerning administrative enforcement proceedings initiated by the FDIC. The development of this proposal is being undertaken in order to clarify procedural issues raised in connection with Part 308.

For further information, contact Christine C. A. Tullio, Attorney, Legal Division, telephone (202) 389–4171.

3. Interest on Deposits

(12 CFR Parts 329)

In light of action taken at the June DIDC meeting substantially deregulating time deposits effective October 1, 1983, the Legal Division is preparing a substantial revision of Part 329 to conform to the DIDC's action.

For further information, contact F. Douglas Birdzell, Counsel, or Jules

Bernard, Senior Attorney, both on (202) 389–4171.

4. Activities of Insured Banks; Real Estate, Insurance Brokerage and Underwriting, Data Processing for Third Parties, and Travel Agency Activities; Advance Notice of Proposed Rulemaking

(12 CFR Parts 332, 333, and 337)

On August 30, 1983 the Board of Directors adopted an Advance Notice of Proposed Rulemaking soliciting comment on the need for rulemaking to govern the direct or indirect involvement of insured banks in the following activities: Real estate or insurance brokerage and underwriting; data processing for third parties; travel agency activities; and other financially-related activities. Specifically FDIC is soliciting comment on whether or not such activities on the part of insured banks pose any safety and soundness problems, present any conflicts of interest, or are consistent with the purposes of Federal Deposit Insurance. Comment is also being solicited as to whether or not limitations should be imposed on the ability of a firm engaged in any of the subject activities to own an insured bank (48 FR 40900, September 12, 1983).

Comments are due by November 14, 1983.

For further information, contact Pamela E. F. LeCren, Senior Attorney, or Barbara R. Messé, Attorney, Legal Division, telephone (202) 389–4171; John F. Bovenzi, Division of Research and Strategic Planning, telephone (202) 389–4321; or Ken A. Quincy, Planning and Program Development Specialist, Division of Bank Supervision, telephone (202) 389–4141.

5. Employee Responsibilities and Conduct

(12 CFR Part 336)

The FDIC will shortly propose a revision of Part 336 of its rules and regulations, which governs the standards of ethical and other conduct of FDIC employees. Significant changes include increasing the categories of employees subject to credit restrictions; permitting assumptions of home mortgage loans from prohibited creditors; easing existing restrictions on credit from affiliates of prohibited creditors; easing existing restrictions on ownership of bank securities; reporting of family member employment by insured banks; and increasing the categories of employees reporting indebtedness. In addition, the regulation has been redrafted in simple English and reorganized along functional lines.

Comments will be due within sixty days following Federal Register publication.

For further information contact Hoyle L. Robinson, Executive Secretary and Ethics Counselor, at (202) 389–4425, or Emily F. Samaha, Deputy Ethics Counselor, at (202) 389–4446.

6. Securities Recordkeeping and Confirmations

(12 CFR Part 344)

Part 344 of the FDIC's regulations covers brokerage-type securities transactions by banks. It requires that certain minimum records be maintained and that confirmations be sent to customers and contains other provisions. It was issued through the Federal Financial Institutions Examination Council on an interagency basis in 1979. All three Federal bank regulatory agencies have almost identical regulations. After several years of experience with these regulations, some changes may be desirable. These changes include, possibly, reformatting the regulations to improve their organization and clarity and reducing some of the recordkeeping and reporting burden. The three banking agencies, as a joint effort under the Examination Council, will review these regulations to determine the specific changes to be proposed.

For further information, contact John F. Harvey, Review Unit Chief, Division of Bank Supervision, telephone (202) 389–4295.

Section C—FINAL RULES ISSUED FROM MAY 16, 1983 THROUGH SEPTEMBER 30, 1983

1. Termination of Insured Status

(12 CFR Part 307)

Effective May 31, 1983 the FDIC amended its regulation governing the notice procedures to be followed by a bank whose insured status has been terminated other than by an action of the FDIC Board of Directors (48 FR 24030, May 31, 1983). The amendment removed the requirement that an assuming or resulting bank or institution which has assumed the liabilities of an insured bank give notice of the assumption to the depositors of the bank whose liabilities have been assumed. The changes were made to conform the FDIC's regulation to the Garn-St Germain Depository Institutions Act of 1982. The Garn-St Germain Depository Institutions Act of 1982 deleted from the Federal Deposit Insurance Act the primary authority for the provisions of Part 307 which were eliminated.

For further information, contact MaryBeth Triano, Attorney, Legal Division, telephone (202) 389–4151.

2. Disclosure of Information

(12 CFR 309)

The FDIC amended its regulations, effective May 31, 1983, to remove restrictions placed on the disclosure of financial records and information to Federal financial institutions supervisory agencies (48 FR 24031, May 31, 1983). The Garn-St Germain Depository Institutions Act of 1982 amended the Right to Financial Privacy Act of 1978 to clarify that the exchange of records and information regarding financial institutions is permitted between the Federal financial institutions supervisory agencies. Restrictions, previously believed to be required by the Right to Financial Privacy Act, were removed from the FDIC's regulations on disclosure of information.

For further information, contact MaryBeth Triano, Attorney, Legal Division, telephone (202) 389–4151.

3. Delegation of Authority to Act on Merger Applications

(12 CFR Part 303)

The FDIC has delegated authority to approve, but not deny, merger applications of a routine nature (48 FR 27027, June 13, 1983). The delegation is to the Director of the Division of Bank Supervision and to the regional directors. The rule specifies the characteristics that a merger must exhibit in order to be regarded as a routine merger.

For further information, contact Donald Pfeiffer, Supervising Review Examiner, Division of Bank Supervision, telephone (202) 389–4341, or Jules Bernard, Senior Attorney, Legal Division, telephone (202) 389–4171.

4. Streamlining of Application Procedures

(12 CFR Part 303, 304 and 347)

The FDIC has adopted changes to its information and/or notification requirements for applications for branches (including remote service facilities), relocations, and deposit insurance (48 FR 28073, June 20, 1983). Changes in criteria for delegation of authority were also adopted.

For further information, contact Carmen J. Sullivan, Assistant Director, Corporate Applications & Special Activities, Division of Bank Supervision, telephone (202) 389–4545.

5. Deposit Information Made Publicly Available

(12 CFR Parts 304 and 309)

The FDIC discontinued confidential treatment of information on the size and number of banks' deposit accounts reported as of June 30, 1982 and thereafter (48 FR 28079, June 20, 1983). The FDIC has previously withheld public access to the information due to the harm reporting banks could possibly suffer from the disclosure of detailed deposit information to a competing institution. As a result of changed reporting requirements introduced in June 1982, confidential treatment is no longer needed, because the general and highly summarized data which are now reported to not contain the degree of detail that a competitor can act on.

For further information, contact William P. Carley, Planning and Program Development Specialist, Division of Bank Supervision, telephone (202) 389–4141.

6. Classification of Money Market Deposit Accounts as "Savings Deposits"

(12 CFR Part 329)

The FDIC has classified Money Market Deposit Accounts as "savings deposits" for purposes of Part 329 of the FDIC's rules and regulations (48 FR 33477, July 22, 1983).

The new rule is merely a conforming amendment. It brings the FDIC's Part 329 into line with the action previously taken by the Depository Institutions Deregulation Committee in creating Money Market Deposit Accounts.

For further information, contact Jules Bernard, Senior Attorney, Legal Division, telephone (202) 389–4171.

7. Redefinition of "Mutual Savings Bank" and Waiver of Premature Withdrawal Penalty

(12 CFR Part 329)

Effective August 1, 1983, the FDIC amended its interest-rate control regulations to: (1) Include all FDIC-insured, State-chartered stock savings banks within the definition of "mutual savings bank," and (2) permit an FDIC-insured, State-chartered savings bank to waive the otherwise mandatory premature-withdrawal penalty when depositors withdraw time deposits to purchase stock upon the bank's conversion to a stock savings bank (48 FR 35627, August 5, 1983).

Both amendments were designed to accommodate the current trend of State statutory enactments which permit mutual savings banks to convert to capital stock ownership. The first FDIC amendment expanded the definition of "mutual savings bank" to include all State-chartered stock savings banks, in order that those entities may be allowed to pay the "differential" interest rate on deposits to which the differential still applies. Prior to this amendment only stock savings banks in certain States were defined as mutual savings banks for purposes of the interest-rate differential. The second amendment created a new exception to the federally-mandated penalty for the early withdrawal of time deposits. The exception applies when a depositor withdraws his or her time deposit before maturity to purchase stock upon the bank's conversion from a mutual savings bank to a stock savings bank.

For further information, contact Joseph A. DiNuzzo, Senior Attorney, Legal Division, telephone (202) 389–4171.

8. Payment of Interest on Deposits Situated Outside of the Continental United States

(12 CFR Part 329)

The FDIC issued a final rule, effective September 15, 1983, to clarify FDIC's interpretation of existing regulations by subjecting any deposit to interest rate ceilings if the deposit is accessible from, automatically linked to, or an integrated part of, an account maintained and payable at any United States branch or office of the same financial institution (48 FR 35629, August 5, 1983). Such integrated accounts are not exempt from the interest rate regulations despite the fact that the bank and its customer might agree that the deposit is payable solely at a bank's office which is located outside of the United States and the District of Columbia.

In addition, certain technical amendments were made to conform Part 329 to the International Banking Act of 1978.

For further information contact, F. Douglas Birdzell, Counsel, or Barbara Messé, Attorney, Legal Division, telephone (202) 389–4171.

9. Delegation of Authority To Issue Consent Cease-and-Desist Orders When Respondent Waives Any Right to a Notice of Charges

(12 CFR 303)

The amendment delegates authority to the Director of the Division of Bank Supervision or, where confirmed in writing by the Director, to an Associate Director of the Division of Bank Supervision to execute and issue orders to cease and desist under section 8(b) of the FDI Act when the bank or other respondent consents to the issuance of such order prior to the service of a notice of charges and formally waives any right to such a notice of charges, a hearing, defenses, and findings of fact, conclusions of law and a recommended decision of an administrative law judge (48 FR 36565, August 12, 1983).

For further information, contact James L. Meador, Senior Attorney, Legal Division, telephone (202) 389–4171.

10. Prior Approval Requirement on Insider Loans

(12 CFR Part 337)

On September 12, 1983 the Board of Directors approved an amendment eliminating the current requirement for prior approval by a bank's board of directors of all extensions of credit exceeding, in the aggregate, $25,000 made to its insiders (directors, executive officers, principal shareholders, or any related interests of such persons) and substituted in its place a new prior approval formula. Under the new formula, prior approval would be required for: (1) Extensions of credit that exceed, in the aggregate, the greater of $25,000 or five percent of the bank's capital and unimpaired surplus, and (2) all extensions of credit exceeding $500,000 in the aggregate, regardless of a bank's capital and unimpaired surplus (48 FR 42969, September 21, 1983).

For further information, contact Pamela E. F. LeCren, Senior Attorney, Legal Division, telephone (202) 389–4171.

11. Management Official Interlocks

(12 CFR Part 348)

The FDIC, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the National Credit Union Administration and the Federal Home Loan Bank Board proposed amendments to their respective regulations implementing the Depository Institution Management Interlocks Act (47 FR 47406, October 21, 1982). On September 12, 1983 the Board of Directors of the FDIC adopted the regulations as proposed with only minor clarifying changes. The amendments relax certain interlock restrictions, simplify the procedure for requesting exceptions, and broaden the circumstances in which certain exceptions are available.

For further information, contact Pamela E. F. LeCren, Senior Attorney, Legal Division, telephone (202) 389–4171.

By order of the Board of Directors, October 24, 1983.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 83-29858 Filed 11-2-83; 8:45 am]
BILLING CODE 6714-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-154-82]

Taxation of Foreign Investments in United States Real Property Interests; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service. Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on the proposed rulemaking to add regulations under section 897 of the Internal Revenue Code relating to the taxation of foreign investment in United States real property interests.

DATES: The public hearing will be held on Tuesday, December 13, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Tuesday, November 29, 1983.

ADDRESS: The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-154-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the proposed rulemaking to add regulations under section 897 of the Internal Revenue Code of 1954. The proposed regulations appear in this issue of the **Federal Register** (See FR 83-29860), and supersede the notice of proposed rulemaking relating to section 897 published in the **Federal Register** on September 21, 1982 (47 FR 41581).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who will submit written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Tuesday, November 29, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.
George H. Jelly,
Director, Legislation and Regulations Division.
[FR Doc. 83-29859 Filed 11-2-83; 8:45 am]
BILLING CODE 4830-01-M

26 CFR Parts 1 and 6a

Foreign Investment in U.S. Real Property

AGENCY: Internal Revenue Service. Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document provides proposed Income Tax Regulations relating to the taxation of foreign investment in United States real property interests. The regulations are necessary to provide the public with guidance with respect to the requirements of section 897 of the Internal Revenue Code of 1954, as added by the Foreign Investment in Real Property Tax Act of 1980. These regulations define relevant terms, provide procedures for establishing that a corporation is not a U.S. real property holding corporation, and provide rules concerning the election by a foreign corporation to be treated as a domestic corporation. This notice supersedes a portion of the notice of proposed rulemaking published on September 21, 1982 (47 FR 41581). Temporary regulations published that same date (47 FR 41532) remain in effect. A notice of a public hearing concerning these proposed regulations appears elsewhere in this issue of the **Federal Register**.

DATES: Written comments must be delivered or mailed by December 19, 1983. These regulations are proposed to be effective with respect to dispositions after June 18, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-154-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert E. Culbertson, Jr. of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289.

SUPPLEMENTARY INFORMATION:

Background

Sections 897 and 6039C were added to the Internal Revenue Code of 1954 by sections 1122 and 1123 of the Foreign Investment in Real Property Tax Act of 1980 (94 Stat. 2682) and amended by section 831 of the Economic Recovery Tax Act of 1981 (95 Stat. 172).

On September 21, 1982 proposed additions to the Income Tax Regulations (26 CFR Part 1) under sections 897 and 6039C were published in the **Federal Register** (47 FR 41581), by cross-reference to Temporary Income Tax Regulations (26 CFR Part 6a) published the same day (47 FR 41532). A public hearing concerning the proposed regulations was held on February 3, 1983. After consideration of all comments regarding the proposed regulations under section 897, those proposed regulations are superceded by the proposed regulations published in this document. The temporary regulations, as amended by Treasury decision 7890 (48 FR 19163), remain in effect.

The Internal Revenue Service expects to issue further regulations under section 6039C after it has completed its consideration of comments regarding the proposed regulations.

Discussion

Statutory Provisions

The Foreign Investment in Real Property Tax Act of 1980 (FIRTA) added sections 897 and 6039PC to the Internal Revenue Code. Under section 897(a), a foreign person's gain or loss from the disposition of a U.S. real property interest is treated as if such person were engaged in a trade or business within the United States and as if such gain or loss were effectively connected with such trade or business. United States real property interest as defined in section 897(c)(1) generally include any interest in real property located in the

United States or the Virgin Islands and any interest other than solely as a creditor in a domestic corporation which is (or was within 5 years) a United States real property holding corporation. The term does not include an interest in a domestically controlled real estate investment trust ("REIT") under section 897(h), nor does it generally include an interest in a class of stock in a corporation which is publicly traded, unless the person disposing of such stock holds or held more than 5 percent of such class of stock as provided in section 897(c)(3).

As provided in section 897(c)(1)(B), the term United States real property interest also does not include an interest in a United States real property holding corporation which has disposed of its United States real property interests in transactions in which the full amount of gain, if any, was recognized.

Section 897(c)(2) provides that a U.S. real property holding corporation is a corporation which holds U.S. real property interests with a fair market value of at least 50 percent of the sum of the fair market values of its U.S. real property interests, its interests in real property located outside the United States, and its other assets which are used or held for use in a trade or business. Although a foreign corporation may be a U.S. real property holding corporation, an interest in a foreign corporation is considered a U.S. real property interest under section 897(c)(1) only for purposes of determining whether another corporation is a U.S. real property holding corporation. (See section 897(c)(4)(A)). As a consequence, any gain or loss from the disposition of an interest in a foreign corporation by a foreign person is not treated as effectively connected with a U.S. trade or business by reason of section 897(a).

A foreign corporation is required, however, to recognize gain on the distribution of a U.S. real property interest to its shareholders under section 897(d) to the extent the fair market value of the U.S. real property interest distributed exceeds the corporation's adjusted basis in the interest. Such recognition generally would not occur if a similar distribution were made by a domestic corporation.

The disparate treatment accorded foreign and domestic corporations under section 897 makes it possible that a foreign corporation holding a U.S. real property interest could claim entitlement to nondiscrimination under a treaty to which the United States is a party. Section 897(i) provides that such foreign corporations can elect to be treated as domestic corporations for purposes of sections 897 and 6039C provided that certain conditions are met. Section 897(i)(4) provides that this election is the exclusive remedy for any person claiming discriminatory treatment with respect to sections 897 and 6039C.

Section 897(k) was added to the Code by the Economic Recovery Tax Act of 1981. It provides that a foreign corporation which has adopted or adopts a plan of liquidation described in section 334(b)(2)(A) (as it existed prior to enactment of TEFRA) and which was acquired by purchase within a 12 month period beginning after December 31, 1979, and before November 26, 1980, may elect to be treated as a domestic corporation for FIRPTA purposes. Section 897(k) provides that, notwithstanding the election, any selling shareholder is treated as having sold stock in a foreign corporation.

Section 6039C requires certain corporations, other entities, and nonresident alien individuals to disclose the identity of foreign investors in U.S. real property interests and the extent of their investments. Other than defining certain relevant terms, these proposed regulations do not address the provisions of section 6039C.

Changes to Proposed Regulations Published September 21, 1982.

Definitions

Proposed § 1.897–1 provides definitions to be used in applying the regulations under sections 897, 6039C and 6652(g). The definitions provided in the prior proposed regulations have been modified in the following manner, in response to public comment.

The definition of "real property" in proposed § 1.897–1(b) has been expanded to address several requests for more detailed guidance. Paragraph (b)(1) provides that in general real property includes land and unsevered natural products of the land, improvements to land, and personal property associated with the use of real property. Those categories of property are defined in paragraphs (b) (2), (3), and (4), respectively.

As suggested by one commentator, paragraph (b)(2) now specifies that natural products of the land such as crops and minerals cease to be real property when they are harvested or extracted. In response to several requests for a more definite rule, paragraph (b)(3) now defines an improvement to land as a building or any other inherently permanent structure that constitutes "other tangible property" under the principles of § 1.48–1(d) (relating to the investment tax credit). Thus, the well-developed body of law under that provision will apply to determine what constitutes an improvement. Similarly, paragraph (b)(4) responds to requests for a more definite rule by describing the four categories of personal property that are associated with the use of real property. Personal property is defined as "tangible personal property" under the principles of § 1.48–1(c), and is considered to be associated with the use of real property only if it is used in mining, farming and forestry, in improving real property, in the operation of a lodging facility, or in the provision of furnished offices and other work spaces. Several commentators argued that associated personal property should be treated as real property only where the associated personalty and the underlying real estate are owned by the same (or related) parties. These proposed regulations adopt that position.

The definition of a "United States real property interest" in § 1.897–1(c) is substantially unchanged, providing generally that the term includes interests other than solely as a creditor in real property located in the U.S. or Virgin Islands and in domestic corporations unless it is established that the corporation is not a U.S. real property holding corporation. However, paragraph (c)(2) provides that interests in publicly traded corporations are treated as U.S. real property interests only in the case of persons with interests of more than 5 percent.

Proposed § 1.897–1(d) defines the term "interest other than an interest solely as a creditor" in real property or an entity. Many commentators argued that this definition should parallel the distinction drawn between debt and equity under section 385 of the Code. Several also argued that interests in gross proceeds or profits should be excluded from the term, since such interests are not generally viewed as true equity interests. However, whether an interest constitutes "debt" or "equity" for purposes of other Code sections is irrelevant to a determination of whether an interest is "other than solely as a creditor" within the meaning of sections 897 and 6039C, as the two terms serve different purposes. Therefore, these regulations retain the definition contained in the prior proposed regulations, so as to include as a non-creditor interest any direct or indirect right to share in the appreciation in value of, of gross or net proceeds or profits generated by, real property or an entity.

In order to prevent avoidance of FIRPTA through the artificial structuring of a part of a person's interest as one solely as a creditor, the prior proposed

regulations contained an aggregation rule providing that if a person held any interest in real property or in an entity other than solely as a creditor, then all of that person's interests would be treated as other than solely as a creditor. Many commentators argued that this rule was broader than necessary to prevent abuse and that it would affect legitimate transactions. Paragraph (d)(2) therefore replaces the aggregation rule with a narrower anti-abuse rule, providing that a person's interests will be aggregated only where the interest solely as a creditor has been separated from the interest other than solely as a creditor for a principal purpose of avoiding the provisions of sections 897 and 6039C.

Various commentators requested clarification of the appropriate treatment of installment obligations, options, security interests, loans with indexed interest rates, commissions, and royalties. Special rules are therefore provided in § 1.897–1(d) regarding when such interests will constitute interests other than solely as a creditor. In addition, these regulations adopt the position, advocated by one commentator, that production payments under section 636 do not constitute interests in real property other than solely as a creditor.

Paragraph (e) of proposed § 1.897–1 provides rules for determining a person's proportionate share of assets held by an entity in which that person has an interest. These rules are generally applicable for the purpose of determining assets held indirectly by a person under the look-through rules of section 897(c)(4)(B) and 6039C. A person's proportionate share of assets held by an entity is determined by multiplying the fair market value of the assets held by the entity by the person's percentage ownership interest in the entity. The manner of calculating a person's percentage ownership interest is described in paragraphs (e) (2) and (3). As suggested by two commentators, paragraph (e)(2) now specifies that percentage ownership interests in entities that have convertible interests outstanding must be calculated as though all presently exercisable conversion rights had been exercised. Paragraph (e)(3) provides that the percentage ownership interest of a contingent beneficiary of a trust or an estate is required to be determined by reference to the actuarial value of the entire portion of the trust or estate to which the beneficiary potentially may be entitled. The possibility exists in some instances, therefore, that the value of assets held by a trust or estate may be required to be attributed to more than one beneficiary in determining proportionate shares of the trust's or estate's assets. At the suggestion of one commentator, an anti-abuse rule has been added to this provision to prevent avoidance of section 897 or 6039C by deliberately causing interests other than U.S. real property interests to be attributed to several beneficiaries at once. Although two other commentators argued that the basic rule regarding contingent interests should be changed, that rule was retained as it is considered necessary to prevent avoidance of FIRPTA through the use of discretionary trusts and estates.

Paragraph (f) of § 1.897–1 defines the term "asset used or held for use in a trade or business." Many commentators argued that the definition given in the proposed regulations was excessively narrow, particularly in its exclusion of all liquid assets and intangibles. Therefore, paragraph (f)(1) provides that such assets may be included if they are used or held for use in a corporation's trade or business. Paragraph (f)(2) provides a test for determining whether such assets are used in a trade or business which adopts the principles of § 1.864–4(c)(2).

Paragraph (g) and (h) define the terms "disposition" and "gain," respectively. A disposition is any transaction that is treated as such for any purposes of the Internal Revenue Code, and gain or loss is determined as provided in section 1001. A separate definition of gain was not provided in the prior proposed regulations, but has been added here in response to several requests for clarification of the transactions subject to section 897. Paragraph (h) provides that principal and interest payments on any debt obligation (other than an installment obligation) do not give rise to gain that is subject to section 897.

Paragraph (i) provides a definition of "related person" which was contained in the text of the prior proposed regulations, but has been newly set out as a separate definition.

Paragraphs (j), (k), and (l) provide definitions of the terms "domestic corporation," "foreign person," and "foreign corporation," respectively, which are substantially unchanged from the prior proposed regulations. However, paragraph (k) now specifies that for purposes of sections 897 and 6039C foreign governments and international organizations will be treated as foreign persons only to the extent that they are considered to be engaged in commercial activities within the meaning of section 892 and the regulations thereunder.

Paragraph (m) defines the term "established securities market" as a national securities exchange or any over-the-counter market reflected by the existence of an interdealer quotation system. Several commentators objected to the exclusion of all foreign exchanges from the definition in the prior proposed regulations. Paragraph (m) now provides that a foreign securities exchange or over-the-counter market may qualify as an established securities market.

Paragraph (n) provides a separate definition of the term "regularly traded," which in the prior proposed regulations was combined with the definition of an established securities market. The earlier proposed regulations provided that a class of stock would be considered to be regularly traded on an established securities market only if the holders of that stock were subject to the reporting requirements of section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m). Although the legislative history lends some support to such a requirement, after a review of the public comments it has been concluded that the purpose of the publicly-traded exception will be better served by a broader approach. Paragraph (n) now provides that a class or stock is regularly traded if it is regularly quoted by brokers or dealers making a market in such stock. Stock in a corporation that is held by 500 or more persons is presumed to be regularly traded.

Paragraph (o) defines the term "fair market value." Many commentators objected to the definition provided in the prior proposed regulations, which excluded from consideration any liabilities to which property was subject. Paragraph (o)((2) now provides that fair market value is the gross value of property reduced by the outstanding balance of debts secured by the property, but only if the debt proceeds were used to purchase or improve the property. In response to several requests for guidance, paragraph (o)(3) describes the manner of determining the fair market value of a leasehold interest in real property.

Paragraph (p) of § 1.897–1 defines the term "identifying number" as an individual's social security number and any other person's United States employer identification number.

U.S. Real Property Holding Corporations

Section 1.897–2 provides rules regarding the definition and consequences of U.S. real property holding corporation status. U.S. real property holding corporation status is important for determining whether gain

from the disposition by a foreign person of an interest in a domestic corporation is taxable. Such status is also important for reporting purposes. For instance, under section 6039C(a), a domestic corporation that is a U.S. real property holding corporation is required to report annually if it has foreign shareholders. In addition, for purposes of determining whether a domestic corporation is a U.S. real property holding corporation, an interest it holds in a foreign corporation is a U.S. real property interest unless it is established that the foreign corporation is not a U.S. real property holding corporation.

Paragraph (b) of § 1.897–2 provides the general definition of a U.S. real property holding corporation, which is substantially unchanged from the definition in the previous proposed regulations. However, in response to several comments paragraph (b)(2) now provides a simpler alternative test for certain corporations that are unlikely to be U.S. real property holding corporations. Under the alternative test, a corporation may presume that it is not a U.S. real property holding corporation if the book value of its real property interests is 25 percent or less of the total value of the corporation's assets included in the test.

Paragraph (c) sets forth rules for determining the dates on which a corporation must determine whether or not it is a U.S. real property holding corporation. Those rules are generally similar to those of the prior proposed regulations, although they have been adjusted to coordinate with other changes discussed below. Generally, a domestic corporation which knows it has a foreign interest-holder must determine its status as of each December 31 and as of the date of each transaction that may cause it to become a U.S. real property holding corporation. However, transactions involving small amounts of a corporation's trade or business assets do not trigger a determination; in response to several comments, the size of such exempted transactions has been increased, and varies with the proportion of corporate assets that are real property interests.

The assets that must be included in the determination of whether a corporation is a U.S. real property holding corporation are set forth in paragraph (d), which paragraph (e) provides special rules regarding the treatment of interests held by a corporation in partnerships, trusts, estates, and other corporations. Although these rules have been reorganized, they are substantially similar to the rules provided in the prior proposed regulations. Paragraph (e)(1) provides that an interest in a foreign corporation must be treated as a U.S. real property interest unless it is established that the foreign corporation is not a U.S. real property holding corporation. Paragraph (e)(2) provides that any corporation that holds an interest in a partnership, trust, or estate is treated as owning a proportionate share of the assets held by the entity, in accordance with the rules of § 1.897–1(e). Paragraph (e)(3) similarly provides that a corporation is treated as owning a proportionate share of the assets held by a corporation in which it holds a controlling interest. Application of the general proportionate share rules of § 1.897–1(e) in this context is a modification of the rule provided in the earlier proposed regulations, which employed the controlling corporation's stock ownership percentage rather than the more general percentage ownership interest. Several commentators pointed out that such a modification was necessary to prevent many anomalous results in the application of the statutory look-through rules.

Paragraph (f) provides that U.S. real property holding corporation status terminates on the date on which the corporation determines that its U.S. real property interests no longer equal or exceed 50% of the total fair market value of the assets included in the test. Generally, stock of such corporation will cease to be treated as a U.S. real property interest five years after the corporation ceases to be a U.S. real property holding corporation. However, a corporation can secure the early termination of such treatment of its stock if it disposes of all U.S. real property interests in transactions in which it recognizes the full amount of gain. In response to several comments, paragraph (f)(2) provides that for this purpose a corporation that retains only a limited leasehold interest is considered to have disposed of all its U.S. real property interests.

Paragraph (g) provides substantially amended rules regarding the manner of establishing that a corporation is not a U.S. real property holding corporation. Many commentators argued that the earlier regulations imposed too heavy a burden on persons disposing of interests in corporations that are not U.S. real property holding corporations, by requiring the filing of detailed schedules and a tax return in the year of disposition. The regulations now provide that a foreign person disposing of an interest in a domestic corporation need only ascertain from that corporation whether it was a U.S. real property holding corporation as of the determination date that most recently preceded the disposition. If the corporation informs the foreign person that it is not a U.S. real property holding corporation and that it has informed the Internal Revenue Service of its status, then the foreign interest-holder need not file any statement with the Internal Revenue Service to establish that the corporation is not a U.S. real property holding corporation. To qualify under this rule, the foreign person must obtain the corporation's statement no later than the date on which a tax return would otherwise be due with respect to a disposition. If the corporation does not notify the foreign person by that date that it has informed the Internal Revenue Service of its status, then the disposition of an interest in that corporation will be treated as the disposition of a U.S. real property interest, and will be subject to section 897(a) unless the disposing interest-holder can otherwise establish that the interest is not a U.S. real property interest. Similar rules apply with respect to a corporation that must determine whether an interest in another corporation is a U.S. real property interest. However, these rules do not apply to holders of interests in publicly traded corporations other than greater-than-five-percent interest-holders.

Paragraph (h) sets out notice requirements applicable to corporations. In general, a domestic corporation that knows it has a foreign interest-holder must determine whether it is a U.S. real property holding corporation. If it determines that it is a real property holding corporation, it must comply with the reporting requirements of section 6039C(a); if it determines that it is not, it must attach a brief statement to its tax return informing the Internal Revenue Service of its determination. In addition, such a corporation must respond to inquiries from interest-holders regarding its status. Although the previous proposed regulations imposed no such requirement on corporations directly, the information that was required to be supplied by shareholders would in fact have had to be provided to them by corporations. In view of the comments received, it has been concluded that the overall burden imposed on corporations and their shareholders will be decreased by imposing notification requirements directly upon the corporation. The relatively simple notifications required of corporations will enable foreign investors to dispose of their interests in a domestic corporation without seeking detailed information from the corporation. Foreign corporations, and

domestic corporations with no known foreign interest-holders, are not required to comply with the notification rules of paragraph (h). However, such corporations may voluntarily choose to do so, for the convenience of persons holding interests in the corporations who need to ascertain whether their interests are U.S. real property interests.

897(i) Election

Section 1.897–3 provides rules pursuant to which a foreign corporation may elect under section 897(i) to be treated as a domestic corporation for purposes of sections 897 and 6039C and the regulations thereunder. This section has been reorganized, and several major rules of the prior proposed regulations have been modified, as noted below. A foreign corporation with respect to which an election under section 897(i) is in effect is subject to all rules under sections 897 and 6039C that apply to domestic corporations.

Thus, for example, if a foreign corporation makes an election under section 897(i) and if the corporation is a U.S. real property holding corporation, its stock is a U.S. real property interest, and any gain or loss from the disposition of such stock by a foreign person will be treated as effectively connected with a U.S. trade or business under section 897(a). A foreign corporation that makes an election under section 897(i) will not be treated as a domestic corporation for purposes of any other provision of the Code or regulations, except to the extent that it consents to such treatment as a condition to making the election. An election under section 897(i) is the exclusive remedy of any foreign corporation claiming discriminatory treatment under any treaty with respect to sections 897 and 6039C. Therefore, if a corporation does not make an effective election, the nondiscrimination article of a treaty will not be otherwise available with respect to the application of sections 897 and 6039C to that corporation.

Paragraph (b) sets out three general conditions upon the availability of the section 897(i) election. First, the foreign corporation must hold a U.S. real property interest. In response to several inquiries, it has been clarified that this condition is satisfied when a real property interest is acquired simultaneously with the effective date of an election.

For example, this condition is satisfied when real property is acquired in a transfer pursuant to section 351 that is carried out simultaneously with the effective date of the election. In addition, it has been clarified that this condition is satisfied by a corporation that indirectly holds a U.S. real property interest through a partnership, trust, or estate. Second, the foreign corporation must be entitled to nondiscriminatory treatment with respect to its U.S. real property interest under any treaty to which the United States is a party. Third, the foreign corporation must comply with the requirements of paragraph (c), respecting the manner and form in which an election must be submitted.

Paragraph (c) sets out in detail the items that must be submitted to constitute a valid election under section 897(i). First, a general statement is required, setting forth pertinent information regarding the foreign corporation, the U.S. real property interests it holds, and the treaty under which the election is being made. Second, the foreign corporation must submit a binding waiver of the benefits of any U.S. treaty with respect to any gain or loss from the disposition of a U.S. real property interest during the period in which the election is in effect. Third, the foreign corporation must submit a binding agreement to pay tax on the disposition of any U.S. real property interest as though it were a domestic corporation, during the period in which the election is in effect. Fourth, the foreign corporation must submit a signed consent to the making of the election and waiver of treaty benefits from each person who holds an interest in the corporation on the date the election is made. However, in response to comments, paragraph (c) now provides that a foreign corporation that has applied for or entered into a security agreement with the Director of the Foreign Operations District prior to the making of an election under section 897(i) need not submit the signed consents of its interest-holders to the Internal Revenue Service. Such corporation may instead submit a statement that it has received and has on file the required consent and waiver from each interest-holder. Such a corporation is required to amend its security agreement to reflect its election to be treated as a domestic corporation.

Finally, the foreign corporation must state that no interests in it have been disposed of during the previous five years (or shorter relevant period), or that it has complied with certain alternative requirements described below.

Paragraph (d) provides rules regarding th time and duration of an election under section 897(i). Generally, a foreign corporation may make an election at any time before the first disposition of an interest in the corporation which would be subject to section 897(a) if the election had been made before that disposition. The period to which the election applies begins on the date on which the election is made, or other specified date. Unless revoked, the election applies for the duration of the time for which the corporation remains in existence.

Many commentators argued that an election should be permitted even after dispositions of interests in the corporation, provided there was a payment of an amount equal to any tax that would have been owed. Although the previous regulations provided such a rule as a transitional measure, paragraph (d)(2) would now adopt that approach generally. In addition, paragraph (d)(2) provides, as recommended by various commentators, that as an alternative to the immediate payment of prior taxes, any current interest-holders who under any other provision of the Code took a basis in their interests that was equal to the basis of the interest in the hands of the person from which the interest was acquired may retain that carryover basis.

An election under section section 897(i) may be revoked only with the consent of the Commissioner, in the manner provided in paragraph (e). The Commissioner will generally consent to a revocation if the corporation has not made a distribution or untaxed exchange of any U.S. real property interests. However, paragraph (e)(2) provides that a revocation may be made even after such a distribution or exchange, provided that certain conditions are met.

In response to a variety of comments, paragraph (f) provides transitional rules regarding section 897(i) elections and related transactions that took place before the publication of these regulations. In general, an election made earlier could be amended to comply with the requirements of these regulations. Paragraphs (f)(2) and (f)(3) provide special rules assuring that an election is not barred by transactions that took place before the issuance of regulations.

897(k) Election

Paragraph (a) of § 1.897–4 sets forth special rules whereby certain foreign corporations which adopt or have adopted a plan of liquidation described in section 334(b)(2)(A) and whose stock was acquired during a 12 month period beginning after December 31, 1979, and before November 26, 1980, may elect to be treated as domestic corporations under section 897(k). These rules take into account the fact that persons

purchasing stock in a foreign corporation prior to enactment of section 897 may reasonably have expected that a tax would have been imposed on the foreign seller rather than on the liquidating corporation. A foreign corporation need not be a beneficiary of a treaty nondiscrimination article nor satisfy any of the other prerequisites to making the election under section 897(i) to be eligible to make the election under section 897(k). The rules of this section are unchanged from the proposed regulations, except for minor clarifications suggested by two commentators.

Drafting Information

The principal author of these regulations is Robert E. Culbertson, Jr. of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public comment procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on a date announced in the notice of public hearing appearing elsewhere in this issue of the **Federal Register**. The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act.

Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

List of Subjects

26 CFR 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Sources of income, United States investments abroad.

26 CFR Part 6a

Bonds, Income taxes, Mortgages, Veterans, Foreign investments in United States real property interests.

Withdrawal of Notice of Proposed Rulemaking

The portion of the notice of proposed rulemaking relating to section 897 published in the **Federal Register** (47 FR 41581) on September 21, 1982, is hereby withdrawn.

Proposed amendments to the regulations

PART 1—[AMENDED]

The proposed amendments to 26 CFR Parts 1 and 6a are as follows:

Paragraph 1. Sections 1.897–1 through 1.897–4 are added to Part 1, to read as set forth below:

§ 1.897–1 Taxation of foreign investment in United States real property interests, definition of terms.

(a) *Summary.* This section defines certain terms for purposes of sections 897 and 6039C. These definitions are effective as of June 19, 1980, and apply when the terms are used in §§ 1.897–1 through 1.897–4 and §§ 1.6039C–1 through 1.6039C–5, unless it is stated otherwise in those sections.

(b) *Real property*—(1) *In general.* The term "real property" includes the following three categories of property: Land and unsevered natural products of the land, improvements, and personal property associated with the use of real property. The three categories of real property are defined, for purposes of sections 897 and 6039C, in subparagraphs (2), (3), and (4) of this paragraph (b). Local law definitions will not be controlling for purposes of determining the meaning of the term "real property" as it is used in sections 897 and 6039C and the regulations thereunder.

(2) *Land and unsevered natural products of the land.* The term "real property" includes land, growing crops and timber, and mines, wells, and other natural deposits. Crops and timber cease to be real property at the time that they are severed from the land. Ores, minerals, and other natural deposits cease to be real property when they are extracted from the ground.

(3) *Improvements.* The term "real property" includes improvements on land. An improvement is a building or any other inherently permanent structure. Any property that constitutes "other tangible property" under the principles of section 48(a)(1)(B) and § 1.48–1(d) is an improvement, without regard to whether such property qualifies as section 38 property. Thus, in addition to buildings, the term "real property" includes, for example, swimming pools, paved parking areas and other pavements, wharves and docks, bridges, fences, inherently permanent advertising displays, inherently permanent outdoor lighting facilities, railroad tracks and signals, telephone poles, telephone and television cables, broadcasting towers, oil derricks, oil and gas pipelines and storage tanks, and grain storage bins. Structural components of buildings and other inherently permanent structures, as defined in § 1.48–1(e)(2), themselves constitutes improvements. Structural components include walls, partitions, floors, ceilings, windows, doors, wiring, plumbing, central heating and central air conditioning systems, lighting fixtures, pipes, ducts, elevators, and escalators. Buildings and other inherently permanent structures (including the structural components of such buildings or structures) constitute improvements regardless of whether they are treated as property in the nature of machinery for purposes of § 1.48–1(c), and regardless of whether they are described in § 1.48–1(e)(1), (i) or (ii).

(4) *Personal property associated with the use of the real property*—(i) *In general.* The term "real property" includes movable walls, furnishings, and other personal property associated with the use of the real property. Personal property is associated with the use of real property only if it is described in one of the categories set forth in subdivisions (A) through (D) of this paragraph (b)(4)(i). "Personal property" for purposes of this section means any property (other than buildings, inherently permanent sturctures, and the structural components thereof) that constitutes "tangible personal property" under the principles of § 1.48–1(c), without regard to whether such property qualifies as section 38 property. Such property will be associated with the use of the real property only where both the personal property and the real property with which it is associated are held by

the same person or by related persons within the meaning of § 1.897–1(i).

(A) *Property used in mining, farming, and forestry.* Personal property is associated with the use of real property if it is used to exploit unsevered natural products in or upon the land. Such property includes mining equipment used to extract ores, minerals, and other natural deposits from the ground. It also includes any property used to cultivate the soil and harvest its products, such as farm machinery, draft animals, and equipment used in the growing and cutting of timber. However, personal property used to process or transport minerals, crops, or timber after they are severed from the land is not associated personal property.

(B) *Property used in the improvement of real property.* Personal property is associated with the use of real property if it is used to construct or otherwise carry out improvements to real property. Such property includes equipment used to alter the natural contours of the land, equipment used to clear and prepare raw land for construction, and equipment used to carry out the construction of improvements.

(C) *Property used in the operation of a lodging facility.* Personal property is associated with the use of real property if it is used in connection with the operation of a lodging facility. Property that is used in connection with the operation of a lodging facility includes property used in the living quarters of such facility, such as beds and other furniture, refrigerators, ranges and other equipment, as well as property used in the common areas of such facility, such as lobby furniture and laundry equipment. Such property constitutes personal property associated with the use of real property in the hands of the owner or operator of the facility, not of the tenant or guest. A lodging facility is an apartment house or apartment, hotel, motel, dormitory, residence, or any other facility (or part of a facility) where sleeping accommodations are offered or provided during periods totalling six months or more during any twelve-month period. However, the term "lodging facility" does not include a facility used primarily as a means of transportation (such as an aircraft, vessel, or a railroad car) or used primarily to provide medical or convalescent services, even though sleeping accommodations are provided. Nor does the term include any portion of a facility that constitutes a nonlodging commercial facility and that is available to persons not using the lodging facility on the same basis that it is available to tenants of the lodging facility. Examples of nonlodging commercial facilities include restaurants, drug stores, and grocery stores located in a lodging facility.

(D) *Property used in the rental or furnished office and other work space.* Personal property is associated with the use of real property if it is used to provide furnished office or other work space. Property that is so used includes office furniture and equipment included in the rental of furnished space. Such property constitutes personal property associated with the use of real property in the hands of the lessor, not of the lessee.

(ii) *Dispositions of associated personal property.* Personal property associated with the use of real property will be treated as real property upon disposition regardless of whether the personal property is disposed of without the concurrent disposition of the real property with which it is associated. However, associated personal property will lose its status as real property after it has been retained for one year following—

(A) Its removal from the real property with which it is associated, provided that it is not relocated on that property, or associated with the use of any other real property held by the same or a related person, within the one-year period;

(B) The disposition of all present rights to use or occupy the real property with which it is associated to persons that are not related within the meaning of § 1.897–1(i), provided that such right to use or occupy the real property is not reacquired, or acquired by a related person, within the one-year period; or

(C) The termination of the use, in any activity described in subdivisions (A), (B), (C), or (D) of paragraph (b)(4)(i) of this section, of the real property with which such personal property is associated.

Personal property that in accordance with this rule is no longer associated with the use of real property will not be treated as real property upon its subsequent disposition.

(iii) *Determination dates.* The determination of whether personal property is personal property associated with the use of real property as defined in this paragraph (b)(4) is to be made on the date the personal property is disposed of and on each applicable determination date. See § 1.897–2(c).

(c) *United States real property interest*—(1) *In general.* The term "United States real property interest" means an interest, other than an interest solely as a creditor, in real property located in the United States or the Virgin Islands or an interest, other than an interest solely as a creditor, in a domestic corporation unless it is established that the domestic corporation is not a U.S. real property holding corporation within the time period prescribed in section 897(c)(1)(A)(ii). In addition, for the limited purpose of determining whether any corporation is a U.S. real property holding corporation, the term "United States real property interest" means an interest, other than an interest solely as a creditor, in a foreign corporation unless it is established that the foreign corporation is not a U.S. real property holding corporation within the period prescribed in section 897(c)(1)(A)(ii). See § 1.897–2 for rules regarding the manner of establishing that a corporation is not a United States real property holding corporation. The term does not include an interest in a domestically-controlled REIT as defined by section 897(h)(4)(B), or an interest in a publicly-traded corporation, as defined in paragraph (c)(2) of this section. Nor does the term include an interest in a corporation which has disposed of all its U.S. real property interests in transactions in which the full amount of gain, if any, was recognized as provided in section 897(c)(1)(B). See § 1.897–2 (f) for rules regarding the requirements of section 897(c)(1)(B).

(2) *Publicly-traded corporations.* If, at any time during the calendar year, any class of stock of a domestic corporation is regularly traded on an established securities market, an interest in such corporation shall be treated as a U.S. real property interest only in the case of:

(i) Stock of any regularly traded class held by a person who held more than 5 percent of the fair market value of that class of stock at any time during the five year period ending either on the date of disposition of such stock or other applicable determination date (or the period since June 18, 1980, if shorter).

(ii) Any other interest in the corporation (other than an interest solely as a creditor) if on the date such interest was acquired by its present holder it had a fair market value greater than the fair market value on that date of 5 percent of the regularly traded class of the corporation's stock with the lowest fair market value. When a person holds separate non-regularly traded interests in a single corporation that were separately acquired for a significant purpose of avoiding the 5 percent limitation of this subdivision (ii), such interests shall be cumulated for purposes of applying that limitation. In determining whether a shareholder holds 5 percent of a class of stock in a

corporation, section 318(a) shall apply (except that sections 318(a) (2)(C) and (3)(C) are applied by substituting the phrase "5 percent" for "50 percent").

(d) *Interest other than an interest solely as a creditor*—(1) *In general.* This paragraph defines an interest other than an interest solely as a creditor, with respect to real property, and with respect to corporations, partnerships, trusts, and estates. An interest solely as a creditor either in real property or in a domestic corporation does not constitute a United States real property interest. Similarly, where one corporation holds an interest solely as a creditor in a second corporation or in a partnership, trust, or estate, that interest will be disregarded for purposes of determining whether the first corporation is a U.S. real property holding corporation (except to the extent that such interest constitutes an asset used or held for use in a trade or business, in accordance with the rules of § 1.897–1(f)). In addition, the disposition of an interest solely as a creditor in a partnership, trust, or estate is not subject to sections 897 and 6039C. Whether an interest is considered debt under any provisions of the Code is not determinative of whether it constitutes an interest solely as a creditor for purpose of sections 897 and 6039C and the regulations thereunder.

(2) *Interests in real property other than solely as a creditor*—(i) *In general.* For purposes of sections 897 and 6039C an interest in real property other than an interest solely as a creditor includes a fee ownership, co-ownership, or leasehold interest in real property, a time sharing interest in real property, and a life estate, remainder, or reversionary interest in such property. The term also includes any direct or indirect right to share in the appreciation in the value of, or in the gross or net proceeds or profits generated by, the real property. A loan to an individual or entity under the terms of which a holder of the indebtedness has any direct or indirect right to share in the value of, or the gross or net proceeds or profits generated by, an interest in real property of the debtor or of a related person is, in its entirety, an interest in real property other than solely as a creditor. An interest in production payments described in section 636 does not constitute an interest in real property other than solely as a creditor. The rule of this paragraph (d)(2)(i) is illustrated by the following example.

Example. A, a U.S. citizen, purchases a condominium unit located in the United States for $500,000. A makes a $100,000 down payment and borrows $400,000 from B, a foreign person, to pay the balance of the purchase price. Under the terms of the loan, A is to pay B 13 percent annual interest each year for 10 years and 35 percent of the appreciation in the fair market value of the condominum at the end of the 10-year period. Because B has a right to share in the appreciation in value of the condominium, B has an interest other than solely as a creditor in the condominium. B's entire interest in the obligation from A, therefore, is a United States real property interest.

(ii) *Special rules*—(A) *Installment obligations.* The right to installment or other deferred payments from the disposition after June 18, 1980, of any interest in real property (other than an interest solely as a creditor) will itself constitute an interest in real property other than solely as a creditor for purposes of sections 897 and 6039C. The receipt of each payment shall be treated as the disposition of an interest in real property that is subject to section 897(a) to the extent of any gain required to be recognized pursuant to section 453. However, rights to payments arising from dispositions that took place before June 19, 1980, do not constitute interests in real property other than solely as a creditor, even if such payments are received after June 18, 1980. In addition, a right to installment or other deferred payments will not constitute an interest other than solely as a creditor once the full amount of gain arising from the disposition has been recognized. Thus, if an election is made under section 453(d) not to have the installment sale provisions of section 453 apply, and all gain is recognized in the year of disposition, the right to installment payments in subsequent years will not constitute an interest other than solely as a creditor. Similarly, where the original holder of the installment obligation subsequently disposes of the obligation and recognizes the entire gain, the obligation will constitute an interest in real property solely as a creditor in the hands of the subsequent holder. However, where for any reason the full amount of potential gain from the disposition of the real property has not been recognized upon such subsequent disposition of the installment obligation, the obligation shall continue to be an interest in real property other than solely as a creditor in the hands of the subsequent holder.

(B) *Options.* An option, a contract, or a right of first refusal to acquire any interest in real property (other than an interest solely as a creditor) will itself constitute an interest in real property other than solely as a creditor for purposes of sections 897 and 6039C.

(C) *Security interests.* A right to repossess or foreclose on real property under a mortgage, security agreement, financing statement, or other collateral instrument securing a debt will not be considered a reversionary interest in, or a right to share in the appreciation in value of or gross or net proceeds or profits generated by, an interest in real property. Thus, no such right of repossession or foreclosure will of itself cause an interest in real property which is otherwise an interest solely as a creditor to become an interest other than solely as a creditor.

(D) *Indexed interest rates.* An interest will not constitute a right to share in the appreciation in the value of, or gross or net proceeds or profits generated by, real property solely because it bears a rate of interest that is tied to an index of any kind that is intended to reflect general inflation or deflation of prices and interest rates. However, where an interest in real property bears a rate of interest that is tied to an index the principal purpose of which is to reflect changes in real property values, the real property interest will be considered an indirect right to share in the appreciation in value of, or gross or net proceeds or profits generated by, real property. Such an indirect right constitutes an interest in real property other than solely as a creditor.

(E) *Commissions.* A right to payment of a commission, brokerage fee, or similar charge for professional services rendered in connection with the arrangement or financing of a purchase, sale, or lease of real property does not constitute a right to share in the appreciation in value of, or gross or net proceeds or profits of, real property solely because it is based upon a percentage of the purchase price or rent. Thus, a right to a commission earned by a real estate agent based on a percentage of the sales price does not constitute an interest in real property other than solely as a creditor.

(F) *Trustees' fees, etc.* A right to payment of reasonable compensation for services rendered as a trustee, as an administrator of an estate, or in a similar capacity does not constitute a right to share in the appreciation in the value of, or gross or net proceeds or profits of, real property solely because the assets of the trust or estate include U.S. real property interests.

(3) *Interest in an entity other than solely as a creditor*—(i) *In general.* For purposes of sections 897 an 6039C, and interest in an entity other than an interest solely as a creditor is—

(A) Stock of a corporation;

(B) An interest in a partnership as a partner within the meaning of section 761(b) and the regulations thereunder;

(C) An interest in a trust or estate as a beneficiary within the meaning of section 643(c) and the regulations thereunder or an ownership interest in any portion of a trust as provided in section 671 through 679 and the regulations thereunder;

(D) An interest which is, in whole or in part, a direct or indirect right to share in the appreciation in value of an interest in an entity described in subdivision (A), (B), or (C) of this paragraph (d)(3)(i) or a direct or indirect right to share in the appreciation in value of assets of, or gross or net proceeds or profits derived by, the entity; or

(E) A right (whether or not presently exercisable) directly or indirectly to convert or to exchange an interest which otherwise would constitute an interest in the entity solely as a creditor into or for an interest described in subdivision (A), (B), (C), (D), or (E) of this paragraph (d)(3)(i).

(ii) *Special rules*— (A) *Installment obligations.* The right to installment or other deferred payments from the disposition after June 18, 1980, of any interest in an entity (other than an interest solely as a creditor) will itself be treated under the rules of this subdivision as an interest in the entity other than solely as a creditor.

The receipt of each payment shall be treated as the disposition of such an interest and shall be subject to section 897(a) to the extent that: (*1*) It constitutes the disposition of a U.S real property interest and (*2*) gain or loss is required to be recognized pursuant to section 453. Such treatment shall not apply to payments arising from dispositions that took place before June 19, 1980, regardless of when such payments are received. A right to installment or other deferred payments will constitute an interest solely as a creditor once the full amount of gain arising from the disposition has been recognized. Thus, if an election is made under section 453(d) not to have the installment sale provisions of section 453 apply, and all gain is recognized in the year of disposition, the right to installment payments in subsequent years will not constitute an interest other than solely as a creditor. Similarly, where the original holder of the installment obligation subsequently disposes of the obligation and recognizes the entire remaining gain, the obligation will constitute an interest in the entity solely as a creditor in the hands of the subsequent holder. However, where for any reason the full amount of potential gain from the disposition of the interest in the entity has not been recognized upon such subsequent disposition of the installment obligation, the obligation shall continue to be treated as an interest in the entity other than solely as a creditor in the hands of the subsequent holder.

(B) *Contingent interests.* The interests described in subdivision (D) of paragraph (d)(3)(i) of this section include any right to a payment from an entity the amount of which is contingent on the appreciation in value of an interest described in subdivision (A), (B), or (C) of paragraph (d)(3)(i) of this section or which is contingent on the appreciation in value of assets of, or the gross or net proceeds or profits derived by, such entity. The right to such a payment is itself an interest in the entity other than solely as a creditor, regardless of whether the holder of such right actually holds an interest in the entity described in subdivision (A), (B), or (C) of paragraph (d)(3)(i) of this section. For example, a stock appreciation right constitutes an interest in a corporation other than solely as a creditor even if the holder of such right actually holds no stock in the corporation.

(C) *Royalties.* The interests described in subdivision (D) of paragraph (d)(3)(i) of this section do not include rights to payments representing royalties, license fees, or similar charges for the use of patents, inventions, formulas, copyrights, literary, musical or artistic compositions, trademarks, trade names, franchises, licenses, or similar intangible property.

(D) *Commissions.* The interests described in subdivision (D) of paragraph (d)(3)(i) of this section do not include a right to a commission, brokerage fee or similar charge for professional services rendered in connection with the purchase or sale of an interest in an entity.

(E) *Trustee's fees.* The interests described in subdivision (D) of paragraph (d)(3)(i) of this section do not include a right to payment representing reasonable compensation for services rendered as a trustee, as an administrator of an estate, or in a similar capacity.

(4) *Anti-abuse rule.* Where a person holds both interests solely as a creditor and interests other than solely as a creditor in real property or in an entity, those interests will generally be treated as separate and distinct interests. However, such interests shall be aggregated and treated as interests other than solely as a creditor in their entirety where the interests solely as a creditor has been separated from, or acquired separately from, the interest other than solely as a creditor, for a principal purpose of avoiding the provisions of section 897 or 6039C by causing one or more of such interests to be an interest solely as a creditor. The existence of such a purpose will be determined with reference to all the facts and circumstances. Where an interest solely as a creditor has arm's-length interest and repayment terms it shall in no event be aggregated with and treated as an interest other than solely as a creditor. For purposes of applying this rule, a person shall be treated as holding any interests held by a related person within the meaning of § 1.897–1(i).

(5) *"Interest" means "interest other than solely as a creditor."* Unless otherwise stated, the term "interest" as used with regard to real property or with regard to an entity hereafter in this section and in §§ 1.897–2 through 1.897–4 and §§ 1.6039C–1 through 1.6039C–5 means an interest in such real property or entity other than an interest solely as a creditor.

(e) *Proportionate share of assets held by an entity*—(1) *In general.* A person that holds an interest in an entity is for certain purposes treated as holding a proportionate or pro rata share of the assets held by the entity. Such proportionate share must be calculated, in accordance with the rules of this paragraph, for the following purposes.

(i) In determining whether a corporation is a U.S. real property holding corporation—

(A) A person holding an interest in a partnership, trust, or estate is treated as holding a proportionate share of the assets held by the partnership, trust, or estate (see § 1.897–2(e)(2)), and

(B) A corporation that holds a controlling interest in a second corporation is treated as holding a proportionate share of the assets held by the second corporation (see § 1.897–2(e)(3)).

(ii) In determining reporting obligations under section 6039C(b)—

(A) An entity (other than a domestic corporation) must ascertain whether it has a "substantial investor in U.S. real property" by calculating its foreign investors' pro rata shares of the U.S. real property interests held by the entity, and

(B) In determining whether it has a substantial investor in U.S. real property, an entity is treated as holding a pro rata share of the U.S. real property interests held by a corporation in which it holds an interest.

(iii) In determining reporting obligations under section 6039C (b) and (c), the holder of an interest in a

partnership, trust, or estate is treated as owning a proportionate share of the U.S. real property interests held by the partnership, trust, or estate.

(2) *Proportionate share of assets held by a corporation or partnership*—(i) *In general.* A person's proportionate or pro rata share of assets held by a corporation or partnership is determined by multiplying—

(A) The fair market value of the assets held by the entity, by

(B) The person's percentage ownership interest in the entity.

(ii) *Percentage ownership interest.* A person's percentage ownership interest in a corporation or partnership is the percent age equal to the ratio of (A) the sum of the liquidation values of all interests in the entity held by the person to (B) the sum of the liquidation values of all outstanding interests in the entity. The liquidation value of an interest in an entity is the amount of cash and the fair market value of any property that would be distributed with respect to such interest upon the liquidation of the entity after satisfaction of liabilities to persons having interests in the entity solely as creditors. With respect to an entity that has interests outstanding that grant a presently-exercisable option to acquire or right to convert into or otherwise acquire an interest in the entity other than solely as a creditor, the liquidation value of all interests in such entity shall be calculated as though such option or right had been exercised, giving effect both to the payment of any consideration required to exercise the option or right and to the issuance of the additional interest. With respect to an entity that has interests outstanding that entitle any person to a distribution of U.S. real property interests upon liquidation that is disproportionate to such person's interest in the total assets of the entity, such disporportionate right shall be disregarded in the calculation of the interest-holders' proportionate shares of the U.S. real property interests held by the entity. The fair market value of the assets of the entity, the amount of cash held by the entity, and the amount of liabilities to persons having interests solely as creditors is determined for this purpose on the date with respect to which the percentage ownership interest is determined.

(iii) *Examples.* The rules of this paragraph (e)(2) are illustrated by the following examples.

Example (1). Corporation K's only assets are stock and securities with a fair market value as of the applicable determination date of $20,000,000. K's assets are subject to liabilities of $10,000,000. Among K's liabilities are a $1,000,000 loan from L, under the terms of which L is entitled, upon payment of the loan principal, to a profit share equal to 10 percent of the excess of the fair market value of K's assets over $18,000,000, but only if all other corporate liabilities have been paid. K has two classes of stock, common and preferred. PS1 and PS2 each own 100 of the 200 outstanding shares of preferred stock. CS1 and CS2 each own 500 of the 1,000 outstanding shares of common stock. Each preferred shareholder is entitled to $10,000 per share of preferred stock upon liquidation, subject to payment of all corporate liabilities and to any amount owed to L, but before any common shareholder is paid. The liquidation value of L's interest in K, which constitutes an interest other than an interest solely as a creditor, is $1,200,000 ($1,000,000 principal of the loan to K plus $200,000 (10 percent of the excess of $20,000,000 over $18,000,000). The liquidation value of each of PS1's and PS2's blocks of preferred stock is $1,000,000 ($10,000 times 100 shares each). The liquidation value of each of CS1's and CS2's blocks of common stock is $3,900,000 [$20,000,000 (the total fair market value of K's assets)—$9,000,000 (liabilities to creditors other than L)—$1,200,000 (L's liquidation value)—$2,000,000 (PS1's and PS2's liquidation value)) times 50 percent (the percentage of common stock owned by each)]. The sum of the liquidation values of all of the outstanding interests in K (i.e., interests other than solely as a creditor) is $11,000,000 [$1,200,000 (L's liquidation value)+$2,000,000 (PS1's and PS2's liquidation values)+$7,800,000 (CS1's and CS2's liquidation values)]. Each of CS1's and CS2's percentage ownership interests in K is 35.5 percent ($3,900,000 divided by $11,000,000). Each of PS1's and PS2's percentage ownership interests in K is 9 percent ($1,000,000 divided by $11,000,000). L's percentage ownership interest in K is 11 percent ($1,200,000 divided by $11,000,000).

Example (2). A, a U.S. person, and B, a foreign person are partners in a partnership the only asset of which is a parcel of undeveloped land located in the United States that was purchased by the partnership in 1980 for $300,000. The partnership has no liabilities, and its capital is $300,000. A's and B's interests in the capital of the partnership are 25 percent and 75 percent, respectively, and A and B each has a 50 percent profit interest in the partnership. The partnership agreement provides that upon liquidation any unrealized gain will be distributed in accordance with the partners' profit interests. In 1984 the partnership has no items of income or deduction, and the fair market value of its parcel of undeveloped land is $500,000. In 1984 the percentage ownership interest of A in the partnership is 35 percent [the ratio of $100,000 (the liquidation value of A's profit interest in 1984) plus $75,000 (the liquidation value of A's 25 percent interest in the partnership's $300,000 capital) to $500,000 (the sum of the liquidation values of all outstanding interests in the partnership)]. The percentage ownership interest of B in the partnership in 1984 is 65 percent [the ratio of $325,000 (B's $100,000 profit interest plus his $225,000 capital interest) to $500,000].

(3) *Proportionate share of assets held by trusts and estates*—(i) *In general.* A person's proportionate or pro rata share of assets held by a trust or estate is determined by multiplying—

(A) The fair market value of the assets held by the trust or estate, by

(B) The person's percentage ownership interest in the trust or estate.

(ii) *Percentage ownership interest*—(A) *General rule.* A person's percentage ownership interest in a trust or an estate is the percentage equal to the ratio of: (*1*) The sum of the actuarial values of such person's interests in the cash and other assets held by the trust or estate after satisfaction of the liabilities of the trust or estate to persons holding interests in the trust or estate solely as creditors, to (*2*) the entire amount of such cash and other assets after satisfaction of liabilities to persons holding interests in the trust or estate solely as creditors. For purposes of calculating this ratio, the fair market value of the trust's or estate's assets, the amount of cash held by the trust or estate, and the amount of the liabilities to persons having interests solely as creditors is determined on the date with respect to which the percentage ownership interest is determined. With respect to a trust or estate that has interests outstanding that grant a presently-exercisable option to acquire or right to convert into or otherwise acquire an interest in the trust or estate other than solely as a creditor, the liquidation value of all interests in such entity shall be calculated as though such option or right had been exercised, giving effect both to the payment of any consideration required to exercise the option or right and to the issuance of the additional interest. With respect to a trust or estate that has interests outstanding that entitle any person to a distribution of U.S. real property interests upon liquidation that is disproportionate to such person's interest in the total assets of the trust or estate, such disproportionate right shall be disregarded in the calculation of the interest-holders' proportionate share of the U.S. real property interests held by the entity. For purposes of determining his own percentage ownership interest in a trust, a grantor or other person will be treated as owning any portion of the trust's cash and other assets which such person is treated as owning under sections 671 through 679.

(B) *Discretionary trusts and estates.* In determining percentage ownership interest in a trust or an estate, the sum of the definitely ascertainable actuarial values of interests in the cash and the other assets of the trust or estate held by persons in existence on the date with respect to which such determination is made must equal the amount in

paragraph (e)(3)(ii)(A)(*2*) of this section. If the amount in paragraph (e)(3)(ii)(A)(*2*) of this section exceeds the sum of the definitely ascertainable actuarial values of the interests held by persons in existence on the determination date, the excess will be considered to be owned in total by each beneficiary who is in existence on such date, whose interest in the excess is not definitely ascertainable and who is potentially entitled to such excess. However, such excess shall not be considered to be owned in total by each beneficiary if the discretionary terms of the trust or estate were included for a principal purpose of avoiding the provisions of section 897 or 6039C by causing assets other than U.S. real property interests to be attributed in total to each beneficiary. See § 1.6039C–4 regarding limitations on the reporting requirements of persons whose interests in a trust or an estate do not have definitely ascertainable actuarial values. The rules of this paragraph (e)(3) are illustrated by the following example.

Example. A, a U.S. person, established a trust on December 31, 1984, and contributed real property with a fair market value of $10,000 to the trust. The terms of that trust provided that the trustee, a bank that is unrelated to A, at its discretion may retain trust income or may distribute it to X, a foreign person, or to the head of state of any country other than the United States. The remainder upon the death of X is to go in equal shares to such of Y and Z, both foreign persons, as survive X. On December 31, 1984, the total value of the trust's assets is $10,000. On the same date, the actuarial values of the remainder interests of Y and Z in the corpus of the trust are definitely ascertainable. They are $1,000 and $500, respectively. Neither the income interest of X nor of the head of state of any country other than the United States has a definitely ascertainable actuarial value on December 31, 1984. The interests of Y and Z in the income portion of the trust similarly have no definitely ascertainable actuarial values on such date since the income may be distributed rather than retained by the trust. Since the sum of the actuarial values of definitely ascertainable interests of persons in existence ($1,500) is less than $10,000, the difference ($8,500) is treated as owned by each beneficiary who is in existence on December 31, 1984, and who is potentially entitled to such excess. Therefore, X, Y, Z, and the head of state of any country other than the United States are each considered as owning the entire $8,500 income interest in the trust. On December 31, 1984, the total actuarial value of X's interest is $8,500, and his percentage ownership interest is 85 percent. The total actuarial value of Y's interest in the trust is $9,500 ($1,000 plus $8,500), and his percentage ownership interest is 95 percent. The total actuarial value of Z's interest is $9,000 ($500 plus $8,500), and his percentage ownership interest is 90 percent. The actuarial value of the interest of the head of state of each country other than the United States is $8,500, and his percentage ownership interest is 85 percent.

(4) *Dates with respect to which percentage ownership interests are determined.* The dates with respect to which percentage ownership interests are determined are the applicable determination dates outlined in §§ 1.897–2, 1.6039C–3 and 1.6039C–4.

(f) *Asset used or held for use in a trade or business*—(1) *In general.* The term "asset used or held for use in a trade or business" means—

(i) Property, other than real property, that is—

(A) Stock in trade of an entity or other property of a kind which would properly be included in the inventory or the entity if on hand at the close of the taxable year, or property held by the entity primarily for sale to customers in the ordinary course of its trade or business, or

(B) Depreciable property used or held for use in the trade or business, as described in section 1231(b)(1) but without regard to the holding period limitations of section 1231(b), or

(C) Livestock, including poultry, used or held for use in a trade or business for draft, breeding, dairy, or sporting purposes,and

(ii) Goodwill and going concern value (but only if each is purchased from an unrelated party), patents, inventions, formulas copyrights, literary, musical, or artistic compositions, trademarks, trade names, franchises, licenses, customer lists, and similar intangible property, but only to the extent that such property is used or held for use in the entity's trade or business and subject to the valuation rules of § 1.897–1(o)(4), and

(iii) Cash, stock, securities, receivables of all kinds, options or contracts to acquire any of the foregoing, and options or contracts to acquire commodities, but only to the extent that such assets are used or held for use in the corporation's trade or business.

(2) *Used or held for use in a trade or business.* An asset is used or held for use in an entity's trade or business if it is, under the principles of § 1.864–4(c)(2)—

(i) Held for the principal purpose of promoting the present conduct of the trade or business, as, for example, in the case of stock acquired and held to assure a constant source of supply for the trade or business,

(ii) Acquired and held in the ordinary course of the trade or business, as, for example, in the case of an account or note receivable arising from that trade or business (including the performance of services), or

(iii) Otherwise held in a direct relationship to the trade or business.

In determining whether an asset is held in a direct relationship to the trade or business, consideration shall be given to whether the asset is needed in that trade or business. A asset shall be considered to be needed in a trade or business only if the asset is held to meet the present needs of that trade or business and not its anticipated future needs. An asset shall be considered as needed in the trade or business if, for example, the asset is held to meet the operating expenses of that trade or business. Conversely, an asset shall be considered as not needed in the trade or business if, for example, the asset is held for the purpose of providing for future diversification into a new trade or business, future expansion of trade or business activities, future plant replacement, or future business contingencies. An asset that is held to meet reserve or capitalization requirements imposed by applicable law shall be presumed to be held in a direct relationship to the trade or business.

(3) *Examples.* The application of this paragraph (f) may be illustrated by the following examples:

Example (1). M, a domestic corporation engaged in industrial manufacturing, is required to hold a large current cash balance for the purposes of purchasing materials and meeting its payroll. The amount of the cash balance so required varies because of the fluctuating seasonal nature of the corporation's business. In months when large cash balances are not required, the corporation invests the surplus amount in U.S. Treasury bills. Since both the cash and the Treasury bills are held to meet the present needs of the business, they are held in a direct relationship to that business, and therefore, constitute assets used or held for use in the trade or business.

Example (2). R, a domestic corporation engaged in the manufacture of goods, engages a stock brokerage firm to manage securities which were purchased with funds from R's general surplus reserves. The funds invested in these securities are intended to provide for the future expansion of R into a new trade or business. Thus, the funds are not necessary for the present needs of the business; they are accordingly not held in a direct relationship to the business and do not constitute assets used or held for use in the trade or business.

Example (3). B, a federally chartered and regulated bank, is required by law to hold substantial reserves of cash, stock, and securities. Pursuant to the rule of paragraph (f)(2) of this section, such assets are presumed to be held in a direct relationship to B's business, and thus constitute assets used or held for use in the trade or business. In addition, B holds substantial loan receivables which are acquired and held in the ordinary course of its banking business. Pursuant to the rule of paragraph (f)(1)(iii) of

this section, such receivables constitute assets used or held for use in the trade or business.

(g) *Disposition.* For purposes of section 897 and 6039C, the term "disposition" means any transfer that would constitute a disposition by the transferor for any purpose of the Internal Revenue Code and regulations thereunder.

(h) *Gain or loss.* the amount of gain or loss arising from the disposition of the U.S. real property interest shall be determined as provided in section 1001 (a) and (b). Such gain or loss shall be subject to the provisions of section 897(a) and (b), unless a nonrecognition provision is applicable pursuant to section 897 (d) or (e) and regulations thereunder. Amounts otherwise treated for Federal income tax purposes as principal and interest payments on debt obligations of all kinds (including obligations that are interests other than solely as a creditor) do not give rise to gain or loss that is subject to section 897(a). However, principal payments on installment obligations described in §§ 1.897–1(d)(2)(ii)(A) and 1.897–1(d)(3)(ii)(A) do give rise to gain or loss that is subject to section 897(a), to the extent such gain or loss is required to be recognized pursuant to section 453. The rules of paragraphs (g) and (h) are illustrated by the following examples.

Example (1). Foreign individual C has an undivided fee interest in a parcel of real property located in the United States. The fair market value of C's interest in $70,000, and C's basis in such interest is $50,000. The only liability to which the real property is subject is the liability of $35,000 secured by a mortage in the same amount. C transfers his fee interest in the property subject to the mortage by gift to D. C realizes $15,000 of gain upon such transfer. As a transfer by gift constitutes a disposition for purposes of the Code, and as gain is realized upon that transfer, the gift is a disposition for purposes of section 897 and 6039C and is subject to section 897(a) to the extent of the gain realized. However, section 897(a) would not be applicable to the transfer if the mortage on the U.S. real property were equal to or less than C's $50,000 basis, since the transfer then would not give rise to the realization of gain or loss under the Internal Revenue Code.

Example (2). Foreign corporation Y makes a loan of $1 million to domestic individual Z, secured by a mortgage on residential real property purchased with the loan proceeds. The loan agreement provides that Y is entitled to receive fixed monthly payments from Z, constituting repayment of principal plus interest at a fixed rate. In addition, the agreement provides that Y is entitled to receive a percentage of the apperciation in value of the real property as of the time that the loan is retired. The obligation in its entirely is considered debt for Federal income tax purposes. However, because of Y's right to share in the appreciation in value of the real property, the debt obligation gives Y an interest in the real property other than solely as a creditor. Nevertheless, as principal and interest payments do not constitute gain under section 1001 and paragraph (h) of this section, section 897(a) shall not apply to Y's receipt of such payments. However, Y's sale of the debt obligation to foreign corporation A would give rise to gain that is subject to section 897(a).

(i) *Related person.* For purposes of sections 897 and 6039C, persons are considered to be related if they are partners or partnerships described in section 707(b)(1) of the Code, if they are related within the meaning of section 267 (b) and (c) of the Code (without reference to the personal holding company or foreign personal holding company limitations of section 267(b)(3)), or if they are members of a controlled group of corporations. For this purpose the term "controlled group of corporations" has the same meaning given to it in section 1563(a), except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a), and subsections (a)(4), (b)(2), and (e)(3)(C) of section 1563 shall be disregarded.

(j) *Domestic corporation.* The term "domestic corporation" has the same meaning as set forth in section 7701(a)(3) and (4) and § 301.7701–5. For purposes of sections 897 and 6039C, it also includes a foreign corporation with respect to which an election under section 897(i) and § 1.897–3 or section 897(k) and § 1.897–4 to be treated as domestic corporation is in effect.

(k) *Foreign person.* The term "foreign person" means a nonresident alien individual (including an individual subject to the provisions of section 877), a foreign corporation as defined in paragraph (l) of this section, a foreign partnership, a foreign trust or a foreign estate, as such persons are defined respectively by § 1.871–2 and by 7701 and the regulations thereunder. A resident alien individual, including a nonresident alien individual with respect to whom there is in effect an election under section 6013 (g) or (h) to be treated as a United States resident, is not a foreign person. For purposes of sections 897 and 6039C only, foreign governments and international organizations (as defined in § 1.892–1(b) and section 7701(a)(18), respectively) shall be treated as foreign persons only with respect to U.S. real property interests that are held for commercial activities within the meaning of section 892 and the regulations thereunder.

Thus, U.S. real property interests that are held by foreign governments for diplomatic or investment purposes and not for commercial activities will not be subject to sections 897 and 6039C.

(l) *Foreign corporation.* The term "foreign corporation" has the meaning ascribed to such term in section 7701(a)(3) and (5) and § 301.7701–5. For purposes of sections 897 and 6039C, however, the term does not include a foreign corporation with respect to which there is in effect an election under section 897(i) and § 1.897–3 or section 897(k) and § 1.897–4 to be treated as a domestic corporation.

(m) *Established securities market.* For purposes of sections 897 and 6039C, the term "established securities market" means—

(1) A national securities exchange which is registered under section of the Securities Exchange Act of 1934 (15 U.S.C. 78f),

(2) A foreign national securities exchange which is officially recognized sanctioned, or supervised by governmental authority, and

(3) Any over-the-counter market.

An over-the-counter market is any market reflected by the existence of an interdealer quotation system. An interdealer quotation system is any system of general circulation to brokers and dealers which regularly disseminates quotations of stocks and securities by identified brokers or dealers, other than by quotation sheets which are prepared and distributed by a broker or dealer in the regular course of business and which contain only quotations of such broker or dealer.

(n) *Regularly traded.* A class of stock that is traded on an established securities market is considered to be "regularly traded" if it is regularly quoted by brokers or dealers making a market in such stock. A class of stock shall be presumed to be regularly traded if the corporation has a total of 500 or more shareholders.

(o) *Fair market value*—(1) *In general.* For purposes of sections 897 and 6039C only, the term "fair market value" means the value of the property determined in accordance with the rules contained in this paragraph (o). The definition of fair market value provided herein is not to be used in the calculation of gain or loss from the disposition of a U.S. real property interest pursuant to section 1001. An independent professional appraisal of the value of property must be submitted only when such an apprasial is specifically required or authorized by regulation in connection with the negotiation of a security agreement pursuant to section 6039C.

(2) *Method of calculating fair market value*—(i) *In general.* The fair market value of property is its gross value (as defined in paragraph (o)(2)(ii) of this section) reduced by the outstanding balance of any debts secured by the property which are described in paragraph (o)(2)(iii) of this section.

(ii) *Gross value.* Gross value is the price at which the property would change hands between an unrelated willing buyer and willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all relevant facts. Generally, with respect to trade or business assets, going concern value should be used as it will provide the most accurate reflection of such a price. However, taxpayers may use other methods of valuation if they can establish that such method will provide a more accurate determination of gross value and if they consistently apply such method to all assets to be valued. See subdivisions (3) and (4) of this paragraph (o) for special rules with respect to the valuation of leases and of intangible assets.

(iii) *Debts secured by the property.* The gross value of property is reduced by the outstanding balance of debts secured by the property, but only if the debt proceeds were used to purchase or improve the property. A debt shall qualify for this purpose only if it is secured by—

(A) A purchase money mortgage upon real property, properly recorded and enforceable under the law of the jurisdiction in which the real property is located,

(B) A purchase money security interest in personal property that is valid and enforceable pursuant to the provisions of state law respecting the creation and enforcement of such interest, or

(c) A mechanic's or materialman's lien or similar security interest in real or personal property, arising from the rendering of services or provision of materials with respect to the improvement of such property, enforceable pursuant to the provisions of state law respecting the creation and enforcement of such interests.

A purchase money mortgage or security interest is one that is taken or retained by the seller of the collateral to secure payment of all or part of the sales price, or is taken by a person who, by making advances or incurring an obligation, gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used. However, no debt that is owed to a related person shall reduce the gross value of property. "Related person" for this purpose has the meaning given to it in § 1.897–1(i).

(iv) *Anti-abuse rule.* The gross value of real property located outside the United States and of assets used or held for use in a trade or business shall be reduced by the outstanding balance of any debt that was entered into for the principal purpose of avoiding the provisions of section 897 or 6039C by enabling the corporation to acquire such assets. The existence of such a purpose shall be determined with reference to all the facts and circumstances. Debts that a particular corporation routinely enters into in the ordinary course of its acquisition of assets used or held for use in its trade or business will not be considered to be entered into for the principal purpose of avoiding the provisions of section 897 or 6039C.

(3) *Fair market value of leases.* for purposes of sections 897 and 6039C, the fair market value of a leasehold interest in real property is the price at which the lease could be assigned or the property sublet, neither party to such transaction being under any compulsion to enter into the transaction and both having reasonable knowledge of all relevant facts. Thus, the value of a leasehold interest will generally consist of the present value over the period of the lease remaining, of the difference between the rental provided for in the lease and the current rental value of the real property. A leasehold interest bearing restrictions on its assignment or sublease has a fair market value of zero, but only if those restrictions in effect preclude (rather than merely condition) the lessee's ability to transfer, at a gain, the benefits of a favorable lease. If a lease is claimed to have a value of zero because of purported restrictions on its transfer, but is later disposed of at a gain by the lessee, the improper valuation of the lease at zero may constitute a failure to meet the requirements of section 6039C. See section 6652(g) and regulations thereunder.

(4) *Fair market value of intangible assets.* For purposes of determining whether a corporation is a U.S. real property holding corporation, the fair market value of intangible assets described in § 1.897–1(f)(1)(ii) may be determined in accordance with any of the following methods. However, goodwill and going concern value may only be valued in accordance with the purchase price method.

(i) *Purchase price.* Intangible assets described in § 1.897–1(f)(1)(ii) that were acquired by purchase from a person not related to the purchaser within the meaning of § 1.897–1(i) may be valued at their purchase price. However, such purchase price must be adjusted to reflect any amortization required by generally accepted accounting principles.

(ii) *Book value.* Intangible assets described in § 1.897–1(f)(1)(ii) (other than goodwill and going concern value) may be valued at the amount at which such assets are carried on the financial accounting records of the holder of such assets, provided that such amount is determined in accordance with generally accepted accounting principles. However, this method may not be used with respect to assets acquired by purchase from a related person within the meaning of § 1.897–1(i).

(iii) *Other methods.* Intangible assets described in § 1.897–1(f)(1)(ii) (other than goodwill and going concern value) may be valued pursuant to any other reasonable method at an amount reflecting the price at which the asset would change hands between an unrelated willing buyer and willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all relevant facts. However, a corporation that uses a method of valuation other than the purchase price or book value methods may be required to comply with the special notification requirements of § 1.897–2(h)(1)(iii)(A).

(p) *Identifying number.* The "identifying number" of an individual is the individual's United States social security number. The "identifying number" of any other person is its United States employer identification number.

§ 1.897–2 United States real property holding corporations.

(a) *Purpose and scope.* This section provides rules regarding the definition and consequences of U.S. real property holding corporation status. U.S. real property holding corporation status is important for determining whether gain from the disposition by a foreign person of an interest in a domestic corporation is taxable. Such status is also important for reporting purposes. For instance, under section 6039C(a), a domestic corporation that is a U.S. real property holding corporation is required to report annually if it has foreign shareholders. In addition, for purposes of determining whether another corporation is a U.S. real property holding corporation, an interest in a foreign corporation is a U.S. real property interest unless it is established that the foreign corporation is not a U.S. real property holding corporation. The general definition of a

U.S. real property holding corporation is provided in paragraph (b) of this section. Paragraph (c) provides rules regarding the dates on which U.S. real property holding corporation status must be determined. The assets that must be included in making the determination of a corporation's status are set forth in paragraph (d), while paragraph (e) provides special rules regarding the treatment of interests held by a corporation in partnerships, trusts, estates, and other corporations. Rules regarding the termination of U.S. real property holding corporation status are set forth in paragraph (f). Paragraph (g) explains the manner in which an interest-holder can establish that a corporation is not a U.S. real property holding corporation, and paragraph (h) provides rules regarding certain notification requirements applicable to corporations.

(b) *U.S. real property holding corporation*—(1) *In general.* A corporation is a U.S. real property holding corporation if the fair market value of the U.S. real property interests held by the corporation on any applicable determination date equals or exceeds 50 percent of the sum of the fair market values of its—

(i) U.S. real property interests;

(ii) Interests in real property located outside the United States; and

(iii) Assets other than those described in subdivision (i) or (ii) of this paragraph (b)(1) that are used or held for use in its trade or business.

See paragraphs (d) and (e) of this section for rules regarding the directly and indirectly held assets that must be included in the determination of whether a corporation is a U.S. real property holding corporation. The term "interest in real property located outside the United States" means an interest other than solely as a creditor (as defined in § 1.897–1(d)) in real property (as defined in § 1.897–1(b)) that is located outside the United States or the Virgin Islands. If a corporation qualifies as a U.S. real property holding corporation on any applicable determination date after June 18, 1980, any interest in it shall be treated as a U.S. real property interest for a period of five years from that date, unless the provisions of paragraph (f)(2) of this section are applicable.

(2) *Alternative test.* The fair market value of a corporation's U.S. real property interests shall be presumed to be less than 50 percent of the fair market value of the aggregate of its assets described in paragraphs (d) and (e) of this section if on an applicable determination date the total book value of the U.S. real property interests held by the corporation is 25 percent or less of the book value of the aggregate of the corporation's assets described in paragraphs (d) and (e) of this section.

For purposes of this section, the term "book value" means the value at which an item is carried on the financial accounting records of the corporation, provided that such records are kept in accordance with generally accepted accounting principles. Corporations that utilize this alternative test may be subject to the special notification rule of § 1.897–2(h)(1)(iii)(B). The Internal Revenue Service may conclusively rebut the presumption allowed by this paragraph (b)(2) by notifying the corporation that it cannot rely upon such presumption. No penalties shall be imposed for any past failure to comply with the requirements of section 897 or 6039C that arose from reliance upon the presumption, provided that:

(i) The corporation properly relied upon the presumption; and

(ii) All applicable requirements under sections 897 and 6039C are satisfied by the 90th day following the date of which the corporation receives notification from the Service that the presumption has been rebutted.

(c) *Determination dates for applying U.S. real property holding corporation test*—(1) *In general.* Whether a corporation is a U.S. real properly holding corporation is to be determined as of the following dates:

(i) Each December 31;

(ii) The date on which the corporation acquires any U.S. real property interest;

(iii) The date on which the corporation disposes of an interest in real property located outside the United States or disposes of other assets used or held for use in a trade or business during the calendar year, subject to the provisions of paragraph (c)(2)(i) of this section; and

(iv) In the case of a corporation that is treated pursuant to paragraph (d) (4) and (5) of this section as owning a portion of the assets held by an entity in which the corporation directly or indirectly holds an interest, the date on which that entity either (A) acquires a U.S. real property interest, (B) disposes of an interest in real properly located outside the United States or (C) disposes of other assets used or held for use in a trade or business during the calendar year, subject to the provisions of paragraph (c)(2)(ii) of this section.

A determination that is triggered by a transaction described in subdivision (ii), (iii), or (iv) of this paragraph (c)(1) must take such transaction into account. However, the first determination of a corporation's status need not be made until the 90th day after the later of the date of incorporation or of the date on which the corporation first acquires a shareholder. In addition, no determination of a corporation's status need be made during the 12-month period beginning on the date on which a corporation adopts a plan of complete liquidation, provided that all the assets of the corporation are distributed within such period.

(2) *Dispositons of trade or business assets not requiring a determination*—(i) *Disposition by corporation.* Notwithstanding the provisions of paragraph (c)(1)(iii) of this section, a determination of U.S. real property holding corporation status need not be made on the date of a corporation's disposition of inventory or livestock (as described in § 1.897–1(f)(1)(i) (A) and (C) or the date of the satisfaction of accounts receivable arising from the disposition of inventory or livestock. Furthermore, a determination need not be made on the date of a corporation's disposition of any other assets used or held for use in a trade or business, unless the fair market value of the assets disposed of exceeds a limitation amount determined in accordance with the rules of subdivision (iii) of this paragraph (c)(2).

(ii) *Disposition by entity other than corporation.* Notwithstanding the provisions of paragraph (c)](1)(iv) of this section, in the case of a corporation that is treated as owning a portion of the assets held by an entity in which the corporation directly or indirectly holds an interest, a determination of U.S. real properly holding corporation status need not be made on the date of the entity's disposition of inventory or livestock (as described in § 1.897–1(f)(1)(i) (A) and (C)) or the date of the satisfaction of accounts receivable arising from the disposition of inventory or livestock. Furthermore, a determination need not be made on the date of the entity's disposition of any other assets used or held for use in a trade or business, unless the fair market value of the assets disposed of exceeds a limitation amount determined in accordance with the rules of subdivision (iii) of this paragraph (c)(2).

(iii) *Calculation of limitation amount.* The amount of assets used or held for use in a trade or business that may be disposed of by a corporation or other entity without triggering a determination date shall be calculated in accordance with the following rules.

(A) If, in accordance with the provisions of paragraphs (d) and (e) of this section, a corporation on its most recent determination date was

considered to hold U.S. real property interests having a fair market value that was less than 25 percent of the aggregate fair market value of all the assets it was considered to hold, then the applicable limitation amount shall be 10 percent of the fair market value of all trade or business assets held directly by the corporation or by another entity described in paragraph (c)(1)(iv) of this section on that determination date.

(B) If, in accordance with the provisions of paragraphs (d) and (e) of this section, a corporation on its most recent determination date was considered to hold U.S. real property interests having a fair market value that was equal to or greater than 25 and less than 35 percent of the aggregate fair market value of all the assets it was considered to hold, then the applicable limitations amount shall be 5 percent of the fair market value of all trade or bussiness assets held directly by the corporation or by another entity described in paragraph (c)(1)(iv) of this section on that determination date.

(C) If, in accordance with the provisions of paragraphs (d) and (e) of this section, a corporation on its most recent determination date was considered to hold U.S. real property interests having a fair market value that was equal to or greater than 35 percent of the aggregate fair market value of all the assets if was considered to hold, then the applicable limitations amount shall be 2 percent of the fair market value of all trade or bussiness assets held directly by the corporation or by another entity described in paragraph (c)(1)(iv) of this section on that determination date.

(D) If a corporation is not a U.S. real property holding corporation under the alternative test of paragraph (b)(2) of this section (relating to the book value of the corporation's assets), then the applicable limitations shall be 10 percent of the book value of all trade or bussiness assets held directly by the corporation or by another entity described in paragraph (c)(1)(iv) of this section on the most recent determination date.

Dispositions by the corporation or other entity of assets having a value less than the applicable limitation amount must be cumulated by the corporation or entity making such dispositions, and a determination must be made on the date of a disposition that causes the total to exceed the applicable limitation. Once a determination is triggered by a disposition that causes the applicable limitation to be exceeded, the computation of the amount of trade or business assets disposed of after that date shall begin again at zero.

The rules of this paragraph (c)(2) may be illustrated by the following examples.

Example (1). DC is a domestic corporation, no class of stock of which is regularly traded on an established securities market, that knows that it has several foreign shareholders. As of December 31, 1984, DC holds U.S. real property interests with a fair market value of $500,000, no real property interests located outside the U.S., and other assets used in its trade or business with a fair market value of $1,600,000. Thus, the fair market value of DC's U.S. real property interests ($500,000) is less than 25% ($525,000) of the total ($2,100,000) of DC's U.S. real property interests ($500,000), interests in real property located outside the United States (zero), and assets used or held for use in a trade or business ($1,600,000). DC is not a U.S. real property holding corporation, and under the rule of paragraph (c)(2)(i) of this section it may dispose of trade or business assets with a fair market value equal to 10 percent ($160,000) of the total fair market value ($1,600,000) of such assets held by it on its most recent determination date (December 31, 1984), without triggering a determination of its U.S. real property holding corporation status. Therefore, when DC disposes of $80,000 worth of trade or business assets (other than inventory or livestock) on March 1, 1985, and again on April 1, 1985, no determination of its status is required on either date. However, when DC disposes of a further $80,000 worth of such trade or business assets on May 1, its total dispositions of such assets ($180,000) exceeds its applicable limitation amount, and DC is therefore required to determine its U.S. real property holding corporation status. On May 1, 1985, the fair market value of DC's U.S. real property interests ($500,000) is greater than 25 percent ($480,000) and less than 35 percent ($672,000) of the total ($1,920,000) of DC's U.S. real property interests ($500,000), interests in real property located outside the United States (zero), and assets used or held for use in a trade or business ($1,420,000). DC is still not a U.S. real property holding corporation, but must now compute its applicable limitation amount as of the May 1 determination date. Under the rule of paragraph (c)(2)(iii)(B) of this section, DC could now dispose of trade or business assets other than inventory or livestock with a total fair market value equal to 5 percent of the fair market value of all trade or business assets held by DC on the May 1 determination date. Therefore, disposition of such trade or business assets with a fair market value of more than $71,000 (5 percent of $1,420,000) will trigger a further determination date for DC.

Example (2). DC is a domestic corporation, no class of stock of which is regularly traded on an established securities market, that knows that it has several foreign shareholders. As of December 31, 1986, DC's only assets are a U.S. real property interest with a fair market value of $300,000 other assets used or held for use in its trade or business with a fair market value of $800,000, and a 50 percent partnership interest in domestic partnership DP. DC's interest in DP constitutes a percentage ownership interest in the partnership of 50 percent, and pursuant to the rules of paragraph (e)(2) of this section DC is treated as owning a portion of the assets of DP determined by multiplying that percentage by the fair market value of DP's assets. As of December 31, 1986, DP's only assets are U.S. real property interests with a fair market value of $120,000 and other assets used in its trade or business with a fair market value of $380,000. As of its December 31, 1986, determination date, the fair market value ($360,000) of the U.S. real property interests DC holds ($300,000) and is treated as holding ($60,000 [The fair market value of DP's U.S. real property interest ($120,000) multiplied by DC's percentage ownership interest in DP (50 percent)]), is equal to 31 percent of the sum of the fair market values ($1,150,000) of the U.S. real property interests DC holds and is treated as holding ($360,000) DC's interest in real property located outside the United States (zero), and assets used or held for use in a trade or business that DC holds or is treated as holding ($790,000 [$600,000 (held directly) plus $190,000 (DC's 50 percent share of assets used or held for use in a trade or business by DP)]). Thus, under the rules of paragraph (c)(2) (i) and (iii)(B) of this section DC may dispose of assets used or held for use in its trade or business with a fair market value equal to 5 percent ($30,000) of the total fair market value ($600,000) of such assets held directly by it on its most recent determination date (December 31, 1986), without triggering a determination of its U.S. real property holding corporation status., In addition, under the rules of paragraph (c)(2)(ii) and (iii)(A) of this section, a determination date for DC would not be triggered by DP's disposition of trade or business assets (other than inventory or livestock) with a fair market value equal to 5 percent ($19,000) of the total fair market value ($380,000) of such assets held by it as of DC's most recent determination date (December 31, 1986). However, any disposition of such assets by DP exceeding that limitation would trigger a determination of DC's U.S. real property holding corporation status. In addition, under the rule of paragraph (c)(1)(iv) of this section, any disposition of a U.S. real property interest by DP would trigger a determination date for DC, while under the rule of paragraph (c)(2)(ii) of this section no disposition of inventory or livestock by DP would trigger a determination for DC.

(3) *Valuation methods*— (i) *In general.* For purposes of determining whether a corporation is a U.S. real property holding cortporation on any applicable determination date, the fair market value of the assets held by the corporation (in accordance with § 1.897–2(d)) as of that determination date must be used.

(ii) *Alternative valuation method for determination dates other than December 31.* For purposes of paragraph (c)(3)(i) of this section, if an applicable

determination date under paragraph (c)(1) or (2) of this section is other than December 31, property may be valued as of the later of the previous December 31 or the date such property was acquired.

(iii) *Consistent methods.* The valuation date methods selected under this paragraph (c)(3) for the first determination date in a calendar year must be used for all subsequent determination dates for such year. In addition, the valuation date method selected must be used for all property with respect to which the determination is made. The use of one method for one calendar year does not preclude the use of the other method for any other calendar year.

(4) *Illustrations.* The rules of this paragraph (c) are illustrated by the following examples:

Example (1). Nonresident alien individual C purchased 100 shares of stock of domestic corporation K on July 28, 1985. Although K has additional shares of common stock outstanding, its stock has never been traded on an established securities market. At all times dring calendar year 1985, K's only assets were a parcel of U.S. real estate (parcel A) and a parcel of country Z real estate (parcel B). On December 31, 1985, the fair market value of parcel A was $1,000,000 and the fair market value of parcel B was $2,000,000. For purposes of determining whether K was a U.S. real property holding corporation during 1985, the only applicable determination date was December 31, 1985, because K did not make any acquisitions or dispositions described in paragraph (c)(1) of this section during the year. The test of paragraph (b) of this section is applied using the fair market value of the property held on that date. K was not a U.S. real property holding corporation during 1985 because as of December 31, 1985, the fair market value ($1,000,000) of the U.S. real property interests held by K did not equal or exceed 50 percent ($1,500,000) of the sum ($3,000,000) of the fair market value of K's U.S. real property interest ($1,000,000), the interests in real property located outside the United States ($2,000,000), plus other assets used or held for use by K in a trade or business (zero).

Example (2). The facts are the same as in example (1), except that on April 7, 1986, K Purchased another parcel of U.S. real estate for $2,000,000. K's purchase of real property on April 7 triggered a determination on that date. As provided in paragraph (c) (3) (ii) of this section, K chooses to use the value of parcels A and B as of the previous December 31, while newly acquired parcel C must be valued as of its acquisition on April 7, 1986. On that date, K qualifies as a U.S. real property holding corporation, since the fair market value of its U.S. real property interests ($3,000,000) exceeds 50 percent ($2,500,000) of the sum ($5,000,000) of the fair market value of K's U.S. real property interests ($3,000,000), its interests in real property located outside the U.S. ($2,000,000), and its other assets used or held for use in a trade or business (zero).

(d) *Assets held by a corporation.* The assets that must be included in the determination of whether a corporation is a U.S. real property holding corporation are the following:

(1) U.S. real property interests that are held directly by the corporation (including directly-held interests in foreign corporations that are treated as U.S. real property interests pursuant to the rules of paragraph (e) (1) of this section);

(2) Interests in real property located outside the United States that are held directly by the corporation;

(3) Assets used or held for use in a trade or business that are held directly by the corporation;

(4) A proportionate share of assets held through a partnership, trust, or estate pursuant to the rules of paragraph (e) (2) of this section; and

(5) a proportionate share of assets held through a domestic or foreign corporation in which a corporation holds a controlling interest, pursuant to the rules of paragraph (e) (3) of this section.

(e) *Special rules regarding assets held by a corporation*—(1) *Interests in foreign corporations.* For purposes only of determining whether any corporation is a U.S. real property holding corporation, an interest in a foreign corporation shall be treated as a U.S. real property interest unless it is established that the interest was not a U.S. real property interest under the rules of this section on the applicable determination date. The rules of paragraph (g)(2) of this section must be complied with to establish that the interest is not a U.S. real property interest. However, regardless of whether an interest in a foreign corporation is treated as a U.S. real property interest for this purpose, gain or loss from the disposition of an interest in such corporation will not be treated as effectively connected with the conduct of a U.S. trade or business by reason of section 897(a). The rules of this paragraph (e)(1) are illustrated by the following examples. In each example, fair market value is determined as of the applicable determination dates under paragraph (c)(3)(i) of this section.

Example (1). Nonresident alien individual F holds all of the stock of domestic corporation DC. DC's only assets are 40 percent of the stock of foreign corporation FC, with a fair market value of $500,000, and a parcel of country W real estate, with a fair market value of $400,000. Foreign corporation FP, unrelated to DC, holds the other 60 percent of the stock of FC. FC's only asset is a parcel of U.S. real estate with a fair market value of $1,250,000. FC is a U.S. real property holding corporation because the fair market value of its U.S. real property interests ($1,250,000) exceeds 50 percent ($625,000) of the sum of the fair market values of its U.S. real property interests ($1,250,000), its interests in real property located outside the United States (zero), plus its other assets used or held for use in a trade or business (zero). Consequently DC's interest in FC is treated as a U.S. real property interest under the rules of this paragraph (e)(1). DC is a U.S. real property holding corporation because the fair market value ($500,000) of its U.S. real property interest (the stock of FC) exceeds 50 percent ($450,000) of the sum ($900,000) of the fair market value of its U.S. real property interests ($500,000), its interests in real property located outside the United States ($400,000), plus its other assets used or held for use in a trade or business (zero). If F disposes of her stock within 5 years of the current determination date, her gain or loss on the disposition of her stock in DC will be treated as effectively connected with a U.S. trade or business under section 897(a). However, FP's gain on the disposition of its FC stock would not be subject to the provisions of section 897 (a) because the stock of FC is a U.S. real property interest only for purposes of determining whether DC is a U.S. real property holding corporation.

Example (2). Nonresident alien individual B holds all of the stock of domestic corporation US. US's only assets are 40 percent of the stock of foreign corporation FC1. Nonresident alien individual N, unrelated to US, holds the other 60 percent of FC1's stock. FC1's only assets are 40 percent of the stock of foreign corporation FC2. The remaining 60 percent of the stock of FC2 is owned by nonresident alien individual X, who is unrelated to FC1. FC2's only asset is a parcel of U.S. real estate with fair market value of $1,000,000. FC2, therefore, is a U.S. real property holding corporation, and the stock of FC2 held by FC1 is a U.S. real property interest for purposes of determining whether FC 1 is a U.S. real property holding corporation (but not for purposes of treating FC1's gain from the disposition of FC2 stock as effectively connected with a U.S. trade or business under section 897(a)). As all of FC1's assets are U.S. real property interests, the stock of FC1 held by US is a U.S. real property interest for purposes of determining whether US is a U.S. real property holding corporation (but not for purposes of subjecting N's gain on the disposition of FC1 stock to the provisions of section 897(a)). As US is a domestic corporation and as all of its assets are U.S. real property interests, US is a U.S. real property holding corporation, and the stock of US held by B is a U.S. real property interest for purposes of section 897(a)). Therefore, B's gain or loss upon the disposition of the stock of US within 5 years of the most recent determination date is subject to the provisions of section 897(a).

(2) *Proportionate ownership of assets held by partnerships, trusts, and estates.* For purposes of determining whether a corporation is a U.S. real property holding corporation, a holder of an interest in a partnership, a trust, or an estate (whether domestic or foreign)

shall be treated pursuant to section 897(c)(4)(B) as holding a proportionate share of the assets held by the entity. Such share is to be determined in accordance with the rules of § 1.897–1(e) on each applicable determination date. Any asset treated as held by a holder of an interest by reason of this paragraph (e)(2) which is used or held for use in a trade or business by the partnership, trust, or estate shall be treated as so used or held for use by the holder of the interest. The proportionate ownership rule of this paragraph (e)(2) applies successively upward through a chain of ownership. The proportionate ownership rule of this paragraph (e)(2) is illustrated by the following examples. In each example fair market value is determined as of the applicable determination date under paragraph (c)(3)(i) of this section.

Example (1). Nonresident alien individual F holds all of the stock of domestic corporation DC. DC is a partner in foreign partnership FP, and DC's percentage ownership interest in FP is 50 percent. DC's other assets are a parcel of country F real estate with a fair market value of $500,000 and other assets which it uses in its business with a fair market value of $100,000. FP's assets are a parcel of country Z real estate with a fair market value of $300,000 and a parcel of U.S. real estate with a fair market value of $2,000,000. For purposes of determining whether DC is a U.S. real property holding corporation, DC is treated as holding its pro rata share of the assets held by FP. DC's pro rata share of the U.S. real estate held by FP is $1,000,000, determined by multiplying the fair market value ($2,000,000) of the U.S. real property interests held by FP by DC's percentage ownership interest in FP (50 percent). DC's pro rata share of the country Z real estate held by FP is $150,000, determined in the same manner. DC is a U.S. real property holding corporation because the fair market value ($1,000,000) of its U.S. real property interests (the U.S. real estate it is treated as holding proportionately) exceeds 50 percent ($875,000) of the sum ($1,750,000) of the fair market value of its U.S. real property interests ($1,000,000), its interests in real property located outside the United States [($850,000) (its country F real estate and its pro rata share of the country Z real estate)], plus its other assets which are used or held for use in a trade or business ($100,000). Because DC is a domestic U.S. real property holding corporation, the stock of DC is a U.S. real property interest and F's gain or loss on the disposition of his DC stock within 5 years of the current determination date will be treated as effectively connected with a U.S. trade or business under section 897(a).

Example (2). Nonresident alien individual B holds all of the stock of domestic corporation US. US is a beneficiary of foreign trust FT. US's percentage ownership interest in FT is 90 percent. US has no other assets. FT is a partner in domestic partnership DP. FT's percentage ownership interest in DP is 30 percent. FT has no other assets. DP's only asset is a parcel of U.S. real estate with a fair market value of $1,000,000. FT is treated as holding U.S. real estate with a fair market value of $300,000 (30 percent of the U.S. real estate held by DP with a fair market value of $1,000,000). For purposes of determining whether US is a U.S. real property holding corporation, the proportionate ownership rule is applied successively upward through the chain of ownership. Thus, US is treated as holding 90 percent of FT's $300,000 pro rata share of the U.S. real estate held by DP. US is a U.S. real property holding corporation because the fair market value ($270,000) of its U.S. real property interests (its pro rata share of the U.S. real estate held by DP) exceeds 50 percent ($135,000) of the sum of the fair market values of its U.S. real property interests ($270,000), its interests in real property located outside the United States (zero), plus its other assets used or held for use in a trade or business (zero). Because US is a domestic U.S. real property holding corporation, the stock of US is a U.S. real property interest, and B's gain or loss from the disposition of US stock within 5 years of the current determination date will be treated as effectively connected with a U.S. trade or business under section 897(a).

(3) *Controlling interests in corporations.* For purposes only of determining whether a corporation is a U.S. real property holding corporation, if the corporation (the "first corporation") holds a controlling interest in a second corporation—

(i) The first corporation is treated as holding a proportionate share of each asset (i.e., U.S. real property interests, interests in real property located outside the United States, and assets used or held for use in a trade or business) held by the second corporation, determined in accordance with the rules of § 1.897–1(e);

(ii) Any asset so treated as held proportionately by the first corporation which is used or held for use by the second corporation in a trade or business shall be treated as so used or held for use by the first corporation, and

(iii) Interests in the second corporation held by the first corporation are not themselves taken into account as U.S. real property interests (regardless of whether the second corporation is a U.S. real property holding corporation) or as trade or business assets.

A determination of what portion of the assets of the second corporation are considered to be held by the first corporation shall be made as of the applicable dates for determining whether the first corporation is a U.S. real property holding corporation.

A "controlling interest" means 50 percent or more of the fair market value of all classes of stock of a corporation, determined as of the applicable determination date. In determining whether a corporation holds a controlling interest in another corporation, section 318(a) shall apply (except that sections 318(a), (2)(C) and (3)(C) are applied by substituting the phrase "5 percent" for "50 percent"). The controlling interest rules of this paragraph (e)(3) apply, regardless of whether a corporation is domestic or foreign, whenever it is necessary to determine whether a corporation is a U.S. real property holding corporation. The rules apply successively upward through a chain of ownership. For example, if the second corporation owns a controlling interest in a third corporation, the rules of this paragraph shall be applied first to determine the portion of the assets of the third corporation that is considered to be held by the second corporation and then to determine the portion of the assets held and considered to be held by the second corporation that is considered to be held by the first corporation. The rules of this paragraph (e)(3) are illustrated by the following examples. In each example fair market value is determined as of the applicable determination date under paragraph (c)(3)(i) of this section and no corporation holds constructively any interest not specified in the example.

Example (1). Nonresident alien individual N owns all of the stock of domestic corporation DC. DC's only assets are 60 percent of the fair market value of all classes of stock of foreign corporation FS and 60 percent of the fair market value of all classes of stock of domestic corporation DS. The percentage ownership interest of DC in each of FS and DS is 60 percent. The balance of the stock in FS and DS is held by nonresident alien individual B, who is unrelated to DC. FS's only asset is a parcel of country F real estate with a fair market value of $1,000,000. DS's only asset is a parcel of U.S. real estate with a fair market value of $2,000,000. The value of DC stock in FS and DS is not taken into account for purposes of determining whether DC is a U.S. real property holding corporation. Rather, because DC holds a controlling interest (60 percent) in each of FS and DS, DC is treated as holding a portion of each asset held by FS and DS. DC's portion of the country F real estate held by FS is $600,000, determined by multiplying the fair market value ($1,000,000) of the country F real estate by DC's percentage ownership interest (60 percent). Similarly, DC's portion of the U.S. real estate held by DS is $1,200,000 (60 percent of $2,000,000). DC is a U.S. real property holding corporation, because the fair market value ($1,200,000) of its U.S. real property interests (its portion of the U.S. real property interests (its portion of the U.S. real estate) exceeds 50 percent ($800,000) of the sum ($1,800,000) of the fair market values of its U.S. real property interests ($1,200,000), its interests in real property located outside the United States (the $600,000 portion of country F real estate), plus its other assets used or held for use in a trade or business (zero).

Because DC is a domestic U.S. real property holding corporation, the stock of DC is a U.S. real property interest, and N's gain or loss on the disposition of DC stock within 5 years of the current determination date would be treated as effectively connected with a U.S. trade or business under section 897(a).

Example (2). Nonresident alien individual F owns all of the stock of domestic corporation US1. US1's only asset is 85 percent of the fair market value of all classes of stock of domestic corporation US2. US2's only assets are 60 percent of the fair market value of all classes of stock of domestic corporation US3, with a fair market value of $800,000, and a parcel of country D real estate with a fair market value of $800,000. US3's only asset is a parcel of U.S. real estate with a fair market value of $2,000,000. The percentage ownership interest of F in US1 is 100 percent; that of US1 in US2 is 75 percent; and that of US2 in US3 is 60 percent. US2 holds a controlling interest in US3 (60 percent). Consequently, the value of US2's stock in US3 is not taken into account in determining whether US2 is a U.S. real property holding corporation, even though US3 is a U.S. real property holding corporation. Instead, US2 is treated as holding a portion of the U.S. real estate held by US3. US2's portion of the U.S. real estate is $1,200,000, determined by multiplying US2's percentage ownership interest (60 percent) by the fair market value ($2,000,000) of the U.S. real estate. US1 holds a controlling interest in US2 (75 percent). By reapplying the rules of paragraph (e)(3) of this section successively upward through the chain of ownership, US1's stock in US2 is not taken into account, and US1 is treated as holding a portion of the country D real estate held by US2 and the U.S. real estate which US2 is treated as holding proportionately. US1's portion of the country D real estate is $600,000, determined by multiplying US1's percentage ownership interest (75 percent) by the fair market value ($800,000) of the country D real estate. US1's portion of the U.S. real estate which US2 is treated as owning is $900,000, determined by multiplying US1's percentage ownership interest (75 percent) by the fair market value ($1,200,000) of US2's portion of U.S. real estate held by US3. US1 is a U.S. real property holding corporation, because the fair market value ($900,000) of its U.S. real property interests (its portion of US2's portion of U.S. real estate) is more than 50 percent ($750,000) of the sum ($1,500,000) of fair market values of its U.S. real property interests ($900,000), its interests in real property located outside the United States ($600,000), plus its other assets used or held for use in a trade or business (zero). Because US1 is a U.S. real property holding corporation and is a domestic corporation, the stock of US1 is a U.S. real property interest, and F's gain or loss on the disposition of US1 stock within 5 years of the current determination date will be treated as effectively connected with a U.S. trade or business under section 897(a).

Example (3). Nonresident alien individual B holds all of the stock of domestic corporation DC. DC's only assets are 40 percent of the fair market value of all classes of stock of foreign corporation FC and a parcel of country R real estate with a fair market value of $100,000. FC's only asset is one parcel of U.S. real estate with a fair market value of $1,000,000. The fair market value of the FC stock held by DC is $200,000. FC is a U.S. real property holding corporation. Since DC does not hold a controlling interest in FC, the controlling interest rules of paragraph (e)(3) of this section do not apply to treat DC as holding a portion of the U.S. real estate held by FC. However, because FC is a U.S. real property holding corporation, the Stock of FC is a U.S. real property interest for purposes of determining whether DC is a U.S. real property holding corporation. DC is a U.S. real property holding corporation because the fair market value ($200,000) of its U.S. real property interest (the stock of FC) exceeds 50 percent ($150,000) of the sum ($300,000) of the fair market values of its U.S. real property interest ($200,000), its interests in real property located outside the United States ($100,000), plus its other assets used or held for use in a trade or business (zero). Because DC is a U.S. real property holding corporation and is a domestic corporation, its stock is a U.S. real property interest, and B's gain or loss on the disposition of DC stock within 5 years of the current determination date would be subject to the provisions of section 897(a).

Example (4). Nonresident alien individual C owns all of the stock of domestic corporation DC1's only assets are 25 percent of the fair market value of all classes of stock of domestic corporation DC2, and a parcel of U.S. real estate with a fair market value of $100,000. The stock of DC2 is not an asset used or held for use in DC1's trade or business. DC2's only assets are a building located in the U.S. with a fair market value of $100,000 and manufacturing equipment and inventory with a fair market value of $200,000. DC2 is not a U.S. real property holding corporation. Since DC1 does not hold a controlling interest in DC2, the rules of this paragraph (e)(3) do not apply to treat DC1 as holding a portion of the assets held by DC2. In addition, since DC2 is not a U.S. real property holding corporation, its stock does not constitute a U.S. real property interest. Therefore, for purposes of determining whether DC1 is a U.S. real property holding corporation, its interest in DC2 is not taken into account. Since DC1's only other asset is a parcel of U.S. real estate, DC1 is a U.S. real property holding corporation, and C's gain or loss on the disposition of DC1 stock within 5 years of the current determination date would be subject to the provisions of section 897(a).

(4) *Co-application of rules of this paragraph (e).* The rules of this paragraph (e) apply in conjunction with one another for purposes of determining whether a corporation is a U.S. real property holding corporation. The rule of this paragraph (e)(4) is illustrated by the following example. In the example fair market value is determined as of the applicable determination date in accordance with paragraph (c)(3)(i) of this section.

Example. Nonresident alien individual B holds 100 percent of the stock of domestic corporation US. US's only asset is 10 percent of the stock of foreign corporation FC1. FC1's only asset is 100 percent of the stock of foreign corporation FC2. FC2's only asset is a 50 percent interest in domestic partnership DP. FC2's percentage ownership interest in DP is 50 percent. DP's only asset is a parcel of U.S. real estate with a fair market value of $10,000,000. In determining whether US is a U.S. real property holding corporation, the rules of this paragraph (e) apply in conjunction with one another. Consequently, under paragraph (e)(2) of this section FC2 is treated as holding U.S. real estate with a fair market value of $5,000,000 (50 percent of $10,000,000, its pro rata share of real estate held by DP). Under paragraph (e)(3) of this section, FC1 is treated as holding 100 percent of the assets of FC2 (U.S. real estate with a fair market value of $5,000,000). FC1, therefore, is a U.S. real property holding corporation. Under paragraph (e)(1) of this section, the stock of FC1 is treated as U.S. real property interest. US is a U.S. real property holding corporation because 100 percent of its assets (the stock of FC1) are U.S. real property interests. As US is a U.S. real property holding corporation and is a domestic corporation, the stock of US is a U.S. real property interest, and B's gain or loss from the disposition of stock of US within 5 years of the current determination date will be subject to the provisions of section 897(a).

(f) *Termination of U.S. real property holding corporation status*—(1) *In general.* A U.S. real property holding corporation may voluntarily determine its status as of the date of any acquisition or disposition of assets. If the fair market value of its U.S. real property interests on such date no longer equals or exceeds 50 percent of the fair market value of all assets described in paragraphs (d) and (e) of this section, such corporation shall cease to be U.S. real property holding corporation as of such date, and on the day that is five years after such date interests in such corporation shall cease to be treated as U.S. real property interests (unless subsequent transactions within the five-year period have caused the fair market value of the corporation's U.S. real property interests to equal or exceed 50 percent of the fair market value of assets described in paragraphs (d) and (e) of this section). A corporation that determines that interests in it have ceased to be U.S. real property interests pursuant to the rules of this paragraph (f) may so inform the Internal Revenue Service, as provided in paragraph (h) of this section.

(2) *Early termination.* Interests in a U.S. real property holding corporation shall immediately cease to be U.S. real property interests as of the first date on which the following conditions are met—

(i) The corporation does not hold any U.S. real property interests, and

(ii) All of the U.S. real property interests held by such corporation at any time during the previous five years (but disregarding any disposed of before June 19, 1980) either (A) were disposed of in transactions in which the full amount of the gain (if any) was recognized or (B) ceased to be U.S. real property interests by reason of the application of this paragraph (f) to one or more other corporations.

For purposes of this paragraph (f)(2), a corporation that disposes of all U.S. real property interests other than a one-year or shorter lease at prevailing market rental rates will be considered to have disposed of all of its U.S. real property interests, provided that the leased property is used in the conduct by the corporation of a trade or business in the United States. Such a lease may include an option to renew, but only if such option is for a renewal of one year or less at fair market rental rates prevailing at the time of renewal.

(g) *Establishing that a corporation is not a U.S. real property holding corporation*—(1) *Foreign persons disposing of interests*—(i) *In general.* A foreign person disposing of an interest in a domestic corporation must ascertain from the corporation whether an interest in the corporation was a U.S real property interest as of the date of disposition. If the corporation informs the foreign person that the interest was not a U.S real property interest as of that date and that the corporation has complied with the requirements of paragraph (h)(1) of this section, then the foreign interest-holder need not otherwise establish that the interest disposed of is not a U.S. real property interest. To qualify under this rule, the foreign person must obtain the corporation's statement no later than the date, including any extensions, on which a tax return would otherwise be due with respect to a disposition. If the corporation does not notify the foreign person by that date that the interest disposed of is not a U.S real property interest and that it has informed the Internal Revenue Service of its status (as provided in paragraph (h)(1) of this section), then the disposition of an interest in that corporation shall be presumed to constitute the disposition of a U.S real property interest and shall be subject to the provisions of section 897(a), unless subdivision (ii) of this paragraph (g)(1) applies.

(ii) *Determination by Director.* Notwithstanding the provisions of subdivision (i) of this paragraph (g)(1), a foreign interest-holder need not treat an interest in a domestic corporation as a U.S. real property interest if the Director of the Foreign Operations District ("Director") determines and notifies the foreign interest-holder that interests in the corporation are not U.S. real property interests. A foreign transferor of an interest in a domestic corporation that supplies evidence to the Director establishing that it made a timely request to the corporation for information as to its status, to which the corporation failed to respond as required by paragraph (h)(1) of this section, may request the assistance of the Director. For this purpose, a timely request to the corporation is one made not later than 90 days before the date, including any extensions, on which a tax return would otherwise be due with respect to a disposition. If the Director is unable to make a determination he shall inform the transferor that the interest must be treated as a U.S. real property interest unless the transferor can otherwise establish that the corporation is not a U.S. real property holding corporation. The transferor may do so by providing the Director with detailed information, based on financial statements, annual reports, or records of the corporation, demonstrating to the satisfaction of the Director that the corporation is not a U.S. real property holding corporation. A foreign transferor who has requested a determination by the Director pursuant to the rules of this paragraph (g)(1)(ii) is not thereby excused from filing a return and paying any tax due by the date, including any extensions, on which such return and payment would otherwise be due with respect to a disposition. If the Director subsequently determines and notifies the foreign transferor that the interest was not a U.S. real property interest, the foreign transferor shall be entitled to a refund of any taxes paid by reason of the application of section 897(a) pursuant to the rules of paragraph (g)(1)(i) of this section.

(2) *Corporations determining U.S. real property holding corporation status.* A corporation that must determine whether it is a U.S. real property holding corporation, and that holds an interest in another corporation (other than a controlling interest, as defined in paragraph (e)(3) of this section), must ascertain from that second corporation whether its interest was a U.S. real property interest as of the first corporation's applicable determination date. If the second corporation informs the first corporation that the interest was not a U.S. real property interest and that the corporation has notified the Internal Revenue Service (as provided in paragraph (h)(1) of this section), then the first corporation need not treat the interest in the second corporation as a U.S. real property interest. If the second corporation does not inform the first corporation that its interest was not a U.S. real property interest and that it has notified the Internal Revenue Service of its status, then the first corporation must treat the interest in the second corporation (other than an interest solely as a creditor) as a U.S. real property interest, unless the Director of the Foreign Operations District determines otherwise. The first corporation may request a determination by the Director in the manner provided in paragraph (g)(1)(ii) of this section, with respect to determinations by the Director on behalf of foreign transferors.

(3) *Requirements not applicable.* If at any time during the calendar year any class of stock of a corporation is regularly traded on an established securities market, the requirements of this paragraph (g) shall not apply with respect to any holder of interest in such corporation other than a person who holds an interest described in § 1.897-1(c)(2) (i) or (ii). For example, a corporation determining whether it is a U.S. real property holding corporation need not ascertain from a regularly traded corporation in which it neither holds, nor has held during the period described in section 897(c)(1)(A)(ii), more than a 5 percent interest whether that regularly traded corporation is itself a U.S. real property holding corporation. In addition, the requirements of this paragraph (g) do not apply to any holder of an interest in a domestically-controlled REIT, as defined in section 897(h)(4)(B).

(h) *Notice requirements applicable to corporations*— (1) *Domestic corporations with foreign interest-holders*—(i) *In general.* A domestic corporation, any interest in which is known by the corporation to be held by a foreign person, must determine whether it is a U.S. real property holding corporation in accordance with the rules of this section. The existence of a foreign interest-holder is known by a corporation if such information is included on the books and records of the corporation or its agent (including a transfer agent), is known by its directors or officers, or is known by employees who in the course of their employment have reason to know such information. When such a corporation determines pursuant to the rules of paragraph (b) of this section that it is a U.S. real property holding corporation, it must comply with the requirements of section 6039(a) and

regulations thereunder. When such a corporation determines that it is not a U.S. real property holding corporation, it must inform the Internal Revenue Service of its determination in the manner described in subdivision (ii) of this paragraph (h)(1).

(ii) *Statements to Internal Revenue Service.* A domestic corporation, any interest in which is known to be held by a foreign person, that determines that it is not a U.S. real property holding corporation on each of the applicable determination dates in a given taxable year, must attach a statement to its income tax return for that year, informing the Internal Revenue Service that it has determined that is is not a U.S. real property holding corporation. With respect to taxable years ending after June 18, 1980, for which a return was filed before the date of publication of final regulations in the **Federal Register**, such statement must be separately delivered to the Internal Revenue Service office where the corporation filed its most recent income tax return no later than the date which is three months after the date of publication of final regulations in the **Federal Register**. If the statement is delivered by United States mail, the provisions of section 7502 and the regulations thereunder shall apply in determining the date of delivery. A corporation that determines during the course of its taxable year that interests in it have ceased to be U.S. real property interests pursuant to the rules of paragraph (f) of this section may immediately notify the Internal Revenue Service of that determination. Such notification will enable foreign interest-holders to dispose of their interests without being subject to section 897(a), as provided in paragraph (g) of this section. No particular form is required for the statement, which must set forth the name, address, place of incorporation, and identification number of the corporation, the last date after June 18, 1980, (if any) on which the corporation qualified as a U.S. real property holding corporation, and a statement that the corporation has determined that it was not a U.S. real property holding corporation on any applicable determination date during the taxable year. The calculations upon which such determination is based need not be included. The statement must be signed by a responsible corporate officer, who must verify under penalty of perjury that the statement is true and correct to his knowledge and belief. In addition, a corporation that had previously informed the Internal Revenue Service that it was not a U.S. real property holding corporation and that subsequently attains such status on a determination date must deliver a notification of such change of status to the Internal Revenue Service office where the corporation filed its most recent income tax return within 30 days of the determination date. If the notification is delivered by United States mail, the provisions of section 7502 and the regulations thereunder shall apply in determining the date of delivery. No particular form is required for such notification, which must set forth the name, address, place of incorporation, identification number of the corporation, and applicable determination date, as well as the statement that the corporation has determined that it became a U.S. real property holding corporation on that date.

(iii) *Supplemental statements*—(A) *By corporations with substantial intangible assets.* A corporation that is subject to the requirements of subdivision (ii) of this paragraph (h)(1) (or that voluntarily complies with those requirements) must submit a supplemental statement to the Internal Revenue Service if—

(*1*) Such corporation values any of the intangible assets described in § 1.897–1(f)(1)(ii) by a method other than the purchase price or book value methods described in § 1.897–1(o)(4); and

(*2*) The fair market value of such intangible assets equals or exceeds 25 percent of the total of the fair market values of the assets the corporation is considered to hold in accordance with the provisions of paragraphs (d) and (e) of this section.

The supplemental statement must inform the Internal Revenue Service that the corporation meets the criteria of subdivisions (*1*) and (*2*) of this paragraph (h)(1)(iii)(A), and must summarize the methods and calculations upon which the corporation's determination of the fair market value of its intangible assets is based. In addition, the supplemental statement must list any intangible assets that were purchased from any person that have been valued by the corporation at an amount other than their purchase price, and must provide a justification for such a departure from the purchase price. The supplemental statement must be attached to or incorporated in the statement required by paragraph (h)(1)(ii) of this section.

(B) *Corporation using alternative U.S. real property holding corporation test.* A corporation that is subject to the requirements of subdivision (ii) of this paragraph (h)(1) (or that voluntarily complies with those requirements) must submit a supplemental statement to the Internal Revenue Service if—

(*1*) Such corporation utilizes the rule of paragraph (b)(2) of this section (regarding the book values of assets held by the corporation) to presume that it is not a U.S. real property holding corporation; and

(*2*) Such corporation is engaged in or is planning to engage in a trade or business of mining, farming, or forestry, or of buying and selling or developing real property, or of leasing real property to tenants.

The supplemental statement must inform the Internal Revenue Service that the corporation meets the criteria of subdivisions (*1*) and (*2*) of this paragraph (h)(1)(iii)(B), and must be attached to or incorporated in the statement required by paragraph (h)(1)(ii) of this section.

(iv) *Statements to foreign interest-holders.* A domestic corporation must, within 30 days after receipt of an inquiry from a foreign person holding an interest in it, inform that person whether its interest constitutes a U.S. real property interest pursuant to the rules of this section and whether the corporation has notified the Internal Revenue Service of its status as required by paragraph (h)(1)(ii) of this section. No particular form is required for this statement, which need only indicate the corporation's determination and whether or not it has properly notified the Internal Revenue Service. Pursuant to the rules of paragraph (f) of this section, the foreign person's interest will not constitute a U.S. real property interest if the corporation was not a U.S. real property holding corporation on any determination date during the five-year period ending on the date of disposition specified by the foreign person (unless the conditions of paragraph (f)(2) of this section are met). Thus, if a corporation has filed the required statements with the Internal Revenue Service for each of its previous four taxable years, and it has not become a U.S. real property holding corporation on any determination date that preceded the date of disposition during the current taxable year, then the foreign person's interest will not constitute a U.S. real property interest. However, if the corporation did not file the required statements in any of the previous four years either because it did not know at that time that a foreign person held an interest in it or because no such person held an interest in it, such corporation must immediately determine whether it was a U.S. real property holding corporation on any determination date during the relevant period. Such a

corporation may take up to 90 days to make such a determination and to prepare and deliver its response to the foreign person. In addition, such corporation must within that period deliver the required notifications to the Internal Revenue Service, with respect to the years in which it was not a U.S. real property holding corporation but did not have or did not know that it had a foreign interest holder. If the corporation's response and notifications are delivered by United States mail, the provisions of section 7502 and the regulations thereunder shall apply in determining the date of delivery.

(2) *Foreign corporations and domestic corporations with no foreign interest-holders.* A foreign corporation or any domestic corporation that does not know that any interest in it is held by a foreign person is not required to determine its U.S. real property holding corporations status or to inform the Internal Revenue Service of its status. However, such corporation many voluntarily choose to comply with the requirements of paragraph (h)(1) of this section. Doing so will enable any interest-holder to establish that its interest is not a U.S. real property interest, for purposes of establishing that the interest-holder is not itself a U.S. real property holding corporation. A domestic or foreign corporation that had not previously complied with the requirements of paragraph (h)(1) of this section may do so retroactively by making the required determinations and filing the appropriate notifications with the Internal Revenue Service. Such retroactive compliance may be carried out simultaneously with the corporation's response to an inquiry from an interest-holder pursuant to paragraph (g)(2) of this section.

(3) *Requirements not applicable.* The requirements of this paragraph (h) do not apply to domestically-controlled REITS, as defined in section 897(h)(4)(B). Nor do these requirements apply to a corporation any class of stock in which is regularly traded on an established securities market at any time during the calendar year. However, such a corporation may voluntarily choose to comply with the requirements of paragraph (h)(1) of this section, in accordance with the rules of paragraph (h)(2) of this section.

(4) *Application of civil penalties.* A domestic corporation that improperly determines that it is not a U.S. real property holding corporation, and therefore fails to comply with the requirements of section 6039C(a), may be subject to the penalties provided by section 6652 (g), unless that failure was due to reasonable cause and not willful neglect.

§ 1.897–3 Election by foreign corporation to be treated as a domestic corporation under section 897(i).

(a) *Purpose and scope.* This section provides rules pursuant to which a foreign corporation may elect under section 897(i) to be treated as a domestic corporation for purposes of sections 897 and 6039C and the regulations thereunder. A foreign corporation with respect to which an election under section 897(i) is in effect is subject to all rules under sections 897 and 6039C that apply to domestic corporations. Thus, for example, if a foreign corporation that has made an election under section 897(i) is a U.S. real property holding corporation, interests in it are U.S. real property interests, and any gain or loss from the disposition of such interests by a foreign person will be treated as effectively connected with a U.S. trade or business under section 897(a). Similarly, if a foreign corporation makes an election under section 897(i), its distribution of a U.S. real property interest pursuant to section 301 will be subject to the carryover basis rule of section 897(f). However, an interest in an electing corporation is not a U.S. real property interest if following the election the interest is described in section 897(c)(1)(B) or § 1.897–1(c)(2) (subject to the exceptions of subdivisions (i) and (ii) of that section). In addition, section 897(d) will not apply to any distribution of a U.S. real property interest by such corporation or to any sale or exchange of such interest pursuant to a plan of complete liquidation under section 337. A foreign corporation that makes an election under section 897(i) shall not be treated as a domestic corporation for purposes of any other provision of the Code or regulations, except to the extent that it consents to such treatment as a condition to making the election. An election under section 897(i) is the exclusive remedy of any foreign person claiming discriminatory treatment under any treaty with respect to the application of sections 897 and 6039C to a foreign corporation. Therefore, if a corporation does not make an effective election, relief under a nondiscrimination article of any treaty shall not be otherwise available with respect to the application of sections 897 and 6039C to such corporation.

(b) *General conditions.* A foreign corporation may make an election under section 897(i) only if it meets all three of the following conditions.

(1) *Holding a U.S. real property interest.* The foreign corporation must hold a U.S. real property interest at the time of the election. This condition is satisfied when a U.S. real property interest is acquired simultaneously with the effective date of an election. For example, this condition is satisfied when real property is acquired in an exchange described in section 351 that is carried out simultaneously with the effective date of the election. This condition is also satisfied by a corporation that indirectly holds a U.S. real property interest through a partnership, trust, or estate.

(2) *Entitlement to nondiscriminatory treatment.* The foreign corporation must be entitled to nondiscriminatory treatment with respect to its U.S. real property interest under any treaty to which the United States is a party. Where the corporation indirectly holds a U.S. real property interest through a partnership, trust, or estate, the corporation itself must be entitled to nondiscriminatory treatment with respect to such property interest.

(3) *Submission of election in proper form.* The foreign corporation must comply with the requirements of paragraph (c) of this section respecting the manner and form in which an election must be submitted.

(c) *Manner and form of election.* An election under section 897(i) is made by filing the documents described in subparagraphs (1) through (5) of this paragraph (c) with the Director of the Foreign Operations District, 1325 K St., NW., Washington, D.C. 20225.

(1) *General statement.* The foreign corporation must supply a general statement indicating that an election under section 897(i) is being made. The general statement must be signed by a responsible corporate officer, who must verify under penalty of perjury that the statement and all other documents submitted pursuant to the requirements of this paragraph (c) are true and correct to his knowledge and belief. No particular form is required for the statement, which must set forth—

(i) The name, address, identifying number (if any), and place and date of incorporation of the foreign corporation;

(ii) The treaty and article under which the foreign corporation is seeking nondiscriminatory treatment;

(iii) A description of the U.S. real property interests held by the corporation, either directly or through a partnership, trust, or estate, including the dates such interests were acquired, the corporation's adjusted bases in such interests, and their fair market values as of the date of the election (or book values if the corporation is not a U.S. real property holding corporation under

the alternative test of § 1.897–2(b)(2)); and

(iv) A list of all dispositions of any interests in the foreign corporation after December 31, 1979, and before June 19, 1980, between related persons (as defined in section 453(f)((1)), giving the type and the amount of any interest transferred, the name and address of the related person to whom the interest was transferred, the transferor's basis in the interest transferred, and the amount of any nontaxed gain as defined in section 1125(d) of Pub. L. 96–499.

(2) *Waiver of treaty benefits.* The foreign corporation must submit a binding waiver of the benefits of any U.S. treaty with respect to any gain or loss from the disposition of a U.S. real property interest during the period in which the election is in effect.

(3) *Consent to be taxed.* The foreign corporation must submit a binding agreement to pay income tax as though it were a domestic corporation on the gain, if any, that is recognized upon—

(i) The disposition of any U.S. real property interest during the period in which the election is in effect, and

(ii) The disposition of any property that it acquired in exchange for a U.S. real property interest in a nonrecognition transaction (as defined in section 897(e)) during the period in which the election is in effect.

(4) *Interest-holders' consent to election*—(i) *In general.* The foreign corporation must submit both a signed consent to the making of the election and a waiver of U.S. treaty benefits with respect to any gain or loss from the disposition of an interest in the corporation from each person who holds an interest in the corporation on the date the election is made. In the case of a corporation any class of stock of which is regularly traded on an established securities market at any time during the calendar year, the signed consent and waiver need only be provided by a person who holds an interest described in § 1.897–1(c)(2)(i) or (ii) (determined after application of the constructive ownership rules of section 897(c)(6)(C)). The foreign corporation must also include with the signed consents and waivers a list that identifies and describes the interest in the corporation held by each interest holder, including the type and amount of such interest and its fair market value as of the date of the election.

(ii) *Effect of security agreement.* If, prior to the making of an election under section 897(i), a foreign corporation has entered into a security agreement with the Director of the Foreign Operations District pursuant to section 6039C and regulations thereunder, the corporation must, no later than the date of the election, deliver an application to the Director of the Foreign Operations District to amend its security agreement to reflect its election to be treated as a domestic corporation. Similarly, a corporation that has applied for, but not yet entered into, a security agreement must deliver an amendment to its application to the Director of the Foreign Operations District to reflect its election to be treated as a domestic corporation, no later than the date of the election. If such application or amendment is delivered by United States mail, the provisions of section 7502 and the regulations thereunder shall apply in determining the date of delivery. A corporation that has entered into or has applied for a security agreeement need not file the consents and waivers of its interest holders with its election, as required by paragraph (c)(4)(i) of this section, if it instead files the documents described in subdivisions (A) through (C) of this paragraph (C)(4)(ii).

(A) A statement that the corporation has received both a signed consent to the making of the election and a waiver of U.S. treaty benefits with respect to any gain or loss from the disposition of an interest in the coporation from each person who holds an interest in the corporation on the date the election is made. In the case of a corporation any class of stock of which is regularly traded on an established securities market at any time during the calendar year, the signed consent and waiver need only be provided by a person who holds or has held an interest described in § 1.897–(c)(2) (i) or (ii) (determined after application of the constructive ownership rules of section 897(c)(6)(C)).

(B) A list that describes the interests in the corporation held by each interest-holder. The list need not identify the interest-holders by name, but must set forth the type, amount, and fair market value of the interests held by each.

(C) An agreement that the foreign corporation will retain all signed consents and waivers for a period of three years from the date of the election and supply such documents to the Director of Foreign Operations within 30 days of his request for production thereof. Such request will generally be made only in the event of a termination of the corporation's security agreement, but may also be made for purposes of verifying the accuracy of the corporation's representations with respect to the consents and waivers. The Director's review of the signed consents and waivers pursuant to this provision shall not constitute an examination for purposes of section 7605(b).

A corporation that had applied for a security agreement must deliver the consents and waivers of its interest holders to the Director of the Foreign Operations District within 30 days after the Director's final rejection of the application.

(5) *Statement regarding prior dispositions.* The foreign corporation must state that no interest in the corporation was disposed of during the shortest of (A) the period from June 19, 1980, through the date of the election, (B) the period from the date on which the corporation first holds a U.S. real property interest through the date of the election, or (C) the five-year period ending on the date of the election. If the corporation cannot state that no such dispositions have been made, it may make the section 897(i) election only if it states that it has complied with the requirements of paragraph (d)(2) of this section.

(d) *Time and duration of election*—(1) *In general.* A foreign corporation that meets the conditions of paragraph (b) of this section may make an election under section 897(i) at any time before the first disposition of an interest in the corporation which would be subject to section 897(a) if the election had been made before that disposition, except as otherwise provided in paragraph (d)(2) of this section. The period to which the election applies begins on the date on which the election is made, or such earlier date as is specified in the election, but not earlier than June 19, 1980. Unless revoked, an election applies for the duration of the time for which the corporation remains in existence. An election is made on the date that the statements described in paragraph (c) of this section are delivered to the Director of the Foreign Operations District. If the election is delivered by United States mail, the provisions of section 7502 and the regulations thereunder shall apply in determining the date of delivery.

(2) *Election after disposition of stock.* An election under section 897(i) may be made after any disposition of an interest in the corporation which would have been subject to section 897(a) if the election had been made before that disposition, but only if the requirements of either subdivision (i) or (ii) of this paragraph (d)(2) are met with respect to all dispositions of interests during the period described in paragraph (c)(5) of this section.

(i) There is a payment of an amount equal to any taxes which would have been imposed by reason of the application of section 897 upon all persons who had disposed of interests

in the corporation during the period described in paragraph (c)(5) of this section had the corporation made the election prior to such dispositions. Such payment must be made by the later of the date the election is made, or the date on which payment of such taxes would otherwise have been due, and must include any interest that would have accrued had tax actually been due with respect to the disposition. As an election made prior to any disposition of interests in the corporation would have been conditioned on a waiver of treaty benefits by the interest-holders, payment of an amount equal to tax and any interest with respect to such prior disposition is required as a condition to making a subsequent election under this subdivision (i) irrespective of the application of any treaty provision. For this purpose, it is not necessary that the payment be made by the person who would have owed the tax if the election under this section had been made prior to the disposition, and that person is under no obligation to supply any information to the present holders of interests in the electing corporation. The payment shall be made to the Director of the Foreign Operations District. Where the payment is made by a present holder of an interest, the basis of the person's interest in the corporation shall be increased to the extent of the amount paid.

(ii) The present holders of interests in the electing corporation took a basis in their interests that was equal to the basis of the interest in the hands of the person from which the interest was acquired, increased by the sum of any gain recognized by the transferor of the interest and any tax paid under chapter 1 by the present holder of the interest, if such interest was acquired after June 18, 1980.

(3) *Adequate proof of basis.* For purposes of meeting the conditions of paragraph (d)(2) (i) or (ii) of this section, a corporation must establish the bases of and amount of gain realized by all persons who disposed of interests in the corporation during the period described in paragraph (c)(5) of this section. See paragraph (g)(3) of this section for an exception to this rule.

(4) *Acknowledgement of receipt.* Within 30 days after its receipt of an election under section 897(i), the Internal Revenue Service will acknowledge receipt of the election. Such acknowledgement either will indicate that the information submitted with the election is complete or will specify any documents that remain to be submitted pursuant to the requirements of paragraph (c) of this section respecting the manner and form in which an election must be made.

(e) *Anti-abuse rule*—(1) *In general.* A corporation that is otherwise eligible to make an election under section 897(i) may do so only by complying with the requirements of subdivision (2) of this paragraph, if during the period described in paragraph (c)(5) of this section—

(i) Prior to receipt of a U.S. real property interest by the corporation seeking to make the election, stock in such corporation (or in any corporation controlled by such corporation) was acquired in a transaction in which the person acquiring such stock obtained an increase in basis in the stock over the adjusted basis of the stock in the hands of the person from whom it was acquired;

(ii) The full amount of gain realized by the person from whom the stock was acquired was not subject to U.S. tax; and

(ii) The corporation seeking to make the election received the U.S. real property interest in a transaction or series of transactions to which section 897(d)(1)(B) applies to allow for nonrecognition of gain.

(2) *Recognition of gain.* A corporation described in subparagraph (1) of this paragraph (e) may make an election under section 897(i) only if it pays an amount equal to the tax on the full amount of gain realized by the transferors of the stock of such corporation (or of any corporation controlled by it) in the transaction described in paragraph (e)(1)(i) of this section. However, such amount must be paid only if the stock of the corporation seeking to make the election (or the stock of a corporation controlled by it) would have constituted a U.S. real property interest had it (or a corporation controlled by it) made the election before that acquisition. Such amount must be paid by the later of the date of the election or the date on which such tax would otherwise be due, and must include any interest that would have accrued had tax actually been due with respect to the disposition.

(3) *Definition of control.* For purposes of this paragraph, a corporation controls a second corporation if it holds 80 percent or more of the total combined voting power of all classes of stock entitled to vote, and 80 percent or more of the total number of shares of all other classes of stock of the second corporation. In a chain of corporations where each succeeding corporation is controlled within the meaning of this subparagraph (3) by the corporation immediately above it in the chain, each corporation in the chain shall be considered to be controlled by all corporations that preceded it in the chain.

(4) *Examples.* The rules of this paragraph (e) are illustrated by the following examples.

Example 1. Nonresident alien individual X owns 100 percent of the stock of foreign corporation L which was organized in 1961. L's only asset is a parcel of U.S. real property which it has held since 1961. The fair market value of the U.S. real property held by L on January 1, 1984, is $1,000,000. L's basis in the property is $200,000. X's basis in the L stock is $500,000. On June 1, 1984, M corporation, a foreign corporation owned by foreign persons who are unrelated to X, purchases the stock of L from X for $1,000,000 with title passing outside of the United States. Since the stock of L is not a U.S. real property interest, X's gain from the disposition of the L stock ($500,000) is not treated as effectively connected with a U.S. trade or business under section 897(a). In addition, since X was neither engaged in a U.S. trade or business nor present in the U.S. at any time during 1984, such gain is not subject to U.S. tax under section 871. On January 1, 1987, M liquidates L under a plan of liquidation adopted on that same date. Under section 332 of the Code M recognizes no gain on receipt of the parcel of U.S. real property distributed by L in liquidation. Under section 334(b)(1) M takes $200,000 as its basis in the U.S. real property received from L. Under section 897(d)(1)(B) no gain would be recognized to L under section 897(d)(1)(A) on the liquidating distribution. As a consequence, no gain is recognized to L under section 336 of the Code. After its receipt of the U.S. real property from L, M seeks to make an election to be treated as a domestic corporation. Thus, M acquired the L stock in a transaction in which it obtained a basis in such stock in excess of the adjusted basis of X in the stock. U.S. tax was not paid on the full amount of the gain realized by X, and M has received the property in a distribution to which section 897(d)(1)(B) applied to provide for nonrecognition of gain to L. Therefore, M may make the election only if it pays an amount equal to the tax on the full amount of X's gain, pursuant to the rule of subparagraph (e)(2) of this section.

Example 2. Nonresident alien individual X owns 100 percent of the stock of foreign corporation A which owns 100 percent of the stock of foreign corporation B. X's basis in the A stock is $500,000. A's basis in the B stock is $500,000. B owns U.S. real property with a fair market value of $1,000,000. B's basis in the U.S. real property is $500,000. On January 1, 1985, X sells the stock of A to Y, an unrelated individual, for $1,000,000 with title passing outside of the United States. In addition, X was neither engaged in a U.S. trade or business nor present in the U.S. at any time during 1985. Since the A stock is not a U.S. real property interest, X's gain on such disposition is not treated as effectively connected with a U.S. trade or business under section 897(a) and is therefore not subject to U.S. tax under section 871. On July

1, 1987, a plan of liquidation is adopted, and B is liquidated into A. Under sections 332, 334(b)(1), 336, and 897(d)(1)(B), there is no tax to A on receipt of U.S. real property from B and no tax to B on the distribution of the U.S. real property interest to A. After receipt of the property A seeks to make an election under section 897(i). Under the rules of paragraph (e) of this section, A may make the election only if it pays an amount equal to the tax on the full amount of X's gain. (Assuming that A is a U.S. real property holding corporation, the same result would be required by the rule of paragraph (d)(2) of this section.)

(f) *Revocation of election*—(1) *In general.* An election under section 897(i) may be revoked only with the consent of the Commissioner. A request for revocation shall be in writing and shall be addressed to the Director, Foreign Operations District, 1325 K St. NW., Washington, D.C. 20225. The request shall include the name, address, and identifying number of the corporation seeking to revoke the election, and a description of all U.S. real property interests held by the corporation on the date of the request for revocation, including the dates such interests were acquired, the corporation's adjusted bases in such interests, and their fair market values as of the date of the election (or book value if the corporation is not a U.S. real property holding corporation under the alternative test of § 1.897(b)(2)). The request shall be signed by a responsible officer of the corporation under penalty of perjury and shall contain a statement either that the corporation has made no distributions described in subparagraph (2) of this paragraph (f) or that the conditions of that subparagraph have been satisfied. A revocation will be effective as of the date the request is delivered to the Foreign Operations District, unless the Commissioner provides otherwise in his consent to the revocation. If the request is delivered by United States mail, the provisions of section 7502 and the regulations thereunder shall apply in determining the date of delivery. The Commissioner will generally consent to a revocation, provided either that there have been no distributions described in subparagraph (2) of this paragraph (f), or that the conditions of that subparagraph have been satisfied.

(2) *Revocation after distribution.* If there have been any distributions of U.S. real property interests by the corporation during the period to which an election made under section 897(i) applies, the Commissioner shall consent to the revocation of such election only if one of the following conditions is met.

(i) The full amount of gain realized by the corporation upon the distribution was subject to U.S. income tax.

(ii) There is a payment of an amount equal to the taxes that would have been imposed upon the corporation by reason of the application of section 897 if the election had not been in effect on the date of the distribution. Such payment must be made by the later of the date of the request for revocation or the date on which payment of such tax would otherwise have been due, and must include any interest that would have accrued had tax actually been due with respect to the distribution. If under the terms of any treaty to which the United States is a party such distribution would not have been subject to U.S. income tax notwithstanding the provisions of section 897, then this condition may be satisfied by providing a statement with the request for revocation setting forth the treaty and article which would have exempted the distribution from U.S. tax had the election under section 897(i) not been in effect on the date thereof.

(iii) At the time of the receipt of the distributed property, the distributee would be subject to taxation under chapter 1 of the Code on a subsequent disposition of the distributed property, and the basis of the distributed property in the hands of the distributee is no greater than the adjusted basis of such property before the distribution, increased by the amount of gain (if any) recognized by the distributing corporation. For purposes of this paragraph (f)(2)(i)(C), a distributee shall be considered to be subject to taxation upon a subsequent disposition of distributed property only if such distributee waives the benefits of any U.S. treaty that would otherwise render such disposition not taxable by the United States. Such waiver must be attached to the corporation's request for revocation.

(g) *Transitional rules*—(1) *In general.* An election under section 897(i) that was made at any time after June 18, 1980, may be amended to comply with the requirements of paragraphs (b), (c), and (d) of this section if such amendment is delivered in writing to the Director of the Foreign Operations District by the date which is 3 months after the date of publication of final regulations in the **Federal Register**. If the amendment is delivered by United States mail, the provisions of section 7502 and the regulations thereunder shall apply in determining the date of delivery.

(2) *Dispositions of all real property prior to publication.* A foreign corporation that would have been entitled under the rules of this section to make a section 897(i) election at any time between June 19, 1980, and January 3, 1984, may make an election pursuant to the requirements of this section, notwithstanding the fact that it disposed of all U.S. real property interests before January 3, 1984.

(3) *Interests in corporation disposed of prior to publication.* Where interests in a corporation were disposed of before January 3, 1984, the requirement of paragraph (d)(2) of this section may be met, notwithstanding the requirement of paragraph (d)(3), by paying a tax that is based upon a reasonable estimate of the gain upon the prior dispositions. Such estimate must be based on all facts and circumstances known to, and ascertainable through the exercise of reasonable diligence by, the corporation seeking to make the election.

§ 1.897–4 Special election under section 897(k) for certain foreign corporations, acquisitions of which were begun before November 26, 1980.

(a) *In general.* This section provides special rules under which certain foreign corporations may make the election under section 897(k) to be treated as domestic corporations for purposes of sections 897 and 6039C. The election may be made if—

(1) The foreign corporation holds a U.S. real property interest;

(2) The foreign corporation adopts, or has adopted, a plan of liquidation described in section 334(b)(2)(A) (as it existed prior to its repeal by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97–248); and

(3) The 12 month period described in section 334(b)(2)(B) (as it existed prior to its repeal by TEFRA) for the acquisition by purchase of the stock of the foreign corporation begun after December 31, 1979, and before November 26, 1980.

A foreign corporation with respect to which an election under this paragreaph (a) is in effect is subject to all rules under section 897 and 6039C that apply to domestic corporations, except that in any acquisition of stock of the electing corporation described in section 334(b)(2) (as it existed prior to its repeal by TEFRA) the selling shareholder shall be considered to have disposed of an interest in a foreign corporation, and any gain or loss from the disposition shall not be taken into account by such shareholder pursuant to section 897(a). If a corporation that has made an election under section 897(k) is a U.S. real property holding corporation, interests in such corporation shall constitute U.S. real property interests in the hands of any foreign person that acquired such interest in an acquisitior

described in section 334(b)(2) (as it existed prior to its repeal by TEFRA).

(b) *No conditions to election.* An election under paragraph (a) of this section is not subject to the conditions described in § 1.897–3.

(c) *Election procedures.* An election under paragraph (a) of this section is made by filing a statement with the Commissioner. No particular form is required for the statement. The statement must provide that an election under section 897(k) is being made. The statement must include the name, address, identifying number (if any), and place and date of incorporation of the foreign corporation, and establish that the requirements of paragraph (a) of this section have been met. The statement must be verified as true and signed by a responsible officer of the foreign corporation under penalty of perjury. The statement shall be forwarded to the District Director, Foreign Operations District, 1325 K Street NW., Washington, D.C. 20225. The rules of § 1.897–3(d) concerning the time and duration of the election, and of § 1.897–3(f), concerning revocation of the election, apply to elections made under this section.

PART 6a—[AMENDED]

§§ 6a.897–1—6a.897–4 [Removed]

Par. 2. Part 6a is amended by removing §§ 6a.897–1 through 6a.897–4

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–29860 Filed 11–2–83; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 52

[LR–16–81]

Environmental Taxes on Petroleum and Certain chemicals

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments and requests for a public hearing.

SUMMARY: This document provides notice of an extension of time for submitting comments and requests for a public hearing concerning the notice of proposed rulemaking relating to the imposition of taxes on petroleum and certain chemicals. The extended deadline for submission of comments and requests for a public hearing is January 20, 1984.

DATES: Comments must be delivered or mailed by January 20, 1984.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attn: CC:LR:T (LR–16–81), Washington, D.C. 20224

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking published in the **Federal Register** for Friday, October 21, 1983 (48 FR 48839), comments and requests for a public hearing with respect to the proposed rules were to be delivered or mailed to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–16–81), Washington, D.C. 20224, by December 21, 1983. The date by which comments or requests must be delivered or mailed is hereby extended to January 20, 1984.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83–29859 Filed 11–2–83; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340–21]

Privacy Act of 1974; Personal Privacy and Rights of Individuals Regarding Personal Records

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Army proposes to delete three exemption rules for systems of records subject to the Privacy Act of 1974. The rule for A0727.05OSA, "Army Council of Review Boards Files," is deleted as unnecessary in view of the blanket exemption for properly classified material in all Army systems of records. The rules for systems AO201.08aDACS and AO201.08cOSA are no longer required as these two ystems have been consolidated into system AO24.01HQDA, "HQDA Correspondence and Control/Central Files System."

DATES: Comments must be received by December 5, 1983.

ADDRESS: Send comments to: Office of the Adjutant General, (Attn: Mrs. Dorothy Karkanen), Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA, 22331.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy Karkanen, Office of the Adjutant General, Headquarters, Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA, 22331; Telephone: (703) 325–6163.

SUPPLEMENTARY INFORMATION: The blanket exemption for properly classified information in all Army systems of records can be found at 32 CFR 505.9(b). The notice for system AO241.01HQDA was published in the **Federal Register** at 48 FR 49087, October 24, 1983.

PART 505—[AMENDED]

List of Subjects in 32 CFR Part 505

Privacy.

Accordingly it is proposed to amend § 505.9(b) of Title 32 of the Code of Federal Regulations by removing the exemptions for systems of records AO201.08aDACS, AO201.08cOSA, and AO727.05OSA, and adding a new exemption rule for system AO241.HQDA. The new rule will read as follows:

§ 505.9 Exemption rules for Army systems of records.

* * * * *

(b) * * *

Exempted Records Systems

(Specific Exemptions)

ID—AO241.01HQDA.

SYSNAME—HQDA Correspondence and Control/Central File System.

EXEMPTION—Portions of this system of records which fall within 5 U.S.C. 552a(k) are exempt from the following provisions of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f).

Authority: 5 U.S.C. 552a(k)(1), (2), (3), (4), (5), (6), and (7).

REASON—Documents are generated by other elements of the Army or are received from other agencies and individuals. Because of the broad scope of the contents of this system and since the introduction of documents is largely unregulatable, specific portions or documents that may require an exemption cannot be predetermined. Therefore, and to the extent that such material is received and maintained, selected individual documents may be exempted from disclosure under any of the provisions of sections (k)(1) through (k)(7) of Title 5, U.S.C 552a."

* * * * *

October 31, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–29810 Filed 11–3–83; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-6-FRL 2463-5]

Hazardous Waste Management Program; Louisiana Application for Interim Authorization, Phase II

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Louisiana application for Phase II, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that EPA will hold a public hearing on the application.

DATE: A public hearing is scheduled for December 6, 1983 at 7:00 p.m.

ADDRESSES: EPA will hold a public hearing on Louisiana's application for Interim Authorization on December 6, 1983, at 7:00 p.m., at the State Land and Natural Resources Building, Mineral Board Hearing Room, 625 North Fourth Street, Baton Rouge, Louisiana 70804.

Written comments on the Louisiana application must be sent to: U.S. Environmental Protection Agency, Region VI, Air and Waste Management Division, Attn: H. J. Parr, Hazardous Materials Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2645.

Copies of the Louisiana Interim Authorization application for Phase II are available during normal business hours at the following addresses for inspection and copying:

Louisiana Department of Natural Resources, Hazardous Waste Division, 6th Floor, 625 North Fourth Street, Baton Rouge, Louisiana 70804

Environmental Protection Agency, Region 6, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270, (214) 767-7341

EPA Headquarters Library, 401 M St., SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: H. J. Parr, Hazardous Materials Branch, U.S. Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767-2645

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted Interim Authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of Louisiana received Interim Authorization for Phase I on December 19, 1980

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of Interim Authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

In the July 26, 1982 **Federal Register** (47 FR 32378), the Environmental Protection Agency announced that states with qualified programs can be authorized for Phase II Interim Authorization, Component C. Component C published in the **Federal Register** includes standards for permitting of land disposal facilities.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123, Subpart F (45 FR 33479).

As noted in the May 19, 1980 **Federal Register**, copies of complete state submittals for Phase II Interim Authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians-land, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: October 27, 1983.

Dick Whittington,

Regional Administrator.

[FR Doc. 83-29675 Filed 11-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-4-FRL 2462-8]

Hazardous Waste Management Program; North Carolina, Application for Interim Authorization, Phase II, Component C

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the North Carolina application for Phase II, Component C, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for December 14, 1983. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by December 9, 1983. EPA will determine by December 9, 1983, whether there is significant interest to hold the public hearing. All written comments on the North Carolina interim authorization application must be received by the close of business on December 14, 1983.

ADDRESSES: If significant public interest is expressed, EPA will hold a public hearing on North Carolina's application for interim authorization on December 14, 1983, at 7:00 p.m. at the McKimmon Center, North Carolina State University, Western Boulevard, Raleigh, North Carolina.

Written comments on the application and written or telephoned communication of interest in EPA's holding a public hearing on the North Carolina application must be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. EPA, 345 Courtland St., N.E., Atlanta, Georgia 30365, (404) 881-3016.

If you wish to find out whether or not EPA will hold a public hearing on the North Carolina application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after December 9, 1983, the EPA contact

person listed below or telephone Mr. O. W. Strickland, Head, Bureau of Solid and Hazardous Waste Management Branch, Environmental Health Section, Department of Human Resources, Division of Health Services, P.O. Box 2091 Raleigh, North Carolina 27602.

Copies of the North Carolina interim authorization application for Phase II, Component C, are available during normal business hours at the following addresses for inspection and copying:

Solid and Hazardous Waste Management Branch, Environmental Health Section, Department of Human Resources, Division of Health Services, P.O. Box 2091, Raleigh, North Carolina 27602

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone: (404) 881–4216.

Written comments should be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone: (404) 881–3016.

The public hearing will be held at: McKimmon Center, North Carolina State University, Western Boulevard, Raleigh, North Carolina.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residual Management Branch, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia Telephone: (404) 881–3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980. **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified state hazardous waste management programs to operate in lieu of the federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying federal program will take effect.

The State of North Carolina received interim authorization for Phase I on December 18, 1981.

In the January 26, 1981, **Federal Register** (46 FR 7965), the Environmental Portection Agency announced the availability of portions or components of Phase II of interim authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments, and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

The State of North Carolina received interim authorization for Phase II, Components A and B, on March 26, 1982.

In the July 26, 1982 **Federal Register** [47 FR 32378] the Environmental Protection Agency announced that states with qualified programs can be authorized for Phase II Interim Authorization, Component C. Component C published in the **Federal Register** includes standards for permitting of land disposal facilities.

A full description of the requirement and procedures for state interim authorization is included in 40 CFR Part 271, Subpart B (48 FR 14257).

As noted in the May 19, 1980, **Federal Register**, copies of complete state submittals for Phase II interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties and confidential business information.

Dated: October 28, 1983.

John A. Little,

Deputy Regional Administrator.

[FR Doc. 83–29931 Filed 11–2–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 71

Foreign Quarantine

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Extension of comment period of proposed rulemaking.

SUMMARY: This notice extends the public comment period for the Notice of Proposed Rulemaking which proposed major revisions in the Foreign Quarantine regulations. The regulations were developed to implement the provisions of the Public Health Service Act in preventing the introduction, transmission, or spread of communicable diseases from foreign countries into the United States. The proposed revisions will update the regulations to reflect current concepts of disease surveillance, investigation, and control.

DATE: Written comments must be received on or before December 11, 1983.

ADDRESS: Written comments should be addressed to the Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333. Comments received will be available for public inspection between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) in Room 202, 1600 Tullie Circle, Centers for Disease Control, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Dr. Laurence S. Farer, Acting Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404 329–2574, or FTS 236–2574.

SUPPLEMENTARY INFORMATION: The proposed rule was published on August 9, 1983 (48 FR 36143), and provided a 60-day comment period ending October 11, 1983. To be responsive to those affected by the proposed regulations, the Secretary has elected to extend the comment period for 60 days.

Dated: October 12, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: October 27, 1973.

Margaret M. Heckler,

Secretary.

[FR Doc. 83–29885 Filed 11–2–83; 8:45 am]

BILLING CODE 4160–18–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6538]

Proposed Flood Elevation Determination; Georgia

AGENCY: Federal Emergency Management Agency.

ACTION: Deletion of proposed rule for the unincorporated areas of Douglas County, Georgia.

SUMMARY: The Federal Emergency Management Agency has erroneously published the proposed flood elevation detemination for the Unincorporated

Areas of Douglas County, Georgia at 48 FR 30720, on July 5, 1983. This notice will serve to delete that publication.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R.. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency has determined that the notice of proposed flood elevation determination for the Unincorporated Areas of Douglas County, Georgia, published at 48 FR 30720, on July 5, 1983, should be deleted. The proposed flood elevations were published correctly at 48 FR 40916, on September 12, 1983.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.C. 12127, 44 FR 19367; and delegation of authority to Federal Emergency Management Agency)

Issued: October 25, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–29851 Filed 11–2–83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA–6536]

Proposed Flood Elevation Determination; Minnesota

AGENCY: Federal Emergency Management Agency.

ACTION: Deletion of proposed rule for the Unincorporated Areas of Isanti County, Minnesota.

SUMMARY: The Federal Emergency Management Agency has erroneously published the proposed flood elevation determination for the Unincorporated Area of Isanti County, Minnesota, at 48 FR 30721, on July 5, 1983. This notice will serve to delete that publication.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency has determined that the notice of proposed flood elevation determination for the Unincorporated Areas of Isanti County, Minnesota, published at 48 FR 30721, on July 5, 1983, should be deleted. The proposed flood elevations were published correctly at 48 FR 34085, on July 27, 1983.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E. O. 12127, 44 FR 193567; and delegation of authority to Federal Emergency Management Agency)

Issued: October 25, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–29849 Filed 11–2–83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA–6532]

Proposed Flood Elevation Determination; South Carolina

AGENCY: Federal Emergency Management Agency.

ACTION: Deletion of proposed rule for the City of Conway, Horry County, South Carolina.

SUMMARY: The Federal Emergency Management Agency has erroneously published the proposed flood elevation determination for the City of Conway, Horry County, South Carolina, at 48 FR 26631, on June 9, 1983. This notice will serve to delete that publication.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency has determined that the notice of proposed flood elevation determination for the City of Conway, Horry County, South Carolina, published at 48 FR 26632, on June 9, 1983, should be deleted. The proposed flood elevations were published correctly at 48 FR 30722, on July 5, 1983.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to Federal Emergency Management Agency).

Issued: October 25, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83–29850 Filed 11–2–83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 151

Reimbursement for Costs of Firefighting on Federal Property

AGENCY: Federal Emergency Management Agency (FEMA)

ACTION: Proposed rule.

SUMMARY: This regulation updates an existing regulation to reflect organizational changes resulting from the transfer of functions under the Federal Fire Prevention and Control Act from the Department of Commerce to the Federal Emergency Management Agency.

DATE: Comment on this rule is due no later than January 3, 1984.

ADDRESS: Comment should be sent to Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Washington DC 20472.

FOR FURTHER INFORMATION CONTACT: Arthur E. Curry, Chief, Policy Division, Office of the Comptroller, Federal Emergency Management Agency, Telephone: (202) 287–0630.

SUPPLEMENTARY INFORMATION: When issued in 1977, this regulation placed responsibilities for administration of section 11 of the Federal Fire Prevention and Control Act in the Administrator of what became the United States Fire Administration. Reorganization Plan No. 3 of 1978 transferred the functions of the Administrator to the Director, Federal Emergency Management Agency. The United States Fire Administration was transferred from the Department of Commerce to FEMA. The regulation needs to be amended to reflect these changes. Certain other changes are needed such as a reference to the Court of Claims (now the U.S. Claims Court), and to 31 U.S.C. 231, now recodified.

Other changes are editorial.

This regulation deals with administrative matters, and hence is categorically excluded from requirments for an environmental assessment under 44 CFR Part 10.

The rule is not a major rule as defined in section 1(b) of Executive Order 12291 nor will it have a significant economic impact on a substantial number of small entities. Hence, regulatory impact analyses are unnecessary. Subpart B contains collection of information

requirements which have been submitted to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act. Comments on this information collection should be submitted to the Office of Information and Regulatory Affairs, OMB, Room 3201, New Executive Office Building, Washington DC 20503, Attention: FEMA Desk Officer.

List of Subjects in 44 CFR Part 151

Claims, Government property.

Accordingly, it is proposed to amend Part 151 of Title 44, Code of Federal Regulations, by revising it to read as follows:

PART 151—REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

Subpart A—Purpose, Scope, Definitions

Sec.

151.01 Purpose.
151.02 Scope.
151.03 Definitions.

Subpart B—Submission, Determination, Appeal

151.11 Submission of claims.
151.12 Determination of amount authorized for payment.
151.13 Reconsideration of amount authorized for payment.
151.14 Adjudication.

Subpart C—Administration, Penalties

151.21 [Reserved]
151.22 Audits.
151.23 Penalties.

Authority: Secs. 11 and 21(b)(5), Pub. L. 93–498, 88 Stat. 1535 (15 U.S.C. 2210, and 2218(b)(5)); Reorg. Plan No. 3 of 1978 (43 FR 41943) and E.O. 12127, dated March 31, 1979 (44 FR 19367).

Subpart A—Purpose, Scope, Definitions

§ 151.01 Purpose.

Section 11 of the Federal Fire Prevention and Control Act of 1974 (Pub. L. 93–498, 88 Stat. 1535, 15 U.S.C. 2201 *et seq.)*, provided that "each fire service that engages in the fighting of a fire on property which is under the jurisdiction of the United States may file claim with the Director of the Federal Emergency Management Agency for the amount of direct expenses and direct losses incurred by such fire service as a result of fighting such fire." This part, 44 CFR Part 151, implements section 11 of the Act and governs the submission, determination, and appeal of claims under section 11.

§ 151.02 Scope

Fire services in any State may file claims for reimbursement under section 11 and this part for the direct expenses and losses which are additional firefighting costs over and above normal operating costs incurred while fighting a fire on property which is under the jurisdiction of the United States. Section 11 requires that certain payments be deducted from those costs and that the Treasury Department will ordinarily pay the amount resulting from the application of that formula. Where the United States has entered into a contract (which is not a mutual aid agreement, defined in § 151.03) for the provision of fire protection, and it is the intent of the parties that reimbursement under section 11 is unavailable, this intent will normally govern. Where a mutual aid agreement is in effect between the claimant and an agency of the United States for the property upon which the fire occurred, reimbursement will be available in otherwise proper situations. However, any payments (including the value of services) rendered under the agreement during the term of the agreement (or the Federal fiscal year in which the fire occurred, if no term is discernible) shall be deducted from the cost claimed, pursuant to § 151.12.

§ 151.03 Definitions.

(a) *The Act* means the Federal Fire Prevention and Control Act of 1974 (Pub. L. 93–498, 88 Stat. 1535, 15 U.S.C. 2201 *et seq.)*

(b) *Additional firefighting costs over and above normal operating costs.* means reasonable and authorized (or ratified by a responsible Federal official) costs ordinarily associated with the function of firefighting as performed by a fire service. Such costs would normally arise out of response of personnel and apparatus to the site of the fire, search and rescue, exposure protection, fire containment, ventilation, salvage, extinguishment, overhaul, and preparation of the equipment for further use. This would also include costs associated with emergency medical services to the extent normally rendered by a fire service in connection with a fire. Not included are administrative expenses, costs of employee benefits, insurance, disability, death, litigation or health care, and the costs associated with processing claims under section 11 of the Act and this part.

(c) *Director* means the Director of the Federal Emergency Management Agency, or his/her designee.

(d) *Claimant means a fire service as defined in paragraph (g) of this section.*

(e) *Direct expenses and losses* means expenses and losses which would not have been incurred had not the fire in question taken place. This includes salaries for specially employed personnel, overtime pay, the cost of supplies expended, and the depreciated value of equipment destroyed or damaged. It does not include such costs as the ordinary wages of firefighters, overhead costs, or depreciation (if based on other than hours of use during fires). Expenses, as defined herein, would normally cease upon the first of the following: return to station, report inservice and ready for further operations, or commence response to another incident.

(f) *Fire* means any instance of destructive or uncontrolled burning, including scorch burns and explosions of combustible dusts or solids, flammable liquids and gases. The definition does not include the following except where they cause fire or occur as a consequence of fire: lightening or electrical discharge, explosion of steam boilers, hot water tanks, or other pressure vessels, explosions of ammunition or other detonating materials, overheating, mechanical failures, or breakdown of electrical equipment in power transmission facilities, and accidents involving ships, aircraft or other vehicles. Not included in this definition are any costs associated with false alarms, regardless of cause.

(g) *Fire service* means any organization in any State consisting of personnel, apparatus and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire, including a private firefighting brigade. The personnel of any such organization may be paid employees or unpaid volunteers or any combination thereof. The location of any such organization and its responsibility for extinguishment and suppression of fires may include, but need not be limited to, a State, city, town, borough, parish, county, fire district, fire protection district, rural fire district, or other special district.

(h) *Mutual aid agreement* means any reciprocal agreement whether written or oral between a Federal agency and the claimant fire service, or its parent jurisdiction, for the purpose of providing fire protection for the property of the United States upon which the fire which gave rise to the claim occurred and for other property for which the claimant normally provides fire protection. Such agreement must be primarily one of service rendered for service, or must be entered into under 42 U.S.C. 1856–1856d. Not included are all other agreements and contracts, particularly those in

which the intent of the parties is that the United States pays for fire protection.

(i) *FEMA* means the Federal Emergency Management Agency.

(j) *Over and above normal operating expenses* means costs, losses and expenses which are not ordinarily and necessarily associated with the maintenance, administration, and day-to-day operations of a fire service and which would not have been incurred absent the fire out of which the claim arises.

(k) *Payments to the fire service or its parent jurisdiction, including taxes or payments in lieu of taxes, the United States has made for the support of fire services on the property in question* means any Federal monies, or the value of services, including those made available through categorical or block grants, contracts, mutual aid agreements, taxes, and payments in lieu of taxes which the United States has paid to the fire service or its parent jurisdiction for fire protection and firefighting services. Such payments will be determined on the basis of the term of the arrangement, or if no such term is discernible, on the basis of the Federal fiscal year in which the fire occurred.

(l) *Property which is under the jurisdiction of the United States* means real property and Federal improvements thereon and appurtenances thereto in which the United States holds legal fee simple title. This excludes Federal leasehold interests. This likewise excludes Federal personal property on land in which the United States does not hold fee simple title.

(m) *State* means any State, of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Subpart B—Submission, Determination, Appeal

§ 151.11 Submission of claims.

Any fire service in any State which believes it has a claim(s) cognizable under section 11 shall submit its claim(s) in writing within 90 days of the occurrence of the fire(s) for which a claim(s) is made except that if the fire(s) occurred between October 29, 1974 and the effective date of these regulations, the claim(s) for those fires shall be submitted within 6 months of that effective date. If the fire is of such duration that the claimant desires to submit a claim before its conclusion, it may do so, but only for the eligible costs actually incurred to date. Additional claims may be filed for costs later incurred. Claims shall be submitted to the Director, FEMA, Washington, D.C. 20472. Each claim shall include the following information:

(a) Name, address, jurisdiction and nature (volunteer, private, municipal, etc.) of claimant's fire service organization;

(b) Name, title, address and telephone number of individual authorized by the claimant fire service to make this claim in its behalf;

(c) Name and telephone number of Federal employee familiar with the facts of the event and the name and address of the Federal agency having jurisdiction over the property on which the fire occurred;

(d) Location of fire (within building, land area or complex);

(e) Description of property burned (contents and/or structure, area, or natural resources);

(f) Proof of authority to fight the fire (source of alarm, whether fire service was requested by responsible Federal official or whether such an official accepted the assistance when offered) and time of alarm and proof that the costs were reasonable;

(g) Personnel and equipment committed to fighting the fire (type of equipment and number of items);

(h) Copy of fire report;

(i) Itemized list of direct expenses (e.g., hours of equipment operation, fuel costs, consumables, overtime pay and wages for any specially hired personnel) and direct losses (e.g., damaged or destroyed equipment, to include purchase cost, estimate of the cost of repairs, statement of depreciated value immediately preceding and subsequent to the damage or destruction and the extent of insurance coverage) actually incurred in fighting the fire. A statement should be included explaining why each such expense or loss is considered by the claimant not to be normal operating cost, or to be in excess of normal operating costs;

(j) Such other information or documentation as the Director considers relevant to those considerations to be made in determining the amount authorized for payment, as set forth in § 151.12 of these regulations;

(k) Signed and sworn statement be authorized official of claimant fire service organization that the information and documentation provided in support of the claim are true and acurate to the best of his/her knowledge and belief; and

(l) Source and amount of any payments received or to be received for the fiscal year in which the fire occurred, including taxes or payments in lieu of taxes and including all monies received or receivable from the United states through any program or agreement including categorical or block grants, and contracts, by the claimant fire service or its parent jurisdiction for the support of fire services on the property on which the fire occurred. If this information is available when the claim is submitted, it should accompany the claim. If it is not, the information should be submitted as soon as practicable, but no later than 15 days after the end of the Federal fiscal year in which the fire occurred.

§ 151.12 Determination of amount authorized for payment.

(a) The Director shall determine the amount to be paid on a claim (subject to payment by the Department of the Treasury). The amount to be paid is the total of eligible expenses, costs and losses under paragraph (a)(1) of this section which exceeds the amount of payments under paragraph (a)(2) of this section. The Director shall establish the reimbursable amount by determing:

(1) The extent to which the fire service incurred additional firefighting costs, over and above its normal operating costs, in connection with the fire which is the subject of the claim, i.e., the "amount of costs"; and

(2) What payments, if any, including taxes or payments in lieu of taxes, the fire service or its parent jurisdiction has received from the United States for the support of fire services on the property on which the fire occurred. The reimbursable amount is the amount, if any, by which the amount of costs, determined under paragraph (a)(1) of this section exceeds the amount of payments determined under paragraph (a)(2) of this section. Where more than one claim is filed the aggregate reimbursable amount is the amount by which the *total* amount of costs, determined under paragraph (a)(1) of this section exceed the amount of Federal payments (in the case of a mutual aid agreement—its terms or if none is determinable, the Federal fiscal year) determined under paragraph (a)(2) of this section.

(b) The Director will first determine the costs as contemplated in paragraph (a)(1) of this section. The Director will then notify the claimant as to that amount. The claimant must indicate within 30 days its acceptance or rejection of that amount.

(l) If the determination is accepted by the claimant, this will be the final and conclusive determination of the amount of costs by the claimant in conjunction

with the fire for which the claim is submitted.

(2) If the claimant rejects this amount, it must notify the Director, within 30 days, of its reasons for its rejection. Upon receipt of notification of rejection, the director shall reconsider his determination and notify the claimant of the results of the reconsideration. The amount determined on reconsideration will constitute the costs to be used by the Director in determining the reimbursable amount.

(c) Upon receipt of documentation from the claimant on the amount of payments the Federal Government has made for the support of fire services on the property in question, the Director will, following such verification or investigation as the Director may deem appropriate, calculate the full amount to be reimbursed under the section 11 formula as set forth in § 151.12(a). This calculation of the reimbursable amount is based upon the costs determined pursuant to § 151.12(b) and the documentation of Federal payments that the claimant submitted.

(d) The Director's determination of the reimbursable amount will be sent to the Secretary of the Treasury. The Secretary of the Treasury shall, upon receipt of the claim and determination made under § 151.12(a), (b) and (c), determine the amount authorized for payment, which shall be the amount actually available for payment from from any monies in the Treasury not otherwise appropriated but subject to reimbursement (from any appropriations which may be available or which may be made available for the purpose) by the Federal department or agency under whose jurisdiction the fire occurred. This shall be a sum no greater, although it may be less, than the reimbursable amount determined by the Director, FEMA, with respect to the claim under § 151,12(a), (b) and (c).

(e) Upon receipt of written notification from the claimant of its intention to accept the amount authorized as full settlement of the claim, accompanied by a properly executed document of release, the Director will forward the claim, a copy of the Director's determination and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount authorized.

(f) Subject to the discovery of additional material evidence, the Director may reconsider any determination in this section, whether or not made as his final determination.

§ 151.13 Reconsideration of amount authorized for payment.

(a) If the claimant elects to protest the amount authorized for payment, after the applicable procedures of §151.12 have been followed, it must within 30 days of receipt of notification of the amount authorized notify the Director in writing of its objections and set forth the reasons why the Director should reconsider the determination. The Director will upon notice of protest and receipt of additional evidence reconsider the determination of the amount of Federal payments under §151.12(a)(2) but not the determination of the amount of costs under §151.12(a)(1). The Director shall cause a reconsideration by the Secretary of the Treasury of the amount actually available and authorized for payment by the Treasury. The Director, upon receipt of the Secretary of the Treasury's reconsidered determination, will notify the claimant in writing of the amount authorized, upon reconsideration, for payment in full settlement of the claim.

(b) If the claimant elects to accept the amount authorized, upon reconsideration, for payment in full settlement of its claims, it must within 30 days (or a longer period of time acceptable to the Director) of its receipt of that determination notify the Director of its acceptance in writing accompanied by a properly executed document of release. Upon receipt of such notice and document of release, the Director will forward the claim, a copy of the Director's final determination, and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount of final authorization.

§ 151.14 Adjudication.

If the claimant, after written notice by the Director of the amount authorized for payment in full settlement of the claim and after all applicable procedures of §151.12 and § 151.13 have been followed elects to dispute the amount authorized, it may then initiate action in the United States Claims Court, which shall have jurisdiction to adjudicate the claim and enter judgment in accordance with section 11(d) of the Act.

Subpart C—Administration, Penalties

§ 151.21 [Reserved]

§ 151.22 Audits.

At the discretion of the Director, all claims submitted under section 11 of the Act and all records of the claimant will be subject to audit by the Director or his/her designee. In addition, the Comptroller General of the United States or his/her designee shall have access to all books and records of all claimants making claims under section 11.

§ 151.23 Penalties.

Claimant's officials or others who provide information or documentation under this Part are subject to, among other laws, the criminal penalties of Title 18 of the United States Code, Sections 287 and 1001, which punish the submission of false, fictitious or fraudulent claims and the making of false, fictitious or fraudulent statements and which provide for a fine of not more than $10,000 or imprisonment for not more than five years, or both. For such a violation, the person is likewise subject to the civil penalties set out in 31 U.S.C. 3729 and 3730.

Dated: October 27, 1983.

Louis O. Giuffrida,

Director.

[FR Doc. 83-29060 Filed 11-2-83; 8:45 am]
BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 50, 52, 53, 54, 63, and 162

[CGD 81-079]

Marine Engineering Regulations for Merchant Vessels; Acceptance of ASME S, E, A and H Symbol Stamps for Power and Heating Boilers

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for proposed rules.

SUMMARY: In the Federal Register of August 18, 1983, (48 FR 37441) the Coast Guard proposed changes in boiler requirements. This notice extends the public comment period to January 3, 1984. The original closing date for public comments was October 3, 1983. This action has been taken in response to a request for additional time to review the proposed rules.

DATES: As discussed above, the public comment period has been extended to January 3, 1984.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44), (CGD 81-079), U.S. Coast Guard, Washington, D.C. 20593. The comments, draft evaluation, and materials referenced in this notice will be available for examination and copying between 8 a.m. and 5 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G-CMC/44), Room, 4402, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. Comments may also be delivered to this address.

FOR FURTHER INFORMATION CONTACT:
Mr. Howard L. Hime, Office of Merchant Marine Safety, (202) 426–2160.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 81–079) and the specific section of the proposal to which each comment applies, and give the reason for the comment. The proposal may be changed in view of the comments received. All comments received will be considered before final action is taken on this proposal. No public hearing is planned, but one will be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing and it is determined that the opportunity to make an oral presentation will aid the rulemaking process. If acknowledgement of receipt of a comment is desired, a stamped, self-addressed postcard or envelope must be enclosed.

Dated: October 25, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83–29880 Filed 11–2–83; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 31004–196]

Foreign Fishing, Groundfish of the Bering Sea and Aleutian Islands Area

Correction

In FR Doc. 83–27461 beginning on page 45806 in the issue of Friday, October 7, 1983, make the following corrections:

1. On page 45806, second column, twenty-eight lines from the bottom of the page, "54°35′ N. latitude" should have read "54°36′ N. latitude".

2. On page 45808, second column, § 611.93(c)(2)(ii)(C) in the list of coordinates, "52°48′ N. latitude, 170°10′ W. longitude" should have read "52°48′ N. latitude, 170°00′ W. longitude".

BILLING CODE 1505–01–M

Notices

Federal Register
Vol. 48, No. 214
Thursday, November 3, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Human Nutrition Board of Scientific Counselors; Intent to Reestablish an Advisory Board

Notice is hereby given that the Secretary of Agriculture intends to reestablish the Human Nutrition Board of Scientific Counselors. This Board is reestablished subsequent to the reorganization of Human Nutrition Research in the USDA Science and Education Agencies. The purpose of this Board is to review and advise the Department as to the scope and quality of the research carried out at the Human Nutrition Research Centers in Houston, Texas; Boston, Massachusetts; San Francisco, California; Grand Forks, North Dakota; and Beltsville, Maryland. Members will review the research activity of each center on site, and in addition will meet as a Board semiannually. The Board will prepare and submit to the Secretary of Agriculture annually a written report of its review which shall include its evaluation and recommendations.

It has been determined that the establishment of this Board is in the public interest in connection with the work of the U.S. Department of Agriculture.

Interested parties are invited to submit written comments, views, or data concerning this proposal to Mr. James T. Hall, Management Staff, Science and Education, Agricultural Research Service, USDA, Room 115, Bldg. 005, BARC–West, Beltsville, Maryland 20705 by November 18, 1983.

Done at Washington, D.C., the 28th day of October, 1983.

John J. Franke, Jr.,
Assistant Secretary, Administration.

[FR Doc. 83-29813 Filed 11-2-83; 8:45 am]
BILLING CODE 3410-03-M

Soil Conservation Service

Assiscunk Creek Park Recreation Development RC&D Measure, New Jersey; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Assiscunk Creek Park Recreation Development RC&D Measure, Burlington County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Joseph C. Branco, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, Somerset, New Jersey 08873, telephone (201) 246–1205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Joseph C. Branco, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for installing recreational facilities in Assiscunk Creek Park. The planned facilities include picnic shelters and tables, trails, a boat ramp and fishing pier, access roads, parking lots and associated service facilities. The park will provide needed water based recreation opportunities in a rapidly growing area.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Joseph C. Branco.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: October 28, 1983.

Joseph C. Branco,
State Conservationist.

[FR Doc. 83-29801 Filed 11-2-83; 8:45 am]
BILLING CODE 3410-16-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 1:00 PM to 5:00 PM, (the period from 1:00 to 2:00 will be closed to the public) on Tuesday, November 8, 1983, to take place in the Main Hall of the Disabled American Veterans (DAV) National Service and Legislative Headquarters, 807 Main Avenue, SW., Washington, D.C. 20024.

Items to be considered are as follows: ATBCB Comments on Proposed Uniform Federal Accessibility Standard (UFAS); Report of the ATBCB to the President and Congress for FY 1983; Development of a 504 Regulation for ATBCB Programs and Activities; Semi-Annual Report by the Executive Director; ATBCB Contacts with Accessibility Related Organizations.

The meeting will be closed to the public during discussion of two additional agenda items: ATBCB Discretionary Funds for FY 1984 (1:00–2:00); and discussion of the last item on the agenda: Report by the Executive Director on the ATBCB Staff Reorganization (closed due to the personal nature of this item).

DATE: November 8, 1983, 1:00 pm–5:00 pm.

ADDRESS: Main Hall, Disabled American Veterans (DAV) National Service and Legislative Headquarters, 807 Main Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD).

Committee meetings of the ATBCB will be held on Monday, November 7 and Tuesday morning, November 8, in the Hubert Humphrey Building. Contact Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD), for further information.

Wm. Bradford Reynolds,

Chairperson.

[FR Doc. 83-29605 Filed 11-2-83; 8:45 am]

BILLING CODE 8820-BP-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The North Pacific Fishery Management Council, established by Section 3022 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established Plan Maintenance Teams for Fishery Management Plans initiated by the Council.

The Plan Maintenance Teams for the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan and Gulf of Alaska Groundfish Fishery Management Plan will hold Team meetings at the Northwest and Alaska Fisheries Center, 2725 Montlake Blvd. E., Seattle, Washington, on November 15, 16, 17, 1983. The purpose of the meetings is to review groundfish stock assessments, formulate recommendations and alternatives for the 1984 total allowable catches and optimum yields, consideer amounts of groundfish required for the 1984 U.S. groundfish fisheries, prepare an amendment for emergency closure authority for conservation reasons, and consider an amendment to revise the groundfish management measures in the Gulf of Alaska. Plan Team meetings are open to the public and may be shortened or lengthened as necessary. The meetings will begin at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: Jim Branson, Executive Director, North Pacific Fishery Management Council, P.O Box 103136, Anchorage, Alaska 99510.

Dated: October, 28, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29671 Filed 11-2-83; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established a Halibut Workgroup to develop management objectives and possible management options for presentation to the Council.

The Halibut Workgroup will meet at 9:00 a.m. on Thursday, November 17, 1983 in the Conference Room of the Council offices at 605 W. 4th Avenue, Anchorage, Alaska. The purpose of the meeting is to draft a moratorium on new entry into the halibut fishery. This draft will be presented to the Council at its meeting on December 7–8, 1983.

This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Ron W. Miller, Special Advisor, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510.

Dated: October 28, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-29672 Filed 11-2-83; 8:45 am]

BILLING CODE 3510-22-M

New North American Vertical Datum of 1988, Reference for the National Geodetic Vertical Control Network

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: This notice serves as official notification of the establishment of a new Datum to which the geodetic height (elevation) values for the National Geodetic Vertical Control Network will be referenced. The new Datum shall be known as the "North American Vertical Datum of 1988," and will be referred to as "NAVD of 1988," or "NAVD 88." The North American Vertical Datum of 1988 will replace the present Datum which is known as the "National Geodetic Vertical Datum of 1929"; also called "NGVD of 1929," or "NGVD 29."

The National Geodetic Survey Division, National Ocean Service, NOAA, is in the process of redefining the existing Datum and readjusting the National Geodetic Vertical Control Network. The end result will be improved values of geodetic heights for all published National Geodetic Survey vertical control points (bench marks). Completion is scheduled for 1988. Until then, the published height values will continue to be referenced to the National Geodetic Vertical Datum of 1929.

FOR FURTHER INFORMATION CONTACT: Charles T. Whalen, National Geodetic Survey Division, National Ocean Service, NOAA, Rockville, Maryland 20852, telephone (301) 443–8567.

Date: October 26, 1983.

Samuel A. Lawrence,

Director, Office of Administrative and Technical Services.

[FR Doc. 83-29635 Filed 11-2-83; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

Department of Agriculture

SN 6–509,091 Shielded Sniffing Device

Department of the Air Force

SN 6–195,693 (4,392,775) Flat Workpiece Pickup
SN 6–201,860 (4,392,709) Method of Manufacturing Holographic Elements for Fiber and Integrated Optic Systems
SN 6–232,094 (4,392,624) Implanted Boundary Layer Trip
SN 6–283,245 (4,395,469) Low Pressure Nickel Hydrogen Battery
SN 6–300,761 (4,391,660) Copper Containing Ballistic Additives
SN 6–300,762 (4,395,664) R.F. Primed Plasma Limiter for Radar Receiver Protector
SN 6–307,347 (4,393,198) Copolymers from Octafluoronaphthalene
SN 6–308,973 (4,394,223) Tin and Gold Plating Process
SN 6–366,785 (4,393,997) Removable Secondary Aircraft Fuel Enclosure
SN 6–367,580 (4,393,101) Diethynylbenzene-Ethynylpyrene Copolymers

Department of the Army

SN 4–578,938 (4,354,192) Radio Ranging
SN 5–953,292 (4,369,811) Null Balancing for Fluidic Sensors and Amplifiers
SN 6–074,634 (4,357,713) Method and Apparatus for Reduction of Modal Noise in Fiber Optic Systems
SN 6–111,738 (4,373,553) Broad Band Flueric Amplifier
SN 6–133,735 (4,335,655) Method and Apparatus for Detonating Explosive in Response to Detonation of Remote Explosive
SN 6–142,548 (4,362,106) Flow Deflector for Air Driven Power Supply
SN 6–153,461 (4,350,315) Device to De-Spin Objects with Very High Spin
SN 6–158,556 (4,345,460) Multi-Caliber Projectile Soft Recovery System
SN 6–169,004 (4,341,158) Apparatus for Eliminating Power Source Rise Time Effects in a Time Fuze System
SN 6–175,543 (4,367,474) Frequency-Agile Polarization Diverse Microstrip Antennas and Frequency Scanned Arrays
SN 6–176,319 (4,348,649) Microwave Power Pulse Generator
SN 6–198,673 (4,379,296) Selectable-Mode Microstrip Antenna and Selectable-Mode Microstrip Antenna Arrays
SN 6–216,232 (4,375,082) High Speed Rectangle Function Generator
SN 6–217,881 (4,381,002) Fluidic-Controlled Oxygen Intermittent Demand Flow Device
SN 6–230,177 (4,360,896) Write Mode Circuitry for Photovoltaic Ferroelectric Memory Cell
SN 6–278,263 (4,382,678) Measuring of Feature for Photo Interpretation
SN 6–290,138 (4,392,348) Device for Bleeding Motor Gases Thru Motor Pole Piece
SN 6–311,368 (4,385,055) 2-Acetyl-and 2-Propionylpyridine Thiosemicarbazones as Antimalarials
SN 6–316,574 (4,393,048) Protective Gel Composition for Wounds
SN 6–316,575 (4,391,799) Protective Gel Composition for Treating White Phosphorus Burn Wounds

Department of Health and Human Services

SN 6–515,169 Automated System for Determining the Molecular Weight and/or Concentration of Macromolecules Via Sedimentation Equilibrium

[FR Doc. 83–29836 Filed 11–2–83; 8:45 am]
BILLING CODE 3810–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 27, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee for the Assessment of The Development of Prophylactic/Antidote Drugs for Use Against Chemical Agents will hold meetings on November 28–30 and December 1, 1983, from 8:30 am to 5 pm each day at the ANSER Bldg, 400 Army-Navy Drive, Arlington, VA.

The Committee will review and revise the first draft of their report to the Air Force.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–4811.

Winnibel F. Holmes,
Air Force Federal Register Liaison Officer.

[FR Doc. 83–29805 Filed 11–3–83; 8:45 am]
BILLING CODE 3910–01–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Lower Ohio River Navigation Project—Cumberland River to Mouth

AGENCY: Army Corps of Engineers, Louisville District, DOD.

ACTION: Updated notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: The Louisville District is preparing a Feasibility Report to determine waterway transportation needs on the Lower Ohio River from the Cumberland River (Mile 920.5) to the Mississippi River (Mile 981.5). A Notice of Intent to prepare a DEIS for this study effort was previously published in the Federal Register on May 15, 1980 (FR 32037, Vol. 48, No. 96). A number of alternatives are being investigated that will allow the continued navigational use of the Ohio River. Structural measures which are being considered include the rehabilitation and reconstruction of the existing Locks and Dams 52 and 53 and the replacement of these structures with a single locks and dam facility downstream of Locks and Dam 53 near Olmsted, Illinois.

As indicated in the prior Notice of Intent, the DEIS will address the effects of alternative measures considered as well as those of the recommended plan. The DEIS will address a variety of issues, including but not limited to water quality, terrestrial and aquatic flora and fauna, cultural resources, land use, transportation, and socioeconomics as they would relate to the construction and operation of the recommended plan.

A public meeting concerning the Lower Ohio River Navigation Project was held on May 24, 1979 at Paducah, Kentucky. No additional public scoping meeting is planned. Coordination with various Federal, state, and local agencies will continue to identify significant issues to be discussed in the DEIS. The Louisville District estimates that the DEIS will be available for public review on or before July 1, 1984. An additional public meeting will be held following the release of the DEIS.

ADDRESS: Questions regarding the proposed action and the DEIS should be directed to Mr. David J. Weyer, Chief, Navigation Planning Support Center, or Mr. Terry S. Siemsen, Environmental Specialist, Planning Division, U.S. Army Corps of Engineers, Louisville District, P.O. Box 59, Louisville, Kentucky 40201 Telephone: 502–582–5641.

Dwayne G. Lee,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83–29833 Filed 11–3–83; 8:45 am]
BILLING CODE 3710–[illegible]-M

Department of the Navy

Final Notice of Decision To Locate the West Coast Landing Craft Air Cushion (LCAC) Operational Complex at Cockleburr Mesa on the Marine Corps Base, Camp Pendleton, California

Pursuant to the regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA) (§ 1505.2 of Title 40 Code of Federal Regulations), the Department of the Navy announces its decision to locate the west coast Landing Craft Air Cushion (LCAC) operational complex at Cockleburr Mesa on the Marine Corps Base, Camp Pendleton, California. The Draft and Final Environmental Impact Statements for this project were filed with the Environmental Protection Agency and the public on August 23, 1982, and January 21, 1983, respectively.

It is the opinion of the Department of the Navy that environmental impacts associated with the project can be minimized by implementing mitigation measures that are incorporated within the FEIS. In addition, however, the following mitigation/enhancement measures will be incorporated into the project as a result of consultation with the United States Fish and Wildlife Service subsequent to filing the FEIS:

As part of the vernal pool mitigation program, all vernal pools on Cockleburr Mesa destroyed by base development shall be replaced on a one-for-one basis with new vernal pools.

Implement portions of the *Santa Margarita River Estuary Resources Values and Management Recommendations—July, 1981* prepared by the United States Fish and Wildlife Service for the Marine Corps Base, Camp Pendleton. Specifically, the following construction will be accomplished:

Mechanically open the mouth of the Santa Margarita River estuary during commencement of restoration activities and monitor attendant effects. Complete four excavations (as described on pages 129–130 of the Management Recommendations) to increase the tidal prism, and use the excavated material to create two 0.25 acre least tern nesting islands. The two channel inlets to the main flow of the river will also be deepened.

The Department of the Navy recognizes the potential for conflicts with federally listed endangered species and commits to review operational procedures within the context of formal consultation in the future if monitoring reveals an effect on endangered species.

Dated: October 28, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-29795 Filed 11-2-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Office of the Secretary

International Atomic Energy Agreements; Proposed Subsequent Arrangement; International Atomic Energy Agency

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of approximately 12,896 grams of uranium, enriched to approximately 19.9% in the isotope U-235, for use as fuel in the TRIGA Mark I research reactor, at Rabat, Morocco. The supply of this material is to be approved pursuant to an IAEA project and supply agreement.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 28, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-29821 Filed 11-2-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-83-026; OFP Case No. 55376-9241-20-24]

Petition for Exemption and Availability of Certification; Nekoosa Papers, Inc.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of acceptance of petition for exemption and availability of certification by Nekoosa Papers, Inc. for its Ashdown, Arkansas, facility.

SUMMARY: On September 27, 1983, Nekoosa Papers, Inc. (Nekoosa), a subsidiary of Great Northern Nekoosa Corporation, Port Edwards, Wisconsin, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act") for a package boiler (hereafter referred to as Ashdown 2) at its Ashdown, Arkansas, pulp and paper mill facility. Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new major fuel burning installation (MFBI). Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

Ashdown 2 is rated at 150,000 pounds of steam per hour and operated at 850 psig. Together with five existing boilers, it will feed a common 850 psig steam header that drives two turbine generators. It is designed to burn natural gas or oil. At present, the net annual electric generation of the Ashdown cogeneration facility is used at the pulp and paper mill, and the resulting increase in electric power generated through the planned use of Ashdown 2 will be consumed on site. Accordingly, Ashdown 2 is a major fuel burning installation in accordance with the definition of "electric generating unit" contained in 10 CFR 500.2.

Within thirty days of the receipt of the petition, ERA found it to be incomplete due to minor deficiencies and so notified Nekoosa. On October 18, 1983 additional data and information addressing the deficiencies were received from Nekoosa. ERA has determined that the amended petition appears to include sufficient evidence to support an ERA determination, and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing. The public file

containing a copy of this Notice of Acceptance and Availability of Certification, as well as other documents and supporting materials on this proceeding, is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register**.

DATES: Written comments are due on or before December 19, 1983. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Docket No. ERA–FC–83–026 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Robert A. McCann, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–033, Washington, D.C. 20585, Phone (202) 252–1649

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B–235, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION:

Nekoosa's Ashdown power complex consists of six boilers, one of which, Ashdown 2, is natural gas-fired, rated at 150,000 pounds of steam per hour, and operated at 850 psig. Ashdown 2 is currently leased by Nekoosa from A. F. Holman Boiler Works, Inc., Dallas, Texas. Its use in the past has been limited to operations during temporary emergency conditions at the plant. Accordingly, no exemption from the Title II prohibitions on the use of natural gas or oil in a new boiler MFBI has been required heretofore, although Ashdown 2 is, for purposes of FUA, a new MFBI. Nekossa's current plans, however, call for the future use of Ashdown 2 as a boiler unit component in the congeneration facility, with its present functions to be assumed by another existing package boiler unit currently at the site. Accordingly, Kekoosa has petitioned ERA for a cogeneration exemption that would permit Ashdown 2 to operate in the future with natural gas or oil as its primary energy source.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), Nekossa has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of Ashdown 2, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in Ashdown 2, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), Nekoosa has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR 1500 *et seq.;* and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that Nekoosa is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C., on October 27, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-29620 Filed 11-3-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA–FC–83–015; OFP Case No. 66010–9233–21–24]

Powerplant and Industrial Fuel Use Prohibitions; Turbo-Resources

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order granting to Turbo-Resources exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On July 8, 1983, Turbo-Resources, Santa Monica, Calif., filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.)* ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981). Criteria governing the cogeneration exemption are contained in 10 CFR 503.37.

Turbo-Resources seeks an exemption for a proposed powerplant consisting of (1) a simple cycle turbine generator capable of using natural gas or .25% sulfur distillate oil to produce electricity, and (2) a supplementary-fired waste heat recovery system to generate process steam and heat at the Witco Chemical Corporation's (Witco) Oildale, California, refinery. It is expected that virtually all of the net annual electric power produced by the cogenerator will be sold to the Pacific Gas & Electric Company (PG&E), making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. Witco will operate the facility for Turbo-Resources in accordance with the provisions of an agreement between Witco and Turbo-Resources.

Pursuant to section 212(c) of the Act and 10 CFR 503.37, ERA hereby grants a permanent cogeneration exemption for

Turbo-Resources' afore-described powerplant. The basis for ERA's Order is provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: In accordance with section 702(a) of FUA, this Order shall take effect on January 3, 1984.

The public file containing a copy of this Order as well as other documents and supporting materials on this proceeding are available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m. except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Anthony Wayne, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–073C, Washington, D.C. 20585, Phone (202) 252–1730

Marya Rowan, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B–235, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252–2967

SUPPLEMENTARY INFORMATION: Turbo-Resources proposes to install a cogeneration system at Witco's Oildale, California refinery which will (1) generate electrical power for sale to PG&E, and (2) produce steam and heat to meet the Witco refinery's process requirements. The proposed cogeneration system will be operated by Witco and owned by Turbo-Resources. The system will consist of a simple cycle gas turbine generator which will produce electric power and a supplementary-fired waste heat recovery system which will produce steam and provide process heat for Witco's use in the refinery process.

Turbo-Resources expects to sell virtually all of the net annual electric power generation to PG&E. The sale of in excess of 50 percent of the facility's net annual electric power-generation causes it to be classified as an electric powerplant under FUA (10 CFR 500.2). It is therefore subject to the Title II construction and fuel use prohibitions contained in the Act.

Pursuant to 10 CFR 503.37(a)(1), Turbo-Resources certified that the natural gas or oil to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, where the calculation of savings is in accordance with 10 CFR 503.37(b); and that the use of mixtures is not feasible, as required under 10 CFR 503.9.

Documentary evidence submitted by Turbo-Resources in support of its petition under 10 CFR 503.37(a)(1) includes: (1) The duly executed certifications required under the subparagraph; (2) exhibits containing the basis for the certification, including supporting factual and analytical materials; and (3) an environmental impact analysis, as required under 10 CFR 503.13(a).

After review of Turbo-Resources environmental impact analysis and other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

In accordance with 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to Turbo-Resources in the **Federal Register** on August 15, 1983, (48 FR 36875), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the petition to the Environmental Protection Agency for comments. During the 45-day public comment period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed on September 29, 1983. No comments were received and no hearing was requested.

Decision and Order

Based upon the entire record of this proceeding, ERA has determined that Turbo-Resources has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.37(a)(1) and, pursuant to section 212(c) of FUA, ERA hereby grants Turbo-Resources a permanent cogeneration exemption for the proposed powerplant to be located at Witco Chemical Corporation's Oildale, California, refinery.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this Order may petition for judicial review thereof at any time before the 60th day following the publication of this Order in the **Federal Register**.

Issued in Washington, D.C., on October 27, 1983.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic regulatory Administration.

[FR Doc. 83–29819 Filed 11–2–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ID–2073–000]

Margaret M. Stapleton; Application

October 28, 1983.

The filing individual submits the following:

Take notice that on October 20, 1983, Margaret M. Stapleton filed a request for a determination that the interlock is not jurisdictional, or, alternatively an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Eastern Edison Company
Second Vice President—John Hancock Mutual Life Insurance Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 22, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–29795 Filed 11–2–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EC84–4–000]

Minnesota Power & Light Co.; Application

October 28, 1983.

Take notice that on October 21, 1983 Minnesota Power & Light Company ("MP&L") tendered for filing an "Application For Sale, Lease Or Other Disposition, Merger Or Consolidation Of Facilities, Or For Purchase Or Acquisition Of Securities Of A Public Utility."

MP&L states that this Application is being made for the Commission's approval of the disposition of facilities owned by MP&L by sale of a portion of an electric substation and related 23 kV distribution facilities to the City. The total consideration is $137,838.30.

MP&L further states that the facilities being transferred are a portion of the 115/23 kV Hibbing Substation near the City of Hibbing, St. Louis County, Minnesota. Also included are 23 kV electric distribution feeders.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29794 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-43-000]

New England Power Pool; Filing

October 27, 1983.

The filing Company submits the following:

Take notice that on October 24, 1983, the New England Power Pool (NEPOOL) tendered for filing an Agreement Amending New England Power Pool Agreement (Amendment), dated as of October 1, 1983, which modifies the provisions of the New England Power Pool Agreement, dated as of September 1, 1971.

NEPOOL states that the Amendment changes Sections 5.5, 6.2, and 10.1 of the NEPOOL Agreement to (1) liberalize procedures for proxy voting on the Management Committee and Executive Committee, and (2) to permit generating and transmission facilities determined by the Management Committee to be needed for use by Participants in meeting the pool's reliability standards and other objectives to be formally designated as "pool-planned," although such facilities are owned by affiliates of Participants or other persons who are not themselves Participants.

NEPOOL requests an effective date of November 15, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 8, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29796 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-14-000]

Northwest Central Pipeline Corp.; Proposed Changes in FERC Gas Tariff

October 28, 1983.

Take notice that on October 24, 1983, Northwest Central Pipeline Corporation (Northwest Central) tendered for filing Third Revised Sheet No. 6; First Revised Sheet Nos. 77 through 80 and Second Revised Sheet No. 81; and, Original Sheet Nos. 96 through 99 to Original Volume No. 1 and, First Revised Sheet No. 2A, Second Revised Sheet No. 2B and Original Sheet No. 2C; and Second Revised Sheet No. 91 and Second Revised Sheet No. 219 to orginal Volume No. 2 of its FERC Gas Tariff. The proposed effective date of these revised tariff sheets is November 23, 1983.

Northwest Central states that the filing proposes an increase above its previously filed rates which reflects an increase in revenues of $19,015,441 inclusive of gathering services, based on the test period (the twelve months ended July 31, 1983), adjusted for known changes through April 30, 1984). Northwest Central states that the increased rates are required to reflect an overall rate of return of 14.91 percent; increases in prepayments for gas; and, increases in operating expenses including wages, benefits and administrative expenses.

Northwest Central proposes revisions to Article 21 of the General Terms and Conditions to Original Volume No. 1 of its FERC Gas Tariff, as set forth in First Revised Sheet Nos. 77 through 80, to conform Northwest Central's Purchased Gas Adjustment tariff provisions to a sales volume basis methodology.

Northwest Central states that Third Revised Tariff Sheet No. 6 also includes a column for rate adjustments pursuant to a prepayment rate adjustment provision proposed as Article 25 of the General Terms and Conditions of Northwest Central's FERC Gas Tariff, Original Sheet Nos. 96 through 99.

Northwest Central also states that First Revised Sheet No. 2A, Second Revised Sheet No. 2B and Original Sheet No. 2C reflect an increase in the presently filed interruptible transportation rate and certain revisions to the transportation rate schedule.

Northwest Central states that this filing was served on each of its customers and affected state commissions pursuant to section 154.16(b) of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29795 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-6-000]

Pacific Gas & Electric Co.; Order Granting Waivers in Part and Accepting Rate Schedule for Filing

Issued October 27, 1983.

On October 3, 1983, Pacific Gas & Electric Company (PG&E) tendered for filing as an initial rate schedule an executed contract (the Agreement) covering a variety of services to be rendered by PG&E to the City of Santa Clara, California (Santa Clara). At the same time PG&E and Santa Clara filed a joint motion asking that the Commission waive section 35.15 of its regulations to allow termination of service in

accordance with the terms of the Agreement.

The purpose of the Agreement is to allow Santa Clara to make better use of the geothermal generating capacity that it has recently constructed and put into commercial service in Sonoma County, California. The Agreement provides Santa Clara with firm transmission service. It also provides: (1) Partial requirements service to supplement Santa Clara's own power resources and such power resources as Santa Clara may obtain from other suppliers; (2) emergency power service; (3) maintenance power service; (4) short-term firm power service; (5) Geyers curtailment power service; (6) firm transmission service; (7) interruptible transmission service; and (8) reserve service. PG&E characterizes the rates for these services as initial rates. The Agreement also provides that PG&E will make available to Santa Clara the following services, subject to the appropriate terms and conditions of the Agreement: (1) curtailment power service; (2) station use service for Santa Clara projects; (3) power factor correction service; and (4) transmission leaseback service.

PG&E states that it and Santa Clara are anxious that the Agreement become effective at the earliest possible time. PG&E requests that the Commission waive the notice requirements of section 35.3 of the regulations and act as expeditiously as possibly, following the filing of the Agreement, to issue an order of acceptance. Section 9.3 of the Agreement provides that the Agreement shall become effective on the date it is permitted to become effective by the Commission.

PG&E states in its cover letter that the parties have agreed on a formula and mechanism for increasing the rates for all of the services covered by the Agreement, except for station use service. The effective date for the agreed-upon increase is to be January 1, 1984 or such other date as the California Public Utilities Commission (CPUC) may set for a general increase in PG&E's retail rates. The parties have also agreed to a formula and mechanism for a further increase in the rate levels for all of the services covered by the Agreement, except for station use service, to become effective January 1, 1985, or such other date as the CPUC may set as the effective date for a 1985 revenue enhancement adjustment to PG&E's retail rates.

The parties have also agreed to formulas and mechanisms for adjusting the rate levels for all services, except station use service, to reflect retail rate base adjustments authorized by the CPUC, including but not limited to recognition of the costs associated with PG&E's Diablo Canyon and Helms Creek generating units. The parties have agreed that this last rate adjustment is to coincide with the date that PG&E's retail rates are adjusted by the CPUC, should the CPUC act prior to January 1, 1986. The parties have agreed that the existing fuel cost adjustment mechanism currently applicable to Santa Clara shall remain unchanged. PG&E states that the rate agreement set out in Appendix A to the Agreement is almost identical to rate agreements filed in settlements in Docket Nos. ER81-679-000 and ER82-271-000.

PG&E further asserts that although the Agreement contains a provision for station service to the Santa Clara generating station at times when the facility is not in operation, PG&E regards this service as subject to the jurisdiction of the CPUC since the service to Santa Clara under the provision is not for resale.

PG&E asserts that the rates proposed in the filing reflect a normalization method of accounting in compliance with the applicable provisions of the Internal Revenue Code and § 35.25 of the Commission's regulations. PG&E asks that the Commission so find in its order dealing with PG&E's filing.

In their joint motion PG&E and Santa Clara seek waiver of section 35.15 of the regulations to allow section 9.4.1 of the Agreement to take effect. That section provides that termination can take place automatically, with no further regulatory filings, on three years written notice by either party. The joint motion also asks that the Commission grant authorization for termination of service under the terms of the agreement in its order accepting the agreement for filing. In the alternative, section 9.4.3 provides that Santa Clara will not oppose any regulatory filing required to terminate the Agreement.

Notice of the filing was published in the **Federal Register**,[1] with comments due on or before October 24, 1983. On October 17, 1983, Santa Clara filed a motion to intervene and request for expedited action. In support of the latter request, Santa Clara states that the NCPA Project No. 2 geothermal steam generating unit, in which Santa Clara has an ownership interest, is currently operational; however, absent the Agreement, Santa Clara has no contractual vehicle for transmission of the capacity and energy from the plant to Santa Clara's distribution system. As a result, Santa Clara states that it is suffering substantial economic harm on a daily basis until the Agreement is accepted for filing.

Santa Clara states in its motion that, although the parties have requested pregranted termination of service approval under section 9.4.1 of the Agreement, they have made alternative termination provisions under section 9.4.3. Thus, Santa Clara emphasizes in its latest motion that granting the joint motion for pregrant of termination approval is not a prerequisite to acceptance of the Agreement for filing.

Discussion

PG&E has filed cost support materials as justification for the rate levels initially set for the various types of service covered by the Agreement. A review of this material indicates that the rate levels initially provided appear to be cost justified. The Agreement and the resulting rates will therefore be accepted for filing and allowed to go into effect without suspension or refund obligation. The request of PG&E for waiver of section 35.3 of the regulations to allow the agreement to become effective on the date of issuance of this order is granted for good cause shown.

Concerning the Agreement's provisions linking changes in rates to the outcomes of various proceedings before the CPUC, PG&E is advised that Commission acceptance of the Agreement does not constitute preacceptance of such prospective rate adjustments; nor should such acceptance be considered in any way as binding upon the actions of the Commission with respect thereto. PG&E will be required to submit appropriate filings for each rate adjustment with the Commission for approval.

Regarding PG&E's request that the Commission find that the rates proposed in the filing reflect a normalization method of accounting in compliance with the applicable provisions of the Internal Revenue Code and section 35.24 of the Commission's regulations, our review of PG&E's submittals in this docket leads us to the conclusion that the proposed rates are based upon the tax normalization requirements provided for in the Economy Recovery Tax Act of 1981.

As noted, PG&E and Santa Clara have requested waiver of the notice of termination requirements of section 35.15. This regulation implements the notice provisions of section 205(d) of the Federal Power Act, since termination is a change in service for which notice is statutorily required. 18 CFR 2.4; *Florida Power & Light*, 3 FERC ¶61,081 at 61,231 (1978); *Nevada Power Company*, 1 FERC ¶63,004 (1976); *Pennsylvania Water &*

[1] 48 FR 48509 (Oct. 19, 1983).

Power Co., et al. v. *Federal Power Commission, et al.*, 343 U.S. 414, 422–424 (1952). The parties in effect request that we waive the notice requirement and specify that the termination shall take effect pursuant to the terms of the contract without further regulatory review.

In their request for "pregrant" of termination, we believe the parties have misapprehended the sequence of regulatory events needed to accomplish the objectives of their Agreement. Upon acceptance of the Agreement, PG&E will have on file a rate schedule effective through 2013. If either party gives notice of termination of service under the Agreement, the statute requires a filing to amend the rate schedule containing that term of service. Under section 9.4.3 of the Agreement Santa Clara has bound itself not to oppose a required filing to change the term of the rate schedule. Moreover, under section 9.4.1, as elaborated upon in the joint motion, Santa Clara has foreclosed itself from taking any service pursuant to the Agreement, or rate schedules or service arising under or related to the Agreement, after the end of the notice period. The latter undertaking, which is beyond our regulatory control, would effectively render the rate schedule ineffective at the completion of the three year notice period. The parties to the Agreement have made extremely clear their intentions to limit the duration of both the Agreement and of the service being provided under the Agreement.[2] Great weight would be given to the parties' clear intent. In addition, the three year notice provision of the Agreement itself should give both parties ample time in which to litigate the specifically reserved question of whether Santa Clara has an independent basis, totally apart from the Agreement, for receiving continued service.[3] Under these circumstances, the filings that would be necessary if notice were given would be largely clerical in nature, and any review by the Commission would have to recognize the rights and obligations then existing under the Agreement. The relief requested in the joint motion is therefore not necessary to accomplish the objectives of the Agreement.

Acceptance for filing of this Agreement does not constitute Commission approval of any service, rate, charge, classification, or rule, regulation, contract, or practice affecting such rate or service provided for in the filed documents; and such acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against PG&E.

The Commission orders:

(A) PG&E's request for waiver of § 35.3 is hereby granted. The Agreement filed by PG&E is hereby accepted for filing to become effective, without suspension or hearing, on the date of issuance of this order.

(B) The joint request for waiver of § 35.15 is denied. Section 9.4 of the Agreement is accepted as discussed above. In the event that a notice of termination is given by one of the parties under section 9.4.1 of the Agreement, PG&E shall make a filing with the Commission, listing every rate schedule affected by the termination.

(C) Docket No. ER84–6–000 is hereby terminated.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–29707 Filed 11–3–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–42–000]

Portland General Electric Co.; Filing

October 28, 1983.

The filing Company submits the following:

Take notice that on October 21, 1983, Portland General Electric Company (PGE) tendered for filing the written report regarding Average System Cost (ASC) prepared by the Bonneville Power Administration (BPA), the BPA's Average System Cost determination and the PGE ASC filing on which BPA's report is based. In accordance with the provisions of 18 CFR 35.13a(d)(5)(i) these documents are required to be filed with FERC within 15 working days of BPA's ASC determination. This determination was made on September 28, 1983.

Jurisdiction	Filed rate	Adjusted rate
Oregon	42.13 Mills/kWh	30.54 Mills/kWh

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–29702 Filed 11–3–83; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51479B; BH–FRL 2481–7]

Polycarboxylic Acid, Alkanolamine Salt; Premanufacture Notice, Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notice (PMN) PM83–1005, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on January 24, 1984.

FOR FURTHER INFORMATION CONTACT: Jane Talarico, Chemical Control Division (TS–794), Environmental Protection Agency, Rm. E–217, 401 M St., SW., Washington, D.C. 20460, (202–382–3748).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a PMN to EPA 90 days before manufacture or import begins. Under section 5(c) EPA may, for good cause, extend the notice period for additional periods, not to exceed a total of 180 days from the date of receipt.

On July 29, 1983, EPA received PMN 83–1005 for polycarboxylic acid, alkanolamine salt. The PMN substance will be imported for use as a ferrous metal corrosion inhibitor for water based fluids. The submitter of the PMN claimed its identity, chemical identification, and volume to be confidential business information. Notice of receipt of the PMN was published in the Federal Register of August 12, 1983 (48 FR 36847). The

[2] We shall incorporate the Joint Motion by reference as part of the Agreement in order to make this intention completely clear.

[3] See § 9.4.1, page 66 of the Agreement, page 3 of the Joint Motion.

original 90-day review period is scheduled to expire on October 28, 1983.

EPA's detailed analysis of the substance described in the PMN addressed the following: chemical analysis of the PMN substance, effects of human health, human exposure, import volume, environmental release, ecological effects, degree of risk relative to available commercial substitutes, potential marketability, and the identification of other information which may be required to resolve outstanding issues.

As a result of this analysis, EPA has reason to believe the following:

1. Exposure to the PMN substance may result in adverse health effects, among which may be carcinogenicity.

2. During processing and use of the PMN substance, the potential exists for significant worker exposure.

Based on this analysis, EPA finds that there is a possibility that the substance submitted for review in PMN 83–1005 may be regulated under section 5 of TSCA. The Agency requires an extension of the review period to further investigate potential health effects and use conditions, to examine its regulatory options and to prepare the necessary documents, should regulatory action be required. An administrative order under section 5(e) must be issued no later than 45 days prior to expiration of the review period. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to January 24, 1984.

PMN 83–1005 is available for public inspection in Room E–107, at the EPA Headquarters, address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: October 24, 1983.

Joseph J. Merenda,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-29866 Filed 11-2-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Form Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of OMB No. 3067–0020.
Title: Application for Participation in the National Flood Insurance Program.
Abstract: To provide communities the opportunity to become eligible to participate in the National Flood Insurance Program.
Type of respondents: State or Local Governments.
Number of respondents: 300.
Burden hours: 1,200.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287–0906, 500 C St., SW., Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building Washington, D.C. 20503.

Dated: October 28, 1983.

Walter A. Girstantas,

Assistant Associate Director, Administrative Support.

[FR Doc. 83-29846 Filed 11-2-83; 8:45 am]

BILLING CODE 6718-01-M

[Docket: FEMA-REP-3-WV-1]

Receipt of Radiological Emergency Response Plans

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of receipt of plans.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has the responsibility for reviewing the State and local governments' plans, the State of West Virginia has submitted radiological emergency plans to the FEMA Regional office. These plans support nuclear power plants which impact on West Virginia and include the plan of Hancock County which is near the Duquesne Light Company's Beaver Valley Power Station located in Beaver County, Pennsylvania.

DATE: Plans received October 12, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas M. Sherlock, Regional Director, FEMA Region III, 7th Floor, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106.

SUPPLEMENTARY INFORMATION: In support of the Federal requirement for emergency response plans, FEMA has established a Rule describing its procedures for review and approval of State and local governments' radiological emergency response plans. Pursuant to this FEMA Rule (44 CFR Part 350.8) "Review and Approval of State Radiological Emergency Plans and Preparedness," 48 FR 44338, the States Radiological Emergency Plan for the State of West Virginia was received by the Federal Emergency Management Agency Region III Office.

Included is the plan for Hancock County which is partially within the plume exposure pathway emergency planning zone of the nuclear plant.

Copies of the Plan are available for review at the FEMA Region III Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are 575 pages in the document, reproduction fees are $.10 a page payable with the request for copy.

Comments on the Plan may be submitted in writing to Mr. Thomas M. Sherlock, Regional Director, at the above address within thirty days of this **Federal Register** Notice.

Dated: October 24, 1983.

Thomas M. Sherlock,

Regional Director, Region III.

[FR Doc. 83-29847 Filed 11-2-83; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-693-DR]

Major Disaster and Related Determinations; Oklahoma

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA–693–DR), dated October 26, 1983, and related determinations.

DATED: October 26, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter of October 26, 1983, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended, (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288) as follows:

I have determined that the damage in certain areas of the State of Oklahoma, resulting from severe storms and flooding, beginning on or about October 19, 1983, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to Section 408(b) of Pub. L. 93–288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Ms. Joan F. Hodgins of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Oklahoma to have been affected adversely by this declared major disaster:

The Counties, of Caddo, Canadian, Cleveland, Comanche, Garvin, Grady, Logan, McClain, Oklahoma and Pottawatomie for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718–02)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83–29846 Filed 11–2–83; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Compliance With Regulatory Flexibility Act

AGENCY: Federal Maritime Commission.

ACTION: Notice of revision of Ten-Year Schedule for Review of Rules.

SUMMARY: Pursuant to section 610 of the Regulatory Flexibility Act (Pub. L. 96–354), the Federal Maritime Commission hereby publishes notice of its revised schedule for review of Commission rules.

DATES: None.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202)523–5725.

SUPPLEMENTARY INFORMATION: Section 610 of the Regulatory Flexibility Act (Pub. L. 96–354) requires that each agency subject thereto publish in the **Federal Register** a plan for periodic review of its rules. Incorporated herein is the revised plan of the Federal Maritime Commission for FY 1984 through FY 1991. Any revision of this plan will likewise be published in the **Federal Register**

Francis C. Hurney,

Secretary.

Subject	Code	CFR	G.O.	Eff. date	Dkt. No.	Action	Eff. date	FR	CFR
Fiscal Year 1984									
Public Information	020	46 CFR 503	22	1967		Amended			
P.L. 92–463—Availability of Transcripts	020	46 CFR 530.6							
Filing of Documents and Confidentiality of Closed Commission Meetings	020	46 CFR 53016.		1982					
Terminal Lease Agreements	30	46 CFR 530.6		1967	83-38	Pending Comments.			
Free Time and Demurrage Charges on Import Property Applicable to All Common Carriers by Water.	60	46 CFR 526	II 35	1983 1975		Projected 3rd Quarter.			
Compromise, Assessment, Settlement, and Collection of Civil Penalties Under the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.	11	46 CFR 505	30	1978		Projected 1st Quarter.			
Shippers' Requests and Complaints	50	46 CFR 527	14	1985		Projected 2nd Quarter.			
Fiscal Year 1985									
Admission, Withdrawal and Exclusion Provisions of Steamship Conference Agreements	30	46 CFR 523	9	1984					
Filing of Tariffs by Terminal Barge Operators in Pacific Slope States	60	46 CFR 550	34	1975					
Certification of Company Policies and Efforts to Combat Rebating in the Foreign Commerce of the U.S.	11	46 CFR 552	43	1980					
Fiscal Year 1986									
Rules Governing the Right of Independent Action in Agreements	30	46 CFR 526	II	1983					
Financial Reports by Common Carriers by Water in the Domestic Offshore Trades	60	46 CFR 512	11	1986					
Financial Exhibits and Schedules Non-vessel Operating Common Carriers in the Domestic Offshore Trades.	60	46 CFR 514	42	1986					
Implementation of the Right of Independent Action in Tariff Filing	30	46 CFR 14		1981					
Fiscal Year 1987									
Dual Rate Contract Systems in the Foreign Commerce of the U.S.	30	46 CFR 538	19	1988					
Audits and Auditing Procedures	60	46 CFR 513	31	1987					
Fiscal Year 1988									
Rules of Practice and Procedure	000	46 CFR 502	16	1985					
Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce	60	46 CFR 531	35	1977					
Procedures for Environmental Policy Analysis	025	46 CFR 547	45	1989					
Fiscal Year 1990									
Interest on Awards	030	46 CFR 530.15.							
Conference Agreement Provisions Relating to Concerted Activities (Minutes)	30	46 CFR 537	16	1985					
New and Initial Rates Conference Member	60	46 CFR 530.7		1987					
Bulk Cargo Loaded in Containers	60	46 CFR 530.15.		1982					

Subject	Code	CFR	G.O.	Eff. date	Dkt. No.	Action	Eff. date	FR	CFR
Fiscal Year 1980									
Regulations to Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the U.S.	10	46 CFR 506	33	1975					
Exemption from Self-Policing Requirements	30	46 CFR 530.10.		1978					
Exemptions from Self-Policing Requirements	30	46 CFR 530.16.		1982					
Truck Detention at the Ports of New York	60	46 CFR 551	35	1975					
Fiscal Year 1981									
Licensing of Independent Ocean Freight Forwarders	40	46 CFR 510	4	1981					
Exemption of Non-Exclusive Trans-shipment Agreements from the Approval Requirements of Section 15, Shipping Act, 1916.	30	46 CFR 524	23	1966					
Exemption from Husbanding and Agency Agreements	30	46 CFR 520	46	1980					
Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the U.S.	60	46 CFR 536	13	1977					

[FR Doc. 83-29796 Filed 11-1-83; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Office of Policy and Management Systems

Agency Collection of Information Under Review by the Office of Management and Budget

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice of existing collections of information.

SUMMARY: The General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve the collections of information identified below for the continued collection of data. GSA is required under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), to consider comments on collections of information that affect the public.

DATES: Comments on these collections must be submitted on or before November 28, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB (OMB), Washington, DC 20503, and John Gilmore, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Victoria Moss on 703–696–5180.

SUPPLEMENTARY INFORMATION: 1. *Coverage.* The following information collections are necessary to monitor and evaluate program functions within GSA. The collections are listed by title, purpose, annual respondents, responses and burden hours.

a. *Presolicitation Notice and Response.* Firms wishing to participate in certain procurements are required to indicate their interest in advance of the issuance of a solicitation (537; 3,222; 215).

b. *Mistake in Bid.* Firms submitting bids containing mistakes are required to verify those bids or submit evidence of the mistake (810; 810; 405).

c. *Descriptive Literature.* Bidders are required to furnish information which shows the characteristics or construction of a product or explains its operation. This helps to determine before award whether the proposed products meet specifications and to establish exactly what the bidder proposes to furnish (535; 1,605; 268).

d. *Bid Sample Disposition Instructions.* Firms which are required to submit bid samples must provide instructions for disposition of the samples (535; 1,605; 268).

e. *Technical Proposal (2–Step).* Firms participating in two-step formal advertising are required to submit technical proposals for evaluation (30; 30; 240).

f. *Bid Labeling.* Bidders are required to seal and label bids to ensure protection prior to bid opening (4,050; 162,000; 2,754).

g. *Delivery Schedules.* Under certain circumstances, firms offering supplies or services may be required to propose delivery schedules (606; 9,090; 1,518).

h. *Bid/Offer Acceptance Period.* Firms proposing to sell supplies or services may request additional time for acceptance of offers (303; 9,090; 155).

i. *Bid, Performance, and Payment Bonds.* Under certain conditions, contractors are required to execute bonds for any construction contracts exceeding $25,000 (6,445; 10,700; 4,280).

j. *Type of Business.* Firms proposing to sell supplies or services are required to indicate their type of business to ensure that subsequent contracts are written properly (18,189; 90,945; 637).

2. *Obtaining copies of proposals.* A copy of these proposals may be obtained from the Directives and Reports Management Branch (ORAI), Room 3004, GS Building, Washington, DC 20405, telephone (202–566–0666).

Dated: October 25, 1983.

Michael G. Barbour,

Director, Information Management Division.

[FR Doc. 83-29698 Filed 11-2-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Clinical Research Centers on Psychopathology of the Elderly

AGENCY: National Institute of Mental Health, ADAMH, HHS.

ACTION: Issuance of program announcement for clinical research centers on psychopathology of the elderly (CRC/PE)

SUMARY: The National Institute of Mental Health announces the availability of a special research grant announcement concerning Clinical Research Centers on Psychopathology of the Elderly. The awards will provide support to centers with access to elderly clinical populations for research studies on the mental disorders of later life. Support may be requested for up to 5 years. It is expected that the maximum support for each center will be $350,000 (direct costs) per year.

Receipt date of applications for FR 1984 funding: March 1, 1984.

For further information or a copy of the announcement, contact: Dr. Nancy E. Miller, Chief, Clinical Research Centers on Psychopathology of the Elderly, Center for Studies of the Mental Health of the Aging, Division of Prevention and Special Mental Health Programs, National Institute of Mental Health, Room 11C–03 Parklawn Building, 5600

Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–1185.

Robert L. Trachtenberg,

Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83–29830 Filed 11–3–83; 8:45 am]

BILLING CODE 4195–25–M

Centers for Disease Control

Analytical Method for Total Organics on Charcoal; Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: November 15, 1983.

Time: 1:00 p.m.–4:30 p.m.

Place: Conference Room B, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Purpose: To review and discuss the protocol for the project, "Analytical Method for Total Organics on Charcoal." The project seeks to improve the characterization of hydro-carbon mixtures obtained on charcoal-tube air samplers through the application of high-resolution gas chromatography and plasma emission detection.

Additional information may be obtained from: Alexander W. Teass, Ph.D., Division of Physical Sciences and Engineering, National Institute for Occupational Safety and Health, Centers for Disease Control, Robert Taft Laboratory, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Telephones: FTS: 684–4233, Commercial: 513/684–4233.

Dated: October 28, 1983.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 83–29827 Filed 11–3–83; 8:45 am]

BILLING CODE 4160–19–M

Epidemiologic Study of Specific Health Effects of Exposure to Chemicals; Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: November 8, 1983.

Time: 9 a.m. to 4 p.m.

Place: Conference Room C, 5555 Ridge Avenue, Cincinnati, OH 45213.

Purpose: To discuss the protocol for a study of medical and reproductive outcomes in persons with occupational and environmental exposue to chemicals.

Additional information may be obtained from: Lynne Moody, M.D., Division of Surveillance, Hazard Evaluations, and Field Studies, National Institute for Occupational Safety and Health, Centers for Disease Control, Robert Taft Laboratory, 4676 Columbia Parkway, Cincinnati, OH 45226. Telephones: FTS: 684–4481, Commercial: 513/684–4481.

Dated: October 27, 1983.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 83–29829 Filed 11–3–83; 8:45 am]

BILLING CODE 4160–19–M

Food and Drug Administration

[Docket No. 83N–0070]

Licensing of a Biological Monoclonal Antibody Product Prepared by Hybridoma Technology

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that any biological monoclonal antibody product prepared by hybridoma technology that is intended for in vivo use or for in vitro testing of a licensed biological product is a biological product, subject to licensure under the Public Health Service Act. In those instances where a licensed manufacturer of a final product intends to obtain partially processed monoclonal antibody from another establishment, that second establishment and its partially processed antibody also must be licensed.

FOR FURTHER INFORMATION CONTACT:

For general information: Albert Rothchild, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

For licensing information: Donald Hill, National Center for Drugs and Biologics (HFN–825), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–5433.

SUPPLEMENTARY INFORMATION: A monoclonal antibody product prepared by hybridoma technology consist of homogeneous immunoglobulins all of which have identical structure and identical antibody reactivity. Hybridoma technology used in manufacturing monoclonal antibodies involves fusing a normal antibody-forming cell with a malignant cell (e.g., a myeloma cell) to create a continuously growing clone of hybrid antibody secreting cells, the hybridoma. Selected hybrid cells are then cloned and progated in the peritoneum of an animal (mouse) of in tissue culture where quantities of the epitope-specific monoclonal antibody are produced. Usually, the monoclonal antibody is separated from the ascitic fluid of the animal or the tissue culture medium, purified, and prepared for use as a final product. Monoclonal antibodies are highly specific and homogeneous and are, therefore, potentially valuable in the manufacture of a variety of in vivo products, e.g., tissue specific antibody labeled with a radioisotope or a drug, or neutralizing antibody to a drug, toxin, or microbe. Monoclonal antibodies also are used as the active components of in vitro diagnostic products, e.g., a blood banking reagent intended for the testing of a licensed biological product.

FDA is issuing this notice to advise interested persons of the licensing requirements for a monoclonal antibody product prepared by hybridoma technology that is intended either for in vivo use or for in vitro testing of a licensed biological product. Section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) requires, in part, that any virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, applicable to the prevention, treatment, or cure of diseases or injuries of humans must be propagated or manufactured and prepared at an establishment holding an unsuspended and unrevoked license. A monoclonal antibody product is analogous to both an antitoxin and a therapeutic serum. Therfore, by definition, any monoclonal antibody product intended either for in vivo use or for in vitro testing testing of a licensed biological product is biological product and is subject to the licensing provisions of the Public Health Service Act. Accordingly, after the initial development of a hybridoma cell line, any manufacturing process for the preparation of a monoclonal antibody product intended either for in vivo use in human or for in vitro testing of a licensed biological product, must be performed at an establishment holding an approved license to manufacture the product. In those instances where the licensed manufacturer of the final product intends to obtain partially processed monoclonal antibody from another establishment, that second establishment and its partially processed monoclonal antibody also must be licensed. To ensure that a partially processed monoclonal antibody product is not misbranded, the label affixed to each container of such a product intended for further manufacturing into injectable products must contain the statement "Caution: For Manufacturing Use Only"; and the label for such a product intended for further manufacturing into noninjectable

products must contain the statement "Caution: For Use in Manufacturing Noninjectable Products Only". Manufacturers seeking licensure of a monoclonal antibody product must file license applications with the Office of Biologics, Licensing Branch (address above). The license application for either a partially processed or final monoclonal antibody product must include, among other information, the manufacturing methods, specifications, and controls that ensure the safety, purity, potency, and effectiveness of the final product. An in vivo monoclonal antibody product that is intended to be administered to humans presents a greater potential risk to health than an in vitro monoclonal antibody product that is not intended to be administered to humans. Accordingly, FDA's requirements may be more stringent for license approval for partially processed or final monoclonal antibody products intended for in vivo use that FDA's requirements for license approval for partially processed or final products intended for in vitro use. A monoclonal antibody product intended for use in vivo or in vitro that is undergoing development before marketing may be shipped in interstate commerce under the provisions of § 312.1(g) or § 312.9 (21 CFR 312.1(g) or 312.9), respectively.

If a licensed or unlicensed manufacturer of a partially processed or final monoclonal antibody product that is intended for use in vitro intends to market the product for use in vivo, FDA emphasizes that before marketing the monoclonal antibody product that is intended for use in vivo, the manufacturer must file with FDA a new license application for the partially processed bulk or final monoclonal antibody product.

Dated: October 28, 1983.

Mark Novitch,

Acting Commissoner of Food and Drugs.

[FR Doc. 83-29818 Filed 11-2-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0352]

Travenol Laboratories, Inc.; Premarket Approval of CPS-10™ Capillary Plasma Separator, TMP Regulator Set, Fenwal® PS-400 Plasma Separator Module, and Plasma Separation Kit

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the CPS-10™ Capillary Plasma Separator, TMP Regulatory Set, Fenwal® PS-400 Plasma Separator Module, and Plasma Separation Kit sponsored by Travenol Laboratories, Inc., Deerfield, IL. After reviewing the recommendation of the Gastroenterology-Urology Device Section of the General Medical Devices Panel, FDA notified the sponsor that the application was approved because the devices had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by December 5, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On May 25, 1982, Travenol Laboratories, Inc., Deerfield, IL, submitted to FDA an application for premarket approval of the CPS-10™ Capillary Plasma Separator, TMP Regulator Set, Fenwal® PS-400 Plasma Separator Module, and Plasma Separation Kit indicated for use in therapeutic plasma exchange to remove circulating plasma components or protein bound toxins. The application was reviewed by the Gastroenterology-Urology Device Section of the General Medical Devices Panel, an FDA advisory committee, which recommened approval of the application for these devices for use in therapeutic plasma exchange to remove circulating plasma components or protein bound toxins. On October 7, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independnet advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 5, 1983, file with the Dockets Management Branch (address above), two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 27, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-29814 Filed 11-2-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Diabetes Advisory Board; Cancellation of Meeting

Notice of the meeting of the National Diabetes Advisory Board scheduled for November 10, 1983, 8:30 a.m. to 5:00 p.m., at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland, published in the **Federal Register** on October 28, 1983, (48 FR 49928) is hereby cancelled due to a conflict in the majority of the

member's schedules. This meeting will be rescheduled at a future date.

Dated: October 28, 1983.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83-29634 Filed 11-2-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Skokomish Indian Reservation, Washington; Resolution Amending the Skokomish Liquor Ordinance

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 18 U.S.C. 1161. I certify that Resolution No. 83-13 which amends the Skokomish Liquor Ordinance, which was published in the Federal Register on December 23, 1980, 45 FR 84873, was duly adopted by the Skokomish Tribal Council on May 16, 1983. The Skokomish Tribal Council has jurisdiction over the areas of Indian country within which this resolution will apply and it reads as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Skokomish Tribal Council Resolution No. 83-13

Whereas, the Skokomish Tribal Council is the governing body of the Skokomish Indian Tribe pursuant to the Constitution and By-Laws of the Skokomish Indian Tribe, approved by the Secretary of the Interior March 17, 1980; and

Whereas, the Skokomish Tribal Council, on September 12, 1980, adopted and enacted the Skokomish Liquor Ordinance, which was duly approved by the Acting Deputy Assistant Secretary—Indian Affairs on December 17, 1980, and published in the Federal Register on December 23, 1980, in accordance with 18 U.S.C. Section 1161; and

Whereas, the Skokomish Tribal Council is empowered by Article V, Section 1(j) of the Constitution of the Skokomish Indian Tribe to enact tribal laws and ordinances, as needed, to achieve intended tribal purposes; and

Whereas, the Skokomish Tribe through Skokomish Indian Tribal Enterprises is undertaking the construction and management of a restaurant and the Skokomish Tribal Council has determined, based upon marketing projections by Skokomish Indian Tribal Enterprises that sales of alcoholic beverages by the drink is a necessary component of the financial success of the enterprise; and

Whereas, the Skokomish Tribal Council finds that the sale of alcoholic beverages by the drink can be best regulated by tribal licensing of tribal business enterprises wishing to sell such drinks; and

Be it resolved, that the Skokomish Tribal Council, acting in both its governing capacity and in its capacity as the Skokomish Indian Liquor Board pursuant to section 205(a) of the Skokomish Liquor Ordinance, hereby amends Sections 208, and 210(a)(5) of said ordinance as follows: (brackets indicate deletions and underlining indicates additions).

Section 208 Sales

A. *Only Tribal Sales Allowed.* No sales of alcoholic beverages shall be made within the exterior boundaries of the Skokomish Indian Reservation, except at a tribal liquor store (or) *at a tribal business enterprise licensed pursuant to this section.*

b. *All Sales Cash.* All sales at tribal liquor stores shall be on a cash only basis and no credit shall be extended to any person, organization, or entity.

c. *All Sales for Personal Use.* All sales shall be for the personal use of the purchaser, and resale for profit of any alcoholic beverage at a tribal store and subsequent resale of that beverage for profit, whether in the original container or not, shall be a violation of this ordinance and the violator shall be subject to the penalties prescribed in Section 210(c).

d. *Tribal Property.* The entire stock of liquor and alcoholic beverages referred to under this ordinance shall remain tribal property, owned and possessed by the Skokomish Indian Tribe until sold.

e. *License for Sale by the Drink. There shall be a tribal retailer's license to sell alcoholic beverages by the individual glass for consumption on the premises. Such a license shall be issued only to a tribally operated business enterprise.*

Section 210 Illegal Activities

(a) *Violations.*

* * * * *

5. *Illegal Purchase of Liquor.* It shall be a violation of this ordinance for any person within the boundaries of the Skokomish Indian Reservation to buy liquor from any person other than at a properly authorized tribal liquor store (or) *at a tribal business enterprise licensed pursuant to Section 208(e).*

Certification

I, Lucy Schaefer, Chairperson of the Skokomish Tribal Council, do certify that the foregoing resolution was adopted at a meeting of the Skokomish Tribal Council held May 16, 1983, at which a quorum was present, by a vote of 4 for and 0 against.

Lucy A. Schaefer,

Chairperson, Skokomish Tribal Council.

[FR Doc. 83-29629 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[A-15985]

Order Providing for Opening of Public Lands; Arizona

October 28, 1983.

1. In Federal Register Volume 46, Number 25, Pages 11366–11369, dated February 6, 1981, approximately 11,808 acres were proposed as suitable for classification for transfer to the State of Arizona under the State Indemnity Selection Program. All the lands have been transferred to the State of Arizona with the exception of 880.00 acres, which have been deleted from the State's application and are described as follows:

T. 3 S., R. 4 W., GSR Mer., Arizona
Section 2: S½NW¼, SW¼.
T. 4 S., R. 4 W.,
Section 3: SE¼;
Section 10: E½;
Section 11: W½W½.

The areas described aggregate 880.00 acres in Maricopa County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.) on August 27, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and August 26, 1983 was unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, vested no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–29040 Filed 11–3–83; 8:45 am]

BILLING CODE 4310–84–M

[A–17000–O]

Order Providing for Opening of Public Lands; Arizona

October 28, 1983.

1. In **Federal Register** Volume 46, Number 195, pages 44953–49955, dated October 8, 1981, approximately 8,001 acres were segregated from entry because of application by the State of Arizona under the State Indemnity Selection Program. Segregation was for a period of two years and pursuant to 43 CFR 2091.2–6, effective August 27, 1981.

The State of Arizona has since withdrawn the State Indemnity Selection on these lands.

Lands involved are described as follows:

T. 3 S., R. 1 E., GSR Mer., Arizona
Section 4, Lots 1–4, incl., S½, S½N½;
Section 9, all;
Section 16, all;
Section 17, NE¼, S½;
Section 18, all;
Section 19, NW¼, S½;
Section 20, all;
Section 21, all;
Section 28, all;
Section 29, all;
Section 30, all;
Section 32, all;
Section 33, all;

The areas described aggregate 8,001.32 acres in Maricopa County.

2. Subject valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.) on August 27, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and August 26, 1983 was unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, vested no rights against the United States. Acts required to establish a location and to inititate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–29041 Filed 11–3–83; 8:45 am]

BILLING CODE 4310–84–M

Arizona, Safford District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona, Safford District Grazing Advisory Board meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Safford District Grazing Advisory Board will be held on Friday, December 9, 1983.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management, 425 East 4th Street, Safford, Arizona 85546.

The agenda for the meeting will include:

1. Update on grazing decisions;
2. Proposed policy and guidelines for Arizona's cooperative management agreement program;
3. Procedures for allottees to follow when requesting advisory board funds;
4. BLM management update;
5. Business from the floor.

The meeting will be open to the public. Interested persons may make oral statements to the Board between 10:00 a.m. and 11:00 a.m. A written copy of the oral statement may be required to be provided at the conclusion of the presentation. Written statements may also be filed for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 425 East 4th Street, Safford, Arizona 85546, by 4:15 p.m., Thursday, December 8, 1983.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within Thirty (30) days following the meeting.

Dated: October 28, 1983.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 83–29036 Filed 11–3–83; 8:45 am]

BILLING CODE 4310–84–M

Boise District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Boise District, Idaho, Grazing Advisory Board meeting.

SUMMARY: In accordance with Pub. L. 92–463, the Federal Advisory Committee Act, and Pub. L. 94–579, the Federal Land Policy and Management Act,, notice is hereby given that the Boise District Grazing Advisory Board will meet November 29, 1983.

SUPPLEMENTARY INFORMATION: The meeting will take place from 9:00 a.m. to 4:00 p.m. in the main floor conference room of the BLM, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. The public is invited and a public comment period is scheduled from 2:00 p.m. to 3:00 p.m. Major topics for discussion are as follows:

—Maintenance of Echo Pipeline System
—FY–83 Status Report of District 8100 and 7120 Projects
—Maintenance of Range Improvements in WSAs
—Cooperative Management Agreement (CMA) Nomination Criteria.

FOR FURTHER INFORMATION CONTACT: Further information is available from the Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, phone (208) 334–1582. Minutes of the meeting will be available for public inspection at the District Office.

Kent Frandsen,

Acting District Manager.

October 17, 1983.

[FR Doc. 83–29043 Filed 11–3–83; 8:45 am]

BILLING CODE 4310–84–M

[C–4436]

Hearing on Proposed Withdrawal of National Forest Lands Near Woodland Park, Colorado

October 28, 1983.

Notice is hereby given that a public hearing will be held on Wednesday, December 14, 1983, at 7:00 p.m., at Centennial Hall, 200 So. Cascade Ave., Colorado Springs, Colorado, concerning the request by the Forest Service, U.S. Department of Agriculture, for withdrawal of 820.34 acres of forest land from mineral location and entry for protection of resource values. The lands proposed to be withdrawn are located in the Pike National Forest, Tps. 12 and 13 S., R. 68 W., Sixth Principal Meridian, and are a part of a scenic travel corridor

off of Highway 24 between Colorado Springs and Woodland Park, Colorado.

This application was filed in 1968 and closed to mineral location and entry under the mining laws (30 U.S.C. Ch. 2) subject to valid existing rights by notice published in the Federal Register August 7, 1968 (33 FR 11181), and amended January 21, 1977 (42 FR 3629). The land will continue to be closed to mineral location and entry through October 20, 1991, unless sooner terminated or extended by Administrative Action and published in the Federal Register. The Forest Service proposes that the land be withdrawn for a period of 50 years or the life of the Forest Management Plan.

The hearing will be open to attendance to all interested persons who desire to be heard on the subject. Those who desire to be heard in person and those who desire to submit written statements on this subject, should file notice thereof no later than December 2, 1983, with the State Director, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operation.

[FR Doc. 83-29839 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Filing of Plats of Survey

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., October 27, 1983.

The plat representing the dependent resurvey of a portion of the Second Standard Parallel North (south boundary), a portion of the east and north boundaries, a portion of the subdivisional lines, and a portion of the subdivision of sections 7 and 18, and the survey of the subdivision of certain sections, T. 9 N., R. 78 W., Sixth Principal Meridian, Colorado, Group No. 683, was accepted October 11, 1983.

The plat representing the dependent resurvey of a portion of the north boundary and subdivisional lines, and the survey of the subdivision of certain sections, T. 47 N., R. 9 W., New Mexico Principal Meridian, Colorado, Group No. 685, was accepted October 11, 1983.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of the north boundary, T. 4 S., R. 73 W., a portion of the Ninth Guide Meridian West (west boundary, T. 3 S., R. 72 W.), the east boundary, T. 3 S., R. 74 W., a portion of the south boundary, T. 2 S., R. 73 W., and the NW¼ of section 11, a completion survey of the subdivisional lines, and the subdivision of section 11, T. 3 S., R. 73 W., Sixth Principal Meridian, Colorado, Group No. 679, was accepted October 13, 1983.

The plat representing the dependent resurvey of a portion of the south boundary, T. 3 S., R. 74 W., the east boundary, T. 3 S., R. 75 W., the south boundary, T. 2 S., R. 74 W., a portion of the subdivisional lines, and the completion survey of the subdivisional lines, T. 3 S., R. 74 W., Sixth Principal Meridian, Colorado, Group No. 695, was accepted October 13, 1983.

The plat representing the survey of a Private Land Claim, Tract 37, T. 39 N., R. 10 W., New Mexico Principal Meridian, Colorado, Group No. 681, was accepted October 11, 1983.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

The plat representing the dependent resurvey of a portion of the north boundary and subdivisional lines, T. 17 S., R. 67 W., Sixth Principal Meridian, Colorado, Group No. 609, was accepted October 11, 1983.

The plat representing the dependent resurvey of the east boundary, and a portion of the subdivisional lines, T. 17 S., R. 68 W., Sixth Principal Meridian, Colorado, Group No. 609, was accepted October 11, 1983.

These surveys were executed to meet certain administrative needs of the Bureau of Reclamation.

All inquiries about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037–20th Street, Denver, Colorado 80202.

Kenneth D. Witt,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 83-29829 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

[W-81397]

Realty Action, Proposed Non-Competitive Sale of Public Land in Sweetwater County, Wyoming

October 27, 1983.

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value:

Sixth Principal Meridian, Wyoming

T.19 N., R. 96 W.
Section 18, SW¼NE¼NE¼, NE¼SE¼NW¼NE¼, S½SE¼NW¼NE¼

The area described contains 17.5 acres in Sweetwater County.

The above described land is being offered as a direct non-competitive sale to Niels Hansen at the appraised fair market value of $1,750. As a final solution to a long standing, but inadvertent occupancy trespass, the sale would give Mr. Hansen title to the land upon which his ranch headquarters, consisting of a house and various ranch buildings, are situated. The sale would not affect access to or resource values on adjacent public land. Disposal by direct sale, rather than by public auction, would protect his equity in the improvements, secure his tenure on the land, and eliminate a hardship if he were compelled to remove or otherwise dispose of the improvements.

This land is located approximately 55 miles west of Rawlins, Wyoming. The property lies south of the railroad tracks at Tipton Station. Legal access is available along Sweetwater County Road 4–80.

Because of the existing improvements, the land is difficult and uneconomic to manage as part of the public land system, and is not suitable for management by another federal agency. The land is specifically identified in the Bureau planning system for disposal to Mr. Hansen, and Sweetwater County officials have been notified of the proposed sale. The public interest will be served by offering this land for sale.

Patent for this parcel, if issued, would contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary may prescribe. "All minerals" is defined as, but not limited to, metalliferous and non-metalliferous locatable minerals, leasable minerals such as oil, gas, coal, sodium, potassium, and geothermal resources, and salable minerals such as sand and gravel.

3. A right-of-way for public access across the existing road.

4. The proposed sale would be subject to all valid existing rights and reservations of record, including those rights granted by oil and gas lease W-[illegible].

Detailed information concerning the proposed sale, including planning documents, land report and environmental assessment, and mineral reports, is available at the Bureau of Land Management, Rawlins District Office, Divide Resource Area, 1300 Third Street, Rawlins, Wyoming 82301.

The proposed sale will not be held until 60 days after the date of this notice.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, at the above address. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

David J. Walter,

District Manager.

[FR Doc. 83-29842 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

[A-17000-A]

Arizona; Order Providing for Opening of Public Lands

October 28, 1983.

1. In Federal Register Volume 46, Number 131, Page 35561 dated July 9, 1981, approximately 21,869.33 acres were proposed as suitable for classification for transfer to the State of Arizona under the State Indemnity Selection Program. All the lands have been transferred to the State of Arizona with the exception of 850.00 acres, which have been deleted from the State's application and are described as follows:

T. 2 S., R. 1 E., GSR Mer., Arizona
Section 29: N½, NE¼SW¼, N½SW¼SW¼, SE¼NW¼SW¼, E½NE¼SW¼SW¼, N½SE¼SW¼, E½SW¼SE¼SW¼, SE¼SE¼SW¼, SE¼;
Section 30: NE¼NE¼, E½NE¼NW¼NE¼, NE¼SE¼NE¼, E½SE¼SE¼NE¼;
Section 32: N½NE¼, E½SW¼NE¼, E½NW¼SW¼NE¼, SE¼NE¼, NE¼NE¼NW¼, N½NE¼SE¼, E½SW¼NE¼SE¼, SE¼NE¼SE¼, NE¼SE¼SE¼.

The areas described aggregate 850.00 acres in Maricopa County.

2. Subject to valid existing rights the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 will be opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.) on November 14, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and November 14, 1983 was unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, will vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquires concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602-261-4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-29799 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

Nominations for Cooperative Management Agreements in the California Desert District

AGENCY: Bureau of Land Management, Interior.

ACTION: Nominations requested for outstanding livestock operations with grazing leases in the California Desert District for Cooperative Management Agreements.

SUMMARY: Nominations are requested by anyone knowledgeable of good stewards of public grazing leases in the California Desert District. These nominated will be screened to determine the most deserving stewards of public rangeland by the Grazing Advisory Board and the Desert Advisory Council. Those recommended by these two advisory groups will be offered the opportunity to enter into a written Cooperative Management Agreement with the Desert District.

The Cooperative Management Agreement allows the operator more flexibility in meeting multiple-use objectives for his grazing allotment, after the fact billing based on actual use, more assurance of long-term tenure, and an incentive for demonstrated good management. The operator must also agree to contribute toward and maintain range improvements, plus agree to meet specific long-term multiple-use objectives spelled out in the agreement.

Nominations will be accepted until November 30, 1983 from any interested party.

Dated: October 24, 1983.

Hugh Riecken,

Associate District Manager.

[FR Doc. 83-29800 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

[C-36840 (Parcels 1 through 5, 7 through 12)]

Realty Action; Sale of Public Lands, Saguache County, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than fair market value of each parcel.

NEW MEXICO PRINCIPAL MERIDIAN

Parcel No.	Legal description	Acreage
1	T.44 N., R.8 E., Sec. 8, SW¼NE¼, SE¼NW¼, NE¼SW¼	120.00
2	T.44 N., R.9 E., Sec. 14, NW¼	160.00
3	T.43 N., R.11 E., Sec. 11, NW¼SW¼	40.00
4	T.43 N., R.10 E., Sec. 12	
	Lot 1	0.07
	Lot 2	4.41
5	T.43 N., R.10 E., Sec. 14, SE¼NW¼	40.00
7	T.43 N., R.9 E., Sec. 12, NW¼SE¼	40.00
8	T.45 N., R.9 E., Sec. 13, E½NE¼	80.00
9	T.45 N., R.10 E., Sec. 18, E½NE¼	80.00
10	T.45 N., R.10 E., Sec. 21, W½SW¼	80.00
11	T.44 N., R.7 E., Sec. 30, Lot 2	40.96
12	T.44 N., R.7 E., Sec. 30, NE¼SE¼	40.00

The land has not been used for and is not required for any Federal purpose. The location and physical characteristics of each parcel make it difficult and uneconomical to manage as public lands. Disposal would not have any significant effect on resource values and would best serve the public interest.

The proposed sale will be consistent with the Bureau of Land Management land use plans. Disposal would not conflict with local planning and zoning. Each patent issued as the result of the proposed sale will be subject to all valid existing rights and reservations of record; and will contain a reservation to the United States for right-of-way for ditches and canals constructed by the United States under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945); and all minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719). Any patent issued for Parcel No. 1 will also be subject to those rights for an underground cable as have been granted to Mountain Bell under Right-of-Way Colorado 26395.

As a condition of sale of parcel No. 2, the successful bidder will be required to enter into an agreement with the existing grazing user which will preserve the grazing user's right to use the land for a two year period from the date of notification. The successful

bidder for Parcel No. 2 must enter into an agreement with Richard Weaver, Moffatt, CO 81143, the terms and conditions of which must be comparable to those contained in grazing lease No. CO–054–5127.

Parcel No. 10 will be offered at public auction by competitive bidding, and Parcels No. 1, 2, 3, 4, 7, 8, 9, and 11 will be offered by competitive bidding to contiguous land owners only.

Parcel No. 5 will be offered by direct sale to Youngblood and Curtis Ranches, Inc., and Parcel No. 12 will be offered by direct sale to Elk Mountain Springs Subdivision, Colatex Land Co., at the appraised fair market value. The public sale will be held at the Bureau of Land Management, San Luis Resource Area Office, 1921 State Avenue, Alamosa, Colorado 81101, at 1 PM, on December 21, 1983. Sealed bids will be accepted until 12 noon on the day of the sale. The sealed bids will be opened at 1 PM, followed by oral auction.

For further Information Contact: Detailed information concerning this sale, including bidding procedures and payment requirements as well as the planning documents and environmental assessment, is available for review in the San Luis Resource Area Office, BLM at 1921 State Avenue in Alamosa, Colorado 81101.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Canon City District Office, Bureau of Land Management, P.O. Box 311, Canon City, Colorado 81212. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue his final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 83–29802 Filed 11–2–83; 8:45 am]

BILLING CODE 4310–84–M

[I–18951]

Exchange of Public and Private Lands; Custer County, Idaho

October 25, 1983.

The United States has issued an exchange conveyance document to Frank and Christine Unquera, San Jose, California, for the following-described lands under Section 206 of the Federal Land Policy and Management Act of 1976:

Boise Meridian, Idaho

T. 14 N., R. 23 E.,
Sec. 22, SW¼NW¼NW¼
T. 14 N., R. 21 E.,
Sec. 2, SE¼SE¼, N½SW¼SE¼,SE¼SW¼SE¼;
Sec. 11, N½NE¼NE¼, SE¼NE¼NE¼;
Sec. 12, N½SW¼NW¼, NE¼SW¼SW¼NW¼, SE¼SW¼NW¼, E½NE¼NW¼SW¼, NW¼NE¼NW¼SW¼, NW¼SW¼, NE¼SE¼SW¼, E½NW¼SE¼SW¼, E½SE¼SE¼SW¼, NW¼SE¼SE¼SW¼.

Comprising 212.5 acres of public land.

In exchange for these lands, the United States acquired the following described lands:

Boise Meridian, Idaho

T. 14 N., R. 21 E.,
Sec. 15, N½SW¼, SW¼SW¼, SE¼NW¼.

Comprising 160.00 acres of private land.

The purpose of this exchange was to acquire the non-Federal lands which have high value for recreation, wildlife and access to other Federal lands. The public interest was well served through completion of the exchange.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc.–83–29803 Filed 11–2–83; 8:45 am]

BILLING CODE 4310–84–M

[M 57738]

Montana; Notice of Conveyance of Public Land

October 27, 1983.

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of conveyance of public land in Phillips County, Montana.

SUMMARY: Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1713 (1976)), the following described land was conveyed to Square Butte Grazing Association.

Principal Meridian, Montana

T. 24 N., R. 24 E.,
Sec. 26, NW¼NW¼;
Sec. 27, E½NE¼, NE¼SE¼, and N½SE¼NE¼.

Containing 180.00 acres.

The purpose of this notice is to inform State and local governmental officials and other interested parties of the conveyance of the land to Square Butte Grazing Association.

Edgar D. Stark,

Chief, Lands Adjudication Section.

[FR Doc. 83–29801 Filed 11–2–83; 8:45 am]

BILLING CODE 4310–84–M

[M59165]

Realty Action, Exchange of Public Lands; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, exchange of public lands in Beaverhead County.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian Montana

T9S, R12W,
Sec. 9: SW¼SW¼, E½SE¼—120 acres;
Sec. 10: NE¼SW¼, W½SW¼—120 acres.
T10S, R12W,
Sec. 17: N½NE¼, E½NW¼—160 acres;
Sec. 18: Lot 1, NE¼NW¼—80 acres;
Sec. 19: Lot 1—38.37 acres.

Total acres—518.37.

In exchange for these lands, the Federal Government will acquire private land in Beaverhead County from Beaverhead Partnership, described as follows:

Principal Meridian Montana

T9S, R12W,
Sec. 9: W½NE¼, E½NW¼, NE¼SW¼, NW¼SE¼—240 acres.
T10S, R12W,
Sec. 4: Lots 3, 4, S½NW¼, N½SW¼—281.63 acres;
Sec. 5: Lot 1, SE¼NE¼—80.55 acres.
T10S, R13W,
Sec. 2: E½SW¼, SW¼SW¼—120 acres;
Sec. 11: NE¼NW¼—40 acres.

Total acres—722.18.

DATE: For a period of 45 days from the date of first publication of this Notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana, 59702. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any adverse comments, this realty action will become the final determination of this department. Comments and other documentation concerning this action will be available at the above address during regular business hours.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to create a more manageable land pattern for public use and private ranching operations.

The exchange is consistent with the Bureau's planning system and has been discussed with Beaverhead County Commissioners. The public interest will

be well served by completing this exchange.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted or money will be used to equalize the final appraisal of the lands.

The terms and conditions applicable to the public lands to be exchanged are:

1. The reservation to the United States for ditches or canals.

2. The reservation to the United States of all minerals.

3. A perpetual, 20' wide buried telephone line right-of-way issued to Southern Montana Telephone Company under serial number M54589.

4. A perpetual, 100' wide road right-of-way issued to the Bureau of Land Management under serial number M15346.

5. A perpetual, 40' wide powerline right-of-way issued to the Vigilante Electric Cooperative, Inc. under serial number MO60078.

6. Three oil and gas leases under serial numbers M37309, M41526 and M37312.

7. An agricultural lease beginning November 1, 1981 and expiring October 31, 1984, issued to Beaverhead Partnership. This lease will be cancelled at such date the land are exchanged.

The terms and conditions applicable to the privately owned lands to be exchanged are:

1. A reservation of all minerals to Beaverhead Partnership and other parties of interest.

The publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

The non-Federal lands described above are subject to prior Federal reserve minerals. The prior Federal interests are hereby segregated to the extent that such interest will not be subject to appropriation under the mining laws until a notice pursuant to 43 CFR 2200.3(a) is issued.

Detailed information concerning the exchange is available for review at the Butte District Office, 106 North Parkmont, Butte, Montana.

For a period of 45 days, interested parties may submit comments to the Butte Office, Bureau of Land Management, P.O. Box 3388, Butte, Montana, 59702.

Dated: October 25, 1983.

Jack A. McIntosh,

District Manager.

[FR Doc. 83-29825 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14839-A]

Alaska Native Claims Selection

In accordance with departmental regulation 43 CFR 2650.7(d) notice is hereby given that the decision to issue conveyance to Bethel Native Corporation published in the Federal Register on September 20, 1983 is modified as to page 42871.

The time limits for filing an appeal is extended to December 5, 1983.

Copies can be obtained by contacting the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513.

Except as modified by this decision, the decision published September 20, 1983, stands as written.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-29883 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

Wilderness Intensive Inventory; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision of the Interior Board of Land Appeals on appeals relating to four Wilderness Intensive Inventory Units in Colorado.

SUMMARY: In a decision announced on August 23, 1983, the Interior Board of Land Appeals (IBLA) affirmed the Colorado State Director's wilderness inventory decisions declaring that the Hells Canyon (CO-010-00N4B), Bangs Canyon (CO-070-130) and Gunnison River (CO-070-150A) inventory units were unsuitable as wilderness study areas. Accordingly, as of August 23, 1983, these three units are released from further wilderness review.

In the same decision, an appeal from the State Director's decision to eliminate lands on the western end of South Shale Ridge (CO-070-130) in the Initial Inventory was vacated and remanded.

In its decision on South Shale Ridge, IBLA directed that the Bureau of Land Management conduct an Intensive Inventory of approximately 3,200 acres on the unit's western end. This portion is then to be included with the remainder of the South Shale Ridge inventory unit and the entire area re-evaluated to determine its qualifications as a wilderness study area. A new decision will be released by the Colorado State Director in January 1984. During the course of this re-evaluation and until a final decision is reached, this unit will continue to be subject to the Bureau's interim wilderness management policy.

DATE: Public comments on the Intensive Inventory and re-evaluation of the South Shale Ridge unit are being solicited and should be submitted no later than December 2, 1983.

ADDRESS: Comments should be addressed to: District Manager, Grand Junction District, Bureau of Land Management, 764 Horizon Drive, Grand Junction, CO 81501.

FOR FURTHER INFORMATION CONTACT: Barry Tollefson, Wilderness Coordinator, Colorado State Office, (303) 837-3383.

Dated: October 28, 1983.

George C. Francis,

Colorado State Director.

[FR Doc. 83-29801 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

Las Cruces District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Las Cruces District, Interior.

ACTION: Notice of meeting.

SUMMARY: Agenda.

DATE: December 7, 1983, 9:30 a.m.

ADDRESS: Media Center, New Mexico School for the Visually Handicapped, 1900 North White Sands Boulevard, Alamogordo, New Mexico.

FOR FURTHER INFORMATION CONTACT: Daniel C. B. Rathbun, District Manager, Las Cruces District, Bureau of Land Management, P.O. Box 1420, Las Cruces, New Mexico 88004, Phone: (505) 524-8551.

SUPPLEMENTARY INFORMATION:

Agenda

1. Approval of minutes
2. Update on Wilderness Program
3. White Sands Resource Management Plan Issues and Objectives
4. Public Comment Period
5. Adjourn

The meeting will be open to the public and interested persons may make oral statements to the Council during an allotted time period beginning at 2 p.m. and lasting for at least one-half hour. The District Manager may establish a time for oral statements depending on the number of persons wishing to make statements. Anyone wishing to make an oral statement must notify the District

Manager, Bureau of Land Management, 317 North Main Street (P.O. Box 1420), Las Cruces, New Mexico 88004, by November 30, 1983.

Daniel C. B. Rathbun,

District Manager.

[FR Doc. 83-29892 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

[N-1005, N-1005A]

Nevada; Classification Vacated; Correction

In the **Federal Register** Doc. 83-27548, published on pages 45105-06, on Tuesday, October 11, 1983, the following corrections are made:

On page 46105, column 3, under Goshute Canyon Natural Area T. 25 N., R. 63 E:

Change land description for sec. 9 to read: N½, SW¼, W½SE¼, NE¼SE¼;

On page 46105, column 3, under Blue Mass Canyon Scenic Area, T. 22 N., R. 69 E, sec. 31:

Omit duplication of E½SW¼.

On page 46106, column 1, at top, add:

Baker Archaeological Site

T. 14 N., R. 70 E.
Sec. 33, S½SE¼.

On page 46106, column 1, line 5:

Change "8,728 acres" to read "9,336.25 acres".

On page 46106, column 2, under T. 14 N., R. 70 E., sec. 33, S½SE¼ add the following:

T. 15 N., R. 67 E.
Sec. 21, All;
Sec. 22, All;
Sec. 23, NW¼, N½SW¼;
Sec. 27, N½, NW¼SE¼, N½SW¼, SW¼ SW¼;
Sec. 28, All;
Sec. 33, NE¼NE¼, W½E½, W½;
Sec. 34, NW¼NW¼.

On page 46106, column 2, delete lines 9 and 10.

On page 46106, column 2, paragraph beginning with "This area", change "1,360 acres" to read "4,480 acres."

Edward F. Spang,

State Director, Nevada.

[FR Doc. 83-29897 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

[I-19668, A, B, C, D, and E]

Realty Action; Modification; Sale of Public Lands in Oneida County, Idaho, Known as the Malad Sales

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This document corrects a Notice of Realty Action (NORA) that appeared on page 45852 in the **Federal Register** of Friday, October 7, 1983 (48 FR 45852). The NORA is corrected as follows:

(1) The type of bidding listed in the table for Parcel E is changed from "Competitive" to "Modified."

(2) In the second paragraph of the Summary (column two), parcel "E" is added to the sentence allowing designated bidders to meet the high bid.

(3) At the end of the same paragraph is added, "The *designated bidder on parcel E is Andrew Chad Bybee* of Pleasantview, Idaho."

Dated: October 26, 1983.

Nick James Cozakos,

District Manager.

[FR Doc. 83-29894 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

[M-58031(SD); M-58032(SD); M-58033(SD); M-58034(SD); M-58035(SD)]

Realty Action—Competitive Sale of Five Parcels of Public Land in Lyman County, South Dakota; Correction

AGENCY: Bureau of Land Management, Miles City District, South Dakota Resources Area Office, Interior.

ACTION: Notice.

SUMMARY: The date set for competitive bid sale of public lands in Lyman County described below should be December 21, 1983. This corrects the date shown in the **Federal Register**, Volume 48, Page No. 46715, published October 20, 1983.

All other details of the sale were correct as published.

5th Principal Meridian

M-58031(SD)
T. 103 N., R. 75 W.,
Sec. 22, Lot 4. Containing 28.70 acres
M-58032(SD)
T. 103 N., R. 73 W.,
Sec. 5, S½NE¼. Containing 80.00 acres
M-58033(SD)
T. 103 N., R. 73 W.,
Sec. 5, NE¼NE¼
T. 104 N., R. 73 W.,
Sec. 32, SE¼SE¼. Containing 80.00 acres
M-58034(SD)
T. 103 N., R. 78 W.,
Sec. 29, Lot 1. Containing 2.60 acres
M-58035(SD)
T. 103 N., R., 74 W.,
Sec. 2, Lot 1. Containing 1.05 acres

Dated: October 27, 1983.

Donald E. Nelson,

Acting District Manager for State Director.

[FR Doc. 83-29888 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

[W-78796]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 31-245 and Title 43 Code of Federal Regulations, Section 3108.2-1(c), and Pub. L. 97-451, a petition for reinstatement of oil and gas lease W-78796 for lands in Crook County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the respective date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 per acre or fraction thereof, and 16 ⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and will reimburse the Department for the cost of this **Federal Register** notice.

The lessee having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Minerals Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate lease W-78796 effective September 1, 1983, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Richard L Hopkins,

Acting Chief, Branch of Fluid Minerals.

[FR Doc. 83-29889 Filed 11-2-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial Nos. I-013404, et al.]

Proposed Withdrawal Continuation; Idaho

October 26, 1983.

The Federal Aviation Administration proposes to continue the existing withdrawals for the following-described public lands for a 30-year period pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2751; 43 U.S.C. 1714):

Boise Meridian, Idaho

Malad Navigation Site (I-013404)

T. 14 S., R. 34 E.,
Sec. 14, S½NE¼SW¼, N½SE¼SW¼, SW¼SE¼SW¼, N½NE¼SW¼, S½ NE¼NW¼SW¼, SE¼NW¼SW¼, NE¼SW¼SW¼, N½SE¼SW¼SW¼, S½SE¼SW¼, S½NW¼NW¼SE¼, SW¼NW¼SE¼, SW¼NW¼SE¼, NW¼SW¼SE¼, N½SW¼SW¼SE¼.

The area described contains 140 acres in Oneida County.

Emmett Navigation Site (I-08362)

T. 8 N., R. 1 W.,
Sec. 24, S½S½NE¼SW¼, E½E½SW¼ SW¼, SE¼SW¼, W½W½SW¼SE¼;
Sec. 25, NW¼NW¼NW¼NE¼, N½NE¼ NW¼, NE¼NE¼NW¼NW¼.

The area described contains 95 acres in Gem County.

Burley Navigation Site (I-033344)

T. 10 S., R. 22 E.,
Sec. 3, tract M.

The area described contains 4.45 acres in Minidoka County.

The purpose of the withdrawals is for the protection, operation and maintenance of air navigation facilities on the lands. The withdrawals closed the described lands to all forms of appropriation under the public land laws, including the mining laws, except for that portion of the Malad Navigation site withdrawal described as the S½ NE¼SW¼, N½SE¼SW¼ of Sec. 14, T. 14 S., R. 34 E., which remains open to the mining laws. No change in the segregative effect or use of the lands is proposed by this action.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuations. All interested persons who desire to be heard on the proposal must submit a written request for a meeting to the undersigned officer within 90 days of the date of publication of this notice. Upon determination by the State Director, Bureau of Land Management that a public meeting will be held, a notice will be published in the Federal Register giving the time and place of such meeting. In lieu of or in addition to attendance at a scheduled public meeting, written comments or objections to the proposed continuation may be filed with the undersigned officer within 90 days of date of publication of this notice.

All communications in connection with the proposed withdrawal continuations should be addressed to the Chief, Branch of Land Operations, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

William E. Ireland,

Chief, Land Services.

[FR Doc. 83-29604 Filed 11-2-83; 8:45 am]
BILLING CODE 4310-84-M

Ukiah District, California; District Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Ukiah District Advisory Council will be held on Tuesday and Wednesday, December 6 and 7, 1983.

The meeting will begin at 1:00 p.m. on December 6 and at 8:00 a.m. on December 7 in the Bureau of Land Management Conference Room, 355 Hemsted Drive, Redding, California.

The agenda will include (1) Unauthorized use, (2) Red Mountain Wilderness Study Area draft environmental impact statement, (3) Ukiah District FY 1984 budget outlook, and (4) program updates by the three resource area managers (Clear Lake, Arcata, and Redding resources areas).

The meeting is open to the public. Interested persons may make oral statements to the council or file written statements for the council's consideration. Opportunity for public comment will be provided Tuesday, December 6 at 3:30 p.m. Oral statements will be limited to 10 minutes each, and written statements may be filed with the District Manager prior to December 6, 1983.

Stanley R. Whitmarsh,

Acting District Manager.

[FR Doc. 83-29669 Filed 11-2-83; 8:45 am]
BILLING CODE 4310-84-M

[4-19952-I-CA-LM-CA 13601]

Conveyance of Public Land; Riverside County, California

Notice is heregy given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), Michael Tirpak and Anna Marie Tirpak, Space 134, Lake Tamarisk, Desert Center, California 92239, have purchased by competitive sale public land in Riverside County, California, described as:

San Bernardino Meridian, California

T. 5 S., R. 15 E.,
Sec. 10, N½NW¼SE¼SE¼;
Containing 5.00 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to Mr. and Mrs. Tirpak.

Dated: October 27, 1983.

Viola Andrade,

Acting Chief, Lands & Locatable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 83-29670 Filed 11-2-83; 8:45 am]
BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Pennzoil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 2078, Block 228, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 26, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 83-29600 Filed 11-2-83; 8:45 am]
BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

President's Task Force on International Private Enterprise, Agency for International Development; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting sponsored by the President's Task Force on International Private Enterprise which will be held December 5-6, 1983 at the U.S. State Department.

This will be the fifth meeting of the Task Force.

The meeting will be open to the public. The agenda includes an update on Task Force activities and a discussion of key issues. Outside experts will make presentations on subjects of interest to the Task Force. Any interested person may attend, request to appear before, or file

statements with the Task Force in accordance with procedures established by the Task Force. Written statements should be filed prior to the meeting and should be available in twenty-five copies.

There will be an AID representative at the meeting. It is suggested that those desiring further information contact Birge Watkins, Assistant Director, on (202) 944-3350 or by mail c/o The President's Task Force on International Private Enterprise, Agency for International Development, Washington, D.C. 20523.

Dated: October 25, 1983.

Elise R. W. du Pont,

Assistant Administrator, Bureau for Private Enterprise.

[FR Doc. 83-29834 Filed 11-2-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30257]

Rail Carriers; Seaboard System Railroad, Inc. and Southern Railway Co.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under (1) 49 U.S.C. 11343 *et seq.* the sale by Seaboard System Railroad, Inc. (SBD) of its 1.51-mile line of railroad in Colbert County, AL, to Southern Railway Company (Southern); and (2) 49 U.S.C. 10903 *et seq.* the discontinuance of trackage rights by SBD over Southern's 2.85-mile line between Florence and the Muscle Shoals-Sheffield area, AL, both subject to standard labor protection.

DATES: This exemption will be effective on December 5, 1983. Petitions to stay must be filed by November 14, 1983. Petitions for reconsideration must be filed by November 23, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30257 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representatives: Nancy S. Fleischman, Southern Railway Company, P.O. Box 1808, Washington, DC 20013, or R. Lyle Key, Jr., Seaboard System Railroad, Inc., 500 Water Street, Jacksonville, FL 32202

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC, 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: October 27, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29811 Filed 11-2-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30202; Docket No. AB-28 (Sub-5) and AB-43 (Sub-101)]

Seaboard System Railroad, Inc. and Southern Railway Co.—Purchase and Trackage Rights—Between Maplesville and Montgomery, AL; Central of Georgia Railroad Co.—Abandonment—Between Union Springs and Montgomery, AL; and Illinois Central Gulf Railroad Co.—Abandonment—Between Tuscaloosa and Maplesville, AL; Applications

AGENCY: Interstate Commerce Commission.

ACTION: Applications accepted for consideration.

SUMMARY: The Commission is accepting for consideration the joint application of Seaboard System Railroad, Inc. (Seaboard), and Southern Railway Company (Southern) seeking authority: (1) Each to purchase and operate one of two segments of railroad line now owned by Illinois Central Gulf Railroad Company (ICG), and; (2) for Southern to acquire trackage rights over the segment of line to be acquired by Seaboard. The Commission is also accepting related abandonment applications by ICG and Central of Georgia Railroad Company. These proceedings are being consolidated under the lead proceeding, Finance Docket No. 30202. A schedule is set for the consolidated proceeding under the applicable time limits of 49 U.S.C. 11345(d).

DATES: Written comments must be filed no later than December 5, 1983. Comments already filed in the abandonment proceedings will be accepted and considered.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

ADDRESS: An original and 10 copies of all comments referring to Finance Docket No. 30202 should be sent to:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423;

John W. Adames, Jr., P.O. Box 6271, Mobile, AL 36606;

Nancy S. Fleischman, P.O. Box 1808, Washington, DC 20013; and

R. Lyle Key, Jr., 500 Water Street, Jacksonville, FL 32202.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423, or call (202) 275/7428.

Decided: October 31, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29804 Filed 11-2-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Notice of Proposed Consent Decree in Clean Water Act Enforcement Action

In accordance with Departmental Policy, 28 CFR 50.7 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *City of New Martinsville,* Civil Action No. 83-0070 has been lodged with the United States District Court for the Northern District of West Virginia. The consent decree requires New Martinsville to complete remedial measures at its North Sewage Treatment Plant in accordance with a compliance schedule, comply with effluent limitations in its NPDES permit, properly operate the plant and file quarterly reports. The decree provides for stipulated penalties for noncompliance.

The consent decree may be examined at (1) the Office of the United States Attorney, Northern District of West Virginia, P.O. Box 591, Wheeling, West Virginia 26003, (2) the Office of the Environmental Protection Agency, Region III, Office of Regional Counsel, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, and (3) the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy may be obtained in person or by mail for $1.50 from the Environmental Enforcement Section. The Department of Justice will receive comments relating to this consent decree for a period of thirty (30)

days from the date of this notice. Comments should be directed to the Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 and should refer to *United States* v. *City of New Martinsville*, DOJ Ref. #90–5–1–1–1797.

F. Henry Habicht, II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83–29831 Filed 11–2–83; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Amendment To Decree Pursuant to the Clean Air Act; West Penn Power Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Amendment to Decree in *United States of America* v. *West Penn Power Company*, Civil Action No. 77–1142, has been lodged with the United States District Court for the Western District of Pennsylvania. The proposed Amendment to Decree concerns certain changes in the original Consent Decree pertaining to reporting and operating requirements of West Penn Power Company.

The U.S. Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Amendment to Decree. Comments should be addressed to the Acting Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *West Penn Power Company*, DJ Ref. No. 90–5–2–1–58.

The proposed Amendment to Decree may be examined in the office of the United States Attorney for the Western District of Pennsylvania, U.S. Post Office and Courthouse, Suite 633, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania 15219 and at the office of Region III of the U.S. Environmental Protection Agency, Curtis Building, 6th and Walnut Street, Philadelphia, Pennsylvania 19106.

A copy of the Amendment to Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, Room 1517 and 1644(B), 9th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Amendment to Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice. In requesting a copy, please enclose a check in the amount of $1.50 (10 cent per page reproduction costs) made payable to the Treasurer of the United States.

F. Henry Habicht II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83–29832 Filed 11–2–83; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on May 10, 1983, Mallinckrodt, Inc., Dept. CB, Mallinckrodt and Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Hydromorphone (9150)	II.
Levorphanol (9220)	II.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than December 5, 1983.

Dated: October 27, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control Drug, Enforcement Administration.

[FR Doc. 83–29862 Filed 11–2–83; 8:45 am]

BILLING CODE 4410–09–M

LEGAL SERVICES CORPORATION

Recipient Fund Balances; Instruction

Correction

In FR Doc. 83–29183 beginning on page 49710 in the issue of Thursday, October 27, 1983, make the following correction:

On page 49711, first column, under the heading, "II. Definitions" fourth line "investment of" should read "investment or".

BILLING CODE 1505–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) as amended, notice is hereby given that a meeting of the Music Advisory Panel (Centers/Services for New Music) to the National Council on the Arts will be held on November 22, 1983, from 9:00 a.m.–5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Ave., NW., Washington, D.C.

A portion of this meeting will be open to the public on November 22, from 5:00–5:30 p.m. to discuss guidelines.

The remaining sessions of this meeting on November 22, from 9:00 a.m.–5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: October 27, 1983.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–29827 Filed 11–2–83; 8:45 am]

BILLING CODE 7357–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Artists Organizations Section) to the National Council on the Arts will be held on November 14–19, 1983, from 9:00 a.m.–6:00 p.m., in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation of the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b to Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506 or call (202) 682–5433.

Dated: October 27, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–29628 Filed 11–2–83; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–282 and 50–306]

Northern States Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–24 and DPR–60, issued to Northern States Power Company (the licensee), for operation of the Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2 located in Goodhue County, Minnesota, in response to the licensee's application dated June 24, 1983.

These proposed amendments would increase the peak fuel pellet exposure from 51 to 55 GWD/MTU. These amendment requests also contained a request for a change to the limit of the core local heat flux ratio F^a_Q from 2.21 to 2.32 allowing a localized linear heat generation rate increase from 14.31 to 15.02 kW/ft. The Commission, by letter dated October 3, 1983 issued amendment Nos. 66 and 60 related to the F^a_Q ratio. This FRN applies to the consideration of the issuance of amendments that would pertain only to the increase in the peak fuel pellet exposure.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that these amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has given examples (48 FR 14870) to types of amendments not likely to involve significant hazards considerations. One example of this type is (vi), a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of a change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: For example, a change resulting from the application of a small refinement of a previously used calculational model or design method. These proposed changes fall into this type because an analysis performed by the fuel vendor (Exxon Nuclear Company Report No. XN–NF719(P)) for the licensee shows that the peak pellet exposure to 55 GWD/MTU will not result in an increase in the consequences of a previously analyzed accident. Under accident conditions the analyses show that extended exposure to 55 GWD/MTU will not result in higher doses from those previously analyzed nor will doses exceed the dose guidelines of 10 CFR 100.11.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By December 6, 1983, the licensee may file a request for a hearing with respect to issuance of these amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition to leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how the interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interst. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such as amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the preceeding, a petitioner shall file supplement to petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that these amendment requests involve no significant hazards consideration, the Commission may issue the amendments and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance for the amendments.

If the final determination is the amendments involve a significnat hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800-M Street, N.W., Washington, D.C. 20555, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factores specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d). For further details with respect to this action, see the application for amendments dated June 25, 1983 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Dated at Bethesda, Maryland this 28th day of October, 1983.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-29906 Filed 11-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50–277 and 50–278]

Philadelphia Electric Co. et al.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR–44 and DPR–56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania.

The amendments would delete all Appendix B nonradiological environmental Technical Specifications relating to chemical monitoring, thermal limits, noise monitoring and aquatic related ecological surveillance programs in accordance with the licensees' application for amendment dated February 14, 1983.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request invloves no significant hazards consideration. Under the commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind or accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The amendment application requests the deletion of all nonradiological chemical and aquatic monitoring programs in response to a Commission position that permits removal of water quality related conditions in existing reactor operating licenses where the licensee holds, as does Philadelphia Electric, and effective National Pollutant Discharge Elimination system (NPDES) Permit. The licensees also requested the deletion of specific thermal discharge; limits in Appendix B. This request will be the subject of a future NRC determination because of the dependency upon the completion of a Section 316(a) proceeding in accordance with the Federal Water Pollution control Act as referenced in a Commission decision (ALAB–532). The current Technical Specifications require that noise measurements be made four times a year for the first year of one-unit commercial operation and twice a year for the first year of two-unit commercial operation. The licensees state that this requirement has been satisfied and, therefore, requests deletion of this program. The Commission's staff considered the noise measurement results and the criteria used by the licensees to conform to this Technical Specification and determined that the requirements of this Technical Specification have been fulfilled. The proposed deletion of chemical, aquatic and noise monitoring programs would not change any current safety limitations related to the operation of the facility, since no safety operational limits are being changed and the licensees have an effective NPDES

Permit and have provided satisfactory evidence to the Commission's staff of completion of the noise monitoring program, the staff proposes to determine that these deletions would not significantly increase the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different accident from any accident previously evaluated, and would not involve a significant reduction in a margin of safety. The staff, therefore, proposes to determine that the proposed amendments would not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comment received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By December 6, 1983, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of the amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facilities, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Troy B. Conner, Jr. 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006, attorney for Philadelphia Electric Company.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Dated at Bethesda, Maryland, this 27th day of October 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 83-29897 Filed 11-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-272-OLA; ASLBP No. 84-494-02 LA]

Public Service Electric and Gas Co.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Public Service Electric and Gas Company

Salem Nuclear Generating Station, Unit 1, Facility Operating License No. DPR-70

This Board is being established pursuant to a notice published by the Commission on September 21, 1983, in the **Federal Register** (48 FR 43113 ff) entitled, "Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing." The proposed licensing amendment would, on a one-time basis, extend the 40 ± 10 month interval of Technical Specification 4.6 = 1.2a during the first 10 year service period to permit the second inservice integrated leak rate test to be performed during the fifth refueling outage.

The Board is comprised of the following administrative judges:

Marshall E. Miller, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C 20555

Dr. Emmeth A. Luebke, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C 20555

Dr. Jerry Harbour, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C 20555

Issued at Bethesda, Maryland, this 28th day of October, 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-29898 Filed 11-2-83; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A84-1; Order No.530]

Oakley, South Carolina 29466; Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued: October 31, 1983.

Docket Number: A84-1.

Name of Affected Post Office: Oakley, South Carolina 29466.

Name(s) of Petitioner(s): P. O. Mead, Jr., *et al.*

Type of Determination: Closing.

Date of Filing of Appeal Papers: October 26, 1983.

Categories of issues aparently raised:

1. Effect on Community Served by Office (39 U.S.C. 404(b)(2)(A)).

2. Effective on Regular Postal Services (39 U.S.C. 404(b)(2)(C)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule (39 U.S.C. 404(b)(5)) the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before November 10, 1983.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

October 26, 1983—Filing of Petition
October 31, 1983—Notice and Order of Filing Appeal
November 10, 1983—Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)]
November 21, 1983—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)]
November 30, 1983—Petitioners' Initial Brief [*see* 39 CFR 3001.115(a)]
December 27, 1983—Postal Service Answering Brief [*see* 39 CFR 3001.115(b)]
January 11, 1984—(1) Petitioners' Reply Brief should Petitioners choose to file one [*see* 39 CFR 3001.115(c)]
January 18, 1984—(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.116]
February 23, 1984—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)]]

[FR Doc. 83-29904 Filed 11-2-83; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23100; 70-6914]

The Columbia Gas System, Inc.; Proposed Sale of All Securities of Wholly Owned Subsidiary

October 28, 1983.

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed a declaration with this Commission pursuant to Section 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44 and 50(a)(5) thereunder.

Columbia proposes to sell to Allegheny and Western Energy Corporation ("A&W"), a nonaffiliated Delaware corporation, all of the common stock and installment promissory notes of Columbia's wholly owned subsidiary company, Columbia Gas of West Virginia, Inc. ("West Virginia"). West Virginia, a natural gas distribution company in the State of West Virginia, is one of eight public-utility distribution subsidiaries of Columbia. A&W is engaged in the exploration, development, and production of oil and natural gas specializing in the extraction of gas from the Devonian Shale sands in the Appalachian Basin. A&W is to be reincorporated in West Virginia and will be headquartered in Charleston. Columbia will sell the West Virginia common stock and installment promissory notes which it holds to A&W for cash equal to $1 million plus 50% of the book value of the common stock plus 100% of the unpaid principal amount of the notes both valued as of closing, provided, however, that the total consideration shall not exceed $65 million. As of June 30, 1983, West Virginia had 1,831,687 shares of common stock outstanding, additional paid in capital of $38,575,000, and negative

retained earnings of $54,921,139, for a book value net common stock equity of $29,446,036. As of October 21, 1983, the notes totaled approximately $42.4 million. Columbia has agreed that West Virginia will have a capitalization on the closing date for the transaction of 50% equity and 50% long-term debt. Columbia's intent to dispose of West Virginia was announced in a press release which was given wide distribution. There were four interested parties, and Columbia received two offers for the common stock and notes. The consideration to be received was negotiated at arm's length. Columbia believes that the purchase price is appropriate. West Virginia has recorded substantial earnings deficits over the last thirteen years. The proceeds from the sale will be utilized by Columbia for the acquisition of securities of, or for capital advances to, companies in the Columbia Gas System engaged in the production, purchase, transmission, sale, or distribution of natural or manufactured gas.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 29, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29823 Filed 11-2-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500-1]

Gay International, Inc.; Order of Trading Suspension

It appears to the Securities and Exchange Commission that there is a lack of current and accurate financial information relating to the securities of Gay International, Inc. and that questions have been raised about the adequacy and accuracy of information publicly-disseminated information concerning its financial condition, assets, business operations, securities transactions, and the applicability of the registration provisions of the federal securities laws to the company's securities, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Gay International, Inc.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that over-the-counter trading in the securities of Gay International, Inc. is suspended, for the period from 9:45 A.M. EST on October 31, 1983 through midnight November 9, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-29822 Filed 11-2-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 83-059]

Rules of the Road Advisory Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I) notice is hereby given of a meeting of the Rules of the Road Advisory Council. The meeting will be held on Thursday and Friday, December 1 and 2, 1983 at the Seattle Sheraton Hotel, Sixth and Pike Streets, Seattle, Washington. On both days the meeting is scheduled to begin at 8:30 a.m. and end at 4:30 p.m. The agenda for the meeting consists of the following items:

1. Rule 9—Narrow Channels: Guidance for towboat opertors and others on what constitutes a narrow channel.

2. Proposal by U.S. Coast Guard to lessen required size of diver flag under certain conditions.

3. Rule 34(e)—Application of the bend signal.

4. Possible re-wording of Rule 24.

5. Coast Guard Status Reports and Information Items:

(a) Use of masthead lights on towing vessels below the the Huey P. Long Bridge, Lower Mississippi River.

(b) Interpretative Rule for composite unit.

(c) Extension of applicability of special rules for Western Rivers to certain other waters.

(d) Vessel Bridge-to-Bridge Radiotelephone communications.

(e) Alternative frequencies to Channel 22A in U.S. ports for Coast Guard navigational safety information.

(f) Lighting of groups of vessels being towed astern.

(g) Deletion of 33 CFR 163.10—Hawser lengths for all tows on Inland Waters.

Attendance is open to the public. With advanced notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time.

Additional information may be obtained from Commander Galen R. Siddall, Executive Director. Rules of the Road Advisory Council, U.S. Coast Guard (G-NSR-3), Washington, D.C. 20593, telephone (202) 426-9566.

Dated: October 27, 1983.

T. J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 83-29859 Filed 11-2-83; 8:45]

BILLING CODE 4910-14-M

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1-6 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: An evaluation of the aeronautical charting and associated aeronautical information publications regarding SIDs, STARs, and Profile Descents; and a comprehensive review of statistical data to determine the effectiveness of the Airport/Facility Directory chart supplement publication.

DATE: Beginning Tuesday, November 29, 1983, at 9 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed three weeks. The task group is beginning on Tuesday to accommodate travel and schedule arrangements.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room, 7 A/B, 800

Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, Room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by November 21, 1983. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on October 27, 1983.

John Watterson,

Acting Manager, Special Projects Staff, Air Traffic Service.

[FR Doc. 83–29688 Filed 11–2–83; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Clatsop County, Oregon

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise that an environmental impact statement will be prepared for a proposed highway project in Clatsop County.

FOR FURTHER INFORMATION CONTACT: Richard R. Arnold, Environmental Coordinator and Safety Programs Engineer, Federal Highway Administration, Equitable Center, Suite 100, 530 Center NE Salem, Oregon 97301, Telephone: (503) 399–5749.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Oregon Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to widen the Camp Rilea to Dellmore Loop Road Section of the Oregon Coast Highway (U.S. Route 101, Clatsop County) from two lanes to four, with a continuous left-turn median and eight-foot shoulders signed for bicycles. The project is 4.2 miles long, beginning at Mile Point 12.1, and ending at Mile Point 16.3. It would reconstruct the highway within the project limits to the same configuration as the section reconstructed northerly of Camp Rilea Road, and would improve highway capacity and safety, as well as reduce maintenance costs.

Two build alternatives will be considered: one would be reconstruction of the existing facility and the other would introduce a new alignment utitilizing an abandoned railroad right-of-way.

The project would require right-of-way from single family homesites and from farmland and undeveloped areas. It would displace a number of single family dwellings. Wetlands areas would be affected by highway construction. A pioneer farm home which may be eligible for inclusion in the National Register of Historic Places may be affected by the project. Noise impacts would result to residences along the route. Information describing the proposed action will be sent to the appropriate Federal, State, and local agencies, and to private organizations and citizens who express interest in this proposal. Public meetings will be held, as may be necessary, and a public hearing will be held. No formal scoping meeting is planned at this time. Comments or questions concerning this proposed action, and the EIS, should be directed to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs" apply to this program.)

Issued on October 27, 1983.

E. J. Valach,

Program Development Engineer, Oregon Division, Salem, OR.

[FR Doc. 83–29687 Filed 11–2–83; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Livingston, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Merced County, California.

FOR FURTHER INFORMATION CONTACT: D. L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440–3541.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to construct State Route 99 as a multilane freeway through or bypassing the City of Livingston.

The proposed improvement will have an overall length of approximately six miles and will include construction of three interchanges, a railroad crossing structure and a new bridge over the Merced River.

There is a need to improve the safety conditions and relieve traffic congestion on existing Route 99 through Livingston. The proposed project will satisfy this need. One alternative alignment will be along or near the existing Route 99 and the other will be a northerly bypass. There will be design variations of elevated, ground level, and depressed roadway sections. A "do nothing" alternative will also be considered.

The alternative along existing Route 99 would impact various businesses while the northerly bypass would require the purchase of agricultural land

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Public notice will be given of the time and place of meetings and a public hearing. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned at this time.

Considerable interest has already been generated in this project. A number of well attended meetings have been held in Livingston, with various individuals and groups presenting arguments for their preferred build alternative.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on October 27, 1983.

D. L. Eyres,

District Engineer, Sacramento, California.

[FR Doc. 83–29689 Filed 11–2–83; 8:45 am]

BILLING CODE 4910–22–M

Research and Special Program Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in September 1983. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2567-P	DOT-E 2567	Welders Supply Inc., Dallas, TX	49 CFR 173.315(a)(1)	To become a party to Exemption 2567. (Mode 1.)
2567-P	DOT-E 2567	Mid-West Gases, Inc., Kansas City, KS	49 CFR 173.315(a)(1)	To become a party to Exemption 2567. (Mode 1.)
3415-X	DOT-E 3415	U.S. Department of Defense, Washington, DC.	49 CFR 173.79, 173.92	To authorize shipment of rocket motors, containing certain Class A or Class B explosives, without overpacking. (Mode 1.)
3630-P	DOT-E 3630	J.T. Baker Chemical Company, Phillipsburg, NJ.	49 CFR 177.838(a), 177.838(b)	To become a party to Exemption 3630-4108. (Mode 1.)
X-4108	DOT-E 4108	C & C Oxygen Company, Chattanooga, TN	49 CFR 173.315(a)	To authorize shipment of liquefied argon, nitrogen and oxygen in non-DOT specification insulated cargo tanks. (Mode 1.)
4453-P	DOT-E 4453	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.114a(b)(3)	To become a party to Exemption 4453. (Mode 1.)
4453-P	DOT-E 4453	E.D.C. Incorporated, Tulsa, OK	49 CFR 173.114a(b)(3)	To become a party to Exemption 4453. (Mode 1.)
4575-X	DOT-E 4575	Union Carbide Corporation, Danbury, CT	49 CFR 173.314(c), 173.315(a)	To reinstate provision for shipment of a nonflammable compressed gas mixture containing ethylene oxide in MC-330 and MC-331 tank motor vehicles. (Modes 1, 2, 3.)
5206-X	DOT-E 5206	Mesabi Power Company, Hibbing, MN	49 CFR 173.114a	To authorize privately operated bulk hopper-type units, for transportation of blasting agents. (Mode 1.)
5485-X	DOT-E 5485	Union Carbide Corporation, Danbury, CT	49 CFR 172.101, 173.315(a)	To authorize shipment of liquid helium in non-DOT specification insulated cargo tanks. (Mode 1.)
5778-X	DOT-E 5778	Allied Healthcare Products, Inc., St. Louis, MO.	49 CFR 173.302(a)(4), 173.304(a)(1)(i)	To authorize use of a DOT Specification 39 steel cylinder, for shipment of certain flammable gases. (Modes 1, 2.)
5778-X	DOT-E 5778	Liquid Air Corporation, Cambridge, MD	49 CFR 173.302(a)(4), 173.304(a)(1)(i)	To authorize use of a DOT Specification 39 steel cylinder, for shipment of certain flammable gases. (Modes 1, 2.)
5945-X	DOT-E 5945	Cardox Corporation, Countryside, IL	49 CFR 173.315, 178.245	To authorize use of a small capacity DOT Specification 51 portable tank, for shipment of a nonflammable compressed gas. (Mode 1.)
6122-X	DOT-E 6122	Pennwalt Corporation, Buffalo, NY	49 CFR 173.154(a)(12), 173.156(a)(3), 178.205-16.	To authorize use of a full telescope half-slotted fiberboard box meeting the requirements of DOT Specification 12B fiberboard box, for shipment of certain dry organic peroxides. (Modes 1, 2.)
6267-P	DOT-E 6267	Utility Chemical Company, Patterson, NJ	49 CFR 173.217(a)	To become a party to Exemption 6267. (Mode 1, 2, 3.)
6305-P	DOT-E 6305	E.D.C. Incorporated, Tulsa, OK	49 CFR 173.113(a)(1)	To become a party to Exemption 6305. (Modes 1, 2.)
6397-X	DOT-E 6397	Allied Corporation, Morristown, NJ	49 CFR 173.346(a)	To authorize shipment of certain Class B poison, liquids in DOT Specification 34 polyethylene containers. (Modes 1, 2.)
6397-X	DOT-E 6397	Foote Mineral Company, Exton, PA	49 CFR 173.346(a)	To authorize shipment of certain Class B poison, liquids in DOT Specification 34 polyethylene containers. (Modes 1, 2.)
6397-X	DOT-E 6397	Pennwalt Corporation, Philadelphia, PA	49 CFR 173.346(a)	To authorize shipment of certain Class B poison, liquids in DOT Specification 34 polyethylene containers. (Modes 1, 2.)
6416-X	DOT-E 6416	Allied Corporation, Morristown, NJ	49 CFR 178.101-1(a)	To authorize shipment of monochloro-difluoromethane, in DOT Specification 105A300W tanks. (Mode 1.)
6452-X	DOT-E 6452	Pennwalt Corporation, Buffalo, NY	49 CFR 173.154	To authorize shipment of certain organic peroxides in one pound bags, overpacked in a DOT Specification 12B65 fiberboard box. (Modes 1, 2.)
6466-P	DOT-E 6466	E.D.C. Incorporated, Tulsa, OK	49 CFR 173.66(a)(1), 173.67	To become a party to Exemption 6466. (Mode 1.)
6468-X	DOT-E 6468	Sodyeco, Inc., Charlotte, NC	49 CFR 173.365	To authorize use of insulated DOT Specification MC-304 cargo tanks, for shipment of certain Class B poison. (Mode 1.)
6530-X	DOT-E 6530	Liquid Air Corporation, San Francisco, CA	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX or 3AAX steel cylinders. (Modes 1, 2.)
6536-X	DOT-E 6536	The Southern Connecticut Gas Company, Bridgeport, CT.	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks, for transportation of certain flammable and nonflammable gases. (Mode 1.)
6536-X	DOT-E 6536	New Jersey Natural Gas Company, Wall, NJ	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks, for transportation of certain flammable and nonflammable gases. (Mode 1.)
6536-X	DOT-E 6536	Public Service Electric and Gas Company, Newark, NJ.	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks, for transportation of certain flammable and nonflammable gases. (Mode 1).
6536-X	DOT-E 6536	South Jersey Gas Company, Folsom, NJ	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks, for transportation of certain flammable and nonflammable gases. (Mode 1).
6536-X	DOT-E 6536	SunOlin Chemical Company, Claymont, DE	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks, for transportation of certain flammable and nonflammable gases. (Mode 1).
6536-X	DOT-E 6536	L. P. Transportation, Inc., Chester, NY	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks, for transportation of certain flammable and nonflammable gases. (Mode 1).
6536-X	DOT-E 6536	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks, for transportation of certain flammable and nonflammable gases. (Mode 1).

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6543-P	DOT-E 6543	Union Carbide Corporation, Danbury, CT	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.247, 175.3.	To become a party to Exemption 6543. (Modes 1, 2, 3, 4.)
6543-P	DOT-E 6543	Corning Glass Works, Corning, NY	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.247, 175.3.	To become a party to Exemption 6543. (Modes 1, 2, 3, 4.)
6611-P	DOT-E 6611	L'Air Liquide Corporation, Paris, France	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6611. (Modes 1, 3.)
6614-X	DOT-E 6614	Steelcrete Company, Novi, MI	49 CFR 173.263(a)(26), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6614-X	DOT-E 6614	FMC Corporation, Livonia, MI	49 CFR 173.263(a)(26), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6614-X	DOT-E 6614	Russel B. Mason Co., Inc., Webster, NY	49 CFR 173.263(a)(26), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6614-P	DOT-E 6614	Berson Pump Company, Rockford, IL	49 CFR 173.263(a)(26), 173.277(a)(6)	To become a party to Exemption 6614. (Mode 1.)
6614-X	DOT-E 6614	Mid-State Chemical & Supply Corp., Indianapolis, IN.	49 CFR 173.263(a)(26), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6614-X	DOT-E 6614	GPS Industries, City of Industry, CA	49 CFR 173.263(a)(26), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6614-X	DOT-E 6614	Continental Chemical Company, Sacramento, CA.	49 CFR 173.263(a)(26), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6614-X	DOT-E 6614	Jones Chemicals, Incorporated, Caledonia, NY.	49 CFR 173.263(a)(26), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6614-X	DOT-E 6614	Esbro Chemical, Redwood City, CA	49 CFR 173.263(a)(26), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6657-X	DOT-E 6657	Liquid Air Corporation, San Francisco, CA	49 CFR 173.34(e)(15)(i), 175.3	To authorize use of DOT Specification 3A or 3AA cylinders having an age over 35 years for the transportation of certain non-liquefied compressed gases. (Modes 1, 2, 3, 4, 5.)
6762-P	DOT-E 6762	Continental Products of Texas, Odessa, TX	49 CFR 173.286(b)(2), 175.3	To become a party to Exemption 6762. (Modes 1, 2, 3, 4.)
6765-P	DOT-E 6765	L'Air Liquide Corporation, Paris, France	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6765. (Modes 1, 3.)
6802-X	DOT-E 6802	Monroe Welding Supply Co., Sioux City, IA	49 CFR 173.315(a)	To authorize transport, of liquefied argon, nitrogen and oxgen in non-DOT specification truck mountable cargo tanks. (Mode 1.)
6802-X	DOT-E 6802	Halocarbon Products Corporation, Hackensack, NJ.	49 CFR 173.314(c), 179.300-15	To authorize shipment of a liquefied nonflammable compressed gas, in a modified DOT Specification 110A800W multi-unit tank car tank. (Modes 1, 2.)
6802-X	DOT-E 6802	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.314(c), 179.300-15	To authorize shipment of a liquefied nonflammable compressed gas, in a modified DOT Specification 110A800W multi-unit tank car tank. (Modes 1, 2.)
6922-P	DOT-E 6922	Henley Overseas Sales, Inc. New York, NY	49 CFR 173.314(c), 179.300-15	To become a party to Exemption 6922. (Modes 1, 2, 3.)
6974-X	DOT-E 6974	U.S. Department of Defense, Washington, DC.	49 CFR 173.302(a)(1), 175.3, 178.42	To authorize use of non-DOT specification cylinders, for transportation of certain nonliquefied compressed gases. (Modes 1, 2 4.)
6974-X	DOT-E 6974	Tavco, Inc., Chatsworth, CA	49 CFR 173.302(a)(1), 175.3, 178.42	To authorize use of non-DOT specification cylinders, for transportation of certain nonliquefied compressed gases. (Modes 1, 2, 4.)
7007-X	DOT-E 7007	Allied Universal, Corporation, Miami, FL	49 CFR 173.314(c), 179.3	To authorize shipment of chlorine in non-DOT specification multi-unit tank car tanks patterned after DOT Specification 110A500W. (Modes 1, 3.)
7023-X	DOT-E 7023	Western Electric Company Greensboro, NC.	49 CFR 173.245(a), 173.263(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To renew and to authorize modification to the portable tanks protective collar to facilitate maintenance. (Mode 1.)
7023-P	DOT-E 7023	HiPure Chemicals, Inc., Nazareth, PA	49 CFR 173.245(a), 173.263(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To become a party to Exemption 7023. (Mode 1.)
7023-X	DOT-E 7023	Texas Instruments, Incorporated, Dallas, TX.	49 CFR 173.245, 173.263(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize use of non-DOT specification steel portable tanks, for shipment of an oxidizer or corrosive material. (Mode 1.)
7052-P	DOT-E 7052	U.S. Department of Commerce, NSTL Station, MS.	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	DME Corporation, Pompano Beach, FL	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Cubic Corporation, San Diego, CA	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Powell Process Systems, Inc., Houston, TX	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	NL Industries, Houston, TX	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Northrop Electrics, Hawthorne, CA	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	SAFT America Inc., Cockeysville, MD	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7060-X	DOT-E 7060	Las Vegas Airlines, Incorporated, Las Vegas, NV.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceed 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Empire Aero Services, Inc. d.b.a. SAIR Aviation, Syracuse, NY.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7071-X	DOT-E 7071	Clayton Chemical, Los Angeles, CA	49 CFR 172.101, 173.245, 175.3	To authorize polyethylene packagings in a quantity not provided for in the regulations, for the transportation of a certain corrosive liquid. (Modes 1, 2, 3.)
7274-X	DOT-E 7274	Union Carbide Corporation, Danbury, CT	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification portable tanks, for shipment of certain nonflammable gases. (Mode 3.)
7491-X	DOT-E 7491	Process Engineering, Incorporated, Plaistow, NH.	49 CFR 172.101, 173.314(c)	To authorize manufacture, marking, and sale of non-DOT specification vacuum insulated tank cars, for transportation of liquefied natural gas. (Mode 2.)
7502-X	DOT-E 7502	Snyder Industries, Incorporated, Lincoln, NE.	49 CFR 173.119, 173.125, 178.19, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification reuseable, rotationally molded polyethylene container, for transportation of certain corrosive or flammable liquids and an oxidizer. (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7555–X	DOT–E 7555	Provost Cartage, Incorporated, Ville d'Anjou, Quebec.	49 CFR Part 173, Subpart F	To renew and to provide for additional corrosive liquids. (Mode 1.)
7605–X	DOT–E 7605	General Dynamics, Fort Worth, TX	49 CFR 173.101, 173.102, 173.113, 173.87, 173.92, 175.3, 176.83, 177.848.	To authorize the transportation of certain explosives contained in a partially disassembled aircraft or canopy assembly. (Modes 1, 2, 4.)
7607–P	DOT–E 7607	Interscience, Inc., Tampa, FL	49 CFR 172.101, 175.3	To become a party to Exemption 7607. (Mode 5.)
7616–P	DOT–E 7616	Union Pacific Railroad Company, Omaha, NE.	49 CFR 172.204(a), 172.204(d)	To become a party to exemption 7616. (Mode 2.)
7716–P	DOT–E 7616	The Western Pacific Railroad Company, San Francisco, CA.	49 CFR 172.204(a), 172.204(d)	To become a party to Exemption 7716. (Mode 2.)
7730–X	DOT–E 7730	The Western Company of North America, Fort Worth, TX.	49 CFR 178.343–5(b)(2)(ii)	To authorize use of a DOT Specification MC–312 cargo tank, for transportation of certain corrosive materials. (Mode 1.)
7951–P	DOT–E 7951	Hunt-Wesson Foods, Inc., Fullerton, CA	49 CFR 173.306(b)(1), 175.3, 176.33	To become a party to Exemption 7951. (Modes 1, 2, 3, 4, 5.)
8009–X	DOT–E 8009	Production Services, Inc., Oklahoma City, OK.	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To authorize use of DOT Specification 3AAX cylinders made of 4130X steel, for transportation of a compressed natural gas. (Mode 1.)
8065–X	DOT–E 8065	U.S. Department of Energy, Washington, DC.	49 CFR 173.65, 173.93, 173.94	To authorize shipment of certain Class A and B explosives, in non-DOT specification plywood boxes. (Mode 1.)
8127–P	DOT–E 8127	Union Explosivos Rio Tinto, S.A., Madrid, Spain.	49 CFR 173.127, 173.184, 176.224	To become a party to Exemption 8127. (Modes 1, 2, 3.)
8129–X	DOT–E 8129	Mallinckrodt Corporation, Baltimore, MD	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To authorize shipment of certain waste hazardous materials packed in bottles surrounded by absorbent material overpacked in DOT Specification 37A, 17H, or 6J drums. (Mode 1.)
8129–P	DOT–E 8129	Monsanto Company, St. Louis, MO	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129–P	DOT–E 8129	Kansas State University, Manhattan, KS	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129–P	DOT–E 8129	Henkel Corporation, Minneapolis, MN	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129–P	DOT–E 8129	The BF Goodrich Company, Cleveland, OH	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129–P	DOT–E 8129	Virginia Polytechnic, Institute & State University, Blacksburg, VA.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129–P	DOT–E 8129	Hallmark Cards, INc., Kansas City, KS	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129–P	DOT–E 8129	RCA Corporation, Cherry Hill, NJ	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129–P	DOT–E 8129	Environmental Cleaning Specialists, Kingston, PA.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129–P	DOT–E 8129	Union Carbide Agricultural Products Company, Danbury, CT.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129–X	DOT–E 8129	IT Corporation, Wilmington, CA	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To authorize shipment of certain waste hazardous materials packed in bottles surrounded by absorbent material overpacked in DOT Specification 37A, 17H, or 6J drums. (Mode 1.)
8129–P	DOT–E 8129	S & W Waste, Inc., South Kearny, NJ	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L,M,O.	To become a party to Exemption 8129. (Mode 1.)
8134–X	DOT–E 8134	J.T. Baker Chemical Company, Phillipsburg, NJ.	49 CFR 173.266(g)(1), 173.266(d)(2)	To authorize shipment of nitric acid or perchloric acid in DOT Specification 12R boxes having inside glass bottles closed with liner-less polypropylene caps. (Modes 1, 2, 3.)
8137–X	DOT–E 8137	Ensign Bickford Company, Simsbury, CT	49 CFR 173.66(c)	To authorize transport of blasting caps without the inside containers required in 173.66(c). (Mode 1.)
8141–P	DOT–E 8141	The Boeing Company, Seattle, WA	49 CFR 172.101, 173.206, 173.247	To become a party to Exemption 8141. (MODE 1, 3.)
8196–X	DOT–E 8196	Eurotainer S.A., Paris, France	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (Modes 1, 2, 3.)
8196–X	DOT–E 8196	ANF-Industrie, Paris, France	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (Modes 1, 2, 3.)
8196–X	DOT–E 8196	Allied Chemical Company, Morristown, NJ	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (Modes 1, 2, 3.)
8196–X	DOT–E 8196	Societe Auxiliarie de Transports et d Industries, Paris, France.	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (Modes 1, 2, 3.)
8196–X	DOT–E 8196	Freon Products (Middle East) S.A.L, Beirut, Lebanon.	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (Modes 1, 2, 3.)
8197–X	DOT–E 8197	Container Corporation of America, Wilmington, DE.	49 CFR 173, Part 173, Subpart D, Subpart E	To authorize use of non-DOT specification 35-gallon polyethylene Specification 34 type container, for shipment of certain corrosive, flammable and poison B liquids and liquid organic peroxides. (Modes 1, 2, 3.)
8209–X	DOT–E 8209	Coastal Planes Airways, Incorporated, Warner Robins, GA.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4)
8213–X	DOT–E 8213	Trailmaster Tanks, Incorporated, Fort Worth, TX.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340–7, 178.342–5, 178.345–5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying generally with DOT Specification MC–307/312 except for bottom outlet valve variations, for shipment of flammable or corrosive waste liquids or semi-solids. (Mode 1.)
8230–X	DOT–E 8230	G. Fredrick Smith Chemical Company, Columbus, OH.	49 CFR 173.266(b)(6), 173.266(a)(4)	To authorize shipment of certain oxidizers, in non-DOT specification containers. (Modes 1, 2, 3, 4.)
8247–X	DOT–E 8247	Container Corporation of America, Wilmington, DE.	49 CFR 173.272(g)	To authorize manufacture, marking and sale of DOT specification 34 polyethylene containers, for shipment of sulfuric acid of 85%–98% concentration. (Modes 1, 2, 3.)
8248–X	DOT–E 8248	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.245, 173.247, 173.271, 178.178.	To authorize shipment of various corrosive liquids in a modified DOT Specification 15C wooden box containing four compartments capable of transporting four glass bottles, each secured in an aluminum shipping canister. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8248-X	DOT-E 8248	Western Electric Company Greensboro, NC.	49 CFR 173.245, 173.247, 173.271, 178.170.	To authorize shipment of various corrosive liquids in a modified DOT Specification 15C wooden box containing four compartments capable of transporting four glass bottles, each secured in an aluminum shipping canister. (Mode 1.)
8258-X	DOT-E 8258	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.273(a)(4), 174.3, 179.102-16, 179.202-13.	To authorize shipment of stabilized sulfur trioxide in DOT Specification 105A100W and 111A100W2 tank cars equipped with standpipe electrical heaters and a modified safety relief device. (Mode 2.)
8288-X	DOT-E 8288	M-D Trailer Company, Fort Worth, TX	49 CFR 173.119(a), 173.119(M), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.345-5.	To authorize manufacture, marking and sale of certain non-DOT specification cargo tanks complying with DOT Specification MC-307/MC-312 except for bottom outlet valve variations, for transportation of flammable, corrosives, poison waste liquid or semi-solids.
8308-P	DOT-E 8308	Tradewind Enterprises Inc., Hillsboro, OR	49 CFR 177.842(a), 177.842(b)	To become a party to Exemption 8308. (Mode 1.)
8314-X	DOT-E 8314	Barber Steamship Lines, Inc., New York, NY.	49 CFR 176.905(L)	To authorize stowage of refrigerating machinery and motor vehicles in the same hold or compartment. (Mode 3.)
8391-X	DOT-E 8391	Acurex Corporation, Mountain View, CA	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	Request for modification of the design qualification tests criteria. (Modes 1, 2, 3, 4, 5.)
8445-P	DOT-E 8445	RCA Corporation, Cherry Hill, NJ	49 CFR Part 173, Subpart D, E, F, & H	To become a party to Exemption 8445. (Mode 1.)
8451-P	DOT-E 8451	U.S. Department of Defense, Washington, DC.	49 CFR 173.65, 173.86(e), 175.3	To become a party to Exemption 8451. (Modes 1, 2, 4.)
8554-P	DOT-E 8554	Mesabi Powder Company, Hibbing, MN	49 CFR 173.114a, 173.154, 173.93	To become a party to Exemption 8554. (Mode 1.)
8585-X	DOT-E 8585	American Pyrotechnics Corporation, Llano, CA.	49 CFR 172.101, 173.100	To authorize shipment of a explosive pest control device, in inside fiberboard boxes overpacked in a DOT Specification 12B fiberboard box. (Modes 1, 2, 3.)
8651-X	DOT-E 8651	Rockwell International Corporation, Canoga Park, CA.	49 CFR 173.119, 173.302(a), 173.328(a), 173.336(a).	To authorize transport of waste nitrogen tetroxide, waste methylhydrazine and nitrogen, in non-DOT specification cylinders and stainless steel tanks. (Mode 1.)
8667-X	DOT-E 8667	Federal Emergency Management Agency, Washington, DC.	49 CFR 173.395(b)	To authorize use of CDV-794 calibrators instead of DOT Specification or Nuclear Regulatory Commission certified packages, for shipment of radioactive materials. (Modes 1, 3, 4.)
8668-X	DOT-E 8668	Argyle, Division of Sherwood Medical, St. Joseph, MO.	49 CFR 173.119, 175.3	To authorize shipment of proxylin solution or hexane solution, classed as a flammable liquid, in non-DOT specification stainless steel drums. (Modes 1, 2, 4.)
8686-X	DOT-E 8686	Sajen Air, Inc., Manchester, NH	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize carriage of Class A, B and C explosives not permitted for air shipment, or in quantities greater than those prescribed for air shipment. (Mode 4.)
8689-X	DOT-E 8689	Schlumberger Technology Corporation, Houston TX.	49 CFR 173.302, 173.304, 175.3	To authorize manufacture, marking and sale of a non-DOT specification oil well sampling device, for the shipment of various compressed gases, n.o.s. (Modes 1, 2, 3, 4.)
8692-X	DOT-E 8692	Mitsubishi International Corporation, New York, NY.	49 CFR 173.154	To authorize shipment of sodium persulfate in collapsible polyethylene-lined, woven polypropylene bags having a capacity not to exceed 2,200 pounds each. (Modes 1, 2, 3.)
8692-X	DOT-E 8692	Dow Chemical U.S.A., Midland, MI	49 CFR 173.154	To authorize shipment of sodium persulfate in collapsible polyethylene-lined, woven polypropylene bags having a capacity not to exceed 2,200 pounds each. (Modes 1, 2, 3.)
8693-X	DOT-E 8693	Matheson Gas Products, Secaucus, NJ	49 CFR 173.230	To authorize shipment of sodium, metal dispersion in organic solvent, in DOT Specification 4BW240 cylinders. (Mode 1.)
8728-X	DOT-E 8728	Whitehall Laboratories, Inc., New York, NY	49 CFR Parts 100-199	To authorize shipment of safety book matches packed with a non-hazardous material in a rigid five-sided fiber tray and paper overwrapped. (Modes 1, 2.)
8730-X	DOT-E 8730	Allied Chemical, Morristown, NJ	49 CFR 173.154(a)(4)	To authorize transport of an aqueous solution of potassium nitrite, in DOT Specification MC-311 or MC-312 cargo tanks. (Mode 1.)
8742-X	DOT-E 8742	Cusco Fabricators Ltd., Richmond Hill, Ont., Can.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying generally with DOT Specification MC-307/312 except for bottom outlet valve variations for transportation of flammable or corrosive waste liquids or semi-solids. (Mode 1.)
8757-X	DOT-E 8757	Y-Z Industries, Inc., Snyder, TX	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3.	To authorize manufacture, marking and sale of non-DOT specification stainless steel cylinders, for shipment of compressed gases. (Modes 1, 4.)
8786-P	DOT-E 8786	Stabilus, gmbh, Koblenz, West Germany, FR.	49 CFR 173.306(f)(2)(iii), 173.306(f)(3), 175.3.	To become a party to Exemption 8786. (Modes 1, 2, 3, 4, 5.)
8877-P	DOT-E 8877	KTI Chemicals, Incorporated, Danbury, CT	49 CFR 173.119(m)(3), 173.245, 175.3	To become a party to Exemption 8877. (Modes 1, 2, 3.)
8877-P	DOT-E 8877	Union Carbide Corporation, Danbury, CT	49 CFR 173.119(m)(3), 173.245, 175.3	To become a party to Exemption 8877. (Modes 1, 2, 3.)
8877-P	DOT-E 8877	Mallinckrodt, Inc., Paris, KY	49 CFR 173.119(m)(3), 173.245, 175.3	To become a party to Exemption 8877. (Modes 1, 2, 3.)
8888-X	DOT-E 8888	Nalco Chemical Company, Oak Brook, IL	49 CFR 172.101 column 6(b), 173.119, 173.245(a)(17), 175.30.	To reissue exemption to a shipper instead of a carrier authorizing shipment of corrosive and/or flammable (compound cleaning) liquids in various DOT Specification drums. (Mode 4.)
8897-X	DOT-E 8897	Kerrco, Incorporated, Hastings, NE	49 CFR 173.119, 173.125, 173.268, 178.19, 178.253, Part 173, Subpart F.	To authorize water as an additional mode, to add ethyl alcohol and methyl alcohol, classed as flammable liquids and hydrogen peroxide, classed as an oxidizer. (Modes 1, 2, 3.)
8906-P	DOT-E 8906	M&T Chemicals Inc., Baltimore, MD	49 CFR 173.164	To become a party to Exemption 8906. (Mode 1.)
8966-P	DOT-E 8966	Dresser Industries Inc., Houston, TX	49 CFR 172.101, 173.110, 173.80	To become a party to Exemption 8966. (Modes 1, 3.)
8966-X	DOT-E 8966	Schlumberger Well Services, Houston, TX	49 CFR 172.101, 173.110, 173.80	To authorize water as an additional mode of transportation. (Modes 1, 3.)
9001-X	DOT-E 9001	Chesterfield Cylinder Company, Inc., Enid, OK.	49 CFR 173.301, 173.302, 173.304, 178.45	To authorize an increase in cylinder water capacity, from 100 pounds to 120 pounds. (Modes 1, 2, 3, 4.)
9024-P	DOT-E 9024	Logemafer S.A., Paris, France	49 CFR 173.315	To become a party to Exemption 9024. (Modes 1, 2, 3.)
9064-P	DOT-E 9064	Amalgamet Canada, Toronto, Ontario, Canada.	49 CFR 173.245	To become a party to Exemption 9064. (Mode 1.)
9064-P	DOT-E 9064	Apache Chemicals, Inc., Seward, IL	49 CFR 173.245	To become a party to Exemption 9064. (Mode 1.)
9064-P	DOT-E 9064	J. T. Baker Chemical Company, Phillipsburg, NJ.	49 CFR 173.245	To become a party to Exemption 9064. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9064-P	DOT-E 9064	KBI Division of Cabot Corporation, Reading, PA.	49 CFR 173.245	To become a party to Exemption 9064. (Mode 1.)
9064-P	DOT-E 9064	Preussag AG Metall, Goslar, West Germany.	49 CFR 173.245	To become a party to Exemption 9064. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8966-N	DOT-E 8966	All Pure Chemical Company, Inc., Tracy, CA.	49 CFR 173.277(a)(1), 178.205	To authorize shipment of sodium hypochlorite solution in four one-gallon polyethylene bottles enclosed in a bag of polyethylene film, packed in a corrugated fiberboard box complying with DOT Specification 12B except for hand holes authorized in side panels of box. (mode 1.)
8988-N	DOT-E 8988	Schlumberger Well Services, Houston, TX	49 CFR 172.101, 173.110, 173.60	To authorize transport of charged oil well guns as Class C explosive when the net weight of explosive material in the vehicle or vessel does not exceed 200 pounds., (Modes 1, 3.)
9025-N	DOT-E 9025	American Greetings Corporation, Cleveland, OH.	49 CFR 173.28(m)	To authorize reuse of DOT Specification 17H drums of 55-gallon capacity, having inside liners of polyethylene film and which deviate from retest requirements, for shipment of ink, classed as a flammable liquid. (Mode 1.)
9026-N	DOT-E 9026	Continental Group, Inc., Lombard, IL	49 CFR 178.24	To authorize manufacture, marking and sale of non-DOT specification fibre drums of not over 75-gallon capacity, similar to DOT Specification 21C except that the top head is of molded polyethylene and secured to the sidewall by a lever locking ring. (Modes 1, 2, 3.)
9040-N	DOT-E 9040	The Continental Group, Inc., Lombard, IL	49 CFR 173.249a(d)(3)	To authorize manufacture, marking and sale of non-DOT specification fibre drums of not over 55-gallon capacity, lined or coated on the inside with a plastic material, and having modified non-removable top heads of steel or plastic, for transportation of certain corrosive liquids. (Modes 1, 2, 3.)
9045-N	DOT-E 9045	International Paper Company, New York, NY.	49 CFR 173.154, 173.245b, 173.365	To authorize manufacture, marking and sale of a non-DOT specification, six-sided corrugated fiberboard box of 35-gallon maximum capacity, for shipment of various flammables, oxidizers and Class C poisons (solids) for which DOT Specification 21C fibre drums is prescribed. (Modes 1, 2.)
9054-N	DOT-E 9054	Florida Drum Company, Inc., Pine Bluff, AR.	49 CFR 173.119, 173.125, 173.256, 173.266(b), 178.19, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification 55-gallon polyethylene Specification 34 type container, for transportation of certain corrosive liquids, flammable gases and a oxidizer. (Modes 1, 2, 3.)
9064-N	DOT-E 9064	Corning Glass Works, Corning, NY	49 CFR 173.245	To authorize shipment of corrosive materials, in a glass container placed in a cushioned cylindrical steel overpack, which is then packed in a cushioned plywood box, of which no more than four can be overpacked in a compartmented wooden outer box. (Mode 1.)
9081-N	DOT-E 9081	Diamond Shamrock Corporation, Irving, TX	49 CFR 173.164(a)(6)	To authorize shipment of chromic acid dry, classed as an oxidizer, in DOT Specification 21C fiber drum lined with plastic materials other than saran material. (Modes 1, 2.)
9086-N	DOT-E 9086	The Embassy of Switzerland, Washington, DC.	49 CFR 172.101(6)(b), 175.3	To authorize transport of Class A explosive by cargo only aircraft. (Mode 4.)
9010-N	DOT-E 9101	RCA Corporation, Princeton, NJ	49 CFR 172.101 column 6(b)	To authorize shipment of two rocket motors having excess gross weight by cargo-only aircraft. (Mode 4.)
9107-N	DOT-E 9107	Ark Distributing Company, Inc., Martinez, CA.	49 CFR 178.24a-6(a)(1)	To authorize shipment of methyl ethyl ketone peroxide (47–49% MEK peroxide in a dimethyl phthalate solution with 8.9–9.0% by weight available oxygen) in a DOT Specification 12B fiberboard box with DOT specification 2E inside polyethylene bottles. (Mode 1.)
9117-N	DOT-E 9117	Kraftcor Corporation, Houston, TX	49 CFR 173.163	To authorize manufacture, marking and sale of non-DOT specification semi-bulk bags of 22 cubic feet capacity, for transportation of an oxidizer. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9123-N	DOT-E 9123	K. A. Steel Chemicals Inc., Melrose Park, IL.	49 CFR 173.277(a)(9)	To authorize use of one non-DOT specification cargo tank placed in service subsequent to January 1, 1983, for transportation of a sodium hypochlorite solution. (Mode 1.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8984-N	Wyman Pilot Service, Inc. Warren, MI	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175,320(b), Part 107, Appendix B.	To authorize carriage of various Class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
9018-N	Schering Aktiengesellschaft, Berglkamen, West Germany.	49 CFR 173.134	To authorize shipment of pyrophoric liquids, n.o.s., classed as flammable liquid, in non-DOT specification IMO Type portable tanks comparable to DOT Specification 51. (Mode 1.)

Denials

7060–P Request by Airway Express, Inc., Mesa, AZ to authorize carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met denied September 22, 1983.

7060–P Request by M. T. Associates, Inc., Warwick, RI to authorize carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met denied September 22, 1983.

7060–P Request by Western States Express Airlines, Tarzana, CA to authorize carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met denied September 22, 1983.

7060–X Request by Airlines, Inc., Philadelphia, PA to authorize carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met denied September 22, 1983.

7060–X Request by Express Airways, Inc., Sanford, FL to authorize carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met denied September 22, 1983.

7060–P Request by Continental, Inc., Elyria, OH to authorize carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met denied September 22, 1983.

9006–N Request by Infilco Degremont Inc., Richmond, VA to authorize shipment of not exceeding 70 percent nitric acid in minute quantities contained in glass anpules/polystyrene clam shell/fiberboard box configuration denied September 1, 1983.

9100–N Request by Fabricated Metals, Inc., San Leandro, CA to manufacture, mark and sell non-DOT specification steel jacketed polyethylene portable tanks, for shipment of various corrosive liquids, n.o.s. denied September 8, 1983.

Issued in Washington, DC, on October 21, 1983.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

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DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On October 28, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: None
Form Number: 6524
Type of Review: Existing Collection
Title: Office of Chief Counsel Application

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0320
Form Number: AFT REC 5130/3
Type of Review: Extension
Title: Brewer of Beer Racked or Bottled, or Consumed at Brewery
OMB Reviewer: Norman Frumkin, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: October 28, 1983.

Lois K. Holland,

Departmental Reports, Management Office.

[FR Doc. 83–29870 Filed 11–2–83; 8:45 am]

BILLING CODE 4810–25–M

Internal Revenue Service

Performance Review Board Members

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of members of Senior Executive Service Performance Review Boards.

DATE: Performance Review Boards effective October 1, 1983.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, PM:HR:P:X, Room 3213, 1111 Constitution Avenue, NW., Washington, DC 20224, Telephone No. (202) 566–4633, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Boards for Assistant Commissioners and Regional Commissioners and for Inspection employees are as follows:

For Assistant Commissioners and Regional Commissioners: Phillip E. Coates, Associate Commissioner (Operations), Joel Gerber, Deputy Chief Counsel, Paul Trause, Inspector General, Department of the Treasury

For Inspection Employees: James I. Owens, Deputy Commissioner, Chairperson, Joel Gerber, Deputy Chief Counsel, Paul Trause, Inspector General, Department of the treasury

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 83–29857 Filed 11–2–83; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 214
Thursday, November 3, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Deposit Insurance Corporation	1-4
Federal Election Commission	5
Federal Reserve System	6
Nuclear Regulatory Commission	7
Securities and Exchange Commission	8
Equal Employment Opportunity Commission	9
Federal Maritime Commission	10
National Credit Union Administration	11

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, November 7, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance and for consent to exercise trust powers:

The Massachusetts Companies, Inc., Boston, Massachusetts, an operating noninsured trust company located at 99 High Street, Boston, Massachusetts.

Application for consent to establish a branch:

Peoples Bank of Bartow County, Taylorsville, Georgia, for consent to estabish a branch at 314 East Main Street, Carterville, Georgia.

Application for consent to merge and establish three branches:

Staten Island Savings Bank, New York (Stapleton), New York, for consent to merge, under its charter and title, with Richmond County Federal Savings and Loan Association, New York (Staten Island), New York, a non-FDIC-insured institution, and to establish the three offices of Richmond County Federal Savings and Loan Association as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45, 799: Farmers Bank of the State of Delaware, Dover, Delaware,
Case No. 45,800-L (Amended): Franklin National Bank, New York, New York
Case No. 45,801-L: United Southern Bank of Nashville, Nashville, Tennessee

Memorandum and Resolution re: Final amendment to Part 330 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage," which would add a new section defining the amount of an insured deposit to include accrued or anticipated interest or dividends.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: October 31, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1537-83 Filed 11-1-83; 12:13 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, November 7, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii))).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Memorandum re: Annual Review of Cost Estimates—Assisted Mutual Savings Bank Mergers.

Discussion Agenda:

Application for consent to establish a branch:

Onondaga Savings Bank, Syracuse, New York, for consent to establish a branch at 7320 East Genesee Street, Manlius, New York.

Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to Section 13 of the Federal Deposit Insurance Act.

Personnel actions regarding appointments, promotions administrative pay increases,

reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsection (c)(2) and (c)(6) of the "Government in the the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: October 31, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1539–83 Filed 11–1–83; 12:13 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 9 a.m. on Monday, October 31, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and Resolution re: Proposed amendments to Part 346 of the Corporation's rules and regulations, entitled "Foreign Banks," with respect to asset maintenance by insured branches of foreign banks, which would require: (1) The maintenance on a daily basis of assets equal to 105% of liabilities; (2) the exclusion as eligible assets of direct or indirect claims from less than wholly-owned (in addition to wholly-owned as in the existing regulation) subsidiaries, organizations that control the parent bank, and the majority-owned or controlled subsidiaries of such organizations; and (3) specific additional asset maintenance as deemed necessary.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Columbus Bank and Trust Company, Columbus, Georgia, and insured State nonmember bank, for consent to merge, under its charter and title, with Buena Vista Loan & Savings Bank, Buena Vista, Georgia, and to establish the sole office of Buena Vista Loan & Savings Bank as a branch of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator or liquidating agent of those assets:

Case No. 45,805–L (Amended): United American Bank in Hamilton County, Chattanooga, Tennessee

Case No. 45,807–L:
- City and County Bank of Knox County, Knoxville, Tennessee
- United Southern Bank of Nashville, Nashville, Tennessee
- United American Bank in Hamilton County, Chattanooga, Tennessee
- City and County Bank of Roane County, Kingston, Tennessee
- City and County Bank of Anderson County, Lake City, Tennessee
- First Peoples Bank of Washington County, Johnson City, Tennessee

Case No. 45,812–L: The First National Bank of Midland, Midland, Texas

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: October 31, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1539–83 Filed 11–1–83; 12:13 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeing held at 9:30 a.m. on Monday, October 31, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation, pursuant to section 10(b) of the Federal Deposit Insurance Act, that the Corporation make special examination of a certain national bank to determine the condition of such bank for insurance purposes: Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to Section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 31, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1540–83 Filed 11–1–83; 12:14 pm]

BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, November 8, 1983, 10 a.m.,

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance, Litigation, Audits, Personnel.

* * * * *

DATE AND TIME: Thursday, November 10, 1983, 10 a.m.,

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be open to the public.

MATTER TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Draft Advisory Opinion 1983–31: Jim C. Curlett on behalf of Syntex Laboratories, Inc., Syva Co. & Syntex Chemical Inc.
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmon,

Secretary of the Commission.

[S–1542–83 Filed 11–1–83; 2:30 pm]

BILLING CODE 6715–01–M

6

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, November 9, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: November 1, 1983.

James McAfee,

Associate Secretary of the Board.

[S–1543–83 Filed 11–1–83; 3:24 pm]

BILLING CODE 6210–01–M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of November 7, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Tuesday, November 8:*

10:00 a.m.
Discussion/Vote on Hearing Requests and Whether to Lift Suspension at Diablo Canyon (Public Meeting)
2:00 p.m.
Discussion of Management Issues Regarding TMI–1 Restart (Closed—Exemption 5 and 10)

Wednesday, November 9:

9:30 a.m.
Briefing on BWR Pipe Crack Issues (Public Meeting)
2:00 p.m.
Discussion of Hydrogen Ignition System and Final Rule (Public Meeting)

Thursday, November 10:

9:30 a.m.
Discussion of Management Issues Regarding TMI–1 Restart (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting):
a. Amendments to 10 CFR 50 Related to Hydrogen Control
b. Proposed Final Rule—Deletion of Exception Filing Requirement for Appeal from Initial Decisions

To verify the status of meetings call (recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: John C. Hoyle (202) 634–1410.

October 31, 1983.

John C. Hoyle,

Office of the Secretary.

[S–1539–83 Filed 10–31–83; 4:34 pm]

BILLING CODE 7590–01–M

8

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of November 7, 1983, at 450 5th Street NW., Washington, D.C.

A closed meeting will be held on Tuesday, November 8, 1983, at 9:30 a.m. Open meetings will be held on Wednesday, November 9, 1983, at 2:30 p.m. and on Thursday, November 10, 1983, at 2:30 p.m. in Room 1C30.

The Comissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 8, 1983, at 9:30 a.m., will be:

Formal order of investigation.
Settlement of administrative proceeding of an enforcement nature.
Institution of administrative proceeding of an enforcement nature.
Institution of injunctive actions.

The subject matter of the open meeting scheduled for Wednesday, November 9, 1983, at 2:30 p.m., will be:

1. Consideration of whether to adopt a new rule that requires broker-dealers using predispute arbitration clauses in customer agreements that purport to bind customers to the arbitration of future federal securities law disputes to disclose that investors are not precluded by such clauses from recourse to the courts with respect to claims arising under those laws. For further information, please contact Robert A. Love at (202) 272–2792.
2. Consideration of whether to grant the NASD an exemption from the Rule 11Aa2–1 requirement that securities be registered under Section 12(g) of the Securities Exchange Act before initial designation as National Market System securities. For further information, please contact Bob Colby at (202) 272–2413.
3. Consideration of a request by the Board of Governors of the Federal Reserve System for the views of the Commission regarding the exclusion of money market funds shares from the definition of "margin stock" under the Board's Regulations U and G. For further information, please contact Susan P. Hart at (202) 272–2028.
4. Consideration of whether to adopt amendments to Rule 24f–2 under the Investment Company Act of 1940 to improve the ability of the Commission, and issuers relying on Rule 24f–2, to monitor the timeliness of Rule 24f–2 notices while making less harsh the consequences of failure to file such notices on time. For further information, please contact Jane A. Kanter at (202) 272–2118.
5. Consideration of whether to permanently adopt, with certain modifications, temporary amendments to Rule 482 and Form N–1 to: (i) Permit investment companies to advertise their securities by direct mail through the use of "omitting" prospectuses; and (ii) permit money market funds to advertise their effective yield. In this connection, the Commission will also consider whether to adopt certain corresponding amendments to newly adopted Form N–1A. For further information, please contact Larry L. Greene at (202) 272–7320.

The subject matter of the open meeting scheduled for Thursday, November 10, 1983, at 2:30 p.m., will be:

Consideration of final action with respect to Rule 415 under the Securities Act of 1933. Rule 415 relates to the offering of securities to be sold on a delayed or continuous basis in the future. For further information, please contact Steven L. Molinari at (202) 272–2393.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

October 31, 1983.

[S–5141–83 Filed 11–1–83; 12:14 pm]

BILLING CODE 8010–01–M

9

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 AM (Eastern Time), Tuesday, November 8, 1983.

PLACE: Commission Conference Room No. 200 on the 2nd floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20507

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote/s.
2. A Report on Commission Operations (Optional).

3. Freedom of Information Act Appeal No. 83-8-FOIA-068-IN, concerning a request for materials contained in Title VII and EPA charge files.

4. Freedom of Information Act Appeal No. 83-8-FOIA-172-MK, concerning a request for materials from a closed ADEA investigative file.

5. Freedom of Information Act Appeal No. 83-9-FOIA-142-SL, concerning a request for a 171 Form from a Federal EEO complaint file.

6. Freedom of Information Act Appeal No. 83-9-FOIA-67-DA, concerning a request for contents of an ADEA charge file.

7. Freedom of Information Act Appeal No. 83-8-FOIA-75-NO, concerning a request for documents from a closed Title VII charge file.

8. Recommendation for Certifying Austin Human Relations Commission and Corpus Human Relations Commission.

9. Proposed Amendment to the Procedure for Processing Conviction Cases.

10. Proposed Final Attorney's Fees Regulations.

Closed

1. *Litigation Authorization; General Counsel Recommendations.*

2. *Consideration of Certain ORA Decisions.*

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This notice issued November 1, 1983.

[FR Doc. S-1544-83 Filed 11-1-83; 3:41 pm]

BILLING CODE 6570-06-M

10

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—November 9, 1983.

PLACE: Hearing Room One—1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreements Nos. 5850-39, 7100-27, 7670-23, 7770-24, 8210-47, 9214-31 and 9982-18: Application for intermodal authority and independent action in the North Atlantic trades.

2. Sea-Land Service, Inc. and Lykes Bros. Steamship Co., Inc. application for special permission to waive the 30 day filing requirement for the purpose of publishing new or initial intermodal rates.

3. Self-Policing requirements for section 15 agreements—Notice of Proposed Rulemaking.

4. Docket No. 83-33: In the Matter of Rates Applicable to Ocean Shipment of Associated Factories, Inc.—Consideration of the record.

Portions closed to the public:

1. Petition for Investigation—East Coast Colombia Conference and Agropecuaria y Maritima Santo Rosa Ltda.

2. Pooling and Space Charter Agreements of Japanese Carriers—Petition for reconsideration filed by Proponents.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[FR Doc. S-1546-83 Filed 11-1-83; 3:43 pm]

BILLING CODE 6730-01-M

11

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 2:00 p.m., Thursday, November 10, 1983.

PLACE: Birmingham Hilton, 808 South 20th Street, Birmingham, AL 35205, (205) 933-9000.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.

2. Review of Central Liquidity Facility Lending Rate.

3. Modification of CLF Credit Agreements with all Borrowers to Include a "Prepayment Penalty."

4. Central Liquidity Facility Reserving Policy For Fiscal Year 1984.

5. Central Liquidity Facility Agent Reimbursement Policy Modification.

6. Interpretive Ruling and Policy Statement, Federal Credit Unions Engaging in Leasing Programs.

7. Proposed Deregulation of Lending Regulation, Part 701.21, NCUA Rules and Regulations.

8. Consideration of the Operating Fee for Calendar Year 1984.

9. Report on Status of National Credit Union Share Insurance Funds.

10. Report on NCUA Amendments to Senate Banking Committee.

RECESS: 3:00 p.m.

TIME AND DATE: 4:00 p.m., Thursday, November 10, 1983.

PLACE: Birmingham Hilton, 808 South 20th Street, Birmingham, AL 35205, (205) 933-9000.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.

2. Personnel Actions. Closed pursuant to exemptions (2) and (6).

3. Report on Special Action Cases. Closed pursuant to exemptions (8) and (9)(A)(ii).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. S-1545-83 Filed 11-1-83; 3:41 am]

BILLING CODE 7535-01-M

federal register

Thursday
November 3, 1983

Part II

Department of Energy

Economic Regulatory Administration

January 1981 and Entitlements Adjustments Notices

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-83-01]

January 1981 and Entitlements Adjustments Notices

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of public proceeding and public hearing.

SUMMARY: The Department of Energy (DOE) is giving notice of a public proceeding and public hearing to obtain public comment from interested persons as to the legal, factual, and policy issues involved in its proposed determination not to publish any further entitlements notices.

DATES: Written comments must be received by December 5, 1983.

Public Hearing: December 6, 1983 in Washington, D.C.

Requests to Speak: By 4:30 p.m., November 29, 1983.

ADDRESSES: All comments and requests to speak at the public hearing should be identified by Docket No. ERA-R-83-01 and submitted to the Economic Regulatory Administration, Office or Management Services, Attn: Cindy Ford, Room GA-093, U.S. Department of Energy, 1100 Independence Avenue, SW., Washington, D.C. 20585.

Hearing Location: U.S. Department of Energy, Forrestal Building, DOE Auditorium, Room GE-086, 1000 Independence Avenue, SW., Washington, D.C. 20585. The hearing will start at 9:30 a.m. on the date indicated above.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Was or W. Mayo Lee, Office of General Counsel, Office of Regulatory Oversight, U.S. Department of Energy, Room 6A-141, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6744 (Was); (202) 252-6754 (Lee)

Jack Vandenberg, Office of the Administrator, Economic Regulatory Administration, U.S. Department of Energy, Room 5B-148, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2172

Cindy Ford [Hearing Procedures], Office of Management Services, Economic Regulatory Administration, U.S. Department of Energy, Room GA-093, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4222

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Entitlements Background
III. Issues Relating to the Publication of Further Entitlements Notices
A. The Purposes of the EPAA and Executive Order 12287 Are Best Achieved by Not Publishing the Notices
1. DOE Has the Discretion to Issue or Not to Issue Further Entitlements Notices
a. Executive Order 12287 Made DOE's Authority to Issue Further Entitlements Notices Discretionary
b. The Expiration of Certain Authorities Pursuant to Section 18 of the EPAA Did Not Limit DOE's Discretion
2. Publication Would Frustrate the Purposes of the EPAA
B. In the Alternative, Publication Would be Arbitrary and Capricious Because it Would be Inconsistent with the EPAA and Executive Order 12287
C. DOE's Response to Arguments Advanced in Favor of Publication
1. Reliance by Refiners That Would Have Received Entitlements Benefits
2. Refiners Would Not be Inequitably Burdened By the Failure to Account For Recertifications Reported for the January and Entitlements Adjustments Notices
D. The Unreliability of Reported Data
E. Non-publication Is Not Justified by the Alleged "Disappearance" of Price-Controlled Oil
1. Mobil's Claims
2. DOE's Position
F. Office of Hearings and Appeals Entitlements Decisions
IV. Comments Requested
V. Public Comment Procedures
A. Written Comment Procedures
B. Public Hearing
VI. Procedural Matters
Appendix

In the Notice, DOE concludes that it has discretion not to publish the January 1981 and Entitlements Adjustments Notices under the regulations as modified by Executive Order 12287. The authority to exercise that discretion was not impaired by the expiration of certain of DOE's authorities after September 30, 1981 pursuant to section 18 of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA).

The Notice describes DOE's proposed determination that issuance of the final entitlements notices would frustrate the purpose of the EPAA. Among the reasons why publication would be inconsistent with the EPAA are that the amount of price-controlled crude oil to be allocated by the notices is so small as to bear little relation to the fundamental purposes of the Entitlements Program; the notices would contradict one of the major purposes of the program by requiring the transfer of substantial sums of money from small and independent refiners, as a class, to major refiners; the notices would impose a severe financial burden on the already beleaguered small and independent segments of the refining industry, as a class; issurance of the notices would largely fail to narrow the crude cost differentials that existed among refiners in January 1981 and, in some instances, would exacerbate those crude cost differentials; and issuance of the notices would unnecessarily distort and interfere with the marketplace more than two and one-half years after decontrol, based on past transactions whose effects already have been reflected in the unregulated market, without achieving any of the objectives of the program or the President's Decontrol Order.

In response to arguments advanced in favor of publication of the notices, DOE believes as a matter of law that refiners that expected to receive entitlements benefits from issuance of the notices could not have justifiably relied on the continuation of the program after decontrol. Furthermore, the impact of recertification of price-controlled oil to uncontrolled status pursuant to the Tertiary Incentive Program is rejected as a reason to issue the notices, because such recertifications are largely concentrated in intergrated refiners and there is no indication that small and independent refiners received more than their proportionate share of recertifications.

The notice also points out that the reported data on which the notices' would be calculated is unreliable and fails to reflect changed facts, such as the recertification of quantities of uncontrolled crude oil to price-controlled status.

The notice indicates, however, that non-publication of the notices is not justified by the alleged "disappearance" of price-controlled crude oil between the first purchaser and the Entitlements Program, a claim which has been advanced by the Mobil Oil Corporation in litigation with DOE to enjoin publication of the notices. The basis for this conclusion is twofold: (1) The factual premise of Mobil's claims is inaccurate; and (2) even if some amount of price-controlled crude oil was not accounted for by the Entitlements Program due to the causes alleged by Mobil, the regulatory objectives of the program were not thereby frustrated.

The notice proposes to give effect to adjudicated administrative and court decisions granting and adjusting entitlements exception relief and requests comments on alternative means to satisfy those firms granted relief.

Finally, the Notice requests comments on the issues raised generally, as well as comments responding to specific itemized questions, and on any other issue that any interested person deems

of consequence for the purposes of this proceeding.

Attached to this notice as Appendix A are updated drafts of the January 1981 and Entitlements Adjustments Notices. These drafts of the notices are published for information purposes only and are without any legal force or effect. They reflect developments affecting the notices through September 1, 1983.

I. Introduction

On January 28, 1981, President Reagan issued Executive Order 12287 to exempt immediately crude oil and refined petroleum products from price and allocation controls. In addition, that order authorized, but did not require, the Secretary of Energy to promulgate entitlements notices for periods prior to the Order. In addition, the Order provided that the Secretary of Energy might adopt a mechanism to provide for entitlements adjustments relating to periods prior to decontrol. *See* Section 3, E.O. 12287.

Thereafter, DOE issued the December 1980 Entitlements Notice, 46 FR 14151 (Feb. 26, 1981), and adopted a final rule (at 10 CFR 211.69) to provide a mechanism for giving effect to normal adjustments to crude oil receipts in the last four months of the Entitlements Program, and for giving effect to court, Federal Energy Regulatory Commission (FERC), and Office of Hearings and Appeals (OHA) entitlements determinations.[1] 46 FR 36092 (July 13, 1981). The January 1981 Entitlements Notice was not published as originally scheduled by the end of March because several short-term temporary restraining orders and preliminary injunctions were issued in favor of firms that anticipated entitlements sales obligations as a result of the notice. All of these restraining orders or preliminary injunctions forbidding publication of the January Notice ultimately were vacated. However, during the period these orders were in effect, the Mobil Oil Corporation received a preliminary injunction barring the issuance of any further entitlement notices. *Mobil Oil Corporation* v. *Department of Energy*, 520 F. Supp. 420 (N.D.N.Y., June 3, 1981). Mobil alleged that publication of the January Notice and/or termination of the Entitlements Program without accounting for so-called "disappearing" old oil would be arbitrary and capricious. This preliminary injunction was vacated by the Temporary Emergency Court of Appeals (TECA) on August 7, 1981. 650 F. 2d 150. TECA's judgment, however, was stayed by Justice Brennan pending Supreme Court consideration of Mobil's petition for *certiorari*. The Supreme Court denied *certiorari* and lifted the stay on December 7, 1981. Mobil's lawsuit on the merits remains pending before the district court.

During the pendency of the Mobil injunction, on September 30, 1981, the District Court for the Central District of California held that Ruling 1981–1, issued by DOE shortly after the President's Decontrol Order to respond to questions raised by the order, was invalid to the extent that it stated that expenses incurred or paid after January 27, 1981, with respect to the Tertiary Incentive Program (10 CFR 212.78) could be used as a basis for recertifying price-controlled crude oil sold prior to January 28, 1981 to uncontrolled status.[2] *Union Oil Co.* v. *DOE*, 530 F. Supp. 717 (C.D. Cal. 1981).[3]

On February 10, 1981, the District Court for the District of Nevada upheld the validity of Ruling 1981–1 but held that the so-called "in-house" expenses amendment to the tertiary incentive regulation was invalidly promulgated. *Tosco* v. *DOE*, 532 F. Supp. 686 (D. Nev. 1982).

Because these cases potentially affected the entitlements notices, DOE announced that in light of the tertiary litigation it would not issue the entitlements notices at that time and would give at least thirty days notice before issuing any notice. *See* 46 FR 60231 (Dec. 9, 1981); 47 FR 11549 (March 17, 1982).

The *Union* and *Tosco* cases were considered together on appeal, and on September 1, 1982, TECA ruled in favor of DOE both with respect to Ruling 1981–1 and the "in-house" expenses amendment. *Union Oil Co.* v. *DOE*, 688 F.2d 797 (TECA 1982). Union then petitioned for *certiorari* to the Supreme Court. On February 2, 1983, that petition was denied. 103 S. Ct. 1186.

At the present time there are a number of outstanding lawsuits challenging on various grounds DOE's authority to issue the January 1981 and Entitlements Adjustments Notices. Foremost among these cases are *Ashland Oil Co.* v. *DOE*, C.A. 81-0167-L(A) (W.D. Ky.); *Conoco Inc.* v. *DOE*, C.A. 81-125 (D. Del.); *Marathon Petroleum Co.* v. *DOE*, C.A. 81-634 (N.D. Ohio); *Mobil Oil Corp.* v. *DOE*, C.A. 81-CV-340 (N.D.N.Y.); and *Shell Oil Co.* v. *DOE*, C.A. 81-339 (D. Del.).

In light of the passage of time, further information, and the various lawsuits, DOE announced on July 13, 1982, that DOE would conduct a public proceeding to obtain the views of interested persons before making any final determination as to whether to publish any further entitlements notices. 47 FR 30279. This Notice initiates that public proceeding.

II. Entitlements Background

In assessing whether the issuance of the January 1981 and Entitlements Adjustments Notices would be appropriate, it is necessary to consider the potential impact that such action would likely have on the various types of firms that were participating in the Entitlements Program at the time of decontrol, and whether such impact would be consistent with the statutory objectives that led to their inclusion in the program in the first place. As a background to that discussion, a description of the basic Entitlements Program and its subprograms that were in effect on January 27, 1981, as well as the role of entitlements-related exception proceedings, is in order.

A. Origins of the Entitlements Program

Section 4(a) of the Emergency Petroleum Allocation Act of 1973, Pub. L. No. 93-159, 15 U.S.C. 751 *et seq.*, (EPAA), required the President to promulgate regulations providing for the mandatory allocation and pricing of crude oil, residual fuel oil, and refined petroleum products produced in or imported into the United States. Those regulations were to implement, "to the maximum extent practicable," the objectives set forth in section 4(b)(1) of the Act.

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[1] The Entitlements Adjustments Rule provided for a final entitlements notice to be published after the January Notice and after all entitlements participants had reported their adjustments and amendments relating to the October 1980 through January 1981 period.

[2] The ruling stated: Absent the Executive Order, a qualified producer that would have incurred, paid, and reported its allowed expenses prior to February 28 and March 31, 1981 respectively, could have recovered those expenses through the recertification of crude oil sold in the months of December 1980 and January 1981, respectively, as long as those recertifications were made within the consecutive two-month period within which such certification is permitted under 10 CFR § 212.131(a)(6). Executive Order 12287 is intended to provide for an immediate decontrol of crude oil and refined petroleum products. The Order does not abrogate the right that accrued to a firm to establish prices for crude oil prior to January 28, 1981. Thus, a firm may become a qualified producer as defined in 10 CFR § 212.78(c) on or after January 28, 1981. A qualified producer may also recover allowed expenses through the recertification of crude oil sold in the months of December 1980 and January 1981, respectively, as long as the producer has incurred, paid, and reported those expenses prior to February 28 and March 31, 1981, respectively. 46 FR 12945, 12947 (Feb. 19, 1981).

[3] Earlier, a different district court had denied a preliminary injunction against the continuation of the tertiary program after January 28, 1981, on the grounds that plaintiffs had failed to show irreparable injury or that they were likely to succeed on the merits. *Diamond Shamrock Inc.* v. *Edwards*, 510 F. Supp. 1376 (D. Del. 1981).

Under the Cost of Living Council (CLC), a two-tier pricing system for crude oil had been established in August 1973, as part of Phase IV of the Economic Stabilization Program. 6 CFR Part 150, Subpart L, 38 FR 22538 (Aug. 22, 1973). This system was continued under the EPAA. Generally stated, the first sale of crude oil produced from a given property at or below the level of production from the same property in 1972 ("old" or "lower tier" oil) was subject to a wellhead ceiling price. The first sale of imported crude oil, crude oil produced in excess of 1972 production levels from the same property ("new" or "upper tier" oil), and crude oil produced from "stripper" wells was not subject to a ceiling price.

By mid-1974, the price of imported and uncontrolled domestic crude oil had increased dramatically in comparison with the price of price-controlled old oil. The substantial price disparity that existed between price-controlled and uncontrolled crude oils, which was a direct result of the two-tier pricing system, did not have an equal impact upon all refiners, marketers, and consumers. Instead, there existed uneven access to price-controlled old oil, with the access of most major integrated oil companies to old oil being far greater than that of small and independent refiners, as a class. Refiners, including some majors, that were forced to rely more heavily on uncontrolled domestic or imported crude oil incurred higher composite costs for crude oil than those refiners that had relatively greater access to price-controlled old oil. The differences in crude oil acquisition costs translated into significant differentials in the prices that refiners could charge for their refined petroleum products under applicable price regulations. The end result was that marketers and consumers were paying widely varying prices for the same refined product. After the end of the Arab oil embargo and the reemergence of adequate supplies, many of those refiners with higher crude oil acquisition costs because of their lack of access to price-controlled old oil, as well as the marketers to whom they sold, endured a severe cost-price squeeze in order to remain competitive.

In response to the inequities and distortions in the marketplace resulting from the two-tier system of price controls, the Federla Energy Administration (FEA), CLC's successor to petroleum regulatory authority, proposed to allocate price-controlled crude oil through an Entitlements Program. In the Notice of Proposed Rulemaking, FEA noted that "[s]ince many of the small and independent refiners belong to the independent sector fo the industry, the proposal to allocate old oil is viewed as consistent with FEA's obligation under the Allocation Act to preserve the competitive viability of small and independent refiners and the marketers of their products." 39 FR 31650 (August 30, 1974). However, FEA also noted that "[t]he objective of the entitlements program proposed is to achieve the equitable distribution of the low priced old oil among all sectors of the petroleum industry, including independent and small refiners, and therefore to assure that domestically refined petroleum products are sold at equitable prices by all distributors of petroleum products, including branded and non-branded independent marketers, in all regions of the United States." *Id.* The final rule establishing the Entitlements Program was adopted November 29, 1974. 39 FR 42246 (Dec. 4, 1974).

B. Operation of the Entitlements Program

Instead of requiring the transfer among refiners of the actual physical barrels of price-controlled crude oil, the Entitlements Program established a mechanism for money transfers among refiners based on their proportionate access to price-controlled crude oil in comparison to the national average. In general, entitlements were issued to a refiner on the basis of the national average of all refiners' access to price-controlled crude oil, multiplied by the individual refiner's runs to stills for a given month. If the number of entitlements issued to a refiner in a month was less than its adjusted receipts of deemed old oil (as defined in 10 CFR 211.62), the refiner was required to purchase entitlements in order that it share the benefits associated with its greater-than-average access to price-controlled oil. Conversely, if the number of entitlements issued was greater than its adjusted deemed old oil receipts, a refiner was able to sell entitlements to compensate for its less-than-average access to price-controlled oil. 10 CFR 211.67(b)(1) and 211.67(c).

The data used to calculate firms' entitlements obligations under the regulations were based upon refiners' monthly reports of their crude oil receipts and runs to stills.[4] Refiners' reports were required to be filed by the fifth day of the second month after the report month. Refiners' reports were then processed by DOE, resulting in the issuance some 10–20 days later of the monthly Entitlements Notice, specifying refiners' entitlements obligations for the report month.

C. Major Provisions of the Entitlements Program In Effect at Decontrol

During the period of price controls, the Entitlements Program was amended to serve other regulatory objectives in addition to the allocation of price-controlled crude oil among refiners. For example, the scope of the program was expanded to include many non-refiners, including importers of residual fuel, Puerto Rican petrochemical producers, and producers of petroleum substitute fuels.

1. *California Heavy Oil*

Beginning in December 1977, the regulations included provisions to enhance the production and marketability of heavy California crude oil. 42 FR 62897 (Dec. 14, 1977). The regulations provided that the entitlements obligations of refiners purchasing price-controlled crude oil produced in California would be reduced by a specified amount that decreased for each degree that the weighted average gravity of the crude oil exceeded 18 degrees.

2. *Alaska North Slope Crude Oil*

At the time of decontrol, the regulations provided for the treatment of price-controlled Alaska North Slope (ANS) crude oil as a separate category for purposes of the Entitlements Program.[5] Under § 211.67(b)(2)(iii), each barrel of ANS upper tier crude oil was treated as a fractional barrel of deemed old oil. As a result, price-controlled ANS crude oil bore less of an entitlements obligation than other price-controlled tiers in order to take into account the high costs of transporting that oil from the North Slope to domestic refiners.

3. *Crude Oil for the Strategic Petroleum Reserve*

The Entitlements Program contained special provisions with respect to crude oil purchased for the Strategic Petroleum Reserve (SPR) from April 1977 until

[4] The reported data was also used to calculate the price of an entitlement, defined as the difference between refiners' reported weighted average cost per barrel for *all* uncontrolled domestic and imported oils, and their weighted average cost per barrel of old (lower tier) oil.

[5] On July 3, 1980, DOE adopted a final rule imposing entitlement obligations on price-controlled ANS crude oil. 45 FR 46752 (July 10, 1980). Prior to this rule, price-controlled ANS crude oil had been treated as imported crude oil for purposes of the Entitlement Program and thus incurred no entitlements obligation.

decontrol on January 28, 1981. The provisions in effect on January 28, 1981, reflected the requirements of the Energy Security Act to amend the Entitlements Program regulations to allocate lower tier crude oil to the Federal Government for storage in the SPR. *See* 45 FR 56788 (Aug. 25, 1980). Accordingly, the regulations provided for the issuance of entitlements to the United States Government for upper tier and uncontrolled domestic oil and imported crude oil acquired for the SPR, so that the Government in effect would be paying lower tier prices for such oil. Because this program operated with only a one month lag, it was concluded with the issuance of the December 1980 entitlements Notice in February 1981.

4. *The Small Refiner Bias*

The 1974 final rule establishing the Entitlements Program provided for the issuance of a greater number of entitlements to small refiners under 10 CFR 211.67(e) than would be otherwise issuable to those firms under the general rule of 10 CFR 211.67(a). This provision was included in the final rule in order to meet those section 4(b)(1) objectives under the EPAA requiring the special needs of small refiners to be taken into account.

During the life of the Entitlements Program, relief for small refiners from the full brunt of their entitlements obligations was the object of several legislative and regulatory provisions. The last of these was a final rule adopted by DOE effective June 1, 1979 that reduced the level of benefits under the small refiner bias. 44 FR 25621 (May 22, 1979). Under the regulations in effect at decontrol, the per barrel value of the additional bias entitlements issued to small refiners decreased as the level of runs increased.

5. *Residual Fuel Oil Imports*

The imposition of price controls on both domestic crude oil and residual fuel oil assured that in areas where access to domestic residual fuel oil supplies was relatively high, consumers would not be faced with dramatic surges in residual fuel oil prices because of the Arab oil embargo. However, as the result of limited local refining capacity and the expense of transporting fuel over land from other regions of the United States, consumers in the East Coast were heavily reliant on residual fuel processed by Caribbean refiners which, in turn, were generally dependent on foreign crude oil sources. When the Entitlements Program was first implemented, FEA included provisions for the issuance of entitlements with respect to residual fuel imports. *See* 39 FR 42246 (Dec. 4, 1974). Under these provisions, the entitlements benefit accorded residual fuel imported into the East Coast market by a firm other than a domestic refiner was 30 percent of a runs credit.[6] By the time of decontrol this level had been increased to 50 percent of a runs credit and the eligible East Coast market had been expanded to include Michigan.

6. *Naphtha Imported into Puerto Rico*

In adopting the Puerto Rican naphtha entitlements provisions in 1976, FEA sought to alleviate a competitive disadvantage suffered by Puerto Rican petrochemical producers in relation to petrochemical producers located on the United States mainland. *See* 41 FR 30321 (July 23, 1976). The competitive disadvantage resulted from the combined effects of rapidly increasing prices for imported crude oil and naphtha on the world market and the imposition of price controls on the production and refining of domestic crude oil. Because the Puerto Rican petrochemical industry relied on imports of naphtha feedstocks, the feedstock costs of the Puerto Rican firms increased as prices on the world market rose. In contrast, however, the naphtha feedstock costs of mainland petrochemical producers remained lower than those of the Puerto Rican firms due to price controls on domestic crude oil and the operation of the Entitlements Program. To the extent that the cost of naphtha feedstocks imported by Puerto Rican petrochemical producers exceeded the feedstock costs of mainland petrochemical producers, the Puerto Rican petrochemical producers were placed at a disadvantage with respect to the marketing of their products in competition with mainland petrochemical producers.

Under the regulations in effect at the time of decontrol, Puerto Rican firms were eligible to receive an entitlement benefit for each barrel of naphtha imported for use as a petrochemical feedstock.

7. *Petroleum Substitute Entitlements Program*

In order to eliminate any economic disincentive to the production and use of petroleum substitute fuels resulting from the operation of price controls on competing petroleum fuels, DOE adopted a series of amendments to the Entitlements Program. The amendments were designed to allocate a portion of the economic advantage of access to price-controlled domestic crude oil, in the form of entitlements, to users and producers of certain petroleum substitute fuels.

On January 28, 1981, when President Reagan issued his Decontrol Order, the petroleum substitute entitlements provisions (10 CFR 211.67(a)(5)) provided for the automatic inclusion in the Entitlements Program of any shale oil used by refiners and non-refiners; ethyl alcohol derived from biomass for use in gasohol; solid municipal waste and solid derivatives thereof used as fuel; and methane gas derived from municipal sewage or landfills.

Inclusion in the Entitlements Program was also available on a case-by-case basis to liquid fuels derived from domestic sources of coal, biomass, and tar sands, solid fuels derived from non-municipal solid waste and gaseous fuels derived from any domestic solid waste sources.

Following the issuance of Executive Order 12287 by President Reagan on January 28, 1981, DOE issued a final rule that terminated the petroluem substitutes program effective January 28, 1981. 46 FR 36080 (July 13, 1981). The final rule limited the issuance of entitlements for petroleum substitutes to firms that prior to January 28, 1981 had fulfilled all filing requirements under the automatic provisions, or had been designated as an eligible entitlements recipient by an order issued by ERA under the case-by-case procedures.

D. Exception Relief

Pursuant to section 504(a) of the Department of Energy Organization Act (DOEOA), DOE is required to provide for the making of adjustments (including exceptions) to rules issued under the EPAA, "* * * as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens * * *." 42 U.S.C. 7194. *See also* 10 CFR 205.50(a)(1). Over the life of the program, exception relief was granted to relieve financial hardship or gross inequity experienced by firms resulting from the regulations. Following decontrol the Office of Hearings and Appeals (OHA) continued to issue orders relating to exception relief for periods prior to decontrol.

Approximately 50 final orders issued by the OHA requiring participants to purchase or sell entitlements have not been implemented. Several of the OHA orders relate to year-end reviews of exception relief granted to small refiners under the criteria set forth in *Delta Refining Co.*, 2 FEA ¶ 83,275 (1975) and

[6] The "runs credit" for a month is that fraction of an entitlement derived by multiplying that month's National Domestic Crude Oil Supply Ratio (DOSR), as defined at 10 CFR § 211.67, by the price of an entitlement for that month.

Beacon Oil Co., 3 FEA ¶ 83,209 (1976).[7] These supplemental orders may require refiners to refund excessive exception relief granted in the past, or may grant additional relief because of insufficient relief granted in the past. Other orders result in the issuance of entitlements to firms reflecting those that they were unable to sell on earlier notices due to the default of certain Entitlements Program participants in satisfying their entitlements purchase obligations. Some orders have granted firms additional entitlements to sell on a future notice to correct their past reporting errors or mistakes by ERA in previous notices.

In addition to these outstanding orders, there remain a number of unresolved cases involving both year-end *Delta/Beacon* reviews as well as other claims for entitlements relief.

Finally, several decisions rendered by the Federal Energy Regulatory Commission (FERC) upon review of denials of exception relief require additional entitlements to be issued to refiners on any future notices. There are also a number of court orders affecting firms' entitlements obligations that remain in effect pending the conclusion of administrative proceedings on requests for exception relief filed by the firms involved.

III. Issues Relating to the Publication of Further Entitlements Notices

A. The Purposes of the EPAA and Executive Order 12287 Are Best Achieved by Not Publishing the Notices.

1. *DOE Has the Discretion to Issue or Not To Issue Further Entitlements Notices*

a. *Executive Order 12287 Made DOE's Authority To Issue Further Entitlements Notices Discretionary.* Executive Order 12287 authorized the Secretary of Energy to exercise his discretion with respect to publication of further entitlements notices relating to periods prior to decontrol. This conclusion is based upon the manner in which the President exercised the statutory authority granted by the EPAA in the Decontrol Order.

The authority to regulate the allocation and pricing of crude oil and petroleum products originally granted by section 4(a) of EPAA was mandatory. The 1975 amendments to the EPAA continued mandatory controls for 40 months until May 31, 1979, but also provided that after that date "the President's authority to promulgate, make effective, and amend" the regulations would "become discretionary rather than mandatory." Section 18 of the EPAA, 15 U.S.C. 760g, *added by* Section 461 of the Energy Policy and Conservation Act, Pub. L. No. 94–163.

The entitlements regulations promulgated under Section 4(a) provided in mandatory terms that "[t]he DOE shall issue entitlements for each month * * *." 10 CFR 211.67(i)(1). However, as noted above, after May 31, 1979, the President had the discretion to end the Entitlements Program without further notices either by "amend[ing]" the regulations or by declaring that the agency should no longer "make effective" provisions regarding issuance of entitlements notices. *See* Section 18 of EPAA, 15 U.S.C. 760g.

When the President issued Executive Order 12287, he exempted on a prospective basis all petroleum and petroleum products from price and allocation controls. However, the President did not end the Entitlements Program with regard to transactions occurring before the Decontrol Order. Rather, he delegated his discretion to continue (or end) the program as to those transactions to the Secretary and rendered discretionary the Secretary's obligation under the regulations to issue further notices, as follows:

> Sec. 3. The Secretary of Energy *may* * * * adopt such regulations and take such actions *as he deems necessary* to implement this Order, *including the promulgation of entitlements notices for periods* prior to this Order * * * [Emphasis added]

Accordingly, the Secretary "may" (but need not) issue further entitlements notices to the extent "he deems necessary to implement" decontrol.[8]

Promulgation of the Entitlements Adjustments Rule pursuant to section 3 of the Decontrol Order [9] does not affect the Secretary's discretion with respect to publication of the notices. While the Entitlements Adjustment Rule establishes a "mechanism" for calculating entitlements adjustments, prior issuance of the January Notice is an express condition precedent to publication of the Entitlements Adjustments Notice pursuant to the rule adopted.[10] Thus, if DOE utlimately decides not to issue the January Notice, publication of the Entitlements Adjustments Notice would not be required.

b. *The Expiration of Certain Authorities Pursuant to Section 18 of the EPAA Did Not Limit DOE's Discretion.* This authority to publish (or not to publish) further entitlements notices was continued, after expiration of general price control and allocation authority, by section 18 of the EPAA, which provides in relevant part:

> The authority to promulgate and amend any regulation or to issue any order under this Act shall expire at midnight September 30, 1981, but such expiration shall not affect any action or pending proceedings, administrative, civil, or criminal, not finally determined on such date, nor any administrative, civil, or criminal action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such expiration date.

Inasmuch as the notices relate to firms' crude oil purchases for periods prior to decontrol (which, of course, were prior to the EPAA expiration date),

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[7] *See also Lunday-Thagard Oil Co.*, 2 DOE ¶81,009 (1978); *Sabre Refining, Inc.*, 2 DOE ¶81,128 (1978); *Warrior Asphalt Co. of Alabama, Inc.*, 3 DOE ¶82,549 (1979); and *Navajo Refining Co.*, 3 DOE ¶81,141 (1979). *Delta/Beacon* exception relief was granted by means of a two-step process. Initially, relief was granted prospectively in six month increments and implemented on entitlements notices for the period involved on the basis of firms' projected financial data. At the close of each fiscal year, a "year-end review" was conducted based on firms' actual financial data, and adjustments to the level of relief granted were made by OHA in a subsequent order.

[8] We recognize that some past agency statements are inconsistent with the Department's position that issuance of the entitlements notices is discretionary. *See* 47 FR 33435 (Aug. 2, 1982). These statements were made, however, without extensive analysis at the time, because the question of whether the Executive Order rendered the regulation discretionary rather than mandatory was of little consequence. At the time the statements were made, for instance, no factual predicate was known to exist that would have allowed DOE not to publish the notices, thus making the question purely hypothetical.

Moreover, the position that publication of the post-decontrol notices was rendered discretionary by section 3 of the President's Decontrol Order was recognized by the Office of Hearings and Appeals, the quasi-adjudicatory entity within DOE that considered appeals from the issuance after decontrol of the December Notice:

> In addition, Section 3 of of the Executive Order No. 12287 authorized but did not require the Secretary to issue entitlements notices. Thus, it is at least arguable that ERA may have had the discretion to delay issuance of the Entitlements Notice pending investigation of the decline in the DOSR and consideration of possible amendments.

Mobil Oil Corporation, 8 DOE ¶ 80,1153, at 80,1749 (July 8, 1981). OHA did not reach a conclusion on that issue, however, because it determined that publication of the December Notice was proper.

[9] Section 3 of the Decontrol Order authorized promulgation of a "* * * mechanism for entitlements adjustments for periods prior to this Order." Accordingly, DOE adopted the Entitlements Adjustments Rule at 10 CFR 211.69, 46 FR 36092 (July 13, 1981).

[10] Prior issuance of the January Notice is necessary before publication of the Entitlements Adjustments Notice because firms' originally reported January crude oil receipts and runs, which would be affected by amendments and adjustments reported under the rule for that month, would not have been given effect in the absence of a January Notice. *See also*, 10 CFR 211.69(a), and the definitions of "claim," "crude oil runs-to-stills," and "reporting period" in 10 CFR 211.69(c).

publication of the notices was contemplated by the express language of section 18 which preserved:

> any administrative * * * action or proceeding, whether or not pending, based upon any act committed * * * prior to such expiration date.

Moreover, publication (or non-publication) of the entitlements notices pursuant to the discretionary authority in effect on the date of expiration, based on transactions reported by firms for periods prior to the expiration date, is encompassed within the language of the savings clause as a "* * * pending [administrative] proceeding * * * not finally determined on such date."

Some refiners, however, have contended in pending litigation that under section 18 the DOE's discretionary authority to publish further entitlements notices lapsed on September 30, 1981. To support this contention, they cite cases decided by the Temporary Emergency Court of Appeals (TECA) construing prior termination provisions under section 218 of the Economic Stabilization Act (ESA) [11] and former section 4(g)(1) of the EPAA.[12] Those cases interpreted these other similarly worded savings provisions as preserving only pending enforcement proceedings and proceedings based on voilations occurring prior to the termination of those acts.[13] The argument is made that the entitlements notices are not encompassed by the savings clause, because they are not pending enforcement proceedings, and they do not involve enforcement actions based on violations of the regulations prior to the expiration of the status.

This argument is unpersuasive for several reasons. First, the only judicial decision that has specifically addressed the question of whether the authority is retained to publish entitlements notices relating to periods prior to the expiration of the EPAA supports the DOE's position. The decision, which denied a preliminary injunction against publication of an entitlement notice after the EPAA expired temporarily in 1975, construed the terms of former section 4(g)(1) of the EPAA to authorize publication of a notice relating to a prior month after the expiration date, on the basis that the notice related to acts committed prior to the expiration date.[14] That this was the intent of Congress was, in fact, expressly recognized during the floor debates leading to reenactment of section 4(g)(1), where Senator Jackson agreed with Senator Bumpers' statement that the "FEA's authority [would continue] after the act expires to issue entitlements and to order transfers of entitlements under its crude cost equalization program for crude oil that was purchased and refined while the program was in effect." 121 Cong. Rec. S15900 (daily ed. Sept. 11, 1975).

Second, none of the cases construing section 218 of the ESA addressed the implications of either (1) The normal "lagged" operation of the Entitlements Program, or (2) the unique circumstances surrounding DOE's efforts to conclude the Entitlements Program while the EPAA was in effect. The normal operation of the Entitlements Program involved the issuance of a notice establishing firms' entitlements obligations some 45–50 days after the close of the month in which the acts took place that were reflected on the notice. The retention of authority by DOE to deal with the publication of notices based on transactions in periods prior to the expiration of authority under the statute is consistent with the historical operation of the program.

Third, and most importantly, the savings clauses under section 218 of the ESA and former section 4(g)(1) of the EPAA were written more narrowly than is EPAA section 18. After the cited cases construed the former savings provisions, the Congress amended the EPAA by adding the word "administrative" to describe the type of actions and proceedings to be "saved" and thus, as explained above, expressly preserved DOE's authority with respect to administrative actions such as the publication of entitlements notices for prior periods.[15]

DOE's authority with respect to publication of post-decontrol notices, made discretionary by Executive Order 12287 for periods prior to expiration, was not transformed into anything other than discretionary authority to publish (or not publish) by the expiration of the EPAA. Inasmuch as the savings clause preserves DOE's authority to publish the notices after expiration of the EPAA, the Secretary's discretion not to publish notices is preserved as well.[16]

2. Publication Would Frustrate the Purposes of EPAA

DOE has tentatively determined that publication of the January and Entitlements Adjustments Notices would frustrate, rather than further, the purposes of the EPAA. Our analysis indicates that publication of the notices would have financial impacts on the refining industry contrary to the purposes of the program and the statute. In addition, publication of the notices now or in the future would unnecessarily interfere with the marketplace more than two and one-half years after decontrol, based on past transactions whose effects already have been reflected in the unregulated market, without achieving the objectives of the program and Executive Order 12287. Accordingly, DOE proposes to exercise its discretion not to publish the notices.

The analysis set forth in this Notice is the product of our continuing study of the issues raised by publication of the January and Entitlements Adjustments Notices. DOE has previously stated that it would publish the notices in the absence of a determination that publication would be contrary to the purposes of the program and the statute. However, DOE also indicated in the preamble to the draft January and Entitlements Adjustments Notices prepared September 30, 1981 that it was continuing to study the issues, and recognized the responsibility to take appropriate action if publication of the notices "* * * did not * * * best further the purposes of the EPAA." 47 FR 33434, 33435 (Aug. 2, 1982). In the two years since the draft preamble was prepared, we have made an exhaustive analysis of the effects of the notices and concluded that, on balance, non-publication best furthers the regulatory and statutory purposes.

Our analysis has revealed that the January Notice would be an historical anomaly because of the small amount of price-controlled crude oil to be allocated proportionally among refiners. Under the draft January Notice updated through September 1, 1983, only 5.3 million barrels of deemed old oil would

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[11] 12 U.S.C. 1904n., section 218.

[12] section 4(g)(1), Pub. L. No. 93–159, 87 Stat. 627 *repealed effective* February 1, 1976 by Pub. L. No. 94–163.

[13] Section 218 of the ESA was construed by TECA in *United States* v. *California*, 504 F. 2d 750 (TECA 1974), *cert. denied*, 412 U.S. 1015 (1975); *Carpenters 46 County Conference Board* v. *Construction Industry Stabilizations Committee*, 522 F. 2d 637 (TECA 1975); *State Trial Attorneys Ass'n* v. *Flournoy*, 522 F.2d 1406 (TECA 1975). Those precedents were applied by TECA to former section 4(g)(1) of the EPAA in *Pasco, Inc.* v. *FEA*, 525 F.2d 1391 (TECA 1975).

[14] *Marathon Oil Co.* v. *Levi*, No. 75–1571 (D.D.C., filed Sept. 26, 1975). Marathon sought a temporary restraining order on the basis that the FEA lost its power to issue the July 1975 Entitlements Notice in September 1975 as a result of the expiration of the EPAA on August 31, 1975. The district court denied Marathon's mention. Because of the extension of the EPAA, this case was later dismissed without any final decision being rendered on this issue.

[15] Section 18, EPAA, 15 U.S.C. 760g, *added by* section 461 of the Energy Policy and Conservation Act, Pub. L. No. 94–163.

[16] In the exercise of that discretion, to the extent that a decision not to issue further notices would be subject to informal rulemaking requirements, this Notice should be deemed a notice of proposed rulemaking for purposes of compliance with the requirements applicable to DOE rulemakings.

be allocated among refiners on the basis of their proportionate access to price-controlled oil during the month of January 1981.[17] *This is less than 1.4 percent of the oil received by refiners during the first 27 days of January.* The financial impact of allocating this crude oil is equally small—$150 million industry-wide of the approximately $12.3 billion in crude oil costs for the first 27 days of January, or less than 1.2 percent.[18] Because only a relatively small amount of price-controlled crude oil would be allocated among refiners for the purpose of providing proportionate access to price-controlled oil received by refiners in January, the primary purpose of the Entitlements Program, the amount of money that would be transferred for that purpose would be so small that it would have no impact on the competitive viability of the industry or any segment thereof.[19]

Publication of the January Notice would also generally fail to reduce, and in many instances would increase, disparities in refiners' crude oil acquisition costs. This further demonstrates that publication of the notice would not serve the original purposes of the Entitlements Program.

By equalizing access to price-controlled crude oil, the program was intended to have an equalizing effect on firms' average crude oil costs. Thus, the crude oil costs of refiners with below-average access to price-controlled crude oil supplies (and who were disproportionately reliant on high-priced imported or uncontrolled domestic crude oil) were reduced by the operation of the program; and the crude oil costs of refiners with above-average access to price-controlled crude supplies oil (and who were less reliant on high-priced imported or uncontrolled domestic crude oil) were increased. The premise of this aspect of the program's operation was that competitive imbalances among refiners and downstream marketers could be remedied to a sufficient degree by equalizing refiners' access to price-controlled crude oil.[20]

If the availability of price-controlled crude oil to be allocated under the program in January 1981 had a significant impact on firms' crude oil costs and their relative competitive positions, one would expect the operation of the program to have the same equalizing effect on firms' average crude oil costs as it had in the past. However, allocation of the relatively small amount of price-controlled crude oil available in January would fail to reduce the existing differences in refiners' crude oil costs. Set forth below is a table that reflects the average pre and post-entitlements crude oil costs, in relation to the national average per barrel crude oil cost of $33.40, of major, large independent and small refiners that would be the largest buyers or sellers of entitlements in each category under the January Notice.

EFFECT OF THE JANUARY 1981 ENTITLEMENTS NOTICE ON FIRMS' AVERAGE CRUDE OIL COSTS [1]

Firm	Pre-entitlements average cost	Δ from national average ($33.40)	Entitlements position [2]	Post-entitlements average cost	Δ from national average (33.40)
Majors:					
A	35.46	2.06	P	36.30	2.90
B	33.90	.50	S	31.14	(2.26)
C	32.17	(1.23)	S	26.75	(6.65)
D	33.66	.26	S	29.99	(3.41)
E	33.67	.27	P	36.26	2.86
F	31.20	(2.20)	P	34.85	1.45
G	33.88	.48	S	31.35	(2.05)
H	31.74	(1.66)	P	34.57	1.71
Large independents:					
I	32.17	(1.23)	P	35.40	2.00
J	37.21	3.81	P	37.83	4.43
K	36.90	3.49	S	35.14	1.74
L	34.34	.94	P	37.70	4.30
M	29.76	(3.64)	P	33.06	(.34)
N	31.22	(2.18)	S	29.52	(3.88)
Small refiners:					
O	30.61	(2.79)	S	26.57	(6.83)
P	36.68	3.28	S	31.59	(1.81)
Q	33.17	(.23)	S	23.07	(10.33)
R	26.65	(6.75)	P	34.83	1.43
S	42.16	8.76	S	40.34	6.94
T	39.94	6.54	S	31.88	(1.52)
U	33.24	(.16)	S	17.97	(15.43)
V	35.83	2.43	S	31.15	(2.25)
W	36.63	3.23	S	32.03	(1.37)

[1] By presenting the data as set forth in the table, we have attempted to maintain the anonymity of the firms selected. However, even if the pre- and post-entitlements crude oil costs of particular firms for January 1981 can be identified from the data, we do not believe that such data is entitled to be protected as confidential or proprietary information at this late date. The crude cost data is over two and one-half years old, and thus the competitive position of the firms involved is unlikely to be affected by such stale data, reflected as a firm-wide average cost without any further detail.

[2] "P" denotes purchase obligation, increasing crude oil costs; "S" denotes sales obligation, reducing crude oil costs. The dollar amount of firms' entitlements obligations have been deleted.

The data reflect that the disparity in crude oil costs from the national average for thirteen of the refiners, or over half of those listed, would be exacerbated rather than reduced. Eight refiners with nearly average or below-average pre-entitlements crude oil costs would have their crude oil cost further reduced by publication of the notice, so that their post-entitlements crude oil costs would be significantly below the national average. Other refiners with above-average pre-entitlements crude oil costs would have their crude oil costs increased by publication of the notices. Moreover, among the remaining largest buyers and sellers of entitlements under the notice, only *one* would be left with post-entitlements crude costs approximately equal to the national average.

It would appear that firms' relative access to the small volumes of price-controlled crude oil available in January 1981 had little effect on the crude oil cost differentials that did exist.[21] The data indicate that publication of the January Notice would frustrate the purposes of the program by significantly exacerbating, rather than reducing, the differentials that existed. Thus, allocating price-controlled oil for January 1981 through publication of the January Notice would largely fail to achieve the original purposes of the program, both at the refiner level and downstream from the refinery.

The combined impact of the January and Entitlements Adjustments Notices would impose substantial financial burdens on small and independent refiners, contrary to the EPAA objective to preserve their competitive viability. Approximately $80 million would be transferred to the major refiners and non-refiners from small and independent refiners, as a class, by the combined notices. The 164 smallest refiners, as a class, would owe some $28.9 million to major refiners and non-refiners.[22] For the first time in the

[17] Negative adjustments for prior months reported in January exceed 30 million barrels. The Small Refiner Bias and other special entitlements benefits would account for almost 1.5 million barrels.

[18] Even less deemed old oil would have been allocated if earlier drafts of the January Notice had been issued. Under the January Notice that was ready for publication in September 1981, only about 300,000 barrels of deemed old oil would have been allocated among refiners on a proportionate basis, or less than .1 percent of the oil received by refiners in January 1981. Thus, earlier drafts of the January Notice would have produced even more anomalous results.

[19] The month of January 1981 in this regard is unique. In January 1980, in comparison, after subtracting for adjustments and the Small Refiner Bias, approximately 110 million barrels of deemed old oil (or over 23 percent of all crude oil received in that month) was available to be allocated proportionally among refiners. This was equal to $2.59 *billion* in financial impact, or 22 percent of total refiner acquisition costs in January 1980. Even in December 1980, after subtracting for adjustments and the Small Refiner Bias, more than 6 times as much crude oil remained to be allocated proportionally among refiners as in January 1981.

[20] The program was never intended, however, to equalize refiners' crude oil costs exactly. This would have eliminated any incentive for refiners to purchase crude oil at the lowest possible prices.

[21] DOE believes that crude oil cost differentials were primarily a function of the significant price differentials based on quality paid for *uncontrolled* imported and domestic crude oils acquired in January 1981, a differential not intended to be addressed by the Entitlements Program, rather than access to the relatively small volumes of price-controlled crude oil available.

[22] The class of "non-refiners" consists of all other firms on the entitlements notices, including importers and firms receiving petroleum substitutes

Continued

history of the Entitlements Program, major refiners as a class would have been net beneficiaries at the expense of the small and independent refiner sectors.[23]

The impact of publication of the notices on small and independent refiners would be more severe than even indicated by the large sums of money noted above. While sellers outnumber buyers in the Class of small refiners on the combined notices, the average amount owed by small refiner buyers is approximately $1.8 million and exceeds the average amount that would be received by small refiner sellers. Moreover, the average amount owed by those small refiner buyers included in the 164 smallest refiners is almost $1.7 million, while the average amount that would be received by small refiner sellers in the class is less than half that amount, or $0.8 million. The large independent refiners, as a class, would owe $98 million, and independent refiner buyers would owe an average of $18.4 million.

After decontrol, DOE believes the profitability of small and independent refiners generally declined compared to earlier periods; for the first time in many years (and for many small refiners for the first time ever) they were compelled to adjust and to operate in a totally decontrolled market. In this environment, a requirement for many firms that had historically been *sellers* of entitlements to purchase millions of dollars in entitlements—obligations which they may not be in a position to fulfill—could have a devastating impact on large numbers of small or independent refiners, contrary to the original purposes of the program and the EPAA.

In analyzing the impact of the combined notices, it should be noted that the Entitlements Adjustments Notice exacerbated the adverse effect of the January Notice on small and independent refiners.[24] As such, we have tentatively determined that it would fail to achieve the program and statutory objectives that the rule was intended to achieve.

Unlike other entitlements notices, the Entitlements Adjustments Notice by definition was limited to adjustments for prior months and giving effect to administrative and court orders issued after the January Notice.[25] In the preamble to the final rule, DOE asserted that the Entitlements Adjustments Rule was necessary to provide for "an orderly and proper termination of the entitlements program" and to further the EPAA objectives of "preservation of an economically sound and competitive petroleum industry, equitable distribution of crude oil and minimization of economic distortion." 46 FR 36092, 36097 (July 13, 1981). However, at the time that assertion was made, DOE could not have known what the financial impact of Entitlements Adjustments Notice would be on the industry generally or its sectors.[26] After analyzing the impact of the Entitlements Adjustments Rule in combination with the January Notice, as discussed above, it is evident that it would not achieve its original objectives, particularly with respect to the adverse impact it would have on the competitive viability of small and independent refiners.

Because the January and Entitlements Adjustments Notices were not issued, it is possible to observe whether their publication was necessary to achieve the EPAA objectives. Neither the industry as a whole nor any segment of it has suffered demonstrably as a direct consequence of non-publication of the notices,[27] thus indicating that publication was unnecessary to further the objective of the program and the EPAA. The absence of any negative impact from non-publication further evidences the lack of need to transfer sums of money among refiners to minimize economic distortion. To the contrary, it indicates that the transfers of money would have unnecessarily interfered with market mechanisms and actually created distortions, frustrating the EPAA objectives.[28]

In addition to the reasons for non-publication discussed above, there are other reasons why publication today would be inconsistent with the purposes of the EPAA and the Executive Order. The Entitlements Program was intended not only to equalize access to supplies of price-controlled crude oil at the refiner level, but also to minimize competitive imbalances among marketers downstream from the refiner, and to reduce significant disparities in price paid by consumers for refined petroleum products among all regions of the nation. Furtherance of these objectives, however, depended on the entitlements financial transactions offsetting at about the same time the financial benefits of unequal access to price-controlled oil.[29] If, however, there is *no* coincidence in time between the entitlements transactions and the benefits of unequal access to price-controlled oil, none of the EPAA objectives are furthered. This is so because the effects of unequal access years ago have already been fully absorbed by the market. Even if the dollars exchanged by publication of further entitlements notices exactly offset the benefit or detriment of unequal access incurred earlier, this

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entitlements benefits. While this class of 160 firms would be net recipients of approximately $2.5 million on the combined notices, that is so only because of an OHA order granting $5.3 million in entitlements benefits to Consumers Powers relating to the firm's operations in 1976. Otherwise, this class of "other" firms would also be net payors under the combined notices to the class of major refiners

[23] In comparison, in December 1980 the class of major refiners was a net purchaser of approximately $235 million in entitlements.

[24] Under the January Notice standing alone, approximately $17.8 million would be shifted to major refiners from other participants in the program, as compared with approximately $80 million under the combined notices.

[25] In this Notice, DOE proposes to give effect to administrative and court decisions affecting firms' entitlements obligations, notwithstanding the proposed determination not to publish further entitlements notices. *See*, discussion at section III (F), *infra*.

[26] Reports submitted by refiners pursuant to the Entitlements Adjustments Rule were not required to be filed until August 15, 1981, and only after that date was the data processed by DOE.

[27] Of the 46 refiners that have ceased refining operations since decontrol, 15 would actually have had to purchase entitlements totalling approximately $5.2 million. Thirty-one of the refiners would have been able to sell entitlements worth a total of approximately $5 million. None of these latter refiners, however, is on record as claiming that had the entitlements notices been issued they would not have ceased refining operations.

[28] In this regard, firms have registered compliants and filed reqoests for exception relief with DOE from the anticipated publication of the January and Entitlements Adjustments Notices. These firms assert that publication would substantially harm a number of firms, raise some consumer's prices, and generally thwart the purposes of the EPAA.

[29] The Entitlements Program operated on a lagged basis for administrative reasons. However, publication of each monthly notice, while delayed for two months, propsectively furthered the purposes of the EPAA. This was so because entitlements revenues or costs were reflected as adjustments to crude oil costs in the refiner's maximum allowable price *in the following month*. *See* 10 CFR § 211.67(m). That is, entitlements transactions in the subsequent month cancelled the effects of unequal access in the earlier month, and these effects were then reflected in refiners' pricing of refined petroleum products. In this way, although relating to past crude oil receipts and runs, each notice *prospectively* furthered the EPAA's purposes of fostering competition in the petroleum industry, preserving the competitive viability of the small and independent refining sectors, furthering economic efficiency, and minimizing economic distortion, inflexibility, and unnecessary interference with market mechanisms.

To the extent that post-decontrol entitlements notices equitable allocated the benefits of access to price-controlled oil received by refiners in a controlled month on a delayed but generally coincident basis, they continued to further the purposes of the EPAA even after decontrol. *See*, *Diamond Shamrock Corp.* v. *Edwards*, 510 F. Supp. 1376, 1389–1390 (D. Del. 1981). DOE believes that the December 1980 Notice, published in February 1981, indeed furthered these purposes.

would not further the purposes of the EPAA. Rather than minimizing economic distortion, furthering economic efficiency, or equitable distribution of refined petroleum products at equitable prices among all regions of the country and among all users, it would create a new economic distortion that would reduce economic efficiency and tend to distort equitable pricing.

This is particularly true in the present case, because currently the free market achieves an equitable distribution of crude oil and petroleum products at equitable prices throughout the United States. When President Reagan decontrolled crude oil and petroleum products, he established that the policy of the United States was to allow the forces of the marketplace to operate freely in the petroleum industry. Issuance of the January and Entitlements Adjustments Notices now, some two and one-half years later, would interfere with the competitive equilibrium that the market has established, without furthering any of the EPAA objectives, and would be contrary to the purposes of the Executive Order.

Finally, future publication of the notices and enforcement of the resulting entitlements obligations would be complicated by the fact that at least 46 refiners have gone out of business since decontrol. Any payments made to firms no longer in the refining business would not seem to further the EPAA purposes. Moreover, the chances of obtaining the over $5 million owned by refiners that have gone out of business, many of which are in bankruptcy, seem remote at best, and necessarily would involve protracted and expensive litigtion whose costs might even exceed the amounts in question.

In sum, DOE believes that publication of the January and Entitlements Adjustments Notices would not further any of the purposes of the EPAA or of the President's Decontrol Order. Rather, it would directly frustrate several of those purposes by unnecessarily interfering with the market and creating economic distortion. Given the shift in funds from small and independent refiners, as a class, to major refiners, issuing the notices now might also frustrate the EPAA purposes of preserving the competitive viability of independent refiners, small refiners, and the independent marketers that rely upon them. Finally, the imposition of large financial burdens on some refiners and grant of large financial windfalls to other refiners would interfere with the unregulated marketplace, without contributing to the equitable distribution of refined petroleum products at equitable prices.

B. In the Alternative, Publication Would be Arbitrary and Capricious Because It Would be Inconsistent with the EPAA and Executive Order 12287

Even if the Executive Order had not rendered discretionary that which theretofore was mandatory, publication of the notices still would not be required and would, in fact, be prohibited. Assuming for the sake of argument that the entitlements regulations were unaffected by the Executive Order and that the EPAA had not expired, the ordinary method of proceeding would be to amend the regulations to preclude issuance of the final notices because, as discussed *supra*, the notices would produce an arbitrary and capricious result and frustrate the purposes of the EPAA and the Executive Order. *See Geller* v. *FCC*, 610 F.2d 973 (D.C. Cir. 1979) (*per curiam*). *Cf., United Steelworkers of America* v. *Marshall*, 647 F.2d 1189, 1293 (D.C. Cir. 1980).

However, section 18 of the EPAA appears to state that DOE's statutory authority to amend the entitlements regulations lapsed after September 30, 1981, in the absence of a rulemaking initiated prior to that date. If this were so, DOE would seem to be unable to amend the regulations notwithstanding the fact that they no longer served their purpose or furthered the objectives of the EPAA.

But even were DOE precluded from amending its regulations to revoke the entitlements regulations after finding that those regulations frustrated the very statutory purpose they were intended to further, it appears clear for the reasons discussed above that any entitlements notices published thereafter would likely be declared invalid under 5 U.S.C. 706(2)(C), as "* * * in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." We do not believe that the law would require an agency to take an action pursuant to regulations found by the agency no longer to be valid, which the agency would revoke if it had the authority to do so, and the implementation of which would surely be declared unlawful by the courts. In these unique circumstances (and assuming that the Executive Order did not make the entitlements regulations discretionary), where DOE's statutory authority to amend the regulations appears to have expired, if the record in this proceeding supports our tentative determination that publication of the entitlements notices frustrates rather than furthers the EPAA and the Executive Order, DOE's only lawful course of action would be not to publish the notices. It cannot be otherwise, for the law does not sanction, much less require, the commission of unlawful, arbitrary and capricious acts by the government. The absense of express statutory authority to revoke or disregard the entitlements regulations would not change this result. *See In re Neagle*, 135 U.S. 1, 59 (1889); *United States* v. *McDaniel*, 32 U.S. (7 Peters) 1, 15 (1833).

While DOE has tentatively determined that publication of the notices would frustrate the regulatory and statutory purposes intended to be achieved by the program, it may not be necessary for DOE to meet that burden not to publish the notices. Rather, a finding by DOE of the existence of "substantial uncertainty" that publication of the notices would achieve the intended purposes of the program and EPAA may be sufficient to support a determination not to publish. *Motor Vehicle Manufacturers Association of the United States, Inc.* v. *State Farm Mutual Automobile Insurance Co.*, 103 S. Ct. 2856 (1983). "We agree with petitioners that * * * an agency may also revoke a standard on the basis of serious uncertainties if supported by the record and reasonably explained." *Id.* at 2871. We believe that the analysis set forth in this Notice, if supported by the record in this proceeding, demonstrates at the least such "serious uncertainties" as to whether publication of the notices would achieve the purposes of the program and the statute.[30]

C. DOE's Response to Arguments Advanced in Favor of Publication

1. *Reliance by Refiners That Would Have Recieved Entitlements Benefits*

Firms which would be net recipients of money on the notices in the appendix may object to non-publication of the January and Entitlements Adjustments Notices. These firms may indicate that they relied on reimbursement through the January Notice when they made crude oil purchasing decisions during the first 27 days of January. They may also claim that they relied on reimbursement on the Entitlements Adjustments Notice in making payments for recertifications after decontrol.

DOE has tentatively determined, however, that firms could not have justifiably relied on the publication of the January and Entitlements Adjustments Notices for several

[30] To the extent such a determination would be subject to procedural rulemaking requirements, this Notice should be deemed a notice of proposed rulemaking. *See*, n. 16, *supra*

reasons. First, with respect to the January Notice, DOE believes it is clear that the President *could* have ended the Entitlements Program on January 28, 1981, so that DOE would not have had authority to issue further notices. Instead, he authorized the Secretary to exercise his discretion with respect to the publication of further entitlements notices. Thus, firms could not reasonably rely upon those notices being published, because all crude oil purchases that would be reflected on those notices should have already occurred by the date of decontrol, i.e., refiners' crude oil receipts and runs-to-stills for the month of December and the first 27 days of January would have been fixed by the date of decontrol.[31]

Second, with respect to the Entitlements Adjustments Notice, the final Entitlements Adjustments Rule was not promulgated until July 13, 1981. Thus, not until this date could anyone have relied in a legal sense on the existence of that rule, much less on publication of an Entitlements Adjustments Notice. Virtually all obligations for crude oil recertified as uncontrolled were incurred by refiners before these dates. To the extent refiners made payments before its adoption, they could not have legally relied on the rule.

Third, firms never could have justifiably relied on receiving any sum of money under a January Notice, much less any particular sum of money, even if the Decontrol Order had never been issued. Until publication of the notice, a firm could not have known the number and value of entitlements that would be issued to it, and thus a firm could not have known it would receive a specific sum of money under the Entitlements Program. Of course, judging from past months, firms would project the number and value of entitlements they anticipated receiving and, if the present reflected past trends, the projections could be quite close. January 1981, however, as indicated above, was an historical anomaly. Thus, firms' projections of their January entitlements position based on past experience were probably inaccurate because the deemed old oil available for allocation was less than anyone was likely to have projected.

Indeed the amount of deemed old oil available in January was almost so small as to result in a negative National Domestic Crude Oil Supply Ratio (DOSR). Had this occurred, DOE would have been unable to publish the January Notice under the regulations. The industry was well aware of this possibility. *See*, 46 FR 8646 (Jan. 27, 1981); 46 FR 15112 (March 2, 1981). In fact, if the negative adjustments filed for the Entitlements Adjustments Notice that relate to crude oil received in January were subtracted from the January Notice, the DOSR for January *would* be a *negative* number. In short, refiners could never have relied on receiving any money from a January Notice because they could not rely on the DOSR remaining positive, and they certainly could not have relied on receiving any particular sum of money because sums to be received (or owed) by refiners depended on variables that could not be known until after the month of January.

Even if firms projected, accurately or *not*, the amount of money they expected to receive under a January Notice for internal purposes, that would not necessarily establish that they legally relied on publication. In the first place, as noted above, DOE does not believe that reliance would have been justified given the circumstances at the time. Furthermore, given the high probability those projections were inaccurate, there is no evidence that refiners would have acted differently based on their expectations under the notice.

Fourth, DOE has reviewed the annual reports for refiners filed with the Securities and Exchange Commission to determine whether firms have indicated any reliance, or even any expectation, of receipt of additional funds from the Entitlements Program. Only a small number of firms, which have pending exception cases before OHA or appeals to FERC therefrom, indicated any possibility, much less any expectation or reliance, that they might receive additional funds from the Entitlements Program. Most firms that addressed the Entitlements Program at all, including firms that might receive funds under the January and Entitlements Adjustments Notices, indicated the belief that the program ended on January 28, 1981. DOE believes the failure of firms to indicate expectation or reliance on receipt of entitlements funds, at least where the sums are not *de minimis*, is strong evidence of the absence of any reliance in fact, much less a justifiable reliance as a matter of law.

Fifth, the argument that refiners made payments for recertifications after decontrol in reliance on reimbursement through the Entitlements Program is flawed.[32] There is no basis in the regulations to assume that a refiner's duty to make payments for recertifications rests in any way upon the ability of the refiner to report such recertifications to the Entitlements Program, or even upon the existence of the Entitlements Program. Nothing in the DOE regulations ever required a purchaser of crude oil to pay more to the seller upon a lawful recertification. As a matter of practice, most firms had contracts that required the purchaser to pay the highest lawful price. Thus, for example, if a refiner received a lawful and timely recertification from a seller changing the category of oil from controlled to uncontrolled, the obligation of the refiner to pay more money to the seller arose from the contract between them, not from the DOE regulations, and certainly not from anything in the Entitlements Program. The fact that the program provided a mechanism for adjustments based on recertifications certainly benefited refiners who received such recertifications, but any obligation the refiner may have incurred to pay the highest lawful price to the firm that sold it the crude oil did not derive from the existence of such mechanism.

2. Refiners Would Not Be Inequitably Burdened by the Failure To Account for Recertifications Reported for the January and Entitlements Adjustments Notices

A decision not to publish further entitlements notices necessarily means that negative adjustments reflecting recertifications of price-controlled oil to uncontrolled status reported for the January and Entitlements Adjustments Notices will not be accounted for by the Entitlements Program. Refiners that reported such negative adjustments to their price-controlled crude oil receipts would realize entitlements benefits if the notices were published. These refiners assert that if the notices are not published, they will suffer an inequitable burden to the extent they are not compensated by the Entitlements Program for such upward recertifications.

DOE has tentatively determined that non-publication of the notices will not impose an inequitable burden on refiners by failing to account for such recertifications. The bases for this determination are that: (1) Such recertifications are largely concentrated

[31] DOE believes that some refiners unlawfully included in their January entitlements-report adjustments received after January, rather than waiting for a possible Entitlements Adjustments Notice. They could not have legally relied on publication of the January Notice to reimburse them for having made payments for recertifications received after January.

[32] It might be noted here, as explained in more detail *infra*, that it appears that many refiners filed adjustments based upon the receipt of recertifications in circumstances not authorized by the regulations.

in intergrated refiners, whose producing entities realized as additional revenues the increased costs borne by their refining entities when the crude oil was recertified; and (2) there is no indication that small and independent refiners received more than their proportionate share of recertifications.

The argument that the notices should be published to account for recertifications relates primarily to the large volumes of crude oil that were apparently recertified under the Tertiary Incentive Program and reported as negative adjustments for the January and Enitlements Adjustments Notices. Accordingly, an understanding of the relationship of the incentive program to the Entitlements Program is important.

The incentive program was conceived entirely as a production incentive and operated only with respect to the producer level (that is, first sales of crude oil) by permitting producers to convert controlled oil into uncontrolled incentive oil. Fulfillment of the incentive program's purposes was not dependent on the operation of the Entitlements Program. However, as was the case with all production incentives (for example, newly discovered crude oil or heavy crude oil) that permitted producers to sell otherwise controlled oil as uncontrolled oil, the incentive program did affect the Entitlements Program indirectly by reducing the total amount of crude oil production subject to price controls each month. Since the Entitlements Program was designed to distribute the benefits of access to price-controlled oil (and in effect, to lower crude oil acquisition costs) among refiners, any reduction in the amount of controlled oil had the effect of reducing the total benefits distributed under the Entitlements Program.

Because of this indirect effect of the incentive program on the Entitlements Program, publication of the notices was delayed pending the outcome of litigation challenging the validity of Ruling 1981–1. If the Ruling had been declared invalid, large amounts of uncontrolled tertiary incentive oil (re)certified by producers and reported by refiners to the Entitlements Program would have been converted back into controlled oil, and refiners' entitlements reports would have been inaccurate to that extent.

The decisions by TECA in the *Union* case that Ruling 1981–1 was valid, however, does not mean that the publication of the January and Entitlements Adjustments Notices is required. At the same time that the court upheld the validity of the incentive program with respect to in-house expenses and post-decontrol (re)certifications, it found that the operation of the incentive program did not impose burdens on refiners. Any burden on refiners in the form of higher prices for uncontrolled incentive oil was the result of market forces and not the incentive program. Thus, the *Union* case should be viewed as rejecting any notion that the equalization of crude oil costs among refiners is an intergral part of the incentive program.

DOE believes that it is most likely that (re)certifications on the basis of the incentive program were concentrated in major intergrated refiners whose producting entities participated in the incentive program as a qualified producer.[33] As the producing entities incurred and paid these allowed expenses, they recovered them by (re)certifying controlled oil as incentive oil. Since in most instances a producing entity of an integrated oil company sells its production to an affiliated refining entity, it is reasonable to assume that these (re)certifications are reflected to a large extent in the data reported by integrated refiners for the January and Entitlements Adjustments Notices. The (re)certifications reported by integrated refiners would reduce their entitlements purchase obligations or even, in some cases, turn a traditional entitlements purchaser into an entitlements seller for the January 1981 and Entitlements Adjustments Notices.

A decision not to publish further entitlements notices would not be inequitable with respect to these integrated refiners. This conclusion is reached by analyzing the effects of the Tertiary Incentive and Entitlements Programs on the producing and refining entities of these firms, respectively. While the refining entity of a firm whose producing entity had large tertiary incentive expenses may be disadvantaged by the failure to publish further notices, that disadvantage is equal to the advantage realized by the producing entity under the Tertiary Incentive Program. By participating in the incentive program, the producing entity was able to decontrol and thereby receive higher prices for its crude oil sold to the refining entity. The inability by the refining entity to pass those higher prices along to other refiners under the Entitlements Program is the disadvantage suffered by the refining entity.[34] However, as a whole, the firm is neither disadvantaged nor advantaged from the perspective of the Mandatory Petroleum Price and Allocation regulations by the continuation of the incentive program and the non-publication of further notices. Rather, viewed on a firm-wide basis, these integrated refiners have merely accelerated the expenses that they would have otherwise incurred with respect to their tertiary projects, and these projects will likely result in increased future production for them.

It has been suggested, however, that such firms may have incurred additional Windfall Profits Tax liabilities because of these transactions and that the issuance of the final entitlements notices would permit integrated refiners to recoup some of those Windfall Profits Tax payments from other refiners through the entitlements program. But, DOE does not believe that it would be appropriate to issue the final entitlements notices for this purpose, especially in the fact of DOE's conclusion that issuance of the final entitlements notices would frustrate the purposes of the EPAA.

DOE is not aware of any evidence that the indirect effects of the incentive program have not been spread among all refiners, except for those integrated refiners which have benefited directly from the incentive program. Some small and independent refiners, however, have argued for the issuance of the January 1981 and Entitlements Adjustments Notices primarily on the basis of these indirect effects, but not necessarily on the basis of the inequitable distribution of these effects.[35]

TOSCO, for example, states that, with respect to the November and December 1980 Notices, it reported a large volume of controlled oil that subsequently was recertified to it as incentive oil. TOSCO has calculated that reporting the oil as controlled oil resulted in TOSCO's entitlements sales being several million dollars less with respect to the November and December Notices than they would have been if the oil had been

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[33] During the period following decontrol the producing entities of thirteen integrated refiners reported $84.4 million of allowed expenses, which is 82% of the total allowed expenses reported by all qualified producers in that period.

[34] In the previous section, we determined that refiners could not have reasonably relied on the publication of further entitlements notices. This disposes of the argument that the publication of the notices is warranted because the producing entities of integrated firms made investments in tertiary projects with the expectation that the refining entities of the firms would be reimbursed by the Entitlements Program, because they could not have legally relied on publication of further entitlements notices.

[35] The argument that the entitlements notices should be published to account for tertiary incentive recertifications suffers from the fact that the Entitlements Program was intended only to distribute the price-controlled oil available in a given month among all refiners on a roughly equitable basis and not to shield refiners from the effects of the free market.

reported as decontrolled. TOSCO alleges that, assuming it pays the market price for the recertified volumes, and further entitlements notices are not published, it will experience a double "cost" for these volumes (that is, it will have paid the market price after previously incurring entitlements obligations on the November and December Notices).[36]

However, only a refiner that received more than its proportionate share of recertifications would have reason to complain that they were not accounted for by the Entitlements Program. TOSCO's argument ignores that it was not alone in receiving such certifications. Except to the extent the recertifications received by TOSCO were greater than its proportionate share of all recertifications, the commensurate reduction in entitlements benefits to be distributed under the program, resulting from the reduction in deemed old oil, cancels the advantage to be gained by an individual refiner from substituting decontrolled oil for controlled oil. Indeed, any firm with less than its proportionate share of recertifications would suffer a detriment by accounting for all tertiary recertifications.[37]

DOE is not aware of any evidence demonstrating that small and independent refiners received more than their proportionate share of recertifications, and therefore publication of the notices is not warranted to account for recertifications. In the event some small and independent refiners were able to demonstrate that they received more than their proportionate share of recertifications, one option would be to permit them to seek exception relief on the basis of recertifications that were not accounted for by the program. While our preliminary view is that such exception relief is unnecessary, DOE solicits comments on utilization of the OHA exceptions process for this purpose, and the sources of funds to satisfy any ensuing grants of exception relief.

D. The Unreliability of Reported Data

Publication of the January and Entitlements Adjustments Notices would require large transfers of money based upon reports filed by refiners. To the extent that those reports do not contain accurate data, the notices would not equitably allocate price—controlled oil, and transfers of monies pursuant to the notices would be inappropriate. DOE believes that the data reported by refiners for purposes of the two notices is unreliable, for two principal reasons. First, it has come to DOE's attention that some crude oil that was reported to the Entitlements Program as uncontrolled was reclassified as price—controlled oil by producers and resellers after the cut-off dates for recertifications and filing or reports with DOE. Second, DOE has determined that reports some refiners filed were incorrect even at the time they were filed, and suggest that data problems may be more widespread than the errors identified to date.

a. *Change in Facts.* DOE has been informed by some refiners that some producers or resellers have re-recertified crude oil after August 1, 1981, the date on which the certification regulations were revoked. The effect of these re-recertifications, DOE has been told, has been to reclassify tertiary incentive uncontrolled oil as controlled oil. Because those refiners receiving such re-recertifications filed their Forms ERA–49 reflecting the oil as uncontrolled, those reports would be invalid, and those refiners would receive entitlements benefits that were not appropriate. Inasmuch as it would not be in the financial interests of refiners to inform DOE voluntarily of the receipt of such re-recertifications, DOE is concerned that the problem may be more widespread than the episodic reports that DOE has received. Nevertheless, DOE is not able to determine the magnitude of the problem and requests information from persons on this issue.

2. *Incorrect Reports*

Shortly after the receipt of reports for the Entitlements Adjustments Notice, DOE ran a computer check of the reports to compare the volume of price-controlled oil that a firm reported as being adjusted with the volume of that price-controlled crude oil originally reported as being received in the subject month. The computer identified 21 refiners as claiming more barrels of a type of price-controlled oil being adjusted for a given month than the firm originally reported as having received in that month. Because this did not appear possible under the regulations, and because DOE could not immediately determine what the correct numbers should be, DOE calculated the Entitlements Adjustments Notice by disallowing for each of those firms the volume adjusted that was in excess of the volume reported as being received in the report month. *See* footnote 2 to Entitlements Adjustments Notice, 47 FR 33434, 33463 (Aug. 2, 1982). Subsequently, DOE sent letters to the firms requesting explanations.

Seven general categories of reporting errors have been identified from reviewing firms' entitlements reports and their responses to DOE's requests for additional information. The nature of each type of reporting error and its implications with respect to the reliability of the data is discussed below:

1. It appears that some firms did not, in fact, identify the month in which the crude oil being adjusted was first reported as a crude oil receipt to the Entitlements Program. Rather, they merely assigned the adjustment to a particular month in the reporting period. As a result, the adjustments reported under the Entitlements Adjustments Rule may relate to price-controlled crude oil receipts originally reported in months *prior* to the four month reporting period, which is not permitted.

2. Some firms indicated that they normally "rolled-in" corrections for reporting errors in prior months to their unadjusted crude oil receipts on their next regular monthly entitlements report. The correct practice would have been to file amended reports for the month in error. Other firms normally "rolled-in" invoice adjustments to their unadjusted crude oil receipts. This is contrary to the entitlements report form, which instructs firms to report adjustments separately. Both of these reporting errors on the regular monthly reports could have the effect of decreasing firms' unadjusted crude oil receipts in the months of the reporting period below the actual number of crude oil receipts booked into inventory in a given month. The firms claim that the negative adjustments on their Entitlements Adjustments reports in fact apply to crude oil receipts booked into inventory in a given month, notwithstanding the fact that subtracting their negative adjustments reported under section 211.69 from unadjusted crude oil receipts yielded a negative number. However, because these firms incorrectly reported amendments and adjustments in their regular monthly entitlements reports by "rolling" them in with unadjusted crude oil receipts, DOE has been unable to verify their claims that their negative adjustments reported under section 211.69 apply to crude oil receipts booked into inventory during the reporting period (and do not apply to

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[36] DOE believes that it is probable that the concentration of the incentive program in integrated refiners would suggest that these refiners have greater than proportionate shares of recertifications from their own affiliated production. This is to a large extent responsible for the drastic shifts from refiners' historic entitlement positions that would occur on the January 1981 and Entitlements Adjustments Notices.

[37] Motion for Injunctive Relief, filed March 12, 1982 (No. 9–64), *Union Oil Co* v. *DOE*, 688 F.2d 797 (TECA 1982).

crude oil received prior to the reporting period).

3. Some firms reported negative unadjusted price-controlled crude oil receipts on the regular monthly reports, and also reported negative adjustments under the Entitlements Adjustments Rule to these already negative volumes. As yet, DOE has not had a suitable explanation from any firm as to how it could under the regulations have had negative unadjusted receipts of crude oil in the month in question.

4. Several refiners claimed negative adjustments to their old oil receipts in order to offset losses incurred with respect to their crude oil resales activities. In these instances, the refiners' suppliers recertified crude oil from price-controlled to uncontrolled after the refiner had already resold the crude oil subject to the original price-controlled certifications. For one reason or another, however, the refiner was unable to pass on this increased cost to its purchaser. Thus, these refiners may have paid to their suppliers the higher uncontrolled prices for the recertified crude oil, but were unable to collect more than the lower tier price from their customers. Several of these refiners reported these barrels as adjustments so that they could be compensated by the Entitlements Program for the difference between the recertified uncontrolled prices the refiners eventually paid and the controlled prices that were paid to them by their customers.

The adjustments to entitlements obligations claimed by these refiners are not authorized. In effect, these refiners are attempting to be compensated by the Entitlements Program for losses incurred with respect to their crude oil resale activities. The entitlements Program, however, was never intended to reimburse refiners with respect to losses incurred as a result of their cruded oil resales activities.

5. Several firms apparently accepted recertifications after the period specified in former § 212.131, and some even apparently accepted recertifications after August 1, 1981 when § 212.131 was rescinded. These firms then reported these recertifications as adjustments to the Entitlements Program on their Entitlement Adjustments reports. These recertifications, however, because they were out-of-time, were not lawful recertifications and refiners could not have been under any obligation to pay the "recertified" price. If particular refiners chose to accept these recertifications or to pay the recertified price, it was not appropriate to report the recertification as an adjustment, because that would have the effect of requiring other refiners to subsidize the particular refiner's decision to pay a price higher than could lawfully be required.

6. Some firms reported negative adjustments based on recertifications they received for crude oil, even though they had previously sold that crude oil out of refinery inventory and deducted it from unadjusted crude oil receipts, as permitted by the regulations. *See* definition of "crude oil receipts" at 10 CFR 211.62. By claiming negative adjustments based on recertifications, without determinig whether the recertification applied to crude oil that had been resold and previously deducted from unadjusted receipts, these refiners in effect "double-counted" negative adjustments.

7. Some firms made clerical errors. Among the clerical errors found have been: (1) Failing to include a minus sign in front of the number of barrels being adjusted to reflect a negative adjustment, (2) counting barrels for adjustments that had already been adjusted in earlier reports, and (3) misplacing decimal points with the effect of increasing adjustments a hundred-fold.

In the informational Entitlements Adjustments Notice included as an Appendix to this notice, DOE has made corrections to the numbers reported by the 21 firms to the extent that DOE has been able to do so. For many of the firms, however, there still are outstanding questions. These firms are indicated by a footnote. Rather than deduct a number of barrels from these firms' reports as was done in the draft Entitlements Adjustments Notice published on August 2, 1982, 47 FR 33434, DOE is reflecting their total current claims until such time as DOE would be in a position to establish the unlawfulness or error of the report [38]

The above described reporting problems were found in small, medium, and large refiners, indicating they are not peculiar to any particular type or size of firm, or particular accounting procedure. Moreover, while with respect to these particular firms the methodology of the computer check selected them out for further investigation, there is no reason to believe that similar reporting errors are not also present in many, if not most, of the approximately 150 other refiners whose reports DOE has not investigated. Moreover, DOE has not even been able to explain all of the problems with respect to all of the 21 firms. It would appear totally impracticable to conduct similar reviews of large numbers of other refiners, even though their dollar impacts on the entitlements Adjustments Notice may be much larger than the 21 firms.

DOE requests comments and suggestions from interested parties as to the course of action that DOE should follow in light of the above reporting problems.

E. Non-publication Is Not Justified by the Alleged "Disappearance" of Price-Controlled Crude Oil

1. *Mobil's Claims*

In pending litigation, the Mobile Oil Corporation (Mobil) has asserted that the issuance of the final entitlements notices would be unlawful unless those notices take into account all price-controlled crude oil produced and sold between November 1, 1974 and January 28, 1981 that did not incur entitlements obligations. *Mobile Oil Corporation v. Department of Energy*, C.A. No. 81-CV-340 (N.D.N.Y.). The price-controlled crude oil that Mobil claims should have incurred entitlements obligations during the life of the entitlements Program has been referred to as "disappearing old oil," although it is not limited solely to the "disappearance" of *old* oil from the Entitlements Program, but rather relates to all tiers of price-controlled crude oil. To the extent that price-controlled crude oil has allegedly "disappeared" from the Entitlements Program, Mobil claims that it and similarly situated refiners have been denied entitlements benefits they would have otherwise realized if the price-controlled crude oil had been reported to the Program.

Mobil alleges that resellers and some refiners accumulated price-controlled crude oil that was never reported to the Entitlements Program. Mobil's claims relate to the entire period between November 1974 and January 1981, and to the use of time exchanges and other inventory practices that permitted price-controlled crude oil lawfully to be held outside of the Entitlements Program. Chief among these practices cited by Mobil was the use by some refiners of a method of accounting that deferred the reporting of price-controlled crude oil to the Entitlements Program until it was received at the refinery gate (the so-called "refinery gate" method of reporting).[39] When decontrol occurred,

[38] This should not be interpreted that DOE would allow firms' total claimed negative adjustments in those instances where negative adjustments exceed unadjusted receipts originally reported, if DOE were to decide to issue the notices.

[39] The regulations governing the entitlements Program did not impose a single industry-wide requirement relating to when a "crude oil receipt" was to be reported to the entitlements Program. *See* definition of "crude oil receipt" at 10 CFDR 211.62. In response to comments from the refining industry

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refiners that owned price-controlled crude oil which had not incurred entitlements obligations would have had a financial benefit not available to their competitors whose only price-controlled oil had incurred entitlements obligations.[40]

Mobil asserts that it and other refiners were unable to realize such a benefit at decontrol because they utilized an accounting method that reported price-controlled crude oil to the Entitlements Program at the point of acquisition (the so-called "acquisition" method of reporting). As a result, all volumes of price-controlled crude oil acquired by these acquisition method refiners during the operation of the Entitlements Program incurred an entitlements obligation.

Mobil further asserts that the volume of price-controlled crude oil sheltered from entitlements obligations, resulting from practices such as refinery gate refiners adding to their out-of-refinery inventory, increased dramatically during the last months of the program in anticipation of decontrol. According to Mobil, to end the Entitlements Program without imposing entitlements obligations on the price-controlled crude oil held by resellers and refiners outside the Entitlements Program would be inequitable to Mobil and similarly situated refiners. Under Mobil's theory, it would be necessary to impose entitlements obligations on all price-controlled crude oil produced and sold since November 1, 1974 to refiners and resellers and to account for all such oil that has not yet incurred an emtitlements obligation for whatever reason.

The premise of Mobil's claim is that a comparison of DOE Domestic Crude Oil First Purchase Report (First Purchaser) data with DOE Domestic Crude Oil Entitlements Program (Entitlements) data indicates that fewer barrels of price-controlled crude oil were reported by refiners to the Entitlements Program than were reported by first purchasers to the First Purchaser Program. This difference in the volumes of price-controlled crude oil reported to the First Purchaser and Entitlements Program [41] represent the amount of price-controlled crude oil that has been characterized as having "disappeared" between the lease and the refinery.[42]

By taking the difference between the volume of deemed old oil reported to the First Purchase Program and the volume of deemed old oil receipts reported to the Entitlements Program in each month from Janaury 1979 through December 1980, Mobil calculated that 249 million barrels of deemed old oil have been withheld from the Entitlements Program.[43] Mobil estimates that this volume represents $5.6 billion worth of entitlements obligations evaded, derived from the sum of each monthly difference multiplied by the entitlements price for that month.

2. DOE's Position

DOE does not dispute that, if one subtracts the volumes of price-controlled oil reported to the Entitlements Program from the volumes of price-controlled oil reported to the First Purchase system over the period January 1979 through December 1980, the numbers derived are those cited by Mobil. What DOE has consistently maintained is that these numbers bear no relation whatever to volumes of price-controlled oil that were in out-of-refinery inventory or on time exchanges at the time of decontrol. That is, these numbers bear no relation to possible advantages gained by some refiners at the expense of Mobil or similarly situated refiners. Moreover, DOE believes that Mobil's claims are without merit as an analytical matter insofar as they bear on the decision whether or not to publish the final entitlements notices.

There are three principal reasons why DOE disagrees with Mobil that a comparison of First Purchaser data with Entitlements data accurately measures crude oil that has allegedly "disappeared," because it was not reported to the Entitlements Program. The first reason concerns the fact that the two data systems were fundamentally different, conceived and designed to measure different events in order to achieve different regulatory objectives. The data for each system was reported to different DOE program offices that utilized different methods for processing the data. In addition, definitional differences between the two data systems and non-refining uses of domestic crude oil (sales for which would have been reflected in First Purchaser data, but not reported to the Entitlements Program) account for some portion of the disparities in the numbers between the two systems. These differences in the data systems have been described extensively elsewhere and will not be discussed in detail here.[44] The other two reasons, which

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when the program was proposed, the FEA provided generally that refiners could use whatever system they chose *so long as* it was a generally accepted accounting system historically and consistently applied by the refiner. 39 FR 31650 (Aug. 30, 1974). Consequently, some refiners chose to report crude oil receipts only when they were actually received at the refinery (i.e., "refinery gate" method), others choose to report oil as receipts as soon as it was purchased, still others have systems that report some oil at one point and other oil at another point (e.g., reporting domestic crude oil at one point but imported oil at another point). By allowing refiners this flexibility to choose among those generally accepted and consistently and historically applied accounting systems used by the refiner, the FEA furthered the EPAA objective of minimizing unnecessary interference in the marketplace and minimizing regulatory inflexibility.

[40] The difference between controlled prices and market level prices with respect to price-controlled crude oil held by *resellers* on the date of decontrol would have been realized by those resellers, and would not have resulted in an unfair advantage at the refiner level. Whether price-controlled crude oil held by resellers on the date of decontrol should be taken into account to increase the entitlements benefits distributed to all refiners is discussed *infra*.

[41] The Entitlements Program became effective in November 1974, and refiners commenced filing entitlements reports in January 1975. *See* 39 FR 42246 (Dec. 4, 1974). The First Purchaser reporting system was not established until February 1976. Thus, there is no First Purchase data for purposes of comparison with Entitlements data for the period November 1974–January 1976.

[42] While the term "disappearing old oil" is a misnomer, it has been generally adopted as the shorthand method of referring to the differences in volumes of price-controlled crude oil reported on Form ERA–182 (the First Purchaser data system) and the Form ERA–49 (the Entitlements Program data system). It will be so used herein.

[43] "Deemed old oil" refers to barrels of old oil, on a barrel-for-barrel basis, plus fractional old oil barrels representing upper tier and ANS upper tier crude oil, calculated by taking the ratio of refiners' reported weighted average cost of uncontrolled crude oil less the reported weighted average of the respective price-controlled tier, divided by the entitlements price for the month. *See* 10 CFR 211.67(b)(2).

[44] *See* June 12, 1981 Comments on Behalf of ERA, filed in *Mobil Oil Corporation*, Case No. BEA–0830 before the Office of Hearings and Appeals of Department of Energy; briefs and responses to interrogatories filed on behalf of the DOE in *Mobil Oil Corporation* v. *Department of Energy*, C.A. No. 81–CV–340 (N.D.N.Y.). DOE's filings in those proceedings discussed the backgrounds and purposes of the two data systems, and identified causes for the differences in the data reported to the two systems. Those causes include: (1) The lack of any explicit requirement prior to September 1979 (or that was enforced by the First Purchaser Program Office thereafter) for respondents to the First Purchaser System to file revised reports to correct for respondent reporting errors; (2) the fact that the First Purchaser Program Office has never processed revised First Purchase Reports received more than 90 days after the report month, or revised *its* program data for a report month following the issuance of its "final" report 90 days after the report month; (3) in contrast, under the Entitlements Program, the fact that refiners were required to revise their reported price-controlled crude oil receipts for a previous month, by either making adjustments to receipts on the report for the current month or amending the report for the month in error, and there was no time limitation on the submission of such adjustments or amendments; (4) revisions to a refiner's price-controlled crude oil receipts, which could relate back as far as the beginning of the Entitlements Program, were processed and incorporated into the data by the Entitlements Program Office on a continuing basis; and (5) the fact that domestic crude oil sold for non-refining uses (e.g., crude oil purchased by utilities, refinery fuel use and losses, crude oil purchased by pipelines, facilities located near gas processing plants that processed lease condensate, shipping companies purchasing crude oil to be burned

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account for enormous volumes of price-controlled crude oil that were reported to the First Purchaser Program but thereafter not reported to the Entitlements Program, are dealt with at greater length, as follows.

(a) *The Unreliability of First Purchaser Data Because of Unreported or Unprocessed Revisions.* The published First Purchaser data are unreliable as a point of reference to fix the volume of price-controlled crude oil that should have been reported to the Entitlements Program because of (1) the failure to some firms to revise their First Purchaser reports to reflect corrections or adjustments, and (2) if revisions were filed more than 90 days after the report month, they are not processed by DOE. In order to determine the extent of the failure of respondents to the First Purchaser Program to file revised reports reflecting, *e.g.*, corrections and recertifications, and the number of barrels of crude oil involved, it would be necessary to audit all of the monthly reports of the approximately 325 First Purchaser respondents against the certifications and recertifications they received from producers, a monumental audit task. The First Purchaser Program has never been audited, given the unique and limited purpose for which it was established—to monitor compliance with the maximum composite price requirements established by EPCA through May, 1979 (after which the requirement became discretionary). Little purpose would be served by auditing First Purchaser data now, because it serves no regulatory purpose and was never designed to be a precise measure of the volume of price-controlled oil sold by producers.

First purchasers lacked motivation to correct errors in their First Purchaser Reports primarily because their failure to do so has no direct programmatic financial impact upon them.[45] On the other hand, it is reasonable to assume that all corrections and recertifications that would have the effect of reducing a refiner's reported volume of price-controlled crude oil *were* reported as either amendments or adjustments to the Entitlements Program. Given the financial impact of reporting a barrel of price-controlled crude oil to the Entitlements Program, refiners obviously had a much greater economic incentive to correct overstated volumes of price-controlled crude oil receipts than did First Purchaser respondents, because if they did not, it cost them money. When a barrel of price-controlled crude oil was recertified to a market-level price, the refiner had to pay the seller the additional money. If the refiner has already incurred an entitlement obligation for that barrel, it would want to recover the cost of that obligation form the Entitlements Program. Reductions in price-controlled crude oil receipts reports by refiners to the Entitlements Program as a result of adjustments and amendments that were not also reflected by revisions to reported First Purchaser data would contribute to the apparent "disappearance" of price-controlled crude oil.

Given the fact that the First Purchaser data system has never been audited to determine its accuracy or validity, it is impossible to quantify the volumes of price-controlled crude oil that have seemingly "disappeared" as a result of inaccurate First Purchaser data that were never revised by respondents. However, it can be demonstrated that the First Purchaser data reflect significant inaccuracies in the final months of controls by analyzing available data concerning reported aggregate volume of tertiary incentive crude oil.

Based on a comparison of the volume of tertiary incentive crude oil reported to the Tertiary Incentive Program (reported on the form ERA–424B) and the First Purchaser Program, approximately 39.67 million more barrels of price-controlled crude oil were reported as tertiary incentive crude oil to the Tertiary Incentive Program than to the First Purchaser Program after September, 1980. The most plausible explanation for the difference is that it represents tertiary incentive recertifications for which first purchasers failed to file revised reports to the First Purchaser Program. If one also reasonably assumes that these tertiary recertifications were reported as adjustments to the Entitlements Program, resulting in downward adjustments of price-controlled crude oil, the failure of the First Purchaser Program to reflect tertiary incentive adjustments alone accounts for almost 40 million barrels of the "disappearance" price-controlled crude oil from the First Purchaser Program to the Entitlements Program in only the *last months of controls.*[46]

These discrepancies indicate that the numbers represented as "disappearing" old oil by comparing First Purchaser with Entitlements data do not necessarily reflect any deficiency in the Entitlements Program or its

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directly as bunker fuel, and crude oil purchased for use as a lease fuel in the recovery of heavy crude oils) would be reflected in First Purchaser data, but would not be reported in Entitlements data.

[45] First purchasers would also lack incentive to correct their First Purchaser Reports because prior to September, 1979 they were not explicitly required to correct reporting errors, and revisions to First Purchaser data submitted more than 90 days after the report month were never processed.

[46] This conclusion is supported by a comparison of the First Purchaser and Entitlements data reported by the four firms (Amoco, Atlantic Richfield, Chevron and Texaco) that reported the largest downward adjustments to price-controlled crude oil receipts to the Entitlements Program for December 1980 and January 1981. Their First Purchaser Reports were reviewed from October 1980–January 1981. October 1980 was selected as a starting point because reductions in price-controlled crude oil receipts reported by the refining arm of an integrated firm to the Entitlements Program in December 1980 could relate to the crude oil produced by the production arm of the firm as far back as October 1980.

Of those firms, only Chevron attempted to file revised First Purchase Reports reflecting reduced first purchases of price-controlled crude oil and increased first purchases of tertiary incentive crude oil. However, Chevron's revised First Purchase Reports were not received by the First Purchaser Program Office until more than 90 days after the report month, and therefore the revisions were not processed or incorporated into published First Purchaser Program data. Amoco attempted to revise its reported First Purchaser data by "rolling-in" one enormous adjustment for the prior months in its January 1981 First Purchaser Report, contrary to the instructions to the form ERA–182, which require revised reports for material adjustments to be filed for the month to which the adjustment applies. Amoco was advised to file revised First Purchaser Reports for the relevant months, but it has not taken any such action. Neither Atlantic Richfield nor Texaco have filed any revisions to their First Purchaser Reports for any months in the October 1980–January 1981 period, although the firms reported enormous negative adjustments to price-controlled oil receipts to the Entitlements Program for December 1980 and January 1981.

These firms, which have reported large negative adjustments to their price-controlled crude oil receipts to the Entitlements Program (apparently based on recertifications of otherwise price-controlled crude oil under the tertiary incentive program), appear to have failed to file timely revisions to their First Purchaser Reports. In order to reach this conclusion, one must assume that downward adjustments to price-controlled crude oil receipts reported for Entitlements Program purposes (*e.g.*, based on recertifications of otherwise price-controlled crude oil as tertiary incentive crude oil) relate to crude oil first purchased from the firm's producing arm and ultimately booked as a crude oil receipt by the firm's refining arm (and thus the downward adjustments do not primarily reflect recertified crude oil purchased from other sellers). To conclude that a firm's First Purchaser Reports should be revised for particular months (*e.g.*, for the period October 1980–January 1981 based on data reported to the Entitlements Program for December 1980 and January 1981), one must also assume that no resellers were involved and that the crude oil was booked as a crude oil receipt for entitlements purposes within two months after it was produced and sold. We believe that those assumptions are reasonable in the case of these four firms, because they are integrated oil companies that controlled significant volumes of price-controlled crude oil production and reported large amounts of recoupable allowed expenses under the tertiary program to DOE.

Thus, the published First Purchaser data inaccurately reflects large positive volumes of price-controlled crude oil that were reported as being first purchased by these firms, and relatively small volumes of reported first purchases of tertiary incentive crude oil by them.

administration. Consequently, to the extent that the "disappearing" old oil is the result of the failure of firms to revise their First Purchaser reports or DOE's practice of not processing adjustments to First Purchase numbers received more than 90 days after the report month, the entitlements data is accurate and no refiner is disadvantaged.

(b) *Reseller Miscertifications.* Price-controlled crude oil that was miscertified between the lease and the refinery accounts for a significant portion of the "disappearing" old oil problem. In cases involving miscertification by resellers, price-controlled crude oil would have been reported as such to the First Purchaser Program, subsequently illegally miscertified by resellers, and eventually reported by refiners as uncontrolled crude oil receipts to the Entitlements Program. The financial motivation illegally to miscertify price-controlled crude oil as uncontrolled crude oil became even greater after 1979 as the disparity between controlled and uncontrolled prices increased with the doubling of world market prices.

Recent DOE enforcement actions indicate that enormous volumes of price-controlled crude oil were illegally miscertified by resellers. In one case involving a single reseller, DOE has filed suit alleging the false certification of more than 177 million barrels involving $1.1 billion, convering an audit period from May 1976 through January 1981. Reseller miscertification thus can be expected to explain much of the "disappearance" of old oil in 1979 and 1980.[47]

While these reseller miscertifications account for much of the "disappearing" old oil, these miscertifications, albeit violations of the reseller price regulations that raised the cost of crude oil to all refiners, do not affect the purpose of the Entitlements Program to allocate the price-controlled oil that was available to refiners equitably among them.[48]

(c) *Mobil's Claims As Affecting the Validity of the January and Entitlements Adjustments Notices.* The claims advanced by Mobil in the litigation raise several issues. The dispositive issues are: (1) Whether the Entitlements Program failed to achieve its purpose to the maximum extent practicable during the period of its operation; and (2) whether issuance of the January and Entitlements Adjustments Notices would be unlawful if they failed to account for the old oil that "disappeared" from November 1974 to December 1980. For the reasons set forth below, DOE believes that both questions can be answered in the negative.

Does a Sufficient Predicate Exist That Supports Mobil's Allegations That the Objectives of the Entitlements Program Have Been Frustrated?

The starting point in analyzing Mobil's claims is to attempt to determine whether the alleged problem in fact actually existed, and whether it was caused by the inventory practices and time exchanges as claimed by Mobil. At the same time, this initial inquiry must also be placed in respective against the six year life of the Entitlements Program.[49]

DOE's analysis of the "disappearing" old oil question indicates that a number of factors can cause a discrepancy between the First Purchaser Program and Entitlements Program data. Most of these factors, however, did not result in frustration of the purposes of the Entitlements Program, because on *refiner* benefitted from access to price-controlled crude oil at the expense of other *refiners.* As discussed above, they include program and definitional differences between the First Purchaser and Entitlements data systems, non-refining uses of crude oil, unreported and unprocessed revisions to First Purchaser data, and reseller miscertifications of price-controlled crude oil as uncontrolled oil. Accounting for crude oil produced and sold to refiners and resellers [50] over the life of

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[47] *See* Statement of Mr. Milton Lower, Staff Economist, Subcommittee on Oversight and Investigations, before the House Committee on Interstate and Foreign Commerce, (Sept. 24, 1982), which attributed the major portion of the "disappearance" of price-controlled oil reflected by reported First Purchaser and Entitlements data to miscertification by resellers and first purchasers.

[48] DOE believes that the illegal miscertification of price-controlled crude oil as uncontrolled stripper crude oil will explain to a large degree why considerably more stripper crude oil was reported to the Entitlements Program than was reported to the First Purchaser Program. However, another possible explanation exists that could account for large volumes of so-called "disappearing" price-controlled crude oil that have migrated to the uncontrolled stripper crude oil tier

Some 40 oil companies filed suits seeking to invalidate Ruling 1974–29, which prohibited producers from counting injection wells to determine the eligibility of crude oil production from a property for uncontrolled stripper status. *See, In Re Department of Energy Stripper Well Litigation,* 520 F. Supp 1232 (D. Kan. 1981), *rev'd* 680 F. 2d. 1375 (TECA July 29, 1982), *cert. denied* 103 S.Ct. 763 (1983). Collectively, these firms owned more than 50 percent of the nation's domestic crude oil production in 1979 and reported the greatest increases in stripper well crude oil to the Entitlements Program. *See* August 3, 1981 Memorandum entitled "Validation of the Domestic Crude Oil Entitlements System" from the Deputy Administrator, Energy Information Administration to the Administrator, Energy Information Administration (hereafter "EIA Memorandum"), at 7, n.4 and 5. In that litigation, many of the companies also challenged the validity of 10 CFR 212.131(a)(6), the two month rule pertaining to crude oil certifications and recertifications. Pursuant to injunctions entered by the district court before its decision was reversed on appeal, most of the companies were permitted to count injection wells to determine the eligibility of the production from the properties in dispute for stripper status. Most companies have been required to identify the crude producing properties at issue and to establish escrow accounts for the difference in revenues between the lower tier ceiling price and the uncontrolled stipper price. Some companies may also have recertified price-controlled crude oil as stripper crude oil for prior periods not covered by the escrow accounts.

The impact of counting injection wells is significant, and potentially could account for large volumes of otherwise lower tier crude oil being converted to uncontrolled stripper crude oil. If during the period 1978–1980, as companies joined the stripper well litigation and were granted injunctions by the district court, lower tier crude oil previously reported to the Entitlements Program was retroactively recertified as stripper well crude oil, that could result in the "appearance" of stripper crude oil in the Entitlements Program. If first purchasers failed to revise their First Purchaser Reports or to otherwise incorporate corresponding downward revisions in volumes of lower tier crude oil in their data reported to the First Purchaser Program, or if the revised First Purchase Reports were filed more than 90 days after the report month, a discrepancy in the data between the two Programs could exist that would make it appear as if price-contolled crude oil had "disappeared." EIA Memorandum at 6–10.

Many of the major oil companies are parties to the stripper well litigation. In the absence of complete data concerning the retroactive recertification by firms of crude oil production from properties involved in the injection well litigation from price-controlled to stripper well crude oil and the manner in which those volumes were reported to the Entitlements and First Purchaser Programs, we are unable to quantify this source of "disappearing" price-controlled crude oil.

[49] Although Mobil has alleged a "disappearance" of 249 million barrels of deemed old oil, worth $5.6 billion in entitlements, no one has been able to quantify what, if any, portion of that can be attributed to inventory practices and time exchanges. There have been a number of post-decontrol rulemaking proceedings and adjudications that have addressed directly or touched upon the "disappearing" old oil question. While a number of refiners generally agreed with Mobil's contentions, interestingly, *every* refiner that addressed the issue denied that it had used time exchanges or inventory practices to shelter price-controlled oil from entitlements obligations. This included both acquisition and refinerygate refiners. *See especially* Transcript of Proceedings, *Mobil Oil Corporation,* Case No. BEZ–0096, 8 DOE ¶82.574 (June 29, 1981).

DOE has not been able to establish what volume of deemed old oil "disappeared" as a result of inventory practices or time exchanges. Short of imposing new reporting requirements or conducting new comprehensive audits of all refiners, DOE knows of no reliable source of data to develop such information. However, on the basis of its study of the possible reasons for the discrepancies between the two data systems, DOE believes that the volumes not reported to the Entitlements Program due to the causes cited by Mobil are substantially less than the claimed 249 million barrels.

[50] Mobil also complains of price-controlled crude oil held in inventory by resellers at decontrol. However, crude oil resellers were never subject to the Entitlements Program. During the period of price controls, DOE issued proposals to impose

the program would not "recapture" any barrels of price-controlled oil that "disappeared" due to these factors.

Even if it were conceded for argument's sake that some substantial portion of the alleged $5.6 billion worth of entitlements had not been received by refiners as a result of inventory practices and time exchanges, it is important to assess the significance of this number. The $5.6 billion represents a total of 249 million barrels of deemed old oil, according to Mobil, that have not been reported to the Entitlements Program. Yet, over the course of the Entitlements Program, this would represent *less than 3 percent* of the barrels of deemed old oil the program *has* distributed among refiners. The Energy Information Administration concluded that even if *all* the so-called "disappearing" old oil during the period 1977 through 1980 had been added to the Entitlements Program, the change in the post-entitlements cost of crude oil to refiners would have been *less than 2 percent*. "EIA Memorandum" at 6. Thus, while $5.6 billion is a lot of money in absolute terms, it is in fact but a very small percentage of the dollars and barrels of oil that *have* been accounted for by the Entitlements Program.

It is important to remember that the Emergency Petroleum Allocation Act only required furtherance of its purposes "to the maximum extent practicable." *See* section 4(b)(1). The Entitlements Program was promulgated because price-controlled crude oil was not proportionately available to all refiners. However, the regulatory objective of equitably allocating the financial benefit of access to price-controlled crude oil was difficult to achieve, given the vast size of the industry and the turbulent marketplace of the 1970s. The nature of the refining industry, the complexity of the marketplace, and the limitations of the regulatory process all made perfect equity impossible.

With respect to crude oil held on time exchange by refiners at decontrol, the regulations permitted the reporting of crude oil on exchange to be deferred for entitlements purposes. *See* 10 CFR 211.67(g)(2). That provision was adopted because it allowed the continuation of a long-standing and customary practice of the industry, unimpeded by the regulations. There is no reason why the use of time exchanges would be peculiar only to refinery gate refiners; Mobil and other acquisition method refiners could also have utilized time exchanges. The fact there may have been some volume of crude oil held on exchange at decontrol does not necessitate a regulatory response, where (1) refiners were not treated differently by reason of their method of reporting to the Entitlements Program, and (2) firms' actions were not illegal under the regulations.

As for the question of crude oil held in so-called "out-of-refinery" inventory by refinery gate refiners, when the Entitlements Program was orignially adopted, the FEA was convinced *by refiners* that a uniform system of accounting for "crude oil receipts" for the Entitlements Program would be unduly burdensome, unnecessary, and contrary to specifically enumerated objectives of the EPAA, including sections 4(b)((1) (H) and (I). Refiners supported, and the FEA adopted, a requirement that allowed refiners to use different accounting systems for purposes of reporting to the Entitlements Program, provided that they were historically and consistently applied by the refiner. As a result, refiners' entitlements obligations were dependent to some degree upon their particular accounting systems, and their entitlements positions might have varied somewhat from one another than if a uniform system of accounting for crude oil receipts had been adopted. Nevertheless, considering the competing EPAA objectives and the purpose of the Entitlements Program, the flexibility incorporated in such an approach, rather than the alternative of imposing a single method of accounting on all firms, was determined to further the statutory objectives to the maximum extent practicable.

An acquisition method of accounting such as that utilized by Mobil could have produced significant benefits in the early months of the Entitlements Program. Price-controlled crude oil that was in Mobil's refinery inventory prior to November 1974 did not incur an entitlements obligation. The benefit that acquisition method refiners realized at the beginning of the program did not frustrate the purposes of the EPAA, and likewise the benefit that would be realized by refinery gate refiners at the end of the program because crude oil held in out-of-refinery inventory would not incur an entitlements obligation would not frustrate the purposes of the program or the statute. *See also, Ashland Oil Inc.*, 8 DOE ¶80,202 at 80,986, (September 24, 1981).

Finally, Mobil seeks to redress not only whatever advantages some firms may have realized on decontrol, but also any advantage that may have accrued in each month of the program during its operation. If in a given month in 1975 or 1976 some refiners were slightly advantaged over some other refiners, the effect of that advantage was felt in that month or very shortly thereafter. Given the relatively small advantage involved, compared to the overall equitable effects of the Entitlements Program, the advantage in that month did not impair achievement of the purposes of the EPAA to the maximum extent practicable.

The lack of perfect equity did not justify the adoption of amendments to the program in the past to eliminate prospectively the possible inequity. To take action now, however, to try to quantify all those past "advantages" and transfer money to the "disadvantaged" firms would be to create a new disadvantage today in a decontrolled environment. It could involve the transfer of large sums of money from some refiners to other refiners without serving any existing regulatory purpose. Moreover, because the small advantages of many months over several years would be aggregated into one required payment, the financial impact of such an unanticipated retroactive burden on some refiners might be severe.

F. Entitlements and the Office of Hearings and Appeals

As described above, at the present time there are a number of final OHA exceptions orders related to entitlements that have been issued since the last entitlements notice, and there are a number of proceedings either before OHA, FERC, or the courts that in the future will result in final orders related to the Entitlements Program. Even if DOE determines that publication of the January and Entitlements Adjustments Notices would frustrate the purposes of the EPAA, this does not necessarily determine the proper

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entitlements obligations on firms upstream from the refinery, including crude oil resellers. *See* 43 FR 52104 (Nov. 8, 1978); 44 FR 5298 (Jan. 25, 1979). However, the records in those proceedings did not justify adoption of such a rule.

If crude oil resellers, by lawfully building physical inventories of price-controlled oil, deferred the ultimate receipt of that crude oil by a refiner so that that oil forever escaped an entitlements obligation, the purposes of the Entitlements Program were not frustrated in any manner, for no refiner was disadvantaged or advantaged vis-a-vis other refiners. The perpose of the Entitlements Program was to distribute equitably among all refiners the access that *some* refiners *had* to price-controlled oil. Although, concededly the imposition of entitlements obligations on resellers would retroactively increase the total amount of price-controlled crude oil available to all refiners, the program's purpose of reducing competitive imbalances *among refiners* would not be advanced whatsoever. Because refiners did not have access to the price-controlled crude oil held by resellers at decontrol, resellers' possession of price-controlled crude oil at the time of decontrol did not affect the purposes of the Entitlements Program.

resolution of these outstanding exceptions cases and year-end reviews involving entitlements. Unlike the entitlements regulations, which never purported to determine by their gross formulas the actual equitable or financial need for particular participants, acting instead in a macroeconomic manner to further the purposes of the EPAA on a sector and industry basis, the granting of exception relief and the process of year-end reviews focused on the actual financial or equitable need of particular firms.

Consequently, DOE does not believe that outstanding exception decisions or pending cases that may involve payments to or from the Entitlements Program would be mooted by a determination not to publish the January and Entitlements Adjustments Notices.

Indeed, many OHA decisions have provided that in the event no further notices are published, the firms are to return to OHA for an appropriate order.

A question arises, however, as to how entitlements exception relief could be implemented in the absence of entitlements notices. That is, from where would funds come to pay any relief granted? At the outset, it should be noted that the questions concerning the funding of exception relief do not justify the publication of further notices. Continuation of a regulatory program in order to provide a mechanism to grant relief to certain refiners from the program's requirements is not warranted. In any event, there are a number of available sources of funds for these purposes. First, as a result of some year-end reviews in *Delta/Beacon* cases, as well as some other cases, OHA has determined that certain firms owe money to the Entitlements Program. This could be one source of funds for those with entitlements exception relief. Another source could be restitutionary funds from price or entitlements violations, if the courts or DOE determine that Entitlements Program participants bore some of the ultimate economic harm from some of the violations and should be recompensed by means of some entitlements-based formula. *E.g.*, 10 CFR 211.69(h)(2)(ii). In this event, funds to pay amounts owing to firms as a result of OHA entitlements exception decisions could be paid first. Such a method of distribution would be the equivalent of distributing the funds among all refiners and then collecting from each the pro rata share of the amounts owed to recipients of exception relief. DOE requests comments on these or other sources of funds.

IV. Comments Requested

DOE requests comments on all of the issues raised in this Notice. DOE also seeks comments on any other issue that any interested person deems of consequence for the purposes of this proceeding. DOE urges commenters to file data, supporting documentation, and any other relevant materials to support the statements and claims made in their written comments, so that a final decision can be made on the basis of the record of this proceeding.

DOE solicits comments generally on its legal analysis of the various issues raised in this proceeding, as set forth in this Notice. Commenters are also invited to direct their attention to the following specific questions:

1. Whether publication of the January and Entitlements Adjustments Notices was rendered discretionary by Section 3 of Executive Order 12287 such that, provided an adequate basis is established in this proceeding, DOE may decide not to publish the notices?

2. Whether the differences in refiners' crude oil costs in January 1981 were principally the result of the significant price differentials based on quality paid for uncontrolled imported and domestic crude oils, rather than access to available supplies of price-controlled crude oil?

3. Whether publication of the notices would adversely affect small and independent refiners, an adverse effect that would be exacerbated by the decreased profitability for small and independent refiners in the period after decontrol so as to threaten their competitive viability? Specifically, what impact would publication of the notices have on the continued operations of small and independent refiners that would be entitlements purchasers?

4. Whether publication of the notices, requiring the transfer of monies among refiners, would distort and unnecessarily interfere with the competitive equilibrium established by the free market after decontrol? If so, specify why and how publication of the notices would have these impacts.

5. Whether non-publication of the notices would threaten the competitive viability of any particular segment of the refining industry?

6. Whether non-publication of the notices would cause any refiners that anticipated that they would be sellers of entitlements on the notices to go out of business? If so, specify the circumstances surrounding the firm's financial condition that would cause it to go out of business by reason of the failure to receive entitlements revenues reflected on the updated draft notices appended hereto.

7. Whether publication of the notices would affect the pricing of refined petroleum products sold to marketers or consumers downstream from the refinery, either so that refiners that would be sellers of entitlements would reduce their prices, or that purchasers of entitlements would be required to increase their prices? If so, specify how the receipt or expenditure of entitlements monies would affect the prices of refined petroleum products.

8. If the notices were published, what provision could be made to collect entitlements monies from refiners that would be purchasers on the notices, but have gone out of business?

9. Whether, to what extent, and how did refiners rely on issuance of the January 1981 Entitlements Notice when they purchased crude oil during the first 27 days of January 1981? If refiners did so rely, explain in detail how anticipated entitlements obligations on the January Notice affected product pricing decisions.

10. For refiners that claim they relied on the anticipated publication of January 1981 Entitlements Notice, how would their crude oil purchasing decisions in January 1981 have been changed, or what alternatives would they have pursued, if they had known the notice would not be published?

11. Whether, to what extent, and how did refiners rely on promulgation of the Entitlements Adjustments Rule and issuance of a Entitlements Adjustments Notice in making payments for crude oil recertifications?

12. Whether firms that would have been sellers on the January 1981 Notice projected anticipated entitlements revenues to be received pursuant to that notice, whether those projections were accurate, and whether they were relied on in making crude oil purchasing or refined product pricing decisions?

13. Whether and to what extent the negative adjustments to price-controlled crude oil receipts reported to refiners for purposes of the January and Entitlements Adjustments Notices are primarily due to recertifications under the Tertiary Incentive Program?

14. Whether and to what extent negative adjustments to price-controlled crude oil receipts reported by integrated firms represent crude oil recertifed under the Tertiary Incentive Program by an affiliated producing entity, that was sold to the refining entity.

15. Whether and to what extent independent refiners have received and paid for recertifications, including

tertiary recertifications, of price-controlled crude oil?

18. To what extent have refiners received "re-recertifications" from producers and resellers, reclassifying uncontrolled tertiary incentive crude oil as controlled oil, since they filed their entitlements reports for either the January or Entitlements Adjustments Notices.

17. Whether refiners should be permitted to seek exception relief from a decision not to publish on grounds that they received more than their proportionate share of recertifications under the Tertiary Incentive Program, causing them possible to experience serious hardship, gross inequity, or an unfair distribution of burdens?

18. To what extent did refiners, other than the twenty-one refiners identified by DOE, make reporting errors of the type identified in section III D(2) of this Notice?

19. Whether and to what extent first purchasers of crude oil failed to file revised First Purchaser reports or otherwise account for corrections and recertifications resulting in downward adjustments to price-controlled crude oil that was first-purchased?

20. Whether and to what extent refiners engaged in inventory practices to delay the receipt of price-controlled crude oil into refinery inventory, thereby avoiding reporting those volumes as price-controlled "crude oil receipts" to the Entitlements Program? If so, specify the amounts and categories of price-controlled crude oil held in out-of refinery inventory or on time exchange at decontrol that were not reported to the Entitlements Program.

21. Whether and to what extent at the time of decontrol refiners utilized time exchanges to delay the receipt of price-controlled crude oil into refinery inventory, and whether the volumes of price-controlled crude oil held on exchange at decontrol increased in a manner inconsistent with firms' historical accounting practices?

22. Whether outstanding OHA, FERC and court decisions should be implemented notwithstanding non-publication of the January and Entitlements Adjustments Notices and, if so, where should the funds come from to satisfy firms that have been granted relief?

V. Public Comment Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the issues set forth in this notice. All comments should be sumbitted by 4:30 p.m., d.s.t., of the day specified in the "DATES" section to the appropriate address indicated in the "ADDRESSES" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "January 1981 and Entitlements Adjustments Notices," Docket No. ERA–R–83–01. Ten copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Freedom of Information Office, Room 1E–190, Forrestal Building, 1000 Independence Avenue S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearing

1. *Procedure for requests to make oral presentations:* The time and place for the hearing are indicated in the "DATES" and "ADDRESSES" sections of the preamble. If necessary to present all testimony, the hearing will resume at 9:30 a.m. on the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation. The requests should contain a telephone number where you may be contacted during the day prior to the hearing. If you are selected to be heard at the hearing, we will notify you before 4:30 p.m., November 30, 1983. You will be required to submit 50 copies of your statement to the Office of Management Services of ERA at the address indciated in the "ADDRESSES" section of the preamble by 4:30 p.m., December 5, 1983.

2. *Conduct of the hearing:* We reserve the right to select the persons to be heard at the hearing (in the event there are more requests to be heard than time allows), to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based upon the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made. The entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection in the DOE Freedom of Information Office, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

VI. Procedural Matters

To the extent that DOE's decision not to issue further notices would be subject to informal rulemaking requirements, DOE has complied with the procedural rulemaking requirements set forth below.

A. Executive Order 12291

Under Section 8(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981), the Director of the Office of Management and Budget ("Director") is authorized to exempt any class or category of regulations from any or all requirements of the Executive Order.

An exemption was requested of the Director for those regulations issued pursuant to Executive Order No. 12287. The request was granted.

B. Section 7 of the FEA Act

As required by section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. No. 93–275, as amended) a copy of this notice was submitted to the Administrator of the Environmental Protection Agency (EPA) for comment concerning the impact of this proposal on the quality of the environment. The EPA does not foresee these actions as having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. NEPA Review

After reviewing today's proposal, it has been determined that it would not constitute a major federal action significantly affecting the quality of the

human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act, because it merely revokes regulations that DOE has determined can no longer be given effect consistent with the underlying statute that authorized the promulgation. Therefore, the preparation of an Environmental Impact Statement for this proposal is not required under 10 CFR Part 208.

D. Section 404 of the DOE Act

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*, Pub. L. 95–91), we have referred this proposal, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination as to whether the proposal would significantly affect any matter within the Commission's jurisdiction. The Commission will have until the close of the public comment period to make this determination.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the preparation and publication of an initial regulatory flexibility analysis at the time of publication of the notice of proposed rulemaking if the proposal, if promulgated, is likely to have a significant impact on a substantial number of small entities.

This proposal would remove a regulatory requirement that would otherwise apply only to participants in the Entitlements Program. For those Entitlements Program participants that could be classified as "small entities" by reason of being "small governmental jurisdictions" (e.g., governmental entities that were included pursuant to the petroleum substitutes provisions), the proposed revocation of the regulations generally removes a financial burden on them resulting from their net position as purchasers on the combined notices.

Small refiners may also be considered "small entities" under the statute. Non-publication of the notices will adversely affect small refiners that would have been net entitlements sellers on the combined lists, and will benefit small refiners that would have been net entitlements purchasers. A substantial number of small refiners would be so affected, and at least for some, the impact would be significant. The preceding discussion in this Notice, which analyzes the impacts of the proposal and describes the reasons therefor, satisfies the statutory requirements and constitutes the initial regulatory flexibility analysis required by section 603(b) of the Act.

(Emergency Petroleum Allocation of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70 and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; E.O. 12287, 46 FR 9909)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., on October 28, 1983.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

1. Removed are §§ 211.66(i); 211.67; and 211.69.

§ 211.66 Reporting requirements.

* * * * *

(i) [Removed]

§ 211.67 [Removed]

§ 211.69 [Removed]

Appendix—Draft January 1981 and Entitlements Adjustments Notices

The draft January 1981 and Entitlements Adjustments Notices that follow are being published as an Appendix to the Notice of Public Proceeding initiated by DOE concerning issuance of these notices. The draft Notices reflect data available to DOE as of September 1, 1983. They are being published for purposes of information only to apprise firms of their updated entitlements positions, and so that firms may participate in the public proceedings with the benefit of current data.

Publication of the draft notices is subject to two significant qualifications. First, the draft entitlements notices have no legal force or effect under 10 CFR 221. 67 (b), (c) or (i), or 211.69(g).

Second, because the draft notices have been updated only through September 1, 1983, they do not reflect developments since that date that could affect calculation of firm's entitlements obligations. These include, *inter alia*, decisions by the Office of Hearings and Appeals (OHA), the Federal Energy Regulatory Commission (FERC), and the courts. Any change in entitlements obligations resulting from OHA, FERC, and court decisions with respect to one refiner affects entitlements obligations with respect to all other refiners, requiring complete recalculation of the notices.

Therefore, firms' entitlements obligations could change to reflect developments occurring after September 1, 1983.

None of the data reflected in the preamble to the draft January 1981 Entitlements Notice published at 47 FR 33434 (Aug. 2, 1982) has changed, with the exception of the national domestic crude oil supply ratio (DOSR) for January 1981 and the total number of entitlements that would be required to be purchased and sold pursuant to the notice. The DOSR for January 1981 based on this updated draft of the notice is calculated to be. 014912. The total number of entitlements that would be required to be purchased and sold under the updated draft notice is 15,330,498. The discussion of the January Notice contained in the preamble otherwise would generally still apply.

None of the data reflected in the preamble to the draft Entitlements Adjustments Notice, also published on August 2, 1982, has changed with the exception of the total of all firms' claims exceeding obligations for the notice, which is slightly more than $348 million.

NOTICE OF ENTITLEMENTS* FOR DOMESTIC CRUDE OIL, JANUARY 1981

Reporting firm short name	Deemed old oil		Entitlement position				
	Adjusted receipts	Total issued	Exceptions and corrections	Entitlements		Required to buy	Required to sell
				Product	California		
-Consol'd-Sales	−16,139	0	[illegible]	0	0	0	[1] 16,139
A-Johnson	0	29,061	0	0	0	0	29,061
ADM	0	670	0	0	0	0	670
Akron-Ohio	0	1,486	[2] 1,372	0	0	0	1,486

NOTICE OF ENTITLEMENTS* FOR DOMESTIC CRUDE OIL, JANUARY 1981—Continued

Reporting firm short name	Deemed old oil		Entitlement position				
	Adjusted receipts	Total issued	Exceptions and corrections	Entitlements		Required to buy	Required to sell
				Product	California		
Alexandria-VA	0	39	[1]32	0	0	0	39
Allied	0	5,201	0	0	0	0	5,201
Amer-Agri-Fuels	0	246	[1]238	0	0	0	246
Amer-Petrofina	−694,269	59,451	0	0	0	0	753,720
Amerada-Hess	1,749,579	101,240	0	5,346	0	1,558,379	0
Ames-Iowa	0	319	[2]278	0	0	0	316
Amoco	1,030,980	280,048	0	0	0	580,042	0
Anchor	0	5,867	0	0	0	0	5,867
Apex	0	1,785	0	1,785	0	0	1,785
Arco	−243,603	248,630	0	0	0	0	492,233
Arizona	21,984	3,625	0	0	149	[1]18,139	0
Arizona-Chem	0	194	0	0	0	0	144
Arlington-VA	0	−229	[2]−229	0	0	229	0
Asamera	−2,511	−154,796	[2]−172,658	0	0	152,285	0
Ashland	[1]365,509	130,909	0	0	0	[1]254,600	0
Atlantic	0	19	0	0	0	0	19
Austin-Allen	0	2	0	0	0	0	2
Azusa-Land	0	135	[2]105	0	0	0	135
Bell-Indiana	0	15	0	0	0	0	15
Bayou	0	1,382	0	0	0	0	1,382
Beacon	91,611	189,673	[2][4]169,432	0	3,330	0	96,282
Belcher	0	8,348	0	8,346	0	0	8,348
Belco-wi	0	95	[1]88	0	0	0	95
Bergen-County	0	993	[1]960	0	0	0	993
Bi-Petro	0	1,428	0	0	0	0	1,428
Boise-Idaho	0	30	[1]25	0	0	0	30
Boston-Quincy	0	1,114	[2]1,092	0	0	0	1,114
Braintree	0	1,314	[2]1,168	0	0	0	1,314
Bronco	0	1,085	0	0	0	0	1,085
Brookings-SD	0	0	0	0	0	0	0
Brown-Wood	0	−316	[2]310	0	0	316	0
Bruin	15,626	0	0	0	0	15,626	0
C&H	0	131	[2]73	0	0	0	131
Calcmco-Chem	0	184	0	0	0	0	184
Calcasieu	−25,429	14,030	0	0	0	0	39,459
Calumet	0	2,968	0	0	0	0	2,968
Canal	8,951	9,174	[2]−101	0	0	0	2,223
Cantonal	0	15,141	[2]5,087	0	0	0	15,141
Caribou	18,848	100,387	[2][3]91,903	0	0	0	81,439
Castle	0	7,156	0	7,156	0	0	7,156
CEA	0	733	[2]733	0	0	0	733
Central	0	2,687	0	2,687	0	0	2,687
Champlin	−316,577	5,765	[2]−61,022	0	−10,934	0	382,342
Chanar	0	−145,664	[2]−182,184	0	0	145,664	0
Chevron	−4,093,110	951,470	[2][4]541,774	0	−16,663	0	5,044,580
Cibro	−1,075	27,662	[2]1,269	5,629	0	0	23,737
Citgo	135,161	99,067	[2]−9,426	0	0	48,094	0
Citronelle	0	−21,756	[2]−21,756	0	0	21,755	0
City-of-Seward	6	6	[2]6	0	0	0	6
City-of-Wichita	320	320	[1]302	0	0	0	320
Claiborne	5,418	5,630	0	0	0	2,788	0
Clark	−185,283	64,862	0	0	0	0	250,155
Clinton-Kiwa	434	434	[2]432	0	0	0	434
Clinton-Mangos	4,853	1,707	0	0	0	3,146	6
Coastal	22,469	55,942	0	5,873	0	0	33,473
Coastal-Paso	0	10,090	0	0	0	0	10,090
Colonial	0	442	[2]430	0	0	0	442
Columbus-Ohio	0	1,642	0	1,642	0	0	1,642
Cuyoco	0	177	[2]170	0	0	0	177
Consumers-Power	−612,240	101,467	0	1,762	−16,106	0	873,707
Copano	0	194,032	[2]191,949	2,083	0	0	194,032
Coral	0	10,853	0	0	0	0	10,853
Corco	0	16,567	0	0	0	0	16,567
CRA-Farmland	0	90,299	6	34,551	0	6	90,256
Cross	74,073	49,887	[2]6,918	0	6	24,166	0
Crown	8,406	10,180	0	0	6	0	1,772
Crystal-Ol	27,269	38,501	0	0	6	6	11,112
Crystal-Tex	25,657	20,986	0	0	0	4,671	6
Cumberland	0	2,553	0	0	0	0	2,553
Deepwater	0	14	[2]13	0	0	0	14
DeKalb-IL	0	1,336	0	1,336	0	0	1,336
Delta	0	1	0	6	0	0	1
Demenno	141,906	41,868	0	6	0	100,829	0
Detroit-ED	6	15,538	0	0	0	0	15,538
DFSC	6	2,406	0	2,406	0	0	2,406
Diamond	0	1,562	[2]412	1,150	0	0	1,562
Dillman	12,342	35,611	[1]591	0	0	0	23,269
Dorchester	0	34	[2]34	0	0	0	34
Dow	3,825	18,692	0	6	6	0	14,867
Downers-Grove	1,859	367,116	[2]367,116	0	0	[10]368,975	0
E-Seaboard	0	18	[2][3]17	0	6	0	18
Eagle-refining	0	2,419	0	2,419	6	0	2,419
East-bay-mud	0	509	0	0	0	0	509
East-Moline-IL	0	109	[2]91	0	0	0	109
Eastern-MMD	0	1	0	0	0	0	1
Ebdy	0	33	[1]32	0	0	0	33
El-Paso-TX	4,080	5,229	6	0	0	0	1,149
	0	12	0	0	0	0	12

NOTICE OF ENTITLEMENTS* FOR DOMESTIC CRUDE OIL, JANUARY 1981—Continued

Reporting firm short name	Deemed old oil		Entitlement position				
	Adjusted receipts	Total issued	Exceptions and corrections	Entitlements		Required to buy	Required to sell
				Product	California		
Elgin-Il	0	27	[3][5] 25	0	0	0	27
Energy-Coop	0	40,053	0	0	0	0	40,053
Enterprise	0	4,377	[3] 4,041	336	0	0	4,377
Ergon	8,629	47,626	[3] 33,746	0	0	0	38,999
Essex-Union	0	153	[3] 133	0	0	0	153
Evangeline	0	2,140	0	0	0	0	2,140
Ewing-Lawrence	0	12	[3] 10	0	0	0	12
Exxon	2,999,826	527,573	[3] −237	28,849	0	2,462,289	0
EZ-Serve	23,219	23,191	[3] 1,356	0	0	28	0
Farmers-UN	55,917	22,816	0	0	0	33,101	0
Fletcher	10,343	40,960	[3] 17,788	0	0	0	30,617
Flint	2,810	811	[3] 161	0	0	2,199	0
Fort-Worth-TX	0	50	[3] 44	0	0	0	50
Fresno-CA	0	5	0	0	0	0	5
Friendswood	2,885	11,879	0	0	0	0	8,194
Funding	21,014	5,019	0	0	0	15,995	0
Gary	4,229	18,219	[3] 3,669	0	0	0	13,999
Getty	207,779	95,005	0	0	2,848	112,774	0
Getty-Syn	0	998	[3] 912	0	0	0	998
Giant	0	8,335	0	0	0	0	8,335
Gibson	0	4,051	0	0	0	0	4,051
Glacier-Park	81,559	5,652	0	0	0	75,907	0
Gladieux	25	15,424	0	0	0	0	15,399
Glencoe-MN	0	0	0	0	0	0	0
Glenrock	0	3,383	0	0	0	0	3,383
Golden Eagle	0	13,728	0	0	0	0	13,728
Goldking	−229,350	28,594	0	0	0	0	257,944
Good-Hope	9,513	38,082	0	0	0	0	28,569
Green-Ray-WI	0	21	0	0	0	0	21
Guam	0	29,289	0	0	0	0	29,289
Gulf	428,201	87,924	[3] −226,856	2,844	3,008	340,277	0
Gulf-Energy	0	4,619	0	0	0	0	4,619
Gulf-Sts	−45,293	31,995	[3] 15,194	0	0	0	77,248
Harrisburg-Pa	0	306	0	0	0	0	306
Hayward-Ca	0	6	0	0	0	0	6
Health-Care	0	49	[3] 42	0	0	0	49
Hempstead-Town	0	553	462	0	0	0	553
Hiri	0	32,345	[3] −2,973	0	0	0	32,345
Howell	299,451	34,674	0	0	0	264,777	0
Hudson-Oil	0	18,432	0	0	0	0	18,432
Hunt	93,364	34,435	[3] 7,832	0	0	58,929	0
Huntway	0	6,652	0	0	0	0	6,652
Husky	290,840	290,840	[3] 248,818	0	0	0	0
Idaho-Falls	0	555	[3] 552	0	0	0	555
Independent-Ref	0	30,344	[3] −13,797	0	0	0	30,344
Indiana-Farm	7,455	16,120	0	0	0	0	8,665
Indust-Fuel	0	1,318	0	0	0	0	1,318
Inter-Petro	0	2,210	0	2,210	0	0	2,210
Inter-Process	0	17,220	0	0	0	0	17,220
Ionia	0	1	0	0	0	0	1
Jackson-Mi	0	2	0	0	0	0	2
Kenco	18,087	5,175	0	0	0	12,912	0
Kenosha-Wi	0	6	0	0	0	0	6
Kentucky	7,3550	−2,065	[3][5] −4,447	0	0	9,420	0
Kern	−46,773	170,165	[4] −153,759	0	−2,570	0	210,936
Kerr-McGee	389,405	41,519	0	0	0	347,886	0
Koch	0	58,437	0	1,763	0	0	56,437
La-County	0	482	[3] 208	0	0	0	482
La-Crosse	0	27	[3] 25	0	0	0	27
Lagloria	58,068	32,390	0	0	0	25,679	0
Lake-Charles	0	6,062	0	0	0	0	6,062
Lakeside	112	3,525	0	0	0	0	3,413
Laketon	20,742	−67,614	[3] −72,943	0	0	88,356	0
Lakewood-Oh	0	14	[3] 13	0	0	0	14
Lamprey-NH	0	193	[3] 168	0	0	0	193
Liquid-Energy	0	9,059	0	0	0	0	9,059
Little-Amer	154,886	−1,551,230	[3] −1,603,440	0	0	1,706,116	0
Los-Angeles-CA	0	2,274	[3] 2,077	0	0	0	2,274
Lotex	0	336	0	0	0	0	336
Louisiana-Land	26,302	64,681	[3] 33,282	0	0	0	38,379
MacMillan	4,618	20,824	0	0	196	0	16,206
Madison-Chatham	0	18	[3] 17	0	0	0	18
Madison-City-WI	0	42	0	0	0	0	42
Madison-Wi	0	282	[3] 270	0	0	0	282
Mallard	0	6,991	0	0	0	0	6,991
Marathon	490,848	158,931	0	0	0	331,917	0
Marion	3,347	22,937	0	0	0	0	18,590
Marlex	782	−24,891	[3] 36,442	0	54	25,673	0
Marshalltown	0	5	0	0	0	0	5
Medford	0	1	0	0	0	0	1
Merced-CA	0	3	0	0	0	0	3
Metro-Seattle	0	215	[3] 179	0	0	0	215
Metropolitan	0	9,828	0	9,828	0	0	9,828
Miami-Dade	0	233	[3] 218	0	0	0	233
Mid-Amer	2,489	−63,577	[3] −67,482	0	0	66,080	0
Middletown-OH	0	4	0	0	0	0	4
Midwest-Solv	0	3,561	[3] 3,513	0	0	0	3,561
Miller-Oil	0	−21,011	[3] −21,011	0	0	21,011	0

NOTICE OF ENTITLEMENTS* FOR DOMESTIC CRUDE OIL, JANUARY 1981—Continued

Reporting firm short name	Deemed old oil: Adjusted receipts	Deemed old oil: Total issued	Entitlement position: Exceptions and corrections	Entitlements: Product	Entitlements: California	Required to buy	Required to sell
Milwaukee-WI	[illegible]	44	0	0	0	[illegible]	44
Mobil	[illegible]	311,149	[2] 24,690	0	7,830	48,567	0
Mobile-Bay	777	[illegible]	0	0	[illegible]	[illegible]	[illegible]
Mobridge-SD	[illegible]	[illegible]	[illegible]	0	[illegible]	0	0
Mohawk	0	−178,267	[3] −178,267	0	0	178,267	0
Monoco	[illegible]	649	0	[illegible]	[illegible]	[illegible]	649
Monroe-WI	0	23	[illegible]	[illegible]	[illegible]	[illegible]	23
Monsanto	−180,508	27,360	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Moorhead-MN	[illegible]	1	0	[illegible]	[illegible]	0	1
Morrison	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Mountaineer	1,747	771	[illegible]	[illegible]	[illegible]	976	0
[illegible]OSC	[illegible]	141	[illegible]	[illegible]	[illegible]	0	141
Mt-Airy	[illegible]	[illegible]	0	0	[illegible]	[illegible]	6,227
Murphy	−59,658	[illegible]	[illegible]	[illegible]	[illegible]	0	118,667
N-Amer-Petro	[illegible]	15,239	[illegible]	0	[illegible]	0	15,239
N-Little-Rock	[illegible]	[illegible]	[3] 245	[illegible]	[illegible]	[illegible]	[illegible]
N-San-Mateo	[illegible]	4	[3] 4	[illegible]	[illegible]	[illegible]	4
Nashville-Tenn	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	160
Nassau-County	[illegible]	22	[illegible]	[illegible]	[illegible]	0	[illegible]
Natchez	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Natl-Coop	56,885	[illegible]	[illegible]	0	0	23,317	[illegible]
Navajo	[illegible]	[illegible]	[3] [4] 258,050	[illegible]	[illegible]	0	217,744
Neptune	[illegible]	[illegible]	[3] 31	[illegible]	[illegible]	[illegible]	[illegible]
Nevada	[illegible]	2,702	[illegible]	[illegible]	[illegible]	0	2,702
New-Edgington	−44,471	34,340	[3] [4] 10,057	[illegible]	−3,475	[illegible]	78,811
New-Engl-Petro	[illegible]	[illegible]	[illegible]	9,440	0	[illegible]	[illegible]
New-York-EP	[illegible]	267	[illegible]	[illegible]	[illegible]	[illegible]	267
Newhall	[illegible]	−60,960	[3] −78,835	[illegible]	12	61,217	0
Northeast-Petro	0	1,196	0	1,196	[illegible]	[illegible]	1,196
Northland	10,107	10,107	[3] 9,246	[illegible]	[illegible]	0	[illegible]
NY-Sanitation	0	288	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Ocean-Township	0	[illegible]	[3] 7	[illegible]	[illegible]	[illegible]	[illegible]
Ocean-Utilities	[illegible]	71	[3] 66	[illegible]	[illegible]	[illegible]	71
[illegible]-WI	[illegible]	[illegible]	[3] 7	[illegible]	[illegible]	0	[illegible]
OKC	112	17,770	[illegible]	0	0	[illegible]	17,658
Olds-Ref	12,551	16,444	[illegible]	[illegible]	0	[illegible]	[illegible]
Omaha	0	47	0	[illegible]	[illegible]	[illegible]	47
Orange-County	[illegible]	116	0	[illegible]	[illegible]	0	116
Osceola-AR	[illegible]	134	[3] 119	[illegible]	[illegible]	[illegible]	134
Oxnard	[illegible]	3,721	[illegible]	[illegible]	0	[illegible]	3,721
Peerless	0	2,925	[illegible]	[illegible]	[illegible]	0	[illegible]
Pennzoil	−189,189	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	237,821
Peoria-IL	0	650	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Pester	56,971	23,870	[3] 408	[illegible]	[illegible]	33,101	0
Petraco-Valley	[illegible]	2,677	[illegible]	[illegible]	[illegible]	[illegible]	2,677
Philadelphia-PA	[illegible]	[illegible]	[3] 499	[illegible]	0	[illegible]	533
Phillips	26,240	108,317	0	0	[illegible]	[illegible]	82,077
Phillips-PR	0	31,980	0	31,980	[illegible]	0	31,980
Pima-AZ	0	[illegible]	0	[illegible]	[illegible]	[illegible]	19
Pioneer	16,753	22,041	[3] 8,126	[illegible]	[illegible]	[illegible]	[illegible]
Placid	361,221	82,532	[3] 39,028	[illegible]	[illegible]	278,689	0
Plateau	42,170	261,978	[3] [4] 243,366	[illegible]	[illegible]	[illegible]	219,808
Port [illegible]	0	4,507	0	[illegible]	[illegible]	0	4,507
Pride	−52,526	[illegible]	0	[illegible]	−2,808	[illegible]	78,792
Quail	[illegible]	25,150	0	[illegible]	[illegible]	[illegible]	[illegible]
Quaker-ST	[illegible]	[illegible]	[3] 2,709	[illegible]	[illegible]	[illegible]	2,709
Quitman	[illegible]	24,041	[illegible]	[illegible]	[illegible]	[illegible]	17,351
Racine-Waste-UT	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Rahway	[illegible]	[illegible]	[3] 83	[illegible]	[illegible]	[illegible]	[illegible]
Rapid-SD	[illegible]	72	[3] 62	[illegible]	[illegible]	[illegible]	72
Ravenna-CH	[illegible]	3	0	[illegible]	[illegible]	[illegible]	3
Resco	[illegible]	506	[illegible]	[illegible]	[illegible]	[illegible]	506
Richards	[illegible]	1	[illegible]	[illegible]	[illegible]	[illegible]	1
Road-Oil	[illegible]	81	[illegible]	[illegible]	[illegible]	[illegible]	81
Roanoke-VA	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Rock-Island	0	10	0	[illegible]	[illegible]	[illegible]	10
Saber-Tex	17,341	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	9,962
Sabre-Cal	[illegible]	3,771	[illegible]	[illegible]	[illegible]	[illegible]	0
Sage-Creek	0	−8,042	[3] −20,424	0	[illegible]	[illegible]	0
Salem-VA	1,892	6,590	[3] 6,590	[illegible]	[illegible]	0	[illegible]
San-Joaquin	0	24	[illegible]	[illegible]	[illegible]	0	24
San-Jose-CA	0	16,020	[3] 2,091	[illegible]	[illegible]	0	16,020
Santa-Cruz-CA	0	8,570	[3] 6,512	[illegible]	[illegible]	[illegible]	8,570
Scallop	[illegible]	454	[3] 449	0	[illegible]	[illegible]	454
Scanoil	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Schutze	[illegible]	7,082	[illegible]	7,082	[illegible]	0	[illegible]
Seaview	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Seminole	[illegible]	15,277	[illegible]	[illegible]	[illegible]	[illegible]	15,277
Sentry	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	521
Shell	0	19,901	[illegible]	[illegible]	[illegible]	[illegible]	19,901
Shepherd	[illegible]	[illegible]	[3] 1,376	0	1,512	[illegible]	[illegible]
Sigmor	−13,578	−58	[3] 2,346	[illegible]	[illegible]	0	13,520
Silver-Eagle	[illegible]	19,287	[illegible]	[illegible]	[illegible]	0	[illegible]
Sioux-Falls	[illegible]	−2,395	[3] −2,395	[illegible]	[illegible]	2,704	[illegible]
Stapco	[illegible]	110	[3] 103	[illegible]	[illegible]	[illegible]	110
SMRSA	−11,685	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
SC-Hampton	[illegible]	[illegible]	[3] 36	[illegible]	[illegible]	[illegible]	41
Sohio	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Somerset	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	0
Sooner	[illegible]	[illegible]	[3] 1,209	[illegible]	[illegible]	[illegible]	[illegible]
Sound	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	[illegible]	11,795	[illegible]	[illegible]	[illegible]	[illegible]	11,795

NOTICE OF ENTITLEMENTS* FOR DOMESTIC CRUDE OIL, JANUARY 1981—Continued

Reporting firm short name	Deemed old oil: Adjusted receipts	Deemed old oil: Total issued	Entitlement position: Exceptions and corrections	Entitlements: Product	Entitlements: California	Required to buy	Required to sell
Southern-Union	86,961	31,867	0	0	0	[illegible]	0
Southland	121,151	51,904	[1] 31,386	0	0	[illegible]	[illegible]
Southland-CT	0	[illegible]	[1] 535,108	0	0	0	[illegible]
Southwest-Petro	0	6,445	0	0	0	0	6,445
Southwestern	−149	−2,373	[2] [3] −3,190	[illegible]	[illegible]	2,224	0
Sprague	[illegible]	7,324	0	7,324	[illegible]	0	7,324
Springfield-IL	0	2	0	0	0	[illegible]	2
St & San-Chicago	0	5,832	[2] 4,957	0	0	[illegible]	5,832
St-Clair-IL	0	525	[1] 525	0	0	[illegible]	525
St-Cloud-Minn	[illegible]	[illegible]	[2] [3] 166	0	0	[illegible]	[illegible]
Stevens-PT-WI	[illegible]	80	[1] 78	0	0	[illegible]	80
Stinnes-Inter	0	[illegible]	0	968	0	0	[illegible]
Stockton-CA	0	17	0	0	0	0	17
Sunland	[illegible]	[illegible]	[2] 1	0	0	[illegible]	[illegible]
Sunoco	187,134	140,745	0	2,403	0	[illegible]	0
Swann	0	3,921	0	3,921	0	0	3,921
T & S	0	[illegible]	0	0	0	0	[illegible]
Tacoma-WA	0	324	[2] 321	0	0	0	324
Tarco	4,[illegible]	1,[illegible]	0	[illegible]	0	[illegible]	0
Tarricone	0	1,[illegible]	[illegible]	[illegible]	[illegible]	0	1,[illegible]
Tenneco	−405,827	[illegible]	0	0	−3,381	[illegible]	[illegible]
Tesoro	−171,670	47,010	[illegible]	0	0	0	[illegible]
Texaco	−1,794,959	[illegible]	[illegible]	[illegible]	−443	0	[illegible]
Texas-American	824	10,975	[illegible]	0	0	0	10,151
Texas-City	[illegible]	−97,628	[2] 140,643	[illegible]	0	[10] 171,796	0
Texas-Refining	[illegible]	[illegible]	[2] 19,842	[illegible]	[illegible]	0	[illegible]
Texas-Standard	0	1,467	0	0	[illegible]	[illegible]	1,467
Thagard	3,015	[illegible]	[2] 1,434	0	[illegible]	[illegible]	[illegible]
Thorn-Creek	0	76	[2] 72	0	0	[illegible]	76
Thriftway	10,325	−2,668	[2] −7,081	0	0	[illegible]	0
Thunderbird	[illegible]	[illegible]	[illegible]	0	0	[illegible]	[illegible]
Tipperary	0	[illegible]	0	0	0	[illegible]	[illegible]
Tomahawk	0	[illegible]	0	0	[illegible]	0	[illegible]
Tonkawa	0	25	[2] 25	[illegible]	[illegible]	[illegible]	25
Tosco	[illegible]	[illegible]	0	0	0	0	11,790
Total-Petroleum	−292,616	[illegible]	0	0	−7,223	[illegible]	[illegible]
Tri-Valley	4,014	[illegible]	[illegible]	0	0	[illegible]	[illegible]
Turlock-Ca	0	[illegible]	[2] 79	0	0	0	[illegible]
Ucc-Caribbe	0	27	[illegible]	[illegible]	0	0	27
UNI-RFF	0	11,944	0	11,944	0	0	11,944
Union-Carbide	0	15,172	0	[illegible]	[illegible]	0	[illegible]
Union-Oil	0	[illegible]	0	[illegible]	[illegible]	[illegible]	[illegible]
Unitd-Ref	[illegible]	[illegible]	0	0	[illegible]	[illegible]	0
Urban-II	25,953	[illegible]	0	0	0	0	[illegible]
US-Oil	0	[illegible]	[illegible]	0	0	0	[illegible]
USA-Petrochem	0	12,201	0	[illegible]	0	[illegible]	12,201
Val-Verde	−15,155	154,355	[1] [illegible]	0	0	0	[illegible]
0	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Vicksburg	[illegible]	48	0	0	0	0	48
Waller	[illegible]	[illegible]	[illegible]	[illegible]	0	0	[illegible]
Warrior	[illegible]	[illegible]	[illegible]	[illegible]	0	0	[illegible]
Watson	31,891	4,547	[2] 513	[illegible]	0	[illegible]	0
West-Coast	0	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
West-Mooreouth	0	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Westchester-NY	[illegible]	[illegible]	[2] 21	0	0	0	22
Western	[illegible]	147	[1] [illegible]	0	0	[illegible]	147
Winston-Salem	0	11,218	[2] 16	[illegible]	[illegible]	0	11,218
Wireback	0	[illegible]	[illegible]	0	[illegible]	0	[illegible]
Witco	0	[illegible]	0	0	0	[illegible]	[illegible]
Wooster	[illegible]	[illegible]	[illegible]	0	0	0	[illegible]
Wyatt	0	3	[illegible]	[illegible]	0	0	[illegible]
Wyoming	0	3,427	[illegible]	[illegible]	0	0	3,427
Young	0	11,197	0	0	0	0	11,197
Total	[illegible]	[illegible]	[1] [illegible]	[illegible]	0	0	[illegible]
	[illegible]	[illegible]	−419,693	215,925	−44,339	[illegible]	[illegible]

* The price of an entitlement is $26.10.

[1] See Discussion in Notice.

[2] Correction of prior month.

[3] Exception from Office of Hearings and Appeals.

[4] Federal Energy Regulatory Commission decision.

[5] Pursuant to order of the United States District Court for the District of Wyoming in *Husky Oil Company* v. *DOE*, C.A. No. C77-190B, DOE is enjoined from requiring Husky Oil Company to purchase any entitlements until further order of the court.

[6] In *VGS Corp. d/b/a/ Southland Oil Co., et al.* v. *DOE, et al.*, C.A. No. J81-0170(c) (S.D. Miss., Jackson Division, May 12, 1981), the Court suspended two Supplemental Orders dated February 23, 1981 issued by OHA in Case Nos. DEX-0058 and DEX-061, pursuant to which Southland purchased $13,398,466 in entitlements, and an April 1, 1981 Supplemental Order issued in Case No. BEX-0186 requiring Southland to purchase an additional $1,638,068 in entitlements. DOE is enjoined from publishing the January Entitlements Notice unless Southland is authorized to sell $13,398,466 in entitlements, and DOE is enjoined form enforcing the purchase requirement for $1,638,068 in entitlements. Southland is required to escrow the sum of $15,036,534 (1977-78 entitlements in pending litigation) upon the sale of the $13,398,466 in entitlements, pending completion of administrative proceedings, involving the 1977-78 exception relief.

[7] This number does not reflect a claimed "adjustment" by Ashland to subtract from its crude oil receipts the number of barrels of price-controlled crude oil that it had in inventory on October 31, 1974. Such a subtraction is not an "adjustment" as defined in the regulations or on the Form ERA-49, and is not permitted under the regulations. *See Ashland Oil, Inc.*, 8 DOE §80,202 (1981).

[8] Pursuant to an Order of the Presiding Officer Granting Interim Relief entered September 3, 1981 order in *Young Refining Corporation*, Docket Nos. RA 81-49-000 and RA 81-56-00, Young's additional entitlements purchase obligations ordered to be made by OHA as a result of its year-end reviews of Young's 1980 and 1981 fiscal years have been stayed. Furthermore, DOE is precluded from requiring Young to make entitlements purchases based on its crude oil receipts and runs to stills for January 1981 pending disposition of the proceedings relating to Young's 1981 fiscal year before the Commission. Young's entitlements position on the January 1981 Notice reflects (1) OHA's determinations that Young should be required to purchase $57,306 in entitlements in OHA Case No. DEX-0190 and to sell $159,415 in entitlements in OHA Case No. BYR-0225, neither of which are subject to the interim order issued in the proceedings before FERC, and (2) the Presiding Officer's determination that Young should be relieved of any entitlements purchase obligation for its January 1981 crude oil receipts and runs to stills.

[9] Pursuant to an order entered by the United States District Court for the Western District of Kentucky in *Ashland Oil, Inc.* v. *DOE, et al.*, C81-0167 L(A), Ashland is not required to fulfill this purchase obligation until further order of the court. DOE will seek a further order from the court before transactions specified by this Notice are required to be completed.

[10] Pursuant to orders issued by the Office Hearings and Appeals, these firms are required to pay their entitlements purchase obligations into a special U.S. Treasury escrow account. Rather than remove these firms from the notice, we have included them for purposes of this draft entitlement notice. If the notice were issued, and these firms had paid their entitlements obligations into the special escrow account, an appropriate adjustment would be made to take this into account.

BILLING CODE 6450-01-M

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
SEPTEMBER 1983

BASED ON DATA SUBMITTED FOR THE CLEAN-UP

REPORTING FIRM SHORT NAME	CLAIM(+)/OBLIGATION(-) FOR OCT 1980	NOV 1980	DEC 1980	JAN 1981	PROPORTIONATE SHARE	TOTAL
-CONSOL'D-SALES	[illegible]	$0.00	$0.00	$0.00	$0.00	$0.00
A-JOHNSON	$384,792.72	$0.00	$0.00	$0.00	$484,016.72-	$99,224.00-
ADM	$0.00	$0.00	$0.00	$0.00	$39,617.00-	$39,617.00-
AKRON-OHIO	[illegible]	$0.00	$0.00	$0.00	$10,176.00-	$10,176.00-
ALEXANDRIA-VA	[illegible]	$0.00	$0.00	$0.00	$361.00-	$361.00-
ALLIED	$14,018.43-	$4,894.80	$9,092.16	$0.00	$151,218.53-	$151,250.00-
AMER-AGRI-FUELS	$0.00		$0.00	$0.00	$560.00-	$560.00-
AMER-PETROFINA	$3,555,875.58	$7,547,226.38	$5,203,031.58	$3,630,659.38	$2,926,915.92-	$17,009,877.00
AMERADA-HESS	$663,043.36	[illegible],645,002.97	$2,542,273.90	$301,326.26-	$12,120,770.97-	$7,571,777.00-
AMERICAN-CAN-CO	$0.00				$0.00	$0.00
AMES-IOWA	$0.00	$0.00	$0.00	$0.00	$2,597.00-	$2,597.00-
AMOCO	$1,851,038.99	$4,966,284.70	$13,392,161.52	$2,844,564.58-	$20,442,852.63-	$3,077,932.00-
ANCHOR	$0.00	$0.00	$0.00	$0.00	$97,245.00-	$97,245.00-
ANSCHUTZ			$0.00		$14,247.00-	$14,247.00-
APEX	$0.00	$0.00	$0.00	$0.00	$124,080.00-	$124,080.00-
ARCO[2/]	$7,924,337.62	$11,932,745.12	$20,846,220.83-	$14,409,055.66	$14,328,297.57-	$908,380.00-
ARIZONA	$0.00	$0.00	$0.00	$0.00	$67,804.00-	$67,804.00-
ARIZONA-CHEM	$0.00	$0.00	$0.00	$0.00	$9,019.00-	$9,019.00-
ARLINGTON-VA		$0.00	$0.00	$0.00	$0.00	$0.00
ASAMERA[2/]	$24,737.06	$93,758.31	$186,761.04	$242,821.53-	$439,586.88-	$377,152.00-
ASHLAND	$61,593.27	$1,500,075.30	$3,480,154.81	$1,486,920.03	$7,898,645.41-	$1,369,902.00-
ATLANTA			$0.00	$0.00	$858.00-	$858.00-
AUSTIN-MINN			$0.00	$0.00	$85.00-	$85.00-
AZUSA-LAND	$0.00	$0.00	$0.00	$0.00	$2,913.00-	$2,913.00-
BALT-METHANE			$0.00	$0.00	$738.00-	$738.00-
BALTIMORE-MD	[illegible]	$0.00	$0.00		$10,988.00-	$10,988.00-
BAYOU	$0.00	$0.00	$0.00	$0.00	$29,114.00-	$29,114.00-
BEACON	$0.00	$0.00	$0.00	$451,457.06	$377,528.06-	$73,929.00
BELCHER	$0.00	$0.00	$0.00	$0.00	$399,799.00-	$399,799.00-
BELOIT-WI	$0.00	$0.00	$0.00	$0.00	$27.00-	$27.00-
BERGEN-COUNTY	$0.00	$0.00	$0.00	$0.00	$971.00-	$971.00-
BI-PETRO	$0.00	$0.00	$0.00	$0.00	$22,540.00-	$22,540.00-
BOISE-IDAHO	$0.00	$0.00		$0.00	$481.00-	$481.00-
BOSTON-QUINCY	$0.00	$0.00	$0.00	$0.00	$1,442.00-	$1,442.00-
BRAINTREE	$0.00			$0.00	$7,071.00-	$7,071.00-
BRONCO	$0.00	$0.00	$0.00	$0.00	$21,713.00-	$21,713.00-
BROOKINGS-SD			$0.00	$0.00	$7.00-	$7.00-
BROWN-WOOD		$0.00	$0.00	$0.00	$0.00	$0.00
BRUIN	$0.00	$0.00	$0.00	$171,937.02	$71,573.02-	$100,364.00
C&H		$0.00	$0.00	$0.00	$506.00-	$506.00-
CADENCE-CHEM	$0.00	$0.00	$0.00	$0.00	$10,572.00-	$10,572.00-
CALCASIEU	$0.00	$0.00	$0.00	$0.00	$356,630.00-	$356,630.00-
CALUMET	$0.00	$0.00	$0.00	$0.00	$52,540.00-	$52,540.00-
CANAL	$0.00	$113,835.67	$472,120.73	$480,109.01	$164,033.41-	$902,032.00
CARBOMIT	$0.00	$0.00	$0.00	$1,519.56-	$195,229.44-	$196,749.00-
CARIBOU	$257,504.92	$123,558.43	$109,059.28	$176,726.92	$110,909.55-	$555,940.00
CASTLE	$0.00	$0.00	$0.00	$0.00	$305,491.00-	$305,491.00-
CEA	$0.00	$0.00	$0.00	$0.00	$386.00-	$386.00-

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SEPTEMBER 1983

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REPORTING FIRM SHORT NAME	CLAIM(+)/OBLIGATION(-) FOR OCT 1980	NOV 1980	DEC 1980	JAN 1981	PROPORTIONATE SHARE	TOTAL
CENTRAL		$0.00	$0.00	$0.00	$119,554.00-	$119,554.00-
CHAMPLIN	$1,227,873.71-	$3,761,011.45-	$0.00	$12,897,569.39-	$4,267,372.45-	$22,153,827.00-
CHARTER	$0.00	$0.00	$0.00	$0.00	$1,431,835.00-	$1,431,835.00-
CHEVRON 2/	$196,697.55-	$813,108.45	$6,376,698.60	$9,815,975.23	$26,584,706.73-	$9,775,630.00-
CIBRO	$0.00	$0.00	$0.00	$0.00	$713,051.00-	$713,051.00-
CITGO 2/	$1,162,666.16	$516,619.79	$3,496,680.44	$2,812,185.83-	$5,897,396.56-	$3,535,536.00-
CITRONELLE				$0.00	$0.00	$0.00
CITY-OF-SEWARD	$0.00			$0.00	$0.00	$0.00
CITY-OF-WICHITA	$0.00	$0.00	$0.00	$0.00	$993.00-	$993.00-
CK-SMITH-CO			$0.00		$8,142.00-	$8,142.00-
CLAIBORNE	$0.00	$0.00	$0.00	$0.00	$94,391.00-	$94,391.00-
CLARK 2/	$0.00	$3,923.74	$75,903.30-	$20,958.91-	$2,309,871.53-	$2,402,810.00-
CLINTON-IOWA		$0.00	$0.00	$0.00	$108.00-	$108.00-
CLINTON-MANGES				$84,393.04	$14,954.04-	$69,439.00
COASTAL 2/	$61,264.06	$301,946.15	$307,491.56	$1,003,148.33	$3,143,169.10-	$1,469,319.00-
COASTAL-PETRO	$0.00	$0.00	$0.00	$0.00	$187,775.00-	$187,775.00-
COLDWATER	$0.00	$0.00	$0.00	$0.00	$784.00-	$784.00-
COLONIAL	$0.00		$0.00	$0.00	$82,778.00-	$82,778.00-
COLONIAL-OIL	$0.00				$0.00	$0.00
COLUMBUS-OHIO	$0.00	$0.00	$0.00	$0.00	$570.00-	$570.00-
CONOCO 2/	$307,019.02	$135,683.82-	$8,291,675.00	$2,722,158.89	$6,822,222.09-	$4,362,947.00
CONSOL-COAL			$0.00		$0.00	$0.00
CONSUMERS-POWER	$0.00	$0.00	$0.00	$0.00	$139,717.00-	$139,717.00-
COPANO	$0.00	$0.00	$0.00	$0.00	$174,694.00-	$174,694.00-
CORAL	$0.00	$0.00	$0.00	$0.00	$589,987.00-	$589,987.00-
CORCO	$0.00	$0.00	$0.00	$0.00	$2,457,039.00-	$2,457,039.00-
CRA-FARMLAND	$397.49-	$42,550.88	$56,577.06	$372,596.28-	$1,545,411.17-	$1,819,277.00-
CROSS	$0.00	$0.00	$0.00	$35,000.64	$178,986.64-	$143,986.00-
CROWN	$1,321.30-	$168,734.32	$291,378.56	$273,624.39	$1,624,486.97-	$892,071.00-
CRYSTAL-OIL	$0.00	$0.00	$6,151.43	$54,671.94	$376,896.37-	$316,073.00-
CRYSTAL-REF	$0.00	$0.00	$0.00	$0.00	$51,720.00-	$51,720.00-
CUMBERLAND	$0.00	$0.00	$0.00	$0.00	$49.00-	$49.00-
DEEPWATER			$0.00	$0.00	$61,742.00-	$61,742.00-
DEKALB-IL		$0.00	$0.00	$0.00	$39.00-	$39.00-
DELTA	$9.25	$9.73-	$1,660,881.94	$1,569,953.38	$1,062,947.84-	$2,167,887.00
DEMENNO	$0.00	$0.00	$298.74-	$5,086.10-	$281,565.16-	$286,950.00-
DETROIT-ED	$0.00	$0.00	$0.00	$0.00	$140,729.00-	$140,729.00-
DFSC			$0.00	$0.00	$57,466.00-	$57,466.00-
DIAMOND	$91,931.23	$72,051.01-	$524,186.74	$1,235,835.36	$1,369,249.32-	$410,653.00
DILLMAN	$0.00	$0.00	$0.00	$0.00	$127.00-	$127.00-
DORCHESTER	$0.00	$0.00	$46,286.94	$13,680.53	$445,957.47-	$385,990.00-
DOW	$6,576.79	$53,670.22	$0.00	$342,059.59-	$741,765.42-	$1,023,578.00-
DOWNERS-GROVE				$0.00	$24.00-	$24.00-
E-SEABOARD	$0.00	$0.00	$0.00	$0.00	$176,539.00-	$176,539.00-
EAGLE-REFINING	$0.00	$0.00	$0.00	$0.00	$13,459.00-	$13,459.00-
EAST-BAY-MUD	$0.00	$0.00	$0.00	$0.00	$1,012.00-	$1,012.00-
EAST-MOLINE-IL			$0.00	$0.00	$49.00-	$49.00-
EASTERN		$0.00			$0.00	$0.00

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
SEPTEMBER 1983

BASED ON DATA SUBMITTED FOR THE CLEAN-UP

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EASTERN-MMD	$0.00	$0.00	$0.00	$0.00	$135.00-	$135.00-
[illegible]	$0.00	[illegible]			$53,740.00-	$53,740.00-
EDDY	$173,996.40	$203,326.13	$99,624.63-	$24,664.95-	$98,627.95-	$154,405.00
EL-PASO-TX	$0.00	$0.00	$0.00	$0.00	$1,629.00-	$1,629.00-
ELGIN-IL	$0.00	$0.00	$0.00	$0.00	$70.00-	$70.00-
ENERGY-COOP	$0.00	$0.00	$0.00	$0.00	$1,780,399.00-	$1,780,399.00-
ENTERPRISE	$0.00		$0.00	$0.00	$19,250.00-	$19,250.00-
ERGON	$0.00	$0.00	$0.00	$69,760.75-	$235,775.25-	$305,536.00-
ERICKSON	$0.00	$0.00	$0.00		$111,714.00-	$111,714.00-
ESSEX-UNION	$0.00	$0.00	$0.00	$0.00	$826.00-	$826.00-
EVANGELINE	$0.00	$0.00	$0.00	$0.00	$38,128.00-	$38,128.00-
EWING-LAWRENCE	$0.00	$0.00	$0.00	$0.00	$119.00-	$119.00-
EXXON 2/	$898,665.08	$6,940,309.41	$17,077,886.11	$56,362,456.55	$31,922,383.15-	$49,356,934.00
EZ-SERVE	$0.00	$0.00	$0.00	$0.00	$399,666.00-	$399,666.00-
FARMERS-UN	$188,211.79	$27,744.91	$274,946.60-	$135,142.03-	$524,271.07-	$718,403.00-
FLETCHER	$0.00	$0.00	$0.00	$0.00	$608,411.00-	$608,411.00-
FLINT	$0.00	$6,043.78-	$0.00	$40.46	$12,677.68-	$18,681.00-
FORT-WORTH-TX	$0.00	$0.00	$0.00	$0.00	$1,140.00-	$1,140.00-
FRESCO-CA			$0.00		$0.00	$0.00
FRESNO-CA			$0.00	$0.00	$294.00-	$294.00-
FRIENDSWOOD	$0.00	$0.00	$4,608.02	$0.00	$217,584.02-	$212,976.00-
FUNDING	$67,175.57	$44,053.19	$44,809.39	$233,353.93	$95,057.08-	$294,335.00
GARY	$10,012.77-	$22,507.80	$42,797.30	$109,153.33	$273,648.66-	$109,203.00-
GETTY	$113,776.83-	$687,042.63	$3,121,256.35	$6,816,798.79	$5,696,792.94-	$4,814,528.00
GETTY-SYN	$0.00	$0.00	$0.00	$0.00	$4,700.00-	$4,708.00-
GIANT	$0.00	$0.00	$0.00	$0.00	$155,274.00-	$155,274.00-
GIBSON	$0.00	$0.00	$0.00	$0.00	$78,757.00-	$78,757.00-
GLACIER-PARK	$0.00		$0.00	$2,116,642.98	$49,524.98-	$2,067,118.00
GLADIEUX	$0.00	$0.00	$0.00	$708.05	$316,457.05-	$315,749.00-
GLENCOE-MN	$0.00	$0.00	$0.00	$0.00	$18.00-	$18.00-
GLENROCK	$0.00	$0.00	$0.00	$0.00	$53,097.00-	$53,097.00-
GOLDEN-EAGLE	$0.00	$0.00	$0.00	$0.00	$221,647.00-	$221,647.00-
GOLDKING	$177,677.39	$202,639.61	$341.19	$11,828.04	$644,800.23-	$252,314.00-
GOOD-HOPE	$0.00	$0.00	$12,383.50	$11,735.64	$1,433,642.14-	$1,409,523.00-
GREEN-BAY-WI			$0.00	$0.00	$616.00-	$616.00-
GUAM	$0.00	$0.00	$0.00	$0.00	$744,660.00-	$744,660.00-
GULF	$1,708,350.14	$1,551,299.30	$10,097,307.85	$6,718,862.64	$17,806,762.93-	$2,269,057.00
GULF-CITRO		$0.00			$0.00	$0.00
GULF-ENERGY	$0.00	$0.00	$0.00	$0.00	$64,126.00-	$64,126.00-
GULF-STS	$0.00	$0.00	$127,593.63-	$30,628.93-	$386,965.44-	$545,188.00-
HAMPTON-VA		$0.00	$0.00		$3,029.00-	$3,029.00-
HARRISBURG-PA	$0.00	$0.00	$0.00	$0.00	$17,419.00-	$17,419.00-
HAYWARD-CA		$0.00	$0.00	$0.00	$325.00-	$325.00-
HEALTH-CARE	$0.00	$0.00	$0.00	$0.00	$384.00-	$384.00-
HEMPSTEAD-TOWN	$0.00	$0.00	$0.00	$0.00	$6,458.00-	$6,458.00-
HIRI	$0.00	$0.00	$0.00	$0.00	$1,263,663.00-	$1,263,663.00-
HOWELL	$18,555.49	$28,747.68-	$72,359.61-	$339,397.83	$797,097.03-	$540,251.00-
HRR	$0.00				$0.00	$0.00

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
SEPTEMBER 1983

BASED ON DATA SUBMITTED FOR THE CLEAN-UP

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HUDSON-OIL	$0.00	$0.00	$0.00	$0.00	$357,768.00-	$357,768.00-
HUNT	$0.00	$463,393.64	$933,219.43	$1,107,884.87	$708,936.94-	$1,794,761.00
HUNTWAY	$0.00	$0.00	$0.00	$0.00	$124,115.00-	$124,115.00-
HUSKY	$289,240.35-	$89,075.79	$1,212,945.95	$1,400,039.04	$969,837.43-	$1,442,983.00
IDAHO-FALLS		$0.00	[illegible]	$0.00	$189.00-	$189.00-
IDEAL-BG-ASSOC 1/	$4,467.00	$4,467.00	$4,467.00	$4,467.00	[illegible]	$17,868.00
INDEPENDENT-REF	$2,932.80	$0.00	$3,060.00	$152,655.30-	$985,576.50-	$1,132,239.00-
INDIANA-FARM	$0.00	$0.00	$0.00	$0.00	$325,804.00-	$325,804.00-
INDIANA-REF		$0.00			$7,727.00-	$7,727.00-
INDUST-FUEL	$0.00	$0.00		$6,341.58-	$21,416.42-	$27,758.00-
INTER-PETRO	$0.00	$0.00	$0.00	[illegible]	$128,455.00-	$128,455.00-
INTER-PROCESS	$0.00	$0.00	$0.00	$0.00	$291,152.00-	$291,152.00-
IONIA			$0.00	$0.00	$30.00-	$30.00-
IRVING	$0.00	$0.00	[illegible]		$45,371.00-	$45,371.00-
JACKSON-MI		$0.00	$2,809.08-	$0.00	$498.92-	$3,308.00-
KENCO	$11,866.48-	$3,443.17-	$2,125.55	$20,184.45	$90,763.43-	$83,763.00-
KENOSHA-WI			$0.00	$0.00	$283.00-	$283.00-
KENTUCKY	$37,978.23	$203,152.58-	$77,574.63	$22,940.66	$38,358.94-	$103,018.00-
KERN	$104,423.65	$52,452.55	$0.00	$0.00	$464,818.20-	$307,942.00-
KERR-MCGEE	$136,602.79	$398,234.37	$1,421,151.16	$3,566,604.50	$2,828,690.82-	$2,693,902.00
KOCH 2/	$0.00	$0.00	$1,817,659.47-	$0.00	$3,243,450.53-	$5,061,110.00-
LA-COUNTY	$0.00	$0.00	$0.00	[illegible]	$16,224.00-	$16,224.00-
LA-CROSSE	$0.00	[illegible]	$0.00	$0.00	$105.00-	$105.00-
LAGLORIA	$0.00	[illegible]	$27,419.60	$98,620.55	$1,104,796.15-	$978,756.00-
LAKE-CHARLES	$0.00	$0.00	$0.00	$0.00	$127,459.00-	$127,459.00-
LAKESIDE	$0.00	$0.00	$0.00	$0.00	$67,131.00-	$67,131.00-
LAKETON	$0.00	$0.00	$0.00	$0.00	$117,713.00-	$117,713.00-
LAKEWOOD-OH	$0.00	$0.00	$0.00	$0.00	$258.00-	$258.00-
LAMPREY-NH		$0.00	$0.00	$0.00	$1,359.00-	$1,359.00-
LIQUID-ENERGY	$0.00	$3,379.95	$185.13	$101,964.75-	$150,509.33-	$248,909.00-
LITTLE-AMER	$159,956.36	$70,359.74	$1,153,556.69	$318,621.65-	$1,631,389.14-	$566,138.00-
LOS-ANGELES-CA	$0.00	$0.00		$0.00	$8,602.00-	$8,602.00-
LOTEX			$0.00	$0.00	$5,103.00-	$5,103.00-
LOUISIANA-LAND	$933,458.06	$362,746.72	$0.00	$213,849.82	$972,722.60-	$537,332.00
MACMILLAN	$0.00	$0.00	$0.00	$537.58	$414,180.58-	$413,593.00-
MADISON-CHATHAM	$0.00	$0.00	$0.00	$0.00	$55.00-	$55.00-
MADISON-CITY-WI	$0.00	$0.00	$0.00	$0.00	$2,442.00-	$2,442.00-
MADISON-WI	$0.00	$0.00	$0.00	$0.00	$689.00-	$689.00-
MALLARD	$0.00	$0.00	$0.00	$0.00	$110,537.00-	$110,537.00-
MANATEE	$0.00	$0.00	$0.00		$21,053.00-	$21,053.00-
MARATHON	$36,728.49	$39,144.45	$53,650.44	$6,212,005.18-	$9,446,494.20-	$15,528,976.00-
MARION	$0.00	$0.00	$0.00	$0.00	$564,700.00-	$564,700.00-
MARLEX 2/	$486,217.57	$555,294.68-	$47,808.66-	$1,572,690.94	$208,211.17-	$1,247,594.00
MARSHALLTOWN			$0.00	$0.00	$236.00-	$236.00-
MEDFORD			$0.00	$0.00	$50.00-	$50.00-
MERCED-CA			$0.00	$0.00	$109.00-	$109.00-
METRO-DENVER	$0.00				$77.00-	$77.00-
METRO-SEATTLE	$0.00	$0.00	$0.00	$0.00	$1,942.00-	$1,942.00-

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
SEPTEMBER 1983

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METROPOLITAN	[illegible]	[illegible]	$0.00	$0.00	$622,857.00-	$622,857.00-
MIAMI-DADE	$0.00	$0.00	$0.00	$0.00	$2,462.00-	$2,462.00-
MID-AMER	[illegible]	$0.00	$0.00	$13,237.84	$70,588.84-	$57,351.00-
MIDDLETOWN-OH			$0.00	$0.00	$170.00-	$170.00-
MIDWEST-SOLV	$0.00	$0.00	$0.00	$0.00	$3,280.00-	$3,280.00-
MILLER-OIL				$0.00	$0.00	$0.00
MILWAUKEE-WI	[illegible]	$0.00	$0.00	$0.00	$2,584.00-	$2,584.00-
MOBIL	$471,804.94	$505,648.14	$15,117,399.61	$16,965,965.02-	$17,097,755.67-	$17,968,868.00-
MOBILE-BAY	$10,949.00-	$3,904.84	$3,865.40-	$343.91-	$137,878.53-	$149,132.00-
MORRIDGE-SD		$0.00	$0.00	$0.00	$16.00-	$16.00-
MOHAWK				$0.00	$0.00	$0.00
MONACO	$0.00	$0.00	$0.00	$0.00	$32,659.00-	$32,659.00-
MONROE-WI		$0.00		$0.00	$0.00	$0.00
MONSANTO	$4,426.58-	$107,978.44-	$2,028,443.85	$209,732.91-	$685,521.92-	$1,020,784.00
MOORHEAD-MN	$0.00		$0.00	$0.00	$113.00-	$113.00-
MORRISON	$0.00	$0.00	$0.00	$0.00	$50,858.00-	$50,858.00-
MOUNTAINEER	$6,633.61	$18,086.39	$5,227.55	$8,517.47	$12,612.02-	$25,853.00
MUDGE	$0.00	$0.00	$0.00	$0.00	$7,999.00-	$7,999.00-
MT-AIRY	$0.00	$0.00	$0.00	$0.00	$171,490.00-	$171,490.00-
MURPHY	$27,050.80	$24,038.43	$1,131,974.00	$107,597.40-	$1,949,241.83-	$873,776.00-
N-AMER-PETRO	$0.00	$0.00	$0.00	$0.00	$393,889.00-	$393,889.00-
N-LITTLE-ROCK	$0.00	$0.00	$0.00	$0.00	$2,128.00-	$2,128.00-
N-SAN-MATEO	$0.00		$0.00	$0.00	$26.00-	$26.00-
NASHVILLE-TENN	$0.00	$0.00	$0.00	$0.00	$11,162.00-	$11,162.00-
NASSAU-COUNTY	$0.00	$0.00	$0.00	$0.00	$1,273.00-	$1,273.00-
NATCHEZ	$0.00	$0.00	$0.00	$0.00	$55,809.00-	$55,809.00-
NATL-COOP	$152,113.12	$153,282.19	$254,687.77	$618,607.01	$1,104,323.09-	$74,367.00
NAVAJO	$51,843.62	$52,934.75-	$27,187.39	$1,032,024.40-	$639,334.86-	$1,645,263.00-
NEPTUNE	$0.00	$0.00	$0.00	$0.00	$74.00-	$74.00-
NEVADA	$0.00	$0.00	$0.00	$0.00	$43,023.00-	$43,023.00-
NEW-EDMONTON	$0.00	$0.00	$0.00	$0.00	$709,299.00-	$709,299.00-
NEW-ENGL-PETRO	$0.00	$0.00	$0.00	$0.00	$570,927.00-	$570,927.00-
NEW-ENGL-POWER	$0.00	$0.00	$0.00		$104,554.00-	$104,554.00-
NEW-YORK-EP	$0.00	$0.00	$0.00	$0.00	$15,152.00-	$15,152.00-
NEWHALL	$0.00	$0.00	$0.00	$0.00	$404,557.00-	$404,557.00-
NORTHEAST-PETRO	$0.00	$0.00	$0.00	$0.00	$135,518.00-	$135,518.00-
NORTHLAND		$0.00	$0.00	$0.00	$10,608.00-	$10,608.00-
NY-SANITATION	$0.00	$0.00	$0.00	$0.00	$15,620.00-	$15,620.00-
OCCOQUAN			$0.00		$70.00-	$70.00-
OCEAN-TOWNSHIP	$0.00	$0.00	$0.00	$0.00	$37.00-	$37.00-
OCEAN-UTILITIES	$0.00	$0.00	$0.00	$0.00	$308.00-	$308.00-
OCONOMOWOC-WI	$0.00	$0.00	$0.00	$0.00	$37.00-	$37.00-
OKC	$0.00	$0.00	$0.00	$0.00	$351,595.00-	$351,595.00-
OKLA-REF	$0.00	$36,089.30	$10,461.96	$223,894.53	$347,440.79-	$76,995.00-
OMAHA	$0.00	$0.00	$0.00	$0.00	$6,247.00-	$6,247.00-
ORANGE-COUNTY	$0.00	$0.00	$0.00	$0.00	$6,532.00-	$6,532.00
OSCEOLA-AR	$0.00	$0.00	$0.00	$0.00	$934.00-	$934.00-
OXNARD	$0.00	$0.00	$0.00	$0.00	$66,848.00-	$66,848.00-

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PEERLESS	$0.00	$0.00	$0.00	$0.00	$33,335.00-	$33,335.00-
PENNZOIL	$129,483.53	$129,030.89	$8,994.81-	$358,415.50-	$1,110,981.11-	$1,219,877.00-
PEORIA-IL	$0.00			[illegible]	[illegible]	$0.00
PESTER	$4,322.42	$13,222.86	$45,998 57	$208,488.77	$592,494.62-	$328,462.00-
PETRACO-VALLEY	$0.00	$0.00	$0.00	$0.00	$48,789.00-	$48,789.00-
PHILADELPHIA-PA	$0.00	$0.00	$0.00	$0.00	$2,871.00-	$2,871.00-
PHILLIPS	$275,258.09	$2,273,098.39	$5,541,092.56	$4,877,909.01	$6,327,421.05-	$6,639,937.00
PHILLIPS-PR	$0.00	[illegible]	$0.00	$0.00	$891,721.00-	$891,721.00-
PIMA-AZ		$0.00	$0.00	$0.00	$968.00-	$968.00-
PIONEER	$0.00	$343.41-	$34,846.18-	$613.66-	$229,943.75-	$265,747.00-
PLACID	$872,535.98	$852,502.20	$1,026,559.07	$1,858,596.37	$1,053,531.62-	$3,556,662.00
PLATEAU	$455,059.92	$819,181.47	$693,490.96	$23,554.93	$340,747.28-	$1,655,540.00
PORT	$0.00	$0.00	$0.00	$0.00	$126,297.00-	$126,297.00-
PORTLAND-MI			$0.00		$2.00-	$2.00-
POWERINE	$0.00	$0.00	$0.00	$0.00	$823,918.00-	$823,918.00-
PRIDE 2/	$0.00	$6,141.41	$29,418.95	$23,021.58	$654,776.94-	$596,195.00-
QUAD				$0.00	$0.00	$0.00
QUAKER-ST	$1,824.83-	$1,338.28-	$15,404.69-	$55,166.82-	$487,387.58-	$561,122.00-
QUITMAN	$0.00	$0.00	$0.00	$0.00	$105,457.00-	$105,457.00-
RACINE-WASTE-UT		$0.00	$0.00	$0.00	$277.00-	$277.00-
RAILWAY	$0.00		$0.00	$0.00	$454.00-	$454.00-
RAPID-SD		$0.00	$0.00	$0.00	$195.00-	$195.00-
RAVENNA-OH			$0.00	$0.00	$46.00-	$46.00-
RESCO	$0.00	$0.00	$0.00	$0.00	$32,730.00-	$32,730.00-
RICHARDS	$0.00	$0.00	[illegible]	$0.00	$1,409.00-	$1,409.00-
ROAD-OIL	$0.00	$0.00	$0.00	$0.00	$4,294.00-	$4,294.00-
ROANOKE-VA			$0.00	$0.00	$457.00-	$457.00-
ROCK-ISLAND	$0.00	$0.00	$6,829.13	$28,731.29	$710,728.42-	$675,168.00-
SABER-TEX	$0.00	$0.00	$0.00	$57,375.58	$144,267.58-	$86,892.00-
SABRE-CAL	$0.00	$0.00	$0.00	$0.00	$239,368.00-	$239,368.00-
SAGE-CREEK	$0.00	$0.00	$0.00	$0.00	$3,195.00-	$3,195.00-
SALEM-VA	$0.00	$0.00	$0.00	$0.00	$1,418.00-	$1,418.00-
SAN-JOAQUIN	$0.00	$0.00	$0.00	$0.00	$280,539.00-	$280,539.00-
SAN-JOSE-CA	$0.00	$0.00	$0.00	$0.00	$3,798.00-	$3,798.00-
SANTA-CRUZ-CA	$0.00	$0.00	$0.00	$0.00	$303.00-	$303.00-
SCALLOP	$0.00	$0.00	$0.00	$0.00	$752,593.00-	$752,593.00-
SCANOIL	$0.00	$0.00	$0.00	$0.00	$286,248.00-	$286,248.00-
SCHULZE	$0.00	$0.00	$0.00	$0.00	$12,093.00-	$12,093.00-
SEAVIEW	$0.00	$0.00	$0.00	$0.00	$380,593.00-	$380,593.00-
SELTON		$0.00			$0.00	$0.00
SEMINOLE	$0.00	$0.00	$0.00	$56,356.28	$219,221.28-	$162,865.00-
SENTRY	$0.00	$0.00	$0.00	$0.00	$402,559.00-	$402,559.00-
SHELL	$976,727.15	$5,025,262.63	$20,567,096.26	$30,949,084.65	$19,444,755.69-	$38,073,415.00
SHEPHERD	$0.00	$0.00	$0.00	$0.00	$38,530.00-	$38,530.00-
SIGMOR	$36,695.42	$15,436.03	$51,726.49	$46,145.45	$386,848.39-	$236,845.00-
SILVER-EAGLE	$0.00	$0.00	$0.00	$0.00	$21,918.00-	$21,918.00-
SIOUX-FALLS	$0.00	$0.00	$0.00	$0.00	$502.00-	$502.00-
SLAPCO	$0.00	$0.00	$0.00	$5,226.60	$201,915.60-	$196,689.00-

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
SEPTEMBER 1983

BASED ON DATA SUBMITTED FOR THE CLEAN-UP

REPORTING FIRM SHORT NAME	CLAIM(+)/OBLIGATION(-) FOR OCT 1980	NOV 1980	DEC 1980	JAN 1981	PROPORTIONATE SHARE	TOTAL
[illegible]MESA	$0.00	[illegible]	$0.00	$0.00	$149.00-	$149.00-
[illegible]HAMPTON	$15,256.80	$0.00	$70,587.14	$93,447.22	$209,407.16-	$30,116.00-
[illegible]OHIO	$72,153.05-	$56,190.48	$1,503,727.44	$2,703,118.98	$9,586,474.85-	$5,395,591.00-
SOMERSET	$0.00	$0.00	$0.00	$0.00	$93,707.00-	$93,707.00-
[illegible]OHIO	$52,019.76	$0.00	$0.00	$0.00	$94,761.76-	$42,742.00-
[illegible]OHO	$3,992.95-	$0.00	$0.00	$0.00	$187,675.05-	$191,668.00-
SOUTHERN-UNION	$4,370.24-	$164,202.75	$37,023.13-	$1,078,257.00	$747,827.38-	$453,239.00
SOUTHLAND	$4,124.25	$1,426,452.13	$910,093.44	$1,533,792.45	$415,218.27-	$3,459,244.00
SOUTHLAND-CT				$0.00	$0.00	$0.00
SOUTHWEST-PETRO	$0.00	$0.00	$25,090.47	$0.00	$76,114.47-	$51,024.00-
SOUTHWESTERN	$0.00	$0.00	$0.00	$0.00	$13,003.00-	$13,003.00-
SPR	$0.00	$0.00	$0.00		$0.00	$0.00
SPRAGUE	$0.00	$0.00	$0.00	$0.00	$442,079.00-	$442,079.00-
SPRINGFIELD-IL			$0.00	$0.00	$116.00-	$116.00-
ST&SAN-CHICAGO	$0.00	$0.00	$0.00	$0.00	$31,894.00-	$31,894.00-
ST-CLAIR-IL		$0.00	$0.00	$0.00	$53.00-	$53.00-
ST-CLOUD-MINN	$0.00	$0.00		$0.00	$87.00-	$87.00-
ST-JOSEPH-MO	$0.00				$133.00-	$133.00-
STEUART			$0.00		$77,479.00-	$77,479.00-
STEVENS-PT-WI	$0.00	$0.00	$0.00	$0.00	$76.00-	$76.00-
STINNES-INTER		$0.00		$0.00	$34,666.00-	$34,666.00-
STOCKTON-CA	$0.00	$0.00	$0.00	$0.00	$1,077.00-	$1,077.00-
STOUGHTON-WI			$0.00		$0.00	$0.00
SUNLAND	$0.00	$0.00	$0.00	$0.00	$238,074.00-	$238,074.00-
SUNOCO	$509,257.74	$2,979,028.03-	$13,851,478.99-	$13,590,840.41	$8,664,151.13-	$11,394,560.00-
SWANN	$0.00	$0.00	$0.00	$0.00	$290,786.00-	$290,786.00-
T&S	$0.00	$0.00	$0.00	$0.00	$26,495.00-	$26,495.00-
TACOMA-WA	$0.00	$0.00	$0.00	$0.00	$353.00-	$353.00-
TARCO	$15,345.32	$40,595.30-	$62,427.36	$43,261.94-	$31,873.44-	$37,958.00-
TARRICONE	$0.00	$0.00		$0.00	$63,537.00-	$63,537.00-
TENNECO	$649,370.00-	$338,983.72-	$1,664,651.89	$538,914.33	$2,410,097.50-	$1,194,885.00-
TESORO	$9,791.27	$829,739.69	$383,892.79	$2,641,907.43-	$1,246,280.32-	$2,664,764.00-
TEXACO	$2,629,565.48	$725,028.18	$5,563,081.16	$31,311,104.57	$22,502,529.39-	$17,726,250.00
TEXAS-AMERICAN	$0.00	$0.00	$0.00	$0.00	$187,244.00-	$187,244.00-
TEXAS-CITY	$0.00	$0.00	$57,485.96	$1,036,412.13	$1,734,811.09-	$590,913.00-
TEXAS-REFINING		$0.00	$0.00	$0.00	$105,904.00-	$105,904.00-
TEXAS-STANDARD	$0.00	$0.00	$0.00	$0.00	$20,384.00-	$20,384.00-
THAGARD	$4,976.40-	$5,182.59-	$3,872.43-	$75.13-	$217,429.40-	$231,536.00-
THORN-CREEK	$0.00	$0.00	$0.00	$0.00	$190.00-	$190.00-
THRIFTWAY	$0.00	$2,329.44	$1,044.34	$133,571.64	$65,975.42-	$70,970.00
THUNDERBIRD	$405.02-	$580.95-	$405.90-	$2,146.24	$160,734.37-	$159,980.00-
TIPPERARY	$0.00	$0.00	$0.00	$0.00	$89,699.00-	$89,699.00-
TOM-BROWN-INC 1/	$16,004.00	$16,003.00	$16,004.00	$16,003.00	$0.00	$64,014.00
TOMAHAWK		$0.00		$0.00	$1.00-	$1.00-
TONKAWA	$0.00	$109,995.47-	$0.00	$1,011.49	$257,972.02-	$366,956.00-
TOSCO	$31,088.76	$588,964.61-	$6,461,501.89	$1,089,529.82	$4,326,562.86-	$2,666,593.00
TOTAL-PETROLEUM	$14,877.99	$223,001.27	$119,706.96-	$591,052.80-	$2,958,544.50-	$3,431,425.00-
TRI-VALLEY		$0.00		$0.00	$0.00	$0.00

NOTICE OF ENTITLEMENTS FOR DOMESTIC CRUDE OIL
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BASED ON DATA SUBMITTED FOR THE CLEAN-UP

REPORTING FIRM SHORT NAME	CLAIM(+)/OBLIGATION(-) FOR OCT 1980	NOV 1980	DEC 1980	JAN 1981	PROPORTIONATE SHARE	TOTAL
TURLOCK-CA			$0.00	$0.00	$1,159.00-	$1,159.00-
UCC-CARIBE	$0.00	$0.00	$0.00	$0.00	$586,596.00-	$586,596.00-
UNI-REF	$0.00	$0.00	[illegible]	$0.00	$196,881.00-	$196,881.00-
UNION-CARBIDE		$0.00	$0.00	$0.00	$74,037.00-	$74,037.00-
UNION-OIL	$165,750.72	$119,582.85-	$2,114,290.46	$5,126,616.53	$8,874,677.86-	$787,683.00-
UNTD-IND			[illegible]		[illegible]	[illegible]
UNTD-REF	$0.00	$2,153.06	$212,343.65	$156,386.85-	$954,897.66-	$896,787.00-
URBANA-IL	$0.00	$0.00	[illegible]	$0.00	$620.00-	$620.00-
US-OIL	$0.00	$0.00	$0.00	$0.00	$241,970.00-	$241,970.00-
USA-PETROCHEM	$0.00	$0.00	[illegible]	$0.00	$441,188.00-	$441,188.00-
VAL-VERDE	$0.00	$0.00	$0.00	$0.00	$6,373.00-	$6,373.00-
VICKSBURG	[illegible]	$0.00	[illegible]	$0.00	$188,977.00-	$188,977.00-
WALLEK	$0.00			$0.00	$7,981.00-	$7,981.00-
WARRIOR	$0.00	$0.00	$0.00	$33,777.44	$68,244.44-	$34,467.00-
WATSON	$0.00		[illegible]	[illegible]	$1,742.00-	$1,742.00-
WEST-COAST	[illegible]	$0.00	$0.00	$0.00	$196,307.00-	$196,307.00-
WEST-MONMOUTH	$0.00	$0.00	$0.00	$0.00	$68.00-	$68.00-
WESTCHESTER-NY	$0.00		[illegible]	[illegible]	$935.00-	$935.00-
WESTERN	$0.00	$862.47-	$0.00	$76.44-	$207,559.09-	$208,498.00-
WINSTON	$1,626.09				$23,013.09-	$21,387.00-
WINSTON-SALEM	$0.00	$0.00	$0.00	[illegible]	$2,893.00-	$2,893.00-
WIREBACK	$0.00	$0.00	[illegible]	[illegible]	$713.00-	$713.00-
WITCO	$0.00	$0.00	[illegible]	$2,508.50	$368,926.50-	$366,418.00-
WOOSTER	$0.00	$0.00	[illegible]	[illegible]	$145.00-	$145.00-
WYATT		$0.00	[illegible]	[illegible]	$171,337.00-	$171,337.00-
WYOMING	$88,176.48	$419,411.78	$0.00	$0.00	$214,412.26-	$293,176.00
YETTER	$0.00				[illegible]	$0.00
YOUNG	$0.00	$0.00	[illegible]	$0.00	$66,518.00-	$66,518.00-
TOTAL	$25,882,527.20	$45,617,740.60	$109,884,393.85	$166,633,220.96	$348,017,882.61-	$0.00

Entitlements Adjustments Notice Footnotes

1/ Exception from Office of Hearings and Appeals

2/ Refiners reporting adjustments for the Entitlements Adjustments Notice were required by 10 CFR § 211.69(d)(2)(ii) to identify the months in the reporting period when the crude oil subject to adjustment was reported as a crude oil receipt. These refiners reported negative adjustments to a category(ies) of price-controlled crude oil in a month(s) of the reporting period exceeding the volumes originally reported as unadjusted crude oil receipts. This would not appear to be permitted under the regulations. In other instances, refiners' responses have raised the possibility of other reporting errors. The Notice gives effect to the total amount of negative adjustments currently claimed by these firms, even in those instances where claimed negative adjustments still exceed unadjusted crude oil receipts originally reported, until such time as DOE is in a position to determine the extent to which the report is in error. DOE reserves the right to take such other appropriate action as necessary, in the event a satisfactory explanation for the volume of claimed negative adjustments is not forthcoming.

APPENDIX A

NOTICE OF POST CLEAN-UP PERCENTAGE OF DEEMED RUNS
SEPTEMBER 1983

BASED ON DATA SUBMITTED FOR OCTOBER 1980 - JANUARY 1981

-CONSOL'D-SALES	[illegible]	A-JOHNSON	0.12619202928	[illegible]	0.01157569793	AKRON-OHIO	0.00316881747
ALEXANDRIA-VA	0.00009291828	ALLIED	0.04608518272	AMER-AGRI-FUELS	0.00016032498	AMER-PETROFINA	0.86897703840
AMERADA-HESS	3.56260482511	AMERICAN-CAN-CO	0.00000000000	AMES-IOWA	0.00076599065	AMOCO	5.93325155285
ANCHOR	0.03131304938	ANSCHUTZ	0.00349098877	APEX	0.04264937149	ARCO	3.95604584761
ARIZONA	0.01946959695	ARIZONA-CHEM	0.00272774822	ARLINGTON-VA	0.00000000000	ASAMERA	0.13275657672
ASHLAND	2.31452151469	ATLANTA	0.00015511735	AUSTIN-MINN	0.00001351645	AZUSA-LAND	0.00185701972
BALT-METHANE	0.00013223886	BALTIMORE-MD	0.00999825221	BAYOU	0.00971142262	BEACON	0.11153387873
BELCHER	0.09297111266	BELOIT-WI	0.00000877692	BERGEN-COUNTY	0.00027980806	BI-PETRO	0.00561915665
BOISE-IDAHO	0.00053750165	BOSTON-QUINCY	0.00067921957	BRAINTREE	0.00337601118	BRONCO	0.00706173044
BROOKINGS-SD	0.00000122877	[illegible]	0.00000000000	[illegible]	0.03603655101	[illegible]	0.00006886953
CADENCE-CHEM	0.00383125395	CALCASIEU	0.09412036194	CALUMET	0.01390011764	CANAL	0.04620302743
CARBONIT	0.05421482968	[illegible]	0.02348965816	CASTLE	0.06632012667	CEA	0.00032515545
CENTRAL	0.02487032544	CHAMPLIN	1.16373463926	CHARTER	0.44151324031	CHEVRON	7.79025289887
CITGO	0.20750236645	CITGO	1.65246469921	CITRONELLE	0.00000000000	CITY-OF-SEWARD	[illegible]
CITY-OF-WICHITA	0.00027928144	CK-SMITH-CO	0.00199493431	CLAIBORNE	0.02746519116	CLARK	0.67462588466
CLINTON-IOWA	0.00092627223	CLINTON-MANGES	0.00203466448	COASTAL	0.95558986112	COASTAL-PETRO	0.05294223549
COLDWATER	0.00019935300	COLONIAL	0.02030211661	COLONIAL-OIL	0.00000000000	COLUMBUS-OHIO	0.00021842816
CONOCO	1.94512947390	CONSOL-COAL	0.00000000000	CONSUMERS-POWER	0.04476858692	COPANO	0.04592257573
CORAL	0.20591076065	CORCO	0.81220566885	CRA-FARMLAND	0.41496119941	CROSS	0.05100394154
CROWN	0.50004830170	CRYSTAL-OIL	0.10641617650	CRYSTAL-REF	0.01545790306	CUMBERLAND	0.00001263876
DEEPWATER	0.01093096573	DEKALB-IL	0.00000965461	DELTA	0.32173058261	DEMENNO	0.07647402285
DETROIT-ED	0.04459117621	[illegible]	0.01046758312	DIAMOND	0.40593191863	DILLMAN	0.00007934331
DORCHESTER	0.12568647896	[illegible]	0.37006148537	DOWNERS-GROVE	0.00000321820	E-SEABOARD	0.05582299460
EAGLE-REFINING	0.00525602641	EAST-BAY-MUD	0.00026084992	EAST-MOLINE-IL	0.00003784071	EASTERN	0.00000000000
EASTERN-MUD	0.00004195365	[illegible]	0.03769158466	EDDY	0.02607826302	EL-PASO-TX	0.00109102907
ELGIN-IL	0.00001281430	ENERGY-COOP	0.49714519072	ENTERPRISE	0.00641703676	[illegible]	0.06892283311
ERICKSON	0.08765042964	ESSEX-UNION	0.00018566101	EVANGELINE	0.01203127834	EWING-LAWRENCE	0.00003294269
EXXON	8.98665240790	EZ-SERVE	0.12139521107	FARMERS-UN	0.14697968484	FLETCHER	0.17404884534
FLINT	0.00411561257	FORT-WORTH-TX	0.00080238559	FRESCO-CA	0.00000000000	FRESNO-CA	0.00005476795
FRIENDSWOOD	0.06245167204	FUNDING	0.02797782152	GARY	0.07315558823	GETTY	1.65509151291
GETTY-SYN	0.00122666167	GIANT	0.04615253091	GIBSON	0.02468887734	GLACIER-PARK	0.00673850590
GLADIEUX	0.08624817116	GLENCOE-MN	0.00001117594	GLENROCK	0.01381129525	GOLDEN-EAGLE	0.06448458114
GOLDKING	0.14893787313	GOOD-HOPE	0.42219232430	GREEN-BAY-WI	0.00008384880	GUAM	0.19680354087
GULF	4.87052826067	GULF-CITRO	0.00000000000	GULF-ENERGY	0.01232694335	GULF-STS	0.11830608799
HAMPTON-VA	0.00096867887	HARRISBURG-PA	0.00502162427	HAYWARD-CA	0.00007419419	HEALTH-CARE	0.00010912631
HEMPSTEAD-TOWN	0.00241014092	HIRI	0.37327840033	HOWELL	0.22903851734	HRR	0.00000000000
HUDSON-OIL	0.10416957877	HUNT	0.20376217181	HUNTWAY	0.03516599805	HUSKY	0.27228085722
IDAHO-FALLS	0.00004563996	IDEAL-BG-ASSOC	0.00000000000	INDEPENDENT-REF	0.21081986486	INDIANA-FARM	0.09175422263
INDIANA-REF	0.00425112814	INDUST-FUEL	0.00796382178	INTER-PETRO	0.03143229832	INTER-PROCESS	0.08615531139
IONIA	0.00004497359	IRVING	0.01946357013	JACKSON-MI	0.00011995117	KENCO	0.02453463769
KENOSHA-WI	0.00005160826	KENTUCKY	0.00958383837	KERN	0.13903406053	KERR-MCGEE	0.96066514160
KOCH	0.83092132879	LA-COUNTY	0.00463608364	LA-CROSSE	0.00002919787	LAGLORIA	0.31966753944
LAKE-CHARLES	0.04346070953	LAKESIDE	0.02005010212	LAKETON	0.03025242954	LAKEWOOD-OH	0.00021567806
LAMPREY-NH	0.00031228264	LIQUID-ENERGY	0.04371892638	LITTLE-AMER	0.46641884894	LOS-ANGELES-CA	0.00300088582
LOTEX	0.00092935829	LOUISIANA-LAND	0.27995112045	MACMILLAN	0.12342776909	MADISON-CHATHAM	0.00001398455
MADISON-CITY-WI	0.00081525840	MADISON-WI	0.00019227296	MALLARD	0.02966878201	MANATEE	0.01827979832
MARATHON	2.64149121353	MARION	0.16091052168	MARLEX	0.06591205863	MARSHALLTOWN	0.00004166109
MEDFORD	0.00000836733	MERCED-CA	0.00001866557	METRO-DENVER	0.00007571552	METRO-SEATTLE	0.00049969904
METROPOLITAN	0.17484990138	MIAMI-DADE	0.00169622663	MID-AMER	0.02047701127	MIDDLETOWN-OH	0.00003001705
MIDWEST-SOLV	0.00094258218	MILLER-OIL	0.00000000000	MILWAUKEE-WI	0.00075896911	MOBIL	4.91855156684

NOTICE OF POST CLEAN-UP PERCENTAGE OF DEEMED RUNS
SEPTEMBER 1983

BASED ON DATA SUBMITTED FOR OCTOBER 1980 - JANUARY 1981

MOBILE-BAY	0.03867466103	MONRIDGE-SD	0.00000374482	MOHAWK	0.00000000000	MONOCO	0.00836644814
MONROE-WI	0.00000000000	MONSANTO	0.17699433582	MOURHEAD-MN	0.00006635348	MORRISON	0.01481566692
MOUNTAINEER	0.00355862953	MSDGC	0.00214993464	MT-AIRY	0.04788649828	MURPHY	0.57199279266
N-AMER-PETRO	0.09719947933	N-LITTLE-ROCK	0.00064293830	N-SAN-MATEO	0.00000631938	NASHVILLE-TENN	0.00332182835
NASSAU-COUNTY	0.00036365685	NATCHEZ	0.01893806696	NATL-COOP	0.30688109532	NAVAJO	0.18276018398
NEPTUNE	0.00002812839	NEVADA	0.01137517467	NEW-EDGINGTON	0.18933204552	NEW-ENGL-PETRO	0.16653988104
NEW-ENGL-POWER	0.05340325759	NEW-YORK-EP	0.00418500871	NEWHALL	0.11622238981	NORTHEAST-PETRO	0.04537758781
NORTHLAND	0.00177685723	NY-SANITATION	0.00392246192	OCCIDENTAL	0.00001726127	OCEAN-TOWNSHIP	0.00000959609
OCEAN-UTILITIES	0.00008839654	OCONOMOWOC-WI	0.00000994717	OKC	0.09222542595	OKLA-REF	0.09674021262
OMAHA	0.00413041630	ORANGE-COUNTY	0.00174537736	OSCEOLA-AR	0.00027694893	OSWEGO	0.01928873398
PEERLESS	0.00537486585	PENNZOIL	0.29271456905	PEORIA-IL	0.00000000000	PESTER	0.17188251134
PETRACO-VALLEY	0.01566708620	PHILADELPHIA-PA	0.00055996719	PHILLIPS	1.81083722958	PHILLIPS-PR	0.23822898454
PIMA-AZ	0.00020034772	PIONEER	0.05660291128	PLACID	0.27499444535	PLATEAU	0.09265526074
POET	0.03397069922	PORTLAND-MI	0.00000058513	POWERINE	0.23204800454	PRIDE	0.18770082657
QUAD	0.00000000000	QUAKER-ST	0.14560644869	QUITMAN	0.03011909627	RACINE-WASTE-UT	0.00005693292
RAHWAY	0.00010444529	RAPID-SD	0.00004698575	RAVENNA-OH	0.00000789922	RESCO	0.01000919410
RICHARDS	0.00038378525	ROAD-OIL	0.00122075188	ROANOKE-VA	0.00008162531	ROCK-ISLAND	0.19746350638
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SIGMOR	0.11174118947	SILVER-EAGLE	0.00793421432	SIOUX-FALLS	0.00016974554	SLAPCO	0.05836861698
SMKSA	0.00003861843	SO-HAMPTON	0.07345839181	SOHIO	2.83315212573	SOMERSET	0.02671107861
SOONER	0.02928885860	SOUMO	0.04998301076	SOUTHERN-UNION	0.21128597757	SOUTHLAND	0.12903592534
SOUTHLAND-CT	0.00000000000	SOUTHWEST-PETRO	0.02135037285	SOUTHWESTERN	0.00317420064	SPR	0.00000000000
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ST-CLOUD-MINN	0.00002539454	ST-JOSEPH-MO	0.00012983983	STEUART	0.01898464313	STEVENS-PT-WI	0.00002194229
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WINSTON-SALEM	0.00128353608	WIREBACK	0.00025178044	WITCO	0.10219366111	WOOSTER	0.00004025678
WYATT	0.03678762090	WYOMING	0.06035685643	YETTER	0.00000000000	YOUNG	0.02128167886
TOTAL	100.00000000004						

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Part III

Office of Management and Budget
Department of Defense
General Services Administration

Circular A-122: Cost Principles for Nonprofit Organizations; Lobbying and Related Activities

OFFICE OF MANAGEMENT AND BUDGET

Circular A–122: Cost Principles for Nonprofit Organizations; Lobbying and Related Activities

AGENCY: Office of Management and Budget.

ACTION: Notice.

I. Summary

This notice offers interested parties an opportunity to comment on the Office of Management and Budget's (OMB) proposed revision to Circular A–122, "Cost Principles for Nonprofit Organizations." The proposed revision makes unallowable the costs associated with lobbying and related activities. Parallel revisions are being proposed for defense and civilian contractors by the Department of Defense (DOD or Defense), the General Services Administration (GSA), and NASA. These proposed revisions follow the A–122 revision text.

The comments printed in the text of the proposed revision are for explanatory purposes. They will not be printed in the Circular after the revisions are final.

II. Supplementary Information

OMB published a proposal on January 24, 1983, to revise Circular A–122's treatment of the costs of lobbying and related activities. Following publication, OMB received approximately 48,300 comments from the general public, private and public organizations, and federal agencies. Approximately 16,500 comments opposed the proposed revisions, and approximately 31,800 supported them. Many of the opposing comments expressed support for the general principle that federal tax dollars should not be used for lobbying and related purposes, but objected that the means proposed in the January 24 notice would disrupt the legitimate activities of federal nonprofit grantees and contractors. On the other hand, many of the supporting comments have implied or stated a need for regulations significantly more restrictive than those proposed in January. In order to accord the issues raised by these comments further study, and to permit a new round of public comments on a revised proposal, OMB withdrew the January 24 proposal at the end of a 45-day public comment period. The current proposal is significantly changed from the January 24 proposal. the most important changes have been:

- to adopt an allocation method accounting for the costs of lobbying and related activities;
- to use a more limited definition of unallowable costs; and
- to clarify and limit reporting and recordkeeping requirements in the spirit of the Paperwork Reduction Act.

III. Background of Circular A–122

Circular A–122, "Cost Principles for Nonprofit Organizations," establishes uniform rules for determining the costs of grants, contracts, and other agreements. Like other OMB cost principle circulars for state and local governments and for educational institutions, A–122 is a management directive addressed to the Heads of Federal Departments and Agencies and is the legal basis for defining allowable costs and setting forth procedures for recovering them.

Circular A–122 was first issued in June, 1980. It was developed by an interagency team made up of the major grant-making agencies and led by OMB. Before issuance, public comments were sought and received and consultations were held with the General Accounting Office. The cost principles built upon accounting rules previously in use by federal agencies in their dealings with nonprofit organizations. The Circular standardized and simplified those rules. Generally, the circular provides that, to be recovered from the federal government, costs must be necessary, reasonable, and related to the federally-sponsored activity. In addition, costs must be legal, proper, and consistent with the policies that govern the organization's other expenditures.

The disallowance of lobbying and related costs in the proposed revision is comparable to the disallowance by Circular A–122 of other costs which are disallowed on grounds of public policy: for example, advertising, fundraising costs, and entertainment. In each of these examples, a determination has been made that it would not be an appropriate or cost-efficient practice to permit federal tax dollars to be used for these purposes. In this notice, costs of lobbying and related activities are proposed to be similarly disallowed.

IV. Purpose of the Revisions

The purpose of these revisions is to establish a comprehensive government-wide set of cost principles to ensure that federally-appropriated funds are not used by contractors or grantees for lobbying or related activities. The intent is not to discourage or in any way penalize organizations for lobbying efforts conducted with their own funds, but to ensure that the federal government does not subsidize such activities. In addition, as later noted, the revision is for the purpose of assuring compliance with a myriad of statutory provisions mandating that no federal funds be used for lobbying purposes, and to comply, in balanced fashion, with fundamental First Amendment imperatives.

For contractors or grantees to use federal monies to engage in lobbying is an inappropriate use of federal funds for a purpose that was not intended. Such misuse of funds diverts precious resources from the true mission of the grant or contract. Moreover, government subsidy of the lobbying efforts of its contractors and grantees distorts the political process. It favors the political expression of some—organizations with contracts or grants—at the expense of others, who must carry on their political expression at their own expense.

Despite the frequently worthwhile content of the lobbying conducted by such organizations, it runs against the grain of First Amendment government neutrality in political debate for federal funds to be used in this manner. Government neutrality in the democratic process is especially endangered by the practice of using grant or contract funds for lobbying and related activity because, as a general rule, only one side in the debate is funded. Those favoring grant programs and contracting activity have the grants and contracts; those opposed do not. Not to control this practice, then, is not only to subsidize national debate over the extent and desirability of government spending, domestic and military, but to subsidize systematically but one side of those debates.

Moreover, use of federal funds for private lobbying and related political activity can give the appearance of federal support of one political position over another. It can create misunderstanding and interfere with the neutral, non-ideological administration of federally-funded programs. All citizens have the right to receive the benefits of federally-funded programs without being made the captive audience for a grass roots lobbying campaign, and without fear that delivery of services is accompanied by federally-funded partisanship in political or public policy controversies.

This proposal is designed to balance the First Amendment rights of federal grantees and contractors with the corresponding First Amendment obligation and legitimate governmental interest of ensuring that the government does not subsidize the political advocacy activities of private groups or institutions. No person or group has a First Amendment right to receive governmental funding for political

expression; requiring grantees and contractors to bear the costs of their own lobbying efforts does not infringe upon their constitutional rights. Free speech does not mean subsidized speech. The Supreme Court emphasized this point in a recent unanimous opinion when it stated that the federal government "is not required by the First Amendment to subsidize lobbying. . . . We again reject the notion that First Amendment rights are somehow not fully realized unless they are subsidized by the State." *Regan v. Taxation with Representation of Washington,* 103 S. Ct. 1997, 2001 (1983).

On the other hand, there are serious constitutional problems with a system that permits tax money to be used for the political expression of private individuals or groups. Americans have the First Amendment right both to engage freely in speech and political expression, and to refrain from speaking, without interference or control on the part of the government or its agents. *Wooley v. Maynard,* 430 U.S. 705, 714 (1977). The proposed revision is intended to ensure that the use of Federal grants, contracts and other agreements by private organizations engaging in lobbying does not erode or infringe these constitutional rights, or distort the political process by encouraging or discouraging certain forms of political activity.

The activities of government in a democracy necessarily involve a degree of political advocacy, since government officials are expected to communicate with the people, explain their programs, and provide leadership and direction to the nation. Thus, Members of Congress and their staffs, the President and his political appointees, necessarily participate in forms of political advocacy. However, it is a distortion of the marketplace of ideas for the government to use its financial power to "tip the electoral process," *Elrod v. Burns,* 427 U.S. 353, 356 (1976), by subsidizing the political advocacy activities of private organizations and corporations. This proposal will ensure, to the extent consistent with the communications function of the government, that taxpayers are not required, directly or indirectly, "to contribute to the support of an ideological cause (they) may oppose." *Abood v. Detroit Board of Education,* 431 U.S. 209, 235–236 (1977). The proposal also seeks to avoid the appearance that, by awarding Federal grants, contracts, or other agreements to organizations engaged in political advocacy on particular sides of public issues, the government has endorsed, fostered, or "prescribe[d] [as] orthodox" a particular view on such issues. *West Virginia State Board of Education v. Barnette,* 319 U.S. 624, 645 (1943).

OMB has received thousands of letters from members of the public who are understandably concerned when they see their tax money involved in projects that involve political organizing for causes they may not support. Furthermore, numerous cases have been cited and documented—by federal agencies, the Comptroller General, Congress, and the general public—of federal grant and contract funds that were used for lobbying or related activities. Nevertheless, due to prior insufficient regulatory restrictions and limited enforcement efforts, the true magnitude of these abuses has never been quantified. Many organizations receiving federal grants engage in extensive lobbying and related political activity, but in many instances the financial and performance reports filed by the organizations are insufficiently detailed to permit the federal agency to determine whether federal funds have been used for those purposes and, therefore, misused. The problem has been exacerbated by the lack of any clear definitions of lobbying, and, in particular, of exactly what activities are unallowable.

Both criminal statutes—18 U.S.C. Section 1913—and appropriations restrictions—including Section 607(a) of the Treasury, Postal Service, and General Government Appropriations Act—currently prohibit the use of federal funds for certain types of lobbying, but there is no clear, uniform definition of prohibited activities to which grantees, contractors, auditors, agency officials, or the public can refer. The clear signal from Congress through the appropriations laws and other actions has not been translated into effective management controls.

The vagueness of existing anti-lobbying restrictions has hampered the ability of contractors and grantees to comply voluntarily with the restrictions, and has made the job of auditors difficult, if not impossible. For example, in recent General Accounting Office (GAO) investigations of improper lobbying expenditures, the contractors and grantees were able to urge that current rules did not ban the expenditures. As the Investigations Subcommittee of the House Armed Services Committee recently concluded:

> [T]here is a deficiency in the appropriations acts' prohibition of lobbying with appropriated funds. A review of the legislative history of the publicity-propaganda appropriations acts restrictions provides no definition of the critical terms 'publicity' and 'propaganda.' Thus, there appears to be no firm distinction between the conduct which is permissible and that which is prohibited.

Moreover, in the absence of clear and fair guidelines enforceable across the board, agency officials have been reluctant to make politically-sensitive determinations in particular cases. This problem is especially serious where there is a natural conjunction of interest between agency officials and their contractors and grantees, as where grantees or contractors lobby for additional appropriations to the agency involved. The thousands of grantees and contractors who receive federal money are a strong lobbying force in Washington, and can use grant and contract funds to help perpetuate their programs, irrespective of the programs' merit or effectiveness.

The improper use of federal funds for lobbying and related activities has been perceived as a problem for many years. In 1919, Congress passed legislation making certain uses of federal funds for lobbying purposes a criminal offense for federal employees; as early as 1948, the General Accounting Office began to unearth instances of federal grantees using federal funds for lobbying purposes. Over the past ten years, Congress has attached over fifty riders to appropriations bills addressing parts of the problem. In the past few years, pressure has increased for further steps. As a result:

- On December 18, 1981, the Department of Defense issued revisions to its Defense Acquisition Regulations (DAR), addressing for the first time the issue of lobbying costs, and making such costs unallowable under DOD contracts.
- On April 27, 1982 and October 22, 1982, DOD further toughened its rules disallowing lobbying costs, eliminating certain exceptions from coverage.
- On May 28, 1982, NASA issued a new cost principle in the NASA Procurement Regulations (NASAPR) making lobbying costs unallowable for NASA contractors. This was revised August 16, 1982.
- On November 2, 1982, the General Services Administration issued a new cost principle in the Federal Procurement Regulations (FPR) making lobbying costs unallowable for civilian contracts with commercial organizations.

These developments, however, affect only defense and civilian contracts with commercial organizations. No generally-applicable cost principle has been issued to control the federal funding of lobbying under contracts and grants to nonprofit organizations.

This proposal thus addresses the final major area in which federal cost principles have not yet adopted restrictions on the use of federal funds for lobbying and related activities by private organizations. It has been prepared in active consultation with the General Accounting Office, which supports this initiative. The proposal is similar in critical respects to the current Defense, NASA, and GSA procurement regulations. Parallel revisions now being proposed by GSA and NASA will eliminate all differences; revisions now being proposed by Defense will eliminate these differences save for certain provisions later described in this notice which retain more restrictive definitions of lobbying contained in the present DAR.

V. Necessity for the A–122 Revision

There is little disagreement regarding the inappropriateness of using federal grant and contract funds for lobbying and related activities. Still, some have argued that no regulations should be in effect for contractors; alternatively, others have agreed that none should be in effect for nonprofit grantees. (Often, and without even appreciating the irony of their positions, those arguing for self-exemption strenuously assert the need for *strong* regulation to restrict the use of federal funds for lobbying purposes by everyone other than themselves.) The procurement agencies have properly rejected the notion of no regulation for civilian, space and defense contractors. This revision of the OMB Circular is in furtherance of the view that fair, consistent regulation makes sense for and is in the interest of the government as well as nonprofit grantees. The following points help explain that position:

1. *It is indefensible to cover contractors under tough guidelines while effectively exempting nonprofit grantees from any regulation:* During the past two years, lobbying provisions far more restrictive than the proposed A–122 revision have been added to the cost principles governing all defense and civilian contractors. (These provisions are described elsewhere in the preamble.) Use of federal funds for lobbying and related purposes is no less an abuse when engaged in by grantees than by contractors, and OMB knows of no basis for differential, much less highly differential treatment of the two. Since parallel revisions are being issued for A–122, the FPR, and the NASAPR sets of cost principles, the present initiative guarantees uniformity of lobbying cost rules for both nonprofit and profit-making recipients of federal funds. (As is elsewhere described in the preamble, the proposals are in fact identical save for the inclusion in the DAR proposal of *more restrictive* definitions of lobbying and related activities than are proposed for all other covered parties.)

2. *Existing rules have failed to stop or identify abuses:* Cases have been cited and documented of federal grant and contract funds that were used for lobbying and related activities. Moreover, insufficient regulatory guidance under the current A–122 has limited enforcement efforts so that the true magnitude of actual abuses has not been quantified. Such audits as now take place regarding the use of federal funds for lobbying purposes can easily bog down into disputes between attorneys and accountants regarding definitions, rules and standards. Thus, many agencies choose not to commit limited auditing resources to an effort which, whatever its importance, can often be limited or even thwarted because existing standards are vague and unclear.

3. *The vagueness of existing standards impose administrative and interpretative problems on nonprofit grantees:* The corollary to the above problem for auditing agencies is that many nonprofit grantees—often the least financially endowed—are particularly disadvantaged if and as actually audited. Many grantees may lack the resources or access to outside professional assistance to effectively resist forced, questionable or subjective construction by auditors of the presently undefined "lobbying" term. Moreover, the absence of clearly defined standards ensures that all grantees are now necessarily uncertain of the allowability of many intended expenditures—whatever their good faith desire not to spend grant funds for lobbying purposes. The A–122 proposal clearly defines what types of lobbying and related activities are unallowable and, further and critically, provides for binding advance guidance from agencies in situations where grantees are in doubt as to the meaning of the Circular.

4. *The A–122 proposal also safeguards against paperwork requirements to which grantees are presently subject:* Aside from the current absence of definitions of lobbying and related activities, audited grantees are, further, effectively subject to the requirement that they document certain allowable expenses charged to the government. This requirement is particularly onerous with indirect cost ("overhead") employees who frequently spend limited amounts of time engaged in lobbying or related activities—but who may nonetheless be required to maintain fully documented time records in order to rebut auditor assertions of disbelief of their claims. The A–122 proposal includes specific provisions to safeguard against this potential problem and exempts indirect cost employees from documentation requirements, including the creation of time logs, calendars, or similar records, if they self-certify that they spent less than 25% of their time on lobbying or related activities. The proposed revision also mandates that agency documentation guidance be restricted further by review pursuant to the Paperwork Reduction Act, to ensure it is the least burdensome necessary to satisfy the documentation requirement objectives. The self-certification rights and protections of the proposal are only possible because of the clear definitions of lobbying and related activities that are elsewhere set forth. It is impossible, risky for grantees and ultimately meaningless to self-certify to compliance with a vague and ultimately meaningless standard.

5. *The A–122 proposal explicitly protects many activities presently subject to claims of unallowability:* A–122's comprehensive treatment of lobbying makes many activities allowable that auditors might currently deem unallowable. Examples of the above include:

—Lobbying at the state level to enhance the organization's ability or cost to perform the grant or contract; also, in recognition of principles of federalism, state subgrantors may, through appropriate state processes, waive the disallowance provision for state lobbying by state subgrantees.
—All federal Executive Branch contacts except attempts to influence the signing or veto of legislation.
—Employee activity related to service as an elected or appointed official, or member of a governmental advisory panel.
—Providing technical advice to legislative bodies in response to specific written requests.

6. *The Internal Revenue Code and other restrictions on lobbying have no bearing on preventing the use of grantee funds for lobbying purposes:* The notion that Code lobbying provisions for tax exempt organizations preempt or otherwise make unnecessary the promulgation of cost standards in this area is belied by the fact that those provisions are for the purpose of defining the *character* and *status* of such organizations. Under the Code, as long as an organization's lobbying expenditures do not exceed a certain

portion of its revenues, it is eligible for tax exempt status. The Code lobbying provisions are only determinative, however, of whether an organization is sufficiently devoted to a public purpose to justify preferential tax treatment. The provisions do not address the issue of whether federal grant monies should be used to subsidize lobbying—the sole purpose of cost standards. Indeed, the fact that the code lobbying provisions do not address the use of grant monies for lobbying has been implicitly recognized by Congress on numerous occasions through appropriation bill riders prohibiting such expenditures. *See, e.g.,* Pub. L. 97–377, section 509; Pub. L. 96–74, section 607.

It is clear that because expenditures by nonprofits are permissible under the Code does not mean that federal grant monies should be spent for those purposes. For example, the Code does not prohibit tax exempt organizations from spending their revenues on advertising or entertainment. Circular A–122, however, allows only certain advertising costs, and disallows all entertainment costs. Another example is section 503 of the Code, which denies tax exempt status in certain instances to organizations using their revenues for the private gain of controlling individuals. The regulatory scheme embodied in section 503 does not imply, however, that the federal government should not have more stringent restrictions on the use of federal grant monies for private gain. This point is best understood by the fact that nothing in the Code would prevent many grantees from spending *all* of their grant funds for lobbying purposes.

Correlatively, the fact that the Code and other provisions of law regulate the business community in its lobbying activities, e.g., Section 162(e), IRC; Federal Election Campaign Act, 2 U.S.C. Sections 431–456, does not mean that there should be no provisions in the DAR, FPR or NASAPR regarding such activities. Some in the business community have suggested that current provisions regarding the unallowability of lobbying expenditures should be superseded by definitions of lobbying set forth in the Federal Regulation of Lobbying Act, 2 U.S.C. sections 261–270. That position has been properly rejected, and no Congressional intent or operative theory can seriously support the notion that the Code, lobbyists registration laws or any other like statutes permit the government to avoid its responsibility to assure that federal grant and contract funds are spent for authorized purposes and intended and best uses.

7. The Comptroller General supports the need for A–122 revision: As indicated elsewhere in the preamble, the A–122 proposal was prepared in active consultation with the General Accounting Office, which supports the initiative and believes that the proposal satisfies the concerns which it had expressed earlier.

And, as noted elsewhere, after a GAO investigation of lobbying activities by grantees under Title X of the Public Health Services Act, the Comptroller General stated in September 1982:

> Clear federal guidance is needed both to ensure that Title X program funds are not used for lobbying and to preclude unnecessary controversy over whether grantees are violating federal restrictions. *The move to revise and make more specific the cost principles applicable to all federal grantees is the appropriate mechanism to achieve these ends.* [*Emphasis* added.]

VI. Summary Description of Proposal

This proposal uses the term "lobbying and related activities" to describe unallowable activities instead of the expansive term "political advocacy" used in the January 24 proposal. This reflects a significant tightening of the definition of unallowable activity in the new proposal. Unlike the January 24 proposal, this proposal will *not* cover:

- Lobbying at the local level (covered under the current DAR and FPR);
- Appearances before Congress or state legislatures at their written request (covered under the current DAR);
- Contracts with Executive Branch officials, other than in connection with the veto or signing of enrolled bills, or attempts to use state or local officials as conduits for unallowable lobbying (covered under the January 24 proposal);
- Litigation on behalf of others not directly authorized by grant or contract (covered under the January 24 proposal);
- Lobbying at the state level that would affect the organization's ability or cost of performing a grant or contract (covered under the current DAR, FPR, and NASAPR);
- The entire cost of membership dues to trade associations or other organizations which have lobbying as a "substantial organizational purpose" (covered under the January 24 proposal).

Unallowable activities will consist of:

- Federal, state or local electioneering and support of campaign organizations, PACS, and the like;
- Direct lobbying of Congress and, to the degree noted above, state legislatures;
- Grass roots lobbying concerning state or federal legislation;
- Efforts to employ state or local officials to lobby Congress or state legislatures;
- Legislative liaison activities, but only to the extent that they are directly related to unallowable lobbying activities as otherwise defined by the Circular. (All legislative liaison activities are covered by DAR.)

The proposal will make unallowable only the portion of costs attributable to lobbying and related activities—not, as in the January 24 proposal, entire cost items used in part for political advocacy.

Further, and critically, the proposal will provide relief from paperwork and audit problems such as those experienced under the current DAR, FPR, and NASAPR: for the purposes of complying with this revision, employees accounted for on an indirect basis will *not* be required to maintain time logs or similar records if they lobby less than 25% of the time. The federal government will rely upon their good faith certification of lobbying time below 25%, except for organizations that have been found to have materially misstated allowable or unallowable costs within the preceding five-year period. Under the proposal, the absence of time logs or similar records not kept pursuant to grantee or contractor discretion will no longer serve as a basis for contesting or disallowing claims for indirect cost employees.

In order to provide even-handed, government-wide rules for paperwork and audits, Defense, GSA, and NASA are proposing parallel revisions in their procurement regulations.

VII. Variances With the Lobbying Provision of Defense Acquisition Regulations (DAR)

A standardized lobbying provision that will govern grantees and contractors alike resulted from extensive negotiations among the four agencies which are responsible for the major sets of cost principles affecting grants and contracts: the Federal Procurement Regulations (FPR), which covers civilian contractors and which is administered by GSA; the NASA Procurement Regulations (NASAPR); the DAR, which covers defense contractors and is administered by the Department of Defense; and Circular A–122, which covers nonprofit organizations and is implemented under the guidance of OMB.

Although exact conformity was reached between the lobbying provisions in the FPR, NASAPR, and the A–122 proposal, four exempted activities under these regulations are restricted under the DAR proposal. The activities

allowable under the proposed A–122, FPR, and NASAPR, but unallowable under the proposed DAR are as follows:

(a) Local lobbying activities to influence officials on local concerns.

(b) Providing technical advice or assistance to Congress or state legislatures, or members or committees thereof, in response to a specific written request; and

(c) Lobbying and related activities at the state level: (1) for the purpose of influencing legislation directly affecting the ability of the organization or cost to the organization of performing the grant or contract; or (2) in the case of states' subgrantees, if the restrictions are waived by the state (the subgrantor) through appropriate state processes.

(d) Legislative liaison activities that are unrelated to unallowable lobbying activities, as otherwise defined in the proposal.

VIII. Analysis

The proposed revision comprises three paragraphs. The first creates a new paragraph in Attachment B to Circular A–122, to be called "B21 Lobbying and Related Activities." Paragraph B21 consists of three subparagraphs.

Subparagraph a establishes an administrative framework for the overall revision. Subparagraph a(1) represents no departure from the current principles of cost allocation familiar to grantees and contractors. While the precise detail of reporting procedures will necessarily be set according to individual agency paractice, this paragraph establishes a general format similar to, and no more onerous than, that now applicable to comparable unallowable activities. See, for example the HHS "Guide for Nonprofit Organizations" (May 1983), at p. 73 (Sample Indirect Cost Proposal Format—Direct Allocation Method).

Indirect cost rate negotiations are conducted between an organization and a single cognizant agency on an organization-by-organization rather than on a grant-by-grant basis. This approach will save agencies and recipient organizations considerable time and effort in cases where the organization receives more than one grant or contract. Further, the subparagraph follows existing accounting practice and emphasizes that lobbying and related costs must be identified and dealt with apporpriately, in accordance with the Circular's provisions.

No detailed record-keeping requirements have been included in this proposal, as such requirements are generally set forth for all nonprofit organizations in OMB Circular A–110: "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations: Uniform Administrative Requirements." (See, e.g. Circular A–110, Attachments C and F.) The Circular, *inter alia*, generally requires grantees to keep for a period of three years, "[f]inancial records, supporting documents, statistical records, and all other records pertinent to [grants]," and to access for audit purposes "pertinent books, documents, papers and records of * * * recipient organizations."

As later described in the preamble, the proposal also modifies, in certain situations, the ability of auditors to require the creation of certain documents and records. See paragraph 1.a.(4) of the proposal.

As with the DAR, FPR, and NASAPR, and as is already the case under A–122's general rules for unallowable costs, the costs identified as unallowable by these revisions include not only costs of the direct activity but also the costs of other activities directly supporting such direct activity. Under the proposal, for example, if a lobbyist spends four hours lobbying the Congress and an additional eight hours in study, consultation, and preparation for the lobbying, the full twelve hours are disallowed, along with the cost of any support services and any other costs attributable to the lobbying activity.

As emphasized in the comment published along with the proposal's text only the portion of cost items allocable to the lobbying activity is unallowable. This departs from the approach taken in the January 24, 1983, proposal which made the entire cost of any cost item used for lobbying activities unallowable.

Subparagraph a(2) makes clear that the certification required as a part of the financial status report required under Attachment G of Circular A–110 is deemed a certification of compliance with this revision (paragraph B21, "Lobbying and Related Activities"). It is important that a responsible official of the contractor or grantee investigate and ensure compliance with these provisions; however, no new paperwork is required.

Subparagraph a(3) restates the general rule for cost documentation, but is modified by subparagraph a(4), which provides that for the purposes of complying with this revision, organizations are not required to prepare or maintain time logs, calendars, or like records to document the time spent by indirect cost employees who state in good faith that they spend less than 25% of their time on lobbying and related activities. This means that the agency and auditor must rely on the good-faith estimates of time spent in lobbying by such employees, or upon other evidence not precluded above. As earlier noted, the absence of time logs or comparable records for indirect cost employees not kept pursuant to the discretion of the grantee or contractor will not serve as a basis for contesting or disallowing claims. Only if a material misstatement is found on the basis of other evidence can an agency require the keeping of time logs for such employees. This avoids the necessity of employees who engage in incidental lobbying having to account for all of their time to federal agencies.

Subparagraph a(5) requires agencies to establish procedures for advance resolution of definitional issues arising under this revision. This will alleviate the inevitable problems of interpretation at the margin and will avoid creating a disincentive for organizations to engage in borderline activity merely because of the uncertainty of applicability of the provisions.

Subparagraph b defines five categories of lobbying and related activities that are unallowable. It should be read in conjunction with subparagraph c, which establishes exceptions to these prohibitions.

Subparagraph b(1) makes unallowable certain electioneering activities at the federal, state, or local levels. It applies to referenda as well as to elections of candidates to office. The restrictions should be familiar to nonprofit organizations, since they are prohibited by 26 U.S.C. Section 501(c)(3).

Subparagraph b(2) makes unallowable the financial or administrative support of political entities—including political parties, compaigns, political action committees, or other organizations—with the purpose of influencing elections. Thus, it bars indirect support of electioneering activities through intermediaries.

Subparagraph b(3) makes unallowable the costs of attempts to influence state or federal legislation. Unlike the January 24, 1983, proposal, this proposal confines the reach of unallowable lobbying to legislative, but not executive, decisionmaking. This is the traditional understanding of lobbying, and was strongly urged by many commenters. Many commenting organizations stressed the necessity and appropriateness of contacts with officials charged not with passing laws but with executing them. Thus the only Executive Branch lobbying made unallowable are attempts to influence a decision to sign or veto enacted legislation, and attempts to use state and local officials as conduits for

grantee and contractor lobbying of Congress or state legislatures.

The coverage of subparagraph b(3) has been limited to state and federal legislation in these proposals, unlike the prohibitions in the Internal Revenue Code, the DAR, the FPR, and the NASAPR, because it is difficult to distinguish between legislative and executive lobbying at the local level. Many of the comments received from organizations critical of the January 24, 1983, proposal gave examples of contacts with local officials that are vital to carrying out grants or contracts—for example, obtaining zoning changes, police protection, or permits. At the local level, there is no rigorous separation between legislative and Executive Branches, and it would be difficult to construct or enforce a rule regarding legislative lobbying at the local level.

As indicated, however, in keeping with the intent of the revision, b(3) includes a phrase clarifying that efforts expended to influence state and local officials to accomplish the lobbying activities defined in b(3) are likewise unallowable. Under the proposal, the government would not reimburse the cost of meeting with mayors or city council representatives if the purpose is to convince them to lobby the Congress for legislation that the grantee or contractor favors.

Subparagraph b(4) deals with grass roots lobbying, and is applicable only to grass roots compaigns concerning legislation. This provision is not meant to disallow associations from informing their membership about legislative developments or soliciting their members' views as a basis for developing the associations' own legislative positions.

The proposal's definition of grass roots lobbying is less inclusive than the Internal Revenue Code definition, in that the IRC includes local lobbying, and restricts "any attempt to influence any legislation through an attempt to affect the *opinions* of the general public or any segment thereof." This subparagraph restricts only efforts to obtain specified lobbying *actions* on the part of the public. (See 26 U.S.C. 4911(d)(1)(A)).

Subparagraph b(5) makes unallowable the cost of legislative liaison activities when they relate to unallowable lobbying and related activities as defined in paragraph b. This distinction recognizes that while the primary purpose of an organization's "legislative liaison" unit is ordinarily to direct and prepare for what has been defined in this revision as unallowable lobbying, there are many other functions served that this revision does not make unallowable. Under the DAR, *all* legislative liaison activities are deemed unallowable.

Subparagraph c sets forth five exceptions to subparagraph b. The costs of activities described in subparagraph c are not unallowable under this proposal. Note that this does not necessarily make such costs *allowable;* allowability or unallowability of such costs will be determined by the terms of the grant, contract, or other agreement involved. Circular A–122 does not authorize costs or expenditures; it exclusively limits the allowability of costs or expenditures.

Subparagraph c(1) exempts the provision of technical advice or assistance to a legislature upon a specific written request. This includes not merely testimony, but also conferences with legislators and staff when requested. The exemption is meant to be permitted on a limited basis, to fulfill the specific informational needs of legislatures, and members and staffs thereof.

Subparagraph c(2), patterned after 26 U.S.C. 4911(d)(2)(E), makes clear that communications with Executive Branch officials are not unallowable, with two exceptions: (1) to influence a decision to sign or veto legislation or (2) to influence state or local officials to serve as conduits for unallowable lobbying activities, as defined by this revision.

Subparagraph c(3) ensures that the salary of an employee does not become unallowable because of participation in civic affairs as an elected or appointed official or member of a governmental advisory panel.

Subparagraph c(4) exempts lobbying or related activity at the state level where it directly affects the ability of or cost to the organization of performing the grant or contract. Such lobbying can directly benefit the federal government. The proposed exception does *not* permit the use of federal funds to lobby state legislatures to promote the ideological objectives of the organization, merely because those objectives are consonant with the purposes of the grant or contract. A recipient of a grant for services to the elderly cannot thereby engage in lobbying on behalf of the concerns of the eldery. Rather, the lobbying must relate to the organization's direct performance of the grant or contract. For example, a grantee in a drug rehabilitation program might be able to lobby a state legislature for laws permitting the prescription of methadone to heroin addicts, or a grantee distributing dairy products to the needy might lobby against an increased excise tax on milk that would increase its distribution costs. It should be understood, however, that state lobbying exempted from unallowability under this section must be *"directly* related" to lower costs or better performance of grants or contracts. Lobbying in the case of secondary, tangential or speculative links between proposed state laws and grant or contract costs or performance will remain unallowable.

In recognition of the principles of federalism, states which are subgrantors for federal grants may, through appropriate state processes, waive the disallowance provision for state lobbying by state subgrantees.

The final exception, in subparagraph c(5), is for any activity specifically authorized by statute to be undertaken pursuant to the federal grant, contract, or other agreement. The provisions of this Circular do not override statutory law.

Paragraph 2 renumbers paragraphs B21 through B50 of Circular A–122's Attachment B. Since the cost items covered under Attachment B are numbered in alphabetical order, "Lobbying and Related Activities" is appropriately designated as paragraph B21, necessitating the renumbering of paragraphs B21 through B50 as B22 through B51.

Paragraph 3, like paragraph 2, is a technical language change. It changes the former term "lobbying" to the new term "lobbying and related activities," as used in this revision.

IX. Legal Authority

The responsibility for implementing grant programs, including the power of administration, has been delegated by Congress to the grant- and contract-making agencies. Those agencies have the direct legal authority to establish cost principles and, prior to the late 1970's, did so in a piecemeal fashion without coordinated government-wide standards. OMB's legal authority in this process derives from the President's constitutional authority to "Take Care that the Laws be Faithfully Executed," U.S. Constitution, Article II, Section 3, as well as from general supervisory responsibilities vested by Congress in the President and in OMB.

Grants management responsibility was placed in OMB by Executive Order No. 11541 (July 1, 1970), pursuant to Reorganization Plan No. 2 of 1970, 5 U.S.C. App. Subsequently, grants management authority was transferred to GSA by Executive Order No. 11717 (May 9, 1973) and retransferred back to OMB by Executive Order No. 11893 (December 31, 1975). Relevant statutory authorities include the Budget and Accounting Act of 1921, ch. 18, Section

200, 31 U.S.C. Section 18; the Budget and Accounting Procedures Act of 1950, ch. 946 Section 104, 31 U.S.C. Section 18a; Pub. L. No. 97–258, Section 1, 31 U.S.C. Section 3507; Pub. L. No. 93–400, Section 3, 41 U.S.C. Section 403. Under these and other general management authorities, OMB may develop plans for implementing better management with "a view to efficient and economical service" and may issue supplementary interpretative guidelines "to promote consistent and efficient use of procurement contracts, grant agreements, and cooperative agreements." In its capacity of exercising the President's general management functions over the Executive Branch, OMB has the power to supervise and direct the management activities of federal agencies.

Agencies, in turn, incorporate the provisions and requirements of applicable OMB circulars into grant and contract agreements through regulations, grant or contract terms, or other means. In this manner, the Circular provisions become legally binding upon contractors and grantees. Moreover, it has been held that the provisions of OMB Circular A–102 are legally applicable to grants even when the grant-making agency has not explicitly implemented the Circular. *Qonaar Corporation v. Metropolitan Atlanta Rapid Transit Authority*, 441 F. Supp. 1168, 1172 (N.D. Ga. 1977). Circular A–122 is on the same legal footing.

In summary, the legal authority for OMB cost principles derives from OMB's delegated authority from Congress and the President to manage the Executive Branch with a view toward economy and efficiency, as it affects the agencies' exercise of their grant administration functions.

This proposed revision, like cost principles disallowing advertising costs, fundraising costs, and entertainment costs, is directly related to the efficient and economical administration of grants, contracts, and other agreements. By prohibiting the use of grant and contract monies for lobbying or related activities (unless specifically authorized to be conducted with grant or contract funds by statute), funds can be directed toward their proper uses, thereby achieving greater public benefit. As the Comptroller General has noted, "The cost principles applicable to all federal grantees is the appropriate mechanism to achieve these ends [of ensuring that program funds are not used for lobbying]." GAO/HRD–82–106 (September 24, 1982), at 27.

The legal basis for the proposed revision is further supported by a series of congressional actions over the last 20 years. Although it has never enacted comprehensive legislation to address the use of federal funds for lobbying purposes on a government-wide basis, Congress has used the vehicle of appropriations acts to curb some of the more flagrant abuses and to prod the Executive Branch into action. Over the past ten years, some 40 to 50 riders have been attached to appropriations bills to address some aspects of the problem. These appropriations riders use many different formulations, but have as a common element the prohibition of the use of appropriated funds for publicity or propaganda purposes designed to support or defeat legislation. One such appropriations rider, Section 607(a) of the Treasury, Postal Service, and General Government Appropriations Act, applies across the board to all federal agencies:

> No part of any appropriation contained in this *or any other Act*, or of the funds available for expenditure by corporation or agency, shall be used for "publicity or propaganda" purposes designed to support or defeat legislation before Congress. (Emphasis added).

The Department of Interior Appropriations Acts use the following formulation, which is more restrictive than the Treasury formulation:

> No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote "public support or opposition" to any legislative proposal on which congressional action is not complete, in accordance with 18 U.S.C. 1913.

The Labor, Health and Human Services, Education, and Related Agencies Appropriations Act states:

> No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient or agency acting for such recipient to engage in any activity designed to influence legislation or appropriations pending before the Congress.

Other agencies and entities affected by appropriations riders (in addition to the generally applicable provision in the Treasury appropriation) include Defense, State, Justice, Commerce, District of Columbia, Legal Services Corporation, ACTION, Community Services Administration, and Health Systems Agencies. Taken as a whole, these provisions indicate a far-ranging Congressional concern to control the use of federal funds for lobbying purposes. Neither legislation nor legislative history suggests any deliberate departure by the Congress from this principle.

In serveral specific instances, Congress has directly authorized the use of appropriated funds for activities that would be classified as unallowable under these revisions. Subparagraph c(5) of the proposal makes any such specifically authorized activity allowable; thus, this revision does not conflict with any enacted statutes but is consistent with the broad thrust of congressional policy in the area.

As noted, this proposal has been prepared in active consultation with the General Accounting Office, which supports this initiative and believes that this proposal satisfies the concerns which the GAO had expressed earlier.

X. Enforcement

Circular A–122 is a management directive to federal agencies establishing cost principles for use in connection with grants and contracts with nonprofit organizations. It does not contain its own enforcement mechanism, though its terms are incorporated in grants and contracts through agency regulations or grant instruments. The degree and nature of enforcement of these anti-lobbying provisions will depend, therefore, on operational experience and competing demands on enforcement resources. This analysis of enforcement is descriptive rather than prescriptive; it is presented to provide a context for public understanding of the proposal.

1. *Voluntary Compliance.* The bedrock for enforcing these provisions is voluntary compliance by grantees and contractors. In the past, restrictions on the use of federal funds for lobbying and related activities have been inadequately communicated and defined. Neither agencies nor recipient organizations devoted much attention to them. This proposal is expected to improve compliance significantly by:

- Defining unallowable activities so that organizations can comply in good faith, and
- Providing formats (indirect cost rate negotiations, certification of financial status report) in which responsible officials of the grantee or contractor will confront the issue of the organization's compliance.

To assist organizations in complying, agencies shall be prepared to resolve definitional questions concerning potential expenditures in advance; this procedure should reduce the inevitable difficulty of interpretations at the margin.

2. *Sanctions.* Penalties for violations of this revision are the same as for violations of existing A–122 provisions. The principal sanction in the event of minor or unintentional violations of these restrictions is cost recovery, *i.e.*, the federal agency will obtain

reimbursement from the contractor or grantee of misspent funds. In more serious cases, contracts and grants can be suspended or terminated, or contractors and grantees can be debarred from further awards. The availability of these sanctions for violating the anti-lobbying restrictions on appropriations legislation has been confirmed by the Office of Legal Counsel of the Department of Justice.

3. *Advance screening.* One of the most effective means of enforcing these restrictions is to ensure that grants and contracts officers are aware of the past performance of organizations seeking new or continued funding. If an organization has not devoted past appropriations to the grant or contract purposes, and has materially diverted them to lobbying (or other extraneous activities), questions can legitimately be raised as to whether additional grants or contracts would be appropriate. Once uniform and understood cost principles are in place, it is expected that agencies will take steps to ensure more thorough advance screening of grant and contract applications.

4. *Audits.* Contractors and grantees are currently subject to audit requirements, and to the possibility of audit by agency Inspectors General or the Comptroller General; However, most audits have not focused on compliance with anti-lobbying provisions. Audit strategy and priority will continue to be established by the independent judgment of these enforcement bodies. After uniform cost principles are promulgated, it will become possible for more vigorous and effective audit enforcement to take place. Stratified audits and other strategies can be used to create an incentive for greater compliance among all grantees and contractors. Alternatively, promulgation of a defined set of rules can and will serve as a protective barrier against audit harassment, and will and should make for fairer and simpler audits for grantees and contractors. This should be of particular benefit to smaller grantees and contractors who lack the means and support staff to contend with audits under the vague, ambiguous, and differential rules now in effect. With expanded Inspector General and agency audit staffs now in place, the *protections* afforded by the proposal are manifest.

XI. Alternative Approaches to Major Issues in The Revision

1. *General Cost Treatment.* This proposal makes unallowable only the portion of a cost item that is actually used in lobbying activities, as opposed to the entire item. Thus, if an employee spends 60% of his time on lobbying activities and 40% on federal grant activities, 40% of the salary may be allocated to the grant. This approach is consistent with the DAR, FPR, and NASAPR lobbying cost treatment provisions, as well as the traditional accounting method of prorating costs between allowable and unallowable activities.

An alternative method of allocating costs of items used for both lobbying actitvities and grant/contract purposes that was considered and rejected was the concept that no federal money can be used to pay for any portion of a cost item that is used for lobbying activities (1) in any way, or (2) over 5% of the time.

The OMB proposal published on January 24, 1983 followed this approach. Commenters argued that it would increase the cost of performing federal grants and contracts because it would effectively require them to separate their lobbying activities from their grant or contracts activities. This could lead to inefficient duplication of equipment and facilities—with attendent increased costs to the taxpayer. They also argued that it would burden the First Amendment rights of contractors and grantees because engaging in lobbying activities could result in disallowance of otherwise legitimate costs. The purpose of this proposal, however, is to enforce governmental neutrality by preventing the use of federally appropriated funds for lobbying and related activities. To the extent that an approach would significantly increase costs or burden First Amendment expression, it is inappropriate.

Some commenters have urged that nonprofit organizations should be ineligible to receive any federal funding if they engage in any lobbying activities. Such an approach would be more restrictive then OMB's January 24, 1983, proposal and would be strongly opposed by many affected groups. Furthermore, a wholesale preclusion of participation in grants and contracts as a result of even a modest amount of lobbying would raise difficult questions of legality and efficiency in a case where the applicant was otherwise the most qualified applicant.

One variation from the allocation principle considered by OMB related to the costs of conducting meetings and conferences that are held in "substantial part" to promote lobbying.

The practice of partisan meeting sponsors scheduling large blocks of "open time" to facilitate lobbying during Washington meetings could make the allocation approach impractical.

On the other hand, considerable problems of definition and interpretation arise when terms such as "substantial" are used to define the point at which the entire cost of a meeting or conference is to become wholly unallowable.

Given the inherent difficulties in using cost principles to attempt to deal with this problem, it appears that the better approach would be for agencies to adopt more stringent policies regarding the funding of meetings and conferences when they are likely to finance or otherwise support clear lobbying activities. (See Office of Management and Budget Memorandum, M–82–4: "Improper Uses of Federal Funds," April 26, 1982.)

2. *Definition of Lobbying Activities.* One of the weaknesses of current restrictions on tax-funded lobbying is the lack of a clear and detailed definition of exactly what is and what is not covered. In constructing the definition in this proposal, OMB has drawn upon experience and language from Internal Revenue Code definitions, statutory provisions, Defense, GSA, and NASA procurement regulations, and similar sources. Care has been taken not to prohibit activities that are legitimately necessary to the fulfillment of the grant or contract.

The proposal addresses the various categories of lobbying (*e.g.*, grass roots lobbying), and defines the unallowable activities. A separate section is devoted to activities which are exceptions to the general restrictions.

The following alternative definitions of unallowable activities have been considered and rejected:

a. *The definitions used in OMB's January 24, 1983, proposal could be used:.* This would result in disallowing, among others, the following categories of activity not covered in this proposed revision:

- Lobbying on local concerns at the local level.
- Lobbying at the state level, even when the lobbying is directly related to the cost to or ability of the organization to perform the grant or contract.
- Attempts to influence "licensing, grants, ratemaking, formal or informal adjudications, guidelines, and policy statements."
- Contacts with Executive Branch officials concerning any governmental decisions.
- Litigation on behalf of others not directly authorized by grant or contract.
- Encouragement of grass roots lobbying to influence notice and comment rulemaking.

• Membership dues or contributions to organizations which have lobbying as a "substantial organizational purpose."

Many commenters on the January 24 proposal felt that the scope of unallowable lobbying activities in that proposal was too broad and would result in disallowing certain legitimate activities appropriately funded under a grant or contract. For example, many contracts with Executive Branch officials at the local, state, and federal levels are considered necessary to performance of the grant or contract, and, often, compliance with the law. Moreover, the concept of lobbying has traditionally been understood to be an attempt to influence legislative rather than executive actions. Departure from this understanding appears to create uncertainty and uneasiness among affected parties. Thus, OMB has rejected as too broad a definition of lobbying that would deem Executive Branch contacts (other than in connection with the signing or veto of legislation) as unallowable.

Unlike the January 24 proposal, the current draft does not disallow the promotion of grass roots lobbying to influence notice and comment rulemaking. The reason for the original inclusion of this provision was that such rulemakings are quasi-legislative in character and that it is inappropriate for the government to be financing march captains, rally orgainizers and other such persons for the performance of such activities in connection with grass roots campaigns regarding such regulations. On the other hand, the consultation process relative to the current draft disclosed serious concerns about the possible applicability of any provision regarding regulations to joint or collaborative efforts by grantees or contractors to share information and thereby to improve the comments made by them to federal agencies. It is OMB's intention, in light of the above, that this matter should be studied during the course of the coming year to determine whether it can be known, and if so to what extent, the federal government now finances grass roots lobbying activities of march captains, rally organizers and the like in connection with notice and comment rulemaking. Agency auditors and others will examine this matter so as to determined whether additional language is needed in the Circular to deal with this matter.

The exception in the January proposal for distribution of nonpartisan analysis for non-lobbying purposes is made superfluous by changes in the current draft, and thus has been deleted. As previously stated, the exception included "making available the results of nonpartisan analysis, study, or research, the distribution of which is not primarily designed to influence the outcome of any federal, state, or local election, referendum, initiative, or similar procedure, or any governmental decision." The current proposal's revised lobbying definition and accounting treatment do not make such activity unallowable in the first place, so the inclusion of such exception is not only unnecessary but confusing.

b. *Lobbying could be defined as broadly as possible, with a detailed list of the unallowable activities:* Some criticism was made of OMB's January 24 proposal for not being comprehensive enough in its restrictions on lobbying activities. Commenters felt that because of the ambiguous nature of lobbying and quasi-lobbying activities, it was more efficient to restrict the broadest scope of these activities. As noted above, this argument was rejected in rewriting the proposal; in fact, the definitions have been made less expansive.

C. *The lobbying restriction could consist of a broad, but undefined, prohibition on lobbying activities:* This is essentially the approach being used currently in the grants area through assorted appropriation bill riders, and it has not been effective. By not specifying which activities are restricted, agencies are required to do much more interpretative and negotiation work to implement the restriction. Grantees and contractors are uncertain as to what is restricted, and whether the govenment is serious in enforcing those restrictions. In addition, such an approach would complicate audits conducted to determine whether funds had been used for lobbying purposes, and would be particularly burdensome to smaller grantees and contractors.

d. *The lobbying restriction could be made identical in coverage to that of current Defense, GSA, or NASA procurement regulations, or to the definition of "influencing legislation" in the Internal Revenue Code:* There would be substantial advantages to this approach, since current DAR, FPR, NASAPR, and IRS restrictions are well-established and, in the case of the Internal Revenue Code, reasonably well-defined. However, the DAR, FPR, and NASAPR provisions are unfamiliar to the nonprofit community, while the IRS restrictions on lobbying by 501(c)(3) organizations are unfamiliar to defense and civilian contractors. Moreover, the IRS definition of "influencing legislation" is intended to identify the *character* of the organization—whether it is engaged in "substantial" lobbying activity—rather than to identify specific *activities* that should not be subsidized by the federal government. The result of adopting any of those previously established definitions in whole would be to disallow certain activities that are properly allowable, and to allow certain activities that are not proper purposes for the expenditure of federal funds.

Therefore, the approach of this proposal has been to use concepts and definitions from the DAR, FPR, NASAPR, and Internal Revenue Code (IRC) where appropriate, and to deviate from them where appropriate. The "Analysis" section of this preamble identifies the areas of deviation and the rationale for them. Several areas of particular interest, however, should be noted. Unlike the DAR, FPR, NASAPR, and IRC, this proposal does not include local lobbying, because of the difficulty in distinguishing legislative from executive lobbying at the local level and the necessity of frequent contact by contractors and grantees with local officials or matters of administrative concern to the contract and grant.

On the issue of legislative liaison activity, this proposal basically adopts the FPR and NASAPR position in making such activity unallowable only when related to otherwise unallowable lobbying. When legislative liaison activity is performed in preparation for lobbying, it would contradict the revision's intent to make such activity completely allowable. On the other hand, legislative liaison can serve other functions not made unallowable by this revision.

3. *Documentation Requirements:* When the method of cost treatment was changed from total disallowance of cost items partially involved in lobbying (the January 24 proposal) to the typical "proportional" cost treatment used for cost items related to both unallowable and allowable activities, documentation of amounts of allowable and unallowable costs became a necessity.

The principal alternative considered was to adopt the documentation philosophy of the GSA, Defense, and NASA procurement regulations' restrictions on lobbying, *i.e.*, to place the burden on the contractor or grantee to prove in all instances the appropriateness of a cost. This approach, while consistent with the cost principles in general, would entail an implied burden on indirect cost employees to maintain records (time logs, calendars, or the like) to establish the proportion of their time spent on lobbying or related activities. This would be particularly onerous for high level officials who, in the ordinary

course of business, frequently engage in only a small amount of lobbying. OMB (along with Defense, GSA, and NASA) therefore proposes to allow grantees and contractors to certify in good faith the amout of lobbying and related activities performed by indirect cost employees (*i.e.*, those who do not already have to account for their time spent directly on a grant or contract). Only if the employee is engaged (according to the organization's own estimate or outside evidence) in lobbying or related activities more than 25% of his time could further documentation be required. If a contractor or grantee is determined to have materially misstated allowable or unallowable costs within the preceding five-year period, more extensive documentation could be required.

OMB also considered and rejected more extensive "sunshine" provisions which would have called for full disclosure by recipient organizations of detailed information concerning their personnel, public policy positions, affiliations of officers and directors, publications, and other such information. OMB believes such reporting requirements would exceed those necessary to achieve the purpose of these proposals, *i.e.*, to ensure that federally appropriated funds are not used for lobbying or related activities by grantees and contractors. However, OMB has explicitly sought comments on this issue. (See *Issues for Comment*, paragraph 2.)

4. *Penalties:* OMB considered and rejected as too stringent a penalty provision which would require the return to the federal government of all grant or contract funds received by a nonprofit organization found to be engaged in lobbying or related activities. Instead, OMB has opted to follow the standard A–122 penalties of cost recovery and, in certain cases, suspension, termination, and debarment.

XII. Issues for Comment

In addition to any other comments, the public is specifically invited to comment on the following issues:

(1) Do the provisions of Subparagraph a(4) (concerning the maintenance of time logs and similar records) adequately protect against unreasonable recordkeeping burdens without rendering these provisions unenforceable? What changes, if any, are recommended?

(2) Should broader disclosure requirements for recipient organizations be included to facilitate the monitoring of their activities? For example, should recipient organizations be required to provide the agency granting or awarding the federal funds corporate organizational documents; audit reports; publications, newsletters, periodicals, etc. issued by the recipient organization; and/or other information relating to a recipient organization's activities?

(3) Is the broad exclusion of local level lobbying from coverage of these provisions necessary or desirable?

(4) Are any additional exceptions necessary or desirable? Are any of the exceptions provided in this proposal unnecessary or undesirable?

(5) Restrictions on the encouragement of grass roots lobbying inherently require an understanding of the distinction between providing information and encouraging lobbying. The intent of the section on grass roots lobbying (subparagraph b(4)) is that internal communications between an organization and its bona fide members to provide legislative information is allowable, but the promotion of membership lobbying is not. In light of the above, is it desirable to add language to the Circular regarding such internal communications; if so, what form should this language take?

(6) Is the allocation method the proper accounting method for disallowing costs related to sponsoring meetings and conferences when these are used to promote lobbying? Would it be possible to disallow the *entire* cost of a meeting or conference if a "substantial part" is devoted to promoting lobbying? If so, how should the term "substantial" be defined?

(7) Are there are any cases where the explanatory comments in the proposal and the preamble are not sufficiently clear or detailed to enable understanding of the proposal's meaning?

XIII. Designation as "Non-major" Rule

OMB has determined that the proposed revision to A–122 does not qualify as a "major rule" under the criteria as listed in Executive Order 12291:

(b) "Major rule" means any regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The principal effect of the proposed revisions will be to ensure that federal grant funds are used for the purposes that were intended, and not to facilitate lobbying campaigns. As noted above, current financial control procedures do not permit an accurate estimate of the amount of tax dollars now diverted to lobbying efforts by grantees and contractors; whether large or small, correction of this problem will produce a net gain to the intended beneficiaries of federal programs. The costs to be considered are primarily accounting and recordkeeping costs for grantees and contractors, as well as federal agencies. These new costs, however, are minimal in both absolute and relative amounts, and in many instances the revisions should reduce audit and compliance costs. Furthermore, much of the accounting work that the revision requires is already mandated by other sections of Circular A–122, or Circular A–110. This proposal has nonetheless been prepared in accordance with the analytical requirements of Executive Order 12291.

XIV. Paperwork Reduction Act Requirements

In accordance with the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and 5 CFR Part 1320, the collection of information requirements contained in this proposed revision have been submitted for review to OMB's Office of Information and Regulatory Affairs.

Comments about the appropriateness of collection of information requirements in this proposal should be addressed to Edward C. Springer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, (202) 395–4814.

XV. Comment Submittal and Further Information

Comments should be submitted in duplicate to the Financial Management Division, Office of Management and Budget, Washington, D.C. 29593. All comments should be received within 45 days of this notice.

FOR FURTHER INFORMATION CONTACT: John J. Lordan, Financial Management Branch, Office of Management and Budget, Washington, D.C. 20503 (202) 395–6823.

Issued in Washington, D.C., November 1, 1983.

Darrell Johnson,

Budget and Management Officer.

[Circular A–122]

Cost Principles for Nonprofit Organizations

Circular A–122 is revised as follows:

1. Insert a new paragraph in Attachment B, as follows: "B21 *Lobbying and Related Activities."*

a. (1) Organizations shall include, as part of their annual indirect cost proposal, a statement identifying by category costs attributable in whole or in part to activities made unallowable by subparagraph b, and stating how they are accounted for.

Comment: The fact that a cost included in the proposal discussed in subparagraph a(1) (such as an employee's salary, an item of equipment, or the cost of a facility) may be used in part for lobbying or related activities, as defined by subparagraph B21 b, does not make the remainder unallowable.

(2) The certification required as a part of the Financial Status Report required under Attachment G of Circular A–110 shall be deemed to be a certfication that the requirements and standards of this paragraph, and of other paragraphs of Circular A–122 respecting "lobbying and related activities," have been compiled with.

(3) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to subparagraph a(1) above complies with the requirements of this circular.

Comment: As with other costs under this Circular, to the extent that such documentation is not provided by the organization, the amount that cannot reasonably be demonstrated to be allowable, up to the entire cost in question, shall be disallowed.

(4) For the purposes of complying with subparagraph a, there will be no requirement for time logs, calendars, or similar records documenting the activities of an employee whose salary is treated as an indirect cost, and the absence of time logs or comparable records for indirect cost employees not kept pursuant to the discretion of the grantee or contractor will not serve as a basis for contesting or disallowing claims, unless: (a) the employee engages in lobbying or related activities more than 25% of the time or (b) the organization has materially misstated allowable or unallowable costs within the preceding five year period. Agency guidance regarding the extent and nature of documentation required pursuant to subparagraph a(3) shall be reviewed under the criteria of the Paperwork Reduction Act, to ensure that requirements are the least burdensome necessary to satisfy the objectives of this subparagraph.

Comment: This provision is for the purpose of assuring that agencies and auditors must rely on the good faith estimates of time spent on lobbying by such employees, or upon outside evidence.

(5) Agencies shall establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of subparagraphs a or b. Any such advance resolution, if in writing, shall be binding in any subsequent settlements, audits, or investigations with respect to that grant or contract for purposes of interpretation of this Circular.

b. Notwithstanding other provisions of this Circular, costs associated with the following activities are unallowable:

(1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity;

Comment: The Internal Revenue Code prohibits tax-exempt charitable organizations from "interven[ing] in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office." 26 U.S.C. Section 501(c)(3). In addition, for purposes of defining "influencing legislation," the Internal Revenue Code defines "legislation" to include "action with respect to Acts, bills, resolutions, or similar items . . . by the public in a referendum, initiative, constitutional amendment, or similar procedure." 26 U.S.C. Section 4911(e)(2).

In one respect, this subparagraph is narrower than the Internal Revenue provisions, because it is confined to "contributions, endorsements, publicity, or similar activity," in contrast to the broader proscription of "participat[ion] or interven[tion], directly or indirectly * * *"

(2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

Comment: The Internal Revenue Service has included within the list of disqualifying activities under 26 U.S.C. Section 501(c)(3) the following: "participa[tion] or interven[tion], directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office." 26 CFR Section 1.501 (c)(3)–(c)(3)(iii).

(3) Attempts to influence legislation pending before Congress or a State legislature by communicating with any member or employee of the Congress or legislature, (including efforts to influence state or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enacted legislation;

Comment: The Treasury, Postal Service, and General Government Appropriations Act traditionally contains a rider providing: "No part of any appropriation contained in this or any other Act . . . shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress." *E.g.,* Pub. L. 96–74, Section 607, 93 Stat. 575. The Internal Revenue Code defines "influencing legislation" as including "any attempt to influence any [federal, state, or local] legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation." 26 U.S.C. Section 4911(d)(1)(B). This provision is narrower than the Internal Revenue Code provisions because it does not apply to influencing legislation at the local level. Moreover, subparagraph c(5) excludes from the coverage of this provision any lobbying or related activity at the state level directly related to the ability of or cost to the organization of performing the grant or contract.

(4) Preparation, distribution, or use of publicity or propaganda designed to influence legislation pending before Congress or a State legislature by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, or fundraising drive, lobbying campaign, or letter-writing or telephone campaign, for the purpose of influencing such legislation; or

Comment: The Treasury, Postal Service, and General Government Appropriations Act traditionally contains a rider providing: "No part of any appropriation contained in this or any other Act . . . shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress." *E.g.,* P.L. 96–74, Section 607, 93 Stat. 575. The Internal Revenue Code defines "influencing legislation" to include: "any attempt to influence any [federal, state, or local] legislation through an attempt to affect the opinions of the general public or any segment thereof." 26 U.S.C. Section 4911 (d)(1)(A). This subparagraph is more narrowly tailored than these provisions, because it is limited to efforts to obtain concerted *actions* on the part of the public and does not, therefore, include mere attempts "to affect the *opinions* of the general public or any segment thereof," if such attempts do not lead to concerted action. This is consistent with the GAO's interpretation of the "publicity or propaganda" appropriations rider. See B–202975 (Nov. 3, 1981).

(5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding pending legislation, and analyzing the effect of pending legislation, except to the extent that such activities do not relate to lobbying or related activities as defined by paragraph 1.b. hereof.

Comment: The costs of all legislative liaison activities are made unallowable for contractors under the current Defense Acquisition Regulations (DAR), Section 15–205.51, but are allowable for civilian

contractors under the current Federal Procurement Regulations (FPR), Section 1–15.205–52.

This subparagraph is narrower than the DAR provisions, because it only makes legislative liaison costs unallowable if they relate to otherwise unallowable lobbying activities.

C. Notwithstanding subparagraph b, costs associated with the following activities are not unallowable under this paragraph:

(1) Providing technical advice or assistance to the Congress or a State legislature or to a member, committee, or other subdivision thereof, in response to a specific written request by such member, legislative body, or subdivision;

Comment: This tracks the exception at 26 U.S.C. Section 4911 (d)(2)(B).

(2) Any communication with an executive branch official or employee, other than a communication made expressly unallowable by paragraph 1.b.(3) hereof.

Comment: This is identical in substance to the exception at 26 U.S.C. Section 4911 (d)(2)(E). Read in conjunction with subparagraph b(3), the effect is to make clear that the only contacts with executive branch officials made unallowable are those in connection with the signing or veto of enrolled bills, or attempts to use state and local officials as conduits for grantee and contractor lobbying of Congress or state legislatures.

(3) Any activity in connection with an employee's service as an elected or appointed official or member of a governmental advisory panel;

(4) Any lobbying or related activity at the state level for the purpose of influencing legislation directly affecting the ability of the organization or cost to the organization of performing the grant, contract, or other agreement; however, state governments acting as subgrantors may, through appropriate state processes, waive the current practice under OMB Circular A–102 making Circular A–122 applicable to nonprofit subgrantees with regard to such lobbying activities at the state level as are deemed appropriate.

Comment: The Internal Revenue Code provisions defining "influencing legislation" cover lobbying at the state and local level, as do the current Defense Acquistion Regulations (DAR), Section 15–205.51 and the current Federal Procurement Regulations (FPR), Section 1–15.205–52. This subparagraph is narrower than those provisions because (1) lobbying at the local level is not covered, and (2) lobbying at the state level is not covered if it (a) directly affects the ability of or cost to the grantee or contractor of performing the grant or contract; or (b) when states choose to adopt rules waiving such restrictions for their federal grant subgrantees.

(5) Any activity specifically authorized by statute to be undertaken pursuant to the federal grant, contract, or other agreement.

Comment: This circular does not, nor could it, limit the ability of Congress subject to constitutional constraints, to appropriate funds for the use by contractors or grantees for lobbying or related activities.

2. Renumber subsequent paragraphs of Attachment B.

3. Insert language in subparagraph B.4.b of Attachment A, so that it reads as follows:

b. Promotion, lobbying or related activities (as defined by subparagraph B21(b) of Attachment B), and public relations.

Comments This is a technical language change, which amends the former term "lobbying" to "lobbying and related activities." The added language is "or related activities (as defined by subparagraph B21(b) of Attachment B)."

[FR Doc. 83–30029 Filed 11–2–83; 10:28 am]

BILLING CODE 3110–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 1-39

[DAR Amendment]

Lobbying and Related Activities

AGENCY: Office of Under Secretary of Defense Research and Engineering (AM).

ACTION: Proposed rule.

SUMMARY: DOD Proposes to revise the cost principles on lobbying in DAR 15-205.51. The basis for the proposal is a proposed amendment to Office of Management and Budget (OMB) Circular A-122, Cost Principles of Nonprofit Organizations, that adds a new cost principle entitled "Lobbying and related activities."

DATES: Comments must be received on or before December 19, 1983.

ADDRESSES: Comments should be addressed to Mr. James T. Brennan, Director, Defense Acquisition Regulatory System, OUSDRC/AM/DARS, Room 3 D139 (M&RS)—The Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Kendig, Director of Cost, Pricing and Finance, (202-697-6710).

SUPPLEMENTARY INFORMATION: The proposal being published concurrently by OMB amending OMB Circular A-122 contains a lengthy explanation of the proposed rules on lobbying and related activity costs and the changes form an earlier OMB proposal. This material is not republished in this notice. It is suggested that commenters review the OMB **Federal Register** notice for further information on the background of this proposal. The Department of Defense has determined that this regualtion is not determined that this regulation is not a major rule for purposes of Executive Order 12291 because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects.

List of Subjects in 32 CFR Part 1-39

Government procurement, Lobbying.

Accordingly, DOD proposes to amend Parts 1-39 as follows:

1. The authority for the regulation is 32 CFR Parts 1-39 is Chapter 137 of Title 10, United States Code. 10 M S.C. 2301 *et seq.*

PARTS 1-39—CONTRACT COST PRINCIPLES AND PROCEDURES

2. The Table of Contents for Parts 1-39 is amended to revise one entry under Subpart 15-2 as follows:

15-205.5 Lobbying and related activities.

Subpart 15-2—Contracts With Commercial Organizations

3. Section 15-205.51 is revised to read as follows:

§ 15-205.51 [Reserved]

(a)(1) Contractors shall include, as part of their annual indirect cost proposals, a statement identifying by category costs attributable in whole or in part to activities made unallowable by subparagraph (b), and stating how they are accounted for.

(2) Contractors shall submit as a part of their annual indirect cost proposal a certification that the requirements and standards of this section respecting "lobbying and related activities," have been complied with.

(3) Contractors shall maintain adequate records to assure that the determination of costs as being allowable and unallowable costs pursuant to subparagraph (a)(1) above complies with the requirements of this section.

(4) For the purposes of complying with paragraph (a), of this section there will be no requirement for time logs, calendars, or similar records documenting the activities of an employee whose salary is treated as an indirect cost, and the absence of time logs or comparable records for indirect cost employees not kept pursuant to the discretion of the grantee or contractor will not serve as a basis for contesting or disallowing claims, unless: (a) The employee engages in lobbying or related activities more than 25% of the time or (b) the organization has materially misstated allowable or unallowable costs within the preceding five year period. Agency guidance regarding the extent and the nature of documentation required pursuant to subparagraph (a)(3) shall be reviewed under the criteria of the Paperwork Reduction Act, to ensure that requirements are the least burdensome necessary to satisfy the objectives of this subparagraph.

(5) Contracting officers shall enter into advance agreement where necessary to resolve any significant questions or disagreements concerning the interpretation or application of subparagraphs (a) or (b). Any such advance agreement shall be binding in any subsequent settlements, audits, or investigations with respect to that contract for purposes of interpretation of this section.

(b) Cost associated with the following activities are unallowable:

(1) Attempts to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity.

(2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections.

(3) Attempts to influence legislation pending before Congress, State or local legislature by communicating with any member or employee of the Congress or legislature (including efforts to influence state or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enacted legislation.

(4) Preparation, distribution, or use of publicity or propaganda designed to influence legislation pending before Congress, State or local legislature, by urging members of the genèral public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, or fund raising drive, lobbying campaign, or letter-writing or telephone campaign, for the purpose of influencing such legislation or regulation.

(5) legislative liaison activities.

(c) Costs associated with the following activities are not unallowable under this paragraph:

(1) Any communication with an executive branch official or employee, other than a communication made expressly unallowable by paragraph (b)(3) here of.

(2) Any activity in connection with an employee's service as an elected or appointed official or member of a governmental advisory panel.

(3) Any activity specifically authorized by statute to be undertaken pursuant to the federal grant, contract, or other agreement.

Harvey J. Gordon,

Acting Deputy Under Secretary (Acquisition Management).

[FR Doc. 83-30030 Filed 11-2-83; 10:26 am]

BILLING CODE 3810-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 1–15

Lobbying and Related Activities

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Proposed rule.

SUMMARY: GSA proposes to revise the cost principles on lobbying and trade, business, technical and professional activity costs in Subpart 1–15.2. The basis for the proposal is a proposed amendment to Office of Management and Budget (OMB) Circular A–122, Cost Principles for Nonprofit Organizations, that adds a new cost principle entitled "Lobbying and related activities." The intended effect of the revision is to achieve uniformity in the coverage of lobbying costs and related activities as between commercial and nonprofit organizations.

DATE: Comments must be received on or before December 19, 1983.

ADDRESSES: Comments should be addressed to General Services Administration, Office of Acquisition Policy, (VR), Washington, D.C. 20450.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Van Lierde, Office of Federal Acquisition and Regulatory Policy (202–523–4768).

SUPPLEMENTARY INFORMATION: The proposal being published concurrently by OMB amending OMB Circular A–122 contains a lengthy explanation of the proposed rules on lobbying and related activity costs and the changes from an earlier OMB proposal. This material is not republished in this notice. It is suggested that commenters review the OMB **Federal Register** notice for further information on the background of this proposal.

The National Aeronautics and Space Administration's (NASA) proposed revision to the NASA Procurement Regulations is identical to the GSA (FPR) proposed revision set forth below. Comments to NASA may be addressed to Clarence Milbourne, NASA-Code HC, 600 Independence Avenue, S.W., Washington, D.C. 20546.

The General Service Administration has determined that this regulation is not a major rule for purposes of Executive Order 12291 because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects.

List of Subjects in 41 CFR Part 1–15

Cost principles, Government procurement, Lobbying.

Accordingly, GSA proposes to amend Part 1–15 as follows:

1. The authority citation for 41 CFR Part 1–15 reads as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

PART 1–15—CONTRACT COST PRINCIPLES AND PROCEDURES

2. The Table of Contents for Part 1–15 is amended by revising the following entry under Subpart 1–15.2 as follows:

Sec.

* * * * *

1–15.205–52 Lobbying and related activities.

Subpart 1–15.2—Contracts With Commercial Organizations

3. Section 1–15.205–52 is revised to read as follows:

§ 1–15.205–52 Lobbying and related activities.

(a)(1) Contractors shall include, as part of their annual indirect cost proposal, a statement identifying by category costs attributable in whole or in part to activities made unallowable by paragraph (b) of this section, and stating how they are accounted for.

(2) Contractors shall submit as a part of their annual indirect cost proposal a certification that the requirements and standards of this § 1–15.205–52 have been complied with.

(3) Contractors shall maintain adequate records to assure that the determination of costs as being allowable and unallowable costs pursuant to paragraph (a)(1) above complies with the requirements of this section.

(4) For the purposes of complying with paragraph (a) of this section, there is no requirement for time logs, calendars, or similar records documenting the activities of an employee whose salary is treated as an indirect costs, and the absence of time logs or comparable records for indirect cost employees not kept pursuant to the discretion of the contractor will not serve as a basis for contesting or disallowing claims, unless; (i) the employee engages in lobbying or related activities more than 25% of the time, or (ii) the organization has materially misstated allowable or unallowable costs within the preceding five year period. Agency guidance regarding the extent and nature of documentation required pursuant to paragraph (a)(3) of this section shall be reviewed under the criteria of the Paperwork Reduction Act, to ensure that requirements are the least burdensome necessary to satisfy the objectives of this paragraph.

(5) Contracting officers shall enter into advance agreement where necessary to resolve any significant questions or disagreements concerning the interpretation or application of paragraphs (a) or (b) of this section. Any such advance agreement shall be binding in any subsequent settlements, audits, or investigations with respect to contracts for purposes of interpretation of this section.

(b) Costs associated with the following activities and unallowable:

(1) Attempts to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity.

(2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections.

(3) Attempts to influence legislation pending before Congress or a State legislature by communicating with any member or employee of the Congress or legislature, (including efforts to influence State or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enacted legislation.

(4) Preparation, distribution, or use or publicity or propaganda designed to influence legislation pending before Congress or a State legislature by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, or fundraising drive, lobbying campaign, or letter-writting or telephone campaign, for the purpose of influencing such legislation.

(5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding pending legislation, and analyzing the effect of pending legislation, except to the extent that such activities do not relate to lobbying or related activities as defined by paragraph (b) hereof.

(c) Costs associated with the following activities are not unallowable under this § 1–15.205–52:

(1) Providing technical advice or assistance to the Congress or a State legislature or to a member, committee, or other subdivision thereof, in response to a specific written request by such member, legislative body, or subdivision.

(2) Any communication with an executive branch official or employee, other than a communication made expressly unallowable by paragraph (b)(3) of this section.

(3) Any activity in connection with an employee's service as an elected or appointed official or member of a governmental advisory panel.

(4) Any lobbying or related activity at the state level for the purpose of influencing legislation directly affecting the ability of the organization or cost to the organization or performing the contract.

(5) Any activity specifically authorized by statute to be undertaken pursuant to the contract.

Dated: November 1, 1983.

Ray Kline,

Acting Administrator.

[FR Doc. 83-30031 Filed 11-2-83; 10:36 am]
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Reader Aids

Federal Register

Vol. 48, No. 214

Thursday, November 3, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

50295–50500.....1
50501–50698.....2
50699–50874.....3

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5123.....50699

7 CFR

29.....50501
371.....50295
906.....50501
910.....50701
Proposed Rules:
225.....50743
1036.....50549

9 CFR

92.....50701
327.....50296

10 CFR

761.....50296
Proposed Rules:
2.....50550
50.....50746
51.....50746
211.....50824

11 CFR

114.....50502

12 CFR

26.....50296
212.....50296
348.....50296
563f.....50296
711.....50296
Proposed Rules:
Ch. III.....50746
330.....50339
337.....50339
564.....50339

14 CFR

39.....50508
71.....50510
75.....50510
91.....50510
97.....50512
Proposed Rules:
Ch. I.....50553
39.....50341

16 CFR

13.....50702–50704
1017.....50514
1406.....50705

17 CFR

275.....50526
Proposed Rules:
3.....50554
10.....50554

19 CFR

Proposed Rules:
10.....50342
19.....50342
24.....50342
113.....50342
125.....50342
141.....50342
142.....50342
143.....50342
144.....50342
146.....50342

20 CFR

396.....50308
602.....50662
603.....50662
604.....50662
621.....50527
651.....50662
652.....50662
653.....50527, 50662
654.....50527
655.....50527
656.....50527

21 CFR

5.....50527
74.....50311
81.....50311
82.....50311
193.....50528
520.....50528
558.....50707
561.....50528
Proposed Rules:
207.....50358
210.....50358
225.....50358
226.....50358
501.....50358
510.....50358
514.....50358
558.....50358

22 CFR

514.....50707

26 CFR

1.....50711
Proposed Rules:
1.....50751
6a.....50751
31.....50567
52.....50775

28 CFR

0.....50712, 50713
3.....50713
8.....50713
9.....50713

9a..... 50713
547..... 50478
548..... 50478

29 CFR

1..... 50312
4..... 50529
5..... 50312

32 CFR

Proposed Rules:
1–39..... 50872
505..... 50775

33 CFR

165..... 50714

Proposed Rules:
110..... 50359, 50360

34 CFR

3..... 50313
21..... 50529

Proposed Rules:
21..... 50568, 50569

38 CFR

3001..... 50715

40 CFR

51..... 50686
52..... 50530, 50565
80..... 50482
81..... 50316
180..... 50317, 50532, 50533
228..... 50317
434..... 50321
439..... 50322
468..... 50717

Proposed Rules:
81..... 50361
180..... 50363
271..... 50776
761..... 50486

Proposed Rules:
60..... 50670

41 CFR

Proposed Rules:
1–15..... 50873

42 CFR

Proposed Rules:
55a..... 50363
71..... 50777

43 CFR

Public Land Orders:
6439..... 50719
6477..... 50322

44 CFR

67..... 50719

Proposed Rules:
67..... 50366, 50777, 50778
151..... 50778

45 CFR

801..... 50721

46 CFR

Proposed Rules:
50..... 50781
52..... 50781
53..... 50781
54..... 50781
63..... 50781
162..... 50781

47 CFR

2..... 50322, 50722
21..... 50322, 50722
22..... 50722
23..... 50722
31..... 50534
74..... 50322, 50722
78..... 50722
81..... 50548, 50722
83..... 50548, 50739
87..... 50548, 50722
90..... 50722
94..... 50322, 50722

Proposed Rules:
73..... 50571–50585

49 CFR

171..... 50440, 50444
172..... 50440, 50444
173..... 50440, 50444
174..... 50440, 50444
175..... 50444
176..... 50440
177..... 50440
178..... 50440
179..... 50440

50 CFR

Proposed Rules:
611..... 50379, 50586, 50782
672..... 50379
675..... 50586

LIST OF PUBLIC LAWS

Last Listing November 2, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 3913/Pub. L. 98–139

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1984. (Oct. 31, 1983; 97 Stat. 871) Price: $3.25

S. 96/Pub. L. 98–140

Lee Metcalf Wilderness and Management Act of 1983. (Oct. 31, 1983; 97 Stat. 901) Price: $1.75

H.R. 1213/Pub. L. 98–141

Public Lands and National Parks Act of 1983. (Oct. 31; 97 Stat. 909) Price: $1.75

VOL
48
ISS
2
1
4
NO
3
1983
UMI

VOL 48 NO 4 1983
ISS 215

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Friday
November 4, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Asbestos
Occupational Safety and Health Administration

Authority Delegations (Government Agencies)
Agriculture Department

Aviation Safety
Federal Aviation Administration

Charter Flights
Civil Aeronautics Board

Disaster Assistance
Federal Emergency Management Agency

Endangered and Threatened Wildlife
Fish and Wildlife Service

Energy Conservation
Conservation and Renewable Energy Office

Government Procurement
General Services Administration
Postal Service

Government Property Management
General Services Administration

Low and Moderate Income Housing
Housing and Urban Development Department

Marine Safety
Coast Guard

CONTINUED INSIDE

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Selected Subjects

Marketing Agreements
Agricultural Marketing Service

Motor Vehicle Pollution
Environmental Protection Agency

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

Pipeline Safety
Research and Special Programs Administration

Railroads
Interstate Commerce Commission

Waste Treatment and Disposal
Environmental Protection Agency

Contents

Federal Register
Vol. 48. No. 215
Friday, November 4, 1983

Agency for International Development
NOTICES
Meetings:
50970 Security and Economic Assistance Commission; amendment

Agricultural Marketing Service
RULES
50877 Lemons grown in Ariz. and Calif.

Agriculture Department
See also Agricultural Marketing Service; Food and Nutrition Service; Forest Service.
RULES
Authority delegations:
50875 Finance and Management Office; transfer of functions from Administrative Systems Office

Alcohol, Tobacco and Firearms Bureau
NOTICES
50977 Firearms, granting of relief

Bonneville Power Administration
NOTICES
50921 Billing credits policy; cost-effectiveness requirement; inquiry; extension of time and hearing

Civil Aeronautics Board
PROPOSED RULES
Charters:
50900 Air transportation packages, advertising base amount plus additional amount, prohibition
NOTICES
50912 Agency information collection activities under OMB review
50912 Certificates of public convenience and necessity and foreign air carriers weekly applications
Hearings, etc.:
50912 Aeroleon, S.A.
50913 Frontier Horizon, Inc.
50913 Rainbow Air, Inc. (2 documents)
50914 Regent Air Corp.
50983 Meetings; Sunshine Act

Coast Guard
RULES
50996 Merchant vessels; subdivision and stability regulations

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
RULES
Records:
50887 Fees for requests for Commission records, reports, and meeting transcripts; correction

Conservation and Renewable Energy Office
PROPOSED RULES
51068 Weatherization assistance for low-income persons; incorporation of new measures to authorized list, etc.

Defense Department
NOTICES
Meetings:
50918 DIA Advisory Committee
50918 Science Board task forces (2 documents)

Economic Regulatory Administration
NOTICES
Remedial orders:
50922 Martin Exploration Co.

Education Department
NOTICES
Grants; availability, etc.:
50918, 50920 Discretionary grant programs; teacher incentive structures (2 documents)

Employment and Training Administration
NOTICES
50972 Employment transfer and business competition determinations; financial assistance applications

Employment Standards Administration
NOTICES
50972 Computer match project; beneficiaries under Federal Employees Compensation Act
50986 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ark., Fla., Ind., Mich., N.Y., Okla., Pa., Tex., and Va.)

Energy Department
See Bonneville Power Administration; Conservation and Renewable Energy Office; Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission; Southeastern Power Administration.

Energy Research Office
NOTICES
Meetings:
50922 High Energy Physics Advisory Panel

Environmental Protection Agency
RULES
Hazardous waste programs; interim authorizations; State programs:
50889 Georgia
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
51064 Method 105 revision (mercury in wastewater treatment plant sewage sludges, determination)

Air pollution control; new motor vehicles and engines:
50902 Importation of vehicles and engines; workshop announcement
Water pollution; effluent guidelines for point source categories:
50906 Nonferrous metals manufacturing
NOTICES
Environmental statements; availability, etc.:
50935 Agency statements; weekly receipts
50935 Agency statements; weekly receipts; correction
Pesticide programs:
50935 Rebuttable presumptions against registration, etc.; compound 1080
Toxic and hazardous substances control:
50942 Interagency Testing Committee; responses, etc.; acetonitrile
50944, 50951 Premanufacture notices receipts (2 documents)
50943 Premanufacture notification requirements; test marketing exemption applications

Federal Aviation Administration
RULES
Airworthiness directives:
50881 Avco Lycoming
50883 BF Goodrich
50882 Bell
50884 British Aerospace
50879 Cessna
50886 Robinson
50887 Transition areas
PROPOSED RULES
Airworthiness directives:
50899 Boeing

Federal Communications Commission
RULES
Radio services; special:
50897 Private operational-fixed microwave service; digital termination systems and provision of digital electronic message services; correction
PROPOSED RULES
Radio and television broadcasting:
50907 Multiple ownership of AM, FM, and television broadcast stations; correction

Federal Deposit Insurance Corporation
NOTICES
50983 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Disaster assistance:
51056 Declarations process

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
50922 Arkansas Oklahoma Gas Corp.
50923 Colorado Interstate Gas Co.
50923 Columbia Gas Transmission Corp.
50924 Consolidated Gas Supply Corp. et al.
50925 Couch Gas Storage Co.
50925 Mantaray Pipeline Co.
50926 MIGC, Inc.
50927 National Fuel Gas Supply Corp.
50927 Natural Gas Pipeline Co. of America
50928 Northern Indiana Public Service Co.
50929, 50930 Northern Natural Gas Co. (3 documents)
50930 Red River Pipeline et al.
50932 Tennessee Gas Pipeline Co.
50932 Texas Gas Transmission Corp. (2 documents)
50933 Texas-New Mexico Power Co.
50933 United Gas Pipe Line Co.
50934 Western Transmission Corp.

Federal Home Loan Bank Board
NOTICES
Federal Savings and Loan Insurance Corporation:
50955 Financial reporting requirements

Federal Reserve System
NOTICES
Applications, etc.:
50962 FSB Financial Corp. et al.
50963 International Bancshares, Inc., et al.
50963 Itasca Bancorp Inc. et al.
50963 Peoples Bankshares, Ltd., et al.
Bank holding companies; proposed de novo nonbank activities:
50964 Bank of Boston Corp. et al.
50964 Landmark Banking Corp. of Florida et al.

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
50909 Amber darter, trispot darter, and reticulate logperch; status review
NOTICES
50970 Marine mammal permit applications

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
50887 Estradiol benzoate and testosterone propionate; correction
NOTICES
Food additive petitions:
50966 Monsanto Co.; correction

Food and Nutrition Service
NOTICES
Food stamp program:
50911 Thrifty food plan; new allotments for Guam and Virgin Islands

Forest Service
RULES
50889 Timber sales, national forest; required cash deposits; correction

General Services Administration
RULES
Procurement:
50890 Hardware and Federal telecommunication standards
Property management:
50892 Mineral resources; authority delegated to Interior Secretary to maintain custody, control, and accountability and to dispose by lease
PROPOSED RULES
50907 Acquisition regulations (GSAR)

NOTICES
50965 Privacy Act; systems of records

Health and Human Services Department
See also Food and Drug Administration.
NOTICES
50966 Agency information collection activities under OMB review

Housing and Urban Development Department
RULES
Low income housing:
50888 Elderly or handicapped housing; cost savings procedures
NOTICES
50968 Agency information collection activities under OMB review
50967 Privacy Act; systems of records

Immigration and Naturalization Service
NOTICES
50971 Alien address report program, annual (Form I–53); cancellation during January, 1984

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service.

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Countervailing duties:
50914 Bicycle tires and tubes from Korea
50914 Viscose rayon staple fiber from Sweden
Scientific articles; duty free entry:
50915 State University of New York at Buffalo

Interstate Commerce Commission
RULES
Rail carriers:
50897 Boxcar traffic; exemption from regulation
NOTICES
Railroad operation, acquisition, construction, etc.:
50971 LaSalle & Bureau County Railroad Co.
50971 Vandalia Railroad Co.
Railroad services abandonment:
50971 Union Pacific Railroad Co.; correction

Justice Department
See Immigration and Naturalization Service; Prison Bureau.

Labor Department
See Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration.

Land Management Bureau
RULES
Public Land Orders:
50893 Alaska; correction
50896 California
50895 Colorado
50893 Oregon
50895 Washington
50894 Wyoming (2 documents)
NOTICES
Environmental statements; availability, etc.:
50968 Alturas Planning Area, Susanville District, Calif.
Meetings:
50969 Federal-State Coal Adivsory Board

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
50973, 50974 Turris Coal Co. (3 documents)

Minerals Management Service
NOTICES
Meetings:
50970 Outer Continental Shelf Advisory Board

National Aeronautics and Space Administration
NOTICES
Meetings:
50974 Aeronautics Advisory Committee

National Oceanic and Atmospheric Administration
NOTICES
Marine mammal permit applications, etc.:
50915 Sea World, Inc.
Meetings:
50916 Caribbean Fishery Management Council
50916 South Atlantic Fishery Management Council

National Park Service
NOTICES
Oil and gas plans of operation; availability, etc.:
50970 Lake Meredith Recreation Area, Tex.

National Science Foundation
NOTICES
Meetings:
50975 International Program Advisory Committee

Nuclear Regulatory Commission
RULES
Production and utilization facilities, domestic licensing:
50870 ASME boiler and pressure vessel code; construction and inservice inspection of components; incorporation by reference
NOTICES
Applications, etc.:
50975 Metropolitan Edison Co. et al.
50975 Pacific Gas & Electric Co.
50975 Philadelphia Electric Co.
50983 Meetings; Sunshine Act
50976 Regulatory guides; issuance, availability, and withdrawal

Occupational Safety and Health Administration
RULES
Health and safety standards:
51086 Asbestos, emergency temporary standard and request for comments
PROPOSED RULES
Health and safety standards:
50902 On-site consultation agreements; amendments; extension of time

Postal Service
RULES
Procurement of property and services:
50889 Postal Contracting Manual; amendments

Prisons Bureau
NOTICES
Meetings:
50971 Advisory Corrections Council

Research and Special Programs Administration
PROPOSED RULES
Pipeline safety:
50908 Natural and other gas or hazardous liquid transportation; pipeline components, design; general requirements

Southwestern Power Administration
NOTICES
50934 Springfield to Mansfield, Mo.; 161-kV transmission line, disposal; inquiry

Tennessee Valley Authority
NOTICES
50977 Agency information collection activities under OMB review

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
50917 Romania (2 documents)
Export visa requirements; certification, etc.:
50916 Mexico

Transportation Department
See Coast Guard; Federal Aviation Administration; Research and Special Programs Administration.

Treasury Department
See Alcohol, Tobacco and Firearms Bureau.

Veterans Administration
NOTICES
Meetings:
50981 Health-Related Effects of Herbicides Advisory Committee
50982 Rehabilitation Research and Development Scientific Review and Evaluation Board

---

Separate Parts in This Issue

Part II
50986 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part III
50996 Department of Transportation, Coast Guard

Part IV
51056 Federal Emergency Management Agency

Part V
51064 Environmental Protection Agency

Part VI
51068 Department of Energy, Office of Conservation and Renewable Energy

Part VII
51086 Department of Labor, Occupational Safety and Health Administration

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Executive Orders:
April 15, 1910
(Revoked in part by PLO 6487)..... 50894
July 2, 1910
(See PLO 6487)
December 26, 1910
(Revoked in part by PLO 6487)..... 50894
January 24, 1914
(Revoked in part by PLO 6487)..... 50894
7594 (Revoked in part by PLO 6489)..... 50895

Proclamations:
2417 (See PLO 6489)..... 50895

7 CFR
2..... 50875
910..... 50877

10 CFR
50..... 50878

Proposed Rules:
440..... 51068

14 CFR
39 (6 documents)..... 50879–50886
71..... 50887

Proposed Rules:
39..... 50899
380..... 50900
399..... 50900

17 CFR
145..... 50887

21 CFR
522..... 50887

24 CFR
885..... 50888

29 CFR
1910..... 51086

Proposed Rules
1908..... 50902

35 CFR
223..... 50889

39 CFR
601..... 50889

40 CFR
271..... 50889

Proposed Rules:
61..... 51064
85..... 50902
421..... 50906

41 CFR
101–36..... 50890
101–47..... 50892

43 CFR

Public Land Orders:
2249 (Revoked in part by PLO 6489)..... 50895
6440..... 50893
6485..... 50893
6486..... 50894
6487..... 50894
6488..... 50895
6489..... 50895
6490..... 50896

44 CFR
205..... 51056

46 CFR
2..... 50996
31..... 50996
32..... 50996
35..... 50996
37..... 50996
42..... 50996
46..... 50996
56..... 50996
71..... 50996
72..... 50996
73..... 50996
74..... 50996
75..... 50996
78..... 50996
79..... 50996
91..... 50996
93..... 50996
97..... 50996
99..... 50996
106..... 50996
107..... 50996
108..... 50996
109..... 50996
111..... 50996
151..... 50996
153..... 50996
154..... 50996
163..... 50996
167..... 50996
168..... 50996
170..... 50996
171..... 50996
172..... 50996
173..... 50996
174..... 50996
177..... 50996
178..... 50996
179..... 50996
185..... 50996
189..... 50996
190..... 50996
191..... 50996
196..... 50996

47 CFR
2..... 50897
21..... 50897
74..... 50897
94..... 50897

Proposed Rules:
73..... 50907

48 CFR

Proposed Rules:
5..... 50907

49 CFR
1039..... 50897

Proposed Rules:
192..... 50908

50 CFR

Proposed Rules:
17..... 50909

VOL
48
ISS
2
1
5
NO
4
1983
UMI

Rules and Regulations

Federal Register
Vol. 48, No. 215
Friday, November 4, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.
ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and from the Assistant Secretary for Administration to reflect the abolishment of the Office of Administrative Systems and to transfer its functions to the Office of Finance and Management.

EFFECTIVE DATE: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: Larry Wilson, Deputy Director, Office of Finance and Management, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7557.

SUPPLEMENTARY INFORMATION: The Office of Finance and Management (OFM) is responsible for providing Departmental leadership, development, and evaluation of programs in finance, accounting, Federal assistance management, occupational safety and health, productivity, and management improvement. The Director serves as the Department's Finance Officer, Management Improvement Officer, and Comptroller of the Working Capital Fund. OFM provides budget, accounting, and fiscal services for the Departmental Staff Offices and the Office of the Secretary.

The Office of Administrative Systems (OAS) was responsible for managing the National Finance Center (NFC), which includes developing, maintaining, and operating manual and automated administrative and accounting systems for the USDA agencies related to the Central Accounting System, Departmentwide payroll and personnel information, statistics, administrative payments, billings and collection, and related reporting systems and program and administrative accounting systems that are either requested by USDA agencies or required by the Department.

The delegations are being revised to reflect a transfer of functions to OFM formerly delegated to OAS, and to reflect the abolishment of OAS. This consolidation will provide more efficient and effective management of the NFC by clarifying and strengthening lines of reporting responsibility and better integrating the Department's financial and fiscal policymaking with administrative systems and accounting operations. Further, when the delegations were revised to reflect a reorganization in Departmental Administration (47 FR 24101, June 3, 1982) a delegation to the Assistant Secretary for Administration authorizing him to provide management support services for agencies as may be agreed upon was inadvertently omitted. That omission is corrected in the document. Finally, minor editorial changes have been made. This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the Federal Register.

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies)

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulation is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.25 is amended by adding a new paragraph (d)(2) and by revising paragraphs (b)(5)(viii), (b)(7)(i), and (j)(1)(iii) to read as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

(b) * * *

(5) * * *

(viii) Coordinating the activities of the Office of Finance and Management, the Office of Operations, the Office of Information Resources Management, the Office of Personnel and other staff offices in activities related to the development and maintenance of accounting and administrative systems including those activities listed above and any others which impact on them.

* * * * *

(7) * * *

(i) Implementation of the policies and procedures set forth in OMB Circulars No. A–76: Performance of Commercial Activities, and No. A–117: Management Improvement and the Use of Evaluation in the Executive Branch.

* * * * *

(d) * * *

(2) Provide such of the above services as may be agreed, for other officers and agencies of the Department.

* * * * *

(d) * * *

(j) *Related to administrative systems.*

(1) * * *

(iii) Develop new or modified accounting systems and documentation supporting the Central Accounting System which includes working with USDA agencies to obtain General Accounting Office approval.

* * * * *

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

3. Section 2.75 is revised to read as follows:

§ 2.75 Director, Office of Finance and Management.

(a) *Delegations.* Pursuant to § 2.25 (b), (d), (i), and (j), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Finance and Management (OFM):

(1) The Director, OFM, is designated as the Department's Director of Finance and Comptroller of the Department Working Capital Fund.

(2) Establish Departmental policies, standards, techniques, and procedures applicable to all USDA agencies for the following areas:

(i) Development, maintenance, review and approval of all internal control, fiscal, financial management and accounting systems.

(ii) Operation of USDA's Central Accounting System and related administrative systems.

(iii) Selection, standardization, and simplification of program delivery processes utilizing grants, cooperative agreements and other forms of Federal assistance.

(iv) Review and approval of Federal assistance, internal control, fiscal, accounting and financial management regulations and instructions proposed or issued by USDA agencies for conformity with Departmental requirements.

(3) Establish and maintain a Washington headquarters staff to coordinate the activities of the National Finance Center and administrative systems with USDA agencies, staff offices, Office of the Secretary, and related Governmental departments and agencies.

(4) Advise the Assistant Secretary for Administration on the establishment of policies related to the Department Working Capital Fund.

(5) Approve regulations, procedures and rates for goods and services financed through the Department Working Capital Fund which will impact the financial administration of the Fund.

(6) Exercise responsibility and authority contained in paragraph (a)(2) of this section including such activities

(i) Financial administration, including accounting and related activities.

(ii) Reviewing financial aspects of agency operations and proposals.

(iii) Management of the National Finance Center (NFC), which includes developing, maintaining, and operating manual and automated administrative and accounting systems for the USDA agencies related to the Central Accounting system, Departmentwide payroll and personnel information, statistics, administrative payments, billings and collections, and related reporting systems and those program and administrative accounting systems that are either requested by the agencies or required by the Department.

(iv) Management of the NFC automated data processing and telecommunications systems and coordination with Office of Information Resources Management to assure that the hardware and software located at the NFC will be integrated with and compatible with all other systems.

(v) Developing new or modified accounting systems and documentation supporting the Central Accounting System which includes working with the USDA agencies to obtain General Accounting Office approval.

(vi) Reviewing and approving accounting systems documentation including related development plans, activities, and controls.

(vii) Reviewing and approving the issuance of accounting and management instructions related to the operation of the NFC.

(viii) Furnishing consulting services to agencies to assist them in developing and maintaining accounting and financial management systems and internal controls, and for other purposes consistent with delegations in paragraph (a)(2) of this section.

(ix) Monitoring agencies' progress in developing and revising accounting and financial management systems and internal controls.

(x) Evaluating financial systems to determine the effectiveness of procedures employed, compliance with regulations, and the appropriateness of policies and practices.

(xi) Coordinating with the Office of Operations, the Office of Information Resources Management, the Office of Personnel and other staff offices in activities related to the development and maintenance of accounting and administrative systems including those activities listed above and any others which impact on them.

(xii) Reviewing and monitoring agency implementation of Federal assistance policies.

(xiii) Promulgation of the Department schedule of fees and charges for reproductions, furnishing of copies and making searches for official records pursuant to the Freedom of Information Act, 5, U.S.C. 552.

(7) Provide budget, accounting, fiscal and related financial management services, with authority to take action required by law or regulation to provide such services for Working Capital Funds and general appropriated and trust funds for:

(i) The Secretary of Agriculture;

(ii) The general officers of the Department, except the Inspector General;

(iii) The offices and agencies reporting to the Assistant Secretary for Administration; and

(iv) Any other officers and agencies of the Department as may be agreed.

(8) Provide management support services for the NFC, and by agreement with agency heads concerned, provide such services for other USDA tenants housed in the same facility. As used herein, such management support services shall include:

(i) Personnel services, as listed in § 2.25(e)(10) of this part, and organizational support services, with authority to take actions required by law or regulation to perform such services.

(ii) Procurement, property management, space management, communications, messenger, paperwork management, and related administrative services, with authority to take actions required by law or regulation to perform such services.

(9) The Director, OFM, is designated as the Department's Chief Management Improvement Officer.

(10) Establish Department programs, policies, standards, systems, techniques and procedures to improve the management and operational efficiency and effectiveness of the USDA including:

(i) Implementation of the policies and procedures set forth in OMB Circular No. A–76: Performance of Commercial Activities, and OMB Circular A–117: Management Improvement and the Use of Evaluation in the Executive Branch.

(ii) Increased use of operations research and management science in the areas of productivity and management.

(iii) All activities financed through the Department Working Capital Fund.

(11) Designate the Commercial Industrial Officer and administer a program to implement the provisions of Circular A–76 for:

(i) Office of Finance and Management,

(ii) All activities of staff offices reporting to the Assistant Secretary for Administration financed through the Department Working Capital Fund, and

(iii) Other offices and agencies as agreed upon.

(12) Develop Departmental policies, standards, techniques, and procedures for the conduct of reviews and analysis of the utilization of the resources of State and local governments, other Federal agencies and of the private sector in domestic program operations.

(13) Represent the Department in contacts with the Office of Management

and Budget, General Services Administration, General Accounting Office, Department of the Treasury, Office of Personnel Management, Department of Health and Human Services, Department of Labor, Environmental Protection Agency, Department of Commerce, Congress of the United States, State and local governments, and universities, and other public and private sector individuals, organizations or agencies on matters related to assigned responsibilities.

(14) Maintain the Departmental inventory of commercial activities required by OMB Circular A–76 and provide Departmentwide technical assistance to accomplish Circular objectives.

(15) Improve Departmental management by: performing management studies and reviews in response to agency requests for assistance or as directed by the Assistant Secretary for Administration; enhancing management decisionmaking by developing and applying analytic techniques to address particular administrative operational and magagement problems; searching for more economical or effective approaches to the conduct of business; developing and revising systems, processes, work methods, and techniques; and undertaking other efforts to improve the management effectiveness and productivity of the Department which shall be coordinated with other staff offices reporting to the Assistant Secretary for Administration whenever they impact upon their delegated policy authorities.

(16) Administer a productivity program in accordance with Executive Order 12089 and other policy and procedural directives and laws to:

(i) Assess and improve productivity of the Department.

(ii) Assist agencies in developing, implementing and maintaining productivity measurement systems.

(17) Establish Departmental policies and procedures for, and administer that portion of the Department's Small and Disadvantaged Business Program related to minority bank deposits, and grants and loan and other Federal assistance activities affecting small and minority business not delegated to the Director, Office of Small and Disadvantaged Business Utilization, in § 2.79 of this part.

(18) Establish Departmentwide safety and health policy and provide leadership in the development, coordination and implementation of related standards, techniques, and procedures, and represent the Department in complying with laws, Executive Orders and other policy and procedural issuances related to occupational safety and health within the Department.

(19) Represent the Department in all rulemaking, advisory or legislative capacities on any group, committee, or Governmentwide activities that affect the USDA Occupational Safety and Health Management Program.

(20) Determine and/or provide Departmentwide technical services and regional staff support for the safety and health programs.

(21) Design, develop and maintain computerized management information systems for the collection, processing and dissemination of data related to the Department's occupational safety and health programs.

(22) Administer the Department's Occupational Health and Preventive Medical Program, as well as design and operate employee assistance and workers' compensation activities.

(23) Provide education and training on a Departmentwide basis for safety and health related issues and develop resource and operational manuals.

4. Section 2.77 is removed and reserved.

§ 2.77 [Reserved]

For Subpart C:

Dated: October 25, 1983.

John R. Block,

Secretary of Agriculture.

For Subpart J:

Dated: October 25, 1983.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 83-29968 Filed 11-3-83; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 436; Lemon Regulation 435; Amendment 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period November 6–12, 1983, and increases the quantity of lemons that may be shipped during the period October 30–November 5, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective November 6, 1983, and the amendment is effective for the period October 30–November 5, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on November 1, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for all grades of lemons is good on larger sizes and easier on smaller sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open

meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.736 is added as follows:

§ 910.736 Lemons Regulation 436.

The quantity of lemons grown in California and Arizona which may be handled during the period November 6, 1983, through November 12, 1983, is established at 225,000 cartons.

2. Section 910.735 Lemon Regulation 435 (48 FR 49837) is revised to read as follows:

§ 910.735 Lemon Regulation 435.

The quantity of lemons grown in California and Arizona which may be handled during the period October 30, 1983, through November 5, 1983 is established at 220,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 3, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

FR Doc. 83-30132 Filed 11-3-83; 11:25 am]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Codes and Standards for Nuclear Power Plants; Summer 1982 Addenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to incorporate by reference the Summer 1982 Addenda of the American Society of Mechanical Engineers (ASME) Boiler Pressure Vessel Code. The sections of the ASME Code being incorporated provide rules for the construction on nuclear power plant components. Adoption of these amendments will permit the use of improved methods for construction of nuclear power plants.

DATES: effective date: December 7, 1983.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 7, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. N. J. Miegel, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 443–7860.

SUPPLEMENTARY INFORMATION: On December 22, 1982 the Nuclear Regulatory Commission published in the **Federal Register** proposed amendments to its regulation, 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities." The proposed amendment would revise § 50.55a to incorporate by reference the Summer 1982 Addenda to Section III, Division 1, "Rules for the Construction of Nuclear Power Plant Components," of the ASME Boiler and Pressure Vessel Code.

The incorporation of the new Addenda does not change any of the previous supplementary requirements included in the regulation.

Some of the changes effected in the addenda that are incorporated by this rule follow:

1. The foreword of all sections of the Code was revised regarding interpretations of the Code to restrict the authority to issue such interpretations to the American Society of Mechanical Engineers. Previously, paragraph thirteen of the foreword had permitted the National Board of Boiler and Pressure Vessel Inspectors to issue interpretations of the ASME Boiler and Pressure Vessel Code.

2. Paragraph NCA–8230(b) was revised to delete the requirement that the location of the nameplate for component supports be shown on the support drawing.

3. Code Case N–100, "Pressure Relief Valve Design," was adopted into the body of the Code as paragraph NB–3590. The Code Case will be annulled when the Summer 1982 Addenda become effective.

4. Paragraph NB–5520 was revised to update the reference to the American Society for Nondestructive Testing (ASNT) standard SNT–TC–1A, from the 1975 to the 1980 Edition. It was also revised to clearly state that even if an outside agency or ASNT provided the qualification examinations, the employer is still responsible for certifying its own personnel.

Interested persons were invited to submit written comments for consideration in connection with the proposed amendment by February 22, 1983. One comment was received on the proposed rule. The Summer 1982 Addenda invoke the June 1980 Edition of Recommended Practice No. SNT–TC–1A, "Personnel Qualification and Certification in Nondestructive Testing," in paragraph NB–5520 in lieu of the 1975 Edition of SNT–TC–1A which was previously invoked. The commenter objected to updating the edition of SNT–TC–1A referenced by the Code because the commenter was of the opinion that the 1980 Edition of SNT–TC–1A no longer requires Level III individuals to demonstrate their ability to perform the examinations for which they are being qualified. A detailed comparison of the 1975 and 1980 Editions of SNT–TC–1A reveals that although the requirements for qualifications of Level III individuals were changed, neither edition specifically requires a demonstration of the individual's ability to perform the examination. No changes to the rule were made in response to the comment.

The NRC staff is currently working with a committee of industry representatives that is developing an improved requirements document for the qualification and certification of nondestructive examination personnel. Additionally, the staff is involved in a study of the qualification and certification of various quality assurance and quality control personnel that includes consideration of nondestructive examination personnel. At this time, the staff has not concluded that hands-on practical examinations for Level III nondestructive examination personnel are warranted, and finds that the provisions of the June 1980 Edition of SNT–TC–1A are acceptable for Section III Code activities, pending the development of any new requirements.

In addition to the public comment, there was a concern raised by the NRC staff on the change in the 1980 Edition of SNT–TC–1A to the use of the word "should" in numerous places in the standard where the word "shall" had been used in the past. The concern centered around whether or not the change in language resulted in a change in the enforceability of the provisions of SNT–TC–1A. Because of the staff's concern, an inquiry, NI 83–033, was submitted to the American Society of Mechanical Engineers, Boiler and Pressure Vessel Code Committee, asking for an interpretation of the Code's endorsement of SNT–TC–1A. The response to the inquiry was that regardless of the language used in SNT–TC–1A, the Code's endorsement of SNT–TC–1A makes the provisions of SNT–TC–1A mandatory for Code activities.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork

Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150-0011.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act of the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this rule does not fall within the purview of the Act.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 50 are published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. **Authority:** Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Sec. 50.7 also issued under Pub. L. 95-601, Sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Secs. 50.58, 50.91 and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sec. 50.78 also issued under sec. 122, 68 Stat. 939 (43 U.S.C 2152). Secs. 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Secs. 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.55a, paragraph (b)(1) is revised to read as follows:

§ 50.55 Codes and standards.

* * * * *

(b) * * *

(1) As used in this section, references to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1980 Edition and addenda through the Summer 1982 Addenda.

* * * * *

Dated at Bethesda, Maryland, this 5th day of October 1983.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Executive Director for Operations.

[FR Doc. 83-30001 Filed 11-3-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-CE-75-AD; Amdt. 39-4763]

Airworthiness Directives; Cessna Models, 152, A152, 172N, 172P, 172Q, 172RG, R172K, 180K, 182Q, 182R, T182, R182, TR182, A185F, F152, FA152, F172N, F172P, FR172K, F182Q, and FR182 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Models, 152, A152, 172N, 172P, 172Q, 172RG, R172K, 180K, 182Q, 182R, T182, R182, TR182, A185F, F152, FA152, F172N, F172P, FR172K, F182Q, and FR182 airplanes. It requires a one time inspection of the aileron hinges for correct location of the cotter pins which retain the aileron hinge pins and if necessary, replacement or correction of aileron hinges having incorrectly located cotter pins. It has been determined that the hole for the cotter pin which retains the aileron hinge pin may have been mislocated on some aileron hinges. This may result in loss of the aileron hinge pin and aileron control. The inspection and corrective action will preclude loss of the hinge pin.

DATES: Effective date: November 8, 1983.

Compliance: As prescribed in the body of this AD.

ADDRESSES: Copies of Cessna Service Information Letter SE83-18 dated July 29, 1983, applicable to this AD may be obtained from Cessna Aircraft Company, P.O. Box 1521, Wichita, Kansas 67201, Telephone No. (316) 685-9111. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Douglas W. Haig, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209, Telephone No. (316) 269-7005.

SUPPLEMENTARY INFORMATION: A Cessna Model TR182 airplane experienced an in-flight aileron control problem. Upon landing it was found that the outboard hinge pin on the right aileron was missing. The normal airloads, coupled with the loss of the hinge pin caused the right aileron to bend upward, temporarily jamming the controls. The pilot was able to stop the resulting right roll by applying left rudder. The airplane assumed a nose down attitude although full nose up trim was applied. Subsequently the aileron broke loose and the airplane was landed without further incident.

A hole is drilled on each end of this piano style hinge through which a cotter pin is installed to retain the hinge pin. On the airplane involved in this incident the cotter pin holes were mislocated and the installed cotter pins did not retain the hinge pin in the hinge.

Investigation into the manufacturing of the aileron hinge revealed that it was possible to misalign the hinge piece in the tool used to locate and drill the cotter pin hole. Inspection failed to find the discrepant parts due to the sampling techniques utilized. The manufacturer has, however, isolated the time period during which this specific tooling was used and in-turn, the airplanes potentially affected. Cessna has issued Service Information Letter SE83-18 dated July 29, 1983, requiring a one time inspection, plus corrective action if necessary, on the affected airplanes.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring a one time visual inspection and replacement or correction of aileron hinges with mislocated cotter pin holes in accordance with Cessna Service Information Letter SE83-18 dated July 29, 1983, on certain Cessna Models, 152, A152, 172N, 172P, 172Q, 172RG, R172K, 180K, 182Q, 182R, T182, R182, TR182, A185F, F152, FA152, F172N, F172P, FR172K, F180Q, and FR182 airplanes.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Cessna: Applies to the following airplanes certificated in any category:

Model	Serial No.
152	[illegible] thru 15284659, 15284661 thru 15284684, 15284686 thru 15284851, 15284853 thru 15285417, 15285419 thru 15285621, 15285623 thru 15285625, 15285627 thru 15285651, 15285653 thru 15285681, [illegible], 15285685 thru 15285693, [illegible] thru 15285700, 15285702 thru 15285713, 15285716 thru 15285719, 15285722 thru 15285724, 15285726, thru 15285728, 15285730 thru 15285731, 15285733 thru 15285744, 15285746 thru 15285750, 15285751 thru 15285753, 15285756, 15285757, 15285759, 15285760, 15285764, 15285765, 15285767, 15285769, 15285772, 15285773, 15285778, 15285779, 15285781, 15286783.
A152	A1520809 thru A1520990, A1520992 thru A1520997, A1520999 thru A1521020, A1521022.
172N	17271035 thru 17274009.
172P	17274010 thru 17275806, 17275809, 17275817 thru 17275854, 17275857, 17275861 thru 17275881, 17275883 thru 17275910, 17275912 thru 17275947, 17275949 thru 17275953, 17275955 thru 17275958, 17275960 thru 17275971, 17275973, 17275974, 17275976, 17275978, 17275980 thru 17275982, 17275984, 17275986 thru 17275992, 17275994, 17275995, 17275997, 17275999 thru 17276002, 17276005, 17276010, 17276012, 17276014.
172Q	17275809 thru 17275881, 17275883 thru 17275910, 17275912 thru 17275947, 17275949 thru 17275953, 17275955 thru 17275958, 17275960 thru 17275971, 17275973, 17275974, 17275976, 17275978, 17275980 thru 17275982, 17275984, 17275986 thru 17275992, 17275994, 17275995, 17275997, 17275999 thru 17276002, 17276005, 17276010, 17276012, 17276014.
172RG	172RG001 thru 172RG1134, 172RG1137
R172K	R1722930 thru R1723454.
180K	18053001 thru 18053203.
182Q	18266591 thru 18267715.
[illegible] and T182	18267716 thru 18268103, 18268105 thru 18268107, 18268109 thru 18268129, [illegible] thru 18268141, 18268143, [illegible] 18268148 thru 18268293, [illegible] 18268310, 18268312 thru [illegible] 18268324 thru 18268327, 18268330 thru 18268332, 18268335, [illegible] 18268339, 18268343, 18268345, 18268348, 18268350.
R182 and TR182	R18200584 thru R18201912, R18201914 thru R18201933, R18201935 thru R18201938, R18201940, R18201942, R18201943, R18201945, R18201946, R18201949, R18201950, R18201953, R18201954.
A185F	18503684 thru 18504334, 18504336, 18504337, 18504339 thru 18504395, 18504397, 18504398, 18504400
[illegible]	Serial No.
F152	F15201529 thru F15201883, F15201885 thru F15201886, F15201898 thru F15201931, F15201933, F15201935, F15201936.
FA152	FA1520348 thru FA1520352.
F172N	F17201750 thru F17202039.
F172P	F17202040 thru F17202146, F17202148 thru F17202175, F17202177 thru F17202181, F17202183 thru F17202186, F17202189 thru F17202194, F17202197, F17202200, F17202202.
FR172K	FR17200631 thru FR17200675.
F182Q	F18200095 thru F18200169.
FR182	FR18200021 thru FR18200070.

Compliance: Required as indicated, unless already accomplished. To prevent possible loss of an aileron hinge pin, accomplish the following:

(a) Within the next 100 hours time in service, after the effective date of this AD, visually inspect each aileron hinge (6 total) for correct location of the cotter pin in accordance with Figure 1. of this AD or Cessna Service Information Letter SE83–18 dated July 29, 1983.

1. If the cotter pin holes are correctly located the airplane may be returned to service without further action.

2. If the cotter pin holes are incorrectly located, prior to further flight modify or replace aileron hinges in accordance with instructions in Figure 1. of this AD or Cessna Service Information Letter SE83–18 dated July 29, 1983.

(b) Airplanes may be flown in accordance with FAR 21.197 to a base where this AD may be accomplished.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, Federal Aviation Administration, Room 238, Terminal Building 2299, Wichita, Kansas 67209, Telephone (316) 269–7000.

This amendment becomes effective on November 8, 1983.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impractical for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on October 21, 1983.

John E. Shaw,

Acting Director Central Region.

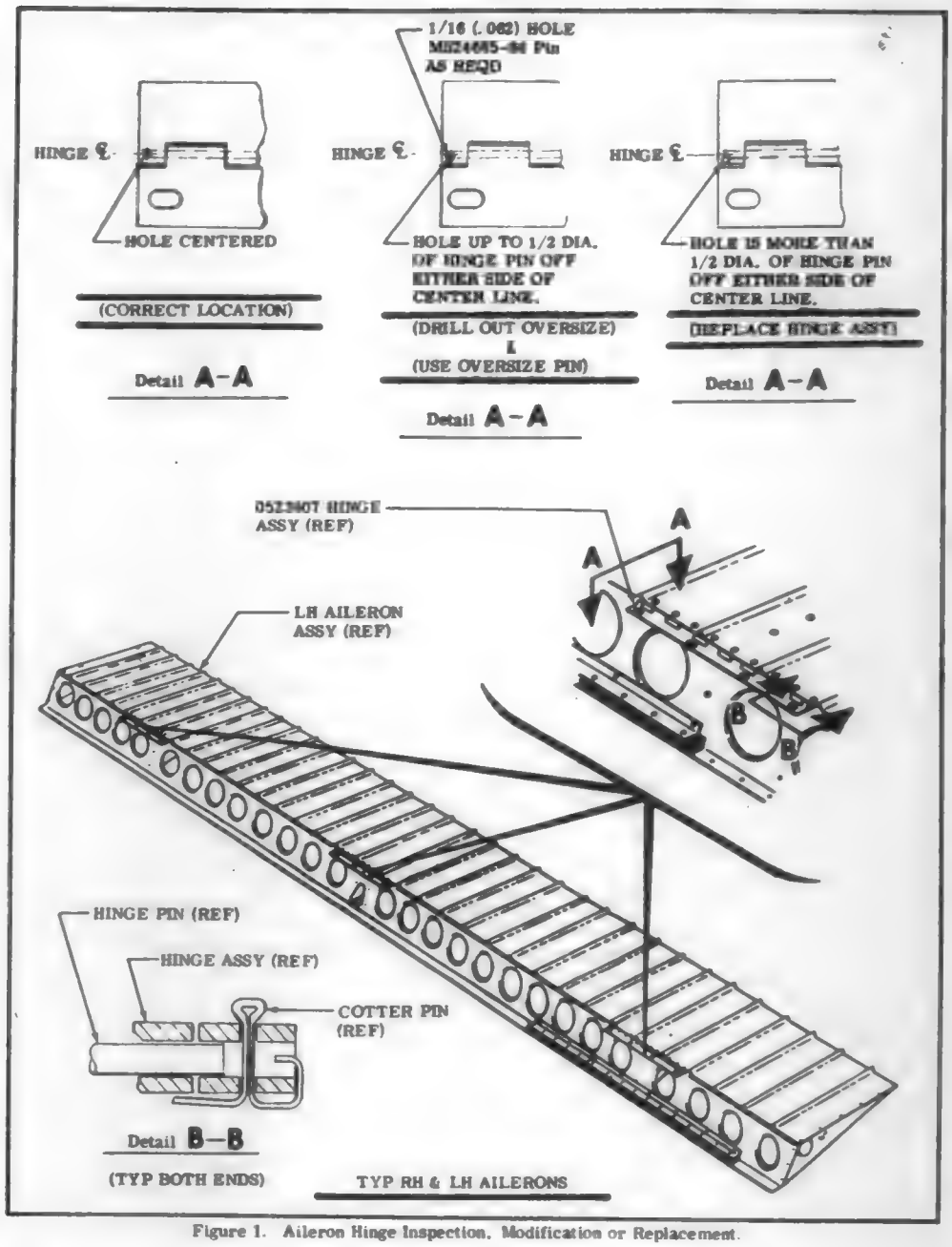


Figure 1. Aileron Hinge Inspection, Modification or Replacement.

[FR Doc. 83-30015 Filed 11-3-83; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Airworthiness Docket No. 83-ANE-18; Amdt. 39-4748]

Airworthiness Directives; AVCO-Lycoming Reciprocating Engine Series IO-540, TIO-540, LTIO-540, TIO-541, TIGO-541 and Model AEIO-540-L1B5D

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) requiring the replacement of Fuel Diaphragm Assy. P/N 2539806 installed in certain Bendix RSA-10 Fuel Injector Units, with an improved Fuel Diaphragm Assy., P/N 2541803, performing a flow bench calibration of the injector unit, and reidentifying the nameplate. The AD is necessary to prevent separation of the fuel diaphragm from the stem resulting in the cutoff of fuel supply to the aircraft's engine and subsequent engine failure.

DATES: Effective date: November 4, 1983. The Director of the Office of the Federal Register approved the incorporation by reference of certain publications in 14 CFR 39.13 effective on November 4, 1983.

Compliance schedule—As prescribed in the body of the AD.

Comments must be received on or before December 5, 1983.

ADDRESSES: The applicable service bulletins may be obtained from Bendix Energy Controls Division, 717 North Bendix Drive, South Bend, Indiana 46620. Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 83-ANE-18, 12 New England Executive Park, Burlington, Massachusetts 01038.

A copy of each of the service bulletins is contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and in the New York Aircraft Certification Office, 181 South Franklin Avenue, Rm. 202, Valley Stream, New York 11581. The service bulletins and all comments received may be examined in the Rules Docket weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. I. Mankuta, ANE-174, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone No. (516) 791-7421.

SUPPLEMENTARY INFORMATION: There have been reports of engine failures, loss of power, and at least one accident caused by the separation of the fuel diaphragm stem from the fuel diaphragm. Although the failure mode could not be duplicated, it has been determined that certain P/N 2539806 stem assemblies manufactured from AMS 5646 steel annealed during the latter part of 1979, may not have adequate strength to withstand the stresses during operation and are susceptible to fatigue fracture. Earlier fabricated stem assemblies (work hardened) are exempt from this AD. Bendix tests on a tougher, higher tensile strength material, indicate that the new P/N 2541803 diaphragm stem will adequately withstand operational stresses experienced in service.

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves requirements affecting flight safety and therefore was not preceded by notice and public procedure, comments are invited on the

rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Engines, Aircraft, and Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Avco Lycoming: Applies to all Avco Lycoming *IO-540-C1B5*, -G1C5, -G1D5, -K1A5, -K1A5D, -K1B5, -K1C5, -K1D5, -K1F5, -K1F5D, -K1G5, -K1G5D, -K1J5, -K1J5D, -M1B5D, -S1A5, -AA1A5; *AEIO-540-L1B5D*; *TIO-540-F2BD*, -J2BD, -N2BD, -S1AD, -U2A, -V2AD; *LTIO-540-F2BD*, -J2BD, -N2BD, -U2A, -V2AD; *TIO-541-E1A4*, -E1B4, -E1C4; *TIGO-541-E1A*, series engines equipped with Bendix Models RSA-10DB1, RSA-10DB2, RSA-10ED1, and RSA-10ED2 fuel injectors as identified in Bendix Service Bulletin RS-88, including Supplement 1, Section 1.A. (1), (2) and (3).

Compliance required within the next 50 hours in service after the effective date of this AD, unless previously accomplished.

To prevent engine failure due to fatigue failure of the injector fuel diaphragm stem, replace P/N 2539606 fuel diaphragm assembly with P/N 2541803 and perform flow calibration and nameplate reidentification in accordance with Section 2 Accomplishment Instructions of Bendix Energy Controls Division Service Bulletin RS-85, or FAA Approved equivalent.

An equivalent method of compliance with this AD, may be used if approved by the Manager, New York Aircraft Certification Office, FAA, New England Region. Upon submission of substantiation data by an owner or operator through an FAA maintenance inspector, the Manager, New York Aircraft Certification Office, may adjust the compliance time specified in this AD.

In accordance with FAR 21.197 and 21.199, the aircraft may be flown to a location where the alterations required by this AD can be performed.

AVCO Lycoming S/B No. 467, Bendix Energy Control Service Bulletin Nos. RS-85 including Supplement No. 1, Revised August 10, 1983, and RS-88 including Supplement No. 1, Revised August 10, 1983, identified and described in this directive are incorporated herein and made by reference a part hereof pursuant to 5 U.S.C. 552 (a)(1). All persons affected by this directive who have not already received these documents may obtain copies upon request to Bendix Energy Control Division, 717 North Bendix Drive, South Bend, Indiana 46620. These documents may also be examined at the Office of Regional Counsel, FAA New England Regional Office, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD is maintained at the New England Regional Office.

This amendment becomes effective on November 4, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); (49 U.S.C. 106(g) revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89)

Note:—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or signficant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034: February 26, 1979) on the basis that the total cost impact is under $3 million. It is certified that the final rule will not have a significant economic impact on a substantial number of small entities because of the phase-down schedule of compliance and because the cost of the action is less the $200 per engine which is nominal compared to the overall cost of the aircraft involved.

A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to: FAA, Office of Regional Counsel, Attn: Rules Docket No. 83-ANE-18, 12 New England Executive Park, Burlington, Massachusetts 01803.

Note:—The incorporation by reference provisions of this document were approved on November 4, 1983. The referenced Bulletins are available at the Office of the Federal Register.

Issued in Burlington, Massachusetts, on October 11, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-29939 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-ASW-82; Amdt. 39-4760]

Airworthiness Directives; Bell Helicopter Textron, Inc., Model 412 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Fedral Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Bell Helicopter Textron, Inc., Model 412 helicopters by individual telegrams. The AD requires an immediate reduction in retirement life of certain part number main rotor yokes, installation of a main rotor yoke flex indicator kit on certain main rotor hub assemblies, and a daily visual inspection of certain main rotor yokes and flex indicators. The AD is needed to prevent main rotor yoke failure which could result in loss of a helicopter.

DATES: Effective December 2, 1983, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T82-26-51, issued December 8, 1982, which contained this amendment.

Compliance required on the effective date of this AD.

ADDRESSES: The applicable service bulletin may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, Attention: Customer Support.

A copy of the service bulletin is contained in the Rules Docket located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: H. A. Armstrong, Helicopter Certification Branch, ASW-170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101, telephone number (817) 877-2079.

SUPPLEMENTARY INFORMATION: On December 8, 1982, telegraphic AD T82-26-51 was issued and made effective immediately as to all known U.S. owners and operators of Bell Helicopter Textron, Inc., Model 412 helicopters. The AD required a reduction in retirement life of certain part number main rotor yokes. Additionally, the AD required installation of a main rotor yoke flex indicator kit on certain main rotor hub

assemblies. The AD also required a continuing daily visual inspection of the main rotor yokes and the flex indicators. The AD action was necessary to prevent main rotor yoke failure which could result in loss of a helicopter.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued December 8, 1982, to all known U.S. owners and operators of certain Bell Helicopter Textron, Inc., Model 412 helicopters. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bell Helicopter Textron, Inc.: Applies to Bell Helicopter Textron, Inc., Model 412 helicopters certificated in all categories that are equipped with main rotor yokes P/N 412-010-101-109, -113, -117, and -121. (Airworthiness Docket No. 82-ASW-82).

Compliance is required as indicated (unless already accomplished).

To prevent failure of the main rotor yoke, accomplish the following:

(a) Effective immediately, the retirement life of yoke assemblies P/N 412-010-101-113, -117, and -121 is reduced to 700 hours. Yokes with more than 675 hours' time in service on the effective date of this AD may be operated and additional 25 hours maximum.

(b) Install flex indicator kit, Bell P/N 412-703-006-101, on yoke assemblies P/N 412-010-101-113, -117, and -121 within 25 hours' time in service after the effective date of this AD. Before the first flight of each day perform an inspection of the flex indicators and perform corrective action when deflection is indicated in accordance with the instructions in Bell Alert Service Bulletin 412-82-8, dated 12-9-82, or an equivalent procedure approved by the Manager, Aircraft Certification Division, Federal Aviation Administration, Southwest Region.

(c) Before the first flight of each day perform a visual inspection of yoke assemblies P/N 412-010-101-109, -113, -117, and -121 in the area of the flexure concentrating on the area from the mast to the damper bridges including the transition radii from the flexure to the damper bridge mounting area, on both upper and lower surfaces of the yoke.

(d) In accordance with FAR 21.197, flight is permitted to a base where the requirements of this AD may be accomplished.

(e) Any equivalent means of compliance with this AD must be approved by the Manager, Aircraft Certification Division, Federal Aviation Administration, Southwest Region.

Note.—Refer to Bell Helicopter Textron, Inc. Service Bulletin 412-82-8, dated 12-9-82, or FAA approved equivalent for flex indicator installation procedures.

This amendment becomes effective December 2, 1983, as to all persons except those persons to whom it was made immediately effective by telegraphic AD T82-26-51 issued December 8, 1982, which contained this amendment.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsuquently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Fort Worth, Texas, on October 18, 1983.

Roger G. Knight,

Acting Director, Southwest Region.

[FR Doc. 83-29836 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-94-AD; Amdt. 39-4765]

Airworthiness Directives; BFGoodrich Emergency Evacuation Slide/Rafts P/N's 7A1340 Series, 7A1342 Series, 7A1371 Series, and 7A1373 Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection, repair, or replacement, as necessary, of BFGoodrich Emergency Evacuation Slide/Rafts P/N's 7A1340 series, 7A1342 series, 7A1371 series, and 7A1373 series installed in Boeing 747 airplanes in accordance with STC SA574GL or SA575GL. This AD is prompted by reports of leakage due to fabric porosity which in one case was severe enough to significantly degrade to functioning as a slide after approximately one minute of inflation, and in several cases was severe enough to prevent continued functioning as a raft. It has been determined that the inspection and repair procedure contained in BFGoodrich Service Bulletin 25-081 will correct the problem.

DATES: Effective November 15, 1983.

Compliance schedule as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from BFGoodrich Company, ATTN: Mr. Earl Lucas, Dept. 1809, Bldg. 17F, 500 South Main Street, Akron, Ohio 44318, telephone (216) 374-2193.

A copy of the service bulletin is contained in the Rules Docket located at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Charles Smalley, Aerospace Engineer, Systems Equipment Branch, ACE-130C, FAA, Central Region, Chicago Aircraft Certification Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018; Telephone (312) 694-7126.

SUPPLEMENTARY INFORMATION: There have been 15 reports of high leakage rates in BFGoodrich Emergency Evacuation Slide/Rafts, P/Ns 7A1340 series, 7A1342 series, 7A1371 series, and 7A1373 series. The leakage is believed to be caused by abrasion by the packboard and the screws on the aspirator assembly and fungus infestation. The problem was uncovered by an airline during normal overhaul procedures. The leakage rates are such that in one case the use of the slide/raft as a slide was severely degraded approximately one minute after inflation, and in several cases use as a raft was degraded because the leakage rates exceeded the capability of the handpump packed with the slide/raft.

Also, during the inspections of the slide/rafts, three of the handpumps were found to be inoperative. Both problems are believed to be limited to a specific set of serial numbers called out in the service bulletin for immediate inspection. The remaining units of the same design but different fabric lots and

handpump design are scheduled for inspection within 120 days.

Since this situation is likely to exist or develop on other slide/rafts of the same type design, an airworthiness directive is being issued which requires a recurring inspection and repair, as necessary, of BFGoodrich Emergency Evacuation Slide/Rafts P/Ns 7A1340 series, 7A1342 series, 7A1371 series, and 7A1373 series.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

BFGoodrich: Applies to BFGoodrich Emergency Evacuation Slide/Rafts P/Ns 7A1340 series, 7A1342 series, 7A1371 series, and 7A1373 series. These slide/rafts are installed on Boeing Model 747–100 and 747–200B airplanes in accordance with Supplemental Type Certificate (STC) SA574GL, and on Boeing Model 747–100B, 747SR, and 747–300 airplanes in accordance with STC SA575GL. Compliance required as indicated below. To assure proper functioning of BFGoodrich Slide/Rafts, accomplish the following unless previously accomplished in accordance with the procedures in BFGoodrich Service Bulletin 25–061, Revision 1, dated September 27, 1983.

A. For BFGoodrich Slide/Rafts P/Ns 7A1340 series or 7A1371 series S/Ns G001 thru G289, and P/Ns 7A1342 series or 7A1373 series, S/Ns G001 thru G067: Within 20 calendar days after the effective date of this AD perform the maintenance procedures contained in BFGoodrich Service Bulletin 25–061, Revision 1, dated September 27, 1983, or subsequent FAA approved revisions, on installed slide/rafts or on slide/rafts prior to installation. Repeat inspections per paragraph C., below.

B. For all BFGoodrich Slide/Rafts, P/N's 7A1340 series, 7A1342 series, 7A1371 series and 7A1373 series, inspect all serial numbers installed prior to September 1, 1983, and not inspected per paragraph A., above, in accordance with BFGoodrich Service Bulletin 25–061, Rev 1, dated September 27, 1983, or subsequent FAA approved revision, within 120 days of the effective date of this AD. Slides installed subsequent to August 31, 1983 must be inspected in accordance with BFGoodrich Service Bulletin 25–061, Revision 1, dated September 27, 1983, or subsequent FAA approved revision, within 180 days of last leak check inspection. (Reference Service Bulletin Section 2B) Repeat inspections per Paragraph C., below.

C. To prevent undetected deterioration repeat the inspection of all installed BFGoodrich Slide/Rafts, P/N's 7A1340 series, 7A1342 series, 7A1371 series and 7A1373 series, in accordance with Section 2B of BFGoodrich Service Bulletin 25–061, Rev. 1, dated September 27, 1983, or subsequent FAA approved revision, within 180 days of last inspection or within 180 days of installation.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Chicago Aircraft Certification Office, FAA, Central Region.

E. Upon request of operator, an FAA Principal Maintenance Inspector, subject to prior approval by Manager, Chicago Aircraft Certification Office, FAA, Central Region, can adjust the compliance times if the request contains substantiating data to justify the increase for the operator.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to BFGoodrich Company, Attn: Mr. Earl Lucas, Dept. 1809, Bldg. 17F, 500 South Main Street, Akron, Ohio 44318.

These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington.

This amendment becomes effective November 15, 1983.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on October 28, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83–29834 Filed 11–3–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 83–CE–74–AD; Amendment 39–4766]

Airworthiness Directives; British Aerospace Aircraft Group, Scottish Division, Jetstream Model 3101 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to British Aerospace Aircraft Group, Scottish Division, Jetstream Model 3101 airplanes, which supersedes Emergency Airworthiness Directive 83–14–11 issued by priority letter dated July 19, 1983. This superseded AD established limitations prohibiting flight of these airplanes into known or forecast icing conditions and extension of flaps beyond 20 degrees because of possible short period pitch oscillations under these conditions. Subsequent to the issuance of AD 83–14–11, the manufacturer has developed a modification which precludes short period pitch oscillations caused by an accumulation of ice on the tail or extension of the flaps beyond 20 degrees. This modification is incorporated in the superseding AD as an alternate corrective action. Compliance with the restrictions contained in AD 83–14–11 or incorporation of this alternate modification will reduce the possibility of development of short period pitch oscillations and subsequent loss of airplane control.

DATES: Effective date: November 10, 1983.

Compliance: As prescribed in the body of the AD

ADDRESSES: British Aerospace Service Bulletin 27–A–JM7328, Revision 2, dated September 12, 1983, and Flight Test Schedule FTS 397/JM dated August 2, 1983, applicable to this AD, may be obtained from British Aerospace Incorporated, 13850 McLearen Road, Dulles Industrial Aerospace Park, Herndon, Virginia 22070. A copy of this information is also contained in the Rules Dockets, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.30; or Mr. L. Werth, FAA, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: As a result of two reports of a pronounced and rapid pitch oscillation during flight in icing conditions on a Jetstream Series 3100 aircraft, British Aerospace issued an urgent temporary revision to the Jetstream Airplane Flight Manuals (AFM) which established limitations prohibiting flight of these airplanes into known or forecast icing conditions and extension of flaps beyond 20 degrees. The FAA found that the condition addressed by this United Kingdom Civil Aviation Authority (UKCAA) approved temporary revision to the AFM was an unairworthy condition likely to exist on airplanes certificated for operation in the United States. As a result AD 83–14–11 applicable to Jetstream 3101 airplanes, was issued by priority letter dated July 19, 1983, establishing limitations prohibiting flight into known or forecast icing conditions and extension of the flaps beyond 20 degrees. Subsequently the manufacturer conducted extensive flight and wind tunnel testing and has developed an airframe modification which will reduce the possibility of developing these oscillations. As a result British Aerospace issued Service Bulletin 27–A–JM7328, Revision 2, dated September 12, 1983, and Flight Test Schedule FTS 397/JM dated August 2, 1983, which contain instructions for incorporation of Modification JM7328, Part B, and for flight testing the modified airplane. The UKCAA, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom, has classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness to the affected airplanes. On airplanes operated under United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the UKCAA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of British Aerospace Service Bulletin 27–A–JM7328, Revision 2, dated September 12, 1983, and the mandatory classification of this Service Bulletin by the UKCAA.

Based on the foregoing, the FAA has determined that the condition addressed by this Service Bulletin is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, and AD superseding AD 83–14–11 is being issued that requires limitations prohibiting flight into icing conditions and flap extension beyond 20 degrees, or, incorporation of Modification JM7328, Part B, and subsequent flight test per the instructions in Service Bulletin 27–A–JM7328, Revision 2, dated September 12, 1983, on British Aerospace Aircraft Group, Scottish Division, Jetstream Model 3101 airplanes.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

British Aerospace: Applies to British Aerospace Model 3101 (all serial numbers) airplanes certificated in any category.

Compliance: Required prior to further flight, unless already accomplished.

To reduce the possibility of development of short period pitch oscillations, accomplish either paragraphs (a) or (b) as follows:

(a) Placard the airplane and modify the AFM as follows:

(1) Fabricate and install in full view of the pilot a temporary placard using letters of minimum .10 inch in height which states: "FLIGHT IN ICING CONDITIONS PROHIBITED. MAXIMUM PERMITTED FLAP ANGLE IS 20 DEGREES."

and operate the airplane in accordance with these limitations.

(2) Add the following information to page 37, Section 5 of the AFM:

"Landings must be made with no more than 20 degrees of flap selected. Increase approach speed by 10 knots."

(3) Add the following information to pages 45 and 47, Section 5 of the AFM:

"Landings must be made with no more than 20 degrees of flap selected. The scheduled field lengths are increased by 20 percent."

(4) Insertion of a copy of this AD in front of the pages specified in paragraphs (a)(2) and (a)(3) above satisfies the requirements of these paragraphs.

(5) The requirements of paragraphs (a)(1) through (a)(4) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FAR) on any airplane owned or operated by him. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

or

(b) Incorporate British Aerospace Modification JM7328, Part B, in accordance with the accomplishment instructions of British Aerospace Service Bulletin 27–A–JM7328, Revision 2, dated September 12, 1983

(1) Until AFM revisions are received and incorporated, make the following amendments in the AFM of the modified airplane:

(A) In Section 2 of page 3, the aft limit of the center of gravity envelope is moved from 228 inches aft of datum to 226 inches aft of datum at all weights.

(B) In Section 5 of page 31, the weight limited both engines operating enroute climb speed is increased to the following values:

Airplane weight (thousands of pounds)	Airspeed (knots IAS)
10	109.0
11	114.5
12	119.5
13	124.2
14	128.1
14.56	131.0

(2) Following incorporation of British Aerospace Modification JM7328, Part B, perform a flight test in accordance with British Aerospace Flight Test Schedule FTS 397/JM dated August 2, 1983, as referenced in British Aerospace Service Bulletin 27–A–JM7328, Revision 2, dated September 12, 1983. This flight test is to be accomplished either by a British Aerospace factory test pilot or under the supervision of an FAA test pilot, or by a British Aerospace factory approved pilot.

(c) An equivalent means of compliance with this AD may be used, if approved, by the Manager, Aircraft Certification staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium. This AD supersedes AD 83–14–11, issued by priority letter dated July 19, 1983. This amendment becomes effective on November 10, 1983.

(Sec. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); § 11.89 of the Federal Aviation Regulations (14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order

12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on October 25, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-29832 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-ASW-44; Amdt. 39-4762]

Airworthiness Directives; Robinson Model R-22 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Robinson Model R-22 series helicopters by individual letters. The AD requires replacement of certain Robinson main rotor blades prior to further flight. The AD is prompted by a report of fatigue failure of a main rotor blade which would result in the crash of the helicopter.

DATES: Effective November 21, 1983, as to all persons except those persons to whom it was made immediately effective by priority letter AD 83-15-07, issued July 28, 1983, which contained this amendment.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Robinson Helicopter Company, 24747 Crenshaw Boulevard, Torrance, California 90505. A copy of the service bulletin is contained in the Rules Docket at the office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Charles Matheis, ANM-172W, Western Aircraft Certification Field Office, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Hawthorne, California 90009-2007, telephone number (213) 536-6378.

SUPPLEMENTARY INFORMATION: On July 28, 1983, a priority letter AD 83-15-07 was issued and made effective immediately as to all known U.S. owners and operators of certain Robinson Model R-22 series helicopters. This final rule is different from the letter AD in that the main rotor blade serial numbers have been correlated with the affected design revision letter and insignificant editorial changes have been made for clarity. The AD required removal from service of Robinson main rotor blades, part number (P/N) AO16-1, Revision "W" (serial numbers (S/N) 0001 through 0810). After the letter AD was issued, it was noted that the Revision "W" blades are S/Ns 0600 through 0810. This AD is applicable to main rotor blades S/Ns 0600 through 0810. Previous FAA AD action has removed from service all Robinson main rotor blades P/N AO16-1, original (no revision) through Revision "V," (S/Ns 0001 through 0593). Main rotor blades S/Ns 0594 through 0599 were Revision "W" test articles which were scrapped at the end of the test program. The AD was prompted by a report of a fatal crash apparently caused by a main rotor blade failure. The blade, which had been determined to have a 1000-hour fatigue limited service life, failed at approximately 950 hours' of time in service. It has been determined that the blade failure originated as a fatigue failure through the first attachment, nearest the root, of the root fitting (P/N A161-1) to the spar (P/N A160-1). This area is completely enclosed and can only be viewed after destructive separation of main rotor blade components. Since this condition is likely to exist on other helicopters of the same type design, an airworthiness directive is being adopted which requires that, prior to further, flight certain main rotor blades be removed from service on Robinson Model R-22 series helicopters.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters issued July 28, 1983, to all known U.S. owners and operators of certain Robinson Model R-22 series helicopters. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Robinson Helicopter Company: Applies to Model R-22 series helicopters, certificated in all categories.

Compliance is required as indicated (unless already accomplished).

To detect cracks and to prevent possible fatigue failure of main rotor blades, accomplish the following prior to further flight after the effective date of this AD:

(a) Conduct an inspection of the main rotor blades to determine the serial number of the installed main rotor blades.

(b) Remove from service all Robinson main rotor blades P/N A016-1 Revision "W." Revision "W" main rotor blades have S/Ns 0600 through 0810.

Note.—Section 9.100 of the R-22 Maintenance Manual contains pertinent assembly/disassembly instructions, and Robinson Helicopter Company Bulletin #33 dated July 25, 1983, contains the same instructions as this airworthiness directive as will as shipping/warranty information. Main rotor blades removed by (b) should be either cut up in accordance with Robinson Helicopter Company Service Bulletin #33, or marked "UNAIRWORTHY" on both surfaces at approximately mid-span with lettering at least 2 inches high and "UNAIRWORTHY" impressed on the data plate using a metal stamp.

(c) Equivalent means of compliance with the AD may be used when approved by the Manager, Western Aircraft Certification Field Office, FAA, P.O. Box 92007, Worldway Postal Center, Hawthorne, California 90009-2007

This amendment becomes effective November 21, 1983, as to all persons except those persons to whom it was made immediately effective by priority letter AD 83-15-07, issued July 28, 1983, which contained this amendment.

(Secs. 313(a), 314(a), 601, through 610, and 1102, Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an

unsafe condition in aircraft. It is certified that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Fort Worth, Texas, on October 20, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-29935 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-37]

Alteration of Transition Area; Wetumpka, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Wetumpka, Alabama, transition areas by correcting a deficiency that has gone unnoticed for several years. On March 23, 1978, the transition area was altered by reducing it in size. When the transition area was redescribed the geographical coordinates of the Wetumpka Municipal Airport, upon which the area is centered, were inadvertently omitted from the new description. This action will correct the deficiency. No change in airspace designation is intended by this action.

DATES: Effective date: 0901 GMT, January 19, 1984. Comments must be received on or before December 1, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request For Comments on the Rule

Although this action is in the form of a final rule, which involves an editorial correction to the description of the transition area, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to insert the geographical coordinates of the Wetumpka Municipal Airport in the description of the Wetumpka, Alabama, transition area so that the description will be technically correct. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983. The change is so minor and nonsubstantive I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Wetumpka, Alabama, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, January 19, 1984, as follows:

Wetumpka, AL—[Revised]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Wetumpka Municipal Airport (Lat. 32°31'33" N., Long. 86°19'42" W.), excluding the portion that coincides with the Montgomery, AL, transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on October 14, 1983.

William J. McGill,

Acting Director, Southern Region.

[FR Doc. 83-29837 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 145

Schedule of Fees for Requests for Commission Records, Reports of the Commission, and Transcripts of Commission Meetings

Correction

In the correction to FR Doc. 83-27403 beginning on page 49839 in the issue of Friday, October 28, 1983, the references to "§ 145.96" should read "§ 145.9b".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Estradiol Benzoate and Testosterone Propionate, Progesterone and Estradiol Benzoate

Correction

In FR Doc. 83-28531 appearing on page 48659 in the issue of Thursday, October 20, 1983, in the middle column, the first complete paragraph, the tenth line should be corrected to read "Administration, Rm. 4-62, 5600 Fishers Lane,".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 885

[Docket No. R-83-1129]

Housing for the Elderly to Implement Cost Savings Procedures

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule adopts higher per unit cost limits for projects for the elderly or handicapped under Section 202 of the Housing Act of 1959 in order to compensate for the higher costs incident to the construction of elevator-type buildings.

EFFECTIVE DATE: Effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver. Further notice of effectiveness of this final rule will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Robert W. Wilden, Director, Elderly, Cooperative, Congregate and Health Division, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 246-8730. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 18, 1983, HUD published a final rule (48 FR 11432) which, among other things, adopted for the Program of Housing for the Elderly or Handicapped under Section 202 of the Housing Act of 1959 the per unit cost limits for non-profit borrowers in the mortgage insurance program contained in section 221(d)(3) of the National Housing Act. The rule lowered the per unit limits for all categories of elevator and non-elevator type structures, except non-elevator units with three or more bedrooms.

In the preamble to the final rule, HUD recognized that in certain cases the reduced per unit limits could be too low to permit construction of Section 202 projects. Specifically, the preamble noted:

> If documentation is provided that, in an individual case, development of a project is infeasible because costs in the area exceed the high cost limit, the Assistant Secretary would consider a waiver, pursuant to § 899.101, of that limit. 48 FR 11434.

Since adoption of the rule, a significant number of HUD field offices have received a substantial number of requests to waive the elevator structure limits. A preliminary review of the requests indicates that they are justified and, therefore, most will likely be granted. Because of this, HUD is revising § 885.410(c) to reinstate the higher cost limitations that were in effect for elevator type structures before the March 18, 1983 amendments. No change is proposed in the limits for non-elevator type structures.

HUD believes that the amendment will significantly reduce the number of justifiable waiver requests submitted for review. This will save the delay and consequent increases in project development costs for projects requiring waiver of the cost limits. The Department does not believe that reinstatement of the former elevator limits will undermine the goal of cost-containment in the Section 202 Program. The increased limits set forth in this rule represent a ceiling that will exceed what is required by most Section 202 projects processed under the Department's current cost-containment guidelines.

The final rule will save both Section 202 loan authority and Section 8 subsidy costs over the term of the Section 8 contract by not delaying pending projects that would have to await Departmental review of waiver requests. In light of this, and the fact that the amendment is directly responsive to public comments on the reduction of per unit cost limits in the final rule making proceeding, the Department believes that it is in the public interest to implement the changes made by this rule promptly. Offering an opportunity for public comment before the effective date of this rule would cause a significant delay in implementation of this change, unnecessarily adding to project development costs. Accordingly, the Secretary has determined that prior public comment would be contrary to the public interest, and that good cause exists for publishing this amendment as a final rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations (24 CFR Part 50) implementing Section 102(2)(C) of the National Environment Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulations issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The amendment to increase the per unit cost limits will give small entities greater flexibility in designing elevator type structures, thus keeping overall development costs at reasonable levels.

This rule is listed at 48 FR 47446 as Item H-58-83 in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47418), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.157, Housing for the Elderly or Handicapped (202).

List of Subjects in 24 CFR Part 885

Aged, Grant programs—housing and community development, Handicapped, Loan programs—housing and community development, Low and moderate income housing.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

Accordingly, Part 885 is amended as follows:

Section 885.410(c) is revised to read as follows:

§ 885.410 Amount and terms of financing.

* * * * *

(c) In order to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, the field office may increase the dollar limitations per family unit as provided in paragraph (b) of this section, not to exceed:

(1) $26,400 per family unit without a bedroom,

(2) $30,550 per family unit with one bedroom,

(3) $36,200 per family unit with two bedrooms,

(4) $42,750 per family unit with three bedrooms, restricted to non-elderly handicapped families, and

(5) $48,700 per family unit with four or more bedrooms, restricted to non-elderly handicapped families.

* * * * *

(Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q) and sec. 7 (d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: October 28, 1983.

W. Calvert Brand,

General Deputy Assistant Secretary for Housing.

[FR Doc. 83-29981 Filed 11-3-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

National Forest Timber Sales; Change in Required Cash Deposits

Correction

In FR Doc. 83-28343 beginning on page 48661 in the issue of Thursday, October 20, 1983, the heading at the beginning of the document incorrectly cited 30 CFR Part 223. The correct reference is 36 CFR Part 223.

BILLING CODE 1505-01-M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services, Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to Postal Contracting Manual.

SUMMARY: The Postal Service announces that it is amending the Postal Contracting Manual to require that solicitations state more clearly whether offers will be evaluated on a carload, truckload, or less-than-truckload rate basis. Another amendment makes two provisions mandatory only when a less-than-truckload shipment is expected and the items procured fall within the size and weight requirements for fourth-class mail. Certain editorial changes are also made.

EFFECTIVE DATE: October 25, 1983.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245-4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 601.100), has been amended by the issue of PCM Circular 83-8, dated October 25, 1983.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

List of Subjects in 39 CFR Part 601

Government procurement, Postal Service, Incorporation by reference.

Explanation of these amendments to the Postal Contracting Manual follows:

Explanation of Changes

Section 26-207.2 is revised so that solicitations state more clearly whether carload, truckload, or less-than-truckload will be used to evaluate transportation rates.

Section 26-207.3(b) is revised to make the clauses at (i) and (ii) mandatory only in contracts where a less-than-truckload shipment is expected and the individual shipping units fall within the size and weight requirements for fourth-class mail.

"Shall" was changed to "must" wherever it appeared.

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 83-29986 Filed 11-3-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-4-FRL 2464-7]

Hazardous Waste Management Programs; Georgia; Interim Authorization Phase II, Component C

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Hazardous Waste Management Program.

SUMMARY: The State of Georgia has applied for Interim Authorization Phase II, Component C. EPA has reviewed Georgia's application for Phase II, Interim Authorization Component C, and has determined that Georgia's hazardous waste program is substantially equivalent to the Federal program covered by Component C. The State of Georgia is hereby granted Interim Authorization for Phase II, Component C, to operate the State's hazardous waste program covered by Component C in lieu of the Federal program.

EFFECTIVE DATE: Interim Authorization Phase II, Component C, For Georgia shall become effective November 4, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone (404) 881-3016.

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), to protect human health and the environment from the improper management of hazardous waste. The Act (RCRA) includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that state in lieu of a federally administered program. For a State program to receive final authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. The Phase I regulations include the identification and listing of hazardous wastes, standards for generators and transporters of hazardous waste, interim status standards for owners and operators of treatment, storage and disposal facilities, and requirements for State programs. The Phase II regulations cover the procedures for issuing permits under RCRA and the standards that will be applied to treatment, storage, and

disposal facilities in preparing permits. In the July 26, 1982, **Federal Register** (47 FR 32373), the Environmental Protection Agency announced that States could apply for Component C of Phase II of Interim Authorization. Component C published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting facilities that dispose of hazardous waste in waste piles, surface impoundments, land treatment, and landfills.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 271, Subpart B (48 FR 14249) April 1, 1983.

The State of Georgia received Interim Authorization for Phase I on February 3, 1981, and Interim Authorization for Phase II, Components A and B, on May 21, 1982.

Draft Application

The State of Georgia submitted its draft application for Phase II, Component C, Interim Authorization on April 25, 1982. After detailed review, EPA identified only minor concerns and transmitted comments to the State on June 9, 1983, for its consideration. Some of the issues raised by EPA follow.

EPA requested the Attorney General to certify that: (1) Georgia can execute the public participation requirements in section 7004(b) of RCRA; (2) Georgia's adoption by reference of 40 CFR Parts 122 and 123 is not affected by EPA's recodification of those Parts of the regulations; and (3) Georgia's Hazardous Waste rule adopting 40 CFR 270.61–.63 by reference is substantially equivalent to the federal requirements. EPA also requested that Georgia approve a revised MOA which includes new reporting dates, new language on delisting and information sharing, and a new "major facility" definition.

State officials resolved these issues by submitting the Final Phase II, Component C, Interim Authorization application on July 25, 1983, which included revisions in the Attorney General's Statement and the MOA.

Final Application

On July 15, 1983, Georgia submitted to EPA a Final Application for Interim Authorization, Phase II, Component C, under RCRA. An EPA review team consisting of both Headquarters and Regional personnel made a detailed analysis of Georgia's Hazardous Waste Management Program.

EPA comments were forwarded to the State on September 1, 1983. No *major* questions were raised in the comments. The comments requested minor clarification and correction to the application. Also, a revised MOA was submitted for the State's approval.

By letter dated September 15, 1983, the State responded satisfactorily to the issues raised by EPA.

Public Hearing and Comment Period

As noticed in the **Federal Register** on August 22, 1983, (48 FR 38010), EPA gave the public until September 19, 1983, to comment on the State's application. EPA also issued a public notice for a hearing in Atlanta, Georgia, on September 29, 1983 if significant public interest was expressed.

EPA, Region IV, received no written or oral comments, inquiries, or requests for a hearing.

Decision

EPA has reviewed Georgia's complete application for Interim Authorization Phase II, Component C, and has determined that the state program is substantially equivalent to Phase II, Component C, of the Federal program as defined in 40 CFR Part 271, Subpart B (48 FR 14249) April 1, 1983. In accordance with Section 3006(c) of RCRA and implementing regulations, Georgia is hereby granted Interim Authorization for Phase II, Component C, to operate the State's hazardous waste program for permitting the contruction and operation of facilities that dispose of hazardous waste in lieu of the Federal program.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental regulations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: October 14, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83–29974 Filed 11–3–83; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–36

[FPMR Amdt. F–58]

Hardware and Federal Telecommunication Standards

AGENCY: Office of Information Resources Management, GSA.

ACTION: Final rule.

SUMMARY: This regulation provides standard terminology for use in requirements documents, including solicitations, regarding the application of Federal Information Processing Standards (FIPS) and Federal Telecommunication Standards (FED–STD). The purpose of this action is to implement these standards into Federal Government information resources management procedures. The intent is to increase economy and efficiency by applying standards for automatic data processing and communication systems.

EFFECTIVE DATE: December 1, 1983, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: P. Patton, Policy Branch, Office of Information Resources Management Policy (202–566–0194).

SUPPLEMENTARY INFORMATION:

1. The following changes are made in Subpart 101–36.13:

a. Section 101–36.1304–15 is modified to cross-reference the data encryption standard described in FIPS PUB 46 to FED–STD 1027. It also references other pertinent documents relating to security and privacy.

b. Section 101–36.1304–30 is added to provide standard terminology for use in requirements documents, including solicitations, for all automatic data processing equipment and services involving character imaging that meet

certain conditions. They must employ the character set and encoding conventions prescribed in FIPS PUB 1–1 and FIPS PUB 35, employ primarily character-oriented controls, and be consistent with the architectural assumptions for devices given in Appendix B, American National Standard X3.64–1979.

c. Section 101–36.1307–1 is modified to add an entry to reference FIPS PUB 95, Codes for the Identification of Federal and Federally-Assisted Organizations. This data standard provides a four-character identifier for each Federal and Federally-assisted organization.

d. Section 101–36.1308–17 is added to provide standard terminology for use in requirements documents, including solicitations, for crytographic components, equipment, systems, and services offered to meet encryption requirements for unclassified digital information in a telecommunications environment.

e. Section 101–36.1308–21 is added to provide standard terminology for use in requirements documents, including solicitations, for the design, development, and procurement of Group 3 facsimile apparatus for use over voice band analog circuits.

f. Section 101–36.1308–22 is added to provide standard terminology for use in requirements documents, including solicitations, for the design, development, and procurement of facsimile terminals/systems that follow the procedures specified in FED–STD 1063.

2. The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in cost to consumers or others; or significant adverse effects. The General Services Administration's decisions are based on adequate information concerning the need for and consequences of this rule. This is a Government-wide management regulation that will have little or no effect on society.

List of Subjects in 41 CFR Part 101–36

ADP, Computer technology, Government procurement, Government property management, Security measures.

PART 101–36—ADP MANAGEMENT

1. **Authority:** Sec. 205(c), 63. Stat. 390; 40 U.S.C. 486(c).

Subpart 101–36.13—Implementation of Federal Information Processing and Federal Telecommunication Standards Into Solicitation Documents

2. The table of contents of Subpart 101–36.13 of Subchapter F is amended by adding four entries as follows:

Sec.
101–36.1304–30 FIPS PUB 86, Additional Controls for Use with American National Standard Code for Information Interchange.
101–36.1308–17 FED–STD 1027, General Security Requirements for Equipment Using the Data Encryption Standard.
101–36.1308–21 FED–STD 1062, Group 3 Facsimile Apparatus for Document Transmission.
101–36.1308–22 FED–STD 1063, Telecommunication: Procedures for Document Facsimile Transmission.

3. Section 101–36.1304–15 is amended by adding paragraphs (e) and (f) to read as follows:

§101–36.1304–5 FIPS PUB 46, Data Encryption Standard (DES).

* * * * *

(e) FED–STD 1027, General Security Requirements for Equipment Using the Data Encryption Standard (FPMR § 101–36.1308–17), contains security requirements in telecommunications equipment and systems used by the U.S. Government when a need exists for encryption of unclassified information during transmission using the Data Encryption Standard (DES) algorithm described in FIPS PUB 46.

(f) The following documents provide additional information in this regard: FIPS PUB 31, Guidelines for ADP Physical Security and Risk Management; FIPS PUB 39, Glossary for Computer Systems Security; FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974; FIPS PUB 65, Guidelines for ADP Risk Analysis; FIPS PUB 73, Guidelines for Security of Computer Applications; and FIPS PUB 74, Guidelines for Implementing and Using the NBS Data Encryption Standard.

4. Section 101–36.1304–30 is added to read as follows:

§ 101–36.1304–30 FIPS PUB 86, Additional Controls for Use With American National Standard Code for Information Interchange.

(a) FIPS PUB 86 specifies a set of encoded control functions to supplement the basic control functions defined in FIPS PUB 1–1 and FIPS PUB 35 to facilitate data interchange between data processing equipment and two dimensional character-imaging input-output devices.

(b) The architectural assumptions for devices for use with FIPS PUB 86 are contained in ANS X3.64–1979, which is part of the FIPS PUB.

(c) The standard terminology for use in requirements documents, including solicitations, is:

Additional ASCII Controls for Character-Imaging ADP Equipment or Services

All applicable ADP character-imaging equipment or services (e.g., interactive ADP terminals of the dsisplay and printer type, line printers, microfilm printers, typesetting composers, word processors, and related devices or services using such devices) offered as a result or the requirements of which this is a part must comply with the requirements set forth in FIPS PUB 86 when such equipment or services employ the character set and encoding conventions prescribed in FIPS PUB 1–1 and FIPS PUB 3&5, employ prigarily character-oriented controls, and are consistent with the architectural assumptions for devices in Appendix B, ANS X3.64–1979. All ADP terminals that meet these conditions are included in this requirement if they contain alphanumeric keyboards and CRT displays or printers that may be used in any form of on-line interactive application or standalone off-line data preparation. Computer resident control software may be used, but is not required, to implement specific features of FIPS PUB 86, unless specified otherwise in this document [insert reference].

(End of requirements statement)

5. Section 101–36.1307–1 is amended by revising paragraph (b) as follows:

§ 101–36.1307–1 FIPS PUBS applicable to the interchange of machine processable data between and among agencies.

* * * * *

(b) The standard terminology for use in requirements documents, including solicitations, is:

Interchange of Application Programs

All application programs resulting from this requirement that have been identified as those that will be interchanged or that will record data that will be interchanged with Federal agencies, State and local governments, industry, and the public must implement the following applicable approved Federal Information Processing standards (FIPS):

FIPS PUB 4, Calendar Date.
FIPS PUB 5–1, States and Outlying Areas of the United States.
FIPS PUB 6–3, Counties and County Equivalents of the States of the United States and the District of Columbia.
FIPS PUB 8–4, Standard Metropolitan Statistical Areas.
FIPS PUB 9, Congressional Districts of the United States.
FIPS PUB 10–2, Countries, Dependencies, and Areas of Special Sovereignty.
FIPS PUB 58, Representatrons of Local Time of the Day for Information Interchange.

FIPS PUB 59, Representations of Universal Time, Local Time Differentials, and United States Time Zone References for Information Interchange.
FIPS PUB 66, Standard Industrial Classification (SIC) Codes.
FIPS PUB 70, Representation of Geographic Point Locations for Information Interchange.
FIPS PUB 95, Code for the Identification of Federal and Federally-Assisted Organizations.

(End of requirements statement)

6. Section 101–36.1308–17 is added to read as follows:

§ 101–36.1308–17 FED–STD 1027, General Security Requirements for Equipment Using the Data Encryption Standard.

(a) FED–STD 1027 specifies the security requirements in telecommunications equipment and systems used by the U.S. Government when unclassified information is required to be encrypted for transmission. FED–STD 1027 implements the Data Encryption Standard (DES) algorithm described in FIPS PUB 46. Since FIPS PUB 46 is incorporated, by definition, into FED–STD 1027, a citation for FIPS PUB 46 is not required in the requirements document when FED–STD 1027 is specified.

(b) The heads of departments and agencies are responsible for determining when unclassified information must be encrypted during transmission.

(c) Implementation Date: Requirements and/or solicitation documents released on or after April 1, 1984.

(d) The standard terminology for use in requirements documents, including solicitations, is:

Applicability of FED–STD 1027

(Cryptographic Components, Equipment, Systems, and Services)

If a requirement for the encryption protection of unclassified digital information in the telecommunications environment is specified elsewhere in this requirements document, all cryptographic components, equipment, systems, and services offered to meet that requirement must comply with FED–STD 1027 and be endorsed as so complying by the National Security Agency prior to being proposed. These items include standalone DES cryptographic equipment as well as any Data Terminal Equipment and Data Circuit-Terminating Equipment utilizing the DES algorithm (described in FIPS PUB 46) for digital encryption. Arrangements for endorsement may be made with the Communications Protection Special Projects Office (S84), National Security Agency, 9800 Savage Road, Fort George G. Meade, MD 20755.

(End of requirements statement)

(e) Listings of cryptographic components, equipment, and systems that have been previously endorsed as complying with FED–STD 1027 are available from the Executive Secretary, National Communications Security Committee, Operation Building 3, Room C2A40, 9800 Savage Road, Fort George G. Meade, MD 20755.

(f) The following documents provide additional information in this regard: NCSC–10, National Policy for Protection of U.S. National Security-Related Information Transmitted Over Satellite Circuits; NCSC–11, National Policy for Protection of Telecommunication Systems Handling Unclassified National Security-Related Information; and Presidential Directive 24, "Telecommunications Protection Policy."

7. Section 101–36.1308–21 is added to read as follows:

§ 101–36.1308–21 FED–STD 1062, group 3 facsimile apparatus for document transmission.

(a) FED–STD 1062 establishes machine specifications for Group 3 facsimile apparatus, as defined in the FED–STD, for use over voice band analog circuits. Federal departments and agencies shall comply with this standard in the design, development, and procurement of facsimile terminals/systems with the following exception: Military Standard 188–161 applies to tactical users within the Department of Defense.

(b) FED–STD 1062 does not apply to the transmission of mixed mode information such as coded character data and image data. (Technical specifications of the standard are contained in Electronic Industries Association Standard RS–465.)

(c) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition, Design or Development of Group 3 Facsimile Apparatus

All Group 3 facsimile apparatus designed, developed, or offered for use over voice band analog circuits shall comply with FED–STD 1062.

(End of requirements statement)

8. Section 101–36.1308–22 is added to read as follows:

§ 101–36.1308–22 FED–STD 1063, Telecommunication: Procedures for document facsimile transmission.

(a) FED–STD 1063 specifies procedures for transmitting facsimile documents over voice band analog circuits. Federal departments and agencies shall comply with this standard in the design, development, and procurement of facsimile terminals/systems with the following exception: Military Standard 188–161 applies to tactical users within the Department of Defense.

(b) FED–STD 1063 does not apply to the transmission of mixed mode information such as coded character data and image data. (Technical specificaitions of the standard are contained in Electronic Industries Association Standard RS–466. Groups 1, 2, and 3 facsimile apparatus are described in Electronic Industries Association Standard RS–465.)

(c) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition, Design or Development of Group 1, 2, and 3 Facsimile Apparatus

All group 1, 2, and 3 facsimile apparatus designed, developed, or offered for use over voice band analog circuits shall comply with FED–STD 1063.

(End of requirements statement)

Dated: October 20, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–29946 Filed 11–3–83; 8:45 am]

BILLING CODE 6820–25–M

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41 CFR Part 101–47

[FPMR Amdt. H–143]

Delegating Authority to the Secretary of the Interior

AGENCY: Federal Property Resources Service, GSA.

ACTION: Final rule.

SUMMARY: This rule provides the Secretary of the Interior with authority to maintain custody, control, and accountability for mineral resources transferred to the Secretary by the Administrator of General Services and to dispose of mineral resources by lease.

EFFECTIVE DATE: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: James M. Kearns, Jr., Office of Real Property (202) 535–8284.

SUPPLEMENTARY INFORMATION: GSA has determined this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual impact on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has made all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has

maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

The Administrator of General Services has delegated authority to the Secretary of the Interior to dispose of mineral resources by lease on a case-by-case basis. This revision will delegate to the Secretary of the Interior continuing blanket authority to maintain custody, control, and accountability for any mineral resources transferred to the Secretary by the Administrator, and to dispose of minerals by lease.

List of Subjects in 41 CFR Part 101–47

Surplus government property, Government property management.

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Accordingly, 41 CFR Part 101–47 is amended as follows:

1. The authority citation for Part 101–47 is as follows:

Authority: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

Subpart 101–47.6—Delegations

2. Section 101–47.603 is revised to read as follows:

§ 101–47.603 Delegations to the Secretary of the Interior.

(a) Authority is delegated to the Secretary of the Interior to maintain custody and control of an accountability for those mineral resources which may be designated from time to time by the Administrator or his designee and which underlie Federal property currently utilized or excess or surplus to the Government's needs. Authority is also delegated to the Secretary to dispose of such mineral resources by lease and to administer any leases which are made.

(1) The Secretary may redelegate this authority to any officer, official, or employee of the Department of the Interior.

(2) Under this authority, the Secretary of the Interior, as head of the holding agency is responsible for the following: (i) Maintaining proper inventory records, and (ii) monitoring the minerals as necessary to ensure that no unauthorized mining or removal of the minerals occurs.

(3) Under this authority, the Secretary of the Interior, as head of the disposal agency, is responsible for the following: (i) Securing, in accordance with § 101–47.303–4, any appraisals deemed necessary by the Secretary; (ii) coordinating with all surface landowners, Federal or otherwise, so as not to unduly interfere with the surface use; (iii) ensuring that the lands which may be disturbed or damaged are restored after removal of the mineral deposits is completed; and (iv) notifying the Administrator when the disposal of all marketable mineral deposits has been completed.

(4) The Secretary of the Interior, as head of the disposal agency, is responsible for complying with the applicable environmental laws and regulations, including (i) the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, *et seq.*) and the implementing regulations issued by the Council on Environmental Quality (40 CFR Part 1500); (ii) Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f); and (iii) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, *et seq.*) and the Department of Commerce implementing regulations (15 CFR Parts 923 and 930).

(5) The Secretary of the Interior will forward promptly to the Administrator copies of any agreements executed under this authority.

(6) The Secretary of the Interior will provide to the Administrator an annual accounting of the proceeds received from leases executed under this authority.

(b) Authority is delegated to the Secretary of the Interior to determine that excess real property and related personal property under his control having a total estimated fair market value, including all components of the property, of less than $1,000 as determined by the Secretary, is not required for the needs and responsibilities of Federal agencies; and thereafter to dispose of the property by means most advantageous to the United States.

(1) Prior to such determination and disposal, the Secretary of the Interior shall determine that the property is not required for the needs of any Federal agency.

(2) The authority conferred in this § 101–47.603 (b) shall be exercised in accordance with the Act and regulations issued pursuant thereto, except that the reporting of such property to GSA under Subpart 101–47.2 shall not be required.

(3) The authority delegated in this § 101–47.603(b) may be redelegated to any officer or employee of the Department of the Interior.

Dated: October 18, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–29944 Filed 11–3–83; 8:45 am]

BILLING CODE 6820–96–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6449

[AA–2793, AA–4721, A–051615]

Partial and Total Revocation of Three Public Land Orders for Selection of Lands by the State of Alaska

Correction

In FR Doc. 83–19995 beginning on page 33714 in the issue of Monday, July 25, 1983, make the following corrections:

1. On page 33714, second column, middle of the page, "Seware Meridian" should read "Seward Meridian".

2. On the same page, third column, under *Crescent Creek Campground* ninth line, "N. 62°44′ E.," should read "N. 62°00′ E.,".

BILLING CODE 1505–01–M

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43 CFR Public Land Order 6485

[OR–24428]

Revocation of Secretarial Order of May 17, 1905; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order as to 5,631.80 acres withdrawn for use by the Bureau of Reclamation for the Payette-Boise Project. The surface and subsurface estates of 5,631.78 acres have been conveyed out of Federal ownership and will not be restored to surface entry, mining, or mineral leasing. The balance of 0.02 acre will be restored to surface entry. It has been and remains open to mining and mineral leasing.

EFFECTIVE DATE: December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretary's Second Form Reclamation Withdrawal Order of May 17, 1905, which withdrew public lands for use by the Bureau of Reclamation for the Payette-Boise Projects, is hereby revoked as to the following described lands:

Willamette Meridian

T. 21 S., R. 46 E.,
Sec. 13, lots 4 to 8, inclusive, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 14, lots 4 and 5;
Sec. 22, lot 1;
Sec. 23, lots 3, 4, 5, and 6, NE¼NE¼, S½NE¼, E½SW¼, and SE¼;
Secs. 24 and 25;
Sec. 26, N½, SW¼, N½SE¼;
Sec. 27, lots 5, 6, 7, and 8, and E½SE¼;
Sec. 34, lots 5, 6, 7, and 8, E½E½, and SW¼SE¼;
Sec. 35, N½NE¼, SW¼NE¼, W½, and SE¼;
Sec. 36.
T. 22 S., R. 46 E.,
Sec. 1, lots 1 to 8, inclusive;
Sec. 2, lots 1 to 7, inclusive, S½N½, N½SW¼, SW¼SW¼, and NW¼SE¼;
Sec. 3, lots 1, 2, 3, 6, 7, and 10, S½NE¼, and E½SE¼;
Sec. 10, lots 1 and 2;
Sec. 11, lot 5.

The areas described aggregate 5,631.80 acres in Malheur County.

2. The lands described in paragraph 1, except as provided in paragraphs 3 and 4, have been conveyed from Federal ownership and will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

3. At 9:30 a.m., on December 2, 1983, the following described land will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:30 a.m., on December 2, 1983, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing:

Willamette Meridian

T. 21 S., R. 46 E.,
Sec. 22, lot 1.

The area described contains 0.02 acre in Malheur County.

4. The land described in paragraph 3 has been and remains open to location and entry under the mining laws and to applications and offers under the mining leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: October 27, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-30003 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6486

[W-71806]

Revocation of Secretarial Order of June 21, 1940, Air Navigation Site 141; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order affecting 80 acres of public land withdrawn for use by the Federal Aviation Administration for maintenance of air navigation facilities. This action will restore the land to surface entry and mining. It has been and will remain open to mineral leasing.

EFFECTIVE DATE: December 2, 1983.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-772-2089.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of June 21, 1940, which withdrew the following described public land for use by the Federal Aviation Administration for air navigation facilities, is hereby revoked:

Sixth Principal Meridian

T. 16 N., R. 115 W.,
Sec. 8, N½NW¼.

The area described contains 80 acres in Uinta County.

2. At 10 a.m. on December 2, 1983, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 2, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on December 2, 1983, the land will be opened to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The land has been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Dated: October 27, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-30005 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6487

[W-20042]

Revocation of Powersite Reserve Nos. 139, 169, and 413; Wyoming

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes three Executive orders insofar as they affect 2,553.29 acres withdrawn for Powersite Reserve Nos. 139, 169, and 413. This is a record clearing action because the lands have been open to surface entry and mining subject to Section 24 of the Federal Power Act for many years. The Section 24 restriction, as imposed by the Act of August 11, 1955, was lifted by Public Land Order No. 6140, dated February 5, 1982. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-772-2089.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and Section 24 of the Federal Power Act of June 10, 1920, as amended, 41 Stat. 1075; 16 U.S.C. 818 (1976), and pursuant to the determination of the Federal Energy Regulatory Commission in DA-164-Wyoming, it is ordered as follows:

1. The Executive Order of April 15, 1910, as modified July 2, 1910, and the Executive Orders of December 28, 1910, and January 24, 1914, creating Powersite Reserves No. 139, 169, and 413, are hereby revoked insofar as they pertain to the following described lands. The lands were relieved of the restriction of Section 24 of the Federal Power Act as imposed by the Act of August 11, 1955, by Public Land Order No. 6140, dated February 5, 1982.

Sixth Principal Meridian

T. 27 N., R. 69 W.,
Sec. 19, lot 4, SE¼SW¼, and S½SE¼ (formerly S½S½);
Sec. 20, SE¼;
Sec. 21, NW¼SW¼, and NE¼SE¼;
Sec. 22, SW¼NE¼, SE¼NW¼, and N½SW¼;
Sec. 23, SW¼;
Sec. 24, N½SW¼;
Sec. 26, NW¼NW¼;
Sec. 27, SW¼NW¼;
Sec. 28, NE¼, and S½NW¼;
Sec. 29, S½NE¼, and NE¼NW¼.
T. 27 N., R. 70 W.,
Sec. 14, SW¼NE¼, NW¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, and NW¼SE¼;
Sec. 15, S½N½, and N½S½;
Sec. 22, NE¼NE¼;
Sec. 23, NE¼, NE¼NW¼, and SW¼NW¼;
Sec. 24, SW¼NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼.
T. 14 N., R. 84 W.,
Sec. 24, lots 8 through 20, and SW¼NW¼.
T. 22 N., R. 86 W.,
Sec. 24, E½NE¼.

The areas described aggregate 2,553.29 acres in Carbon and Platte Counties, Wyoming.

2. The above described lands were previously restored to the operation of the public land laws, subject to any valid existing rights, the requirements of applicable law, and the provisions of existing withdrawals, subject to the provisions of Section 24 of the Federal Power Act, by the Executive Orders of March 19, 1921, and June 23, 1950, and Public Land Order No. 2527, dated October 30, 1961.

3. The lands have been and will remain open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

October 27, 1983.

[FR Doc. 83-30008 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6488

[C-28632]

Partial Revocation of the Secretarial Order of June 24, 1925; Removal of Section 24 Federal Power Act Restriction; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes Powersite Classification No. 110, removing the restrictions of Section 24 of the Federal Power Act on 641.76 acres. This action will permit the acreage to be clearlisted to the State under its State indemnity selection program. The land has been and remains open to surface entry, mining, and mineral leasing.

EFFECTIVE DATE: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2592.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, and pursuant to the determination of the Federal Energy Regulatory Commission by DA-521-Colorado, dated May 17, 1983, it is ordered as follows:

1. The Secretarial Order of June 24, 1925, creating Powersite Classification No. 110 as modified by Restoration Order No. 1218, dated July 23, 1947, and Restoration Orders No. 9, dated August 14, 1953, and July 27, 1955, is hereby revoked insofar as it affects the following described land:

New Mexico Principal Meridian

T. 48 N., R. 17 W.,
Sec. 34.

The area described aggregates approximately 641.76 acres in Montrose County.

This land is hereby relieved of the restrictions of Section 24 of the Federal Power Act.

Inquiries concerning the land should be directed to the State Director, Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

October 27, 1983.

[FR Doc. 83-30004 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6489

[WASH-02621, OR-22201 (WASH)]

Revocation of Executive Order No. 7594, and Partial Revocation of Public Land Order No. 2249; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order and partially revokes a public land order as to 188.09 acres of public land withdrawn from the Jones Island National Wildlife Refuge. In accordance with instruction contained in the Act of October 15, 1982 (96 Stat. 1624), the surface and subsurface estates have been conveyed from Federal ownership. Consequently, the land will not be open to surface entry, mining, or mineral leasing.

EFFECTIVE DATE: December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughn, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 7594 of March 30, 1937, as modified by Presidential Proclamation No. 2417 of July 25, 1940, which withdrew the following described land for use by the U.S. Fish and Wildlife Service, for the Jones Island National Wildlife Refuge, is hereby revoked:

Willamette Meridian

T. 36 N., R. 3 W.,
Sec. 11, lots 1, 2, and 3;
Sec. 14, lots 1 to 5, inclusive, and NE¼NW¼.

The area described contains 179.07 acres in San Juan County.

2. Public Land Order No. 2249 of December 24, 1960, which withdrew public land for use by the U.S. Fish and Wildlife Service as an addition to the Jones Island National Wildlife Refuge, is hereby revoked as to the following described land:

Willamette Meridian

T. 36 N., R. 3 W.,
Sec. 10, Tract B;
Sec. 11, Tracts A and B;
Sec. 14, Tract C.

The area described contains 9.02 acres in San Juan County.

3. The Act of October 15, 1982 (96 Stat. 1623), removed the above described land from the National Wildlife Refuge System and mandated that it be transferred to the State of Washington. The land has been conveyed out of Federal ownership and will not be restored to the operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operation, Bureau

of Land Management, P.O. Box 2965, Portland, Oregon 97208.

October 27, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-30897 Filed 11-3-83; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6490

[CA 3618]

Partial Revocation of Reclamation Withdrawals; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order and a Bureau of Reclamation order insofar as they affect 7,439 acres of lands withdrawn for the American River Division of the Central Valley Project. This order will open approximately 3,423 acres of public and national forest lands to mining, of which 1,109 acres will also be opened to surface entry. The remaining 4,016 acres are either privately owned or lie within Federal Energy Regulatory Commission licensed power projects and are not affected by this order. All lands involved, except those which are privately owned, have been and remain open to mineral leasing.

EFFECTIVE DATE: December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916-484-4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated September 14, 1942, and the Order of the Bureau of Reclamation dated February 19, 1952, concurred in by the Bureau of Land Management on February 26, 1952, are hereby revoked insofar as they affect the following described lands:

Mount Diablo Meridian

T. 10 N., R. 9 E.,
Sec. 4, lots 1, 2, W½NE¼, E½NW¼, N½SW¼, NW¼SE¼;
Sec. 12, lot 7;
Sec. 14, NE¼SW¼SE¼, NE¼SE¼.
T. 11 N., R. 9 E.,
Sec. 2, SE¼NE¼;
Sec. 10, NW¼NW¼, S½;
Sec. 12, W½NE¼SE¼NW¼, E½SW¼, SW¼SE¼, SW¼NW¼SE¼;
Sec. 14, S½S½;
Sec. 20, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 24, SW¼SE¼;
Sec. 28, SW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 32, NE¼NE¼, W½NE¼, W½, S½SE¼.
T. 12 N., R. 9 E.,
Sec. 34, SE¼SW¼, NW¼SE¼.
T. 11 N., R. 12 E.,
Sec. 11, SW¼SE¼;
Sec. 12, N½SW¼, NW¼SE¼;
Sec. 14, NW¼NE¼, N½NW¼, SW¼NW¼, NW¼SW¼, S½SW¼;
Sec. 15, SE¼NE¼, SW¼, NE¼SE¼, S½SE¼;
Sec. 16, S½SW¼, E½SE¼;
Sec. 20, NE¼, S½NW¼, N½SW¼, N½SE¼;
Sec. 21, N½;
Sec. 22, N½N½;
Sec. 23, NW¼.
T. 13 N., R. 12 E.,
Sec. 4, W½NE¼, N½NW¼;
Sec. 6, lot 3.
T. 14 N., R. 12 E.,
Sec. 28, S½SE¼;
Sec. 32, S½SW¼, SW¼SE¼;
Sec. 34, N½N½, SE¼NE¼.
T. 11 N., R. 13 E.,
Sec. 3, lots 7 and 8;
Sec. 4, lots 5 to 11, inclusive;
Sec. 5, lots 2, 3, and 5 to 12, inclusive;
Sec. 6, lots 8 to 13, inclusive;
Sec. 7, lots 6 to 11, inclusive;
Sec. 18, lots 7 and 8.
T. 12 N., R. 13 E.,
Sec. 32, SE¼SE¼;
Sec. 33, S½S½;
Sec. 34, S½S½;
Sec. 35, N½SE¼, S½S½.
T. 11 N., R. 14 E.,
Sec. 1, lots 2, 3, 4, SW¼NW¼, NW¼SW¼.

The area described aggregates 7,439 acres in Placer and El Dorado Counties.

2. Of the lands described in paragraph 1, the following described public lands shall at 10 a.m. on December 2, 1983, be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 2, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Mount Diablo Meridian

T. 10 N., R. 9 E.,
Sec. 4, lot 2, NW¼SE¼;
Sec. 12, lot 7.
T. 11 N., R. 9 E.,
Sec. 12, W½NE¼SE¼NW¼;
Sec. 20, NE¼SW¼, N½SE¼;
Sec. 28, S½SW¼;
Sec. 32, SW¼NE¼, SW¼SW¼, SW¼SE¼.
T. 12 N., R. 9 E.,
Sec. 34, W½SE¼SW¼, NW¼SE¼.

The area described aggregates 480.88 acres in Placer and El Dorado Counties.

3. The public lands described in paragraph 2 will be opened to location under the United States mining laws at 10 a.m. on December 2, 1983.

4. At 10 a.m. on December 2, 1983, the following described national forest lands which lie within the Eldorado National Forest will be opened to such forms of disposition as may by law be made of national forest lands, including mineral location and entry under the United States mining laws, subject to valid existing rights and the requirements of applicable regulations.

Mount Diablo Meridian

T. 11 N., R. 12 E.,
Sec. 14, SE¼SW¼;
Sec. 15, SW¼SE¼;
Sec. 16, SE¼SE¼;
Sec. 22, Portion of NE¼NE¼.
T. 14 N., R. 12 E.,
Sec. 28, S½SE¼.
T. 11 N., R. 13 E.,
Sec. 4, lot 11;
Sec. 5, lots 10 and 11;
Sec. 7, lots 6, 10 and 11.
T. 12 N., R. 13 E.,
Sec. 32, SE¼SE¼.

The area described aggregates 610.21 acres in Placer and El Dorado Counties.

5. The following described public and national forest lands shall at 10 a.m. on December 2, 1983, be opened to location under the United States mining laws. These lands remain withdrawn from operation of the public land laws by virtue of Federal Energy Regulatory Commission licensed power project withdrawals.

Mount Diablo Meridian

T. 10 N., R. 9 E.,
Sec. 4, lot 1, franctional SW¼NE¼, fractional SE¼NW¼, N½SW¼.
T. 11 N., R. 9 E.,
Sec. 2, SE¼NE¼;
Sec. 10, NW¼NW¼, S½;
Sec. 12, E½SW¼, SW¼SE¼, SW¼NW¼SE¼.
Sec. 14, S½SE¼;
Sec. 20, SE¼SE¼;
Sec. 24, SW¼SE¼;
Sec. 28, SW¼NW¼, NW¼SW¼, except M.S. 5163;
Sec. 32, N½NE¼, NW¼, NW¼SW¼, E½SW¼, SE¼SE¼.
T. 12 N., R. 9 E.,
Sec. 34, E½SE¼SW¼.

Eldorado National Forest

T. 11 N., R. 12 E.,
Sec. 12, N½SW¼, NW¼SE¼;
Sec. 14, W½SW¼;
Sec. 15, N½SW¼;
Sec. 16, NE¼SE¼;
Sec. 22, Portion of NE¼NE¼;
Sec. 23, NE¼NW¼.
T. 13 N., R. 12 E.,
Sec. 4, lots 2, 3, and 4.
T. 11 N. R. 13., E.,
Sec. 4 lot 10;
Sec. 5, lots 3 and 12;
Sec. 6, lot 13;
Sec. 18, lots 7 and 8.
T. 12 N., R. 13 E.,
Sec. 35, N½SE¼.

T. 11 N., R. 14 E.,
Sec. 1, lot 2.

The area described aggregates 2,314.34 acres in Placer and El Dorado Counties.

6. Public Land Order No. 2128 dated June 15, 1960, revoked a Departmental Order dated September 9, 1942, as to the following described lands. The land shall at 10 a.m. on December 2, 1983, be opened to applications and offers under the public land laws generally, and to location under the United States mining laws, but shall not be opened to application under the General Allotment Act of February 8, 1887, as amended.

Mount Diablo Meridian

T. 10 N., R. 9 E.,
Sec. 14, NE¼SW¼SE¼.

The area described aggregates 10 acres in El Dorado County

7. Of the lands described in paragraph 1, the following lands which lie within the Eldorado National Forest remain withdrawn from the public land laws generally and from the United States mining laws by virtue of Federal Energy Regulatory Commission licensed power projects.

Mount Diablo Meridian

T. 11 N., R. 12 E.,
Sec. 11, SW¼SE¼;
Sec. 14, NW¼NE¼, N½NW¼, SW¼NW¼;
Sec. 15, SE¼NE¼, S½SW¼, E½SE¼.
Sec. 16, S½SW¼;
Sec. 20, NE¼, S½NW¼, N½S½;
Sec. 21, N½;
Sec. 22, NW¼NE¼,N½NW¼;
Sec. 23, NW¼NW¼, S½NW¼.
T. 13 N., R. 12 E.,
Sec. 6, lot 3.
T. 14 N., R. 12 E.,
Sec. 32, S½SW¼, SW¼SE¼.
Sec. 34, N½N½, SE¼NE¼.
T. 11 N., R. 13 E.,
Sec. 3, lots 7 and 8;
Sec. 4, lots 5 to 9, inclusive;
Sec. 5, lots 2, 5 to 9, inclusive;
Sec. 6, lots 8 to 12, inclusive;
Sec. 7, lots 7 to 9, inclusive.
T. 12 N., R. 13 E.,
Sec. 33, S½S½;
Sec. 34, S½S½;
Sec. 35, S½S½.
T. 11 N., R. 14 E.,
Sec. 1, lots 3, 4, SW¼NW¼, NW¼SW¼

The area described aggregates 3,845.54 acres in Placer and El Dorado Counties.

8. Of the lands listed in paragraph 1, the following are privately owned and not subject to disposition under the public land laws or the mining laws.

Mount Diablo Meridian

T. 10 N., R. 9 E.,
Sec. 14, NE¼SE¼.
T. 11 N., R. 9 E.,
Sec. 14, S½SW¼,
Sec. 28, MS–5163.
T. 13 N., R. 12 E.,
Sec. 4, SW¼NE¼.

The area described aggregates 170.03 acres in Placer and El Dorado Counties.

9. Appropriation of the lands described in paragraphs 3, 4, 5, and 6 under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

All of the lands described in paragraph 1 have been and continue to be open to applications and offers under the mineral leasing laws, except those privately owned lands described in paragraph 8.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E–2341, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior

October 27, 1983.

[FR Doc. 83–30006 Filed 11–3–83; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, 74, and 94

[Gen. Docket No. 79–188; RM–3247; RM–3497; FCC 83–392]

Use of Radio in Digital Termination Systems and in Point-to-Point Microwave Radio Systems for Provision of Digital Electronic Message and Other Specific Services

Correction

In FR Doc. 83–28794 beginning on page 50322 in the issue of Tuesday, November 1, 1983, make the following correction:

On page 50329, first column, second paragraph, tenth line, "November 1, 1983" should have read "December 1, 1983".

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 346 (Sub-No. 8)]

49 CFR Part 1039

Rail Carriers; Exemption From Regulation; Boxcar Traffic

AGENCY: Interstate Commerce Commission.

ACTION: Modification of final rules (exemption).

SUMMARY: In a decision issued May 2, 1983, the Commission adopted a regulation, to be codified at 49 CFR 1039.14, partially exempting railroad boxcar service from regulation. A notice of the decision was published May 6, 1983 at 48 FR 20412. The Commission has issued a further decision in this proceeding in which it denies petitions for reconsideration. The Commission also extended the effective date of the exemption to January 1, 1984, in order to allow time for consideration of petitions for stay by the Commission and by the reviewing court before the exemption becomes effective. The car hire portion of the exemption, as it pertains to Class III carriers, was further extended to July 1, 1984, in order to afford these carriers adequate time to negotiate bilateral car hire agreements.

DATES: The exemption is effective on January 1, 1984, except that the car hire portion of the exemption, as it applies to cars owned or leased by Class III carriers 49 CFR 1039.14(c), is effective July 1, 1984.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275–7245

or

Thomas Gire, (202) 275–7759.

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

List of Subjects in 49 CFR Part 1039

Agricultural Commodities, Intermodal transportation, Railroads.

§ 1039.14 [Amended]

The citation of authority for 49 CFR 1039.14 is amended by removing the reference to 49 U.S.C. 11122.

(49 U.S.C. 10321(a) and 10505)

Decided: October 21, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Chairman Taylor concurred in part and dissented in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29985 Filed 11-3-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 215
Friday, November 4, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-99-AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) which would require structural inspections and modifications of certain Boeing Model 767 series airplanes to ensure that the structural integrity of the horizontal stabilizer pivot hinge fitting and adjacent structure are maintained. This action is prompted by the discovery of cracking of this structure during The Boeing Company's fatigue testing of the airplane. This condition, if not corrected, could result in a catastrophic structural failure.

DATES: Comments must be received on or before January 1, 1984.

ADDRESSES: The service documents cited in this notice may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION, CONTACT: Mr. Richard Yarges, Airframe Branch, ANM-120S, at the above address, telephone, (206) 431-2925. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments, specified above, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Attention: Airworthiness Rules Docket No. 83-NM-99-AD, Office of the Regional Counsel, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

During fatigue testing of the Boeing Model 767 airplane performed by the manufacturer, several cracks were found in both the left and right upper support fittings that support the upper end of the horizontal stabilizer pivot hinge fitting. The cracks initiated at approximately 5600 flight cycles. These cracks are attributed to landing and taxiing loads and propagated by fatigue. If the corrective action contained in this notice is not accomplished, the structural integrity of the horizontal stabilizer pivot fitting and major structural components would progressively deteriorate and separation of the horizontal stabilizer from the airplane could ultimately occur. Such separation would render the airplane uncontrollable.

The manufacturer has designed a modification for the airplane which should eliminate the possibility of cracking. This modification consists of replacement of the existing upper support fitting with a redesigned fitting and reinforcement of the upper and lower backup intercostal fittings. This notice proposes that the manufacturer's modification, or an equivalent modification acceptable to the Manager, Seattle Aircraft Certification Office, be accomplished on affected Boeing 767 series airplanes prior to the accumulation of 6000 landings and prior to such modification, repetitive inspections of the affected area be commenced upon accumulation of 3000 landings. Repetitive inspections are proposed to be accomplished at intervals not to exceed 300 landings. If cracks are found during inspection, the modification must be accomplished before further flight.

Thirty airplanes of U.S. registry and 4 U.S. operators would be affected. It is estimated that 64 manhours would be required to modify each aircraft at a labor rate of $35 per hour. The manufacturer will supply parts at no charge. This would result in a total cost for modification of less than $68,000.

The total annual cost for the inspections is estimated to be $54,000. This is based on 7 inspections per year per aircraft and 8 manhours per inspection. Therefore, the total annual cost of this proposed AD is estimated to be less than $100,000.

For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration (FAA) proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Boeing: Applies to Model 767-200 series airplanes, certificated in all categories, listed in Boeing Service Bulletin No. 767-53-2, dated August 19, 1983, or later FAA approved revisions. Compliance required as indicated in the body of the AD.

To ensure the structural integrity of the horizontal stabilizer pivot hinge fitting and

adjacent structure accomplish the following, unless already accomplished:

A. Prior to the accumulation of 3000 landings, and thereafter at intervals not to exceed 300 landings, perform the following inspections:

1. Penetrant inspect the upper support fittings for cracks, and check the bolts common to the pivot hinge fitting and the BS 1809.5 bulkhead intercostal fitting for breakage in accordance with Boeing Service Bulletin 767–53–2 dated August 19, 1983, or later FAA approved revisions; and

2. Visually inspect the surrounding structure for cracks. If cracks are found in the upper support fitting and not in the surrounding structure accomplish the modification described in the Service Bulletin before further flight. If cracks are found in the surrounding structure, repair the airplane before further flight in a manner approved by the Manager, Seattle Aircraft Certification Office.

B. Prior to accumulation of 6000 landings, accomplish the modification described in Boeing Service Bulletin 767–53–2 dated August 19, 1983, or later FAA approved revisions. This action terminates the repetitive inspections required by paragraph A., above.

C. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator, if the request contains substantiating data to justify the adjustment period.

F. For the purpose of this AD, and when approved by an FAA Maintenance Inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

All persons affected by this directive who have not already received Boeing Service Bulletin 767–53–2 dated August 19, 1983, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

(Secs. 313(a), 314(a), 601 through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on October 20, 1983.

Charles R. Foster,

Northwest Mountain Region.

[FR Doc. 83–28838 Filed 11–3–83; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

[Special Regulations Policy Statements; SPDR–90; PSDR–82; Docket 41184; Dated: October 14, 1983]

14 CFR Parts 380 and 399

Public Charters and Statements of General Policy

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB proposes to prohibit the practice of advertising the price of air transportation packages as a base amount plus an additional amount which must be paid to obtain the advertised package. This action is taken in response to a petition from Donald Pevsner.

DATES:

Comments by January 3, 1984.

Reply comments by January 18, 1984.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: November 28, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41184, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Paul Wallig, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5937.

SUPPLEMENTARY INFORMATION: Donald L. Pevsner filed a petition for rulemaking on December 27, 1982, asking the Board to amend 14 CFR 380.30(b). That section currently sets standards for the materials used by public charter operators to solicit charter passengers. Mr. Pevsner would have the Board add a requirement that states: "Any solicitation material that states a price per passenger shall state such price as a single figure of total cost, including taxes and services."

In support of his petition, Mr. Pevsner alleged that a number of large charter operators have engaged in deceptive advertising, in violation of section 411 of the Act and 14 CFR 380.27, by failing to list the total cost of charter trips in sales literature. Mr. Pevsner offered an example of this practice, sometimes called 'lowballing', as an advertisement that lists a tour price such as "$499" in conspicuous type, while stating "plus 15% taxes and service" in smaller, less conspicuous type. Pevsner alleged that this type of advertising made valid price comparisions by consumers impossible.

Pevsner also stated that his suggested rule change was similar to a past Board proposal involving affinity charters (EDR–311, 41 FR 46464, October 21, 1976), and would offer the same protection to public charter passengers as is now given to travelers on group inclusive tours (GIT's), under 14 CFR 399.84. Mr. Pevsner concluded that the current prohibition on unfair and deceptive practices by charter operators in 14 CFR 380.27 does not provide sufficient protection.

Several answers were filed in support of this petition. Economy Traveler, a travel periodical, had complained about "add-on" or "lowball" pricing by tour operators in a letter to the Board's Office of Congressional, Community and Consumer Affairs on November 11, 1982. Economy Traveler also wrote to the Board on March 9, 1983, in support of Mr. Pevsner's petition. Economy Traveler's March 9th letter stated that the allegedly deceptive practice was no longer confined to winter vacation markets, such as Florida and the Caribbean, but had spread to the summer vacation markets, especially Europe. Further, Economy Traveler alleged that travel agents as well as consumers were affected by the charter operators' attempts to disguise true price levels, since the tax and service portion of the total tour price have been excluded from the base on which agents compute their commissions. Economy Traveler suggested that the Board adopt a "truth in tour promotion" requirement, with only a single price advertised. This price would include: all tour components that ads or brochures indicate are included; all services, taxes, or charges that must be paid to governments, airports, land package operators, and

carriers; all service charges and taxes normally "bundled" with the transportation such as accommodations, food services, and other tour components in the countries where such charges are normally added to hotel and restaurant bills; and all markups, handling charges, fees, sales commissions, and profits of the tour operator. Economy Traveler was convinced that such a move would protect consumers and travel agents, and would be supported by all ethical tour operators. One travel agency wrote in support of the petition and Economy Traveler's answer, stating that "plus tax and service" tour pricing was deceptive, and deprived travel agents of part of their legitimate commissions. One individual comment also supported Pevsner's petition.

The National Indirect Air Carrier Association (NIACA) filed an answer questioning the petition. NIACA acknowledged that the public has a right to know all charges associated with a charter but cautioned that excessive regulation may unduly constrain comparative price advertising, restrict decisions to "bundle" or "unbundle" charter trip elements, and block meaningful disclosure of the value of different elements of a charter package. It also urged the Board, if it decides to issue a rule, to include tours operated on scheduled service. It stated that coverage of scheduled service was called for by both common sense and competitive equity.

The Board previously addressed the issue of whether the practice of stating taxes and incidental charges as an item separate from the basic tour price was unfair or deceptive in two separate rulemakings. In PSDR–39 FR 15309, April 29, 1974, the Board asked for comment on a proposal to declare the advertising of prices for Group Inclusive Tours (GIT's) to be an unfair or deceptive practice and an unfair method of competition violating section 411 of the Act, unless the advertisement included a clear statement of the total tour price. The proposal was adopted as a policy statement and issued as PS–62, 40 FR 4906, February 3, 1975. The advertising of the total tour price for GIT's was not limited to a single amount, however. Rather, PS–62 stated that operators should be permitted to advertise the air and land portions of a tour separately, provided both portions were prominently displayed, and the advertisement clearly stated that both portions would have to be added in order to determine the total tour price.

In EDR–328/SPDR–58/PSDR–48, 42 FR 30376, June 14, 1977, which incorporated EDR–311, the Board sought comment on changing the rules on advertising charters generally. In EDR–328B, 45 FR 61640, September 7, 1980, however, the Board terminated this rulemaking. Among the reasons cited for the termination were: the establishment of a new charter category, *Public Charters*, in Part 380 of the Board's regulations (SPR–149, 43 FR 36604, August 18, 1978), which replaced several categories of charters and their separate, inconsistent rules, and added significant consumer protection provisions; the absence of complaints from consumers about charter price advertising; and, the fact that a mechanism already existed (section 411 of the Act) to handle any problems that might arise.

In response to Mr. Pevsner's petition, the Board's Enforcement Division conducted an investigation of charter price advertisements. It sent an industry letter to all airlines and charter operators warning them that advertising charters by stating a basic charter price plus a percentage add-on may be unfair and deceptive in violation of section 411 of the Act if the add-on is less conspicuous than the basic price or if the add-on does not represent actual taxes and services. It stated that add-ons themselves are not necessarily unfair or deceptive provided they are clear, noticeable, and honest.

In following up on its industry letter, the Enforcement Division requested tour operators that continued to use percentage add-ons to justify the percentage attributed to taxes and services. None could without attributing a significant portion of the add-on to the tour operator's own overhead, profit, or commission to travel agents. Indeed, it was clear that the percentage used was but an arbitrary amount that the tour operator alone decided were not part of the base price.

Further, the Enforcement Division discovered that for some advertisers the use of percentage add-ons was a matter of competitive pressure—they are used only when other competitors in the market use them. In one instance, which occurred shortly after the Enforcement Division's letter was sent, an operator advertised a tour at "$343" while another advertised a similar tour at "$299" but with an asterisk stating "plus 15% tax and service." Shortly thereafter the first tour operator changed its advertisements to "$299 plus 15% tax and service."

The Better Business Bureau of Metropolitan New York, Inc., has provided the Board with a copy of a letter it sent print media in the New York area, and a copy of its August 17, 1983 advertising review case report, both of which express the opinion that the use of percentage add-ons may mislead consumers and that they should not be used.

The Enforcement Division's investigation indicates that the use of add-ons is a problem that cannot be rectified through informal methods. The Board believes that competition will best be served if consumers can easily determine the price of the product. The Board is therefore granting Mr. Pevsner's petition and proposing a rule that would required all price advertisements to state the total price the consumer must pay the seller in order to purchase the advertised air transportation package. The proposed rule would not prohibit the listing of options separately. Although Mr. Pevsner's petition was directed toward the advertising of charter prices, there have been similar problems in the advertising of prices for scheduled service. See Orders 79–12–184, December 27, 1979 and 82–12–119, December 27, 1982 where the Board found price ads for scheduled service to be unfair and deceptive because they did not comply with the tax laws. The proposed rules therefore would apply to the advertising of prices for all types of air service. The provision in § 399.84 that now regulates price advertising of only Group Inclusive Tours (GITs) would be broadened to cover all carriers and all forms of air transportation regardless of how it is sold.

The rules as proposed would prohibit add-ons or the practice of stating some mandatory charges separately from the basic price. They would require advertisements to clearly state as one figure the total amount of money that the passenger will have to pay for the services described.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that this rule would not, if adopted, have a significant economic impact on a substantial number of small entities. The rule would not affect the prices carriers charge the public for their services. It merely ensures that the public is aware of all carrier charges for services, and the advertising of those prices is not done in a deceptive manner.

List of Subjects in 14 CFR Parts 380 and 399

Administrative practice and procedure, Advertising, Air carriers, Antitrust, Archives and records, Charter flights, Consumer protection,

Educational study programs, Freight Forwarders, Grant programs—Transportation, Hawaii, Motor Carriers, Puerto Rico, Railroads, Reporting and recordkeeping requirements, Surety bonds, Travel agents, Virgin Islands.

PART 380—[AMENDED]

Accordingly, the Board proposes to amend Chapter II of 14 CFR as follows:

1. In Part 380, *Public Charters*, § 380.27 would be revised by redesignating the current paragraph as paragraph (a) and adding a new paragraph (b), as follows:

§ 380.27 Methods of competition.

(a) No charter operator shall engage in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof.

(b) Any advertisement for a public charter that includes any price shall clearly state in one figure the total amount of money, including taxes, that a passenger must pay to the seller for the advertised flights or packages.

2. Also in Part 380, paragraph (b) of § 380.30 would be revised, as follows:

§ 380.30 Solicitation materials.

* * * * *

(b) Any solicitation material that states a price per passenger shall comply with the requirements for advertisements in § 380.27 and shall also include one of the following:

* * * * *

PART 399—[AMENDED]

3. In Part 399, *Statements of General Policy*, § 399.84 would be revised to read:

§ 399.84 Price advertising.

The Board considers any advertisement or solicitation material for air transportation of persons that includes the price of that transportation to be unfair and deceptive in violation of section 411 of the Act unless the advertisement clearly states in one figure the total amount of money, including taxes, that a passenger must pay to the seller.

(Secs. 204, 401, 402, 403, 411, 416, Pub. L. 85-726, 72 Stat. 743, 754, 757, 758, 769, 771; 49 U.S.C. 1324, 1371, 1372, 1373, 1381, 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary

[FR Doc 83-30018 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1908

[Docket No. C-1]

Consultation Agreements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of time for submission of written comments and notice of additions to the record.

SUMMARY: On October 5, 1983, OSHA published a notice describing proposed amendments to 29 CFR Part 1908 (48 FR 45411-45420). Comments were requested to be submitted on or before November 4, 1983. Recently, OSHA has received requests from interested parties for an extension of this comment period. These requests indicated that additional time is needed to prepare an adequate response. OSHA believes that the information-gathering process will be improved if all interested parties are granted additional time for submission of comments. Thus, OSHA has decided to extend the date for submission of comments to December 23, 1983.

OSHA, Additionally, has received a request that various documents relevant to the proposed amendments to 29 CFR Part 1908 be placed in the record for public inspection. In the interest of improving the information gathering-process, additional documents are being added to the record. (See Supplementary Information for list of added documents).

DATES: Comments in response to the October 5, 1983 notice of proposed rulemaking (48 FR 45411-45420) should be submitted on or before December 23, 1983.

ADDRESS: Written comments should be submitted, in quadruplicate, to the Docket Office, Docket No. C-1, Room S-6212, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Office of Information and Consumer Affairs, Room N-3637, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523-8151.

In the interest of improving the information-gathering process, the following documents are being added to the record at this time.

A list of State agencies providing, or scheduled to provide, consultative services under the current and proposed regulations.

OSHA Notice TED 2 (July 25, 1983), Experimental Program for Inspection Exemption Through Consultation.

A letter from Emmett Jones, Director Cal/OSHA Consultation Service, describing the impact of the California experimental exemption program.

The most recent evaluation reports on the State consultation projects participating in the program.

Testimony on proposed revisions to the consultation regulation before the National Advisory Committee on Occupational Safety and Health.

Comments by a Subcommittee of the National Advisory Committee on Occupational Safety and Health on an earlier draft of the proposed revisions, and a brief summary of the rationale for OSHA's response to these comments.

A Solicitor of Labor opinion on release to the public of consultant reports to employers.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(Secs. 7(c)(1), 21(c), 84 Stat. 1598, 1619 (29 U.S.C. 656(c) (1) 670(c)); 29 CFR Part 1908, Secretary of Labor's Order No. 9-83 (48 FR 35736))

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-29984 Filed 11-3-83; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[AMS FRL 2464-5]

Air Pollution Control; Importation of Nonconforming Motor Vehicles and Motor Vehicle Engines

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Workshops.

SUMMARY: This announces that EPA will conduct two workshops to discuss options for revising portions of the EPA regulations at 40 CFR 85.1501 *et seq.*, which control the importation of nonconforming motor vehicles and motor vehicle engines. The purpose of the workshops is to provide interested individuals and organizations an additional opportunity to comment on the revisions proposed in a Notice of Proposed Rulemaking (NPRM) published on July 21, 1980 (45 FR 48812), and on other options for revising these regulations. Discussion is also solicited

regarding the adequacy of EPA small volume certification procedures and assigned deterioration factors at 40 CFR 86.082–14 and 40 CFR 86.084–24 for certifying imported vehicles for resale. Changes to these regulations, if necessary, will be considered in a separate rulemaking.

Since publication of the NPRM, EPA has implemented several changes to the administrative procedures and enforcement policy applicable to imported motor vehicles (see 48 FR 16485, April 18, 1983). As a result of comments received in response to the NPRM, and experience gained from monitoring the automotive imports program since publication of the NPRM and from changes in the certification program, EPA believes that additional comments on revisions proposed in the NPRM plus other options for revising these regulations may be useful in forming the basis for final rulemaking. A range of options is described in the **SUPPLEMENTARY INFORMATION** section below.

DATES: The workshops are scheduled as follows:

Workshop #1: 9 a.m. EDT, Tuesday, November 29, 1983—Washington, D.C.
Workshop #2: 9 a.m. PDT, Wednesday, December 7, 1983—San Diego, California

Interested parties desiring to participate at either workshop should notify EPA, at the address given below, not later than November 22, 1983, for the Washington, D.C. workshop and not later than November 30, 1983, for the San Diego, California workshop. A copy of this notification should also be sent to the contact listed below. Any relevant written comments must be received on or before January 9, 1984.

ADDRESSES: All comments should be submitted to the Central Docket Section (LE–131), ATTN: Docket EN–79–9, West Tower Lobby, Gallery 1, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. If possible, a copy of the comments should be submitted to the contact listed below.

Copies of testimony presented at the workshops, written comments and all relevant information submitted in response to the NPRM will be available for public inspection and copying in Public Docket No. EN–79–9 at the address given above. The docket is open Monday through Friday from 8:00 a.m. to 4:00 p.m. A reasonable fee may be charged for copying services.

The November 29, 1983 workshop will be held in Room S353, EPA Headquarters, Waterside Mall, 4th and M Streets, SW., Washington, D.C. 20460.

The December 7, 1983 workshop will be held at The Holiday Inn Embarcadero, 1355 North Harbor Drive, San Diego, California 92101. Telephone: (619) 232–3861.

FOR FURTHER INFORMATION CONTACT: Stanley B. Durkee, Investigation/Imports Section, Manufacturers Operations Division (EN–340F), U.S. Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 382–2496.

SUPPLEMENTARY INFORMATION:

I. Discussion

The Clean Air Act, as amended (the "Act"), 42 U.S.C. 7401 *et seq.*, prohibits the importation of any motor vehicle or engine (hereinafter "vehicle"), 42 U.S.C. 7522, unless it is covered by a certificate of conformity with Federal emission requirements applicable during the model year in which it was built or unless it is excluded from the Act or exempted by the Administrator of EPA. Joint EPA and U.S. Customs Service (Customs) regulations at 40 CFR 85.1501 *et seq.* and 19 CFR 12.73, respectively, allow the conditional importation of a nonconforming vehicle, provided that a bond is posted with Customs and the vehicle is then brought into conformity with EPA emission requirements. This may be done either by modifying the vehicle to make it identical to a vehicle certified for sale in the U.S. or by successfully testing the vehicle in accordance with the Federal Test Procedure ("FTP") at a laboratory which has demonstrated to EPA that it can perform a proper FTP.

EPA's NPRM, published on July 21, 1980, proposed revising these regulations by abolishing the "modification" and "testing" options and by banning the importation of nonconforming vehicles, subject to certain exemptions. One proposed exemption was to allow an individual to import one such vehicle, for personal use and not for resale, without bringing it into conformity with Federal emission requirements. EPA also proposed making several other changes to the regulations, including clarification of the definition of a racing vehicle and of the procedures and restrictions applicable to the importation of vehicles under several other exemption categories.

EPA has received more than 520 written comments on this NPRM from various individuals in both private and public sectors, as well as testimony from 12 parties at a public hearing held at EPA headquarters on November 3, 1980. Most commenters were individuals who favored the proposed revision because it would allow them to import exotic European automobiles not available in U.S.-certified configurations, or not similar to those available in the U.S. Several manufacturers (both foreign and domestic), automotive dealership associations and three states objected to the proposed revisions. They cited possible adverse air quality impacts, loss of sales by U.S. domestic dealers who sell certified domestic and foreign vehicles, and the inequity of requiring domestic vehicles to meet Federal emission requirements while allowing the importation of foreign vehicles which do not.

Based on these comments, EPA decided to conduct additional analyses before proceeding to final rulemaking. These analyses of the numbers and ages of vehicles imported by individual and commercial importers led to the changes in EPA administrative procedures and enforcement policy which were implemented in October and November 1981 (and which were announced in an EPA press release at that time).

The changes in procedures and policy are discussed more fully in a Notice published on April 18, 1983 (48 FR 16485). In brief, these revised procedures provide that EPA will request that Customs release the EPA obligation on the bond for a nonconforming vehicle imported by an individual, without requiring that it be brought into conformity with Federal emission requirements, provided that: (a) It is the first nonconforming vehicle imported by that person since 1970; (b) it is being imported for personal use and not for commercial resale; (c) the vehicle is at least five model years old at the time of importation. Similar changes in policy but without model year age restriction, were implemented at the same time with respect to importations by immigrants, handicapped persons and others experiencing special hardships. Additionally, final rulemaking was deferred while the 97th Congress was considering revisions to the Act which would have affected the provisions applicable to the importation of nonconforming vehicles.

II. Recent Trends

Since the publication of the NPRM and these other changes, the approximate number of nonconforming vehicles imported annually has increased from 1,500 vehicles in 1980 to 5,000 in 1982. In 1983, EPA estimates 8,400 such vehicles will be imported. Although the total number of bonded importations is increasing, the relative proportions between commercial and individual bonded importations and the relative ages of imported vehicles have not materially changed. Specifically, in

1980 approximately 47% of bonded nonconforming vehicles were imported by commercial importers for resale and approximately 53% by individuals. Of the individual importations, approximately 54% were more than five model years old at the time of importation. In 1983, EPA estimates that these percentages will be approximately 44% for commercial and 56% for individual importations with 55% of the individual importations (i.e., approximately 2,600 vehicles) being vehicles which were five or more model years old when imported.

Other changes have occurred in areas related to the imports program which may affect the final rulemaking. First, at the time of the NPRM, ten testing laboratories had demonstrated the ability to conduct the FTP on imported vehicles and were submitting test documentation regularly on these types of vehicles to EPA; this number since has grown to twenty and EPA has received inquiries concerning establishment of other such laboratories. However, an increasing number of allegations have been made of possible falsification of test data by some test laboratories, and of modifications made on vehicles to pass an FTP that are not safe or not durable, and of violations of various State laws and regulations. The investigation of such allegations is difficult and expensive. If such allegations are true, importers, modifiers and test laboratories who comply fully with the regulations may be at a competitive disadvantage to other parties who may perform unsafe or non-durable modifications or inaccurate tests. Consumers may also be adversely affected if they purchase imported vehicles which are unsafe or which do not meet emission requirements. Such vehicles may fail State safety or emission tests and may not be covered by any warranties.

A second important change is in the certification procedures. Under Section 216(1) of the Act, importers for resale are deemed to be manufacturers. Thus such importers can apply for certification as manufacturers for vehicles that were originally manufactured by someone else. In accordance with regulations at 40 CFR 86.082–14, promulgated on March 12, 1981 (46 FR 16266), manufacturers whose U.S. sales of motor vehicles are less than 10,000 units per year may certify such vehicles under the "small-volume" certification procedures. These procedures reduce paperwork and, in some instances, allow for reduction in the number of test vehicles. The Agency is concerned that these "small volume" certification rules, which were designed to reduce the certification burdens of small manufacturers who use emission control systems previously demonstrated to be durable in full certificate durability testing, may be inadequate to assure durable emission performance when used by small manufacturers, including certain importers, to certify systems whose durability has not previously been demonstrated. As a result, the Agency may consider policy and regulatory changes to these rules as a separate matter.

An additional concern regarding the imports regulation is an apparent increasing violation of the prohibition on the sale of nonconforming vehicles imported by "nonresidents." Under the Customs regulations at 19 CFR 12.73(b)(v), a nonresident of the U.S. may import a nonconforming vehicle for personal use for up to one year without posting a bond or bringing the vehicle into conformity. This provision of the regulations also prohibits sale of the vehicle in the U.S. While it appears that most nonresidents who import vehicles abide by the requirements of the regulations, a small, but apparently increasing, number sell the vehicles they import without bringing them into conformity with U.S. requirements. A violation of this type is particularly difficult to detect or remedy since the importer has not posted a bond, and experience has shown that the address given on the importation documents by some nonresidents may be temporary or inaccurate.

III. Issues

EPA has identified seven issues concerning importation of motor vehicles on which it specifically solicits additional comments. Interested parties are also encouraged to identify and discuss other issues which they believe are useful in forming the basis for final rulemaking. The Agency requests, however, that any comments be as factual as possible (e.g., the exact effect in numbers of lost sales, the quantitative effect on air quality or model availability of the current and proposed regulatory requirements). These issues are as follows:

1. *Equity*. Major manufacturers who wish to sell vehicles in the United States must conduct extensive certification programs to demonstrate that their vehicles will meet Federal emission requirements for five years or 50,000 miles. These vehicles are required to be covered by emission and product warranties, must meet fuel economy requirements and are subject to gas guzzler taxes and the assembly line testing and recall provisions of the Act. On the other hand, nonconforming vehicles which are imported under the current imports regulations may either be modified to be identical to a U.S. certified-version vehicle or must pass the FTP. This results in differential treatment between U.S.-certified versions and imported-and-modified or tested versions of the same model vehicles. Due to the increasing numbers of imported nonconforming vehicles, the magnitude of the potential inequity of this differential treatment has increased. EPA requests further comments on whether such differential treatment affects prices and, if so, the magnitude of the price differentials. For example, how much does a U.S. version of a vehicle cost the consumer at a U.S. dealership compared to the same vehicle when purchased in Europe and imported and brought into conformity under the current imports regulations? What is the cost, in dollars or as a percentage of the purchase price, that a dealer must incur to provide warranties and other mandated coverage on U.S. version vehicles? Is service for foreign version modified vehicles available at U.S. dealers and service facilities? If not, why not? Are warranty costs incurred? If so, estimate the costs.

2. *Improper Modifications*. EPA has received allegations that conversion work done on nonconforming vehicles so they can pass an FTP is either not done or is not durable for the useful life of the vehicle. EPA requests specific information to support such allegations including examples of inadequate workmanship and supporting emissions data, if available, which shows lack of durability or safety of emission modification work.

3. *Small Volume Certification Procedures/Assigned Deterioration Factors*. Various importers for resale have requested EPA certification of specific imported models, including use of the "small volume" procedures (40 CFR 86.082–14). The "small volume" procedure applies a 10,000 unit limit to a small manufacturer's total U.S. sales to determine eligibility. Also, any large manufacturer may use assigned deterioration factors for any segment of its product line up to 10,000 units annually (40 CFR 86.082–24).

This application of the "small volume" certification and deterioration factor procedures to importers, however, poses two concerns. The first is, since experience has shown that these vehicles may use emission control systems that have not been previously demonstrated to be adequate to meet air pollution standards over a useful life,

the assigned deterioration factor may be inappropriate. EPA's second concern, since achieving compliance through retrofit modification is very difficult and expensive under today's stringent standards, is that commercial importers may be tempted to cut corners to remain profitable in this very competitive market. This possibility is particularly troublesome because EPA has limited resources to conduct compliance investigations and such compliance slippage could quickly erode confidence in the integrity of this program.

An additional concern is that large manufacturers may attempt to avoid the durability testing requirements of certification when marketing a small sales volume engine family by marketing such models through an importer for resale under the "small volume" certification rules. EPA is aware of one major manufacturer planning such a marketing tactic to bring in a small number of special units which it has not currently certified.

Such practices raise questions regarding whether the applicability of the 10,000 unit limit for eligibility should be changed so as to apply to the aggregate U.S. sales of the original manufacturer of foreign vehicles rather than to apply, as it does now, to each importer's total individual sales. Or, should applicability of the "small volume" certification procedures and assigned deterioration factors to the situation of imported nonconforming vehicles simply be eliminated entirely? Is the technology which is used or may be expected to be used by importers for resale similar to that used by original manufacturers and is it likely to exhibit similar durability? If not, should importers for resale be permitted to certify under such "small volume" provision, and if so, should modification to certified configurations not demonstrated to be durable be permitted under the imports rules? As mentioned earlier, EPA may also consider changes in the "small volume" certification procedure in a separate proceeding.

4. *Effectiveness of Regulations.* EPA requests comments on whether the modification and test provisions of the current regulations are effective in assuring that vehicles comply with Clean Air Act requirements. If appropriate, provide specific evidence of abuse. Does improved compliance result from use of the certification process (as opposed to use of modifications)? If so, how? If not, why not?

5. *Effect on Businesses.* If the imports regulations were changed to abolish the testing and modification options, how would this affect parties currently engaged in such activities? EPA request comments on the possible specific effects with respect to each of the options described below.

6. *Air Quality.* The number of vehicles imported under the current imports regulations is very small compared to the annual sales of new domestic and imported certified vehicles. EPA requests commenters to submit any data (e.g., air quality analyses) which might indicate the presence of (or the absence of) air quality impacts attributable to these uncertified vehicles. EPA also requests comments on whether imported nonconforming vehicles tend to be operated in certain areas (e.g., California or Texas), and whether this has resulted in any local adverse air quality impacts.

7. *Sales by Nonresidents.* EPA requests specific information concerning sales of nonconforming vehicles that were imported under the "nonresident" category. How many vehicles are so sold and what percentage of total nonresident importations do they represent? What problems do individuals encounter when they unknowingly purchase such vehicles? Are they able to obtain title and register the vehicles?

IV. Options for Revision of Regulations

Given the issues discussed above, EPA has determined that there is good cause to hold workshops to discuss additional options for revising these regulations and receive comments regarding various options. After the close of the comment period and analysis of the testimony presented at the workshops and submitted to the docket, EPA intends to proceed to a final rulemaking.

EPA has developed four options which it believes represent the range of alternatives available for revising the current regulations. Interested persons are also invited to suggest additional options.

Option A. Finalize NPRM as Proposed

This option would require individual and commercial importers of vehicles to demonstrate that all vehicles are certified to meet applicable air pollution requirements *prior* to entry into the United States, with exemptions for vehicles that are imported by individuals for personal use. Other exemptions or exclusions for vehicles falling into a special listed category (e.g., diplomatic and test vehicles) also apply.

A key point of controversy with this option which emerged from comments received in response to the NPRM in 1980 involved the personal use exemption. Although the exemption is limited to one non-conforming vehicle per person, and not for commercial resale, various private and public institutions, including manufacturers (both foreign and domestic), objected to this revision on the basis of possible air quality impacts, loss of sales and the inequity of requiring domestic vehicles to meet Federal emission requirements while allowing the importation of foreign vehicles which do not. On the other hand, most individuals who commented favored the exemption because it would allow them to import exotic automobiles not available in the U.S.

Since publication of the NPRM, importations have increased considerably and thus EPA solicits additional comments. Specifically:

1. What effects would this option have on sales of vehicles from U.S. dealerships?

2. What effect would this option have on repair and maintenance services, including any effects on establishments that might provide the service and on the consumers whose vehicles are being serviced?

3. What effect would this have on air quality, especially on a regional or local basis?

Option B. Maintain Current Procedures and Policies

This option would maintain the existing regulations which require individual and commercial importers of vehicles to demonstrate evidence of conformity with air pollution requirements for all vehicles within 90 days *after* entry into the United States with a "one time" exemption for vehicles imported by individuals for personal use and at least five model years old at time of entry. Other exemptions or exclusions may also apply to vehicles falling into a special listed category (e.g., diplomatic and test vehicles). Evidence of conformity is given through either 1) modification of the vehicle to make it identical in all material respects to a vehicle covered by a certificate of conformity or 2) successful testing at a laboratory in accordance with the FTP.

As noted previously, this option creates various problems for the public and for EPA and Customs in administration of the program. There are two key problem areas. The first is the modification and testing requirements themselves. As discussed in this Notice and in the NPRM, the modifications may not be adequate and their adequacy is difficult to monitor effectively by EPA. Testing requirements also have created a number of problems. For example,

allegations have arisen of possible falsification of data by some test laboratories so that some vehicles tested therein may be in violation of emission requirements. EPA monitoring of such situations is difficult. Such falsification, if it exist, can result in an unfair and costly situation for laboratories and importers who adhere to the requirements of the law. EPA requests factual information as follows:

1. Under the curent procedures and policies, what have been the effects on consumers with respect to prices of both certified and uncertified vehicles, service and availability of models?

2. What have been the quantitative effects, if any, on air quality?

3. What problems have consumers experienced under these procedures with importing nonconforming vehicles?

Option C. Tighter Restrictions than NPRM

This option would require individual and commercial importers of vehicles to certify all vehicles to meet air pollution requirements prior to entry into the United States. Exemptions and/or exclusions would apply only to vehicles falling into a special listed category (e.g., diplomatic and test vehicles). No personal use exemptions would be permitted

This option has some potential for imposing hardships on individuals who purchase vehicles overseas and then discover that they cannot import them into the U.S. EPA specifically requests factual information and comments as follows:

1. What would be the specific effects, in terms of sales and availability of vehicle models, on U.S. dealerships, commercial importers and on consumers?

2. Are there any data to indicate that this option would have a beneficial effect on air quality?

3. Should the small volume certification procedures with respect to commercial importers be modified? If so, how and on what basis?

Option D. Combine NPRM and Certain Current Procedures

This option would require individual and commercial importers of vehicles after a specified effective date to certify all vehicles to meet air pollution requirements *prior* to entry into the United States, with a "one time" exemption for vehicles at least five model years old imported by individuals. Exemptions and/or exclusions may also apply to vehicles falling into a special listed category (e.g., diplomatic and test vehicles.)

This option would implement the proposal in the NPRM to abolish the modification and testing procedures of the current regulations. In lieu of an unlimited personal use exemption, however, it would formalize in the regulations the current policy of allowing individuals to import one vehicle for personal use provided it was at least five model years old at the time of importation. Commercial importers for resale would be allowed to certify vehicles so consumers would still be permitted to purchase vehicles normally not available in the U.S. As with the other options, EPA solicits factual comments as follows:

1. What are the likely effects on this option on U.S. dealerships, commercial importers, model availability, test laboratories, service facilities and consumers?

2. What would be the magnitude of any possible effect on air quality?

List of Subjects in 40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

Dated: October 26, 1983.

Richard D. Wilson,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83-30084 Filed 11-3-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 421

[OW-FRL-2464-8]

Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability and request for comment.

SUMMARY: EPA proposed effluent limitations guidelines and standards for the nonferrous metals manufacturing category, on February 17, 1983 (48 FR 7032). Since the close of the comment period EPA has obtained additional data and information which will become part of the administrative record for the final regulation. EPA is now making these data and information available for public inspection and comment.

DATES: Comments must be submitted by November 25, 1983.

ADDRESSES: Send comments to Mr. James R. Berlow, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: EGD Docket Clerk. The supporting information is available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear), (PM-213). The comments will be made available as they are received. The EPA public information regulations (40 CFR Part 2) provide that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained from Mr. Ernst P. Hall, at (202) 382-7126.

SUPPLEMENTARY INFORMATION: On February 17, 1983, the EPA proposed effluent limitations guidelines, pretreatment standards, and new source performance standards for phase I of the Nonferrous Metals Manufacturing Point Source Category (48 FR 7032). The comment period closed on May 27, 1983. EPA received over 1500 individual comments on this proposal from 100 commenters.

Comments were submitted by the Aluminum Association and several individual primary aluminum manufacturers stating that the cyanide treatment technology proposed by the Agency as the basis for best available technology (BAT) effluent limitations guidelines and new source performance standards cannot remove cyanide to the amounts the Agency proposed. In addition, the Association disagreed with EPA's assumption that activated carbon absorption treatment would be necessary to assure removal of polynuclear aromatic hydrocarbons (PAH) found in primary aluminum wastewater. Instead, the Association stated that data produced by its members showed that 90 percent or more of the PAH would be removed by lime precipitation and sedimentation (lime and settle) treatment. EPA agreed to conduct pilot scale studies of the treatability of cyanide and PAH in primary aluminum wastewater to help resolve those comments. The results of the two studies (conducted at a primary aluminum plant in July and August, 1983) are discussed in two draft reports available for public inspection in the EPA Public Information Unit.

The Agency also received a comment from the Aluminum Recycling Association concerning the need for a discharge allowance for ingot conveyor casting and stationary casting operations in secondary aluminum production. The Association correctly points out that the proposed regulation did not expressly discuss ingot conveyor casting as a method of casting for secondary aluminum. In order to assure

complete consideration of this comment EPA contacted 8 plants in its data base that did not clearly report the type of casting used (all other plants having reported use of casting methods other than ingot conveyor casting). We have summarized the results of that telephone survey, and of casting data submitted in the 1976 data collection portfolios, and these summaries are available for inspection in the Public Information Refernce Unit.

The Agency also is providing copies of other data collected since proposal in the Public Information Reference Unit. This information consists of trip reports and analytical data from sampling a primary tungsten, primary zinc, and two secondary lead plants, data collection portfolio data from several primary aluminum, primary copper, primary zinc, primary tungsten, secondary aluminum, secondary silver and secondary lead facilities not previously included in the data base and discharge monitoring reports collected for plants reporting use of lime and settle technology with or without polishing filtration. The data will be incorporated into the data base used for developing the final regulation.

Our preliminary analysis of the new data and information suggests the following:

a. The treatability study appears to support an increase in the achievable concentrations of cyanide used to establish BAT effluent limitations guidelines and new source of performance standards for primary aluminum production. The revised monthly average indicated by the study would be 2.0 mg/1 and the revised daily maximum would be 4.5 mg/1. This performance is based on a mean performance of 1.1 mg/1 and is achievable by use of cyanide precipitation, sedimentation and filtration. The Agency also has reviewed available literature and data submitted by Kaiser Aluminum (correspondence dated February 11, 1980) that supports a conclusion that these revised cyanide concentrations are achievable using ion exchange technology.

In addition, the Agency is considering applying a monitoring requirement for cyanide immediately after cyanide pretreatment. The treatability study appears to establish that lime and settle technology will not remove cyanide adequately. Further, not every wastestream from primary aluminum production contains cyanide. Thus, centralized lime and settle treatment not only is ineffective treatment for cyanide, but could result in dilution of cyanide below the allowable level (contrary to our conclusions in the proposed rule at 48 FR 7056). In order to assure that cyanide limitations are not achieved by dilution, an at-the-source monitoring requirement may be appropriate. If EPA promulgates an at-the-source requirement, we will include separate cyanide pretreatment costs in our cost estimates for complying with cyanide limitations.

b. The treatability study appears to support a conclusion that treatment of primary aluminum wastewater with lime precipitation, sedimentation, and filtration does remove PAH. Therefore, EPA is considering modifying its pollutant removal estimates (which assumed no removal of PAH without treatment with activated carbon) to reflect the results of the treatability study. The data also appears to support a conclusion that benzo(a)pyrene limitations based on an achievable concentration of 0.01 mg/1 are achievable without use of activated carbon treatment. Several other more soluble PAH such a pyrene and fluoranthene are removed by lime precipitation, sedimentation, and filtration, but may require treatment by activated carbon absorption in order to achieve removals to 0.01 mg/1. As such, benzo(a)pyrene removal may not be an indicator of complete PAH removal. The Agency solicits comments as to whether activated carbon pretreatment should continue to be part of BAT treatment in order to remove fully these more soluble PAH.

c. Our follow-up study of ingot conveyor casting practices in the secondary aluminum industry appears to indicate that no discharge allowance is justified for ingot conveyor casting. EPA's study identified three secondary aluminum plants achieving 100 percent recycle of contact cooling water used on ingot conveyors. In addition, the Agency has identified 18 secondary aluminum plants achieving 100 percent recycle of stationary casting contact cooling water.

Copies of this new information and data are available for public inspection in the EPA Public Information Reference Unit. Comments are solicited only on the new data and on the preliminary analysis outlined above. These comments must be received by EPA on or before November 25, 1983, to ensure their consideration.

Dated: October 28, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-29976 Filed 11-3-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Gen. Docket No. 83-1009; FCC 83-440]

Multiple Ownership of AM, FM and Television Broadcast Stations

Correction

In FR Doc. 83-28801 beginning on page 49438 in the issue of Tuesday, October 25, 1983, certain footnote refepences should be corrected to read as follows:

On page	In footnote	The reference is	Should have read
49443	59	59	58
49443	61	59	59
49443	63	63	62
49443	63	61	60
49445	Table 4, footnote 1.	14	71
49445	Table 5, footnote 1.	76 (3 times)	Table 4, footnote 1
49445	Table 5, footnote 1.	74	71
49445	Table 6, footnote 1.	76 (2 times)	Table 4, footnote 1
49445	Table 6, footnote 1.	77	Table 5, footnote 1
49445	73	77	Table 5, footnote 1
49445	74	78	Table 6, footnote 1
49445	75	77	Table 5, footnote 1
49446	86	89	83
49446	87	89	83
49446	88	88	83
49447	89	92	86
49447	90	95	89
49447	91	70	92
49447	91	94	88
49447	Table 6, footnote 1.	95	95
49448	96	99 (2 times)	91
49448	98	98	94
49448	99	70	69
49449	102	98	91
49449	103	98	94
49449	105	71	Table 2, footnote 1
49449	109	70	69
49449	110	92	86
49449	111	70	69
49450	114	70	69
49450	116	70	69
49450	117	96	92
49450	119	96	92
49450	120	70	69
49450	120	117A	113
49451	125	71	Table 2, footnote 1

BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

Implementation of the Federal Acquisition Regulation (FAR), General Services Administration Acquisition Regulations (GSAR)

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on the General Services Administration proposal to establish the General Services Administration Acquisition Regulations (GSAR) as Chapter 5 of the Federal Acquisition Regulations System. The GSAR will implement and supplement the Federal Acquisition Regulations. The new GSAR will supercede the current General Services Administration Procurement Regulations. The following Parts of the proposed GSAR are available for review and comment:

Part 501—Federal Acquisition Regulations System
Part 502—Definitions of Words and Terms
Part 529—Taxes
Part 530—Cost Accounting Standards
Part 531—Contract Cost Principles and Procedures
Part 550—Extraordinary Contractual Actions

DATE: Comments are due not later than December 5, 1983.

ADDRESS: Request for copies of the proposals and comments should be addressed to the Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, Room 4026, 18th & F Streets, NW., Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, (202) 523–4754.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that these documents will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3501 et. seq. This rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83–2.

List of Subjects in 48 CFR Chapter 5

General Services Administration Acquisition Regulations, Government procurement.

Dated: October 21, 1983.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 83-29945 Filed 11-3-83; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS–78; Notice 1]

Transportation of Natural and Other Gas by Pipeline; Design of Pipeline Components, General Requirements

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise the general requirements for design of pipeline components to recognize that limiting stresses to "unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service" is not an appropriate criterion, from a safety standpoint, for many pipeline components. In response to a petition from the American Society of Mechanical Engineers, the Materials Transportation Bureau proposes to clarify the requirements.

DATE: Interested persons are invited to submit written comments on this proposal. All comments must be filed by January 3, 1983. Late filed comments will be considered so far as practicable. Interested persons should submit as part of their written comments all the material that is considered relevant to any statement of fact or argument made.

ADDRESS: Communications should be sent to the Dockets Branch, Room 8426, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, and identify the docket and notice numbers.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, (202) 426–2082.

SUPPLEMENTARY INFORMATION:

American Society of Mechanical Engineers' Petition

The Gas Piping Technology Committee of the American Society of Mechanical Engineers (ASME), by letter of April 6, 1983, petitioned the MTB to revise § 192.143, General requirements, Subpart D of Part 192. This section, limiting the stress in components to "unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service" in the context of "Each component of a pipeline . . ." is both impractical and technically inappropriate for valves, flanges, and some other components, according to the petition. These components achieve primary pressure containment through bolting, gaskets, elastomer seals, and sealing compounds. The basis for design of the metallic parts is unit strain (i.e., elastic deformation) at critical locations under rated pressure.

The ASME stated that the objective in designing such components is to limit the strain at these critical locations so that the pressure seal will remain functional. These components have an irregular contour and the stress levels at rated pressure vary from very low to highly localized conditions that approach or may exceed the yield strength. Thus, the actual stress levels can only be determined by a finite element stress analysis.

The "unit stress" language entered § 192.143 through paragraph 831 of the 1969 Edition of the B31.8 Code for Pressure Piping, Gas Transmission, and Distribution Piping Systems. The Code Committee realized the error of the statement and revised paragraph 831 in 1969. This revision would have been in a 1970 Edition, but was not published due to the adoption of Part 192. However, this revision is contained in the 1975 Edition.

The petitioner further pointed out that it has been common practice in design of pipelines to limit operating pressure of valves, flanges, and similar components in accordance with their design rating, e.g., ASA 150 (WOG 275), ASA 300 (WOG 720 psi), ASA 400 (WOG 960 psi), ASA 600 (1440 psi), etc. This practice is based upon sound engineering standards (see standards listed in Part 192, Appendix A—Incorporated by Reference) that have proven to provide safety at least equal to the pipe design level for the same design pressure. This has been the intent of the present wording of § 192.143. In addition, the listed specifications have been required for such components since Part 192 was first issued.

In view of the above, MTB concurs with the ASME petition that clarification of § 192.143 is needed. Therefore, MTB proposes to amend § 192.143 to provide an option to designing pipeline components on the basis of unit stresses by permitting the design to be based on

the pressure being rated in accordance with the requirements of an appropriate specification listed in Appendix A of Part 192. In addition, components that were manufactured to an edition of a listed specification that has not been referenced in Part 192 would be permitted to be used by compliance with § 192.144. This standard permits the use of components made to an unlisted edition of a specification listed in Appendix A. Components not covered by a specification listed in Appendix A or § 192.144 would be considered for waiver upon appropriate application and justification by the pipeline operator.

Cost Impact

This rulemaking is not "major" under Executive order 12291 because it will have a positive effect on the economy of less than $100 million a year, and no adverse effects are anticipated. Also, it is not "significant" under Department of Transportation Policies and Procedures (DOT Order 2100.5).

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires a review of certain rules proposed after January 1, 1981, for their effects on small businesses, organizations, and governmental bodies. I certify that the proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities because there will be no direct or indirect costs of compliance or other adverse effects and overall effects will be minimal.

List of Subject in 49 CFR Part 192

Pipeline safety, Design of pipeline components.

PART 192—[AMENDED]

In consideration of the foregoing, MTB proposes that § 192.143 of Title 49 of the Code of Federal Regulations be revised as follows:

§ 192.143 General requirements.

Each component of a pipeline must be able to withstand operating pressures and other anticipated loadings with unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service or must be pressure rated in accordance with the requirements of the applicable specification listed in Appendix A or meet the requirements of § 192.144.

Authority: 49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53; Appendix A to Part 1, and Appendix A to Part 106.

Issued in Washington, D.C., on October 31, 1983.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 83-29884 Filed 11-3-83; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Status Review for the Amber Darter (Percina antesella), Trispot Darter (Etheostoma trisella), and Reticulate Logperch (Percina sp.)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The U.S. Fish and Wildlife Service is reviewing the status of the amber darter (*Percina antesella*), trispot darter (*Etheostoma trisella*), and reticulate logperch (*Percina* sp.) to determine if these species and their habitat should be provided protection under the Endangered Species Act of 1973, as amended. These fishes are currently known from the Conasauga River (Murray and Whitfield Counties, Georgia; Bradley and Polk Counties, Tennessee). The amber darter is also known from one site on the Etowah River (Cherokee County, Georgia). The distribution of these fishes could be reduced if water development projects now being considered for the upper Conasauga River are implemented without adequately considering the requirements of these species. Due to the limited distribution of the three fishes, any factors which degrade water quality in this short river reach, i.e., land use changes, chemical spills, increases in agricultural and urban runoff, could threaten the survival of these species. Based on information gathered through this review process plus the results of a status survey being conducted under a Service contract and other presently available data, the Service will determine if the three fishes should be proposed for inclusion on the Federal List of Endangered and Threatened Wildlife. Comments and information are sought from the public.

DATES: Comments from all interested parties must be received by February 2, 1984.

ADDRESSES: Interested persons, organizations, agencies, and governments are requested to submit comments to Mr. Warren Parker, Field Supervisor, Endangered Species Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259-0321).

Comments and material relating to this notice are available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins (704/259-0321) (see above address).

SUPPLEMENTARY INFORMATION:

Background

The amber darter (*Percina antesella*), trispot darter (*Etheostoma trisella*), and reticulate logperch (*Percina* sp) are known from tributaries of the Coosa River drainage in Georgia and Tennessee. Specifically, the trispot darter and reticulate logperch appear to be restricted to approximately 20 miles of the Conasauga River in Murray and Whitfield Counties, Georgia and Bradley and Polk Counties, Tennessee. The amber darter exists in this same short stretch of the Conasauga River and at one locality in the Etowah River, Cherokee County, Georgia, where a single specimen of the species was found in 1980 (Etnier, *et al.*, 1981). The amber darter was once known to exist near the mouth of Shoal Creek, a tributary of the Etowah River, Cherokee County, Georgia, but this population was apparently lost in the 1950's when the Allatoona Reservoir was flooded. The trispot darter once existed in Cowans Creek, a tributary of Spring Creek which flows into the Coosa River in Cherokee County, Alabama (Bailey and Richards, 1963), and the Coosa River proper in Etowah County, Alabama (Ramsey, 1976). However, these are now flooded by backwaters of Weiss Dam and Neely Henry Dam respectively.

The Tennessee Wildlife Resources Agency and the Tennessee Heritage Program of the Tennessee Department of Conservation list all three darters as Threatened. In a publication edited by both agencies, *Tennessee Rare Wildlife Volume I: The Vertebrates*, they stated, relative to amber darter habitat, that "the combination of gently flowing runs and silt-free substrate is rare in these times of widespread siltation due to poor watershed management or impoundments. The Conasauga River in Tennessee remains clear in all but the heaviest of floods indicating its uniqueness and importance in preservation of the amber darter . . ." Ramsey (1973), in a report on extinct and rare freshwater fishes in Georgia, classified the amber and trispot darters

as "rare–1 species" which he defined, in part, as species not known to survive in reservoirs of channelized streams. Ramsey further categorized these two darters as "vulnerable" which he defined as ". . . species whose range is extremely limited and a species that could be rendered extinct by a single land-use change."

The amber and trispot darters and the reticulate logperch apparently require unpolluted clear water streams. The amber darter utilizes areas with moderate current over gravel and silt-free sand substrate (Williams and Etnier, 1977). The trispot inhabits the sluggish current along the stream margin over detritus substrate (Ryon, 1981). The reticulate logperch occurs in flowing pool areas and riffles over clean substrate of rubble, sand, and gravel (Starnes and Etnier, 1980). Siltation which often results when lands are cleared for agriculture or other land uses is a major factor affecting the quality of these habitats. Siltation changes the character of the stream so that gravel riffle areas become infiltrated with silt and the detritus substrates are smothered with fine silt particles.

The upper Conasauga River flows through the Cherokee National Forest. This provides some protection for downstream habitat sections where the fish are found. However, the fish are threatened from agricultural and urban runoff in the agricultural and developed sections of the watershed. There is also the potential that a toxic chemical spill could eliminate a major portion of the population. Another threat could come from the water development and flood control projects being studied for the upper Conasauga River near Dalton, Georgia. These projects, depending on type and extent, could severely impact the species if biological requirements of these fishes are not considered in the planning process.

Effects of This Notice of Review

This notice is a public announcement of the Service's intent to collect data on the status of the trispot and amber darters and reticulate logperch and their habitat, and to solicit information on likely impacts which could result from the species and their Critical Habitat being proposed and listed.

This notice does not formally bring either species under the protection of the Endangered Species Act. Consequently, there will be no effect on Federal activities through Section 7 of the Act. This notice also does not imply any prohibitions on taking of the species as stated in Section 9. The Service does believe, however, that these fishes may qualify for Endangered Species Act protection. For this reason and due to their apparent rarity, the amber darter, trispot darter, and reticulate logperch should be given some consideration in environmental planning for projects which could impact the Conasauga River in Whitfield and Murray Counties, Georgia, and in Bradley and extreme southwestern Polk Counties, Tennessee. The amber darter should also be considered for projects which could impact the Etowah River in the area of Cherokee County, Georgia.

Public Comments Solicited

The Service is seeking comments from State agencies in Tennessee and Georgia on the species and their potential Critical Habitat. With this Notice of Review, the Service is also inviting and requesting anyone who may have information on these species to contact Mr. Warren Parker, U.S. Fish and Wildlife Service (see Addresses section). Although all comments are welcome, the Service has particular interest in receiving comments on the following:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to these species;

2. The location of and the reasons why any habitat occupied by these species should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act;

3. Additional information concerning the range and distribution of these species;

4. Current or planned activities which may adversely affect these species or their habitat; and

5. Possible impacts to Federal activities if Critical Habitat is designated.

The Service will analyze all existing data, as well as data resulting from this review, and from any future research. If our analysis indicates that any one or all of these species merit Endangered or Threatened status, the Service will propose the species for listing. Such a proposal would afford additional opportunity for interested parties to comment prior to any decision by the Service to formally list these species.

Author

This Notice of Review was prepared by Richard G. Biggings, U.S. Fish and Wildlife Service, Endangered Species Field Office, Plateau Building, Room A–5, 50 South French Broad Avenue, Asheville, North Carolina 28801 (704/258–2850).

References

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

(Pub. L. 93–205, 87 Stat. 885; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 et seq.))

Dated: October 28, 1983

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–29881 Filed 11–3–83; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 48, No. 215
Friday, November 4, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Stamp Program; Thrifty Food Plan; Guam and the Virgin Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: General notice.

SUMMARY: The Department is changing the Thrifty Food Plan (TFP) amount of food stamps which participating households receive. TFP changes for the 48 States and D.C., Alaska, and Hawaii have already been published. The TFP changes in this Notice are for Guam and the Virgin Islands.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel Woodhead, Supervisor, Issurance and Benefit Delivery Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302.

SUPPLEMENTARY INFORMATION:

Publication

The Guam and Virgin Islands State agencies must implement this action on October 1, 1983, and these offices need adequate advance notice of the new amounts to carry out all steps necessary for them to meet the implementation deadline. Based on regulations published at 47 FR 46485–46487 (October 19, 1982) annual statutory adjustments to the TFP are issued by General Notices published in the **Federal Register** and not through rulemaking proceedings.

Classification

This action has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512–1. It will not result in a major increase in costs or prices, nor will it affect competition, productivity, employment, investment, or innovation. Therefore, this action has been classified as not major.

Regulatory Flexibility Act

Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will increase the amount of money spent on food through food stamps in Guam and the Virgin Islands. However, this money will be distributed among all food vendors in these places, so the effect on any one vendor will not be significant.

Paperwork Reduction Act

This action does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Background

The TFP is a plan for the consumption of foods of different types (food groups) that families might use to provide nutritious meals and snacks for family members. The plan suggests amounts of food for men, women, and children of different ages, and it meets all dietary standards. As the cost of food rises, the cost of the TFP also increases.

The TFP constitutes the basis for uniform allotments for food stamp households. The TFP allotment amount is the maximum benefit level payable to a household of a particular size. The maximum benefit is paid to households which have no net income. For households which have some income, the allotment is determined by reducing the TFP amount for the household's size by 30 percent of the household's net income. As prescribed by the statute, the TFP allotment amounts for each household size are based on the TFP for a particular four-person household. There are separate TFP amounts for the 48 States and D.C., Alaska, Hawaii, Guam, and the Virgin Islands. By law, the TFP allotment amounts for Guam and the Virgin Islands cannot exceed those in the 50 States.

The TFP amounts are adjusted periodically to reflect changes in price levels. Section 3(o) of the Food Stamp Act of 1977, as amended, provides that the next adjustment will take place October 1, 1983, based upon June 1983 TFP costs for a family of four persons consisting of a man and woman ages 20–54 and children 6–8 and 9–11. To obtain allotment amounts for each household size, this number is divided by four, reduced by one percent, multiplied by the appropriate household size and economy of scale factor, and the final result is rounded down to the nearest lower dollar.

The Department published adjusted TFP amounts for the 48 States and D.C., Alaska, and Hawaii at 48 FR 45442, October 5, 1983. TFPs developed in 1975 or prior to 1975 were used for all areas. June 1983 TFP costs for Guam and the Virgin Islands were delayed so the appropriate adjustments could not be made until now. June 1983 TFP costs for a four-person household were $376.10 in Guam and $328.10 in the Virgin Islands. After appropriate calculations were made, final amounts for Guam and the Virgin Islands were $372 and $324 respectively. These amounts were compared to results in the 50 States and D.C. to insure that they did not exceed allotment amounts there.

The following table shows the new allotments for Guam and the Virgin Islands. Allotments are increased for all household sizes.

THRIFTY FOOD PLAN AMOUNTS—JUNE 1983, AS ADJUSTED

Household size	Guam [1]	Virgin Islands [1]
1	$111	$97
2	204	178
3	293	255
4	372	324
5	442	385
6	530	462
7	586	511
8	670	584
Each additional member	+83	+73

[1] Adjusted to reflect the cost of food in June, adjustments for each household size, economies of scale, 1 percent reduction, and rounding.

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalogue of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: October 31, 1983.

Robert E. Leard,

Administrator.

[FR Doc. 83–29999 Filed 11–3–83; 8:45 am]

BILLING CODE 3410–30–M

CIVIL AERONAUTICS BOARD

Uniform System of Accounts and Reports for Certificated Air Carriers; Passenger Origin-Destination Survey

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Collection of Information under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35).

SUMMARY: The Civil Aeronautics Board is requesting the Office of Management and Budget's approval of extension of CAB Form 2787, "Passenger Origin-Destination Survey Report," (O & D) filed pursuant to section 19–7 of Part 241 of the Board's Economic Regulations. Extension is requested for one year through January 1, 1985.

DATE: October 27, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. (202) 673–6042.

SUPPLEMENTARY INFORMATION:

Agency Clearance Officer from Whom a Copy of the Collection of Information and Supporting Documents is Available: Robin A. Caldwell (202) 673–5922
How Often the Collection of Information Must Be Filed: Quarterly
Who is Asked or Required to Report: U.S. Certificated Air Carriers
Estimate of Number of Annual Responses: 180
Estimate of Number of Annual Hours Needed to Complete the Collection of Information: 70,200

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–30086 Filed 11–3–83; 8:45 am]

BILLING CODE 6325–01–M

[Order 83–11–8]

Application; Aeroleon, S.A.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice.

SUMMARY: The Board proposes to dismiss as moot the applications of Aeroleon, S.A., Docket 35803 and 38823. The application in Docket 35803 requests a foreign air carrier permit to conduct non-scheduled cargo flights between points in Mexico and specified points in the United States. In Docket 38923, the applicant seeks unlimited all-cargo exemption authority.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that these applications are moot and should be dismissed, as described in the order cited above, shall, no later than November 25, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Mexico in Washington, D.C. A statement of objections must cite the docket numbers and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will make final the Board's tentative findings and conclusions and dismiss the applications of Aeroleon, S.A. in Docket 35803 and 38823.

ADDRESSES:

Dockets 35803 and 38823, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428
Robert E. Cohn, Esquire, Butler, Binion, Rice, Cook & Knapp, 818 Connecticut Avenue, N.W., Washington, D.C. 20006

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 101, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Nancy Pitzer Trowbridge, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board—202–673–5134.

By the Civil Aeronautics Board: November 1, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–30024 Filed 11–3–83; 8:45 am]

BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended October 28, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
Oct. 24, 1983	41773	Arrow Air, Inc., c/o Lawrence D. Washo, Seamon, Washo & Ozment, 1211 Connecticut Ave., N.W., Suite 300, Washington, D.C. 20036. Conforming Application of Arrow Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations for a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property and mail as follows: A. Between the coterminal points Miami, Florida and San Juan, Puerto Rico, on the one hand, and the coterminal points Rio de Janeiro and Sao Paulo, Brazil, on the other hand, nonstop and via the intermediate point Caracas Venezuela, and other intermediate points in the Caribbean and South America; B. Between the coterminal points Miami, Florida and San Juan, Puerto Rico, on the one hand, and the coterminal points Rio de Janeiro and Sao Paulo, Brazil, and Buenos Aeries, Argentina, on the other hand, nonstop and via the intermediate point Caracas, Venezuela, other intermediate points in the Caribbean and South America. Answers may be filed by November 7, 1983.
Oct. 24, 1983	41774	Northwest Airlines, Inc., Minneapolis/St. Paul International Airport, St. Paul, Minnesota 55111. Application of Northwest Airlines, Inc. for an amendment to Segment 3 of its certificate for Route 179 which would authorize Northwest to engage in the scheduled air transportation of persons, property and mail on an unrestricted basis between Detroit and London as follows: "3. a. Between the terminal point Minneapolis/St. Paul, MN and the terminal point, London, United Kingdom; b. Between the terminal point Boston, MA and the terminal point London, United Kingdom; c. Between the terminal point Detroit, MI and the terminal point London, United Kingdom." Conforming Applications, Motions to Modify Scope and Answers may be filed by November 23, 1983

Date filed	Docket No.	Description
Oct. 26, 1983	41776	Aerotransportes Entre Rios S.R.L. (AER), c/o Paul Reiber, 6714 Whittier Avenue, McLean, Virginia 22101. Application of Aerotransportes Entre Rios S.R.L. (AER) pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations seeks a renewal of its currently effective Permit to authorize it to engage in the non-scheduled foreign air transportation of property and mail over the routes described below: (i) Between a terminal point or points in Argentina, intermediate points in Uruguay, Paraguay, Chile, Bolivia, Peru, Ecuador, Brazil, Venezuela, Colombia, Panama, Haiti, The Bahama Islands, Cuba, Costa Rico, Nicaragua, and Guatemala, and the terminal points, Miami, Florida and New York, New York. (ii) Between a terminal point or points in Argentina, intermediate points in Uruguay, Paraguay, Chile, Bolivia, Colombia, Peru, Ecuador, Brazil, Venezuela, Panama, Costa Rico, Nicaragua, Guatemala, and Mexico, and the terminal point, Los Angeles. Answers may be filed by November 23, 1983.
Oct. 26, 1983	41777	Transporte Aereo Rioplatense S.A.C. e I., c/o Paul Reiber, 6714 Whittier Avenue, McLean, Virginia 22101. Application of Transporte Aereo Rioplatense S.A.C. e I. pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations seek a renewal of its currently effective Permit to authorize it to engage in the non-scheduled foreign air transportation of property and mail over the routes described below: (i) Between a point or points in Argentina intermediate points in Uruguay, Paraguay, Chile, Bolivia, Peru, Ecuador, Brasil, Venezuela, Colombia, Panama, the Baherna Islands; and terminal points Miami, Florida; Houston, Texas; Chicago, Illinois; and New York, New York. (ii) Between a point or points in Argentina, intermediate points in Uruguay, Paraguay, Chile, Bolivia, Colombia, Peru, Ecuador, Brasil, Venezuela, Panama, Costa Rica and Mexico, and the terminal point, Los Angeles, California. Answers may be filed by November 23, 1983.
Oct. 28, 1983	41783	Air Jamaica Limited, c/o Albert F. Griserd, Galland, Kharasch, Calkins & Morse, P.C., 1054 Thirty-first St., N.W., Washington, D.C. 20007 Application of Air Jamaica Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests the renewal and amendment of its existing permit to authorize it to operate the scheduled service it is now operating under the permit issued it by Order 80-11-60. In addition and as a result of the designation by the Government of Jamaica in a diplomatic note to the U.S. Department, reproduced in Exhibit JM-8, of Atlanta, Georgia as a U.S. coterminal in lieu of Boston, Massachusetts, Air Jamaica will inaugurate nonstop service between Atlanta and Jamaica and with the schedule frequency shown in Exhibit JM-10 in December 1983. Answers may be filed by November 25, 1983.
Oct. 28, 1983	41681	Baker Aviation, Inc., P.O. Box 116, Kotzebue, Alaska 99752. Corrected Application of Baker Aviation, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations. Answers may be filed by November 25, 1983.
Oct. 27, 1983	28034	Kuwait Airways Corporation, c/o G. Joseph Minetti, Dickstein, Shapiro & Morin, 2101 L Street, N.W., Washington, D.C. 20037 Amendment to the Application of Kuwait Airways Corporation pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations seeks authorization to engage in foreign air transportation of passengers, property and mail between Kuwait and New York, New York via London, England, by substituting Frankfurt, Germany for London, England as the intermediate point on one of the four round-trip frequencies per week. Answers may be filed by November 25, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-30019 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41639]

Frontier Horizon, Inc., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter will be held on November 9, 1983 at 10:00 a.m. local time in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

The conference will consider any requests for additional evidence which Board Order 83-10-90 required to be submitted no later than November 4, 1983. Parties shall also submit by November 4, 1983, proposed stipulations, statements of position and proposed dates for further procedures in this case. One copy of the foregoing shall be furnished to each party and four copies to the Judge.

Dated at Washington, D.C., October 28, 1983.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 83-30023 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41781]

Rainbow Air, Inc., Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated: Washington, D.C., November 1, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-30020 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-10-112; Docket 41781]

Rainbow Air, Inc.; Fitness Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting the *Rainbow Air, Inc. Fitness Investigation:* Order 83-10-112, Docket 41781.

SUMMARY: The Board is instituting the *Rainbow Air, Inc. Fitness Investigation* (1) to determine whether the applicant is a citizen of the United States, within the meaning of section 101(16) of the Federal Aviation Act; (2) to determine the fitness of the applicant to operate interstate, overseas and foreign charter air transportation of persons, property, and mail and to comply with the Act and our rules, regulations and requirements; and (3) to approve, exempt, or disclaim jurisdiction over any interlocking relationships which may exist under sections 408 and 409 of the Act. The complete text of Order 83-10-112 is available as noted below.

DATES: Requests for additional evidence and petitions for leave to intervene shall be filed by November 10, 1983.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41781.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-5203.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-10-112 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-10-112 to that address.

By the Civil Aeronautics Board: October 28, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-30021 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket #0613]

Regent Air Corp., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to commence on November 7, 1983, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., October 31, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-30922 Filed 11-3-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-051]

Bicycle Tires and Tubes From Korea; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On September 29, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on bicycle tires and tubes from Korea manufactured by Korea Inoue Kasei Co., Ltd. (KIK). The review covers the period January 1, 1981 through December 31, 1981.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: John McKean or Brian Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 44601) the preliminary results of its administrative review of the countervailing duty order on bicycle tires and tubes from Korea (44 FR 25701, January 12, 1979). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of pneumatic bicycle tires and tubes, of rubber or plastic, whether such tires and tubes are sold together as units or separately, manufactured by KIK. Such merchandise is currently classifiable under items 772.4800 and 772.5700 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1981 through December 31, 1981 and seven programs: (1) The foreign capital inducement law ("FCIL"), (2) short-term preferential financing, (3) tax exemptions for land acquisition, (4) tax exemptions for imported capital equipment, (5) accelerated depreciation, (6) reserve funds for export market development, and (7) reserve funds for export losses.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine the aggregate net subsidy to be 1.06 percent for the period January 1, 1981 through December 31, 1981.

The Department will instruct the Customs Service to assess countervailing duties of 1.06 percent of the f.o.b. invoice price on any shipments exported on or after January 1, 1981 and entered, or withdrawn from warehouse, for consumption on or before August 9, 1981.

Because the International Trade Commission (the ITC) determined that no industry in the United States would be injured by importations of this merchandise if this countervailing duty order were revoked (48 FR 24795), the Department revoked this order effective August 10, 1981, the date the ITC notified the Department that the Government of Korea had requested an injury determination. The Department will instruct the Customs Service to liquidate with no countervailing duties due all shipments entered, or withdrawn from warehouse, for consumption on or after August 10, 1981.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (919 U.S.C 1675(a)(1)) and § 355.41 of the Commerce Regulations (919 CFR 355.41).

Dated: October 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-29987 Filed 11-3-83; 8:45 am]

BILLING CODE 3510-DS-M

[C-401-056]

Viscose Rayon Staple Fiber From Sweden; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On September 8, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden. The review covers the period October 1, 1981 through September 30, 1982.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: December 5, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 1983, the Department of Commerce (the Department) published in the **Federal Register** (48 FR 40539) the preliminary results of its administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden (44 FR 60486, January 17, 1979). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of Swedish regular viscose rayon staple fiber and high-wet modulus (modal) viscose rayon staple fiber. Such merchandise is currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated. The review covers the period October 1, 1981 through September 30, 1982 and two programs:

(1) Capital loans/grants and (2) elderly employment compensation.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine the aggregate net subsidy to be 10.48 percent for the period October 1, 1981 through September 30, 1982.

On October 30, 1980, the International Trade Commission (the ITC) notified the Department that the Swedish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. On March 15, 1983, the ITC notified the Department of its determination that an industry in the United States would be materially injured or threatened with material injury if the order were revoked. The Department announced in the final results of its last administrative review of this order that it would instruct the Customs Service to assess countervailing duties, in the amount of the estimated duties required to be deposited, on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 30, 1980 and on or before March 15, 1983.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 10.48 percent of the entered value, as provided for by section 751(a)(1) of the Tariff Act, on any shipment of Swedish modal or regular viscose rayon staple fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department now intends to conduct the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-29956 Filed 11-3-83; 8:45 am]

BILLING CODE 3510-DS-M

State University of New York at Buffalo; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83-240. Applicant: State University of New York at Buffalo, Buffalo, N.Y. 14214. Instrument: LHS-10 SIMS/00 Secondary Ion Mass Spectrometer/Ultra High Vacuum Surface Analysis Chamber. Manufacturer: Leybold Heraeus GMBH. & Co., West Germany. Intended use of instrument: See notice on page 31684 in the Federal Register of July 11, 1983.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides, *inter alia*, an ultra-high vacuum (5×10^{-11} torr); an ion gun with a stable beam current in the 10^{-9} amphere range; and an analysis chamber bakeable to 400° C. The National Bureau of Standards advises in its memorandum dated October 4, 1983 that: (1) The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument of apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-29955 Filed 11-3-83; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammal Permits; Sea World, Inc.; Issuance

On March 17, 1983, Notice was published in the Federal Register (48 FR 11310) that an application had been filed with the National Marine Fisheries Service by Sea World, Inc., 1720 South Shores Road, San Diego, California 92109 for a Public Display/Scientific Research permit under the Marine Mammal Protection Act of 1972 to take killer whales. Sea World requested to take a total of up to 100 killer whales over a 5-year period in order to study the biology, reproduction, and population dynamics of this species. Up to 10 animals were requested to be permanently maintained for public display and captive breeding, and up to 90 were requested to be captured, some maintained up to three weeks, studied, sampled, marked and/or tagged and released. Up to 10 of these animals were requested to be radio tagged and tracked. Also, Sea World requested to recapture and reexamine some animals. These activities were requested to be conducted in the waters off Alaska and California.

The public comment period orginally closed April 16, 1983, and was subsequently extended until August 26, 1983 (48 FR 16934, 22976, and 32376). A public hearing was held on August 16, and 17 in Seattle, Washington, and the hearing record remained open until August 26, 1983. All comments and documents postmarked by that date were evaluated and considered in the final decision.

Notice is hereby that on November 1, 1983, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit to Sea World, Inc., subject to certain conditions set forth therein. The Permit establishes restrictions on the number and locations of animals which may be removed from the wild each year, and requires a preliminary survey of each area prior to the collection of animals. The Permit does not authorize any extended temporary removal, capture activities in California waters, or liver

biopsy, stomach lavage, tooth extractions, hearing tests or respiratory studies at this time, but these activities may be authorized in the future based on additional information which may be submitted by Sea World. The Permit requires suspension of activities in the event of any mortality, and provides for annual review and required reauthorizations in order for the Permit Holder to continue activities each subsequent year.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802;
Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and
Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and
Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115

The complete record, including the application, all supplemental information and the hearing record, is available for review in the Office of Protected Species and Habitat Conservation. For further information, contact the Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235 (telephone 202–634–7529).

Dated: November 1, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–29977 Filed 11–3–83; 8:45 am]

BILLING CODE 3510-22-M

Caribbean Fishery Management Council and its Administrative Subcommittee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), has established an Administrative Subcommittee. The Council and its Administrative Subcommittee will hold separate meetings. The Council will hold its 48th regular public meeting to consider status reports on fishery management plans (FMPs) under development (Draft FMP on Coastal Migratory Pelagic Resources; draft FMP for the Fishery Resources of the Puerto Rican and St. Croix Geological Platforms), and to discuss other Council matters. The Administrative Subcommittee will meet to discuss regular administrative operations.

DATES: The Council's public meeting will convene on Tuesday, December 6, 1983, at approximately 2:00 p.m., adjourning at approximately 5:00 p.m., reconvening on Wednesday, December 7 at approximately 9:00 a.m., and will adjourn at approximately noon. The Council's Administrative Subcommittee will convene on Tuesday, December 6, at approximately 10:30 a.m., and will adjourn at approximately noon. All meetings will take place at the Conference Room of the SeaFarer's Hotel, Culebra, Puerto Rico.

FOR FURTHER INFORMATION: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753–4926.

Dated: November 1, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–29979 Filed 11–3–83; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), will meet to conduct preliminary discussions on the Data Collection Fishery Management Plan (FMP); review activities relating to the Coastal Migratory Pelagics (Mackerels) FMP; discuss status of the Bluefish and Swordfish FMPs, as well as to discuss other fishery management business.

DATES: November 28–December 1, 1983—9 a.m. to noon.

ADDRESS: The public meeings will take place at the Holiday Inn, Salter Path Road (Morehead City), Atlantic Beach, North Carolina.

FOR FURTHER INFORMATION CONTACT: David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, One Southpark Circle, Charleston, South Carolina 29407, Telephone: 803–571–4366.

Dated: November 1, 1983

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–29978 Filed 11–3–83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Officals of the Government of Mexico Authorized to Issue Export Visas and Exempt Certifications for Certain Cotton, Wool, and Man-Made Fiber Textile Products

November 1, 1983.

ACTION: Announcing two new officials of the Government of Mexico who are authorized to issue export visas and exempt certifications for certain cotton, wool, and man-made fiber textile products, produced or manufactured in Mexico, replacing two others who will no longer issue these documents.

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, between the Governments of the United States and Mexico, the Government of Mexico has notified the United States Government that Julia Medina Medina and Tomas Rodriquez Weber have been authorized to issue export visas and exempt certifications for certain cotton, wool, and man-made fiber textile products produced or manufactured in Mexico and exported to the United States, replacing Rafael Ney Lizardy and Yolanda Perez Nunez.

EFFECTIVE DATE: November 15, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212).

SUPPLEMENTARY INFORMATION: On May 20, 1981, a letter dated May 15, 1981 to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the **Federal Register** (46 FR 27516) which established a new export visa requirement and exempt certification for certain cotton, wool,

and man-made fiber textile products, produced or manufactured in Mexico and exported to the United States. One of the requirements is that the visas and exempt certifications must be signed by an official authorized by the Government of Mexico. The Government of Mexico has designated two new officials to issue these documents. A complete list of Mexican Officials who are currently authorized to issue visas and exempt certifications follows this notice.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Officials of the Government of Mexico Authorized to Issue Export Visas and Exempt Certifications for Textile and Apparel Products Exported to the United States

Leopoldo Diaz Aldecoa
C. P. Ma. Guadalupe Perez Alvarado
Javier Inzunza Angulo
Ruben Ramirez Banda
Roberto Vargas Brito
Joaquin Lozano Chavez
Jorge Luis Robles Contreras
Serafin Martinez Cruz
Antonio Gonzalez Cue
Ernesto B. Ascencio Esparza
Carlos McGregor Garate
Angel Francisco Marroquin Garza
Bolivar Hernandez Garza
Argimiro Reyes Genis
Jorge Montiel Hernandez
Jose Serralta Hernandez
Margarita Aparicio Hernandez
Miguel Angel Hernandez
Gerardo Solis Laredo
Alberto Diaz Lopez
Pedro Lechuga Lopez
Radames Calva Lopez
Rogelio Lopez Lucio
Antonio Garcia Martinez
Jose Luis Ferretis Martinez
Julia Medina Medina
Alfredo Ortega Mena
Hector M. Pastrana Mendivil
Gerardo Pesqueira Mendoza
Alma Rosa Curiel Montiel
C. P. Delfino Gonzalez Munoz
Fernando Aurelio Avila Nava
Reyna Ramirez Nieves
Manuel Pereyra Novelo
Gabriel Oseguera Olvera
Carlos Fco. Ostos O.
Guillermo Teutli Otero
Hugo Humberto Villarreal Pena
Jose Carmelo Gutierrez Ramos
Octavio Ascencio Reynoso
Carlos E. Martinez Rivera
Floriberto Patino Rivera
Miguel A. Rivera V.
Hedilberto Cobos Rodriguez
Ruben Morales Ruiz
Arnulfo Pulgarin Soto
Adan Ravelero Vazquez
Tomas Rodriquez Weber
C. Miguel Angel Rueda Young

[FR Doc. 83-29986 Filed 11-3-83; 8:45 am]
BILLING CODE 3510-25-M

Increasing the Import Limit for Certain Wool Apparel Products From the Socialist Republic of Romania

November 1, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 8, 1983. For further information contact Diana Bass, International Trade Specialist (202-377-4212).

Background

A CITA directive establishing import limits for certain specified categories of wool and man-made fiber textile products, including Category 435/444, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1983 was published in the **Federal Register** on February 28, 1983 (48 FR 8325). The two governments have agreed to amend the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended and extended, to establish a specific limit for Category 435/444 at 7,250 dozen. The following letter to the Commissioner of Customs establishes the new limit and applies flexibility in the form of swing in the amount of 363 dozen and carryforward of 435 dozen, adjusting the specific limit from 7,250 dozen to 8,048 dozen for 1983. The amount of carryforward used this year will be deducted from the limit established for this category in the 1984 agreement year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

November 1, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of February 22, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specified categories of wool and man-made fiber textile products, produced or manufactured in the Socialist Republic of Romania and exported during the twelve-month period which began on January 1, 1983.

Effective on November 8, 1983, the directive of February 22, 1983 is hereby further amended to increase the previously established level of restraint for Category 435/444 to 8,048 dozen.[1]

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-29985 Filed 11-3-83; 8:45 am]
BILLING CODE 3510-25-M

Increasing the Import Limit for Certain Man-Made Fiber Apparel Products From the Socialist Republic of Romania

November 1, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 8, 1983. For further information contact Diana Bass (202/377-4212).

Background

A CITA directive establishing import limits for certain specified categories of wool and man-made fiber textile products, including Category 635, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1983, was published in the **Federal Register** on February 28, 1983 (48 FR 8325). The two governments have agreed to amend the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended and extended, to establish a specific limit for Category 635 at 43,000 dozen. The following letter to the Commissioner of Customs establishes the new limit and applies flexibility in the form of swing and carryforward, provided under the terms of the bilateral agreement, adjusting the specific limit from 43,000 dozen to 48,590 dozen during 1983. The amount of carryforward used this year will be deducted from the limit established for this category in the 1984 agreement year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as

[1] The level of restraint has not been adjusted to reflect any imports exported after December 31, 1982.

amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

November 1, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of February 22, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain specified categories of wool and man-made fiber textile products, produced or manufactured in the Socialist Republic of Romania and exported during the twelve-month period which began on January 1, 1983.

Effective on November 8, 1983, the directive of February 22, 1983 is hereby further amended to increase the previously established level of restraint for Category 635 to 48,590 dozen.[1]

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-30010 Filed 11-3-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: Friday, 16 December 1983, the Pentagon, Washington, DC.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the United States Code and therefore will be closed to the public. Subject matter will be used in a special study on SIGINT Support to Naval Operations.

[1] The level of restraint has not been adjusted to reflect any imports exported after December 31, 1982.

Dated: November 1, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-29985 Filed 11-3-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Long Endurance Aircraft; Advisory Committee Meeting

The Defense Science Board Task Force on Long Endurance Aircraft will meet in closed session on 9 February 1984 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meetings on 9 February 1984 the Task Force will consider the mission potential for long endurance aircraft.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: October 31, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-29986 Filed 11-3-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Defense Data Network; Advisory Committee Meeting

The Defense Science Board Task Force on Defense Data Network will meet in closed session on 17–18 January 1984 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meetings on 17–18 January 1984 the Task Force will review the progress in implementing the Defense Data Network Program.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: October 31, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-29987 Filed 11-3-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Application Notice for the Secretary's Discretionary Program—Planning Grants To Develop Teacher Incentive Structures

AGENCY: Department of Education.

ACTION: Application notice for the transmittal of applications for fiscal year 1984.

SUMMARY: The Secretary of Education (the Secretary), under the Secretary's Discretionary Program for Fiscal Year 1984, announces a grant competition and invites applications for new grants for planning projects to develop teacher incentive structures to improve the quality of elementary and secondary education by influencing teacher recruitment and teacher personnel systems, and by making the teaching profession more attractive to a wider range of talented individuals. The Secretary is especially interested in projects that develop master teacher structures.

Authority for this program is contained in section 583 of the Education Consolidation and Improvement Act of 1981 (ECIA) (20 U.S.C. 3851).

Closing Date for the Transmittal of Applications

An application for a grant must be mailed or hand-delivered by December 22, 1983.

Program Information

ECIA (20 U.S.C. 3851) was enacted as Title V of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). The ECIA has two principal purposes: Chapter 1 provides financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, and Chapter 2 consolidates 28 elementary and secondary level education grant programs funded in Fiscal Year 1981 into a single authorization of grants to States for the same purposes set forth in the programs consolidated.

Section 583(a) of Chapter 2 authorizes the Secretary to carry out directly, or through grants or contracts, programs and projects that: (1) Provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children and others served by the ECIA, and for assessing the needs of such individuals; (2) carry out research and demonstrations related to the purposes of the ECIA; (3) are designed to improve the training of teachers and other instructional personnel needed to carry out the purposes of the ECIA; or (4) are designed to assist State and local educational agencies in the implementation of programs under the ECIA.

Eligible Applicants

State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions may apply for a grant. An applicant may apply singly or jointly with another eligible applicant, as provided in 34 CFR 75.127 through 75.129.

Applicable Regulations

Regulations applicable to this program include the following:

(a) Any final annual priority, required activities, or statement of geographical distribution adopted by the Secretary. A notice of proposed annual funding priorities, proposed required activities, and proposed geographical distribution for the Secretary's Discretionary program—Planning Grants to Develop Teacher Incentive Structures— is published in this issue of the **Federal Register**. Applicants should prepare their applications based on the proposed priorities and proposed required activities. If there are any substantive changes made in these proposed provisions when published in final form, applicants will be given the opportunity to amend or resubmit their applications; and

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Selection Criteria and Procedures

(a) In evaluating applications, the Secretary uses the selection criteria set forth in 34 CFR 75.210. The maximum possible point score for all the criteria is 100 points. the minimum value assigned by 34 CFR 75.210 for each criterion is as follows:

(1) Meeting the purposes of the authorizing statute. (30 Points)

(2) Extent of need for the project. (20 Points)

(3) Plan of operation. (15 Points)

(4) Quality of key personnel. (7 Points)

(5) Budget and cost effectiveness. (5 Points)

(6) Evaluation plan. (5 Points)

(7) Adequacy of resources. (3 Points)

Furthermore, 34 CFR 75.210(c) authorizes the Secretary to distribute an additional 15 points among the criteria listed above. The Secretary distributes these additional points as follows:

(3) Plan of operation. 7 additional points will be added for a possible total of 22 points.

(4) Quality of key personnel. 8 additional points will be added for a possible total of 15 points.

(b) The Secretary uses the procedures set forth in 34 CFR 75.215 through 75.222 to select applications for funding.

Private School Children Participation

To receive a grant under the competition described in this notice, a local educational agency must comply with the provisions of section 586 of the ECIA, governing equitable participation of private school children in the purposes and benefits of chapter 2. Applicants are referred to the regulations implementing Chapter 2 of the ECIA published in the **Federal Register** on November 19, 1982 (47 FR 52368) as a guide to the extent and nature of the required consultation with private school officials and the required provision of benefits to private school children.

Length of Awards

Applicants may apply for funding for a project from 6 to 12 months in duration.

Available Funds

It is estimated that up to 50 awards will be made for $10,000 to $20,000 each. This estimate assumes that applications of satisfactory quality will be received. This estimate does not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations. Applicants should be aware that the availability of funds for this competition is being contested in litigation in the United States District Court for the Northern District of Illinois, Eastern Division (United States of America v. Board of Education of the City of Chicago, Docket No. 80 C 5124). Any obligations of these funds are currently enjoined by the court.

Application Information

Applications are required to be prepared and submitted in accordance with 34 CFR Part 75. Application forms may be obtained by writing to: Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 4161, Washington, D.C. 20202.

The Secretary requires an applicant to submit an original and two copies of its application to the above address, and the Secretary strongly urges that the narrative portion of the application not exceed *10* pages in length.

Instructions for Transmittal of Applications

Applications Delivered By Mail

An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84:122A, Washington, D.C. 20202. Applications will be accepted only if they are mailed on or before December 22, 1983.

An applicant must show one of the following as proof of mailing:

(a) A legibly dated U.S. Postal Service Postmark.

(b) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(c) A dated shipping label, invoice, or receipt from a commercial carrier.

(d) Any proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept the following as proof of mailing: (1) A private metered postmark; (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each applicant whose grant application does not meet the closing date in this notice will be notified that the application will not be considered and that the application will be returned.

Applications Delivered By Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Regional Office Building 3, Room 5673, 7th and D Street, S.W., Washington, D.C. 20202.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m., Washington, D.C. Time, daily except Saturdays, Sundays, and Federal

holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on December 22, 1983.

For Further Information Contact: Dr. Thomas E. Enderlein, Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 4161, Washington, D.C. 20202. Telephone: (202) 245-7914.

(Catalog of Federal Domestic Assistance 84.122, Secretary's Discretionary Program)

Dated: November 1, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-29880 Filed 11-3-83; 8:45 am]

BILLING CODE 4000-01-M

Secretary's Discretionary Program; Planning Grants to Develop Teacher Incentive Structures

AGENCY: Department of Education.

ACTION: Notice of proposed annual funding priorities, required activities, and geographical distribution for fiscal year 1984

SUMMARY: The Secretary proposes annual funding priorities for planning grants to be funded under the Secretary's Discretionary Program. To ensure that an unmet need within the scope of the Discretionary Program is addressed, the Secretary proposes to reserve funds for the development of teacher incentive structures designed to improve the quality of elementary and secondary education. The Secretary further proposes to give a competitive preference for the development of master teacher structures. The Secretary also proposes to require certain activities as a condition of funding under the above proposed priorities and to make geographical distribution a factor to be considered in the selection of applications to be funded under the proposed priorities.

The Secretary will announce other funding priorities for the Secretary's Discretionary Program in separate notices.

DATE: Comments must be received on or before December 5, 1983.

ADDRESSES: Comments should be addressed to the Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue SW., Room 4161, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr Thomas E. Enderlein, Office of the Secretary. Telephone: (202) 245-7914.

SUPPLEMENTARY INFORMATION:

Program Information

The Education Consolidation and Improvement Act of 1981 (ECIA) (20 U.S.C. 3851) was enacted as Title V of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). The ECIA has two principal purposes: Chapter 1 provides financial assistance to State and local educational agencies to meet the special needs of educationally deprived children, and Chapter 2 consolidates 28 elementary and secondary level education grant programs funded in Fiscal Year 1981 into a single authorization of grants to States for the same purposes set forth in the programs consolidated.

Section 583(a) of Chapter 2 authorizes the Secretary to carry out directly, or through grants or contracts, programs and projects that: (1) Provide a national source for gathering and disseminating information on the effectiveness of programs designed to meet the special educational needs of educationally deprived children and others served by ECIA, and for assessing the needs of such individuals; (2) carry out research and demonstrations related to the purposes of the ECIA: (3) are designed ot improve the training of teachers and other instructional personnel needed to carry out the purposes of the ECIA; or (4) are designed to assist State and local educational agencies in the implementation of programs under the ECIA.

The Secretary has determined that certain unmet national needs exist within the scope of the Discretionary Program. More specifically, the National Commission on Excellence in Education has identified improving the quality of elementary and secondary level teaching through incentives as an urgent national educational need. The Report of the Commisssion recommended that salaries for the teaching profession be prefessionally competitive, market-sensitive, and performance based. The Report further recommended that school officials and teachers cooperate to develop career ladders for teachers which distinguish among the beginning instructor, the experienced teacher, and the master teacher.

Funding Priorities and Required Activities

Absolute Funding Priority

To address the need to improve the quality of elementary and secondary teaching and to stimulate interest in this area, the Secretary proposes to reserve funds under the Discretionary Program for the development of teacher incentive structures designed to improve the quality of elementary and secondary education.

The Secretary proposes to fund planning grants. These planning grants would be intended to assist in the development of plans for teacher incentive structures to improve the quality of elementary and secondary level teaching by influencing teacher recruitment and teacher personnel systems, and by making the teaching profession more attractive to a wider range of talented individuals.

Activities

The Secretary proposes to require certain activities as a condition of funding under this priority. The teacher incentive structure to be planned would have to combine well-specified teacher performance standards and a teacher evaluation system, which may include peer judgment arrangements, with one or more of the following elements:

—Pay differentials based on a merit pay system, that is, one in which limited numbers of teachers could qualify for the highest payment.

—A career ladder structure that clearly specifies successive levels or teaching positions, for example, a master teacher structure as described below in detail.

—Nonsalary forms of recognition for superior teaching or contribution to the improvement of the overall instructional program.

The Secretary proposes to require the incentive structure to be developed by or in conjunction with a local school district and to be suitable for implementation by States or by local school districts. The incentive structure being planned would also have to include staff development and in-service training and would have to provide for collecting and reporting results and making information available to other school districts.

Planning of the incentive structures would have to be conducted with the participation of appropriate interested local groups. The Secretary proposes to encourage activities aimed at achieving wide support for the final plan from high-level school officials and commitment from the various interested local groups, including support from the private sector. In other words, the grants would be intended to assist in the development of incentive structure plans to be implemented in a particular local school district or districts.

The Secretary proposes to require the plan which would be developed to be submitted to the U.S. Department of Education for dissemination upon request. Funding for projects under these grants would be limited to the cost of developing a workable plan.

Competitive Funding Priority

The Secretary proposes to give a competitive preference to an application proposing a master teacher structure. A master teacher structure would be analogous to the system of academic rank in higher education. Under a master teacher structure, an outstanding teacher would be able to progress along a career ladder that has clearly specified levels or teaching positions, ending in a master teacher position. Each successive level or position would be distinguished by increasing teacher responsibilities and opportunities while the teacher would be maintaining superior classroom performance. Analogous to the system used in higher education, progress from one level to the next would be based on an evaluation system that includes peer review, teacher participation, and objective criteria.

The Secretary also proposes to encourage collaboration with institutions of higher education in the planning and development of master teacher structures. An appropriate university for such collaboration would be one, for example, that pays its faculty on a merit basis and that uses peer review, faculty participation, and objective criteria in evaluating faculty members. The purpose of the collaboration would be to enable the applicant/planner to learn from the university's experience in this area as well as to promote interest, on the part of the university, in the need for teacher incentive structures at the elementary and secondary level.

If the proposed competative funding priority related to the development of master teacher structures is finalized, the Secretary may award up to 10 points, in addition to those awarded under the applicable selection criteria, for those applictions that propose a promising master teacher structure as described above. (See 34 CFR 75.105.)

Geographical Distribution

The Secretary proposes to make geographical distribution a factor to be considered in the final selection of applications for funding under the above proposed priorities. After evaluating the applications according to the criteria contained in the application notice, the Secretary would determine whether or not the most highly rated applications were broadly and equitably distributed throughout the Nation. The Secretary would be able to select other applications for funding if doing so would improve the geographical distribution of projects funded under the above proposed priorities.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed absolute and competitive priorities, the proposed required activities, and the proposed geographical distribution. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 4161, 400 Maryland Avenue, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance 84.122, Secretary's Discretionary Program)

Dated: November 1, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-29980 Filed 11-3-83; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Extension of Comment Period on Cost-Effectiveness Requirement in Billing Credits Policy

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of comment period extension. BPA File No. BCE-1.

SUMMARY: BPA is extending the period in which comments will be accepted on the issue of the cost-effectiveness determination for billing credit resources. A public meeting will be held during the extended comment period to discuss technical aspects of the issue.

Responsible Official: Ms. Eleanor Y. Adelman, Billing Credits Coordinator.

DATES: Comments will be accepted through January 27, 1984. The meeting on the cost-effectiveness determination for billing credit resources will be held on November 15, 1983, 9 a.m. to 12 noon, Room 464, BPA Headquarters Building, 1002 NE. Holladay Street, Portland, Oregon.

ADDRESS: Comments should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503-230-3478. Oregon callers outside of Portland may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048.

Information may also be obtained from:

Ms. Eleanor Y. Adelman, Billing Credits Coordinator, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, 503-230-3602.

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060.

Mr. Richard D. Casad, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main St., Boise, Idaho 83707 208-334-9138.

SUPPLEMENTARY INFORMATION: BPA issued its final Billing Credits Policy on September 23, 1983 (48 FR 43484). The policy does not now require a cost-effectiveness determination to establish the eligibility of a resource for billing credits. On September 23, 1983, BPA also published a notice (48 FR 43512) that it was seeking public comment on whether to require a potential billing credit resource to undergo a cost-effectiveness determination. That notice stated that comments would be accepted until November 7, 1983. BPA has since determined that a public discussion of the issue and an extension of the comment period are desirable in order to obtain the fullest public response. BPA is therefore scheduling a public meeting on the ussue and extending the original comment period until January 27, 1984. Discussion material on the cost-effectiveness

determination for billing credit resources may be obtained from the office of the Public Involvement Manager.

Issued in Portland, Oregon, on October 28, 1983.

Marvin Klinger,

Acting Administrator.

[FR Doc. 83-28883 Filed 11-3-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Martin Exploration Co.; Proposed Remedial Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to Martin Exploration Company.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Martin Exploration Company, 3501 North Causeway Boulevard, Metairie, Louisiana 70002. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.73 and 212.74 for the period February 1, 1976 through May 31, 1979. The principal amount of the alleged violations for this period is $92,291.56.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 8304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas, on the 18th day of October 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-28889 Filed 11-3-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP).

Date and Time: Sunday, November 20, 1983, 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, Room 540 (Board Room), 1800 G Street, NW., Washington, DC 20550.

Contact: Dr. P. K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–221, Washington, DC 20545, Telephone: 301/353–4829.

Purpose of Panel: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda: *Sunday, November 20, 1983:*

—Discussion of Subpanel report on management issues related to advanced accelerator R&D required for future facilities and other matters related to the U.S. high energy physics program.

—Public Comment (10-minute rule).

Public Participation: The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Panel will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on November 1, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-29884 Filed 11-3-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP83-372-000 and CP83-372-001]

Arkansas Oklahoma Gas Corp.; Application

October 31, 1983.

Take notice that on June 2, 1983, Arkansas Oklahoma Gas Company (Applicant), P.O. Box 2406, Fort Smith, Arkansas 72902, filed in Docket No. CP83–372–000 an application, as amended on September 21, 1983, in Docket No. CP83–372–001, pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 and § 284.107 of the Commission's Regulations for authority to transport natural gas for Delhi Gas Pipeline Corporation (Delhi), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement to transport natural gas for Delhi. Applicant proposes to receive a maximum daily volume of 30,000 Mcf of gas at Section 9, T9N, R26E, LeFlore County, Oklahoma, and redeliver such gas to Delhi at Section 28, T9N, R24E, LeFlore County, Oklahoma. It is stated that the estimated total quantity of natural gas to be transported in an average of 7,000 Mcf per day. It is further stated that service is conditioned upon the availability of capacity sufficient to provide the service without detriment or disadvantage to Applicant's existing customers. Applicant proposes to render this service through August 31, 1985, and thereafter for 18 more years. The proposed rate to be charged for this service is Applicant's approved FERC tariff rate.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29823 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-19-000]

Colorado Interstate Gas Co.; Application

November 1, 1983.

Take notice that on October 17, 1983, Colorado Interstate Gas Company (Applicant), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP84-19-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation, on a best-efforts basis, of up to 11,000 Mcf of gas per day for Husky Oil Company (Husky), which operates a refinery near Cheyenne, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant requests certificate authority for the transportation of natural gas for Husky. It is submitted that Applicant would initially receive up to 11,000 Mcf of gas per day with an estimated average of approximately 6,000 Mcf per day from Mountain Fuel Supply Company (Mountain Fuel) for Husky's account at the existing Kanda delivery point and/or at the existing Green River, Wyoming, interconnection, both in Sweetwater County, Wyoming. Applicant states that it would redeliver these volumes to Cheyenne Light, Fuel and Power Company for Husky's account at the existing Cheyenne Station. The volumes of gas delivered to Applicant for Husky's account would have a thermal content equal to the aggregate thermal content of the volumes delivered to Applicant for Husky's account after deducting appropriate volumes of fuel and unaccounted-for gas, it is asserted. Further it is stated that Husky would be responsible for the fuel and un-accounted-for gas associated with the volumes transported under this proposal. Applicant proposes a transportation rate of 58.57 cents per Mcf at 14.65 psia.

Applicant states that no new facilities are required or proposed in effectuating the proposed transportation.

Applicant also requests blanket authorization to add or delete delivery and redelivery points and has indicated that it would submit a tariff filing prior to January 31 of each year reflecting the currently effective points. In addition, Applicant has requested pregranted abandonment of service upon termination of the transportation contract.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1983, filing with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulation under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29911 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-11-000]

Columbia Gas Transmission Corp.; Application

November 1, 1983.

Take notice that on October 11, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-11-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of UGI Corporation (UGI) for the account of PPG Industries, Inc. (PPG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to transport up to 4,500 dt equivalent of natural gas per day on a best efforts basis for one year after commencement of deliveries. It is stated that Columbia would receive the gas to be transported from Castle Gas Company, Inc. (Castle) at existing points of receipt in Indiana County, Pennsylvania and redeliver like quantities of gas (less 2.85 percent of delivered quantities for company use and unaccounted for gas) to UGI at an existing point near Carlisle, Pennsylvania, and that UGI, a distribution company, would then redeliver these quantities to PPG at its plant in Carlisle, Pennsylvania. As stated in the transportation agreement, dated August 10, 1983, Columbia proposes to charge UGI 40.11 cents per dt for the proposed one-year service.

It is alleged that the transportation service is necessary to effectuate a sales arrangement made by Castle through Industrial Energy Service Company to sell the quantities of gas to PPG. It is further alleged that these quantities previously purchased by Columbia from Castle were the subject of a release agreement, dated July 21, 1983, whereby Castle agreed to release Columbia temporarily from its contractual obligation to purchase such volumes for a period of one year. It is noted that Castle on September 30, 1983, filed in Docket No. CS83-452-000, an application for a one-year limited-term abandonment authorization with respect to its producer sale to Columbia for volumes which are still subject to the Commission's Natural Gas Act jurisdiction. Finally, in Docket No. CP84-11-000, Columbia states that it has pursuant to the August 10, 1983, transportation agreement, initiated a transportation service of 4,000 dt of gas. pursuant to § 284.202, of the

Commission's Regulations. These quantities of gas are currently being utilized at PPG's Carlisle plant for fuel oil displacement, it is said.

Columbia asserts that its proposal is in the public interest since it would aid PPG in its control of energy costs which PPG has represented are critical to its ability to continue the operation if its glass factory in Carlisle, Pennsylvania.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29912 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-100-002]

Consolidated Gas Supply Corp.; Extension Reports

November 1, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before December 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST80-100-002	Consolidated Gas Supply Corp., 445 West Main St., Clarksburg, WV 26301	Elizabethtown Gas Co	10-03-83	B	01-03-84
ST80-94-002	Cranberry Pipeline Corp., P.O. Box 3710, Charleston, WV 25337	Tennessee Gas Pipeline Co	10-04-83	C	01-03-84
ST80-108-002	United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001	United Gas Pipe Line Co	10-07-83	C	01-06-84
ST80-113-002	Valero Transmission Co., P.O. Box 500, San Antonio, TX 78292	El Paso Natural Gas Co	10-14-83	C	01-15-84
ST82-116-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Trunkline Gas Co	10-05-83	G	01-05-84
ST82-125-001 [1]	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001	Tennessee Gas Pipeline Co	10-11-83	G	01-04-84
ST82-129-001 [1]	Transcontinental Gas Pipe Line Corp., P.O. Box 1396, Houston, TX 77251	Columbus Gulf Transmission Co	10-11-83	G	01-05-84
ST82-158-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001	Delhi Gas Pipeline Corp	10-07-83	B	01-06-84
ST82-159-001	Louisiana Gas System, Inc., P.O. Box 2197, Houston, TX 77252	Entex, Inc	10-11-83	C	01-11-84
ST82-161-001	Natural Gas Pipeline Co. of America, 122 South Michigan Avenue, Chicago, IL 60603.	Liberty Natural Gas Co	10-03-83	B	01-04-84
ST82-166-001	Northern Natural Gas Co., 2223 Dodge Street, Omaha, NE 68102	Intratex Gas Co	10-05-83	B	02-01-84
ST82-193-001	Producer's Gas Co., 950 One Energy Square, Dallas, TX 75206	Southern Natural Gas Co	10-03-83	C	02-03-84
ST82-195-001	Producer's Gas Co., 950 One Energy Square, Dallas, TX 75206	Transwestern Pipeline Co	10-03-83	C	01-22-84

[1] These extension reports were filed after the date specified by the Commission's Regulations, and shall be the subject of a further Commission order.

NOTE:—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 83-29913 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-14-000]

Couch Gas Storage Co.; Application

October 31, 1983.

Take notice that on October 13, 1983, Couch Gas Storage Company (Applicant), 2211 East Jefferson, Suite 680, Detroit, Michigan 48207, filed in Docket No. CP84-14-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide gas storage service in interstate commerce for Transcontinental Gas Pipe Line Corporation (Transco) and to develop and operate certain gas storage fields and appurtenant facilities, to drill and operate certain wells, and construct and operate certain other facilities, all as more fully described in the application which is on file with the Commmission and open to public inspection.

Applicant proposes to develop and operate the Washington 28 gas storage field located in Washington Township, Macomb County, Michigan. It is stated that this field is presently under production for natural gas and that Applicant would acquire all necessary oil and gas leases, property interest, storage and mineral rights and the gas producing properties in the field and convert the field to storage. Applicant states that when developed, the field would have a maximum storage capacity of 16,000,000 Mcf. It is submitted that to provide the necessary deliverability eleven total wells would be required, six old and five new, and that in addition, Applicant would convert five plugged wells to observation wells, and construct 2.44 miles of 16-inch pipeline header, 0.5 mile of 10-inch pipeline header, 0.8 mile of 6-inch header, and a 7,500 horsepower class compressor station.

The total estimated cost of developing the Washington 28 storage facility is $32,978,500 (in 1983 dollars). This estimate includes the cost of 2,050,000 Mcf of native gas which the Washington 28 field will require as base gas to perform as designed, it is said. Costs will be financed initially through equity contributions and short-term loans. The short-term loans will be repaid with proceeds from long-term debt securities.

Applicant seeks permission to utilize the Washington 28 field to provide storage services in interstate commerce for Transco in connection with Transco's application in Docket No. CP82-503-001 and related dockets, to provide storage services for its customers through the importation of natural gas from Canada. Applicant proposes that a minimum of 10,000,000 Mcf of gas for the account of Transco be injected into storage in the Washington 28 field in summer months to be made available to Transco and its customers during the winter. Under Applicant's proposal, during 1985 and subsequent summer periods (April 1-October 31), Transco would cause Great Lakes Gas Transmission Company (Great Lakes) to transport (by displacement or otherwise) a minimum of 10,000,000 Mcf of natural gas from Emerson, Manitoba, to the Belle River Mills interconnection between Great Lakes and Michigan Consolidated Gas Company (Mich Con) in southeastern Michigan. Applicant states that Mich Con would then deliver the gas to Applicant for storage through an existing 36-inch pipeline. During the 1985-1986 and subsequent winter periods (November 1-March 31), Applicant proposes to make thermally equivalent volumes of gas available to Mich Con for redelivery to Great Lakes for the amount of Transco at the Belle River Mills interconnection. It is explained that the gas would then be transported east by Great Lakes to the international boundary at St. Clair County, Michigan, for ultimate redelivery to Transco. Applicant states that capacity is available within existing transmission lines of Great Lakes and Mich Con to transport these volumes.

Applicant states that its proposal is offered as a competitive alternative to the amended applications of ANR Storage Company (ANR Storage) in Docket No. CP82-420-001, ANR Michigan Storage Company (ANR Michigan) in Docket No. CP82-478-001, and Mich Con in Docket No. CP82-502-001, and is mutually exclusive with them. Applicant states that the storage and transportation services proposed in its application would cost Transco approximately 46.95 cents per Mcf less than the alternative storage proposals of ANR Storage, ANR Michigan and Mich Con. Applicant further states that if its application is approved it would enter into an agreement with Transco to provide such services on terms no less favorable than those contained in the gas storage agreement dated May 17, 1983, between Transco and ANR Storage. Applicant indicates that Mich Con has authorized it to state that, if the application is granted, Mich Con would agree to transport storage gas to and from the Washington 28 field as herein described. Moreover, Applicant notes that the Washington 28 field would be operated and managed by Mich Con under contract with Applicant. Finally, approval of the application would, Applicant notes, require modifications in the present gas transportation agreement between Great Lakes and Transco dated August 5, 1983.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed within the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-29824 Filed 11-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-26-000]

Mantaray Pipeline Co.; Application

October 31, 1983.

Take notice that on October 21, 1983, Mantaray Pipeline Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-26-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and

appurtenant facilities and the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant, a wholly-owned subsidiary of Panhandle Eastern Corporation (Panhandle), proposes to construct and operate a new offshore system generally extending from supply sources in the Matagorda Island Area of offshore Texas to an interconnection with Trunkline Gas Company's (Trunkline) mainline in Victoria County, Texas. Applicant proposes to construct the system in two phases. Phase I, it is stated, would consist of two separate 24-inch laterals extending from Matagorda Island Blocks 624 and 568, respectively, to a common junction on a valving platform in Matagorda Island Block 622, together with 64 miles of 24-inch and 36-inch pipeline extending from Matagorda Island Block 622 across Espiritu Santo Bay at Calhoun County, Texas, and thence onshore to an interconnection with Trunkline's mainline near the Edna compressor station in Victoria County, Texas. Phase I facilities, it is stated, would have a capacity of 762,000 Mcf of gas per day and would cost approximately $155 million.

Phase II facilities, it is asserted, would consist of 18 miles of 24-inch pipeline extending from the proposed valving platform in Matagorda Island Block 622 southward to Matagorda Island Block 710. Phase II facilities, it is estimated, would increase the capacity of the proposed system to 880,000 Mcf of gas per day at an additional cost of $31 million. Applicant states that Phase I facilities would be ready for service for the 1984–1985 winter season while Phase II facilities would be available for service by the 1987–1988 winter season.

Initially, Applicant would propose to provide transportation service for its affiliates, Trunkline Gas Company and Panhandle Eastern Pipe Line Company. However, since the proposed system would cross the mainlines of many other pipelines, Applicant also states its willingness to enter into transportation arrangements with other pipelines. Applicant has projected reserves in the general area of the proposed system of 2.27 Tcf with a maximum daily deliverability of 879,500 Mcf per day. Applicant estimates it can provide transportation service at a cost of 12.9 cents per Mcf by the fourth year of system operation.

It is indicated that Applicant's captial structure would be based on a debt to equity ratio of 67 percent debt and 33 percent equity and that the equity portion would be contributed by Panhandle. It is contemplated that the debt portion would be initially financed through short-term loans during the construction phases to be repaid with proceeds from long-term debt obligations to be issued by Applicant. It is anticipated that Applicant's parent company, Panhandle, would back the debt obligations through the construction phase of the project. Once the project is completed and operational it is Applicant's objective to fund this venture on a project funding basis. Thus, it is stated, any debt issuances floated by Applicant to meet its cash needs would be issued and guaranteed by Applicant and not the parent company.

Applicant also requests authorization for a rate of return on equity of 16 percent and on debt of 14 percent, thus resulting in an overall rate of return of 14.67 percent, it is maintained. The requested 14 percent return on debt is based upon projections of future cost of debt, it is explained. Applicant further proposes that this amount be adjusted upwards or downwards when the actual long-term financing takes place to reflect the actural interest cost incurred.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–29825 Filed 11–3–83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84–15–000]

MIGC, Inc., Proposed Changes in FERC Gas Tariff

October 31, 1983.

Take notice that MIGC, Inc. ("MIGC"), on October 27, 1983, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $3,766,191 based on the 12 month period ending June 30, 1983, as adjusted.

MIGC states that the principal reasons for the proposed rate change are increased costs of labor, operation and maintenance expenses, working capital requirements, and taxes. In addition, MIGC states that the cost and revenue study submitted with this filing in support of MIGC's new Base Tariff Rate is filed to comply with the requirements of § 154.38(d)(4)(vi)(*a*) of the Commission's regulations (18 CFR 154.38(d)(4)(vi)(*a*)).

Copies of this filing were served upon MIGC's jurisdictional customers, as well as interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–29826 Filed 11–3–83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-007-000]

National Fuel Gas Supply Corp.; Application

November 1, 1983.

Take notice that on October 6, 1983, National Fuel Gas Supply Corporation (Applicant), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-007-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant seeks certificate authorization to sell natural gas to Algonquin Gas Transmission Company, The Brooklyn Union Gas Company, Bay State Gas Company, Connecticut Light & Power Company, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New Jersey Natural Gas Company and Public Service Electric and Gas Company under the following terms and conditions: (1) 40 million equivalent Mdt of natural gas per day on a best-efforts basis commencing as soon as possible up to October 31, 1984 at the effective 100 percent load factor RQ rate; (2) from November 1, 1984 through October 31, 1992, the same volumes on a firm basis, at the effective rate contained in Applicant's RQ Rate Schedule; and (3) year to year thereafter until terminated by the parties.

It is stated that the proposed sales would be made pursuant to gas sales agreements signed between Applicant and its eight customers.

Applicant further states that its proposal is structured to compete with the proposal currently pending before the Commission in Docket No. CP81-107-000, *et al.*

The application states that Applicant would deliver the gas for the account of the purchasers to Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Texas Eastern Transmission Corporation, or Transcontinental Gas Pipe Line Corporation at the existing points of interconnection between their facilities. The application further states that the source of the gas proposed to be sold is Applicant's general system supply, and that this gas is surplus to the needs of Applicant's customers.

No new or additional facilities are proposed to be constructed.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29914 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-16-000]

Natural Gas Pipeline Company of America; Application

October 31, 1983.

Take notice that on October 14, 1983, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP84-16-000 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon approximately 89.78 miles of its Amarillo No. 1 line and an intermediate compressor station in Iowa and for a certificate of public convenience and necessity authorizing the construction and operation of 38.47 miles of 42-inch and 29.49 miles of 36-inch loop line as part of its Amarillo No. 4 line in Iowa, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states it seeks authorization to continue the ongoing program of upgrading its Amarillo Line. Applicant submits that its Amarillo system consists of 3 pipelines (Nos. 1, 2 and 3) and in places looping that has been termed the Amarillo No. 4 line and that the No. 1 line is Applicant's original pipeline and was placed in service in 1931. It is said the the No. 1 line traverses some 901 miles from Fritch, Texas, to Joliet, Illinois, and is predominantly of 24-inch pipe. Applicant states that the pipeline construction techniques used at the time of construction involved the mechanical coupling of alternate joints of pipe and that since about 1940 the use of couplings has been replaced by the welding of all pipe joints. Applicant claims that certain of the compressor stations along the Amarillo Line also have compressor units that are old and expensive to maintain and operate. Applicant plans in its long range, upgrade programs to replace the No. 1 line from Beatrice, Nebraska, to Joliet, Illinois, and certain of the compressor units along that segment of the Amarillo Line.

Applicant proposes herein to retire approximately 89.78 miles of the No. 1 line in Mills, Montgomery, Adams, Adair, Madison and Warren Counties, Iowa, and an intermediate compressor station located in Adams County, Iowa. When practical, the line and all above ground compressor facilities would be salvaged, it is asserted. Applicant proposes to install 38.47 miles of new 42-inch pipeline as part of its No. 4 line from compressor station No. 107 to the site of the to be retired compressor station No. 197 traversing parts of Mills, Montgomery and Adams Counties, Iowa. Applicant proposes also to install 28.80 miles of 36-inch pipeline extending from the end of the existing No. 4 line in Adair County, Iowa eastward to compressor station No. 108 located in Warren County, Iowa. Approximately 0.69 miles of 36-inch pipeline would also be installed upstream of compressor station No. 107 replacing part of the No.

1 line in Mills County, Iowa, it is said. Applicant states that the capacity of the Amarillo System will be unchanged by the proposal.

Applicant states that the estimated cost of retirement and installation of replacement facilities (including $971,000 in non-jurisdictional facilities) is $56,095,000, which cost would initially be financed with funds on hand, borrowings under Applicant's revolving credit arrangements or short-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene if filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-29827 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER83-728-000 and ER83-396-000]

Northern Indiana Public Service Co.; Order Accepting Rates for Filing Subject To Refund, Granting Intervention, and Consolidation Dockets

Issued: October 28, 1983.

On August 29, 1983, Northern Indiana Public Service Company (NIPSCO) tendered for filing (Docket No. ER83-728-000) revised rates to substitute for the company's Phase B rates previously filed in Docket No. ER83-396-000.[1] NIPSCO's submittal would produce test year revenues approximately $5.5 million less than the Phase B rates that would otherwise become effective, subject to refund, on October 21, 1983. NIPSCO states that its filing, which reflects the results of a State commission decision on retail rates, is designed to alleviate price squeeze concerns. NIPSCO has agreed to collect the reduced rates subject to refund pending the outcome of the proceedings in Docket No. ER83-396-000.

Background

On March 21, 1983, NIPSCO filed a two-phased rate increase in Docket No. ER83-396-000, requesting that the Phase B rates (representing a $32.8 million increase) become effective, without suspension, on May 20, 1983. Alternatively, NIPSCO proposed that its Phase A increase ($28.5 million) be made effective during any suspension of the Phase B rates.

On May 10, 1983, NIPSCO filed revised tariff sheets which reduced the proposed Phase A $28.5 million rate increase to $15.9 million. At that time, NIPSCO further proposed a five month suspension period for the originally proposed Phase B rate increase. NIPSCO stated in its transmittal letter that a proposed rate increase was pending before the Public Service Commission of Indiana (Indiana Commission), and that upon receipt of the Indiana Commission's order, the company would file revised rates to be effective as of the end of the suspension period.

By order dated May 19, 1983, the Commission, *inter alia*, suspended NIPSCO's Phase B rates for five months and made the reduced Phase A rates effective following a one day suspension. 23 FERC ¶ 61,249. On July 18, 1983, the Commission denied a request for rehearing filed by the Indiana Municipal Power Agency and the city of Rensselaer, Indiana (IMPA). 24 FERC ¶ 61,076.

[1] *See* Attachment for rate schedule designations.

According to NIPSCO, the Indiana Commission issued a final order in NIPSCO's retail electric rate case (Case No. 37023) on August 3, 1983. In accordance with its earlier representation, NIPSCO now proposes that its $32.8 million Phase B rate increase scheduled to become effective on October 21, 1983, be reduced by approximately $5.5 million to $27.3 million. NIPSCO requests any necessary waivers of applicable Commission regulations so that the current filing may become effective in lieu of the originally proposed rates for service rendered on and after October 21, 1983.

Notice of NIPSCO's submittal was published in the Federal Register with comments due on or before October 3, 1983. On October 3, 1983, Wabash Valley Power Association, Inc. (Wabash) and the Towns of Bremen, *et al.* (Bremen) [2] filed separate motions to intervene and to consolidate Docket Nos. ER83-728-000 and ER83-396-000. Both Wabash and Bremen support NIPSCO's request to substitute reduced Phase B rates, but if the Commission chooses not to consolidate these two dockets, they request a separate hearing to determine whether the reduced rates are just and reasonable.

On October 7, 1983, IMPA filed an untimely motion to intervene and protest. IMPA notes that it is already an intervenor in Docket No. ER83-396-000 and states that it had not anticipated the need to intervene in a second docket since it assumed that NIPSCO's revised rates would be treated simply as substitute rates in the original docket. While IMPA supports NIPSCO's request to collect the lower rates subject to refund, it protests the lower rate level and suggests that a price squeeze may continue to exist. IMPA also requests consolidation of the instant dockets.

On October 13, 1983, NIPSCO filed an answer. The company indicates that it does not oppose the motions to intervene and supports the requests for consolidation. NIPSCO further states that suspension of the reduced rate filing is unnecessary since the company expressly agrees to collect the rates subject to refund.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene serve to make Wabash and Bremen parties to this proceeding. Given the relationship between Docket Nos. ER83-

[2] Bremen's filing is on behalf of itself and the following Towns: Winimac, Walkerton, Argos, Brookston, Kingsford Heights, Etna Green and Chalmers, Indiana.

396-000 and ER83-728-000, the status of IMPA as an intervenor in the former docket, and the relatively short delay in filing, we find that good cause exists to allow IMPA to intervene out of time in Docket No. ER83-728-000.

Inasmuch as NIPSCO is proposing to substantially reduce its original rate request in order to ameliorate price-squeeze concerns, the affected customers support this proposal (including the requested effective date), and the company has agreed to collect the lower rates subject to refund, we find that good cause exists both to waive the 60 day notice requirement and to grant special permission, pursuant to § 35.17 of the Commission's regulations, to allow NIPSCO to file substitute rates during the original Phase B suspension period. We shall accept the reduced rates for filing to become effective on October 21, 1983, subject to refund, and shall set these rates for hearing. Given the substantial identity of factual and legal questions between this docket and Docket No. ER83-396-000, we shall consolidate the two dockets for purposes of hearing and decision.

The Commission orders: (A) The untimely motion by IMPA to intervene in Docket No. ER83-728-000 is hereby granted subject to the Commission's Rules of Practice and Procedure.

(B) Waiver of the notice requirements and permission for NIPSCO to substitute rates under § 35.17 of the regulations is hereby granted.

(C) NIPSCO's August 29, 1983 submittal is hereby accepted for filing. The proposed reduced rates shall become effective as of October 21, 1983, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of NIPSCO's rates.

(E) Docket Nos. ER83-728-000 and ER83-396-000 are hereby consolidated for purposes of hearing and decision.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Northern Indiana Public Service Company

[Docket No. ER83-728-000]

RATE SCHEDULE DESIGNATIONS

Designation	Description
(1) First Revised Sheet Nos. 7 and 12 under FERC Electric Tariff, 4th Revised Volume No. 1 (Supersedes Original Sheet Nos. 7 and 12).	Phase B rates
(2) Second Revised Sheet Nos. 5, 8, 10, 13, 16 and 19 under FERC Electric Tariff, 4th Revised Volume No. 1 (Supersedes First Revised Sheet Nos. 5, 8, 10, 16 and 19).	Do.
(3) Supplemental No. 4 to Supplement No. 1 to Rate Schedule FERC No. 12.	Rate Schedule VA111—Phase B.

Tariff Customers

Rate Schedule VA1: Towns of Argos, Bremen, Brookton, Chalmers, Etna Green, Kingsford Heights, Walkerton and Winamac

Rate Schedule VA11: Wabash Valley Power Association at Carrol County, Fulton County, Jasper County, Kankakee County, Koscuiskio County, Lagrange County, Marshall County, Stueben County, Warren County and White County

Rate Schedule VA111: None

Non-Tariff Customers

Rate Schedule VA111: Indiana Municipal Power Agency at City of Rensselaer

[FR Doc. 83-29822 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-507-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Request Under Blanket Authorization

November 1, 1983.

Take notice that on September 12, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-507-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act that Northern proposes to modify one delivery point in LaCrosse, Wisconsin, to accommodate natural gas deliveries to certain of its utility customers under the authorization issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Northern proposes to modify one delivery point in LaCrosse, Wisconsin, for Northern States Power Co. of Wisconsin (NSP-Wisconsin) in order to provide a more efficient means of servicing the rapidly expanding LaCrosse, Wisconsin, area. Northern states that the modified delivery point would be designed to serve volumes up to 500 Mcf of gas per hour. Further, Northern states that peak day and annual gas requirements for the first year are estimated to be 2,248 Mcf and 62,200 Mcf, respectively, and that they are expected to reach 12,848 Mcf and 101,700 Mcf, respectively, over the next five years. Such peak day and annual requirements would remain within NSP-Wisconsin's present entitlements, it is submitted. Estimated cost of the proposed facilities is $103,750, excluding interest and overhead, it is asserted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29915 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-59-001]

Northern Natural Gas Co.; ANGTS Transportation Adjustment Rate Change

October 31, 1983.

Take notice that on October 27, 1983, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1

Thirty-Third Revised Sheet No. 4a
Twenty-Fourth Revised Sheet No. 4b
First Revised Sheet No. 74d
First Revised Sheet No. 74e
First Revised Sheet No. 74f

Original Volume No. 2

Thirty-Fourth Revised Sheet No. 1c
First Revised Sheet No. 1p
First Revised Sheet No. 1q
First Revised Sheet No. 1r

Such revised tariff sheets are required in order that Northern may place revised rates into effect on December 27, 1983 to reflect (1) the change in the costs of transportation of gas through the Alaska Natural Gas Transportation System

(ANGTS); and (2) to modify certain procedures used to determine the ANGTS rate adjustment pursuant to Paragraph 21 of Northern's FERC Gas Tariff, Third Revised Volume No. 1 and Paragraph 4 of Northern's FERC Gas Tariff, Original Volume No. 2.

The Company states that copies of the filing have been mailed to each of its Gas Utility customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules on Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-29829 Filed 11-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-59-000]

Northern Natural Gas Co.; Purchased Gas Cost Adjustment Rate Change

October 31, 1983.

Take notice that on October 27, 1983, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1

Thirty-Second Revised Sheet No. 4a
Twenty-Third Revised Sheet No. 4b
Fourth Revised Sheet No. 4c
Fifth Revised Sheet No. 69
Fourth Revised Sheet No. 70
Third Revised Sheet No. 70c

Original Volume No. 2

Thirty-Third Revised Sheet No. 1c
Fourth Revised Sheet No. 1g
Third Revised Sheet No. 1h
Second Revised Sheet No. 1i.2

(1) The estimated increase in the cost of purchased gas pursuant to Paragraph 18 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1;

(2) The decrease in the surcharge to amortize the unrecovered cost of purchased gas account and also certain cost and revenue tracking adjustments pursuant to Commission Orders in Docket Nos. RP80-66, RP81-52 and RP82-71;

(3) No change in Northern's costs associated with Research and Development Expenditures;

(4) The increase in Gas Research Institute unit charge pursuant to Paragraph 19 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1.

Fifth Revised Sheet No. 69 and Fourth Revised Sheet No. 70 of Third Revised Volume No. 1 and Fourth Revised Sheet No. 1g and Third Revised Sheet No. 1h of Original Volume No. 2 have been revised to provide for the cost of gas to be adjusted for only the excess of gas delivered or received for non-concurrent exchange pursuant to Commission Order issued August 9, 1982 in Docket No. TA82-1-59-001. Third Revised Sheet No. 70c of Third Revised Volume No. 1 and Second Revised Sheet No. 1i.2 of Original Volume No. 2 have been revised to provide for the total system sales to be adjusted to reflect the actual BTU of the shrinkage sales to Northern Gas Products Company at Bushton, Kansas.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-29828 Filed 11-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ST83-668]

Red River Pipeline; Self-Implementing Transactions

November 1, 1983.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to §§ 284.202 or 157.209 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kennth F. Plumb,
Secretary

Docket No.[1] and Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBtu)
ST83-666 Red River Pipeline	El Paso Natural Gas Co	09-31-83	C		
ST83-668 Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp	09-32-83	G		
ST83-670 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	09-32-83	B		
ST83-671 United Gas Pipe Line Co	Norco Gas and Fuel Co	09-01-83	B		
ST83-672 United Gas Pipe Line Co	Houston Pipe Line Co	09-01-83	B		
ST83-673 United Gas Pipe Line Co	[illegible] Gas Co	09-02-83	B		
ST83-674 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	09-06-83	B		
ST83-675 Tennessee Gas Pipeline Co	Creole Gas Pipe Line Co	09-06-83	B		
ST83-676 Tennessee Gas Pipeline Co	Creole Gas Pipe Line Co	09-06-83	B		
ST83-677 Northern Natural Gas Co	Delhi Gas Pipeline Corp	09-06-83	B		
ST83-678 Sugar Bowl Gas Corp	Richie Gas Systems, Inc	09-07-83	C		
ST83-679 Colorado Interstate Gas Co	The Gates Co	09-06-83	F		
ST83-680 Natural Gas Pipeline Co. of America	Delhi Gas Pipeline Corp	09-07-83	B		
ST83-681 Northwest Pipeline Corp	Mountain Fuel Supply Co	09-07-83	G		
ST83-682 Michigan Consolidated Gas Co	Archer Daniels Midland Co	09-07-83	B		
ST83-684 Transcontinental Gas Pipe Line Corp	U.S. Steel	09-08-83	F		
ST83-685 Transcontinental Gas Pipe Line Corp	UGI Corp	09-08-83	B		
ST83-686 Transcontinental Gas Pipe Line Corp	Bridgeline Gas Distribution Co	09-06-83	B		
ST83-687 Michigan Wisconsin Pipe Line Co	Bethlehem Steel Corp	09-06-83	F		
ST83-688 Oklahoma Natural Gas Co	Northern Natural Gas Co	09-09-83	C		
ST83-689 Tennessee Gas Pipeline Co	Creole Gas Pipeline Corp	09-13-83	B		
ST83-690 El Paso Natural Gas Co	Cascade Natural Gas Corp	09-13-83	B		
ST83-691 United Texas Transmission Co	United Gas Pipe Line Co	09-14-83	C		
ST83-692 Northern Natural Gas Co	West Texas Gas, Inc	09-13-83	B		
ST83-693 Panhandle Eastern Pipe Line Co	Cajun Natural Gas Co	09-14-83	B		
ST83-694 Big Sandy Gas Corp	Columbia Gas Transmission Corp	09-14-83	C	02-11-84	40.00
ST83-695 Houston Pipe Line Co	Westar Transmission Co	09-15-83	C		
ST83-696 Oasis Pipe Line Co	Westar Transmission Co	09-15-83	C		
ST83-697 Consumers Power Co	Southeastern Michigan Gas Co	09-15-83	G(HT)	02-13-84	[illegible]
ST83-698 Panhandle Eastern Pipe Line Co	Natural Gas Associates	09-15-83	B		
ST83-699 Panhandle Eastern Pipe Line Co	Indiana Gas Co., Inc	09-15-83	F		
ST83-700 Northwest Pipeline Corp	Southwest Gas Corp	09-16-83	G		
ST83-701 Northwest Pipeline Corp	CP National Corp	09-16-83	B		
ST83-702 Northwest Pipeline Corp	Northwest Natural Gas Co	09-16-83	B		
ST83-703 Northwest Pipeline Corp	Cascade Natural Gas Corp	09-16-83	B		
ST83-704 Northwest Pipeline Corp	Washington Water Power Co	09-16-83	B		
ST83-705 Northwest Pipeline Corp	Washington Natural Gas Co	09-16-83	B		
ST83-706 Southern Natural Gas Co	Louisiana Intrastate Gas Corp	09-16-83	B		
ST83-707 Southern Natural Gas Co	Faustina Pipe Line Co	09-16-83	B		
ST83-708 Southern Natural Gas Co	Cajun Natural Gas Co	09-16-83	B		
ST83-709 Southern Natural Gas Co	Gas Transportation Corp	09-16-83	B		
ST83-710 United Gas Pipe Line Co	J. W. Gathering Co	09-16-83	B		
ST83-711 Oklahoma Natural Gas Co	Kansas Power and Light Co	09-16-83	C	02-13-84	40.00
ST83-712 Oklahoma Natural Gas Co.	Neches Gas Distribution Co	09-16-83	C		
ST83-713 Panhandle Eastern Pipe Line Co	Citizens Gas and Coke Utility	09-16-83	B		
ST83-714 Panhandle Eastern Pipe Line Co	KN Energy, Inc	09-16-83	G		
ST83-715 Panhandle Eastern Pipe Line Co	The Kansas Power and Light Co	09-16-83	B		
ST83-716 Columbia Gas Transmission Corp	Texas Eastern Transmission Corp	09-16-83	G		
ST83-717 Northern Natural Gas Co	Sugar Bowl Gas Corp	09-20-83	B		
ST83-718 Northern Natural Gas Co	Riche Gas Systems, Inc	09-20-83	B		
ST83-719 Northern Natural Gas Co	Westar Transmission Co	09-20-83	B		
ST83-720 Northern Natural Gas Co	Energy Systems Co	09-20-83	F(157)		
ST83-721 Northern Natural Gas Co	Terra Chemicals, Inc	09-20-83	F(157)		
ST83-723 Gas Co. of New Mexico	Northwest Pipeline Corp	09-21-83	G(HT)		
ST83-724 Delhi Gas Pipeline Corp	Richie Gas Systems, Inc	09-22-83	C		
ST83-725 Transcontinental Gas Pipe Line Corp	Eastern Shore Natural Gas Co	09-23-83	G		
ST83-726 Transcontinental Gas Pipe Line Corp	Southern Natural Gas Co	09-23-83	G		
ST83-727 Natural Gas Pipeline Co. of America	Tennessee Gas Pipeline Co	09-23-83	G		
ST83-728 Florida Gas Transmission Co	Winne Pipeline Co	09-22-83	B		
ST83-729 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	09-23-83	B		
ST83-730 United Gas Pipe Line Co	Delhi Gas Pipeline Corp	09-23-83	B		
ST83-731 United Gas Pipe Line Co	Louisiana Intrastate Gas Corp	09-23-83	B		
ST83-732 Natural Gas Pipeline Co. of America	Delhi Gas Pipeline Corp	09-26-83	B		
ST83-733 United Gas Pipe Line Co	Southern Natural Gas Co	09-23-83	G		
ST83-734 National Fuel Gas Supply Corp	Occidental Chemical Corp	09-25-83	F(157)		
ST83-735 National Fuel Gas Supply Corp	Spaulding Fibre Co	09-25-83	F(157)		
ST83-736 National Fuel Gas Supply Co	Goodyear Tire & Rubber Co	09-25-83	F(157)		
ST83-737 National Fuel Gas Supply Corp	National Forge Co	09-26-83	F(157)		
ST83-738 Northern Natural Gas Co	Westar Transmission Co	09-27-83	B		
ST83-739 Columbia Gas Transmission Corp	Mayer China Co	09-27-83	F(157)		
ST83-740 Texas Eastern Transmission Corp	Transcontinental Gas Pipe Line Corp	09-28-83	G		
ST83-741 El Paso Natural Gas Co	Texas Gas Transmission Corp	09-28-83	G		
ST83-742 El Paso Natural Gas Co	Cabot Pipeline Corp	09-28-83	B		
ST83-743 Trunkline Gas Co	Southern Natural Gas Co	09-29-83	G		
ST83-744 Michigan Consolidated Gas Co	Entex, Inc	09-29-83	G(HS)		
ST83-745 National Fuel Gas Supply Corp	Airco Carbon Division of BOC, Inc	09-30-83	F(157)		
ST83-746 Michigan Consolidated Gas Co	Southeastern Michigan Gas Co	09-30-83	G(HS)		
ST83-747 Michigan Consolidated Gas Co (Interstate Storage Division)	Michigan Consolidated Gas Co. (Utility)	09-30-83	B		
ST83-748 Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	09-30-83	B		
ST83-749 Consumers Power Co	Southeastern Michigan Gas Co	09-30-83	G(HT)	02-27-84	14.92
ST83-750 Transcontinental Gas Pipe Line Corp	Texas Eastern Transmission Corp	09-30-83	G		
ST83-751 Transcontinental Gas Pipe Line Corp	Southern Natural Gas Co	09-30-83	G		
ST83-752 Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	09-30-83	B		
ST83-753 Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co	09-30-83	B		
ST83-754 Transcontinental Gas Pipe Line Corp	Piedmont Natural Gas Co	09-30-83	B		
ST83-755 Southern Natural Gas Co	Columbia Gulf Transmission Co	09-30-83	G		
ST83-756 Southern Natural Gas Co	Columbia Gulf Transmission Co	09-30-83	G		
ST83-757 Consolidated Gas Supply Corp	Penn Fuel Gas, Inc	09-30-83	B		
ST83-758 Consolidated Gas Supply Corp	Tennessee Gas Pipeline Co	09-30-83	G		

[1] The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

* The intrastate pipeline has sought Commission approval of its transportation rate pursuant to Section 284.123(b)(2) of the Commission's Regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 83-29916 Filed 11-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-17-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

October 31, 1983.

Take notice that on October 14, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP84-17-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Gulf Oil Exploration and Production Company, a Division of Gulf Oil Corporation (Gulf), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to receive up to 1,200 Mcf of natural gas per day for the account of Gulf at the interconnection of a lateral extending from East Cameron Block 237 and interconnecting with Applicant's facilities in Vermilion Block 241, offshore Louisiana, and to transport such volumes for delivery to Texas Eastern Transmission Company (Tetco) for Gulf's account at the Ford delivery point in Allen Parish, Louisiana, or the Old Lady Lake Exchange Meter in Terrebonne Parish, Louisiana. It is stated that the service would be performed on a best-efforts basis for an initial term ending January 1, 1985, and then year to year thereafter in accordance with a gas transportation agreement between Applicant and Gulf dated September 16, 1982.

Applicant proposes to charge Gulf 12.83 cents per Mcf, less 1.92 percent for fuel use for volumes delivered in Allen Parish, Louisiana. Applicant also proposes to charge Gulf 20.38 cents per Mcf, less 2.35 percent for fuel use for volumes delivered in Terrebonne Parish, Louisiana.

Applicant asserts that the proposed service would be beneficial to Gulf since it would provide Gulf with a means of having its warranty gas delivered to Tetco through Applicant's existing pipeline facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29930 Filed 11-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-360-001]

Texas Gas Transmission Corp.; Petition to Amend

November 1, 1983.

Take notice that on October 13, 1983, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP83-360-001 a petition to amend pursuant to section 311(a)(1) of the Natural Gas Policy Act of 1978 and § 284.107 of the Commission's Regulations for authorization to add a new point of receipt under a transportation agreement between Applicant and Louisiana Intrastate Gas Corporation (LIG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By Commission order issued August 11, 1983, in Docket No. CP83-360-000, Applicant was authorized to transport up to 200,000 Mcf of nautral gas per day for LIG. Applicant requests that the authorization issued in Docket No. CP83-360-000 be amended so as to authorize the North Maurice Field, LaFayette Parish, Louisiana, as a point of receipt. It is stated that LIG has recently executed gas purchase agreements for certain gas reserves located in the North Maurice Field and the proposed new point of receipt would allow LIG to connect this source of gas without construction of additional facilities. Applicant states that due to the mutual benefits accruing to both LIG and Applicant there would be no charge for transportation of the North Maurice Field gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29918 Filed 11-3-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-9-000]

Texas Gas Transmission Corp.; Application

November 1, 1983.

Take notice that on October 7, 1983, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP84-9-000, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in the

contract demand of 23 of its existing customers and the decrease in contract demand of one of its existing customers, Terre Haute Gas Corporation (Terre Haute), all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Gas states that the decrease requested by Terre Haute is a result of the loss earlier this year of load due to the permanent closing of C.F. Industries, a manufacturer of anhydrous ammonia in Terre Haute. Texas Gas further states that the requested increases in contract demand by the 23 existing customers are necessary in order for those customers to serve adequately past and future growth in their residential and commercial markets and avoid the incurrence of penalties due to contract overruns on peak days. The total net increase in daily contract demand on the Texas Gas system would be 977 Mcf, which Texas Gas asserts it can more than adequately serve based on review of its present and future gas supply situation.

The 23 customers requesting an increase in contract demand are listed as follows:

Rate schedule and customer	Existing contract demand	Requested increase	Proposed contract demand
SG–2 Benton, Kentucky, city of	2,875	145	3,020
SG–3 Boonville Natural Gas Corp	4,794	206	5,000
SG–3 Chandler Natural Gas Corp	1,601	199	1,800
SG–4 Cincinnati Gas & Electric Co., the	2,887	233	3,120
SG–1 Clarendon, Arkansas, town of	1,494	76	1,570
SG–3 Clay, Kentucky, city of	918	107	1,025
SG–3 Drakesboro, Kentucky, city of	1,020	200	1,220
SG–1 Halls, Tennessee, town of	1,765	100	1,865
SG–1 Holly Grove, Arkansas, town of	531	50	581
SG–1 Jones Gas Company	54	100	154
SG–SL Lafourche Gas Corporation	510	300	810
SG–4 Leitchfield, Kentucky, city of	2,072	228	2,300
G–3 Lewisport, Kentucky, city of	1,892	100	1,992
SG–1 Louisiana Gas Service Company	643	594	1,237
SG–SL Mamou, Louisiana, town of	510	1,490	2,000
SG–1 Marvell, Arkansas, city of	1,275	165	1,440
SG–1 Maury City, Tennessee, town of	512	100	612
SG–3 Morganfield, Kentucky, city of	4,437	563	5,000
SG–1 Munford, Tennessee, city of	1,177	200	1,377
SG–SL Nezpique Gas System, Inc	102	102	204
SG–3 Providence, Kentucky, city of	1,938	512	2,450
SG–4 South Eastern Indiana Natural Gas Co., Inc	1,443	1,057	2,500
SG–3 Sturgis, Kentucky, city of	1,724	200	1,924
Total increase		7,027	

Rate schedule and customer	Existing contract demand	Requested increase	Proposed contract demand
Requested increase in contract demand		7,027	
Released contract demand (Terre Haute; G–3 Rate Schedule)		6,050	
Net increase		977	

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1983, filing with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–29917 Filed 11–3–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES84–10–000]

Texas-New Mexico Power Co. Application

November 1, 1983.

Take notice that on October 25, 1983, Texas-New Mexico Power Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to issue and sell up to 600,000 shares of Common Stock, par value of $10 pursuant to Applicant's Tax Thrift Plan.

Any person desiring to be heard or to make protest with reference to said application should on or before November 25, 1983, filing with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–29919 Filed 11–3–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–18–000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

November 1, 1983.

Take notice that on October 14, 1983, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, filed in Docket No. CP84–18–000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to abandon-by-removal a portion of its Refugio Town Border Station 1-inch line under the authorization issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United states that it has no customers currently served from the subject portion of the Refugio Town Border Station 1-inch line located in the Refugio Town Tract A–45, Refugio Town Border Station, Refugio County, Texas. United further states that the proposed abandonment would be accomplished without detriment or disadvantage to its other existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed

activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is file and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29820 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-10-000]

Western Transmission Corp.; Application

November 1, 1983.

Take notice that on October 11, 1983, Western Transmission Corporation (Applicant), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP84-10-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 61,000 feet of 2⅜ inch screwed tubing pipeline connecting the Cordillera Corporation Sugar Creek No. 1 well in Carbon County, Wyoming, with the Washakie System mainline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states it has been informed by the producer that the well is incapable of producing and there exist no plans to rework this well. Applicant further states that the abandonment of the Cordillera lateral would have no effect on the Washakie System operation, nor would such proposed abandonment result in the termination of service to Applicant's customer, Colorado Interstate Gas company (CIG).

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-29821 Filed 11-3-83; 8:45 am]

BILLING CODE 6717-01-M

Southwestern Power Administration

Disposal of 41.3 Miles of 161-kV Transmission Line

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of Disposal of 41.3 miles of 161-kV transmission line from Springfield to Mansfield, Missouri (designated as SWPA line 3004), including the terminal facilities at Mansfield, Missouri; and solicitation of comments.

SUMMARY: Southwestern Power Administration (SWPA) solicits comments concerning the proposed disposal.

DATE: Comments must be received by December 5, 1983.

ADDRESSES: Send comments to Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101.

FOR FURTHER INFORMATION CONTACT: George A. Kelly, Chief, Branch of Procurement and Property Management, Southwesten Power Administration, Department of Energy, P.O. Box 1619, Tulsa, OK 74101.

SUPPLEMENTARY INFORMATION: Before formal disposal of major SWPA facilities, or entering in a contract which will cause disposal of SWPA facilities, it is SWPA's policy to seek public comments whether such action would impact on any of SWPA's customers, allottees, potential allotees or interconnected systems, and to what degree; and whether such action is consistent or compatible with state, regional and local development plans and programs.

I. Background

In 1954, SWPA constructed 41.3 miles of 161-kV transmission line from Springfield to Mansfield, Missouri, An interconnection was made with Sho-Me Electric Cooperative (Sho-Me) at Mansfield with SWPA owning only the terminal facilities of the Springfield circuit. These facilities were constructed in order to deliver hydro power and energy to Sho-Me under contracts existing at that time. Since the construction of these facilities, the following conditions have developed:

1. Sho-Me has become a member of the Associated Electric Cooperative (AEC) and the Mansfield terminal is presently included as a point of delivery for peaking power and energy under terms of the SWPA–AEC contract Number 14–02–0001–1002–15.

2. The Springfield-Mansfield line is operated as being wholly within the AEC control area.

3. There are no other delivery points to any customers over the entire length of the line.

4. Although owned by SWPA the line does not form any part of the SWPA transmission loop, but extends as radial circuit with the eastern end located a great distance from any other SWPA facilities.

5. In 1980, the City of Springfield (City) made inquiry about establishing a City-owned switching station on Line 3004 near the eastern City limits. As City plans became more definite, they indicated a need for this interconnection in the 1984–85 time frame.

6. In 1982, AEC (Sho-Me) approached SWPA with a request to tap Line 3004 about 3 miles east of Springfield to serve a small distribution load. SWPA expressed reluctance to have two taps on the line at so close an interval and suggested the City and Sho-Me work out a common point for interconnection.

7. During ensuing discussions the City and Sho-Me requested that if SWPA considered Line 3004 surplus, to include it in those facilities to be sold to AEC under the terms of Contract 14–02–0001–1002–15. The City and Sho-Me have reached a further agreement that should the line be sold by SWPA, the City will purchase that portion from the SWPA substation east to the proposed AEC station (Logan). AEC would own the line

from Logan to Mansfield, including the terminal equipment.

8. To further this proposal, the City and AEC have made a joint request to SWPA to withdraw their initial requests for line taps and proceed with the consideration for sale.

II. Discussion and Summary of Proposal

Since the Springfield-Mansfield line is operated as being wholly within the AEC control area, it is proposed to declare the facility surplus and negotiate sale under the terms of the Contract as outlined in paragraph I.7 above.

Commenting parties are requested to submit their comments by December 5, 1983 and address them to the address set forth at the beginning of this notice.

Dated: October 24, 1983.

Richard B. Risk, Jr.,

Administrator, Southwestern Power Administration.

[FR Doc. 83-29859 Filed 11-3-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2465-4]

Availability of Environmental Impact Statements Filed October 24 Through October 28, 1983 Pursuant to 46 CFR 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, general Information, (202) 285-5075 or (202) 382-5076.

EIS No. 830573, FSuppl, DOE, PRO, Multifamily/Commercial Buildings, Residential Conservation Program, DUE: Dec. 5, 1983.

EIS No. 830574 Final, EPA, REG, Uranium Ore Processing Byproducts Materials, Control Standards, DUE: Dec. 5, 1983.

EIS No. 830575 Final, BLM, CA, Alturas Resource Area, Resource Mgmt, Program, Lassen and Modoc Cos. DUE: Dec. 5, 1983.

EIS No. 830576 Draft, EPA, OR, Eugene-Springfield Sludge Management Plan, Grant, Lane County, DUE: Dec. 19, 1983.

EIS No. 830577 Final, COE, IL, Hickory/Spring Creeks, Flood Control Improvements, Permit, Will Co., DUE: Dec. 5, 1983.

EIS No. 830578 Draft, NHT, REG, Occupant Crash Protection Amendment, FMVS Standard No. 208 DUE: Dec. 19, 1983.

EIS No. 830579 Draft, FHW, MT, Helena-West Hwy/US 12 Const, MacDonald Pass to Helena, Lewis/Clark Co., DUE: Dec. 21, 1983.

EIS No. 830580 Draft, NOA, AS, Fagatele Bay Nat'l Marine Sanctuary Mgmt., Tutuila, American Samoa, DUE: Dec. 21, 1983.

Amended Notice:

EIS No. 830468, Draft, ICC, REG, Nationwide Coal Rate Guidelines, EX Parte No. 347 (Sub-No. 1) Published FR 09/02/83—Review extended, DUE: Nov 14, 1983.

EIS No. 830510, Draft, FHW, CA, CA-132 Reconstruction, D Street to Las Flores Avenue, Stanislaus Co., Published FR 09/30/83—Review extended, DUE: Nov. 14, 1083

Dated: November 1, 1983.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 83-29860 Filed 11-3-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2455-8]

Availability of Environmental Impact Statements Filed October 10 Through October 14, 1983 Pursuant to 46 CFR 1506.9

Correction

In FR Doc. 83-28760 appearing on page 48863 in the issue of Friday, October 21, 1983, make the following correction:

In the third column, the last line of "EIS No. 830458," the due date should have read "Due: Nov. 14, 1983".

BILLING CODE 1505-01-M

[OPP-30000/8C; PH-FRL 2399-4]

Pesticide Programs; Compound 1080; Preliminary Determination Concluding the Rebuttable Presumption Against Registration of Pesticide Products; Proposed Intent To Cancel; Availability of Position Document 2/3

AGENCY: Environmental Protection Agency (EPA).

ACTION: Preliminary notice of determination; proposed notice of intent to cancel; notice of availability of position document.

SUMMARY: This Notice describes EPA's preliminary determination regarding the risks and benefits associated with the use of pesticide products containing 1080 for rodent control. Since 1972, the use of compound 1080 for predator control has not been registered. All 1080 products used for rodent control, except a product to control commensal rodents and a product to control ground squirrels on rangelands, are presently distributed only in intrastate commerce and are not federally registered. EPA will require that the producers of those pesticides apply for Federal registration of their products. The Agency proposes to approve applications, if the terms and conditions of registration comply with this Notice, for the following uses of compound 1080: The control of ground squirrels and prairie dogs on rangelands, pastures, and croplands; the control of meadow mice on croplands; and the control of ground squirrels on ditch banks, levees, canals, and earthen dams. The Agency proposes to cancel the registration of the federally registered product to control ground squirrels on rangelands unless the registrant amends his registration to incorporate the risk reduction measures identified in this Notice. The Agency proposes to deny applications for registration of the following uses of compound 1080: The control of chipmunks, cotton rats, deer mice, kangaroo rats, and meadow mice on rangelands and pastures; the control of Norway rats, cotton rats, and wood rats on croplands; and the control of chipmunks, cotton rats, Norway rats, kangaroo rats, wood rats, deer mice, and meadow mice on nonagricultural sites. Finally, the Agency proposes to approve applications for the registration of compound 1080 to control pocket gophers as it is currently used and to take no action on the federally registered use of compound 1080 to control commensal rodents.

DATE: Written comments must be received on or before January 3, 1984.

ADDRESS: Comments should be mailed to: Program Support Division (TS-757c), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

In order to facilitate the work of the Agency and of others inspecting the comments, registrants and other interested persons should submit three copies of their comments. The comments should bear the identifying notation 30000/8C. All comments are available for public inspection in Rm. 236 at the Virginia address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Walter Waldrop, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (202-382-7400).

Copies of the Position Document are available from Mr. Walter Waldrop.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of December 1, 1976 (41 FR 52791), EPA issued a Notice of Rebuttable Presumption Against Registration (RPAR) for all rodenticidal

uses of pesticide products containing compound 1080. Issuance of the RPAR Notice initiated the Agency's public review of the risks and benefits of compound 1080. The rebuttable presumption was issued on the basis of: (1) The acute toxicity of 1080 to mammals and birds, (2) a risk of a significant reduction in populations of nontarget organisms and fatalities to members of endangered species, and (3) the lack of emergency treatment for 1080 poisoning. The Agency requested comment on the grounds for issuing the RPAR Notice and on the risks and benefits of 1080 rodenticides. After reviewing all available information, the Agency has determined that none of the presumptions had been rebutted, and that an analysis of the risks and benefits of the uses of 1080 rodenticides is necessary.

This Notice describes EPA's preliminary determination regarding its review of the risks and benefits of 1080 rodenticides. EPA has also prepared a Position Document on compound 1080 which sets forth in detail the reasons for the regulatory actions being proposed here. Copies of this preliminary Notice of Determination and the Position Document are being transmitted to the Secretary of Agriculture, members of the Scientific Advisory Panel, and producers of 1080 rodenticide products. (Other interested persons may obtain a copy of the Position Document by contacting Jeff Kempter at the address given above.) Comments from these groups, as well as from other interested members of the public, are welcome. The Agency will review any comments received, in reaching its final regulatory determination.

In broad summary, the Agency has determined that current uses of compound 1080 meet or exceed the risk criteria outlined in 40 CFR 162.11 for hazards to wildlife and endangered species.

The risks that compound 1080 poses to certain exposed groups are of sufficient concern to require the Agency to consider whether these risks can be reduced. The Agency has considered benefits information including that submitted by registrants, interested persons, and the USDA and has analyzed the economic, social, and environmental benefits of the uses of compound 1080. The Agency has evaluated both risks and benefits, in order to determine whether the risks of each compound 1080 use are outweighed by the benefits of the use. In balancing risks and benefits, the Agency considered what risk reductions could be achieved and how risk reduction measures would affect the benefits of the use.

The Agency has determined that the risks of compound 1080 use are greater than the social, economic, and environmental benefits for certain uses, unless the risk is reduced by modifications in the composition and labeling of the products. Accordingly, the Agency is proposing to deny applications for and to cancel the registration of any 1080 product for use to control ground squirrels and prairie dogs on rangelands, pastures, and croplands; meadow mice on croplands; and ground squirrels on ditch banks, levees, earthen dams, and canals unless the composition and labeling comply with the terms of this Notice.

The proposed modifications include reduction of bait concentrations, standardization of baiting procedures, and the prohibition of use where the continued existence of endangered species may be threatened. The Agency has further determined that these modifications accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses. These modifications for the above uses will not have a significant impact on the agricultural economy.

The Ageny has determined that, as currently used, the benefits of 1080 products for control of pocket gophers and commensal rodents outweigh the risks of using such products and that no additional risk reduction measures are appropriate.

The Agency has determined that the risks of certain outdoor, above ground uses of compound 1080 are greater than the social, economic, and environmental benefits of these uses, and that risk reduction measures cannot reduce the risks to an acceptable level. Accordingly, the Agency is proposing to deny applications for registration of the use of compound 1080 to control chipmunks, cotton rats, deer mice, kangaroo rats, and meadow mice on rangelands and pastures; Norway rats, cotton rats, and wood rats on croplands; and chipmunks, cotton rats, Norway rats, kangaroo rats, wood rats, deer mice, and meadow mice on nonagricultural sites. The Agency has determined that the unavailability of 1080 for these uses will not have a significant impact on the production and prices of agricultural commodities, retail food prices and otherwise on the agricultural economy.

The remainder of this Notice and the accompanying Position Document set forth in detail the Agency's analysis of comments submitted during the rebuttal phase of the compound 1080 RPAR, and the Agency's reasons and factual basis for the regulatory actions it is initiating. The Notice is organized into four units. Unit I. is this Introduction, and Unit II. Legal Background, sets forth a general discussion of the regulatory framework within which this action is taken. Unit III. Determination and Initiation of Regulatory Action, sets forth the Agency's determinations concluding the compound 1080 RPAR and initiating the regulatory actions which flow from these determinations.

Finally, Unit IV. Procedural Matters, describes the procedures which EPA will follow in implementing its final regulatory decision. It is important to note that all products containing uses covered by the RPAR Notice, except the sole product registered for control of commensal rodents and a single product registered for control of ground squirrels on rangelands, are produced and distributed only in intrastate commerce. These "intrastate" products currently are not federally registered, nor is there a full application for registration of these products pending before the Agency. Their sale and distribution is regulated under the provisions of 40 CFR 162.17, which requires that these intrastate products comply with certain labeling, recordkeeping, and other requirements of FIFRA, until such time as EPA requires the producer to submit a full application for Federal registration of the product. Because of this status, the Agency must employ special procedures to assure that these products comply with the Agency's final regulatory decision in this proceeding.

II. Legal Background

In order to obtain a registration for a pesticide under FIFRA, a person must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" under section 3(c)(5). Section 2(bb) of FIFRA defines the term "unreasonable adverse effects on the environment" as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." In effect, the statute requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with the terms and conditions of registration or in accordance with widespread and commonly recognized practice. The burden or proving that a pesticide

satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect. Under section 3 of FIFRA, the Administrator may not register a pesticide whenever he determines that the pesticide does not satisfy the statutory standard for registration. Similarly, under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or to modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a public, informal procedure for the gathering and evaluation of information about the risks and benefits of these uses. The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations.

The Agency generally announces that an RPAR has arisen by issuing a notice to be published in the **Federal Register**. After an RPAR is issued, applicants, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumtion. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that the exposure of man or other sensitive species which is likely to be associated with use of the pesticide will not involve a significant risk of adverse effects of the type in question. 40 CFR 162.11(a)(4) provides that registrants and applicants may rebut a presumption against registration by sustaining the burden of proving: (i) In the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraphs (a)(3) (i) or (iii) that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use, and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant acute adverse effects; or (ii) in the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraph (a)(3)(ii) that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects; or (iii) that the determination by the Agency that the pesticide meets or exceeds any of these criteria for risk was in error.

A primary purpose of the RPAR process is to screen for appropriate action those pesticide uses which pose risks which are of sufficient concern to require the Agency to consider whether offsetting benefits justify the risks. Accordingly, the Agency's approach to rebuttal determinations concentrates on whether the risk concerns which are central to each RPAR proceedings have in fact been answered.

Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweight the risks of use.

The Agency concludes an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the risk presumptions have been rebutted. If the Agency determines that a presumption has not been rebutted, it then considers available information relating to the social, economic, and environmental costs and benefits of use of the pesticide, including information which registrants, the Department of Agriculture, and other interested persons have submitted to the Agency.

After weighting the risks and the benefits of a pesticide use, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel or deny registration under FIFRA section 6(b)(1) and section 3(c)(6) or by issuing a notice of intent to hold a hearing under section 6(b)(2) of FIFRA to determine whether the registrations should be cancelled or applications for registration denied.

In determining whether the use of a pesticide poses risks which are greater than its benefits, the Agency considers modifications of the composition, labeling, and packaging which can reduce risks, and the impacts of such modifications on the benefits of the use. Among the risk reduciton measures which are available to the Agency are changes in the directions for use on the pesticide's labeling and classification of the pesticide for "restricted use" under FIFRA section 3(d).

Section 6(b) of FIFRA requires EPA to submit all proposed Notices of Intent to Cancel to the Secretary of Agriculture for comment. Accordingly, the Agency has sent a copy of this Notice and the 1080 Position Document to the Secretary of Agriculture, and has requested comment within the next 30 days. Section 25(d) of FIFRA requires EPA to solicit the views of the Scientific Advisory Panel, as well. The Agency has provided the same materials to members of the Panel, asking for their comments within 30 days.

In addition, while not required to do so by statute, EPA has decided to afford all interested persons an opportunity to comments on the basis for the proposed action while the proposed action is under review by the Secretary of Agriculture and members of the Scientific Advisory Panel. Accordingly, appropriate steps are being taken to make copies of the position document available to registrants and other interested persons at the time the decision documents are transmitted for external review. Interested persons will be allowed a 60-day period of time to comment.

At the end of this review period, the Agency will make any changes in the proposed action which are deemed appropriate as a result of the comments received. The Agency will then proceed to implement the desired regulatory action by preparing appropriate documents and issuing them in the manner prescribed by the statute and by the Agency's rules. These procedures are described in Unit IV.

III. Determination and Initiation of Regulatory Action

The Agency has considered information on the risks associated with the uses of compound 1080 including information submitted by registrants and other interested persons in rebuttal to the compound 1080 RPAR. The Agency has also considered information on the social, economic, and environmental benefits of the uses of compound 1080 subject to the RPAR, including benefits information submitted by registrants and other interested persons in conjunction with their rebuttal submissions, and information submitted by the USDA and the Department of the Interior.

The Agency's assessment of the risks and benefits of the uses of compound 1080 subject to this RPAR, its conclusions and determinations whether any of these uses of compound 1080 pose unreasonable adverse effects on the environment, and its determinations whether modifications in terms or conditions of use reduce risks sufficiently to eliminate any unreasonable adverse effects are set forth in detail in the position document. The position document is hereby

adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the position document, the determinations of the Agency with respect to compound 1080 follow.

A. Determination of Risk

The compound 1080 RPAR was based on information indicating that compound 1080 posed the following risks to wildlife and humans: (1) Acute toxicity to mammals and birds, (2) significant reduction in populations of nontarget organisms and fatalities to members of endangered species, and (3) lack of emergency treatment for human poisoning. As developed fully in the Position Document (PD 2/3), the Agency has determined that the information submitted to rebut the risk criteria was insuffficient to overcome the presumption against compound 1080 for these effects.

In addition to the studies discussed in the position document accompanying the RPAR notice, the Agency reviewed other information regarding the toxicity of compound 1080. In particular, an extensive review was made of the potential exposure of endangered species to compound 1080 bait. The U.S. Department of the Interior, Fish and Wildlife Service (FWS), in response to a consultation request by EPA, evaluated the endangered species most likely to be exposed to compound 1080 according to the use information provided by EPA, and rendered their opinion as to which species were likely to be jeopardized by the use of compound 1080. The report by FWS, together with other studies reviewed on possible risks to endangered species, formed the basis for the decision to prohibit use in the area of certain endangered species.

Toxicity data, both from laboratory and field studies, on the registered alternatives to compound 1080, were evaluated and compared with toxicity data for compound 1080 to determine the relative risks of the rodenticides.

Based on the review of the risk information, the Agency determined that the risks of compound 1080 use were of sufficient magnitude to require the Agency to determine whether offsetting social, environmental, or economic benefits result from the use of compound 1080.

B. Evaluation of Benefits

The Agency faced severe data limitations in this analysis and had to use considerable judgment in evaluating the potential economic consequences of cancelling the uses of compound 1080. The analysis often provided qualitative estimates of discussions of impact due to the lack of sufficient usage or comparative efficacy data to support precise quantitative estimates. Although estimates in the position document are reported as point estimates, they represent rough predictions of compound 1080 bait distribution and economic impact. The Agency used reasonable assumptions in its estimates of the general economic consequences of cancelling compound 1080 usage.

In general, the economic impacts of cancelling the uses of compound 1080 would not significantly affect U.S. production or prices of major commodities or services. Impacts on agricultural productivity and production costs would generally be limited to users in Western States. Regional or local impacts to users were estimated where registered alternatives are more costly, impractical, or ineffective, or where no registered alternatives exist.

If compound 1080 were federally registered in accordance with the terms and conditions proposed in this Notice, compound 1080 would become available for field rodent control programs in States where no intrastate product is currently available. At the individual producer level, control costs in States where rodenticides are currently unavailable are somewhat higher than in States where compound 1080 is available. If States where compound 1080 is not currently available decided to sponsor control programs in a manner similar to States with existing compound 1080 control programs, individual producers would benefit through reduced control costs. The extent of the cost reduction will depend on several factors.

Where prebaiting is practiced prior to using either strychnine or zinc phosphide, the new compound 1080 programs will be somewhat less expensive because compound 1080 control programs generally do not require prebaiting. Thus, the individual producer would save the cost of prebaiting where compound 1080 replaces either strychnine or zinc phosphide. Where prebaiting is not practiced with either strychnine or zinc phosphide, the cost of a compound 1080 program would be very similar to the current cost of using either zinc phosphide or strychnine. Producers would gain a somewhat more effective poison where compound 1080 would replace either strychnine or zinc phosphide. While we recognize that individual producers in States without a compound 1080 registration could benefit from the use of compound 1080, the extent to which benefits would accrue in these areas can not be quantified with available data.

In addition to simple changes in producer level control costs, States would incur some administrative costs if they choose to implement a compound 1080 control program. To the extent that new resources are required at the State level to coordinate and monitor a new State sponsored program, these costs would somewhat offset the producer level benefit (in terms of lower control cost). The net effect of these distributional impacts can not be quantified with available data.

The uses of compound 1080 which are subject to this RPAR were grouped into three categories: (1) Rodents on rangelands and pastures, (2) rodents on croplands, and (3) rodents on nonagricultural sites.

1. *Rodents on rangelands and pastures.* Compound 1080 is available primarily as an intrastate product when used for the control of ground squirrels, prairie dogs, deer mice, meadow mice, cotton rats, kangaroo rats, chipmunks and pocket gophers on rangelands and pastures. One product to control ground squirrels or rangelands has been registered in Oregon under the authority of section 24(c) of FIFRA, which allows States to issue valid Federal registrations for pesticides needed to meet special local needs. Federally registered alternatives for ground squirrels include strychnine, gas cartridges, carbon disulfide, paradichlorobenzene and carbon tetrachloride. Anticoagulants, methyl bromide, and zinc phosphide are available in some States for ground squirrel control. Zinc phosphide is federally registered for the control of prairie dogs, cotton rats, kangaroo rats, and field and meadow mice. Strychnine is federally registered for the control of prairie dogs, chipmunks, cotton rats, kangaroo rats, deer mice and pocket gophers, although the chemical is currently under RPAR review. Several anticoagulants are available in California for the control of field rats and mice.

Based on 1977–1978 estimates, the use of compound 1080 bait to control rodents on rangelands accounts for approximately 74 percent of the annual use with the majority (91 percent) used for the control of ground squirrels. The unavailability of compound 1080 for the control of rodents on rangelands could increase the costs for ground squirrel control by approximately $1.0 to $3.3 million annually, depending on the alternative used and the continued

registration of strychnine. The cost of prairie dog control could increase by approximately $300,000 annually. No estimates are available for other rodents since these account for less than one percent of the total compound 1080 use.

2. *Rodents on croplands.* Compound 1080 is available in intrastate products used for the control of ground squirrels, prairie dogs, Norway rats, cotton rats, wood rats, meadow mice, and pocket gophers. Registered alternatives for this category are the same as those for rangelands. For the Norway rats, zinc phosphide, three anticoagulants, and four fumigants are federally registered. Based on 1977–1978 estimates, the use of compound 1080 to control rodents on croplands accounts for approximately 21 percent of the annual use of compound 1080, with the majority used for the control of meadow mice.

The unavailability of compound 1080 for the control of ground squirrels on croplands could result in an increase in annual control costs of approximately $212,000 to $1.2 million, depending on the alternative used and the continued registration of strychnine. The unavailability of compound 1080 for prairie dog control could result in an increase in annual control costs of approximately $20,000. The unavailability of compound 1080 for meadow mouse control could result in an increase in annual control cost of approximately $28,000. No estimates are available for other rodents on croplands.

3. *Rodents on nonagricultural sites.* Compounds 1080 is available in intrastate products used for the control of ground squirrels, cotton rats, kangaroo rats, deer mice, meadow mice, wood rats, chipmunks, roof rats, Norway rats, and pocket gophers on nonagricultural sites. It is federally registered for the control of Norway rats, roof rats, and house mice in and around structures. For this analysis, nonagricultural sites are defined as areas which are not involved in the direct production of crops or livestock. These include structures, premises, embankments, nonagricultural turf area, and private forest areas.

Federally registered alternatives for the field rodents are the same as mentioned for rangeland, pasture, and cropland rodent control. For commensal rodent control, zinc phosphide is federally registered as are several anticoagulants and fumigants.

The use of compound 1080 for this category accounts for approximately five percent of the annual compound 1080 use, based on 1977–1978 estimates. Thus, limited data are available to estimate benefits. The unavailability of compound 1080, assuming alternatives are not used, would result in an increase in embankment failures. Each incident can cost in excess of $10,000 to repair. Also, although the benefits of controlling commensal rodents cannot be quantified, compound 1080 is considered to be the measure of last resort.

C. Determination of Unreasonable Adverse Effects

For the reasons set forth in detail in the accompanying position document, the Agency has made the following determinations with respect to the effects of the use of compound 1080 on the environment'

1. The Agency has determined that, under the current terms and conditions of use, the risks arising from the use of compound 1080 are greater than the social, economic, and environmental benefits when 1080 is used to control grounds squirrels and prairie dogs on rangelands, pastures, and croplands; meadow mice on croplands; and ground squirrels on ditch banks, levees, canals, and earthen dams. The Agency has further determined that modifications in the terms and conditions of use accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the uses. These modifications include restrictions of use where the continued existence of endangered species may be jeopardized and standardization of baiting and post baiting procedures. These stricter requirements will not have a significant impact on production and prices of agricultural commodities, retail food prices, or otherwise on the agricultural economy. The Agency has determined that unless these changes are accomplished, the uses listed above generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practices, and that the labeling of compound 1080 pesticide products will not comply with the provisions of FIFRA.

Accordingly, the Agency is proposing to cancel the registration of the only federally registered product for control of ground squirrels on rangeland unless the registrant amends his registration to incorporate the terms and conditions specified in this Notice. In addition, the Agency is proposing to deny registration for any product with a use enumerated above if the use described in the application for registration does not conform to that in this Notice. If risk reductions are accomplished by the modifications in the terms and conditions of use described in this Notice, those uses will not cause unreasonable adverse effects on the environment.

2. The Agency has determined that the risks arising from the use of compound 1080 to control commensal rodents are not sufficient to warrant cancellation or modification of use. Therefore, the Agency does not propose to take any action for this use. In addition, the Agency has determined that the risks of using 1080 to control pocket gophers under current terms and conditions of use are outweighed by the benefits of this use, and therefore that EPA could approve an application to register a product for this use, as it is currently used.

3. The Agency has determined that the risks arising from the use of compound 1080 are greater than the social, economic, and environmental benefits when 1080 is used to control chipmunks, cotton rats, deer mice, kangaroo rats, and meadow mice on rangelands and pastures; Norway rat, cotton rats, and wood rats on croplands; and chipmunks, cotton rats, Norway rats, kangaroo rats, wood rats, deer mice, and meadow mice on nonagricultural sites and that risk reduction measures cannot reduce the risks to an acceptable level for these uses. Accordingly, the Agency is proposing to deny registrations for all the above-enumerated uses.

The Agency has determined that the cancellation and denial of registration of these uses of compound 1080 will not have a significant impact on the production and prices of agricultural economy.

D. Other Determinations

The Agency has recognized that the use of 1080 to control rodents on croplands and where livestock are grazed might result in pesticide residues in food or feed. Currently, there are no tolerances for residues of 1080 or its metabolites in food or feed. Moreover, the Agency has not exempted 1080 from the requirement of a tolerance. The Agency has determined that it will evaluate the need for a tolerance (or, alternatively, and exemption from the tolerance requirements) as part of its review of applications for new registration and amended registration of 1080 rodenticides. In making its evaluation, the Agency may conclude that it will be necessary for applicants to provide data concerning such topics as analytical methods for 1080 residues, plant uptake of 1080 residues from soil, and levels of 1080 residue in livestock consuming 1080-treated bait.

E. Initiation of Regulatory Actions

Based upon the determinations summarized above and set out in detail in the Position Document, the Agency is proposing to initiate the following regulatory actions:

1. Cancellation of the registration of a product intended for use in controlling ground squirrel on rangelands, unless the registrant submits an application to amend his registration to conform to the provisions of paragraphs (a) through (c). Acceptance of any application to register compound 1080 products for use in controlling ground squirrels on rangelands, pastures, croplands, ditch banks, levees, earthen dams and canals if the applicant:

a. Requests registration for a product which contains no more than 0.02 percent active ingredient and which has been dyed yellow in accordance with the California Vertebrate Pest Control Handbook.

b. Submits labelling which includes the following:

For use only to control ground squirrels on rangelands, pastures, croplands, ditch banks, levees, earthen dams, and canals.

For retail sale and use only by certified Applicators or persons under their direct supervision and only for those uses covered by the Certified Applicator's Certification.

Baiting should not be done unless tests indicate satisfactory bait acceptance occurs in areas to be treated.

Keep pets and domestic animals away from treated areas.

Clean up all accidentally spilled bait immediately.

Do not use within ¼ mile of a dwelling without first notifying the occupants.

Do not use in the Sespe-Sierra range of the California condor or in that portion of the coastal range south of Monterey County.

Do not use in the coastal range north of San Luis Obispo County during the months of August through December.

Do not use in that portion of the range of the San Joaquin Kit fox that has been closed to night hunting by the California Fish and Game Commission. In the remainder of the range, consult the California Fish and Game Commission prior to use.

Do not use in the range of the Morro Bay kangaroo rat or of the Salt Marsh harvest mouse, as defined by the U.S. Fish and Wildlife Service.

Do not use from September 1 to April 30 within the areas closed by the California Department of fish and Game to the hunting of Canada Geese.

Do not use in the wetlands areas of Contra Costa, San Joaquin, Solana and Yolo counties from September 1 to April 30 without the use of bait stations.

Pick up and burn or bury deeply all visible carcasses of animals killed by compound 1080.

Additionally, for ground application:

Do not place bait in piles.

For grain bait, use one teaspoon per burrow for hand application or 4 pounds per acre for broadcast application.

For green bait, use 5 to 10 pounds per acre for broadcast application.

Additionally, for aerial application:

Use in accordance with the guidelines for applying Rodent Baits by Aircraft for control of ground squirrels in the California Vertebrate Pest Control Handbook.

c. Complies with other applicable requirements in FIFRA and EPA's registration regulations.

EPA proposes to deny any pending or future application which is covered by this paragraph, but which does not comply with these requirements.

2. Acceptance of any application to register compound 1080 products for use in controlling prairie dogs on rangelands, pastures, and croplands if the applicant:

a. Submits a protocol for approval by the Environmental Protection Agency, in consultation with the U.S. Fish and Wildlife Service, detailing the procedures of a precontrol survey for black-footed ferrets.

b. Requests registration of a product which contains no more than 0.02 percent active ingredient and which has been dyed yellow in accordance with the California Vertebrate Pest Control Handbook.

c. Submits labeling which includes the following:

For use only to control prairie dogs on rangelands, pastures, and croplands.

Use one teaspoon for each burrow spread over a three square foot area.

Baiting should not be done unless tests indicate satisfactory bait acceptance occurs in areas to be treated.

Keep pets and domestic animals away from treated areas.

Clean up all accidentally spilled bait immediately.

Do not place bait in piles.

Pick up and burn or bury deeply all visible carcasses of animals killed by compound 1080.

Do not use within ¼ mile of a dwelling without first notifying the occupants.

For use only by, or under the direct supervision of, certified applicators who are employees of a governmental agency.

For use only if a precontrol survey, conducted in accordance with a protocol approved by the Environmental Protection Agency and the U.S. Fish and Wildlife Service does not indicate the presence or possible presence of a black-footed ferret.

d. Complies with other applicable requirements in FIFRA and EPA's registration regulations.

EPA proposes to deny any pending or future application which is covered by this paragraph, but which does not comply with these requirements.

3. Acceptance of any application to register compound 1080 products for use in controlling meadow mice on croplands if the applicant:

a. Requests registration of a product which contains no more than 0.02 percent active ingredient and which has been dyed yellow in accordance with the California Vertebrate Control Handbook.

b. Submits labelling which includes the following:

For use only to control meadow mice on croplands.

For retail sale to and use only by Certified Applicators or persons under their direct supervision and only for those uses covered by the Certified Applicator's Certification.

Use one tablespoon doses for hand baiting or 4 to 5 pounds per acre for aerial application.

Do not use within ¼ mile of a dwelling without first notifying the occupants.

Do not use from September 1 to April 30 within the areas closed by the California Department of Fish and Game to the hunting of Canada Geese.

Do not use in the wetlands area of Contra Costa, San Joaquin, Solana, and Yolo Counties from September 1 to April 30 without the use of bait stations.

Pick up and burn or bury deeply all visible carcasses of animals killed by compound 1080.

Baiting should not be done unless tests indicate satisfactory bait acceptance occurs in areas to be treated.

Additionally, for hand baiting:

Keep pets and domestic animals away from treated areas.

Clean up all accidentally spilled bail immediately.

Do not place bait in piles.

Additionally, for aerial application:

Use in accordance with the guidelines for applying Rodent Baits by Aircraft for control of Meadow Mice in the California Vertebrate Pest Control Handbook.

c. Complies with other applicable requirements in FIFRA and EPA's registration regulations.

EPA proposes to deny any pending or future application which is covered by this paragraph, but which does not comply with these requirements.

4. Denial of all applications to register 1080 products for use in controlling chipmunks, cotton rats, deer mice, kangaroo rats, and meadow mice on rangelands and pastures.

5. Denial of all applications to register 1080 products for use in controlling Norway rats, cotton rat, and wood rats on croplands.

6. Denial of all applications to register 1080 products for use in controlling chipmunks, cotton rats, Norway rats, kangaroo rats, wood rats, deer mice, and meadow mice on nonagricultural sites.

IV. Procedural Matters

This Notice affects both federally registered pesticide products and "intrastate" products. Different procedures are used in bringing these two types of products into compliance with the Agency's final order, and these procedures are described below.

A. Intrastate Products

Because most of the uses affected by the Agency's proposed actions appear only on the labels of "intrastate" products (see Unit I), the Agency will not follow the procedures typically used in concluding the RPAR review of federally registered pesticides. Historically, the registration requirements imposed on intrastate products have differed from the requirements for products distributed in interstate commerce. As described below, these differences dictate that the Agency use special procedures for bringing intrastate products into conformity with the final regulatory decisions reached in the RPAR review.

Prior to 1972, pesticides produced and distributed solely in intrastate commerce were not subject to registration or any other requirements of FIFRA. The National Environmental Pesticide Control Act of 1972 (Pub. L. 92–516) extensively amended FIFRA and for the first time, it was a violation of Federal law to sell or distribute unregistered intrastate pesticide products. EPA issued registration regulations (40 CFR Part 162) implementing the 1972 amendments which, among other things, required immediate registration of all intrastate products unless the products were currently registered by a State and the producer submitted a notice of application for Federal registration to the Agency. 40 CFR 162.17. Under this regulation, notices of application were filed for numerous 1080 rodenticide products which comprise the vast majority of products now being reviewed in this RPAR proceeding. The regulation further provided that producers could continue to sell and distribute their products solely in intrastate commerce without obtaining registration, so long as they complied with certain provisions of FIFRA. Moreover, EPA's regulations provided that, before taking any enforcement action against any unregistered intrastate product complying with 40 CFR 162.17, the Agency would notify the producer of the product that he was required to submit a complete application for Federal registration, and the Agency would review and rule on the application.

Accordingly, in order to bring these intrastate products into conformity with the Agency's final regulatory decision, EPA will notify the producers of all potentially affected intrastate 1080 rodenticide products that they are required to submit a complete application for Federal registration. The Agency has decided to requier that these applications must be submitted within 60 days of the date on which EPA issues its Final Notice of Determination and sends that Notice to affected intrastate producers. Any person who fails to submit a timely application will no longer be protected by 40 CFR 162.17 from possible enforcement actions.

EPA will review all applications thus submitted for compliance with the final RPAR decision and the applicable regulations. EPA will register any product for which an acceptable application has been submitted. If EPA's review shows that an application cannot be approved, EPA may issue a notice of intent to deny the application. Following the issuance of any notice of intent to deny an application, an applicant will have 30 days in which to make changes that would allow EPA to grant the registration. If the application has not been corrected within 30 days so that EPA would approve it, the application may be denied.

Under FIFRA section 3(c)(6), the issuance of a denial entitles an applicant, or other interested person with the concurrence of the applicant, to request an adjudicatory hearing to challenge the denial decision. The denial of any application for which a hearing has not been specifically requested becomes final and effective 30 days after receipt of notice of such denial by the applicant or publication of notice of the denial in the **Federal Register**, whichever occurs later. Applications with respect to which valid and timely hearing requests have been filed remain pending unless and until they are denied or granted by order of the Administrator at the conclusion of the hearing.

Concurrent with the issuance of this Notice, EPA is sending a letter to the producers of all potentially affected intrastate pesticides. This letter announces that EPA has issued its Preliminary Notice of Determination and that the public may comment on the Agency's proposed regulatory position regarding the registrability of various uses of 1080 rodenticides. This letter also describes the procedures that the Agency will follow in assuring that all intrastate products will comply with the terms of the final RPAR decision on 1080 rodenticides. Specifically, the letter informs intrastate producers that they will be required to file applications for Federal registration of their products within 60 days of receipt of the Agency's Final Notice of Determination in this RPAR proceeding. Finally, the letter explains other rights and obligations of intrastate producers under FIFRA, the registration regulations, and the procedures described in this Notice.

B. Cancellation Procedures

This Notice also proposes to cancel the registration of a 1080 pesticide product registered in Oregon to meet a special local need (control of ground squirrels on rangelands) in accordance with section 24(c) of FIFRA. Following the review of public comments on this proposal, EPA will determine whether this product, as currently registered, should continue to be registered or cancelled. If the Agency decides to cancel the registration, it may identify the terms and conditions under which its continued use would be accepted.

If the Agency determines that a use should be cancelled or restricted to certain terms and conditions, EPA will issue a Notice of Intent to Cancel the registration of any product federally registered for that use. Normally, the Notice of Intent to Cancel is a part of the Final Notice of Determination concluding the RPAR proceeding. A registrant has 30 days after receipt of a Notice of Intent to Cancel or publication in the **Federal Register**, whichever is later, either to request a hearing in which to challenge the Agency's action or to amend his registration to conform to the terms of the Notice of Intent to Cancel. In addition, any other person who would be adversely affected by the cancellation may request a hearing.

If there is a timely request for a hearing, EPA will conduct the hearing in accordance with its Rules of Practice, 40 CFR Part 164. In the event of a hearing, each cancellation action will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing. If there is no request for a hearing and the registrant fails to amend his registration to include the terms and conditions of the Notice of Intent to Cancel, the cancellation of the affected product(s) will become effective automatically at the end of the applicable 30 day period.

Dated: June 29, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 83–29973 Filed 11–3–83; 8:45 am]

BILLING CODE [illegible]

[OPTS-42019A; TSH-FRL 2429-8]

Toxic and Hazardous Substances Control; Acentonitrile; Decision To Adopt Negotiated Testing Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA, in response to the Interagency Testing Committee's (ITC) designation of acetonitrile for priority testing consideration under the Toxic Substances Control Act (TSCA), published in the **Federal Register** of December 29, 1982, a Negotiated Testing Agreement which announced a preliminary decision not to require health effects testing of acetonitrile based on the Agency's analysis of existing data and preliminary acceptance of a testing program submitted by acetonitrile manufacturers.

On the basis of the Agency's review and comments received, EPA has concluded that the testing program sponsored by the manufacturers will more expeditiously provide the needed test data than would initiating rulemaking under Section 4(a) of TSCA. Therefore, EPA will not initiate rulemaking to require health effects testing of acetonitrile at this time.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington D.C. 20460. Toll Free: (800-424-9065), in Washington, D.C. (554-1404), outside the USA (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

EPA issued a notice, published in the **Federal Register** of June 1, 1979 which announced ITC's designation of acetonitrile for priority testing consideration under section 4(e) of TSCA. The ITC recommended that acetonitrile be considered for health effects testing. The ITC's recommendation was based on: (1) Large production volume; (2) the potential for human exposure to occur in the workplace; and (3) the lack of adequate data on carcinogenicity, mutagenicity, teratogenicity, other chronic effects and epidemiology.

In a December 29, 1982, **Federal Register** notice (47 FR 58020) the Agency responded to the ITC as required under section 4(e) of TSCA by describing a Negotiated Testing Agreement developed by the EPA, E. I. Dupont de Nemours and Company, Inc., Monsanto Chemical Intermediates Company, and the Vistron Corporation and announcing its preliminary decision not to initiate rulemaking under section 4(a) of TSCA requiring health effects testing for acetonitrile. This decision was based on the Agency's analysis of the existing data and its preliminary acceptance of the program submitted by the above named acetonitrile manufacturers which, in the Agency's view, appeared likely to provide adequate test data more expeditiously than a test rule.

The acetonitrile manufacturers' program was included in the public record (docket number OPTS-42019). The Agency requested comments on the december 29, 1982, **Federal Register** notice (47 FR 58020) which described the acetonitrile manufacturers' program and the Agency's rationale for not proposing to require testing by rule.

II. EPA's Response to Public Comments

The Agency received comments from the Natural Resources Defense Council (NRDC), E. I. Dupont de Nemours and Company, Inc., Monsanto Chemical Intermediates Company, and the Vistron Corporation. EPA's responses to them are summarized below.

NRDC made a generic criticism of EPA's policy of accepting negotiated testing agreements in lieu of rulemaking to require testing under section 4(a) of TSCA. It argued that the "plain language" of TSCA mandates that testing of section 4(e) chemicals must be accomplished by rule. In addition, NRDC contended that negotiated testing had many procedural and legal deficiencies, noting particularly the lack of enforceability of negotiated testing agreements and failure of the agreements to trigger other statutory provisions as would be triggered by a TSCA section 4(a) rule. NRDC made no chemical specific comments about the Agency's testing rationale or the proposed acetonitrile testing program.

EPA has previously addressed NRDC's general concern about negotiated testing in a January 5, 1982, **Federal Register** notice (47 FR 335) which described the negotiated testing program for alkyl phthalates. A more detailed analysis of NRDC's arguments was prepared for inclusion in the public record of that action (docket number OPTS-42005). As was indicated in that notice, EPA believes that neither TSCA nor its legislative history support NRDC's contention that Congress established rules as the exclusive means for accomplishing testing. EPA believes that negotiated testing is consistent with the statutory purpose that adequate data on chemicals be developed expeditiously by the involved companies.

EPA agrees that negotiated testing is not legally enforceable; but, as the Agency has previously indicated in the January 5, 1982, **Federal Register** notice (47 FR 335), there are compelling practical reasons why it expects that involved companies will follow their agreements in the vast majority of cases. Furthermore, the Agency disagrees with NRDC's contention that if EPA is forced to develop a rule because of failure of a negotiated program, the entire program will take substantially longer than if EPA had initially pursued rulemaking. Rather, EPA believes that it could conduct an expedited rulemaking which in many cases would not substantially lengthen the entire process.

NRDC is correct in asserting that acceptance of a negotiated testing program will not trigger certain other statutory provisions that would be initiated if the Agency proposed, and then promulgated, a testing rule for particular substances. However, EPA believes that NRDC has considerably exaggerated the practical impact of this difference. Although a negotiated testing program does not trigger the obligation of a manufacturer of a new substance subject to a section 4 rule to submit test data under section 5(b)(1) and to delay manufacturing until that is done, that particular requirement only relates to EPA actions under section 4 concerning categories of chemical substances. It is not applicable to acetonitrile, an individual chemical substance currently in production.

In addition, contrary to NRDC's claim, EPA has the same authority to disclose health and safety data generated from negotiated testing as it would if the testing were conducted under a rule. Section 14(b)(1)(A)(i) concerns data from any health and safety study on a chemical in "commercial distribution" (which should include virtually all chemicals designated by the ITC) and makes no distinction based upon how the Agency receives the data.

EPA's position that negotiated testing is a legally sufficient alternative to section 4 rulemaking was examined by the General Accounting Office (GAO) during 1982. The GAO concluded that "neither section 4(a) nor 4(e) compels the promulgation of a test rule proceeding where adequate test data may be developed pursuant to voluntary testing agreements. GAO further concludes that since voluntary agreements are consistent with significant purposes of section 4, implied authority exists for EPA to negotiate such agreements." (GAO. 1982. EPA Implementation of Selected Aspects of the Toxic Substances Control Act.

General Accounting Office. December 7, 1982. GAO/RCED–83–62 p. 15).

Based on the above, EPA continues to believe that, where appropriate testing is being undertaken, negotiated testing agreements are an appropriate alternative to expensive, time-consuming rulemaking under section 4 of TSCA.

In their comments, the acetonitrile manufacturers clarified two important issues addressed in the December 29, 1982, **Federal Register** notice (47 FR 58020). The Agency reviewed their comments and its response is provided below.

1. *Use of TSCA section 11.* The acetonitrile manufacturers commented that they did not agree in their test program "to permit laboratory audit-inspections in accordance with the procedures outlined in TSCA section 11, at the request of authorized representatives of the EPA." Secion 11 of TSCA provides EPA with the authority to perform quality assurance audits to ensure that testing is being conducted in accordance with Good Laboratory Practice Standards. The Agency informed the acetonitrile manufacturers that adherence to the procedures outlined in section 11 is not negotiable. As a result, the acetonitrile manufacturers agreed to adhere to the procedures outlined in section 11 ot TSCA.

2. *Use of Good Laboratory Practice Standards.* The acetonitrile manufacturers commented that they did not agree in their test program * * * "that all raw data, documentation * * * and reports generated as a result of studies will be retained as specified in the proposed TSCA Good Laboratory Practice Standards (May 9, 1979, **Federal Register** notice, 44 FR 27334) and made available during an inspection or submitted to EPA if requested by EPA or its authorized representative."

The Agency acknowledges the inconsistency in this statement in the December 29, 1982. **Federal Register** notice (47 FR 58020) with the language concerning Good Laboratory Practice Standards cited in other **Federal Register** notices of Negotiated Testing Agreements (Chlorobenzotrifluoride (November 8, 1982 **Federal Register** notice, 44 FR 50555); Methyl Isobutly Ketone and Methyl Ethyl Ketone (December 29, 1982, **Federal Register** notice, 47 FR 58025) Antimony Metal, Antimony Trioxide, and Antimony Sulfide (January 6, 1983, **Federal Register** notice, 48 FR 717); Acrylamide (January 6, 1983, **Federal Register** notice, 48 FR 725); and Isophorone (January 6, 1983 **Federal Register** notice, 48 FR 727)). In order to resolve this inconsistency the Agency amends the December 29, 1982, **Federal Register** notice (47 FR 58020) with the following language: "In conducting the mutagenicity and teratology studies, industry has agreed to adhere to Good Laboratory Practice Standards issued by the Food and Drug Administration in the December 22, 1978, **Federal Register** (43 FR 59986). In addition, industry has agreed that all raw data, documentation records, protocols, specimens, and reports generated as a result of the studies will be retained for at least 10 years from the date of the program's acceptance by EPA and will be made available on inspection or submitted to EPA if requested by EPA or its authorized representative." Documentation records are to include correspondence and other documents relating to the interpretation and evaluation of data. EPA sees no practical difference between the language contained in the December 29, 1982, **Federal Register** (47 FR 58020) and the above language. The substitution of language is being made to insure that the factual statement of what was agreed to it totally correct.

III. Testing

1. *Study Plans.* In a notice of a Negotiated Testing Agreement which appeared in the December 29, 1982, **Federal Register** (47 FR 58020), the Agency described the acetonitrile manufacturers' proposed program. The final study plans for this program have been submitted and are in the public record (docket number OPTS—42019). The final study plans include:

a. A CHO/HGPRT *in vitro* mammalian cell mutation assay to be started in mid-1983 and for which a final report will submitted by early 1984.

b. An embryo-fetal toxicity and teratogenicity study in New Zealand White Rabbits to be initiated in mid-1983 and for which a final report will be submitted by early 1984.

2. *Conclusions.* EPA has reviewed the study plans and has concluded that:

a. The CHO/HGPRT *in vitro* mammalian cell mutation assay will provide sufficient data to complete the first tier battery of mutagenicity data that the Agency would have normally required under a section 4(a) test rule.

b. The teratogenicity study, in conjunction with existing data on acetonitrile's effects, can be expected to provide sufficient data to determine the embryo-fetal toxicity and the teratogenic potential of acetonitrile. This study will provide the Agency with teratogenicity data for a second mammalian species, which the Organization for Economic Cooperation and Development and TSCA test guidelines recommend.

IV. Public Record

EPA has established a public record for this decision not to pursue testing under section 4 (docket number (OPTS–42019A)). This record includes:

(1) **Federal Register** notice containing the ITC report adding acetonitrile to the priority list.

(2) Communications before industry testing proposal consisting of letters, contact reports of telephone conversations, and meeting summaries.

(3) Testing proposals and protocols.

(4) Published and unpublished data.

(5) **Federal Register** notice requesting comment on the negotiated testing proposal and comments received in response thereto.

The record, containing the basic information considered by the Agency in developing the decision, is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday except legal holidays in the OPTS Reading Room, E–107, 401 M Street, SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601))

Dated: October 27, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83–29071 Filed 11–3–83; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59137; BH–FRL 2464–3]

Toxic Substances Control, Premanufacture Exemption Applications; Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of five applications for exemptions, provides a summary, and requests comments on the

appropriateness of granting each of the exemptions.

DATE: Written comments by November 21, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59137]" and the specific TME number should be sent to: Document Control Officer (TS-793), Management Support Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 as stated above.

TME 84-1

Close of Review Period. December 4, 1983.
Manufacturer. Confidential.
Chemical. (G) Substituted aromatic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 20 workers, up to 24 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by approved landfill.

TME 84-3

Close of Review Period. December 11, 1983.
Manufacturer. Confidential.
Chemical. (G) Substituted polyimide terpolymer.
Use/Production. (G) Specialty coating. Prod. range: 800 lbs, maximum 18 months.
Toxicity Data. No data on the TME substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

TME 84-4

Close of Review Period. December 11, 1983.
Manufacturer. Confidential.
Chemical. (G) Substituted polyimide terpolymer.
Use/Production. (G) Specialty coating. Prod. range: 800 lbs, maximum 18 months.
Toxicity Data. No data on the TME substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

TME 84-5

Close of Review Period. December 11, 1983.
Manufacturer. Confidential.
Chemical. (G) Substituted polcylic amine.
Use/Production. (G) Specialty coating. Prod. range: 400 lbs, maximum 18 months.
Toxicity Data. No data on the TME substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

TME 84-6

Manufacturer. Confidential.
Chemical. (G) Substituted polcylic amine.
Use/Production. (G) Specialty coating. Prod. range: 400 lbs, maximum 18 months.
Toxicity Data. No data on the TME substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Dated: October 28, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83-29869 Filed 11-3-83; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51491; BH-FRL-2464-4]

Toxic Substances Control; Premanufacture Notices; Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt ofninety-two PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84-95, 84-96, 84-97, 84-98, 84-99, 84-100, 84-101, 84-102, 84-103, 84-104, 84-105, 84-106, 84-107, 84-108, 84-109, 84-110, 84-111, 84-112, 84-113, 84-114, 84-115, 84-116, 84-117, 84-118, 84-119, 84-120, 84-121 and 84-122—January 18, 1984.

PMN 84-123, 84-124, 84-125, 84-126, 84-127, 84-128, 84-129, 84-130, 84-131, 84-132, 84-133, 84-134, 84-135, 84-136, 84-137, 84-138, 84-139, 84-140, 84-141, 84-142, 84-143, 84-144, 84-145, 84-146, 84-147, 84-148, 84-149, 84-150, 84-151, 84-152, 84-153, 84-154, 84-155, 84-156, 84-157, 84-158, 84-159 and 84-160—January 21, 1984

PMN 84-161, 84-162, 84-163, 84-164, 84-165, 84-166, 84-167, 84-168, 84-169 and 84-170—January 22, 1984

PMN 84-171, 84-172, 84-173, 84-174, 84-175, 84-176, 84-177 and 84-178—January 23, 1984

PMN 84-179, 84-180, 84-181, 84-182, 84-183, 84-184, 84-185 and 84-186—January 24, 1984

Written comments by:

PMN 84-95, 84-96, 84-97, 84-98, 84-99, 84-100, 84-101, 84-102, 84-103, 84-104, 84-105, 84-106, 84-107, 84-108, 84-109, 84-110, 84-111, 84-112, 84-113, 84-114, 84-115, 84-116, 84-117, 84-118, 84-119, 84-120, 84-121 and 84-122—December 19, 1983

PMN 84-123, 84-124, 84-125, 84-126, 84-127, 84-128, 84-129, 84-130, 84-131, 84-132, 84-133, 84-134, 84-135, 84-136, 84-137, 84-138, 84-139, 84-140, 84-141, 84-142, 84-143, 84-144, 84-145, 84-146, 84-147, 84-148, 84-149, 84-150, 84-151, 84-152, 84-153, 84-154, 84-155, 84-156, 84-157, 84-158, 84-159 and 84-160—December 22, 1983

PMN 84-161, 84-162, 84-163, 84-164, 84-165, 84-166, 84-167, 84-168, 84-169 and 84-170—December 23, 1983

PMN 84-171, 84-172, 84-173, 84-174, 84-175, 84-176, 84-177, 84-178, 84-179, 84-180, 84-181, 84-182, 84-183, 84-184, 84-185 and 84-186—December 24, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51491]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental

Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 84-95

Importer. The BF Goodrich Company.
Chemical. (G) Thermoplastic polyurethane.
Use/Import. (G) Thermoplastic fabrication feedstock. Import range: Confidential
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84-96

Manufacturer. The BF Goodrich Company.
Chemical. (G) Poluyrethane polymer.
Use/Production. (G) Non-dispersive formulation adhesive.
Production range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-97

Manufacturer. Confidential.
Chemical. (S) Ethanol, 2-amino-hydrobromide.
Use/Production. (G) Destructive use as a component of an industrial product. Prod. range: 12,027-16,030 kg/yr.
Toxicity Data. No data submitted
Exposure. Manufacture, processing and use: dermal, a total of 81 workers, up to 10 hrs/da, up to 285 da/yr.
Environmental Release/Disposal. 2-20 kg/batch, 3-30 batches/yr released to water. Disposal by non-navigable waterway.

PMN 84-98

Manufacturer. Confidential.
Chemical. (G) Alkoxy polyol terpolymer.
Use/Production. (S) Industrial intermediate for polyurethane foam production. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 8 workers, up to 8 hrs/da, up to 30 da/yr.
Environmental Release/Disposal. 5-10 kg/batch released into control technology. Disposal by incineration.

PMN 84-99

Manufacturer. Confidential.
Chemical. (G) Hydroxyalkyl ether.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Acute dermal: 9 ml/kg; Irritation: Skin—Slight, Eye—Irritant with transient damage; Inhalation: 7,000 parts per million (ppm), COD (Calculated)—2.15 mg/0_2, (measured)—1.90 mg/O_2; IC_{50} bacteria—>10,000 mg/l; LC_{50} fish—>10,000 mg/l; Repeated dose oral: Kidney damage at 2.14 g/kg
Exposure. Manufacture and use: dermal, a total of 170 workers, up to 8 hrs/da, up to 260 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration and industrial waste water facility.

PMN 84-100

Manufacturer. Confidential.
Chemical. (G) Ester of substituted, unsaturated acid.
Use/Production. (G) Destructive end use. Prod. range: Confidential.
Toxicity Data. Acute oral: 20.0 gm/kg; Skin sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-101

Manufacturer. Confidential.
Chemical. (G) Ester of substituted, unsaturated acid.
Use/Production. (G) Destructive end use. Prod. range: Confidential.
Toxicity Data. Acute oral: 20.0 gm/kg; Skin sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-102

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic.
Use/Production. (S) Dispersive dye for polyester garments. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; LC_{50} 48 hrs (Rainbow trout)—> 500 mg/l; TOC (static method)—50-100%.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by on site biological treatment system.

PMN 84-103

Importer. Confidential.
Chemical. (G) Modified polyacrylate polymer.
Use/Import. (G) Highly dispersive use. Import range: Confidential.
Toxicity Data. Irritation: Skin—Negative; 28 Day Subchronic percutaneous study—Slight; LC_{50} 96 hr (Bluegill sunfish)—1,000 mg/l; COD—0.9384 lbs/lb; BOD_5—0.007481 lbs/lb.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-104

Importer. Confidential.
Chemical. (G) Starch grafted polyacrylate polymer.
Use/Import. (G) Highly dispersive use. Import range: Confidential.
Toxicity Data. Acute oral: Mouse (Male)—6,406, (Female)—5,813; Rat (Male)—6,640, (Female)—5,625; Irritation: Skin—Non-irritant, Eye—Little irritative; COD—9,012 lbs/lb; BOD_5 0.062354 lbs/lb; LC_{50} 96 hr (Bluegil sunfish) >890 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-105

Manufacturer. Confidential.
Chemical. (G) Halogenated alkene.
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Slight, Eye—Moderate; LC_{50}—17 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-106

Manufacturer. Confidential.
Chemical. (G) Halogenated alkane.
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Severe, Eye—Severe to mild; LC_{50}: 32.5 ppm.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-107

Manufacturer. Confidential.
Chemical. (G) Halogenated alkane.
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Moderate, Eye—Moderate; LC_{50}: 622 ppm.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84-108

Manufacturer. Confidential.
Chemical. (G) Trisubstituted heterocyclic disubstituted monocycle.
Use/Production. (G) Dye for fibers. Prod. range: Confidential.
Toxicity Data. Acute oral: >3,200 mg/kg; Acute dermal: >1 g/kg; Irritation: Skin—Slight, Eye—Slight; COD—1.6 and 1.64 g/g; Skin sensitization: Potent.
Exposure. Manufacture: dermal and inhalation.

Environmental Release/Disposal. Release to water. Disposal by biological treatment system and incineration.

PMN 84–109

Importer. Confidential.
Chemical. (G) Substituted-substituted-oxadiazine.
Use/Import. (S) Industrial monomer. Import range: Confidential.
Toxicity Data. Acute oral: >15 g/kg; Irritation: Skin—Irritant, Eye—Irritant.
Exposure. None expected.
Environmental Release/Disposal. No release.

PMN 84–110

Importer. Confidential.
Chemical. (G) Polyurea.
Use/Import. (S) Coating for paper in industrial, commercial and consumer use. Import range: Confidential.
Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. None expected.
Environmental Release/Disposal. No release.

PMN 84–111

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 20 workers, up to 24 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–112

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 35 workers, up to 24 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–113

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 20 workers, up to 24 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–114

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 20 workers, up to 24 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–115

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 30 workers, up to 24 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–116

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 35 workers, up to 24 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 84–117

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 20 workers, up to 24 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 118

Manufacturer. Confidential.
Chemical. (G) Aliphatic polycarbonate urethane.
Use/Production. (S) Polymeric coating for industrial, commercial and consumer use. Prod. range: 15,000–45,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 8 da/yr.
Environmental Release/Disposal. No release.

PMN 84–119

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyester urethane.
Use/Production. (S) Ploymeric adhesive for industrial, commerical and consumer use. Prod. range: 7,500,–15,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 15 da/yr.
Environmental Release/Disposal. No release.

PMN 84–120

Manufacturer. Confidential.
Chemical. (G) Modified halogenated hydrocarbon polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Negligible. Disposal by Resource Conservation and Recovery Act (RCRA) regulations.

PMN 84–121

Importer. Confidential.
Chemical. (G) Substituted heterocyclic metal complex.
Use/Import. (S) Industrial and consumer dye for leather shoes. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; TOC—50–100%; LC_{50} 48 hrs (Rainbow trout)—100 mg/l; IC_{50} bacteria—>100 mg/l.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84–122

Manufacturer. Confidential.
Chemical. (G) Substituted-benzene sulfonic acid, sodium salt.
Use/Production. (G) Component of commercial and consumer products. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >0.8 g/kg; Irritation: Skin—Mild, Eye—Mild; Inhalation: >300 mg/m^3; Ames Test: No evidence of genotoxicity; Skin sensitization: (Animal and human)—Not sensitizer; LC_{50} aquatic organisms—32 to >1,000 mg/l; Skin corrositivity—Not corrosive.
Exposure. Manufacture and oral: dermal, inhalation and ocular.
Environmental Release/Disposal. Release to air, water and land. Disposal by publicly owned treatment works (POTW) and approved landfill.

PMN 84–123

Manufacturer. Sage Technology, Inc. and Molecular Rearrangement, Inc.
Chemical. (G) Naphthaquinone-(1,2)-diazide-(1)-sulfonic-(5)-acid ester.
Use/Production. (S) Film for printing applications for industrial, site-limited, commercial and consumer use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and disposal: dermal and inhalation, a total of 22 workers, up to 24 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 2–1,000 kg/yr to land. Disposal by POTW, landfill and sewer.

PMN 84–124

Manufacturer. Confidential.
Chemical. (G) 2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-substituted.
Use/Production. (S) Dye intermediate. Prod. range: 275–2,750 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacturer: dermal, a total of 2 workers, up to 12 manhours/yr.
Environmental Release/Disposal. No data submitted. Disposal by biological treatment system.

PMN 84–125

Manufacturer. Confidential.
Chemical. (G) 2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-6substituted, potassium salt.
Use/Production. (S) Dye intermediate. Prod. range: 275–2,750 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 12 manhours/yr.
Environmental Release/Disposal. No data submitted. Disposal by biological treatment system.

PMN 84–126

Manufacturer. Confidential.
Chemical. (G) Substituted naphthalene diazonium sulfate.
Use/Production. (S) Dye intermediate. Prod. range: 275–2750 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 12 manhours/yr.
Environmental Release/Disposal. No data submitted. Disposal by biological treatment system.

PMN 84–127

Manufacturer. Spencer Kellogg Division of Textron Inc.
Chemical. (G) Polyurethane prepolymer resin.
Use/Production. (G) A coating to be used in an open, non-dispersive manner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 84–128

Manufacturer. Confidential.
Chemical. (G) Alkyleneamine methylene phosphonic acid.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: >2,000 mg/kg; Acute dermal:> 2,000 mg/kg;: Irritation: Skin—Not a primary irritant, Eye—slight to moderate; LC_{50} 96 hr (Fathead minnow): >1,000 mg/L; LC_{50} 48 hr (Waterflea): >1,000 mg/L.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by industrial wastewater treatment facilities.

PMN 84–129

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–130

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–131

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastwater treatment facility.

PMN 84–132

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–133

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–134

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–135

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–136

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–137

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–138

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–139

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–140

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–141

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–142

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–143

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–144

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–145

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–146

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–147

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–148

Manufacturer. Confidential.
Chemical. (G) Fluorocarbon ionic polymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by incineration, landfill and on-site wastewater treatment facility.

PMN 84–149

Manufacturer. Confidential.
Chemical. (G) Polyalkylene glycol ether.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Minimal release. Disposal by incineration.

PMN 84–150

Manufacturer. Confidential.
Chemical. (G) Aminomethylene phosphonic acid.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: > 1,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin-Not a primary irritant, Eye-Extremely corrosive; LC_{50} 48 hr (Water flea) — >Γ1T1 1,000 μγ/Λ≧ ΛΨ_{50} 96hr (Fathead minnow) -> 1,000 mg/L.
Exposure. Confidential.
Environmental Release/Disposal. Release to a wastewater treatment plant.

PMN 84–151

Manufacturer. The Dow Chemical Company.
Chemical. (S) Lithium aluminum hydroxide.
Use/Production Confidential. Prod. range: 1,000–100,000 kg/yr.
Toxicity Data. Acute oral: > 2,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation; Skin-Slight, Eye-Not a primary irritant.
Exposure. Manufacture and use: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.
Environmental Release/Disposal. Minimal release. Disposal by approved landfill and industrial waste treatment plant.

PMN 84–152

Manufacturer. Dow Chemical Company.
Chemical. (S) Hydroxy bromide.
Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.
Toxicity Data. Acute oral: > 2,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin-Slight, Eye-Not a primary irritant.
Exposure. Manufacture and use: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by approved landfill and industrial waste treatment plant.

PMN 84–153

Manufacturer. The Dow Chemical Company.

Chemical. (S) Hydroxy chloride.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. Acute oral >2,000 mg/kg; Acute dermal; >2,000 mg/kg; Irritation: Skin—Slight, Eye—Not a primary irritant.

Exposure. Manufacture and use: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by approved landfill and industrial waste treatment plant.

PMN 84–154

Manufacturer. The Dow Chemical Company.

Chemical. (S) Lithium aluminum hydroxy stearate.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by landfill and on-site industrial waste treatment plant.

PMN 84–155

Manufacturer. The Dow Chemical Company.

Chemical. (S) Palmitate.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by landfill and on-site industrial waste treatment plant.

PMN 84–156

Manufacturer. The Dow Chemical Company.

Chemical. (S) Myristate.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by landfill and on-site industrial waste treatment plant.

PMN 84–157

Manufacturer. The Dow Chemical Company.

Chemical. (S) Laurate.

Use/Production. Confidential. Prod. range: 1,000–100,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by landfill and on-site industrial waste treatment plant.

PMN 84–158

Manufacturer. Confidential.

Chemical. (G) Modified epoxy resin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 48 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by incineration, landfill and industrial waste treatment plant.

PMN 84–159

Manufacturer. Confidential.

Chemical. (G) Rubber modified epoxy resin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal release. Disposal by incineration, landfill and industrial waste treatment plant.

PMN 84–160

Manufacturer. Confidential.

Chemical. (G) Rubber modified epoxy resin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal release. Disposal by incineration, landfill and industrial waste treatment.

PMN 84–161

Manufacturer. Confidential.

Chemical. (S) Reaction of: diethylene triamine, Cardura E, allyl glycidyl ether, urea.

Use/Production. (G) Open use. Prod. range: 250,000–1,000,000 kg/Yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and use: dermal and inhalation, a total of 4 workers, up to 1 hr/da, up to 100 da/yr

Environmental Release/Disposal. Less that 10 kg/yr released to air. Disposal by biological treatment system and landfill.

PMN 84–162

Manufacturer. Confidential.

Chemical. (G) Modified epoxy resin.

Use/Production. (S) Powder coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal release. Disposal by landfill or recycle.

PMN 84–163

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Substituted triazine.

Use/Production. (S) Curing agent for fluoroelastomers. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Slight, Eye—Non-irritant.

Exposure. Manufacture: dermal and inhalation, a total of 6 workers, up to 10 da/yr.

Environmental Release/Disposal. 10 lbs released to land.

PMN 84–164

Manufacturer. Confidential.

Chemical. (G) Fluorine substituted dioxolane.

Use/Production. (G) Site-limited, captive isolated intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 670 mg/kg.

Exposure. Manufacture: dermal, a total of 5 wirkers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. No release.

PMN 84–165

Manufacturer. Confidential.

Chemical. (G) Carbonyl fluorine substituted dioxolane.

Use/Production. (G) Site limited captive isolated intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 670 mg/kg

Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. No release.

PMN 84–166

Manufacturer. Confidential.

Chemical. (G) Fluorine substituted poly dioxolane.

Use/Production. (G) Open use. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Non-irritant; Skin sensitization: Non-sensitizer.

Exposure. Manufacture and processing: a total of 15 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Less that 10 kg released to land. Disposal by approved landfill.

PMN 84–167

Manufacturer. Confidential.

Chemical. (G) Fluorine substituted dioxan-2-one.

Use/Production. (G) Captive isolated intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 2,250 mg/kg.

Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. No release.

PMN 84–168

Manufacturer. Confidential.

Chemical. (G) Oxo-fluorine substituted dioxolane.

Use/Production. (G) Captive isolated intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 300 mg/kg.

Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. No release.

PMN 84–169

Manufacturer. International Energy and Resource Corporation.

Chemical. (G) Acrylate ester blocked polyurethane.

Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.

Toxicity Data. Acute oral: Very low order; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture, processing and disposal: dermal, a total of 8 workers, up to 5 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–170

Manufacturer. International Energy and Resource Corporation.

Chemical. (G) Acrylate blocked polyurethane.

Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.

Toxicity Data. Acute oral: Very low order; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture, processing and disposal: dermal a total of 8 workers, up to 5 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–171

Manufacturer. Confidential.

Chemical. (G) Functional polyurethane.

Use/Production. (G) Used in formulating an industrial sealant having an open-use. Prod. range: 300,000–750,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 36 workers, up to 6 hrs/da, up to 49 da/yr.

Environmental Release/Disposal. 5–25 kg/batch released to land. Disposal by incineration.

PMN 84–172

Manufacturer. Confidential.

Chemical. (G) Functional acrylic copolymer.

Use/Production. (G) The new substance will have an open use as one of the components of an industrially used coating. Prod. range: 24,000–90,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 33 workers, up to 12 hrs/da, 42 da/yr.

Environmental Release/Disposal. 10–60 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–173

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Titanium (4+) mixed alcohol complex.

Use/Production. (G) An additive consumed in the energy production industry—destructive use. Prod. range. Confidential.

Toxicity Data. Acute oral: 12,290 mg/kg; Irritation: Skin—Slight, Eye—Moderate.

Exposure. Manufacture: dermal, a total of 3 workers, up to 7 hrs/da, up to 65 da/yr.

Environmental Release/Disposal. 13 kg/batch contained for disposal. Disposal by incineration on-site.

PMN 84–174

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Titanium (4+) mixed alcohol complex.

Use/Production. (S) Esterification catalyst, destructive use. Prod. range: 25–200,000 kg/yr.

Toxicity Data. Acute oral: 3, 400 mg/kg; Irritation: Skin—Severe, Eye—Severe.

Exposure. Manufacture: dermal, a total of 3 workers, up to 7 hrs/da, up to 40 da/yr.

Environmental Release/Disposal. 7 kg/batch contained for disposal. Disposal by incineration on-site.

PMN 84–175

Manufacturer. Phillips Chemical Company.

Chemical. (S) N-dodecylthio-2-propanol.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–176

Manufacturer. Fairad Technology, Inc.

Chemical. (G) Aliphatic triol ester methacrylate.

Use/Production. (S) Component of industrial coatings Prod. range: 0–75,000 kg/yr.

Toxicity Data. Acute oral: Very low order: Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture, processing and disposal: dermal, a total of 8 workers, up to 4 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–177

Importer. Confidential.

Chemical. (G) Ester of substituted cyclohexene.

Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. Acute oral: >8,000 mg/kg: Irritation: Skin—very slight, Eye—Very slight; Skin sensitization: negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84–178

Importer. Confidential.

Chemical. (G) Ester of substituted cyclohexene.

Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. Acute oral: >8,000 mg/kg; Irritation: Skin—Very slight, Eye—Very slight; Skin sensitization: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84–179

Importer. Confidential.

Chemical. (G) Substituted-phenyl-N-substituted-sulfophenylazo-benzylidenehydrazino substitutedamino monochlorotriazinylamino sulfobenzoate-copper sulfate, sodium salt.

Use/Import. (S) Industrial dyestuff. Import range: 500–10,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–180

Manufacturer. Fairad Technology, Inc.
Chemical. (G) Polyether acrylate ester.
Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.
Toxicity Data. Acute oral: Low order.
Exposure. Manufacture, processing and disposal: dermal, a total of 8 workers, up to 4 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–181

Manufacturer. Fairad Technology, Inc.
Chemical. (G) Aliphatic acrylate ester.
Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.
Toxicity Data. Acute oral: Low order.
Exposure. Manufacture, processing and disposal: dermal, a total of 8 workers, up to 4 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–182

Manufacturer. Fairad Technology, Inc.
Chemical. (G) Polyether acrylate.
Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.
Toxicity Data. Acute oral: Low order.
Exposure. Manufacture, processing and disposal: dermal, a total of 8 workers, up to 4 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–183

Manufacturer. Fairad Technology, Inc.
Chemical. (G) Aliphatic ester methacrylate.
Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.
Toxicity Data. Acute oral: Low order; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Manufacture, processing and disposal: dermal, a total of 8 workers, up to 4 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–184

Manufacturer. Fairad Technology, Inc.
Chemical. (G) Aliphatic ester methacrylate.
Use/Production. (S) Industrial coatings. Prod. range: 0–75,000 kg/yr.
Toxicity Data. Acute oral: Extreme low order; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Manufacture, processing and disposal: dermal, a total of 8 workers, up to 4 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and landfill.

PMN 84–185

Manufacturer. Confidential.
Chemical. (G) Perhaloolefin.
Use/Production. Site limited intermediate. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: a total of 42 workers, up to 2 hrs/da. up to 125 da/yr.
Environmental Release/Disposal. Release to land. Disposal by POTW and landfill.

PMN 84–186

Manufacturer. W. R. Grace & Company.
Chemical. (G) (Polyurethane from polyhydroxyalkyls and an aromatic diisocyanate).
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. Acute oral: 50 mg/kg; Acute dermal: 200 mg/kg; Inhalation: Negative; DOT corrosivity study: Not corrosive.
Exposure. Confidential.
Environmental Release/Disposal. No release. Disposal by landfill.

Dated: October 28, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83–29868 Filed 11–3–83; 8:45 am]
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[Docket No. OPTS–51490; BH–FRL 2458–5]

Toxic Substances Control; Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufactue notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of fifty-three PMNs and provides a summary of each.

DATES: Close of Review Period
PMN 84–42, 84–43, 84–44, 84–45, 84–46, 84–47, 84–48, 84–49, 84–50, 84–51, 84–52 and 84–53—January 11, 1984
PMN 84–54, 84–55, 84–56, 84–57, 84–58, 84–59, 84–60, 84–61, 84–62, 84–63, 84–64, 84–65, 84–66, 84–67, 84–68, 84–69 and 84–70—January 14, 1984
PMN 84–71, 84–72, 84–73, 84–74, 84–75, 84–76, 84–77, 84–78, 84–79, 84–80, 84–81, 84–82, 84–83, 84–84, 84–85 and 84–86—January 15, 1984
PMN 84–87, 84–88, 84–89, 84–90, 84–91 and 84–92—January 16, 1984
PMN 84–93 and 84–94—January 17, 1984
Written comments by:
PMN 84–42, 84–43, 84–44, 84–45, 84–46, 84–47, 84–48, 84–49, 84–50, 84–51, 84–52 and 84–53—December 12, 1983
PMN 84–54, 84–55, 84–56, 84–57, 84–58, 84–59, 84–60, 84–61, 84–62, 84–63, 84–64, 84–65, 84–66, 84–67, 84–68, 84–69 and 84–70—December 15, 1983
PMN 84–71, 84–72, 84–73, 84–74, 84–75, 84–76, 84–77, 84–78, 84–79, 84–80, 84–81, 84–82, 84–83, 84–84, 84–85 and 84–86—December 16, 1983
PMN 84–87, 84–88, 84–89, 84–90, 84–91 and 84–92
PMN 84–93 and 84–94—December 17, 1983

ADDRESS: Written comments, identified by the document control number "[OPTS–51490]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

PMN 84–42

Manufacturer. Confidential.
Chemical. (G) Substituted benzene.
Use/Production. (S) Site-limited on-site intermediate. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 16 workers, up to 8 hrs/da, up to 80 da/yr.

Environmental Release/Disposal. Confidential

PMN 84–43

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Fatty acid mercaptan acrylic copolymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 persons/shift, 8 hrs/shift, 3 shifts/da, 53 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and Resource Conservation and Recovery Act (RCRA) regulations.

PMN 84–44

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Acrylic copolymer.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 persons/shift, 12 hrs/shift, 2 shifts/da, 7 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and RCRA regulations.

PMN 84–45

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Acrylic urethane polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, total of 4 persons/shift, 12 hrs/shift, 2 shifts/da, 7 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and RCRA regulations

PMN 84–46

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Acrylic urethane polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 persons/shift, 12 hrs/shift, 2 shifts/da, 7 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and RCRA regulations.

PMN 84–47

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Ester urethane copolymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 persons/shift, 8 hrs/shift, 3 shifts/da, 28 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and RCRA regulations.

PMN 84–48

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Acrylic styrene copolymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 persons/shift, 12 hrs/shift, 2 shifts/da, 41 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and RCRA regulations.

PMN 84–49

Importer. Confidential.

Chemical. (G) Formaldehyde reaction product with phenol and diamine.

Use/Import. (S) Industrial and commercial epoxy curing agent. Import range: Confidential.

Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—Corrosive, Eye—Extreme.

Exposure. Use: dermal and inhalation, minimal.

Environmental Release/Disposal. Disposal by landfill.

PMN 84–50

Importer. Confidential.

Chemical. (G) Substituted heterocyclic metal complex.

Use/Import. (S) Industrial and consumer dye for leather shoes. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; TOC: 50–100%; LC_{50} 48 hours (rainbow trouts): >100 mg/1; IC_{50} bacteria: >100 mg/1.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted. Disposal by on-site biological treatment system.

PMN 84–51

Importer. Confidential.

Chemical. (G) Substituted heterocyclic metal complex.

Use/Import. (S) Industrial and consumer dye for leather shoes. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; TOC: 50–100%; LC_{50} 48 hours (rainbow trouts): >100 mg/l; IC_{50} bacteria: >100 mg/l

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted. Disposal by on-site biological treatment system.

PMN 84–52

Manufacturer. GAF Corporation.

Chemical. (G) Vinylpyrrolidone copolymer.

Use/Production. (G) Open, dispersive and non-dispersive uses. Prod. range: Confidential.

Toxicity Data. Acute oral: 9 gm/kg; Irritation: Skin—0.58, Eye—Mild.

Exposure. Manufacture: dermal and inhalation, a total of 8 workers, up to 60 hrs/yr/operator.

Environmental Release/Disposal. 1,040 kg released. Disposal by approved landfill.

PMN 84–53

Manufacturer. GAF Corporation.

Chemical. (G) Vinylpyrrolidone copolymer.

Use/Production. (G) Open, dispersive and non-dispersive uses. Prod. range: Confidential.

Toxicity Data. Acute oral: 37 gm/kg; Irritation: Skin—1.58, Eye—Non-irritant; LC_{50} 96 hr—210 mg/l.

Exposure. Manufacture: dermal, a total of 8 workers, up to 60 hrs/yr/operator.

Environmental Release/Disposal. 1,040 kg released. Disposal by approved landfill.

PMN 84–54

Manufacturer. Confidential.

Chemical. (G) Drying oil modified alkyd.

Use/Production. (G) Air drying alkyd used in industrial coatings. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing, use and disposal: dermal and inhalation, a total of 8 workers, up to 8 hrs/da, up to 80 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by incineration.

PMN 84–55

Manufacturer. Confidential.

Chemical. (G) Ethoxylated nonylphenol urethane derivative.

Use/Production. (G) Component of formulations for an open, non-dispersive use. Prod. range: 2,500–14,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 19 workers, up to 8 hrs/da, up to 40 da/yr.

Environmental Release/Disposal. 2–3 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–56

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (G) Resin in coatings. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–57

Manufacturer. Confidential.
Chemical. (G) Transition metal complex.
Use/Production. (G) Site limited intermediate in a contained use. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Non-irritant; Ames Test: Non-mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–58

Importer. Confidential.
Chemical. (G) Cycloaliphatic amines.
Use/Import. (S) Industrial and commercial epoxy curing agent. Import range: Confidential.
Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—Irritant, Eye—Extreme.
Exposure. Minimal.
Environmental Release/Disposal. Disposal by approved landfill.

PMN 84–59

Manufacturer. Confidential.
Chemical (G) Copolyester polymer.
Use/Production. (S) Film coating. Prod. range: 3,500–4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 18 workers, up to 13.5 manhours/yr.
Environmental Release/Disposal. No data submitted.

PMN 84–60

Manufacturer. Confidential.
Chemical (G) Copolyester polymer.
Use/Production. (S) Film coating. Prod. range: 3,500–4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 18 workers, up to 13.5 manhours/yr.
Environmental Release/Disposal. No data submitted.

PMN 84–61

Manufacturer. Confidential.
Chemical (G) Copolyester polymer.
Use/Production. (S) Film coating. Prod. range: 3,500–4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 18 workers, up to 13 manhours/yr.
Environmental Release/Disposal. No data submitted.

PMN 84–62

Manufacturer. Confidential.
Chemical (G) Copolyester polymer.
Use/Production. (S) Film coating. Prod. range: 3,500–4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 18 workers, up to 13 manhours/yr.
Environmental Release/Disposal. No data submitted.

PMN 84–63

Importer. Confidential.
Chemical. Substituted-phenyl-N-substitutedamino monochlorotriazinylamino substituted-sulfophenylazo-benzylidene-hydrazino sulfobenzoate-copper sulfate, potassium salt.
Use/Import. (S) Industrial dyestuff. Prod. range: 500–10,000 kg/yr.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Slight to severe, Eye—Mild and minimal.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84–64

Importer. Confidential.
Chemical. (G) Substituted-phenylamino monochloro-triazinylamino sulfophenylazo-substituted disulfonaphthalenylazo-naphthalene-disulfonic acid, hexasodium salt.
Use/Import. (S) Industrial dyestuff. Import range: 500–10,000 kg/yr.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Moderate and minimal.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84–65

Importer. Confidential.
Chemical. (G) Substituted anthraquinone aryl sulphamate.
Use/Import. (S) Used in the production of consumer texiles for home furnishings and apparel productions. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 84–66

Importer. Confidential.
Chemical. (G) Substituted phenol-formaldehyde condensate.
Use/Import. (S) Used in the dyeing of acrylic fibers and fabrics. Import range: Confidential.
Toxicity Data. Acute oral: 7.71 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; 48 hr concentration (Rainbow trout)—LC_0—1.6 mg/l, LC_{50}—2.3 mg/l, LC_{100}—3.2 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 84–67

Importer. Confidential.
Chemical. (G) Substituted aromatic azo pyridinium salt.
Use/Import. (S) Used in the dyeing of acrylic fibers and fabrics. Prod. range: Confidential.
Toxicity Data. Acute oral: 14.0 g/kg; Irritation: Skin—Non-irritant, Eye—Slight; 48 hr concentration (Rainbow trout) LC (ppm wt/vol) LC_0—100, LC_{50}—122, LC_{100}—150 (Rainbow trout); TOC—400 mg/l.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84–68

Importer. Confidential.
Chemical. (G) Substituted anthraquinone aryl amine.
Use/Import. (S) Dyeing of acrylic fibers and fabrics used in the production of various textile consumer products. Import range: Confidential.
Toxicity Data. Acute oral: 10.01 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; 48 hr concentration (Rainbow trout)—LC_0—12 mg/l, LC_{50}—14 mg/l, LC_{100}—16 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 84–69

Importer. Confidential.
Chemical. (G) Substituted anthraquinone ammonium salt.
Use/Import. (S) Used in the production of consumer textiles for home furnishings and apparel production. Import range: Confidential.
Toxicity Data. Acute oral: 7.29 g/kg; Irritation: Skin—Slight, Eye—Slight; 48 hr concentration (Rainbow trout)—LC_0—75 mg/l, LC_{50}—95 mg/l, LC_{100}—125 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 84–70

Importer. Confidential.

Chemical. (G) Substituted methimine indolium acetic acid salt.

Use/Import. (S) Used in the production of consumer textiles for home furnishing and apparel production. Import range: Confidential.

Toxicity Data. Acute oral: .68 g/kg; Irritation: Skin—Non-irritant, Eye—Moderate; 48 hr concentration (Rainbow trout)—LC_0—150 parts per million (ppm), LC_{50}—270 ppm, LC_{100}—345 ppm; TOC—400 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84–71

Manufacturer. Confidential.

Chemical. (G) Substituted pyridinium chloride.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

PMN 84–72

Manufacturer. Confidential.

Chemical. (G) Modified acrylate ester resin.

Use/Production. (S) site limited ingredient in inks for packaging. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 12 workers, up to 4 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. Less that 10 kg/yr released to land. Disposal by approved landfill.

PMN 84–73

Manufacturer. Confidential.

Chemical. (G) Polyester polycarboxylate salt.

Use/Production. (S) Industrial component for warp yarn size solution for textile manufacture. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 18 workers, up to 1 hr/da, up to 10 da/yr.

Environmental Release/Disposal. 1–10 kg/batch released to control technology. Disposal by incineration.

PMN 84–74

Manufacture. Confidential.

Chemical. (G) Unsaturated organic compounds with isocyanates.

Use/Production. (S) Site limited, chemical intermediate. Prod. range: 7,500–35,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and ingestion, a total of 4 workers, up to 8 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. Confidential.

PMN 84–75

Manufacture. Confidential.

Chemical. (G) Copolymer unsaturated organic compounds with polyols and isocyanates.

Use/Production. (S) Site-limited binder for magnetic tape. Prod. range: 7,500–350,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–76

Manufacture. Confidential.

Chemical. (G) Vinyl acetate—ethylene copolymer.

Use/Production. (S) Adhesive binder for wood pulp and synthetic fiber non-woven fibers and flocking adhesive for textile substrates. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal a total of 9 workers, up to 4 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. 0.5 kg/batch released to water. Disposal by publicly owned treatment works (POTW), on-site treatment works and landfill.

PMN 84–77

Importer. Confidential.

Chemical. (G) Substituted heterocycle, diester with alkanedioic acid.

Use/Import. (G) Closed use. Import range: Confidential.

Toxicity Data. Acute oral: >4,600 mg/kg; 28—Day dietary feeding study—2,000 ppm.

Exposure. Manufacture: dermal and inhalation, a total of 1 worker, up to 1 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 84–78

Importer. Confidential.

Chemical. (G) Substituted benzaldehyde.

Use/Production. (G) Chemical intermediate. Import range: Confidential.

Toxicity Data. Acute: oral: Male—1,248 mg/kg, Female—1,046 mg/kg; Acute dermal: >5,000 ml/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Inhalation: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by RCRA regulations.

PMN 84–79

Manufacture. Confidential.

Chemical. (G) Glycol/phthalate polyester resin.

Use/Production. (S) Finishing agent for treating polyester textile fabrics. Prod. range: 7,000–14,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 9 da/yr.

Environmental Release/Disposal. Less than 3,000 kg/batch released to land. Disposal by POTW and landfill.

PMN 84–80

Manufacture. A. E. Staley Manufacturing Company.

Chemical. (S) Cellulose, acetate, [(1-oxo-2-propenyl)amino] methyl ether.

Use/Production. (S) Industrial adhesion and hardness for ultraviolet cure inks, coating formulations, photo resists, cellulose transparencies, moldings, extrusions, pultrusions alkyd or acrylic type paints, reinforced polyester sheet, and reverse osmosis or ultra filtration membrane material. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 4 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 1.0 to 13.31 kg/batch released to air, water and land. Disposal by POTW.

PMN 84–81

Manufacturer. A. E. Staley Manufacturing Company.

Chemical. (S) Cellulose, acetate butanoate, [(1-oxo-2-propenyl)amino] methyl ether.

Use/Production. (S) Industrial adhesion and hardness for ultraviolet cure inks, coatings formulations, photo resists, cellulose transparencies, moldings, extrusion, pultrusion, alkyd or acrylic type paints, reinforced polyester sheet, and reverse osmosis or ultra filtration membrane material. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, up to 4 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 1.0 to 13.31 kg/batch released to air, water and land. Disposal by POTW.

PMN 84–82

Importer. Confidential.

Chemical. (G) Azo triazolium salt.

Use/Import. (S) Used in the dyeing of acrylic fibers and fabrics. Import range: Confidential.

Toxicity Data. Acute oral: 1.16 g/kg; Irritation: Skin—Non-irritant, Eye—Slight; 48 hr concentration (Rainbow

trout)—LC_0—70.0 mg/l; LC_{50}—108.0 mg/l; LC_{100}—162.0 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84–83

Importer. Confidential.

Chemical. (G) Azo triazolium salt.

Use/Production. (S) Used in the dyeing of acrylic fibers and fabrics. Import range: Confidential.

Toxicity Data. Acute oral: 1.16 g/kg; Irritation: Skin—Non-irritant, Eye—Slight; 48 hr concentration (Rainbow trout)—LC_0—70.0 mg/l; LC_{50}—108.0 mg/l; LC_{100}—162.0 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84–84

Manufacturer. Confidential.

Chemical. (G) Azo benzothiazolium salt.

Use/Production. (S) Dyeing of acrylic fibers and fabrics. Prod. range: Confidential.

Toxicity Data. Acute oral: 2.6 kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; 48 hr concentration (Rainbow trout)—LC_0—1.8 ppm, LC_{50}—9.6 ppm, LC_{100} 53.5 ppm.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84–85

Manufacturer. Confidential.

Chemical. (G) Azo benzothiazolium salt.

Use/Production. (S) Dyeing of acrylic fibers and fabrics. Prod. range: Confidential.

Toxicity Data. Acute oral: 2.6 kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; LC_0—1.8 ppm, LC_{50}—9.6 ppm, LC_{100} 53.5 ppm.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84–86

Importer. Confidential.

Chemical. (G) Heterocyclic azo substituted aromatic compound.

Use/Import. (S) Dyeing of acetate and polyester fibers and fabrics. Import range: Confidential.

Toxicity Data. Acute oral: 2.9 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; 48 hr concentration (Rainbow trout)—LC_0—3.4 mg/l; LC_{50}—6.3 mg/l; LC_{100}—11.5 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84–87

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Ethylene interpolymer.

Use/Production. (S) Molded parts. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 10 da/yr.

Environmental Release/Disposal. 5,000–10,000 kg/yr sold as scrap to be molded into molded non-critical plastic parts.

PMN 84–88

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–89

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84–90

Importer. Confidential.

Chemical. (G) Azo triazolium salt.

Use/Import. (G) Used in the dyeing of acrylic fibers and fabrics. Import range: Confidential.

Toxicity Data. Acute oral: 1.16 g/kg; Irritation: Skin—Non-irritant, Eye—Slight 48 hr concentration (Rainbow trout)—LC_0—70.0 mg/l, LC_{50}—108.0 mg/l, LC_{100}—162.0 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84–91

Importer. Confidential.

Chemical. (G) Azo triazolium salt.

Use/Import. (G) Used in the dyeing of acrylic fibers and fabrics. Import range: Confidential.

Toxicity Data. Acute oral: 1.16 g/kg; Irritation: Skin—Non-irritatnt, Eye—Slight; 48 hr concentration (Rainbow trout) LC_0—70.0 mg/l, LC_{50}—108.0, LC_{100}—162.0 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 84–92

Importer. Confidential.

Chemical. (G) Polymer of 1,2-propanediol, 1,6-hexanedioic acid and tetra substituted benzene dicarboxylic acid derivative.

Use/Import. (G) Polyester prepolymer intermediate for coating for industrial use. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 27 workers, up to 8 hrs/da, up to 84 da/yr.

Environmental Release/Disposal. 44.5 kg released to land. Disposal by POTW and incineration.

PMN 84–93

Manufacturer. Confidential.

Chemical. (G) Substituted-1H-isoindol-1-one.

Use/Import. (S) Site limited intermediate. Import range: Confidential

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release. Disposal by POTW.

PMN 84–94

Manufacturer. Confidential.

Chemical. (G) Cresol formaldehyde polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: October 24, 1983.

Linda A. Travers,

Acting Director, Management Support Division.

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FEDERAL HOME LOAN BANK BOARD

[Docket No. 83-576]

Implementation of Change in Financial Reporting Requirements

October 24,1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Implementation of change in reporting requirements.

SUMMARY: The Board has determined to implement a change in reporting requirements pursuant to 12 CFR 563.08(a) for institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions") in order to obtain data needed for risk assessment industry monitoring and examination and supervision in a deregulated and rapidly changing environment. The change provides for the reporting of new information on interest-rate sensitivity.

futures and options market participation and use of new investment powers, but eliminates the reporting of data no longer essential. It provides for comprehensive reporting by all insured institutions quarterly, rather than semiannually as currently done, but (after a six-month overlap) eliminates regular monthly reporting for all but a small sample of such institutions. Federal Home Loan Banks, however, will be permitted to collect monthly information from insured institutions to determine regional cost of funds, where a Bank has concluded that availability of such data is necessary for institutions in its area to meet contractual obligations to make changes in adjustable rate mortgages, and the Board will continue to require more frequent special reporting by institutions needing special supervisory surveillance.

EFFECTIVE DATE: A portion of the sample monthly reporting (Survey of Deposits and Other Accounts) is effective November 4, 1983; the new quarterly report is effective January 1, 1984 (the actual report covering March is not filed until April 30, 1984), and the remaining portion of the sample monthly becomes effective on July 1, 1984, when the current monthly report is discontinued.

FOR FURTHER INFORMATION CONTACT: Richard Pickering, Deputy Director Office of Policy and Economic Research (202–377–6770), Robert Pomeranz, Accounting Policy Analyst, Office of Examinations and Supervision (202–377–6365), Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On August 29, 1983, the Federal Home Loan Bank Board, by Resolution No. 83–474, published a notice of proposed changes in reporting requirements for insured institutions, in order to secure the benefits of public review and comment (48 FR 39944).

Comments regarding the proposed changes were received from 217 entities. In addition, the Board had the benefit of comments by representatives of institutions that have been voluntarily testing a portion of the proposed new system at a meeting called by it on October 11. All but 18 of the written comments were from insured institutions. The other commenters were six trade associations, eight service bureaus which process data for the industry, one state savings and loan commissioner, one commercial bank and one investment banking firm. The Comments of the trade associations and service bureaus were similar to those received from insured institutions, which are summarized below. The commercial bank and investment banking organization that commented generally applauded the changes because they would provide additional useful analytical information.

The state savings and loan association commissioner indicated that his department had found monthly reporting very useful for supervisory purposes and would probably require such a report if the Board's monthly report were no longer available. The Board appreciates the commissioner's position, but does not consider it appropriate to base a nationwide reporting system on the needs of a single state.

The comments received from insured institutions represented six percent of the industry. They were well distributed geographically, and were received from institutions of all asset sizes, with about one-half coming from institutions with assets of $150 million or less. Comments, however, did not vary systematically by size of institution or geographic area.

Most industry commenters recognized the need for a revised reporting system in view of recent changes in the financial and regulatory environment. A few indicated complete agreement with the proposed changes, but most expressed reservations about the need for some of the information requested and concern about the cost of providing portions of it. Comments on major components of the proposal, those relating to the timing of the implementation of the changes, and those regarding the timing proposed for submission of reports, are summarized and addressed below.

Sample Reports

Relatively few comments were received regarding the sample portion of the proposed system, which consisted of: (1) Monthly data on deposit balances and rates; (2) a condensed balance sheet and data on mortgage lending and commitment activity, deposit activity and interest expense reported monthly; and (3) a quarterly supplement providing detail on securities investments. A few institutions, however, correctly pointed out that there would be an extra reporting burden for those institutions chosen to be a part of the monthly sample. There were also comments applauding the elimination of universal monthly reporting, but a few commenters felt the elimination of the monthly report was not a fair offset to the proposed change from semiannual to quarterly reporting. A few also expressed concern regarding the possibility of collection of monthly data by the Federal Home Loan Banks and through supervisory reports as provided for in the proposal; several commenters, however, indicated that it was important that the Board continue to collect information adequate to publish a monthly cost-of-funds index. A few institutions questioned the need for the overlap period proposed for the first half of 1984, when institutions would be required to submit both the new quarterly report and the old monthly report. The Board does not find compelling the minor objections raised by a few commenters, and has determined to adopt the sample portion of the reporting requirement as proposed. By companion Resolution No. 83–576A, adopted today, the Board has also authorized federal Home Loan Banks to collect monthly information necessary for cost-of-funds indices adjustments.

Quarterly Balance Sheet and Income and Expense Statements

Only about one-eight of the industry respondents commented specifically on this portion of the quarterly report. Most indicated that providing the information requested would cause no major problems, since it was quite similar to that currently provided semiannnually. A significant number of those commenting, however, questioned the need for the requested detail on a quarterly basis. The Board believes that detailed quarterly reporting on the new statements is necessary for industry monitoring in view of the elimination of universal monthly reporting and the frequency of significant changes in the economic environment in which the industry operates. It will also permit a reduction in the frequency of more costly field examinations for some institutions. On further consideration, however, the Board believes that separate reporting of eleven balance sheet and expense items required by the original proposal will not be critical to the Board's review function and has therefore determined to implement the reporting requirement in a somewhat shortened form.

Supplemental Quarterly Data

About one-fourth of the industry respondents commented on this section of the quarterly report, which would provide data on lending activity, delinquency trends, futures/options, and other miscellaneous industry activity. Most of the comments related to the information requested on loan delinquency, indicating that it would be a major burden to provide data on loans becoming delinquent during the quarter and on balances of delinquent loans by

months delinquent. Institutions with a large volume of loans serviced by others pointed out that it would be difficult for them to obtain the necessary information from their servicers in time to report the data correctly. Some comments also objected to the request for information on cash loan repayments resulting from the sale of previously-occupied homes, because such information is not in their files at the current time; others questioned the need for obtaining information on negotiable certificates with balances greater than $100,000.

After considering the comments, the Board has concluded that the burden of reporting delinquent loan and foreclosure information as orginally proposed would be substantially greater than had been anticipated, and has, therefore, determined to reduce the amount of such information requested to four items similar to data currently provided either monthly or semiannually. The Board has, however, determined to collect the data on negotiable certificates and loan repayments as proposed, because of its value for monitoring purposes.

Quarterly Deposit Activity

Nearly two-thirds of the respondents commented on this section of the proposed reporting system pertaining to information on deposits received, withdrawals, interest credited, and cost of new funds received by the type of account. Nearly all comments were adverse, although there were a few that were generally favorable, and one institution indicated it prepared a similar report for management purposes and found it quite useful. The negative comments reflected primarly the high cost of providing the information, since it would necessitate accessing computer files on a daily basis, but many writers also questioned the usefulness of the information.

The Board continues to believe that information of the type proposed for this section of the report would be a valuable supervisory tool, but in view of the significant industry costs involved, has determined to eliminate most of the proposed collection items. Required data will consist only of end-of-quarter balances in fixed-term accounts classified by original maturity and aggregate information on net new deposits received and interest credited to accounts. The latter two items are currently reported monthly.

Quarterly Maturity/Yield Data

About one-half of the responses specifically commented on this section of the proposed report, which required information on asset and liability balances and the average interest rate on such balances, classified by period to maturity or repricing. Most commenters stated that they could understand the value of the information requested both to the Board and to management, but indicated that it would be difficult to provide and would involve substantial startup costs, particularly with regard to assets. Some of the commenters questioned the amount of detail requested by type of asset/liability and/or period to maturity, but others suggested that not enough detail was being requested to provide an accurate picture of asset/liability mismatches. Some also indicated that the management of many institutions would not understand the meaning of the data and that reporting it would not guarantee that management would take the information into consideration in setting policy. Other commenters expressed concern about the manner in which the Board might use the data for supervisory purposes and the fact that other types of financial institutions are not required to report similar information.

The Board also had the benefit of technical comments from a group op institutions that tested a preliminary draft of this section of the proposed report. As a result of these, as well as general industry comments, a number of asset/liability classifications have been consolidated and provision has been made for reporting additional detail on 1–4 family mortgage loans held by interest-rate categories, which should be available as a by-product of the information originally requested. The Board has determined to collect the data in this revised form because it is essential to the measurement of the progress institutions are making in matching assets and liabilities so as to reduce the large interest-rate risk assumed by many. In the analytical use of the reported data, Board staff will take into consideration differences between the scheduled maturity information reported and expected cash flows.

Implementation Date

About one-half of the respondents commented with regard to the proposed date for implementing the quarterly report. They felt almost unanimously that implementation of all, or part, of it should be postponed from March 1984. One-fifth of those commenting suggested postponement until June 1984, two-thirds until September 1984 and the remainder until 1985. Commenters emphasized that substantial lead time was required to revise accounting and computer systems to provide some of the types of data being requested. While not all commenters were explicit, most indicated that the major problems were with the Deposit activity and Maturity/Cost sections.

The modifications to the proposed reporting requirements specified above, especially the sharp curtailment of the information requested on deposits, will substantially reduce the amount of new information requested, which commenters indicated was the principal reason later implementation was desirable. The Board, therefore, has determined to implement the quarterly report in the first quarter of 1984 as proposed, in view of the need to obtain the information essential for supervision in the current and prospective environment.

Due Date of Reports

About one-half of the respondents commented specifically on the due date proposed for the quarterly report. They were unanimous in feeling that 15 days after the quarter was not long enough because of general workload and the time lags involved in receiving information from service bureaus and from servicers of loans. About one-half of those expressing an opinion indicated 20 days was the shortest feasible due date; approximately one-fourth recommended 25 days and one-fourth a full month. The Board feels these comments have merit. Consequently, it is changing the due date to the last of the month following the end of the quarter for the March 1984 and June 1984 reports, when problems in providing newly required data will be greatest, and to the 20th day of the month for subsequent reports.

Other Comments

A few commenters suggested keeping the current monthly/semiannual reporting system, but these were in a small minority because of the general recognition that there was a need for revision of the Board's reporting system. Several commenters expressed concern about the additional cost of reporting on calendar year quarters for those relatively few institutions with fiscal periods ending in non-end-of-quarter months. Several also indicated it would be less burdensome to report income and expense data on a year-to-date, rather than a quarterly, basis, with Board staff calculating the latter from the former. The Board feels that the benefit of uniform quarterly reporting in providing more accurate peer group comparisons outweighs the cost of adjusting data from fiscal period to

calendar quarters for a minority of institutions, and that the industry can more accurately convert cumulative income and expense data to quarterly totals than can Board staff because of merger activity and prior period adjustments. Consequently, it has determined to implement these aspects of the proposal without change. No significant comments were received regarding the proposed annual supplements to the quarterly report, and the Board will implement them as proposed.

Copies of the reporting forms as revised are attached for the public's convenience. Copies of these forms and detailed reporting instructions will be mailed to all insured institutions immediately so that they will be able to make any adjustments to their recordkeeping procedures necessary to obtain the required information well in advance of the implementation date for the revised report.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT

(Dollars to be reported in thousands)

Field Heading	Field No.
Section A—Assets	
Mortgage Loans and Contracts	
FHA/VA and Other Federally Insured or Guaranteed Loans	010
Conventional	
1–4 Dwelling Units	020
5 or more Dwelling Units	030
Other Improved Real Estate	040
Developed Building Lots, Acquisition and Development of Land, and Unimproved Land Loans	050
Nonconforming Loans/Contracts to Facilitate Sale of Real Estate Owned	060
Mortgage-Backed Pass-Through Securities	
Insured or Guaranteed by an Agency or Instrument of the United States	070
Conventional	080
Accrued Interest Receivable	090
Advances for Borrowers' Taxes and Insurance	100
Contra-Assets to Mortgage Loans	
Loans in Process	110
Unearned Discounts and Deferred Loan Fees	120
Specific Reserves and Valuation Allowances	130
Net mortgage loans and contracts	140
Nonmortgage Loans	
Commercial Loans:	
Secured (Other than Mortgage)	150
Unsecured	160
Loans on Deposits	170
Home Improvement Loans	180
Education Loans	190
Consumer Auto Loans	200
Other Closed-End Consumer Loans	210
Credit Cards, and Other Open-End Credit Extended to Consumers	220
Mobile Home Loans—Retail	230
Financing Leases:	
Consumer	240
Nonconsumer	250
Accrued Interest Receivable	260

LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT—Continued

(Dollars to be reported in thousands)

Field Heading	Field No.
Contra-Assets to Nonmortgage Loans	
Loans in Process	270
Unearned Discounts and Deferred Loan Fees	280
Specific Reserves and Valuation Allowances	290
Net nonmortgage loans and contracts	300
Repossessed Assets	
Foreclosed Real Estate and Real Estate in Judgment (Net)	310
Other Repossessed Assets (Net)	320
Valuation Allowances	330
Real Estate Investments	
Held for Development/Investment/Resale (Net)	340
Valuation Allowances	350
Cash, Deposits and Investment Securities	
Cash and Demand Deposits	360
U.S. Government and Agency Securities	370
Other Investments	380
Accrued Interest Receivable	390
Valuation Allowances	400
Fixed Assets	
Office Building (Land and Improvements) (Net)	410
Leasehold Improvements (Net)	420
Appraisal Increment	430
Furniture, Fixtures, and Equipment (Net)	440
Valuation Allowances	450
Other Assets	
Financial Futures/Options:	
Initial Margin	460
Maintenance Margin	470
Financial Options Fees Paid	480
Service Corporations/Subsidiaries:	
Equity Investment	490
Appraisal Increment	500
Deferred Net Losses (Gains) on Futures/Options Hedging Assets	510
Deferred Net Losses (Gains) on:	
Loans Sold	520
Other Assets Sold	530
Goodwill and Other Intangible Assets	540
Leased Property (Net):	
Consumer	550
Nonconsumer	560
Accounts Receivable Secured by Pledged Deposits	570
Other Assets	580
Valuation Allowances	590
Total Assets	600
Memo	
Account Eligible for Regulatory Liquidity Included at Lines A070 and A360 thru A390	900
Assets Acquired For Stock:	
Real Estate (Net)	910
Other	920
Construction Loans Included at Lines A010 thru A050	930
Number of Wholly-Owned Service Corporations	940
Section B—Liabilities	
Deposits	010
Borrowings:	
FHL Bank Advances	020
Other Borrowed Money:	
Commercial Bank Loans	030
Reverse Repurchase Agreements	040
Consumer Retail Repurchase Agreements	050
Overdrafts in Demand Deposits	060
Commercial Paper Issued	070
Subordinated Debentures Not Qualifying for Net Worth	080
Mortgage-Backed Bonds Issued	090
Other Borrowings	100
Accrued Interest Payable	110
Other Liabilities	
Interest Accrued or Declared on Deposits	120
Dividends Payable on Permanent, Reserve, or Guaranty Stock	130
Accrued Taxes	140
Accounts Payable	150
Advance Payments by Borrowers for Taxes/Insurance	160

LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT—Continued

(Dollars to be reported in thousands)

Field Heading	Field No.
Financial Options Fees Received	170
Other Liabilities	180
Deferred Net Gains (Losses) on Futures/Options Hedging Liabilities	190
Deferred Federal and Other Income Taxes	200
Total liabilities	500
Memo	
Pledged Deposits included at line B010	900
Section C—Regulatory Net Worth	
Preferred Stock	010
Permanent, Reserve, or Guaranty Stock	020
Paid-In Surplus	030
Qualifying Mutual Capital Certificates	040
Qualifying Subordinated Debentures	050
Appraised Equity Capital	060
Net Worth Certificates	070
Accrued Net Worth Certificates	080
Income Capital Certificates	090
Reserves	100
Undivided Profits (Retained Earnings)	110
Net Undistributed Income	120
Total regulatory net worth	800
Total liabilities and regulatory net worth	810
Memo	
Cash Dividends on:	
Preferred Stock	900
Permanent Stock	910
Other Capital Instruments	920
Check if you are including in your balance sheet for the first time assets, etc., acquired as a result of merger or if your institution has purchased or sold a branch during the quarter	930
Was purchase accounting used? [1]	940
Annual Closing Date (Show month and day numerically, e.g., December 31 should be shown as 1231	950
Section D—Income	
Operating Income	
Interest on Mortgage Loans and Contracts	010
Interest on Mortgage-Backed Pass-Through Securities	020
Discounts on Mortgage Loans Purchased	030
Interest on:	
Commercial Loans (Nonmortgage)	040
Consumer Loans (Open and Closed End)	050
Interest/Dividends on Investments and Deposits	060
Income from Financing Leases	070
Mortgage Loan Fees	080
Loan Servicing Fees	090
Other Loan Fees and Charges	100
Service Charges and Fee Income from Transaction Accounts	110
Amortized Deferred Gains on:	
Futures/Options Hedging Assets	120
Futures/Options Hedging Liabilities	130
Net Income (Loss) from Office Building Operations	140
Net Income (Loss) from Real Estate Held for Investment	150
Net Income (Loss) from REO Operations	160
Net Income (Loss) from Service Corporations/Subsidiaries	170
Net Income (Loss) from Leasing Operations	180
Other Operating Income	190
Nonoperating Income	
Profit on Sale of:	
Foreclosed Real Estate (REO)	200
Other Repossessed Property	210
Real Estate Held	220
Investment Securities	230
Loans	240
Other Assets	250
Amortized Deferred Gains on:	
Loans Sold	260
Other Assets Sold	270
Other Nonoperating Income	280
Total income	500
Memo	
Profit on Sale of Loans and Other Assets Acquired via Pushdown/Purchase Accounting	900

LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT—Continued

[Dollars to be reported in thousands]

Field Heading	Field No.
Discounts on Assets Acquired via Pushdown/Purchase Accounting	910
Net Income (Loss) from Assets Acquired for Stock	920
Section E—Expense	
Operating Expense	
Directors Fees	010
Officers and Employees Compensation	020
Legal Expense	030
Directors,'Officers and Employees Expense	040
Office Occupancy Expense	050
Furniture, Fixtures, Equipment and Automobile Expense	060
Advertising	070
Commissions Paid for Deposits	080
Professional Services	090
Loan Servicing Fees	100
Amortization of Goodwill	110
Amortized Deferred Losses on:	
Futures/Options Hedging Assets	120
Futures/Options Hedging Liabilities	130
Other Operating Expenses	140
Interest Charges	
Deposits	150
Penalties on Early Withdrawals	160
Advance Payments by Borrowers for Taxes and Insurance	170
Advances from FHL Bank	180
Subordinated Debentures	190
Mortgage-Backed Bonds	200
Other Borrowed Money	210
Capitalized Interest	220
Nonoperating Expense	
Provision for Losses and Losses on Sale of:	
Foreclosed Real Estate (REO)	230
Other Repossessed Property	240
Real Estate Held	250
Investment Securities	260
Loans	270
Other Assets	280
Amortized Deferred Losses on:	
Loans Sold	290
Other Assets Sold	300
Other Nonoperating Expenses	310
Income Taxes	
Federal	320
State, Local and Other	320
Total Expense	800
Current Net Income (Loss)	510
Adjustments to Prior Period Income or Expense	520
Adjusted Net Income (Loss)	530

LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT—Continued

[Dollars to be reported in thousands]

Field Heading	Field No.
Section F—Supplemental Data	
Activity During Quarter	
Mortgage Loans	
Mortgage Loans Closed:	
Construction Loans:	
1 to 4 Family	010
5 or more Dwelling Unit Structures	020
Nonresidential	030
Permanent Loans Closed:	
1 to 4 Family	040
5 or more Dwelling Unit Structures	050
Nonresidential	060
Land Loans	070
All Other	080
Loans and Participations Purchased	090
Loans and Participations Sold	100
Cash Repayment of Principal	110
Debits, Less Credits Other Than Repayment of Principal	120
Nonmortgage Loans	
Nonmortgage Loans Closed or Purchased:	
Commercial	130
Consumer	140
Deposits	
New Deposits Received Less Deposits Withdrawn	150
Interest Credited to Deposits	160
Mortgages Foreclosed	
Balance of Mortgage Loans Foreclosed During the Quarter:	
Residential	170
Nonresidential	180
Other	
Futures Contracts Offset during Period (Face Amount)	190
Refinancing Loans Reported at Lines F010 thru F080	200
Cash Mortgage Loan Repayments Reported at Line F110 Resulting From the Sale of Previously Occupied 1 to 4 Family Homes	210
Number of Deposit Accounts at end of Quarter	
With Balances of $100,000 or Less	520
With Balances Greater Than $100,000	530
Balances at Close of Period	
Futures Positions Outstanding	
Contracts to Sell:	
Short Term (e.g. T-bill contracts)	220
Long Term (e.g. T-bond contracts)	230

LISTING OF FIELD HEADINGS AND FIELD NUMBERS FOR NEW 1984 QUARTERLY REPORT—Continued

[Dollars to be reported in thousands]

Field Heading	Field No.
Contracts to Buy:	
Short Term (e.g. T-bill contracts)	240
Long Term (e.g. T-bond contracts)	250
Net Unrecognized Gain (Loss)	260
Options Positions Outstanding	
Amount of:	
Long Put Options	270
Long Call Options	280
Short Put Options	290
Short Call Options	300
Net Unrecognized Gain (Loss):	
Short Options	310
Long Options	320
Commitments Outstanding	
To Originate Loans	330
To Purchase Loans	340
To Sell Loans	350
To Purchase Securities	360
To Sell Securities	370
Other	
Mortgage Loans Serviced for Others	380
Mortgage Loans Serviced by Others	390
Amount of Contingency to Repurchase Loans	400
Approximate Value of Trust Assets Administered	410
Broker Originated Deposits	420
Conforming Loans to Service Corporations/Subsidiaries (excluding Joint Ventures)	430
Loans from Third Parties to Service Corporations/Subsidiaries Guaranteed by Parent	440
Balance of Loans 60 or More Days Delinquent:	
Mortgage	450
Nonmortgage	460
Letters of Credit Issued and Outstanding	470
IRA/KEOGH Account Balances	480
Deposit Balances:	
With Balances $100,000 or less	490
With Balances of Greater Than $100,000:	
Negotiable Certificates With Original Maturities of 3 Months or Less	500
Other	510
Section G—Deposit Balances in Accounts With Fixed Maturity by Type (End Of Quarter; Thousands Of Dollars)	
Fixed-Rate	
Original Maturity of Six Months or Less	010
Original Maturity More than Six Months through One Year	020
Original Maturity More than One Year through Three Years	030
Original Maturity More than Three Years	040
Variable-Rate (all maturities)	050

[1] If yes, file Sections D, E, F, and I for the disappearing association(s). Refer to p. 4 of the instruction book.

SECTION H (PART I).—MATURITY AND YIELD/COST INFORMATION

Remaining Time Before the Asset Matures or Can Be Repriced

[Dollars' in thousands—Percentage's are weighted average contract interest rate]

	6 months or less	>6 months to 1 Yr.	>1 to 3 years	>3 to 5 years	>5 to 10 years	>10 to 20 years	>20 years	Total
Mortgage Loans and Contracts								
Balloon and adjustable rate:								
First mortgage loans	032	033	034	035	036	037	038	039
Percentage	032	033	034	035	036	037	038	
1 to 4 family residential:								
First Mortgages & Contracts	062	063	064	065	066	067	068	070
Percentage	072	073	074	075	076	077	078	
Dollar amounts by selected coupon rates:								
With Coupon >8%						083	084	
With Coupon >8%–10%						085	086	
With Coupon >10%–12%						087	088	
With Coupon >12%–14%						089	090	
With Coupon >14%–16%						091	092	
With Coupon >16%						093	094	

SECTION H (PART I).—MATURITY AND YIELD/COST INFORMATION—Continued

Remaining Time Before the Asset Matures or Can Be Repriced

[Dollars in thousands—Percentage's are weighted average contract interest rate]

	6 months or less	>6 months to 1 Yr.	>1 to 3 years	>3 to 5 years	>5 to 10 years	>10 to 20 years	>20 years	Total
5 or more family:								
Residential & Nonresidential first mortgages and contracts	$102	$103	$104	$105	$106	$107	$108	$110
Percentage	112	113	114	115	116	117	118	
Second mortgages	$142	$143	$144	$145	$146	$147	$148	$150
Percentage	152	153	154	155	156	157	158	
Nonmortgage Loans								
Consumer	$182	$183	$184	$185	$186	$187	$188	$190
Percentage	192	193	194	195	196	197	198	
Commercial	$222	$223	$224	$225	$226	$227	$228	$230
Percentage	232	233	234	235	236	237	238	
Investment securities	$262	$263	$264	$265	$266	$267	$268	$270
Percentage	272	273	274	275	276	277	278	
Total financial assets	$302	$303	$304	$305	$306	$307	$308	$310
Impact of hedging activities	$342	$343	$344	$345	$346	$347	$348	$350
Unearned discounts and deferred loan fees	$382	$383	$384	$385	$386	$387	$388	$390

SECTION H (PART II).—MATURITY AND YIELD/COST INFORMATION

Remaining Time Before the Liability Matures or Can Be Repriced

[Dollars in thousands—Percentages are weighted average contract interest rate]

	6 months or less	>6 months to 1 Year.	>1 to 3 years	>3 to 5 years	>5 to 10 years	>10 to 20 years	>20 years	Total
Deposits and Borrowings								
Fixed-Maturity Deposits	$522	$523	$524	$525	$526	$527	$528	$530
Percentage	532	533	534	535	536	537	538	
NOW, Super NOW, and Other Transaction Accounts	$502							$570
Percentage	572							
Money Market Deposit Accounts (MMDA)	$602							$610
Percentage	612							
Passbook Accounts	$642							$650
Percentage	652							
FHLB Advances	$682	$683	$684	$685	$686	$687	$688	$690
Percentage	692	693	694	695	696	697	698	
Other Borrowings	$722	$723	$724	$725	$726	$727	$728	$730
Percentage	732	733	734	735	736	737	738	
Total finacial liabilities	$762	$763	$764	$765	$766	$767	$768	$770
Impact of hedging activities	$802	$803	$804	$805	$806	$807	$808	$810

SECTION I—ANNUAL SUPPLEMENT [1]

[Dollars to be reported in thousands]

Number of mortgage loans held:	
FHA/VA and Other Federally Insured and Guaranteed Loans	010
Conventional	020
Number of Mortgages Foreclosed	030
Balances in Loans in Process on Residential Property	040
Balances in Mortgage Loans and Contracts Secured by Residential Property	050

[1] To be filed with the December Quarterly Report only.

SECTION K—SLOW LOANS AND OTHER SCHEDULED ITEMS

[Complete this schedule only if your annual closing occurred during this quarter. Amounts should reflect data as of your closing date. This schedule will be used to compute your compliance with Regulation 563.14(b)(4).]

		Net amount [1]
Slow mortgage loans and contracts:		
Total—FHA/VA and Other Federally Insured and Guaranteed Loans	010	
Total—Conventional	020	
Slow nonmortgage loans:		
Total—Insured	030	
Total—Commercial (Except Insured)	040	
Total—Consumer (Except Insured)	050	
Total—Financing Leases (Except Insured)	060	
Other scheduled items:		
Nonconforming Loans and Contracts	070	
Real Estate Foreclosed and Real Estate in Judgment	080	

SECTION K—SLOW LOANS AND OTHER SCHEDULED ITEMS—Continued

		Net amount [1]
Other Repossessed Assets	090	
Investment Securities Past Due and Deposits in Closed Banks	100	
Leased Property	110	
Total slow loans and other scheduled items	800	
Memo:		
Interest-Bearing Liquid Assets Maturing within One Year	900	
One-Half of Total Adjustable Rate Mortgage Loans	910	
Fixed Rate Liability Sources of Funds with Remaining Term to Maturity Exceeding Five Years	920	

[1] Dollars in thousands. Amounts as of closing date.

BILLING CODE 6720-02-M

Res. 83-576

OMB NO. 3068-0506/EXPIRES 9/30/86

FEDERAL HOME LOAN BANK BOARD MONTHLY SURVEY OF SELECTED DEPOSITS AND OTHER ACCOUNTS	DISTRICT/DOCKET 1 6	NAME AND ADDRESS OF ASSOCIATION (Please Use Preprinted Label)
PREPARED BY	PHONE NUMBER (Include Area Code)	AS OF DATE (Month, Day, Year)

INSTRUCTIONS: PLEASE READ CAREFULLY BEFORE COMPLETING THIS REPORT.
Enter in Column A the dollar balance in thousands for the specific account category as of the close of business for the month specified.
Enter in Column B the most common interest rate paid on the largest dollar volume of deposits or retail repurchase agreements issued during seven days ending on the survey date. For lines 4b through 4f, write "F" in the F/V Column if the account has a fixed rate or "V" if it has a variable rate.
Enter in Column C the appropriate code for the frequency of interest compounding. If Code 6 is specified, also enter in Column C the maturity of the account (in months).

FREQUENCY OF INTEREST CODE
1 = Continuously or Daily
2 = Monthly
3 = Quarterly
4 = Semiannually
5 = Annually
6 = Not Compounded; Simple Interest Paid at Maturity
7 = Other (Specify)

MAIL THE ORIGINAL OF THIS REPORT TO THE FEDERAL HOME LOAN BANK OF WHICH YOUR INSTITUTION IS A MEMBER so that it will be received no later than the 10th of the month. Also mail one copy to the Federal Home Loan Bank Board, Information Systems Division, 1700 G Street, N.W., Washington, D.C. 20552. For a new supply of this form, contact the ICR Coordinator of your District Bank.

AMOUNT CATEGORIES	A AMOUNT OUTSTANDING BIL. MIL. THOU.	INTEREST RATE B MOST COMMON INTEREST RATE PERCENT F/V	C FREQUENCY OF INTEREST COMPOUNDING CODE MONTHS
Amounts reported in categories 1 through 4 should include balances held in IRA and Keogh Plans.			
1. "Super NOW" Accounts	710	711 .	
2. Money Market Deposit Accounts (MMDAs) ..	715	716 .	
3. Retail Repurchase Agreements (with balances of less than $100,000)	720	721 .	
4. All Interest-Bearing Fixed-Term Certificates with Balances of Less Than $100,000 and with Original Maturities of:			
a. 7 through 31 Days	730	731 .	
b. 32 through 91 Days	740	741 .	742 743 744
c. 92 through 182 Days	750	751 .	752 753 754
d. 183 Days through 1 Year	760	761 .	762 763 764
e. Over 1 Year but Less Than 2-1/2 Years .	770	771 .	772 773 774
f. 2-1/2 Years and Over	780	781 .	782 783 784
ALL IRA and Keogh Plan Accounts, including Amounts Reported in Items 1 through 4 Above	790	.	

FHLBB Form 1312-A
OCTOBER 1983

BILLING CODE 6720-02-C

MONTHLY REPORT

[To be completed by industry sample]

Assets

Mortgage loans (including non-conforming loans and junior liens, but excluding contra-assets):	
Construction:	
1–4 family homes	010
Other residential property	015
Non-residential property (including land)	025
Other (permanent):	
1–4 family homes	030
Other residential property	035
Non-residential property except land and farm	040
Land except farm	045
Farm	050
Mortgage-backed securities etc. (both federally insured and conventional, but excluding contra-assets)	055
Non-mortgage loans (including finance leasing, but excluding contra-assets):	
Loans on deposits	060
Other consumer	065
Commercial (including finance leasing)	070
Cash, deposits and investment securities	075
Other assets	080
Total assets	095

Liabilities

Deposits:	
Without fixed terms:	
Transactions	110
Other	120
With fixed terms	130
Borrowed money:	
FHLB advances	130
Retail repurchase agreements	135
Other	140
Other liabilities	150
Regulatory net worth	160
Memorandum: Negotiable certificates with original maturity of 3 months or less in denominations greater than $100,000 included above	180

Mortgage Lending

Loans closed	210
Construction of:	
1–4 family homes	220
Other residential property	225
Non-residential property	230
Other (including non-cash) refinancing and combination construction/purchase loans where construction was completed during month) secured by:	
1–4 family homes	240
Other residential property	245
Non-residential property except land	250
Land	255
Loans and participations sold secured by:	
1–4 family homes	260
Other residential property	265
Non-residential property	270
Loans and participations purchased secured by:	
1–4 family homes	280
Other residential property	285
Non-residential property	290
Cash repayments of loan principal	295

Forward Commitments

Made during month:	
To originate mortgages secured by:	
1–4 family homes	310
Other residential property	315
Non-residential propert	320
To purchase mortgages from other lenders	325
Commitments and loans in process outstanding at end of month:	
To originate mortgages on:	
1–4 family homes	330
Other residential property	335
Non-residential property	340
To purchase mortgages	350
To sell mortgages	360
To purchase or originate non-mortgage loans and to purchase securities	370

Deposit Activity

New deposits received less deposits withdrawn	410
Interest credited to accounts	420

Interest Charges

Interest/dividends on deposits	510
Interest on advances and other borrowed money	520

Memo Item

Check if you are including in your balance sheet for the first time assets, etc., acquired as a result of merger or similar type acquisition	610

SECTION J.—CASH, DEPOSIT AND INVESTMENT SECURITIES BY TYPE AND MISCELLANEOUS ITEMS; CASH, DEPOSITS AND INVESTMENT SECURITIES

All Securities and Deposits Held Subject to Repurchase Agreements	070
Other Securities Held and Not Subject to Repurchase Agreements:	
U.S. Government Obligations	080
Federal Agency Obligations	090
State and Local Government Obligations	040
Bankers' Acceptances	050
Commercial Paper	060
Corporate Debt Securities (Except bankers' acceptance and commercial paper)	070
Shares in Open-End Management Investment Companies	080
Other Investment Securities	090
Cash on Hand	100
Demand and Time Deposits in a Federal Home Loan Bank	110
Deposits at Federal Reserve Banks	120
Demand Deposits in FDIC-Insured Commercial Banks	130
Demand Deposits in All Other Institutions (Except a Federal Home Loan Bank, a Federal Reserve Bank or FDIC-Insured Commercial Bank)	140
Time and Savings Deposits in FDIC-Insured Commercial Banks	150
Time and Savings Deposits in All Other Institutions (Except a Federal Home Loan Bank, a Federal Reserve Bank or FDIC-Insured Commercial Bank)	160
Loans of Unsecured Day(s) (Federal) Funds	170
Other Cash Items and Accrued Interest Receivable on Securities and Deposits	180
Total—Cash, Deposits and Investment Securities (Sum of Items 010 through 180)	800
Memo:	
Deposits in the Illinois Bank for Savings and Loan Associations (Included in Items 140 and 160)	900
U.S. Government and Federal Agency Obligations Maturing Within One Year (Included in Items 020 and 030)	910

Appendix A

[No. 83–576–A]

Date: October 24, 1983.

Federal Home Loan Bank Board

Whereas, the Federal Home Loan Bank Board has today substantially changed its reporting requirements for institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions"), and the change includes, among other things, the implementation of a universal quarterly reporting system instead of the current universal monthly reporting system; and

Whereas, the Board recognizes that certain insured institutions need monthly information regarding regional cost of funds in connection with index changes in adjustable-rate mortgages:

Now, Therefore, the Board authorizes the Federal Home Loan Banks to collect monthly information from insured institutions to determine regional cost of funds, where a Bank has concluded that availability of such information is necessary for institutions in its area to meet contractual obligations to make changes in adjustable-rate mortgages.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83–29500 Filed 11–3–83; 8:45 am]

BILLING CODE 6720–02–M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies; FSB Financial Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding company Act (12 U.S.C. 1842(a)(1)) to become bank holding Companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Cleveland. (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *FSB Financial Corp.*, New Madison, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers State Bank and Trust Company, New Madison, Ohio. Comments on this application must be received not later than November 28, 1983.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *The Weatherford Foundation of Red Bay, Alabama, Inc.*, Red Bay, Alabama; to become a bank holding company by acquiring 54.2 percent of the voting shares of Bank of Red Bay, Red Bay, Alabama. Comments on this application must be received not later than November 28, 1983.

C. Federal Reserve Bank of St. Louis (Delmar P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First National Bancorporation in Carlyle, Inc.*, Carlyle, Illinois; to become a bank holding company by acquiring at least 90 percent of the voting shares of First National Bank in Carlyle, Carlyle, Illinois. Comments on this application must be received not later than November 28, 1983.

D. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President)

400 South Akard Street, Dallas, Texas 75222:

1. *Plaza Bancorporation, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Plaza National Bank, Dallas, Texas. Comments on this application must be received not later than November 17, 1983.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29948 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Itasca Bancorp, Inc.; et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Itasca Bancorp, Inc.*, Itasca, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Itasca Bank & Trust Co., Itasca, Illinois. Comments on this application must be received not later than November 22, 1983.

2. *Luxemburg Bankshares, Inc.*, Luxemburg, Wisconsin; to become a bank holding company by acquiring 90 percent of the voting shares of Bank of Luxemburg, Luxemburg, Wisconsin. Comments on this application must be received not later than November 22, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Hopkins Bancorp, Inc.*, Wickliffe, Kentucky; to become a bank holding company by acquiring 80 percent or more of the voting shares of the Citizens State Bank, Wickliffe, Kentucky. Comments on this application must be received not later than November 30, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BOS Financial Corp.*, Spokane, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Spokane, Spokane, Washington. Comments on this application must be received not later than November 25, 1983.

2. *United Security Bancorporation*, Chewelah, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of United Security Bank, Chewelah, Washington. Comments on this application must be received not later than November 30, 1983.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29950 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; Peoples Bankshares, Ltd., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Peoples Bankshares, Ltd.*, Waterloo, Iowa; to acquire 100 percent of the voting shares or assets of La Porte City State Bank, La Porte City, Iowa. Comments on this application must be received not later than November 30, 1983.

B. **Board of Governors of the Federal Reserve Bank** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First United Bancshares, Inc.*, El Dorado, Arkansas; to acquire 100 percent of the voting shares or assets of First National Bank of Magnolia, Magnolia, Arkansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than November 18, 1983.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29951 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

International Bancshares, Inc., et al.; Application

International Bancshares, Inc., Gladstone, Missouri, has applied for the Board's approval under section 3(a) of the Bank Holding Company Act (12 U.S.C. 1842(a)) to acquire 2309 per cent of the voting shares of MBI Bancshares, Inc., Kansas City, Missouri; Metro Bancshares, Inc., Kansas City, has applied to acquire 12.71 percent of the voting shares of MBI Banscshares, Inc., Kansas City, Missouri; and MBI Bancshares, Inc., Kansas City, Missouri, has applied to acquire 100 percent of the voting shares of The Merchants Bank, The University Bank, Broadway Bancshares, Inc., Metropolitan Bancshares, Inc., and TBI Bancshares, Inc., all of Kansas City, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 28, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing

the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29949 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies, Proposed De Novo Nonbank Activities; Bank of Boston Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of Boston Corporation,* Boston, Massachusetts (data processing activities; Maine): To engage, through its subsidiary, FBC, Inc., in providing data processing and transmission services to others where: data to be processed or furnished are financial, banking or economic, and the services are provided pursuant to a written agreement so describing and limiting the services; the facilities are designed, marketed and operated for the processing and transmission of financial, banking or economic date; and hardware in connection therewith if offered only in conjunction with software designed and marketed for the processing and transmission of financial, banking or economic data, and where the general purpose hardware does not constitute more than 30 percent of any packaged offering. These activities would be conducted from an office in Portland, Maine and would serve the State of Maine. Comments on this application must be received not later than November 25, 1983.

2. *Bank of Boston Corporation,* Boston, Massachusetts (insurance underwriting; Massachusetts): To engage, through its new direct subsidiary, Bulfinch Life Insurance Company (Bulfinch), in the underwriting, through reinsurance, of credit life insurance directly related to extensions of credit. This activity would be conducted from an office of Bulfinch located in Boston, Massachusetts, serving the Commonwealth of Massachusetts. Comments on this application must be received not later than November 28, 1983.

3. *Fleet Financial Group, Inc.,* Providence, Rhode Island (mortgage banking; Colorado): To engage through its direct subsidiary, Fleet Mortgage Corp., in the origination, sale and servicing of residential and commercial mortgage loans and loans secured by junior liens on residential real estate. These activities would be conducted from a new office to be located in Denver, Colorado, serving the Colorado counties of Adams, Arapahoe, Boulder, Clear Creek, Douglas, Elbert, El Paso, Gilpin, Jefferson, Larimer, Morgan, Park, Teller, and Weld. Comments on this application must be received not later than November 17, 1983.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29952 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies, Proposed De Novo Nonbank Activities; Landmark Banking Corp. of Florida, et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Landmark Banking Corporation of Florida,* Fort Lauderdale, Florida and Preferred Equity Investors of Florida, Inc., Knoxville, Tennessee (mortgage banking and insurance activities; Florida): To engage through its subsidiary, Landmark Mortgage Corporation, in making, acquiring and servicing loans and other extensions of credit secured by real estate mortgages for its own account and for the account of others; and selling credit life and accident and health insurance directly related to its extensions of credit. Such activities will be conducted from a new main office located in Tampa, Florida, serving the entire State of Florida. An existing branch office in St. Petersburg, Florida will be relocated within St. Petersburg and an operations office will be opened in Ft. Lauderdale, Florida and both will serve the State of Florida. Comments on this application must be received not later than November 21, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Trabanc,* Salt Lake City, Utah, (data processing activities, Utah, Idaho, and Wyoming): To engage, through its subsidiary, Tradata, in providing data processing and data transmission services, data bases and facilities (including hardware, software, documentation and operating personnel). These activities would be conducted from an office located in Salt Lake City, Utah, serving Utah, Idaho and Wyoming. Comments on this application must be received not later than November 30, 1983.

Board of Governors of the Federal Reserve System, October 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29983 Filed 11-3-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Report on New System of Records Under the Privacy Act of 1974

AGENCY: General Services Administation.

ACTION: Notification of new system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to establish a new system of records that will be maintained by GSA. The system of records, Credit data on individual debtors GSA/PPFM–7, is being established to assemble in one system information on individuals who are indebted to the General Services Administration for the purpose of determining if there is a reasonable prospect of effecting enforced collections from the debtors. A new system report was filed with the President of the Senate, the Speaker of the House, and the Office of Management and Budget on October 4, 1983. A waiver of the 60-day advance notice requirements of OMB Circular A–108 has been requested from the Office of Management and Budget.

DATES: Any interested party may submit written comments regarding this proposed system. To be considered, comments must be received on or before December 5, 1983. The new system or record shall become effective as proposed without further notice on December 5, 1983, unless comments are received that would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (ORAR), Washington, DC 20405

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, GSA Privacy Act Officer, telephone (202) 535–7647.

Background

The purpose of this system is to assemble in one system information on individuals who are indebted to the General Services Administration for the purpose of determining if there is a reasonable prospect of effecting enforced collections from the debtors.

The proposed new system of record is as follows:

GSA/PPFM–7

SYSTEM NAME:

Credit data on indvidual debtors.

SYSTEM LOCATION:

Records are located at the following General Services Administration Office of Finance and Office of General Counsel Central Office of regional offices addresses:

GS Building, 18th and F Streets, NW, Washington, DC 20405
John W. McCormack Post Office and Courthouse, Boston, MA 02109
Jacob K. Javits Federal Building, 26 Federal Plaza, New York, NY 10007
Regional Office Building, Ninth and Market Street, Philadelphia, PA 19107
Richare B. Russell Federal Building, 75 Spring Street, SW, Atlanta, GA 30303
John C. Kluczynski Federal Building, 230 South Dearborn Street, Chicago, IL 60604
General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131
Fritz G. Lanham Federal Building, 819 Taylor Street, Fort Worth, TX 76102
Denver Federal Center Complex, Building 41, Denver, CO 80225
General Services Administration, 525 Market Street, San Francisco, CA 94105
GSA Center, Auburn, WA 98002
GSA Regional Office Building, Seventh and D Streets, SW, Washington, DC 20407

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals include employees and former employees and other individuals who are indebted to the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Types of personal data in the system may take the form of commercial credit reports, agency investigative reports showing the debtor's assets and liabilities and his or her income and expenses, the individual debtors own financial statements executed under penalty of perjury reflecting his or her assets and liabilities and income and expenses, and other information such as social security number and home address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collections Act of 1966, 80 Stat. 309, 31 U.S.C. 952; Debt Collection Act of 1982, Pub. L. 97–365; and Title 4 Code of Federal Regulations, Chapter II Part 105.

PURPOSE:

To assemble in one system information on individuals who are indebted to the General Services Administration for the purpose of determining if there is a reasonable prospect of effecting enforced collections from the debtors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

a. When debtors fail to make payment through normal collection routines, credit data is analyzed to determine the feasibility of enforced collection by referring the cases to the Department of Justice for litigation. Credit data becomes an integral part of claim files forwarded to the General Accounting Office and/or the Department of Justice as prescribed in the Joint Federal Claims Collections Standards (4 CFR Ch II).

b. Records may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

c. Records may be disclosed to other Federal agencies where an applicant for employment or a current employee of the agency is delinquent in repaying his/her Federal financial obligation. The purpose of this disclosure is to enlist the agency's cooperation in facilitating repayment.

d. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, such as the General Accounting Office, the Office of Management and Budget, the Department of Justice, and State agencies charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

e. A record from this system of records may be disclosed to a Federal agency in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. Records may be disclosed to a debt collection agency that GSA has contracted for collection services to recover indebtness owed to the United States.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are in paper form, maintained in file folders, and stored in metal filing cabinets.

RETRIEVABILITY:

Credit data is maintained by debtor name and claim number, cross referenced to social security number (when available) to verify name and address.

SAFEGUARDS:

When not in use by personnel responsible for the collection of claims, records are stored in lockable filing cabinets.

RETENTION AND DISPOSAL:

These records are a part of the GAO site auditing collection files and are cut-off at the end of the fiscal year, held 1 year, and then retired under Record Group 217 (GAO). Records created prior to July 2, 1975, will be retained by GAO for 10 years and 3 months after the period of the account. Records created on or after July 2, 1975, will be retained by GAO for 6 years and 3 months after the period of the account.

SYSTEM MANAGER:

Chief, Credit and Finance Branch, Financial Management Division, Office of Finance, 18th and F Streets, NW, Washington, DC 20405.

NOTIFICATION PROCEDURES:

Inquiries by individuals regarding claims pertaining to themselves should be addressed to the system manager.

RECORDS ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the system manager and should include name and address.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting the contents of the records and for appealing initial determinations are promulgated in 41 CFR 104.64.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from commercial credit reports, agency investigative reports, individual debtors own financial statements, and from other GSA system of records.

Dated: October 26, 1983.

Michael G. Barbour,

Director, Information Management Division.

[FR Doc. 83-29043 Filed 11-3-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 28.

Public Health Service

Health Resources and Services Administration

Subject: Health Systems Agency Application Guidelines for Designation and Grant Related Reporting Requirements (0935-0017)—Reinstatement
Respondents: State or local governments; not for profit institutions
Subject: Reporting Requirements for Limitations on Federal Part of Capital Expenditures under Section 1122 of the Social Security Act (0915-0057)—Reinstatement
Respondents: Businesses, small businesses, and other for profit and not for profit organizations and institutions
OMB Desk Officer: Fay S. Iudicello

Centers for Disease Control

Subject: Immunization Assistants Project Grants (0920-0032)—Revision
Respondents: State or local governments
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Reporting Requirements Applicable to Normal Serum Albumin and Plasma Protein Fraction (0910-0155)—Extension/No Change
Respondents: Business or other for profit organizations
OMB Desk Officer: Bruce Artim

Office of the Secretary

Subject: Rural Development Loan Fund—Application—NEW
Respondents: State and local governments and not for profit institutions
Subject: Community Development Credit Union—Application—NEW
Respondents: Business or other for profit institutions
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: October 31, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83-29062 Filed 11-3-83; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 83F-0239]

Monsanto Co.; Filing of Food Additive Petition; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the notice that announced that Monsanto Co. had filed a petition proposing a change in the food additive regulations to permit an increase in the use level limitation for certain polyamine-epichlorohydrin wet-strength resins in paper and paperboard. This document corrects an editorial error.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF-334), Food and Drug

Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In FR Doc. 83–21554, appearing at page 36203 in the issue of Tuesday, August 9, 1983, the following correction is made on page 36204 in the first column: In the eighteenth line beginning with "(3)", the words "polyamine-epichlorohydrin water soluble thermosetting resin prepared by reacting hexamethylenediamine with 1,2-dichloroethane to form a prepolymer and further reacting this prepolymer with epichlorohydrin. This resin is then reacted with nitrilotris (methylene-phosphonic acid), pentasodium salt, such that * * *." are corrected to read "polyamine-epichlorohydrin water soluble thermosetting resin produced by reacting an aliphatic diamine mixture containing not less than 95 percent of C_4 to C_6 diamines with 1,2-dichloroethane to form a prepolymer and further reacting this prepolymer with epichlorohydrin such that * * *."

Dated: October 26, 1983.

Taylor M. Quinn,

Acting Director, Bureau of Foods.

[FR Doc. 83–29947 Filed 11–3–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–83–1299]

Privacy Act of 1974; Proposed Amendement to System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed amendment to existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act System of Records: HUD/H–11 Multifamily Tenant Certification System.

EFFECTIVE DATE: This notice shall become effective November 4, 1983.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer, (202) 755–5320. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The system is the Multifamily Tenant Certification System (HUD/H–11). It contains information about individuals receiving housing assistance from the Department of Housing and Urban Development (HUD) under one of the following HUD programs: Section 8, Public/Indian Housing, Section 236 (including Section 236 RAP), Rent Supplement, Section 221(d)3 BMIR, and Section 202/8. The system is used to improve the Department's capabilities to adequately manage HUD's Housing Assistance Programs, to protect the Government's financial interests, and to assist in the verification of the accuracy of the tenant certification/recertification data furnished by the tenant. This amendment clarifies the categories of records in the system, the routine uses of records, and the record source categories. These changes do not require the submission of a report of a new or amended system to the Congress or the Office of Management and Budget since there is no expansion in the type or categories of information maintained and no alteration in the purposes for which the information is maintained. The words "including information used to verify data in the system" are added to the categories of records in the system and the words "and completeness" are added to the statement of routine uses. In addition, the words "and organizations, Federal, State and local agencies" are added to the record source categories. The notice is published below in its entirety, as amended. The prefatory statement containing General Routine Uses applicable to most of the Department's system of records was published at 46 FR 34322 (August 6, 1982). Appendix A, which list the addresses of HUD's Field Offices, was published at 46 FR 34331 (August 6, 1982). Previously, the system was published at 47 FR 32485.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., October 28, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

HUD/H–11

SYSTEM NAME:

Multifamily Tenant Certification System.

SYSTEM LOCATION:

Headquarters and Field Offices. For a listing of Field Offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals receiving housing assistance from HUD under one of the following programs: Section 8, Public/Indian Housing, Section 236 (including Section 236 RAP), Rent Supplement, Section 221(d)3 BMIR, and Section 202/8.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes identification data such as name, Social Security Number (if available), alien registration number or other identification number, address, and tenant unit number; financial data such as income and contract rent; tenant characteristics such as number in family, sex of family member and minority code; unit characteristics such as number of bedrooms; geographic data such as county code and census tract; and related information including information used to verify data in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

United States Housing Act of 1937, as amended, 42 U.S.C. 1437 *et seq.*, and the Housing and Community Development Amendments of 1981, Pub. L. 97–35, 95 Stat. 408.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See routine uses paragraph in prefatory statement. Other routine uses: Federal, State, and local agenices—to verify the accuracy and completeness of the data provided; to HUD contractor—for processing certifications/recertifications; to the Social Security Administration and the Immigration and Naturalization Service—to verify alien status.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, magnetic tape/disk/drum.

RETRIEVABILITY:

Name of tenant, address, Social Security or other identification number.

SAFEGUARDS:

File folders, automated records kept in a secured area. Access restricted to authorized individuals.

RETENTION AND DISPOSAL:

Obsolete records are destroyed or sent to storage facility in accordance with HUD Handbook 2225.6, Records Disposition Management: HUD Records Schedules.

SYSTEM MANAGER AND ADDRESS:

Director, Management Information Systems Division, Office of

Management, Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about the existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals, other individuals and organizations, Federal, State, and local agencies. PHA staff/ private owners/ management agents.

[FR Doc. 83-29970 Filed 11-3-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1300]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202)755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: request for financial Information.
Office: Housing.
Form No.: HUD-92068F.
Frequency of Submission: On Occasion.
Affected Public: Individuals or Households, Businesses or Other For-Profit, and Federal Agencies or Employees.
Estimated Burden Hours: 12,540.
Status: Extension.
Contact: Ann M. Sudduth, HUD, (202) 755-7330 and Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 21, 1983.

Proposal: Development Program of Indian Housing Authority and Indian Low-Income Housing Program Development Cost Budget.
Office: Housing.
Form No.: HUD-53045 and HUD-53045A.
Frequency of Submission: On Occasion.
Affected Public: State or Local Governments.
Estimated Burden Hours: 135.
Status: Reinstatement.
Contact: Patricia Arnaudo, HUD, (202) 755-6522 and Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 21, 1983.

Proposal: Request for Preliminary Reservation of Contract Authority for Conditional Commitments to be Converted to Section 235(i).
Office: Housing.
Form No.: FHA-3122.
Frequency of Submission: On Occasion.
Affected Public: State or Local Governments, Businesses or Other For-Profit, and No-Profit Institutions.
Estimated Burden Hours: 417.
Status: Reinstatement.
Contact: Doris Stokes, HUD, (202) 426-0070 and Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 21, 1983.

Lee Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-29982 Filed 11-3-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Final Resource Management Plan and Environmental Impact Statement, Alturas Planning Area, Susanville District, CA; Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to Section 202(F) of the Federal Land Policy and

Management Act of 1976 and Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given of the availability of the Final Environmental Impact Statement/ Resource Management Plan for 407,306 acres of BLM-administered lands within the Alturas Planning Area located in northeastern California, including Modoc and the northern portion of Lassen Counties. The Final RMP/EIS examines four management plan alternatives: Maximized production, balanced use (preferred alternative); maximized protection (including no grazing), and present management (no action).

SUPPLEMENTARY INFORMATION: The issues and concerns addressed in the RMP are recreation/OHV; cultural resources; fish and wildlife; wetland riparian; threatened and endangered species; timber; fuelwood; soil and water; minerals/energy; socioeconomics; lands; energy; wilderness; and range management.

The proposed action concerns multiple-use management on 407,306 acres of public lands in 11 management areas.

1. *Range Management*—Authorization of 49,152 livestock AUMs with additional authorization of 32,111 suspended nonuse AUMs and additional forage. 280 AUMs would be allocated to support a portion of 150 wild horses and burros. Forage conditions would be improved through prescribed burning on 54,640 acres. Develop 21 Allotment Management Plans.

2. *Fish and Wildlife*—Maintain antelope winter range and kidding grounds. Exclude livestock from 20 miles of riparian habitat and 70 meadow habitats. Improve browse conditions by juniper thinning on deer winter range.

3. *Fuelwood*—Harvest of juniper and mahogany would be permitted except for restrictions within National Register sites and districts, T&E plant populations, 350 acres in Sheep Valley, and 6,640 acres of the Pit River Canyon Wilderness Study Area.

4. *Timber*—Intensive management would be applied to 5,027 acres of timber lands with practices modified to provide protection to soils and streams, National Register sites and districts, raptor nest locations, and T&E plant populations.

5. *Cultural*—High quality cultural resource sites would be protected by designating 25 National Register sites and 10 National Register districts. Develop five Cultural Resource Management Plans.

6. *Threatened and Endangered Plants*—Sensitive plant species would be protected by fencing or buffer zones, and designation as a Research Natural Area.

7. *Watershed*—Maintenance and improvement of critical watershed values through restrictions on other resource activities. Improvement of Sheep Valley riparian and meadow habitats by managing 350 acres under Best Management Practices.

8. *Wilderness*—Preservation of wilderness values on 6,640 acres of public lands within the Pit River Canyon.

9. *Minerals*—Exploration and development of mineral resources would be allowed throughout the Planning Area. Restrictions would be placed on flat rock sales within cultural resource National Register sites and districts. Cinder use would be allowed to continue at established pits (Babcock, Roundbarn and Day). All mineral activity would be prohibited within the recommended 6,640 acre wilderness area.

10. *Lands*—12,440 acres of primarily small, isolated and uneconomical parcels of public land would be considered for sale and/or exchange. Eight thousand acres of public land in the Madeline Plains area would be exchanged with Lyneta Ranches.

DATES: Written comments will be accepted on the Final Alturas Resource Management Plan/Environmental Impact Statement for 30 days (December 3, 1983) following the publication of this Notice of Availability. These comments will be considered prior to preparation of the Record of Decision.

ADDRESSES: Written comments may be sent to Richard Drehobl, Area Manager, Bureau of Land Management, P.O. Box 771, Alturas, California 96101.

Copies of the Final RMP/EIS are available from the Alturas Resource Area Office, P.O. Box 771, Centerville Road, Alturas, California 96101, telephone (916) 233–4666, and the Susanville District Office, P.O. Box 1090, 705 Hall Street, Susanville, California 96130, telephone (916) 257–5381.

FOR FURTHER INFORMATION CONTACT: Richard Drehobl, Alturas Area Manager. (916) 233–4666.

Dated: October 25, 1983.

Ronald D. Hofman,

Associate State Director.

[FR Doc. 83–29583 Filed 11–3–83; 8:45 am]

BILLING CODE 4310–84–M

Federal-State Coal Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice is to inform the public that the Federal-State Coal Advisory Board will be meeting in Denver, Colorado, on December 7, 1983. The public is welcome to attend. The board will (1) hear a presentation on the status of the Federal coal management program, (2) discuss recent coal program developments, and (3) be given a status report on the board's charter renewal process.

DATE: The board will meet at 8:30 a.m. on December 7, 1983.

ADDRESS: The meeting will be held at the Holiday Inn—Downtown, 1450 Glenarm Place, Denver, Colorado 80202, telephone (303) 573–1450.

FOR FURTHER INFORMATION CONTACT: Myra Musialkiewicz or Tom Walker, Division of Solid Mineral Leasing, Bureau of Land Management (650), 18th and C Streets, NW., Washington, D.C. 20240, telephone (202/FTS) 343–4636.

SUPPLEMENTARY INFORMATION: The Federal-State Coal Advisory Board is chartered under the Federal Advisory Committee Act and advises the Secretary and the Director on certain aspects of the Federal coal management and Federal oil shale programs.

The advisory board will meet on December 7, 1983, to (1) hear a presentation on the status of the Federal coal management program, (2) discuss recent coal program developments, and (3) be given a status report on the board's charter renewal process.

The public will have the opportunity to address the board during the public comment period that is currently scheduled for early afternoon (approximately 1:30 p.m.). However, the comment period can either be advanced or delayed depending on the flow of board business.

Written copies of a speaker's remarks would be appreciated. All comments will become part of the permanent record of the advisory board meeting. The chairperson may impose a time limit to ensure that all those wishing to address the board are heard.

Dated: October 28, 1983.

Rober F. Burford,

Director, Bureau of Land Management.

Agenda—Federal-State Coal Advisory Board Meeting

December 7, 1983

Denver, Colorado

WELCOME AND INTRODUCTIONS

—BLM Director

—Deput Director for Energy and Mineral Resources
—Board Members
Review and Approval of Meeting Agenda
Approval of 1982 Meeting Minutes
Status of the Federal Coal Management Program
—Director
Recent Coal Program Developments
—Leasing Moratorium
—Commission on Fair Market Value for Federal Coal Leasing
—Leasing Levels
—PRLA's
—Leasing schedules
Break
Recent Coal Program Developments (cont'd)
Lunch
Advisory Board Charter
Public Comment Period
Break
Recommendations/Discussion
Adjourn

[FR Doc. 83-30000 Filed 11-3-83; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On July 29, 1983, a notice was published in the **Federal Register** (48 FR 34526) that an application had been filed with the Fish and Wildlife Service by the San Francisco Zoological Garden (PRT 2-10450) for a permit to import one captive-born polar bear.

Notice is hereby given that on October 27, 1983, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: November 1, 1983.

R. K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 83-30016 Filed 11-3-83; 8:45 am]
BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf Advisory Board, North Atlantic Regional Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463).

Name: North Atlantic Regional Technical Working Group.

Date: December 1, 1983.

Place: Ramada Inn, Morgan/Conrad Rooms, N.W. Corner of I-95 and Route 27, Mystic, Connecticut.

Time: 9:00 a.m. to 5:30 p.m.

Committee membership consists of representatives from Federal Agencies, the Coastal States of Maine through New Jersey, the petroleum industry, and other private interests. The purpose of the meeting is to advise the Director, Minerals Management Service, on technical matters of Regional concern regarding prelease and postlease offering activities.

Agenda:
Minerals Management Service (MMS) Program Update;
North Atlantic Regional Technical Working Group State Cochairperson Succession;
Final Environmental Impact Statement (FEIS) for the February 1984 North Atlantic OCS Lease Offering;
Deepwater Drilling Update;
MMS and State Review/Coordination of Exploration Plans and Related Documents;
MMS Oilspill Trajectory Analysis Model;
Public Comment;
Discussion of Next Meeting;
Summary of Action Items.

This meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding items on the agenda should contact Bruce Wętman of the Atlantic OCS Office (703) 285-2165 by November 23, 1983. Written statements should be submitted by December 8 to the Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

Minutes of the meeting will be available for public inspection and copying by February 1, 1984, at the above address.

Dated: October 24, 1983.

Bruce G. Weetman,

Acting Regional Manager, Atlantic OCS Region.

[FR Doc. 83-30002 Filed 11-3-83; 8:45 am]
BILLING CODE 4310-MR-M

National Park Service

Availability of Plan of Operations and Environmental Analysis for the Purpose of Adding an Electric-Powered Compressor to an Existing Gas Well; Amarillo Oil Co.; Lake Meredith Recreation Area, Texas

Notice is hereby given in accordance with Part 9, Section 9.52(b), of Title 36 of the Code of Federal Regulations that the National Park Service has received from Amarillo Oil Company a Plan of Operations for the purpose of adding an electric powered compressor to an existing gas well at Lake Meredith Recreation Area, Texas.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Lake Meredith Recreation Area/Alibites Flint Quarries National Monument, 419 East Broadway, Fritch, Texas; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico. Copies of the documents are available from the Southwest Regional Office, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87501, and will be sent upon request.

Dated: October 21, 1983.

Jack Neckels,

Acting Regional Director, Southwest Region.

[FR Doc. 83-29983 Filed 11-3-83; 8:45 a.]
BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT AND COOPERATION AGENCY

Agency for International Development

Commission on Security and Economic Assistance; Meeting Change

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of a *change in the date, time, and place of the Seventh Meeting of the Commission on Security and Economic Assistance.* This notification amends information which appeared in the September 12, 1983, **Federal Register**, Vol. 48, No. 177, page 40960.

The Seventh Commission Meeting will be held on *Monday, November 14, 1983,* from 9:30 a.m. to 1:30 p.m. in Room 1300 of the Longworth Building on Independence Avenue between South Capitol Street and New Jersey Avenue, SE., Washington, D.C.

On October 27, 1983, in consultation with a number of Commission members, Commission Chairman Carlucci changed the date of the Seventh Commission Meeting from November 7 to November 14. This decision was based on scheduling of work in process and the availability of Commission members. It was not possible to comply with the 15-day advance notice requirement without adversely affecting the Commission's deliberations.

Mr. John K. Wilhelm is the designated A.I.D. Representative. Statements may be filed with him, or further information received by writing to him care of the Agency for International Development, PPC/C, Room 4319, Washington, D.C. 20523, or by telephoning him at 202/632-7800.

Dated: October 28, 1983.

John K. Wilhelm,

A.I.D. Representative, Commission on Security and Economic Assistance.

[FR Doc. 83-30080 Filed 11-4-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30327]

Rail Carriers; Lasalle and Bureau County Railroad Co.; Exemption for Trackage Rights Over the Norfolk and Western Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the acquisition of trackage rights by the LaSalle & Bureau County Railroad Company over a line of railroad owned or to be owned by the Norfolk and Western Railway Company in the Chicago, IL area from prior approval under 49 U.S.C. 11343, subject to employee protective conditions.

DATES: Exemption effective on November 2, 1983. Petitions to reopen must be filed by November 22, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30327 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's Representative: Peter A. Gilbertson, 1575 Eye Street NW., Washington, D.C. 20005

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington DC 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: October 28, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29996 Filed 11-3-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30315 (Sub-No. 1)]

Rail Carriers; Vandalia Railroad Co.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of 10 shares of common stock having a par value of $100 per share.

DATES: This exemption will be effective on November 3, 1983. Petitions to reopen this decision must be filed by November 23, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30315 (Sub-No. 1) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Kevin B. McCarthy, Esq., 710 South Second Street, Second Floor, Springfield, IL 62704

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: October 27, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-29997 Filed 11-3-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-33 (Sub-22)]

Railroads; Union Pacific Railroad Company—Abandonment in Saline and McPherson Counties, KS; Exemption

Correction

In FR Doc. 83-29061 appearing on page 49561 in the issue of Wednesday, October 26, 1983, make the following correction:

In the middle column of the page, seven lines from the bottom, "November 26, 1983" should have read "November 7, 1983".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Advisory Corrections Council; Meeting

Notice is hereby given that the Advisory Corrections Council in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on November 14, 1984, at the Federal Judicial Center, Washington, D.C.

The purpose of the meeting is to discuss a variety of correctional issues and draft White Paper on Corrections.

Signed at Washington, D.C., this 28th day of October 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 83-29981 Filed 11-3-83; 8:45 am]

BILLING CODE 4410-05-M

Immigration and Naturalization Service

Cancellation of Annual I-53 Program During January, 1984

AGENCY: Immigration and Naturalization Service; Justice.

ACTION: Notice of program cancellation for January 1984.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: The 1981 amendment to section 265 of the Immigration and Nationality Act, Pub. L. 97-116 (95 Stat. 1617) grants the Attorney General discretion in conducting an alien address report program. This document serves as a notice to the public that the Immigration and Naturalization Service will not

conduct an annual alien address report program in January, 1984.

(Secs. 262 and 265, Immigration and Nationality Act, as amended; (8 U.S.C. 1302 and 1305))

Dated: October 31, 1983.

John W. Murray,

Associate Commissioner, Information Systems, Immigration and Naturalization Service.

[FR Doc. 83-29982 Filed 11-3-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of application involving the establishment of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, NW., Room 8000, Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C. this 1st day of November 1983.

Joseph Seiler,

Director, Office of Program Operations.

Applications Received During the Week Ending November 5, 1983

Name of Applicant and Location of Enterprise and Principal Product or Activity ;

Hickory Hills Industries, Inc. Savannah and Clifton, Tennessee: Design and manufacture of children's apparel.

[FR Doc. 83-29940 Filed 11-2-83; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration

Office of Workers' Compensation Programs; Report on Computer Matching Project Involving Certain Beneficiaries Under the Federal Employees' Compensation Act

SUMMARY: The Department of Labor, Employment Standards Administration, Office or Workers' Compensation Programs (OWCP), announces a computer match to be performed by the State of Ohio of the names and Social Security Numbers of beneficiaries under the Federal Employees' Compensation Act, who receive compensation for total disability on the periodic roll and have mailing addresses in or near the State of Ohio and the compensation files maintained by the Industrial Commission of Ohio. The match will be made under written agreement.

a. *Authority:* The Federal Employees' Compensation Act (FECA) 5 U.S.C. 8101, et seq.

b. *Description of Match:* Among the responsibilities of the OWCP in the administration of the FECA is to assure that benefit payments are proper and to prevent fraud or abuse. The computer matching program is an efficient and non-intrusive method of determining the propriety of program beneficiaries receiving compensation for total disability.

The matching effort will compare the name and Social Security Number of the beneficiary receiving compensation for total disability having a mailing address in or near Ohio, with the Compensation file of the Industrial Commission of Ohio.

The intent of the match will be to identify those beneficiaries who, while receiving compensation for total disability on the periodic roll, had earnings which were not reported to the OWCP.

The organizations in the match are the Industrial Commission of Ohio and the Office of Workers' Compensation Programs of the Department of Labor. The OWCP will provide to the state agency, on computer tape, the name and the Social Security Number of the selected beneficiaries. The State of Ohio will match its state compensation file against these files.

The "raw hits" resulting from the cross match will be submitted to the OWCP (along with the source material) for validation and editing against case files in the OWCP system or records. After editing, OWCP will determine which cases shall be further processed or investigated to ascertain whether the individual actually had earnings which should have been reported to the OWCP. Action will be taken to assure that benefits are not being paid in those cases in which there is no entitlement. Certain findings may be submitted to the Department of Justice through the USDOL/OIG for prosecution. The state agency will not use the material from the match for any purpose. The sole beneficiary of the match will be the OWCP. Although scheduled as a pilot study, recommendations for periodic and/or ongoing matches and additions

to the number of participating states are anticipated as a result of analysis of this study. Consideration will be given to the costs and benefits as part of the future recommendations.

c. *Description of Federal Records to be Matched:* DOL/ESA–13 Office of Workers' Compensation Programs, Federal Employees' Compensation Act file (47 FR Vol. 134, p. 30382, July 1, 1982; as amended in 48 FR Vol. 27, p. 5826, February 8, 1983) will be the source of the information being furnished to the state agencies.

d. *Period of the Match:* The first match should begin on or about October 20, 1983 with the final match by the end of November. Followup procedures may extend through the calendar year and into 1984.

e. *Security:* The personal privacy of individuals identified is protected by strict compliance with the Privacy Act (Pub. L. 93–579) and OMB Circular A–108. Information from the match will be used only for official purposes and "raw hit" information will not be released to the public.

No source materials or information contained therein or any hit information will be duplicated or disseminated within or without the matching agency of the state; and personnel of the matching agency will have access to the material or password only for the purpose of furthering the matching program. The source information and the information contained therein will not be used for any purpose other than the match described above. The source and hit information will be protected while in the possession of the state either by being put into locked files or cabinets or protected by computer password, if in the computer. The matching file (source information) supplied by the OWCP and any hits resulting from the match will be returned directly by the state to the OWCP. It is understood that the source material remains the property of the OWCP.

f. *Disposition of the Records:* As indicated above, all records sent to the state as well as records of hits will be returned to the OWCP. The hits will be edited, using information contained in OWCP's file. Where there is a question of the entitlement of the claimant to receive compensation or compensation at a particular level, the case will be set up for investigation. There will be no payment discontinued solely because the name appears as a "hit". The original source material will be destroyed or expunged and the "raw hit listing" will not be kept after editing. However, "hits" which are further processed or investigated along with the results of the investigation will be made part of the case file of the beneficiary.

g. *Other Comments:* The match is being performed solely for the purpose of the OWCP by the state without any use of the information by them. The actual amount of compensation being received will not be in the source material furnished to the state.

Signed at Washington, D.C., this 27th Day of October 1983.

Lawrence W. Rogers,

Acting Director, Office of Workers' Compensation Programs.

[FR Doc. 83–30028 Filed 11–3–83; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

[Docket No. M–83–95–C]

Turris Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634 has filed a petition to modify the application of 30 CFR 75.306 (weekly ventilation examinations) to its Elkhart Mine (I.D. No. 11–02664) located in Logan County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that at least once each week, a qualified person measure the volume of air entering the main intakes and leaving the main returns.

2. As an alternative method, petitioner proposes to use a tempering panel to condition intake air temperature and humidity before the air is used in the active workings. The roof conditions in the mine are extremely susceptible to changes in the intake air temperature and humidity. The tempering panel will reduce the slaking of the mine roof in routinely traveled areas. The tempering panel is not used as a primary or secondary escapeway and there will be little or no exposure to miners. Air will not pass over any electrical power lines, equipment, or trolley lines while in the tempering panel. Only authorized persons will be permitted to travel into the tempering panel.

3. In addition, petitioner proposes to install a remote monitoring system in this panel to record methane, carbon monoxide and air velocity readings, and it will be located on the outflow side of the panel. The monitor will be tied into a recording device and alarm system installed on the surface. An alarm system will be installed which will automatically activate if methane reaches one percent, carbon monoxide 400 ppm, or if the velocity changes dramatically. The monitor will be checked for accuracy at least once per month and recalibrated as necessary. If the alarm sounds or the monitor indicates an air quality or quantity problem, immediate corrective action will be taken. Records of the monitor readings will be kept on the surface and made available for inspection.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 5, 1983. Copies of the petition are available for inspection at that address.

Dated: October 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83–30027 Filed 11–3–83; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–83–96–C]

Turris Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Elkhart Mine (I.D. No. 11–02664) located in Logan County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. As an alternate method, petitioner proposes to use a tempering panel to condition intake air temperature and humidity before the air is used in the active workings. The roof conditions in the mine are extremely susceptible to changes in the intake air temperature and humidity. The tempering panel will reduce the slaking of the mine roof in

routinely traveled areas. The tempering panel is not used as a primary or secondary escapeway and there will be little or no exposure to miners. Air will not pass over any electrical power lines, equipment, or trolley lines while in the tempering panel. Only authorized persons will be permitted to travel into the tempering panel.

3. In addition, petitioner proposes to install a remote monitoring system in this panel to record methane, carbon monoxide and air velocity readings, and it will be located on the outflow side of the panel. The monitor will be tied into a recording device and alarm system installed on the surface. An alarm system will be installed which will automatically activate if methane reaches one percent, carbon monoxide 400 ppm, or if the velocity changes dramatically. The monitor will be checked for accuracy at least once per month and recalibrated as necessary. If the alarm sounds or the monitor indicates an air quality or quantity problem, immediate corrective action will be taken. Records of the monitor readings will be kept on the surface and made available for inspection.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 5, 1983. Copies of the petition are available for inspection at that address.

Dated: October 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-30026 Filed 11-3-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-94-C]

Turris Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634, has filed a petition to modify the application of 30 CFR 75.312 (air passing through abandoned, inaccessible, or robbed area), to its Elkhart mine (I.D. No. 11-02664) located in Logan County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection not be used to ventilate any working place in any mine.

2. As an alternate method, petitioner proposes to use a tempering panel to condition intake air temperature and humidity before the air is used in the active workings. The roof conditions in the mine are extremely susceptible to changes in the intake air temperature and humidity.

The tempering panel will reduce the slacking of the mine roof in routinely traveled areas. The tempering panel is not used as a primary or secondary escapeway and there will be little or no exposure to miners. Air will not pass over any electrical power lines, equipment, or trolley lines while in the tempering panel. Only authorized persons will be permitted to travel into the tempering panel.

3. In addition, petitioner proposes to install a remote monitoring system in this panel to record methane, carbon monoxide and air velocity readings and it will be located on the outflow side of the panel. The monitor will be tied into a recording device and alarm system installed on the surface. An alarm system will be installed which will automatically activate if methane reaches one percent, carbon monoxide 440 ppm, or if the velocity changes dramatically. The monitor will be checked for accuracy at least once per month and recalibrated as necessary. If the alarm sounds or the monitor indicates an air quality or quantity problem, immediate corrective action will be taken. Records of the monitor readings will be kept on the surface and made available for inspection.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 5, 1983. Copies of the petition are available for inspection at that address.

Dated: October 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-30025 Filed 11-3-83; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-90]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Aircraft Controls and Guidance.

DATE AND TIME: November 29, 1983, 8:30 a.m. to 4:30 p.m.; November 30, 1983, 8:30 a.m. to 4:30 p.m.; December 1, 1983, 8:30 a.m. to 11:00 a.m.

ADDRESS: Dryden Flight Research Facility, Building 4800, Conference Room 1, Edwards, CA 93523.

FOR FURTHER INFORMATION CONTACT: Mr. Duncan E. McIver, National Aeronautics and Space Administration, Code RTH-6, Washington, D.C. 20546 (202/755-3273).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aircraft Controls and Guidance was established to assist the NASA in assessing the overall program. Particular emphasis is placed on the responsiveness to the critical needs, significant technology gaps and exploiting new opportunities with high potential benefits. The subcommittee chaired by Mr. Duane McRuer, is comprised of 12 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the subcommittee members and participants).

Type of meeting: Open.

Agenda:

November 29, 1983

8:30 a.m.—Subcommittee Business.
9:30 a.m.—Introductory Remarks.
10 a.m.—NASA Aircraft Controls and Guidance Research Plans.
1 p.m.—Simulation Technology Program Plans.

4:30 p.m.—Adjourn.

November 30, 1983

8:30 a.m.—NASA Controls and Guidance Program Issues.
4:30 p.m.—Adjourn.

December 1, 1983

8:30 a.m.—Subcommittee Deliberation.
11 a.m.—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

October 27, 1983.

[FR Doc. 83-29941 Filed 11-3-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for International Programs; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for International Programs.

Dates: November 21, 1983, 8:30 to 11:45 a.m. and 1:15 to 5:00 p.m., November 22, 1983, 9:00 a.m. to 2:00 p.m.

Place: National Science Foundation, 1800 G Street NW., Washington, DC; Room 1141.

Type of Meeting: Open.

Contact Person: Dr. Bodo Bartocha, Director, Division of International Programs, National Science Foundation, Washington, DC 20550. Telephone (202) 357-9552.

Summary of Minutes: May be obtained from Contact Person.

Purpose of Meeting: To provide advice, recommendations, and oversight related to support for international cooperation in science and engineering.

Agenda:

November 21: Introduction of new members. Reports on NSF reorganization, INT reorganization, new management plan, strategic planning for fiscal year 1986. Activities of the National Science Board. Big Science and Little Science. Future international activities at NSF.

November 22: INT Program Report. Report on the work of the Office of Management and Budget. Future modes of operation of the Committee. Summarizing discussions. Resolutions and assignments. Future meetings.

Dated: November 1, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-29991 Filed 11-3-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-289-SP) (Management Phase)]

Metropolitan Edison Company, et al. (Three Mile Island Nuclear Station, Unit No. 1); Rescheduling Oral Argument

October 31, 1983.

Notice is hereby given that, in accordance with the Appeal Board's order of October 25, 1983, oral argument previously calendared for December 1, 1983 has been rescheduled for *9:30 a.m., Wednesday, January 11, 1984, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.*

Dated: October 31, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-30013 Filed 11-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-352 OL, 50-353 OL

Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of October 31, 1983, oral argument on the appeal of Del-AWARE Unlimited, Inc., from the Licensing Board's partial initial decision issued on March 8, 1983 (LBP-83-11), and its memorandum and order of June 1, 1983, will be held at *9:30 on Thursday, December 15, 1983, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building 4350 East-West Highway, Bethesda, Maryland.*

Dated: October 31, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-30012 Filed 11-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas & Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-76, issued to the Pacific Gas and Electric Company (PG&E, the licensee), for operation of the Diablo Canyon Nuclear Power Plant, Unit 1 located at San Luis Obispo, California.

The amendment would grant a temporary one-time exception to the facility Technical Specifications (which presently require corrective action to return at least one reactor coolant loop to operation within one hour) to permit natural circulation tests to be performed during the startup test program with no reactor coolant loops in operation in accordance with the licensee's application for amendment dated February 10, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission's proposed determination is based on its findings that the natural circulation test does not increase the probability of malfunction of safety-related equipment nor does it diminish the ability to mitigate the consequences of a postulated accident. In addition, the following compensatory conditions will exist during the one-time test:

(1) No safety related equipment will be required to operate outside of its normal operating parameters;

(2) The reactor coolant pumps will be available at all times to return the RCS to a forced circulation condition;

(3) The reactor will be shut down in Mode 3.

(4) A situation which could lead to an accident or malfunction different than was previously evaluated in the FSAR is not created by performing the test as the ability to remove decay heat under natural circulation conditions has been demonstrated at similar plants (North Anna, Salem and San Onofre); and

(5) All safety related equipment will be operable.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be

considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By December 7, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Mr. George W. Knighton: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Philip A. Crane, Jr., Esq., Pacific Gas & Electric Company, 77 Beale Street, San Francisco, California 94106 and Norton, Burke, Berry & French P.C., Attn: Bruce Norton, Esq., 2002 East Osborn Road, Phoenix, Arizona 85016, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 31st day of October, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83–30011 Filed 11–3–83; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of

implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 5.37, Revision 1, "In Situ Assay of Enriched Uranium Residual Holdup," describes procedures acceptable to the NRC staff for the in situ assay of enriched uranium residual holdup. Residual holdup is the inventory component remaining in and about process equipment and handling areas after those collection areas have been prepared for the inventory of special nuclear materials required by the Commission's regulations.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 31st day of October 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-30014 Filed 11-3-83; 8:45 am]

BILLING CODE 7590-01-M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: John O. Catron, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2523, FTS 858-2523.

Type of Request: New

Title of Information Collection: Shower Bath Economizer Survey

Frequency of Use: Quarterly

Type of Affected Public: Individuals or households

Small Businesses or Organization Affected: None

Federal Budget Functional Category Code: 271

Estimated Number of Annual Responses: 120

Estimated Total Annual Burden Hours: 16

Estimated Annual Cost from Federal Government Appropriated Funds: 0

Need For and Uses of Information: In its efforts to promote better use and conservation of electric energy, TVA sponsors field tests of energy-conserving devices. Information collected through this proposed survey will determine the effectiveness and public acceptance of a shower bath economizer prior to promoting it as an energy conservation device. The respondents will be randomly selected homeowners who agree to participate in the testing program.

Dated: October 28, 1983.

John W. Thompson,

Assistant General Manager Senior Agency Official.

[FR Doc. 83-29942 Filed 11-3-83; 8:45 am]

BILLING CODE 8120-08-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Firearms; Granting of Relief

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of Granting of Relief from Disabilities Incurred by Conviction.

SUMMARY: The persons named in this notice have been granted relief by the Director, Bureau of Alcohol, Tobacco and Firearms, from their disabilities imposed by Federal laws. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Noel A. Haera, Firearms Enforcement Branch, Firearms Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20026, (202-566-7258).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to the Director's satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

The following persons have been granted relief:

Arndt, Mary Jo, 255 East 2nd Street, Fond Du Lac, Wisconsin, convicted on May 19, 1978, in the Fond Du Lac County Court, Fond Du Lac, Wisconsin.

Arnold, George Steven, 471 Dunlap Avenue, Jackson, Mississippi, convicted on March 5, 1976, in the First District Court, Parish of Caddo, Louisiana.

Avey, Michael R., Route 4, Box 160, Huntsville, Texas, convicted on April 4, 1973, in the 185th District Court, Harris County, Texas.

Bailey, Ricky D., R.D. #3, Box 113D, Newville, Pennsylvania, convicted on August 31, 1976, in the Court of Common Pleas of Cumberland County, Pennsylvania.

Baldwin, Wilbur T., Jr., 421 East 11th, Mitchell, South Dakota, convicted on October 24, 1980, in the Fourth Judicial Circuit Court, Davison County, South Dakota.

Barnett, Henry N., Jr., Route 1, Box 325C, Anniston, Alabama, convicted on May 15, 1979, in the Circuit Court of Calhoun County, Alabama.

Barrett, Jack Hubble, 1019 Oates, Road, Prattville, Alabama, convicted on November 21, 1963, in the 14th District Court, Calcasieu Parish, Louisiana.

Bartishofski, John Charles, 373North Camman, Coos Bay, Oregon, convicted on June 17, 1963, in the Nineth Judicial District Court, District County of Crow Wing, Minnesota.

Belveal, Robert E., 1195 Swallow Drive, Northeast, Salem, Oregon, convicted on April 13, 1978, in the Circuit Court of Matheur County, Oregon.

Bevon, John Edward, 2701 Azalea Drive, Charleston, South Carolina, convicted on October 26, 1977, in the United States District Court, Charleston, South Carolina.

Bieneman, Leroy S., 687 Garland Street, Philadelphia, Pennsylvania, convicted on December 3, 1963, in the Court of Quarter Session, Philadelphia, Pennsylvania.

Biglow, Herschel, Sr., 395 11th Street, Northeast, Paris, Texas, convicted on December 16, 1980, in the Sixth Judicial Court, Lamar County, Texas.

Billings, Larry Curtis, Route #1, Box 249, Traphill, North Carolina, convicted on May 19, 1964, in the United States District Court, Wilkesboro, North Carolina.

Black, Chauncey, M., 3850 18th Street, Ecorse, Michigan, convicted on December 15, 1975; and on July 21, 1977, in the United States District Court, Eastern District of Michigan.

Blair, Willie, J., Route 2, Box 58, Franklinton, Louisiana, convicted on January 18, 1983, in the 22nd Judicial District Court, Washington Parish, Louisiana.

Brisco, Patrick John, 2330 Bennett Avenue, North Billmore, New York, convicted on October 28, 1938, in the Sixth Judicial Circuit Court, Pinellas County, Florida.

Brodsky, George W., 3 Lava Court, Apartment 1A, Carney, Maryland, convicted on August 17, 1960, in the Baltimore County Circuit Court, Baltimore, Maryland.

Brooks, Terry Kenneth, 334 High Street, Hamlet, North Carolina, convicted on March 30, 1971, in the United States District Court, Rockingham, North Carolina.

Burgie, David E., 89 Pigeon Hill Road Exit, Windsor, Connecticut, convicted on April 12, 1978, in the Circuit Court, City of Norfolk, Virginia.

Cantrell, John Alan, 1415 Grant Street, Northeast, Minneapolis, Minnesota, convicted on December 26, 1978, in the Tenth Judicial District Court, Stillwater, Minnesota.

Centola, Merrick, 1322 Wharton Street, Philadelphia, Pennsylvania, convicted on March 22, 1979, in the Philadelphia, Municipal Court, Philadelphia, Pennsylvania.

Chakwin, Christopher, 53 Park Court, Staten Island, New York, convicted on April 15, 1979, in the Richmond County Superior Court, Staten Island, New York.

Champman, Kevin Dean, Rural Route #1, Fremont, Nebraska, convicted on November 16, 1979, in the Douglas County District Court, Omaha, Nebraska.

Cherry, Harry A., 1920 Quaker, Pekin, Illinois, convicted on April 24, 1978, in the Circuit Court of the Tenth Judicial District, Tazewell, Illinois.

Claud, Alexander Lawrence, Jefferson Townhouse Apartments, #F, Richmond, Virginia, convicted on December 19, 1975, in the Circuit Court, County of Dinwiddie, Virginia.

Cole, Dean O., RFD #2, Box 417, Great Falls Road, Gorham, Maine, convicted on January 28, 1971, in the Superior Court, Cumberland County, Maine.

Costi, Randy Joseph, 5721 East Roosevelt, Tacoma, Washington, convicted on April 3, 1974; and on June 22, 1975, in the Superior Court, Pierce County, Washington.

Cramblitt, Selena Marie, Apartment #101, Knob Apartments, Donald Avenue, Northeast, Rocky Mount, Virginia, convicted on September 26, 1980, in the Circuit Court, City of Salem, Virginia.

Crowe, Samuel Lee, 431 Peach Street, Staunton, Virginia, convicted on March 29, 1978, in the Circuit Court of Staunton, Virginia.

Culp, Larry Jeff, Star Route 1, Clifton, Texas, convicted on March 6, 1978, in the 220th District Court, Bosque County, Texas.

Curtis, Samuel Lewis, 336 Abbot Street, Southwest, Apartment 23, Atlanta, Georgia, convicted on January 29, 1957, in the Fulton County Superior Court, Atlanta, Georgia; and on April 23, 1963, in the Fulton County Superior Court, Atlanta, Georgia.

Curtright, Raymond E., 7810 Dos Rotundo, Tucson, Arizona, convicted on April 18, 1980, in the United States District Court, District of Wyoming.

Davis, Herschel Scott, Route 1, Box 452A, Philpot, Kentucky, convicted on November 6, 1978, in the United States Military Court, Army Base, Schweinfurt, Germany.

Dedeaux, Eugene, Jr., 327 Beachview, Biloxi, Mississippi, convicted on August 8, 1968, in the First Judicial District, Gulfport, Mississippi.

Detres, Carmelo, 25 Reese Street, Fort Rucker, Alabama, convicted on May 26, 1976, in the Superior Court of Thurston County, Washington.

DiNapoli, Ralph Edward, 9 Blackberry Circle, Holyoke, Massachusetts, convicted on May 12, 1965, in the Hampden Superior Court, Hampton, Massachusetts.

DiTommaso, Benito, 20778 Dean, Warren, Michigan, convicted on April 7, 1972, in the Circuit Court of Oakland County, Michigan.

Dowell, Allen Lane, 4329 Holmes Street, Northeast, Roanoke, Virginia, convicted on March 24, 1981, in the Circuit Court, Roanoke, Virginia.

Eby, Anthony Glynn, 5506 Oriole, Houston, Texas, convicted on February 26, 1980, in the 262nd District Court, Houston, Texas.

Eddings, John Franklin, Route 1, Gideon Road, Greenbrier, Tennessee, convicted on August 23, 1979, in the Roberson County General Sessions Court, Springfield, Tennessee.

Ellis, David Ernest, 3025 Oakland, Wichita, Kansas, convicted on November 10, 1958, in the 18th Judicial District Court, Sedgwick County, Kansas.

Evans, Carol L., 2403 Power House Road, Yakima, Washington, convicted on October 28, 1976, in the Superior Court, Yakima County, Washington.

Farinella, John R., 260 65th Street, Brooklyn, New York, convicted on May 28, 1976, in the Supreme Court, Kings County, New York.

Ferguson, Vivan Stanley, 348 Campground Pond Road, Tallahassee, Florida, convicted on November 7, 1973, in the Circuit Court of Leon County, Tallahassee, Florida.

Fletcher, Michael Ray, 414 East, Roosevelt, Buckeye, Arizona, convicted on September 18, 1973, in the Pulaski Circuit Court, Pulaski, Arkansas; and on February 26, 1976, in the United States District Court, Tucson, Arizona.

Fowler, Jerry Watson, Route 1, Box 84, Lot #59, Roanoke, Virginia, convicted in May 1967, in the Circuit Court, Clifton Forge, Virginia; and on November 19, 1969, in the Hastings Court, Roanoke, Virginia.

Gautreaux, Alicee L. Jr., Post Office Box 114, Labadieville, Louisiana, convicted on December 10, 1980, in the United States District Court, Eastern District of Louisiana.

Genet, John Paul, 22 Williams Street, Glen Cove, New York, convicted on October 2, 1981, in the United States District Court, Eastern District of New York.

Glassburn, Stephen Allen, 55223 County Road 131, Middlebury, Indiana, convicted on April 16, 1970, in the Indiana Superior Court, Elkhart County Indiana.

Glynn, Lester W., 58 Serand Street, La Salle, Illinois, convicted on April 20, 1951, in the Circuit Court of La Salle County, Illinois.

Godsey, John William, Jr., Route #2, Box 55, Alba Mill Road, Stanley, North Carolina, convicted on October 16, 1978, in the Gaston County Superior Court, Gastonia, North Carolina.

Gordon, Mark Wendell, P.O. Box 874475, Wasilla, Alaska, convicted on August 23, 1979, in the Superior Court of Orange County, Santa Ana, California.

Gottenberg Yale Jay, 2006 Fauce Street, First Floor, Philadelphia, Pennsylvania, convicted in December 1974, in the Court of Common Pleas, Montgomery County, Pennsylvania.

Grady, Helen Belle, Route 5, Box 420, Mt. Olive, Wayne County, North Carolina, convicted on January 6, 1975, in the United States District Court, Eastern District of North Carolina; and on September 22, 1976, in the United States District Court, Fayetteville, North Carolina.

Grandy, Gary L., 7531 14th Avenue, Olympia, Washington, convicted on January 23, 1974, in the Superior Court, Thurston County, Washington.

Grant, Cloyd Harold, 15539 Preston Road, Apartment 1037, Dallas, Texas, convicted on August 21, 1975, in the Third Criminal District Court, Dallas, Texas.

Gregory, D. J., Box 101, Robbinsville, North Carolina, convicted on September 4, 1975, in the Superior Court, Graham County, North Carolina.

Guilaroff, Eugene Dale, 10418 Pearson Place, Sunland, California, Convicted on May 29, 1962, in the Superior Court, Los Angeles County, California; on December 28, 1962, in the United States District Court, Northern District of California; and on April 26, 1963, in the Orange County Superior Court, Santa Ana, California.

Gunderson, Alfred, 7402 Bay Parkway, Brooklyn, New York, convicted on November 27, 1963, in the Supreme Court, Kings County, New York.

Hack, Robert A., 830 Southwest 19th Street, Chehalis, Washington, convicted on June 23, 1980, in the Superior Court, Lewis County, Washington.

Hairston, Clarence Leo, Post Office Box 164, Walnut Cove, North Carolina, convicted on November 7, 1961, in the United States District Court, Winston-Salem, North Carolina.

Hall, Grover William, Route 3, Box 294, Appomattox, Virginia, convicted on October 2, 1973, in the Circuit Court, Appomattox County, Virginia.

Hambrick, Oscar, Jr., 1105 Westmont Road, Southeast, Atlanta, Georgia, convicted on October 9, 1952, in the Superior Court, Fulton County, Georgia.

Hamilton, Sherry Elaine Easterly, Route 4, Box 390, Abingdon, Virginia, convicted on January 28, 1980, in the Washington County Circuit Court, Abingdon, Virginia.

Hammond, Willie Larry, 442 Maynard Terrace, Southeast, Atlanta, Georgia, convicted on November 24, 1970, in the Taliaferro County Court, Crawfordville, Georgia.

Harrington, John Collins, Route 1, Box 402, Tallasee, Alabama, convicted on January 5, 1983, in the United States District Court, Middle Judicial District of Alabama.

Harris, William D., 109A North 49th Avenue, Yakima, Washington, convicted on April 21, 1955, in the Superior Court, Summit County, Ohio.

Hart, Albert Lee, 5740 Atlanta Avenue, Baton Rouge, Louisiana, convicted on April 25, 1978, in the 18th Judicial District Court, West Baton Rouge, Louisiana.

Hawryliak, Frank, 222 Eyth Street, Butler, Pennsylvania, convicted on September 27, 1957, in the Butler County Court, Butler, Pennsylvania; and on September 26, 1958, in the Butler County Court, Butler, Pennsylvania.

Hayes, Thomas Lee, 121 North 16th Street, Richmond, Indiana, convicted on April 2, 1982, in the United States District Court, Baltimore, Maryland.

Hegland, Eddy Jon, 404 South Second Street, Marshall, Minnesota, convicted on November 2, 1981, in the District Court of Marshall, Minnesota.

Hogan, Don, 415 East Brown Street, Lake City, Florida, convicted on February 12, 1973, in the Circuit Court of Columbia County, Lake City, Florida.

Holz, Fred Kenneth, 5522 South 123rd, Omaha, Nebraska, convicted on April 20, 1977, in the United States Court, Omaha, Nebraska.

Hood, Stephen Lee, 3639 North 17th Street, Philadelphia, Pennsylvania, convicted on October 21, 1973, in the Common Pleas Court, Philadelphia, Pennsylvania.

Ivey, Donald Weldon, Route 4, Dawsonville, Georgia, convicted on March 20, 1975, in the United States District Court, Northern District of Georgia.

Jackson, Bobby Wayne, 1503 East Stayton Street, Victoria, Texas, convicted in September 1976, in the Wharton County 23rd Judicial District, Wharton, Texas.

Jackson, Charles Edward, Post Office Box 11, Greenfield, Oklahoma, convicted on March 14, 1973, in the Wells Circuit Court, Indiana.

Johnson, Robert W. Jr., 207–7 Regency Apartments, Warner Robins, Georgia, convicted on October 30, 1981, in the United States District Court, Macon, Georgia.

Junkunc, George P., 51 Fort Royal Isle, Fort Lauderdale, Florida, convicted on June 1, 1977, in the United States District Court, Chicago, Illinois.

Kaplan, Joseph William, 3330 Tangley, Houston, Texas, convicted on June 14, 1979, in the 183rd District Court of Harris County, Texas.

Kelly, Carl James, Route 1, Box 28A, Cedar Vale, Kansas, convicted on November 17, 1982, in the Tenth Judicial District Osage County, Oklahoma.

Kemble, Allen F., R.D. #3, Box 129, Newport, Pennsylvania, convicted on August 6, 1979, in the Perry County Court, New Bloomfield, Pennsylvania.

Kilbourn, Michael Lee, 5409 Ithaca, Las Vegas, Nevada, convicted on June 17, 1976, in the Eighth Judicial District Court, State of Nevada.

Knight, Charlie Mathew, 428 West Third Street, Thomasville, Alabama, convicted on January 4, 1980, in the United States District Court, Mobile, Alabama.

Knox, John David, 240 Dalton street, Hillsboro, Texas, convicted on January 20, 1977, in the 66th District Court, Hillsboro, Texas.

Kodrick, Michael D., 9450 Woodridge Drive, Eden Prairie, Minnesota, convicted on September 23, 1969, in the District Court, of Hennepin County, Fourth Judicial District of Minnesota.

Lackey, Elmer C., Route 2, Box 167B, Stuart, Virginia, convicted on December 5, 1966, in the Circuit Court, Patrick County, Virginia.

Ladd, Todd Edward, Lot 74 Greenbriar Mobile Home Park, Wilson, North Carolina, convicted on November 24, 1980, in the Superior Court, Nash County, North Carolina.

Lamb, Steve D., 210 West B Street, Ellinwood, Kansas, convicted on June 18, 1980, in the District Court, Barton County, Kansas.

Laminack, Harold, Route 1, Box 292, Muscadine, Alabama. convicted on August 17, 1977, in the United States District Court, Northern District of Georgia.

Lamm, Gary Michael, Route 1, Box 48B, Farmersville, Texas, convicted on December 13, 1972, in the 196th District Court, Hunt County, Texas.

LaRose, Kenneth Paul, 6394 East Burt, Birch Run, Michigan, convicted on January 12, 1978 in the circuit Court, Gewesee County, Michigan.

Liptac, Melvin D., 608 Central, Spokane, Washington, convicted on May 10, 1976, in the Superior Court, Spokane, Washington.

Logan, Willie Junior, Route 1, Box 259G, Rice, Virginia, convicted on

November 27, 1978, in the Circuit Court, Amelia County, Virginia.

Loggins, John C., 312 Loma Place, Orange Park, Florida, convicted on October 2, 1953, in the United States Military Court, Mannheim, Germany.

Mackie, Franklin Lee Jr., Route 1, Box 287A, Jonesville, North Carolina, convicted on March 5, 1974, in the Superior Court, Surry County, North Carolina.

Martin, Joseph Louis, 254 Washington Avenue, Chelsea, Massachusetts, convicted on January 15, 1970, in the Middlesex Superior Court, Cambridge, Massachusetts.

MarTin, Wayne Joseph, 47 Arnett Road, Rhinebeck, New York, convicted on May 4, 1981, in the Dutchess County Court, Poughkeepsie, New York.

McBride, Ronald Gene, Route 1, San Saba, Texas, convicted on April 2, 1970, in the 33rd Judicial District Court, San Saba, Texas.

McClain, Robert, 416 Third Street North, Birmingham, Alabama, convicted on August 16, 1971, in the Circuit Court, Birmingham, Alabama.

McFadden, Francis Stephan, 4C Carolinas Drive, Oakdale, Connecticut, convicted on June 24, 1971, in the Stark County Common Pleas Court, Canton, Ohio.

McGee, Dana Lynn, 5305 Seguin Street, Corpus Christi, Texas, convicted on May 18, 1977, in the 185th District Court, Harris County, Texas.

Meadows, Roy Elvin, Route 1, Box 407, Elkton, Virginia, convicted on March 11, 1968, in the United States District Court, Harrisonburg, Virginia.

Morris, Willie Clay, 2321 Terpsichore Street, New Orleans, Louisiana, convicted on September 28, 1977, in the Federal District Court, Eastern District of Louisiana.

Myers, Thomas Edward, 229 North Fifth Street, Clinton, Indiana, convicted on January 31, 1978, in the Circuit Court, Vermillion County, Indiana.

Nannery, Jack W., 117 Elm Street, Beaver Dam, Wisconsin, convicted in October 1942, in the Essex County Court, Newark, New York; and on September 29, 1943, in the Kings County Court, New York, New York; and on November 17, 1965, in the Court of Waupaca, Waupaca, Wisconsin.

Napier, Joseph Wayne, Route 5, Box 392A, Martinsville, Virginia, convicted on October 5, 1976, in the United States District Court, Middle District of North Carolina.

Nesbitt, Walter, 304 Locust Street, Penn, Pennsylvania, convicted on August 28, 1964, in the Court of Dyer and Terminar, Westmoreland County, Greensburg, Pehnsylvania.

Noble, Harlod J., Route 1, Box 26, Shorter, Alabama, convicted on January 5, 1983, in the United States District Court, Middle Judicial of Alabama.

Odom, Michael Ross, 232 Helm Avenue, Salt Lake City, Utah, convicted on August 13, 1975, in the Bossier Parish Court, Benton, Louisiana; and on August 26, 1975, in the Caddo Parish Court, Shreveport, Louisiana; and on December 4, 1977, in the Bossier Parish Court, Benton, Louisiana.

O' Leary, Christopher John, 6458 Cobble Way, Dublin, Ohio, convicted on July 28, 1971, in the Common Pleas Court, Painsville, Ohio.

Orsino, George Joseph, 2603 South Seventh Street, Philadelphia, Pennsylvania, convicted on September 26, 1946, in the Court of Common Pleas, Criminal Division, Philadelphia, Pennsylvania.

Outlaw, Walter Ray, Route 1, Box 323, Parson, Tennessee, convicted on August 31, 1979, in the United States District Court, Jackson, Tennessee.

Pettus, Larry Mills, 131 Summitt Ridge Drive, Branson, Mississippi, convicted on November 11, 1959, in the Southern Judicial District, Jackson, Mississippi.

Phifer, James Calvin, 402 Hickory Street, North Wilkesboro, North Carolina, convicted on April 15, 1968, in the United States District Court, Wilkesboro, North Carolina.

Phillips, Robert E., 836 Country Club Drive, Gadsden, Alabama, convicted on August 19, 1981, in the United States District Court, Birmingham, Alabama.

Plaisance, Edward O., 3903 Richmond Avenue, Shreveport, Louisiana, convicted on March 22, 1978, in the 26th District Court, Bossier Parish, Louisiana.

Plankers, James F., P.O. Box 240, Tonasket, Washington, convicted on March 6, 1981, in the St. Louis County District Court, Sixth Judicial District of Minnesota.

Pruitt, Hollie Brooks, 740 Bellemeade Avenue, Atlanta, Georgia, convicted on September 7, 1979, in the DeKalb Superior Court, Decatur, Georgia.

Reavis, Roy Ray, Route 1, Box 87, Hays, North Carolina, convicted on April 19, 1971, in the United States District Court, Wilkesboro, North Carolina.

Reid, Harold Michael, 506 Grace Street, Medical Lake, Washington, convicted on October 25, 1978, in the Superior Court, Spokane, Washington.

Riccobene, Joseph S., 7260 Ames Road, Parma, Ohio, convicted on March 8, 1962, in the Court of Common Pleas, Cuyahoga County, Ohio.

Riggs, James C. 1610 Cypress Way, Lynnwood, Washington, convicted on July 15, 1969, in the Superior Court, Kings County, Washington.

Robine, Richard Blair, 35157 Sansburn, Westland, Michigan, convicted on June 24, 1961, in the Circuit Court, Galdwin County, Michigan; and on December 13, 1961, in the Circuit Court, Wayne County, Michigan.

Robinson, Ernest, 3114 North Napa Street, Philadelphia, Pennsylvania, convicted on June 4, 1964, in the Philadelphia Court of Common Pleas, Philadelphia, Pennsylvania.

Rodriguez, Manuel M., Rural Route 608, Tucson, Arizona, convicted on November 18, 1976, in the United States District Court, Tucson, Arizona.

Roebuck, Ronald W., 30 Maple Street, Owensboro, Kentucky, convicted on August 22, 1980, in the Daviess County Circuit Court, Owensboro, Kentucky.

Ruthiff, David Walter, 1298 Kingsbury Road, Abilene, Texas, convicted on April 16, 1983, in the United States District Court, Northern District of Okahoma.

Sanders, Billy Wayne, Route 2, Box 358, Trinity, Alabama, convicted on April 11, 1972, in the Morgan County Circuit Court, Morgan County, Alabama.

Sanders, Tommy J., 1503 East Eighth Street, Lubbock, Texas, convicted on July 24, 1975, in the 49th Disrtict Court, Lubbock, Texas.

Schulte, Michael Jay, Post Office Box 32, Princeton, West Virginia, convicted on July 30, 1981, in the Mercer County Circuit Court, Princeton, West Virginia.

Scott, Jimmie L., 157 Sunset Drive, Burkesville, Kentucky, convicted on December 16, 1970, in the Monroe County Circuit Court, Tompkinsville, Kentucky; and in January 1971, in the Jefferson County Circuit Court, Louisville, Kentucky.

Shepherd, Danny, Route 1, #3 Cedar Hill Mobile Home Park, Cartersville, Georgia, convicted on January 14, 1977, in the Georgia Superior Court, Bartow County, Georgia.

Shoemaker, Donald Wayne, 901 North Avenue C, Freeport, Texas, convicted on February 5, 1973, in the District Court, Brazoria County, Texas.

Smith, Michael Eugene, Post Office Box 806, Georgetown, Idaho, convicted on January 21, 1982, in the District Court, County of Bear Lake, Idaho.

Serges, Steve, 5427 Calkins Road, Flint, Michigan, convicted on December 12, 1961, in the Circuit Court of Genesee County, Flint, Michigan; and on March 30, 1964, in the Federal District Court, Eastern District of Michigan.

Simpson, Dwight David, 1710 Edgelawn Drive, Mt. Sterling, Kentucky, convicted on September 29, 1973, in the Anderson County Circuit Court, Lawrenceburg, Kentucky.

Socorro, Franklin, 130 West 228th Street, Bronx, New York, convicted on September 10, 1975, in the Supreme Court, County of New York, New York.

Thomas, William Andrea, 1607 Bellview Boulevard, Apartment B2, Alexandria, Virginia, convicted on May 18, 1977, in the Loudoun County Court, Leesburg, Virginia.

Thompson, Curtis A, Box 392 Lakeside, Montana, convicted on October 1, 1979, in the United States District Court, Las Vegas, Nevada.

Tilley, James William Jr., 7011 Sewells Point Road, Apartment 40, Norfolk, Virginia, convicted on January 24, 1961, in the Corporation Court, City of South Norfolk.

Tilley, Kenneth Howard, 1115 Bloomfield Street, Cape Girardeau, Missouri, convicted on February 27, 1962, in the Circuit Court of Cape Girardeau, Jackson, Missouri.

Treadway, Hubert M., 322 West 22nd Street (Post Office Box 1025), South Sioux City, Nebraska, convicted on June 21, 1973, in the Superior Court, San Bernardino, California.

Trovesi, Richard J., 12519 Northeast 129th Drive, Apartment D13, Kirkland, Washington, convicted on September 17, 1979, in the Superior Court, Seattle, Washington.

Uginchus, Ronald W., 11252 South Albany, Chicago, Illinois, convicted on November 5, 1974, in the United States District Court, Northern District of Illinois, Chicago, Illinois.

Valenzuela, Jose, 7241 West Pierson, Phoenix, Arizona, concvicted on June 8, 1976, in the United States District Court, District of Arizona.

Van Asch, Donald Mark, 1907 Willow Avenue North, Minneapolis, Minnesota, convicted on December 14, 1977, in the District Court, Hennepin County, Minnesota.

Van Vleck, George E., 12308 Fieton Drive, Yakima, Washington, convicted on February 7, 1963, in the Superior Court, Yakima, Washington.

Stea, Pasquale Jr., 2739 Dudley Street, Philadelphia, Pennsylvania, convicted on December 18, 1975, in the United States District Court, Philadelphia, Pennsylvania.

Steinbrook, Rodney Scott, 2002 Whitebriar Drive, Deer Park, Texas, convicted on November 18, 1976, in the 174th District Court, Harris County, Texas.

Straus, James Harold, 102 South Maple, Prospect Heights, Illinois, convicted in June 8, 1960, in the Circuit Court, DeKalb County, Illinois.

Sullivan, Denny Harold, 748 Worthshire, Houston, Texas, convicted on March 19, 1979, in the 184th District Court, Houston, Texas.

Tanner, Charles E., 12800 Oomiak Circle, Anchorage, Alaska, convicted on February 14, 1980, in the Federal District Court, Anchorage, Alaska,

Tonneson, Robert Dean, Post Office Box 1027, Dillon, Colorado, convicted on May 6, 1980, in the District Court, Blue Earth County, Minnesota.

Tarnoff, Sherwin S., 2510 Kingston Drive, Northbrook, Illinois, convicted on February 8, 1980, in the United States District Court, Northern District of Illinois.

Teel, Douglas Ray, 322 Wilton Drive, Greenville, Texas, convicted on January 25, 1971, in the District Court of Lamar County, Sixth Judicial District of Texas.

Tharp, Sherman Bee, Route 2, Box 265B, Kenbridge, Virginia, convicted on May 16, 1962, in the Circuit Court, Lurenburg County, Virginia.

Thibodeaux, Hilary D., 505 Eighth Street, Westwego, Louisiana, convicted on December 6, 1977, in the United States District Court, Eastern District of Louisiana.

Vase, John M., 1466 Sublette, Rock Springs, Wyoming, convicted on May 20, 1977, in the Second District Court, Sweetwater County, Wyoming.

Visscher, James Neal, 405 North Powell, Essexville, Michigan, convicted on July 26, 1954, in the Circuit Court of Bay County, Bay City, Michigan; and on January 6, 1959, in the Superior Court, Stanislain County, California.

Vona, Richard, 2311 Broadway, Hatboro, Pennsylvania, convicted on July 9, 1956, in the Philadelphia Court of Common Pleas, Philadelphia, Pennsylvania.

Walker, Diane T., 1821 Rattan Palm Drive, Niceville, Florida, convicted on August 21, 1981, in the United States District Court, North District of Florida.

Warren, Joseph Vernon, 205 Detroit Avenue, Baltimore, Maryland, convicted on May 17, 1976, in the Circuit Court, Baltimore, Maryland.

Warren, Thomas Andrew, 2057 Florida Avenue, Tallahassee, Florida, convicted on November 22, 1975, in the United States District Court, Southern District, Miami, Florida.

Watkins, Judith Wilkes, Apartment 79, Westgate Village, Dothan, Alabama, convicted on July 26, 1976, in the Circuit Court, Houston County, Alabama.

Wetherbee, Garry Lee, Post Office Box 302, Woodinville, Washington, convicted on February 10, 1976, in the Superior Court, King County, Washington.

Whitesell, Robert George, 1080 Virginia Avenue, Harrisonburg, convicted on July 6, 1979, in the Rockingham Circuit Court, Harrisonburg, Virginia.

Wiley, James Richard, 1712 Mt. Olive Road, Gardendale, Alabama, convicted on January 30, 1976, in United States District Court, Southern District of Texas.

Wilkins, Waymon Allen, 1150 Long View Drive, Fayetteville, Georgia, convicted on April 3, 1978, in the United States District Court, Northern District of Georgia; and on February 22, 1973, in the Fulton Superior Court, Atlanta, Georgia.

Wilson, Norman, 418 Holland Road, Flushing, Michigan, convicted on March 30, 1964, in the United States District Court, Flint, Michigan.

Wroten, Thomas J., 1969 Welch Street, Houston, Texas, convicted on October 30, 1979, in the 185th District Court, Houston, Texas.

Wolf, Carl Robert Sr., 5112 David Way, Louisville, Kentucky, convicted on March 13, 1978, in the United States District Court, Louisville, Kentucky.

Woods, William C., 63590 Johnson Road, Bend, Oregon, convicted on April 24, 1962, in the Superior Court of King County, Seattle, Washington.

Zeller, David R., 1936 Barnett Street, Bremerton, Washington, convicted on April 27, 1979, in the Superior Court, Spokane County, Washington.

Compliance With Executive Order 12291

It has been determined that this notice is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Signed: October 31, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83-29866 Filed 11-3-83; 8:45 am]

BILLING CODE 8610-31-M

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Meeting

The Veterans Administration gives notice under the provisions of Pub L. 92-463 that a meeting of the Advisory Committee on Health-Related Effects of Herbicides will be held in Room 119 of

the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C. on December 6, 1983, at 8:30 a.m. The purpose of the meeting will be to assemble and analyze informatin concerning toxicological issues which the Veterans Administration needs to formulate appropriate medical policy and procedures in the interest of veterans who may have encountered herbicidal chemicals used during the Vietnam Conflict.

The meeting will be open to the public up to the seating capacity of the room. Members of the public may direct questins, in writing only, to the Chairman, Barclay M. Shepard, M.D., and submit prepared statements for review by the Committee. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Transcripts of the proceedings and rosters of the Committee members may be obtained from Mr. Donald Roseblum, Agent Orange Projects Office (10A7), Room 848, Department of Medicine and Surgery, Veterans Administration Central Office, Washington, D.C. 20420. (Telephone: (202) 389–5411).

Dated: October 14, 1983.

By direction of the Administration.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-29857 Filed 11-3-83; 8:45 am]

BILLING CODE 8320-01-M

Scientific Review and Evaluation Board for Rehabilitation Research and Development; Meeting

In accordance with Pub. L. 92–463, the Veterans Administration gives notice of a meeting of the Scientific Review and Evaluation Board for Rehabilitation Research and Development. This meeting will convene at the Marriott Hotel, 1221 22nd Street, NW., Washington, DC 20037, December 8–9, 1983, beginning at 9 a.m. on Thursday and 9 a.m. on Friday. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and make recommendations to the Director, Rehabilitation Research and Development Service regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the December 8th session for approximately one hour to discuss the general status of the program and the administrative details of the review process. During the closed session, the Board will be reviewing research and development applications. This review involves oral comments, discussion of site visits, staff and consultant critiques of research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Proprietary data from contractors and private firms will also be presented and this information should not be disclosed in a public session. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with Section 552b, Subsections (c)(4), (c)(6), and (c)(9)(B), Title 5, United States Code and the determination of the Administrator for Veterans Affairs under Section 10(d) of Pub. L. 92–463 as amended by Section 5(c) of Pub. L. 94–409.

Due to the limited seating capacity of the room those who plan to attend the open session should contact Dr. Larry P. Turner, Administrative Officer, Rehabilitation Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420 (Phone: (202) 389–5177) at least 5 days before the meeting.

Dated: October 26, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-29956 Filed 11-3-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 215
Friday, November 4, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Federal Deposit Insurance Corporation	2
Nuclear Regulatory Commission	3

1

CIVIL AERONAUTICS BOARD

TIME AND DATE: 10 a.m., November 8, 1983.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Dockets 41499, 41349, 41350, *Buffalo Airways, Inc., Fitness Investigation, Applications of Buffalo Airways, Inc.*, Order Declining Review. (OGC)
3. Exemption from section 404(b) (non-discrimination) and clarification of the exemption from section 408(a) (acquisition and control) for domestic cargo transportation. (OGC)
4. Exemption from section 404(b) (non-discrimination) for intra-Alaska and intra-Hawaii cargo transportation and for indirect cargo air transportation. (OGC)
5. Docket 41510, Elimination of tariff filing for interstate cargo transportation between points within Hawaii or Alaska. (OGC, BIA, BDA)
6. Docket 41542, Notice of terms of contracts of carriage for domestic travel sold at ticket locations outside of the United States, or for air taxi operations. (OGC, BDA, BIA, OCCCA)
7. Docket 41219, Tariff filing requirements for credit terms. (Memo 1654–A, OGC)
8. Comments on a bill to prohibit smoking aboard aircraft. (Memo 2080, OGC)
9. Docket 41443, Domestic Baggage Liability: Final rules. (OGC, BDA, OCCCA)
10. Commuter carrier fitness determination of Gulf stream Airlines, Inc. (memo 2076, BDA)
11. Commuter carrier fitness determination of Las Vegas Airlines, Inc. (BDA)
12. Docket 38823, Agreement C.A.B. 29080, IATA agreement establishing a new South Pacific fare structure through March, 1985. (Memo 2083, BIA)
13. Discussion on Thailand Negotiations. (BIA)
14. Report on Peru. (BIA)
15. Report on Malaysia. (BIA)
16. Discussion on Trinidad & Tobago. (BIA)
17. Discussion on Switzerland. (BIA)
18. Discussion on Spain. (BIA)
19. Report on Jamaica. (BIA)
20. Discussion on Ireland. (BIA)
21. Discussion on Canada. (BIA)
22. Undocketed—Application of Air Canada for a statement of authorization to conduct a series of Fifth Freedom cargo charters between the United States and Scotland. (BIA, OGC)
23. Discussion on el Salvador. (BIA)

STATUS: 1–12 (Open), 13–23 (Closed).

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

[FR Doc. S–1549–83 Filed 11–2–83; 3:43 pm]

BILLING CODE 6320–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:33 a.m. on Tuesday, November 1, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session by telephone conference call to consider a recommendation with respect to the initiation and conduct of a cease-and-desist proceeding against an insured bank (name and located of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii).

Dated: November 1, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1547–83 Filed 11–2–83; 12:23 pm]

BILLING CODE 6714–01–M

3

NUCLEAR REGULATORY COMMISSION

DATE: Week of November 7, 1983 (revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Tuesday, November 8:

10 a.m.
Discussion/Vote on Hearing Requests and Whether to Lift Suspension at Diablo Canyon (public meeting) (As Announced)

2 p.m.
Consideration of Options for Dealing with Management Issues (TMI–1 Restart Proceeding) (closed—Ex. 5 and 10) (Title Revised)

Wednesday, November 9:

9:30 a.m.
Briefing on BWR Pipe Crack Issues (public meeting) (As Announced)

2 p.m.
Discussion of Hydrogen Ignition System and Final Rule (public meeting) (As Announced)

Thursday, November 10:

9:30 a.m.
Discussion of Treatment of Management Issues in TMI–1 Restart Proceeding (public meeting) (Title Revised)

11:30 a.m.
Affirmation/Discussion and Vote (public meeting) (As Announced)
a. Amendments to 10 CFR 50 Related to Hydrogen Control

b. Proposed Final Rule—Deletion of Exception Filing Requirements for Appeal from Initial Decisions

ADDITIONAL INFORMATION: Meeting on Classified, Export-Related Matters (closed—Ex. 1), added to schedule on 11:30 a.m., November 3, 1983.

Affirmation of "Revision to 10 CFR 51 and Related Conforming Amendments—Implementation of CEQ NEPA Regulations" scheduled for November 3, 1983, *postponed.*

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S-5-1548-83 Filed 11-2-83; 3:10 pm]

BILLING CODE 7590-01-M

federal register

Friday
November 4, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General wage Determination Decisions

The numbers of the decisions being modified and their dates of publication to the **Federal Register** are listed with each State.

Arkansas:	
AR83–4038	May 13, 1983.
AR83–4039	May 13, 1983.
AR83–4049	July 15, 1983.
AR83–4069	Sept. 16, 1983.
Florida: FL83–1058	Aug. 19, 1983
Michigan: MI83–2008	Feb. 11, 1983.
New York: NY83–3018	May 20, 1983.
Oklahoma:	
OK83–4067	Sept. 16, 1983.
OK83–4068	Sept. 16, 1983.
Pennsylvania:	
PA81–3043	July 17, 1981.
PA81–3090	Dec. 18, 1981.
Texas:	
TX83–4007	Jan. 1, 1983.
TX83–4042	June 3, 1983.
TX83–4077	Oct. 21, 1983.
TX83–4078	Oct. 21, 1983.
TX83–4082	Oct. 21, 1983.
Virginia: VA83–3039	Sept. 30, 1983.
Indiana: IN83–2031	May 13, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Nay York: NY81–3065 (NY83–3050)	Sept. 11 1981

Signed at Washington, D.C. this 28th day of October 1983.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION #AR83-4038-MOD#3 (48 FR 21775-May 13, 1983) Garland, Clark and Hot Springs, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Cement Masons	$12.75	$ .63
Boilermakers	16.40	2.645
Carpenters:		
Carpenters	12.50	1.44
Millwrights, Pile-driverman	13.00	1.46
Ironworkers	13.65	2.21
Laborers:		
Group 1	8.80	1.45
Group 2	9.05	1.45
Group 3	9.20	1.45
Group 4	9.30	1.45
Group 5	9.45	1.45
Group 6	9.70	1.45
Group 7	9.60	1.45
Painters:		
Brush and Roller	9.50	
Papurhanger	10.00	
Sheet Rock (tape & float only)	10.00	
Stage and Steel	11.50	
Spray and Sandblasting	12.75	
Painters operating any kind of taping or floating machine	13.25	
Power Equipment		
Operators:		
Group 1	14.09	1.40
Group 2	12.76	1.40
Group 3	12.16	1.40
Group 4	9.99	1.40
Sheet Metal Workers	14.08	3%+2.01
Sprinkler Fitters	14.47	3.23

DECISION #AR83-4039-MOD#4 (48 FR 21774-May 13, 1983) Union and Ouachita Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.40	$2.645
Carpenters:		
Carpenters	12.50	1.44
Millwrights-Pile-drivermen	13.00	1.46
Cement Masons	12.75	.63
Ironworkers:		
Ouachita County-excluding the Southeastern portion	13.65	2.21
Union County and Southeastern portion of Ouachita County	14.55	2.21
Laborers:		
Group 1	8.80	1.45
Group 2	9.05	1.45
Group 3	9.20	1.45
Group 4	9.30	1.45
Group 5	9.45	1.45
Group 6	9.70	1.45
Group 7	9.60	1.45
Power Equipment		
Operators:		
Group 1	14.09	1.40
Group 2	12.76	1.40
Group 3	12.16	1.40
Group 4	9.99	1.40
Sheet Metal Workers	14.08	3%+2.01

DECISION NO. FL83-1058-MOD. #1
(48 FR 37799-AUGUST 19, 1983)
DUVAL COUNTY, FLORIDA

CHANGE:
POWER EQUIPMENT OPERATORS:

GROUP I	$13.34	2.45
GROUP II	11.96	2.45
GROUP III	9.96	2.45

DECISION #AR83-4049-MOD#5 (48 FR 42350-July 15,1983) Sebastain,Crawford, Washington Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Sebastain and Crawford Counties, Arkansas		
Boilermakers	$16.40	$2.645
Carpenters:		
Carpenters	11.54	1.54
Millwrights-Pile-drivermen	12.29	1.54
Cement Masons	12.75	.63
Laborers:		
Group 1	8.80	1.45
Group 2	9.05	1.45
Group 3	9.20	1.45
Group 4	9.30	1.45
Group 5	9.45	1.45
Group 6	9.70	1.45
Group 7	9.60	1.45
Power Equipment		
Operators:		
Group 1	14.09	1.40
Group 2	12.76	1.40
Group 3	12.16	1.40
Group 4	9.99	1.40
Sheet Metal Worker	14.08	3%+2.01
ADD:		
Marble Masons, Tile Layers and Terrazzo Workers	12.00	

DECISION #AR83-4069-MOD#6 (48 FR 41695-September 16, 1983) Pulaski and Jefferson Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.40	$2.645
Bricklayers,Stone-masons	12.00	1.89
Carpenters:		
Carpenters	12.50	1.44
Millwrights-Pile-drivermen	13.00	1.46
Cement Masons	12.75	.63
Ironworkers	13.65	2.21
Laborers:		
Group 1	8.80	1.45
Group 2	9.05	1.45
Group 3	9.20	1.45
Group 4	9.30	1.45
Group 5	9.45	1.45
Group 6	9.70	1.45
Group 7	9.60	1.45
Power Equipment		
Operators:		
Group 1	14.09	1.40
Group 2	12.76	1.40
Group 3	12.16	1.40
Group 4	9.99	1.40
Sheet Metal Workers	14.08	3%+2.01

DECISION NO. MI83-2008 - Mod. #2
(48 FR 6456 - February 11, 1983)
Alger, Baraga, Chippewa, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties, Michigan

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers:		
Chippewa, Luce and Mackinac Counties	$16.38	$4.55
Boilermakers	19.19	3.45
Bricklayers; Stonemasons; Plasterers, Terrazzo Workers, and Tile Setters	14.24	2.12
Laborers:		
General Construction Laborers	11.27	1.69
Mortar Mixer, Material Mixer, Vibrator Operator, Concrete Mixer, Motor Driven Buggy, Chipping Hammer, Tamping Machine, Green Cutting (by air, electric or gas), Sand Mixer to pour, including pour from Trucks	11.37	1.69
Cement Gun Nozzleman, Blaster, Miner, Driller, Buster Operator	11.67	1.69
Caisson Work	11.82	1.69

DECISION NO. MY83-3018 - MOD. #2
(48 FR 22878 - May 20, 1983)
DUTCHESS, ORANGE, SULLIVAN & ULSTER COUNTIES, NEW YORK

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PAINTERS		
DUTCHESS; ULSTER; SULLIVAN:		
Brush	15.14	2.33+k
Structural Steel, Bridges, Towers, Fire Escapes, Smoke Stacks, Flagpoles, and other exposed areas 15' or more in height, Swing Stage, Window Jacks, Boatswain Chairs, Safety Belts and Spray Gun	16.14	2.33+k
ORANGE:		
Commercial Spray, Sandblasting, Taping & Paperhanging, Epoxy & other toxic materials	13.37 / 14.37	2.05 / 2.05
Elevated work:		
Structural steel, Power Plants, Towers	14.37	2.05
Smoke stacks, Bridges	15.05	2.05

DECISION #OK83-4067-Mod.#2
(48 FR 41710-September 16, 1983)
Adair, Atoka, Bryan, Coal, Cherokee, Craig, creek, Delaware, Haskell, Hughes, Leflore, Latimer, McIntosh, Mayes, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Tulsa, Sequoyah, Wagoner, and Washington Cos., Oklahoma

	Basic Hourly Rates	Fringe Benefits
ADD:		
Carpenters: Area 3 Millwrights	$14.38	$1.25
CHANGE:		
Carpenters: Area 3		
Carpenters	11.95	1.25
Piledrivermen	12.775	1.25
Carpenters: Area 8		
Carpenters	12.22	1.34
Millwrights, Piledrivermen	12.47	1.34

DECISION #OK83-4068-Mod. #2
(48 FR 41714-September 16, 1983)
Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods, & Woodward Cos., Oklahoma

OMIT:

Carpenters: Area 5 (McClain & Cleveland Cos.)

DECISION #OK83-4068 Mod. #2 (cont'd)

	Basic Hourly Rates	Fringe Benefits
ADD:		
Carpenters: Area 1 (McClain and Cleveland Counties)		
Carpenters: Area 6 Millwrights	$14.38	$ 1.25
CHANGE:		
Carpenters: Area 6		
Carpenters	$11.95	$ 1.25
Piledrivermen	12.775	1.25

DECISION NO. VA83-3039-MOD. # 1
(48 FR 45003-September 30, 1983)
BLAND, BUCHANAN, DICKENSON, GRAYSON, LEE, RUSSELL, SCOTT, SMYTH, TAZEWELL, WASHINGTON, WISE, & WYTHE COUNTIES, VA

	Basic Hourly Rates	Fringe Benefits
ADD:		
TRANSIT MIX TRUCK DRIVER	$5.00	

50793 Federal Register / Vol. 48, No. 215 / Friday, November 4, 1983 / Notices

DECISION NO. PA81-3043	Basic Hourly Rates	Fringe Benefits
MOD. #12		
(46 FR 37213 - July 17, 1981)		
Armstrong, Allegheny, Butler, Beaver, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania		
CHANGE:		
Asbestos Workers	$15.88	5.29
Carpenters		
Zone 1	15.00	29%
Zone 2	14.00	30%
Cement Masons		
Zone 1	15.94	3.98
Electricians		
Zone 3	17.50	1.50 +8-1/2%
Elevator Constructors	17.375	3.00+ a+b
Elevator Constructors Helpers	12.16	3.00+ a+b
Elevator Constructors Helpers (Prob.)	8.69	
Landscaping:		
Landscape Laborers	10.30	22%
Landscape Tractor op.	10.72	22%
Line Construction:		
Zone 1		
Lineman	18.06	.80+ 3%
Winch truck op.	12.59	.80+ 3%
Groundman	10.76	.80+ 3%
Marble Setters		
Zone 1	14.92	3.77
Plasterers		
Zone 1	14.19	3.42
Plumbers		
Zone 1	18.40	4.34
Piledrivermen	18.14	28%
Soft floor layers		
Zone 2	14.00	30%
Steamfitters:		
Zone 1	17.40	3.39
Sprinkler Fitters		
Zone 1	17.60	3.19
Sheet metal workers	16.59	4.38
Stonemasons:		
Zone 1	14.48	3.93
Tile setters		
Zone 1	14.00	4.86
DECISION NO. PA81-3090		
MOD. #8		
(46 FR 61813 - December 18, 1981)		
Lycoming County, Pa.		
CHANGE:		
Bricklayers & Stonemasons	$12.25	2.56
Electricians	12.61	3.56
LABORERS::		
General Laborers	9.20	1.40
Operator of jackhammer, paving and other pneumatic electrical and mechanical tools, laying of all clay, terra cotta ironstone, vitrified concrete or non-metallic pile and the making of joints for same, wagon drill op. cofferdam (below 10'), tunnel free air, handling and using cutting or burning torches in the wrecking of buildings, blasters, plasterers tenders, mason tenders, scaffold builders and removal of power buggies	9.35	1.40
Plumbers & Steamfitters	16.76	2.44

DECISION #TX83-4007-MOD.#7 (48 FR 932-January 1,1983) Wichita County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Carpenters	$13.45	$2.18
Millwrights	13.95	2.18
DECISION #TX83-4044-MOD.#4 (48 FR 25106-June 3,1983) Collin,Dallas,Denton, Ellis,Grayson,Hood,Hunt, Johnson,Kaufman,Palo Pinto,Rockwall,Tarrant and Wise Counties		
CHANGE:		
Carpenters:		
Zone 2		
Carpenters & Millwrights	16.45	2.63
Millwrights	16.08	3.73
Ironworkers:		
Zone 1	16.19	2.92
Laborers	10.24	1.10
Lathers	16.46	2.54
Line Construction:		
Zone 1 - Collin,Dallas, Ellis,Grayson,Hunt, Kaufman and Rockwall Counties		
Linemen	17.10	.80+ 8-1/2%
Cable Splicers	18.81	.80+ 8-1/2%
Operators	17.955	.80+ 8-1/2%
Groundmen	11.97	.80+ 8-1/2%
Zone 2 - Denton,Hood, Johnson,Palo Pinto, Tarrant & Wise Counties		
Linemen	15.90	.80+8½%
Cable Splicers	17.49	.80+8½%
Operators	16.695	.80+8½%
Groundmen	11.13	.80+8½%
Plumbers & Pipefitters:		
Zone 1	17.50	2.19
Sheet Metal Workers:		
Zone 1	17.515	2.065

DECISION #TX83-4077-MOD#1 (48 FR 48908-October 21, 1983) Galveston and Harris Counties, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Painters:		
Galveston County -		
Group 1	$14.945	$3.20
Group 2	15.195	3.20
Group 3	14.19	3.20
DECISION #TX83-4078-MOD#1 (48 FR 48909-October 21, 1983). Armstrong,Carson, Castro,Childress, Collingsworth,Dallam, Deaf Smith,Donley,Gray, Hansford,Hartley, Hemphill,Hutchinson, Lipscomb,Moore,Ochiltree,Oldham,Potter, Randall,Roberts,Sherman,Swisher & Wheeler Counties, Texas		
CHANGE:		
Carpenters:		
Zone 1		
Carpenters	14.85	.81
Millwrights	15.20	.81
Zone 2		
Carpenters	13.45	2.18
Millwrights	13.95	2.18
Ironworkers:		
Zone 1	14.30	3.00
Laborers:		
Group 1	8.49	1.41
Group 2	8.64	1.41
DECISION NO.TX83-4082 - MOD. #1 (48 FR 48913 - 10/21/83) Jefferson & Orange Cos. Texas		
CHANGE:		
Carpenters:		
Carpenters-Commercial	16.52	3.065
Millwrights	16.875	2.95
Piledrivermen	16.76	2.90

MODIFICATION P. 7

DECISION NO. IN83-2031 - Mod. #3 (48 FR 21771 - May 13, 1983) Statewide, except Lake, LaPorte, Porter and St. Joseph Counties, Indiana	Basic Hourly Rates	Fringe Benefits
Add:		
Lineman:		
Electrical Underground Construction shall include excavation of earth, laying of conduits, ducts, cable and basis for street lights, tranformers and excavation of manholes: Statewide, except Gibson, Pike, DuBoise, Crawford, Posey, Vanderburg, Warrick, Spencer, Perry Counties, and the Remainder of Lake County (exclusive of Calament Area):		
Lineman and Equipment Operator	$15.89	$.65+ 8-1/2%
Powderman and Equipment Mechanics	12.04	.65+ 8-1/2%
Groundmen and Truck Driver	10.25	.65+ 8-1/2%

SUPERSEDEAS DECISION

STATE: NEW YORK
DECISION NO. NY83-3050
Supersedes Decision No. NY81-3065, dated September 11, 1981 in 46 FR 45520
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy & Highway Construction Projects

COUNTY: CHEMUNG
Date: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.28	3.09
BOILERMAKERS	17.85	3.77
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS, & TILE SETTERS	12.45	1.35
CARPENTERS:		
All the area west of a straight line from the intersection of Southport Twp. line and Clark Hallow Road to Route 17E to Winter Street, Big Flats, then in a straight line north to the Schuyler County line:		
Carpenters	10.81	2.27
Millwrights & Piledrivers	11.06	2.27
Heavy & Highway	13.46	2.535 +a
Remainder of County:		
Carpenters	12.82	1.83
Millwrights & Piledrivers	13.17	1.83
Heavy & Highway	14.20	1.795 +a
CEMENT MASONS (Heavy & Highway)	13.71	1.95
ELECTRICIANS	16.60	3.15 + 3%
ELEVATOR CONSTRUCTORS	14.48	2.69+ b+c
HELPERS	10.14	2.69+ b+c
HELPERS (PROB.)	7.24	
GLAZIERS	10.92	1.68
IRONWORKERS	14.40	2.85
LABORERS:		
Building	9.97	1.05
Heavy and Highway:		
Class A	12.39	1.39+d
Class B	12.59	1.35+d
Class C	12.79	1.35+d
Class D	12.99	1.35+d
PAINTERS:		
Brush	10.05	1.45
Toothpick Staging over 25'; Structural Scaffold over 39'	10.30	1.45
Paperhangers; Vinyl Hangers	10.40	1.45
Swing Chair, Swing Scaffold; Power Grinder with Respirator	10.55	1.45
Epoxy - Brush and Roll	10.60	1.45
Stilts	10.80	1.45
Spray	10.90	1.45
Structural Steel; Steeplejack (over 100'); Sandblasting; Steamcleaning (acid or hi-pressure water)	11.05	1.45
Spray - Epoxy	11.30	1.45
PLUMBERS & STEAMFITTERS	15.80	2.55
POWER EQUIPMENT OPERATORS:		
BUILDING CONSTRUCTION		
GROUP I:		
I-A	16.36	3.40+e
I-B	16.69	3.40+e
I-C	17.01	3.40+e
I-D	17.34	3.40+e
I-E	17.99	3.40+e
I-F	19.64	3.40+e
I-G	19.28	3.40+e
I-H	19.93	3.40+e
GROUP II	16.04	3.40+e
GROUP III	16.13	3.40+e
GROUP IV	14.71	3.40+e
GROUP V	12.13	3.40+e
GROUP VI	16.92	3.40+e
POWER EQUIPMENT OPERATORS:		
HEAVY & HIGHWAY CONSTRUCTION		
GROUP I	15.24	3.55+d
GROUP II	14.74	3.55+d
GROUP III	13.31	3.55+d
GROUP IV	12.05	3.55+d
ROOFERS	11.00	2.18
SHEET METAL WORKERS	14.95	2.19+3%
SPRINKLER FITTERS	16.92	3.13

DECISION NO. NY83-3050

	Basic Hourly Rates	Fringe Benefits	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS: (HEAVY & HIGHWAY):				
Class 1	12.39	2.40+d		
Class 2	12.44	2.40+d		
Class 3	12.49	2.40+d		
Class 4	12.64	2.40+d		
Class 5	12.79	2.40+d		
Welders-receive rate prescribed for craft to which welding is incidential.				

VALID HOLIDAYS: A-New Year's Day; B--Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving; F-Christmas Day.

a. Paid Holidays: C & D, provided employee works his scheduled work day before and his scheduled work day after the holiday and is on the payroll in the payroll week in which the holiday falls.

b. Paid Holiday: A through F, and the Friday after Thanksgiving.

c. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

d. Paid Holidays: A through F, provided the employee works the working day before and the working day after the holiday.

e. Paid Holidays: A through F, provided the employee works either the work day immediately preceding the holiday or the scheduled work day immediately following the holiday.

DECISION NO. NY83-3050

CLASSIFICATION DESCRIPTIONS

LABORERS (HEAVY AND HIGHWAY CONSTRUCTION):

CLASS A: Laborers, drill tenders, outboard and hand boats.

CLASS B: Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or crew op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding, and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C: All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D: Blasters, form setters, stone or granite curb setters.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):

GROUP I: Cranes (cable and hydraulic climbing and tower)
I-A: 121 ft. and under
I-B: Between 121 ft. and 151 ft.
I-C: Between 151 ft. and 201 ft.
I-D: Between 201 ft. and 251 ft.
I-E: Between 251 ft. and 301 ft.
I-F: Between 301 ft. and 351 ft.
I-G: Between 351 ft. and 401 ft.
I-H: Between 401 ft. and 451 ft.

GROUP II: Air tugger; derrick; dredge; big generator plant; cableway, backhoe, clamshell, dragline, shovel and similar machines over 3/8 cubic yards capacity (factory rating); bridge crane (all types); caisson auger and similar type machine; forklift (with factory rating of 15 ft. or more of lift); hoist (on steel erection); mucking machines; Ross carrier (and similar types); three drum hoist (when all three drums are in use).

GROUP III: A-frame truck; backfilling machine; hoist (1 or 2 drums); Barber Green and similar type machines; maintenance engineer (mechanic); mechanical slurry machines (all kinds); belt crete and similar type machine; bituminous spreading machines; post hole digger; bulldozer; carry-all type scraper; core drill; pumps (regardless of motive power) no more than (4) in number not to exceed 20 inches in total capacity); fine grade and finish rollers, side boom tractor; stone crusher; compressors (4 not to exceed 200 CFM combined capacity, or 3 or less with more than 1200 CFM, but not to exceed 2000 CFM); concrete mixer; concrete pumps, Tournadozer and similar types; crane hoe shovel 3/8 yds. capacity or less (factory rating); Tournapull and similar types; dinky locomitives (all types), tower-mobile and similar types; elevating grader; elevator; trenching machines; fine grade macines (all kinds); welder; front end loader; forklift, with factory rating of less than 15 feet of lift; well drill; well point system; high pressure boiler.

DECISION NO: WY83-3050

CLASSIFICATION DESCRIPTIONS (CONT'D)

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION): (CONT'D)

GROUP III (CONT'D): concrete pumps, Tournadozer and similar types; crane hoe shovel 3/8 yds. capacity or less (factory rating); tournapull and similar types; dinky locomotives (all types), tower-mobile and similar types; elevating grader; elevator; trenching machines; fine grade machines (all kinds); welder; front end loader; forklift, with factory rating of less than 15 feet of lift; well drill; well point system; high pressure boiler.

GROUP IV: Any combination (not to exceed 3 pieces of equipment); welding; machine or mechanical conveyor (over 12 ft. in length); fireman; belt crete generator; mechanical heater; roller (fill & grade); pumps (regardless of motive power), no more than (3) in number, not to exceed twelve inches total capacity); rubber tired tractor; compressor 3 or less, not to exceed 1200 CFM combined capacity; longitudinal float.

GROUP V: Truck Crane.

GROUP VI: Master Mechanic.

POWER EQUIPMENT OPERATORS (HEAVY AND HIGHWAY CONSTRUCTION):

GROUP I: Automated concrete spreader (CMI); automatic fine grade; backhoe (except tractor mounted, rubber tired); belt placer (CMI type); blacktop plant (automated); cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 8 tons capacity); concrete pump (8" or over); crane, cranes & derricks (steel erection); dragline; dredge; dual drum paver; excavator (all purpose-hydraulically operated) (gradall or similar); fork lift (factory rated 15 ft. and over); front end loader 4 c.y. and over); head tower (sauerman or equal); hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type); piledriver; power grader; quad 9; quarry master (or equivalent); scraper; shovel; sideboom; slip form paver; tractor drawn belt type loader; truck cranes; truck or trailer mounted log chipper (self-feeder); tug operator (except manned rented equipment); tunnel shovel.

GROUP II: Backhoe (tractor mounted, rubber tired); bituminous spreader and mixer; blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted); boring machine; cage-hoist; central mix plant (non-automated and all concrete batching plants; cherry picker (5 tons capacity and under); compressors (4 or less) exceeding 2000 C.F.M. combined capacity; concrete paver (over 16S); concrete pump (under 8"); crusher; diesel power unit; drill rigs (tractor mounted); front end loader (under 4 c.y.); hi-pressure boiler (15 lbs. and over); hoist (one drum); Kolman plant loader and similar type loaders; L.C.M. work boat operator; locomotive; maintenance/engineer/greaseman/welder; mixer (for stabilized base self-propelled); monorail machine; plant engineer; pump crete; ready mix concrete plant; refrigeration equipment (for soil stabilization); road widener; roller (all above sub-grade); sea mule; tractor with dozer and/or pusher; trencher; tugger-hoist; winch; winch cat.

DECISION NO. WY83-3050

CLASSIFICATION DESCRIPTIONS (CONT'D)

POWER EQUIPMENT OPERATORS (HEAVY AND HIGHWAY CONSTRUCTION): (CONT'D)

GROUP III: A-frame truck; compressors, dust collectors, generators, pumps, welding machines; light plants (4 of any type of conbination); concrete pavement spreaders and finishers; conveyor; drill-core; drill-well; electric pumps used in conjunction with well point system; farm tractor with accessories; fine grade machine; fork lift (under 15 feet); grout pump; gunnite machine; hammers (hydraulic-self-propelled); hydra-spiker (ride-on); hydro blaster (water); post hole digger and post driver; power sweeper; roller (grade and fill); submersible electric pump (when used in lieu of well point system); tractor with towed accessories; vibratory compactor; vibro tamp; well point.

GROUP IV: Aggregate plant; boiler (used in conjunction with production; cement and bin operator; compressors, dust collectors, generator pumps, welding machines, light plants (3 or less of any type or combination; concrete paver or mixer (16S and under), concrete saw (self-propelled); fireman; form tamper; hydraulic pump (jacking system); mulching machine; oiler; pavement concrete or pavement grinder; power broom (towed), power heaterman; Ravinus widener; shell winder; steam cleaner; tractor.

TRUCK DRIVERS (HEAVY & HIGHWAY CONSTRUCTION):

CLASS 1: Warehouseman, yardmen, pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2: Tandems, batch trucks, mechanics and dispatcher.

CLASS 3: Semi-trailers, low-boy trucks asphalt distributor trucks, agitator,

CLASS 4: Specialized earth moving equipment - Euclid type or similar off-highway equipment where not self-loaded, straddle (Ross) carrier and self-contained concrete mobile unit.

CLASS 5: Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

[6092] Federal Register / Vol. 48, No. 215 / Friday, November 4, 1983 / Notices

DECISION NO. NY83-3050

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
Electrical Overhead & Underground Distribution Work & Signal Work for RR and for R.E.A. where no other trade is or has been involved:		
Journeyman Lineman & Technician	14.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	12.78	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	11.36	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer)	12.07	3.95+ 5%+a
Driver Mechanic, Groundman - Experienced	10.65	3.95+ 5%+a
All Overhead Transmission Line Work and Lighting for Athletic Fields		
Journeyman Lineman & Technician	16.32	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	14.688	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver	13.056	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	13.872	3.95+ 5%+a
Driver Mechanic Groundman	12.24	3.95+ 5%+a
Sub-Station Switching Substructures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems where other trades are or have been involved		
Journeyman Lineman & Technician	17.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	15.48	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	13.76	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Driver Mechanic, Groundman	12.90	3.95+ 5%+a
All Pipe-type Cable Installations Maintenance Jobs or Projects		
Journeyman Lineman	17.20	3.95+ 5%+a
Certified Lineman Welder	18.06	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Equipment Operator	17.20	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Groundman Truck Drivers	13.76	3.95+ 5%+a
Groundman	12.90	3.95+ 5%+a

FOOTNOTE:

■. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

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Subdivision and Stability Regulations; Final Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 2, 31, 32, 35, 37, 42, 46, 56, 71, 72, 73, 74, 75, 78, 79, 91, 93, 97, 99, 106, 107, 108, 109, 111, 151, 153, 154, 163, 167, 168, 170, 171, 172, 173, 174, 177, 178, 179, 185, 189, 190, 191 and 196

[CGD 79-023]

Subdivision and Stability Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: The Coast Guard is transferring the subdivision and stability regulations for merchant vessels to a new Subchapter S. The old regulations were scattered in various places throughout Title 46 and Title 33, Code of Federal Regulations, and included several redundent and poorly stated requirements. Rewriting the regulations and placing them in one subchapter will promote a uniform set of standards that can be more easily understood and will reduce the time and costs involved to comply with the various requirements. The new subchapter also includes requirements that have been previously issued as policy statements or interpretations but that have not yet been published in the Code of Federal Regulations.

DATES:

1. Effective Date: These regulations become effective on December 5, 1983.

2. Closing date for comments: As explained in paragraph 7 of the Discussion of Comments, comments may be submitted on or before December 19, 1983.

3. The incorporation by reference of the publications listed under **ADDRESSES** have been approved by the Director of the Federal Register December 5, 1983.

ADDRESSES:

1. Standards that have been incorporated by reference into this document may be obtained from the following addresses:

MIL-P-21929B: Military Specifications, Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

International Maritime Organization (IMO) Resolution A.265(VIII), National Technical Information Service, Springfield, Virginia 22151.

(Under the title—"Regulations on Subdivision and Stability of Passenger Ships as Equivalent to Part B of Chapter II of the International Convention for the Safety of Life at Sea, 1960" (Volume IV of the U.S. Coast Guard's "Commandant's International Technical Series", USCG CITS-74-1-1.))

2. The materials listed above are also available for inspection at the Office of the Federal Register, Information Center, Room 8301, 1100 L Street, N.W., Washington, D.C. 20408.

3. Comments should be mailed to Commandant (G-CMC/44) (CGD 79-023), U.S. Coast Guard, Washington, D.C. 20593. The comments, final evaluation, and materials referenced in this document will be available for examination and copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G-CMC/44), Room 4402, Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: LCDR Kevin V. Feeney, Office of Merchant Marine Safety (G-MTH-5/13), Room 1308, U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-2187.

SUPPLEMENTARY INFORMATION:

1. A Notice of Proposed Rulemaking was published in the **Federal Register** of August 12, 1982 (45 FR 35090). The closing date for submitting comments was November 10, 1982. Eighteen comments were received. The commenters included ship builders, ship operators, trade organizations, independent naval architects, and agencies of the federal government. The comments are discussed below.

2. As stated in the NPRM, there were four other sets of stability regulations being prepared and which were not included in the NPRM. As each project is completed, its final rules are to be transferred to Subchapter S. The status of each project is described below.

(a) *CGD 82-004 Offshore Supply Vessels.* Stability requirements for new offshore supply vessels have been published in the **Federal Register** of February 14, 1983 at page 6636. As stated in that notice, an opportunity is being afforded to submit comments on its provisions. The comment period closes on June 14, 1983.

(b) *CGD 76-053 Subdivision and Damage Stability for Certain Passenger Vessels.* Regulations for passenger vessels were published as final rules on August 26, 1982 (47 FR 37551). They have been renumbered and are included in §§ 170.015, 170.135, 171.060, 171.075, and 171.082 in these final regulations.

(c) *CGD 76-060 Stability Standards for Hopper Dredges.* A notice of proposed rulemaking was published in the **Federal Register** on December 10, 1979 (44 FR 70791) and a supplemental notice was published on January 24, 1980 (45 FR 5780). Persons were given an opportunity to comment on those proposals after they were published. The proposal is being reanalyzed based upon comments received and further action is to be determined upon completion of this analysis.

(d) *CGD 77-027 Damage Stability Standards for Ocean-Going Chemical Barges.* A notice of proposed rulemaking has not yet been published for public comment. Final rules are not expected for some time and, accordingly, the old damage stability regulations for ocean-going chemical barges are included in Subchapter S at §§ 172.103-172.110.

In addition to these projects, an advance notice of proposed rulemaking concerning damage stability requirements for Great Lakes cargo vessels was recently published in the **Federal Register** of February 28, 1983 (40 FR 8312). An opportunity is being afforded to submit comments on its provisions and the comment period closes on August 31, 1983.

3. The principal goals of this rulemaking have been to consolidate existing stability regulations into one subchapter, redraft the regulations in clearer format and style, and publish various policy statements relating to vessel stability that have not yet been published in regulatory form. As explained in the NPRM, minor substantive changes have been made but only to the extent that they would not interfere with the goals in the rulemaking. Several commenters suggested that additional substantive changes be made to the final regulations. These changes are summarized in paragraph 4. They will be analyzed to determine whether there is a demonstrated need for making them and, if so, subsequent rulemaking projects will be started to incorporate them into Subchapter S.

As stated in the NPRM, publication of these regulations will also facilitate Coast Guard plans concerning future transfers of functions associated with the regulations to the American Bureau of Shipping (ABS). Discussions with the ABS have been started and it is anticipated that in the near future the Coast Guard will begin to accept the ABS's review of particular vessels in determining compliance with requirements in subchapter S.

4. Commenters recommended changes to the following regulations:

(a) The stability requirements in Subpart 93.20 for vessels that carry grain in bulk. (A determination to revise these regulations has already been made and a rulemaking project will be started in the near future.)

(b) The weather criterion set out in Subpart E of Part 170 and certain other intact stability standards in Parts 170, 173, and 174.

(c) Damage stability standards in Part 172 relating to subdivision and watertight integrity.

(d) Requirements in Part 171 concerning collision and aft peak bulkheads.

(e) Minor changes in Subchapters E (Load Lines) and IA (Mobile Offshore Drilling Units) to clarify their applicability to Subchapter S.

5. These regulations include, in addition to the new Subchapter S, several editorial amendments that are necessary to transfer the old regulations to their new placement in Subchapter S. These amendments also update cross references throughout Title 46 to regulations that are now in new Subchapter S. Tables I through IV below show how the old regulations relate to those in the new subchapter.

Drafting Information

The principal drafter of this document was LCDR K. V. Feeney, Office of Merchant Marine Safety. Mr. W. R. Register, Office of the Chief Counsel, provided assistance.

Evaluations

These regulations have been evaluated under Executive Order 12291 and have been determined not to be major regulations. These regulations have also been evaluated under the Department of Transportation's Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980) and have been determined to be nonsignificant. As explained in the final evaluation, the regulations will provide a cost savings both to the marine industry and to Federal, State, and local governments that operate vessels. The annual savings is estimated to be in the range of $146,000 to $292,000. The savings will result principally from the reduced time and personnel involved to understand and comply with the regulations.

The regulations should also produce an annual cost savings for the Coast Guard estimated to be in the range of $21,600 to $43,200. Better quality vessel plan submittals can be expected and should result in less time and personnel costs involved for the Coast Guard to review the plans for compliance with the regulations.

Regulatory Flexibility Act Certification

Small businesses and other small entities will be affected by these regulations. These include certain independent naval architects, vessel owners, shipyards, and local governments. The impact is in terms of a cost savings which is estimated to be $520 for each ship ($64 per barge) for which stability plans are submitted for approval. This cost savings will in many cases be up to 5% greater than the savings expected to result for larger entities. Based upon this data and supporting explanation in the final evaluation, it is certified pursuant to section 605 of the Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96-354) that the regulations will not have a significant economic impact on a substantial number of small entities.

OMB Control Numbers

Subparts C and D of Part 170 of these regulations contain reporting and recordkeeping requirements. These are existing requirements most of which have been previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). The reporting and recordkeeping requirements for small passenger vessels (46 CFR Subchapter T), vessels carrying dangerous cargoes (46 CFR Subchapter O), cargo and miscellaneous vessels (46 CFR Subchapter I), tank vessels (46 CFR Subchapter D), tank vessels carrying oil in bulk (33 CFR Part 157), and mobile offshore drilling units (46 CFR Subchapter IA) have been approved by OMB and assigned control numbers 2115-0095, 2115-0114, 2115-0130, 2115-0131, 2130-0186, and 2130-0188 respectively. The reporting and recordkeeping requirements for passenger vessels (46 CFR Subchapter H), nautical school ships (46 CFR Subchapter R), and oceanographic vessels (46 CFR Subchapter U) had not been previously approved by OMB because there are currently fewer than 10 respondents for each vessel type. Since the regulations have general applicability to the class of vessels, they will be submitted to OMB for approval in accordance with OMB regulations in 5 CFR 1320.14 before December 31, 1983.

Discussion of Comments and Changes Made

General Comments

1. Most commenters supported consolidation of subdivision and stability regulations into one subchapter. However, two commenters disagreed and recommended that individual standards be retained in existing vessel subchapters. The determination to consolidate the regulations into one subchapter was made to assist vessel designers, who are the primary users of the regulations, in performing stability analyses for numerous types of vessels. A vessel operator is not as concerned with design standards as with requirements for loading and operating the vessel in compliance with those standards. This guidance is given to the operator in the form of a stability letter or a stability booklet developed by the designer. Requirements concerning stability letters are being retained in the various vessel subchapters as noted in Table III below.

2. Some commenters expressed difficulty in determining what regulations apply to a particular class of vessel. This determination can be made by looking at the titles to the various parts and their applicability statements. The format of the Stability Subchapter is basically as follows:

Part 170—General Provisions—contains rules that apply to all vessel types.

Part 171—Special Rules Pertaining to Vessels Carrying Passengers—contains rules that apply to each vessel that carries passengers.

Part 172—Special Rules Pertaining to Bulk Cargoes—contains rules that apply to each vessel that carries in bulk a cargo regulated under 46 CFR Subchapter D or O or 33 CFR Part 157, Subpart B.

Part 173—Special Rules Pertaining to Vessel Use—contains rules that apply to each vessel that performs a specific function such as lifting, training, research, or towing.

Part 174—Special Rules Pertaining to Specific Vessel Types—contains rules for specific classes of vessels such as deck cargo barges, mobile offshore drilling units, nuclear vessels, tugs and OTEC facilities.

To determine the applicability of specific regulations to a particular vessel type, it is necessary only to know its intended operation. A barge, for example, must meet—

(a) Part 170;

(b) Part 171 if it carries passengers;

(c) Part 172 if it is a tank barge;

(d) Part 173 if it has a crane on board; and

(e) Part 174 if it carries deck cargo.

3. Five commenters objected to presentation of standards and formulas in metric units only. They said that use of metric units would be a substantial burden for those who are not familiar with the metric system and whose computer programs are in English units. The formulas, tables, and graphs in the final regulations are given in both English and metric units. Also, in

preparing the NPRM minor errors were made in converting from English to metric units. These errors have been corrected in the final rules.

4. One commenter expressed confusion over the NPRM preamble explanation of the status of standards for tugboats and towboats. The standards published in the NPRM were those that have been applied by the Coast Guard since 1974. In 1976 the Coast Guard published an advance NPRM announcing that new standards were being considered to replace the 1974 standards. The advance NPRM was later cancelled since the need for upgraded standards could not be demonstrated.

5. One commenter indicated that the old regulations in 46 CFR Part 93 did not apply to a Great Lakes bulk carrier unless it was to engage in an international voyage. The various applicability statements in old Part 93 were conflicting regarding the applicability of the standards to vessels on international, coastwise, and Great Lakes voyages. It has been the Coast Guard's practice to consider the standards in old Part 93 applicable to vessels on each of these stated routes. However, regarding Great Lakes bulk carriers, the Coast Guard has not required a stability test for every vessel and has permitted the designer to estimate the vessel's vertical center of gravity. Additionally, the Coast Guard has applied a modified intact stability criterion to these vessels in lieu of the Weather Criterion in Subpart E of Part 170. The Coast Guard has no intent to change these practices. Accordingly, § 170.175(d) has been modified to indicate that the Coast Guard may dispense with the requirement for a stability test on a particular vessel. Additionally, in lieu of the Weather Criterion, the Coast Guard will continue to apply the modified intact stability criterion to Great Lakes bulk carriers under the equivalency provisions of § 170.010. In a future rulemaking project, these practices will be considered for incorporation into Subchapter S.

6. One commenter concluded that the NPRM contained a requirement for offshore supply vessels (OSV's), especially those with anchor handling capability, to meet a damage stability standard. As noted in paragraph 2(a) under **SUPPLEMENTARY INFORMATION**, and in the NPRM preamble, Subchapter S does not include requirements for OSV's.

7. Minor revisions have been made to the regulations to correct errors and improve clarity but without changing their substance. These revisions were made based upon comments received and upon Coast Guard review of the proposed regulations. The changes made in §§ 170.255(c), 170.285, and 170.290 were extensive and, accordingly, an opportunity to comment on the accuracy of the changes is being provided. Comments may be submitted to the address listed above. Persons desiring acknowledgment of their comments should enclose a self-addressed post card or envelope. All comments received before the comment period closes will be considered. These sections may be further changed based upon comments received.

Specific Comments

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

§ 170.010 One commenter suggested that the Coast Guard should not be so rigid in its requirements and that alternate stability assessment methods should be accepted for unique vessels or vessels operating in unique environments. Section 170.010 does provide the opportunity for designers, owners, and builders to propose alternatives to the Coast Guard where equivalent levels of safety can be demonstrated. The regulations themselves provide various specific alternatives. As examples, § 171.060 provides an option between two different subdivision standards for certain passenger vessels and § 173.095 provides an option between two different stability criteria for vessels that tow.

§ 170.050 Two commenters suggested that a definition of "International voyage" be included in this section. A definition is included in § 171.010(g) of Part 171 and the term is used only in that part.

§ 170.050(a) One commenter suggested that the term "Field" be deleted from the title "Commander, Merchant Marine Technical Field Office" since there is no longer a merchant marine technical office in Coast Guard Headquarters. The word "Field" has been deleted in the final rules.

§ 170.050(f) One commenter suggested that the definition of "ocean" be expanded to include "seas, bays, and inlets" so as to cover specific bodies of inland waters that are fairly large in size. The requirements for vessels on ocean voyages are more rigorous than requirements for vessels on inland voyages. The more rigorous requirements are not needed on many "seas, bays, and inlets" and, accordingly, are not included in the definition of "ocean". The definition provides, however, that the Commandant can designate as an "ocean" any specific body of water that is not listed in the definition.

§ 170.050(h) One commenter suggested that the definition of "oil" be expanded to include all liquid hydrocarbons including liquid gas. The definition is extremely broad and includes oil of any kind or in any form without limitation. Also, the final regulations include specific requirements in Part 172 for vessels that carry liquefied gases.

§§ 170.070, 170.105, and 170.160 One commenter thought that the reference to passenger vessels in the applicability statement for plan review requirements in § 170.070 was confusing and did not exempt certain barges which were exempt from plan review under the old requirements. Section 170.070 has been modified in the final rules to restate its terms more clearly and to incorporate the barge exemption from the old regulations. Similar revisions have been made in §§ 170.105 and 170.160.

§ 170.075(a)(3) One commenter suggested that, in lieu of curves of form, tables of those values should be allowed. This comment has not been adopted. Plotting curves is a more effective way to verify the accuracy of calculations of hydrostatic data. Use of curves rather than tables is the preferred practice of naval architects in vessel design.

§ 170.100 This section has been revised to include the current addresses of the 8th and 12th District Merchant Marine Technical Offices. Additionally, the address for the 9th District technical office has been deleted since it is being closed. Responsibility for the geographical area covered by the 9th Coast Guard District has recently been transferred to the 3rd District technical office.

§ 170.110 Thirteen comments were received concerning the requirement to prepare a vessel stability booklet, and concerning the information that must be included in the booklet.

Several commenters suggested that certain additional items of information be included in the booklet. The purpose of the regulation is to provide guidance as to the type if information needed to operate a vessel in compliance with stability regulations applicable to that vessel. Because the specific stability requirements to be applied vary depending on vessel type and operation, the information needed in a stability booklet will likewise vary according to vessel type and operation. For some vessel types, only minimal information is needed and preparation of a stability

booklet is unnecessary. Section 170.110 has been modified to take these differences into account and to include commenters' suggestions.

One commenter asked whether § 170.110 would require loading calculations for tank vessels of 300 feet or less in length. The requirements for loading calculations are in 46 CFR 31.10–32(b) and are not being incorporated into Subchapter S. Section 31.10–32(b) does not require loading calculations for tank vessels of 300 feet or less in length.

One commenter asked whether the stability booklet should be in English or metric units. The owner will have the option to select the system most suitable for the vessel's personnel.

One commenter suggested that provisions be added to recognize the use of on board computers in lieu of a stability booklet. Although the final regulations require a stability booklet, they do not preclude use of computers as long as the booklet is also available. The booklet is reviewed and approved as a part of the plan review process. Its information provides guidance to the master in a readily usable form and serves as a reliable source of information in the event of computer malfunction which could easily occur in an emergency or casualty situation. A master could be severely hampered in assessing a vessel's stability in such a situation if no backup to the computer were available.

§ 170.120 One commenter suggested adding a requirement to post the stability letter on the vessel. This is an operations requirement and is being placed in the operations sections of each vessel subchapter. This requirement is listed in Table III below.

§ 170.160 One commenter asked why Mobile Offshore Drilling Units (MODU's) were exempt for the Weather Criterion. The reason for this is that a separate wind heel criterion is applied to MODU's in § 174.045.

§ 170.173 One commenter objected to applying the criterion in this section to offshore supply vessels (OSV's) and the other vessels of unusual proportion and form. As noted previously, Subchapter S does not include requirements for OSV's and § 170.173 excludes tugs and tows from its applicability. Other vessels of unusual proportion and form, i.e. certain small passenger vessels, will have to meet § 170.173 unless equivalent treatment is allowed under § 170.010. The basis of the commenter's objection was that § 170.173 requires righting arms to be calculated by the "trimming free" method rather than by the "constant trim" method. The requirement to use the trimming free method with the criterion in § 170.173 is derived from IMO Resolution A.469(XII). It is the preferred method since it reflects the actual response of the vessel to heel.

170.175 Two commenters requested clarification of the stability test requirements applicable to sister vessels. As stated in paragraph (c) of this section, the Coast Guard may either accept a deadweight survey on a vessel in lieu of the stability test, or not require the test at all, if provided with approved results of a stability test of a sister vessel. Guidelines for dispensing with a stability test are contained in Coast Guard Navigation and Vessel Inspection Circular (NVC) 14–81. Since these guidelines are only voluntary, they are not being incorporated into Subchapter S. They are available for inspection and copying at the address listed in paragraph 3 under **ADDRESSES.**

§ 170.185 One commenter suggested that paragraph (c) of this section be modified to allow certain items to be on board during a stability test, if noted. The accuracy of a stability test is improved if none of those items are on board. However, §170.190 does permit the Coast Guard representative to allow deviations from this requirement if the items can be accounted for and the accuracy of the test will not be affected.

§175. 235 One commenter thought that the wording of this section precluded the use of heavy liquids as permanent ballast. To avoid confusion, "solid ballast" has been relabelled "fixed ballast" in the final rules.

Part 170, Subpart H One commenter recommended that standards for port lights be included in this subpart. These requirements are included in Subpart F of Part 171. The load line regulations also include requirements in § 42.15–65 and § 45.139 of Title 46, CFR.

Eight comments were received concerning the watertight door requirements. Many of the comments indicate a misunderstanding of the applicability of Subpart H. The watertight door requirements apply only to vessels with watertight doors in bulkheads that have been made watertight to comply with the flooding or damage stability regulations in Subchapter S. If a bulkhead is not required to be watertight, any class door, or no door at all, may be installed in it. As an example, the requirements in § 170.275 apply only to a door between cargo spaces and only if that door is in a bulkhead which is required to be watertight to comply with the regulations in Subchapter S.

§ 170.250(b)(1) One commenter suggested that plate doors secured by bolts be allowed as watertight doors. This suggestion has not been adopted. This subsection prohibits these doors because they cannot maintain the watertight integrity of the bulkhead in the event of damage.

§ 170.255(b) This paragraph permits the installation of Class 1 watertight doors on vessels of less than 150 gross tons on inland routes and routes that do not exceed 20 miles from shore. The requirement in the NPRM, which was derived from the old regulation in § 73.35–5(b), only permitted the installation of these doors on vessels of between 100 and 150 gross tons. There is no good reason however, to prohibit vessels of less than 100 gross tons from having Class 1 watertight doors when on these routes, and there was no such prohibition in the old stability regulations for passenger vessels under 100 gross tons. Accordingly, § 170.255(b) has been changed in the final rules to apply to all vessels of less than 150 gross tons.

§ 170.255(c) Four commenters pointed out that the Coast Guard has, by policy, permitted Class 1 doors in certain locations on crew boats operating in the offshore oil industry. This policy statement was inadvertently omitted from the NPRM and is included in the final rule.

§ 170.270 One commenter asked if a "quick action closing device" was different from "catches workable from either side". The words "Catches workable from either side" were included in the old regulation (§ 73.35–20(a)) to provide an example of a "quick action closing device." The example was considered to be unnecessary and has been deleted from the NPRM and the final rules.

§ 170.285 and § 170.290 Six comments were received concerning these two sections. The commenters expressed confusion over the way free surface should be handled for intact and damage stability calculations. In order to clarify the proposed requirements, the two sections have been rewritten and retitled accordingly.

PART 171—SPECIAL RULES PERTAINING TO VESSELS CARRYING PASSENGERS

§ 171.015(b) This paragraph requires a margin line adjustment for vessels with insufficient sheer. One commenter expressed the opinion that the adjustment was not necessary and that § 171.015(b) should be deleted. The commenter's suggestion has not been adopted. The purpose of the regulation is to provide reserve buoyancy for vessels that are designed with no sheer or only minimal sheer. Reserve buoyancy is needed to aid vessels in

surviving after sustaining collision or grounding damage.

§ 171.035 (d) and (e) Two commenters thought that the requirement for small sailing vessels to remain afloat when flooded or capsized was overly restrictive. Part 171 does not include a similar requirement for mechanically propelled vessels in the same service and, accordingly, § 171.035(d) and the companion requirement in § 171.035(e) for hand holds have been deleted from the final rules. Analysis of these requirements failed to demonstrate a need for retaining them. The remaining requirements in § 171.035 set out sufficient intact stability standards for sailing vessels that must comply with that section.

§ 171.070 and § 170.055 One commenter thought that the wording of §171.070 would prohibit the addition of transverse watertight bulkheads that did not meet the spacing requirements for main transverse watertight bulkheads. This prohibition was not intended. A definition of "main transverse watertight bulkhead" has been added in § 170.055. The purpose of the definition is to make it clear that transverse watertight bulkheads are allowed as long as the main transverse watertight bulkheads required by § 171.070 are also provided.

PART 172—SPECIAL RULES PERTAINING TO BULK CARGOES

Part 172, Subpart B—Bulk Grain The National Cargo Bureau (NCB) made numerous recommendations for revisions to this subpart to reflect current practice. In evaluating these recommendations, several conflicts were noted between the existing regulations, as written, and the actual application of these regulations. In lieu of attempting to resolve these discrepancies as part of this rulemaking, the portions of the proposal relating to the carriage of grain have been removed and the existing regulations left in place. The existing regulations will be revised and transferred to Subchapter S in a separate rulemaking. In preparing those regulations, NCB's comments will be taken into consideration.

PART 173—SPECIAL RULES PERTAINING TO VESSEL USE

§ 173.025 One commenter asked for more explanation on how to develop the heeling moment curves due to hook load and counterballasting. A paragraph has been added to define the shapes of these curves. As noted in Table I below, the additional information is also included in Coast Guard Merchant Marine Technical (MMT) Note 3–89.

Part 173, Subpart E—Two commenters questioned why the standards for tugboats and towboats in Part 174 were not included in this subpart. The reason is that Part 173 includes standards which apply dependent upon the vessel's use, in this case towing. Any vessel that tows must comply with the requirements in Subpart E of Part 173. The standards in Subpart E of Part 174 apply only to tugboats and towboats. Other vessels that tow will not have to comply with Subpart E of Part 174.

§ 173.085 One commenter expressed an opinion that it is excessive to require that downflooding be assumed to occur through any opening that does not close automatically. The purpose of this section is to minimize a vessel's potential for capsizing when maneuvering to maintain control of its tow. During this maneuvering, the vessel could heel over suddenly resulting in downflooding through openings such as watertight doors, which may be latched open by the vessel's crew. Accordingly, these openings are considered to be points of downflooding.

One commenter thought that this section should not be applied to a vessel that does not have rigid means of fixing the tow rope to the vessel. This comment has not been adopted. As stated above, the purpose of this section is to minimize a vessel's potential for capsizing when maneuvering to maintain control of its tow. It it could be proven that a particular vessel was not susceptible to this danger, special consideration could be requested under the equivalency provisions in § 170.010.

PART 174—SPECIAL RULES PERTAINING TO SPECIFIC VESSEL TYPES

Subpart F, Part 174 Specific rules have been added for Ocean Thermal Energy Conversion plantships and floating facilities. These rules were published in the **Federal Register** of April 11, 1983 (48 FR 15469). They have been renumbered and transferred to Subpart F of Part 174 in these final regulations.

Tables

The tables below include certain abbreviations of referenced materials:

NVC—Navigation and Vessel Inspection Circular
MSM—Marine Safety Manual
MMTN—Merchant Marine Technical Note
IMO Res.—International Maritime Organization Resolution

The following table shows how these regulations relate to regulations previously in the CFR. References are to regulations in Title 46 unless otherwise noted.

TABLE I

New regulation	Old regulation	Other old regulations containing the same or similar requirement
170.001		31.10–30(a), 73.01–1, 74.01, 107.01, 107.111, 93.01–1, 167 20–5 167.20–20, 168.05–5, 178.01, 179.01, 191.01, 153.806(a), 153.15, 153.16, 154.1, 73.90, 74.90 93.07–90 33 CFR 157.01.
170.005	30.01–10	179.15–1, 91.45.
170.010	108.105	30.15–1, 175.15, 90.15, 70.15, 188.15, 108.335(c), 153.10, 154.8 33 CFR 157.07.
170.015	New	
170.050:		
(a)	[illegible]	
(b)		30.10–17, 70.10–9, 90.10–7, 151.03–15, 153.1, 175.10–5, 107.111, 167 05–10, 188.10–19.
(c)	178.05–15	
(d)	90.05–10(b)	30.10–33, 30.10–6(b), 151.03–29, 70.05–10(b), 70.10–17 175.10–11, 188.10–31, 93.20–1.
(e)	90.10–19	30.10–41, 70.10–23, 151.03–33 175.10–17, 188.10–39.
(f)	175.10–25	30.10–45, 70.10–31, 151.03–39, 90.10–25, 188.10–51.
(g)	90.10–27	30.10–47, 70.10–33, 151.03–41, 175.10–26, 188.10–55.
(h)	33 CFR 157.03	
(i)	178.05–17	
(j)	178.05–19	
(k)	175.10–33	70.10–39, 90.10–33, 151.03–45, 188.10–61, 30.10–61.
170.055:		
(a)	175.10–38	
(b)	90.10–2	30.10–65, 70.10–2, 151.03–7, 175.10–23, 188.10–5.
(c)	33CFR 157.03	73.05–4, 153.4, 191.05–4.
(d)	178.05–1	73.05–5, 191.05–5.
(e)	108.301(c)	
(f)	108.301(d)	
(g)	73.05–7	191.05–7.
(h)		42.13–5, 73.05–3, 153.2, 154.3, 175.10–19, 191.05–3, 33 CFR 157.03.
(i)	33 CFR 157.03	30.10–38, 31.10–30(b)(1).
(j)	New	
(k)	73.05–8	33 CFR 157.03, 154.3, 153.30(a), 191.05–8.
(l)	175.10–36	70.10–42.
(m)	New	
(n)	30.10–69	
(o)	30.10.65	
(p)	30.10–57	
(q)		70.10–45, 90.10–37, 151.03–55.
(r)	[illegible]	
170.070	107.301	31.10–5(a), 71.65–1, 189.55–1, 91.55–1, 167.20–25, 188.05–5, 179.01–1.

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
170.075:		
(a)(1)	107.305(b)	71.65–5(a)(2), 167.20–25(a)(1) and (c), 177.05–1(a)(4), 189.55–5(a), 91.55–5(a)(2), 168.05–5, 31.10–5(a) 33 CFR 157.24(b), 154.4, 153.8.
(a)(2)	107.305(q)	71.65–5(c)(1), 167.20–25(a)(3) and (c), 177.05–3(a)(1), 189.55–5(c)(1), 91.55–5(c)(1), 168.05–5, 31.10–5(a) 33 CFR 157.24(b), 154.4, 153.8.
(a)(3)	107.305(r)	71.65–5(c)(2), 167.20–25(a)(4) and (c), 177.05–3(a)(2), 189.55–5(c)(2), 91.55–5(c)(2), 168.05–5, 31.10–5(a) 33 CFR 157.24(b), 154.4, 153.8.
(a)(4)	107.305(s)	71.65–5(c)(5), 167.20–25(b) and (c), 177.05–3(a)(3), 189.55–5(c)(3), 91.55–5(c)(3), 168.05–5, 31.10–5(a) 33 CFR 157.24(b), 154.4, 153.8.
(a)(5)	107.305(t)	71.65–5(c)(6), 167.20–25(b) and (c), 189.55–5(c)(4), 91.55–5(c)(4), 168.05–5, 31.10–5(a), 33 CFR 157.24(b), 154.4, 153.8.
(a)(6)	107.305(u)	71.65–5(c)(7), 167.20–25(b) and (c), 189.55–5(c)(5), 91.55–5(c)(5), 168.05–5, 31.10–5(a), 33 CFR 157.24(b), 154.4, 153.8.
(b)	177.05–1	
170.080	107.305(ii)	177.05–3(b), 191.30–1(b), 168.05–5, 31.10–5(b), 74.20–1(b), 93.10–1(a).
170.085	108.337	93.05–5(a) and (b), 74.05–5(a) and (b), 191.15–5(a), 153.806, 154.205(a), 167.20–25(b), 168.05–5, 31.10–30(b)(2).
170.090		177.05–3(b), (d), and (e), 71.65–5(c)(3) and (4), 167.20–25(b), 168.05–5, 31.10–5(a), 107.305(u-1), 191.20–15(b)(8), 108.329, 108.313, 91.55–5(c), 33 CFR 157.24(b).
170.093	New	
170.095	MMTN 3–69	
170.100	107.317	71.65–15, 177.05–1(a), 177.05–3(a) 189.55–15, 91.55–20, 167.20–25(c), 168.05–5.
170.105	179.01–1	

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
170.110:		
(a)	109.121(a)	74.20–1(a), 74.20–15(a) and (b), 93.10–1(a), 154 1809(a), 153 806(b), 191.30–1(a), 154.205(a), 153.806(a), 168 05–5, 31.10–30(b)(4), 167.20–20, 191.30–10.
(b)	109.121(b)	74.20–1(b), 93.10–1(a), 191.30–1(b), 154.205(a), 31.10–30(b)(4), 168.05–5, 167.20–20, 153.806(a).
(c) and (d)	109.121(d)	74.20–1(a), 74.20–15(a), 154.1809(b), 191.30–15(a), 154.205(a), 168.05–5, 31.10–30(b)(4), 167.20–20, 153.806(a), 74.20–5, 93.10–1(a) and (b), 154.1809(c), 191.30–1(a), 153.806(b), 74.20–10, 191.30–10.
(e)	New	
170.120:		
(a)	74.25–1	31.10–30(b)(5), 179.20(a) and (b), 191.35–1, 191.35–5, 154.205(a), 31.10–30(b)(4), 168.05–5, 153.806(a), 167.20–20, 93.15–1, 93.15–5.
(b)	New	
170.125	MMTN 3–69	
170.135:		
(a)	109.121(d)(6)	
(b)	109.121(d)(6)	
170.130:		
(a)	74.12–11	
(b)	74.12–7	
(c)	74.12–3	
170.160		31.10–30(a)(1), 74.01–1, 179.01–1, 93.01–1, 93.07–1, 153.806, 154.205(a), 167.20–20, 168.05–5, 191.20–5, MMTN 3–69.
170.170:		
(a)	74.10–5	31.10–30(b)(3), 93.07–10, 153.806(a), 154.205(a), 167.20–20, 168.05–5, 179.10–5, 191.20–8.
(b)	74.10–5	31.10–30(b)(3), 93.07–10, 154.806(a) 154.205(a), 167.20–20, 168.05–5, 179.10–5, 191.20–8.
(c)	MMTN 3–68	
(d)	74.10–11	31.10–30(b)(3), 93.07–15, 153.806(a), 167.20–20, 168.05–5, 179.10–5, 191.20–10.
170.173	New	NVC 3–73, IMO Res. A469(XII).
170.174		93.05–1(a), 74.05–1(a), 167.20–20, 31.10–30(b)(1), 168.05–5, 179.05–1, 191.15–1, 154.205(a), 153.806, 93.01–1, 105.305.

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
170.175:		
(a)	108.335(a)	93.05–1(a), 74.05–1(a), 191.15–1(a), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(1) 179.10–3.
(b)	108.335(b)	93.05–1(a), 74.05–1(a), 191.15–1(a), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(1) 179.10–3.
(c)	108.336(c)	93.05–1(b), 74.05–1(b), 191.15–1(b) 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(1), 179.10–3
	93.05–1	
170.180	74.05–(a)&(b)	93.05–5(a) and (b), 108.337, 153.806 191.15–5(a), 154.205(a), 168.05–5, 167.20–25(a), 31.10–30(b)(1), 179.10–3, 179.10–5, 189.55–5(c)
170.185:		
(a)	108.339(a)	93.05–5(c)(3), 74.05–5(c)(3), 191.15–5(c)(3), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3, 179.10–5.
(b)	108.339(b)	93.05–5(c)(2), 74.05–5(c)(2), 191.15–5(b)(2), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3, 179.10–5.
(c)	108.339(c)	93.05–5(c)(4), 74.05–5(c)(4), 191.15(b)(4), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3, 179.10–5.
	108.339(d)	93.05–5(c)(5), 74.05–5(c)(5), 191.15–5(b)(5), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3.
	108.339(e)	93.05–5(c)(5), 74.05–5(c)(5), 191.15–5(b)(5), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3.
(f)	108.339(f)	
(g)	108.339(g)	
170.190	108.341	93.05–5(c)(1), 74.05–5(c)(1), 191.15–5(b)(1), 153.806, 154.205(a), 167.20–20, 168.05–5, 31.10–30(b)(2), 179.10–3, 179.10–5.
170.200		31.10–30(c) through (i).
170.235	74.15–5	168.05–5, 191.25–5, 93.13–5, 109.581 153.806(b) 154.205(a) 167.20–30.
170.245	MMTN 4–67	178.10–1
170.248	New	

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
170.250		
(a)	73.35–1(a)	167.20–5, 168.05–5, 191.10–25(b)
(b)	73.35–1(a)	167.20–5, 168.05–5, 191.10–25(b)
(c)	73.35–1(b)	167.20–5, 168.05–5.
(d)	73.35–17	
170.255		
(a)	73.35–5(a)	167.20–5, 168.05–5, 191.10–25(c).
(b)	73.35–5(b)	167.20–5, 168.05–5.
(c)	New	
170.260		
(a)	73.35–10(a)	167.20–5, 168.05–5, 191.10–25(d)(1).
(b)	73.35–10(b), 73.35–10(c).	167.20–5, 168.05–5, 191.10–25(d)(2).
(c)	73.35–10(b)	167.20–5, 168.05–5, 191.10–25(d)(2).
(d)	73.35–10(b)	167.20–5, 168.05–5, 191.10–25(d)(2).
170.265		
(a)	73.35–15(a)	167.20–5, 168.05–5.
(b)	73.35–15(b)	167.20–5, 168.05–5, 191.10–25(e).
(c)	73.35–15(c)	167.20–5, 168.05–5, 191.10–25(e).
(d)	73.35–15(d)	167.20–5, 168.05–5.
170.270		
(a)	73.35–20(a)	167.20–5, 168.05–5.
(b)	73.35–30(b)	167.20–5, 168.05–5, 191.10–25(f)(2).
(c)	73.35–30(c)	167.20–5, 168.05–5, 191.10–25(f)(3).
(d)	73.35–25(a)	167.20–5, 168.05–5, 191.10–25(f)(3).
170.275:		
(a)	73.35–17(a)	167.20–5, 168.05–5.
(b)	73.35–17(b)	167.20–5, 168.05–5.
(c)	73.35–17(a)	167.20–5, 168.05–5.
170.285	154.225	31.10–30(b)(3), 151.10–15(b), 153.31, 74.10–1, 167.20–20, 168.05–5, 191.20–1, 93.07–5, 93.20–05(c).
170.290	154.225	31.10(b)(3), 151.10–15(b), 153.31, 74.10–1, 167.20–20, 168.05–5, 191.20–1, 93.07–5, 33 CFR 157, App. B, paragraphs 4 (d) & (e), 93.20–05(c).
170.295	MMTN 2–69	
170.001	New	
171.010:		
(a)	178.05–9	
(b)	73.05–2	191.05–2
(c)	New	
(d)		70.10–15, 175.10–9
(e)	73.05–12	
(f)	178.05–7	
(g)	70.05–10	
(h)	73.05–10	
(i)	178.05–13	
(j)	73.05–11	
(k)	New	
(l)	70.10–43	
(m)	New	
(n)	178.05–11	
171.015:		
(a)	73.05–6(a)	167.20–5, 168.05–5, 191.05–6(b).
(b)	73.05–6(b)	167.20–5, 168.05–5, 191.05–6(a).
(c)	73.05–6(a)	167.20–5, 168.05–5, 191.05–6(a).
(d)	73.05–6(a)	167.20–5, 168.05–5, 191.05–6(a).
171.017	178.10–1	
171.020		175.05–5(a), 178.01–1, 178.10–1, 178.10–5, 178.10–10, 179.01–1.
171.030:		
(a)		179.05, 179.10–3(a).
(b)		179.10–1(a), 179.10–1(b), 179.10–1(c).
(c)		179.10–1(d), 179.10–1(e).
(d)		179.10–1(f), 179.10–1(g).
(e)	178.10–1(f)–(g)	
(f)	179.10–1(f)	
(g)	179.10–1(h)	
(h)	179.10–1(f)	
171.035	MMTN 3–68	
171.040:		
(a)		178.10–1(a), 178.10–1(b), 178.20–1(b).
(b)		178.10–5(a), 178.10–5(b), 178.10–10.
(c)	178.25–1(b)	
(d)	178.15–5	
171.043:		
(a)	178.20–1(a)	
(b)	178.20–1(a)	
171.045		175.05–5(a) & (b), 178.01–1, 178.10–1, 178.20–5, 179.01–1, 70.05–1(a), 73.01–1, 74.01–1, 73.10–1
171.050	74.10–10	179.10–5.
171.055	MMTN 3–68	
171.057	MMTN 1–69	
171.060		
(a)		73.10–1(a), 73.10–2, 73.12–1, 74.10–2.
(b)		178.20–5, 73.15 (title).
(c)		73.20–1(a), 178.10–1(a).
(d)	73.20–1(a)	178.15–15.
171.065:		
(a)		73.10–10, 73.10–15, 73.10–20.
(b)	73.10–23	73.10–15, 73.10–20.
(c)	73.10–30(a)	
(d)	73.10–35	
(e)	73.10–55	
(f)	73.10–60	
(g)	73.10–60	
(h)	73.10–60	
(i)	New	
(j)	New	
171.066:		
(a)		73.10–5(a), 73.10–5(b)(1), 73.10–5(c)(1), 73.10–30(b).
(b)	73.10–5(b)(2)	
(c)	73.10–5(d)	
(d)	73.10–5(e)	
171.067:		
(a)	New	
(b)	73.10–40	
(c)	73.10–45	
(d)	73.10–45	
(e)	73.10–55	
(f)	73.10–50	
171.068:		
(a)		73.10–65(a), 73.10–65(b)(1) and (2) 73.10–1(b).
(b)		73.10–65(b)(2)(i).
(c)		73.10–65(b)(2)(ii).
171.070:		
(a)	73.15–5(b)–(f)	
(b)	73.15–10(a)–(c)	
(c)	73.15–10(a)	
(d)	73.15–10(a)	
(e)	73.15–15, New	178.20–5(b)
(f)	73.15–15	178.20–5(b)
171.072	73.15–1	
171.073:		
(a)	73.15–20	
(b)		73.15–25(a) and (b).
(c)	73.15–30	
171.075:		
(a)	73.12–5	
(b)	73.12–7	
(c)	73.12–3	
171.080:		
(a)		74.10–15(a) and (b), 179.10–5.
(b)	74.10–15(c)(4)	179.10–5.
(c)	74.10–15(c)(3)	179.10–5.
(d)	74.10–15(c)(7)	179.10–5.
(e)	74.10–15(c)(5)	179.10–5.
171.082:		
(a)	74.10–2	74.12–1, 74.12–5.
(b)	74.12–7	
(c)	74.12–3	
(d)	74.12–9	
171.085:		
(a)	New	
(b)	73.20–1(a)	
(c)	73.20–1(a)	
(d)	73.20–1(a)	
(e)	73.20–1(b)	
(f)	73.20–1(b)	
(g)	73.20–1(c)	73.30–15(a)(1).
(h)	178.15–3	
(i)	178.15–3	
(j)	178.15–1	
171.090		73.20–10, 178.15–5
171.095	73.20–5	
171.100:		
(a)	73.20–15	
(b)	73.30–25(b)	
(c)	73.30–25(b)	
(d)	73.30–25(b)	
171.105:		
(a)	73.25–1	
(b)	73.25–5(b)	
(c)	73.25–5(c)	
(d)	73.25–5(d)	
(e)	73.25–5(e)	
(f)	73.25–5(e)	
(g)	73.25–5(f)	
(h)	73.25–5(g)	
171.106	73.25–10	
171.108	73.25–15	
171.109	73.25–20	
171.110	New	
171.111:		
(a)	73.30–1	
(b)	73.30–35	
(c)	73.30–1	
(d)	73.30–10	
(e)	73.30–5	
(f)	73.30–40	
(g)	73.30–40	
(h)	73.30–15(a)(2)	
171.112:		
(a)	73.30–25(a)	
(b)	73.30–25(b)	
171.113:		
(a)	New	
(b)	73.30–30(b)	
(c)	73.30–30(a)	
171.114:		
(a)	178.25–1(c)	
(b)	178.25–1(d)	
(c)	178.25–1(b)	
171.115	New	
171.116:		
(a)	73.40–5(a)	
(b)	73.40–5(b)(1)	
(c)	73.40–5(b)(1)	
(d)	73.40–5(b)(3)	
(e)	73.40–5(b)(4)	
(f)		73.40–5(b)(2), 73.40–5(b)(5).
171.117:		
(a)	73.40–5(c)(1)	
(b)	73.40–5(c)(1)	
(c)	73.40–5(c)(1)	
(d)	73.40–5(c)(2)	
171.118:		
(a)	73.40–10	
(b)	73.40–15	
(c)	73.40–15	
171.119:		
(a)		178.40–1(b) and (c).
(b)	178.40–1(d)	
(c)	178.40–1(e)	
(d)	178.40–1(e)	
(e)	178.40–1(d)	
(f)	178.40–1(d)	
171.120	New	
171.122:		
(a)	New	
(b)	73.45–5(a)	
(c)	73.45–1(a)	
(d)	73.45–1(b)	
(e)	73.45–1(b)	

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
(f)	73.45–5(b)	
(g)	73.45–10(b)	
171.124:		
(a)		178.35–1(a), (b), and (c).
(b)	178.35–1(d)	
(c)	178.35–1(e)	
(d)	178.35–1(f)	
(e)	178.35–1(f)(1)	
171.130	New	
171.135	73.45–5(c)	
171.140	178.30–1	
171.145:		
(a)	178.30–3(a)	
(b)	178.30–3(b)	
(c)	178.30–3(b)	
(d)	178.30–3(c)	
(e)	178.30–3(d)	
(f)	178.30–3(d)	
171.150:		
(a)	178.30–5(a)	
(b)		178.30–5(b), (c), and (d).
(c)	178.30–5(b)	
(d)	178.30–5(b)	
171.155	178.30–7	
172.005		93.20–01, 30.25–1–151.01–10(b), 153.5, 154.2, 153.805(a), 154.205(a), 33 CFR 157.06.
172.047	32.63–1	
172.050:		
(a)	32.63–5	
(b)	32.63–15(b)	
(c)	32.63–15(b)	
(d)	32.63–15(b)	
(e)	32.63–15, New	
(f)	New	
172.060		33 CFR 157.01, 157.06, 157.21
172.065:		
(a)	33 CFR 157.03(a)	
(b)	33 CFR 157.21	
(c)		33 CFR 157—Appendix B—para. [7].
(d)		33 CFR 157—Appendix B—para. (3)(a), para. (3)(c), and para. (3)(d).
(e)		33 CFR 157—Appendix B—para. (3)(b).
(f)		33 CFR 157—Appendix B—para. [4](a)–(b).
(g)(1)	33 CFR 157.21(a)	
(g)(2)	33 CFR 157.21(b)	
(g)(3)	33 CFR 157.21(c)	
(g)(4)		33 CFR 157—Appendix B—para. [3](a).
(h)		33 CFR 157—Appendix B—para. (4)(c).
172.080	151.01–10	
172.085	New	
172.087	151.10–15(b)	
172.090:		
(a)	151.10–5(a)	
(b)	151.10–5(b)	
(c)	151.10–5(b)	
(d)	151.10–5(a)	
172.095	151.10–6	
172.100:		
(a)		151.10–10(a)(1).
(b)		151.10–10(a)(1).
(c)		151.10–10(a)(1).
172.103	New	
172.104:		
(a)		151.10–10(a)(2).
(b)		151.10–10(a)(2).
(c)		151.10–10(a)(3).
172.105:		
(a)(1)		151.10–10(b)(2).
(a)(2)		151.10–10(b)(1).
(a)(3)	New	
(b)		151.10–10(b)(3).

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
172.110:		
(a)	New	
(b)	New	
(c)		151.10–10(c)(1).
(d)		151.10–10(c)(1).
(e)		151.10–10(c)(2).
(f)		151.10–10(c)(2).
(g)		151.10–10(c)(2).
(h)		151.10–10(c)(2).
(i)		151.10–10(c)(2).
172.125	153.1	
172.127	153.2	
172.130:		
(a)		153.15, 153.16, 153.20 through 22.
(b)	153.5	
172.133:		
(a)	153.20	
(b)	153.21	
(c)	153.22	
(d)	153.32(c)	
172.135:		
(a)	153.32(a)	
(b)	153.32(a)	
172.140:		
(a)	153.30(b)	
(b)	153.30(b)	
(c)	153.30(c)	
172.150:		
(a)	153.34(b)	
(b)	153.34(a)	
(c)	153.34(c)	
(d)	153.34(f)	
(e)	153.34(e)	
(f)	153.34(d)	
(g)	153.34(g)	
(h)	153.34(h)	
172.155		154.1, 154.2.
172.160:		
(a)	154.3	
(b)	154.3	
172.165	154.205(b)	
172.170:		
(a)	154.210(a)	
(b)	154.210(b)	
172.175:		
(a)	154.215(a)	
(b)	154.215(b)	
(c)	154.215(c)	
(d)	154.215(d)	
(e)	154.215(e)	
(f)	154.215(e)	
172.180:		
(a)	154.220(a)	
(b)	154.220(b)	
172.185:		
(a)	154.225(d)	
(b)	154.225(c)	
(c)	154.225(e)	
172.195:		
(a)	154.230(b)	
(b)	154.230(a)	
(c)	154.230(c)	
(d)	154.230(h)	
(e)	154.230(e)	
(f)	154.230(d)	
(g)	154.230(g)	
(h)	154.230(h)	
172.205	154.230(f)	
173.001	New	
173.005	New	
173.007 through 173.025.	MMTN 3–69	
173.050	167.20–5	
173.055	167.20–5	
173.060	168.05–5	
173.070		191.01–1, 188.05–1.
173.075:		
(a)		191.10–1, 191.10–5, 191.10–10, 191.10–13.
(b)	191.10–15	
173.080		191.20–15(a), (b)(1)–(7), and (c).
173.085:		
(a)	-	191.10–15(a), 191.10–20(f).
(b)	191.10–16	
(c)	191.10–17	

TABLE I—Continued

New regulation	Old regulation	Other old regulations containing the same or similar requirement
(d)	191.10–18	
(e)	191.10–19	
(f)		191.10–20(a)–(c) and (f).
(g)	191.10–20(g)	
(h)		191.10–20(e)(2).
(i)	191.10–30(b)	
(j)		191.10–30(c)(2).
(k)		191.10–30(c)(1).
(l)	191.10–30(d)	
(m)	191.10–35	
(n)		191.10–20(b)(2).
(o)	191.10–20(d)	
173.090	65–4–C MSM	
173.095	65–4–C MSM	
174.005		93.67–15, 167.01
174.010 through 174.020.	MMTN 3–69	
174.030	107.01	
174.035:		
(a)	107.111	
(b)	106.301	
174.040	106.309	
174.045:		
(a)	106.305(a)	
(b)	106.305(b)	
(c)	106.305(c)	
(d)	106.305(d)	
174.050	106.309	
174.055:		
(a)	106.311(a)	
(b)	106.311(b)	
(c)	106.311(c)	
174.065:		
(a)	106.315(a)	
(b)	106.315(b)	
174.070:		
(a)	106.317(a)	
(b)	106.317(b)	
174.075	106.319	
174.080:		
(a)	106.321(a)	
(b)	106.321(b)	
174.085:		
(a)	106.323(a)	
(b)	106.323(b)	
174.090	106.325	
174.100		106.114, 106.115
174.110	79.01–1	37.01–1, 99.01–1
174.115	79.05–5(a)	37.05–5(a), 99.05–5(a).
174.120	79.05–5(a)	37.05–5(a), 99.05–5(a).
174.125	79.05–5(a)–(b)	37.05–5(a)–(b), 99.05–5(a)–(b).
174.140	65–4–C MSM	
174.145	65–4–C MSM	
174.150	106.400(a)	
174.155	106.400(a)	
174.160	106.400(b)	
174.165	106.403	
174.170	106.405	

The following table lists rules that are being deleted because they are the same as other rules in other parts of Title 46, CFR.

TABLE II

Deleted rule	Rule repeated in—
73.35–20(b)	163.001–4(a) and (b).
73.35–20(c)(1)	163.001–5(b).
73.35–20(c)(2)	163.001–5(c)(1), 163.001–(5)(f), 163.001–5 (b)(4), (e), (c)–(f).
73.35–20(c)(3)	163.001–5(a).
73.35–25(b)	163.001–5(d).
74.15–10	76.85–1.
93.13–10	97.75–1.

The following table shows where in Title 46, CFR, certain old stability rules

not contained in Subchapter S are being transferred:

TABLE III

Old rule	New location in CFR
73.35–20(d)	181.001–4.
73.40–5(b)(4)	78.16–1.
74.10–12	72.30–5.
74.25–1(a)	78.12–1.
93.15–1	97.11–1.
179.20–1	185.12–1.
191.25–10	196.16–1.
191.35–1	196.12–1.

The following Table lists old regulations in chronological order and the new regulations that correspond to them. References are to Title 46, CFR, unless otherwise noted.

TABLE IV

Old regulation	New regulation
31.10–30:	
(a)(1)	170.160, 170.001
(a)(2)	170.001
(b)(1)	170.175, 170.174.
(b)(2)	170.085, 170.185, 170.190.
(b)(3)	170.170.
(b)(4)	170.110, 170.120
(b)(5)	170.120.
(c)	170.200.
(d)	170.200.
(e)	170.200.
(f)(1)	170.055(i)
(f)(2)	170.200.
32.63–1	172.047, 172.050.
32.63–15	172.047, 172.050.
37.05–5	174.110–174.125.
71.65–5	170.075, 170.080.
73.01–1	170.001, 171.045.
73.05–1	Deleted—unnecessary
73.05–2	171.010(b).
73.05–3	170.055(h)(1).
73.05–4	170.055(c).
73.05–5	170.055(d).
73.05–6	171.015.
73.05–7	171.055(g).
73.05–8	170.055(k).
73.05–9	Deleted—unnecessary
73.05–10	171.010(h).
73.05–11	171.010(i).
73.05–12	171.010(e).
73.10–1:	
(a)	171.045, 171.060
(b)	171.068.
73.10–2	171.060.
73.10–3	Deleted—unnecessary
73.10–5	171.066
73.10–10	171.065(a).
73.10–15	171.065 (a) and (b).
73.10–20	171.065 (a) and (b)
73.10–23	171.065(b).
73.10–25	171.015(d).
73.10–30:	
(a)	171.065(c).
(b)	171.066(a).
73.10–35	171.065(d).
73.10–40	171.067(b).
73.10–45	171.067 (b) and (c).
73.10–50	171.067(b).
73.10–55	171.065(c), 171.067(e)
73.10–60	171.065(b).
73.10–65	171.068
73.12–1	171.060.
73.12–3	171.075(c).
73.12–5	171.075(d).
73.12–7	171.075(b), 170.015.
73.12–9	Deleted—unnecessary
73.15–1	171.072
73.15–5:	
(a)	Deleted—unnecessary
(b)–(f)	171.070(a).
73.15–10	171.070(b)–(d)
73.15–15	171.070(e).
73.15–20	171.073(a)
73.15–25	171.073(b)
73.15–30	171.073(c).

TABLE IV—Continued

Old regulation	New regulation
73.20–1	171.085
73.20–5	171.095.
73.20–10	171.090.
73.20–15	171.100(a).
73.25–1	171.105(a).
73.25–5:	
(a)	Deleted—unnecessary
(b)	171.105(b).
(c)	171.105(c).
(d)	171.105(d).
(e)	171.105 (e) and (f).
(f)	171.105(g).
(g)	171.105(h).
73.25–10	171.106.
73.25–15	171.108.
73.25–20	171.109.
73.30–1	171.111(c).
73.30–5	171.111(e).
73.30–10	171.111(d).
73.30–15	171.111(h), 171.085(g).
73.30–20	Deleted—unnecessary.
73.30–25:	
(a)	171.112(a).
(b)	171.112(b).
73.30–30	171.113 (b) and (c).
73.30–35	171.111(b).
73.30–40	171.111 (f) and (g)
73.35–1	170.250.
73.35–5	170.255.
73.35–10	170.260.
73.35–15	170.265.
73.35–17	170.275
73.35–20(a)	170.270(a).
73.35–20(b)–(c)	Deleted—repetitious (see Table II).
73.35–25(a)	170.270(d).
73.35–25(b)	Deleted—repetitious (see Tables II and III).
73.35–30(a)	Deleted—unnecessary.
73.35–30 (b) and (c)	170.270.
73.40–1	Deleted—unnecessary
73.40–5:	
(a) and (b)	171.116.
(c)	171.117
73.40–10	171.118(a).
73.40–15	171.118 (b) and (c).
73.40–20	Deleted—unnecessary
73.45–1	171.122(c)–(e).
73.45–5:	
(a)	171.122(b)
(b)	171.122(f).
(c)	171.135.
73.45–10	171.122(g).
73.90	170.001(b).
74.01–1	170.001, 171.045.
74.05–1	170.175.
74.05–5:	
(a) and (b)	170.180, 170.085.
(c)	170.185, 170.190
74.10–1	170.020.
74.10–2	171.060.
74.10–5	170.170.
74.10–10	171.050
74.10–11	170.170(d)
74.10–15:	
(a)	171.080(a).
(b)(1)	171.080(a).
(b)(2)	Deleted—unnecessary.
(c)(1)	Deleted—unnecessary.
(c)(2)	Deleted—unnecessary.
(c)(3)	171.080(c).
(c)(4)	171.080(b).
(c)(5)	171.080(e).
(c)(6)	171.080(d)
(c)(7)	171.080(d)
(c)(8)	171.080(d).
(c)(9)	171.080(d).
(d)(1)	Deleted—unnecessary
(d)(2)	Deleted—unnecessary
74.10–20	Deleted—unnecessary
74.12–1	171.060.
74.12–3	171.082(c)
74.12–5	171.082(a).
74.12–7	171.082(b).
74.12–9	171.082(d).
74.12–11	170.135(a).
74.15–1	Deleted—unnecessary
74.15–5	170.235.
74.20–1	170.110
74.20–5	170.110.
74.20–10	170.110
74.20–15	170.110
74.25–1	170.120

TABLE IV—Continued

Old regulation	New regulation
74.90–1	170.001(b).
79.05–5	174.110–174.125.
91.55–5(c)	170.075.
93.01–1	170.001.
93.05–1	170.175.
93.05–5	170.180, 170.185
93.07–1	170.160.
93.07–5	170.020.
93.07.10	170.170.
93.07–15	170.170.
93.07–90	170.001(b).
93.10–1	170.110.
93.13–1	Deleted—unnecessary.
93.13–5	170.235.
93.15–5	170.120.
99.05–5	174.110–174.125.
106.400	174.150, 174.155, 174.160
106.403	174.165.
106.405	174.170.
107.305	170.075, 170.090.
108.114	174.100.
108.115	174.100.
108.301	174.035(b), 170.055(c)–(d).
108.303	174.040.
108.305	174.045.
108.309	174.050.
108.311	174.055.
108.313	170.090.
108.315	174.065.
108.317	174.070.
108.319	174.075.
108.321	174.080.
108.323	174.085.
108.325	174.090.
108.329	170.090.
108.335	170.174, 170.175.
108.337	170.180.
108.339	170.185.
108.341	170.190.
108.343	170.005.
109.121	170.110, 170.130
109.581	170.235.
151.10–5	172.090.
151.10–6	172.095.
151.10–10:	
(a)	172.100, 172.104.
(b)	172.105.
(c)	172.110.
151.10–15:	
(a)	Deleted—unnecessary
(b)	172.087.
153.20	172.130, 172.133(a).
153.21	172.130, 172.133(b).
153.22	172.130, 172.133(c).
153.30	170.055(k), 172.140.
153.31	170.265, 170.290.
153.32(a)	172.135.
153.32(b)	Deleted—unnecessary.
153.32(c)	172.133(d).
153.34	172.150.
153.35	Deleted—unnecessary.
153.806(a)	170.001, 170.085, 170.110, 170.120, 170.160, 170.170, 170.175, 170.180, 170.185, 170.235, 172.005, 172.015, 172.030
153.806(b)	170.110.
154.200	170.020.
154.205(a)	170.001, 170.085, 170.110, 170.120, 170.160, 170.170, 170.175, 170.180, 170.185, 170.235, 172.005, 172.015, 172.030
154.205(b)	172.165.
154.210	172.170.
154.215	172.175.
154.220	172.180.
154.225:	
(a) and (b)	170.285.
(c)–(e)	172.185.
154.230	172.195.
154.1809	170.110.
167.20–5	173.050, 173.055.
167.20–20	170.110, 170.120, 170.170, 170.160, 170.174, 170.175, 170.185, 170.190.
167.20–25(a)	170.180.
167.20–25 (b) and (c).	170.070, 170.075, 170.080, 170.085, 170.090, 170.100.
167.20–30	170.235.
167.20–35	Deleted—unnecessary

TABLE IV—Continued

Old regulation	New regulation
188.05–5	173.060, 170.070, 170.075, 170.080, 170.085, 170.090, 170.100, 170.110, 170.120, 170.160, 170.170, 170.174, 170.175, 170.180, 170.185, 170.190, 170.235, 170.250, 170.255, 170.260, 170.265, 170.270, 170.285, 170.290.
175.05–5	171.020, 171.045.
177.05–3	170.075, 170.090
178.10–1	171.017, 171.045, 171.040.
178.10–5	171.040.
178.10–10	171.040.
178.15–1	171.085.
178.15–3 (a)–(b)	171.085.
178.15–5	171.090.
178.20–1	171.040, 171.043.
178.20–5	171.060.
178.25–1	171.114.
178.30–1	171.140.
178.30–3	171.145.
178.30–5	171.150.
178.30–7	171.155.
178.35	171.124.
178.40–1	171.119.
179.05–1	170.174, 171.030.
179.10–1	171.030.
179.10–3	171.030, 170.175, 170.180, 170.185, 170.190.
179.10–5	170.170, 170.180, 170.185, 170.190, 171.050, 171.080.
179.15–1	170.005.
179.20–5	170.120.
189.55–5(c)	170.180.
191.01–1	173.070.
191.05–1	Deleted—unnecessary.
191.05–2	171.010(b).
191.05–3	170.055(h).
191.05–4	170.055(c).
191.05–5	170.055(d).
191.05–6	171.015.
191.05–7	171.055(g).
191.05–8	170.055(i).
191.10–1	173.075.
191.10–5	173.075.
191.10–10	173.075.
191.10–13	173.075.
191.10–15	173.075, 173.080, 173.085.
191.10–16	173.085(b).
191.10–17	173.085(c).
191.10–18	173.085(d).
191.10–19	173.085(e).
191.10–20	173.085(f)–(h).
191.10–25	170.250, 170.255, 170.260, 170.265, 170.270.
191.10–30	173.085(i)–(l).
191.10–35	173.085 (m) and (n).
191.15–1	170.174, 170.175.
191.15–5(a)	170.180.
191.15–5(b)	170.185.
191.20–1	170.020.
191.20–5	170.160, 170.170.
191.20–10	170.170(d).
191.20–15	173.060.
191.20–20	Deleted—unnecessary.
191.25–1	Deleted—unnecessary.
191.25–5	170.235.
191.30–1	170.110.
191.30–5	170.110.
191.30–10	170.110
191.30–15	170.110.
191.35–5	170.120.
33 CFR	
157.21(a)	172.060, 172.065.
157.24(b)	170.090.
157.24(d)	170.075.
Appendix B	172.060, 172.065.

List of Subjects

46 CFR Part 2

Vessels, Law enforcement, Penalties, Fire protection, Marine safety.

46 CFR Part 31

Marine safety, Tank vessels, Barges, Law enforcement, Flammable materials.

46 CFR Part 32

Cargo vessels, Marine safety, Fire protection, Tank vessels, Barges.

46 CFR Part 35

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Tank vessels, Barges, Seaman.

46 CFR Part 37

Cargo vessels, Marine safety, Nuclear vessels, Radiation protection.

46 CFR Part 42

Penalties, Vessels, Marine safety, Foreign trade, Treaties, Navigation (water).

46 CFR Part 46

Passenger vessels, Penalties, Foreign trade, Marine safety.

46 CFR Part 56

Vessels, Marine safety.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Foreign trade, Law enforcement.

46 CFR Part 72

Fire prevention, Marine safety, Passenger vessels.

46 CFR Part 73

Marine safety, Passenger vessels.

46 CFR Part 74

Marine safety, Passenger vessels.

46 CFR Part 76

Marine safety, Passenger vessels.

46 CFR Part 78

Marine safety, Passenger vessels, Penalties, Reporting and recordkeeping requirements, Navigation (water).

46 CFR Part 79

Marine safety, Nuclear vessels, Passenger vessels, Radiation protection.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Law enforcement.

46 CFR Part 93

Cargo vessels, Marine safety.

46 CFR Part 97

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Navigation (water), Penalties.

46 CFR Part 99

Cargo vessels, Marine safety, Nuclear vessels, Radiation protection.

46 CFR Part 106

Energy, Environmental protection, Fire protection, Hazardous materials, Marine safety, Ocean thermal energy conversion, Vessels.

46 CFR Part 107

Vessels, Continental shelf, Oil and gas exploration, Marine safety, Marine resources.

46 CFR Part 108

Fire prevention, Vessels, Continental shelf, Oil and gas exploration, Marine safety, Marine resources.

46 CFR Part 109

Reporting and recordkeeping requirements, Vessels, Continental shelf, Oil and gas exploration, Marine safety, Marine resources.

46 CFR Part 111

Vessels, Electric power, Marine safety.

46 CFR Part 151

Hazardous materials transportation, Marine safety, Flammable material, Tank vessels, Barges.

46 CFR Part 153

Hazardous materials transportation, Marine safety, Tank vessels, Barges.

46 CFR Part 154

Gases, Hazardous materials transportation, Marine safety, Natural gas, Vessels.

46 CFR Part 163

Marine safety.

46 CFR Part 167

Fire prevention, Reporting and recordkeeping requirements, Schools, Vessels, Marine safety.

46 CFR Part 168

Schools, Vessels, Marine safety.

46 CFR Part 170

Marine safety, Subdivision, Stability, Vessels, Tank vessels, Cargo vessels, Nuclear vessels, Passenger vessels, Oceanographic vessels, Sailing vessels, Nautical schools, Tugboats, Towboats, Mobile offshore drilling units, Barges, Grain, Oil and gas exploration, Hazardous materials transportation, Gases, Natural gas, Incorporation by reference.

46 CFR Part 171

Marine safety, Subdivision, Stability, Vessels, Passenger vessels, Sailing vessels, Barges, Incorporation by reference.

46 CFR Part 172

Marine safety, Subdivision, Stability, Vessels, Tank vessels, Cargo vessels, Passenger vessels, Sailing vessels, Barges, Grain, Hazardous materials transportation, Gases, Natural gas.

46 CFR Part 173

Marine safety, Subdivision, Stability, Vessels, Cargo vessels, Oceanographic vessels, Nautical schools, Tugboats, Towboats, Barges.

46 CFR Part 174

Marine safety, Subdivision, Stability, Vessels, Cargo vessels, Nuclear vessels, Tugboats, Towboats, Mobile offshore drilling units, Barges, Oil and gas exploration.

46 CFR Part 177

Marine safety, Passenger vessels.

46 CFR Part 178

Marine safety, Passenger vessels.

46 CFR Part 179

Marine safety, Passenger vessels.

46 CFR Part 185

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Navigation (water).

46 CFR Part 189

Marine safety, Oceanographic vessels.

46 CFR Part 190

Fire prevention, Marine safety, Oceanographic vessels.

46 CFR Part 191

Marine safety, Oceanographic vessels.

46 CFR Part 196

Marine safety, Oceanographic vessels, Reporting and recordkeeping requirements, Navigation (water), Penalties.

In consideration of the foregoing, Chapter 1 of Title 46, Code of Federal Regulations, is amended as follows:

1. The authority citations for each part amended below, except parts in Subchapter S, read as currently stated in the Code of Federal Regulations. This document makes no changes to those citations. The authority citations for parts in Subchapter S are listed in the amendments to that subchapter.

PART 2—VESSEL INSPECTIONS

2. In § 2.01–1 by revising paragraph (c) to read as follows:

§ 2.01–1 Applications for inspection.

* * * * *

(c) *New vessels.* Applications for inspection of new vessels must be preceded by the submission of applicable drawings or prints in accordance with the specific requirements in Subchapters D (Tank Vessels), E (Load Lines), F (Marine Engineering), H (Passenger Vessels), I (Cargo and Miscellaneous Vessels), J (Electrical Engineering), O (Certain Bulk Dangerous Cargoes), S (Subdivision and Stability), and T (Small Passenger Vessels) of this chapter applicable to that particular type of vessel or type of service in which the vessel is proposed to be operated.

* * * * *

3. In § 2.01–15, by adding a new paragraph (a)(11) to read as follows:

§ 2.01–15 Vessel repairs.

(a) * * *

(11) For repairs to a vessel that affects its subdivision or stability, see § 170.005 of this chapter.

* * * * *

4. In § 2.90–1, by adding a new paragraph (i) to read as follows:

§ 2.90–1 General requirements.

* * * * *

(i) The requirements for subdivision and stability plans and calculations are in Part 170 of this chapter.

PART 31—INSPECTION AND CERTIFICATION

5. In § 31.01–1 by revising paragraph (a) to read as follows:

§ 31.01–1 Inspections required—TB/ALL.

(a) Every tank vessel subject to the regulations in this subchapter shall be inspected biennially, annually, or oftener, if necessary, by the Coast Guard to see that the hull, boilers, machinery, equipment, apparatus for storage, and appliances of the vessel comply with the marine inspection laws, and the regulations in this subchapter, and when applicable, Subchapters E, F, J, O, Q, and S of this chapter and 33 CFR Part 155 and 157.

* * * * *

6. In § 31.05–1, by revising paragraph (a) to read as follows:

§ 31.05–1 Issuance of certificate of inspection—TB/ALL.

(a) When a tank vessel is found to comply with law and the regulations in this subchapter, and applicable provisions of Subchapters E, F, J, O, Q, and S of this chapter and 33 CFR Parts 155 and 157, a certificate of inspection will be issued to it, or to its owners, by the Officer in Charge, Marine Inspection.

* * * * *

7. By revising § 31.10–30 to read as follows:

§ 31.10–30 Stability requirements—TB/ALL.

Each tank vessel must meet the applicable requirements in Subchapter S of this chapter.

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

8. By removing § 32.63–15.

PART 35—OPERATIONS

9. By adding a new Subpart 35.08 to read as follows:

Subpart 35.08—Stability Information

§ 35.08–1 Posting of stability letter.

If a stability letter is issued under § 170.120 of this chapter, it must be posted under glass or other suitable transparent material in the pilothouse of the vessel.

PART 37—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

10. By revising § 37.05–5 to read as follows:

§ 37.05–5 Subdivision and stability—TB/ALL.

Each vessel must meet the stability requirements in Subpart D of Part 174 of this chapter.

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

11. In § 42.20–5, by revising paragraph (a–1) to read as follows:

§ 42.20–5 Type "A" vessels.

* * * * *

(a–1) A vessel that meets the requirements of Subpart D, F, or G of Part 172 of this chapter is considered by the Coast Guard to meet the requirements in this section.

* * * * *

PART 46—SUBDIVISION LOAD LINES FOR PASSENGER VESSELS

12. In § 46.10–10 by revising paragraph (b) to read as follows:

§ 46.10–10 Marks to indicate subdivision load lines.

* * * * *

(b) The Commandant, U.S. Coast Guard, will determine the position of the subdivision load lines by the application of the requirements contained in this Part and Parts 170 and 171 of this chapter. The correct marking of subdivision load lines will be certified by the American Bureau of Shipping or a classification society approved by the Commandant for that purpose.

* * * * *

13. In § 46.10–65 by revising paragraph (a) to read as follows:

§ 46.10–65 Construction.

(a) The watertight subdivision of every passenger vessel must be as efficient as possible, having regard to its intended service. This principle is given effect by applying the requirements in Part 171 of this chapter.

* * * * *

14. In § 46.10–70, by revising paragraph (c) to read as follows:

§ 46.10–70 Plans and inspections of new and converted vessels.

* * * * *

(c) Upon completion of construction or conversion of a passenger vessel, a stability test must be performed and stability information must be supplied to the operator as required by Part 170 of this chapter.

15. In § 46.15–1, by revising paragraph (a) to read as follows:

§ 46.15–1 Procedure for determination of subdivision load line.

The procedure for determining the subdivision load line as well as special construction features of the vessel must be as set forth in Subpart 72.01 and Parts 170 and 171 of this chapter.

PART 56—PIPING SYSTEMS AND APPURTENANCES

16. By revising footnote 4 of Table 56.50–55(a) to read as follows:

§ 56.50–55 Bilge pumps.

* * * * *

[4] When the criterion numeral exceeds 30, an additional independent power driven bilge pump is required. (See Part 171 of this chapter for determination of criterion numeral.)

* * * * *

17. In § 56.50–57, by revising paragraph (a) to read as follows:

§ 56.50–57 Bilge piping and pumps, alternative requirements.

(a) If a passenger vessel complies with §§ 171.075 and 171.082 of this chapter, its bilge pumping and piping systems must meet §§ 56.50–50 and 56.50–55, except as follows:

* * * * *

PART 71—INSPECTION AND CERTIFICATION

18. In § 71.20–20, by revising paragraph (a)(6) to read as follows:

§ 71.20–20 Specific tests and inspections.

(a) * * *

(6) For inspection and testing of watertight doors, see § 170.270 of this chapter.

19. In § 71.65–5 by revising paragraph (c) to read as follows:

§ 71.65–5 Plans and specifications required for new construction.

* * * * *

(c) *Subdivision and stability.* Plans and calculations required by Subchapter S of this chapter.

* * * * *

PART 72—CONSTRUCTION AND ARRANGEMENT

20. In § 72.01–25 by revising the introductory text of paragraph (a) to read as follows:

§ 72.01–25 Additional structural requirements.

(a) Vessels required by Part 171 of this chapter to have subdivision bulkheads, double bottoms, etc. must comply with the following structural requirements:

* * * * *

21. By adding a new Subpart 72.30 to read as follows:

Subpart 72.30—Subdivision and Stability

Sec.
72.30–1 Application.
72.30–5 Bulk Grain Cargoes.

Subpart 72.30—Subdivision and Stability

§ 72.30–1 Application.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

§ 72.30–5 Bulk grain cargoes.

Each vessel that carries grain in bulk must meet the requirements in Subpart 93.20 of this chapter.

PART 73—WATERTIGHT SUBDIVISION [REMOVED]

22. By removing Part 73

PART 74—STABILITY [REMOVED]

23. By removing Part 74.

PART 75—LIFESAVING EQUIPMENT

24. In § 75.10–10, by revising paragraph (a)(6) to read as follows:

§ 75.10–10 Requirements for vessels in ocean service.

(a) * * *

(6) This subparagraph applies to a vessel on a short international voyage. If compliance with paragraph (a)(1) of this section is impracticable, the Commandant may relax the requirement to the extent permitted by Regulations 27 and 28 of Chapter III of the International Convention for the Safety of Life at Sea, 1974, as long as the vessel complies with § 171.068 of this chapter.

* * * * *

PART 78—OPERATIONS

25. By adding a new Subpart 78.12 to read as follows:

Subpart 78.12—Stability Information

§ 78.12–1 Posting of stability letter.

If a stability letter is issued under § 170.120 of this chapter, it must be posted under glass or other suitable transparent material in the pilothouse of the vessel.

26. By revising Subpart 78.16 to read as follows:

Subpart 78.16—Port Lights

§ 78.16–1 General.

If port lights are fitted in spaces used alternatively for the carriage of cargo or passengers as permitted by § 171.116(d) of this chapter, dead covers must be fitted on the port lights when cargo is carried.

27. In § 78.17–35, by revising paragraphs (b) (1), (2), and (3) to read as follows:

§ 78.17–35 Hatches and other openings.

* * * * *

(b) * * *

(1) Watertight doors between cargo spaces prescribed in § 170.275 of this chapter.

(2) Portable plates in watertight bulkheads prescribed in § 171.111(b) of this chapter.

(3) Gangway, cargo, and coaling ports fitted below the margin line that is determined in accordance with § 171.015 of this chapter.

* * * * *

28. In § 78.47–37, by revising paragraph (b) to read as follows:

§ 78.47–37 Watertight doors.

* * * * *

(b) Class 1 doors fitted in accordance with the requirements in § 170.255 of this chapter must additionally be marked "RECLOSE AFTER USE."

PART 79—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

28. By revising § 79.05–5 to read as follows:

§ 79.05–5 Subdivision and stability.

Each vessel must meet the stability requirements in Subpart D of Part 174 of this chapter.

PART 91—INSPECTION AND CERTIFICATION

30. In § 91.55–5, by revising paragraph (c) to read as follows:

§ 91.55–5 Plans and specifications required for new construction.

* * * * *

(c) *Subdivision and stability.* Plans and calculations as required by Subchapter S of this chapter.

* * * * *

PART 93—STABILITY

31. By revising Subpart 93.01 to read as follows:

Subpart 93.01—Application

§ 93.01–1 General.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

Subparts 93.05, 93.07, 93.10, 93.13, and 93.15—[Removed]

32. By removing all remaining portions of Part 93 except Subpart 93.20 and Table 93.17–15. Specifically, the regulations to be removed from Part 93 are Subparts 93.05, 93.07, 93.10, 93.13, and 93.15.

PART 97—OPERATIONS

33. By adding a new Subpart 97.11 to read as follows:

Subpart 97.11—Stability Letter

§ 97.11–1 Posting.

If a stability letter is issued under § 170.120 of this chapter, it must be posted under glass or other suitable transparent material in the pilothouse of the vessel.

PART 99—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

34. By revising § 99.05–5 to read as follows:

§ 99.05–5 Subdivision and stability.

Each vessel must meet the stability requirements in Subpart D of Part 174 of this chapter.

PART 106—OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS

35. By revising § 106.400 to read as follows:

§ 106.400 Application.

Each plantship and floating facility must meet the requirements in Subpart F of Part 174 of this chapter.

§§ 106.403 and 106.405 [Removed]

36. By removing §§ 106.403 and 106.405.

PART 107—INSPECTION AND CERTIFICATION

37. In § 107.231, by revising paragraph (a)(7)(ii) and adding a new paragraph (a)(8) to read as follows:

§ 107.231 Inspection for certification.

(a) * * *

(7) * * *

(ii) 33 CFR Parts 80, 85, or 86.

(8) Subchapter S of this chapter.

* * * * *

38. In § 107.305, by removing paragraphs (r) through (u–1) and revising paragraph (q) to read as follows:

§ 107.305 Plans and information.

* * * * *

(q) The plans and information required by Subchapter S of this chapter.

* * * * *

PART 108—DESIGN AND EQUIPMENT

39. In § 108.114, by revising paragraphs (d) (1) and (2) to read as follows:

§ 108.114 Appliances for watertight and weathertight integrity.

* * * * *

(d) * * *

(1) Damage causing flooding described in § 174.075 through § 174.085 of this chapter; and

(2) A wind heeling moment calculated in accordance with § 174.055 of this chapter using a wind velocity of 50 knots (25.8 meters per second).

§ 108.115 [Removed]

40. By removing § 108.115.

41. By revising § 108.301 in Subpart C to read as follows:

Subpart C—Stability

§ 108.301 Stability.

Each unit must meet the requirements in Subchapter S of this chapter that apply to Mobile Offshore Drilling Units.

42. By removing § 108.303 through § 108.343.

PART 109—OPERATIONS

43. By revising § 109.121 to read as follows:

§ 109.121 Operating manual.

An operating manual must be prepared for each unit in accordance with § 170.130 of this chapter.

44. By removing § 109.581.

PART 111—ELECTRICAL SYSTEMS—GENERAL REQUIREMENTS

45. By revising § 111.97–1 to read as follows:

§ 111.97–1 Applicability.

This subpart applies to electric power-operated watertight door systems required under Subpart H of Part 170 of this chapter.

PART 151—UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

46. In § 151.01–1, by adding the following to the end of paragraph (d):

§ 151.01–1 Purpose of regulations.

* * * * *

(d) * * *

Subchapter S—Parts 170–174, Subdivision and Stability.

47. In § 151.10–1, by revising paragraphs (a)(1)(i), (b)(1), (b)(3), and (b)(4) to read as follows:

§ 151.10–1 Barge hull classifications.

(a) * * *

(1) * * *

(i) Barges constructed or converted between July 1, 1964, and June 1, 1970, in accordance with the construction requirements of §§ 32.63 and 98.03 of this chapter are considered to comply with the basic provisions of this subpart and will retain the hull type classification for the service for which they were originally approved. Changes in product endorsement will not be considered a change in service, except when a change to a product of higher specific gravity necessitates a reevaluation of the intact and damage stability requirements in Subpart E of Part 172 of this chapter.

(b) * * *

(1) *Type I barge hull.* Barge hulls classed as Type I are those designed to

carry products which require the maximum preventive measures to preclude the uncontrolled release of the cargo. These barges are required to meet—

(i) Standards of intact stability and a modified two compartment standard of subdivision and damage stability, as specified in Subpart E of Part 172 of this chapter; and

(ii) Hull structural requirements, including an assumed grounding condition.

* * * * *

(3) *Type II barge hull.* Barge hulls classed as Type II are those designed to carry products which require significant preventive measures to preclude the uncontrolled release of the cargo. These barges are required to meet—

(i) Standards of intact stability and a modified one compartment standard of subdivision and damage stability, as specified in Subpart E of Part 172 of this chapter; and

(ii) Hull structural requirements, including an assumed grounding condition.

(4) *Type III barge hull.* Barge hulls classed as Type III are those designed to carry products of sufficient hazard to require a moderate degree of control. These barges are required to meet—

(i) Standards of intact stability as specified in Subpart E of Part 172 of this chapter; and

(ii) Hull structural requirements.

48. By revising § 151.10–5 including the heading to read as follows:

§ 151.10–5 Subdivision and stability.

Each barge must meet the applicable requirements in Subchapter S of this chapter.

49. By removing §§ 151.10–6 and 151.10–10.

50. By removing paragraphs (a) and (b) in § 151.10–15 and changing the heading to read "Certificate Endorsement". Paragraph (c) of § 151.10–15 is being retained and paragraphs (a) and (b) are being reserved.

PART 153—SAFETY RULES FOR SELF-PROPELLED VESSELS CARRYING HAZARDOUS LIQUIDS

51. In § 153.7, by revising paragraphs (c)(3) introductory text, (c)(4)(ii), and (c)(5) to read as follows:

§ 153.7 Existing tankships.

* * * * *

(c) * * *

(3) The Commandant (G–MTH) considers on a case by case basis endorsing as a type II containment system one that fails to meet §§ 153.231(b), 153.234, 172.130 and 172.133 of this chapter if the tankship and containment system meet the following minimum conditions:

* * * * *

(4) * * *

(ii) The tankship can survive the damage described in §§ 172.135 and 172.150 of this chapter to those parts of the tankship other than machinery spaces.

(5) The Commandant (G–MTH) considers on a case by case basis endorsing as a type III containment system one that does not meet §§ 153.234, 172.130 and 172.133 of this chapter if the tankship has a load line certificate.

* * * * *

52. By adding a new § 153.19 to read as follows:

§ 153.19 Stability requirements.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

§§ 153.20 through 153.35 [Removed]

53. By removing the heading "HULL TYPE CALCULATIONS" and §§ 153.20 through 153.35, inclusive.

54. In § 153.230, by revising paragraphs (a) and (b)(2) to read as follows:

§ 153.230 Type I system.

* * * * *

(a) The vessel must meet the requirements in Subpart F of Part 172 of this chapter for a type I hull.

(b) * * *

(2) It may not be located in any part of the tankship subject to the damage described in Table 172.135 of this chapter for—

(i) COLLISION PENETRATION, Transverse extent; and

(ii) GROUNDING PENETRATION, Vertical extents from the baseline upward.

55. In § 153.231, by revising paragraphs (a) and (b)(2) to read as follows:

§ 153.231 Type II system.

* * * * *

(a) The vessel must meet the requirements in Subpart F of Part 172 of this chapter for a type I or II hull.

(b) * * *

(2) It may not be located in any part of the tankship subject to the damage described in Table 172.135 of this chapter for GROUNDING PENETRATION, Vertical extent from the baseline upward.

56. By revising § 153.232 to read as follows:

§ 153.232 Type III system.

A type III containment system must be in either a type I, II, or III hull. The requirements for type I, II, and III hulls are in Subpart F of Part 172 of this chapter.

57. In § 153.235, by revising paragraphs (a) and (b) to read as follows:

§ 153.235 Exceptions to cargo piping location restrictions.

* * * * *

(a) Drains back to the cargo tank under any heel or trim resulting from the damage specified in § 172.135 of this chapter; and

(b) Enters the cargo tank above the liquid level for a full tank in any condition of heel or trim resulting from the damage specified in § 172.135 of this chapter.

58. By revising § 153.806 including the heading to read as follows:

§ 153.806 Loading information.

Each tankship must have a manual containing information that enables the master to load and ballast the tankship while keeping structural stresses within design limits.

PART 154—SAFETY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES

59. In § 154.4, by revising paragraph (b)(1) to read as follows:

§ 154.4 U.S. flag vessel: Endorsement application.

* * * * *

(b) * * *

(1) Hull type calculations required by § 172.175 of this chapter.

* * * * *

60. In § 154.5, by revising paragraph (a)(1) to read as follows:

§ 154.5 Foreign flag vessel: Letter of Compliance endorsement application.

(a) * * *

(1) The design ambient temperatures and cargo tank design stress factors, listed in item 3 of the IMO Certificate, that meet §§ 154.174, 154.176, 154.447, 154.450, 154.466 and 172.175(c) of this chapter.

* * * * *

61. By revising § 154.200 to read as follows:

§ 154.200 Stability requirements: General.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

62. By removing § 154.205 through and including § 154.230.

63. In § 154.235 by revising paragraphs (a), (b), and (d) to read as follows:

§ 154.235 Cargo tank location.

(a) For type IG hulls, cargo tanks must be located inboard of—

(1) The transverse extent of damage for collision penetration specified in Table 172.180 of this chapter;

(2) The vertical extent of damage for grounding penetration specified in Table 172.180 of this chapter; and

(3) 30 inches (760 mm) from the shell plating.

(b) For type IIG, IIPG, and IIIG hulls, cargo tanks must be located inboard of—

(1) The vertical extent of damage for grounding penetration specified in Table 172.180 of this chapter; and

(2) 30 inches (760 mm) from the shell plating.

* * * * *

(d) For type IIG, IIPG, and IIIG hulls, cargo tank suction wells may penetrate into the area of bottom damage specified as the vertical extent of damage for grounding penetration in Table 172.180 of this chapter if the penetration is the lesser of 25% of the double bottom height or 13.8 in. (350 mm).

64. In § 154.1809, by revising paragraph (b) to read as follows:

§ 154.1809 Loading and stability manual.

* * * * *

(b) The loading and stability manual must contain—

(1) Information that enables the master to load and ballast the vessel while keeping structural stresses within design limits; and

(2) The information required by § 170.110 of this chapter.

PART 163—CONSTRUCTION

65. In § 163.001–2, by revising paragraph (c) to read as follows:

§ 163.001–2 General requirements for sliding watertight doors.

* * * * *

(c) *Location.* The permitted locations of the several types of watertight doors are contained in Subchapters E and S of this chapter.

* * * * *

66. In § 163.001–4, by adding paragraph (b)(3) to read as follows:

§ 163.001–4 Manual operating controls for sliding watertight doors.

* * * * *

(b) * * *

(3) Manual operating equipment must be capable of closing a door with the vessel listed 15 degrees either way.

* * * * *

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

§§ 167.20–5, 167.20–20, 167.20–25, and 167.20–30 [Removed]

67. By removing §§ 167.20–5, 167.20–20, 167.20–25, and 167.20–30.

68. By adding a new § 167.20–7 to read as follows:

§ 167.20–7 Subdivision and stability.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

PART 168—CIVILIAN NAUTICAL SCHOOL VESSELS

69. By adding a new § 168.05–10 to read as follows:

§ 168.05–10 Subdivision and stability.

Each vessel must meet the applicable requirements in Subchapter S of the chapter.

70. By adding a new Subchapter S—Subdivision and Stability to read as follows:

SUBCHAPTER S—SUBDIVISION AND STABILITY

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

Subpart A—General Provisions

Sec.

170.001 Applicability.
170.005 Vessel alteration or repair.
170.010 Equivalents.
170.015 Incorporation by reference.

Subpart B—Definitions

170.050 General terms.
170.055 Definitions concerning a vessel.

Subpart C—Plan Approval

170.070 Applicability.
170.075 Plans.
170.080 Stability booklet.
170.085 Information required before a stability test.
170.090 Calculations.
170.093 Specific approvals.
170.095 Data submittal for a vessel equipped to lift.
170.098 Submittal of information for the carriage of bulk grain [Reserved].
170.100 Addresses for submittal of plans and calculations.

Subpart D—Stability Instructions for Operating Personnel

170.105 Applicability.
170.110 Stability booklet.
170.120 Stability letter.
170.125 Operating information for a vessel engaged in lifting.
170.130 Operating information for a mobile offshore drilling unit.
170.135 Operating information for a vessel with Type III subdivision.

Subpart E—Weather Criterion

170.160 Specific applicability.
170.170 Calculations required.
170.173 Criterion for vessels of unusual proportion and form.

Subpart F—Determination of Lightweight Displacement and Centers of Gravity

170.174 Specific applicability.
170.175 Stability test: general.
170.180 Plans and information required at the stability test.
170.185 Stability test preparations.
170.190 Stability test procedure modifications.
170.200 Estimated lightweight vertical center of gravity.

Subpart G—Special Installations

170.235 Fixed ballast.
170.245 Form flotation material.

Subpart H—Watertight Bulkhead Doors

170.248 Applicability.
170.250 Types and classes.
170.255 Class 1 doors; permissible locations.
170.260 Class 2 doors; permissible locations.
170.265 Class 3 doors; required locations.
170.270 Door design, operation, installation, and testing.
170.275 Special requirements for cargo space watertight doors.

Subpart I—Free Surface

170.285 Free surface correction for intact stability calculations.
170.290 Free surface correction for damage stability calculations.
170.295 Special considerations for free surface of passive roll stabilization tanks.

Authority: Section 2, 87 Stat. 418 (46 U.S.C. 86); Sec. 2, 49 Stat. 888 as amended (46 U.S.C. 88a); Sec. 5, 49 Stat. 1384 as amended (46 U.S.C. 389); R.S. 4405, as amended (46 U.S.C. 375); Sec. 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Sec. 5, Pub. L. 95–474, 92 Stat. 1480 as amended (46 U.S.C. 391a); Sec. 1, Pub. L. 85–739, 72 Stat. 833, as amended (46 U.S.C. 404); R.S. 4462, as amended (46 U.S.C. 416); Sec. 2, Pub. L. 96–453, 94 Stat. 207 (46 U.S.C. 1295f(c)(2)); Sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); Sec. 3, 66 Stat. 675 (50 U.S.C. 198); Sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General Provisions

§ 170.001 Applicability.

(a) This subchapter applies to each vessel contracted for on or after [60 days after publication) that is—

(1) Inspected under another subchapter of this chapter; or

(2) A foreign vessel that must comply with the requirements in Subchapter O of this chapter.

(b) Each vessel contracted for before (60 days after publication) may be constructed in accordance with the regulations in effect at the time. However, any alterations or repairs

must be done in accordance with § 170.005.

(c) Certain regulations in this subchapter apply only to limited categories of vessels. Specific applicability statements are provided at the beginning of those regulations.

§ 170.005 Vessel alteration or repair.

(a) Alterations and repairs to inspected vessels must be done—

(1) Under the direction of the Officer in Charge, Marine Inspection; and

(2) Except as provided in paragraph (b) of this section, in accordance with the regulations in this subchapter, to the extent practicable.

(b) Minor alterations and repairs may be done in accordance with regulations in effect at the time the vessel was contracted for.

§ 170.010 Equivalents.

Substitutions for fittings, equipment, arrangements, calculations, information, or tests required in this subchapter may be approved by the Commandant, the Commander, Merchant Marine Technical Office, or the Officer in Charge, Marine Inspection, if the substitution provides an equivalent level of safety.

§ 170.015 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subchapter with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found the date of the edition approved, citations to the particular sections of this subchapter where the material is incorporated, addresses where the material is available, and the date of the approval by the Director of the Federal Register. To enforce any edition other than the one listed in the table, notice of the change must be published in the **Federal Register** and the material made available. All approved material is on file at the Office of the Federal Register, Washington, D.C. 20408 and at the Office of Merchant Marine Safety (G–MTH–5/13), Room 1308, U.S. Coast Guard Headquarters Building, 2100 Second Street SW., Washington, D.C. 20593.

(b) The materials approved for incorporation by reference in this subchapter are:

Military Specification MIL–P–21929B.

International Maritime Organization (IMO) Resolution A.265 (VIII) dated December 10, 1973.

Subpart B—Definitions

§ 170.050 General terms.

(a) "Commander, Merchant Marine Technical Office (Commander (mmt))" means a district commander described in 33 CFR Part 3 whose command includes a merchant marine technical office or an authorized representative of the district commander.

(b) "Commandant" means the Commandant of the Coast Guard or an authorized representative of the Commandant.

(c) "Exposed waters" means waters more than 20 nautical miles (37 kilometers) from the mouth of a harbor of safe refuge and other waters which the Officer in Charge, Marine Inspection determines to present special hazards due to weather or other circumstances.

(d) "Great Lakes" includes both the waters of the Great Lakes and of the St. Lawrence River as far east as a straight line drawn from Cap de Rosiers to West Point, Anticosti Island, and west of a line along the 63rd meridian from Anticosti Island to the north shore of the St. Lawrence River.

(e) "Lakes, Bays, and Sounds" includes the waters of any lake, bay, or sound, except the Great Lakes.

(f) "Oceans" includes the waters of—

(1) Any ocean;

(2) The Gulf of Mexico;

(3) The Caribbean Sea;

(4) The Gulf of Alaska; and

(5) Any other waters designated as "oceans" by the Commandant.

(g) "Officer in Charge Marine Inspection (OCMI)" means an officer of the Coast Guard who commands a Marine Inspection Zone described in 33 CFR Part 3 or an authorized representative of that officer.

(h) "Oil" means oil of any kind or in any form, and includes but is not limited to petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(i) "Partially protected waters" means—

(1) Waters within 20 nautical miles (37 kilometers) of the mouth of a harbor of safe refuge, unless determined by the OCMI to be exposed waters; and

(2) Those portions of rivers, harbors, lakes, etc. which the OCMI determines not to be sheltered.

(j) "Protected waters" means sheltered waters presenting no special hazards such as most rivers, harbors, lakes, etc.

(k) "Rivers" means any river, canal, or any other similar body of water designated by the OCMI.

§ 170.055 Definitions concerning a vessel.

(a) "Auxiliary sailing vessel" means a vessel capable of being propelled both by mechanical means and by sails.

(b) "Barge" means a vessel not equipped with a means of self-propulsion.

(c) "Beam" or "B" means the maximum width of a vessel from—

(1) Outside of planking to outside of planking on wooden vessels; and

(2) Outside of frame to outside of frame on all other vessels.

(d) "Bulkhead deck" means the uppermost deck to which watertight bulkheads and the watertight shell extend.

(e) "Downflooding" means, except as provided in § 174.035(b), the entry of seawater through any opening into the hull or superstructure of an undamaged vessel due to heel, trim, or submergence of the vessel.

(f) "Downflooding angle" means, except as specified in §§ 171.055(f), 172.090(d), 173.095(e), 174.015(b), and 174.035(b), the static angle from the intersection of the vessel's centerline and waterline in calm water to the first opening that cannot be closed watertight and through which downflooding can occur.

(g) "Draft" means the vertical distance from the molded baseline amidships to the waterline.

(h) "Length" means the distance between fore and aft points on a vessel. The following specific terms are used and correspond to specific fore and aft points:

(1) "Length between perpendiculars (LBP)" means the horizontal distance measured between perpendiculars taken at the forward-most and after-most points on the waterline corresponding to the deepest operating draft.

(2) "Length overall (LOA)" means the horizontal distance between the forward-most and after-most points on the hull.

(3) "Length on the waterline (LWL)" means the horizontal distance between the forward-most and after-most points on a vessel's waterline.

(4) "Length on deck (LOD)" means the length between the forward-most and after-most points on a specified deck measured along the deck, excluding sheer.

(5) "Load line length (LLL)" has the same meaning that is provided for the term "length" in § 42.13–15(a) of this chapter.

(i) "Lightweight" means with fixed ballast and with machinery liquids at operating levels but without any cargo, stores, consumable liquids, water ballast, or persons and their effects.

(j) "Main transverse watertight bulkhead" means a transverse bulkhead that must be maintained watertight in order for the vessel to meet the damage stability and subdivision requirements in this subchapter.

(k) "Permeability" is the percentage of the volume of a space that can be occupied by water.

(l) "Sailing vessel" means a vessel propelled only by sails.

(m) "Ship" means a self-propelled vessel.

(n) "Tank vessel" means a vessel that is specially constructed or converted to carry liquid bulk cargo in tanks.

(o) "Tank barge" means a tank vessel not equipped with a means of self-propulsion.

(p) "Tank ship" means a tank vessel propelled by mechanical means or sails.

(q) "Vessel" means any vessel and includes both ships and barges.

(r) "Weather deck" means the uppermost deck exposed to the weather.

Subpart C—Plan Approval

§ 170.070 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to each vessel.

(b) This subpart does not apply to any of the following vessels unless the stability of the vessel is questioned by the OCMI:

(1) A passenger vessel that—

(i) Is less than 100 gross tons;

(ii) Is less than 65 feet (19.8 meters) LOD measured over the weather deck; and

(iii) Carries 49 or less passengers.

(2) A deck cargo barge that complies with the requirements in § 174.020 of this chapter.

(3) A tank vessel that only carries a product listed in § 30.25–1 of this chapter and that is less than 150 gross tons.

(4) A tank barge that—

(i) Operates only in rivers or lakes, bays, and sounds service;

(ii) Does not have to meet 33 CFR Part 157, Subpart B; and

(iii) Only carries a product listed in § 30.25–1 of this chapter.

§ 170.075 Plans.

(a) Except as provided in paragraph (b) of this section, each applicant for an original certificate of inspection and approval of plans must also submit three copies of each of the following plans:

(1) General arrangement plan of decks, holds, and inner bottoms including inboard and outboard profiles.

(2) Lines.

(3) Curves of form.

(4) Capacity plan showing capacities and vertical, longitudinal, and transverse centers of gravity of stowage spaces and tanks.

(5) Tank sounding tables showing—

(i) Capacities, vertical centers of gravity, and longitudinal centers of gravity in graduated intervals; and

(ii) Free surface data for each tank.

(6) Draft mark locations including longitudinal location and vertical reference points.

(b) Each small passenger vessel that is designed to comply with the alternate intact stability requirements in § 171.030(b)(2) of this subchapter and the simplified method of spacing main transverse watertight bulkheads in § 171.043 of this subchapter does not have to submit the plans required by paragraph (a) of this section.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.080 Stability booklet.

Before issuing an original certificate of inspection, three copies of the stability booklet required by § 170.110 must be submitted for approval to the Commander (mmt).

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 1125–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.085 Information required before a stability test.

If a stability test is to be performed, a stability test procedure that contains the information prescribed in § 170.185(g) must be submitted to the Commander (mmt) at least two weeks before the test.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.090 Calculations.

(a) Except as provided in § 170.098, all calculations required by this subchapter must be submitted with the plans required by § 170.075.

(b) If it is necessary to compute and plot any of the following curves as part of the calculations required in this subchapter, these plots must also be submitted:

(1) Righting arm or moment curves.

(2) Heeling arm or moment curves.

(3) Cross curves of stability.

(4) Floodable length curves.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.093 Specific approvals.

Certain rules in this subchapter require specific approval of equipment or arrangements by the Commandant, Commander (mmt), or OCMI. These approval determinations will be made as a part of the plan review process.

§ 170.095 Data submittal for a vessel equipped to lift.

The following data must be submitted with the plans required by § 170.075 if the vessel is engaged in lifting and is required to comply with Subpart B of Part 173 of this chapter:

(a) A graph of maximum hook load versus maximum crane radius.

(b) A table of crane radius versus the maximum distance above the main deck to which the hook load can be raised.

(c) A table showing maximum vertical and transverse moments at which the crane is to operate.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188.)

§ 170.098 Submittal of information for the carriage of bulk grain. [Reserved]

§ 170.100 Addresses for submittal of plans and calculations.

Except as provided in § 170.098, the plans, information, and calculations required by this subpart must be submitted to one of the following:

(a) The Marine Inspection Office, in the zone where the vessel is to be built or altered.

(b) One of the following Merchant Marine Technical offices:

(1) Commander (mmt), 3rd Coast Guard District, Governors Island, New York, NY 10004, for the geographical area covered by the 1st, 3rd, 5th, and 9th Coast Guard Districts.

(2) Commander (mmt), 8th Coast Guard District, Room 845, F. Edward Hebert Building, 600 South St., New Orleans, La. 70130, for the geographical area covered by the 2nd, 7th, and 8th Coast Guard Districts.

(3) Commander (mmt), 12th Coast Guard District, Government Island, Building 51, Alameda, Calif. 94501, for the geographical area covered by the 11th, 12th, 13th, 14th, and 17th Coast Guard Districts.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

Subpart D—Stability Instructions for Operating Personnel

§ 170.105 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to each vessel.

(b) This subpart does not apply to any of the following vessels unless the

stability of the vessel is questioned by the OCMI:

(1) A passenger vessel that—

(i) Is less than 100 gross tons;

(ii) Is less than 65 feet (19.8 meters) LOD measured over the weather deck; and

(iii) Carries 49 or less passengers.

(2) A deck cargo barge that complies with the requirements in § 174.020 of this chapter.

(3) A tank vessel that only carries a product listed in § 30.25–1 of this chapter and that is less than 150 gross tons.

(4) A tank barge that—

(i) Operates only in rivers or lakes, bays, and sounds service;

(ii) Does not have to meet 33 CFR Part 157, Subpart B; and

(iii) Only carries a product listed in § 30.25–1 of this chapter.

§ 170.110 Stability booklet.

(a) Except as provided in paragraph (e) of this section, a stability booklet must be prepared for each vessel. On a mobile offshore drilling unit, the stability booklet is referred to as an operating manual.

(b) Each stability booklet must be approved by the Commander (mmt).

(c) Each stability booklet must contain sufficient information to enable the master to operate the vessel in compliance with the applicable regulations in this subchapter.

(d) The format of the stability booklet and the information included will vary dependent on the vessel type and operation. In developing the stability booklet, consideration must be given to including the following information:

(1) A general description of the vessel, including lightweight data.

(2) Instructions on the use of the booklet.

(3) General arrangement plans showing watertight compartments, closures, vents, downflooding angles, and allowable deck loadings.

(4) Hydrostatic curves or tables.

(5) Capacity plan showing capacities and vertical, longitudinal, and transverse centers of gravity of stowage spaces and tanks.

(6) Tank sounding tables showing capacities, vertical centers of gravity, and longitudinal centers of gravity in graduated intervals and showing free surface data for each tank.

(7) Information on loading restrictions, such as a maximum KG or minimum GM curve that can be used to determine compliance with applicable intact and damage stability criteria.

(8) Examples of loading conditions.

(9) A rapid and simple means for evaluating other loading conditions.

(10) A brief description of the stability calculations done including assumptions.

(11) General precautions for preventing unintentional flooding.

(12) A table of contents and index for the booklet.

(13) Each ship condition which, if damage occurs, may require cross-flooding for survival and information concerning the use of any special cross-flooding fittings.

(14) The amount and location of fixed ballast.

(15) Any other necessary guidance for the safe operation of the vessel under normal and emergency conditions.

(e) A stability booklet is not required if sufficient information to enable the master to operate the vessel in compliance with the applicable regulations in this subchapter can be placed on the Certificate of Inspection, Load Line Certificate, or in the stability letter required in § 170.120.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.120 Stability letter.

(a) Except as provided in paragraph (b) of this section, each vessel must have a stability letter issued by the Coast Guard before the vessel is placed in service. This letter sets forth conditions of operation.

(b) A stability letter is not required if the information can be placed on the Certificate of Inspection or the Load Line Certificate.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.125 Operating information for a vessel engaged in lifting.

In addition to the information required in 170.110, the following information must be included in the stability booklet of a vessel that is required to comply with § 173.005 of this subchapter:

(a) *Non-counterballasted vessel.* If a vessel is not counterballasted, stability information setting forth hook load limits corresponding to boom radii based on the intact stability criterion in § 173.020 must be provided.

(b) *Counterballasted vessel.* If a vessel is counterballasted with water, the following information must be provided:

(1) Instructions on the effect of the free surface of the counterballast water.

(2) Instructions on the amounts of counterballast needed to compensate for hook load heeling moments.

(3) If a vessel has fixed counterballast, a table of draft versus maximum vertical moment of deck cargo and hook load combined.

(4) If a vessel has variable counterballast, a table of draft versus maximum vertical moment of deck cargo and hook load combined for each counterballasted condition.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.130 Operating information for a mobile offshore drilling unit.

In addition to the information required in § 170.110, the following instructions must be included in the operating manual for a mobile offshore drilling unit:

(a) Instructions for operating the unit while preparing for the passage of a severe storm, including the specific actions and approximate length of time necessary to attain each level of preparedness.

(b) Instructions for operating the unit while changing its operating condition including preparations for making a move.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

§ 170.135 Operating information for a vessel with Type III subdivision.

(a) In addition to the information required in § 170.110, the stability booklet of a passenger vessel with Type III subdivision must contain the information required by Regulation 8(b) of IMO Resolution A.265 (VIII).

(b) International Maritime Organization Resolution A.265 (VIII) is incorporated by reference into this part.

(c) As used in IMO Resolution A.265 (VIII), "Administration" means the Commandant, U. S. Coast Guard.

(Approved by the Office of Management and Budget under OMB control numbers 2115–0095, 2115–0114, 2115–0130, 2115–0131, 2130–0186, and 2130–0188)

Subpart E—Weather Criterion

§ 170.160 Specific applicability

(a) Except as provided in paragraphs (b) and (c) of this section, this subpart applies to each vessel.

(b) This subpart does not apply to any of the following vessels unless the stability of the vessel is questioned by the OCMI:

(1) A passenger vessel that—

(i) Is less than 100 gross tons;

(ii) Is less than 65 feet (19.8 meters) LOD measured over the weather deck; and

(iii) Carries 49 or less passengers.

(2) A deck cargo barge that complies with the requirements in § 174.020 of this chapter.

(3) A tank vessel that only carries a product listed in § 30.25–1 of this chapter and that is—

(i) Less than 150 gross tons; or

(ii) A tank barge that operates only in river or lakes, bays, and sounds service.

(c) This subpart does not apply to the following vessels:

(1) A tank barge that carries a product listed in Table 151.01–10(b) of this chapter.

(2) A mobile offshore drilling unit.

(3) A vessel that performs the test required by § 171.030(c) of this subchapter.

§ 170.170 Calculations required.

(a) Each vessel must be shown by design calculations to have a metacentric height (GM) that is equal to or greater than the following in each condition of loading and operation:

$$GM > \frac{PAH}{W \tan (T)}$$

Where—

P = .005 + (L/14,200)² tons/ft² . . . for ocean service, Great Lakes winter service, or service on exposed waters.

P = .005 + (L/1309)² metric tons/m² . . . for ocean service, Great Lakes winter service, or service on exposed waters.

P = .0033 + (L/14,200)² tons/mt² . . . for Great Lakes summer service or service on partially protected waters.

P = .036 + (L/1309)² metric tons/ft² . . . for Great Lakes summer service or service on partially protected waters.

P = .0025 + (L/14,200)² tons/ft² . . . for service on protected waters.

P = .028 + (L/1309)² metric tons/m² . . . for service on protected waters.

L = LBP in feet (meters).

A = projected lateral area in square feet (square meters) of the portion of the vessel and deck cargo above the waterline.

H = the vertical distance in feet (meters) from the center of A to the center of the underwater lateral area or approximately to the one-half draft point.

W = displacement in long (metric) tons.

T = 14 degrees or the angle of heel at which one-half the freeboard to the deck edge is immersed, whichever is less.

(b) If approved by the Commander (mmt), a larger value of T may be used for a vessel with a discontinuous weather deck or abnormal sheer.

(c) When doing the calculations required by paragraph (a) of this section for a sailing vessel or auxiliary sailing vessel, the vessel must be assumed—

(1) To be under bare poles; or

(2) If the vessel has an auxiliary propulsion, to have storm sails set and trimmed flat.

(d) The criterion specified in this section is generally limited in application to flush deck, mechanically powered vessels of ordinary proportions and form that carry cargo below the main deck. On other types of vessels, the Commander (mmt) requires calculations in addition to those in paragraph (a) of this section. On a mechanically powered vessel under 328 feet (100 meters) in length, other than a tugboat or a towboat, the requirements in § 170.173 are applied.

§ 170.173 Criterion for vessels of unusual proportion and form.

(a) If required by the Commander (mmt), each mechanically powered vessel less than 328 feet (100 meters) LLL, other than a tugboat or towboat, must be shown by design calculations to comply with—

(1) Paragraph (b) or (c) of this section if the maximum righting arm occurs at an angle of heel less than or equal to 30 degrees; or

(2) Paragraph (b) of this section if the maximum righting arm occurs at an angle of heel greater than 30 degrees.

(b) Each vessel must have—

(1) An initial metacentric height (GM) of at least 0.49 feet (0.15 meters);

(2) A maximum righting arm (GZ) of at least 0.66 feet (0.20 meters) at an angle of heel equal to or greater than 30 degrees;

(3) A maximum righting arm that occurs at an angle of heel not less than 25 degrees;

(4) An area under each righting arm curve of at least 10.3 foot-degrees (3.15 meter-degrees) up to an angle of heel of 30 degrees;

(5) An area under each righting arm curve of at least 16.9 foot-degrees (5.15 meter-degrees) up to an angle of heel of 40 degrees or the downflooding angle, whichever is less; and

(6) An area under each righting arm curve between the angles of 30 degrees and 40 degrees, or between 30 degrees and the downflooding angle if this angle is less than 40 degrees, of not less than 5.6 foot-degrees (1.72 meter-degrees).

(c) Each vessel must have—

(1) An initial metacentric height (GM) of at least 0.49 feet (0.15 meters);

(2) A maximum righting arm that occurs at an angle of heel not less than 15 degrees;

(3) An area under each righting arm curve of at least 16.9 foot-degrees (5.15 meter-degrees) up to an angle of heel of 40 degrees or the downflooding angle, whichever is less;

(4) An area under each righting arm curve between the angles of 30 degrees and 40 degrees, or between 30 degrees and the downflooding angle if this angle is less than 40 degrees, of not less than 5.6 foot-degrees (1.72 meter-degrees); and

(5) An area under each righting arm curve up to the angle of maximum righting arm of not less than the area determined by the following equation:

$A = 10.3 + 0.187\,(30 - Y)$ foot-degrees

$A = 3.15 + 0.057\,(30 - Y)$ meter-degrees

where—

A = area in foot-degrees (meter-degrees).

Y = angle of maximum righting arm, degrees

(d) For the purpose of demonstrating compliance with paragraphs (b) and (c) of this section, at each angle of heel a vessel's righting arm is calculated after the vessel is permitted to trim free until the trimming moment is zero.

Subpart F—Determination of Lightweight Displacement and Centers of Gravity

§ 170.174 Specific applicability.

This subpart applies to each vessel for which the lightweight displacement and centers of gravity must be determined in order to do the calculations required in this subchapter.

§ 170.175 Stability test: General.

(a) Except as provided in paragraphs (c) and (d) of this section and in § 170.200, the owner of a vessel must conduct a stability test of the vessel and calculate its vertical and longitudinal centers of gravity and its lightweight displacement.

(b) An authorized Coast Guard representative must be present at each stability test conducted under this section.

(c) The stability test may be dispensed with, or a deadweight survey may be substituted for the stability test, if the Coast Guard has a record of, or is provided with, the approved results of a stability test of a sister vessel.

(d) The stability test of a vessel may be dispensed with if the Coast Guard determines that an accurate estimate of the vessel's lightweight characteristics can be made and that locating the precise position of the vessel's vertical center of gravity is not necessary to insure that the vessel has adequate stability in all probable loading conditions.

§ 170.180 Plans and information required at the stability test.

The owner of a vessel must provide the following Coast Guard approved plans and information to the authorized Coast Guard representative at the time of the stability test:

(a) Lines.

(b) Curves of form.

(c) Capacity plans showing capacities and vertical and longitudinal centers of gravity of stowage spaces and tanks.

(d) Tank sounding tables.

(e) Draft mark locations.

(f) General arrangement plan of decks, holds, and inner bottoms.

(g) Inboard and outboard profiles.

(h) The stability test procedure described in § 170.185(g).

(Approved by the Office of Management and Budget under OMB control numbers 2115-0095, 2115-0114, 2115-0130, 2115-0131, 2130-0186, and 2130-0188)

§ 170.185 Stability test preparations.

The following preparations must be made before conducting a stability test:

(a) The vessel must be as complete as practicable at the time of the test.

(b) Each tank must be empty and dry, except that a tank may be partially filled or full if the Commander (mmt) determines that empty and dry tanks are impracticable and that the effect of filling or partial filling on the location of the center of gravity and on the displacement can be accurately determined.

(c) All dunnage, tools, and other items extraneous to the vessel must be removed.

(d) The water depth at the mooring site must provide ample clearance against grounding.

(e) Each mooring line must be arranged so that it does not interfere with the inclination of the unit during the test.

(f) The draft and axis of rotation selected for testing a mobile offshore drilling unit must be those that result in acceptable accuracy in calculating the center of gravity and displacement of the unit.

(g) The stability test procedure required by § 170.085 must include the following:

(1) Identification of the vessel to be tested.

(2) Date and location of the test.

(3) Inclining weight data.

(4) Pendulum locations and lengths.

(5) Approximate draft and trim of the vessel.

(6) Condition of each tank.

(7) Estimated items to be installed, removed, or relocated after the test, including the weight and location of each item.

(8) Schedule of events.

(9) Person or persons responsible for conducting the test.

§ 170.190 Stability test procedure modifications.

The authorized Coast Guard representative present at a stability test may allow a deviation from the requirements of § 170.180 and § 170.185 if the representative determines that the deviation would not decrease the accuracy of the test results.

§ 170.200 Estimated lightweight vertical center of gravity.

(a) Each tank vessel that does not carry a material listed in either Table 1 of § 153 or Table 4 of § 154 of this chapter may comply with this section in lieu of § 170.175 if it—

(1) Is 150 gross tons or greater;

(2) Is or ordinary proportions and form;

(3) Has a flush weather deck, one or more longitudinal bulkheads, and no independent tanks; and

(4) Is designed not to carry cargo above the freeboard deck.

(b) When doing the calculations required by § 170.170 and § 172.065, the vertical center of gravity of a tank vessel in the lightweight condition must be assumed to be equal to the following percentage of the molded depth of the vessel measured from the keel amidship:

(1) For a tank ship—70%.

(2) For a tank barge—60%.

(c) As used in this section, "molded depth" has the same meaning that is provided for the term in § 42.13-15(e) of this chapter.

Subpart G—Special Installations

§ 170.235 Fixed ballast.

(a) Fixed ballast, if used, must be—

(1) Installed under the supervision of the OCMI; and

(2) Stowed in a manner that prevents shifting of position.

(b) Fixed ballast may not be removed from a vessel or relocated unless approved by the Commander (mmt). However, ballast may be temporarily moved for vessel examination or repair if done under the supervision of the OCMI

§ 170.245 Foam flotation material.

(a) Installation of foam must be approved by the OCMI.

(b) If foam is used to comply with § 171.070(d) or § 171.095(c) of this subchapter, the following applies:

(1) Foam may be installed only in void spaces that are free of ignition sources.

(2) The foam must comply with MIL-P-21929B including the requirements for fire resistance.

(3) A submergence test must be conducted for a period of at least 7 days to demonstrate whether the foam has adequate strength to withstand a hydrostatic head equivalent to that which would be imposed if the vessel were submerged to its margin line.

(4) The effective buoyancy at the end of the submergence test must be used as the buoyancy credit; however, in no case will a credit greater than 55 lbs per cubic foot (881 kilograms per cubic meter) be allowed.

(5) The structure enclosing the foam must be strong enough to accommodate the buoyancy of the foam.

(6) Piping and cables must not pass through foamed spaces unless they are within piping and cable trunks accessible from both ends.

(7) Sample specimens must be prepared during installation and the density of the installed foam must be determined.

(8) Foam may be installed adjacent to fuel tanks if the boundary between the tank and space has double continuous fillet welds.

(9) MIL-P-21929B is incorporated by reference into this part.

(10) The results of all tests and calculations must be submitted to the OCMI.

(11) Blocked foam must—

(i) Be used in each area that may be exposed to water; and

(ii) Have a protective cover approved by the OCMI.

Subpart H—Watertight Bulkhead Doors

§ 170.248 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to vessels with watertight doors in bulkheads that have been made watertight to comply with the flooding or damage stability regulations in this subchapter

(b) A watertight door on a MODU must comply with § 174.100 of this subchapter.

§ 170.250 Types and classes.

(a) Watertight doors, except doors between cargo spaces, are classed as follows:

(1) Class 1—Hinged door.

(2) Class 2—Sliding door, operated by hand gear only

(3) Class 3—Sliding door, operated by power and by hand gear.

(b) The following types of watertight doors are not permitted:

(1) A plate door secured only by bolts; and

(2) A door required to be closed by dropping or by the action of dropping weights.

(c) Whenever a door of a particular class is prescribed by these regulations, a door of a class bearing a higher number may be used.

§ 170.255 Class 1 doors; permissible locations.

(a) Except as provided in paragraphs (b) and (c) of this section, Class 1 doors within passenger, crew, and working spaces are permitted only above a deck, the molded line of which, at its lowest point at side, is at least 7 feet (2.14 meters) above the deepest load line.

(b) Class 1 doors are permitted within passenger, crew, and working spaces, wherever located, if—

(1) In the judgment of the OCMI, the door is in a location where it will be closed at all times except when actually in use; and

(2) The vessel is less than 150 gross tons and will not proceed more than 20 nautical miles (37 kilometers) from shore; or

(3) The vessel is in rivers or lakes, bays, and sounds service.

(c) Class 1 doors are permitted in any location on a vessel that—

(1) Is less than 100 gross tons; and

(2) Will operate only in the offshore oil industry trade.

§ 170.260 Class 2 doors; permissible locations.

(a) Except as provided in paragraphs (b) and (c) of this section, a Class 2 door is permitted only if—

(1) Its sill is above the deepest load line; and

(2) It is not a door described in § 170.265(d).

(b) If passenger spaces are located below the bulkhead deck, Class 2 doors with sills below the deepest load line may be used if—

(1) The number of watertight doors located below the deepest load line that are used intermittently during operation of the vessel does not exceed two, and;

(2) The doors provide access to or are within spaces containing machinery.

(c) If no passenger spaces are located below the bulkhead deck, Class 2 doors may be used if the number of watertight doors located below the deepest load line that are used intermittently during operation of the vessel does not exceed five.

(d) In determining whether Class 2 doors are allowed under paragraph (c) of this section, the watertight doors at the entrance to shaft tunnels need not be counted. If Class 2 doors are allowed under paragraph (c) of this section, the doors at the entrance to shaft tunnels may also be Class 2.

§ 170.265 Class 3 doors; required locations.

The following doors must always be Class 3:

(a) Doors in all locations not addressed in §§ 170.255 and 170.260.

(b) Doors between coal bunkers below the bulkhead deck that must be opened at sea.

(c) Doors into trunkways that pass through more than one main transverse watertight bulkhead if the door sills are less than 2.14 meters above the deepest load line.

(d) Doors below a deck, the molded line of which, at its lowest point at side, is not at least 7 feet (2.14 meters) above the deepest load line if—

(1) The vessel is engaged on a short international voyage as defined in § 171.010 of this subchapter; and

(2) The vessel is required by § 171.065 of this subchapter to have a factor of subdivision of 0.05 or less.

§ 170.270 Door design, operation, installation, and testing.

(a) Each Class 1 door must have a quick action closing device operative from both sides of the door.

(b) Each Class 1 door on a vessel in ocean service must be designed to withstand a head of water equivalent to the depth from the sill of the door to the margin line but in no case less than 10 feet (3.05 meters).

(c) Each Class 2 and Class 3 door must be designed, tested, and installed in accordance with Subpart 163.001 of Subchapter Q (Specifications) of this chapter.

(d) For each watertight door, an indicator must be installed in the pilothouse and at each other vessel operating station from which the door is not visible. The indicator must show whether the door is open or closed.

§ 170.275 Special requirements for cargo space watertight doors.

(a) A door between cargo spaces—

(1) Must not be designed for remote operation;

(2) Must be located as high as practicable; and

(3) Must be located as far inboard of the side shell as practicable but in no case closer to the side shell than one-fifth of the beam of the vessel where the beam is measured at right angles to the centerline of the vessel at the level of the deepest load line.

(b) If the door is accessible while the ship is in operation, it must have installed a lock or other device that prevents unauthorized opening.

(c) Before installing a watertight door in a cargo space, approval must be obtained from the Commander(mmt).

Subpart I—Free Surface

§ 170.285 Free surface correction for intact stability calculations.

(a) When doing the intact stability calculations required by this subchapter, the virtual increase in the vessel's vertical center of gravity due to liquids in tanks must be determined by calculating—

(1) For each type of consumable liquid, the maximum free surface effect of at least one transverse pair of wing tanks or a single centerline tank; and

(2) The maximum free surface effect of each partially filled tank containing non-consumable liquids.

(b) For the purpose of paragraph (a)(1) of this section, the tank or combination of tanks selected must be those having the greatest free surface effect.

§ 170.290 Free surface correction for damage stability calculations.

(a) When doing the damage stability calculations required by this subchapter, the virtual increase in the vessel's vertical center of gravity due to liquids in tanks must be determined by calculating—

(1) For each type of consumable liquid, the free surface effect of at least one transverse pair of wing tanks or a single centerline tank; and

(2) The free surface effect of each partially filled tank containing other than consumable liquids.

(b) For the purpose of paragraph (a)(1) of this section, the tank or combination of tanks selected must be those having the greatest free surface effect.

(c) When doing the calculations in paragraph (a) of this section, the free surface effect of a liquid in a tank must be determined by—

(1) Assuming the vessel is heeled five degrees from the vertical; or

(2) Calculating the shift of the center of gravity of the liquid in the tank by the moment of transference method.

§ 170.295 Special consideration for free surface of passive roll stabilization tanks.

(a) The virtual increase in the vertical center of gravity due to a liquid in a roll stabilization tank may be calculated in accordance with paragraph (b) of this section if—

(1) The virtual increase in the vertical center of gravity of the vessel is calculated in accordance with § 170.285(a); and

(2) The slack surface in the roll stabilization tank is reduced during vessel motions because of the shape of the tank or the amount of liquid in the tank.

(b) The virtual rise in the vertical center of gravity calculated in accordance with § 170.285(a) for a stabilization tank may be reduced in accordance with the following equation:

E.F.S. = (K)(F.F.S.)

where—

E.F.S. = the effective free surface.
F.F.S. = the full free surface calculated in accordance with § 170.285(a).
K = the reduction factor calculated in accordance with paragraph (c) of this section.

(c) The factor (K) must be calculated as follows:

(1) Plot (I/d)tan T on Graph 170.295 where—

(i) (I) is the moment of inertia of the free surface in the roll tank;

(ii) (d) is the density of the liquid in the roll tank; and

(iii) (T) is the angle of heel.

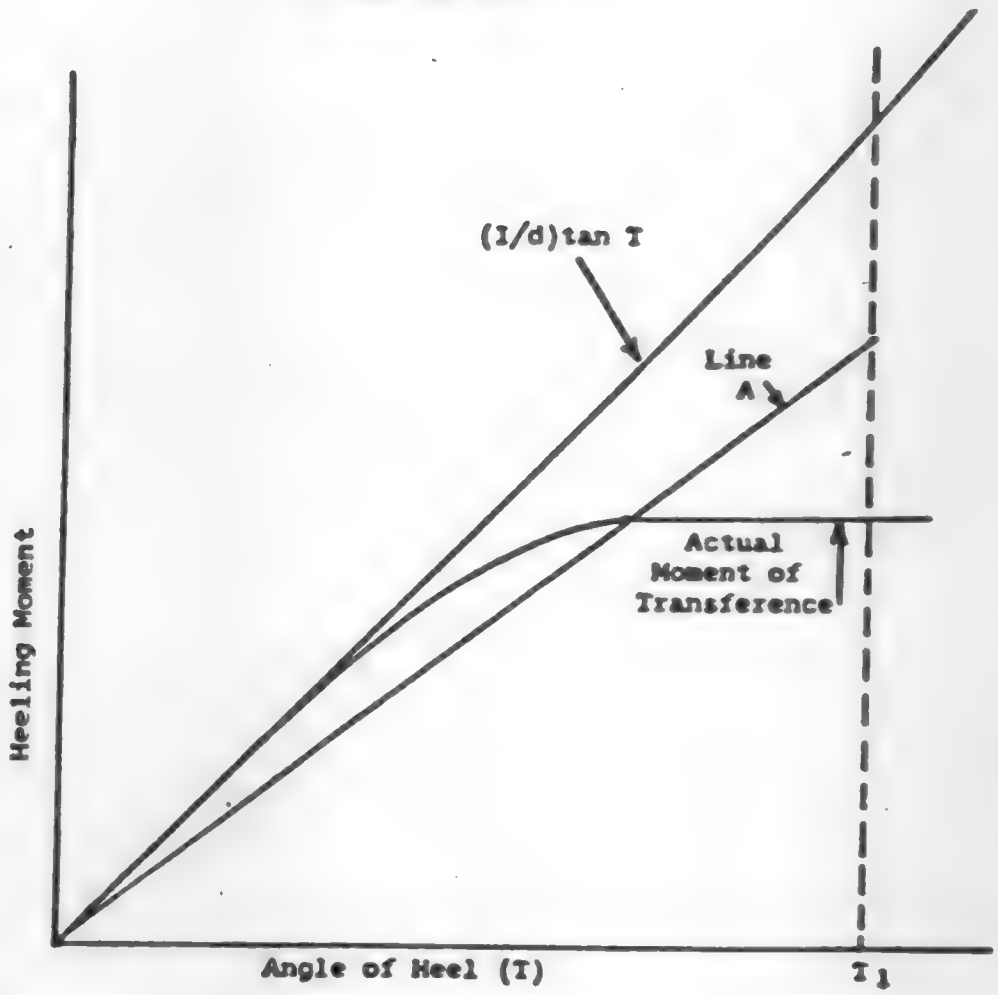
d(2) Plot the moments of transference of the liquid in the roll tank on Graph 170.295.

(3) Construct a line A on Graph 170.295 so that the area under line A between T = 0 and the angle at which the deck edge is immersed or 28 degrees, whichever is smaller, is equal to the area under the curve of actual moments of transference between the same angles.

(4) The factor (K) is calculated by determining the ratio of the ordinate of line A to the ordinate of the curve of (I/d)tan T, both measured at the angle at which the deck edge is immersed or 28 degrees, whichever is smaller.

GRAPH 170.295

Special Free Surface Correction
for
Stabilization Tanks



T_1 = the angle at which the deck edge is immersed or 28 degrees, whichever is smaller.

PART 171—SPECIAL RULES PERTAINING TO VESSELS CARRYING PASSENGERS

Subpart A—General

Sec.
171.001 Applicability.
171.010 Definitions.
171.015 Location of margin line.
171.017 One and two compartment standards of flooding.

Subpart B—Small Vessels

171.020 Specific applicability.
171.030 Intact stability requirements for a machanically propelled or a nonself-propelled vessel.
171.035 Intact stability requirements for a sailing vessel or an auxiliary sailing vessel.
171.040 Watertight subdivision.
171.043 Simplified method of spacing main transverse watertight bulkheads.

Subpart C—Large Vessels

171.045 Specific applicability.
171.050 Intact stability requirements for a mechanically propelled or a nonself-propelled vessel.
171.055 Intact stability requirements for a monohull sailing vessel or a monohull auxiliary sailing vessel.
171.057 Intact stability requirements for a sailing catamaran.
171.060 Watertight subdivision: general.
171.065 Subdivision requirements—Type I.
171.066 Calculation of permeability for Type I subdivision.
171.067 Treatment of stepped and recessed bulkheads in Type I subdivision.
171.068 Special considerations for Type I subdivision for vessels on short international voyages.
171.070 Subdivision requirements—Type II.
171.072 Calculation of permeability for Type II subdivision.
171.073 Treatment of stepped and recessed bulkheads in Type II subdivision.
171.075 Subdivision requirements—Type III.
171.080 Damage stability standards for vessels with Type I or Type II subdivision.
171.082 Damage stability standards for vessels with Type III subdivision.

Subpart D—Additional Subdivision Requirements

171.085 Collision bulkhead.
171.090 Aft peak bulkhead.
171.095 Machinery space bulkhead.
171.100 Shaft tunnels and stern tubes.
171.105 Double bottoms.
171.106 Wells in double bottoms.
171.108 Manholes in double bottoms.
171.109 Watertight floors in double bottoms.

Subpart E—Penetrations and Openings in Watertight Bulkheads

171.110 Specific applicability.
171.111 Penetrations and openings in watertight bulkheads in vessels of 100 gross tons or more.
171.112 Watertight door openings.
171.113 Trunks.
Sec.
171.114 Penetrations and openings in watertight bulkheads in a vessel less than 100 gross tons.

Subpart F—Openings in the Side of a Vessel Below the Bulkhead or Weather Deck

171.115 Specific applicability.
171.116 Port lights.
171.117 Dead covers.
171.118 Automatic ventilators and side ports.
171.119 Openings below the weather deck in the side of a vessel less than 100 gross tons.

Subpart G—Watertight Integrity Above the Margin Line

171.120 Specific applicability.
171.122 Watertight integrity above the margin line in a vessel of 100 gross tons or more.
171.124 Watertight integrity above the margin line in a vessel less than 100 gross tons.

Subpart H—Drainage of Weather Decks

171.130 Specific applicability.
171.135 Weather deck drainage on a vessel of 100 gross tons or more.
171.140 Drainage of a flush deck vessel.
171.145 Drainage of a vessel with a cockpit.
171.150 Drainage of a vessel with a well deck.
171.155 Drainage of an open boat.

Authority: Section 2, 37 Stat. 418 (46 U.S.C. 88); Sec. 2, 49 Stat. 888 as amended (46 U.S.C. 88a); Sec. 5, 49 Stat. 1384 as amended (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); Sec. 3, 70 Stat. 153 as amended (46 U.S.C. 390b); Sec. 5, Pub. L. 95–474, 92 Stat. 1480 as amended (46 U.S.C. 391a); Sec. 1, Pub. L. 85–739, 72 Stat. 833, as amended (46 U.S.C. 404); R.S. 4462, as amended (46 U.S.C. 416); Sec. 2, Pub. L. 96–453, 94 Stat. 207 (46 U.S.C. 1295f(c)(2)); Sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); Sec. 3, 68 Stat. 675 (50 U.S.C. 198); Sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General

§ 171.001 Applicability.

(a) This part applies to passenger vessels inspected under Subchapter T or H of this chapter.

(b) Specific sections of this part also apply to nautical school ships, oceanographic vessels, and nuclear vessels. The applicable sections are listed in Subparts C and D of Part 173 and Subpart D of Part 174 of this subchapter.

§ 171.010 Definitions.

(a) "Cockpit" means an exposed recess in the weather deck extending no more than one-half of the length of the vessel (LOD) measured over the weather deck.

(b) "Deepest subdivision load line" means the waterline that corresponds to the deepest draft permitted by the applicable subdivision requirements in this part.

(c) "Equivalent plane bulkhead" means a bulkhead that is—

(1) Used in lieu of a recessed or stepped bulkhead when doing the subdivision calculations required in this part; and

(2) Located as shown in Figure 171.010(a).

(d) "Ferry" means a vessel that—

(1) Operates in rivers or lakes, bays, and sounds service only;

(2) Has provisions only for deck passengers or vehicles, or both;

(3) Operates on a frequent schedule between two points over the most direct water route; and

(4) Offers a public service of a type normally attributed to a bridge or tunnel.

(e) "Floodable length" means the length of a shell to shell segment of the vessel that, when flooded, will sink and trim the vessel until the margin line is tangent to the waterline.

(f) "Flush deck" means a continuous weather deck located at the uppermost sheer line of the hull.

(g) "International voyage" has the same meaning provided for the term in § 70.05–10 of this chapter.

(h) "Machinery space" means, unless otherwise prescribed by the Commandant for unusual arrangements, the space extending from the molded base line to the margin line and between the main transverse watertight bulkheads bounding the following spaces:

(1) Each space containing main and auxiliary propelling machinery.

(2) Each space containing propulsion boilers.

(3) Each space containing permanent coal bunkers.

(i) "Open boat" means a vessel not protected from entry of water by means of a complete deck, or by a combination of a partial weather deck and superstructure which is seaworthy for the waters upon which the vessel operates.

(j) "Passenger space" means a space which is provided for the accommodation and use of passengers, other than a baggage, store, provision or mail room.

(k) "Recessed bulkhead" means a bulkhead that is recessed as shown by bulkhead B in Figure 171.010(b).

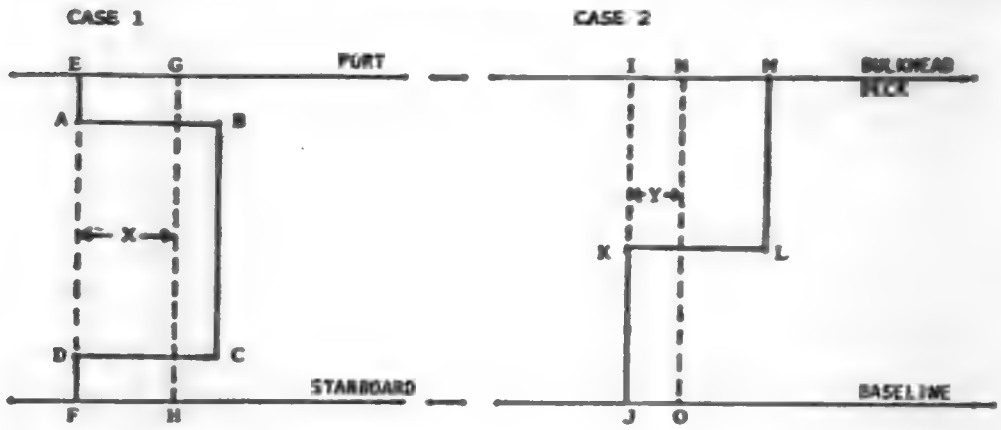
(l) "Short international voyage" means an international voyage where—

(1) A vessel is not more than 200 nautical miles (370 kilometers) from a port or place in which the passengers and crew could be placed in safety; and

(2) The total distance between the last port of call in the country in which the voyage began and the final port of destination does not exceed 600 nautical miles (1111 kilometers).

(m) "Stepped bulkhead" means a bulkhead that is stepped as shown by bulkhead A in Figure 171.010(b).

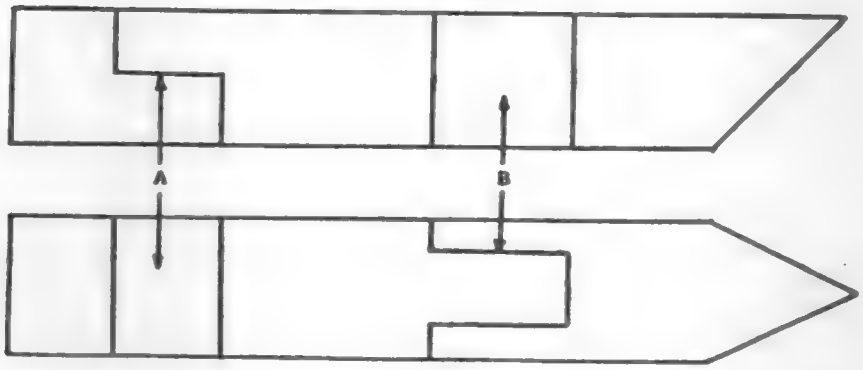
Figure 171.010(a)



Case 1: X = V/A
where–
X = Distance between EF and the equivalent plane bulkhead GH.
V = Volume of the space directly below ABCD and extending to the shell.
A = Sectional area midway between EF and GH.

Case 2: Y = V/A
where–
Y = Distance between IJ and the equivalent plane bulkhead MO.
V = Volume of the space directly below IKLM and extending to the shell.
A = Sectional area midway between IJ and MO.

Figure 171.010(b)



(n) "Well deck" means a weather deck fitted with solid bulwarks that impede the drainage of water over the sides or an exposed recess in the weather deck extending one-half or more of the length of the vessel (LOD) measured over the weather deck.

§ 171.015 Location of margin line.

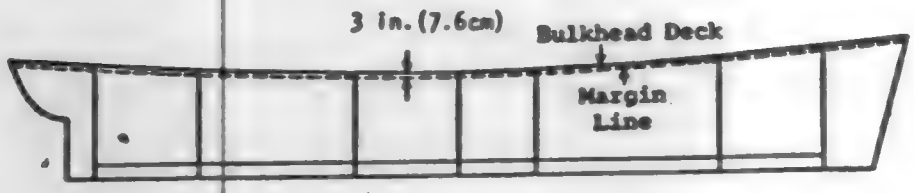
(a) *A vessel with a continuous bulkhead deck and sufficient sheer.* If the average value of the sheer at the forward perpendicular (FP) and the after perpendicular (AP) is at least 12 inches (30.5 cm), the margin line must be located no less than 3 inches (7.6 cm) below the upper surface of the bulkhead deck at side as illustrated in Figure 171.015(a).

TABLE 171.015

Average value of sheer at FP and AP in inches (cm)	Required position of margin line below top of deck amidships in inches (cm)
12 (30.5)	3 (7.6)
6 (15.2)	6 (15.2)
0	9 (22.8)

Figure 171.015(a)

Margin Line for a Vessel With a Continuous Bulkhead Deck and With an Average Value of Sheer at the FP and AP of at Least 12 Inches (30.5 cm)



(b) *A vessel with a continuous bulkhead deck ard insufficient sheer.* If the average value of the sheer at the forward perpendicular (FP) and the after perpendicular (AP) is less than 12 inches (30.5 cm), the margin line must be a parabolic curve with the following characteristics:

(1) The parabolic curve must be at least 3 inches (7.6 cm) below the upper surface of the bulkhead deck at the FP and AP.

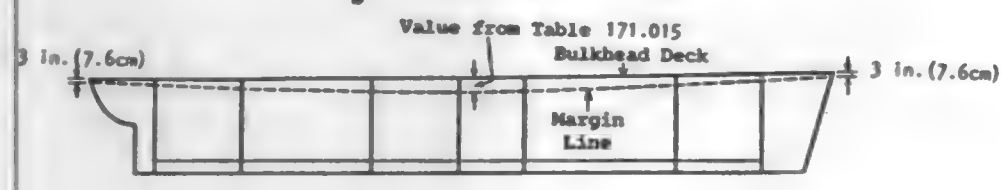
(2) The parabolic curve must be at least the distance given in Table 171.015 below the surface of the bulkhead deck amidships.

(3) Intermediate values not shown in Table 171.015 must be interpolated.

(4) Figure 171.015(b) illustrates a margin line drawn in this manner.

Figure 171.015(b)

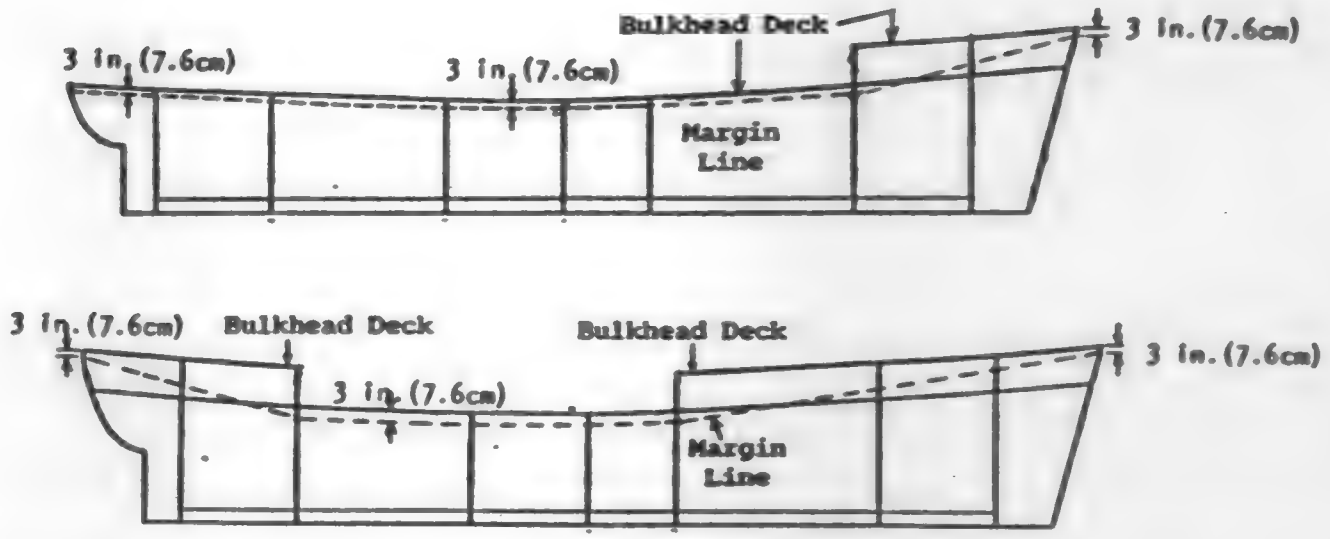
Margin Line for a Vessel With a Continuous Bulkhead Deck and With an Average Value of Sheer at the FP and AP Less Than 12 Inches (30.5 cm)



(c) *A vessel with a discontinuous bulkhead deck.* A continuous margin line must be drawn that is no more than 3 inches (7.6 cm) below the upper surface of the bulkhead deck at side as illustrated in Figure 171.015(c).

Figure 171.015(c)

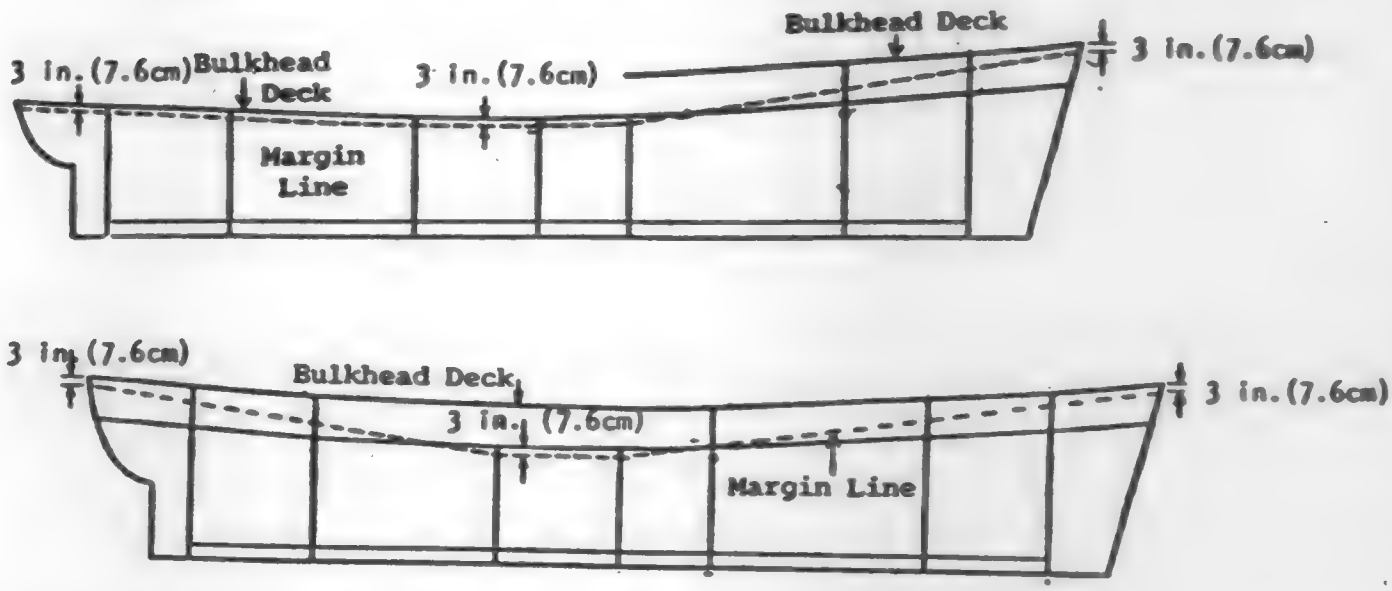
Margin Line for a Vessel With a Discontinuous Bulkhead Deck



(d) *A vessel with a discontinuous bulkhead deck where the side shell is carried watertight to a higher deck.* A continuous margin line must be drawn as illustrated in Figure 171.015(d).

Figure 171.015(d)

Margin Line for a Vessel With a Discontinuous Bulkhead Deck and With Side Shell Watertight to a Higher Deck



§ 171.017 One and two compartment standards of flooding.

(a) *One compartment standard of flooding.* A vessel is designed to a one compartment standard of flooding if the margin line is not submerged when the total buoyancy between each set of two adjacent main transverse watertight bulkheads is lost.

(b) *Two compartment standard of flooding.* A vessel is designed to a two compartment standard of flooding if the margin line is not submerged when the total buoyancy between each set of

three adjacent main transverse watertight bulkheads is lost.

Subpart B—Small Vessels

§ 171.020 Specific applicability.

(a) Except as provide in paragraph (b) of this section, this subpart applies to each vessel that is less than 100 gross tons, less than 65 feet (19.8 meters) LOD measured over the weather deck, and carries 150 or less passengers.

(b) This subpart does not apply to a vessel described in paragraph (a) of this section that carries more than 12 passengers on an international voyage.

§ 171.030 Intact stability requirements for a mechanically propelled or a non-self-propelled vessel.

(a) This section applies to each vessel, except a sailing vessel or an auxiliary sailing vessel, that—

(1) Carries more than 49 passengers;

(2) The stability of which is questioned by the OCMI; or

(3) Is permitted an increased passenger allowance by § 176.01–25(b) of this chapter.

(b) Each vessel must—

(1) Comply with § 170.170 and § 171.050 of this subchapter; or

(2) Perform the test in paragraph (d) of this section in the presence of the OCMI.

(c) Each vessel must be in the following condition when the test in paragraph (d) is performed:

(1) The construction of the vessel must be complete in all respects.

(2) Ballast, if necessary, must be solid and must be on board and in place.

(3) Fuel and water tanks must be approximately three-quarters full.

(4) The weight of passengers and other loads must be onboard and distributed so as to provide normal operating trim and to simulate the vertical center of gravity causing the least stable condition that is likely to occur in service. The number of passengers used in determining the total passenger weight must not be more than the maximum number permitted by § 176.01–25 of this chapter.

(5) If a vessel has non-return closures on cockpit scuppers or on weather deck drains, the closures must be kept open during the test.

(d) Each vessel must not exceed the limitations in paragraph (e) of this section, when subjected to the greater of the following heeling moments:

$$Mp = \frac{(W)(B)}{6}$$

or

$$Mw = (P)(A)(H)$$

where—

Mp = Passenger heeling moment in foot-lbs. (kilogram-meters).

W = the total passenger weight. (Assume 140 lbs. (63.5 kg) per passenger on protected waters when passenger load consists of men, women, and children. Assume 160 lbs. (72.6 kg) per passenger all other times.)

B = The maximum transverse distance that is accessible to the passengers in feet (meters).

Mw = Wind heeling moment in foot-lbs. (kilogram-meters).

P = A wind pressure of—

(1) 7.5 lbs./square foot (36.6 kg/square meter) for operation in protected waters;

(2) 10.0 lbs/square foot (48.8 kg/square meter) for operation in partially protected waters; and

(3) 15.0 lbs./square foot (73.2 kg/square meter) for operation in exposed waters.

A = Area, in square feet (square meters), of the projected lateral surface of the vessel above the waterline (this surface includes each projected area of the hull, superstructure and area bounded by railings and structural canopies).

H = Height, in feet (meters), to the center of area (A) above the waterline.

(e) Each vessel must not exceed the following limits of heel when doing the test in paragraph (d) of this section:

(1) *On a flush deck or well deck vessel,* no more than one half the freeboard may be immersed, except that, on a well deck vessel that operates on protected waters and has scuppers, the full freeboard may be immersed if the full freeboard is not more than one quarter of the distance from the waterline to the gunwale.

(2) *On a cockpit boat,* the maximum allowable immersion is calculated from the following equation:

(i) On exposed waters—

$$i = \frac{f(2L - 1.5L')}{4L}$$

(ii) On protected or partially protected waters

$$i = \frac{f(2L - L')}{4L}$$

Where—

i = maximum allowable immersion in feet (meters).

f = freeboard in feet (meters).

L = LOD, measured over the weather deck, in feet (meters).

L' = length of cockpit in feet (meters).

(3) *On an open boat,* no more than one-quarter of the freeboard may be immersed.

(4) In no case may the angle of heel exceed 14 degrees.

(f) The limits of heel must be measured at—

(1) The point of minimum freeboard; or

(2) At a point three quarters of the vessel's length from the bow if the point of minimum freeboard is aft of this point.

(g) Each ferry must also be tested in a manner acceptable to the OCMI to determine whether the trim or heel during loading or unloading will submerge the deck edge. A ferry passes this test if the deck edge is not submerged during loading or unloading.

(h) When demonstrating compliance with paragraph (e) of this section, the freeboard must be measured as follows:

(1) *For a flush deck or well deck vessel,* the freeboard must be measured to the top of the weatherdeck at the side of the vessel.

(2) *For a vessel with a cockpit or for an open boat,* the freeboard must be measured to the top of the gunwale.

§ 171.035 Intact stability requirements for a sailing vessel or an auxiliary sailing vessel.

(a) Except as provided in paragraph (b) of this section, each of the following sailing vessels and auxiliary sailing vessels must meet the intact stability standards of § 170.170 and § 171.055 of this subchapter:

(1) A vessel to be operated in exposed waters.

(2) A vessel to be operated during non-daylight hours.

(3) A vessel of unusual type, rig, or hull form.

(4) A vessel that carries more than 49 passengers.

(b) A catamaran must meet the intact stability requirements of § 170.170 and § 171.057 of this subchapter.

(c) Each sailing vessel and auxiliary sailing vessel not listed in paragraph (a) or (b) of this section must comlpy with the requirements in paragraphs (d) through (h).

(d) Each vessel operating in partially protected waters must have a self-bailing cockpit.

(e) The OCMI determines whether the vessel has adequate stability for protected waters or partially protected waters. When making this determination, the analysis techniques of paragraphs (f) or (g) of this section are used unless the OCMI determines

that other analysis techniques are more appropriate.

(f) Operational tests may be performed to assure that the vessel shows satisfactory handling characteristics under sail.

(g) The simplified stability test of § 171.030 may be used. The heeling moment used for this test must be the greater of the following:

(1) Passenger heeling moment from § 171.030.

(2) Wind heeling moment from § 171.030 under bare poles, or, if the vessel has no auxiliary power, with storm sails set.

(3) Wind heeling moment calculated from the following equation:

$Mw = (P)(A)(H)$

where—

Mw = wind heeling moment in foot-lbs. (kilogram-meters).

A = the windage area of the vessel in square feet (square meters) with all sail set and trimmed flat.

H = the distance in feet (meters) from the center of the windage area to the waterline.

P = 1.0 lbs./square foot (4.9 kilograms/square meter) for both protected and partially protected waters.

(h) Additional or different stability requirements may be needed for a broad, shallow draft vessel with little or no ballast outside the hull. The additional requirements, if needed, will be prescribed by the appropriate Commander (mmt).

§ 171.040 Watertight subdivision.

(a) Each vessel that carries more than 49 passengers must comply with the following:

(1) Each vessel must have a collision bulkhead.

(2) If the vessel is designed to comply with §171.030(b)(1), it must also meet the subdivision and damage stability requirements in § 171.070 and § 171.080.

(3) If the vessel is designed to comply with § 171.030(b)(2), the main transverse watertight bulkheads must be spaced in accordance with § 171.043.

(b) Each vessel that does not carry more than 49 passengers must have a collision bulkhead unless it is—

(1) Less than 40 feet (12 meters) in length and operated on partially protected waters; or

(2) Operated on other than ocean waters.

(c) Insofar as practicable, watertight bulkheads must be installed in one plane without steps or recesses.

(d) Each double-ended ferry that is required by paragraphs (a) or (b) of this section to have a collision bulkhead must also have a second collision bulkhead. One collision bulkhead must be located in each end of the vessel.

§ 171.043 Simplified method of spacing main transverse watertight bulkheads.

(a) The maximum distance between adjacent main transverse watertight bulkheads on vessels required by § 171.040(a)(3) to comply with this section, must not be greater than the smaller of the following:

(1) One-third of LOD measured over the bulkhead deck; or

(2) The distance given by the following equation:

$$d = \frac{(F)(f)(L)}{D}$$

where—

d = the maximum distance in feet (meters) between adjacent main transverse watertight bulkheads.

f = the effective freeboard in feet (meters) calculated for each pair of adjacent bulkheads in accordance with paragraph (b) of this section.

L = LOD in feet (meters) measured over the bulkhead deck.

F = the floodable length factor from Table 171.043.

D = the distance in feet (meters) from the inside of the shell plating or planking to the point of intersection of the bulkhead deck and side shell when measured amidships at a point one-quarter of the maximum beam, amidships, from the centerline as shown in Figure 171.043(a).

(b) The effective freeboard for each compartment is calculated by the following equation:

$$f = \frac{a+b}{2}$$

where—

f = the effective freeboard in feet (meters).

a = the freeboard in feet (meters) measured—

(1) at the forward main transverse watertight bulkhead; and

(2) from the deepest load line to—

(i) the top of the bulkhead deck on a flush deck vessel; or

(ii) if a vessel has a stepped bulkhead deck, the line shown in Figure 171.043(b); or

(iii) if a vessel has an opening port light below the bulkhead deck, the line shown in Figure 171.043(c).

b = the freeboard in feet (meters) measured—

(1) at the aft main transverse watertight bulkhead; and

(2) from the deepest load line to—

(i) the top of the bulkhead deck on a flush deck vessel; or

(ii) if a vessel has a stepped bulkhead deck, the line shown in Figure 171.043(b); or

(iii) if a vessel has an opening port light below the bulkhead deck, the line shown in Figure 171.043(c).

TABLE 171.043—TABLE OF FLOODABLE LENGTH FACTORS

(d/L)X100 [1]	Floodable length factor [2]
5–10	[illegible]
15	[illegible]
20	[illegible]
25	[illegible]
30	[illegible]
35	[illegible]
40	[illegible]
45	[illegible]
50	[illegible]
55	[illegible]
60	[illegible]
65	53
70	[illegible]
75	[illegible]
80	[illegible]
85	27
90–100	[illegible]

[1] where—

d = the distance in feet (meters) from the midpoint of the compartment to the forward most point of the bulkhead deck excluding sheer; and

L = the length of the vessel (LOD) in feet (meters) measured over the bulkhead deck.

[2] Intermediate values of floodable length factor can be obtained by interpolation.

[illegible] CODE 4910-14-M

Figure 171.043(a)

Transverse Location for Measuring Depth (D)

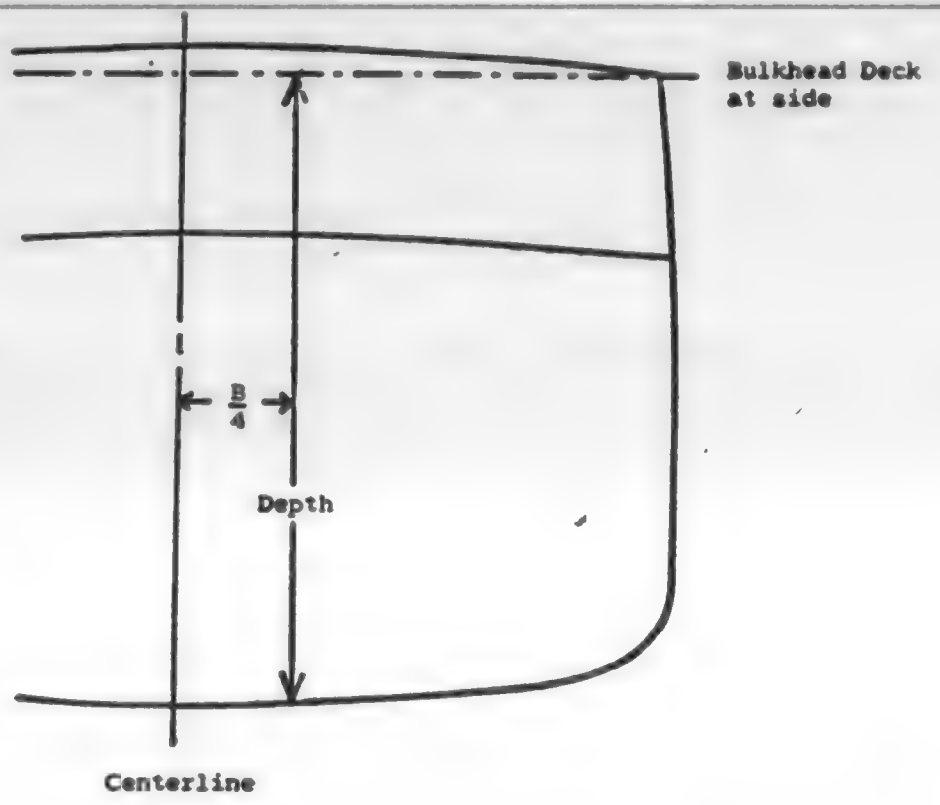
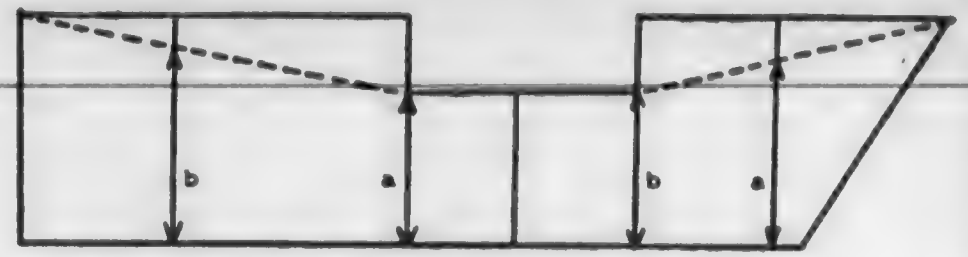


Figure 171.043(b)

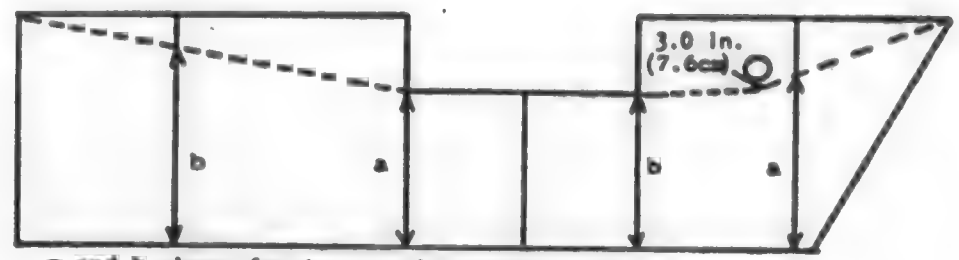
Freeboard Measurement-
Vessel With a Stepped Bulkhead Deck



a and b shown for two sample compartments

Figure 171.043(c)

Freeboard Measurement-
Vessel With a Stepped Bulkhead Deck and
a Port Light Below the Bulkhead Deck



a and b shown for two sample compartments

§ 171.045 Applicability.

This subpart applies to each vessel that is—

(a) Self-propelled;

(b) Over 79 feet (24 meters) long in length (L);

(c) Built on or after January 1, 1985, or on an earlier date if—

(d) Not a fishing vessel; and

(e) Not a mobile offshore drilling unit.

§ 171.050 Stability information for a mechanically propelled vessel.

Each vessel must have sufficient calculations to show the vessel's height of center of gravity under conditions of loading that the vessel is not likely to exceed in service as follows:

where

N=number of persons

W=displacement (in long tons)

T=1.4 (for vessels with a mechanical propulsion system)

b=distance (in feet) from the centerline to the farthest passenger capacity location on the vessel

K=24 (for vessels with a mechanical propulsion system)

§ 171.055 Stability information for a motor vessel with auxiliary sail.

(a) [illegible]

(b) [illegible] of the vessel. The vessel must be shown to meet the stability requirements of this subpart in the vessel's sailing rig. The vessel must meet the needed Commandant (G-MTH) approval.

(c) [illegible] righting arm curve and loading information for the service protected by the vessel.

(1) [illegible] service protected by the vessel.

(2) [illegible] service protected by the vessel.

(d) [illegible] satisfy the requirements of (1) [illegible] or part of the vessel.

Subpart C—Large Vessels

§ 171.045 Specific applicability.

This subpart applies to each vessel that fits into any one of the following categories:

(a) Greater than 100 gross tons.

(b) Greater than 65 feet (19.8 meters) in length.

(c) Carries more than 12 passengers on an international voyage.

(d) Carries more than 150 passengers.

(e) The stability of which is questioned by the OCMI.

§ 171.050 Intact stability requirements for a mechanically propelled or nonself-propelled vessel.

Each vessel must be shown by design calculations to have a metacentric height (GM) in feet (meters) in each condition of loading and operation, that is not less than the value given by the following equation:

$$GM = \frac{Nb}{(K)(W)(\tan(T))}$$

where—
N=number of passengers.
W=displacement of the vessel in long (metric) tons.
T=14 degrees or the angle of heel at which the deck edge is first submerged, whichever is less.
b=distance in feet (meters) from the centerline of the vessel to the geometric center of the passenger deck on one side of the centerline.
K=24 passengers/long ton (23.6 passengers/metric ton).

§ 171.055 Intact stability requirements for a monohull sailing vessel or a monohull auxiliary sailing vessel.

(a) Except as specified in paragraph (b) of this section, each monohull sailing vessel and auxiliary sailing vessel must be shown by design calculations to meet the stability requirements in this section.

(b) Additional or different stability requirements may be needed for a vessel of unusual form, proportion, or rig. The additional requirements, if needed, will be prescribed by the Commandant.

(c) Each vessel must have positive righting arms in each condition of loading and operation from—

(1) 0 to at least 70 degrees of heel for service on protected or partially protected waters; and

(2) 0 to at least 90 degrees of heel for service on exposed waters.

(d) Each vessel must be designed to satisfy the following equations:

(1) For a vessel in service on protected or partially protected waters—

$$\frac{1000(W)HZA}{(A)(H)} > X$$

$$\frac{1000(W)HZB}{(A)(H)} > Y$$

$$\frac{1000(W)HZC}{(A)(H)} > Z$$

where—
X=1.0 long tons/sq. ft. (10.9 metric tons/sq. meter).
Y=1.1 long tons/sq. ft. (12.0 metric tons/sq. meter).
Z=1.25 long tons/sq. ft. (13.7 metric tons/sq. meter).

(2) For a vessel on exposed waters—

$$\frac{1000(W)HZA}{(A)(H)} > X$$

$$\frac{1000(W)HZB}{(A)(H)} > Y$$

$$\frac{1000(W)HZC}{(A)(H)} > Z$$

where—
HZA, HZB, and HZC are calculated in the manner specified in paragraph (e) or (f) of this section.
X=1.5 long tons/sq. ft. (16.4 metric tons/sq. meter).
Y=1.7 long tons/sq. ft. (18.6 metric tons/sq. meter).
Z=1.9 long tons/sq. ft. (20.8 metric tons/sq. meter).
A=the projected lateral area in square feet (square meters) of the portion of the vessel above the waterline computed with all sail set and trimmed flat, except that 100% of the fore triangle area may be used in lieu of the area of the individual headsails when determining A if the total area of the headsails exceeds the fore triangle area.
H=the vertical distance in feet (meters) from the center of A to the center of the underwater lateral area or approximately to the one-half draft point.
W=the displacement of the vessel in long (metric) tons.

(e) Except as provided in paragraph (f) of this section, HZA, HZB, and HZC must be determined as follows for each condition of loading and operation:

(1) Plot the righting arm curve on Graphs 171.005 (b), (c), and (d) or (e).

(2) If the angle at which the maximum righting arm occurs is less than 35 degrees, the righting arm curve must be truncated as shown on Graph 171.055(a).

(3) Plot an assumed heeling arm curve on Graph 171.055(b) that satisfies the following conditions:

(i) The assumed heeling arm curve must be defined by the equation—

$$HZ = HZA \cos^2(T)$$

where—
HZ=heeling arm.
HZA=heeling arm at 0 degrees of heel.
T=angle of heel.

(ii) The first intercept shown on Graph 171.055(b) must occur at the angle of heel corresponding to the angle at which deck edge immersion first occurs.

(4) Plot an assumed heeling arm curve on Graph 171.055(c) that satisfies the following conditions:

(i) The assumed heeling arm curve must be defined by the equation—

$$HZ = HZB \cos^2(T)$$

where—
HZ=heeling arm.
HZB=heeling arm at 0 degrees of heel.
T=angle of heel.

(ii) The area under the assumed heeling arm curve between 0 degrees and the downflooding angle or 60 degrees, whichever is less, must be equal to the area under the righting arm curve between the same limiting angles.

(5) Plot an assumed heeling arm curve on Graph 171.055 (d) or (e) that satisfies the following conditions:

(i) The assumed heeling arm curve must be defined by—

$$HZ = HZC \cos^2(T)$$

Where—
HZ=heeling arm.
HZC=heeling arm at 0 degrees of heel.
T=angle of heel.

(ii) The area under the assumed heeling arm curve between the angles of 0 and 90 degrees must be equal to the area under the righting arm curve between 0 degrees and—

(A) 90 degrees if the righting arms are positive to an angle less than or equal to 90 degrees; or

(B) The largest angle corresponding to a positive righting arm but no more than 120 degrees if the righting arms are positive to an angle greater than 90 degrees.

(6) The values of HZA, HZB, and HZC are read directly from Graphs 171.055 (b), (c), and (d) or (e).

(f) For the purpose of this section, the downflooding angle means the static angle from the intersection of the vessel's centerline and waterline in calm

water to the first opening that cannot be rapidly closed watertight.

(g) HZB and, if the righting arms are positive to an angle of 90 degrees or greater, HZC may be computed from the following equation:

$$HZB \text{ (or } HZC) = \frac{I}{(T/2) + 14.3 \sin 2T}$$

where—

I = the area under the righting arm curve to—

(1) the downflooding angle or 60 degrees, whichever is less, when computing HZB; or

(2) the largest angle corresponding to a positive righting arm or 90 degrees, whichever is greater, but no greater than 120 degrees when computing HZC.

T = the downflooding angle or 60 degrees, whichever is less, when computing HZB or 90 degrees when computing HZC.

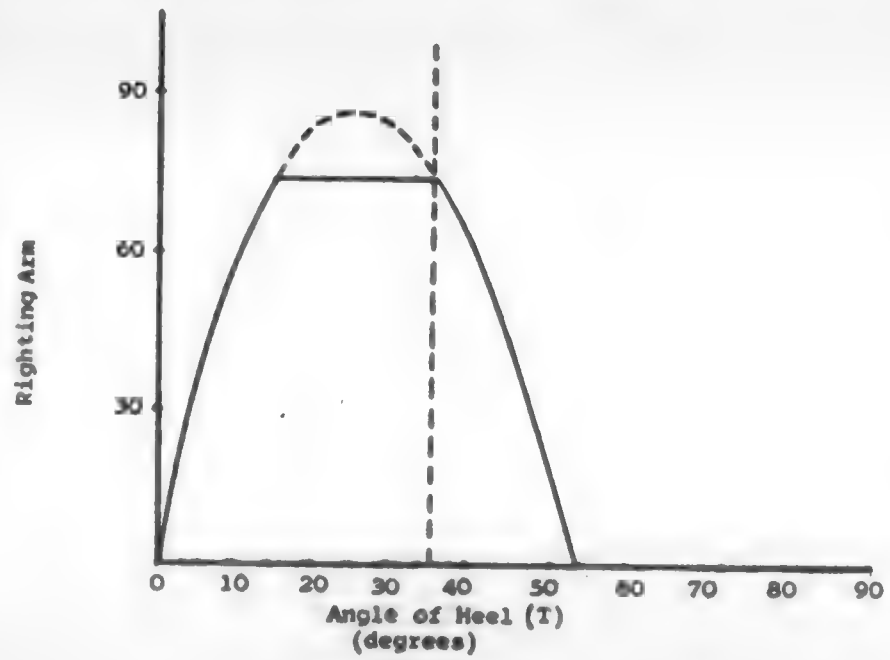
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GRAPH 171.055(b)

GRAPH 171.055(a)

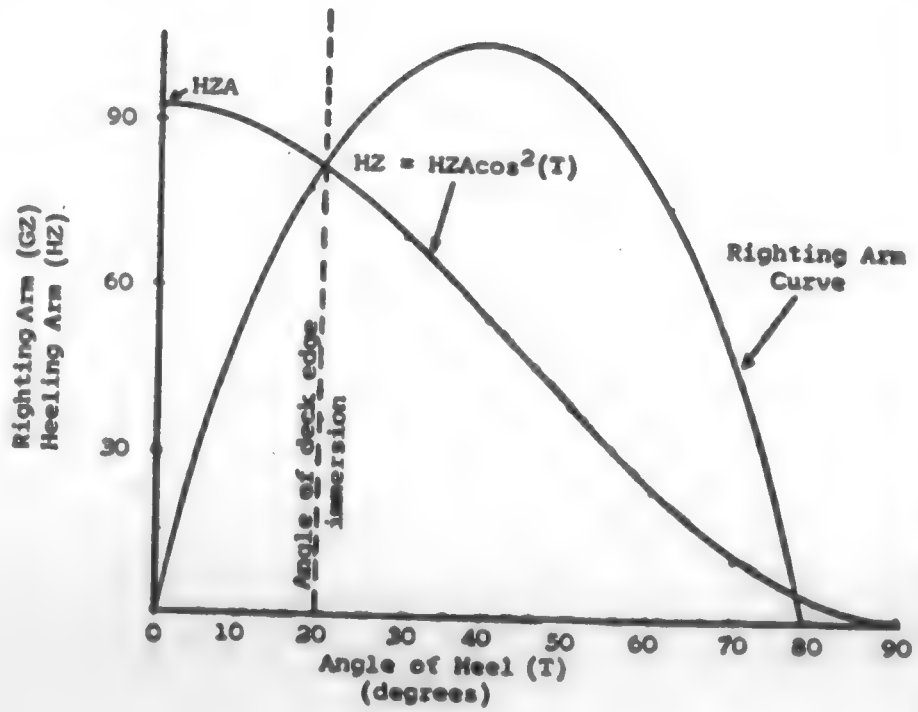
GRAPH 171.055(a)

Truncation of Righting Arm Curve if Maximum Righting Arm Occurs at an Angle of Heel Less Than 35 Degrees



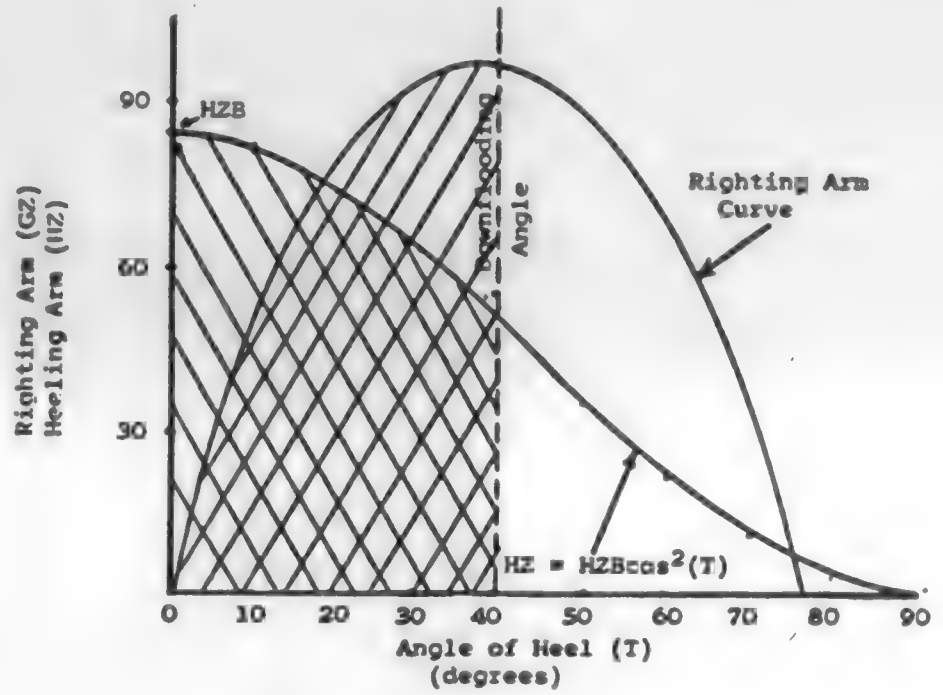
GRAPH 171.055(b)

First Intercept Occurs at the Angle at Which Deck Edge Immersion First Occurs



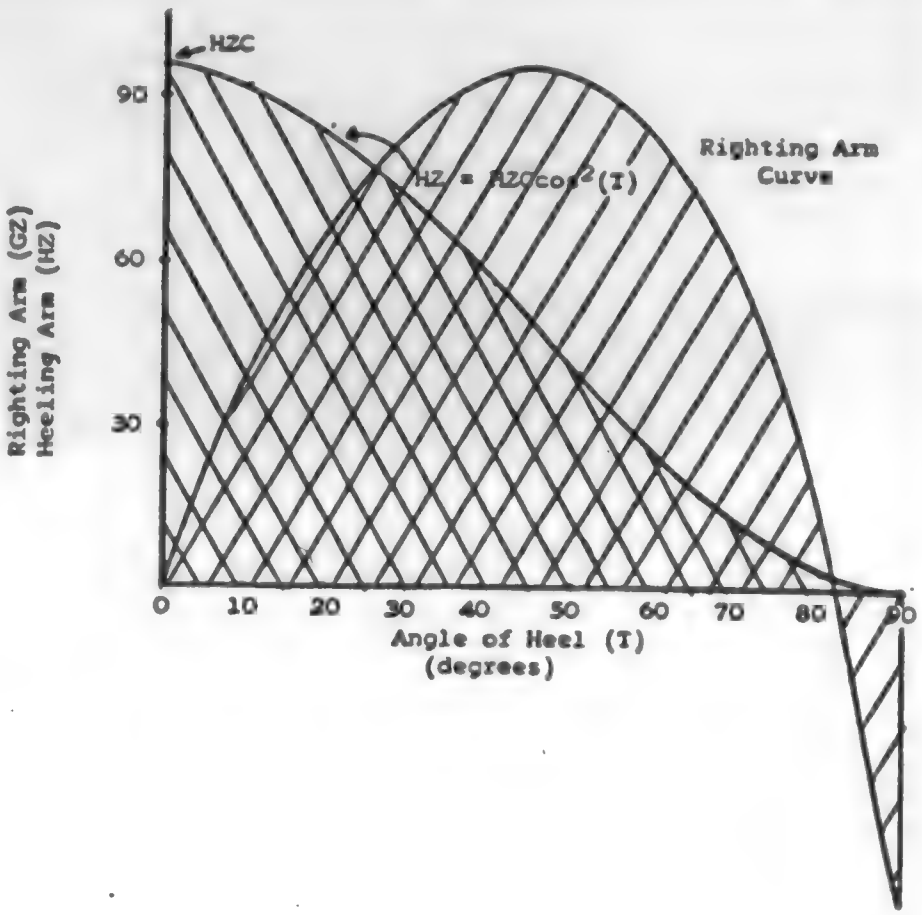
GRAPH 171.055(c)

Shaded Areas are Balanced to the Downflooding Angle



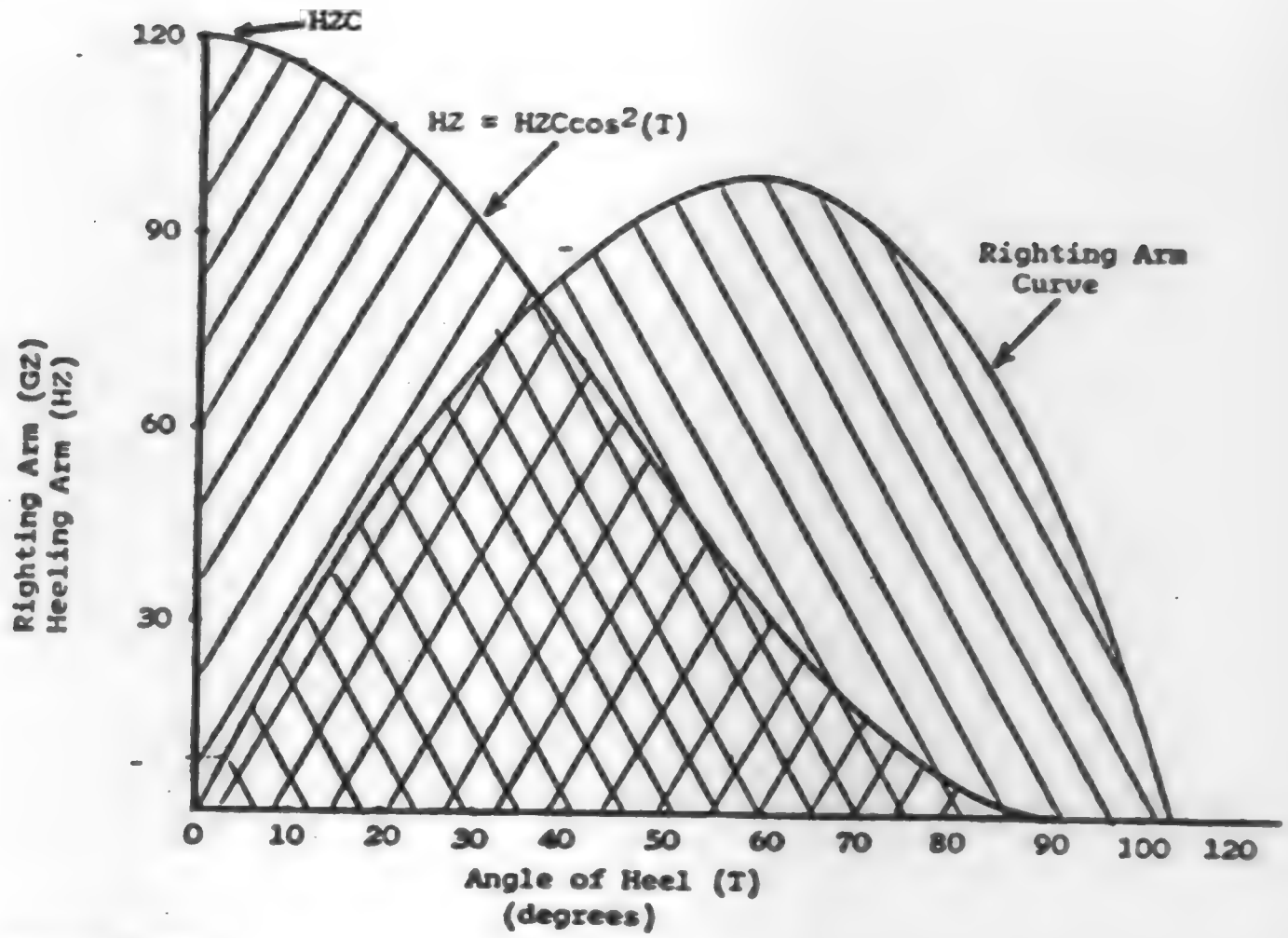
GRAPH 171.055(d)

Righting Arm Curve is not Positive to 90 Degrees and Negative Area is Included



GRAPH 171.055(e)

Righting Arm Curve is Positive Beyond 90 Degrees



BILLING CODE 4910-14-C

§ 171.057 Intact stability requirements for a sailing catamaran.

(a) A sailing catamaran that operates on protected or partially protected waters must be designed to satisfy the following equation:

$$\frac{0.6(W)B}{2(As)(Hm)} > X$$

where—
B = the distance between hull centerlines in feet (meters).
As = sail area in square feet (square meters).
Hm = the mast height above the deck in feet (meters).
W = the combined displacement of both hulls in lbs. (kilograms).
X = 1.0 lbs./sq. ft. (4.88 kilograms/sq. meter).

(b) A sailing catamaran that operates on exposed waters must be designed to satisfy the following equation:

$$\frac{0.6(W)B}{2(As)(Hm)} > X$$

where—
B = the distance between hull centerlines in feet (meters).
As = sail area in square feet (square meters).
Hm = the mast height above the deck in feet (meters).
W = the combined displacement of both hulls in lbs. (kilograms).
X = 1.5 lbs./sq. ft. (7.32 kilograms/sq. meter).

§ 171.060 Watertight subdivision: General.

(a) Each of the following vessels must be shown by design calculations to comply with the requirements in §§ 171.065 through 171.068 for Type I subdivision or § 171.075 for Type III subdivision:

(1) Each vessel 100 gross tons or more on an international voyage: and

(2) Each vessel 150 gross tons or more in ocean service.

(b) Each vessel not described in paragraph (a) of this section must be shown by design calculations to comply with the requirements in §§ 171.070–171.073 for Type II subdivision.

(c) Except as allowed in § 171.070(c), each vessel must have a collision bulkhead.

(d) Each double-ended ferry that is required by paragraph (c) of this section to have a collision bulkhead must also have a second collision bulkhead. One collision bulkhead must be located in each end of the vessel.

§ 171.065 Subdivision requirements—Type I.

(a) Except as provided in paragraphs (c) and (f) of this section, the separation between main transverse watertight bulkheads on a vessel, other than one described in paragraph (b) of this section, must not exceed—

(floodable length) X (factor of subdivision)

where—
the factor of subdivision is listed under FS in Table 171.065(a).

(b) The factor of subdivision used to determine compliance with paragraph (a) of this section must be the smaller of 0.5 or the value determined from Table 171.065(a) if—

(1) The vessel is 430 feet (131 meters) or more in LBP; and

(2) The greater of the values of Y as determined by the following equations equals or exceeds the value of X in Table 171.065(b):

$$Y = \frac{(M+2P)}{V}$$

or

$$Y = \frac{(M+2P1)}{V+P1-P}$$

where—
M, V, and P have the same value as listed in Table 171.065(a); and
P1 = the smaller of the following:
(i) 0.6LN (0.056LN) where—
N = the total number of passengers; and
L = LBP in feet (meters).
(ii) The greater of the following:
(A) 0.4LN (0.037LN).
(B) The sum of P and the total volume of passenger spaces above the margin line.

(c) The distance A in Figure 171.065 between main transverse watertight bulkheads may exceed the maximum allowed by paragraphs (a) or (b) of this section if each of the distances B and C between adjacent main transverse watertight bulkheads in Figure 171.065 does not exceed the smaller of the following:

(1) The floodable length.

(2) Twice the separation allowed by paragraphs (a) or (b) of this section.

(d) In each vessel 330 feet (100 meters) or more in LBP, one of the main transverse watertight bulkheads aft of the collision bulkhead must be located at a distance from the forward perpendicular that is not greater than the maximum separation allowed by paragraph (a) or (b) of this section.

(e) The minimum separation between two adjacent main transverse watertight bulkheads must be at least 10 feet (3.05 meters) plus 3 percent of the LBP of the vessel, or 35 feet (10.7 meters), whichever is less.

(f) The maximum separation of bulkheads allowed by paragraphs (a) or (b) of this section may be increased by the amount allowed in paragraph (g) of this section if—

(1) The space between two adjacent main transverse watertight bulkheads contains internal watertight volume; and

(2) After the assumed side damage specified in paragraph (h) of this section is applied, the internal watertight volume will not be flooded.

(g) For the purpose of paragraph (f) of this section, the allowable increase in separation is as follows:

$$\text{Increase in separation} = \frac{\text{"total volume of allowed local subdivision"}}{\text{"transverse sectional area at center of compartment"}}$$

where—
"total volume of allowed local subdivision" is determined by calculating the unflooded volume on each side of the centerline and multiplying the smaller volume by two.

(h) The assumed extents of side damage are as follows:

(1) *The longitudinal extent of damage* must be assumed to extend over a length equal to the minimum spacing of bulkheads specified in paragraph (e) of this section.

(2) *The transverse extent of damage* must be assumed to penetrate a distance from the shell plating equal to one-fifth the maximum beam of the vessel and at right angles to the centerline at the level of the deepest subdivision load line.

(3) *The vertical extent of damage* must be assumed to extend vertically from the baseline to the margin line.

(i) The maximum separation between the following bulkheads must not exceed the maximum separation between main transverse watertight bulkheads:

1. The collision bulkhead and the first main transverse watertight bulkhead aft of the collision bulkhead; and

(2) The last main transverse watertight bulkhead and the aftermost point on the bulkhead deck.

(j) The minimum separation between the following bulkheads must not be less than the minimum separation between main transverse watertight bulkheads:

(1) The collision bulkhead and the first main transverse watertight bulkhead aft of the collision bulkhead; and

(2) The last main transverse watertight bulkhead and the aftermost point on the bulkhead deck.

Figure 171.065

Combined Separation of Bulkheads

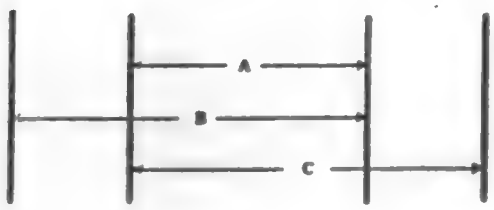


TABLE 171.065(a) (ENGLISH UNITS)

Vessel length (LBP)	Criterion numeral (CN)	FS
Vessel length greater than 392 feet.	CN less than or equal to 23.	A
	CN greater than 23 and less than 123.	F1
	CN greater than or equal to 123.	B
Vessel length greater than or equal to 200 feet and less than or equal to 392 feet.	CN less than or equal to S.	1
	CN greater than S and less than 123.	F2
	CN greater than or equal to 123.	B
Vessel length less than 200 feet.		1

Where—
FS = the factor of subdivision.
CN = 60((M + 2P)/V) + 30000(N/L²)
A = (190/(L − 160)) + 0.18
B = (94/(L − 85)) + 0.18
F1 = A − ((A − B)(CN − 23)/100)
S = (10904 − 25L)/48
F2 = 1 − ((1 − B)(CN − S)/(123 − S))
L = the length of the vessel (LBP) in feet.
M = the sum of the volume of the machinery space and the volumes of any fuel tanks which are located above the inner bottom forward or aft of the machinery space in cubic feet.
P = the volume of passenger spaces below the margin line.
V = the volume of the vessel below the margin line.
N = the number of passengers that the vessel is to be certificated to carry.

TABLE 171.065(a) (METRIC UNITS)

Vessel length (LBP)	Criterion numeral (CN)	FS
Vessel length greater than 120 meters.	CN less than or equal to 23.	A
	CN greater than 23 and less than 123.	F1
	CN greater than or equal to 123.	B
Vessel length greater than or equal to 61 meters and less than or equal to 120 meters.	CN less than or equal to S.	1
	CN greater than S and less than 123.	F2
	CN greater than or equal to 123.	B
Vessel length less than 61 meters.		1

Where—
FS = the factor of subdivision.
CN = 60((M + 2P)/V) + 2787(N/L²)
A = (58/(L − 49)) + 0.18
B = (29/(L − 26)) + 0.18
F1 = A − ((A − B)(CN − 23)/100)
S = (3323.5 − 25L)/14.6
F2 = 1 − ((1 − B)(CN − S)/(123 − S))
L = the length of the vessel (LBP) in meters.
M = the sum of the volume of the machinery space and the volumes of any fuel tanks which are located above the inner bottom forward or aft of the machinery space in cubic meters.
P = the volume of passenger spaces below the margin line.
V = the volume of the vessel below the margin line.
N = the number of passengers that the vessel is to be certificated to carry.

TABLE 171.065(b).—Table of X

Vessel LBP in feet (meters)	X[1]
430 (131)	1.336
440 (134)	1.295
450 (137)	1.230
460 (140)	1.174
470 (143)	1.117
480 (146)	1.060
490 (149)	1.002
500 (152)	0.944
510 (155)	0.886
520 (158)	0.828
530 (162)	0.768
540 (165)	0.708
550 (168)	0.648
554 (169) and up	0.625

[1] Interpolate for intermediate values.

§ 171.066 Calculation of permeability for Type I subdivision.

(a) Except as prescribed in paragraph (b) of this section, the following permeabilities must be used when doing the calculations required to demonstrate compliance with §§ 171.065(a), (b), and (c):

(1) When doing calculations required to demonstrate compliance with §§ 171.065(a) and (b), the uniform average permeability given by the formulas in Table 171.066 must be used.

(2) When doing calculations required to demonstrate that compartments on opposite sides of a main transverse watertight bulkhead that bounds the machinery space comply with § 171.065(c), the mean of the uniform average permeabilities determined from Table 171.066 for the two compartments must be used.

(b) If an average permeability can be calculated that is less than that given by the formulas in Table 171.066, the lesser value may be substituted if approved by the Commander (mmt). When determining this lesser value, the following permeabilities must be used:

(1) 95% for passenger, crew, and all other spaces that, in the full load condition, normally contain no cargo, stores, provisions, or mail.

(2) 60% for cargo, stores, provisions, or mail spaces.

(3) 85% for spaces containing machinery.

(4) Values approved by the Commander (mmt) for double bottoms, oil fuel, and other tanks.

(c) In the case of unusual arrangements, the Commander (mmt) may require a detailed calculation of average permeability for the portions of the vessel forward or aft of the machinery spaces. When doing these calculations, the permeabilities specified in paragraph (b) of this section must be used.

(d) When calculating permeability, the total volume of the 'tween deck spaces between two adjacent main transverse watertight bulkheads that contains any passenger or crew space must be regarded as passenger space volume, except that the volume of any space that is completely enclosed in steel buildheads and is not a crew or passenger space may be excluded.

TABLE 171.066.—TABLE OF UNIFORM AVERAGE PERMEABILITIES

Location	Uniform average permeability
Machinery space	$85 + \frac{10(a-c)}{v}$
Volume forward of machinery space	$83 + \frac{5(a-c)}{v}$
Volume aft of machinery space	$83 + \frac{5(a-c)}{v}$

For each location specified in this table—
a = volume below the margin line of all spaces that, in the full load condition, normally contain no cargo, baggage, stores, provisions, or mail.
c = volume below the margin line of the cargo, stores, provisions, or mail spaces within the limits of the machinery space.
v = total volume below the margin line.

§ 171.067 Treatment of stepped and recessed bulkheads in Type I subdivision.

(a) For the purpose of this section—

(1) The main transverse watertight bulkhead immediately forward of a stepped bulkhead is referred to as bulkhead 1; and

(2) The main transverse watertight bulkhead immediately aft of the stepped bulkhead is referred to as bulkhead 3.

(b) If a main transverse watertight bulkhead is stepped, it and bulkheads 1 and 3 must meet one of the following conditions:

(1) The separation between bulkheads 1 and 3 must not exceed the following:

(i) If the factor of subdivision (FS) determined from § 171.065 (a) or (b) is greater than 0.9, the distance between bulkheads 1 and 3 must not exceed the maximum separation calculated to demonstrate compliance with § 171.065.

(ii) If the factor of subdivision is 0.9 or less, the distance between bulkheads 1 and 3 must not exceed 90% of the floodable length or twice the maximum bulkhead separation calculated to demonstrate compliance with § 171.065, whichever is smaller.

(2) Additional watertight bulkheads must be located as shown in Figure 171.067(a) so that distances A, B, C, and D, illustrated in Figure 171.067(a), satisfy the following:

(i) Distances A and B must not exceed the maximum spacing allowed by § 171.065.

(ii) Distances C and D must not be less than the minimum separation prescribed by § 171.065(e).

(3) The distance A, illustrated in Figure 171.067(b), must not exceed the maximum length determined in § 171.065

corresponding to a margin line taken 3 inches (7.8 cm) below the step.

(c) A main transverse bulkhead may not be recessed unless all parts of the recess are inboard from the shell of the vessel a distance A as illustrated in Figure 171.067(c).

(d) Any part of a recess that lies outside the limits defined in paragraph (c) of this section must be treated as a step in accordance with paragraph (b) of this section.

(e) The distance between a main transverse watertight bulkhead and the transverse plane passing through the nearest portion of a recessed bulkhead must be greater than the minimum separation specified by § 171.065(e).

(f) If a main transverse bulkhead is stepped or recessed, equivalent plane bulkheads must be used in the calculations required to demonstrate compliance with § 171.065.

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Figure 171.067(c)

BILLING CODE 4910-14-C

Figure 171.067(a)

Additional Subdivision

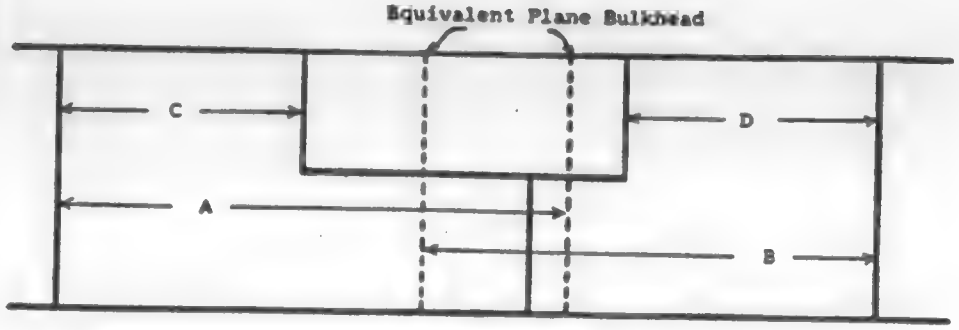


Figure 171.067(b)

Margin Line Below Step

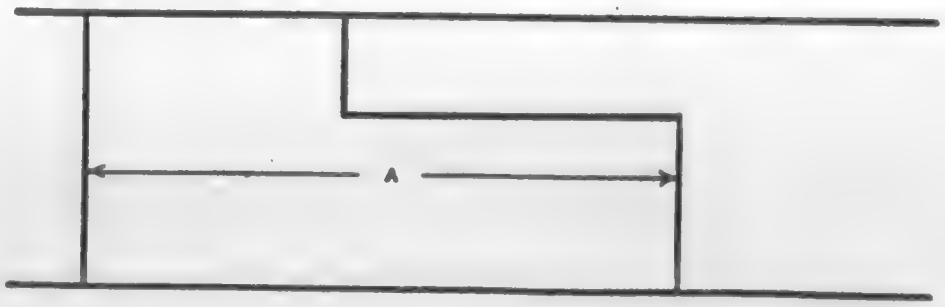
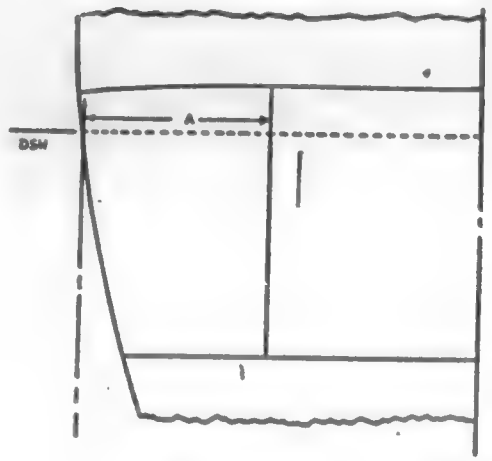


Figure 171.067(c)

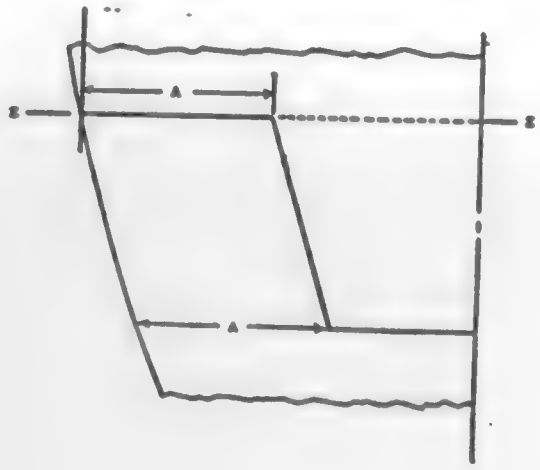
Limits of a Recess



Section Through Recess At ZZ

A = One-fifth the maximum beam measured on the waterline corresponding to the deepest subdivision waterline.

DSW = Deepest subdivision waterline



Plan View of Recess at the waterline corresponding to the deepest subdivision waterline

§ 171.068 Special considerations for Type I subdivision for vessels on short international voyages.

(a) The calculations done to demonstrate compliance with § 171.065 for a vessel that makes short international voyages and is permitted under § 75.10–10 of this chapter to carry a number of persons on board in excess of the lifeboat capacity must—

(1) Assume the uniform average permeabilities given in Table 171.068 in lieu of those in Table 171.066; and

(2) Use a factor of subdivision (FS) that is the smaller of the following:

(i) The value from Table 171.065(a).

(ii) 0.50.

(b) For a vessel less than 300 feet (91 meters) in length, the Commander (mmt) may approve the separation of main transverse watertight bulkheads greater than that permitted by paragraph (a) of this section if—

(1) The shorter separation is impracticable; and

(2) The separation is the smallest that is practicable.

(c) In the case of ships less than 180 feet (55 meters) in length, the Commander (mmt) may approve a further relaxation in the bulkhead spacing. However, in no case may the separation be large enough to prevent the vessel from complying with the flooding requirements for Type II subdivision in § 171.070.

TABLE 171.068—TABLE OF UNIFORM AVERAGE PERMEABILITIES

Location	Uniform average permeability
Machinery Space	$85 + \frac{10\,(a-c)}{v}$
Volume Forward of Machinery Space	$95 - \frac{35(b)}{v}$
Volume Aft of Machinery Space	$95 - \frac{35(b)}{v}$

For each location specified in this table—

a = volume below the margin line of all spaces that, in the full load condition, normally contain no cargo, baggage, stores, provisions, or mail.

b = volume below the margin line and above the tops of floors, inner bottoms, or peak tanks of coal or oil fuel bunkers, chain lockers, fresh water tanks, and of all spaces that, in the full load condition, normally contain stores, baggage, mail, cargo, or provisions. If cargo holds are not occupied by cargo, no part of the cargo space is to be included in the volume.

c = volume below the margin line of the cargo, stores, provisions, or mail spaces within the limits of the machinery space.

v = total volume below the margin line.

§ 171.070 Subdivision requirements—Type II.

(a) Each vessel, except a ferry vessel, must be designed so that, while in each condition of loading and operation, it complies with the standard of flooding specified in Table 171.070(a).

(b) Except as provided in paragraph (c), each ferry vessel must be designed so that, while in each condition of loading and operation, it meets the standard of flooding specified in Table 171.070(b).

(c) A ferry vessel described in paragraph (d) of this section need not meet the standard of flooding specified in Table 171.070(b), except that a ferry vessel in Great Lakes service must at least have a collision bulkhead.

(d) Paragraph (c) of this section applies to a ferry vessel that—

(1) Is 150 feet (46 meters) or less in length; and

(2) Has sufficient air tankage, or other internal buoyancy to float the vessel with no part of the margin line submerged when the vessel is completely flooded. If foam is used to comply with this paragraph, it must be installed in accordance with the requirements in § 170.245 of this subchapter.

(e) Except as specified in paragraph (f) of this section, each main transverse watertight bulkhead must be spaced as follows:

(1) If the LBP of the vessel is 143 feet (43.5 meters) or more, each main transverse watertight bulkhead must be at least 10 feet (3 meters) plus 3 percent of the vessel's LBP from—

(i) Every other main transverse watertight bulkhead;

(ii) The collision bulkhead; and

(iii) The aftermost point on the bulkhead deck.

(2) If the LBP of the vessel is less than 143 feet (43.5 meters) and the vessel does not make international voyages, each main transverse watertight bulkhead must be no less than 10 percent of the vessel's LBP or 6 feet (1.8 meters), whichever is greater, from—

(i) Every other main transverse watertight bulkhead;

(ii) The collision bulkhead; and

(iii) The aftermost point on the bulkhead deck.

(f) If a vessel is required by § 171.080 to have a collision bulkhead in each end of the vessel, then each main transverse watertight bulkhead must be no less than the distance specified in paragraph (e) of this section from—

(1) Every other main transverse watertight bulkhead; and

(2) Each collision bulkhead.

TABLE 171.070(a).—STANDARD OF FLOODING

Passengers carried	Part of vessel	Standard of flooding (compartments)
400 or less	All	1
401 to 600	All of the vessel forward of the first MTWB aft of the collision bulkhead.	2
	All remaining portions of the vessel.	1
601 to 800	All of the vessel forward of the first MTWB that is aft of a point 40% of the vessel's LBP aft of the forward perpendicular.	2
	All remaining portions of the vessel.	1
801 to 1000	All of the vessel forward of the first MTWB that is aft of a point 60% of the vessel's LBP aft of the forward perpendicular.	2
	All remaining portions of the vessel.	1
More than 1000	All	2

Where for this table—

"MTWB" means main transverse watertight bulkhead; and "Standard of Flooding" is explained in § 171.017 of this subchapter.

TABLE 171.070(b).—STANDARD OF FLOODING FOR FERRY VESSELS

Vessel length	Part of vessel	Standard of flooding (compartments)
150 feet (46 meters) or less	All	1
Greater than 150 feet (46 meters) and less than or equal to 200 feet (61 meters).	All of the vessel forward of the first MTWB aft of the collision bulkhead.	2
	All of the vessel aft of the first MTWB forward of the aft peak bulkhead.	2
	All remaining portions of the vessel.	1
Greater than 200 feet (61 meters).	All	2

Where for this table—

"MTWB" means main transverse watertight bulkhead; and "Standard of Flooding" is explained in § 171.017 of this subchapter.

§ 171.072 Calculation of permeability for Type II subdivision.

When doing calcualtions to show compliance with § 171.070, the following uniform average permeabilities must be assumed:

(a) 85 percent in the machinery space.

(b) 60 percent in the following spaces:

(1) Tanks that are normally filled when the vessel is in the full load condition.

(2) Chain lockers.

(3) Cargo spaces.

(4) Stores spaces.

(5) Mail or baggage spaces.

(c) 95 percent in all other spaces.

§ 171.073 Treatment of stepped and recessed bulkheads in Type II subdivision.

(a) A main transverse watertight bulkhead may not be stepped unless additional watertight bulkheads are located as shown in Figure 171.067(a) so that the distances A, B, C, and D illustrated in Figure 171.067(a) comply with the following:

(1) A and B must not exceed the maximum bulkhead spacing that permits compliance with § 171.070; and

(2) C and D must not be less than the minimum spacing specified in § 171.070(e).

(b) A main transverse watertight bulkhead may not be recessed unless all parts of the recess are inboard from the shell of the vessel as illustrated in Figure 171.067(c).

(c) If a main transverse watertight bulkhead is recessed or stepped, an equivalent plane bulkhead must be used in the calculations required by § 171.070.

§ 171.075 Subdivision requirements—Type III.

(a) Each vessel must be shown by design calculations to comply with the requirements of Regulations 1, 2, 3, 4, 6, and 7 of the Annex to Resolution A.265 (VIII) of the International Maritime Organization (IMO).

(b) International Maritime Organization Resolution A.265 (VIII) is incorporated by reference into this part.

(c) As used in IMO Resolution A.265 (VIII), "Administration" means the Commandant, U.S. Coast Guard.

§ 171.080 Damage stability standards for vessels with Type I or Type II subdivision.

(a) *Calculations.* Each vessel with Type I or Type II subdivision must be shown by design calculations to meet the survival conditions in paragraph (d) of this section in each condition of loading and operation assuming the extent and character of damage specified in paragraph (b) of this section.

(b) *Extent and character of damage.* For the purpose of paragraph (a) of this section, design calculations must assume that the damage—

(1) Has the character specified in Table 171.080(a); and

(2) Consists of a penetration having the dimensions specified in Table 171.080(a) except that, if the most disabling penetration would be less than the penetration described in the table, the smaller penetration must be assumed.

(c) *Permeability.* When doing the calculations required in paragraph (a) of this section, the permeability of each space must be calculated in a manner approved by the Commander (mmt) or be taken from Table 171.080(c).

(d) *Damage survival.* A vessel is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(1) On a vessel required to survive assumed damage with a longitudinal extent of 10 feet (3 meters) plus 0.03L, the final angle of equilibrium must not exceed 7 degrees after equalization, except that the final angle may be as large as 15 degrees if—

(i) The vessel is not equipped with equalization or is equipped with fully automatic equalization; and

(ii) The Commander (mmt) approves the vessel's range of stability in the damaged condition.

(2) On a vessel required to survive assumed damage with a longitudinal extent of 20 feet (6.1 meters) plus 0.04L, the angle of equilibrium must not exceed 15 degrees after equalization.

(3) The margin line may not be submerged at any point.

(4) The vessel's metacentric height (GM) must be at least 2 inches (5 cm) when the vessel is in the upright position.

(e) *Equalization.* (1) Equalization systems on vessels of 150 gross tons or more in ocean service must meet the following:

(i) Equalization must be automatic except that the Commander (mmt) may approve other means of equalization if—

(A) It is impracticable to make equalization automatic; and

(B) Controls to cross-flooding equipment are located above the bulkhead deck.

(ii) Equalization must be fully accomplished within 15 minutes after damage occurs.

(2) Equalization on vessels under 150 gross tons in ocean service and on all vessels in other than ocean service must meet the following:

(i) Equalization must not depend on the operation of valves.

(ii) Equalization must be fully accomplished within 15 minutes after damage occurs.

(3) The estimated maximum angle of heel before equalization must be approved by the Commander (mmt).

TABLE 171.080(a).—EXTENT AND CHARACTER OF DAMAGE

Vessel designator [1]	Longitudinal penetration [2]	Transverse penetration [3] [4]	Vertical penetration	Character of Damage
Z	10 feet (3 meters) plus .03L or 35 feet (10.7 meters) whichever is less [5].	B/5	from the baseline upward without limit.	Assumes no damage to any main transverse watertight bulkhead.
Y	10 feet (3 meters) plus .03L or 35 feet (10.7 meters) whichever is less.	B/5	From the baseline upward without limit.	Assumes damage to no more than one main transverse watertight bulkhead.
X	10 feet (3 meters) plus .03L or 35 feet (10.7 meters whichever is less.	B/5	from the baseline upward without limit.	Assumes damage to no more than one main transverse watertight bulkhead.
	20 feet (6.1 meters) plus 0.04L	B/5	From the top of the double bottom upward without limit.	Assumes damage to no more than one main transverse watertight bulkhead.
W	20 feet (6.1 meters) plus 0.04L	B/5	From the baseline upward without limit.	Assumes damage to at least two main transverse watertight bulkheads.

(1) W,X,Y, and Z are determined from Table 171.080(b).
(2) L=LBP of the vessel in feet (meters).
(3) B=the beam of the vessel in feet (meters) measured at or below the deepest subdivision load line as defined in 171.010(a) except that, when doing calculations for a vessel that operates only on inland waters or a ferry vessel, B may be taken as the mean of the maximum beam on the bulkhead deck and the maximum beam at the deepest subdivision load line.
(4) The transverse penetration is applied inboard from the side of the vessel, at right angles to the centerline, at the level of the deepest subdivision load line.
(5) .1L or 6 feet (1.8 meters) whichever is greater for vessels described in § 171.075(a)(2).

TABLE 171.080(b)

Vessel category	Vessel designator
Vessels with type I subdivision and a factor of subdivision as determined from § 171.085 (a) or (b) of 0.33 or less.	W.
Vessels with type I subdivision and a factor of subdivision as determined from § 171.085 (a) or (b) greater than 0.33 and less than or equal to 0.50.	X.
Vessels with Type II subdivision that are required to meet a two compartment standard of flooding.	Y.
All other vessels	Z.

TABLE 171.080(c).—PERMEABILITY

Spaces and tanks	Permeability (percent)
Cargo, coal, stores	60.
Accommodations	95.
Machinery	85.
Tanks	0 or 95 [1]

[1] Whichever value results in the more disabling condition.

§ 171-082 Damage stability standards for vessels with Type III subdivision.

(a) Each vessel must be shown by design calculations to comply with the requirements of Regulations 1 and 5 of the Annex to Resolution A.265 (VIII) of

the International Maritime Organization (IMO).

(b) International Maritime Organization Resolution A.265 (VIII) is incorporated by reference into this part.

(c) As used in IMO Resolution A.265 (VIII), "Administration" means the Commandant, U.S. Coast Guard.

(d) Section 56.50–57 of this chapter contains additional requirements on bilge pumping and piping systems.

Subpart D—Additional Subdivision Requirements

§ 171.085 Collision bulkhead.

(a) Paragraphs (b) through (g) of this section apply to each vessel of 100 gross tons or more and paragraphs (h) and (i) of this section apply to each vessel that is less than 100 gross tons.

(b) The portion of the collision bulkhead that is below the bulkhead deck must be watertight.

(c) Each portion of the collision bulkhead must be at least—

(1) 5 percent of the LBP from the forward perpendicular in a motor vessel; and

(2) 5 feet (1.52 meters) from the forward perpendicular in a steam vessel.

(d) The collision bulkhead must be no more than 10 feet (3 meters) plus 5 percent of the LBP from the forward perpendicular.

(e) The collision bulkhead must extend to the deck above the bulkhead deck if the vessel—

(1) Is in ocean service; and

(2) Has a superstructure that extends from a point forward of the collision bulkhead to a point at least 15 percent of the LBP aft of the collision bulkhead.

(f) The collision bulkhead required by paragraph (e) of this section must have the following characteristics:

(1) The portion of the collision bulkhead above the bulkhead deck must be weathertight.

(2) If the portion of the collision bulkhead above the bulkhead deck is not located directly above the collision bulkhead below the bulkhead deck, then the bulkhead deck between must be weathertight.

(g) Each opening in the collision bulkhead must—

(1) Be located above the bulkhead deck; and

(2) Have a watertight closure.

(h) Each collision bulkhead—

(1) Must extend to the weather deck;

(2) May not have watertight doors in it; and

(3) May have penetrations and openings that—

(i) Are located as high and as far inboard as practicable; and

(ii) Except as provided in paragraph (i) of this section, have means to make them watertight.

(i) Each vessel that is not required to comply with a one or two compartment standard of flooding may have an opening that connot be made watertight in the collision bulkhead below the bulkhead deck if—

(1) The lowest edge of the opening is not more than 12 inches (30.5 centimeters) below the bulkhead deck; and

(2) There are at least 36 inches (92 centimeters) of intact collision bulkhead below the lower edge of the opening.

(j) Each portion of the colision bulkhead must be—

(1) At least 5 percent of the LBP from the forward perpendicular; and

(2) No more than 15 percent of the LBP from the forward perpendicular.

§ 171.090 Aft peak bulkhead.

(a) Each of the following vessels must have an aft peak bulkhead:

(1) Each vessel 100 gross tons or more on an international voyage.

(2) Each other vessel of more than 150 gross tons.

(b) Except as specified in paragraph (c) of this section, each portion of the aft peak bulkhead below the bulkhead deck must be watertight.

(c) A vessel may have an aft peak bulkhead that does not intersect the bulkhead deck if approved by the Commander (mmt).

§ 171.095 Machinery space bulkhead.

(a) This section applies to each vessel of 100 gross tons or more.

(b) Except as provided in paragraph (c) of this section, a vessel required to have Type I or II subdivision must have enough main transverse watertight bulkheads to separate the machinery space from the remainder of the vessel. All portions of these bulkheads must be watertight below the bulkhead deck.

(c) Compliance with paragraph (b) of this section is not required if the vessel has sufficient air tanks or other internal buoyancy to maintain the vessel afloat while in the full load condition when all compartments and all other tanks are flooded. If foam is used to comply with this paragraph, it must be installed in accordance with the requirements in § 170.245 of this subchapter.

§ 171.100 Shaft tunnels and stern tubes.

(a) Stern tubes in each of the following vessels must be enclosed in watertight spaces:

(1) Each vessel of 100 gross tons or more on an international voyage.

(2) Each other vessel over 150 gross tons in ocean or Great Lakes service.

(3) Each vessel under 100 gross tons that carries more than 12 passengers on an international voyage.

(b) The watertight seal in the bulkhead between the stern tube space and the machinery space must be located in a watertight shaft tunnel. The vessel must be designed so that the margin line will not be submerged when the watertight shaft tunnel is flooded.

(c) If a vessel has two or more shaft tunnels, they must be connected by a watertight passageway.

(d) if a vessel has two or less shaft tunnels, only one door is permitted between them and the machinery space. If a vessel has more then two shaft tunnels, only two doors are permitted between them and the machinery space.

§ 171.105 Double bottoms.

(a) This section applies to each vessel that carries more than 12 passengers on an international voyage and all other vessels that are—

(1) 100 gross tons or more; and

(2) In ocean or Great Lakes service.

(b) Each vessel over 165 feet (50 meters) and under 200 feet (61 meters) in LBP must have a double bottom that extends from the forward end of the machinery space to the fore peak bulkhead.

(c) Each vessel over 200 feet (61 meters) and under 249 feet (76 meters) in LBP must have a double bottom that extends from the fore peak bulkhead to the forward end of the machinery space and a double bottom that extends from the aft peak bulkhead to the aft end of the machinery space.

(d) Each vessel 249 feet (76 meters) in LBP and upward must have a double bottom that extends from the fore to the aft peak bulkhead.

(e) Each double bottom required by this section must be at least the depth at the centerline given by the following equation:

$D = 18.0 + 0.05(L)$ inches

$D = 45.7 + 0.417(L)$ centimeters

where—

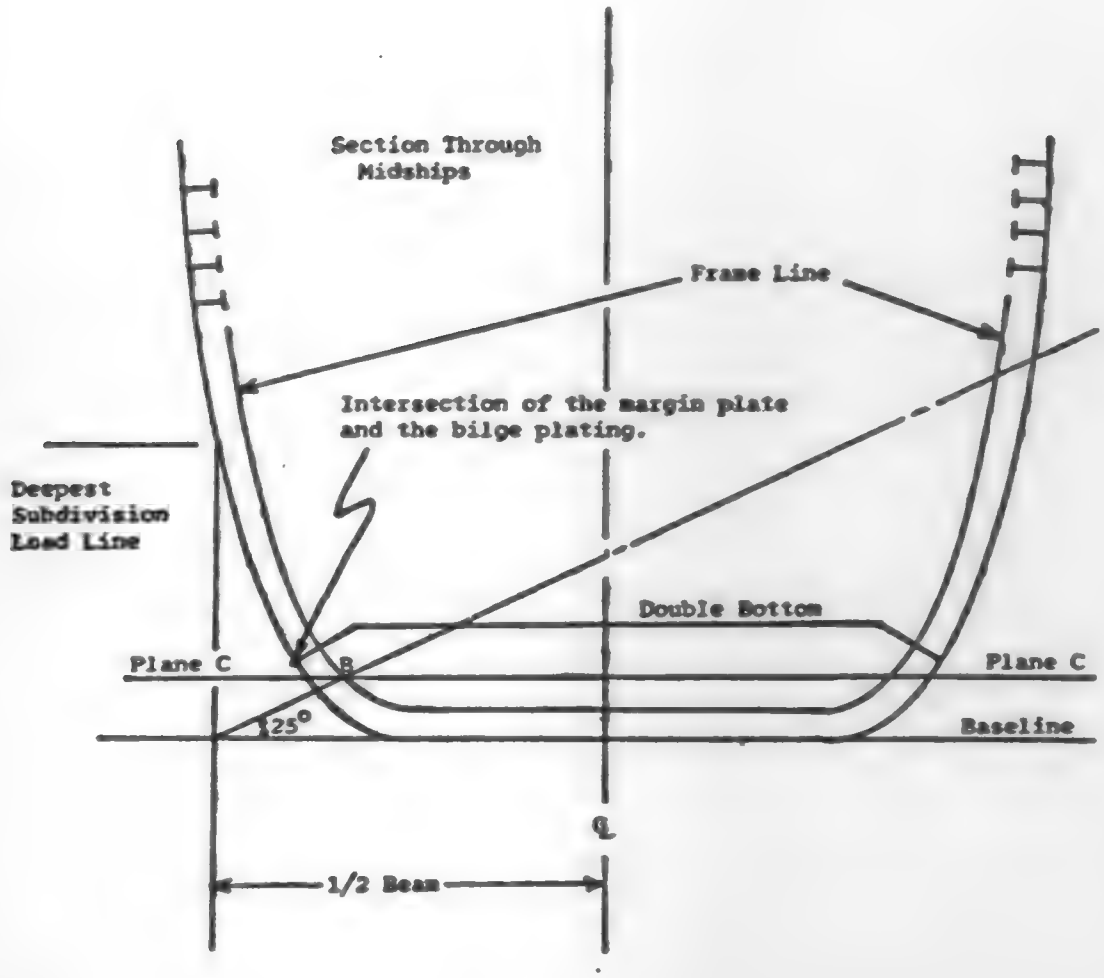
D = the depth at the centerline in inches (centimeters).

L = LBP in feet (meters).

(f) The line formed by the intersection of the margin plate and the bilge plating must be above the horizontal plane C, illustrated in Figure 171.105, at all points. The horizontal plane C is defined by point B, located, as shown in Figure 171.105, in the midships section.

Figure 171.105

Lower Limit of the Intersection of Margin Plate and Bilge Plating



(g) A double bottom is not required in a tank that is integral with the hull of a vessel if—

(1) The tank is used exclusively for the carriage of liquids; and

(2) It is approved by the Commander (mmt).

(h) A double bottom is not required in any part of a vessel where the separation of main transverse watertight bulkheads is governed by a factor of subdivision less than or equal to 0.50 if—

(1) The Commander (mmt) approves;

(2) The vessel makes short international voyages; and

(3) The vessel is permitted by § 75.10-10 of this chapter to carry a number of passengers in excess of the lifeboat capacity.

§ 171.106 Wells in double bottoms.

(a) This section applies to each vessel that has a well installed in a double bottom required by § 171.105.

(b) Except as provided in paragraph (c) of this section—

(1) The depth of a well must be at least 18 inches (45.7 cm) less than the depth of the double bottom at the centerline; and

(2) The well may not extend below the horizontal plane C illustrated in Figure 171.105.

(c) A well may extend to the outer bottom of a double bottom at the after end of a shaft tunnel.

§ 171.108 Manholes in double bottoms.

(a) The number of manholes in the inner bottom of a double bottom required by § 171 105 must be reduced to the minimum required for adequate access.

(b) Each manhole must have a cover that can be—

(1) Made watertight; and

(2) Protected from damage by cargo or coal.

§ 171.109 Watertight floors in double bottoms.

If a vessel is required to have a double bottom, a watertight transverse division must be located in the double bottom under each main transverse watertight bulkhead or as near as practicable to the main transverse watertight bulkhead. If a vessel also has duct keels, the transverse divisions need not extend across them.

Subpart E—Penetrations and Openings in Watertight Bulkheads

§ 171.110 Specific applicability.

(a) Sections 171.111, 171.112, and 171.113 apply to each vessel of 100 gross tons or more.

(b) Section 171.114 applies to each vessel under 100 gross tons.

§ 171.111 Penetrations and openings in watertight bulkheads in vessels of 100 gross tons or more.

(a) Except as provided in paragraph (f) of this section, each opening in a watertight bulkhead must have a means to close it watertight.

(b) Except in a machinery space, the means for closing each opening may not be by bolted portable plates.

(c) If a main transverse watertight bulkhead is penetrated, the penetration must be made watertight. Lead or other heat sensitive materials must not be used in a system that penetrates a main transverse watertight bulkhead if fire damage to this system would reduce the watertight integrity of the bulkhead.

(d) A main transverse watertight bulkhead must not be penetrated by valves or cocks unless they are a part of a piping system.

(e) If a pipe, scupper, or electric cable passes through a main transverse watertight bulkhead, the opening through which it passes must be watertight.

(f) A main transverse watertight bulkhead may not have non-watertight penetrations below the bulkhead deck unless—

(1) The margin line is more than 9 inches (23 centimeters) below the bulkhead deck at the intersection of the margin line and the line formed by the intersection of the plane of the main transverse watertight bulkhead and the shell; and

(2) Making all penetrations watertight is impracticable.

(g) Penetrations approved in accordance with paragraph (f) of this section must comply with the following:

(1) The bottom of the penetration must not be located—

(i) More than 24 inches (61 centimeters) below the bulkhead deck; nor

(ii) Less than 9 inches (23 centimeters) above the margin line.

(2) The penetration must not be located outboard from the centerline more than ¼ of the beam of the vessel measured—

(i) On the bulkhead deck; and

(ii) In the vertical plane of the penetration.

(h) No doors, manholes, or other access openings may be located in a watertight bulkhead that separates two cargo spaces or a cargo space and a permanent or reserve bunker.

§ 171.112 Watertight door openings.

(a) The opening for a watertight door must be located as high in the bulkhead and as far inboard as practicable.

(b) No more than one door, other than a door to a bunker or shaft alley, may be fitted in a main transverse watertight bulkhead within spaces containing the following:

(1) Main and auxiliary propulsion machinery.

(2) Propulsion boilers

(3) Permanent bunkers.

§ 171.113 Trunks.

(a) For the purpose of this section, "trunk" means a large enclosed passageway through any deck or bulkhead of a vessel.

(b) Each trunk, other than those specified in paragraph (c) of this section, must have a watertight door at each end except that a trunk may have a watertight door at one end if—

(1) The trunk does not pass through more than one main compartment;

(2) The sides of the trunk are not nearer to the shell than is permitted by § 171.067(c) for the sides of a recess in a bulkhead; and

(3) The vessel complies with the subdivision requirements in this part when the volume of the trunk is included with the volume of the compartment into which it opens.

(c) Each trunk that provides access from a crew accommodation space and that passes through a main transverse watertight bulkhead must comply with the following:

(1) The trunk must be watertight.

(2) The trunk, if used for passage at sea, must have at least one end above the margin line and access to the other end of the trunk must be through a watertight door.

(3) The trunk must not pass through the first main transverse watertight bulkhead aft of the collision bulkhead.

§ 171.114 Penetrations and openings in watertight bulkheads in a vessel less than 100 gross tons.

(a) Penetrations and openings in watertight bulkheads must—

(1) Be kept as high and as far inboard as practicable; and

(2) Have means to make them watertight.

(b) Watertight bulkheads must not have sluice valves.

(c) Each main transverse watertight bulkhead must extend to the bulkhead deck.

Subpart F—Openings in the Side of a Vessel Below the Bulkhead or Weather Deck

§ 171.115 Specific applicability.

(a) Sections 171.116, 171.117, and 171.118 apply to each vessel of 100 gross tons or more.

(b) Section 171.119 applies to each vessel under 100 gross tons.

§ 171.116 Port lights.

(a) A vessel may have port lights below the bulkhead deck if—

(1) It is greater than 150 gross tons; and

(2) It is in ocean service.

(b) All port lights in a space must be non-opening if the sill of any port light in that space is below a line that—

(1) Is drawn parallel to the line formed by the intersection of the bulkhead deck and the shell of the vessel; and

(2) Has its lowest point 2½ percent of the beam of the vessel above the deepest subdivision load line.

(c) For the purpose of paragraph (b) of this section, the beam of the vessel is measured at or below the deepest subdivision load line.

(d) Except as provided in paragraph (e) of this section, no port light may be located in a space that is used exclusively for the carriage of cargo, stores, or coal.

(e) A port light may be located in a space used alternately for the carriage of cargo or passengers.

(f) Each port light installed below the bulkhead deck must conform to the following requirements:

(1) The design of each port light must be approved by the Commander (mmt).

(2) Each non-opening port light must be watertight.

(3) Each opening port light must be constructed so that it can be secured watertight.

(4) Each opening port light must be installed with at least one bolt that is secured by a round slotted or recessed nut that requires a special wrench to remove. The nut must be protected by a sleeve or guard to prevent it from being removed with ordinary tools.

§ 171.117 Dead covers.

(a) Except as provided in paragraph (b) of this section, each port light with the sill located below the margin line must have a hinged, inside dead cover.

(b) The dead cover on a port light located in an accommodation space for passengers other than steerage passengers may be portable if—

(1) The apparatus for stowing the dead cover is adjacent to its respective port light;

(2) The port light is located above the deck that is immediately above the deepest subdivision load line;

(3) The port light is aft of a point one-eighth of the LBP of the vessel from the forward perpendicular; and

(4) The port light is above a line that—

(i) Is parallel to the line formed by the intersection of the bulkhead deck and the side of the vessel; and

(ii) Has its lowest point at a height of 12 feet (3.66 meters) plus 2½ percent of the beam of the vessel above the deepest subdivision load line.

(c) For the purpose of paragraph (b) of this section, the beam of the vessel is measured at or below the deepest subdivision load line.

(d) Each dead cover must be designed so that—

(1) It can be secured watertight; and

(2) It is not necessary to release any of the special nuts required in § 171.116(f)(4) in order to secure the dead cover.

§ 171.116 Automatic ventilators and side ports.

(a) An automatic ventilator must not be fitted in the side of a vessel below the bulkhead deck unless approved by the Commander (mmt).

(b) The design and construction of each gangway, cargo and coaling port, and similar opening in the side of a vessel must be approved by the Commander (mmt).

(c) In no case may the lowest point of any gangway, cargo and coaling port, or similar opening be below the deepest subdivision load line.

§ 171.119 Openings below the weather deck in the side of a vessel less than 100 gross tons.

(a) If a vessel operates on exposed or partially protected waters, an opening port light is not permitted below the weather deck unless—

(1) The sill is at least 30 inches (76.2 centimeters) above the deepest subdivision load line; and

(2) It has an inside, hinged dead cover.

(b) Except for engine exhausts, each inlet or discharge pipe that penetrates the hull below a line drawn parallel to and at least 6 inches (15.2 centimeters) above the deepest subdivision load line must have means to prevent water from entering the vessel if the pipe fractures or otherwise fails.

(c) A positive action valve or cock that is located as close as possible to the hull is an acceptable means for complying with paragraph (b) of this section.

(d) If an inlet or discharge pipe is inaccessible, the means for complying with paragraph (b) of this section must be a shut-off valve that is—

(1) Operable from the weather deck or any other accessible location above the bulkhead deck; and

(2) Labeled at the operating point for identity and direction of closing.

(e) Any connecting device or valve in a hull penetration must not be cast iron.

(f) Each plug cock in an inlet or discharge pipe must have a means, other than a cotter pin, to prevent its loosening or removal from the body.

Subpart G—Watertight Integrity Above the Margin Line

§ 171.120 Specific applicability.

Each vessel that is 100 gross tons or more must comply with § 171.122 and each vessel under 100 gross tons must comply with § 171.124.

171.122 Watertight integrity above the margin line in a vessel of 100 gross tons or more.

(a) For the purpose of this section, a partial watertight bulkhead is one in which all portions are not watertight.

(b) Except as provided in paragraph (d) of this section, the bulkhead deck or a deck above it must be weathertight.

(c) Partial watertight bulkheads or web frames must be located in the immediate vicinity of main transverse watertight bulkheads to minimize as much as practicable the entry and spread of water above the bulkhead deck.

(d) If a partial watertight bulkhead or web frame is located on the bulkhead deck in order to comply with paragraph (c) of this section, the joint between it and the shell and bulkhead deck must be watertight.

(e) If a partial watertight bulkhead does not line up with a main transverse watertight bulkhead below the bulkhead deck, the bulkhead deck between them must be watertight.

(f) Each opening in an exposed weather deck must—

(1) Have a coaming that complies with the height requirements in Table 171.124; and

(2) Have a means for closing it weathertight.

(g) Each port light located between the bulkhead deck and the next deck above the bulkhead deck must have an inside dead cover than can be secured watertight.

§ 171.124 Watertight integrity above the margin line in a vessel less than 100 gross tons.

(a) Each hatch exposed to the weather must be watertight, except that the following hatches may be weathertight:

(1) Each hatch on a watertight trunk that extends at least 12 inches (30.5 cm) above the weather deck.

(2) Each hatch in a cabin top.

(3) Each hatch on a vessel that operates only on protected waters.

(b) Each hatch cover must—

(1) Have securing devices; and

(2) Be attached to the hatch frame or coaming by hinges, captive chains, or other devices to prevent its loss.

(c) Each hatch that provides access to crew or passenger accomodations must be operable from either side.

(d) Except as provided in paragraph (e) of this section, a weathertight door with permanent watertight coamings that comply with the height requirements in Table 171.124 must be provided for each opening located in a deck house or companionway that—

(1) Gives access into the hull; and

(2) Is located in—

(i) A cockpit;

(ii) A well; or

(iii) An exposed location on a flush deck vessel.

(e) If an opening in a location specified in paragraph (d) of this section is provided with a Class 1 watertight door, the height of the watertight coaming need only be sufficient to accommodate the door.

TABLE 171.124

Route	Height of coaming
Exposed or partially protected	6 inches (15.2 centimeters).
Protected	3 inches (7.6 centimeters).

Subpart H—Drainage of Weather Decks

§ 171.130 Specific applicability.

(a) Section 171.135 applies to each vessel that is 100 gross tons or more.

(b) Sections 171.140, 171.145, 171.150, and 171.155 apply to each vessel under 100 gross tons.

§ 171.135 Weather deck drainage on a vessel of 100 gross tons or more.

The weather deck must have freeing ports, open rails, and scuppers, as necessary, to allow rapid clearing of water under all weather conditions.

§ 171.140 Drainage of a flush deck vessel.

(a) Except as provided in paragraph (b) of this section, the weather deck on a flush deck vessel must be watertight and have no obstruction to overboard drainage.

(b) Each vessel with a flush deck may have solid bulwarks in the foward one-third length of the vessel if—

(1) The bulwarks do not form a well enclosed on all sides; and

(2) The foredeck of the vessel has sufficient sheer to insure drainage aft.

§ 171.145 Drainage of a vessel with a cockpit.

(a) Except as follows, the cockpit must be watertight:

(1) A cockpit may have companionways if they comply with § 171.124(d).

(2) A cockpit may have ventilation openings along its inner periphery if—

(i) The vessel operates only on protected or partially protected waters;

(ii) The ventilation openings are located as high as possible in the side of the cockpit; and

(iii) The height of the ventilation opening does not exceed 2 inches (5 cm).

(b) The cockpit must be designed to be self-bailing.

(c) Scuppers installed in a cockpit must be located to allow rapid clearing of water in all probable conditions of list and trim.

(d) Scuppers must have a combined area of at least the area given by either of the following equations:

$A = 0.1(D)$ square inches

$A = 6.94(D)$ Square centimeters

Where—

A = the combined area of the scuppers in square inches (square Centimeters).

D = the area of the cockpit in square feet (square meters).

(e) The cockpit deck of a vessel that operates on exposed or partially protected waters must be at least 10 inches (25.4 cm) above the deepest subdivision load line unless the vessel complies with—

(1) The intact stability requirements of § 171.050;

(2) The Type II subdivision requirements in §§ 171.070, 171.072, and 171.073; and

(3) The damage stability requirements in § 171.080.

(f) The cockpit deck of all vessels that do not operate on exposed or partially protected waters must be located as high above the deepest subdivision load line as practicable.

§ 171.150 Drainage of a vessel with a well deck.

(a) Each well deck on a vessel must be watertight.

(b) Except as provided in paragraph (c) and (d) of this section, the area required for freeing ports in the bulwarks that form a well must be determined as follows:

(1) If a vessel operates on exposed or partially protected waters, it must have at least 100 percent of the freeing port area derived from Table 171.150.

(2) If a vessel operates only on protected or partially protected waters and complies with the requirements in the following sections for a vessel that operates on exposed waters, it must have at least 50 percent of the freeing port area derived from Table 171.150:

(i) The intact stability requirements of § 171.030 or § 171.050 and § 170.170 of this subchapter.

(ii) The subdivision requirements of §§ 171.040, 171.043, or 171.070.

(iii) The damage stability requirements of § 171.080.

(3) If a vessel operates only on protected waters, the freeing port area must be at least equal to the scupper area required by § 171.145(d) for a cockpit of the same size.

(c) The freeing ports must be located to allow rapid clearing of water in all probable conditions of list and trim.

(d) If a vessel that operates on exposed or partially protected waters does not have free drainage from the foredeck aft, then the freeing port area must be derived from Table 171.150 using the entire bulwark length rather than the bulwark length in the after ⅔ of the vessel as stated in the Table.

TABLE 171.150

Height of solid bulwark in inches (centimeters)	Freeing port area in square inches per foot (square centimeters per meter) of bulwark length in the after ⅔ of the vessel. (1)
6(15)	2(42.7)
12(30)	4(84.7)
18(46)	8(169.3)
24(61)	12(253.0)
30(76)	16(338.6)
36(91)	20(423.3)

(1) Intermediate values of freeing port area can be obtained by interpolation.

§ 171.155 Drainage of an open boat.

The deck within the hull of an open boat must drain to the bilge. Overboard drainage of the deck is not permitted.

PART 172—SPECIAL RULES PERTAINING TO BULK CARGOES

Subpart A—General

Sec.

172.005 Applicability.

Subpart B—Bulk Grain [Reserved]

Subpart C—Special Rules Pertaining to a Barge That Carries a Cargo Regulated Under Subchapter D of This Chapter

172.047 Specific applicability.
172.050 Damage stability.

Subpart D—Special Rules Pertaining to a Vessel That Carries a Cargo Regulated Under 33 CFR Part 157

172.060 Specific applicability.
172.065 Damage stability.

Subpart E—Special Rules Pertaining to a Barge That Carries a Hazardous Liquid Regulated Under Subchapter O of this Chapter

Sec.

172.080 Specific applicability.
172.085 Hull type.
172.087 Cargo loading assumptions.
172.090 Intact transverse stability.
172.095 Intact longitudinal stability.
172.100 Watertight integrity.
172.105 Damage stability.
172.104 Character of damage.
172.105 Extent of damage.
172.110 Survival conditions.

Subpart F—Special Rules Pertaining to a Ship That Carries a Hazardous Liquid Regulated Under Subchapter O of This Chapter

172.125 Specific applicability.
172.127 Definitions.
172.130 Calculations.
172.133 Character of damage.
172.135 Extent of damage.
172.140 Permeability of spaces.
172.150 Survival conditions.

Subpart G—Special Rules Pertaining to a Ship That Carries a Bulk Liquefied Gas Regulated Under Subchapter O of This Chapter

172.155 Specific applicability.
172.160 Definitions.
172.165 Intact stability calculations.
172.170 Damage stability calculations.
172.175 Character of damage.
172.180 Extent of damage.
172.185 Permeability of spaces.
172.195 Survival conditions.
172.205 Local damage.

Authority: Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 2, 49 Stat. 888 as amended (46 U.S.C. 88a); sec. 5, 49 Stat. 1384 as amended (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); sec. 3, 70 Stat. 152 as amended (46 U.S.C. 390b); sec. 5, Pub. L. 95-474, 92 Stat. 1480 as amended (46 U.S.C. 391a); sec 1, Pub. L. 85-739, 72 Stat. 833, as amended (46 U.S.C. 404); R.S. 4462, as amended (46 U.S.C. 416); sec. 2, Pub. L. 98-453, 94 Stat. 207 (46 U.S.C. 1295f(c)(2)); sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); sec. 3, 68 Stat. 675 (50 U.S.C. 198); sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General

172.005 Applicability.

This Part applies to each vessel that carries one of the following cargoes in bulk:

(a) Grain.

(b) A cargo listed in Table 30.25-1 of this chapter.

(c) A cargo regulated under 33 CFR Part 157.

(d) A cargo listed in Table 151.01-10(b) of this chapter.

(e) A cargo listed in Table I of Part 153 of this chapter.

(f) A cargo listed in Table 4 of Part 154 of this chapter.

Subpart B—Bulk Grain [Reserved]

Subpart C—Special Rules Pertaining to a Barge That Carries a Cargo Regulated Under Subchapter D of This Chapter

§ 172.047 Specific applicability.

This section applies to each tank barge that carries, in independent tanks described in 151.15–1(b) of this chapter, a cargo listed in Table 30.25–1 of this chapter that is a—

(a) Liquefied flammable gas; or

(b) Flammable liquid that has a Reid vapor pressure in excess of 25 pounds per square inch (172.4 KPa).

§ 172.050 Damage stability.

(a) Each tank barge is assigned a hull type number by the Commandant in accordance with 32.63–5 of this chapter. The requirements in this section are specified according to the hull type number assigned.

(b) Except as provided in paragraph (c) of this section, each Type I and II barge hull must have a watertight weather deck.

(c) If a Type I or II barge hull has an open hopper, the fully loaded barge must be shown by design calculations to have at least 2 inches (50mm) of positive GM when the hopper space is flooded to the height of the weather deck.

(d) When demonstrating compliance with paragaph (c) of this section, credit may be given for the buoyancy of the immersed portion of cargo tanks if the tank securing devices are shown by design calculations to be strong enough to hold the tanks in place when they are subjected to the buoyant forces resulting from the water in the hopper.

(e) Each tank barge must be shown by design calculations to have at least 2 inches (50 mm) of positive GM in each condition of loading and operation after assuming the damage specified in paragraph (f) of this section is applied in the following locations:

(1) *Type I barge hull not in an integrated tow.* If a Type I hull is required and the barge is not a box barge designed for use in an integrated tow, design calculations must show that the barge hull can survive damage at any location including on the intersection of a transverse and longitudinal watertight bulkhead.

(2) *Type I barge hull in an integrated tow.* If a Type I hull is required and the barge is a box barge designed for operation in an integrated tow, design calculations must show that the barge can survive damage—

(i) To any location on the bottom of the tank barge except on a transverse watertight bulkhead; and

(ii) To any location on the side of the tank barge including on a transverse watertight bulkhead.

(3) *Type II hull.* If a Type II hull is required, design calculations must show that the barge can survive damage to any location except to a transverse watertight bulkhead.

(f) For the purpose of paragraph (e) of this section—

(1) Design calculations must include both side and bottom damage, applied separately; and

(2) Damage must consist of the most disabling penetration up to and including penetrations having the following dimensions:

(i) Side damage must be assumed to be as follows:

(A) Longitudinal extent—6 feet (183 centimeters).

(B) Transverse extent—30 inches (76 centimeters).

(C) Vertical extent—from the baseline upward without limit.

(ii) Bottom damage must be assumed to be 15 inches (38.1 centimeters) from the baseline upward.

Subpart D—Special Rules Pertaining to a Vessel That Carries a Cargo Regulated Under 33 CFR Part 157

§ 172.060 Specific Applicability.

This section applies to each U.S. tank vessel that must comply with 33 CFR Part 157, Subpart B.

§ 172.065 Damage stability.

(a) *Definitions.* As used in this section, "Length" or "L" means load line length (LLL).

(b) *Calculations.* Each tank vessel must be shown by design calculations to meet the survival conditions in paragraph (g) of this section in each condition of loading and operation except as specified in paragraph (c) of this section, assuming the damage specified in paragraph (d) of this section.

(c) *Conditions of loading and operation.* The design calculations required by paragraph (b) of this section need not be done for ballast conditions if the vessel is not carrying oil, other than oily residues, in cargo tanks.

(d) *Character of damage.* (1) If a tank vessel is longer than 738 feet (225 metes) in length, design calculations must show that it can survive damage at any location.

(2) If a tank vessel is longer than 492 feet (150 meters) in l ength, but not longer than 738 feet (225 meters), design calculations must show that it can survive damage at any location except the transverse bulkheads bounding an aft machinery space. The machinery space is calculated as a single floodable compartment.

(3) If a tank vessel is 492 feet (150 meters) or less in length, design calculations must show that it can survive damage—

(i) At any location between adjacent main transverse watertight bulkheads except to an aft machinery space;

(ii) To a main transverse watertight bulkhead spaced closer than the longitudinal extent of collision penetration specified in Table 172.065(a) from another main transverse watertight bulkhead; and

(iii) To a main transverse watertight bulkhead or a transverse watertight bulkhead bounding a side tank or double bottom tank if there is a step or a recess in the transverse bulkhead that is longer than 10 feet (3.05 meters) and that is located within the extent of penetration of assumed damage. The step formed by the after peak bulkhead and after peak tank top is not a step for the purpose of this regulaton.

1(e) *Extent of damage.* For the purpose of paragraph (b) of this section—

(1) Design calculations must include both side and bottom damage, applied separately; and

(2) Damage must consist of the penetrations having the dimensions given in Table 172.065(a) except that, if the most disabling penetrations would be less than the penetrations described in this paragraph, the smaller penetration must be assumed.

(f) *Permeability of spaces.* When doing the calculations required in paragraph (b) of this section—

(1) The permeability of a floodable space, other than a machinery space, must be as listed in Table 172.065(b);

(2) Calculations in which a machinery space is treated as a floodable space must be based on an assumed machinery space permeability of 85%, unless the use of an assumed permeability of less than 85% is justified in detail; and

(3) If a cargo tank would be penetrated under the assumed damage, the cargo tank must be assumed to lose all cargo and refill with salt water, or fresh water if the vessel operates solely on the Great Lakes, up to the level of the tank vessel's final equilibrium waterline.

(g) *Survival conditions.* A vessel is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(1) *Final waterline.* The final waterline, in the final condition of sinkage, heel, and trim, must be below the lower edge of an opening through which progressive flooding may take place, such as an air pipe, or an opening

that is closed by means of a weathertight door or hatch cover. This opening does not include an opening closed by a—

(i) Watertight manhole cover;

(ii) Flush scuttle;

(iii) Small watertight cargo tank hatch cover that maintains the high integrity of the deck;

(iv) Class 1 door in a watertight bulkhead within the superstructure;

(v) Remotely operated sliding watertight door; or

(vi) Side scuttle of the non-opening type.

(2) *Heel angle.* The maximum angle of heel must not exceed 25 degrees, except that this angle may be increased to 30 degrees if no deck edge immersion occurs.

(3) *Range of stability.* Through an angle of 20 degrees beyond its position of equilibrium after flooding, a tank vessel must meet the following conditions:

(i) The righting arm curve must be positive.

(ii) The maximum righting arm must be at least 3.94 inches (10 cm).

(iii) Each submerged opening must be weathertight.

(4) *Progressive flooding.* Pipes, ducts or tunnels within the assumed extent of damage must be either—

(i) Equipped with arrangements such as stop check valves to prevent progressive flooding to other spaces with which they connect; or

(ii) Assumed in the design calculations required in paragraph (b) of this section to permit progressive flooding to the spaces with which they connect.

(h) *Buoyancy of superstructure.* For the purpose of paragraph (b) of this section, the buoyancy of any superstructure directly above the side damage is to be disregarded. The unflooded parts of superstructures beyond the extent of damage may be taken into consideration if they are separated from the damaged space by watertight bulkheads and no progressive flooding of these intact spaces takes place.

TABLE 172.065(a).—EXTENT OF DAMAGE

Collision Penetration	
Longitudinal extent	0.4651.[2] or 47.6 feet ((1/3)L or 14.5m) whichever is shorter.
Transverse extent [1]	B/5 or 37.74 feet (11.5m) which is shorter.
Vertical extent	From the baseline upward without limit.
Grounding Penetration at the Forward End but Excluding Any Damage Aft of a Point 0.3L Aft of the Forward Perpendicular	
Longitudinal extent	0.465L.[2] or 47.6 feet ((1/3)L or 14.5m) whichever is shorter.
Transverse extent	B/6 or 32.81 feet (10m) whichever is shorter but not less than 16.41 feet (5m).
Vertical extent from the baseline.	B/15 or 19.7 feet (6m) whichever is shorter.
Grounding Penetration at Any Other Longitudinal Position	
Longitudinal extent	L/10 or 16.41 feet (5m) whichever is shorter.
Transverse extent	16.41 feet (5m).
Vertical extent from the baseline.	B/15 or 19.7 feet (6m) whichever is shorter.

[1] Damage applied inboard from the vessel's side at right angles to the centerline at the level of the summer load line assigned under Subchapter E of this chapter.

TABLE 172.065(b).—Permeability

Spaces and tanks	Permeability (percent)
Storeroom spaces	60.
Accommodation spaces	95.
Voids	95.
Consumable liquid tanks	95 or 0.[1]
Other liquid tanks	95 or 0.[2]

[1] Whichever results in the more disabling condition.
[2] If tanks are partially filled, the permeability must be determined from the actual density and amount of liquid carried.

Subpart E—Special Rules Pertaining to a Barge That Carries a Hazardous Liquid Regulated Under Subchapter O of This Chapter

§ 172.060 Specific applicability.

This subpart applies to each tank barge that carries a cargo listed in Table 151.01–10(b) of this chapter.

§ 172.065 Hull type.

If a cargo listed in Table 151.05 of Part 151 of this chapter is to be carried, the tank barge must be at least the hull type specified in Table 151.05 of this chapter for that cargo.

§ 172.067 Cargo loading assumptions.

(a) The calculations required in this subpart must must be done for cargo weights and densities up to and including the maximum that is to be endorsed on the Certificate of Inspection in accordance with § 151.04–1(c) of this chapter.

(b) For each condition of loading and operation, each cargo tank must be assumed to have its maximum free surface.

§ 172.060 Intact transverse stability.

(a) Except as provided in paragraph (b) of this section, each tank barge must be shown by design calculations to have a righting arm curve with the following characteristics:

(1) If the tank barge is in river service, the area under the righting arm curve must be at least 5 foot-degrees (1.52 meter-degrees) up to the smallest of the following angles:

(i) The angle of maximum righting arm.

(ii) The downflooding angle.

(2) If the tank barge is in lakes, bays and sounds or Great Lakes summer service, the area under the righting arm curve must be at least 10 foot-degrees (3.05 meter-degrees) up to the smallest of the following angles:

(i) The angle of maximum righting arm.

(ii) The downflooding angle.

(3) If the tank barge is in ocean or Great Lakes winter service, the area under the righting arm curve must be at least 15 foot-degrees (4.57 meter-degrees) up to the smallest of the following angles:

(i) The angle of maximum righting arm.

(ii) The downflooding angle.

(b) If the vertical center of gravity of the cargo is below the weather deck at the side of the tank barge amidships, it must be shown by design calculations that the barge has at least the following metacentric height (GM) in feet (meters) in each condition of loading and operation:

$$GM = \frac{(K)(B)}{fe}$$

where—
K=0.3 for river service.
K=0.4 for lakes, bays and sounds and Great Lakes summer service.
K=0.5 for ocean and Great Lakes winter service.
B=beam in feet (meters).
fe=effective freeboard in feet (meters).

(c) the effective freeboard is given by—

fe=f + fa ; or

fe=d, whichever is less.

where—
f=the freeboard to the deck edge amidships in feet (meters).
fa=(1.25)(a/L)((2b/B)–1)(h); or
fa=h, whichever is less.
where—
a=trunk length in feet (meters).
L=LOA in feet (meters)
b=breadth of a watertight trunk in feet (meters).
B=beam of the barge in feet (meters).
h=height of a watertight trunk in feet (meters).
d=draft of the barge in feet (meters).

(d) For the purpose of this section, downflooding angle means the static angle from the intersection of the vessel's centerline and waterline in calm water to the first opening that does not close watertight automatically.

§ 172.095 Intact longitudinal stability.

Each tank barge must be shown by design calculations to have a longitudinal metacentric height (GM) in feet (meters) in each condition of loading and operation, at least equal to the following:

$$GM = \frac{0.02(L)^2}{d}$$

where—
L=LOA in feet (meters)
d=draft in feet (meters).

§ 172.100 Watertight integrity.

(a) Except as provided in paragraph (b) of this section, each Type I or II hopper barge hull must have a weathertight weather deck.

(b) If a Type I or II barge hull has an open hopper, the fully loaded barge must be shown by design calculations to have at least 2 inches (50 mm) of positive GM when the hopper space is flooded to the height of the weather deck.

(c) When doing the calculations required by this section, credit may be given for the buoyancy of the immersed portion of cargo tanks if the tank securing devices are shown by design calculations to be strong enough to hold the tanks in place when they are subjected to the buoyant forces resulting from the water in the hopper.

§ 172.103 Damage stability.

Each tank barge must be shown by design calculations to meet the survival conditions in § 172.110 assuming the damage specified in § 172.104 to the hull type specified in Table 151.05 of Part 151 of this chapter.

§ 172.104 Character of damage.

(a) *Type I barge hull not in an integrated tow.* If a Type I hull is required and the barge is not a box barge designed for use in an integrated tow, design calculations must show that the barge can survive damage at any location including the intersection of a transverse and a longitudinal bulkhead.

(b) *Type I barge hull in an integrated tow.* If a Type I barge hull is required and the barge is a box barge designed for operation in an integrated tow, design calculations must show that the barge can survive damage—

(1) At any location on the bottom of the tank barge except on a transverse watertight bulkhead; and

(2) At any location on the side of the tank barge including on a transverse watertight bulkhead.

(c) *Type II barge hull.* If a Type II hull is required, design calculations must show that a barge can survive damage at any location except on a transverse watertight bulkhead.

§ 172.105 Extent of damage.

For the purpose of § 172.103, design calculations must include both side and bottom damage, applied separately. Damage must consist of the most disabling penetration up to and including penetrations having the following dimensions:

(a) Side damage must be assumed to be as follows:

(1) Longitudinal extent—6 feet (183 centimeters).

(2) Transverse extent—30 inches (76 centimeters).

(3) Vertical extent—from the baseline upward without limit.

(b) Bottom damage must be assumed to be 15 inches (38 centimeters) from the baseline upward.

§ 172.110 Survival conditions.

(a) Paragraphs (c) and (d) of this section apply to a hopper barge and paragraphs (e) through (i) apply to all other tank barges.

(b) A barge is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(c) A hopper barge must not heel or trim beyond the angle at which—

(1) the deck edge is first submerged; or

(2) If the barge has a coaming that is at least 36 inches (91.5 centimeters) in height, the intersection of the deck and the coaming is first submerged, except as provided in paragraph (d) of this section.

(d) A hopper barge must not heel beyond the angle at which the deck edge is first submerged by more than "fa" as defined in § 172.090(c).

(e) Except as provided in paragraphs (h) and (i) of this section, each tank barge must not heel beyond the angle at which—

(1) The deck edge is first submerged; or

(2) If the barge has one or more watertight trunks, the deck edge is first submerged by more than "fa" as defined in § 172.090(c).

(f) Except as provided in paragraphs (h) and (i) of this section, a tank barge must not trim beyond the angle at which—

(1) The deck edge is first submerged; or

(2) If the barge has one or more watertight trunks, the intersection of the deck and the trunk is first submerged.

(g) If a tank barge experiences simultaneous heel and trim, the trim requirements in paragraph (f) of this section apply only at the centerline.

(h) Except as provided in paragraph (i) of this section, in no case may any part of the actual cargo tank top be underwater in the final condition of equilibrium.

(i) If a barge has a "step-down" in hull depth on either or both ends and all cargo tank openings are located on the higher deck level, the deck edge and tank top in the stepped-down area may be submerged.

Subpart F—Special Rules Pertaining to a Ship That Carries a Hazardous Liquid Regulated Under Subchapter O of This Chapter

§ 172.125 Specific applicability.

This subpart applies to each tankship that carries a cargo listed in Table I of Part 153 of this chapter, except that it does not apply to a tankship whose cargo tanks are clean and gas free.

§ 172 Definitions.

"Length" or "L" means load line length (LLL).

§ 172.130 Calculations.

(a) Each tankship must be shown by design calculations to meet the survival conditions in § 172.150 in each condition of loading and opoeration assuming the damage specified in § 172.133 for the hull type prescribed in Part 153 of this chapter.

(b) If a cargo listed in Table I of Part 153 of this chapter is to be carried, the vessel must be at least the hull type specified in Part 153 of this chapter for that cargo.

§ 172.133 Character of damage.

(a) If a type I hull is required, design calculations must show that the vessel can survive damage at any location.

(b) If a type II hull is required, design calculations must show that a vessel—

(1) Longer than 492 feet (150 meters) in length can survive damage at any location; and

(2) Except as specified in paragraph (d) of this section, 492 feet (150 meters) or less in length can survive damage at any location.

(c) If a Type III hull is required, design calculations must show that a vessel—

(1) Except as specified in paragraph (d) of this section, 410 feet (125 meters) in length or longer can survive damage at any location; and

(2) Less than 410 feet (125 meters) in length can survive damage at any location except to an aft machinery space.

(d) A vessel described in paragraph (b)(2) or (c)(1) of this section need not be designed to survive damage to a main transverse watertight bulkhead

bounding an aft machinery space. The machinery space is calculated as a single floodable compartment.

§ 172.135 Extent of damage.

For the purpose of § 172.133—

(a) Design calculations must include both side and bottom damage, applied separately; and

(b) Damage must consist of the penetrations having the dimensions given in Table 172.135 except that, if the most disabling penetrations would be less than the penetrations given in Table 172.135, the smaller penetration must be assumed.

TABLE 172.135.—EXTENT OF DAMAGE

Collision Penetration	
Longitudinal extent	0.495L [1] or 47.6 feet ((1/3)L [2] or 14.5m) whichever is shorter.
Transverse extent [1]	B/5 or 37.74 feet (11.5m) [2] whichever is shorter.
Vertical extent	From the baseline upward without limit.
Grounding Penetration At the Forward End But Excluding Any Damage Aft of a Point 0.3L Aft of the Forward Perpendicular	
Longitudinal extent	L/10
Transverse extent	B/6 or 32.81 feet (10m) whichever is shorter.
Vertical extent from the baseline upward	B/15 or 19.7 feet (6m) whichever is shorter.
Grounding Penetration At Any Other Longitudinal Position	
Longitudinal extent	L/10 or 16.41 feet (5m) whichever is shorter.
Transverse extent	16.41 feet (5m)
Vertical extent from the baseline upward.	B/15 or 19.7 feet (6m) whichever is shorter.

[1] Damage applied inboard from the vessel's side at right angles to the centerline at the level of the summer load line assigned under Subchapter E of this chapter.
[2] B is measured amidships.

§ 172.140 Permeability of spaces.

(a) When doing the calculations required in § 172.130, the permeability of a floodable space other than a machinery space must be as listed in Table 172.060(b).

(b) Calculations in which a machinery space is treated as a floodable space must be based on an assumed machinery space permeability of 0.85, unless the use of an assumed permeability of less than 0.85 is justified in detail.

(c) If a cargo tank would be penetrated under the assumed damage, the cargo tank must be assumed to lose all cargo and refill with salt water up to the level of the tankship's final equilibrium waterline.

§ 172.150 Survival conditions.

A tankship is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(a) *Final waterline.* The final waterline, in the final condition of sinkage, heel, and trim, must be below the lower edge of openings such as air pipes and openings closed by weathertight doors or hatch covers. The following types of openings may be submerged when the tankship is at the final waterline:

(1) Openings covered by watertight manhole covers or watertight flush scuttles.

(2) Small watertight cargo tank hatch covers.

(3) A Class 1 door in a watertight bulkhead within the superstructure.

(4) Remotely operated sliding watertight doors.

(5) Side scuttles of the non-opening type.

(b) *Heel angle.* (1) Except as described in paragraph (b)(2) of this section, the maximum angle of heel must not exceed 15 degrees (17 degrees if no part of the freeboard deck is immersed).

(2) The Commander (mmt) will consider on a case by case basis each vessel 492 feet (150 meters) or less in length having a final heel angle greater than 17 degrees but less than 25 degrees.

(c) *Range of Stability.* Through an angle of 20 degrees beyond its position of equilibrium after flooding, a tankship must meet the following conditions:

(1) The righting arm curve must be positive.

(2) The maximum righting arm must be at least 3.95 inches (10 cm).

(3) Each submerged opening must be weathertight.

(d) *Progressive flooding.* Pipes, ducts or tunnels within the assumed extent of damage must be either—

(1) Equipped with arrangements such as stop check valves to prevent progressive flooding to other spaces with which they connect; or

(2) Assumed in the design calculations required by § 172.130 to flood the spaces with which they connect.

(e) *Buoyancy of superstructure.* The buoyancy of any superstructure directly above the side damage is to be disregarded. The unflooded parts of superstructures beyond the extent of damage may be taken into consideration if they are separated from the damaged space by watertight bulkheads and no progressive flooding of these intact spaces takes place.

(f) *Metacentric height.* After flooding, the tankship's metacentric height must be at least 2 inches (50mm) when the ship is in the upright position.

(g) *Equalization arrangements.* Flooding equalization arrangements requiring mechanical operation such as valves or cross-flooding lines may not be assumed to reduce the angle of heel. Spaces joined by ducts of large cross sectional area are treated as common spaces.

(h) *Intermediate stages of flooding.* If an intermediate stage of flooding is more critical than the final stage, the tankship must be shown by design calculations to meet the requirements in this section in the intermediate stage.

Subpart G—Special Rules Pertaining to a Ship That Carries a Bulk Liquefied Gas Regulated Under Subchapter O of This Chapter

§ 172.155 Specific applicability.

This subpart applies to each tankship that has on board a bulk liquefied gas listed in Table 4 of § 154 of this chapter as cargo, cargo residue, or vapor.

§ 172.160 Definitions.

As used in this subpart—

(a) "Length" or "L" means the load line length (LLL).

(b) "MARVS" means the Maximum Allowable Relief Valve Setting of a cargo tank.

§ 172.165 Intact stability calculations.

(a) Design calculations must show that 2 inches (50mm) of positive metacentric height can be maintained by each tankship when it is being loaded and unloaded.

(b) For the purpose of demonstrating compliance with the requirements of paragraph (a), of this section, the effects of the addition of water ballast may be considered.

§ 172.170 Damage stability calculations.

(a) Each tankship must be shown by design calculations to meet the survival conditions in § 172.195 in each condition of loading and operation assuming the damage specified in § 172.175 for the hull type specified in Table 4 of Part 154 of this chapter.

(b) If a cargo listed in Table 4 of Part 154 of this chapter is to be carried, the vessel must be at least the ship type specified in Table 4 of Part 154 of this chapter for the cargo.

§ 172.175 Character of damage.

(a) If a type IG hull is required, design calculations must show that the vessel can survive damage at any location.

(b) If a type IIG hull is required, design calculations must show that a vessel—

(1) Longer than 492 feet (150 meters) in length can survive damage at any location; and

(2) 492 feet (150 meters) or less in length can survive damage at any location except the transverse bulkheads bounding an aft machinery space. The machinery space is calculated as a single floodable compartment.

(c) If a vessel has independent tanks type C with a MARVS of 100 psi (689

kPa) gauge or greater, is 492 feet (150 meters) or less in length, and Table 4 of Part 154 of this chapter allows a type IIPG hull, design calculations must show that the vessel can survive damage at any location, except as prescribed in paragraph (e) of this section.

(d) If a type IIIG hull is required, except as specified in paragraph (e) of this section, design calculations must show that a vessel—

(1) 410 feet (125 meters) in length or longer can survive damage at any location; and

(2) Less than 410 feet (125 meters) in length can survive damage at any location, except in the main machinery space.

(e) The calculations in paragraphs (c) and (d) of this section need not assume damage to a transvers bulkhead unless it is spaced closer than the longitudinal extent of collision penetration specified in Table 172.180 from another transverse bulkhead.

(f) If a main transvers watertight bulkhead or transverse watertight bulkhead bounding a side tank or double bottom tank has a step or a recess that is longer than 10 feet (3.05 meters) located within the extent of penetration of assumed damage, the vessel must be shown by design calculations to survive damage to this bulkhead. The step formed by the after peak bulkhead and after peak tank top is not a step for the purpose of this regulation.

§ 172.180 Extent of damage.

For the purpose of § 172.170—

(a) Design calculations must include both side and bottom damage, applied separately; and

(b) Damage must consist of the penetrations having the dimensions given in Table 172.180 except that, if the most disabling penetrations would be less than the penetrations given in Table 172.180, the smaller penetration must be assumed.

TABLE 172.180.—EXTENT OF DAMAGE

Collision Penetration	
Longitudinal extent	$0.495L^{2/3}$ or 47.6 feet ($(1/3)L^{2/3}$ or 14.5m) whichever is shorter.
Transverse extent [1]	B/5 or 37.74 feet (11.5m) [2] whichever is shorter.
Vertical extent	From the baseline upward without limit.
Grounding Penetration at the Forward End But Excluding Any Damage Aft of a Point 0.3L Aft of the Forward Perpendicular	
Longitudinal extent	$0.495L^{2/3}$ or 47.6 feet ($(1/3)L^{2/3}$ or 14.5m) whichever is shorter.
Transverse extent	B/6 or 32.81 feet (10m) whichever is shorter.
Vertical extent from the molded line of the shell at the centerline	B/15 or 6.6 feet (2m) whichever is shorter.

TABLE 172.180.—EXTENT OF DAMAGE—Continued

Grounding Penetration At Any Other Longitudinal Position	
Longitudinal extent	L/10 or 16.41 feet (5m) whichever is shorter.
Transverse extent	B/6 or 16.41 feet (5m) whichever is shorter.
Vertical extent from the molded line of the shell at the centerline	B/15 or 6.6 feet (2m) whichever is shorter.

[1] Damage applied inboard from the vessel's side at right angles to the centerline at the level of the summer load line assigned under Subchapter E of this chapter.
[2] B is measured amidships.

§ 172.185 Permeability of spaces.

(a) When doing the calculations required in § 172.170, the permeability of a floodable space other than a machinery space must be as listed in Table 172.060(b).

(b) Calculations in which a machinery space is treated as a floodable space must be based on an assumed machinery space permeability of 85%, unless the use of an assumed permeability of less than 85% is justified in detail.

(c) If a cargo tank would be penetrated under the assumed damage, the cargo tank must be assumed to lose all cargo and refill with salt water up to the level of the tankship's final equilibrium waterline.

§ 172.195 Survival conditions.

A vessel is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(a) *Final waterline.* The final waterline, in the final condition of sinkage, heel, and trim, must be below the lower edge of an opening through which progressive flooding may take place, such as an air pipe, or an opening that is closed by means of a weathertight door or hatch cover. This opening does not include an opening closed by a—

(1) Watertight manhole cover;

(2) Flush scuttle;

(3) Small watertight cargo tank hatch cover that maintains the high integrity of the deck;

(4) A Class 1 door in a watertight bulkhead within the superstructure;

(5) Remotely operated sliding watertight door; or

(6) A side scuttle of the non-opening type.

(b) *Heel angle.* The maximum angle of heel must not exceed 30 degrees.

(c) *Range of stability.* Through an angle of 20 degrees beyond its position of equilibrium after flooding, a tankship must meet the following conditions:

(1) The righting arm curve must be positive.

(2) The maximum righting arm must be at least 3.94 inches (10 cm).

(3) Each submerged opening must be weathertight.

(d) *Progressive flooding.* If pipes, ducts, or tunnels are within the assumed extent of damage, arrangements must be made to prevent progressive flooding to a space that is not assumed to be flooded in the damaged stability calculations.

(e) *Buoyancy of superstructure.* The buoyancy of any superstructure directly above the side damage is to be disregarded. The unflooded parts of superstructures beyond the extent of damage may be taken into consideration if they are separated from the damaged space by watertight bulkheads and no progressive flooding of these intact spaces takes place.

(f) *Metacentric height.* After flooding, the tank ship's metacentric height must be at least 2 inches (50 mm) when the vessel is in the upright position.

(g) *Equalization arrangements.* Equalization arrangements requiring mechanical aids such as valves or cross-flooding lines may not be considered for reducing the angle of heel. Spaces joined by ducts of large cross-sectional area are treated as common spaces.

(h) *Intermediate stages of flooding.* If an intermediate stage of flooding is more critical than the final stage, the tank vessel must be shown by design calculations to meet the requirements in this section in the intermediate stage.

§ 172.205 Local damage.

(a) Each tankship must be shown by design calculations to meet the survival conditions in paragraph (b) of this section in each condition of loading and operation assuming that local damage extending 30 inches (76 cm) normal to the hull shell is applied at any location in the cargo length:

(b) The vessel is presumed to survive assumed local damage if it does not heel beyond the smaller of the following angles in the final stage of flooding:

(1) 30 degrees.

(2) The angle at which restoration of propulsion and steering, and use of the ballast system is precluded.

PART 173—SPECIAL RULES PERTAINING TO VESSEL USE

Subpart A—General

173.001 Applicability.

Subpart B—Lifting

Sec.

173.005 Specific applicability.
173.007 Location of the hook load.
173.010 Definitions.

173.020 Intact stability stndards: counterballasted and non-counterballasted vessels.
173.025 Additional intact stability standards: Counterballasted vessels.

Subpart C—School Ships

173.050 Specific applicability.
173.055 Public nautical school ships.
173.060 Civilian nautical school ships.

Subpart D—Oceanographic Research

173.070 Specific applicability.
173.075 Subdivision requirements.
173.080 Damage stability requirements.
173.085 General subdivision requirements.

Subpart E—Towing

173.090 General.
173.095 Towline pull criterion.

Authority: Section 2, 67 Stat. 418 (46 U.S.C. 86); Sec. 2, 49 Stat. 888 as amended (46 U.S.C. 88a); Sec. 5, 49 Stat. 1384 as amended (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); Sec. 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Sec. 5, Pub. L. 95-474, 92 Stat. 1480 as amended (46 U.S.C. 391a); Sec. 1, Pub. L. 85-739, 72 Stat. 833, as amended (46 U.S.C. 404); R.S. 4462, as amended (46 U.S.C. 416); Sec. 2, Pub. L. 96-453, 94 Stat. 207 (46 U.S.C. 1295f(c)(2)); Sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d)); Sec. 3, 68 Stat. 675 (50 U.S.C. 198); Sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; 49 CFR 1.46.

Subpart A—General

§ 173.001 Applicability.

Each vessel that is engaged in one of the following activities must comply with the applicable provisions of this part:

(a) Lifting.
(b) Training (schoolship).
(c) Oceanographic research.
(d) Towing.

Subpart B—Lifting

§ 173.005 Specific applicability.

This subpart applies to each vessel that—

(a) Is equipped to lift cargo or other objects; and

(b) Has a maximum heeling moment due to hook load greater than or equal to—

(0.67)(W)(GM)(F/B) in foot-long tons
(0.21)(W)(GM)(F/B) in meter-metric tons

where—
W = displacement of the vessel with the hook load included in long tons (metric tons).
GM = metacentric height with hook load included in feet (meters).
F = freeboard to the deck edge amidships in feet (meters).
B = beam in feet (meters).

§ 173.007 Location of the hook load.

When doing the calculations required in this subpart, the hook load must be considered to be located at the head of the crane.

§ 173.010 Definitions.

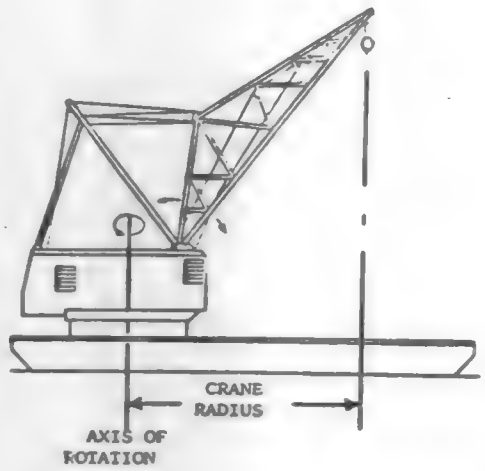
As used in this part—

(a) "Hook load" means the weight of the object lifted by the crane.

(b) "Crane radius" means the distance illustrated in Figure 173.010.

Figure 173.010

Crane Radius



§ 173.020 Intact stability standards: Counterballasted and non-counterballasted vessels.

(a) Except as provided in paragraph (c) of this section, each vessel that is not equipped to counter-ballast while lifting must be shown by design calculations to comply with this section in each condition of loading and operation and at each combination of hook load and crane radius.

(b) Each vessel must have a righting arm curve with the following characteristics:

(1) If the vessel operates in protected or partially protected waters, the area under the righting arm curve up to the smallest of the following angles must be at least 10 foot-degrees (3.05 meter-degrees):

(i) The angle corresponding to the maximum righting arm.

(ii) The downflooding angle.

(iii) 40 degrees.

(2) If the vessel operates in exposed waters, the area under the righting arm curve up to the smallest of the following angles must be at least 15 foot-degrees (4.57 meter-degrees):

(i) The angle corresponding to the maximum righting arm.

(ii) The downflooding angle

(iii) 40 degrees.

(c) If the vessel's hull proportions fall within any one of the following limits, in lieu of complying with paragraph (b) of this section the vessel owner may demonstrate in the presence of the OCMI that the vessel will not heel beyond the limits specified in paragraph (d) of this section:

(1) Beam to depth—3.40 to 4.75.

(2) Length to beam—3.20 to 4.50.

(3) Draft to depth—0.60 to 0.85.

(d) For the purpose of paragraph (c) of this section, the following limits of heel apply with the vessel at its deepest operating draft:

(1) Protected and partially protected waters and Great Lakes in summer—heel to main deck immersion or bilge emergence, whichever occurs first.

(2) Exposed waters and Great Lakes in winter—heel permitted to one-half of the freeboard or one-half of the draft, whichever occurs first.

§ 173.025 Additional intact stability standards: Counterballasted vessels.

(a) Each vessel equipped to counterballast while lifting must be shown by design calculations to be able to withstand the sudden loss of the hook load, in each condition of loading and operation and at each combination of hook load and crane radius.

(b) When doing the calculations required by this section, the hook load and counterballast heeling moments and vessel righting moments, as plotted on graph 173.025, must define areas that satisfy the following equation:

Area II > Area I + K

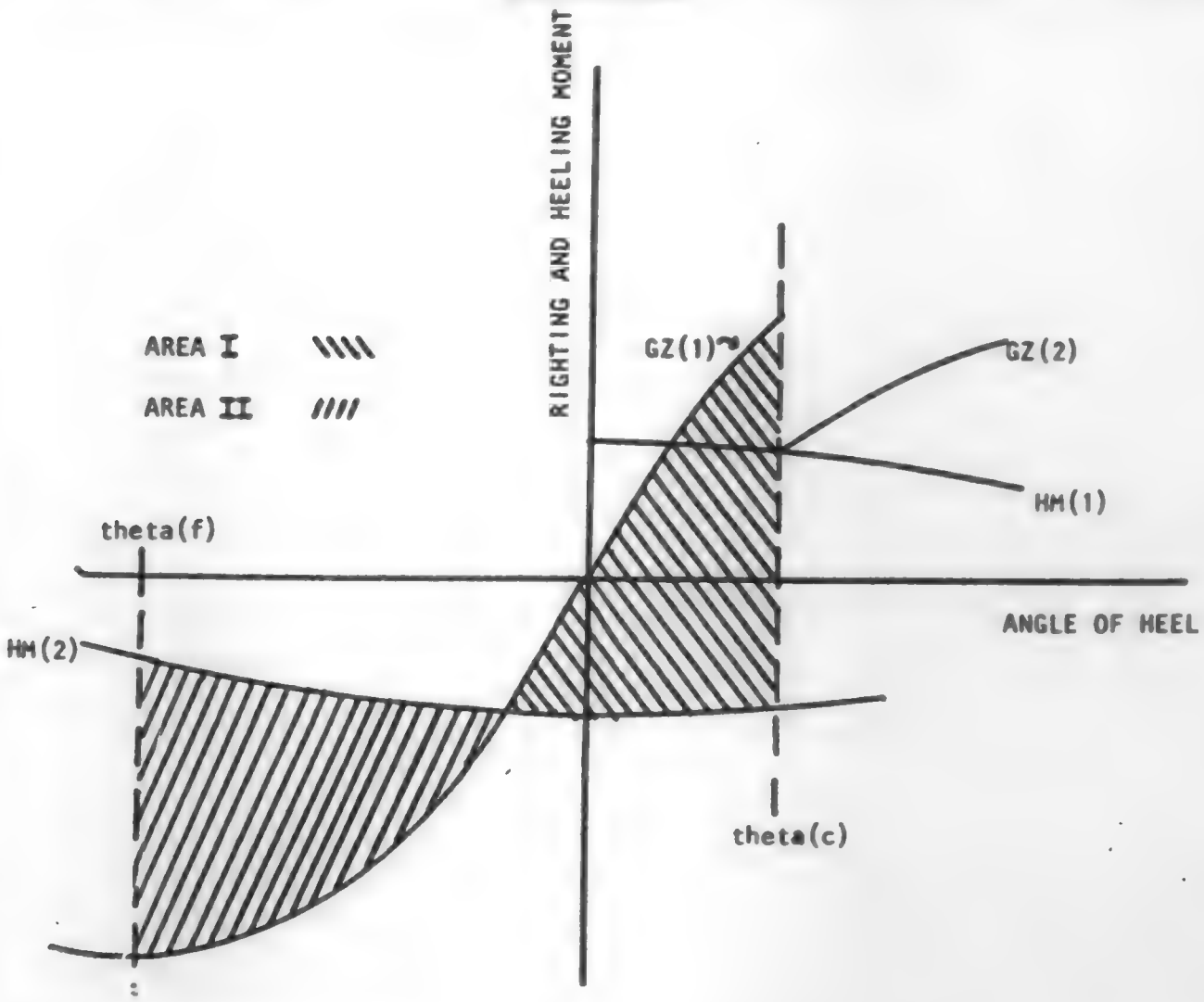
where—
(1) K = O for operation on protected waters and 7 foot-degrees (2.13 meter-degrees) for operation on partially protected and exposed waters.
(2) Areas I and II are shown on graph 173.025.

(c) Each heeling moment curve must be defined by —

HM = HMO cos (T)

where—
HM = heeling moment.
HMO = heeling moment at 0 degrees of heel.
T = angle of heel

GRAPH 173.025



where.

GZ(1) is the righting moment curve at the displacement corresponding to the vessel without hook load.

GZ(2) is the righting moment curve at the displacement corresponding to the vessel with hook load.

HM(1) is the heeling moment curve due to the combined heeling moments of the hook load and the counterballast at the displacement with hook load.

HM(2) is the heeling moment curve due to the counterballast at the displacement without hook load.

theta(c) is the angle of static equilibrium due to the combined hook load and counterballast heeling moments.

theta(f) is the downflooding angle on the counterballasted side of the vessel.

Subpart C—School Ships

§ 173.050 Specific applicability.

Each nautical school ship, inspected under Subchapter R of this chapter, must comply with this subpart.

§ 173.055 Public nautical school ships.

Each public nautical school ship must comply with—

(a) Section 171.070(a) of this subchapter as a passenger vessel carrying 400 or less passengers;

(b) Section 171.070(e) of this subchapter;

(c) Section 171.072 of this subchapter; and

(d) Section 171.073 of this subchapter.

§ 173.060 Civilian nautical school ships.

Each civilian nautical school ship must comply with Part 171 of this subchapter as though it were a passenger vessel. In addition to regular passengers, for the purpose of complying with Part 171, the following will also count as passengers;

(a) A student.

(b) A cadet.

(c) An instructor who is not also a member of the crew.

Subpart D—Oceanographic Research

§ 173.070 Specific applicability.

Each oceanographic vessel, inspected under Subchapter U of this chapter, except a barge that is less than 300 gross tons, must comply with this subpart.

§ 173.075 Subdivision requirements.

(a) Each oceanographic vessel must comply with the subdivision requirements in §§ 171.070, 171.072, and 171.073 of this subchapter as if it were a passenger vessel carrying 400 or less passengers.

(b) Each vessel must have a collision bulkhead.

§ 173.080 Damage stability requirements.

Each oceanographic vessel must comply with § 171.080 of this subchapter as a category Z vessel.

§ 173.085 General subdivision requirements.

Each oceanographic vessel must comply with the following:

(a) Section 171.085(c)(1), (d) and (g) of this subchapter.

(b) Section 171.105 (a) through (g) of this subchapter except that a reduction or elimination of the required inner bottom is allowed if—

(1) The inner bottom would interfere with the mission of the vessel; and

(2) As a result of other design features, the ability of the vessel to withstand side and bottom damage is not reduced.

(c) Section 171.106 of this subchapter.

(d) Section 171.108 of this subchapter.

(e) Section 171.109 of this subchapter.

(f) Section 171.111 of this subchapter.

(g) Section 171.113 of this subchapter.

(h) The collision bulkhead must not be penetrated by more than one pipe that carries liquid to or from the forepeak tank. This pipe must have a screwdown valve that is—

(1) Operative from above the bulkhead deck; and

(2) Attached to the bulkhead inside the forepeak tank.

(i) Section 171.116 (b), (c), and (e) of this subchapter.

(j) Section 171.117(c) of this subchapter.

(k) Each port light in a space located below the freeboard deck, as defined in § 42.13–15(i) of this chapter, or in a space within an enclosed superstructure must be fitted with a hinged inside dead cover.

(l) Section 171.118 (b) and (c) of this subchapter.

(m) Section 171.122 (a) through (d) and (f) of this subchapter.

(n) Section 171.135 of this subchapter.

(o) A ventilation duct or forced draft duct may not penetrate a main transverse watertight bulkhead unless—

(1) The penetration is watertight;

(2) The penetration is located as near the vessel's centerline as possible; and

(3) The bottom of the duct is not more than—

(i) 18 inches (45.7 cm) below the bulkhead deck; and

(ii) 4 feet (121.9 cm) above the final waterline after damage determined in § 173.080.

Subpart E—Towing

§ 173.090 General.

This subpart applies to each vessel that is equipped for towing.

§ 173.095 Towline pull criterion.

(a) In each towing condition, each vessel must be shown by design calculations to meet the requirements of either paragraph (b) or (c) of this section.

(b) the vessel's metacentric height (GM) must be equal to or greater than the following:

$$GM = \frac{(N)(P \times D)^{2/3}(s)(h)}{K\Delta(f/B)}$$

where—

N = number of propellers.

P = shaft power per shaft in horsepower (kilowatts).

D = propeller diameter in feet (meters).

s = that fraction of the propeller circle cylinder which would be intercepted by the rudder if turned to 45 degrees from the vessel's centerline.

h = vertical distance from propeller shaft centerline at rudder to towing bitts in feet (meters).

Δ = displacement in long tons (metric tons).

f = minimum freeboard along the length of the vessel in feet (meters).

B = molded beam in feet (meters).

K = 38 in English units.

K = 13.93 in metric units.

(c) When a heeling arm curve, calculated in accordance with paragraph (d) of this section, is plotted against the vessel's righting arm curve—

(1) Equilibrium must be reached before the downflooding angle; and

(2) The residual righting energy must be at least 2 foot-degrees (.61 meter-degrees) up to the smallest of the following angles:

(i) The angle of maximum righting arm.

(ii) The downflooding angle.

(iii) 40 degrees.

(d) The heeling arm curve specified in paragraph (c) of this section must be calculated by the following equation:

$$HA = \frac{2\ (N)(P \times D)^{2/3}(s)(h)(\cos\ \theta)}{K\Delta}$$

where—

HA = heeling arm.

θ = angle of heel.

N, P, D, K, s, h, and Δ are as defined in paragraph (b) of this section.

(e) For the purpose of this section, downflooding angle means the static angle from the intersection of the vessel's centerline and waterline in calm water to the first opening that does not close watertight automatically.

(f) For the purpose of this section, at each angle of heel, a vessel's righting arm may be calculated considering either—

(1) The vessel is permitted to trim free until the trimming moment is zero; or

(2) The vessel does not trim as it heels.

PART 174—SPECIAL RULES PERTAINING TO SPECIFIC VESSEL TYPES

Subpart A—General

Sec.
174.005 Applicability.

Subpart B—Special Rules Pertaining to Deck Cargo Barges

174.010 Specific applicability.
174.015 Intact stability.
174.020 Alternate intact stability criterion.

Subpart C—Special Rules Pertaining to Mobile Offshore Drilling Units

174.030 Specific applicability.
174.035 Definitions.
174.040 Stability requirements: general.
174.045 Intact stability requirements.
174.050 Stability on bottom.
174.055 Calculation of wind heeling momen (Hm).
174.065 Damage stability requirements.
174.070 General damage stability assumptions.
174.075 Compartments assumed flooded: general.
174.080 Flooding on self-elevating and surface type units.
174.085 Flooding on column stabilized units
174.090 Permeability of spaces.
174.100 Appliances for watertight and weathertight integrity.

Subpart D—Special Rules Pertaining to Nuclear Powered Vessels

174.110 Specific applicability.
174.115 Subdivision requirements.
174.120 Damage stability requirements.
174.125 Additional subdivision requirements.

Subpart E—Special Rules Pertaining to Tugboats and Towboats

174.140 Specific applicability.
174.145 Intact stability requirements.

Subpart F—Special Rules Pertaining to Ocean Thermal Energy Conversion Plantships and Floating Facilities

174.150 Specific applicability.
174.155 Stability requirements.
174.160 Normal operating condition.
174.165 Tension tendon tethered facilities.
174.170 Stability test.

Authority: Section 2, 87 Stat. 418 (46 U.S.C. 86); Sec. 2, 49 Stat. 886 as amended (46 U.S.C. 88a); Sec. 5, 49 Stat. 1384 as amended (46 U.S.C. 369); R.S. 4405, as amended (46 U.S.C. 375); Sec. 3, 70 Stat. 152 as amended (46 U.S.C. 390b); Sec. 5, Pub. L. 95–474, 92 Stat. 1480 as amended (46 U.S.C. 391a); Sec. 1, Pub. L. 85–739, 72 Stat. 833, as amended (46 U.S.C. 404); R.S. 4462, as amended (46 U.S.C. 416); Sec. 2, Pub. L. 96–453, 94 Stat. 207 (46 U.S.C. 1295f(c)(2)); Sec. 4, 67 Stat. 462 (43 U.S.C. 1333(d); Sec. 3, 68 Stat. 675 (50 U.S.C. 198); Sec. 6, 80 Stat. 938 (49 U.S.C. 1655(b)); E.O. 12234, 45 FR 58801; and 49 CFR 1.46, except as otherwise noted.

Subpart A—General

§ 174.005 Applicability.

Each of the following vessels must comply with the applicable provisions of this part:

(a) Deck cargo barge.

(b) Mobile offshore drilling unit (MODU) inspected under Subchapter IA of this chapter.

(c) Nuclear powered vessel.

(d) Tugboat and towboat inspected under Subchapter I of this chapter.

(e) Ocean Thermal Energy Conversion plantship and floating facility inspected under Subchapter I of this chapter.

Subpart B—Special Rules Pertaining to Deck Cargo Barges

§ 174.010 Specific applicability.

Each barge that carries cargo above the weather deck must comply with this subpart.

§ 174.015 Intact stability.

(a) Except as provided In § 174.020, in each condition of loading and operation, each barge must be shown by design calculations to have an area under the righting arm curve up to the angle of maximum righting arm, the downflooding angle, or 40 degrees, whichever angle is smallest, equal to or greater than—

(1) 15 foot-degrees (4.57 meter-degrees) for ocean and Great Lakes winter service; and

(2) 10 foot-degrees (3.05 meter-degrees) for lakes, bays, sounds, and Great Lakes summer service.

(b) For the purpose of this section, downflooding angle means the static angle from the intersection of the vessel's centerline and waterline in calm water to the first opening that does not close watertight automatically.

§ 174.020 Alternate intact stability criterion.

A barge need not comply with § 174.015 and Subparts C and E of Part 170 of this chapter if it has the following characteristics:

(a) The weather deck is watertight.

(b) The barge's hull proportions fall within any one of the ratios in categories (A) through (D) in Table 174.020.

(c) The maximum cargo height is 30 feet (9.25 meters) or a value equal to the depth of the barge amidships, whichever is less.

TABLE 174.020

Category	Beam/depth ratio	Draft/depth ratio
A	3.00 to 3.74	Equal to or less than 0.70.
B	3.75 to 3.99	Equal to or less than 0.72.
C	4.00 to 4.49	Equal to or less than 0.76.
D	4.50 to 6.00	Equal to or less than 0.80.

Subpart C—Special Rules Pertaining to Mobile Offshore Drilling Units

§ 174.030 Specific applicability.

Each mobile offshore drilling unit (MODU) inspected under Subchapter IA of this chapter must comply with this subpart.

§ 174.035 Definitions.

(a) For the purpose of this subpart the following terms have the same definitions as given in Subchapter IA of this chapter:

(1) "Column stabilized unit".

(2) "Mobile offshore drilling unit".

(3) "Self-elevating unit".

(4) "Surface type unit".

(b) For the purpose of this subpart—

(1) "Downflooding" means the entry of seawater through any opening that cannot be rapidly closed watertight, into the hull, superstructure, or columns of an undamaged unit due to heel, trim, or submergence of the unit.

(2) "Downflooding angle" means the static angle from the intersection of the unit's centerline and waterline in calm water to the first opening through which downflooding can occur when subjected to a wind heeling moment (Hm) calculated in accordance with § 174.055.

(3) "Normal operating condition" means a condition of a unit when loaded or arranged for drilling, field transit, or ocean transit.

(4) "Severe storm condition" means a condition of a unit when loaded or arranged to withstand the passage of a severe storm.

§ 174.040 Stability requirements: general.

Each unit must be designed to have at least 2 inches (50mm) of positive metacentric height in the upright equilibrium position for the full range of drafts, whether at the operating draft for navigation, towing, or drilling afloat, or at a temporary draft when changing drafts.

§ 174.045 Intact stability requirements.

(a) Each unit must be designed so that the wind heeling moments (Hm) and righting moments calculated for each of its normal operating conditions and severe storm conditions, when plotted on GRAPH 174.045, define areas that satisfy the equation:

Area (A) > (K) X (Area (B))

where—

(1) K=1.4 except that if the unit is a column stabilized unit K=1.3;

(2) Area (A) is the area on GRAPH 174.045 under the righting moment curve between 0 and the second intercept angle or the angle of heel at which downflooding would occur, whichever angle is less; and

(3) Area (B) is the area on GRAPH 174.045 under the wind heeling moment curve between 0 and the second intercept angle or the angle of heel at which downflooding of the unit would occur whichever angle is less.

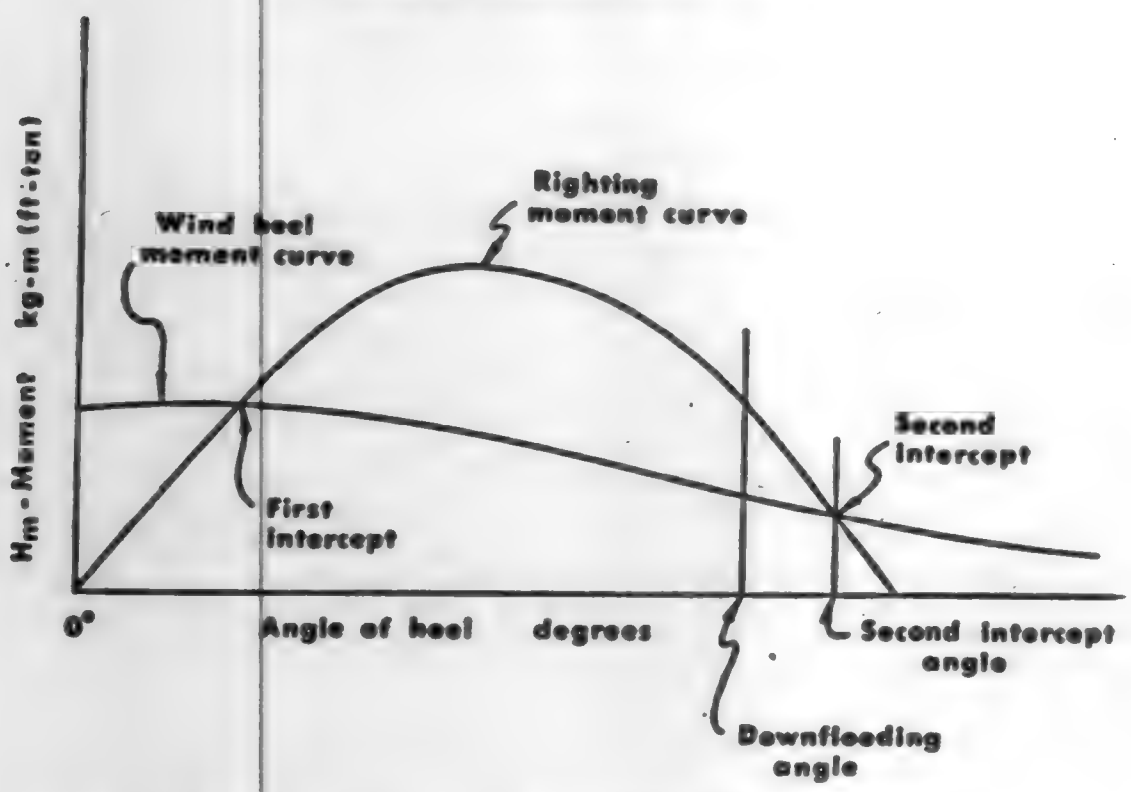
(b) Each righting moment on graph § 174.045 must be positive for all angles greater than 0 and less than the second intercept angle.

(c) For the purposes of this section, openings fitted with the weathertight closing appliances specified in § 174.100(b) are not considered as openings through which downflooding could occur if they can be rapidly closed and would not be submerged below the units' waterline prior to the first intercept angle, except that ventilation intakes and outlets for machinery spaces, crew spaces, and other spaces where ventilation is normally required are considered as openings through which downflooding could occur regardless of location.

(d) Each unit must be designed so that it can be changed from each of its normal operating conditions to a severe storm condition within a minimum period of time consistent with the operating manual required in § 170.130 of this subchapter.

GRAPH 174.045

Intact Stability Curves for a Given Normal Operating or Severe Storm Mode



§ 174.050 Stability on bottom.

Each bottom bearing unit must be designed so that, while supported on the sea bottom with footings or a mat, it continually exerts a downward force on each footing or the mat when subjected to the forces of wave and current and to wind blowing at the velocities described in § 174.055(b)(3).

§ 174.055 Calculation of wind heeling moment (Hm).

(a) The wind heeling moment (Hm) of a unit in a given normal operating condition or severe storm condition is the sum of the individual wind heeling moments (H) calculated for each of the exposed surfaces on the unit; i.e., $Hm = \Sigma H$.

(b) Each wind heeling moment (H) must be calculated using the equation:

$H = k(v)^2(Ch)(Cs)(A)(h)$

where—

(1) H = wind heeling moment for an exposed surface on the unit in foot-pounds (kilogram-meters);

(2) k = 0.00338 lb./(ft.^{2}-knots^2) (0.0623 (kg-sec^2)/m^4);

(3) v = wind velocity of—

(i) 70 knots (36 meters per second) for normal operating conditions.

(ii) 100 knots (51.5 meters per second) for severe storm conditions.

(iii) 50 knots (25.8 meters per second) for damage conditions.

(4) A = projected area in square feet (squrae meters) of an exposed surface on the unit;

(5) Ch = height coefficient for "A" from Table 174.055(a);

(6) Cs = shape coefficient for "A" from Table 174.055(b); and

(7) h = the vertical distance in feet (meters) from the center of lateral resistance of the underwater hull to the center of wind pressure on "A".

(c) When calculating "A" in the equation described in paragraph (b) of this section—

(1) The projected area of each column or leg; if the unit has columns or legs, must not include shielding allowances;

(2) Each area exposed as a result of heel must be included;

(3) The projected area of a cluster of deck houses may be used instead of the projected area of each individual deck house in the cluster; and

(4) The projected area of open truss work may be calculated by taking 30% of the projected areas of both the front and back sides of the open truss work rather than by determining the projected area of each structural member of the truss work.

TABLE 174.055(a).—Ch VALUES

Feet		Meters		Ch.
Over	Not exceeding	Over	Not exceeding	
0	50	0.0	15.3	1.00
50	100	15.3	30.5	1.10
100	150	30.5	46.0	1.20
150	200	46.0	61.0	1.30
200	250	61.0	76.0	1.37
250	300	76.0	91.5	1.43
300	350	91.5	106.5	1.48
350	400	106.5	122.0	1.52
400	450	122.0	137.0	1.56
450	500	137.0	152.5	1.60
500	550	152.5	167.5	1.63
550	600	167.5	183.0	1.67
600	650	183.0	198.0	1.70
650	700	198.0	213.5	1.72
700	750	213.5	228.5	1.75
750	800	228.5	244.0	1.77
800	850	244.0	256.0	1.79
Above 850.		Above 256		1.80

NOTE: The "Ch" value in this table, used in the equation described in section § 174.055(b), corresponds to the value of the vertical distance in feet (meters) from the water surface at the design draft of the unit to the center of area of the "A" value used in the equation.

TABLE 174.055(b).—Cs VALUES

Shape	Cs.
Cylindrical shapes	0.5
Hull (surface type)	1.0
Deckhouse	1.0
Cluster of deckhouses	1.1
Isolated structural shapes (cranes, angles, channels, beams, etc.)	1.5
Under deck areas (smooth surfaces)	1.0
Under deck areas (exposed beams and girders)	1.3
Rig derrick (each face and open truss works)	1.25

NOTE: The "Cs" value in this table, used in the equation described in § 174.055(b), corresponds to the shape of the projected "A" in the equation.

§ 174.065 Damage stability requirements.

(a) Each unit must be designed so that, while in each of its normal operating conditions and severe storm conditions, its final equilibrium waterline would remain below the lowest edge of any opening through which additional flooding could occur if the unit were subjected simultaneously to—

(1) Damage causing flooding described in §§ 174.075 through 174.085; and

(2) A wind heeling moment calculated in accordance with § 174.055(b) using a wind velocity of 50 knots (25.8 meters per second).

(b) Each unit must have a means to close off each pipe, ventilation system, and trunk in each compartment described in § 174.080 or § 174.085 if any portion of the pipe, ventilation system, or trunk is within 5 feet (1.5 meters) of the hull.

174.070 General damage stability assumptions.

For the purpose of determining compliance with § 174.065, the assumptions are made that during flooding and the resulting change in the unit's waterline—

(a) The unit is not anchored or moored; and

(b) No compartment on the unit is ballasted or pumped out to compensate for the flooding described in §§ 174.075 through 174.085.

§ 174.075 Compartments assumed flooded: general.

The individual flooding of each of the compartments described in §§ 174.080 and 174.085 must be assumed for the purpose of determining compliance with § 174.065 (a). Simultaneous flooding of more than one compartment must be assumed only when indicated in §§ 174.080 and 174.085.

§ 174.080 Flooding on self-elevating and surface type units.

(a) On a surface type unit or self-elevating unit, all compartments within 5 feet (1.5 meters) of the hull of the unit between two adjacent main watertight bulkheads, the bottom shell, and the uppermost continuous deck or first superstructure deck where superstructures are fitted must be assumed to be subject to simultaneous flooding.

(b) On the mat of a self-elevating unit, all compartments of the mat must be assumed to be subject to individual flooding.

§ 174.085 Flooding on column stabilized units.

(a) Watertight compartments that are outboard of, or traversed by, a plane which connects the vertical centerlines of the columns on the periphery of the unit, and within 5 feet (1.5 meters) of an outer surface of a column or footing on the periphery of the unit, must be assumed to be subject to flooding as follows:

(1) When a column is subdivided into watertight compartments by horizontal watertight flats, all compartments in the column within 5 feet (1.5 meters) of the unit's waterline before damage causing flooding must be assumed to be subject to simultaneous flooding.

(2) When a column is subdivided into watertight compartments by vertical watertight bulkheads, each two adjacent compartments must be assumed subject to simultaneous flooding if the distance between the vertical watertight bulkheads, measured at the column periphery, is equal to or less than one-eighth of the column perimeter at the draft under consideration.

(3) When a column is subdivided into watertight compartments by horizontal watertight flats and vertical watertight bulkheads, those compartments that are within the bounds described in paragraph (a)(2) of this section and within 5 feet (1.5 meters) of the unit's waterline before damage causing flooding must be assumed to be subject to simultaneous flooding.

(b) Each compartment in a footing must be assumed to be subject to individual flooding when any part of the compartment is within 5 feet (1.5 meters) of the unit's waterline before damage causing flooding.

§ 174.090 Permeability of spaces.

When doing the calculations required in § 174.065—

(a) The permeability of a floodable space, other than a machinery space, must be as listed in Table 174.090; and

(b) Calculations in which a machinery space is treated as a floodable space must be based on an assumed machinery space permeability of 85%, unless the use of an assumed permeability of less than 85% is justified in detail.

TABLE 174.090.—PERMEABILITY

Spaces and tanks	Permeability (percent)
Storeroom spaces	60.
Accommodation spaces	95.
Voids	95.
Consumable liquid tanks	95 or 0.[1]
Other liquid tanks	95 or 0.[2]

[1] Whichever results in the more disabling condition.

[2] If tanks are partially filled, the permeability must be determined from the actual density and amount of liquid carried.

§ 174.100 Appliances for watertight and weathertight integrity.

(a) Appliances to insure watertight integrity include watertight doors, hatches, scuttles, bolted manhole covers, or other watertight closures for openings in watertight decks and bulkheads.

(b) Appliances to insure weathertight integrity include weathertight doors and hatches, closures for air pipes, ventilators, ventilation intakes and outlets, and closures for other openings in deckhouses and superstructures.

(c) Each internal opening equipped with appliances to insure watertight integrity that is used intermittently during operation of the unit while afloat must meet the following:

(1) Each door, hatch, and scuttle must—

(i) Be remotely controlled from a normally manned control station, and be operable locally from both sides of the bulkhead; or

(ii) If there is no means of remote control there must be an alarm system that signals whether the appliance is open or closed both locally at each appliance and in a normally manned control station.

(2) Each closing appliance must remain watertight under the design water pressure of the watertight boundary of which it is a part.

(d) Each external opening fitted with an appliance to insure weathertight integrity must be located so that it would not be submerged below the final equilibrium waterline if the unit is subjected simultaneously to—

(1) Damage causing flooding described in §§ 174.075 through 174.085; and

(2) A wind heeling moment calculated in accordance with § 174.055 using a wind velocity of 50 knots (25.8 meters per second).

(e) If a unit is equipped with sliding watertight doors, each sliding watertight door must be approved under Subpart 163.001 of Subchapter Q of this chapter.

Subpart D—Special Rules Pertaining to Nuclear Powered Vessels

§ 174.110 Specific applicability.

(a) This part applies to nuclear vessels.

(b) Nuclear vessels are required to comply with Part 37, 79, or 99 of this chapter.

§ 174.115 Subdivision requirements.

Each vessel must comply with the subdivision requirements in §§ 171.070, 171.072, and 171.073 of this subchapter as if it were a passenger vessel carrying more than 1000 passengers.

§ 174.120 Damage stability requirements.

Each vessel must comply with § 171.080 of this subchapter as a category Y vessel.

§ 174.125 Additional subdivision requirements.

Each vessel must comply with the following:

(a) Sections 171.085, 171.090, 171.095, and 171.100 of this subchapter as if it were a passenger vessel of 100 gross tons or more with Type II subdivision.

(b) Sections 171.105, 171.106, 171.108, and 171.109 of this subchapter as if it were a passenger vessel that is—

(1) Greater than 250 feet (76 meters) in LBP;

(2) Greater than 100 gross tons; and

(3) In ocean service.

(c) Sections 171.111 through 171.113 of this subchapter.

(d) Sections 171.116 through 171.118 of this subchapter.

(e) Sections 171.122 and 171.135 of this subchapter.

Subpart E—Special Rules Pertaining to Tugboats and Towboats

§ 174.140 Specific applicability.

Each tugboat and towboat inspected under Subchapter I of this chapter must comply with this subpart.

§ 174.145 Intact stability requirements.

(a) In each condition of loading and operation, each vessel must be shown by design calculations to meet the requirements of paragraphs (b) through (e) of this section.

(b) The area under each righting arm curve must be at least 16.9 foot-degrees (5.15 meter-degrees) up to the smallest of the following angles:

(1) The angle of maximum righting arm.

(2) The downflooding angle.

(3) 40 degrees.

(c) The area under each righting arm curve must be at least 5.6 foot-degrees (1.72 meter-degrees) between the angles of 30 degrees and 40 degrees, or between 30 degrees and the downflooding angle if this angle is less than 40 degrees.

(d) The maximum righting arm shall occur at a heel of at least 25 degrees.

(e) The righting arm curve must be positive to at least 60 degrees.

(f) For the purpose of this section, at each angle of heel, a vessel's righting arm may be calculated considering either—

(1) The vessel is permitted to trim free until the trimming moment is zero; or

(2) The vessel does not trim as it heels.

Subpart F—Special Rules Pertaining to Ocean Thermal Energy Conversion Plantships and Floating Facilities

Authority: Pub. L. 96-320, 94 Stat. 974 (42 U.S.C. 9118, 9119(c), 9153 (a), (b)); 49 CFR 1.46 (ee).

§ 174.150 Specific applicability.

This subpart applies to each Ocean Thermal Energy Conversion plantship and floating facility that must meet Part 106 of this chapter.

§ 174.155 Stability requirements.

(a) Except as modified in this subpart, each plantship and floating facility must meet the following requirements in this subchapter:

(1) Section 170.085.

(2) Section 170.090.

(3) Section 170.120.

(4) Sections 170.174 through 170.190.

(5) Sections 174.030 through 174.100.

(b) Compliance with the remaining provisions in this subchapter is not required.

§ 174.160 Normal operating condition.

For the purpose of this subpart, "Normal operating condition" means a condition of the plantship or floating facility when loaded and arranged for producing energy or when in ocean transit.

§ 174.165 Tension tendon tethered facilities.

Each floating facility of the tension tendon tethered configuration must be designed so that it continually maintains a tension on each tendon when subjected to the forces described in § 174.055 of this subchapter.

§ 174.170 Stability test.

The stability test provided for in Subpart F of Part 170 of this subchapter is not required for a floating facility or plantship if it is shown to the satisfaction of the Commandant that, because of its configuration, testing of the facility or plantship is not practicable and the facility or plantship has inherent adequate stability by design.

PART 177—CONSTRUCTION AND ARRANGEMENT

71. In § 177.05–3, by revising paragraphs (a) and (b) to read as follows:

§ 177.05–3 Plans required for "S" vessels carrying more than 150 passengers, all "L" vessels, and certain other vessels.

(a) *S and L.* The owner or builder must, prior to the start of construction if practicable, or in any case prior to the initial inspection of the vessel, submit for approval to the Officer in Charge, Marine Inspection, of the inspection zone where the vessel is to be inspected, at least two copies of each of the plans listed in § 177.05–1(a).

(b) *S and L.* Additional plans, calculations, and data must be submitted as required by Subchapter S of this chapter.

* * * * *

§ 177.05–3 [Amended]

72. In § 177.05–3, by removing paragraph, (c), (d), and (e).

73. By adding a new Subpart 177.13 to read as follows:

Subpart 177.13—Subdivision and Stability

§ 177.13–1 Requirements.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

PART 178—WATERTIGHT INTEGRITY AND SUBDIVISION [REMOVED]

74. By removing Part 178.

PART 179—STABILITY [REMOVED]

75. By removing Part 179.

PART 185—OPERATIONS

76. By adding a new Subpart 185.12 to read as follows:

Subpart 185.12—Stability Letter

§ 185.12–1 Posting.

(a) If a stability letter is issued in accordance with the requirements in § 170.120 of this chapter, it must be posted under glass or other suitable transparent material in the pilothouse of the vessel.

(b) If posting is impacticable, the stability letter must be kept on board in the custody of the licensed operator.

PART 189—INSPECTION AND CERTIFICATION

77. In § 189.55–5, by revising paragraph (c) to read as follows:

§ 189.55–5 Plans and specifications required for new construction.

* * * * *

(c) *Subdivision and stability.* Plans required by Part 170 of this chapter.

* * * * *

PART 190—CONSTRUCTION AND ARRANGEMENT

78. By adding a new Subpart 190.03 to read as follows:

Subpart 190.03—Subdivision and Stability

§ 190.03–1 General.

Each vessel must comply with the applicable requirements in Subchapter S of this chapter.

PART 191—SUBDIVISION AND STABILITY [REMOVED]

79. By removing Part 191.

PART 196—OPERATIONS

80. By adding a new Subpart 196.12 to read as follows:

Subpart 196.12—Stability Letter

§ 196.12–1 Posting.

If a stability letter is issued in accordance with the requirements in § 170.120 of this chapter, it must be posted under glass or other suitable transparent material in the pilothouse of the vessel.

81. By adding a new Subpart 196.18 to read as follows.

Subpart 196.18—Prevention of Oil Pollution

§ 196.18–1 General.

Each vessel must be operated to meet the requirements in—

(a) Section 311 of the Federal Water Pollution Control Act, as amended (86 Stat. 816; 33 U.S.C. 1321);

(b) Section 12 of the Oil Pollution Act, 1961, as amended (75 Stat. 404; 33 U.S.C. 1011); and

(c) 33 CFR Parts 151, 155 and 156.

Dated: August 29, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U. S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83–29910 Filed 11–3–83; 8:45 am]

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Part IV

Federal Emergency Management Agency

Disaster Assistance; The Declaration Process; Final Rule

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

[Docket No. 205, Subpart C]

Disaster Assistance; The Declaration Process

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule establishes the Federal Emergency Management Agency regulations for the Declaration Process as 44 CFR 205, Subpart C. The material in this subpart pertains to Governors' requests for declarations of major disasters or emergencies, the processing of these requests, declarations by the President, activities of Federal Coordinating Officers, the designation of areas eligible for assistance and the types of assistance to be provided, FEMA–State Agreements, and other information. Subpart C is being published as a final rule at this time. The regulation is needed in order that Governors are informed as to how they can make requests for Presidential declarations of major disasters or emergencies and what actions are required to obtain assistance under the Disaster Relief Program. The effect of the regulation will be to establish a process by which Governors can obtain assistance in Disaster Relief Program.

DATES: This final rule is effective December 5, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Office of Disaster Assistance Programs (SL–DA), Directorate of State and Local Programs and Support (SLPS), Federal Emergency Management Agency, Washington, D.C. 20472, Telephone: (202) 287–0501.

SUPPLEMENTARY INFORMATION: The interim rule was published on pages 55756–55761 of the **Federal Register** of December 13, 1982 and invited comments until March 31, 1983. Comments were received from 9 State governments, and one Federal agency as well as offices within FEMA itself. All comments received careful consideration in making changes and revisions. The following explanatory remarks summarize significant comments, suggestions and actions taken. If proposed legislation, currently being considered by the Congress is enacted, Pub. L. 93–288 would be changed and therefore require additional changes to this subpart. Publication of this final rule also conforms with the FEMA response provided on February 11, 1982, to the Comptroller General of the United States with regard to his report entitled "Requests for Federal Disaster Assistance Need Better Evaluation."

Definitions

Commitment. Both the definition and the required certification by the Governor reflect the statutory requirement of Section 301(b) of Public Law 93–288. While broad in context, it does stipulate that a portion must be borne by the State. A listing of all eligible items for this commitment is not considered appropriate due to the wide diversity of resources which exist in the various States. Cost sharing of public assistance costs by both State and local governments usually will satisfy the commitment requirement insofar as Public Assistance is concerned.

Incident Period. A significant change is being made in the definition for the *incident period.* A notice of intent to modify this definition was published on page 11136 of the **Federal Register** of March 16, 1983. As now defined, damages which occurred during the defined incident period as well as those damages which occurred afterwards but as a result of the Disaster-causing incident would be eligible for assistance under Pub. L. 93–288. Since most Federal assistance which is provided under an emergency declaration cannot be made retroactively, the incident period for emergency declarations, unless otherwise stipulated, begins at 12:01 a.m. on the date of the declaration.

Policy: Federal disaster assistance is supplementary to the capabilities of State and local governments. Further, Federal disaster assistance under Public Law 93–288 is not considered necessary when the need for assistance can be addressed by other Federal agencies under their statutory authorities or by volunteer agencies.

Request for emergencies and major disaster declarations: It has been a long established practice that such requests are submitted to the President through the appropriate Regional Director. This assures prompt acknowledgment and processing. When this practice is not followed, a delay in processing almost always occurs. Information to be included in requests is either required by the statute or is necessary in the processing of the request. Suggested formats for requests were published on pages 34210–34215 of the **Federal Register** of July 27, 1983. While the use of the formats suggested by the Associate Director is not mandatory, information listed in § 205.33(c) and in § 205.34(c) is required. Although the implementation of the State emergency plan is not a statutory requirement prior to requesting an emergency declaration, such action would be considered prudent in almost all instances requiring emergency assistance. The need for supplemental Federal Disaster assistance usually is apparent within one or two weeks after the occurrence of an incident. For this reason the request for such assistance must be made within 30 days of the occurrence of the incident. Sections 205.33(b) and 205.34(b) reflect this change. Exceptions to the 30-day period for this and appeals are allowed under extraordinary circumstances. Section 205.44 explains how exceptions may be granted.

A significant change is being made in the form in which requests for Federal supplemental Disaster assistance can be made. Rather than accept verbal requests, the process now requires, at minimum, a telegram from the Governor stating the scope of the problem and the commitment by the State and local governments. Such a format ensures both full compliance with legal requirements and swift processing of the request.

FEMA-State Agreements

Transfer of Funds. This paragraph has been reworded for clarity.

Temporary Housing. Experience has shown that the requirement for temporary housing assistance tends to be met within 18 months. In those few instances where a State is unable or unwilling to accept temporary housing responsibility after 18 months, the paragraph may be reworded to indicate this. In any event, Federal financial and operational responsibility in temporary housing ends after 18 months, unless waived by the Associate Director.

Designees: The Governor's Authorized Representative is responsible for State compliance with the FEMA-State Agreement.

The adoption by the Federal Emergency Management Agency of Subpart C, The Declaration Process, is a procedural administrative action which supports normal day-to-day operations within the Federal Emergency Management Agency. Therefore, it has been determined pursuant to 44 CFR 10.8(c)(2)(viii) that implementation of Subpart C does not require an environmental impact statement or an environmental assessment.

Pursuant to the provisions of 5 U.S.C. 605(b) and to delegations of authority in Part 1 of this title, it is hereby certified that this regulation will not have a significant impact on a substantial number of small entities. The regulations deal with procedures by which Governors of States apply for

declarations of emergency or major disaster by the President. Such declarations trigger the furnishing of certain supplemental Federal assistance. The regulations do not impose any requirements on small entities. Further, the regulation is not a major rule as defined in Executive Order 12291 in that it has no economic or competitive impact; hence no regulatory analysis has been prepared.

List of Subjects in 44 CFR Part 205

Community facilities, Disaster assistance, Grant programs—housing and community development.

Accordingly: (1) A new Subpart C is added to Subchapter D, Part 205, of Title 44; (2) the heading for Subpart D is changed to "Individual Assistance"; (3) Subpart D current §§ 205.45 through 205.47 and §§ 205.49 through 205.51 are redesignated as follows: (a) Current § 205.45 becomes § 205.52; (b) current § 205.46 becomes § 205.58; (c) current § 205.47 becomes § 205.53; (d) current § 205.49 becomes § 205.56; (e) current § 205.50 becomes § 205.57; and (f) current § 205.51 becomes § 205.59; (4) remove §§ 205.39 through 205.44 of the current regulations; (5) remove §§ 205.17 and 205.18 of the current regulations; (6) renumber § 205.28 of the current regulations as § 205.17; and (7) remove current Subpart B, entitled "Emergencies," reserve Subpart B, and modify the Table of Contents to reflect the foregoing.

* * * * *

Subpart C—The Declaration Process

Sec.

205.30 Purpose.
205.31 Definitions.
205.32 Policy.
205.33 Requests for major disaster declarations.
205.34 Requests for emergency declarations.
205.35 Processing requests for declarations of a major disaster or emergency.
205.36 Presidential determination.
205.37 Notification.
205.38 Appeal.
205.39 FEMA-State Agreements.
205.40 Designation of affected areas and eligible assistance.
205.41 Initiation of Federal assistance.
205.42 Responsibilities of the Coordinating Officer.
205.43 Emergency support teams.
205.44 Time limitations.
205.45–205.49 [Reserved]

Authority: 42 U.S.C. 5201: Reorg. Plan No. 3 of 1978 (43 FR 41943); E.O. 12127, dated March 31, 1979 (44 FR 19367); E.O. 12148 dated July 20, 1979, unless otherwise noted.

Subpart C—The Declaration Process

§ 205.30 Purpose.

The purpose of this subpart is to describe the process leading to a Presidential declaration of a major disaster or an emergency and the actions triggered by such a declaration.

§ 205.31 Definitions.

All definitions listed in Pub. L. 93–288 and in § 205.2 apply. In addition, the following definitions apply:

(a) *Associate Director:* The Associate Director, State and Local Programs and Support, Federal Emergency Management Agency, or his/her designated representative.

(b) *Commitment:* Certification by the Governor in support of his request for a declaration of a major disaster or an emergency, pledging for the current major disaster or emergency, State and local government obligations and expenditures, which are disaster-related, extraordinary and unforeseen (of which the State's pledges must be a significant proportion), and stating that such obligations and expenditures, identified as nonreimbursable by Federal funds, are a reasonable amount of funds of such State and local governments for alleviating the damage, loss, hardship or suffering resulting from such major disaster or emergency.

(c) *Emergency Support Team:* Organized group of program and support personnel established by the Regional Director or the Associate Director to be deployed in an area affected by a major disaster or emergency to assist the Federal Coordinating Officer (FCO) in carrying out his/her responsibilities under the Act.

(d) *FEMA-State Agreement:* A formal legal document stating the understandings, commitments, and binding conditions for assistance applicable as the result of the major disaster or emergency declared by the President.

(e) *Incident:* Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landside, mudslide, snowstorm, drought, fire, explosion, or other catastrophe which causes damage or hardship that may result in a Presidential declaration of a major disaster or an emergency.

(f) *Incident Period:* As determined at the discretion of the Associate Director, the time interval stated in the FEMA-State Agreement during which the disaster-causing incident occurs. No Federal assistance under Pub. L. 93–288 shall be approved unless the damage or hardship to be alleviated resulted from the disaster-causing incident which took place during the incident period. The incident period for emergencies starts at 12:01 a.m., on the date of the declaration by the President unless otherwise specified in the declaration document. The termination date of an incident period may not be known at the time the FEMA-State Agreement is signed. However, at such time as the termination date is determined by FEMA, it will be added to the Agreement by amendment.

(g) *Individual Assistance:* Supplementary Federal assistance provided under Pub. L. 93–288 to individuals and families adversely affected by a major disaster or an emergency. Such assistance may be provided directly by the Federal Government or through State or local governments or disaster relief organizations. For further information, see Subpart D of these regulations.

(h) *Mission Assignment:* Work order or request for performance of work issued by the Regional Director, Associate Director or Director to a Federal agency directing completion by that agency of specified tasks and citing funding, other managerial controls or guidance.

(i) *Public Assistance:* Supplementary Federal assistance provided under Pub. L. 93–288 to State and local governments or certain private, nonprofit organizations other than assistance for the direct benefit of individuals and families. For further information, see Subpart E of these regulations.

§ 205.32 Policy.

(a) It is the policy of the Federal Emergency Management Agency (FEMA) to provide an orderly and continuing means of assistance by the Federal Goverment to supplement the efforts of the State and local governments in carrying out their responsibilities to alleviate the suffering and damage that result from declared major disasters and emergencies.

(b) The policies listed in § 205.3 apply. It is also the policy of FEMA in approving disaster assistance, to encourage States and local governments to seek permanent solutions to problems in areas which are disaster-prone from sources other than the President's Disaster Relief Fund. Failure to properly implement State hazard mitigation plans approved by FEMA as the result of a major disaster or emergency may contribute to losses, hardships or damages resulting from future catastrophes or emergencies. The resulting damages will be assessed and considered whenever applicable in processing any requests for a

declaration of a major disaster or emergency.

(c) It is the policy of FEMA to recommend a denial of a major disaster request when the requested assistance can be provided by other Federal agencies under their statutory authorities and from volunteer agencies or groups.

§ 205.33 Requests for major disaster declarations.

(a) When a catastrophe occurs in a State, the Governor may request that the President declare a major disaster for the State upon the Governor's finding that:

(1) The situation is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments; and

(2) Federal assistance under the Act is necessary to supplement the efforts and available resources of the State, local governments, and disaster relief organizations.

(b) Only the Governor of a State, or the Acting Governor in his/her absence, may request a major disaster declaration. The Governor should submit the request to the President through the appropriate Regional Director to ensure prompt acknowledgment and processing. Use of the formats suggested by the Associate Director for such requests will assure coverage of essential information and should avoid delays in processing. These suggested formats have been published by the Associate Director in the Federal Register and shall be updated as necessary. The complete request must be submitted within 30 days of the occurrence of the incident in order to be considered. (See also § 205.44)

(c) The completed request shall include:

(1) Confirmation that the Governor has taken appropriate action under State law and has directed the execution of the State emergency plan;

(2) An estimate of the amount and severity of damages and losses stating the impact of the disaster on the public and private sector;

(3) Information describing the extent and nature of State and local resources which have been or will be used to alleviate conditions of the disaster, stating specifically those activities for which no Federal funding will be requested;

(4) Preliminary estimates of the types and amount of supplementary Federal disaster assistance needed under the Act; and

(5) Certification by the Governor that State and local government obligations and expenditures for the disaster (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of funds for alleviating the damage, loss, hardship or suffering resulting from such disaster. The required certification of the State and local government commitments must be documented by filling out the "commitments" section of the formats referred to in paragraph (b) of this section.

(d) For those catastrophies of unusual severity and magnitude when field damage assessments are not necessary to determine the requirement for supplemental Federal assistance, the Governor or Acting Governor may send a telegram through the Regional director for a declaration of a major disaster. In the event the FEMA Regional Office is severely impacted by the catastrophe, the telegram may be addressed to the Director of FEMA. The telegram must indicate a finding in accordance with § 205.33(a), and must include as a minimum the information requested by § 305.33(c) (1), (3) and (5). Upon receipt of such a telegram, the Regional Directo shall expedite the processing of reports and recommendations to the President . Notification to the Governor of the Presidential declaration shall be in accordance with 44 CFR 205.37. The Associate Director shall assure that documentation of the declaration is later assembled to comply fully with these regulations.

(Approved by Office of Management and Budget under Control Number 3067–0113.)

§ 205.34 Requests for emergency declarations.

(a) When a catastrophe occurs or threatens to occur in a State, the Governor may request that the President declare an emergency upon the Governor's finding that the situation:

(1) Is of such severity and magnitude that effective response is beyond the capability of the State and the affected local government(s); and

(2) Requires supplementary Federal emergency assistance to save lives and protect property, health and safety, or to avert or lessen the threat of a disaster and which should be provided by the Federal Government because of the pressures of time or the unique capabilities of the Federal Government.

(b) Only the Governor of a State, or the Acting Governor in his/her absence, may request that the President declare an emergency. The Governor should submit the request to the President through the appropriate Regional Director to ensure prompt acknowledgment and processing. Use of the formats suggested by FEMA for such requests will assure coverage of essential information and should avoid delays in processing. The complete request must be submitted within 30 days of the occurrence of the incident in order to be considered. (See also § 205.44)

(c) The complete request shall include:

(1) Information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, including those for which no Federal funding will be requested;

(2) Identification of the particular type and specific extent of Federal aid required, and of any proposed cost sharing; and

(3) An assessment by the Governor that the capabilities and resources of the State and local government(s) have been or are being fully committed to cope with the catastrophe. Such capabilities and resources need not be exhausted, but State and local government efforts, as deemed appropriate by FEMA, are necessary before FEMA emergency assistance can be authorized.

(Approved by the Office of Management and Budget under Control Number 3067–0113.)

§ 205.35 Processing requests for declarations of a major disaster or emergency.

(a) The Regional Director shall provide written acknowledgment of the Governor's request. Based on a FEMA investigation, which may include damage assessments of the affected area(s) and consultations with appropriate State and Federal officials and other interested parties, the Regional Director shall promptly submit a report and a recommendation to the FEMA Director through the Associate Director.

(b) The Director shall forward the Governor's request together with a report and a recommendation to the President.

(1) *Major Disaster Request.* The recommendation will be based on a report which will indicate whether or not the situation is of such severity and magnitude so as to be beyond the capabilities of the State and its local governments and whether or not Federal assistance under Pub. L. 93–288 is necessary to supplement the efforts and available resources of the State and local governments, and other disaster relief organizations or activities.

(2) *Emergency Request.* The recommendation will be based on a report which will indicate whether or not Federal emergency assistance under Pub. L. 93–288 is necessary to supplement State and local efforts to

save lives and protect property, public health and safety or to avert or lessen the threat of a disaster, which because of the pressures of time or because of the unique capabilities of a Federal agency, should be provided by the Federal Government.

§ 205.36 Presidential determination.

(a) The Governor's request for a major disaster declaration may result in either a Presidential declaration of a major disaster or an emergency.

(b) The Governor's request for an emergency declaration may result in a Presidential declaration of an emergency.

§ 205.37 Notification.

(a) The Governor will be promptly notified by the Director or his/her designee of a declaration by the President that an emergency or a major disaster exists. FEMA also will notify other Federal agencies and other interested parties.

(b) The Governor will be promptly notified by the Director or his/her designee of a determination that the Governor's request does not justify the use of the authorities of Pub. L. 93–288.

§ 205.38 Appeal.

When a request for a major disaster declaration or for an emergency declaration is denied, the Governor may appeal the decision. An appeal must be made within 30 days after the date of the letter denying the request. (See also § 205.44). This one-time request for reconsideration, along with appropriate additional information, is submitted to the President through the appropriate Regional Director. The processing of this request is similar to the initial request.

§ 205.39 FEMA-State Agreements.

(a) *General.* The FEMA-State Agreement states the understandings, commitments, and conditions for assistance under which FEMA disaster assistance shall be provided. This Agreement imposes binding obligations on FEMA, States and their local governments in the form of conditions for assistance which are legally enforceable. However, such conditions may be modified by a properly executed amendment to the FEMA-State Agreement. No FEMA funding may be authorized or provided to any grantees or other recipients, and authorized by mission assignment until such time as this Agreement for the Presidential delcaration has been signed and is fully in effect.

(b) *Major Disasters.* Upon the declaration of a major disaster, the Governor, acting for the State, and the FEMA Regional Director or his/her designee, acting for the Federal Government, shall execute a FEMA-State Agreement. This Agreement describes the incident period for which assistance will be made available, the type and extent of the Federal assistance to be made available, and contains the commitment of the State and local government(s) with respect to the amount of funds to be expended in alleviating damage and suffering caused by the major disaster. The Agreement also contains such other terms and conditions consistent with the declaration and the provisions of applicable laws, Executive orders and regulations. The Governor's Authorized Representative and the Regional Director or his/her designee may execute subsequent amendments to the Agreement for the same major disaster.

(c) *Emergencies.* Upon the declaration of an emergency, the Governor, acting for the State, and the FEMA Regional Director or his/her designee, acting for the Federal Government, shall execute a FEMA-State Agreement. This Agreement contains the necessary terms and conditions consistent with the declaration and the provisions of applicable laws, Executive orders and regulations. This Agreement specifies the beginning and the end of the incident period, identities the type and extent of Federal assistance and includes any details unique to the current emergency. The Governor's Authorized Representative and the Regional Director or his/her designee may execute subsequent amendments to the Agreement for the same emergency. The Federal assistance specified in the Agreement or an amendment is the only assistance eligible for Federal funding or reimbursement under Pub. L. 93–288, as amended.

(d) *Transfer of Funds.* In the event that funds are to be transferred to a State for disaster relief purposes, the FEMA-State Agreement shall contain, and the State and its political subdivisions shall agree to, the following conditions for assistance:

If a State, local government, or eligible private, nonprofit organization violates any of the conditions of disaster relief assistance under the Act, this Agreement, or applicable Federal regulations, the Associate Director shall notify the State that additional financial assistance for the project in which the violation occurred will be withheld until such violation has been corrected to the satisfaction of the Associate Director. If the Associate Director is not satisfied with the corrective action taken in response to such notification, then the Associate Director will notify the State that further financial assistance for the project in which the violation occurred will be withheld until adequate corrective action is taken. In addition, the Associate Director may also withhold all or any portion of financial assistance which has been or is to be made available to the State, local governments, or eligible private, nonprofit organizations for other disaster relief projects under the Act, this or other Agreements, and applicable Federal regulations until adequate action is taken. The State further agrees that FEMA or State auditors, the Governor's Authorized Representative, the Regional Director, the Associate Director, and the Comptroller General of the United States or their duly authorized representatives shall for the purpose of audit and examination have access to any books, documents, papers and records of any recipients of Federal disaster assistance and of any persons or entities which perform any activity which is reimbursed to any extent with Federal disaster assistance funds distributed under the authority of the Act.

(e) *Other Conditions for Assistance.* All FEMA-State Agreements shall also contain the following:

(1) The State agrees, on its behalf and on behalf of its political subdivisions and other recipients of Federal disaster assistance, to cooperate with the Federal government in seeking recovery of funds which are expended in alleviating the damages and suffering caused by any declared major disaster or emergency against any party or parties whose acts or omissions may in any way have caused or contributed to the damage or hardship for which Federal assistance is provided pursuant to a Presidential declaration of major disaster or emergency.

(2) The State will establish and maintain an active State program of nondiscrimination in disaster assistance, outlined in 44 CFR 205.16. This program will encompass all State and local government actions pursuant to this Agreement.

(3) The State will establish and maintain a program to assure that State and local government recipients of Federal disaster assistance comply with the Department of Housing and Urban Development (HUD) Consolidated List of Debarred, Suspended and Ineligible Contractors. This program also will encompass all State and local contracts pursuant to this Agreement.

(4) No members of or delegate to Congress or resident commissioner shall be admitted to any share or part of this Agreement, or to any benefit to arise thereupon; provided, however, that this provision shall not be construed to extend to any contract made with a corporation for its general benefit.

(f) *Typical Conditions for Assistance.* As determined necessary by the Associate Director, certain typical conditions for assistance may be

included in the FEMA-State Agreement. However, some changes in wording may be made to fit the current major disaster or emergency. These conditions for assistance are:

(1) The State agrees that, as a condition for any Federal loan or grant, the State or that applicant shall evaluate the natural hazards in the areas in which the proceeds of the grants or loans are to be used and shall make appropriate recommendations to mitigate such hazards for Federally assisted projects. The State further agrees:

(i) To prepare and submit, not later than 180 days after the declaration, to the Regional Director for concurrence, a hazard mitigation plan or plans for the FEMA designated areas; and

(ii) To follow up with applicants, within State capabilities, to assure that, as a condition for any grant or loan under the Act, appropriate hazard mitigation actions are taken; and

(iii) To review and update as necessary disaster mitigation portions of the State emergency plan.

The Regional Director agrees to make Federal technical advice and assistance available to support the planning efforts and actions. The State understands that future Federal disaster assistance may be curtailed in situations where hazard mitigation plans have not been implemented properly.

(2) Within his/her authorities, the Governor shall ensure, through the State agency responsible for regulation of the insurance industry, that insurance companies make full payment of eligible insurance benefits to disaster victims. The State also shall take all reasonable steps to ensure that disaster victims are aware of procedures for filing insurance claims, are informed of any State procedures instituted for assisting insured disaster victims, and are aware of their responsibility to repay government assistance which is duplicated by insurance proceeds.

(3) The mandatory FEMA-State Agreement language at § 205.39(e)(1) shall, when determined necessary by the Regional Director, be amended to address any of the following issues which the Regional Director deems appropriate: The need for the State to pursue recoveries against responsible parties; reimbursement to the Federal government from any recoveries from responsible parties; review by the Federal government of proposed settlements between the State, its political subdivisions, or other recipients of Federal disaster assistance and any responsible parties; assignment to the Federal government of any rights of recovery which the State, its political subdivisions, or any other recipients of Federal disaster assistance might have against any responsible parties; intervention by the United States in any action instituted by the State, its political subdivisions, or any other recipients of Federal disaster assistance against any responsible parties; and other related issues.

(4) Since Federal operational and financial responsibility for temporary housing assistance shall not exceed eighteen (18) months from the date of the declaration by the President, the State agrees to accept such responsibility upon expiration of the Federal responsibility.

(5) For any program administered by the State involving FEMA funding, the State agrees to establish and maintain an active State program to avoid duplication of Federal benefits in disaster assistance. The State further agrees to take necessary action to recover any FEMA funding administered by the State in those situations where such duplication is reported or appears likely to have occurred.

§ 205.40 Designation of affected areas and eligible assistance.

(a) After a declaration by the President, the Associate Director shall designate the disaster-affected areas eligible for supplementary Federal assistance under Pub. L. 93–288 and shall publish these designations in the **Federal Register**. A disaster-affected area designated by the Associate Director includes all local government jurisdictions within its boundaries. Unless specifically limited in the declaration documents, the Associate Director shall also determine and designate the types of assistance to be made available in the designated areas. These designations shall be based on the Governor's request or supplemental requests for assistance, taking into consideration available information and FEMA assessments of requirements. In addition to the areas designated eligible for Individual Assistance, the Associate Director may designate adjacent areas eligible for Individual Assistance unless such adjacent areas are specifically excluded in the Governor's request. However, the designation of unrequested areas as adjacent areas for Individual Assistance will not be made until coordination has been made by FEMA with the Governor or the Governor's Authorized Representative. The Associate Director may, at his/her discretion, designate all or only portions of the areas requested by the Governor as eligible for supplementary Federal assistance. In addition, the Associate Director may, at his/her discretion, or as directed by the President in the declaration letter, authorize all or only portions of the types of supplementary Federal assistance requested by the Governor. Determinations by the Associate Director of the types and extent of FEMA disaster assistance to be provided and of the areas eligible to receive such assistance, are based upon findings whether, in any particular area, the damage involved and its effects are of such severity and magnitude as to be beyond the response capabilities of the State, the affected local governments, and other potential recipients of supplementary Federal assistance.

(b) The Regional Director will promptly notify the Governor of the Associate Director's designations. In those instances where the type of assistance or certain areas requested by the Governor are not designated or authorized by the Associate Director, the Governor, or the Governor's Authorized Representative, may appeal the decision. An appeal must be made within 30 days of the date of the written notification by submitting a formal written appeal. (See also § 205.44.) This one-time request for reconsideration, along with justification and/or additional information, is sent to the Associate Director through the appropriate Regional Director.

(c) After a declaration by the President, the Governor, or the Governor's Authorized Representative, may request that additional areas or types of supplementary Federal assistance be designated by the Associate Director. Such requests shall be accompanied by appropriate commitments by State and local governments and assessments to demonstrate that the requested designations are justified and that the unmet needs are beyond State and local capabilities without supplementary Federal assistance.

§ 205.41 Initiation of Federal assistance.

(a) *Federal Coordinating Officer.* Upon a declaration of a major disaster or of an emergency by the President, the Associate Director shall appoint a Federal Coordinating Officer (FCO) who shall initiate action immediately to assure that Federal assistance is provided in accordance with the declaration, applicable laws, regulations, and the FEMA-State Agreement.

(b) *Designees.* In the FEMA–State Agreement, the Governor shall appoint a State Coordinating Officer (SCO) and also shall designate the Governor's Authorized Representative (GAR), who

shall administer Federal disaster assistance programs on behalf of the State and local governments and other grant or loan recipients. The GAR is responsible for the State compliance with the FEMA–State Agreement.

§ 205.42 Responsibilities of the Coordinating Officer.

(a) Following a declaration of a major disaster or an emergency, the Federal Coordinating Officer (FCO) shall:

(1) Make an initial appraisal of the types of assistance most urgently needed;

(2) In coordination with the SCO, establish field offices and Disaster Assistance Centers as necessary to coordinate and monitor assistance programs, disseminate information, accept applications, and counsel individuals, families and businesses concerning available assistance;

(3) Coordinate the administration of relief, including activities of State and local governments, activities of Federal agencies as well as those of the American Red Cross, the Salvation Army, the Mennonite Disaster Service and other voluntary relief organizations which agree to operate under the FCO's advice and direction;

(4) Undertake appropriate action to make certain that all of the Federal agencies are carrying out their appropriate disaster assistance roles under their own legislative authorities and operational policies; and

(5) Take other action, consistent with the provisions of the Act, as necessary to assist citizens and public officials in promptly obtaining assistance to which they are entitled.

(b) The State Coordinating Officer (SCO) coordinates State and local disaster assistance efforts with those of the Federal Government working closely with the FCO. The SCO is the principal point of contact regarding coordination of State and local disaster relief activities, and implementation of the State emergency plan. The functions, responsibilities, and authorities of the SCO are set forth in the State emergency plan.

§ 205.43 Emergency support teams.

The Associate Director or Regional Director shall form emergency support teams of Federal personnel to send into an area affected by a major disaster or emergency. The Federal Coordinating Officer may request that the Regional Director activate appropriate emergency support teams. These emergency support teams assist the Regional Director or the Federal Coordinating Officer in carrying out his/her responsibilities under the Act and these regulations. Any Federal agency is authorized by the Act to detail personnel within the agency's administrative jurisdiction to temporary duty with the emergency support teams. The Regional Director or the Associate Director determines whether the detail is on a reimbursable or nonreimbursable basis. Each detail shall be without loss of seniority, pay, or other employee status. Except under unusual circumstances, as determined by the Regional Director, such emergency support teams shall be organized and trained by each Regional Director to meet the needs for emergency assistance applicable to his/her Region. When requested by the Regional Director, State, local, or volunteer agencies may, as necessary, provide personnel to be deployed with the emergency support teams.

§ 205.44 Time limitations.

The 30-day period referred to in §§ 205.33(b), 205.34(b), 205.38 and 205.40(b) may be extended by the Associate Director provided that a request with proper justification for such an extension is made by the Governor during this 30-day period. In general, proper justification would include the inability to gather new and/or additional information required to support the action being requested in the cited sections.

§ 205.45–205.49 [Reserved]

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dated: October 27, 1983.

Louis O. Giuffrida,

Director, Federal Emergency Management Agency.

[FR Doc. 83–29845 Filed 11–3–83; 8:45 am]

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Part V

Environmental Protection Agency

National Emission Standards for Hazardous Air Pollutants: Determination of Mercury in Wastewater Treatment Plants Sewage Sludges; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL 2445-7]

National Emission Standards for Hazardous Air Pollutants; Determination of Mercury in Wastewater Treatment Plants Sewage Sludges

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action revises "Method 105, Determination of Mercury in Wastewater Treatment Plant Sewage Sludges." Changes in the sampling and analytical procedure, which will improve the precision and accuracy of the method, are being made as a result of field and laboratory evaluations of the method.

DATES: *Comments.* Comments must be received on or before January 8, 1984.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by November 25, 1983, a public hearing will be held on December 8, 1983 beginning at 10:00 a.m. Persons interested in attending the hearing should call Mrs. Pat Finch at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by December 1, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-83-31, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Environmental Research Center Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing should call Mrs. Pat Finch at (919) 541-5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Pat Finch Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Docket. Docket Number A-83-31, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

SUPPLEMENTARY INFORMATION: On October 14, 1975 (40 FR 48292), the Administrator promulgated amendments to the national emission standards for the hazardous air pollutants—asbestos and mercury. At the same time, the Administrator also promulgated amendments to Appendix B of this part to add "Method 105, Determination of Mercury in Wastewater Treatment Plant Sewage Sludges." Since the promulgation of Method 105, several improvements in the method have been developed.

The revised Method 105 differs from the present method as follows: (1) A sludge-blending procedure has been added; (2) the sludge sample size has been increased from 3.0 liters to 15 liters; and (3) Twenty-ml portions of wet sludge are taken for mercury analysis rather than the 0.2-g portions of dried sludge now required.

Miscellaneous

This rulemaking would not impose any additional emission measurement requirements on any facilities. Rather, the rulemaking would simply revise an existing test method associated with emission measurement requirements that would apply irrespective to this rulemaking.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b), EPA must consider the economic effect of this standard on small entities. Most, if not all, of the facilities covered by this regulation would be considered small entities, but this regulation would not significantly increase the cost of emission testing for these facilities.

List of Subjects in 40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

This proposed rulemaking is issued under the authority of Sections 112, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7412 7414, and 7601(a)).

Dated: October 27, 1983.

William D. Ruckelshaus,

Administrator

PART 61—[AMENDED]

40 CFR Part 61 is amended as follows:

1. In § 61.54, paragraphs (c)(1), (c)(3), and (d) are revised as follows:

§ 61.54 Sludge sampling.

* * * * *

(c) * * *

(1) The sludge shall be sampled according to Method 105—Determination of Mercury in Wastewater Treatment Plant Sewage Sludges. A total of three composite samples shall be obtained within an operating period of 24 hours. When the 24-hour operating period is not continuous, the total sampling period shall not exceed 72 hours after the first grab sample is obtained. Samples shall not be exposed to any condition that may result in mercury contamination or loss.

* * * * *

(3) The sampling, handling, preparation, and analysis of sludge samples shall be accomplished according to Method 105 in Appendix B of this part.

(d) The mercury emissions shall be determined by use of the following equation.

$$E_{Hg} = 1 \times 10^{-3} MQ$$

Where:

E_{Hg} = Mercury emissions, g/day.

M = Mercury concentration of sludge on a dry solids basis, μg/g (ppm).

Q = Sludge charging rate, kg/day.

* * * * *

2. Test Method 105 of Appendix B is revised as follows:

Appendix B—Test Methods

* * * * *

Method 105—Determination of Mercury in Wastewater Treatment Plant Sewage Sludge

1. Applicability and Principle

1.1 Applicability. This method applies to the determination of total organic and inorganic mercury (Hg) content in sewage sludges. The range of this method is 0.2 to 5

μg/g; it may be extended by increasing or decreasing sample size.

1.2 Principle. Time-composite sludge samples are withdrawn from the conveyor belt after dewatering and before incineration or drying. A weighed portion of the sludge is digested in aqua regia and oxidized by potassium permanganate ($KMnO_4$). Hg in the digested sample is then measured by the conventional spectrophotometric cold-vapor technique.

1. Apparatus

2.1 Sampling.

2.1.1 Container. Plastic, 50-liter.

2.1.2 Scoop. To remove 950-ml (1-qt) sludge sample.

2.2 Sludge Sample Preparation.

2.2.1. Mixer. Mortor mixer, wheelbarrow-type, 57-liter (or equivalent) with electrically driven motor.

2.2.2 Blender. Waring-type, 2-liter. (**Note:** Mention of specific trade names does not constitute endorsement by the Environmental Protection Agency.)

2.2.3 Scoop. To remove 100-ml and 20-ml samples of blended sludge.

2.3 Analysis. Same as Method 101, Sections 5.3 and 5.4, except for the following:

2.3.1 Balance. The balance of Method 101, Section 5.3.17, is not needed.

2.3.2 Filter Paper. S and S No. 588 (or equivalent).

3. Reagents

3.1 Water. Same as Method 101A, Section 6.1.1.

3.2 Aqua Regia. Prepare immediately before use. Carefully add one volume of concentrated nitric acid (HNO_3) to three volumes of concentrated hydrochloric acid (HCl).

3.3 Antifoam B Silicon Emulsion. J.T. Baker Company (or Equivalent).

3.4 Mercury(II) Stock Solution, 1 mg Hg/ml. Completely dissolve 135.4 mg of ACS reagent-grade $HgCl_2$ in 75 ml of water, add 10 ml of concentrated HNO_3, and adjust the volume to 100.0 ml with water. Mix thoroughly. (This solution is stable for at least 1 month.)

3.5 Intermediate Mercury Standard Solution, 10 μg Hg/ml. Prepare fresh weekly. Pipet 5.0 ml of the Hg stock solution into a 500-ml volumetric flask, and add 20 ml of the 15-percent HNO_3 solution. Adjust the volume to 500 ml with water. Thoroughly mix the solution.

3.6 Working Mercury Standard Solution, 200 ng Hg/ml. Prepare fresh daily. Pipet 5.0 ml of the "Intermediate Mercury Standard Solution" into a 250-ml volumetric flask. Add 20 ml of 15-percent HNO_3 and adjust the volume to 250 ml with water. Mix thoroughly.

3.7 Tin(II) Solution, Sodium Chloride-Hydroxylamine Solution, 15-Percent Nitric Acid, and Potassium Permanganate Solution. Same as Method 101A, Section 6.2.

4. Procedure

4.1 Sludge Sampling. Withdraw equal-volume increments of sludge [For a total of at least 15 liters (16 qt.)] at intervals of 30 min over an 8-hr period, and place in a rigid plastic container.

4.2 Sludge Mixing. Transfer the entire 15-liter sample to a 57-liter capacity (2-ft^3) mortar mixer. Mix the sample for a minimum of 30 min at 30 rpm. Using a 200-ml beaker, take six, 100-ml portions of sludge, and combine in a 2-liter blender. Blend sludge for 5 min; add water as necessary to give a fluid consistency. Immediately after stopping the blender, use a 50-ml beaker to withdraw four, 20-ml portions of blended sludge, and place them in separate, tared 125-ml Erlenmeyer flasks. Reweigh each flask to determine the exact amount of sludge added. (Use three of the samples to determine the mercury content in the sludge, and use the fourth to measure the solids content of the blended sludge.)

4.3 Solids Content of Blended Sludge. Dry one of the 20-ml blended samples from Section 4.2 in an oven at 105°C to constant weight. Cool in a desiccator, and weigh and record the dry weight of the sample.

4.4 Aqua Regia Digestion of Blended Samples. To each of the three remaining 20-ml samples from Section 4.2, add 25 ml of aqua regia, and digest the samples on a hot plate at low heat (do not boil) for 30 min, or until samples are a pale yellow-brown color and are void of the dark brown color characteristic of organic matter. Remove from the hot plate, and allow to cool.

Filter each digested sample separately through an S and S No. 588 filter, or equivalent, and rinse the filter contents with 50 ml of water. Transfer the filtrate and filter washing to a 100-ml volumetric flask, and carefully dilute to volume with water.

4.5 Solids Content of Sludge Before Blending. Using a 200-ml beaker, remove two 100-ml portions of mixed sludge from the mortar mixer, and place in separate, tared 400-ml beakers. Reweigh each beaker to determine the exact amount of sludge added. Dry in an oven at 105°C, and cool in a desiccator to constant weight.

4.6 Analysis for Mercury. The same as Method 101A, Sections 7.4 and 8, except for the following variation.

4.6.1 Spectrophotometer and Recorder Calibration. The mercury response may be measured by either peak height or peak area. Note: The temperature of the solution affects the rate at which elemental Hg is released from solution and, consequently, it affects the shape of the absorption curve (area) and the point of maximum absorbance (peak height). Therefore, to obtain reproducible results, bring all solutions to room temperature before use.

Set the spectrophotometer wavelength to 253.7 nm. Make certain the optical cell is at the minimum temperature that will prevent water condensation from occurring. Then set the recorder scale as follows:

Using a 25-ml graduated cylinder, add 25 ml of water to the aeration-cell bottle. Add three drops of Antifoam B to the bottle, and then pipet 5.0 ml of the working Hg standard solution into the aeration cell. (**Note:** Always add the Hg containing solution to the aeration cell after the 25 ml of water.) Place a Teflon-coated stirring bar in the bottle. Add 5 ml of 15-percent HNO_3 and 5 ml of 5-percent $KMnO_4$ to the aeration bottle, and mix well. Next, attach the bottle section to the bubbler section of the aeration cell, and make certain that:

(1) The exit arm stopcock of the aeration cell (Figure 105–3) is closed (so that Hg will not prematurely enter the optical cell when the reducing agent is being added) and (2) there is no flow through the bubbler. Add 5 ml of sodium chloride-hydroxylamine solution to the aeration bottle through the side arm, and mix. If the solution does not become colorless, add additional sodium chloride-hydroxylamine solution in 1-ml increments until the solution is colorles. Now add 5 ml of tin (II) solution to the aeration bottle through the side arm, and immediately stopper the sidearm. Stir the solution for 15 sec, turn on the recorder, open the aeration cell exit arm stopcock, and then immediately initiate aeration with continued stirring. Determine the maximum absorbance of the standard, and set this value to read 90 percent of the recorder full scale.

5. Calculations

5.1 Nomenclature.

C_m = Concentration of Hg in the digested sample, μg/g.
F_{sb} = Weight fraction of solids in the blended sludge.
F_{sm} = Weight fraction of solids in the collected sludge after mixing.
M = Hg content of the sewage sludge on a dry basis, μg/g.
m = Mass of Hg in the digested sample, μg.
V_a = Volume of digested sample analyzed, ml.
V_s = Volume of digested sample, ml.
W_f = Weight of empty sample flask, g.
W_{fs} = Weight of sample flask and sample, g.
W_{fsd} = Weight of sample flask and sample after drying, g.
W_b = Weight of empty sample beaker, g.
W_{bs} = Weight of sample beaker and sample, g.
W_{bsd} = Weight of sample beaker and sample after drying, g.

5.2 Mercury Content of Digested Sample (Wet Basis). For each sample, correct the average maximum absorbance of the two consecutive samples whose peak heights agree within ±3 percent of their average for the contribution of the blank. Use the calibration curve and these corrected averages to determine the final Hg concentration in the solution cell for each sludge sample.

Calculate the total Hg content in each gram of digested sample correcting for any dilutions made to bring the sample into the working range of the spectrophotometer and for the weight of the sludge portion digested.

$$C_m = \frac{m\ V_s}{V_a(W_{fs} - W_f)} \qquad \text{Eq. 105–1}$$

5.3 Solids Content of Blended Sludge. Determine the solids content of the 29-ml aliquot dried in the oven at 105°C (Section 4.3).

$$F_{sb} = 1 - \frac{W_{fs} - W_{fsd}}{W_{fs} - W_f} \qquad \text{Eq. 105–2}$$

5.4 Solids Content of Bulk Sample (after mixing in mortar mixer). Determine the solids content of each 100-ml aliquot (Section 4.5), and average the results.

$$F_{ss}=1-\frac{W_{ss}-W_{sd}}{W_{ss}-W_b} \qquad \text{Eq. 105-3}$$

5.5 Mercury Content of Bulk Sample (Dry Basis). Average the results from the three sample from each 8-hr composite sample, and calculate the Hg concentration of the composite sample on a dry basis.

$$\text{Hg}=\frac{C_{ss}(\text{avg})}{F_{ss}F_{ss}(\text{avg})} \qquad \text{Eq. 105-4}$$

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November 4, 1983

Part VI

Department of Energy

Office of Conservation and Renewable Energy

Weatherization Assistance for Low-Income Persons; Notice of Proposed Rulemaking and Public Hearing

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 440

[Docket No. CAS-RM-80-508]

Weatherization Assistance for Low-Income Persons

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy proposes to amend the program for weatherization assistance for low-income persons. The principal changes proposed in this action are: incorporating new weatherization measures to the authorized list; updating the standards for the materials for the authorized measures; simplifying the guidance for preparing State applications; changing the energy audit procedure; and adjusting the eligibility criteria for weatherizing many multifamily and renter-occupied dwellings. No change has been proposed to those provisions of the regulation relating to the maximum allowable expenditure per dwelling unit, or the priority in providing weatherization assistance.

The purposes of the changes are to give the States additional flexibility to develop and implement their weatherization programs and to increase their ability to conserve energy and assist low-income persons.

DATES: Written comments must be received on or before December 5, 1983. Public hearing will be held in Washington, D.C. on November 29, 1983, from 9:00 a.m. to 5:00 p.m.; in Phoenix, Arizona on November 17, 1983, from 9:00 a.m. to 5:00 p.m.; and in Chicago, Illinois on November 21, 1983, from 9:00 a.m. to 5:00 p.m. *See Section III, Opportunity for Public Comment, for further information.*

ADDRESSES: Public hearing locations:

Washington, D.C.: U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue SW., Washington, D.C.

Chicago, Illinois: Everett McKinley Dirksen Building, Room 1220, 219 South Dearborn, Chicago, Illinois.

Phoenix, Arizona: Equal Employment Opportunity Commission, 135 North Second Avenue, Room 519, Phoenix, Arizona.

All written comments and requests to speak at the hearing should be addressed to Conservation and Renewable Energy, Department of Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252-9319 (five copies).

FOR FURTHER INFORMATION CONTACT:

Greg Reamy, Office of Weatherization, Assistance Programs, Conservation and Renewable Energy, Department of Energy, Mail Stop 5G-023, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2207.

Ted Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6B-144, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9507.

SUPPLEMENTARY INFORMATION:

I. Introduction and Description of the Program
II. Proposed Rule Changes
III. Opportunity for Public Comment
IV. Environmental, Regulatory Impact, Small Entity Impact, Paperwork Reduction Act, and Coordinating Agency Reviews

I. Introduction and Description of the Program

The Department of Energy (DOE) is proposing to amend the regulation for the program for weatherization assistance for low-income persons (program, Weatherization Assistance Program, or WAP), 10 CFR Part 440, issued under the Energy Conservation in Existing Buildings Act of 1976, as amended (Act or program statute) (42 U.S.C 6861, *et seq.*)

The purpose of today's action is to improve the operation of the Weatherization Assistance Program. The Department is taking these action based in part on the response to a Notice of Inquiry (NOI) published by DOE in the **Federal Register** on July 14, 1983 (48 FR 32273). The NOI solicited public comments about the general direction and scope of the program and its regulation, together with specific suggestions about modifying the program.

Description of the Program

The Act authorizes DOE to establish a program to weatherize the homes of low-income persons, particularly those who are elderly and/or handicapped. The program is intended to reduce national energy consumption, particularly of imported oil, and to reduce the impact of higher fuel costs on low-income families. Funds are provided to install insulation, storm windows, caulking, weatherstripping, and other improvements to conserve energy.

DOE currently makes grants to States, the District of Columbia, and, under certain circumstances, Indian tribal organizations. The Governor, or his appointed designee, applies for, receives, and administers the grant funds. The funds are distributed by the States and the District of Columbia to local governments and nonprofit organizations to weatherize homes. Certain Indian tribal organizations are also eligible to administer Federal funds and perform weatherization activities under this program.

Funds are allocated by DOE on a formula basis, determined by the relative need for weatherization assistance among the States. The formula takes into account the number of low-income households, the percentage of total residential energy used for space heating and cooling, and the number of heating and cooling degree days in each State.

The Act permits grant funds to be spent for weatherization materials, program support, labor, administration, and training and technical assistance. Program support includes salaries of on-site supervisors, laborers, purchase or lease of equipment, and other operating costs such as transportation, rental of warehouse space, and insurance of vehicles.

Overall administrative costs are limited to not more than ten percent of a grant. A State may use not more than five percent of a grant for its administrative expenses. The remainder may be passed on to the subgrantee(s) for their administrative expenses.

The legislation also mandates the use, to the maximum extent practicable, of volunteers and labor funded in accordance with the Comprehensive Employment and Training Act of 1973 ("CETA"). However, the CETA program has now been repealed by Section 194 of the Job Training Partnership Act (JTPA), Pub. L. 97-300, 96 Stat. 1357. Section 183 of the JTPA provided that referenced in other statutes, such as the program statute, to CETA shall be deemed to refer to the JTPA. As mentioned later in the preamble, changes to the regulations have been made to comply with this statute.

II. Proposed Rule Changes

In this document DOE is proposing several changes to the regulation which will give the States more flexibility in operating the program and will better enable the program to achieve its purposes of conserving energy and benefiting low-income persons. The principal changes proposed are: Incorporating new weatherization

measures into the authorized list, updating the standards for materials for the authorized measures, simplifying the guidance for preparing State applications, changing the energy audit procedures, and adjusting the eligibility criteria for weatherizing certain multifamily and renter-occupied dwellings. Some technical changes are also proposed; however, no change has been proposed to the provisions of the regulation relating to the maximum allowable expenditure per dwelling unit or the priority in providing weatherization assistance. The changes are a response to experience obtained in administering the program, and to comments submitted in response to the NOI.

In the NOI, DOE invited comments regarding both certain specific areas and any other aspects of the program which members ofthe public believed needed to be addressed. DOE received 98 comment letters in response to the NOI. Over three-fourths of the comments in the letters suggested changes or improvements in the rules regarding weatherization of rental units, the application process, standards for weatherization materials, additional weatherization measures and materials, data collection requirements, and energy audits—Project Retro-Tech. Other comments addressed reweatherizing homes under the program, consumer education, collecting data on energy savings resulting from the program, energy efficiency measures for cooling, cost ceilings, income eligibility guidelines, the repair expense limit, and the formula for allocating funds to the States.

The following discussion indicates the changes DOE is proposing and the reasons for the changes. DOE invites comments regarding these changes and other aspects of the program.

Section 440.1—Purpose and Scope: DOE proposes to amend this section to include reference to the Energy Security Act, which was passed after the last major revision of these rules.

Section 440.2—Administration of Grants: DOE proposes to amend this section to delete reference to the circulars pertaining to this program which are published by the Office of Management and Budget and other branches of the Executive Department and which are covered by the DOE Financial Assistance Rules, 10 CFR Part 600. If there is a conflict between this Part and the DOE Financial Assistance Rules, this part will apply.

Section 440.3—Definitions: DOE proposes deleting the definition of "CETA" and adding a new definition for "JTPA." The Comprehensive Employment and Training Act (CETA) has been repealed by the Job Training Partnership Act (JTPA), Pub. L. 97–300, 96 Stat. 1322 (29 U.S.C. 1501 *et seq.*). Section 183 of JTPA directed that all references to CETA in statutes, such as the program statute, be deemed to refer to JTPA. In compliance with this directive, DOE proposes this change to the definition sections, and proposes that "JTPA" be substituted for "CETA" throughout the regulations.

DOE proposes adding and defining a new term, "Incidental Repairs." The addition of this new term, in conjunction with a change to § 440.18(a)(1)(iii), is proposed in order to clarify the types of repairs to which the $150 limitation in § 440.18 applies. The definition of the term "Repair Materials" has been eliminated.

DOE proposes adding a new definition, "Operations Office Manager" and deleting the definition of "Regional Representative" in order to more accurately reflect the current DOE field structure. "Operations Office Manager" has been substituted for "Regional Representative" throughout the regulation.

DOE proposes amending the definition of "Low-Income" and eliminating the definition of "Director" to reflect the transfer of the authorities of the Director of the Community Services Administration to the Secretary of Health and Human Services by Subtitle B, Title VI, of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, 95 Stat. 511 (42 U.S.C. 9901 *et seq.*). In addition, several of the comments received in response to the NOI advocated amending the definition of "Low-Income" to raise the eligibility limits for participation in the program from 125 percent of the poverty level to 150 percent. This change was suggested by the comments in order to make the eligibility level of the program the same as that of the Low-Income Home Energy Assistance Program. However, there are still over thirteen million dwelling units eligible for weatherization benefits at the current eligibility levels. DOE believes that the current eligibility limits will enable the program to weatherize the most needy units. However, the subject is open for further comments.

The definition of "Subgrantee" has been amended to define the term in terms of an entity, as it is used throughout the regulation, rather than in terms of a project.

DOE also proposes to amend the definition of "Weatherization Materials" to incorporate several new materials as eligible weatherization measures. This change would give States and subgrantees considerably more flexibility in operating the program. The new materials are as follows:

- Materials used for heating and cooling system repairs and tune-ups which will result in improved energy efficiency;
- Materials used for boiler repair and modifications which will result in improved energy efficiency;
- Waste heat recovery devices;
- Pipe and boiler insulation;
- Heat exchangers;
- Hot water heat pumps;
- Materials used for water heater modifications which will result in improved energy efficiency;
- Thermostat control systems;
- Materials to construct vestibules;
- Movable insulation systems for windows; and
- Replacement windows and doors.

DOE's experience with the weatherization program over the past six years has led us to the conclusion that it would be wise to pursue a more balanced approach, using a mixture of architectural measures to address infiltration through the building envelope, and mechanical options to increase the efficiency of the primary heating source. Further, there have been many "state-of-the-art" advances over the past few years in such areas as furnace efficiency modifications. For these reasons and those indicated below, DOE is proposing today to add these materials to the definition of "Weatherization Materials" under § 440.3, Definitions, and invites comments concerning these additions and other items which might be added.

The purchase of materials for heating and cooling system repairs and tune-ups for improved energy efficiency are currently allowable under the regulation, but only under the $150 repair limit. Recent studies of those materials and procedures have indicated that the energy savings potential of such devices and procedures as electric and thermally activated vent dampers and burner adjustments are more significant than previously thought. Today's action proposes redefining such items as eligible weatherization materials.

Materials for boiler repair and modification are being proposed to deal primarily with the heating systems of multifamily buildings. The National Bureau of Standards (NBS) reports that such boiler adjustments as derating, burner replacements, balancing the distribution systems (hot air, hot water), and flue dampers, can yield an annual energy savings of more than 30 percent. In addition, waste heat recovery devices from industrial/commercial equipment which are now available for apartment

buildings have provided 12 percent to 14 percent recovery and are also proposed to be added to the list of eligible materials. Pipe and boiler insulation are also being added because they provide the same kinds of benefits as duct and hot water heater insulation. Heat exchangers, devices which capture heat that would normally be exhausted out of the flue, have been reported by NBS to produce energy savings of 6.6 percent for gas-fueled heating systems and 10 percent for oil-fueled furnaces. DOE proposes to add them also to the list of eligible materials.

Hot water heat pumps are estimated by Oak Ridge National Laboratory to save 47 percent of the electricity used to heat water and are proposed to be added to the list. Materials which can be used for water heater modifications to improve efficiency under the new proposal include: Water heater insulation (already an allowable option) for which 9 percent savings have been reported by NBS; vent dampers, which have an estimated 4.5 percent savings if both the water heater and the furnace are located in a heated space; and thermostat set-back for which energy savings of up to 12 percent have been reported by NBS. DOE also proposes adding thermostat control systems including setback thermostats and automatic boiler temperature reset controls. Such systems have been reported by NBS to yield energy savings of 9 percent and 10 percent respectively.

Replacement windows and doors are also proposed to be added to the list of eligible weatherization measures because warped, poorly fitted or damaged windows and doors for which excessive air infiltration cannot be overcome by weatherstripping, the installation of storm windows and doors, or other measures, should be replaced. Vestibules are being proposed because they frequently are the most energy efficient measure that can be applied to mobile homes and other unusual constructions where more standard measures cannot be applied. Vestibules serve the same basic function as skirting and they are basically an extension of that weatherization technique. Movable insulation systems for windows, including rigid thermal panels, heavily quilted fabrics, multi-layered shades and reflective barriers, are being specified as an extension of the already allowable heat-absorbing and heat-reflective window and door materials. DOE also proposes a definition for the new term "Vestibules."

Several of the comments submitted in response to the NOI suggested that such items as storm doors, storm windows, and heat reflective materials be added to the list of eligible weatherization materials. The regulations currently allow these materials to be eligible. Window screens were also suggested as an additional material. Some storm windows included screens, and for that reason, screens are not listed as a separate item.

Several comments suggested that the choice of measures be prioritized according to their relative cost-effectiveness or their pay-back schedules. This prioritization is provided for under the regulations as part of the energy audit procedures in § 440.19(b). This section is also proposed for change.

DOE recognizes that in some cases replacement of the primary heating source may be both logical and desirable. However, such replacement is costly, and given the program's per-home expenditure limits, it does not appear to be a viable option. DOE is open, however, to further comment on this topic.

A definition for "weatherization project" has been added to this section since the term is used throughout the regulation.

Section 440.10—Allocation of Funds: This section is proposed to be amended by adding the word "tentatively" to paragraph (b)(2) in order to make it clear that the initial allocation under the formula is tentative. The actual amount a State will receive depends on the determinations DOE makes under other paragraphs of the section, which remain unchanged. A slight change is also made to paragraph (b)(2)(iv) to clarify a reference within the section.

Several comments suggested that the allocation formula be changed in a variety of ways: eliminating the use of squaring degree days, giving more priority to cold regions, giving renters equal weight with owners, providing a factor for vacant units, considering the number of low-income people, considering the number of substandard units or units older than 50 years in the State, and including utility costs. DOE considers the present allocation formula to be fair and equitable, but DOE is open to further comments on this topic.

Section 440.11—Native Americans: DOE proposes to amend paragraph (c) of this section to clarify the meaning of that paragraph. The time limit within which a State must apply before DOE need make a determination under this section is also proposed to be changed from 90 to 60 days. That change is discussed further under § 440.12.

Section 440.12—State Application: DOE proposes to revise and restructure this section to reduce paperwork requirements and allow a more straightforward approach to preparation of the application and the final State plan. As a result, some of the current requirements are proposed to be deleted and some will be required as part of the State plan rather than as part of the application.

Accordingly, paragraph (b)(3), which requires a detailed explanation of the manner in which certain minimum requirements will be met, is proposed for deletion. Section 440.15 (to be renumbered as § 440.16) already requires that procedures to meet minimum program requirements be developed, published, and implemented prior to expenditure of grant funds. The Operations Office Manager can review the published procedures for regulatory compliance at any time, which allows DOE to eliminate the redundant requirement that a detailed explanation of them be included in the application.

DOE proposes to amend paragraph (b)(4) to eliminate the requirement to justify and explain all expenditures. It is proposed that a grantee explain only how it intends to use administrative funds to carry out its responsibilities under the Act, but no longer be required to provide a blanket justification for how it will use all grant funds. DOE believes this requirement concerning all expenditure was redundant, since other information requirements in the application and the State final plan addressed DOE's need for budgetary information and justification in a more specific and appropriate manner.

Paragraphs (b) (6), (7), (8), (9), and part of (10), which require estimates of the number of different classes of buildings expected to be weatherized, have been restructured and moved to § 440.14(b). DOE believes these elements are more appropriately addressed as part of the final State plan, which is subject to a public hearing, because overall State production goals should be addressed as part of the hearing process.

Paragraph (10) has been re-numbered (5). New paragraphs (6) and (7) have been added to require a monitoring plan and a training and technical assistance plan, respectively. Since DOE began allowing grantees to use a portion of their grants for training and technical assistance and monitoring purposes, these plans have been required by program directive as part of the annual application, when a grantee chose to utilize such funds, but have not been required by the regulations. Experience has shown that such funds have been used very effectively. Since DOE expects to continue allowing such use,

DOE is proposing to add this requirement to the regulation.

DOE proposes to drop paragraph (b)(11), which required submission of a management plan. The proposed paragraph (b)(4) will provide the essential information needed to ensure that adequate management thought will be given to the need for having adequate resources in place at the subgrantee level to meet production goals.

DOE proposes to drop paragraph (12) since it references a provision that was previously eliminated from the regulations.

In order to expedite the annual process and smooth the transition from one grant cycle to the next, DOE is also proposing a change to § 440.12 which would give a State a 60 day period after receipt of notice to apply to submit an application, rather than 90 days. This change is reflected in changes to §§ 440.11 and 440.13.

DOE received a number of comments in response to the NOI requesting that the application procedures and format be simplified. A task force composed of DOE headquarters and field staff has recently been assigned the task of reviewing existing application procedures and formats in light of § 440.12 requirements. The object of the task force is to develop a streamlined and standardized package prior to the Fiscal Year 1984 grant cycle.

Comments are invited regarding these and other possible changes to this section.

DOE received a number of comments in response to the NOI addressing the subjects of standardized subgrantee agreements and changes in individual State requirements for forms and procedures pertaining to subgrantee grant applications. DOE believes that States should be free to develop their own subgrantee agreements and application forms and procedures so long as they comply with the program requirements. For this reason no regulation changes are proposed regarding these points.

Section 440.13—Local Applications: DOE proposes to change this section to comply with the earlier change of the application period for States from 90 to 60 days.

Section 440.14—State Plans: DOE proposes to amend § 440.14 by separating the provisions of the section relating to subgrantees into a new § 440.15 entitled "Subgrantees", and renaming § 440.14 "State Plans". This reorganization eliminates the indefinite heading "Administrative Requirements" and places in its place two headings which give a more precise indication of the subject discussed in the sections they concern.

DOE also proposes to restructure this section in order to include some requirements which were previously included in the application section and to require some information on a statewide rather than subgrantee basis. Some requirements are also proposed for deletion as redundant or otherwise unnecessary. A few requirements are proposed for addition to this section to conform to changes proposed elsewhere in the regulations and to place in the regulations information previously requested by program directives. These proposed changes are discussed in detail below. Comments are invited concerning these changes and other possible changes to this section.

The section is proposed to be amended by adding new paragraphs (b)(1) and (2), which require certain information regarding production goals and which are currently required by § 440.12(b) (6), (7), (8), (9), and (10) to be in the application. DOE believes that the restructuring will group detailed information about the State's operation of the program in one place and make it easier for the applicant to supply the necessary information. The restructuring will also make the production goals subject to a public hearing.

Current paragraphs (b)(1) (ii), (iii), (v), (vii), and (viii), which require detailed information on a subgrantee-by-subgrantee basis, are proposed to be moved to the new (b) (3), (4), (5), (6), and (7), respectively, which would require that information only need be supplied at the State level. This change would significantly reduce the paperwork requirements since the applicant would not have to provide this information for each subgrantee, but only for the State as a whole. Paragraph (b)(1)(iv) has been eliminated altogether.

Proposed new paragraph (b)(8) would require only four items of information to be supplied for the subgrantee level, two of which are required under the current regulation. A third, the tentative budget, is currently required as part of the application process. The requirement to provide rental information is new. The rental information requirement is proposed on both a Statewide and subgrantee basis because DOE is concerned about the low number of rental units which have been weatherized by the program. Through the comments submitted in response to the NOI and through other communications, DOE is aware that service to low-income renters needs to be increased. Some 55 percent of the low-income population is composed of renters, yet only 10 percent of the homes now weatherized under the program are occupied by renters. DOE also realizes that weatherizing owner-occupied dwellings is easier than tackling the problems of abandoned buildings, absentee landlords, and public perceptions that the program will unjustly benefit landlords. However, a dwelling unit qualifies for assistance based on the eligibility of the occupant or occupants, whether or not they are also the owners. For these reasons, DOE is proposing to require in § 440.14(b)(8)(iii) that a State supply an estimate of the minimum number of rental units to be served, and is attempting to eliminate potential regulatory barriers in this and other sections to the weatherization of rental units, while adhering to the statutory requirements. In addition to these changes, DOE will, in the future, amplify and reaffirm the program's commitment to weatherizing a higher proportion of renter-occupied dwellings.

DOE is proposing to renumber the present paragraph (b)(2) as (b)(9) to insert the word "State" in the first clause of the new (b)(9) for consistency with the terminology used in § 440.12(b)(2). DOE also proposes to revise paragraph (b)(2)(iii) (renumbered as (b)(9)(iii)) to make it consistent with legislative language with respect to dwelling unit weatherization priority, and to delete paragraph (b)(2)(viii) because it is now covered elsewhere in the regulations.

A new paragraph (b)(9)(ix) has been proposed to make explicit in the regulations that States must provide the information concerning the amount of funds to be spent per dwelling for program support and labor. Such a change will enable DOE to review this information prior to approval of the amount as required by the old § 440.16(a)(1)(ii), now renumbered as § 440.18(a)(1)(ii).

A new paragraph (b)(9)(viii) has also been proposed. Both this paragraph and paragraph (b)(9)(ix) serve to indicate conditions which may warrant DOE's consideration of a waiver of the $1,000 limit under §§ 440.18(d)(1) or 440.19(b). Such a waiver must still be requested and justified by a State as indicated under those sections. DOE expects to approve any reasonable request without the need for extensive justification. However, weatherization projects will be monitored to determine the reasonableness of the costs requested and approved. Additional justification will be required if monitoring results indicate that grantees do not exercise sufficient financial accountability or

that the original justification is insufficient.

A new paragraph (b)(9)(x) has been proposed to require a description of the audit procedures to be used in weatherizing dwelling units. A proposed change to § 440.19(b) (to be renumbered as 440.21(b)) allows audit procedures other than Project Retro-Tech to be adopted if approved by DOE. This paragraph would require that the new audit procedures be submitted as part of the State plan.

The current paragraph (b)(3) has been eliminated because it is now covered elsewhere in the regulations.

Section 440.15—Subgrantees: This is a proposed new, separate section, composed of paragraphs (c), (d), (e), and (f) of the old § 440.14. This change is proposed in order to group the provisions dealing with subgrantees into a separate section. The paragraphs are unchanged except to change references to previous paragraphs which are now renumbered, and to emphasize the grantee's responsibility to ensure certain actions.

Section 440.16—Minimum Program Requirements: DOE proposes to renumber this section in accordance with changes to previous sections. DOE also proposes to simplify this section by eliminating certain requirements which are already imposed in other sections of the regulation and by transferring paragraphs relating to eligibility requirements for rental dwelling units to § 440.22 where they fit more appropriately. Paragraph (c), which concerns the Policy Advisory Council, is proposed to be made into a separate section.

For the past two years, program monitoring has continued to uncover poor workmanship that could have been detected by a simple, visual, post-installation inspection.

Therefore, to improve the overall quality of work done under the program, DOE proposes to amend this section by adding a new paragraph (7) requiring a State to publish procedures for ensuring that no dwelling unit may be reported to DOE as completed until the subgrantee or its authorized representative has performed a final inspection on the dwelling unit and certified that the applicable work has been completed in a workmanlike manner and in accordance with the priority determined by the audit procedures required by Section 440.21(b).

Section 440.17—Policy Advisory Council: This is a proposed new section composed of paragraph (c) of the previous section. That paragraph is unchanged, except to substitute "Operations Office Manager" for "Regional Representative."

Section 440.18—Allowable Expenditures: This section is proposed to be renumbered in accordance with changes to previous sections.

DOE proposes to add to paragraph (a)(1) a refernce to § 440.15(b)(in order to make clear that there are two exceptions to the $1,000 limit per dwelling. DOE also proposes to add storage of weatherization tools and equipment as an allowable expenditure under paragraph (a)(1)(ii)(G). Storage of tools and equipment has been allowable expense in the past, as well as storage of weatherization materials, when computing storage costs. This proposed change to the regulation will clarify this area.

In conjunction with the definition of the new term "Incidental Repairs" in a proposed amendment to § 440.3, DOE also proposes to amend paragraph (a)(1)(iii) to clarify the repairs eligible under the $150 limit.

Several comments received in response to the NOI suggested raising the $150 repair limit. This figure is set by statute, 42 U.S.C. 6865(c)(1)(b), so that DOE cannot change this limit by regulation.

DOE proposes amending paragraph (c)(1) to clarify that houses which have previously been weatherized before the maximum expenditure per dwelling unit was increased to $1,000, can have additional weatherization work done on them under the low-cost/no-cost provisions of § 440.20. Several comments received in response to the NOI requested that the regulation be changed to allow additional weatherization to be done on homes which had been weatherized under lower maximum limits. DOE believes that such change would be inappropriate because less assistance would then be available to low-income persons who have need of and have never received any weatherization assistance, but is open to further comments on this subject.

Several comments suggested raising the maximum expenditure per home from $1,000 to a $1,600 or $2,000 or to permit the $1,000 limit to be an average cost per home. However, the program statute, and a provision in the Department of Interior and Related Agencies Appropriation Act, 1983, Pub. L. 97-257, place constraints on DOE's authority to adopt these suggestions. In addition, whefe there is a need to raise the limit above $1,000 per dwelling unit, the present regulations, in paragraph (d)(1) of this section and in § 440.19(b), permit DOE to take such action upon request. However, DOE is open to further comments on this topic.

Several comments suggested that the regulations be changed to allow DOE to be more flexible in determining the amount it permits grantees to spend on program support and labor. However, § 440.16(a)(1)(ii) of the present rule does not set any specific amount for program support and labor but permits DOE to have a great amount of flexibility in making this determination. DOE has been and will continue to be flexible in approving amounts for these purposes. In addition, even after DOE has approved an amount for a grantee, DOE has allowed the grantee to vary the amount of program support and labor the grantee assigned to different subgrantees within a State, as long as the overall average per home did not exceed the amount approved by DOE. Additional comments in this subject are invited.

Section 440.19—Labor: This section was renumbered because of previous renumbering changes to other sections.

Section 440.20—Low-Cost/No-Cost Weatherization Activities: DOE proposes to amend this section to include furnace or cooling unit filters as eligible low-cost/no-cost items. Furnace or cooling unit filters are inexpensive and easily installed. The regulation has been interpreted to allow them as a permissible expense in the past, and including them now makes this interpretation explicit. This section has been renumbered.

Section 440.21—Standards and Techniques for Weatherization: This section has been renumbered.

DOE proposes to amend paragraph (b) of this section by establishing a new and more flexible set of audit procedures for use in determining the most cost effective weatherization materials to be applied to a dwelling unit. DOE proposes to add, as an alternative to the very detailed Project Retro-Tech, a more general formula. Instead of being required to use Project Retro-Tech, grantees would be allowed to develop their own audit procedures which follow this formula. The grantee would be allowed to use these new audit procedures once the State has submitted them as part of the State plan (as provided in § 440.14) and they have been approved by DOE. Those grantees who want to use the results obtained by audits conducted under the Residential Conservation Service (RCS) program and to rank this information using the formula may do so with DOE approval. Those grantees which choose to use Project Retro-Tech do not need to get approval from DOE before using it but

need only inform DOE in their State plan that they are using Project Retro-Tech.

This proposed set of new procedures will give a State the flexibility to take into account relevant individual variables in determining the most cost effective measures for a dwelling in the State and still preserve a general uniformity of overall program results wherever there is no good reason for variation in these results. Many of the comments received in response to the NOI requested such flexibility. These new procedures would also allow those States which want to continue to use Project Retro-Tech to do so. Moreover, they also allow those States which want to take advantage of audits of some eligible dwelling units already performed under the RCS program to do so. Allowing the use of RCS audits will prevent the same dwelling from being audited twice by two Federally sponsored programs to obtain the same information.

Section 440.22—Eligible Dwelling Units: This section has been renumbered.

The paragraph concerning the eligibility of rental dwelling units has been transferred from the old Section 440.15 to this section because it pertains to the eligibility of dwelling units, the subject of this section. Some amendments have been made to this section to bring it into conformance with the addition of this paragraph.

The paragraph concerning rental units currently requires that 66 percent of the units of a multifamily building be occupied by income-eligible persons or families in order for the entire building to be qualified for weatherization assistance. DOE proposes to amend this paragraph to reduce the proportion of duplexes and four-unit buildings which have to be occupied by income-eligible persons or families to 50 percent. As noted earlier in this preamble, there is a great need to increase the number of rental units which are weatherized. The use of the 66 percent requirement in the case of duplexes and four-unit buildings has made it very difficult for these units to be eligible. This change is expected to ease that difficulty so that more of these units may receive weatherization assistance.

Section 440.23—Oversight, Training, and Technical Assistance: This section has been renumbered because of the renumbering of previous sections. The Secretary of Health and Human Services has been substituted for the Director of the Community Services Administration in order to accurately reflect the transfer of authority between those two entities.

DOE proposes to amend this section by allowing training and technical assistance (T&TA) funds to be used for providing information concerning conservation practices to occupants of dwelling units which have been weatherized under the program. Once weatherization materials have been installed, the occupants of the unit need information on how to use and maintain the materials to achieve maximum energy savings. A number of comments received in response to the NOI indicated a need for such information to be provided to the occupants of weatherized dwellings.

Section 440.24—Recordkeeping: This section has been renumbered because of the renumbering of previous sections. A reference to Federal Management Circular 74–7 has been changed to the DOE Financial Assistance Rules, 10 CFR Part 600, because those rules set the DOE policy concerning recordkeeping taking into consideration the applicable OMB and other Federal documents.

Section 440.25—Reports: This section has been renumbered because of the renumbering of previous sections.

DOE does not believe that any additional change to this section is necessary now; however, DOE did receive a number of comments addressing reports and the data collection process in response to the NOI. A considerable number of these comments dealt with reviewing, standardizing, and updating DOE's reporting forms and systems. Others dealt with improving communications among grantees and among subgrantees in different States through monthly reports, newsletters, and procedures for submitting and responding to secific questions. These comments would not require a change in the regulations if adopted and are under consideration by DOE for future action. The data system comments will be considered as part of DOE's overall review of the DOE Uniform Reporting System.

Several comments suggested a need to collect, each year, data from the grantees and/or subgrantees on fuel savings and energy savings per dollar spent. DOE does not believe that collection of such data should be mandatory. DOE has recently undertaken a national sample of fuel use, before and after weatherization, as part of the national program evaluation effort. States are encouraged to undertake similar efforts.

Several comments favored coordinating data-gathering and standardizing report formats for the program and the Low-Income Home Energy Assistance Program. Each program is separate and distinct by law, each has different requirements, and the funds for these programs must be accounted for and program activities must be monitored separately. DOE believes it would be impractical to combine reports for these programs. In particular, the Department of Health and Human Services (which administers the Low-Income Home Energy Assistance Program) requires grantees under that program to report annually on the number and income levels of households assisted with its funds (45 CFR 96.81), to conduct an annual audit (42 U.S.C. 8624(b)(9)), and to provide fiscal control and fund accounting procedures necessary to assure the proper disbursal of and accounting for Low-Income Home Energy Assistance Program funds (42 U.S.C. 8624(b)(10)). DOE requires more items of information and different procedures to satisfy the weatherization program statute.

One comment reflected a misconception about current reporting requirements. It suggested that form EIA–29A be eliminated. DOE has not required the use of this form since 1980.

DOE intends that if there is a conflict between this section or any reports required under this section and the provision of the DOE Financial Assistance Rules, this section and the reports required under it will apply for this program.

Although DOE has not proposed many regulatory changes in this section, DOE is open to further comments in this area.

Section 440.30—Administrative Review: This section has been proposed to be changed to allow the Secretary to designate some other entity to perform his functions under paragraph (h) of this section. DOE also proposes to amend paragraph (j) to allow the Operations Office Manager greater flexibility in choosing remedies when he determines that there has been a failure to comply with the regulations. DOE intends that this appeal procedure rather than the one specified in 10 CFR Part 600 apply to this grant program.

Appendix A—Standards for Weatherization Materials: Based on criteria set by the National Bureau of Standards, DOE proposes to revise Appendix A to update the standards for weatherization materials extensively and to include new standards for the additional measures proposed in this document. DOE intends to periodically update the standards as new standards become available. Until such an update is accomplished, DOE proposes to adhere to the standards in Appendix A.

Response to Additional Comments: DOE received comments in response to the NOI which it was not able to

incorporate in this rulemaking, including (1) holding State and/or regional training seminars; (2) developing self-help programs to train people to do their own weatherization work; (3) arranging for long-term, low-interest loans for major repairs beyond the program's limits; (4) offering private contractors a tax incentive to hire CETA workers as trainees; (5) allowing the installation of solar devices as a weatherization measure; and (6) removing funding from a grantee during a budget period, when warranted, and directly funding subgrantees when this occurs. These ideas will be considered further, become the subject of discussions with other agencies, and may be addressed in subsequent proposed rulemakings. Further comments in these areas are welcome.

III. Opportunity for Public Comment

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposal set forth in this notice to: Conservation and Renewable Energy, Department of Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B–025, 1000 Independence Avenue SW., Washington, D.C. 20585.

Comment should be identified on the outside of the envelope, and on the document themselves, with the designation: "Weatherization Assistance for Low-Income Persons, Notice of Proposed Rulemaking, Docket Number CAS–RM–80–508". Five copies should be submitted.

All comments received on or before December 5, 1983, and all other relevant information, will be considered by DOE before taking action on this final rule.

All comments received will be available for public inspection in the DOE Reading Room, Room 1E–090, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except federal holidays.

Any person submitting information which that person believes to be confidential, and which may be exempt by law from public disclosure, should submit one complete copy, as well as five copies from which the information claimed to be confidential has been deleted. DOE shall make a determination of any such claim. This procedure is set forth in 10 CFR 1004.11 (44 FR 1980, January 8, 1979).

DOE will hold several public hearings on this proposed rule. The hearings will be held: in Washington, D.C. Phoenix, Arizona, and Chicago, Illinois on the dates and at the addresses stated in the Dates and Addresses section of the preamble.

Any person who has an interest in the proposed regulation, or who is a representative of a group or class of persons which has an interest in it may make a written request for an opportunity to make an oral presentation. Such a request to speak at a hearing should be addressed to Hearings and Dockets, Conservation and Renewable Energy, Mail Stop 6B–025, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9319, and must be received by 4:30 p.m., local time, on November 14, 1983 for Phoenix; November 17, 1983 for Chicago; and November 23, 1983 for Washington, D.C. A request may also be hand delivered between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, except federal holidays. Requests should be marked the same as for written comments, with the additional notation, "With Request to Speak".

The person making the request should described briefly his or her interest in the proceeding and, if appropriate, state why that person is a proper representative of a group. The person should also give a concise summary of the proposed oral presentation, and should provide a phone number where the person may be reached. Each person selected to be heard at a public hearing will be notified. Those persons selected to be heard should bring five copies of their statement to the hearing. If a person cannot provide five copies, alternate arrangements can be made in advance of the hearing. This should be done in the letter requesting to speak.

DOE reserves the right to select persons to speak at the hearings, to schedule their presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation will be limited to twenty minutes, based on the number of persons requesting to speak.

A DOE official will preside at each hearing. These will not be judicial or evidentiary-type hearings. Questions may be asked of speakers only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearings will be based on all of the information available to DOE.

Any participant who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday, except federal holidays. Any person may purchase a copy of the transcript from the reporter.

If DOE must cancel a hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Notice of cancellation will also be given to all persons scheduled to speak at the hearing. Hearing dates may be cancelled in the event no public testimony has been scheduled in advance.

IV. Environmental, Regulatory Impact, Small Entity Impact, Paperwork Reduction, and Coordinating Agency Reviews

A. Environmental Review

Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), Public Law 91–190, 83 Stat. 852 (42 U.S.C. 4321 *et seq.*), DOE published a Notice of Availability of an Environmental Assessment (EA) (DOE/EA–0085) of the Grants Program for Weatherization Assistance for Low-Income Persons on April 10, 1979, in the **Federal Register**, 44 FR 21323. At the same time, DOE published notice of its determination, based on the EA, that the proposed action would not constitute a major Federal action significantly affecting the quality of the human environment, and that therefore, no Environmental Impact Statement (EIS) was required.

DOE has reviewed the environmental impacts of the program amendment issued today. It is DOE's judgment that no new or additional environmental impacts from the program will result from the proposed amendment. It is, accordingly, DOE's determination that the environmental impacts of the program as modified by today's proposed amendment have been adequately analyzed in the April 1979 EA, and that these impacts are not significant. Hence, the previous negative determination is still applicable, and no additional EA or EIS is required.

B. Review under Executive Order 12291

Today's issuance was reviewed under Executive Order 12291, 46 FR 13193, February 27, 1981. DOE had concluded that the rule is not a "major rule" under the Executive Order, because it will not result in: (1) An annual effect in the economy of $100 million or more; (2) A major increase in costs or prices for consumers, individual industries, State, Federal, or local government agencies, or geographic regions; or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to Section 3(c)(3) of Executive Order 12291, this rule was submitted to the Director of OMB for a 10-day review. The Director has concluded his review under that Executive Order.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 601 *et seq.*), requires, in part, that an agency prepare a final regulatory flexibility analysis for any final rule, unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and an explanation of that determination in the **Federal Register**. The changes proposed in this action primarily add flexibility to the existing program. The only additional regulatory requirements placed on small entities are placed only on those non-profit organizations which are subgrantees. Thus, these changes have a minimal increase in the types of products used in the program. Accordingly, pursuant to Section 605(b) of the Regulatory Flexibility Act, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

Recently, the information collection requirements contained in this rule were approved by the Office of Management and Budget (OMB) under Control Number 1904–0027. However, any substantial changes in the information collection requirements proposed in this Notice will submitted to OMB, prior to imposing them on the affected public, in accordance with Section 3504(h) of the Paperwork Reduction Act, Pub. L. 96–511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*), and procedures implementing that Act, 5 CFR 1320.1 *et seq.*

E. Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance number for the Weatherization Assistance Program is 81.042.

F. Consultation

In developing these final regulations, DOE has consulted with the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, and the Secretary of Agriculture, pursuant to Section 413(b) of the Act.

List of Subjects in 10 CFR Part 440

Administrative practice and procedure, Aged, Energy Conservation, Grant programs—energy, Grant programs—housing and community development, Handicapped, Housing standards, Indians, Reporting and recordkeeping requirements.

In consideration of the foregoing, DOE hereby proposes to revise Chapter II of Title 10, Part 440, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., November 1, 1983.

Howard S. Coleman,

Principal Deputy Assistant Secretary, Conservation and Renewable Energy.

PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

Sec.

440.1 Purpose and scope.
440.2 Administration of grants.
440.3 Definitions.
440.10 Allocation of funds.
440.11 Native Americans.
440.12 State application.
440.13 Local application.
440.14 State plan.
440.15 Subgrantees.
440.16 Minimum program requirements.
440.17 Policy Advisory Council.
440.18 Allowable expenditures.
440.19 Labor.
440.20 Low cost/no cost weatherization activities.
440.21 Standards and techniques for weatherization
440.22 Eligible dwelling units.
440.23 Oversight, training, and technical assistance.
440.24 Recordkeeping.
440.25 Reports.
440.30 Administrative review.
Appendix A to Part 440—Standards for Weatherization Materials.

Authority: Energy Conservation in Existing Buildings Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*

§ 440.1 Purpose and scope.

This part contains the regulation adopted by the Department of Energy to carry out a program of weatherization assistance for low-income persons established by Part A of the Energy Conservation in Existing Buildings Act of 1976, 42 U.S.C. 6861 *et seq.*, enacted as Title IV of the Energy Conservation and Production Act, Pub. L. 94–385, 90 Stat. 1125 *et seq.*, and amended by Title II, Part 2 of the National Energy Conservation Policy Act, Pub. L. 95–619, 92 Stat. 3206 *et seq.*, and by the Energy Security Act, Pub. L. 96–294, 94 Stat. 611 *et seq.*

§ 440.2 Administration of grants.

Grant awards under this part shall comply with applicable law including, without limitation, the requirements of:

(a) Executive Order 12372 entitled "Intergovernmental Review of Federal Programs", 48 FR 3130, and the DOE Regulation implementing this Executive Order entitled "Intergovernmental Review of Department of Energy Programs and Activities" (10 CFR Part 1005);

(b) Office of Management and Budget Circular A–97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Inter-Governmental Coordination Act of 1968;"

(c) Unless in conflict with provisions of this part, the DOE Assistance Rule (10 CFR Part 600); and

(d) Such other procedures applicable to this part as DOE may from time to time prescribe for the administration of financial assistance.

§ 440.3 Definitions.

As used in this part:

"Act" means the Energy Conservation in Existing Buildings Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*

"CAA" means a Community Action Agency.

"Community Action Agency" means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Public Law 88–452, which is authorized to administer funds received from Federal, State, local or private funding entities to assess, design, operate, finance, and oversee antipoverty programs.

"Cooling Degree Days" means a population-weighted annual average of the climatological cooling degree days for each weather station within a State, as determined by DOE.

"DOE" means the Department of Energy.

"Dwelling Unit" means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

"Elderly Person" means a person who is 60 years of age or older.

"Family Unit" means all persons living together in a dwelling unit.

"Governor" means the chief executive officer of a State, including the Mayor of the District of Columbia.

"Grantee" means the State or other entity named in the Notification of Grant Award as the recipient.

"Handicapped Person" means any individual (1) who is a handicapped individuals as defined in Section 7(6) of the Rehabilitation Act of 1973, (2) who is under a disability as defined in Section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in Section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (3) who is receiving benefits under Chapter 11 or 15 of Title 38, U.S.C.

"Heating Degree Days" means a population-weighted seasonal average of the climatological heating degree days for each weather station within a State, as determined by DOE.

"Incidential Repairs" means those repairs necessary for the effective performance or preservation of weatherization materials. Such repairs include, but are not limited to framing or repairing windows and doors which could not otherwise be caulked or weather-stripped and providing protective materials, such as paint, used to seal materials installed under this program.

"Indian Tribe" means any tribe, band, nation, or other organized group or community of Native Americans, including any Alaskan native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Public Law 92–203, 85 Stat. 688, which (1) is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans, or (2) is located on, or in proximity to, a Federal or State reservation or rancheria.

"JTPA" means the Job Training Partnership Act, 29 U.S.C. 1501 *et seq.*

"Local Applicant" means a CAA or unit of general purpose local government.

"Low Income" means that income in relation to family size which:

(1) Is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget except that the Secretary may establish a higher level if the Secretary, after consulting with the Secretary of Agriculture and the Secretary of Health and Human Services, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under Section 222(a)(12) of the Economic Opportunity Act of 1964; or

(2) Is the basis on which cash assistance payments have been paid during the preceding 12-month period under Titles IV and XVI of the Social Security Act of applicable State or local law.

"Native American" means a person who is a member of an Indian tribe.

"Number of Low-Income, Owner-Occupied Dwelling Units in the State" means the number of such dwelling units in a State, as determined by DOE.

"Number of Low-Income, Renter-Occupied Dwelling Units in the State" means the number of such dwelling units in a State, as determined by DOE.

"Operations Office Manager" means the manager of a DOE Operations Office or his or her designee.

"Percentage of Total Residential Energy Used for Space Cooling" means the natinal percentage of total energy used for space cooling, as determined by DOE.

"Percentage of Total Residential Energy Used for Space Heating" means the national percentage of total energy used for space heating, as determined by DOE.

"Rental Dwelling Unit" means a dwelling unit occupied by a person who pays rent for the use of the dwelling unit.

"Secretary" means the Secretary of the Department of Energy.

"Separate Living Quarters" means living quarters in which the occupants do not live and eat with any other persons in the structure and which have either (1) direct access from the outside of the building or through a common hall, or (2) complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

"Single-Family Dwelling Unit" means a structure containing no more than one dwelling unit.

"Skirting" means material used to border the bottom of a dwelling unit to prevent infiltration.

"State" means each of the States and the District of Columbia.

"Subgrantee" means an entity managing a weatherization project which receives a grant of funds awarded under this part from a grantee.

"Tribal Organization" means the recognized governing body of any Indian tribe or any legally established organization of Native Americans which is controlled, sanctioned, or chartered by such governing body.

"Unit of General Purpose Local Government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

"Vestibule" means an enclosure built around a primary entry to a dwelling unit.

"Weatherization Materials" mean:

(1) Caulking and weatherstripping of doors and windows;

(2) Furnace efficiency modifications, limited to:

(i) Replacement burners designed to substantially increase the energy efficiency of the heating system;

(ii) Devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(3) Clock thermostats;

(4) Ceiling, attic, wall, floor, and duct insulation;

(5) Water heater insulation;

(6) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

(7) The following insulating or energy conserving devices or technologies:

(i) Skirting;

(ii) Items to improve attic ventilation;

(iii) Vapor barriers;

(iv) Materials used as a patch to reduce infiltration through the building envelope;

(v) Water flow controllers;

(vi) Movable insulation systems for windows;

(vii) Materials to construct vestibules,

(viii) Pipe and boiler insulation;

(ix) Heat exchangers;

(x) Thermostat control systems;

(xi) Replacement windows and doors;

(xii) Materials used for water heater modifications which will result in improved energy efficiency;

(xiii) Hot water heat pumps;

(xiv) Waste heat recovery devices;

(xv) Materials used for heating and cooling system repairs and modifications which will result in improved energy efficiency; and

(xvi) Materials used for boiler repair and modifications which will result in improved energy efficiency.

"Weatherization Project" means a project conducted in a single geographical area which undertakes to

weatherize dwelling units that are thermally inefficient.

§ 440.10 Allocation of funds.

(a) DOE shall allocate financial assistance for each State from sums appropriated for any fiscal year, only upon annual application.

(b) DOE shall determine the tentative allocation for each State from available funds as follows:

(1) The first $5,100,000 appropriated shall be divided equally among the States; an additional $100,000 shall be allocated to Alaska.

(2) The percentage of the remaining available funds tentatively allocated to each State shall be determined by the following formula:

(i) The square of the number of heating degree days in a State multiplied by the percentage of total residential energy used for space heating;

(ii) Plus the square of the number of cooling degree days in the State multiplied by the percentage of total residential energy used for space cooling;

(iii) Multiplied by the sum of the number of low-income, owner-occupied dwelling units in the State and one-half of the number of low-income, renter-occupied dwelling units in the State;

(iv) Divided by the sum of the result produced for all States by the computation outlined in subparagraphs (i), (ii) and (iii) of this paragraph; and

(v) Multiplied by 100.

(c) DOE may reduce the tentative allocation for a State by the amount DOE determines cannot be reasonably expended by a grantee to weatherize dwelling units during the budget period for which financial assistance is to be awarded. In reaching this determination, DOE will consider the amount of unexpended financial assistance currently available to a grantee under this part and the number of dwelling units which remain to be weatherized with the unexpended financial assistance.

(d) DOE may increase the tentative allocation of a State by the amount DOE determines the grantee can expend to weatherize additional dwelling units during the budget period for which financial assistance is to be awarded.

(e) The Operations Office Manager shall notify each State of the tentative allocation for which that State is eligible to apply.

§ 440.11 Native Americans.

(a) Notwithstanding any other provision of this part, the Operations Office Manager may determine, after taking into account the amount of funds made available to a State to carry out the purposes of this part, that:

(1) The low-income members of an Indian tribe are not receiving benefits under this part equivalent to the assistance provided to other low-income persons in the State under this part; and

(2) The low-income members of such tribe would be better served by means of a grant made directly to provide such assistance.

(b) In any State for which the Operations Office Manager shall have made the determination referred to in paragraph (a) of this section, the Operations Office Manager shall reserve from the sums that would otherwise be allocated to the State under this part not less than 100 percent, or more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Native Americans for whom a determination under paragraph (a) of this section has been made bears to the population of all low-income persons in the State.

(c) The Operations Office Manager shall make the determination prescribed in paragraph (a) of this section in the event a State:

(1) Does not apply within the 60-day time period prescribed in § 440.12(a);

(2) Recommends that direct grants be made for low-income members of an Indian tribe as provided in § 440.12(b)(5);

(3) Files an application which DOE determines, in accordance with the procedures in § 440.30, not to make adequate provision for the low-income members of an Indian tribe residing in the State; or

(4) Has received grant funds and DOE determines, in accordance with the procedures in § 440.30, that the State has failed to implement the procedures required by Section 440.16 (6).

(d) Any sums reserved by the Operations Office Manager pursuant to paragraph (b) of this section shall be granted to the tribal organization serving the individuals for whom the determination has been made, or where there is no tribal organization, to such other entity as the Operations Office Manager determines is able to provide adequate weatherization assistance pursuant to this part. Where the Operations Office Manager intends to make a grant to an organization to perform services benefiting more than one Indian tribe, the approval of each Indian tribe shall be a prerequisite for the issuance of a notice of grant award.

(e) Within 30 days after the Operations Office Manager has reserved funds pursuant to paragraph (b) of this section, the Operations Office Manager shall give written notice to the tribal organization or other qualified entity of the amount of funds reserved and its eligibility to apply therefor.

(f) Such tribal organization or other qualified entity shall thereafter be treated as a unit of general purpose local government eligible to apply for funds hereunder, pursuant to the provisions of § 440.13.

§ 440.12 State application.

(a) To be eligible for financial assistance under this part, a State shall submit an application to DOE in conformity with the requirements of this part not later than 60 days after the date of notice to apply is received from the Operations Office Manager. The Operations Office Manager shall review each timely State application and, if the submission otherwise complies with the applicable provisions of this part, approve a budget and issue a notice of financial assistance award.

(b) Each application shall include:

(1) The name and address of the State agency or office responsible for administering the program;

(2) A copy of the final State plan prepared after notice and a public hearing in accordance with § 440.14(a), except that an application by a local applicant need not include a copy of the final State plan;

(3) The budget for total funds applied for under the Act, which shall include a justification and explanation of any amounts requested for expenditure pursuant to § 440.18(b) for State administration;

(4) The total number of dwelling units proposed to be weatherized with grant funds during the budget period for which assistance is to be awarded, (i) with financial assistance previously obligated under this part, and (ii) with the tentative allocation to the State;

(5) A recommendation that a tribal organization be treated as a local applicant eligible to submit an application pursuant to § 440.13(b), if such a recommendation is to be made;

(6) A monitoring plan which shall indicate the method used by the State to insure the quality of work and adequate financial management control at the subgrantee level;

(7) A training and technical assistance plan which shall indicate how funds for training and technical assistance will be used; and

(8) Any further information which the Secretary finds necessary to determine whether an application meets the requirements of this part.

(Approved by the Office of Management and Budget under Control Number 1904–0027)

§ 440.13 Local application.

(a) The Operations Office Manager shall give written notice to all local applicants throughout a State of their eligibility to apply for financial assistance under this part in the event:

(1) A State, within which a local applicant is situated, fails to submit an application with 60 days after notice in accordance with § 440.12(a); or

(2) The Operations Office Manager finally disapproves the application of a State pursuant to § 440.30 of this part.

(b) To be eligible for financial assistance, a local applicant shall submit an application pursuant to § 440.12(b) to the Operations Office Manager within 30 days after receiving the notice referred to in paragraph (a) of this section.

(c) In the event one or more local applicants submit a timely application, the Operations Office Manager shall combine the hearing on the proposed plan pursuant to § 440.14(a) with a hearing on the intention to deny the timely application of one or more local applicants, as provided in § 440.30, to the maximum extent practicable. Based upon the final plan developed by the Operations Office Manager, the hearing, and information submitted by a local applicant and other interested persons, the Operations Office Manager shall determine whether or not to award a grant to a local applicant, and the amount thereof. The Operations Office Manager may provide financial assistance to a local applicant to carry out one or more weatherization projects.

(Approved by the Office of Management and Budget under Control Number 1904–0027)

§ 440.14 State plan.

(a) Before submitting an application, a State shall give not less than 10 days notice of hearing, reasonably calculated to inform prospective subgrantees, and shall conduct one or more public hearings for the purpose of receiving comments on a proposed State plan. The proposed State plan, which shall identify and describe proposed weatherization projects, including a statement of proposed subgrantees and the amount each will receive, shall be published and made available throughout the State prior to the hearing. The notice for the hearing shall specify that copies of the plan are available and how they may be obtained. A transcript of the hearings shall be prepared and written submission of views and data shall be accepted for the record.

(b) Subsequent to the hearing, the State shall prepare a final State plan which shall identify and describe:

(1) The production schedule for the State which shall indicate projected expenditures and the number of dwelling units which are expected to be weatherized each month during the program year;

(2) An estimate of the number of dwelling units expected to be weatherized during the program year by category to include:

(i) Single family and multi-family residences;

(ii) Elderly persons residences;

(iii) Handicapped persons residences;

(iv) Renters residences; and

(v) If Native Americans do not receive direct grants under § 440.11, Native American residences.

(3) The climatic conditions within the State;

(4) The type of weatherization work to be done;

(5) An estimate of the amount of energy to be conserved;

(6) An estimate of the number of eligible dwelling units in which the elderly reside;

(7) An estimate of the number of eligible dwelling units in which the handicapped reside;

(8) Each area to be served by a weatherization project within the State, and shall include for each area:

(i) The tentative budget for allowable costs in accordance with § 440.18;

(ii) The number of dwelling units expected to be weatherized during the program year;

(iii) The estimated number of rental dwelling units to be weatherized; and

(iv) Sources of labor.

(9) The manner in which the State plan is to be implemented, and shall include:

(i) An analysis of the existence and effectiveness of any weatherization project being carried out by a subgrantee;

(ii) An explanation of the method used to select each area to be served by a weatherization project;

(iii) The extent to which priority will be given to the weatherization of single-family or other high energy consuming dwelling units;

(iv) The amount of non-Federal resources to be applied to the program;

(v) The amount of Federal resources, other than DOE weatherization grant funds, to be applied to the program;

(vi) The amount of weatherization grant funds tentatively allocated to the State under this part;

(vii) The expected average cost per dwelling to be weatherized, taking into acount the total number of dwellings to be weatherized and the total amount of funds, Federal and non-Federal, expected to be applied to the program;

(viii) The maximum amount to be applied to any dwelling unit from DOE funds;

(ix) The amount to be spent per dwelling unit for program support and labor in accordance with § 440.18(a)(1)(ii); and

(x) Procedures for determining the most cost effective measures in a dwelling unit, or a statement that Project Retro-Tech will be used.

§ 440.15 Subgrantees.

(a) The grantee shall ensure that:

(1) Each subgrantee is a CAA or other public or nonprofit entity;

(2) Each subgrantee is selected on the basis of public comment received during a public hearing conducted pursuant to § 440.14(a) and other appropriate findings regarding:

(i) The subgrantee's experience and performance in weatherization or housing renovation activities;

(ii) The subgrantee's experience in assisting low-income persons in the area to be served;

(iii) The subgrantee's capacity to undertake a timely and effective weatherization program; and

(3) In selecting a subgrantee, preference is given to any CAA or other public or nonprofit entity which has, or is currently administering, an effective program under this part or under Title II of the Economic Opportunity Act of 1964, with program effectiveness evaluated by consideration of factors including, but not necessarily limited to, the following:

(i) The extent to which the past or current program achieved or is achieving weatherization goals in a timely fashion;

(ii) The quality of work performed by the subgrantee;

(iii) The number, qualifications, and experience of the staff members of the subgrantee; and

(iv) The ability of the subgrantee to secure volunteers, training participants, and public service employment workers pursuant to JTPA.

(b) The grantee shall ensure that the funds received under this part will be allocated to the entities selected in accordance with paragraph (a) of this section, such that funds will be allocated to areas on the basis of the relative need for a weatherization project by low-income persons.

(c) If DOE finds that a subgrantee selected to undertake weatherization activities under this part has failed to comply substantially with the provisions of the Act or this part and should be replaced, such finding shall be treated

as a finding under § 440.30(d) for purposes of § 440.30.

(d) Any new or additional subgrantee shall be selected at a hearing in accordance with § 440.14 (a) and upon the basis of the criteria in paragraph (a) of this section.

§ 440.16 Minimum program requirements.

Prior to the expenditure of any grant funds each grantee shall develop, publish, and implement procedures to ensure that:

(a) No dwelling unit may be weatherized without documentation that the dwelling unit is an eligible dwelling unit as provided in § 440.22;

(b) Priority is given to identifying and providing weatherization assistance to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate is given to single-family or other high-energy-consuming dwelling units;

(c) Financial assistance provided under this part will be used to supplement, and not supplant, State or local funds, and, to the maximum extent practicable as determined by DOE, to increase the amounts of these funds that would be made available in the absence of Federal funds provided under this part;

(d) To the maximum extent practicable, the grantee will secure the services of volunteers, training participants and public service employment workers, pursuant to JTPA, to work under the supervision of qualified supervisors and foremen;

(e) To the maximum extent practicable, the use of weatherization assistance shall be coordinated with other Federal, State, local, or privately funded programs in order to improve thermal efficiency and to conserve energy;

(f) The low-income members of an Indian tribe shall receive benefits equivalent to the assistance provided to other low-income persons within a State unless the grantee has made the recommendation provided in § 440.12(b)(5); and

(g) No dwelling unit may be reported to DOE as completed until the subgrantee, or its authorized representative, has performed a final inspection and certified that applicable work has been completed in a workmanlike manner and in accordance with the priority determined by the audit procedures required by § 440.21(b).

§ 440.17 Policy Advisory Council.

(a) Prior to the expenditure of any grant funds, a State policy advisory council shall be established by a State or by the Operations Office Manager if a State does not participate in the program which:

(1) Has special qualifications and sensitivity with respect to solving the problems of low-income persons, including the weatherization and energy conservation problems of these persons;

(2) Is broadly representative of organizations and agencies, including consumer groups that represent low-income persons, particularly elderly and handicapped low-income persons and low-income Native Americans, in the State or geographical area in question; and

(3) Has responsibility for advising the appropriate official or agency administerng the allocation of financial assistance in the State or area with respect to the development and implementation of a weatherization assistance program.

§ 440.18 Allowable expenditures.

(a) To the maximum extent practicable, the grant funds provided under this part shall be used for the purchase of weatherization materials and related matter described in paragraph (a)(1) of this section. Allowable expenditures under this part include only:

(1) A maximum of $1,000 for any dwelling unit, except as provided in paragraph (d) of this section and § 440.19(b), for:

(i) The cost of purchase and delivery of weatherization materials;

(ii) The amount per dwelling unit, determined by a grantee and approved by the Operations Office Manager for the cost of program support and labor consisting of:

(A) Transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the site of weatherization work;

(B) Maintenance, operation, and insurance of vehicles used to transport weatherization materials;

(C) Maintenance of tools and equipment;

(D) Purchase or annual lease of tools, equipment, and vehicles, except that any purchase of vehicles shall be referred to DOE for prior approval in every instance;

(E) Employment of on-site supervisory personnel;

(F) Labor costs, in accordance with § 440.19; and

(G) Storage of weatherization materials, tools and equipment.

(iii) The cost, not to exceed $150 per dwelling unit, of incidental repairs.

(2) The cost of liability insurance for weatherization projects for personal injury and for property damage;

(3) Allowable administration expenses under paragraph (b) of this section; and

(4) The cost of carrying out low cost/no cost weatherization activities in accordance with § 440.20.

(b) Not more than 10 percent of any grant made to a State may be used by the grantee and subgrantees for administrative purposes in carrying out duties under this part, except that not more than 5 percent may be used by the State for such purposes.

(c) No grant funds awarded under this part shall be used for any of the following purposes:

(1) To install or otherwise provide weatherization materials for a dwelling unit weatherized previously with grant funds under paragraph (a)(1) of this section, except as provided under § 440.20, unless such dwelling unit has been damaged by fire, flood, or act of God and repair of the damage to weatherization materials is not paid for by insurance; or

(2) To weatherize a dwelling unit which is designated for acquisition or clearance by a Federal, State, or local program within twelve months from the date weatherization of the dwelling unit would be scheduled to be completed.

(d) The limitation of $1,000 described in paragraph (a) of this section:

(1) Shall not apply if the State policy advisory council requests a greater amount be provided for specific categories of units or materials in the State and the Operations Office Manager approves the request; and

(2) Shall be deemed to have been requested and approved under section 415(c)(2) of the Act, unless the State policy advisory council notifies the Operations Office Manager to the contrary in writing within 30 days of submission of the annual State application.

§ 440.19 Labor.

(a) Payments for labor costs under § 440.18(a)(1)(ii)(F) shall consist of:

(1) Payments permitted by the Department of Labor to supplement wages paid to training participants and public service employment workers pursuant to JTPA; and

(2) Payments to employ labor (particularly persons eligible for training under JTPA) or to engage a contractor (particularly a nonprofit organization or a business owned by disadvantaged individuals which performs weatherization services), provided a grantee has determined an adequate number of volunteer and training participants and public service employment workers, assisted pursuant

to JTPA, are not available to weatherize dwelling units for a subgrantee under the supervision of qualified supervisors.

(b) The Operations Office Manager may increase the limitation of $1,000 per dwelling unit described in § 440.18(a) to not more than $1,600 per dwelling unit to cover costs referred to in paragraph (a) of this section in an area where the Operations Office Manager, based upon satisfactory documentation, determines that there are an insufficient number of voluteers and training participants and public service employment workers, assisted pursuant to JTPA, available to weatherize dwelling units for a subgrantee under the supervision of qualified supervisors.

§ 440.20 Low cost/no cost weatherization activities.

(a) An eligible dwelling unit may be weatherized without regard to the limitations contained in § 440.18(c)(1) or § 440.21(b) from funds designated by the grantee for carrying out low cost/no cost weatherization activities, provided:

(1) Inexpensive weatherization materials are used, such as water flow controllers, furnace or cooling filters, or items which are primarily directed towards reducing infiltration including weatherstripping, caulking, glass patching, and insulation for plugging; and

(2) No labor paid with funds provided under this part is used to install weatherization materials referred to in paragraph (a)(1) of this section.

(b) A maximum of 10 percent of the amount allocated to a subgrantee, not to exceed $50 in materials costs per dwelling unit, may be expended to carry out low cost/no cost weatherization activities, unless the Operations Office Manager approves a higher expenditure per dwelling unit.

§ 440.21 Standards and Techniques for Weatherization.

(a) Only weatherization materials which meet or exceed standards prescribed in Appendix A shall be purchased with funds provided under this part.

(b) The most cost effective weatherization materials for each dwelling unit shall be determined by audit procedures using the following formula:

(1) The cost of fuel saved per year by installing a weatherization material in a dwelling unit;

(2) Multiplied by the appropriate lifetime of the weatherization material; and

(3) Divided by the cost of the weatherization material and the cost of the installation of the weatherization material.

(c) The computation of the cost of fuel saved per year must take into account the number of heating or cooling degree days in the area for which the computation is being made and must otherwise use reasonable methods and assumptions.

(d) The figures used for the lifetime of the materials and for the costs of materials and cost of the installation of the materials must be figures generally accepted in the relevant trade.

(e) The weatherization materials which shall be installed first are those:

(1) Which are determined using the formula in paragraph (b) of this section to be the most cost effective; and

(2) Whose costs are within the allowable cost limits prescribed in § 440.18 or approved by the Operations Office Manager under § 440.18(d)(1) or § 440.19(b).

(f) The audit procedures used in Project Retro-Tech to determine the most cost effective weatherization materials comply with this section. The grantee or subgrantee may use other audit procedures to determine the most cost effective weatherization materials, provided that these procedures comply with this section and are approved by the Operations Office Manager prior to their use. A grantee or subgrantee may use results obtained from audits conducted under the Residential Conversation Service Program as part of the audit procedures which have been approved by the Operations Office Manager.

§ 440.22 Eligible dwelling units.

(a) A dwelling unit shall be eligible for weatherization assistance under this part if it is occupied by a family unit:

(1) Whose income is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget; or

(2) Which contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law during the 12-month period preceding the determination of eligibility for weatherization assistance.

(b) A subgrantee may weatherize a building containing rental dwelling units using financial assistance for dwelling units eligible for weatherization assistance under paragraph (a) of this section, where:

(1) The subgrantee has obtained the written permission of the owner or his agent;

(2) Not less than 66 percent (50 percent for duplexes and four units buildings) of the dwelling units in the building:

(i) Are eligible dwelling units, or

(ii) Will become eligible dwelling units within 180 days, under a Federal, State or local government program for rehabilitating the building or making similar improvements to the building; and

(3) The grantee has established procedures approved by the Operations Office Manager, to insure that:

(i) Rents shall not be raised because of the increased value of dwelling units due solely to weatherization assistance provided under this part; and

(ii) No undue or excessive enhancement shall occur to the value of the dwelling units.

§440.23 Oversight, training, and technical assistance.

(a) The Secretary and the appropriate Operations Office Manager, in coordination with the Secretary of Health and Human Services, shall monitor and evaluate the operation of projects carried out by CAA's receiving financial assistance under this part through on-site inspections, or through other means, in order to ensure the effective provision of weatherization assistance for the dwelling units of low-income persons.

(b) DOE shall also carry out periodic evaluations of a program and weatherization projects that are not carried out by a CAA and that are receiving financial assistance under this part.

(c) The Secretary and the appropriate Operations Office Manager, the Comptroller General of the United States, and for a weatherization project carried out by a CAA, the Secretary of Health and Human Services or any of their duly authorized representatives, shall have access to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under the Act for the purpose of audit and examination.

(d) Each grantee shall ensure that audits by or on behalf of subgrantees are conducted with reasonable frequency, on a continuing basis, or at scheduled intervals, usually annually, but not less frequently than every two years, in accordance with OMB Circular A–102, Attachment P, and OMB Circular 110, Attachment F, as applicable.

(e) The Secretary may reserve from the funds appropriated for any fiscal year an amount not to exceed 10 percent to provide, directly or indirectly, training and technical assistance to any grantee or subgrantee. Such training and

technical assistance may include providing information concerning conservation practices to occupants of dwelling units which have been weaterized under this part.

§ 440.24 Recordkeeping.

Each grantee or subgrantee receiving Federal financial assistance under this part shall keep such records as DOE shall require, including records which fully disclose the amount and disposition by each grantee and subgrantee of the funds received, the total cost of a weatherization project or the total expenditure to implement the State plan for which assistance was given or used, the source and amount of funds for such project or program not supplied by DOE, and such other records as DOE deems necessary for an effective audit and performance evaluation. Such recordkeeping shall be in accordance with the DOE Financial Assistance Rule, 10 CFR Part 600 and any further requirements of this regulation.

(Approved by the Office of Management and Budget under Control Number 1904–0027)

§ 440.25 Reports.

DOE may require any recipient of financial assistance under this part to provide, in such form as may be prescribed, such reports or answers in writing to specific questions, surveys, or questionnaires as DOE determines to be necessary to carry out its responsibilities or the responsibilities of the Secretary of Health and Human Services under this part.

(Approved by the Office of Management and Budget under Control Number 1904–0027)

§ 440.30 Administrative review.

(a) If a timely application submitted by a State fails to meet the requirements of this part and the Operations Office Manager intends to deny the application, the Operations Office Manager shall return the application to the State together with a written statement of reasons therefor.

(b) The State will have a reasonable period, as determined by the Operations Office Manager, to amend its application and to resubmit it by a specified date for reconsideration.

(c) The Operations Office Manager shall give notice to the applicant in the event that the Operations Office Manager determines that:

(1) Any application resubmitted by a State in accordance with paragraph (b) of this section fails to comply with this regulation;

(2) Any application returned to a State pursuant to paragraph (a) of this section is not resubmitted in a timely manner as provided in paragraph (b); or

(3) The Operations Office Manager intends to deny the application of a local applicant.

(d) The Operations Office Manager shall give notice to a grantee in the event that the Operations Office Manager finds there is a failure by the grantee to comply substantially with the provisions of the Act or this part.

(e) The Operations Office Manager shall issue such notice in the form of written notice mailed by registered mail, return receipt requested, to the State, local applicant grantee, and other interested parties, including:

(1) A statement of reasons for a determination referred to in paragraph (c) or (d) of this section which the Operations Office Manager intends to make, including an explanation whether any amendments or other actions would result in compliance with the regulation;

(2) The date, place, and time of public hearing to be held by the Operations Office Manager, one subject of which shall be the proposed determination, which hearing shall in no event be later than 15 working days after the receipt of such notice; and

(3) The manner in which views may be presented.

(f) A party which has received notice under paragraph (e) of this section:

(1) May make a written submission of its views with supporting data and arguments to the Operations Office Manager on or prior to the date of the public hearing; and

(2) Shall be afforded an opportunity to make an oral presentation at the public hearing.

(g) The Operations Office Manager shall consider all relevant views and data, including arguments and other submissions made at the public hearing. The Operations Office Manager shall make, not later than five working days after the public hearing, a final determination in writing, stating the reasons for the determination.

(h) A State or local applicant or grantee may appeal in writing from an adverse final determination made by the Operations Office Manager under paragraph (g) of this section to the Secretary not later than 10 working days after receipt of the Operations Office Manager determination. The Secretary shall have 21 working days to consider the appeal and take any action with respect thereto which he deems appropriate. Any action taken by the Secretary shall be the final determination of DOE. If no action has been taken by the Secretary after the expiration of the 21 working-day period, the Secretary shall be deemed to have approved the determination of the Operations Office Manager. The Secretary may delegate his authority under this section.

(i) Anything herein to the contrary notwithstanding, the public hearing referred to in paragraph (e)(2) of this section may be combined, at the discretion of the Operations Office Manager, with any other public hearing in the State conducted pursuant to this part.

(j) Upon issuance of the notice provided in paragraph (d) of this section, the Operations Office Manager may take any or all of the actions specified in 10 CFR 600.121(b). If the Operations Office Manager makes a final determination of failure to comply, the grantee will be ineligible to participate in the program under this part unless and until the Operations Office Manager is satisfied that there is no longer a failure to comply.

Appendix A to Part 440—Standards for Weatherization Materials

THERMAL INSULATING MATERIALS FOR BUILDING ELEMENTS INCLUDING WALLS, FLOORS, CEILINGS, ATTICS, AND ROOFS

	Standards
Insulation—mineral fiber:	
Blanket	Conformance to ASTM[1] C665–79.
Roof insulation	Conformance to ASTM C726–81.
Loose-fill	Conformance to ASTM C764–73 (1979).
Insulation—mineral cellular:	
Vermiculite loose-fill	Conformance to ASTM C516–80.
Perlite loose-fill	Conformance to ASTM C549–81.
Cellular glass block	Conformance to ASTM C552–79.
Perlite board	Conformance to ASTM C728–82.
Insulation—organic fiber:	
Cellulosic fiber board	Conformance to ASTM C208–82.
Cellulose loose-fill	Conformance to Interim Safety Standard 16 CFR[2] Part 1209.
Insulation—organic cellular:	
Preformed block-type polystyrene	Conformance to ASTM C578–83.
Rigid preformed urethane board	Conformance to ASTM C591–85.
Polyurethane or polyisocyanurate board faced with aluminum foil	Conformance to F.S.[3] HH–I–1972/1.
Polyurethane or polyisocyanurate board faced with felts	Conformance to F.S. HH–I–1972/2.
Insulation—composite boards:	
Mineral fiber and rigid cellular polyurethane composite board	Conformance to ASTM C726–81.
Perlite and rigid cellular polyurethane composite board	Conformance to ASTM C984–83.
Gypsum board and polyurethane or polyisocyanurate composite board	Conformance to F.S. HH–I–1972/4.

[1] ASTM indicates American Society for Testing and Materials.
[2] CFR indicates Code of Federal Regulations
[3] F.S. indicates Federal Specification.

Thermal Insulating Materials for Pipes, Ducts, and Equipment Such as Boilers and Furnaces

	Standards
Insulation—mineral fiber:	
Preformed pipe	Conformance to ASTM[1] C547-77.
Blanket and felt (industrial type).	Conformance to ASTM C553-70 (1977).
Blanket insulation and blanket-type pipe insulation (metal-mesh covered) (industrial type).	Conformance to ASTM C892-80.
Block and board	Conformance to ASTM C612-77.
Spray-applied fibrous for elevated temperature.	Conformance to ASTM C720-72 (1979).
High temperature fiber blanket.	Conformance to ASTM C892-78.
Duct work	Conformance to ASTM C871-82.
Insulation—mineral cellular:	
Diatomaceous earth block and pipe.	Conformance to ASTM C517-71 (1979).
Calcium silicate block and pipe.	Conformance to ASTM C533-80.
Cellular glass block and pipe.	Conformance to ASTM C552-79.
Expanded perlite block and pipe.	Conformance to ASTM C610-67 (1974).
Insulation—organic cellular:	
Preformed flexible elastomeric cellular in sheet and tubular form.	Conformance to ASTM C534-77.
Rigid preformed cellular urethane.	Conformance to ASTM C591-69.

[1] ASTM indicates American Society for Testing and Materials.

Fire Safety Requirements For Thermal Insulating Materials According to Insulation Use

	Standards
Attic floor	Insulation materials intended for exposed use in attic floors shall be capable of meeting the same flammability requirements given for cellulose insulation in 16 CFR[1] Part 1209.
Enclosed spaces	Insulation materials intended for use within enclosed stud or joist spaces shall be capable of meeting the smoldering combustion requirements in 16 CFR Part 1209.
Exposed interior walls and ceilings.	Insulation materials including those with combustible facings, which remain exposed and serve as wall or ceiling interior finish shall have a flame spread classification not to exceed 150 (per ASTM[2] E84).
Exterior envelope walls and roofs.	Exterior envelope walls and roofs containing thermal insulations shall meet applicable building code requirements for the complete wall or roof assembly.
Pipes, ducts, and equipment	Insulation materials intended for use on pipes, ducts, and equipment shall be capable of meeting a flame spread classification not to exceed 150 (per ASTM E84).

[1] CFR indicates Code of Federal Regulations.
[2] ASTM indicates American Society for Testing and Materials.

Storm Windows

	Standards
Storm Windows:	
Aluminum frame	Conformance to ANSI/AAMA[1] 1002.9-77.
Wood frame	Conformance to Section 3 of ANSI/NWMA[2] I.S. 2-80.
Rigid vinyl frame	Conformance to Section 6.1 through 6.7 of ASTM[3] D 4099-82.
Frameless plastic glazing	Required minimum thickness, 6 mil (0.006 in.).

[1] ANSI/AAMA indicates American National Standards Institute/Architectural Aluminum Manufacturers Association.
[2] ANSI/NWMA indicates American National Standards Institute/National Woodwork Manufacturers Association.
[3] ASTM indicates American Society for Testing and Materials.

Storm Doors

	Standards
Storm Doors:	
Aluminum	Conformance to ANSI/AAMA[1] 1102.7-1977.
Wood	
—Pine	Conformance to Section 3 of ANSI/NWMA[2] I.S. 5-73.
—Fir, hemlock, spruce	Conformance to Section 3 of FHDA[3] /7-79.
Rigid vinyl	Conformance to ASTM[4] D 3678-81.

[1] ANSI/AAMA indicates American National Standards Institute/Architectural Aluminum Manufacturers Association.
[2] ANSI/NWMA indicates American National Standards Institute/National Woodwork Manufacturers Association.
[3] FHDA indicates Fir and Hemlock Door Associations.
[4] ASTM indicates American Society for Testing and Materials.

Replacement Windows

	Standards
Replacement Windows:	
Aluminum frame	Conformance to ANSI/AAMA[1] 302.9-1977.
Steel frame	Conformance to Steel Window Institute Recommended Specifications for steel windows 1977.
Wood frame	Conformance to ANSI/NWMA[2] I.S. 2-80.
Rigid vinyl frame	Conformance to ASTM[3] D 4099-82.

[1] ANSI/AAMA indicates American National Standards Institute/Architectural Aluminum Manufacturers Association.
[2] ANSI/NWMA indicates American National Standards Institute/National Woodwork Manufacturers Association.
[3] ASTM indicates American Society for Testing and Materials.

Replacement Doors

	Standards
Replacement Doors:	
Hinged Doors:	
Steel	Conformance to SDI[1] 100-85.
Wood:	
Flush	Conformance to exterior door provisions of ANSI/NWMA[2] 1-80.
Pine	Conformance to ANSI/NWMA I.S. 5-73.
Fir, hemlock, spruce	Conformance to FHDA[3] /7-79.
Sliding Patio Doors:	
Aluminum	Conformance to ANSI/AAMA 302.9-1977.
Wood	Conformance to ANSI/NWMA I.S. 2-79.

[1] SDI indicates Steel Door Institute.
[2] ANSI/NWMA indicates American National Standards Institute/Manufacturers Association.
[3] FHDA indicates Fir and Hemlock Door Association.

Caulks and Sealants

	Standards
Caulks and Sealants:	
Putty	Conformance to F.S.[1] TT-P-00791B.
Glazing Compound	Conformance to ASTM[2] C669-75 (1981).
Oil and Resin Base	Conformance to ASTM C570-72 (1978).
Acrylic (Solvent Type)	Conformance to F.S. TT-S-00230C.
Butyl Rubber	Conformance to F.S. TT-S-00227.
Chlorosulfonated Polyethylene.	Conformance to F.S. TT-S-00230C.
Latex Sealing Compounds	Conformance to ASTM C834-76 (1981).
Elastomeric Joint Sealants (normally considered to include polysulfide, polyurethane, and silicone).	Conformance to ASTM C920-79.
Preformed Gasket and Sealing Materials.	Conformance to ASTM C509-79.

[1] F.S. indicates Federal Specification.
[2] ASTM indicates American Society for Testing and Materials.

Weatherstripping

	Standards
Weatherstripping	Commercial availability.

Vapor Barriers

	Standards
Vapor Barrier	Selected according to the provisions cited in ASTM[1] C755-73 (1979); permeance not greater than 1 perm when determined according to the desiccant method described in ASTM E96-80.

[1] ASTM indicates American Society for Testing and Materials.

Clock Thermostats

	Standards
Clock Thermostats	Conformance to NEMA[1] DC 3-1978 or NEMA DC 15-1979 and performance test requirements.[2]

[1] NEMA indicates National Electrical Manufacturers Association.
[2] The performance tests requirements are: (1) the operating differential should not exceed 2°F, and (2) the effective operating droops should not exceed 4°F when determined according the applicable procedures in DC 3-1978 or DC 15-1979.

Heat Exchangers

	Standards
Heat Exchangers	ASME Pressure Code provisions, as applicable to pressure levels.
	Standards of Tubular Exchanger Manufacturers Association (last edition with 1983 Addenda, TEMA).
With Gas Fired Appliances*	AGA Requirement 70-1 for Gas Fueled Equipment.
	ANSI Z-21.
	AGA Laboratories Certification Seal.

*The heat reclaimer is for installation in a section of the vent connector from applicances equipped with draft hoods or applicances equipped with powered burners or induced draft and not equipped with a draft hood.

Hot Water Heat Pumps

	Standards
Heat Pump Water Heaters	Listed by Underwriters Laboratories (UL) Standard for Electric Water Heaters Under Development. Efficiency Certification per Gas Appliance Manufacturers Association (GAMA) or Air Conditioning and Refrigeration Institute (ARI).

Thermostat Control System

	Standards
Automatic Set Back Thermostats.	Listed by Underwriters Laboratories (U.L.). Conformance to NEMA DC 15–1979.
Line Voltage or Low Voltage Room Thermostats.	NEMA DC 3–1978.
Automatic Gas Ignition Systems.	Conformance to ANSI Z21.21. AGA Laboratories Certification Seal.
Energy Management Systems.	Listed by Underwriters Laboratories (U.L.). Commercial Availability.
Hydronic Boiler Control	Commercial Availability.
Microcomputer Burner Control.	Commercial Availability.

Water Heater Modifications

	Standards
Insulate Tank and Distributing Piping.	(See Insulation Standards.)
Install Heat Traps on Inlet and Outlet Piping.	Applicable local plumbing codo.
Hot Water Pipe Heater Strips	Listed by Underwriters Laboratories (U.L.).
Reduce Thermostat Settings	State or Local Recommendations.
Install Stack, Damper, Gas Fueled.	ANSI Z21 68. ANSI Z21.67, including Addendas A and B. ANSI Z223.1—1980.
Install Stack Damper, Oil Fueled.	UL–17. NFPA 31–1983.

Waste Heat Recovery Devices

	Standards
Desuperheater/Water Heater.	Conformance to ARI 470–80. Conformance to ARI 1060–[illegible].
Condensing Heat Exchanger.	Commercially available components and in new heating furnace systems to manufacturers specifications.
Condensing Heat Exchangers (Commercial, Multi-Story Building Institutional).	Commercially available with teflon lined tubes to manufacturer specifications.
Energy Recovery Equipment	Energy recovery equipment and systems Air-to-Air (1978) Sheet Metal and Air Conditioning Contractor's National Association (SMACNA).

Boiler Repair and Modifications/ Efficiency Improvements

	Standards
Installation of Gas Conversing Power Burners (for Gas or Oil Fired Systems).	In conformance with, or latest, ANSI Z21 8a, ANSI Z21.17 and Installation ANSI Z223.1—1980 or latest National Fuel Gas Code. AGA Laboratories Certification Seal.
Replacement Oil Burner	ANSI Z96.2 (UL 296) ANSI Z91.2. NFPA 31—1983.
Power Burners (Oil/Gas)	Conformance to ANSI Z223.1, National Fuel Gas Code; ANSI Z83.1 Gas Installations; NFPA 31 Oil Equipment.
Furnaces, Oil	Installation of oil burning equipment, NFPA 31—1976.
Furnaces, Gas	Gas fired central furnaces, ANSI Z21.47—1978.
Re-Adjustment Boiler Water Temperature or Installation of Automatic Boiler Temperature Reset Control.	ANSI/ASME CSD.1—1982, applicable section of ANSI Z223.1—1980 and NFPA 31—1983
Boilers	Boiler and pressure vessel code (eleven sections) ASME 1980 or latest Testing and Ratings Hydronics Institute (HYDI).
Clean Heat Exchangers, Adjust Burner Air Shutter(s), Check Smoke No. on Oil Fueled Equipment. Check Operation of Pump(s) and Filters.	Per manufacturer's instructions.
Combustion Chambers	Refractory linings may be required for conversions.
Heat Exchangers, Tubes	Protection from flame contact with conversion burners by refractory shield.
Thermostatic Radiator Valves	Commercially available. One pipe steam systems require steam air vents on each radiator, see manufacturer requirements.
Boiler Duty Cycle Control System.	Commercially available. National Electrical Code (NEC) and local electrical codes provisions for wiring.

Heating and Cooling System Repairs and Tune-Ups/Efficiency Improvements

	Standards
Duct Insulation	Conformance to FS HH–I–558B (See Insulation Sections).
Reduced Input of Burner, Derating Gas Fueled*.	In conformance with Local Utility Company Procedures if applicable for gas fueled furnaces and Appendix H of NFPA 54 ANSI Z223.1.
Oil-Fired	EPA 600/2–75–068–9 "Guidelines for Residential Oil Burner Adjustments". Conformance to NFPA 31–1983, Standard for the Installation of Oil Burning Equipment.

Heating and Cooling System Repairs and Tune-Ups/Efficiency Improvements—Continued

	Standards
Replacement Combustion Chamber, in Oil-Fired Furnace, Boiler.	In accordance with NFPA 31–1983
Clean Heat Exchanger and Adjust Burner: Adjust air shutter and check CO_2 stack temperature—clean or replace air filter on forced air furnace.	See ANSI Z223.1, Appendix H.
Gas Fueled Heating Systems, Vent Dampers.	Conformance with applicable sections, National Fuel Gas Code including Appendices H, I, J, and K. ANSI Z21.66—1977 and addenda A and B for Electrically Operated Dampers ANSI Z21.68—1978 and Appendices A and B for Thermally Activated Vent Dampers. ANSI Z21.67—1978 and Appendices A and B for mechanically actuated vent dampers.
Oil Fueled Systems, Vent Dampers.	Conformance with applicable sections of NFPA 31–1983 for installation and in conformance with UL 17
Reduce Excess Diufturon Air: (a) Reduction of Vent Connector Size of Gas Fueled Appliances. (b) Adjustments of Barometric Draft Regulator for Oil Fuels.	See Part 9 of ANSI Z223.1—1980 and Appendix G and H. NFPA 31–1980 for Air Fueled and per manufacturers' (furnace or burner) instructions.
Replacement of constant burning pilot with electric ignition device on gas fueled furnaces or boilers.	ANSI Z21.71–1981.
Readjustment of Fan Switch on Forced Air Gas or Oil Fueled Furnaces.	In conformance with applicable sections; ANSI Z223.1—1980 Appendix H for Gas Furnaces and NFPA 31–1983 for Oil Furnaces.
Burners—See power burners, gas, oil:	
Duct Furnaces (Gas)	ANSI Z223.1—1980, National Fuel Gas Code.
Heat Pumps	Listed by Underwriters Laboratories (U.L.), ANSI/UL [illegible]–1978
Air Diffusing Equipment	Air diffusing equipment certification, rating, air diffusion council, A–DC 1062R4—1977
Outlets, Inlets, Air Flow	Methods of testing for rating the air flow performance of outlets and inlets, ASHRAE 70–72.
Warm Air Heating Ducts	Installation of warm air heating and air conditioning systems, NFPA 90B.
Air Ducts and Connectors	Factory made air ducts and connectors (1981), UL 181.
Thermoplastic Ducts	Thermoplastic Duct (DVC) Construction Manual (1971), SMACNA.

*This may be prohibited by local jurisdiction—it may also void the manufacturers warranty. The National Fuel Gas Code does not specifically endorse this.

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Part VII

Department of Labor

Occupational Safety and Health Administration

Occupational Exposure to Asbestos; Emergency Temporary Standard

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-0330]

Occupational Exposure to Asbestos

AGENCY: Occupation Safety and Health Administration (OSHA), Labor.

ACTION: Emergency temporary standard.

SUMMARY: OSHA is issuing an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for asbestos from 2 fibers (longer than 5 micrometers) per cubic centimeter (2 f/cc) as an eight-hour time-weighted average, to 0.5 f/cc. During the period of the emergency standard, employers may use all practicable control methods, such as engineering controls, work practices and personal protective equipment to meet the new limit of 0.5 fibers per cubic centimeter (0.5 f/cc). Training programs are also required to be instituted within 30 days.

The basis for this ETS is OSHA's determination that continued employee exposure to asbestos under current conditions that exceed 0.5 f/cc presents a grave danger of developing asbestos-induced cancer and asbestosis to exposed employees, and that an emergency standard is necessary to protect them. The ETS serves also as a proposal to revise the current asbestos standard pursuant to section 6(b) and 6(c) of the Act.

This notice also requests comments on the appropriateness of including the provisions of the ETS as permanent revisions to the asbestos standard. In addition, OSHA will soon publish a separate notice of proposed rulemaking that further explains the issues under consideration for the permanent standard and which raises some additional issues regarding the application of certain provisions of the asbestos standard to the construction industry. That notice will invite public comments and will schedule a rulemaking hearing pursuant to Section 6(b) of the Act concerning the proposed permanent revision to the asbestos standard.

DATES: The effective date for this ETS is November 4, 1983. Comments and evidence concerning the proposed revisions to the permanent standard made by the ETS must be received on or before January 3, 1984. As noted, OSHA will publish a notice of proposed rulemaking shortly that will set due dates for submissions to the asbestos docket for the issues raised therein.

ADDRESSES: Written comments should be submitted to the Docket Officer, Docket No. H-033C, Room S-6212, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Legal Authority and Background
III. OSHA Rationale for the ETS
A. Grave Danger
B. Need for an ETS

Supporting Documentation:

IV. Occupational Health Data
V. Quantitative Risk Analysis
VI. Technical and Economic Feasibility
A. Technical Feasibility
B. Economic Feasibility
VII. Environmental Impact, Regulatory Flexibility, and Regulatory Analysis
VIII. Summary and Explanation of the ETS
IX. Public Participation, Authority and Signature, and Part 1910 (Amended)

I. Introduction

This is an emergency temporary standard (ETS) issued pursuant to section 6(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1596; 29 U.S.C. 655), the Construction Safety Act (Pub. L. 91-54; 40 U.S.C. 333), the Longshoremen's and Harbor Workers Compensation Act (33 U.S.C. 941), the Secretary of Labor's Order No. 9-83 (48 FR 35736), and 29 CFR Part 1911. This emergency standard consists of revisions to the existing standard covering occupational exposure to asbestos, 29 CFR 1910.1001, in order to protect employees from a grave danger from continued exposure to asbestos at current exposure levels.

OSHA has determined that workers exposed to asbestos under exposure conditions existing under the current standard face a grave danger of developing incurable cancer and asbestosis. Further, OSHA has found that an immediate reduction in exposure levels to 0.5 f/cc or below is necessary to protect such employees from this grave danger. Therefore OSHA is issuing this ETS to compel reduced exposures to respond to this emergency situation.

OSHA's determination that a grave danger currently exists is predicated upon quantitative risk estimates in this record which point to a large number of excess deaths from cancer (and asbestosis) among currently exposed workers which are attributable to continued exposures under present working conditions. OSHA estimated the number of cancer deaths avoided through lowering of the exposure to 0.5 f/cc, based on 6 months, 1-year, 20-year and 45-year periods of exposures at current levels.* The predicted cancer deaths avoided that result from these periods of exposure are respectively 210, 428, 5725 and 7815. A more detailed discussion of these estimates is found in the sections. Quantitative Risk Analysis (Section V), Grave Danger (Section III A), and Need for an ETS (Section III B). Risks of this magnitude at permitted and actual exposure levels defined a situation which demanded immediate regulatory action. Evaluation of the relevant scientific data, policy considerations and exposure patterns of workers has convinced OSHA that continued exposure at the current PEL and under actual workplace conditions constitutes a "grave danger" to employees, and that an ETS is needed to protect them.

The ETS requires that employees may not be exposed to concentrations of asbestos exceeding 0.5 f/cc on an 8-hour time-weighed average basis, and permits the employer to choose among engineering controls, work practices and respirators to reduce exposures to the new PEL. However, the requirement in § 1910.1001(c) to utilize feasible engineering controls and work practices to reduce exposure levels to 2 f/cc remains in effect under this temporary standard. The ETS also requires employers to institute a training program within thirty days of the effective date of this emergency standard. The training progam will include instruction on respirator fitting and use, handling of asbestos, medical information, the relationship between smoking and lung cancer, and a review of the asbestos standard. The ETS applies to all industries covered by the Act, including "general industry", construction and maritime industries.

* OSHA is aware, of course, that Section 6(c) of the Act limits the effective time of an ETS to 6 months and OSHA concludes that a grave danger exists and an ETS is necessary even if OSHA focuses exclusively on this six month period. However, the Agency believes it is appropriate to calculate benefits deriving from an ETS using lifetime risks from 20 and 45 years of exposure to the PEL of 0.5 f/cc established by the ETS. Although the ETS expires within 6 months, Section 6(c) requires that rulemaking on a permanent standard also be completed within 6 months, so that there will be no gap in protection for exposed employees. In OSHA's experience and judgment, complying with this statutory directive and completing rulemaking for a permanent standard within 6 months of an ETS has and can be done.

As provided in 29 CFR 1953.22, the 24 States with their own OSHA-approved occupational safety and health plans are expected to adopt a comparable standard within 30 days of this publication date. These States are: Alaska, Arizona, California, Connecticut (for State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

Also, in response to the emergency conditions faced by exposed workers, OSHA is stepping up its enforcement activities in targeting workplaces where asbestos is handled.

The temporary provisions that are being added to the existing asbestos standard prescribes the major components of an occupational safety and health standard. In general, most of the current requirements remain unaffected by the emergency temporary standard. However, compliance with some requirements will be triggered by the new exposure limit of 0.5 f/cc instead of the former PEL of 2 f/cc. For example, requirements such as change rooms remain unaffected by the ETS and the trigger level for change rooms remains the former PEL of 2 f/cc (§ 1910.1001(d)(4)). However, the ETS requires that where concentrations may exceed the new PEL, the employer must post signs indicating such locations (§ 1910.1001(k)(6)).

OSHA based its decisions concerning appropriate provisions for the ETS on its determinations of the kind and degree of protective action needed to protect against a grave danger and the feasibility of instituting these provisions during the period of the ETS.

Under section 6(b) of the Act, OSHA will shortly schedule an informal rulemaking hearing on the proposed permanent changes to the standard. OSHA will also propose other revisions to the asbestos standard that will be explained in the separate notice of proposed rulemaking. Application of certain provisions of the asbestos standard to the construction industry will be raised at that time. OSHA anticipates that this notice will be published shortly. OSHA is now accepting written comments on those issues raised in the ETS which are relevant to revising the permanent rule. The Secretary must promulgate a section 6(b) standard no later than six months after publication of the emergency standard.

II. Legal Authority and Background

A. Legal Authority

Section 6(c) of the Act provides for immediately effective emergency temporary standards in certain circumstances. The Secretary has the authority to issue such a standard, without rulemaking, "if he determines (A) that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (B) that such emergency standard is necessary to protect employees from such danger." 29 U.S.C. 655(c)(1). Thus, the danger must be "from" worker exposure and it must be "grave," not merely significant and the regulation must be "necessary" to address "such danger," not merely reasonably necessary or appropriate to provide safe employment. In addition, as in section 6(b) permanent standards, OSHA may impose requirements in the emergency standard only to the extent that they are "feasible" within the meaning of section 6(b)(5) of the Act.

The Fifth Circuit has emphasized the importance of the severity of health effects in OSHA's consideration of whether an ETS is appropriate:

> "* * * the danger of incurable, permanent, or fatal consequences to workers, as opposed to easily curable and fleeting effects on their health, becomes important in the consideration of the necessity for emergency measures to meet a grave danger." *Florida Peach Growers Association, Inc.* v. *United States Department of Labor*, 489 F.2d, 132 (CAS).

OSHA also has interpreted relevant judicial decisions to require that its evaluation of the gravity of the danger and the necessity for emergency action must be made in the context of actual workplace conditions.

B. Background

1. *Events Leading to the ETS.* In June, 1983, OSHA received a petition for an ETS from the International Association of Machinists and Aerospace Workers (Exs. 84–244). Subsequently letters supporting this petition were received from 16 other unions (Ex. 84–284 to 84–294, 84–387 to 84–391). The petition requested an ETS to reduce the PEL to 0.1 f/cc, to modify some existing work practice requirements, and to require other protective provisions regardless of exposure level. The main reasons set forth in the petition and supporting letters are that continued exposure under current workplace conditions constitutes a grave danger and that delaying remedial action until a permanent standard is promulgated would cost large numbers of currently-exposed workers their lives. OSHA shares the genuine concern expressed by the petition and letters from unions representing thousands of employees who are directly faced with the threat of asbestos-related disease from continued exposure. And OSHA concludes that failure to issue this ETS may cost a number of exposed workers their lives.

In August 1983, OSHA completed a comprehensive risk assessment based on numerous human studies which estimated the number of excess deaths from the three major asbestos-related cancers, i.e., lung cancer, mesothelioma and gastrointestinal cancer, at the current permissible exposure level of 2 f/cc and at various reduced exposure levels. OSHA placed this document, "Quantitative Risk Assessment for Asbestos-Related Cancers", in the Asbestos docket in August 1983 (Ex. 84–349). OSHA subsequently revised this document (See Ex. 84–392).

2. *History of the Asbestos Standard.* OSHA has regulated asbestos since 1971. A 12 f/cc limit for asbestos was included in the initial promulgation of OSHA standards pursuant to section 6(a) of the Act, on May 29, 1971 (36 FR 10466). In response to a petition by the Industrial Union Department of the AFL–CIO, OSHA issued an ETS on asbestos on December 7, 1971, which established a PEL of 5 f/cc on a time-weighted average basis and peak exposures of 10 f/cc.

The current standard, promulgated in June 1972, first established an 8-hour time-weighted average PEL of 5 f/cc and a ceiling limit of 10 f/cc. The limits were intended primarily to protect employees against asbestosis, and it was hoped that they would provide some incidental degree of protection against cancer. Effective July 1976, the TWA limit was reduced by the standard to 2 f/cc. This limit has remained in effect since that time. The standard also includes provisions covering methods of compliance, monitoring, medical surveillance and housekeeping.

Court review of this standard upheld all major provisions, but remanded two issues for OSHA's reconsideration. *IUD* v. *Hodgson*, 499 F. 2d 467 (CADC 1974). These issues were whether the July 1976 date for the 2 f/cc standard should be accelerated for some industries and the adequacy of the 3 year retention period for exposure monitoring records. Subsequently, OSHA increased this retention period to 20 years (41 FR 11504) and the acceleration issue became moot.

After reviewing the then available scientific data, in October 1975 OSHA published a notice of proposed

rulemaking to revise the asbestos standard because OSHA believed that "sufficient medical and scientific evidence had been accumulated to warrant the designation of asbestos as a human carcinogen" and that advances in monitoring and protective technology made reexamination of the standard "desirable." This proposal would have reduced the time-weighted average to 0.5 f/cc and imposed a ceiling limit of 5 f/cc for 15 minutes (40 FR 47652).

The basis for the 1975 proposal's reduced permissible level of 0.5 f/cc was OSHA's then current policy for carcinogens that no safe threshold level was demonstrable and, therefore, the Act required OSHA to set the PEL as low as technologically and economically feasible. This policy was rejected by the Supreme Court in the benzene decision (*IUD* vs. *API*, 448 U.S. 801 (1980)). OSHA limited the proposed revisions in the 1975 notice to all industries except construction. No hearing was scheduled on the 1975 proposal. Also, although OSHA announced its intention to develop a separate proposed revision applicable to the construction industry, no such proposal has been published to date.

OSHA is basing its present decision to issue an ETS, and to propose revisions to the permanent standard covering all employees, on information and analyses which postdate the 1975 proposal. Therefore, this ETS marks a new regulatory initiative, related to, but not part of the 1975 proceeding. On May 24, 1983, OSHA consulted the Construction Advisory Committee for Occupational Safety and Health (CACOSH) concerning applicability of a new asbestos standard for the construction industry. CACOSH endorsed OSHA's position that changes in the PEL made for general industry should also apply to the construction industry. OSHA is also including the comments and data received in response to the 1975 notice in the record of this proceeding, with the understanding that some commenters may have changed their positions based on intervening scientific developments and policy shifts.

In the decision to issue an ETS, the Agency has reviewed this regulatory history of asbestos. However, the Agency bases the decision to issue an ETS on the actual emergency conditions which now confront exposed workers, on epidemiologic studies that provide data to make numerical estimates of risks and on interpretations of these studies using quantitative risk analysis.

3. *The Rulemaking to Revise the Permanent Standard.* The 6(b) rulemaking initiated by this proposal is intended to be limited to the revisions made by the ETS and the additional proposed amendments raised in the notice of proposed rulemaking to be published soon. The major subjects of the 6(b) rulemaking will be: reducing the permissible exposure limit, revising the definitions of asbestos and asbestos fibers, reassessing the methods of compliance to achieve such limits, revising the provisions regarding respirator selection, revising the sampling and analytical method to improve reliability, and adding a training requirement. OSHA will also raise issues regarding the application of the permanent standard to the construction industry. As previously stated, OSHA will soon publish a separate notice of proposed rulemaking to further explain these issues.

III. OSHA's Rationale for the ETS

OSHA has determined that prevailing conditions involving worker exposure to airborne asbestos dust justify the promulgation of an emergency temporary standard. OSHA estimates that approximately 375,000 workers are exposed to asbestos at various levels (Table 1), ranging from a high value of 20 f/cc to below 0.5 f/cc. OSHA has estimated that under current exposure conditions asbestos-exposed workers face an extraordinarily high risk of contracting asbestos-related cancer whether the risk is computed over a working lifetime of exposure or for exposure periods as short as 6 months. The average excess cancer risks for all workers exposed above 0.5 f/cc using available exposure data and relying on the risk assessment are estimated as approximately 196 excess cancer deaths per 1000 workers for 45 years of exposure, 139 deaths per 1000 workers for 20 years, 10 per 1000 workers for 1 year, and 6 per 1000 workers for 6 months of exposure.

OSHA believes that risks of these magnitudes, taking into account all relevant considerations such as total numbers of workers at risk and quality of supporting data, constitute an emergency situation which requires immediate response by the agency.

The Act states that when certain statutory criteria are met, OSHA is authorized to respond to an emergency situation by issuing an ETS. The two-pronged statutory test for an ETS is that (1) employees must be exposed to a grave danger from exposure to substances or agents determined to be toxic or physicially harmful, and that (2) an emergency standard is necessary to protect employees from such dangers.

After evaluating all the evidence available to the agency concerning the severity and magnitude of the risk of asbestos-related disease to the current asbestos-exposed working population, comparing these risks to other occupational risks, applying relevant policy considerations, and reviewing all relevant judicial decisions for guidance, the agency has determined that both prongs of the statutory test are met and that an ETS should be promulgated.

For purposes of clarity, the discussion is divided into two parts, "Grave Danger" and "The Need for an ETS." OSHA believes, however, that the factors which indicate that a substance constitutes a grave danger are related to and overlap those which determine that an ETS is necessary.

A. Grave Danger

OSHA has determined that the risk to workers from exposures to asbestos at conditions that exist in the workplace pose a grave danger of death from cancer and of severe disability from the lung disease, asbestosis. In making a "grave danger" determination, the severity of the disease produced by exposure to the regulated substance and the magnitude of the predicted risks of disease must be considered. In addition, the Supreme Court has suggested that a determination of "grave danger" indicates a situation where the risk is more than "significant" (*IUD* v. *API*, *supra* n. 45).

OSHA has applied that analytic approach endorsed by the Supreme Court for "significant risk" determinations in evaluating the gravity of the danger faced by asbestos-exposed workers. The Supreme Court gave some general guidance as to the process to be followed. It recognized that while the Agency must support its finding that a certain level of risk exists with substantial evidence it also recognized that its determination that a particular level of risk is "significant" will be based largely on policy considerations (*IUD* v. *API*, 448 U.S. 655, 656, n. 62).

OSHA believes, therefore, that its determinations regarding the magnitude of the risk faced by employees should, to the extent possible, rely on quantitative expressions of that risk, utilizing the best available data.

The Court stated that the significant risk determination required by the OSH Act is "not a mathematical straitjacket," and "OSHA is not required to support its finding that a significant risk exists with anything approaching scientific certainty. ***A reviewing court [is] to give OSHA some leeway where its findings must be made on the frontiers of scientific knowledge [and that] *** the Agency is free to use conservative assumptions in interpreting the data

with respect to carcinogens, risking error on the side of overprotection rather than underprotection" [488 US at 655, 656].

In the case of asbestos, the data available are of unusual breadth and high quality. However, because risk assessment itself involves many uncertainties, OSHA made certain assumptions in its analysis and evaluation of these data. In assessing the risk for asbestos-exposed workers, OSHA has attempted to use realistic assumptions, although the court stated that the Agency was free to use "conservative assumptions" in interpreting data. OSHA, in many cases, has indicated where different assumptions may produce different results. In addition OSHA cautions that because the risk figures finally derived are the products of a process which, as the Supreme Court acknowledged, is "on the frontiers of science," they should be viewed as approximations of the degree of risk faced by asbestos-exposed workers and not as precise fixed predictions of the number of workers who will actually develop disease.

OSHA has evaluated the kinds of dangers presented by asbestos exposure, the quantification of those dangers under present asbestos exposure conditions, the quality of the data on which risk estimates are based, a comparison of asbestos risks to other occupational risks, and relevant policy and legal considerations in concluding that workers are exposed to a grave danger from asbestos.

1. *Nature of the Diseases.* As stated above, the nature of the disease associated with exposure to a toxic substance is one of the most important elements OSHA evaluates in determining whether a grave danger exists. This factor was discussed in *Florida Peach Growers Association, Inc. v United States Department of Labor, supra.* The court, in overruling OSHA's organophosphate pesticide ETS, observed:

> We reject any suggestion that deaths must occur before health and safety standards may be adopted. Nevertheless, *the danger of incurable, permanent, or fatal consequences to workers, as opposed to easily curable and fleeting effects on their health, becomes important in the consideration of the necessity for emergency measures to meet a grave danger.* 489 F 2nd at 132 (emphasis added)

OSHA is aware of no instances in which exposure to a toxic substance has more clearly demonstrated detrimental health effects on humans than has asbestos exposure. The diseases caused by asbestos exposures are in large part life-threatening or disabling. Among these diseases are lung cancer, cancer of the mesothelial lining of the pleura and peritoneum, and asbestosis. In addition, workers exposed to asbestos are at increased risk of gastrointestinal cancer, as shown by epidemiologic studies. Although colo-rectal cancer may be curable if detected in an early stage, other gastrointestinal cancers are usually fatal. OSHA also believes that asbestos might induce cancers at other sites, which are also often fatal.

Of these, lung cancer constitutes the greatest health risk for American asbestos workers and has accounted for more than half of excess mortality in some occupational cohorts. About 90% of lung cancer patients die within 5 years of diagnosis. Mesothelioma is an incurable cancer which is usually fatal within a year after diagnosis. It is epidemiologically linked to asbestos exposure, and occurs very rarely, if at all, in persons never exposed to asbestos. Asbestosis, a type of pulmonary fibrosis, is usually non-reversible, its advanced stages are disabling, and can be fatal. OSHA concludes that all these diseases are very serious, and that the excess mortality from such severe diseases must be considered an important factor for making a grave danger determination.

2. *Degree of Risk of Developing Dangerous Disease.* OSHA based its calculations of extent of risk faced by workers under current exposure conditions primarily on the results of a quantitative analysis which derived numerical estimates of cancer risk at various cumulative exposures corresponding to levels at which workers are exposed (Ex. 84–392).

Although 2 f/cc is the current PEL for asbestos exposure, actual exposure conditions vary widely, mostly by industry segment. As explained later in this document and as set forth in Table 1, average ambient exposure levels in various industries include high exposure levels such as 20 f/cc in drywall removal, renovation and demolition; 5 f/cc in shipbuilding and repair; mid-range exposure levels such as 2 f/cc in secondary fabricating of cement sheet, packing and gaskets and paper products and rebuilding and refacing brakes; 1.5 f/cc for dry processing of textiles; and lower exposure levels such as 0.5 f/cc and 0.2 f/cc in the manufacture of floor tile.

Because OSHA is required to consider the actual danger faced by workers in assessing whether exposure to a substance presents a "grave danger", OSHA looked at the risk of developing disease not only at the 2 f/cc permissible level but at all exposure levels which workers currently face. Most of the results of these calculations for cancer are presented in Table 11 in the risk assessment section of this document.

The table sets forth predicted excess lifetime cancer risks for exposures of one year, 20 years and 45 years. Risks for exposures of 6 months are closely approximated by one-half the risks for exposures of one year. Although average exposures in demolition and renovation are estimated at 20 f/cc, the table presents risks only for selected exposure levels up to 10 f/cc.

These calculations show that the risks of asbestos-related disease are alarmingly high at current occupational exposure levels. For example, an estimated total cancer risk of 265 excess deaths per 1000 workers exists for workers exposed for a 45-year lifetime at 10 f/cc, a level which currently exists on some construction sites. At 5 f/cc, the exposure levels which are considered average in shipbuilding and repair, the risk of developing asbestos-related cancer for a 45-year exposure period is 149 excess deaths per 1000 workers. At the current permissible level of 2 f/cc which also represents actual exposure levels in such industries as secondary fabricating of cement sheet, packing gaskets and paper products and rebuilding and refacing brakes, risk is estimated as 64 excess cancer deaths per 1000 workers for a 45-year exposure period.

These risks remain very high when the period of exposure for which calculations are done is shortened to 20 years, which OSHA believes is another appropriate point for examination. The period of 20 years is the approximate midpoint between 1 year and 45 years of exposure; also many workers receive 20 years of exposure. Counterpart risk calculations using a 20-year exposure period are: for workers exposed to 10 f/cc, 140 excess cancer deaths per 1000 workers; for exposures to 5 f/cc, 105 excess cancer deaths per 1000 workers and for exposures to 2 f/cc, 44 excess cancer deaths per 1000 workers.

OSHA also estimated risks of developing cancer for a one year period of exposure at various levels to which employees are exposed. The counterpart risks for exposures to 10 f/cc for one year are: 15 excess cancer deaths per 1000 workers; to 5 f/cc, 7 excess cancer deaths per 1000 workers and to 2 f/cc, 3 excess cancer deaths per 1000 workers.

Even at current workplace exposure levels which are less than the current PEL, extraordinarily high risks of disease exist. At 0.5 f/cc, 17 excess cancer deaths per 1000 workers are

predicted for a 45-year lifetime exposure; and 11 excess cancer deaths per 1000 workers for a 20-year exposure period.

OSHA notes that the above calculations are for cancer risk only. In addition, asbestos-exposed workers face a high risk of developing asbestosis, a disabling and often fatal disease. Predictions concerning the estimated magnitude of the asbestosis risk have been performed by OSHA and are discussed in the risk assessment section of this document. Accordingly, OSHA estimates that at 2 f/cc, 50 workers per 1000 exposed to asbestos for 45 years will develop disabling asbestosis. At 0.5 f/cc for 45 years, it is estimated that 12 workers per 1000 will develop disabling asbestosis. Asbestosis risks can also be estimated for exposures for durations shorter than 45 years. For example, the risk of disabling asbestosis from exposure to 1.0 f/cc for 22.5 years is 12 cases per 1000 workers. OSHA's estimates of the magnitude of the asbestosis risk are based on sound data from good epidemiological studies. OSHA believes, however, that the confidence which can be placed in predictions of asbestosis risk is not as great as for the predictions of cancer risk. This is because the cancer risk estimates are based on a larger and more varied data base and are derived from dose-extrapolation models that are better established. Because OSHA has determined that the risks for cancer alone indicate a grave danger, the additional risks of developing asbestosis are not necessary to justify this ETS. However, OSHA has considered that the additional and independent risk of developing asbestosis increases the danger faced by exposed workers and underscores the gravity of the health threats to employees posed by asbestos.

3. *Quality of Data on Which Risk Estimates are Based.* The underlying data upon which the quantitative risk assessments for asbestos are based are high quality epidemiologic studies, conducted in occupational environments. OSHA emphasizes that the data bases for asbestos are of unusual quality and size. Unlike most potential occupational carcinogens, asbestos has been studied often and thoroughly for evaluation of its effects on occupational populations.

In deriving these quantitative estimates for cancer risk, OSHA utilized eleven studies for the calculation of the lung cancer risk, four of which were also used to calculate the mesothelioma risk. Investigations involved "cohort" studies where the frequencies of various types of cancers in workers exposed to asbestos were compared to those in "control" groups not exposed to asbestos or to those of general populations such as U.S. males. Studies of such design are able to provide direct estimates of excess risk.

The studies used by OSHA in deriving dose-response relationships for its risk assessment covered a variety of work situations and industrial processes. This variety improves the predictive value of the risk assessment because it lessens or eliminates the possibility that the results were unique to any one occupational situation or were in fact aberrational. The occupational settings studied were: workers exposed at a chrysotile textile plant from 1930–1975 (Dement *et al.* Exs. 84–036 and 84–037); Canadian workers at an asbestos cement facility (Finkelstein Ex. 84–240); Italian chrysotile miners and millers who worked during 1930–1965 (Rubino *et al.* Ex. 84–86); workers in an asbestos cement pipe plant (Weill *et al.* Ex. 84–206); workers in an asbestos production plant and asbestos cement pipe factory (Henderson and Enterline Ex. 84–48); British workers manufacturing asbestos textile products (Peto Ex. 84–169); asbestos miners and millers in Quebec, Canada (Liddell *et al.* Ex. 84–59); and in the Thetford Mines, Canada (Nicholson *el al.* Ex. 84–72); and workers manufacturing asbestos friction materials (Berry and Newhouse Ex. 84–21).

"Well-conducted epidemiologic studies that show a positive association between an agent and a disease are accepted as the most convincing evidence about human risk" (Risk Assessment in the Federal Government: Managing the Process, National Research Council, 1983, p. 21, Ex. 84–322).

No extrapolation from animal data to human data is necessary in order to show carcinogenicity of asbestos. For most substances, OSHA must infer human health effects, such as carcinogenicity, from animal data.

The results of this risk assessment performed by OSHA agree well with other recent risk assessments performed by other governmental and outside scientists (see Acheson and Gardner) (Ex. 84–218 and 84–243); EPA (Ex. 84–180); Kang and Chu (Ex. 84–001); Selikoff *et al.* (84–002); and CHAP (Ex. 84–256).

4. *Comparative Analysis.* Insight into the magnitude of the risk associated with asbestos exposure can be gained by reviewing other occupational risks. OSHA believes it is instructive to compare asbestos risks with other workplace hazards agreed on as presenting an unusually high degree of hazard, where the data are considered both available and reliable.

The risk of excess mortality estimated as a result of exposure to asbestos at the conditions in the workplace today appears to be substantially higher than other risks experienced by workers from occupational injury hazards. The National Safety Council (NSC) has reported the annual death rates in 1981 from work accidents in a variety of industries (Ex. 84–339). Using the NSC data OSHA has reviewed the annual mortality from work accidents per 1000 workers in several industries in light of the excess cancer mortality from a single year of exposure to asbestos per 1000 workers. For example, in the high risk occupations of agriculture and mining-quarrying, the annual mortality rates from work accidents were 0.54 and 0.55 per 1000 workers respectively in 1981 (Ex. 84–339). In contrast, the death rate from work accidents for all industries combined was 0.12 per 1000 workers in 1981.

OSHA has estimated that the lifetime risk for one year of exposure to 2 f/cc of asbestos is about 3 excess cancer deaths per 1000 exposed workers during the remainder of the workers' lifetimes (Ex. 4–349). Thus, asbestos workers' risk of excess cancer mortality from a single year of exposure to 2 f/cc is roughly 5 times higher than the risk of accidental occupational fatalities from one year of employment in agriculture and mining-quarrying.

As shown in Table 1, OSHA estimates that many workers are exposed to asbestos in the vicinity of 2 f/cc. In addition, OSHA calculated the average excess cancer risk to workers exposed at conditions that exist in the workplace today (for those above 0.5 f/cc and using the scenario described in Table 3). OSHA estimates that 10 excess cancer deaths will occur per 1000 workers for 1 year exposure; thus the average risk to workers (exposed above 0.5 f/cc) in the workplace today is approximately 20 times the annual fatal accident rates in agriculture and mining-quarrying.

These comparisons are striking. They show that the estimated risk of dying of cancer from asbestos exposure at levels existing at the workplace today far exceeds the accidental death rate in the riskiest of industries. Although the estimated mortality rates for cancer due to asbestos exposure are not completely comparable to the total actual accidental fatalities, the review is clearly useful in showing that the magnitude of the asbestos risk is grave.

One example of predicted cancer risk as a result of occupational exposure is the following cancer risk estimated from

occupational exposure to ionizing radiation. The estimated excess cancer fatality rate from 47 years of exposure to the maximum permissible occupational exposure to ionizing radiation (5 rems) is 17 to 29 per 1000 workers (Committee on the Biological Effects of Ionizing Radiation (BEIR) III predictions, see 48 FR 1982). However, most radiation standards (unlike OSHA standards) require that exposure limits be reduced to the lowest level reasonably achievable below the exposure limit (the ALARA principle). Approximately 95 percent of radiation workers have exposures less than one-tenth the maximum permitted limit. The excess cancer deaths at one-tenth the permitted level are 1.7 to 2.9 per 1000 workers exposed 47 years. Asbestos exposures of 45 years to 2 f/cc are predicted by OSHA to result in 64 excess cancer deaths per 1000 workers beginning work at age 25 (Ex. 64–392). OSHA's calculation for the average excess cancer risk to worker exposed at conditions that exist in the workplace today (for those above 0.5 f/cc) for a 45-year exposure, is 196 excess cancer deaths per 1000 workers. This figure was calculated by taking the number of cancer deaths estimated from exposure to existing conditions for 45 years for those workers exposed to greater than 0.5 f/cc of asbestos and dividing by the number of workers exposed to asbestos greater than 0.5 f/cc (multiplied by 1000).

Therefore, the excess cancer risk at 2 f/cc for asbestos workers is estimated as more than twice as high as the maximum permitted radiation cancer risk and about 25 times higher than the estimated cancer risk of 95 percent of the workers exposed to radiation. At existing conditions, asbestos workers' excess cancer risks are estimated to be 85 times higher than the cancer risk faced by 95 percent of the workers exposed to radiation. The risk of asbestosis further increases the significance of the risk from asbestos exposure.

At 0.5 f/cc, OSHA estimates that 17 excess cancer deaths will occur in 1000 workers exposed 45 years. This risk is approximately 7 times higher than the cancer risk faced by 95 percent of the workers exposed to radiation. OSHA finds that these comparative risks strongly support OSHA's finding that workers exposed to air concentrations above 0.5 f/cc are far above the point of significant risk and are at grave danger of dying from cancer.

5. *Conclusion.* OSHA's finding of "grave danger" is based on evidentiary and policy considerations. OSHA's determination that the magnitude of the estimated risk to exposed workers is alarmingly high constitutes the major component of the "grave danger" finding. The overall extraordinary degree of risk, the extent that very high risk is found in many asbestos using industries, and the unusually high quality of the data utilized to make these assessments present a very strong evidentiary basis for a "grave danger" finding. Just as importantly, the unique gravity of asbestos-caused diseases, in particular cancer, such as mesothelioma which is linked almost exclusively to asbestos exposure, strongly supports OSHA's finding of grave danger. Also OSHA's comparison of the risk of asbestos-related disease to other industrial risks underscores the extraordinarily high risk estimated for asbestos exposure. OSHA has also noted the concerns of workers about current workplace conditions and the numerous petitions for an ETS from unions representing many exposed workers. Finally OSHA has relied on its experience in evaluating and regulating workplace hazards in recognizing the extraordinary degree of risk currently faced by asbestos workers and in determining that such risk constitutes a grave danger to those workers.

B. Need for an ETS

OSHA has determined that this ETS is necessary to protect employees from grave danger, the second prong of the Act's test of OSHA's exercise of its ETS authority (Section 6(c) of the Act). As explained in detail, the effect of this ETS is to save many lives which would otherwise be lost to asbestos-related disease if current working conditions were not changed. OSHA believes that employees can be adequately protected against this grave danger only by issuing an ETS. This is because no other Agency action and no other foreseeable event would result in sufficiently reduced asbestos exposures that would alleviate the grave danger. Further, the provisions of the ETS are tailored to effect the necessary exposure reductions expeditiously.

1. *Lives Saved by Issuing an ETS.* OSHA has estimated the number of deaths avoided as a result of an ETS which would reduce the PEL to 0.5 f/cc (see Tables 2 and 3). For cancer only, based on continuing exposures under currently existing conditions for 6 months, the potential number of lives saved is estimated as approximately 210. Based on continuing exposures at currently existing conditions for 1 year, the potential number of lives saved is estimated at approximately 426. Also, OSHA has estimated that the promulgation of an ETS setting a 0.5 f/cc PEL may avoid 5725 cancer deaths assuming 20 years exposure to asbestos of the current workforce at current conditions and 7815 cancer deaths assuming 45 years exposure.

OSHA is aware, of course, that Section 6(c) of the Act limits the effective time of an ETS to 6 months, and OSHA concludes that a grave danger exists and an ETS is necessary even if OSHA focuses exclusively on this six month period. However, the Agency believes it is appropriate to calculate benefits deriving from an ETS using lifetime risks from 20 and 45 years of exposure to the PEL of 0.5 f/cc established by the ETS. Although the ETS expires within 6 months, Section 6(c) requires that rulemaking on a permanent standard also be completed within 6 months, so that there will be no gap in protection for exposed employees. In OSHA's experience and judgment, complying with this statutory directive and completing rulemaking for a permanent standard within 6 months of an ETS has and can be done.

OSHA also believes, based on its experience, that it is very likely that the PEL established after 6(b) rulemaking will be no higher than 0.5 f/cc, the ETS limit. Therefore, OSHA believes that the ETS will result in a reduced lifetime worker exposures of 0.5 f/cc or lower for 20 or 45 years, and that the benefits derived from these exposure reductions for these time periods are appropriately attributed to OSHA's promulgation of this emergency standard.

a. *Employee Exposures.* To derive these estimates of numbers of lives saved, OSHA depended on its knowledge of the following factors: (1) The employee exposure levels from the ambient asbestos air concentrations in the workplace; (2) the number of workers exposed at the various asbestos levels; (3) the duration of the exposure; and (4) the probability of the disease (or the risk) associated with the cumulative exposure.

Employee exposure levels are conventionally measured in terms of the number of asbestos fibers that are 5 microns or more in length in one cubic centimeter of air, f/cc. In these terms, an ambient concentration may seem to be a small amount of asbestos. However, in physical terms, 2.0 f/cc equals 2,000,000 fibers per cubic meter (f/m^3). Humans inhale about one cubic meter of air per hour, depending on degree of physical activity. Thus, at this concentration, a worker would inhale roughly 16,000,000 fibers, 5 microns or more in length, over an eight hour workday.

Note.—Depending on the industrial process, up to 784,000,000 additional asbestos fibers less than 5 microns in length may also be inhaled, assuming that 98% of airborne asbestos fibers are less than 5 microns.

OSHA continues to use the term, f/cc, for convenience but cautions that the numerical estimates of air concentrations given in these terms are only one way of viewing asbestos concentrations and should not be evaluated without interpreting the meaning of the units.

OSHA used existing information to estimate worker asbestos exposure in each affected industry. Data sources included government contractor reports (Ex. 84–002 and Ex. 84–009), various studies reported in the literature, NIOSH Health Hazard Evaluations, and OSHA compliance data (Ex. 84–355). OSHA reviewed the information, and decided to use the 1980 Research Triangle Institute (RTI) report (Ex. 84–009) as the primary basis for exposure estimates because the RTI estimates appear to OSHA to be the most comprehensive. In addition, RTI used a large number of different data sources to make their exposure estimates, including interviews, existing documentation, and industrial hygiene surveys of worksites.

Using the RTI report as the primary reference, OSHA compared RTI data with other exposure information available for each industry. For example, specific reports were found for asbestos cement manufacturing (Ex. 84–248), textile manufacturing (Ex. 84–267), removal of sprayed asbestos material from buildings (Ex. 84–262), and brake repair (Exs. 84–263, 84–298). The Asbestos Information Association provided data concerning exposures during field fabrication and installation of asbestos cement pipe and sheet in controlled conditions (Ex. 84–295). The Environmental Sciences Laboratory (Ex. 84–002) also made best estimates of worker exposure in various industries for 1975.

In addition, OSHA used its own field inspection experience to estimate exposures. OSHA reviewed selected case files and obtained information that listed OSHA asbestos measurements during compliance inspections from 6/1/79 to 5/31/83 (Exs. 84–354, 84–355).

OSHA adjusted the RTI estimate as appropriate, based upon a qualitative judgment as to which data best represent existing exposure conditions. OSHA's exposure estimates are based, therefore, upon a substantial data base and upon considerable experience in enforcing the existing asbestos standard.

OSHA used the employee exposure levels in each industry to calculate the number of deaths avoided by reducing the exposure from current levels to the emergency PEL. Alternative exposure distributions used for sensitivity analysis will be provided in the Preliminary Regulatory Impact Analysis.

OSHA believes that the exposure estimates are relatively good, given the state of the art of worker exposure estimation techniques and data available today. OSHA is not aware of any other available current exposure estimates.

Industrial hygiene reports of operations in the same industry, but at different work sites, invariably report different asbestos exposures among the workers. OSHA reviewed these reports and made decisions regarding typical industry practices. For some operations, such as brake relining, several reports were available with complete descriptions of the working environment and OSHA was able to use these to make direct exposure estimates. Other reports, such as "Removal of Pre-formed Asbestos Insulation" (Ex. 84–296), described careful processes for asbestos handling that did not appear representative of the methods used throughout industry, since the reported air concentrations were not consistent with other reports showing higher exposures (Exs. 84–306, 84–262).

Table 1 shows OSHA's estimates of employee exposure to asbestos by industry segment.

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Table 1 (Cont.)

Table 1

Table 1

OSHA Estimate of Employee Exposure to Asbestos

Industry Segment	Number[a] of Exposed Workers	Number[a] of Plants	Current Exposure level f/cc
Primary Manufacturing			
Asbestos/Cement Pipe & Sheet	900	14	1.0
Friction Materials	3677	31	1.5
Floor Tile			
Receiving, introductions mixing	1187	14	0.5
Rest of plant	3559		0.2
Asbestos Paper			
Receiving, introduction mixing & preparation	474	22	0.75
Rest of plant	1423		0.2

Table 1 (Cont.)

OSHA Estimate of Employee Exposure to Asbestos

Industry Segment	Number[a] of Exposed Workers	Number[a] of Plants	Current Exposure level f/cc
Gaskets, Seals and Packings			
Sheet formation, cutting and packaging	219	26	0.2
Rest of plant	657		0.75
Paintings, Coatings and Sealants			
Mixing, compounding and packaging	34	5	0.75
Rest of plant	101		0.0
Textiles-Wet Process	375	2	0.75
-Dry Process	750	3	1.5
Secondary Fabricators[b]			
Cement Sheets	4301	1076	2.0
Paper Products	4301	1076	2.0
Packings and Gaskets	4301	1076	2.0
Textiles	4301	1076	1.0
Automotive Aftermarket			
Rebuilding and Refacing	4091	140	2.0
Brake Repair			
Garages and Brake Shops	176355	68089	0.15
Gasoline Stations	84961	77896	less than 0.1
Shipbuilding and Repair[c]	1522	38	
Shipbuilding	304		0.5
Ship Repair	1218		5.0
Construction[d]			
Installation of New Materials			
Asbestos Cement Pipe	5458	546	0.75
Asbestos Cement Sheet	1765	177	2.0
Roofing Felts	2499	250	0.15

Table I (Cont.)

USHA Estimate of Employee Exposure to Asbestos

Industry Segment	Number[a] of Exposed Workers	Number[a] of Plants	Current Exposure level f/cc
Repair and Maintenance			
Drywall removal, renovation, and demolition[e]	12955	1296	20.0
	38866	3887	0.2
Repair and maintenance involving asbestos removal	14845	1485	0.15
Maintenance workers in schools, chemical plants electrical generating plants and foundries	N/A	N/A	0.15
TOTAL WORKERS EXPOSED ABOVE 0.5 f/cc[f]			48,644
TOTAL EXPOSED WORKERS			375,399

[a] Population and facility estimates were based on the RTI report (Ex. 84-009) and updated to 1983 employment levels by JRB Associates.

[b] The number of plants in the SIC codes making up Secondary Fabricators (2451, 3357, 3523, 3531, and 3842) was derived by JRB Associates by taking the number of establishments with 20 or more employees, as listed in the Economic Information Systems data base for 1983, and expanding that number by the percent of establishments with fewer than 20 employees, as listed in County Business Patterns. 1980. Not knowing exactly how the 17,204 Secondary Fabrication (SF) workers and 4,304 SF plants were distributed among the 4 types of SF facilities, OSHA assumed that the workers and plants were distributed equally among the 4 types of SF facilities.

[c] Assumed that 20% of 3045 shipbuilding/repair workers are not in compliance with current respirator requirements. Hence, the number of workers was adjusted to reflect the 20% of exposed workers.

[d] Assumed average firm employs 9-10 workers as is true of SIC 17 (construction, special trade contractors).

[e] Assumed that 25% of 51820 drywall removal, renovation, and demolition workers are not in compliance with current respirator requirements. Hence, the number of workers was adjusted to reflect the 25% of exposed workers.

[f] This figure excludes segments that are in compliance with 0.5 PEL such as floor tile, brake repair, roofing felts, and repair and maintenance.

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Data from OSHA's Management Information System (MIS) includes a list of all asbestos samples reported by OSHA field staff during June 1, 1979 to May 31, 1983 (Ex. 84–355). During this period, 949 eight-hour time-weighted average (TWA) samples were collected in many different industries. Of the 949 samples, 731(77%) were below 0.5 f/cc 156 (16.4%) fell between 0.5 f/cc and 2.0 f/cc; and 62 (6.5%) were above 2 f/cc. OSHA also reviewed the MIS summary report where the measurement data were grouped within Standard Industrial Code (SIC) classifications (Ex. 84–354). All these data contributed to the development of OSHA's best exposure estimates.

In conclusion, OSHA has used its experience in enforcing the existing asbestos standard to determine the best estimates of worker exposure in the industries. On the whole, in comparison to other toxic substances present in the workplace, asbestos exposure information is well reported. Given that OSHA experience is considerable, OSHA believes its estimates are reasonable and appropriate and provide a satisfactory basis for judgments regarding the extent of risk existing in workplaces.

OSHA acknowledges, however, that the exposure information concerning asbestos removal and renovation in the construction industry is less certain than the other estimates. Despite uncertainities in qualifying exposure in the demolition/removal category, OSHA feels that this best estimate is based upon evidence that is both reasonable and the best available. Furthermore, OSHA believes that any changes made to the estimate as a result of the uncertainities would not be of a sufficient magnitude to warrant a change in its basic findings.

2. *Calculation of Lives Saved and Disease Avoided.* The benefits provided by this ETS consist of cancer deaths and disabling asbestosis avoided. The estimates of deaths avoided by lowering of the exposure limit by the emergency temporary standard are based on the mortality rates developed in the risk assessment discussion. To generate the expected number of excess deaths attributable to asbestos in the U.S. workforce, the expected rate of mortality at each exposure level was multiplied by the population exposed at that level. The expected mortality rate from each exposure level was derived from OSHA's quantitative risk analysis (Ex. 84–392). The expected number of deaths at the reduced PEL was then subtracted from the expected number of deaths at the current worker exposure levels to determine the estimated number of deaths avoided by reducing the permissible exposure limit. The benefits are expressed in terms of estimated deaths rather than disability because the types of cancer associated with asbestos exposure have a very poor survival rate.

An example of such a calculation follows. To calculate the lung cancer deaths avoided during one year of exposure to a worker population in the construction industry who are engaged in the installation of asbestos cement sheet:

Population = 1765 (Table 1)
Estimated Current Exposure Level = 2.0 f/cc (Table 1)
Estimated lung cancer risk for one year at 2 f/cc = 144/100,000 (Table 11)

1. Calculate expected deaths for installers of A/C sheet having one year of exposure at 2 f/cc exposure level:

Population × risk = expected deaths
(1765) (144/100,000) = 2.54 or approximately three deaths among installers.

2. Calculate expected deaths for installers of A/C sheet at PEL of 0.5/cc for one year of exposure:

Estimated risk at 0.5 f/cc = 36.1 per 100,000 (Table 17)
Population × risk = expected deaths
(1765) (36.1/100,000) = 0.64 or approximately one death among installers

3. Calculate lung cancer deaths averted or lives saved for A/C sheet installers by reducing exposure to 0.5: subtract expected deaths at 0.5 f/cc from those expected at 2/f/cc

(2.54) − (0.64) = 1.9 or approximately two lives saved.

The estimated benefits derived from exposure reductions to several PEL's which OSHA is considering for a final standard are presented in Table 2. These benefits represent the estimated number of cancer deaths avoided from those expected due to 20 years exposure at the estimated current exposure levels assuming worker exposure began at age 25. The benefits were calculated using a base of 20 years exposure because, as stated earlier, 20 years is an estimate of typical lifetime exposures for some workers. Exposures of 6 months, one year and 45 years duration are also used to show the grave danger and the need for the standard, based upon a 0.5 f/cc PEL (see Table 3):

For Table 2, OSHA bases its respirator assumptions in the construction industry and shipbuilding industry on its enforcement experience, on its familiarity with the industries, trade unions, and industrial hygienists, and on available studies on this subject. OSHA believes that these estimates may overstate the degree of respirator use. This would lead to underestimation of benefits of the ETS for the following reason: The fewer workers in compliance with the current requirements for respirator use for ambient exposures exceeding 2 f/cc, the greater the potential benefits from an ETS mandating that workers be trained regarding the significant risks from asbestos exposure and the importance of using respirators. Also, workers currently using respirators will benefit by further reductions from 2 f/cc to 0.5 f/cc. However, if respirators mandated by the ETS are not used properly or consistently, then the number of cancer deaths avoided is an overestimate.

To test the results OSHA also calculated the benefits assuming that all shipbuilding/repair and construction/renovation/demolition operations comply with the current standard. All of the shipbuilding/repair workers would thus be protected by respirators which would reduce exposures to 0.5 f/cc. The construction workers would have an exposure of 2 f/cc. The benefits of reducing the PEL to 0.5 f/cc would, therefore be calculated as the difference between expected deaths at 2 f/cc and the expected deaths at 0.5 f/cc for all workers in these segments. Table 4 shows these benefit estimates.

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Table 2

Estimates of All Cancer Deaths Avoided at Three PELs
Assuming 20 Years of Exposure

Industry Segment	PEL (f/cc)		
	0.5	0.2	0.1
Primary Manufacturing	117	172	200
Secondary Manufacturing	471	586	624
Automotive Aftermarket	134	162	370
Shipbuilding/Repair[a]	29	39	43
Construction[b]	4974	5109	5175
Totals	5726	6068	6412

[a] OSHA assumes that 80% of workers in the shipbuilding/repair sector are protected by air line respirators and only 20 percent may be exposed to the estimated ambient air level.

[b] OSHA assumes that only 25% of construction workers may be exposed to the estimated ambient air levels and these exposures are reduced from 20 f/cc to 0.5 f/cc as a result of the ETS.

Table 3

ESTIMATES OF CANCER DEATHS AVOIDED
Based upon lifetime risk estimates for
exposures [a]

Industry Sector	PEL of 0.5 f/cc			
	6 Months	1 Year	20 years	45 years
Primary Manufacturing	2	8	117	174
Secondary Manufacturing	17	31	471	684
Automotive Aftermarket	4	8	134	194
Shipbuilding/Repair[b]	0	1	29	41
Construction [c]	187	378	4974	6722
TOTALS	210	426	5725	7815

[a] This table assumes exposures are reduced only to 0.5 f/cc. The number of lives saved by promulgation of the ETS may be understated in that respirators may reduce exposures below 0.5 in some industrial situations. However, the number of lives saved may be overstated if the respirators are not fully protective, or are not consistently used.

[b] OSHA assumes that 80% of workers in the shipbuilding/repair sector are protected by air-line respirators and only 20% may be exposed to the estimated ambient air level.

[c] OSHA assumes that only 25% of construction workers may be exposed to the estimated ambient air levels and these exposures are reduced from 20 f/cc to 0.5 f/cc as a result of the ETS.

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Although the results in Table 4 show fewer benefits OSHA believes the number of deaths avoided under this scenario, 80 for six months, 162 for 1 year, 2416 for 20 years, and 3513 for 45 years indicate a grave danger and necessitate this ETS action.

Table 4

Cancer Deaths Avoided with a 0.5 f/cc ETS

Assuming Compliance with the 2 f/cc Standard

Industry Sector	6 months	1 year	20 years	45 years
Primary manufacturing	2	8	117	174
Secondary manufacturing	17	31	471	684
Automotive Aftermarket	4	8	134	194
Shipbuilding/Repair*	0	0	0	0
Construction**	57	115	1694	2461
TOTAL	80	162	2416	3513

*OSHA assumes that the entire industry sector complies with the 2 f/cc standard through use of controls or respirators capable of reducing exposure to 0.5 f/cc.

**OSHA assumes that the renovation and demolition industry sectors are protected to 2 f/cc by use of half mask air purifying respirators.

3. *No Other Agency Action Is Adequate To Protect Employees Against This Grave Danger.* OSHA believes that Congress intended that the ETS authority may be exercised when OSHA determines that a grave danger is presented and when the provisions of the ETS are crafted to be an immediately effective means of protecting employees against such danger.

OSHA, however, has evalauted the potential capability of other possible actions to reduce the risk from asbestos exposure. OSHA has determined that no other agency action short of issuing this ETS which compels an immediate four-fold exposure reduction will sufficiently protect employees against the grave danger of developing asbestos related disease. In making this determination OSHA considered the usefulness of stepping up enforcement of the current asbestos standard, and initiating a 6(b) rulemaking proceeding to permanently reduce exposure levels. These actions will be discussed in turn. OSHA notes that these actions are not mutually exclusive, and in fact, OSHA is both stepping up its enforcement activities and embarking on a required 6(b) rulemaking as coordinated activities in addition to issuing an ETS.

(a) OSHA first concludes that merely increasing its enforcement of the current asbestos standard would not sufficiently reduce the grave risk of asbestos-related disease to exposed workers. Even if such increased enforcement resulted in immediately uniform compliance with the current 2 f/cc standard in all industries, risks to asbestos-exposed workers would remain unacceptably high. As stated above, OSHA has estimated that at a 2 f/cc level employees exposed over a working lifetime of 45 years are predicted to have an excess risk of dying from cancer of 64 in 1000 and of contracting disabling asbestosis of 50 in 1000; employees exposed over 20 years are predicted to have excess cancer risk of 44 in 1000 and a disabling asbestosis risk of approximately 22 in 1000. Even at exposures lasting one year, an estimated 3 employees out of 1000 are predicted to die of asbestos related cancer, and there is also additional risk of developing asbestosis. Risks at the 2 f/cc level have been acknowledged as unacceptable by other governments which have reduced their permissible levels below 2 f/cc.

To estimate the number of lives at stake if only the current standard were immediately enforced instead of compelling a 0.5 f/cc level through this ETS, OSHA made other calculations using certain assumptions about actual compliance levels.

For this analysis, OSHA assumed that all construction, renovation and demolition operations comply with the current standard so that workers in this industry would have exposures of 2 f/cc. The difference in the number of deaths avoided by compliance with the 2 f/cc standard compared with those avoided from compliance with the 0.5 f/cc ETS is still very high and shows that asbestos exposure even at 2 f/cc represents a grave danger to such exposed employees. Table 4 sets forth the results of these calculations. Thus, for a 20 year period of exposure, OSHA estimated that merely ensuring compliance with the current 2 f/cc limit may cost 2416 employees their lives. For one year of exposure, OSHA estimated that 162 employees may die if exposures are not reduced to 0.5 f/cc, assuming full compliance with the current 2 f/cc limit.

OSHA believes that these benefits (i.e. lives saved) represent the lower bound of those that would result from the ETS for two reasons. Half mask respirators which may be used at air concentrations of 20 f/cc to comply with the current standard may not effectively reduce employee exposure below 2 f/cc Further under the ETS, half mask respirators may only be used in workplaces where concentrations do not exceed 5 f/cc. Employees in workplaces between 5 and 20 f/cc must use more protective respirators under the ETS; hence, it is likely that their actual

exposures may be reduced to below 0.5 f/cc and the benefits of the ETS will be correspondingly increased. Further, an ETS by nature of the action itself, and the accompanying enforcement program, will undoubtedly boost the incentives to comply with all protective provisions of the asbestos standard.

(b) OSHA rejected relying on merely beginning Section 6(b) rulemaking proceedings to revise the standard to reduce the PEL as an inadequate response to the grave danger faced by asbestos-exposed workers. Beginning rulemaking proceedings results in no immediate workplace changes. Employees would still continue to be exposed to those conditions which define a grave danger for at least the pendency of the rulemaking. In OSHA's experience, completing 6(b) rulemakings not initated by an ETS concerning hazardous substances can take many years. For example, the coke oven emission standard took approximately 3½ years, the lead standard, more than 6 years and the cotton dust standard, more than 4 years. These periods do not include any of the additional delays in the effective dates of OSHA standards that were due to judicially imposed stays, which have resulted in delays lasting several years. Under the most favorable circumstances, however, OSHA believes that it is possible that a section 6(b) rulemaking limited to the issues raised herein might be completed in approximately one year, absent an ETS.

As shown above, the estimated risks of developing asbestos-related cancer due to exposure for one year under current conditions, are still extraordinarily high. The additional risks of developing asbestosis due to one year's exposure under current conditions, although quantified with less certainty, are also more than significant. OSHA also believes that the risks of six months exposure, approximated by taking over half of the one year risks under current conditions, also are unacceptably high. OSHA emphasizes as stated above, that OSHA's experience shows that without an ETS, proceedings leading to a permanent health standard are unlikely to be completed within a six month period. The explanation of OSHA's capability to produce a standard within 6 months of an ETS lies in the urgency generated by OSHA's finding of a grave danger, the existence of a specific statutory deadline to complete a rulemaking within 6 months and the need to prevent a gap in protection between the expiration of the ETS and the imposition of the permanent standard for a substance already determined to present a grave danger.

OSHA also believes that it is helpful to evaulate the extent of risk resulting from lifetime exposure periods of 20 and 45 years in the absence of this ETS. As shown in Tables 10 and 11, these risks are extraordinarily high.

4. *Other Factors Indicating a Need for an ETS.* Although worker exposure to asbestos has been declining over the years, OSHA believes that exposure conditions will continue to present grave danger in the near future unless an emergency standard is promulgated. OSHA bases this finding on its evaluation of exposure information, asbestos use statistics, consideration of the nature of industrial exposure today, and the degree of compliance with the current standard.

Although OSHA anticipates a decline in use of asbestos in products, this decline will not materially affect asbestos use in the near future. The extensive tort litigation regarding asbestos and the awareness of health effects associated with asbestos exposure provides strong inducements for producers and users of products to switch to substitutes for asbestos. In fact, asbestos consumption has declined over the years as shown:

Year	U.S Consumption Pattern (1000 tons)
1975	552
1976	659
1977	672
1978	619
1979	561
1980	360
1981	349
1982	248

Worker asbestos exposures will continue, however, for many years in the future because substitutes for some products do not appear immediately available.

For other products, old replacement parts will be needed for many years. For example, automobile manufacturers may switch to non-asbestos brakes and clutch facing in new vehicles in the next several years. Old vehicles, containing asbestos parts, will remain in use for many years thereafter. Paik et al. found over half of all multistory buildings surveyed (68 out of 127) contained sprayed on asbestos material (Ex. 84–262). The potential for asbestos exposure exists as long as asbestos remains in these buildings. Renovation work in the building such as relocating walls and electrical wiring, will result in continued exposure for carpenters, painters, electricians, laborers, sheet metal workers and others.

Therefore, OSHA does not believe that major exposure level reductions are about to occur in the near future. The trend towards reduction in asbestos use and asbestos exposure has been a slow gradual process with the exception of instances where the government intervened. For example in 1973 the EPA banned use of sprayed on insulation containing more than 1 percent asbestos. Without OSHA acting at this time, OSHA predicts that the grave danger conditions will persist, certainly during the period required for OSHA's issuance of a 6(b) standard, and probably for many years thereafter.

5. *The Need for the Specific Provisions of the ETS.* The provisions of the ETS require the employer to use any method of control to reduce employee exposure to 0.5 f/cc and to train workers concerning the hazards associated with asbestos and procedures for reducing the risk. These provisions must be implemented immediately. OSHA believes they are greatly needed to afford employees meaningful protection. As the benefit section explained in detail, compelling exposure reductions through an ETS will result in a great number of lives saved.

In addition, as stated earlier OSHA believes that its estimates of the degree of compliance with respirator requirements in the construction and shipbuilding industry may overstate the degree of present respirator use. Thus, OSHA may be understating the benefits to be derived from an ETS, and hence the need for such an ETS to be promulgated. In addition, OSHA's estimates of exposures in demolition and renovation segments of the construction industry are approximately 20 f/cc. Because under the ETS the PEL is lowered to 0.5 f/cc, the airborne concentration at which more protective

respirators (with a protection factor exceeding 10) must be worn drops from 20 f/cc (10 times the former PEL of 2 f/cc) to 5 f/cc (10 times the new PEL of 0.5 f/cc). Therefore OSHA believes that more workers will wear more protective respirators under the ETS than under the current permanent standard, that their actual exposure levels will be reduced to below 0.5 f/cc and consequently that their risks will be reduced even more than the calculations indicate.

OSHA finds also that requiring a training program to be instituted as quickly as possible is one of the most effective methods of maximizing the beneficial impact of the exposure reduction and of all the protective provisions of the current standard. Thus, the content of this ETS has been chosen as the most effective short-term strategy to reduce asbestos risks which will be accepted and implemented.

6. *Conclusion.* OSHA finds that workers exposed to asbestos in the workplace at existing exposure conditions need this emergency temporary standard to protect them from the grave danger presented by these conditions. OSHA finds that by compelling a reduction in exposure to 0.5 f/cc for those employees presently exposed over that level, many lives will be saved. Training imposed by the ETS will enhance the risk reductions, although quantification of that additional reduction cannot be calculated. 0.5 f/cc is the lowest feasible level achievable through this emergency action, where short-term implementation of the controls is required.

Only by issuing an ETS compelling reductions in exposure levels below the current permissible limit of 2 f/cc can OSHA bring about adequate reductions in risks. The administrative action of stepping up enforcement of the current standard is an inadequate response to OSHA's finding that current conditions present a grave danger.

OSHA does not believe that any significant reduction will occur within an acceptable time period without this emergency standard action. OSHA has observed a gradual reduction in asbestos use, but, in the Agency's experience, significant and rapid exposure reductions usually occur in response to standards. The provisions of the ETS will significantly reduce the risk and reduce it quickly. Therefore OSHA has determined that the ETS is necessary to reduce the grave danger.

IV. Occupational Health Data

A. Introduction

1. *Asbestos-related Diseases.* Asbestos exposure can cause a number of disabling and fatal diseases. Among these diseases are lung cancer, cancer of the mesothelial lining of the pleura and peritoneum, and asbestosis. It is also likely that asbestos increases the risk of gastrointestinal cancers. Of all the diseases caused by asbestos, death from lung cancer constitutes the greatest health risk for American asbestos workers. Lung cancer has been responsible for over half of the excess mortality from asbestos exposure in some occupational cohorts.

The relationship between lung cancer and asbestos exposure has been established by numerous epidemiologic studies of diverse groups. Asbestos-induced lung cancer usually has a latency period in excess of 20 years and may be diagnosed at an earlier age than for non-exposed persons (Craighead et al., 1982; Ex. 84–033). Few cases of lung cancer are curable despite advances in medical and surgical oncology. Only 9% of lung cancer patients survive five or more years after diagnosis (American Cancer Society, 1983; Ex. 84–160). Asbestos exposure acts synergistically with cigarette smoke to multiply the risk of developing lung cancer.

Mesothelioma also has been conclusively shown to be associated with asbestos by many studies. In some asbestos-exposed occupational groups, 10%–18% of deaths have been attributable to malignant mesotheliomas. Malignant mesotheliomas of the pleura and peritoneum are extremely rare in persons not exposed to asbestos. Generally, a latency period of at least 25 to 30 years is required in order to observe mesotheliomas in an occupational cohort. Some victims of mesothelioma have had a latency period exceeding 40 years since their initial exposure to asbestos (Craighead et al., 1982; Ex. 84–033). This form of cancer is rarely curable and is usually fatal within a year after diagnosis. There is no evidence for a relationship between cigarette smoking and mesothelioma risk.

Asbestos exposure can cause pleural and/or other pulmonary disease. Pleural plaques are one of the markers of exposure and may develop within 10 to 20 years after the initial exposure. Plaques are opaque patches visible on chest X-rays that consist of dense strands of collagen (connective tissue protein) lined by mesothelial cells. All commercial types of asbestos induce plaques. Plaques can occur even when fibrosis is absent and do not seem to reflect the severity of pulmonary parenchymal disease. Pleural calcification is also commonly found in persons who have been exposed to asbestos (Craighead et al., 1982; Ex. 84–033).

Asbestosis is pulmonary fibrosis caused by the accumulation of asbestos fibers in the lungs. Adverse effects of asbestosis range from shortness of breath upon exertion to cyanosis, effusions of serous fluid, respiratory failure, cardiac decompensation, and death. Often, asbestosis is a progressive disease, even in the absence of continued exposure. Symptoms of disease are shortness of breath, cough, fatigue, and vague feelings of sickness. When the fibrosis worsens, shortness of breath occurs even at rest. One clinical feature of early asbestosis as well as other lung diseases is end-inspiratory crackles (rales). Diagnosis of asbestosis is based upon the presence of characteristic radiologic changes, symptoms, rales, other clinical features of fibrosing lung disease and a history of exposure to asbestos. Cigarette-smoking asbestos workers may have an increased risk of asbestosis relative to non-smoking asbestos workers. (Craighead et al., 1982; Ex. 84–033).

Some epidemiologic studies have observed increases in esophageal, stomach, colo-rectal, kidney, laryngeal, pharyngeal, and buccal cavity cancers. While the magnitude of increased cancer risk for these sites is not as great as for lung cancer and mesothelioma, the increased risk is nevertheless of considerable importance because of the high background rates of some of these tumors in the general population. A 50% increase in a common cancer such as colo-rectal cancer results in many more deaths than a 50% increase in a rare cancer. Colo-rectal cancer, if detected and treated in an early localized stage, has a five year survival rate of about 70% (American Cancer Society 1983; Ex. 84–160). Surgical and medical treatment is less successful for the other sites listed above.

Adverse effects from exposure to asbestos have been observed in workers involved in asbestos cement pipes and shingles manufacturing (Enterline et al., 1973a, 1973b; Weill et al., 1979; Finkelstein, 1982, 1983) (Exhibits 84–122, 84–123, 84–206, 84–044, 84–240), asbestos mining and milling (Wagner et al. 1960; Liddell et al., 1977; McDonald et al., 1980; Hobbs et al., 1980; Nicholson et al., 1979; Rubino et al., 1979) (Exhibits 2–21, 84–059, 84–065, 84–132, 84–072, 84–086), asbestos textile manufacturing (Doll, 1955; Peto et al., 1980; Berry et al., 1979;

Dement et al., 1983) (Exhibits 84–040, 84–169, 84–020, 84–037), insulation work (Selikoff et al., 1979) (Exhibit 84–090), shipbuilding (Selikoff et al., 1979; Blot et al., 1980; Tagnon et al., 1980) (Exhibits 84–091, 84–109, 84–182), and in a variety of asbestos products manufacturing industries (Jones et al., 1980; Henderson and Enterline, 1979; McDonald and McDonald, 1978; Seidman et al., 1979; Robinson et al., 1979; Acheson et al., 1981) (Exhibits 84–138, 84–048, 84–154, 84–087, 84–082, 84–103).

It should be noted that 2 fibers per cubic centimeter, which is the current OSHA standard, is equivalent to 2 million fibers per cubic meter of air. Because humans breathe in about a cubic meter of air every hour, depending on physical exertion, the current OSHA PEL for asbestos allows workers to inhale 2 million asbestos fibers per hour during an 8-hour work day. For the sake of brevity, subsequent discussion in this preamble will express exposure in terms of fibers per cubic centimeter (f/cc) rather than fibers per cubic meter.

Note.—The current OSHA standard includes asbestos fibers 5 micrometers or more in length, thereby excluding shorter fibers. Since up to 98% of airborne asbestos fibers are shorter than 5 micrometers, workers may inhale up to 100 million asbestos fibers per hour during an 8-hour work day.

Since OSHA's publication of a notice of proposed rulemaking in 1975, additional studies have confirmed that asbestos exposure causes a high risk of cancer. In addition, much more complete data on the nature of dose-response relationships for asbestos-induced diseases are now available. These studies generally indicate that the PEL set by OSHA in 1972 is inadequate to protect asbestos workers from either lung disease or cancer.

The following agencies and organizations have reviewed the health data for asbestos: International Agency for Research on Cancer (IARC) (1977, Ex. 84–321), Organization for Economic Cooperation and Development (OECD) (1979, Ex. 84–337), NIOSH (1976, 1980, Exhibits 84–336 and 84–320), Advisory Committee of the Health and Safety Commission of the United Kingdom (1979, Ex. 84–216), the Chronic Hazard Advisory Panel on Asbestos (CHAP) (1983, Ex. 84–256), and the U.S. Environmental Protection Agency (1982, Ex. 84–180). All of these groups have concluded that there is a causal relationship between asbestos exposure and the development of cancer and non-malignant respiratory disease. NIOSH recommended reduction of the PEL for asbestos to 0.1 fibers per cubic centimeter (0.1 f/cc) in 1976. In 1980, a joint NIOSH/OSHA Asbestos Work Group stated that there was no level of exposure to asbestos below which clinical effects did not occur and recommended a PEL of 0.1 fibers per cubic centimeter (0.1 f/cc), based on the limitations of current technologies of measuring air concentrations of asbestos. The 1979 report of the Advisory Committee of the Health and Safety Commission of the United Kingdom, hereafter referred to in this section as the U.K. Committee, led to the reduction of the British standard for asbestos to 1 f/cc for chrysotile, 0.5 f/cc for amosite, and 0.2 f/cc for crocidolite. Currently, it appears that the United Kingdom may lower the PEL for chrysotile to 0.5.

2. *Evaluation of Risk.* OSHA's first step in analysis of risk of disease from exposure to a potentially hazardous agent is a qualitative evaluation of scientific data. This evaluation involves reviewing human and experimental studies to consider such factors as overall study design, methods of data collection, biologic plausibility of findings, consistency of findings from different studies, temporal correctness of the association, and other factors as well as general scientific judgment.

Subsequently, after a specific agent has been judged to be hazardous, the quantitative exposure-response relationships between the agent and disease can be investigated. The available data on air concentrations of the substance or biological indices of exposure, such as fiber contents within lungs, can be reviewed for cohorts of workers demonstrated to have an increased risk of disease. If workers with an observed excess risk of disease have received cumulative exposures permitted by the current OSHA permissible exposure limit, then a potential significant health risk from exposure to the PEL has been established. If the workers with observed excess risk received cumulative exposures above those permitted by the current PEL, then risk from the current PEL may be estimated from risk observed at higher levels by using dose-response extrapolation models.

The section, *Epidemiologic Evidence on Risk from Exposure at the Current PEL*, will discuss the extent to which excess risk has been *observed* from low exposures to asbestos. Section V., *Quantitative Risk Analysis*, will discuss the *prediction* of excess risk from low asbestos exposures using dose-extrapolation models based on studies observing excess risk in humans. OSHA considers that both risks *observed* by studies and risks *predicted* by dose-extrapolation models are valid indicators of the existence of significant health risks.

Exposure data frequently are not available for workers exposed before 1970. Where historical exposure data are available, the data often have such limitations as having been collected and analyzed using industrial hygiene techniques no longer in use or having been collected in only some areas of the worksite or having been collected on only a few occasions. Therefore, of necessity, estimates of dose-response based on epidemiologic studies will have a fairly broad range of uncertainty. OSHA must examine the best available data on exposure-response to arrive at a determination of significance of risk, despite inherent and inevitable uncertainties in the data.

The current 8-hour time-weighted average PEL for asbestos of 2 fibers per cubic centimeter (2 f/cc) envisages that workers will not receive a cumulative exposure exceeding 100 f/cc-years (=2 f/cc × 50 years of occupational exposure). For asbestos, OSHA believes that a number of studies suggest that increased risk of lung cancer, asbestosis, and mesothelioma have occurred from cumulative exposures estimated as close to or below 100 f/cc-years.

Note.—OSHA typically uses 45 years as the period of a full working lifetime for purposes of quantifying risk from exposure to toxic agents. For asbestos, many scientists have used 50 years to represent a full working lifetime. Thus, both 45 years of exposure and 50 years of exposure are used in this document for the purpose of analyzing dose-response relationships for asbestos.

In these studies, the cumulative exposures resulted from exposure *levels* greater than the current OSHA PEL of 2 f/cc for an 8-hour day. For example, workers who accumulated 100 f/cc-years could have been exposed to an average level of 5 f/cc for a period of 20 years. Section B.(3), below, discusses the epidemiologic evidence for risk from low exposures in more detail. OSHA believes that a significant health risk has been observed for cumulative exposures that could be accumulated by workers exposed to no more than the present PEL of 2 fibers per cubic centimeter (2 f/cc).

Estimates of cumulative exposure are approximations of total dose received by a worker during the period of employment involving exposure to asbestos. Cumulative exposures generally are estimated by multiplying the varying intensities of exposure, such as the 8-hour time-weighted averages, by the number of year's exposed. Most theories of the mechanism of

carcinogenesis assume that the risk of transformation of target cells to cancer cells increases with increases in the total dose. Exposures received after such a transformation has taken place may aid the development of cancer, but have not caused the cancer. Thus, in some instances, using total cumulative exposure may overstate the exposures sufficient to produce increased cancer risk. For this reason, some epidemiologists omit the later years of exposure to a carcinogen in analyses of mortality in relation to cumulative exposure.

In addition to cumulative exposure, *intensity* of exposure can be examined in relation to disease. Intensity of exposure is often approximated by 8-hour time-weighted averages (TWA's). The OSHA PEL of 2 fibers per cubic centimeter (2 f/cc) as an 8-hour TWA has only been in effect since 1976. At this time, it does not appear possible to determine whether intensity of exposure has an effect on disease risk separate from that of cumulative exposure. This is because the current OSHA PEL has been in effect only since 1976, which is an insufficient period to observe asbestos-related diseases, which characteristically have long latency periods (in excess of 25 years). As discussed in the section, *Quantitiative Risk Analysis*, it appears that duration of exposure may have an independent effect on mesothelioma risk.

The following sections analyze recent epidemiologic and experimental studies and discuss important aspects of the occupational health data concerning asbestos.

B. Epidemiologic Evidence on Risk from Exposure at the Current PEL

1. *Conversion of Particle Counts to Fiber Counts.* Currently, personal asbestos samples of exposed workers are collected with a membrane filter, and fibers are counted using a phase contrast microscope equipped with an eyepiece graticule. In the past, particles were counted rather than fibers, area samples were taken rather than personal samples, and samples were collected using thermal precipitators or midget impingers. These past industrial hygiene measurements were expressed in millions of particles per cubic foot (abbreviated as mppcf or mpcf), whereas current measurements are expressed as fibers per cubic centimeter or per milliliter (f/cc or f/ml). Conversion of measurements from mpcf to f/cc is not a simple matter of applying a single multiplicative factor due to the differing work environments in which samples were taken and differing sampling methodologies. The factor for converting mpcf to f/cc has been suggested as ranging from 1:1 to 1:5 depending on the industry studied by the scientists (Kang and Chu, Ex. 84–1; Hammad et al., Ex. 84–277; McDonald, Liddell, Gibbs, Eyssen, and McDonald, Ex. 84–065). For example, using conversion factors of 1:1 to 1:5 a cumulative exposure of 20 mpcf-years could range from 20 f/cc-years to 100 f/cc-years.

The British Occupational Hygiene Society Committee on Asbestos conducted a study of dust concentrations measured by current methods and historical methods (Ex. 84–024). Conversion factors for historical methods to current methods were 1: 0.07, 1: 2.2, and 1:2, depending on the historical method.

For asbestos mining and milling, this section will use the midpoint of the range of conversion factors: 1 mpcf = 3 f/cc. For asbestos production and asbestos cement production this section will use Hammad et al.'s suggested conversion factor of 1:1.4 for mpcf to f/cc.

2. *Epidemiologic Studies.* The epidemiologic studies that OSHA interprets as suggesting that significant health risk has been observed at low asbestos exposures fall into 3 categories: (1) Studies of household contacts of asbestos workers, (2) studies of workers whose exposures were short-term, and (3) studies of workers with cumulative exposures estimated to be close to or below 100 f/cc-years. This section summarizes these studies and presents OSHA's analysis of these studies.

A number of studies have observed mesotheliomas and an increased prevalence of chest X-ray abnormalities among families of asbestos workers (Anderson et al., Exhibits 84–016 and 84–017; Vianna and Polan, Ex. 84–186, Li et al., Ex. 84–149). In addition, mesotheliomas have been observed in community members living near asbestos mines and factories (Wagner et al., Ex. 2–21; Newhouse and Thompson, Ex. 84–070).

Anderson et al. (Ex. 84–016) observed a 35.9 percent prevalence of chest X-ray abnormalities, including pleural thickening, plaques, pleural calcification, and irregular opacities, among 626 household contacts of amosite factory workers compared to a 4.6 percent prevalence of chest X-ray abnormalities among 326 controls drawn from the same community as the amosite workers. Controls were matched to the cases by age and sex. As of 1976, 4 cases of mesothelioma had been diagnosed among the 626 family contacts of the amosite workers. Presumably, family contacts received their exposure to asbestos from dust carried home on the worker's clothing, especially during the laundering of dusty clothes. About a 10-fold increase in prevalence of pleural thickening compared to controls was observed in family contacts of workers with only one year of exposure within the amosite factory.

Estimated asbestos exposure levels of family contacts and community members observed to be at risk of asbestos related disease have not been reported. OSHA considers it very likely that the cumulative exposures of the family contacts and community members were less than 100 f/cc-years.

Seidman, Selikoff, and Hammond (Ex. 84–087) studied the mortality of 820 amosite production workers employed sometime during 1941–45. Seidman et al. reported that dust concentrations had never been measured in this plant and that the plant was known to have deficient ventilation systems. Workers were classified as having worked less than 1 month, 2 months, 3–5 months, 6–11 months, 1 year, or 2 or more years. Workers in all categories of length of employment had excessive mortality from lung cancer. For example, men employed less than one month had a lung cancer standardized mortality ratio (SMR) of 287, based on supplemental autopsy, clinical, and surgical information. [The standardized mortality ratio is calculated as the observed number of deaths in the exposed population divided by the number of deaths that would be expected in the exposed population, based on mortality rates of an appropriate comparison population. The SMR is frequently used as an approximation to the relative risk.] Hence, OSHA considers that Seidman et al. demonstrated that excess lung cancer risk could be experienced even by workers with exposures of relatively short duration.

Berry, Gilson, Holmes, Lewinsohn, and Roach (Ex. 84–020) studied the workers of an asbestos textile factory in the United Kingdom. Berry et al. reported in 1979 that the average exposure level was 5 f/cc and that 6.6 percent of men employed after 1950 had "possible asbestosis." Among men employed after 1950, Berry et al. observed 1 percent prevalences of crepitations, "possible asbestosis," or "certified asbestosis" at 37, 46, and 63 f/cc-years respectively.

Berry et al. concluded: "In view of these findings there is no room for complacency about the 2 f/cm³ standard

and efforts should be continued to reduce asbestos dust to as low a level as possible. At this stage it is impossible to state definitely that the standard is inadequate, because its introduction is so recent, and it is essential to follow up groups exposed to low levels in order to improve the data necessary for the formulation of better standards" (Ex. 84–020, p. 109).

Finkelstein (Ex. 84–044) studied the development of compensable (certified) asbestosis among 157 Ontario asbestos cement production workers in relation to cumulative exposures (f/cc-years). All workers in the study cohort had at least 15 years of exposure. Ontario criteria for certifying asbestosis, which results in the award of disability pensions, are not inflexible and involve consideration of such factors as history of occupational exposures, dyspnea, crepitations, clubbing of fingers, radiographic signs of pulmonary fibrosis, and abnormal lung function. Certification of asbestosis hence would occur at an advanced stage of disease. Each production worker was classified as having received 0–49, 50–99, 100–149, 150–199, or 200–249 f/cc-years of cumulative exposure within the 18 years following initial exposure.

Finkelstein calculated incidence rates consisting of number of new cases of certified asbestosis per 100 person-years at risk. [Incidence is the rate at which new cases of asbestosis develop in a given period of time. It is a direct measure of the risk of developing the disease.] Incidence rates were 0.5, 3.4, and 6.5 for workers who received 0–49, 50–99, and 100–149 f/cc-years respectively. Finkelstein also calculated the cumulative probability of having developed certified asbestosis by the end of 32 years of latency, and observed that men in the 0–49, 50–99, and 100–149 f/cc-years categories had about 10 percent, 55 percent, and 70 percent probabilities respectively. Due to small numbers of men in each category, these estimated probabilities had much statistical uncertainty.

Finkelstein stated that the uncertainties in exposure assignments and the selection bias arising from exclusion from the study of workers with less than 15 years of employment may have led to overestimation of risk at low exposures, which was "to some extent balanced by the fact that the end point we studied was certified disability, an advanced stage of asbestosis" (Ex. 84–044, p. 501). OSHA considers that Finkelstein's findings of excess risk from low cumulative exposures are very important because the outcome, certified asbestosis, was based upon substantial medical evidence of severe disability from the disease.

Dement and colleagues conducted a detailed study of plant processes and dust control methods at a chrysotile textile plant during 1930–1975 (Ex. 84–036, 84–037). Exposure histories were constructed for each worker and estimates of individual cumulative exposures in terms of f/cc-days were made. After 1940, exposure levels usually were in the range of 5–10 f/cc. Workers were categorized as receiving exposures of less than 1000; 1000–10,000; 10,000–40,000; 40,000–100,000; and greater than 100,000 f/cc-days. Because Dement et al. included holidays and weekends in their estimates of f/cc-days, their estimates of cumulative exposure are likely to be overstated. OSHA calculated that Dement et al.'s categories of f/cc-days are roughly equivalent to less than 2.7; 2.7–27.4; 27.4–109.6; 109.6–274; and greater than 274 f/cc-years of occupational exposure.

Note.—Because Dement et al. counted holidays and weekends for their calculations of f/cc-days, OSHA divided f/cc-days by 365 to arrive at estimates of f/cc-years.

Dement et al.'s first 3 exposure categories fall within the range of cumulative exposures permitted by the current OSHA asbestos standard.

Among white males with 15 or more years of latency, lung cancer SMR's were 140, 279, and 352 in the categories of less than 1000, 1000–10,000, and 10,000–40,000 f/cc-days respectively. The latter 2 categories' excesses of lung cancer were statistically significant. For other non-malignant respiratory disease (excluding both infectious respiratory diseases and bronchitis), the following SMR's were observed for white males with 15 or more years of latency: 362 for men with less than 1000 f/cc-days, 84 for men with 1000–10,000 f/cc-days, and 879 for men with 10,000–40,000 f/cc-days. The excesses were statistically significant for both the first and third category of cumulative exposure.

Dement et al. concluded: "Based on data from this study, significantly elevated mortality risks are predicted for lung cancer and for asbestosis at cumulative exposures of 100 fibers/cc×years in the textile industry" (Ex. 84–037, p. 432).

OSHA considers that Dement et al.'s observations of excess risk from low cumulative exposures are well-supported because of the careful estimation of exposure histories for the cohort.

Henderson and Enterline (Ex. 84–048) studied the mortality of 1075 asbestos production workers who retired during 1941–1967. Mortality was observed during the period 1941–1973. Cumulative exposures, expressed in millions of particles per cubic foot of air times years exposed (mpcf-years), were estimated for each man included in the study cohort. Mean exposures for 6 cumulative exposure categories were 62, 182, 352, 606, and 976 mpcf-years.

Hammad et al. (Ex 84–277) suggested a mpcf to f/cc conversion factor of 1:1.4 for a cement plant. Because cement and other mineral particles have been extensively used in asbestos products manufacturing, using a conversion factor of 1:1.4 does not appear to be unreasonable for Henderson and Enterline's study cohort. Using a factor of 1:1.4, 62 mpcf-years is roughly equal to 87 f/cc-years.

A respiratory cancer SMR of 197.9 was observed in the cumulative exposure category with a mean exposure of 62 mpcf-years. Thus, OSHA views this study as having observed excess risk of dying from respiratory cancer among men receiving cumulative exposures permitted by the current OSHA PEL. Using a conversion factor of 1:3 would result in an estimate of cumulative exposure for the low exposure category that is about 90% higher than that envisaged by the current OSHA PEL.

Dement et al. commented on the marked differences between the studies of Dement et al. and Henderson and Enterline with regard to risk observed from low cumulative exposures (Ex. 84–037). Dement et al. suggested that these differences may be attributable to the fact that Henderson and Enterline studied retirees 65 years or older, with these retirees constituting a select group of survivors. Only 8 of the 35 lung cancer deaths observed by Dement et al. occurred in persons 65 or older.

McDonald, Liddell, Gibbs, Eyssen, and McDonald (Ex. 84–065) studied the mortality of 11,379 workers exposed to chrysotile mining and milling born during 1891–1920. Mortality was observed during the period 1910–1975. Each worker was classified as having accumulated less than 30, 30–299, or 300 or more mpcf-years by age 45. Using a conversion factor of 1:3 for mpcf to f/cc these groupings would correspond to less than 90, 90–899, and 900 or more f/cc-years. Lung cancer SMR's were 93, 118 and 225 for the 3 categories starting with less than 30 mpcf-years respectively. SMR's for pneumoconiosis were 298, 1081, and 5400 for cumulative exposure categories of less than 30, 30–299, and 300 or more mpcf-years. Hence, McDonald et al. did not observe much lung cancer risk but did observe an

increase in pneumoconiosis risk in the low exposure category.

A case-control analysis used similar exposure categories; however, the analysis was intrinsically incapable of observing an excess risk in the less than 30 mpcf-year category because the controls had also been chrysotile miners and millers.

Regarding the different findings on lung cancer risk from low exposures between the studies by McDonald et al. and Dement et al., Dement et al. suggested imprecision of exposure estimates and differences in airborne fiber characteristics as possible reasons for the differences. Dement and Harris previously had found that textile processing produced a higher proportion of long thin fibers falling within the ranges delineated as carcinogenic by the animal studies of Stanton and colleagues (See Section E(3) below, *Experimental Data).*

Finkelstein (Ex. 84–240) also studied mortality from lung cancer, mesothelioma, and other diseases among workers at an Ontario asbestos cement factory established in 1948. The study cohort consisted of 339 men hired before 1960 who had been employed at the factory for 9 years or more. Each cohort member was classified as having accumulated 8–69, 70–121, or 122–420 f/cc-years of asbestos exposure within the 18 years following initial exposure. These exposure categories, hereafter referred to as Groups A, B, and C, had the following mean cumulative exposures respectively: 44, 92, and 180 f/cc-years. Groups A and B are low exposure groups.

Mortality by cumulative exposure was analyzed starting 20 years after initial exposure, so that the calendar period during which deaths were observed spanned 1968–1980. Cohort mortality was compared to that of Ontario men during 1970–1974. Age-standardized mortality rates per 1000 man-years for specific causes of death were computed for Groups A, B, and C and for Ontario men. Thus, this study did not have the biases from confounding effects of age that can occur when SMR's are being compared among different groups of workers (See Ex. 84–335). One potential problem is that lung cancer mortality may have risen in Ontario during 1975–1980; this would result in some underestimation of comparison values and hence some overestimation of lung cancer risk. However, this overestimation of risk likely would be slight.

Mesothelioma mortality rates per 1000 man-years for Groups A, B, and C were 1.9, 4.9, and 11.9 respectively. Lung cancer mortality rates per 1000 man-years were 13.6, 26.1, 11.9, and 1.6 for Groups A, B, and C and for Ontario men respectively. Approximate relative risks for Groups A, B, and C, as compared to Ontario men, are 8.5, 16.3, and 7.4 for lung cancer mortality. Gastrointestinal cancer mortality was also elevated in Groups B and C relative to Ontario men.

The lung cancer mortality rates did not consistently increase with increasing estimates of cumulative exposure in that Group C had the lowest lung cancer excess. Finkelstein suggested several potential explanations, including inaccuracy of exposure classifications, statistical fluctuations resulting from the small size of the cohorts and confounding effects of smoking if there were differences in smoking habits among Groups A, B, and C. Because a consistent dose-response was observed both for mesothelioma mortality and asbestosis in the study group, Finkelstein suggested that the exposure classifications may have been correct.

Finkelstein concluded that lung cancer mortality rates "may be raised several-fold" (Ex. 84–240, p. 143) at cumulative exposures of 100 f/cc-years. With regard to gastrointestinal cancer, Finkelstein judged that no firm conclusions could be drawn due to the small number of deaths, although there was a trend of increasing risk with increasing cumulative exposure. Mesothelioma death rates were considered by Finkelstein to be related to cumulative exposure.

OSHA believes that Finkelstein's study presents evidence of excess lung cancer and mesothelioma risk from relatively low cumulative exposures, namely 44 and 92 f/cc-years. Lung cancer risk may have been somewhat understated by Finkelstein's exclusion of lung cancer deaths which occurred before 20 years of follow-up.

Rubino, Piolatto, Newhouse, Scansetti, Aresini, and Murray (Ex. 84–086) studied the mortality of 952 male Italian chrysotile miners and millers during 1946–1975. Mortality from respiratory disease and other causes of death, but not from lung cancer, was excessive in this cohort. Criteria for inclusion in the study cohort were survival until January 1, 1946, and at least one month of employment during 1930–1965. Comparison of mortality was made to age, calendar period, and cause-specific mortality rates of Italian males. In addition, mortality rates were compared among the cohort members using a case-control analysis and a historical prospective analysis. The cumulative fiber exposure was estimated for each worker in terms of f/cc-years. The investigators simulated past working conditions and measured dust concentrations during these simulations in order to make more accurate estimates of exposure during periods (pre-1969) in which exposures were not measured. Mean concentrations of asbestos were estimated to range up to 50 f/cc before 1950.

Compared to Italian males, the overall cohort had statistically significant excesses of mortality from laryngeal cancer, non-malignant respiratory diseases, tuberculosis, cardiovascular diseases, cirrhosis of the liver, and accidents. Lung cancer mortality was elevated only slightly (SMR=106); however, there was some trend of increasing lung cancer risk with increasing length of follow-up. For example, the SMR for lung cancer was 206 during 1971–1975.

Because all analyses of mortality in relation to cumulative exposure consisted of comparisons among the cohort members, rather than between the various exposure subgroups and Italian males, these analyses were incapable of detecting excess risk in the lowest cumulative exposure category. These analyses were capable only of detecting trends toward increased risk with increased exposure. Although the excess lung cancer risk (odds ratio=2.89) in the high exposure group was not statistically significant. Rubino et al. considered it "likely that the increasing mortality truly reflects the effects of higher exposure" (Ex. 84–086, p. 193). [The odds ratio is an estimate of the relative risk defined as the ratio of the odds of dying from cancer in the exposed population to the odds of dying from cancer in an unexposed population.]

Rubino et al.'s study is unusual in not finding a higher lung cancer risk among workers exposed to relatively high levels of asbestos. OSHA believes that the trends of increasing lung cancer risk with both increasing length of follow-up and increasing exposure are consistent with an asbestos etiology, however. OSHA also believes that the high risks of mortality from other causes such as non-malignant respiratory disease might have obscured lung cancer risk, especially since these high risks appeared within the first 19 years following exposure and asbestos-related lung cancer generally has a longer latency period. Also, OSHA calculated that this study only had 33.5% power to detect a 50% increase in lung cancer risk among workers with 20 or more years of follow-up.

Note.—Statistical power quantifies the ability of a study to detect a true increased risk of a specified magnitude and refers to the

probability of not missing a true risk. Generally, it is considered desirable for studies to have at least 80% power. Because lung cancer is a relatively common cancer, epidemiologic studies should have at least 80% power to detect a 50% increase in risk of lung cancer. See Ex. 84-338 for a description of OSHA's method of calculating power.

Weill, Hughes, and Waggenspack (Ex. 84-206) investigated exposure-response relationships between respiratory cancer risk and exposure in an asbestos cement plant. Weill et al. did not observe excess risk among men with low cumulative exposures. A total of 5,645 men with at least 20 years of latency since first exposure in either of 2 asbestos cement plants were studied. All men had at least one month of employment before 1970 and their vital status was determined as of December 31, 1974.

Each worker's cumulative dust exposure during the 20 years from initial exposure was estimated in terms of mpcf-years. Men were classified in one of 5 different cumulative exposure categories: 10 or fewer, 11–50, 51–100, 101–200, and 201 or more mpcf-years. Using the conversion factor of 1:1.4 suggested by Hammad et al., the 5 cumulative exposure categories would be equivalent to 14 or fewer, 15–70, 71–140, 141–280, and 281 or more f/cc-years. Respiratory cancer SMR's were as follows, starting with the lowest category: 77, 70, 26, 290, and 226. None of the other causes of death were in excess for workers in the 3 lowest categories.

Concerning their failure to detect excess respiratory cancer mortality in their lowest categories of exposure, Weill et al. stated: "Such findings are not necessarily incompatible with a linear response curve at low doses because of the relative insensitivity of currently used epidemiologic methods in detecting slight increases in risk when compared to background. They do indicate, however, that any excess risks at low degrees of exposure are small" (Ex. 84-206, p. 353).

Weill et al. noted that the relatively high proportion (25%) of the cohort who were lost to follow-up and assumed alive through 1974 may have led to underestimation of respiratory cancer risk. The upper limits of the 95% confidence intervals of the respiratory cancer SMR's for the 3 lowest exposure categories ranged from about 115 to 150, indicating, in OSHA's opinion, that excess risk could not be ruled out for these categories.

Berry and Newhouse (Ex. 84-021) studied mortality during 1941–1976 of a cohort of friction material production workers whose exposures were relatively low. Levels of exposure ranged from less than 1 f/cc to 5 f/cc after 1931, and cumulative exposures for the cohort averaged less than 50 f/cc-years. Although excessive mortality from mesothelioma was observed, there appeared to be little excess mortality from lung cancer. Most of the mesothelioma cases had been exposed to asbestos levels exceeding 5 f/cc. The cumulative exposures to asbestos of the mesothelioma cases were not reported by the authors.

Unexpectedly, this study observed excessive mesothelioma mortality but only a non-significant excess of lung cancer mortality. A sizable portion of the study cohort had a short follow-up period between their initial exposure and the study cut-off date. For example, 33% of the men had follow-up periods of less than 20 years. Lung cancer risk may be expected to increase in this cohort as the members are followed for a longer period.

3. *Summary.* A number of epidemiologic studies have examined exposure-response relationships for asbestos and asbestos-related diseases. OSHA recognizes that there are many inevitable uncertainties associated with epidemiologic studies of exposure-response. Rarely, if ever, are personal samples of asbestos concentrations for exposed workers during the entire period of exposure available. Investigators typically have developed individual indices of exposures from reconstructed occupational histories, recent industrial hygiene data, and assumptions about past working conditions for which exposures were not measured. Another question concerns the factors for conversion from historical methods of measuring dust concentrations to current methods of measuring fiber concentrations. The ratio of millions of particles per cubic foot (mpcf) to fibers per cubic centimeter (f/cc) has been suggested as ranging from 1:1 to 1:5. Conversion factors of 1:3 for mpcf: f/cc in asbestos mining and milling and 1:1.4 in asbestos production and asbestos cement operations appear reasonable to OSHA.

OSHA also recognizes the statistical variation associated with estimation of Standardized Mortality Ratios (SMR's). Such statistical variation, as well as differences in study design, statistical power, and length of follow-up, may account for some of the divergent findings among studies.

Because the present OSHA PEL of 2 f/cc was effective in 1976, there are few, if any, occupational cohorts exposed solely to 2 f/cc or less who have follow-up intervals sufficient for the appearance of diseases related to asbestos exposure. At present, OSHA is not aware of any evidence suggesting that *intensity* of exposure will affect excess risk in a manner different from *cumulative exposure*, which encompasses both duration of exposure and intensity of exposure. Most epidemiologic studies have observed increasing risk with increasing cumulative exposure. *Duration* of exposure may have an independent effect on mesothelioma risk (see Section V., Quantitative Risk Analysis).

A worker exposed to the OSHA PEL of 2 f/cc for 50 years would have a cumulative exposure of 100 f/cc-years. Hence, studies of workers estimated to have received close to or less than 100 f/cc-years provide evidence concerning risk from exposure to the OSHA standard, even though the past intensities of exposure may have exceeded 2 f/cc.

OSHA considers that the following studies have observed increased risk close to or below 100 f/cc-years. Berry et al. (Ex. 84-020) observed a 1% prevalence of crepitations, possible asbestosis, and certified asbestosis at 37, 46, and 63 f/cc-years respectively among asbestos textile workers. Finkelstein (Ex. 84-044) observed a 10% probability of having certified asbestosis among asbestos cement production workers with cumulative exposures of less than 50 f/cc-years who had been observed 32 years since their initial exposures. Finkelstein (Ex. 84-240) also observed excessive lung cancer mortality among workers with average cumulative exposures of 44 and 92 f/cc-years.

Among asbestos textile workers, Dement et al. (Ex. 84-036) observed excessive mortality from lung cancer and non-malignant respiratory diseases at cumulative exposures of less than 1000 f/cc-days and 1000–10,000 f/cc-days (equivalent to less than 2.7 and 2.7–27.4 f/cc-years). Henderson and Enterline (Ex. 84-048) observed about a 2-fold increase in lung cancer mortality among retired asbestos production workers receiving an average cumulative exposure of 62 mpcf-years (equivalent to 87 f/cc-years using a conversion factor of 1:1.4).

At relatively low cumulative exposures, the following studies did not observe excess lung cancer risk or observed only a small increase in lung cancer risk. Berry and Newhouse (Ex. 84-021) observed little excess lung cancer mortality among friction material production workers whose cumulative exposures averaged less than 50 f/cc-years. Mesothelioma cases were observed by Berry and Newhouse;

however, their cumulative exposures were not reported. Weill et al. (Ex. 84–206) did not find increased mortality from any cause of death below 101 mpcf-years (equivalent to 141 f/cc-years using a conversion factor of 1:1.4) in a cohort of asbestos cement workers. Rubino et al. (Ex. 84–066) observed only a slight excess of lung cancer mortality (and a large excess of mortality from other causes, such as non-malignant respiratory disease) despite high exposure levels. Data were not analyzed by Rubino et al. in such a way as to permit estimation of risk from low cumulative exposures.

McDonald et al. (Ex. 84–065) observed little or no excess lung cancer mortality among asbestos miners and millers receiving low cumulative exposures. Excess mortality from pneumoconiosis was observed in the low exposure group, however. Workers receiving less than 30 mpcf-years by age 45 had an SMR of 298 for pneumoconiosis (30 mpcf-years equals 90 f/cc-years using a conversion factor of 1:3).

As is commonly observed among epidemiologic studies of etiologic agents for disease, there are some inconsistencies in the findings of different studies of workers accumulating relatively low exposures. Statistical variation, differences in the size distribution of airborne fibers, imprecision of exposure estimates, and competition among different causes of death might explain some of the inconsistencies. Nonetheless, OSHA considers that many well-conducted studies observed substantially increased risk of death from lung cancer and non-malignant respiratory disease among workers receiving cumulative exposures permitted by the current OSHA standard. OSHA concludes that these study results provide evidence of grave danger from low cumulative exposures to asbestos.

C. Carcinogenicity of Asbestos for Sites Other Than the Lung and Mesothelium

1. *Introduction.* A number of studies of asbestos workers have observed excesses of cancer at sites other than the lung and mesothelium. These sites include colon and rectum, esophagus, stomach, larynx, pharynx, buccal cavity, kidneys, and ovaries. Based on these studies, OSHA has concluded that gastrointestinal malignancies appear to have been produced by asbestos inhaled in the workplace.

A variety of community-based epidemiology studies have investigated the effects of ingestion of asbestos in drinking water. One study suggested that asbestos in drinking water increased cancer incidence in San Francisco and Oakland (Kanarek et al.), while other studies did not observe a relationship between asbestos in drinking water and cancer incidence (Harrington et al., Meigs et al., Levy et al.) (Kang. Ex. 84–139). OSHA is aware that ecological studies generally have certain limitations for determining the effects of long-term environmental exposure to specific substances, including confounding variables such as migration into and from communities and multiple exposures to other carcinogens and toxic chemicals. For example, increased cancer mortality in a particular community may result from occupational exposures rather than from carcinogens in the drinking water or ambient air. Because studies of occupational cohorts do not have as many limitations as ecological studies, occupational studies have the potential to be more determinative concerning carcinogenic risk to humans, depending on size of the cohort, length of observation of the cohort, and other pertinent factors. Therefore, because well-conducted epidemiologic studies of asbestos workers are available and because inhalation rather than ingestion is the primary route of workplace exposure, OSHA has based its conclusions on the potential carcinogenicity of asbestos for sites other than the lung and mesothelium on epidemiologic studies of asbestos workers.

2. *Epidemiology Studies.* Elmes and Simpson studied the mortality of Belfast insulators employed during 1940, mostly in shipyards (1971, 1977) (Exhibits 84–041 and 84–042). Vital status was observed during the period 1940–1975. Excess mortality was observed from asbestosis, lung cancer, mesothelioma, and gastrointestinal cancers (stomach, jejunum, pancreas, colon and rectum).

Elmes and Simpson stated that "both in respiratory and in gastrointestinal cancers there is the difficulty of differentiating between mesothelial and epithelial tumours" (Ex. 84–042, p. 176). Of the total 122 deaths in this cohort, either autopsy information or clinical information with biopsies and/or radiographs supplemented the death certificates for all but 22 deaths. By 1966, 13 deaths had been coded as gastrointestinal cancers on death certificates, 12 of which continued to be classified as gastrointestinal cancers after supplemental information had been obtained. Using the expected value of 5.16 deaths for all non-respiratory cancers that were reported by Elmes and Simpson, OSHA calculated that the gastrointestinal cancer excess was statistically significant at the 0.05 level (one-tailed Poisson test).

Elmes and Simpson concluded in their 1971 paper: "Cancer of the lung and mesotheliomas do not account for all the excess of deaths; a significant excess of other cancers remain . . . and most of these appear to be in the gastrointestinal tract" (Ex. 84–041, p. 235). In their 1977 paper, Elmes and Simpson reported a decline in both asbestosis and gastrointestinal cancer as major causes of mortality among the survivors followed from 1967–1975.

Selikoff, Hammond, and Seidman studied a cohort of 17,800 U.S. and Canadian insulation workers (Ex. 84–090). Comparison of insulators' mortality during 1967–1976 was made to age and calendar period-specific mortality rates of U.S. white males. The large size of this cohort resulted in very high statistical power to detect increased mortality from specific causes. Therefore, OSHA considers that this study carries much weight with regard to the question of asbestos-induced malignancies. The investigators sought supplemental clinical, surgical, and autopsy information in order to determine the extent of misclassification of cancers.

Based on death certificate information alone, significant excess mortality was observed from lung cancer (SMR=406), mesothelioma (104 deaths), esophageal cancer (SMR=253), stomach cancer (SMR=126), colon-rectal cancer (SMR=152), laryngeal cancer (SMR=191), pharyngeal and buccal cavity cancer (SMR=159), kidney cancer (SMR=223), all other cancers (SMR=191), and non-infectious respiratory diseases (SMR=319), including 78 deaths from asbestosis. With the exception of deaths listed as "all other cancers", reclassification of deaths based on supplemental clinical, autopsy, and surgical data resulted in slightly higher SMR's for the causes of death listed above.

OSHA believes that Selikoff et al.'s reclassification of causes of death is justifiable because misdiagnosis of mesothelioma and asbestosis can occur due to these conditions' resemblance to more common diseases. Furthermore, it is possible that metastases from primary lung cancers could be misdiagnosed as primary cancers of other sites, and vice-versa. One disadvantage of reclassification of deaths, however, is that the extent of misclassification in the comparison population of U.S. white males remains unknown. Nonetheless, OSHA believes that, for this particular cohort, the advantage of reclassification in terms of improving the certainty about the causes of death outweighs the disadvantage.

In the category listed as "all other cancers," 252 deaths were observed compared to 131.0 deaths expected. The excess in this category was mostly due to increased mortality from pancreatic cancer (SMR=281), liver and biliary tract cancer (SMR=265), prostate cancer (SMR=137), and brain cancer (SMR=163). When reclassified according to supplemental information, the pancreatic cancer excess declined greatly and the liver and biliary tract cancer excess disappeared.

Selikoff, Hammond, and Seidman concluded: "Asbestos insulation workers in the United States and Canada suffer an extraordinary increased risk of death of cancer and asbestosis associated with their employment. This includes increases in death from lung cancer, pleural mesothelioma, peritoneal mesothelioma, cancer of the esophagus, colon and rectum, cancer of the larynx, oro-pharynx, Kidney, and perhaps stomach. Some increases were seen in cancer of several other sites, as well, but data are inadequate at this time to permit characterization of their significance, although attention is called to such wider increase" (Ex. 84–090, 114).

Dement and colleques (Ex. 84–037) observed a statistically non-significant increase in digestive cancer mortality (SMR=131). When Dement et al. confined their analysis to white males with latency intervals of 15 or more years and examined exposure-response relationships for digestive system cancer, SMR's increased with increasing cumulative exposure, ranging up to 390. Because of the small numbers of deaths, none of the excesses of digestive cancer in any of the exposure categories were statistically significant.

McDonald and colleagues (Ex. 84–065) observed some increases (not statistically significant) in mortality from esophageal and stomach cancer and from colo-rectal cancer among chrysotile miners and millers in Quebec. Gastrointestinal cancer SMR's increased with heavier cumulative exposures.

Seidman, Selikoff, and Hammond (Ex. 84–087) studied a cohort of 820 amosite insulation production workers employed at a New Jersey plant during 1941–1945. A statistically non-significant excess of gastrointestinal cancer (esophagus, stomach, and colon-rectum) was observed (SMR=121). Henderson and Enterline (Ex. 84–048) studied the mortality during 1941–1973 of 1348 retired asbestos factory workers. Fifty-five deaths from digestive system cancer were observed compared to 39.9 deaths expected (SMR=137.8) (OSHA calculated that this excess was statistically significant at the 0.05 level, using a one-tailed Poisson test). Nicholson, Selikoff, Seidman, and Hammond (Ex. 84–251) also studied a cohort of U.S. asbestos factory workers and observed a statistically non-significant 1.5-fold excess of gastrointestinal cancer. Newhouse and Berry (Ex. 84–330) observed a gastrointestinal cancer SMR of 136 in a cohort of London asbestos factory workers (60 deaths observed versus 44.2 expected) (OSHA calculated that this excess was statistically significant at the 0.05 level using a one-tailed Poisson test). Puntoni et al. (Ex. 84–246) studied the mortality of shipyard workers exposed to asbestos in Genoa, Italy. These workers were also exposed to other toxic substances, including silica, benzene, carbon tetrachloride, and polycyclic aromatic hydrocarbons. Compared to the age-specific mortality rates of male Genoans, the shipyard workers had statistically significant increases in mortality from colon cancer (relative risk=1.81). All of the studies listed in this paragraph also observed excessive mortality from lung cancer.

In addition, other investigators have observed excesses of digestive sytem cancer. Robinson et al. (Ex. 84–082) observed an SMR for digestive system cancer of 121 (not a statistically significant excess) among asbestos production workers. Kleinfeld et al. (Ex. 84–140, 84–141) observed an SMR of 400 (statistically significant) for digestive system cancer among tremolite and anthophyllite exposed workers mining talc. Mancuso and Coulter (Ex. 84–224) also observed a significantly elevated digestive system cancer SMR among insulation workers. Finkelstein observed a statistically non-significant 2-fold increase in mortality from digestive system cancer among asbestos cement workers (Ex. 84–240).

A number of studies have not observed excessive gastrointestinal cancer mortality among workers exposed to asbestos. Nicholson, Selikoff, Seidman, Lilis, and Formby (Ex. 84–072), who studied the mortality of 544 chrysotile miners and millers from Quebec, observed a gastrointestinal cancer SMR of only 105. Weill, Hughes, and Waggenspack (Ex. 84–206), who studied a cohort of 5,645 asbestos cement production workers, also did not observe an excess of deaths from gastrointestinal cancer. Other investigators who did not observe an increase in gastrointestinal cancer mortality include Berry and Newhouse (friction materials production workers), Rubino et al. (chrysotile miners), Meurman et al. (anthophyllite miners), Brown et al. (talc workers exposed to asbestos). Weiss (chrysotile factory workers), McDonald and McDonald (asbestos gas mask workers), Peto et al. (asbestos textile workers), Thomas et al. (asbestos cement workers), Rossiter and Coles (shipyard workers), and Jones et al. (asbestos gas mask workers) (Ex. 84–256).

When non-gastrointestinal cancers at sites other than the lung and mesothelium are considered, at least 4 studies observed excesses at these other sites: Selikoff et al., Shettigara and Morgan, Puntoni et al., and Stell and McGill. Other studies have not observed excesses of cancers at other sites.

One issue which the Agency had to address was how to weigh the positive epidemiologic data versus the non-positive epidemiologic data. One consideration is statistical power, the ability to detect a true risk if such a risk exists. The Chronic Hazard Advisory Panel on Asbestos (CHAP) convened by the U.S. Consumer Product Safety Commission did not find a consistent relationship between having a higher degree of statistical power and finding excessive mortality from these other cancers (Ex. 84–256). It should be noted that the study that had the highest statistical power by virtue of studying 17,800 workers, namely that of Selikoff et al., observed excesses of gastrointestinal, laryngeal, kidney, and pharyngeal and buccal cavity cancer.

Another consideration is the relationship between the magnitude of excess lung cancer risk and excess gastrointestinal cancer risk. CHAP observed that studies with high lung cancer excesses were also likely to have found gastrointestinal cancer excesses. Because high lung cancer risks would be expected to have resulted from relatively high exposures, this observation suggests that gastrointestinal cancer excesses are found where exposures are greater, which increases the plausibility of there being a true association between asbestos and gastrointestinal cancer.

In summary, at least 12 different occupational cohorts exposed to asbestos have been observed to have excesses of mortality from gastrointestinal cancer, 7 of which were statistically significant. OSHA considers that these findings constitute substantial evidence for an association between asbestos exposure and gastrointestinal cancer risk. The evidence for a relationship between asbestos exposure and cancer at other sites is noteworthy yet not as substantial as that regarding gastrointestinal cancer.

Goldsmith (Ex. 84–235) reviewed the evidence for a causal relationship between asbestos exposure and non-

pulmonary cancer in 8 studies of 11 occupational cohorts followed for at least 20 years since initial exposure. He concluded that the data "cast doubt on whether there is site-specificity of asbestos-related cancer" and that "a systemic carcinogenic role is more likely [for asbestos]" (Ex. 84–235, pp. 346–347).

3. *Toxicology Studies.* A number of toxicology studies have been conducted to determine the carcinogenicity of ingested asbestos. Inhaled asbestos is thought to enter the digestive tract when asbestos fibers caught in the mucous lining of the lung are brought up to the throat and swallowed. Also, fibers caught in the nose may travel down to the pharynx (Kang, Ex. 84–139). Evans et al. (Ex. 84–236) conducted an inhalation study in rats of radio-labelled crocidolite. The radio-labelled crocidolite traveled to the larynx, esophagus, and gastrointestinal tract immediately after exposure, and was largely excreted in the feces within the 30 days following inhalation.

The National Toxicology Program (NTP) has administered chrysotile, amosite, tremolite, and crocidolite in feed (1% of diet) to laboratory animals. Increased incidences of tumors have not been reported in any of the NTP studies (Exhibits 84–225, 84–226, 84–227, 84–228). In some of the studies, relatively short fibers were administered. The asbestos dose of 1% in diet was not the maximally tolerated dose (MTD), unlike most carcinogenesis bioassays.

Ward, Frank, Wenk, Devor, and Tarone (Ex. 84–200) examined the effect of oral exposure to amosite or chrysotile on gastrointestinal (GI) carcinogenesis among F344 rats who had been injected with azoxymethane. Azoxymethane is a well-recognized intestinal carcinogen for laboratory animals. Rats were also exposed to amosite alone and azoxymethane alone. The exposure period was 10 weeks and the rats were observed for 95 weeks or more (some rats did not survive as long as 95 weeks). Although amosite and chrysotile exposure did not significantly increase the incidence of GI cancer among rats given azoxymethane injections, the 49 rats receiving amosite alone had an unusually high incidence (32%) of colon carcinoma compared to the incidence among historical control F344 rats maintained in the same laboratory.

Ward et al. commented on these findings: "The results of these experiments suggest that oral asbestos exposure may have caused an increased incidence of intestinal tumors in male F344 rats . . Although our findings did not conclusively demonstrate the co-carcinogenic or carcinogenic effect of asbestos for the intestinal tract, our results suggest that additional sensitive animal experiments are needed" (Ex. 84–200, p. 311).

Bolton, Davis, and Lamb (Ex. 84–214) administered amosite, crocidolite, and chrysotile in diet supplements to Wistar rats for periods of up to 25 months. Malignant tumors, including GI tumors, were not increased in the asbestos-exposed animals compared to the controls; however, chrysotile-treated rats had a statistically significant excess of benign tumors. The excess of benign tumors in chrysotile-treated rats was largely due to an excess of mesenteric hemangiomas. Bolton et al. thought that the observed excess of benign tumors in chrysotile-treated animals was not likely to be due to asbestos because they did not observe asbestos fibers in the mesenteric lymphatic tissues of the animals.

Donham, Berg, Will, and Leininger (Ex. 84–222) fed F344 rats a diet consisting of 10% chrysotile. A total of 189 asbestos-fed rats and 312 control rats were studied. Regarding their findings, Donham et al. stated: "Although the risk differences for development of colon tumors specifically is not statistically significant at the 5% level, we feel there is suggestive evidence that ingested asbestos may have some role in colon carcinogenesis . . ." (Ex. 84–222, p. 1080).

Smith, Hubert, Sobel, Peters, and Doerfler (Ex. 84–193) administered amosite asbestos in drinking water to Syrian hamsters of the Lak: LVG strain for periods ranging up to 22 months. There was some clustering of malignant tumors, including a peritoneal mesothelioma, a pulmonary carcinoma, and 2 squamous cell carcinomas of the forestomach, in the hamsters exposed to amosite (4 of 180 animals). None of the control animals developed these types of malignant tumors. Smith et al. did not consider the clustering of malignant tumors in amosite-exposed animals to be related to their ingestion of amosite because these types of tumors have been observed in control Syrian hamsters of the Lak: LVG strain by other investigators.

OSHA considers that there is some evidence that oral ingestion of asbestos is carcinogenic to laboratory animals; however, this evidence is rather inconsistent. The generalizability of the non-positive NTP studies is somewhat limited by the low doses and short fibers that were administered to the animals.

4. *Summary.* In summary, at least 12 epidemiologic studies have observed increased mortality from gastrointestinal cancers among workers exposed to asbestos, 7 of which were statistically significant. Also, at least 4 epidemiologic studies have observed excesses of cancer at sites other than the respiratory tract, mesothelium, and gastrointestinal tract. A number of other studies have not observed increases in mortality from cancers at sites other than the lung and mesothelium. It is possible for physicians to misdiagnose peritoneal mesothelioma as gastrointestinal or other cancers; however, the excess of gastrointestinal cancer persisted even after Elmes and Simpson and Selikoff et al. reclassified causes of death using supplemental autopsy, surgical, and clinical information. OSHA believes that the results of these reclassifications constitute additional evidence for an association between asbestos exposure and development of gastrointestinal cancer.

OSHA regards the numerous epidemiologic studies indicating increased risk from gastrointestinal cancer as outweighing non-positive epidemiologic studies and non-positive and equivocal findings in animals ingesting asbestos. Dose-response relationships for gastrointestinal cancer are characterized less well than for respiratory system cancers. Nonetheless, OSHA concludes that gastrointestinal malignancies should be included in quantitative analyses of excess cancer risk from asbestos exposure because such cancers have made substantial contributions to the increased mortality of many cohorts of asbestos workers. Otherwise, excess cancer risk from asbestos exposure would be understated.

The excesses of malignancies at sites other than the lung, mesothelium, and gastrointestinal tract observed by Selikoff et al. are particularly noteworthy because of the large size of Selikoff et al.'s cohort. The large size of their cohort resulted in a high degree of statistical power and a high degree of stability for the observed SMR's. OSHA considers that asbestos might induce cancer at sites other than the lung, mesothelium, and gastrointestinal tract based on the studies finding cancer excesses at these other sites, especially the study of Selikoff et al. OSHA will not attempt to quantify the excess risk at these other sites in relation to exposure. OSHA views the evidence for asbestos inducing gastrointestinal tract cancer as stronger and more consistent than the evidence for asbestos inducing cancer at these other sites.

D. Effects of Cigarette Smoking

1. *Introduction.* A multiplicative effect of asbestos exposure and cigarette smoking with regard to producing

increased lung cancer risk was shown in a 1968 paper by Selikoff, Churg, and Hammond (Ex. 2–5). Subsequently, other studies of occupational cohorts confirmed this finding (Selikoff, Seidman, and Hammond, Ex. 84–190; Hammond, Selikoff, and Seidman, Ex. 84–047). Cohen et al. (Ex. 84–031) observed poorer particle clearance from the lungs of smokers than from the lungs of non-smokers. This finding may help to explain the higher lung cancer risk of smoking asbestos workers. In addition, smoking asbestos workers have been reported to be at higher risk of asbestosis and chest X-ray abnormalities, including pleural plaques (Hammond et al., Ex. 84–047; Weiss, Ex. 84–097; Weiss, Levin and Goodman, Ex. 84–099). There is no evidence for an association between cigarette smoking and either mesothelioma risk or gastrointestinal cancer risk (Hammond et al., Ex. 84–047).

2. *Respiratory Cancer.* Hammond et al. (Ex. 84–047) collected smoking histories from 8220 of the 12051 insulation workers with a follow-up period of 20 or more years since initial exposure who had been studied by Selikoff and colleagues. The mortality experience of these workers was observed during 1967–1976. Of the 8220 workers who answered the questionnaire on smoking habits in late 1966, 6841 were either current or past cigarette smokers, 488 had a history of pipe or cigar smoking, and 891 had never smoked regularly. The comparison population was drawn from the American Cancer Society's long-term prospective epidemiologic study conducted by volunteers, and consisted of 73,763 white men who had no more than a high school education, were not farmers, were alive as of January 1, 1967, and had a history of occupational exposure to dust, fumes, vapors, gases, chemicals, or radiation. The major advantage of this comparison population was the availability of age-specific mortality rates by smoking status. Also, men with the above described education and occupational histories likely would resemble the insulation workers more than the general U.S. white male population.

Age-standardized lung cancer mortality rates for controls and for asbestos workers are given in Table 5. As shown in Table 5, non-smoking asbestos workers had a mortality rate from lung cancer that was 5 times higher than that of non-smoking controls. The lung cancer mortality of smoking asbestos workers was also 5 times higher than the controls with a history of cigarette smoking. Thus, for both smoking and non-smoking asbestos workers, the relative risk of death from lung cancer was about 5-fold. Hence, the relationship between cigarette smoking and asbestos exposure can best be described as multiplicative in nature.

Table 5

Age-Standardized Lung Cancer Death Rates by Smoking Status and Occupational History of Asbestos Exposure

Group	Exposure to Asbestos?	History of Cigarette Smoking?	Death Rate*	Mortality Difference	Mortality Ratio
Controls	No	No	11.3	0.0	1.00
Asbestos Workers	Yes	No	58.4	+ 47.1	5.17
Controls	No	Yes	122.6	+111.3	10.85
Asbestos Workers	Yes	Yes	601.6	+590.3	53.24

*Rate per 100,000 man-years standardized for age on the distribution of the man-years of all the asbestos workers (based on death certificate information) From Hammond et al., Ex. 84 047

Regarding these data, the NIOSH/OSHA Asbestos Work Group stated:

"The combined effect of smoking and asbestos exposure appears to be more than simple addition. If the combined effect were additive, one would expect death rates of 169.7 per 100,000 man-years among asbestos workers who smoked. This rate was derived from the sum of the baseline rate (11.3) plus the excess over that baseline due to asbestos (58.4–11.3=47.1) plus the excess due to smoking (122.6–11.3=111.3). The data seem rather to satisfy a multiplicative model. It was shown that smoking alone increased the death rate about 11 times, and asbestos alone increased it 5 times. Therefore, for a multiplicative model, the mortality ratio for those exposed to both asbestos and smoking would be 55 (5 times 11) times greater than those who were exposed neither to asbestos nor to smoking. The mortality ratio for those exposed to asbestos and to cigarettes was actually 53.24" (Ex. 84–320, p. 27).

Selikoff, Seidman, and Hammond examined the effects of cigarette smoking and asbestos exposure among 582 amosite production workers, 567 of whom had smoking histories (Ex. 84–190). As in Hammond et al.'s study, comparison was made to age and cause-specific mortality rates within each smoking status category of the American Cancer Society (ACS) cohort. Non-smoking amosite workers had a greater than 5-fold increase in lung cancer risk compared to non-smokers in the ACS cohort, while smoking amosite workers had an almost 5-fold increase compared to their smoking ACS counterparts. Based on the excess lung cancer risk in non-smokers, Selikoff et al. stated that asbestos exposure alone produced an increased risk of lung cancer, although the increase among non-smokers was limited in terms of total numbers of additional deaths. For cigarette smoking asbestos workers, Selikoff et al. described the increased numbers of lung cancer deaths as "devastating." Selikoff et al. observed no increased risk of death from mesothelioma,

gastrointenstinal cancer, and asbestosis among smoking amosite workers compared to non-smoking amosite workers.

3 *Lung Disease and Chest X-ray Abnormalities.* Hammond et al. reported that asbestosis workers who smoked one or more packs of cigarettes per day had an asbestos mortality rate 2.8 times higher than that of asbestos workers who had never smoked regularly (Ex. 84–047). Hammond et al. also reported that ex-smokers who were asbestos workers had substantially lower death rates than asbestos workers who had not quit smoking.

Weiss (Ex. 84–097) conducted a chest X-ray and questionnaire survey of 100 asbestos textile workers. Weiss reported that smoking workers had a 40% prevalence of pulmonary fibrosis and non-smoking workers had a 24% prevalence of pulmonary fibrosis. A gradient in risk of fibrosis was observed for both increasing age and increasing duration of exposure. The age distributions of the smokers and non-smokers were similar, as were the median durations of exposure to asbestos. Weiss concluded that both asbestos exposure and cigarette smoking were associated with pulmonary fibrosis and that smoking asbestos workers had a higher prevalence of fibrosis relative to non-smoking asbestos workers.

Weiss did not indicate whether the difference in pulmonary fibrosis prevalence between smokers and non-smokers was statistically significant. OSHA tested the significance of the difference in prevalence of pulmonary fibrosis between smokers and non-smokers using a chi-squared test of proportions and did not find a significant difference (p greater than 0.1).

In 1981, Weiss, Levin, and Goodman (Ex. 84–099) reported the results of a survey of 45 men aged 40 or more who had worked 5 or more years in an asbestos manufacturing plant. The prevalence of pleural plaques was greater in cigarette smokers; however, there was some confounding of this relationship by cumulative asbestos exposure, which also seemed to influence the prevalence of pleural plaques. Weiss et al. stated:

"Conclusions are restrained by the small number of workers in this investigation. A clear-cut answer to the question as to whether the association between plaques and smoking is spurious will require a much larger research effort, preferably in a cohort study" (Ex. 84–099, p. 429).

Pearle (Ex. 84–079) surveyed 131 asbestos-exposed shipyard workers to determine the relative contribution of asbestos exposure and smoking to lung function decrements and chest X-ray abnormalities. Pearle found that both cigarette smoking and asbestos exposure reduced FEV1 (forced expiratory volume in 1 second) and FVC (forced vital capacity), with combined exposure having a "cumulative or possibly synergistic effect" (Ex. 84–079, p. 39). Pearle also reported that both smoking and asbestos exposure produced pleural and interstitial abnormalities and that smoking appeared to be the primary factor in airways obstruction and diffusion impairment.

Berry, Gilson, Holmes, Lewinsohn, and Roach (Ex. 84–020) studied 379 men employed at an asbestos textile mill as of June 30, 1966. Smoking histories were available for 376 men. Men were classified as having never smoked, as ex-smokers, or as current smokers (light, medium, or heavy cigarette consumption). The mean cumulative exposures (fibers/cubic centimeter-years) were similar among the smoking status groups, and age adjustments were made to account for the younger ages of non-smokers. Significantly greater prevalances of crepitations and small radiological opacities were observed in heavy smokers and ex-smokers compared to non-smokers and light smokers. For example, 16% of heavy smokers employed after 1950 had small radiological opacities compared to 4.8% of never-smokers employed after 1950.

Kilburn (Ex. 84–237) has reviewed the studies of the relationship between cigarette smoking and X-ray evidence of pulmonary fibrosis. Kilburn criticized Weiss's use of a definition for pulmonary fibrosis other than that of the ILO in his 1971 study, as well as the small number of workers reported on in Weiss's 1971 paper and his other papers. A study by Samet et al. which included a relatively large number of subjects and which did not find an effect of cigarette smoking on radiologic abnormalities characteristic of asbestosis was cited. Kilburn concluded that cigarette smoking neither produced X-ray appearance of pulmonary fibrosis nor contributed to fibrosis resulting from asbestos exposure.

In summary, there is some evidence that smoking asbestos workers have a higher risk of mortality from asbestosis, as well as a higher prevalence of crepitations, lung function decrements, and small radiological opacities. This evidence is inconclusive.

4. *Attributing Probable Etiologies to Lung Cancer Among Individual Asbestos Workers.* Enterline (Ex. 84–126) analyzed the probability that any single case of lung cancer in a person with known exposure to asbestos could be attributed to the asbestos exposure. His paper emphasized that it cannot be stated with *certainty* that a lung cancer in an individual worker was due to asbestos exposure; rather, statements can only be made concerning *probabilities* of cause and effect. He converted observed relative risks into probabilities using the following formula:

$$\text{Individual Probability of Lung Cancer owing Due to Asbestos Exposure} = \frac{(\text{Relative Risk} - 1)}{\text{Relative Risk}} \times 100$$

Using Selikoff et al.'s data on insulators, where a relative risk of about 4.5 was observed for smoking asbestos workers and non-smoking asbestos workers alike, Enterline estimated a probability of 75% that lung cancers were attributable to asbestos exposure for both smoking and non-smoking asbestos workers (3.5/4.5 × 100 is about 0.75).

Enterline's paper is important in exploring the extent to which asbestos can be considered the etiologic agent for lung cancer in exposed workers. However, in the case of smoking asbestos workers, dichotomizing causation as either due to smoking or due to asbestos does not seem appropriate to OSHA, because of the factor of synergism between cigarette smoke and asbestos. Using Selikoff et al.'s data, probabilities of causation were estimated by OSHA for each etiologic factor (See Tables 6 and 7).

Table 6

LUNG CANCER MORTALITY BY SMOKING STATUS[1/]

Lung Cancer Rate per 100,000 per Year	
Smoking Asbestos Insulators:	362.0
Non-Smoking Asbestos Insulators:	40.4
Smoking U.S. Males:	74.4
Non-Smoking U.S. Males	9.2

[1/] From Selikoff et al., 1979 (Ex. 84-090)

Table 7

PERCENT ATTRIBUTABLE RISK FROM ASBESTOS EXPOSURE AND SMOKING

Lung Cancer Risk Attributable To:	Formula	% Attributable Risk for Asbestos Workers: Smoking	Non-Smoking
Background	9.2	2.5%	22.8%
Asbestos alone	40.4 - 9.2= 31.2	8.6%	77.2%
Smoking alone	74.4 - 9.2= 65.2	18.0%	
Interaction of Smoking and Asbestos	362 - 9.2 - 31.2 - 65.2 = 256.4	70.8%	
		99.9%	100%

While OSHA's calculations differ from Enterline's calculations of attributable risk by including the synergism factor, the probability estimates do not differ much. According to OSHA's calculations, asbestos exposure contributes to 79.4% and 77.2% of lung cancer deaths among smoking asbestos workers and non-smoking asbestos workers respectively.

5. *Summary.* OSHA considers that asbestos exposure by itself can cause lung cancer, asbestosis, mesothelioma, and gastrointestinal malignancies, thereby presenting a significant health risk to exposed workers and a grave danger under current exposure conditions. Cigarette smoking by itself can cause lung disease and lung cancer. Cigarette smoke and asbestos exposure appear to have a multiplicative relationship for causation of lung cancer. Mortality from asbestosis has been reported to be increased in cigarette-smoking asbestos workers compared to non-smoking asbestos workers, although this evidence is inconclusive. Pleural plaques and the radiologic abnormalities characteristic of pulmonary fibrosis have also been reported to be more prevalent in cigarette-smoking asbestos workers; this evidence is also inconclusive. Ex-smoking asbestos workers have been reported to have decreased lung cancer risk relative to smoking asbestos workers. There is no evidence for any relationship between cigarette smoking and induction of mesotheliomas and gastrointestinal malignancies.

E. Relative Carcinogenicity and Toxicity of Different Fibers

1. *Introduction.* OSHA has reviewed the data concerning the relative carcinogenicity and toxicity of different asbestos fiber types and has decided not to make distinctions in this emergency temporary standard by asbestos fiber type with regard to regulatory provisions designed to protect workers from the harmful effects of asbestos exposure. Mainly, this is because lung cancer is the leading cause of death associated with asbestos exposure and there do not appear to be differentials in lung cancer risk by fiber type.

Some investigators and committees have suggested that different fiber types of asbestos have differences in their carcinogenic potency, including Enterline and Henderson (Ex. 84–122), McDonald and McDonald (Ex. 84–154), Weill et al. (Ex. 84–206), Acheson and Gardner (Exs. 84–015 and 84–243), Muir (Ex. 84–350), and the Advisory Committee on Asbestos (Ex. 84–216). These scientists generally believe that crocidolite and amosite are more carcinogenic than chrysotile and anthophyllite. Based on these scientists' recommendations, both the United Kingdom and the province of Ontario, Canada have promulgated the following standards for asbestos:

0.2 fibers per cubic centimeter (0.2 f/cc) for crocidolite

0.5 fibers per cubic centimeter (0.5 f/cc) for amosite

1 fiber per cubic centimeter (1 f/cc) for chrysotile and all other forms of asbestos

Recently, the United Kingdom has announced reductions in the limits for chrysotile and amosite. It is important to note that the question of differentials in potency by fiber type primarily concerns induction of mesotheliomas, not asbestosis and lung cancer. For mesothelioma, Acheson and Gardner in 1979 described "a powerful case. * * * that crocidolite has been more dangerous than chrysotile and anthophyllite" (Ex. 84–216, p. 11), whereas they characterized evidence for

fiber type differentials in risk from lung cancer and asbestosis as "inconclusive" and "slight" respectively (Ex. 84–216, p. 11).

In 1983, Acheson and Gardner stated: "Peritoneal mesothelioma has an almost exclusive relationship with exposure to the amphiboles crocidolite and amosite" (Ex. 84–243, p. 8). Concerning lung cancer, they noted that although one study (Weill et al., Ex. 84–206) had found a higher risk among workers exposed to crocidolite, no "clear distinction" of risk by fiber type could be found when the slopes of dose-response curves were compared. Hence, they concluded that available evidence did not support the assumption that chrysotile was a less potent lung carcinogen (Ex. 84–243, p. 8).

In 1983, the Chronic Hazard Advisory Panel on Asbestos (CHAP) convened by the U.S. Consumer Product Safety Commission also reviewed the evidence for fiber type differentials in carcinogenic risk (Ex. 84–256). They concluded that there were inconsistent and inconclusive findings with regard to lung cancer differentials by fiber type. For peritoneal mesothelioma, CHAP concluded that epidemiologic studies suggested that this disease was most common in amosite workers, less common in crocidolite workers and rare or non-existent in chrysotile workers. Evidence for a fiber type differential in pleural mesothelioma risk was not considered by CHAP to be as substantial as for peritoneal mesothelioma.

Some health scientists who believe that evidence links crocidolite exposure to a substantial increase in mesothelioma risk have suggested separate regulatory treatment for crocidolite (Ex. 84–216). OSHA has been urged to consider requiring that workers exposed to crocidolite or asbestos mixtures containing crocidolite wear appropriate respirators, irrespective of airborne concentrations of asbestos and irrespective of compliance with the permissible exposure limit. Furthermore, OSHA has been urged to consider requiring that employees exposed to crocidolite be informed of the potential greater risks associated with crocidolite and the reasons for requiring respirator usage whenever crocidolite exposures occur. OSHA invites comments on this suggestion and on other alternative approaches to separate regulatory treatment of crocidolite.

There are also scientific questions concerning the relationship between fiber dimensions and ability to cause disease. OSHA believes that asbestos fibers longer than 5 micrometers (μm) cause lung disease and cancer, provided that the ratio of fiber length to fiber width is 3:1 or greater. Evidence for risk from fibers less than 5 μm in length is inconclusive.

A critical analysis of the evidence concerning risk differentials by fiber type and fiber dimension follows.

2. *Epidemiologic Data—Introduction:* Commercial asbestos fiber types including amosite, chrysotile, and crocidolite, have been observed to be associated with elevated risks of asbestosis, lung cancer, and mesothelioma whether exposures occurred to a single fiber type or to various combinations of fiber types (NIOSH/OSHA, 1980, Ex. 84–320). Excess lung cancer risk and asbestosis have been observed in anthophyllite asbestos workers; however, no cases of mesothelioma have been reported among anthophyllite workers.

For amosite, an association between exposure and disease has been observed by the following investigators: Seidman et al. (Ex. 84–087), Anderson et al. (Ex. 84–017), and Murphy et al. (Ex. 84–311). For chrysotile, the following investigators have obtained positive findings: McDonald et al. (Ex. 84–065), McDonald and Fry (Ex. 84–064), Liddell et al. (Ex. 84–059), Nicholson et al. (Ex. 84–072), Rubino et al. (Ex. 84–066), Dement et al. (Ex. 84–037), and Acheson and Gardner (Ex. 84–015). For crocidolite, positive findings were observed by the following investigators: Jones et al. (Ex. 84–138), Hobbs et al. (Ex. 84–132) and McDonald and McDonald (Ex. 84–154). Meurman et al. (Ex. 84–181) observed an excess lung cancer risk among anthophyllite miners in Finland. In addition, numerous studies have observed asbestosis, lung cancer, and mesothelioma among workers exposed to mixed fiber types (Hughes and Weill, Ex. 84–135; Weill et al., Ex. 84–206; Jones et al., Ex. 84–138; Berry et al., Ex. 84–020; Elmes and Simpson, Ex. 84–042; Peto et al., 84–80; Lacquet et al., Ex. 84–144; Selikoff et al., Ex. 84–089; Robinson et al., Ex. 84–082; and Balselga-Monte and Segarra, Ex. 84–019). Also, several studies of talc miners and millers, where the talc contained tremolite and anthophyllite, have observed excesses of lung cancer and lung disease, and reductions in pulmonary function (Kleinfeld et al., Ex. 84–140, 84–141; Brown et al., Ex. 84–025; Gamble et al., Ex. 84–181). In addition, zeolite, an asbestiform mineral found in the soil and water in two villages in Turkey, may be responsible for those villages' high mortality rates from mesothelioma (Artvinli and Baris, Ex. 84–018; Baris et al., Ex. 84–110).

OSHA is not aware of any epidemiologic studies which compare workers exposed to different fiber sizes within the same industrial process. Undoubtedly, this is due to the scarcity of such occupational groups since most occupational populations have been exposed to a mixture of long and short fibers. Therefore, most of the data on differential risk by fiber size are from experimental studies rather than epidemiologic studies and will be discussed in section (D)(3) *Experimental Data.*

Evaluating the relative carcinogenicity of the different asbestos fiber types involves comparison of results from different epidemiologic studies. OSHA believes that it is important to note the potential difficulties of comparing different occupational cohorts. Standardized Mortality Ratios (SMR's) are risk measures that are dependent on the age distribution (as well as other factors) of the particular study population. This is because the values used for comparison, referred to as the expected values, are derived from mortality rates specific for age, race, sex, and calendar period in the comparison population. Cancer risk rises with increasing age, so that an older population would have higher expected values for cancer mortality.

Misleading results may be obtained when comparing risk measures for cancer among study populations with different underlying age distributions. An example of the misleading results that may be obtained in such an instance is given in Ex. 84–335, which illustrates that SMR's of diverse study populations may be the same while the actual excess risk of mortality may vary greatly because of differences in age distribution. Sex and calendar period of observation also affect expected values, because women have lower mortality rates from lung cancer and lung cancer has risen greatly since the 1940's. Length of follow-up is another pivotal variable because of the long latency periods necessary for development of lung cancer and especially mesothelioma.

Epidemiologic Studies of Lung Cancer, Mesothelioma, and Absestosis: The following studies examined the question of differential lung cancer risk by asbestos fiber type by comparing the mortality experiences of different occupational cohorts: McDonald and McDonald (Ex. 84–154), Henderson and Enterline (Ex. 84–048), Weill et al. (Ex. 84–206), McDonald and Fry (Ex. 84–064), and Acheson et al. (Ex. 84–015). Some of these studies also addressed the question of differential mesothelioma risk by fiber type. Some additional studies of workers exposed to a single fiber type are also pertinent to evaluation of risk by fiber type.

including McDonald et al. (Ex. 84–065), Hobbs et al. (Ex. 84–132), Weiss (Ex. 84–098), Dement et al. (Ex. 84–037), and Berry and Newhouse (Ex. 84–021).

McDonald and McDonald (Ex. 84–154) suggested that crocidolite was more carcinogenic than chrysotile based on their comparison of the mortality of Canadian chrysotile miners and millers with that of Canadian workers manufacturing crocidolite-containing gas masks. For gas mask workers, 13% and 16% of the observed deaths were from lung cancer and mesothelioma respectively. In contrast, 6% and 0.26% of the observed deaths among chrysotile miners and millers were from lung cancer and mesothelioma respectively. One potential problem was that the personnel records of the crocidolite workers were incomplete, which could result in biases toward observing greater or lesser risk in this cohort. An unpublished report by Dr. Han K. Kang (Ex. 84–139) commented as follows on this comparison:

(1) Two major potential confounding factors, fiber size distribution and fiber concentration, were not analyzed by the authors. If the gas mask plants had higher fiber concentrations and/or a higher proportion of long thin fibers than the mines, a higher cancer risk would be expected in the plants.

(2) Comparison of risk measures such as Standardized Mortality Ratios (SMR's) and Proportionate Mortality Ratios (PMR's) might not be appropriate between the two occupational cohorts because of potential differences in age distribution and length of follow-up period.

Henderson and Enterline (Ex. 84–048) compared mortality of retired workers exposed to different asbestos fiber types. After adjusting for differences in cumulative dust exposures, Henderson and Enterline reported the following respiratory system cancer SMR's for workers in an asbestos factory and workers manufacturing asbestos cement: 247 for workers receiving chrysotile exposures only, 364 for workers receiving amosite exposures only, and 461 for workers receiving combined exposures to chrysotile and crocidolite. Asbestos cement pipe workers had a very high lung cancer SMR of 522. Henderson and Enterline stated: "Men who worked in the production of asbestos cement pipe exhibited a higher risk of respiratory cancer, as did men with some crocidolite asbestos exposure. Because these two groups overlap, we could not be certain that crocidolite asbestos was responsible for the increased risk" (Ex. 84–084).

Concerning Henderson and Enterline's findings, OSHA notes that the asbestos cement pipe exposures may have been dustier than earlier estimates indicated and that some of the workers thought to have been exposed only to chrysotile may have had indirect exposure to crocidolite. Also, workers in the asbestos cement pipe operation probably were exposed mostly to chrysotile (Kang, Ex. 84–139). Another potential confounding factor was that exposure levels were uncertain for each group of workers.

Weill, Hughes, and Waggenspack (Ex. 84–206) studies the mortality of asbestos cement pipe workers in two plants. In the first plant, workers were exposed to both crocidolite (3% of product) and chrysotile. In the second plant, workers were exposed to chrysotile, amosite (1% of product), and crocidolite (infrequently).

Weill et al. reported respiratory system cancer SMR's as follows for workers receiving cumulative asbestos exposures greater than 200 million particles per cubic foot-months (mpcf-months) during the first 20 years of employment:

No crocidolite exposure	SMR=182
Intermittent exposure to crocidolite	SMR=357
Steady exposure to crocidolite	SMR=241

OSHA notes that the apparent differences in lung cancer risk by fiber type observed by Weill et al. are based on relatively small numbers of deaths. Hence, statistical variation may be considered a possible explanation for the observed differences. It is not known if the 75% follow-up rate may have contributed to these apparent differences.

Weill, Ziskind, Waggenspack, and Rossiter (Ex. 84–207) suggested that crocidolite exposed workers had poorer pulmonary function than workers exposed to other forms of asbestos. They reported that crocidolite workers had smaller lung volumes, a higher prevalence of X-ray changes, lower FEV1's, and reduced diffusing capacity.

Note.—FEV1 refers to the volume of air forcibly expired in one second, and diffusing capacity refers to the ability of oxygen to leave the alveoli and enter the pulmonary bloodstream. Reductions in FEV1 and diffusing capacity are indicative of impaired lung function.

A comparison between Canadian chrysotile miners studied by McDonald et al. (Ex. 84–065) and Australian crocidolite miners studied by Hobbs et al. (Ex. 84–132) has been made by Kang (Ex. 84–139). The Australian miners with one or more years of employment and at least 15 years of follow-up had a lung cancer SMR that was approximately twice as high as that of Quebec miners with one or more years of employment and at least 20 years of follow-up. Comparison of these two groups of miners is problematic because of potential differences in age distribution, fiber concentrations, and length of employment (Kang, Ex. 84–139).

Acheson, Gardner, Pippard, and Grime (Ex. 84–015) studied mortality of female workers manufacturing mostly chrysotile-containing gas masks in one plant (Plant 1) during 1939 and female workers manufacturing mostly crocidolite-containing gas masks and some chrysotile-containing gas masks in a second plant in 1939 (Plant 2). Plant 2 had a larger excess of mortality than Plant 1. Ages at initial employment were very similar at the 2 plants. At Plant 1, 7 lung cancer deaths were observed versus 4.8 expected (SMR=145, statistically non-significant). One death from pleural mesothelioma was observed in a female worker from Plant 1.

At Plant 2, 15 lung cancer deaths were observed versus 6.2 expected (SMR=241, p less 0.01). Mesothelioma was mentioned on 5 women's death certificates, 3 of which coded mesothelioma as the underlying cause of death. A statistically significant increase in ovarian cancer mortality was also observed at Plant 2 (12 deaths observed versus 4.4 expected, SMR=275, p less than 0.01). Possibly, the deaths certified as due to ovarian cancer may have actually been misclassified peritoneal mesotheliomas.

Acheson et al. concluded that "the pattern of mortality is consistent with the view that mesothelioma (and possibly ovarian cancer) is particularly associated with exposure to crocidolite" (Ex. 84–015, p. 347).

Acheson et al.'s study has 2 advantages relative to other studies of populations exposed to different asbestos fiber types: both the age distributions and lengths of follow-up were similar for Plant 1 and Plant 2. Neither air concentrations nor durations of employment were reported for the 2 plants, however. Because Plant 2 had been operating longer than Plant 1, Plant 2 workers may have had a greater median length of employment. Manual manufacturing processes were employed at Plant 2, while mechanical processes were employed at Plant 1. Perhaps the manual process led to higher dust exposures for the individual workers at Plant 2. Yet it is also possible that the mechanical process at Plant 1 reduced

the diameters of the fibers, rendering them more hazardous. OSHA considers that this study provides suggestive evidence for a fiber type differential in mesothelioma risk; however, this evidence is not conclusive because of the lack of information on the air concentrations and durations of employment.

Both plants had excesses of lung cancer mortality, although only the Plant 2 excess was statistically significant. OSHA calculated that the statistical power to detect a 50% increase in lung cancer risk was only 19% at Plant 1. Given the low power to detect increased risk at Plant 1, OSHA believes the statistically non-significant excess of lung cancer at Plant 1 should not be disregarded. Also, Acheson et al. calculated 95% confidence intervals for lung cancer mortality as 135–397 for Plant 2 and 58–298 for Plant 1. In OSHA's view, these overlapping confidence intervals for the 2 plants indicate that the observed differences in lung cancer mortality cannot be considered statistically different. Hence, OSHA concludes that Acheson et al.'s study does not establish the existence of a differential in lung cancer risk by fiber type in these 2 occupational cohorts.

Weiss (Ex. 84–098) studied a cohort of 264 production workers in a paper and millboard factory. This factory had used only chrysotile asbestos. No increased mortality from lung cancer was observed among these workers (4 lung cancer deaths observed versus 4.32 expected). Two men died of abestosis.

OSHA noted limitations of Weiss's study that include lack of asbestos exposure data and very low statistical power. OSHA calculated that this study had only 20.8% power to detect a 50% increase in lung cancer risk. Hence, OSHA does not consider Weiss's study as reliable evidence of low cancer risk among chrysotile workers.

Dement et al. (Ex. 84–037) observed a high lung cancer risk among chrysotile textile workers (35 deaths observed versus 11.10 expected, SMR=315). A high risk of mortality from non-malignant respiratory diseases, including asbestosis, was also observed in this cohort (28 deaths observed versus 9.53 expected, SMR=294). One peritoneal mesothelioma was confirmed by autopsy. Several other death certificates listed "cancer of the abdomen," but the authors were unable to obtain additional data to determine whether these particular cancers were actually mesotheliomas. Expected values for mortality were derived from U.S. mortality rates.

Dement et al. suggested that the higher risk of respiratory cancer mortality in their chrysotile exposed cohort compared to cohorts of chrysotile miners and millers may have been due to different fiber size distributions. Using expected values of lung cancer mortality derived from the South Carolina county in which the chrysotile textile plant was located, instead of U.S. mortality rates, would have reduced the lung cancer SMR's for the cohort because lung cancer mortality rates were 75% higher in the county than in the United States as a whole. Dement et al. considered use of the county rates to be inappropriate because of the probable contribution of a nearby shipyard as well as the study plant to the elevated lung cancer rates in the county. State (South Carolina) mortality rates from lung cancer were similar to those of the United States.

Dement et al. also addressed the possibility of confounding effects from smoking. Questionnaires administered in 1964 and 1971 to workers employed at the plant did not indicate that the study cohort had a higher prevalence of smoking compared to the U.S. population.

OSHA regards Dement et al.'s study as strong evidence of the potential for high lung cancer risk from exposure to chrysotile.

McDonald and Fry (Ex. 84–064) published a preliminary report on their study of 2 asbestos factories (Plants A and B) where chrysotile was used exclusively and 1 factory (Plant C) where chrysotile, amosite, and crocidolite were used. Plant A was the study plant reported on by Dement and colleagues. Plant C had previously been studied by Robinson and colleagues. Respiratory system cancer mortality was in excess at all 3 plants. Expected values for each plant were derived from the age, sex, and cause-specific mortality rates of the states in which the plants were located. SMR's were calculated beginning 20 years after initial employment at the plants. Air concentrations were highest in Plant C, next to highest in Plant A, and lowest in Plant B. Criteria for inclusion in the study cohorts were: (1) One month or more of employment by January 1, 1959, and (2) having any Social Security Administration files. Vital status was determined as of December 31, 1977.

The overall respiratory system cancer SMR was 285 at Plant A, confirming the high lung cancer risk observed at the same plant by Dement and colleagues. Furthermore, McDonald and Fry noted that their inclusion of clerical workers and workers with 1–5 months of exposure in the cohort, unlike Dement et al., probably reduced observed respiratory cancer risk. Among male workers employed 1–4 years at Plants A, B, and C, respiratory system cancer SMR's were 225, 149, and 41 respectively. Among male workers employed 20 or more years at Plants A, B, and C, respiratory system cancer SMR's were 315, 168, and 140 respectively. The lower respiratory cancer risk in men in Plant C was unexpected, given the higher air concentrations in Plant C.

A different pattern of respiratory system cancer risk was apparent for female workers compared to male workers; however, the female mortality rates were not stable because of the small number of deaths. Female workers in Plants A, B, and C had respiratory system cancer SMR's of 234, 348, and 52 respectively.

McDonald and Fry characterized the differences in the distribution of mesothelioma deaths among the 3 plants as "striking." Plant A had 1 death from mesothelioma (=0.1% of all deaths) and Plant B had no deaths from mesothelioma. Plant C had 18 deaths from mesothelioma (1.28% of all deaths). Possibly, an even greater number of deaths from mesothelioma occurrred at Plant C, due to unrecognized cases being coded as abdominal cancers or other/unspecified cancers.

Robinson et al. (Ex. 84–082) had also observed a high mesothelioma risk among workers at Plant C. McDonald and Fry considered the probability of missing true cases of mesothelioma at Plants A and B to be low because of good cancer case ascertainment in the areas where these plants were located. McDonald and Fry stated that exposure-response relationships at the 3 plants might be clarified after the individual subjects were classified by exposure levels.

OSHA considers the following points important for interpreting the findings of McDonald and Fry. Although McDonald and Fry stratified by duration of exposure for their inter-plant comparison of lung cancer mortality, other important variables were not controlled for, including age at initial employment, fiber concentration, and length of follow-up. Plant C, which had the greatest number of deaths from mesothelioma, also had the highest exposure levels. Hence, OSHA considers that the differentials in mesothelioma risk among the 3 plants are suggestive, but do not conclusively demonstrate increased mesothelioma risk from crocidolite relative to other asbestos fiber types. Of interest is the finding of higher lung cancer risks at the chrysotile plants (A and B) relative to plant C. Again, the variables of fiber

concentration, age distribution, and length of follow-up need to be controlled for when comparing lung cancer risk of different cohorts.

Berry and Newhouse (Ex. 84–021) and Newhouse, Berry, and Skidmore (Ex. 84–163) studies the mortality of a cohort of workers manufacturing friction materials. Exposure was to chrysotile exclusively, except during 1929–1933 and 1939–1944 when a small percentage of the workforce was exposed to crocidolite. Asbestos exposures were low in the plant; only 5% of the male workers accumulated as much as 100 f/cc-years. The only cause of death in excess was mesothelioma. To examine etiologic factors for mesothelioma, a matched case-control study was conducted for 10 mesothelioma cases. For each case, 4 controls were selected from the plant. Controls were matched on year of hire at the factory, sex, age, and duration of employment. Definite crocidolite exposure was discovered in the occupational histories for 8 of the 10 mesothelioma cases and for 3 of the 40 controls. About 90% of the cases and 25% of the controls had been exposed to levels of chrysotile exceeding 5 f/cc. When Berry and Newhouse limited their comparison to those cases and matched controls who had been exposed to over 5 f/cc of chrysotile, a statistically significant greater number of cases had an occupational history of exposure to crocidolite as well.

Matching the controls for the mesothelioma cases on year of hire controlled for the important factor of length of follow-up. OSHA considers that both crocidolite and chrysotile are implicated in the causation of mesothelioma by this study: chrysotile because 90% of the cases received high chrysotile exposures compared to 25% of the controls, and crocidolite because 80% of the cases compared to 7.5% of the controls had been exposed to crocidolite.

The Chronic Hazard Advisory Panel on Asbestos (CHAP) compared lung cancer risk per unit of cumulative exposure (also known as K_L, the lung cancer potency factor) among the cohorts exposed to different fiber types. CHAP reported that studies of chrysotile workers yielded both low and high values of K_L, as well as studies of crocidolite workers and amosite workers. Hence, CHAP considered that evidence for a differential in lung cancer risk was mixed and inconclusive (Ex. 84–256).

Pathology Studies: Wagner, Berry, and Pooley (Ex. 84–202) examined the asbestos contents of tissue samples of lungs of asbestos textile workers who died from mesothelioma and other causes. Wagner et al. did not find either higher chrysotile or higher crocidolite contents in the lungs of the mesothelioma cases compared to the lungs of asbestos workers who died from other causes.

McDonald, McDonald, and Pooley (Ex. 84–175) conducted a study of the mineral fiber contents of lung tissues for 99 autopsied mesothelioma cases and 99 autopsied controls. Controls matched for sex and age were selected for each mesothelioma case. All controls had been diagnosed as having pulmonary metastases from a primary cancer other than lung cancer. Lung tissue specimens were examined for mineral fiber content using an electron miscroscope and X-ray energy-dispersive analyzer.

Chrysotile, amosite, crocidolite, anthophyllite, and tremolite were detected in the lung specimens of the cases and controls. For amosite and crocidolite, about 3 times as many mesothelioma cases as controls had more than 1 million fibers per gram of dried lung tissue. For anthophyllite, twice as many cases as controls had more than 1 million f/gram. For chrysotile and tremolite, little difference in fiber contents was observed between cases and controls.

McDonald, McDonald, and Pooley stated: "The equal quantities of chrysotile fibers found in lung tissue from cases and controls fail to support any association between this mineral type of asbestos and mesothelial tumors. However, the lung chrysotile fibre content at death must be interpreted cautiously, as these fibres probably disappear in the course of time" (Ex. 84–175, p. 420).

There are several points to consider concerning McDonald et al.'s study. First, if the fibers responsible for inducing mesothelioma were also responsible for inducing cancers at sites other than the lung and mesothelium, then a true effect of a fiber on mesothelioma genesis could fail to be detected because of the stipulation that all controls had to have pulmonary metastases. Gastrointestinal cancers sometimes metastasize to the lung, and some studies have observed excesses of gastrointestinal cancer among asbestos workers. Second, since chrysotile constitutes up to 90% of commercially used asbestos and since asbestos exposure is ubiquitous, one would expect controls to have chrysotile fibers in their lungs. The widespread exposure to chrysotile could obscure a true relationship between chrysotile and mesothelioma.

McDonald et al. suggested that chrysotile may be cleared faster from the lungs than other asbestos fibers, so that chrysotile retention in the lungs may not be the best way to estimate chrysotile exposure. Rowlands, Gibbs, and McDonald (Ex. 84–178) suggested a tendency for chrysotile to be removed from the lungs because of their observation that the quantity of tremolite in the lungs of Quebec miners and millers was similar to that of chrysotile, despite the miners' much greater exposure to chrysotile. In general, OSHA believes that the results of autopsy studies of fiber content of lungs cannot serve as direct measures of risk differentials by fiber type.

Mesothelioma Findings: As mentioned in the introduction to this section, the primary basis for the hypothesis that crocidolite is more carcinogenic than other forms of asbestos is the observed variation in mesothelioma mortality among cohorts exposed to different fiber types. A summary of the percentage of deaths from mesothelioma among cohorts exposed to different fiber types follows.

Meurman et al. (Ex. 84–256), who observed excess lung cancer mortality among anthophyllite miners, did not find any deaths from mesothelioma in their cohort. In Seidman et al.'s cohort of amosite insulation production workers, a total of 14 mesotheliomas were identified by death certificate or pathological reports (Ex. 84–087). These 14 deaths from mesothelioma constituted 2.7% of total deaths in this cohort.

Cohorts of chrysotile workers had relatively low percentages of deaths from mesothelioma:

Table 8

MESOTHELIOMA DEATHS AMONG COHORTS OF CHRYSOTILE WORKERS

Study	% of deaths from mesothelioma
McDonald et al. (Ex. 84-065) - miners	0.3
Nicholson et al. (Ex. 84-072) - miners	0.5
Dement et al. (Ex. 84-037) - textile workers	0.5
Rubino et al. (Ex. 84-086) - miners	0

Hammond et al., however, observed a higher percentage of deaths from mesothelioma (Ex. 84-047). Hammond et al. studied insulation workers exposed predominantly to chrysotile and to some amosite, but not to crocidolite. From death certificates and other clinical material, 175 deaths (7.7%) were attributed to mesothelioma out of a total of 2271 deaths. Peto (Ex. 84-168) studied a factory which used mostly chrysotile and some crocidolite, and found a high mesothelioma risk. Robinson et al. (Ex. 84-082) observed 4% of deaths from mesothelioma in a cohort where the factory used the following percentages of asbestos fiber types: chrysotile—99%, amosite—0.9% and crocidolite—0.07%.

Among crocidolite workers, McDonald and McDonald (Ex. 84-154) observed 16% of deaths from mesothelioma, Jones et al. observed 10% of deaths from mesothelioma (Ex. 84-138), McDonald and Fry (Ex. 84-064) observed 1.26% of deaths from mesothelioma, and Hobbs et al. (Ex. 84-132) observed 9% of deaths from mesothelioma.

The Chronic Hazard Advisory Panel on Asbestos (CHAP) stated that peritoneal mesothelioma "appears to be most common in workers exposed to amosite, less often to crocidolite, and rarely or never to chrysotile" (Ex. 84-256, p. 127). However, CHAP noted the large variation in peritoneal mesothelioma mortality among crocidolite workers, the lack of risk data expressed in terms of unit exposure, and the frequent misdiagnosis of peritoneal mesothelioma. Consequently, CHAP suggested that factors other than fiber type, such as fiber dimension, may be important for induction of peritoneal mesothelioma. For pleural mesothelioma, the differences in mortality among cohorts were not as marked as for peritoneal mesothelioma, according to CHAP (Ex. 84-256, p. 126).

Summary of Epidemiologic Data: In summary, there is evidence that all commercial asbestos fiber types, except for anthophyllite, cause asbestosis, mesothelioma, and lung cancer in humans. Anthophyllite has been shown to cause lung cancer and asbestosis, but no mesotheliomas have been reported among workers exposed to anthophyllite. For lung cancer, OSHA views the evidence for differentials in risk by fiber type as inconclusive and inconsistent. Some studies have found that chrysotile workers have roughly the same or higher risk of lung cancer compared to workers exposed to amphibole fibers, while other studies have found that chrysotile workers had somewhat lower relative risks of lung cancer. As discussed by CHAP with regard to their comparison of lung cancer risk per unit of cumulative exposure, consistent patterns of higher lung cancer risk among workers exposed to crocidolite and amosite did not emerge. With some exceptions, comparisons of lung cancer risk among occupational cohorts exposed to different fibers generally have failed to control for the following variables: Fiber concentrations, age distribution, and length of observation. These variables are sufficiently important determinants of asbestos-induced lung cancer risk such that OSHA believes these particular cross-cohort comparisons provided inconclusive evidence concerning differences in carcinogenic potency of the various fibers. Other important variables that may confound cross-cohort comparisons are fiber size distributions, hygienic measures instituted by the companies, and respirator use.

The evidence for a differential in mesothelioma risk, particularly peritoneal mesothelioma, by fiber type is more consistent than for lung cancer. Nonetheless, this evidence appears not to be conclusive because of failure by most investigators to control for important variables when comparing different occupational cohorts. Mesothelioma risk is affected by the same variables that determine the degree of lung cancer risk. Furthermore, mesothelioma has a longer latency period than asbestos-induced lung cancer and rises exponentially with increasing time since initial exposure, such that length of observation is a variable that must be controlled for in cross-cohort comparisons.

Chrysotile is a lung carcinogen for humans. Even if chrysotile could be definitively shown to induce fewer mesotheliomas than the other forms of asbestos, OSHA believes that epidemiologic studies indicate that chrysotile poses a significant health risk to humans by inducing lung cancer and asbestosis.

OSHA has concluded that fiber type is not an important determinant of lung cancer mortality arising from asbestos exposure. Because lung cancer is the major cause of excess mortality among asbestos workers, OSHA does not deem it appropriate to permit higher levels of exposure to chrysotile than to other asbestos fiber types on the basis of the possibility that chrysotile may induce fewer mesotheliomas than the amphiboles (amosite, crocidolite).

3. *Experimental Data.* OSHA believes that numerous studies of laboratory animals exposed to asbestos have found that the dimensions of fibers rather than types of fibers are major determinants of risk for lung disease and cancer (Harington, Ex. 84-131; Pott, Ex. 84-173; Stanton, Ex. 84-93, 84-195; Wagner et al., Ex. 84-198; Wright and Kuschner, Ex. 84-210). Aspect ratios (i.e. length to width ratios) of fibers have also been suggested as factors influencing carcinogenicity (Bertrand and Pezerat, Ex. 84-114). Because fiber size distribution appears to affect disease-causing potency, the source of the asbestos used for laboratory experiments and the methods used to produce the asbestos "clouds" should be considered when interpreting the results of laboratory experiments.

Chrysotile, amosite, and crocidolite have all induced cancer in animals upon administration by inhalation, injection and implantation (NIOSH, Ex. 84-338; NIOSH/OSHA, Ex. 84-320; Wagner et al., Ex. 84-205; Davis et al., Ex. 84-120). Davis et al. found that UICC chrysotile

produced more fibrosis in rats via inhalation than did UICC amosite. Factory samples of chrysotile, however, produced a similar degree of fibrosis via inhalation compared to factory samples of amosite.

Wagner et al. conducted inhalation studies of 5 UICC asbestos samples (2 chrysotile, 3 amphibole) in C/D Wistar rats, and found similar degrees of pulmonary fibrosis and lung tumor incidences for all exposed groups (Ex. 84–096). [The Union Internationale Centre Cancer (UICC) was the source for the asbestos fiber samples used in the study.] Animals exposed to the 2 chrysotile samples retained much less dust in their lungs at the end of the exposure periods than the 3 other exposed groups. Concerning this study, the NIOSH/OSHA Asbestos Work Group commented: "In terms of degree of response related to the quantity of dust deposited and retained in the lungs of rats, chrysotile appears to be much more fibrogenic and carcinogenic than the amphiboles" (Ex. 84–320, p. 15). Of interest were the mesotheliomas occurring after only one day of exposure to amosite and crocidolite.

Intrapleural administration of various forms of asbestos produced the following incidence of mesotheliomas: crocidolite—61%, amosite—36%, anthophyllite—34%, Canadian chrysotile—30%, and Rhodesian chrysotile—19% (Wagner et al. Ex. 84–197). In contrast, Stanton and Wrench (Ex. 84–338) did not observe differences in mesothelioma incidence by fiber type with intrapleural implantation.

Chrysotile may act as a co-carcinogen in addition to acting as a primary carcinogen. Kung-Vosamae and Vinkmann (Ex. 84–143) observed a strong interaction between chrysotile administered intratracheally and N-nitrosodiethylamine administered orally with regard to production of lung tumors in hamsters. N-nitrosodiethylamine has been demonstrated to be carcinogenic to many different species by many different routes of administration.

In 1977, Stanton, Layard, Tegeris, Miller, May, and Kent published the results of tests of 17 fibrous glasses of varying types and dimensions (Ex. 84–093). These fibrous glasses were implanted in the pleurae of female Osborne-Mendel rats, and surviving animals were sacrificed after 2 years. Statistical analyses indicated that the fibers less than or equal to 1.5 micrometers (μm) in diameter and longer than 8 μm produced the highest incidence of pleural sarcomas. Fibers less than 8 μm in length appeared to be inactivated by phagocytosis. (Phagocytosis is the engulfing of foreign particles by phagocytes, which are cells that usually digest these particles in order to protect the body from them.) Stanton et al. stated: "Since neoplastic response to a variety of types of durable fibers, particularly asbestos fibers, was similar, our experiments reinforce the idea that the carcinogenicity of fibers depends on dimension and durability rather than physicochemical properties and emphasize that all respirable fibers should be viewed with caution" (Ex. 84–093, p. 587).

OSHA believes that Stanton et al.'s study has important implications for the question of fiber type differentials in risk. The study suggests that any observed differences in risk by fiber type may be due to differences in the fiber size distribution within the workplaces being compared rather than inherent chemical properties of the particular fibers. Stanton et al.'s study suggests that fibrous materials besides asbestos can produce a carcinogenic response in both the pleura and peritoneum, provided that these materials possess carcinogenic dimensions. Among the fibrous materials demonstrated by Stanton et al. to produce malignant tumors following implantation are: All forms of asbestos, including amosite, anthophyllite, chrysotile, crocidolite, and tremolite; borosilicate; glass; aluminum silicate glass; mineral wool; aluminum oxide; potassium titanate; silicon carbide; sodium aluminum carbonate; wollastonite; and attapulgite. It should be noted that Stanton et al.'s study did not rule out carcinogenicity of fibers outside of the dimensions shown to be carcinogenic.

Stanton et al. (1981) continued their implantation experiments, greatly expanding the number of durable minerals, including asbestos, tested via implantation into the pleurae of female Osborne-Mendel rats (Ex. 84–195). Stanton et al. observed that the most carcinogenic fibers were those 0.25 μm or less in diameter and greater than 8 μm in length; however, high correlations with carcinogenicity were also observed for fibers 1.5 μm or less in diameter and longer than 4 μm.

Wright and Kuschner (Ex. 84–210) studied the production of fibrosis by intratracheal injection of asbestos fibers in guinea pigs. They observed fibrosis only from asbestos fibers longer than 10 μm. Gibbs and Hwang (Ex. 84–128) pointed out that industrial processes using asbestos may reduce the percentage of shorter fibers in the air.

NIOSH (Platek, Groth, Finnell, Stoll, and Ulrich) conducted a study of the chronic effects of inhalation of short asbestos fibers, with short fibers defined as those less than 5 micrometers (μm) in length (Ex. 84–230). Both rats and monkeys were exposed to a chrysotile asbestos aerosol for 18 months. The surviving rats were observed for 6 months following the cessation of exposure. Neither pulmonary fibrosis nor tumors were increased in the exposed rats compared to the control rats. Monkeys are being maintained for an indefinite period following exposure to determine the chronic effects of exposure.

The NIOSH investigators encountered some difficulties in trying to generate short fibers. The ball milling method was used to generate fibers, resulting in asbestos balls that could not meet the desired 3:1 aspect ratio. Some problems also occurred with regard to the methods of counting asbestos fibers and determining aerodynamic diameters (Ex. 84–230). Consequently, OSHA considers that Platek et al.'s study provides suggestive but not conclusive evidence that short asbestos fibers do not induce pulmonary fibrosis or tumors.

Some chemists have posited that asbestos fibers have biochemically active sites on their surfaces that can be modified so as to reduce the hazardous potential of asbestos fibers (Ex. 84–333). The electrical charge of chemical groups on the surface of asbestos fibers has been hypothesized to influence toxicity of fibers. For example, one chemical process removes the magnesium hydroxide groups on the surface of chrysotile and replaces them with silanol groups, producing a form of asbestos known as silanized asbestos. In vitro tests (tests conducted on cells in test-tube simulations of living systems) have been conducted for normal asbestos fibers and chemically-treated asbestos fibers. Decreased toxicity in chemically treated asbestos fibers compared to normal asbestos fibers has been reported (Ex. 84–333). OSHA considers that the hypothesis that biochemically active sites on the surface of asbestos fibers determine the degree of carcinogenicity of the fibers is not well supported at this time. This is because many in-vivo studies, especially those conducted by Stanton et al., have found that fiber dimensions rather than chemical properties appeared to be the primary determinant of fiber carcinogenicity. Stanton et al. found that a variety of non-asbestos fibers could induce cancer, if they were milled to specific dimensions. The in vitro studies of chemically treated asbestos are not as determinative of health risk as the in vivo studies of fiber dimension and hence do not refute the findings of Stanton et al. and other investigators

concerning the overriding importance of fiber dimension. Therefore, OSHA will continue to include chemically-treated asbestos longer than 5 micrometers with a 3:1 or greater aspect ratio in the scope of the asbestos standard, on the basis that chemically-treated asbestos poses a health risk similar to that of untreated asbestos.

In summary, OSHA regards experimental studies of animals as suggesting that all asbestos fiber types possess similar carcinogenic potency. Animal studies also suggest that fiber dimensions rather than chemical properties or fiber type may be the strongest determinant of carcinogenicity, in OSHA's view. Extrapolation of the results of experimental studies in animals to the human experience necessitates an assumption that the fiber dimensions used for experimental studies resemble fiber dimensions in workplaces. This assumption might not be valid in all instances.

4. *Other Factors.* The various types of asbestos fibers may differ in the percentage of fibers available for inhalation and the length of time that dust clouds remain airborne (Rowe, Ex. 84–085). Crocidolite might stay airborne for a longer period of time and have a greater number of respirable fibers compared to amosite, which in turn may exceed anthophyllite in regard to these two characteristics (Muir, Ex. 84–350). The preparation method for chrysotile will determine these two characteristics for a laboratory sample of chrysotile or for a particular workplace with chrysotile exposure (Rowe, Ex. 84–085). Because thicker fibers might drop to the ground faster and crocidolite is generally finer than the other fibers, crocidolite use might lead to dustier work environments and hence a greater health risk, even if crocidolite is not more dangerous on a fiber-for-fiber basis (Muir, Ex. 84–350). However, most respirable fibers, which are the fibers likely to cause disease, will tend to remain airborne for long periods of time.

Another point to consider is whether, for different fiber types, the ratio between fibers visible under a microscope and ultra-fine submicroscopic fibers varies. This would confound comparisons between cohorts apparently exposed to the same levels of different visible fibers under the light microscope, if indeed fibers not counted by the present optical microscopy method pose a hazard to health (Muir, Ex. 84–350).

OSHA believes that thicker fibers are found in mining and milling and that subsequent manufacturing processes tend to break fibers apart and reduce their diameter. Based on experimental findings implicating long thin fibers as being the most carcinogenic fibers, these subsequent processes may have a greater carcinogenic hazard compared to the initial mining and milling operations (Nicholson, 1981, Ex. 84–071).

OSHA examined the question of differentials in carcinogenic risk among manufacturing processes which fall under OSHA's jurisdiction. As is the case for studies of fiber type, cross-cohort comparisons of processes should control for the following variables: fiber concentrations, duration of follow-up, duration of exposure, and age distribution. To account for the variable of fiber concentration, OSHA compared the potency factors for lung cancer (K_L) of different manufacturing studies because potency factors are based on risk per unit dose. As discussed in Section V, *Quantitative Risk Analysis*, the potency factors for lung cancer were not consistently higher for any particular manufacturing process. Because potency factors for mesothelioma (K_m) could be calculated for only 4 studies, OSHA could not compare K_M's for different manufacturing processes. In summary, there does not appear to be a consistent pattern of differential lung cancer risk by manufacturing process. Therefore, OSHA deems it appropriate to continue to apply a single PEL to all segments of industry covered by the Agency.

Relatively thick respirable fibers tend to lodge in the lung while thinner fibers can travel to the periphery of the lung, and penetrate and then lodge in the pleura. These fine fibers lodged in the pleura might be the inducers of mesothelioma (Nicholson, 1981, Ex. 84–071). Bignon et al. (Ex. 84–105) studied the lungs and pleurae of shipyard workers, and found larger fibers, especially amphiboles, in the lungs. In the pleurae, fine and small fibers, usually chrysotile, were found.

In summary, OSHA recognizes that the fiber types may differ with regard to their tendencies to break into fine fibers. Crocidolite appears to divide into finer fibers more readily than other asbestos fiber types, which may render it more hazardous. Manufacturing processes could increase the carcinogenicity of asbestos by generating fibers that are thinner in diameter relative to mining and milling processes. While these factors are interesting and contribute to the formation of hypotheses regarding the mechanisms of asbestos carcinogenesis, OSHA believes that these factors do not provide a definitive answer to the question of possible differentials in risk by fiber type. OSHA views the data from epidemiologic and experimental studies, which have observed excess cancer risk from exposure to all asbestos fiber types, as being the most important with regard to the question of differential health risk by fiber types.

5. *Tremolite and Anthophyllite.* Some but not all commercial talc deposits contain serpentine asbestos and fibrous amphibole asbestos, including chrysotile, tremolite, and anthophyllite (Dement and Zumwalde, Ex. 84–039). Kleinfeld et al. (1967, Ex 84–101) studied the proportionate mortality of 220 talc miners and millers in New York State who had been exposed to asbestos contained in talc. All men were employed during 1940 and had 15 or more years of exposure during 1940–1965. Of 91 deaths in the study cohort, 10 (11%) were from respiratory system cancer and 28 (31%) were from pneumoconiosis or complications of pneumoconiosis. Kleinfeld et al. calculated that only 2.9 (3.2%) deaths from respiratory system cancer would have been expected, resulting in a greater than 3-fold risk of respiratory cancer. A follow-up study by Kleinfeld et al. (1974, Ex. 84–141) included 280 workers exposed to asbestos in talc. Of the 108 deaths observed, 13 (12%) were from respiratory cancer compared to 4 (3.7%) expected. The high proportion of deaths from pneumoconiosis may have reduced the number of deaths from lung cancer.

Kiviluoto et al. (Ex. 84–181) and Nurminen et al. (Ex. 84–181) observed pneumoconiosis and excess lung cancer mortality among Finnish worker exposed to talcs containing fibrous anthophyllite and fibrous tremolite. No deaths from mesothelioma were reported by these investigators.

Yazicioglu, Ilcayto, Balci, Sayli, and Yorulmaz (Ex. 84–211) reported a high prevalance of pleural calcification and thickening and a high mortality rate from mesothelioma among residents of Cermik, a town in Turkey in which there are many deposits of asbestiform minerals which are used as construction materials. The construction materials have been shown to contain fibrous tremolite, antigorite, lizardite, chlorite, and talc. Yazicioglu et al. also reported an excess of lung cancer in this population.

Brown, Dement, and Wagoner of NIOSH (Ex. 84–025) conducted a historical prospective study of talc miners and millers of one company in New York State reported by the company to be mining talcs not containing asbestos minerals. NIOSH (Dement and Zumwalde), however, had reported asbestos exposure in the talc

mine and mill. NIOSH conducted an industrial hygiene survey of the study talc mine and a neighboring talc mine known to contain asbestos fibers. Silica exposures were found to be very low, well below NIOSH's recommended PEL for silica. Radon daughter measurements made by the Mine Enforcement Safety Administration (MESA) showed only nil to trace levels. Dement and Zumwalde found that exposure characteristics between the study mine and neighboring mine were substantially similar:

"In fact, the airborne dust samples from the mine and mill studied by NIOSH and maintained by the company to be asbestos free were found to contain a *higher* proportion of positively identified asbestiform amphiboles largely due to a higher tremolite content. All other fiber characteristics, such a[s] median length, diameter, aspect ratio, and proportion less than 5 0m in length, were not statistically different at the 0.5 level" (Ex. 84–181, p. 10).

The NIOSH study cohort (Brown et al.) consisted of all white males employed sometime during 1947–1959. Vital status of the 398 cohort members was determined as of June 30, 1975. Comparision was made to age, calendar period, and cause-specific mortality rates of U.S. white males. Significant increases in lung cancer mortality (9 observed deaths versus 3.3 expected) and non-malignant respiratory disease mortality (8 observed versus 2.9 expected) were observed. One death from mesothelioma occurred. Since the individual who died from mesothelioma had previously worked in the construction industry, his death could not be definitely ascribed to his exposure to tremolite or anthophyllite. Of the 10 individuals who died from respiratory system cancer, 3 had previously worked for other New York State talc companies.

NIOSH investigators also addressed the potential confounding effects of cigarette smoking. In their opinion, a cohort of heavy smokers would have no more than a 49% increase in lung cancer risk in relation to all U.S. white males. Because they observed a greater increase in lung cancer risk, almost a 3-fold risk, they judged that cigarette smoking was unlikely to account for the observed excess lung cancer risk among these talc miners and millers exposed to asbestos. The cross-sectional morbidity survey conducted by NIOSH in 1975 found a 48% prevalence of smoking, a prevalence similar to that of U.S. males. Brown, Dement, and Wagoner stated that "exposures to asbestiform tremolite and anthophyllite stand out as the prime suspected etiologic factors" associated with the observed excess risks of lung cancer and respiratory disease. They concluded that "exposures to talcs from the Gouverneur mining area are associated with an increased risk of bronchogenic cancer and non-malignant diseases of the respiratory system" (Ex. 84–181).

As measured by optical microscopy, average air concentrations of fibers greater than 5 um in length ranged from 1.7 f/cc to 9.8 f/cc as an 8-hour time-weighted average for 6 different job titles in the mine. In the mill, average air concentrations for such fibers ranged from 1.5 f/cc to 8.4 f/cc as an 8- hour time-weighted average for 18 different job titles. (Ex. 84–181, pp. 7–10).

In addition to the excess mortality from lung cancer and non-malignant respiratory disease observed by Kleinfeld et al. and Brown et al., numerous studies of talc miners and millers exposed to asbestos contained in talcs have established that these workers have a high prevalence of pleural thickening, pleural calcification, decrements in pulmonary function, and fibrosing lung disease (Dreessen, 1933; Dreessen and Dalla Valle, 1935; Siegel et al., 1942; Schepers and Durkan, 1955; Messite et al., 1959; Kleinfeld et al., 1963, 1964, 1964, 1964, 1965, 1965, 1973; Meurman et al., 1974; Kiviluoto et al., 1964; Ahlman et al., 1972; Porro et al., 1942; Ex. 84–181). Many of these studies were conducted in the same geographic area as the studies by Brown et al. and Kleinfeld et al.

A cross-sectional morbidity study of the same company whose mortality experience was studied by Brown and colleagues was performed by NIOSH investigators (Gamble, Fellner, and DeMeo, Ex. 84–181). As discussed above, NIOSH considered that this company's workforce was exposed to asbestos contained within talc. NIOSH observed markers of asbestos exposure in the lungs of these workers in addition to respiratory symptoms and lung function decrements. Of 156 male miners and millers, 121 participated in the survey. Respiratory questionnaires, chest X-rays, and spirometric testing were administered to participating workers. Comparison of respiratory morbidity was made to 9347 coal miners, 1097 potash miners, chrysotile asbestos workers and synthetic wool textile workers. OSHA considers that one of the major strengths of Gamble et al.'s cross-sectional morbidity study was the choice of comparison populations. Because talc, coal, and potash miners are likely to be similar in many non-occupational factors that may affect respiratory morbidity, the likelihood of observed differences in respiratory morbidity being due to specific workplace exposures of the talc workers rather than other risk factors for lung disease is greatly increased. Comparisons with the coal and potash miners were stratified by age, height, smoking status, and duration of employment in mining.

Compared to coal miners and potash miners, the talc workers with no previous occupational exposure within other talc mines and mills had statistically significant increases in pleural thickening and a higher prevalence of pleural calcification. When all talc workers were combined without regard to previous occupational exposure to talc, increased prevalences of cough, phlegm production, dyspnea, pleural thickening, pleural calcification, and irregular opacities on the X-rays were observed in talc workers compared to one or both mining control groups.

In addition, talc workers had significantly decreased pulmonary function (FEV1 and FVC). Decreased lung function was associated with increased cumulative exposures and lengths of exposure.

Talc workers had a similar prevalence of respiratory symptoms when compared to chrysotile asbestos workers and a much higher prevalence of symptoms when compared to synthetic wool textile workers. In contrast, pleural thickening was four times as common in talc workers compared to the chrysotile workers. Smoking was not found to be associated with the observed radiographic changes in talc workers.

Regarding their studies of morbidity and mortality of workers exposed to talc containing asbestos, NIOSH concluded:

"A thorough review of the available literature demonstrated that findings of the present studies are in agreement with those of other studies of occupational groups exposed to the same or similar minerals or mineral mixtures. This is especially true for occupational exposures to anthophyllite asbestos. These findings make it imperative that workers from the mine and mill studied, herein, be routinely observed using medical surveillance criteria established in the OSHA and MSHA asbestos standard. Furthermore, all provisions of these standards should be followed during the production and subsequent use of these talcs" (Ex. 84–181, p. 33).

Stille and Tabershaw (Ex. 84–196) of Tabershaw Occupational Medicine Associates studied all male workers employed sometime during 1948–1977 at the talc mine and mill studied by NIOSH. A total of 708 men were eligible for the study, and vital status as of December 12, 1978 was ascertained for 672 of the men. Of the 708 men, 53

workers were excluded because of lack of information on specific variables, leaving a cohort of 655 for analysis. Comparison was made to age, calendar period, and cause-specific mortality rates of U.S. white males.

For the overall cohort, excesses in mortality that were not statistically significant were observed for lung cancer and non-malignant respiratory disease. Stille and Tabershaw judged that the non-significant excess of lung cancer was "consistent with a smoking effect" rather than an effect from occupational exposure (Ex. 84–196, p. 481).

Stille and Tabershaw also separately analyzed the mortality of the talc workers with a history of any work experience before employment at the study mine and mill. This prior work experience included all previous jobs, not only jobs at other talc mines and mills. For this subcohort of 540 white males, mortality from the following causes of death was significantly elevated: all cancers (SMR=192), liver cancer (SMR=1013), respiratory system cancer (SMR=228), lymphopoietic cancer (SMR=374), and non-malignant respiratory diseases (SMR=307). Stille and Tabershaw stated: "Since the cancers and lung diseases typically have long latencies, the possibility exists that exposures prior to work at the TMX study mine and mill were responsible for at least some of these diseases" (Ex. 84–196, p. 482).

When the mortality of the subcohort with no work experience prior to employment at the study mine and mill was analyzed, no causes of death were in excess. In fact, the SMR for all causes was significantly decreased (SMR=50). As would be expected, this cohort was generally younger than the cohort which had previous work experience. Stille and Tabershaw characterized these findings as follows: (1) "Workers with 'exclusive' TMX [study mine and mill] employment seem to be at no considerable risk of having lung cancer develop" and (2) "exposures at TMX seem to be noncarcinogenic" (Ex. 84–196, p. 483).

Brown, Beaumont, and Dement of NIOSH commented on Stille and Tabershaw's study (Ex. 84–218, p. 178; Ex. 84–231), listing several problems in the analysis by Stille and Tabershaw that could account for the different conclusions of the two sets of investigators. First, Stille and Tabershaw failed to analyze mortality by length of followup latency interval). Brown et al. thought such an analysis was particularly important given that recently hired workers were allowed to enter the cohort as late as one year before the study cut-off date for vital status determination.

Second, Brown et al. commented that Stille and Tabershaw's division of the study group into subcohorts with and without work experience prior to their employment at the study facility resulted in "selection biases inherent in the definition of the subcohorts" (Ex. 84–218, p. 179). The selection biases which tended to lessen the statistical power of the subcohort without previous work experience included the short length of follow-up, short durations of exposure, and small size of the subcohort. Brown et al. stated: "Any mortality analysis based on such a small cohort with generally short latency is not likely to be very informative" (Ex. 84–218, p. 179).

Third, Brown et al. criticized Stille and Tabershaw's analyses concerning the duration of employment of the lung cancer cases. These analyses examined the observed lung cancer deaths without calculating the expected number of deaths for each latency category and duration of employment category. In addition, Brown et al. pointed out that Stille and Tabershaw's conclusions had not adequately acknowledged that many study facility workers had been employed by neighboring talc companies with exposures similar to those of the study facility.

Brown et al. concluded that Stille and Tabershaw's report did not adequately address the question of increased lung cancer risk from working at the study facility. In addition to the points discussed above, NIOSH also commented that death certificates should have been coded according to the rules of the ICDA in effect at the time of death and then converted to either the 7th or 8th revision of the ICDA for analysis, rather than coding the deaths directly to the 8th revision. NIOSH also had questions concerning the 53 workers eliminated from the cohort and how workers lost to follow-up were treated in the analysis.

Tabershaw and Thompson responded to the NIOSH critique with the following comments (Ex. 84–218). First, they cited mineral scientists and laboratories who disagreed with NIOSH's method of identifying asbestos in silicate mineral mixtures and who did not find significant asbestos concentrations in the talc processed at the mine and mill. Second, they stated that talc ore at the study facility was not similar to that of other talc mines of upstate New York. Third, Tabershaw and Thompson reiterated that many of the lung cancer deaths occurred in short-term workers employed for less than one year. In their opinion, this lessened the likelihood of the lung cancers being attributable to occupational exposure at the study plant. Tabershaw and Thompson also pointed out that only one talc miller developed lung cancer, despite the historically higher exposures of talc millers. In conclusion, Tabershaw and Thompson stated that application of the asbestos standard to the Vanderbilt workforce was unwarranted based on current evidence.

OSHA calculated a statistical power of 20% to detect a 50% increase in risk of lung cancer in Stille and Tabershaw's subcohort of workers with no previous work experience. (See Ex. 84–336 for a description of how OSHA calculated statistical power.) OSHA considers that this very low statistical power supports NIOSH's criticism of the sensitivity of Stille and Tabershaw's study design. The statistical power would have been even lower if it had been calculated for the group of workers with at least 20 years of latency.

As discussed earlier, cross-cohort comparison may be problematic if the age distributions, durations of exposure, and lengths of follow-up differ among the cohorts being compared. OSHA believes that this appears to be the case with TOMA's comparison of the subcohorts with and without previous work experience.

Several points are notable with regard to the question of the short-term workers who developed lung cancer. First, short durations of exposure may result in high cumulative doses depending upon the intensity of the exposure. Second, the phenomenon of short-term asbestos exposure and subsequent disease has been observed in other epidemiologic studies. Third, if the majority of person-years-at-risk were contributed by short-term workers, then finding most of the lung cancer deaths among these workers would not be unusual. Also, Tabershaw and Thompson did not discuss the expected number of lung cancer deaths when they mentioned the single lung cancer death among the study facility talc millers.

In 1983, Consultants in Epidemiology and Occupational Health (CEOH) prepared another analysis of the mortality of Stille and Tabershaw's study cohort (Ex. 84–257). NIOSH reviewed CEOH's analysis and stated:

"Although the findings of these analyses appear to support their [CEOH's] hypothesis that the talc is non-carcinogenic, the resulting statistical analyses are based on *assumptions, small numbers,* and *short latency.* Therefore, the CEOH conclusions are based on analyses that are inherently deficient in being able to

detect a true risk in an exposed population" (Ex. 84–375, p. 3).

Smith, Hubert, Sobel, and Marquet (Ex. 84–194) studied health effects of talc containing asbestos in laboratory animals. Smith et al. administered intrapleural injections of 4 different tremolitic substances into hamsters, including fibrous tremolitic talc from New York state, tremolite prepared from tremolitic talc ore of the facility studied by NIOSH, tremolite prepared from western U.S. tremolitic talc ore, and asbestiform tremolite. Periods of observation ranged from 350 days to 600 days after injection. Tumors and pleural fibrosis were observed only in animals injected with asbestiform tremolite and tremolite prepared from western U.S. tremolitic talc ore. Smith et al. found that the samples of asbestiform tremolite had greater proportions of long thin fibers than the sample of tremolite from the facility studied by NIOSH.

The sample of fibrous tremolitic talc from New York state also contained long thin fibers and Smith et al. suggested that the negative results from this particular sample were due to its much lower tremolite content relative to the carcinogenic samples. Smith et al. suggested that the sample of tremolite from the facility studied by NIOSH may have failed to induce tumors because of the shorter length of its fibers, despite its high tremolite content. Commenting on their results and on the fact that the carcinogenic samples contained material other than tremolite, Smith et al. stated:

> "* * * we cannot be sure that their activity is due wholly, or even in part to tremolite * * * consideration must be given, not merely to the amount of tremolite, but also to other factors, such as the morphologic characteristics of the mineral" (Ex. 84–194, p. 338).

OSHA considers that interpretation of Smith et al.'s findings is limited by the small number of animals studied, short survival times, and short periods of observation.

In summary, OSHA concludes that NIOSH studies have shown that exposure to asbestos when it is present in talc appears to have resulted in excess mortality from lung cancer and non-malignant respiratory disease and excess risk of pleural thickening and lung function decrements. OSHA is cognizant of the fact that talc mining and milling in the absence of asbestos exposure can result in pneumoconiosis. Furthermore, NIOSH's findings on mortality are consistent with those of Kleinfeld et al., Kiviluoto et al., Nurminen et al., and Yazicioglu et al. NIOSH's morbidity findings are consistent with those of numerous other studies. OSHA believes that the epidemiologic study of the talc company conducted by Stille and Tabershaw of Tabershaw Occupational Medicine Associates has serious limitations such that it does not refute the hypothesis that talc containing asbestos poses a lung cancer hazard to exposed workers. Smith et al.'s experimental study observed positive findings of tumorigenicity for asbestiform talc and non-positive findings for the talc from the facility studied by NIOSH; however, OSHA thinks that limitations of Smith et al.'s study render its findings inconclusive for talc from the facility studied by NIOSH. In any event, the positive human findings outweigh the non-positive animal findings. Talcs containing asbestos minerals, therefore, appear to pose a significant health risk to exposed workers, and talc workers exposed to asbestos should receive the protection afforded by the asbestos standard. OSHA notes that the broader issue as to which mineral fibers are to be included in the definition of asbestos will be part of the rulemaking for the permanent standard. This ETS action does not change the definition of asbestos as found in 1910.1001.

6. *Summary.* The evidence presently before the Agency indicates that all asbestos fiber types, except for anthophyllite, cause lung cancer, mesothelioma, and asbestosis. Anthophyllite causes lung cancer and asbestosis. Mesothelioma has not been reported in anthophyllite workers.

For lung cancer, OSHA notes that inconsistent and inconclusive findings with regard to differential risk by fiber type have been observed by different investigators. Some studies have observed the same or higher lung cancer risk in chrysotile workers compared to workers exposed to amphibole fibers; other studies observe lower risk of lung cancer in chrysotile workers. For example, high respiratory cancer risk was observed by Dement and colleagues among chrysotile textile workers. As discussed by CHAP, consistent patterns of higher lung cancer risk by fiber type did not emerge. With some exceptions, investigators generally failed to control for variables affecting lung cancer risk when comparing the mortality of different occupational cohorts. Among the important determinants of lung cancer risk, which were not consistently controlled for, are fiber concentration, length of observation, and age distribution.

OSHA views evidence for differential mesothelioma risk by fiber type as suggestive yet not conclusive. Occupational cohorts exposed to crocidolite and amosite appear to have had a higher proportion of deaths from mesothelioma, particularly peritoneal mesothelioma, compared to occupational cohorts exposed to chrysotile. Nonetheless, OSHA is unable to characterize this evidence as conclusive because most investigators failed to control for fiber concentration, length of observation, and age distribution when making cross-cohort comparisons of mortality from mesothelioma. Controlling for length of observation is particularly important because mesothelioma usually has a latency period of 30 years or more and the risk rises exponentially with increasing time since initial exposure.

Lung cancer is the major cause of asbestos-induced occupational mortality. Mesothelioma and asbestosis also are significant causes of excess mortality among asbestos workers. OSHA has concluded that there is a grave risk for lung cancer and asbestosis among workers exposed to all asbestos fiber types and that workers need to be protected from these risks by this ETS, which sets the lowest PEL that is feasible at this time. As a practical regulatory endpoint, therefore, it is inconsequential whether the mesothelioma risk is greater for certain fiber types than for other types.

Experimental studies of animals have found that chrysotile is as least as potent a carcinogen as other asbestos fiber types. One study found that chrysotile was more carcinogenic than other asbestos fibers when administered by inhalation. Many experimental studies have reported that fiber dimension is a very important determinant of carcinogenicity in laboratory animals. Fibers longer than 4 micrometers (um) and with diameters of 1.5 um or less have been implicated as the most carcinogenic fibers. A variety of different natural and synthetic substances having fibers longer than 4 um with widths of 1.5 um or less have induced cancers via implantation in laboratory animals, suggesting that the chemical properties of asbestos (such as fiber type) and non-asbestos fibers may not affect carcinogenicity but that fiber dimensions may determine carcinogenicity. Thus, in OSHA's view, animal studies do not support the hypothesis that there are differences in carcinogenic potency among the various fiber types.

Fiber types may differ with regard to the fineness of fibers used in industrial processes. Finer fibers may be more carcinogenic, according to animal studies, and crocidolite appears to be divided more readily into fine fibers

than other asbestos fiber types. Also, manufacturing processes may break fibers apart to generate fibers thinner in diameter than those found in the mining and milling processes.

NIOSH scientists (Brown, Dement, and Wagoner) observed excessive mortality from lung cancer and non-malignant respiratory disease among workers in one plant exposed to talc containing asbestos. A morbidity survey of the same plant found increased risk of pleural thickening and lung function decrements. NIOSH concluded that increased risk of lung cancer and non-malignant respiratory disease was apparent in workers exposed to talc containing asbestos. Kleinfeld and colleagues also observed excess lung cancer and respiratory disease mortality among workers exposed to talc containing asbestos, and numerous morbidity surveys have documented respiratory disease excesses among talc miners and millers exposed to asbestos. Stille and Tabershaw conducted a study which they interpreted as contradicting NIOSH's findings regarding excessive mortality among talc workers exposed to asbestos. Stille and Tabershaw's study had serious methodologic limitations such that NIOSH's conclusions still appear to be valid. While not all talc products contain asbestos, OSHA finds that when asbestos minerals are contained in talc products, there appears to be a health risk to exposed workers.

Practical administrative considerations also are pertinent to the question of making regulatory distinctions by fiber type. Several types of asbestos may be present in the same workplace, as is the case for insulation, creating considerable measurement difficulties. Determining asbestos type(s) within each workplace might complicate compliance and exposure monitoring. However, OSHA is aware that the United Kingdom has been able to overcome such complications.

In summary, OSHA concludes that on the basis of the epidemiologic and experimental studies reviewed above, it is not appropriate at this time to make distinctions by fiber type for regulatory purposes. Accordingly, quantitative analyses of risk should base estimates of excess risk on asbestos fibers as a whole rather than on separate fiber types. Provisons of OSHA's standard for asbestos, including the permissible exposure limit, should also be the same for all commerically used asbestos fiber types.

F. Conclusions

Asbestos poses a grave danger to the health of exposed workers, having caused excess mortality and disability in epidemic proportions among some groups of exposed workers. Asbestos causes non-malignant respiratory disease, which can result in complete disability and death. Asbestos also causes malignant mesothelioma, which is usually rapidly fatal, and lung cancer, which is usually fatal. The causal relationship between asbestos exposure and disease has been established by a multitude of epidemiologic studies conducted throughout the world, including the United States, United Kingdom, Canada, Australia, Italy, and Finland. Furthermore, asbestos has been shown to cause excess disease in many different occupational environments, starting with mining and milling of asbestos and continuing to cause disease in various manfacturing processes such as asbestos textile production and asbestos cement production. Asbestos also has been shown to be extremely hazardous when used as a product by insulation workers and shipbuilding workers. Numerous scientific organizations and agencies have reviewed the health data for asbestos and have concluded that asbestos exposure causes lung cancer mesothelioma, and asbestosis.

To determine the potential of a hazardous agent to cause disease at low exposures, OSHA has examined the results of studies of workers receiving low exposures, where such studies are available and have sufficient sensitivity to detect excess risk of disease. OSHA has also attempted to predict risk at low exposures from risk observed at high exposures by using dose-extrapolation models (see section V). Both of these methods of evaluating risk at low exposures are valid.

Studies are not available of workers exposed solely to asbestos levels of 2 f/cc which have sufficient cohort size and long enough follow-up periods to permit observation of increases in cancer and lung disease mortality. Studies are available of workers with low cumulative exposures to asbestos, however. Workers exposed 50 years to the OSHA PEL of 2 f/cc would have a cumulative exposure of 100 f/cc-years. Hence, studies of workers with cumulative exposures close to or below 100 f/cc-years provide some evidence of risk from working lifetime exposures to OSHA's PEL. Studies finding adverse pulmonary effects or excessive mortality from lung disease from exposure close to or below 100 f/cc-years were conducted by Berry et al., McDonald et al., Dement et al., Berry and Newhouse, and Finkelstein. Dement et al., Finkelstein, and Henderson and Enterline also observed excess mortality from lung cancer among workers receiving relatively low cumulative exposures. Weill et al. and McDonald et al. did not observe increased lung cancer mortality among workers receiving relatively low cumulative exposures. Despite some inconsistencies in findings regarding risk from low cumulative exposures, OSHA considers that the many well-conducted studies which observed substantially increased risk of morbidity and mortality among workers receiving low cumulative exposures are evidence of significant hazard at exposures allowed by the existing PEL. Section V., *Quantitative Risk Analysis*, will discuss *predicted* risk from exposure to OSHA's PEL.

A number of investigators have suggested that different fiber types of asbestos have differences in their ability to induce mesothelioma. Specifically, crocidolite has been hypothesized to be the most hazardous type of asbestos because of suggestive evidence that indicates that the mesothelioma risk may be higher for crocidolite exposure than for other asbestos types. All commercially used fiber types have induced lung cancer, mesothelioma, and asbestosis in exposed workers, except for anthophyllite, which has induced lung cancer and asbestosis. OSHA regards evidence for differentials by fiber type in lung cancer risk and asbestosis risk as being inconclusive and inconsistent. However, evidence for fiber type differentials in risk with regard to induction of mesothelioma, particularly peritoneal mesothelioma, appears to be more consistent, based on epidemiologic studies of occupational cohorts exposed to different fiber types Because variables that affect the sensitivity of studies for detection of risk of mesothelioma have not been controlled for by most investigators comparing different occupational cohorts, OSHA views the evidence for fiber type differentials in mesothelioma risk as inconclusive. Among the variables that influence the appearance of mesothelioma are length of observation, duration of exposure, fiber concentration, and age distribution.

It is possible that mesothelioma risk may be higher from exposure to finer fibers, and that operations using crocidolite may tend to break fibers apart to make them more carcinogenic. Studies in laboratory animals have not consistently observed differential risk by fiber type with regard to induction of pulmonary fibrosis and cancers; in fact, some studies in animals have found chrysotile to be the most carcinogenic among the various asbestos fibers tested.

Lung cancer is the major cause of asbestos-associated occupational mortality. The very high risk of lung cancer from exposure to all asbestos fiber types supports choosing the same PEL for all fiber types.

Several epidemiologic studies, including one performed by NIOSH, have found that workers exposed to talc containing asbestos have excess mortality from lung cancer and non-malignant respiratory disease. Many other studies have observed excess morbidity from respiratory disease, chest X-ray abnormalities, and lung function decrements among such workers. One non-positive study conducted by Stille and Tabershaw of talc workers has methodologic limitations such that it does not refute studies finding excess mortality among workers exposed to talc containing asbestos.

A number of studies in laboratory animals have implicated long thin asbestos fibers in the etiology of cancer and lung fibrosis. Stanton et al. found that fibers greater than 8 μm in length and 1.5 μm or less in diameter were the most carcinogenic; however, OSHA believes that Stanton et al.'s studies do not exclude the possibility of carcinogenicity of fibers shorter or thicker than these dimensions.

At least 12 studies have observed excess mortality from gastrointestinal cancer (stomach, esophagus, colon and rectum) among asbestos exposed workers, 7 of which found statistically significant excesses. Other cancer sites have also been observed to be increased by different investigators. OSHA believes that the positive human studies finding gastrointestinal cancer excesses outweigh the non-positive and equivocal animal studies of ingested asbestos, as well as the non-positive human studies. Therefore, OSHA concludes that excess mortality from gastrointestinal cancer should be included in quantitative risk analyses for asbestos.

Cigarette smoke and asbestos have a multiplicative (synergistic) effect with regard to production of lung cancer. Asbestosis also might be increased in cigarette smoking asbestos workers relative to non-smoking asbestos workers. OSHA is not aware of any evidence for an effect of cigarette smoking on induction of mesotheliomas or gastrointestinal malignancies among asbestos workers. Hammond et al. found that both smoking and non-smoking asbestos insulation workers had relative risks for lung cancer of about 5.

V. Quantitative Risk Analysis

A. Introduction

As explained above, OSHA's determination that currently exposed workers face a grave risk of asbestos-related disease is primarily based on the results of quantitative risk assessment performed by the Agency. The process of assessing the risk from asbestos exposure includes several steps. OSHA has critically evaluated the scientific evidence concerning the health risk from asbestos exposure. OSHA, as well as other scientific groups, believes that asbestos exposure causes lung disease, respiratory cancer, mesothelioma, and gastrointestinal cancer. OSHA has also examined (and discussed in the section entitled *Epidemiologic Evidence on Risk from Exposures at Current the PEL.* Section IV B.) evidence that indicates that excess disease risk has been observed at cumulative exposures at or below those permitted by the existing OSHA 8-hour permissible exposure limit. In addition, OSHA has made risk estimates of excess mortality from lung cancer, mesothelioma, gastrointestinal cancer and incidence of asbestosis using mathematical models that describe the data observed in epidemiologic studies conducted in various industrial populations.

In many cases the elevated risks seen in worker populations reflect past exposures that were higher than those permitted today. OSHA's quantitative risk assessment entails using the directly observed risks from these past exposures to estimate risk at lower exposure levels. OSHA believes this is a scientifically appropriate and valid procedure. In some instances, OSHA estimated risks using studies which actually observed risks at or below cumulative exposures permitted by the current standard. The range of studies covers many different work situations and exposure levels upon which to base the extrapolations. Where possible, OSHA has quantified the ranges of uncertainties in the estimates. These numerical estimates, as well as those risks observed at low exposures, were evaluated to determine the significance of the risk and to determine whether the standard will lead to a substantial reduction in risk.

The sections below provide a brief synopsis of OSHA's quantitative risk estimates derived from mathematical models. A more detailed description of OSHA's calculations for asbestos-related cancers is in the public docket and is available upon request (Ex. 84–392).

B. Dose-Response Model for Lung Cancer

Dose-response information for lung cancer based on the epidemiological studies indicates that the risk of asbestos-induced lung cancer increases linearly with dose. Therefore, OSHA believes it is appropriate to use a mathematical model which assumes that the excess risk is linearly proportional to dose to estimate the excess mortality which is associated with asbestos exposure. This excess risk is expressed as the number of additional lung cancer deaths per 1000 workers exposed for a specific time period. Excess risk equals the cumulative dose multiplied by a potency coefficient (slope of the dose-response curve) estimated from the studies. [Note: Total dose, also referred to as cumulative exposure or cumulative dose, is a measure of the amount of asbestos inhaled; it is the product of the duration of exposure (in years) and the intensity of exposure (which is workplace air concentration in mppcf or fibers/cc). Under this definition of exposure, a person exposed to airborne asbestos at 2 fibers/cc for 20 years (40 fibers/cc-years) has the same total dose as a person who is exposed to asbestos at 4 fibers/cc for 10 years (40 fibers/cc-years)].

Evidence of the linear dose-response relationship for lung cancer is found in several well-conducted epidemiologic studies that examined lung cancer mortality in relation to the cumulative asbestos exposure in the workplace (for example, Henderson and Enterline, 1979, Ex. 84–48; Liddell et al., 1977, Ex. 84–59; and Dement et al., 1982, Ex. 84–35). In the three studies cited above, workplace asbestos air concentrations were available from measurements made in the worksite studied. Although the studies differ in the magnitude of the risk found (discussed later in the section), all three demonstrate a linear relationship over the entire range of observation.

Other scientists and scientific groups who have attempted to estimate risk from asbestos exposure have used the linear model for lung cancer (Crump, Ex. 85–22, British Advisory Committee on Asbestos, Ex. 84–216, Acheson and Gardner, Ex. 84–243, Selikoff, Ex. 82–2, EPA, Ex. 84–180, CHAP, Ex. 84–256). The model is generally accepted and OSHA believes use of the linear model for predicting lung cancer due to asbestos exposure is reasonable and well-supported.

Relative risk is defined as the ratio of the mortality rate of exposed persons to the mortality rate of equivalent non-

exposed persons. Relative risk is frequently approximated by the standardized mortality ratio (SMR), which is the observed number of deaths in the exposed population divided by the number of deaths that would be expected in the exposed population. The number of expected deaths is usually derived from the specific age, sex, and calendar year mortality rates in the comparison population.

Based upon the considerations listed above and on the data, the relative risk model used by OSHA in assessing the risk of developing lung cancer from asbestos exposure is described by the following equation:

$$R_L = R_E [1 + (K_L \times f \times d_{t-10})] \quad \text{(Eq.1)}$$

That is,

$$(R_L/R_E)-1 = K_L \times f \times d_{t-10} \quad \text{(Eq. 2)}$$

where R_L is the lung cancer mortality resulting from the asbestos exposure, R_E is the expected mortality in the absence of exposure, f is the intensity of exposure in fibers/cc, d is the duration of exposure in years, t is the time from the onset of the asbestos exposure in years (minus 10 years to allow for a minimum latent period) and K_L is the proportionality constant that is a measure of the carcinogenic potency of the asbestos exposure (slope of the dose-response curve). (For a more detailed rationale for the choice of this model, see Ex. 84-392). This calculation was performed for each five-year age interval; the overall lung cancer risk is then computed as the sum of the risks in each of the five-year intervals from age 25 to age 70.

The concept of direct proportionality of the risk of lung cancer to the dose can be demonstrated with a simple example. Using Equation 2, if does is increased by a factor of three, such as increasing the duration of exposure from two years to six years, the excess relative risk [(R_L/R_E)— 1] risk increases by a factor of three. Also, reducing dose by reducing air concentrations, such as from 4 fiber/cc to 1 fiber/cc, reduces the excess relative risk by a factor of four. [It should be noted that the estimates of risk given in Tables 10 and 11 are estimates of excess risk, not excess relative risk. Therefore, direct proportionality of dose and risk as described above may not be observed. Further explanation is given in Section E.]

C. Dose-Response Model for Mesothelioma

OSHA believes that the risk of mesothelioma is best estimated by an absolute risk model. Absolute risk is calculated as (observed deaths/person-years at risk). Use of SMR's or relative risk is not appropriate for mesothelioma because the expected number of deaths in a cohort would be close to zero due to the rarity of the disease. In addition to using absolute risk rather than relative risk, this model is different from that used for lung cancer because both duration of time since initial exposure and duration of exposure are determinative risk. The magnitude of the risk increases linearly with intensity of exposure, whereas the risk increases exponentially with duration of exposure and time from onset of exposure.

The rationale for such a model for describing mesothelioma risk has been discussed by several authors (Armitage and Doll, 1969, Ex. 84–252; Pike 1966, Ex. 84–385). Such a model was utilized by Newhouse and Berry (1976, Ex. 84–342) in predicting mesothelioma mortality among a cohort of factory workers in England. Limited data are also available from three studies on the dose-response relationship for mesothelioma (Seidman et al., 1979, Ex. 84–87; Hobbs, et al., 1980, Ex. 132, and Jones et al., 1980, Ex. 84–138).

The data indicate that mortality from mesothelioma begins to increase only after a minimum of ten years following the initial exposure and begins to decrease after 45 years from onset of exposure (Selikoff et al., 1979, Ex. 84–90 and Nicholson et al., 1983, Ex. 84–251). The mortality from mesothelioma can be described by the following equations (Equations 3).

$$AR_M = f \times K_M [(t - 10)^3 - (t-10-d)^3] \quad \text{for } t \geq 10+d$$

$$AR_M = f \times K_M (t-10)^3 \quad \text{for } 10+d > t \geq 10$$

$$AR_M = 0 \quad \text{for } 10 > t$$

where AR_M is the mortality from mesothelioma, f is the intensity of exposure in fibers/cc, d is the duration of exposure in years, t is time after first exposure in years, and K_M is the proportionality constant that is a measure of the mesothelioma carcinogenic potency (slope of a dose-response curve) (Ex. 84-392).

D. OSHA's Quantitative Risk Assessment

OSHA's critical evaluation of all relevant animal and epidemiological studies resulted in selection of eleven epidemiological studies for calculation of the K_L for lung cancer (Selikoff et al., 1979, Ex. 84–90; Seidman et al., 1979, Ex. 84–87; Henderson and Enterline, 1979, Ex. 84–48; Weill et al., 1979, Ex. 84–206; Finkelstein, 1983, Ex. 84–240; Peto, 1980, Ex. 84–169; Dement et al., 1982, Ex. 84–35; Berry and Newhouse, 1983, Ex. 84–21; Liddell et al., 1977, Ex. 84–65; Nicholson et al., 1979, Ex. 84–72; and Rubino et al., 1979, Ex. 84–86) and four for K_M for mesothelioma (Selikoff et al., 1979, Ex. 84–90; Seidman et al., 1979, Ex. 84–87; Finkelstein et. al., 1983, Ex. 84–240; and Peto, 1980, Ex. 84–169). In general, studies of human cohorts in the workplace should provide a better basis for quantitative risk populations at risk and the populations from which the risk estimates are derived. In determining the potency coefficients K_L and K_M, Equations 1 and 3 were used to define the dose-response relationship so that cancer mortality was estimated for various exposure levels and exposure durations. A number of well-conducted and high quality epidemiologic studies were available that contained sufficient information on which to base a quantitative risk assessment. Some of these studies did not contain exposure data, but could be coupled with exposure information from other sources in order to obtain an estimate of K_L and K_M.

OSHA chose not to use animal studies to predict quantitative estimates of risk from asbestos exposure due to the many high quality human studies that exist that were conducted in actual workplace situations. Rather OSHA has supplemented the human data with results from animal studies in the evaluation of the health information and in the determination of the significance of risk because OSHA believes that the animal studies provide valuable qualitative information on asbestos-related disease. It is not clear in all instances whether laboratory animals have been exposed to fiber size distributions similar to those found in workplaces. In addition, asbestos appears to multiply the underlying lung cancer risk of smoking and nonsmoking workers; laboratory animals generally do not have any underlying risk for developing lung cancer. However, the animal studies do show that all commercial asbestos types can cause cancer and pulmonary fibrosis. Animal studies also indicate that longer, thinner fibers may have greater carcinogenic potency than short coarse fibers.

The range of estimates of risk from the eleven epidemiologic studies is rather large. The differences in results among the studies can be explained in several ways. There appears to be actual differences in risk depending upon the nature of the asbestos exposure. One potential explanation is that workplaces differ with regard to fiber size distributions (longer finer fibers appear to have greater carcinogenic potential than the coarse fibers). The observed K_L values for studies of mining and milling operations, where airborne fibers are relatively coarse, are lower than the K_L values found in studies of textile operations where fibers are fine.

Differences may also be explained by the variations in study design and other factors influencing the ability to detect excess risks. One of these is the limited knowledge of past fiber exposures of those populations whose mortality was later evaluated. Prior to 1970, few measurements were made in facilities using asbestos fibers. Further, those measurements that were done usually quantified all dust present in the workplace air and not just fibers. Current techniques, which involve use of membrane filters and phase contrast microscopy for the counting of fibers longer than five micrometers have been utilized in Great Britain and the United States only since 1964 (Ayer et al., 1965, Ex. 84–253;) and have been standardized in the United States only since 1972 (Leidel, 1979, Ex. 84–62) and even later in Great Britain. In any case, sampling has occurred only for few worksites and then only occasionally. OSHA has evaluated these differences and have dealt with their implications on a study by study basis, as explained in the quantitative risk assessment (Ex. 84–392). OSHA notes that, despite these apparent limitations, taken as a whole, the asbestos studies contain data of unusually high quality which has enabled OSHA to make the risk estimates with a high degree of confidence.

In addition, variability in work activities and in sampling circumstances add considerable uncertainty to knowledge of dose.

Some of the epidemiologic studies, including those by Dement et al. (Ex. 84–35), McDonald et al. (Ex. 84–48), and Henderson and Enterline (Ex. 84–48), have measured air concentrations at the exposure site and used job histories of the study population to estimate exposure. In these cases the dose-response curve was calculated by estimating total asbestos exposure (in mppcf-years or in fiber/cc-years) according to the time that an individual spent at a job with a measured exposure value. A conversion factor for converting from mppcf to f/cc was employed on a study by study basis depending upon the data available. Other epidemiological studies, for example those by Selikoff et al. (Ex. 84–90), and Seidman et al. (Ex. 84–87), had neither job histories nor direct industrial hygiene measurements for the studied worker population. For these studies, exposure estimates were derived from industrial hygiene surveys of similar work operations and processes for which industrial hygiene data were available. The study by Seidman et al., however, contained good information regarding duration of exposure (which can often be examined as a surrogate for dose in establishing the shape of the exposure-response relationship).

As discussed in Section IV, OSHA has concluded that workers exposed to

asbestos are likely to be at an increased risk of gastrointestinal cancer. Though an excess of GI cancer has not been observed consistently in every study of asbestos workers, and while the ratio of gastrointestinal cancer to lung cancer varies considerably from study to study, there appears to be sufficient evidence to roughly estimate the excess gastrointestinal cancer risk in asbestos-exposed populations. In general, the risk ranges from about 5 to 20% of the excess lung cancer risk. (A detailed table of the risk from gastrointestinal cancer observed in 27 studies is given in Ex. 84–392). In an attempt to quantify the risk of gastrointestinal cancer, OSHA considers that a simple risk model in which the lung cancer excess is multiplied by 0.1 (10%) is appropriate for estimating the risk from gastrointestinal cancer. The estimates of risk from gastrointestinal cancer are also given in Tables 10 and 11.

Cancers at sites other than the lung, mesothelium, and gastrointestinal tract have been shown to be elevated in some asbestos exposure studies, including laryngeal, kidney, pharyngeal and buccal cavity cancer. To OSHA, it appears that the excess risk for "other cancers" is about the same as for gastrointestinal cancers. OSHA recognizes many uncertainties in quantifying this risk, in view of the inconsistencies in findings among different epidemiologic studies. (Some studies have found excess risk from other cancers, while other studies have not.) The sites showing excess risk have also varied among studies. Therefore, OSHA has not made numerical estimates of risks for these other causes at this time. The data indicating gastrointestinal cancer excesses are stronger and more consistent than the data suggesting excess at these other cancer sites. OSHA does not feel compelled to quantify this risk at this time. The high quality and well-supported estimates of excess risk of mortality from lung cancer, mesothelioma and asbestosis alone provide sufficient bases upon which to justify this action.

E. Estimates of Cancer Mortality

A best estimate of K_L was calculated for each of the eleven epidemiologic studies and an estimate of K_M was calculated from four of these studies (see Table 5) (Ex. 84–392). For each study, the best estimate for K_L and K_M is indicated along with a range of uncertainty. The ranges listed are those are the result of estimates of exposure uncertainties (usually a factor of 2), methodological uncertainties that led to alternate evaluations of risk or exposure or in some cases, statistical uncertainties associated with small numbers. Detailed derivation of each range of uncertainty is discussed in Ex. 84–302.

The distinct nature of mining-milling data (and hence, the estimates of K_L from these data) have been considered earlier. There is some evidence that risks in the asbestos mining-milling operations are lower than other industrial operations due to differences in fiber size. Thus, in determining the best overall value for K_L from the eleven studies, the data were examined both with and without the K_L calculated from the studies of mining-milling processes.

The range of individual values for K_L covers two orders of magnitude, from 0.0006 to 0.066. The arithmetic mean of the eleven values of K_L (unit risk per f-y/cc) is 0.0201, and 0.0267 when the K_L's from mining and milling are excluded. The geometric mean of the data is 0.007; when the estimates of K_L from mining-milling operations are excluded, the geometric mean of the K_L's is 0.0113. The K_L's have a median of 0.0051 with the mining-milling processes and a median of 0.0138 when the mining-milling processes are excluded.

Considering the industrial processes other than mining and milling, OSHA believes 0.01 to be a reasonable estimate of K_L. It is the geometric mean and median of the K_L's derived from studies of asbestos manufacturing and insulation application processes. The geometric mean has the advantage of minimizing the influence of outlying values and a K_L of 0.01 is approximately within one order of magnitude of all the estimates of K_L. In sum, the K_L of 0.01 is a best estimate which contains appropriate recognition of studies with higher and lower values of K_L. It should be noted however, that the uncertainties around this estimate of K_L are such that, an appropriate estimate of K_L could lie between 0.003 and 0.03.

The estimates of K_M given in Table 15, are derived from studies with four of the five highest K_L values. That is, there is some bias in examining the value of K_M independent of the K_L in the same studies because it is likely that these K_M would tend to be slightly higher than those derived from other studies, due to the demonstrated high power of these studies to detect risk. The arithmetic mean of the K_M's is 4.98×10^{-8}, and the geometric mean of the K_M's is 2.91×10^{-8}.

To account for some of this bias when estimating K_M, it is useful to examine the ratio of K_M to K_L. For the four studies for which K_M was calculated, the range of the ratios of K_M to K_L is only two-fold (from 0.75×10^{-6} to 1.79×10^{-6}). Both the arithmetic and geometric means of these ratios are 1×10^{-6}. Thus, 1×10^{-6} is an appropriate choice as the best estimate of K_M/K_L. Using this estimate of the ratio K_M/K_L and the preferred estimate of K_L (0.01), the preferred estimate of K_M would be 1×10^{-8} ($K_M=1\times10^{-6}\times1\times10^{-2}$). A range of 3×10^{-8} to 3×10^{-6} for K_M would appropriately represent most exposure situations.

There is no evidence in this analysis that would suggest that a special lung cancer potency is ascribable to a specific type of fiber. Some of the highest and lowest values for K_L are obtained from pure chrysotile exposures (for example, K_L calculated from data of Dement et al. is 0.042; using data from Peto et al. gives a K_L of 0.0076). Exposures involving a mixture of fibers, including amosite and crocidolite, also span a large range of values for K_L. Wide differences also occur in the results of separate epidemiological studies of similar work conditions.

Some scientists have suggested that some asbestos processes, such as asbestos textile manufacturing, may pose a greater hazard than other processes. For example, mining and milling appears to pose a lesser carcinogenic hazard than manufacturing processes. OSHA compared the potency factors for lung cancer (K_L) among different epidemiology studies of manufacturing processes because the potency factors are based on risk per unit dose. No consistent pattern of differential lung cancer risk (i.e., higher K_L's) by process emerged. One study of asbestos textile workers found a very high risk while another found a much lower risk, and the same was true for the two studies of asbestos production workers and the two studies of asbestos cement workers. Therefore, the choice of a midpoint unit risk for all industrial processes ($K_L=0.01$) is a reasonable and justified choice.

The best estimates of K_L and K_M were utilized to estimate the mortality from exposures to varying concentrations of asbestos for different time periods beginning at different ages. The calculations are age, intensity and duration specific. Tables 10 and 11 show the excess asbestos-related mortality rates from lung cancer, mesothelioma, and gastrointestinal cancer (gastrointestinal cancer excess is assumed to be 10 percent of the lung cancer excess). In these calculations, Equation 1 and Equation 3 were used with values of K_L equal to 0.01 and K_M equal to $1\times10-^{6}$ and the 1977 U.S. male background lung cancer mortality rates. Because of age-specific increases in lung cancer rates in older men since 1977,

estimates based on more recent background rates would be higher. Calculations were done for each 5-year age interval, and then summed to give a total lifetime risk. The calculations performed to give the results in Tables 10 and 11 assumed that the relative risk increased following ten years after onset of exposure and continued to rise until ten years after cessation of exposure, after which it remained constant.

Table 10 gives estimates of risk for one year of exposure to asbestos at various concentrations for workers beginning exposure at ages 20, 30, 40, 50 and 60. It should be noted that employees exposed at earlier ages show higher risk of all cancers due to the long period of time during which it will be possible for disease to develop. One year of exposure to asbestos at 2 f/cc starting at age 20 may result in a total excess cancer risk of 345 per 100,000 workers.

Table 11 gives the predicted excess lifetime risk of cancer for exposures of one year, 20 years, and 45 years assuming first exposure at age 25.

Several comments should be made regarding the results in Tables 10 and 11. Though excess relative risk is linear in dose, the excess mortality rates given in Tables 10 and 11 are not strictly linear in dose. Therefore, for example, the risk at 2 f/cc is not exactly 4 times the risk at 0.5 f/cc, though there is a close approximation. It should also be noted that the risks for longer periods of exposures do not appear to be a straight-forward multiplication of the risks of shorter duration. In the longer exposures categories, where exposure will affect older workers, some adjustments have been made for competing risks which are likely to affect the death rate from lung cancer. In addition, when looking at the total cancer risks, it must be remembered that these include the risk of mesothelioma, which is related to time in an exponential fashion.

As can be seen from Table 11, the predicted risk from mesothelioma is approximately equal to the lung cancer risk for one year of exposure and, about one-half the risk value for lung cancer in the 20-year exposure group. The excess risk of mesothelioma after a lifetime exposure (45 years) to asbestos is approximately one-third the lifetime excess lung cancer risk. These predictions comport with observations in several populations, where mortality from mesothelioma is observed to comprise approximately 50 percent of the excess mortality from lung cancer.

Using the equations given earlier, and based on the calculations in Table 11, OSHA predicts a lifetime excess risk of total cancer for a lifetime exposure (45 years) to 2 f/cc as 6,411 excess deaths per 100,000 workers, or approximately 64 per 1,000. Recognizing that a 20 year exposure to asbestos may be another approximation of actual worker experience of interest, the models predict an excess cancer mortality of 4,392 deaths per 100,000 workers.

Reduction in the PEL from 2 f/cc to 0.5 f/cc reduces the risk from lifetime exposure from 64 per 1,000 to 17 per 1,000. Similarly, for a 20 year exposure, the risk is reduced from 44 per 1,000, to 11 per 1,000, representing a 75% reduction in risk.

The lifetime risk from one year of exposure follows a similar course. The risk reduces from 296 per 100,000 at 2 f/cc, to 74 per 100,000 at 0.5 f/cc. As discussed above, this implies that the lifetime excess risk from a six-month exposure to asbestos would be approximately 198 per 100,000 at 2 f/cc, and 37 per 100,000 at 0.5 f/cc.

Lastly, Table 11 contains the risks for levels higher than 2 f/cc, because OSHA believes some industrial areas (such as construction) may be at these higher levels. This population of workers would consequently experience a much greater reduction in risk by exposures to 0.5 f/cc, or less.

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Table 9

Estimates of the Slope Parameters for Lung Cancer (K_L and Mesothelioma (K_M), by Process

Study	K_L [1]	$K_M \times 10^8$	K_M/K_L ($\times 10^6$)
MANUFACTURING			
Asbestos Products			
Henderson & Enterline (1979)	0.0047 (0.0026 - 0.0066)		
Asbestos Cement Products			
Weill et al. (1979)	0.0033 (0.0016 - 0.0086)		
Finkelstein (1983)	0.067 (0.033 - 0.13)	12 (4-30)	1.79
Textile Products			
Peto (1980)	0.0076 (0.0009 - 0.023)	0.7 (0.3-2)	0.92
Dement et al. (1982)	.042 (0.023 - 0.21)		
Friction Products			
Berry & Newhouse (1983)	0.0006 (0 - 0.008)		
Insulation Products			
Seidman et al. (1979)	0.068 (0.0049 - 0.14)	5.7 (3-11)	0.84
INSULATION APPLICATION			
Selikoff et al. (1979)	0.020 (0.008 - 0.030)	1.5 (0.5 - 2.5)	.75
MINING-MILLING			
Liddell et al. (1977)	0.00065 (0.0002 - 0.0011)		
Nicholson et al. (1979)	0.0023 (0.001 - 0.007)		
Rubino et al. (1979)	0.0051 (0 - 0.009)		

[1] Values in parentheses represent the range of uncertainty around the estimates of K_L and K_M. These are computed on a study by study basis and calculations for each study are discussed in the text.

Table 10

Estimated asbestos related cancer mortality from a one year exposure to various fiber concentrations

Asbestos fiber concentration (f/ml)	Cancer mortality /100,000 exposed			
	Lung	Mesothelioma	Gastrointestinal[1]	Total
	Age at first exposure: 20			
0.1	7.2	9.5	.7	16.2
0.2	14.3	18.9	1.4	34.6
0.5	35.8	47.3	3.6	86.7
2.0	142.8	186.7	14.3	345.8
	Age at first exposure: 30			
0.1	7.3	4.9	.7	12.9
0.2	14.5	9.8	1.4	25.7
0.5	36.3	24.4	3.6	64.3
2.0	144.9	97.4	14.5	256.8
	Age at first exposure: 40			
0.1	7.1	2.1	.7	9.9
0.2	14.1	4.3	1.4	19.8
0.5	35.3	10.7	3.5	49.5
2.0	140.9	42.6	14.1	197.6
	Age at first exposure: 50			
0.1	6.1	0.7	.6	7.4
0.2	12.2	1.5	1.2	14.9
0.5	30.4	3.7	3.0	37.0
2.0	121.7	14.7	12.2	148.6
	Age at first exposure : 60			
0.1	4.0	0.2	.4	4.6
0.2	8.0	0.3	.8	9.1
0.5	19.9	0.9	2.0	22.8
2.0	79.6	3.4	8.0	91.0

[1] Estimated as 10% of lung cancer risk rather than calculated using dose-response information.

Table II

Estimated Asbestos Related Cancer Mortality per 100,000 by Number of Years Exposed and Exposure Level [1]

Asbestos fiber concentration (f/ml)	Cancer mortality /100,000 exposed			
	Lung	Mesothelioma	Gastrointestinal[2]	Total
	1 year exposure			
0.1	7.2	6.9	0.7	14.8
0.2	14.4	13.8	1.4	29.6
0.5	36.1	34.6	3.6	74.3
2.0	144	138	14.4	296.4
4.0	288	275	28.8	591.8
5.0	360	344	36.0	740.0
10.0	715	684	71.5	1470.5
	20 year exposure			
0.1	139	73	13.9	225.9
0.2	278	146	27.8	451.8
0.5	692	362	69.2	1123.2
2.0	2713	1408	271.3	4392.3
4.0	5278	2706	527.8	8511.8
5.0	6509	3317	650.9	10476.9
10.0	12177	6024	1217.7	13996.7
	45 years exposure			
0.1	231	82	23.1	336.1
0.2	460	164	46.0	670.0
0.5	1143	407	114.3	1664.3
2.0	4416	1554	441.6	6411.6
4.0	8441	2924	844.1	12209.1
5.0	10318	3547	1031.8	14896.8
10.0	18515	6141	1851.5	26507.5

[1] Assumes exposure begins at age 25. Risks are calculated using U.S. male lung cancer background rates for 1977.

[2] Estimated as 10% of lung cancer risk rather than calculated using dose-response information.

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F. Quantifying the Excess Risk From Asbestosis

Many studies have found the nonmalignant lung disease, asbestosis among asbestos-exposed workers. In fact, early occupational health standards governing asbestos exposure primarily sought to reduce the incidence of asbestosis. Asbestosis is a type of pulmonary fibrosis diagnosed on the basis of a history of exposure to asbestos; it is characterized by radiologic changes to the lung, breathlessness, impaired lung function, and other clinical features of fibrosing lung disease. Asbestosis can be manifested in a range of degrees of severity and can result in disability and death.

An early response by the lung to asbestos exposure is formation of plaques, which are opaque patches visible on chest X-rays. The presence of plaques might indicate increased risk of future development of asbestosis, but this is not certain. Although the disease significance of pleural plaques is not clear, the presence of the plaques is not normal.

Berry et al. (1979, Ex. 84–20) defines "possible asbestosis" as a lung condition based upon signs of early asbestosis. He classifies "possible asbestosis" on the finding of basal rales or crepitations, radiological changes of varying degree, a falling gas transfer factor, and restrictive changes in lung volume or ventilatory capacity. The definition of asbestosis varies among different investigators. Berry et al.'s definition of possible asbestosis, for example, is not sufficient for the victim to qualify for British Disablement Benefit.

Asbestosis can progress to a disabling condition where active work is no longer possible. Although no single definition of disability exists, various governments have adopted definitions of asbestos disability to administer their worker's compensation laws. Finkelstein explains the system used by the Ontario Workmen's Compensation Board:

> Workers submitting claims to the Compensation Board are examined by the Advisory Committee, which recommends whether or not a Disability Pension be granted. There are no strict criteria for the awarding of a Disability Pension for asbestosis, but some of the factors considered include a history of "adequate" exposure, a history of dyspnea, the presence of crepitations or clubbing, radiographic signs of pulmonary fibrosis and abnormal pulmonary function results (Ex. 84–44, p. 496).

Asbestosis has been known to progress or worsen after cessation of exposure, probably due to irreversible injury and/or the retention of asbestos fibers in the lung. In addition to lung function impairment, asbestosis contributes to increased asbestos-related mortality. Increased resistance created by the lung obstruction can lead to heart failure.

Because of the many possible definitions of asbestosis given by different groups, the quantification of a single risk associated with asbestosis is difficult. It is clear that material impairment from asbestosis occurs prior to the onset of its disabling stage. Quantitative studies exist, primarily for the disabling forms of the disease; specifically, two separate studies provide information to develop a dose-response relationship between asbestos exposure and incidence of asbestosis (Ex. 84–20 and 84–44).

Two definitions will be helpful in interpreting the data concerning asbestosis. *Incidence* is the rate at which new cases of asbestosis develop in a given period of time. It is a direct measure of the risk of developing the disease. On the other hand, *prevalence* measures the number of cases alive in a population at a given period of time. Numerically, it equals the sum of all the incidence cases in the past minus all the deaths that have occurred in people who had developed the disease. Prevalence can be reflective of existing risk for asbestosis in a population; prevalence however, can be high for other reasons, such as increased survival. Moreover, incidence establishes a time sequence whereas prevalence looks at both cause and effect simultaneously. The best estimates of risk of asbestosis have been calculated from incidence data of two studies. Berry and Lewinsohn (Ex. 84–254) and Finkelstein (Ex. 84–44). OSHA has also examined prevalence rates to support a quantitative assessment of risk for asbestos, and these data will be discussed first.

Berry et al. (1979, Ex. 84–20) studied a group of 379 men who worked at an asbestos textile factory for at least 10 years. Dust measurements were available and were correlated to each job performed for each year under study. Health effects were correlated to cumulative exposure. Table 12 shows the observed prevalence of crepitations, "possible asbestosis", and certified asbestos for data from Berry et al., as taken from the fitted curve in Figure 4 of their paper. Possible asbestosis was diagnosed by the factory medical officer if he thought that a man was developing signs or symptoms of early asbestosis; 50% of the men diagnosed with possible asbestosis received certification within the 3.5 years following this diagnosis. The results in Table 12 represent a group of workers employed after 1950, who had a relatively short duration of follow-up (maximum interval from first exposure was 23 years). A higher percentage of asbestosis would most likely have been observed if the follow-up period in the study had been extended.

The observations of Berry et al. presented in Table 12 are probably underestimates of risk. First, the risk shown in Table 12 does not give the probability of developing disease after exposure has ended, but rather, reports the disease found at one point in time. Second, the data includes some workers who may not have been followed long enough for asbestosis to appear.

TABLE 12

PREVALENCE OF CREPITATIONS, POSSIBLE ASBESTOSIS AND CERTIFIED ASBESTOSIS FOR CUMULATIVE EXPOSURES TO ASBESTOS FROM BERRY et al. (1979)

Percent with condition	Cumulative exposure, fiber/cc - years		
	Crepitations	Possible Asbestosis	Certified Asbestosis
1	37	46	63
5	65	84	100
10	86	118	130
15	100	134	148

These data of Berry et al. demonstrate several features of the nature of the asbestosis risk. The data show a continuum of clinical response over the range of doses; that is, these clinical observations support the existence of a dose-response relationship. Second, these observations also support the existence of a low, or possibly no, threshold for asbestosis, since there is increased risk at cumulative exposures as low as 37 fiber/cc-years.

Berry and Lewinsohn (1979, Ex. 84–254) have reported the incidence of asbestosis in this same asbestos textile factory. These data are presented in Table 13. A dose-response relationship is apparent for the incidence data, but it is not quite as consistent for the prevalence data.

Table 13
Incidence of Possible Asbestosis by Cumulative Exposure
Berry and Lewinsohn

Cumulative Exposure (fiber/cc-years)	% Incidence First employment Before 1951	After 1950
0-49	-	0.4
50-99	3	1
100-149	2.6	2
150-199	3.9	
200-249	6.2	
300-349	4.6	

Finkelstein (1982, Ex. 84–44) looked at the development of compensable (certified) asbestosis among 201 workers at an asbestos-cement factory in Ontario. A dose-response relationship was developed using estimated cumulative exposures based on plant dust measurements and using medical information from the Ontario Workmen's Compensation Board. Table 14 shows the incidence of certified asbestosis cases as a function of cumulative exposure from the Finkelstein study.

TABLE 14

INCIDENCE OF CERTIFIED ASBESTOSIS AS A FUNCTION OF CUMULATIVE EXPOSURE FINKELSTEIN (1982)

Cumulative exposure fiber-years/cc	% Incidence
0-49	0.5
50-99	3.4
100-149	6.5
150-199	7.9
200-249	14.3

Finkelstein's (1982) observations may overstate the incidence of asbestosis because at autopsy, there was histologic evidence of silicosis as well as asbestosis in many men. Finkelstein states that "we have, nevertheless, chosen to call their disease 'asbestosis' as we believe that is the pathologic process of most significance. Most of the parenchymal radiographic abnormalities were small irregular opacities and the mortality pattern among the men was consistent with the toxic effects of asbestos." On the other hand, Finkelstein's study may have understated asbestosis risk by examining only certified disability from asbestosis, which is an advanced stage of asbestosis.

OSHA's estimates of risk were derived from a simple linear regression of the incidence on the midpoints of the cumulative exposure data of Berry and Lewinsohn (Table 13) and Finkelstein (Table 14). A linear relationship was assumed, at least to the point estimation of 0.5 fibers/cc for 45 years (or 22.5 fiber years/cc). This assumption is consistent with the fact that early stages of diseases are observed at low exposures. A similar conclusion is drawn in the report of the British Advisory Committee on Asbestos (Ex. 84–216, volume 2, p. 36). "The present authors come down in favor of a dose response relationship without a threshold for chrysotile within the range experienced in industry."

TABLE 15

ESTIMATES OF LIFETIME ASBESTOSIS INCIDENCES

Exposure level, fiber/cc	% Incidence		
		Berry: first employed:	
	Finkelstein	Before 1951	After 1950
0.5	1.24	0.45	0.35
1	2.49	0.89	0.69
2	4.97	1.79	1.38
5	12.43	4.46	1.38
10	24.86	8.93	6.93
Slope	0.055	0.020	0.015
R^2	0.975	.901	.994

The results of each of the regression analyses and predictions of incidence for several dose concentrations are given in Table 15. At this time OSHA makes no attempt to extrapolate the data using this model below the 0.5 fiber/cc level or above 10 fiber/cc level. The estimates from the 3 cohorts differ by an approximate factor of 3. This may be indicative of some of the methodological issues raised earlier. It is possible that the estimates made from Berry and Lewinsohn's data may be underestimates. The maximum duration of follow-up in that study was 23 years, with an average follow-up of 16 years. Observations from Finkelstein's data (his Table 1) demonstrate that only 41% (23/56 cases) of total incidence was experienced in the first 24 years since first exposure. That is, 59% of the asbestosis incidence was not expressed until at least 25 years from first exposure. Thus, it is likely that the low incidence rates in the Berry and Lewinsohn study (and therefore, the low estimate predicted by OSHA) are reflective of the short follow-up period for this group of workers.

OSHA believes that the best estimates of the incidence of asbestosis are those derived from the Finkelstein data. They indicate that among workers exposed for a lifetime exposure to 2 f/cc of asbestos, approximately 5% will develop asbestosis. Reducing this level to 0.5 f/cc would reduce incidence to 1.24%. It should be noted that these risk estimates represent incidence of disabling asbestosis. First signs of adverse pulmonary effects are reported to occur at lower levels.

C. Other Quantitative Risk Assessments

Since 1979, several scientists and scientific committees have estimated risk associated with asbestos exposure. (Exs. 84–1, 84–2, 84–216, 84–256.) The risk assessments are in approximate agreement. They all use epidemiological studies conducted in the occupational environment to generate quantitative estimates. Animal studies are used to only support and justify methodological procedures and assumptions qualitatively. For lung cancer, scientists generally accept the linear model relating increased asbestos exposure to risk and generally accept the lack of a threshold. As stated by the British Advisory Committee on Asbestos: "For lung cancer, the available data in man, all of which are derived from industry, show an increase in risk with increasing dose of dust, and we find no evidence within the range of dust levels studied for a threshold of dose below which there is no evidence of risk" (Ex. 84–216, p. 55). In general, all the risk assessments use cumulative exposure as the measure of exposure for all cancer risk estimates (cumulative exposure equaling intensity times duration of exposure).

Given the uncertainties inherent in quantitative risk assessment, as well as the inevitable variations in findings among the many epidemiologic studies, OSHA believes that the different quantitative risk estimates agree relatively well. The variations that do exist can be explained by the assumptions made or by simple methodological differences. Some variations may be due to differences in the work environment used in the assessments.

For example, Crump's assessment, given as testimony to the Ontario Royal Commission on Asbestos in August 1981, contains quantitative estimates of risk for several studies, including smoking-specific risk estimates. Crump does not give a best estimate of risk or an overall risk estimate. His estimates of risk are based upon an assumption that worker exposure that would result from a standard set at a 2 fiber/cc limit is actually much lower than 2 fibers/cc. That is, his risk estimate under a 2.0 fibers/cc standard assumes that average worker exposure would be only 1.0 fibers/cc (p. 49). He reduces this level by a factor of two to account for differences between personal and static sampling (p. 50). Thus, Crump's estimates for a 2 fiber/cc standard will be four times lower than those estimates made by OSHA for average worker exposures of 2 fiber/cc. Such differences in assumptions should be kept in mind when comparing risk assessments by different authors (Crump's estimate at 2 f/cc would be compared to OSHA's estimate at 0.5 f/cc). OSHA has presented the risk as if the working population were exposed to an average concentration of 2, 1, 0.5 and 0.1 fibers/cc reflecting OSHA's belief that a standard of 2 f/cc does not preclude worker exposure at that level; in fact exposures may even exceed 2 fibers/cc for short periods and still produce an 8-hour TWA below 2 f/cc.

The report of the British Advisory Committee on Asbestos contains one of the first quantitative risk assessments performed for asbestos. This was updated in 1983 by Acheson and Gardner (Ex. 84–243). The report describes risks for lung cancer, mesothelioma, other asbestos related cancers and asbestosis and it contains a rather thorough description of the health hazards associated with asbestos exposure. The British report's risk estimates for lung cancer do not differ in a major way from OSHA's estimates. For example, with regard to exposure to chrysotile, the Acheson and Gardner update states that "We concluded that, for example, an excess mortality from asbestos-related disease of 2 percent might be associated with any point in a range of from 5 fibers/ml to 0.4 fibers/ml and that bearing in the mind the very considerable uncertainties a figure towards the lower end of the array [0.4 f/ml] might represent an appropriate compromise." (Ex. 84–243, p. 14). As a comparison from Table 11, OSHA's best estimate of risk is that an exposure to 0.5 fibers/cc (ml) would result in a 1.2 percent increase in deaths from lung cancer (or 1143 excess deaths per 100,000).

VI. Technical and Economic Feasibility

Based on an evaluation of evidence contained in the record, OSHA finds that the provisions required by the ETS are technically and economically feasible. OSHA has examined the various industries and work operations impacted by the standard and their ability to comply with the provisions of the ETS. Because the ETS requires prompt reduction of risk, OSHA

assessed the industry's ability to implement the required controls immediately.

The ETS allows considerable flexibility in achieving the PEL. As a result, three options are available to lower the asbestos fiber concentrations to which workers are exposed: (1) Engineering controls such as automatic bag opening devices, specialized vacuum equipment and increased ventilation; (2) work practices, such as wet treatment of the asbestos material and increased clean-up of the work place, and (3) use of approved respirators. Due to the emergency nature of this action which requires immediate response to reduce worker exposure, OSHA assumes that respirators will be the initial method used to comply with the ETS. A full discussion of the technological and economic feasibility of the alternative methods for each industry and for the various PELs under consideration for revising the permanent standard will accompany the proposal which will be published separately.

OSHA believes that, consistent with the estimates of current exposure levels, engineering controls are currently in place and work practices, in operation which, if applied conscientiously, would immediately result in concentrations at least as low as 0.5 in many industries (Ex. 84–262; Ex. 84–263; Ex. 84–9 and Ex. 84–295). For purposes of assessing the technological and economic feasibility, however, OSHA assumed a worst-case scenario in which each industry segment would have to implement a respirator program in order to achieve immediate reduction in worker exposure levels below the estimated current concentrations. Furthermore, for purposes of worst-case analysis, OSHA assumed that none of these industries has any respirator program except for the shipbuilding and construction segments. OSHA makes this assumption because OSHA estimates that most workers in industries other than shipbuilding and construction are exposed to eight-hour time-weighted averages less than 2 f/cc, and the OSHA standard issued in 1972 only requires a respirator program when engineering controls and work practices cannot bring exposures to 2 f/cc. To the extent that some firms do have an existing respirator program, the costs are overestimated.

A. Technical Feasibility

The following table presents the assumptions OSHA made regarding the respirator program elements required by each industry to obtain a PEL of 0.5 f/cc. The types of respirators needed for each industry sector were determined using the respirator selection table in the ETS with reference to the estimated current exposure conditions. OSHA assumed that the least costly approved respirator would be selected. For example, where industries have exposures less than ten times the PEL, OSHA anticipated that disposable respirators would be purchased, because of their lower short-term costs. When exposures exceeded ten times the PEL, OSHA assumed that some plants would either use air line respirators, or full facepiece respirators, depending upon the operation. To the extent that firms choose a higher-cost respirator to increase the protection factor or durability, respirator costs may be understated. Furthermore, OSHA has not included in the cost analysis a consideration for lost worker productivity due to wearing respirators. Costs may be understated by whatever amount productivity is reduced. Other anticipated respirator program elements required to determine costs for the ETS are listed below. These elements are derived from the existing provisions found in the Asbestos Standard, 29 CFR 1910.1001 and the standards for respirators, 29 CFR 1910.134.

All of the required respirators and filters are readily available and can be purchased through local distributors. Since the program relies mostly on disposable respirators, OSHA considers that there will be no supply constraints. As the worst-case (or high) estimate, OSHA assumes that approximately 50,000 workers will wear respirators because of the ETS who did not previously wear respirators. OSHA has concluded that the use of respirators will be effective in providing improved worker protection during the period of the ETS. In addition to encouraging generally more widespread use of respiratory protective measures, the ETS will stimulate a heightened understanding of the health hazards from asbestos exposure and will result in more effective use programs and strategies. Issues involving the appropriateness of respirator use as a long-term solution to controlling asbestos exposures are raised in the section 6(b) rulemaking proceeding (see Ex. 84–345, 84–346, 84–347, 84–348).

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TABLE 16
Anticipated Respirator Program Elements Required to Meet PEL

Industry Segment	Anticipated Type of Respirators Used to Meet the PEL	Other Program Elements
Primary Manufacturing		
A/C Pipe & Sheet Friction Materials	1 disposable/workday/worker 2 air-line/plant (for high concentration situations)[a]	Full admin. costs[b] Fit Test[c] Training[d]
Asbestos Paper Gaskets	1 disposable/worker/day for portions exposed at 0.75	50% admin. costs Fit Test Training
Floor Tile	(Nothing for PEL of 0.5)	
Paints, Coatings and Sealants	1 disposable/worker/day for 75% of workers	75% admin. costs Fit Test Training
Textiles		
Wet Process	1 disposable/worker/day	Full admin. costs Fit Test Training
Dry Process	1 disposable/worker/day	Full admin. costs Fit Test Training
Secondary Fabricators	1 disposable/worker/day	1% admin. costs
Cement Sheets, Paper Products, Packing and Gaskets	2 air-line/plant for high concentration situations	Fit Test Training
Textiles	1 disposable/worker/day	1% admin. costs Fit Test Training
Automotive Aftermarket	1 disposable/worker/day	1% admin. costs
Rebuilding and Refacing	1 air-line/plant	Fit Test Training

Respirator Program Requirements (Cont.)

Industry Segment	Anticipated Type of Respirators Used to Meet the PEL	Other Program Elements
Brake Repair	Nothing	
Gasoline Stations	Nothing	
Shipbuilding/Repair		
Shipbuilding	Nothing	20% of admin. costs Fit Test
Ship Repair	1 disposable/worker/day for 20% of total workforce	Training
Construction		
Installation A/C Pipe A/C Sheet	1 disposable/worker/day	10% admin. costs Fit Test Training
Roofing Felts	Nothing	
Demolition/Renovation	1 HEPA full face for 25% of the workforce	25% admin. costs Fit Test Training
Repair & Maintenance	Nothing	

[a]OSHA assumes that certain jobs such as cleaning of vacuum equipment will produce exposure levels greater than 10 times the PEL. Consequently, OSHA assumes 2 air line respirators will be required per plant except for small operations which will require only one air-line respirator per plant.

[b]Administrative costs represent the salary of one full time professional at $30,000 per annum and one full time clerk at $15,000 per annum. OSHA has adjusted administrative costs to represent expected reasonable time spent administering a respirator program in each industry. In the secondary fabrication and automotive aftermarket sectors, for example, OSHA anticipates that supervisors will spend 15 minutes a day distributing and monitoring the use of disposable respirators. These sectors have far less of a management burden than large firms, and thus, administrative costs are calculated at 1 percent of the full administrative amount. OSHA believes that administrative costs have been overstated in most segments in order to present a worst case scenerio.

[c]OSHA assumes that every employee must be fit tested for respirator use at a cost of $21 per employee.

[d]OSHA has allowed 3 hours for respirator and asbestos training. OSHA considers that this is very liberal, especially in industry segments characterized by small plants and by the use of disposable respirators. Costs for this element are therefore overstated to present the worst-case scenario.

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OSHA also examined the feasibility of analytical methods for measuring asbestos air concentrations at the 0.5 f/cc limit established by the ETS. OSHA's existing standard requires that all measurements of airborne concentrations of asbestos fibers be made by the membrane filter method at 400–450 × (magnification) (4 millimeter objective) with phase contrast illumination (29 CFR 1910.1001(e)). After reviewing the relevant evidence made available since the 1975 proposal, OSHA finds that phase contrast microscopy is a feasible and effective method for measuring airborne asbestos fibers to determine compliance with the permissible exposure levels set by the Emergency Temporary Standard.

The most important issue raised by comments to the 1975 notice is whether phase contrast microscopy analysis is capable of reliably measuring airborne concentrations of 0.5 fibers/cc and less. OSHA acknowledges that asbestos airborne measurement procedures using phase contrast microscopy, as with any industrial hygiene analytical procedure, inherently contains several error sources. These errors have been statistically evaluated by Leidel et al. (Ex. 84–62), and, in 1979, by the Air Monitoring Committee of the Asbestos Information Association/North America, referred to herein as AIA (Ex. 86–002) both using round-robin sample exchange data. Chatfield also examined this question (Ex. 84–319). In the Leidel et al. and the AIA evaluations, the error, measured as a coefficient of variation (CV), was found to be related to the number of particles counted from the filter. For 100 fibers counted Leidel, et al. found a CV of 0.12, whereas the AIA report found a CV of 0.35 [1] or errors associated with interlaboratory-intrafilter variability.

Based upon these studies, taken at their face value, it appears that the phase contrast microscope analysis is capable of reasonably reliable measurements at 0.5 fibers/cc. As stated in the AIA report (Ex. 86–002, p. AB–2), "The calculated results indicate that the 95% confidence limits on a measured 8-hour TWA can be relatively constant with a wide, but usable, range down to concentrations approaching 0.5 fibers/cc [less than] 5M."

The AIA report shows a higher error than does the Leidel et al. report. One possible reason for this difference may be that the AIA report assessed the variability in measurements as they are being made today by the many laboratories who are making the measurements. For example, only 27 of the 46 laboratories participated in the PAT program and no counting guidelines were given, whereas, the Leidel et al. report included only a small number of laboratories operated by Johns Mansville Company, that probably used very similar procedures and conducted similar training.

In late 1982, Chatfield prepared a report entitled "Measurement of Asbestos Fibre Concentrations in Workplace Atmospheres" for the Royal Commission on Matters of Health and Safety Arising from the Use of Asbestos in Ontario (Ex. 84–319). Chatfield analyzed intra-and inter-laboratory variability and arrived at conclusions somewhat similar to those of AIA and Leidel. Chatfield also recommended methods by which the accuracy and precision of phase contrast microscopic analytical techniques could be improved. Significantly, he noted "in view of the number and frequency of measurements required, there is currently no fully developed alternative method [to phase contrast microscopy] which could be immediately implemented."

OSHA notes that the authorities cited above believe that it may be possible to reduce phase contrast microscopy errors if improved and standardized procedures are followed, perhaps by adding requirements to the standard. It does not appear, however, that improvements of this nature can be quickly made in the immediate format of this ETS. Therefore, based on the evidence before it at the time of issuance of this emergency standard, OSHA believes that it is generally not possible to measure asbestos concentrations below 0.5 f/cc reliably and reproducibly using phase contrast microscopy under current laboratory practices. OSHA finds that the phase contrast microscopy method can be feasibly used to measure asbestos air concentrations down to 0.5 f/cc.

[1] The AIA report also reports a separate CV for overall variability in the sample evaluation step plus "random variability in the sample collection step." This "random variability of sample collection" as described in this study may be a measure of the true difference in air concentrations from one location to the next and may not be a measure of random variability. A more carefully designed sampling strategy with precise control of instrumentation placement, air currents, and dust generation is necessary to eliminate differences in airborne dust concentrations from one location to another

B. Economic Feasibility

The industry costs based on the program elements described in Table 16 are presented in Table 17. For the ETS, the costs of asbestos training are included with respirator training. Costs for warning signs are not included, since, for the purposes of the ETS, these signs could be hand-made at very low costs. OSHA did not analyze costs associated with the alternate benefits scenario (See Table 4) since that scenario was constructed to show a lower range of benefits but does not represent an estimate of current industry practice.

The costs are overstated to the extent that some firms already have a current respirator program and to the extent that careful application of existing engineering controls and work practices would reduce concentrations to the PEL in some firms and thereby make respirator use unnecessary. Furthermore, the costs assume that dust masks and filters will have to be replaced every 8-hour day. Some of this cost (i.e., the disposable respirators, filters and administrative overhead) can be in fact spread over the period during which the ETS is in effect.

Finally, the costs assigned to the Shipbuilding/Repair and Construction-Demolition/Renovation segments represent cost which reflect increased compliance with current obligations (e.g. increased respirator use to meet the current standard as a result of the ETS training requirements) and are not directly attributable to the ETS.

Note.—OSHA anticipates that the ETS will spur many employes who previously were not in compliance to expend the necessary resources in order to come into compliance with the ETS.

The total cost is estimated at $35,565,402 for 6 months. This translates into an average cost per employee of $708. Average 6 month costs per worker presented on an industry basis in Table 17 range from $251 in the automotive aftermarket segment to $973 in the construction segment. These costs are not a large portion of industry shipments as presented in Table 18. Moreover, firms in these industries will be able to pass the costs forward because asbestos substitutes in most industries are not immediately available. For all these reasons, OSHA finds that the ETS is economically feasible.

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Table 17

Estimated Costs of Respirator Program
for ETS with PEL of 0.5

Industry Segment	Total Costs ($) 1 - year	6 - months	6-mo. average Cost/employee
Primary Manufacturing	6,404.965	4,143,242	481
Secondary Fabricators	13,547,224	9,435,532	548
Automotive Aftermarket	1,620,197	1,027,864	251
Shipbuilding/repair	626,286	324,526	533
Construction	36,329,740	19,634,236	973
Total	58,528,412	34,565,402	708

Table 18

ETS Compliance Costs Compared
to Sales by Industry Segment

Industry Segment	Cost/Sales
Primary Manufacturing	.003
A/C Pipe & Sheet	.002
Frictin Materials	.000
Asbestos Paper	.003
Paints, Coatings and Sealants	.005
Gaskets, Seals and Packings	.001
Textiles	.014
Secondary Fabricators	.011
Cement Sheets	.072
Paper Products	.011
Packings and Gaskets	.010
Textiles	.014
Automotive Aftermarket	
Rebuilding and Refacing	.0004
Shipbuilding/Repair	.0001
Construction	.0004

Note: Sales values are for 1977 and 1978. Values for Primary Manufacturing and Secondary Fabricators were taken from 84-003; values for the Automotive Aftermarket were taken from U.S. Industrial Outlook, 1983; and values for Shipbuilding/Repair and Construction were taken from the 1982/83 Statistical Abstract. The value for Construction was adjusted by substracting the value for Highway & Streets and Residential and adding the value for Demolition/Wrecking.

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VII. Environmental Impact, Requirements of Executive Order 12291, and the Regulatory Flexibility Act

The National Environmental Policy Act (NEPA) of 1969 (U.S.C. 4321 et seq.), as implemented by the guidelines (40 CFR Part 1500) of the Council on Environmental Quality (CEQ), requires that federal agencies assess their regulatory actions to determine if there is a potential for a significant impact on the quality of the human environment and, if necessary, to prepare an environmental impact statement.

In accordance with these requirements and DOL NEPA regulations (29 CFR Part 11 [Subpart B, 11.10 (a) (4)]) OSHA had determined that because of the emergency nature of this standard, no environmental impact statement will be perpared for the ETS. The courts have held that NEPA does not require advance preparation of an environmental impact statement for an OSHA ETS (*Dry Color Manufacturing Assocation* v. *U.S. Department of Labor* 486 F.2d 98, 107 (3rd Cir. 1973)). OSHA will assess, however, the environmental effects of the proposed permanent regulation of asbestos. The results of this study will be available for review and comment prior to the hearings on the proposed permanent standard and will be an appropriate issue for discussion at the public hearing.

In the interim, OSHA welcomes any comments on any environmental effects that might occur as a result of promulgation of a rule on asbetos.

Pursuant to the authority of Section 8(a)(1) of Executive Order 12291 OSHA has not prepared a Regulatory Impact Analysis of this ETS. Preparation of such an analysis was not practicable for OSHA to perform in time to issue this ETS to respond to the grave dangers faced by asbestos exposed workers. OSHA, however, is completing a Preliminary Regulatory Impact Analysis of the proposal to revise the permanent standard which will be made public at the time the proposal is published.

The Regulatory Flexibility Act requires an agency to prepare a Regulatory Flexibility Analysis only for those rules for which a notice of proposed rulemaking is published. OSHA's issuance of an ETS therefore is not covered by the Regulatory Flexibility Act because the OSHA Act provides that ETS's be issued without regard to notice, public comment and other requirements in the Administrative Procedure Act. The proposal to revise the permanent asbestos standard, however is subject to the requirements of the Regulatory Flexibility Act and OSHA will evaluate the proposal to ascertain whether analysis under the Regulatory Flexibility Act is required.

VIII. Summary and Explanation of the ETS

The requirements of this emergency temporary standard are set out in a new paragraph, § 1910.1001(k). They are limited to additional provisions to the existing asbestos standard which OSHA considers essential and feasible to protect employees from the grave danger resulting from asbestos exposure until OSHA can promulgate more comprehensive revisions in accordance with section 6(b) of the Act. The major changes in the standard made by the ETS are: (1) The new permissible exposure level; (2) methods of compliance permitted to achieve the new level; and (3) a requirement for the establishment of training programs within 30 days. The following section discusses the major provisions of the ETS, the necessity for including these provisions in the ETS, and some additional provisions to trigger certain requirements at the reduced permissible level of 0.5 f/cc.

1. *Paragraph (k)(1) Scope.* As part of the ETS, OSHA is adding a paragraph on the scope of the standard. The paragraph is intended to make clear that the emergency standard applies to all workplaces where employees may be exposed to asbestos in all industries covered by the current asbestos standard *ie.* general industry, construction and maritime.

2. *Paragraph (k)(2) Permissible level of exposure.* As part of the ETS, OSHA is adding paragraph (k)(2) which sets a new PEL, effective immediately, of 0.5 f/cc on an 8 hour time weighted average basis. This reduced level may be achieved by any feasible combination of engineering controls, work practices and respiratory protection in order to allow employers to institute effective measures to reduce employee exposures immediately.

OSHA chose 0.5 f/cc as the permissible exposure level primarily because it believes that reducing employee exposures to 0.5 f/cc in all industries will greatly reduce the risk of developing asbestos induced cancers, primarily lung cancer, mesothelioma and gastrointestinal cancer. As set out in the discussion on "grave danger" and "benefits", the number of lives OSHA believes may be saved through an immediate reduction of exposure to 0.5 f/cc is substantial.

OSHA also believes that the 0.5 f/cc level is appropriate for several other reasons. First, because an emergency standard must be feasible, and employers must be able to comply with the standard in a short period of time, OSHA has set a level which is likely to be achieved immediately, using equipment and control techniques that are currently available.

Second, OSHA believes, based on the data generated by OSHA's contractor, Research Triangle Institute, that some workplaces, especially in the manufacturing sector, may be close to achieving a 0.5 f/cc level through the more rigorous use of engineering controls, work practices and housekeeping methods which are now in place. OSHA encourages employers to continue their efforts to implement these methods in order to assure that, for the long term, the most comprehensive and effective program of protection from asbestos exposure will be provided.

Third, OSHA believes that reliability of the currently required asbestos measurement methods to measure asbestos exposures less than 0.5 f/cc should be open for discussion during a rulemaking hearing, rather than imposed through an ETS. OSHA has therefore not adopted the 0.1 f/cc level petitioned by the unions but instead is considering adding provisions to the asbestos standard that may improve the reliability of both sampling and analysis in the 6(b) rulemaking for the permanent standard and thus allow lower levels to be reliably measured.

3. *Paragraph (k)(3) Methods of compliance.* The ETS adds a new paragraph (k)(3), which permits employers to reduce the permissible exposure limit from the current 2 f/cc limit to the 0.5 f/cc limit by any feasible combination of engineering controls, work practices and respiratory protection. The current requirement in paragraphs (c)(1) and (c)(2) to first utilize engineering controls and work practices to reduce exposure levels to 2.0 f/cc remains unaffected by this ETS.

Flexibility in choosing compliance strategies for the period of an ETS has been incorporated in most other previously issued emergency standards. The policy reflects OSHA's determination to craft emergency standards that are truly responsive to emergency conditions and which afford immediately available protection to affected workers.

4. *Paragraph (k)(4) Employee information and training.* The ETS adds a paragraph to the asbestos standard requiring the employer to provide a training program within 30 days of publication of the emergency standard for all employees whose exposures are reasonably expected to exceed the PEL of 0.5 f/cc, without regard to the use of

respirators, and to assure that all such employees participate in the program and are informed of specified categories of information. OSHA considers this provision to be "necessary" within the meaning of section 6(c) of the Act, to reduce the grave danger faced by asbestos exposed employees. The absence of a training program requirement in the asbestos standard has been pointed out as one of the serious deficiencies of the current standard. OSHA believes that participation in an adequate training program is essential for the protection of employees because most protective provisions enlist the employee as an active participant. For example, many employees handling asbestos depend on effective work practices. Without training in applying these work practices, employee protection would be inadequate. Where the employee plays a more passive role in his protection such as where engineering controls are relied on, training is also essential, because the employee must know the sources of workplace asbestos contamination, and the health hazards of asbestos exposure, in order to assess his own exposure situation and to help recognize when engineering controls are not operating properly. Certainly where housekeeping plays an important role in control, instruction about housekeeping methods, for example, frequent vacuuming, is essential. Perhaps most importanly, where employee protection depends upon respirator use, OSHA's experience shows that training employees in the use, fitting and limitations of respirators is critical to the effectiveness of respirator protection. Accordingly this requirement applies where airborne concentrations are reasonably expected to exceed 0.5 f/cc, even if employees use respirators to reduce breathing zone concentrations and thereby comply with the ETS.

As set forth in paragraph (k)(4) the employer must inform the employee of the health effects of asbestos exposure; the relationship between asbestos and smoking in producing lung cancer; the operations exposing employees to asbestos fibers and necessary protective steps to minimize exposure; the purpose, proper use, fitting instructions and limitations of respirators, and the contents of all the provisions of the Asbestos Standard at 1910.1001.

5. *Paragraph (k)(5) Respiratory protection during the ETS.* The ETS adds a new paragraph (k)(5) which includes a table which ties respirator selection to the 0.5 f/cc PEL. Under the ETS, the concentration cut-offs for various kinds of respirators are multiples of the reduced PEL of 0.5 f/cc, rather than multiples of the previous 2 f/cc permissible limit. For example, approved air purifying respirators may be used only where asbestos concentrations are not expected to exceed 5 f/cc (10 x the PEL). Before the ETS, because the PEL was 2 f/cc, such respirators could be used where asbestos concentrations would not have exceeded 20 f/cc (10 x the PEL of 2 f/cc).

Similarly, powered air purifying respirators may be used where asbestos concentrations do not exceed 100 times the PEL, which at the new level of 0.5 f/cc is 50 f/cc. Previously, employers could have used such respirators at concentrations up to 200 f/cc.

It is likely that the main impact of the reduced PEL on respirator choice will be in operations and industries where exposure levels are between 5 f/cc and 20 f/cc. Formerly, employees exposed in this range could use half-mask air purifying respirators; now they must be protected by a powered air purifying respirator or a full facepiece respirator, or they may use a supplied air respirator.

6. *Paragraph (k)(6). Warning signs during the ETS.* The ETS requires that legible signs warning of the health hazards of asbestos be displayed at locations where airborne concentrations of asbestos fibers exceed the reduced exposure limit of 0.5 f/cc. No specific legend is required signs for newly posted during the ETS. OSHA wishes to make as practicable as possible the rapid posting of signs, especially in workplaces where there has been previous non-compliance and in areas where asbestos concentrations were formerly below the 2.0 f/cc PEL.

XI. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to the revisions to the asbestos standard made by the ETS. These comments must be postmarked on or before January 3, 1984 and sent to the Docket Officer, Docket No. H–033C, Occupational Safety & Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–6212, Washington, D.C. 20210.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions will be made a part of the record of the proceeding.

List of Subjects in 29 CFR Part 1910

Occupational safety and health, Asbestos, Health, Emergency temporary standard, Cancer.

Authority and Signature

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. Pursuant to Sections 6(b), 6(c), 8(c) and 8(g) of the Act, 29 CFR 1910.1001 is amended by adding a new paragraph (k) as set forth below.

(Secs. 6(b), 6(c), 8(c) and 8(g), Pub. L. 91–596, 84 Stat. 1593, 1599, 1599, 1600; 29 U.S.C. 655, 657; Sec. 107, Pub. L. 91–54, 83 Stat. 96 (40 U.S.C. 333); 29 CFR Part 1911; Secretary of Labor's Order No. 9–83 (48 FR 35736))

Signed at Washington, D.C., this 2nd day of November 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1910—[AMENDED]

Section 1910.1001 of Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended by adding a new paragraph (k) reading as follows:

§ 1910.1001 Asbestos.

* * * * *

(k) *Emergency temporary standard effective November 4, 1983.*—(1) *Scope.* This emergency temporary standard is issued pursuant to section 6(c) of the Act and applies to all workplaces where employees may be exposed to asbestos in all industries covered by the Act, including, general industry, construction and maritime. Except to the extent modified by this emergency temporary standard all provisions of § 1910.1001 remain in effect.

(2) *Permissible levels of exposure.* The 8-hour time-weighted average airborne concentration of asbestos fibers to which any employee may be exposed shall not exceed one-half (0.5) fiber, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (e) of this section.

(3) *Methods of compliance with the emergency temporary standard.* Notwithstanding any other requirements of this section, compliance with the reduced exposure limit of 0.5 f/cc shall be achieved by any feasible combination of engineering controls, work practices, and personal protective equipment and devices.

(4) *Employee information and training.*—(i) As soon as possible, but not later than thirty (30) days from the effective date of this emergency temporary standard, the employer shall institute a training program for all employees exposed to airborne concentrations of asbestos in excess of

0.5 f/cc, without regard to the use of respirators and shall assure their participation in the program during the effective period of this emergency temporary standard.

(ii) The employer shall assure that each such employee is informed of the following:

(A) The health effects associated with asbestos exposure;

(B) The relationship between asbestos and smoking in producing lung cancer;

(C) The nature of operations which could result in exposure to asbestos and necessary protective steps to minimize exposure including, as applicable, engineering controls, work practices, respirators, housekeeping and protective clothing;

(D) The purpose, proper use, fitting instructions and limitations of respirators permitted by the standard; and

(E) A review of all the provisions contained in 1910.1001.

(5) *Respiratory protection during the ETS.* Notwithstanding any other requirement of this section, where respirators are used to achieve the permissible exposure limit of 0.5 f/cc they shall be selected according to Table 1.

(6) *Warning signs during the ETS.* In addition to the requirements of paragraph (g)(1) of this section, legible signs warning of the health hazards of asbestos shall be provided and displayed at each location where airborne concentrations of asbestos fibers may exceed 0.5 f/cc.

TABLE 1

Respiratory Protection

For Airborne Concentrations of Asbestos

Airborne Concentration of Asbestos (TWA)	Required Respirator[1]
Not in excess of 5 f/cc (10 X PEL)	Reusable or single use air purifying respirator
Not in excess of 50 f/cc (100 X PEL)	Full facepiece air purifying respirator, or a powered air purifying respirator
Greater than 50 f/cc	A type "C" continuous flow or pressure demand, supplied air respirator.

[1] Respirators specified for high concentrations may be used at lower concentrations of asbestos.

(Secs. 6(b), 6(c), 8(c) and 8(g). Pub. L. 91–596, 84 Stat. 1593, 1596, 1599, 1600; 29 U.S.C. 655, 657; Sec. 107, Pub. L. 91–54, 83 Stat. 96 (40 U.S.C. 333); 29 CFR Part 1911, Secretary of Labor's Order No. 9–83 (48 FR 35736))

[FR Doc. 83–30073 Filed 11–2–83; 1:45 pm]

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Reader Aids

Federal Register

Vol. 48, No. 215

Friday, November 4, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

50295–50500.....1
50501–50698.....2
50699–50874.....3
50875–51140.....4

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
April 15, 1910
(Revoked in part by PLO 6487).....50894
July 2, 1910
(See PLO 6487)
December 28, 1910
(Revoked in part by PLO 6487).....50894
January 24, 1914
(Revoked in part by PLO 6487).....50894
7594 (Revoked in part by PLO 6489).....50695
Proclamations:
2417 (See PLO 6489).....50695
5123.....50699

7 CFR

2.....50875
29.....50501
371.....50295
906.....50501
910.....50701, 50877
Proposed Rules:
225.....50743
1036.....50549

9 CFR

92.....50701
327.....50296

10 CFR

50.....50878
761.....50295
Proposed Rules:
2.....50550
50.....50746
51.....50746
211.....50824
440.....51068

11 CFR

114.....50502

12 CFR

26.....50296
212.....50296
348.....50296
563f.....50296
711.....50296
Proposed Rules:
Ch. III.....50746
330.....50339
337.....50339
564.....50339

14 CFR

39.....50508, 50879–50886
71.....50510, 50887
75.....50510
91.....50510
97.....50512
Proposed Rules:
Ch. I.....50553
39.....50341, 50899
380.....50900
399.....50900

16 CFR

13.....50702–50704
1017.....50514
1406.....50705

17 CFR

145.....50887
275.....50526
Proposed Rules:
3.....50554
10.....50554

19 CFR

Proposed Rules:
10.....50342
19.....50342
24.....50342
113.....50342
125.....50342
141.....50342
142.....50342
143.....50342
144.....50342
146.....50342

20 CFR

396.....50308
602.....50662
603.....50662
604.....50662
621.....50527
651.....50662
652.....50662
653.....50527, 50662
654.....50527
655.....50527
656.....50527

21 CFR

5.....50527
74.....50311
81.....50311
82.....50311
193.....50528
520.....50529
522.....50807
558.....50707
561.....50526
Proposed Rules:
207.....50358
210.....50358
225.....50358

226.....50358
501.....50358
510.....50358
514.....50358
558.....50358

22 CFR

514.....50707

24 CFR

885.....50888

26 CFR

1.....50711

Proposed Rules:

1.....50751
6a.....50751
31.....50567
52.....50775

28 CFR

0.....50712, 50713
3.....50713
8.....50713
9.....50713
9a.....50713
547.....50478
548.....50478

29 CFR

1.....50312
4.....50529
5.....50312
1910.....51086

Proposed Rules:

1908.....50902

32 CFR

Proposed Rules:

1-39.....50872
505.....50775

33 CFR

165.....50714

Proposed Rules:

110.....50359, 50360

36 CFR

223.....50889

38 CFR

3.....50313
21.....50529

Proposed Rules:

21.....50568, 50569

39 CFR

3001.....50715
601.....50889

40 CFR

51.....50686
52.....50530, 50568
80.....50482
81.....50316
180.....50317, 50532, 50533
228.....50317
271.....50889
434.....50321
439.....50322
468.....50717

Proposed Rules:

61.....51064
81.....50361
85.....50902
180.....50363
271.....50776
421.....50906
761.....50486

Proposed Rules:

60.....50670

41 CFR

101-36.....50890
101-47.....50892

Proposed Rules:

1-15.....50873

42 CFR

Proposed Rules:

55a.....50363
71.....50777

43 CFR

Public Land Orders:

2249 (Revised in part by PLO 6489).....50895
6439.....50719
6440.....50893
6477.....50322
6485.....50893
6486.....50894
6487.....50894
6488.....50895
6489.....50895
6490.....50896

44 CFR

67.....50719
205.....51056

Proposed Rules:

67.....50366, 50777, 50778
151.....50778

45 CFR

801.....50721

46 CFR

2.....50996
31.....50996
32.....50996
35.....50996
37.....50996
42.....50996
46.....50996
56.....50996
71.....50996
72.....50996
73.....50996
74.....50996
75.....50996
78.....50996
79.....50996
91.....50996
93.....50996
97.....50996
99.....50996
106.....50996
107.....50996
108.....50996
109.....50996
111.....50996
151.....50996
153.....50996
154.....50996
163.....50996
167.....50996
168.....50996
170.....50996
171.....50996
172.....50996
173.....50996
174.....50996
177.....50996
178.....50996
179.....50996
185.....50996
189.....50996
190.....50996
191.....50996
196.....50996

Proposed Rules:

50.....50781
52.....50781
53.....50781
54.....50781
63.....50781
162.....50781

47 CFR

2.....50322, 50722, 50897
21.....50322, 50722, 50897
22.....50722
23.....50722
31.....50534
74.....50322, 50722, 50897
78.....50722
81.....50548, 50722
83.....50548, 50739
87.....50548, 50722
90.....50722
94.....50322, 50722, 50897

Proposed Rules:

73.....50571-50585, 50907

48 CFR

Proposed Rules:

5.....50907

49 CFR

171.....50440, 50444
172.....50440, 50444
173.....50440, 50444
174.....50440, 50444
175.....50444
176.....50440
177.....50440
178.....50440
179.....50440
1039.....50897

Proposed Rules:

192.....50908

50 CFR

Proposed Rules:

17.....50909
611.....50379, 50586, 50782
672.....50379
675.....50586

LIST OF PUBLIC LAWS

Last Listing November 3, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

S.J. Res. 57/Pub. L. 98-142

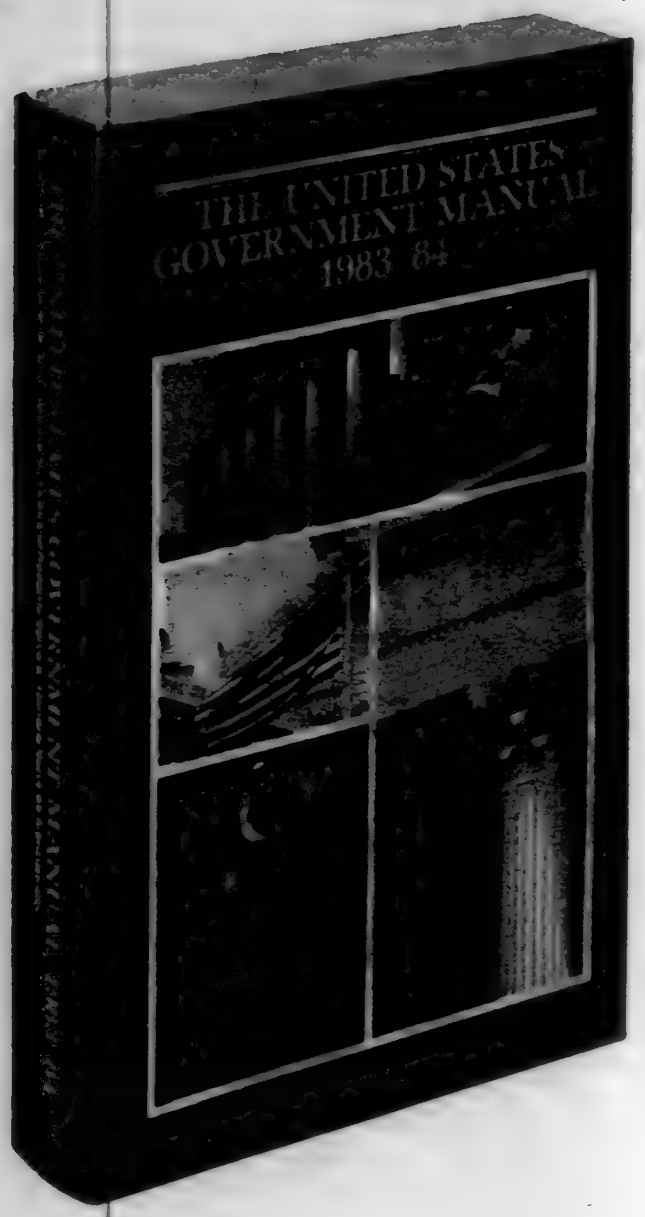
To designate the week of November 2, 1983 through November 9, 1983, as "National Drug Abuse Education Week". (Nov. 1, 1983; 97 Stat. 915) Price: $1.50

S.J. Res. 189/Pub. L. 98-143

Extending the expiration date of the Export-Import Bank Act of 1945. (Nov. 1, 1983; 97 Stat. 916) Price: $1.50

H.R. 3706/Pub. L. 98-144

To amend title 5, United States Code, to make the birthday of Martin Luther King, Jr., a legal public holiday. (Nov. 2, 1983; 97 Stat. 917) Price: $1.50



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48
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2
1
5
NO
4
1983
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VOL
48
ISS
2
1
6
NO
7
1983
UMI

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Vol. 48 No. 216

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Vol. 48 No. 216
Pages 51141-51274

federal register

Monday
November 7, 1983

Selected Subjects

Administrative Practice and Procedure
Civil Aeronautics Board

Air Pollution Control
Environmental Protection Agency

Aliens
Immigration and Naturalization Service

Authority Delegations (Government Agencies)
Agriculture Department

Food Ingredients
Food and Drug Administration

Generally Recognized as Safe (GRAS) Food Ingredient
Food and Drug Administration

Historic Preservation
Reclamation Bureau

Loan Programs—Housing and Community Development
Veterans Administration

Savings and Loan Associations
Federal Home Loan Bank Board

Securities
Securities and Exchange Commission

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Contents

Federal Register
Vol. 48, No. 216
Monday, November 7, 1983

Agriculture Department
See also Animal and Plant Health Inspection Service; Commodity Credit Corporation; Forest Service; Rural Electrification Administration.
RULES
Organization, functions, and authority delegations:
51141 Agriculture Secretary and General Officers; transfer of functions relating to food and nutrition information, et al.

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
International Falls, Minn.; port designation; interim rule affirmed (Editorial Note: This document, appearing at page 50064 in the Federal Register of October 31, 1983, was incorrectly identified in that issue's table of contents.)

Arts and Humanities, National Foundation
NOTICES
51181 Agency information collection activities under OMB review

Civil Aeronautics Board
RULES
Delegations and review of action under delegation, etc.:
51144 Domestic Aviation Bureau, Associate Director, Economic Affairs; authority to extend Airline's subsidy rate
NOTICES
51198 Meetings; Sunshine Act (2 documents)

Commerce Department
See also International Trade Administration; National Bureau of Standards.
NOTICES
51164 Agency information collection activities under OMB review
Committees; establishment renewals, terminations, etc.:
51165 Steel Advisory Committee
Meetings:
51164 Economic Advisory Board

Commodity Credit Corporation
NOTICES
51198 Meetings; Sunshine Act

Consumer Product Safety Commission
NOTICES
51198 Meetings; Sunshine Act
51172 Privacy Act; systems of records

Energy Department
See also Federal Energy Regulatory Commission.
NOTICES
Committees; establishment, renewals, terminations, etc.:
51173 Health and Environmental Research Advisory Committee

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
51153 Texas
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
51159 Alabama
Air quality planning purposes; designation of areas:
51160 Arizona
NOTICES
51173 Agency information collection activities under OMB review
Grants; State and local assistance:
51174 Wastewater treatment works construction grants program; reallotment of funds

Federal Communications Commission
RULES
Common carrier services:
51154 Depreciation and retirement procedures, and network channel terminating equipment reclassification; correction
PROPOSED RULES
Television stations; table of assignments:
51161 Florida; correction
NOTICES
Meetings:
51174 Cellular radio interconnection working groups
51198, 51201 Meetings; Sunshine Act (2 documents)

Federal Deposit Insurance Corporation
PROPOSED RULES
Practice and procedure rules:
51155 Reports and public disclosure of indebtedness of executive officers and principal shareholders to a State nonmember bank and its correspondent banks; correction

Federal Energy Regulatory Commission
NOTICES
51199 Meetings; Sunshine Act

Federal Home Loan Bank Board
PROPOSED RULES
51270 Federal Savings and Loan Insurance Corporation: Insurance of accounts of de novo institutions; reserve requirements and policies

Federal Mine Safety and Health Review Commission
NOTICES
51200 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
51175 Bank of New York Co., Inc., et al.
51175 B.N.Y. Holdings Corp. et al.

Bank holding companies; proposed de novo nonbank activities:
51175 Community Bancorporation, Inc., et al.

Food and Drug Administration
RULES
Color additives:
51145 FD&C Blue No. 2; permanent listing, hearing
GRAS or prior-sanctioned ingredients:
51146 Carnauba Wax; direct food ingredient
51149 Lecithin
51151 Rennet
51148 Pectins
51147 Riboflavin and Riboflavin-5'-Phosphate
NOTICES
Animal drugs, feeds, and related products:
51176 Tylocine (tylosin) tablets; approval withdrawn

Forest Service
NOTICES
Environmental statements; availability, etc.:
51162 Tongass National Forest, Alaska
Pacific Crest National Scenic Trail relocation action:
51162 Angeles National Forest, Calif.
51163 Cleveland National Forest, Calif.
51163 Klamath National Forest, Calif.

Health and Human Services Department
See Food and Drug Administration.

Immigration and Naturalization Service
RULES
Aliens:
51142 Employment authorization, eligible classes

Indian Affairs Bureau
NOTICES
51204 Statute of limitations claims list

Interior Department
See Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Antidumping:
51165 Clear sheet glass from Italy
51166 Instant potato granules from Canada
Countervailing duties:
51167 Refrigeration compressors from Singapore; suspension

International Trade Commission
NOTICES
Import investigations:
51178 Carbon steel wire rod from Brazil, Tobago, and Trinidad
51179 Rotary wheel printers
51200 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
51179 Agency information collection activities under OMB review
Rail Carriers:
51160 State intrastate rail rate authority; North Dakota
51180 Tank car mileage allowance system; investigation; interim modification, proposed
Railroad services abandonment:
51179 Delaware & Hudson Railway Co.

Justice Department
See Immigration and Naturalization Service.

Labor Department
NOTICES
Committees; establishment, renewals, terminations, etc.:
51165 Steel Advisory Committee
Meetings:
51180 International Labor Organization, President's Committee

Land Management Bureau
NOTICES
Classification of public lands:
51177 Nevada
Coal leases, exploration licenses, etc.:
51176 Utah

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
51177 Pacific OCS; Southern Santa Maria Basin development, proposed

National Bureau of Standards
NOTICES
Information processing standards, Federal:
51171 FORTRAN (FIPS Pub. 69); nested parentheses in expressions; interpretation; correction

National Highway Traffic Safety Administration
NOTICES
Meetings:
51192 National Highway Safety Advisory Committee

National Park Service
NOTICES
Meetings:
51178 Western Regional Advisory Committee

National Science Foundation
NOTICES
51181 Agency information collection activities under OMB review

Nuclear Regulatory Commission
NOTICES
51182 Agency information collection activities under OMB review
Applications, etc.:
51182 Arkansas Power & Light Co.
51183 Maine Yankee Atomic Power Co.
51161 Export and import license applications for nuclear facilities or materials (Combustion Engineering Inc. et al.)

Occupational Safety and Health Review Commission
NOTICES
51200 Meetings; Sunshine Act

Oceans and Atmosphere, National Advisory Committee
NOTICES
51160 Meetings; future dates

Reclamation Bureau
RULES
51153 Cultural resources, identification and administration procedures; revocation

Rural Electrification Administration
NOTICES
Environmental statements; availability, etc.:
51164 Oglethorpe Power Corp.

Securities and Exchange Commission
PROPOSED RULES
Securities:
51155 Confidential treatment
NOTICES
51166 Agency information collection activities under OMB review
Hearings, etc.:
51164 Hessische Landesbank-Girozentrale
51165 New England Power Co. et al.
Self-regulatory organizations; proposed rule changes:
51163, 51166 American Stock Exchange, Inc. (3 documents)
51168 New York Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
51191 Twin Ports Capital Co.
Disaster loan areas:
51191 Texas
License surrenders:
51191 Peachtree Capital Corp.
Meetings; regional advisory councils:
51191 Florida
51191 Pennsylvania
51191 Tennessee

State Department
NOTICES
Meetings:
51192 Overseas Schools Advisory Council

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States:
51158 Maryland; extension of time

Textile Agreements Implementation Committee
NOTICES
Textile consultations; review of trade:
51171 Brazil

Transportation Department
See National Highway Traffic Safety Administration.

Treasury Department
NOTICES
Bonds, Treasury:
51192 2008–2013 series
Notes, Treasury:
51194 D–1993 series
51196 P–1986 series

Uniformed Services University of the Health Sciences
NOTICES
51200 Meetings; Sunshine Act

Veterans Administration
RULES
Loan guaranty:
51152 Homes and condominiums; maximum permissible interest rate increase

---

Separate Parts in This Issue

Part II
51204 Department of the Interior, Bureau of Land Management

Part III
51270 Federal Home Loan Bank Board

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
2 51141

9 CFR
103 51142
109 51142

12 CFR
Proposed Rules:
304 51155
349 51155
563 51270
571 51270

14 CFR
385 51144

17 CFR
Proposed Rules:
230 51155

21 CFR
74 51145
81 51145
82 51145
182 (5 documents) 51146–51151
184 (5 documents) 51146–51151

30 CFR
Proposed Rules:
920 51158

38 CFR
36 51152

40 CFR
52 51153
Proposed Rules:
52 51159
81 51160

43 CFR
422 51153

47 CFR
31 51154
Proposed Rules:
73 51161

Rules and Regulations

Federal Register
Vol. 48, No. 216
Monday, November 7, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revisions of Delegations of Authority

AGENY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and the general officers of the Department to reflect the transfer of certain functions relating to food and nutrition information.

EFFECTIVE DATE: November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph H. Howard, Director, National Agricultural Library, U.S. Department of Agriculture, Beltsville, MD 20705, (301) 344–4248.

SUPPLEMENTARY INFORMATION: The National Agricultural Research, Extension, and Teaching Policy Act of 1977 established in the Department of Agriculture a Food and Nutrition Information and Education Resources Center to be responsible for the assembly, maintenance, and dissemination of food and nutrition education materials. The Human Nutrition Information Service had been carrying out these responsibilities. It has been determined that these responsibilities should be administered by the National Agricultural Library. Accordingly, the delegations of authority from the Secretary and general offices of the Department are amended to reflect the transfer of these responsibilities from the Human Nutrition Information Service to the National Agricultural Library. This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined by Pub. L. 97–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—[AMENDED]

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.15 is amended by removing and reserving paragraph (b)(4) as follows:

§ 2.15 Delegations of authority to the Assistant Secretary for Food and Consumer Services.

* * * * *

(b)* * *

(4) [Reserved]

* * * * *

3. Section 2.30 is amended by adding a new paragraph (a)(77) as follows:

§ 2.30 Delegations of authority to the Assistant Secretary for Science and Education.

* * * * *

(a)* * *

(77) Assemble and collect food and nutrition education materials, including the results of nutrition research, training methods, procedures, and other materials related to the purpose of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; maintain such information; and provide for the dissemination of such information and materials on a regular basis to State educational agencies and other interested parties (7 U.S.C. 3128).

* * * * *

Subpart L—Delegations of Authority by the Assistant Secretary for Food and Consumer Services

4. Section 2.92 is amended by removing and reserving paragraph (a)(4) as follows:

§ 2.92 Administrator, Human Nutrition Information Service.

(a)* * *

(4) [Reserved]

* * * * *

Subpart N—Delegations of Authority by the Assistant Secretary for Science and Education

5. Section 2.109 is amended by adding a new paragraph (a)(16) to read as follows:

§ 2.109 Director, National Agricultural Library.

(a)* * *

(16) Assemble and collect food and nutrition education materials, including results of nutrition research, training methods, procedures, and other materials related to the purpose of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; maintain such information; and provide for the dissemination of such information and materials on a regular basis to State educational agencies and other interested parties (7 U.S.C. 3128).

Dated: October 25, 1983.

For Subpart C:

John R. Block,
Secretary of Agriculture.

Dated: October 25, 1983.

For Subpart L:

John Bode,
Acting Assistant Secretary for Food and Consumer Services.

Dated: October 25, 1983.

For Subpart N:

Orville G. Bentley,
Assistant Secretary for Science and Education.

[FR Doc. 83–30102 Filed 11–4–83; 8:45 am]
BILLING CODE 3410-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 109

Powers and Duties of Service Officers; Availability of Service Records; Employment Authorization; Excludable or Deportable Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations relating to the imposition of bond conditions against employment in the case of aliens who are placed in exclusion or deportation proceedings. Work authorization may be granted in certain instances, upon application by the alien. The decision to authorize employment will lie with the district director of the Service. The revisions will eliminate the present cumbersome procedures by which Regional Commissioners are authorized to impose bond conditions against employment.

EFFECTIVE DATE: December 7, 1983.

FOR FURTHER INFORMATION CONTACT:
For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048.
For Specific Information: Robert J. Schmidt, Detention and Deportation Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-4120.

SUPPLEMENTARY INFORMATION: On March 2, 1983, a proposed rule was published in the Federal Register (48 FR 8820) to revise the regulations relating to work authorization of aliens apprehended or detained for immigration law violations. The proposed rule provided for revision of both 8 CFR Parts 103 and 109. The regulations up until the present have allowed an alien in deportation proceedings to work, unless a Regional Commissioner of the Service, upon recommendation by a district director, imposed a specific condition of release barring employment.

Under the final rule, only the district director will decide whether or not an alien in proceedings will be granted work authorization. In order to qualify for this privilege, the alien will have to apply for work authorization and establish that employment should be authorized at the discretion of the district director. The final rule contains factors which may be taken into account by the district director in considering employment authorization. The burden will be on the alien to establish that the authorization should be granted. Among the factors which may be considered are the presence of U.S. citizen or permanent resident relatives who are dependent on the alien for support, and the likelihood that the alien will qualify for some type of relief from deportation or exclusion.

Following publication of the proposed rule, a large number of comments were received. Critical comments may be roughly divided into five categories:

(1) That the rule went beyond the Service's statutory authority;

(2) That the rule would result in fewer bonds being written and more persons being detained;

(3) That the rule would impose significant hardships on citizens and permanent resident relatives and asylum seekers;

(4) That the proposed rule did not meet rule making standards as to determinations of economic impact under the Regulatory Flexibility Act or Executive Order 12291; and

(5) That the standards to be applied in granting employment authorization were unclear.

Of the criticisms, the first three represent a misinterpretation of the immigration law and the regulation itself.

These comments will be considered in sequence:

1. The comment that the rule went beyond the Service's statutory authority

Section 242 of the Immigration and Nationality Act, 8 U.S.C. 1252, authorizes the Attorney General to set conditions for release on bond. The standards applied must be reasonable. *Matter of Toscano-Rivas,* 14 I&N Dec. 523 (BIA 1972); (A.G. 1974). A reasonable condition is one that prohibits an alien under deportation or exclusion proceedings from working without authorization. Such unauthorized work is a continuing violation of the immigration laws. Unauthorized work is in direct contravention of one of the "dominant purpose(s) of the immigration laws" which is "to protect American workers," as one commenter conceded, although further characterizing this determination as a "legislative determination."

Many commenters contended that the no-work condition is contrary to the purpose of the appearance bond, which is to assure the appearance of the alien at a deportation or exclusion hearing. Most commenters who focused on this issue asserted that assuring appearance was the *only* purpose of the bond. The Attorney General in 1974 found otherwise:

> It is generally agreed that a basic purpose of the immigration laws is to protect against the displacement of workers in the United States. Thus, under an approach similar to that used in *Earle,* [*Earle v. United States,* 254 F2d 304 (2 Cir. 1958); cert. denied, 358 U.S. 822 (1958)] it may be that section 103(a) and the Attorney General's broad authority to enforce the immigration laws afford an independent basis for requiring of persons subject to deportation proceedings bonds prohibiting unauthorized employment. Such bonds are frequently required of nonimmigrant aliens seeking either admission to the United States, or an extension of their stay. It may be proper to impose a similar requirement upon aliens who become subject to deportation proceedings. The result would be a bond serving two related but independent purposes. *Matter of Toscano-Rivas,* at 555.

It is clear from this that a bond condition barring unauthorized employment may have dual purposes. While it is true that most bond conditions are aimed at ensuring appearance of an alien, there does not appear to be any reason under Section 242 of the Act to limit conditions of release. For example, where a nonimmigrant visitor is apprehended for violating the conditions of his stay by working, it is entirely appropriate to impose, as a condition of release, a condition barring further unauthorized employment. If this is not done, upon release, the alien could simply continue his employment with impunity until a deportation hearing was scheduled and through the appeal process. There is no provision in the immigration law which mandates such a result.

A condition barring employment could, therefore, be used in tandem with a money bond whose purpose would be to insure the alien's appearance. The violation of a condition barring employment would not necessarily lead to a breach of the money bond, because the alien might appear even if he or she were violating the condition against unauthorized employment. Where the "no work" condition is violated, the appropriate response would be to take the alien into custody.

The argument that the Service would be using a *bond* for improper purposes, i.e., "no work," misses the point. It is not the bond which imposes "no work." Rather, "no work" is a condition of release, which, if violated, gives the Service the right to order the alien to surrender and appear. If the alien fails to appear following a breach of the condition of release, the Service may declare the bond to be in default, just as

if the alien failed to appear at a scheduled court date. The bond requires the bonding company to pay (or the alien to forfeit a cash bond) upon the alien's unexcused failure to appear, either upon a date certain or upon an order to surrender following a breach of a condition of release. The Service is imposing "no work" as a condition of release, unless, of course, the alien applied to and received, from the district director, permission to work.

Most importantly, the regulation does not necessarily change the number of aliens ultimately allowed to work. In each case, if an alien desires to work, the response to the inquiry could be the same. There is just a different starting point. The person seeking to work will have the burden of going forth with the application to the district director, who is the party best able to consider that application.

Under this formulation, the comments made by many commenters to the effect that bonds could not be written if the alien did not work, were based, in part, on a false premise. The premise was that violation of the "no work" condition would necessarily lead to bond breach.

2. The comment that the rule would result in fewer bonds being written and more aliens being detained

In considering whether to publish the proposed rule, Service officials were aware that bonding companies and other sureties might be affected by the rule. It was understood that in certain instances a bond might not be quite as attractive if a "no work" release condition were imposed. The possibility that a bonding company might require more collateral or charge higher premiums was also considered. As a corollary of these possibilities, it was also assumed that more aliens might have to be detained. This latter possibility was considered an acceptable consequence. In balance, it was decided that prevention of employment by illegal aliens and safeguarding of employment of U.S. citizens and permanent resident aliens were more important considerations than inconvenience to bonding companies or increased detention costs.

3. The comment that the rule would impose significant hardships on citizens and permanent resident aliens and asylum seekers

These comments failed to take into account the fact that the proposed rule specifically provided protections for persons in these categories. In the first instance, permanent resident aliens are not affected by these release conditions. Until such time as permanent resident status is lost, the permanent resident alien has the right to work in the United States, if released on bond. The Service, therefore, has no intention of applying this condition to a permanent resident alien in exclusion or deportation proceedings.

The regulation also allows a district director to take permanent resident and U.S. citizen relatives into account when considering an application for employment authorization. If the alien in proceedings supports such relatives, employment may be authorized.

Aliens who have applied for asylum will not be affected by these regulations. Employment authorization of asylum seekers is governed by 8 CFR Part 208. Those provisions allow a district director to authorize employment for an asylum applicant who has filed a non-frivolous asylum application.

4. The criticism that the proposed rule did not meet rule making standards relating to economic impact determinations under the Regulatory Flexibility Act or Executive Order 12291

A. *Executive Order 12291.* A large number of commenters stated that the proposed rule was a "major rule" under Executive Order 12291 because of its effect on bonding agencies, aliens and their families, the Service, and State and local governments. The gist of the criticisms was that a no-work condition would result in no bonds being written because bonding companies would not bond unemployed aliens. As a consequence, aliens would have to be detained, or the alien would be released and have to be supported at public expense, along with the alien's family.

Under the Executive Order, a "Regulatory Impact Analysis and Review" is required for every "major rule." This includes a rule which is likely to result in "A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions." If the rule is "likely" to result in these consequences, then a detailed analysis must be undertaken, following the prescribed format, and transmitted to OMB.

The discussions surrounding the decision to publish the proposed rule included consideration of the effects of the new procedures on various parties. The impact of the rule on bonding companies was considered. The conclusion was that the number of companies affected, and the adverse effects they might feel as a result of the no-work rider provision, were quite limited. Other adverse effects, such as possible increased welfare costs if aliens were denied work authorization, were thought to be minimal, because it was anticipated that allowances would be made for work authorization for aliens with citizen or permanent resident dependents or other substantial equities. Because the discussions revealed no major impact on any segment of the public, the rule as contemplated was not a "major rule" and therefore not subject to an impact review and analysis.

B. *5 U.S.C. 603 requires a "regulatory flexibility analysis".* Many commenters cited the Administrative Procedures Act (APA) in criticizing the proposed rule. Under this provision, an agency is required, before publishing a notice of proposed rule making, to "prepare and make available for public comment an initial regulatory flexibility analysis." This analysis is published with the notice of proposed rule making.

This analysis is not required if the head of the agency certifies, pursuant to 5 U.S.C. 553(f), that the rule will not have a significant economic effect on any "substantial number" of small businesses, organizations or governments. The Commissioner in fact made this certification.

In the period prior to the publishing of the proposed rule, the Service engaged in a good deal of internal discussion relating to both the content and the effect of the proposed rule. The decision to publish the rule was made after conversations among the Regional Commissioners and the Central Office Management. It was apparent during these deliberations that certain bonding companies might not consider the proposed rule to be in their interest. It was also understood that the number of companies involved in immigration bond writing was quite small.

The claims made regarding adverse effects on governmental units fail to take into account the definitions contained in the regulatory flexibility provisions. It is not necessary for an agency to take into account costs to the Federal or State governments. The analysis by its clear terms applies to "small governmental jurisdictions" such as cities, counties, towns and villages, with a population of less than 50,000 persons (5 U.S.C. 601). None of the commenters seemed aware of the scope of the flexibility analysis in these terms. The costs the commenters project are thus based on faulty assumptions.

It is our conclusion that criticisms of the rule making procedures as they relate to the regulatory flexibility analysis are basically flawed because of the misconceptions as to the applicability of the provisions. In addition, it is our position that we made

an "initial regulatory flexibility analysis" during consideration of the rule making and that the management level discussions on this topic were sufficient, although not reduced to formal studies or writings.

5. The criticism that the standards to be applied in granting employment authorization were unclear

Some of the commenters provided useful criticisms of the factors to be considered in adjudicating a request for employment authorization. In particular, they questioned whether the Service had the authority to consider "dislocation" of American workers and the "impact" of such employment. Several commenters described this as more appropriately a function of the Department of Labor. These criticisms have substance to them. "Dislocation" is a term difficult to define and to quantify. this factor is deleted from the final rule.

Factor (C) of the proposed rule, the "number of aliens involved" in unauthorized employment, was criticized because it did not specify if it referred to a particular industry or to the work force as a whole. It was also criticized as being part of the "dislocation" and "impact" determinations more suitably made by the Department of Labor. This factor is deleted from the final rule.

One commenter stated that two other factors of the proposed rule appeared to be contradictory: Factor (F), the "recentness" of the alien's arrival, and factor (G), the acceptance of employment "shortly after the alien's arrival." The commenter suggested that a long-term resident may have taken employment shortly after arrival, and inquired as to which factor would take precedence. Because of the ambiguity surrounding these factors, and because they are not essential considerations, they have been deleted from the final rule.

Comments on factors (H) and (I) were mixed. These factors are in the final rule, as they are important factors in the fair consideration of employment requests, and have been used in the general employment authorization regulations contained in 8 CFR 109.1(b).

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegation (Government Agencies), Bonding, Bonds, Surety bonds.

8 CFR Part 109

Aliens, Employment.

Accordingly, Title 8, Chapter I of the Code of Federal Regulations is amended as follows:

PART 103—POWER AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. In § 103.6, paragraph (a)(2) is revised to read as follows:

§ 103.6 Surety bonds.

(a) * * *

(2) *Bond riders*—(i) *General.* Bond riders shall be prepared on Form I–351 and attached to Form I–352. If a condition to be included in a bond is not on Form I–351, a rider containing the condition shall be executed.

(ii) *Condition against unauthorized employment.* A condition barring employment shall be included in an appearance and delivery bond in connection with a deportation proceeding or bond posted for the release of an alien in exclusion proceedings, unless the District Director determines that employment is appropriate.

(iii) *Factors to be considered.* Only those aliens who upon application under § 109.1(b) of this chapter establish compelling reasons for granting employment authorization may be authorized to accept employment. Among the factors which may be considered when an application is made, are the following:

(A) Safeguarding employment opportunities for United States citizens and lawful permanent resident aliens;

(B) Prior immigration violations by the alien;

(C) Whether there is a reasonable basis for considering discretionary relief; and

(D) Whether a United States citizen or lawful permanent resident spouse or children are dependent upon the alien for support, or other equities exist.

* * * * *

PART 109—EMPLOYMENT AUTHORIZATION

2. In § 109.1, a new paragraph (b)(8) is added to read as follows:

§ 109.1 Classes of aliens eligible.

* * * * *

(b) * * *

(8) Any excludable or deportable alien who has posted an appearance and delivery bond may be granted temporary employment authorization if the District Director determines that employment is appropriate under § 103.6(a)(2)(iii) of this chapter.

* * * * *

(Sec. 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103))

Dated: October 12, 1983.

Alan C. Nelson,

Commissioner, Immigration and Naturalization.

[FR Doc. 83–30061 Filed 11–4–83; 8:45 am]

BILLING CODE 4410–10–M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

[Organization Regulations Amendment No. 133 to Part 385; Regulation OR–211]

Delegations and Review of Action Under Delegation; Nonhearing Matters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB delegates to the Associate Director of the Bureau of Domestic Aviation the authority to extend an airline's subsidy rate during the time between the end of its old subsidy rate and the establishment of its new one. This will ease administration of the subsidy program and help ensure the continuation of necessary subsidy payments during the time that the new rate is being negotiated.

DATES: Adopted: November 1, 1983. Effective: November 4, 1983.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson, Chief, Air Carrier Subsidy Need Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5368.

SUPPLEMENTARY INFORMATION: Section 419 of the Federal Aviation Act (49 U.S.C. 1389) guarantees essential air service to small communities that are eligible points. If no carrier is willing to offer this service on its own, section 419 directs the Board to pay a subsidy to a carrier to provide it.

The Board typically establishes airline subsidy rates for a 1- or 2-year period. At the end of this period, the Board reevaluates the needs of the community and establishes a new subsidy rate for the carrier if necessary.

Sometimes there is a gap between the end of the old subsidy rate and the establishment of a new one. Currently, the Director of the Board's Bureau of Domestic Aviation is delegated the authority to extend the carrier's existing subsidy rate. 14 CFR 385.13(i). This allows the carrier to continue receiving subsidy payments until the new rate is approved by the Board.

The Board is here extending the identical delegation of authority to the

Associate Director of the Bureau of Domestic Aviation. This will ease administration of the subsidy program and help ensure the continuation of necessary subsidy payments during the time that the new rate is being negotiated. As with the delegation to the Director, any subsidy paid under the authority of the Associate Director, will be subject to later adjustment by the Board.

Since this is a rule of agency organization and procedure, the Board finds that notice and public procedure thereon are unnecessary and that it may take effect on less than 30 days' notice.

List of Subjects in 14 CFR Part 385

Administrative practice and procedure, Authority delegations.

PART 385—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegation and Review of Action under Delegation: Nonhearing Matters*, as follows:

1. The authority for Part 385 is:

Authority: Secs. 101, 204, 401, 402, 403, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386. Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. In § 385.14, the title is changed and a new paragraph (e) is added as follows:

§ 385.14 Delegation to the Associate Director, Economic Affairs, Bureau of Domestic Aviation.

* * * * *

(e) Extend the term of a carrier's subsidy rate established under section 419 of the Act, with the amount paid during the extension subject to adjustment by the Board.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–30917 Filed 11–4–83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 83N–0009]

FD&C Blue No. 2; Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of hearing; final rule-related.

SUMMARY: The Food and Drug Administration (FDA) is granting a formal evidentiary public hearing on an objection to the final rule "permanently" listing FD&C Blue No. 2 for general use in food and ingested drugs. This hearing is granted on the issue of whether the occurrence of a higher number of male rats with a brain glioma in the high-dose group as compared with the control groups in the long-term feeding study on FD&C Blue No. 2 precludes FDA from finding that this color additive is safe for general use in food and ingested drugs. FDA is also announcing a prehearing conference for the formal evidentiary public hearing.

DATES: Written notice of participation must be filed with the Dockets Management Branch (address below) no later than December 7, 1983. Prehearing conference on December 13, 1983 at 10 a.m. Disclosures of data and information by January 6, 1984.

ADDRESSES: The prehearing conference will be held in FDA's Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. Written notices of participation and disclosure of data and information must be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions to the Dockets Management Branch should be identified with Docket No. 83N–0009 and clearly labeled "FD&C Blue No. 2 Hearing.")

FOR FURTHER INFORMATION CONTACT: C. K. Gund, Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 4, 1983 (48 FR 5252), FDA published a final rule "permanently" listing FD&C Blue No. 2 for general use in food and ingested drugs. The agency concluded that the data establish to a reasonable certainty that FD&C Blue No. 2 does not cause harm. This action was taken in response to a petition filed by the Certified Color Industry Committee, now the Certified Color Manufacturers Association, Inc. (CCMA). Notice that the petition for the listing of FD&C Blue No. 2 as a color additive had been filed, under section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376), had been announced in the Federal Register of July 2, 1968 (33 FR 9627).

Public Citizen's Health Research Group (HRG), 2000 P St. NW., Washington, DC 20036, filed a timely objection to the final rule and requested a public hearing. HRG stated that because a feeding study done by Biodynamics, Inc., for CCMA showed a statistically significant increase in brain tumors in rats fed FD&C Blue No. 2, the color additive had not been proven to be safe and thus could not be permanently listed. In support of its objection, HRG argued that the agency's application of various biological criteria to evaluate the safety of this color additive was insufficient to show that FD&C Blue No. 2 is safe. HRG stated that the decision to list FD&C Blue No. 2 under the color additive provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376) violates both the "Delaney clause" (21 U.S.C. 376(b)(5)(B)) and the "general safety clause" (21 U.S.C. 376(b)(4)) of the Color Additive Amendments of 1960.

The Commissioner has decided to grant a formal evidentiary public hearing in accordance with 21 CFR Part 12 on the following issue: Whether the occurrence of a higher number of male rats with a brain glioma in the high-dose group as compared with the control groups in the long-term feeding study on FD&C Blue No. 2 precludes the Food and Drug Administration from finding that this color additive is safe for general use in food and ingested drugs.

The hearing will take place in FDA's Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. Administrative Law Judge Daniel J. Davidson will preside. Parties to the hearing will be FDA's Bureau of Foods and Public Citizen's Health Research Group. Any other interested person may participate in the hearing and be accorded the rights granted to participants by FDA regulations. Participants are, of course, required to assume the obligations of participation as set forth in FDA regulations. Written notices of participation must be filed with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, no later than December 7, 1983. A notice of participation should be identified with docket number found in brackets in the heading of this document and clearly labeled "FD&C Blue No. 2 Hearing."

The Bureau of Foods has filed with the Dockets Management Branch all documents required by § 12.85 (21 CFR 12.85). These are: (1) Those portions of the administrative record of the proceeding relevant to the issue to be considered at the hearing; (2) all documents in the Bureau's files containing factual data and information (whether favorable or unfavorable to its position) that relate to the issue involved in the hearing; (3) all other documentary data and information on which the Bureau relies; and (4) a statement signed by the Director of the Bureau that, to the best of his knowledge

and belief, the submission complies with the requirements of § 12.85. The Bureau has also filed with the Dockets Management Branch a narrative statement setting forth its position on the issue for hearing and a summary of the type of evidence intended to be introduced in support of its position at the hearing.

Interested persons may obtain a copy of the narrative statement from the Dockets Management Branch at the address above. Persons may also examine the data filed in this matter (with the exception of any data identified as confidential) at the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

The prehearing conference and hearing session will be open to the public. Any participants may appear in person, or by or with counsel, or with other qualified representatives, and may be heard on relevant matters. Participants other than the Bureau of Foods shall disclose data and information on or before January 6, 1984, under § 12.85.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701(e), 706(d), 70 Stat. 919 as amended, 74 Stat. 402–403 (21 U.S.C. 371(e), 376(d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is ordered that a formal evidentiary public hearing be held on the issue set forth in this notice.

Dated: November 1, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-30035 Filed 11-4-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 81N-0225]

GRAS Status of Carnauba Wax

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that carnauba wax is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 7, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 184.1978 effective on December 7, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 6, 1982 (47 FR 34164), FDA published a proposal to affirm that carnauba wax is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review, data on the mutagenic evaluation, and the report of the Select Committee on GRAS Substances (the Select Committee) on carnauba wax are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of carnauba wax, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for this ingredient, other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of carnauba wax recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Parts 184 and 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for carnauba wax were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of carnauba wax under conditions different from those set forth in this final rule has been waived.

One comment was received in response to the proposal. The comment was from a food manufacturer who requested an expansion of the carnauba wax regulation to include the use of the ingredient as a fixative or encapsulating agent for volatile flavoring agents that are used to flavor sauces and gravies.

The agency has reviewed the use described in the comment and finds that this use would result in the presence of a low level of carnauba wax in sauces and gravies. The consumer exposure to carnauba wax resulting from this use is not expected to add significantly to consumer exposure to carnauba wax resulting from its other uses in food. Further, the increase in exposure would be well within the safe levels for this food ingredient established by the safety studies on carnauba wax. The agency concludes that this new use is GRAS. Because the agency considers encapsulating agents to be carriers of flavors, FDA has included in 21 CFR 184.1978 the requested use of carnauba wax as a formulation aid as defined in § 170.3(o)(14) (21 CFR 170.3(o)(14)) for use in gravies and sauces as defined in § 170.3(n)(24).

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's finding of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1978 [Removed]

1. Part 182 is amended by removing § 182.1978 *Carnauba wax.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1978, to read as follows:

§ 184.1978 Carnauba wax.

(a) Carnauba wax (CAS Reg. No. 008–015–869) is obtained from the leaves and buds of the Brazilian wax palm *Copernicia cerifera* Martius. The wax is hard, brittle, sparingly soluble in cold organic solvents and insoluble in water. It is marketed in five grades designated No. 1 through No. 5. Grades No. 4 and No. 5 represent the bulk of the commercial trade volume. These commercial grades consist chiefly of C_{24} to C_{32} normal saturated monofunctional fatty acids and normal saturated monofunctional primary alcohols.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 73, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an anticaking agent as defined § 170.3(o)(1) of this chapter; as a formulation aid as defined in § 170.3(o)(14) of this chapter; as a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; and as a surface-finishing agent as defined in § 170.3(o)(30) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; chewing gun as defined in § 170.3(n)(6) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; fresh fruits and fruit juices as defined in § 170.3(n)(16) of this chapter; gravies and sauces as defined in § 170.3(n)(24) of this chapter; processed fruits and fruit juices as defined in § 170.3(n)(35) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 7, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 19 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–30036 Filed 11–4–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 182 and 184

[Docket No. 81N–0341]

GRAS Status of Riboflavin and Riboflavin-5′-Phosphate (Sodium)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that riboflavin and riboflavin-5′-phosphate (sodium) are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 7, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 184.1695 and 184.1697 effective on December 7, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 14, 1982 (47 FR 40448), FDA published a proposal to affirm that riboflavin and riboflavin-5′-phosphate (sodium) are GRAS for use as direct human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on riboflavin and riboflavin-5′-phosphate (sodium) and the report of the Select Committee on GRAS Substances (the Select Committee) on riboflavin and riboflavin-5′-phosphate (sodium) are available for public review in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of riboflavin and riboflavin-5′-phosphate (sodium), FDA gave public notice that it was unaware of any prior-sanctioned food uses for these ingredients other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of these ingredients recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for riboflavin or riboflavin-5′-phosphate (sodium) were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of riboflavin or riboflavin-5′-phosphate (sodium) under conditions different from those set forth in this final rule has been waived.

No comments were received in response to the agency's proposal on these ingredients. The agency is therefore issuing the proposed regulation as a final rule with minor editorial changes.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a

significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as defined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's finding of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in the threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavoring.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.8695 [Removed]

a. By removing § 182.8695 *Riboflavin.*

§ 182.8697 [Removed]

b. By removing § 182.8697 *Riboflavin-5-phosphate.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1695, to read as follows:

§ 184.1695 Riboflavin.

(a) Riboflavin ($C_{17}H_{20}N_4O_6$, CAS Reg. No. 83–88–5) occurs as yellow to orange-yellow needles that are crystallized from 2*N* acetic acid, alcohol, water, or pyridine. It may be prepared by chemical synthesis, biosynthetically by the organism *Eremothecium ashbyii,* or isolated from natural sources.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 262, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice. The ingredient may also be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

b. By adding new § 184.1697, to read as follows:

§ 184.1697 Riboflavin-5′-phosphate (sodium).

(a) Riboflavin-5′-phosphate (sodium) ($C_{17}H_{20}N_4O_9PNa.2H_2O$,CAS Reg. No 130–40–5) occurs as the dihydrate in yellow to orange-yellow crystals. It is prepared by phosphorylation of riboflavin with chlorophosphoric acid, pyrophosphoric acid, metaphosphoric acid, or pyrocatechol cyclic phosphate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 263, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in milk products, as defined in § 170.3(n)(31) of this chapter, at levels not to exceed current good manufacturing practice. The ingredient may also be used in infant formulas in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 7, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–30037 Filed 11–4–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 182 and 184

[Docket No. 78N–0199]

GRAS Status of Pectins

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that pectins are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 7, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 184.1588 effective on December 7, 1983.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 29, 1978 (43 FR 38591), FDA published a proposal to affirm that pectins are GRAS for use as direct human food ingredients. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

Subsequently, the agency published a tentative final rule in the **Federal Register** of August 13, 1982 (47 FR 35242), in which FDA proposed not to include levels of use or food categories in the GRAS regulation on pectins. The tentative final rule provided an opportunity for public comment on this change.

One comment was received from a food manufacturer in response to the tentative final rule. The comment noted that a semantic error was made in the description statement of the proposed regulation concerning type commercial preparation of pectin. The comment recommended that the word "and" be replaced by "or" in the fourth sentence of paragraph (a) of the regulation to reflect clearly the intent of the regulation concerning the source of the ingredient. The comment stated that the word "and" implies that pectin must be produced as a mixture from three sources instead of one or more of the three.

FDA agrees with this comment and has revised this final rule to reflect this change.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the tentative final rule, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) a food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1775 [Removed]

1. Part 182 is amended by removing § 182.1775 *Sodium pectinate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1588, to read as follows:

§ 184.1588 Pectins.

(a) The pectins (CAS Reg. No. 9000–69–5) are a group of complex, high molecular weight polysaccharides found in plants and composed chiefly of partially methylated polygalacturonic acid units. Portions of the carboxly group occur as methyl esters, and the remaining carboxyl groups exist in the form of the free acid or as its ammonium, potassium, or sodium (CAS Reg. No. 9000–59–8) salts, and in some types as the acid amide. Thus, the pectins regulated in this section are the high-ester pectins, low-ester pectins, amidated pectins, pectinic acids, and pectinates. Pectin is produced commercially by extracting citrus peel, apple pomace, or beet pulp with hot dilute acid (pH 1.0 to 3.5, 70° to 90° C). The extract is filtered, and pectin is then precipitated from the clear extract with ethanol or isopropanol, or as the copper or aluminum salt. The acid extract is sometimes spray- or roller-dried, or it is concentrated to be sold as liquid pectin.

(b) The ingredients meet the specifications of the Food Chemical Codex, 3d Ed. (1981), p. 215, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredients are used in food with no limitation other than current good manufacturing practice. The affirmation of these ingredients as generally recognized as safe (GRAS) as direct human food ingredients is based upon the following current good manufacturing practice conditions of use:

(1) The ingredients are used as emulsifiers as defined in § 170.3(o)(8) of this chapter and as stabilizers and thickeners as defined in § 170.3(o)(28) of this chapter.

(2) The ingredients are used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for these ingredients different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 7, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–30038 Filed 11–4–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 182 and 184

[Docket No. 79N–0032]

GRAS Status of Lecithin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that lecithin is generally recognized as safe (GRAS) as a direct human food

ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 7, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1400 effective on December 7, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 6, 1982 (47 FR 34161), FDA published a proposal to affirm that lecithin is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on lecithin and the report of the Select Committee on GRAS Substances (the Select Committee) on lecithin are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents are also available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of lecithin, FDA gave public notice that it was unaware of any prior-sanctioned food uses for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of lecithin recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for lecithin were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of lecithin under conditions different from those set forth in this final rule has been waived.

One comment was received in response to the agency's proposal on lecithin. The comment supported the proposal and indicated that lecithin has been used for a number of years in baked goods, candies, chocolate products, dehydrated foods, ice cream, margarine, and whipped toppings. The comment also stated that scientific evidence supports the safety of lecithin as a food ingredient.

The agency concludes that no changes in the proposal are necessary as a result of this comment. The agency is therefore issuing the proposal as a final rule without change.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this regulation. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's finding of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry for "Lecithin (vegetable)" from the list of substances.

§ 182.1400 [Removed]

b. By removing § 182.1400 *Lecithin.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1400, to read as follows:

§ 184.1400 Lecithin.

(a) Commercial lecithin is a naturally occurring mixture of the phosphatides of choline, ethanolamine, and inositol, with smaller amounts of othe lipids. It is isolated as a gum following hydration of solvent-extracted soy, safflower, or corn oils. Lecithin is bleached, if desired, by hydrogen peroxide and benzoyl peroxide and dried by heating.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), pp. 166-167, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 7, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-30040 Filed 11-4-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 79N-0140]

GRAS Status of Rennet

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that rennet is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective December 7, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 184.1685 effective on December 7, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204 202-426-8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 23, 1979 (44 FR 61053), FDA published a proposal to affirm that rennet is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

Subsequently, the agency published a tentative final rule in the **Federal Register** of December 3, 1982 (47 FR 54454), in which FDA proposed not to include levels of use in the GRAS regulation on rennet. The tentative final rule provided an opportunity for public comment on this change. FDA published a notice correcting the tentative final rule in the **Federal Register** of February 8, 1983 (48 FR 5761).

No comments were received in response to the agency's tentative final rule on rennet. The agency is therefore issuing this final rule based on the tentative final rule with only minor editorial changes.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency has previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the tentative final rule, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1685 [Removed]

1. Part 182 is amended by removing § 182.1685 *Rennet.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1685, to read as follows:

§ 184.1685 Rennet (animal-derived).

(a) Rennet and bovine rennet are commercial extracts containing the active enzyme rennin (CAS Reg. No. 9001-98-3). Rennet is the aqueous extract prepared from cleaned, frozen, salted, or dried fourth stomachs (abomasa) of calves, kids, or lambs. Bovine rennet is the product from adults of the animals listed above. Both products are called rennet and are clear amber to dark brown liquid preparations or white to tan powders.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), pp. 107-108, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) the ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter; a processing aid as defined in § 170.3(o)(24) of this chapter; and a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter.

(2) the ingredient is used in the following foods at levels not to exceed current good manufacturing practice: In cheeses as defined in § 170.3(n)(5) of this chapter; frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter; gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; and milk products as defined in § 170.3(n)(31) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective December 7, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: October 19, 1983.

William F. Randolph,

Acting Associate Commissoner for Regulatory Affairs.

[FR Doc. 83-30039 Filed 11-4-83; 8:45 am]

BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Interest Rate on New Guaranteed, Insured and Direct Loans for Homes and Condominiums

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rate on fixed payment and graduated payment loans for homes and condominiums. The maximum interest rates are decreased because the mortgage money market has eased in recent weeks. The decrease in the interest rates will allow eligible veterans to obtain a loan at a lower monthly cost.

EFFECTIVE DATE: November 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave. N.W., Washington, D.C. 20420 (202–389–3042).

SUPPLEMENTARY INFORMATION: The Addministrator is required by law to establish a maximum interest rate for home and condominium loans guaranted, insured or made by the Veterans Administration as he finds the loan market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans and the general availability of mortgage funds—have shown that the mortgage market has eased.

After consultation with the Secretary of Housing and Urban Development as required by law, it has been determined that a decrease in the VA home and condominium interest rate for both graduated payment and fixed payment loans is warranted at this time.

The decrease in the VA maximum home and condominium interest rates should not have an adverse impact on the availability of funds necessary to make VA loans. The decrease in the VA interest rate, however, should allow more veterans to purchase a home because of the lower monthly payment for principal and interest required at the lower interest rate.

The Administrator's statutory authority to establish interest rates has been delegated by 38 CFR 2.6 to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981, **Federal Register** (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured or direct loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers, 64.113 and 64.114)

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1) and 1811(d)(1) of title 38, United States Code and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

These decreases are accomplished by amending §§ 36.4311, and 36.4503(a), title 38, Code of Federal Regulations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Loan programs—business, Manufactured Homes, Veterans, Veterans Administration.

Approved: October 31, 1983.
By direction of the Administrator.

John W. Hagan, Jr.,
Deputy Chief Benefits Director.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as follows:

1. In §36.4311, paragraphs (a) and (b) are revised as follows:

§36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 12½ per centum per annum effective November 1, 1983, the interest rate on any home or condominium loan, other than a graduated payment mortgages loan, guaranteed or insured wholly or in part on or after such date may not exceed 12½ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

(b) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 12¾ per centum per annum, effective November 1, 1983, the interest rate on any graduated payment mortgage loan guaranteed or insured wholly or in part on or after such date may not exceed 12¾ per centum per annum. (38 U.S.C. 1803(c)(1))

* * * * *

2. In §36.4503, paragraph (a) is revised as follows:

§36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances otherwise proper, subsequent to the making of the loan pursuant to the provisions of §36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 12½ percent per annum. Loans solely for the purpose of energy conservation improvements or

other alterations, improvements, or repairs shall bear interest at the rate of 14 percent per annum (38 U.S.C. 1811(d)(1) and (2)(A)).

* * * * *

[FR Doc. 83-30061 Filed 11-4-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL 2466-1]

Approval of Implementation Plans; Texas: Air Quality Surveillance

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This notice approves an administrative revision to the Texas State Implementation Plan (SIP). The Texas Air Control Board (TACB), in accordance with 40 CFR 51.6(c), submitted an administrative revision to Section IX (Air Quality Surveillance) on June 22, 1983. The revision describes the process used in establishing the air quality surveillance network and meets all the federal requirements specified in 40 CFR 58.20 Air Quality Surveillance: Plan content.

DATE: This action will be effective on January 6, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

The Office of the Federal Register, 1100 L Street NE., Washington, D.C., Rm. 8401

Environmental Protection Agency, Public Information Reference Unit, EPA Library Rm. 2404, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270

Texas Air Control Board, 6330 Hwy. 290 East, Austin, Texas 78723

FOR FURTHER INFORMATION CONTACT: Kathryn Griffith, State Implementation Plan Section, Environmental Protection Agency Region 6, Air and Waste Management Division, Air Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-0853.

SUPPLEMENTARY INFORMATION: On June 22, 1983, the TACB submitted a revision for Section IX (Air Quality Surveillance) which deletes and supersedes the existing approved Section IX in the Texas SIP. EPA has reviewed the State's submittal and developed an evaluation report[1] which is based on the requirements established in 40 CFR 58.20 Air Quality Surveillance: plan content. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 Office and the other addresses listed above.

Section 319 of the Clean Air Act of 1977, as amended, required the Administrator to promulgate regulations establishing an air quality monitoring system throughout the United States. The national monitoring system is to be used to assess air quality by regulated standard procedures. Monitoring data gathered by the system will be used in the periodic review of national air quality trends.

The regulations establishing the network system were promulgated in 40 CFR Part 58 and the plan requirements are listed in 40 CFR 58.20 Air Quality Surveillance: plan content. The Section IX revision meets all the applicable requirements. Therefore, EPA is approving the revision.

Since the revision included in this approval notice is considered administrative in nature and minor in substance, EPA is approving this revision without prior proposal. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** Notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeal for the appropriate circuit by *January 6, 1984.* This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Incorporation by reference of the State Implementation Plan for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

[1] EPA Review of Texas' State Implementation Plan Revision for Section IX (Air Quality Surveillance).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated October 27, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart SS—Texas

1. In § 52.2270, (c) is amended by adding paragraph (51) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(51) An administrative revision to Section IX, Air Quality Surveillance, was submitted by the TACB on June 22, 1983. (Nonregulatory)

[FR Doc. 83-30060 Filed 11-4-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 422

Procedures for the Identification and Administration of Cultural Resources

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final revocation of rule.

SUMMARY: Part 422 was issued to establish policies and procedures to meet the Bureau of Reclamation's responsibilities in the indentification, protection, preservation, and maintenance of cultural resources affected by Reclamation actions or on Reclamation lands. These policies and procedures relate to internal Reclamation procedures, impose no requirement on the general public and have therefore, been replaced by an internal directive.

EFFECTIVE DATE: November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Ward Weakly, Archeologist, Office of Environmental Affairs, Engineering

and Research Center, Bureau of Reclamation, Denver, Colorado (303) 234–2050 or Lois Thompson, Office of Environmental Affairs, Washington, D.C. (202) 343–2840.

SUPPLEMENTARY INFORMATION: On October 10, 1978 (43 FR 46540), the Bureau of Reclamation issued regulations for the identification and protection of cultural resources. These procedures are applicable only to reclamation project planning, construction, operation and maintenance. They do not affect the general public. Consequently, 43 CFR Part 422 is being revoked and replaced by a Bureau directive, Reclamation Instructions, Series 350 General Instructions, Part 376 Environmental Quality—Preservation and Enhancement, Chapter II Identification and Administration of Cultural Resources. Copies are available from the Bureau of Reclamation, Office of Environmental Affairs, Engineering and Research Center, Denver, Colorado (303) 234–2050, and Office of Environmental Affairs, Washington, D.C. (202) 343–2840.

The Bureau is taking this action in response to the Department's commitment to eliminate unnecessary rules from the Code of Federal Regulations and consolidate internal policy and procedures into Reclamation Instructions.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The proposed regulations were published in the **Federal Register** on June 29, 1983 (48 FR 29890), for a 30-day comment period. No comments were received. Therefore, except for minor editorial changes the final revocation is the same as that proposed on June 29, 1983. This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

The primary authors of this document are Dr. Ward Weakly, Office of Environmental Affairs, Engineering and Research Center, Denver, Colorado (303) 234–2050, and Lois Thompson, Office of Environmental Affairs, Washington, D.C. (202) 343–2840.

List of Subjects in 43 CFR Part 422

Historic preservation, Reclamation.

PART 422—[REMOVED]

Under the authority of the Secretary of the Interior contained in 43 U.S.C. 373, 43 CFR Part 422 is hereby removed and reserved.

Dated: October 5, 1983.

J. Steven Griles,

Acting Assistant Secretary, Land and Water Resources.

[FR Doc. 83-30072 Filed 11-4-83; 8:45 am]

BILLING CODE 4310-09-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 31

[CC Docket No. 82-679; RM-4084; FCC 83-456]

Amendment of the Commission's Rules to Change the Basis of Depreciation and Retirement Procedures for the "Station Connections—Other" Subclass of Account 232, and to Reclassify Network Channel Terminating Equipment

Correction

In FR Doc. 83-29285, beginning on page 49843, in the issue of Friday, October 28, 1983, in the first column, the Effective Date should have read "April 28, 1984".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 48, No. 216
Monday, November 7, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 304 and 349

Forms, Instructions, and Reports; Reports and Public Disclosure of Indebtedness of Executive Officers and Principal Shareholders to a State Nonmember Bank and its Correspondent Banks

Correction

In FR Doc. 83–29060 beginning on page 49517 in the issue of Wednesday, October 26, 1983, make the following corrections.

1. On page 49517, first column, the seventeenth line of the SUMMARY paragraph, the date "1983" should read "1982".

2. On the twenty-first line of the same paragraph, the word "and" should read "an".

3. The tenth line from the bottom of the same paragraph should read: "of section 7(k) of the FDI Act and".

4. On the same page, second column, in paragraph (B), the first word in the tenth line reading "and" should read "any".

5. On the same page, the third column, in the eighth line of paragraph (1), "compaign" should read "campaign".

6. On page 49159, the second column, the fifth line from the bottom of § 349.2(a) should end in a comma.

7. On the same page, in the same column, in the sixth line from the bottom of § 349.2(b), the word "Consoliated" should read "Consolidated".

8. On the same page and column, footnote 2 to § 349.2(c), the fifth line should end in a comma, and in the sixth line "Unless" should read "unless".

9. On the same page, the third column, the sixth line of § 349.2(h), "2125.10(a)" should read "215.10(a)".

10. The second line from the bottom of the same column, in § 349.3(a), the word "an" should read "a".

11. On page 49520, in the first column, the first line of § 349.3(b)(2), the word "mount" should read "amount".

12. In the same column, in footnote 3 to § 349.3(b)(2), the last word reading "persons" should read "person".

13. In the second column on the same page, the fourth line from the bottom of the introductory text of § 349.4(a), the word "of" should read "or".

14. The last word in the same paragraph reading "persons" should read "person".

15. In the same column, in the second line of § 349.4(a)(2), the word "of" should read "at".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–6495; File No. S7–999]

Confidential Treatment Under the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is requesting public comment on a proposed amendment to Rule 406 under the Securities Act of 1933. The proposed amendment would adopt a system of confidential treatment under the Securities Act that is similar in scope and procedure to that under the Securities Exchange Act of 1934. The proposed revision is a further step in the integration of the disclosure requirements under the two Acts.

DATE: Comments must be received on or before December 29, 1983.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7–999 and will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Alan L. Dye (202) 272–2573, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: As a further step in its continuing effort to integrate the disclosure system, the Commission is proposing to broaden the information eligible for confidential treatment in documents filed under the Securities Act of 1933. The Commission's proposal would permit confidential treatment of the same type of information that may be granted confidential treatment in an issuer's periodic reports.[1]

I. Background

Confidential treatment under the Securities Act currently is limited to portions of contracts required to be filed as exhibits to a registration statement.[2] The Commission's proposal would extend the availability of confidential treatment to the same filed information as may be granted confidential treatment in an issuer's periodic reports. Under the Exchange Act, the Commission, in its sole discretion, may grant confidential treatment to any information required to be filed with it pursuant to the Exchange Act to the extent consistent with the Freedom of Information Act (the "FOIA") [3] and investor protection.[4]

The difference in the scope of availability of confidential treatment under the Securities Act and the Exchange Act is inconsistent with the basic premise underlying the integration of the disclosure system under those statutes,[5] i.e., the same information is

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[1] It is proposed to amend Rule 406 (17 CFR 230.406) under the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77–77aa (1976 & Supp V 1981), *as amended by* Bus Regulatory Reform Act of 1982, Pub. L. 97–261 section 19(d), 96 Stat. 1121 (1982)) to generally conform the system under the Securities Act to that under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a–78kk (1976 & Supp. V 1981), *as amended by* Act of June 6, 1983, Pub. L. No. 98–38).

[2] The current rule is predicated on paragraph 30 of Schedule A to the Securities Act, which generally requires the filing of all material contracts as exhibits to registration statements but allows non-disclosure of any portion of any contract "if the Commission determines that disclosure of such portion would impair the value of the contract and would not be necessary for the protection of investors."

[3] 5 U.S.C. 552.

[4] *See* Section 24(b) of the Exchange Act and Rule 24b–2 (17 CFR 240.24b–2). The Commission adopted Rule 24b–2 under section 24(b) of the Exchange Act. Section 24(b) prohibits the staff from publicly disclosing information granted confidential treatment under rules adopted by the Commission under the FOIA.

[5] *See* Release No. 33–6383 (March 3, 1982) (47 FR 11380).

required for all issuers whether provided by a registration statement or periodic reports. An issuer filing on Form S–1 must present all of the information required by that form in the prospectus. On the other hand, an issuer eligible to use Form S–2 or S–3 presents certain required information through the delivery or incorporation of certain Exhange Act periodic filings. The difference in the scope of Rule 406 under the Securities Act and Rule 24b–d2 under the Exhange Act can result in confidential treatment in the Form S–2 or S–3 registration statement of information that would not be eligible for confidential treatment in the Form S–1 registration statement and that would be part of the disclosure required of such issuer.

II. Proposed Revison to Rule 406

The proposed revision to Rule 406 parallels the provisions of Rule 24b–2 under the Exchange Act and is intended to make uniform the scope of, and procedures for obtaining, confidential treatment of information filed pursuant to the Securities Act and the Exchange Act. The proposed rule would be the exclusive vehicle for requesting confidential treatment of FOIA-exempt information required to be disclosed in registration statements and other required filings under the Securities Act.

Paragraph (a) of proposed Rule 406 provides that the rule will be applicable to any document required to be filed under the Securities Act. The confidential treatment of supplemental information or other information not required to be filed under the Securities Act is already covered by Rule 83.[6]

Paragraph (b) sets forth the procedure to be used in making the request for confidential treatment and specifies the items of information that an issuer should include in its application. These items are identical to those required under Rule 24b–2.

Paragraph (c) of proposed rule provides that the material for which confidential treatment is required will not be made available pending the Commission's processing of the request. Paragraph (d) sets forth the procedure to be used by the Commission if the application is granted.

Paragraphs (e) and (f) set forth the procedure to be followed in those instances where the Commission determines that confidential treatment will not be granted. Where confidential treatment is denied, propsed Rule 406 differs from Rule 24b–2 in one regard. Paragraph (e) of the proposed rule, similar to existing Rule 406(d), permits the registrant to withdraw the confidential material if the filing to which it relates is withdrawn pursuant to an applicable statute, rule or regulation.[7]

Paragraphs (g) through (i) of the proposed rule discuss the procedures to be followed where a prior grant of confidential treatment has been revoked. These procedures are identical to the procedures applicable under Rule 24b–2.

III. Standard To Be Applied in Granting Confidential Treatment

Under Rule 24b–2, the threshold criterion for confidential treatment is the availability of at least one of the nine FOIA exemptions.[8] Similarly, proposed Rule 406 requires the requestor of confidential treatment first to establish a FOIA exemption in order to invoke the Commission's discretionary authority to grant the request.[9] The applicability of a FOIA exemption, however, will not give rise to an automatic entitlement to confidential treatment. Rather, it is a basic condition for Commission consideration of the confidential treatment request.

Once the threshold test has been met, the Commission must determine whether confidential treatment for the information in question is consistent with the investor's statutory right to full and fair disclosure of all the information necessary for an informed investment decision. Thus, information shown to be exempt under the FOIA will be accorded confidential treatment under the proposed rule only if the Commission is satisfied that under the facts and circumstances of the particular case, disclosure of the information is not necessary for the protection of investors.[10]

While the Commission frequently grants confidential treatment to limited portions of material contracts filed as exhibits to filings under the Securities Act and the Exchange Act, the Commission historically has been reluctant to grant confidential treatment to information required to be disclosed in public filings, and those requests have been granted only in limited situations. Most such requests have relied upon Exemption 4 under the FOIA, which covers "trade secrets and commercial or financial information obtained from a person and privileged or confidential."[11] The test for confidentiality under Exemption 4 upon which the Commission relies is as follows:

> [C]ommercial or financial matter is "confidential" for purposes of the exemption if disclosure of the information is likely to have either of the following effects: (1) To impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained.[12]

In those cases where an issuer has requested confidential treatment of information specifically required to be disclosed in a public filing, the Commission has found the request to meet the above specified test of confidentiality in limited situations.[13]

IV. Other Matters

The Commission believes that the proposed amendment to Rule 406 is

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[6] 17 CFR 200.83. The Commission adopted Rule 83 to provide a procedure whereby persons submitting to the Commission information not otherwise required to be filed publicly, may request that the information not be released in response to a FOIA request. Release No. 33–6241 (September 12, 1980) [45 FR 62418].

[7] The Commission's rules under the Securities Act presently permit the withdrawal of registration statements, offering statements, and offering circulars. These filings may be withdrawn because the registrant may elect to cancel the proposed offering and thereby relieve itself of the legal obligation to disclose the confidential information. Such a procedure is not provided for in Rule 24b–2 because the information submitted under that rule, if found by the Commission not to warrant confidential treatment, must be disclosed pursuant to the issuer's reporting obligation under the Exchange Act.

[8] 5 U.S.C. 552(b) (1)–(9)

[9] The Commission has delegated to the staff the authority to grant applications for confidential treatment under Rule 406, to issue orders scheduling hearings on such applications, and to deny any such application as to which the applicant waives its right to a hearing, provided the applicant is advised of its right to have the denial reviewed by the Commission. (17 CFR 200.30–1(a)(3)). The staff has delegated authority to grant and deny applications under Rule 24b–2. (17 CFR 200.30–1(f)(3)(i)).

[10] The test for confidential treatment differs from the test set forth in paragraph 30 of Schedule A that is currently applied to request under Rule 406. The Commission believes that such consistency is requisite to an integrated disclosure system.

[11] 5 U.S.C. 552(b)(4).

[12] *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) (footnote omitted).

[13] Issuers seldom argue that disclosure of purportedly confidential information would have an adverse impact on the Commission's ability to obtain the information, because the information is required to be disclosed publicly by all companies subject to the disclosure requirements of the Acts. In *National Parks*, The court specifically recongnized that where disclosure is required, the element of adverse effect on obtaining the disclosure generally is not present. With respect to the second element of the confidentiality test, most have failed to sustain the burden of demonstrating both that they in fact will suffer harm and that the harm will be to competitive position. The exemption is intended to protect persons from the competitive harm that would result from the agency's disclosure to the public of information that other persons would not be required to disclose. Since information under consideration in the typical request is required of all companies subject to the disclosure requirements of the Acts, an issuer, except in unique situations, cannot generally sustain the burden of showing such harm.

necessary at this time to alleviate the inconsistent treatment of requests for confidential treatment under the Securities Act and the Exchange Act in order to more fully implement the integration of the disclosure system under those statutes. The Commission staff is engaged in a comprehensive review of all of its regulations relating to confidential treatment and the FOIA. At some later date, public comment will be requested on these broader issues, but at the current time, comment is sought only with respect to the proposed amendments to Rule 406.

V. Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed revision of Rule 406.

The analysis notes that the revision of Rule 406 is designed to make the standards for according confidential treatment under the Securities Act consistent with those applicable under the Exchange Act. At the present time, Rule 406 applies only to material contracts filed as exhibits to a registration statement and requires the requestor to establish that disclosure of confidential information would impair the value of the contract and would not be necessary for the protection of investors. Under the Exchange Act, on the other hand, confidential treatment of any information required to be filed under that Act may be granted, consistent with investor protection, upon a showing that an exemption under the Freedom of Information Act applies. The proposed revision of Rule 406 makes the applicable criteria uniform under both Acts and applies equally to large and small entities.

The Commission also stated that, for purposes of the analysis, the Commission was using the definition of small business adopted in Securities Act Release No. 6380 (March 8, 1982) [47 FR 5215]. That definition provides that when used in reference to the Securities Act, small business means any issuer whose total assets on the last day of its most recent fiscal year were $3 million or less. The proposed revised Rule 406 will apply equally to large and small entities, but the rule is applicable only to entities that file materials with the Commission in connection with an offering of securities. Preparation of an application for confidential treatment may require the skills of a professional familiar with the securities laws, but such services would be only a small part of the overall services being rendered by the professional in connection with the offering of securities. In any event, the proposed revised rule is not mandatory, and it does not require any recordkeeping or reporting.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Alan L. Dye, Division of Corporation Finance, United States Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549 at (202) 272–2573.

VI. List of Subjects in 17 CFR Part 230

Forms, Reporting and recordkeeping requirements, Securities.

VII. Text of Proposed Rule

In accordance with the foregoing, the Commission proposes to amend Title 17, Chapter II, of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising § 230.406, Rule 406, to read as follows:

§ 230.406 Non-Disclosure of Information Filed With the Commission.

Preliminary Note.—Confidential treatment of supplemental information or other information not required to be filed under the Act should be requested under § 200.83 of this chapter and not under this rule.

(a) Any person submitting any information in a document required to be filed under the Act may make written objection to its public disclosure by following the procedure in paragraph (b) of this section, which shall be the exclusive means of requesting confidential treatment of information included in any document (hereinafter referred to as the "material filed") required to be filed under the Act, *except* that if the material filed is a registration statement on Form S–8 (§ 239.16b of this chapter) or on Forms S–3, F–2 or F–3 (§ 239.13, 32 or 33 of this chapter) relating to a dividend or interest reinvestment plan, or if the material filed is a registration statement that does not contain a delaying amendment pursuant to Rule 473 (§ 230.473 of this chapter), the person shall comply with the procedure in paragraph (b) prior to the filing of the registration statement.

(b) The persons shall omit from the material filed the portion thereof which it desires to keep undisclosed (hereinafter called the "confidential portion"). In lieu thereof, the person shall indicate at the appropriate place in the material filed that the confidential portion has been so omitted and filed separately with the Commission. The person shall file with the material filed:

(1) As many copies of the confidential portion, each clearly marked "Confidential Treatment", as there are copies of the material filed with the Commission. Each copy shall contain an appropriate identification of the item or other requirement involved and, notwithstanding that the confidential portion does not constitute the whole of the answer or required disclosure, the entire answer or required disclosure, *except* that in the case where the confidential portion is part of a financial statement or schedule only the particular financial statement or schedule need be included. All copies of the confidential portion shall be in the same form as the remainder of the material filed;

(2) An application making objection to the disclosure of the confidential portion. Such application shall be on a sheet or sheets separate from the confidential portion, and shall contain: (i) An identification of the portion; (ii) a statement of the grounds of the objection referring to and analyzing the applicable exemption(s) from disclosure under § 200.80 of this chapter, the Commission's rule adopted under the Freedom of Information Act (5 U.S.C. 552), and a justification of the period of time for which confidential treatment is sought; (iii) a detailed explanation of why, based on the facts and circumstances of the particular case, disclosure of the information is unnecessary for the protection of investors; (iv) a written consent to the furnishing of the confidential portion to other government agencies, offices or bodies and to the Congress; and (v) the name, address and telephone number of the person to whom all notices and orders issued under this rule at any time should be directed.

(3) The copies of the confidential portion and the application filed in accordance with this paragraph (b) shall be enclosed in a separate envelope marked "Confidential Treatment" and addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

(c) Pending a determination as to the objection, the material for which confidential treatment has been applied will not be made available to the public.

(d) If the Commission determines that the application shall be granted, an order to that effect will be entered, and a notation to that effect will be made at the appropriate place in the material filed. Such a determination will not preclude reconsideration whenever appropriate, such as upon receipt of any subsequent request under the Freedom of Information Act and, if appropriate,

revocation of the confidential status of all or a portion of the information in question.

(e) If the Commission denies the application, confirmed telegraphic notice of the order of denial will be sent to the person named in the application pursuant to paragraph (b)(2)(v) of this section. In such case, if the material filed may be withdrawn pursuant to an applicable statute, rule, or regulation, the registrant shall have the right to withdraw the material filed in accordance with the terms of the applicable statute, rule, or regulation, but without the necessity of stating any grounds for the withdrawal or of obtaining the further assent of the Commission. In the event of such withdrawal, the confidential portion will be returned to the registrant. If the material filed may not be so withdrawn, the confidential portion will be made available for public inspection in the same manner as if confidential treatment had been revoked under paragraph (h) of this section.

(f) If a right of withdrawal pursuant to paragraph (e) of this section is not exercised, the confidential portion will be made available for public inspection as part of the material filed, and the registrant shall amend the material filed to include all information required to be set forth in regard to such confidential portion.

(g) In any case where a prior grant of confidential treatment has been revoked, the person named in the application pursuant to paragraph (b)(2)(v) of this section will be so informed by registered or certified mail. Pursuant to § 201.26 of this chapter, persons making objections to disclosure may petition the Commission for review of a determination by the Division revoking confidential treatment.

(h) Upon revocation of confidential treatment, the confidential portion shall be made available to the public at the time and according to the conditions specified in paragraphs (h) (1)–(2):

(1) Upon the lapse of five days after the dispatch of notice by registered or certified mail of a determination disallowing an objection, if prior to the lapse of such five days the person shall not have communicated to the Secretary of the Commission his intention to seek review by the Commission under § 201.26 of this chapter of the determination made by the Division; or

(2) If such a petition for review shall have been filed under § 201.26 of this chapter, upon final disposition adverse to the petitioner.

(i) If the confidential portion is made available to the public, one copy thereof shall be attached to each copy of the material filed with the Commission.

Authority: The Commission is proposing these amendments to Rule 406 under Sections 7, 10, and 19(a) of the Securities Act.

(Secs. 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77g, 77j, 77s (a))

By the Commission.

George A. Fitzsimmons,

Secretary.

November 1, 1983.

[FR Doc. 83-30082 Filed 11-4-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Maryland Permanent Regulatory Program; Review of State Program Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening and extension of public comment period.

SUMMARY: OSM is reopening the period for review and comment on revised regulations submitted by the State of Maryland to amend its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The general areas of revision to the State's regulations include definitions, permit application requirements and regulatory authority review procedures and decision, coal exploration, permit review and transfer of permit rights, designation of areas unsuitable for mining, roads, performance bonds, hydrologic balance, sediment control measures, explosives, special performance standards, and backfilling and grading. Specifically, OSM is reopening the comment period to allow the public sufficient time to consider and comment on revisions submitted by Maryland on October 21, 1983, to its proposed regulations initially submitted on October 28, 1982, and minutes of a meeting held between OSM and the State on May 19, 1983. The meeting concerned preliminary findings made by OSM on the State's amendment as a result of review and public comments. Pursuant to the State's resubmission letter, the revised regulations reflect changes made to the proposed regulations as a result of the comments received from OSM.

DATE: Written comments not received on or before 4:00 p.m. on November 22, 1983 will not necessarily be considered.

ADDRESS: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, Attention: Maryland Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

See "**SUPPLEMENTARY INFORMATION**" for addresses where copies of the Maryland program amendment and administrative record on the Maryland program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Charleston Field Office listed above.

FOR FURTHER INFORMATION CONTACT: David H. Halsey, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION: Copies of the Maryland program amendment, the Maryland program and the administrative record on the Maryland program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Charleston field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

Office of Surface Mining Reclamation and Enforcement, 1100 L Street, NW., Room 5315, Washington, D.C. 20240, Telephone: (202) 343–7896

Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136.

In addition, copies of the amendment are available for inspection and copying during regular business hours at the following location: Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, Morgantown, West

Virginia 26505, Telephone: (304) 291–4004.

The Maryland program was conditionally approved by the Secretary of the Interior of December 1, 1980 (45 FR 79430–79451). On February 18, 1982, following submission of program amendments to satisfy the conditions of approval, the Maryland program was fully approved by the Secretary (47 FR 7214–7217).

On October 28, 1982, the State submitted certain proposed regulations (Administrative Record No. MD 194) to replace those contained in its approved program. The general areas of revision to the State's regulations include definitions, permit application requirements and regulatory authority review procedures and decision, coal exploration, permit review and transfer of permit rights, designation of areas unsuitable for mining, roads, performance bonds, hydrologic balance, sediment control measures, explosives, special performance standards, and backfilling and grading. On November 16, 1982, OSM published a notice in the **Federal Register** to announce receipt of the amendments, public comment period and opportunity for public hearing (47 FR 51590). The public comment period closed on December 16, 1982. A public hearing scheduled for December 7, 1982, was not held because no one expressed an interest in participating. Following this opportunity for a public hearing and the public comment period, OSM met with the State on May 19, 1983, and presented to the State its tentative findings and possible deficiencies of the proposed regulations (Administrative Record No. MD 216). The regulations currently being considered were revised in accordance with the comments presented to the State. The revised regulations were marked by the State to indicate the exact changes between the current proposed amendment and the previous amendment to its regulations submitted on October 28, 1982.

In accordance with the provisions of 30 CFR 732.15, OSM is reopening the public comment period and is seeking comments on the substantive adequacy of the proposed regulations.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

Dated: November 2, 1983.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 83–30094 Filed 11–4–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–003; A–4–FRL 2465–5]

Approval and Promulgation of Implementation Plans, Alabama; Lead Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is today proposing disapproval of the State Implementation Plan (SIP) for Lead submitted by the State of Alabama on March 24, 1982. This SIP does not provide for the attainment of the National Ambient Air Quality Standard (NAAQS) for lead throughout the State. Approval of this revision was proposed on October 22, 1982 (47 FR 47026), and no comments were received. However, subsequent review of the plan and the most recent monitoring data revealed that it was not adequate to achieve and maintain the ambient lead standard. The public is asked to comment on the proposed action.

DATES: To be considered, comments must reach us on or before December 7, 1983.

ADDRESS: Written comments should be addressed to Denise W. Pack of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by Alabama and a technical support document developed by EPA may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36130

FOR FURTHER INFORMATION CONTACT: Denise W. Pack at the EPA Region IV Air Management Branch or call 404/881–3286 (FTS 257–3286).

SUPPLEMENTARY INFORMATION: On October 5, 1978, National Ambient Air Quality Standards (NAAQS) for lead were promulgated by the Environmental Protection Agency (EPA). Under section 110(a)(1) of the Clean Air Act (the Act), a state is allowed nine (9) months after promulgation of NAAQS to submit a State Implementation Plan (SIP) which provides for implementation, maintenance, and enforcement of the primary and secondary NAAQS within the state.

On March 24, 1982, the Alabama Air Pollution Control Commission (AAPCC) now the Air Program of the Alabama Department of Environmental Management, submitted the Alabama lead SIP to EPA for approval. The major elements of the SIP include: a summary of measured air quality data from 1974 to present, a base-year emission inventory for stationary and mobile sources, control strategies showing reductions in lead emissions from stationary and mobile sources, schedules for installation of control equipment on certain stationary sources, calculations of projected ambient air lead concentrations in areas that have shown exceedances of the standard, and emission regulations for secondary lead smelters. Provisions for the review of new and modified sources of lead emissions are contained in Alabama's current new source review regulations.

As defined by EPA's October 5, 1978, **Federal Register** notice, there are three major lead emission sources in Alabama. An evaluation of air quality and modeling data revealed that control measures were needed for the areas around two secondary lead smelters. The State responded by developing control measures enforceable by a regulation adopted for secondary lead smelters. This regulation (Section 4.15 of the Alabama regulations) addresses and limits fugitive and process particulate emissions from cupolas, reverberatory furnaces, and alloying kettles. All affected facilities were required to be in compliance by no later than October 31, 1982.

Also, a statewide inventory of Alabama identified Jefferson County as an area with a potential for high lead concentrations. Current air quality and modeling data show that current levels in Jefferson County are below the standard and air quality should improve with the expected future reduction in mobile source lead emissions.

On October 22, 1982, EPA proposed approval of Alabama's Lead SIP. A subsequent review of the plan in conjunction with current available monitoring data revealed that the area surrounding the Saunders secondary lead smeltering facility in Troy, Alabama was violating the NAAQS for lead. Since the control strategy contained in the SIP required that all controls be in place no later than October 31, 1982, data from the last quarter of 1982 should have shown an improvement in air quality. Alabama operates a lead monitoring system that complies with the requirements of 40 CFR 58, and it has been fully approved by EPA.

Also, the regulation adopted by Alabama to control emissions from secondary lead smelters does not include methods for determining compliance of the blast or reverberatory furnaces and the alloying kettle or pots that EPA considers enforceable. Emission rates are regulated by using the projected capture efficiencies of the control equipment. EPA has not approved a method for qualifying such efficiency ratings and recommends that Visible Emission Evaluations be employed.

Action: Based on the foregoing, EPA is today proposing to disapprove the SIP for lead submitted by the AAPCC. Comments on these rules are solicited.

Implications of Action: EPA recently reached agreement with the Natural Resources Defense Council (NRDC) and other plaintiffs who filed a citizens suit under Section 304(a) of the Clean Air Act; the suit, *NRDC* v. *Ruckelshaus* No. 82–2137 (D.D.C.), concerned the action EPA must take on lead implementation plans. Further information on the Settlement Agreement appears in the **Federal Register** of August 10, 1983 (48 FR 36250). The Settlement Agreement established specific deadlines for completion of SIP's for lead. This proposed disapproval of the Alabama lead SIP is consistent with that Settlement Agreement. Under the Agreement, EPA must, after entertaining public comment, publish final action on its proposed disapproval of the Alabama lead SIP by May 1, 1984. If EPA's final action is to disapprove the State submittal, the Agency must propose a Federal implementation plan (FIP) for Alabama by October 1, 1984. EPA and NRDC would then return to the District Court to seek an order setting an appropriate date for making the proposed FIP final.

The agreement provides for EPA to review State plan revisions (to correct deficiencies) that are submitted after an EPA proposed disapproval. If at any time a State covered by the Agreement, such as Alabama, that did not submit an acceptable plan in accordance with the timetable set forth in the Agreement submits an approvable revision to its lead SIP, EPA may propose approval of that plan revision in lieu of a Federal plan. EPA, however, must have taken final action on such a plan before the deadlines specified in the Agreement in order not to have to propose or promulgate a FIP for the State.

Also, if in the future a State covered by the Agreement submits an approvable plan after EPA has promulgated a FIP for that State, EPA may at that time withdraw its plan and simultaneously substitute the approved State plan.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV Office (see address above).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act, as amended (42 U.S.C. 7410))

Dated: July 29, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-30071 Filed 11-4-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-9-FRL 2465-8]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations in Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to reduce the size of the Tucson, Arizona nonattainment area for carbon monoxide (CO) and to redesignate the Page, Arizona nonattainment area to attainment for total suspended particulate (TSP). This action responds to requests for redesignation by the Arizona Department of Health Services under paragraph 107(d)(5) of the Clean Air Act. EPA invites public comment on these proposed redesignations.

DATE: Comments will be considered if submitted on or before December 7, 1983.

ADDRESSES: Send any comments to: Regional Administrator, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105 Attn: State Implementation Plan Section (A–2–3), Air Programs Branch, Air Management Division.

EPA's Technical Support Document concerning the proposed redesignations is available for public inspection during normal business hours at EPA's San Francisco office and at the following locations:

Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 85007

Coconino County APCD, 2500 North Valley Road, Flagstaff, AZ 86001

Pima County Health Department—Air Quality Control District, 151 West Congress Street, Tucson, AZ 85701

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section (A–2–3), Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–7641; FTS: 454–7641.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978 (43 FR 8970) EPA promulgated attainment status designations for all States as required by Section 107 of the Clean Air Act. EPA designated Pima County as nonattainment for CO and Coconino County as nonattainment for TSP. On August 15, 1978 the State requested that only a small portion of Pima County including the Tucson area be designated nonattainment for CO. The State also requested that Cononino County be designated to attainment for TSP except for a six square mile area containing the city of Page, which the State requested be designated unclassified for TSP.

In response to the August 15, 1978 State requests, EPA published two notices of final rulemaking. On March 19, 1979 (44 FR 16392) EPA redesignated the area requested by the State within Pima County to attainment, leaving only the Tucson Air Planning Area (TAPA) as nonattainment for CO. On April 10, 1979 (44 FR 21264) EPA redesignated the area requested by the State within Coconino County to attainment, leaving the Page area (requested by the State to be unclassified) as the only TSP nonattainment area in Coconino County.

On March 4, 1983 the State of Arizona submitted a redesignation request to EPA to further shrink the Tucson CO nonattainment area. The reduced nonattainment area would more closely approximate the Tucson urbanized area as defined by the U.S. Bureau of the Census for 1980.

On May 3, 1983 the State of Arizona requested that EPA redesignate the Page area to attainment for TSP. The redesignation request is based on ambient air quality data which shows no violations of the National Ambient Air Quality Standards since 1977.

Under paragraph 107(d)(5) of the Clean Air Act, a state may revise its

attainment status designations and submit them to EPA for consideration and promulgation. In general, eight quarters of voilation-free air quality data plus evidence of an EPA-approved control strategy are necessary in order for an area to be redesignated from nonattainment to attainment. However, EPA policy allows for an attainment designation when the only monitored violations were due to temporary emissions sources or infrequently occurring natural phenomena.

In addition, the area to be redesignated cannot contain a source or sources which contribute significantly to a place with measured or modeled violations.

For a more detailed description and evaluation of the redesignations proposed in this notice, please refer to the Technical Support Document.

Proposed Actions

EPA has reviewed the designations requested by the Arizona Department of Health Services and has determined that they should be approved. The reduction of the Tucson nonattainment area for CO from 2,200 square miles to 912 square miles is based on: (a) No historic measured or modeled violations in the area to be redesignated, (b) no sources in the proposed redesignation area which contribute significantly to the measured/modeled violations in the area which will remain nonattainment, and (c) the fact that the area to be redesignated is beyond the urbanized area of Tucson which remains designated nonattainment.

The redesignation of the Page nonattainment area for TSP to attainment is based on: (a) No measured violations since 1977 and (b) the belief that the violations recorded in 1976 and 1977 should not be considered since they appear to have been due to temporary construction activity and usually high winds.

The Administrator has certified (46 FR 87709) that this action will not have a significant economic impact on a substantial number of small entities. The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12291.

Authority: Sections 107(d) and 301(a) of the Clean Air Act as amended (42 U.S.C. 7407(d) and 7601(a)).

List of Subjects in 40 CFR Part 81

Air Pollution Control, National Parks, Wilderness Areas.

Date: September 27, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 83-30087 Filed 11-4-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-1121; RM-4547]

TV Broadcast Station in Palatka, Florida; Proposed Changes in Table of Assignments

Correction

In FR Doc. 83-29287, beginning on page 49887, in the issue of Friday, October 28, 1983, on page 49887, in the heading, the docket number should read as printed above.

BILLING CODE 1505-01-M

Also, the regulation adopted by Alabama to control emissions from secondary lead smelters does not include methods for determining compliance of the blast or reverberatory furnaces and the alloying kettle or pots that EPA considers enforceable. Emission rates are regulated by using the projected capture efficiencies of the control equipment. EPA has not approved a method for qualifying such efficiency ratings and recommends that Visible Emission Evaluations be employed.

Action: Based on the foregoing, EPA is today proposing to disapprove the SIP for lead submitted by the AAPCC. Comments on these rules are solicited.

Implications of Action: EPA recently reached agreement with the Natural Resources Defense Council (NRDC) and other plaintiffs who filed a citizens suit under Section 304(a) of the Clean Air Act; the suit, *NRDC* v. *Ruckelshaus* No. 82–2137 (D.D.C.), concerned the action EPA must take on lead implementation plans. Further information on the Settlement Agreement appears in the **Federal Register** of August 10, 1983 (48 FR 36250). The Settlement Agreement established specific deadlines for completion of SIP's for lead. This proposed disapproval of the Alabama lead SIP is consistent with that Settlement Agreement. Under the Agreement, EPA must, after entertaining public comment, publish final action on its proposed disapproval of the Alabama lead SIP by May 1, 1984. If EPA's final action is to disapprove the State submittal, the Agency must propose a Federal implementation plan (FIP) for Alabama by October 1, 1984. EPA and NRDC would then return to the District Court to seek an order setting an appropriate date for making the proposed FIP final.

The agreement provides for EPA to review State plan revisions (to correct deficiencies) that are submitted after an EPA proposed disapproval. If at any time a State covered by the Agreement, such as Alabama, that did not submit an acceptable plan in accordance with the timetable set forth in the Agreement submits an approvable revision to its lead SIP, EPA may propose approval of that plan revision in lieu of a Federal plan. EPA, however, must have taken final action on such a plan before the deadlines specified in the Agreement in order not to have to propose or promulgate a FIP for the State.

Also, if in the future a State covered by the Agreement submits an approvable plan after EPA has promulgated a FIP for that State, EPA may at that time withdraw its plan and simultaneously substitute the approved State plan.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV Office (see address above).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act, as amended (42 U.S.C. 7410))

Dated: July 29, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83–30071 Filed 11–4–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[A–9–FRL 2465–8]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations in Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to reduce the size of the Tucson, Arizona nonattainment area for carbon monoxide (CO) and to redesignate the Page, Arizona nonattainment area to attainment for total suspended particulate (TSP). This action responds to requests for redesignation by the Arizona Department of Health Services under paragraph 107(d)(5) of the Clean Air Act. EPA invites public comment on these proposed redesignations.

DATE: Comments will be considered if submitted on or before December 7, 1983.

ADDRESSES: Send any comments to: Regional Administrator, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105 Attn: State Implementation Plan Section (A–2–3), Air Programs Branch, Air Management Division.

EPA's Technical Support Document concerning the proposed redesignations is available for public inspection during normal business hours at EPA's San Francisco office and at the following locations:

Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 85007

Coconino County APCD, 2500 North Valley Road, Flagstaff, AZ 86001

Pima County Health Department—Air Quality Control District, 151 West Congress Street, Tucson, AZ 85701

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section (A–2–3), Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–7641; FTS: 454–7641.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978 (43 FR 8970) EPA promulgated attainment status designations for all States as required by Section 107 of the Clean Air Act. EPA designated Pima County as nonattainment for CO and Coconino County as nonattainment for TSP. On August 15, 1978 the State requested that only a small portion of Pima County including the Tucson area be designated nonattainment for CO. The State also requested that Cononino County be designated to attainment for TSP except for a six square mile area containing the city of Page, which the State requested be designated unclassified for TSP.

In response to the August 15, 1978 State requests, EPA published two notices of final rulemaking. On March 19, 1979 (44 FR 16392) EPA redesignated the area requested by the State within Pima County to attainment, leaving only the Tucson Air Planning Area (TAPA) as nonattainment for CO. On April 10, 1979 (44 FR 21264) EPA redesignated the area requested by the State within Coconino County to attainment, leaving the Page area (requested by the State to be unclassified) as the only TSP nonattainment area in Coconino County.

On March 4, 1983 the State of Arizona submitted a redesignation request to EPA to further shrink the Tucson CO nonattainment area. The reduced nonattainment area would more closely approximate the Tucson urbanized area as defined by the U.S. Bureau of the Census for 1980.

On May 3, 1983 the State of Arizona requested that EPA redesignate the Page area to attainment for TSP. The redesignation request is based on ambient air quality data which shows no violations of the National Ambient Air Quality Standards since 1977.

Under paragraph 107(d)(5) of the Clean Air Act, a state may revise its

attainment status designations and submit them to EPA for consideration and promulgation. In general, eight quarters of voilation-free air quality data plus evidence of an EPA-approved control strategy are necessary in order for an area to be redesignated from nonattainment to attainment. However, EPA policy allows for an attainment designation when the only monitored violations were due to temporary emissions sources or infrequently occurring natural phenomena.

In addition, the area to be redesignated cannot contain a source or sources which contribute significantly to a place with measured or modeled violations.

For a more detailed description and evaluation of the redesignations proposed in this notice, please refer to the Technical Support Document.

Proposed Actions

EPA has reviewed the designations requested by the Arizona Department of Health Services and has determined that they should be approved. The reduction of the Tucson nonattainment area for CO from 2,200 square miles to 912 square miles is based on: (a) No historic measured or modeled violations in the area to be redesignated, (b) no sources in the proposed redesignation area which contribute significantly to the measured/modeled violations in the area which will remain nonattainment, and (c) the fact that the area to be redesignated is beyond the urbanized area of Tucson which remains designated nonattainment.

The redesignation of the Page nonattainment area for TSP to attainment is based on: (a) No measured violations since 1977 and (b) the belief that the violations recorded in 1976 and 1977 should not be considered since they appear to have been due to temporary construction activity and usually high winds.

The Administrator has certified (46 FR 87709) that this action will not have a significant economic impact on a substantial number of small entities. The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12291.

Authority: Sections 107(d) and 301(a) of the Clean Air Act as amended (42 U.S.C. 7407(d) and 7601(a)).

List of Subjects in 40 CFR Part 81

Air Pollution Control, National Parks, Wilderness Areas.

Date: September 27, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 83-30087 Filed 11-4-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-1121; RM-4547]

TV Broadcast Station in Palatka, Florida; Proposed Changes in Table of Assignments

Correction

In FR Doc. 83-29267, beginning on page 49887, in the issue of Friday, October 28, 1983, on page 49887, in the heading, the docket number should read as printed above.

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 48, No. 216
Monday, November 7, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Admiralty Island National Monument—Boundary Adjustment; Tongass National Forest, Chatham Area, Admiralty Island National Mounument/Wilderness Juneau, Alaska; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement on a proposal by Noranda Mining, Inc., for a boundary adjustment to the Admiralty Island National Monument under the authority of section 103(b) of Pub. L. 96–487, the Alaska National Interest Lands Conservation Act (ANILCA). The proposed boundary adjustment of the Admiralty Island National Monument would be minor under the expressed provisions of section 103(b) of ANILCA. Nonetheless, the Forest Service deems it desirable to prepare an environmental impact statement for this adjustment because of the controversy that has surrounded this and other management issues pertaining to Admiralty Island. This is most recently manifested in the lawsuits over the management of privately owned lands of Shee Atika, Inc., on Admiralty Island. In this overall context, an environmental statement will provide a mechanism for broad public comment on Federal actions which could affect the Monument.

The Noranda Mining, Inc. proposal states as its purpose the removal of the Greens Creek Project, Admiralty Island National Monument, from the time constraints identified in section 504 of Pub. L. 96–487 so that a planned mine can be developed in the most environmentally sound manner. Section 504 of Pub. L. 96–487 provides that all exploration work necessary to perfect eligible unperfected claims within the Admiralty and Misty Fiords National Monuments by completed on or before December 2, 1985. Noranda in its June 2, 1983, proposal states that compliance with the time requirements of section 504 of Pub. L. 96–487 will result in more significant adverse effects to the resources of the Admiralty Island National Monument than would other alternatives.

As a minimum, the alternatives which will be considered in the draft environmental impact statement will include:

1. No action.
2. Boundary adjustment alternatives under authority of section 103(b) of Pub. L. 96–487.
3. Land exchange alternatives under authority of section 1302 (h) and (i) of Pub. L. 96–487.
4. Administration recommendation to Congress for a legislative extension or waiver of the time constraints imposed by section 504 of Pub. L. 96–487.

Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of those issues to be addressed.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

The Fish and Wildlife Service of the Department of the Interior will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the project area. The State of Alaska will also be invited to participate as a cooperator to evaluate potential social and economic impacts and potential impacts to fish and wildlife including subsistence.

The Alaska Land Use Council, organized under authority of Title XII of Pub. L. 96–487 will be invited to review and comment on the draft environmental impact statement.

The Monument Manager will hold public meetings in her office at 8465 Old Dairy Road, Juneau, Alaska, from 1:30 p.m. until 4:30 p.m., Wednesday, November 9, 1983.

R. Max Peterson, Chief, Forest Service, Washington, D.C., is the responsible official.

The draft environmental impact statement is expected to be available for public review by December 1983.

Written comments and suggestions concerning the analysis should be sent to Helen Castillo, Monument Manager, Admiralty National Monument/Wilderness, P.O. Box 2097, Juneau, Alaska 99803.

Questions about the proposed action and environmental impact statement should be directed to Helen Castillo, Monument Manager, Admiralty National Monument/Wilderness, Juneau, Alaska, 99803, telephone 907/789–3111.

Dated: November 1, 1983.

R. Max Peterson,

Chief.

[FR Doc. 83–30052 Filed 11–4–83; 8:45 am]

BILLING CODE 3410–11–M

Notice of Decision; Pacific Crest National Scenic Trail Relocation Acton—Aqua Dulce Segment

A notice of my decision on the relocation of the Acton—Aqua Dulce Segment of the Pacific Crest National Scenic Trail was published in the **Federal Register** on December 10, 1981, 46 FR 60484. That notice included a legal description of the relocation of this segment which is located in the Angeles National Forest in Los Angeles County, California.

Subsequently, the relocation of the trail was appealed under the administrative review procedures at 36 CFR 211.19. As a result of that appeal I have reconsidered the relocation of the Acton—Aqua Dulce Segment of the Pacific Crest Trail. Based on further analysis and evaluation of the environmental assessment prepared on this segment of the Trail, I am now amending my original decision of December 1981 to permit minor changes in the Trail relocation.

The original relocation as described to 46 FR 60484 read as follows: Add the following described private lands.

4 North	13 West	8, 17.
5 North	13 West	31.
5 North	14 West	14, 23, 26, and 35.

The new relocation of this portion of Trail is as follows: Add the following described private lands.

4 North	13 West	7, 8.
5 North	13 West	31.
5 North	14 West	14, 23, 26, and 35.

This minor relocation was necessary to preserve the purposes for which the Trail was established. Full consideration was given to minimizing the adverse effects of the Trail on the affected landowners and their operations.

Copies of the environmental assessment prepared for this relocation, the decision notice, the detailed location description, and maps are available in the following Forest Service Offices:

Forest Supervisor, 150 South Los Robles, Suite 300, Pasadena, California 91101;
USDA—Forest Service, Recreation Management, Room 4252, 12th and Independence S.W., P.O. Box 2417, Washington, DC 20013; and
Regional Forester, Pacific Southwest Region, 630 Sansome Street, San Francisco, California 94111.

The original text read:

Continuing along Escondido Canyon Road easterly then turning southerly between Bobcat Canyon where the trail * * *

The text should have read:

Continuing along Escondido Canyon Road easterly then turning southerly between Bobcat and Young Canyon where the trail * * *

F. Dale Robertson,
Associate Chief.
November 1, 1983.
[FR Doc. 83-30056 Filed 11-4-83; 8:45 am]
BILLING CODE 3410-11-M

Notice of Decision; Pacific Crest National Scenic Trail Relocation, Hauser Segment From Mexican Border to Cleveland National Forest

In accordance with Section 7(b) of the National Trails System Act (82 Stat. 919 as amended; 16 U.S.C. 1246), notice is hereby given of a minor relocation of the official route of the Pacific Crest National Scenic Trail in Southern California. The portion of trail being relocated extends from the Mexican Border near Campo, California, to the southern boundary of Cleveland National Forest, a distance of approximately 10 miles.

The original location of this Trail segment as described in the **Federal Register** of Tuesday, January 30, 1973, 38 FR 2838 reads as follows:

It goes through the Hauser Mountains, crosses State Highway 94 west of Bill Valley and ends at the Mexican border about 2½ miles east of Tecate, approximately ½ mile east of Monument 243 on the Mexican border * * *

San Bernardino Meridian

Township	Range	Section
16 South	4 East	15, 21, and 22

The new location of this portion of the trail is as follows:

It ascends the south side of Hauser Canyon and passes along the east slope of Hauser Mountain, crossing State Highway 94 approximately ¾ mile west of Campo, and ends at the Mexican border about 1¾ miles south of Campo, approximately ¾ mile west of border Monument 239 * * *

San Bernardino Meridian

Township	Range	Section
16 South	5 East	16, 17, and 22

This route relocation was determined to be necessary to preserve the purposes for which the trail was established. Problems involving border security and trail user safety, as well as trail user conflicts with U.S. Border Patrol and U.S. Customs operations prompted the change. The new route alignment is located approximately 70% on public domain land administered by the Bureau of Land Management, 20% on lands owned by the County of San Diego, and 10% on private lands. In selecting the route, full consideration was given to minimizing the adverse effects of the trail on the affected landowners and their operations. The advice and assistance of the State of California, County of San Diego, private organizations, landowners, and land users was obtained. The Pacific Crest National Scenic Trail Advisory Council has formally concurred with the relocation.

Copies of the environmental assessment, prepared on this relocation, the decision notice, detailed location description and maps are available in the following Forest Service Offices:

Forest Supervisor, Cleveland National Forest, 880 Front Street, Room 6-5-5, San Diego, California 92188;
USDA, Forest Service, Recreation Management, Room 4252, 12th and Independence, SW., P.O. Box 2417, Washington, DC 20013; and
Regional Forester, Pacific Southwest Region, 630 Sansome Street, San Francisco, California 94111.

Implementation of this trail relocation may take place immediately. This decision is subject to administrative review pursuant to 36 CFR 211.19.

F. Dale Robertson,
Associate Chief.
November 1, 1983.
[FR Doc. 83-30055 Filed 11-4-83; 8:45 am]
BILLING CODE 3410-11-M

Notice of Decision; Pacific Crest National Scenic Trail Relocation, Klamath River Crossing Segment From Devil's Ridge to Grider Creek

In accordance with Section 7(b) of the National Trails Systems Act (82 Stat. 919 as amended; 16 U.S.C. 1246), notice is hereby given of a minor relocation of the official route of the Pacific Crest National Scenic Trail on the Klamath National Forest in Siskiyou County, California.

The original location for this portion of the Trail, as described in the **Federal Register** of Tuesday, January 30, 1973, 38 FR 2834, reads as follows:

The Trail follows Portuguese Creek to the Klamath River Highway, State Route 96.

The Trail crosses the Klamath river on a trail bridge at the mouth of Portugese Creek and continues southeasterly across the face of Evans Mountain to West Grider and Grider Creek and then * * *.

The new location of this portion of the Trail is as follows:

The Trail proceeds south down the ridge to the Klamath River Highway, State Route 96.

It follows easterly along State Highway 96, through the town of Seiad Valley, crossing the Klamath River on the State Highway Bridge. Thence southwesterly along County and Forest Service roads to Grider Creek and then * * *.

This relocation is necessary because the terrain on the original location is unstable and subject to high reconstruction and maintenance costs. The bridge across the Klamath, which had previously been proposed, is not cost effective and has not had public support. Public safety and user utility were also important considerations in deciding to move the trail location. The relocation utilizes existing public right-of-ways and will not require any private land crossing.

Advice and assistance on this relocation has been obtained from the State and local governments, private organizations, landowners, and land users.

Copies of the environmental assessment prepared on this relocation, the decision notice, detailed relocation description and maps are available for review in the following Forest Service Offices:

Forest Supervisor, Klamath National Forest, 1312 Fairlane Road, Yreka, California 96097;
UDSA, Forest Service, Recreation Management, Room 4252, 12th and Independence SW., P.O. Box 2417, Washington, DC 20013; and
Regional Forester, Pacific Southwest Region, 630 Sansome Street, San Francisco, California 94111.

Implementation of this trail location may take place immediately. This decision is subject to administrative review pursuant to 36 CFR 211.19.

F. Dale Robertson,
Associate Chief.
November 1, 1983.

[FR Doc. 83-30084 Filed 11-4-83; 8:45 am]
BILLING CODE 3410-11-M

Rural Electrification Administration

Oglethorpe Power Corp.; Environmental Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20-21:320-21, Enviromental Policies and Procedures, has made a Finding of No Significant Impact with respect to possible financing assistance for proposed construction by Oglethorpe Power Corporation (OPC) of approximately 6 miles of 230 kV double circuit transmission tap line from the Plant Branch-Bonaire Transmission line in Jones County, to the Gordon Substation, in Wilkinson County, all in Georgia.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and OPC's Borrower's Environmental Report (BER) may be reviewed in the Office of the Chief, Distribution and Transmission Engineering Branch, Southeast Area—Electric, Room 0262, South Agriculture Building, REA, Washington, D.C. 20250, telephone (202) 382-8436, or at the Office of OPC (Mr. F. F. Stacy, Jr., Manager), 2888 Woodcock Boulevard, Atlanta, Georgia 30341, telephone (404) 455-1121.

SUPPLEMENTARY INFORMATION: REA has reviewed the BER and has determined that it represents an accurate assessment of the environmental impacts of the proposed project. REA determined that the proposed project is not likely to affect threatened or endangered species or critical habitat, and will have no effect on important forestland, wetlands, floodplains, or cultural resources. The proposed route will cross a small amount of prime farmland. Cultivation can continue in most of the right-of-way, except at the pole sites, and there will be minimal adverse effect to prime farmland. An alternative route was considered, however, this route would have crossed more prime farmland and some wetland.

In addition to alternative routes, alternative supply sources and "no action" were considered. REA determined that the proposed alternative is an acceptable way to provide long-term, reliable service to the Gordon area.

Based upon the BER and supporting documents, REA prepared an EA concerning the proposed project and its impacts. In accordance with REA Bulletin 20-21:320-21, dated January 21, 1980, OPC advertised and requested comments on the environmental aspects of the proposed project. No comments were received. REA concluded that approval of financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement is not necessary.

This program is listed in the Catalogue of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: November 1, 1983.

Harold V. Hunter,
Administrator.

[FR Doc. 83-30053 Filed 11-4-83; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Economic Advisory Board; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Tuesday, December 13, 1983, from 9:30 a.m. to 4:00 p.m. in Room 4830, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

The Board was established by the Secretary of Commerce on January 13, 1967. The purpose of the Board is to advise the Secretary of Commerce on economic policy issues. The intended agenda for this meeting is as follows:

- A review of the economic outlook by major sector.
- A discussion of the outlook for prices and employment and of strategies for sustaining noninflationary economic growth.

A limited number of seats will be available to the public on a first-come, first-served basis. Public participation will be limited to requests for clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

Additional information concerning this meeting may be obtained by contacting Ms. Virginia R. Marketti, Office of the Under Secretary for Economic Affairs, Room 4836, Department of Commerce, Washington, D.C. 20230; (202) 377-3523.

Dated: November 1, 1983.

Frederick T. Knickerbocker,
Executive Director, Economic Affairs.

[FR Doc. 83-30091 Filed 11-4-83; 8:45 am]
BILLING CODE 3510-18-M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration
Title: Fishermen's Contingency Fund Claim and 15-day Report
Form Number: Agency—NOAA 88-164 and 88-166; OMB—0648-0082
Type of Request: Reinstatement of a previously approved collection for which approval has expired
Burden: 1,365 respondents; 13,650 reporting hours
Needs and Uses: The application form is used by commercial fishermen to file claims under Title IV. The purpose of the Fund is to compensate fishermen for both actual and consequential damage resulting from loss of, or damage to fishing gear attributable to oil and gas activities on the Outer Continental Shelf (OCS). The 15-day report form is used by claimants as one of four requirements for gaining a presumption that the damage or loss was caused by an item related to OCS oil and gas activities

Affected Public: Businesses or other for-profit, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ed Clarke 395–4814

Agency: National Oceanic and Atmospheric Administration
Title: Computer Assisted System for the Export of Seafood (CASES)
Form Number: Agency—NOAA 88–160 OMB—0648–0073
Type of Request: Revision of a currently approved collection
Burden: 1,200 respondents; 200 reporting hours
Needs and Uses: This questionnaire is used to collect business related information on current and potential U.S. exporters of fisheries products. The information is made available to foreign buyers/importers interested in importing U.S. seafood products
Affected Public: Businesses or other for-profit, non-profit institutions and small businesses or organizations
Frequency: Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Ed Clarke 395–4814

Agency: National Oceanic and Atmospheric Administration
Title: Fishing Vessel and Gear Damage Compensation Fund
Form Number: Agency—NOAA 88–178; OMB—0648–0094
Type of Request: Reinstatement of a previously approved collection for which approval has expired
Burden: 400 respondents; 8,000 reporting hours
Needs and Uses: The application form is used by commercial fishermen who file claims under Section 10 of the Fishermen's Protective Act. The purpose of the Fund is to compensate fishermen for fishing vessel and fishing gear damage or loss caused by foreign or domestic vessels
Affected Public: Businesses or other for-profit, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Ed Clarke 395–4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Ed Michals,
Departmental Clearance Officer.
[FR Doc. 83–30110 Filed 11–4–83; 8:45 am]
BILLING CODE 3510-CW-M

DEPARTMENT OF COMMERCE

DEPARTMENT OF LABOR

Steel Advisory Committee; Establishment

In accordance with the provisions of the Federal Advisory Committee Act and the Interim Rules published in 48 F.R. 19324 (1983), and after consultation with GSA, it has been determined that the establishment of the Steel Advisory Committee is in the public interest.

The Committee will provide advice and make recommendations with respect to problems within the domestic steel industry which are affected by such international and domestic issues as trade laws and trade policy, U.S. antitrust laws, U.S. tax laws, employment, productivity and community issues, capital formation, investment and modernization, as each may affect that industry.

The Committee will consist of twenty-four members: eight representatives of management and eight representatives of organized labor fairly representative of the domestic steel production industry; eight representatives of the U.S. Government, including the Secretary of Commerce and the Secretary of Labor, who shall co-chair the Committee, and six members designated by the Secretaries of Commerce, Labor and Treasury, the Attorney General, the Chairman of the Council of Economic Advisers, and the United States Trade Representative, to be allocated equally between those offices and appointed jointly by the Secretary of Commerce and the Secretary of Labor; and other appropriate individuals appointed jointly by the Secretaries of Commerce and Labor if it is determined that additional members are necessary to the function of the Committee or to achieve a balanced membership.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The Secretaries of Commerce and Labor have requested and GSA has agreed to waive the fifteen (15) day public comment period preceding filing of the Committee charter by reason of the necessity for immediate Committe action. Interested persons, however, are invited to submit comments regarding the establishment of the Steel Advisory Committee. Such comments, as well as inquiries, may be addressed to Robert H. Brumley II, Special Assistant to the General Counsel, Office of the General Counsel, Room 5870, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–4772 or James A. Greene, N2428, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20210, telephone: (202) 523–8157.

Signed in Washington, D.C., this 3rd day of November, 1983.

Dated: November 3, 1983.

Dennis C. Boyd,
Director for Management and Information Systems, U.S. Department of Commerce.
Robert W. Searby,
Deputy Under Secretary for International Affairs U.S. Department of Labor.
[FR Doc. 83–30170 Filed 11–4–83; 8:45 am]
BILLING CODE 3510-CW-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–025]

Clear Sheet Glass From Italy; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping findings

SUMMARY: On July 25, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on clear sheet glass from Italy. The review covered the six known manufacturers and/or exporters of this merchandise to the United States and generally the period December 1, 1981 through November 30, 1982.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 33728–9) the preliminary results of its

last administrative review of the antidumping finding on clear sheet glass from Italy (36 FR 23180, December 8, 1971). The Department has now completed that review.

Scope of the Review

Imports covered by the review are shipments of clear sheet glass, currently classifiable under items 542.3120 through 542.4835 of the Tariff Schedules of the United States Annotated.

The review covers the six known manufacturers and/or exporters of Italian clear sheet glass to the United States and generally the period December 1, 1981 through November 30, 1982.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no comments or requests for a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results and we determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Società Italiana Vetro	12/01/81–11/30/82	[1] 19.62
Vernante Pennitalia S.p.A.	12/01/81–11/30/82	[1] 44.56
Vetreria Italiana Balzaretti-Modigliani	12/01/81–11/30/82	57.40
Vetrerie Milanesee Lucchini	12/01/81–11/30/82	43.90
Vetrobel	12/01/81–11/30/82	59.80
Veneziana Vetro S.p.A.	12/01/81–09/20/82	0

[1] No shipments during the review period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries during the time period involved. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Italian clear sheet glass from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For future entries from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1982, and who is unrelated to any covered firm, no cash deposit shall be required. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review. The Department encourages interested parties to submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: October 28, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-30082 Filed 11-4-83; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-036]

Instant Potato Granules From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On July 25, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on instant potato granules from Canada. The review covered the two known manufacturers and/or exporters of this merchandise to the United States currently covered by the finding and the period September 1, 1981 through August 31, 1982.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 33729–30) the preliminary results of its last administrative review of the antidumping finding on instant potato granules from Canada (37 FR 20175, September 27, 1972). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of instant potato granules from Canada, currently classifiable under items 140.5000, 140.7000, and 141.8610 through 141.8630 of the Tariff Schedules of the United States Annotated.

The review covers the two known manufacturers and/or exporters of Canadian instant potato granules to the United states currently covered by the finding and the period September 1, 1981 through August 31, 1982.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no comments or requests for a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review and we determine that the following margins exist for the period September 1, 1981 through August 31, 1982:

Manufacturer/Exporter	Margin (percent)
McCain Foods Limited	0.00
Vauxhall Foods Limited	0.39

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries during the time period involved. The Department will issue appraisement instructions directly to the Customs Service.

Since the margin for Vauxhall is less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes the Department waives the requirement for cash deposit of estimated antidumping duty as provided for in § 353.48(b) of the Commerce Regulations. No cash deposit of estimated antidumping duties shall be required on any shipment of Canadian instant potato granules entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

These deposit requirements and waiver shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review. The Department encourages interested parties to submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C.

1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: October 28, 1983.

Alan F. Holmer,

Deputy Assistant secretary for Import Administration.

[FR Doc. 83-30083 Filed 11-4-83; 8:45 am]

BILLING CODE 3510-DS-M

[C-559-001]

Certain Refrigeration Compressors From the Republic of Singapore: Suspension of Countervailing Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Suspension of Countervailing Duty Investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving certain refrigeration compressors from the Republic of Singapore. The basis for the suspension is an agreement to offset or eliminate completely all benefits provided by the government of the Republic of Singapore which we find to constitute bounties or grants on refrigeration compressors exported to the United States.

EFFECTIVE DATE: November 7, 1983

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Office of Investigations, or Laura Kneale, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-3530 or (202) 377-1167

SUPPLEMENTARY INFORMATION:

Case History

On May 26, 1983, we received a petition in proper form from Tecumseh Products Company, a manufacturer of smaller hermetic refrigeration compressors, on behalf of the U.S. industry producing certain refrigeration compressors. The petitioner alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act") are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Singapore of certain refrigeration compressors.

Since Singapore is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. Because the product under investigation is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether imports of this product cause or threaten to cause material injury to a U.S. industry. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on June 13, 1983, we initiated a countervailing duty investigation (48 FR 28888).

On June 29, 1983, we presented a questionnaire concerning the allegations to the government of Singapore at the Department of Commerce in Washington, D.C. On August 8, 1983, we received the responses to the questionnaire.

On August 15, 1983, we received a brief from petitioner alleging that benefits flowing from the "utilization" of the Pioneer Program, discussed below, by a company under investigation have ramifications far beyond the period during which this company technically held pioneer status. Petitioner also alleged that the companies in Singapore which are producing and exporting refrigeration compressors are receiving private subsidies from their parent companies.

We issued an affirmative preliminary determination on August 29, 1983 (48 FR 39109). We preliminarily determined that there was reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of the Act are being provided to manufacturers, producers, or exporters in Singapore of certain refrigeration compressors. We preliminarily determined the net bounty or grant was 4.87 per *ad valorem*. The programs preliminarily determined to bestow countervailable benefits were the Economic Expansion Incentives Act, Part IV, and certain financing provided by the rediscount facility of the Singapore Monetary Authority.

We directed the U.S. Customs Service to suspend liquidation of all entries of the product under investigation which were entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or the posting of a bond on this product in an amount equal to the estimated net bounties or grants.

Verification of the questionnaire responses from the government and both companies was conducted in Singapore during the week of September 11-17, 1983 .

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. We received no request for a public hearing. Both petitioners and respondents submitted comments subsequent to our preliminary determination.

On September 30, 1983, we initiated a proposed suspension agreement. Petitioners have had 30 days in which to submit comments regarding the proposed suspension agreement. Their coments have been received and taken into consideration in this suspension of investigation.

On October 26 and 27, 1983, the Department obtained information relating to three additional programs. Two of the new programs were under the Singapore Skills Development Fund, a Training Grant Scheme and an interest Grant for Mechanisation. The third was Public Utilities Board surtax exemption. Since information regarding these programs was obtained at the last stage of this investigation, the Department was unable to verify such information. For the purpose of this suspension, the best information available has been used in determining that these programs are countervailable.

Scope of Investigation

The product covered by this investigation is certain hermetic refrigeration compressors rated not over one-quarter horsepower. The merchandise is corrently classifiable under item number 661.0900 of the *Tariff Schedules of the United States Annotated (TSUSA)*.

Two companies were identified by the government of Singapore as being manufacturers, producers, or exporters of the product under investigation. They are Matsushita Refrigeration Industries (Singapore) Pte. Ltd. ("MARIS"), producer, and Matsushita Electric Trading (Singapore) Pte. Ltd. ("METOS"), exporter.

The period for which we are measuring subsidization is calendar year 1982 or fiscal year 1982, as appropriate.

Changes Since the Preliminary Determination

We determine that the total bounty or grant applicable to the subject product is 5.86 percent *ad valorem*, in accordance with the changes cited below.

The Economic Expansion Incentives Act

In the preliminary determination we calculated a bounty or grant by allocating total tax savings over total exports. The tax savings were earned on a calendar year basis, but the export value was based on exports during a fiscal year beginning October 1981. The bounty or grant calculated for the purposes of the suspension agreement will be based on export statistics adjusted to coincide with the calendar

year on which tax savings are based. In addition, due to an additional assessment for taxes from that time period, we have included additional tax savings in our calculation. The benefit from this program is 6.52 percent *ad valorem*.

Singapore Monetary Authority ("MAS")

In the preliminary determination we calculated a bounty or grant on the benefit obtained through the use of the rediscount facility operated by the MAS. During verification, we found that no loans are outstanding on exports of the product under investigation to the United States. Further, under the terms of the suspension agreement, MARIS and METOS have agreed not to apply for or receive any MAS financing with respect to future exports of the product under investigation to the United States.

New Programs

On October 26 and 27, 1983, respondents provided new information regarding grants MARIS received from two programs under the Skills Development Fund (a Training Grant Scheme and an Interest Grant for Mechanization) and from a Public Utilities Board surtax exemption. Respondents contended that these grants are not countervailable because they are "generally available." Due to its later receipt, we were unable to verify this information. Therefore, for purposes of the suspension agreement, we have presumed that these program are countervailable and have included them for purposes of calculating the export charge to be collected pursuant to the agreement. The aggregate benefit from these three grants is 0.34 percent *ad valorem*.

Petitioner's Comments

The Department has consulted with the petitioner and has received the following comments from it concerning the proposed suspension agreement. Our response is shown for each comment.

Comment 1

The proposed suspension agreement, initialed on September 30, 1983, was based on a renunciation of both benefits preliminarily determined to be countervailable. Petitioner objects to these provisions and urges that the suspension agreement would be more effective if the benefits were offset by an export tax, rather than renounced. Petitioner also suggests numerous technical amendments to the proposed agreement.

DOC Position

We have carefully considered petitioner's comments. In view of the three new grants which came to light late in the investigation, we have determined that an offset is the most effective way to neutralize the benefits received from these grants. Since an export charge is necessary to offset these benefits, the suspension agreement has been redrafted in such a way that the benefits accruing under the Economic Expansion Incentives Act, Part IV, are also offset by an export charge. Under the terms of the suspension agreement signed on October 31, 1983, the MAS financing on exports to the United States continues to be eliminated by means of a renunciation. We have also adopted many of the technical amendments suggested by petitioner.

Comment 2

The value to MARIS of the export subsidy it received as an "export enterprise" must be based on the verified data for MARIS's tax exempt profits and for MARIS's "overseas sales," not on information regarding METOS's sales.

DOC Position

The Department allocates export subsidies received over the export value of the product under investigation. Because the METOS value represents the export value, we have allocated the countervailable benefit over that figure.

Comment 3

Petitioner recontends that the Pioneer Enterprise Program has been found in the past to be countervailable (the Treasury Department's preliminary determination in *Certain Textiles and Textile Products from Singapore*, 44 FR 2748 (June 10, 1979)) and that because this program has an immediate competitive benefit on the production of compressors produced during the period of investigation, it is not enough to simply conclude that the program was "not used" during the period of investigation. Instead, the Department should treat any benefits received in the past, under both the Pioneer and Export Enterprise Programs, as grants tied to capital equipment. Further, petitioner contends that benefits received as a result of Export Enterprise Status during the period of investigation, and each year thereafter, must be allocated to merchandise produced in the relevant year.

DOC Position

Treasury's preliminary determination in *Certain Textiles and Textile Products from Singapore*, did not find the Pioneer Program to be countervailable. Indeed, in the final determination in that proceeding, the Treasury Department stated:

> Certain other programs were preliminarily determined not to constitute bounties or grants because they are not used by Singapore's textile and apparel industry, *including an exemption from corporate income tax for companies designated as being part of a "pioneer" industry * * *.* For the reasons explained in the notice of "Preliminary Countervailing Duty Determination," the conclusions reached in that determination remain unchanged (emphasis supplied).

44 FR 35335 (June 19, 1979). Therefore, there has been no prior determination of countervailability of this Pioneer Enterprise Program.

Regardless of the Treasury decision, the Department normally allocates tax benefits received in the period of investigation to that period. Tax incentives provide a benefit to the extent that they reduce the firm's current tax liability. As such, this is a benefit which is realized on an annual basis. Furthermore, although investment is a relevant factor in qualifying for Pioneer status, the amount of benefit is not directly tied to, or proportionate to the level of investment.

Comment 4

MARIS's tax savings are increased by payment of excessive technical assistance fees, which are a specified supplement to export enterprise benefits and a countervailable subsidy. The Department should conclude that no subsidy is being provided only if it is satisfied that the technical assistance services provided are paid for on an arms-length basis.

DOC Position

The Department has determined that the fees paid do not appear to be excessive. Petitioners will have the opportunity, during an administrative review of the suspension agreement or if the investigation is continued, to present further evidence that these technical assistance fees are excessive.

Comment 5

The Department should consider that the Skills Development Fund Loan, which petitioner contends is probably at less than commerical rates and is likely tied to a grant under either the Training Grant Scheme the Interest Grant for Mechanisation Scheme, or the

Development Consultancy Scheme, constitutes an additional countervailable subsidy.

DOC Position

We have no verified information regarding these benefits. Based on the information presently available, however, we have included these benefits in the export charge offset provision of the suspension agreement.

Comment 6

The payment of taxes during tax year 1982, in installments, when they would normally be paid in full upon receipt of notices of assessment constitutes a countervailable benefit in the amount of interest earnings lost by the government due to the granting of installment payments.

DOC Position

Based on information currently available, it appears that such installment payments are consistent with normal practice. More complete information in this regard will be obtained during the first administrative review of this agreement or prior to reaching a final determination, if a continuation is requested. If we conclude at that time that such a payment practice constitutes a countervailable benefit, the value of such benefit will be added to the export charge collected under the suspension agreement.

Comment 7

Benefits derived from MARIS's use of pre-export financing obtained through the use of the MAS facility should be deemed countervailable and incorporated in the final calculation of net subsidy.

DOC Position

As noted in the verification report for MARIS, the interest payments for pre-export financing were made during 1981. As such, the benefit (if any) would be applicable to 1981. There was no evidence of usage by MARIS of the MAS facility, for pre-export or export financing, for the period under investigation. Such benefits on future exports of the merchandise under investigation to the United States are renounced under the suspension agreement.

Comment 8

Petitioners contend that (1) funds received by METOS from its parent company and (2) earnings retained by MARIS for investment in plant and equipment (rather than distributed as dividends to its parents) constitute "intra company grants" or private subsidies tht should be countervailed.

DOC Position

On verification it was learned that funds METOS received from its parent and related companies were for intracorporate purchases of merchandise and, as such, do not constitute countervailable "intra company grants." With regard to petitioner's concern about MARIS's practice of retaining earnings, we conclude that such practices are legitimate business decisions and are not private subsidies.

Respondents' Comments

Comment 1

Respondents contend that benefits from the Skills Development Fund and the Public Utility Board surtax exemption are not countervailable because they are "generally available."

DOC Position

We have no verified information that supports respondents' contention. Accordingly, we have presumed that these benefits are countervailable and have included them in the export charge required by the suspension agreement in order to offset completely the bounties or grants provided by the government of Singapore with respect to the merchandise under investigation.

Comment 2

Respondents urge that in the event that the benefits from the Skills Development Fund and the Public Utility Board surtax exemption are ultimately found to be not countervailable, either during the continuation of this investigation (if such a continuation is requested) or during an administrative review of the suspension agreement, that respondents should be entitled to either a refund or credit of export charges collected to offset these benefits.

DOC Position

If, in a final determination or administrative review, we subsequently determine that such benefits are not countervailable, the suspension agreement would allow for an adjustment to the export charge to take such a determination into account for the time period covered by that determination.

Suspension of Investigation

The Department has consulted with the petitioners and has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement will eliminate or offset completely the net bounty or grant with respect to the subject merchandise exported directly or indirectly to the United States, that the agreement can be monitored effectively, and that the agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed October 31, 1983, are set forth in Annex I to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of certain refrigeration compressors from Singapore effective August 29, 1983, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination; Certain Refrigeration Compressors from the Republic of Sinapore," 48 FR 39109, is hereby terminated. Any cash deposits on entries of refrigeration compressors from Singapore pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within 12 months of the anniversary date of publication of this suspension of investigation pursuant to section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

October 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Annex I—Suspension Agreement

Certain Refrigeration Compressors From the Republic of Singapore

Pursuant to the provisions of section 704 of the Tariff Act of 1930, as amended, (the "Act"), and § 355.31 of the Commerce Regulations the United States Department of Commerce (the "Department"), the Government of the Republic of Singapore, Matsushita Refrigeration Industries (Singapore) Pte. Ltd. ("MARIS"), and Matsushita Electric Trading (Singapore) Pte. Ltd. ("METOS") enter into the following suspension agreement (the "Agreement") on the basis of which the Department shall suspend its countervailing duty investigation initiated on June 13, 1983 (48 Fed. Reg.

28888) with respect to certain refrigeration compressors from the Republic of Singapore. The Agreement shall be in accordance with the terms and provisions set forth below.

A. Scope of the Agreement

The Agreement applies to hermetic refrigeration compressors rated not over one-quarter horsepower, and exported, directly or indirectly, from the Republic of Singapore to the United States, currently classifiable in item 661.0900 to the *Tariff Schedules of the United States Annotated* (hereinafter referred to as the "subject product").

B. Basis of the Agreement

1. MARIS is a manufacturer of the subject product, accounting for more than 85 percent of the total production of the subject product in the Republic of Singapore. METOS is an exporter of the subject product, accounting for more than 85 percent of the total exports of the subject product from the Republic of Singapore.

2. The Government of the Republic of Singapore hereby agrees to offset completely the amount of the net bounty or grant determined by the Department in this proceeding to exist with respect to the subject product. The offset shall be accomplished by the collection of an export charge by the Government of the Republic of Singapore applicable to the subject product exported on or after the effective date of the Agreement. The export charge on each subject product shall be collected at the time the exporter submits its Outward Declaration to the Import and Export Office of the Singapore Government's Trade Development Board, and shall not be deferred. The export charge shall offset completely any benefits found to exist with respect to the following programs:

a. The income tax exemption on export earnings provided for in Part IV of the Economic Expansion Incentives (Relief from Income Tax) Act, Chapter 135 of the Revised Edition, Acts of Singapore:

b. Benefits provided under the Skills Development Fund (Training Grant Scheme and Interest Grants for Mechanisation):

c. The Public Utilities Board surtax exemption; and

d. Any other program subsequently determined by the Department in an administrative review of this Agreement under section 751 of the Act to constitute countervailable bounties or grants under the Act to the subject product.

3. The Department shall officially notify the Government of the Republic of Singapore, in writing, of any determination made with respect to paragraph B.2.

4. The export charge shall be composed of a provisional export charge and, if needed, annual adjustments. The export charge shall be calculated as follows:

a. The rate of provisional export charge shall be equal to the most recent rate of bounty or grant under the programs referred to in paragraph B.2. determined by the Department in this proceeding to exist with respect to exports of the subject product.

b. The annual adjustment for each shipment shall be calculated as follows:

1. (a) The amount of benefit found by the Department to exist on that shipment during the course of administrative reviews on this Agreement under section 751 of the Act, minus

(b) The amount of provisional export charge paid on that shipment, plus

2. Interest on that amount, calculated in accordance with section 778(b) of the Act, with "the date on which the rate or amount of the duty is finally determined" being deemed to be the date on which the Department notifies the Government of the Republic of Singapore of its determination in this proceeding.

c. If the annual adjustment is positive, the Government of the Republic of Singapore shall collect that amount within 30 days of notification by the Department of its determination. If the annual adjustment is negative, the Government of Singapore may refund or credit that amount.

5. Neither MARIS nor METOS will apply for or receive any financing provided by the rediscount facility of the Monetary Authority of Singapore with respect to shipments of the subject product exported and entered, or withdrawn from warehouse, for consumption in the United States on or after the effective date of this Agreement. Prior to the effective date of this Agreement, MARIS and METOS agree to repay, or refinance at market rates, any outstanding loans provided under this program.

6. Neither MARIS nor METOS will apply for or reveive benefits under any other program subsequently determined by the Department in an administrative review of this Agreement under section 751 of the Act to constitute countervailable bounties or grants under the Act to the subject product. If any program under which benefits have been received in the past but eliminated or offset in this Agreement is ultimately found not to constitute a bounty or grant under the Act in an administrative review of this Agreement under section 751 of the Act, then this Agreement will not longer apply to such program.

7. Neither the execution of this Agreement nor the elimination or offset of benefits specified herein constitutes an admission by the Government of the Republic of Singapore, MARIS, or METOS that such benefits are bounties or grants within the meaning of the U.S. countervailing duty law. The Government of the Republic of Singapore, MARIS, and METOS execute this Agreement solely for the purpose of suspending this investigation.

C. Monitoring of the Agreement

1. The Government of the Republic of Singapore, MARIS, and METOS agree to supply to the Department any information and documentation the Department deems necessary to demonstrate that they are in full compliance with the Agreement. The Government of the Republic of Singapore, MARIS, and METOS agree to permit such data collection and verification as the Department deems necessary in order to monitor this Agreement. The Department will request information and may perform verifications periodically pursuant to administrative reviews conducted under section 751 of the Act.

2. The Government of the Republic of Singapore shall certify to the Department within 15 days after the last day of each three-month period beginning on October 1, 1983 whether:

a. It continues to be in compliance with the Agreement by offsetting completely the net subsidy referred to paragraph B.2; and

b. MARIS and METOS continue to be in compliance with the Agreement by renouncing completely the financing referred to in paragraph B.5.

The first certification shall include the period from the effective date of this Agreement through December 31, 1983.

3. The Government of the Republic of Singapore agrees to notify the Department in writing within 30 days prior to granting any new benefits to producers, manufacturers or exporters of the subject product which may be countervailable.

4. The Government of the Republic of Singapore shall notify the Department in writing within 30 days with appropriate documentation of any changes in the amount of available benefits as described in paragraph B.2 of this agreement to the subject product or if it decides to alter or terminate its obligation with respect to any of the terms of this Agreement.

5. MARIS or METOS will notify the Department in writing if they: (1) Transship hermetic refrigeration compressors rated not over one-quarter horsepower to the United States through third countries: (2) alter their position with respect to any terms of this Agreement: (3) apply for or receive directly or indirectly the benefits of the programs described in paragraph B.2 of this Agreement for the manufacture produciton or exportation of the subject product: or (4) apply for or receive directly or indirectly any new benefits on the subject product.

6. In accordance with the procedure during the investigation, MARIS, METOS, and the Government of the Republic of Singapore agree to continue to provide the petitioner with non-confidential summaries of all submissions required to be provided to the Department under the terms of this Agreement at the time such submissions are provided to the Department.

D. Violation or Termination of the Agreement

1. If the Government of the Republic of Singapore withdraws from this Agreement, or if the Department determines that the Agreement is being or has been violated of no longer meets the requirements of section 704(b) or (d) of the Act, then section 704(i) shall apply.

2. Additionally should METOS annual exports to the United States account for less than 85% of the subject product imported into the United States from the Republic of Singapore, directly or indirectly the Department may terminate this Agreement and reopen the investigation or issue a countervailing duty order as appropriate under § 355.32 of the Commerce Regulations. If reopened, the investigation will be resumed for all exporters of the subject product as if the affirmative preliminary determination was made on the date that the Department terminates this Agreement.

E. Effective Date

The effective date of the Agreement is the date of publication in the **Federal Register.**

Signed on this 31st day of October 1983 for the Government of the Republic of Singapore.

Jack Choo.

Signed on this 31st day of October 1983 for MARIS and METOS.

A. Paul Victor.

I have determined pursuant to section 704(b) of the Act that the provisions of paragraph B completely eliminate or offset the subsidies that the Government of the Republic of Singapore is providing with respect to certain refrigeration compressors exported directly or indirectly from the Republic of Singapore to the United States. Furthermore, I have determined that suspension of the investigation is in the public interest that the provisions of paragraph C ensure that this Agreement can be monitored effectively and that the Agreement meets the requirements of section 704(d) of the Act.

United States Department of Commmerce.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

October 31, 1983.

[FR Doc. 83-30109 Filed 11-4-83; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 30920-193]

Approved Interpretation for FIPS FORTRAN (FIPS Pub. 69)

Correction

In FR Doc. 83-28290, appearing on page 48269, in the issue of Tuesday, October 18, 1983, make the following corrections:

1. In the second column, in the sixteenth line from the top, "implements", should read "implementors".

2. In the second column, in the fourth indented paragraph, in the fourth line "express" should read "expression".

BILLING CODE 1505-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Federative Republic of Brazil to Include a Review of Trade in Category 604 and Controlling Imports in That Category

November 2, 1983.

(1) Soliciting public comment on bilateral textile consultations with the Government of the Federative Republic of Brazil concerning trade in Category 604 and

(2) Controlling imports of other man-made fiber yarn, wholly of non-continuous filament, in Category 604, produced or manufactured in Brazil and exported during the ninety-day period which began on November 1, 1983 and extends through January 29, 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Summary: On October 31, 1983, under the terms of the Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982 between the governments of the United States and the Federative Republic of Brazil, the Government of the United States requested consultations concerning imports into the United States of man-made fiber yarn in Category 604, produced or manufactured in Brazil.

Anyone wishing to comment or provide data or information regarding the treatment of Category 604 under the agreement with Brazil, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultation is not yet certain, comments should be submitted promptly.

Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 533(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Under the consultation provision of the bilateral agreement, Brazil is obligated to limit its exports to the United States of these products during the ninety-day period to the following amount:

Category	Ninety-day level of restraint (November 1, 1983–January 29, 1984
604	96,749 pounds

If no mutually satisfactory solution is reached during consultations, the United States may establish a specific limit of 58,391 pounds for the period beginning on January 30, 1984 and extending through the end of the agreement year on March 31, 1984. The new limit may be adjusted for prorated seven percent swing and full six percent carry forward.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of man-made fiber textile products in Category 604 for the ninety-day period at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the Federative Republic of Brazil, further notice will be published in the Federal Register.

In the event the limit established for Category 604 for the ninety-day period is exceeded, such excess amount, if allowed to enter, may be charged to the level established for the following period beginning on January 30, 1984.

EFFECTIVE DATE: November 8, 1983.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212).

SUPPLEMENTARY INFORMATION: On March 16, 1983 a letter was published in the Federal Register (48 FR 11143) to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1983. The notice document which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Category 604, which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements is directing the Commissioner of Customs, pending agreement on a different solution, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Category 604, produced or manufactured in Brazil and exported during the indicated ninety-day period, in excess of 96,749 pounds.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton and Man-made Fiber Textile Agreement of March 31, 1982, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 8, 1983, entry into the United states for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 604, produced or manufactured in the Federative Republic of Brazil, and exported during the ninety-day period which began on November 1, 1983 and extends through January 29, 1984, in excess of 96,749 pounds.[1]

Texile products in Category 604 which have been exported to the Unites States prior to November 1, 1983 shall not be subject to this directive.

Textile products in Category 604 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

In carrying out the above directions, the commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of man-made fiber textile products from Brazil has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-30111 Filed 11-4-83; 8:45 am]
BILLING CODE 3510-DR-M

[1] The level of restraint has not been adjusted to reflect any imports exported after October 31, 1983.

CONSUMER PRODUCT SAFETY COMMISSION

Privacy Act of 1974; Amendment of Systems of Records

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of amendment.

SUMMARY: The Consumer Product Safety Commission is publishing an amendment to its systems of records.

DATES: Effective November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone 301–492–6980.

SUPPLEMENTARY INFORMATION: The Commission's Privacy Act systems of records, as published in full text at 47 FR 44365, October 7, 1982, and amended at 48 FR 24415, June 1, 1983, include a list of government-wide systems of records maintained by other agencies and which may contain information about Commission employees. The General Services Administration has published notice of a new system of that kind at 48 FR 44655, September 29, 1983. Accordingly, Appendix II of the Commission's systems of records is amended by adding a new paragraph 13 as follows:

* * * * *

13. General Services Administration, GSA/GOVT–3, Travel Charge Card Program.

* * * * *

For the convenience of readers, the full text of Appendix II is reproduced below.

Dated: November 1, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Appendix II—Pertinent Record Systems of Other Agencies

Other Federal agencies maintain government-wide systems of records which may contain information about CPSC employees. Some of these records may be physically located at CPSC. These systems include:

1. Office of Personnel Management, OPM/GOVT–1, General Personnel Records (includes official personnel folders).

2. Office of Personnel Management, OPM/GOVT–2, Performance Appraisal Records.

3. Office of Personnel Management, OPM/GOVT–3, Adverse Action Records.

4. Office of Personnel Management, OPM/GOVT–4, Executive Branch Public Financial Disclosure Records (includes financial interest disclosure forms of CPSC employees subject to the Ethics in Government Act).

5. Office of Personnel Management, OPM/GOVT–5, Recruiting, Examining, and Placement Records.

6. Office of Personnel Management, OPM/GOVT–6, Personnel Research and Test Validation Records.

7. Office of Personnel Management, OPM/GOVT–7, Applicant Race, Sex, National Origin, and Disability Status Records.

8. Office of Personnel Management, OPM/GOVT–8, Confidential Statements of Employment and Financial Interests (contains CPSC employee's Form 219).

9. Office of Personnel Management, OPM/GOVT–9, File on Position Classification Review Requests (Appeals) and Grade and Pay Retention Appeals.

10. Federal Employment Management Agency, FEMA/GOVT–1, Uniform Identification System for Federal Employees Performing Essential Duties During Emergencies.

11. Equal Employment Opportunity Commission, EEOC/GOVT–1, Equal Employment Opportunity Complaint Records and Appeal Records.

12. Merit System Protection Board, MSPB/GOVT–1, Appeal and Case Records.

13. General Services Administration, GSA/GOVT–3, Travel Charge Card Program.

[FR Doc. 83–30083 Filed 11–4–83; 8:45 am]

BILLING CODE 6295–01–M

DEPARTMENT OF ENERGY

Health and Environmental Research Advisory Committee; Determination to Establish

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), I hereby certify that the establishment of the Health and Environmental Research Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of Energy by law. This determination follows consultation with the Committee Management Secretariat of the General Services Administration, pursuant to 41 CFR Subpart 101–6.10.

The purpose of the committee is to provide advice on a continuing basis to the Secretary of Energy, through the Director of Energy Research, on the Health and Environmental Research (HER) program, including:

a. Periodic reviews of elements of the program and recommendations based thereon;

b. Advice on long-range plans, priorities, and strategies to address more effectively the energy-related health and environmental issues of departmental policies and programs;

c. Advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the HER program;

d. Advice on any issues relating to the HER program, as requested by the Secretary or the Director of Energy Research.

Further information concerning this committee can be obtained from Gloria Decker (202–252–8990).

Dated: November 1, 1983.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 83–30057 Filed 11–4–83; 8:45 am]

BILLING CODE 6455–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM–FRL 2464–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM–223); U.S. Environmental Protection Agency; 401 M Street, SW., Washington, D.C. 20460; telephone (202) 382–2742 or FTS 382–2742.

SUPPLEMENTARY INFORMATION:

Water Programs

National Pollutant Discharge Elimination System (NPDES)

The permit authority in each of the following cases is EPA or the designated State agency, except as noted. With the exception of #0017, respondents are businesses, publicly-owned treatment works and other institutions discharging wastewater.

• Title: Application for Thermal Effluent Variance (EPA #0015).

Abstract: A permittee may file a request for variance from thermal effluent limitations by demonstrating that NPDES limits are more stringent than necessary to ensure the protection and propagation of a balanced, indigenous population of fish and wildlife in the receiving waters. The permit authority evaluates the request to determine if the variance should be granted.

• Title: Application for Innovative Pollution Control Technology Variance (EPA #0016).

Abstract: NPDES standards allow permittees using innovative technology (that results in greater effluent reduction or lower cost than the standard) to apply to EPA for an extension in complying with the effluent limitation deadline. In determining whether to grant an extension, the Agency assesses the adequacy of the technology to achieve these goals.

• Title: Application for Nonconventional Pollutant Waiver (EPA #0017).

Abstract: A permittee may request a waiver from nonconventional pollutant standards by submitting technical data on the effluent and receiving waters. The permit authority may grant the waiver if it determines that water quality is maintained and that a balanced population of fish and wildlife is protected.

Respondents: Businesses.

• Title: Permittee Notice of Regulated Discharge Cessation (EPA #0021).

Abstract: When a permittee decides to terminate a regulated discharge, the discharger must provide the permit authority with a legally binding notice of intent so that the authority can modify permit conditions accordingly.

• Title: Wastewater Permittee Report of Inaccurate Previous Information (EPA #0022).

Abstract: Permittees must correct inaccurate information submitted in a permit application or report. Reporting corrected information to the permit authority ensures that the authority has accurate data upon which to base permit conditions, enforcement actions and other compliance activities.

Air Programs

• Title: Notice of Intent to Certify (EPA #0116).

Abstract: At least 45 days prior to the initial offer for sale, respondents notify the Agency of their intent to market a warranted motor vehicle part as "certified to EPA standards". This 45-day period allows vehicle manufacturers and other interested parties time to review each notice and to file an objection if appropriate.

Respondents: Manufacturers.

wholesalers and distributors of replacement parts for motor vehicle emissions controls.

Agency PRA Clearance Requests Completed By OMB

(Except as noted, the following ICRs were cleared on October 20)

EPA No. 0029, Request for Modification, Revocation and Reissuance, or Termination of Permit (OMB #2000–0190).

EPA No. 0052, Information to Determine if a Facility Is a New Source (OMB #2000–0262).

EPA No. 0107, Source Compliance and State Action Reporting (OMB #2000–0229).

EPA No. 0283, Wastewater Permit Quarterly Noncompliance Report (OMB #2000–0245).

EPA No. 0301, Wastewater Permittee Compliance Schedule Reports (OMB #2000–0246).

EPA No. 0916, Annual Updates to NEDS and Hazardous and Trace Emission System (OMB #2000–0022).

EPA No. 0334, SBE/MBE/WBE Grants Utilization Program, was cleared on October 14 (OMB #2090–0006).

Comments on all parts of this notice should be sent to:

David Bowers (PM–223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street, SW., Washington, D.C. 20460, and

Don Arbuckle, Vartkes Broussalian or Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: October 31, 1983.

Daniel J. Fiorino,

Chief, Regulation Management Staff.

[FR Doc. 83–29872 Filed 11–4–83; 8:45 am]

BILLING CODE 6560–50–M

[Docket No. WH–FR 2451–5]

State and Local Assistance; Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of allotment: Fiscal year 1984.

SUMMARY: This notice sets forth the allotments to the States of the $2.4 billion appropriated on July 12, 1983, by Pub. L. 98–45 for the municipal wastewater treatment works construction grants program.

Section 205(c)(2) of the Clean Water Act (the Act) provides that sums authorized to be appropriated for Fiscal Year 1984 be allotted to the States in accordance with the table added to that section by Pub. L. 97–117.

Through promulgation of this notice, the requirements of the Act are fulfilled and the public is notified of the amounts made available to the States for grants for the construction of muncipal wastewater treatment works.

DATE: November 7, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Pelmoter, Chief, Program Policy Branch, Municipal Construction Division, Office of Water Program Operations (202) 382–7359.

SUPPLEMENTARY INFORMATION: Pub. L. 98–45 appropriated $2.43 billion to fund the construction grants program in fiscal year 1984. Of this amount, $2.4 billion was appropriated for allotment to the States under section 205 of the Clean Water Act (the Act), and $30 million was appropriated for combined sewer overflow correction under section 201(n)(2) of the Act.

As required by section 205(c)(2) of the Act, funds appropriated for Fiscal Year 1984 are hereby allotted on the basis of the percentages listed in the table added to section 205(c)(2) by Pub. L. 97–117. The percentages were applied to $2.4 billion of the appropriation to determine the actual dollar amount allotted to each State.

The table of allotments reflects a revised * formula first used in Fiscal Year 1983 and conforms to section 205(e) of the Act, which requires that no State shall receive less than one half of one percent of a total allotment. The table appears at the end of this notice.

Pub. L. 98–45 also contains an allocation of $30 million to address pollution caused by discharges from combined (storm and sanitary) sewers. This amount may be used as deemed appropriate by the Administrator, as provided in section 201(n)(2) of the Act.

The $2.4 billion is allotted as follows:

FISCAL YEAR 1984 STATE ALLOTMENT BASED ON $2.4 BILLION APPROPRIATION

[In thousands]

	Ratio	Dollars
Alabama	.011236	27,355
Alaska	.006101	14,642
Arizona	.006885	16,524
Arkansas	.006668	16,003
California	.072901	174,964
Colorado	.008154	19,569
Connecticut	.012487	29,969
Delaware	.004965	11,916
District of Columbia	.004955	11,916
Florida	.034407	82,577
Georgia	.017234	41,362
Hawaii	.007895	18,948
Idaho	.004865	11,916
Illinois	.048101	115,443
Indiana	.024586	58,959
Iowa	.013786	33,110
Kansas	.009201	22,082
Kentucky	.012973	31,135
Louisiana	.011205	26,892
Maine	.007786	18,691
Maryland	.024003	59,158
Massachusetts	.034608	83,060
Michigan	.043629	106,191
Minnesota	.018735	44,964
Mississippi	.009184	22,041
Missouri	.028257	67,817
Montana	.004965	11,916
Nebraska	.005214	12,513
Nevada	.004965	11,916
New Hampshire	.010186	24,445
New Jersey	.041654	99,970
New Mexico	.004965	11,916
New York	.113097	271,436
North Carolina	.018399	44,151
North Dakota	.004965	11,916
Ohio	.057360	137,721
Oklahoma	.008235	19,764
Oregon	.011515	27,636
Pennsylvania	.040377	96,906
Rhode Island	.006758	16,216
South Carolina	.010442	25,061
South Dakota	.004965	11,916
Tennessee	.014807	35,537
Texas	.036726	88,143
Utah	.005371	12,890
Vermont	.004965	11,916
Virginia	.020861	50,067
Washington	.017726	42,542
West Virginia	.015466	36,135
Wisconsin	.027557	66,137
Wyoming	.004965	11,916
Samoa	.000915	2,196
Guam	.000652	1,566
Northern Marianas	.000425	1,020
Puerto Rico	.013295	31,908
Pacific Trust Territory	.001305	3,132
Virgin Isles	.000531	1,274
U.S. Total	.999999	2,400,000

* The new formula uses the following weights: need categories I, II and IV b = 50%; needs categories I, II, III, IV, and V = 25%; 1978 population = 25%.

These allotments are available for obligation until September 30, 1985. After that date, unobligated balances will be realloted under section 205(d) of the Act (40 CFR 35.2010). Grants from the allotments may be awarded after October 1, 1983, and following the issuance of advices of allowance to the EPA Regional Administrators by the Comptroller of EPA.

Dated: October 27, 1983.

Alvin L. Alm,

Acting Administrator.

[FR Doc. 83–30070 Filed 11–4–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Cellular Radio Interconnection Working Groups; Meetings

October 31, 1983.

The next meetings of the working groups are scheduled as indicated

below. Group I.A. will discuss the assignment and use of a dedicated service code based on the proposal and analysis circulated by Telocator Network of America to group members on October 11, 1983. Groups II.D. and II.E. will hold a joint meeting as requested by the members of those groups. There will be no meeting of Group I.B. or Group I.C.

Group I.A.—Numbering Plan Requirements, 11/16/83—Room 856, FCC Building, 1919 M Street, NW., Washington, D.C.

Group II.D. and Group II.E.—Format and Technical Standards and Financial Responsibility for Roamers, 11/17/83—Room 856, FCC Building, 1919 M Street, NW., Washington, D.C.

All meetings begin promptly at 10:00 a.m. and will generally run from 10:00 to 12:30 p.m., and from 2:00 to 4:30 p.m.

For more information, contact Claudia Borthwick, 202–632–6400.

William J. Tricarico,

Secretary Federal Communications Commission.

[FR Doc. 83–30130 Filed 11–4–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies; B.N.Y. Holdings Corp; et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *B.N.Y. Holdings Corpration,* Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of New York, Wilmington, Delaware. Comments on this application must be received not later than November 30, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Postville BanCorporation, Inc.,* Postville, Iowa; to become a bank holding company by acquiring 91.88 percent of the voting shares of Citizens State Bank, Postville, Iowa. Comments on this application must be received not later than November 22, 1983.

2. *Lowell National Bancorp.,* Lowell, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Lowell National Bank, Lowell, Indiana. Comments on this application must be received not later than November 22, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Steeleville Bancshares, Inc.,* Steeleville, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Steeleville, Steeleville, Illinois. Comments on this application must be received not later than November 30, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *Seattle Bancorporation,* Seattle, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Seattle, Seattle, Washington. Comments on this application must be received not later than November 30, 1983.

Board of Governors of the Federal Reserve System, November 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–30043 Filed 11–4–83; 8:45 am]

BILLING CODE 6210–01–M

Acquisition of Bank Shares by Bank Holding Companies; Bank of New York Co., Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Bank of New York Company, Inc.,* New York, New York; to acquire 100 percent of the voting shares or assets of The Bank of New York, Wilmington, Delaware. Comments on this application must be received not later than November 30, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Exchange Corp.,* Jackson, Missouri; to acquire 100 percent of the voting shares or assets of First Exchange Bank of Cape Girardeau, Cape Girardeau, Missouri. Comments on this application must be received not later than November 30, 1983.

C. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Commercial Bancshares Corp.,* Adrian, Michigan; to acquire 100 percent of the voting shares or assets of The Jipson-Carter State Bank, Blissfield, Michigan. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than December 1, 1983.

Board of Governors of the Federal Reserve System, November 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–30044 Filed 11–4–83; 8:45 am]

BILLING CODE 6210–11–M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Community Bancorporation, Inc., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been

determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must included a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Community Bancorporation, Inc.*, Bristow, Oklahoma (lending activities, Oklahoma): To engage directly in making or acquiring for its own account, loans and other extensions of credit on a secured or unsecured basis, such as may be made by a bank, mortgage company or finance company, including loans secured by mortgages, inventory, accounts receivable or other assets. These loans may include participations in commercial and consumer loans from company's subsidiary bank, Community Bank, Bristow, Oklahoma. These activities would be conducted from an office in Bristow, Oklahoma, serving the State of Oklahoma. Comments on this application must be received not later than November 30, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Interstate Bancorp*, Los Angeles, California (mortgage company activities, Oklahoma): To engage, through its subsidiary, First Interstate Real Estate Services Company, Inc., in mortgage company activities to the extent of making or acquiring real estate or construction loans for its own account or for the account of others; selling or servicing real estate or construction loans for its own account or for the account of others; performing appraisals of real estate; conducting such related activities as are incidential to the mortgage banking business; and acting as insurance agent or broker, as permitted by subsection (A) of Section 601 of the Garn-St Germain Depository Institutions Act of 1982, with respect to credit-related life, accident and health insurance. These activities would be conducted from an office in Oklahoma City, Oklahoma, serving Oklahoma City and the State of Oklahoma. This application is to establish a new office of a previously approved activity conducted through a wholly-owned subsidiary. Comments on this application must be received not later than December 1, 1983.

Board of Governors of the Federal Reserve System, November 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-30045 Filed 11-4-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Elanco Products Co.; Tylocine® Tablets; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Elanco Products Co. providing for use of Tylocine® (tylosin) Tablets for the treatment of feline pneumonitis in cats and upper respiratory infections in dogs. The firm requested withdrawal of approval.

EFFECTIVE DATE: November 17, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4093.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46285, is sponsor of NADA 12-964 providing for use of Tylocine® Tablets which contain 200 milligrams of tylosin activity in each tablet. The tablets are indicated for the treatment of feline pneumonitis in cats and for the treatment of upper respiratory infections in dogs when due to or associated with bacterial etiology.

The product was originally approved on March 8, 1982. Approval of the NADA has not been codified in the Code of Federal Regulations. In its submission of June 20, 1983, to the Bureau of Veterinary Medicine, Elanco Products Co. requested withdrawal of approval of the NADA without prejudice and waived opportunity for a hearing under 21 CFR 514.115(d) because the product is not being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 12-964 and all supplements for Tylocine® Tablets is hereby withdrawn, effective November 17, 1983.

Dated: October 31, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-30041 Filed 11-4-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[U-51948]

Emergency Coal Lease Offering by Sealed Bid; Utah

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Notice is hereby given that at 1:30 p.m. m.s.t., November 29, 1983, certain coal resources in the lands hereinafter described in Carbon County, Utah will be offered for competitive lease by sealed bid of $100 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended. *However, no bid will be accepted for less than fair market value as determined by the authorized officer.*

The sale will be held in the 13th Floor Conference Room of the University Club Building at 1:30 m.s.t., November 29, 1983. At that time, the sealed bids will be opened and read. No bids received after 1:00 p.m. m.s.t., November 29, 1983 will be considered.

Coal Offered: The coal reserves to be offered consists of all seams available for underground mining in the following described land located approximately four miles northwest of Wattis, Utah:

T. 15S., R. 7E., SLM, Utah,
Sec. 1, lots 7, 9, 10.
Containing 120.00 acres.

The estimated total recoverable underground reserves are 1,320,000 tons. The coal quality is as follows: for the Wattis Seam, Btu—13,477 per lb., Sulfur—57 percent, Ash—6.34 percent; for the Third Seam, Btu—13,407 per lb, Sulfur—approximately .77 percent, Ash—approximately 6.65 percent; and for the Hiawatha Seam, Btu—14,463 per lb., Sulfur—approximately .63 percent and Ash—approximately 6.66 percent.

The coal is located in three seams, Third, Wattis, and Hiawatha and is expected to average eight, five and seven feet thick respectively.

A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre or fraction thereof and a royalty payable to the United States.

Notice of Availability: Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Utah State Office, University Club Building, Salt Lake City, Utah 84111. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 1400, University Club Building.

W. R. Papworth,
Deputy State Director, Operations.

[FR Doc. 83-30060 Filed 11-4-83; 8:45 am]
BILLING CODE 4310-84-M

[Nev-035210]

Nevada; Classification Vacated

October 27, 1983.

Small Tract Classification 201, Case Nev-035210, is hereby vacated in its entirety, The following described land is affected:

Mount Diablo Meridian
T. 5N., R. 71E.,
Sec. 31,
Described in metes and bounds as follows:
Beginning at the quarter section corner common to section 36, T. 5 N., R. 70 E., and the adjoining unsurveyed section 31, T. 5 N., R. 71 E., and running thence S. 44°43' E. 1691.6 feet to the NE corner of this 5 acre tract; thence S. 44°45' W. 300 feet to the NW corner; thence S. 47°22' E. 726 feet to the SW corner; thence N. 44°45' E. 300 feet to the SE corner; thence N. 47°22' W. 726 feet to the NE corner, the place of beginning;

The area described contains approximately 5 acres in Lincoln County.

This classification has been determined to be unnecessary since the Small Tract Act has been repealed and the land is currently leased under Sec. 302 of the Federal Land Policy and Management Act of 1976.

Richard G. Morrison,
Acting Deputy State Director, Operations.

[FR Doc. 30100 Filed 11-4-83; 8:45 am]
BILLING CODE 4310-84-M

Minerals Management Service

Outer Continental Shelf; Proposed Development and Production Plan; Southern Santa Maria Basin Area; Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: Minerals Management Service (MMS), Department of the Interior.

ACTION: Notice of Intent To Prepare an Environmental Impact Statement/ Environmental Impact Report.

SUMMARY: The Minerals Management Service, Pacific Outer Continental Shelf Region, the County of Santa Barbara, the California State Lands Commission and the California Coastal Commission will prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for proposed development of the Southern Santa Maria Basin. This EIS/EIR will include proposed development by Chevron and Texaco of the Point Arguello Field as well as anticipated future development of oil and gas resources in the Southern Santa Maria Basin Area, offshore Santa Barbara County, California.

The draft statement is scheduled for completion in July, 1984. A Notice of Availability will be published in the **Federal Register** establishing dates for the comment period following distribution of the draft. Federal, State, or local governments and interested groups or individuals needing further information should call Mary Elaine Warhurst at (213) 688-4360. Those wishing to assist MMS in determining the scope of the Sourthern Santa Maria Basin Area EIS/EIR should write to: William E. Grant, Acting Regional Manager, Minerals Management Service, Pacific OCS Region, 1340 West 6th Street, Los Angeles, CA 90017. Comments on the scope of the statement should be received no later than December 16, 1983.

SUPPLEMENTARY INFORMATION: Proposed development of the Point Arguello Field includes installation of three production platforms with associated connecting subsea pipelines; installation of one 200,000 bbl/day capacity oil pipeline and a 160 MMSCFD capacity gas pipeline running eastward to a landfall north of Point Conception and continuing onshore to Gaviota; expansion of existing oil and gas processing facilities at Gaviota; and installation of an ocean outfall line for produced water from the onshore facilities.

Production from up to five additional platforms will be considered in the Southern Santa Maria Basin Area EIS/EIR for the purpose of assessing cumulative impacts. The Southern Santa Maria Basin Area includes a total of 25 OCS Leases offshore Point Conception/ Point Arguello.

This EIS/EIR will provide the information needed to evaluate proposed and future activities in Federal OCS waters offshore Point Conception. Since Development and Production Plans (DPP's) have or will be submitted for Lease Nos. OCS-P 0315, P 0316, and P 0450, a detailed, site-specific impact analysis will be provided in the EIS/EIR for these platforms. Further environmental documentation will not be required for these development plans before a decision is made by the MMS. Decisions on these three platforms will follow certification of the EIS/EIR.

Operators proposing additional platforms in the Southern Santa Maria Basin Area will be required to conduct the appropriate site-specific geohazards, cultural resource and biological surveys and to submit Development and Production Plans (DPPs). Documents included in these submittals are: Plan of Development, Environmental Report, Oil Spill Contingency Plan, Hydrogen Sulfide Contingency Plan, and survey data and reports. The MMS will evaluate environmental impacts from additional development activities in subsequent Environmental Assessments or, depending on the significance of the impacts, in Environmental Impact Statements.

The EIS/EIR will analyze the

environmental consequences of the proposed project in compliance with the National Environmental Policy Act and California Environmental Quality Act. Significant issues to be discussed include: air quality, water quality, terrestrial and marine biota, endangered species, cultural resources, aesthetic resources, commercial fishing, military use, and land use. Alternatives to be considered include options to modify, defer, or disapprove the proposed development plans.

Robert G. Paul,

Acting Regional Manager, Pacific OCS Region.

[FR Doc. 83-30107 Filed 11-4-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Western Regional Advisory Committee, Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that the first meeting of the Western Regional Advisory Committee will be held from 9:00 a.m. to 5:00 p.m. on Monday, November 28, 1983 and Tuesday, November 29, 1983 at 450 Golden Gate Avenue, San Francisco, California.

The Western Regional Advisory Committee was recently established to provide for closer communication with the public on programs, policies and other matters relating to the Western Region of the National Park Service.

Member of the Committee are:

Mr. Roger Ernst, Chairman, of Arizona
Ms. Kathleen Caldwell of California
Mr. William Lowenberg of California
Mrs. Barbara Morrow Julian of California
Mr. Lewis Eaton of California

The agenda will include a briefing on NPS issues in the region.

The meeting is open to the public. Any member of the public may file with the Committee a written statement concerning the matter to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Office of Public Affairs, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102, telephone (415) 556-5560.

Dated: October 31, 1983.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 30105 Filed 11-4-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-113 (Final) and 731-TA-114 (Final)]

Import Investigations; Carbon Steel Wire Rod From Brazil and From Trinidad and Tobago

Determinations

On the basis of the record[1] developed in investigations Nos. 731-TA-113 (Final) and 731-TA-114 (Final), the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673(b)), that an industry in the United States is being materially injured by reason of imports of carbon steel wire rod from Brazil, provided for in item 607.17 of the Tariff Schedules of the United States (TSUS) which have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV). The Commission further determines that an industry in the United States is being materially injured by reason of imports from Trinidad and Tobago (Trinidad) of carbon steel wire rod, also provided for in TSUS item 607.17, which have also been found by Commerce to be sold in the United States at LTFV.

Counsel for petitioners alleged that imports of carbon steel wire rod from Brazil and Trinidad present "critical circumstances." Commerce examined such imports under section 735(a)(3) of the act and determined that, for Brazil, critical circumstances exist, and, for Trinidad, critical circumstances do not exist. This affirmative critical circumstances determination by Commerce with respect to imports from Brazil requires an additional finding by the Commission as to whether the material injury is by reason of massive imports from Brazil to an extent that, in order to prevent such material injury from recurring, it is necessary to impose antidumping duties retroactively on those imports. Accordingly, pursuant to section 735(b)(4)(a), the Commission determines, Commissioner Stern dissenting, that material injury was not by reason of massive imports of the LTFV merchandise over a short period of time to the extent that it is necessary to impose the duty retroactively to prevent such injury from recurring.

Background

The Commission instituted these final investigations following preliminary determinations by the Department of Commerce, that imports of carbon steel wire rod from Brazil and from Trinidad are being or are likely to be, sold at LTFV. Commerce's preliminary LTFV determinations were published in the **Federal Register** of May 4, 1983 (48 FR 20106).

Notice of the institution of the Commission's final investigations and scheduling of the public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, and by publishing the notice in the **Federal Register** of May 25, 1983 (48 FR 23488). On June 22, 1983, Commerce published in the **Federal Register** (48 FR 28519 and 48 FR 28520), notices of postponement of its final determinations with respect to carbon steel wire from Brazil and Trinidad. Accordingly, the Commission revised its investigation schedule. Notice of the Commission's revised schedule for its public hearing was published in the **Federal Register** of July 7, 1983 (48 FR 31305). On September 22, 1983, Commerce published in the **Federal Register** (48 FR 43202) its affirmative final determinations with respect to LTFV sales of carbon steel wire rod from Brazil and Trinidad. The Commission's hearing was held in Washington, D.C. on September 20, 1983 and all persons who requested the opportunity were permitted to appear in person or through counsel. The Commission's determinations in these investigations were made in an open "Government in the Sunshine" meeting held on October 19, 1983.

On September 30, 1982, a petition was filed by counsel on behalf of Atlantic Steel Corp., Continental Steel Corp., Georgetown Steel Corp., Georgetown Texas Steel Corp. (now North Star Steel Texas), and Raritan River Steel Co. with the U.S. International Trade Commission and with the Department of Commerce alleging that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from Brazil and Trinidad of carbon steel wire rod allegedly being sold in the United States at LTFV. Accordingly, effective October 1, 1982, the Commission instituted preliminary material injury investigations under section 733(a) of the Tariff Act of 1930. On November 15, 1982, the Commission determined that there was a reasonable indication that an industry in the United States was materially injured by reason of such imports. The Commission's determination was published in the **Federal Register** on November 26, 1982 (47 FR 53515). As a result, Commerce continued its investigations of alleged

[1] The "record" is defined in § 207.2(i) of the Commission's *Rules of Practice and Procedure* (19 U.S.C. 207.2(i)).

LTFV sales of carbon steel wire rod from Brazil and Trinidad.

The Commission transmitted its report on these investigations to the Secretary of Commerce on October 31, 1983. A public version of the report, Carbon Steel Wire Rod from Brazil and Trinidad and Tobago (investigations Nos. 731–TA–113 and 114 (Final)), USITC Publication 1444, contains the views of the Commission and information developed during the investigations.

By order of the Commission.

Issued: October 31, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–30046 Filed 11–4–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–145]

Certain Rotary Wheel Printers; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settelment agreement: Tokyo Electric Co., Ltd. and Brothers Industries, Ltd.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on November 2, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: November 1, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–30049 Filed 11–4–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–156; Sub–13X]

Delaware and Hudson Railway Company; Abandonment in Albany County, NY; Exemption

Delaware and Hudson Railway Company (D&H) has filed a notice of exemption for an abandonment under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is a portion of D&H's Troy Branch in Cohoes (Albany County), NY, between milepost T–3.11, on the southerly line of Ontario Street, and milepost T–3.05, a distance of 300 feet.

D&H has certified (1) that no local or overhead traffic moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in New York has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on December 7, 1983 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by November 17, 1983 and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by November 28, 1983 with:

Office of the Secretary
Case Control Branch
Interstate Commerce Commission
Washington, DC 20423

A copy of any petition filed with the Commission should be sent to D&H's representative:

George H. Kleinberger
40 Beaver Street
Albany, NY 12207

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: November 2, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–30142 Filed 11–4–83; [illegible]]

BILLING CODE 7035–01–M

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275–7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance:—Extension/Revision
Bureau/Office:—Office of Compliance & Consumer Assistance
Title of Form:—Motor Carrier Automobile Bodily Injury and Property Damage Liability Certificate of Insurance
OMB Form No.:—3120–0103
Agency Form No.:—BMC–91X
Frequency:—On Occasion
Respondents:—Regulated Transportation Companies
No. of Respondents:—25,000

Total Burden Hrs:—6,250

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-30075 Filed 11-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388 (Sub-24)]

Intrastate Rail Rate Authority—North Dakota

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: The Commission is extending the provisional certification of the North Dakota Public Service Commission under 49 U.S.C. 11501(b) to regulate intrastate rail transportation, in order to permit the State Commission to modify its standards and procedures as required by the Commission.

DATES: The North Dakota Public Service Commission must submit the required modifications to its standards and procedures by January 6, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Wahington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: October 28, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Chairman Taylor dissented in part with a separate expression. Commissioner Gradison commented separately.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-30076 Filed 11-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 328]

Investigation of Tank Car Allowance System

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed interim modification of Tank Car Allowance formula.

SUMMARY: The Interstate Commerce Commission under authority of 49 U.S.C. 11122 and 10747 and 10324(b) proposes to modify portions of the Tank Car Allowance Agreement, approved in a decision served June 15, 1979, generally relating to the formula for computation of tank car allowances. The proposed modifications would remain in effect until, and the current December 1, 1983 deadline for reaching a final agreement will also be extended to, September 1, 1985, unless modified by further order of the Commission.

DATES: Comments (an original and 10 copies) must be filed by November 28, 1983. In the event no comments are received, the proposed modification and extension will become effective on November 29, 1983.

ADDRESS: Comments referring to Ex Parte No. 328 should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision write to the Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423, or call 202–275–7428.

This action will not significantly affect a substantial number of small entities, the quality of the human environment or energy consumption.

Authority: 49 U.S.C. 10321, 10324(b), 10747, and 11122 and 5 U.S.C 553.

Decided: October 31, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-30074 Filed 11-4-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

President's Committee on the International Labor Organization; Meeting

In accordance with Section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is hereby given of a meeting of the President's Committee on the ILO:

Name: President's Committee on the International Labor Organization.

Date: December 16, 1983.

Time: 10:00 a.m.

Place: Department of Labor, Third and Constitution Ave., NW., Room S–2508, Washington, D.C. 20210.

This meeting will be closed to the public under the authority of Section 10(d) of the Federal Advisory Committee Act. During its closed session, the Committee will discuss national security matters.

All communications regarding this Committee should be addressed to: Mr. Robert W. Searby, Counselor to the Committee, Department of Labor, Third and Constitution Ave., NW., Room S–2235, Washington, D.C. 20210, telephone (202) 523–6043.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83-30066 Filed 11-4-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Future Meeting Dates

October 26, 1983.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold meetings on the days listed below in calendar year 1984. All the meetings will be held in Washington, D.C. except for the May meeting which will be held in San Diego, CA. Exact times and locations will be announced at a later date.

The Committee, consisting of 16 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government was established by Congress by Pub. L. 95–63 on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The tentative meeting dates are as follows:

January 30–31, 1984, Monday and Tuesday
March 19–20, 1984, Monday and Tuesday
May 17–18, 1984, Thursday and Friday (San Diego, CA)
June 25–26, 1984, Monday and Tuesday
August 2–3, 1984, Thursday and Friday
September 13–14, 1984, Thursday and Friday
October 29–30, 1984 Monday and Tuesday
December 10–11, 1984, Monday and Tuesday

The public is welcome at the sessions and will be admitted to the extent that

seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning these meetings may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235. The telephone number is 202/653–7818.

Dated: October 26, 1983.

Steven N. Anastasion,

Executive Director.

[FR Doc. 83–30047 Filed 11–4–83; 8:45 am]

BILLING CODE 3510–13–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services; Information Collections

AGENCY: Institute of Museum Services.

ACTION: Notice of information collections.

SUMMARY: The Institute of Museum Services (IMS) has submitted the following collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Copies of these submissions are available at IMS from Kristine Ramaekers, (202) 786–0539. Send comments to Joe Lackey, Office of Management and Budget, Room 3208 NEOB, Washington, D.C. 20503.

Title: 1984 Museum Assessment Program Grant Application and Information.

Form No.: IMS 105.

Action: Revision.

Respondents: Non-Profit Institutions.

Estimated Annual Burden: 300 Respondent; 300 Hours.

Title: 1984 General Operating Support Grant Application and Information.

Form No.: IMS 102.

Action: Revision.

Respondents: Non-Profit Institutions.

Estimated Annual Burden: 1,500 Respondents; 27,000 Hours.

Susan E. Phillips,

Director, Institute of Museum Services.

[FR Doc. 83–30051 Filed 11–4–83; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SECIENCE FOUNDATION

Forms Submitted to OMB for Review

In accordance with the Paperwork Reduction Act and OMB guidelines, NSF is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming (202) 357–9421

OMB Officer: Andrew Velez-Rivera, (202) 395–7313

Title: Survey of Earned Doctorates Awarded in the United States

Affected Public: Individuals

Number of Responses: 31,000; total of 10,300 hours.

Abstract: Persons with doctorate-level education are key members of the labor force in scientific, engineering and learned professions. Information on their demographic and educational background and their immediate postdoctoral study or employment plans is essential for analyses of supply and demand. These data also provide information on the flow of women and minorities into the fields.

Dated: November 2, 1983.

Herman G. Fleming,

OMB Clearance Officer.

[FR Doc. 83–30104 Filed 11–4–83; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export/Import; Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for export and import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U. S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or enivronmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 28th day of October, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards Office of International Programs.

FEDERAL REGISTER (EXPORTS AND IMPORTS)

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		[illegible]	Country of destination
		Total element	Total isotope		
Combustion Engineering Inc., Oct. 7, 1983, Oct. 14, 1983, XR145.	El Dabaa unit 1, 1300 MWE, pressurized water reactor (PWR).				Egypt.
Combustion Engineering Inc., Oct. 7, 1983, Oct. 14, 1983, XSNM02083.	Enriched uranium 3.30 pct	73,200	1,766	Initial core loading for El Dabba unit 1	Do.
Combustion Engineering Inc., Oct. 7, 1983, Oct. 14, 1983, XSNM02084.	Enriched uranium 4.10 pct	400,000	10,000	10 reloads for El Dabaa unit 1	Do.
Pathfinder Mines Corp., Oct. 18, 1983, Oct. 20, 1983, IU83023.	Normal uranium	577,000		Import normal U for conversion and ultimate use in domestic power plants.	From various countries
Combustion Engineering, Oct. 18, 1983, Oct. 21, 1983, XR146.	300 MWe pressurized water reactor			To produce nuclear power at the Qinshan site	China.

[FR Doc. 83–30087 Filed 11–4–83; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OBM) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection:

10 CFR Part 30—Domestic Licensing of Byproduct Material
10 CFR Part 40—Domestic Licensing of Source Material, and
10 CFR Part 150—Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274

3. The Form number, if applicable: Not applicable.

4. How often the collection is required: Upon each transfer, receipt, or change or adjustment to inventory of 1 kilogram or more of source material at any one time.

5. Who will be required or asked to report: Each NRC or Agreement State licensee who transfers, receives, or makes any change or adjustment to inventory of source material of 1 kilogram or more at any one time.

6. An estimate of the number of responses: 6,400.

7. An estimate of the total number of hours needed to complete the requirement or request: 6,400.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: In order for the U.S. to meet the obligations of the US/IAEA Agreement and other international agreements, it is necessary to lower the reportable quantity if source material transfers by NRC and Agreement State licensees from 1,000 kilograms to 1 kilogram.

In addition, as a result of its review of safeguards reporting requirements, NRC has determined that semi-annual tritium inventory reports are no longer required. Consequently, 10 CFR 30.55(b) and 150.19(b), which impose the requirement for these reports, are being deleted, with a resulting reduction in burden and cost.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 1st day of November 1983.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 83-30080 Filed 11-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-368]

Arkansas Power & Light Co. (Arkansas Nuclear One, Unit 2); Exemption

I

The Arkansas Power and Light Company (the licensee) is the holder of Facility Operating License No. NPF-6 which authorizes operation of Arkansas Nuclear One, Unit No. 2 (ANO-2). This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility uses a Combustion Engineering, Inc. pressurized water reactor at the licensee's site located in Pope County, Arkansas.

II

Section 50.48(c)(3) of 10 CFR Part 50 requires that certain features of the facility fire protection program, specifically those that involve installation of modifications which can be effected only during an outage, shall be implemented before startup after the earliest of the following events commencing 180 days or more after February 17, 1981:

(1) The first refueling outage;

(2) Another planned outage that lasts for at least 60 days; or

(3) An unplanned outage that lasts for at least 120 days.

For ANO-2, the Commission granted, on May 10, 1982, an exemption with respect to the requirements of 10 CFR 50.48(c)(3). The exemption extended the date, February 17, 1983, from which the installation schedules established in 10 CFR 50.48(c)(3) are calculated, to July 1, 1982.

By letter dated July 1, 1982, the licensee requested an exemption from the 50.48 schedular requirement, delaying the modification of the switchgear in Fire Zones 2100-Z and 2101-AA from the completion of the refueling outage, 2R3, which began in October 1983, to the completion of the subsequent outage, 2R4, expected to begin in July 1985. The delay is necessitated because of the long procurement lead time required in getting the switchgear equipment from the vendor.

By letter dated September 27, 1983, the licensee informed the staff that it had made a substantial effort to have the switchgear equipment delivered and installed during the 2R3 outage, thus eliminating the need for a schedular exemption. However, the licensee encountered an unanticipated problem in that the vendor was planning to manufacture the switchgear equipment at a facility which was not on the licensee's Qualified Vendor List. This would have resulted in the licensee performing a detailed and time consuming Quality Assurance audit of the facility in question to ensure the equipment met the licensee's Quality Assurance Standards. Diligent negotiation, which was concluded in mid-August 1983, resulted in the manufacture of the equipment at a facility on the licensee's Qualified Vendor List. However, delivery of the switchgear equipment is not expected until late January 1984. Thus, the equipment would not be received in time to be installed during the current refueling outage, as required by 10 CFR 50.48(c).

The licensee stated in a letter dated July 13, 1983 that the affected fire zones are all equipped with ionization type smoke detectors which alarm in the control room to provide early fire detection capability and that the additional fire preventive measures are provided by the licensee's Auxiliary Operators, who routinely walk through these zones during the performance of their duties.

Based on the above considerations, we find that the licensee has made a good faith effort to complete the modification during the current outage as required by 10 CFR 50.48(c). We find that the licensee encountered an unanticipated procurement problem and that the delivery of the equipment will not be made in time to effect the modification. We also find that, because of the fire preventive measures already provided for the affected fire zones,

there is no undue risk to the health and safety of the public involved with continued operation until the completion of this modification during the 2R4 refueling outage. Therefore, we conclude that the licensee's request for an extension of the completion date required by 10 CFR 50.48(c)(3) should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security, is otherwise in the public interest, and is hereby granted.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 1st day of November, 1983.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 83-30086 Filed 11-4-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station); Exemption

I

The Maine Yankee Atomic Power Company (the licensee) is the holder of Facility Operating License No. DPR-36 which authorizes operation of the Maine Yankee Atomic Power Plant. This license provides, among other things, that it is subject to all rules, regulation and Orders of the Commission now or hereafter in effect.

The facility comprises one pressurized water reactor at the licensee's site located in Lincoln County, Maine.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G, is the subject of this exemption request.

Subsection III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown shall be maintained free of fire damage by specific use of fire barriers, separation or enclosures. If these conditions are not met, Section III.G.3 requires an alternative shutdown capability independent of the fire area of concern.

III 1By letter dated December 22, 1982, the licensee specifically requested exemptions to Sections III.G.2 and III.G.3 of Appendix R.

The exemption to Section III.G.2 concerned the Primary Auxiliary Building. The licensee requested that the cables and equipment of redundant shutdown division not have the required separation by 3-hour rated fire barriers. The licensee justified the exemption on the basis of low fire load, the existing fire protection system, the concrete cubicles around each of the normal charging pumps, and the spatial separation of the auxiliary charging pump. Our review of the licensee's submittal indicated that because of the large open areas, the high ceiling, and the concrete shielding walls around the normal charging pumps, ambient conditions at the pumps are not expected to pose a serious threat to the pumps themselves. We conclude that this configuration will achieve a level of fire protection equivalent to that provided by Section III.G.2. Therefore, the exemption requested to Section III.G.2 should be granted.

The exemptions to Section III.G.3 concerned the Protected Switchgear Room and Circulating Water Pump House. The licensee requested that these areas not be required to have a fixed fire suppression system. The licensee justified the exemptions in these two areas on the basis of the low fire load, existing fire protection and the ability to achieve safe shutdown despite the complete loss of the normal shutdown system due to a fire within these locations. Our analysis shows that the fire resistant perimeter construction of these buildings would confine the damage to the area of origin. Furthermore, safe shutdown could still be achieved using alternate systems which are independent of these fire areas. Consequently a fixed fire suppression system is not needed to limit the extent of damage. Therefore, the exemptions requested to Section III.G.3 should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants an exemption from the requirements of Sections III.G.2 and III.G.3 of Appendix R to the extent that they apply to the Primary Auxiliary Building, Protected Switchgear Room, and Circulating Water Pump House.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

A copy of the Safety Evaluation dated November 1, 1983, related to this action is available for public inspection at the Commission's Public Document Room, 1717 H. Street, NW., Washington, D.C. and at the local public document room located at the Wiscasset Public Library, High Street, Wiscasset, Maine. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 1st day of November, 1983

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83-30089 Filed 11-4-83; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20334; SR-AM/EX-83-21]

American Stock Exchange, Inc.; Order Granting Accelerated Approval

October 31, 1983.

On September 29, 1983, the American Stock Exchange, Inc. ("Amex") 86 Trinity Place, New York, NY, 10005, filed with the Securities and Exchange Commission (the "Commission") a proposed rule change under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 under the Act. This proposed rule change would move Amex' 10-year U.S.

Treasury note options from a March/June/September/December expiration cycle to a February/May/August/November expiration cycle.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 20252, October 3, 1983) and by publication in the **Federal Register** (48 FR 46461, October 12, 1983). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in that the effective implementation of the proposed rule change requires that it be in effect soon after the next Treasury note auction, which is scheduled to occur on November 2, 1983. We also find that accelerated approval is consistent with the protection of investors and the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30059 Filed 11-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13605; 812-5659]

Hessische Landesbank-Girozentrale; Application

October 31, 1983.

Notice is hereby given that Hessische Landesbank-Girozentrale ("Applicant"), c/o Brown, Wood, Ivey, Mitchell & Petty, One World Trade Center, New York, New York 10048, a German commercial bank, filed an application on September 27, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable sections thereof.

Applicant states that it is a commercial bank incorporated under German law and on the basis of total deposits ranks, on a consolidated basis, seventh among all banks in the Federal Republic of Germany at December 31, 1982. The State of Hesse and the Hessian Savings Bank and Giro Association each own 50% of the capital stock of Applicant. All Applicant's obligations are stated to be jointly and severally guaranteed by these two owners. Applicant states that it engages in a broad range of financial activities in the fields of commercial banking, investment banking, central banking and fiduciary administration. Applicant represents that its primary purpose is to act as the central bank and clearing house for the savings banks in the State of Hesse. Its major focus in the commercial banking area is on providing medium and long-term credit to commercial enterprises in the form of municipal loans, mortgage loans and long-term fixed rate loans. Applicant states that during 1982 it received $1,838 billion in interest and similar revenue from lending and money market transactions, or 84% of its total revenues for that year. Further, Applicant states that while it does act as a securities broker/dealer, in 1982 its revenues from such activities accounted for less than 7.3% of its consolidated total revenues.

Applicant represents that it is extensively regulated by German banking authorities, which regulation included supervision by the Federal Banking Supervisory Board and the German Federal Bank, the central bank of the Federal Republic of Germany. Reports are periodically required to be made to either or both the Federal Banking Supervisory Board and, the German Federal Bank. In addition, Applicant states that German banking legislation contains certain liquidity and capital requirements and lending limits.

Applicant proposes to issue and sell in the United States short-term unsecured negotiable promissory notes of the type generally referred to as commercial paper (the "Notes") with maturities not to exceed 270 days in bearer term and denominated in United States dollars to finance or refinance its current transactions, particularly its short-term off-shore dollar-denominated portfolio of credits. Applicant represents that the notes will be of prime quality and in minimum denominations of $100,000; that it presently intends that not in excess of $300,000,000 of the Notes will be outstanding at any one time; and that the Notes will not have any provisions for renewal at the option of Applicant or the holders thereof or for automatic roll-over. The notes will be issued and sold by Applicant to one or more commercial paper dealers in the United States which, as principal, will reoffer them to investors in the United States. In certain cases, however, the commercial paper dealers may offer the Notes as agent. Applicant represents that the Notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold to institutional investors, wealthy individuals and other purchasers of the type that normally purchase commercial paper. Applicant states that it undertakes to ensure that each offeree of the Notes will receive prior to purchase a memorandum which briefly describes Applicant's business and includes its most recent publicly available fiscal year-end audited balance sheet and income statement. Applicant represents that such memorandum will describe any material differences between German and United States generally accepted accounting principles applicable to commercial banks. Applicant states that such memorandum will be at least as comprehensive as those customarily used in offering commercial paper in the United States and will be updated periodically to reflect material changes in Applicant's financial status.

The application states the Notes will be direct liabilities of Applicant and will rank *pari passu* among themselves and equally with all other unsecured indebtedness of Applicant, including Applicant's deposit liabilities and will rank prior to Applicant's share capital.

Applicant plans to sell the Notes without registration under the Securities Act of 1933 (the "1933 Act") in reliance upon an opinion of its United States counsel that the Notes will qualify for the exemption from the registration requirements of the 1933 Act provided for certain short-term commercial paper by Section 3(a)(3) thereof. Applicant states that it will not issue and sell the Notes until it has received such opinion. Applicant does not request Commission review or approval of such opinion, and the Commission expresses no opinion as to the availability of any such exemption.

Applicant further represents that the presently proposed issue of securities and all future issues of its securities in the United States will have received prior to their respective issuance one of the three highest investment grade

ratings from at least one of the nationally recognized statistical rating organizations and that its United States counsel will have certified that such rating has been received, provided, however, that no such rating will be required to be obtained if in the opinion of United States counsel having taken into account for the purpose thereof the doctrine of integration referred to in Rule 502 under the 1933 Act and various releases and relevant no-action letters made public by the Commission, an exemption from registration is available with respect to such issue pursuant to Section 4(2) of the 1933 Act.

Applicant may in the future offer other debt securities for sale in the United States. Applicant represents that any such future offering of its securities in the United States will be made only pursuant to a registration statement under the 1933 Act or pursuant to an applicable exemption from registration under such Act, and any such offering will be made on the basis of disclosure documents appropriate for such registration or exemption, as the case may be. In no event will such disclosure documents be less comprehensive than is customary for United States offerings of similar debt securities.

Applicant undertakes to ensure that any such disclosure documents will be provided to each offeree who has indicated an interest in the securities then being offered, prior to any sale of such securities to such offeree, except that in the case of an offering made pursuant to a registration statement under the 1933 Act, such disclosure documents will be provided to such persons and in such manner as may be required by the 1933 Act and the rules and regulations thereunder. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon its compliance with its undertakings regarding disclosure documents.

Applicant states, in connection with the presently proposed offering of Notes and any future offering in the United States of its securities, that it will appoint an agent to accept any process which may be served in any action based on any such security and instituted in any state or federal court by the holder of any such security. Applicant states that such appointment of an agent to accept service of process will be irrevocable so long as such securities remain outstanding and until all amounts due and to become due in respect of such securities have been paid. Applicant further represents that, in connection with the presently proposed offering, it will expressly accept the jurisdiction of any state or federal court in the City and State of New York in respect of any such action and such consent to jurisdiction will be irrevocable so long as such securities remain outstanding and until all amounts due and to become due in respect of such securities have been paid. In connection with any future offering in the United States of its securities, Applicant undertakes that it will expressly accept the jurisdiction of an appropriate state or federal court in respect of any such action. Such consent to jurisdiction will be irrevocable so long as such securities remain outstanding and until all amounts due and to become due in respect of such securities have been paid.

Applicant asserts that granting the relief requested would advance the policies underlying the International Banking Act of 1978 by furthering the principle established thereunder of parity of treatment between foreign and domestic banks in like circumstances, and would benefit United States investors by expanding their investment opportunities. Applicant maintains that its activities are extensively regulated by the German banking authorities, that it is substantially different from the typical investment company that Congress intended the Act to regulate and that there is ample investor protection provided by the 1933 Act and the Securities Exchange Act of 1934.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than November 25, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30080 Filed 11-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23101; 70-6916]

New England Power Company, New England Electric System; Proposed Sale

October 31, 1983.

New England Power System, a registered holding company, and one of its electric utility subsidiaries, New England Power Company ("NEP"), 25 Research Drive, Westborough, Massachusetts, 01581, have filed a declaration with this Commission pursuant to Section 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44 promulgated thereunder.

NEP owns eight diesel generator units (Model MP45) with a baseload generating capacity of 2.75 megawatts each, located in Lynn, Massachusetts. All the generator units were purchased new from General Motors Electro-Motive Division in 1968. They are arranged in two groups of four units each. Each of the two groups is provided with its own switchgear, control house, and fuel oil storage tank with a capacity of 60,000 gallons. Due to the current availability of alternative, less costly sources of generation, these generating units are no longer needed by NEP to meet its demand for electricity. On September 15, 1983, they were officially retired from service. NEP proposes to sell the eight surplus diesel generating units and the associated equipment. The original cost of the eight generator units and associated equipment (including installation costs) was approximately $1.75 million. The current net book value (defined as original cost less accumulated depreciation) totals approximately $825,000. An independent engineering consulting firm has estimated the total current fair market value of the eight diesel generator units and associated equipment to be within the range of $1.8 million to $2.2 million.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 28, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will

receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30058 Filed 11-4-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review By Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 17Ad-10 (17 CFR 240.17Ad-10)
SEC File No. 270-265

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17Ad-10 concerning the accurate creation and maintenance by registered transfer agents of securityholder files. Rule 17Ad-10 sets forth certain standards to be followed by registered transfer agents that maintain issuers' securityholder records and other transfer agents contractually related to the same issuers.

Submit comments to OMB Desk Officer: Robert Veeder, (202) 395-4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

October 31, 1983.

[FR Doc. 83-30065 Filed 11-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20336; SR-Amex-83-25]

American Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

November 1, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 17, 1983, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The rule change would: (1) Fix the cut-off time for options exercises at 5:30 p.m. (New York time) on the last business day before expiration; (2) delete a clause providing an exception from the established cut-off time for options in an account maintained for another member and including only positions of the latter's customers; (3) drop certain explanatory matter relating to the rules of the Options Clearing Corporation ("OCC"); (4) add a provision requiring time-stamping of exercise instructions; and (5) add a reference to notices not to exercise options which otherwise would be automatically exercised under OCC Rule 805. Amex states that the purpose of the proposed rule change is to take account of OCC rules calling for automatic exercise in certain cases. The proposed rule also shortens the Amex exercise cut-off rule, adopting language similar to that in the current Chicago Board Options Exchange ("CBOE") rule.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR-Amex-83-25).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that insofar as the proposal would alter the existing Amex rule, it it substantially the same as the CBOE rule recently published for public comment, considered and approved by the Commission.[1] In light of this fact, and to reduce the potential for confusion, accelerated approval is appropriate.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30063 Filed 11-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20335; File No. SR-Amex-83-26]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc., Registered Options Traders Parity With Off-Floor Broker/Dealers

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 17, 1983, the American Stock Exchange, Inc. filed with the Securities Exchange Commission the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

Self-Regulatory Organization's Statement of the Terms of substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or "the Exchange") proposes to amend Rule 950(c) and Commentary thereto, as set forth below. Italics indicate material proposed to be added; brackets [ ] indicate material proposed to be deleted.

Rule 950 Rules of General Applicability.

(c) The provisions of Rule 111 and Commentary thereto, with the exception of paragraphs (a)(1), (b), and (e) of such Rule and the Commentary insofar as it relates to such paragraphs, shall apply to Exchange option transactions. In addition, the following commentary shall also apply [to an order in a class of options also traded on another exchange

[1] *See* Securities Exchange Act Release No. 20172 (September 12, 1983), 48 FR 42889 (September 20, 1983).

which is placed for an account in which a market maker in options registered as such on such other exchange has an interest (a "covered account")]:

Commentary.

.01 *With respect to an order in a class of options also traded on another exchange which is placed for an account in which a market marker in options registered as such on such other exchange has interest (a "covered account"):*

(a) No member or member organization shall place, or permit to be placed, an order on the Exchange which establishes or increases a position in a class of options for a covered account (other than an order specified by subparagraph [.02] *(b) of this Commentary) unless such order yields priority and parity to all other off-Floor orders [.]; and* [.02] *(b)* No member or member organization shall place, or permit to be placed, an order which establishes or increases a position in a series of options with a specialist on the Exchange for a covered account without so identifying that order to the specialist. Such order shall be deemed to be an on-Floor order for the account of a Registered Trader until the intervention of two trades in the same series of options; provided however, that the provisions of paragraphs (a), (b), (c), and (e) of Rule 111 shall not apply to that order.

[.03] .02—No change.

.03 *A Registered Option Trader, in establishing or increasing a position, may retain priority over or have parity with an off-Floor order for the account of a member or broker/dealer which is establishing or increasing a position in the trading crowd. Orders of broker/dealers must be appropriately identified.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change.* The purpose of the proposed rule change is to permit Registered Options Traders ("ROTs") to have parity with an off-Floor order for the proprietary account of a member or non-member broker/dealer that is establishing or increasing an option position.

Present Exchange rules require Registered Options Traders who are establishing or increasing an option position (opening) to yield to all off-Floor orders (opening or closing). This includes customer as well as firm proprietary orders. This rule, comparable to a provision in stocks, was adopted at the outset of the Exchange's options program to ensure that off-Floor orders would receive priority over ROT orders at the same price.

In the past few years, the Exchange has observed that many professional trading firms engage in substantial proprietary trading involving conversion and reverse conversion transactions, i.e., trades which involve the trading of large option positions versus appropriate stock positions in an attempt to lock-in profits based upon the different prices of such established positions. In establishing conversion and reverse conversion positions, these options traders as noted, are considered off-Floor orders, requiring ROTs to yield. In such situations, many ROTs have virtually been precluded from establishing positions of their own since they must permit all off-Floor orders to be executed ahead of their own orders, even where they were bidding or offering first. The Exchange's experience is that ROTs have found it increasingly difficult to make markets in those options where there is substantial conversion/reversal interest because they are oftentimes precluded from acquiring the necessary option positions to offset their market-making obligations.

The Chicago Board Options Exchange offers no priority in their trading crowds based on type of account (e.g., market-maker, firm proprietary, customer); orders of customers, market-makers and broker/dealers are all equal. While this proposal would, in certain cases place ROTs and off-Floor broker/dealers on parity, the Exchange remains committed to retaining priority for public customer orders over all opening ROT orders.

In light of the above, the Exchange proposes that ROTs not be required to yield to off-Floor orders for the accounts of a member or non-member broker/dealer which are establishing or increasing an option position.

The proposed change is consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and rules and regulations thereunder applicable to the Exchange in that it will permit Registered Options Traders to be on parity with professional off-Floor traders, which will enhance their ability to fulfill their market-making responsibilities thereby creating better liquidity in options, to the benefit of the investing public.

Therefore, the proposed rule change is consistent with Section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the public interest.

B. *Self-Regulatory Organization's Statement on Burden on Competition.* The Exchange does not believe that the proposed rule change will impose a burden on competition.

C. *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* The proposed rule change was endorsed by the Exchange's Options Committee (a Committee of the Board of Governors) and its Sub-Committee on Trading Practices and Procedures (comprised of Floor Members and representatives of member organizations).

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceeding to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission

and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 31, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30084 Filed 11-4-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20337; SR-NYSE-83-34]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

October 31, 1983.

Introduction

On August 26, 1983, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, NY 10005, filed with the Commission a proposed rule change under Section 19(b)(2) and Rule 19b–4 of the Securities Exchange Act of 1934 ("Act") that would permit the NYSE to impose on its member firms a charge under NYSE Rule 129 [1] for NYSE regulatory oversight services. The proposed rule change would permit the Exchange to impose on its member firms a charge of 13¢ per $1,000 of gross revenues as reported by each member firm in its FOCUS report.[2] This fee would be imposed on all NYSE members other than those dual members for which another self-regulatory organization ("SRO") is the designated examining authority ("DEA") under Rule 17d–1 of the Act.[3]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20107, August 23, 1983) and by publication in the **Federal Register** (48 FR 39553, August 31, 1983).[4] All written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

According to the NYSE, these new regulatory oversight charges would be allocated solely for performing the financial and operational ("FINOP") examinations for NYSE member firms that the NYSE is obligated to perform as the DEA under Securities Exchange Act Rule 17d–1. [5] The charges would replace the NYSE's fee arrangement with the National Securities Clearing Corporation ("NSCC") that expired on June 30, 1983, whereby the NSCC collected a regulatory fee of 12¢ per side per cleared transaction in NYSE listed securities and made annual payment to the NYSE of a maximum of $3,000,000. The NYSE has indicated that its charge of 13¢ per $1,000 of gross revenues is calculated to produce approximately $3,000,000 annually for the Exchange, based on 1982 gross revenues of members.[6]

Twenty comment letters were filed with the Commission.[7] Most commentators objected to the imposition of fees calculated on other than NYSE transactions because the proposed fee would not be based only on transactions in NYSE listed securities, as was the NSCC fee it would replace. Instead, fees would be collected based on all of a firm's revenues, including revenues generated from transactions in over-the-counter ("OTC"), municipal and investment company securities, commodity futures, or any other revenue reported in the FOCUS report, whether or not related to securities business. The commentators' objections focused primarily on: (i) The NYSE's lack of jurisdiction to impose fees on gross

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[1] NYSE Rule 129 provides that the NYSE Board of Governors may impose charges on members to reimburse the Exchange, in whole or in part, for regulatory oversight services provided for the membership by the Exchange. *See* note 17, *infra*.

[2] FOCUS (Securities Exchange Act Form X–17A–5) is an acronym for Financial and Operational Combined Uniform Single Report. The report is filed periodically with the Commission pursuant to Securities Exchange Act Rule 17a–5. The minimum annual fee imposed would be $2,000 for carrying firms and specialists, $1,000 for introducing firms, and $180 for members and firms not dealing with the public.

[3] *See* notes 12 and 13, *infra*

[4] The NYSE initially filed with the Commission its proposal to impose a regulatory oversight charge on June 23, 1983 (File No. SR–NYSE–83–24; Securities Exchange Act Release No. 19934, July 1, 1983; 48 FR 31952, July 12, 1983). That proposal was filed for immediate effectiveness under Section 19(b)(3)(A) of the Act, which would have permitted the NYSE to impose the charge as of July 1, 1983 unless the rule change were abrogated by the Commission within 60 days of filing. At the Commission's request, the Exchange agreed to postpone implementing the fee until August 24, 1983 (the date the abrogation period expired), to permit public comment prior to actual collection of the oversight charges.

In view of the significant public comment on the proposed changes, the Commission requested the NYSE to file the proposed change with the Commission under Section 19(b)(2) of the Act to provide an additional comment period. In addition, the Commission permitted the NYSE to simultaneously file the oversight charges under Section 19(b)(3)(A) of the Act and to immediately begin collecting such charges under Rule 129, retroactive to July 1, 1983. (SR–NYSE–83–33; Securities Exchange Act Release No. 20108, August 23, 1983; 48 FR 38556, August 31, 1983). The filing was conditioned on the Exchange agreeing that it would refund to its members all regulatory oversight charges collected under Rule 129 unless the Commission approved the charges on a permanent basis by October 15, 1983. This deadline subsequently was extended to October 31, 1983. (Securities Exchange Act Release No. 20277, October 13, 1983; 48 FR 48582, Octobe 19, 1983).

[5] For those members for which NYSE is the DEA, the NYSE is responsible for review and subsequent action on FOCUS Reports, any schedules or forms thereof, and any other generally applicable financial reporting requirements imposed by other SROs, the NYSE, or the SEC. The NYSE's responsibility with respect to these financial reports includes determination of compliance with Commission, NYSE, and other applicable SRO rules related to capital, margin, operations, books and records, reporting, and filing of documents. The NYSE is not responsible for conducting such a review for members for which the NYSE is not DEA, and no regulatory oversight fee would be imposed on such members. *See* note 13, *infra*.

[6] *See* letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC, dated September 15, 1983, page 17. The American Stock Exchange, Inc. ("Amex") and the National Association of Securities Dealers, Inc. ("NASD") were also parties to an agreement with the NSCC prior to July 1, 1983, and for their broker-dealer examinations received from NSCC a fee of 12¢ per side cleared transaction in Amex and over-the-counter securities, respectively. Under that agreement, the NASD realized a maximum annual fee of $1,000,000, and the Amex $550,000. The NASD has replaced the fee with a new fee of 10¢ per transaction on all over-the-counter cleared transactions and the Amex has replaced its fee with a new fee of 0.00225% of the compared share value of Amex transactions.

[7] Specifically, comment letters were received from the following: NASD, dated August 3, 1983, and September 27, 1983; National Futures Association, dated July 28, 1983; Chicago Board Options Exchange, Inc., dated August 10, 1983; Futures Industry Association ("FIA"), dated September 19, 1983; Municipal Securities Rulemaking board ("MSRB"), dated August 16, 1983; National Security Traders Association, dated August 16, 1983; Berney Perry & Company, dated August 23, 1983; Brown, Geary & McInnes, dated August 15, 1983; Cable, Howse & Ragen, dated August 16, 1983; Caroline Securities Corporation, dated August 25, 1983; Hanifen, Imhoff, Inc., dated September 2, 1983; UMIC, Inc., dated August 25, 1983; Carty & Co., dated August 24, 1983; Ferris & Co., dated August 9, 1983; Folger, Nolen, Fleming, Douglas, Inc., dated August 9, 1983; Mesirow & Co., dated August 3, 1983; Scharf & Jones, dated August 25, 1983; William E. Read & Co., Inc., dated September 19, 1983; and Merrill Lynch, Pierce, Fenner & Smith, undated, received September 28, 1983. Nearly all of these comment letters were filed in connection with File No. SR–NYSE–83–24, a predecessor to the instant filing.

revenues, insofar as the NYSE does not have primary regulatory responsibility over non-NYSE transactions; (ii) the inequity of fees based on members' gross revenues, insofar as the NASD, for example, imposes charges on dual NASD/NYSE members for oversight and enforcement activities, which charges are based solely on OTC transactions; and (iii) the burden of such a fee on NYSE members who receive most of their revenue from business unrelated to NYSE transactions.

In a letter dated September 15, 1983,[8] the NYSE responded that it has sole responsibility as the DEA under the Act for examining virtually all of its members for compliance with applicable financial and operational standards in conducting the FINOP examination, and that its regulatory services fee is intended to fund a portion of the costs of discharging this responsibility. The NYSE has stated further that it costs the Exchange approximately $15,000,000 to provide FINOP regulation of its members,[9] and that other SROs benefit from such regulation without contributing to its cost. According to the NYSE, a fee based on a member's gross revenues is appropriate because the NYSE's examination of members for compliance with financial and operational standards encompasses all activities of the member—not just the portion of its business represented by transactions effected on the NYSE. Furthermore, the NYSE indicated that if the fee were based solely on NYSE transactions, then a member with mostly non-NYSE transaction revenues would pay proportionately less than a member with predominantly NYSE transaction revenues, even though the Exchange would have to expend the same resources in conducting its FINOP examination of each member.

II. Discussion

Several commentators, including the NASD and the MSRB,[10] objected to basing the proposed NYSE charges on gross revenues on the ground that other SROs have primary regulatory responsibility over their members for a number of the transactions that contribute to those revenues. The NASD, for example, states that a charge based on "total revenues" includes many revenue sources over which the NYSE has no regulatory responsibility—such as underwriting, commodity futures, municipal securities, and non-NYSE securities. The NASD claims that the assessment of SRO regulatory fees has traditionally been tied to the specific responsibilities of the respective SROs; that is, exchange members have always been assessed by exchanges for exchange transactions, and NASD members have been assessed by the NASD for OTC transactions.

Similarly, the MSRB argues that, under Section 15B(b) of the Act, the MSRB is the "primary medium" for regulation of the municipal securities industry and that under Section 15A(b)(2) of the Act, the NASD has express responsibility with respect to compliance, inspection and enforcement of MSRB rules in the case of broker-dealers. The MSRB notes that municipal securities transactions generally occur in the OTC market and that brokers and dealers who effect municipal securities transactions are subject to regulatory fees imposed by the NASD. The FIA also raised a jurisdictional objection to the NYSE charges, stating that NYSE members engaged in activities under the jurisdiction of the Commodity Futures Trading Commission ("CFTC") pay fees to SROs designated by the CFTC and such SROs (together with the CFTC) have primary responsibility to examine and enforce applicable financial and operational CFTC requirements.[11]

The Commission recognizes that SROs other than the NYSE have primary responsibility for enforcing member compliance with SRO rules and the federal securities laws with respect to a variety of securities transactions. Similarly, the NYSE has no responsibility, of course, for enforcement of the commodities laws. The NYSE's proposed regulatory charges, however, do not raise issues of SRO jurisdiction. As the DEA under Rule 17d–1,[12] the NYSE has the exclusive responsibility to inspect virtually all of its members for compliance with applicable financial responsibility rules, including NYSE members that belong to other SROs.[13] Thus, with rare exceptions, the NYSE's FINOP examinations of NYSE members are not duplicated by any oversight activities conducted by other SROs. As the DEA, the NYSE has sole responsibility for examining its members both with respect to transactions in NYSE listed securities as well as any of their other financial activities.[14]

In the Commission's view, NYSE's proposed charges would not expand the NYSE's jurisdiction over its members. As the DEA for monitoring the financial responsibility of its members, including members that also belong to another SRO, the NYSE already has an obligation, in conducting examinations and otherwise, to ensure its members' financial responsibility by, for example, enforcing compliance with SRO and Commission net capital rules. Under the proposed rule change, the NYSE is seeking an allocation of charges commensurate with its examination and other oversight responsibilities in this area. In effect, the NYSE would be imposing a charge on total revenues for a service it is required by the Commission to perform for all of its members, including those that also belong to other SROs.

B. Duplication of Oversight Fees

A number of commentators argued that dual NASD/NYSE members are already assessed charges by the NASD for regulatory oversight based on OTC cleared transactions, and that payment to the NYSE of charges based on gross revenues duplicates the NASD's

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[8] *See* letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC, dated September 15, 1983. This letter was submitted at the Commission's request that the NYSE clarify the purposes of the fee and address the various issues raised by the commentators.

[9] The Commission has not received detailed information concerning the basis on which NYSE has made this estimate. Nevertheless, it believes that the revenues generated by the proposed rule change will not exceed NYSE's examination costs. Any subsequent increases in the fee, however, would have to be accompanied by a detailed cost justification.

[10] *See* letters from Frank J. Wilson, Executive Vice President, NASD, to George A. Fitzsimmons, Secretary, SEC, dated August 3, 1983 and September 27, 1983; letter from Angela Desmond, General Counsel, MSRB, to George A. Fitzsimmons, Secretary, SEC, dated August 16, 1983

[11] *See* letter from John M. Damgard, President, FIA, to George A. Fitzsimmons, Secretary, SEC, dated September 19, 1983.

[12] Rule 17d–1 under the Act adddresses those instances where, because a broker-dealer belongs to more than one SRO, more than one SRO has regulatory responsibilities over that broker-dealer. In such cases, the Commission designates which SRO is responsible for inspecting the member to assure its compliance with applicable financial responsibility rules. *See* Securities Exchange Act Release No. 12352, April 20, 1976.

[13] The Commission has named SROs other than the NYSE as DEAs in certain unusual circumstances. For example, the CBOE is DEA for several NYSE members that engage predominantly in options market making and clearing activities. In addition, electronic access members of the NYSE whose business is primarily OTC occasionally are assigned to the NASD. In this regard, the NYSE has amended its proposed rule change to provide that the regulatory oversight services fee will not be imposed upon any member for which the NYSE is not the DEA under Rule 17d–1. (SR–NYSE–83–34, Amendment No. 2).

[14] Thus, although the NYSE has no direct responsibilities under the federal securities laws to ensure compliance by its members with the Commodity Exchange Act or other commodities regulations, it is required to review commodities transactions as part of its overall review of a member firm's financial and operational position. Therefore, the Commission believes it is appropriate for the NYSE to include revenues from commodities (and other non-securities) sources in calculating its oversight charge.

charges.[15] The NASD fee, however, is not duplicative of a fee charged by the NYSE to cover its costs in administering FINOP exams since the NYSE has exclusive responsibility for conducting annual FINOP examinations of its members.

With respect to NYSE members whose revenues are generated predominantly from non-NYSE transactions, the Commission notes that the same type of FINOP examination must be performed by the NYSE regardless of whether a particular NYSE member firm derives its gross revenues mainly from NYSE transactions or mainly from other sources, such as dealings in OTC stocks, municipal bonds, options, commodity futures, or from underwriting. Accordingly, it would appear equitable for the NYSE to charge an examing fee based on a firm's total or gross revenues. Otherwise, a specialty firm having a small percentage of NYSE business relative to its gross revenues would be charged proportionately less for its FINOP examination, and another firm having a high percentage of NYSE business would be charged proportionately more for equivalent services.[16]

III. Conclusion and Findings

The Commission believes that the NYSE's proposed regulatory oversight services fee under NYSE Rule 129 [17] based on the gross revenues of its members is appropriate insofar as the NYSE is the designated examining authority under Rule 17d–1 of the Act with respect to conducting the financial and operational (FINOP) examination of its members. No other SRO has responsibility for conducting such examinations which necessarily include inspection of non-NYSE related aspects of a member's business.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.[18]

In particular, the Commission finds that the regulatory fee is consistent with Section 6(b)(4) of the Act, which requires that exchange rules provide for the equitable allocation of reasonable dues, fees and other charges among its members. A charge of 13¢ per $1000 gross revenue is reasonable in light of the examination services that the NYSE is required to perform; in view of the fact that the charges were established to collect $3,000,000 (based on 1982 revenues); and in view of the likehood that such charges may not fully compensate the Exchange for its expenses in conducting FINOP examinations for its members.

The charge is equitable insofar as all NYSE members are assessed on the same basis. Admittedly, those NYSE members whose revenue is largely based on non-NYSE-related business will pay proportionately more than they have in the past in comparision to NYSE members whose NYSE-related business predominates. However, because FINOP examinations provide no unique benefit to the NYSE, but instead entail an examination of all activities conducted by the member, the Commission believes that the charge equitably allocates FINOP examination costs.

The Commission finds further that the proposed charges are consistent with Section 6(b)(8) of the Act, which requires that an exchange's rules not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Commission does not view such a modest fee as having and significant competitive effect on NYSE members regardless of the method of calculation. Any burden imposed by such charges is *de minimis* and clearly outweighed by the Commission's interest in monitoring the financial responsibility of all NYSE members. More importantly, the Commission does not believe the NYSE proposal imposes a burden on competition simply because it alters the basis under which the fee is imposed. As noted above, the Commission has concluded that the proposed fee is equitable and applies to all NYSE members on the same basis. The NYSE could have chosen to impose charges on NYSE revenues only. The Commission believes charging only on the basis of NYSE transactions would not have eliminated a competitive burden, but merely would have shifted it to NYSE members whose revenues are largely NYSE-related. The Commission does not view this as a more equitable (or even appropriate) arrangement in light of the nature of the FINOP examination. Finally, the proposed fee, in conjunction with fees imposed by NASD and Amex, will result in some firms being required to pay fees to more than one SRO on the same transaction. So long as its fees are otherwise appropriate, however, the Commission does not believe any SRO should be constrained in devising a fee arrangement on the basis of charges imposed by other SROs.

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[15] The NASD currently imposes a regulatory fee of 10¢ per transaction on all OTC cleared transactions. *See* Securities Exchange Act Release No. 19800 (May 23, 1983).

[16] On a related issue, the National Futures Association ("NFA") has objected that the NYSE is already being compensated for its review of the futures business of dual members of the the NYSE and seven commodities exchanges. *See* letter from Joseph H. Harrison, General Counsel, NFA, to Secretary, SEC, dated July 29, 1983. In its comment letter, the NYSE states that the Exchange receives a base amount of $250,000 per year from the commodities exchanges in the aggregate. According to the NYSE, this amount is intended to cover both supplying FINOP information to the seven commodity exchanges and reviewing dual members in the sales practice area, which is separate from the FINOP examination. The NYSE states that the contract amount merely reimburses the Exchange for the incremental costs incurred by it in supplying information to, and in interfacing with, the commodity exchanges; and that it does not serve to reduce the annual cost incurred by the Exchange in conducting FINOP examinations of its members.

[17] In its proposed rule change, the NYSE deletes that portion of Rule 129 that requires that any such charges be imposed pursuant to Article X, Section 10 of the NYSE Constitution. Section 10 requires such charges to be measured by the number of, the value of, or the commissions on transactions effected on the NYSE floor or on transactions on Exchange-listed securities, regardless of where such transactions are affected. Instead, charges under Rule 129 would be governed by Article X, Section 3 of the NYSE Constitution, which provides that the NYSE Board may impose charges on members for the use of equipment or facilities or for particular services or privileges granted. In its filing the NYSE contends that its regulatory oversight services are, in fact, services within the meaning of Section 3. Section 3 contains no provision that any charges imposed under that section be measured by NYSE-related transactions.

In its two comment letters, the NASD states that the proposed regulatory fee is "inconsistent" with the NYSE Constitution and, specifically, that the section of the Constitution relied on by the NYSE (Article X, Section 3) provides no basis for the fee. The NASD claims that a "fundamental change" of this type must be supported by a constitutional amendment endorsed by its membership, rather than merely a fee reclassification by the NYSE's board. According to the NASD, the proposed changes cannot be reasonably classified as a "service fee" of the type authorized under Article X, Section 3, but must remain controlled by Article X, Section 10, requiring charges to be based on NYSE-related revenues.

The Commission does not concur with the NASD that a membership vote was required. While the FINOP exams are different than the other services for which NYSE has in the past levied fees under Article X, Section 3, and while the proposed fee is calculated in a different manner than the previous examining fee, the Commission does not believe either factor amounts to such a "fundamental change" that NYSE is compelled under its Constitution to submit the proposal to a members' plebiscite before the fee could be adopted. While charges for regulatory oversight responsibilities under Rule 129 have heretofore been controlled by Article X, Section 10, the Commission views the NYSE Board's amendment to Rule 129 and its classification of regulatory oversight responsibilities as "services" under Article X, Section 3, as reasonable.

[18] The Commission's determination that the proposed fee is consistent with the Act is directly based on the universal nature of the FINOP examination. SRO fees calculated on members' gross revenues intended to support services directly related to that marketplace or for examinations (such as sales practice examinations) which do not focus of all aspects of a member's business would not appear to be appropriate.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-30082 Filed 11-4-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-0146]

Peachtree Capital Corp.; Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration's (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1983)), Peachtree Capital Corporation (PCC), 1611 Gas Light Tower, Peachtree Center, Atlanta, Georgia 30303, incorporated under the laws of the State of Georgia has surrendered its License No. 04/04-0146, which was issued by SBA on November 5, 1980.

PCC has complied with all conditions set forth by SBA for surrender of its license.

Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above cited Regulation, the License of PCC is hereby accepted effective October 13, 1983 and it is no longer licensed to operate as a small business investment company.

Dated: October 31, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-30100 Filed 11-4-83; 8:45 am]

BILLING CODE 8025-01-M

Region III—Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Philadelphia, Pennsylvania, will hold a public meeting at 9:00 a.m. on Thursday, December 8, 1983 at the Philadelphia District Office, Suite 400, East Lobby, One Bala Plaza, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania, 19004, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call William T. Gennetti, District Director, U.S. Small Business Administration, One Bala Plaza, Suite 400-East Lobby, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania 19004 (215) 596-5801.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 21, 1983.

[FR Doc. 83-30096 Filed 11-4-83; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council; Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Miami, Florida, will hold a public meeting at 9:30 A.M., on Tuesday, November 8, 1983, at the Miami Airport Inn-Best Western, 1550 N.W., LeJeune Road, Miami, Florida, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others.

For further information, write or call John L. Carey, District Director, U.S. Small Business Administration, 2222 Ponce de Leon Blvd., 5th Floor, Coral Gables, Florida 33134. Telephone (305) 350-5521.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 31, 1983.

[FR Doc. 83-30097 Filed 11-4-83; 8:45 am]

BILLING CODE 8025-01-M

Region IV—Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Nashville, will hold a public meeting at 9:00 a.m. on Tuesday, November 22, 1983 at Midland Bank & Trust, 44 North Second Street, Memphis, Tennessee, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Robert M. Hartman, District Director, U.S. Small Business Administration, Suite 1012 Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee 37219. Telephone (615) 251-5850.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 31, 1983.

[FR Doc. 83-30098 Filed 11-4-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2107]

Texas; Declaration of Disaster Loan Area

Lubbock County in the State of Texas constitutes a disaster area because of damage caused by flooding and heavy rains which occurred on October 19, 1983. Eligible persons, firms and organizations may file applications for physical damage until close of business on January 3, 1984, and for economic injury until the close of business on Aug. 1, 1984, at the address listed below:

U.S. Small Business Administration, Regency Plaza, 1611 10th Street, Suite 200, Lubbock, Texas 79401

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	(Percent)
Homeowners with credit available elsewhere	12.750
Homeowners without credit available elsewhere	6.375
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organizations including charitable and religious organizations)	10.500

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 1, 1983.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-30095 Filed 11-4-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 05/05-0188]

Twin Ports Capital Co.; Application for a License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of Revision 6 of the Regulations (48 FR 45014 (September 30, 1983)), by Twin Ports Capital Company, 1229 Poplar Avenue, Superior, Wisconsin 58880 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended, (15 U.S.C. *et seq.*)

The proposed officers, directors, and sole shareholder are:

Name and address	Title	Percent of Ownership
Paul Leonides, [illegible] Poplar Avenue, Superior, Wisconsin [illegible]	President/ Director.	

Name and address	Title	Percent of Ownership
Richard F. Johl, 1228 Poplar Avenue, Superior, Wisconsin 54880.	Secretary/ Treasurer/ Director.	
Frank J. Boese, Jr., 1228 Poplar Avenue, Superior, Wisconsin 54880.	Vice President/ Director.	
Twin Ports, Grocery Co., 1228 Poplar Avenue, Superior, Wisconsin 54880.	General Manager, Sole Shareholder.	100

Twin Ports Grocery Co., operates as a cooperative wholesaler of food products to retail grocers in the States of Minnesota, Wisconsin, Michigan and North Dakota.

The Applicant will begin operations with a capitalization of $502,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in Superior, Wisconsin.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 31, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-30086 Filed 11-4-83; 8:45 am]

BILLING CODE [illegible]-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/6 79]

Overseas Schools Advisory Council; Meeting

The Overseas Schools Advisory Council, Department of State, will hold its annual meeting on Wednesday, December 14, 1983, 9:30 a.m., in Conference Room 1205, Department of State Building, Washington, D.C.

Agenda items scheduled for discussion are as follows:

I. Welcome and Introduction of Participants
II. Greetings from the Department of State
III. Status Report of Council's 1982–1983 Activities
IV. Results of Surveys and Reports Concerning Schools Fund-Raising Drives and Activities of Regional School Associations
V. Review of Council's Program For Supporting Educational Opportunities Abroad:
  (a) Progress Report of 1983 Program
  (b) Recommendations of Council's Evaluation Committee Regarding new projects submitted by Regional Overseas School Associations for 1984 Program
  (c) Council's efforts in securing necessary participation for 1984 Program of largest users of the overseas schools among U.S. corporations and foundations
VI. Participation of Overseas Personnel of U.S. Corporations and Foundations on School Boards and Other School Committees
VII. Council Communication with U.S. Corporations and Foundations
VIII. Other Business

For purposes of fulfilling building security, members of the public desiring to attend the meeting should call Ms. Joyce Bruce, Office of Overseas Schools, Department of State, Washington, D.C., Area Code 703–235–9600, prior to December 14. The public may participate in discussions at the Chariman's instructions.

Dated: October 20, 1983.

Ernest N. Mannino,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 83-30108 Filed 11-4-83; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. I), notice is hereby given of meetings of the National Highway Safety Advisory Committee to be held December 8–9, 1983, in Los Angeles, California. The meetings will take place at The New Otani Hotel and Garden, 120 S. Los Angeles Street, in the Sakura Room.

The agenda will consist of the following:

The Executive Subcommittee will meet on December 8 starting at 9:30 a.m., to discuss the Committee's internal organizational structure.

The Symposium Planning Group will meet on December 8 starting at 10:30 a.m., to discuss the proposed 1984 Highway Safety Symposium and to identify workshop leaders and participants. Also at this time an orientation session will be conducted for the new members.

The Full Committee will meet on December 8 starting at 2:00 p.m. and again on December 9 starting at 9:30 a.m., to discuss the following issues: report from the Symposium Planning Group; report and discussion on the proposed position on Highway Safety Engineering Training Initiative; discussion on future direction of subcommittees; briefings on commercial vehicle safety issues; and old and new business.

All meetings are open to the interested public, but may be limited in attendance to the space available. Members of the public may present a written statement to the Committee at any time. This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretariat, 400 Seventh Street, S.W., Washington, D.C., 20590, telephone 202–426–2870.

Issued in Washington, D.C., on November 2, 1983.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 83-30085 Filed 11-4-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular; Public Debt Series No. 34–83]

12% Treasury Bonds of 2008–2013

Washington, October 27, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $4,250,000,000 of United States securities, designated 12% Treasury Bonds of 2008–2013 (CUSIP No. 912810 DF 2). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in

exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be issued November 15, 1983, and are offered as an additional amount of 12% Treasury Bonds of 2008–2013 (CUSIP No. 912810 DF 2) dated August 15, 1983. Payment for the securities will be based on the price equivalent to the bid yield (to maturity) determined in accordance with this circular, plus accrued interest from August 15, 1983, to November 15, 1983. Interest on the securities offered as an additional issue is payable on a semiannual basis on February 15, 1984, and each subsequent 6 months on August 15 and February 15 until the principal becomes payable. They will mature August 15, 2013, but may be redeemed at the option of the United States on and after August 15, 2008, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $1000,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted Bearer securities will not be available, and the interchange or registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, prior to 1:30 p.m., Eastern Standard time, Thursday, November 3, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, November 2, 1983, and received no later than Tuesday, November 15, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield (to maturity) with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to 1:30 p.m., Eastern Standard time, Thursday, November 3, 1983.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 12.94% will not be accepted, because the equivalent prices would fall below the original issue discount limit of 92.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield (to maturity) bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield (to maturity) of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section

1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from August 15, 1983, to November 15, 1983, in the amount of $30.00000 per $1,000 of securities allotted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, November 15, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, November 10, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-30079 Filed 11-2-83; 2:10 pm]

BILLING CODE 4810-40-M

[Department Circular; Public Debt Series—No. 33-83]

Treasury Notes of November 15, 1993; Series D-1993

Washington, October 27, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $5,250,000,000 of United States securities, designated Treasury Notes of November 15, 1993, Series D-1993 (CUSIP No. 912827 QD 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated November 15, 1983, and will bear interest from that date, payable on a semiannual basis on May 15, 1984, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 1993, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing aurthority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, prior to 1:30 p.m., Eastern Standard time, Wednesday, November 2, 1983. Noncompetative tenders as defined below will be considered timely if postmarked no later than Tuesday, November 1, 1983, and received no later than Tuesday, November 15, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetative tenders must show the term "noncompetative" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetative tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities, public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to 1:30 p.m., Eastern Standard time, Wednesday, November 2, 1983.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issued discount limit of 97.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the wighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, November 15, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, November 10, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and

delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-30078 Filed 11-3-83; 2:10 pm]

BILLING CODE 4810-40-M

[Department Circular, Public Debt Series—No. 32-83]

Treasury Notes of November 15, 1986; Series P-1986

Washington, October 27, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,500,000,000 of United States securities, designated Treasury Notes of November 15, 1986, Series P-1986 (CUSIP No. 912827 QC 9). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated November 15, 1983, and will bear interest from that date, payable on a semiannual basis on May 15, 1984, and each subsequent 6 months on November 15 and May 15 until the prinicipal becomes payable. They will mature November 15, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, prior to 1:30 p.m., Eastern Standard time, Tuesday, November 1, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, October 31, 1983, and received no later than Tuesday, November 15, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any concompetitive awards of this issue in this auction prior to 1:30 p.m., Eastern Standard time, Tuesday, November 1, 1983.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the

determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amont of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, November 15, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, November 10, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-30077 Filed 11-2-83; 2:10 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 216
Monday, November 7, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1, 2
Commodity Credit Corporation	3
Consumer Product Safety Commission	4
Federal Communications Commission	5, 11
Federal Energy Regulatory Commission	6
Federal Mine Safety and Health Review Commission	7
International Trade Commission	8
Occupational Safety and Health Review Commission	9
Uniformed Services University of the Health Sciences	10

1

CIVIL AERONAUTICS BOARD

Deletion From and Short Notice Addition to the November 1, 1983, Meeting

TIME AND DATE: 10 a.m., November 1, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

11. Docket 41556, Application of Thai Airways International Limited for an exemption from section 402 of the Federal Aviation Act of 1958, as amended, and Part 222 of the Board's Economic Regulations (intermodal cargo service). (Memo 2065, BIA, OGC, BALJ)

19a. Discussion on Ireland. (BIA)

STATUS: Item 11 (open) and Item 19a (closed.)

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–1559–83 Filed 11–3–83; 3:44 pm]

BILLING CODE 6320–01–M

2

CIVIL AERONAUTICS BOARD

[M–393 Amdt. 2, November 11, 1983]

Short Notice Addition and Closure of Item for the November 1, 1983 Meeting

TIME DATE: 10 a.m., November 1, 1983.

PLACE: Room 1012, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

19b. Discussion on Trinidad & Tobago Negotiations. (BIA)

STATUS: Closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–1560–83 Filed 11–3–83; 3:44 pm]

BILLING CODE 6320–01–M

3

COMMODITY CREDIT CORPORATION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 49970, October 28, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., November 2, 1983.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Minutes of Special Open Meeting of September 26, 1983.

2. Memorandum re: Status Report on CCC Alcohol Demonstration Project.

3. Memorandum re: XCP–137a, Advisory Memorandum No. 1—Barley, Corn, Oats, Rye, and Sorghum Loan and Purchase, Payment, and Production Adjustment Programs for the 1983 Marketing Year.

4. Memorandum re: XCP–137a, Advisory Memorandum No. 2—Barley, Corn, Oats, Rye, and Sorghum Loan and Purchase Payment, and Production Adjustment Programs for the 1984 Marketing Year.

5. Memorandum re: XCP–2a, Advisory Memorandum No. 1—Wheat Loan and Purchase, Payment, and Production Adjustment Programs for the 1983 Marketing Year.

6. Memorandum re: XCP–2a, Advisory Memorandum No. 2—Wheat Loan and Purchase, Payment, and Production Adjustment Programs for the 1984 Marketing Year.

7. Discussion re: CCC Export Credit Obligations.

CONTACT PERSON FOR MORE INFORMATION: Richard A. Ashworth, Secretary, Commodity Credit Corporation, P.O. Box 2415, Room 3086 South Building, U.S. Department of Agriculture, Washington, D.C. 20013; telephone (202) 447–8165.

[S–1550–83 Filed 11–3–83; 10:50 am]

BILLING CODE 3410–05–M

4

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Wednesday, November 9, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *NEISS: Policy for Dissemination*
The Commission will consider the policy to be used for publishing NEISS estimates.

2. *Crib Hardware: 30(d) Rule, Proposed*
The staff will brief the Commission on failures of hardware on cribs and a proposed rule under Section 30(d) of the Consumer Product Safety Act, which proposes transfer of the regulation of risks of injury associated with crib hardware failures from the Federal Hazardous Substances Act to the Consumer Product Safety Act.

Closed to the Public:

3. *Opinions Policy*
The Commission will review its procedures to note separate or dissenting opinions in Federal Register notices and press releases.

4. *Enforcement Matter (OS #3280)*
The Commission will consider enforcement matter OS #3280.

(For a recorded message containing the latest agenda information: call 301–492–5709.)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207.

[S–1556–83 Filed 11–3–83; 3:33 pm]

BILLING CODE 6355–01–M

5

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting, Tuesday, November 8, 1983

October 31, 1983.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Tuesday, November 8, 1983 following the Open Meeting, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Application for Review by Faith Center, Inc., in the Los Angeles, California FM broadcast comparative renewal proceeding (BC Docket Nos. 82–212 to 214).

Hearing—2—Petition for Reconsideration of the Commission's Decision in the complaint proceeding involving MCI Telecommunication Corporation and

American Telephone and Telegraph Company (CC Docket No. 81-217).

These items are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0.603(j)).

The following persons are expected to attend:

Commissioner and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission October 21, 1983. Commissioners Fowler, Chairman; Quello, Dawson and Rivera voting to consider these items in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 31, 1983.

William J. Tricarico,

Secretary, Federal Communication Commissions.

[S-1552-83 Filed 11-3-83; 11:53 am]

BILLING CODE 6712-01-M

6

FEDERAL ENERGY REGULATORY COMMISSION

November 2, 1983.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552b:

TIME AND DATE: 10 a.m., November 9, 1983.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all pulic documents may be examined in the Division of Public Information.

Consent Power Agenda, 780th Meeting, November 9, 1983, Regular Meeting (10 a.m.)

CAP-1. Project No. 6167-003, Ronald Rulofson
CAP-2. Project No. 5130-001, Floyd N. Bidwell
CAP-3. Project No. 2545-010 (Phase I), the Washington Water Power Co.
CAP-4. Project Nos. 2149-011, 012 and 013, Public Utility District No. 1 of Douglas County, Washington
CAP-5. Project Nos. 2735-008, 1988-005 and 233-007, Pacific Gas & Electric Co.
CAP-6. Project No. 7570-002, Calaveras Public Utility District
CAP-7. Project No. 6986-000, Tranquillity Irrigation District Project No. 7356-001, Calaveras County Water District, Tuolumne Regional Water District and Tuolumne County, California
CAP-8. Project No. 2874-005, Electric Plant Board of the City of Glasgow, Kentucky
CAP-9. Project No. 3515-000, Fluid Energy Systems, Inc.; Project No. 4122-000, Kern County Water Agency; Project No. 4129-002, Olcese Water District
CAP-10. Project No. 3509-003, Little Falls Hydroelectric Associates
CAP-11. Project Nos. 4024-000 and 6439-000, Gregory Wilcox; Project Nos. 6423-001, 002, 6424-001, 002, 6425-001, 002, 6426-001, 002, 6427-001, 002, 6428-001 and 002, Uncompahgre Valley Water Users Association and Montrose Partners
CAP-12. Project No. 6156-002, Milton and Morris Zack; Project No. 6885-002, Richard Moss
CAP-13. Project No. 7145-001, Hellsgate Associates
CAP-14. Project No. 2725-011, Georgia Power Co.
CAP-15. Omitted
CAP-16. Project No. 3133-001, Public Service Co. of New Hampshire and Union Water Power Co.
CAP-17. Project No. 4411-001, City of McFarland, California
CAP-18. Project No. 108-000, Northern States Power Co.
CAP-19. Docket No. ER83-654-001, Lockhart Power Co.
CAP-20. Docket Nos. ER83-647-001, ER83-648-001, ER83-649-001, and ER83-650-001, New England Power Co.
CAP-21. Docket No. ER83-656-001, Kentucky Utilities Co.
CAP-22. Docket Nos. QF83-219-000, QF83-223-000, QF83-224-000, QF83-219-001, QF83-223-001, QF83-224-001, QF83-219-002, QF83-223-002 and QF82-224-002, El Dorado County Water Agency and El Dorado Irrigation District
CAP-23. Docket No. ER83-577-011, Arkansas Power & Light Co.
CAP-24. Docket No. ER80-567-004, Wisconsin Electric Power Co.
CAP-25. Docket Nos. ER80-657-000, ER80-662-000 and ER80-726-000, Columbus & Southern Ohio Electric Co.
CAP-26. Docket No. ER82-673-000, Kentucky Utilities Co.
CAP-27. Docket No. EC83-12-000, Virginia Electric & Power Co.
CAP-28. Docket No. QF83-96-000, UOP Energy Recovery Corp. of Pinellas
CAP-29. Docket No. QF83-203-000, George W. Yeagle
CAP-30. Docket No. QF83-295-000, the Lawrence Park Heat, Light & Power Co.
CAP-31. Docket No. ER80-592-000, et al.; Allegheny Power System, et al., Docket Nos. ER80-607-001, ER80-608-000, ER80-609-000, ER80-610-000, ER80-611-000 and ER80-660-001, Southern Electric Power; Docket Nos. ER80-677-000 and ER80-711-000, Upper Peninsula Power Co.
CAP-32. Docket No. ER83-481-000, New England Power Co.
CAP-33. No. EL78-13-000, Central Virginia Electric Cooperative, Inc. v. Appalachian Power Co.

Consent Miscellaneous Agenda

CAM-1. Docket No. RM83-67-000, Revision of licensed hydropower development recreation report: FERC Form No. 80
CAM-2. Docket No. RM84-1-000, Fees relating to Freedom of Information Act requests and to other public information requests
CAM-3. Docket No. RM79-76-153 (Colorado—30), high-cost gas produced from tight formations
CAM-4. Docket No. RM79-76-203 (Colorado—27 addition), high-cost gas produced from tight formations
CAM-5. Docket No. GP83-8-000, State of Colorado, Oil and Gas Conservation Commission, J-W Operating Co., Malcolm Akey #1 Well, Colorado Docket No. 81-173, FERC No. JD82-22127; Docket No. GP83-18-000, State of Colorado, Oil and Gas Conservation Commission, J-W Operating Co., Malcolm Akey #2 and #3 Wells, Colorado Docket Nos. 81-172 and 81-173, FERC Nos. JD82-22128 and 82-22129
CAM-6. Docket No. RO83-1-000, Andrew R. Krissovich D.B.A. Crow Canyon Shell; Docket No. RO83-3-000, Richard E. Brooke D.B.A. Bubble Machine; Docket No. RO83-4-000, Walt Freeman D.B.A. Walt Freeman Chevron; Docket No. RO83-5-000, Bob Diciano D.B.A. Bob's Chevron Service; Docket No. RO83-6-000 (Consolidated), Carl Donahoe D.B.A. St. Francis Texaco
CAM-7. Docket No. RO82-17-000, Windsor Gas Corp.

Consent Gas Agenda

CAG-1. Docket Nos. RP83-7-001 and RP83-9-001, Columbia Gas Transmission Corp. vs. Texas Eastern Transmission Corp.
CAG-2. Docket No. RP83-116-001, Colorado Interstate Gas Co. v. MIGC, Inc.; Docket No. TA83-2-47-001, MIGC, Inc.
CAG-3. Docket No. TA84-1-32-001 (PGA84-1), Colorado Interstate Gas Co.
CAG-4. Docket No. TA84-1-42-001 (PGA84-1), Transwestern Pipeline Co.
CAG-5. Docket No. TA84-1-23-000 (PGA84-1), Eastern Shore Natural Gas Co.
CAG-6. Docket No. TA84-1-25-000 (PGA84-1), Mississippi River Transmission Corp.
CAG-7. Docket No. TA84-1-52-000 (PGA84-1), Western Gas Interstate Co.
CAG-8. Docket No. TA83-2-16-004 (PGA83-2d), National Fuel Gas Supply Corp.
CAG-9. Docket No. RP84-10-000, Peoples Natural Gas Co.
CAG-10. Docket No. RP82-56-000, Northwest Pipeline Corp.
CAG-11. Docket No. TA82-1-44-000, TA81-2-44-000 and TA81-2-44-005, Commercial Pipeline Co., Inc.
CAG-12. Docket No. RP73-35-010, Trunkline Gas Co.
CAG-13. Docket No. RP83-60-000, Kansas State Corp. Commission.

CAG–14. Docket No. TA84–1–46–000, Kentucky West Virginia Gas Co.
CAG–15. Docket No. RP82–126–000, Mountain Fuel Supply Corp.
CAG–16. Docket No. CP83–136–000, Northwest Pipeline Corp.
CAG–17. Docket No. TA83–1–30–002, Trunkline Gas Co.
CAG–18. Docket Nos. RP79–10–002 and RP80–134–007, Great Lakes Gas Transmission Co.
CAG–19. Docket No. IS82–178–000, Exxon Pipeline Co.
CAG–20. Docket No. ST82–287–001, Mississippi Fuel Co.
CAG–21. Docket No. ST80–298–002, Mississippi Fuel Co.
CAG–22. Docket No. ST82–397–001, Mississippi Fuel Co.
CAG–23. Docket No. ST82–76–001, Producers Gas Co.
CAG–24. Docket No. G–7004–020, Pennzoil Co.
CAG–25. Docket No. CI79–53–002, Amoco Production Co.
CAG–26. Docket No. CI77–646–002, Arco Oil & Gas Co., a Division of Atlantic Richfield Co.; Docket No. CI83–360–001, Sameda Oil Corp.
CAG–27. Docket No. CI83–259–002, Texaco Producing Inc.; Docket No. CI82–187–004, Elf Aquitaine, Inc.
CAG–28. Docket No. CI83–378–001, et al., Getty Oil Co., et al.
CAG–29. Docket No. RI83–8–000, Mobil Oil Corp. and Northern Natural Gas Producing Co.
CAG–30. Docket No. RI82–5–000, Farmland Industries, Inc. (Formerly CRA, Inc.)
CAG–31. Docket No. RI81–1–002, Amoco Production Co.
CAG–32. Docket No. G–11414–000 And CI66–410–001, Arco Oil & Gas Co. Division of Atlantic Richfield Co. (Operator), et al.
CAG–33. Docket No. CP86–288–001, et al., Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Docket Nos. CI67–1810–000 and CI77–347–001, The Louisiana Land & Exploration Co.
CAG–34. Docket Nos. CP77–17–016, CP77–17–017, CP77–92–005, CP77–92–006, CP77–533–006 and CP77–533–007, Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.
CAG–35. Docket No. CP77–402–007, Transcontinental Gas Pipe Line Corp.
CAG–36. Docket No. CP83–14–006, Northern Natural Gas Co., Division of Internorth, Inc.
CAG–37. Docket No. CP83–64–001, CP83–64–002, CP83–175–002, CP83–304–001, CP83–190–001 and CP83–191–001, Tenn. Gas Pipeline Co., a Division of Tenneco Inc.
CAG–38. Docket No. CP82–455–001, United Gas Pipe Line Co.
CAG–39. Docket No. CP83–265–000 and CP83–265–001, Wyoming Interstate Co., Ltd.
CAG–40. Docket No. CP81–3–000, Natural Gas Pipeline Co. of America
CAG–41. Docket No. CP81–433–008, Columbia Gas Transmission Co.
CAG–42. Docket No. CP77–363–006, National Fuel Gas Supply Corp.; Docket No. CP77–363–007, National Fuel Gas Supply Corp. and Columbia Gas Transmission Corp.
CAG–43. Docket No. CP83–456–000, Southern Natural Gas Co.
CAG–44. Docket No. CP83–389–000, Northern Natural Gas Co, Division of Internorth, Inc.
CAG–45. Docket No. RP84–13–000, Michigan Consolidated Gas Co.—Interstate Storage Division.

Power Agenda

I. Licensed Project Matters

P–1. Project Nos. 2545–005 and 009 (Phase II), the Washington Water Power Co.

II. Electric Rate Matters

ER–1. Reserved

Miscellaneous Agenda

M–1. Reserved
M–2. Reserved
M–3. Docket No. RM77–22–000, RM–22–004 and RM77–22–005, rate of interest on amounts held subject to refund: Oil pipelines
M–4. Docket No. RM83–72–000, first sales of pipeline production under Section 2(21) of the Natural Gas Policy Act of 1978; Docket No. RM82–16–000, first sales by affiliates

Gas Agenda

I. Pipeline Rate Matters

RP–1. Docket No. TA80–2–21–002 (PGA80–3), Columbia Gas Transmission Corp. and Columbia LNG Corp.; Docket No. TA80–2–22–003 (PGA80–5) (IPR80–3) (LFUT80–2) and (RD&D80–2), Consolidated Gas Supply Corp. and Consolidated System LNG Co.; Docket No. RP80–136–000, Southern Natural Gas Co.; Docket No. RP80–129–000, State of Ohio, ex rel. William J. Brown, Attorney General.
RP–2. Docket No. RP83–22–000, El Paso Natural Gas Co.

II. Producers Matters

CI–1. Reserved

III. Pipeline Certificate Matters

CP–1. Docket No. CP83–428–001 and 002, Producer-suppliers of Transco Gas Supply Co. and Transcontinental Gas Pipe Line Corp.
CP–2. Docket No. CP83–438–000, East Tennessee Natural Gas Co.
CP–3. Docket No. CP83–385–000, Texas Eastern Transmission Corp.; Docket No. CP83–386–000, Consolidated Gas Supply Corp.; Docket No. CP83–389–000, Algonquin Gas Transmission Co.

Kenneth F. Plumb,

Secretary.

[S–1554–83 Filed 11–3–83; 2:48 pm]
BILLING CODE 6717–01–M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 2, 1983

TIME AND DATE: 10 a.m., Wednesday, November 9, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor on behalf of Shelby Eperson v. Jolene, Inc., Docket No. KENT 83–38–D: Petition for Discretionary Review. (Issues include whether the administrative law judge erred in concluding that the operator discriminatorily discharged the miner following the miner's work refusal.)

2. Old Dominion Power Company, Docket Nos. VA 81–40–R, and VA 81–65. (Issues include whether the utility company is an "operator," under the circumstances of the case, subject to the coverage of the Mine Act.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–1557–83 Filed 11–3–83; 3:33 pm]
BILLING CODE 6735–01–M

8

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–47]

TIME AND DATE: 10 a.m., Thursday, November 17, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
a. Certain automatic, right-angle shearing machines (Docket No. 979).
5. Investigation 104–TAA–19 (Certain Scissors and Shears from Brazil)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1553–83 Filed 11–3–83; 2:00 pm]
BILLING CODE 7020–02–M

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 50232, October 31, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., November 10, 1983.

CHANGES IN THE MEETING: This meeting is canceled.

Dated: November 2, 1983.

[S–1558–83 Filed 11–3–83; 3:34 pm]
BILLING CODE 7600–01–M

10

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

TIME AND DATE: 8 a.m., November 14, 1983.

PLACE: Uniformed Services University of the Health Sciences, Room D-3001, 4301 Jones Bridge Road, Bethesda, MD 20814.

STATUS: Open.

MATTERS TO BE CONSIDERED: 8 a.m., Meeting—Board of Regents:

1. Approval of Minutes—25 July 1983;
2. Faculty Appointments;
3. Report—Admissions;
4. Report—Associate Dean for Operations—Budget;
5. Report—President, USUHS:
(a) Graduate Education,
(b) Continuing Education,
(c) Certification of Graduates,
(d) Henry M. Jackson Foundation for the Advancement of Military Medicine,
(e) Surgical Wound Laboratory,
(f) Proposed Construction,
(g) F. Edward Hebert School of Medicine,
(h) Awards;
6. Report—Chairman of the Board of Regents; and
New Business.

Schedule of Meetings: February 27, 1983.

CONTACT PERSON FOR MORE INFORMATION: Donald L. Hagengruber, Acting Executive Secretary of the Board of Regents, 202/295-3049.

November 2, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[S-1555-83 Filed 11-3-83; 3:07 pm]

BILLING CODE 3810-01-M

11

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting, Tuesday, November 8, 1983

October 31, 1983.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, November 8, 1983, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda and item No.	Subject
General:	
1	Title: Implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979. Summary: The FCC will consider amendment of Part 2 of its Rules to implement domestically radio frequency spectrum allocations adopted by the 1979 World Administrative Radio Conference.
2	Title: Communications Protocols Under Section 64.702 of the Commission's Rules (Gen. Docket No. 80-756) Summary: The Commission will consider treatment of protocols issues under the *Second Computer Inquiry* (Computer II) as raised in the Notice of Inquiry which began this proceeding, 83 FCC 2d 319 (1981), and in the comments filed in response.
Private Radio:	
1	Title: In the Matter of Applications of Millicom Corporate Digital Communications, Inc. for a Nationwide Private Carrier Paging System. Summary: The Commission will consider the Telocator Network of America's Application for Review of the Private Radio Bureau's denial of its Petition for Reconsideration concerning the granting of licenses to Millicom Corporate Digital Communications, Inc. for a Nationwide Private Carrier Paging System.
2	Title: Amendment of Parts 2, 22, and 90 of the Commission's Rules to Allocate Spectrum in the 928-941 MHz Band and to Establish Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service and the Private Land Mobile Radio Services. Summary: The Commission will address a Petition for Reconsideration and Clarification of the *Second Report and Order* in this proceeding which established policies and procedures for private paging systems in the 929-930 MHz band. (General Docket No. 80-183).
3	Title: Report and Order in the Matter of the amendment of Subparts M and S of the Commission's Rules to revise the standards for assignment of frequencies in the 806-821 and 851-866 MHz bands for co-channel trunked systems in Northern California. Summary: The FCC will consider the issues raised in a petition from the California Trunking Interference Association concerning co-channel separation standards in Northern California.
Common Carrier:	
1	Title: Order concerning compliance of Northwestern Bell Telephone Company of Iowa with Computer II Structural Separation Requirements. Summary: The Commission will consider whether to impose sanctions on the American Telephone and Telegraph Company for actions taken by its wholly owned companies in which Northwestern Bell detariffed and transferred to AT&T Information Systems all embedded customer premises equipment without complying with Computer II structural separation requirements.
2	Title: In the Matter of Inquiry into Policies to be Followed in the Authorization of Common Carrier Facilities to Meet Pacific Telecommunications Needs During the Period 1981-1995. Summary: The Commission will consider whether to initiate the second phase of the comprehensive facilities planning process in the Pacific Ocean Region.
3	Title: In the Matter of International Communications Policies Governing Designation of Recognized Private Operating Agencies, Grants of IRUs in International Facilities and Assignment of Data Network Identification Codes. Summary: The Commission will consider requests of the Association of Data Processing Service Organization for an inquiry into development of formal policies and procedures governing the designation of U.S. entities as RPOAs and the assignment of DNICs to U.S. data network and a request by Aeronautical Radio, Inc. for a determination whether enhanced-service providers and other non-carriers are eligible to purchase IRUs in international submarine telephone cables.
4	Title: Memorandum Opinion and Order re Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons, CC Docket No. 83-427—Request of AT&T to Detariff "Specialized CPE." Summary: The Commission will decide whether pursuant to the Telecommunications for the Disabled Act of 1982 (47 U.S.C. 610) it may preclude the states from deciding whether to tariff or detariff "specialized CPE" as defined in the Act
Aural:	
1	Title: License Renewal Applications of Pacifica Foundation for Station WPFW(FM), Washington, D.C. Summary: The Commission considers a petition to deny filed by the American Legal Foundation.
Visual:	
1	Title: "Response to Notice of Apparent Liability" filed July 25, 1983, by Cablevision of Chicago. Summary: Cablevision of Chicago seeks rescission or mitigation of the forfeiture assessed against it for violation of Section 76.610(b) of the Commission's Rules.
2	Subject: Application for review, filed by Spanish International Communications Corporation and Dr. Caroline Mitchell, of an action by the Mass Media Bureau approving reimbursement of expenses in connection with the assignment of the construction permit for unbuilt station KTMX-TV, Denver, Colorado, from LUB Television Associates, Ltd. to Centennial Broadcasting Corporation. Summary: The Commission will consider allegations that the assignor's recovery of certain expenses is inconsistent with Sections 73.3597(c) and (d) of the Rules.
3	Title: "Application for Review" filed May 23, 1983, by Clear-View Cable TV, Inc. Summary: Clear-View Cable TV, Inc. seeks Commission review of the action taken by the Chief of the Mass Media Bureau in *Liability of Clear-View Cable TV, Inc.* (Pearisburg, Virginia), Mimeo No. 3748, —— RR 2d —— (1983).
4	Title: Request for reinstatement of petition (CSR-1863) filed May 26, 1983, by Com-West, Inc. Summary: Com-West, Inc. and T.V. Cable of Henryetta, operators of Oklahoma cable television systems, seek, respectively, reinstatement and review of their petitions for waiver of the Commission's signal carriage rules, which had been, respectively, dismissed and denied by the Chief of the Mass Media Bureau
5	Title: "Application for Review" (CSR-1632). (1857-1947) filed March 21, 1983, by Rockland Cable Systems and Hudson Valley Cablesystems Corp Summary: Rockland Cable Systems and Hudson Valley Cablesystems Corp. seek Commission review of the decision of the Chief of the Mass Media Bureau in *Rockland Cable Systems*, Mimeo No. 2437, 53 RR 2d 253 (1983).
6	Title: "Application for Review" (CSR-1795) filed April 1, 1983, by Hi Ho Television of Wyoming, Inc. Summary: Hi Ho Television of Wyoming, Inc., licensee of television Translator Station K20AB (Channel 20), Casper, Wyoming, seeks Commission review of the action taken by the Chief of the Mass Media Bureau pursuant to delegated authority in Wentronics, Inc. (Casper, Wyoming), Mimeo No. 2673 (released March 2, 1983), denying recon. of Mimeo No. 137 (released October 13, 1982)
7	Title: "Petition for Special Relief Requesting Declaratory Ruling" (CSR-2269) filed February 3, 1983, by Community Cable TV, Inc.

Agenda and item No.	Subject
	Summary: Community Cable TV, Inc., operator of a cable television system serving Las Vegas, Nevada, seeks a declaratory ruling concerning the extent of the Commission's preemption of state and local rate regulation of cable television systems, in response to a recent decision of the Nevada Public Services Commission.
8	Title: Petition for Expedited Special Relief and Declaratory Ruling (CSR–2347) filed on May 18, 1983, by Earth Satellite Communications, Inc. (ESC).
	Summary: ESC, operator of a Satellite Master Antenna Television (SMATV) System, requests the Commission to preempt state and local regulation of SMATV systems.
9	Title: (1) Application to assign the license of Station KNBN–TV, (Channel 33), Dallas, Texas, from National Business Network, Inc., to Metromedia, Inc.; (2) Application to assign the license of Station WXIX–TV (Channel 19), Newport, Kentucky, from Metromedia, Inc., to Malrite of Cincinnati, Inc.
	Summary: The Commission will consider Metromedia's application to acquire KNBN–TV in view of the fact that Metromedia is presently licensee of Station KRLD in Dallas, Texas. Metromedia requests grant of the assignment application pursuant to Note 8 of Section 73.636, which permits application for UHF station to be considered by the Commission on a case-by-case basis to determine whether common ownership would be in the public interest.
Policy:	
1	Title: Petitions of Henry Geller and the National Association of Broadcasters and the Radio-Television News Directors Association regarding interpretation of subsections 315(a)(3) and 315(a)(4) of the Communications Act.
	Summary: The Commission will consider whether to adopt petitioners' requested interpretations of these provisions relating to broadcasting of news documentaries and political debates.
Enforcement	
1	Title: Application for Review filed by WACCO, Inc. of the Mass Media Bureau's ruling of May 18, 1983.
	Summary: The Commission will consider whether or not to reverse the Bureau's rulings with respect to a broadcast licensee's obligations under the Fairness Doctrine.
2	Title: Petition for Declaratory Ruling filed by CBS Inc. Gaylord Broadcasting Company, Metromedia, Inc., and the National Association of Broadcasters.
	Summary: The Commission will consider request to declare that when time is sold for "political" advertisements," whether during or outside a campaign period, the broadcaster has no obligations to provide free time to any person or group.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

S–1551–83 Filed 11–3–83; 11:53 am]

BILLING CODE 6712–01–M

federal register

Monday
November 7, 1983

Part II

Department of the Interior

Bureau of Indian Affairs

Statute of Limitations Claims List

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Statute of Limitations Claims List

November 1, 1983.

AGENCY: Department of the Interior.

ACTION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

SUMMARY: This notice lists all potential pre-1966 Indian damage claims submitted to the Department of the Interior's Statute of Limitations Program by tribes, groups, and individual Indians pursuant to Sec. 4(a) of the Indian Claims Limitation Act of 1982, Pub. L. 97–394. The claims are grouped by Indian tribes. Excluded from this list are claims which have no legal merit whatsoever or which were not sufficiently identified as a claim. The listing of a claim does not signify that the Department believes the claim has legal merit. This notice, together with the list of claims published in the **Federal Register** on March 31, 1983 (Vol. 48, No. 63, Part V), constitute all the known pre-1966 Indian damage claims.

DATE: This notice establishes that any right of action for claims not appearing in this notice or the notice published in the **Federal Register** on March 31, 1983, shall be barred 60 days after the date of this publication. For claims included on either of the published lists, the statute of limitations does not begin to run until the Secretary of the Interior takes certain actions.

FOR FURTHER INFORMATION CONTACT:

Aberdeen Area Director, Bureau of Indian Affairs, 115 4th Avenue, S.E., Aberdeen, South Dakota 57401, Telephone: (605) 225–0250;

Albuquerque Area Director, Bureau of Indian Affairs, 5301 Central Avenue, N.E., P.O. Box 8327, Albuquerque, New Mexico 87108, Telephone: (505) 766–3170;

Anadarko Area Director, Bureau of Indian Affairs, Federal Building, P.O. Box 368, Anadarko, Oklahoma 73005, Telephone: (405) 247–6673;

Billings Area Director, Bureau of Indian Affairs, 316 North 26th Street, Billings, Montana 59101, Telephone: (406) 657–6315;

Eastern Area Director, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, Telephone: (703) 235–2571;

Juneau Area Director, Bureau of Indian Affairs, Federal Building, P.O. Box 3–8000, Juneau, Alaska 99802, Telephone: (907) 586–7177;

Minneapolis Area Director, Bureau of Indian Affairs, Chamber of Commerce Bldg., 15 South 5th Street, 6th Floor, Minneapolis Minnesota 55402, Telephone: (612) 725–2906;

Muskogee Area Director, Bureau of Indian Affairs, Old Federal Building, Muskogee, Oklahoma 74401, Telephone: (918) 687–2295;

Navajo Area Director, Bureau of Indian Affairs, Window Rock, Arizona 86515, Telephone: (602) 871–5151;

Phoenix Area Director, Bureau of Indian Affairs, 3030 North Central, P.O. Box 7007, Phoenix, Arizona 85011, Telephone: (602) 261–2305;

Portland Area Director, Bureau of Indian Affairs, 1425 Irving Street, N.E., Portland, Oregon 97208, Telephone: (503) 231–6702; and

Sacramento Area Director, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825, Telephone: (916) 484–6682.

SUPPLEMENTARY INFORMATION: The Indian Claims Limitation Act of 1982, Pub. L. 97–394, extends the federal statute of limitations governing pre-1966 Indian damage claims (28 U.S.C. 2415), which was due to expire on December 31, 1982. A claim subject to the statute of limitations in Pub. L. 97–394 is an Indian claim for money damages which arose prior to July 18, 1966. Claims against the United States are not governed by this law, only money damage claims against persons, corporations, states, or any other entities except the Federal Government. Claims for title to land are also not governed by this statute of limitations. The vast majority of the listed claims involve trespasses to Indian land.

This notice lists all potential Indian damage claims, which have been submitted to the Bureau of Indian Affairs by tribes, groups, or individual Indians pursuant to Sec. 4(a) of the Indian Claims Limitation Act, Pub. L. 97–394.

For claims not included on this list or the list of claims published in the **Federal Register** on March 31, 1983, any right of action shall be barred 60 days after the publication of this supplemental list. For all claims included on either of the published lists, the statute of limitations does not begin to run until the Secretary takes certain actions. If the Secretary decides to reject any claim or category of claims included on the two lists, a report must be sent to the appropriate tribe whose rights or the rights of whose members could be affected by a rejection. The report will identify each separate claim being rejected, list the names of potential plaintiffs and defendants, if known or reasonably ascertainable, and briefly set forth the reason or reasons for rejection. A simple written notice of rejection will be sent to individual Indian claimants, if their identities and addresses are known or reasonably ascertainable from Bureau of Indian Affairs' records. As soon as possible after a report has been forwarded to a tribe, the Secretary shall publish a notice in the **Federal Register** identifying the claims covered in the report. Any right of action on claims rejected by the Secretary and covered in the report shall be barred unless a complaint is filed within one year after the notice of rejection is published in the **Federal Register**. After a report has been issued, any Indian claimant may request the Secretary to provide any non-privileged information relating to any claim covered by the report.

If the Secretary determines that a claim or a category of claims should be resolved legislatively, he may submit legislative proposals or reports to Congress. Any right of action on a claim covered by a legislative proposal or report shall be barred, if the complaint is not filed within three years after the legislative proposal or report is submitted to Congress.

It is important to remember that, for claims contained on either of the lists, the statute of limitations does not begin to run until such time as the Secretary formally rejects a claim or submits a legislative proposal or report to Congress.

The road trespass claims published in the **Federal Register** on March 31, 1983, have been updated and corrected for the Billings Area. Numerous errors were discovered when aerial photos were used to verify land descriptions on land status maps. This notice contains a complete updated inventory of road trespass claims for the Billings Areas, which supersedes the Billings Area road trespass claims contained in the **Federal Register** publication of March 31, 1983. The same claim numbers as those appearing in the March 31, 1983, publication have been assigned to the corrected claims.

Also, in the **Federal Register** of March 31, 1983, the table of contents referenced only Arapahoe Indians with regard to claims arising within the Wind River Agency. All claims that were published on March 31, 1983, for the Arapahoe Tribe are for both the Shoshone and Arapahoe Tribes and their members.

For the fishery damage claims previously and currently listed under Tribal Codes P00000, P06000, and P10000, the indication of "No tribes or allottees identified" under the "Allottee"

heading is not intended to indicate that there were no tribal or individual fishing rights affected. For these claims, there may be more than one tribe or individual claiming fishing rights which were adversely affected by the particular obstruction. Publication of these claims is intended to preserve the potential rights of action of any affected Indian tribe or individual.

Because of the numerous claims listed in the document, this notice may be subject to technical clarification or change.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Instruction Sheet

Each claim has been assigned a nine or ten character identification number (a letter followed by eight or nine numbers). The first six characters identify a specific Bureau of Indian Affairs' Area Office, Agency Office, and tribe. The last three or four characters represent the specific number assigned to that claim. For example, A013400001 indicates:

A01—Adberdeen Area Office/ Cheyenne River Agency;

340—Cheyenne River Sioux Tribe; and

0001—Claim number one.

To locate a claim, begin with the Table of Contents, which lists each tribe (grouped by Area Office and Agency), and the pages where the claims for that tribe or its members can be found. Individual Indian claims are listed under the tribe of which the original Indian allottee was a member. The claims list has been reproduced by photographing two pages of the list to each **Federal Register** page. The page number referred to in the Table of Contents is located at the top center above the name of the Area Office, and is not the five digit **Federal Register** page number located on the outer portion of each page.

If a tribe is not listed in the Table of Contents, no claim was identified for that tribe or its members.

Each page of claims contains five columns of information under the headings: Tribe, Case, Allottee, Allotment, and Type Description.

Tribe: This column contains the six character code number (explained above), which identifies the Area Office/Agency and Tribe.

Case: The three or four digit number under this column represents the specific number assigned to that claim.

Allottee: This column lists the name of the original Indian allottee, if the claim is an individual claim. For tribal claims, the word "tribal" has been inserted.

Allotment: This column lists the allotment number of the original allottee. If the land has no allotment number, the letters N/A (Not Applicable) have been inserted.

Type of Claim: This column briefly describes the nature of the claim. Because of space limitations, a large number of claims have been described simply as Forced Fee or Secretarial Transfer. A Forced Fee claim involves the issuance of a fee simple patent by the Department of the Interior to an Indian allottee before the expiration of the trust period and allegedly without the consent of the allottee. A Secretarial Transfer claim involves the sale of an Indian allotment in heirship status by the Department of the Interior without the consent of all the beneficial heirs.

If, after locating a claim on the list, you desire further information, call or write the Area Office under which your tribe is listed. The names, addresses, and telephone numbers for all Area Offices are contained in the **FOR FURTHER INFORMATION CONTACT** section of this document. Be sure to include the complete identification number for your claim in any correspondence with the Bureau of Indian Affairs' Area or Agency Office. If you cannot find a claim on the list or you need help in locating a claim, call the appropriate Area Office or your tribe.

BILLING CODE 4310-02-M

ABERDEEN AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
A00370	0001	SIOUX NATION	NA	SIOUX SANITORIUM
A01340	3401	TRIBAL	2138CR	ROAD TRESPASS
A04301	0178	YOUNG WOMAN	A496	ROAD IN TRESPASS
	0179	MASON JESSE SR.	A531	UTILITY IN TRESPASS
	0180	FOOLISH WOMAN	A607	UTILITY IN TRESPASS
	0181	MANY RIBS ELLA	1620	MINERAL
	0182	DANKS CLARA HALL	245	FORCED FEE PATENT
	0183	DANKS CLARA HALL	341	FORCED FEE PATENT
	0184	DANKS CLARA HALL	1030	FORCED FEE PATENT
	0185	BEAVER WOMAN	A33	FORCED FEE PATENT
	0186	BEAVER WOMAN	1838	FORCED FEE PATENT
	0187	JONES MORGAN CROWS GHOST	651	FORCED FEE PATENT
	0188	JONES MORGAN CROWS GHOST	1206	FORCED FEE PATENT
	0189	JONES MORGAN CROWS GHOST	A504	FORCED FEE PATENT
	0190	SITTING OTTER	608A	ROAD IN TRESPASS
	0191	HEART MARGARET B	1091A	ROAD IN TRESPASS
	0192	MANY PAINTS MRS. PACKS WOLF	680A	ROAD IN TRESPASS
	0193	MANY PAINTS MRS. PACKS WOLF	1596	ROAD IN TRESPASS
	0194	DRAGS WOLF GEORGE	528A	ROAD IN TRESPASS
	0195	DRAGS WOLF JAMES WHIRLWIND	114	ROAD IN TRESPASS
	0196	LITTLE SIOUX	138A	FORCED FEE PATENT
	0197	GRINNELL JOHN	1052	FORCED FEE PATENT
	0198	GRINNELL JOHN	193	FORCED FEE PATENT
A06344	1429	DAVIDSON JOHN	1617	FORCED FEE PATENT
	1430	CLIFFORD CHARLES JR.	1638	FORCED FEE PATENT
	1431	STIRK NELLIE	2670	FORCED FEE PATENT
	1432	CLIFFORD JOHN M.	2672	FORCED FEE PATENT
	1433	MC GAA WILLIAM	2674	FORCED FEE PATENT
	1434	GIBBONS WILLIAM	2678	FORCED FEE PATENT
	1435	JENSEN MINNIE	2609	FORCED FEE PATENT
	1436	PALMIER TAYLOR	2706	FORCED FEE PATENT
	1437	PALMIER CHARLES	2715	FORCED FEE PATENT
	1438	HARVEY JOHN	2721	FORCED FEE PATENT
	1439	HARVEY JACOB	2722	FORCED FEE PATENT
	1440	O ROURKE CHARLES	2916	FORCED FEE PATENT
	1441	RUNNELS MAUD STIRK	2962	FORCED FEE PATENT
	1442	SHERMAN GEORGE	3664	FORCED FEE PATENT
	1443	BIRD NECKLACE LULU	6481	OLD AGE ASSISTANCE
	1444	LITTLE WADE	7633	OLD AGE ASSISTANCE
	1445	NEWTTDY SADIE	7037	OLD AGE ASSISTANCE
	1446	ROSE ADA	3804	OLD AGE ASSISTANCE
	1447	SIERS JENNIE	4842	OLD AGE ASSISTANCE
	1448	WHITEHORSE MARY YELLOW WOOD	222	OLD AGE ASSISTANCE
	1449	HOLY HORSE HELEN	3715	OLD AGE ASSISTANCE
	1450	HERNANDEZ FLORENCIO	1591	OLD AGE ASSISTANCE
	1451	YELLOW BULL ALBERT	7834	OLD AGE ASSISTANCE
	1452	LITTLE KILLER	7293	OLD AGE ASSISTANCE
	1453	TRIBAL	NA	TREATY VIOLATION
	1454	TRIBAL	NA	TREATY VIOLATION
	1455	TRIBAL	NA	TREATY VIOLATION
	1456	TRIBAL	NA	RAILROAD IN TRESPASS
	1457	TRIBAL	NA	UTILITY IN TRESPASS
	1458	TRIBAL	NA	WRONGFUL MOVE OF CAME
	1459	POOR THUNDER LUKE	7209	OLD AGE ASSISTANCE
	1460	BADCOB GEORGE	4240	OLD AGE ASSISTANCE
A07345	2079	KILLS IN WATER CAROLINE DOUVILLE	1050	FORCED FEE PATENT
	2080	GREENWOOD FANNY	2348	FORCED FEE PATENT
	2081	BORDEAUX ALEXANDER JR.	4883	FORCED FEE PATENT
	2082	LEIGHTON GEORGE	299	FORCED FEE PATENT
	2083	HUDSON JOSEPH	276	FORCED FEE PATENT
	2084	MC CLOSKEY ERNEST	416	FORCED FEE PATENT
	2085	DEARINGER ELIZA DYER	499	FORCED FEE PATENT
	2086	FLAMMOND CORRINE JANNIS	3472	FORCED FEE PATENT
	2087	LARNER NELLIE S. WHITING	11	FORCED FEE PATENT
	2088	SCISSONS JOHN JR.	4	FORCED FEE PATENT
	2089	DILLON GEORGE	436	FORCED FEE PATENT
	2090	DUBRAY JOHN CHARLES	2339	FORCED FEE PATENT
	2091	FARMER LEE	5221	FORCED FEE PATENT

ABERDEEN AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
A07345	2092	LAMOUREAUX LOUISE	3276RS	FORCED FEE PATENT
	2093	COLOMB EDWARD	2303	FORCED FEE PATENT
	2094	GARNEAU JOSEPH	324	FORCED FEE PATENT
	2095	GARNEAU AMBROSE	803	FORCED FEE PATENT
	2096	GARNEAU EDWARD	1933	FORCED FEE PATENT
	2097	GARNEAU JOSEPHINE CORDIER	1899	FORCED FEE PATENT
	2098	JANNIS FRANK	1457	FORCED FEE PATENT
	2099	MORAN LOUIS	809	FORCED FEE PATENT
	2100	MORAN JESSE	1146	FORCED FEE PATENT
	2101	DU BRAY LUCY LUCILLE	3499	FORCED FEE PATENT
	2102	WEAVER JENNIE COLOMBE	2305	FORCED FEE PATENT
	2103	TRUDELL ADA L.	4483	FORCED FEE PATENT
	2104	DU BRAY PETER	2340	FORCED FEE PATENT
	2105	TRUDELL LEVI F. JR.	4482	FORCED FEE PATENT
	2106	EMERY CLARENCE	2995	FORCED FEE PATENT
	2107	WHIRLWIND SOLDIER CLEMENT	865	FORCED FEE PATENT
	2108	BORDEAUX FRANCIS	2982	FORCED FEE PATENT
	2109	GREENWOOD LOUIS	2351	FORCED FEE PATENT
	2110	WOOD KATE GREENWOOD	2353	FORCED FEE PATENT
	2111	GREENWOOD FANNIE	2348	FORCED FEE PATENT
	2112	YOUNG OLIVE COURNOYER	2217	FORCED FEE PATENT
	2113	FERRIN MARY	3550	FORCED FEE PATENT
	2114	BLUE THUNDER JOHN	885	FORCED FEE PATENT
	2115	MC CLOSKEY MARY	4155	FORCED FEE PATENT
	2116	PRUE JOSEPH	419	FORCED FEE PATENT
	2117	WRIGHT THOMAS	1509	FORCED FEE PATENT
	2118	MC CLOSKEY MARY	4155	FORCED FEE PATENT
	2119	MC KENZIE FRANCIS W.	4342	FORCED FEE PATENT
	2120	MC KENZIE VALENTINE	2296	FORCED FEE PATENT
	2121	MC KENZIE VALENTINE	2296	FORCED FEE PATENT
	2122	EAGLE FEATHER FELIX	3394	FORCED FEE PATENT
	2123	EAGLE FEATHER RALPH	1308	FORCED FEE PATENT
	2124	DILLON GEORGE	436	FORCED FEE PATENT
	2125	MC CLOSKEY MARY WHITE THUNDER	413	FORCED FEE PATENT
	2126	FLOOD WILLIAM	1486	FORCED FEE PATENT
	2127	FLOOD JULIA LARVIE	2426	FORCED FEE PATENT
	2128	VALANDRA JULIA	1212	FORCED FEE PATENT
	2129	VALANDRA JULIA	1212	FORCED FEE PATENT
	2130	LITTLE MONEY JEMMETTE	2815	FORCED FEE PATENT
	2131	IOTT JESSE	826RS	FORCED FEE PATENT
	2132	GREEN JAMES O. SCHMIDT	798	FORCED FEE PATENT
	2133	CRAZY BULL ELLEN MORAN	810	FORCED FEE PATENT
	2134	CORDIER JOHN	475	FORCED FEE PATENT
	2135	PENEAUX HENRY	384	FORCED FEE PATENT
	2136	BRAVE HAWK RERE (RAGGED) JESSE	3724	FORCED FEE PATENT
	2137	MC LEAN THOMAS R.	435	FORCED FEE PATENT
	2138	SCHMIDT (IOTT) JOSEPH	801	FORCED FEE PATENT
	2139	CORDIER JOHN	475	FORCED FEE PATENT
	2140	CORDIER JOHN	1201	FORCED FEE PATENT
	2141	FITZMAURICE MARY K.	3118	FORCED FEE PATENT
	2142	FARMER CLARA	1901	FORCED FEE PATENT
	2143	FARMER LEE	5221	FORCED FEE PATENT
	2144	WALN ROBERT	2456	FORCED FEE PATENT
	2145	WALN LULU BORDEAUX	1043	FORCED FEE PATENT
	2146	DESERSA LAURA	1116	FORCED FEE PATENT
	2147	DESERSA EDWARD	36	FORCED FEE PATENT
	2148	BONSER JACK LAVERNE	3824	FORCED FEE PATENT
	2149	KIMMEL ELLEN	141	FORCED FEE PATENT
	2150	FERRIN EMILY STANDING BEAR	3649	FORCED FEE PATENT
	2151	WHITE BUFFALO JOSEPH	760	FORCED FEE PATENT
	2152	WHITE BUFFALO LIZZIE	2929	FORCED FEE PATENT
	2153	RED HILL JOHN	120	FORCED FEE PATENT
	2154	DE CORY MARGARET	35RS	FORCED FEE PATENT
	2155	BEAUVAIS AMY	4835	FORCED FEE PATENT
	2156	SMASHED ICE JAMES	5308	FORCED FEE PATENT
	2157	SHAW JESSE	509	FORCED FEE PATENT
	2158	EDWARDS ROSE DECORY	12	FORCED FEE PATENT
	2159	SCHMIDT NANCY	696	FORCED FEE PATENT

ABERDEEN AREA STATUTE CLAIMS

ABERDEEN AREA STATUTE CLAIMS

ABERDEEN AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
A07345	2160	ARROW MARY SCHMIDT	3589	FORCED FEE PATENT
	2161	GARY GEORGE	3856	FORCED FEE PATENT
	2162	LEIGHTON RICHARD	298	FORCED FEE PATENT
	2163	LEIGHTON MABEL	300	FORCED FEE PATENT
	2164	WRIGHT EMMA GARY	3853	FORCED FEE PATENT
	2165	SCHMIDT LAURA	295	FORCED FEE PATENT
	2166	BORDEAUX JOSEPH	716	FORCED FEE PATENT
	2167	BORDEAUX SARAH	732.5	FORCED FEE PATENT
	2168	LA ROCHE EMMA	776	FORCED FEE PATENT
	2169	WHITE LABAN JAMES	1422	FORCED FEE PATENT
	2170	SCHWEIGMAN JAMES	1008	FORCED FEE PATENT
	2171	MARSHALL MELINDA	3468	FORCED FEE PATENT
	2172	THUNDER HAWK WILLIAM	1943	FORCED FEE PATENT
	2173	ROUBIDEAUX MARTHA B.	2969	FORCED FEE PATENT
	2174	SIMMONS PHOEBE WHITEWOMAN	1894	FORCED FEE PATENT
	2175	HARRIS BELLE BONSER	143	FORCED FEE PATENT
	2176	CLAIRMONT LIZZIE	1224	FORCED FEE PATENT
	2177	SCHWEIGMAN LUCY SHELL	1841RS	FORCED FEE PATENT
	2178	SAUNOOKE PEARL BONSER	147	FORCED FEE PATENT
	2179	DORIAN LOUISE CUTSHALL	643	FORCED FEE PATENT
	2180	MILK EVA	1006	FORCED FEE PATENT
	2181	MILK ROBERT	964	FORCED FEE PATENT
	2182	WHIRLWIND EMILY	5645	FORCED FEE PATENT
	2183	BONSER JOHN	3482	FORCED FEE PATENT
	2184	CORDIER JOSEPH	1931	FORCED FEE PATENT
	2185	CORDIER ANNIE PRUE	123	FORCED FEE PATENT
	2186	HER HOLY CANE	1460	FORCED FEE PATENT
	2187	WEISS PETER	1462	FORCED FEE PATENT
	2188	IRON WING HARRY	495	FORCED FEE PATENT
	2189	IRON WING ELIZABETH	544	FORCED FEE PATENT
	2190	SCOTT ROSE EMERY	2998	FORCED FEE PATENT
	2191	HOWARD GEORGE	1373	FORCED FEE PATENT
	2192	HOWARD JOSIE ROUBIDEAUX	353	FORCED FEE PATENT
	2193	PRUE LOUISE DESERSA	3015	FORCED FEE PATENT
	2194	DESERSA ALEXANDER	3013	FORCED FEE PATENT
	2195	FAMOUS THUNDER ALEXANDER	3839	FORCED FEE PATENT
	2196	GOOD VOICE MOSES	186	FORCED FEE PATENT
	2197	GOOD VOICE ELLEN BORDEAUX	713	FORCED FEE PATENT
	2198	SCHMIDT MARY F.	291.3	FORCED FEE PATENT
	2199	HECK JACOB	694	FORCED FEE PATENT
	2200	SMITH TODD SR.	520	FORCED FEE PATENT
	2201	GARNEAU JOSEPH JR.	324	FORCED FEE PATENT
	2202	GARNEAU (W. BUFFALO) FELIX	325	FORCED FEE PATENT
	2203	WHIRLWIND SOLDIER GEORGE	2398	FORCED FEE PATENT
	2204	AFRAID OF EAGLE MARY SMITH	1336	FORCED FEE PATENT
	2205	SMITH CLAUDE	2973	FORCED FEE PATENT
	2206	WALSH ELSIE DORIAN	409	FORCED FEE PATENT
	2207	DORIAN ELIZABETH	408	FORCED FEE PATENT
	2208	ROUBIDEAUX MITCHELL	1815	FORCED FEE PATENT
	2209	EASTMAN EMMA	365	FORCED FEE PATENT
	2210	SHIELD GRACE COOK	1635	FORCED FEE PATENT
	2211	WHIRLWIND SOLDIER LIZZIE	2388.5	FORCED FEE PATENT
	2212	CHARGING IRON SHOOTER	156	FORCED FEE PATENT
	2213	LITTLE BALD EAGLE DINAH	394	FORCED FEE PATENT
	2214	GARY IDA	397	FORCED FEE PATENT
	2215	MENARD LOUIS JR.	547	FORCED FEE PATENT
	2216	MENARD AMELIA	3026	FORCED FEE PATENT
	2217	JACKSON JOSEPH	818	FORCED FEE PATENT
	2218	SHIELD MORRIS	163	FORCED FEE PATENT
	2219	SHIELD GRACE	163.5	FORCED FEE PATENT
	2220	YELLOW FOX MINNIE WHITE	452	FORCED FEE PATENT
	2221	WHITE BLANKET JOHN	2391	FORCED FEE PATENT
	2222	GREEN NELLIE SCHMIDT	600	FORCED FEE PATENT
	2223	LITTLE CROW ISAAC	3207RS	FORCED FEE PATENT
	2224	MUGGINS JOSEPH	3052	FORCED FEE PATENT
	2225	EASTMAN EMMA	365	FORCED FEE PATENT
	2226	EASTMAN DAVID	1500	FORCED FEE PATENT
	2227	EASTMAN EMMA	365	FORCED FEE PATENT

ABERDEEN AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
A07345	2228	BRANDON HOWARD	5366	FORCED FEE PATENT
	2229	MOORE CLEMENT	3632	FORCED FEE PATENT
	2230	PUNY ERNEST	729	FORCED FEE PATENT
	2231	CHAMBONNEAU NETTIE	3548	FORCED FEE PATENT
	2232	MILLER EDWARD	264	FORCED FEE PATENT
	2233	EMERY HATTIE TRUDELL	6496	FORCED FEE PATENT
	2234	WEISS JOHN	1461	FORCED FEE PATENT
	2235	DECORY GEORGE	2009	FORCED FEE PATENT
	2236	FERRIN JULIA DECORY	3066	FORCED FEE PATENT
	2237	YELLOW BIRD ANGELIQUE PRUE	124	FORCED FEE PATENT
	2238	FOUR ROADS ANNIE PRUE	123	FORCED FEE PATENT
	2239	SCHWEIGMAN LOUIS	2527	FORCED FEE PATENT
	2240	DECORY FRANCES	1470	FORCED FEE PATENT
	2241	FLOOD DANIEL	1485	FORCED FEE PATENT
	2242	BRAVE BIRD ROBERT	1656	FORCED FEE PATENT
	2243	RED HILL JOHN	120	FORCED FEE PATENT
	2244	NIGHT PIPE ANDREW	176	FORCED FEE PATENT
	2245	DORIAN DAVID	1481	FORCED FEE PATENT
	2246	SHAW LUCY	340	FORCED FEE PATENT
	2247	MUDLIN JOSEPHINE DESERSA	545	FORCED FEE PATENT
	2248	DESERSA SUSAN	355	FORCED FEE PATENT
	2249	MUDLIN JOSEPHINE DESERSA	545	FORCED FEE PATENT
	2250	MOORE JOHN	1592	FORCED FEE PATENT
	2251	MOORE JOHN	1592	FORCED FEE PATENT
	2252	WHIRLWIND SOLDIER CLEMENT	865?	FORCED FEE PATENT
	2253	JACKSON ANNA	819	FORCED FEE PATENT
	2254	JACKSON HELEN	820	FORCED FEE PATENT
	2255	JACKSON NARCISSE	822	FORCED FEE PATENT
	2256	JACKSON EDWARD	821	FORCED FEE PATENT
	2257	DU BRAY CHARLES	2339	FORCED FEE PATENT
	2258	BRAVE BOY NELLIE	3041	FORCED FEE PATENT
	2259	LONE WOLF WILLARD	2924	FORCED FEE PATENT
	2260	JORDAN WILLIAM SR.	171	FORCED FEE PATENT
	2261	ONE FEATHER JOSEPH	338	FORCED FEE PATENT
	2262	BONSER JOHN	2368	FORCED FEE PATENT
	2263	WEISS JOHN	1461	FORCED FEE PATENT
	2264	SAUL MOSES	499RS	FORCED FEE PATENT
	2265	SAUL ELIZA MC KENZIE	954	FORCED FEE PATENT
	2266	GUNHAMMER LAURA COURTIS	51	FORCED FEE PATENT
	2267	COLLINS WELLMAN	2863	FORCED FEE PATENT
	2268	LONG CROW EDWARD	2742	FORCED FEE PATENT
	2269	FLAMMOND CORRINE JANIS	3472	FORCED FEE PATENT
	2270	GOOD DAY ESTELLA	2595	FORCED FEE PATENT
	2271	HAUKAAS MARY RAMIS	2312	FORCED FEE PATENT
	2272	SHAW AGNES	3535	FORCED FEE PATENT
	2273	SHALLEY ELIZA KICKS	2381	FORCED FEE PATENT
	2274	HAUKAAS AMELIA RAMIS	2310	FORCED FEE PATENT
	2275	BETTELYOUN SUSAN	1449.5	FORCED FEE PATENT
	2276	JORDAN ELLA A.	3479	FORCED FEE PATENT
	2277	JORDAN COLLINS C.	3478	FORCED FEE PATENT
	2278	COLOMB DAVID	2256	FORCED FEE PATENT
	2279	CORDIER JOSEPHINE	1899	FORCED FEE PATENT
	2280	JARVIS JOSEPHINE JANNIS	1457.5	FORCED FEE PATENT
	2281	BORDEAUX FELIX	718	FORCED FEE PATENT
	2282	BORDEAUX ANNIE	1153	FORCED FEE PATENT
	2283	ARCOKEN JOHN	1195	FORCED FEE PATENT
	2284	DU BRAY JOHN CHARLES	2339	FORCED FEE PATENT
	2285	HAWK GRACE	2683	FORCED FEE PATENT
	2286	RAYMOND JAMES GARFIELD	2287	FORCED FEE PATENT
	2287	RAYMOND VICTORIA	3541	FORCED FEE PATENT
	2288	DION AMY	207	FORCED FEE PATENT
	2289	DION JOHN	983	FORCED FEE PATENT
	2290	LEIGHTON ELLA IRON WING	3865	FORCED FEE PATENT
	2291	PRETTY BIRD DANIEL	1179	FORCED FEE PATENT
	2292	SCISSONS WILLIAM	3006	FORCED FEE PATENT
	2293	JOHNSON MINNIE BORDEAUX	2979	FORCED FEE PATENT
	2294	MOON ELIZABETH MC CLOSKEY	5470	FORCED FEE PATENT
	2295	IRON WING HARRY	495	FORCED FEE PATENT

ABERDEEN AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
A07345	2296	IRON WING HARRY	495	FORCED FEE PATENT
	2297	GIROUX GEORGE	2332	FORCED FEE PATENT
	2298	BORDEAUX EDWARD	3328	FORCED FEE PATENT
	2299	LEIGHTON LUCY	3773	FORCED FEE PATENT
	2300	ROUBIDEAUX ANNIE GIROUX	3019	FORCED FEE PATENT
	2301	DIDIER JOHN	5394	FORCED FEE PATENT
	2302	PRUE DAVID	423	FORCED FEE PATENT
	2303	FLOOD MARY	1488	FORCED FEE PATENT
	2304	EASTMAN ANDREW DEAF-DUMB	1520	FORCED FEE PATENT
	2305	PRUE OLIVER	121	FORCED FEE PATENT
	2306	CHARBONNEAU JENNIE M.	1465	FORCED FEE PATENT
	2307	RUNS RECKLESS	4184	FORCED FEE PATENT
	2308	WHITE TAIL IDA LENEAUGH	96	FORCED FEE PATENT
	2309	WRIGHT EMMA	476RS	FORCED FEE PATENT
	2310	WRIGHT JENNIE	1504.5	FORCED FEE PATENT
	2311	GIROUX MARJORIE COURTIS	49	FORCED FEE PATENT
	2312	COURTIS WILLIAM	50	FORCED FEE PATENT
	2313	MC CLOSKEY CLARA COURTIS	48	FORCED FEE PATENT
	2314	DESERSA JOSEPHINE	5435	FORCED FEE PATENT
	2315	YELLOW ROBE CHAUNCEY	974	FORCED FEE PATENT
	2316	HERMAN JAMES	640	FORCED FEE PATENT
	2317	JONES JOSEPHINE	2767.5	FORCED FEE PATENT
	2318	DION PAUL OLIVER	935	FORCED FEE PATENT
	2319	CONOYER LOUISE REYNOLD	S273	FORCED FEE PATENT
	2320	CONOYER SARAH DOUVILLE	2715	FORCED FEE PATENT
	2321	MAHAN ANNIE JONES	2910	FORCED FEE PATENT
	2322	WALKING ROCK SARAH	20	FORCED FEE PATENT
	2323	BOUCHER JOSEPH	3770	FORCED FEE PATENT
	2324	LA POINTE JOHN JR.	2876	FORCED FEE PATENT
	2325	FOOT STEPHEN	2766	FORCED FEE PATNET
	2326	CRAZY BULL SAMUEL	2777	FORCED FEE PATENT
	2327	JONES HUGH	2767	FORCED FEE PATENT
	2328	ECKLAND IDA GARY	4781	FORCED FEE PATENT
	2329	CORDRY MARY ANN BEAVAIS	491	FORCED FEE PATENT
	2330	LUNDERMAN SANFORD	3927	FORCED FEE PATENT
	2331	LUNDERMAN CECELIA HECK	513	FORCED FEE PATENT
	2332	LUNDERMAN JULIA	3926	FORCED FEE PATENT
	2333	DRAPEAU EMMA	6489	FORCED FEE PATENT
	2334	MC GHEE MARY	6481	FORCED FEE PATENT
	2335	LANGDEAU LUCY BLACKBIRD	6474	FORCED FEE PATENT
	2336	GAUGHEN JULIA	6485	FORCED FEE PATENT
	2337	SCHMEIGMAN JAMES	1008	FORCED FEE PATENT
	2338	FLOOD LOUISE DU BRAY	1469.5	FORCED FEE PATENT
	2339	SULLY FRANK	6464	FORCED FEE PATENT
	2340	SULLY JOHN	6478	FORCED FEE PATENT
	2341	BLACKBIRD ESTELLE	6472	FORCED FEE PATENT
	2342	CRAZY BULL JOSEPH	2776	FORCED FEE PATENT
	2343	FOOTE STEPHEN	2766	FORCED FEE PATENT
	2344	WHITE BIRD SAMUEL	2807	FORCED FEE PATENT
	2345	STRONG MIND OR SILAS	2701	FORCED FEE PATENT
	2346	DIDIER OLA GILBERT	2914	FORCED FEE PATENT
	2347	SHAW JOSEPHINE	3534	FORCED FEE PATENT
	2348	HAUKAAS ANNIE WILEY	2377	FORCED FEE PATENT
	2349	BORDEAUX WINNIE MINNIE	2267	FORCED FEE PATENT
	2350	STETTER RUTH LAMOUREAUX	3516	FORCED FEE PATENT
	2351	LAMOUREAUX CLAUDE V.	3513	FORCED FEE PATENT
	2352	LAMOUREAUX PALMER HOWARD	3514	FORCED FEE PATENT
	2353	LUNDERMAN CECELIA HECK	513RS	FORCED FEE PATENT
	2354	CORDIER CHARLES CAMPBELL	1190	FORCED FEE PATENT
	2355	ROOKS ALICE LARVIE	2176	FORCED FEE PATENT
	2356	LARVIE MARY	2175.5	FORCED FEE PATENT
	2357	LARVIE BENJAMIN	2425	FORCED FEE PATENT
	2358	ANTOINE CHARLES	953	FORCED FEE PATENT
	2359	HERMAN THOMAS	3175	FORCED FEE PATENT
	2360	MILK EUNICE	3527	FORCED FEE PATENT
	2361	EMERY CLEMENTINE	3203	FORCED FEE PATENT
	2362	WAR BONNET CHARLES YANKTON	961	FORCED FEE PATENT
	2363	MC KENZIE NARCISSE	635	FORCED FEE PATENT

ABERDEEN AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
A07345	2364	MC KENZIE FRANK	633	FORCED FEE PATENT
	2365	PLENTY STARS	238	FORCED FEE PATENT
	2366	LEWIS MARSALINE LOUISE	15	FORCED FEE PATENT
	2367	COMES OUT BEAR BENJAMIN	247	FORCED FEE PATENT
	2368	METTIE TURGEON PETE	3150	FORCED FEE PATENT
	2369	MILLER THERESA	260	FORCED FEE PATENT
	2370	LUNDERMAN ELLEN	253	FORCED FEE PATENT
	2371	METCALF JOHN GOOD ROAD	1204RS	FORCED FEE PATENT
	2372	CLAYMORE JUDSON	2918	FORCED FEE PATENT
	2373	CLAIRMONT RICHARD	702	FORCED FEE PATENT
	2374	FROST EMMA BRIDGEMAN	1962	FORCED FEE PATENT
	2375	BEAR LOOKS BEHIND PETER	3603	FORCED FEE PATENT
	2376	DIDIER EMMA CLAIRMONT	701	FORCED FEE PATENT
	2377	BORDEAUX FELIX 1/2 INTEREST	718	FORCED FEE PATENT
	2378	BORDEAUX ANNIE	1153	FORCED FEE PATENT
	2379	BORDEAUX MARY	710.5	FORCED FEE PATENT
	2380	BORDEAUX JOHN	710	FORCED FEE PATENT
	2381	GIROUX RALPH	3537	FORCED FEE PATENT
	2382	RICHARDS GERTRUDE	2399	FORCED FEE PATENT
	2383	BEAUVAIS ALICE	1533	FORCED FEE PATENT
	2384	BORDEAUX NANNIE DORINE	522	FORCED FEE PATENT
	2385	CHASE ALONE/M KILLS ENEMY	1155	FORCED FEE PATENT
	2386	BONSER JACK LAVERNE	3824	FORCED FEE PATENT
	2387	HOWARD GEORGE	1373	FORCED FEE PATENT
	2388	HOWARD JOSIE ROUBIDEAUX®	353	FORCED FEE PATENT
	2389	BIG OWL GEORGE (MOLLIE)	1563	FORCED FEE PATENT
	2390	WHITE BUFFAO	760	FORCED FEE PATENT
	2391	WHITE BUFFALO LIZZIE	2929	FORCED FEE PATENT
	2392	SPOTTED ELK GEORGE	2004	FORCED FEE PATENT
	2393	ROUBIDEAUX JOHN	2947	FORCED FEE PATENT
	2394	HOLY HAWK BLUE LEGS	747	FORCED FEE PATENT
	2395	PAWNEE MARY BORDEAUX	712.5	FORCED FEE PATENT
	2396	BURNETT GROVER 1/3 INTEREST	39	FORCED FEE PATENT
	2397	HAWK CHASING IN DAYLIGHT	3717	FORCED FEE PATENT
	2398	THUNDER HAWK WILLIAM	1943	FORCED FEE PATENT
	2399	EAGLE HAWK DONALD	2950	FORCED FEE PATENT
	2400	RUNNING HORSE MILLIE	1262	FORCED FEE PATENT
	2401	WRIGHT EUNICE 1/3 INTEREST	1388	FORCED FEE PATENT
	2402	ROUBIDEAUX MAGGIE 1/3 INTEREST	5644	FORCED FEE PATENT
	2403	ELK LOOKS BACK CHARLES	2214	FORCED FEE PATENT
	2404	EAGLE THUNDER WILLIAM	1861	FORCED FEE PATENT
	2405	EAGLE DEER PAUL	4010	FORCED FEE PATENT
	2406	GUERUE JOHN	1067	FORCED FEE PATENT
	2407	GUERUE LIZZIE	1066.5	FORCED FEE PATENT
	2408	METCALF WALTER GOOD ROAD	1205	FORCED FEE PATENT
	2409	MC GHEE FRANK	7791	FORCED FEE PATENT
	2410	YOUNG IRON SHELL LOUIS	3104	FORCED FEE PATENT
	2411	SWEAT HOUSE	4127	FORCED FEE PATENT
	2412	RUNNING HORSE CHARLES	1108	FORCED FEE PATENT
	2413	WHIPPLE SALLIE	1256	FORCED FEE PATENT
	2414	LA POINTE SAMUEL	3283	FORCED FEE PATENT
	2415	CORDIER CHARLES	1188	FORCED FEE PATENT
	2416	SANFORD LUNDAERMAN	249A	FORCED FEE PATENT
	2417	JAMES HERMAN	259	FORCED FEE PATENT
	2418	NOBLE LUNDAERMAN	251	FORCED FEE PATENT
	2419	PETER HEPANNA	92	OLD AGE ASSISTANCE
	3144	WALN ROBERT	2456	FORCED FEE PATENT
	3145	WALN LULU BORDEAUX	1043	FORCED FEE PATENT
A09347	0417	GREYBUFFALO SARAH	429	TRESPASS & TITLE
	0418	BUFFALO JOHN	581	TRESPASS AND TITLE
A10302	1016	SITTING WHITE COW	511	SECRETARIAL TRANSFER
	1017	ONJINCA EMILY	1383	SECRETARIAL TRANSFER
	1018	OTTER ROBE HELEN	3265	SECRETARIAL TRANSFER
	1019	BOB TAIL BEAR JESSIE	647	SECRETARIAL TRANSFER
	1020	BOB TAIL BEAR PAUL	644	SECRETARIAL TRANSFER
	1021	STRIKE THE KETTLE	1344	SECRETARIAL TRANSFER
	1022	STRIKE THE KETTLE	3030	SECRETARIAL TRANSFER
	1023	FLY GEORGE	2898	SECRETARIAL TRANSFER

ABERDEEN AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
A10302	1024	BOB TAIL BEAR ANNIE	1345	SECRETARIAL TRANSFER
	1025	BOB TAIL BEAR ANNIE	1345	SECRETARIAL TRANSFER
	1026	BOB TAIL BEAR ANNIE	1345	SECRETARIAL TRANSFER

ABERDEEN AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
A10302	1092	EAGLE ROY LEO	4367	SECRETARIAL TRANSFER
	1093	YELLOW ELK MRS.	3533	SECRETARIAL TRANSFER
	1094	TRIBAL	1427	ILLEGAL DUMPING
	1095	TRIBAL	1427	GRAZING
	1096	TRIBAL	NA	RAILROAD IN TRESPASS
	1097	TAYLOR EMMET	5028	ROAD IN TRESPASS
	1098	TRIBAL	2272	RAILROAD IN TRESPASS
	1099	TRIBAL	9111	RAILROAD IN TRESPASS
	1101	PRETENDS EAGLE BARNEY	824	TAX FORFITURE
	1102	PRETENDS EAGLE JOSEPH	823	RAILROAD IN TRESPASS
	1103	TRIBAL	NA	TREATY VIOLATION
	1104	TRIBAL	511	UTILITY IN TRESPASS
	1105	TRIBAL	NA	UTILITY IN TRESPASS
	1106	TRIBAL	1536	UTILITY IN TRESPASS
	1107	TRIBAL	673	UTILITY IN TRESPASS
	1108	TRIBAL	443	UTILITY IN TRESPASS
	1109	TRIBAL	288	UTILITY IN TRESPASS
	1110	TRIBAL	2871A	UTILITY IN TRESPASS
	1111	SPOTTED HORSE SUNDELESKA	385	GRAZING TRESPASS
	1112	TRIBAL	NA	TREATY/TITLE
	1113	TRIBAL	NA	FLOODING
	1114	TRIBAL	NA	TRESPASS
	1115	TRIBAL	NA	GRAZING
	1116	TRIBAL	NA	GRAZING
	1117	TRIBAL	NA	QUIET TITLE
	1118	TRIBAL	NA	QUIET TITLE
	1119	TRIBAL	NA	QUIET TITLE
	1120	TRIBAL	NA	ILLEGAL DUMPING
	1121	TRIBAL	NA	GRAZING
	1122	TRIBAL	NA	ACCRETED LANDS
A11304	0240	GRANDBOIS LOUISE F. DESJARLAIS	512	OLD AGE ASSISTANCE
	0241	BRIERRE MARY ALPHONSIN	665	OLD AGE ASSISTANCE
	0242	BRUNELL LOUIS	698	OLD AGE ASSISTANCE
	0243	DELORME LOUIS	1019	OLD AGE ASSISTANCE
	0244	GRANDBOIS DAVID	1286	OLD AGE ASSISTANCE
	0245	LA FOUNTAIN PIERRE	1619	OLD AGE ASSISTANCE
	0246	LA FOUNTAIN ISABEL DELONAIS	1620	OLD AGE ASSISTANCE
	0247	MARTELL MARY ROSE CLAQUE	2003	OLD AGE ASSISTANCE
	0248	MORIN ANASTASIA CLAQUE	2111	OLD AGE ASSISTANCE
	0249	MORIN ISADORE	2134	OLD AGE ASSISTANCE
	0250	MORIN MARIE BEAUCHMAN	2153	OLD AGE ASSISTANCE
	0251	POITRA JOSEPH ALFRED	2380	OLD AGE ASSISTANCE
	0252	PREMEAU MARY JUSTINE	2469	OLD AGE ASSISTANCE
	0253	ALLERY MARY LENORE	5177U	OLD AGE ASSISTANCE
	0254	WILKIE PAULINE ALLARD	09885	OLD AGE ASSISTANCE
	0255	DAVIS JOHN B JR.	817	RETAIN IN TRUST
	0256	CHARETTE CLEMENCE LADUCER	A01567	FORCED FEE PATENT
	0257	LADUCER JOSEPH	1566	FORCED FEE PATENT
	0258	LADUCEUR JOSEPH	1566	FORCED FEE PATENT
	0259	BERCIER MARIE MARY ROSE	010466	FORCED FEE PATENT
	0260	BERCIER JOSEPH	5441	FORCED FEE PATENT
A13380	0976	TRIBAL	NA	RAILROAD IN TRESPASS
	0970	TRIBAL	NA	RAILROAD IN TRESPASS
	0971	TRIBAL	NA	RAILROAD IN TRESPASS
	0972	TRIBAL	NA	RAILROAD IN TRESPASS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
A10302	1024	FLY LUKE	2897	SECRETARIAL TRANSFER
	1025	BEARSHIELD MRS. M.	3053	SECRETARIAL TRANSFER
	1026	CHARGING BEAR	2949	SECRETARIAL TRANSFER
	1027	TOWANPIYA	2008	SECRETARIAL TRANSFER
	1028	BRAVE CROW SARAH	1134	SECRETARIAL TRANSFER
	1029	WALKING CLOUD LENORA	2356A	SECRETARIAL TRANSFER
	1030	WALKING ELK MAUDE	3200	SECRETARIAL TRANSFER
	1031	HOLY CHIN JOSEPHINE	3195	SECRETARIAL TRANSFER
	1032	BRINGS WATER MRS. E.	3541	SECRETARIAL TRANSFER
	1033	WALKER MRS. ALBERT	3540	SECRETARIAL TRANSFER
	1034	LITTLE HAWK J.	3678	SECRETARIAL TRANSFER
	1035	LONG CHASE CECELIA	3317	SECRETARIAL TRANSFER
	1036	BULL GHOST MRS.	2930	SECRETARIAL TRANSFER
	1037	CHARGING BEAR MS.	3470	SECRETARIAL TRANSFER
	1038	WITH BEAR JANE MRS.	3496	SECRETARIAL TRANSFER
	1039	HOWEALE SOPHIA	4446	SECRETARIAL TRANSFER
	1040	CRYING STONE JULIA	3865	SECRETARIAL TRANSFER
	1041	IRON DOG MARTHA	1346	SECRETARIAL TRANSFER
	1042	EAGLE SHIELD EMMET	4982	SECRETARIAL TRANSFER
	1043	WINYANEHAKE	1160	SECRETARIAL TRANSFER
	1044	LOOKING ELK OLIVER	677	SECRETARIAL TRANSFER
	1045	MORRIS WILLIAM	999	SECRETARIAL TRANSFER
	1046	ONE HAWK ANNIE	1604	SECRETARIAL TRANSFER
	1047	WHITE BIRD MRS.	3224	SECRETARIAL TRANSFER
	1048	CLAYMORE EDITH	3074	SECRETARIAL TRANSFER
	1049	HOWONILA	860	SECRETARIAL TRANSFER
	1050	BULL JOHN	820	SECRETARIAL TRANSFER
	1051	SLEEPS FROM HOME O.	708	SECRETARIAL TRANSFER
	1052	CHARGING BEAR	824	SECRETARIAL TRANSFER
	1053	PORCUPINE TAIL	702	SECRETARIAL TRANSFER
	1054	GOOD WOOD HAWK	2169	SECRETARIAL TRANSFER
	1055	CHASE BIG HEAD	2124	SECRETARIAL TRANSFER
	1056	STRUCK MANY LED	2103	SECRETARIAL TRANSFER
	1057	WHITE COW WALKING	2219	SECRETARIAL TRANSFER
	1058	WHITE BIRD	1730	SECRETARIAL TRANSFER
	1059	IYATEWIN	1472	SECRETARIAL TRANSFER
	1060	CROW MAN IRENE	1677	SECRETARIAL TRANSFER
	1061	GOOD CLOUD FRANK	1812	SECRETARIAL TRANSFER
	1062	TWO SHIELDS IDA	1842	SECRETARIAL TRANSFER
	1063	BROUGHT PLENTY C.	1793	SECRETARIAL TRANSFER
	1064	SPEAKS WALKING CROW	1754	SECRETARIAL TRANSFER
	1065	IYAN	1783	SECRETARIAL TRANSFER
	1066	PRETTY FLUTE MARY	2206	SECRETARIAL TRANSFER
	1067	BIG MOCCASIN	2128	SECRETARIAL TRANSFER
	1068	PRETTY BIRD DAVID	2223	SECRETARIAL TRANSFER
	1069	YOUNG BEAR MOSES	2154	SECRETARIAL TRANSFER
	1070	SHELL TRACK	2307	SECRETARIAL TRANSFER
	1071	HAIRY CHIN EUGENE	1514	SECRETARIAL TRANSFER
	1072	IRON NEST MRS.	1749	SECRETARIAL TRANSFER
	1073	LOOK WITH ARROWS EDWARD	1908	SECRETARIAL TRANSFER
	1074	EAGLE BOY LIZZIE	2251	SECRETARIAL TRANSFER
	1075	RED BULL CHARLES	2037	SECRETARIAL TRANSFER
	1076	GRAY HAWK	1831	SECRETARIAL TRANSFER
	1077	GRAY HAWK	1831	SECRETARIAL TRANSFER
	1078	EAGLE BOY CECELIA	2449	SECRETARIAL TRANSFER
	1079	IRON SHIELD JOHN	2436	SECRETARIAL TRANSFER
	1080	IRON SHIELD ANNIE	3514	SECRETARIAL TRANSFER
	1081	NO TWO HORNS MRS.	3121	SECRETARIAL TRANSFER
	1082	WALKING EAGLE PAUL	3799	SECRETARIAL TRANSFER
	1083	WALKING EAGLE THOMAS	2459	SECRETARIAL TRANSFER
	1084	EAGLE LUCILLE M.	2440	SECRETARIAL TRANSFER
	1085	RUNS THE MIDDLE	2228	SECRETARIAL TRANSFER
	1086	BRINGS THEM BENEDICT	2451	SECRETARIAL TRANSFER
	1087	WALKER ALBERT JR.	3781	SECRETARIAL TRANSFER
	1088	MOCCASIN GEORGE C.	3834	SECRETARIAL TRANSFER
	1089	JOHNSON WILLIAM	4718	SECRETARIAL TRANSFER
	1090	ELK HOWARD	2400	SECRETARIAL TRANSFER
	1091	COTTONWOOD NOEL R.	2558	SECRETARIAL TRANSFER

ANADARKO AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
B04861	216	DORA KEESIS	221	ROW TRESPASS
	219	JOSEPH TESSON	31	FAILURE TO COMPENSATE
B04864	217	NEWTON MONEER	206	FORCED FEE PATENT
B05801	113	SHORT WOMAN	1406	SALE OF MIN INT
	114	VAN HORN FLYINGMAN	639	FORCED FEE PATENT
B06802	284	TSONETOKOY (FRANCIS)	1272	LEASE RENTALS
B06804	281	HUSHSEAH	669	SALE OF MIN INT
	282	MINNIE MAY	497	SALE OF MIN INT
	283	CHURCH LANDS	NA	FORCED FEE PATENT
B07811	112	MOSE HARRAGARRA	5	SALE OF LAND W/O APPR
B07812	106	PAWNEE TRIBE	TRIBAL	ARKANSAS RIVERBED TRESPASS
	107	PAWNEE	TRIBAL	CIMERRON RIVERBED TRESPASS
B07813	086	PONCA	TRIBAL	ARKANSAS RIVERBED TRESPASS
	087	PONCA	TRIBAL	SALT FORK RIVERBED TRESPASS
	109	BLACK HORSE	239	ROW TRESPASS
	110	RUTH BLACK HORSE	240	ROW TRESPASS
B07814	108	TONKAWA TRIBAL	TRIBAL	RECOVERY OF LAND
B08822	041	MAGGIE MOHEE	91	ROW TRESPASS
	042	LIZZIE WHITECLOUD	62	ROW TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C0563		LOUIS SEMINOLE	986	213 ROAD IN TRESPASS
C51201	0983	DIFFERENTHILLS GREENGRASSBULL	1374	RPO1-2 ROAD IN TRESPASS
	0984	SAM YOUNGRUNNING CRANE	1418	RPO1-2 ROAD IN TRESPASS
	0985	SHORTROBE	1421-A	RPO1-2 ROAD IN TRESPASS
	0986	MAGGIE PETERSON	1796	RPO1-12 ROAD IN TRESPASS
	0987	ADOLPH NORMAN	2158	RPO1-12 ROAD IN TRESPASS
	0988	ALFRED NORMAN	T2159	RPO1-12 ROAD IN TRESPASS
	0989	ELIZABETH MCKELVEY	2186	RPO1-12 ROAD IN TRESPASS
	0990	BETSY LEWIS	2499	RPO1-12 ROAD IN TRESPASS
	0991	PETER LEWIS	2497	RPO1-12 ROAD IN TRESPASS
	0992	JOSEPH LEWIS	2500	RPO1-12 ROAD IN TRESPASS
	0993	ALDEN FRANK NORMAN	3188	RPO1-12 ROAD IN TRESPASS
	0994	CHESTER WAGNER	2200	RPO1-13 ROAD IN TRESPASS
	0995	EMMA SMITH	2208-C	RPO1-13 ROAD IN TRESPASS
	0996	EVELINE SMITH	2212	RPO1-13 ROAD IN TRESPASS
	0997	GARY W SMITH	5126	RPO1-13 ROAD IN TRESPASS
	0998	WALLACE NIGHTGUN	T1040	RPO1-15 ROAD IN TRESPASS
	0999	PAUL WHITEGRASS	1409	RPO1-15 ROAD IN TRESPASS
	1000	JOSEPHINE WHITEGRASS	1420	RPO1-15 ROAD IN TRESPASS
	1001	MARY SHORTY	1430	RPO1-15 ROAD IN TRESPASS
	1002	GEORDE HEAVYRUNNER	1483	RPO1-15 ROAD IN TRESPASS
	1003	JAMES WHITEGRASS	2612	RPO1-15 ROAD IN TRESPASS
	1004	PAUL MANY HIDES	T3097	RPO1-15 ROAD IN TRESPASS
	1005	GEORGE MANY HIDES	T3098	RPO1-15 ROAD IN TRESPASS
	1006	AGNES NORMA WAGNER	3405	RPO1-15 ROAD IN TRESPASS
	1007	AGNES BURDEAU	768	RPO1-16 ROAD IN TRESPASS
	1008	LORENTO WHITE	T2311	RPO1-16 ROAD IN TRESPASS
	1009	JENNIE WELLS	3431	RPO1-16 ROAD IN TRESPASS
	1010	JENNIE WELLS	T3431C	RPO1-16 ROAD IN TRESPASS
	1011	RUNNINGFISHER	895-A	RPO1-17 ROAD IN TRESPASS
	1012	JOHN RUNNINGFISHER	T397-A	RPO1-17 ROAD IN TRESPASS
	1013	WILLIAM BEARMEDICINE	T2013	RPO1-17 ROAD IN TRESPASS
	1014	SUSAN CECILE WAGNER	T3099	RPO1-17 ROAD IN TRESPASS
	1015	NADA CRESWELL WAGNER	3407	RPO1-17 ROAD IN TRESPASS
	1016	THOMAS STABSBYMISTAKE	212	RPO1-19 ROAD IN TRESPASS
	1017	CECILE MOUNTAIN CHIEF NO.2	T220.5	RPO1-19 ROAD IN TRESPASS
	1018	OWLTOPFEATHERS	339	RPO1-19 ROAD IN TRESPASS
	1019	RAGGED OWLTOPFEATHERS	343	RPO1-19 ROAD IN TRESPASS
	1020	SURRENDERING CURLEYBEAR	578	RPO1-19 ROAD IN TRESPASS
	1021	JOSEPH BULLCHILD	1724	RPO1-19 ROAD IN TRESPASS
	1022	JOSEPH BULLCHILD	T1724	RPO1-19 ROAD IN TRESPASS
	1023	HENRY POWELL	1788	RPO1-19 ROAD IN TRESPASS
	1024	JENNY DEWOLFE	1840	RPO1-19 ROAD IN TRESPASS
	1025	FLORA MCKELVEY	T2181	RPO1-19 ROAD IN TRESPASS
	1026	GEORGE HENKEL	2218	RPO1-19 ROAD IN TRESPASS
	1027	LEONA PAUL	T2512	RPO1-19 ROAD IN TRESPASS
	1028	MARY M. BOY	2747	RPO1-19 ROAD IN TRESPASS
	1029	GERTRUDE LUKIN	3072-A	RPO1-19 ROAD IN TRESPASS
	1030	ROGERICK PAISLEY	5132	RPO1-19 ROAD IN TRESPASS
	1031	CHESTER PEPION	76	RPO1-20 ROAD IN TRESPASS
	1032	ROSE PEPION	141	RPO1-20 ROAD IN TRESPASS
	1033	MALCOLM CLARK	286	RPO1-20 ROAD IN TRESPASS
	1034	WILLIAM HEAVY GUN	337	RPO1-20 ROAD IN TRESPASS
	1035	JENNIE HEAVY GUN	338	RPO1-20 ROAD IN TRESPASS
	1036	BLACKSTRIPED OWLTOPFEATHER	340	RPO1-20 ROAD IN TRESPASS
	1037	LONECUT OWLTOPFEATHERS	342	RPO1-20 ROAD IN TRESPASS
	1038	MARY WOLVERINE	559	RPO1-20 ROAD IN TRESPASS
	1039	BUFFALOHIDE	911	RPO1-20 ROAD IN TRESPASS
	1040	MELINDA WREN	1071	RPO1-20 ROAD IN TRESPASS
	1041	LONGTIMESSLEEPING	1240	RPO1-20 ROAD IN TRESPASS
	1042	JOHN LONGTIMESSLEEPING	1244	RPO1-20 ROAD IN TRESPASS
	1043	ROSA LONGTIMESSLEEPING	1245	RPO1-20 ROAD IN TRESPASS
	1044	JAMES GAMBLER	1346	RPO1-20 ROAD IN TRESPASS
	1045	LOUIS MUNROE	1898	RPO1-20 ROAD IN TRESPASS
	1046	ANGELINE BROWN	T2267	RPO1-20 ROAD IN TRESPASS
	1047	MARY MIDDLECHIEF	T2294	RPO1-20 ROAD IN TRESPASS
	1048	AGNES CLARKE	2477	RPO1-20 ROAD IN TRESPASS
	1049	VIOLET MARY ADAMS	T2660	RPO1-20 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

BILLINGS AREA STATUTE CLAIMS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C51201	1050	CECILE DOGTAKINGGUN	2958	RP01-20 ROAD IN TRESPASS
	1051	VIRGINA EDWARDS	2976	RP01-20 ROAD IN TRESPASS
	1052	JOSEPHINE OLD ROCK	3199	RP01-20 ROAD IN TRESPASS
	1053	LAURA RUNNING WOLF	3279	RP01-20 ROAD IN TRESPASS
	1054	FLORENCE SCHILDT	T3302	RP01-20 ROAD IN TRESPASS
	1055	MARGARET THOMAS	3381	RP01-20 ROAD IN TRESPASS
	1056	THOMAS FRANCIS WALL	3409	RP01-20 ROAD IN TRESPASS
	1057	CORA WALTERS	3413	RP01-20 ROAD IN TRESPASS
	1058	JOSEPHINE WOLVERINE	3466	RP01-20 ROAD IN TRESPASS
	1059	TRIBAL	T3136	RP01-20 ROAD IN TRESPASS
	1060	TRIBAL	T6009	RP01-20 ROAD IN TRESPASS
	1061	ALOYSIUS RIDESAT THE DOOR	3267	RP01-21 ROAD IN TRESPASS
	1062	CHARLES CURLEYBEAR	587	RP01-22 ROAD IN TRESPASS
	1063	CHARLOTTE GOBERT	1837-A	RP01-23 ROAD IN TRESPASS
	1064	MAUD GOBERT	T1838	RP01-23 ROAD IN TRESPASS
	1065	JOHN DEROCHE	2855	RP01-23 ROAD IN TRESPASS
	1066	ROSE ANITA MURPHY	3168	RP01-24 ROAD IN TRESPASS
	1067	ALICE MATT	1062	RP01-25 ROAD IN TRESPASS
	1068	ISABEL BOSTWICK	2258	RP01-25 ROAD IN TRESPASS
	1069	SALLIE DEROCHE	2242	RP01-25 ROAD IN TRESPASS
	1070	CHARLES DERDCKE	2243-A	RP01-25 ROAD IN TRESPASS
	1071	MARY NORMAN	2156	RP01-25 ROAD IN TRESPASS
	1072	ADOLPH NORMAN	2158	RP01-25 ROAD IN TRESPASS
	1073	MARY DEROCHE	2560	RP01-25 ROAD IN TRESPASS
	1074	IRVIN PETERSON	T2509	RP01-26 ROAD IN TRESPASS
	1075	ANTHONY DUSTYBULL	2869	RP01-27 ROAD IN TRESPASS
	1076	THOMAS LITTLE DOG	3052	RP01-27 ROAD IN TRESPASS
	1077	CARL DUBRAY	2611	RP01-28 ROAD IN TRESPASS
	1078	BERTRAND KENNERLY	3012	RP01-29 ROAD IN TRESPASS
	1079	IDA WREN	1076	RP01-30 ROAD IN TRESPASS
	1080	JAMES FITZPATRICK	1782-A	RP01-30 ROAD IN TRESPASS
	1081	HAZEL FITZPATRICK	1784	RP01-30 ROAD IN TRESPASS
	1082	VIRGINIA LAPLANT	967	RP01-31 ROAD IN TRESPASS
	1083	MARGARET CROFF	2416	RP01-31 ROAD IN TRESPASS
	1084	JOSEPH NIGHTSHOOT	152	RP01-33 ROAD IN TRESPASS
	1085	MARY NIGHSHOOT	168	RP01-33 ROAD IN TRESPASS
	1086	CHARGINGACROSS MEDICINEBULL	291	RP01-33 ROAD IN TRESPASS
	1087	HAZEL NEQUETTE	876	RP01-33 ROAD IN TRESPASS
	1088	SUSAN SHERMAN	1501	RP01-33 ROAD IN TRESPASS
	1089	ROBERT SHERMAN	1502	RP01-33 ROAD IN TRESPASS
	1090	JULIA HARRIS	1521	RP01-33 ROAD IN TRESPASS
	1091	MARY NEQUETTE	T1938	RP01-33 ROAD IN TRESPASS
	1092	RAGGEDWOMAN BEARMEDICINE	2012-A	RP01-33 ROAD IN TRESPASS
	1093	JOHN BEARMEDICINE	2014	RP01-33 ROAD IN TRESPASS
	1094	KATIE NEQUETTE	2393	RP01-33 ROAD IN TRESPASS
	1095	MARY BURDEAU	2618	RP01-33 ROAD IN TRESPASS
	1096	MARY BEAR MEDICINE	2702	RP01-33 ROAD IN TRESPASS
	1097	ARNIE M. CLARKE	T2811	RP01-33 ROAD IN TRESPASS
	1098	ROBERT NEQUETTE	3177	RP01-33 ROAD IN TRESPASS
	1099	TRIBAL	T6099	RP01-33 ROAD IN TRESPASS
	1100	GEORGIA WREN	1080.5	RP01-34 ROAD IN TRESPASS
	1101	MAUD LAHR	668	RP01-36 ROAD IN TRESPASS
	1102	ALICE MARTIN	2302-A	RP01-36 ROAD IN TRESPASS
	1103	TRIBAL	T6142	RP01-36 ROAD IN TRESPASS
	1104	JOSEPH KIPP	153-A	RP01-37 ROAD IN TRESPASS
	1105	CECILE TAKESGUN	2043-A	RP01-37 ROAD IN TRESPASS
	1106	CHARLES DELANEY	T2089	RP01-37 ROAD IN TRESPASS
	1107	TRIBAL	5040	RP01-37 ROAD IN TRESPASS
	1108	TRIBAL	T3056	RP01-37 ROAD IN TRESPASS
	1109	FRANK CALFROBE	182	RP01-38 ROAD IN TRESPASS
	1110	JEANETTE CALFROBE	T183-A	RP01-38 ROAD IN TRESPASS
	1111	HORN	249	RP01-38 ROAD IN TRESPASS
	1112	CECILE MEDICINEBULL	T293-A	RP01-38 ROAD IN TRESPASS
	1113	CHARLES ROSE	315	RP01-38 ROAD IN TRESPASS
	1114	MARY HEAVYGUN	335-A	RP01-38 ROAD IN TRESPASS
	1115	JACK HEAVYGUN	336-A	RP01-38 ROAD IN TRESPASS
	1116	WILLIAM HEAVYGUN	337-A	RP01-38 ROAD IN TRESPASS
	1117	JESSIE HEAVYGUN	338-A	RP01-38 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C51201	1118	MAGGIE WIPESHISEYES	900-B	RP01-38 ROAD IN TRESPASS
	1119	BUFFALOHIDE	911-A	RP01-38 ROAD IN TRESPASS
	1120	SPOTTEDWOMAN BUFFALOHIDE	912-A	RP01-38 ROAD IN TRESPASS
	1121	MEDICINESTAB	1319	RP01-38 ROAD IN TRESPASS
	1122	TRIBAL	T1572	RP01-39 ROAD IN TRESPASS
	1123	GEORGE PERINE	T1577	RP01-39 ROAD IN TRESPASS
	1124	MINNIE PERRINE	1578	RP01-39 ROAD IN TRESPASS
	1125	ANNIE ALLISON	1989	RP01-39 ROAD IN TRESPASS
	1126	JOHN FISH	T2397	RP01-39 ROAD IN TRESPASS
	1127	JOE FLATTAIL	T2606	RP01-39 ROAD IN TRESPASS
	1128	TRIBAL	T3056	RP01-39 ROAD IN TRESPASS
	1129	TRIBAL	5072	RP01-39 ROAD IN TRESPASS
	1130	TRIBAL	TRIBAL	RP01-39 S.6 T3SN R6W ROAD IN TRESPASS
	1131	ROSA CALFROBE	190	RP01-40 ROAD IN TRESPASS
	1132	IRENE LITTLEDOG	905-A	RP01-40 ROAD IN TRESPASS
	1133	RICHARD LITTLEDOG	T907-B	RP01-40 ROAD IN TRESPASS
	1134	KATE MORNINGGUN	1009	RP01-40 ROAD IN TRESPASS
	1135	HENRY MORNINGGUN	1010	RP01-40 ROAD IN TRESPASS
	1136	MARY CHAMPAGNE	1358	RP01-40 ROAD IN TRESPASS
	1137	WHITEWEASEL RIDESBEHIND	1380	RP01-40 ROAD IN TRESPASS
	1138	LOUISE COAT	1497	RP01-40 ROAD IN TRESPASS
	1139	CECILE KIPP	1705	RP01-40 ROAD IN TRESPASS
	1140	JOSEPH LAMOTT	1904	RP01-40 ROAD IN TRESPASS
	1141	FRANK GUARDIPEE	2370	RP01-40 ROAD IN TRESPASS
	1142	WILLIAM MCGOVERN FRAZIER	2657	RP01-40 ROAD IN TRESPASS
	1143	JOHN CALFROBE	2794	RP01-40 ROAD IN TRESPASS
	1144	HAZEL GERARD	T2910	RP01-40 ROAD IN TRESPASS
	1145	THOMAS LITTLEDOG	3052	RP01-40 ROAD IN TRESPASS
	1146	MARY JANE PFEMISTER	3239	RP01-40 ROAD IN TRESPASS
	1147	ARTHUR WESTWOLF	1104	RP01-41 ROAD IN TRESPASS
	1148	TIM NORRUNNER	T1283	RP01-41 ROAD IN TRESPASS
	1149	TRIBAL	T5182	RP01-41 ROAD IN TRESPASS
	1150	LOUISE WALTERS	135	RP01-42 ROAD IN TRESPASS
	1151	MILLIE BIGLAKE	T258-A	RP01-42 ROAD IN TRESPASS
	1152	MAGGIE HENAULT	589	RP01-42 ROAD IN TRESPASS
	1153	JOHN EDWARDS	T626	RP01-42 ROAD IN TRESPASS
	1154	GEORGE EDWARDS	T630-A	RP01-42 ROAD IN TRESPASS
	1155	CECILE REEVIS	T682	RP01-42 ROAD IN TRESPASS
	1156	ARTHUR WALTERS	824	RP01-42 ROAD IN TRESPASS
	1157	JOSEPHINE WHITEBUIVER	1340	RP01-42 ROAD IN TRESPASS
	1158	THOMAS BEAR	2007	RP01-42 ROAD IN TRESPASS
	1159	HARLAND MURPHY	T2065	RP01-42 ROAD IN TRESPASS
	1160	MARGARET DESCHAMPS	T2205	RP01-42 ROAD IN TRESPASS
	1161	JOSEPH BIG BEAVER	2708	RP01-42 ROAD IN TRESPASS
	1162	DOMINICIA BULLCALF	2762	RP01-42 ROAD IN TRESPASS
	1163	STELLA BULLCALF	T2799	RP01-42 ROAD IN TRESPASS
	1164	CATHERINE CHIEFALLOVER	2807	RP01-42 ROAD IN TRESPASS
	1165	MILDRED CHIEFALLOVER	2808	RP01-42 ROAD IN TRESPASS
	1166	MARTIN CHIEFALLOVER	2809-A	RP01-42 ROAD IN TRESPASS
	1167	CHARLES EVERYBODY TALKS ABOUT	2883	RP01-42 ROAD IN TRESPASS
	1168	ABBIE GROUND	T2930	RP01-42 ROAD IN TRESPASS
	1169	BERTHA NIGHTGUN	3182	RP01-42 ROAD IN TRESPASS
	1170	WILLIAM OLD ROCK	3197	RP01-42 ROAD IN TRESPASS
	1171	MARY RUNNING CRANE	T3277	RP01-42 ROAD IN TRESPASS
	1172	THERESA RUNNING CRANE	3278	RP01-42 ROAD IN TRESPASS
	1173	ELENOR MAY WILLIAMSON	3455	RP01-42 ROAD IN TRESPASS
	1174	TRIBAL	TRIBAL	RP01-42 S.24 T32N R24W ROAD IN TRESPASS
	1175	HENRY BIGLAKE	226	RP01-43 ROAD IN TRESPASS
	1176	LITTLEPETRIFIEDROCK RUN CRANE	309-B	RP01-43 ROAD IN TRESPASS
	1177	MAGGIE HENAULT	589	RP01-43 ROAD IN TRESPASS
	1178	LOUIS RANDALL	656.25	RP01-43 ROAD IN TRESPASS
	1179	AMY GROUND	2029	RP01-43 ROAD IN TRESPASS
	1180	LAWRENCE RUNNINGWOLF	2419	RP01-43 ROAD IN TRESPASS
	1181	GREGORY ALLEN MORRIS	T3149	RP01-43 ROAD IN TRESPASS
	1182	DEWEY ANTHONY RANDALL	3253	RP01-43 ROAD IN TRESPASS
	1183	HORACE RUNNINGWOLF	3253	RP01-43 ROAD IN TRESPASS
	1184	PHILLIP RAILWAY	3290	RP01-43 ROAD IN TRESPASS
	1185	SAMUEL SMITHLEY	3291	RP01-43 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
CS1201	1186	BEVERLY SWINGLEY	3362	RP01-43 ROAD IN TRESPASS
	1187	MERLE SWINGLEY	T3363	RP01-43 ROAD IN TRESPASS
	1188	HELEN MARIE VIELLE	T3400	RP01-43 ROAD IN TRESPASS
	1189	TRIBAL	T5162	RP01-43 ROAD IN TRESPASS
	1190	MURRAY LEE WILLIAMSON	3456	RP01-44 ROAD IN TRESPASS
	1191	JAMES THOMAS WILLIAMSON	3457	RP01-44 ROAD IN TRESPASS
	1192	ELMER BUTTERFLY	1217	RP01-46 ROAD IN TRESPASS
	1193	ROSE SPOTTED BEAR	1272	RP01-46 ROAD IN TRESPASS
	1194	PHILLIP SPOTTED BEAR	1273	RP01-46 ROAD IN TRESPASS
	1195	GOINGINLAST DRAGEBEHIND	1298	RP01-46 ROAD IN TRESPASS
	1196	PERRY SMITH	1853.5	RP01-46 ROAD IN TRESPASS
	1197	BLACKWEASEL	[illegible]	RP01-47 ROAD IN TRESPASS
	1198	JOSEPH STILLSMOKING	1054-B	RP01-47 ROAD IN TRESPASS
	1199	FRANCIS BAKER	972	RP01-48 ROAD IN TRESPASS
	1200	ELLEN POWELL	1099	RP01-48 ROAD IN TRESPASS
	1201	JOSEPH MUNROE	1141-A	RP01-48 ROAD IN TRESPASS
	1202	LUCY BLOOD	2157	RP01-48 ROAD IN TRESPASS
	1203	RICHARD SANDERVILLE	136	RP01-49 ROAD IN TRESPASS
	1204	JOHN CALFROBE	198-C	RP01-49 ROAD IN TRESPASS
	1205	MARTHA SANDERVILLE	2397	RP01-49 ROAD IN TRESPASS
	1206	SAMUEL CALFROBE	T2798	RP01-49 ROAD IN TRESPASS
	1207	MARY DAVIS	T102-A	RP01-50 ROAD IN TRESPASS
	1208	LIZZIE MADPLUME	173	RP01-50 ROAD IN TRESPASS
	1209	LENA MATT	1064	RP01-50 ROAD IN TRESPASS
	1210	ANNIE KIPP	1707	RP01-50 ROAD IN TRESPASS
	1211	FRANK MADPLUME	3082	RP01-50 ROAD IN TRESPASS
	1212	VICTOR BROWN	3083	RP01-50 ROAD IN TRESPASS
	1213	MARIE ISABELL PIERRE	3244	RP01-50 ROAD IN TRESPASS
	1214	SARAH BROWN	2260	RP01-51 ROAD IN TRESPASS
	1215	VICTOR BROWN	2263	RP01-51 ROAD IN TRESPASS
	1216	TRIBAL	T5166	RP01-51 ROAD IN TRESPASS
	1217	ALAN BROWN	T2237	RP01-52 ROAD IN TRESPASS
	1218	KILLSATNIGHT WHITEGRASS	1404	RP01-53 ROAD IN TRESPASS
	1219	MARY WHITEGRASS	1406	RP01-53 ROAD IN TRESPASS
	1220	JOHN EARRINGS	1441	RP01-53 ROAD IN TRESPASS
	1221	JOHN EARRINGS	1441-A	RP01-53 ROAD IN TRESPASS
	1222	LOUISE DUSTYBULL	1763-B	RP01-53 ROAD IN TRESPASS
	1223	TRIBAL	TRIBAL	75-1 S 8 17 20 T37N R15W RD IN TP
	1224	ANTOINE MOUNTAINCHIEF	218-A	105 ROAD IN TRESPASS
	1225	SURECHIEF	226	105 ROAD IN TRESPASS
	1226	RAYMOND I. CROFF	265	105 ROAD IN TRESPASS
	1227	MEDICINEBULL	290	105 ROAD IN TRESPASS
	1228	NORMA DOUGLAS	2146	105 ROAD IN TRESPASS
	1229	WILLIAM ELL	2151	105 ROAD IN TRESPASS
	1230	LASTSTAR CHIEFELK	2154	105 ROAD IN TRESPASS
	1231	MARGARET NO.2 CROFF	2416	105 ROAD IN TRESPASS
	1232	FRANCIS BOYLE	2487	105 ROAD IN TRESPASS
	1233	MARVIN BOYLE	2510	105 ROAD IN TRESPASS
	1234	HAROLD CROFF	T2838	105 ROAD IN TRESPASS
	1235	ERNEST B. DOUGLAS	2861	105 ROAD IN TRESPASS
	1236	TRIBAL	T5178	105 ROAD IN TRESPASS
	1237	LOUISA HAGAN	T613-A	106-C ROAD IN TRESPASS
	1238	WILLIAM CROFF	T616-A	106-C ROAD IN TRESPASS
	1239	ETHEL MERCHANT	T675	106-C ROAD IN TRESPASS
	1240	VIRGINIA MORGAN	T779-A	106-C ROAD IN TRESPASS
	1241	CHESTER MORGAN	7810A	106-C ROAD IN TRESPASS
	1242	ROSE OLDMANCHIEF	T1366	106-C ROAD IN TRESPASS
	1243	GEORGE NO. 2 KIPP	1704-D	106-C ROAD IN TRESPASS
	1244	JACK KIPP	1708	106-C ROAD IN TRESPASS
	1245	JOSEPH CARLSON	T1709	106-C ROAD IN TRESPASS
	1246	PHILLIP SELLEW	1951	106-C ROAD IN TRESPASS
	1247	CALVIN MUNROE	T3156	106-C ROAD IN TRESPASS
	1248	TRIBAL	T6172	106-C ROAD IN TRESPASS
	1249	WENDELL ALLISON	1987	106-C ROAD IN TRESPASS
	1250	EARL BUTTERBAUGH	2789	106-C ROAD IN TRESPASS
	1251	JOSEPH SCABBYROBE	3300	106-C ROAD IN TRESPASS
	1252	AIMSBACK	358	109 ROAD IN TRESPASS
	1253	MINNIE AIMSBACK	359	109 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
CS1201	1254	MARTHA AIMSBACK	360	109 ROAD IN TRESPASS
	1255	THOMAS AIMSBACK	361	109 ROAD IN TRESPASS
	1256	MARY SCHILLI	475-A	109 ROAD IN TRESPASS
	1257	TIM NORUNNER	T1233	109 ROAD IN TRESPASS
	1258	JOHN NORUNNER	T1285	109 ROAD IN TRESPASS
	1259	JOSEPHINE GAMBLER	2909	109 ROAD IN TRESPASS
	1260	MERLIN CRAWFORD	5131	109 ROAD IN TRESPASS
	1261	DOUBLEGUN SURECHIEF	227	110-B ROAD IN TRESPASS
	1262	CHARGINGACROSS MEDICINEBULL	T291	110-B ROAD IN TRESPASS
	1263	THOMAS MEDICINEBULL	292-A	110-B ROAD IN TRESPASS
	1264	MARY HEAVYGUN	[illegible]	110-B ROAD IN TRESPASS
	1265	MARTHA AIMSBACK	360	110-B ROAD IN TRESPASS
	1266	MAGGIE AIMSBACK	362	110-B ROAD IN TRESPASS
	1267	CHARLES NIGHTGUN	377	110-B ROAD IN TRESPASS
	1268	ALECK GUARDIPEE	344	110-B ROAD IN TRESPASS
	1269	LOUISE RANDALL	656.5	110-B ROAD IN TRESPASS
	1270	GAMBLER	1758	110-B ROAD IN TRESPASS
	1271	CECILE GAMBLER	T1759	110-B ROAD IN TRESPASS
	1272	CECILE GAMBLER	1759-D	110-B ROAD IN TRESPASS
	1273	MARY GROUND	T2027C	110-B ROAD IN TRESPASS
	1274	SUSAN GROUND	2031	110-B ROAD IN TRESPASS
	1275	MARGARET GROUND	2031.5	110-B ROAD IN TRESPASS
	1276	SERAPHINE HAGEN	T2098	110-B ROAD IN TRESPASS
	1277	LAWRENCE HERBERT BERGER	2706-B	110-B ROAD IN TRESPASS
	1278	GRACE STELLA BERGER	2707	110-B ROAD IN TRESPASS
	1279	TRIBAL	TRIBAL	110-B S 32 T34N R7W ROAD IN TRESPASS
	1280	GEORGE LONEHORN	T387-A	110-D ROAD IN TRESPASS
	1281	MAGGIE COMESATNIGHT	398	110-D ROAD IN TRESPASS
	1282	ELSIE HALL	750	110-D ROAD IN TRESPASS
	1283	MELVIN BILLEDEAUX	1871-A	110-D ROAD IN TRESPASS
	1284	BEARMEDICINE	2011	110-D ROAD IN TRESPASS
	1285	WILLIAM BEARMEDICINE	2013	110-D ROAD IN TRESPASS
	1286	CECILE BEARMEDICINE	2015	110-D ROAD IN TRESPASS
	1287	LOUISE BEARMEDICINE	2017	110-D ROAD IN TRESPASS
	1288	MINNIE BEARMEDICINE	2019	110-D ROAD IN TRESPASS
	1289	TRIBAL	TRIBAL	110-D S 24 T33N R6W RD IN TRESPASS
	1290	CHARLES ABRAHAM MOUNTAINCHIEF	225-A	112 ROAD IN TRESPASS
	1291	JACK COMESATNIGHT	400	112 ROAD IN TRESPASS
	1292	EDWARD GOBERT	656	112 ROAD IN TRESPASS
	1293	MAUD LAHR	669	112 ROAD IN TRESPASS
	1294	ELOISE LAHR	669.5	112 ROAD IN TRESPASS
	1295	JOSEPH YELLOWOWL	921	112 ROAD IN TRESPASS
	1296	JAMES NOCHIEF	T933-A	112 ROAD IN TRESPASS
	1297	AGNES HUNGRY	908.5	112 ROAD IN TRESPASS
	1298	JENNIE YOUNGMANCHIEF	1237.5	112 ROAD IN TRESPASS
	1299	LOUISE TROMBLEY	1610-A	112 ROAD IN TRESPASS
	1300	LOUISE TROMBLEY	1614-B	112 ROAD IN TRESPASS
	1301	THOE. HAMILTON	1874	112 ROAD IN TRESPASS
	1302	CATCHESTWO	2037-A	112 ROAD IN TRESPASS
	1303	FRANK WOODROW SCIACCOTI	3306	112 ROAD IN TRESPASS
	1304	TRIBAL	T5038	112 ROAD IN TRESPASS
	1305	TRIBAL	T5050	112 ROAD IN TRESPASS
	1306	TRIBAL	5072	112 ROAD IN TRESPASS
	1307	TRIBAL	TRIBAL	112 S 3 T33N R7W RD IN TP
	1308	LOUIS LAVARRO	39	116 ROAD IN TRESPASS
	1309	JACK WOLVERINE	561	116 ROAD IN TRESPASS
	1310	JOHN WOLVERINE	562	116 ROAD IN TRESPASS
	1311	JAMES WOLVERINE	563	116 ROAD IN TRESPASS
	1312	NELSON HENAULT	594	116 ROAD IN TRESPASS
	1313	PETER BEARLEGGINGS	596	116 ROAD IN TRESPASS
	1314	MARY BEARLEGGINGS	597	116 ROAD IN TRESPASS
	1315	HATTIE NOCHIEF	T937	116 ROAD IN TRESPASS
	1316	ANNIE STILLSMOKING	1058	116 ROAD IN TRESPASS
	1317	VICTORY BEFORETIME WARBONNET	2365	116 ROAD IN TRESPASS
	1318	JAMES WARBONNET	2373-A	116 ROAD IN TRESPASS
	1319	ELI GUARDIPEE	23730A	116 ROAD IN TRESPASS
	1320	LAURA DUNBAR	2867	116 ROAD IN TRESPASS
	1321	RICHARD RUNNING WOLF	3281	116 ROAD IN TRESPASS

VOL 48 NO 216 FRIDAY NOVEMBER 4 1983 PAGE 51201 THRU 51212 MICROFICHE EDITION NUMBER 7 OF 7 MICROFICHE

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C51201	1322	MARY WOLVERINE	3464	116 ROAD IN TRESPASS
	1323	WILLIAM HAGERTY	1992	131 ROAD IN TRESPASS
	1324	GEORGE RIDER	3262	131 ROAD IN TRESPASS
	1325	MARIAN RIDER	3263	131 ROAD IN TRESPASS
	1326	MARY OLLINGER	97-A	134 ROAD IN TRESPASS
	1327	MARY CLAYTON	101	134 ROAD IN TRESPASS
	1328	WOLVERINE	555	134 ROAD IN TRESPASS
	1329	WALKINGBACKWARDS WOLVERINE	556	134 ROAD IN TRESPASS
	1330	JAMES WHITECALF	1132-A	134 ROAD IN TRESPASS
	1331	LOUISE WHITECALF	1133-A	134 ROAD IN TRESPASS
	1332	DIVINGAROUND	1862	134 ROAD IN TRESPASS
	1333	JOSEPHINE BAD OLD MAN	2694	134 ROAD IN TRESPASS
	1334	JOSEPHINE BAD OLD MAN	2694-B	134 ROAD IN TRESPASS
	1335	EMILY LOUISE SAMPLES	3294-A	134 ROAD IN TRESPASS
	1336	TRIBAL	5020-E	134 ROAD IN TRESPASS
	1337	THEODORA HUNSBERGER	2283	137 ROAD IN TRESPASS
	1338	KILLSFIRST STINGY	1699	APT 107-7-58 RD IN TRESPASS
	1339	ANNIE LAZYBOY	2008	APT 107-7-58 RD IN TRESPASS
	1340	JOAN BEARMEDICINE	2014	APT 107-7-58 RD IN TRESPASS
	1341	MIKE BEARMEDICINE	2018	APT 107-7-58 RD IN TRESPASS
	1342	TRIBAL	TRIBAL	APT 127-8-59 S27 T36N R41W [illegible] IN TP
	1343	JOHN KIPP	1557	BRANVOLD RD RD IN TRESPASS
	1344	NORA CONNOLY	2833	BRANVOLD RD RD IN TRESPASS
	1345	GENEVIEVE KIPP	3017	BRANVOLD RD RD IN TRESPASS
	1346	ROBERT MORGAN	3012	BRANVOLD RD ROAD IN TRESPASS
	1347	LUCILLE CLARKE	288	BUCK ROAD RD IN TP
	1348	SOPHIA NEGUETTE	674-A	BUCK ROAD RD IN TP
	1349	JOHN BEARPAW	1375	BUCK ROAD RD IN TP
	1350	GOINGAFTER SHORTROBE	1422	BUCK ROAD ROAD IN TRESPASS
	1351	WILLIAM SHORTROBE	1424	BUCK ROAD ROAD IN TRESPASS
	1352	MIKE SHORTROBE	1425	BUCK ROAD IN TRESPASS
	1353	JOSEPH SHORTROBE	1426	BUCK ROAD ROAD IN TRESPASS
	1354	BLANKETWOMAN BULLCALF	1476	BUCK ROAD ROAD IN TRESPASS
	1355	THOMAS LITTLEBEAR	1478	BUCK ROAD ROAD IN TRESPASS
	1356	KATE HEAVYRUNNER	1485-A	BUCK ROAD ROAD IN TRESPASS
	1357	TRIBAL	T5182	BUCK ROAD ROAD IN TRESPASS
	1358	TRIBAL	TR-4	BUCK ROAD ROAD IN TRESPASS
	1359	CALVIN GILHAM	1965-A	CONNOLLY ROAD RD IN TP
	1360	HERBERT DANIEL GILHAM	2915-A	CONNOLLY ROAD RD IN TP
	1361	HERBERT DANIEL GILHAM	2915-B	CONNOLLY ROAD RD IN TP
	1362	HENRY NOBEAR	294	GLACIER HEART BUTTE RD RD IN TP
	1363	THOMAS LITTLE PLUME	952	GLACIER HEART BUTTE RD RD IN TP
	1364	LUCY DOGRAKINGGUN	1140	GLACIER HEART BUTTE RD RD IN TP
	1365	BLANKETWOMAN HAIRYFACE	1194-A	GLACIER HEART BUTTE RD RD IN TP
	1366	CROCKERYWARESWOMAS HAIRYFACE	1196-B	GLACIER HEART BUTTE RD RD IN TP
	1367	KILLSATNIGHT WOLFEAGLE	1206	GLACIER HEART BUTTE RD RD IN TP
	1368	ELLEN LASTSTAR	1291-A	GLACIER HEART BUTTE RD RD IN TP
	1369	WILLIAM FISH	1296-A	GLACIER HEART BUTTE RD RD IN TP
	1370	GOINGINLAST DRAGSBEHIND	1298	GLACIER HEART BUTTE RD RD IN TP
	1371	CECILE DOGTAKINGGUN	1302	GLACIER HEART BUTTE RD RD IN TP
	1372	RABBITOLDWOMAN BIGSPRING	1312-A	GLACIER HEART BUTTE RD RD IN TP
	1373	MANYNECKLACES	1316	GLACIER HEART BUTTE RD RD IN TP
	1374	DON'TTALK MANY WHITEHORSES	1314	GLACIER HEART BUTTE RD RD IN TP
	1375	MOLLIE MANYWHITEHORSES	T1313A	GLACIER HEART BUTTE RD RD IN TP
	1376	MARY SMITH	1853.2	GLACIER HEART BUTTE ROAD RD IN TP
	1377	GEORGE SMITH	1853.5	GLACIER HEART BUTTE RD RD IN TP
	1378	FRANCES BLOOD WOLF PLUME	T3461	GLACIER HEART BUTTE RD RD IN TP
	1379	MATTIE BIRD	T1564	HIGGINS RD RD IN TRESPASS
	1380	STELLA SAMPLES	1583	HIGGINS RD RD IN TRESPASS
	1381	WILLIAM WREN	1074	JOHNSON RD RD IN TRESPASS
	1382	CARROLL AUBREY	2687	JOHNSON RD RD IN TRESPASS
	1383	THOMAS HARWOOD	2431	KEMMER RD RD IN TRESPASS
	1384	GROUND	2022-A	LA PLANTE RD RD IN TRESPASS
	1385	OTIS KENNERLY	1997	LITTLE ROCK CROSSING RD IN TRESPASS
	1386	CHARLES ALLISON	1990	NORTHWEST REFINING CO. RD IN TP
	1387	MARY PRAIRIEDOG OLD ROCK	70	PETERSON ROAD RD IN TRESPASS
	1388	MARY VIELLE	1669	PETERSON ROAD RD IN TRESPASS
	1389	CECILE VIELLE	1673	PETERSON ROAD RD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C51201	1390	GEORGE OLD ROCK	2533	PETERSON ROAD RD IN TRESPASS
	1391	LUCILLE SIMPSON	3315	PETERSON ROAD RD IN TRESPASS
	1392	HELEN MARIE VIELLE	3400	PETERSON ROAD RD IN TRESPASS
	1393	TRIBAL	T5049	PETERSON ROAD RD IN TRESPASS
	1394	TRIBAL	T5182	PETERSON ROAD RD IN TRESPASS
	1395	CHARLES ROSE	315	REAGAN ROAD RD IN TP
	1396	AGNES ROSE	316-A	REAGAN ROAD RD IN TP
	1397	MARY RIDER	701-A	REAGAN ROAD RD IN TP
	1398	JAMES RIDER	703	REAGAN ROAD RD IN TP
	1399	HENRY MUNROE	1124	REAGAN ROAD RD IN TP
	1400	LITTLEDOG	1171-A	REAGAN ROAD RD IN TP
	1401	ANNIE LITTLEDOG	1174-A	REAGAN ROAD RD IN TP
	1402	LONGTIMEGOODSUCCESS MANYWHITEHORSES	1175-A	REAGAN ROAD RD IN TP
	1403	JAMES HOMEGUN	1920	REAGAN ROAD RD IN TP
	1404	JOSEPH HOMEGUN	1922	REAGAN ROAD RD IN TRESPASS
	1405	ISABEL HOMEGUN	1924	REAGAN ROAD RD IN TRESPASS
	1406	ROSE LITTLEDOG	2537-A	REAGAN ROAD RD IN TRESPASS
	1407	MARTHA BADOLDMAN	2695	REAGAN ROAD RD IN TRESPASS
	1408	LOUISE CULBERTSON DARLING	2844	REAGAN ROAD RD IN TRESPASS
	1409	MARY EARRINGS	2873	REAGAN ROAD RD IN TRESPASS
	1410	FRANCES IRVIN	2995	REAGAN ROAD RD IN TRESPASS
	1411	ETHEL RIDESATTHEDOOR	3266	REAGAN ROAD RD IN TRESPASS
	1412	JOSEPH SCABBY ROBE	3300	REAGAN ROAD RD IN TRESPASS
	1413	MIKE SWIMSUNDER	3358-A	REAGAN ROAD RD IN TRESPASS
	1414	OLLIE CRAWFORD	2469	WELCH ROAD RD IN TRESPASS
	1415	LOUISE BURD	2640	WELCH ROAD RD IN TRESPASS
	1416	LORETTA MARIE WHITFORD	3448	WELCH ROAD RD IN TRESPASS
	1417	GEORGE BULLCHILD	1731	RP01-32 ROAD IN TRESPASS
	1418	GEORGE BULLCHILD JR	2769	RP01-32 ROAD IN TRESPASS
	1419	VIRGINIA EDWARDS	2876	RP01-32 ROAD IN TRESPASS
	1420	GEORGE NO 2 RUNNINGWOLF	3284-A	RP01-32 ROAD IN TRESPASS
	1421	EDITH ELL	2877	HOYT ROAD RD IN TRESPASS
	1422	GLADYS LUCERO	3069	HOYT ROAD RD IN TRESPASS
	1423	ENICE LUCERO	3070	HOYT ROAD RD IN TRESPASS
	1424	TRIBAL	N/A	TAXES ON OIL AND GAS LEASES
	1425	GEORGE KICKINGWOMAN	1926	GRAVEL TRESPASS
	1426	TRIBAL	TRIBAL	TRIBAL MIN. RES. NOT ON PATENTS
C52201	0749	STRIKEAGAIN STRIKEAND	469-A	46 (C) ROAD IN TRESPASS
	0750	DELIA ONION	472	46 (C) ROAD IN TRESPASS
	0751	LITTLEOWL	511-A	46 (C) ROAD IN TRESPASS
	0752	KNOWSENEMY LITTLEOWL	512	46 (C) ROAD IN TRESPASS
	0753	CHARLIE LITTLEOWL WHITE EAGLE	513	46 (C) ROAD IN TRESPASS
	0754	SABASTIAN LONGBEAR	T523-A	46 (C) ROAD IN TRESPASS
	0755	LITTLE LONG BEAR	526-A	46 (C) ROAD IN TRESPASS
	0756	BIG PORCUPINE	538-B	46 (C) ROAD IN TRESPASS
	0757	BIG PORCUPINE	538-C	46 (C) ROAD IN TRESPASS
	0758	SCOLDS	542	46 (C) ROAD IN TRESPASS
	0759	MRS. BEN SCOLDS	543	46 (C) ROAD IN TRESPASS
	0760	LOOKS AT WATER	546	46 (C) ROAD IN TRESPASS
	0761	JOHN ONION	6130	46 (C) ROAD IN TRESPASS
	0762	OFTHGROUND WALKSINMIDDLE	425-B	46D (C) ROAD IN TRESPASS
	0763	MUGS	427-C	46D (C) ROAD IN TRESPASS
	0764	TAKENMMFG INFOG MUGS	428-A	46D (C) ROAD IN TRESPASS
	0765	LEO MUGS	429-B	46D (C) ROAD IN TRESPASS
	0766	AURELIA WHITEANTILOP	430-A	46D (C) ROAD IN TRESPASS
	0767	DORTHEA CLOUD WHITEANTELOP	434	46D (C) ROAD IN TRESPASS
	0768	MAT STRIKESTME	435	46D (C) ROAD IN TRESPASS
	0769	HEDOESIT	436-A	46D (C) ROAD IN TRESPASS
	0770	SHESHIGHUP HEDOESIT	437-A	46D (C) ROAD IN TRESPASS
	0771	PEOPLESHOW BLACKTAIL	444	46D (C) ROAD IN TRESPASS
	0772	BIRDHORSE	617-C	46D (C) ROAD IN TRESPASS
	0773	MAY LAFORGE SUNDOESSHOW	689	46D (C) ROAD IN TRESPASS
	0774	STRONGHEART	1781-A	46D (C) ROAD IN TRESPASS
	0775	STANDSSUN STRONGHEART	1782	46D (C) ROAD IN TRESPASS
	0776	EDITH LAFORGE	2836	46D (C) ROAD IN TRESPASS
C52202	0002	TRIBAL	TRIBAL	SECTION 2 ACT OF 1920
	0039	TRIBAL	TRIBAL	MINERALS UNDERLYING SCHOOL LANDS
	0729	HARVEY YOUNGSWALLOW	1827-A	10 (C) ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C52[illegible]	0730	MET	2197	10 (C) ROAD IN TRESPASS
	0731	KNOWSMOTHERMET	2198	10 (C) ROAD IN TRESPASS
	0732	STANDSAMONG MEDICINEHORSE	114-A	22 (C) ROAD IN TRESPASS
	0733	PRETTYWOMAN BIRD	T261	22 (C) ROAD IN TRESPASS
	0734	KNOX LOOKSBACK	401-A	22 (C) ROAD IN TRESPASS
	0735	ELIZABETH REDDENSUCKER	3568	22 (C) ROAD IN TRESPASS
	0736	MARY HOLDS	242-A	46 (C) ROAD IN TRESPASS
	0737	FRANK PRETTY EAGLE	260	46 (C) ROAD IN TRESPASS
	0738	TAKESGUN	265	46 (C) ROAD IN TRESPASS
	0739	MOREOFTEN REEDHORSE	281	46 (C) ROAD IN TRESPASS
	0740	JOSEPHINE GOODHORSE HILL	282	46 (C) ROAD IN TRESPASS
	0741	STRIKES TWICE	694	46 (C) ROAD IN TRESPASS
	0742	MEGDALENE IRON	697	46 (C) ROAD IN TRESPASS
	0743	SUNGOESSLOW	783-A	46 (C) ROAD IN TRESPASS
	0744	ANGELA SUNGOESSLOW	784-C	46 (C) ROAD IN TRESPASS
	0745	STEPHEN SUNGOESSLOW	786-D	46 (C) ROAD IN TRESPASS
	0746	STEPHEN SUNGOESSLOW	786-E	46 (C) ROAD IN TRESPASS
	0747	WHITNEY HOLDS	2799-A	46 (C) ROAD IN TRESPASS
	0748	HENRY PLENTYBUFFALO	2902	46 (C) ROAD IN TRESPASS
	0749	STRIKEAGAIN STRIKEAWD	469-A	46 (C) ROAD IN TRESPASS
	0750	DELIA ONION	472	46 (C) ROAD IN TRESPASS
	0751	LITTLEOWL	511-A	46 (C) ROAD IN TRESPASS
	0752	KNOWSENEMY LITTLEOWL	512	46 (C) ROAD IN TRESPASS
	0753	CHARLIE LITTLEOWL WHITE EAGLE	513	46 (C) ROAD IN TRESPASS
	0754	SABASTIAN LONGBEAR	T523-A	46 (C) ROAD IN TRESPASS
	0755	LITTLE LONG BEAR	526-A	46 (C) ROAD IN TRESPASS
	0756	BIG PORCUPINE	538-B	46 (C) ROAD IN TRESPASS
	0757	BIG PORCUPINE	538-C	46 (C) ROAD IN TRESPASS
	0758	SCOLDS	542	46 (C) ROAD IN TRESPASS
	0759	MRS. BEN SCOLDS	543	46 (C) ROAD IN TRESPASS
	0760	LOOKS AT WATER	546	46 (C) ROAD IN TRESPASS
	0761	JOHN ONION	6130	46 (C) ROAD IN TRESPASS
	0762	OFFTHEGROUND WALKSINMIDDLE	425-B	46D (C) ROAD IN TRESPASS
	0763	HUGS	427-C	46D (C) ROAD IN TRESPASS
	0764	TAKENMIMFG INFOG HUGS	428-A	46D (C) ROAD IN TRESPASS
	0765	LEO HUGS	429-B	46D (C) ROAD IN TRESPASS
	0766	AURELIA WHITANTILOP	433-A	46D (C) ROAD IN TRESPASS
	0767	DORTHEA CLOUD WHITEANTELOP	434	46D (C) ROAD IN TRESPASS
	0768	HAT STRIKESTHE	435	46D (C) ROAD IN TRESPASS
	0769	HEDOESIT	436-A	46D (C) ROAD IN TRESPASS
	0770	SHESHIGHUP HEDOESIT	437-A	46D (C) ROAD IN TRESPASS
	0771	PEOPLESHOW BLACKTAIL	444	46D (C) ROAD IN TRESPASS
	0772	BIRDHORSE	617-C	46D (C) ROAD IN TRESPASS
	0773	MAY LAFORGE SUNGOESSLOW	689	46D (C) ROAD IN TRESPASS
	0774	STRONGHEART	1781-A	46D (C) ROAD IN TRESPASS
	0775	STANDSSUN STRONGHEART	1782	46D (C) ROAD IN TRESPASS
	0776	EDITH LAFORGE	2836	46D C ROAD IN TRESPASS
	0777	SHARPNOSE	468	46E (C) ROAD IN TRESPASS
	0778	BEADS GOT PLENTY	479	46E (C) ROAD IN TRESPASS
	0779	HAIL	1063	46E (C) ROAD IN TRESPASS
	0780	HILDA DAWES WHITEFOX	19	51A ROAD IN TRESPASS
	0781	FANNIE WHITEDAY	112	51A ROAD IN TRESPASS
	0782	WILLIAM STEWART	113-A	51A ROAD IN TRESPASS
	0783	HENRY STRONG	139-A	51A ROAD IN TRESPASS
	0784	HENRY STRONG	139-B	51A ROAD IN TRESPASS
	0785	FRANCIS STEWART	804	51A ROAD IN TRESPASS
	0786	PERCY BLACKHAIR	840-A	51A ROAD IN TRESPASS
	0787	DAVID DAWES	982	51A ROAD IN TRESPASS
	0788	ALICE DAWES	983	51A ROAD IN TRESPASS
	0789	CROOKED ARM	1024	51A ROAD IN TRESPASS
	0790	STRIKES CATCHESUPAND CROOKED ARM	1025	51A ROAD IN TRESPASS
	0791	TIE CROOKED ARM	1027	51A ROAD IN TRESPASS
	0792	JAMES CROOKED ARM	1028	51A ROAD IN TRESPASS
	0793	BIG OX	T1080	51A ROAD IN TRESPASS
	0794	LORENZO MOUNTAINSHIP	1095	51A ROAD IN TRESPASS
	0795	LUCKYHORSE SINGER	2053	51A ROAD IN TRESPASS
	0796	AMBROSE SINGER	2054	51A ROAD IN TRESPASS
	0797	ROSE GARDNER	T2234B	51A ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C52202	0798	MARY C. BURNSLEE	3113	51A ROAD IN TRESPASS
	0799	BELINDA EAGLE LAFORGE	3196-C	51A ROAD IN TRESPASS
	0800	FAITH STEWART	3543	51A ROAD IN TRESPASS
	0801	FLORENCE DOYLE	3654	51A ROAD IN TRESPASS
	0802	ALVIN E. NOT AFRAID	6014	51A ROAD IN TRESPASS
	0803	JOHN T. HOUSE	683-C	51 (C) ROAD IN TRESPASS
	0804	VICTOR SINGER	2052	51 (C) ROAD IN TRESPASS
	0805	LUCKYHORSE SINGER	2053	51 (C) ROAD IN TRESPASS
	0806	AMBROSE SINGER	2054	51 (C) ROAD IN TRESPASS
	0807	FELIX BEARCLOUD	2223-A	51 (C) ROAD IN TRESPASS
	0808	ROSE GARDNER	2234-A	51 (C) ROAD IN TRESPASS
	0809	SITWISTAN HOGDEN	448	52 (C) ROAD IN TRESPASS
	0810	PRETTY SHAKE	449	52 (C) ROAD IN TRESPASS
	0811	SUSIE SPOTTED WALLACE	462	52 (C) ROAD IN TRESPASS
	0812	SHARPNOSE	468-A	52 (C) ROAD IN TRESPASS
	0813	ZETA ALDEN REED	485	52 (C) ROAD IN TRESPASS
	0814	GEORGE REED SR.	486	52 (C) ROAD IN TRESPASS
	0815	JAMES BUFFALO	505-Q	52 (C) ROAD IN TRESPASS
	0816	LITTLEOWL	511-C	52 (C) ROAD IN TRESPASS
	0817	THOMAS LITTLEOWL	514-A	52 (C) ROAD IN TRESPASS
	0818	ROBERT HALF	519-B	52 (C) ROAD IN TRESPASS
	0819	JACOB BIGHAIR	631	52 (C) ROAD IN TRESPASS
	0820	FACE SHESHERENAUG	653	52 (C) ROAD IN TRESPASS
	0821	BIGHAIR	654	52 (C) ROAD IN TRESPASS
	0822	GUNCHIEF	665-B	52 (C) ROAD IN TRESPASS
	0823	JOSEPH GUNCHIEF	667-B	52 (C) ROAD IN TRESPASS
	0824	JOSHUA BUFFALO	721	52 (C) ROAD IN TRESPASS
	0825	MEDICINETAIL	1270-A	52 (C) ROAD IN TRESPASS
	0826	SARAH PEASE	1317	52 (C) ROAD IN TRESPASS
	0827	BUTTERFLY TWOHORSES	1245-A	53 (C) ROAD IN TRESPASS
	0828	ARTHUR PETERS	1290	53 (C) ROAD IN TRESPASS
	0829	AMOS MARTINEZ	1297	53 (C) ROAD IN TRESPASS
	0830	LUCY STRONGWELLION	2967	53 (C) ROAD IN TRESPASS
	0831	ANITA DOOR	3180	53 (C) ROAD IN TRESPASS
	0832	MAY LAFORGE SUNGOESSHOW	689	68 (C) ROAD IN TRESPASS
	0833	COMES OUT OF THE WATER	1033	68 (C) ROAD IN TRESPASS
	0834	SHELL ON NECK	1034	68 (C) ROAD IN TRESPASS
	0835	GLENN BIRD OTTER	1037	68 (C) ROAD IN TRESPASS
	0836	WOMANONTOP BLOODMAN	1215-E	68 (C) ROAD IN TRESPASS
	0837	PEARL BACKBONE	1216-A	68 (C) ROAD IN TRESPASS
	0838	PEARL BACKBONE	1216-B	68 (C) ROAD IN TRESPASS
	0839	ALBERTA BEARBELOW	1217	68 (C) ROAD IN TRESPASS
	0840	WHITEBULL	1348-A	68 (C) ROAD IN TRESPASS
	0841	GREYBLANKET	1527	68 (C) ROAD IN TRESPASS
	0842	PRETTY BACK OF THE NECK	1530-A	68 (C) ROAD IN TRESPASS
	0843	CELIA	1573-B	68 (C) ROAD IN TRESPASS
	0844	JOSEPH NOTAFRAID	1575-A	68 (C) ROAD IN TRESPASS
	0845	JOSEPH NOTAFRAID	1575-B	68 (C) ROAD IN TRESPASS
	0846	ELIZA BACCHUS	1608-B	68 (C) ROAD IN TRESPASS
	0847	DORA BLOODMAN	2704	68 (C) ROAD IN TRESPASS
	0848	EDITH LAFORGE	2836-A	68 (C) ROAD IN TRESPASS
	0849	FRANCES BACKBONE BENDS	3024	68 (C) ROAD IN TRESPASS
	0850	WILLIAM BACKBONE	3025	68 (C) ROAD IN TRESPASS
	0851	WILLIAM BACKBONE	3025-B	68 (C) ROAD IN TRESPASS
	0852	FRANK BACKBONE	T3026	68 (C) ROAD IN TRESPASS
	0853	FRANK GARDNER JR.	3224-B	68 (C) ROAD IN TRESPASS
	0854	JOSEPH LAFORGE	3323	68 (C) ROAD IN TRESPASS
	0855	ALICE LAFORGE	3325	68 (C) ROAD IN TRESPASS
	0856	LEO NOT AFRAID	3404	68 (C) ROAD IN TRESPASS
	0857	CEDRIC NOT AFRAID	3406	68-C ROAD IN TRESPASS
	0858	WOODROW PRETTYONTOP	3466-C	68-C ROAD IN TRESPASS
	0859	IRENE YARLOTT	1130	78-C ROAD IN TRESPASS
	0860	ELSIE YARLOTT	1133-A	78-C ROAD IN TRESPASS
	0861	MAGGIE STEVENS STOVALL	1263	78-C ROAD IN TRESPASS
	0862	JOSEPHINE GOERING STEVENS	1264	78-C ROAD IN TRESPASS
	0863	HUGSWEASEL NOHORSE	1537	78-C ROAD IN TRESPASS
	0864	DOESTHINGS YELLOWCRANE	1677	78-C ROAD IN TRESPASS
	0865	BADHART	1681	78-C ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

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TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C52202	0866	THREEBEARS	1690	78-C ROAD IN TRESPASS
	0867	HOPE LITTLELIGHT	2844	78-C ROAD IN TRESPASS
	0868	ADAM BIRDINGROUND SR.	3074	78-C ROAD IN TRESPASS
	0869	FOLKA BLOODMAN	1218	83-C ROAD IN TRESPASS
	0870	BULLTHATRISE UP	1234	83-C ROAD IN TRESPASS
	0871	BULLTHATRISE UP	1234-B	83-C ROAD IN TRESPASS
	0872	ROBERT RISEUP	1235-A	83-C ROAD IN TRESPASS
	0873	ANDREW WALLACE	1598	83-C ROAD IN TRESPASS
	0874	JENNIE WALLACE	1599	83-C ROAD IN TRESPASS
	0875	JOSIE WALLACE	1600	83-C ROAD IN TRESPASS
	0876	SINGSINWD BACCHUS	1607-D	83-C ROAD IN TRESPASS
	0877	ELIZA BACCHUS	1608-A	83-C ROAD IN TRESPASS
	0878	LEE BLUEBEAD	1669	83-C ROAD IN TRESPASS
	0879	RAY BLUEBEAD	1671	83-C ROAD IN TRESPASS
	0880	FRANK GARDNER JR.	3224-B	83-C ROAD IN TRESPASS
	0881	AGNES N GARDNER	3225	83-C ROAD IN TRESPASS
	0882	BARBARA YELLOWEASEL	1500	116-C ROAD IN TRESPASS
	0883	EDWARD RED WOLF	3478	116-C ROAD IN TRESPASS
	0884	MILDRED N. OLDCROW	3667	116-C ROAD IN TRESPASS
	0885	MARY CARPENTER	1589	125A (C) ROAD IN TRESPASS
	0886	FIREFISH	2451-A	125A (C) ROAD IN TRESPASS
	0887	RICHARD BLACKHAIR	3078-B	125A (C) ROAD IN TRESPASS
	0888	JOSEPH CARPENTER	3123-A	125A (C) ROAD IN TRESPASS
	0889	ALINE FIRETAIL	340-E	125 (C) ROAD IN TRESPASS
	0890	COVERSUP	1579	125 (C) ROAD IN TRESPASS
	0891	FRANK COVERSUP	1581	125 (C) ROAD IN TRESPASS
	0892	OLD PLENTY BEARS	590	145 (C) ROAD IN TRESPASS
	0893	TOGETHER STRIKES	267	207-I ROAD IN TRESPASS
	0894	BADBEAR	1359-A	207-I ROAD IN TRESPASS
	0895	CROOKEDFACE BADBEAR	1360	207-I ROAD IN TRESPASS
	0896	SHIELDDOOR HORN	1733-B	207-I ROAD IN TRESPASS
	0897	BLAKE WHITEMAN JR.	3627	207-I ROAD IN TRESPASS
	0898	FRANK BLACKHAIR	66	216 (C) ROAD IN TRESPASS
	0899	GIVETOSUN BIGLAKE	78-A	216 (C) ROAD IN TRESPASS
	0900	BIGNEDONRK BIGLAKE	79	216 (C) ROAD IN TRESPASS
	0901	GEORGE THOMAS	94	216 (C) ROAD IN TRESPASS
	0902	PLAINTAIL MEDICINEBEAR	105	216 (C) ROAD IN TRESPASS
	0903	INWATER PUTSMEDICINE	108-A	216 (C) ROAD IN TRESPASS
	0904	WILLIAM STEWART	113-B	216 (C) ROAD IN TRESPASS
	0905	ONFOREHEAD WHITECLAY	117	216 (C) ROAD IN TRESPASS
	0906	VERNON WHITEDAY	119-E	216 (C) ROAD IN TRESPASS
	0907	NETTIE WHITECLAY	120	216 (C) ROAD IN TRESPASS
	0908	COOS SHOES	121	216 (C) ROAD IN TRESPASS
	0909	DON LITTLELIGHT	126	216 (C) ROAD IN TRESPASS
	0910	EDMOND LITTLELIGHT SR.	127-A	216 (C) ROAD IN TRESPASS
	0911	FROZE	157-C	216 (C) ROAD IN TRESPASS
	0912	FRED FROZE	159	216 (C) ROAD IN TRESPASS
	0913	MARY OWLABOVE STEWART	181	216 (C) ROAD IN TRESPASS
	0914	AGNES DAWES OWLABOVE SINGER	182	216 (C) ROAD IN TRESPASS
	0915	CLARK OTHERBULL	190	216 (C) ROAD IN TRESPASS
	0916	OTHERBULL	T188-A	216 (C) ROAD IN TRESPASS
	0917	TOTHEBIRDS KILLSCOMING	185	216 (C) ROAD IN TRESPASS
	0918	WHITEARM	29-A	290 (C) ROAD IN TRESPASS
	0919	WHITEARM	T29	290 (C) ROAD IN TRESPASS
	0920	BIRDINCLOUD	1268BD	329 (C) ROAD IN TRESPASS
	0921	WALLACE PEASE	1326	329 (C) ROAD IN TRESPASS
	0922	YOUNGCRANE	1373-B	329 (C) ROAD IN TRESPASS
	0923	BLAKE WHITEMAN SR.	1605	329 (C) ROAD IN TRESPASS
	0924	WALTER A. PEASE	3452	329 (C) ROAD IN TRESPASS
	0925	HANNAH OTHERMEDICINE	789	336 (C) ROAD IN TRESPASS
	0926	FREDERICK BADHEART	1684	336 (C) ROAD IN TRESPASS
	0927	MATILDA DEPUTEE	3174	336 (C) ROAD IN TRESPASS
	0928	BAGSPLENTY BEARCLAW	1070	340-C ROAD IN TRESPASS
	0929	BREAD	1203	340-C ROAD IN TRESPASS
	0930	SARAH GOES AHEAD	T2111A	340-C ROAD IN TRESPASS
	0931	PRETTYFTHWOMAN	1560-A	340-C ROAD IN TRESPASS
	0932	FRANK GARDNER	545	365 (C) ROAD IN TRESPASS
	0933	ROSE BOMPART	988	365 (C) ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C2202	0934	RIDES PRETTY	277-C	366 (C) ROAD IN TRESPASS
	0935	DAISY RIDESPRETTY	278	366 (C) ROAD IN TRESPASS
	0936	OTTO RIDESHORSE	701	366 (C) ROAD IN TRESPASS
	0937	CHARLES F. WHITE	1444	366 (C) ROAD IN TRESPASS
	0938	REDSTAR	1912	366 (C) ROAD IN TRESPASS
	0939	ROSE HEDOESIT PLENTYGOOD	T2301	366 (C) ROAD IN TRESPASS
	0940	TRIBAL	TRIBAL	366 (C) S21 T3S R33E ROAD IN TRESPASS
	0941	HARVEY YOUNGSWALLOW	1827	RP02-1 ROAD IN TRESPASS
	0942	RUSTHEWOLF	2410	RP02-1 ROAD IN TRESPASS
	0943	SHEISNTFOL RUNSTHEWOLF	2412-A	RP02-1 ROAD IN TRESPASS
	0944	WEASELWALK RUNSTHEWOLF	2413	RP02-1 ROAD IN TRESPASS
	0945	FEATHEREARRING	2449	RP02-2 ROAD IN TRESPASS
	0946	TOPMAKESHISFORE	197	RP02-3 ROAD IN TRESPASS
	0947	KNOWSHERSCALP	253	RP02-3 ROAD IN TRESPASS
	0948	RIDESPRETTYHORSE	1949	RP02-4 ROAD IN TRESPASS
	0949	AMONGTHEENEMY	2096	RP02-4 ROAD IN TRESPASS
	0950	BULLALLTIME	869-A	RP02-5 ROAD IN TRESPASS
	0951	AGNES E. LOBDELL	3164	RP02-5 ROAD IN TRESPASS
	0952	AGNES E. LOBDELL	3164-A	RP02-5 ROAD IN TRESPASS
	0953	FRANCES A. CUMMINS QUIBEL	3165	RP02-5 ROAD IN TRESPASS
	0954	IGNATIUS RIDESAHORSE	702-A	RP02-6 ROAD IN TRESPASS
	0955	OSCAR BEARCRANE	2166	RP02-6 ROAD IN TRESPASS
	0956	OSCAR BEARCRANE	2166-B	RP02-6 ROAD IN TRESPASS
	0957	COMESUP	2223	RP02-6 ROAD IN TRESPASS
	0958	NORA KIPP	T3127	RP02-6 ROAD IN TRESPASS
	0959	FRANK LITTLELIGHT	3356	RP02-6 ROAD IN TRESPASS
	0960	AURORA LITTLELIGHTSHEEP	3357	RP02-6 ROAD IN TRESPASS
	0961	AGNES SMARTENEMY	3525	RP02-6 ROAD IN TRESPASS
	0962	LUELLA B. JOHNWILLIAMS	3629	RP02-6 ROAD IN TRESPASS
	0963	TILLIE BEARWALKS HOME	1809	RP02-7 ROAD IN TRESPASS
	0964	SHELLS	1819DE	RP02-7 ROAD IN TRESPASS
	0965	ARNOLD COATE	1858-B	RP02-7 ROAD IN TRESPASS
	0966	SINGER	1881	RP02-7 ROAD IN TRESPASS
	0967	DONTGETIN	1938-B	RP02-7 ROAD IN TRESPASS
	0968	PLAINCEDAR BULLSNAKE	1969-B	RP02-7 ROAD IN TRESPASS
	0969	BARBARA BULLSNAKE	1970-A	RP02-7 ROAD IN TRESPASS
	0970	LIVESEVER HIDES	2047	RP02-7 ROAD IN TRESPASS
	0971	SPOTTEDARM	2079-B	RP02-7 ROAD IN TRESPASS
	0972	WHERESHEST SPOTTEDARM	2080-C	RP02-7 ROAD IN TRESPASS
	0973	ROBERT SPOTTEDARM	2081-A	RP02-7 ROAD IN TRESPASS
	0974	BIGNOSE	2083-A	RP02-7 ROAD IN TRESPASS
	0975	TAKESGOOD BIGNOSE	2084	RP02-7 ROAD IN TRESPASS
	0976	AHEAD STEALSONCAMP	2085	RP02-7 ROAD IN TRESPASS
	0977	SHIELDSHOW GOESON	2088	RP02-7 ROAD IN TRESPASS
	0978	EVEN	2089	RP02-7 ROAD IN TRESPASS
	0979	SHOWSPLENTY	2104	RP02-7 ROAD IN TRESPASS
	0980	PLAINFEATHER	2107	RP02-7 ROAD IN TRESPASS
	0981	PLAINFEATHER	2107-B	RP02-7 ROAD IN TRESPASS
	0982	LIVESHIGH PLAINFEATHER	2108-B	RP02-7 ROAD IN TRESPASS
	0983	SARAH GOES AHEAD	2111-C	RP02-7 ROAD IN TRESPASS
	0984	JACOB STANDSOVERBULL	2113-A	RP02-7 ROAD IN TRESPASS
	0985	BIRDMAT	2116-A	RP02-7 ROAD IN TRESPASS
	0986	PHILLIP BIRDMAT	2117	RP02-7 ROAD IN TRESPASS
	0987	ESTHER BIRDMAT	2119	RP02-7 ROAD IN TRESPASS
	0988	WOLFLOOKSUP	2144	RP02-7 ROAD IN TRESPASS
	0989	TRAVELS	2193	RP02-7 ROAD IN TRESPASS
	0990	WET	2197	RP02-7 ROAD IN TRESPASS
	0991	ROSA COOCHIEF	2202	RP02-7 ROAD IN TRESPASS
	0992	BADBABY	2209	RP02-7 ROAD IN TRESPASS
	0993	LIKEBEAVER BADBABY	2210	RP02-7 ROAD IN TRESPASS
	0994	OTTERWOOP COMESUP	2224	RP02-7 ROAD IN TRESPASS
	0995	LITTLEFIRE	2228	RP02-7 ROAD IN TRESPASS
	0996	OTTERBULL LITTLEFIRE	2230	RP02-7 ROAD IN TRESPASS
	0997	FIREWEASEL	2213	RP02-7 ROAD IN TRESPASS
	0998	THOMAS STEALSONCAMP	2342	RP02-7 ROAD IN TRESPASS
	0999	JENNIE SMART ENEMY	2346	RP02-7 ROAD IN TRESPASS
	1000	EDWARD ROUNDFACE	3495	RP02-7 ROAD IN TRESPASS
	1001	LOUISE COMESUP	2225	RP02-7 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C52202	1002	EZRA BEAR CLOUD	2235	RP02-7 ROAD IN TRESPASS
	1003	COMESOUTOFTHEWATER	2237	RP02-7 ROAD IN TRESPASS
	1004	EDITH CASHEN RAINES	2284	RP02-7 ROAD IN TRESPASS
	1005	WORKS BOBTAILCROW	2232	RP02-7 ROAD IN TRESPASS
	1006	CYNTHIA COOPER	2155A	RP02-8 ROAD IN TRESPASS
	1007	MEDICINETAIL	857-A	RP02-9 ROAD IN TRESPASS
	1008	HIGHKICKER MEDICINETAIL	860	RP02-9 ROAD IN TRESPASS
	1009	MEDICINESHEEL	862	RP02-9 ROAD IN TRESPASS
	1010	SPOTTED BUFFALO	897-A	RP02-9 ROAD IN TRESPASS
	1011	PLAINFACE	898	RP02-9 ROAD IN TRESPASS
	1012	EZRA BLANKET [illegible]	3086	RP02-9 ROAD IN TRESPASS
	1013	AGNES HOLDS [illegible]	3306	RP02-9 ROAD IN TRESPASS
	1014	BEARCLOUD	1540	RP02-9 ROAD IN TRESPASS
	1015	TRIBAL	TRIBAL	TAXES ON OIL AND GAS LEASES
	790	STRIKES CATCHESUPAND CROOKED [illegible]	1025	51A ROAD IN TRESPASS
C53204	0131	FRANK HAWLEY	449	RP04-1 ROAD IN TRESPASS
	0132	PHYLLIS HAWLEY	1152	RP04-1 ROAD IN TRESPASS
	0133	ELIZABETH BENT	1153BC	RP04-1 ROAD IN TRESPASS
	0134	LOUIS BENT	1154	RP04-1 ROAD IN TRESPASS
	0135	EMMA BENT	1155	RP04-1 ROAD IN TRESPASS
	0136	FLORENCE BENT	1157-A	RP04-1 ROAD IN TRESPASS
	0137	JOHN JOSEPH MOUNT	T134-B	RP04-2 ROAD IN TRESPASS
	0138	MARGARET SKUNK BRADLEY	T144-B	RP04-2 ROAD IN TRESPASS
	0139	EVA BROCKIE	T1010A	RP04-2 ROAD IN TRESPASS
	0140	MARY MARGARET HICKOX	1053	RP04-2 ROAD IN TRESPASS
	0141	JULIUS HICKOX	1054	RP04-2 ROAD IN TRESPASS
C56106	0808	EMMETTE ALGRED BUCKLES	4122	RP06-5 ROAD IN TRESPASS
	0809	TRIBAL	T5090	RP06-5 ROAD IN TRESPASS
	0810	TRIBAL	TRIBAL	RP06-5 SEC 17 T32N R47E RD IN TP
	0811	TRIBAL	TRIBAL	RP06-5 SEC 30 T32N R47E RD IN TP
	0812	TRIBAL	TRIBAL	RP06-5 SEC 36 T32N R47E RD IN TP
	0813	TRIBAL	T5090	RP06-8 ROAD IN TRESPASS
	0814	CLAY KEYS	2322	RP06-9 ROAD IN TRESPASS
	0815	SHERMAN T. RICKER	3511	RP06-9 ROAD IN TRESPASS
	0816	GERALDINE DAVIS	3561	RP06-9 ROAD IN TRESPASS
	0817	TRIBAL	T5090	RP06-10 ROAD IN TRESPASS
	0818	TUFUS RICKEE JR.	2045	RP06-11 ROAD IN TRESPASS
	0819	MERELE ANNIE ROWE	T4058	RP06-11 ROAD IN TRESPASS
	0820	TRIBAL	TRIBAL	RP06-11 SEC 5 T31N R47E RD IN TP
	0821	AMELIA KEYS	2476	RP06-13 ROAD IN TRESPASS
	0822	JOSEPHINE WHITEBEAR	2480	RP06-13 ROAD IN TRESPASS
	0823	WILLIAM C. BROWN	3118	RP06-13 ROAD IN TRESPASS
	0824	WINIFRED RED EAGLE	3174	RP06-13 ROAD IN TRESPASS
	0825	CLARENCE DALE WALKER	3647	RP06-13 ROAD IN TRESPASS
C56206	0186	TRIBAL	TRIBAL	HOMESTEAD CANCELLED
	0196	TRIBAL	TRIBAL	PAUL BENDO FARMING TRESPASS
	0199	TRIBAL	TRIBAL	NICK LANGAGER TRESPASS
	0680	TRIBAL	UNDET.	VALLEY ELECTRIC UTILITY LINE
	0792	LEVI WETSIT	2258	RP06-1 ROAD IN TRESPASS
	0793	VILANA IRON CLOUD	3985	RP06-2 ROAD IN TRESPASS
	0794	TRIBAL	T5090	RP06-2 ROAD IN TRESPASS
	0795	TRIVCAN I. BROWNING	3399	RP06-3 ROAD IN TRESPASS
	0796	VILNA IRON CLOUD	3985	RP06-3 ROAD IN TRESPASS
	0797	HELENA MARIE BOWER	4071	RP06-3 ROAD IN TRESPASS
	0798	WILLIAM MARK BLANKENSHIP	4117	RP06-3 ROAD IN TRESPASS
	0799	TRIBAL	TRIBAL	RP06-3 S 2 11 T32N R49 E ROAD IN TRESPASS
	0800	TRIBAL	TRIBAL	RP06-3 S17 T29N R47E ROAD IN TRESPASS
	0801	TRIBAL	T5090	RP06-4 ROAD IN TRESPASS
	0802	MAGGIE HICHMAN PEREAU	1749	RP06-5 ROAD IN TRESPASS
	0803	DORIS ROSALIE SHIPSTEAD	2780	RP06-5 ROAD IN TRESPASS
	0804	EULA LORAINE SHIPSTEAD	2963	RP06-5 ROAD IN TRESPASS
	0805	RICHARD LEFTHAND THUNDER	3113	RP06-5 ROAD IN TRESPASS
	0806	WILMA JANE LONGEE	4081	RP06-5 ROAD IN TRESPASS
	0807	MAY WHITE HAWK	4083	RP06-5 ROAD IN TRESPASS
	0808	EMMETTE ALGRED BUCKLES	4122	RP06-5 ROAD IN TRESPASS
	0809	TRIBAL	T5090	RP06-5 ROAD IN TRESPASS
	0810	TRIBAL	TRIBAL	RP06-5 S17 T32N R47E ROAD IN TRESPASS
	0811	TRIBAL	TRIBAL	RP06-5 S30 T32N R47E ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C56206	0812	TRIBAL	TRIBAL	RP06-5 S36 T32N R47E ROAD IN TRESPASS
	0813	TRIBAL	T5090	RP06-8 ROAD IN TRESPASS
	0814	CLAY KEYS	2322	RP06-9 ROAD IN TRESPASS
	0815	SHERMAN T. RICKER	3511	RP06-9 ROAD IN TRESPASS
	0816	GERALDINE DAVIS	3561	RP06-9 ROAD IN TRESPASS
	0817	TRIBAL	T5090	RP06-10 ROAD IN TRESPASS
	0818	TUFUS RICKEE JR.	2045	RP06-11 ROAD IN TRESPASS
	0819	MERELE ANNIE ROWE	T4058	RP06-11 ROAD IN TRESPASS
	0820	TRIBAL	TRIBAL	RP06-11 SS T31N R47 E ROAD IN TRESPASS
	0821	AMELIA KEYS	2476	RP06-13 ROAD IN TRESPASS
	0822	JOSEPHINE WHITEBEAR	2480	RP06-13 ROAD IN TRESPASS
	0823	WILLIAM C. BROWN	3118	RP06-13 ROAD IN TRESPASS
	0824	WINIFRED RED EAGLE	3174	RP06-13 ROAD IN TRESPASS
	0825	CLARENCE DALE WALKER	3647	RP06-13 ROAD IN TRESPASS
	0826	RICHARD PHILLIP IRON BEAR	3920	RP06-13 ROAD IN TRESPASS
	0827	GERALD SCOTT	4142	RP06-13 ROAD IN TRESPASS
	0828	JULIUS CHARGING DOG	241	RP06-14 ROAD IN TRESPASS
	0829	GOODALLOVER FOUR BEAR	343	RP06-14 ROAD IN TRESPASS
	0830	KILLS THEM IN THE WATER	T486-A	RP06-14 ROAD IN TRESPASS
	0831	CHESTER ARTHUR	1129	RP06-14 ROAD IN TRESPASS
	0832	LITTLE CHIEFWOMAN FOUR BEAR	1773	RP06-14 ROAD IN TRESPASS
	0833	RICHARD RICKER	1791	RP06-14 ROAD IN TRESPASS
	0834	MATT D. ADAMS	2391	RP06-14 ROAD IN TRESPASS
	0835	OTTO CANTRELL JR.	T3937	RP06-14 ROAD IN TRESPASS
	0836	TRIBAL	T5090	RP06-14 S6 R27N R48E ROAD IN TRESPASS
	0837	TRIBAL	T5090	RP06-14 SEC24 T28N R48E ROAD IN TRESPASS
	0838	JENNETTE JONES	459	RP06-19 ROAD IN TRESPASS
	0839	JAMES MCDONALD JR.	623	RP06-19 ROAD IN TRESPASS
	0840	FLORENCE CHASER	T1832A	RP06-19 ROAD IN TRESPASS
	0841	ETHEL DAVIS	1932	RP06-19 ROAD IN TRESPASS
	0842	EARL W. SEEDE	2400	RP06-19 ROAD IN TRESPASS
	0843	RICHARD CROW JR.	2467	RP06-19 ROAD IN TRESPASS
	0844	QUENTIN ROSEVELT CROW	2610	RP06-19 ROAD IN TRESPASS
	0845	IONE DOROTHY MCDONALD	3055-A	RP06-19 ROAD IN TRESPASS
	0846	FLORENCE AGNES PROCTOR	3430	RP06-19 ROAD IN TRESPASS
	0847	WILLIAM DAVID BUCKLES	T3708A	RP06-19 ROAD IN TRESPASS
	0848	JOHN LAMBERT JR.	T31588	RP06-19 ROAD IN TRESPASS
	0849	TRIBAL	TRIBAL	RP06-19 SEC 5 6 T31N R50E ROAD IN TRESPASS
	0850	LEONORA DUPREE	287	RP06-20 ROAD IN TRESPASS
	0851	LEONORA DUPREE	287-A	RP06-20 ROAD IN TRESPASS
	0852	KIRKWOOD SMITH	884	RP06-20 ROAD IN TRESPASS
	0853	JOSEPH WILLIAM COMES LAST	2720	RP06-20 ROAD IN TRESPASS
	0854	TRIBAL	TRIBAL	RP06-20 S3 T23N R51E ROAD IN TRESPASS
	0855	AUBREY ELIZABETH	2099	RP06-21 ROAD IN TRESPASS
	0856	LESLIE ROBERT GRAINGER	2532	RP06-21 ROAD IN TRESPASS
	0857	LUCILLE BIGHORN	T3076A	RP06-21 ROAD IN TRESPASS
	0858	VIALOA MARIE SPOTTED BIRD	3536	RP06-21 ROAD IN TRESPASS
	0859	EVERETTE LONGTREE	4029	RP06-21 ROAD IN TRESPASS
	0860	EDA BARRELL	T78-A	RP06-22 ROAD IN TRESPASS
	0861	ALBERT COMES LAST	182-A	RP06-22 ROAD IN TRESPASS
	0862	MARTIN HIGH BACK BONE	417	RP06-22 ROAD IN TRESPASS
	0863	ALICE LONE DOG	T572-A	RP06-22 ROAD IN TRESPASS
	0864	LONG HAIR	595	RP06-22 ROAD IN TRESPASS
	0865	EUNICE OWNSPIPE	T699	RP06-22 ROAD IN TRESPASS
	0866	RED FEATHER	T774	RP06-22 ROAD IN TRESPASS
	0867	BESSIE SHIELDS	T866-A	RP06-22 ROAD IN TRESPASS
	0868	MEDICINE WOMAN	868-A	RP06-22 ROAD IN TRESPASS
	0869	NELLIE WHITEHAWK	1040	RP06-22 ROAD IN TRESPASS
	0870	TWO BONNET WHITE MAEL	T1041A	RP06-22 ROAD IN TRESPASS
	0871	AMELIA REHDER	1630	RP06-22 ROAD IN TRESPASS
	0872	NORMA C. REHDER	1635	RP06-22 ROAD IN TRESPASS
	0873	ZELMA REHDER	1755	RP06-22 ROAD IN TRESPASS
	0874	JACOB BIGHORN	1762	RP06-22 ROAD IN TRESPASS
	0875	NELLIE CLEVELAND	1766	RP06-22 ROAD IN TRESPASS
	0876	SUSIE GRAY EAR	1775	RP06-22 ROAD IN TRESPASS
	0877	FIVESTARR WHITE HAWK	1835	RP06-22 ROAD IN TRESPASS
	0878	WILLIAM BRADLEY BRIDGES	1926	RP06-22 ROAD IN TRESPASS
	0879	CHARLOTTEE BOYD	2023	RP06-22 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C56206	0880	ROSE FONTAINE	T2879A	RP06-22 ROAD IN TRESPASS
	0881	SHIRLEY K. HELMER	3329	RP06-22 ROAD IN TRESPASS
	0882	TRIBAL	T5090	RP06-22 ROAD IN TRESPASS
	0883	RICHARD B. ROME	3070	RP06-22 ROAD IN TRESPASS
	0884	JOHN HUNTER	1863-A	RP06-22 ROAD IN TRESPASS
	0885	GOODWOMAN HUNTER	428	RP06-23 ROAD IN TRESPASS
	0886	SAMUEL SMALL	1881	RP06-23 ROAD IN TRESPASS
	0887	GEORGE CHARLES MILLER JR.	1972	RP06-23 ROAD IN TRESPASS
	0888	ROBERTA JOAN BOYD	3876	RP06-23 ROAD IN TRESPASS
	0889	TRIBAL	TRIBAL	RP06-23 S26 T32N R52E ROAD IN TRESPASS
	0890	STELLA BLACKEYE BULL EAGLE	123	RP06-24 ROAD IN TRESPASS
	0891	JAMES CRAZY BULL	251-B	RP06-24 ROAD IN TRESPASS
	0892	RUTH LESTER	542	RP06-24 ROAD IN TRESPASS
	0893	ELMER LESTER	543-C	RP06-24 ROAD IN TRESPASS
	0894	FRANCIS WILLIMA MURRAY	2670A	RP06-24 ROAD IN TRESPASS
	0895	MARY WILMA MURRAY	2671	RP06-24 ROAD IN TRESPASS
	0896	LUCILLE PROCTOR	2898	RP06-24 ROAD IN TRESPASS
	0897	COLMA DUPREE	3368	RP06-24 ROAD IN TRESPASS
	0898	CHRISTINE ANN RANDOLF	3686	RP06-24 ROAD IN TRESPASS
	0899	TRIBAL	TRIBAL	RP06-24 S14 T30N R52E ROAD IN TRESPASS
	0900	LEWIS LAMBERT #3	326-A	RP06-25 ROAD IN TRESPASS
	0901	ALVA BARNARD CASPER	1785	RP06-25 ROAD IN TRESPASS
	0902	VIRL DENNY	1992	RP06-25 ROAD IN TRESPASS
	0903	DALLAS B. MCNEIL	2273	RP06-25 ROAD IN TRESPASS
	0904	VICTORIA BURD	1252	RP06-27 ROAD IN TRESPASS
	0905	DIFFERENT CLOUD SCABBY BEAR	1640	RP06-27 ROAD IN TRESPASS
	0906	CRAZY DOG WEARS CLOUD	255	RP06-28 ROAD IN TRESPASS
	0907	JOHN CRAZY DOG	256	RP06-28 ROAD IN TRESPASS
	0908	STRIKING FAST	T322-A	RP06-28 ROAD IN TRESPASS
	0909	JAMES NO BREST	686-A	RP06-28 ROAD IN TRESPASS
	0910	TRIBAL	TRIBAL	RP06-28 S27 T33N R48E ROAD IN TRESPASS
	0911	VICTOR EAGLE BEAR	2759	RP06-29 ROAD IN TRESSPASS
	0912	WILLIAM LESTER JR.	T2895A	RP06-29 ROAD IN TRESSPASS
	0913	MELVIN LEROY EAGLEMAN	3692	RP06-29 ROAD IN TRESSPASS
	0914	THELMA MELBOURNE	3836	RP06-29 ROAD IN TRESSPASS
	0915	TRIBAL	TRIBAL	RP06-29 S13 T33N R52E ROAD IN TRESPASS
	0916	ELLEN TURNING PINE	961	RP06-30 ROAD IN TRESPASS
	0917	MELVIN LEROY EAGLEMAN	3692	RP06-30 ROAD IN TRESPASS
	0918	JOSEPH JONES	4102	RP06-30 ROAD IN TRESPASS
	0919	GOOD LITTLE HAND	567	RP06-31 ROAD IN TRESPASS
	0920	RAYMOND FOUR BEAR	1214-B	RP06-34 ROAD IN TRESPASS
	0921	NANCY BLACK DUCK	176-A	RP06-34 ROAD IN TRESPASS
	0922	LEROY MANNING	617	RP06-36 ROAD IN TRESPASS
	0923	EDWARD MEDICINE BEAR	T626-A	RP06-36 ROAD IN TRESPASS
	0924	RALPH MEDICINE BEAR	628	RP06-36 ROAD IN TRESPASS
	0925	ADA MEDICINE BEAR	627	RP06-36 ROAD IN TRESPASS
	0926	CORA OWNS PIPE	T629-A	RP06-36 ROAD IN TRESPASS
	0927	ANNIE MEDICINE BEAR	1786	RP06-36 ROAD IN TRESPASS
	0928	JAMES MEDICINE	1787	RP06-36 ROAD IN TRESPASS
	0929	EMMA MEDICINE	1870	RP06-36 ROAD IN TRESPASS
	0930	GERALD SMITH	T2195	RP06-36 ROAD IN TRESPASS
	0931	HAROLD SMITH	2196	RP06-36 ROAD IN TRESPASS
	0932	ELSIE ELAINE SMITH	2548	RP06-36 ROAD IN TRESPASS
	0933	GLADYS WAR CLUB	T2730A	RP06-36 ROAD IN TRESPASS
	0934	JOHN NECKLACE	2794	RP06-36 ROAD IN TRESPASS
	0935	GLADYS IRENE BURGER	2858	RP06-36 ROAD IN TRESPASS
	0936	JAMES ATKINSON SMITH	2892	RP06-36 ROAD IN TRESPASS
	0937	FRANK SPINDLER JR.	2956	RP06-36 ROAD IN TRESPASS
	0938	MYRTLE AMELIA DISERLY	3586-B	RP06-36 ROAD IN TRESPASS
	0939	TRIBAL	T5090	RP06-37 ROAD IN TRESPASS
	0940	BADGER CLAW NECKLACE	28-A	RP06-38 ROAD IN TRESPASS
	0941	BETS HIS MEDICINE	65	RP06-38 ROAD IN TRESPASS
	0942	LAURA CLEVELAND	177	RP06-38 ROAD IN TRESPASS
	0943	NANCY CLEVELAND	1178-A	RP06-38 ROAD IN TRESPASS
	0944	CYPRIAN DOG	T275-A	RP06-38 ROAD IN TRESPASS
	0945	RUNNING GOOD VOICE HAWK	377	RP06-38 ROAD IN TRESPASS
	0946	BERTHA GOOD VOICE HAWK	378	RP06-38 ROAD IN TRESPASS
	0947	ISSAC IRON CLOUD	441	RP06-38 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C56206	0948	LAME SOLDIER	528	RP06-38 ROAD IN TRESPASS
	0949	FRANK LONGEE	T574-B	RP06-38 ROAD IN TRESPASS
	0950	PHILLIP RED BOY	T810-F	RP06-38 ROAD IN TRESPASS
	0951	ANDREW SHIELDS	856-A	RP06-38 ROAD IN TRESPASS
	0952	FLORENCE SHIELDS #1	857	RP06-38 ROAD IN TRESPASS
	0953	SHADOW TAKES THEM	T932	RP06-38 ROAD IN TRESPASS
	0954	FLORENCE SHIELDS #2	1952	RP06-38 ROAD IN TRESPASS
	0955	LOUISE SHARP EYES	2793	RP06-38 ROAD IN TRESPASS
	0956	BUDDY LONEL CAMPBELL	3942	RP06-39 ROAD IN TRESPASS
	0957	BASIL REDDOOR	T39-A	RP06-40 ROAD IN TRESPASS
	0958	THOMAS IRON CLOUD	440-A	RP06-40 ROAD IN TRESPASS
	0959	YELLOW ELK WALKING EAGLE	775-A	RP06-40 ROAD IN TRESPASS
	0960	ALBERT SILVAS JR.	3056	RP06-41 ROAD IN TRESPASS
	0961	EDWARD BAUER	T2372A	RP06-41 ROAD IN TRESPASS
	0962	EMERY MYRICK	4072	RP06-41 ROAD IN TRESPASS
	0963	WILLIAM YOUPEE	2152	RP06-42 ROAD IN TRESPASS
	0964	JOSEPHINE SMITH	2490	RP06-42 ROAD IN TRESPASS
	0965	SAMUEL ALLISON	11	RP06-43 ROAD IN TRESPASS
	0966	BIG BLANKET	72-A	RP06-43 ROAD IN TRESPASS
	0967	ALEX BROWN	99	RP06-43 ROAD IN TRESPASS
	0968	FRANK DERBY	269	RP06-43 ROAD IN TRESPASS
	0969	VIRGINIA DERBY	270	RP06-43 ROAD IN TRESPASS
	0970	MANCY EAGLE MAN	305	RP06-43 ROAD IN TRESPASS
	0971	BENJAMIN HARRISON	395-AD	RP06-43 ROAD IN TRESPASS
	0972	PAUL HAYNE	400	RP06-43 ROAD IN TRESPASS
	0973	EARLE HENDRICK	406-AB	RP06-43 ROAD IN TRESPASS
	0974	STANDS BY WATER	914-A	RP06-43 ROAD IN TRESPASS
	0975	YOUNG MAN	1090-A	RP06-43 ROAD IN TRESPASS
	0976	ALICE MELBOURNE	T645	RP06-43 ROAD IN TRESPASS
	0977	WILLIAM RED BOY	2506	RP06-44 ROAD IN TRESPASS
	0978	IDA JANET ROME	3691	RP06-44 ROAD IN TRESPASS
	0979	ARLINE ROSE LANDON	3508	RP06-45 ROAD IN TRESPASS
	0980	TRIBAL	TRIBAL	RP06-46 S24 T33N R47E ROAD IN TRESPASS
	0981	TRIBAL	TRIBAL	RP06-46 S25 T33N R47E ROAD IN TRESPASS
	0982	RUBY AKERS	7	RP06-52 ROAD IN TRESPASS
	0983	JOHN TAKES PLENTY	T928-A	RP06-52 ROAD IN TRESPASS
	0984	HAROLD M. MCNIEL	3039	RP06-52 ROAD IN TRESPASS
	0985	STELLA H. DENNY	287-A	RP06-53 ROAD IN TRESPASS
	0986	AMOS DEENY	2949	RP06-53 ROAD IN TRESPASS
	0987	LEWIS LAMBERT #3	326-A	RP06-53 ROAD IN TRESPASS
	0988	MATILDA MARTELL	643	RP06-54 ROAD IN TRESPASS
	0989	FRITZ SMALL	871-B	RP06-54 ROAD IN TRESPASS
	0990	ESTHER SMALL	872-A	RP06-54 ROAD IN TRESPASS
	0991	CHASING WHITE BUFFALO COW STANDING	917	RP06-54 ROAD IN TRESPASS
	0992	SARAH MANNING	616	RP06-55 ROAD IN TRESPASS
	0993	LEROY MANNING	617	RP06-55 ROAD IN TRESPASS
	0994	WILLIAM MANNING #2	618	RP06-55 ROAD IN TRESPASS
	0995	LUCY RED EAGLE	742	RP06-55 ROAD IN TRESPASS
	0996	LIZZIE SMITH	885-A	RP06-55 ROAD IN TRESPASS
	0997	FINLEY SMITH	886	RP06-55 ROAD IN TRESPASS
	0998	THOMAS SMITH	887	RP06-55 ROAD IN TRESPASS
	0999	ELSIE WEST	1088	RP06-55 ROAD IN TRESPASS
	1000	JESSE WEST	1089-A	RP06-55 ROAD IN TRESPASS
	1001	JAMES MEDICINE	1787	RP06-55 ROAD IN TRESPASS
	1002	GRANT OLIE SMITH	1948	RP06-55 ROAD IN TRESPASS
	1003	EMMA MEDICINE	1870	RP06-55 ROAD IN TRESPASS
	1004	ANNIE MANNING	2082	RP06-55 ROAD IN TRESPASS
	1005	ELIZABETH MEDICINE HORSE	2707-A	RP06-55 ROAD IN TRESPASS
	1006	SARA TAYLOR	2972	RP06-55 ROAD IN TRESPASS
	1007	MAEOME SMALL	2942-B	RP06-55 ROAD IN TRESPASS
	1008	JOHN YOUNGMAN	2968-A	RP06-55 ROAD IN TRESPASS
	1009	MALCOLM MANNING	3251	RP06-55 ROAD IN TRESPASS
	1010	ASA BROWNING	3779	RP06-55 ROAD IN TRESPASS
	1011	TRIBAL	T5090	RP06-55 ROAD IN TRESPASS
	1012	CHARLOTTE RED BOY	1478	RP06-56 ROAD IN TRESPASS
	1013	TRIBAL	TRIBAL	RP06-56 S2 11 T31N R52E ROAD IN TRESPASS
	1014	CHARLOTTE RED BOY	3378	RP06-57 ROAD IN TRESPASS
	1015	VERNON BOYD	T2660A	RP06-58 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C56206	1016	RUBY ELEANOR ACKERMAN	2911	RP06-58 ROAD IN TRESPASS
	1017	BELLE ANGELINE LESTER	T3562A	RP06-59 ROAD IN TRESPASS
	1018	RITA BROWNING	3450	RP06-58 ROAD IN TRESPASS
	1019	EDNA PRISCILLA CHIGER	1731	RP06-58 ROAD IN TRESPASS
	1020	CARROLL BLYD	664	RP06-59 ROAD IN TRESPASS
	1021	SAMUEL BLYD	2492	RP06-59 ROAD IN TRESPASS
	1022	ROBERT LEWIS BURSHIA	2910	RP06-59 ROAD IN TRESPASS
	1023	ROBERTA JOHN BOYD	2876	RP06-60 ROAD IN TRESPASS
	1024	MARJORIE WEEKS	T2685A	RP06-61 ROAD IN TRESPASS
	1025	HERBERT ENOCH ROME	3360	RP06-63 ROAD IN TRESPASS
	1026	JESSIE KIPP	3401	RP06-63 ROAD IN TRESPASS
	1027	LOIS GOINGS	3569	RP06-63 ROAD IN TRESPASS
	1028	MARTIN MELTON MARTELL	3780	RP06-63 ROAD IN TRESPASS
	1029	ARLYS ECHO HELMER	4121	RP06-63 ROAD IN TRESPASS
	1030	VERNA FRANCES ABBOTT	T2140	RP06-64 ROAD IN TRESPASS
	1031	ANNIE TAKES PLENTY	2175	RP06-64 ROAD IN TRESPASS
	1032	EVELYN CYNTHIA FOUR STAR	2725	RP06-64 ROAD IN TRESPASS
	1033	ROY BEAR CUB	3344	RP06-64 ROAD IN TRESPASS
	1034	REBAYVONNE RED EAGLE	T3720	RP06-64 ROAD IN TRESPASS
	1035	THERESA LAMBERT	3736	RP06-64 ROAD IN TRESPASS
	1036	TRIBAL	TRIBAL	RP06-64 S35 T30N R46E ROAD IN TRESPASS
	1037	BEAR CUB	1142-A	RP06-66 ROAD IN TRESPASS
	1038	HARVEY BEAR CUB	1144	RP06-66 ROAD IN TRESPASS
	1039	DAVID HAMILTON	3554	RP06-67 ROAD IN TRESPASS
	1040	CATHERINE MABEL RICKER	3710	RP06-68 ROAD IN TRESPASS
	1041	ELAINE ROSE OLSON	4002	RP06-68 ROAD IN TRESPASS
	1042	TRIBAL	TRIBAL	RP06-68 S35 T32N R46E ROAD IN TRESPASS
	1043	GEORGE THOMPSON	945	RP06-69 ROAD IN TRESPASS
	1044	TRIBAL	TRIBAL	RP06-69 S27 T33N R47E ROAD IN TRESPASS
	1045	TRIBAL	TRIBAL	RP06-70 S19 20 29 T33N R47E ROAD IN TRESPASS
	1046	TRIBAL	TRIBAL	RP06-71 S4 5 8 T32N R49E ROAD IN TRESPASS
	1047	TRIBAL	TRIBAL	RP06-72 S4 6 T32N R49E ROAD IN TRESPASS
	1048	TRIBAL	TRIBAL	RP06-73 S12 T32N R50E ROAD IN TRESPASS
	1049	CARSON TAYLOR	3175	RP06-75 ROAD IN TRESPASS
	1050	THEODORE WILBERT ACKERMAN	3471	RP06-75 ROAD IN TRESPASS
	1051	MAGGIE LONGEE #1	T581-A	RP06-76 ROAD IN TRESPASS
	1052	STORMING	T923	RP06-76 ROAD IN TRESPASS
	1053	ALPHEUS MELVIN BIGHORN	T2348A	RP06-76 ROAD IN TRESPASS
	1054	JOHN LONGEE JR.	2408	RP06-76 ROAD IN TRESPASS
	1055	RICHARD CROW JR.	2467-A	RP06-76 ROAD IN TRESPASS
	1056	TRIBAL	T2494	RP06-76 ROAD IN TRESPASS
	1057	ELIZABETH CANTRELL	3996	RP06-76 ROAD IN TRESPASS
	1058	TRIBAL	T3090	RP06-76 ROAD IN TRESPASS
	1059	TRIBAL	TRIBAL	RP06-76 S2 3 T30N R49E ROAD IN TRESPASS
	1060	LUELLA LESTER	3047	RP06-77 ROAD IN TRESPASS
	1061	SHIRLEY K. HELMER	3329	RP06-78 ROAD IN TRESPASS
	1062	ISADORE BENJAMINE JOHNSON	3419	RP06-78 ROAD IN TRESPASS
	1063	TRIBAL	TRIBAL	RP06-78 S9 28 T30N R52E ROAD IN TRESPASS
	1064	JACOB BIGHORN	1762	RP06-79 ROAD IN TRESPASS
	1065	AGNES	2015	RP06-79 ROAD IN TRESPASS
	1066	AUGUSTINE MALLIOWN	T1995	RP06-79 ROAD IN TRESPASS
	1067	TRIBAL	TRIBAL	RP06-79 S12 T30N R52E ROAD IN TRESPASS
	1068	JUSTINE SMALL	3320	RP06-80 ROAD IN TRESPASS
	1069	GENEVIEVE SMALL	3496-A	RP06-80 ROAD IN TRESPASS
	1070	LOUISE LONGEE	584	RP06-81 ROAD IN TRESPASS
	1071	TRIBAL	TRIBAL	RP06-81 S15 T33N R52E ROAD IN TRESPASS
	1072	SEE HER SPOTTED DOG	902	RP06-82 ROAD IN TRESPASS
	1073	THOMAS SPOTTED DOG	T905-B	RP06-82 ROAD IN TRESPASS
	1074	TRIBAL	TRIBAL	RP06-83 S13 T33N R52E ROAD IN TRESPASS
	1075	JUSTINE SMALL	1919	RP06-84 ROAD IN TRESPASS
	1076	IYLEEN ROSE BROPHY	3469	RP06-84 ROAD IN TRESPASS
	1077	JUSTINE SMALL	3320	RP06-84 ROAD IN TRESPASS
	1078	ANGELINE LESTER	3371	RP06-84 ROAD IN TRESPASS
	1079	MERCELLINE EAGLE BEAR	2341	RP06-85 ROAD IN TRESPASS
	1080	VICTOR EAGLE BEAR	2759-A	RP06-85 ROAD IN TRESPASS
	1081	NANCY ANDERSON	17	RP06-86 ROAD IN TRESPASS
	1082	GOODNIGHT BESTS HIS MEDICINE	66	RP06-86 ROAD IN TRESPASS
	1083	DEPENDS ON HIM BETS HIS MEDICINE	68	RP06-86 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C56206	1084	MAGGIE DUMB	367	RP06-86 ROAD IN TRESPASS
	1085	ELIZABETH DUMB	375	RP06-86 ROAD IN TRESPASS
	1086	DUMB	1859	RP06-86 ROAD IN TRESPASS
	1087	RUNNING CLOUD DUMB	1860	RP06-86 ROAD IN TRESPASS
	1088	HENRY TAYLOR	3296	RP06-86 ROAD IN TRESPASS
	1089	ISADORE BENJAMINE JOHNSON	3419	RP06-86 ROAD IN TRESPASS
	1090	TRIBAL	TRIBAL	RP06-86 S28 31 T33N R55E ROAD IN TRESPASS
	1091	STARE WALKER CHICKEN TAKES PLENTY	T929	RP06-87 ROAD IN TRESPASS
	1092	TRIBAL	TRIBAL	RP06-88 S2 T33N R56E ROAD IN TRESPASS
	1093	FRANK KIPP	476-A	RP06-89 ROAD IN TRESPASS
	1094	AMELIA KEYS	2476	RP06-89 ROAD IN TRESPASS
	1095	AMOS HENRY KENNEDY	2505	RP06-89 ROAD IN TRESPASS
	1096	PAUL WILFRED GOINGS	2723	RP06-89 ROAD IN TRESPASS
	1097	EUGENE LEONARD DUPREE	2789	RP06-89 ROAD IN TRESPASS
	1098	EVALINE LIZZIE LAMBERT	T2830	RP06-89 ROAD IN TRESPASS
	1099	MAUDE CAROLINE BOYD	2936	RP06-89 ROAD IN TRESPASS
	1100	TRIBAL	TRIBAL	RP06-89 S13 T29N R51E ROAD IN TRESPASS
	1101	MADGE BROWN	101	RP06-90 ROAD IN TRESPASS
	1102	NANCY BROWN	102	RP06-90 ROAD IN TRESPASS
	1103	LETHA COULTER	201	RP06-90 ROAD IN TRESPASS
	1104	MARY COULTER	202	RP06-90 ROAD IN TRESPASS
	1105	HIS COUUD TAGLE EAR	298	RP06-90 ROAD IN TRESPASS
	1106	ROBERT OLD ROCK	299	RP06-90 ROAD IN TRESPASS
	1107	BRINGS YELLOW HORSE RED	T753	RP06-90 ROAD IN TRESPASS
	1108	DAISY RED	756	RP06-90 ROAD IN TRESPASS
	1109	TRIBAL	T5090	RP06-90 ROAD IN TRESPASS
	1110	JAMES BAUER	25	RP06-91 ROAD IN TRESPASS
	1111	BESSIE MANNING	609	RP06-91 ROAD IN TRESPASS
	1112	BESSIE MANNING	609-A	RP06-91 ROAD IN TRESPASS
	1113	ELAINE ROSE SPOTTED BIRD	3962-A	RP06-91 ROAD IN TRESPASS
	1114	BEATS HIS WIFE	1150	RP06-92 ROAD IN TRESPASS
	1115	CREE WOMAN BEATS HIS WIFE	1151	RP06-92 ROAD IN TRESPASS
	1116	ERNEST THEODORE BUSHMAN	1581	RP06-92 ROAD IN TRESPASS
	1117	FRANK PIPE	1583	RP06-92 ROAD IN TRESPASS
	1118	LOUIS DALE YOUNGMAN	3333	RP06-92 ROAD IN TRESPASS
	1119	ERNEST THEODORE BUSHMAN	T3790	RP06-92 ROAD IN TRESPASS
	1120	VINA SHIELDS	1970	RP06-92 ROAD IN TRESPASS
	1121	TRIBAL	TRIBAL	RP06-92 S35 T29N R46E ROAD IN TRESPASS
	1122	WOUNDED BY WHITEMAN	1733	RP06-93 ROAD IN TRESPASS
	1123	TRIBAL	TRIBAL	RP06-93 S25 T28N R46E ROAD IN TRESPASS
	1124	TESSA BLOUNT	1191	RP06-94 ROAD IN TRESPASS
	1125	UNNAMED	T5090	RP06-94 ROAD IN TRESPASS
	1126	LEWIS ADAMS	1105	RP06-95 ROAD IN TRESPASS
	1127	DAISY PIPE	T1962A	RP06-95 ROAD IN TRESPASS
	1128	TRIBAL	T5090	RP06-95 ROAD IN TRESPASS
	1129	ANNIE TAKES PLENTY	2175	RP06-96 ROAD IN TRESPASS
	1130	MARJORIE ROSE AFRAID OF HIS TRACK	3636	RP06-96 ROAD IN TRESPASS
	1131	CHARLOTTE ELIZABETH BLUE HORSE	4034	RP06-96 ROAD IN TRESPASS
	1132	TRIBAL	TRIBAL	RP06-96 S6 T29N R46E ROAD IN TRESPASS
	1133	TRIBAL	TRIBAL	RP06-96 S24 T30N R45E ROAD IN TRESPASS
	1134	TRIBAL	TRIBAL	RP06-96 S34 T30N R46E ROAD IN TRESPASS
	1135	STEPS ON BUTCHER	1214-B	RP06-98 ROAD IN TRESPASS
	1136	MARY F.CHESTNUT	T1229	RP06-98 ROAD IN TRESPASS
	1137	EVA H. CHESTNUT	1231	RP06-98 ROAD IN TRESPASS
	1138	JOSEPHINE CLARK	1245-A	RP06-98 ROAD IN TRESPASS
	1139	WALTER CLARK #2	1246-C	RP06-98 ROAD IN TRESPASS
	1140	ALICE CLARK	1247	RP06-98 ROAD IN TRESPASS
	1141	VICTORIA BIRD	1252-A	RP06-98 ROAD IN TRESPASS
	1142	CLAUDE BIRD #2	1253-A	RP06-98 ROAD IN TRESPASS
	1143	HARRY BIRD	1254-A	RP06-98 ROAD IN TRESPASS
	1144	FIGHTER	1307	RP06-98 ROAD IN TRESPASS
	1145	COMES OUT FIGHTING	1308	RP06-98 ROAD IN TRESPASS
	1146	THOMAS FIRE MOON #1	1319AB	RP06-98 ROAD IN TRESPASS
	1147	THOMAS FIRE MOON #2	1321	RP06-98 ROAD IN TRESPASS
	1148	THEODORE FOUR EAGLE BOY	1349	RP06-98 ROAD IN TRESPASS
	1149	FOUR STAR	1351-A	RP06-98 ROAD IN TRESPASS
	1150	RIDES GRAY FOUR STAR	1353-A	RP06-98 ROAD IN TRESPASS
	1151	HECTOR FOUR STAR	1354	RP06-98 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C56206	1152	ROSE MARY BIRD	1355-A	RP06-98 ROAD IN TRESPASS
	1153	ROSE MARY BIRD	1355-B	RP06-98 ROAD IN TRESPASS
	1154	ROSE MARY BIRD	1355-C	RP06-98 ROAD IN TRESPASS
	1155	ROSE MARY BIRD	1355-D	RP06-98 ROAD IN TRESPASS
	1156	ROSE MARY BIRD	1355-E	RP06-98 ROAD IN TRESPASS
	1157	ROSE MARY BIRD	1355-F	RP06-98 ROAD IN TRESPASS
	1158	ROSE MARY BIRD	1355-G	RP06-98 ROAD IN TRESPASS
	1159	ROSE MARY BIRD	1355-H	RP06-98 ROAD IN TRESPASS
	1160	ROSE MARY BIRD	1355-I	RP06-98 ROAD IN TRESPASS
	1161	ROSE MARY BIRD	1355-J	RP06-98 ROAD IN TRESPASS
	1162	ROSE MARY BIRD	1355-K	RP06-98 ROAD IN TRESPASS
	1163	ROSE MARY BIRD	1355-L	RP06-98 ROAD IN TRESPASS
	1164	ROSE MARY BIRD	1355-M	RP06-98 ROAD IN TRESPASS
	1165	ROSE MARY BIRD	1355-N	RP06-98 ROAD IN TRESPASS
	1166	ROSE MARY BIRD	1355-O	RP06-98 ROAD IN TRESPASS
	1167	ROSE MARY BIRD	1355-P	RP06-98 ROAD IN TRESPASS
	1168	ROSE MARY BIRD	1355-Q	RP06-98 ROAD IN TRESPASS
	1169	ROSE MARY BIRD	1355-R	RP06-98 ROAD IN TRESPASS
	1170	ROSE MARY BIRD	1355-S	RP06-98 ROAD IN TRESPASS
	1171	ROSE MARY BIRD	1355-T	RP06-98 ROAD IN TRESPASS
	1172	ROSE MARY BIRD	1355-U	RP06-98 ROAD IN TRESPASS
	1173	ROSE MARY BIRD	1355-V	RP06-98 ROAD IN TRESPASS
	1174	ROSE MARY BIRD	1355-W	RP06-98 ROAD IN TRESPASS
	1175	ROSE MARY BIRD	1355-X	RP06-98 ROAD IN TRESPASS
	1176	ROSE MARY BIRD	1355-Y	RP06-98 ROAD IN TRESPASS
	1177	ROSE MARY BIRD	1355-Z	RP06-98 ROAD IN TRESPASS
	1178	ROSE MARY BIRD	1355-AA	RP06-98 ROAD IN TRESPASS
	1179	ROSE MARY BIRD	1355-AB	RP06-98 ROAD IN TRESPASS
	1180	ROSE MARY BIRD	1355-AC	RP06-98 ROAD IN TRESPASS
	1181	ROSE MARY BIRD	1355-AD	RP06-98 ROAD IN TRESPASS
	1182	ROSE MARY BIRD	1355-AE	RP06-98 ROAD IN TRESPASS
	1183	ROSE MARY BIRD	1355-AF	RP06-98 ROAD IN TRESPASS
	1184	ROSE MARY BIRD	1355-AG	RP06-98 ROAD IN TRESPASS
	1185	ROSE MARY BIRD	1355-AH	RP06-98 ROAD IN TRESPASS
	1186	ROSE MARY BIRD	1355-AI	RP06-98 ROAD IN TRESPASS
	1187	ROSE MARY BIRD	1355-AJ	RP06-98 ROAD IN TRESPASS
	1188	ROSE MARY BIRD	1355-AK	RP06-98 ROAD IN TRESPASS
	1189	ROSE MARY BIRD	1355-AL	RP06-98 ROAD IN TRESPASS
	1190	ROSE MARY BIRD	1355-AM	RP06-98 ROAD IN TRESPASS
	1191	ROSE MARY BIRD	1355-AN	RP06-98 ROAD IN TRESPASS
	1192	ROSE MARY BIRD	1355-AO	RP06-98 ROAD IN TRESPASS
	1193	ROSE MARY BIRD	1355-AP	RP06-98 ROAD IN TRESPASS
	1194	ROSE MARY BIRD	1355-AQ	RP06-98 ROAD IN TRESPASS
	1195	ROSE MARY BIRD	1355-AR	RP06-98 ROAD IN TRESPASS
	1196	ROSE MARY BIRD	1355-AS	RP06-98 ROAD IN TRESPASS
	1197	ROSE MARY BIRD	1355-AT	RP06-98 ROAD IN TRESPASS
	1198	ROSE MARY BIRD	1355-AU	RP06-98 ROAD IN TRESPASS
	1199	ROSE MARY BIRD	1355-AV	RP06-98 ROAD IN TRESPASS
	1200	ROSE MARY BIRD	1355-AW	RP06-98 ROAD IN TRESPASS
	1201	ROSE MARY BIRD	1355-AX	RP06-98 ROAD IN TRESPASS
	1202	ROSE MARY BIRD	1355-AY	RP06-98 ROAD IN TRESPASS
	1203	ROSE MARY BIRD	1355-AZ	RP06-98 ROAD IN TRESPASS
	1204	ROSE MARY BIRD	1355-BA	RP06-98 ROAD IN TRESPASS
	1205	ROSE MARY BIRD	1355-BB	RP06-98 ROAD IN TRESPASS
	1206	ROSE MARY BIRD	1355-BC	RP06-98 ROAD IN TRESPASS
	1207	ROSE MARY BIRD	1355-BD	RP06-98 ROAD IN TRESPASS
	1208	ROSE MARY BIRD	1355-BE	RP06-98 ROAD IN TRESPASS
	1209	ROSE MARY BIRD	1355-BF	RP06-98 ROAD IN TRESPASS
	1210	ROSE MARY BIRD	1355-BG	RP06-98 ROAD IN TRESPASS
	1211	ROSE MARY BIRD	1355-BH	RP06-98 ROAD IN TRESPASS
	1212	ROSE MARY BIRD	1355-BI	RP06-98 ROAD IN TRESPASS
	1213	ROSE MARY BIRD	1355-BJ	RP06-98 ROAD IN TRESPASS
	1214	ROSE MARY BIRD	1355-BK	RP06-98 ROAD IN TRESPASS
	1215	ROSE MARY BIRD	1355-BL	RP06-98 ROAD IN TRESPASS
	1216	ROSE MARY BIRD	1355-BM	RP06-98 ROAD IN TRESPASS
	1217	ROSE MARY BIRD	1355-BN	RP06-98 ROAD IN TRESPASS
	1218	ROSE MARY BIRD	1355-BO	RP06-98 ROAD IN TRESPASS
	1219	ROSE MARY BIRD	1355-BP	RP06-98 ROAD IN TRESPASS
	1220	ROSE MARY BIRD	1355-BQ	RP06-98 ROAD IN TRESPASS
	1221	ROSE MARY BIRD	1355-BR	RP06-98 ROAD IN TRESPASS
	1222	ROSE MARY BIRD	1355-BS	RP06-98 ROAD IN TRESPASS
	1223	ROSE MARY BIRD	1355-BT	RP06-98 ROAD IN TRESPASS
	1224	ROSE MARY BIRD	1355-BU	RP06-98 ROAD IN TRESPASS
	1225	ROSE MARY BIRD	1355-BV	RP06-98 ROAD IN TRESPASS
	1226	ROSE MARY BIRD	1355-BW	RP06-98 ROAD IN TRESPASS
	1227	ROSE MARY BIRD	1355-BX	RP06-98 ROAD IN TRESPASS
	1228	ROSE MARY BIRD	1355-BY	RP06-98 ROAD IN TRESPASS
	1229	ROSE MARY BIRD	1355-BZ	RP06-98 ROAD IN TRESPASS
	1230	ROSE MARY BIRD	1355-CA	RP06-98 ROAD IN TRESPASS
	1231	ROSE MARY BIRD	1355-CB	RP06-98 ROAD IN TRESPASS
	1232	ROSE MARY BIRD	1355-CC	RP06-98 ROAD IN TRESPASS
	1233	ROSE MARY BIRD	1355-CD	RP06-98 ROAD IN TRESPASS
	1234	ROSE MARY BIRD	1355-CE	RP06-98 ROAD IN TRESPASS
	1235	ROSE MARY BIRD	1355-CF	RP06-98 ROAD IN TRESPASS
	1236	ROSE MARY BIRD	1355-CG	RP06-98 ROAD IN TRESPASS
	1237	ROSE MARY BIRD	1355-CH	RP06-98 ROAD IN TRESPASS
	1238	ROSE MARY BIRD	1355-CI	RP06-98 ROAD IN TRESPASS
	1239	ROSE MARY BIRD	1355-CJ	RP06-98 ROAD IN TRESPASS
	1240	ROSE MARY BIRD	1355-CK	RP06-98 ROAD IN TRESPASS
	1241	ROSE MARY BIRD	1355-CL	RP06-98 ROAD IN TRESPASS
	1242	ROSE MARY BIRD	1355-CM	RP06-98 ROAD IN TRESPASS
	1243	ROSE MARY BIRD	1355-CN	RP06-98 ROAD IN TRESPASS
	1244	ROSE MARY BIRD	1355-CO	RP06-98 ROAD IN TRESPASS
	1245	ROSE MARY BIRD	1355-CP	RP06-98 ROAD IN TRESPASS
	1246	ROSE MARY BIRD	1355-CQ	RP06-98 ROAD IN TRESPASS
	1247	ROSE MARY BIRD	1355-CR	RP06-98 ROAD IN TRESPASS
	1248	ROSE MARY BIRD	1355-CS	RP06-98 ROAD IN TRESPASS
	1249	ROSE MARY BIRD	1355-CT	RP06-98 ROAD IN TRESPASS
	1250	ROSE MARY BIRD	1355-CU	RP06-98 ROAD IN TRESPASS
	1251	ROSE MARY BIRD	1355-CV	RP06-98 ROAD IN TRESPASS
	1252	ROSE MARY BIRD	1355-CW	RP06-98 ROAD IN TRESPASS
	1253	ROSE MARY BIRD	1355-CX	RP06-98 ROAD IN TRESPASS
	1254	ROSE MARY BIRD	1355-CY	RP06-98 ROAD IN TRESPASS
	1255	ROSE MARY BIRD	1355-CZ	RP06-98 ROAD IN TRESPASS
	1256	ROSE MARY BIRD	1355-DA	RP06-98 ROAD IN TRESPASS
	1257	ROSE MARY BIRD	1355-DB	RP06-98 ROAD IN TRESPASS
	1258	ROSE MARY BIRD	1355-DC	RP06-98 ROAD IN TRESPASS
	1259	ROSE MARY BIRD	1355-DD	RP06-98 ROAD IN TRESPASS
	1260	ROSE MARY BIRD	1355-DE	RP06-98 ROAD IN TRESPASS
	1261	ROSE MARY BIRD	1355-DF	RP06-98 ROAD IN TRESPASS
	1262	ROSE MARY BIRD	1355-DG	RP06-98 ROAD IN TRESPASS
	1263	ROSE MARY BIRD	1355-DH	RP06-98 ROAD IN TRESPASS
	1264	ROSE MARY BIRD	1355-DI	RP06-98 ROAD IN TRESPASS
	1265	ROSE MARY BIRD	1355-DJ	RP06-98 ROAD IN TRESPASS
	1266	ROSE MARY BIRD	1355-DK	RP06-98 ROAD IN TRESPASS
	1267	ROSE MARY BIRD	1355-DL	RP06-98 ROAD IN TRESPASS
	1268	ROSE MARY BIRD	1355-DM	RP06-98 ROAD IN TRESPASS
	1269	ROSE MARY BIRD	1355-DN	RP06-98 ROAD IN TRESPASS
	1270	ROSE MARY BIRD	1355-DO	RP06-98 ROAD IN TRESPASS
	1271	ROSE MARY BIRD	1355-DP	RP06-98 ROAD IN TRESPASS
	1272	ROSE MARY BIRD	1355-DQ	RP06-98 ROAD IN TRESPASS
	1273	ROSE MARY BIRD	1355-DR	RP06-98 ROAD IN TRESPASS
	1274	ROSE MARY BIRD	1355-DS	RP06-98 ROAD IN TRESPASS
	1275	ROSE MARY BIRD	1355-DT	RP06-98 ROAD IN TRESPASS
	1276	ROSE MARY BIRD	1355-DU	RP06-98 ROAD IN TRESPASS
	1277	ROSE MARY BIRD	1355-DV	RP06-98 ROAD IN TRESPASS
	1278	ROSE MARY BIRD	1355-DW	RP06-98 ROAD IN TRESPASS
	1279	ROSE MARY BIRD	1355-DX	RP06-98 ROAD IN TRESPASS
	1280	ROSE MARY BIRD	1355-DY	RP06-98 ROAD IN TRESPASS
	1281	ROSE MARY BIRD	1355-DZ	RP06-98 ROAD IN TRESPASS
	1282	ROSE MARY BIRD	1355-EA	RP06-98 ROAD IN TRESPASS
	1283	ROSE MARY BIRD	1355-EB	RP06-98 ROAD IN TRESPASS
	1284	ROSE MARY BIRD	1355-EC	RP06-98 ROAD IN TRESPASS
	1285	ROSE MARY BIRD	1355-ED	RP06-98 ROAD IN TRESPASS
	1286	ROSE MARY BIRD	1355-EE	RP06-98 ROAD IN TRESPASS
	1287	ROSE MARY BIRD	1355-EF	RP06-98 ROAD IN TRESPASS
	1288	ROSE MARY BIRD	1355-EG	RP06-98 ROAD IN TRESPASS
	1289	ROSE MARY BIRD	1355-EH	RP06-98 ROAD IN TRESPASS
	1290	ROSE MARY BIRD	1355-EI	RP06-98 ROAD IN TRESPASS
	1291	ROSE MARY BIRD	1355-EJ	RP06-98 ROAD IN TRESPASS
	1292	ROSE MARY BIRD	1355-EK	RP06-98 ROAD IN TRESPASS
	1293	ROSE MARY BIRD	1355-EL	RP06-98 ROAD IN TRESPASS
	1294	ROSE MARY BIRD	1355-EM	RP06-98 ROAD IN TRESPASS
	1295	ROSE MARY BIRD	1355-EN	RP06-98 ROAD IN TRESPASS
	1296	ROSE MARY BIRD	1355-EO	RP06-98 ROAD IN TRESPASS
	1297	ROSE MARY BIRD	1355-EP	RP06-98 ROAD IN TRESPASS
	1298	ROSE MARY BIRD	1355-EQ	RP06-98 ROAD IN TRESPASS
	1299	ROSE MARY BIRD	1355-ER	RP06-98 ROAD IN TRESPASS
	1300	ROSE MARY BIRD	1355-ES	RP06-98 ROAD IN TRESPASS
	1301	ROSE MARY BIRD	1355-ET	RP06-98 ROAD IN TRESPASS
	1302	ROSE MARY BIRD	1355-EU	RP06-98 ROAD IN TRESPASS
	1303	ROSE MARY BIRD	1355-EV	RP06-98 ROAD IN TRESPASS
	1304	ROSE MARY BIRD	1355-EW	RP06-98 ROAD IN TRESPASS
	1305	ROSE MARY BIRD	1355-EX	RP06-98 ROAD IN TRESPASS
	1306	ROSE MARY BIRD	1355-EY	RP06-98 ROAD IN TRESPASS
	1307	ROSE MARY BIRD	1355-EZ	RP06-98 ROAD IN TRESPASS
	1308	ROSE MARY BIRD	1355-FA	RP06-98 ROAD IN TRESPASS
	1309	ROSE MARY BIRD	1355-FB	RP06-98 ROAD IN TRESPASS
	1310	ROSE MARY BIRD	1355-FC	RP06-98 ROAD IN TRESPASS
	1311	ROSE MARY BIRD	1355-FD	RP06-98 ROAD IN TRESPASS
	1312	ROSE MARY BIRD	1355-FE	RP06-98 ROAD IN TRESPASS
	1313	ROSE MARY BIRD	1355-FF	RP06-98 ROAD IN TRESPASS
	1314	ROSE MARY BIRD	1355-FG	RP06-98 ROAD IN TRESPASS
	1315	ROSE MARY BIRD	1355-FH	RP06-98 ROAD IN TRESPASS
	1316	ROSE MARY BIRD	1355-FI	RP06-98 ROAD IN TRESPASS
	1317	ROSE MARY BIRD	1355-FJ	RP06-98 ROAD IN TRESPASS
	1318	ROSE MARY BIRD	1355-FK	RP06-98 ROAD IN TRESPASS
	1319	ROSE MARY BIRD	1355-FL	RP06-98 ROAD IN TRESPASS
	1320	ROSE MARY BIRD	1355-FM	RP06-98 ROAD IN TRESPASS
	1321	ROSE MARY BIRD	1355-FN	RP06-98 ROAD IN TRESPASS
	1322	ROSE MARY BIRD	1355-FO	RP06-98 ROAD IN TRESPASS
	1323	ROSE MARY BIRD	1355-FP	RP06-98 ROAD IN TRESPASS
	1324	ROSE MARY BIRD	1355-FQ	RP06-98 ROAD IN TRESPASS
	1325	ROSE MARY BIRD	1355-FR	RP06-98 ROAD IN TRESPASS
	1326	ROSE MARY BIRD	1355-FS	RP06-98 ROAD IN TRESPASS
	1327	ROSE MARY BIRD	1355-FT	RP06-98 ROAD IN TRESPASS
	1328	ROSE MARY BIRD	1355-FU	RP06-98 ROAD IN TRESPASS
	1329	ROSE MARY BIRD	1355-FV	RP06-98 ROAD IN TRESPASS
	1330	ROSE MARY BIRD	1355-FW	RP06-98 ROAD IN TRESPASS
	1331	ROSE MARY BIRD	1355-FX	RP06-98 ROAD IN TRESPASS
	1332	ROSE MARY BIRD	1355-FY	RP06-98 ROAD IN TRESPASS
	1333	ROSE MARY BIRD	1355-FZ	RP06-98 ROAD IN TRESPASS
	1334	ROSE MARY BIRD	1355-GA	RP06-98 ROAD IN TRESPASS
	1335	ROSE MARY BIRD	1355-GB	RP06-98 ROAD IN TRESPASS
	1336	ROSE MARY BIRD	1355-GC	RP06-98 ROAD IN TRESPASS
	1337	ROSE MARY BIRD	1355-GD	RP06-98 ROAD IN TRESPASS
	1338	ROSE MARY BIRD	1355-GE	RP06-98 ROAD IN TRESPASS
	1339	ROSE MARY BIRD	1355-GF	RP06-98 ROAD IN TRESPASS
	1340	ROSE MARY BIRD	1355-GG	RP06-98 ROAD IN TRESPASS
	1341	ROSE MARY BIRD	1355-GH	RP06-98 ROAD IN TRESPASS
	1342	ROSE MARY BIRD	1355-GI	RP06-98 ROAD IN TRESPASS
	1343	ROSE MARY BIRD	1355-GJ	RP06-98 ROAD IN TRESPASS
	1344	ROSE MARY BIRD	1355-GK	RP06-98 ROAD IN TRESPASS
	1345	ROSE MARY BIRD	1355-GL	RP06-98 ROAD IN TRESPASS
	1346	ROSE MARY BIRD	1355-GM	RP06-98 ROAD IN TRESPASS
	1347	ROSE MARY BIRD	1355-GN	RP06-98 ROAD IN TRESPASS
	1348	ROSE MARY BIRD	1355-GO	RP06-98 ROAD IN TRESPASS
	1349	ROSE MARY BIRD	1355-GP	RP06-98 ROAD IN TRESPASS
	1350	ROSE MARY BIRD	1355-GQ	RP06-98 ROAD IN TRESPASS
	1351	ROSE MARY BIRD	1355-GR	RP06-98 ROAD IN TRESPASS
	1352	ROSE MARY BIRD	1355-GS	RP06-98 ROAD IN TRESPASS
	1353	ROSE MARY BIRD	1355-GT	RP06-98 ROAD IN TRESPASS
	1354	ROSE MARY BIRD	1355-GU	RP06-98 ROAD IN TRESPASS
	1355	ROSE MARY BIRD	1355-GV	RP06-98 ROAD IN TRESPASS
	1356	ROSE MARY BIRD	1355-GW	RP06-98 ROAD IN TRESPASS
	1357	ROSE MARY BIRD	1355-

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C56206	1152	ARTHUR FOUR STAR	1355	RP06-98 ROAD IN TRESPASS
	1153	VINA FOUR STAR	1357	RP06-98 ROAD IN TRESPASS
	1154	BLUE BLOUD GUM	1383	RP06-98 ROAD IN TRESPASS
	1155	JOHN GUM	1384	RP06-98 ROAD IN TRESPASS
	1156	ENEMY WOMAN LITTLE BOY	1469	RP06-98 ROAD IN TRESPASS
	1157	JONAH RAWHIDE	1572	RP06-98 ROAD IN TRESPASS
	1158	JAMES OWENS	1573	RP06-98 ROAD IN TRESPASS
	1159	SCABBY BEAR	1693-A	RP06-98 ROAD IN TRESPASS
	1160	DIFFERENT CLOUD SCABBY BEAR	1640-A	RP06-98 ROAD IN TRESPASS
	1161	GROWING IN HOUSE STRUCK THE GROUND	1683-A	RP06-98 ROAD IN TRESPASS
	1162	USES FUR BLANKET	1708	RP06-98 ROAD IN TRESPASS
	1163	WOUNDED FOOT	1735	RP06-98 ROAD IN TRESPASS
	1164	BLACK CLOUD WOUNDED FOOT	1736-A	RP06-98 ROAD IN TRESPASS
	1165	MARGARET SHY FACE	1968	RP06-98 ROAD IN TRESPASS
	1166	ROSA SHYFACE	2255-A	RP06-98 ROAD IN TRESPASS
	1167	VIOLET BROWN	T2628	RP06-98 ROAD IN TRESPASS
	1168	MERLA VIVIAN YOUNGMAN	T3218	RP06-98 ROAD IN TRESPASS
	1169	RAYMOND WILLIAMS JR.	T4150	RP06-98 ROAD IN TRESPASS
	1170	CHARLES NO. 1 LAMBERT	T1450	RP06-98 ROAD IN TRESPASS
	1171	BADGER CLAW NECKLACE	28	RP06-99 ROAD IN TRESPASS
	1172	BETS HIS MEDICINE	65-A	RP06-99 ROAD IN TRESPASS
	1173	MAURICE BIG HORN	70-A	RP06-99 ROAD IN TRESPASS
	1174	GOOD HOWLING BIG FOOT	125-B	RP06-99 ROAD IN TRESPASS
	1175	COUNTER	T204-B	RP06-99 ROAD IN TRESPASS
	1176	JENNIE CROW STOMACK	220	RP06-99 ROAD IN TRESPASS
	1177	GOOD CLOUD CIRCLING EAGLE	247-A	RP06-99 ROAD IN TRESPASS
	1178	JOHN G. FOOTE	338-B	RP06-99 ROAD IN TRESPASS
	1179	HALF RED	384-A	RP06-99 ROAD IN TRESPASS
	1180	JAMES HOLLOW	422	RP06-99 ROAD IN TRESPASS
	1181	ELIZA IRON LEGGINGS	446-A	RP06-99 ROAD IN TRESPASS
	1182	YELLOW WOMAN KINGFISHER	481	RP06-99 ROAD IN TRESPASS
	1183	LEAN	532-D	RP06-99 ROAD IN TRESPASS
	1184	LITTLE HEAD	566-D	RP06-99 ROAD IN TRESPASS
	1185	MARTHA POWELL	714	RP06-99 ROAD IN TRESPASS
	1186	RED EAGLE	757-E	RP06-99 ROAD IN TRESPASS
	1187	HAROLD RED EAGLE	761-A	RP06-99 ROAD IN TRESPASS
	1188	JOHN SMITH	T876	RP06-99 ROAD IN TRESPASS
	1189	THOMAS SMITH	887-A	RP06-99 ROAD IN TRESPASS
	1190	SPOTTED BULL	891-A	RP06-99 ROAD IN TRESPASS
	1191	TURNING PINE	960	RP06-99 ROAD IN TRESPASS
	1192	ELLEN TURNING PINE	961	RP06-99 ROAD IN TRESPASS
	1193	JAMES JOSEPH MEGNAN	3784	RP06-99 ROAD IN TRESPASS
	1194	DRUM	279-B	RP06-99 ROAD IN TRESPASS
	1195	IRON LEGGINGS	T447-A	RP06-99 ROAD IN TRESPASS
	1196	PALMA BJERKE	5042	RP06-99 ROAD IN TRESPASS
	1197	TRIBAL	TRIBAL	RP06-99 S26 T28N R54E ROAD IN TRESPASS
	1198	TRIBAL	T5090	RP06-99 ROAD IN TRESPASS
	1199	CLARENCE ABBOT	2587	15 ROAD IN TRESPASS
	1200	DAVID COULTER	T2692	15 ROAD IN TRESPASS
	1201	GEORGE THOMAS RED	3594	15 ROAD IN TRESPASS
	1202	TRIBAL	TRIBAL	15 S19 T30N R52E ROAD IN TRESPASS
	1203	MARY TWO BELLS	T335	41 ROAD IN TRESPASS
	1204	VIVIAN WEEKS	T3306A	41 ROAD IN TRESPASS
	1205	HAROLD BLYD	3703	41 ROAD IN TRESPASS
	1206	WANITA MAE REDSTONE	3815	41 ROAD IN TRESPASS
	1207	TRIBAL	TRIBAL	41 S6 T29N R48E ROAD IN TRESPASS
	1208	GEORGE THOMPSON	945	D 47 ROAD IN TRESPASS
	1209	TRIBAL	TRIBAL	D 47 S24 T33N R47E ROAD IN TRESPASS
	1210	JAMES BAUER	2565	53 ROAD IN TRESPASS
	1211	ALTA RUTH THUNDERING BEAR	2926	53 ROAD IN TRESPASS
	1212	MARVIN NECKLACE	3252	53 ROAD IN TRESPASS
	1213	RICHARD OWNS MEDICINE	3488	53 ROAD IN TRESPASS
	1214	NORMAN REDSTONE JR.	3558	53 ROAD IN TRESPASS
	1215	ANNA LEE PICKETT	3983	53 ROAD IN TRESPASS
	1216	GERALD SCOTT	4142	53 ROAD IN TRESPASS
	1217	TRIBAL	TRIBAL	53 S7 18 T32N R49E ROAD IN TRESPASS
	1218	TRIBAL	TRIBAL	53 S25 T32N R48E ROAD IN TRESPASS
	1219	IVA CATHERINE MCCLAMMING	1936	59 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C56206	1220	ROSE MARY COUCHANE	1281	71 ROAD IN TRESPASS
	1221	LOUISE COURCHANE	1913	71 ROAD IN TRESPASS
	1222	RICHARD COURCHANE	2305-A	71 ROAD IN TRESPASS
	1223	AARAN CLEVELAND	3975	71 ROAD IN TRESPASS
	1224	JOSEPH ROBERT CULBERTSON	4041	71 ROAD IN TRESPASS
	1225	WILLARD WALTER LEFT HAND THUNDER	4046	71 ROAD IN TRESPASS
	1226	MARIETTA JADE BLOUNT	4090	71 ROAD IN TRESPASS
	1227	TRIBAL	TRIBAL	71 S34 T31N R47E ROAD IN TRESPASS
	1228	TRIBAL	TRIBAL	71 S4 T29N R47E ROAD IN TRESPASS
	1229	FRANK TOMAHOMK	3456	74 ROAD IN TRESPASS
	1230	TRIBAL	TRIBAL	D89 S26 27 T33N R51E ROAD IN TRESPASS
	1231	LITTLE MAY DERAND	2313	100 ROAD IN TRESPASS
	1232	ISABELLE YOUNGMAN	3290-B	100 ROAD IN TRESPASS
	1233	MARBARET BOW	3690	100 ROAD IN TRESPASS
	1234	IRIS FAYE RED BEAR	T4085	100 ROAD IN TRESPASS
	1235	GERALDINE SCOTT	4141	100 ROAD IN TRESPASS
	1236	TRIBAL	T5090	100 ROAD IN TRESPASS
	1237	PHILLIP MAGNAM	3143	120 ROAD IN TRESPASS
	1238	IRWON ROBINSON	3655	120 ROAD IN TRESPASS
	1239	ALBERT FRANCIS KENNEDY	3716	120 ROAD IN TRESPASS
	1240	DELMAR DALE BROWN	3972	120 ROAD IN TRESPASS
	1241	TRIBAL	TRIBAL	120 S17 19 29 T32N R47E ROAD IN TRESPASS
	1242	TRIBAL	TRIBAL	120 S32 T30N R47E ROAD IN TRESPASS
	1243	EDITH AFRAID OF HISTRACK	T2495B	120 ROAD IN TRESPASS
	1244	ALICE LONE DOG	T572-B	122 ROAD IN TRESPASS
	1245	JOHN G. FOTTE	338	139 ROAD IN TRESPASS
	1246	FRANK DESMERLY JR.	2996	283 ROAD IN TRESPASS
	1247	TRIBAL	TRIBAL	283 S10 12 T32N R40E ROAD IN TRESPASS
	1248	TRIBAL	T5090	542 ROAD IN TRESPASS
	1249	EDNA M. ROOTS	1633	559 ROAD IN TRESPASS
	1250	JAMES H. CASPER	191	605 ROAD IN TRESPASS
	1251	ETHEL CASPER	193	605 ROAD IN TRESPASS
	1252	JOHN HELMER	409-A	605 ROAD IN TRESPASS
	1253	GOOD CEDAR LEAN	533-A	605 ROAD IN TRESPASS
	1254	ETHEL MURRY	673	605 ROAD IN TRESPASS
	1255	MICHAEL L. MURRAY	675	605 ROAD IN TRESPASS
	1256	PHEOBE BROCKSMITH	1210	650 ROAD IN TRESPASS
	1257	SUSAN LONE WARRIOR	T3700	650 ROAD IN TRESPASS
	1258	IMOGENE FAITH FOUR EAGLE BOY	4126	650 ROAD IN TRESPASS
	1259	TRIBAL	TRIBAL	651 S13 T29N R41E ROAD IN TRESPASS
	1260	ROBERT F. LAROQUE	2481-A	655 ROAD IN TRESPASS
	1261	TRIBAL	T5090	657 ROAD IN TRESPASS
	1262	PETER SHIELDS	T2183	660 ROAD IN TRESPASS
	1263	HUGH RUNNING BEAR	3051	660 ROAD IN TRESPASS
	1264	HENRY TAYLOR	3296	660 ROAD IN TRESPASS
	1265	GENEVIEVE	3841	660 ROAD IN TRESPASS
	1266	BEVERLY JOY BLACKTAIL	3850	660 ROAD IN TRESPASS
	1267	TRIBAL	TRIBAL	660 S16 T30N R50E ROAD IN TRESPASS
	1268	MARIETTA JUDY BLOUNT	T4090A	661 ROAD IN TRESPASS
	1269	TRIBAL	TRIBAL	661 S6 7 T29N R46E ROAD IN TRESPASS
	1270	EVALINE ARCHDALE	2913	685 ROAD IN TRESPASS
	1271	MYRNA BELLE ARCHDALE	3818	685 ROAD IN TRESPASS
	1272	TRIBAL	TRIBAL	685 S18 19 T31N R48E ROAD IN TRESPASS
	1273	VILNA IRON CLOUD	3985	687 ROAD IN TRESPASS
	1274	TRIBAL	TRIBAL	687 S33 34 T29N R46E ROAD IN TRESPASS
	1275	MARY B. SOMERS	889	707 ROAD IN TRESPASS
	1276	DAVID SOMERS	890	707 ROAD IN TRESPASS
	1277	ALBERT CLEVELAND	1973	707 ROAD IN TRESPASS
	1278	MARY LOUISE SOMERS	1908	707 ROAD IN TRESPASS
	1279	STONE WALKER CHICKEN TAKES PLENTY	T929	707 ROAD IN TRESPASS
	1280	FANNY TAKES PLENTY	T1842A	707 ROAD IN TRESPASS
	1281	HELEN WALKER	2031	707 ROAD IN TRESPASS
	1282	CHARLES MALCOLM OLD ROCK	3521	707 ROAD IN TRESPASS
	1283	TRIBAL	TRIBAL	707 S20 21 22 T33N R54E ROAD IN TRESPASS
	1284	ELIZABETH HARRISON	339	748 ROAD IN TRESPASS
	1285	DAVID SOMERS	890	748 ROAD IN TRESPASS
	1286	MARY LOUISE SOMERS	1908	748 ROAD IN TRESPASS
	1287	LOUISE B. K. BERGE	2148	748 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C56206	1288	PAMTHA L. PEREAU	241	757 ROAD IN TRESPASS
	1289	TRIBAL	T5090	757 ROAD IN TRESPASS
	1290	WILLIAM WHITE EAGLE	2640	772 ROAD IN TRESPASS
	1291	TRIBAL	TRIBAL	772 S23 24 T30N R54E ROAD IN TRESPASS
	1292	EARL CLARK	1249	895 ROAD IN TRESPASS
	1293	RAYMOND CLARK	1250-A	895 ROAD IN TRESPASS
	1294	JOSEPHINE MATTHEWS	1521	895 ROAD IN TRESPASS
	1295	JAMES OWENS	1573	895 ROAD IN TRESPASS
	1296	MARY L. CHESTNUT	2017	895 ROAD IN TRESPASS
	1297	AFRAID TO TALK MATTHEWS	T1828	895 ROAD IN TRESPASS
	1298	TRIBAL	TRIBAL	947 S35 T29N R41E ROAD IN TRESPASS
	1299	ANDREW CONRAD MAIL	2429	1027 ROAD IN TRESPASS
	1300	LUCILLE FIRST EAGLE	2443	1027 ROAD IN TRESPASS
	1301	EDWARD BEAR SKIN	2665	1027 ROAD IN TRESPASS
	1302	DOUGLAS ROBERT TODD	3277	1027 ROAD IN TRESPASS
	1303	PETER COLLINS JR.	3608	1027 ROAD IN TRESPASS
	1304	ANGELINE IRON CLOUD	3734	1027 ROAD IN TRESPASS
	1305	RICHARD LEE RED	T4133	1027 ROAD IN TRESPASS
	1306	TRIBAL	TRIBAL	1027 S4 16 T30N R44E ROAD IN TRESPASS
	1307	FRED CONNORS	T2051A	1028 ROAD IN TRESPASS
	1308	CLARENCE BIRTHMARK	T2602C	1028 ROAD IN TRESPASS
	1309	MARION LEFT HAND THUNDER	3130	1028 ROAD IN TRESPASS
	1310	EVERETT GLEN ROBINSON	3992	1028 ROAD IN TRESPASS
	1311	NORMAN FRANKLIN LAMBERT	4016	1028 ROAD IN TRESPASS
	1312	TRIBAL	T5090	1028 ROAD IN TRESPASS
	1313	TRIBAL	TRIBAL	1028 S32 T30N R45E ROAD IN TRESPASS
	1314	TRIBAL	TRIBAL	1028 S9 17 20 T31N R45E ROAD IN TRESPASS
	1315	TRIBAL	TRIBAL	1028 S17 T29N R45E ROAD IN TRESPASS
	1316	IVAN LEE OLSON	4110	1087 ROAD IN TRESPASS
C56226	1842	ISREAL DECOUTEAU	883	FORCED FEE PATENT TMP
C57207	0228	JAMES ANT	26	29-B ROAD IN TRESPASS
	0229	BERTHA ANT	T28	29-B ROAD IN TRESPASS
	0230	MAY LITTLEBEAR	T350	29-B ROAD IN TRESPASS
	0231	CLARA LITTLEBEAR	T360	29-B ROAD IN TRESPASS
	0232	PETER TWOBIRDS LITTLEBEAR	561	29-B ROAD IN TRESPASS
	0233	JAMES WILLIAM LITTLEBEAR	566	29-B ROAD IN TRESPASS
	0234	LOUISA LITTLECHIEF	570-2	29-B ROAD IN TRESPASS
	0235	PAUL SHELL	1005	29-B ROAD IN TRESPASS
	0236	JULIA SHELL	1008	29-B ROAD IN TRESPASS
	0237	GEORGE STANDINGELK	1107	29-B ROAD IN TRESPASS
	0238	TRIBAL	TRIBAL	29-B S31 32 T2S R40E ROAD IN TRESPASS
	0239	TRIBAL	TRIBAL	29-B S9 15 22 23 25 26 T2S R39E RD IN TP
	0240	JENNIE BIGBACK	74	29-C ROAD IN TRESPASS
	0241	SALLY BITES	120	29-C ROAD IN TRESPASS
	0242	LOUIS DOG	272	29-C ROAD IN TRESPASS
	0243	MYRA FLYING	342	29-C ROAD IN TRESPASS
	0244	RUTH FLYING	343	29-C ROAD IN TRESPASS
	0245	ALICE ROWLAND LAME WOMAN	530	29-C ROAD IN TRESPASS
	0246	ELIZABETH RISING SUN	882	29-C ROAD IN TRESPASS
	0247	BERT ROCKROADS	900	29-C ROAD IN TRESPASS
	0248	JOHN TEETH	1193-A	29-C ROAD IN TRESPASS
	0249	EARL TEETH	1196-A	29-C ROAD IN TRESPASS
	0250	MONTANA TEETH	1197	29-C ROAD IN TRESPASS
	0251	ELSIE TEETH	1198	29-C ROAD IN TRESPASS
	0252	TRIBAL	TRIBAL	29-C S7 T3S R39E ROAD IN TRESPASS
	0253	TRIBAL	TRIBAL	29-C S16 T3S R39E ROAD IN TRESPASS
	0254	TRIBAL	TRIBAL	29-C S21 T3S R39E ROAD IN TRESPASS
	0255	TRIBAL	TRIBAL	29-C S12 T3S R38E ROAD IN TRESPASS
	0256	EDITH BEAR TUSK	51	29-G ROAD IN TRESPASS
	0257	ROY GUY BOLSON	168	29-G ROAD IN TRESPASS
	0258	MARY EASTMAN	294	29-G ROAD IN TRESPASS
	0259	JOHN KILLS ON TOP	300	29-G ROAD IN TRESPASS
	0260	IRENE EASTMAN LAFEVER	515	29-G ROAD IN TRESPASS
	0261	JOSEPH RED BIRD	813	29-G ROAD IN TRESPASS
	0262	MARY GRASSHOPPER ROUNDSTONE	920	29-G ROAD IN TRESPASS
	0263	WILLIAM ROWLAND	932	29-G ROAD IN TRESPASS
	0264	ALICE SHAVED HEAD	1001	29-G ROAD IN TRESPASS
	0265	ANNA MARTHA SHAVED HEAD	1002	29-G ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C57207	0266	JAMES SHAVED HEAD	T1000	29-G ROAD IN TRESPASS
	0267	ALBERT TALL BULL	T1144	29-G ROAD IN TRESPASS
	0268	RUTH YELLOW ROBE	1444	29-G ROAD IN TRESPASS
	0269	MARTHA YELLOW ROBE	1445	29-G ROAD IN TRESPASS
	0270	TRIBAL	TRIBAL	29-G S1 2 T4S R39E ROAD IN TRESPASS
	0271	TRIBAL	TRIBAL	29-G S7 T4S R40E ROAD IN TRESPASS
	0272	TRIBAL	TRIBAL	29-G S12 T4S R39E ROAD IN TRESPASS
	0273	MARY STARVING BEAR COMES OUT	T43	29-J ROAD IN TRESPASS
	0274	WILLIAM BLACK EAGLE	134	29-J ROAD IN TRESPASS
	0275	CARL BLACK EAGLE	135	29-J ROAD IN TRESPASS
	0276	ALICE FISHER	331	29-J ROAD IN TRESPASS
	0277	HAROLD FISHER	334	29-J ROAD IN TRESPASS
	0278	JOHN FISHER	335	29-J ROAD IN TRESPASS
	0279	THOMAS FLYING	347	29-J ROAD IN TRESPASS
	0280	CORA LAME BEAR	520	29-J ROAD IN TRESPASS
	0281	LEORIS MEDICINE FLYING	736	29-J ROAD IN TRESPASS
	0282	CLARENCE MEDICINE TOP	741	29-J ROAD IN TRESPASS
	0283	ROY MEDICINE TOP	744	29-J ROAD IN TRESPASS
	0284	DANIEL OLD BULL	760	29-J ROAD IN TRESPASS
	0285	GERTRUDE LITTLE YELLOWMAN OLD BULL	762	29-J ROAD IN TRESPASS
	0286	HOMER RED NECK	843	29-J ROAD IN TRESPASS
	0287	JOHN RED NECK	845	29-J ROAD IN TRESPASS
	0288	JAMES STARVING BEAR	1126	29-J ROAD IN TRESPASS
	0289	JACK STARVING BEAR	1127	29-J ROAD IN TRESPASS
	0290	WILLIAM WANDERING MEDICINE	1257	29-J ROAD IN TRESPASS
	0291	TRIBAL	TRIBAL	29-J S28 T4S R41E ROAD IN TRESPASS
	0292	TRIBAL	TRIBAL	29-J S34 T4S R41E ROAD IN TRESPASS
	0293	TRIBAL	TRIBAL	29-J S6 T5S R42E ROAD IN TRESPASS
	0294	TRIBAL	TRIBAL	29-J S17 T5S R42E ROAD IN TRESPASS
	0295	TRIBAL	TRIBAL	29-J S8 T5S R42E ROAD IN TRESPASS
	0296	TRIBAL	TRIBAL	29-J S7 T5S R42E ROAD IN TRESPASS
	0297	MARY LUCY ATWOOD	32	29-N ROAD IN TRESPASS
	0298	JOHN DIVES BACKWARDS	265	29-N ROAD IN TRESPASS
	0299	SADIE LITTLE WHITEMAN	600	29-N ROAD IN TRESPASS
	0300	LOUIS LONE BULL	635	29-N ROAD IN TRESPASS
	0301	WILLIAM YELLOW FOX	1427-2	29-N ROAD IN TRESPASS
	0302	TRIBAL	TRIBAL	29-N S23 24 26 T2S R41E ROAD IN TRESPASS
	0303	TRIBAL	TRIBAL	29-N S19 20 21 29 30 T2S R42E RD IN TP
	0304	CHARLES LITTLE WHITEMAN	614	102 ROAD IN TRESPASS
	0305	ROSA LITTLE WHITEMAN	616	102 ROAD IN TRESPASS
	0306	MILES SEMINOLE	976	102 ROAD IN TRESPASS
	0307	DAVID SEMINOLE	T978	102 ROAD IN TRESPASS
	0308	FRANCIS SHOULDERBLADE	1025	102 ROAD IN TRESPASS
	0309	JULIA YELLOW HORSE	1433	102 ROAD IN TRESPASS
	0310	TRIBAL	TRIBAL	102 S17 18 T3S R43E ROAD IN TRESPASS
	0311	EUGENE FISHER	324-1	201 ROAD IN TRESPASS
	0312	EUGENE FISHER	324-2	201 ROAD IN TRESPASS
	0313	JAMES ALLEN FISHER	326	201 ROAD IN TRESPASS
	0314	GEORGE HARDGROUND	T392	201 ROAD IN TRESPASS
	0315	ELLEN RED BIRD	819	201 ROAD IN TRESPASS
	0316	JAMES RED FOX	834	201 ROAD IN TRESPASS
	0317	CORA RED FOX	835	201 ROAD IN TRESPASS
	0318	ROBERT STANDING ELK	1102	201 ROAD IN TRESPASS
	0319	ELLA J. STANDING ELK	1104	201 ROAD IN TRESPASS
	0320	FANNIE STAND	1106	201 ROAD IN TRESPASS
	0321	GEORGE STANDING ELK	1107	201 ROAD IN TRESPASS
	0322	FRANCIS STANDING ELK	T1116	201 ROAD IN TRESPASS
	0323	RUTH MEDICINE BULL STANDING ELK	1118	201 ROAD IN TRESPASS
	0324	PERCY RED BREATH SWALLOW	1146	201 ROAD IN TRESPASS
	0325	ELSIE CROOK WHITEHAWK	1303	201 ROAD IN TRESPASS
	0326	GLADYS WOLF BLACK	1350	201 ROAD IN TRESPASS
	0327	TRIBAL	TRIBAL	201 S34 36 T3S R42E RD IN TP
	0328	TRIBAL	TRIBAL	201 S1 6 7 21 T4S R43E RD IN TP
	0329	PAUL WOLFCHUM	1359	201 ROAD IN TRESPASS
	0330	BETTY BELLE BEIRDNEAU	64	202 ROAD IN TRESPASS
	0331	BARBARA MARIE BEIRDNEAU	65	202 ROAD IN TRESPASS
	0332	EMMA BURNS BEMENT	66	202 ROAD IN TRESPASS
	0333	JACQUELINE BEMET	67	202 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

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TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C57207	0334	JESSE BEMENT	69	202 ROAD IN TRESPASS
	0335	MARY DEAFY	260	202 ROAD IN TRESPASS
	0336	NANCY DIVES BACKWARDS	267	202 ROAD IN TRESPASS
	0337	SAM DIVES BACKWARDS	T268	202 ROAD IN TRESPASS
	0338	GRACE DIVES BACKWARDS	270	202 ROAD IN TRESPASS
	0339	WILLIAM HOLLOW BREAST	442	202 ROAD IN TRESPASS
	0340	MARY MAY LITTLE WOLF HOLLOW BREAST	443	202 ROAD IN TRESPASS
	0341	MARY MAY LITTLE WOLF HOLLOW BREAST	T443-A	202 ROAD IN TRESPASS
	0342	EDDIE MAGPIE	698	202 ROAD IN TRESPASS
	0343	JOHNIE POWDER FACE	795	202 ROAD IN TRESPASS
	0344	DOROTHY MISICHACHEYENNE RED BIRD	817	202 ROAD IN TRESPASS
	0345	LAWRENCE TURKEY LEGGS	1208	202 ROAD IN TRESPASS
	0346	CAROLINE WHITE SHIRT	1309	202 ROAD IN TRESPASS
	0347	DOTTIE WHITE SHIRT	T1310	202 ROAD IN TRESPASS
	0348	ESTHER MARTHA WILSON	1339	202 ROAD IN TRESPASS
	0349	ALICE WILSON	1340	202 ROAD IN TRESPASS
	0350	FLORENCE WILSON	T1341	202 ROAD IN TRESPASS
	0351	KATE YELLOW EAGLE	1418AB	202 ROAD IN TRESPASS
	0352	JASPER YELLOW ROBE	1446	202 ROAD IN TRESPASS
	0353	JEAN WHITE SHIRT YELLOW ROBE	1447	202 ROAD IN TRESPASS
	0354	TRIBAL	TRIBAL	202 S16 21 28 33 T4S R39E RD IN TP
	0355	TRIBAL	TRIBAL	202 S12 13 T5S R39E RD IN TP
	0356	WALTER ANT	23	203 ROAD IN TRESPASS
	0357	WILLIAM BIGHEADMAN	94	203 ROAD IN TRESPASS
	0358	RICHARD BIGHEADMAN	T96	203 ROAD IN TRESPASS
	0359	THOMAS BOB TAIL HORSE	T165	203 ROAD IN TRESPASS
	0360	THOMAS CURLEY	T256	203 ROAD IN TRESPASS
	0361	ELLA CURLEY	T258	203 ROAD IN TRESPASS
	0362	PETER FIRE CROW	318	203 ROAD IN TRESPASS
	0363	JESSIE MARGARET FOX	357	203 ROAD IN TRESPASS
	0364	PETER LITTLE BIRD	T562	203 ROAD IN TRESPASS
	0365	ROSA JENNIE LITTLE BIRD	T563	203 ROAD IN TRESPASS
	0366	JOSEPH LITTLE BIRD	T564	203 ROAD IN TRESPASS
	0367	JULIA LITTLE BIRD	T565	203 ROAD IN TRESPASS
	0368	JAMES WILLIAM LITTLE BIRD	566	203 ROAD IN TRESPASS
	0369	ALVIN O. PARKER	T766	203 ROAD IN TRESPASS
	0370	CLYDE SPENCER PARKER	T767	203 ROAD IN TRESPASS
	0371	VERDA FAYE PARKER	768	203 ROAD IN TRESPASS
	0372	GUY PARKER	T771	203 ROAD IN TRESPASS
	0373	WINIFRED PARKER	T772	203 ROAD IN TRESPASS
	0374	ALICE PARKER	T773	203 ROAD IN TRESPASS
	0375	STELLA PARKER	T774	203 ROAD IN TRESPASS
	0376	VINCENT PARKER	T775	203 ROAD IN TRESPASS
	0377	WILLIAM RED BIRD	809	203 ROAD IN TRESPASS
	0378	FLORENCE RED BIRD	810	203 ROAD IN TRESPASS
	0379	LENA RED BIRD	811	203 ROAD IN TRESPASS
	0380	FRED CAMPBELL RED BIRD	812	203 ROAD IN TRESPASS
	0381	THADDEAU RED WATER	860	203 ROAD IN TRESPASS
	0382	CECELIA RED WATER	861	203 ROAD IN TRESPASS
	0383	ELIZABETH ROWLAND	928	203 ROAD IN TRESPASS
	0384	LILLIAN RHODA ROWLAND	929	203 ROAD IN TRESPASS
	0385	LORRAINE SEMINOLE	977	203 ROAD IN TRESPASS
	0386	DAVID SEMINOLE	T978	203 ROAD IN TRESPASS
	0387	MARY RED BIRD SEMINOLE	982	203 ROAD IN TRESPASS
	0388	MAX SEMINOLE	983	203 ROAD IN TRESPASS
	0389	ETHEL SHOULDER BLADE	1023	203 ROAD IN TRESPASS
	0390	THOMAS SHOULDER BLADE	1024	203 ROAD IN TRESPASS
	0391	FRANCIS SHOULDER BLADE	1025	203 ROAD IN TRESPASS
	0392	HERMAN SUN BEAR	1137	203 ROAD IN TRESPASS
	0393	JOHN TALL WHITEMAN	1163	203 ROAD IN TRESPASS
	0394	ELENOR TALL WHITEMAN	T1166	203 ROAD IN TRESPASS
	0395	AGNES VIRGINIA TALL WHITEMAN	T1170	203 ROAD IN TRESPASS
	0396	ALICE TALL WHITEMAN	1172	203 ROAD IN TRESPASS
	0397	JOSEPH TANGLED HORN ELK	1178	203 ROAD IN TRESPASS
	0398	NELLIE TANGLED HORN ELK	1179	203 ROAD IN TRESPASS
	0399	JOHN THREE FINGERS	1199	203 ROAD IN TRESPASS
	0400	PANSY THREE FINGERS	1200	203 ROAD IN TRESPASS
	0401	JESSIE SPANG WASSAU	1231	203 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C57207	0402	DAVID WOLFING BEAR	1234	203 ROAD IN TRESPASS
	0403	PETER WOODEN THIGH	1397	203 ROAD IN TRESPASS
	0404	FLORENCE WOUNDED EYE	1409	203 ROAD IN TRESPASS
	0405	GEORGE YOUNG BEAR	1449	203 ROAD IN TRESPASS
	0406	ARTHUR YOUNG BEAR	1451	203 ROAD IN TRESPASS
	0407	RALPH YOUNG BEAR	1452	203 ROAD IN TRESPASS
	0408	TRIBAL	TRIBAL	203 S8 14 15 T3S R42E ROAD IN TRESPASS
	0409	TRIBAL	TRIBAL	203 S8 9 14 T3S R43E ROAD IN TRESPASS
	0410	TRIBAL	TRIBAL	203 S3 T3N R41E ROAD IN TRESPASS
	0411	JAMES BIGNOSE	T114	204 ROAD IN TRESPASS
	0412	RACHEL BIGNOSE	T115	204 ROAD IN TRESPASS
	0413	SAMUEL BIGNOSE	T116	204 ROAD IN TRESPASS
	0414	GEORGE BIGNOSE	117	204 ROAD IN TRESPASS
	0415	FRANCIS COOLEY	236	204 ROAD IN TRESPASS
	0416	RACHEL VERA COOLEY	T237	204 ROAD IN TRESPASS
	0417	HENRY HAIRYHAND	T375	204 ROAD IN TRESPASS
	0418	NELLIE HARRIS	T409AB	204 ROAD IN TRESPASS
	0419	EMMA LOAH KINZEL	511	204 ROAD IN TRESPASS
	0420	WILLIAM RED CHERRI[illegible]	825	204 ROAD IN TRESPASS
	0421	FRANK STUMPHORN	1132	204 ROAD IN TRESPASS
	0422	CLYDE REDNECK	848	204 ROAD IN TRESPASS
	0423	TRIBAL	TRIBAL	204 S15 T2S R40E ROAD IN TRESPASS
	0424	NELLIE LIMPY	544	206 ROAD IN TRESPASS
	0425	HATTIE LIMPY	552	206 ROAD IN TRESPASS
	0426	CAROLINE WHITESHIRT	1309	206 ROAD IN TRESPASS
	0427	TRIBAL	TRIBAL	206 S21 22 T4S R39E ROAD IN TRESPASS
	0428	MAY HARRIS BECKMAN	T62	207 ROAD IN TRESPASS
	0429	PHYLLIS ROBERTSON BURNS	201	207 ROAD IN TRESPASS
	0430	DOROTHY HARRIS	410	107 ROAD IN TRESPASS
	0431	HUBERT GEORGE HARRIS	T411	207 ROAD IN TRESPASS
	0432	TRIBAL	TRIBAL	S18 20 21 28 29 T2S R42E ROAD IN TRESPASS
	0433	DOROTHY HARRIS	410	208 ROAD IN TRESPASS
	0434	JOHN ISSUES	467	208 ROAD IN TRESPASS
	0435	TRIBAL	TRIBAL	208 S17 21 22 T2S R42E ROAD IN TRESPASS
	0436	CHARLES BLACKCRANE	132	209 ROAD IN TRESPASS
	0437	CLARA BLACKCRANE	133	209 ROAD IN TRESPASS
	0438	JOHN BLACKCRANE	136	209 ROAD IN TRESPASS
	0439	NELLIE BLACKWOLF	157	209 ROAD IN TRESPASS
	0440	CHARLES TEETH	1190	209 ROAD IN TRESPASS
	0441	ANNE WOLF VOICE	T1382B	209 ROAD IN TRESPASS
	0442	TRIBAL	TRIBAL	209 S21 27 28 33 T2S R40E ROAD IN TRESPASS
	0443	COLONEL HARD GROUND	393-2	210 ROAD IN TRESPASS
	0444	COLONEL HARD GROUND	393-4	210 ROAD IN TRESPASS
	0445	ALBERT HARD ROBE	394	210 ROAD IN TRESPASS
	0446	MAMIE LIMPY ISSUES	473	210 ROAD IN TRESPASS
	0447	WILLIAM JR. KILLS NIGHT	479	210 ROAD IN TRESPASS
	0448	MARTIN KILLS NIGHT	494	210 ROAD IN TRESPASS
	0449	WILSON PINE	784	210 ROAD IN TRESPASS
	0450	JOHN PINE	T787	210 ROAD IN TRESPASS
	0451	SARAH PINE	788	210 ROAD IN TRESPASS
	0452	DAVID ROBINSON	891	210 ROAD IN TRESPASS
	0453	HELEN ROWLAND	T925	210 ROAD IN TRESPASS
	0454	GRACE ROWLAND	926	210 ROAD IN TRESPASS
	0455	BLANCHE ROWLAND	931	210 ROAD IN TRESPASS
	0456	CHESTER CLAY ROWLAND	T933	210 ROAD IN TRESPASS
	0457	GEORGE ROWLAND	T935	210 ROAD IN TRESPASS
	0458	FRANK ROWLAND	936	210 ROAD IN TRESPASS
	0459	MARY SOLDIERWOLF	1048	210 ROAD IN TRESPASS
	0460	JAMES KENNETH SOLDIERWOLF	1052	210 ROAD IN TRESPASS
	0461	ANNIE SOLDIERWOLF	1053	210 ROAD IN TRESPASS
	0462	RITA SOLDIERWOLF	1054	210 ROAD IN TRESPASS
	0463	FANNIE WARDROBE TEETH	1192	210 ROAD IN TRESPASS
	0464	FLORA WALKS ALONG	T1238	210 ROAD IN TRESPASS
	0465	CARRIE KILLS NIGHT WALKS LAST	1246	210 ROAD IN TRESPASS
	0466	FORD WOUNDED EYE	T1407	210 ROAD IN TRESPASS
	0467	TRIBAL	TRIBAL	210 [illegible] 16 T4S R40E ROAD IN TRESPASS
	0468	JAMES ATWOOD	T30	211 ROAD IN TRESPASS
	0469	DAVID BIGFOOT	87	211 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C57207	0470	DAVID BIGFOOT	T87A	211 ROAD IN TRESPASS
	0471	LUCY BIGFOOT	T88	211 ROAD IN TRESPASS
	0472	ALICE BIGFOOT	89	211 ROAD IN TRESPASS
	0473	MARY BIGFOOT	90	211 ROAD IN TRESPASS
	0474	JOSEPHINE BURNS	203	211 ROAD IN TRESPASS
	0475	JOSEPH CLUB FOOT	217	211 ROAD IN TRESPASS
	0476	NORMAN CLUB FOOT	T219	211 ROAD IN TRESPASS
	0477	FLOSSIE CLUB FOOT	221	211 ROAD IN TRESPASS
	0478	FRANK CLUB FOOT	224	211 ROAD IN TRESPASS
	0479	LUCY ALICE CLUB FOOT	225	211 ROAD IN TRESPASS
	0480	JOHN CRAZY MULE	243	211 ROAD IN TRESPASS
	0481	NICHOLAS CROOKED NOSE	254	211 ROAD IN TRESPASS
	0482	WILBUR EYES YELLOW	T303	211 ROAD IN TRESPASS
	0483	DORA FIGHTING BEAR	312	211 ROAD IN TRESPASS
	0484	ELMER FIGHTING BEAR	313	211 ROAD IN TRESPASS
	0485	HERBERT FIGHTING BEAR	314	211 ROAD IN TRESPASS
	0486	EMMA FIGHTING BEAR	315	211 ROAD IN TRESPASS
	0487	ROBERT HARD GROUND	378	211 ROAD IN TRESPASS
	0488	EMMA HARD GROUND	379	211 ROAD IN TRESPASS
	0489	THOMAS HARD GROUND	380	211 ROAD IN TRESPASS
	0490	ROLAND HARD GROUND	381	211 ROAD IN TRESPASS
	0491	LYLA HARD GROUND	382	211 ROAD IN TRESPASS
	0492	PATTY BIGLEFTHAND HARD GROUND	383	211 ROAD IN TRESPASS
	0493	KATIE HARD GROUND	387	211 ROAD IN TRESPASS
	0494	JANE HARD GROUND	389	211 ROAD IN TRESPASS
	0495	ALBERT HARD GROUND	390	211 ROAD IN TRESPASS
	0496	RUTH HARD GROUND	391	211 ROAD IN TRESPASS
	0497	AGNES HARRIS	401	211 ROAD IN TRESPASS
	0498	MARY BITES HOLLOW BREAST	439	211 ROAD IN TRESPASS
	0499	RICHARD JACK HOLLOW BREAST	441	211 ROAD IN TRESPASS
	0500	WILLIE KILLS NIGHT	488	211 ROAD IN TRESPASS
	0501	FLOSSIE KILLS NIGHT	490	211 ROAD IN TRESPASS
	0502	JAMES KILLS NIGHT	491	211 ROAD IN TRESPASS
	0503	RICHARD LIMBERHAND	541	211 ROAD IN TRESPASS
	0504	JESSIE RUSSELL LIMBERHAND	T542	211 ROAD IN TRESPASS
	0505	GUSTA LITTLE WHITEMAN	618	211 ROAD IN TRESPASS
	0506	THOMAS LONG JAW	666	211 ROAD IN TRESPASS
	0507	GEORGE CHARLES LOOKS BEHIND	687	211 ROAD IN TRESPASS
	0508	WILSON PINE	784	211 ROAD IN TRESPASS
	0509	NORA PINE	785	211 ROAD IN TRESPASS
	0510	DORA RED NECK	842	211 ROAD IN TRESPASS
	0511	ALICE RED ROBE	859	211 ROAD IN TRESPASS
	0512	MARIE ROWLAND	T940	211 ROAD IN TRESPASS
	0513	EARL RUSSELL	947	211 ROAD IN TRESPASS
	0514	FRED RUSSELL	951	211 ROAD IN TRESPASS
	0515	PIUS SHOULDERBLADE	1022	211 ROAD IN TRESPASS
	0516	NORA STANDING ELK	1113	211 ROAD IN TRESPASS
	0517	GENEVA S. STANDING ELK	1114	211 ROAD IN TRESPASS
	0518	MARGARET STANDING ELK	1115	211 ROAD IN TRESPASS
	0519	RUTH MEDICINE BULL STANDING ELK	1118	211 ROAD IN TRESPASS
	0520	JACOB SWEET MEDICINE	1150	211 ROAD IN TRESPASS
	0521	HENRY WILLIAM SWEET MEDICINE	1152	211 ROAD IN TRESPASS
	0522	ALTA SWEET MEDICINE	T1153A	211 ROAD IN TRESPASS
	0523	PATRICK THREE FINGERS	1203	211 ROAD IN TRESPASS
	0524	CARRIE WHITEWOLF	T1321	211 ROAD IN TRESPASS
	0525	MARTIN OWEN WHITEWOLF	1324	211 ROAD IN TRESPASS
	0526	CALVIN MEXICAN WHITEWOLF	1325	211 ROAD IN TRESPASS
	0527	TRIBAL	TRIBAL	211 S34 T3S R42E ROAD IN TRESPASS
	0528	TRIBAL	TRIBAL	211 S27 T4S R41E ROAD IN TRESPASS
	0529	TRIBAL	TRIBAL	211 S28 29 T4S R41E ROAD IN TRESPASS
	0530	TRIBAL	TRIBAL	211 S4 T4S R42E ROAD IN TRESPASS
	0531	TRIBAL	TRIBAL	211 S5 7 T4S R42E ROAD IN TRESPASS
	0532	TRIBAL	TRIBAL	211 S1 T5S R40E ROAD IN TRESPASS
	0533	TRIBAL	TRIBAL	211 S3 T5S R40E ROAD IN TRESPASS
	0534	EDGAR FIGHTING BEAR	308	211 ROAD IN TRESPASS
	0535	THOMAS BEAVERHEART	T59	212 ROAD IN TRESPASS
	0536	DAVID BEAVERHEART	61-A	212 ROAD IN TRESPASS
	0537	JOSIE BRADY	181	212 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C57207	0538	JAMES R. BRADY	183	212 ROAD IN TRESPASS
	0539	MARGARET EASTMEN BRIEN	186	212 ROAD IN TRESPASS
	0540	SARAH GHOST BULL	360	212 ROAD IN TRESPASS
	0541	FRANK GRASSHOPPER	365	212 ROAD IN TRESPASS
	0542	LABAN LITTLEWOLF	630	212 ROAD IN TRESPASS
	0543	LAURA LITTLEWOLF	631	212 ROAD IN TRESPASS
	0544	JOHN PINE	T787	212 ROAD IN TRESPASS
	0545	FERN POWDER FACE	797	212 ROAD IN TRESPASS
	0546	CLAUDE ROWLAND	T922	212 ROAD IN TRESPASS
	0547	MARY SEMINOLE	T975	212 ROAD IN TRESPASS
	0548	THOMAS SIOUX	1030	212 ROAD IN TRESPASS
	0549	BESSIE SIOUX	1031	212 ROAD IN TRESPASS
	0550	HENRY SIOUX	1032	212 ROAD IN TRESPASS
	0551	JENNIE BRADY WOLFVOICE	1381	212 ROAD IN TRESPASS
	0552	TRIBAL	TRIBAL	212 S13 14 T3S R39E ROAD IN TRESPASS
	0553	ALEX BRADY	T180	212 ROAD IN TRESPASS
	0554	REUBEN BLACKHORSE	137	213 ROAD IN TRESPASS
	0555	LENA BLACKHORSE	138	213 ROAD IN TRESPASS
	0556	ALEX BLACKHORSE	139	213 ROAD IN TRESPASS
	0557	MARY BLACKHORSE	140	213 ROAD IN TRESPASS
	0558	BEN BLACKWOLF	159	213 ROAD IN TRESPASS
	0559	HENRY BLACKWOLF	161	213 ROAD IN TRESPASS
	0560	JAMES BLACKWOLF	162	213 ROAD IN TRESPASS
	0561	JOHN CRAZY MULE	243	213 ROAD IN TRESPASS
	0562	SPENCER MEDICINE ELK	725	213 ROAD IN TRESPASS
	0563	LOUIS SEMINOLE	986	213 ROAD IN TRESPASS
	0564	HANNAH SEMINOLE	T988	213 ROAD IN TRESPASS
	0565	ROY SPANG	1064B	213 ROAD IN TRESPASS
	0566	REGINE SUSANNA SPANG	1065A	213 ROAD IN TRESPASS
	0567	ALICE YELLOW SPANG	1070-2	213 ROAD IN TRESPASS
	0568	MARTHA WOLFNAMEWEASELBEAR	1266	213 ROAD IN TRESPASS
	0569	JOHN WHITE BUFFALO	1285	213 ROAD IN TRESPASS
	0570	ELLA WHITEBUFFALO	1286	213 ROAD IN TRESPASS
	0571	ANNA WOLFNAME	1367	213 ROAD IN TRESPASS
	0572	HENRY WOLFNAME	1368	213 ROAD IN TRESPASS
	0573	PAUL WOUNDED EYE	1408	213 ROAD IN TRESPASS
	0574	TRIBAL	TRIBAL	213 S 12 T4S R41E ROAD IN TRESPASS
	0575	LIZZIE BURNS	202	214 ROAD IN TRESPASS
	0576	JOSEPHINE BURNS	203	214 ROAD IN TRESPASS
	0577	JANE HARD GROUND	389-A	214 ROAD IN TRESPASS
	0578	JULIA HARRIS	T400	214 ROAD IN TRESPASS
	0579	WILLIAM MIKE LITTLE WOLF	644	214 ROAD IN TRESPASS
	0580	CLARA LONG JAW	662	214 ROAD IN TRESPASS
	0581	JAMES LONG JAW	663	214 ROAD IN TRESPASS
	0582	FRANK LONG JAW	674	214 ROAD IN TRESPASS
	0583	JAMES MEDICINE ELK	T722	214 ROAD IN TRESPASS
	0584	DEYO SPANG	1061	214 ROAD IN TRESPASS
	0585	BRUCE SPANG	1062	214 ROAD IN TRESPASS
	0586	HENRY TALLBULL	1159A	214 ROAD IN TRESPASS
	0587	TRIBAL	TRIBAL	214 S36 T3S R40E ROAD IN TRESPASS
	0588	TRIBAL	TRIBAL	214 S8 16 T4S R41E ROAD IN TRESPASS
	0589	VINCENT PARKER	T773	215 ROAD IN TRESPASS
	0590	RUFUS WALLOWING	T1253	215 ROAD IN TRESPASS
	0591	TRIBAL	TRIBAL	215 S2 11 12 T3S R42E ROAD IN TRESPASS
	0592	CLARENCE BENET JR.	68	217 ROAD IN TRESPASS
	0593	JULIA BURNS	195	217 ROAD IN TRESPASS
	0594	JAMES C. BURNS JR.	196	217 ROAD IN TRESPASS
	0595	ANNA GRACE BURNS	198-B	217 ROAD IN TRESPASS
	0596	IRA ISSUES	471	217 ROAD IN TRESPASS
	0597	WESLEY LITTLE WHITEMAN	601	217 ROAD IN TRESPASS
	0598	MILTON LITTLE WHITEMAN	613	217 ROAD IN TRESPASS
	0599	VERTA BURNS SILLOWAY	1029A	217 ROAD IN TRESPASS
	0600	TRIBAL	TRIBAL	217 S30 T2S R42E ROAD IN TRESPASS
	0601	TRIBAL	TRIBAL	217 S3 4 5 T3S R42E ROAD IN TRESPASS
	0602	JOHN ISSUES	467	218 ROAD IN TRESPASS
	0603	TRIBAL	TRIBAL	218 S13 14 23 T2S R42E ROAD IN TRESPASS
	0604	OTIS FINGERS	T316	219 ROAD IN TRESPASS
	0605	BRYAN HARRIS	412	219 ROAD IN TRESPASS

FEDERAL REGISTER VOL 48 NO 216 MONDAY NOVEMBER 7 1983

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BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C57207	0606	ROSE HARRIS	413	219 ROAD IN TRESPASS
	0607	TRIBAL	TRIBAL	219 S1 T4S R41E ROAD IN TRESPASS
	0608	TRIBAL	TRIBAL	219 S6 T4S R42E ROAD IN TRESPASS
	0609	TRIBAL	TRIBAL	219 S31 T3S R42E ROAD IN TRESPASS
	0610	TRIBAL	TRIBAL	219 S5 T4S R42E ROAD IN TRESPASS
	0611	TRIBAL	TRIBAL	219 S2 T4S R42E ROAD IN TRESPASS
	0612	TRIBAL	TRIBAL	219 S3 T4S R42E ROAD IN TRESPASS
	0613	TRIBAL	TRIBAL	219 S4 T4S R42E ROAD IN TRESPASS
	0614	TRIBAL	TRIBAL	219 S7 T4S R42E ROAD IN TRESPASS
	0615	TRIBAL	TRIBAL	219 S8 T4S R42E ROAD IN TRESPASS
	0616	TRIBAL	TRIBAL	219 S9 T4S R42E ROAD IN TRESPASS
	0617	TRIBAL	TRIBAL	219 S10 T4S R42E ROAD IN TRESPASS
	0618	TRIBAL	TRIBAL	219 S11 T4S R42E ROAD IN TRESPASS
	0619	TRIBAL	TRIBAL	219 S12 T4S R42E ROAD IN TRESPASS
	0620	TRIBAL	TRIBAL	219 S13 T4S R42E ROAD IN TRESPASS
	0621	TRIBAL	TRIBAL	219 S14 T4S R42E ROAD IN TRESPASS
	0622	TRIBAL	TRIBAL	219 S15 T4S R42E ROAD IN TRESPASS
	0623	TRIBAL	TRIBAL	219 S16 T4S R42E ROAD IN TRESPASS
	0624	TRIBAL	TRIBAL	219 S17 T4S R42E ROAD IN TRESPASS
	0625	TRIBAL	TRIBAL	219 S18 T4S R42E ROAD IN TRESPASS
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	0627	TRIBAL	TRIBAL	219 S20 T4S R42E ROAD IN TRESPASS
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	0629	TRIBAL	TRIBAL	219 S22 T4S R42E ROAD IN TRESPASS
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	0648	TRIBAL	TRIBAL	219 S5 T5S R42E ROAD IN TRESPASS
	0649	TRIBAL	TRIBAL	219 S6 T5S R42E ROAD IN TRESPASS
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	0651	TRIBAL	TRIBAL	219 S8 T5S R42E ROAD IN TRESPASS
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	0653	TRIBAL	TRIBAL	219 S10 T5S R42E ROAD IN TRESPASS
	0654	TRIBAL	TRIBAL	219 S11 T5S R42E ROAD IN TRESPASS
	0655	TRIBAL	TRIBAL	219 S12 T5S R42E ROAD IN TRESPASS
	0656	TRIBAL	TRIBAL	219 S13 T5S R42E ROAD IN TRESPASS
	0657	TRIBAL	TRIBAL	219 S14 T5S R42E ROAD IN TRESPASS
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	0659	TRIBAL	TRIBAL	219 S16 T5S R42E ROAD IN TRESPASS
	0660	TRIBAL	TRIBAL	219 S17 T5S R42E ROAD IN TRESPASS
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	0662	TRIBAL	TRIBAL	219 S19 T5S R42E ROAD IN TRESPASS
	0663	TRIBAL	TRIBAL	219 S20 T5S R42E ROAD IN TRESPASS
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	0665	TRIBAL	TRIBAL	219 S22 T5S R42E ROAD IN TRESPASS
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	0670	TRIBAL	TRIBAL	219 S27 T5S R42E ROAD IN TRESPASS
	0671	TRIBAL	TRIBAL	219 S28 T5S R42E ROAD IN TRESPASS
	0672	TRIBAL	TRIBAL	219 S29 T5S R42E ROAD IN TRESPASS
	0673	TRIBAL	TRIBAL	219 S30 T5S R42E ROAD IN TRESPASS
	0674	TRIBAL	TRIBAL	219 S31 T5S R42E ROAD IN TRESPASS
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	0678	TRIBAL	TRIBAL	219 S35 T5S R42E ROAD IN TRESPASS
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	0680	TRIBAL	TRIBAL	219 S1 T6S R42E ROAD IN TRESPASS
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	0684	TRIBAL	TRIBAL	219 S5 T6S R42E ROAD IN TRESPASS
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	0687	TRIBAL	TRIBAL	219 S8 T6S R42E ROAD IN TRESPASS
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	0690	TRIBAL	TRIBAL	219 S11 T6S R42E ROAD IN TRESPASS
	0691	TRIBAL	TRIBAL	219 S12 T6S R42E ROAD IN TRESPASS
	0692	TRIBAL	TRIBAL	219 S13 T6S R42E ROAD IN TRESPASS
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	0695	TRIBAL	TRIBAL	219 S16 T6S R42E ROAD IN TRESPASS
	0696	TRIBAL	TRIBAL	219 S17 T6S R42E ROAD IN TRESPASS
	0697	TRIBAL	TRIBAL	219 S18 T6S R42E ROAD IN TRESPASS
	0698	TRIBAL	TRIBAL	219 S19 T6S R42E ROAD IN TRESPASS
	0699	TRIBAL	TRIBAL	219 S20 T6S R42E ROAD IN TRESPASS
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	0702	TRIBAL	TRIBAL	219 S23 T6S R42E ROAD IN TRESPASS
	0703	TRIBAL	TRIBAL	219 S24 T6S R42E ROAD IN TRESPASS
	0704	TRIBAL	TRIBAL	219 S25 T6S R42E ROAD IN TRESPASS
	0705	TRIBAL	TRIBAL	219 S26 T6S R42E ROAD IN TRESPASS
	0706	TRIBAL	TRIBAL	219 S27 T6S R42E ROAD IN TRESPASS
	0707	TRIBAL	TRIBAL	219 S28 T6S R42E ROAD IN TRESPASS
	0708	TRIBAL	TRIBAL	219 S29 T6S R42E ROAD IN TRESPASS
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	0711	TRIBAL	TRIBAL	219 S32 T6S R42E ROAD IN TRESPASS
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	0714	TRIBAL	TRIBAL	219 S35 T6S R42E ROAD IN TRESPASS
	0715	TRIBAL	TRIBAL	219 S36 T6S R42E ROAD IN TRESPASS
	0716	TRIBAL	TRIBAL	219 S1 T7S R42E ROAD IN TRESPASS
	0717	TRIBAL	TRIBAL	219 S2 T7S R42E ROAD IN TRESPASS
	0718	TRIBAL	TRIBAL	219 S3 T7S R42E ROAD IN TRESPASS
	0719	TRIBAL	TRIBAL	219 S4 T7S R42E ROAD IN TRESPASS
	0720	TRIBAL	TRIBAL	219 S5 T7S R42E ROAD IN TRESPASS
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	0725	TRIBAL	TRIBAL	219 S10 T7S R42E ROAD IN TRESPASS
	0726	TRIBAL	TRIBAL	219 S11 T7S R42E ROAD IN TRESPASS
	0727	TRIBAL	TRIBAL	219 S12 T7S R42E ROAD IN TRESPASS
	0728	TRIBAL	TRIBAL	219 S13 T7S R42E ROAD IN TRESPASS
	0729	TRIBAL	TRIBAL	219 S14 T7S R42E ROAD IN TRESPASS
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	0732	TRIBAL	TRIBAL	219 S17 T7S R42E ROAD IN TRESPASS
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	0734	TRIBAL	TRIBAL	219 S19 T7S R42E ROAD IN TRESPASS
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	0736	TRIBAL	TRIBAL	219 S21 T7S R42E ROAD IN TRESPASS
	0737	TRIBAL	TRIBAL	219 S22 T7S R42E ROAD IN TRESPASS
	0738	TRIBAL	TRIBAL	219 S23 T7S R42E ROAD IN TRESPASS
	0739	TRIBAL	TRIBAL	219 S24 T7S R42E ROAD IN TRESPASS
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	0742	TRIBAL	TRIBAL	219 S27 T7S R42E ROAD IN TRESPASS
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	0744	TRIBAL	TRIBAL	219 S29 T7S R42E ROAD IN TRESPASS
	0745	TRIBAL	TRIBAL	219 S30 T7S R42E ROAD IN TRESPASS
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	0751	TRIBAL	TRIBAL	219 S36 T7S R42E ROAD IN TRESPASS
	0752	TRIBAL	TRIBAL	219 S1 T8S R42E ROAD IN TRESPASS
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	0754	TRIBAL	TRIBAL	219 S3 T8S R42E ROAD IN TRESPASS
	0755	TRIBAL	TRIBAL	219 S4 T8S R42E ROAD IN TRESPASS
	0756	TRIBAL	TRIBAL	219 S5 T8S R42E ROAD IN TRESPASS
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	0758	TRIBAL	TRIBAL	219 S7 T8S R42E ROAD IN TRESPASS
	0759	TRIBAL	TRIBAL	219 S8 T8S R42E ROAD IN TRESPASS
	0760	TRIBAL	TRIBAL	219 S9 T8S R42E ROAD IN TRESPASS
	0761	TRIBAL	TRIBAL	219 S10 T8S R42E ROAD IN TRESPASS
	0762	TRIBAL	TRIBAL	219 S11 T8S R42E ROAD IN TRESPASS
	0763	TRIBAL	TRIBAL	219 S12 T8S R42E ROAD IN TRESPASS
	0764	TRIBAL	TRIBAL	219 S13 T8S R42E ROAD IN TRESPASS
	0765	TRIBAL	TRIBAL	219 S14 T8S R42E ROAD IN TRESPASS
	0766	TRIBAL	TRIBAL	219 S15 T8S R42E ROAD IN TRESPASS
	0767	TRIBAL	TRIBAL	219 S16 T8S R42E ROAD IN TRESPASS
	0768	TRIBAL	TRIBAL	219 S17 T8S R42E ROAD IN TRESPASS
	0769	TRIBAL	TRIBAL	219 S18 T8S R42E ROAD IN TRESPASS
	0770	TRIBAL	TRIBAL	219 S19 T8S R42E ROAD IN TRESPASS
	0771	TRIBAL	TRIBAL	219 S20 T8S R42E ROAD IN TRESPASS
	0772	TRIBAL	TRIBAL	219 S21 T8S R42E ROAD IN TRESPASS
	0773	TRIBAL	TRIBAL	219 S22 T8S R42E ROAD IN TRESPASS
	0774	TRIBAL	TRIBAL	219 S23 T8S R42E ROAD IN TRESPASS
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	0777	TRIBAL	TRIBAL	219 S26 T8S R42E ROAD IN TRESPASS
	0778	TRIBAL	TRIBAL	219 S27 T8S R42E ROAD IN TRESPASS
	0779	TRIBAL	TRIBAL	219 S28 T8S R42E ROAD IN TRESPASS
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	0782	TRIBAL	TRIBAL	219 S31 T8S R42E ROAD IN TRESPASS
	0783	TRIBAL	TRIBAL	219 S32 T8S R42E ROAD IN TRESPASS
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	0788	TRIBAL	TRIBAL	219 S1 T9S R42E ROAD IN TRESPASS
	0789	TRIBAL	TRIBAL	219 S2 T9S R42E ROAD IN TRESPASS
	0790	TRIBAL	TRIBAL	219 S3 T9S R42E ROAD IN TRESPASS
	0791	TRIBAL	TRIBAL	219 S4 T9S R42E ROAD IN TRESPASS
	0792	TRIBAL	TRIBAL	219 S5 T9S R42E ROAD IN TRESPASS
	0793	TRIBAL	TRIBAL	219 S6 T9S R42E ROAD IN TRESPASS
	0794	TRIBAL	TRIBAL	219 S7 T9S R42E ROAD IN TRESPASS
	0795	TRIBAL	TRIBAL	219 S8 T9S R42E ROAD IN TRESPASS
	0796	TRIBAL	TRIBAL	219 S9 T9S R42E ROAD IN TRESPASS
	0797	TRIBAL	TRIBAL	219 S10 T9S R42E ROAD IN TRESPASS
	0798	TRIBAL	TRIBAL	219 S11 T9S R42E ROAD IN TRESPASS
	0799	TRIBAL	TRIBAL	219 S12 T9S R42E ROAD IN TRESPASS
	0800	TRIBAL	TRIBAL	219 S13 T9S R42E ROAD IN TRESPASS
	0801	TRIBAL	TRIBAL	219 S14 T9S R42E ROAD IN TRESPASS
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	0803	TRIBAL	TRIBAL	219 S16 T9S R42E ROAD IN TRESPASS
	0804	TRIBAL	TRIBAL	219 S17 T9S R42E ROAD IN TRESPASS
	0805	TRIBAL	TRIBAL	219 S18 T9S R42E ROAD IN TRESPASS
	0806	TRIBAL	TRIBAL	219 S19 T9S R42E ROAD IN TRESPASS
	0807	TRIBAL	TRIBAL	219 S20 T9S R42E ROAD IN TRESPASS
	0808	TRIBAL	TRIBAL	219 S21 T9S R42E ROAD IN TRESPASS
	0809	TRIBAL	TRIBAL	219 S22 T9S R42E ROAD IN TRESPASS
	0810	TRIBAL	TRIBAL	219 S23 T9S R42E ROAD IN TRESPASS
	0811	TRIBAL	TRIBAL	219 S24 T9S R42E ROAD IN TRESPASS
	0812	TRIBAL	TRIBAL	219 S25 T9S R42E ROAD IN TRESPASS
	0813	TRIBAL	TRIBAL	219 S26 T9S R42E ROAD IN TRESPASS
	0814	TRIBAL	TRIBAL	219 S27 T9S R42E ROAD IN TRESPASS
	0815	TRIBAL	TRIBAL	219 S28 T9S R

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C57207	0606	CARL HARRIS	413	219 ROAD IN TRESPASS
	0607	ROBERT HARRIS	414	219 ROAD IN TRESPASS
	0608	RUTH SPOTTED HAWK HARRIS	415	219 ROAD IN TRESPASS
	0609	CLARA ISSUES	468	219 ROAD IN TRESPASS
	0610	ROSA LONEWOLF KILLS NIGHT	487	219 ROAD IN TRESPASS
	0611	MOLLIE SHEPHERD	T1009A	219 ROAD IN TRESPASS
	0612	DEWITT PHILLIP WHEELER	T1268	219 ROAD IN TRESPASS
	0613	JOSEPH WHITE BEAR	1280	219 ROAD IN TRESPASS
	0614	ALICE BALOKERR WHITE BEAR	1281	219 ROAD IN TRESPASS
	0615	TRIBAL	TRIBAL	219 S14 23 26 T2S R42E RD IN TP
	0616	JOHN ISSUES	467	220 ROAD IN TRESPASS
	0617	TRIBAL	TRIBAL	220 S22 23 26 27 T2S R42E ROAD IN TRESPASS
	0618	EVA WOODEN THIGH	1394	222 ROAD IN TRESPASS
	0619	TRIBAL	TRIBAL	222 S4 5 30 31 T2S R43E ROAD IN TRESPASS
	0620	HAROLD BEAR COMES OUT	41	223 ROAD IN TRESPASS
	0621	PIUS BEAR COMES OUT	42	223 ROAD IN TRESPASS
	0622	MARY STARVING BEAR COMES OUT	T43	223 ROAD IN TRESPASS
	0623	GEORGE COOK	250	223 ROAD IN TRESPASS
	0624	JOSEPH FINGERS	T317-A	223 ROAD IN TRESPASS
	0625	EUGENE FISHER	322	223 ROAD IN TRESPASS
	0626	RUSSELL FISHER	329	223 ROAD IN TRESPASS
	0627	ALLIWITCHIE FISHER	T327	223 ROAD IN TRESPASS
	0628	PHYLLIS HELEN FISHER	T330	223 ROAD IN TRESPASS
	0629	MILTON WHITEMAN	613	223 ROAD IN TRESPASS
	0630	GILBERT MAGPIE	702	223 ROAD IN TRESPASS
	0631	ERNEST MEXICAN CHEYENNE	T753B	223 ROAD IN TRESPASS
	0632	HILDA HARRIET MEXICAN CHEYENNE	T755	223 ROAD IN TRESPASS
	0633	RUDOLPH MEXICAN FISHER	T757	223 ROAD IN TRESPASS
	0634	MARY MEXICAN CHEYENNE	754	223 ROAD IN TRESPASS
	0635	HENRY STANDING ELK	1110	223 ROAD IN TRESPASS
	0636	MARY SWALLOW STANDING ELK	1111	223 ROAD IN TRESPASS
	0637	LIZZIE SUNROADS	T1141A	223 ROAD IN TRESPASS
	0638	JASPER TALL WHITE MAN JR.	T1167	223 ROAD IN TRESPASS
	0639	ALICE T. CLUB FOOT	T1168	223 ROAD IN TRESPASS
	0640	GEORGE YOUNG BEAR	1449	223 ROAD IN TRESPASS
	0641	CORA YOUNG BEAR	T1450	223 ROAD IN TRESPASS
	0642	TRIBAL	TRIBAL	223 S 22 23 26 T3S R42E ROAD IN TRESPASS
	0643	TRIBAL	TRIBAL	223 S27 28 29 30 34 T3S R43E ROAD IN TRESPASS
	0644	MARY VICTORIA MEXICAN CHEYENNE	T756	223 ROAD IN TRESPASS
	0645	AUGUST BIG BEAVER	79	224 ROAD IN TRESPASS
	0646	FLORA CHASING BEAR CRAWLING	242	224 ROAD IN TRESPASS
	0647	CHARLES CRAWLING	240	224 ROAD IN TRESPASS
	0648	MARTHA CRAWLING	241	224 ROAD IN TRESPASS
	0649	CHARLES RAY CRAZY MULE	248	224 ROAD IN TRESPASS
	0650	RUTH YELLOW NOSE FOOT	356	224 ROAD IN TRESPASS
	0651	ALBERT MAGPIE	699	224 ROAD IN TRESPASS
	0652	ANNA MAGPIE	700	224 ROAD IN TRESPASS
	0653	ANN MARY (MINNIE) MAGPIE	701	224 ROAD IN TRESPASS
	0654	PATRICK SPOTTED WOLF	1090	224 ROAD IN TRESPASS
	0655	JEAN SPOTTED WOLF	1091	224 ROAD IN TRESPASS
	0656	CHARLES WHITE CRANE	1287	224 ROAD IN TRESPASS
	0657	GEORGE WHITE MAN	1305	224 ROAD IN TRESPASS
	0658	NATE BESSIE TWO BULLS WHITE MAN	1306	224 ROAD IN TRESPASS
	0659	HUGH WHITE MOON	1307	224 ROAD IN TRESPASS
	0660	JOSEPH WHITE WOLF	T1316A	224 ROAD IN TRESPASS
	0661	CLARA C LITTLE EAGLE WOODEN LEGS	T1392	224 ROAD IN TRESPASS
	0662	PHILLIP WOODEN THIGH	1400	224 ROAD IN TRESPASS
	0663	JOHN WOODENTHIGH	1401	224 ROAD IN TRESPASS
	0664	MELVIN WOODEN THIGH	1402	224 ROAD IN TRESPASS
	0665	TRIBAL	TRIBAL	224 S25 T2S R42E ROAD IN TRESPASS
	0666	TRIBAL	TRIBAL	224 S8 14 17 20 29 30 T2S R43E RD IN TP
	0667	EVA LITTLE EYES WHITEMAN	T1308	224 ROAD IN TRESPASS
	0668	CHARLES BLACKSTONE	T147B	225 ROAD IN TRESPASS
	0669	ANNA PILLSNIGHT BLACKSTONE	154A	225 ROAD IN TRESPASS
	0670	IDA COMES TOGETHER	T232	225 ROAD IN TRESPASS
	0671	NICHOLAS CROOKED NOSE	254	225 ROAD IN TRESPASS
	0672	SUSIE CROOKED NOSE	T255	225 ROAD IN TRESPASS
	0673	JENNIE IRON SHIRT	465	225 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C57207	0674	ALICE KINZEL	510	225 ROAD IN TRESPASS
	0675	ALBERT MAGPIE	699A	225 ROAD IN TRESPASS
	0676	ROSE MAGPIE	703	225 ROAD IN TRESPASS
	0677	ROSE MEXICAN CHEYENNE	750	225 ROAD IN TRESPASS
	0678	WILLIAM RED CHERRIES	825	225 ROAD IN TRESPASS
	0679	FRANK STUMPHORN	1132	225 ROAD IN TRESPASS
	0680	THOMAS WHIRLWIND	1269A	225 ROAD IN TRESPASS
	0681	MINNIE SHELL WHIRLWIND	1270-A	225 ROAD IN TRESPASS
	0682	MINNIE SHELL WHIRLWIND	T1270B	225 ROAD IN TRESPASS
	0683	JAMES WOODPECKER	1403	225 ROAD IN TRESPASS
	0684	MARY WOODPECKER	1404	225 ROAD IN TRESPASS
	0685	CHARLES BLACKSTONE	T147-A	226 ROAD IN TRESPASS
	0686	LENA BLACKSTONE	148	226 ROAD IN TRESPASS
	0687	SALLIE HARRIS	397	226 ROAD IN TRESPASS
	0688	EDWARD HARRIS	407	226 ROAD IN TRESPASS
	0689	ALICE KINZEL	510	226 ROAD IN TRESPASS
	0690	TRIBAL	TRIBAL	226 S13 14 15 T2S R41E ROAD IN TRESPASS
	0691	TRIBAL	TRIBAL	226 SEC10 T2S R42E ROAD IN TRESPASS
	0692	BELLE HIGH WALKING	T428	227 ROAD IN TRESPASS
	0693	GEORGE HIGH WALKING	T429	227 ROAD IN TRESPASS
	0694	MARY RISINGSUNROMANNOSELITWHITMAN	612	227 ROAD IN TRESPASS
	0695	PETER LITTLE WHITEMAN	629	227 ROAD IN TRESPASS
	0696	FRANKLIN TEETH	T1195	227 ROAD IN TRESPASS
	0697	TRIBAL	TRIBAL	227 S13 14 T2S R38E ROAD IN TRESPASS
	0698	DAVID DEAFY	261	228 ROAD IN TRESPASS
	0699	ELSIE DEAFY	T264	228 ROAD IN TRESPASS
	0700	CORA KILLS NIGHT	477	228 ROAD IN TRESPASS
	0701	CHARLES KILLS NIGHT	480-A	228 ROAD IN TRESPASS
	0702	ROSA KILLS NIGHT	482	228 ROAD IN TRESPASS
	0703	SUSAN MARY KILLS NIGHT	483	228 ROAD IN TRESPASS
	0704	DAVID LITTLE WHITEMAN	627	228 ROAD IN TRESPASS
	0705	AGNES LITTLE WHITEMAN	628	228 ROAD IN TRESPASS
	0706	CHARLES LONE WOLF	638	228 ROAD IN TRESPASS
	0707	JAMES LONE WOLF	639	228 ROAD IN TRESPASS
	0708	ELLA LONE WOLF	640	228 ROAD IN TRESPASS
	0709	JOSEPH RED BIRD	813	228 ROAD IN TRESPASS
	0710	WILLIAM RED BIRD	T815A	228 ROAD IN TRESPASS
	0711	ALLEN RED BIRD	T816	228 ROAD IN TRESPASS
	0712	TRIBAL	TRIBAL	228 S24 T2S R38E ROAD IN TRESPASS
	0713	TRIBAL	TRIBAL	228 S2 3 29 30 32 T2S R39E RD IN TP
	0714	PETER HANKERINGWOLF	376	229 ROAD IN TRESPASS
	0715	JAMES KILLS NIGHT	491	229 ROAD IN TRESPASS
	0716	FRANK REDWOMAN	845	229 ROAD IN TRESPASS
	0717	JOE REDWOMAN	849	229 ROAD IN TRESPASS
	0718	MARIE WALKSALONG	1240	229 ROAD IN TRESPASS
	0719	TRIBAL	TRIBAL	229 S13 14 24 T3S R40E ROAD IN TRESPASS
	0720	ANNE BIGLEG	113	230 ROAD IN TRESPASS
	0721	JAMES LOOKSASTTHEBEARGROUND	685	230 ROAD IN TRESPASS
	0722	JULIA LOOKS AT THE BEARGROUND	686	230 ROAD IN TRESPASS
	0723	ANTOINE RONDEAU	912	230 ROAD IN TRESPASS
	0724	LOUISA RONDEAU	913	230 ROAD IN TRESPASS
	0725	CLARA RONDEAU	T914	230 ROAD IN TRESPASS
	0726	CHARLES RONDEAU	915	230 ROAD IN TRESPASS
	0727	JOSEPHINE SMALL	1037	230 ROAD IN TRESPASS
	0728	VICTOR SMALL	1038	230 ROAD IN TRESPASS
	0729	EDWARD SMALL	1039	230 ROAD IN TRESPASS
	0730	MAY JOE SMALL	1040	230 ROAD IN TRESPASS
	0731	THOMAS SMALL	1042	230 ROAD IN TRESPASS
	0732	HORACE SMALL	T1043	230 ROAD IN TRESPASS
	0733	TRIBAL	TRIBAL	230 S27 28 30 T3S R39E ROAD IN TRESPASS
	0734	IDA L. HOLLOWBREAST	57	231 ROAD IN TRESPASS
	0735	CORA LAME BEAR	520	231 ROAD IN TRESPASS
	0736	CHARLES LAME BEAR	521	231 ROAD IN TRESPASS
	0737	JAKE LITTLE YELLOWMAN	644	231 ROAD IN TRESPASS
	0738	LENA FISHER LITTLE YELLOWMAN	647	231 ROAD IN TRESPASS
	0739	RICHARD LITTLE YELLOWMAN	648	231 ROAD IN TRESPASS
	0740	FANNIE REDNECK	841	231 ROAD IN TRESPASS
	0741	HENRY SANDCRANE (MEDICINE BULL)	966	231 ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C57207	0742	TRIBAL	TRIBAL	231 57 T5S R43E ROAD IN TRESPASS
C57257	0521	HENRY WILLIAM NEXT MEDICINE	1152	211 ROAD IN TRESPASS
C58281	0113	TRIBAL	T3191	1-1 ROAD IN TRESPASS
	0114	TRIBAL	TRIBAL	1-1 [illegible] T5N R5W ROAD IN TRESPASS
	0115	TRIBAL	T3003	1-2 ROAD IN TRESPASS
	0116	TRIBAL	T3021	1-2 ROAD IN TRESPASS
	0117	TRIBAL	T3001	1-3 ROAD IN TRESPASS
	0118	TRIBAL	T3180	1-3 ROAD IN TRESPASS
	0119	TRIBAL	T3124	1-3 ROAD IN TRESPASS
	0120	TRIBAL	T3021	1-3 ROAD IN TRESPASS
	0121	TRIBAL	T3021	1-6 ROAD IN TRESPASS
	0122	TRIBAL	T3067	1-12 ROAD IN TRESPASS
	0123	TRIBAL	T3081	1-12 ROAD IN TRESPASS
	0124	TRIBAL	T3021	2-1 ROAD IN TRESPASS
	0125	TRIBAL	T3042	2-1 ROAD IN TRESPASS
	0126	TRIBAL	T3148	2-1 ROAD IN TRESPASS
	0127	TRIBAL	T3151	2-1 ROAD IN TRESPASS
	0128	TRIBAL	T3153	2-1 ROAD IN TRESPASS
	0129	TRIBAL	T3148	2-4 ROAD IN TRESPASS
	0130	TRIBAL	T3163	2-4 ROAD IN TRESPASS
	0131	TRIBAL	T3164	2-4 ROAD IN TRESPASS
	0132	TRIBAL	T3165	2-4 ROAD IN TRESPASS
	0133	TRIBAL	T3167	2-4 ROAD IN TRESPASS
	0134	MO-GA-JUA	T63	3-2 ROAD IN TRESPASS
	0135	TRIBAL	TRIBAL	3-2 S16 21 28 33 T5N R5W ROAD IN TRESPASS
	0136	JOHN TIDZUMP	705	3-5 ROAD IN TRESPASS
	0137	HARRY NOSEEP	706AB	3-5 ROAD IN TRESPASS
	0138	KING GEO. ROGERS	723AB	3-5 ROAD IN TRESPASS
	0139	JOHN SONNICANT	741	3-5 ROAD IN TRESPASS
	0140	EDNA BOYD	751	3-5 ROAD IN TRESPASS
	0141	MONON ALLEN	785	3-5 ROAD IN TRESPASS
	0142	BERTHA TARNESS	871	3-5 ROAD IN TRESPASS
	0143	TILLIE HUGO LIMBER HUGO	879	3-5 ROAD IN TRESPASS
	0144	CODDY SONNICANT	899	3-5 ROAD IN TRESPASS
	0145	JOYCE MARLIN ROBERTSON	904	3-5 ROAD IN TRESPASS
	0146	TRIBAL	T3110	3-5 ROAD IN TRESPASS
	0147	GEORGE S. YANT	3171	3-5 ROAD IN TRESPASS
	0148	TRIBAL	T3220	3-5 ROAD IN TRESPASS
	0149	CAR-NY-TEG-GYOP	T866	3-5 ROAD IN TRESPASS
	0150	EMMA LEWIS	C74-A	3-11 ROAD IN TRESPASS
	0151	TRIBAL	T3003	3-11 ROAD IN TRESPASS
	0152	TRIBAL	T3009	3-11 ROAD IN TRESPASS
	0153	TRIBAL	T3030	3-11 ROAD IN TRESPASS
	0154	TRIBAL	T3048	3-11 ROAD IN TRESPASS
	0155	JULIA ENOS	C70	3-16 ROAD IN TRESPASS
	0156	EMMA LEWIS	C74	3-16 ROAD IN TRESPASS
	0157	NAOMI JOHNSON RULEAU	793	3-17 ROAD IN TRESPASS
	0158	DORA ENOS	795	3-17 ROAD IN TRESPASS
	0159	TIOZOCO THORP	918	3-17 ROAD IN TRESPASS
	0160	THERIM NORMAN	919	3-17 ROAD IN TRESPASS
	0251	TRIBAL	TRI[illegible]	3-18 S13 T2N R2W ROAD IN TRESPASS
	0252	NANNIE ROBERTS	498	3-19 ROAD IN TRESPASS
	0275	PEARL PANIETANKA	523	3-19 ROAD IN TRESPASS
	0276	GERBERT SOON UP	545	3-19 ROAD IN TRESPASS
	0277	TRIBAL	T3000	4-1 ROAD IN TRESPASS
	0278	TRIBAL	T3021	4-2 ROAD IN TRESPASS
	0279	TRIBAL	T3000	4-4 ROAD IN TRESPASS
	0280	TRIBAL	T3000	4-4B ROAD IN TRESPASS
	0281	TRIBAL	T3021	4-5 ROAD IN TRESPASS
	0282	TRIBAL	T3021	4-5A ROAD IN TRESPASS
	0283	TRIBAL	T3003	4-5A ROAD IN TRESPASS
	0284	TRIBAL	T3000	4-7 ROAD IN TRESPASS
	0285	MARTHA ARTHUR	1427	4-8 ROAD IN TRESPASS
	0286	LARUA ARMOUR	1429	4-8 ROAD IN TRESPASS
	0287	JANE W. PLUME	1431	4-8 ROAD IN TRESPASS
	0288	SHOVEL FOOTE	1432	4-8 ROAD IN TRESPASS
	0289	CAROLINE FOOTE	1433	4-8 ROAD IN TRESPASS
	0290	MAUD W. PLUME	1434	4-8 ROAD IN TRE[illegible]ASS

BILLINGS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C58281	0291	MAURICE W. PLUME	1437	4-8 ROAD IN TRESPASS
	0292	PAUL REDMAN	T1452	4-8 ROAD IN TRESPASS
	0293	NANCY REDMAN	1453-A	4-8 ROAD IN TRESPASS
	0294	FANNIE WELCH	1455	4-8 ROAD IN TRESPASS
	0295	EDWARD WANSTALL	1457	4-8 ROAD IN TRESPASS
	0296	RENA WANSTALL	1458-A	4-8 ROAD IN TRESPASS
	0297	MYRTLE BEARING	C130	4-11 ROAD IN TRESPASS
	0298	SUSIE HEADLEY TWO STRINGS	C280	4-16 ROAD IN TRESPASS
	0299	BARTHOLOMEW EAGLE	C273	4-16 ROAD IN TRESPASS
	0300	TRIBAL	T3003	4-19 ROAD IN TRESPASS
	0301	TRIBAL	T3021	4-23 ROAD IN TRESPASS
	0302	JEROME OLDMAN	T1161	6-2B ROAD IN TRESPASS
	0303	FANNY PIPE	1164	6-2B ROAD IN TRESPASS
	0304	LONE ANTELOPE	T1165	6-2B ROAD IN TRESPASS
	0305	MAY P. WOLFRANG	T1170	6-2B ROAD IN TRESPASS
	0306	ALTO L. TYLER BROWN	1172-C	6-2B ROAD IN TRESPASS
	0307	TRIBAL	T3107	6-2B ROAD IN TRESPASS
	0308	TRIBAL	T3003	6-12-4 AND 4-25 ROAD IN TRESPASS
	0309	TRIBAL	T3021	6-12-4 AND 4-25 ROAD IN TRESPASS
	0310	TRIBAL	T3201	6-12-4 AND 4-25 ROAD IN TRESPASS
	0311	TRIBAL	T3203	6-12-4 AND 4-25 ROAD IN TRESPASS
	0312	TRIBAL	T3206	6-12-4 AND 4-25 ROAD IN TRESPASS
	0313	BASIL HEADLY	C312	6-13 ROAD IN TRESPASS
	0314	MARTIN HEADLY	C314	6-13 ROAD IN TRESPASS
	0315	SUSIE ANTELOPE	C317	6-13 ROAD IN TRESPASS
	0316	MARY BURRON HEADLY	TC329	6-13 ROAD IN TRESPASS
	0317	FRANCE BUTTON	TC330	6-13 ROAD IN TRESPASS
	0318	GWINN BUTTON	C328	6-13-A ROAD IN TRESPASS
	0319	MARY BUTTON HAWLING GIRL	TC329	6-13-A ROAD IN TRESPASS
	0320	TRIBAL	T3021	6-13B ROAD IN TRESPASS
	0321	FRANCE BUTTON	TC330	6-13B ROAD IN TRESPASS
	0322	EVA ELLIS	T47	6-14 ROAD IN TRESPASS
	0323	STELLA W. PLUME	1082	6-14 ROAD IN TRESPASS
	0324	SARAH GOGGLES	2118	6-14 ROAD IN TRESPASS
	0325	TRIBAL	T2144	6-14 ROAD IN TRESPASS
	0326	TRIBAL	TRIBAL	6-14 S23 T1S R3E ROAD IN TRESPASS
	0327	JOHN B. ARMAJO	1818	6-170 ROAD IN TRESPASS
	0328	MARY ARMAJO	T1817	6-170 ROAD IN TRESPASS
	0329	JOHN A. ARMAJO	1818	6-300 ROAD IN TRESPASS
	0330	MARY ARMAJO	T1817	6-300 ROAD IN TRESPASS
	0331	TRIBAL	TRIBAL	6-300 S15 T2S R1E ROAD IN TRESPASS
	0332	TRIBAL	TRIBAL	TRIBES VS. AMOCO ROYALTY?
	0333	VARIOUS ALLOTT[illegible]S	VAR.	ALLOT. ASSOC. ? LANDER FIELD ROYALTY
	0334	TRIBAL	TRIBAL	FENCE ON TRIBAL LAND
	1033	VARIOUS ALLOTTEES	VAR.	ALLOT. ASSOC. ? LANDER FIELD ROYALTY
C59205	0017	TRIBAL	TRIBAL	1 S23 24 T29N R15E ROAD IN TRESPASS
	0018	TRIBAL	T38	8 ROAD IN TRESPASS
	0019	TRIBAL	T45	8 ROAD IN TRESPASS
	0020	TRIBAL	T46	8 ROAD IN TRESPASS
	0021	TRIBAL	TRIBAL	8 S1 T29N R13E ROAD IN TRESPASS
	0022	TRIBAL	TRIBAL	8 S1 2 3 T29N R14E ROAD IN TRESPASS
	0023	TRIBAL	T54	9 ROAD IN TRESPASS
	0024	TRIBAL	TRIBAL	114 S3 10 15 21 22 T28N R16E ROAD IN TRESPASS

BILLINGS AREA STATUTE CLAIMS (TURTLE MTN ROADS)

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM

BILLINGS AREA STATUTE CLAIMS (TURTLE MTN ROADS)

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM

BILLINGS AREA STATUTE CLAIMS (TURTLE MTN ROADS)

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C55224	0145	NORBERT DELONAIS(TMB)	933	CO. ROAD IN TRESPASS ON S. BOUNDARY
	0146	ALLENE MARION(TMB)	1985	CO. ROAD IN TRESPASS NO.AND E BOUNDARY
	0147	ALLENE MARION(TMB)	1985	FARM SERVICE ROAD IN TRESPASS ON NO.OF ALLOT
	0148	MERRILL E. MARION(TMB)	1986	CO. ROAD IN TRESPASS ON W
	0149	MERRILL E. MARION(TMB)	1986	FARM SERVICE ROAD IN TRESPASS
	0150	MARY XILDA BRUNNELL(TMB)	692	CO. ROAD IN TRESPASS ON E BOUNDARY
	0151	JOSEPH DECOTEAU(TMB)	923	CO. ROAD IN TRESPASS ON W BOUNDARY
	0152	MARY JANE DEJARVAIS(TMB)	974	CO. ROAD IN TRESPASS ON W BOUNDARY
	0153	DELIA HOULE(TMB)	1448	FARM SERVICE ROAD IN TRESPASS
	0154	MARGARET LATRAIL(TMB)	1776	CO. ROAD IN TRESPASS ON W BOUNDARY
	0155	MARY D. MORIN(TMB)	2177	CO. ROAD IN TRESPASS ALONG E BOUNDARY
	0156	METHEYASING(PASS BY WIND)TMB	102	GRADED ROAD IN TRESPASS ON ALLOT.
	0157	JOHN MEKWAM(TMB)	118	FARM TRAILS IN TRESPASS CROSS ALLOT
	0158	FRANK AMYOTT(TMB)	269	FARM SERVICE ROAD IN TRESPASS ON ALLOT.
	0159	LAGLOIRE BONNEAU(TMB)	578	FARM SERVICE ROAD IN TRESPASS ON ALLOT.
	0160	MARIE DEJARLAIS(TMB)	985	WELL USED PLOWED ROAD IN TRESPASS
	0161	JANE FAGUANT(TMB)	1149	CO. ROAD IN TRESPASS ON ALLOT.
	0162	JOSEPH FALCON(TMB)	1156	CO. ROAD IN TRESPASS ON E BOUNDARY
	0163	LEROY JAST(TMB)	1475	FARM TRAIL FENCES IN TRESPASS ON ALLOT
	0164	JOHN LOUIS JAST(TMB)	1477	FARM TRAILS IN TRESPASS ON ALLOT.
	0165	MARIE JOLIBOIS(TMB)	1533	CO. ROAD IN TRESPASS ON N.SECT.OF ALLOT
	0166	CHARLOTTE LAFONTAIN(TMB)	1565	FARM SERVICE ROAD IN TRESPASS ON ALLOT
	0167	ALFRED LAFOURNAIS(TMB)	1645	IMPROVED ROAD IN TRESPASS ON ALLOT.
	0168	JOSEPH LAFROMBOIS(TMB)	1672	IMPROVED ROAD IN TRESPASS ON ALLOT.
	0169	PETE LAMBERT(TMB)	1714	UNIMPROV. ROAD IN TRESPASS ON ALLOT.
	0170	JOSEPH L. LATERGRASS(TMB)	1762	GRADED ROAD IN TRESPASS ON ALLOT.
	0171	CAROLINE G. MONETTE(TMB)	2059	GRADED ROAD IN TRESPASS ON W OF ALLOT.
	0172	THOMAS AKEWENSI(TMB)	13	GRADED ROAD IN TRESPASS ON SW CORNER OF ALLOT
	0173	ANAMEAKOKAK(TMB)	20	GRADED ROAD IN TRESPASS
	0174	KAPAKEMOT(GOOD COUNT)(TMB)	38	GRADED ROAD IN TRESPASS (GRAVEL)
	0175	STRONG FEATHER(TMB)	64	GRADED ROAD IN TRESPASS
	0176	SPARROW HAWK(TMB)	66	BLADED SEISMIC ROAD IN TRESPASS
	0177	KIJIKEINWIN(TMB)	83	GRADED GRAVELED ROAD IN TRESPASS
	0178	RWEWEIAMSE(TMB)	86	GRADED DIRT ROAD IN TRESPASS ON W AND S
	0179	WASHAKIKIMAT(TMB)	112	GRADED ROAD IN TRESPASS ON W BOUNDARY
	0180	WENALAWASIKEWAQUE(TMB)	123	FARM SERVICE ROAD IN TRESPASS ON ALLOT.
	0181	OSKINE(TMB)	134	GRADED FARM ROAD IN TRESPASS ON W.BOUND.
	0182	JOSEPH GREAT WALKER(TMB)	181	FARM SERVICE ROAD IN TRESPASS
	0183	MARGARET ALLERY(TMB)	244	IMPROVED ROAD IN TRESPASS ON E.BOUND.
	0184	SAMUEL ALLERY(TMB)	249	CO. ROAD IN TRESPASS ON E.BOUND.
	0185	SAMUEL ALLERY(TMB)	249	GAS FIELD SERVICE ROAD IN TRESPASS
	0186	CHARLES ALLERY(TMB)	254	CO. ROAD IN TRESPASS ON W BOUND
	0187	OSHAWASKOKENAPIK(TMB)	311	FARM TRAIL IN TRESPASS ON S BDRY
	0188	IDA ROSE BELGARDE(TMB)	449	GRADED TRAIL IN TRESPASS
	0189	ANNA BRIERRE(TMB)	667	ROAD IN TRESPASS AND BRIDGE
	0190	MARTIN J. DELORME(TMB)	1022	FARM ROAD IN TRESPASS ON ALLOT
	0191	ROBERT L. DEMARAIS(TMB)	1032	ROAD IN TRESPASS ON W BDRY
	0192	JOSEPH DEMARAIS(TMB)	1033	GRADED ROAD IN TRESPASS
	0193	MARY ROSE DIONNE(TMB)	1065	GRADED ROAD IN TRESPASS
	0194	JOHN DUCEPT(TMB)	1084	ROAD IN TRESPASS ON S BDRY
	0195	WABASH(TMB)	1131	GRADED ROAD IN TRESPASS ON N & E BDRY
	0196	JOSEPHINE GRANT(TMB)	1318	IMPROVED ROAD IN TRESPASS ON N BDRY
	0197	WILLIAM JOHN HOULE(TMB)	1447	GRADED ROAD IN TRESPASS ON E BDRY
	0198	HYCINTH HOULE(TMB)	1449	GRADED ROAD IN TRESPASS ON S BDRY
	0199	CLARA JEROME(TMB)	1514	ROAD IN TRESPASS ON E BDRY
	0200	MARY LOUISE JEROME(TMB)	1515	ST HWY. IN TRESPASS ON ALLOT
	0201	THERSA LAFROMBOIS(TMB)	1661	BULLDOZED ROAD IN TRESPASS ON ALLOT
	0202	MARY LOUISE LENOIR(TMB)	1898	ROAD IN TRESPASS ON S BDRY
	0203	ALEXANDER LESPARANCE(TMB)	1901	GRADED ROAD IN TRESPASS (GRAVEL)
	0204	JOSEPHINE LAFOUNTAIN(TMB)	2186	ROAD IN TRESPASS ON ALLOT
	0205	ANTOINE PAUL(TMB)	2269	IMPROVED ROAD IN TRESPASS TO HOT SPGS.
	0206	COLLIN POITRA(TMB)	2443	GRADED ROAD IN TRESPASS
	0207	NORMAN POITRA(TMB)	2446	GRADED ROAD IN TRESPASS
	0208	JOHN BAPTISTE WARREN(TMB)	2780	GRADE ROAD IN TRESPASS ON S OF ALLOT
C56226	1249	FREDERICK AZURE (TMP)	343	CO. ROAD IN TRESPASS ON W. BOUND
	1250	FREDERICK AZURE (TMP)	343	IMPROVED FARM ROAD IN TRESPASS
	1251	MARY C BOYER (TMP)	609	IMPROVED ROAD IN TRESPASS ON E BOUND
	1252	LOUISE ANN CHAMPAGNE (TMP)	823	IMPROVED ROAD IN TRESPASS ON N W BDRY

BILLINGS AREA STATUTE CLAIMS (TURTLE MTN ROADS)

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
C56226	1253	JOSEPH DECOUTEAU JR (TMP)	918	CO. ROAD IN TRESPASS ON N BOUND
	1254	FRANCAIS DELONAIS (TMP)	987	IMPROVED TRAIL IN TRESPASS ON ALLOT.
	1255	ANTOINE ENNO (TMP)	1122	CO. ROAD IN TRESPASS ON S. & W.
	1256	ANNA LAURA GLADUE (TMP)	1206	CO. ROAD IN TRESPASS ON S. BDRY
	1257	MARGARET GOURNEAU (TMP)	1236	IMPROVED ROAD IN TRESPASS ON S. BDRY
	1258	JUSTINE GOURNEAU (TMP)	1260	CO. ROAD IN TRESPASS ON W. & W. BDRY
	1259	MARY C. LAFROMBOIS (TMP)	1697	IMPROVED ROAD IN TRESPASS ON N. & W. BDRY
	1260	EMMA LAFROMBOIS (TMP)	1699	CO. ROAD IN TRESPASS ON N. & E. BDRY
	1261	ERNST LECOMPT (TMP)	1863	IMPROVED ROAD IN TRESPASS ON E. BDRY
	1262	JOHN MORIN (TMP)	2094	CO. ROAD IN TRESPASS ON E. BDRY
	1263	ROSIN PELTIER (TMP)	2292	CO. ROAD IN TRESPASS ON ALLOT.
	1264	ADELINE POITRA (TMP)	2358	CO. ROAD IN TRESPASS ON N. BDRY
	1265	ALBINA RENAULT (TMP)	2472	IMPROVED ROAD IN TRESPASS ON NWS. BDRY
	1266	GEORGINA SMITH (TMP)	2545	IMPROVED ROAD IN TRESPASS ON N. BDRY
	1267	JOSEPH ALLERY (TMP)	235	IMPROVED ROAD IN TRESPASS
	1268	BENOIT AZURE (TMP)	378	CO. ROAD IN TRESPASS ON N. BDRY
	1269	VERONICA AZURE (TMP)	383	CO. ROAD IN TRESPASS ON S. BDRY
	1270	EDMUND BERCIER (TMP)	572	GRADED ROAD IN TRESPASS ON 3 SIDES
	1271	ELVINA CRISSLER (TMP)	776	IMPROVED ROAD IN TRESPASS ON S. BOND
	1272	ALFRED CRISSLER (TMP)	777	ROAD IN TRESPASS ON E. & S. BDRY
	1273	JULIA DAVIS (TMP)	805	GRADED ROAD IN TRESPASS ON W. BDRY
	1274	ADELE DELIA DAVIS (TMP)	820	SERVICE ROAD IN TRESPASS TO WELL IN SE
	1275	GEORGE E. DELONAIS (TMP)	992	ROAD IN TRESPASS ON N. BDRY
	1276	COLLIS DUCEPT (TMP)	1077	CO HWY NO. 5 IN TRESPASS
	1277	MADELAIN DUCEPT (TMP)	1088	GRADED ROAD IN TRESPASS
	1278	LOUIS GOURNEAU (TMP)	1271	CO. ROAD IN TRESPASS ON N. & E. BDRYS
	1279	MARGARET HOULE (TMP)	1433	GRAVELED ROAD IN TRESPASS
	1280	BETSY JEROME (TMP)	1506	ROAD IN TRESPASS ON W. BDRY
	1281	MARTIN JEROME (TMP)	1507	GRADED ROAD IN TRESPASS ON W. BDRY
	1282	PHILOMENE A LAVALLIE (TMP)	1784	IMPROVED ROAD IN TRESPASS ON N. BDRY
	1283	JULIUS MALATERRE (TMP)	1934	FARM SERVICE ROAD IN TRESPASS ON N. BDRY
	1284	MARIE MCCLOUD (TMP)	2028	OIL WELL SERVICE ROAD IN TRESPASS
	1285	MARIE MCCLOUD (TMP)	2028	CO. ROAD IN TRESPASS ON ALLOT.
	1286	ELVINA LAVERDURE (TMP)	2175	IMPROVED ROAD IN TRESPASS ON N. BDRY
	1287	JOHN ALFRED PATNAUD (TMP)	2250	GRADED ROAD IN TRESPASS ON E. BDRY
	1288	JULIAN JEROME (TMP)	2344	IMPROVED ROAD IN TRESPASS ON N. BDRY
	1289	ALFRED PLANT (TMP)	2348	IMPROVED ROAD IN TRESPASS ON ALLOT.
	1290	JUSTINE SAYERS (TMP)	2833	IMPROVED ROAD IN TRESPASS ON E. BDRY
	1291	ALEXIS BONNEAU (TMP)	582	IMPROVED ROAD IN TRESPASS ON S. & E.
	1292	EMILY BONNEAU (TMP)	583	IMPROVED ROAD IN TRESRASS ON S. BDRY
	1293	LOUIS LAFROMBOIS (TMP)	1684	IMPROVED ROAD IN TRESPASS ON S. & N. BDRY
	1294	MAXIM LANDRY (TMP)	1722	IMPROVED ROAD IN TRESPASS ON E. BDRY
	1295	ALEXANDER MEKWAM (TMP)	97	CO. ROAD IN TRESPASS ON W. BDRY
	1296	ALEXANDER MEKWAM (TMP)	97	GRADED ROAD IN TRESPASS ON S. BDRY
	1297	LOUIS ERNEST CAPLETTE (TMP)	717	IMPROVED ROAD IN TRESPASS ON WAS BDRY
	1298	ERNEST WILFRED HOULE (TMP)	1429	IMPROVED ROAD IN TRESPASS
	1299	GEORGINNA HOULE (TMP)	1439	IMPROVED ROAD IN TRESPASS ON SAE BDRY
C57277	0745	ALEXANDER DECOTEAU JR(TMN)	843	IMPROVED ROAD IN TRESPASS ON ALLOT.

JUNEAU AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
E00000	038	PALAKIA MELGENAK	AA7604	N.P.S. BUILDINGS
	065	CHRISTINE SHANTZ	F16162	ROAD CONSTRUCTION
	066	TANANA IRA NATIVE COUNCIL	TRIBAL	RELIGIOUS FREEDOM
	067	LECON CHUITT	AA7268	UNAUTHORIZED OCCUPANCY

MINNEAPOLIS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
F53404	0146	JENNIE HOPKINS/I AH ZHO	474	TIMBER SOLD WITHOUT CONSENT
	0147	CHARLES SHE NOW ME KE SHIG OKE	476	TIMBER SOLD WITHOUT CONSENT
	0148	KWE SENSE	477	TIMBER SOLD WITHOUT CONSENT
	0149	CATHERINE MARTIN/KAH DEEN	478	TIMBER SOLD WITHOUT CONSENT
	0150	ME GUAN AH BE TUNG	625	TIMBER SOLD WITHOUT CONSENT
	0151	MESH KA NI TO GI SIKE	690	TIMBER SOLD WITHOUT CONSENT
	0152	NAYNAHJSEKESHINGOKE/LAUGHING MARY	274	TIMBER SOLD WITHOUT CONSENT
	0153	AH ZAH SHAW ME BENAIS	300	TIMBER SOLD WITHOUT CONSENT
	0154	MAISH KOW E GE SHIG OKE	525	TIMBER SOLD WITHOUT CONSENT (SEE ALSO -0097)
	0155	PAH GAUN WAY WAY GE SHIG	490	NORDLAND ROAD IN TRESPASS SEE 4040019
	0156	O TUN E WAY GE SHIG OKE	489	NORDLAND ROAD IN TRESPASS SEE 4040019
	0157	O GAH WAY CUMIG OKE	48	TRESPASSING UPON THE PROPERTY
	0158	O GAH WAY CUMIG OKE	48	TIMBER REMOVED WRONGFULLY SEE F534040157
	0159	O GAH GAY CU MIG OKE	48	ROAD IN TRESPASS SEE F534040157
	0160	O GAH WAY CUMIG OKE	48	TRESPASS SEE 4040157
	0161	PAYSINOUNG	406	IMPROPER TIMBER CONTRACT
F53405	0106	DAVID AYNEMAHSUNG	53	SECRETARIAL TRANSFER
	0107	MINNESOTA CHIPPEWA TRIBE	N/A	TRAILER IN TRESPASS
	0108	JOSEPH GRASSHOPPER	286	TRESPASSING UPON THE PROPERTY SEE 4040157
	0109	JOSEPH GRASSHOPPER	286	TIMBER REMOVED WRONGFULLY SEE 4040157
	0110	JOSEPH GRASSHOPPER	286	ROAD IN TRESPASS SEE 4040157
	0111	JOSEPH GRASSHOPPER	286	TRESPASS SEE 4040157
	0112	KE ME TAH O SAY QUAY	140	TRESPASSING UPON THE PROPERTY SEE 4040157
	0113	KE ME TAH O SAY QUAY	140	TIMBER REMOVED WRONGFULLY SEE 4040157
	0114	KE ME TAH O SAY QUAY	140	ROAD IN TRESPASS SEE 4040157
	0115	KE ME TAH O SAY QUAY	140	TRESPASS SEE 4040157
	0116	JOE AHKEWAINZE	139	TRESPASSING UPON THE PROPERTY SEE 4040157
	0117	JOE AHKEWAINZE	139	TIMBER REMOVED WRONGFULLY SEE 4040157
	0118	JOE AHKEWAINZE	139	ROAD IN TRESPASS SEE 4040157
	0119	JOE AHKEWAINZE	139	TRESPASS SEE 4040157
	0120	MINNESOTA-CHIPPEWA TRIBE	TRIBAL	ROAD IN TRESPASS
	0121	JOHN KADOTTE	32	ROAD IN TRESPASS
	0122	LIZZIE SCOTT	68	ROAD IN TRESPASS
	0123	MARY LEDOUX OJIBWAY	246	ROAD IN TRESPASS
	0124	MICHAEL PETIT	207	ROAD IN TRESPASS
	0125	MINNESOTA-CHIPPEWA TRIBE	TRIBAL	ROAD IN TRESPASS
	0126	MINNESOTA-CHIPPEWA TRIBE	TRIBAL	ROAD IN TRESPASS
	0127	ELLA DALENY IVERSON	410	ROAD IN TRESPASS
	0128	MARY ANN REED	224	ROAD IN TRESPASS
	0129	ANGELINE PETIT GOSLIN	377	ROAD IN TRESPASS
	0130	LIZZIE CHURCH	A126	ROAD IN TRESPASS
	0131	LOUIS BELLANGER	255	ROAD IN TRESPASS
	0132	SAM MARTIN	343	ROAD IN TRESPASS
	0133	FLORA PORTER	A47	ROAD IN TRESPASS
	0134	MIKE SHABAYAUSH	9E	ROAD IN TRESPASS
	0135	LOUIS WAHBUNO	A48	ROAD IN TRESPASS
	0136	JOHN WAHBUNO	289	ROAD IN TRESPASS
	0137	KE ME TAH O SAY QUAY	140	ROAD IN TRESPASS
	0138	MINNESOTA-CHIPPEWA TRIBE	TRIBAL	ROAD IN TRESPASS
	0139	MINNESOTA-CHIPPEWA TRIBE	TRIBAL	ROAD IN TRESPASS
	0140	MINNESOTA-CHIPPEWA TRIBE	TRIBAL	ROAD IN TRESPASS
	0141	MINNESOTA-CHIPPEWA TRIBE	TRIBAL	ROAD IN TRESPASS
	0142	MINNESOTA-CHIPPEWA TRIBE	TRIBAL	ROAD IN TRESPASS
	0143	GEORGE HOULE	A122	ROAD IN TRESPASS
	0144	SUSAN HOULE	170	ROAD IN TRESPASS
	0145	JOSEPH BAPIO	74	ROAD IN TRESPASS
	0146	SNOWBALL	303	ROAD IN TRESPASS
	0147	MINNESOTA-CHIPPEWA TRIBE	TRIBAL	ROAD IN TRESPASS
	0148	AYSH QUAY AUSH	337	ROAD IN TRESPASS
	0149	MAH JE O SAY QUAY	348	ROAD IN TRESPASS
	0150	ELIZA SCOTT	7C	ROAD IN TRESPASS
	0151	FLORA PADDEN PORTER	50	ROAD IN TRESPASS
	0152	MARY JACKSON	45	ROAD IN TRESPASS
	0153	BAY SHE GO GAH BOW	102	ROAD IN TRESPASS
	0154	SUSAN RAZOR	133	ROAD IN TRESPASS
F53406	0076	WAUSH KE GWA TIK	93	ROAD IN TRESPASS
	0077	ANGELINE BAH GWOTCH E NENEE	167	TIMBER WRONGFULLY REMOVED
	0078	MARIE WAH BE BENAISE	243	TIMBER WRONGFULLY REMOVED

MINNEAPOLIS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
F53406	0079	BAH GAH NA MOKE	301	TIMBER WRONGFULLY REMOVED
	0080	KAH GAH GE O SAH DUNG	105	TIMBER WRONGFULLY REMOVED
	0081	AH ZHE TAY GWAN AY BEKE	103	TIMBER WRONGFULLY REMOVED
	0082	WAH SAY GAH BOW	102	TIMBER WRONGFULLY REMOVED
	0083	JOE SPRUCE/WAH SAY KE SHIG WAIB	113	TIMBER WRONGFULLY REMOVED
	0084	PE SHEENCE	112	TIMBER WRONGFULLY REMOVED
	0085	ISABELLE MORRISON	139	TIMBER WRONGFULLY REMOVED
	0086	JEROME BAH GWOTCH ENE NEE	179	TIMBER WRONGFULLY REMOVED
	0087	BE ME SI KWE	298	TIMBER WRONGFULLY REMOVED
	0088	LUCY MITCHELL/MUK KOZO/SCOTT	231	TIMBER WRONGFULLY REMOVED
	0089	WAUSH KE GWA TIK	93	TIMBER WRONGFULLY REMOVED
	0090	ANGELINE BAH GWOTCH E NENEE	167	HWY 61 IN TRESPASS
	0091	MARIE WAH BE BENAISE	243	ROAD IN TRESPASS
	0092	BAH GAH NA MOKE	301	ROAD IN TRESPASS
F53407	0874	ME GO ME GE SHIG	1628	SECRETARIAL TRANSFER
	0875	ME GO ME GE SHIG	1628	SECRETARIAL TRANSFER
	0876	IEEN DUB EQUAY	1669	SECRETARIAL TRANSFER
	0877	AUN E COJE	1704	SECRETARIAL TRANSFER
	0878	AUN E COJE	1704	SECRETARIAL TRANSFER
	0879	O GAH BAY AH MAH JI WAIB EQUAY	741	SECRETARIAL TRANSFER
	0880	KO WAD	747	SECRETARIAL TRANSFER
	0881	WAY TAH WUB EQUAY	751	SECRETARIAL TRANSFER
	0882	JOSEPH AITKIN	1215	SECRETARIAL TRANSFER
	0883	WAY TAH O SAY	1382	SECRETARIAL TRANSFER
	0884	WAY TAH O SAY	1302	SECRETARIAL TRANSFER
	0885	KE CHE MO KO MAUN	1489	SECRETARIAL TRANSFER
	0886	PE WAY SEE	1508	SECRETARIAL TRANSFER
	0887	O BAH BAUU WAY WAINCE	1509	SECRETARIAL TRANSFER
	0888	MUNE DO BE JIKE	1556	SECRETARIAL TRANSFER
	0889	LIZZIE KING	1571	SECRETARIAL TRANSFER
	0890	LIZZIE KING	1571	SECRETARIAL TRANSFER
	0891	ZO ZAY	1626	SECRETARIAL TRANSFER
	0892	PAYM WAY WAY GUAN ABE	1236	SECRETARIAL TRANSFER
	0893	PAY GUM WAY ME DUNG	918	SECRETARIAL TRANSFER
	0894	OBE SAUN E GE SHIG	192	SECRETARIAL TRANSFER
	0895	O GU BAY AUN DO WOKE	1376	SECRETARIAL TRANSFER
	0896	LUCY MCCABE GAMENTHALU	614	FORCED FEE PATENT
	0897	MRS MARJORIE (F.C.) MORRISETTE	657	TIMBER CONTRACT
	0898	SUSAN WEAVER HOWARD	1226	FORCED FEE PATENT
	0899	LOUIS MONNELL	1272	FORCED FEE PATENT
	0900	JOSEPH MONNELL (MUNNELL)	1271	FORCED FEE PATENT
	0901	KAY BAY GUAN AY BEKE	355	FORCED FEE PATENT
	0902	GEORGE MORGAN/KE SHIG A GESIS	324	SECRETARIAL TRANSFER
	0903	MRS. JOHN MUNNELL (LUCY)	1262	FORCED FEE PATENT
	0904	CECILIA HOWARD	LL40	ROAD OR HIGHWAY IN TRESPASS
	0905	TE BISH CO CUMIG O QUAY	1162	ROAD OR HIGHWAY IN TRESPASS
	0906	TE BISH CO CUMIG O QUAY	1162	WRONGFUL DUMPING
	0907	MAUN GO ZID	449	TIMBER TRESPASS
	0908	WAY GE MAH WAUN GAY	LL104	SECRETARIAL TRANSFER
	0909	PUG AUN AUK	LL56	POWER LINE TRESPASS
	0910	LEECH LAKE BAND	N/A	POLLUTION ON THE MISS. RIVER CHAIN OF LAKES
	0911	LEECH LAKE BAND	N/A	ST. REGIS HAZARDOUS WASTE
	0912	MINNESOTA CHIPPEWA TRIBE	N/A	COUNTY RD 35 IN TRESPASS
	0913	MINNESOTA CHIPPEWA TRIBE	N/A	TIMBER/COMMON BURROW TRESPASS
	0914	JOHN FINEDAY	LL14	SECRETARIAL TRANSFER(.1 ACRE)
	0915	KE ME WEN E GE SHIG OKE	LL21	SECRETARIAL TRANSFER
	0916	AH SIN A WE NE NEENCE	LL22	SECRETARIAL TRANSFER
	0917	O MY AH WUB EAK	LL55	SECRETARIAL TRANSFER
	0918	PUG AUN AUK	LL56	ROAD IN TRESPASS
	0919	MAY MIN WAY AUSH EQUAY	LL290	SECRETARIAL TRANSFER
	0920	OM YAH WAH CUMIG OKE	LL1254	SECRETARIAL TRANSFER
	0921	NE EAUM DOW AY	LL465	SECRETARIAL TRANSFER
	0922	KAH GAW GEENCE	351	TIMBER REMOVED WRONGFULLY
	0923	AY SINE WOUB E QUAY	36	FOREST ROAD 2366 IN TRESPASS
	0924	CHARLES HEADBIRD	37	FOREST ROAD 2366 IN TRESPASS
	0925	KAY GAH WOZO DUNG	38	FOREST ROAD 2366 IN TRESPASS
	0926	PAH GWOTCH E NE NE	39	FOREST ROAD 2366 IN TRESPASS
	0927	NED PAH KIN DAY CRUM O QUAY	134	FOREST ROAD 2366 IN TRESPASS

MINNEAPOLIS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
FS3408	1843	MARY E. CHAPMAN	12409	UNAPPROVED SALE BY MINOR
	1844	JOSEPH SOLDIER	A2403	SALE WITHOUT DEPT APPROVAL
	1845	LIZZIE STEVENS MITCHELL	A2899	UNAPPROVED SALE BY MINOR
	1846	JOHN MERRELL	A2155	UNAPPROVED SALE BY ADMINISTRATOR
	1847	AHAUNEQESHIGOOWAY	A2437	UNAPPROVED ADMINISTRATOR'S DEED
	1848	SHAGBAYWAYGOMAH	A 3057	UNAPPROVED SALE BY MINOR
	1849	LENA DOUCETTE	4443	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND
	1850	CHARLES H. BEAULIEU	2344	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND
	1851	SAY CAH MAH KE CAH BOW EAK	35	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND
	1852	PAUL BEAULIEU	701	UNAPPROVED RIGHT OF WAY DEED
	1853	WILLIAM WALTERS	A 1998	IMPROPER DISTRIBUTION OF ESTATE
	1854	ISABELLE CHESLEY	3034	IMPROPER DISTRIBUTION OF ESTATE
	1855	KAY BAY GO SEAK	N/A	DESTRUCTION OF WILD RICE-OWAMIA LAKE
FS3410	0099	MILLE LACS BAND	N/A	DESTRUCTION OF WILD RICE-SHAKOPEE LAKE
	0100	MILLE LACS BAND	N/A	DESTRUCTION OF WILD RICE-DOZHIE LAKE
	0101	MILLE LACS BAND	N/A	NORTHERN PACIFIC RAILWAY COMP IN TRESPASS
	0102	MILLE LACS BAND	N/A	CLAIM FOR RECOVERY OF SCHOOL LANDS
	0103	MILLE LACS BAND	N/A	CLAIM FOR RECOVERY OF SWAMP LANDS
	0104	MILLE LACS BAND	N/A	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND
	0105	NIS GUA DAGE	N/A	CLAIM FOR RECOVERY OF LAND
	0106	SHOW VOSH KUNG	N/A	RAILROAD LANDS SOLD
	0107	MILLE LACS BAND	N/A	CLAIM FOR RECOVERY OF LAND
	0108	MILLE LACS BAND	N/A	CLAIM FOR RECOVERY OF LAND
	0109	KA GA DO SHA	N/A	CLAIM FOR RECOVERY OF LAND
	0110	ME GEE SEE	N/A	CLAIM FOR RECOVERY OF LAND
	0111	MILLE LACS BAND	N/A	CLAIM FOR RECOVERY OF LAND
	0112	MILLE LACS BAND	N/A	BOAT STORAGE AND PARKING
FS3431	0129	LAC COURTE OREILLES BAND	21	TRESPASSING UPON THE PROPERTY SEE 4040157
FS3430	0091	MAH KAH DA WAH QUOT ONCE	21	TIMBER REMOVED WRONGFULLY SEE 4040157
	0092	MAH KAH DA WAH QUOT ONCE	21	ROAD IN TRESPASS SEE 4040157
	0093	MAH KAH DA WAH QUOT ONCE	21	TRESPASS SEE FS3404157
	0094	MAH KAH DA WAH QUOT ONCE	21	INUNDATION/FLOODING IN TRESPASS
FS3431	0098	OGINAWSHAEWAB ONIBIBIES	525	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0101	ALEXANDER BELLISLE	259 34	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0102	MICHAEL MENDEL	50 397	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0103	GEORGE GAUTHIER	31(2)	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0104	ANGELINE BUCKO	42	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0105	EMMA DEMAR CROW	67	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0106	CHARLOTTE THOMAS	83 4H	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0107	IDA THOMAS	323(7)	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0108	SA GIGWE BI	697 32	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0109	JOSEPH GRANT	45 582	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0110	JULIA BARBER CLOUD	39 576	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0111	GEORGE BARBER	638(3)	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0112	JULIA SLATER ISHAM	11 627	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0113	JULIA ISHAM MUSTACHE	69(4H)	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0114	FRANCES ISHAM TREPANIA	11 68	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0115	MARY ISHAM DEMAR	129(11)	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0116	GEORGE TROTTIER	35 4H	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0117	ALEX DEMAR	599	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0118	MARY EVERSON	175	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0119	JOHN LARUSH	132(5)	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0120	JAMES BENNETT	14 4H	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0121	JAMES BARBER	691 36	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0122	ELLEN LARUSH DEMAR	73	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0123	BI NO SE KAE 240	43 4H	INUNDATION/FLOODING IN TRESPASS SEE 4310088
	0124	SOPHIE THOMAS	N/A	INTERFERENCE WITH USUFRUCTUARY RIGHTS
	0125	LAC COURTE OREILLES BAND	N/A	INTERFERENCE WITH USUFRUCTUARY RIGHTS
	0126	LAC COURTE OREILLES BAND	N/A	BOUNDARY ENCROACHMENT
	0127	LAC COURTE OREILLES BAND	N/A	DUMPING FILL
	0128	LAC COURTE OREILLES BAND	N/A	BOAT STORAGE AND PARKING
	0129	LAC COURTE OREILLES BAND	255	SALE OF TRUST LAND BEFORE FEE PATENT ISSUED
FS3403	0017	JAMES SILAS	772	SALE OF TRUST LAND BY QUORUM
	0018	ELI SKINAMORE	1976	ALLOTTEE ISSUED TWO ALLOTMENTS(911)
	0019	HENRY METOXEN	420	SALE FOR NON-PAYMENT OF TAXES
	0020	HENRY DOXTATOR	1454	SALE FOR NON-PAYMENT OF TAXES
	0021	THOMPSON CORNELIUS	1454	SALE FOR NON-PAYMENT OF TAXES
	0022	DAVID JOURDAN	1454	SALE FOR NON-PAYMENT OF TAXES

MINNEAPOLIS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
FS3407	0928	MARY GOTCHIE	135	FOREST ROAD 2366 IN TRESPASS
	0929	JACK SMITH	194	FOREST ROAD 2366 IN TRESPASS
	0930	TE QUAH QUOD QUICE	102	SECRETARIAL TRANSFER
	0931	KOW IT AH WAY ME DUNG	138	SECRETARIAL TRANSFER
	0932	HARRY DRUMBEATER	723	SECRETARIAL TRANSFER
	0933	AHSI ME WUB E QUAY	727	SECRETARIAL TRANSFER
	0934	KAH CAH CUMIG OKE	917	SECRETARIAL TRANSFER
	0935	MIKE SMITH	1007	SECRETARIAL TRANSFER
	0936	JOE BOWSTRING	1015	SECRETARIAL TRANSFER
	0937	KAY TAH KE ME KE SHIG OKE	1174	SECRETARIAL TRANSFER
	0938	MAUZHOOSAY	447	UNAPPROVED SALE BY MINOR
FS3408	1786	O GEE ZEE	5138	UNAPPROVED SALE BY MINOR
	1787	THOMAS TURNER	A2282	SALE WITHOUT DEPT APPROVAL
	1788	AMANDA HOLMES	4470	UNAPPROVED SALE BY MINOR
	1789	EQUAYZAINCE	4341	SALE WITHOUT APPROVAL
	1790	MARGARET MOOSE	4655	UNAPPROVED SALE BY MINOR
	1791	ALBERT WAKEFIELD	3754	CLAIM FOR RECOVERY OF TRUST & RESTRICTED LAND
	1792	BENJAMIN ROY	1465	UNAPPROVED SALE BY GUARDIAN
	1793	INDAHJU	A2265	UNAPPROVED SALE BY MINOR
	1794	MARY E. CHAPMAN	3840	UNAPPROVED SALE BY MINOR
	1795	MARY SNETSINGER	3776	UNAPPROVED SALE BY MINOR
	1796	JOSEPH SOLDIER	3831	SALE WITHOUT DEPT APPROVAL
	1797	KAYKINAHAHOUBEQUAY	A1633	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND
	1798	LIZZIE STEVENS MITCHELL	3536	UNAPPROVED SALE BY MINOR
	1799	JOHN MERRELL	3469	UNAPPROVED SALE BY ADMINISTRATOR
	1800	MAHGANEGAHBOW	3547	UNAPPROVED SALE BY ADMINISTRATOR
	1801	HENRY STAPLES	A1997	UNAPPROVED SALE BY MINOR
	1802	WAY DUN	3470	PROBATED BY COURT WITHOUT JURISDICTION
	1803	DANIEL HARLINE	3266	UNAPPROVED SALE BY MINOR
	1804	MARY MONTREUIL LADOUX	3311	UNAPPROVED SALE BY MINOR
	1805	ANDETAHUSKOUDOMCE	2094	SALES WITHOUT DEPT APPROVAL
	1806	ARCHIE MCARTHUR	1647	UNAPPROVED SALE BY ADMINISTRATOR
	1807	PETAHAKESHIGEQUAY	3446	UNAPPROVED ADMINISTRATOR DEEDS
	1808	JULIA MONROE BEAULIEU	1498	UNAPPROVED SALE BY MINOR
	1809	JOSEPH JORDAIN	1563	UNAPPROVED SALE BY ADMINISTRATOR
	1810	BEN B. ROY	1576	UNAPPROVED SALE BY ADMINISTRATOR
	1811	METAHWINDOWAIN	3414	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND
	1812	SAYGITOMCE	1057	TAX FORFEITURE
	1813	AHAUNEQESHIGOOWAY	4781	UNAPPROVED ADMINISTRATOR'S DEED
	1814	WHITE EARTH LOWER RICE LAKE	N/A	DAMAGE TO RICE&OTHER HARVESTABLE GROWTH
	1815	ALEXANDER DOUCETTE	3705	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND
	1816	KENETAHOMIGOOWAY	5121	TAX FORFEITURE
	1817	TAYBUSGEESHIG	5144	UNAPPROVED SALE BY MINOR
	1818	TAYBUSGEESHIG	5144	TAX FORFEITURE
	1819	SHAGBAYWAYGOMAH	4343	PROBATED BY COURT WITHOUT JURISDICTION
	1820	ISAPENING	5118	TAX FORFEITURE
	1821	MUCKUNDAHYAHGEE	4761	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND
	1822	CECILE MORGAN	A2396	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND
	1823	AYMEHB	1834	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND
	1824	JAMES STAPLES	3348	UNAPPROVED GUARDIAN DEED
	1825	KECHEPAYSHOWIAIG	4339	UNAPPROVED PROBATE & GUARDIAN DEED
	1826	KECHEPAYSHOWIAIG	4339	FORCED FEE PATENT
	1827	ISAPENING	A3090	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND
	1828	DELIA HOWARD	WE2815	ALLOTMENT SOLD BY MINOR W/O BIA APPROVAL
	1829	QUAY SE YEA	4982	IMPROPER DISTRIBUTION OF ESTATE
	1830	KEDEKAMETAYSAY	3370	CONDEMNATION IN FEDERAL COURT
	1831	MARGARET GIARD	5170	PROBATE BY STATE COURT W/O JURISDICTION
	1832	KAY BAY WAY QUAY	2660	LEECH LAKE HEIRS SOLD W/O APPROVAL
	1833	ANTOINE BENOIST	3704	FORCED FEE PATENT
	1834	JESSIE BERTOL WILLIAMS	3775	MINOR CONVEYED W/O APPROVAL
	1835	ELIZABETH BRISBOIS	5094	ALLOTMENT ENCUMBERED IMPROPERLY
	1836	ELIZABETH BRISBOIS	5094	PROBATE BY STATE COURT W/O JURISDICTION
	1837	ARNOLD MILLER	4387	ALLOTTEE MORTGAGED W/O APPROVAL
	1838	JULIA ROY YORKWALD	3897	A-2363 MORTGAGED W/O APPROVAL
	1839	MAH PAH GAIS	5059	FRAUD AND BREACH OF CONTRACT
	1840	ODEFEE	A3109	UNAPPROVED SALE BY MINOR
	1841	MARGARET MOOSE	A2267	UNAPPROVED SALE BY MINOR
	1842	ALBERT WAKEFIELD	A2250	CLAIM FOR RECOVERY OF TRUST&RESTRICTED LAND

MINNEAPOLIS AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
F35433	0023	CHAUNCEY DOXTATOR	625	SALE FOR NON-PAYMENT OF TAXES
	0024	EPISCOPAL CHURCH	N/A	TRIBAL CLAIM FOR RECOVERY OF LAND - SEC.13
	0025	EPISCOPAL CHURCH	N/A	TRIBAL CLAIM FOR RECOVERY OF LAND-SEC.12
F60000	0001	GRAND TRAVERSE BAND -ET.AL.	N/A	DEROGATION OF FISHERY RIGHTS
F60472	0138	JOSEPH MA BA NOO 2ND	40	FLOODED BY MILL POND
	0139	JOSEPH MA BA NOO 2ND	40	UNAUTHORIZED CLEARING
F60477	0024	PAY SHE DAH NAH QUOT	N/A	CLAIM FOR RECOVERY OF TRUSTRESTRICTED LAND

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
003906	037	M. ANDERSON	4909	UNAPPROVED RESTRICTED LAND SALE
	038	M. ANDERSON	4931	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	039	B. RYAN	829	TAX FORFEITED WHILE IN RESTRICTED STATUS
	040	H. JOHNSON	386	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	041	M. LEVI	160	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	042	E. LEVI	812	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	043	J. REED	247	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	044	L. BROWN	2850	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	045	M. ALEXANDER	2195	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	046	L. BYRD	N-266	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	047	C. WALTON	627	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	048	M. IMMOTICHEY	4571	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	049	J. LEVI	814	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	050	W. FRAZIER	791	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	051	S. COURTNEY	2575	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	052	E. KUNAWTUBBEE	2458	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	053	H. JOHNSON	386	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	054	L. WISDOM	606	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	055	V. SEALY	1045	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	056	E. SMITH	4924	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	057	A. COURTNEY	2381	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	058	L. NELSON	577	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	059	S. WRIGHT	277	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	060	L. SEALEY	3918	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	061	D. KUNNETUBBY	2943	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	062	F. BROWN	1416	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	063	W. HOLDEN	2643	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	064	C. ALEXANDER	4753	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	065	E. LEVI	812	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	066	W. FOLOME	3121	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	067	M. THOMAS	284	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	068	R. UNDERWOOD	2285	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	069	L. COLBERT	1055	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	070	N. WADE	4027	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	071	M. BROWN	100	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	072	S. UNDERWOOD	2813	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	073	A. PICKENS	2855	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	074	N. WADE	4027	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	075	C. GREENWOOD	NB-381	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	076	C. FULSOM	48	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	077	F. CRAVATT	NB-409	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	078	A. NISHONTOMBBY	1106	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	079	Z. HAMILTON	NB-427	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	080	N. PICKENS	4169	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	081	L. MELVILLE	448	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	082	J. UNDERWOOD	NB-561	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	083	J. LEWIS	4762	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	084	L. RUSSELL	2862	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	085	F. CARNEE	2604	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	086	S. BROWN	3173	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	087	N. WADE	4027	WELFARE PAYMENTS MADE FROM TRUST ESTATES
004920	005	J. KAY	65	UNAPPROVED RESTRICTED LAND SALE
004921	001	E. WILLIAMSON	49	WELFARE PAYMENTS MADE FROM TRUST ESTATES
004923	006	SENECA-CAYUGA TRIBE	N/A	NOT RELINQUISHED ON ABANDONMENT OR REVERTER
007906	107	A. WACOCHE	9048	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	108	H. CLEMENT	1404	UNAPPROVED RESTRICTED LAND SALE
	109	K. HAWKINS	8774	DAMAGING DITCH OR CANAL IN TRESPASS
	110	N. BERRYHILL	8709	UNAPPROVED RESTRICTED LAND SALE
	112	L. DAUGHERTY	9981	UNAPPROVED RESTRICTED LAND SALE
	113	L. MCCOMBS	9981	UNAPPROVED RESTRICTED LAND SALE
	114	H. FRYE	NB1205	UNAPPROVED RESTRICTED LAND SALE
	115	H. CLEMENT	1401	UNAPPROVED RESTRICTED LAND SALE
	116	H. FRYE	9304	UNAPPROVED RESTRICTED LAND SALE
	117	H. FRYE	5112	UNAPPROVED RESTRICTED LAND SALE
	118	H. FRYE	8078	TAX FORFEITED WHILE IN RESTRICTED STATUS
	119	S. FRYE JR	9307	UNAPPROVED RESTRICTED LAND SALE
	120	T. HENRY	5908	UNAPPROVED RESTRICTED LAND SALE
	121	T. HENRY	9306	UNAPPROVED RESTRICTED LAND SALE

MUSKOGEE AREA STATUTE CLAIMS

MUSKOGEE AREA STATUTE CLAIMS

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
007908	122	N. FRYE	8442	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	123	S. YARGEE	5053	UNAPPROVED RESTRICTED LAND SALE
	124	D. BUCK	7233	UNAPPROVED RESTRICTED LAND SALE
	125	D. BUCK	7233	UNAPPROVED RESTRICTED LAND SALE
	126	J. HAIKEY	954	BOUNDARY ENCROACHMENT
	127	H. SARTY	M-96	TAX FORFEITED WHILE IN RESTRICTED STATUS
	128	M. GIBBS	8808	UNAPPROVED RESTRICTED LAND SALE
	129	M. GIBBS	8809	UNAPPROVED RESTRICTED LAND SALE
	130	MUSCOGEE CREEK NATION	N/A	NOT RELINQUISHED ON ABANDONMENT OR REVERTER
	131	MUSCOGEE CREEK NATION	N/A	NOT RELINQUISHED ON ABANDONMENT OR REVERTER
	132	W. THOMAS	7173	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	133	B. LARNEY	1732	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	134	A. BERRYHILL	130	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	135	K. ROBERTS	4295	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	136	M. SMITH	1265	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	137	S. TAYLOR	3723	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	138	M. COLBERT	8737	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	139	E. MILLER	1739	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	140	K. HARJO	7737	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	141	M. TAYLOR	7608	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	142	E. MARSHALL	6124	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	143	H. YAHOLA	NB-349	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	144	L. HILL	5028	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	145	A. GREGORY	499	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	146	H. ADKINS	280	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	147	E. HARMER	2633	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	148	A. HOWELL	2744	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	149	E. MARSHALL	416	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	150	D. ALBERT	7163	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	151	P. YAHOLA	5295	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	152	S. CUMMINGS	NB-29	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	153	C. NEY	7007	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	154	M. GREENLEAF	496	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	155	E. HARJO	6721	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	156	P. BARNETT	M-249	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	157	E. PHILLIPS	897	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	158	W. SUMKA	4637	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	159	P. THOMAS	4251	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	160	J. LOWE	8348	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	161	T. ANDERSON	9515	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	162	J. YARGEE	3702	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	163	N. THOMPSON	3259	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	164	T. DAVIS	NB1089	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	165	J. WOLF	NB1232	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	166	C. YAHOLA	5294	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	167	M. BARNETT	5750	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	168	L. JACK	7130	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	169	S. WOLF	NB-298	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	170	M. MCNAC	1273	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	171	N. NELSON	3172	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	172	W. HARJO	8401	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	173	L. MCNAC	M-481	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	174	OKEHUMPULLE	M-477	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	175	E. HULLY	5016	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	176	L. JOHNSON	6858	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	177	L. BRUNER	M-334	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	178	L. MCHENRY JR	636	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	179	M. WILEY	NB-478	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	180	K. RICHARD	6383	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	181	E. CHENEWA	661	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	182	A. DEERE	NB1267	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	183	N. ROBERTS	5377	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	184	C. HARJO	NB-82	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	185	J. SMITH	8584	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	186	A. BERRYHILL	NB-236	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	187	E. TAYLOR	8459	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	188	D. TAHKANEY	7852	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	189	L. HARRISON	1077	WELFARE PAYMENTS MADE FROM TRUST ESTATES

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
007908	190	P. HARPER	8136	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	191	J. FRANK	8835	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	192	C. KILLER	6785	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	193	T. BARNETT	6078	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	194	W. MARSHALL	4799	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	195	L. WEST	4526	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	196	W. CONNOR	9212	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	197	N. HILL	NB1096	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	198	W. SMITH	1996	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	199	N. BRUNER	7374	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	200	D. FISH	7745	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	201	B. FIXICO	4579	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	202	M. SEVIER	4421	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	203	S. TIGER	7030	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	204	D. TAHKONEY	7852	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	205	E. CLOUD	1007	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	206	S. KING	6480	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	207	A. DEER	4473	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	208	A. SCOTT	7758	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	209	M. MONAHMEE	5489	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	210	J. TAYLOR	7598	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	211	B. THOMPSON	1486	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	212	E. TAYLOR	9307	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	213	J. HARJO	6722	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	214	M. LONG	5320	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	215	C. BYRD	7879	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	216	L. FIXICO	4677	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	217	L. WOLF	8743	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	218	P. HARRISON	5499	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	219	I. MCINTOSH	NB-340	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	220	G. TIGER	3239	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	221	M. WHITE	1154	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	222	W. JOHNSON	NB-690	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	223	R. MCGILBRAY	5356	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	224	J. FISH	10124	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	225	E. SMITH	6017	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	226	A. BRUNER	2329	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	227	J. DICK	8712	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	228	L. DAY	4464	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	229	R. FISH	11875	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	230	L. STORER	3262	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	231	L. TERLOSHAW	NB1168	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	232	T. FOSTER	6787	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	233	A. FOX	1640	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	234	S. THOMPSON	5932	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	235	S. CHUPKO	3354	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	236	D. BERRYHILL	132	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	237	N. HALL	8369	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	238	K. LOWE	755	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	239	R. SAMPSON	2177	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	240	M. COUSINS	269	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	241	N. TURK	430	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	242	A. HARLEY	9784	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	243	T. BRINTON	7516	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	244	M. BARNETT	8405	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	245	E. SCOTT	1455	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	246	B. DAVIS	8980	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	247	M. FIELD	7070	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	248	M. MCNAC	1273	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	249	C. TIGER	6659	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	250	S. CUMMINGS	NB-29	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	251	L. SOWEKA	4638	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	252	D. HARJOCHE	8260	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	253	B. GRAYSON	7145	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	254	J. JACOB	NB1127	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	255	L. STIDHAM	6093	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	256	A. MCGILBREY	7908	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	257	J. DEERE	7629	WELFARE PAYMENTS MADE FROM TRUST ESTATES

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
007908	327	A. PERKINS	2059	UNAPPROVED RESTRICTED LAND SALE
	328	A. PERKINS	2010	UNAPPROVED RESTRICTED LAND SALE
	329	A. PERKINS	2013	UNAPPROVED RESTRICTED LAND SALE
	330	A. PERKINS	1920	UNAPPROVED RESTRICTED LAND SALE
	331	M. TAYLOR	9303	UNAPPROVED RESTRICTED LAND SALE
	332	R. BRUNER	7592	IMPROPER CONDEMNATION OR FORECLOSURE
	333	R. BRUNER	M81238	IMPROPER CONDEMNATION OR FORECLOSURE
	334	J. MITCHELL	6709	UNAPPROVED RESTRICTED LAND SALE
	335	D. POWELL	M81240	UNAPPROVED RESTRICTED LAND SALE
	336	B. BILLY	7959	UNAPPROVED RESTRICTED LAND SALE
	337	TIGER	7850	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	338	HARJO	7451	RESIDUAL SCHOOL OR PATENTED SWAMP LANDS
	339	HARJO	M81257	UNAPPROVED RESTRICTED LAND SALE
	340	HARJO	7850	TAX FORFEITED WHILE IN RESTRICTED STATUS
	341	TAYLOR	9303	UNAPPROVED RESTRICTED LAND SALE
	342	FRYE	9954	UNAPPROVED RESTRICTED LAND SALE
	343	GIBBS	6362	UNAPPROVED RESTRICTED LAND SALE
	344	GIBBS	3721	UNAPPROVED RESTRICTED LAND SALE
	345	BERRYHILL	845	AGRICULTURAL TRESPASS
	346	WILLITS	5403	DAMAGING ROAD OR HIGHWAY IN TRESPASS
	347	CHISHOLM	M8-443	UNAPPROVED RESTRICTED LAND SALE
	348	RECORD	1802	UNAPPROVED RESTRICTED LAND SALE
008905	420	DRY	18180	UNAPPROVED RESTRICTED LAND SALE
	421	HOGSHOOTER	32910	UNAPPROVED RESTRICTED LAND SALE
	422	NEAL	32322	UNAPPROVED RESTRICTED LAND SALE
	423	HUBBARD	16245	UNAPPROVED RESTRICTED LAND SALE
	424	FIELDS	20907	UNAPPROVED RESTRICTED LAND SALE
	425	SANDERS	29850	UNAPPROVED RESTRICTED LAND SALE
	425A	SANDERS	29851	UNAPPROVED RESTRICTED LAND SALE
	425B	SANDERS	29854	UNAPPROVED RESTRICTED LAND SALE
	426	GRAYSON	29648	UNAPPROVED RESTRICTED LAND SALE
	427	SMITH	32523	UNAPPROVED RESTRICTED LAND SALE
	427A	SMITH	18228	UNAPPROVED RESTRICTED LAND SALE
	427B	SMITH	M-4799	UNAPPROVED RESTRICTED LAND SALE
	428	F. MANUS	20883	UNAPPROVED RESTRICTED LAND SALE
	429	V. THOMPSON	32280	UNAPPROVED RESTRICTED LAND SALE
	430	FLEETWOOD	27273	UNAPPROVED RESTRICTED LAND SALE
	431	ROSS	17496	UNAPPROVED RESTRICTED LAND SALE
	432	FRANEY	30703	UNAPPROVED RESTRICTED LAND SALE
	433	WEAVER	12729	UNAPPROVED RESTRICTED LAND SALE
	434	MORGAN	M-4215	WRONGFUL TAXATION OF LAND
	435	MORGAN	17852	UNAPPROVED RESTRICTED LAND SALE
	436	COMSTOCK	20405	UNAPPROVED RESTRICTED LAND SALE
	437	COMSTOCK	17347	UNAPPROVED RESTRICTED LAND SALE
	438	COMSTOCK	17348	UNAPPROVED RESTRICTED LAND SALE
	439	MASTERS	4198	UNAPPROVED RESTRICTED LAND SALE
	440	PUMKIN	14832	UNAPPROVED RESTRICTED LAND SALE
	441	HUGHES	6273	UNAPPROVED RESTRICTED LAND SALE
	442	BUTLER	18637	TAX FORFEITED WHILE IN RESTRICTED STATUS
	443	CHRISTIE	M-2197	TAX FORFEITED WHILE IN RESTRICTED STATUS
	444	BASSETT	18880	TAX FORFEITED WHILE IN RESTRICTED STATUS
	445	BASSETT	18718	UNAPPROVED RESTRICTED LAND SALE
	446	BASSETT	18717	UNAPPROVED RESTRICTED LAND SALE
	447	BURNETT	18681	UNAPPROVED RESTRICTED LAND SALE
	448	BEAVER	24032	UNAPPROVED RESTRICTED LAND SALE
	449	BEAVER	30466	UNAPPROVED RESTRICTED LAND SALE
	450	HART	M-3230	UNAPPROVED RESTRICTED LAND SALE
	451	HART	17209	UNAPPROVED RESTRICTED LAND SALE
	452	E. TILLERY	26817	UNAPPROVED RESTRICTED LAND SALE
	453	NELSON	26857	UNAPPROVED RESTRICTED LAND SALE
	454	NELSON	26858	UNAPPROVED RESTRICTED LAND SALE
	455	NELSON	26859	UNAPPROVED RESTRICTED LAND SALE
	456	CHILTON	3402	UNAPPROVED RESTRICTED LAND SALE
	457	MARSHAM	19240	UNAPPROVED RESTRICTED LAND SALE
	458	REYBURN	25363	UNAPPROVED RESTRICTED LAND SALE
	459	RIGGS	3821	UNAPPROVED RESTRICTED LAND SALE
	460	RIGGS	22953	UNAPPROVED RESTRICTED LAND SALE
	461	PARKER	M-2760	TAX FORFEITED WHILE IN RESTRICTED STATUS
	298	TIGER	9220	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	299	DEER	4474	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	260	HARJO	2051	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	261	HARRISON	5501	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	262	PERRYMAN	1077	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	263	BERRYHILL	2034	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	264	REED	8138	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	265	SCOTT	6154	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	266	DAVIS	8977	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	267	LONG	5320	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	268	WILDCAT	M81176	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	269	NOTE	3798	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	270	SOLOMON	7797	UNAPPROVED RESTRICTED LAND SALE
	271	RODRIGUEZ	5931	UNAPPROVED RESTRICTED LAND SALE
	272	SCOTT	4933	UNAPPROVED RESTRICTED LAND SALE
	273	FISHER	M8-128	UNAPPROVED RESTRICTED LAND SALE
	274	POWELL	2149	BUILDING OR OTHER STRUCTURE IN TRESPASS
	275	POWELL	M8-812	BUILDING OR OTHER STRUCTURE IN TRESPASS
	276	POWELL	8498	BUILDING OR OTHER STRUCTURE IN TRESPASS
	277	COUCH	8296	UNAPPROVED RESTRICTED LAND SALE
	278	COUCH	M-474	UNAPPROVED RESTRICTED LAND SALE
	279	FRYE	3352	TAX FORFEITED WHILE IN RESTRICTED STATUS
	280	FRYE	4523	UNAPPROVED RESTRICTED LAND SALE
	281	FRYE	3716	UNAPPROVED RESTRICTED LAND SALE
	282	PROCTOR	M81286	CANCELLED FEE PATENT
	283	DAVIS	10003	CANCELLED FEE PATENT
	284	SIMMONS	7829	UNAPPROVED RESTRICTED LAND SALE
	285	SIMMONS	4015	UNAPPROVED RESTRICTED LAND SALE
	286	CRAWFORD	4067	UNAPPROVED RESTRICTED LAND SALE
	287	SIMMONS	5845	UNAPPROVED RESTRICTED LAND SALE
	288	MCINTOSH	3103	IMPROPER CONDEMNATION OR FORECLOSURE
	289	BARNETT	1263	UNAPPROVED RESTRICTED LAND SALE
	290	MEDEMOTT	9643	NOT RELINQUISHED ON ABANDONMENT OR REVERTER
	291	GREGORY	2315	UNPAID RENTALS FEES OR EASEMENT
	292	BELL	7362	UNPAID RENTALS FEES OR EASEMENT
	293	OSER	M-316	UNAPPROVED RESTRICTED LAND SALE
	294	WATAGE	5437	UNPAID RENTALS FEES OR EASEMENT
	295	MCCOMBS	4524	UNAPPROVED RESTRICTED LAND SALE
	296	DODSON	3440	UNPAID RENTALS FEES OR EASEMENT
	297	HOMER	3660	UNAPPROVED RESTRICTED LAND SALE
	298	HOMER	2774	UNAPPROVED RESTRICTED LAND SALE
	300	ALEXANDER	7290	UNAPPROVED RESTRICTED LAND SALE
	301	ALEXANDER	4958	UNAPPROVED RESTRICTED LAND SALE
	302	WHITE	7573	LAND LOST BY LOCAL COURT WITHOUT JURISDICTION
	303	HARRIS	5701	UNAPPROVED RESTRICTED LAND SALE
	304	BILLY	3699	UNAPPROVED RESTRICTED LAND SALE
	305	BILLY	7815	UNAPPROVED RESTRICTED LAND SALE
	306	HILL	5582	UNPAID RENTALS FEES OR EASEMENT
	307	LEATHERS	4958	UNAPPROVED RESTRICTED LAND SALE
	308	STEVENSON	5582	LAND LOST BY LOCAL COURT WITHOUT JURISDICTION
	309	WASH	5582	UNAPPROVED RESTRICTED LAND SALE
	310	GILES	740	UNAPPROVED RESTRICTED LAND SALE
	311	GILES	742	TAX FORFEITED WHILE IN RESTRICTED STATUS
	312	MCQUINNESS	740	TAX FORFEITED WHILE IN RESTRICTED STATUS
	313	MCQUINNESS	742	AGRICULTURAL TRESPASS
	314	FREEMAN	3370	AGRICULTURAL TRESPASS
	315	DUROSSETTE	2421	TAX FORFEITED WHILE IN RESTRICTED STATUS
	316	BURGER	NE	UNAPPROVED RESTRICTED LAND SALE
	317	PORTER	NE	UNAPPROVED RESTRICTED LAND SALE
	318	JOSHUA	NE	UNAPPROVED RESTRICTED LAND SALE
	319	SAMARTIA	NE	UNAPPROVED RESTRICTED LAND SALE
	320	M. PERRY	NE	UNAPPROVED RESTRICTED LAND SALE
	321	PARKER	2042	BOUNDARY ENCROACHMENT
	322	PARKER	2043	BOUNDARY ENCROACHMENT
	323	WINN	6292	IMPROPER CONDEMNATION OR FORECLOSURE
	324	LINDSEY	M8118	BOUNDARY ENCROACHMENT
	325	PERKINS	2006	UNAPPROVED RESTRICTED LAND SALE
	326	PERKINS	2007	UNAPPROVED RESTRICTED LAND SALE

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM			
008905	530	G. CUMMINGS	28476	UNAPPROVED RESTRICTED LAND SALE			
	531	LEACH	15223	UNAPPROVED RESTRICTED LAND SALE			
	532	BAKER	4317	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	533	HILL	29047	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	534	HILL	28904	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	535	STEELER	21782	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	536	CALVIN	M-4811	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	537	CUPTON	6273	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	538	COMPTON	6273	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	539	CALVIN	6273	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	540	STOPP	20637	UNAPPROVED RESTRICTED LAND SALE			
	541	SMITH	20636	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	542	HARRISON	30509	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	543	STAND	32264	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	544	LINK	32263	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	545	TANNER	26463	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	547	BAINE	14870	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	548	COURO	14435	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	549	SMITH	21382	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	550	SMITH	18673	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	551	HUMMINGBIRD	5794	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	552	HAVENS	26067	UNAPPROVED RESTRICTED LAND SALE			
	553	HAVENS	31452	UNAPPROVED RESTRICTED LAND SALE			
	554	HAVENS	31453	UNAPPROVED RESTRICTED LAND SALE			
	555	ERICKSON	31455	UNAPPROVED RESTRICTED LAND SALE			
	557	COURO	18638	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	558	BOLTIN	20613	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	559	SEVIER	14697	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	560	PROCTOR	3078	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	561	YOUNG	2872	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	562	BUSTER	20643	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	563	LIVER	20404	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	564	BALLOU	15744	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	565	COURO	21382	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	566	HENSON	12184	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	567	JOHNSON	1983	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	568	HANDLE	19354	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	569	BYERS	2047	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	570	HOLMES	20652	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	571	BUSTER	20944	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	572	BREAD	18293	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	573	TAREFEN	19455	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	574	ROCK	18953	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	575	MURPHY	2522	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	576	HILDEBRAND	3970	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	577	LEWIS	30840	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	578	ADAIR	1737	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	579	MANNING	17429	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	580	OWENS	26432	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	581	WOODALL	5562	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	582	SOURJOHN	20282	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	583	LEAF	1904	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	584	TRIPLETT	14010	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	585	ADAIR	1738	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	586	DRYWATER	18802	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	587	SNELL	20292	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	588	HUMMINGBIRD	17737	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	589	WILDCAT	21130	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	590	BLOSSOM	30605	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	591	ADAIR	1737	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	592	JUMPER	19810	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	593	CAREY	29058	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	594	STOVER	M-2953	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	595	CHRISTIE	29161	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	596	BIGFEATHER	17287	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	597	SAMEY	1749	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	598	SANDERS	32297	WELFARE PAYMENTS MADE FROM TRUST ESTATES			

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM			
008905	442	K. OSCEOLA	30484	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	443	G. DUVALL	19904	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	444	A. ALLEN JR	18593	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	445	M. BREWER	25732	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	446	C. CHRISTIE	30398	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	447	E. TILLERY	17503	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	448	M. LUETHE	26081	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	469	M. GRITTS	M-4031	BENEFICIAL ROAD OR HIGHWAY IN TRESPASS			
	470	C. KETCHER	27215	UNAPPROVED RESTRICTED LAND SALE			
	471	C. KETCHER	27216	UNAPPROVED RESTRICTED LAND SALE			
	472	A. ALLEN JR	18593	BENEFICIAL LINE IN TRESPASS			
	473	A. ALLEN JR	18592	BENEFICIAL LINE IN TRESPASS			
	474	R. BUTLER	M-2197	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	475	R. SEABAUGH	28596	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	476	R. SEABAUGH	28597	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	477	M. GREEN	M-3391	UNAPPROVED RESTRICTED LAND SALE			
	478	B. HOTHOUSE	21447	UNAPPROVED RESTRICTED LAND SALE			
	479	E. HOTHOUSE	21447	UNAPPROVED RESTRICTED LAND SALE			
	480	J. LEACH	3085	UNAPPROVED RESTRICTED LAND SALE			
	481	N. DOUBLEHEAD	25948	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	482	N. DOUBLEHEAD	29343	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	483	N. DOUBLEHEAD	30132	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	484	N. DOUBLEHEAD	18408	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	485	N. DOUBLEHEAD	32732	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	486	N. DOUBLEHEAD	25923	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	487	W. DOUBLEHEAD	20949	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	488	S. RABBIT	12533	UNAPPROVED RESTRICTED LAND SALE			
	489	S. RABBIT	20711	UNAPPROVED RESTRICTED LAND SALE			
	490	S. RABBIT	12528	UNAPPROVED RESTRICTED LAND SALE			
	491	T. STILL JR	843	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	492	T. STILL JR	844	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	493	T. STILL JR	847	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	494	M. PARKEY	16808	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	495	M. PARKEY	16809	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	496	L. FRENCHMEN	31224	UNAPPROVED RESTRICTED LAND SALE			
	497	W. GUY	20743	UNAPPROVED RESTRICTED LAND SALE			
	498	W. GUY	20870	UNAPPROVED RESTRICTED LAND SALE			
	499	W. GUY	29640	UNAPPROVED RESTRICTED LAND SALE			
	500	W. GUY	592	UNAPPROVED RESTRICTED LAND SALE			
	501	W. DOWNING	26453	UNAPPROVED RESTRICTED LAND SALE			
	502	W. DOWNING	26354	UNAPPROVED RESTRICTED LAND SALE			
	503	L. ANDERSON	23055	UNAPPROVED RESTRICTED LAND SALE			
	504	J. SELLATESKEE	20178	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	505	J. SELLATESKEE	18495	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	506	J. HAIR	26402	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	507	J. HAIR	29683	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	508	J. HAIR	25583	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	509	J. HAIR	18181	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	510	J. KILLER	M-4923	UNAPPROVED RESTRICTED LAND SALE			
	511	R. RODRIQUEZ	31245	UNAPPROVED RESTRICTED LAND SALE			
	512	R. RODRIQUEZ	96	UNAPPROVED RESTRICTED LAND SALE			
	513	B. DICK	25950	UNAPPROVED RESTRICTED LAND SALE			
	514	B. DICK	25949	UNAPPROVED RESTRICTED LAND SALE			
	515	J. MARTIN	32044	UNAPPROVED RESTRICTED LAND SALE			
	516	J. MARTIN	19481	UNAPPROVED RESTRICTED LAND SALE			
	517	J. MARTIN	28975	UNAPPROVED RESTRICTED LAND SALE			
	518	J. MARTIN	18712	UNAPPROVED RESTRICTED LAND SALE			
	519	J. DUSHANE	31638	UNAPPROVED RESTRICTED LAND SALE			
	520	B. ROBIN	17990	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	521	M. KEENER	16491	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	522	M. KEENER	16493	WELFARE PAYMENTS MADE FROM TRUST ESTATES			
	523	L. MASSEY	16405	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	524	L. MASSEY	16404	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	525	V. DAUGHERTY	8511	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	526	J. CODRAN	27139	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	527	J. MORTON	28572	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	528	L. MORTON	29821	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	529	M. HOOPER	17611	UNAPPROVED RESTRICTED LAND SALE			

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
008905	598	J. YOUNGPUPPY	30659	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	599	E. WHALER	18892	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	601	M. GONZALIS	NE	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	602	L. BELT	18631	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	603	R. LONGBONE	31200	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	604	C. BLACKFOX	6298	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	605	M. ROSS	18783	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	606	J. FEATHER	19138	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	607	I. BUSTER	21224	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	608	M. GOURD	18442	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	609	C. MCLEMORE	28075	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	610	L. ROCK	16396	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	611	J. HUGHES	15306	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	612	B. RATTLINGGOURD	20665	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	613	B. STILL	16684	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	614	L. HAIR	18247	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	615	A. HOSEY	18181	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	616	C. COLEMAN	3948	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	617	J. WOLFE	NE	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	618	S. BEAN	30484	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	619	E. BEAVER	20548	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	620	C. YOUNGDUCK	18811	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	621	M. TANNER	14869	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	622	G. WASHINGTON	19519	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	623	A. WALLACE	31483	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	624	P. BIGFEATHER	19247	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	625	A. GRITTS	26750	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	626	J. TURNER	16450	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	627	W. MILLER	1817	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	628	S. BLACKFOX	30698	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	629	L. JOHNSON	19819	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	630	S. SOAP	20938	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	631	J. WICKLIFFE	21354	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	632	S. OOSAHWE	25993	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	633	A. BIRD	20785	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	634	W. VANN	25638	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	635	J. QUINTON	14587	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	636	I. HOGSHOOTER	30651	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	637	W. CORDREY	5087	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	638	J. LOWREY	25695	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	639	M. MOUSE	14538	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	640	W. PROCTOR	3078	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	641	R. WOLF	1437	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	642	S. JAMES	19685	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	643	A. BALDRIDGE	18987	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	644	M. FIELDS	29113	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	645	L. SKITT	25821	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	646	J. THREEKILLER	1245	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	647	M. BUDDER	29678	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	648	A. LOVE	30116	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	649	J. WILDCAT	18883	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	650	A. OWENS	30622	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	651	W. DOWNING	17898	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	652	M. ADAIR	1738	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	653	T. PETTIT	29870	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	654	A. RAINCROW	21020	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	655	I. ROSS	25750	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	656	J. DOWNING	3672	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	657	W. SAME	21048	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	658	M. BIGFEATHER	29830	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	659	C. FROG	32904	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	660	G. TAREPEN	19655	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	661	T. BUZZARD	2554	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	662	J. WILDCAT	21124	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	663	J. VANN	19821	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	664	S. WOFFORD	30593	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	665	S. SNELL	30634	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	666	W. FLUTE	28434	WELFARE PAYMENTS MADE FROM TRUST ESTATES

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
008905	667	W. AGENT	18421	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	668	P. CHAIR	28492	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	669	T. DUVAL	19546	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	670	J. MORRIS	25775	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	671	A. OWENS	30622	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	672	T. TURTLE	30650	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	673	B. WATERDOWN	25792	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	674	M. COMINGDEER	28470	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	675	P. DOUBLEHEAD	30528	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	676	L. SANDERS	18775	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	677	L. HAIR	26404	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	678	E. TAREPEN	18875	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	679	N. O'FIELD	19724	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	680	R. SPADE	M-2440	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	681	L. TUCKER	21003	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	682	A. CHRISTIE	20598	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	683	L. BLACKWOOD	20084	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	684	M. BUSYHEAD	29157	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	685	T. SANDERS	29853	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	686	C. TURTLE	30649	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	687	L. ADAIR	1737	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	688	P. RUSSELL	3905	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	689	E. SCOTT	25806	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	690	E. COCHRAN	19008	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	691	J. COLEMAN	3950	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	692	J. GRITTS	25359	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	693	M. TEHEE	20349	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	694	C. MCLEMORE	28075	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	695	N. CHUCULATE	25710	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	696	J. FIXIN	28443	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	697	S. BONEY	18599	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	698	S. TAIL	20389	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	699	M. ROSE	8377	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	700	L. ENGLAND	13289	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	701	J. SPADE	20993	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	702	H. DIRTEATER	18249	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	703	R. SECONDINE	24330	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	704	M. BELT	18630	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	705	E. MOORE	15242	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	706	K. SPRINGWATER	25743	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	707	Q. BENDABOUT	32032	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	708	S. BUSTER	32073	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	709	S. LESLEY	19315	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	710	G. WILDCAT	21071	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	711	C. TURTLE	20789	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	712	C. SOAP	19135	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	713	A. SHADE	28977	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	714	A. ANDERSON	18687	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	715	J. BIGFEATHER	M-2862	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	716	G. ELI	20483	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	717	L. HALFBREED	27743	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	718	H. WATT	MB4792	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	719	D. BEAVER	20549	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	720	A. ADAIR	19190	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	721	A. SIMMONS	7793	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	722	C. BUSHYHEAD	11897	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	723	S. MCCOY	19328	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	724	C. ACORN	1987	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	725	J. CHRISTIE	2230	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	726	T. SUAKE	20356	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	727	B. FIELDS	20334	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	728	K. CUMSEY	28503	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	729	T. CORNSHUCKER	17909	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	730	L. SILK	17375	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	731	L. FLUTE	25721	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	732	L. KIRK	M-4100	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	733	T. BUSTER	20843	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	734	S. GONZALIS	20491	WELFARE PAYMENTS MADE FROM TRUST ESTATES

MUSKOGEE AREA STATUTE CLAIMS

MUSKOGEE AREA STATUTE CLAIMS

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM		
006905	803	E. BOLAND	17021	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	804	W. COMINGDEER	25711	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	805	W. GONZALES	20487	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	806	H. MANKILLER	28346	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	807	PIGEON	20932	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	808	N. GRITTS	M-4032	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	809	WILLIS	29070	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	810	JACKSON	31141	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	811	OWENS	19701	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	812	WOLF	29963	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	813	SHANEY	21751	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	814	BATT	30469	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	815	BRYANT	12183	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	816	BIRD	30437	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	817	KINGFISHER	19373	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	818	DUNCAN	29425	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	819	HOPPER	20419	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	820	HILDEBRAND	28573	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	821	MORRIS	17822	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	822	LITTLEDAVE	27702	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	823	SUMMERFIELD	23869	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	824	TEHEE	21210	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	825	SUMMERFIELD	25870	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	826	REESE	14375	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	827	MOFIRE	20745	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	828	BACKWATER	29698	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	829	HUMMINGBIRD	20190	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	830	SAUNDERS	29633	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	831	STALLER	6418	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	832	ALLEN	3806	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	833	FIELDS	24397	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	834	STARR	30691	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	835	PHILLIPS	20416	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	836	TURNER JR	26545	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	837	HOUSE	14537	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	838	SHELL	19225	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	839	BEDAUBUT	32032	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	840	ELI	20482	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	841	LEACH	21200	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	842	LOWREY	23953	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	843	CRITTENDEN	19497	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	844	PETTIT	19672	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	845	TEHEE	21227	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	846	TEHEE	21226	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	847	TIDWEATER	17868	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	848	COCHRAN	1433	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	849	PETTIT	29875	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	850	WIT	25944	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	851	SANDERS	20749	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	852	SUMMERFIELD	32053	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	853	JOHNSON	25700	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	854	LEE	2813	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	855	BIRD	25723	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	856	DICK	19218	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	857	MCCURTAIN	30618	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	858	MURPHEY	7948	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	859	CRAIG	20580	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	860	WATIE	2440	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	861	CATCHER	18315	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	862	KOONER	19616	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	863	RIDGEATHER	17365	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	864	KING	29682	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	865	LASSLEY	4134	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	866	STAYATHOME	20840	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	867	MAES	18170	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	868	DICK	25751	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	869	STARR	28045	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	870	BYERS	21133	UNAPPROVED RESTRICTED LAND SALE		

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM		
006905	735	G. ROGERS	4974	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	736	L. BEAVERS	18228	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	737	W. BLOSSOM	18198	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	738	H. SHARP	19425	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	739	M. DREADFULWATER	18834	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	740	C. JOHNSTON	25701	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	741	J. HOOPER	20659	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	742	J. STEP	29632	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	743	J. PRITCHETT	30490	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	744	R. KEEGER	21431	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	745	G. TONEY	18755	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	746	A. FEATHER	18924	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	747	C. GLASS	19760	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	748	B. SEAUTCHIE	29879	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	749	N. ENGLAND	17747	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	750	W. SOAP	30725	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	751	J. BEARPAW	19852	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	752	P. SILVERSMITH	M-1943	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	753	C. ROACH	30397	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	754	D. SCOTT	1488	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	755	V. OSAGE	15003	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	756	S. GRITTS	19982	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	757	B. CHRISTY	7152	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	758	A. MEDSON	32750	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	759	P. SKITT	19643	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	760	W. DREADFULWATER	18834	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	761	W. POLECAT	3994	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	762	D. MARKS	29832	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	763	W. DREADFULWATER	18151	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	764	C. G. OLIN	15346	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	765	G. BEAMER	18598	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	766	J. FALLEAF	31292	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	767	J. BEARPAW	20428	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	768	S. SMITH	19779	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	769	N. DRYWATER	20367	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	770	D. JOHNSON	32591	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	771	W. J. MELLONBUG	20383	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	772	J. CHUCULATE	19174	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	773	W. CHUCULATE	19175	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	774	N. DUNCAN	29625	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	775	B. BOLIN	NE	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	776	S. DEERINWATER	20448	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	777	M. GONZALIS	20487	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	778	J. VANN	28753	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	779	E. PROCTOR	27005	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	780	B. KETCHER	28913	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	781	E. COCHRAN	19008	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	782	C. HOOVER	20727	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	783	H. LONG	1447	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	784	W. SQUIRREL	18452	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	785	S. TADPOLE	6270	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	786	K. SUNDAY	16213	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	787	C. WEBBER	21081	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	788	S. TURNING	2770	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	789	W. KNABOUT	14242	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	790	G. PETERS	30619	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	791	A. DAYTIMEKITTY	29537	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	792	N. HAWK	26000	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	793	G. CRITTS	28921	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	794	G. DAMNSKIE	21043	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	795	H. CAREY	20998	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	796	T. CROMP	17607	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	797	J. VANN	14076	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	798	S. ELK	20484	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	799	W. WARRIOR	32223	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	800	W. BUTTLER	17212	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	801	J. DUCK	29134	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES
	802	M. FEELING	29996	WELFARE	PAYMENTS	MADE FROM TRUST ESTATES

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM			
009907	228	G. HICKMAN	15571	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	229	BILLY	694	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	230	WATSON	973	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	231	ANDERSON	1085	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	232	BILLY	NM-134	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	233	WILLIAMS	4501	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	234	SAMPSON	14920	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	235	TOMMY	3123	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	236	COLEMAN	1023	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	237	WILEY	2356	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	238	FOSS	NM-228	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	239	LANEKOKE	3450	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	240	WILSON	13577	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	241	JONES	3119	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	242	FRAZIER	1022	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	243	OWEN	NM-129	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	244	FLETCHER	2737	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	245	NAHWOOI	1541	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	246	FRAZIER	M-398	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	247	JACOB	6766	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	248	KING	NM-630	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	249	LEWIS	NM-1723	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	250	HARRIS	13596	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	251	ANDERSON	5303	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	252	CALDWELL	2724	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	253	DAVIS	6423	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	254	JESSIE	NM-143	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	255	DYER	1143	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	256	HARRIS	NM-1407	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	257	HOWRA	13523	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	258	STALLARY	NM-275	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	259	JUTAN	2275	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	260	JOHNSON	MCA-37	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	261	THOMPSON	MCA-41	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	262	PERRY	7901	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	263	BILLY	6784	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	264	CHRISTY	7013	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	265	BAKER	8745	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	266	FOLSOM	3431	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	267	ALEX	1709	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	268	WILSON	1869	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	269	ALLEN	1709	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	270	BIRD	11644	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	271	HARRISON	2447	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	272	GIPSON	13949	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	273	JACKSON	10494	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	274	LOUIS	1174	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	275	JONES	4001	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	276	ANNAWIATTEBEE	4289	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	277	PEELEY	NC-315	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	278	SAM	14782	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	279	GIBSON	NC-744	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	280	JAMES	3141	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	281	ANDERSON	3320	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	282	WILSON	NC-177	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	283	ELLIOTT	1878	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	284	TOMMIE	4400	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	285	FRAZIER	NM-100	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	286	WATKINS	1176	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	287	BAKER	1143	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	288	LUCAS	11042	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	289	WILLIAMS	2419	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	290	COON	2764	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	291	PEELEY	NC-749	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	292	JAMES	1563	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	293	HULL	13085	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES

MUSKOGEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM			
009905	871	G. PUTNUM	24578	UNAPPROVED	RESTRICTED	LAND SALE	
	872	PUTNUM	30259	UNAPPROVED	RESTRICTED	LAND SALE	
009907	142	JONES	3220	UNAPPROVED	RESTRICTED	LAND SALE	
	143	HOKLOTUBBEE	5480	TAX FORFEITED WHILE IN RESTRICTED STATUS			
	144	ISAAC	6899	UNAPPROVED	RESTRICTED	LAND SALE	
	145	ISAAC	8900	UNAPPROVED	RESTRICTED	LAND SALE	
	146	SWEENEY	NC-87	UNAPPROVED	RESTRICTED	LAND SALE	
	147	WALKER	5147	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	148	KEYS	13135	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	149	JACKSON	7340	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	150	SAMPSON	NC-181	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	151	PISTUBBEE	NM-153	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	152	WILSON	NM-411	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	153	HARD	7031	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	154	BYINGTON	8309	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	155	CARR	NM-570	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	156	JAMES	4385	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	157	ROBLOX	4351	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	158	YORK	NC-450	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	159	TIMS	3442	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	160	GIBSON	139	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	161	WILLIAMS	NC-418	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	162	COLLEY	671	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	163	COLBERT	13900	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	164	TAYLOR	1075	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	165	JOHNSON	5886	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	166	BATTIEST	1164	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	167	MCCURTAIN	NC-148	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	168	MOORE	NM-494	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	169	LEWIS	NC-494	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	170	MCKINZIE	3403	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	171	MOORE	3203	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	172	WADE	3447	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	173	COLLINS	11875	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	174	CHRISTY	7015	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	175	NOAH	5434	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	176	BAKER	8285	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	177	CHUBBEE	7607	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	178	PERRY	7901	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	179	COCHRAN	10837	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	180	ALEXANDER	NM-499	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	181	BROWN	3594	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	182	HARLEY	3235	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	183	ROBINSON	13316	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	184	JOHNSON	13006	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	185	ANDERSON	14894	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	186	BOSTON	NC-201	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	187	GIBSON	3507	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	188	LOMAN	3220	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	189	WATSON	1478	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	190	CARNEY	14554	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	191	BAKER	2041	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	192	CLAY	NM-345	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	193	JEFFERSON	6775	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	194	HARD	11817	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	195	SICKSON	7031	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	196	COLE	NCH-25	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	197	BATTIEST	5115	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	198	MARTIN	1144	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	199	WILSON	NC-418	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	200	JIM	2278	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	201	WILLIAMS	694	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	202	TOMLINS	1321	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	203	JEFFERSON	13320	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	204	EDWARDS	2735	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	205	JONES	2310	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	206	JACOB	3085	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES
	207		NM-923	WELFARE	PAYMENTS	MADE FROM	TRUST ESTATES

MASKOKEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
009907	256	THOMAS	3196	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	257	WILLIS	4122	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	258	HICKMAN	6565	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	259	JACKSON	15577	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	300	SAM	14742	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	301	JULIUS	10545	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	302	WILLI[redacted]	NB1098	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	303	BOHANAN	1943	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	304	HOMMA	5187	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	305	JACKSON	7640	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	306	SOCKEY	8997	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	307	TOM	473	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	308	WILLIAMS	10216	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	309	BILLY	MC-311	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	310	CAMP	4882	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	311	HICKMAN	15571	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	312	BILLY	3165	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	313	NOAH	1699	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	314	ADAMS	8909	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	315	CAMP	10648	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	316	EDWARDS	2303	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	317	COLE	5115	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	318	NELSON	3205	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	319	COLE	9116	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	320	HILL	6635	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	321	FRAZIER	5787	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	322	LUDLOW	6064	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	323	BARNES	11037	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	324	JONES	1525	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	325	ANDERSON	10569	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	326	WEBSTER	NB1077	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	327	NEELY	MC-772	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	328	ISAAC	MC-733	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	329	MCDONALD	MC1279	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	330	ANDERSON	14696	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	331	SAM	14782	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	332	THOMPSON	3492	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	333	JAMES	1052	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	334	DYER	9923	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	335	WALLACE	1283	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	336	NELSON	4420	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	337	A. THOMPSON	MC1314	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	338	JACOB	1122	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	339	L. SAMPSON	3125	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	340	M. HAMPTON	M-263	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	341	S. TEXIBBEE	15693	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	342	J. TOM	2319	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	343	J. THOMPSON	NB1231	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	344	A. AMOS	3109	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	345	A. SCOTT	9227	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	346	S. FRAZIER	14693	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	347	S. FRAZIER	10843	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	348	M. TAYLOR	NB-442	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	349	M. LUZAN	2578	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	350	M. ROBINSON	13315	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	351	T. TAYLOR	14797	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	352	S. FISHER	15799	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	353	J. JACK	MC-954	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	354	L. LUDLOW	14719	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	355	ANDERSON	6277	TRUST ESTATES
	356	L. SAMPSON	MC-309	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	357	J. PERRY	8269	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	358	M. THOMPSON	MC-854	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	359	L. WILLIS	2449	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	360	A. CARTER	662	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	361	D. PAXTON	8986	TRUST ESTATES
	362	M. SIMPSON	MC-271	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	363	L. THOMAS	3199	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES

MASKOKEE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
009907	364	MARTIN	1426	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	365	D. SHOEMAKER	MC-469	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	366	S. BRIGHT	2898	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	367	A. BEAMS	M-797	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	368	T. EVANS-ABEE	5649	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	369	J. KOMIMAYA	1059	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	370	M. BRITTEST	16061	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	371	M. PETER	11544	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	372	J. NOAH	2414	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	373	L. WILLIAMS	13395	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	374	F. COLBERT	4799	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	375	L. WILSON	M-502	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	376	E. NELSON	4472	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	377	S. JAMES	3365	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	378	A. COLE	4801	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	379	S. JOHNSON	MC1079	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	380	M. ROBERTS	9947	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	381	M. THOMPSON	MC1028	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	382	A. DAVIS	MC1184	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	383	O. WILCOXON	MC1148	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	384	E. LEWIS	11948	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	385	B. LEWIS	MC-982	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	386	L. GIBSON	MC-745	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	387	T. OSHAMTT	1143S	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	388	E. MOORE	3203	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	389	S. HOWARD	4042	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	390	M. AARON	3484	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	391	S. KING	3051	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	392	S. WATKINS	1003	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	393	A. WALLACE	1234	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	394	M. JACKSON	MC1000	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	395	M. LEWIS	9946	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	396	S. TIGER-KEM	2107	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	397	A. APOTOTLAH	2262	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	398	E. BROOKS	MC-45	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	399	M. COLBERT	1397	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	400	E. KING	3420	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	401	S. HARVEY	9344	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	402	V. CARR	4882	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	403	M. JOHNSON	1839	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	404	L. MOBLE	1980	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	405	M. JOHNSON	1983	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	406	S. LARNEY	1011	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	407	F. JOHNSON	NB-13	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	408	M. HOLOTUC	222	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	409	M. LISTEY	426	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	410	L. HARJO	1227	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	411	E. HARJOE	NB-196	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	412	S. KOLF	1893	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	413	V. HARJIVECKEN	1807	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	414	M. HARJO	1209	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	415	L. JOHNSON	NB-150	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	416	M. MITCHELL	18	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
010909	417	MCKELLIE	97	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	418	P. TIGER	71	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	419	S. HERROD	412	UNAPPROVED RESTRICTED LAND SALE
	420	S. JEFFERSON	9004	
	421	J. JOHNSON	2181	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	422	M. JOHNSON	926	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	423	J. GIPSON	13945	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	424	I. WATSON	924	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	425	M. COBB	1719	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	426	M. JONES	4404	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	427	E. COLEMAN	4547	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	428	M. MELTON	4039	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	429	E. COLEMAN	1577	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	430	M. JACKSON	4882	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	431	V. CARP	9344	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	432	M. KING	3420	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	433	M. COLBERT	1397	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	434	E. BROOKS	MC-45	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	435	A. APOTOTLAH	2262	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	436	S. TIGER-KEM	2107	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	437	M. LEWIS	9946	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	438	M. JACKSON	MC1000	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	439	S. WALLACE	1234	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	440	S. WATKINS	1003	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	441	S. KING	3051	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	442	M. AARON	3484	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	443	S. HOWARD	4042	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	444	E. MOORE	3203	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	445	T. OSHAMTT	1143S	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	446	L. GIBSON	MC-745	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	447	B. LEWIS	MC-982	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	448	E. LEWIS	11948	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	449	O. WILCOXON	MCM148	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	450	A. DAVIS	MCM184	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	451	M. THOMPSON	MC1028	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	452	M. ROBERTS	9947	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	453	S. JOHNSON	MC1079	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	454	A. COLE	4801	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	455	S. JAMES	3365	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	456	E. NELSON	4472	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	457	L. WILSON	M-502	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	458	F. COLBERT	4799	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	459	L. WILLIAMS	13395	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	460	J. NOAH	2414	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	461	M. PETER	11544	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	462	M. BRITTEST	16061	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	463	J. KOMIMAYA	1059	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	464	T. EVANS-ABEE	5649	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	465	A. BEAMS	M-797	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	466	S. BRIGHT	2898	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	467	D. SHOEMAKER	MC-469	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES
	468	I. MARTIN	1426	HELF-ARE PAYMENTS MADE FROM TRUST ESTATES

MUSKOGEE [illegible] STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
OI0909	045	H. MARJO	1759	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	046	THOMAS	1877	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	047	WILLIE	1692	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	048	S. MARLEDO	MB-128	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	049	LOUISE	1691	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	050	W. JOHNSON	1583	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	051	T. CARPITCHER	MB-72	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	052	I. BURGESS	1851	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	053	K. HARRISON	32	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	054	T. WHITE	613	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	055	J. BAKER	1442	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	056	J. MARJO	1465	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	057	M. CONNER	219	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	058	J. MARTIN	MB-192	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	059	G. TIGER	805	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	060	E. MARTIN	518	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	061	A. THOMPSON	1736	WELFARE PAYMENTS MADE FROM TRUST ESTATES
	062	L. [illegible]	558	WELFARE PAYMENTS MADE FROM TRUST ESTATES

PHOENIX AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
M51603	064	COLORADO RIVER TRIBES	TRIBAL	TRESPASS BOUNDARY JU
	065	COLORADO RIVER TRIBES	TRIBAL	TRESPASS BOUNDARY JU
	066	COLORADO RIVER TRIBES	TRIBAL	TRESPAS[illegible] BOUNDARY OL
	067	COLORADO RIVER TRIBES	TRIBAL	TRESPAS[illegible] BOUNDARY DE
	068	COLORADO RIVER TRIBES	TRIBAL	TRESPASS PIPELINE LAPAZ
	069	COLORADO RIVER TRIBES	TRIBAL	TRESPASS HIGHWAY LAPAZ
	070	COLORADO RIVER TRIBES	TRIBAL	TRESPASS TELEPHONE LAPAZ
	071	COLORADO RIVER TRIBES	TRIBAL	TRESPASS HIGHWAY LAPAZ
	072	COLORADO RIVER TRIBES	TRIBAL	TRESPASS HIGHWAY LAPAZ
	073	COLORADO RIVER TRIBES	TRIBAL	TRESPASS PIPELINE LAPAZ
	074	COLORADO RIVER TRIBES	TRIBAL	TRESPASS PIPELINE LAPAZ
	075	COLORADO RIVER TRIBES	TRIBAL	TRESPASS TELEPH-TELEGH LAPAZ
	076	COLORADO RIVER TRIBES	TRIBAL	TRESPASS PIPELINE LAPAZ
	077	COLORADO RIVER TRIBES	TRIBAL	TRESPASS AIRSTRIP
	169	COLORADO RIVER TRIBES	TRIBAL	MINING-LAPAZ
M51604	052	FORT MOJAVE TRIBE	TRIBAL	TRESPASS HIGHWAY 95
M51695	014	CHEMEHUEVI TRIBE	TRIBAL	FENCE AND GRAVEL PIT
	015	CHEMEHUEVI TRIBE	TRIBAL	ORCHARD TRESPASS
	055	CHEMEHUEVI TRIBE	TRIBAL	TRESPASS COUNTY ROAD T 4
	056	CHEMEHUEVI TRIBE	TRIBAL	TRESPASS COUNTY ROAD T 5
	057	CHEMEHUEVI TRIBE	TRIBAL	TRESPASS TRANSMISSION MP
	058	CHEMEHUEVI TRIBE	TRIBAL	TRESPASS AJ
	059	CHEMEHUEVI TRIBE	TRIBAL	TRESPASS MP
	060	CHEMEHUEVI TRIBE	TRIBAL	TRESPASS MINE
	061	CHEMEHUEVI TRIBE	TRIBAL	TRESPASS AIRSTRIP
	062	CHEMEHUEVI TRIBE	TRIBAL	TRESPASS CEMETERY ROAD
	063	CHEMEHUEVI TRIBE	TRIBAL	TRESPASS TRAILER PARK
M52607	078	WHITE MT. APACHE TRIBE	TRIBAL	SALE OF LAND
	079	WHITE MT. APACHE TRIBE	TRIBAL	TRESPASS DAM STRUCTURE
	080	WHITE MT. APACHE TRIBE	TRIBAL	BLACK RIVER WATER REMOVAL
	081	WHITE MT. APACHE TRIBE	TRIBAL	TRESPASS LANDS OF MISSION
	082	WHITE MT. APACHE TRIBE	TRIBAL	TRESPASS RAILROAD
	083	WHITE MT. APACHE TRIBE	TRIBAL	TRESPASS BLACK MESA LANDS
M54610	053	PAPAGO TRIBE	TRIBAL	WATER DECLINE SAN LUCY
	084	PAPAGO TRIBE	TRIBAL	TRESPASS MISSION ROAD
	085	PAPAGO TRIBE	TRIBAL	TRESPASS EXTENSION ROAD
	086	PAPAGO TRIBE	TRIBAL	TRESPASS SAN XAVIER ROAD
	087	PAPAGO TRIBE	TRIBAL	TRESPASS COLEMAN ROAD
	088	PAPAGO TRIBE	TRIBAL	WATER DECLINE GARCIA STRIP
	089	PAPAGO TRIBE	TRIBAL	ANDERSON DITCH SURFACE WATER
	090	PAPAGO TRIBE	TRIBAL	GILLESPIE DAM SURFACE WATER
	130	FABIAN XAVIER	SX-26	TRESPASS MISSION ROAD
	131	JUAN CARILLO	SX-44	TRESPASS MISSION ROAD
	132	JOSE NOBEBA (DAVOQUE)	SX-45	TRESPASS MISSION ROAD
	133	VENTURA DAVOQUE	SX-56	TRESPASS MISSION ROAD
	134	JUAN CAZADOR	SX-60	TRESPASS MISSION ROAD
	135	LEONARDO SOTO	SX-63	TRESPASS MISSION ROAD
	136	WO-SA-KA-CH THOMAS	SX-64	TRESPASS MISSION ROAD
	137	SACRAMENTO GAYALLO	SX-74	TRESPASS MISSION ROAD
	138	ANTONIO JOSE	SX-80	TRESPASS MISSION ROAD
	139	JOSE RUIZ	SX-88	TRESPASS MISSION ROAD
	140	JOSE LUIS CARONA	SX-92	TRESPASS MISSION ROAD
	141	CRISTOBAL CORONA	SX-94	TRESPASS MISSION ROAD
	142	FRANCISO VACA	SX-281	TRESPASS MISSION ROAD
	143	RAMON CASTRO	SX-160	TRESPASS EXTENSION ROAD
	144	MATIAS ENCINAS	SX-104	TRESPASS EXTENSION ROAD
	145	MUNCA SIEMBRA	SX-109	TRESPASS EXTENSION ROAD
	146	JOSE JUAN CRISTOBAL	SX-206	TRESPASS EXTENSION ROAD
	147	MARIANA RUIZ	SX-134	TRESPASS EXTENSION ROAD
	148	ANTONIO MORENO	SX-269	TRESPASS EXTENSION ROAD
	149	PEDRO EUSEBIO	SX-32	TRESPASS EXTENSION ROAD
	150	PAULA AROS	SX-261	TRESPASS EXTENSION ROAD
	151	MARY JOHNSON	SX-292	TRESPASS EXTENSION ROAD
	152	BENITO AROS	SX-260	TRESPASS EXTENSION ROAD
	153	JOSE MANUEL MORENO	SX-268	TRESPASS EXTENSION ROAD
	154	CARLOS RIOS	SX-236	TRESPASS SAN XAVIER ROAD
	155	FRANCISCO ALVAREZ	SX-285	TRESPASS SAN XAVIER ROAD
	156	RAMON CASTRO	SX-160	TRESPASS SAN XAVIER ROAD

PHOENIX AREA STATUTE CLAIMS

SACRAMENTO AREA STATUTE CLAIMS

PHOENIX AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
H54610	161	JOSE NOBEBA (DAVOGUE)	SX-45	TRESPASS DREXEL ROAD
H57614	091	GILA RIVER PMIC	TRIBAL	WATER POLLUTION
	092	GILA RIVER- PMIC	TRIBAL	WATER RIGHTS-1917
	093	GILA RIVER PMIC	TRIBAL	WATER RIGHTS-1936
	094	GILA RIVER PMIC	TRIBAL	LOSS OF ACCESS INTERCHANGE
	095	GILA RIVER PMIC	TRIBAL	TRESPASS HUNT HIGHWAY
	162	GILA RIVER PMIC	TRIBAL	BOUNDARY TRESPASS
H58616	096	SAN CARLOS TRIBE	TRIBAL	PERIDOT THEFT
	097	SAN CARLOS TRIBE	TRIBAL	RAILROAD ROW CONSIDERATION
	098	HEIRS OF JIM GIBSON ET AL	N/A	WRONGFUL DEATH
	099	SAN CARLOS TRIBE	TRIBAL	RAILROAD FIRES
	100	SAN CARLOS TRIBE	TRIBAL	RAILROAD EASEMENT CONSIDERATION
	101	HEIRS OF TRIBAL MEMBERS	N/A	ASBESTOS EXPOSURE
	102	SAN CARLOS TRIBE	TRIBAL	GROUNDWATER DECLINE
	103	SAN CARLOS TRIBE	TRIBAL	HIGHWAY MATERIALS
	104	SAN CARLOS TRIBE	TRIBAL	GRAZING MINERAL STRIP
	105	SAN CARLOS TRIBE	TRIBAL	EAST BOUNDARY AREA
	106	CHARLIE DENTON ET AL	N/A	HOLLYWOOD CAMP
	107	SAN CARLOS TRIBE	TRIBAL	BLACK RIVER WATER REMOVAL
	108	DAVID GOSEYUN SR ET AL	N/A	RAILROAD RETIREMENT BENEFITS
	109	UNKNOWN TRIBAL MEMBERS	N/A	EMPLOYEE BENEFITS
	110	SAN CARLOS TRIBE	TRIBAL	REMOVAL OF TUFA STONE
	111	HEIRS OF ALVIN NATSYN	N/A	WRONGFUL DEATH
	112	SAN CARLOS TRIBE	TRIBAL	CATTLE TRESPASS
	113	SAN CARLOS TRIBE	TRIBAL	TIMBER-GRASS REMOVED
	114	SAN CARLOS TRIBE	TRIBAL	CHARCOAL MATERIAL REMOVAL
	115	SAN CARLOS TRIBE	TRIBAL	REMOVAL OF CATTLE
	116	SAN CARLOS TRIBE	TRIBAL	CANAL-FIELDS APPROPRIATION
	117	UNKNOWN TRIBAL MEMBERS	N/A	NONPAYMENT OF SALARIES
H61658	167	UNKNOWN PINENUT ALLOTTEES	N/A	GRAZING TRESPASS
H61672	168	WASHOE TRIBE-DRESSLERVILLE	TRIBAL	GOLF COURSE TRESPASS
H62687	049	UINTAH AND OURAY TRIBE	TRIBAL	MONARCH DROP CANAL EROSION
	171	UINTAH AND OURAY TRIBE	TRIBAL	WATER POND OVERFLOW
	172	UINTAH AND OURAY TRIBE	TRIBAL	MERKLEY RESERVOIR OVERFLOW
H64642	157	DUCKWATER SHOSHONE	TRIBAL	MINERAL MATERIALS DOC. 326-K
	158	DUCKWATER SHOSHONE	TRIBAL	RAILROAD TRESPASS
H64643	054	JOHN JOE	015836	GRAZING TRESPASS
H64658	051	KATIE MARTINEZ	CC-867	TRESPASS GRAZING
H64662	166	JOHN STANTON	CC-000	GRAZING TRESPASS
	170	SOUTH FORK TE-MOAK	TRIBAL	BOUNDARY ENCROACHMENT
H64664	173	ODGERS RANCH TE-MOAK	TRIBAL	LIVESTOCK TRESPASS
H65617	164	KAIBAB PAIUTE TRIBE	TRIBAL	FARM IN NE CORNER
H68601	159	CAMP VERDE TRIBE	TRIBAL	WATER APPROPRIATION-SCHOOL
H68605	118	HAVASUPAI TRIBE	TRIBAL	WATER APPROPRIATION
	119	HANNA AND TALUSI	N/A	KIDNAPPING
	120	HAVASUPAI TRIBE	TRIBAL	TRESPASS GRAZING
	121	HAVASUPAI TRIBE	TRIBAL	REMOVAL MINING MATERIALS
	122	HAVASUPAI TRIBE	TRIBAL	TRESPASS
	123	UNKNOWN TRIBAL MEMBERS	N/A	PROPERTY DESTRUCTION
	124	SUPAI CHARLIE	N/A	WRONGFUL DEATH
H68606	163	HUALAPAI TRIBE	TRIBAL	LIMESTONE QUARRY AND PLANT
H68674	125	HENRY IRVING ET AL	N/A	LOSS OF INDIAN HILL
	126	OBED RABBIT	N/A	LOSS OF INDIAN FARM WELLS
	127	TONTO APACHE TRIBE	TRIBAL	LIVESTOCK CONVERSION
	128	UNKNOWN TRIBAL MEMBERS	N/A	LIVESTOCK CONVERSION
	129	CHITTEN-BREAD ET AL	N/A	LOSS OF LOWER RYE PROPERTY

SACRAMENTO AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
J50500	545	HOOPA TRIBE	N/A	CONTRACT BREACH
	546	HOOPA TRIBE	N/A	CONTRACT BREACH
	547	HOOPA TRIBE	N/A	CONTRACT BREACH
	548	HOOPA TRIBE	N/A	CONTRACT BREACH
	549	HOOPA TRIBE	N/A	WRONGFUL DIMINUTION OF GAME
	550	HOOPA TRIBE	N/A	CONTRACT BREACH
	551	HOOPA TRIBE	N/A	LAND SOLD WITHOUT APPROVAL
	552	HOOPA TRIBE	N/A	DAMAGE TO WATER QUALITY
	553	HOOPA TRIBE	N/A	DAMAGE TO FISHERY
	554	HOOPA TRIBE	N/A	DAMAGE TO FISHERY
	555	HOOPA TRIBE	N/A	CONTRACT BREACH
	556	HOOPA TRIBE	N/A	DAMAGE TO FISHERY
	557	HOOPA TRIBE	N/A	ROAD TRESPASS
	558	HOOPA TRIBE	N/A	DAMAGE TO FISHERY
	559	HOOPA TRIBE	N/A	CONTRACT BREACH
	560	HOOPA TRIBE	N/A	DAMAGE TO FISHERY
	561	HOOPA TRIBE	N/A	CONTRACT BREACH
	562	HOOPA TRIBE	N/A	ROAD TRESPASS
J50518	001	FORT BIDWELL TRIBE	N/A	TIMBER WRONGFULLY REMOVED
J50540	105	ROUND VALLEY	N/A	REMOVAL OF GRAVEL
	106	ROUND VALLEY	N/A	POWERLINE TRESPASS
	107	ROUND VALLEY	N/A	ROAD TRESPASS
	108	ROUND VALLEY	N/A	DAMAGE TO FISHERY
	109	ROUND VALLEY	N/A	DAMAGE TO WATER QUALITY
	110	ROUND VALLEY	N/A	DAMAGE TO WATER QUALITY
	111	ROUND VALLEY	N/A	WRONGFUL DIMINUTION OF GRAVEL
J50553	001	TULE RIVER TRIBE	N/A	CONTRACT BREACH
	002	TULE RIVER TRIBE	N/A	CONTRACT BREACH
	003	TULE RIVER TRIBE	N/A	CONTRACT BREACH
	004	TULE RIVER TRIBE	N/A	RECOVERY OF LAND
	005	TULE RIVER TRIBE	N/A	RECOVERY OF LAND
	006	TULE RIVER TRIBE	N/A	RECOVERY OF LAND
	007	TULE RIVER TRIBE	N/A	RECOVERY OF LAND
	008	TULE RIVER TRIBE	N/A	RECOVERY OF LAND
	009	TULE RIVER TRIBE	N/A	REMOVAL OF NATURAL GROWTH
	010	TULE RIVER TRIBE	N/A	CONTRACT BREACH
	011	TULE RIVER TRIBE	N/A	RECOVERY OF LAND
	012	TULE RIVER TRIBE	N/A	RECOVERY OF LAND
J50566	001	TRINIDAD RANCHERIA	N/A	ROAD TRESPASS
J50587	007	RINCON TRIBE	N/A	DAMAGE TO WATER QUALITY
	008	RINCON TRIBE	N/A	DAMAGE TO WATER QUALITY
J50593	003	SOBOBA TRIBE	N/A	RECOVERY OF LAND

ALBUQUERQUE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
M20704	043	N/A	N/A	DITCH TRESPASS
M20705	037	N/A	N/A	DITCH TRESPASS
	038	N/A	N/A	DITCH TRESPASS
	039	N/A	N/A	ROAD TRESPASS
	040	N/A	N/A	FENCE ENCROACHMENT
	041	N/A	N/A	UNAUTH SALE OF TRUST LANDS
M20707	037	NA	N/A	UNAUTH SALE OF TRUST LANDS
	038	N/A	N/A	UNAUTH SALE OF TRUST LANDS
	039	N/A	N/A	BREACH OF CONTRACT
	040	N/A	N/A	FENCE ENCROACHMENT
	041	N/A	N/A	FENCE ENCROACHMENT
	042	N/A	N/A	FENCE ENCROACHMENT
	043	N/A	N/A	FENCE ENCROACHMENT
	044	N/A	N/A	FENCE ENCROACHMENT
	045	N/A	N/A	FENCE ENCROACHMENT
	046	N/A	N/A	FENCE ENCROACHMENT
	047	N/A	N/A	INVALID TRANSFER OF TRUST LAND
	048	N/A	N/A	ROAD TRESPASS
	049	N/A	N/A	FENCE ENCROACHMENT
M20712	024	N/A	N/A	UNAUTH TAX SALE OF TRUST LANDS
M25709	042	N/A	N/A	FENCE ENCROACHMENT
	043	N/A	N/A	FENCE ENCROACHMENT
	044	N/A	N/A	FENCE ENCROACHMENT
	045	N/A	N/A	FENCE ENCROACHMENT
	046	N/A	N/A	FENCE ENCROACHMENT
	047	N/A	N/A	FENCE ENCROACHMENT
	048	N/A	N/A	FENCE ENCROACHMENT
	049	N/A	N/A	FENCE ENCROACHMENT
	050	N/A	N/A	FENCE ENCROACHMENT
	051	N/A	N/A	FENCE ENCROACHMENT
	052	N/A	N/A	FENCE ENCROACHMENT
	053	N/A	N/A	FENCE ENCROACHMENT
	054	N/A	N/A	FENCE ENCROACHMENT
	055	N/A	N/A	FENCE ENCROACHMENT
	056	N/A	N/A	FENCE ENCROACHMENT
	057	N/A	N/A	FENCE ENCROACHMENT
	058	N/A	N/A	FENCE ENCROACHMENT
M25713	138	NA	NA	ROAD TRESPASS
	139	N/A	N/A	ILLEGAL CONDEMNATION OF TRUST LANDS
	140	N/A	N/A	ROAD TRESPASS
	141	N/A	N/A	UTILITY TRESPASS
	142	N/A	N/A	UTILITY TRESPASS
	143	N/A	N/A	UTILITY TRESPASS
	144	N/A	N/A	UTILITY TRESPASS
	145	N/A	N/A	UTILITY TRESPASS
	146	N/A	N/A	ROAD TRESPASS
	147	N/A	N/A	ROAD TRESPASS
M25714	400	N/A	N/A	FENCE ENCROACHMENT
	401	N/A	N/A	FENCE ENCROACHMENT
	402	N/A	N/A	FENCE ENCROACHMENT
	403	N/A	N/A	FENCE ENCROACHMENT
	404	N/A	N/A	FENCE ENCROACHMENT
	405	N/A	N/A	FENCE ENCROACHMENT
	406	N/A	N/A	FENCE ENCROACHMENT
	407	N/A	N/A	FENCE ENCROACHMENT
	408	N/A	N/A	FENCE ENCROACHMENT
	409	N/A	N/A	FENCE ENCROACHMENT
	410	N/A	N/A	FENCE ENCROACHMENT
	411	N/A	N/A	FENCE ENCROACHMENT
	412	N/A	N/A	FENCE ENCROACHMENT
	413	N/A	N/A	FENCE ENCROACHMENT
	414	N/A	N/A	FENCE ENCROACHMENT
	415	N/A	N/A	FENCE ENCROACHMENT
	416	N/A	N/A	FENCE ENCROACHMENT
	417	N/A	N/A	FENCE ENCROACHMENT
	418	N/A	N/A	FENCE ENCROACHMENT
	419	N/A	N/A	FENCE ENCROACHMENT
	420	N/A	N/A	FENCE ENCROACHMENT

ALBUQUERQUE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
M25714	421	N/A	N/A	FENCE ENCROACHMENT
	422	N/A	N/A	FENCE ENCROACHMENT
	423	N/A	N/A	FENCE ENCROACHMENT
	424	N/A	N/A	FENCE ENCROACHMENT
	425	N/A	N/A	FENCE ENCROACHMENT
	426	N/A	N/A	FENCE ENCROACHMENT
	427	N/A	N/A	FENCE ENCROACHMENT
	428	N/A	N/A	FENCE ENCROACHMENT
	429	N/A	N/A	FENCE ENCROACHMENT
	430	N/A	N/A	FENCE ENCROACHMENT
	431	N/A	N/A	FENCE ENCROACHMENT
	432	N/A	N/A	FENCE ENCROACHMENT
	433	N/A	N/A	FENCE ENCROACHMENT
	434	N/A	N/A	FENCE ENCROACHMENT
	435	N/A	N/A	FENCE ENCROACHMENT
	436	N/A	N/A	FENCE ENCROACHMENT
	437	N/A	N/A	FENCE ENCROACHMENT
	438	N/A	N/A	FENCE ENCROACHMENT
	439	N/A	N/A	FENCE ENCROACHMENT
	440	N/A	N/A	FENCE ENCROACHMENT
	441	N/A	N/A	FENCE ENCROACHMENT
	442	N/A	N/A	FENCE ENCROACHMENT
	443	N/A	N/A	FENCE ENCROACHMENT
	444	N/A	N/A	FENCE ENCROACHMENT
	445	N/A	N/A	FENCE ENCROACHMENT
	446	N/A	N/A	FENCE ENCROACHMENT
	447	N/A	N/A	FENCE ENCROACHMENT
	448	N/A	N/A	FENCE ENCROACHMENT
	449	N/A	N/A	FENCE ENCROACHMENT
	450	N/A	N/A	FENCE ENCROACHMENT
	451	N/A	N/A	FENCE ENCROACHMENT
	452	N/A	N/A	FENCE ENCROACHMENT
	453	N/A	N/A	FENCE ENCROACHMENT
	454	N/A	N/A	FENCE ENCROACHMENT
	455	N/A	N/A	FENCE ENCROACHMENT
	456	N/A	N/A	FENCE ENCROACHMENT
	457	N/A	N/A	FENCE ENCROACHMENT
	458	N/A	N/A	FENCE ENCROACHMENT
	459	N/A	N/A	FENCE ENCROACHMENT
	460	N/A	N/A	FENCE ENCROACHMENT
	461	N/A	N/A	FENCE ENCROACHMENT
	462	N/A	N/A	FENCE ENCROACHMENT
	463	N/A	N/A	FENCE ENCROACHMENT
	464	N/A	N/A	FENCE ENCROACHMENT
	465	N/A	N/A	FENCE ENCROACHMENT
	466	N/A	N/A	FENCE ENCROACHMENT
	467	N/A	N/A	FENCE ENCROACHMENT
	468	N/A	N/A	FENCE ENCROACHMENT
	469	N/A	N/A	FENCE ENCROACHMENT
	470	N/A	N/A	FENCE ENCROACHMENT
	471	N/A	N/A	FENCE ENCROACHMENT
	472	N/A	N/A	FENCE ENCROACHMENT
	473	N/A	N/A	FENCE ENCROACHMENT
	474	N/A	N/A	FENCE ENCROACHMENT
	475	N/A	N/A	FENCE ENCROACHMENT
	476	N/A	N/A	FENCE ENCROACHMENT
	477	N/A	N/A	FENCE ENCROACHMENT
	478	N/A	N/A	FENCE ENCROACHMENT
	479	N/A	N/A	FENCE ENCROACHMENT
	480	N/A	N/A	FENCE ENCROACHMENT
	481	N/A	N/A	FENCE ENCROACHMENT
	482	N/A	N/A	FENCE ENCROACHMENT
	483	N/A	N/A	FENCE ENCROACHMENT
	484	N/A	N/A	FENCE ENCROACHMENT
	485	N/A	N/A	FENCE ENCROACHMENT
	486	N/A	N/A	FENCE ENCROACHMENT
	487	N/A	N/A	FENCE ENCROACHMENT
	488	N/A	N/A	FENCE ENCROACHMENT

ALBUQUERQUE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
M25714	489	N/A	N/A	FENCE ENCROACHMENT
	490	N/A	N/A	FENCE ENCROACHMENT
	491	N/A	N/A	FENCE ENCROACHMENT
	492	N/A	N/A	FENCE ENCROACHMENT
	493	N/A	N/A	FENCE ENCROACHMENT
	494	N/A	N/A	FENCE ENCROACHMENT
	495	N/A	N/A	FENCE ENCROACHMENT
	496	N/A	N/A	FENCE ENCROACHMENT
	497	N/A	N/A	FENCE ENCROACHMENT
	498	N/A	N/A	FENCE ENCROACHMENT
	499	N/A	N/A	FENCE ENCROACHMENT
	500	N/A	N/A	FENCE ENCROACHMENT
	501	N/A	N/A	FENCE ENCROACHMENT
	502	N/A	N/A	FENCE ENCROACHMENT
	503	N/A	N/A	FENCE ENCROACHMENT
	504	N/A	N/A	FENCE ENCROACHMENT
	505	N/A	N/A	FENCE ENCROACHMENT
	506	N/A	N/A	FENCE ENCROACHMENT
	507	N/A	N/A	FENCE ENCROACHMENT
	508	N/A	N/A	FENCE ENCROACHMENT
	509	N/A	N/A	FENCE ENCROACHMENT
	510	N/A	N/A	FENCE ENCROACHMENT
	511	N/A	N/A	FENCE ENCROACHMENT
	512	N/A	N/A	FENCE ENCROACHMENT
	513	N/A	N/A	FENCE ENCROACHMENT
	514	N/A	N/A	FENCE ENCROACHMENT
	515	N/A	N/A	FENCE ENCROACHMENT
	516	N/A	N/A	ROAD TRESPASS
	517	N/A	N/A	ROAD TRESPASS
	518	N/A	N/A	ROAD TRESPASS
	519	N/A	N/A	FENCE ENCROACHMENT
	520	N/A	N/A	FENCE ENCROACHMENT
	521	N/A	N/A	FENCE ENCROACHMENT
	522	N/A	N/A	FENCE ENCROACHMENT
	523	N/A	N/A	ROAD TRESPASS
	524	N/A	N/A	UNAUTH SALE OF TRUST LANDS
M25716	147	N/A	N/A	FENCE ENCROACHMENT
	148	N/A	N/A	FENCE ENCROACHMENT
	149	N/A	N/A	FENCE ENCROACHMENT
	150	N/A	N/A	FENCE ENCROACHMENT
	151	N/A	N/A	FENCE ENCROACHMENT
	152	N/A	N/A	FENCE ENCROACHMENT
	153	N/A	N/A	FENCE ENCROACHMENT
	154	N/A	N/A	FENCE ENCROACHMENT
	155	N/A	N/A	FENCE ENCROACHMENT
	156	N/A	N/A	FENCE ENCROACHMENT
	157	N/A	N/A	FENCE ENCROACHMENT
	158	N/A	N/A	FENCE ENCROACHMENT
	159	N/A	N/A	FENCE ENCROACHMENT
	160	N/A	N/A	FENCE ENCROACHMENT
	161	N/A	N/A	FENCE ENCROACHMENT
	162	N/A	N/A	FENCE ENCROACHMENT
	163	N/A	N/A	FENCE ENCROACHMENT
	164	N/A	N/A	FENCE ENCROACHMENT
	165	N/A	N/A	FENCE ENCROACHMENT
	166	N/A	N/A	FENCE ENCROACHMENT
	167	N/A	N/A	FENCE ENCROACHMENT
	168	N/A	N/A	FENCE ENCROACHMENT
	169	N/A	N/A	FENCE ENCROACHMENT
	170	N/A	N/A	FENCE ENCROACHMENT
	171	N/A	N/A	FENCE ENCROACHMENT
	172	N/A	N/A	FENCE ENCROACHMENT
	173	N/A	N/A	FENCE ENCROACHMENT
	174	N/A	N/A	FENCE ENCROACHMENT
	175	N/A	N/A	FENCE ENCROACHMENT
	176	N/A	N/A	FENCE ENCROACHMENT
	177	N/A	N/A	FENCE ENCROACHMENT
	178	N/A	N/A	FENCE ENCROACHMENT

ALBUQUERQUE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
M25716	179	N/A	N/A	FENCE ENCROACHMENT
	180	N/A	N/A	FENCE ENCROACHMENT
	181	N/A	N/A	UTILITY TRESPASS
M25718	171	NA	NA	ROAD TRESPASS
	172	NA	NA	ROAD TRESPASS
	174	NA	NA	ROAD TRESPASS
	175	NA	NA	ROAD TRESPASS
	176	NA	NA	ROAD TRESPASS
	177	NA	NA	ROAD TRESPASS
	178	NA	NA	ROAD TRESPASS
	179	NA	NA	ROAD TRESPASS
	180	NA	NA	ROAD TRESPASS
	181	NA	NA	ROAD TRESPASS
	182	NA	NA	ROAD TRESPASS
	183	NA	NA	ROAD TRESPASS
	184	NA	NA	ROAD TRESPASS
	185	NA	NA	ROAD TRESPASS
	186	NA	NA	ROAD TRESPASS
	187	N/A	N/A	ROAD TRESPASS
	188	NA	NA	ROAD TRESPASS
	189	NA	NA	ROAD TRESPASS
	190	NA	NA	ROAD TRESPASS
	191	NA	NA	ROAD TRESPASS
	192	NA	NA	ROAD TRESPASS
	193	NA	NA	ROAD TRESPASS
	194	NA	NA	ROAD TRESPASS
	195	NA	NA	ROAD TRESPASS
	196	NA	NA	ROAD TRESPASS
	197	NA	NA	ROAD TRESPASS
	198	NA	NA	ROAD TRESPASS
	199	NA	NA	ROAD TRESPASS
	200	NA	NA	ROAD TRESPASS
	201	NA	NA	ROAD TRESPASS
	202	NA	NA	ROAD TRESPASS
	203	NA	NA	ROAD TRESPASS
	204	NA	NA	ROAD TRESPASS
	205	NA	NA	ROAD TRESPASS
	206	NA	NA	ROAD TRESPASS
	207	NA	NA	ROAD TRESPASS
	208	NA	NA	ROAD TRESPASS
	209	NA	NA	ROAD TRESPASS
	210	NA	NA	ROAD TRESPASS
	211	NA	NA	ROAD TRESPASS
	212	NA	NA	ROAD TRESPASS
	213	NA	NA	ROAD TRESPASS
	214	NA	NA	ROAD TRESPASS
	215	NA	NA	ROAD TRESPASS
	216	NA	NA	ROAD TRESPASS
	217	NA	NA	ROAD TRESPASS
	218	NA	NA	ROAD TRESPASS
	219	NA	NA	ROAD TRESPASS
	220	NA	NA	ROAD TRESPASS
	221	NA	NA	ROAD TRESPASS
	222	NA	NA	ROAD TRESPASS
	223	NA	NA	ROAD TRESPASS
	224	NA	NA	ROAD TRESPASS
	225	NA	NA	ROAD TRESPASS
	226	NA	NA	ROAD TRESPASS
	227	NA	NA	ROAD TRESPASS
	228	NA	NA	ROAD TRESPASS
	229	NA	NA	ROAD TRESPASS
	230	NA	NA	ROAD TRESPASS
	231	N/A	N/A	ROAD TRESPASS
	232	NA	NA	ROAD TRESPASS
	233	NA	NA	ROAD TRESPASS
	234	NA	NA	ROAD TRESPASS
	235	NA	NA	ROAD TRESPASS
	236	NA	NA	ROAD TRESPASS

ALBUQUERQUE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
M25718	237	NA	NA	ROAD TRESPASS
	238	NA	NA	ROAD TRESPASS
	239	NA	NA	ROAD TRESPASS
	240	NA	NA	ROAD TRESPASS
	241	NA	NA	ROAD TRESPASS
	256	N/A	N/A	ROAD TRESPASS
	257	N/A	N/A	ROAD TRESPASS
	258	N/A	N/A	ROAD TRESPASS
	259	N/A	N/A	ROAD TRESPASS
	260	N/A	N/A	ROAD TRESPASS
	261	N/A	N/A	ROAD TRESPASS
	262	N/A	N/A	BUILDING ENCROACHMENT
	263	N/A	N/A	BUILDING ENCROACHMENT
	264	N/A	N/A	ROAD TRESPASS
[redacted]5751	002	N/A	N/A	FENCE ENCROACHMENT
M30001	001	N/A	N/A	UTILITY TRESPASS
	002	N/A	N/A	WRONGFUL TAXATION OF TRUST/RESTRICTED LAND
	003	N/A	N/A	FENCE ENCROACHMENT
M60702	002	N/A	N/A	TRESPASS TO WATER RIGHTS
	003	N/A	N/A	UTILITY TRESPASS
	004	N/A	N/A	UTILITY TRESPASS
	005	N/A	N/A	UTILITY TRESPASS
	006	N/A	N/A	UTILITY TRESPASS
	007	N/A	N/A	UTILITY TRESPASS
	008	N/A	N/A	UTILITY TRESPASS
	009	N/A	N/A	UTILITY TRESPASS
	010	N/A	N/A	UTILITY TRESPASS
	011	N/A	N/A	UTILITY TRESPASS
	012	N/A	N/A	UTILITY TRESPASS
	013	N/A	N/A	UTILITY TRESPASS
	014	N/A	N/A	UTILITY TRESPASS
	015	N/A	N/A	UTILITY TRESPASS
	016	N/A	N/A	UTILITY TRESPASS
	017	N/A	N/A	UTILITY TRESPASS
	018	N/A	N/A	UTILITY TRESPASS
	019	N/A	N/A	UTILITY TRESPASS
	020	N/A	N/A	UTILITY TRESPASS
	021	N/A	N/A	UTILITY TRESPASS
	022	N/A	N/A	UTILITY TRESPASS
	023	N/A	N/A	UTILITY TRESPASS
	024	N/A	N/A	UTILITY TRESPASS
	025	N/A	N/A	UTILITY TRESPASS
	026	N/A	N/A	UTILITY TRESPASS
	027	N/A	N/A	ROAD TRESPASS
	028	N/A	N/A	ROAD TRESPASS
	029	N/A	N/A	ROAD TRESPASS
	030	N/A	N/A	ROAD TRESPASS
	031	N/A	N/A	ROAD TRESPASS
	032	N/A	N/A	ROAD TRESPASS
	033	N/A	N/A	ROAD TRESPASS
	034	N/A	N/A	ROAD TRESPASS
	035	N/A	N/A	ROAD TRESPASS
	036	N/A	N/A	ROAD TRESPASS
	037	N/A	N/A	ROAD TRESPASS
	038	N/A	N/A	ROAD TRESPASS
	039	N/A	N/A	ROAD TRESPASS
	040	N/A	N/A	ROAD TRESPASS
	041	N/A	N/A	ROAD TRESPASS
	042	N/A	N/A	ROAD TRESPASS
	043	N/A	N/A	ROAD TRESPASS
	044	N/A	N/A	BUILDING ENCROACHMENT
	045	N/A	N/A	BUILDING ENCROACHMENT
	046	N/A	N/A	BUILDING ENCROACHMENT
	047	N/A	N/A	BUILDING ENCROACHMENT
	048	N/A	N/A	FENCE ENCROACHMENT
	049	N/A	N/A	UTILITY TRESPASS
	050	N/A	N/A	UTILITY TRESPASS
	051	N/A	N/A	UTILITY TRESPASS

ALBUQUERQUE AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
M60702	052	N/A	N/A	UTILITY TRESPASS
	053	N/A	N/A	BUILDING ENCROACHMENT
	054	N/A	N/A	BUILDING ENCROACHMENT
	055	N/A	N/A	BUILDING ENCROACHMENT
	056	N/A	N/A	BUILDING ENCROACHMENT
	057	N/A	N/A	BUILDING ENCROACHMENT
	058	N/A	N/A	FENCE ENCROACHMENT
	073	N/A	N/A	ROAD TRESPASS
	074	N/A	N/A	ROAD TRESPASS
	140	N/A	N/A	BUILDING ENCROACHMENT
	141	N/A	N/A	BUILDING ENCROACHMENT
	142	N/A	N/A	BUILDING ENCROACHMENT
	143	N/A	N/A	BUILDING ENCROACHMENT
	144	N/A	N/A	BUILDING ENCROACHMENT
	145	N/A	N/A	BUILDING ENCROACHMENT
	146	N/A	N/A	BUILDING ENCROACHMENT
	147	N/A	N/A	BUILDING ENCROACHMENT
	148	N/A	N/A	BUILDING ENCROACHMENT
	149	N/A	N/A	BUILDING ENCROACHMENT
	150	N/A	N/A	BUILDING ENCROACHMENT
	151	N/A	N/A	BUILDING ENCROACHMENT
	152	N/A	N/A	BUILDING ENCROACHMENT
	153	N/A	N/A	BUILDING ENCROACHMENT
	154	N/A	N/A	BUILDING ENCROACHMENT

NAVAJO AREA STATUTE CLAIMS

NAVAJO AREA STATUTE CLAIMS

NAVAJO AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
N00780	036	GALLUP TWO WELLS	N/A	AGRICULTURAL TRESPASS
	037	CONTINENTAL CO	N/A	HARVESTABLE NATRL GROWTH REMOVD WRONGFULLY
	038	DAMONS AUTO SERVICE	N/A	UNPAID LEASE RENTAL-PERMIT FEES-EASEMENT
	039	SHIPRK FUNERAL HOME	N/A	UNPAID LEASE RENTAL-PERMIT FEES-EASEMENT
	040	ALUMINUM-CHEMICAL CORP	N/A	UNPAID LEASE RENTAL-PERMIT FEES-EASEMENT
	041	FILTROL CORP	010067	ROAD TRESPASS
	042	FILTROL CORP	010126	ROAD TRESPASS
	043	FILTROL CORP	027973	ROAD TRESPASS
	044	FILTROL CORP	01025	ROAD TRESPASS
	045	FILTROL CORP	010061	ROAD TRESPASS
	046	SANTA FE RAILROAD	010067	RAILROAD TRESPASS
	047	SANTA FE RAILROAD	027973	RAILROAD TRESPASS
	049	SANTA FE RAILROAD	01025	RAILROAD TRESPASS
	049	SANTA FE RAILROAD	010126	RAILROAD TRESPASS
	050	SANTA FE RAILROAD	010061	RAILROAD TRESPASS
	051	PLATERO V MARTIN	01900	GRAZING TRESPASS
	052	PLATERO V MARTIN	019023	GRAZING TRESPASS
	053	PLATERO V MARTIN	019973	GRAZING TRESPASS
	054	PLATERO V MARTIN	019977	GRAZING TRESPASS
	055	PLATERO V MARTIN	019021	GRAZING TRESPASS
	056	PLATERO V MARTIN	019022	GRAZING TRESPASS
	057	PLATERO V MARTIN	019024	GRAZING TRESPASS
	058	PLATERO V MARTIN	015871	GRAZING TRESPASS
	059	PLATERO V MARTIN	019374	GRAZING TRESPASS
	060	PLATERO V MARTIN	019376	GRAZING TRESPASS
	061	NM HWY COMMISSION	N/A	ROAD TRESPASS
	062	WESTERN NUCLEAR INC	1053	ROAD TRESPASS
	063	JIM C BEGAY	N/A	UTILITY TRESPASS
	064	HERRERA V JOHN	019158	GRAZING TRESPASS
	065	JACOB PROPERTIES	019378	GRAZING TRESPASS
	066	JACOB PROPERTIES	019381	GRAZING TRESPASS
	067	JACOB PROPERTIES	076069	GRAZING TRESPASS
	068	JACOB PROPERTIES	019162	GRAZING TRESPASS
	069	JACOB PROPERTIES	019163	GRAZING TRESPASS
	070	JACOB PROPERTIES	019164	GRAZING TRESPASS
	071	JACOB PROPERTIES	019166	GRAZING TRESPASS
	072	JACOB PROPERTIES	019379	GRAZING TRESPASS
	073	JACOB PROPERTIES	019380	GRAZING TRESPASS
	074	JACOB PROPERTIES	019382	GRAZING TRESPASS
	075	JACOB PROPERTIES	019384	GRAZING TRESPASS
	076	NAVAJO TRIBE	N/A	RECOVER LAND-FEE PATENT CANCELLED
	077	WILBERT C BEGAY	N/A	INUNDATION-FLOOD-SEEPAGE TRESPASS
	078	COVE URANIUM MINE	N/A	REMOVAL OF MINERAL RESOURCES
	079	BILLY CHIQUITO	010762	UTILITY TRESPASS
	080	BILLY CHIQUITO	011028	UTILITY TRESPASS
	081	BILLY CHIQUITO	1669	UTILITY TRESPASS
	082	BILLY CHIQUITO	434	UTILITY TRESPASS
	083	BILLY CHIQUITO	011001	UTILITY TRESPASS
	084	BILLY CHIQUITO	010999	UTILITY TRESPASS
	085	BILLY CHIQUITO	1719	UTILITY TRESPASS
	086	BILLY CHIQUITO	1662	UTILITY TRESPASS
	087	BILLY CHIQUITO	1667	UTILITY TRESPASS
	088	BILLY CHIQUITO	1676	UTILITY TRESPASS
	089	BILLY CHIQUITO	1671	UTILITY TRESPASS
	090	BILLY CHIQUITO	445	UTILITY TRESPASS
	091	BILLY CHIQUITO	445	UTILITY TRESPASS
	092	CHARLES E DODDD JR	N/A	REMOVAL OF MINERAL RESOURCES
	093	ANN JAKE	N/A	RECOVER LAND-FEE PATENT CANCEL
	094	LOUISE ATCITTY	N/A	GRAZING TRESPASS
	095	HARRY BENALLY SR	N/A	GRAZING TRESPASS
	096	MARIE HENDERSON	N/A	RECOVER LAND-FEE PATENT CANCELLED
	097	CLEOPATRA ANTHONY	02334	GRAZING TRESPASS
	098	CLEOPATRA ANTHONY	02335	GRAZING TRESPASS
	099	CLEOPATRA ANTHONY	02336	GRAZING TRESPASS
	100	CLEOPATRA ANTHONY	02340	GRAZING TRESPASS
	101	CLAUDIUS ARTHUR HATCH	N/A	FENCE ENCROACHMENT
	102	EVA LEE HOUSE	1085	GRAZING TRESPASS
	103	EVA LEE HOUSE	010087	GRAZING TRESPASS

NAVAJO AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
N00780	104	BILLY YELLOW	034302	AGRICULTURAL TRESPASS
	105	ROY SMALLCANYON	N/A	GRAZING TRESPASS
	106	EVANS HOLLY	N/A	UTILITY TRESPASS
	107	JULIA DENETCLAW	N/A	AGRICULTURAL TRESPASS
	108	IRENE C ESKEY	011090	GRAZING TRESPASS
	109	IRENE C ESKEY	011091	GRAZING TRESPASS
	110	LEONARD CURTIS	011090	GRAZING TRESPASS
	111	LEONARD CURTIS	011091	GRAZING TRESPASS
	112	HELEN B MORRIS	011092	GRAZING TRESPASS
	113	MARIE ANN TSOSIE	011101	GRAZING TRESPASS
	114	MARIE ANN TSOSIE	011104	GRAZING TRESPASS
	115	SEEME P DIXON	011103	GRAZING TRESPASS
	116	ADA F BEGAY	011094	GRAZING TRESPASS
	117	ADA F BEGAY	011095	FENCE ENCROACHMENT
	118	ADA F BEGAY	011095	GRAZING TRESPASS
	119	TOM FRANKLIN	011094	GRAZING TRESPASS
	120	TOM FRANKLIN	011095	FENCE ENCROACHMENT
	121	TOM FRANKLIN	011096	FENCE ENCROACHMENT
	122	OVIDA LEWIS	011167	GRAZING TRESPASS
	123	HARRY CHASE	011098	GRAZING TRESPASS
	124	JIM FRANCIS	010161	GRAZING TRESPASS
	125	JOE BENALLY	011099	GRAZING TRESPASS
	126	MARY TSOSIE	011100	GRAZING TRESPASS
	127	MAE CHASE	011092	GRAZING TRESPASS
	128	NAVAJO TRIBE	N/A	TRESPASS TO WATER RIGHTS
	129	NAVAJO TRIBE	N/A	REMOVAL OF MINERAL RESOURCES
	130	TONY GARCIA	N/A	UNPAID LEASE RENTAL-PERMIT FEES-EASMENT
	131	FRANKLIN STORE	N/A	BREACH OF CONTRACT
	132	AZ STATE HWY COMMN	N/A	ROAD TRESPASS
	133	SKELLY OIL CO	N/A	BREACH OF CONTRACT
	134	JIMMIE KING	N/A	UNPAID LEASE RENTAL-PERMIT FEES-EASEMENT
	135	TENNECO OIL CO	N/A	ROAD TRESPASS
	136	WINDOW ROCK LODGE	N/A	UNPAID LEASE RENTAL-PERMIT FEES-EASEMENT
	137	LITTLEWATER TRADING POST	N/A	UNPAID LEASE RENTAL-PERMIT FEES-EASEMENT
	138	RAY/KENASBAH LOUIS	010050	GRAZING TRESPASS
	139	CHEE LIVINGSTON	1386	GRAZING TRESPASS
	140	MARY K YAZZIE	N/A	ROAD TRESPASS
	141	TOM MARTINEZ	038402	UTILITY TRESPASS
	142	TOM MARTINEZ	038400	UTILITY TRESPASS
	143	TOM MARTINEZ	038401	UTILITY TRESPASS
	144	TOM MARTINEZ	038404	UTILITY TRESPASS
	145	NAVAJO TRIBE	N/A	UNAUTH SILT DEPOSIT
	146	MARY ROSS	010159	ROAD TRESPASS
	147	LOUISE J BILLY	033343	UNAUTH SILT DEPOSIT
	148	JACK JONES	N/A	BUILDING ENCROACHMENT
	149	HOLYO LO PE	219	GRAZING TRESPASS
	150	TON E PAH	220	GRAZING TRESPASS
	151	KA HON A PAH	238	GRAZING TRESPASS
	152	ES SIE PAH	249	GRAZING TRESPASS
	153	AH HAS PAH	250	GRAZING TRESPASS
	154	ES KA NIP PAH	247	GRAZING TRESPASS
	155	AH NAH DE NAP	248	GRAZING TRESPASS
	156	ES SUN SO	269	GRAZING TRESPASS
	157	KLE HAS PAH	270	GRAZING TRESPASS
	158	SAL ME OA	271	GRAZING TRESPASS
	159	AS SUN NEZ	272	GRAZING TRESPASS
	160	BAH DES PAH	274	GRAZING TRESPASS
	161	NAH TI E NELE	275	GRAZING TRESPASS
	162	NAH DES PAH	277	GRAZING TRESPASS
	163	BIG E PAH	278	GRAZING TRESPASS
	164	HOSTEIN BLE CLE	279	GRAZING TRESPASS
	165	ES STUM PAH	280	GRAZING TRESPASS
	166	GLEN PAH	281	GRAZING TRESPASS
	167	JA DES WOOD JR	282	GRAZING TRESPASS
	168	BIG BE PAH	283	GRAZING TRESPASS
	169	KEE TSOSIE	642	GRAZING TRESPASS
	170	BILLY SHAGGY	649	GRAZING TRESPASS
	171	SHAGGY A/K/A	651	GRAZING TRESPASS

NAVAJO AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
NAV780	172	WASHON SHE BE GAY	651	GRAZING TRESPASS
	173	PESH LE KAI	672	GRAZING TRESPASS
	174	BAAH	673	GRAZING TRESPASS
	175	YEZ BAH	674	GRAZING TRESPASS
	176	DAH ES PAH	011607	GRAZING TRESPASS
	177	NAHTI ETS NUT BO	011616	GRAZING TRESPASS
	178	YAH NAP PAH	011710	GRAZING TRESPASS
	179	NAH TI E NOT	011711	GRAZING TRESPASS
	180	HASKA YE AH	061670	GRAZING TRESPASS
	181	ROSE TSO	061671	GRAZING TRESPASS
	182	KEE TSO	061672	GRAZING TRESPASS
	183	MARGARET TSO	061673	GRAZING TRESPASS
	184	PEARL TSO	061674	GRAZING TRESPASS
	185	ELLEN WILLIAMS	011218	ROAD TRESPASS
	186	ELLEN WILLIAMS	011221	ROAD TRESPASS
	187	JANE G JIM	079545	GRAZING TRESPASS
	188	JANE G JIM	079809	GRAZING TRESPASS
	189	BOYD/BESSIE TISI	N/A	GRAZING TRESPASS
	190	JOHN A CURLEY	011064	GRAZING TRESPASS
	191	JOHN A CURLEY	010196	ROAD TRESPASS
	192	JOHN A CURLEY	010089	GRAZING TRESPASS
	193	JOHN A. CURLEY	010092	GRAZING TRESPASS
	194	JOE JACK	N/A	GRAZING TRESPASS
	195	KATY STRARALLI	N/A	FLOOD DAMAGE
	196	HOWARD DRAPER	N/A	FLOOD DAMAGE
	197	DOROTHY BROWN	66798	RECOVER LAND-FEE PATENT CANCEL
	198	DOROTHY BROWN	67290	RECOVER LAND-FEE PATENT CANCEL
	199	BEN CASTILLO	1024	UNPAID LEASE RENTAL-PERMIT FEES-EASEMENT
	200	BEN CASTILLO	920	UNPAID LEASE RENTAL-PERMIT FEES-EASEMENT
	201	TOMMY BITSILLY	011123	UNPAID LEASE RENTAL-PERMIT FEES-EASMENT
	202	JOHN J DEEL	4510	GRAZING TRESPASS
	203	JOHN J DEEL	541	GRAZING TRESPASS
	204	JAMES FRANK	N/A	BREACH OF CONTRACT
	205	JOHN BEHAY	N/A	FENCE ENCROACHMENT
	206	REED TSO	N/A	GRAZING TRESPASS
	207	MARY ANN JOHNSON	1539	ROAD TRESPASS
	208	MAX HUSKON	N/A	REMOVAL OF MINERAL RESOURCES
	209	HARRY YAZZIE	N/A	REMOVAL OF MINERAL RESOURCES
	210	ROSS DICKSON	011249	ROAD TRESPASS
	211	KELLY YAZZIE	N/A	REMOVAL OF MINERAL RESOURCES
	212	JOHN/JIM BEGAY	N/A	RAILROAD TRESPASS
	213	LUKE YAZZIE	N/A	REMOVAL OF MINERAL RESOURCES
	214	RAYMOND GRAYMOUNTAIN	N/A	RECOVER TITLE-FORCE FEE PATENT
	215	BEN NAVAJO	N/A	RECOVER TITLE-FORCED FEE PATENT
	216	MARY K YAZZIE	N/A	UTILITY TRESPASS
	217	EDDIE NAKAI	N/A	GRAZING TRESPASS
	218	EDDIE NAKAI	N/A	ROAD TRESPASS
	219	HOWARD MCKINLEY	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	220	MINNIE BECENTI	N/A	ROAD TRESPASS
	221	MINNIE BICENTI	N/A	ROAD TRESPASS
	222	MINNIE BICENTI	N/A	UTILITY TRESPASS
	223	BRUCE M BERNARD CO	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	224	SHONTO TRADING POST	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	225	TEESTO TRADING POST	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	226	TEEC TSO SECAD TRDG POST	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	227	BECLABITO TRADG POST	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	228	BAPTIST MISSION	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	229	MTN FUEL SUPPLY CO	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	230	KAISER ALUM/CHEMICAL SALES	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	231	NAHKAI STORE	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	232	LOWER SUNRISE TRADG POST	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	233	SHIPROCK TRADG CO	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	234	SHIPROCK TRADG CO	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	235	SHIPROCK TRADG CO	N/A	BREACH OF CONTRACT
	236	SHIPROCK TRADG CO	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	237	SHIPROCK TRADG CO	N/A	BREACH OF CONTRACT
	238	TOADLENA TRADG POST	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	239	TOADLENA TRADG POST	N/A	BREACH OF CONTRACT
	240	TOADLENA TRADG POST	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	241	INSCRIPTION HOUSE TRADG POST	N/A	BREACH OF CONTRACT
	242	INSCRIPTION HOUSE TRADG POST	N/A	BREACH OF CONTRACT
	243	DENNEHOTSO TRADG POST	N/A	BREACH OF CONTRACT
	244	DENNEHOTSO TRADG POST	N/A	UNPAID LEASE-RENTAL-PERMIT FEE-EASEMENT
	245	WESTERN HELIUM	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	246	EASTERN PETROLEUM	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	247	MOBIL OIL CORP	N/A	UNPAID LEASE RENTAL-PERMIT FEE-EASEMENT
	248	FRANK BARBONE	062438	GRAZING TRESPASS
	249	EILTH DE PAH	1115	GRAZING TRESPASS
	250	LLOYD MITCHELL	1118	GRAZING TRESPASS
	251	ALFRED MITCHELL	1116	GRAZING TRESPASS
	252	JIM MARIANO	954	GRAZING TRESPASS
	253	DAN MITCHELL	1113	GRAZING TRESPASS
	254	YEK KAS PAH	1114	GRAZING TRESPASS
	255	HEIRS/HA DY PAH	1112	GRAZING TRESPASS
	256	JOHNNY BARBONE	062441	GRAZING TRESPASS
	257	HEIRS/HOSKA YA HOLA WOLTH	1117	GRAZING TRESPASS
	258	YAH DES BAH LARGO	059404	GRAZING TRESPASS
	259	JIM LARGO	059398	GRAZING TRESPASS
	260	HEIRS/NAH HE BAH LARGO	059401	GRAZING TRESPASS
	261	HEIRS/AH KENNETH BAH SOSIE	059339	GRAZING TRESPASS
	262	HEIRS/AH CHE HAS BAH LARGO	059403	GRAZING TRESPASS
	263	HEIRS/AZ ON THO PI	955	GRAZING TRESPASS
	264	HOSKA YILTH LA CATH LARGO	059400	GRAZING TRESPASS
	265	HEIRS/USKA DEIL E NOT CHOP	061667	GRAZING TRESPASS
	266	ROSS BEGAY	061659	GRAZING TRESPASS
	267	MARIE BEGAY	061665	GRAZING TRESPASS
	268	FRANK CHOPO	061661	GRAZING TRESPASS
	269	JOHN LARGO	950	GRAZING TRESPASS
	270	GEORGE CHOPO	061662	GRAZING TRESPASS
	271	FREDDY BEGAY	061666	GRAZING TRESPASS
	272	DORIS BEGAY	061664	GRAZING TRESPASS
	273	MARGARET ANTONIO	062476	GRAZING TRESPASS
	274	JOANNE ANTONIO BEGAY	062477	GRAZING TRESPASS
	275	HEIRS/AH KE HA BAH	062474	GRAZING TRESPASS
	276	JOE B CHARLEY	958	GRAZING TRESPASS
	277	MRS CECIL NAVAJO	956	GRAZING TRESPASS
	278	JOE BEBO	957	GRAZING TRESPASS
	279	JOHN BARBONE	973	GRAZING TRESPASS
	280	ASSON TSOSIE BARBONE	058895	GRAZING TRESPASS
	281	JOHN T BARBONE	974	GRAZING TRESPASS
	282	JOE BARBONE	972	GRAZING TRESPASS
	283	JEFF NELSON BARBONE	059440	GRAZING TRESPASS
	284	CHARLIE WOODY	062471	GRAZING TRESPASS
	285	CAROLINE LARGO	062473	GRAZING TRESPASS
	286	HARRY KEE	062472	GRAZING TRESPASS
	287	BIZZEN BEGAY	949	GRAZING TRESPASS
	288	NA TA YE NES WOOD PLATERO	060960	GRAZING TRESPASS
	289	JUANITO PLATERO	060955	GRAZING TRESPASS
	290	EMERSON PLATERO	060958	GRAZING TRESPASS
	291	HOSKA GE DES WOOL PLATERO	060957	GRAZING TRESPASS
	292	HEIRS/MALIYA	961	GRAZING TRESPASS
	293	HEIRS/CHA PLH	960	GRAZING TRESPASS
	294	HEIRS/NA TATH NA HA YA	953	GRAZING TRESPASS
	295	JOA	959	GRAZING TRESPASS
	296	HEIRS/NA OLEN A BAH LARGO	059399	GRAZING TRESPASS
	297	AH KENNE BAH BARBONE	059361	GRAZING TRESPASS
	298	HEIRS/AH KENNE PAH	062470	GRAZING TRESPASS
	299	JOE CHARLIE	016308	GRAZING TRESPASS
	300	HEIRS/GEORGE MARTINEZ	064368	RAILROAD TRESPASS
	301	HEIRS/RAFEL JIM	064317	RAILROAD TRESPASS
	302	HEIRS/ARTHUR CHAVEZ GONELSON	N/A	RAILROAD TRESPASS
	303	HEIRS/APACHE PINTO	N/A	RAILROAD TRESPASS
	304	HEIRS/DAN PAPER-TOLEDO	N/A	RAILROAD TRESPASS
	305	HEIRS/USHKA ITAGO	N/A	RAILROAD TRESPASS
	306	HEIRS/HOSKA E TAH DOL NE	N/A	RAILROAD TRESPASS
	307	HEIRS OF LILLIE	N/A	RAILROAD TRESPASS

NAVAJO AREA STATUTE CLAIMS

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM

NAVAJO AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
N00780	308	HEIRS/NATH LE PAH	N/A	RAILROAD TRESPASS
	309	AH KA NE PAH/HEIRS	N/A	RAILROAD TRESPASS
	310	USH KA DE SA/HEIRS	N/A	RAILROAD TRESPASS
	311	LITTLE BILLY BECENTI/HEIR[illegible]	N/A	RAILROAD TRESPASS
	312	YAH HE BAH/HEIRS	N/A	RAILROAD TRESPASS
	313	DA DE BAH/HEIRS	N/A	RAILROAD TRESPASS
	314	HEIRS/NA DETHL PAHE	N/A	RAILROAD TRESPASS
	315	HEIRS/NAH DI EN DEET SA	N/A	RAILROAD TRESPASS
	316	HEIRS/GLEN US PAH	N/A	RAILROAD TRESPASS
	317	BOSH E PI OR HENIO/HEIRS	N/A	RAILROAD TRESPASS
	318	HEIRS/HA-S-WOOU/F LARGO	1119	FLOOD DAMAGE
	319	NAVAJO TRIBE	N/A	FLOOD DAMAGE
	320	NAVAJO TRIBE	N/A	FLOOD DAMAGE
	321	HEIRS/JENNIE CLEVELAND	077036	RECOVER LANDS SOLD TO WRONG HEIRS
	322	CHARLIE SALA/SUSIE MTZ	468	RECOVER LANDS SOLD TO WRONG HEIRS
	323	PETER ANTONIO	062475	GRAZING TRESPASS
	324	PETER ANTONIO HEIRS	951	GRAZING TRESPASS
	325	ROBERT ETCITTY	828	RECOVER LAND PATENTED [illegible] SWAMP LANDS
	326	MCKINLEY COUNTY	N/A	ROAD TRESPASS
	327	SANDOVAL COUNTY	N/A	ROAD TRESPASS
	328	SAN JUAN COUNTY	N/A	ROAD TRESPASS
	329	MCKINLEY COUNTY	N/A	ROAD TRESPASS
	330	SANDOVAL COUNTY	N/A	ROAD TRESPASS
	331	SAN JUAN COUNTY	N/A	ROAD TRESPASS
	332	N/A	N/A	GRAZING TRESPASS
	333	YILTH DES BAH	062662	RECOVER LAND SOLD TO WRONG HEIRS
	334	YAH HA YAH	062662	RECOVER LAND SOLD TO WRONG HEIRS
	335	MOSKA TILE E WOOD	062663	RECOVER LAND SOLD TO WRONG HEIRS
	336	NAVAJO TRIBE	NA	RAILROAD TRESPASS
	337	NAVAJO TRIBE	NA	WRONGFUL LAND SALE
	338	NAVAJO TRIBE	NA	WRONGFUL OCCUPANCY OF LAND AND STRUCTURE
	339	NAVAJO TRIBE & MEMBERS	NA	URANIUM CONTAMINATION
	340	NAVAJO TRIBE & MEMBERS	NA	URANIUM CONTAMINATION
	341	[illegible] TSO YAZEE	565	ROAD IN TRESPASS
	342	[illegible] TSO YAZEE	566	ROAD IN TRESPASS
	343	[illegible] TSO YAZEE	684	ROAD IN TRESPASS

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
P00140	026	ALICE ALLEN	5	FORCED FEE PATENT
	027	GRACE ALLEN	8	FORCED FEE PATENT
	028	RUTH ALLEN	7	FORCED FEE PATENT
	029	DORTHA ALLEN	6	FORCED FEE PATENT
	030	EFFIE SKEEN	30	FORCED FEE PATENT
	031	NETTIE SKEEN	31	FORCED FEE PATENT
	032	GEORGE SKEEN	370	FORCED FEE PATENT
	033	ANNA SKEEN	371	FORCED FEE PATENT
	034	IDA SKEEN	372	FORCED FEE PATENT
	035	MAMA SKEEN	372	FORCED FEE PATENT
	036	EFFIE COBURN	704	FORCED FEE PATENT
	037	GRACE COBURN	703	FORCED FEE PATENT
	038	FRANK COBURN	705	FORCED FEE PATENT
	039	WILLIAM COBURN	707	FORCED FEE PATENT
	040	CARL LENZ	1405	FORCED FEE PATENT
	041	GEORGE GRAY	505	FORCED FEE PATENT
	042	MARY WILSON	96	COPCO UTILITY LINE TRESPASS
	043	BESSIE CHILOQUIN	1363	COPCO UTILITY LINE TRESPASS
	044	MARY SILVERS	1499	COPCO UTILITY LINE TRESPASS
	045	LOTTIE SKELLOCK	1371	COPCO UTILITY LINE TRESPASS
	046	ANDY SAMMY	1250	COPCO UTILITY LINE TRESPASS
	047	JOHN MORGAN	1211	COPCO UTILITY LINE TRESPASS
	048	CHARLES MORGAN	239	COPCO UTILITY LINE TRESPASS
	049	MARY ANN MOORE	557	COPCO UTILITY LINE TRESPASS
	050	FRANCIS KIRK	1488	COPCO UTILITY LINE TRESPASS
	051	ELMER HILL	1103	COPCO UTILITY LINE TRESPASS
	052	ILLA BINGER HARDING	273	COPCO UTILITY LINE TRESPASS
	053	EMMA GRAY	506	COPCO UTILITY LINE TRESPASS
	054	JANE EGOSMAN	1060	COPCO UTILITY LINE TRESPASS
	055	AMOS DUVAL	1057	COPCO UTILITY LINE TRESPASS
	056	DWIGHT DAVID	1481	COPCO UTILITY LINE TRESPASS
	057	BEULAH WHITE	1314	COPCO UTILITY LINE TRESPASS
	058	LECOSE PELICANMAN	1412	FORCED FEE PATENT
	059	JANE PELICANMAN	1413	FORCED FEE PATENT
	060	FLAVA WRIGHT	1512	FORCED FEE PATENT
	061	ALGY O'TOOL	1409	COPCO UTILITY LINE TRESPASS
	062	ROLLAND HICKS	1100	COPCO UTILITY LINE TRESPASS
	063	MONROE FAITHFUL	1068	COPCO UTILITY LINE TRESPASS
	064	JOHN JACKSON	1393	COPCO UTILITY LINE TRESPASS
	065	EDDIE LOBERT	1403	COPCO UTILITY LINE TRESPASS
	066	KATE LOBERT	222	COPCO UTILITY LINE TRESPASS
	067	LUKE OTOOL	1228	COPCO UTILITY LINE TRESPASS
	068	REBECCA CHARLEY	993	LAND SOLD UNDER FALSE PRETENSES
	069	RAMONA BALL	1585	FORCED FEE PATENT
	070	JOSIE BALL	16	FORCED FEE PATENT
	071	BERTHA BEAL	41	FORCED FEE PATENT
	072	ANNIE BROWN	680	FORCED FEE PATENT
	073	HENRY BLOW	1364A	FORCED FEE PATENT
	074	CHARLEY BROWN	11	FORCED FEE PATENT
	075	ELLEN BROWN	686	FORCED FEE PATENT
	076	EORIA BROWN	679	FORCED FEE PATENT
	077	HARRISON BROWN	685	FORCED FEE PATENT
	078	MILLICENT BROWN	290	FORCED FEE PATENT
	079	TELLIA BROWN	678	FORCED FEE PATENT
	080	LULU BROWN	677	FORCED FEE PATENT
	081	WINFORD BROWN	681	FORCED FEE PATENT
	082	SISSY BROWN	694	FORCED FEE PATENT
	083	AB CAPTAIN	545	FORCED FEE PATENT
	084	ABRAHAM CHARLIE	1376	FORCED FEE PATENT
	085	ANABEL CHOTE	1008	FORCED FEE PATENT
	086	ALICE CLINTON	1577	FORCED FEE PATENT
	087	EMMA COOKMAN	493	FORCED FEE PATENT
	088	BEATRIP00140 CROMLEY	543	FORCED FEE PATENT
	089	SALLY DALLS	105	FORCED FEE PATENT
	090	LULU EGGSMAN	1382	FORCED FEE PATENT
	091	MARY EGGSMAN	1061	FORCED FEE PATENT
	092	MELVIN M. ENGLE	1588	FORCED FEE PATENT
	093	LESTER GODOWA	749	FORCED FEE PATENT

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
PN0140	094	BOB HOOK	1445	FORCED FEE PATENT
	095	JESSIE HOOK	1446	FORCED FEE PATENT
	096	FRANK HOUSE	512	FORCED FEE PATENT
	097	JENNIE HOUSE	1109	FORCED FEE PATENT
	098	NORMA HOUSE	1113	FORCED FEE PATENT
	099	PEARL HOUSE	1438	FORCED FEE PATENT
	100	INEZ JOHN	1443	FORCED FEE PATENT
	101	JOHN PELTON	1524	FORCED FEE PATENT
	102	ANN JOHNSON	1401	FORCED FEE PATENT
	103	EDITH KANE	1402	FORCED FEE PATENT
	104	DELLA LANG	1528A	FORCED FEE PATENT
	105	LULU LANG	528A	FORCED FEE PATENT
	106	HELEN LOTCHES	1188	FORCED FEE PATENT
	107	WILLARD LANG	1175	FORCED FEE PATENT
	108	MATILDA CLINTON MILLER	1584	FORCED FEE PATENT
	109	EVALINE LANG MOSES	1547	FORCED FEE PATENT
	110	PADDY	1436PT	FORCED FEE PATENT
	111	PADDY	1436PT	FORCED FEE PATENT
	112	JOHN PAT	580	FORCED FEE PATENT
	113	JANE PELICANMAN	1413	FORCED FEE PATENT
	114	EMILY PRATTER	649	FORCED FEE PATENT
	115	SARAH RIGGS	104	FORCED FEE PATENT
	116	CINDA RIGGS	266	FORCED FEE PATENT
	117	MARVIN RIGGS	267	FORCED FEE PATENT
	118	IDA SKEEN	372	FORCED FEE PATENT
	119	MAMA SKEEN	373	FORCED FEE PATENT
	120	JOHN SMILEY	69	FORCED FEE PATENT
	121	JOHN GEORGE SMITH JR.	1549	FORCED FEE PATENT
	122	CHARLIE STOKES	591	FORCED FEE PATENT
	123	TILLEY STOKES	595	FORCED FEE PATENT
	124	BENJAMIN TUPPER	503	FORCED FEE PATENT
	125	EDGAR WALKER	881	FORCED FEE PATENT
	126	FRANCIS STOKES	1274	FORCED FEE PATENT
	127	ROBERT SUMMERS	1546PT	FORCED FEE PATENT
	128	ROBERT SUMMERS	1546PT	FORCED FEE PATENT
	129	HENRY WALKER	882	FORCED FEE PATENT
	130	MIKE WEEKS	639	FORCED FEE PATENT
	131	ALONZO WEEKS	424	FORCED FEE PATENT
	132	HENRY WEEKS	1458	FORCED FEE PATENT
	133	LEONA WEEKS	1300	FORCED FEE PATENT
	134	LUCILLE WEEKS	1459A	FORCED FEE PATENT
	135	GLADYS M. WILSON	1333	FORCED FEE PATENT
	136	CINDA WHITE	292	FORCED FEE PATENT
	137	ELLEN WHITE	1457PT	FORCED FEE PATENT
	138	ELLEN WHITE	1457	FORCED FEE PATENT
	139	OLLIE WHITE	1366	FORCED FEE PATENT
	140	FLAVA WRIGHT	1512	FORCED FEE PATENT
	141	NETTIE WRIGHT	1427	FORCED FEE PATENT
	142	MEVA WRIGHT	1338	FORCED FEE PATENT
	143	WINONA WOOD	1336	FORCED FEE PATENT
	144	ELLEN YHILITATE	647	FORCED FEE PATENT
	145	JENNIE BLOW	52	FORCED FEE PATENT
	146	MOLLIE BROWN	364	FORCED FEE PATENT
	147	BELLA CHARLIE	108	FORCED FEE PATENT
	148	CLINTON CHARLES	199	FORCED FEE PATENT
	149	ENOLA CHARLIE	107	FORCED FEE PATENT
	150	ETHA CHARLIE	995	FORCED FEE PATENT
	151	MOBY MACK CHARLIE	994	FORCED FEE PATENT
	152	HARRY CLARKSON	?	FORCED FEE PATENT
	153	JASON CHARLIE	109	FORCED FEE PATENT
	154	ALICE KAY CHOLAH	48	FORCED FEE PATENT
	155	PETER CHOLAH	47	FORCED FEE PATENT
	156	EMMA COOKMAN	493	FORCED FEE PATENT
	157	LIZZIE COPPERFIELD	1463	FORCED FEE PATENT
	158	JAMES COPPERFIELD	699	FORCED FEE PATENT
	159	MARY ANN COPPERFIELD	1016	FORCED FEE PATENT
	160	KATE CROWLEY	542	FORCED FEE PATENT
	161	HATTIE DAVIS	122	FORCED FEE PATENT

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
PN0140	162	LELIA DAVID	116	FORCED FEE PATENT
	163	MARY DE-MOK-OTTS	509	FORCED FEE PATENT
	164	MARY EGOSMAN	1061	FORCED FEE PATENT
	165	MELVIN M. ENGLE	1588	FORCED FEE PATENT
	166	SAMUEL ESSEP00140	658	FORCED FEE PATENT
	167	ALFRED M. FAITHFUL	735	FORCED FEE PATENT
	168	AGGIE FAITHFUL	736	FORCED FEE PATENT
	169	CHARLES M. FAITHFUL	1464	FORCED FEE PATENT
	170	EMILY FAITHFUL	732	FORCED FEE PATENT
	171	EARL FAITHFUL	733	FORCED FEE PATENT
	172	ETHEL FAITHFUL	734	FORCED FEE PATENT
	173	MILTON FAITHFUL	737	FORCED FEE PATENT
	174	ROBERT FOSTER	916	FORCED FEE PATENT
	175	AGENCY GEORGE	1383	FORCED FEE PATENT
	176	BENJAMIN W. GEORGE	143	FORCED FEE PATENT
	177	CECIL HOCHES	951	FORCED FEE PATENT
	178	NANCY HOOSESKIN	777	FORCED FEE PATENT
	179	HAMPTON HOWARD	157	FORCED FEE PATENT
	180	HORACE HOWARD	158	FORCED FEE PATENT
	181	FRANK W. HOWARD	156	FORCED FEE PATENT
	182	LUTZ HOWARD	153	FORCED FEE PATENT
	183	ANNA IVORY	683	FORCED FEE PATENT
	184	HENRY IVORY	662	FORCED FEE PATENT
	185	ANDREW JACKSON	1391	FORCED FEE PATENT
	186	BELLA JACKSON	1439	FORCED FEE PATENT
	187	FLORENCE JACKSON	178	FORCED FEE PATENT
	188	POLLY JACKSON	182	FORCED FEE PATENT
	189	WILLIAM JACKSON	1128	FORCED FEE PATENT
	190	WARM SPRING JACKSON	179	FORCED FEE PATENT
	191	JULIA JEFFERSON	413	FORCED FEE PATENT
	192	BRIGHT JIM	1398	FORCED FEE PATENT
	193	JIM MISSIE	34	FORCED FEE PATENT
	194	LILLIAN JIM	35	FORCED FEE PATENT
	195	CINDA JOHN	191	FORCED FEE PATENT
	196	LITTLE JOHN	422	FORCED FEE PATENT
	197	INEZ JOHN	1443	FORCED FEE PATENT
	198	MOLLIE LALAKES JOHN	1396	FORCED FEE PATENT
	199	WILL JONAH	194	FORCED FEE PATENT
	200	PETER JONES	799	FORCED FEE PATENT
	201	MARIA JOHN	1395	FORCED FEE PATENT
	202	DAVID JOHNSON	201	FORCED FEE PATENT
	203	HUGH JOHNSON	202	FORCED FEE PATENT
	204	PALMER LILLIE KANE	265	FORCED FEE PATENT
	205	DIP00140IE KIST	291	FORCED FEE PATENT
	206	SUSAN KLAMATH	670	FORCED FEE PATENT
	207	JOSIE LALO	66	FORCED FEE PATENT
	208	DELPHA MOSES	1213	FORCED FEE PATENT
	209	JO NIMROD	253	FORCED FEE PATENT
	210	LECASE PELICANMAN	1412	FORCED FEE PATENT
	211	OTTO PITT	393	FORCED FEE PATENT
	212	LOGAN POMPEY	18	FORCED FEE PATENT
	213	PETER PHILLIPS	1493	FORCED FEE PATENT
	214	SUSIE POMPEY	19	FORCED FEE PATENT
	215	HANNAH POPUMKUS	386	FORCED FEE PATENT
	216	BETSEY POPUMKUS	384	FORCED FEE PATENT
	217	SARAH RIGGS	104	FORCED FEE PATENT
	218	MARK ROBINSON	830	FORCED FEE PATENT
	219	MUDICE SAMPSON	1368	FORCED FEE PATENT
	220	LYDIA SAMPSON	110	FORCED FEE PATENT
	221	AMANDA SKEEN	862	FORCED FEE PATENT
	222	NETTIE SKEEN	369	FORCED FEE PATENT
	223	JAKE SIMCO	1386	FORCED FEE PATENT
	224	DOLLY SKEEN	367	FORCED FEE PATENT
	225	ALLIE SKELLOCK	216	FORCED FEE PATENT
	226	GOTLIEP E. SKELLOCK	78	FORCED FEE PATENT
	227	MRS. TOM SKELLOCK	1370	FORCED FEE PATENT
	228	SMITH (SIC-LIM-MA)	518	FORCED FEE PATENT
	229	JOHN SMITH (CHA-NKE)	1440	FORCED FEE PATENT

PORTLAND AREA STATUTE CLAIMS

PORTLAND AREA STATUTE CLAIMS

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM	
PORTLAND	298	BRISBY HOUSE	1110	FORCED FEE	PATENT
	299	DORTHA HOUSE	514	FORCED FEE	PATENT
	300	EDMUND HOWARD	1114	FORCED FEE	PATENT
	301	JASON HOWARD	152	FORCED FEE	PATENT
	302	CHARLIE HUTCHINSON	764	FORCED FEE	PATENT
	303	ALICE HUTCHINSON	1543	FORCED FEE	PATENT
	304	GARFIELD JACK	208	FORCED FEE	PATENT
	305	MILLIE JACK	1122	FORCED FEE	PATENT
	306	BERTHA JACKSON	172	FORCED FEE	PATENT
	307	SALLEY JACKSON	792	FORCED FEE	PATENT
	308	SILAS JACKSON	174	FORCED FEE	PATENT
	309	AGENT JACKSON	525	FORCED FEE	PATENT
	310	SUSIE T. JACKSON	148	FORCED FEE	PATENT
	311	THEODORE R. JACKSON	311	FORCED FEE	PATENT
	312	WALTER JACKSON	176	FORCED FEE	PATENT
	313	SALLIE JAMES	420	FORCED FEE	PATENT
	314	THOMAS JEFFERSON	407	FORCED FEE	PATENT
	315	KATE JEFFERSON	1345	FORCED FEE	PATENT
	316	BRICK JIM	33	FORCED FEE	PATENT
	317	LILLIAN JIM	330	FORCED FEE	PATENT
	318	NANCY JOAN	184	FORCED FEE	PATENT
	319	SARAH JOE	423	FORCED FEE	PATENT
	320	SOBAH JOHN	425	FORCED FEE	PATENT
	321	MARY JOHNSON	740	FORCED FEE	PATENT
	322	PETE JOHNSON	200	FORCED FEE	PATENT
	323	WISE JOHNSON	1400	FORCED FEE	PATENT
	324	JENNIE KANE	1164	FORCED FEE	PATENT
	325	ANNIE KIRK	211	FORCED FEE	PATENT
	326	HAZEL KIRK	213	FORCED FEE	PATENT
	327	SISSY KIRK	214	FORCED FEE	PATENT
	328	CHIEF LALO	34	FORCED FEE	PATENT
	329	CINDA LOTCHES	231	FORCED FEE	PATENT
	330	CLAY LOTCHES	232	FORCED FEE	PATENT
	331	EDITH LYNCH	804	FORCED FEE	PATENT
	332	MARGARET MCKAY	244	FORCED FEE	PATENT
	333	ANTHONY MERRITT	433	FORCED FEE	PATENT
	334	MARY (DE-FOX-ALTS)	509	FORCED FEE	PATENT
	335	CELIA MCKAY	241	FORCED FEE	PATENT
	336	DONALD MCKAY	242	FORCED FEE	PATENT
	337	GEORGE MILLER SR.	1205	FORCED FEE	PATENT
	338	POLLY MILLER	1450	FORCED FEE	PATENT
	339	ROSE MILLER	548	FORCED FEE	PATENT
	340	THELMA MILLER	557	FORCED FEE	PATENT
	341	KENNETH MOORE	1207	FORCED FEE	PATENT
	342	THEODORE MOORE	1208	FORCED FEE	PATENT
	343	WILLIAM MOORE	560	FORCED FEE	PATENT
	344	QUIMBY MOORE	1204	FORCED FEE	PATENT
	345	GEORGE E. MORGAN	1534	FORCED FEE	PATENT
	346	ALEX MILLER	554	FORCED FEE	PATENT
	347	NELLIE MOODY	424	FORCED FEE	PATENT
	348	MARY MITCHELL	797	FORCED FEE	PATENT
	349	CLARENCE MOSES	572	FORCED FEE	PATENT
	350	EVA MOSES	571	FORCED FEE	PATENT
	351	HAZEL MOSES	1215	FORCED FEE	PATENT
	352	HESSIE MOSES	1214	FORCED FEE	PATENT
	353	ISAAC MOSES	570	FORCED FEE	PATENT
	354	DELIA MUDDIE	98	FORCED FEE	PATENT
	355	HEIRS OF MUSTER	5434	FORCED FEE	PATENT
	356	ROBIN MOSES	1216	FORCED FEE	PATENT
	357	MIRAM NELSON	257	FORCED FEE	PATENT
	358	GILBERT NELSON	1310	FORCED FEE	PATENT
	359	HERBERT NELSON	259	FORCED FEE	PATENT
	360	LEROY NELSON	1610	FORCED FEE	PATENT
	361	NINA NELSON	240	FORCED FEE	PATENT
	362	JO NIMROD	253	FORCED FEE	PATENT
	363	ALBERT O TOOL	262	FORCED FEE	PATENT
	364	JACKSON PADDY	432	FORCED FEE	PATENT
	365	DENNIS O'TOOL	261	FORCED FEE	PATENT

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM	
PORTLAND	230	ALICE TECUMSEH	91	FORCED FEE	PATENT
	231	CLYDE TECUMSEH	92	FORCED FEE	PATENT
	232	MRS. DOCTOR THOMPSON	1276	FORCED FEE	PATENT
	233	BELLIE LONG TOM	263	FORCED FEE	PATENT
	234	JANETTE TUPPER	501	FORCED FEE	PATENT
	235	TESSIE TUPPER	427	FORCED FEE	PATENT
	236	ELVA VILLAMO	456	FORCED FEE	PATENT
	237	WALKER (JACK-JACK)	602	FORCED FEE	PATENT
	238	JAKE WEEKS SR.	1298	FORCED FEE	PATENT
	239	EMLIN WEEKS	959	FORCED FEE	PATENT
	240	RUTH WILLIAM	104	FORCED FEE	PATENT
	241	EFFIE WILSON	101	FORCED FEE	PATENT
	242	HARRY WILSON	102	FORCED FEE	PATENT
	243	HUNTER WILSON	100	FORCED FEE	PATENT
	244	LIZA WILSON	624	FORCED FEE	PATENT
	245	RACHEL WILSON	103	FORCED FEE	PATENT
	246	CHARLES WHITE	1309PT	FORCED FEE	PATENT
	247	HORACE WHITE	632	FORCED FEE	PATENT
	248	STELLA WHITE	57	FORCED FEE	PATENT
	249	CHARLES WHITE	1309PT	FORCED FEE	PATENT
	250	YOWLICK YHLITATE	644	FORCED FEE	PATENT
	251	EUNICE BARKLEY	1474A	FORCED FEE	PATENT
	252	HATTIE BARKLEY	291	FORCED FEE	PATENT
	253	MARY BARKLEY	697	FORCED FEE	PATENT
	254	GEORGE BEAL	39	FORCED FEE	PATENT
	255	OSCAR BEAL	45	FORCED FEE	PATENT
	256	ALVIRA TOY BROWN	690	FORCED FEE	PATENT
	257	HENRY BLOW	1364	FORCED FEE	PATENT
	258	JOSEPH BLOW	51	FORCED FEE	PATENT
	259	CLAUD BUTLER	988	FORCED FEE	PATENT
	260	FLORENCE CHOCKTOOT	298	FORCED FEE	PATENT
	261	DELIA CHOCKTOOT	297	FORCED FEE	PATENT
	262	MARGARET CHOCKTOOT	301	FORCED FEE	PATENT
	263	BURNSIDE CONNIE	488	FORCED FEE	PATENT
	264	AUJA COOKMAN	498	FORCED FEE	PATENT
	265	JAMES COOKMAN	496	FORCED FEE	PATENT
	266	MINNIE COOKMAN	495	FORCED FEE	PATENT
	267	NATHAN COOKMAN	492	FORCED FEE	PATENT
	268	ORVILLE COOKMAN	499	FORCED FEE	PATENT
	269	ROSETTA CRAWFORD	1550	FORCED FEE	PATENT
	270	LOYD CROMLEY	1031	FORCED FEE	PATENT
	271	REMUS CROMLEY	1480	FORCED FEE	PATENT
	272	ALLEN DAVID	118	FORCED FEE	PATENT
	273	SALLEY DAVIS	808	FORCED FEE	PATENT
	274	BESSIE DAVIS	590	FORCED FEE	PATENT
	275	WATKIN DAVIS	1043	FORCED FEE	PATENT
	276	OREGON DICK	124	FORCED FEE	PATENT
	277	LITTIE DUVALL	133	FORCED FEE	PATENT
	278	LYMAN S. EDGMAN	141	FORCED FEE	PATENT
	279	CLARA EDGMAN	1062	FORCED FEE	PATENT
	280	DAILEY ESSEPOOLAH	659	FORCED FEE	PATENT
	281	JACK FOSTER	912	FORCED FEE	PATENT
	282	JAMES D. FOSTER	915	FORCED FEE	PATENT
	283	BESSIE FOSTER	909	FORCED FEE	PATENT
	284	MERIE FOSTER	911	FORCED FEE	PATENT
	285	NANA FOSTER	914	FORCED FEE	PATENT
	286	SUSIE GIBBS	741	FORCED FEE	PATENT
	287	PITT RIVER GEORGE	1385	FORCED FEE	PATENT
	288	GLASS EYES	500	FORCED FEE	PATENT
	289	HELLUM HARRIS	485	FORCED FEE	PATENT
	290	JULIE HART	1091	FORCED FEE	PATENT
	291	SHELBA HENRY	759	FORCED FEE	PATENT
	292	CELIA HENRY	490	FORCED FEE	PATENT
	293	ELEANOR WRIGHT HICKS	1599	FORCED FEE	PATENT
	294	JULIA HILL	596	FORCED FEE	PATENT
	295	TOM HOOK	551	FORCED FEE	PATENT
	296	JANE HOOVER	517	FORCED FEE	PATENT
	297	GAYLORD HOUSE	513	FORCED FEE	PATENT

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
PW0140	366	FLORENCE O'TOOL	1225	FORCED FEE PATENT
	367	LOUIS W. PADDY	429	FORCED FEE PATENT
	368	ROBERT PADDY	430	FORCED FEE PATENT
	369	WALLACE T. PEDRO	585	FORCED FEE PATENT
	370	JANE PEDRO	587	FORCED FEE PATENT
	371	LAURO PEDRO	588	FORCED FEE PATENT
	372	LELAND PARAZOO	1232	FORCED FEE PATENT
	373	PEDRO	582	FORCED FEE PATENT
	374	EVALINE PHILLIPS	1239	FORCED FEE PATENT
	375	FRED PHILLIPS	575	FORCED FEE PATENT
	376	NANCY PHILLIPS	1482	FORCED FEE PATENT
	377	GROVER POMPEY	20	FORCED FEE PATENT
	378	CHIEF POMPEY	17	FORCED FEE PATENT
	379	MANNIE POMPEY	21	FORCED FEE PATENT
	380	PISSUMKYWATZ ROBINSON	832	FORCED FEE PATENT
	381	LYDA SCHONCHIN	874	FORCED FEE PATENT
	382	MAMIE SKELLOCK	75	FORCED FEE PATENT
	383	IRENE SKELLOCK	77	FORCED FEE PATENT
	384	MINNIE SMITHSON	440	FORCED FEE PATENT
	385	JOHN SNIPES	528	FORCED FEE PATENT
	386	BARNEY STOKES	80	FORCED FEE PATENT
	387	ELIESIE STOKES	1269	FORCED FEE PATENT
	388	HULDIE STOKES	82	FORCED FEE PATENT
	389	INA STOKES	84	FORCED FEE PATENT
	390	LIZZIE STOKES	81	FORCED FEE PATENT
	391	TENSIE STOKES	83	FORCED FEE PATENT
	392	WUNSON STOKES	593	FORCED FEE PATENT
	393	HARRY STOKES	85	FORCED FEE PATENT
	394	FRANK SUMMERS	1544	FORCED FEE PATENT
	395	EDMUND HOWARD	1114	FORCED FEE PATENT
	396	EMMA TAYLOR	667	FORCED FEE PATENT
	397	MARTHA TAYLOR	866	FORCED FEE PATENT
	398	DR. THOMPSON	14	FORCED FEE PATENT
	399	KATE VILLARD	459	FORCED FEE PATENT
	400	KATE WALKER	601	FORCED FEE PATENT
	401	MINNIE WALKER	599A	FORCED FEE PATENT
	402	LEONA WEEKS	1300	FORCED FEE PATENT
	403	MIKE WEEKS	639A	FORCED FEE PATENT
	404	LUCILLE WEEKS	1459	FORCED FEE PATENT
	405	SALLY WHITTLE	10	FORCED FEE PATENT
	406	JACOB WILLIAMS	660	FORCED FEE PATENT
	407	ADAM WILSON	626	FORCED FEE PATENT
	408	LUKE WILLIS	1326	FORCED FEE PATENT
	409	ALEX WILSON	623	FORCED FEE PATENT
	410	BESSIE WILSON	627	FORCED FEE PATENT
	411	IDA WILSON	97	FORCED FEE PATENT
	412	NELLIE WHISTLER	604	FORCED FEE PATENT
	413	ELLEN WHITE	630	FORCED FEE PATENT
	414	IVY WHITE	1311	FORCED FEE PATENT
	415	RUSELL WHITE	1569	FORCED FEE PATENT
	416	VIRGIL WILSON	625	FORCED FEE PATENT
	417	LAURA WRIGHT	479	FORCED FEE PATENT
	418	ERNEST GEORGE	336	SALE WITHOUT FULL CONSENT
	419	DOCTOR GEORGE	333	SALE WITHOUT FULL CONSENT
	420	ELI GEORGE	334.5	SALE WITHOUT FULL CONSENT
	421	LETA GEORGE	1487	SALE WITHOUT FULL CONSENT
	422	SISSY ALLEN	4	UNPAID GRAZING LEASE
	423	SAM ALLEN	5	UNPAID LEASE
	424	SAM ALLEN	5	TIMBER REMOVED WRONGFULLY
	425	LULU LANG	578	RAILROAD TRESPASS
P00141	009	FREEMOND BEAN	18&19	CONTRACT BREACH
	010	FRANCIS MENARD	117	FORCED FEE PATENT
	011	CHARLES BOGUS	18	UTILITIES TRESPASS
	012	JAMES BOGUS	20	UTILITIES TRESPASS
	013	NANCY BOGUS	19	UTILITIES TRESPASS
P00146	006	MARY PETERS	558	INVALID WELFARE PAYMENTS
P01142	001	JOSEPH ADAMS	6	FORCED FEE PATENT
	002	WILLIAM R. MEGGINSON	SUP.6	FORCED FEE PATENT

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
P01142	003	BLOSSOM ADAMS	7	TIMBER WRONGFULLY REMOVED
	004	BLOSSOM ADAMS	7	FORCED FEE PATENT
	005	JULIA MEGGINSON	SUP.7	FORCED FEE PATENT
	006	ENOCH ARDEN	8	FORCED FEE PATENT
	007	ANNA ARDEN	9	FORCED FEE PATENT
	008	ELIZABETH CAHILL	SUP.9	FORCED FEE PATENT
	009	JAMES RICHARD ARDEN	10	UNAPPROVED LAND SALE
	010	LOUISA WALKER	SUP.10	FORCED FEE PATENT
	011	JOHN ALBERT	11	UNPAID TIMBER LEASE
	012	JOHN ALBERT	11	TAX FORFEITURE
	013	JOHN ALBERT	11	SALE W/O FEE PATENT TO ALLOTTEE
	014	SUSAN MARSHALL	SUP.11	UNAPPROVED LAND SALE
	015	ANNA ALBERT	12	FORCED FEE PATENT
	016	WILLIAM TOMMER	SUP.12	FORCED FEE PATENT
	017	MARY BARKER	21	FORCED FEE PATENT
	018	MARY BARKER	21	TIMBER WRONGFULLY REMOVED
	019	MARY BARKER	21	UNAPPROVED LAND SALE
	020	CHESTER BELL	37	TIMBER WRONGFULLY REMOVED
	021	CHESTER BELL	37	LOGGING ROADS IN TRESPASS
	022	ARTHUR BELL	38	FORCED FEE PATENT
	023	ARTHUR BELL	38	LOGGING ROAD RIGHT OF WAY
	024	WALTER BEN	39	SALE IRREGULARITY/LOSS OF ACREAGE
	025	OSCAR BROWN	41	FORCED FEE PATENT
	026	RACHEL BROWN	42	FORCED FEE PATENT
	027	JULIA BENJAMIN	51	FORCED FEE PATENT ISSUED AT PROBATE
	028	LENA BASENTA	54	FORCED FEE PATENT ISSUED AT PROBATE
	029	BRUCE BUTLER	55	FORCED FEE PATENT
	030	JOHN BAXTER	56	SALE WITHOUT FULL CONSENT
	031	MARY BAXTER	57	GRAZING TRESPASS
	032	MARY BAXTER	57	UNPAID GRAZING LEASE
	033	MARY BAXTER	57	UNAPPROVED LAND SALE
	034	STEPHEN BAXTER	58	FORCED FEE PATENT
	035	ANDREW BAXTER	61	UNAPPROVED LAND SALE
	036	JOSEPH BAXTER	62	FORCED FEE PATENT
	037	JOSEPH BAXTER	62	UNAPPROVED LAND SALE
	038	WALKER BAXTER	63	FORCED FEE PATENT
	039	WILLIAM BUTLER	64	FORCED FEE PATENT
	040	ROY BUTTERFIELD	65	FORCED FEE PATENT
	041	MARY CALLAHAN	70	FORCED FEE PATENT
	042	PETER CALLAHAN	71	SALE WITHOUT FULL CONSENT
	043	PETER CALLAHAN	71	SALE W/O PATENT TO HEIR
	044	SARAH CALLAHAN	72	UNAPPROVED LAND SALE
	045	JOHN CHARLEY	73	UNPAID LEASE
	046	JOHN CHARLEY	73	SALE WITHOUT FULL CONSENT
	047	AGNES CURL	106	UNPAID LEASE
	048	AGNES CURL	106	UNAPPROVED LAND SALE
	049	HARRIET CURL	108	FORCED FEE PATENT
	050	SINNOT CHETCO	109	UNPAID LEASE
	051	SINNOT CHETCO	109	TIMBER WRONGFULLY REMOVED
	052	ANDY CHETCO (ANDREW CHARLES)	112	FORCED FEE PATENT
	053	ROYAL CHETCO	113	SALE WITHOUT FULL CONSENT
	054	ROYAL CHETCO	113	UNAPPROVED LAND SALE
	055	CLARA EVANS	143	FORCED FEE PATENT
	056	HOMER EVANS	144	FORCED FEE PATENT
	057	FLORA EVANS	145	FORCED FEE PATENT
	058	WILLIAM EVANS	148	SALE WITHOUT FULL CONSENT
	059	KATHERINE EVANS	149	FORCED FEE PATENT ISSUED AT PROBATE
	060	CHARLOTTE EUCHEE	150	FORCED FEE PATENT ISSUED AT PROBATE
	061	ROBERT FELIX	151	FORCED FEE PATENT
	062	LAVINA FELIX	152	FORCED FEE PATENT
	063	ANGELINE FELIX	153	FORCED FEE PATENT
	064	NOBLE FELIX	154	FORCED FEE PATENT
	065	NOBLE FELIX	154	UNPAID GRAZING LEASE
	066	BALDWIN FAIRCHILD	160	FORCED FEE PATENT
	067	BALDWIN FAIRCHILD	160	UNPAID GRAZING LEASE
	068	CHANCEY FAIRCHILD	156	SALE WITHOUT FULL CONSENT
	069	CHANCEY FAIRCHILD	156	UNAPPROVED LAND SALE
	070	PELLET FELIX	157	UNAPPROVED LAND SALE

PORTLAND AREA STATUTE CLAIMS

PORTLAND AREA STATUTE CLAIMS

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
P01142	071	PELLET FELIX	157	SALE WITHOUT FULL CONSENT
	072	MARGARET FELIX	158	FORCED FEE PATENT
	073	MORGAN FELIX	159	SALE W/O PATENT TO ALLOTTEE'S HEIR
	074	MORGAN FELIX	159	SALE WITHOUT FULL CONSENT
	075	BUTLER FAIRCHILD	162	FORCED FEE PATENT
	076	JANE HALLIS	210	FORCED FEE PATENT
	077	THOMAS HUGH	211	SALE WITHOUT FULL CONSENT
	078	LOLLY HUGH	212	FORCED FEE PATENT ISSUED AT PROBATE
	079	GEORGE HARRIS	213	FORCED FEE PATENT
	080	GEORGE HARRIS	213	UNPAID TYMBER LEASE
	081	NETTIE HARRIS	215	SALE WITHOUT FULL CONSENT
	082	LEVA BELLE HARRIS	215	SALE WITHOUT FULL CONSENT
	083	ANNA HILL	216	SALE WITHOUT FULL CONSENT
	084	DANIEL JOURDAN	217	FORCED FEE PATENT ISSUED AT PROBATE
	085	SUSAN JOURDAN	218	SALE WITHOUT FULL CONSENT
	086	CHARLES JOHNSON	220	FORCED FEE PATENT
	087	CHARLES JOHNSON	220	UNPAID LEASE
	088	ELVA GRANT	183	SALE WITHOUT FULL CONSENT
	089	ELVA GRANT	183	UNAPPROVED LAND SALE
	090	LOUISA GRANT	184	FORCED FEE PATENT
	091	CATHERINE GRANT	185	FORCED FEE PATENT
	092	CATHERINE GRANT	185	SALE WITHOUT FULL CONSENT
	093	CATHERINE GRANT	185	UNAPPROVED LAND SALE
	094	SAMUEL HARDING	187	FORCED FEE PATENT
	095	MARY HARDING	188	FORCED FEE PATENT
	096	MARY HARDING	188	UNAPPROVED SALE OF NON-COMPETENT'S LAND
	097	CHARLES HOWARD	197	SALE WITHOUT FULL CONSENT
	098	CHARLES HOWARD	197	UNAPPROVED LAND SALE
	099	COQUELLE HUNTER	198	UNAPPROVED SALE OF NON-COMPETENT'S LAND
	100	COQUELLE HUNTER	198	UNAPPROVED LAND SALE
	101	POLLY HUNTER	199	UNAPPROVED SALE OF NON-COMPETENT'S LAND
	102	POLLY HUNTER	199	UNAPPROVED LAND SALE
	103	WILLIAM HAWSEY	200	FORCED FEE PATENT
	104	MARY HAWSEY	201	FORCED FEE PATENT
	105	ALEXANDER HALOGLUSE	202	SALE WITHOUT FULL CONSENT
	106	ALEXANDER HALOGLUSE	202	UNAPPROVED LAND SALE
	107	LYDIA HALOGLUSE	203	SALE WITHOUT FULL CONSENT
	108	LYDIA HALOGLUSE	203	UNAPPROVED LAND SALE
	109	ROSA HALOGLUSE	204	SALE WITHOUT FULL CONSENT
	110	ROSA HALOGLUSE	204	UNAPPROVED LAND SALE
	111	BEALE HARDING	205	UNAUTHORIZED GRAVEL REMOVAL
	112	THOMAS HOLLIS	208	FORCED FEE PATENT
	113	HARRIETT HOLLIS	209	UNPAID LEASE
	114	HARRIETT HOLLIS	209	FORCED FEE PATENT
	115	WASHOUTZA JOURDAN	219	AGRICULTURAL TRESPASS
	116	FRANCES JOHNSON	221	FORCED FEE PATENT
	117	ANNA JOHN	223	FORCED FEE PATENT
	118	LOUIS FULLER	173	FORCED FEE PATENT
	119	JOSEPH GAY	177	FORCED FEE PATENT
	120	ALSEA GEORGE	179	UNAPPROVED SALE OF NON-COMPETENT'S LAND
	121	CALUSA GEORGE	180	FORCED FEE PATENT
	122	U.S. GRANT	182	UNAPPROVED LAND SALE
	123	EDWARD EVANS	142	FORCED FEE PATENT
	124	FRED FREEMAN	164	FORCED FEE PATENT
	125	JOHN FULLER	165	FORCED FEE PATENT
	126	MICHAEL FULLER	167	FORCED FEE PATENT
	127	DOMMY FLANNERY	172	FORCED FEE PATENT
	128	FREDRICK DICK	135	FORCED FEE PATENT
	129	TOBY DICK	134	SALE WITHOUT FULL CONSENT
	130	TOBY DICK	134	UNPAID LEASE/UNMAINTAINED FENCE
	131	CHAUNCY DAVIS	137	FORCED FEE PATENT
	132	JULIA DOMMY	139	FORCED FEE PATENT
	133	ELY DOMMY	140	FORCED FEE PATENT
	134	POLLY DICK	128	TIMBER WRONGFULLY REMOVED
	135	HANNAH DICK	129	SALE WITHOUT FULL CONSENT
	136	WILLIAM DICK	130	FORCED FEE PATENT
	137	SOPHIA DICK	133	FORCED FEE PATENT
	138	SOPHIA DICK	133	TRESPASS & OCCUPATION W/O LEASE

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
P01142	139	MARY BUCK	134	FORCED FEE PATENT
	140	BISBY DICKSON	118	FORCED FEE PATENT
	141	WILLIAM DEPOE	123	FORCED FEE PATENT
	142	DELIA DEPOE	124	FORCED FEE PATENT
	143	MATILDA DEPOE	126	FORCED FEE PATENT
	144	CLARA DEPOE	127	FORCED FEE PATENT
	145	GEORGE CUTLIP	103	FORCED FEE PATENT
	146	ANNA CUTLIP	104	FORCED FEE PATENT
	147	SARAH CAPTAIN	115	FORCED FEE PATENT
	148	JESSE CROOK	116	FORCED FEE PATENT
	149	JAMES BENSELL COLLINS	117	FENCE ENCROACHMENT 01
	150	JAMES BENSELL COLLINS	117	FENCE ENCROACHMENT 02
	151	JAMES BENSELL COLLINS	117	TIMBER WRONGFULLY REMOVED
	152	JACOB COOK	97	FORCED FEE PATENT
	153	MARY JESSE COOK	99	FORCED FEE PATENT
	154	EDWARD COLLINS	100	FORCED FEE PATENT
	155	MILLER COLLINS	101	FORCED FEE PATENT
	156	GRANT CASE	102	FORCED FEE PATENT
	157	LENA CHAPMAN	92	BUILDING TRESPASS
	158	LENA CHAPMAN	92	IMPROPER RENTAL OF BUILDING
	159	FRANK CHAPMAN	93	FORCED FEE PATENT
	160	LOUISA CHAPMAN	94	FORCED FEE PATENT
	161	ALECK CATFISH	95	FORCED FEE PATENT
	162	ELIZA CATFISH	96	FORCED FEE PATENT
	163	JULIA CHARLEY	81	FORCED FEE PATENT
	164	JOSEPH COOK	85	FORCED FEE PATENT
	165	JOSEPH COOK	85	UNPAID LEASE
	166	JOSEPH COOK	85	UNCOLLECTED NOTES
	167	LETTICE COOK	86	FORCED FEE PATENT
	168	LETTICE COOK	86	IMPROPER DESIGNATION OF SCHOOL LANDS
	169	GRACE COOK	87	FORCED FEE PATENT
	170	EDNA COOK	88	FORCED FEE PATENT
	171	CHETCO CHARLEY	90	FORCED FEE PATENT
	172	CHETCO CHARLEY	90	UNAPPROVED LAND SALE
	173	KITTY CHARLEY	91	RAILROAD TRESPASS
	174	KITTY CHARLEY	91	AGRICULTURAL TRESPASS
	175	KITTY CHARLEY	91	FORCED FEE PATENT
	176	KITTY CHARLEY	91	UNPAID GRAZING LEASE
	177	LENA CHARLEY	82	FORCED FEE PATENT
	178	MAUD CHARLEY	83	FORCED FEE PATENT
	179	ANNA COLLINS	76	HIGHWAY TRESPASS
	180	ANNA COLLINS	76	GRAZING TRESPASS
	181	ANNA COLLINS	76	RAILROAD TRESPASS
	182	ANNA COLLINS	76	FORCED FEE PATENT
	183	ALVENA COLLINS	77	FORCED FEE PATENT
	184	MELINDA COLLINS	78	FORCED FEE PATENT
	185	OSCAR COOK	79	FORCED FEE PATENT
	186	JULIA BATTISE	17	FORCED FEE PATENT
	187	PETER BOB	18	FORCED FEE PATENT
	188	SARAH BOB	19	HIGHWAY TRESPASS
	189	SARAH BOB	19	BUILDING TRESPASS/PRIVATE USE
	190	SARAH BOB	19	UNAPPROVED AND UNPAID LEASE
	191	MARY CHARLEY	74	FORCED FEE PATENT
	192	MARY CHARLEY	74	UNAPPROVED LAND SALE
	193	MARY CHARLEY	74	UNPAID LEASE
	194	MAYES DOMMY	SUP.13	TIMBER WRONGFULLY REMOVED
	195	MAYES DOMMY	SUP.13	SALE WITHOUT FULL CONSENT
	196	ALSEA ALBERT	14	FORCED FEE PATENT
	197	JANE ALBERT	15	FORCED FEE PATENT
	198	JANE ALBERT	15	UNAPPROVED LAND SALE
	199	GEORGE DILLEY	SUP.15	FORCED FEE PATENT
	200	WILLIAM BATTISE	16	FORCED FEE PATENT
	201	WILLIAM BATTISE	16	SALE WITHOUT FULL CONSENT
	202	STEVENS ARDEN	3	FORCED FEE PATENT
	203	CLAYBORNE ARDEN	4	FORCED FEE PATENT
	204	BELLE M. BRIGGS	SUPP.4	FORCED FEE PATENT
	205	JOHN ADAMS SR.	5	UNPAID LEASE
	206	JOHN ADAMS SR.	5	TIMBER WRONGFULLY REMOVED

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
P01142	207	JOHN ADAMS SR.	5	HIGHWAY TRESPASS
	208	JOSEPH O. BRIGGS	SUPP.5	FORCED FEE PATENT
	209	BROWN ARDEN	1	FORCED FEE PATENT
	210	MELISSA MONTGOMERY	SUPP.1	FORCED FEE PATENT
	211	MELISSA MONTGOMERY	SUPP.1	SALE WITHOUT FULL CONSENT
	212	MELISSA MONTGOMERY	SUPP.1	ROAD TRESPASS
	213	ADA ARDEN	2	FORCED FEE PATENT
	214	ALSEA OR OLD MACK	SUPP.2	FORCED FEE PATENT
	215	ALSEA OR OLD MACK	SUPP.2	ROAD TRESPASS
	216	GEORGE HARNEY	190	FORCED FEE PATENT
	217	GEORGE HARNEY	190	UNPAID GRAZING LEASE
	218	ELIZABETH HARNEY BLACKETER	191	FORCED FEE PATENT
	219	AGNES HARNEY	192	FORCED FEE PATENT
	220	AGNES HARNEY	192	UNPAID LEASE
	221	ADALINE HARNEY (BAKER)	193	UNAPPROVED LAND SALE
	222	WILLIAM BAKER	20	UNPAID TIMBER LEASE
	223	WILLIAM BAKER	20	UNAPPROVED LAND SALE
	224	KELSEY BAKER	22	FORCED FEE PATENT
	225	JAMES BATTISE	24	FORCED FEE PATENT
	226	ANNA BATTISE	25	FORCED FEE PATENT
	227	JESSIE BATTISE	26	UNAPPROVED LAND SALE
	228	ABRAM BELL	27	UNAUTHORIZED SALE BY GUARDIAN
	229	REDMOND BELL	28	UNAUTHORIZED SALE BY GUARDIAN
	230	JOSHLEY BROWN	29	FORCED FEE PATENT
	231	ANNETTA BROWN	30	UNPAID LEASE
	232	EDMUND BENSELL	31	FORCED FEE PATENT
	233	GEORGE BENSELL	32	FORCED FEE PATENT
	234	ARTHUR BENSELL	33	UNPAID TIMBER LEASE
	235	CHETCO BEN JR.	45	FORCED FEE PATENT
	236	CHETCO BEN JR.	45	SALE WITHOUT FULL CONSENT
	237	MARGARET BEN	46	FORCED FEE PATENT
	238	ALICE BEN	47	FORCED FEE PATENT
	239	EDMUND BEN	48	SALE WITHOUT FULL CONSENT
	240	EDMUND BEN	78	FORCED FEE PATENT
	241	HARRISON BEN	49	FORCED FEE PATENT
	242	SILAS BENJAMIN	52	SALE WITHOUT FULL CONSENT
	243	VIOLA BENJAMIN	53	SALE WITHOUT FULL CONSENT
	245	SISSY BENSELL	34	CLAIM TO ACCRETED OR RELICTED LANDS
	246	BERNIE BROWN JR.	FEE	BLDG TRESPASS BY GOV'T
P03101	334	WAPATO JOHN	MA-8	EROSION TRESPASS BY CHELAN ELECTRIC CO
	334A	PETER WAPATO	MA-10	EROSION TRESPASS BY CHELAN ELECTRIC CO
	335	GEORGE F. HEUSY	1429	TIMBER REMOVED WITHOUT PAYMENT
	336	COLVILLE TRIBE	N/A	FLOODING OF TRUST LAND
	337	COLVILLE TRIBE	N/A	WELLS HYDROLECTRIC PROJECT
	338	COLVILLE TRIBE	N/A	FISH-WENATCHEE-ENTIAT-METHOW&OKANOGAN RIVER
P04180	070	CHESTER A. OTTOGARY	NONE	RESERVATION LANDS-NW BAND OF SHOSHONES
P05182	182	EDWARD RABOIN	66	WRONGFUL ALLOTTING OF LAND
	183	LYDIA MOODY (AL-LA-WY-MA)	1099	FORCED FEE PATENT
	184	LAT-SO-SAH	1098	FORCED FEE PATENT
	185	MEMELOH MOSES	1339	SALE WITHOUT FULL CONSENT
	186	KENTUCK TSOULICK	1595	INVALID SALE
	187	ASA WILSON	1523	FORCED FEE PATENT
	188	AWISE WILSON	1524	FORCED FEE PATENT
	189	DANIEL WILSON	1527	FORCED FEE PATENT
	190	JOHN WILSON	1528	FORCED FEE PATENT
	191	ELEANOR G. ANDERSON	1592A	ROAD TRESPASS BY JESSE HAMES ETAL
	192	ELEANOR G. ANDERSON	1592A	GRAZING TRESPASS BY JESSE HAMES
	193	LILY MONTEITH	1460	FENCE IN TRESPASS
	194	ROSE MCCONVILLE HAYES RABOIN	LOT748	TRUST PROPERTY SOLD FOR TAXES
	195	TSE LAU TE WAH ME WIT	1359	ALLEY TRESPASS BY CITY OF KAMIAH
	196	IHSTOMENUMMY	1639	ROCK AND GRAVEL REMOVED
	197	NEZ PERCE TRIBE	N/A	SECOND PRESBYTERIAN CHURCH LAND
	198	HOO SOOSE KAP SIS	303	TRESPASS BY HOWARD ALLIGIER
P06108	009	MAKAH TRIBE	NONE	FISHERY-SAIL RIVER
	010	MAKAH TRIBE	NONE	FISHERY-HOKO RIVER
	011	MAKAH TRIBE	NONE	FISHERY-SEKIU RIVER
	012	MAKAH TRIBE	NONE	FISHERY-SOOES RIVER
	013	MAKAH TRIBE	N/A	FISHERY-PORT CRESCENT/CRESCENT BAY
P06108	014	MAKAH TRIBE	N/A	FISHERY-ELWHA RIVER
	015	MAKAH TRIBE	N/A	FISHERY-LYRE RIVER
	016	MAKAH TRIBE	N/A	FISHERY-EAST TWIN RIVER
	017	MAKAH TRIBE	N/A	FISHERY-WEST TWIN RIVER
	018	MAKAH TRIBE	N/A	FISHERY-PYSHT RIVER
	019	MAKAH TRIBE	N/A	FISHERY-WAATCHE RIVER
	020	MAKAH TRIBE	N/A	FISHERY-BIG RIVER
	021	MAKAH TRIBE	N/A	FISHERY-OZETTE RIVER
	022	MAKAH TRIBE	N/A	FISHERY-MAKAH RIVER
	023	MAKAH TRIBE	N/A	FISHERY-WILLOUGHBY LAKE
	024	MAKAH TRIBE	N/A	FISHERY-NEAH BAY
	025	MAKAH TRIBE	N/A	FISHERY-CLALLAM BAY
	026	MAKAH TRIBE	N/A	FISHERY-MUKKAW BAY
	027	MAKAH TRIBE	N/A	FISHERY-DEEP CREEK
	028	MAKAH TRIBE	N/A	FISHERY-LAMP CREEK
	029	MAKAH TRIBE	N/A	FISHERY-UMBRELLA CREEK
	030	MAKAH TRIBE	N/A	FISHERY-CHARLEY CREEK
	031	MAKAH TRIBE	N/A	FISHERY-COAL CREEK
	032	MAKAH TRIBE	N/A	FISHERY-PETROLEUM CREEK
	033	MAKAH TRIBE	N/A	FISHERY-PILCHUCK CREEK
	034	MAKAH TRIBE	N/A	FISHERY-SHAFER CREEK
	035	MAKAH TRIBE	N/A	FISHERY-SHI/AG CREEK
	036	MAKAH TRIBE	N/A	FISHERY-HOBUCK CREEK
	037	MAKAH TRIBE	N/A	FISHERY-COLBY CREEK
	038	MAKAH TRIBE	N/A	FISHERY-EDUCKET CREEK
	039	MAKAH TRIBE	N/A	FISHERY-SNOW CREEK
	040	MAKAH TRIBE	N/A	FISHERY-GRIMES CREEK
	041	MAKAH TRIBE	N/A	FISHERY-CHEEKA CREEK
P06118	007	SHOALWATER BAY TRIBE	N/A	FLOODING OF TRIBAL LAND
P06121	003	HENRY (CHILAWIT)	1	CLAIM FOR RECOVERY OF LAND
	004	TYEE GEORGE (HALIK KADUB)	10	CLAIM FOR RECOVERY OF LAND
	005	JOHN (KALAPIN)	2	CLAIM FOR RECOVERY OF LAND
	006	DOCTOR JIM (KLATAW)	5	CLAIM FOR RECOVERY OF LAND
P06129	001	JAMESTOWN-KLALLAM TRIBE ETAL	N/A	FISHERY-DUNGENESS RIVER
P06130	020	LUCY MCQUELAH	1023	ILLEGAL TAX FORECLOSURE
P07143	090	JULIA WHITEWOLF	C-291	FORCED FEE PATENT
	091	LITTLE THOMAS(TA-MA-SHI-LO-MI)	U-165	RAILROAD TRESPASS
	092	LITTLE THOMAS(TA-MA-SHI-LO-MI)	U-165	WATERLINE IN TRESPASS
P09144	012	JOHNNY CHARLIE	1	UNAUTHORIZED SALE OF TRUST LANDS
	013	JOE WILLIAMS	2	UNAUTHORIZED SALE OF TRUST LANDS
	014	PAIUTE DICK	3	UNAUTHORIZED SALE OF TRUST LANDS
	015	INDIAN LOUIE	6	UNAUTHORIZED SALE OF TRUST LANDS
	016	JENNIE LOUIE	7	UNAUTHORIZED SALE OF TRUST LANDS
	017	JIMMIE LOUIE	8	UNAUTHORIZED SALE OF TRUST LANDS
	018	CRIPPLE DICK	9	UNAUTHORIZED SALE OF TRUST LANDS
	019	MAGGIE CHARLEY	12	UNAUTHORIZED SALE OF TRUST LANDS
	020	TILLIE CHARLEY	13	UNAUTHORIZED SALE OF TRUST LANDS
	021	JOE GILL	19	UNAUTHORIZED SALE OF TRUST LANDS
	022	INDIAN TABBY	21	UNAUTHORIZED SALE OF TRUST LANDS
	023	NANNIE TUY	23	UNAUTHORIZED SALE OF TRUST LANDS
	024	GEORGE DICK	26	UNAUTHORIZED SALE OF TRUST LANDS
	025	MAGGIE FRANK	29	UNAUTHORIZED SALE OF TRUST LANDS
	026	PALSY TOM	32	UNAUTHORIZED SALE OF TRUST LANDS
	027	SUSIE YUMA	40	UNAUTHORIZED SALE OF TRUST LANDS
	028	PORTOWINI BEAVER	43	UNAUTHORIZED SALE OF TRUST LANDS
	029	INDIAN GERAN	45	UNAUTHORIZED SALE OF TRUST LANDS
	030	BIG BLIND	46	UNAUTHORIZED SALE OF TRUST LANDS
	031	CAUAJUA BLIND	47	UNAUTHORIZED SALE OF TRUST LANDS
	032	INDIAN CHARLEY	48	UNAUTHORIZED SALE OF TRUST LANDS
	033	PETE TOMA	50	UNAUTHORIZED SALE OF TRUST LANDS
	034	INDIAN JENNIE	51	UNAUTHORIZED SALE OF TRUST LANDS
	035	INDIAN MATTIE	53	UNAUTHORIZED SALE OF TRUST LANDS
	036	INDIAN ODE	56	UNAUTHORIZED SALE OF TRUST LANDS
	037	INDIAN SALLIE	58	UNAUTHORIZED SALE OF TRUST LANDS
	038	BURNS PAIUTE TRIBE	63	UNAUTHORIZED SALE OF TRUST LANDS
	039	JENNIE PEDRO	91	UNAUTHORIZED SALE OF TRUST LANDS
	040	ANNIE PEDRO	92	UNAUTHORIZED SALE OF TRUST LANDS
	041	EDITH PEDRO	93	UNAUTHORIZED SALE OF TRUST LANDS

PORTLAND AREA STATUTE CLAIMS

PORTLAND AREA STATUTE CLAIMS

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
P09144	042	LITTLE FOOT	94	UNAUTHORIZED SALE OF TRUST LANDS
	043	INDIAN CANADA	99	UNAUTHORIZED SALE OF TRUST LANDS
	044	SUSIE CANADA	100	UNAUTHORIZED SALE OF TRUST LANDS
	045	JOHN CANADA	107	UNAUTHORIZED SALE OF TRUST LANDS
	046	INDIAN PETE	103	UNAUTHORIZED SALE OF TRUST LANDS
	047	FLORA PEPE	105	UNAUTHORIZED SALE OF TRUST LANDS
	048	INDIAN DUTCHMAN	109	UNAUTHORIZED SALE OF TRUST LANDS
	049	INDIAN OMKADNA	110	UNAUTHORIZED SALE OF TRUST LANDS
	050	PIUTE JAKE	112	UNAUTHORIZED SALE OF TRUST LANDS
	051	INDIAN SAM	113	UNAUTHORIZED SALE OF TRUST LANDS
	052	PETER SAM	114	UNAUTHORIZED SALE OF TRUST LANDS
P09147	001	ANNIE PED	38	FARMING TRESPASS BY ROBERT WILLIAMS
	002	HI AM MOOSE	47	AGRICULTURAL & BLDG. TRESPASS BY PHILIPPI
P10107	012	ALBERT DESCANUM	28	COUNTY ROAD RIGHT OF WAY-SECTION 12
	012A	JOHN JACOBS	27	COUNTRY ROAD RIGHT OF WAY-SECTION 12
P10110	007	NISQUALLY TRIBE	N/A	ILLEGAL TAKING-LAKE NISQUALLY
	008	KLUCKETSUN OR FRANK	18	NISQUALLY RESERVATION CEMETARY
	009	NISQUALLY TRIBE	N/A	FISHERY-LAKE KAPOWSIN
	010	NISQUALLY TRIBE	N/A	FISHERY-TOBOTON CREEK
	011	NISQUALLY TRIBE	N/A	FISHERY-POWELL CREEK
	012	NISQUALLY TRIBE	N/A	FISHERY-MCALLISTER/MEDICINE CREEK
	013	TAKALT OR BILL	25	ILLEGAL SALE OF TRUST PROPERTY
	014	GEORGE STAHI	26	WELFARE FORCED FEE PATENT
	015	GEORGE MCCLOUD SR.	N/A	ILLEGAL CONDEMNATION FOR FORT LEWIS
	016	NISQUALLY TRIBE	N/A	FISHERY-TANWAX CR.(LOGGING & DEVELOPMENT)
	017	KLATUSH	20	FORCED FEE PATENT
	018	JIM YELLOUT	21	WRONGFUL REMOVAL FROM TRUST STATUS
	019	BILL TALKAT	25	WRONGFUL REMOVAL FROM TRUST STATUS
	020	GEORGE STAHI	26	WRONGFUL REMOVAL FROM TRUST STATUS
	021	JAMES NIMROD	N/A	PETER KALAMA(CHURCH)ROAD DAMAGES LAND
	022	HENRY MARTIN	23	DISTRIBUTION TO WRONG HEIRS
	023	PETER MARTIN	22	DISTRIBUTION TO WRONG HEIRS
	024	ROBERT QUEMUTH (QUALAMUTH)	24	DISTRIBUTION TO WRONG HEIRS
	025	SALLY JACKSON	23&24	DISTRIBUTION TO WRONG HEIRS
	026	CHARLIE SQUALLY	23&24	DISTRIBUTION TO WRONG HEIRS
P10111	001	TOSS MEAITA	4135	BURLINGTON NORTHERN RAILROAD
	001A	GEORGE WHAHOLICH	5626	BURLINGTON NORTHERN RAILROAD
	007A	TOM TUCHANON	3912	WHATCOM COUNTY ROAD RIGHT OF WAY IN TRESPASS
	007B	ROBERT SULKANON	3904	WHATCOM COUNTY ROAD RIGHT OF WAY IN TRESPASS
	027	PUBLIC DOMAIN ALLOTMENTS	P.D.	BOUNDARY SURVEY CHANGED LINES
P10119	001	WAPITO JOE	MC3929	ISSUANCE OF FEE PATENT
P10122	016	MARY WILLIAMS	49	WELFARE FORCED FEE PATENT
	017	SWINOMISH TRIBE	N/A	EASTERN BOUNDARY OF RESERVATION CLAIM
	018	SWINOMISH TRIBE	N/A	MARCHES POINT TRESPASS
	019	SWINOMISH TRIBE	N/A	PADILLA BAY BOUNDARY CLAIM
	020	SWINOMISH TRIBE	N/A	FIDALGO BAY BOUNDARY CLAIM
	021	SWINOMISH TRIBE	N/A	SIMILK BAY BOUNDARY CLAIM
	022	SWINOMISH TRIBE	N/A	SKAGIT BAY BOUNDARY CLAIM
	023	SWINOMISH TRIBE	N/A	FISHERY DESTRUCTION CAUSED BY DIKES&JETTIES
P10123	014	KATRINA JIMM	8-B	DAMAGE DUE TO REMOVAL OF GRAVEL
	015	GRACE GOEDEL ET AL.	N/A	PROPERTY FOR 150 LANDLESS INDIANS
	016	TULALIP TRIBES	N/A	ROAD/BRIDGE TRESPASS-QUILCEDA CREEK
	017	TULALIP TRIBES	N/A	SNOHOMISH RIVERBED TRESPASS
	018	TULALIP TRIBES	N/A	FISHERY-PORT GARDINER BAY
	019	TULALIP TRIBES	N/A	FISHERY-SNOHOMISH RIVER SYSTEM
	020	TULALIP TRIBES	N/A	FISHERY-TULALIP BAY
	021	TULALIP TRIBES	N/A	FISHERY-EVERETT BAY
P10130	015	DUWAMISH TRIBE	N/A	DUWAMISH RESERVATION LAND CLAIM
P12151	001	MISTEQUA	TOC	RAILROAD TRESPASS
P13203	0001	TRIBAL	TRIBAL	RESERVATION BOUNDARY DISPUTE(MLSM)
	0002	TRIBAL	TRIBAL	SOVERIGNTY - NON-TAXABLE INCOME
	0003	TRIBAL	TRIBAL	COAL DEVELOPMENT ON CABIN CREEK-BC
	0004	TRIBAL	TRIBAL	WATER RIGHTS-COL.RIVER BASIN WATERSHED
	0005	TRIBAL	TRIBAL	WATER STUDIES PHASE I & II
	0006	TRIBAL	TRIBAL	DEFINING TRUST RESPONSIBLITY
	0007	TRIBAL	TRIBAL	IRRIGATION PROJECT-OWNERSHIP OF EASEMENTS
	0008	TRIBAL	TRIBAL	WAMPUM CASE
	0009	TRIBAL	TRIBAL	ACCESS TO TRUST LAND

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
P13203	0010	TRIBAL	TRIBAL	WAMPUM II CASE-CITY OF POLSON
	0011	FRANCIS CULLOYAH	1668	DELINQUENT O&M CHARGES
	0012	FRANK GRAVELLE	168	DELINQUENT O&M CHARGES
	0013	SARAH LEMERY	393	DELINQUENT O&M CHARGES
	0014	MARY LADDERROUTE	1375	DELINQUENT O&M CHARGES
	0015	AGNES LADDERROUTE	1373	DELINQUENT O&M CHARGES
	0016	BAPTISTE LUMPRY	1247	DELINQUENT O&M CHARGES
	0017	NICHOLAI GRAVELLE	2115	DELINQUENT O&M CHARGES
	0018	PHILOMENE BURLAND	1067	DELINQUENT O&M CHARGES
	0019	REVAIS CREEK DISTRICT	TRIBAL	DAMAGES FOR IRRIGATION DITCH DIVERSION
	0023	ELIZABETH ASHLEY	90	OLD AGE ASSISTANCE
	0049	THERESE MICHEL	867	OLD AGE ASSISTANCE
	0112	SOURCIE FAMILY	N/A	REJECTED ALLOTMENT-WD OTHERS
	0115	TRIBAL	TRIBAL	FLATHEAD IRRIGATION PROJECT-EROSION
	0116	JOHN LAMOOSE	1404	DELINQUENT O&M CHARGES
	0117	TRIBAL	TRIBAL	S.12 T.15N R.19W TIMBER TRESPASS
	0118	TRIBAL	TRIBAL	SHARTZ LAKE-TIMBER TRESPASS
	0119	PAUL KALLOWATT	2830	NELS LUMBER CO-TIMBER TRESPASS
	0120	TRIBAL	TRIBAL	WILLIAM SCHALL-TIMBER TRESPASS
	0121	TRIBAL	TRIBAL	SCHWARTZ LAKE-TIMBER TRESPASS
	0122	TRIBAL	TRIBAL	OVER CUTTING TRIBAL TIMBER
	0123	TRIBAL	TRIBAL	FOREST FIRE DAMAGES-TRIBAL FUNDS
	0124	TRIBAL	TRIBAL	1855 TREATY RESERVATION LANDS
	0125	MORRIS ROBERT MOULE	U05662	UNFAIR BID ON LEASE
	0126	TRIBAL	TRIBAL	OFF RESERVATION VOTING
	0127	TRIBAL	TRIBAL	SW BOUNDARY DISPUTE
	0128	TRIBAL	TRIBAL	COMPENSATION FROM MINING CLAIMS
	0129	TRIBAL	TRIBAL	REPAYMENT OF LEGAL & COURT COSTS
	0130	TRIBAL	TRIBAL	INDIAN ALLOT ACT-LOSS OF TRUST LANDS
	0131	TRIBAL	TRIBAL	HOSPITALIZATION PAID BY TRIBES
	0133	TRIBAL	TRIBAL	BOUNDARY ERROR-DOG LAKE
	0134	TRIBAL	TRIBAL	SIRACEK CASE
	0135	TRIBAL	TRIBAL	POWER LINE RIGHT OF WAY
	0136	TRIBAL	TRIBAL	COMPENSATION FOR MPRR RIGHT OF WAY
	0137	TRIBAL	TRIBAL	IRRIGATION PROJECT
	0138	TRIBAL	TRIBAL	IRRIGATION SERVICE - WASHOUTS
	0139	NINEPIPE RESERVOIR	TRIBAL	DUCK HUNTERS CABINS-NINEPIPE
	0140	TRIBAL	TRIBAL	IRRIGATION SERVICE SELLING WATER RIGHTS
	0141	ALFRED RAYMOND SENECAL	TRIBAL	ROUND BUTTE WATER SYSTEM
	0142	DERWIN F. HALVARSON	TRIBAL	KERR DAM-FUTURE PLANNING
	0143	TRIBAL	TRIBAL	1940 ENACTMENT
	0144	TRIBAL	TRIBAL	TAPPING MOUNTAIN STREAMS
	0145	TRIBAL	TRIBAL	JURISDICTION OVER NON-INDIAN ON RESERVATION
	0146	FERRY BASIN	TRIBAL	TIMBER TRESPASS-RON INGRAHAM
	0147	GARCEAU GULCH	TRIBAL	TIMBER TRESPASS-BOB LERCK
	0148	JETTER AREA	TRIBAL	TIMBER TRESPASS-JOHN PENTLAND
	0149	TRIBAL	TRIBAL	TIMBER TRESPASS-CLINTON REUM
	0150	NORTH FORK JOCKO	TRIBAL	TIMBER TRESPASS-THOMAS M. WHEELER
	0151	COLD CREEK AREA	TRIBAL	TIMBER TRESPASS-THOMAS M. WHEELER
	0152	COLD CREEK AREA	TRIBAL	TIMBER TRESPASS-VERLINE ETTA
	0153	COLD CREEK AREA	TRIBAL	TIMBER TRESPASS-MIKE R. GRAHAM
	0154	COLD CREEK AREA	TRIBAL	TIMBER TRESPASS-VERNE J. HAMMOND
	0155	COLD CREEK AREA	TRIBAL	TIMBER TRESPASS-WILLIAM M. HAMMOND
	0156	COLD CREEK AREA	TRIBAL	TIMBER TRESPASS-RICHARD L. WOULTON
	0157	BLUE BAY RESORT	TRIBAL	D&J CORP-NON PERFORMANCE
	0158	ROSE DUPUIS-DEC.	1020	LEASE NON-PERFORMANCE -DENTON FAMILY
	0159	TRIBAL	TRIBAL	TIMBER REMOVAL-FEE LANDS
	0160	TRIBAL	TRIBAL	TIMBER REMOVAL-FEE LANDS
	0161	TRIBAL	TRIBAL	TIMBER REMOVAL-FEE LANDS
	0162	TRIBAL	TRIBAL	TIMBER REMOVAL-FEE LANDS
	0163	TRIBAL	TRIBAL	TIMBER REMOVAL-FEE LANDS
	0164	DOROTHY E. CLINGENBEARD	U07496	JOE'S SMOKE RING
	0165	KENALEUIS DUPUIS	N/A	DELINQUENT O&M CHARGES
	0166	TRIBAL-SEC 3-T19N-R19W	TRIBAL	TIMBER TRESPASS-CARTER LUMBER CO
	0167	TRIBAL	TRIBAL	GASOLINE & LIQUOR TAXES
	0168	STOLTZE LUMBER CO.	N/A	TIMBER TRESPASS-BIA
	0169	TRIBAL	TRIBAL	COAL PROJECT-SAGE CREEK
	0170	LAURE M. MATTEMLOIS H. DUPUIS	3073	LIEU ALLOT W/O PROMISED COMPENSATION

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
P13203	0171	PUBLIC ROADS	TRIBAL	CCC ROADS OR TRUCK TRAILS R/W
	0172	EDWARD CLAIRMONT	964	GIFT DEED OF TRUST LAND-ROMAN CITY PARK
	0439	TRIBAL	R.U.#1	TRESPASS-GRAZING IN RANGE UNIT 1
	1048	JOSEPH REDHORN	3225	IMPROPER CONVEYANCE OF LAND
	1050	MAGGIE MCDONALD	470	FORCED FEE PATENT
	1056	MARY PABLO BARNABY	1150	SECRETARIAL TRANSFER
	1057	CHRISTINA VANDERBURG (NEFF)	1273	SECRETARIAL TRANSFER
	1058	HENRY CLAIRMONT	946	FORCED FEE PATENT
	1059	TRIBAL	TRIBAL	UTILITY RIGHT OF WAY TRESPASS
	1060	STATION CREEK TO DEE CREEK	T2815	WATER LINE TRESPASS
	1061	TRIBAL	TRIBAL	MUD CREEK DIVERSION WATER LINE
	1062	TRIBAL	TRIBAL	FESTOU VILLA DIVERSION WATER LINE
	1063	TRIBAL	TRIBAL	BLUE BAY CREEK #1 WATER LINE
	1064	TRIBAL	TRIBAL	TEEPEE CREEK DIVERSION WATER LINE
	1065	TRIBAL	T23238	COURVILLE CREEK#1 WATER LINE
	1066	TRIBAL	T2996	BOULDER CREEK#1 WATER LINE
	1067	TRIBAL	T2996	BOULDER CREEK#2 WATER LINE
	1068	TRIBAL	1009-A	DUPUIS DIVERSION WATER LINE
	1069	CALVIN MARKLE	2260	RP03-1071 ROAD IN TRESPASS
	1070	HOWARD JACK DOLSON	4101	RP03-1071 ROAD IN TRESPASS
	1071	TRIBAL	TRIBAL	RP03-1071 ROAD IN TRESPASS
	1072	TRIBAL	TRIBAL	RP03-1075 ROAD IN TRESPASS
	1073	MARGARET JANE DECKER	2665	RP03-1075 ROAD IN TRESPASS
	1074	PENAMA LAMOOSE	1395-C	RP03-1076 ROAD IN TRESPASS
	1075	TRIBAL	T4023	RP03-1077 ROAD IN TRESPASS
	1076	TRIBAL	T4024	RP03-1077 ROAD IN TRESPASS
	1077	BAPTISTE PERRISH	1720	RP03-1077 ROAD IN TRESPASS
	1078	MARY LEFTHAND	1669-A	RP03-1078 ROAD IN TRESPASS
	1079	MARY G. KEENAN RIEKENA	4273	RP03-1078 ROAD IN TRESPASS
	1080	MARY G. KEENAN RIEKENA	4331	RP03-1078 ROAD IN TRESPASS
	1081	ANITA ESPINOZA HANSON	4376	RP03-1078 ROAD IN TRESPASS
	1082	ELSIE GERTRUDE BISSON	T2556	RP03-1080 ROAD IN TRESPASS
	1083	TRIBAL	TRIBAL	RP03-1080 ROAD IN TRESPASS
	1084	CHARLES SEEMOO	915	RP03-1083 ROAD IN TRESPASS
	1085	TRIBAL	TRIBAL	RP03-1084 ROAD IN TRESPASS
	1086	ANNA EVALINE SLOAN	1187	RP03-1085 ROAD IN TRESPASS
	1087	JOSEPH O. DUPUIS	997	RP03-1087 ROAD IN TRESPASS
	1088	WILLIAM FINLEY	T1219	RP03-1087 ROAD IN TRESPASS
	1089	WILLIAM GRAVELLE	165	RP03-1090 ROAD IN TRESPASS
	1090	OLIVER KENDALL DUPUIS	4251	RP03-1090 ROAD IN TRESPASS
	1091	TRIBAL	TRIBAL	RP03-1093 ROAD IN TRESPASS
	1092	PHILLIP ALFRED ROULLIER	3230	RP03-1095 ROAD IN TRESPASS
	1093	TRIBAL	TRIBAL	RP03-1096 ROAD IN TRESPASS
	1094	WINNIFRED RAYMOND	3216	RP03-1098 ROAD IN TRESPASS
	1095	TRIBAL	TRIBAL	RP03-1099 ROAD IN TRESPASS
	1096	ROSS R. HOLLOWAY	2806	RP03-1100 ROAD IN TRESPASS
	1097	WINNIFRED RAYMOND	3216	RP03-1100 ROAD IN TRESPASS
	1098	FELICITE PIERRE	2024	RP03-1102 ROAD IN TRESPASS
	1099	ENEAS PIERRE KENMILL	T2001	RP03-1106 ROAD IN TRESPASS
	1100	DONALD MICHEL	T3048	RP03-1107 ROAD IN TRESPASS
	1101	TRIBAL	T4000	RP03-1108 ROAD IN TRESPASS
	1102	AMELIA ABRAHAM	T2048	RP03-1108 ROAD IN TRESPASS
	1103	TILLEAS ABRAHAM	T2049	RP03-1108 ROAD IN TRESPASS
	1104	PIERRE PAUL ABRAHAM	T2050	RP03-1108 ROAD IN TRESPASS
	1105	CATHERINE DAVID	2057-B	RP03-1108 ROAD IN TRESPASS
	1106	CATHERINE DAVID	2057-A	RP03-1108 ROAD IN TRESPASS
	1107	CASIMER GUSTAH	2008-A	RP03-1108 ROAD IN TRESPASS
	1108	CASIMER GUSTAH	2008-C	RP03-1108 ROAD IN TRESPASS
	1109	CASIMER GUSTAH	2008-D	RP03-1108 ROAD IN TRESPASS
	1110	MARY GUSTAH	2009-A	RP03-1108 ROAD IN TRESPASS
	1111	MARY GUSTAH	2009-B	RP03-1108 ROAD IN TRESPASS
	1112	MARY GUSTAH	2009-D	RP03-1008 ROAD IN TRESPASS
	1113	MARY GUSTAH	2009-C	RP03-1108 ROAD IN TRESPASS
	1114	THERESE FINLEY	T1947	RP03-1106 ROAD IN TRESPASS
	1115	PIERRE FINLEY	1948	RP03-1108 ROAD IN TRESPASS
	1116	ANGELIC FINLEY	T1949	RP03-1108 ROAD IN TRESPASS
	1117	SAPINE COUTURE	T1498	RP03-1108 ROAD IN TRESPASS
	1118	TRIBAL	TRIBAL	RP03-1108 ROAD IN TRESPASS

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
P13203	1119	LUCY KINMICKY	2097	RP03-1108 ROAD IN TRESPASS
	1120	ANNEAS KINMICKY	2014-B	RP03-1108 ROAD IN TRESPASS
	1121	ANNEAS KINMICKY	T2014	RP03-1108 ROAD IN TRESPASS
	1122	WILLIAM WONISEC JULIEN	2013	RP03-1108 ROAD IN TRESPASS
	1123	MARY LITTLE	T2437	RP03-1108 ROAD IN TRESPASS
	1124	NEALIE MARTIN	2101	RP03-1108 ROAD IN TRESPASS
	1125	ALEX COUTURE	T1490	RP03-1108 ROAD IN TRESPASS
	1126	JOHN COUTURE	1487-A	RP03-1108 ROAD IN TRESPASS
	1127	JOHN COUTURE	1487-B	RP03-1108 ROAD IN TRESPASS
	1128	MARY COUTURE LEFTHAND	4115	RP03-1108 ROAD IN TRESPASS
	1129	MADELINE KINMICKY	T1489	RP03-1108 ROAD IN TRESPASS
	1130	TRIBAL	T4013	RP03-1108 ROAD IN TRESPASS
	1131	TRIBAL	TRIBAL	RP03-1109 ROAD IN TRESPASS
	1132	TRIBAL	TRIBAL	RP03-1111 ROAD IN TRESPASS
	1133	ROMAINE JOSCUM	194	RP03-1112 ROAD IN TRESPASS
	1134	ROMAINE JOSCUM	194-A	RP03-1112 ROAD IN TRESPASS
	1135	FRANCOIS JOSCUM	198-B	RP03-1112 ROAD IN TRESPASS
	1136	ISADORE THREE WOODCOCKS	1819	RP03-1113 ROAD IN TRESPASS
	1137	MARY SOPHIE WOODCOCKS	1820	RP03-1113 ROAD IN TRESPASS
	1138	TRIBAL	TRIBAL	RP03-1115 ROAD IN TRESPASS
	1139	MARY HEHANKORN	T1955	RP03-1118 ROAD IN TRESPASS
	1140	MAY BURLAND	T2577	RP03-1118 ROAD IN TRESPASS
	1141	DELILAH MARIE BURLAND	T2578	RP03-1118 ROAD IN TRESPASS
	1142	THERESA LOUIS TELPAH	T3300	RP03-1123 ROAD IN TRESPASS
	1143	JANE FINLEY GOUCHER	1941	RP03-1124 ROAD IN TRESPASS
	1144	ISABEL CARRON	408-A	RP03-1136 ROAD IN TRESPASS
	1145	ISABEL CARRON	408-B	RP03-1136 ROAD IN TRESPASS
	1146	TRIBAL	TRIBAL	RP03-1138 ROAD IN TRESPASS
	1147	ANN CHESCOOLAY	2393	RP03-1139 ROAD IN TRESPASS
	1148	CECILLE CHESCOOLAY	2394	RP03-1139 ROAD IN TRESPASS
	1149	PHILLIP ALFRED ROULLIER	3230	RP03-1143 ROAD IN TRESPASS
	1150	FRANK ROEDER	1813	RP03-1153 ROAD IN TRESPASS
	1151	ROBERT ARTHUR MCCREA	2915	RP03-1155 ROAD IN TRESPASS
	1152	LUCY MATT	3037-A	RP03-1153 ROAD IN TRESPASS
	1153	LUCY MATT	T3037	RP03-1153 ROAD IN TRESPASS
	1154	ALICE GILLIN	4352	RP03-1153 ROAD IN TRESPASS
	1155	ENEAS MICHEL	T798	RP03-1179 ROAD IN TRESPASS
	1156	SUSAN JOSEPH	T853	RP03-1179 ROAD IN TRESPASS
	1157	ROSALIE FINLEY	T2451	RP03-1179 ROAD IN TRESPASS
	1158	ROSALIE FINLEY	T2451A	RP03-1179 ROAD IN TRESPASS
	1159	ROSALIE FINLEY	2451-B	RP03-1179 ROAD IN TRESPASS
	1160	ENEAS PIERRE KENMILL	T2001	RP03-1185 ROAD IN TRESPASS
	1161	BAPTISTE MATHIAS	2031	RP03-1185 ROAD IN TRESPASS
	1162	TRIBAL	TRIBAL	RP03-1185 ROAD IN TRESPASS
	1163	TRIBAL	TRIBAL	RP03-1193 ROAD IN TRESPASS
	1164	WILLIAM GRAVELLE	165	RP03-1193 ROAD IN TRESPASS
	1165	LOUISE LEMERY GOLICK	2874	RP03-1194 ROAD IN TRESPASS
	1166	TRIBAL	T4177	RP03-1198 ROAD IN TRESPASS
	1167	TRIBAL	TRIBAL	RP03-1200 ROAD IN TRESPASS
	1168	TRIBAL	TRIBAL	RP03-1219 ROAD IN TRESPASS
	1169	ANN PACHE	T514	RP03-1225 ROAD IN TRESPASS
	1170	ENEAS SMALLSALMON	T649	RP03-1225 ROAD IN TRESPASS
	1171	LOUIE HAMMER	T918	RP03-1225 ROAD IN TRESPASS
	1172	PASCAL HAMMER	T919	RP03-1225 ROAD IN TRESPASS
	1173	LUCY MOTOMEK	T923	RP03-1225 ROAD IN TRESPASS
	1174	DORTHEA TAHLAHTEE	T973	RP03-1225 ROAD IN TRESPASS
	1175	ANNIE ISSAC	T976	RP03-1225 ROAD IN TRESPASS
	1176	JOSEPH QUEQUESAH	991	RP03-1225 ROAD IN TRESPASS
	1177	MARY QUEQUESAH	992	RP03-1225 ROAD IN TRESPASS
	1178	IGNACE QUEQUESAH	994	RP03-1225 ROAD IN TRESPASS
	1179	ANTOINE QUEQUESAH	T995-A	RP03-1225 ROAD IN TRESPASS
	1180	ANTOINE QUEQUESAH	995	RP03-1225 ROAD IN TRESPASS
	1181	MARY WOODCOCK	1035	RP03-1225 ROAD IN TRESPASS
	1182	ISABEL WOODCOCK	1036-C	RP03-1225 ROAD IN TRESPASS
	1183	PHILIP CHEMSTOO	T1853	RP03-1225 ROAD IN TRESPASS
	1184	PHILIP CHEMSTOO	1853-A	RP03-1225 ROAD IN TRESPASS
	1185	RALPH ROUSSELL	T1921A	RP03-1225 ROAD IN TRESPASS
	1186	MARY C. SMALLSALMON	T2590	RP03-1225 ROAD IN TRESPASS

PORTLAND AREA STATUTE CLAIMS

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM	
P13203	1255	THEL MARIE MCLEOD	2255	RP03-1295	ROAD IN TRESPASS
	1256	ROSALINE LASSAN REDHORN	909	RP03-1301	ROAD IN TRESPASS
	1257	MARY SOPHIA REDHORN	910	RP03-1301	ROAD IN TRESPASS
	1258	CHARLES SEDMOD	915	RP03-1301	ROAD IN TRESPASS
	1259	LOUISE FINLEY	1316	RP03-1311	ROAD IN TRESPASS
	1260	AUGUST ALOYSIUS ASHLEY	2497	RP03-1311	ROAD IN TRESPASS
	1261	AUGUST ALOYSIUS ASHLEY	2497-D	RP03-1311	ROAD IN TRESPASS
	1262	TRIBAL	TRIBAL	RP03-1322	ROAD IN TRESPASS
	1263	ELIZABETH LANDGREEN	2863	RP03-1324	ROAD IN TRESPASS
	1264	TRIBAL	TRIBAL	RP03-1341	ROAD IN TRESPASS
	1265	TRIBAL	TRIBAL	RP03-1347	ROAD IN TRESPASS
	1266	MARY ANN ENEAS	436-F	RP03-1348	ROAD IN TRESPASS
	1267	PIERRE ENEAS	436-T	RP03-1348	ROAD IN TRESPASS
	1268	LUCY ENEAS	437-F	RP03-1348	ROAD IN TRESPASS
	1269	LOUISE ENEAS	438-F	RP03-1348	ROAD IN TRESPASS
	1270	MRS SMALLSALMON	438-T	RP03-1348	ROAD IN TRESPASS
	1271	LOUIE PIERRE	775	RP03-1348	ROAD IN TRESPASS
	1272	LUCY PIERRE INNOOSTAY	775	RP03-1348	ROAD IN TRESPASS
	1273	TRIBAL	TRIBAL	RP03-1351	ROAD IN TRESPASS
	1274	TRIBAL	TRIBAL	RP03-1357	ROAD IN TRESPASS
	1275	EMILY LANDGREEN	7399	RP03-1357	ROAD IN TRESPASS
	1276	LOUIE PIERRE	2281-D	RP03-1358	ROAD IN TRESPASS
	1277	BAPTISTE DOMINICK FINLEY	1212	RP03-1359	ROAD IN TRESPASS
	1278	JOSEPH KYSER	T13264	RP03-1359	ROAD IN TRESPASS
	1279	JOSEPH KYSER	T13264	RP03-1359	ROAD IN TRESPASS
	1280	ENEAS ADAMS	1527	RP03-1359	ROAD IN TRESPASS
	1281	ADELE ADAMS	1528	RP03-1359	ROAD IN TRESPASS
	1282	AGNES ADAMS	1529	RP03-1359	ROAD IN TRESPASS
	1283	ANTOINE ADAMS	1244	RP03-1359	ROAD IN TRESPASS
	1284	CHRISTINE FINLEY	2717	RP03-1359	ROAD IN TRESPASS
	1285	LUCY PIERRE	T3178	RP03-1359	ROAD IN TRESPASS
	1286	AGATE KAMITTE	1655	RP03-1360	ROAD IN TRESPASS
	1287	BAPTISTE FINLEY	1212	RP03-1361	ROAD IN TRESPASS
	1288	ANGELIC LOUISE PALIN	646	RP03-1363	ROAD IN TRESPASS
	1289	AGATE KAMITTE	655-D	RP03-1363	ROAD IN TRESPASS
	1290	AGATE KAMITTE	T655	RP03-1363	ROAD IN TRESPASS
	1291	LOUIE PIERRE	2281-C-D	RP03-1363	ROAD IN TRESPASS
	1292	LOUIE PIERRE	2281-D	RP03-1363	ROAD IN TRESPASS
	1293	SUSAN PIERRE	T2282	RP03-1363	ROAD IN TRESPASS
	1294	JOSEPH SEEPAY	T2272	RP03-1364	ROAD IN TRESPASS
	1295	ROSALIE SEEPAY	2273	RP03-1364	ROAD IN TRESPASS
	1296	HENRIETTE RUBY BURGESS	2576	RP03-1364	ROAD IN TRESPASS
	1297	BERTHA JOSEPHINE BURGESS	TRIBAL	RP03-1364	ROAD IN TRESPASS
	1298	TRIBAL	10547	RP03-1365	ROAD IN TRESPASS
	1299	ANDREW WILLEE	T2887	RP03-1366	ROAD IN TRESPASS
	1300	JAMES LOZEAU	TRIBAL	RP03-1366	ROAD IN TRESPASS
	1301	TRIBAL	1695-D	RP03-1369	ROAD IN TRESPASS
	1302	MARY LOUISE PAUL	2230	RP03-1369	ROAD IN TRESPASS
	1303	ABEL PLUFF	2231	RP03-1369	ROAD IN TRESPASS
	1304	MARY LOUISE PLUFF	TRIBAL	RP03-1370	ROAD IN TRESPASS
	1305	TRIBAL	2110	RP03-1372	ROAD IN TRESPASS
	1306	FRANCOIS MARTIN	2117	RP03-1372	ROAD IN TRESPASS
	1307	MARY MATEAS	TRIBAL	RP03-1373	ROAD IN TRESPASS
	1308	TRIBAL	T2170	RP03-1373	ROAD IN TRESPASS
	1309	MARY PAUL MARTIN	0215D	RP03-1373	ROAD IN TRESPASS
	1310	JOSEPHINE ENEAS	0215D	RP03-1373	ROAD IN TRESPASS
	1311	LUCY ENEAS	02151	RP03-1373	ROAD IN TRESPASS
	1312	RODESTE ENEAS	02152	RP03-1373	ROAD IN TRESPASS
	1313	ANN MATHIAS	02153	RP03-1373	ROAD IN TRESPASS
	1314	LOUISE PAUL	02154	RP03-1373	ROAD IN TRESPASS
	1316	SOWEKH NICOLA	1697	RP03-1373	ROAD IN TRESPASS
	1317	ALEXANDER HOMINGTO	2181	RP03-1373	ROAD IN TRESPASS
	1318	ANDREW TESSO	2187	RP03-1373	ROAD IN TRESPASS
	1319	SUSTEEL MARY SOLOMON	2234	RP03-1373	ROAD IN TRESPASS
	1320	PHILLIP CONTESTO	2307	RP03-1373	ROAD IN TRESPASS
	1321	FRANCOIS CESSAM	2310	RP03-1373	ROAD IN TRESPASS
	1322	MARY SUSAN CESSAM	T2202	RP03-1373	ROAD IN TRESPASS
			T2208	RP03-1375	ROAD IN TRESPASS

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM	
P13203	1187	MARY LOUISE CALOMAHCAN	T2592	RP03-1225	ROAD IN TRESPASS
	1188	ISAAC COMPEYEH	353	RP03-1228	ROAD IN TRESPASS
	1189	MARY LOUISE COMPEYEH	T354	RP03-1228	ROAD IN TRESPASS
	1190	PIERRE PAUL	355	RP03-1228	ROAD IN TRESPASS
	1191	JOSEPH BADROAD	403	RP03-1228	ROAD IN TRESPASS
	1192	ELLEN BADROAD	404	RP03-1228	ROAD IN TRESPASS
	1193	LAMAY BADROAD	405	RP03-1228	ROAD IN TRESPASS
	1194	ENEAS BADROAD	406	RP03-1228	ROAD IN TRESPASS
	1195	RITA MCKEEVER	T406	RP03-1228	ROAD IN TRESPASS
	1196	TRIBAL	TRIBAL	RP03-1230	ROAD IN TRESPASS
	1197	CECILLE CULLOOYAH	1447	RP03-1233	ROAD IN TRESPASS
	1198	JOSEPH TELPAH	2329	RP03-1233	ROAD IN TRESPASS
	1199	FREDERICK L. RAYMOND	2377	RP03-1233	ROAD IN TRESPASS
	1200	ISABEL NOLA-SHOLA	T2348	RP03-1233	ROAD IN TRESPASS
	1201	LUCY REDMON	T2378	RP03-1233	ROAD IN TRESPASS
	1202	ROBERT C. MCLEOD	2379	RP03-1238	ROAD IN TRESPASS
	1203	MADELINE DAVID	2247	RP03-1238	ROAD IN TRESPASS
	1204	THERESE MOPPEE	2373	RP03-1238	ROAD IN TRESPASS
	1205	TRIBAL	TRIBAL	RP03-1245	ROAD IN TRESPASS
	1206	ARMINE M. CLAIRMONT	943	RP03-1261	ROAD IN TRESPASS
	1207	ISABEL BIGHORN	1408	RP03-1265	ROAD IN TRESPASS
	1208	JULIA WYATT	3033	RP03-1266	ROAD IN TRESPASS
	1209	FELICITE FYANT	1713-A	RP03-1268	ROAD IN TRESPASS
	1210	FELICITE FYANT	1713-B	RP03-1268	ROAD IN TRESPASS
	1211	FELICITE FYANT	1713-C	RP03-1268	ROAD IN TRESPASS
	1212	FELICITE FYANT	1713-E	RP03-1268	ROAD IN TRESPASS
	1213	CAROLINE FYANT	1714-T	RP03-1268	ROAD IN TRESPASS
	1214	ROSE ELLEN FYANT	1715-T	RP03-1268	ROAD IN TRESPASS
	1215	ROSE ELLEN FYANT	1716-T	RP03-1268	ROAD IN TRESPASS
	1216	PAUL MOLOKES	T1718	RP03-1268	ROAD IN TRESPASS
	1217	MARY WALUKES	T1719	RP03-1268	ROAD IN TRESPASS
	1218	TRIBAL	T4012	RP03-1270	ROAD IN TRESPASS
	1219	SOPHIA PLANT	T10438	RP03-1270	ROAD IN TRESPASS
	1220	SOPHIA PLANT	T10438	RP03-1270	ROAD IN TRESPASS
	1221	ISAAC PLANT	T1042	RP03-1270	ROAD IN TRESPASS
	1222	JOSEPH E. & MCDONNELL	235	RP03-1273	ROAD IN TRESPASS
	1223	ALICE I. OWA MITCHELL	4405	RP03-1273	ROAD IN TRESPASS
	1224	THEODORE PLUFFE	202-D	RP03-1274	ROAD IN TRESPASS
	1225	THEODORE PLUFFE	202-C	RP03-1274	ROAD IN TRESPASS
	1226	NANCY FINLEY	808-C	RP03-1274	ROAD IN TRESPASS
	1227	NANCY FINLEY	808-D	RP03-1274	ROAD IN TRESPASS
	1228	EVA MICHEL	789	RP03-1276	ROAD IN TRESPASS
	1229	PAUL CULLOOYAH	1461	RP03-1278	ROAD IN TRESPASS
	1230	MARY THERESE ANTOINE	343	RP03-1282	ROAD IN TRESPASS
	1231	MAIZAIRE FINLEY	443	RP03-1282	ROAD IN TRESPASS
	1232	ADAM ALLARD	773	RP03-1282	ROAD IN TRESPASS
	1233	EVA CLAUDIS ALLARD	774	RP03-1282	ROAD IN TRESPASS
	1234	EUGENE LEWIS ALLARD	775	RP03-1282	ROAD IN TRESPASS
	1235	SIDNEY ALLARD	776	RP03-1282	ROAD IN TRESPASS
	1236	LUCY D. J. KICKINGHORSE	841	RP03-1282	ROAD IN TRESPASS
	1237	CECILLE FINLEY	843	RP03-1282	ROAD IN TRESPASS
	1238	PIERRE JOSEPH	844-T	RP03-1282	ROAD IN TRESPASS
	1239	MARY JOSEPH	847	RP03-1282	ROAD IN TRESPASS
	1240	JOHN PETER PAUL	4002	RP03-1282	ROAD IN TRESPASS
	1241	JOSEPH L. PARKER & PATRICK ADAMS	4002-A	RP03-1282	ROAD IN TRESPASS
	1242	PHILLIP PAUL	4002-B	RP03-1282	ROAD IN TRESPASS
	1243	PHILLIP PAUL	4002-C	RP03-1282	ROAD IN TRESPASS
	1244	MARY ROSE JOSEPH	4002-D	RP03-1282	ROAD IN TRESPASS
	1245	CHERYL D. COTE	4002-E	RP03-1282	ROAD IN TRESPASS
	1246	CHERYL A. COTE	4002-F	RP03-1282	ROAD IN TRESPASS
	1247	SIDNEY A. ALLARD	4002-I	RP03-1282	ROAD IN TRESPASS
	1248	EDWARD REYNOLD MCDONALD	4026	RP03-1282	ROAD IN TRESPASS
	1249	BENJAMY CHESCOOLAY	364	RP03-1284	ROAD IN TRESPASS
	1250	TRIBAL	2392	RP03-1291	ROAD IN TRESPASS
	1251	ANDREW INNOOSTAY	T4040	RP03-1311	ROAD IN TRESPASS
	1252	AUDREY INNOOSTAY	726-T	RP03-1313	ROAD IN TRESPASS
	1253	AUDREY INNOOSTAY	726-T-D	RP03-1313	ROAD IN TRESPASS
	1254	WILLIE INNOOSTAY	1733	RP03-1315	ROAD IN TRESPASS

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM		
P13200	1391	FRANK FINLEY	592-J	RP03-1484	ROAD	IN TRESPASS
	1392	ROSALIE CECILLE LANDBURGEN	407	RP03-1444	ROAD	IN TRESPASS
	1393	THERESE SELOW	1448	RP03-1388	ROAD	IN TRESPASS
	1394	ANN SMALLSALMON	1630	RP03-1444	ROAD	IN TRESPASS
	1395	TRIBAL	TRIBAL	RP03-1388	ROAD	IN TRESPASS
	1396	CECILLE KALTOWEE	1346	RP03-1485	ROAD	IN TRESPASS
	1397	LOUISE KALTOWEE	1348	RP03-1388	ROAD	IN TRESPASS
	1398	JOSEPH TELPAH	2229	RP03-1485	ROAD	IN TRESPASS
	1399	MARY ANN TELPAH	2230	RP03-1485	ROAD	IN TRESPASS
	1400	FELICITE TELPAH	2231	RP03-1485	ROAD	IN TRESPASS
	1401	ROBERT CHESCOOLAY	2232	RP03-1485	ROAD	IN TRESPASS
	1402	CECILLE CHESCOOLAY	2364	RP03-1485	ROAD	IN TRESPASS
	1403	TRIBAL	14040	RP03-1485	ROAD	IN TRESPASS
	1404	TERRY LEO PITTS	4069	RP03-1485	ROAD	IN TRESPASS
	1405	TRIBAL	TRIBAL	RP03-1485	ROAD	IN TRESPASS
	1406	CECILLE CULLOOYAH	1667	RP03-1486	ROAD	IN TRESPASS
	1407	ISABEL INDAHOLA	2377	RP03-1486	ROAD	IN TRESPASS
	1408	LUCY REDNOUR	T2378	RP03-1486	ROAD	IN TRESPASS
	1409	ROBERT C. HOLEDO	2379	RP03-1486	ROAD	IN TRESPASS
	1410	TRIBAL	TRIBAL	RP03-1486	ROAD	IN TRESPASS
	1411	TRIBAL	TRIBAL	RP03-1487	ROAD	IN TRESPASS
	1412	BASIL DUCHARME	153-A	RP03-1506	ROAD	IN TRESPASS
	1413	MARY SLOANE DUPUIS	998	RP03-1506	ROAD	IN TRESPASS
	1414	CAMILLE DUPUIS	1009-D	RP03-1506	ROAD	IN TRESPASS
	1415	CAMILLE DUPUIS	1009-E	RP03-1506	ROAD	IN TRESPASS
	1416	ROSE DUPUIS	1020-E	RP03-1506	ROAD	IN TRESPASS
	1417	ROSE DUPUIS	1020-A	RP03-1506	ROAD	IN TRESPASS
	1418	ALBERT DUPUIS	1021	RP03-1506	ROAD	IN TRESPASS
	1419	LOUISE FINLEY	1218	RP03-1506	ROAD	IN TRESPASS
	1420	JOSEPH FINLEY	1321	RP03-1511	ROAD	IN TRESPASS
	1421	MARY SUSAN CHEESAW	T2203	RP03-1531	ROAD	IN TRESPASS
	1422	JOHN CHESSAW	T2204	RP03-1531	ROAD	IN TRESPASS
	1423	ABEL CHESSAW	T2205	RP03-1531	ROAD	IN TRESPASS
	1424	TRIBAL	TRIBAL	RP03-1535	ROAD	IN TRESPASS
	1425	THELMA PETTIGREW	3167	RP03-1536	ROAD	IN TRESPASS
	1426	TRIBAL	TRIBAL	RP03-1536	ROAD	IN TRESPASS
	1427	DAVID ANTOINE ASHLEY	1069	RP03-1541	ROAD	IN TRESPASS
	1428	JOHN BEAUCHAINE	1312-A	RP03-1541	ROAD	IN TRESPASS
	1429	KAY DUDAY JOHNSON	4363	RP03-1541	ROAD	IN TRESPASS
	1430	ANTOINE PETOSE	T2224	RP03-1541	ROAD	IN TRESPASS
	1431	CATHERINE PETOSE	T2227	RP03-1541	ROAD	IN TRESPASS
	1432	MARY BROKENROPE	2221	RP03-1542	ROAD	IN TRESPASS
	1433	EDWARD REYNOLD MCDONALD	544	RP03-1543	ROAD	IN TRESPASS
	1434	EDWARD REYNOLD MCDONALD	544	RP03-1543	ROAD	IN TRESPASS
	1435	MARY A. ASHLEY	97	RP03-1544	ROAD	IN TRESPASS
	1436	JOHN MICHEL	185-A	RP03-1546	ROAD	IN TRESPASS
	1437	JOHN MICHEL	185-B	RP03-1546	ROAD	IN TRESPASS
	1438	MARY C.A. MATT	1852	RP03-1546	ROAD	IN TRESPASS
	1439	MARY C.A. MATT	357	RP03-1546	ROAD	IN TRESPASS
	1440	ANN MARY PAUL	T368	RP03-1546	ROAD	IN TRESPASS
	1441	MELANE COCINEE	793	RP03-1546	ROAD	IN TRESPASS
	1442	ANNIE MOSEVER	T4184	RP03-1546	ROAD	IN TRESPASS
	1443	TRIBAL	T2704	RP03-1576	ROAD	IN TRESPASS
	1444	THOMAS ALFRED FARRELL	T2921	RP03-1576	ROAD	IN TRESPASS
	1445	MELISSA MCDONALD	T2923	RP03-1576	ROAD	IN TRESPASS
	1446	JOHN ALEXANDER MCDONALD	T2924	RP03-1576	ROAD	IN TRESPASS
	1447	ROY MCDONALD	TRIBAL	RP03-1576	ROAD	IN TRESPASS
	1448	TRIBAL	3014	RP03-1579	ROAD	IN TRESPASS
	1449	GLOVER MATT	89	RP03-1582	ROAD	IN TRESPASS
	1450	MARY ASHLEY	95-A	RP03-1582	ROAD	IN TRESPASS
	1451	JOSEPH ASHLEY	98	RP03-1582	ROAD	IN TRESPASS
	1452	JAMES ASHLEY	99	RP03-1582	ROAD	IN TRESPASS
	1453	JEANNE ASHLEY	137	RP03-1582	ROAD	IN TRESPASS
	1454	MARCUS PICKETTE	TRIBAL	RP03-1585	ROAD	IN TRESPASS
	1455	TRIBAL	T1553	RP03-1590	ROAD	IN TRESPASS
	1456	ROSALIE CHARLO	2275	RP03-1594	ROAD	IN TRESPASS
	1457	SARAH MAGPIE	829	RP03-1596	ROAD	IN TRESPASS
	1458	CLARA MCCLURE				

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM		
P13200	1323	HOWARD JACK DOLSON	4101	RP03-1487	ROAD	IN TRESPASS
	1324	ANGUS P. MCDONALD	474	RP03-1388	ROAD	IN TRESPASS
	1325	MAGGIE MCDONALD	475	RP03-1388	ROAD	IN TRESPASS
	1326	HENRY CANTRAND	1901	RP03-1388	ROAD	IN TRESPASS
	1327	MICHEL MICHEL	2123	RP03-1485	ROAD	IN TRESPASS
	1328	ROSALIE MICHEL	2124	RP03-1388	ROAD	IN TRESPASS
	1329	DOMINICK LEFTHAND	2135	RP03-1485	ROAD	IN TRESPASS
	1330	MARY LEFTHAND	2144	RP03-1388	ROAD	IN TRESPASS
	1331	TRIBAL	TRIBAL	RP03-1389	ROAD	IN TRESPASS
	1332	CALVIN MARKLE	2260	RP03-1391	ROAD	IN TRESPASS
	1333	HOWARD JACK DOLSON	4101	RP03-1391	ROAD	IN TRESPASS
	1334	TRIBAL	T4238	RP03-1391	ROAD	IN TRESPASS
	1335	ANTOINE VALLEE	1054	RP03-1399	ROAD	IN TRESPASS
	1336	TRIBAL	TRIBAL	RP03-1410	ROAD	IN TRESPASS
	1337	TRIBAL	TRIBAL	RP03-1411	ROAD	IN TRESPASS
	1338	ALMA DEBERG	1784	RP03-1411	ROAD	IN TRESPASS
	1339	TRIBAL	T4178	RP03-1428	ROAD	IN TRESPASS
	1340	TRIBAL	T4178	RP03-1429	ROAD	IN TRESPASS
	1341	TRIBAL	T4142	RP03-1454	ROAD	IN TRESPASS
	1342	TRIBAL	TRIBAL	RP03-1460	ROAD	IN TRESPASS
	1343	AGATE ALEXANDER	508	RP03-1467	ROAD	IN TRESPASS
	1344	ALICE LOZEAU	T2890	RP03-1470	ROAD	IN TRESPASS
	1345	ALEXANDER LOZEAU	T2891	RP03-1470	ROAD	IN TRESPASS
	1346	TRIBAL	T4057	RP03-1473	ROAD	IN TRESPASS
	1347	SUSAN LUMPRY SPOKANE	1264-B	RP03-1474	ROAD	IN TRESPASS
	1348	ENEAS KYSER	1327	RP03-1474	ROAD	IN TRESPASS
	1349	FELICITE KYSER	1328	RP03-1474	ROAD	IN TRESPASS
	1350	AGNES LADEBOUTE	1373	RP03-1474	ROAD	IN TRESPASS
	1351	MARY CECILLE LADEBOUTE	11375	RP03-1474	ROAD	IN TRESPASS
	1352	EVERETT A. PYANT	4076	RP03-1474	ROAD	IN TRESPASS
	1353	ALFRED CHARLES DUMONTIER	4239	RP03-1474	ROAD	IN TRESPASS
	1354	ISABEL KITER	T1339	RP03-1473	ROAD	IN TRESPASS
	1355	FRANK LESTER BIRD	T2220	RP03-1473	ROAD	IN TRESPASS
	1356	MAYME LUCILLE SULLIVAN	T3293	RP03-1473	ROAD	IN TRESPASS
	1357	TRIBAL	T4019	RP03-1473	ROAD	IN TRESPASS
	1358	ANNA HAZEL VANDEBURG	4019-A	RP03-1473	ROAD	IN TRESPASS
	1359	TRIBAL	T4026	RP03-1473	ROAD	IN TRESPASS
	1360	TRIBAL	TRIBAL	RP03-1473	ROAD	IN TRESPASS
	1361	MARY ANN TOPASSEH	1448	RP03-1476	ROAD	IN TRESPASS
	1362	BAPTISTE PERRISH	1720	RP03-1476	ROAD	IN TRESPASS
	1363	TRIBAL	T4023	RP03-1476	ROAD	IN TRESPASS
	1364	ROSE SHERIDAN MEADELEAD	4219	RP03-1476	ROAD	IN TRESPASS
	1365	TRIBAL	TRIBAL	RP03-1477	ROAD	IN TRESPASS
	1366	MARTIN KALTOWEE	1344	RP03-1477	ROAD	IN TRESPASS
	1367	ANNE KALTOWEE	1351	RP03-1477	ROAD	IN TRESPASS
	1368	MARY ASHLEY	89	RP03-1478	ROAD	IN TRESPASS
	1369	LUCY LAROSE	121	RP03-1478	ROAD	IN TRESPASS
	1370	ANTOINE LAROSE	110	RP03-1479	ROAD	IN TRESPASS
	1371	TRIBAL	TRIBAL	RP03-1480	ROAD	IN TRESPASS
	1372	PETER BLOOD	549	RP03-1481	ROAD	IN TRESPASS
	1373	MARY ANGELICA BLOOD	550-A	RP03-1481	ROAD	IN TRESPASS
	1374	MARY ANGELICA BLOOD	550-B	RP03-1481	ROAD	IN TRESPASS
	1375	MARY ANGELICA BLOOD	550-C	RP03-1481	ROAD	IN TRESPASS
	1376	AGNES WOODCOCKS	1021	RP03-1481	ROAD	IN TRESPASS
	1377	MOSES CHOUTEH	4001	RP03-1481	ROAD	IN TRESPASS
	1378	TRIBAL	TRIBAL	RP03-1481	ROAD	IN TRESPASS
	1379	EDWARD REYNOLD MCDONALD	544	RP03-1482	ROAD	IN TRESPASS
	1380	CATHERINE DANDYJIM	2288	RP03-1482	ROAD	IN TRESPASS
	1381	CECILLE DANDYJIM	2289	RP03-1482	ROAD	IN TRESPASS
	1382	MARY W. PAUL	2409	RP03-1482	ROAD	IN TRESPASS
	1383	SHARON ROSENBAUM	4342	RP03-1482	ROAD	IN TRESPASS
	1384	TRIBAL	TRIBAL	RP03-1482	ROAD	IN TRESPASS
	1385	ROSALIE SUNDOWN	2314	RP03-1483	ROAD	IN TRESPASS
	1386	THURMAN HOWARD TROSPER	3314	RP03-1483	ROAD	IN TRESPASS
	1387	PIERRE CUNNAH	385-C	RP03-1484	ROAD	IN TRESPASS
	1388	ANNE FINLEY	388	RP03-1484	ROAD	IN TRESPASS
	1389	SAMUEL FINLEY	570	RP03-1484	ROAD	IN TRESPASS
	1390	CATHERINE FINLEY	591-B	RP03-1484	ROAD	IN TRESPASS

PORTLAND AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
P13203	1459	CLARA MCCLURE	829-A	RP03-1598 ROAD IN TRESPASS
	1460	ENEAS THREEHEADS	1507	RP03-1598 ROAD IN TRESPASS
	1461	GABRIEL BIGHORN	1610A	SECRETARIAL TRANSFER
	1462	MARY D. DUPUIS	2659	CLAIM FOR TIMBER COMPENSATION
	1463	MARY ANN ENEAS FINLEY	434	OLD AGE ASSISTANCE
	1464	EVA MAY ALLARD	85	FORCED FEE PATENT
	1465	ISAAC PLANT	1042	FORCED FEE PATENT
	1466	ARTHUR LARRIVEE	1325	FORCED FEE PATENT
	1467	ROSE ELLEN WAITWORTH	1715	FORCED FEE PATENT
	1468	MOSES FYANT	1716	FORCED FEE PATENT
	1469	KATTIE BEAUCHEMIN	2384	FORCED FEE PATENT
	1470	MAXIME MATT	333	CLAIM FOR RECOVERY OF LAND
	1471	ELIZABETH MATT	336	CLAIM FOR RECOVERY OF LAND
	1472	BERNICE SIAS	2555	ROAD RIGHT OF WAY-SIAS/LONG
	1473	CATHERINE R. MATHIAS HAWEL	2033	ENCROACHMENT BY EARL C. WILLEY ET AL.

EASTERN AREA STATUTE CLAIMS

TRIBE	CASE	ALLOTTEE	ALLOTMENT	TYPE OF CLAIM
S30004	002	KENNETH VAN AERMAN	N/A	BOUNDARY ENCROACHMENT
S30013	002	CAYUGA TRIBE	TRIBAL	ABORIGINAL LAND CLAIM
330039	001	HOUMA*	TRIBAL	NONINTERCOURSE ACT LAND CLAIM
	002	HOUMA*	TRIBAL	NONINTERCOURSE ACT LAND CLAIM
330041	001	EASTERN PEQUOT*	TRIBAL	NONINTERCOURSE ACT LAND CLAIM
	002	EASTERN PEQUOT*	TRIBAL	ABORIGINAL LAND CLAIM
330042	001	ALABAMA-COUSHATTA TRIBE OF TEXAS	TRIBAL	NONINTERCOURSE ACT LAND CLAIM
330043	001	TIGUA TRIBE OF EL PASO TEXAS	TRIBAL	NONINTERCOURCE ACT LAND CLAIM
330045	001	SAN JUAN SOUTHERN PAIUTE	TRIBAL	1934 ACT LAND CLAIM
	002	SAN JUAN SOUTHERN PAIUTE	TRIBAL	1933 ACT LAND CLAIM
353035	002	SEMINOLE TRIBE	TRIBAL	IMPROPER LAND EXCHANGE
	003	SEMINOLE TRIBE	TRIBAL	TAKING OF E.O. RESERVATION
	004	SEMINOLE TRIBE	TRIBAL	US 441-ROAD IN TRESPASS
	005	SEMINOLE TRIBE	TRIBAL	IMPROPER TOLL CHARGES
370700	001	CHOCTAW (MISS) TRIBE	TRIBAL	TR-35- ROAD IN TRESPASS

THIS AND THE REMAINING PAGES CONSIST OF CHEYENNE RIVER (A01340) CLAIMS WHICH WERE TIMELY FILED BUT ARRIVED TOO LATE TO BE PLACED IN THE STANDARD FORMAT. THOSE OF THE FOLLOWING CLAIMS HAVING NO CASE NUMBERS APPEARED ON THE LIST PUBLISHED ON MARCH 31, 1983.

THE FOLLOWING ARE EITHER FORCED FEE PATENT CLAIMS OR FEE PATENT CLAIMS INVOLVING QUESTIONABLE FINDINGS OF COMPETENCY.

Case	Allotment/Tract Identification No.
3402	4
3403	5
3404	8
3405	20
3406	29
3407	28
3408	36
	41
	41
3409	42
3410	45
	52
	78
	78
	78
3411	84
3412	92
3413	111
3414	117
3415	144
3416	145
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3417	151
3418	155
3419	156
3420	161
3421	167
3422	173
3423	177
3424	179
3425	185
3426	187
3426	187
3427	193
3428	202
3429	211
3430	212
3431	214

Case	Allotment/Tract Identification No.
3432	217
3433	220
3433	226
3434	236
	237
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3435	239
3436	240
3437	243
3437	243
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3441	253
3441	253
3442	255
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3442	255
3443	261
	266
3444	267
3445	269
3446	270
3447	271
3448	281
3449	307
3450	310
3451	313
3452	321
3453	330
3454	332

Case	Allotment/Tract Identification No.
3329	869
3330	872
3331	876
3332	877
3333	882
3334	888
3335	915
3335	915
3335	915
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3336	925
3337	933
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3343	970
3344	978
3345	987
3346	988
3347	997
3348	1005
3349	1012
3350	1041
3351	1061
3352	1078
3353	1102
3354	1104
3355	1118
3356	1146

Case	Allotment/Tract Identification No.
3357	1173
3358	1174
3359	1184
3360	1208
3361	1224
3362	1241
3363	1243
3364	1251
3365	1255
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3367	1280
3368	1304
3369	1305
3370	1308
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3371	1311
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3375	1361 1364 1369
3376	1372
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3378	1373
3379	1373
3380	1391
3381	1391
3382	1402
3383	1416
3384	1419
3385	1438

Case	Allotment/Tract Identification No.
3386	1439
3387	1441
3388	1449
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3394	1507
3395	1508
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3401	1530
3402	1550
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3404	1566
3405	1581
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3408	1621
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3414	1691
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3420	1712
3421	1721

Case	Allotment/Tract Identification No.
3422	728
3423	729
3424	730
3425	743
3426	745
3427	746
3428	747
3429	751
3430	755
3431	768
3432	768
3433	779
3434	787
3435	787
3436	791
3437	793
3438	797
3439	798
3440	798
3441	800
3442	804
3443	809
3444	812
3445	817
3446	844
3447	853
3448	864

Case	Allotment/Tract Identification No.
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3450	305
3451	306
3452	307
3453	308
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3455	311
3456	320
3457	324
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3459	332
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3461	344
3462	353
3463	354
3464	355
3465	363
3466	365
3467	371
3468	601
3469	623
3470	643
3471	654
3472	676
3473	679
3474	693
3475	704
3476	707
3477	709
3478	718
3479	719
3480	724
3481	727

Case	Allotment/Tract Identification No.
3454	332
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3455	338
3456	347
3457	350
3457	350
3458	359
3459	375
3460	378
3461	382
3462	387
3463	389
3464	396
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3468	408
3469	412
3470	434
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3479	468
3480	477
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3556	3556

Case	Allotment/Tract Identification No.
3613	1724
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3641	1923
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3725	2903
3726	2940
3727	2988
3728	2995
3729	2999
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3734	3063
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3759	3326
3760	3342
3761	3363
3762	3380
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3767	3509
3768	3513
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3779	3668
3780	3687
3781	3803
3782	3811
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3788	3879
3789	3880
3790	3882
3791	3916
3792	3924
3793	3945
3794	3946

Case	Allotment/Tract Identification No.
3795	3973
3796	3985
3797	4083
3798	4108
3799	4155
3800	4161
3801	318

THE FOLLOWING ARE ROAD TRESPASS CLAIMS.

All of the townships and ranges are with relation to the Black Hills Principal Meridian.

CRST = Cheyenne River Sioux Tribal Land

(1) STATE HIGHWAY 63 CLAIM FILES

Case	Description	Allotment/Tribal
	ZIEBACH COUNTY:	
3802	T. 11 N., R. 23 E., Sec. 13	CRST
3803	T. 9 N., R. 24 E., Sec. 30	CRST
3804	Sec. 19	CRST
3805	Sec. 18	CRST
3806	Sec. 7	Allot. No. 5436 - Richard Dean Gray
	DEWEY COUNTY:	
3807	T. 17 N., R. 23 E., Sec. 36	Allmt. No. 1930 - Thomas Marshall No. 2
3808	T. 16 N., R. 24 E., Sec. 5	Allot. No. 1976 - Florence Gage
3809	Sec. 6	Allot. No. 1974 - Crescentia Gage
3810	Sec. 7	Allot. No. 1977 - Bernard Gage
3811	Sec. 17	Allot. No. 2205 - Amelia T. Gage
3812	Sec. 18	Allot. No. 2195 - Eloise LaPlant
3813	Sec. 19	Allot. No. 1972 - Kate Cecelia Livermont
3814	Sec. 32	Allot. No. 542 - Amelia Halpin
3815	Sec. 32	Allot. No. 564 - Nellie Red Head
3816	T. 15 N., R. 24 E., Sec. 5	Allot. No. 564 - Nellie Red Head
3817	Sec. 6	Allot. No. 552 - Adam White Wing
3818	Sec. 7	Allot. No. 1991 - Cecilia Raised Him
3819	Sec. 8	Allot. No. 527 - Nellie Pool Bear
3820	Sec. 20	Allot. No. 691 - Emma Corn Stalk
3821	Sec. 19	Allot. No. 691 - Emma Corn Stalk
3822	T. 14 N., R. 24 E., Sec. 34	CRST
3823	T. 13 N., R. 24 E., Sec. 3	CRST
3824	Sec. 3	Allot. No. 2138 - Sophia Good Girl
3825	Sec. 11	Allot. No. 580 - Robert Running Rattle
3826	Sec. 14	Allot. No. 2136 - Clara Walks
3827	T. 12 N., R. 24 E., Sec. 17	Allot. No. 2299 - Louis D. Brings The Arrow
3828	Sec. 17	Allot. No. 2298 - Matthew Brings The Arrow

(2) A DEWEY COUNTY ROAD TRESPASSES (COUNTY ROADS):

Case	Description	Allotment/Tribal

(2) A DEWEY COUNTY ROAD TRESPASSES (COUNTY ROADS):

Case	Description		Allotment/Tribal
3829	T. 17 N., R. 24 E.,	Sec. 26	Allot. No. 2247
3830		Sec. 36	Allot. No. 4876
3831		Sec. 3	CRST
3832	T. 17 N., R. 23 E.,	Sec. 29	Allot. No. 1926
3833	T. 17 N., R. 25 E.,	Sec. 3	Allot. No. 2525
3834		Sec. 1	Allot. No. 1860
3835		Sec. 11	Allot. No. 1869
3836		Sec. 12	Allot. No. 160
3837		Sec. 13	Allot. No. 160
3838	T. 17 N., R. 26 E.,	Sec. 12	CRST
3839	T. 17 N., R. 28 E.,	Sec. 29	CRST
3840		Sec. 32	CRST
3841		Sec. 34	CRST
3842	T. 17 N., R. 29 E.,	Sec. 14	CRST
3843	T. 17 N., R. 31 E.,	Sec. 31	CRST
3844		Sec. 31	Allot. No. 5507
3845	T. 16 N., R. 30 E.,	Sec. 13	CRST
3846		Sec. 14	CRST
3847		Sec. 23	CRST
3848		Sec. 23	Allot. No. 1873
3849		Sec. 24	CRST
3850		Sec. 25	Allot. No. X183
3851		Sec. 26	CRST
3852		Sec. 27	CRST
3853		Sec. 28	CRST
3854		Sec. 29	CRST
3855		Sec. 30	CRST
3856	T. 16 N., R. 29 E.,	Sec. 21	Allot. No. 4493
3857		Sec. 21	CRST
3858		Sec. 28	CRST
3859		Sec. 22	CRST
3860		Sec. 27	CRST
3861		Sec. 8	CRST
3862		Sec. 30	Allot. No. X1087
3863		Sec. 7	CRST
3864		Sec. 29	Allot. No. 3965
3865	T. 16 N., R. 28 E.,	Sec. 1	CRST
3866		Sec. 3	CRST
3867		Sec. 7	CRST
3868		Sec. 7	Allot. No. 5476
3869		Sec. 10	CRST
3870		Sec. 11	CRST
3871		Sec. 12	CRST
3872		Sec. 13	CRST
3873		Sec. 17	Allot. No. X1949
3874		Sec. 17	Allot. No. X1707
3875		Sec. 18	Allot. No. X1949
3876		Sec. 20	Allot. No. X1360
3877		Sec. 20	Allot. No. X1143
3878		Sec. 21	Allot. No. N915
3879		Sec. 22	Allot. No. 5566
3880		Sec. 23	Allot. No. 1812
3881		Sec. 23	Allot. No. 867
3882		Sec. 29	CRST
3883		Sec. 31	CRST
3884		Sec. 32	Allot. No. 1324
3885	T. 16 N., R. 27 E.,	Sec. 8	CRST
3886		Sec. 17	CRST
3887		Sec. 21	Allot. No. 8073
3888		Sec. 22	Allot. No. 8073
3889		Sec. 35	CRST
3890		Sec. 27	CRST
3891		Sec. 27	Allot. No. 8073
3892	T. 16 N., R. 26 E.,	Sec. 15	CRST
3893		Sec. 15	Allot. No. 5502
3894		Sec. 15	Allot. No. 5500
3895	T. 16 N., R. 24 E.,	Sec. 7	Allot. No. 1977
3896		Sec. 13	Allot. No. 1954
3897		Sec. 13	CRST
3898		Sec. 18	Allot. No. 2195
3899		Sec. 23	Allot. No. 442
3900	T. 15 N., R. 22 E.,	Sec. 13	CRST
3901		Sec. 13	Allot. No. 674
3902		Sec. 14	Allot. No. 672
3903		Sec. 23	CRST
3904		Sec. 28	CRST
3905	T. 15 N., R. 23 E.,	Sec. 11	Allot. No. 593
3906		Sec. 18	CRST
3907		Sec. 30	CRST
3908		Sec. 31	CRST
3909		Sec. 27	CRST
3910		Sec. 26	CRST
3911		Sec. 35	CRST

Case	Description		Allotment/Tribal
3912	T. 15 N., R. 24 E.,	Sec. 6	CRST
3913		Sec. 7	CRST
3914		Sec. 12	CRST
3915		Sec. 20	CRST
3916		Sec. 20	Allot. No. 5268
3917		Sec. 27	Allot. No. 4899
3918		Sec. 28	CRST
3919		Sec. 28	Allot. No. 3283
3920		Sec. 34	CRST
3921	T. 15 N., R. 25 E.,	Sec. 19	Allot. No. [illegible]1684
3922		Sec. 20	CRST
3923		Sec. 21	CRST
3924		Sec. 29	CRST
3925		Sec. 29	Allot. No. 4299
3926		Sec. 28	CRST
3927		Sec. 32	CRST
3928		Sec. 35	CRST
3929		Sec. 36	CRST
3930	T. 15 N., R. 26 E.,	Sec. 5	Allot. No. 6232
3931		Sec. 6	Allot. No. X1545
3932		Sec. 8	CRST
3933		Sec. 10	Allot. No. 3550
3934		Sec. 10	Allot. No. 5923
3935		Sec. 11	Allot. No. 6745
3936		Sec. 12	CRST
3937		Sec. 13	CRST
3938		Sec. 15	Allot. No. 5923
3939		Sec. 15	Allot. No. 3550
3940		Sec. 16	Allot. No. 3550
3941		Sec. 16	CRST
3942		Sec. 16	Allot. No. 2571
3943		Sec. 17	Allot. No. X1655
3944		Sec. 20	CRST
3945		Sec. 22	Allot. No. 3550
3946		Sec. 27	Allot. No. 3550
3947		Sec. 27	CRST
3948		Sec. 30	CRST
3949		Sec. 31	Allot. No. 551
3950		Sec. 31	Allot. No. 1879
3951		Sec. 33	CRST
3952		Sec. 34	CRST
3953		Sec. 35	CRST
3954	T. 15 N., R. 27 E.,	Sec. 1	Allot. No. X762
3955		Sec. 2	CRST
3956		Sec. 10	Allot. No. X1149
3957		Sec. 8	Allot. No. 1923
3958		Sec. 7	Allot. No. X168
3959		Sec. 20	Allot. No. 5923
3960		Sec. 20	Allot. No. 3813
3961		Sec. 29	CRST
3962		Sec. 32	CRST
3963		Sec. 33	CRST
3964		Sec. 17	Allot. No. 6668
3965		Sec. 34	CRST
3966		Sec. 35	Allot. No. 3153
3967		Sec. 35	Allot. No. X1025
3968	T. 15 N., R. 28 E.,	Sec. 11	Allot. No. 4307
3969		Sec. 14	CRST
3970		Sec. 14	Allot. No. 5249
3971		Sec. 23	CRST
3972		Sec. 22	CRST
3973		Sec. 27	CRST
3974		Sec. 34	CRST
3975	T. 15 N., R. 29 E.,	Sec. 3	CRST
3976		Sec 3	Allot. No. 4279
3977		Sec. 10	CRST
3978		Sec. 11	Allot. No. X1893
3979		Sec. 10	Allot. No. X171
3980		Sec. 9	Allot. No. 5917
3981		Sec. 15	CRST
3982		Sec. 14	CRST
3983		Sec. 23	CRST
3984		Sec. 23	Allot. No. 4749
3985		Sec. 24	CRST
3986		Sec. 27	Allot. No. 1120
3987		Sec. 27	CRST
3988		Sec. 36	CRST
3989		Sec. 28	CRST
3990	T. 15 N., R. 30 E.,	Sec. 1	Allot. No. X1936
3991		Sec. 1	Allot. No. 7381
3992		Sec. 12	CRST
3993		Sec. 13	CRST
3994		Sec. 24	Allot. No. 1057
3995		Sec. 24	Allot. No. X597
3996		Sec. 25	Allot. No. 65
3997		Sec. 25	Allot. No. 789
3998		Sec. 24	Allot. No. 1448
3999		Sec. 23	CRST
4000		Sec. 23	Allot. No. 3827
4001		Sec. 22	CRST
4002		Sec. 21	CRST
4003	T. 15 N., R. 31 E.,	Sec. 9	Allot. No. 4160
4004		Sec. 18	Allot. No. 4160
4005		Sec. 29	Allot. No. 1780
4006		Sec. 29	Allot. No. 826
4007		Sec. 28	Allot. No. 1331
4008		Sec. 7	Allot. No. 4846
4009		Sec. 7	Allot. No. 4334
4010		Sec. 18	CRST
4011		Sec. 18	4160
4012		Sec. 19	4160
4013		Sec. 30	Allot. No. 2520

Case	Description		Allotment/Tribal
4014	T. 15 N., R. 31 E.,	Sec. 30	Allot. No. 4160
4015		Sec. 31	Allot. No. 4160
4016		Sec. 32	Allot. No. 1780
4017		Sec. 33	Allot. No. 826
4018		Sec. 34	Allot. No. 1331
4019		Sec. 35	Allot. No. 4846
4020		Sec. 36	Allot. No. 4334
4021	T. 15 N., R. 32 E.,	Sec. 1	CRST
4022		Sec. 2	CRST
4023		Sec. 11	CRST
4024		Sec. 12	CRST
4025		Sec. 13	CRST
4026		Sec. 14	CRST
4027		Sec. 23	CRST
4028		Sec. 24	CRST
4029		Sec. 25	CRST
4030		Sec. 26	CRST
4031		Sec. 35	CRST
4032		Sec. 36	CRST
4033	T. 15 N., R. 33 E.,	Sec. 1	CRST
4034		Sec. 2	CRST
4035		Sec. 11	CRST
4036		Sec. 12	CRST
4037		Sec. 13	CRST
4038		Sec. 14	CRST
4039		Sec. 23	CRST
4040		Sec. 24	CRST
4041		Sec. 25	CRST
4042		Sec. 26	CRST
4043		Sec. 35	CRST
4044		Sec. 36	CRST
4045	T. 15 N., R. 34 E.,	Sec. 1	CRST
4046		Sec. 2	CRST
4047		Sec. 11	CRST
4048		Sec. 12	CRST
4049		Sec. 13	CRST
4050		Sec. 14	CRST
4051		Sec. 23	CRST
4052		Sec. 24	CRST
4053		Sec. 25	CRST
4054		Sec. 26	CRST
4055		Sec. 35	CRST
4056		Sec. 36	CRST
4057	T. 15 N., R. 35 E.,	Sec. 1	CRST
4058		Sec. 2	CRST
4059		Sec. 11	CRST
4060		Sec. 12	CRST
4061		Sec. 13	CRST
4062		Sec. 14	CRST
4063		Sec. 23	CRST
4064		Sec. 24	CRST
4065		Sec. 25	CRST
4066		Sec. 26	CRST
4067		Sec. 35	CRST
4068		Sec. 36	CRST
4069	T. 15 N., R. 36 E.,	Sec. 1	CRST
4070		Sec. 2	CRST
4071		Sec. 11	CRST
4072		Sec. 12	CRST
4073		Sec. 13	CRST
4074		Sec. 14	CRST
4075		Sec. 23	CRST
4076		Sec. 24	CRST
4077		Sec. 25	CRST
4078		Sec. 26	CRST
4079		Sec. 35	CRST
4080		Sec. 36	CRST

Case	Description		Allotment/Tribal
4014	T. 14 N., R. 31 E.,	Sec. 7	CRST
4015		Sec. 18	Allot. No. 4061
4016	T. 14 N., R. 30 E.,	Sec. 18	Allot. No. 4249
4017		Sec. 19	CRST
4018		Sec. 30	Allot. No. X1121
4019		Sec. 10	CRST
4020		Sec. 11	CRST
4021		Sec. 12	CRST
4022		Sec. 13	CRST
4023		Sec. 24	CRST
4024		Sec. 25	CRST
4025		Sec. 36	CRST
4026	T. 14 N., R. 28 E.,	Sec. 4	CRST
4027		Sec. 3	Allot. No. 2611
4028		Sec. 8	CRST
4029		Sec. 9	CRST
4030		Sec. 9	Allot. No. X1110
4031		Sec. 10	Allot. No. X1110
4032		Sec. 10	CRST
4033		Sec. 14	CRST
4034		Sec. 23	Allot. No. X883
4035		Sec. 22	Allot. No. X884
4036		Sec. 17	CRST
4037		Sec. 18	CRST
4038		Sec. 33	CRST
4039		Sec. 33	Allot. No. X68
4040		Sec. 34	CRST
4041	T. 14 N., R. 29 E.,	Sec. 3	CRST
4042		Sec. 4	Allot. No. X588
4043		Sec. 4	CRST
4044		Sec. 5	CRST
4045		Sec. 8	CRST
4046		Sec. 12	CRST
4047	T. 14 N., R. 27 E.,	Sec. 4	CRST
4048		Sec. 5	CRST
4049		Sec. 9	CRST
4050		Sec. 8	CRST
4051		Sec. 16	CRST
4052		Sec. 20	CRST
4053		Sec. 29	CRST
4054		Sec. 31	Allot. No. X1591
4055		Sec. 31	CRST
4056		Sec. 31	Allot. No. X641
4057		Sec. 32	Allot. No. 2587
4058		Sec. 32	Allot. No. X686
4059		Sec. 33	Allot. No. X686
4060		Sec. 34	CRST
4061		Sec. 25	Allot. No. 2594
4062		Sec. 24	CRST
4063		Sec. 13	CRST

Case	Description		Allotment/Tribal
4064	T. 14 N., R. 26 E.,	Sec. 2	CRST
4065		Sec. 3	CRST
4066		Sec. 3	Allot. No. 4125
4067		Sec. 4	Allot. No. 4125
4068		Sec. 4	CRST
4069		Sec. 10	Allot. No. 3742
4070		Sec. 10	CRST
4071		Sec. 11	Allot. No. 5348
4072		Sec. 11	CRST
4073		Sec. 12	CRST
4074		Sec. 13	CRST
4075		Sec. 25	Allot. No. X93
4076		Sec. 36	Allot. No. 3142
4077		Sec. 29	CRST
4078		Sec. 32	CRST
4079		Sec. 33	CRST
4080	T. 14 N., R. 25 E.,	Sec. 1	CRST
4081		Sec. 1	Allot. No. 2553
4082		Sec. 1	CRST
4083		Sec. 10	CRST
4084		Sec. 10	Allot. No. X1365
4085		Sec. 9	Allot. No. 5904
4086	T. 14 N., R. 24 E.,	Sec. 9	CRST
4087		Sec. 11	Allot. No. X590
4088		Sec. 11	Allot. No. X1970
4089		Sec. 13	Allot. No. 532
4090		Sec. 14	CRST
4091		Sec. 15	CRST
4092		Sec. 16	CRST
4093		Sec. 16	Allot. No. 3542
4094		Sec. 17	Allot. No. X648
4095		Sec. 19	CRST
4096		Sec. 31	CRST
4097	T. 14 N., R. 23 E.,	Sec. 2	Allot. No. X1444
4098		Sec. 2	CRST
4099		Sec. 3	Allot. No. 5100
4100		Sec. 10	CRST
4101		Sec. 15	Allot. No. X222
4102		Sec. 23	Allot. No. X462
4103		Sec. 23	Allot. No. X715
4104		Sec. 24	CRST
4105		Sec. 24	Allot. No. X714
4106		Sec. 25	Allot. No. X384
4107		Sec. 26	CRST
4108		Sec. 33	Allot. No. 2539
4109		Sec. 29	Allot. 451
4110		Sec. 29	CRST
4111		Sec. 20	CRST
4112		Sec. 17	Allot. No. X377
4113		Sec. 8	CRST

Case	Description		Allotment/Tribal
4114	T. 14 N., R. 22 E.,	Sec. 1	CRST
4115		Sec. 2	CRST
4116		Sec. 23	CRST
4117		Sec. 22	CRST
4118		Sec. 21	CRST
4119		Sec. 17	Allot. No. X36
4120		Sec. 20	CRST
4121		Sec. 31	CRST
4122	T. 13 N., R. 22 E.,	Sec. 29	CRST
4123		Sec. 28	Allot. No. 2135
4124	T. 13 N., R. 23 E.,	Sec. 4	CRST
4125		Sec. 21	CRST
4126		Sec. 22	CRST
4127	T. 13 N., R. 24 E.,	Sec. 4	CRST
4128		Sec. 3	CRST
4129	T. 13 N., R. 25 E.,	Sec. 18	Allot. No. 2866
4130		Sec. 19	Allot. No. 2865
4131		Sec. 31	Allot. No. 2871
4132		Sec. 32	Allot. No. 2853
4133	T. 13 N., R. 26 E.,	Sec. 4	CRST
4134		Sec. 10	Allot. No. 2838
4135		Sec. 11	CRST
4136		Sec. 12	Allot. No. X1999
4137		Sec. 25	Allot. No. 619
4138		Sec. 36	Allot. No. 418
4139		Sec. 36	Allot. No. 2810
4140		Sec. 35	Allot. No. 622
4141		Sec. 35	Allot. No. 2811
4142		Sec. 35	Allot. No. 1592
4143		Sec. 20	CRST
4144		Sec. 29	CRST
4145		Sec. 33	CRST
4146		Sec. 12	CRST
4147		Sec. 31	Allot. No. 2893
4148	T. 13 N., R. 27 E.,	Sec. 2	CRST
4149		Sec. 8	CRST
4150		Sec. 20	Allot. No. 2816
4151		Sec. 30	Allot. No. 2803
4152		Sec. 32	CRST
4153		Sec. 33	CRST
4154		Sec. 27	CRST
4155		Sec. 35	Allot. No. 2755
4156	T. 13 N., R. 29 E.,	Sec. 2	CRST
4157		Sec. 1	CRST
4158		Sec. 12	CRST
4159		Sec. 13	CRST
4160		Sec. 31	CRST

Case	Description		Allotment/Tribal
4161	T. 13 N., R. 28 E.,	Sec. 5	Allot. No. X1311
4162		Sec. 5	Allot. No. 383
4163		Sec. 4	Allot. No. 7419
4164		Sec. 1	CRST
4165		Sec. 1	Allot. No. 2243
4166		Sec. 11	Allot. No. X1989
4167		Sec. 14	CRST
4168		Sec. 14	Allot. No. X67
4169		Sec. 23	CRST
4170		Sec. 26	CRST
4171		Sec. 35	CRST
4172		Sec. 22	Allot. No. 5306
4173		Sec. 17	Allot. No. 2730
4174	T. 13 N., R. 30 E.,	Sec. 1	CRST
4175		Sec. 1	Allot. No. 5446
4176		Sec. 12	CRST
4177		Sec. 11	CRST
4178		Sec. 14	CRST
4179		Sec. 22	Allot. No. X1857
4180		Sec. 22	CRST
4181		Sec. 27	CRST
4182		Sec. 26	Allot. No. X864
4183		Sec. 25	CRST
4184		Sec. 25	Allot. No. 3564
4185		Sec. 36	Allot. No. 3564
4186		Sec. 36	CRST
4187		Sec. 28	CRST
4188		Sec. 33	CRST
4189		Sec. 32	CRST
4190		Sec. 29	Allot. No. 4777
4191		Sec. 29	CRST
4192		Sec. 20	Allot. No. 5070
4193		Sec. 20	CRST
4194		Sec. 7	CRST
4195		Sec. 8	CRST
4196		Sec. 18	CRST
4197		Sec. 17	CRST
4198	T. 13 N., R. 31 E.,	Sec. 17	CRST
4199		Sec. 18	CRST
4200		Sec. 19	CRST
4201		Sec. 20	CRST
4202		Sec. 30	CRST
4203		Sec. 29	CRST
4204		Sec. 31	CRST
4205	T. 12 N., R. 30 E.,	Sec. 4	CRST
4206		Sec. 9	CRST
4207		Sec. 16	CRST
4208		Sec. 17	CRST
4209		Sec. 20	Allot. No. 6081
4210		Sec. 19	CRST
4211		Sec. 30	CRST
4212		Sec. 30	Allot. No. 4825
4213		Sec. 29	Allot. No. 4680
4214		Sec. 29	CRST
4215		Sec. 31	CRST

Case	Description		Allotment/Tribal
4216	T. 13 N., R. 32 E.,	Sec. 1	CRST
4217		Sec. 1	Allot. No. 5446
4218		Sec. 12	CRST
4219		Sec. 11	CRST
4220		Sec. 14	CRST
4221		Sec. 22	Allot. No. X1857
4222		Sec. 22	CRST
4223		Sec. 27	CRST
4224		Sec. 26	Allot. No. X864
4225		Sec. 25	CRST
4226		Sec. 25	Allot. No. 3564
4227		Sec. 36	Allot. No. 3564
4228		Sec. 36	CRST
4229		Sec. 28	CRST
4230		Sec. 33	CRST
4231		Sec. 32	CRST
4232		Sec. 29	Allot. No. 4777
4233		Sec. 29	CRST
4234		Sec. 20	Allot. No. 5070
4235		Sec. 20	CRST
4236		Sec. 7	CRST
4237		Sec. 8	CRST
4238		Sec. 18	CRST
4239		Sec. 17	CRST
4240	T. 13 N., R. 33 E.,	Sec. 17	CRST
4241		Sec. 18	CRST
4242		Sec. 19	CRST
4243		Sec. 20	CRST
4244		Sec. 30	CRST
4245		Sec. 29	CRST
4246		Sec. 31	CRST
4247	T. 12 N., R. 32 E.,	Sec. 4	CRST
4248		Sec. 9	CRST
4249		Sec. 16	CRST
4250		Sec. 17	CRST
4251		Sec. 20	Allot. No. 6081
4252		Sec. 19	CRST
4253		Sec. 30	CRST
4254		Sec. 30	Allot. No. 4825
4255		Sec. 29	Allot. No. 4680
4256		Sec. 29	CRST
4257		Sec. 31	CRST

Case	Description		Allotment/Tribal
4216		Sec. 31	Allot. Nm. 4876
4217		Sec. 32	CRST
4218		Sec. 33	CRST
4219	T. 12 N., R. 29 E.,	Sec. 3	CRST
4220		Sec. 4	CRST
4221		Sec. 5	CRST
4222		Sec. 6	CRST
4223		Sec. 7	Allot. No. 3152
4224		Sec. 8	Allot. No. 3152
4225		Sec. 8	CRST
4226		Sec. 17	CRST
4227		Sec. 16	CRST
4228		Sec. 20	CRST
4229		Sec. 21	CRST
4230		Sec. 29	CRST
4231		Sec. 28	CRST
4232		Sec. 28	Allot. No. 4845
4233		Sec. 33	CRST
4234		Sec. 34	CRST
4235		Sec. 31	CRST
4236		Sec. 32	CRST
4237		Sec. 10	CRST
4238		Sec. 10	Allot. No. 5406
4239		Sec. 11	Allot. No. 4722
4240		Sec. 11	CRST
4241		Sec. 14	Allot. No. 5185
4242		Sec. 13	CRST
4243		Sec. 13	Allot. No. 4849
4244		Sec. 24	CRST
4245	T. 12 N., R. 28 E.,	Sec. 2	CRST
4246		Sec. 3	CRST
4247		Sec. 4	CRST
4248		Sec. 5	CRST
4249		Sec. 6	CRST
4250		Sec. 8	CRST
4251		Sec. 17	CRST
4252		Sec. 20	CRST
4253		Sec. 29	CRST
4254		Sec. 21	CRST
4255		Sec. 28	CRST
4256		Sec. 33	CRST
4257		Sec. 32	CRST
4258		Sec. 31	CRST
4259		Sec. 10	CRST
4260		Sec. 11	CRST
4261		Sec. 14	CRST
4262		Sec. 23	CRST
4263		Sec. 26	CRST
4264		Sec. 25	CRST
4265		Sec. 36	CRST
4266	T. 12 N., R. 27 E.,	Sec. 31	CRST
4267		Sec. 31	Allot. Nm. 5137
4268		Sec. 32	CRST
4269		Sec. 32	Allot. Nm. 5030
4270		Sec. 33	CRST
4271		Sec. 36	CRST
4272	T. 12 N., R. 27 E.,	Sec. 31	CRST
4273		Sec. 31	Allot. Nm. 5137
4274		Sec. 32	CRST
4275		Sec. 32	Allot. No. 5030
4276		Sec. 33	CRST
4277		Sec. 36	CRST
4278	T. 12 N., R. 26 E.,	Sec. 12	Allot. No. 2912
4279		Sec. 12	CRST
4280		Sec. 13	CRST
4281		Sec. 11	Allot. No. 3226
4282		Sec. 15	Allot. No. 4495
4283		Sec. 22	CRST
4284		Sec. 27	CRST
4285		Sec. 20	CRST
4286		Sec. 21	CRST
4287		Sec. 28	CRST
4288		Sec. 33	CRST
4289		Sec. 34	CRST
4290		Sec. 35	CRST
4291	T. 12 N., R. 25 E.,	Sec. 17	Allot. No. 1893
4292		Sec. 15	CRST
4293		Sec. 22	CRST
4294		Sec. 22	Allot. Nm. 5284
4295		Sec. 27	CRST
4296		Sec. 34	Allot. Nm. 3783
4297		Sec. 35	CRST
4298		Sec. 35	Allot. Nm. 3590
4299		Sec. 33	CRST
4300		Sec. 32	CRST
4301		Sec. 31	CRST
4302		Sec. 30	CRST
4303		Sec. 19	CRST
4304	T. 12 N., R. 24 E.,	Sec. 3	Allot. No. 2294
4305		Sec. 3	Allot. No. 5600
4306	T. 12 N., R. 23 E.,	Sec. 1	Allot. No. 976
4307	T. 11 N., R. 25 E.,	Sec. 2	Allot. Nm. 4133
4308		Sec. 2	Allot. No. 5590
4309		Sec. 2	CRST
4310		Sec. 2	Allot. No. 4191
4311		Sec. 3	CRST
4312		Sec. 3	Allot. No. 6394
4313		Sec. 4	CRST
4314		Sec. 6	CRST

Case	Description		Allotment/Tribal
4315		Sec. 7	CRST
4316		Sec. 7	Allot. No. 7419
4317		Sec. 18	CRST
4318		Sec. 17	Allot. No. 3299
4319		Sec. 17	CRST
4320		Sec. 20	CRST
4321		Sec. 29	CRST
4322		Sec. 32	CRST
4323		Sec. 33	CRST
4324		Sec. 31	CRST
4325		Sec. 34	CRST
4326		Sec. 35	CRST
4327		Sec. 36	CRST
4328		Sec. 25	CRST
4329		Sec. 25	Allot. No. 5176
4330		Sec. 24	CRST
4331	T. 11 N., R. 26 E.,	Sec. 1	CRST
4332		Sec. 2	CRST
4333		Sec. 4	CRST
4334		Sec. 5	CRST
4335		Sec. 8	CRST
4336		Sec. 9	CRST
4337		Sec. 10	CRST
4338		Sec. 18	CRST
4339		Sec. 17	CRST
4340		Sec. 19	CRST
4341		Sec. 16	CRST
4342		Sec. 15	CRST
4343		Sec. 15	Allot. No. 6971
4344		Sec. 22	CRST
4345		Sec. 27	CRST
4346		Sec. 26	CRST
4347		Sec. 35	CRST
4348		Sec. 36	CRST
4349	T. 11 N., R. 27 E.,	Sec. 1	CRST
4350		Sec. 2	CRST
4351		Sec. 3	CRST
4352		Sec. 4	CRST
4353		Sec. 9	CRST
4354		Sec. 6	CRST
4355		Sec. 6	Allot. No. 4292
4356		Sec. 21	CRST
4357		Sec. 21	Allot. No. X747
4358		Sec. 22	CRST
4358		Sec. 27	CRST
4360		Sec. 34	CRST
4361		Sec. 35	CRST
4362		Sec. 5	CRST
4363		Sec. 6	Allot. No. 4474
4364	T. 11 N., R. 28 E.,	Sec. 1	CRST
4365		Sec. 2	CRST
4366		Sec. 3	CRST
4367		Sec. 10	CRST
4368		Sec. 15	CRST
4369		Sec. 14	CRST
4370		Sec. 23	CRST
4371		Sec. 4	CRST
4372		Sec. 5	CRST
4373	T. 11 N., R. 29 E.,	Sec. 1	CRST
4374		Sec. 2	CRST
4375		Sec. 3	CRST
4376		Sec. 10	CRST
4377		Sec. 11	CRST
4378		Sec. 12	CRST
4379		Sec. 6	CRST
4380		Sec. 7	CRST
4381		Sec. 8	CRST
4382		Sec. 17	CRST
4383		Sec. 16	CRST
4384		Sec. 21	CRST
4385		Sec. 20	CRST
4386		Sec. 19	CRST
4387		Sec. 28	CRST
4388		Sec. 27	CRST
4389		Sec. 34	CRST
4390	T. 11 N., R. 30 E.,	Sec. 4	Allot. No. X624
4391		Sec. 4	CRST
4392		Sec. 10	Allot. No. 3586
4393		Sec. 16	CRST
4393		Sec. 27	X876
4394		Sec. 27	CRST
4395		Sec. 27	Allot. No. 2677
4396		Sec. 6	CRST
4397		Sec. 7	CRST
4398		Sec. 7	Allot. No. X1726
4399		Sec. 18	CRST
4400		Sec. 18	Allot. No. 899
4401		Sec. 17	CRST
4402		Sec. 20	CRST
4403		Sec. 29	CRST
4404		Sec. 30	CRST
4405	T. 10 N., R. 29 E.,	Sec. 3	CRST
4406		Sec. 11	CRST
4407		Sec. 15	CRST
4408		Sec. 14	CRST
4409		Sec. 23	CRST
4410		Sec. 26	CRST
4411		Sec. 24	CRST
4412		Sec. 16	CRST

Case	Description		Allotment/Tribal
4413	T. 10 N., R. 30 E.,	Sec. 4	CRST
4414		Sec. 4	Allot. No. 3587
4415		Sec. 10	CRST
4416		Sec. 15	CRST
4417		Sec. 14	CRST
4418		Sec. 23	CRST
4419		Sec. 26	CRST
4420		Sec. 24	CRST
4421		Sec. 16	CRST
4422	T. 10 N., R. 31 E.,	Sec. 4	CRST
4423		Sec. 4	Allot. No. 3588
4424		Sec. 10	CRST
4425		Sec. 15	CRST
4426		Sec. 14	CRST
4427		Sec. 23	CRST
4428		Sec. 26	CRST
4429		Sec. 24	CRST
4430		Sec. 16	CRST
4431	T. 10 N., R. 32 E.,	Sec. 4	CRST
4432		Sec. 4	Allot. No. 3589
4433		Sec. 10	CRST
4434		Sec. 15	CRST
4435		Sec. 14	CRST
4436		Sec. 23	CRST
4437		Sec. 26	CRST
4438		Sec. 24	CRST
4439		Sec. 16	CRST
4440	T. 10 N., R. 33 E.,	Sec. 4	CRST
4441		Sec. 4	Allot. No. 3590
4442		Sec. 10	CRST
4443		Sec. 15	CRST
4444		Sec. 14	CRST
4445		Sec. 23	CRST
4446		Sec. 26	CRST
4447		Sec. 24	CRST
4448		Sec. 16	CRST

B. DEWEY COUNTY ROAD TRESPASSES (GRAVEL ROADS)

Case	Description		Allotment/Tribal
4449	T. 19 N., R. 19 E.,	Sec. 1	CRST
4450		Sec. 2	CRST
4451		Sec. 3	CRST
4452		Sec. 10	CRST
4453		Sec. 11	CRST
4454		Sec. 12	CRST
4455		Sec. 13	CRST
4456		Sec. 14	CRST
4457		Sec. 15	CRST
4458		Sec. 22	CRST
4459		Sec. 23	CRST
4460		Sec. 24	CRST
4461		Sec. 25	CRST
4462		Sec. 26	CRST
4463		Sec. 27	CRST
4464		Sec. 34	CRST
4465		Sec. 35	CRST
4466		Sec. 36	CRST
4467	T. 19 N., R. 20 E.,	Sec. 1	CRST
4468		Sec. 2	CRST
4469		Sec. 3	CRST
4470		Sec. 10	CRST
4471		Sec. 11	CRST
4472		Sec. 12	CRST
4473		Sec. 13	CRST
4474		Sec. 14	CRST
4475		Sec. 15	CRST
4476		Sec. 22	CRST
4477		Sec. 23	CRST
4478		Sec. 24	CRST
4479		Sec. 25	CRST
4480		Sec. 26	CRST
4481		Sec. 27	CRST
4482		Sec. 34	CRST
4483		Sec. 35	CRST
4484		Sec. 36	CRST
4485	T. 19 N., R. 21 E.,	Sec. 1	CRST
4486		Sec. 2	CRST
4487		Sec. 3	CRST
4488		Sec. 10	CRST
4489		Sec. 11	CRST
4490		Sec. 12	CRST
4491		Sec. 13	CRST
4492		Sec. 14	CRST
4493		Sec. 15	CRST
4494		Sec. 22	CRST
4495		Sec. 23	CRST
4496		Sec. 24	CRST
4497		Sec. 25	CRST
4498		Sec. 26	CRST
4499		Sec. 27	CRST
4500		Sec. 34	CRST
4501		Sec. 35	CRST
4502		Sec. 36	CRST
4503	T. 19 N., R. 22 E.,	Sec. 1	CRST
4504		Sec. 2	CRST
4505		Sec. 3	CRST
4506		Sec. 10	CRST
4507		Sec. 11	CRST
4508		Sec. 12	CRST
4509		Sec. 13	CRST
4510		Sec. 14	CRST
4511		Sec. 15	CRST
4512		Sec. 22	CRST
4513		Sec. 23	CRST
4514		Sec. 24	CRST
4515		Sec. 25	CRST
4516		Sec. 26	CRST
4517		Sec. 27	CRST
4518		Sec. 34	CRST
4519		Sec. 35	CRST
4520		Sec. 36	CRST
4521	T. 19 N., R. 23 E.,	Sec. 1	CRST
4522		Sec. 2	CRST
4523		Sec. 3	CRST
4524		Sec. 10	CRST
4525		Sec. 11	CRST
4526		Sec. 12	CRST
4527		Sec. 13	CRST
4528		Sec. 14	CRST
4529		Sec. 15	CRST
4530		Sec. 22	CRST
4531		Sec. 23	CRST
4532		Sec. 24	CRST
4533		Sec. 25	CRST
4534		Sec. 26	CRST
4535		Sec. 27	CRST
4536		Sec. 34	CRST
4537		Sec. 35	CRST
4538		Sec. 36	CRST
4539	T. 19 N., R. 24 E.,	Sec. 1	CRST
4540		Sec. 2	CRST
4541		Sec. 3	CRST
4542		Sec. 10	CRST
4543		Sec. 11	CRST
4544		Sec. 12	CRST
4545		Sec. 13	CRST
4546		Sec. 14	CRST
4547		Sec. 15	CRST
4548		Sec. 22	CRST
4549		Sec. 23	CRST
4550		Sec. 24	CRST
4551		Sec. 25	CRST
4552		Sec. 26	CRST
4553		Sec. 27	CRST
4554		Sec. 34	CRST
4555		Sec. 35	CRST
4556		Sec. 36	CRST
4557	T. 19 N., R. 25 E.,	Sec. 1	CRST
4558		Sec. 2	CRST
4559		Sec. 3	CRST
4560		Sec. 10	CRST
4561		Sec. 11	CRST
4562		Sec. 12	CRST
4563		Sec. 13	CRST
4564		Sec. 14	CRST
4565		Sec. 15	CRST
4566		Sec. 22	CRST
4567		Sec. 23	CRST
4568		Sec. 24	CRST
4569		Sec. 25	CRST
4570		Sec. 26	CRST
4571		Sec. 27	CRST
4572		Sec. 34	CRST
4573		Sec. 35	CRST
4574		Sec. 36	CRST
4575	T. 19 N., R. 26 E.,	Sec. 1	CRST
4576		Sec. 2	CRST
4577		Sec. 3	CRST
4578		Sec. 10	CRST
4579		Sec. 11	CRST
4580		Sec. 12	CRST
4581		Sec. 13	CRST
4582		Sec. 14	CRST
4583		Sec. 15	CRST
4584		Sec. 22	CRST
4585		Sec. 23	CRST
4586		Sec. 24	CRST
4587		Sec. 25	CRST
4588		Sec. 26	CRST
4589		Sec. 27	CRST
4590		Sec. 34	CRST
4591		Sec. 35	CRST
4592		Sec. 36	CRST
4593	T. 19 N., R. 27 E.,	Sec. 1	CRST
4594		Sec. 2	CRST
4595		Sec. 3	CRST
4596		Sec. 10	CRST
4597		Sec. 11	CRST
4598		Sec. 12	CRST
4599		Sec. 13	CRST
4600		Sec. 14	CRST
4601		Sec. 15	CRST
4602		Sec. 22	CRST
4603		Sec. 23	CRST
4604		Sec. 24	CRST
4605		Sec. 25	CRST
4606		Sec. 26	CRST
4607		Sec. 27	CRST
4608		Sec. 34	CRST
4609		Sec. 35	CRST
4610		Sec. 36	CRST
4611	T. 19 N., R. 28 E.,	Sec. 1	CRST
4612		Sec. 2	CRST
4613		Sec. 3	CRST
4614		Sec. 10	CRST
4615		Sec. 11	CRST
4616		Sec. 12	CRST
4617		Sec. 13	CRST
4618		Sec. 14	CRST
4619		Sec. 15	CRST
4620		Sec. 22	CRST
4621		Sec. 23	CRST
4622		Sec. 24	CRST
4623		Sec. 25	CRST
4624		Sec. 26	CRST
4625		Sec. 27	CRST
4626		Sec. 34	CRST
4627		Sec. 35	CRST
4628		Sec. 36	CRST
4629	T. 19 N., R. 29 E.,	Sec. 1	CRST
4630		Sec. 2	CRST
4631		Sec. 3	CRST
4632		Sec. 10	CRST
4633		Sec. 11	CRST
4634		Sec. 12	CRST
4635		Sec. 13	CRST
4636		Sec. 14	CRST
4637		Sec. 15	CRST
4638		Sec. 22	CRST
4639		Sec. 23	CRST
4640		Sec. 24	CRST
4641		Sec. 25	CRST
4642		Sec. 26	CRST
4643		Sec. 27	CRST
4644		Sec. 34	CRST
4645		Sec. 35	CRST
4646		Sec. 36	CRST
4647	T. 19 N., R. 30 E.,	Sec. 1	CRST
4648		Sec. 2	CRST
4649		Sec. 3	CRST
4650		Sec. 10	CRST
4651		Sec. 11	CRST
4652		Sec. 12	CRST
4653		Sec. 13	CRST
4654		Sec. 14	CRST
4655		Sec. 15	CRST
4656		Sec. 22	CRST
4657		Sec. 23	CRST
4658		Sec. 24	CRST
4659		Sec. 25	CRST
4660		Sec. 26	CRST
4661		Sec. 27	CRST
4662		Sec. 34	CRST
4663		Sec. 35	CRST
4664		Sec. 36	CRST
4665	T. 19 N., R. 31 E.,	Sec. 1	CRST
4666		Sec. 2	CRST
4667		Sec. 3	CRST
4668		Sec. 10	CRST
4669		Sec. 11	CRST
4670		Sec. 12	CRST
4671		Sec. 13	CRST
4672		Sec. 14	CRST
4673		Sec. 15	CRST
4674		Sec. 22	CRST
4675		Sec. 23	CRST
4676		Sec. 24	CRST
4677		Sec. 25	CRST
4678		Sec. 26	CRST
4679		Sec. 27	CRST
4680		Sec. 34	CRST
4681		Sec. 35	CRST
4682		Sec. 36	CRST
4683	T. 19 N., R. 32 E.,	Sec. 1	CRST
4684		Sec. 2	CRST
4685		Sec. 3	CRST
4686		Sec. 10	CRST
4687		Sec. 11	CRST
4688		Sec. 12	CRST
4689		Sec. 13	CRST
4690		Sec. 14	CRST
4691		Sec. 15	CRST
4692		Sec. 22	CRST
4693		Sec. 23	CRST
4694		Sec. 24	CRST
4695		Sec. 25	CRST
4696		Sec. 26	CRST
4697		Sec. 27	CRST
4698		Sec. 34	CRST
4699		Sec. 35	CRST
4700		Sec. 36	CRST
4701	T. 19 N., R. 33 E.,	Sec. 1	CRST
4702		Sec. 2	CRST
4703		Sec. 3	CRST
4704		Sec. 10	CRST
4705		Sec. 11	CRST
4706		Sec. 12	CRST
4707		Sec. 13	CRST
4708		Sec. 14	CRST
4709		Sec. 15	CRST
4710		Sec. 22	CRST
4711		Sec. 23	CRST
4712		Sec. 24	CRST
4713		Sec. 25	CRST
4714		Sec. 26	CRST
4715		Sec. 27	CRST
4716		Sec. 34	CRST
4717		Sec. 35	CRST
4718		Sec. 36	CRST

Case	Description		Allotment/Tribal
4413	T. 10 N., R. 28 E.,	Sec. 7	CRST
4414		Sec. 8	CRST
4415		Sec. 17	CRST
4416		Sec. 18	CRST
4417		Sec. 19	CRST
4418		Sec. 20	CRST
4419		Sec. 29	CRST
4420	T. 10 N., R. 27 E.,	Sec. 2	CRST
4421		Sec. 1	CRST
4422		Sec. 11	CRST
4423		Sec. 12	CRST
4424		Sec. 6	CRST
4425		Sec. 7	CRST
4426		Sec. 18	CRST
4427		Sec. 17	CRST
4428		Sec. 19	CRST
4429		Sec. 20	CRST
4430		Sec. 29	CRST
4431		Sec. 28	CRST
4432		Sec. 21	CRST
4433		Sec. 27	CRST
4434	T. 10 N., R. 26 E.,	Sec. 1	CRST
4435	T. 10 N., R. 25 E.,	Sec. 3	CRST
4436		Sec. 4	CRST
4437		Sec. 10	CRST
4438		Sec. 11	CRST
4439		Sec. 14	CRST
4440		Sec. 23	CRST
4441		Sec. 24	CRST
4442		Sec. 26	Allot. No. 525
4443		Sec. 25	CRST
4444		Sec. 30	Allot. No. 4920
4445		Sec. 32	CRST
4446		Sec. 33	CRST
4447		Sec. 30	Allot. No. 710
4448	T 9 N., R. 25 E.,	Sec. 5	CRST
4449		Sec. 4	CRST
4450		Sec. 9	CRST
4451		Sec. 10	CRST
4452		Sec. 11	CRST
4453		Sec. 12	CRST
4454		Sec. 12	Allot. No. X1118
4455	T. 9 N., R. 26 E.,	Sec. 7	Allot. No. 3812
4456		Sec. 7	CRST
4457		Sec. 8	Allot. No. X1227

B. DEWEY COUNTY ROAD TRESPASSES (STATE ROADS):

Case	Description		Allotment/Tribal
	S.D. 30:		
4458	T. 17 N., R. 23 E.,	Sec. 27	Allot. No. X141
	S.D. 61:		
4459	T. 16 N., R. 24 E.,	Sec. 6	Allot. No. 1974
4460		Sec. 5	CRST
4461		Sec. 7	Allot. No. 1977
4462		Sec. 18	Allot. No. 2195
4463	T. 15 N., R. 24 E.,	Sec. 6	CRST
4464		Sec. 7	CRST
4465		Sec. 20	CRST
4466		Sec. 32	CRST
4467	T. 13 N., R. 24 E.,	Sec. 3	CRST
	S.D. 63:		
4468	T. 14 N., R. 24 E.,	Sec. 5	CRST
4469		Sec. 5	Allot. No. 3570
4470		Sec. 8	Allot. No. X43
4471		Sec. 8	CRST
4472		Sec. 17	CRST
4473		Sec. 17	Allot. No. X648
4474		Sec. 16	Allot. No. 4082
4475		Sec. 16	Allot. No. 3542
4476		Sec. 21	CRST
4477		Sec. 27	CRST

C. ZIEBACH COUNTY ROAD TRESPASSES (COUNTY ROADS):

Case	Description	Allotment/Tribal
4478	T. 17 N., R. 19 E., Sec. 2	CRST
4479	Sec. 3	CRST
4480	Sec. 4	CRST
4481	Sec. 5	CRST
4482	Sec. 6	CRST
4483	Sec. 11	CRST
4484	Sec. 10	CRST
4485	T. 17 N., R. 18 E., Sec. 11	CRST
4486	Sec. 14	CRST
4487	Sec. 14	Allot. No. 2858
4488	Sec. 15	Allot. No. 2520
4489	Sec. 16	Allot. No. 2199
4490	Sec. 16	Allot. No. 2521
4491	T. 17 N., R. 17 E., Sec. 24	CRST
4492	T. 16 N., R. 17 E., Sec. 35	CRST
4493	T. 16 N., R. 18 E., Sec. 17	CRST
4494	Sec. 31	CRST
4495	Sec. 20	CRST
4496	Sec. 21	CRST
4497	T. 16 N., R. 19 E., Sec. 4	CRST
4498	Sec. 5	CRST
4499	Sec. 8	CRST
4500	Sec. 9	CRST
4501	Sec. 16	CRST
4502	Sec. 17	CRST
4503	Sec. 20	CRST
4504	Sec. 21	CRST
4505	Sec. 28	CRST
4506	Sec. 29	CRST
4507	Sec. 32	CRST
4508	Sec. 33	CRST
4509	T. 16 N., R. 20 E., Sec. 12	CRST
4510	Sec. 13	CRST
4511	Sec. 14	CRST
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4518	T. 15 N., R. 21 E., Sec. 33	CRST
4519	T. 15 N., R. 20 E., Sec. 2	CRST
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4553	Sec. 9	CRST
4554	T. 14 N., R. 18 E., Sec. 3	Allot. No. 9836
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Case	Description	Allotment/Tribal
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5217	Sec. 32	CRST
5218	Sec. 33	CRST
5219	Sec. 34	CRST
5220	Sec. 35	CRST
5221	Sec. 36	CRST
5222	T. 9 N., R. 20 E., Sec. 1	CRST
5223	Sec. 2	CRST
5224	Sec. 3	CRST
5225	Sec. 4	CRST
5226	Sec. 5	CRST
5227	Sec. 6	CRST
5228	Sec. 7	CRST
5229	Sec. 8	CRST
5230	Sec. 9	CRST
5231	Sec. 10	CRST
5232	Sec. 11	CRST
5233	Sec. 12	CRST
5234	Sec. 13	CRST
5235	Sec. 14	CRST
5236	Sec. 15	CRST
5237	Sec. 16	CRST
5238	Sec. 17	CRST
5239	Sec. 18	CRST
5240	Sec. 19	CRST
5241	Sec. 20	CRST
5242	Sec. 21	CRST
5243	Sec. 22	CRST
5244	Sec. 23	CRST
5245	Sec. 24	CRST
5246	Sec. 25	CRST
5247	Sec. 26	CRST
5248	Sec. 27	CRST
5249	Sec. 28	CRST
5250	Sec. 29	CRST
5251	Sec. 30	CRST
5252	Sec. 31	CRST
5253	Sec. 32	CRST
5254	Sec. 33	CRST
5255	Sec. 34	CRST
5256	Sec. 35	CRST
5257	Sec. 36	CRST
5258	T. 9 N., R. 21 E., Sec. 19	CRST
5259	Sec. 30	CRST
5260	T. 8 N., R. 17 E., Sec. 1	CRST
5261	Sec. 2	CRST
5262	Sec. 3	CRST
5263	Sec. 4	CRST
5264	Sec. 5	CRST
5265	Sec. 6	CRST
5266	Sec. 7	CRST
5267	Sec. 8	CRST
5268	Sec. 9	CRST
5269	Sec. 10	CRST
5270	Sec. 11	CRST
5271	Sec. 12	CRST
5272	Sec

Case	Description		Allotment/Tribal
4567		Sec. 35	CRST
4568		Sec. 29	CRST
4569		Sec. 20	CRST
4570	T. 14 N., R. 19 E.,	Sec. 6	CRST
4571		Sec. 6	Allot. No. 7330
4572		Sec. 7	Allot. No. 5657
4573		Sec. 7	Allot. No. 4525
4574		Sec. 18	CRST
4575		Sec. 18	Allot. No. 2102
4576		Sec. 19	Allot. No. X1050
4577		Sec. 19	CRST
4578		Sec. 30	CRST
4579		Sec. 29	Allot. No. X1049
4580		Sec. 29	Allot. No. 2101
4581		Sec. 32	CRST
4582		Sec. 33	CRST
4583		Sec. 24	CRST
4584	T. 14 N., R. 20 E.,	Sec. 3	CRST
4585		Sec. 3	Allot. No. X1832
4586		Sec. 10	CRST
4587		Sec. 10	Allot. No. 3701
4588		Sec. 11	CRST
4589		Sec. 20	Allot. No. 3290
4590		Sec. 20	Allot. No. 5403
4591		Sec. 17	Allot. No. X1872
4592		Sec. 18	CRST
4593		Sec. 32	CRST
4594	T. 14 N., R. 21 E.,	Sec. 3	CRST
4595		Sec. 10	Allot. No, X1909
4596		Sec. 14	Allot. No. 5008
4597	T. 13 N., R. 21 E.,	Sec. 1	CRST
4598	T. 13 N., R. 20 E.,	Sec. 1	Allot. No. 4450
4599		Sec. 29	CRST
4600		Sec. 20	CRST
4601		Sec. 17	CRST
4602	T. 13 N., R. 19 E.,	Sec. 5	Allot. No. 5657
4603		Sec. 9	CRST
4604		Sec. 28	CRST
4605		Sec. 25	Allot. No. 1674
4606		Sec. 25	Allot. No. 1612
4607		Sec. 35	Allot. No. 1009
4608	T. 13 N., R. 18 E.,	Sec. 1	Allot. No. X832
4609		Sec. 5	CRST
4610	T. 13 N., R. 17 E.,	Sec. 11	CRST
4611	T. 12 N., R. 18 E.,	Sec. 35	CRST
4612	T. 12 N., R. 19 E.,	Sec. 28	CRST

Case	Description		Allotment/Tribal
4613	T. 12 N., R. 22 E.,	Sec. 30	CRST
4614	T. 12 N., R. 23 E.,	Sec. 19	CRST
4615	T. 12 N., R. 24 E.,	Sec. 27	CRST
4616		Sec. 28	CRST
4617		Sec. 32	CRST
4618		Sec. 19	CRST
4619	T. 11 N., R. 24 E.,	Sec. 5	CRST
4620		Sec. 8	CRST
4621		Sec. 9	CRST
4622		Sec. 4	CRST
4623	T. 11 N., R. 23 E.,	Sec. 5	Allot. No. X249
4624	T. 11 N., R. 22 E.,	Sec. 21	CRST
4625		Sec. 21	Allot. No. U X716
4626		Sec. 28	CRST
4627		Sec. 33	CRST
4628		Sec. 34	CRST
4629	T. 11 N., R. 21 E.,	Sec. 32	Allot. No. X1542
4630	T. 11 N., R. 20 E.,	Sec. 34	CRST
4631		Sec. 33	CRST
4632		Sec. 31	CRST
4633	T. 11 N., R. 18 E.,	Sec. 13	CRST
4634		Sec. 15	CRST
4635		Sec. 14	CRST
4636		Sec. 23	CRST
4637		Sec. 26	CRST
4638		Sec. 27	CRST
4639		Sec. 35	CRST
4640		Sec. 35	Allot. No. X723
4641		Sec. 7	CRST
4642	T. 10 N., R. 18 E.,	Sec. 1	CRST
4643		Sec. 17	CRST
4644		Sec. 20	CRST
4645		Sec. 20	Allot. No. 4730
4646		Sec. 21	Allot. No. X130
4647		Sec. 28	CRST
4648		Sec. 34	CRST
4649		Sec. 31	CRST
4650		Sec. 30	CRST
4651		Sec. 29	CRST
4652		Sec. 18	CRST
4653	T. 10 N., R. 19 E.,	Sec. 1	CRST
4654		Sec. 12	CRST
4655		Sec. 11	CRST
4656		Sec. 10	CRST
4657		Sec. 10	Allot. No. X1878
4658		Sec. 3	Allot. No. X958
4659		Sec. 4	CRST
4660		Sec. 5	CRST

Case	Description		Allotment/Tribal
4661		Sec. 7	CRST
4662		Sec. 9	CRST
4663		Sec. 14	CRST
4664		Sec. 14	Allot. No. X1363
4665	T. 10 N., R. 20 E.,	Sec. 3	CRST
4666		Sec. 4	CRST
4667		Sec. 5	CRST
4668		Sec. 6	CRST
4669		Sec. 7	CRST
4670		Sec. 8	Allot. No. 5744
4671		Sec. 13	CRST
4672		Sec. 24	Allot. No. X1111
4673		Sec. 25	CRST
4674		Sec. 25	Allot. No. X1733
4675		Sec. 26	CRST
4676		Sec. 35	CRST
4677		Sec. 27	CRST
4678	T. 10 N., R. 21 E.,	Sec. 3	CRST
4679		Sec. 4	CRST
4680		Sec. 5	CRST
4681		Sec. 19	CRST
4682		Sec. 33	Allot. No X3[illegible]
4683		Sec. 32	Allot. No. X3[illegible]
4684		Sec. 11	CRST
4685		Sec. 14	CRST
4686		Sec. 22	CRST
4687		Sec. 22	Allot. No. X378
4688		Sec. 15	CRST
4689		Sec. 35	CRST
4690	T. 10 N., R. 22 E.,	Sec. 3	CRST
4691		Sec. 9	CRST
4692		Sec. 10	CRST
4693		Sec. 25	CRST
4694		Sec. 34	CRST
4695		Sec. 33	CRST
4696	T. 10 N., R. 23 E.,	Sec. 32	Allot. No. X1725
4697		Sec. 31	CRST
4698	T. 9 N., R. 24 E.,	Sec. 18	CRST
4699		Sec. 19	CRST
4700	T. 9 N., R. 23 E.,	Sec. 25	CRST
4701		Sec. 26	CRST
4702		Sec. 26	Allot. No. X1248
4703		Sec. 27	Allot. No. X1065
4704		Sec. 28	CRST
4705		Sec. 29	CRST
4706		Sec. 30	CRST
4707	T. 9 N., R. 22 E.,	Sec. 36	Allot. No. 3864
4708	T. 9 N., R. 21 E.,	Sec. 18	CRST
4709		Sec. 19	CRST
4710		Sec. 18	Allot. No. (no #)
4711		Sec. 17	Allot. No. X1759
4712		Sec. 17	CRST
4713		Sec. 20	Allot. No. X1759
4714		Sec. 21	CRST
4715		Sec. 28	CRST
4716		Sec. 27	CRST
4717		Sec. 26	CRST
4718		Sec. 35	CRST
4719	T. 9 N., R. 20 E.,	Sec. 1	CRST
4720		Sec. 12	CRST
4721		Sec. 23	CRST
4722		Sec. 26	Allot. No. X347
4723		Sec. 25	Allot. No. 1074
4724		Sec. 25	CRST
4725		Sec. 25	Allot. No. 3988
4726		Sec. 26	CRST
4727		Sec. 35	CRST
4728		Sec. 36	CRST
4729		Sec. 34	Allot. No. 317
4730		Sec. 34	Allot. No. X254
4731		Sec. 33	Allot. No 1676
4732		Sec. 32	Allot. No. 3365
4733		Sec. 19	CRST
4734		Sec. 19	Allot. No. X682
4735	T 9 N., R 19 E.,	Sec. 3	CRST
4736		Sec. 4	CRST
4737		Sec. 5	CRST
4738		Sec. 6	CRST
4739		Sec. 6	Allot. No. 2349
4740		Sec. 8	CRST
4741		Sec. 9	CRST
4742		Sec. 16	Allot. No. 1332
4743		Sec. 15	CRST
4744		Sec. 22	CRST
4745		Sec. 23	CRST
4746		Sec. 13	Allot. No. 4279
4747		Sec. 12	CRST
4748		Sec. 12	Allot. No. 1876
4749	T. 9 N., R. 18 E.,	Sec. 1	CRST
4750		Sec. 1	Allot. No. X741
4751		Sec. 10	Allot. No. X1167
4752		Sec. 5	Allot. No. X1290
4753		Sec. 6	CRST
4754	T. 8 N., R. 18 E.,	Sec. 23	CRST
4755		Sec. 14	CRST
4756		Sec. 13	CRST
4757		Sec. 24	CRST
4758		Sec. 22	CRST
4759		Sec. 27	CRST
4760		Sec. 28	CRST
4761		Sec. 29	Allot. No. X1127
4762		Sec. 29	Allot. No. X1128
4763		Sec. 32	CRST
4764		Sec. 33	CRST
4765		Sec. 34	CRST

Case	Description		Allotment/Tribal
4766		Sec. 35	CRST
4767		Sec. 36	CRST
4768	T. 8 N., R. 19 E.,	Sec. 19	CRST
4769		Sec. 20	CRST
4770		Sec. 21	CRST
4771		Sec. 28	CRST
4772		Sec. 27	CRST
4773		Sec. 26	CRST
4774		Sec. 35	CRST
4775	T. 8 N., R. 20 E.,	Sec. 1	CRST
4776		Sec. 12	CRST
4777		Sec. 13	CRST
4778		Sec. 24	CRST
4779		Sec. 25	CRST
4780		Sec. 25	CRST
4781		Sec. 26	CRST
4782		Sec. 35	CRST
4783		Sec. 36	CRST
4784	T. 8 N., R. 21 E.,	Sec. 19	CRST
4785		Sec. 20	CRST
4786		Sec. 21	CRST
4787		Sec. 28	CRST
4788		Sec. 27	CRST
4789		Sec. 26	CRST
4790		Sec. 35	CRST
4791	T. 8 N., R. 22 E.,	Sec. 19	CRST
4792		Sec. 20	CRST
4793		Sec. 21	CRST
4794		Sec. 28	CRST
4795		Sec. 27	CRST
4796		Sec. 26	CRST
4797		Sec. 35	CRST
4798	T. 8 N., R. 23 E.,	Sec. 19	CRST
4799		Sec. 20	CRST
4800		Sec. 21	CRST
4801		Sec. 28	CRST
4802		Sec. 27	CRST
4803		Sec. 26	CRST
4804		Sec. 35	CRST
4805	T. 8 N., R. 24 E.,	Sec. 19	CRST
4806		Sec. 20	CRST
4807		Sec. 21	CRST
4808		Sec. 28	CRST
4809		Sec. 27	CRST
4810		Sec. 26	CRST
4811		Sec. 35	CRST
4812	T. 7 N., R. 24 E.,	Sec. 1	CRST
4813		Sec. 12	CRST
4814		Sec. 13	CRST
4815		Sec. 24	CRST
4816		Sec. 25	CRST
4817		Sec. 25	CRST
4818		Sec. 26	CRST
4819		Sec. 35	CRST
4820		Sec. 36	CRST
4821	T. 7 N., R. 23 E.,	Sec. 1	CRST
4822		Sec. 12	CRST
4823		Sec. 13	CRST
4824		Sec. 24	CRST
4825		Sec. 25	CRST
4826		Sec. 25	CRST
4827		Sec. 26	CRST
4828		Sec. 35	CRST
4829		Sec. 36	CRST
4830	T. 7 N., R. 22 E.,	Sec. 1	CRST
4831		Sec. 12	CRST
4832		Sec. 13	CRST
4833		Sec. 24	CRST
4834		Sec. 25	CRST
4835		Sec. 25	CRST
4836		Sec. 26	CRST
4837		Sec. 35	CRST
4838		Sec. 36	CRST
4839	T. 7 N., R. 21 E.,	Sec. 1	CRST
4840		Sec. 12	CRST
4841		Sec. 13	CRST
4842		Sec. 24	CRST
4843		Sec. 25	CRST
4844		Sec. 25	CRST
4845		Sec. 26	CRST
4846		Sec. 35	CRST
4847		Sec. 36	CRST
4848	T. 7 N., R. 20 E.,	Sec. 1	CRST
4849		Sec. 12	CRST
4850		Sec. 13	CRST
4851		Sec. 24	CRST
4852		Sec. 25	CRST
4853		Sec. 25	CRST
4854		Sec. 26	CRST
4855		Sec. 35	CRST
4856		Sec. 36	CRST
4857	T. 7 N., R. 19 E.,	Sec. 1	CRST
4858		Sec. 12	CRST
4859		Sec. 13	CRST
4860		Sec. 24	CRST
4861		Sec. 25	CRST
4862		Sec. 25	CRST
4863		Sec. 26	CRST
4864		Sec. 35	CRST
4865		Sec. 36	CRST
4866	T. 7 N., R. 18 E.,	Sec. 1	CRST
4867		Sec. 12	CRST
4868		Sec. 13	CRST
4869		Sec. 24	CRST
4870		Sec. 25	CRST
4871		Sec. 25	CRST
4872		Sec. 26	CRST
4873		Sec. 35	CRST
4874		Sec. 36	CRST

Case	Description		Allotment/Tribal
4765		Sec. 34	CRST
4766	T. 8 N., R. 19 E.,	Sec. 25	CRST
4767		Sec. 26	CRST
4768		Sec. 23	CRST
4769		Sec. 22	CRST
4770		Sec. 22	Allot. No. 1635
4771		Sec. 16	CRST
4772		Sec. 17	CRST
4773		Sec. 18	Allot. No. X567
4774		Sec. 18	CRST
4775		Sec. 19	Allot. No. 1295
4776	T. 8 N., R. 20 E.,	Sec. 1	CRST
4777		Sec. 1	Allot. No. 1073
4778		Sec. 36	CRST
4779		Sec. 35	CRST
4780		Sec. 34	CRST
4781		Sec. 33	CRST
4782		Sec. 32	CRST
4783		Sec. 29	CRST
4784		Sec. 30	CRST
4785	T. 8 N., R. 21 E.,	Sec. 7	CRST
4786		Sec. 8	CRST
4787		Sec. 9	CRST
4788		Sec. 17	CRST
4789		Sec. 16	Allot. No. X1629
4790		Sec. 16	Allot. No. X1767
4791		Sec. 15	Allot. No. X1767
4792		Sec. 15	CRST
4793		Sec. 22	CRST
4794		Sec. 23	CRST
4795		Sec. 23	Allot. No. 1190
4796		Sec. 26	CRST
4797		Sec. 25	CRST
4798		Sec. 18	CRST
4799		Sec. 18	Allot. No. X1817
4800		Sec. 31	CRST
4801		Sec. 31	Allot. No. 4119
4802		Sec. 29	CRST
4803		Sec. 32	CRST
4804		Sec. 33	CRST
4805		Sec. 32	Allot. No. 7320
4806		Sec. 34	CRST
4807		Sec. 34	Allot. No. 7320
4808		Sec. 34	Allot. No. X1530
4809		Sec. 35	Allot. No. X1530
4810		Sec. 35	CRST
4811		Sec. 36	Allot. No. 3068
4812	T. 8 N., R. 22 E.,	Sec. 12	CRST
4813		Sec. 12	Allot. No. [illegible]
4814		Sec. 11	Allot. No. [illegible]
4815		Sec. 14	CRST
4816		Sec. 14	Allot. No. X1978
4817		Sec. 14	Allot. No. X819
4818		Sec. 15	CRST
4819		Sec. 15	Allot. No. 1026
4820		Sec. 21	CRST
4821		Sec. 28	CRST
4822		Sec. 28	Allot. No. 1428
4823		Sec. 32	CRST
4824		Sec. 32	Allot. No. X1748
4825		Sec. 31	Allot. No. X9036
4826		Sec. 31	Allot. No. 7733
4827		Sec. 30	CRST
4828		Sec. 29	CRST
4829		Sec. 20	CRST
4830		Sec. 19	CRST
4831		Sec. 18	CRST
4832		Sec. 18	Allot. No. 1649
4833		Sec. 18	Allot. No. 5636
4834		Sec. 7	Allot. No. 3086
4835		Sec. 6	Allot. No. 2460
4836		Sec. 6	Allot. No. 3972
4837		Sec. 6	CRST
4838	T. 7 N., R. 19 E.,	Sec. 2	CRST
4839		Sec. 11	CRST
4840		Sec. 10	CRST
4841		Sec. 15	Allot. No. 1221
4842		Sec. 15	CRST
4843		Sec. 16	Allot. No. 1215
4844		Sec. 9	CRST
4845		Sec. 8	Allot. No. 4282
4846		Sec. 8	Allot. No. 1230
4847		Sec. 7	Allot. No. 1230
4849		Sec. 6	CRST
4850			
4850	T. 7 N., R. 18 E.,	Sec. 1	CRST
4851		Sec. 2	CRST
4852		Sec. 26	Allot. No. 1258
4853		Sec. 26	CRST
4854		Sec. 27	CRST
4855		Sec. 27	Allot. No. X446
4856		Sec. 27	Allot. No. X1127
4857		Sec. 29	Allot. No. 1473
4858		Sec. 29	Allot. No. X536
4859		Sec. 30	CRST
4860		Sec. 30	Allot. No. 2331
4861		Sec. 31	Allot. No. 1237
4862		Sec. 31	CRST
4863		Sec. 19	Allot. No. 2968

[FR Doc. 83-30082 Filed 11-4-83; 8:45 am]
BILLING CODE 4310-02-C

D. ZIEBACH COUNTY ROAD TRESPASSES (STATE ROADS):

Case	Description		Allotment/Tribal
	S.D. 20:		
4864	T. 17 N., R. 20 E.,	Sec. 31	CRST
4865		Sec. 32	CRST
4866	T. 17 N., R. 19 E.,	Sec. 35	CRST
	S.D. 65:		
4867	T. 14 N., R. 21 E.,	Sec. 2	Allot. No. X948
4868		Sec. 2	CRST
4869		Sec. 2	Allot. Nm. 2061
4870		Sec. 3	CRST
4871		Sec. 10	Allot. No. X1909
4872		Sec. 10	Allot. No. X947
	S.D. 63:		
4873	T. 11 N., R. 23 E.,	Sec. 1	Allot. No. X768
4874		Sec. 2	Allot. No. 985
4875		Sec. 11	Allot. No. 985
4876		Sec. 12	CRST
4877		Sec. 11	Allot. No. 1699
4878		Sec. 14	Allot. No. 3309
4879		Sec. 14	Allot. No. 3803
4880		Sec. 13	CRST
4881	T. 9 N., R. 23 E.,	Sec. 18	CRST
4882		Sec. 17	CRST
4883		Sec. 19	CRST
4884		Sec. 20	CRST

END OF ROAD TRESPASS CLAIMS.

UTILITY TRESPASS CLAIMS

Case	Description		Allotment/Tract
4885	T. 10 N., R. 25 E.,	Sec. 25	340-10 - CRST
4886		Sec. 30	2319 - Alice White Bobtail Bear
4887		Sec. 30	3984 - Estella B. West
4889		Sec. 31	932 - Allen West
4890		Sec. 32	340-10 - CRST
4891		Sec. 32	4974 - Donald Dean Dolphus
4892		Sec. 33	340-10 - CRST
4893	T. 14 N., R. 24 E.,	Sec. 9	582 - Iron Nest Woman
4894		Sec. 10	1595 - Bear Arm Necklace
4895		Sec. 11	2037 - Aggie Bear Arm Necklace
4896		Sec. 11	2498 - Julia Crooked Foot
4897		Sec. 12	2036 - Kate Rose Medicine Man
4898		Sec. 16	582 - Iron Nest Woman
4899		Sec. 16	3543 - Mary Pretty Cloud
4900		Sec. 17	Unknown - Felix Borreus
4901		Sec. 17	632 - Arthur Iron Nest
4902		Sec. 33	340-10 - CRST
4903	T. 15 N., R. 23 E.,	Sec. 12	Unknown - William Pretty Cloud
4904		Sec. 12	8186 - Unknown
4905	T. 9, R. 24 E.,	Sec. 29	Unknown - John Iron Fighting
4906		Sec. 29	Unknown - Leland Garrett
4907		Sec. 32	Unknown - Lawrence Vandoll
4908	T. 12 N., R. 25 E.,	Sec. 2	2883 - Rosalie Smith
4909		Sec. 3	2882 - Francis Luke Gage
4910		Sec. 10	3845 - Robert Philips
4911		Sec. 11	1315 - Lawrence Swift Eagle
4912		Sec. 11	1315 - Lawrence Swift Eagle
4913		Sec. 13	1617 - Frances Showing
4914		Sec. 14	340-10 - CRST
4915		Sec. 17	3295 - Amy Spotted Rabbit
4916		Sec. 19	Unknown - Walter Skates
4917	T. 13 N., R. 26 E.,	Sec. 2	2804 - Lucile Zigler
4918		Sec. 4	Unknown - Guy Rattling Tail
4919		Sec. 11	482 - Isaac Halpin
4920		Sec. 18	5298 - Joan Delores Simon
4921		Sec. 25	619 - Margurite Claymore
4922		Sec. 31	2895 - Mabel P. Powell
4923		Sec. 36	418 - Louise Yardley
4924		Sec. 36	2810 - Emma Hodgkiss Claymore
4925	T. 14 N., R. 26 E.,	Sec. 24	340-10 - CRST
4926		Sec. 25	Unknown - Paul Claymore
4927		Sec. 25	Unknown - James Claymore

END OF UTILITY TRESPASS CLAIMS.

register

Monday
November 7, 1983

Part III

Federal Home Loan Bank Board

Reserve Requirements and Policies Relating to Insurance of Accounts of de Novo Institutions

federal

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 563 and 571

[No. 83-808]

Reserve Requirements and Policies Relating to Insurance of Accounts of de Novo Institutions

November 3, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, is proposing to codify and update its policies relating to approval of insurance applications of *de novo* (newly-chartered) institutions to require initial capitalization of $3 million to be raised by all *de novo* applicants. The Board is also proposing to require submission of business plans by all insurance applicants, including a detailed description of the applicants' investment policies, plans, and strategies. In this regard, the Board proposes to establish a policy calling for disapproval of applicants whose business plans indicate an intention to invest more than ten percent of their assets in service corporation subsidiaries or in the acquisition of real estate. The Board further proposes to amend its regulation governing statutory reserve and net-worth requirements as they pertain to new institutions applying for insurance of accounts, including deletion of provisions permitting calculation of reserves on a five-year-average basis and building reserves over a 20-year period. The Board believes that the proposed changes are necessary because existing requirements permit new institutions excessive leveraging and growth potential which may create an unacceptable risk to the Insurance Fund, especially in light of the range of new activities authorized for federal and state-chartered institutions. The proposal is intended to allow growth in a gradual, safe, and sound manner, while guarding against excessive, highly leveraged growth and risk to the FSLIC.

DATE: Comments must be received by November 21, 1983.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Robert S. Monheit, Attorney, Office of General Counsel, (202) 377-6465.

SUPPLEMENTARY INFORMATION: During the past few years, the Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), has observed significant changes in the powers and structure of the thrift industry. These changes have led the Board to reconsider its assessment of the potential risks facing the FSLIC insurance fund as well as the appropriate use of the resources of the FSLIC.

As a result of the Garn-St Germain Depository Institutions Act of 1982 ("DIA"), Pub. L. No. 97-320, and changes to a number of state laws, the investment powers of federal and state-chartered institutions have widened significantly. While the Board has focused its concern in the recent past on the problems of interestrate risks facing the thrift industry, this expansion of investment authority has also caused the Board to view with concern the potential problems of credit risk. Institutions are now permitted to make investments in areas in which this industry has little, if any, experience. In many instances, the exercise of these new authorities involves unsecured investments, thus increasing the risk of loss to the institutions and, ultimately, to the FSLIC. In some states, statutory limits on the percentage of assets that an association may commit to these new powers may not effectively require a prudent mix of these new, riskier investments with the traditional, secured investments, and may instead permit institutions largely to abandon their primary role as providers of residential mortage credit.

Increased asset powers also raise questions concerning the appropriate use of FSLIC resources. The Board is authorized to deny insurance to any applicant whose "home financing policy is inconsistent with economical home financing or with the purposes of Title IV of the National Housing Act" (12 U.S.C. 1726(c)) and may terminate the insurance of an insured institution that "has violated its duty as such" (12 U.S.C. 1730(b)(1)). The Board believes that excessive investments in areas other than home finance may constitute home financing policies inconsistent with economical home financing and the purpose of the National Housing Act ("NHA"), and may violate the duty of insured institutions.

The Board has also observed a significant change in the predominant form of organization of applicants for insurance of accounts. Most of the Board's policies concerning applicants for insurance of accounts were developed at time when applicants were exclusively mutual institutions. However, the number of mutual institutions seeking and receiving FSLIC insurance approval in the past few years has decreased dramatically. Since 1981, all *de novo* state-chartered institutions applying for insurance of accounts have been stock institutions. In addition, the Board is now authorized (by Title III of the DIA) to charter and insure *de novo* federal stock institutions. As a result of this recent change, all applications of *de novo* federal associations received this year have involved stock associations.

The primary consequence of the shift in corporate structure of thrift institutions is in the ability of such institutions to raise capital. Stock institutions have a far greater inherent ability than mutuals to raise capital, and this capacity has been increased through the creation of a nationwide market for S&L securities. The ability of stock institutions to raise capital, combined with the development of a nationwide network for attracting deposit liabilities, creates a potential for rapid growth not contemplated by existing policies. When this potential is further linked with expanded investment authorization, the increased risk to insured institutions and the Corporation requires a re-examinaton of present policies.

The Board is commencing its review of these issues by proposing rules and policy statements, detailed below, applicable to newly-chartered institutions. *De novo* applicants for insurance do not have a proven, supervisory history. Thus, the Corporation faces the prospect of insuring untried institutions having the potential for rapid growth and the ability to undertake substantial non-housing-related investments and other activities. Further, these insitutions can enter into new investment areas more rapidly than existing institutions that are constrained by their current portfolios and expertise.

The Board therefore believes it appropriate to act promptly to ensure that *de novo* institutions commence operations in a safe and sound manner, while it continues to review its policies regarding reserve requirements, investments and other areas of possible concern relating to existing institutions.

Board Policy for Consideration of Applications for Insurance

The Board is proposing to codify its policies relating to approval of

insurance applications of *de novo* institutions, and to revise 12 CFR 571.6 to eliminate redundant provisions. In May, 1976, the Board's policy called for an applicant located in a Standard Metropolitan Statistical Area (SMSA), or market area, having a population between 25,000 and 100,000, to raise at least $1 million in permanent stock (stock institutions) or withdrawable savings of which no more than $250,000 would be pledged savings (mutual institutions); an applicant in a SMSA, or market area, having a population over 100,000 was expected to raise at least $2 million in permanent stock or withdrawable savings, of which no more than $250,000 would be pledged savings. In 1982, the Board raised the minimum pledged savings level to the 1976 permanent capital stock level (which was not significantly changed).

Changes in the industry occurring since 1976 have brought into question the adequency of the current minimum capital level. As previously described, the preference of organizers for the stock form of organization to enhance capital accumulation, the availability of riskier, new investment opportunities, and the ready acess to funds on a nationwide basis, argue for elimination of a distinction between institutions in different market areas and for an increase in initial reserves for the soundness of the institutions and for the protection of the FSLIC. In addition, the Board has noted that current minimums have effectively declined as a result of inflation.

The Board, therefore, proposes to call for a higher minimum capitalization for *de novo* institutions seeking to obtain FSLIC insurance. The Board believes that capitalization of $3 million, taken together with the other approaches described in this proposal for the appropriate and sound structuring of institutions seeking to enjoy the advantages of FSLIC insurance, will provide an increased level of protection for institutions and, ultimately, the Corporation.

The NHA, in § 403(c) (12 U.S.C. 1726(c)), requires disapproval of an application if the Board finds that the applicant's capital is impaired or that its financial policies or management are unsafe. Further, § 403(c) grants the Board the discretion to reject an applicant if the Board finds that the applicant's management or home financing policy is inconsistent with economical home financing or with the purpose of Title IV of the NHA. In addition, the board is directed to give full consideration to all factors in connection with the financial condition of applicants.

As a result of the expansion of investment authority under the DIA and many state laws, and the increased ability of institutions to obtain capital and deposit liabilities on a nationwide basis, the Board finds it increasingly difficult to make these determinations without detailed information on the business plans and projections of *de novo* applicants. The Board faces the prospect of insuring untried institutions without a supervisory history that have the authority to make a wide range of nontraditional investments. The Board, therefore, finds it imperative that, in addition to the current application requirements, *de novo* applicants provide further detailed information on plans for the first three years of operation, including descriptions of management, investment policies, and operations (including expected reliance upon brokers to obtain deposits), accompanied by financial projections.

The Board is also concerned that an applicant may intend to make substantial investments in activities unrelated to home finance, thereby rendering the applicant's home financing policy inconsistent with economical home financing or with the purposes of the NHA. The Board is particularly concerned with the ability of applicants to channel a significant amount of their investment through service corporations whose activities are not effectively limited. This may result in the diversion of a substantial portion of insured deposits into activities unrelated to home financing. Similarly, the Board is concerned that the authority to make substantial direct investments in real estate will result in real estate developers obtaining state charters and federal insurance as a means of financing their acquisition and development plans. The Board believes that these activities, if funded by a substantial portion of an institution's assets, would result in an inappropriate use of FSLIC insurance and, necessarily, in an applicant having a home financing policy inconsistent with economical home financing and the purposes of the NHA.

The Board therefore proposes to adopt a policy calling for rejection of any application that fails to include in its business plan a limitation, to an aggregate of ten percent of assets, on investment in service corporations and acquisition of real estate. Exceptions would be provided for real estate acquired for the applicant's offices and related facilities, and for real estate acquired through foreclosures or similar actions. The Board believes that a ten-percent limit would not materially hamper the legitimate use of these investmenmt authorizations as supplements to an association's primary role as provider of housing credit. A recent state-by-state study of investments in service corporations and/or real estate acquisition by current FSLIC-insured, state-chartered institutions indicates that the composite investment in service corporations did not exceed 4.5 percent where institutions invested in both service corporations and real estate, and did not exceed 6.0 percent where they invested in service corporations alone. The composite investment in real estate did not exceed 5.25 percent where institutions invested in both real estate and service corporations, and did not exceed 3.5 percent where the investment was in real estate alone. In addition, the proposed limit would not be inconsistent with the great majority of current state authorizations for such investments, which the Board considers to be a noteworthy factor in its consideration of the appropriate activity focus of thrift institutions. The Board therefore believes that its proposed policy will not have an adverse impact on the formation of institutions seeking primarily to extend home mortgage credit, and will serve to discourage only those few applicants seeking federal insurance as a way to promote their non-housing-related goals.

Reserve Requirements

The DIA amended Section 403(b) of the NHA so that the statute no longer establishes a range within which the Board must set the statutory reserve percentage. The amendment also eliminated Congressional direction to the Board to permit the building up of reserves over a period not exceeding twenty years. Rather, Section 403(b) as amended gives the Board broad discretion to determine appropriate reserve levels, in a form satisfactory to the Corporation, to be established in accordance with regulations issued by the Board on behalf of the Corporation.

The current regulation, set forth at 12 CFR 563.13, requires insured institutions that have reached the twentieth anniversary of insurance of accounts to maintain statutory reserves equal to three percent of all insured account balances. These institutions must also have a minimum regulatory net worth equal to the sum of the three percent of liabilities, plus two percent of recourse liabilities and 20 percent of scheduled items. Insured institutions that have not yet reached their twentieth anniversary

are permitted to "phase in" their reserves and minimum net worth. This is accomplished by multipying the three percent of insured account balances and the three percent of liabilities, respectively, by a fraction of which the numerator is the number of years of insurance and the denominator is twenty. Thus, a newly insured institution is required to have only 1/20 of the statutory reserve requirement, which would equal only 0.15 percent of all insured accounts. The newly insured institution is required to have a minimum net worth of only 0.15 percent of liabilities (recourse liabilities and scheduled items being non-existent at that time). Further, the statutory reserve and net-worth requirements are calculated as of the opening of business of the first day of the fiscal year and must be met on the annual closing date of that year. Thus, a new institution commencing operations shortly after the beginning of a fiscal year could avoid establishing and meeting a reserve and net-worth requirement for nearly two years.

The phase-in of statutory reserve and net-worth requirements was instituted at a time when applicants for insurance were exclusively mutual institutions. A gradual building of reserves and net worth was considered to be appropriate because mutual institutions generate reserves from pledged savings and earnings and cannot inject significant capital by issuing stock (the availability of mutual capital certificates cannot be equated to traditional stock offerings). However, the number of mutual institutions receiving insurance approval in the past few years has decreased dramatically and, as previously stated, all recent applicants have been stock institutions.

The existing reserve requirements do not appear to be adequate for new institutions primarily because they permit significant leveraging potential. The current net-worth requirement, in effect, places no limit on the rate of growth of new associations since it permits a debt-to-equity ratio as high as 666 to 1. A new institution could, under the current statutory reserve requirement, leverage $2 million (in initial capital stock or pledged savings) to $1.3 billion in savings after the first year of operation. This potential for growth did not present a grave danger when applicants were primarily small mutual institutions obtaining savings and other liabilities from the local markets that they served, because the mutual form and local character of such institutions placed inherent limits on the amount and speed of their expansion. Today, however, new institutions have access to nationwide markets and may quickly obtain large blocks of deposits and other liabilities through the use of intermediaries, advertising campaigns and other devices. New institutions therefore have the ability to reach the nearly unrestrained growth potential permitted by the existing phase-in requirement.

The risk inherent in the uncontrolled growth of new institutions is compounded by the expanded investment opportunities and activities permitted for federal institutions by the DIA and for state institutions under many state laws. Applicants are no longer limited to local, traditional activities and to primarily secured investments. The Corporation faces the prospect of insuring untried institutions undertaking significantly novel activities. The proposed rule would limit the risk of harm to these new institutions, and to the Corporation, by ensuring that early growth in the institution is backed by reserves that are adequate to ensure its continued viability and to provide some cushion of protection for the Corporation.

The proposed rule would replace the 20-year phase-in provision with a "phase-down" requirement for institutions receiving FSLIC insurance approval on or after the effective date of this rule. Under the phase-down requirement, a new institution would be required to maintain reserves equal to at least seven percent of insured accounts and to have a minumum net worth equal to at least seven percent of liabilities (plus two percent of recourse liabilities and 20 percent of scheduled items). For the first year of operation (or the portion of the year from the commencement of operation to the annual closing date), the statutory reserve and net-worth requirements would be calculated on the insured accounts and liabilities projected for the annual closing date, and would be required to be met by that date. After the first year, these requirements would be reduced to six percent of insured accounts and liabilities, respectively, and would be lowered the next year to five percent. After three years of operation, the institution would be permitted to meet the then-current reserve requirement for institutions in operation for 20 years or more, if approved by the Principal Supervisory Agent for the institution's district. The proposed phase-down would provide sufficient time for new institutions to establish a supervisory track record by which the Corporation can judge the soundness of their management and financial policies and their ability to follow their business plans.

In addition, new institutions would not be permitted to calculate reserves on an average basis. Averaging by new institutions understates the need for reserves and thereby contributes to the risk that this proposed rule seeks to limit, i.e. unrealistic growth by untried institutions undertaking riskier, newly-authorized activities.

The Board seeks comments on all aspects of these proposals. However, because the Board believes that the issues presented regarding the safety and soundness of the insurance fund and the home financing policies of applicants require prompt action in the public interest, and in order to avoid unduly delaying the processing of current applications, the Board has limited the public comment period to 15 days.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated above in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rules would apply.* The proposed rule would apply only to new associations receiving approval of insurance of accounts after the effective date of a final rule. It would not apply to existing institutions insured by the Corporation.

3. *Impact of the proposed rules on small institutions.* The rule would not have a substantial impact upon a significant number of the small entities insured by the FSLIC.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rules.* The regulatory requirement concerns the growth potential of new institutions and the risks inherent when such growth is combined with expanded investment authority. Alternatives, therefore, would focus on more severe limitations as applied to new institutions. Such alternatives would have a more restrictive impact on new institutions than does the proposed rule.

List of Subjects in 12 CFR Parts 563 and 571

Insurance of accounts, Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board proposes to amend Parts 563 and 571, Subchapter D, Chapter V of Title 12 *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—REGULATIONS OF THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. Revise paragraphs (a)(2) and (b) (1) and (2) of §563.13, as follows:

§ 563.13 Reserve accounts.

(a) *Statutory reserve requirement.* * * *

(2)(i) Except as provided in paragraph (a)(2)(ii) of this section, the reserve requirement shall be an amount equal to three percent of all insured account balances on the date of calculation, or the average of such account balances on such date and on one or more of the four immediately preceding annual calculation dates, provided all such dates are consecutive: *Provided,* that institutions that have not reached the twentieth anniversary of insurance of accounts shall calculate a factor of which the numerator is the number of consecutive years of insurance and the denominator is twenty. The calculation period shall be as described in paragraph (b)(1) of this section.

(ii) For all institutions having received the Corporation's approval for insurance of accounts on or after [the effective date of this paragraph], the reserve requirement shall be an amount equal to seven percent of all insured account balances on the date of calculation for the first year of operation, and shall decline by 100 basis points each year until equal to five percent and thereafter may be reduced to three percent upon the approval of the Principal Supervisory Agent. The calculation period shall be as described in paragraph (b)(1) of this section. The Principal Supervisory Agent of the institution's Federal Home Loan Bank district is hereby delegated authority to approve reduction to three percent provided that the Agent does not take supervisory objection to the probable effect of such reduction upon the institution's safe and sound operating condition. If approval is withheld, the institution may seek review and final decision by the Corporation.

* * * * *

(b) *Net-worth requirement.*—(1) *Calculation period.*

(i) Except as provided in paragraph (b)(1)(ii) of this section, the annual net worth requirement, as set forth in paragraph (b)(2) of this section, shall be established as of the opening of business of the first day of each fiscal year and shall be met on the annual closing date of the year.

(ii) For all institutions having received the Corporation's approval for insurance of accounts on or after [the effective date of this paragraph], the annual net worth requirement for the first year (i.e. the period between the commencement of operation and the annual closing date of that year) shall be established by projecting the net worth requirement as of the annual closing date following the commencement of operation and shall be met on that annual closing date. Thereafter, the annual net worth requirement shall be established and met as described in paragraph (b)(1)(i) of this section.

(2) *Minimum required amount.* (i) On the annual closing date of the twentieth anniversary of insurance of accounts and on each annual closing date thereafter, an institution shall have net worth at least equal to the sum of (A) three percent of the amount on the date specified in paragraph (b)(1) of this section or of the average amount on such date and on the corresponding date(s) of one or more of the four immediately preceding fiscal years (provided all such dates are consecutive) of all liabilities (*i.e.*, total assets, net of the following: loans in process, specific reserves, and deferred credits other than deferred taxes; minus net worth as defined by § 561.13 of this subchapter) of the institution, (B) two percent of recourse liabilities (as defined in § 561.8 of this subchapter) resulting from the sale of any loan, and (C) an amount equal to 20 percent of the institution's scheduled items.

(ii) Except as provided in paragraph (b)(2)(iii) of this section, commencing with the annual closing date after the fiscal year in which a certificate of insurance is issued, all insured institutions that have not reached the twentieth anniversary of insurance of accounts shall have a net worth at least equal to the sum of the amount required by paragraph (b)(2)(i) above, except that the amount required by subparagraph (b)(2)(i)(A) shall be multiplied by a fraction of which the numerator is the number of consecutive years of insurance of accounts and the denominator is twenty.

(iii) All insured institutions having received the Corporation's approval for insurance of accounts on or after [the effective date of this paragraph], shall have net worth equal to the sum of the amount required by paragraph (b)(2)(i), except that the amount required by subparagraph (b)(2)(i)(A) shall be seven percent of all liabilities of the institution, which shall decline by 100 basis points per year until equal to five percent and thereafter may be reduced to three percent upon the approval of the Principal Supervisory Agent. The Principal Supervisory Agent of the institution's Federal Home Loan Bank district is hereby delegated authority to approve a reduction to three percent provided that the Agent does not take supervisory objection to the probable effect of such reduction on the institution's safe and sound operating condition. If approval is withheld, the institution may seek review and final decision by the Corporation.

PART 571—STATEMENTS OF POLICY

2. Revise § 571.6 as follows:

§ 571.6 Policy considerations regarding applications for insurance of accounts.

The Corporation deems it advisable that applicants for insurance of accounts be informed of certain policies governing application review which the Corporation has adopted as follows:

(a) *Minimum initial capitalization.* In order to ensure adequate reserve levels for newly-chartered institution applicants during their initial period of operations, it is the Corporation's policy that it will not approve any such applicant having less than three million dollars in initial capital stock (stock institutions) or initial pledged savings (mutual institutions).

(b) *Business and investment plans of newly-chartered institutions applying for insurance of accounts.* (1) Pursuant to § 403(c) of the National Housing Act (12 U.S.C. 1726(c)), the Corporation is required to reject applicants if it finds that the capital of the applicant is impaired or that its financial policies or management are unsafe, and may reject applicants if the character of the management of the applicant or its home financing policy is inconsistent with economical home financing or with the purposes of Title IV of the National Housing Act. Further, the Corporation is directed in considering applications for insurance to give full consideration to all factors in connection with the financial condition of applicants and insured institutions.

(2) In order for the Corporation to determine whether to reject an applicant pursuant to § 403(c), a newly-chartered institution applying for insurance of accounts shall submit with its application a business plan describing its management, operations, investments, and financial projections for the first three years of operation. In this connection, it is the policy of the Corporation not to approve the application of any such institution

unless the applicant agrees to limit the aggregate of its investments in service corporations (and other subsidiaries authorized by law) and its acquistion of real estate (other than real estate to be used by the institution for office and related facilities or real estate owned as a result of foreclosure, or acquired by deed of trust in lieu of foreclosure, or on which a contract purchaser has defaulted and the contract has been cancelled) to ten percent of assets or as authorized by law, whichever is less.

(Sec. 202, 96 Stat. 1469; sec. 409, 94 Stat. 160; secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726m 1730), sec. 5A 47 Stat. 727, as amended by sec. 1. 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981 3 CFR, 1943–48 Comp., 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-30221 Filed 11-4-83; 10:00 am]

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Reader Aids

Federal Register

Vol. 48, No. 216

Monday, November 7, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

50295–50500.....1
50501–50698.....2
50699–50874.....3
50875–51140.....4
51141–51274.....7

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
April 15, 1910
(Revoked in part by PLO 6487).....50894
July 2, 1910
(See PLO 6487)
December 28, 1910
(Revoked in part by PLO 6487).....50894
January 24, 1914
(Revoked in part by PLO 6487).....50894
7594 (Revoked in part by PLO 6489).....50895
Proclamations:
2417 (See PLO 6489).....50895
5123.....50699

7 CFR

2.....50875, 51141
29.....50501
371.....50295
906.....50501
910.....50701, 50877
Proposed Rules:
225.....50743
1036.....50549

8 CFR

103.....51142
109.....51142

9 CFR

92.....50701
327.....50296

10 CFR

50.....50878
761.....50296
Proposed Rules:
2.....50550
50.....50746
51.....50746
211.....50824
440.....51068

11 CFR

114.....50502

12 CFR

26.....50296
212.....50296
348.....50296
563f.....50296
711.....50296
Proposed Rules:
Ch. III.....50746
304.....51155
349.....51155
330.....50339
337.....50339
563.....51270
564.....50339
571.....51270

14 CFR

39.....50506, 50879–50886
71.....50510, 50887
75.....50510
91.....50510
97.....50512
385.....51144
Proposed Rules:
Ch. I.....50553
39.....50341, 50899
380.....50900
399.....50900

16 CFR

13.....50702–50704
1017.....50514
1406.....50705

17 CFR

145.....50887
275.....50526
Proposed Rules:
3.....50554
10.....50554
230.....51155

19 CFR

Proposed Rules:
10.....50342
19.....50342
24.....50342
113.....50342
125.....50342
141.....50342
142.....50342
143.....50342
144.....50342
146.....50342

20 CFR

396.....50308
602.....50662
603.....50662
604.....50662
621.....50527
651.....50662
652.....50662
653.....50527, 50662
654.....50527
655.....50527
656.....50527

21 CFR

5.....50527
74.....50311, 51145
81.....50311, 51145

62 ..... 50311, 51145
182 51146-51151
184 51146-51151
193 50528
520 50528
522 50887
558 50707
561 50528

Proposed Rules:
207 50358
210 50358
225 50358
226 50358
501 50358
510 50358
514 50358
558 50358

22 CFR
514 50707

24 CFR
885 50885

25 CFR
1 50711

Proposed Rules:
1 50751
6a 50751
31 50567
52 50775

28 CFR
0 ..... 50712, 50713
3 50713
8 50713
9 50713
9a 50713
547 50478
548 50478

29 CFR
1 50312
4 50529
5 50312
1910 51086

Proposed Rules:
1908 50902

30 CFR

Proposed Rules:
920 51158

32 CFR

Proposed Rules:
1-39 50872
505 50775

33 CFR
165 50714

Proposed Rules:
110 ..... 50359, 50360

36 CFR
223 50889

38 CFR
3 50313
21 50529
36 51152

Proposed Rules:
21 ..... 50568, 50569

39 CFR
3001 50715
601 50869

40 CFR
51 50686
52 ..... 50530, 50568, 51153
80 50482
81 50316
180 ..... 50317, 50532, 50533
228 50317
271 50889
434 50321
439 50322
468 50717

Proposed Rules:
52 51150
81 51160
61 51064
81 50361
85 50902
180 50363
271 50776
421 50906
761 50486

Proposed Rules:
60 50670

41 CFR
101-36 50890
101-47 50892

Proposed Rules:
1-15 50673

42 CFR

Proposed Rules:
55a 50363
71 50777

43 CFR

Public Land Orders:
422 51153
2249 (Revised in part by PLO 6489) 50895
6439 50719
6440 50893
6477 50322
6485 50893
6486 50894
6487 50894
6488 50895
6489 50895
6490 50896

44 CFR
67 50719
205 51056

Proposed Rules:
67 ..... 50366, 50777, 50778
151 50778

45 CFR
801 50721

46 CFR
2 50996
31 50996
32 50996
35 50996
37 50996
42 50996
46 50996
56 50996
71 50996
72 50996
73 50996
74 50996
75 50996
78 50996
79 50996
91 50996
93 50996
97 50996
99 50996
106 50996
107 50996
108 50996
109 50996
111 50996
151 50996
153 50996
154 50996
163 50996
167 50996
168 50996
170 50996
171 50996
172 50996
173 50996
174 50996
177 50996
178 50996
179 50996
185 50996
189 50996
190 50996
191 50996
196 50996

Proposed Rules:
50 50781
52 50781
53 50781
54 50781
69 50781
162 50781

47 CFR
2 ..... 50322, 50722, 50897
21 ..... 50322, 50722, 50897
22 50722
23 50722
31 ..... 50534, 51154
74 ..... 50322, 50722, 50897
78 50722
81 ..... 50548, 50722
83 ..... 50548, 50739
87 ..... 50548, 50722
90 50722
94 ..... 50322, 50722, 50897

Proposed Rules:
73 ..... 50571-50585, 50907, 51161

48 CFR

Proposed Rules:
5 50907

49 CFR
171 ..... 50440, 50444
172 ..... 50440, 50444
173 ..... 50440, 50444
174 ..... 50440, 50444
175 50444
176 50440
177 50440
178 50440
179 50440
1039 50897

Proposed Rules:
192 50908

50 CFR

Proposed Rules:
17 50909
611 ..... 50379, 50586, 50782
672 50379
675 50586

LIST OF PUBLIC LAWS

Last Listing November 4, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

S.J. Res. 57/Pub. L. 98-142

To designate the week of November 2, 1983 through November 9, 1983, as "National Drug Abuse Education Week". (Nov. 1, 1983; 97 Stat. 915) Price: $1.50

S.J. Res. 189/Pub. L. 98-143

Extending the expiration date of the Export-Import Bank Act of 1945. (Nov. 1, 1983; 97 Stat. 916) Price: $1.50

H.R. 3706/Pub. L. 98-144

To amend title 5, United States Code, to make the birthday of Martin Luther King, Jr., a legal public holiday. (Nov. 2, 1983; 97 Stat. 917) Price: $1.50

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $615 domestic, $153.75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Title	Price	Revision Date
1, 2 (2 Reserved)	$6.00	Jan. 1, 1983
3 (1982 Compilation and Parts 100 and 101)	6.00	Jan. 1, 1983
4	7.50	Jan. 1, 1983
5 Parts:		
1–1199	8.50	Jan. 1, 1983
1200–End, 6 (6 Reserved)	6.00	Jan. 1, 1983
7 Parts:		
0–45	9.00	Jan. 1, 1983
46–51	7.50	Jan. 1, 1983
52	9.00	Jan. 1, 1983
53–209	7.50	Jan. 1, 1983
210–299	7.00	Jan. 1, 1983
300–399	5.50	Jan. 1, 1983
400–699	6.50	Jan. 1, 1983
700–899	6.50	Jan. 1, 1983
900–999	8.50	Jan. 1, 1983
1000–1059	7.50	Jan. 1, 1983
1060–1119	6.50	Jan. 1, 1983
1120–1199	7.00	Jan. 1, 1983
1200–1499	7.00	Jan. 1, 1983
1500–1899	6.50	Jan. 1, 1983
1900–1944	8.00	Jan. 1, 1983
1945–End	7.00	Jan. 1, 1983
8	6.50	Jan. 1, 1983
9 Parts:		
1–199	7.50	Jan. 1, 1983
200–End	7.50	Jan. 1, 1983
10 Parts:		
0–199	9.00	Jan. 1, 1983
200–399	7.50	Jan. 1, 1983
400–499	6.50	Jan. 1, 1983
500–End	7.00	Jan. 1, 1983
11	5.50	July 1, 1983
12 Parts:		
1–199	7.00	Jan. 1, 1983
200–299	8.00	Jan. 1, 1983
300–499	7.00	Jan. 1, 1983
500–End	8.00	Jan. 1, 1983
13	8.00	Jan. 1, 1983
14 Parts:		
1–59	7.00	Jan. 1, 1983
60–139	7.00	Jan. 1, 1983
140–199	5.50	Jan. 1, 1983
200–1199	7.00	Jan. 1, 1983
1200–End	6.50	Jan. 1, 1983
15 Parts:		
0–299	6.50	Jan. 1, 1983
300–399	7.00	Jan. 1, 1983
400–End	7.50	Jan. 1, 1983
16 Parts:		
0–149	7.00	Jan. 1, 1983
150–999	7.00	Jan. 1, 1983
1000–End	7.00	Jan. 1, 1983

Title	Price	Revision Date
17 Parts:		
1–239	8.00	Apr. 1, 1983
240–End	7.00	Apr. 1, 1983
18 Parts:		
1–149	7.00	Apr. 1, 1983
150–399	8.00	Apr. 1, 1983
400–End	6.50	Apr. 1, 1983
19	8.50	Apr. 1, 1983
20 Parts:		
1–399	5.50	Apr. 1, 1983
400–499	7.00	Apr. 1, 1983
500–End	7.50	Apr. 1, 1983
21 Parts:		
1–99	6.00	Apr. 1, 1983
100–169	6.50	Apr. 1, 1983
170–199	6.50	Apr. 1, 1983
200–299	4.75	Apr. 1, 1983
300–499	8.00	Apr. 1, 1983
500–599	6.50	Apr. 1, 1983
600–799	5.00	Apr. 1, 1983
800–1299	6.00	Apr. 1, 1983
1300–End	5.00	Apr. 1, 1983
22	8.50	Apr. 1, 1983
23	7.00	Apr. 1, 1983
24 Parts:		
0–199	6.00	Apr. 1, 1983
200–499	8.00	Apr. 1, 1983
500–799	5.00	Apr. 1, 1983
800–1699	6.50	Apr. 1, 1983
1700–End	6.00	Apr. 1, 1983
25	8.00	Apr. 1, 1983
26 Parts:		
§§ 1.0–1.169	8.00	Apr. 1, 1983
§§ 1.170–1.300	7.50	[1] Apr. 1, 1982
§§ 1.301–1.400	6.00	Apr. 1, 1983
§§ 1.401–1.500	7.00	Apr. 1, 1983
§§ 1.501–1.640	6.50	Apr. 1, 1983
§§ 1.641–1.850	7.50	[1] Apr. 1, 1982
§§ 1.851–1.1200	8.00	Apr. 1, 1983
§§ 1.1201–End	8.50	Apr. 1, 1983
2–29	7.00	Apr. 1, 1983
30–39	6.00	Apr. 1, 1983
40–299	7.50	Apr. 1, 1983
300–499	6.00	Apr. 1, 1983
500–599	8.00	[2] Apr. 1, 1980
600–End	5.00	Apr. 1, 1983
27 Parts:		
1–199	6.50	Apr. 1, 1983
200–End	6.50	Apr. 1, 1983
28	8.00	July 1, 1982
29 Parts:		
0–99	9.00	July 1, 1982
100–499	5.50	July 1, 1983
500–899	8.00	July 1, 1983
900–1899	5.50	July 1, 1983
1900–1910	9.00	July 1, 1982
1911–1919	4.50	July 1, 1983
1920–End	8.50	July 1, 1982
30 Parts:		
0–199	7.00	July 1, 1983
200–End	10.00	July 1, 1982
31 Parts:		
0–199	6.00	July 1, 1983
200–End	6.50	July 1, 1983
32 Parts:		
1–39 (V.I.)	9.00	Sept. 1, 1982
(V.II)	11.00	Sept. 1, 1982
(V.III)	10.00	Sept. 1, 1982
40–399	13.00	July 1, 1982
400–699	10.00	July 1, 1982

Title	Price	Revision Date
700–799	8.50	July 1, 1982
800–999	6.50	July 1, 1983
1000–End	6.00	July 1, 1983
33 Parts:		
1–199	9.00	July 1, 1982
200–End	8.00	July 1, 1982
34 Parts:		
1–399	13.00	July 1, 1982
300–399	6.00	July 1, 1983
400–End	8.50	July 1, 1982
35	5.50	July 1, 1983
36 Parts:		
1–199	6.50	July 1, 1983
200–End	7.50	July 1, 1982
37	6.00	July 1, 1983
38 Parts:		
0–17	8.00	July 1, 1982
18–End	7.00	July 1, 1982
39	7.00	July 1, 1982
40 Parts:		
0–51	8.50	July 1, 1982
52	9.00	July 1, 1982
53–80	8.50	July 1, 1982
81–99	8.50	July 1, 1982
100–149	6.00	July 1, 1983
150–189	6.50	July 1, 1983
190–399	7.00	July 1, 1983
400–424	8.00	July 1, 1982
425–End	7.50	July 1, 1982
41 Chapters:		
1—1-1 to 1-10	7.00	July 1, 1983
1—1-11 to Appendix	6.50	July 1, 1983
3–6	8.50	July 1, 1982
7	5.00	July 1, 1983
8	4.75	July 1, 1983
9	8.00	July 1, 1982
10–17	6.50	July 1, 1983
18, Vol. I, Parts 1–5	6.50	July 1, 1983
18, Vol. II, Parts 6–19	7.00	July 1, 1983
18, Vol. III, Parts 20–52	7.50	Dec. 31, 1982
19–100	7.00	July 1, 1983
101	9.00	July 1, 1982
102–End	6.50	July 1, 1983
42 Parts:		
1–60	7.50	Oct. 1, 1982
61–399	7.00	Oct. 1, 1982
400–End	9.50	Oct. 1, 1982
43 Parts:		
1–999	7.00	Oct. 1, 1982
1000–3999	8.50	Oct. 1, 1982
4000–End	7.00	Oct. 1, 1982
44	7.50	Oct. 1, 1982
45 Parts:		
1–199	7.00	Oct. 1, 1982
200–499	6.00	Oct. 1, 1982
500–1199	7.50	Oct. 1, 1982
1200–End	7.50	Oct. 1, 1982
46 Parts:		
1–29	6.00	Oct. 1, 1982
30–40	5.50	Oct. 1, 1982
41–69	7.50	Oct. 1, 1982
70–89	6.00	Oct. 1, 1982
90–109	6.50	Oct. 1, 1982
110–139	5.00	Oct. 1, 1982
140–155	7.00	Oct. 1, 1982
156–165	7.50	Oct. 1, 1982
166–199	7.00	Oct. 1, 1982
200–399	8.50	Oct. 1, 1982
400–End	7.00	Oct. 1, 1982
47 Parts:		
0–19	8.50	Oct. 1, 1982
20–69	9.00	Oct. 1, 1982
70–79	8.00	Oct. 1, 1982
80–End	9.00	Oct. 1, 1982
48	1.50	[3] Sept. 19, 1983
49 Parts:		
1–99	6.50	Oct. 1, 1982
100–177	9.00	Oct. 1, 1982
178–199	8.00	Oct. 1, 1982
200–399	7.50	Oct. 1, 1982
400–999	8.00	Oct. 1, 1982
1000–1199	7.50	Nov. 1, 1982
1200–1299	7.50	Oct. 1, 1982
1300–End	7.50	Oct. 1, 1982
50 Parts:		
1–199	7.00	Oct. 1, 1982
200–End	8.00	Oct. 1, 1982
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[1] No amendments to these volumes were promulgated during the period Apr. 1, 1982 to March 31, 1983. The CFR volumes issued as of Apr. 1, 1982 should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

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